

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 3730
DATE 10/14/60

TO: P. H. GLOTH, JR., Esq.
1023 Collinswood Road,
Catonville 28, Md.

BILL TO: Zoning Department of
Baltimore County
111 W. Chesapeake Avenue,
Towson 4, Md.

QUANTITY	REMARKS	UNIT PRICE	TOTAL AMOUNT
1	Cost of appeal to County Board of Appeals 1900	\$70.00	\$70.00
1	Cost of appeal to County Board of Appeals 1900	0.00	0.00
1	Cost of appeal to County Board of Appeals 1900	0.00	0.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 3730
DATE 10/14/60

TO: Mr. James L. Larkin
Atlantic Refining Co.
Box 10000 & Lanesville St.
Baltimore 39, Md.

BILL TO: Zoning
Department of
Baltimore County
111 W. Chesapeake Avenue,
Towson 4, Md.

QUANTITY	REMARKS	UNIT PRICE	TOTAL AMOUNT
1	Advertising and signs Atlantic Refining Co.	25.00	25.00
1	Advertising and signs Atlantic Refining Co.	0.00	0.00
1	Advertising and signs Atlantic Refining Co.	0.00	0.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
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IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
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THE EMMANUEL EVANGELICAL LUTHERAN CHURCH, a body corporate
1023 Lakeside Avenue and Craigmont Road
Catonville 28, Maryland

Appellants

vs.

NATHAN H. HAUFFMAN and
G. MITCHELL AUSTIN
County Board of Appeals of
Baltimore County
County Office Building
Chesapeake and Baltimore Avenues
Towson 4, Maryland

Appellees

APPEAL

Please enter an Appeal in the above captioned case from the
decision of the Circuit Court for Baltimore County dated July 10, 1961.

THE EMMANUEL EVANGELICAL CHURCH

BY: JOHN J. HENSHOP, JR.
Attorney for Appellant
203 Courtland Avenue
Towson 4, Maryland VA 3-6301

G. W. MAYDEN

BY: James J. Mohratty
Attorney for Appellant
733 Title Building
Baltimore 2, Maryland

I HEREBY CERTIFY that a copy of the foregoing Appeal was mailed
this 8th day of May, 1961, to the County Board of Appeals, Johnson
Dowling, Esquire, and Smith and Harrison, Attorneys for Atlantic Refining
Company.

John J. Henshop, Jr.

5009-6X
RECEIVED
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
DIVISION OF COLLECTION AND RECEIPTS
COURT HOUSE
TOWSON 4, MARYLAND
1st Flr.

THE EMMANUEL EVANGELICAL LUTHERAN CHURCH, et al.
vs.
THE ATLANTIC REFINING COMPANY
(Intervenor)
Board of Appeals of
Baltimore County

OPINION

This is an appeal from a unanimous decision of the County Board of Appeals which granted the reclassification of a parcel of land, located on the southeast corner of Ingleside Avenue and Calyn Road, in the First Election District of Baltimore County, from an R-4 Zone to a "B-I" Zone and a special exception for a gasoline service station.

In regard to both the reclassification and the special exception, the function of the Court on review is well settled. In an appeal from a decision of a Zoning Board, the court may not substitute its own judgment as to the wisdom or soundness of action taken by the board, but will decide only whether or not such action was arbitrary or discriminatory and illegal. It is not the function of the court, either to add or to remove, but only to decide whether the board properly applied the applicable law to the facts. If there is room for reasonable debate as to whether the facts justified the board in deciding the need for its action, its action must be upheld. Offutt v. Board of Zoning Appeals 204 Md 551, 562; American Oil Co. v. Miller 204 Md 32.

Considering first the reclassification from "R-4" to "B-I" and applying the applicable law to the facts, it is fundamental that rezoning or a reclassification should not be had unless there is substantial evidence that there was error in the original zoning or a genuine change in conditions which occurred since the original zoning. Offutt v. Board of Zoning Appeals, supra.

- 1 -

In the case at bar, the evidence of a number of changes in zoning, as well as changes in road facilities and public utilities, all occurring subsequent to the original zoning of this property in 1945, was undisputed in the record. All of the properties on the east side of Ingleside Avenue between Johnsview Road and Baltimore National Pike (excepting the subject property) have been rezoned from their original classifications.

In deciding this point, it is clear that the board applied the applicable law to the facts and there is no doubt that the facts demonstrated by the evidence are substantial and ample to support the board's decision in this regard.

As to the special exception, a gasoline service station in one of the permitted uses in a "Business Local (B-1)" Zone with a special exception and, therefore, prima facie balances "in such case". Opinion v. Camp 204 Md 397, 402.

A civil engineer testified that during peak hours on Ingleside Avenue he observed 770 vehicles moving in one direction and 779 moving in the other. He further counted the vehicles using another service station nearby and determined this to be 25 per hour. He was of the opinion that the opinion that the number of vehicles using Ingleside Avenue would decrease when the highway was completed and the construction of a service station at this location would neither impede traffic nor create any traffic problems. Similar facts were reviewed and held not to constitute a "traffic hazard" or "congestion" in St. Mark's Church v. Webb 219 Md 387, 394.

There was also testimony by planning and real estate experts that there would be no adverse effect on other properties nor on the church property some distance across the street, any such effects being already in existence by virtue of the fact that the rears of two large shopping centers are contiguous to both the church and houses on the south side of Calyn Road. Certainly, the record shows substantial evidence to support the board's finding and its decision in granting the special exception was at least fairly debatable.

- 2 -

F. M. GLOTH, JR.
ATTORNEY AT LAW
1023 COLLINSWOOD ROAD
CATONVILLE 28, MD.

5009-6
7-6313

October 4, 1960

Mr. Wilkie H. Adams
Zoning Commissioner
Baltimore County Office of Planning & Zoning
County Office Building
111 W. Chesapeake Avenue
Towson 4, Maryland

Re: Petition for Reclassification and Special Exception for Gasoline Service Station on the S.W. Corner of Ingleside Ave. and Calyn Road, First District, the Atlantic Refining Company, Petitioner

Dear Mr. Adams:

Please enter an appeal on behalf of the following named parties in connection with the Baltimore County Zoning order dated September 9, 1960 in the above matter:

The Evangelical Lutheran Church
Westley Memorial Church
Westley Park Civic & Improvement Assoc.
Ingleside Civic & Improvement Assoc.
Ingleside Road Civic Association
First District Council, et al.

A check in the amount of \$70.00 is enclosed to cover the cost.

Very truly yours,
F. M. GLOTH, JR.



INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 2469
DATE 5/23/60

TO: The Atlantic Refining Co.
P. O. Box 10000
Baltimore 39, Maryland

BILL TO: Zoning
Department of
Baltimore County
111 W. Chesapeake Avenue,
Towson 4, Md.

QUANTITY	REMARKS	UNIT PRICE	TOTAL AMOUNT
1	Petition for Reclassification and Special Exception-Ingleside Ave.	13.00	13.00
1	Petition for Reclassification and Special Exception-Ingleside Ave.	0.00	0.00
1	Petition for Reclassification and Special Exception-Ingleside Ave.	0.00	0.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 2473
DATE 5/24/60

TO: Smith & Harrison, Attorneys
212 Washington Ave.
Towson 4, Md.

BILL TO: Zoning
Department of
Baltimore County
111 W. Chesapeake Avenue,
Towson 4, Md.

QUANTITY	REMARKS	UNIT PRICE	TOTAL AMOUNT
1	Reclassification and Special Exception-Ingleside Ave.	7.00	7.00
1	Reclassification and Special Exception-Ingleside Ave.	0.00	0.00
1	Reclassification and Special Exception-Ingleside Ave.	0.00	0.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

#5009 RXA
MAP
#1-B
BL-XA

With regard to the special exception, the only point under Section 502.1 that the Board had any question on would be that of traffic safety.

Dr. Walter W. Swell, a consulting engineer and expert in traffic control, testified that Ingleside Avenue carries out from 50 to 60 feet as it goes south to the Baltimore National Pike, Ingleside Avenue being 60 feet wide at the mid-point of the subject property. This would allow for four lanes of traffic plus a sidewalk area of 16 feet. The capacity of this size highway would normally be 2000 vehicles but due to traffic controls at Johns Hopkins Road and Baltimore National Pike the maximum number of cars is reduced to 1200. Ingleside Avenue is for top maximum use today carries only 75% of this capacity. There are also traffic controls between the Ingleside entrance of the two shopping centers. All of these controls more than adequately protect left turns in and out of the proposed service station. Certainly from the testimony of Dr. Swell, this special exception would not create a traffic danger.

Indeed, many of the uses allowed in a "B-1" Zone without a Special Exception tend to create greater traffic hazards than the gasoline service station.

The Board heard the testimony of Rev. George Leons, Pastor of the church directly opposite the subject site. It is understandable that Dr. Leons would rather see the subject property in other uses than that of commercial. However, considering the traffic controls both to the north and to the south, it is difficult to see how the granting of this special exception would cause any traffic danger to the 200 or more children attending the Christian Day School or the 200 children attending the church Sunday School.

The Board is unanimous in its decision to grant the special exception subject to the following conditions:

1. Station may not exceed 2 bay service station, two rest rooms and offices.
2. All lights must be so adjusted as to not throw a glare to adjoining properties.
3. The Station will not be open for business earlier than 7:00 a. m. or remain open later than 11:00 p. m.
4. All plans for ingress and egress must be approved by the Department of Planning.
5. The eastern boundary of the property will be screened with no less than a 10' privet hedge at the time of planting.

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION FOR GASOLINE SERVICE STATION - S. E. Cor. Ingleside Ave. and Calyn Road, 1st District - The Atlantic Refining Co., Petitioner

REPORT

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 5009-RX

OPINION

This is a petition of The Atlantic Refining Company for reclassification from "B-6" to a "B-1" Zone and a special exception for a gasoline service station on property at the southeast corner of Ingleside Avenue and Calyn Road in the First District of Baltimore County.

Testimony of the petitioner locates the subject property north of the Baltimore National Pike, abutting the rear of the Ingleside Shopping Center. On the northeast corner of Ingleside Avenue and Calyn Road is a converted house being used as a medical laboratory, on the immediate south is the parking lot of Ingleside Shopping Center and across the parking lot is the rear of and loading docks of the Ames Super Market. To the southeast is the Westview Shopping Center and directly to the west is a church.

Testimony of Mr. Bernard H. Williams, an expert in planning, showed that there have been numerous changes in the area since the adoption of the zoning map on January 3, 1965.

All of the property that is now developed as the Ingleside and Westview Shopping Centers has been rezoned from residential to commercial. On the northeast corner of Ingleside Avenue and Calyn Road is a converted house being used as a medical laboratory, on the immediate south is the parking lot of Ingleside Shopping Center and across the parking lot is the rear of and loading docks of the Ames Super Market. To the southeast is the Westview Shopping Center and directly to the west is a church.

It seems inconceivable to expect the petitioner to develop this property for residential use. The shopping centers have brought major traffic to the area, traffic which is desirable for commercial uses and highly undesirable for residential uses. The subject property faces the rear of an Ames Super Market where one would have full view of all the trucks, unloading as well as the garbage wagons hauling the rubbish and refuse from the store.

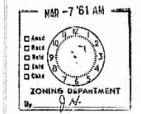
This is also true of other stores in the center who have rear doors facing the subject property. The Board of Appeals is unanimous in agreeing with Mr. J. Walter Jones, a real estate appraiser and realtor, that to have this property in a residential category would be confiscatory and hereby grants the reclassification from "B-6" to "B-1".

#5009 RXA
MAP
#1-B
BL-XA

ORDER

For reasons set forth in the foregoing opinion, it is this day of March, 1966, by the County Board of Appeals, ORDERED that the aforesaid reclassification and special exception for a gasoline service station be granted, subject, however, to compliance with the above provisions.

Any appeal from this decision must be accompanied with Rule No. 1101 of the Rules of Practice and Procedure of the Court of Appeals of Maryland.



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Arthur W. Jones
Open 7:00 AM
G. Mitchell Rust

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION FOR GASOLINE SERVICE STATION - S. E. Cor. Ingleside Ave. and Calyn Road, 1st District - The Atlantic Refining Company, Petitioner

REPORT

DEPUTY ZONING COMMISSIONER

OF

BALTIMORE COUNTY

No. 5009-RX

A hearing was held on July 6, 1966 on the above petition (1) for reclassification from an "B-6" Zone to a "B-1" Zone at the southeast corner of Ingleside Avenue and Calyn Road in the First District of Baltimore County, and (2) for a special exception to use the property described therein for a gasoline service station, to determine whether or not the granting of the reclassification and special exception would be detrimental to the health, safety and the general welfare of the locality involved.

As recently as March 16, 1966, the Baltimore County Board of Appeals in considering Petition No. 4801 at the northeast corner of Ingleside Avenue and Johns Hopkins Road, granted a reclassification and special exception for an Office Building, and had this to say:

"Ingleside Avenue could well serve as a buffer zone between the commercial uses on the east side and the residential community on the west side."

The attached plat supports this contention and the view of the Board of Appeals showing the present zoning on the east side of Ingleside Avenue. Also there have been sufficient changes in the area to warrant the granting of this reclassification and special exception.

The proposed special exception complies with Section 502.1 of the Baltimore County Zoning Regulations as completely as the other special exceptions previously granted and as shown on the attached plat.

For the above reasons the reclassification and special exception should be granted.

It is this 7th day of September, 1966, by the Deputy Zoning Commissioner of Baltimore County, ORDERED that the aforesaid petition should be and the same is hereby granted, the first, for reclassification from an "B-6" Zone to a "B-1" Zone, and, second, for a special exception for a gasoline service station, subject, however, to approval of plans for the development of said property by the Office of Planning.

W. J. Jones
Deputy Zoning Commissioner
of Baltimore County

PETITION FOR (1) ZONING RECLASSIFICATION (2) SPECIAL EXCEPTION

To the Zoning Commissioner of Baltimore County:

X or we, The Atlantic Refining Company, Legal Corp.

All that parcel of land in the First District of Baltimore County on the Southeast corner of Ingleside Avenue and Calyn Road, thence Southerly and binding on the East side of Ingleside Avenue 160 feet thence South 76 degrees 57 minutes East 122.5 feet thence North 9 degrees 07 minutes East 166.57 feet to the South side of Calyn Road thence Westerly and binding on the South side of Calyn Road 137 feet to the place of beginning.

herely petition (1) that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an "B-6" Zone to an "B-1" Zone; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the above described property for a gasoline service station.

Property to be posted as prescribed by Zoning Regulations.

THAT we, agree to pay expenses of the above reclassification and 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.

Courtesy of *Thompson Bartlett & Co.*
W. J. Jones
City of Baltimore

THE ATLANTIC REFINING COMPANY
1501 *Atlantic* Road
District Manager

P.O. Box 1895 - Baltimore 3, Maryland
Address

#5009 RXA
MAP
#1-B
BL-X
12/9/60

OFFICE OF PLANNING

Inter-Office Correspondence

From: George H. Carvelles Deputy Director July 5, 1966

To: Mr. Milvie H. Adams Zoning Commissioner

Subject: #5009 Recl. B-6 to B-1, Special Exception for gasoline service station. "B-1" corner of Ingleside Avenue and Calyn Road, Atlantic Refining Company

DATE: July 6, 1966 (100 P.M.)

The Planning Staff has reviewed the subject petition for reclassification from B-6 to B-1 zoning, together with a special exception for a gasoline service station, and has the following advisory comments to make:

1. In the Master Plan for this portion of the First District, which has been tentatively approved by the Planning Board, the subject property is not recommended for commercial use; rather it is recommended by the Planning Board and its staff for "A-1, apartment zoning. In making this recommendation, the Board and staff were of the opinion that the land use potentials permissible under A-1 zoning were appropriate and consistent with the welfare and character of the surrounding area because of the following factors:
 - a. Existing Land Use - The property on the westerly side of Ingleside Avenue now is zoned A-1 and is occupied by a church. The property on the north side of Calyn Road along Ingleside is zoned A-1 and is developed with a residence converted to office use. The land to the rear along Calyn Drive is occupied by about twelve single family residences. A-1 zoning for the subject property would serve as a transitional zone, because of its potentials for apartments or for offices (with a special exception), between the active commercial uses southerly to Route 40, and the one-family residential area to the north and east. A-1 zoning would blend well with the church use to the west.
 - b. Relationship of Land Use - The Master Plan affirms an area of commercial zoning at the intersection of Johns Hopkins Road and Ingleside Avenue as well as the concentrated commercial uses along Route 40, notably Westview and Ingleside shopping centers. A-1 zoning is specifically proposed for the area between the two commercial concentrations as an expression of reasonable land use consistent with the good of the community at large. It would grant economic relief to properties along Ingleside Avenue but would not bring undue on adjacent single family residential developments.
 - c. Location with respect to major roads - The subject tract is well located for office use because of its proximity to two commercial areas which taken together constitute a regional shopping center. The area-wide circulation afforded by the Beltway, Route 40, and Ingleside Avenue makes it eminently suited for apartment zoning.

OFFICE OF PLANNING

Inter-Office Correspondence

From: _____ July 5, 1966

To: _____

Subject: #5009 Recl. B-6 to B-1, Special Exception for gasoline service station. "B-1" corner of Ingleside Avenue and Calyn Road, Atlantic Refining Company

page 2-

2. Commercial zoning on the other hand would have the effect of isolating the remaining residences on Calyn Road from access other than past a commercial area. It might lead also to spread to adjacent residential or apartment properties, thereby destroying the integrity of the zoning pattern proposed for the area.
3. In light of the policy established by the Planning Board in its tentative approval of the Master Plan covering certain portions of the First District, it must break established procedure and recommend against the reclassification from B-6 to B-1 zoning, and the accompanying special exception.

GHD:ms

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: *1st* Date of Posting: *6-22-66*

Posted for: *George H. Carvelles* to *George H. Carvelles* at *Atlantic Refining Co.*

Petitioner: *Atlantic Refining Co.*

Location of property: *S. E. corner of Ingleside Ave. & Calyn Road*

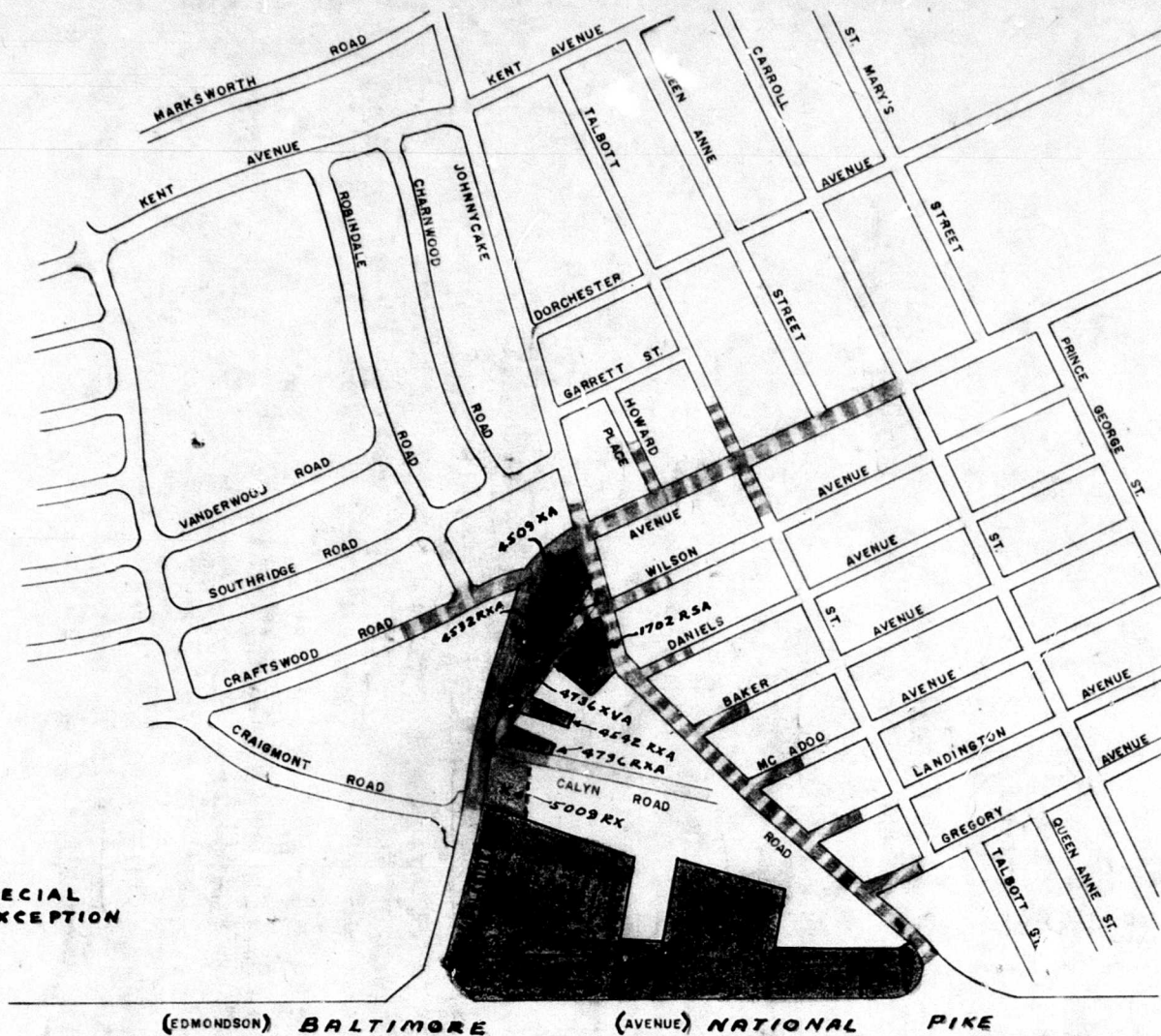
Location of signs: *Atlantic Refining Co. signs at Ingleside Ave. & Calyn Road*

Remarks: *George H. Carvelles*

Posted by: *George H. Carvelles* Date of return: *6-27-66*

LEGEND

-  BL
-  R-A
-  X- SPECIAL EXCEPTION



1ST. DISTRICT ZONING
LOCATION MAP - SEC. "B"
SCALE 1" = 500'

