



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 2, 2000

Paul J. Schwab, III, Esquire
Azrael, Gann and Franz
101 E. Chesapeake Avenue
Fifth Floor
Baltimore, Maryland 21286

Dear Mr. Schwab:

RE: Zoning Verification, 6159 B Edmondson Ave., 1st Election District

The subject property is zoned M.R. with a small central portion of M.L.R.

In our telephone conversation of January 27, 2000, you described the proposed use of the property as wholesale distribution of building materials.

The first definition applies to building and construction equipment storage.

This use is part of the definition of contractors equipment storage yard as defined in Section 101 of the Baltimore County Zoning Regulations as follows:

"CONTRACTOR'S EQUIPMENT STORAGE YARD - The use of any space, whether inside or outside a building, for the storage or keeping of contractor's equipment or machinery, including building materials storage, construction equipment storage or landscaping equipment and associated materials. [Bill No. 149-1987]"

The above use is NOT allowed in a M.R. or M.L.R. zone.

Our records show five zoning hearings that have been held for this property: 5550, 65-79-SPH, 69-14-SPH, 84-191-SPHA, and 85-273-A.

Paul J. Schwab, III
February 2, 2000
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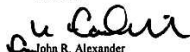
None of these hearings address the use of the property for building materials storage. I have included the definition of warehouse from the same section of regulations so that you can compare.

"WAREHOUSE - A building or part of a building used or intended to be used primarily for the storage of goods or chattels that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or chattels to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes. (The term "warehouse" does not include a retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises; however, nothing in this definition is meant to exclude purely incidental retail sales in warehouses. Further, the term does not include a truck terminal, at which any storage is minor, transitory and merely incidental to the purpose of facilitating transportation of goods or chattels.) [Bill No. 18-1976]"

There appears to be no outstanding violations of the property.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,


John R. Alexander
Planner II
Zoning Review

JRA:kew

c: Zoning Case 85-273-A, 84-191-SPHA, 69-14-SPH, 65-79-SPH, 5550

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

Corporation
Carpenter Realty Corp., legal owner, of the property situate in Baltimore County and which is described in plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified pursuant to the Zoning Law of Baltimore County, from an R-10 zone to an R-1 zone; for the following reasons:

Error in original zoning and adoption of the Land Use Map 4/5/1960 placing the property in a R-10 zone.

See Attached Description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for:

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above re-classification and/or 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.

Carpenter Realty Corporation

By: *Thomas M. Jones*, Sec. Treasurer

Address: 6159 Edmondson Ave.

Catonsville 28, Maryland

Samuel D. Kinner, President

Address: The Jefferson Building

Towson 4, Maryland

ORDERED By The Zoning Commissioner of Baltimore County, this 13th day of March, 1962, 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 held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 13th day of May, 1962, at 10:00 o'clock A.M.



BALTIMORE COUNTY, MARYLAND

VA 3-6200

INTER-OFFICE CORRESPONDENCE

TO: John G. Rose, Zoning Commissioner Date: September 10, 1964

FROM: George E. Gavrelis, Deputy Director

SUBJECT: R-10 to R-1, development plan for Carpenter Realty Corp. (Seven-Up Bottling Plant) 6159 Edmondson Avenue 1st District

It is the understanding of the planning staff that the Special Hearing on the subject petition elicited no adverse comment or suggestions for change of the development plans on the part of residents of the area. In accordance with the authority granted to me by the Planning Board at its July 24th meeting, I am approving the development plan for the subject property with the following conditions and restrictions:

1. That provision be made on the plan for flood plain reservation and easements in accordance with requirements to be established by the Department of Public Works.
2. That existing forestation on the site in the areas undisturbed by grading or grade changes shown on the plan remain in its present natural state.
3. The off-street parking provided is adequate for the 120 employees presently there. If additional employees and parking for them is required, subsequently, a plan shall be submitted for further review and approval of the details of parking arrangement and layout by the Office of Planning and Zoning.
4. That no outside lighting or security lighting is provided. Such lighting is not now indicated on the plan. It is the understanding of the planning staff that such lighting is not intended on the part of the petitioner.
5. That the screening indicated on the exterior boundary of the subject property adjoining residentially zoned premises to prevent visibility of overgrown plant materials including trees as well as shrubbery.

George E. Gavrelis, Director

Office of Planning & Zoning

(Zoning Order on 9/16/64 request granted subject to strict compliance to plan as filed 9/16/64)

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appears that by reason of location the safety, health and the general welfare of the locality involved not being detrimentally affected,

the above Re-classification should be had; and that the same is hereby continued as and to remain a R-10 zone; and/or the Special Exception for

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 13th day of March, 1962, that the herein described property or area should be and the same is hereby reclassified; from an R-10 zone to an R-1 zone;

and from and after the date of this order, saving and excepting that portion bounded by the center line of the stream on the northeast, Woodlawn Avenue on the south and Arbutus Avenue on the west as outlined in red on plat marked Exhibit "A" and filed on file No. 5550, subject to approval of site plan by the Division of Land Development and Office of Planning and Zoning.

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, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 13th day of March, 1962, that the above re-classification 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 R-10 zone; and/or the Special Exception for

be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: May 4, 1962

FROM: Mr. George E. Gavrelis, Deputy Director

SUBJECT: #5550. R-10 to B-R. Southeast corner of Edmondson and Arbutus Avenues. Being property of Carpenter Realty Corporation.

1st District

HEARING: Wednesday, May 16, 1962 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from B-R to B-R zoning. It has the following advisory comments to make with respect to pertinent planning factors:

1. In making recommendations for comprehensive rezoning of this portion of the 1st District, the Planning Board proposed B-R zoning for the subject property. In the judgment of the Planning Board the existing nonconforming Bottling Plant was an appropriate use for such classification. The character and quality of development here was such that the Planning Board felt that the property could qualify for B-R zoning.
2. The legislative action of the County Council in approving the 1st District Zoning Map was to zone the subject property for single family residences - R-10, and was to continue the nonconforming status of the Bottling Plant.
3. Commercial zoning with active commercial uses exists on the opposite side of Edmondson Avenue for a distance embracing 2/3 of this property's frontage on Edmondson Avenue. Apartment zoning exists on the balance of the opposite frontage on Edmondson Avenue.
4. In light of the Planning Board's recommendations for restricted industrial use potentials for the subject property, the existing use of the property, and the nonresidential use potentials along the majority of the frontage on the opposite side of Edmondson Avenue, the Planning staff believes that the 1st District Zoning Map was in error by zoning the subject property for residential use. The Planning staff believes, however, that the Council was not in error by not zoning the subject property for business use exclusively with whether or not the 1st District Zoning Map was in error by not zoning this property for B-R purposes, not whether or not the Seven-Up Bottling Plant should be allowed to expand.

TELEPHONE VALLEY 3-3000

BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE

Division of Collection and Receipts

COURT HOUSE

TOWSON 4, MARYLAND

No. 12912

DATE 7/9/62

TO: P. F. Lemmon, 1009 Saint Paul Street, Baltimore 2, Maryland

BILLED TO: Selling Department of Baltimore County

DEPOSIT TO ACCOUNT NO. 01682

QUANTITY: 1-1062 1191 * * * TIL - 70.00

1-1062 1191 * * * TIL - 70.00

Appeal filed to the County Board of Appeals: #5550-Carpenter Realty Corp.

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

TELEPHONE VALLEY 3-3000

BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE

Division of Collection and Receipts

COURT HOUSE

TOWSON 4, MARYLAND

No. 12913

DATE 7/9/62

TO: Samuel F. Lemmon, Esq., Maryland Trust Building, Baltimore 2, Md.

BILLED TO: Zoning Department of Baltimore County

DEPOSIT TO ACCOUNT NO. 01682

QUANTITY: 1-1062 7143 * * * TIL - 70.00

Cost of Appeal for petition of Carpenter Realty Corp. #5550

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

TELEPHONE VALLEY 3-3000

BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE

Division of Collection and Receipts

COURT HOUSE

TOWSON 4, MARYLAND

No. 11504

DATE 3/13/62

TO: Messrs. Smith & Harrison, The Jefferson Building, Towson 4, Md.

BILLED TO: Zoning Department of Baltimore County

DEPOSIT TO ACCOUNT NO. 01621

QUANTITY: 1-1462 1078 * * * TIL - 50.00

Petition for Re-classification for Carpenter Realty Co.

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.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 100 Date of Posting: 3/14/62

Posted for: *Reclassification from B-R to B-R*

Petitioner: *Carpenter Realty Corp.*

Location of property: *SE corner of Edmondson & Arbutus Avenues*

Location of Sign: *Signs corner of Edmondson & Arbutus Avenues*

Remarks: *Signs corner of Edmondson & Arbutus Avenues*

Posted by: *J. B. Rose* Date of return: 3-14-62

PETITION FOR ZONING RE-CLASSIFICATION

IN DETRIMENT

ZONING: from R-10 Zone to B-R Zone, and in the alternative to B-R Zone

LOCATION: Southeast corner of Edmondson and Arbutus Avenues.

DATE & TIME: TUESDAY, MARCH 20, 1962 at 10:00 A.M.

PUBLIC HEARING: Held at the Court House, Baltimore, Md., on the 20th day of March, 1962.

The County Board of Appeals of Baltimore County, by order of the County Board of Appeals, do hereby certify that the above petition was heard and considered at the public hearing held on the 20th day of March, 1962, at 10:00 A.M., at the Court House, Baltimore, Md., and that the same was duly considered and approved by the County Board of Appeals.

Beginning for the same at the southeast corner of the intersection of the center line of said Edmondson Avenue and the center line of said Arbutus Avenue, the following courses and distances, to-wit: (1) N. 89 degrees 50' 40" W., 30.50 feet to the end of the second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (2) S. 89 degrees 50' 40" W., 30.50 feet to the end of the third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (3) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (4) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (5) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (6) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (7) S. 89 degrees 50' 40" W., 30.50 feet to the end of the eighth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (8) S. 89 degrees 50' 40" W., 30.50 feet to the end of the ninth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (9) S. 89 degrees 50' 40" W., 30.50 feet to the end of the tenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (10) S. 89 degrees 50' 40" W., 30.50 feet to the end of the eleventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (11) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twelfth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (12) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirteenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (13) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fourteenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (14) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifteenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (15) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixteenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (16) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventeenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (17) S. 89 degrees 50' 40" W., 30.50 feet to the end of the eighteenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (18) S. 89 degrees 50' 40" W., 30.50 feet to the end of the nineteenth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (19) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twentieth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (20) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-first line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (21) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (22) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (23) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (24) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (25) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (26) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (27) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-eighth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (28) S. 89 degrees 50' 40" W., 30.50 feet to the end of the twenty-ninth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (29) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirtieth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (30) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-first line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (31) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (32) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (33) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (34) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (35) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (36) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (37) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-eighth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (38) S. 89 degrees 50' 40" W., 30.50 feet to the end of the thirty-ninth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (39) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fortieth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (40) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-first line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (41) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (42) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (43) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (44) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (45) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (46) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (47) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-eighth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (48) S. 89 degrees 50' 40" W., 30.50 feet to the end of the forty-ninth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (49) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fiftieth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (50) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-first line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (51) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (52) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (53) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (54) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (55) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (56) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (57) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-eighth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (58) S. 89 degrees 50' 40" W., 30.50 feet to the end of the fifty-ninth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (59) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixtieth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (60) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-first line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (61) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (62) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (63) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (64) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (65) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (66) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (67) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-eighth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (68) S. 89 degrees 50' 40" W., 30.50 feet to the end of the sixty-ninth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (69) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventieth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (70) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-first line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (71) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-second line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (72) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-third line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (73) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-fourth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (74) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-fifth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (75) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-sixth line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21; (76) S. 89 degrees 50' 40" W., 30.50 feet to the end of the seventy-seventh line of said land described in the deed from Anthony Inghel and wife to Carpenter Realty Corp., dated July 29, 1948 and recorded in Liber R.J.S. 1494 Folio 21

296-65

ZONING ITEMS TO BE CHECKED PRIOR TO ACCEPTING AN APPLICATION FOR A

COMMERCIAL OR INDUSTRIAL BUILDING PERMIT

OWNER Carpenter Realty Corp.
 ADDRESS & LOCATION 6159 Edmondson Ave.
 ELECTION DISTRICT 1st

- 1) **ZONING STATUS**
- a. Present Zoning 1st Zoning of Adjoining Properties on Plan _____
- b. Proposed Use 7 up Bottling Co.
- c. Special Exception and/or Reclassification
- (1) Needed: Yes _____ No _____
- (2) Granted: Use _____ Date _____
- d. Variance Granted Type _____ Date _____
- e. Use permit granted For Building Date Sept 1963
- f. If Zoning Reclassification, Special Exception or Variance is conditional, check zoning file for plans or other items required by zoning order:
- Approved Plans Required Yes _____ No _____
- Other _____ O.K. _____ No _____
- 2) **OFF-STREET PARKING SPACES**
- Total Number Provided _____ Total Required _____
- Under Existing Zoning _____ Screening, access, etc. _____
- Under Use Permit _____
- 3) **LOADING SPACE** - See Section 109.3 of Zoning Regulations
- 4) **SETBACKS**
- Required: Front _____ Side _____ Rear _____
- Provided: Front See Special Hearing Side _____ Rear _____
- 5) **BUILDING HEIGHT** _____ O.K. _____ No _____
- 6) **SIGNS, BUSINESS**
- Copy of Regulations pertaining to Signs (Section 113.1):
- Given to Applicant _____ (Received)
- Sent to Owner _____ (Date)

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COUNTY OFFICE BUILDING
 111 W. CHEAPSTEAD AVE.
 TOWSON, MD. 21204
 TEL. 5-2000

GEORGE E. GAVRELLS
 DIRECTOR
 JOHN G. ROSE
 DEPUTY DIRECTOR

July 1, 1965

Mr. Anthony J. Ianniello
 1906 Forest Court
 Timonium, Maryland

Re: Adm. to 7 UP Bottling Co.
 6159 Edmondson Avenue

Dear Mr. Ianniello:

As per our discussions for the referenced job, you have agreed to make the necessary revisions in order to comply with all requirements of this office.

Please accept my apology for the inconvenience caused you by our delay in being able to process this building application. Thank you for the cooperation and patience you have shown in this matter.

Sincerely,

J. U. Howell
 Planning Assistant

JUH/cw

MESSAGE

M Raphel TIME _____

DATE 5/16/67

WHILE YOU WERE OUT

M INNA LLO

PHONE NO. _____

TELEPHONED _____ PLEASE CALL BACK _____

WAS IN TO SEE YOU _____ WILL CALL AGAIN _____

MESSAGE Returning 4:00

CALL TAKEN BY JUH

MESSAGE

M Raphel TIME _____

DATE 5/16/67

WHILE YOU WERE OUT

M Jmy Ianniello

PHONE NO. 837-7330

TELEPHONED _____ PLEASE CALL BACK _____

WAS IN TO SEE YOU _____ WILL CALL AGAIN _____

MESSAGE Returning 4:00

CALL TAKEN BY JUH

Zoning File #5550

Ad of Appeals - 4/4/63 - granted MR, subject to the following restrictions:

1. All entrances & exits from Edmondson Ave.
 2. Driveway along the E of proposed bldg be a one-way exit road only.
 3. Bldg. be limited to 1 story & basement
 4. Operation limited to two shifts, none of which may extend beyond 11 PM or commence before 7 AM.
 5. Shut down plant on Sunday.
 6. Adequate screening, preferably evergreens of sufficient height, be planted along the east boundary of property.
 7. All outdoor lighting reflected away from residential zones.
- Subj. approval of site plan & screening by Planning

Also granted the following variances -

Front = 40' instead of 75'

Rear = 30' instead of 75'

Side = 30' instead of 125'

RE: PETITION FOR RECLASSIFICATION : BEFORE

Zone from an "R-10" Zone to an "M-R" Zone : COUNTY BOARD OF APPEALS

S.E. corner Edmondson and : OF

Arbutus Avenues : BALTIMORE COUNTY

First District : No. 5550

Carpenter Realty Corp., : Petitioner

OPINION

This petition was originally filed for reclassification of the subject property from an "R-10" Zone to a "B-R" Zone. This Board heard testimony on this petition on September 6 and 13, 1962. After due consideration, the petition was unanimously denied by the Board and an appeal was taken by the petitioner to the Circuit Court of Baltimore County. The Honorable John Grason Turnbull remanded the case to the Board of Appeals instructing it to hear the amended petition for reclassification from an "R-10" Zone to an "M-R" Zone.

In filing the amended petition for an "M-R", the petitioner is also requesting the following variances to the Baltimore County Zoning Regulations:

1. A front setback of 40 feet instead of required 75 feet
2. A rear setback of 30 feet instead of required 125 feet
3. A side setback of 30 feet instead of required 125 feet

The variances are from the area regulations as set forth in Sections 243.1 and 243.4 of the Zoning Regulations.

The area of the subject tract is 5.8941 acres and is now used as a bottling plant by the Seven-Up Bottling Company who lease the property from the petitioner. The operation is a non-conforming use in an "R-10" Zone and dates back to 1902.

The petitioner plans to erect a one-story building on the site after demolishing two frame residences on the property. The new building is to be used as an office and loading plant for the delivery trucks. The trucks will be stored under roof. The proposed building will have space for 60 trucks.

Mr. George E. Gavrells, Deputy Director of Planning for Baltimore County, testified that the Office of Planning recommends that the subject property be zoned "M-R" and that the variances requested would not conflict with the intent of the "M-R" classification. He stated that the land could not be used as "M-R" without the variances.

The protestants to the original petition for "B-R" zoning stated they had no objections to "M-R" zoning if adequate screening were provided on the east side of the

tract where it adjoins "R-G" property.

The Board is unanimous in its opinion that where an industrial operation has been carried on for a number of years, as it has in this location, that the granting of an "M-R" reclassification is not detrimental to the surrounding residential neighborhood, but may be of beneficial effect in that it places effective controls over the location.

While it is necessary to prove an error in original zoning or change in the neighborhood for all other zone reclassifications, this does not hold for the "M-R" zone. In the Huff vs Board of Zoning Appeals, 214 Maryland 48, the Court of Appeals has said that the "M-R" zone is "analogous to a special exception". Thus, it is indicated that, like a special exception, it is only necessary to prove that it does not conflict with Section 502.1 of the Zoning Regulations.

The Board further is of the opinion that the granting of this "M-R" reclassification does not provide grounds for other property owners in the immediate neighborhood to petition for further reclassification on the basis of change.

The Board is also unanimous in its opinion that the requested variances be granted in order that the property may be used as "M-R".

It is, therefore, the unanimous opinion of the Board that the petition for reclassification from "R-10" to "M-R" and the requested variances be granted subject to the following restrictions:

1. That all entrances and exits to the property be from Edmondson Avenue
2. That the driveway along the east side of the proposed building be a one way exit road only
3. That the proposed building be limited to one story and basement
4. That the operation shall be limited to two shifts, none of which may extend beyond eleven p.m. or commence before seven a.m.
5. That the plant be shut down on Sundays
6. That adequate screening, preferably evergreens of sufficient height, be planted along the east boundary of the property
7. All outdoor lighting shall be reflected away from the residential zones
8. All site plans and plans for screening for the subject property must be approved by the Office of Planning and Zoning

For the reasons set forth in the foregoing Opinion, it is this 4th day of April, 1963 by the County Board of Appeals, ORDERED that the reclassification and variances petitioned for, be and the same is hereby granted subject to the aforementioned restrictions.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

Matthew McKelvey
 CHAIRMAN
Charles J. Thompson
W. Mitchell Rust

INVOICE

BALTIMORE COUNTY, MARYLAND No. 10771

OFFICE OF FINANCE

Division of Collection and Receipts

COURT HOUSE

TOWSON 4, MARYLAND

DATE 3/26/63

TO: Eugene G. Ricks, Esq.
 The Jefferson Building
 Towson 4, Maryland

BILLED BY: County Board of Appeals (Zoning)

DEPOSIT TO ACCOUNT NO. 01-51-01-05

QUANTITY QUANTITY DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE COST

Cost of advertising and posting of property as follows:

Petition for reclassification from R-10 to B-R, and in the alternative to an M-R with variances

Carpenter Realty Corp. 3-2763 6671 * * * TIL - 19.00

SE/Cor. of Edmondson & Arbutus Avenues

Hearing Date: Tuesday, March 26, 1963 at 10:00 a.m.

The Baltimore Courier - for issue: March 8, 1963 \$ 50.00

The Times \$ 40.00

Two (2) signs @ \$5.00 each \$ 10.00

Total \$ 109.00

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 No. 10764

OFFICE OF FINANCE

Division of Collection and Receipts

COURT HOUSE

TOWSON 4, MARYLAND

DATE 10/25/62

TO: Eugene G. Ricks, Esq.
 Smith & Harrison
 The Jefferson Building
 Towson 4, Maryland

BILLED BY: County Board of Appeals

DEPOSIT TO ACCOUNT NO. 01.712

QUANTITY QUANTITY DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE COST

Cost of Certified Documents for - No. 5550

Carpenter Realty Corp.
 S.E. Cor. Edmondson &
 Arbutus Avenues
 First District

10-25-62 1755 * * * TIL * 9.00

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.

#5550
MAP
#1
SEC. 2-A
MR

RE PETITION FOR RECLASSIFICATION
from an "R-10" Zone to a "B-R" Zone
S.E. Corner Edmondson and
Arbutus Avenues - 1st District
Carpenter Realty Corp.
Petitioner
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5550

OPINION

This is a petition of the Carpenter Realty Corp. for reclassification from an "R-10" Zone to a "B-R" Zone on property located at the southeast corner of Edmondson and Arbutus Avenues in the First District of Baltimore County.

At the instant of the hearing Mr. Ricks, lawyer for the Carpenter Realty Corp., asked the Board to delete the property south and west of the main stream from the subject petition, reducing the total acreage to be reclassified from 5.8941 acres to 4.6129 acres. The request for the deletion of the above mentioned property was unanimously approved by the Board.

The subject property has been used by the 7-Up Bottling Company since 1936, and prior to that, since 1902, by the Caton Springs Beverage Company. The property, at the present time, enjoys a nonconforming use. It was the testimony of Mr. William Roger Davis, Comptroller for both 7-Up and Carpenter Realty Corp., that the present buildings were inadequate and for this reason his company had requested reclassification from "R-10" to "B-R". Through Mr. J. Walter Jones, a real estate appraiser and authority, the petitioner attempted to present evidence to the Board that the Baltimore County Council had been in error upon the adoption of the First District Land Use Map on April 5, 1960 in placing this property in "R-10" category instead of a "B-R" category.

It is the unanimous opinion of the Board of Appeals that the petition for reclassification should be denied. The granting of a "B-R" reclassification would allow for uses of the subject property that could be quite detrimental to the surrounding areas. Many of these uses would not be compatible and could cause a down-grading of properties in the immediate vicinity. Mr. George E. Gavrellis, Deputy Director, Office of Planning and Zoning for Baltimore County, testified that the Planning Board had recommended "Manufacturing Restricted" zoning for the subject property. He further stated that "B-R" zoning was too broad a use and could be detrimental. It is, therefore, the unanimous opinion of the Board of Appeals that the County Council did not err when they failed to zone the subject property "B-R".

#5550
MAP
#1
SEC. 2-A
MR

ORDER

For the reasons set forth in the foregoing Opinion, it is this 18th day of September, 1962 by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby denied.
Any appeal from this decision must be in accordance with Chapter 1100, subtitle 8 of the Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William H. Kasper
CHAIRMAN
Charles H. Sturges
G. Mitchell Austin

#5550

PETITION OF CARPENTER
REALTY CORPORATION
BEFORE THE ZONING APPEAL BOARD
FOR BALTIMORE COUNTY
Petition No. 5550

AMENDED PETITION FOR ZONING RECLASSIFICATION

Carpenter Realty Corporation, legal owner of the property situate in Baltimore County which is described in the description and plat heretofore filed with the original petition in the case, hereby petitions that the zoning status of the property described be reclassified from an "R-10" zone to a "B-R" zone and in the alternative to a "M-R" zone with appropriate variances if said "M-R" zone and variances are found to be appropriate.

Reason assigned for reclassification is for error in original zoning and the adoption of the Land Use Map on the 5th day of April, 1960, placing the subject property in an "R-10" zone.

This amended petition is filed pursuant to the Order of the Circuit Court for Baltimore County dated the 8th day of January, 1963, a copy of which Order is attached hereto and prayed to be taken a part hereof.

SMITH AND HARRISON

Eugene G. Ricks
Eugene G. Ricks
Petitioner's attorney
The Jefferson Building
Towson 4, Maryland
VA 3 6200

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st
Posted for: *Am. R-10 to B-R zone*
Petitioner: *Carpenter Realty Corp.*
Location of property: *S.E. Corner of Edmondson & Arbutus Avenues*
Location of Signs: *East side of Arbutus Ave. South East Corner of Edmondson and Arbutus Avenues, another sign 67 ft. E. of Arbutus Ave. on S.E. of Edmondson Ave.*
Remarks: *George R. Harrison*
Date of Posting: 4-25-62
Date of return: 4-26-62

#5550

CARPENTER REALTY CORP.
Petitioner
v.
BALTIMORE COUNTY
Circuit Court
FOR
BALTIMORE COUNTY
Misc. Docket No. 7
Folio No. 194
File No. 2442

MEMORANDUM
TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Carpenter Realty Corp. by Smith and Harrison and Eugene G. Ricks, its attorneys, respectfully represents:

(1) That the Petitioner, the Appellant, herein was the Applicant before the County Board of Appeals of Baltimore County in connection with their Petition for reclassification of their property situate, lying and being on the southeast corner of Edmondson and Arbutus Avenues in the first election district of Baltimore County on which the 7 Up Bottling Company is and has been conducting a bottling establishment for more than 25 years, from a "R-10" zone to a "B-R" zone, said application being known as No. 5550.

(2) That subsequent to the hearing on the aforementioned Petition before the said County Board of Appeals of Baltimore County, the said Board filed its written opinion and Order, dated September 18, 1962, denying the requested reclassification from "R-10" to "B-R", said Order reading as follows: "For the reasons set forth in the foregoing opinion, it is this 18th day of September, 1962, by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby denied. Any appeal from this decision must be in accordance with Chapter 1100, subtitle 8 of the Maryland Rules of Procedure, 1961 edition."

#5550

(3) Your Petitioner has filed its Order for Appeal within thirty (30) days of the Opinion and Order of said County Board of Appeals of Baltimore County, dated September 18, 1962, and is filing this Petition within ten (10) days of the filing of its Order of Appeal, in accordance with the provisions of Rule 21a and 24a of the Maryland Rules of Procedure.

(4) That your Petitioner avers and alleges that the action, decision, and order of the County Board of Appeals dated September 18, 1962 was erroneous, illegal, arbitrary, capricious, and wanting in sufficient legal justification, for the following reasons:

A. That the same is against the evidence.
B. That the same is against the weight of the evidence.
C. That the facts as stated in the Opinion upon which the decision was based was not in accord with the evidence presented by the expert witnesses produced on behalf of your Petitioner at the hearing before said County Board of Appeals and as well as the evidence produced by the Deputy Director of Planning and Zoning of Baltimore County.

D. That there was abundant legally sufficient evidence before the Board of error in the original zoning placed upon the property of your Petitioner at the time of the adoption of the first district map on or about April 5, 1960.

E. That the action of the County Board of Appeals at the hearing in this case was arbitrary and capricious and an abuse of discretion for that it excluded certain evidence that was material to your Petitioner's case.

F. That the County Board of Appeals of Baltimore County misinterpreted the evidence and misapplied the law in reaching its decision, and the action taken, based upon said decision

#5550

was clearly erroneous, and therefore illegal.

WHEREFORE, your Petitioner prays this Honorable Court:

- (1) To reverse the aforesaid action, decision, and Order of the Board of Appeals of Baltimore County dated September 18, 1962.
- (2) To pass its order granting the reclassification of your Petitioner's property from a "R-10" zone to a "B-R" zone.
- (3) To grant such other and further relief as your Petitioner's case may require.

SMITH AND HARRISON

Eugene G. Ricks
Eugene G. Ricks
Attorneys for Petitioner

I HEREBY CERTIFY that on this 27th day of September, 1962, a copy of the foregoing Petition was mailed, by regular mail, to the County Board of Appeals of Baltimore County, County Office Building, Towson 4, Maryland.

Eugene G. Ricks
Eugene G. Ricks

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 11657
DATE 5/16/62
5550
TO: Screen-Up Petting Co. of Balto., Inc.
6159 Edmondson Avenue
Catonville, Maryland
BILLED BY: Zoning Department of Baltimore County
DEPOSIT TO ACCOUNT NO. 01622
QUANTITY DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE COST
Advertising and posting of property for Carpenter Realty Co. 110/00
3-16-62 4553 * * * TIL * 11.000
3
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.

5550

CARPENTER REALTY CORP. * IN THE
VS. * CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Before TURNBULL, J.
* Case #2642
* Miscellaneous Law
* Docket 7
* Folio 196

* * * * *

Thursday, December 13, 1962

ORAL OPINION OF THE COURT

TURNBULL, J. - Gentlemen, I think we can save us all a little time. I agree with Mr. Ricks, thoroughly agree with him, that there was error when this R-10 classification was put on this property. I, however, on this record, cannot possibly reverse the Board and say that this property should be zoned B-R.

There is ample evidence before the Board, in my opinion, from which it could conclude that B-R was not a proper zoning category for this property, including Mr. Jones's testimony, beginning at Page 155, he states

REPORTED BY: C. Leonard Perkins

that some of the uses under B-R could be adverse, - on Page 156, and then in response to a question, "You say M-R would definitely not be suited?" and he says, "No, sir," and goes on.

If this were an application for Manufacturing Restricted which the Board had denied, I would promptly reverse the Board's order, and enter an order zoning the property Manufacturing Restricted. This is another example of the fact that this particular land use map was adopted by the County Council, and it is public knowledge and everyone who has any practical sense knows that this is so, was adopted by the County Council for political purposes, and not for land use purposes.

If, Mr. Ricks, you can show me anything whereby I have the authority to remand this so that you can amend your petition to M-R, and expand the area, and you can do it because you own it, to the necessary five acres, I will sign such an order. If you can't, I am, on this record, absolutely bound, in my opinion, to sustain the ruling of the Board, even though I think there was a gross error in the land use map, because I don't think

the record necessarily would require that the classification should be Business Roadside.

MR. RICKS: If your Honor please, that is one of the things I pointed out, I thought, in my oral statement to the Board, that the Board did not want to hear any information concerning the M-R zone. I did not have an opportunity, if your Honor please, and probably I was amiss in not proffering an exhibit I had prepared to show the inconsistency of placing this property in an M-R zone.

THE COURT: I understand that, Mr. Ricks, but the M-R is not before me.

MR. RICKS: The Board did not consider the M-R either, except, your Honor, that it approached it to say maybe this is what should have been done, but didn't give us an opportunity to go in and show that M-R classification would be too restrictive, that the present establishment would be a nonconforming use again and the new buildings would not be adequate to cover that particular use.

At least, if your Honor feels it should be under the M-R zone, I think your Honor could remand it to see if it should be considered in M-R zone. There should

have been the distinctions between at least all the features, set-backs, restrictions, and those other features that go with the M-R zoning rather than the B-R zone.

THE COURT: Mr. Hessey, under Section 501.2 of the Zoning Regulations, do I have the authority to remand, with instructions to the Board, to permit the petition to be amended to ask in the alternative for M-R, as well as B-R?

MR. HESSEY: I say no, for two very basic reasons, your Honor. M-R is considered a lower land use, and the Board itself cannot undertake an M-R consideration without readvertising and a new petition. Furthermore...

THE COURT: Lower land use than B-R?

MR. HESSEY: Yes, sir.

THE COURT: That isn't what the Court of Appeals said in the Hoff case. They said M-R is considered in the nature of a special exception and is considered in residential zones.

MR. HESSEY: The first thing is not as important as the next thing, your Honor. Certain prerequisites are necessary for M-R zoning. Number one, according to

Section 240.3, the plats have to be filed showing existing topography, proposed changes in grade, approximate location and size and general character of the proposed structure, the proposed use of the property, and M-R requires screening and planting and a great deal, very restrictive uses, and the property owner can be restricted to using his property according to the plan of development under M-R, and none of this has been done in this case.

I believe in order to go M-R, this property owner would have to start all over again with the Planning Board.

THE COURT: What you are saying, and the Planning Board has already, according to Mr. Gavrelis's testimony, said that this property should be zoned M-R. The effect of your saying, Mr. Hessey, and it is perfectly obvious to me why, and that is because of the eighteen months period, is that the petition cannot be under any circumstances amended now.

In the case involving the Crane Station of the Gas & Electric Co. on Carroll Island, application was made for a qualification of heavy industrial, and the

Commissioner and the Board refused to rezone, but gave special exception for a utility use, even though that had not been asked for, and the very same argument that you now make was made by protestants in that case, that it had not been advertised for a special exception. The Circuit Court and the Court of Appeals both said that the zoning authorities had power to grant less than that which was requested.

MR. HESSEY: Yes, that is true.

THE COURT: Under the advertisement for the greater, and the Court of Appeals has said that M-R is in the nature of a special exception, and I understand that from the Hoff case to mean that it is a lesser classification than a commercial, or business classification. The regulations say that the Circuit Court shall have power to affirm the decision of the Board, or if such decision is not important at law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require.

In my opinion, justice requires that the matter be remanded, and I may be wrong, be remanded with

instructions that the petitioner be afforded the opportunity, if he desires, to amend the petition, to request M-R, in the alternative to B-R, and that the property should be posted and advertisement given as if it were an original hearing, before the Commissioner, so that those who may wish to protest will be afforded ample notice. That may include those who are not parties to this particular proceeding.

If you will prepare an order in that respect, Mr. Ricks, submit it to Mr. Hessey, - that is what the Court will do.

MR. HESSEY: Your Honor, may I suggest that this order include that the property owner be required, as a prerequisite to an amendment, to provide, according to the provisions of the code, relate the necessary planning for the proposed development.

THE COURT: Well, if he does amend to ask for M-R, then necessarily he will have to comply with that which is required for an M-R classification.

MR. HESSEY: One other remark, your Honor, is the Court not prepared to accept the testimony that actually

this land can be developed in an R-10 category profitably to the property owner? This is a classification of nonconforming use, just like Five Oaks.

THE COURT: Where is that testimony?

MR. HESSEY: The testimony is on Page 181.

THE COURT: Of course, Mr. Hessey, under the existing circumstances I just don't believe that is so. I believe Mr. Lemmon's opinion is clearly erroneous.

MR. HESSEY: Of course his opinion, your Honor, if this place should burn down...

THE COURT: The Board didn't accept that either. And neither does Planning, - no one except Mr. Lemmon says that R-10 was the proper zoning, - he is the only one that says it. As Mr. Ricks quite properly points out, Mr. Lemmon, whom I have known for years and for whom I have a very deep personal affection, under the decisions of the Court of Appeals should be almost totally discounted as a protestant.

MR. HESSEY: Why do you say that, your Honor?

THE COURT: Because the Court of Appeals has said so.

1 MR. HESSEY: No, as an appellant, protestants
2 with substantial interests, but not as an expert witness,
3 as he has testified.

4 THE COURT: I simply completely, - ninety-nine
5 and forty-four one-hundredths per cent disagree with Mr.
6 Lemmon's opinion, that under existing circumstances that
7 land would properly be used for R-10 zoning, and that is
8 what you must consider.

9 MR. RICKS: If I, under your order, go back
10 before the Board, if I understood you right, I have an
11 alternative going M-R or B-R. Can I do this, - is this
12 your Honor's intention: Without having to make up all the
13 plans as they want for the M-R zoning...

14 THE COURT: You amend, Mr. Ricks, to ask for
15 M-R, in the alternative to B-R. Necessarily you will have
16 to comply with the regulations relative to an application
17 for M-R zoning.

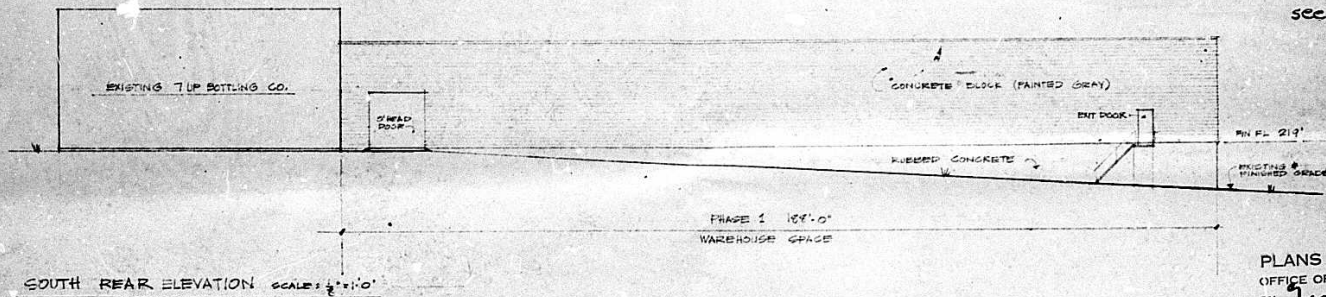
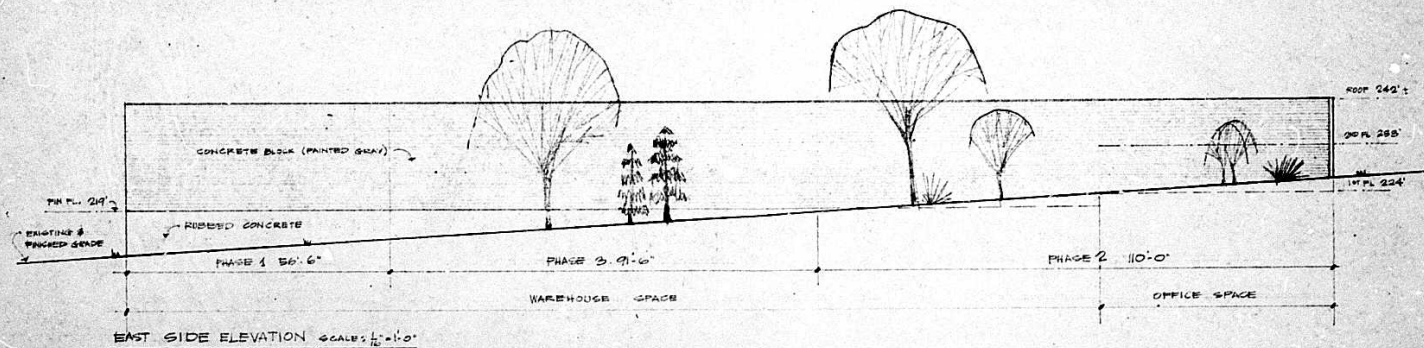
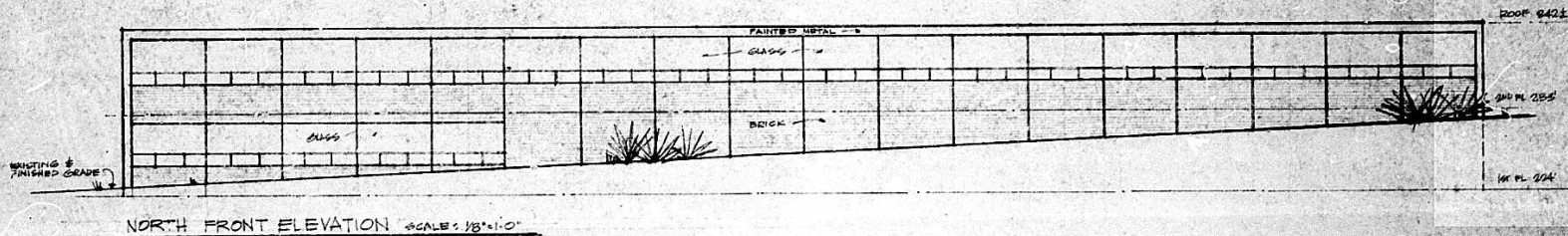
18 MR. RICKS: May I point, your Honor, I wanted
19 the opportunity to show the Board, because of the M-R
20 situation, that it is impracticable, there would be so many
21 variances needed to comply with the M-R zone on this piece

1 of property, that it goes against the whole spirit of the
2 M-R zone, and the M-L-R zone too.

3 THE COURT: That may be, Mr. Ricks, I don't
4 know about that, but I can assure you this, that on this
5 record I cannot reverse the Board insofar as B-R zoning is
6 concerned.

7 * * *

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17 MILLERS TAINTS
18 BETHLEHEM
19 COTTON CONTINENTAL
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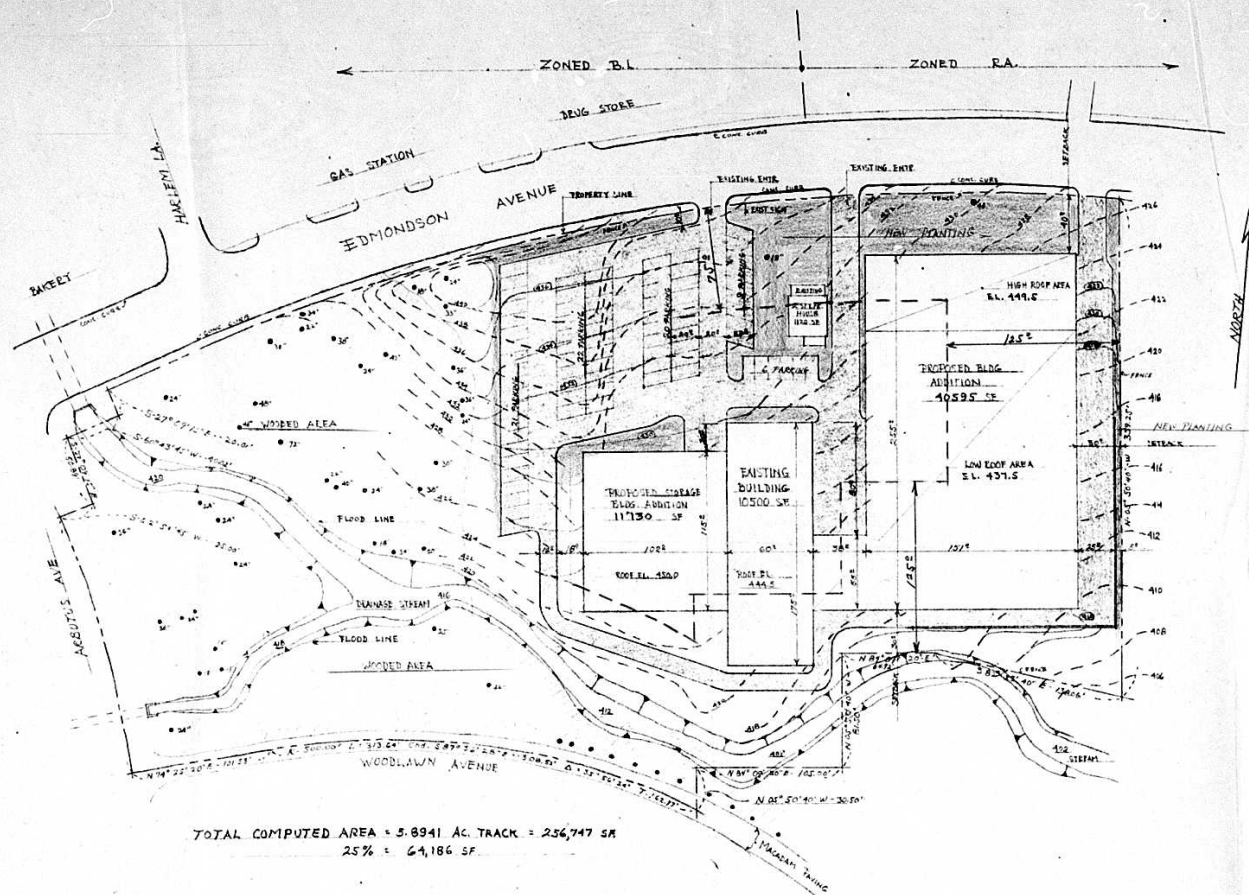
Note: For details concerning new driveway on application # 296-65, see Plan #2.

Shawell
7/6/65

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY *James J. Shawell*
DATE *7/6/65*
Plan #1 of 2

PROPOSED ADDITIONS TO THE 7UP BOTTLING COMPANY
6159 EDMONDSON AVENUE, BALTIMORE COUNTY, MARYLAND 13 AUG 64

ANTHONY J. IANNIELLO, architect
1906 FOREST COURT, TIMONIU, N.D.



EXISTING BUILDING EXTERIOR:
 RED FACE BRICK, METAL WINDOWS, BUILT-UP ROOFING
 PROPOSED NEW BUILDINGS:
 BRICK & BLOCK WALLS, METAL WINDOWS,
 BUILT-UP ROOFING, STEEL FRAMING

ZONED R.G.

VARIANCES REQUESTED

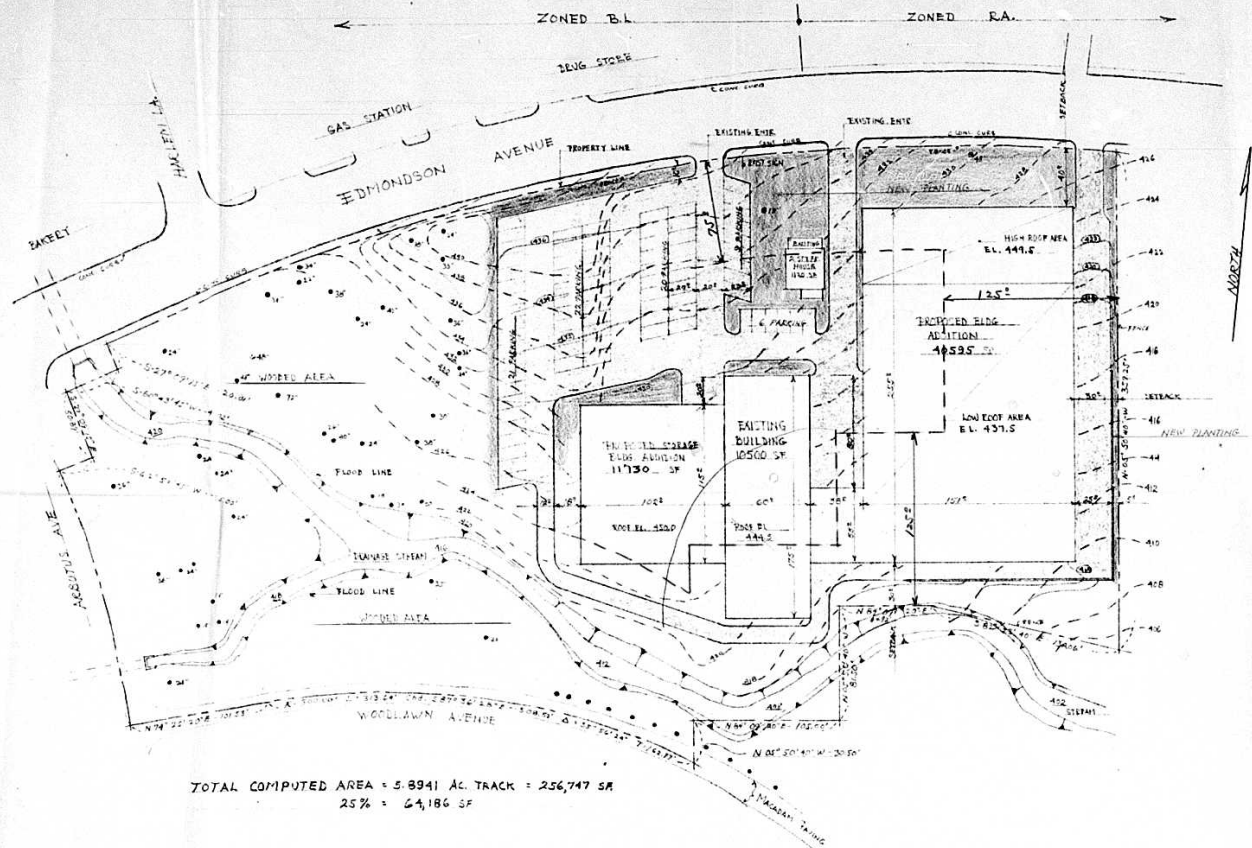
FRONT YARD = 245.1 - 40' (REQUIRED 75')
 SIDE YARD = 243.4 - 30' (REQUIRED 125')
 REAR YARD = 243.4 - 30' (REQUIRED 125')

PLOT PLAN & TOPOGRAPHICAL SURVEY
 7-UP BOTTLING CO. - CATONSVILLE, MD.
 ELECT. DIST. NO. 1, BALTO. CO., MD.
 SCALE 1" = 50'

THE COGSWELL CONSTRUCTION COMPANY
 513 PARK AVE., BALTIMORE, MD.
 BUILDERS

March 22nd 1963





EXISTING BUILDING EXTERIOR:
RED FACE BRICK, METAL WINDOWS, BUILT-UP ROOFING
PROPOSED NEW BUILDINGS:
BRICK & BLOCK WALLS, METAL WINDOWS,
BUILT-UP ROOFING, STEEL FRAMING

ZONED R.G.

VARIANCES REQUESTED

FRONT YARD: 243.1 - 40' (REQUIRED 15')
SIDE YARD: 243.4 - 30' (REQUIRED 12.5')
REAR YARD: 243.4 - 30' (REQUIRED 12.5')

TOTAL COMPUTED AREA = 5.8941 AC. TRACK = 256,747 SF
25% = 64,186 SF

PLOT PLAN & TOPOGRAPHICAL SURVEY
7-UP BOTTLING CO. - CATONSVILLE, MD.
ELECT. DIST. NO. 1, BALTO. CO., MD.
SCALE 1" = 50'

THE COGSWELL CONSTRUCTION COMPANY
513 PARK AVE., BALTIMORE, MD.
BUILDERS



