

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL CATEGORY ADMIN. AGENCY APPEALS

CIVIL ASSIGNMENT

IN THE MATTER OF
THE APPLICATION OF
J. R. BROTHERS, INC.
FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED
ON THE WEST SIDE YORK ROAD, 78' NORTH OF
CENTERLINE OF LANDSTREET ROAD (2306 York
Road) 9th. Election District, 4th.
Councilmanic District

ATTORNEYS

Kevin A. Dunne
120 E. Baltimore Street
21202-1643 685-1120

Phyllis Cole Friedman
Peter Max Zimmerman
Deputy People's Counsel
Rm 47, Courthouse
400 Washington Avenue
Baltimore, MD 21204

PENN ADVERTISING OF BALTIMORE, INC.,
Appellant

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
Appellee

MARYLAND STATE FAIR AND AGRICULTURAL SOCIETY, INC.
Appellee

Acty's Page 251(a)

ps (10) April 7, 1993 Additional Proceedings Before the County Board
of Appeals of Baltimore County on Remand from the Circuit
Court, fd.

CASE NO. 27/251/92CV6540

Doc: MAILED - 11/2/92

TRANSCRIPT IN BASEMENT
LOCATION: Box 127

EXHIBITS IN Box 127

1) Jul 13, 1992 Appellant's Order for Appeal from the Order
of the County Board of Appeals of Baltimore County and
Petition for Appeal, fd. (1A) July 13, 1992 - Certificate of Notice, fd.

2) July 15, 1992 - App of Phyllis Cole Friedman and Peter Max Zimmerman for the
Appellee, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY and Same Day Answer to
Petition of Appeal, fd.

3) July 22, 1992 - App. of Michael T. Wyatt for MARYLAND STATE FAIR and same day Answer to
Petition of Appeal, fd.

4) August 4, 1992 - Transcript of Record, fd.

5) August 4, 1992 - Notice of filing of Record, fd.

6) Sep 3, 1992 Brief of Penn Advertising of Baltimore, Inc., fd.

7) Oct. 15, 1992 - Appellee's Memorandum, fd (rec'd 10/7/92)

8) Oct. 23, 1992-Penn Advertising of Baltimore, Inc., Reply Brief of Penn
Advertising fd.
Nov. 19, 1992 Hon. James T. Smith Jr. Hearing had. Order to be filed.

9) Nov. 27, 1992 Opinion and Order of Court that the decision of
the Board of Appeals is hereby REVERSED, and the case is remanded
to the Board of Appeals, etc., fd. (JTS JR)

Docket 27 Page 251 Case 92 CV. 6540

Continued from page 251

ATTY'S PAGE

MARYLAND STATE FAIR AND AGRICULTURAL SOCIETY, INC.

Michael T. Wyatt
404 Allegheny Ave.
(04)
(410)821-1013

Docket 27 Page 251(a) Case No. 92CV6540

IN THE MATTER OF THE APPLICATION * ON REMAND FROM
OF J.R. BROTHERS, INC. FOR A * THE CIRCUIT COURT
SPECIAL EXCEPTION ON PROPERTY *
LOCATED ON THE WEST SIDE YORK *
ROAD, 78' NORTH OF CENTERLINE *
OF LANDSTREET ROAD (2306 YORK *
ROAD) *
9TH ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT *
PENN ADVERTISING OF BALTIMORE, *
INC., PLAINTIFF *
ZONING CASE NO. 91-206-X *
* * * * *

ADDITIONAL PROCEEDINGS BEFORE THE COUNTY BOARD
OF APPEALS OF BALTIMORE COUNTY ON REMAND FROM THE CIRCUIT COURT
TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Michael B. Sauer, S. Diane Levero, and John G.
Disney, constituting the County Board of Appeals of Baltimore
County, and, upon remand from the Circuit Court for Baltimore
County, herewith supplement the previously filed extract with the
following entries:

No. 91-206-X

November 27, 1992 Order of the Circuit Court for Baltimore
County, by agreement of counsel for all
parties and in light of the passage of Bill
No. 212-92 by the Baltimore County Council,
REVERSING the decision of the Board of Appeals
dated June 17, 1992 and REMANDING the case to
the Board of Appeals for the purpose of a full
hearing on the merits.

February 18, 1993 Hearing before the Board of Appeals.

March 2 Opinion and Order of the Board GRANTING,
subject to restriction, the Petition for
Special Exception to permit a single pole,
double-faced outdoor advertising sign 12 ft.
by 25 ft.

Inasmuch as no further appeals have been taken from the
Board's Opinion and Order dated March 2, 1993, a copy of which is

J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Case No. 91-206-X, File No. 92-CV-6540

attached hereto, we herewith return the Circuit Court file in Case
No. 92-CV-6540.

Respectfully submitted,

April 7, 1993
Date

Kathleen C. Weidenhammer
Administrative Assistant, County Board of
Appeals, Room 49 -Old Courthouse, Basement
400 Washington Avenue
Towson, Maryland 21204 (410) 887-3180

cc: Kevin A. Dunne, Esquire
Fred M. Lauer, Esquire - Penn Advertising of Baltimore, Inc.
Emmanuel A. DiPaula, President - J.R. Bros., Inc. t/a Turf Inn
Mr. Harry Freedman, Director of Corporate Development
J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Charles B. Heyman, Esquire
Michael T. Wyatt, Esquire
Andrew Janquitto, Esquire
Phyllis C. Friedman, Esquire - People's Counsel for Baltimore
County

IN THE MATTER OF THE
THE APPLICATION OF
J.R. BROTHERS, INC.
FOR A SPECIAL EXCEPTION ON
PROPERTY LOCATED ON THE WEST
SIDE YORK ROAD, 78' NORTH OF
CENTERLINE OF LANDSTREET ROAD
(2306 YORK ROAD)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 91-206-X

* ON REMAND

* FROM THE CIRCUIT COURT

* FOR

* BALTIMORE COUNTY

* CV Doc. No. 27

* Folio No. 251

* File No. 92-CV-6540

* * * * *

OPINION

This case comes before this Board on remand from the Circuit
Court for Baltimore County by Order of Judge James T. Smith, Jr.,
dated November 27, 1992, for the purpose of a full hearing on the
merits of the Petition for Special Exception as originally filed.

On April 19, 1991, an appeal was taken from an Order of the
Zoning Commissioner which granted the Petition for Special
Exception to permit one back-to-back, 12 ft. by 25 ft. advertising
sign at the subject location. Appearing before the Board in
support of the Petition were James Fisher, the General Manager of
Penn Advertising of Baltimore, Inc.; William Monk, an expert in
land planning; and John Erdman, a traffic engineer, who were
represented by Fred M. Lauer, Esquire, Counsel for Penn
Advertising. Appearing in opposition to the requested special
exception were Patrick Dabalos, representing Maryland State Fair
and Agricultural Society; Steve Broyles, a land surveyor and
engineer; Steve Wytzawski, a landscape architect; and John Dillon,
a senior planner for Baltimore County, all of the above being

Case No. 92-CV-6540 J. R. Brothers, Inc. 2
Zoning Case No. 91-206-X

represented by Michael T. Wyatt, Esquire, Counsel for the Maryland
State Fair and Agricultural Society, and Peter Max Zimmerman,
Deputy People's Counsel for Baltimore County. The case was heard
this day in its entirety.

James Fisher, General Manager for Penn Advertising, testified
the reasons they were requesting the billboard and described the
billboard.

William Monk, a professional land planner, testified and
described the surrounding area, entered the zoning maps showing the
proposed site of the sign, described all the other uses for a
considerable distance north and south along York Road, and
testified that the nearest freestanding billboard was 2.1 miles to
the north and 1.6 miles to the south. He described the billboard
that is being requested and noted that it exceeds all setback
requirements, and that no variances were requested. He further
testified that the sign is in compliance with Baltimore County
Zoning Regulations (BCZR) Sections 413.3 and 413.5. He further
testified that York Road is classified as a Class II commercial
motorway. He testified that the proposed sign complied with all
requirements of Section 502.1 of the BCZR, and it was his opinion
that there were no reasons not to grant this sign.

John Erdman, a traffic engineer, testified for the Petitioner
and noted that there were no sight restrictions created by this
sign in either direction. He further noted that Landstreet Road,
the nearest semi-private roadway, was used for commercial vehicles

Case No. 92-CV-6540 J. R. Brothers, Inc. 3
Zoning Case No. 91-206-X

only when the fairgrounds has a large exhibit. He further
testified that in searching all the studies and records available
he could find no indication of accidents caused by sign distraction
and that his opinion was that the sign should be permitted. This
completed Petitioner's case.

Patrick Dabalos, Vice President for the Maryland State Fair
and Agricultural Society, testified that Timonium Fairgrounds
consists of 94 acres, the majority of which, along York Road, is in
grass. He also testified that Landstreet Road was used only for
commercial purposes when needed. His Association opposes the sign
stating that it would produce a negative visual impact, possible
congestion, and confusion as to the uses of Landstreet Road.

Steve Broyles, a land surveyor and engineer, testified that in
his opinion the sign plan as presented was inadequate and noted his
reasons for this opinion. He further testified that it was his
opinion that already too many signs are on the site, and that the
requirements necessary for an additional sign had not been met. He
noted BCZR Section 413.2(f) as his reasoning for his opinion that
there are already too many signs on this site.

Steve Wytzawski testified as to the number of signs in this
area and testified it was his opinion this sign would visually
affect the area detrimentally. He further testified that there are
already too many signs in this area.

John Dillon, a senior planner for Baltimore County, testified
that he had met with the planner in this area and a study was being

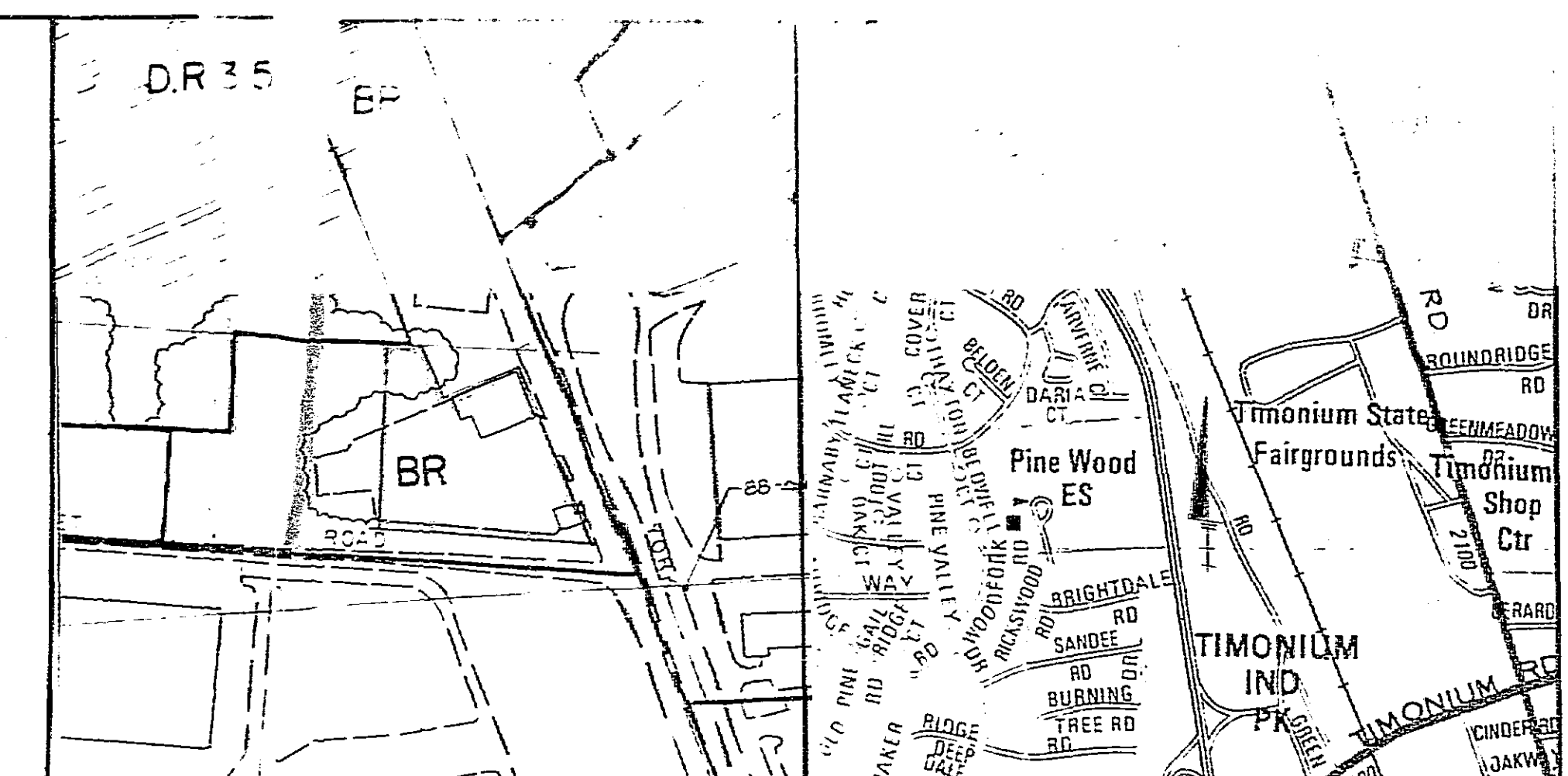
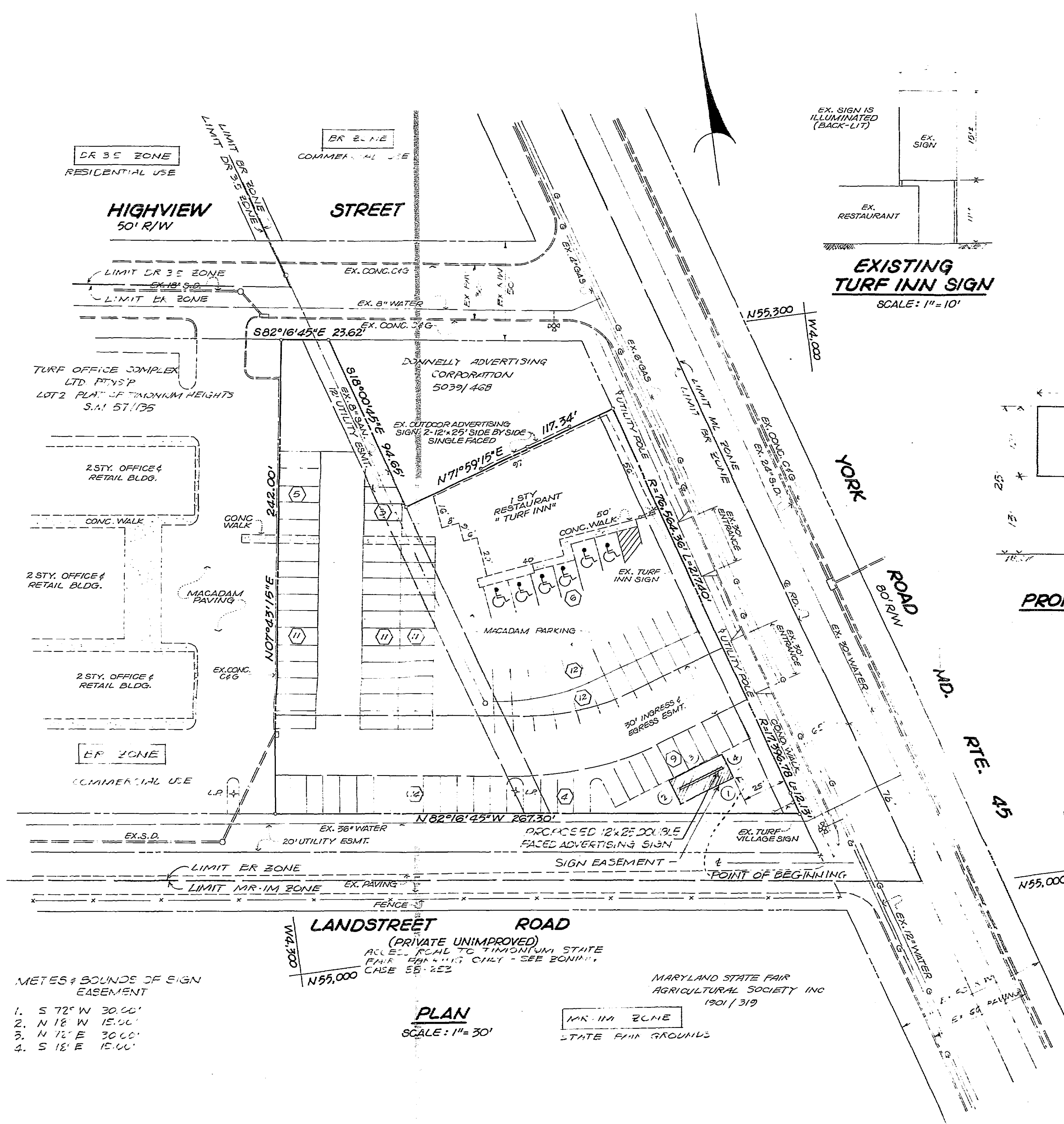
Case No. 92-CV-6540 J. R. Brothers, Inc. 4
Zoning Case No. 91-206-X

represented by Michael T. Wyatt, Esquire, Counsel for the Maryland
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considerable distance north and south along York Road, and
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the north and 1.6 miles to the south. He described the billboard
that is being requested and noted that it exceeds all setback
requirements, and that no variances were requested. He further
testified that the sign is in compliance with Baltimore County
Zoning Regulations (BCZR) Sections 413.3 and 413.5. He further
testified that York Road is classified as a Class II commercial
motorway. He testified that the proposed sign complied with all
requirements of Section 502.1 of the BCZR, and it was his opinion
that there were no reasons not to grant this sign.

John Erdman, a traffic engineer, testified for the Petitioner
and noted that there were no sight restrictions created by this
sign in either direction. He further noted that Landstreet Road,
the nearest semi-private roadway, was used for commercial vehicles



ZONING NOTES

- Prior Case:
 - No. 91-206-X, March 21, 1991: Special Exception to permit erection of one back to back 12'x25' advertising sign on the subject property in accordance with Exhibit 1. Granted subject to:
 - Prior to the issuance of any permits, Petitioner shall submit to the Zoning Commissioner's Office a new site plan prepared by a registered professional engineer and/or land surveyor, which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, distances between all signage within 200 feet from the subject sign, all curb sections located on the subject site, all automobile entrances to other uses within 200 feet of the subject sign, a parking plan, building lines within 200 feet of the subject sign, their distances from all property lines, and any other information as may be required to be a certified site plan. The new site plan shall establish full compliance with all sections of the B.C.Z.R. will result in the need for a new special hearing to amend the site plan prior to the issuance of any permits.
- Prior to the issuance of any permits, Petitioner shall submit to the Zoning Commissioner documented proof that "Landstreet Road," as indicated on Petitioner's Exhibit 1, is, in fact, a private and not a public road.
 - No. 89-88 SPH, October 4, 1988: Special Hearing to Continue Variances granted in Case 86-520. Dismissed.
 - No. 86-520 XA, June 30, 1986: Special Exception and Variance to allow 2 - 12'x25' single faced side-by-side illuminated outdoor advertising signs with variances to allow 3' front yard instead of required 25' and a setback to the street centerline of 25' instead of 50'. Granted with no conditions.
 - No. 85-91 A, October 10, 1984: Variance to allow a front yard of 7' instead of the required 25' and a setback to the street centerline of 47' instead of the required 50', and a side yard of 2' instead of the required 30'. Granted with no conditions.
 - No. 64-167 X, June 22, 1965: Special Exception to allow 2 non-illuminated billboards on the N/W corner of York Road and Landstreet Road. Dismissed (closer than 50' to street centerline).
 - No. 4749-X, September 22, 1959: Special Exception to allow outdoor advertising structure W/S York Road 25' South of Highview Avenue. Granted with no conditions.
 - No. 3418 RS, March 28, 1955: Reclassification from "A" Residence Zone to "E" Commercial to allow use as service station. Granted subject to approval of the pump island and main building setbacks by the State Roads Commission.

PROPERTY OWNER

J.R. BROCK, INC.
2306 YORK ROAD
TIMONIUM, MD. 21093

APPLICANT

PENN ADVERTISING OF BALTIMORE, INC.
5001 REHINGTON AVENUE
BALTIMORE, MD. 21211

PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION

PENN ADVERTISING OF BALTIMORE INC.

2306 YORK ROAD

ELECTION DISTRICT NO. 9 COUNCILMANIC DIST. NO. 4
BALTIMORE COUNTY, MD.

SCALE: AS SHOWN JULY 31, 1991

- Gross Area = 50337 s.f. (1.1556 ac. +/-)
Net Area = 43451.1 s.f. (0.9975 ac. +/-)
- Title Reference: J.R. Bros. Inc. 5075/203, 5439/569, 7656/173
also Lot 1 Plat of Timonium Heights, plat SM 57/173
- Existing Zoning: BR with variances as indicated in Zoning Notes
- Proposed Zoning: BR with a special exception for an outdoor advertising sign
- Existing Use: Restaurant
- Proposed Use: Restaurant with outdoor advertising sign
- All Existing Structures On Site To Remain. Existing Restaurant 4883 s.f. gross floor area.
- Floor Area Ratio = 4883/50337 = 0.097 (max. allowed 2.0)
- Off Street Parking
 - Parking Required @ 1 space per 50 s.f. gross floor area
 - Total Spaces Required: 4883/50 = 98
 - Total Spaces Provided: 98 incl. 6 handicapped
 - Minimum Parking Space: 8.5' x 18'
 - All Paved Surfaces Are Bituminous Concrete.
- Building Setback Requirements
 - Front - 7' variance granted in case 85-91
 - Side - 2' variance granted in case 85-91
 - Rear - 30'
- Setbacks Provided (For Proposed Sign Only):
 - Front - 20'
 - Side - 7.5'
 - Rear - 215'
- Section 413.3 Notes
 - Total Surface Of Sign Area = 600 s.f.
 - Sign Is Located More Than 100' From A Dual Lane Highway
 - Sign Is Located Or Beyond The Minimum Front Yard Requirement For A Commercial Building.
 - Sign Is Located More Than 100' From The Intersection Of A Dual Lane Highway
- Section 413.5 Notes (BCZR)
 - Maximum Sign Height Is 25'
 - Illumination Is Confined To The Surface Of The Sign And Is Directed To The Face Of The Sign Only.

Case No. 92-CV-6540 J. R. Brothers, Inc.
Zoning Case No. 91-206-X

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made for redevelopment for the area from Timonium Road to Hunt Valley, and that this Plan would address sign problems in the area. It was his opinion that this sign is inappropriate at this site, and noted the residences to the east and to the west. Upon cross examination, he testified that this Master Plan was not as yet approved. The testimony of all these witnesses is a part of the official record, and this encapsulation is not intended to portray their testimony in total.

From the testimony received this day, the Board will find the following facts as evidence. The proposed billboard will not require any variances; it will not require the deletion of any of the parking spaces on the lot where it is proposed to be erected; and it will overlook in one direction a 94-acre parcel zoned M.L. which is principally grass in this area. The Board was impressed by Mr. Monk's testimony in that section by section of 413.3, 413.5 and 502.1 had all been complied with. The Board will make note of Mr. Erdman's testimony that, after an extensive research study, no evidence could be found linking any accidents to driver distraction resulting from an outdoor advertising sign. Protestants' testimony indicated principally opposition to the sign for fear that it would produce a detrimental visual impact on this site. While there are what may be considered five signs on this site, including the proposed sign, the Board will note that two of them are clearly business signs, that two single-faced outdoor advertising signs are on the north side of the building, and that the proposed sign is

Case No. 92-CV-6540 J. R. Brothers, Inc.
Zoning Case No. 91-206-X

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the only outdoor advertising sign proposed in the south side parking lot for the Turf Inn.

After consideration of all the testimony and evidence received, the Board is of the opinion that the special exception for an outdoor advertising sign should be granted and will so order.

ORDER

FOR THE AFOREGOING REASONS, IT IS THEREFORE this 2ND day of March, 1993 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Exception to permit a single pole, double-faced outdoor advertising sign 12 ft. by 25 ft. be and is hereby GRANTED subject to the following restriction:

1. That the sign be located and constructed as portrayed on Petitioner's Exhibit 7.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

John H. Lipowitz
John H. Lipowitz

S. Diane Levero
S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 2, 1993

Michael T. Wyatt, Esquire
404 Allegheny Avenue
Towson, MD 21204

RE: Case No. 91-206-X
J. R. Brothers, Inc.

Dear Mr. Wyatt:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Fred M. Lauer, Esquire
J. R. Brothers, Inc. /Penn Advertising
of Baltimore, Inc.
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Admin.

Case No. 91-206-X (J.R. Brothers, Inc.)
11/27/92 - Hon. James T. Smith, Jr. REVERSED C.B. of A.; REMANDED for
hearing. IN THE MATTER OF THE IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

J. R. BROTHERS, INC.

FOR A SPECIAL EXCEPTION

ON PROPERTY LOCATED ON

WEST SIDE OF YORK ROAD,

ETC.

vs.

PENN ADVERTISING OF

BALTIMORE, INC.,

COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

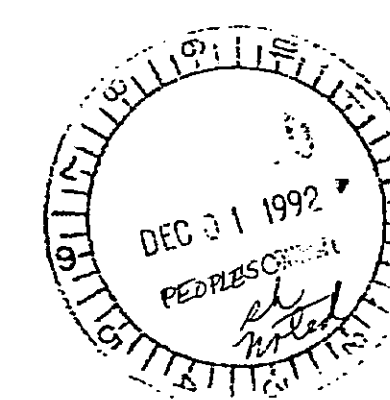
PEOPLE'S COUNSEL FOR

BALTIMORE COUNTY

MARYLAND STATE FAIR AND

AGRICULTURAL SOCIETY

CASE NO 92-CV-6540



OPINION

The above entitled matter came before this Court on an appeal by Penn Advertising of Baltimore, Inc. from a decision of the Board of Appeals dated June 17, 1992 in which the Board dismissed the appeal from the Zoning Commissioner and denied the Application for Special Exception originally filed by Penn Advertising of Baltimore, Inc.

By agreement of counsel for all parties, and in light of the passage of Bill 212-92 by the Baltimore County Council, the decision of the

FILED NOV 27 1992

Board of Appeals is hereby REVERSED, and the case is remanded to the Board of Appeals for the purpose of the Board holding a full hearing on the merits of the Application for Special Exception as originally filed by Penn Advertising of Baltimore, Inc., with the costs of this Appeal to be shared equally by all parties to these proceedings.

James T. Smith, Jr.
JAMES T. SMITH, JR., JUDGE

DATE

JTS/ss

Copy to: Kevin Dunne, Esq.

Michael T. Wyatt, Esq.

Phyllis Cole Friedman, Esq.

IN THE MATTER OF THE APPLICATION * IN THE
OF J.R. BROTHERS, INC. FOR A *
SPECIAL EXCEPTION ON PROPERTY * CIRCUIT COURT
LOCATED ON THE WEST SIDE YORK *
ROAD, 78' NORTH OF CENTERLINE * FOR
OF LANDSTREET ROAD (2306 YORK *
ROAD) * BALTIMORE COUNTY
9TH ELECTION DISTRICT * CG Doc. No. 27
4TH COUNCILMANIC DISTRICT *
PENN ADVERTISING OF BALTIMORE, * Folio No. 251
INC., PLAINTIFF * File No. 92-CV-6540
ZONING CASE NO. 91-206-X * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE
BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Michael B. Sauer, S. Diane Levero, and John G. Disney, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County:

No. 91-206-X

November 14, 1990 Petition for Special Exception for the erection of one back to back 12' x 25' advertising sign filed by Charles B. Heyman, Esquire on behalf of Petitioner - Penn Advertising of Baltimore, Inc., Easement Holder, J.R. Brothers, Inc. t/a Turf Inn, Legal Owner.

December 20 Publication in newspapers.

January 9, 1991 Certificate of Posting of property.

January 22 Comments of Baltimore County Zoning Plans Advisory Committee.

January 30 Hearing held on Petition by the Deputy Zoning Commissioner.

J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Case No. 91-206-X, File No. 92-CV-6540

March 21, 1991 Order of the Zoning Commissioner GRANTING Petition with restrictions.

April 19 Notice of Appeal received from Michael T. Wyatt, Esquire on behalf of Maryland State Fair and Agricultural Society, Inc.

December 18 Hearing before the Board of Appeals wherein an oral Motion to Dismiss and legal argument were made by Michael T. Wyatt, Esquire on behalf of Protestants.

January 17, 1992 Memorandum of Law in Opposition to Motion to Dismiss filed by Kevin A. Dunne, Esquire on behalf of Penn Advertising of Baltimore, Inc.

January 17 Memorandum of Law filed by Michael T. Wyatt, Esquire on behalf of Maryland State Fair and Agricultural Society, Inc.

January 24 Letter containing brief response to Penn Advertising of Baltimore, Inc.'s Memorandum of Law in Opposition to the Motion to Dismiss.

January 28 Letter containing reply to memorandum submitted by J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc. by Kevin A. Dunne, Esquire.

June 17 Opinion and Order of the Board GRANTING the Motion to Dismiss filed by Protestants and DENYING Petition for Special Exception.

July 13 Order for Appeal filed in the Circuit Court for Baltimore County by Kevin A. Dunne, Esquire on behalf of Penn Advertising of Baltimore, Inc. Petition to accompany appeal also filed in the Circuit Court for Baltimore County by Mr. Dunne.

July 13 Certificate of Notice sent to interested parties.

August 4 Transcript of testimony filed.

August 4 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court,

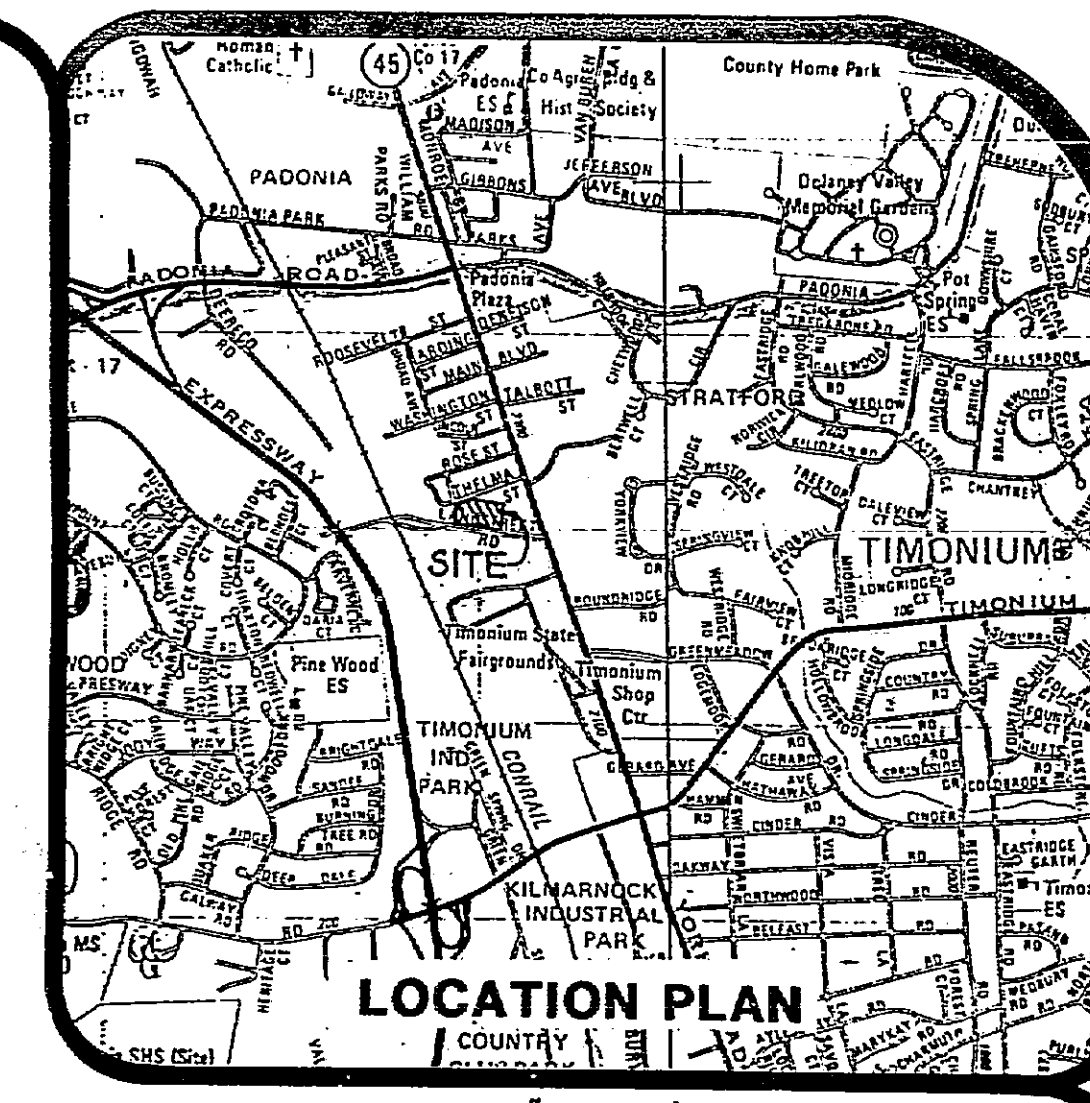
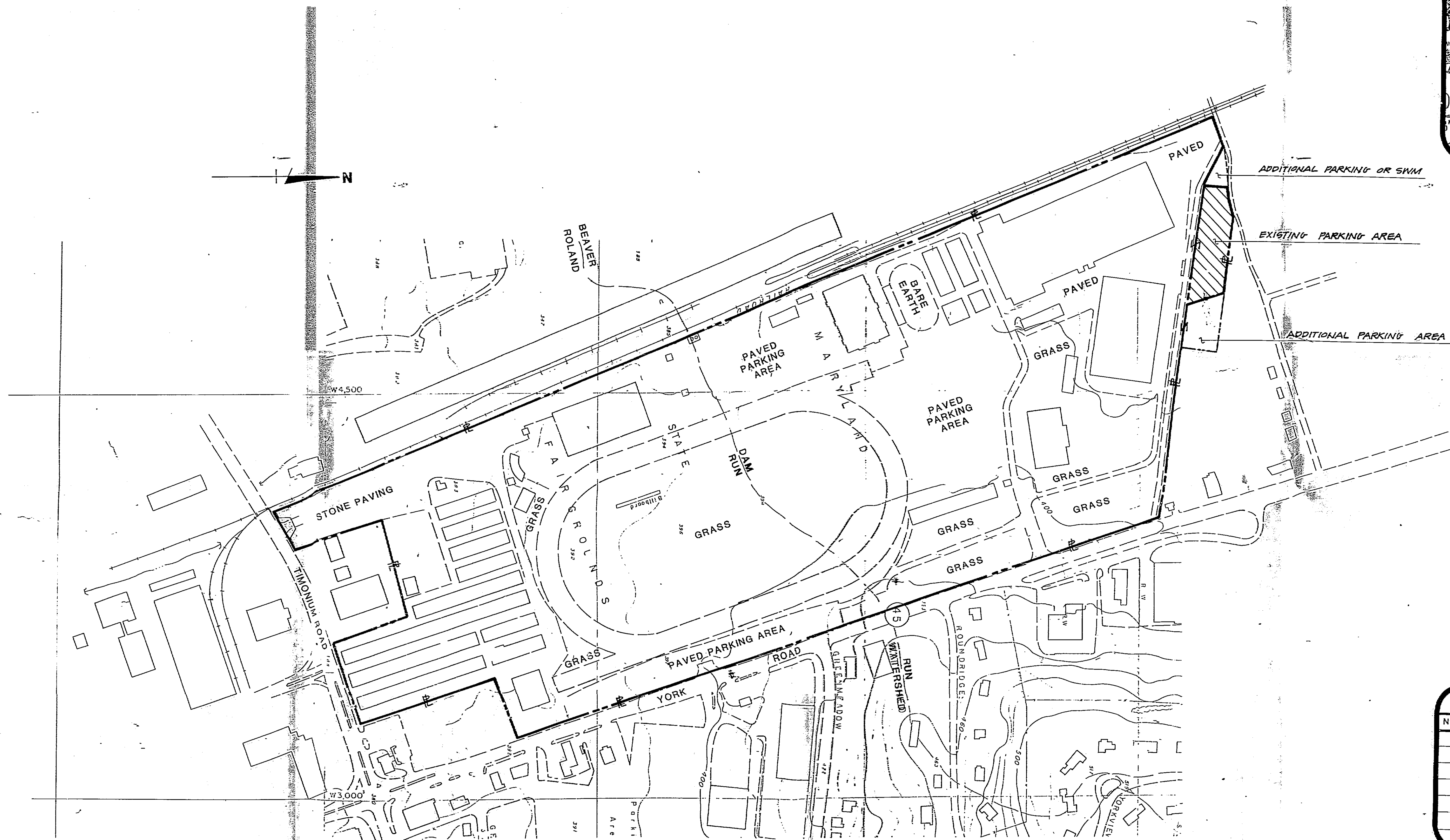
J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Case No. 91-206-X, File No. 92-CV-6540

together with exhibits entered into evidence before the Board.

Respectfully submitted,
Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49
Old Courthouse, Basement
400 Washington Avenue
Towson, Maryland 21204 (410) 887-3180

cc: Kevin A. Dunne, Esquire
Fred M. Lauer, Esquire - Penn Advertising of Baltimore, Inc.
Emmanuel A. DiPaula, President - J.R. Bros., Inc. t/a Turf Inn
Mr. Harry Freedman, Director of Corporate Development
J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Charles B. Heyman, Esquire
Michael T. Wyatt, Esquire
Andrew Janquinto, Esquire
Phyllis C. Friedman, Esquire - People's Counsel for Baltimore County

TIMONUM HEIGHTS



REVISIONS			
NO.	DATE	DESCRIPTION	BY

GREINER ENGINEERING SCIENCES, INC.
 2219 YORK ROAD, SUITE 200
 TIMONIUM, MARYLAND 21093-3111
 (301) 561-0100

TIMONIUM FAIR GROUNDS
 SITE PLAN
 PROTECT #5
 PROT. #5

DESIGNED BY	DRAWN BY	SCALE	DATE	SHEET NO.
D.T.M.	H.W.C.	1"=200'	7-27-89	1 OF 1



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE 1" = 200'
DATE OF PHOTOGRAPHY JANUARY 1986
LOCATION TIMONUM
SHEET N.W. 14-A

3. There are no vested rights in the requested sign. It is elementary that there are no vested rights in a land use in Maryland in the absence of substantial above-ground construction, regardless of permits, expenditures.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
December 6, 1990 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 306 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-206-X
W/S York Road, 78' (+/-) from c/l of Landstreet Road
2306 York Road
9th Election District - 4th Councilmanic
Legal Owner(s): J.R. Brothers, Inc., 1/4 Turf Inn
Easement Holder: Penn Advertising of Baltimore, Inc.
HEARING: WEDNESDAY, JANUARY 30, 1991 at 10:00 a.m.

Special Exception for erection of one back-to-back 12 ft. by 25 ft. advertising sign.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: J. R. Bros., Inc., 1/4 Turf Inn
Penn Advertising of Baltimore, Inc.
Charles Heyman, Esq.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
Hearing Room -
Room 301, County Office Bldg. August 28, 1991

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 91-206-X J.R. BROTHERS, INC.
W/s York Rd., 78' N of c/l Landstreet
Road (2306 York Road)
9th Election District
4th Councilmanic District
SE-Back-to-back advertising sign (1)
3/21/91 - Z.C.'s Order GRANTING Petition
with restrictions

ASSIGNED FOR: WEDNESDAY, DECEMBER 18, 1991 at 1:00 p.m.

cc: Michael T. Wyatt, Esquire Counsel for Appellant
Charles B. Heyman, Esquire Counsel for Petitioner
Mr. Harry Freedman - J.R. Brothers,
Inc./Penn Advertising of Baltimore, Inc.
Andrew Janquitto, Esquire

People's Counsel for Baltimore County - out per Shiley 8/28/91
P. David Fields
Pat Keller
Public Services
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon-Director of
Zoning Administration
LindaLee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
Hearing Room -
Room 301, County Office Bldg. August 28, 1991

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 91-206-X J.R. BROTHERS, INC.
W/s York Rd., 78' N of c/l Landstreet
Road (2306 York Road)
9th Election District
4th Councilmanic District
SE-Back-to-back advertising sign (1)
3/21/91 - Z.C.'s Order GRANTING Petition
with restrictions

ASSIGNED FOR: WEDNESDAY, DECEMBER 18, 1991 at 1:00 p.m.

cc: Michael T. Wyatt, Esquire Counsel for Appellant
Charles B. Heyman, Esquire Counsel for Petitioner
Mr. Harry Freedman - J.R. Brothers,
Inc./Penn Advertising of Baltimore, Inc.

Andrew Janquitto, Esquire
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon-Director of
Zoning Administration
LindaLee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180
Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue December 8, 1992

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 91-206-X J.R. BROTHERS, INC.
W/s York Road, 78' N of c/l of
Landstreet Road (2306 York Road)
9th Election District;
4th Councilmanic District
SE-one back-to-back 12' x 25' advertising
sign.
3/21/91 - Z.C.'s Order GRANTING Petition
with restrictions.
(ON REMAND FROM THE
CIRCUIT COURT)

ASSIGNED FOR: THURSDAY, FEBRUARY 18, 1993 AT 10:00 a.m.

cc: Kevin A. Dunne, Esquire-Counsel for Petitioner
Fred M. Lauer, Esquire - Penn Advertising of Baltimore, Inc.
Emmanuel A. DiPaula, President - J.R. Brothers, Inc.
Mr. Harry Freedman, Dir. of Corp. Dev. - J.R. Brothers, Inc.
Michael T. Wyatt, Esquire - Counsel for Appellant/Protestant
(Maryland State Fair and Agr. Society, Inc.)
Charles B. Heyman, Esquire
Andrew Janquitto, Esquire

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration
LindaLee M. Kuszmaul
Legal Secretary

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204 887-3353

January 22, 1991

Charles B. Heyman, Esquire
Kaplan, Heyman, Greenberg, Engleman & Belgard
20 South Charles Street
Baltimore, MD 21201

RE: Item No. 172, Case No. 91-206-X
Petitioner: J. R. Brothers, Inc.
Petition for Special Excetion

Dear Mr. Heyman:

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. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Penn Advertising of Baltimore
J. R. Brothers, Inc. T/A Turf Inn

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204 887-3353

Your petition has been received and accepted for filing this
14th day of November, 1990.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: J.R. Brothers, Inc., et al
Petitioner's Attorney: Charles B. Heyman

Maryland Department of Transportation
State Highway Administration
Richard H. Trainor
Secretary
Hal Kassoff
Administrator

November 9, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Attn: Mr. James Dyer

Re: Baltimore County
Turf Inn
Zoning Meeting of 11-13-90
W/S York Road (MD 45)
78' North of Landstreet Rd.
(Item #172)

Dear Mr. Haines:

We have received the submittal for a special exception to erect one back to back 12' by 25' advertising sign.

We have forwarded this plan to our Highway Beautification Section, c/o George Dawson (333-1642) for all comments relative to zoning.

If we can be of further assistance, please call Larry Brocato of this office at 333-1350.

Very truly yours,

John Contestabile
John Contestabile, Chief
Engineering Access Permits
Division

LB:maw

cc: Mr. George Dawson (w-enclosure)
Mr. J. Ogle

My telephone number is (301) 333-1350 (Fax #333-1041)

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Maryland Department of Transportation
State Highway Administration
Richard H. Trainor
Secretary
Hal Kassoff
Administrator

November 23, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Attn: Mr. James Dyer

RE: Plan concerning the W/S
York Rd. (Md. 45), 78 ft.
North of Landstreet Rd.
Balto. Co. Zoning Item #172

Dear Mr. Haines:

Plans concerning the above subject were reviewed, and the location in question was inspected by Mr. Jessie L. Parker, the Highway Beautification Inspector for the area.

This office has no objections to the location of the signs as per plans submitted. Should you need further information, please call me at 33-1640.

Sincerely,
George T. Dawson
George T. Dawson, Chief
Highway Beautification Section

GTD:lrs
cc: John Contestabile
Jessie Parker

received
11/27/90

RECEIVED
NOV 27 1990

ZONING OFFICE

My telephone number is (301) 333-1640

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

The Honorable
Michael B. Sauer, Acting Chairman
County Board of Appeals
Page 2

January 28, 1992

and other work in connection with a project. Rockville Fuel v. City of Gaithersburg, 266 Md. 117, 133-35 (1992); Stewart Petroleum Co. v. Board of County Comm'rs, 276 Md. 435 (1975). O'Donnell v. Bassler carries forward this principle of law. It is undisputed that the requested sign here was in no way constructed. Therefore, there is nothing to the vested rights argument.

4. The amendment of BCZR Section 236.4 was all that was necessary not to allow outdoor advertising signs in B.R. zones. It was unnecessary to amend BCZR 413.3. Bill 87-91 accomplishes its stated purpose by addressing BCZR 236.4. There is no need to address BCZR 413.3 for the simple reason that the explicit language of this section does not include the B.R. zone as a zone in which outdoor advertising signs are permitted.

This office is well aware of the history of BCZR Section 413.3, and participated in the litigation. The Circuit Court for Baltimore County did finally determine, by judicial decision, that the existing language was the result of a drafting error, and that petitions for special exception for outdoor advertising signs in B.R. zones should be accepted. The Zoning Commissioner and County Board of Appeals, other county agencies, and this office have respected the decision of Judge Joseph Murphy November 26, 1984 on this point. But the County Council itself has never rewritten the B.R. zone explicitly into the law. Therefore, in order to amend the law to delete outdoor advertising signs from the list of permitted uses in the B.R. zone, all that was necessary to do was to address BCZR 236.4. There was nothing to address on BCZR 413.3, because the existing language still omitted the B.R. zone.

To be sure, if the County Council desires to provide any sort of grandfathering, it can enact further legislation. But, on the present record, the petition must be disallowed on its face. The efforts of the Petitioner should be directed to the legislative forum, rather than to litigation which is doomed to be unproductive.

Sincerely yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County
Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

cc: Kevin A. Dunne, Esquire
Michael T. Wyatt, Esquire
Andrew Janquitto, Esquire
Charles B. Heyman, Esquire

LAW OFFICES OF
WILLIAM F.C. MARLOW, JR.

94 ALLEGHENY AVENUE
BALTIMORE, MARYLAND 21201
(410) 931-1013
TELEFAX (410) 921-5452

WILLIAM F.C. MARLOW, JR.

MICHAEL T. WYATT
JAMES P.A. OGDONOR, JR.

*ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON D.C. ADDRESS
AIR RIGHTS BUILDING
SUITE 901
7315 WISCONSIN AVENUE
WASHINGTON, D.C. 20014

January 24, 1992

The Honorable Michael B. Sauer
Chairman
Board of Appeals, Baltimore County
Room 48, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
Case No.: 91-206-X

Dear Chairman Sauer:

I am in receipt of Penn Advertising of Baltimore, Inc.'s Memorandum of Law in Opposition to the Motion to Dismiss, along with numerous exhibits appended thereto. Inasmuch as Penn's Memorandum raises issues not previously considered in this case, in my judgment, a brief response by Maryland State Fair is warranted.

Penn tries to divert the application of Bill 87-91 with two novel issues. To the extent not already addressed in Maryland State Fair's previously filed Memorandum of Law, the following serves as reply to Penn's contentions in this zoning case:

1. Legislative Intent: Penn Advertising attaches what it represents to be a true and correct transcription of the hearing held on July 1, 1991 regarding County Council Bill 87-91. The quotes employed by Penn to support its assertion that the Bill does not apply to existing proceedings are lifted out of context and, not surprisingly, incredibly misleading.

For example, Penn relies on opening remarks by Councilman Riley that "billboards presently maintained in business roadside zones will all be grandfathered." Penn cites State Tax Commissioner v. Potomac Electric Power Company, 182 Md. 111 (1943) in support of the presumption against retrospective application of legislative acts. Maryland State Fair agrees that existing billboards will "not be forced down" because the Bill cannot be applied retroactively.

22-JAN-92 LZ HWK 26
JAN 26 1992

Michael B. Sauer, Chairman
January 24, 1992
Page 2

Something Penn fails to grasp: this case is not about retroactive application, but rather, adherence to existing law.

Next, Penn ascribes tremendous importance to County Attorney, H. Basile Parks', advice to the Council that "only cases who have been granted a special exception or would have a special exception pending [would be grandfathered]." It is clear from the transcript that Councilman Gardina and the County Attorney were not discussing Bill 87-91 but the proposed "comprehensive [zoning maps] review process." The County Attorney (discussing the proposed comprehensive plan) opined with respect to grandfathering pending proceedings: "it depends upon how the bill was drawn." [Transcript, page 13]. Bill 87-91 was already drawn and no saving clause was inserted respecting existing appeals. This is exactly the same situation with which the Court in Yorkdale was faced. The legislative intent to apply the new law equanimously (despite Penn's narrow and tortured interpretation of the July 1, 1991 Council transcript) is clear.

2. Vested Right: Penn's contention that it acquired a "vested interest or right," in light of the clear holdings of Yorkdale Corporation, Stewart Petroleum Company, and O'Donnell (all previously cited in Maryland State Fair's Memorandum), is without merit.

3. Bill 87-91 Ineffective: Penn's argument that Bill 87-91 is ineffective because BCZR 413.3, by judicial fiat, permits billboards in B.R. Zones, is illogical and self-defeating. Simply put, BCZR 413.3 does not permit billboards in B.R. Zones. Bill 87-91 deletes from BCZR 236.4 outdoor advertising signs as a permitted use, by special exception, in B.R. Zones. There was no need to "address, amend or repeal" BCZR 413.3 since the County Council never heeded the Metromedia decision. Further, the rationale of Metromedia weighs heavily against Penn - the County Council's long acquiescence to the absence of B.R. Zones in Section 413 constitutes a ratification of that law. Penn argues a contrived legislative intent for Bill 87-91 in one breath while implicitly suggesting to the Board that the legislation itself is a nullity in another. Although difficult for Penn to countenance, the Baltimore County Council has spoken - no billboards in B.R. Zones!

Finally, I do not believe a hearing on this motion is necessary. The Board has before it all of the argument and law it needs to render a decision on the Motion to Dismiss. Maryland State Fair has already expended far too much of its time, money and resources in opposition to Penn's illegal billboard request.

Michael B. Sauer, Chairman
January 24, 1992
Page 3

As always, your continued attention to this matter is appreciated.

Very truly yours,
Michael T. Wyatt
Michael T. Wyatt

cmd
cc: Zoning File
Kevin A. Dunne, Esquire
Phyllis Cole Friedman, People's Counsel
Andrew Janquitto, Esquire
Charles B. Haymen, Esquire

IN RE: * BEFORE THE
*
PETITION FOR SPECIAL EXCEPTION * COUNTY
w/s York Road, 78' N of the * BOARD OF
c/1 of Landstreet Road * APPEALS OF
(2306 York Road) * BALTIMORE COUNTY
9th Election District
4th Councilmanic District

J.R. Brothers, Inc. *
[PENN ADVERTISING, INC. - * Case No.: 91-206-X
Basement holder] *
Petitioners *
* * * * *

MEMORANDUM OF LAW

MARYLAND STATE FAIR AND AGRICULTURAL SOCIETY, INC.
("MARYLAND STATE FAIR"), by its attorney, Michael T. Wyatt,
pursuant to Order of this Board, and in support of its Motion to
Dismiss, hereby files its Memorandum of Law.

STATEMENT OF CASE

Petitioner, PENN ADVERTISING, INC. ("PENN"), filed a
petition for special exception for "one doubled-sided 25' x 12'
illuminated outdoor advertising sign." The proposed location of
the sign is 2306 York Road, Timonium, Maryland 21093. The
subject property is zoned "B.R." (business roadside).

MARYLAND STATE FAIR, Protestant and adjacent landowner,
timely noted an appeal from the Zoning Commissioner's March 21,
1991 Order granting the special exception petition of PENN.

During the pendency of this de novo appeal to the Board of
Appeals, the County Council of Baltimore County enacted Bill 87-
91. Bill 87-91, County Council of Baltimore County, Maryland,

(Effective date - August 22, 1991) ("the Bill"). The Bill became
effective on August 22, 1991 and prohibits outdoor advertising
signs by Special Exception in B.R. Zones. The relief sought by
PENN in this case is directly contrary to the Bill. At the
December 18, 1991 de novo hearing of this cause before the Board
of Appeals, counsel for MARYLAND STATE FAIR made a Motion to
Dismiss PENN's Petition. The gravamen of the Motion is that the
legislation extinguishes and renders moot the Petitioner's cause
of action. Counsel for Petitioner represented to the Board
that, since it has relied to its detriment, PENN has a "vested
right" to the special exception grant that cannot be divested by
legislative enactment. Because Petitioner's argument is wholly
unsupported by law, MARYLAND STATE FAIR respectfully request that
the Petition be dismissed.

DISCUSSION

It is clear that the Baltimore County Council has rendered
legally untenable the relief sought by Petitioner. That is,
outdoor advertising signs are not permitted uses, even by special
exception, in B.R. Zones. It is important to note that the Bill
provides no "saving" or "sunset" provision in Section 2 - clearly
evidencing the legislative intent to apply the new law
equanimously to both pending and new proceedings.

It is axiomatic that Maryland appellate courts, including
intermediate hearing tribunals, are bound to decide a case
according to existing law, even if a decision correct when
entered needs to be set aside to conform to a change in law.
Yorkridge Corporation v. Powell, 237 Md. 121, 124 (1964) (citing
Woman's Club v. State Tax Comm., 195 Md. 16 (1950)). An
exception to this rule exists only when a change in law will
disturb vested or accrued substantive rights or if the
legislature manifests a contrary intent.

At the hearing, Petitioner advanced the argument that a
"vested right" accrued when the Zoning Commissioner approved
PENN's special exception request. The Petitioner argues this in
a de novo hearing where there is not even a presumption of
validity in its favor.

Moreover, counsel for PENN attempted to buoy support for the
"vested rights" theory by arguing that PENN had relied to its
detriment on the Zoning Commissioner's prior approval. This is
not factually evident in this case. The Zoning Commissioner's
Order provides that PENN'S Petition for Special Exception is, and
same be, granted subject to the following restriction:

1) The Petitioner may apply for its sign permit and be
granted same upon receipt of this Order; however, Petitioner
is hereby made aware that proceeding at this time is at its
own risk until such time as the 30-day appellate process
from this Order has expired. If, for whatever reason, this
Order is reversed, the Petitioner would be required to
return, and be responsible for returning said property to
its original condition. Order of March 21, 1991, J.
Haines - Zoning Commissioner, at 3 (Emphasis supplied).

Even assuming PENN relied, in any manner, to its detriment,
such reliance would have been foolhardy in view of the Order's
painstakingly cautionary language. Moreover, a public hearing on
the Bill was held one week prior to the issuance of the Order.
The undersigned counsel for MARYLAND STATE FAIR has searched in
vain to find any legal authority to support PENN'S contention.

There is, of course, an avalanche of authority supporting
MARYLAND STATE FAIR's position. Providing a synopsis of the
authorities preceding it, the Court in Yorkdale Corporation v.
Powell, 257 Md. at 126 (1962) held that an applicant for rezoning
to a more intense use of his property, who has been successful
before the zoning authorities, does not acquire a vested or
substantive right which may not be wiped out by legislation which
takes effect during the pendency of the appeal from the actions
below. Yorkdale, 257 Md. at 126 (relying on Banner v. Home Sales
Company D, 201 Md. 425 (1953) and Lake Falls Assn. v. Bd. of
Zoning Appeals, 210 Md. 19 (1956)).

The analogous case of Stewart Petroleum Co. v. Board of
County Comm. of St. Mary's County, 276 Md. 435 (1975), makes
PENN's "vested rights" argument seem even more desperate. The
Court of Appeals in Stewart held that even substantial
expenditures preliminary to construction, which included
\$175,000.00 for a feasibility and design and \$52,500.00 for an
environmental impact study, are not sufficient to support a
vested right claim. Stewart Petroleum Co., 247 Md. at 444. The

Court enunciated the vested right test, gleaned from an exhaustive purview of the authorities, to be as follows:

"A landowner will be held to have acquired a vested right to continue the construction of a building or structure and to initiate and continue a use... where prior to the effective date of ordinance, in reliance of upon a permit theretofore validly issued, he has, in good faith made a substantial change of position in relation to the land, made substantial expenditures, or has incurred substantial obligations."

Stewart Petroleum Co., 276 Md. at 443 (quoting 2 A. Rothkopf, The Law of Zoning and Planning, CH. 57-6, 57-7 (3d ed. 1972)).

O'Donnell v. Bassler, 289 Md. 501 (1981), is another good example of the uniformity among cases dealing with the vested right exception to the general rule that an appellate court must apply the law in effect at the time a case is decided. The issuance of a permit that is invalidated upon review creates no vested right in an owner. O'Donnell, 289 Md. at 508. The Court further cautions (thus patterning the Commissioner's earlier Order) that an owner who obtains a permit and begins construction before the expiration of an appeal period proceeds at his own risk. O'Donnell, 289 Md. at 508.

It should also be pointed out that no evidence has been adduced in this proceeding showing expenditures of any type by PENN. Since it is believed, and therefore averred, that PENN, its attorneys and/or representatives, attended the Council's March 12, 1991 hearing on the Bill, it should be precluded from asserting that it acted in "good faith" - i.e., without knowledge

of the pending legislation. Also, as pointed out earlier, PENN seems to ignore the very language of Zoning Commissioner Haines' Order that it act "at its own risk." These facts, coupled with clear legal precedent render PENN's contention that it acquired a "vested right" wholly specious and implausible.

In the last analysis, PENN's hollow assertion that it obtained a "vested right" in the special exception grant collapses from its own vacuity.


Michael T. Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(301) 821-1013

Attorney for Protestant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of January, 1992, a copy of the foregoing was mailed, postage prepaid to: Phyllis Cole Friedman, People's Counsel, Rm. 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Kevin A. Dunne, Esquire, 120 East Baltimore Street, Baltimore, Maryland 21202-1643; Andrew Janquitto, Esquire, 105 W. Chesapeake Avenue, Suite 300, Towson, Maryland 21204; and, Charles B. Heyman, Esquire, 20 S. Charles Street, Baltimore, Maryland 21202.


Michael T. Wyatt

Witnessed this 17th day of January, 1992.

LAW OFFICE OF
WILLIAM F.C. MARLOW, JR.

404 ALLEGHENY AVENUE
BALTIMORE, MARYLAND 21204
(301) 821-1013
TELEFAX 821-5132

WILLIAM F.C. MARLOW, JR.

MICHAEL T. WYATT

* ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

January 17, 1992

VIA HAND-DELIVERY
The Honorable
Michael B. Sauer, Chairman
Board of Appeals, Baltimore County
Room 48, Courthouse
400 Washington Avenue
Towson, Maryland 21204

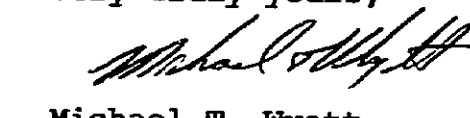
RE: Memorandum of Law -
Petition for Special Exception
Case No.: 91-206-X

Dear Chairman Sauer:

In accordance with the Board's Order of December 18, 1991, I am enclosing Maryland State Fair and Agricultural Society, Inc.'s Memorandum of Law for filing in the above-referenced zoning case.

I thank you in advance for your continued attention to this matter.

Very truly yours,


Michael T. Wyatt

cmd
Enclosure

cc: Zoning File
Kevin A. Dunne, Esquire
Phyllis Cole Friedman, People's Counsel
Andrew Janquitto, Esquire
Charles B. Heyman, Esquire

67-0 MD 1110725

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S York Road, 78' N of the c/l * BOARD OF APPEALS
of Landstreet Road *
(2306 York Road) * OF BALTIMORE COUNTY
9th Election District *
4th Councilmanic District *
J. R. Brothers, Inc./Penn * Case No. 91-206-X
Advertising of Baltimore, Inc. *
Petitioners *

MEMORANDUM OF LAW IN
OPPOSITION TO MOTION TO DISMISS

Penn Advertising of Baltimore, Inc. ("Penn"), by its attorneys, Kevin A. Dunne and Ober, Kaler, Grimes & Shriver, in opposition to the Appellant's oral Motion to Dismiss states:

Parties and Background

On November 14, 1990, Penn requested a special exception to permit the erection of one back-to-back 12 foot by 25 foot advertising sign on 2306 York Road (the "Property"). The Property consists of .9927 acres, more or less, is zoned Business Roadside ("B.R.") and is commonly referred to as the Turf Inn Restaurant. There was testimony before the Zoning Commissioner that Penn proposed to erect a single-pole 12 foot by 25 foot illuminated advertising sign on the southeast corner of the Property. The sign would be no closer than 25 feet from the right-of-way line along York Road (and at least 65 feet from the center line of York Road). On behalf of Penn, Barry Freedman testified that the requirements of Section 502.1 of the Baltimore County Zoning Regulations ("BCZR") had been met.

The Zoning Commissioner found that the BCZR clearly permitted the use proposed in the B.R. zone by special exception and that this proposed use would not be detrimental to the primary uses in the vicinity. Penn proved that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. There was no evidence adduced to show that the proposed use at the Turf Inn location would have any adverse impact above and beyond that inherently associated with such a special exception, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981).

The Zoning Commissioner found that the proposed use would not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in the roads, streets or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the BCZR. The Zoning Commissioner approved the granting of the petition for the special exception to permit the erection of one back to back 12 foot by 25 foot advertising sign on the Property upon certain conditions. Penn satisfied all conditions and has obtained its permit and has completed all construction work except the actual erection of the sign.

An appeal was taken on April 19, 1991 from the Zoning Commissioner's grant of the special exception. The Appellant, the owner of the Timonium Fairgrounds, had not appeared before the Zoning Commissioner. During the pendency of the appeal, the

Baltimore County Council considered Bill No. 87-91, ostensibly addressing outdoor advertising in B.R. zones.

The Baltimore County Council adopted Bill No. 87-91, amending Section 236.4 of the Zoning Ordinance to repeal the reference in Section 236.4 to outdoor advertising signs in the list of permitted special exceptions. The bill was enacted July 2, 1991 and became effective on August 16, 1991. At a hearing on December 17, 1991, before the Board of Appeals (the "Board"), Appellant made an oral motion to dismiss, relying on Yorkdale Corporation v. Powell, 237 Md. 121, 205 A.2d 269 (1964).

Argument

I. ALTHOUGH YORKDALE REQUIRES THIS BOARD TO APPLY THE LAW IN EFFECT AT THE TIME THE APPEAL IS DECIDED, THE CLEAR LEGISLATIVE INTENT WAS TO GRANDFATHER BOTH EXISTING OUTDOOR SIGNS IN B.R. ZONES AND ANY SPECIAL EXCEPTION PERMITS THAT HAD BEEN APPLIED FOR PRIOR TO THE EFFECTIVE DATE OF THE LEGISLATION.

Appellant contends that Yorkdale¹ requires that the decision of the Zoning Commission be voided because of the intervening amendatory legislation. While Penn acknowledges that the general principle of Yorkdale is the law of Maryland, Penn urges that Yorkdale was erroneously decided. Even so, applying Yorkdale to the instant matter, the legislative intent of the

¹ The Yorkdale Corporation v. Powell opinion was a 4-3 decision. Judge Prescott's well-reasoned dissent acknowledged that although the principle of law as stated by the majority was correct, "the proper application of the law is as difficult as determining the applicable law." 237 Md. at 134. Nevertheless, Judge Prescott concluded that the majority's conclusion was illogical and wrong.

Baltimore County Council is clear, and Penn's pending special exemption petition is grandfathered under the old law.

Appellant argues that Bill No. 87-91 changed the law in Baltimore County to now prohibit outdoor advertising in B.R. zones.² Assuming arguendo that Bill No. 87-91 effectively changed the law, Yorkdale requires this Board to apply the zoning law existing at the time of appeal rather than when the case was decided below. However, there are two exceptions to this rule: the newer law would only be applicable "unless vested or accrued substantive rights would be disturbed or unless the legislature shows a contrary intent." Yorkdale, 237 Md. at 124. Thus, the paramount considerations are (1) the intention of the County Council when it changed the law and (2) whether Penn had vested or accrued substantive rights.

A. THE COUNTY COUNCIL DISCUSSED AND CONCLUDED PRIOR TO PASSAGE OF THE BILL THAT EXISTING PERMIT APPLICATIONS WERE GRANDFATHERED

The Yorkdale court specifically carved out an exception that the general rule be applied "unless the Legislature shows a contrary intent." Yorkdale, 237 Md. at 124. Appellant completely overlooks the legislative intent of the County Council when Bill No. 87-91 was passed. The County Council did not intend the new legislation to apply to pending applications for special exception or applications that had already been approved. The videotape and

² As set forth herein in Section III, infra, the County Council's attempt to prohibit outdoor advertising in B.R. zones by amending only Section 236.4 was ineffective as a matter of law.

transcript of the County Council debate, as discussed herein, clearly conveys the intent to protect pending applications.³

1. Statutory Construction

The Court of Appeals in Higgins v. City of Baltimore, 206 Md. 89, 110 A.2d 503 (1954), held that zoning ordinances are usually prospective in nature. "A statute will not be given a retrospective operation, unless its words are so clear, strong and imperative in their retrospective expression that no other meaning can be attached to them, or unless the manifest intention of the Legislature could not otherwise be gratified." State Tax Commission v. Potomac Electric Power Company, 182 Md. 111, 117, 32 A.2d 382 (1943). An amendatory bill such as Bill No. 87-91 takes effect, like other legislative enactments, only from its effective date, unless an intent to the contrary is expressed in the bill, or such intent can be clearly implied from the bill's provisions. Id. Stated succinctly, the cardinal rule of statutory construction which the court decisions recognize and upon which authorities agree, is that the intention of the Legislature should be effectuated. See McKeon v. State, 211 Md. 437, 127 A.2d 635 (1956); Height v. State, 225 Md. 251, 170 A.2d 212 (1961).

This Board may wish to consider the advice offered by Sutherland in his treatise on statutory construction.

³ Appended hereto and prayed to be incorporated herein as Exhibit A is the videotape of the proceedings of the Baltimore County Council from July 1, 1991. That portion of the proceeding regarding Bill 87-91 has been transcribed by undersigned counsel, and that transcript is also attached as Exhibit B and prayed to be incorporated herein.

Before the true meaning of the statute may be determined, consideration must be given to the problem in society to which the Legislature addressed itself, prior legislative consideration of the problem, the legislative history of the statute under litigation, and to the operation and administration of the statute prior to litigation.

2 Sutherland, Statutes and Statutory Construction §4505 (4th ed.) (1985) (emphasis added).

Although Bill 87-91 is silent on its effect on pending applications, the debate during the passage of Bill No. 87-91 clearly demonstrated the County Council's intent and understanding as to the effect of the amendment on special exceptions then pending or that had already been approved. In Yorkdale, the court had to rely on general presumptions and rules of statutory construction, rather than extrinsic evidence. This Board is fortunate not to have to rely on the presumed intent of the County Council but instead can review the entire debate (including the precise issue that is now before this Board).

Councilman Riley stated in his opening discussion on Bill No. 87-91 that "billboards presently maintained in Business Roadside Zones will all be grandfathered in under the bill, meaning that none of them will be forced down. In other words, the bill will really have no effect upon signs presently in place." (Transcript p. 5, lines 6-10). Councilman Mason focused on pending applications and asked "[w]hat position does this bill take on those locations the industry may have contracted in the period that this bill's been introduced up until tonight that no signs have been erected on? Are those locations reserved then forever?"

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(Transcript p. 11, lines 4-9.) Hillary Richmond, speaking for the Planning Office, clarified the question, "[y]ou mean a special exception that has been submitted?" Ms. Richmond then answered "[t]his Legislation has no effect on them, they proceed." (Transcript p. 11, lines 10-14) (emphasis added.)

The question before this Board - this legislation's effect on a pending appeal from the grant of a special exception - has been answered definitively by the County Council and Planning Office. Bill No. 87-91 is to have "no effect on pending special exceptions." Councilman Ruppertsberger asked how many "applications were filed last year." (Transcript p. 11, lines 21-23.) Mr. Pat Keller, also speaking for the Planning Office, answered "1990 our records show one." (Transcript p. 11, line 26.) The application referred to by the Planning Office was Penn's and is the subject of this appeal.

The County Attorney, H. Emslie Parks, Esquire, advised the Council on his interpretation of Bill No. 87-91's effect on pending applications in a later exchange with Councilman Gardina. Mr. Parks made it clear that "only ones who have been granted a special exception or would have a special exception pending..." (Transcript p. 14, lines 8-9), would be grandfathered, "[u]nless there was some provision to compensate the owners of the right with regard to the property rights that were taken away from them." (Transcript p. 13-14, lines 24-26; 1-2).

Thus the context, the legislative history, and the purpose of Bill No. 87-91 establish a manifest legislative intent that the

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amendment not apply to special exceptions that are pending or have already been granted. Appellant's motion must fail. The case before this Board should be decided in accordance with the law as it was when the special exception was granted by the Zoning Commissioner.

II. PENN HAD ACQUIRED A VESTED INTEREST

Yorkdale specifically carved out a second exception to the application of the general rule. "[A] change in the law after a decision below and before final decision by the appellate court will be applied by that Court unless vested or accrued substantive rights would be disturbed..." Yorkdale, 237 Md. at 124. Penn has acted in reliance on the Zoning Commissioner's decision. Penn has spent in excess of Fourteen Thousand Dollars (\$14,000) in preparing the site, obtaining all of the necessary plats and drawings, having the site readied for construction of the sign, and undertaking work with the utility company, including obtaining all necessary permits and completing all engineering work. All work, with the exception of the erection of the sign, has been completed. By undertaking all of this work, Penn has acquired a vested right as described in Yorkdale. As a result of acquiring this vested right, the motion to dismiss must fail.

III. THE PASSAGE OF COUNTY COUNCIL BILL 87-91 WAS INEFFECTIVE IN REPEALING THE SPECIAL EXCEPTION FOR OUTDOOR ADVERTISING.

The County Council failed to amend the necessary provisions to change the zoning law regarding special exceptions

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and outdoor advertising. Bill No. 87-91, by its express terms, repeals only the reference to outdoor advertising signs in Section 236.4 of the Baltimore County Zoning Regulations. The bill does not address, amend or repeal Section 413.3, which provides the zones in which outdoor advertising signs may be placed as special exceptions.

Section 413 is the subject of judicial precedent. Attached as Exhibit B is Judge Raine's opinion in Metromedia, Inc. v. Baltimore County, et al., Equity No. 103167, which was brought under Maryland's Declaratory Judgment Act. Judge Raine declared that the County must accept Section 413 as contained in certain of its publications. Each of those publications included the B.R. zone as one where an outdoor advertising sign may be placed if the criteria of the Section were met and a special exception were granted under Section 502. Specifically, the Court declared "that the Defendant [the County] must accept applications for special exception...and, after hearing, determine the merits of the application based on Section 413 as contained in the mimeograph publication of 1957 and 1963."

No where in the Metromedia opinion is Section 236.4 mentioned. No appeal was taken by the County and the judgment that Section 413 was to apply to applications for outdoor advertising signs became final and conclusive so that the County was "bound by that adjudication." See Bankers & Ship Insurance Company v. Electro Enterprises, Inc., 287 Md. 641, 654-660, 415 A.2d 278 (1980). See also Kutzik v. Young, 730 F.2d 149, 152 (4th Cir. 1984) (applying

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Maryland law and citing, among other authorities, Washington Suburban Sanitary Commission v. TKU Associates, 281 Md. 1, 19-20, 376 A.2d 505 (1977); see Mears v. Town of Oxford, Maryland, 762 F.2d 368, 374 (4th Cir. 1985).

This issue was reviewed and decided again in an appeal from decisions of the County Board of Appeals, In The Matter of: The Applications of George Mehring and Euclay Realty for Special Exceptions, Inc., Case Nos. 84-CG-434 and 84-CG-435 (1984). The transcript of the hearing and decision of Judge Murphy is attached as Exhibit C. The facts were strikingly similar to those now before this Board. The People's Counsel argued that the B.R. zone was not one in which a billboard could be located upon special exception because, in part, the County had continued to publish Section 413 as if the Metromedia order had never been entered. The County had attempted to amend the BCZR, without addressing Judge Raine's conclusions. Judge Joseph Murphy reversed the Board's denial of the special exception and authorized outdoor advertising signs in a B.R. zone, following the holding in Metromedia. Judge Murphy reasoned that the Board was bound to follow Judge Raine's decision until such time as the Metromedia decision is overturned by an appellate court of this state or if faced with properly enacted legislation which addresses Judge Raine's conclusion. No appeal was taken.

Both of these judicial decisions are binding on Baltimore County. If the County now wants to amend and prohibit outdoor advertising in B.R. zones, it must also explicitly amend Section

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413 to overturn the judicial conclusions. Until such legislation is enacted, outdoor advertising is still permitted in B.R. zones.

The County may not implicitly repeal a statute. Maryland has long followed this settled, recognized principle. See Farmers and Merchants National Bank v. Schlossberg, 306 Md. 48, 61, 507 A.2d 172 (1986); Prince George's County v. White, 275 Md. 314, 319, 340 A.2d 236 (1975) (repeal by implication [is] a construction which should be avoided.)

Courts have created a presumption against the repeal of prior laws by implication. Reports abound with decisions reflecting and endorsing this presumption against repeal by implication. Sutherland, Statutes and Statutory Construction, §23.10, p. 346 (4th ed.) (1985).

If the County Council wanted to repeal outdoor advertising signs from its list of special exceptions, the County should have also passed legislation that explicitly overruled Judges Raine and Murphy, and legislatively stricken from Section 413.3 that which those judges judicially included.

Penn acknowledges that Baltimore County, by a properly framed ordinance, could repeal the judicial declaration as contained in the Metromedia and Mehring and Euclay Realty decisions. However, Bill No. 87-91 is ineffective in this regard as it does not amend, repeal or reenact Section 413. Therefore, Bill No. 87-91 is ineffective in changing Penn's rights to apply for and obtain special exceptions in B.R. zones.

Because the substantive law has not changed since the Zoning Commissioner's decision on March 21, 1991, Appellant's oral motion to dismiss should be denied.

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WHEREFORE, Penn Advertising of Baltimore, Inc., Appellee, respectfully requests that this Board enter an Order that:

- A. Denies the Motion of Appellant; and
- B. Grants such further relief to Penn as justice requires.

Kevin A. Dunne
Kevin A. Dunne

Oben, Kaler, Grimes & Shriver
120 E. Baltimore Street
Baltimore, Maryland 21202-1643
(410) 685-1120

Attorneys for Penn Advertising
of Baltimore, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Memorandum of Law to Motion to Dismiss, was mailed, postage prepaid, on the 17th day January, 1992, to: Michael T. Wyatt, Esquire, 401 Allegheny Avenue, Towson, Maryland, 21204, attorney for Appellant, and Phyllis C. Friedman, Esquire, 409 Washington Avenue, Suite 900, Towson, Maryland, 21204, attorney for the People's Counsel.

Kevin A. Dunne
Kevin A. Dunne

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BEFORE THE BALTIMORE COUNTY COUNCIL
JULY 1, 1991

EXCERPT - COUNTY COUNCIL BILL #87-9

APPEARANCES:

Mr. Thomas Peddicord, Secretary Baltimore County Council
Mr. Pat Keller, Deputy Director
Ms. Hillorie Richmond, Legislative Planner
Mr. Merreen Kelly, County Administrative Officer
Mr. H. Emslie Parks, County Attorney

BEFORE:

Honorable Douglas B. Riley, Chairman
Honorable Berchie L. Manley
Honorable Melvin G. Mintz
Honorable C.A. Dutch Ruppertsberger, III
Honorable Vincent J. Gardina
Honorable William A. Howard, IV
Honorable Donald C. Mason

EXHIBIT B

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
EQUITY NO. 103167

IN 1955 the County published a mimeographed version of Section 413 of the Baltimore County Zoning Regulations which certain regulations adopted by the County Commissioners of Baltimore County on March 30, 1955. In 1957, and in 1963, the County republished this same version in the "Black" and "Blue" Books respectively. For the next fourteen years the County treated these three published versions of Section 413 as the established rule, by adhering to the regulation, insisting that others follow its dictates, and representing to the Courts that this version of Section 413 was the law to be applied to all cases coming within its ambit.

In 1969, without notice or hearing, the County published yet another looseleaf volume of zoning regulations, the Red Book, which substantially altered Section 413 as it appeared in the previously promulgated versions. In 1973, the County published a gold looseleaf edition of the regulations (the Gold Book). In this edition, Section 413 followed the Red book but was inconsistent with the Black and Blue books. The County explains the inconsistency as follows: While searching County archives, some county employee found, scattered away in a vault, the original version (the "Safe Book") of the 1955 zoning regulations which differed substantially from the three versions which the County had disseminated. Thereupon the County promulgated a new version of Section 413 in the Red and Gold Books without notice or hearing, picking up the original Soft Book text that differed significantly from the mimeographed and the Black and Blue versions.

EXHIBIT C

Received
7-6-87
MAY

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF:
THE APPLICATIONS OF
GEORGE MENNING AND
EUGENIA REALTY FOR
SPECIAL EXCEPTIONS,
ETC.

CASE NOS. 84-CG-434
84-CG-435

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Appeals from the County Board of Appeals,
84-109X and 84-93-X)

Towson, Maryland

November 26, 1984

BEFORE:

HONORABLE JOSEPH F. MURPHY, JR., Judge

APPEARANCES:

For the Petitioner and Contract Lessee:
M. ALBERT FIGINSKI, Esquire

For the Protestant, Baltimore County:
PETER MAX ZIMMERMAN, Esquire
DEPUTY PEOPLE'S COUNSEL

Reported by:
JANET A. BROWN, CSR
Official Court Reporter
Towson, Maryland 21204

EXHIBIT D

OBER, KALER, GRIMES & SHRIVER

KEVIN A. DUNNE
DIRECT DIAL NUMBER
1301 347-7357

ATTORNEYS AT LAW
120 EAST BALTIMORE STREET
BALTIMORE, MARYLAND 21202-1643
(410) 685-1120
FACSIMILE (410) 647-0899
CHARLES "TOMMY"
TELEX 8-7774

OFFICES IN
WASHINGTON, D. C.
NEW YORK
NEW JERSEY

January 17, 1992

BY HAND DELIVERY

Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

RE: J.R. Brothers, Inc./Penn Advertising
of Baltimore, Inc. - Petitioners,
Case No. 91-206-X

Dear Sirs:

The Board will recall that at the hearing in the above captioned matter on December 18, 1991, leave was granted for the filing of memoranda pertaining to the Oral Motion to Dismiss made by the appellant Maryland State Fair and Agricultural Society, Inc. The Board granted 30 days to file such memoranda.

Enclosed please find an original plus two copies of the memorandum of Penn Advertising of Baltimore, Inc. in response to the Motion to Dismiss. Also, enclosed are four exhibits to the memorandum. While I have enclosed three sets of Exhibits B, C and D, only one copy of Exhibit A is enclosed, because that Exhibit is a videotape cassette of the proceedings of the Baltimore County Council on July 1, 1991. Please note that I have had transcribed those proceedings concerning Baltimore County Council Bill 87-91, which is enclosed as Exhibit B, and I have represented in that transcript that it is a correct transcription of the videotape of the County Council Deliberations on Bill 87-91.

If the Board believes that a hearing on this Motion to Dismiss would be helpful or necessary to resolve the Motion or Penn's Application for Special Exception, my client and I are ready and willing to appear at any such hearing that the Board may direct. Thank you for your consideration of these matters.

Respectfully submitted,

Kevin A. Dunne

KAD/rmd:40979
cc: Phyllis Freedman, Esq
Michael T. Wyatt, Esq
Fred Lauer, Esquire

75-2113-41 NOV 26

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD OF APPEALS
W/S York Rd., 78' N of C/L of : OF BALTIMORE COUNTY
Landstreet Rd. (2306 York Rd.) :
9th Election District :
4th Councilmanic District : Case No. 91-206-X

J. R. BROTHERS, 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.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 18th day of December, 1991, a copy of the foregoing Entry of Appearance was hand delivered to Michael T. Wyatt, Esquire, 404 Allegheny Ave., Towson, MD 21204, Attorney for Appellant, Maryland State Fair & Agricultural Society, Inc.; Charles B. Heyman, Esquire, 20 S. Charles St., Baltimore, MD 21201, Attorney for Penn Advertising of Baltimore, Inc.; and Andrew Janquitto, Esquire, 105 W. Chesapeake Ave., Suite 300, Towson, MD 21204, Attorney for J. R. Brothers, Inc.

Phyllis Cole Friedman
Phyllis Cole Friedman

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S York Road, 78' N of the c/l * ZONING COMMISSIONER
of Landstreet Road (2306 York Road) * OF BALTIMORE COUNTY
9th Election District * Case No. 91-206-X
4th Councilmanic District *
J.R. Brothers, Inc.
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to permit the erection of one back to back 12' x 25' advertising sign on the subject property in accordance with Petitioner's Exhibit 1.

Penn Advertising of Baltimore, Inc., Easement Holder, by Barry Freedman, Director of Corporate Development, appeared, testified and was represented by Charles B. Heyman, Esquire. Appearing as a Protestant in the matter was Andrew Janquitto, Esquire, on behalf of J. R. Brothers, Inc., Petitioner.

Testimony indicated that the subject property, known as 2306 York Road, consists of .9927 acres more or less zoned B.R. and is commonly known as The Turf Inn. Mr. Freedman testified that Penn Advertising is proposing to erect a single-pole, 12' x 25' illuminated advertising sign in the southeast corner of the subject property as indicated on Petitioner's Exhibit 1. He testified that there is 25 feet from the right-of-way line along York Road to the subject sign and 65 feet from the centerline of York Road to the sign. Mr. Freedman testified specifically to the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and indicated that it was his opinion that the requested relief fulfills the requirements of said Section.

Mr. Janquitto testified that J.R. Brothers, Inc. has an easement agreement with Penn Advertising. Mr. Janquitto testified that a time limit to file the instant Petition had expired and as such, Penn Advertising currently has no standing to pursue the subject Petition. The easement agreement was not produced at the hearing; however, Petitioners were advised that interpretation of same would not be a matter before the Zoning Commissioner. Any interpretation or enforcement of said easement agreement is an issue for another forum.

Regarding the subject Petition, it is clear that the B.C.Z.R. permits the use proposed in a B.R. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes

of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below. However, the site plan submitted by Petitioner is incomplete and leaves some issues open for further review. In order to correct this problem, Petitioner will be required to file a new site plan.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of March, 1991 that the Petition for Special Exception to permit the erection of one back to back 12' x 25' advertising sign on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

1) The Petitioner may apply for its sign permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Prior to the issuance of any permits, Petitioner shall submit to the Zoning Commissioner's Office a new site plan prepared by a registered professional engineer and/or land surveyor, which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, distances between all signs within 300 feet of the requested sign, all uses on properties located within 200 feet from the subject sign, all curb sections located on the subject site, all automobile entrances to other uses within 200 feet of the subject sign, a parking plan, building lines within 200 feet of the subject

sign, their distances from all property lines, and any other information as may be required to be a certified site plan. The new site plan shall establish full compliance with all sections of the B.C.Z.R. Failure to comply with all of the requirements of the B.C.Z.R. will result in the need for a new special hearing to amend the site plan prior to the issuance of any permits.
3) Prior to the issuance of any permits, Petitioner shall submit to the Zoning Commissioner documented proof that "Landstreet Road," as indicated on Petitioner's Exhibit 1, is, in fact, a private and not a public road.

JRH:bjs

J. Robert Harris
J. ROBERT HARRIS
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

March 21, 1991

Andrew Janquitto, Esquire
105 W. Chesapeake Avenue, Suite 300
Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION
W/S York Road, 78' N of the c/l of Landstreet Road
(2306 York Road)
9th Election District - 4th Councilmanic District
J. R. Brothers, Inc. - Petitioners
Case No. 91-206-X

Dear Mr. Janquitto:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Charles B. Heyman, Esquire
Kaplan, Heyman, Greenberg, Engleman & Belgrad
20 South Charles Street, Baltimore, Md. 21201

People's Counsel

File

PETITION FOR SPECIAL EXCEPTION 172

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-206-X

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 Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Erection of one (1) back to back 12' x 25' advertising sign.

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

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

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

Easement Holder:

Penn Advertising of Baltimore, Inc.

(Type or Print Name)

Signature

3001 Remington Ave.

Address

Baltimore, Maryland 21211

City and State

Attorney for Petitioner:

Charles Heyman

(Type or Print Name)

Signature

Kaplan, Heyman, Greenberg, Engleman & Belgrad, PA

Address

Baltimore, Maryland 21201

City and State

Attorney's Telephone No.: (301) 539-6967

Legal Owner(s):

J.R. Bros., Inc. T/A Turf Inn

(Type or Print Name)

Signature

2306 York Road

Address

Timonium, Maryland 21093

City and State

Signature

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

Signature

Name

Address

City and State

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 17 day

of 19 20, 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 30 day of Jan, 19 91, at 10 o'clock

A.M.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County

ZCO-2a.1

(over)

Description of Property

Beginning at a point 78 feet North along the center line of York Road from its intersection with the center line of Landstreet Road, thence South 72° 00' 00" West a distance of 65 feet from the center line of York Road to the Point of Beginning thence

- (1) South 72° 00' 00" West 30 feet
- (2) North 18° 00' 00" West 15 feet
- (3) North 72° 00' 00" East 30 feet
- (4) South 18° 00' 00" East 15 feet

to the point of Beginning.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th
Posted for: Special Exception
Petitioner: J.R. Brothers, Inc. T/A Turf Inn
Location of property: W/S York Road, 78' N of c/l of Landstreet Rd.
2306 York Road
Location of Sign: W/S of York Road, in front of proposed sign location
Remarks:
Posted by: J. J. Grata
Number of Signs: 1
Date of return: January 18, 1991

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1-3-1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12-20, 1990

THE JEFFERSONIAN,

S. Zeke Orlean
S. Zeke Orlean
Publisher

\$ 76.81

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1-3-1991

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12-17, 1990

TOWSON TIMES,

S. Zeke Orlean
S. Zeke Orlean
Publisher

\$ 76.81



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

receipt

Date

APPEAL FEE

QTY

PRICE

120 - OF - SPECIAL EXC. ORDER 1 X \$175.00

120 - POSTING SIGNS / ADVERTISING 1 X \$85.00

TOTAL: \$260.00

LAST NAME OF OWNER: J.R. BROS., INC

04404#0053MCHRC \$200.00

Please Make Checks Payable To: Baltimore County/03:02PH05-99-91

Cashier Validation

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 1/22/91

J. R. Brothers, Inc., t/a Turf Inn
2306 York Road
Timonium, Maryland 21093

RE:

Case Number: 91-206-X
W/S York Road, 78' (+/-) from c/l of Landstreet Road
2306 York Road
9th Election District - 4th Councilmanic
Legal Owner(s): J.R. Brothers, Inc., t/a Turf Inn
Easement Holder: Penn Advertising of Baltimore, Inc.
HEARING: WEDNESDAY, JANUARY 30, 1991 at 10:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 161.81 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SIGN(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. DO NOT REMOVE THE SIGN & POST SIGN(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post sign(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Charles B. Heyman, Esq.



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

receipt

Date

12-22-90

HE100172

PUBLIC HEARING FEE

QTY

PRICE

120 - SPECIAL EXCEPTION 1 X \$175.00

TOTAL: \$175.00

LAST NAME OF OWNER: J.R. BROS., INC

04404#0053MCHRC \$175.00

Please make checks payable to: Baltimore County

Cashier Validation:



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

receipt

Date

1/30/91

HE100172

PUBLIC HEARING FEE

QTY

PRICE

120 - POSTING SIGNS / ADVERTISING 1 X \$175.00

TOTAL: \$175.00

LAST NAME OF OWNER: J.R. BROS., INC

04404#0053MCHRC \$175.00

Please Make Checks Payable To: Baltimore County/03:02PH05-99-91

Cashier Validation

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: January 16, 1991
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: J.R. Brother, Inc., Item No. 172

The petitioner requests a Special Exception for an illuminated 12' X 25' advertising sign.

Staff believes the control of outdoor advertising signs is essential in protecting the health, safety and welfare of the citizens of Baltimore County. In certain locations, the unique scale and design of outdoor advertising signs clearly compromises public safety and traffic safety, since these signs are distracting. The very purpose of an outdoor advertising sign is to attract the attention of the operators of motor vehicles, so that a commercial message is noticed.

This office recognizes that high standards for signs enhance the aesthetic appearance of the community and the ability of the commercial sector to thrive in an attractive environment.

In many commercial areas it is difficult to locate commercial uses: not because of a general lack of signs, but because of excessive sign size, which has been exacerbated by competitive waste. In many areas of the county, some business people increase signage in order to compete with each other for attention.

The Baltimore County Master Plan makes several references to the importance of controlling signage, specifically on Page 74, in the following issue is identified:

"The sign regulations need to be completely updated and revised. The regulations should distinguish between new and existing signs, as well as public and private signage. Incentives for phasing out nonconforming uses should be evaluated. Compliance with adopted local community plans should also be considered."

On Page 116 of the Master Plan the following short-term action is called for in the Eastern Sector:

"Clear up signage to reduce clutter and to provide adequate directional signage."

received
11/17/90

J.R. Brothers, Inc., Item No. 172
Page 2
January 16, 1991

This office strongly objects to the applicant's proposal because of the sign's proximity to the residential enclave of Timonium Heights. The petitioner's site is located within the Hunt Valley/Timonium study area, and as such, the Master Plan has addressed the following planning issues for this particular area.

- "This area is different from other growth areas and...its redevelopment must be planned so that the integrity of the adjacent residential communities is protected from noise, traffic, intrusion of non-residential land uses, etc."
- "Land use patterns and intensities, transportation facilities and management, stormwater management and other infrastructure, protection of adjoining residential areas."
- "Special situations and opportunities such as new residential development in proximity to employment, the future of the Timonium Heights residential enclave, the potential reuse of the fairgrounds site, and the long-range potential of the Genstar quarry area."

Planning staff presented proposed legislation regarding the location of outdoor advertising in B.R. zones. In our presentation, staff testified that outdoor advertising signs do not belong and were not intended to be permitted by special exception in the B.R. zone.

The Ad Hoc Committee on Regulations and Standards approved staff's recommendation and moved that the issue be passed on for consideration of the Planning Board.

In summary, staff suggests that the petitioner's request be denied since the applicant's proposal would have a negative visual impact on the Hunt Valley/Timonium area. Furthermore, the Baltimore County Master Plan describes York Road from Ridgely to Shawan Road as disappointing in appearance. Future development should provide consistently attractive design components to enhance the built environment.

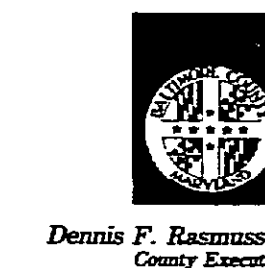
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm
ITEM172/2AC1

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

November 28, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204



Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers, 170, 172, 175, 176, 178, and 180.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

NSF/1ab

received
12/13/90

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500
Paul H. Reincke
Chief

NOVEMBER 2, 1990



J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: PENN ADVERTISING OF BALTIMORE, INC.

Location: #2306 YORK ROAD

Item No.: 172 Zoning Agenda: NOVEMBER 13, 1990

Gentlemen:

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

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Cap. W.F. Brady* 11-5-90 Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KER

received
11/14/90

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

November 5, 1990

received
11/15/90

TO: J. ROBERT HAINES, ZONING COMMISSIONER, DEPARTMENT ZONING

FROM: CHARLES E. BURMAN, PLANS REVIEW CHIEF, DEPARTMENT OF PERMITS & LICENSES

SUBJECT: ZONING ITEM #: 172
PROPERTY OWNER: J.R. Brothers, Inc., T/A Turf
LOCATION: W/S York Road, 78' (-/-) centerline of Landsstreet Road (#2306 York Road)
ELECTION DISTRICT: 4th
COUNCILMANIC DISTRICT: 4th

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

() PROPOSED SITE PLAN DOES NOT COMPLY TO STATE CODE OF MARYLAND REGULATION 05.01.07, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

() PARKING LOCATION () DOWNS (degree slope)
() NUMBER PARKING SPACES () CURB CUTS
() BUILDING ACCESS () SIGNAGE

() PLAN DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.

X A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.

() A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.

() STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 516.0 COUNCIL BILL #158-88 (BALTIMORE COUNTY BUILDING CODE).

X OTHER - All signs shall comply to the applicable requirements of Article 29 as amended by Council Bill #158-88.

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

APPLICABLE CODE: 1987 NATIONAL BUILDING CODES AS ADOPTED BY COUNCIL BILL #158-88.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: November 16, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for November 13, 1990

The Development Engineering Division has reviewed the subject zoning item and we have no comments for items 170, 172, 175, 176, 178, and 180.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Development Engineering Division

INDEX

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 9, 1991

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Exception
W/S York Road, 78' N of the c/l of Landsstreet Road
(2306 York Road)
9th Election District, 4th Councilmanic District
J.R. BROTHERS, INC. - Petitioner
Case No. 91-206-X

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 19, 1991 by Michael T. Wyatt, Attorney on behalf of the Maryland State Fair and Agricultural Society, Inc. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Harry Freedman, Director of Corporate Development
J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
3001 Remington Avenue, Baltimore, MD 21211

Charles B. Heyman, Esquire
Kaplan, Heyman, Greenberg, Engleman & Belgrad, P.A.
20 South Charles Street
Baltimore, Maryland 21201

ADVT MICHAEL WYATT

Cover Letter - Appeal Case No. 91-206-X
May 9, 1991
Page 2

Andrew Janquitto, Esquire
105 W. Chesapeake Avenue, Suite 300, Towson, MD 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

APPEAL

Petition for Special Exception
W/S York Road, 78' N of the c/l of Landstreet Road
(2306 York Road)
9th Election District - 4th Councilmanic District
J. R. BROTHERS, INC. - Petitioner
Case No. 91-206-X

Petition for Special Exception
Description of Property
Certificate of Posting
Certificate of Publication
Entry of Appearance of People's Counsel
Zoning Plans Advisory Committee Comments
Director of Planning & Zoning Comments

Petitioner's Exhibits: 1) Plat to accompany Special Exception
Zoning Commissioner's Order dated March 21, 1991 (Granted with Restrictions)

Notice of Appeal received April 19, 1991 from Michael T. Wyatt, Attorney on behalf of the Maryland State Fair and Agricultural Society, Inc.

cc: Harry Freedman, Director of Corporate Development
J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
3001 Remington Avenue, Baltimore, MD 21211

Charles B. Heyman, Esquire
Kaplan, Heyman, Greenberg, Engleman & Belgrad, P.A.
20 South Charles Street
Baltimore, Maryland 21201

Andrew Janquitto, Esquire
105 W. Chesapeake Avenue, Suite 300, Towson, MD 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Chief Deputy County Attorney
Public Services



Baltimore County, Maryland

PEOPLE'S COUNSEL
ROOM 304, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
204-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

January 10, 1992

The Honorable
Michael B. Sauer, Acting Chairman
County Board of Appeals
Room 48, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: J. R. Brothers, Inc., Petitioner
Zoning Case No. 91-206-X

Dear Chairman Sauer:

Since at least Yorkdale Corporation v. Powell, 237 Md. 121, 205 A.2d 269 (1964), it has been clear that a change in the zoning law pending appeal applies and is effective against the property owner with an approval under the pre-existing law unless the property owner has obtained vested rights, meaning substantial construction under a valid permit. As the Yorkdale case shows, this rule comes into play even when a case is in the appellate courts. See also Mayor and Council of Rockville v. Dustin, 276 Md. 232, 346 A.2d 447 (1975).

More recently, Judge Rita Davidson put it this way in O'Donnell v. Bassler, 289 Md. 501, 425 A.2d 1003 (1981):

"The issuance of a permit that is invalidated upon direct judicial review, however, creates no vested right in an owner. See City of Hagerstown v. Long Meadow Shopping Center, 264 Md. 481, 494-96, 287 A.2d 242, 248-50 (1972); Ross v. Montgomery County, 252 Md. 497, 504-07, 250 A.2d 635, 639-41 (1969); Town of Berwyn Heights v. Rogers, 228 Md. 271, 280, 179 A.2d 712, 716 (1962). Thus, an owner who obtains an invalid permit 'would derive no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss....' Lipsitz v. Parr, 164 Md. 222, 227-28, 164 A. 743, 745-46 (1933). More particularly, an owner who obtains a permit and begins construction before the expiration of an appeal period proceeds at his own risk." 289 Md. at 508.

In the present case, the Zoning Commissioner approval is not even a final approval, because of the de novo review mandated by charter at the

- 2 -

The Honorable
Michael B. Sauer, Acting Chairman
County Board of Appeals

January 10, 1992

County Board of Appeals level. Therefore, there is no question that the amendment in the law which precludes outdoor advertising signs in B.R. (business roadside) zones applies to this case.

Sincerely yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

cc: Michael T. Wyatt, Esquire
Charles B. Heyman, Esquire
Andrew Janquitto, Esquire

[237 Md.]

YORKDALE v. POWELL 121
Syllabus.

YORKDALE CORPORATION v. POWELL
[No. 353, September Term, 1993.]

APPEAL — Zoning Case—Change in The Law While Case Is Pending—Court Must Decide Case According To Existing Law.
The question presented in the instant case was whether the zoning ordinances of Baltimore County gave the zoning officials power to grant a variance as to density. The circuit court reversed the Board of Zoning Appeals and found that the ordinances did not authorize a variance in density. The applicant for the variance, appellant, appealed to this Court. However, in the meantime, the Baltimore County Council had passed a bill which explicitly provided that "no increase in residential density beyond that otherwise allowable by the Zoning Regulations (Sec. 2177) shall be permitted as a result of any such grant of a variance from height or area regulations. Thus, the Court held that "an appellate court is bound to decide a case according to existing law, even though a judgment rendered when rendered by the court below should be reversed as a consequence (or, it was noted, even when a judgment wrong when entered is made right by the change in the law). So that a change in the law after a decision below and before final decision by the appellate Court will be applied by that Court unless vested or accrued substantive rights would be disturbed or unless the legislature shows a contrary intent." pp. 123-128

STATUTES—Amending Law—Contractor So As To Determine Whether Applicable To Pending Cases—Evidence Of Legislative Intent—Effective Date Of Statute. The appellant in the instant zoning case contended that the legislative body, i.e., the Baltimore County Council, which changed the law while its case was pending, did not intend the change to apply to pending proceedings. It reasoned that this intent was evidenced by the fact that the Council refused to make the bill effective as an emergency measure and, instead, passed it as an ordinary law which did not become effective until forty-five days after its enactment. However, the Court held that it could not ascribe to the Council the

J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Case No. 91-206-X, File No. 92-CV-6540

J.R. BROTHERS, INC.
W/s York Rd., 78' N of c/l of 9th Election District
Landstreet Road (2306 York Road) 4th Councilmanic District
SE- 12' x 25' advertising sign

November 14, 1990 Petition for Special Exception for the erection of one back to back 12' x 25' advertising sign filed by Charles B. Heyman, Esquire on behalf of Petitioner - Penn Advertising of Baltimore, Inc., Easement Holder, J.R. Brothers, Inc. t/a Turf Inn, Legal Owner.

March 21, 1991 Order of the Zoning Commissioner GRANTING Petition with restrictions.

April 19 Notice of Appeal received from Michael T. Wyatt, Esquire on behalf of Maryland State Fair and Agricultural Society, Inc.

December 18 Hearing before the Board of Appeals wherein an oral Motion to Dismiss and legal argument were made by Michael T. Wyatt, Esquire on behalf of Protestants.

January 17, 1992 Memorandum of Law in Opposition to Motion to Dismiss filed by Kevin A. Dunne, Esquire on behalf of Penn Advertising of Baltimore, Inc.

January 17 Memorandum of Law filed by Michael T. Wyatt, Esquire on behalf of Maryland State Fair and Agricultural Society, Inc.

January 24 Letter containing brief response to Penn Advertising of Baltimore, Inc.'s Memorandum of Law in Opposition to the Motion to Dismiss.

January 28 Letter containing reply to memorandum submitted by J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc. by Kevin A. Dunne, Esquire.

June 17 Opinion and Order of the Board GRANTING the Motion to Dismiss filed by Protestants and DENYING Petition for Special Exception.

July 13 Order for Appeal filed in the Circuit Court for Baltimore County by Kevin A. Dunne, Esquire on behalf of Penn Advertising of Baltimore, Inc. Petition to accompany appeal also filed in the Circuit Court for Baltimore County by Mr. Dunne.

J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Case No. 91-206-X, File No. 92-CV-6540

July 13 Certificate of Notice sent to interested parties.
August 4 Transcript of testimony filed; Record of Proceedings filed in the Circuit Court for Baltimore County.

November 27 Order of the CCB, BCO REVERSING C.B. of A.; REMANDING case to C.B. of A. for hearing (Hon. James T. Smith, Jr.)

8/28/91 - Following parties notified of hearing set for December 18, 1991 at 1:00 p.m.:

Michael T. Wyatt, Esquire
Charles B. Heyman, Esquire
Mr. Harry Freedman - J.R. Brothers, Inc./Penn Advertising of Baltimore, Inc.
Andrew Janquitto, Esquire
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon-Director of Zoning Administration

NOTE FOR FILE --Case No. 91-206-X

12/18/91 -Above matter was scheduled for hearing on special exception to permit sign in B.R. zone. A Motion to Dismiss was filed by the protestants, Timonium Fairgrounds, by their Counsel, Michael Wyatt, citing the recent passage of Bill No. 87-91 which takes away the special exception right for a sign of this nature in a B.R. zone. Conference was held in the Board's office with all counsel present; it was agreed that memorandums would be submitted within 30 days and that the taking of testimony would be postponed pending the ruling on the Motion to Dismiss.

PC for 1/10/92 (letter)
Penn. Adv. 1/17/92
Turf Inn 1/17/92

Penn Adv.

PENN ADVERTISING OF BALTIMORE, INC.

December 2, 1992

Mr. William Hackett, Chair
County Board of Appeals of Baltimore County
Old Court House, Room 48
Towson, MD 21204

Dear Mr. Hackett:

On November 16, 1992, the Baltimore County Council enacted Bill No. 212-92, (attached) which was signed by the County Executive on November 17, 1992, taking effect on that date. This legislation clarifies the legislative intent of Bill No. 87-91 by grandfathering any petition for Special Exception in BR Zones filed prior to the effective date of Bill No. 87-91.

On November 20, 1992, the Circuit Court for Baltimore County in Case No. 91-208-X (J.R. Soothers v/s York Road 78' north of C/L Landstreet Road) remanded this matter to the Board of Appeals for a hearing on the merits based upon the enactment of Bill No. 212-92. There are two other petitions for Special Exception pending which are grandfathered by this legislation: 92-58-XA s/s E. Joppa Road, 200' east of C/L of Hanway Road and 92-59-XA s/s Eastern Boulevard, 25' west of C/L Lynbrook Road. On behalf of Penn Advertising and the petitioners, I would request that the Board of Appeals schedule a hearing on these matters.

Thank you for your cooperation. Please let me know if further information is necessary.

Very truly yours,

Fred M. Lauer
Fred M. Lauer, esq.

FML/sad

cc: Phyllis Cole Freidman, esq.
Peter Max Zimmerman, esq.
Michael T. Wyatt, esq.
Andrew Janquitto, esq.
Kevin A. Dunne, esq.
Clarence Cox
Morton Bassoff
James W. Fisher, II
Donna Hayward

COUNTY BOARD OF APPEALS
22 DEC -7 PM 12:02

P.O. Box 4868, Baltimore, MD 21211 Shipping: 2930 Remington Ave., Baltimore, MD 21211 (410) 235-8820

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1992, LEGISLATIVE DAY 22
BILL NO. 212-92

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, NOVEMBER 16, 1992

A BILL ENTITLED

AN ACT concerning

Signs in B. R. Zones

FOR the purpose of clarifying the applicability of Bill No. 87-91.

BY repealing and re-enacting, with amendments,

Section 2 of Bill No. 87-91

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council passed Bill No. 87-91 on

July 1, 1991 in order to repeal the authorization in the Baltimore

County Zoning Regulations for outdoor advertising signs by Special

Exception in B. R. Zones of the County; and

WHEREAS, Bill No. 87-91 was passed in response to a

recommendation of the Baltimore County Planning Board; and

WHEREAS, Bill No. 87-91 was enacted on July 3, 1991 and became

effective on August 22, 1991; and

WHEREAS, it was the intention of the County Council that Bill

No. 87-91 would have no effect upon any existing Special Exception or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter stricken from existing law.

Strike-out indicates matter stricken from bill.

Underlining indicates amendments to bill.

Petition
August 22, 1991

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 12
BILL NO. 87-91

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, JUNE 3, 1991

A BILL ENTITLED

AN ACT concerning
Signs in B. R. Zones
FOR the purpose of repealing the authorization for outdoor advertising
signs by Special Exception in B. R. Zones of the County.
BY repealing
Section 236.4, the reference to outdoor advertising signs in
the list of permitted Special Exceptions
Baltimore County Zoning Regulations, as amended.

WHEREAS, the Baltimore County Council has received a final
report, dated January 17, 1991, from the Planning Board concerning the
subject legislation and held a public hearing thereon on March 12,
1991, now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
COUNTY, MARYLAND, that the reference to outdoor advertising signs in
the list of permitted Special Exceptions in Section 236.4 of the
Baltimore County Zoning Regulations, as amended, be and it is hereby
repealed as follows:

1. B. R. Zone - Business, Roadside
2. Section 236 - Use Regulations
3. 236.4 - Special Exceptions - The following uses when permitted
as Special Exceptions (see Sections 270 and 502):
4. [Signs - Outdoor Advertising - (see Section 413.3 and 413.5);]
5. SECTION 2. And be it further enacted, that this Act shall
take effect forty-five days after its enactment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

WILLIAM F. C. MARLOW, JR.
BALTIMORE, MARYLAND 21201
TELEPHONE 381-5151

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT
*ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

April 19, 1991

DELIVERED BY HAND

Office of Zoning & Planning
Baltimore County
111 Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
w/o York Road (2306 York Road)
3th Election District
4th Councilmatic District
J.R. Brothers, Inc./Penn Advertising
of Baltimore, Inc.
Case No: 91-208-X

Dear Sir/Madam:

Please enter an appeal in the above captioned zoning
proceeding on behalf of our client, the Maryland State Fair and
Agricultural Society, Inc.

This firm's check in the amount of \$200.00 is enclosed to
cover the costs of this appeal.

I thank you for your kind attention to this matter.

Very truly yours,

Michael T. Wyatt
Michael T. Wyatt

jkr
Enclosure

cc: Charles B. Heyman, Esquire
Andrew Janquitto, Esquire

Re: 4/19/91 2:58 PM
Office of Zoning
(J.R. Brothers)

People's Council Ex. 1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: January 16, 1991
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: J.R. Brother, Inc., Item No. 172 -# 91-208-X
(J.R. Brother)

The petitioner requests a Special Exception for an illuminated
12' X 25' advertising sign.

Staff believes the control of outdoor advertising signs is essen-
tial in protecting the health, safety and welfare of the citizens of
Baltimore County. In certain locations, the unique scale and design
of outdoor advertising signs clearly compromises public safety and
traffic safety, since these signs are distracting. The very purpose
of an outdoor advertising sign is to attract the attention of the
operators of motor vehicles, so that a commercial message is noticed.

This office recognizes that high standards for signs enhance the
aesthetic appearance of the community and the ability of the commer-
cial sector to thrive in an attractive environment.

In many commercial areas it is difficult to locate commercial
uses: not because of a general lack of signs, but because of exces-
sive sign size, which has been exacerbated by competitive waste. In
many areas of the county, some business people increase signage in
order to compete with each other for attention.

The Baltimore County Master Plan makes several references to
the importance of controlling signage, specifically on Page 74, in
the following issue is identified:

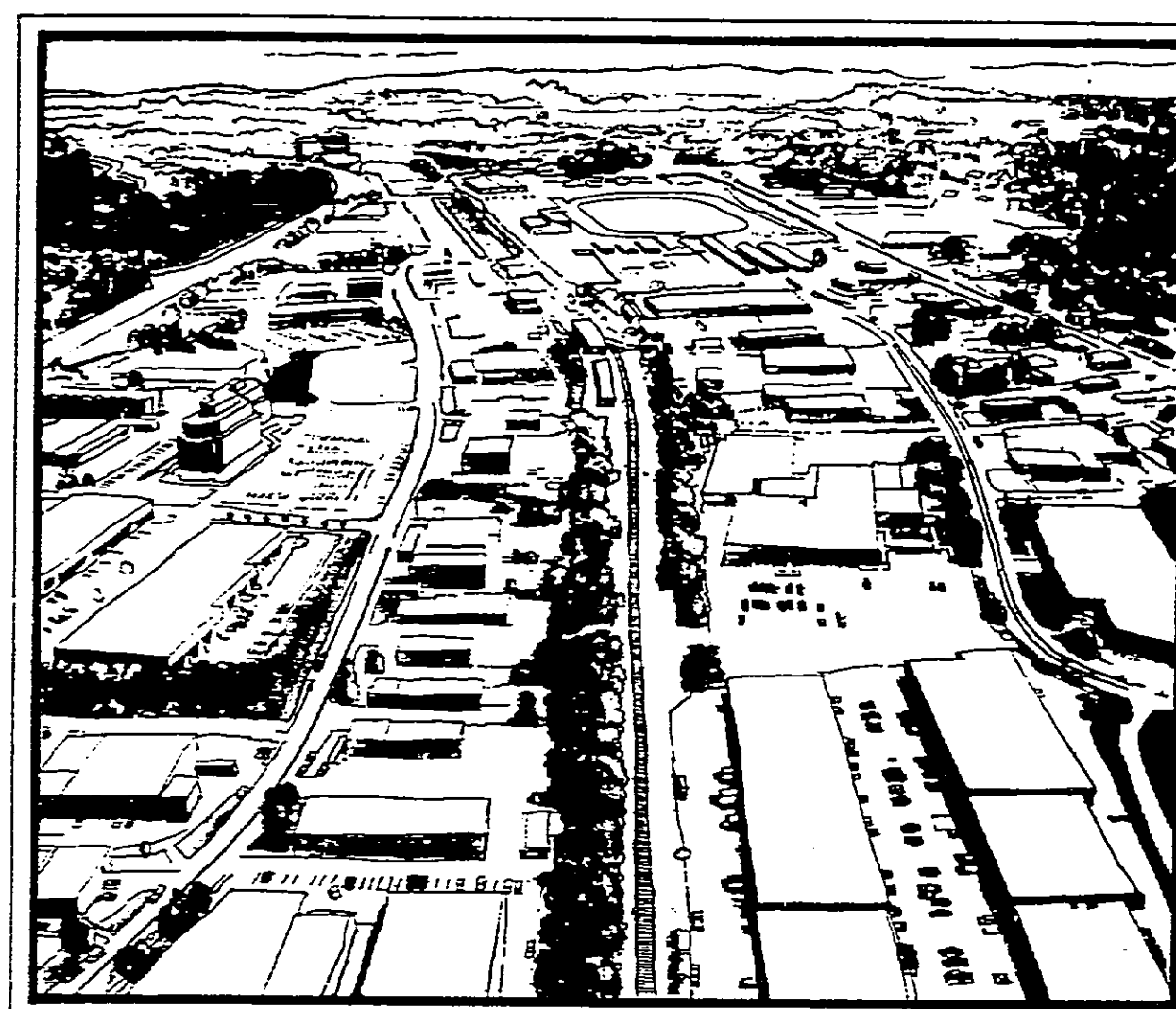
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ing signs, as well as public and private signage. Incentives
for...phasing out nonconforming uses should be evaluated. Com-
pliance with adopted local community plans should also be consid-
ered."

On Page 116 of the Master Plan the following short-term action
is called for in the Eastern Sector:

"Clear up signage to reduce clutter and to provide adequate
directional signage."

received
1/17/91

People's Council Ex. 2



•Baltimore County •Focus on Community•

HUNT VALLEY/TIMONIUM Redevelopment Study

November 19, 1992

Pet. Ex. 1

Penn Adv.

PENN ADVERTISING OF BALTIMORE, INC.

MEMORANDUM

TO: James Fisher
FROM: Maria Chakmakas/Marketing
RE: Advertisers - Poster Panels at York & Thelma
DATE: February 10, 1993

Pursuant to your request, we have examined the advertisers for
the locations noted above from 1990 through January, 1993, and
found the following:

71% Local Advertisers
29% National Advertisers

Specific examples of local advertisers include:

Maryland RV Fall Show
Home & Flower Show
Western Industries
The Kennedy Institute
Heat Pump Association
Baltimore Sunpaper
Owings Mills New Town
Schmidt Baking Co.
Super Fresh
Coca Cola Enterprises
Morris Mechanic Theatre
Gentleman's Quarters
WMAR-TV
Office Products Show
Fall Baltimore Home Show
Research America
Prudential Health Care
Pro-Visions
Wildlife & Nautical Expo
International Auto Show

Examples of national advertisers include:

Hardee's Food Systems
The Perrier Group
Levi Strauss
Avia Footwear

P.O. Box 4868, Baltimore, MD 21211 Shipping: 2930 Remington Ave., Baltimore, MD 21211 (410) 235-8820

Penn Adv.

BALTIMORE COUNTY BUSINESSES
OUTDOOR ADVERTISERS 1992

(Excludes Public Service and Product Advertisers)

A & M Jewelers
ABC Rental
Allstate Leasing
Archdiocese of Baltimore
Baltimore Studio Hair Design
Baltimore County Chamber of Commerce
Baltimore County Housing
Basics
Beal GMC
Bell Atlantic
Bell Carpet
Blaine Newcome Remax
Blake Realty
Bob Bell Chevrolet
Boyle Buick
Breton Woods
Burger King
Card Connection
Care First
Carney Chiropractic Care
Catholic High School
Chesapeake Bay Knife
Chesapeake Power
Clarks Do It Center
Coca-Cola
Colonade Imaging
Commercial Tire
Connelly Funeral Home
Cummins Appliance
DM Distributors
Door & Window Gallery
Dundalk Community College
Durkee Kitchens
Eastern Animal Hospital
Eastpoint Mall
Edward Arthur Jewelers
For Pet's Sake
Fortunberry Florist
G. Briggs
Garlands Garden Center
Hair Cuttery
Heckingers
Heritage Auto
Hess Shoes
Hohne Pool & Spa
Home Exterminator

"Billboards... Signs of Economic Vitality"

#2

ORIGINAL

1

IN THE MATTER OF : * BEFORE THE
J.R. BROTHERS, INC. * BOARD OF APPEALS
Case No. 91-206-X * OF BALTIMORE COUNTY
December 18, 1991

The above-entitled matter came on for hearing before the Baltimore County Board of Appeals at County Office Building, Room 301, 111 W. Chesapeake Avenue, Towson, Maryland 21204 at 1:22 p.m., December 18, 1991.

BOARD MEMBERS:

MICHAEL B. SAUER, Chairman
JOHN G. DISNEY
B. DIANE LEVERO

APPEARANCES:

MICHAEL T. WYATT, Esquire
On behalf of Appellant,
Maryland State Fair and
Agriculture Society, Inc.

KEVIN A. DUNNE, Esquire
On behalf of Appellee,
Penn Advertising, Inc.

PHYLLIS FRIEDMAN, Esquire
On behalf of People's Counsel

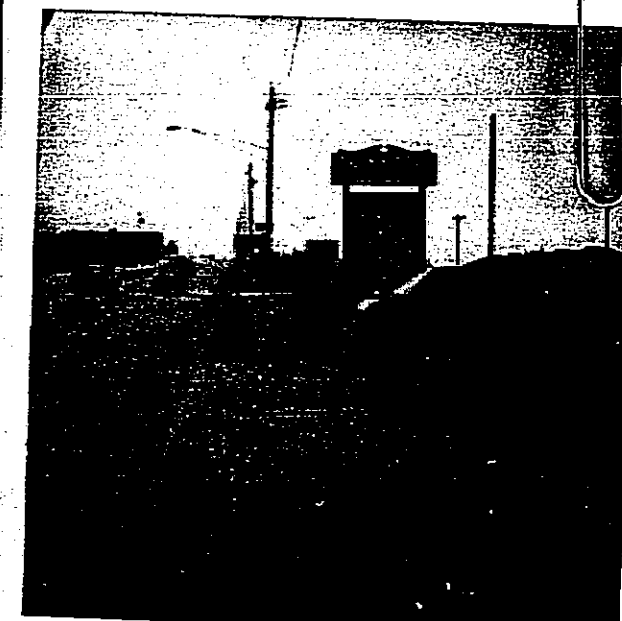
Reported by: Barbara A. Ely, CSR

TOWSON REPORTING COMPANY, INC.

Radio Shack

SUPERTAPE
T-120 2.4.6 HOUR
VIDEOCASSETTE

Case No. 91-206-X
EXHIBIT A



VHS

Protestant's #1
LIBER 3562 PAGE 489

DEED

THIS DEED is made as of the 12th day of July, 1990, from PENN ADVERTISING OF BALTIMORE, INC. (formerly known as Patrick Media Group of Baltimore, Inc.), Grantor, to J.R. BROS., INC., a Maryland corporation, Grantee.

THE GRANTOR, solely in consideration of the grant by the Grantee of certain easements set forth in certain Deeds of Easement to the Grantor dated of even date herewith and recorded or intended to be recorded among the Land Records of Baltimore County, Maryland, contemporaneously herewith, and for no actual monetary consideration, grants, conveys and assigns to the Grantee, its successors and assigns, in fee simple, the real property located in Baltimore County, Maryland, and described as follows:

All those lots or parcels of ground shown and designated as Lots Nos. 11 and 12, Section A, as shown on that plat entitled "Paisius Heights" which plat is recorded among the Land Records of Baltimore County, Maryland, in Plat Book WPC No. 5, Folio 82.

Being the same lots or parcels of ground described in that deed from Patrick Realty Corp. to Penn Advertising of Baltimore, Inc., to J.R. Bros., Inc., the within Grantee, by deed dated October 4, 1989, and recorded among the Land Records of Baltimore County, Maryland, at Liber 7732, Folio 770.

Saving and excepting therefrom all that part of such lots or parcels previously conveyed by Penn Advertising of Baltimore, Inc., to J.R. Bros., Inc., the within Grantee, by deed dated October 4, 1989, and recorded among the Land Records of Baltimore County, Maryland, at Liber 7732, Folio 770.

TOGETHER WITH all improvements thereupon, and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto.

RECEIVED FOR TRANSFER
\$3,300.00
Assessment & Taxation
for Baltimore County

NOTARIAL PUBLIC
NOT AFFIDAVIT
FOR BALTIMORE COUNTY

SIGNATURE DATE

ZONING HEARING CHECKLIST

Revised 5/92
This checklist is provided to you, for your information only, and is not to be considered legal advice.

First, and most importantly: You must understand that the hearing you have requested is a quasi-judicial hearing and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (B.C.Z.R.). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. But, if you are incorporated, it is considered a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the Baltimore County Zoning Regulations.

Fourth: No employee of the Baltimore County Office of Zoning Administration and Development Management may provide legal advice to anyone. The representatives and opinions of any employee are not to be construed as definitive or final. Only the decision of the Zoning Commissioner rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the B.C.Z.R.

Even though there may not be opposition in a given case, your request may be denied.

For further information or to make an appointment, please contact:

Baltimore County Office of Zoning
Administration & Development Management
Development Control
111 West Chesapeake Avenue
Room 309
Towson, MD 21204
Telephone: 981-3391

Non-Residential Properties
Variances
Special Exceptions
Use Permits
Special Hearings
1

Pet. Ex. 9

Literature Search
Effect of Outdoor Advertising Signs on Safety

Prepared by: Erdman and Associates, Inc.
February 18, 1993

Pet. Ex. 10

WILLIAM MONK, INC.
PLANNING • LANDSCAPE DESIGN • ENVIRONMENTAL RESOURCE MANAGEMENT

February 26, 1992

Mr. Arnold Jablon
Director of Zoning Administration
& Development Management
111 W. Chesapeake Avenue
Room 102
Towson, MD 21204

Re: Revised plan checklist for outdoor advertising signs
Baltimore County, Maryland

Dear Arnold:

Enclosed is a copy of the proposed checklist for plans to accompany special exception and variance applications for outdoor advertising signs. This checklist has been evaluated by the Zoning Hearing Examiners Office and Mitch Kelman of the Office of Zoning Administration and Development Management and appears to be satisfactory. We will be making application for several outdoor advertising signs in the near future based upon this revised plan checklist.

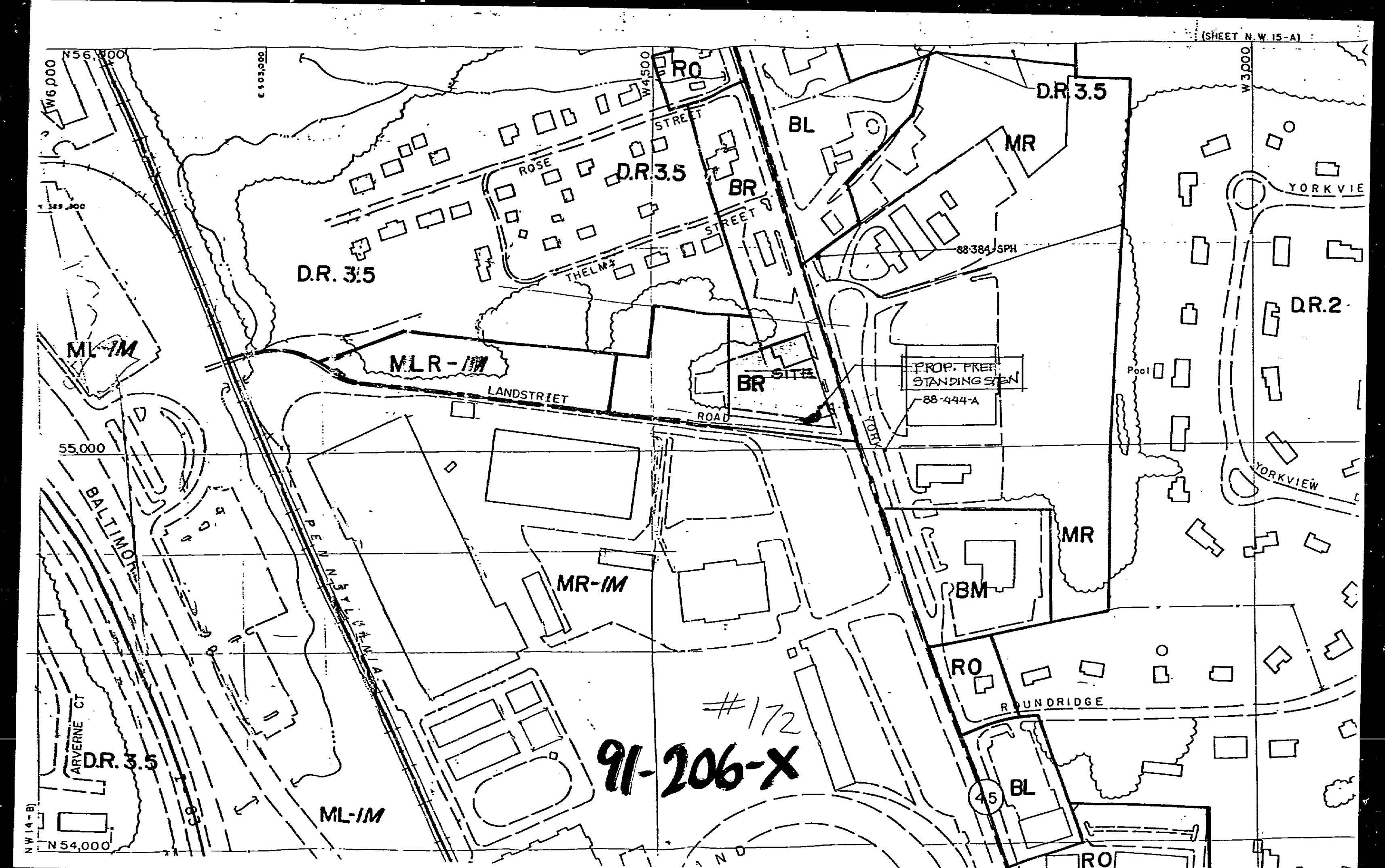
I hope this checklist meets with your approval.

Cordially,

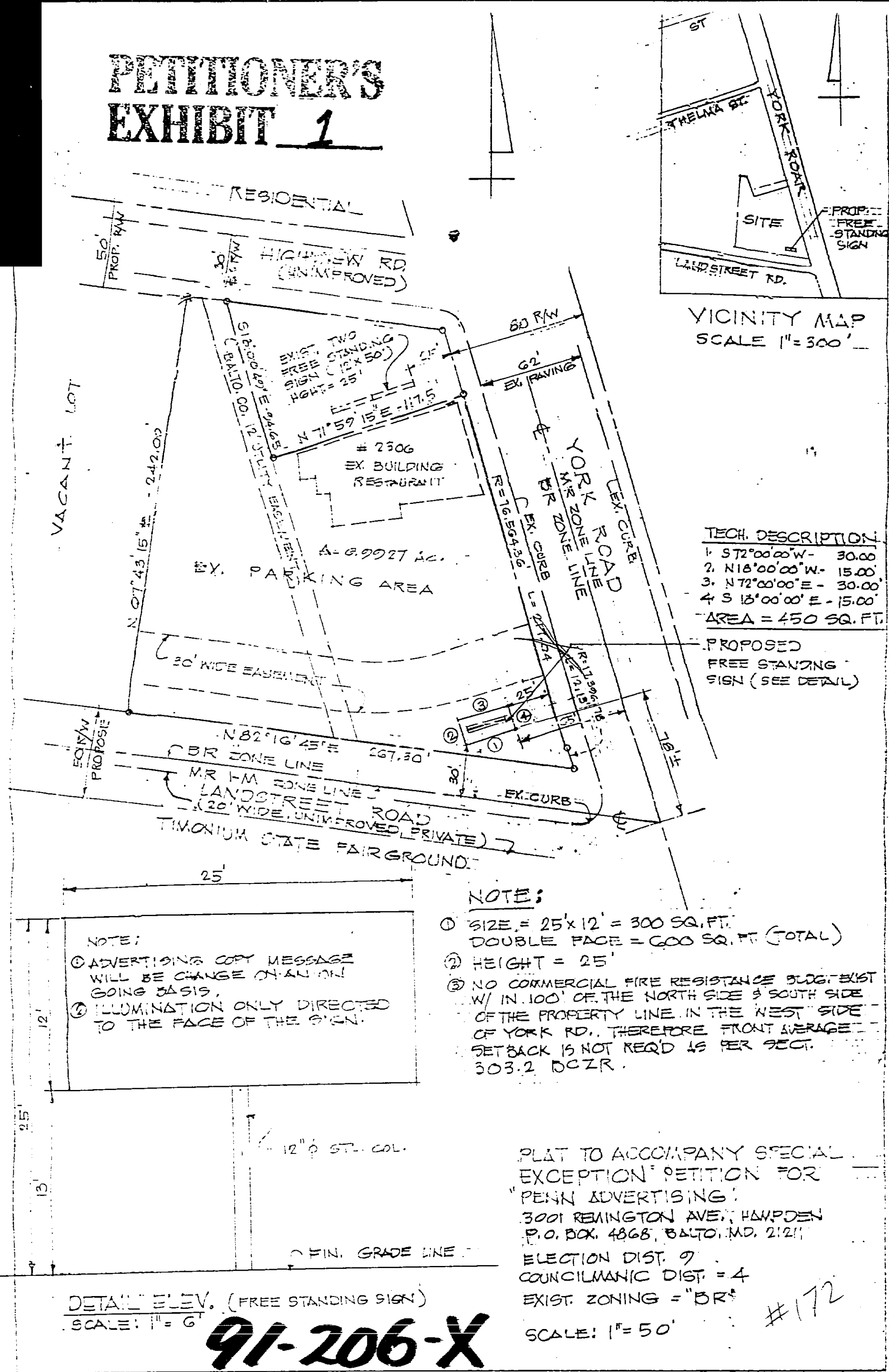
William P. Monk

WPM/slk

Enclosures



PETITIONER'S EXHIBIT 1



91-206-X

Petitioner's
Exhibit No. 4
(pg 2)



Adjacent to York Road
View Looking East from York Road

PETITIONER(S) EXHIBIT (2)

91-206 X



91-206-X



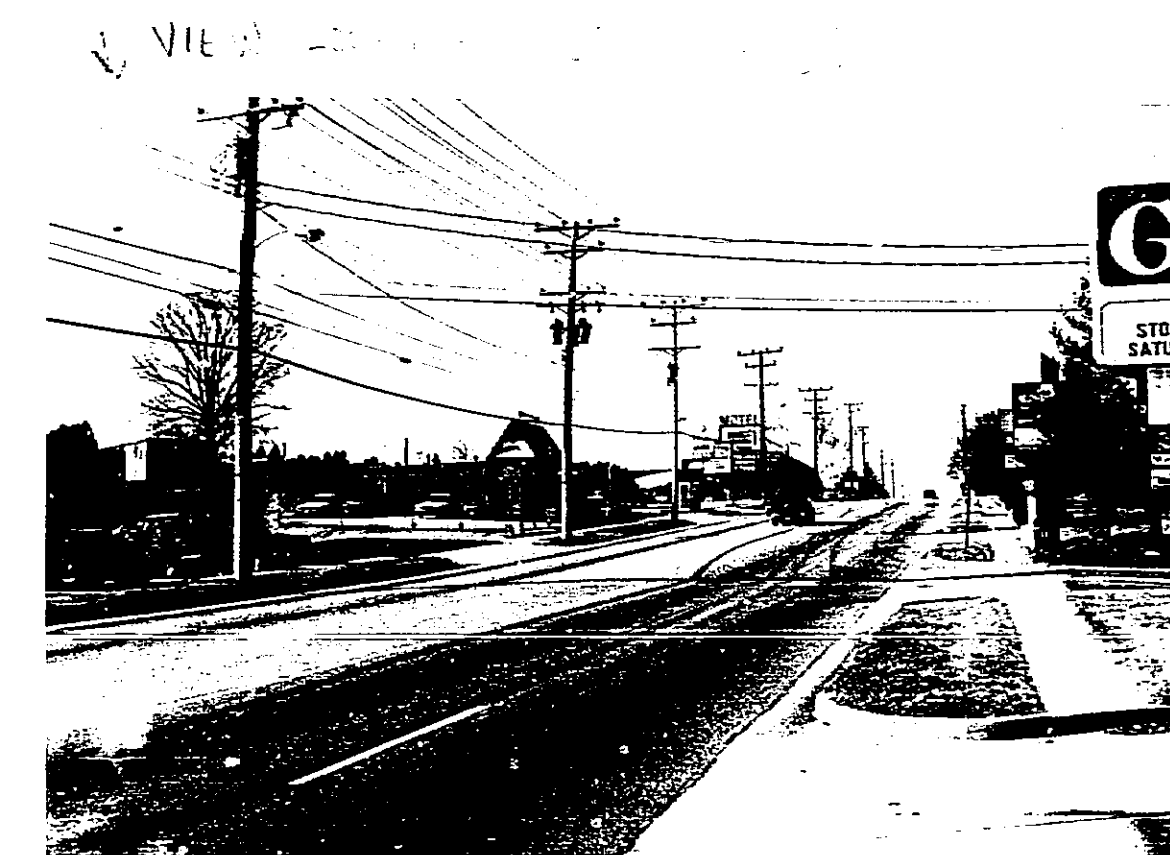
SPOT
(SEE PAGE 3/1/16)



WEST
(SEE PAGE 3/1/16)

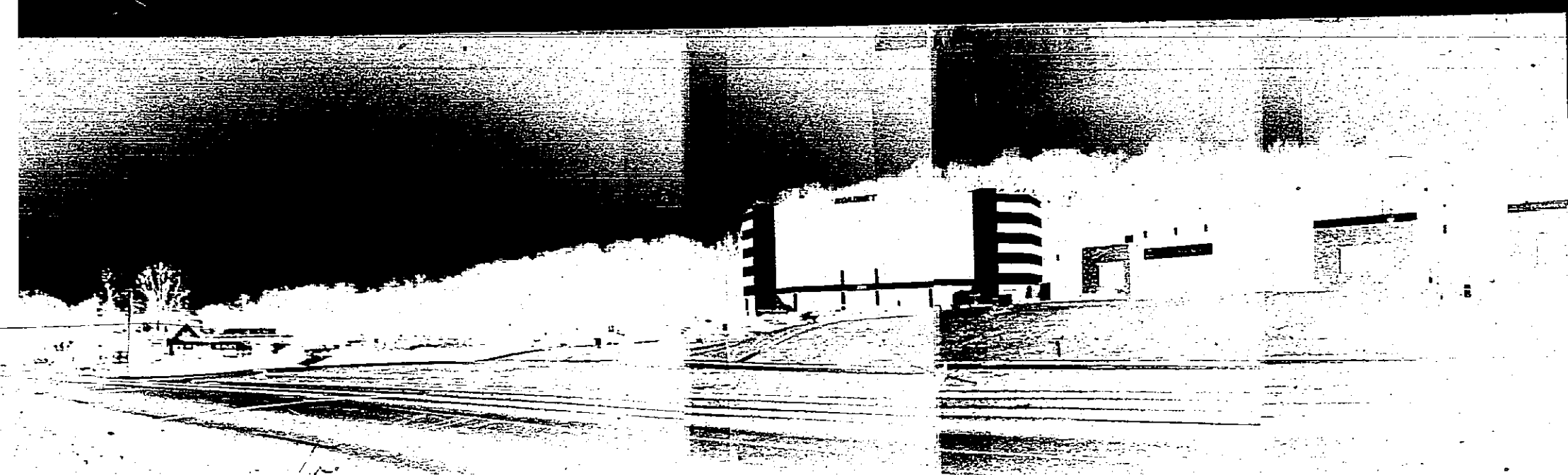
Petitioner's Exhibit No. 4
(pg 3)

91-206 X
Billboard
Location
Petitioner's
Exhibit No. 4
(pg 5)

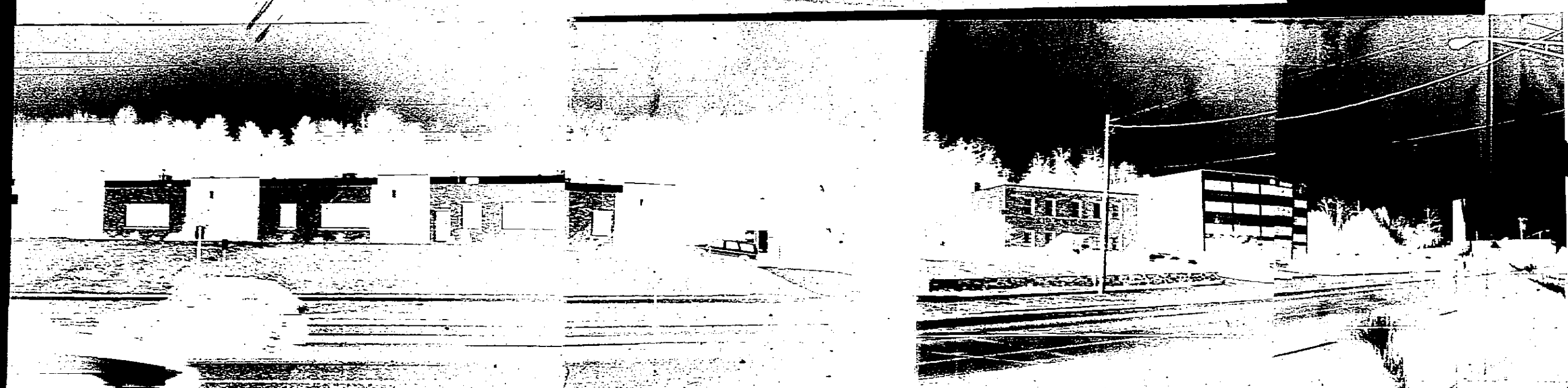


South

91-206 X



Petitioner's Exhibit
No. 6 (pg. 2)



Petitioner's Exhibit No. 6
(pg. 3)



Petitioner's Exhibit No. 6
(pg. 4)

91-206-X

View South



Jack Ross

View North



Petitioner's Exhibit
No. 6 (pg. 1)

91-206-X

View Looking East
South
View Looking West



Petitioner's Exhibit 4
(pg. 1)

Set Ex. 5

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

WILLIAM MONK, INC.
Courthouse Commons
222 Bostley Avenue, Suite B-7
Towson, Maryland 21204-4300

ADJACENT LAND USE

WEST



SOUTH

