



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
Page 2

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.

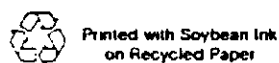
Sincerely,

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

★ Census 2000 ★ For You, For Baltimore County ★ Census 2000 ★



Come visit the County's Website at www.co.ba.md.us

PETITION FOR SPECIAL HEARING 84-191-SPHA

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should ~~approve~~ construe Regulation 413.2F (B.C.Z.R., 1955) as applicable to M.R. Zones, and allowing business signs 200 square feet in area.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s): Carpenter Realty Corp. d/b/a Seven-Up Bottling Company of Baltimore, Inc.
(Type or Print Name)
Signature: *Thomas L. Hudson*
Address: 6159 Edmondson Avenue, 747-7777
City and State: Baltimore, Maryland 21208
Attorney for Petitioner: Thomas L. Hudson, Esquire
Signature: *Thomas L. Hudson*
Address: 210 Allegheny Ave., P.O. Box 5517, Towson, Maryland 21204
Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 29th day of November, 1983, 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 6th day of February, 1984, at 11:30 o'clock A.M.

Carl J. Jablon
Zoning Commissioner of Baltimore County.

KCO-No.1

(over)

PETITION FOR ZONING VARIANCE 84-191-SPHA

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 413.5d to allow erection of on-site business sign of 100' in height in lieu of permitted 25'. Section 413.2F to allow erection of a business sign 400 sq. ft. in area in lieu of an area in M.R. Zone.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

Compliance with Regulation 413.5d and 413.2F would make visibility of the proposed sign impossible from adjacent roadways, thus imposing practical difficulty and hardship upon Seven-Up Bottling Company of Baltimore, Inc.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

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City and State: Baltimore, Maryland 21208
Attorney for Petitioner: Thomas L. Hudson, Esquire
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Address: 210 Allegheny Ave., P.O. Box 5517, Towson, Maryland 21204
Attorney's Telephone No.: 823-4111

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Carl J. Jablon
Zoning Commissioner of Baltimore County.

(over)

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 27, 1984

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

ofo
Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Thomas L. Hudson, Esquire
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204

RE: Item No. 119 - Case No. 84-191-A
Carpenter Realty Corporation
Variance Petition and Special Hearing

Dear Mr. Hudson:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

This combination hearing is required in order to determine whether a free-standing business sign is allowed in an M.R. zone, since said zoning classification is omitted from Section 413.2F of the regulations, and, if so, to allow the proposed sign to have a height and size greater than would normally be permitted.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
Nicholas B. Commodari, Jr.
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc
Enclosures
cc: Gerhold, Cross & Etzel
412 Delaware Avenue
Towson, Md. 21204

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITION AND SITE PLAN EVALUATION COMMENTS

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

January 6, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #119 (1983-1984)
Property Owner: Carpenter Realty Corporation
S/S Edmondson Ave., 473' W. Somerset Rd.
Acres: 1835 sq. ft.
District: 1st

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements exist and are not directly involved.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 119 (1983-1984).

Very truly yours,
Robert A. Morton, P.E.
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EM:FWR:ss

H-NE Key Sheet
7 SW 21 Pos. Sheet
SW 2 P Topo
101 Tax Map

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Zoning Commissioner
FROM: Norman E. Gerber, Director
Office of Planning and Zoning
SUBJECT: Carpenter Realty Corp.
84-191-SPHA

Date: January 19, 1984

It is this office's opinion that a sign of this height and size would not be appropriate in view of the visual impact on the nearby residential areas. It is therefore recommended that the subject variance be denied.

Norman E. Gerber, Jr.
Norman E. Gerber, Director
Office of Planning and Zoning

NEG/JGH/sf

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

January 16, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 117, 118, 119, 120, 121, and 124. - ZAC Meeting of November 29, 1983
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for item numbers 117, 118, 119, 120, 121, and 124.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. II

MSP/ocm

MAY 10 1985

PETITIONS FOR SPECIAL HEARING AND VARIANCES

1st Election District

ZONING: Petitions for Special Hearing and Variances

LOCATION: South side Edmondson Avenue, 473 ft. West of Somerset Road

DATE & TIME: Monday, February 6, 1984 at 11:30 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should construe Regulation 413.2f (B.C.Z.R., 1955) as applicable to M.R. zones, and allowing business signs 200 sq. ft. in area and Variances to allow erection of on-site business sign of 100 ft. in height in lieu of the permitted 25 ft. and to allow erection of a business sign 400 sq. ft. in area in lieu of the maximum permitted 200 sq. ft. in area in an M.R. zone

Being the property of Carpenter Realty Corp. d/b/a Seven-Up Bottling Company of Baltimore, Inc., as shown on plat plan filed with the Zoning Department.

In the event that these Petitions are granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

4N RE: PETITIONS SPECIAL HEARING AND ZONING VARIANCES
S/S of Edmondson Avenue, 473' W of Somerset Road - 1st Election District
Carpenter Realty Corporation
d/b/a Seven-Up Bottling Company, Inc.,

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-191-SPHA

Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein initially requests an interpretation of the Baltimore County Zoning Regulations (BCZR), specifically Section 413.2f, to allow the construction of a business sign in an M.R. Zone. If the answer is affirmative, the Petitioner also requests variances to permit a larger sign, to wit, 100 feet in height instead of the permitted 25 feet and 400 square feet in area instead of the maximum permitted 200 square feet. Petitioner's Exhibit 1 shows the location of the proposed sign on the subject property.

The Petitioner, by Lawrence Inbesi, Vice President of Carpenter Realty Corporation, appeared and testified and was represented by Counsel. Also testifying for the Petitioner was Carl Gerhold, a registered land surveyor. There were no Protestants.

Testimony indicated that the subject property is zoned M.R. The Petitioner wishes to construct a sign on the property facing the Baltimore Beltway, which would be the location of its bottling plant. The Petitioner's engineers determined the size necessary for the sign to be visible from the Beltway. The subject property is presently being utilized, as it had been for many years prior to its purchase by the Petitioner in 1936, as a bottling and distribution center. The area surrounding the property consists of D.R.3.5 zoning to the south; D.R.5.5 and D.R.10.5 zoning to the east; D.R.16, O-1, and B.L. zoning to the north; and the Beltway to the west.

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The D.R.3.5 property is screened from the site by woods and a stream, while the D.R.5.5 property is vacant and the D.R.10.5 property is developed with group homes situated 473 feet from the proposed sign. Testimony indicated, and was uncontradicted, that construction of the sign would not cause any adverse effect to the health, safety, and general welfare of the surrounding community and would in fact be consistent with the spirit and intent of the BCZR. The sign would be an 80-foot post with a 20' x 20' emblem on top, as shown on Petitioner's Exhibit 3.

The primary issue is whether a "business" sign can be constructed in an M.R. Zone.

Section 413.2, BCZR, permits business signs, as defined in Section 101, in business and industrial zones. Section 413.2f provides that business signs, other than those previously described, may be used if limited to a total area of 100 square feet in business zones and 200 square feet in M.L. and M.H. Zones. It is obvious that business and industrial zones are not the same. A business sign is defined as a sign which calls attention to a business, service, industry, or other activity conducted on the premises upon which the sign is located. The sign proposed by the Petitioner is a business sign within the context of the BCZR; however, it is clear that such signs are not permitted in an M.R. Zone.

The introductory language of Section 413.2 allows business signs subject to the conditions precedent found thereafter, and the conditions do not permit such signs in an M.R. Zone. The BCZR are all inclusive; that is, they delineate what is permitted either by right or by special exception, and if a use is not listed, it is therefore not permitted in the particular zone.

Basic principles of statutory construction were comprehensively set out by the Court of Appeals in State v. Fabritz, 276 Md. 416 (1975), cert. denied, 428 U.S. 942 (1976):

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The cardinal rule in the construction of statutes is to effectuate the real and actual intention of the legislature. Purfoy v. Merc-Safe Dep. & Trust, 273 Md. 58, 327 A.2d 483 (1974); Scoville Serv., Inc. v. Comptroller, 269 Md. 390, 306 A.2d 534 (1973); Height v. State, 225 Md. 251, 170 A.2d 212 (1961). Equally well settled is the principle that statutes are to be construed reasonably with reference to the purpose to be accomplished. Walker v. Montgomery County, 244 Md. 98, 223 A.2d 181 (1966), and in light of the evils or mischief sought to be remedied. Mitchell v. State, 115 Md. 360, 80 A.2d 1020 (1911); in other words, every statutory enactment must be "considered in its entirety, and in the context of the purpose underlying [its] enactment." Giant of Md. v. State's Attorney, 267 Md. 501 at 509, 298 A.2d 427, at 432 (1973). Of course, a statute should be construed according to the ordinary and natural import of its language, since it is the language of the statute which constitutes the primary source for determining the legislative intent. Grosvenor v. Supervisor of Assess., 271 Md. 232, 315 A.2d 758 (1974); Height v. State, supra. Where there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intention of the Legislature. Purfoy v. Merc-Safe Deposit & Trust, supra. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural import of words with a view towards making the statute express an intention which is different from its plain meaning. Gatewood v. State, 244 Md. 609, 224 A.2d 677 (1966). On the other hand, as stated in Maguire v. State, 192 Md. 615, 623, 65 A.2d 299, 302 (1949), "[a]d-herence to the meaning of words does not require or permit isolation of words from their context." (since) the meaning of words from their context. In construing statutes, therefore, results that are unreasonable, illogical or inconsistent with common sense should be avoided whenever possible consistent with the statutory language, with the real legislative intent prevailing over the intention indicated by the literal meaning. B. F. Saul Co. v. West End Park, 250 Md. 707, 246 A.2d 591 (1968); Sanza v. Md. Board of Gen. Sors, 245 Md. 319, 226 A.2d 317 (1967); Height v. State, supra.

Applying these principles to the BCZR now being considered, the conclusion is inescapable that under the plain wording of Section 413.2f, the Petitioner cannot place a business sign in an M.R. Zone.

The Petitioner advances a different interpretation of the BCZR in support of its contention that the overall intent of the legislation is to permit such

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signs in an M.R. Zone. The Petitioner's interpretation ignores the plain wording of Section 413.2f. The BCZR specifically allow business signs in M.L. and M.H. industrial zones only.

The intent of the BCZR must be determined as being construed as a whole. See Smith v. Miller, 249 Md. 390. Thus, the specific language delineating the use regulations in Section 413, BCZR, must be construed in light of all of the provisions concerning signs so that the several parts of those regulations are given their intended effect. Moreover, the relationship between those various provisions regulating signs must be reconciled as a whole. See Smith, supra; Bowie Volunteer Fire Department & Rescue Squad, Inc. v. Bd. of County Commissioners, 255 Md. 381; Anderson, American Law of Zoning, Section 16.08. Therefore, whether a sign is allowable in an M.R. Zone as a matter of right is determinable in view of Section 413.2 permitting such a use as a matter of right.

"Zoning regulations are in derogation of common law rights and they cannot be construed to include or to exclude by implication that which is not clearly within their express terms." Yokely, Zoning Law & Practice, Section 1-4 and Section 25-8; Aspen Hill Venture v. Montgomery County, 265 Md. 303 (1972). Landay v. MacWilliams, 173 Md. 460 (1938) a/k/a Landay v. Bd. of Zoning Appeals.

Zoning regulations must be strictly construed and cannot be extended by implication to prohibit uses not clearly within their scope. Cino's of Maryland, Inc. v. Balto., 250 Md. 621 (1968); McQuillin, Municipal Corp., Section 25.72. Section 413.2f allows signs only in M.L. and M.H. industrial zones as a matter of right. Strictly construed, and as read together with the legislation regulating signs, it is clear and unambiguous that the County Council intended to exclude M.R. and M.L.R. Zones specifically from Section 413.2f. There is no extension by implication to prohibit a use not clearly within its scope. Any use other than those permitted as of right is prohibited. Kowalski v. Lamar, 333 Md. 24 536 (1975).

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Section 413.2 does not provide the Petitioner with the ability to place a business sign in an M.R. or M.L.R. Zone as a matter of right. The language is not all inclusive nor all permissive. The introductory language provides a preamble to the particular section's intent and conditions any permission to place a business sign in any business or industrial zone in subsequent subparagraphs. The fact that no express language prohibits a business sign in an M.R. or M.L.R. Zone does not conversely prove permission. To the contrary, the express language of the BCZR limits business signs to specific industrial zones, i.e., M.L. and M.H. Zones, not M.R. or M.L.R. Zones. If all of the subparagraphs of Section 413.2 are read and their intent interpreted as a whole, any interpretation must conclude that the Council intended M.R. and M.L.R. Zones to be excluded from Section 413.2f. It is also of interest to read Section 252 (M.L.R. Zone), BCZR, and Section 240.3 (M.R. Zone), BCZR, in conjunction with Section 413.2. M.L. and M.H. industrial zones are not restrictive in scope, although M.L.R. and M.R. Zones are. The Council's intent to prevent business signs in M.L.R. and M.R. Zones would be consistent with their intent to establish the various industrial zones. See Section 240.1, BCZR. Any use other than those permitted is prohibited. Kowalski, supra.

An analogy to be drawn is the matter of which zones are permitted to have outdoor advertising signs. Section 413.3, BCZR, excludes the B.R., M.R., and M.L.R. Zones. Chief Judge Raine, in Metromedia, Inc. Balto. County, Equity No. 103149, ruled that at some point unknown, the B.R. Zone had been omitted by mistake when the BCZR had been recodified. He found that the Council had not certified the BCZR which had at one time included the B.R. Zone but which was missing then, and therefore, the B.R. Zone must be included as a zone where an outdoor advertising sign could be permitted by special exception. It is important to note that subsequent to the decision by Judge Raine, the Council took

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corrective action by certifying the BCZR as accurate, thereby legalizing them, inclusive of Section 413.3, which excluded the B.R. Zone, as well as the M.R. and M.L.R. Zones, from its coverage. Can there now be any argument that the intent of the Council was to exclude the B.R. Zone from the ambit of Section 413.3?

The Petitioner argued that "to disallow a sign for a commercial and business use in an M.R. Zone would create a restriction not stated in the BCZR". The restriction is in fact created by the BCZR and requires a change in the ordinance duly enacted and certified by the Council for it to be otherwise. An ordinance should be construed "so that no word, clause, sentence or phrase shall be rendered surplusage, superfluous, meaningless, or nugatory." Supervisor v. Southgate Harbor, 279 Md. 586 (1977). An acceptance of the Petitioner's argument would be to render Section 413.2f meaningless, or at the very least, superfluous.

The Petitioner requests an interpretation of Section 413.2, pursuant to Section 500.7, BCZR, to permit a business sign in an M.R. Zone. If granted, the Petitioner seeks relief from Section 413.5.d to allow the erection of a sign 100 feet in height instead of the required 25 feet and Section 413.2f to allow said sign to be 400 square feet in area instead of the maximum permitted 200 square feet pursuant to Section 307, BCZR.

After due consideration of the testimony, evidence, and legal arguments made, it is determined that the BCZR do not permit business signs in an M.R. or M.L.R. Zone, notwithstanding the decision of the Deputy Zoning Commissioner in Case No. 83-178-XSPHA, where it was held that Section 413.2 did not prohibit a business sign in an M.L.R. Zone. The secondary issue of the request for variances is therefore moot.

Pursuant to the advertisement, posting of the property, and public hearing on the petitions held, and for the reasons given above, the request to allow

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business signs in an M.R. Zone, together with the request for variances, should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 19th day of February, 1984, that the Petition for Special Hearing to Interpret Section 413.2f, BCZR, to allow the construction of a business sign in an M.R. Zone and, additionally, the Petition for Variances to permit said sign to be 100 feet in height instead of the permitted 25 feet and 400 square feet in area instead of the maximum permitted 200 square feet be and are hereby DENIED.

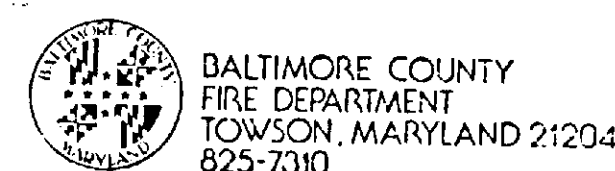
[Signature]
Zoning Commissioner of
Baltimore County

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Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the following finding of facts that:

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit



PAUL H. REINCKE
CHIEF

January 31, 1984

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Comodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Carpenter Realty Corporation

Location: S/S Edmondson Avenue 473' W. Somerset Road

Item No.: 119 Zoning Agenda: November 29, 1983

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(X) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED: *[Signature]* 1-31-84 Noted and *[Signature]* Approved: _____
Planning Group Fire Prevention Bureau
Special Inspection Division

/mb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. Arnold Jablon, Zoning Commissioner
TO: Office of Planning and Zoning Date: January 25, 1984
FROM: Ian J. Forrest
SUBJECT: Zoning Variance Items
Meeting - November 29, 1983

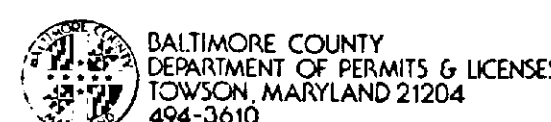
The Baltimore County Department of Health has reviewed the following zoning items and does not anticipate any health hazards at this time regarding these items.

Item # 119 - Carpenter Realty Corporation
Item # 120 - Donald C. Hupp, Sr., et ux
Item # 121 - Arthur L. Myers, et ux

[Signature]
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/rth

2/6
8-19-84



TED ZALUSKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 119 Zoning Advisory Committee Meeting are as follows:

Property Owner: Carpenter Realty Corporation
Location: S/S Edmondson Avenue 473' W. Somerset Road
Existing Zoning: M.R.
Proposed Zoning: Variance to permit erection of on-site business sign over 25' in elevation and to allow erection of on-site business sign over 200 sq. ft. in area. Special Hearing to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should construe Reg. 113.22, as applicable to M.R. Zones and allowing business signs 200 sq. ft. in area.

Area: 1835 Sq. Ft.
District: 1st.

The items checked below are applicable:

- All structures shall conform to the Baltimore County Building Code 1981/Council Bill 111-82-200-201 Maryland Code for the Handicapped and Ages; and other applicable Codes.
- A building/structure permit shall be required before beginning construction.
- Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.
- Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- An exterior wall erected within 6'0" for Commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot line. A firewall is required if construction is on the lot line, see Table 101, line 2, Section 1007 and Table 1002, also Section 903.2.
- Requested variance appears to conflict with the Baltimore County Building Code, Section/s _____
- A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 101.
- Comments _____

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesapeake Ave., Towson.

Very truly yours,

[Signature]
Charles E. Burnham, Chief
Plans Review

CEB:es

BUREAU OF ENGINEERING - BALTIMORE COUNTY, MD.

1 2 3 4 5 6 7 8 9 10 11 12

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCES
S/S Edmondson Ave., 473'
W of Somerset Rd., 1st Dist.
CARPENTER REALTY CORP.,
d/b/a Seven-Up Bottling Co.
of Baltimore, Inc., Petitioner

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

[Signature]
Phyllis Cole Friedman
People's Counsel for Baltimore County

[Signature]
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 23rd day of January, 1984, a copy of the foregoing Entry of Appearance was mailed to Thomas L. Hudson, Esquire, 210 Allegheny Ave., P.O. Box 5517, Towson, MD 21204, Attorney for Petitioner.

[Signature]
Phyllis Cole Friedman
Phyllis Cole Friedman

RE: Special Hearing for a sign in an MR Zone
CARPENTER REALTY CORPORATION
d/b/a THE SEVEN-UP BOTTLING COMPANY OF BALTIMORE, INC.
Petitioner

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
No. 84-191-A

* * * * *

MEMORANDUM IN SUPPORT OF SPECIAL HEARING

This Memorandum is filed by Carpenter Realty Corporation d/b/a The Seven-Up Bottling Company of Baltimore, Inc. (the "Petitioner"), owner and lessee-user, respectively, of the subject property, by its attorneys, Thomas L. Hudson and Cook, Howard, Downes & Tracy, and it will be limited to the following question:

QUESTION PRESENTED

I. Is allowance of a business sign in an MR zone reasonable in light of the Zoning Regulations?

FACTS

The Petitioner, Carpenter Realty Corporation, acts as a real estate holding company for various Seven-Up Companies, and it owns the 4.5 acre Seven-Up facility operated by The Seven-Up Bottling Company of Baltimore, Inc. at 6159 Edmondson Avenue in Baltimore County. Seven-Up has operated from that location since approximately 1936.

The business of Seven-Up which is conducted at the facility is the bottling, warehousing, marketing, sales, and distribution of Seven-Up and other beverage

MAY 10 1985



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Columen, Maryland 21204
(301) 494-3180
January 24, 1985

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 84-191-SPHA

CARPENTER REALTY CORP.

(Seven-Up Bottling Co., Inc.)

S/S Edmondson Ave., 4731 W. of Sohier Rd.

1st District

For SH-to allow business signs 200 sq. ft. in area
" Variance-sign of 100' in height in lieu of 25',
" erection of sign 400' in lieu of 200' in area in
MR zone

2/29/84 - Z.C. DENIED PETITION

ASSIGNED FOR:

TUESDAY, MARCH 12, 1985, at 10 a.m.

cc: Thomas L. Hudson, Esq.

Counsel for Petitioner

Carpenter Realty Corp.

Petitioner

Phyllis C. Friedman

People's Counsel

A. Jablon

J. Jung

N. E. Gerber

J. G. Hoswell

J. E. Dyer

June Holmen, Secretary

products. The property is zoned MR, and a bottling plant is a permitted use in that zone.

A petition for a sign variance from certain height and size regulations was filed on November 29, 1983. At the same time, the Petitioner requested a Special Hearing pursuant to Section 500.7 B.C.Z.R. to construe Section 413.2 f B.C.Z.R. as permitting a business sign in an MR zone

ARGUMENT

II.

A BUSINESS SIGN SHOULD BE ALLOWED IN CONJUNCTION WITH A BUSINESS OR INDUSTRIAL USE IN AN MR ZONE.

The Baltimore County Zoning Regulations do not specify what signs may be used in an MR zone. Section 413.2 f B.C.Z.R. states: "Other business signs (not exceeding three on any premises) may be used if limited to a total area of one-hundred square feet in business zones, and two hundred square feet in ML and MH zones." (Emphasis added) It would be unreasonable to construe this regulation to exclude any sign whatsoever for a business use in an MR zone, where such a commercial use is permitted.

Section 101 - Definitions B.C.Z.R. defines a "business sign" as a sign "...which calls attention to a business, service, industry or other activity conducted on the premises upon which the sign is located." The sign sought by the Petitioner is certainly a "business sign" which calls attention to the Seven-up bottling plant, etc., which is a use permitted in an MR zone under Section 241 B.C.Z.R. In fact, the uses permitted in an MR zone

give it a distinct business/commercial character as well as the industrial character noted in Section 240.1 - PURPOSE [for the MR zone]. Because of this mix of business and industrial uses in the typical MR zone, it can be effectively argued that a business sign is permitted as a matter of right in an MR zone under Section 413.2 B.C.Z.R.

The Petitioner's right to a business sign is expressly allowed under Section 413.2 because of the all-encompassing language of the regulation itself which states that:

Business signs as defined in Section 101 are permitted in Business and Industrial Zones under the following conditions, as limited by Section 413.5. (Emphasis Added.)

It is clear that MR is an industrial zone, and nothing in Section 413.5 prohibits a business sign in an MR zone. Secondly, the conditions expressed in subsections a through f of Section 413.2 do not prohibit expressly a business sign in an MR zone. Therefore, the express language of the regulation permits a business sign in an MR zone.

The only argument against the literal interpretation of the express language of Section 413.2 is the language of subsection f of the regulation which refers to business signs in "business zones" and in ML and MH zones. The absence of a reference to the MR zone in the conditions regarding square footage limitations cannot be construed to override the express sanction of business signs in industrial zones stated in the first sentence of Section 413.2. The inclusion of a reference to the ML and MH zones in subsection f cannot be interpreted as

overriding the expansive initial language of Section 413.2. Certainly, to allow a condition on a use in ML or MH zones to act as a prohibition of a permitted use in a MR zone is an unreasonable statutory interpretation.

The unreasonableness of an interpretation of subsection f which would flatly prohibit signs in an MR zone is underscored when one considers the fact that the zoning regulations also make no provisions for signs in a MLR zone which has the same dual business/commercial and industrial character as an MR zone. It is not only unreasonable, but also, it is inconceivable that the uses permitted in both the MR and MLR zones could not have business signs because of subsection f, especially in light of the express permissive language that begins Section 413.2. Indeed, it is in the best interest of enforcement of the regulations that 413.2 f be construed as applicable to MR and MLR, for otherwise there would be no square footage limitations on business signs in those zones.

On February 24, 1983, Deputy Zoning Commissioner Jean M. H. Jung interpreted Section 413.2 as not prohibiting a business sign in an MLR zone. See Petitioner's Exhibit No. 2, the Order in Case No. 83-178-XSPHA, McCormick Properties, Inc., Petitioner. While the Petitioner in the instant case cannot argue that the Order in Case No. 83-178-XSPHA has any precedential value, it does confirm that Section 413.2 has been interpreted in the past in a manner that is consistent with the Petitioner's argument in the case.

Since the zoning regulations should be liberally construed to accomplish their plain purpose and intent,

Land v. Board of Zoning Appeals, 173 Md. 460, 466 (1938), a reasonable construction of the regulations for signs in MR zones should be governed by the provisions for signs in business and industrial zones, since the precise language used in Section 413.2 states that business signs are permitted in "Business and Industrial Zones." The clear purpose and intent of Section 413.2 was to allow for business signs in an MR zone since the zone itself contains both business and industrial uses. To prohibit a sign entirely in an "Industrial" zone would be an unreasonable construction of the regulation, and it would be inconsistent with its plain purpose and intent, since business signs by definition apply to industrial uses. The only alternative would eliminate all signs in MR zones as well as all signs in MLR zones. Such a result would be unreasonable.

In Howell v. State, 278 Md. 389 (1976), the Court summarized the rules of statutory construction in Maryland as follows:

The rules for statutory construction in Maryland are well known: that in construing the intention of the legislature, the court is to find the intention as to any one part; all parts are to be reconciled and construed together; if there is no clear indication of intent, the court is reasonably possible; a statute is to be read so that no word, clause, sentence or phrase shall be rendered surplusage; and the cardinal rules of statutory construction is to ascertain the intent of the legislature by looking out the real legislative intent, and that the court should not construe the statute so as to make it inoperative in its natural and ordinary signification." Id. at 392.

This rule of construction is applicable to the provisions of the Baltimore County Zoning Regulations. See Prince Georges County v. Bahrani, 31 Md. App. 644, 653-656 (1976). In construing the regulations as a whole, it is obvious that the intent of the County Council was to allow certain business/commercial and industrial uses in an MR zone and to permit business signs in an MR zone. It is not likely that a legislative body would provide for a commercial use in an MR zone without allowing for a business sign in conjunction thereto. A reasonable interpretation of the legislative intent would allow signs for commercial or business uses in MR zones to be governed by the sign regulations for other industrial zones in which business uses are permitted. By such an interpretation, all parts of the regulations are in harmony and consistent with the general object and scope of the zoning regulations. Cloverfields ME v. Seabreeze FDOL, 280 Md. 382, 397 (1977). Moreover, in Bur v. Schwartz, 264 N.W.2d 721 (1978), the Court held that: [Courts] impose greater restrictions on the use of the land than the ordinance requires, and where the ordinance is the greater use interpretation allowing for the greater use zoning ordinances are in derogation of common law and are to be construed in favor of the free use of private property. Id. at 724.

To disallow a sign for a commercial and business use in an MR zone would create a restriction not stated in the zoning regulation. Thus, a sign in conjunction with the Petitioner's business should be allowed in accordance with the rules of construction governing zoning regulations.

Finally, an interpretation of the regulation which would disallow a sign would render the regulation void as offending the Constitution. In Gravely v. City of Rockford, 408 U.S. 104, 108-109 (1972), the Court stated:

It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. . . . [W]e must insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited so that he may act accordingly."

Since there is no prohibition to be found in the regulation, an interpretation that one exists may well render that regulation void-for-vagueness.

CONCLUSION

The Petitioner's proposed business sign is clearly allowed by the intent, purpose and express language of Section 413.2 B.C.Z.R. The reference to only ML and MH in 413.2 f cannot be reasonably construed to prohibit business signs in MR zones. It would be unreasonable to find that no sign could be erected in conjunction with the Petitioner's longstanding commercial use of its property, and the most reasonable construction would require that 413.2 f is applicable to all industrial zones.

Is the size of this sign reasonable? WHEN ONE CONSIDERS THE NATURE OF THE MR ZONE SEE RULE 240.1

DOES THIS SIGN FALL INTO THE CATEGORY OF LAND OUTDOOR ADU. SIGN SINCE ITS PROPOSED SIZE IS DESIGNED TO CLIMB UP TO EXCEED FROM STREET OTHER THAN THE ONE THAT IT FRONTED ON.

Respectfully submitted,

Thomas L. Hudson
 THOMAS L. HUDSON
 Cook, Howard, Downes & Tracy
 210 Allegheny Avenue
 P.O. Box 5517
 Towson, Maryland 21204
 301-823-4111
 Attorney for the Petitioner

 **County Board of Appeals of Baltimore County**
 Room 200 Court House (Hearing Room #218)
 Towson, Maryland 21204
 (301) 494-3180
 May 2, 1984

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 84-191-SPHA CARPENTER REALTY CORP.
 (Seven-Up Bottling Co., Inc.)
 S/S Edmondson Ave., 473' W of Somerset Rd.
 1st District
 SH-to allow business signs 200 sq. ft. in area
 Var.-sign of 100' in height in lieu of 25' erection of sign 400' in lieu of 200' in area in MR zone
 2/29/84 - Z.C.'s Order-DENIED
 THURSDAY, JULY 19, 1984, at 10 a.m.
 COUNCIL FOR PETITIONER

ASSIGNED FOR:
 cc: Thomas L. Hudson, Esq. Counsel for Petitioner
 Carpenter Realty Corp., d/b/a Seven-Up Bottling Co., of Balto. Petitioner
 Phyllis C. Friedman People's Counsel
 A. Jablon
 J. Jung
 N. Gerber
 J. Hoswell
 J. Dyer

June Holmen, Secy.

LAW OFFICES
 COOK, HOWARD, DOWNES & TRACY
 210 ALLEGHENY AVENUE
 P.O. BOX 5517
 TOWSON, MARYLAND 21204

July 5, 1984

William T. Hackett, Chairman
 County Board of Appeals
 Court House
 Towson, Maryland 21204

Re: Case No. 84-191-SPHA
 Carpenter Realty Corp.
 (Seven-Up Bottling Co., Inc.)

Dear Mr. Hackett:

As counsel for Petitioner, Carpenter Realty Corp., we are requesting that the hearing in the above-captioned matter now scheduled for August 21, 1984 at 10:00 a.m. be postponed until the week of November 19, 1984 or thereafter. The reason for this request is that a Request for Change of Zoning for the subject property has been filed with the Baltimore County Council on the 1984 Comprehensive Zoning Map, and the issue may be resolved by Council action in November. We therefore request that the Board favorably consider and grant the requested postponement.

If we may provide additional information or respond to any questions you may have, please do not hesitate to contact me or Thomas L. Hudson of this office. Thank you.

Sincerely,
Deborah C. Dopkin
 Deborah C. Dopkin

CCD:lmh
 cc: Phyllis C. Friedman, Esquire
 Thomas L. Hudson, Esq.

494-3180

County Board of Appeals
 Room 219, Court House
 Towson, Maryland 21204 (Hearing Room #218)
 May 17, 1984

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 84-191-SPHA CARPENTER REALTY CORP.
 (Seven-Up Bottling Co., Inc.)
 S/S Edmondson Ave. 473' W. of Somerset Rd.
 1st District
 For SH - to allow business signs 200 sq. ft. in area
 " Variance - sign of 100' in height in lieu of 25', erection of sign 400' in lieu of 200' in area in MR zone
 2/29/84 - Z.C. DENIED PETITION

Scheduled for hearing on Thursday, July 19, 1984 at 10 am has been POSTPONED at the request of counsel for Petitioner - out of town - and has been

REASSIGNED FOR: **TUESDAY, AUGUST 21, 1984 at 10 a.m.**
 cc: Thomas L. Hudson, Esquire Counsel for Petitioner
 Carpenter Realty Corp. Petitioner
 Phyllis C. Friedman People's Counsel
 A. Jablon
 J. Jung
 N. E. Gerber
 J. G. Hoswell
 J. E. Dyer

Edith T. Eisenhart, Adm. Secretary

LAW OFFICES
 COOK, HOWARD, DOWNES & TRACY
 210 ALLEGHENY AVENUE
 P.O. BOX 5517
 TOWSON, MARYLAND 21204

May 9, 1984

Board of Appeals of
 Baltimore County
 Room 200
 Court House
 Towson, Maryland 21204

Re: Case No. 84-191-SPHA
 Carpenter Realty Corp.
 (Seven-Up Bottling Co., Inc.)

Dear Sirs:

Attached please find a copy of the Notice of Assignment, scheduling the above-referenced appeal for Thursday, July 19, 1984.

I must ask for a rescheduling because I will be at a legal seminar at the University of Virginia Law School during that entire week.

If you can schedule this matter earlier or later in July or early August, I am available on the following days:

The week of June 4
 June 11, 12 and 13
 June 27, 28 and 29
 July 17, 18 and 19
 Week of July 30
 Entire month of August

Set for 8/21

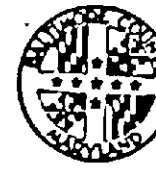
Board of Appeals
 of Baltimore County
 -2- May 9, 1984

Thank you, and I look forward to receiving the new Notice of Assignment.

Sincerely,

Thomas L. Hudson
 Thomas L. Hudson

TLH:rm
 c.c.: Lawrence T. Imbesi, Esq.
 Carpenter Realty Corp.
 Seven-Up Bottling Company
 of Baltimore, Inc.

 **County Board of Appeals of Baltimore County**
 Room 200 Court House (Hearing Room #218)
 Towson, Maryland 21204
 (301) 494-3180
 May 2, 1984

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 84-191-SPHA CARPENTER REALTY CORP.
 (Seven-Up Bottling Co., Inc.)
 S/S Edmondson Ave., 473' W of Somerset Rd.
 1st District
 SH-to allow business signs 200 sq. ft. in area
 Var.-sign of 100' in height in lieu of 25' erection of sign 400' in lieu of 200' in

 **County Board of Appeals of Baltimore County**
 Room 200 Court House
 Towson, Maryland 21204
 (301) 494-3180
 July 10, 1984

NOTICE OF POSTPONEMENT

CASE NO. 84-191-SPHA CARPENTER REALTY CORP.
 (Seven-Up Bottling Co., Inc.)
 S/S Edmondson Ave. 473' W. of Somerset Rd.
 1st District

Scheduled for hearing on Tuesday, August 21, 1984 at 10 a.m. has been POSTPONED at the request of Counsel for the Petitioner (re-zoning is being considered on the comprehensive zoning map). Will be rescheduled at a later date.

cc: Deborah C. Dopkin Counsel for Petitioner
 Thomas L. Hudson, Esquire " "
 Carpenter Realty Corp. Petitioner
 Phyllis C. Friedman People's Counsel
 A. Jablon
 J. Jung
 N. E. Gerber
 J. G. Hoswell
 J. E. Dyer

Edith T. Eisenhart, Adm. Secretary

RECEIVED
 COUNTY BOARD OF APPEALS
 MAY 11 A 9 25 E

BUREAU OF ENGINEERING - BALTIMORE COUNTY, MD

5/2/84 - Following were notified of hearing set for Thurs. July 19, 1984, at 10 a.m.:

Thomas L. Hudson, Esq.
Carpenter Realty Corp.
P. Friedman
A. Jablon
J. Jung
N. Gerber
J. Howell
J. Dyer

5-17-84 - Dismissed
Requested by Hudson

5/17/84 - Above notified of POSTPONEMENT and REASSIGNMENT for TUE SDAY, AUGUST 21, 1984 at 10 am
Postponed 7-10-84
By the court for the
County Board of Appeals

1/24/85 - Above notified of hearing set for Tues. March 12, 1985, at 10 am
Dismissed 2/24/85



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

February 28, 1985

Thomas L. Hudson, Esq.
210 Allegheny Ave.
Towson, Md. 21204

Dear Mr. Hudson:

Re: Case No. 84-191-SPHA
Carpenter Realty Corp.

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: Carpenter Realty Corp.
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Howell

IN THE MATTER OF
CARPENTER REALTY CORPORATION
(SEVEN-UP BOTTLING CO., INC.)
FOR SPECIAL HEARING AND
VARIANCES ON PROPERTY
LOCATED ON THE SOUTH SIDE
OF EDMONDSON AVE., 473 FT.
WEST OF SOMERSET RD.
1st DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 84-191-SPHA

ORDER OF DISMISSAL

Petitions of Carpenter Realty Corporation (Seven-Up Bottling Company, Inc.) for Special Hearing and Variances on property located on the south side of Edmondson Ave., 473 feet west of Somerset Rd., in the First Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of an Order of Withdrawal of Petition and Motion to Dismiss the Appeal filed February 26, 1985, (a copy of which is attached hereto and made a part hereof) from the attorney representing the Petitioner in the above entitled matter.

WHEREAS, the said attorney for the said petitioner requests that the appeal filed on behalf of said Petitioner be dismissed and withdrawn as of February 26, 1985.

IT IS HEREBY ORDERED this 28th day of February, 1985, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
Robert A. Hoffman
Robert A. Hoffman

IN RE: Carpenter Realty * BEFORE THE COUNTY
Corp. (Seven-Up Bottling * BOARD OF APPEALS
Company, Inc.) S/S Edmondson *
Avenue 473' W of Somerset * OF BALTIMORE COUNTY
Road 1st Election District * CASE NO. 84-191-SPHA

WITHDRAW OF PETITION AND MOTION TO DISMISS

Carpenter Realty Corporation, Petitioner,
by Thomas L. Hudson and Cook, Howard, Downes and Tracy,
its attorneys, hereby withdraws its petition below, and
therefore moves that this case be dismissed.

Thomas L. Hudson
Thomas L. Hudson
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
Towson, Maryland 21204
Attorney for Petitioner

RECEIVED
COUNTY BOARD OF APPEALS
MAY FEB 26 1985

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

JAMES H. COOK
JOHN B. HOWARD
DAVID D. DOWNES
DANIEL C. TRACY, JR.
JOHN H. ZINK, III
JOSEPH C. WICK, JR.
HENRY B. PECK, JR.
HERBERT R. CONNOR, III
THOMAS L. HUDSON

February 10, 1984

Arnold Jablon, Zoning Commissioner
Office of Planning & Zoning
County Office Building
Towson, Maryland 21204

Re: Item No. 119 - Case No. 84-191-A
Carpenter Realty Corporation
Variance Petition and Special
Hearing

Dear Mr. Jablon:

Enclosed please find a legal memorandum which sets forth the reasons why the Petitioner in the above-referenced matter requests that you construe the Baltimore County Zoning Regulations to permit a business sign in an MR zone.

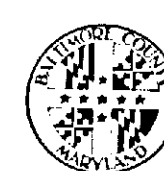
Thank you for giving me the opportunity to prepare this memorandum, and my client and I will look forward to receiving your decision.

Sincerely,

Thomas L. Hudson
Thomas L. Hudson

TLH:rm
Enc.
cc: People's Counsel

Hand-Delivered



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 29, 1984

Thomas L. Hudson, Esquire
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204

IN RE: Petitions Special Hearing and
Zoning Variances
S/S of Edmondson Avenue, 473' W
of Somerset Road - 1st Election
District
Carpenter Realty Corporation
d/b/a Seven-Up Bottling Company
of Baltimore, Inc., Petitioner
Case No. 84-191-SPHA

Dear Mr. Hudson:

I have this date passed my Order in the above-referenced matter in accordance with the attached.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

AJ/srl

Attachments

cc: People's Counsel

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

JAMES H. COOK
JOHN B. HOWARD
DAVID D. DOWNES
DANIEL C. TRACY, JR.
JOHN H. ZINK, III
JOSEPH C. WICK, JR.
HENRY B. PECK, JR.
HERBERT R. CONNOR, III
THOMAS L. HUDSON

March 13, 1984

Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petitions Special Hearing and
Zoning Variances
S/S of Edmondson Avenue, 473' W
of Somerset Road - 1st Election
District
Carpenter Realty Corporation
d/b/a Seven-Up Bottling Company
of Baltimore, Inc., Petitioner
Case No. 84-191-SPHA

Notice of Appeal

Dear Sir:

I represent the Carpenter Realty Corporation d/b/a The Seven-Up Bottling Company of Baltimore, Inc., 6159 Edmondson Avenue, Baltimore County, Maryland 21205.

My client hereby gives Notice of its Appeal of the Decision in the above-referenced matter.

I enclose this firm's check in the amount of \$155 and I will await notice of any additional posting costs.

Please call me if you have any questions. Thank you.

Sincerely,

Thomas L. Hudson
Thomas L. Hudson

TLH/kg

cc: People's Counsel



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

March 19, 1984

Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County
Room 223 Courthouse
Towson, Maryland 21204

Re: Petitions for Special Hearing and Variances
S/S of Edmondson Avenue, 473' W of
Somerset Road
Carpenter Realty Corporation - Petitioner
Case No. 84-191-SPHA

Dear Ms. Friedman:

Please be advised that an appeal has been filed by Thomas L. Hudson, attorney for the petitioner, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Very truly yours,

Arnold Jablon
Arnold Jablon
Zoning Commissioner

AJ:aj

PETITION FOR SPECIAL HEARING 93-178-KSPH-2

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and is a part hereof, hereby petition for a Special Hearing under Section 250.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the sign to be located on the southwest wall of the proposed structure, in the manner detailed on the accompanying plat, as an appropriate business sign for the proposed commercial use in an M.L.R. zone in accordance with Section 252.33(b)(2).
Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

Middex Hospitality, Inc.

(Type or Print Name)

By: *[Signature]*

Signature Raphael D. Silver, Pres.

600 Madison Avenue

Address

New York, New York 10022

City and State

Attorney for Petitioner:

John B. Howard

(Type or Print Name)

By: *[Signature]*

Signature

210 Allegheny Avenue - P.O. Box 5517

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 301-823-4111

Legal Owner(s):

McCormick Properties, Inc.

(Type or Print Name)

By: *[Signature]*

Signature Alan P. Medinger, V.P. - Treasurer

11011 McCormick Road

Address

Hunt Valley, Maryland 21031

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

John B. Howard

(Type or Print Name)

By: *[Signature]*

Signature

210 Allegheny Avenue

Address

P.O. Box 5517

Towson, Maryland 21204

Attorney's Telephone No.: 301-823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 7th day of JANUARY, 1983, 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 had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 10th day of February, 1983, at 10:45 o'clock A.M.

[Signature]
Zoning Commissioner of Baltimore County.

Z.C.O.-No. 1

(over)



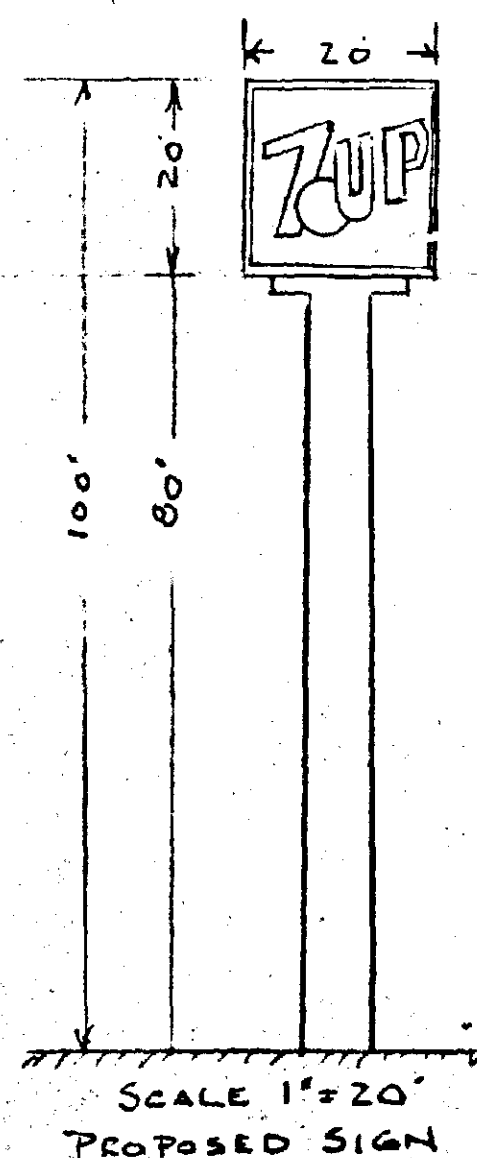
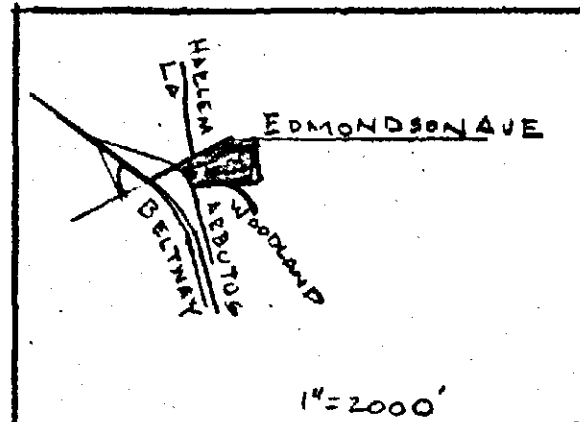
Pursuant to the advertisement, posting of property, and public hearing on the petition and it appearing that by reason of the following finding of facts that to approve a business sign for the proposed commercial use in a M.L.R. (Manufacturing Light, Restricted) Zone to be located on the southwest wall of the proposed structure would be in strict harmony with the spirit and intent of the Baltimore County Zoning Regulations and would not adversely affect the health, safety, and general welfare of the community, and, therefore,

IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 24th day of February, 1983, that a business sign for the proposed commercial use in a M.L.R. Zone to be located on the southwest wall of the proposed structure, in accordance with Petitioner's Exhibit 3, is approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. The proposed sign shall be limited to 200 square feet and shall be indicated on the site development plans required by Section 252 of the Baltimore County Zoning Regulations.
2. No free-standing or additional identification signs shall be permitted on the site.
3. Approval of Petitioner's Exhibit 3, as required in the accompanying Special Exception Order.

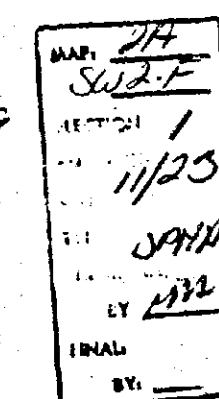
John M. H. King
Deputy Zoning Commissioner of
Baltimore County

PETITIONER'S
EXHIBIT 12

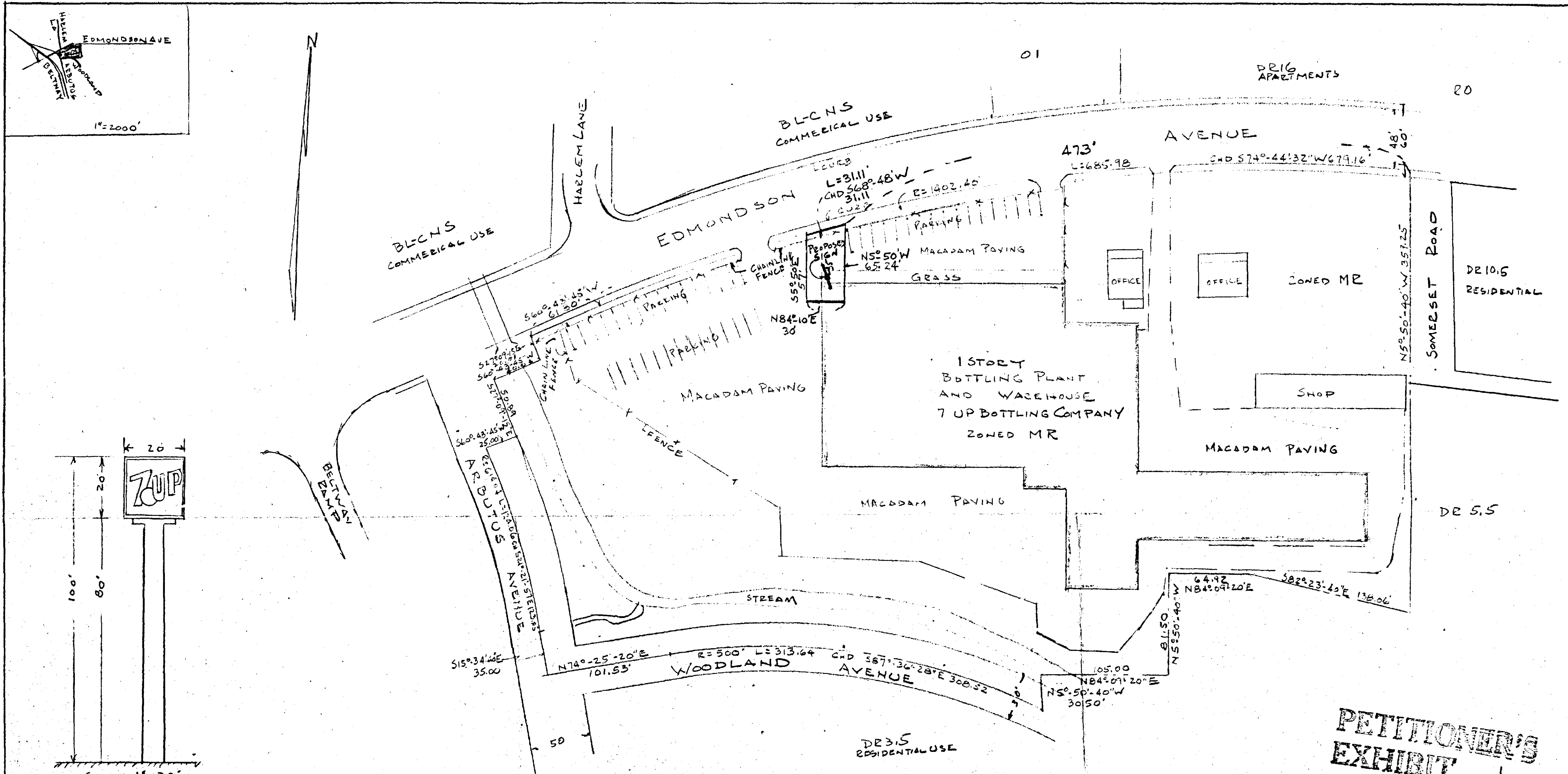


EXISTING ZONING MR
PROPOSED: PETITION FOR
VARIANCE/SPECIAL HEARING
FROM REGULATION 413.5d AND
413.2f DCZP, 1955 TO ALLOW
A SIGN IN AREA OF 400 SQUARE
FEET AND 100 FEET IN ELEVATION
IN A M.L.R. ZONE
AREA IN PETITION = 1835 SQUARE FEET

ZONING PLAT
PROPERTY LOCATED
IN
1ST ELECTION DISTRICT BALTO COMD
WHOLE TRACT 4.5 ACRES ±



SCALE 1"=50' NOVEMBER 3, 1983
GERHOLD CROSS & ETZEL
REGISTERED LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

84-191-SPHA

District: 1st Date of Posting: 3-29-54

Posted for: *Robert R. Carpenter, Jr., 4731 W. Somerset Rd.*

Petitioner: *Robert R. Carpenter, Jr., 4731 W. Somerset Rd.*

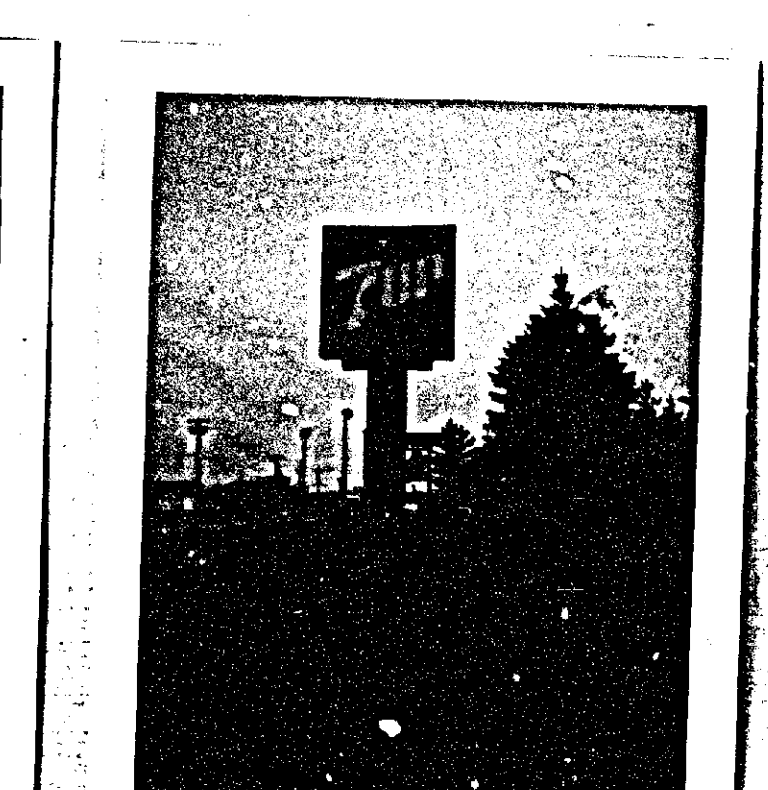
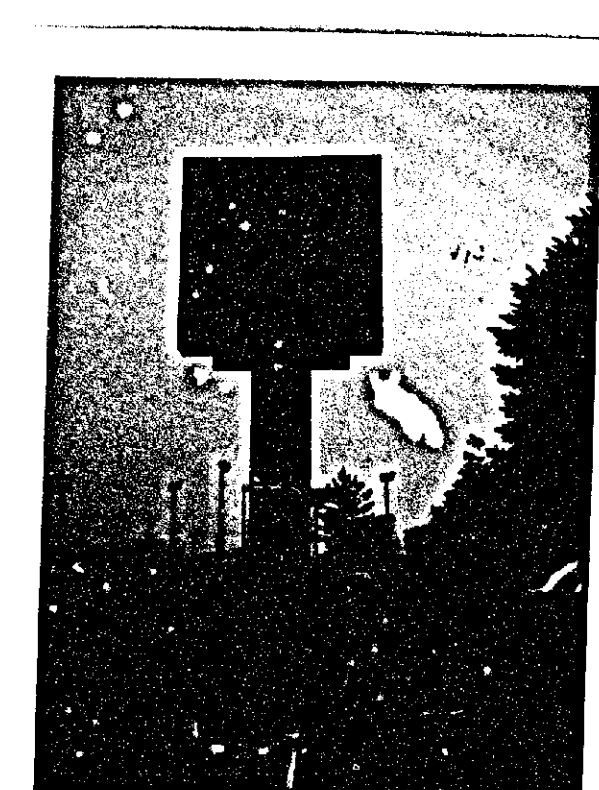
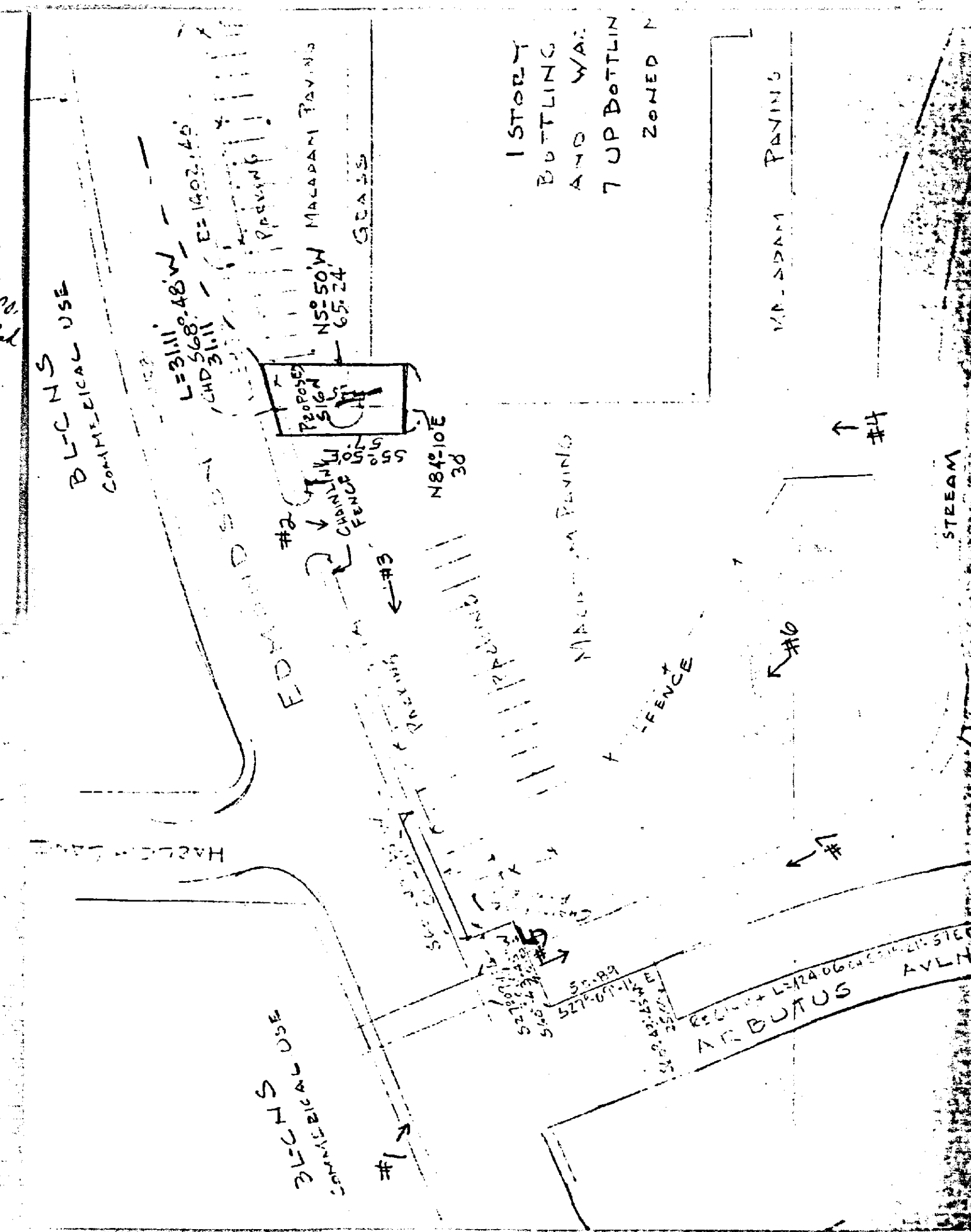
Location of property: *S/S of Edmondson Avenue, 4731 W. Somerset Rd.*

Location of Signs: *S/S of Edmondson Avenue, 4731 W. Somerset Rd.*

Remarks:

Posted by: *M. J. R. [Signature]* Date of return: 3-31-54

Number of Signs: 1



84-191-SPHA
1st District
S/S Edmondson Ave., 4731 W of Somerset Rd.
Carpenter Realty Corp., d/b/a/
Seven-Up Bottling Co., Inc.
1 SIGN

