

IN RE: PETITION FOR SPECIAL HEARING
(No Specific Location)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

Price/Costco, Inc.
Petitioner

* Case No. 96-310-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by Douglas N. Riley, Corporate Counsel for Price/Costco, Inc., Petitioner, through their attorneys, John B. Howard, Esquire and Robert A. Hoffman, Esquire. The Petitioner seeks approval of the Price Club wholesale/retail sales facility through membership only as a use permitted as of right in a B.L. zone. There is no specific location proposed at this time, merely a determination that such use is permitted in the B.L. zones.

Appearing at the hearing on behalf of the Petitioner were Neil Harris, Regional Manager for Price/Costco, Inc., David Jones and Joseph Cronyn, Real Estate Analyst, and John B. Howard and Robert A. Hoffman, Attorneys for the Petitioner. Also appearing on behalf of the Petitioner was Jeffrey Long, a representative of the Office of Planning. Appearing as Protestants in the matter were Martha Clarke, a representative of the Towson Estates Association, Eleanor VanDevender and Donna Cameron, representatives of the Maiden Choice Community Association, Kristin Forsyth, a representative of the Valleys Planning Council, and Leon J. Rozankowski.

Testimony and evidence in support of the request was first offered by Mr. Neil Harris. Mr. Harris testified that he has been working for Price Club for the past 16 and 1/2 years, having started as a Clerk/Cashier

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and moving up to Store Manager in 1983. He is currently Regional Manager, responsible for their operations in the Mid-Atlantic and Northeast regions of the United States. Mr. Harris testified that 2 and 1/2 years ago, Price Club merged and became Price/Costco, Inc. His testimony centered around the historical operations of the Price Club since it came to the East Coast in 1986 and how its operation has changed in the past 10 years.

Mr. Harris testified that Price Club began its operation as a wholesaler of goods to small businesses who would then offer those goods for resale to the general public. Small business owners were required to obtain a membership in order to shop at Price Club and take advantage of what were advertised as lower prices. Mr. Harris testified that over the past several years, operations at Price Club have changed drastically. He stated that in today's market, 90% of Price Club's operations are geared to the retail customer, with only about 10% remaining as a wholesale use. He attributes this change to other wholesale operations entering the market. He identified Circuit City, Home Depot, Office Depot, Best Buy, and others as those types of businesses which have recently sprouted up and attacked the wholesale operation of Price Club. Now, instead of the small business owner purchasing office supplies at Price Club, they may be persuaded to go to Office Depot or Staples to buy their office goods. This has caused Price Club to alter its marketing strategy and now become almost entirely a retail operation. It is now possible for individuals to purchase groceries, contact lenses and eyeglasses, bakery goods, as well as prescriptions since Price Club now has its own pharmacy. Mr. Harris concluded his testimony, arguing that Price Club has evolved into a true retail operation which is more fitting in the B.L., B.M., B.R. zones as

opposed to the M.L. zones which was first determined to be the appropriate location for a wholesale/warehouse activity.

Mr. Jeff Long, a representative with the Office of Planning, next appeared and testified on behalf of the Petitioner. Mr. Long testified that when Price Club moved to Baltimore County, his office as well as the Zoning Commissioner's office determined that this type of warehouse/whole-sale use was better fitted to the M.L. zones as opposed to the B.R., B.M., and B.L. zones. However, the Office of Planning realizes that this use has evolved over the years and that it is no longer best suited to be located in an M.L. zone. In fact, the Price Club operation has changed so much to retail that the Planning Office is requesting that I not only find that Price Club can operate in the B.L. zones, but that I also find that it can no longer operate in the M.L. zone. Mr. Long testified that he is personally familiar with the Price Club operation and in his opinion, believes it to be a retail operation, similar in use to Wal-Mart, Target, Home Depot, Office Depot, all of which are permitted uses in the B.L. zones today. His office, therefore, supports the granting of the special hearing to allow Price Club to operate in the B.L. zone and has further requested that they be prohibited from operating in the M.L. zones.

Mr. Joseph Cronyn, a Real Estate Analyst with the Legg Mason Realty Group, appeared and testified on behalf of the Petitioner. He testified that Wall Street analysts consider Price/Costco, Inc. to be a retailer. He noted that businesses are classified according to their "SIC" code (Standard Industrial Classification) which was developed by the Federal government for use in the classification of establishments by the type of activity in which they are engaged, and that Wall Street has

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By

determined Price Club to be a retail operation. Furthermore, he stated that the Comptroller's Office also considers Price Club to be a retailer.

Several residents of Baltimore County appeared in opposition to the Petitioners' request. Ms. Eleanor VanDevender, Ms. Martha Clark, and Mr. Leon Rozankowski, all testified in opposition to the Petitioner's request. The cumulative testimony of these individuals was that they oppose the relief requested, arguing that they believe Price Club is not a proper operation to be located in the B.L. zones. Arguments were made that this type of decision would be better left to the County Council, by way of passing legislation to address this issue, rather than having it decided upon on a case by case basis before the Zoning Commissioner's Office. They argued that large scale business operations such as Price Club would overwhelm the business local zone and should not be permitted therein.

In addition to the testimony and evidence offered at the hearing before me, I also received a letter dated March 22, 1996 authored by the Office of People's Counsel, relating to the history of these types of uses and previous decisions made concerning appropriate locations for same. The Office of People's Counsel provided samples of two of those cases, one of which is 10 years old, and the other is 6 years old. Because of the way the Price Club operation has evolved over the past several years, I believe that these cases are not applicable to the present day situation. Furthermore, the Office of People's Counsel failed to attend or participate at the hearing before me and therefore did not have the benefit of the testimony and evidence that was presented.

This particular Petition for Special Hearing and the testimony and evidence offered regarding the retail operation of this business was for Price Club, only. There was no testimony offered at the hearing as to

the operations of Pace, BJ's, Sam's or any other type of membership/whole-sale club business. Therefore, my decision in this case shall only pertain to the operations of the Price Club as Price Club was the only Petitioner who came before me at this hearing. I do not believe it is appropriate to issue a decision dealing with the previously mentioned warehouse membership type businesses, and whether they could operate in the B.L. zone. That, I believe, is a decision that should be considered by the County Council by way of legislation. I have only been requested to render my decision relative to the Price Club operation inasmuch as they were the only entity to present testimony at the hearing before me and I shall restrict my Order accordingly.

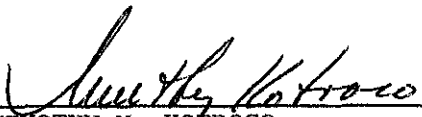
Having considered all of the testimony and evidence presented by the Petitioner's witnesses as well as the residents who appeared at the hearing, I find that the operation of the Price Club is that of a retail operation, which is permitted in the B.L. zone as of right. It is clear to this Deputy Zoning Commissioner that the operation of the Price Club has evolved over the past 10 years. Market competition by Circuit City, Office Depot, Staples, Pet Smart, etc., have caused the Price Club to alter its operations to that of a retail operation as opposed to a wholesale operation as they were in the beginning. Testimony demonstrated that present day operations of the Price Club include a myriad of retail uses, all of which are listed as permitted uses in the B.L., B.M. and B.R. zones on Pages 2-41 thru 2-43 of the B.C.Z.R. Furthermore, I find that the operation of the Price Club is no longer a permitted use in the M.L. zone, given that it is now retail in nature, and not a warehouse/wholesale operation. As such, the relief granted in prior Case No. 86-334-SPH be and is hereby vacated by this Order.

3/29/96
[Signature]

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of May, 1996 that the Price Club whole-sale/retail sales facility through membership only is a use permitted as of right in the B.L., B.M., and B.R. zones, in that it operates as a combination of the retail uses listed therein, and as such, the Petition for Special Hearing is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Price Club is no longer permitted to operate in the M.L. zones, given the present-day operations of Price Club, and as such, the decision rendered in prior Case No. 86-334-SPH be and is hereby VACATED; and,

IT IS FURTHER ORDERED that the relief granted herein is limited to Price Club and to no other wholesale/warehouse membership facility.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 5/21/96
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

May 20, 1996

(410) 887-4386

John B. Howard, Esquire
Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
(No Specific Location)
Price/Costco, Inc. - Petitioner
Case No. 96-310-SPH

Dear Messrs. Howard & Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing 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 the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Douglas N. Riley, Corporate Counsel, Price/Costco, Inc.
10 State Street, Suite 211B, Newbury Port, MA 01950

Ms. Martha Clarke, 828 East Joppa Road, Towson, Md. 21286
Ms. Eleanor VanDevender, MCCA, P.O. Box 18262, Baltimore, Md. 21227
Ms. Kristin Forsyth, VPC, P.O. Box 5402, Towson, Md. 21285
Mr. Leon Rozankowski, 1606 Thetford Road, Baltimore, Md. 21286
Mr. Justin J. King, GTCCA, 620 Murdock Road, Baltimore, Md. 21212
People's Counsel

File





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at No Specific Site

96-310-SPH

which is presently zoned BL

This Petition shall be filed with the Office of Zoning Administration & Development Management.

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 part of hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a Price Club as a use permitted as of right in a BL zone. A Price Club is a facility that sells a wide variety of products, both retail and wholesale, through membership only. Approval of a Price Club in a BL zone would vacate the relief granted in Case No. 86-334-SPH, which permitted the Price Club in a ML zone and would be consistent with the Price Club's current combinations of use.

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

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Petitioner

Price/Costco, Inc.

(Type or Print Name)

Signature Douglas N. Riley, Corporate Counsel

10 State Street, Suite 211B

Address

Bowbury Port

MA

01950

State

Zipcode

Attorney for Petitioner:

John B. Howard/Robert A. Hoffman

Venable, Baetjer and Howard, LLP

(Type or Print Name)

Signature John B. Howard

Signature Robert A. Hoffman

210 Allegheny Ave.

Address

(410) 494-6200

Phone No

Towson

MD

21204

City

State

Zipcode

Legal Owner(s):

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

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

Robert A. Hoffman

Venable, Baetjer and Howard, LLP

Name

210 Allegheny Ave, Towson, MD 21204

Address

(410) 494-6200

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE



DROP-OFF
No REVIEW
2/14/96 ucr

ORDER RECEIVED FOR FILING

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 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #96-310-SPH
(Item 308)

No Specific Site
Petitioner:

Price/Costco, Inc.
Special Hearing: to approve
a Price Club as a use permitted
as a right in a B.L. zone
Hearing: Tuesday, March 26,
1996 at 2:00 p.m. in Rm. 118,
Old Courthouse.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call 887-3353.

(2) For information concern-
ing the File and/or Hearing,
Please Call 887-3391.

2/3/96 Feb 29

C34659

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

2/29, 1996

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 2/29, 1996.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

~~Signature~~

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

092673

DROP-OFF - NO REVIEW
ITEM 309

DATE 2/14/96 ACCOUNT 001-6150

96-310-SRH

AMOUNT \$250.00 (WCR)

RECEIVED
FROM:

Venable, Baetjer & Howard

#040 - SPECIAL HEARING
Price Club - No Specific Location

FOR:

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BALTIMORE COUNTY
FEB 15 1996

RECEIVED
BALTIMORE COUNTY
FEB 15 1996

\$250.00

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

TO: PUTUXENT PUBLISHING COMPANY
Feb. 29, 1996 Issue - Jeffersonian

Please forward billing to:

Barbara Ormord
Venable, Baetzer & Howard
210 W. Allegheny Avenue
Towson, MD 21204
494-6200

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 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-310-SPH (Item 309)
No Specific Site
Petitioner: Price/Costco, Inc.

Special Hearing to approve a Price Club as a use permitted as a right in a B.L. zone.

HEARING: TUESDAY, MARCH 26, 1996 at 2:00 p.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

February 26, 1996

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 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-310-SPH (Item 309)
No Specific Site
Petitioner: Price/Costco, Inc.

Special Hearing to approve a Price Club as a use permitted as a right in a B.L. zone.

HEARING: TUESDAY, MARCH 26, 1996 at 2:00 p.m. in Room 118, Old Courthouse.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Price/Costco, Inc.
John B. Howard/Robert A. Hoffman

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



MICROFILMED

PETITIONER'S EXHIBIT /

IN RE: * BEFORE THE
PETITION SPECIAL HEARING * DEPUTY ZONING COMMISSIONER
PRICE CLUB, Petitioner * OF
* BALTIMORE COUNTY
* Case No.: 86-334-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Hearing for the purpose of approving the use by the Price Club of their wholesale operation as a matter of right in a ML Zone.

Testimony on behalf of the Petitioner indicated that the Price Club, approximately 10 years ago, originated the idea of a wholesale cash and carry operation. This concept has now spawned at least eleven (11) similar operations across the country. The original and current concept of the Price Club is to provide a better way to distribute goods on a wholesale basis to small businesses.

The Price Club has 24 locations nationally, each with a building approximately one hundred thousand (100,000) square feet in size. Each store offers approximately 3,500 items which are purchased directly from the manufacturer.

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TE 6/11/86
Rette J. Schulman
ADMINISTRATIVE ASSISTANT

The Price Club warehouse itself is divided into three areas: food related articles; soft products, such as office supplies, cigarettes, towels and tires; and housewares and appliances. The only service provided in the Price Club is a photo print drop box.

There was further testimony that the Price Club has no sales representatives or sales persons among its employees, that there was no day-to-day advertising except certain advertising prior to the opening of a new location and that no free-standing signs are placed on the site.

In order to shop in a Price Club, a membership card is required. There are two types of membership, a wholesale member, which is a business that presents a business license or tax identification number for that organization; and a group member, which is an individual who is a member of a selected credit union or governmental agency.

Accurate records are compiled showing a division between wholesale sales and group membership sales. These figures show that sixty percent (60%) nationally of the sales are to wholesale members and forty percent (40%) are to group members.

There were no Protestants

Pursuant to the advertisement, posting of property and public hearing on the Petition, and after due consideration of the testimony and evidence presented,

NOT RECORDED FOR FILING

DATE 6/11/86

Y. Lette J. Schubert
ADMINISTRATIVE ASSISTANT

the opinion of the Deputy Zoning Commissioner, the granting of the approval requested in the Petition for Special Hearing would be in strict harmony with the spirit and intent of the Baltimore County Zoning Regulations (BCZR) and would not be detrimental to the health, safety and general welfare of the community and, therefore, should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 11th day of June, 1986, that the approval of the particular wholesale operation of a Price Club as a matter of right in a ML Zone, in the manner described herein, as requested in the instant Petition for Special Hearing, is hereby GRANTED from and after the date of this Order, subject, however, to the following restrictions:

1. That at such time as Petitioner's facility is in full operation verifiable records shall be maintained and available to zoning enforcement inspectors indicating that at least 55% of the dollar volume of sales at any location shall be to wholesale customers.

2. There shall be no free standing signs. The name painted on the building shall be similar to that shown in the photograph marked Petitioner's Exhibit 4.

Jean M. H. Jung
Deputy Zoning Commissioner
of Baltimore County

PETITIONER'S
EXHIBIT: 2:

OPINION

Section 253.1.B.15 of the BCZR permits, as a matter of right in M.L. zones, "Storage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones". Additionally, pursuant to BCZR Sec. 253.1.F.1, incidental sales, either wholesale or retail, as an accessory use are permitted in M.L. zones as a matter of right. Therefore, it follows that under the combined and consistent interpretation of the above BCZR provisions, storage of those products designated under Section 253 of the BCZR and wholesale sales at a warehouse (storage) facility, are permitted as a matter of right in an M.L. zone.

Although wholesale sales at a warehouse facility in an M.L. zone is permitted as a matter of right, a strict retail sale facility is not permitted. That is, under the BCZR definition (Section 101) of "warehouse", it is specifically provided that the term does not encompass a "retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises".

Thus, considering the impact of all of the applicable BCZR taken together, the issue is then presented; if Pace's business activities constitute only wholesale sales at a warehouse facility, said activity is permitted, conversely, if this operation is a retail outlet, it is not allowed.

On this issue, the Board heard lengthy testimony describing Pace's operation. On behalf of Pace, two (2) employees testified. They were a marketing representative, William B. O'Connel and a member of Pace's real estate acquisition department, Terry Guy. Both witnesses addressed Pace's operation. It was described by these witnesses as a "wholesale cash and carry membership warehouse". The witnesses emphasized that Pace geared its operation to the wholesale distribution of products to small businesses. It was further noted that Pace is not open to the general public, that credit is not available to purchasers and that a membership is necessary to shop at Pace. Also, of particular note was the packaging and marketing of Pace's products. That is, Pace sells in bulk quantities; goods are sold in those same size lots and quantities as are received from the manufacturer. Additionally, Pace does not advertise once a facility has opened and does not market its products with the same luster and puffing that surrounds retail stores. Additionally, there are no "sales" or "specials". Finally, the facility's physical appearance itself is of note; it resembles the traditional high ceiling, no gloss warehouse, rather than a retail facility.

In opposition to these views, People's Counsel offered the testimony of Francis Alessi. Mr. Alessi testified that he visited a Pace facility and then described its operation. He pointed out that although the facility is not open to the public, membership is relatively easy to obtain as membership in numerous credit unions, labor unions, etc. qualifies one to join Pace. He also testified that some "small lots" and retail type quantities of

goods were available. Finally, he noted that some personnel were available to assist customers.

In addition to the testimony of the above witnesses, this Board also notes the testimony of Gerald Patnode, a Professor of Marketing at Gettysburg College. In a nutshell, the Professor concluded that Pace, although having some elements of a retail facility, would be considered a wholesaler pursuant to the standards of the American Marketing Association. The reasons for this conclusion were primarily the lot size of products sold, the non-credit payment system and the product mix available.

In addition to this testimony, the Board must consider the terms "wholesale" and "retail" as defined both in common usage and at law. The American College Dictionary defines retail as "the sale of commodities to household or ultimate consumers, usually in small quantities". Wholesale is defined as "the sale of commodities in large quantities, as to retailers or jobbers rather than to consumers directly". Black's Law Dictionary notes retail as "to sell by small quantities . . . not in bulk", and wholesale as, "a sale in large quantities or in bulk". Additionally, the Annotated Code of Maryland, Commercial Law Article, Sections 11-401 and 12-601 have defined retail and wholesale sales. These definitions focus upon the resale of the offered goods, as opposed to sale for ultimate consumption.

In our view, based upon the testimony of all witnesses and the definitions as set forth above, the type of activity which occurs at a Pace facility as described to this Board, is of a wholesale, not retail nature. We believe Mr. Patnode summed it up best; the facility may have elements of retail sales within its operation, but it is primarily wholesale. We believe that prohibitions within the BCZR to retail outlets in M.L. zones was not intended to exclude the type of operation described here.

We further note the restrictions imposed by the Zoning Commissioner in his Order. Although we agree with the spirit of same, we decline to repeat them in our Order. The petition before us seeks only an interpretation and clarification of the BCZR, not a specific proposal at a specific site. We trust that this opinion has provided a delineable guideline for this issue. If a proposal for development within an M.L. zone is presented to this Board with substantial differences than that operation as described here, it will be considered in light of the BCZR on its own merits. We will not impose restrictions in this instance when there is no specific site before us.

O R D E R

For the reasons set forth in the foregoing Opinion, it is this 14th day of May, 1986, by the County Board of Appeals, ORDERED that the particular wholesale operation as described by the Petitioner herein is permitted as a matter of right in an M.L. zone and as such the Petition for Special Hearing is hereby GRANTED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

PETITIONER'S EXHIBIT 3

IN RE: PETITIONS FOR SPECIAL HEARING,
SPECIAL EXCEPTION & ZONING
VARIANCE - Corner SW/S Joppa
Road and SE/S Perring Parkway
9th Election District
4th Councilmanic District

Shopping Center Associates/
Federal Realty Investmt. Trust - *
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-137-SPHXA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve a Pace retail "membership" outlet in a B.L.-C.C.C. zone, the amendment of a parking variance previously granted in Case No. 71-57-A, and the amendment of the site plan previously approved in Case No. 5869-X. Petitioners also request a special exception to use a portion of the subject property for a service garage in conjunction with the retail "membership" outlet, and a variance to permit 1703 parking spaces in lieu of the required 2278 spaces, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Federal Realty Investment Trust, by Burneil L. Lindquist, Development Manager, and Jack E. Heinemann, Vice President of Development, appeared, testified, and were represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petitions were Michael Owen, Warehouse Manager of the Woodlawn Pace Membership Warehouse, John J. Stamm with George W. Stephens, Jr. & Associates, and Wes Guckert of The Traffic Group. There were no Protestants.

Testimony indicated that the subject property consists of 29.36 acres, zoned B.L.-C.C.C., and is the site of the Perring Plaza Shopping Center which was purchased by Petitioners in 1985. Said property is bounded on the west side by the Baltimore Beltway (I-695), on the northwest side by Perring Parkway, on the northeast side by Joppa Road and Satyr

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Date

By

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Hill Road, and on the southeast side by Satyr Hill Road. Testimony indicated the "anchor" tenant for the shopping center, which was originally constructed in the early 1960s, was the Korvette's store. Petitioner testified that Korvette's moved out in the middle-1980's and has since been replaced in part by a toy store chain and junior department store. At the present time, the shopping center also includes various furniture, assorted retail, banks, theatre, and automotive uses.

Petitioners indicated the shopping center has been having difficulty despite its efforts at revitalizing its facilities due to its lack of a new "anchor" tenant and thus is currently under-utilized. In connection with upgrading the center, Petitioners are desirous of placing a Pace Membership Warehouse outlet on the premises which it believes will serve as the needed anchor tenant and draw for the Center.

This raises the principle issue in this case which is whether or not the Pace Membership Warehouse outlet is permitted in a B.L.-C.C.C. zone. As noted by Petitioners, fundamental changes have occurred in recent years in merchandizing areas. When Pace Membership Warehouse and its competitors, Makro and Price Club, first came to the Baltimore County area, there was a question as to in which zones they were permitted to operate. As a result, petitions were filed by Pace Membership Warehouse, Price Club and Makro, Inc. to approve the various operations in a M.L. zone as a matter of right. The first case was filed by Pace, the proposed tenant of this shopping center. See In Re: Petition for Special Hearing, Pace Membership Warehouse, Petition before the Zoning Commissioner for Baltimore County, Case No. 86-97-SPH. The Board of Appeals found that the type of activity which occurs at a Pace facility as described to the to be a wholesale not retail nature, thus the prohibition will

B.C.Z.R. to retail outlets in an M.L. zone was found not to exclude the Pace operation. Pace was found to be permitted as of right in an M.L. zone.

Counsel has introduced the opinion of the Board in Case No. 86-97-SPH and argued that the operation of Pace has changed since the hearing was heard in April 1986 and the opinion written on May 14, 1986. At the hearing before the Board, Pace's operation was described as follows:

"a 'wholesale cash and carry membership warehouse'. The witnesses emphasized that Pace geared its operation to the wholesale distribution of products to small businesses. It was further noted that Pace is not open to the general public, that credit is not available to purchasers and that a membership is necessary to shop at Pace. Also of particular note was the packaging and marketing of Pace's products. That is, Pace sells in bulk quantities; goods are sold in those same size lots and quantities as are received from the manufacturer. Additionally, Pace does not advertise once a facility has opened and does not market its products with the same luster and puffing that surrounds retail stores. Additionally, there are no 'sales' or 'specials'. Finally, the facility's physical appearance itself is of note; it resembles the traditional high ceiling, no gloss warehouse, rather than a retail facility." (Page 2 of the Board of Appeals' Opinion in Case No. 86-97-SPH.)

The present operation of Pace was described by Mr. Owens. He indicated he has been Warehouse Director/Manager of the Pace located off of Security Boulevard for the past two years. Mr. Owens testified since March, 1986, Pace has had a premier membership which entitles any member of the general public to shop at the store after paying the membership fee of \$25. Additionally, there are the business and group members noted in the earlier hearing. Mr. Owens testified that the premier membership accounts for approximately 64% of the members utilizing the facility at Security Mall while the individual group accounts for approximately 21% and the business members approximately 18% to 20% at Security Mall.

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(Note: These figures exceed 100% but were provided as approximations only by Mr. Owens). Mr. Owens testified that Pace would expect similar percentages at the proposed location. He indicated that the Security store has a grocery section where one can purchase a gallon of milk and fresh meats. With respect as to whether there had been any changes since the hearing and the advertisement of memberships, Mr. Owens testified that advertisement is "nominal", but brochures are mailed to members and targeted groups 4 to 5 times a year, as well as the general public at the time of the general opening. He indicated that Pace was studying the acceptance of credit. The building and the sale of items in bulk has not changed.

Petitioners further argued the uses are similar to a department store and/or a Caldor which are permitted in a B.L. zone. To support this position, Mr. Owens testified advertisements in various cities are placed under department stores in the yellow pages and that the government agencies, for example, the Fire Department, in the locations of the various stores and pose the same standards that would be imposed for a department store.

In reviewing the Board's decision in Case No. 86-97-SPH, the Board examined the definition of a wholesale and retail operation as defined in common useage and at law as the words are not defined in the zoning regulations. Since that case, the zoning regulations have been amended by Bill No. 149 in 1987 and direct that when any word is not defined in Section 101 of the B.C.Z.R. the words "shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New Dictionary of the English Language Unabridged". Said dictionary defines retail as "the sale of commodities or goods in small quantities to ultimate consumers - opposed to wholesale". Wholesale is defined as "the

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sale of goods or commodities in quantity usually for resale". Clearly, the testimony presented here is that the use has characteristics of both a retail and a wholesale use, probably a hybrid use as suggested by Counsel for Petitioner. Many of the factors addressed by the Board remain the same. Products are sold in bulk, Pace has not proposed any changes to the facility, nor has it suggested or foreclosed the possibility of a Pace store in the M.L. zone.

As Counsel noted, the issue of the appropriate zone for placement of the proposed use has been examined by the Planning Board subsequent to the earlier decisions rendered in Pace, Price Club and Makro, Inc. In May, 1988, the Planning Board recommended that the County Council define membership warehouse clubs and permit said use as of right in a B.M. and M.L. zones. The definition proposed by the Planning Board did, at that time, limit membership warehouse clubs to "an organization which sells goods only to customers who have obtained a membership in the organization, and whose primary purpose is the wholesale distribution of goods to small businesses". The recommendations have not been adopted as of this date. Further, it should be noted that in October, 1989, the Director of Planning suggested that the Planning Board re-examine their original recommendations to Council in that the marketing strategies for membership warehouse clubs have changed. The Director of Planning questioned the accuracy of the originally proposed definition stated above as he noted that currently the, "membership warehouse clubs offer discounts to consumers buying for home use." (See Letter dated October 2, 1989 from P. David Fields, Secretary of the Planning Board, to Harold Reid, Chairman of the Planning Board attached to Petitioners' memorandum filed in this case.) The revised amendments do not propose the use be permitted as of right in

a B.L. and/or B.L.-C.C.C. zone as the case presents here but be permitted in the B.M. and M.L. zones.

Since the cases presented in 1985 and 1986 by Pace, Makro, Inc. and Price Club, the zoning regulations have been interpreted to permit the use in a M.L., B.M. and B.R. zones.

The most expedient decision in this instance would be to find that the use is retail and is permitted as of right; however, to do so would require ignoring the earlier decision and encourage petitioners to present facts which would meet their immediate needs. Further, and most importantly, it is my firm belief that it is the role of the Deputy Zoning Commissioner simply to interpret the regulations, not to create them. The Deputy Zoning Commissioner cannot grant relief which is not permitted under the zoning regulations. To do so would usurp County Council's legislative powers which clearly is not the function of the Deputy Zoning Commissioner. The function is limited to interpreting and implementing the B.C.Z.R. as enacted by the County Council.

While the findings in this case may not be favored by Petitioners and others, as it is undisputed at this time that it would rejuvenate the shopping center, it is important that the process be followed. The decision should not be rendered based upon the desired outcome.

In conclusion, the Pace operation as proposed is not permitted in the B.L.-C.C.C. zone under the current regulations. In my opinion, under the current regulations and under the facts presented by Pace Membership, the use is still primarily wholesale as determined by the Board and would be permitted as of right in the M.L., B.M., and B.R. zones. It is permitted in the M.L. zones pursuant to Section 253.1B.15 of the B.C.Z.R. which reads:

Date

By

"storage, warehouse and/or wholesale distribution of any product whose sale (retail or wholesale) for final processing or production is permitted as of right as a principle use in an M.L. zones."

Pursuant to Section 233.2, Warehouses, and Section 236.1 the use is permitted in B.M. and B.R. zones, respectively. Said Sections permit warehouses. A warehouse is defined under Section 101 of the B.C.Z.R. to include the storage of goods sold wholesale from the premises.

For the reasons set forth above, the relief requested in the Petition for Special Hearing shall be denied. In light of the relief requested in the other Petitions being contingent upon a favorable finding in the special hearing, the testimony will not be examined and the relief requested herein shall also be denied.

Pursuant to the advertisement, posting of the property, and the public hearing on these Petitions held, the relief requested in the Petitions for Special Hearing, Special Exception and Zoning Variance shall be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of March, 1990 that the Petition for Special Hearing to approve a Pace retail "membership" outlet in a B.L.-C.C.C. zone, the amendment of a parking variance previously granted in Case No. 71-57-A, and the amendment of the site plan previously approved in Case No. 5869-X, be and is hereby DENIED; and,

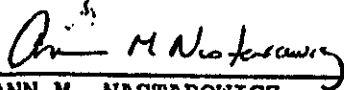
IT IS FURTHER ORDERED that the Petition for Special Exception to use a portion of the subject property for a service garage in conjunction with the retail "membership" outlet, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit 1703 parking spaces in lieu of the required 2278 spaces, all as

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more particularly described in Petitioner's Exhibit 1, be and is hereby
DENIED.

AMN:bjs


ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

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Date

3/19/95

By

FINAL REPORT of the
Baltimore County Planning Board
Adopted May 19, 1988

(No Public Hearing Held)

PETITIONERS
EXHIBIT 4

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING
CONCERNING COMMERCIAL USES IN M.L. ZONES

Office of Planning and Zoning
Baltimore County, Maryland

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING COMMERCIAL USES IN M.L. ZONES

A Final Report of the Baltimore County Planning Board
(Adopted May 19, 1988)

Project Description

The Manufacturing Light (M.L.) zone was established to provide for the locational needs of certain types of industrial uses. These are uses which have less impact on the surrounding areas than heavier industrial uses. Commercial establishments are generally not permitted in the M.L. zone. However, major changes in the way goods are merchandised have increased the amount of land some types of businesses require, making it difficult for them to locate in Business zones. Staff investigated the feasibility of permitting certain types of commercial uses to locate in M.L. Zones.

Discussion

Some types of businesses require large amounts of floor area for sales and the on-site stocking of merchandise. These businesses include furniture stores and a new type of use, "membership warehouse clubs." These types of businesses require large amounts of floor area due to new types of merchandising techniques.

In the past, furniture was ordered from a retail showroom used primarily to display samples. The consumer's order would be sent to the manufacturer. Furniture would be shipped to the store at a later date, to be delivered to the consumer. Today, consumers often take furniture home directly from the showroom. The manufacturer ships furniture, often not completely assembled, to the retail store. The retail outlet requires a large amount of floor area to store this merchandise.

Membership warehouse clubs are facilities which admit customers by membership only. These clubs sell a wide range of merchandise. Because goods are stored on the premises, to be picked up by the customer, a large amount of floor area is required.

Owners of large furniture stores and membership warehouse clubs have found it difficult to obtain adequate land in Business zones to meet their needs. Either a large enough site is not available or the site is too expensive because of the amount of land which is required. Unlike other types of retail businesses, such as clothing, the amount of sales the business generates is not directly related to the floor area of the store.

These businesses have sought land in the M.L. zones. Land is generally less expensive in the M.L. zones than in the Business zones. However, commercial uses are generally not permitted in M.L. zones as principal uses. For the most part, the only retail uses permitted are those accessory to principal manufacturing uses, although the sale of building materials is permitted as a principal use. In addition, subsection 253.1.B.16 permits the "storage, warehousing or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones".

A recent Board of Appeals decision (May 14, 1986) determined that a membership warehouse club is primarily a wholesale business and as such should be permitted by right in M.L. zones. Other jurisdictions permit wholesale businesses as principal uses in manufacturing zones. The primary purpose of a membership warehouse club is to distribute goods to small businesses. Membership warehouse clubs are large, containing close to 100,000 square feet of adjusted gross floor area. A parking space requirement has been proposed based on the parking provided for existing membership warehouse clubs in the County. Few facilities are as large as 100,000 square feet so that it is unlikely that the use would encroach on manufacturing land to a great extent.

Retail uses are generally not permitted in the M.L. zones for several reasons. They are considered incompatible with manufacturing uses. They generate additional traffic. In addition, permitting retail uses in the manufacturing zones takes away from the land available for industrial development, which is important to the County's economic base.

Furniture stores generate less traffic than other types of retail uses. The off-street parking regulations require 2.5 spaces for furniture stores rather than the 5.0 spaces per 1000 square feet of gross floor area required for other retail uses. Furniture stores would be generally compatible with most of the manufacturing uses permitted in M.L. Zones. However, special yard requirements may be needed, depending on the type of neighboring use.

Permitting furniture stores by special exception will enable the Zoning Commissioner to grant the petition on a case-by-case basis depending on compatibility with adjacent uses. By permitting only large furniture stores, over 40,000 square feet, the pressure on M.L. zoned land can be controlled. A furniture store of this size should only be permitted to locate in an M.L. zone if the store is able to provide the required number of off-street parking spaces. The Zoning Commissioner should not have the authority to variance the parking requirement for this use in this zone.

While non-auxiliary commercial uses are generally discouraged in I.M. districts, (Subsection 259.H) it would be appropriate to permit furniture stores on M.L. zoned land in an I.M. district, according to the restrictions established for this use in an M.L. zone.

Recommendation

The Baltimore County Planning Board recommends that the Zoning Regulations, 1955, as amended be further amended as set forth below. Wherever utilized, ~~dashes~~ indicate words to be deleted and underlining indicates words to be added.

- 1) Add to Section 101.

Membership Warehouse Club: An organization which sells goods only to customers who have obtained a membership in the organization and whose primary purpose is the wholesale distribution of goods to small businesses.

- 2) Add to Subsection 233.2, Uses permitted in the Business Major (B.M.) Zone:

Membership warehouse club

- 3) Add to Subsection 253.1.B, Transportation, storage, or quasi-public uses or terminals permitted in M.L. Zones:

15. Storage, warehousing or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones, public warehousing; membership warehouse club, occupying at least 95,000 square feet of adjusted gross floor area.

- 4) In Subsection 253.2, Uses Permitted by Special Exception in M.L. Zones, add the following use under Paragraph A.

9. Furniture store occupying a minimum of 40,000 square feet of gross leasable area. Notwithstanding the provisions of Section 307 or Subsection 409.12 Paragraph B, a variance from off-street parking regulations shall not be obtainable.

- 5) In Subsection 409.6.A, Required Number of Parking Spaces, add the following use to Paragraph 3, Industrial Uses.

Membership Warehouse Club

4 per 1000 square feet of gross floor area



Dennis F. Rasmussen
County Executive

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Towson, Maryland 21204

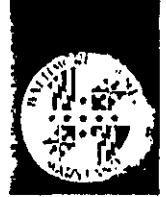
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Office of Planning & Zoning
County Courts Building, Suite 406
401 Bosley Avenue
Towson, Maryland 21204
(301) 887-3211

P. David Fields
Director

PETITIONER'S EXHIBIT 5

October 20, 1989



Dennis F. Dasmussen
City Executive

The Honorable William R. Evans, Chairman
Baltimore County Council
Court House
Towson, MD 21204

Dear Mr. Evans:

The Planning Board issued a Final Report, "Proposed Amendments to the Baltimore County Zoning Regulations concerning Commercial Uses in M.L. Zones" in May, 1988. Council has not enacted legislation in response to this report. At the October 19 meeting, the Planning Board agreed that the report should be modified so that a membership warehouse club, as defined in the proposed legislation, would be considered a retail rather than a wholesale use, and not permitted in M.L. Zones. I would be pleased to discuss this issue with you if you have any questions, at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "P. David Fields", is written over a horizontal line.

P. David Fields, Secretary
to the Planning Board

PDF/HSR/prh

cc: Mr. Frank C. Robey, Jr., Administrative Officer
Members, Baltimore County Council
Members, Baltimore County Planning Board
Mr. Arnold Jablon, County Attorney

PETITIONER'S EXHIBIT 6

Legislative Project # 90-22

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING MEMBERSHIP WAREHOUSE CLUBS

A Final Report of the Baltimore County Planning Board
December 6, 1990

PROJECT DESCRIPTION

The Manufacturing, Light (M.L.) zone was established to provide for the locational needs of certain types of industrial uses which have less impact on the surrounding areas than heavier industrial uses. Commercial establishments are generally not permitted in the M.L. zones. However, changes in the way goods are distributed have increased the amount of land some types of businesses require, making it difficult for them to locate in Business zones. Staff investigated the feasibility of permitting membership warehouse clubs in the M.L. zone.

BACKGROUND

In May, 1988 the Planning Board recommended to Council that the Zoning Regulations be amended to permit certain commercial uses which require a large amount of floor area -- furniture stores and membership warehouse clubs -- to locate in M.L. Zones. Section 22-24 of the County Code gives the Council two years to act on a recommendation of the Planning Board regarding a zoning text amendment. After reconsideration in October 1989, the Planning Board sent a letter to Council recommending that membership warehouse clubs not be permitted in M.L. zones.

Because Council did not act on the May, 1988 Final Report within two years, the Council cannot enact an amendment to the Zoning Regulations regarding this issue unless the Council first receives another report from the Planning Board.

DISCUSSION

Membership warehouse clubs are facilities which admit customers by membership only. These clubs sell a wide range of merchandise, usually in large quantities. Because goods are stored on the premises, to be picked up by the customer, a large amount of floor area is required.

These businesses have sought land in the M.L. zones. Land is generally less expensive in the M.L. zones than in the Business zones. However, commercial uses are generally not permitted in M.L. zones as principal uses. For the most part, the only retail uses permitted are those accessory to principal manufacturing uses, although the sale of building materials is permitted as a principal use. In addition, subsection 253.1.B.16 permits the "storage, warehousing or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones".

Membership warehouse clubs are not defined in the Zoning Regulations and have been permitted through special hearings held by the Zoning Commissioner. At these hearings, petitioners have argued that a membership warehouse club is more of a wholesale than a retail use. Petitioners stated that the primary purpose of a membership warehouse club is to distribute goods to small businesses. They further explained that a membership warehouse club is a "cash and carry" operation which does not advertise, does not provide services and has limited retail hours.

In a May, 1986 Board of Appeals case, the Board ruled that a specific membership warehouse club (PACE) is primarily a wholesale business and as such should be permitted by right in M.L. zones. In June, 1986 at a special hearing, the Deputy Zoning Commissioner ruled that a Price Club would be permitted in an M.L. zone if at least 55% of the annual sales volume would be to wholesale customers. At the end of the Price Club's 1989 fiscal year, 55.03% of the annual sales were to wholesale members.

Membership warehouse clubs have several categories of memberships. A wholesale member is a member who presents a business license or a tax identification number for the organization he represents. A group member is an employee of a government agency, hospital, credit union, public utility or airline. If a person doesn't qualify as a group member, the Price Club advises that the potential new member contact their employer to see if the employer is a member and ask to have his name added to the Business membership (or ask the employer to join if not already a member). At PACE, Business members are eligible for a 5% discount compared to group members (a group membership is free). A Premier membership can be obtained by any individual for \$25.00 entitling the member to wholesale prices. Any individual can obtain a one-time "shopping pass" at no cost, paying 5% over wholesale prices.

Several years experience with membership warehouse clubs indicates that they operate more like a retail than a wholesale use. Items available for sale include office supplies and other items used for businesses but also groceries including fresh meats, produce and in-store bakery, clothing and consumer electronics. Services such as tire installation and opticians are available. The clubs are open seven days a week. The Price Club is open from 11:00 a.m. to 9:00 p.m., Monday through Fridays (wholesale members can shop from 10:00

a.m.); 9:30 a.m. to 7:00 p.m. on Saturdays and 10:00 a.m. to 6:00 p.m. on Sundays). PACE has special holiday hours: 9:00 a.m. to 10:00 p.m. on weekdays and Saturdays; 11:00 a.m. to 6:00 p.m. on Sundays. These shopping hours are as long as or longer, than retail shopping hours for most retail establishments.

There are three membership warehouse clubs in the County, all located in M.L. zones. Membership warehouse clubs are large, containing close to 100,000 square feet of adjusted gross floor area. When choosing a location for a new business, PACE seeks to provide parking at a rate of at least 5 spaces per 1000 square feet of floor area; this is the standard typically applied to retail uses.

Because of the size of the building and the acres of parking the use requires, membership warehouse clubs use a sizable amount of land. The 1990 Master Plan indicates that the supply of M.L. land in the County, particularly in the central and western portions, is extremely limited. Permitting membership warehouse clubs on M.L. zoned land takes away land that could be used for industrial purposes. Further, permitting membership warehouse clubs to locate in M.L. zones gives an unfair advantage to the clubs in terms of price competition. Retail uses located on commercially zoned land must bear higher land costs, passing on these costs to customers.

RECOMMENDATION

The Baltimore County Planning Board recommends that Membership Warehouse Clubs be defined in the Zoning Regulations and permitted in the Business zones only. The Zoning Regulations, 1955, as amended should be further amended as set forth below; bold indicates words to be added.

- 1) Add to Section 101:

Membership Warehouse Club: An organization which sells goods only to customers who have obtained a membership in the organization. A membership warehouse club sells goods in large quantities and does not advertise to the general public.

- 2) Add to Subsection 230.9, Uses permitted in the Business Local (B.L.) Zone:

Membership warehouse club

- 3) In Subsection 409.6.A, Required Number of Parking Spaces, add the following use to Paragraph 3, Industrial Uses.

Membership Warehouse Club	5 per 1000 square feet of gross floor area
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Webster's
Third PETITIONER'S
EXHIBIT 7
New International
Dictionary

OF THE ENGLISH LANGUAGE
UNABRIDGED

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AND
THE MERRIAM-WEBSTER
EDITORIAL STAFF



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specif: having veins, fibers, or lines crossing like the lines of a net. **2**: covered with small polygonal scales — used of the tarsus of a bird.

[ME *whitawer*, fr. *whitelther* *whitelther* + *tower*] 1 archaic
one who processes skins by tawing (as to form rawhide)
2 chiefly dial: a harness maker: SADDLER
whiten *whi* (whi) or *whitten* *tree* *n* [fr. (assumed) ME
whiten tree, fr. OE *whitingetrow*, fr. *hwit* white + *-ing* +
traw tree] dial Eng: any of several trees or shrubs: as
a: QUELDER-TREE, WAYFARING TREE, G. ROWAN TREE
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can always speak more precisely — C.P. Curtis (a generation
known nothing but war — R.B. West) (the English firms
or in reference to animals (these were a pair of owls, . . .
showed little sign of alarm) — Nathaniel Hawthorne) (one of
those dogs — I saw all over traps — Nigel Balchin) or in
reference to inanimate objects (the implication that the
object is felt to have personality) (dolls of an older age
bracket, ~ are supposed to provide a little girl with the feeling of
having a younger sister — New Yorker) or with the implication
that the reference is really to a person or persons possessing or
producing or operating the object (a number of deep southern
accents ~ assert that they have been immensely impressed by
— Mike Clark) (a late legendary accretion, contradicted by
— earlier records — maintain a Davidic ancestry — F.M. Cross)
Davenport; sometimes used after such with the implication
that the action or state expressed in the clause introduced by
who is a real or appropriate consequence of what is expressed
by such or by the phrase containing such (such ~ no beauty
lack — Shak.); used universally and without criticism as the
subject of the clause that it introduces; used by speakers on all
educational levels and by many reputable writers, though dis-
approved by some grammarians, as the object of a verb in the
clause that it introduces (old peasants . . . If isolated from
their surroundings, one would expect to see in a village church
— Berger) or less frequently as the object of a preceding
or following preposition in the clause that it introduces (of ~
I know nothing — Raymond Paton); compare THAT 1
WHICH, WHOM, WHOSE, as who are archaic; as one that; as if
someone (he nods at us, as who are archaic, "I'll be even with
you" — Shak.) (he recoiled — as who find thorns where she
sought flowers — Robert Browning) (such speech — as
probably . . . a mere freak of the tongue, as who should go
to a masked ball in guise of Mephistopheles — John Morley)
— as who should say archaic; so to speak (I would build
large — in line embossed vaults and painted arches, as who
— Henry James 1916) — who is who or who's who
— as who is who the identity of or the noteworthy facts
about each of a number of persons (lived in this town long
enough to know who's who) (before I had learned who was
who)

who *whu* *n* — the person or persons involved or meant or
referred to (I shall ask the next banana peddler the ~ and the
why of it — Carl Sandburg)
whoa *whu* *adv* — also *who* or *woa* *adv* *v* imper [ME *who*,
who] — a command to a draft animal to stand still — compare
GIDDAP
who-dunit *whu* *adv* *usu* *adv* *v* *n* — [fr. the substandard
expression *who done it*] a detective story or a mystery story
created as a novel, a play, or a motion picture (the tautness
of a fine — as a novel)
who-ever *whu* *adv* *pron* [ME *who ever*, fr. *who + ever*]
1 whatever person; any person at all that; no matter who —
used in any grammatical relation except that of a possessive
(~ eggs to ~ has the money to buy — C. Chamberlain)
~ he picks has to have the stature of a collaborator, not a
subordinate — Time) (~ she weds, she never descends below
the rank to which she was born — Agnes M. Miall) (he is a good
man himself, ~ his friends are) (that is not true, ~ you heard
it from ~) 2 *who* 1 — used in questions expressing astonish-
ment or perplexity (~ can that be)

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il Credit Accounts.

the following words have the meanings

retail credit account.
person who, under a retail credit account
ices from a seller not principally for the

agreement with a financial institution
s to pay the debts of the buyer as they
ated by the financial institution, in
the financial institution the cash sale

price" means the price for which the
the goods or services which are the
le were a sale for cash and not under

es and charges for delivery, installa-
y improvement which is supplied or

d account" means a retail credit ac-
outed in advance and assessed on the
e price.

e" means the amount, however ex-
hich a seller or financial institution
hasings goods or services in a retail

ial institution" means a person who
which the person agrees to extend
ed by him by use of a credit card

ncorporated bank, savings institu-

igible personal property purchased
ld purposes, including any certifi-

fter the time of sale are affixed to
ether or not severable from it.

primarily for industrial, commer-

te Motor Vehicle Law; or
e Maryland Home Improvement

(i) *Holder*. — "Holder" means a person, including a seller and a financial institution, entitled to enforce a retail credit account against a buyer.

(j) *Open end account*. — "Open end account" means a retail credit account in which the finance charge is assessed on the outstanding balances from month to month.

(k) *Person*. — "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(l) *Retail credit account*. — (1) "Retail credit account" means an agreement or transaction for the retail sale of goods or services, which is negotiated or entered into and pursuant to which a time sale price is established.

(2) "Retail credit account" includes credit card financing by a financial institution.

(m) *Seller*. — "Seller" means a person regularly engaged in the business of selling goods to retail buyers.

(n) *Services*. — (1) "Services" means work, labor, and services furnished primarily for personal, family, or household purposes.

(2) "Services" includes:

(i) Services furnished in connection with the improvement of real property; and

(ii) Contributions to a "charitable organization" as defined in the Maryland Charitable Solicitations Act.

(3) "Services" does not include any:

(i) Work, labor, or service furnished primarily for industrial, commercial, or agricultural purposes; or

(ii) Service for which the tariff, rate, charge, cost, or expense, including in each instance the time sale price, is required by law to be filed with or approved by the United States, the State, or any department, division, commission, or agency of either.

(o) *Time sale price*. — "Time sale price" means the total of the cash sale price and the amount of the finance charge. (An. Code 1957, art. 83, §§ 153A, 153D; 1975, ch. 49, § 3; 1982, ch. 379; 1992, ch. 26, § 2.)

Cross references. — As to Maryland Charitable Solicitations Act, see § 6-101 et seq. of the Business Regulation Article.

Effect of amendments. — The 1992

amendment, effective Oct. 1, 1992, substituted "the Maryland Charitable Solicitations Act" for "Article 41 of the Code" in (n) (2) (ii).

Subtitle 6. Retail Installment Sales.

Part I. Definitions.

§ 12-601. Definitions.

(a) *In general*. — In this subtitle the following words have the meanings indicated.

(b) *Agreement*. — "Agreement" means an installment sale agreement, a renewed or extended installment sale agreement, and any renewal, extension, or refund agreement made in connection with an installment sale agreement.

PETITIONER'S
EXHIBIT 8

(c) *Buyer*. — (1) "Buyer" means a person who buys or leases goods under an installment sale agreement, even though the person has entered into one or more renewal, extension, or refund agreements.

(2) "Buyer" includes a prospective buyer.

(d) *Cash price*. — "Cash price" means the minimum price for which goods subject to an installment sale agreement, or other goods of like kind and quality, may be purchased for cash from the seller by the buyer.

(e) *Collateral security*. — (1) "Collateral security" means any security interest in, encumbrance on, or pledge of property or goods that is given to secure performance of an obligation of a buyer or a surety for a buyer under an agreement.

(2) "Collateral security" includes the undertaking of a surety for a buyer.

(3) "Collateral security" does not include any goods or interest in goods that are the subject of an installment sale agreement.

(f) *Consumer goods*. — "Consumer goods" means goods bought for use primarily for personal, family, or household purposes, as distinguished from industrial, commercial, or agricultural purposes.

(g) *County*. — "County" includes Baltimore City.

(h) *Debt cancellation agreement*. — "Debt cancellation agreement" means an agreement between a seller and a buyer which provides for cancellation of the outstanding balance payable under an installment sale agreement in the event of theft or total destruction of the motor vehicle that is the subject of the installment sale agreement after application of the proceeds of any insurance maintained on the motor vehicle.

(i) *Down payment*. — "Down payment" includes all amounts paid in cash, credits, or the agreed value of goods, by or for a buyer and to or for the benefit of a seller at or before execution of an installment sale agreement.

(j) *Finance charge*. — "Finance charge" means the amount in excess of the cash price of the goods sold, agreed on by a seller and a buyer, to be paid by the buyer for the privilege of purchasing the goods under an installment sale agreement.

(k) *Goods*. — (1) "Goods" means all tangible personal property that has a cash price of \$25,000 or less.

(2) "Goods" does not include money or things in action.

(l) *Holder*. — "Holder" means a person, including a seller and a sales finance company, entitled to enforce an agreement against a buyer.

(m) *Installment sale agreement*. — (1) "Installment sale agreement" means a contract for the retail sale of consumer goods, negotiated or entered into in this State, under which:

(i) Part or all of the price is payable in one or more payments after the making of the contract; and

(ii) The seller takes collateral security or keeps a security interest in the goods sold.

(2) "Installment sale agreement" includes:

(i) A prospective installment sale agreement;

(ii) A purchase money security agreement; and

(iii) A contract for the bailment or leasing of consumer goods under which the bailee or lessee contracts to pay as compensation a sum that is substantially equal to or is more than the value of the goods.

who buys or leases goods under an agreement in which the person has entered into one or more payments.

"Minimum price for which goods or other goods of like kind and value may be sold by the seller to the buyer by the buyer."

"Security" means any security interest in real property or goods that is given to the seller or a surety for a buyer under an agreement.

"Surety for a buyer" means any goods or interest in goods that are given to the seller by the buyer.

"Use purposes" means goods bought for use primarily for the purposes, as distinguished from other purposes.

"City."

"Cancellation agreement" means an agreement which provides for cancellation of an installment sale agreement in the event of a default by the buyer of the vehicle that is the subject of the agreement or of the proceeds of any insurance policy.

"Includes all amounts paid in cash, by a buyer and to or for the benefit of the seller under an installment sale agreement."

"Amount in excess of the value of the goods sold by the seller and a buyer, to be paid by the buyer under an installment sale agreement."

"Personal property that has a lien on it."

"In action."

"Including a seller and a sales finance company against a buyer."

"Installment sale agreement" means an agreement for the sale of goods, negotiated or entered into by a seller and a buyer, under which the seller or more payments after the first payment keeps a security interest in the goods.

"One or more payments after the first payment."

"Keeps a security interest in the goods."

"ent;

"; and

"Of consumer goods under which the seller retains a sum that is substantial part of the value of the goods."

(3) "Installment sale agreement" does not include:

(i) A bona fide C.O.D. transaction or a layaway agreement as defined in § 14-1101 (g) of this article; or

(ii) A lease for industrial, commercial, or agricultural purposes.

(n) *Mechanical repair contract*. — "Mechanical repair contract" has the meaning stated in Title 15, Subtitle 3 of the Transportation Article.

(o) *Motor vehicle*. — "Motor vehicle" has the meaning stated in Title 11 of the Transportation Article.

(p) *Outstanding balance*. — "Outstanding balance", when used in reference to a debt cancellation agreement, does not include:

(1) Any delinquent payments;

(2) Past due charges;

(3) Late payment charges;

(4) Unearned interest;

(5) Unearned rental payments; or

(6) By agreement of the parties, the amount of any primary insurance deductible.

(q) *Person*. — "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(r) *Principal balance*. — "Principal balance" means the sum of items described in § 12-606 (b) (5), (6), and (7) of this subtitle.

(s) *Retail sale*. — "Retail sale" means the sale of goods for use or consumption by the buyer or for the benefit or satisfaction that the buyer may derive from the use or consumption of the goods by another, but not for resale by the buyer.

(t) *Sales finance company*. — "Sales finance company" means a person who is engaged, whether by purchase, discount, pledge, loan, or otherwise, in the business of acquiring, investing in, or lending money or credit on the security of any interest in:

(1) An installment sale agreement made between other parties;

(2) A retail credit account transaction, as defined in § 12-501 of this article, made between other parties; or

(3) A transaction that deals with home improvement, as defined in § 8-101 of the Business Regulation Article, made between other parties, if collateral security is required by and given to the contractor as a condition to the transaction.

(u) *Security interest*. — "Security interest" has the meaning stated in § 1-201 (37) of this article.

(v) *Seller*. — "Seller" means a person who sells or leases or agrees to sell or lease goods under an installment sale agreement.

(w) *Surety*. — (1) "Surety" includes a guarantor.

(2) "Surety" does not include a seller who sells, transfers, or assigns an agreement.

(x) *Time balance*. — "Time balance" means the sum of the items described in § 12-606 (b) (10) and (11) of this subtitle.

(y) *Wages*. — "Wages" means all remuneration paid to any employee for his employment, including the cash value of all remuneration paid in any medium other than cash. (An. Code 1957, art. 83, §§ 132, 132A, 152; 1975, ch. 49,

tent with the intent of this Act to provide a change in taxation on the rental vehicle industry, expecting to generate a revenue stream to each of the General Fund and the Transportation Trust Fund, equivalent to that which would have been received for the coming fiscal years under the law in effect on January 1, 1993;

(5) Any additional types of data or information that would be useful for further analysis of the rental vehicle industry or the taxes levied by the State on the industry; and

(6) Any other relevant information or policy options arising from the further collection of data or experience under the provisions of this Act."

Section 3, ch. 254, Acts 1993, as amended by § 1, ch. 125, Acts 1995, effective June 1, 1995, provides that "this Act shall take effect June 1, 1993. It shall remain effective for a period of 6 years and 1 month and, at the end of June 30, 1999, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect. The increased sales and use tax rate for short-term rentals of passenger cars and multipurpose passenger vehicles provided under this Act shall be applicable to all charges for rental agreements entered into on or after June 1, 1993 and before the termination of this Act. The altered definition of taxable price for short-term vehicle rentals and the sales and use tax rate provided under this Act shall be applicable to all rental agreements entered into on or after June 1, 1993 and before the termination of this Act. The credit for the vehicle excise tax on purchases of passenger cars and multipurpose vehicles used for short-term rentals provided under this Act shall apply to all vehicles titled on or after May 1, 1993 and before the termination of this Act, provided that these credits may not be used to offset sales tax remittances until after July 1, 1993."

Section 3, ch. 685, Acts 1994, provides that "this Act shall take effect January 1, 1995, contingent on a downward adjustment in estimated revenues of not less than \$1,000,000 being incorporated into a Supplemental Budget and enacted with the Annual Budget for Fiscal Year 1995 for the purpose of financing the provisions of this Act, and if that downward ad-

justment in estimated revenues is not incorporated into a Supplemental Budget and enacted with the Annual Budget Bill for Fiscal Year 1995, this Act shall be null and void without the necessity of further action by the General Assembly."

Section 2, ch. 690, Acts 1994, provides that "this Act shall take effect January 1, 1995, contingent on a downward adjustment in estimated revenues of not less than \$125,000 being incorporated into a Supplemental Budget and enacted with the Annual Budget Bill for Fiscal Year 1995 for the purpose of financing the provisions of this Act, and if that downward adjustment in estimated revenues is not incorporated into a Supplemental Budget and enacted with the Annual Budget Bill for Fiscal Year 1995, this Act shall be null and void without the necessity of further action by the General Assembly."

The contingencies of § 3 of ch. 685 and § 2 of ch. 690 are deemed to have been met.

Section 2, ch. 125, Acts 1995, provides that "the Comptroller's office shall continue to monitor the effects of Chapter 254 of the Acts of 1993 and the revenues generated by the taxes imposed by the State of Maryland on the short-term vehicle rental industry. The Department of Fiscal Services shall review these effects and shall be prepared to brief the fiscal committees or other committees of the General Assembly on request."

Reclassification to avoid collecting tax.

— Classifying itself as an independent contractor rather than as an agent of a vendor does not free such an agent of the responsibility to collect the tax. *Ridgewood Log Homes, Inc. v. Comptroller of Treas.*, 77 Md. App. 382, 550 A.2d 707 (1988).

Dealers for out-of-state manufacturer of precut log home kits, who solicited and wrote up orders for manufacturer's kits and provided technical assistance to customers in constructing homes, qualified as "vendors" jointly responsible with manufacturer for payment of tax. *Ridgewood Log Homes, Inc. v. Comptroller of Treas.*, 77 Md. App. 382, 550 A.2d 707 (1988).

Cited in *Chesapeake Indus. Leasing Co. v. Comptroller*, 331 Md. 428, 628 A.2d 234 (1993).

(Abrogation of amendment effective June 30, 1999.)

§ 11-101. Definitions.

(a) *In general.* — In this title the following words have the meanings indicated.

(b) *Buyer.* — "Buyer" means a person who:

- (1) acquires tangible personal property in a sale; or
- (2) obtains a taxable service in a sale.

PROPERTY OWNER'S
EXHIBIT 9

ment in estimated revenues is not incorporated into a Supplemental Budget and enacted the Annual Budget Bill for Fiscal Year , this Act shall be null and void without necessity of further action by the General Assembly."

ction 2, ch. 690, Acts 1994, provides that

Act shall take effect January 1, 1995, on a downward adjustment in estimated revenues of not less than \$125,000 being incorporated into a Supplemental Budget and enacted with the Annual Budget Bill for Fiscal 1995 for the purpose of financing the provisions of this Act, and if that downward adjustment in estimated revenues is not incorporated into a Supplemental Budget and enacted the Annual Budget Bill for Fiscal Year this Act shall be null and void without necessity of further action by the General Assembly."

contingencies of § 3 of ch. 685 and § 2 of 30 are deemed to have been met.

ction 2, ch. 125, Acts 1995, provides that Comptroller's office shall continue to monitor effects of Chapter 254 of the Acts of 1995 and the revenues generated by the taxes levied by the State of Maryland on the short-term vehicle rental industry. The Department of General Services shall review these effects and be prepared to brief the fiscal committees or committees of the General Assembly upon request."

classification to avoid collecting tax. By classifying itself as an independent contractor rather than as an agent of a vendor does not make such an agent of the responsibility to the tax. *Ridgewood Log Homes, Inc. v. Comptroller of Treas.*, 77 Md. App. 382, 550 A.2d 707 (1988).

ers for out-of-state manufacturer of log home kits, who solicited and wrote letters for manufacturer's kits and provided financial assistance to customers in construction, qualified as "vendors" jointly related with manufacturer for payment of *Ridgewood Log Homes, Inc. v. Comptroller of Treas.*, 77 Md. App. 382, 550 A.2d 707 (1988).

l in *Chesapeake Indus. Leasing Co. v. Comptroller*, 331 Md. 428, 628 A.2d 234 (1993).

ve June 30, 1999.)

words have the meanings indi-

o;

n a sale; or

(b-1) *Cleaning of a commercial or industrial building.* — "Cleaning of a commercial or industrial building" means the following services performed to a commercial or industrial building:

- (1) floor, carpet, wall, window, ceiling, and exterior cleaning; and
- (2) janitorial services.

(c) *Person.* — "Person" includes:

- (1) this State or a political subdivision, unit, or instrumentality of this State;
- (2) another state or a political subdivision, unit, or instrumentality of that state; and
- (3) a unit or instrumentality of a political subdivision of this State or of another state.

(d) *Production activity.* — (1) "Production activity" means:

(i) except for processing food or a beverage by a retail food vendor, assembling, manufacturing, processing, or refining tangible personal property for resale;

(ii) generating electricity;

(iii) laundering, maintaining, or preparing textile products for rental;

(iv) producing or repairing production machinery or equipment; or

(v) establishing or maintaining clean rooms or clean zones as required by applicable provisions of the federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Virus-Serum-Toxin Act, and the regulations adopted thereunder, pertaining to the manufacture of drugs, medical devices, or biologics.

(2) "Production activity" does not include:

(i) servicing or repairing tangible personal property, except for servicing or repairing production machinery or equipment;

(ii) maintaining tangible personal property, except textile products for rental; or

(iii) providing for the comfort or health of employees.

(e) *Production machinery or equipment.* — "Production machinery or equipment" means machinery or equipment used in a production activity.

(f) *Retail sale.* — (1) "Retail sale" means the sale of:

(i) tangible personal property; or

(ii) a taxable service.

(2) "Retail sale" includes:

(i) a sale of tangible personal property for use or resale in the form of real estate by a builder, contractor, or landowner; and

(ii) except as provided in paragraph (3) (i) of this subsection, use of tangible personal property as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, even if the buyer intends to transfer title to the property before or after that use.

(3) "Retail sale" does not include:

(i) a transfer of title to tangible personal property after its use as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, if:

1. at the time of purchase, the buyer is obligated, under the terms of a written contract, to make the transfer; and

2. the transfer is made for the same or greater consideration to the person for whom the buyer manufactures goods or performs work;

(ii) a sale of tangible personal property if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be produced for sale;

3. consume the tangible personal property directly and predominantly in a production activity by destroying, using up, or wearing out the property, other than through obsolescence, to the extent that the property cannot be rendered fit for further use in a production activity, if the consumption occurs within 1 year after the property is first used in a production activity; or

4. transfer the tangible personal property as a part of a taxable service transaction; or

(iii) a sale of a taxable service if the buyer intends to resell the taxable service in the form that the buyer receives or is to receive the service.

(g) Sale. — (1) "Sale" means a transaction for a consideration whereby:

(i) title or possession of property is transferred or is to be transferred absolutely or conditionally by any means, including by lease, rental, royalty agreement, or grant of a license for use; or

(ii) a person performs a service for another person.

(2) "Sale" does not include a transaction whereby an employee performs a service for the employee's employer.

(h) Sale for use. — "Sale for use" means a sale in which tangible personal property or a taxable service that is consumed, possessed, stored, or used in the State is acquired.

(i) Tangible personal property. — (1) "Tangible personal property" means:

(i) corporeal personal property of any nature; or

(ii) a right to occupy a room or lodgings as a transient guest.

(2) "Tangible personal property" includes:

(i) farm equipment;

(ii) wall-to-wall carpeting that is installed into real estate, regardless of the purpose, method, or permanency of its installation; and

(iii) coal, electricity, oil, nuclear fuel assemblies, steam, and artificial or natural gas.

(j) Taxable price. — (1) "Taxable price" means the value, in money, of the consideration of any kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the consummation and complete performance of a sale without deduction for any expense or cost, including the cost of:

(i) any labor or service rendered;

(ii) any material used; or

(iii) any property sold.

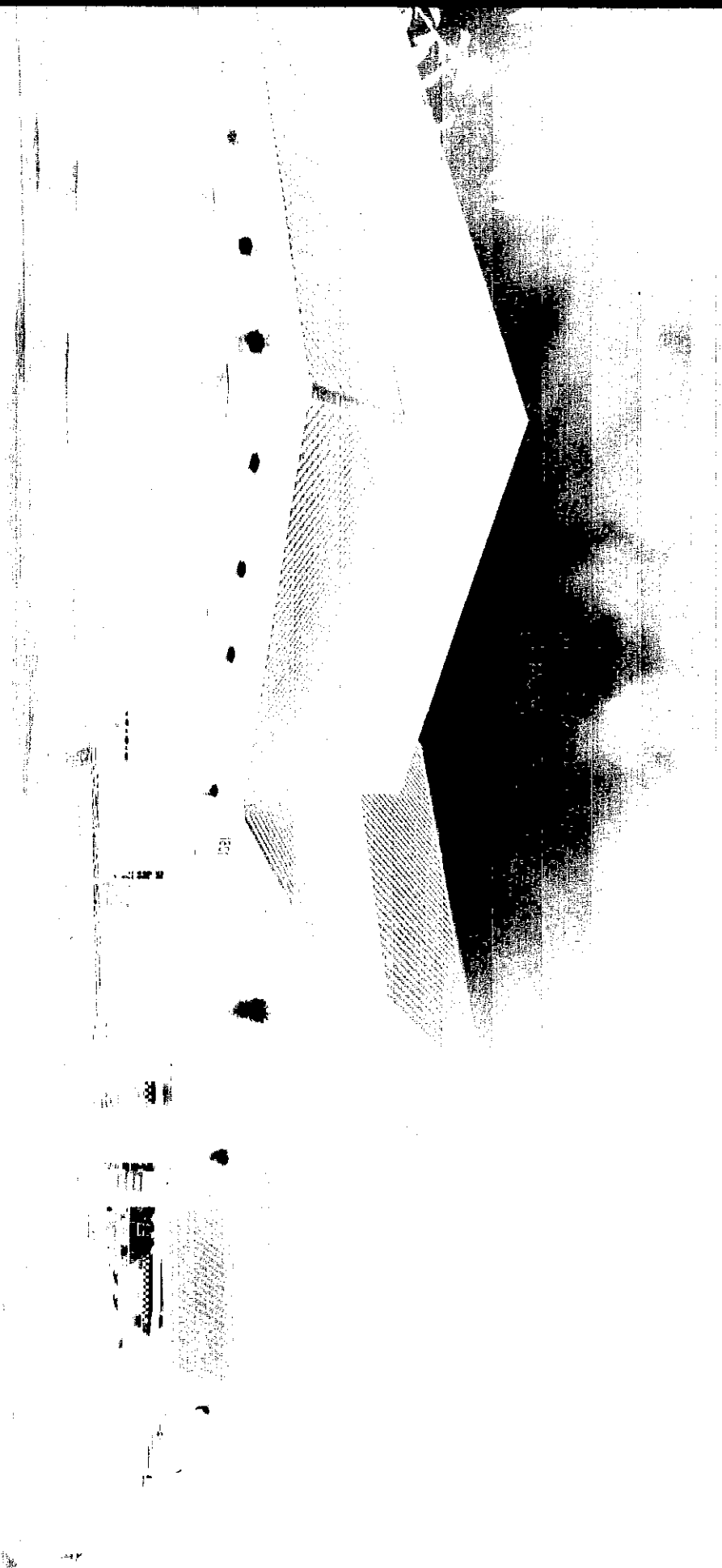
(2) "Taxable price" includes, for tangible personal property acquired by a sale for use in the State by the person who assembles, fabricates, or manufactures the property, only the price of the raw materials and component parts contained in the property.

(3) "Taxable price" does not include:



PETITIONERS

EXHIBIT 10A





PETITIONER'S **PRICE COSTCO EXHIBIT** //

Department	1989 Sales Pen. %	1996 Sales Pen. %
Cigarettes	2.7	4.4
Candy	5.0	5.1
Dry Grocery	14.5	14.7
Sundries / H.B.A.	15.3	17.2
Frozen / Cooler	11.4	9.2
Office Supplies	4.9	2.4
Apparel	10.4	6.6
Automotive	5.2	2.5
Hardware	8.7	3.4
Housewares / Toys	4.3	3.4
Small Appliances	3.9	1.5
Major Appliances	6.4	4.9
Media (Tapes, C.D.'s, Videos)	2.0	4.1
Sporting Goods / Cameras	3.3	2.5
Jewelry	2.0	1.4
Gourmet Deli	N/A	1.4
Fresh Meat	N/A	4.6
Bakery	N/A	1.5
Slicing Deli / Entrees	N/A	0.7
Produce	N/A	2.5
Pharmacy / O.T.C.	N/A	3.5
Food Court	N/A	1.0
1 Hour Photo	N/A	0.6
Optical	N/A	0.9
Total	100.0	100.0

CONTACT LENSES OPTICAL

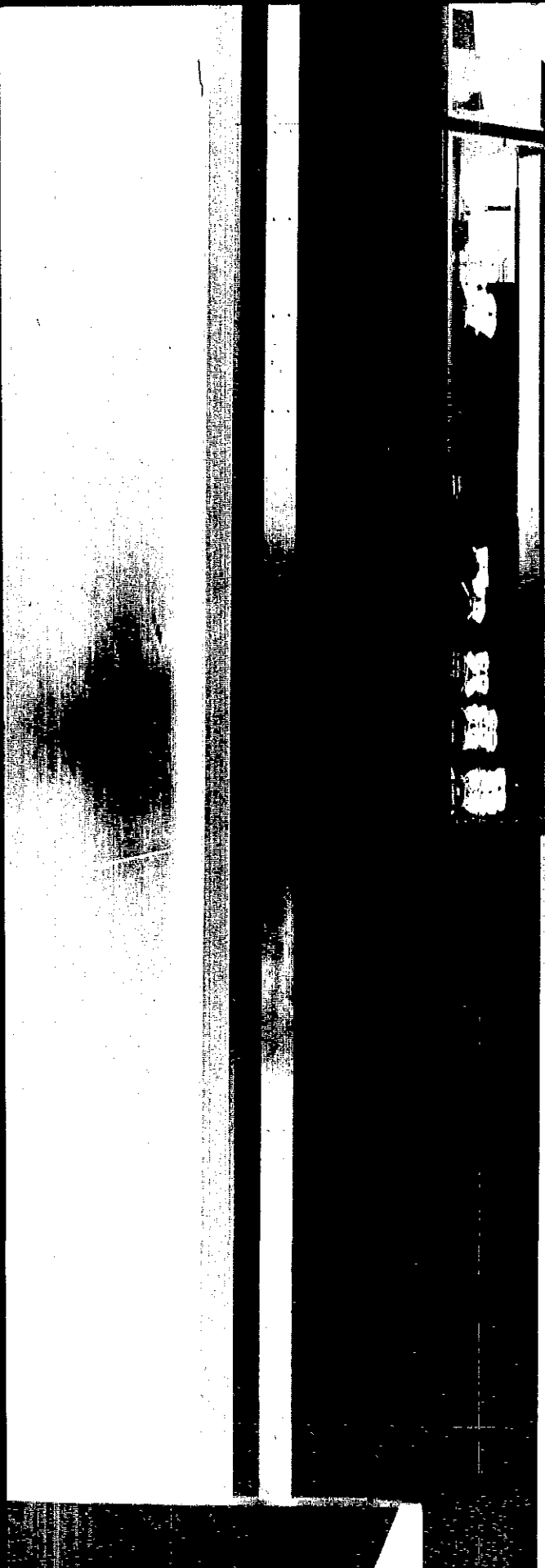
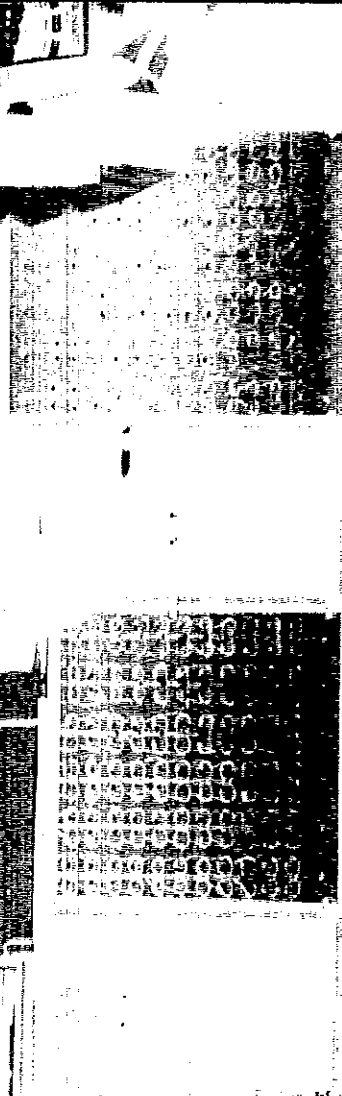
\$89.00

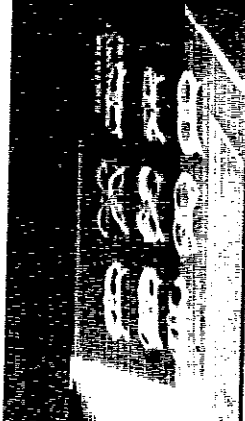
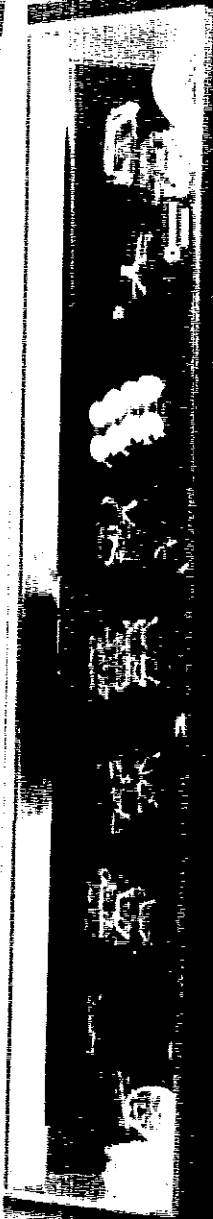
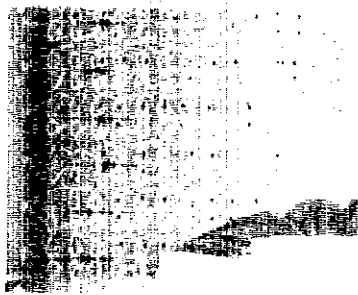
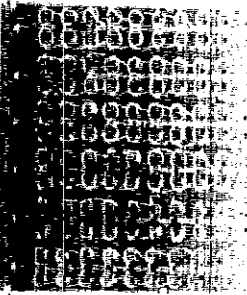
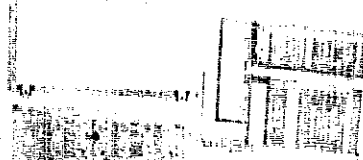
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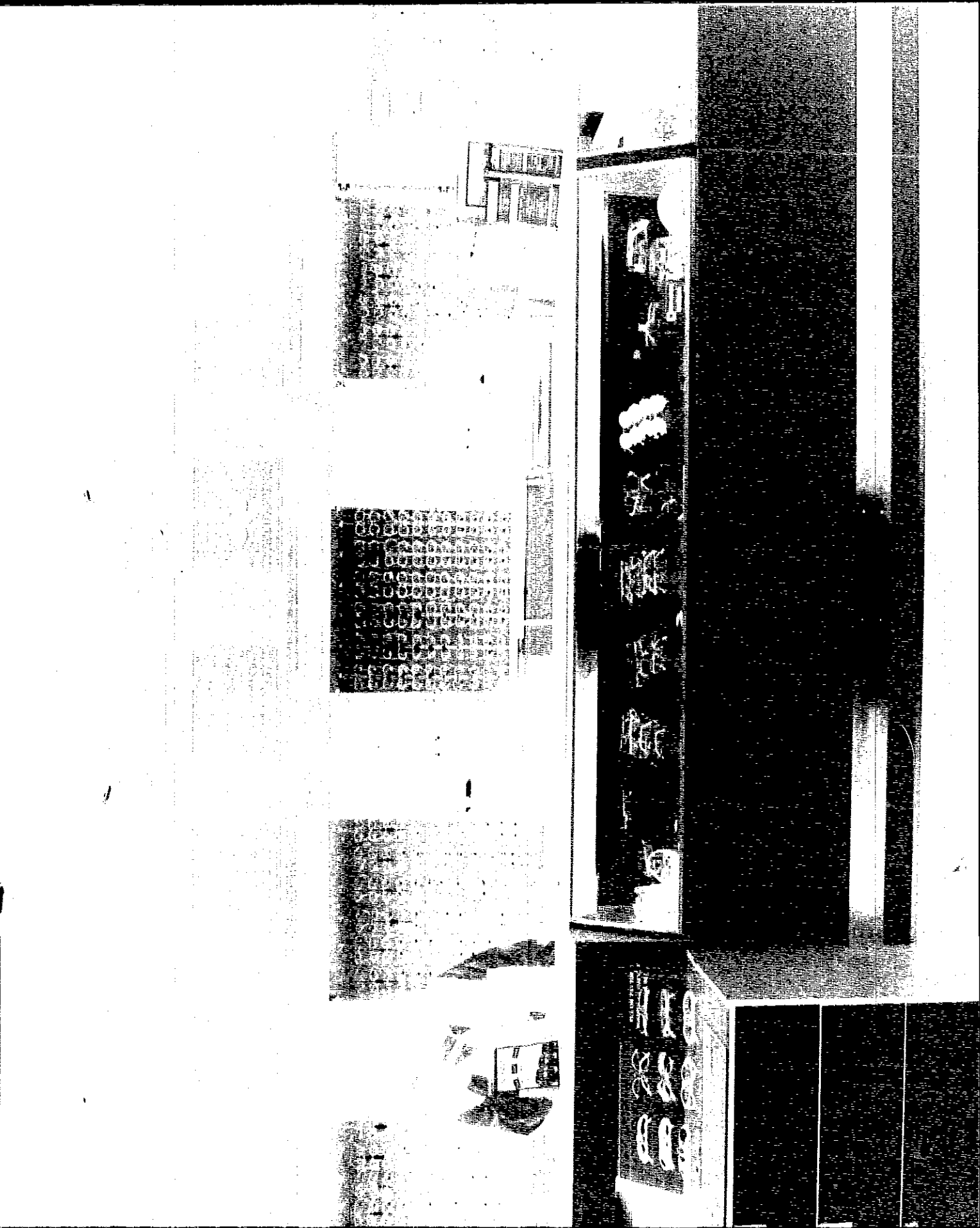
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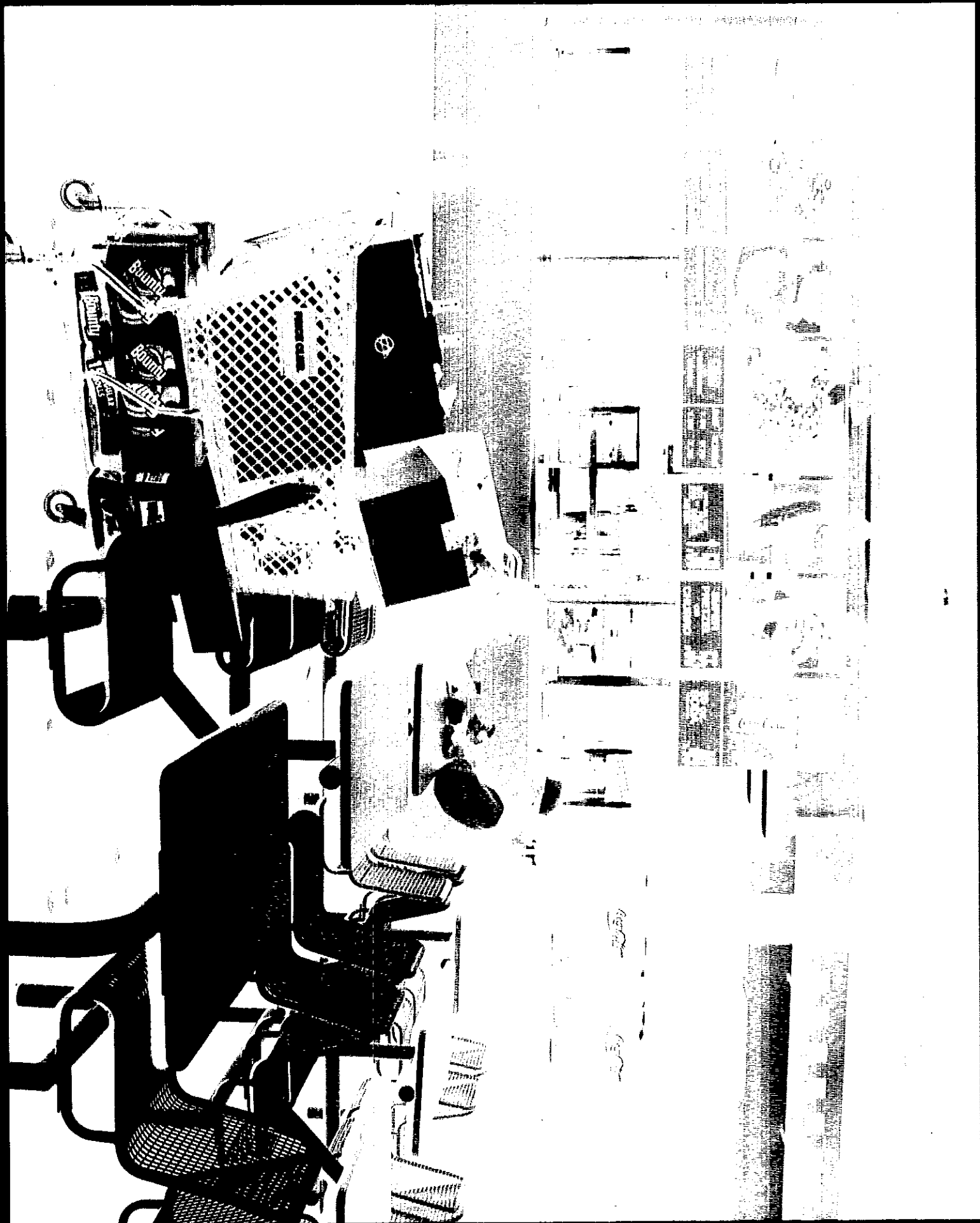
\$5.00

CONTACT LENSES OPTICAL









KIRKLAND
 NON-FAT
 FROZEN
 YOGURT
1.50

**CHICKEN
 CAESAR
 SALAD**
2.95

**14 LB. ALL BEEF
 HOT or MILD
 100% SAUSAGE
 AND SOUP**
1.50

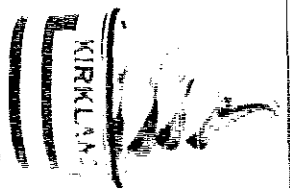
PIZZA
 COMBO, BREADCRUMB CRUST or RECEPTION
 SLICE 18" WHOLE
1.80 9.70

**BBQ PORK
 SANDWICH**
1.50

**SUPER
 PRETZEL**
1.50

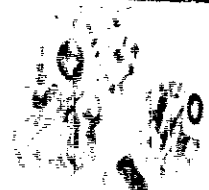
**SAUSAGE
 SOUP**
1.50

PRETZEL



NON-FAT
FROZEN
YOGURT

1.95



CHICKEN
CAESAR
SALAD

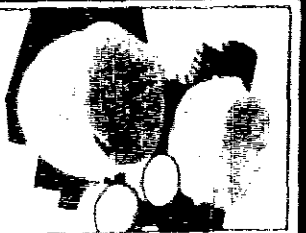
2.95



1.50
HOT
DOG
WITH
SAUSAGE
AND
SOUP

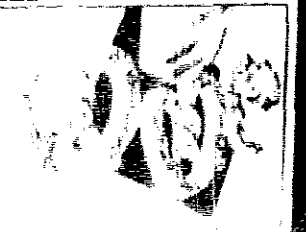


PIZZA
COMBO - SIGNATURE CHEESE & PEPPERONI
SLICE 1.80
18" WHOLE 9.70



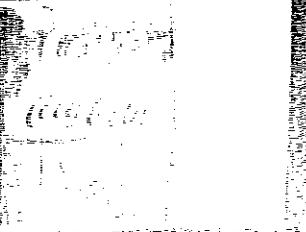
BBQ PORK
SANDWICH

1.95



SUPER
PRETZEL

1.95



20 OZ
SODA

1.95

PRETZEL

PHARMACY

NEW

**PHARMACY NOW ACCEPTS
CHAMPUS AND MD-IPA
PRESCRIPTION PLANS**

**Patient
Consultation**

**PARC
COSTCO**
We participate in most
prescription insurance plans.
Please check with our pharmacist
about your prescription plan.

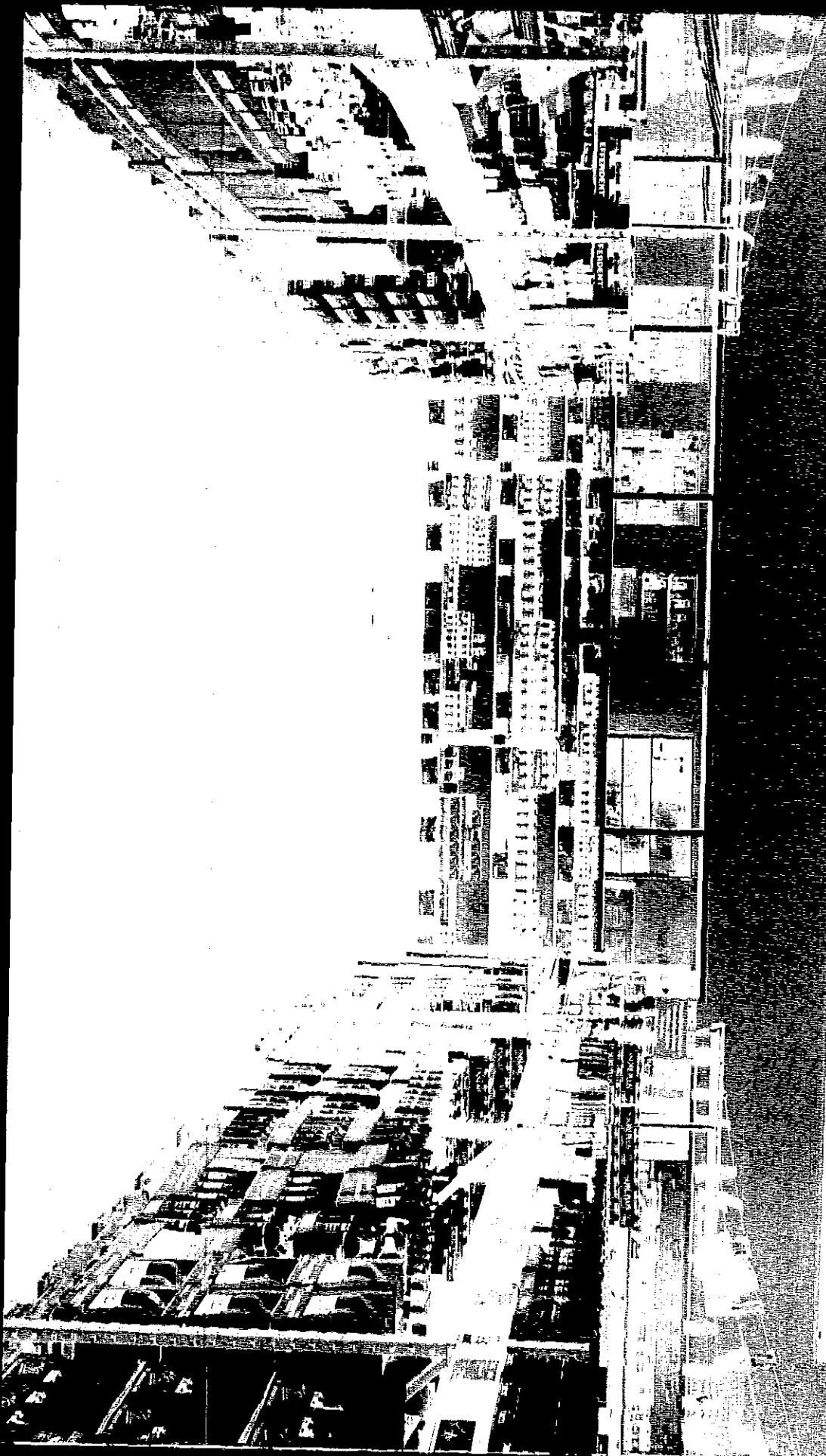
**Prescription
Pick Up**

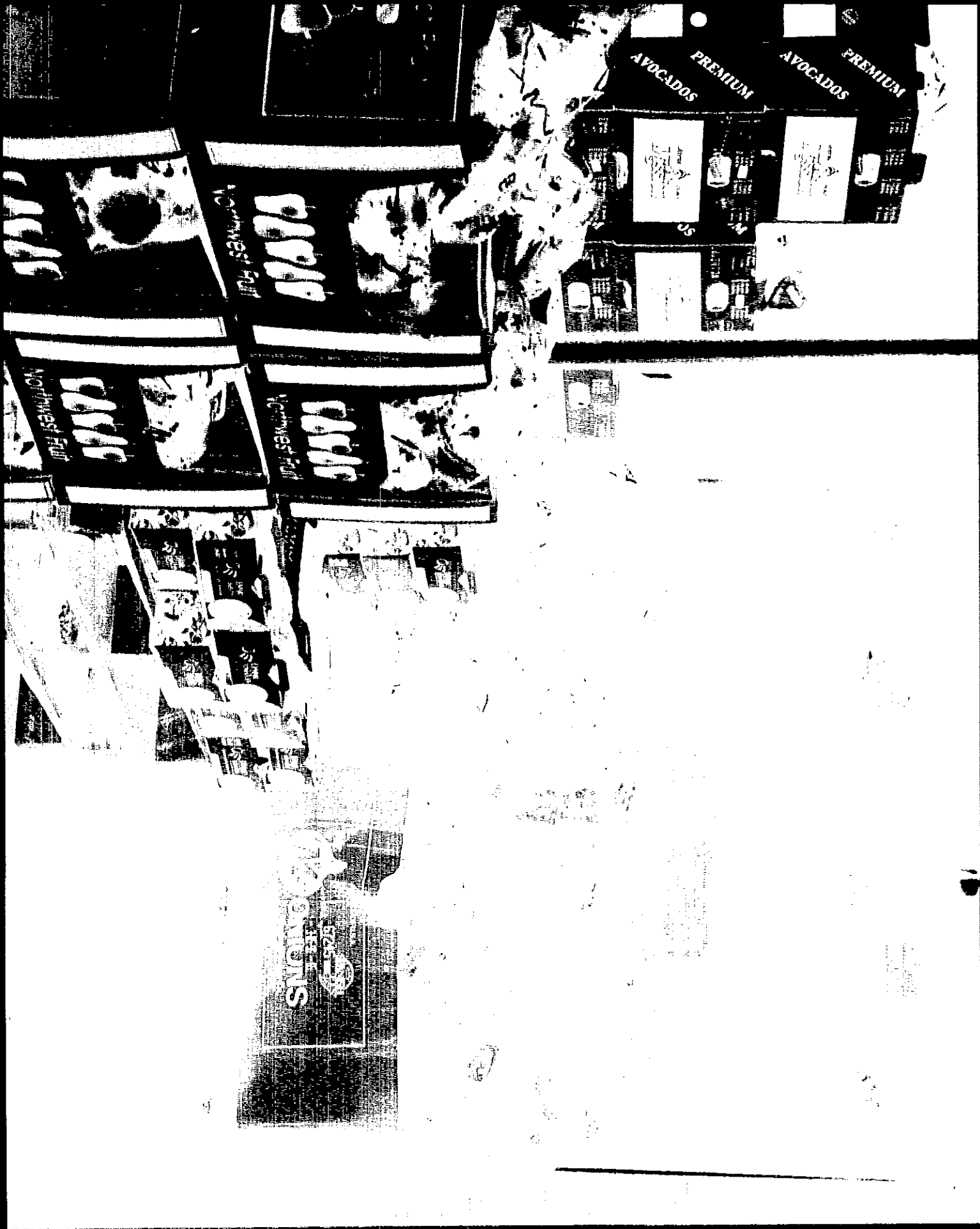


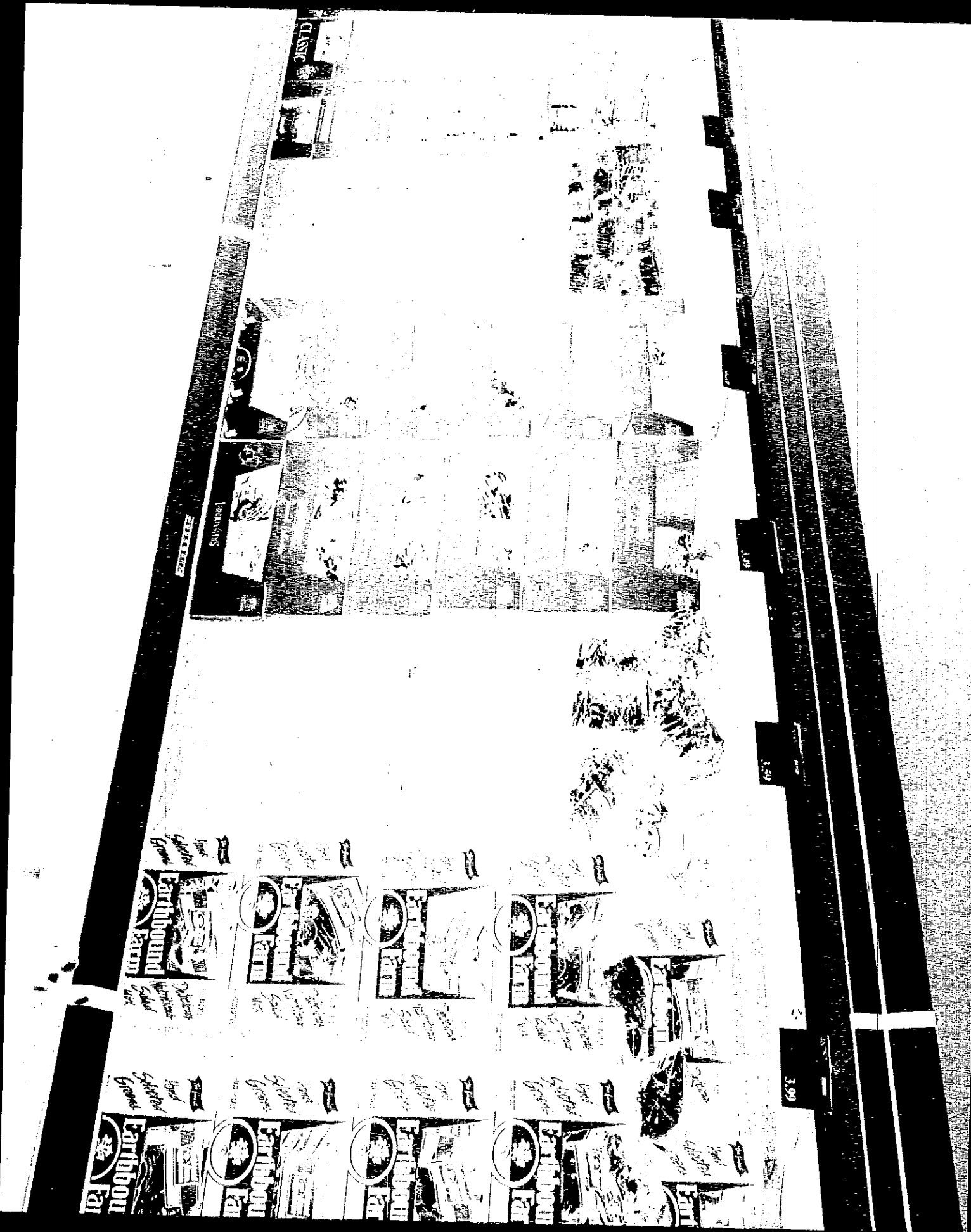
Transferring your prescription to
PRICE CLUB PHARMACY is easy!

Ask Pharmacist for Details.

R PHARMACY R







CLASSIC

ENTERTAINMENT

ENTERTAINMENT

3.99



44807
3 594



S

D

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ORANGES

RIVER
GRAPEFRUIT

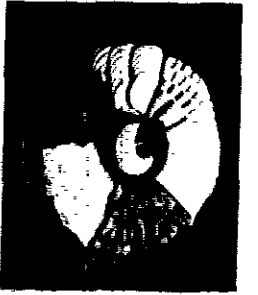




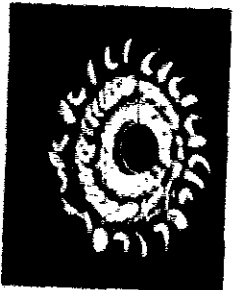
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ORANGES

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FRUIT

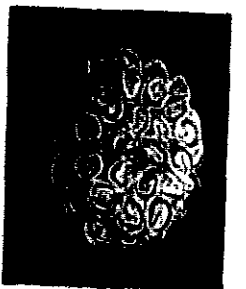
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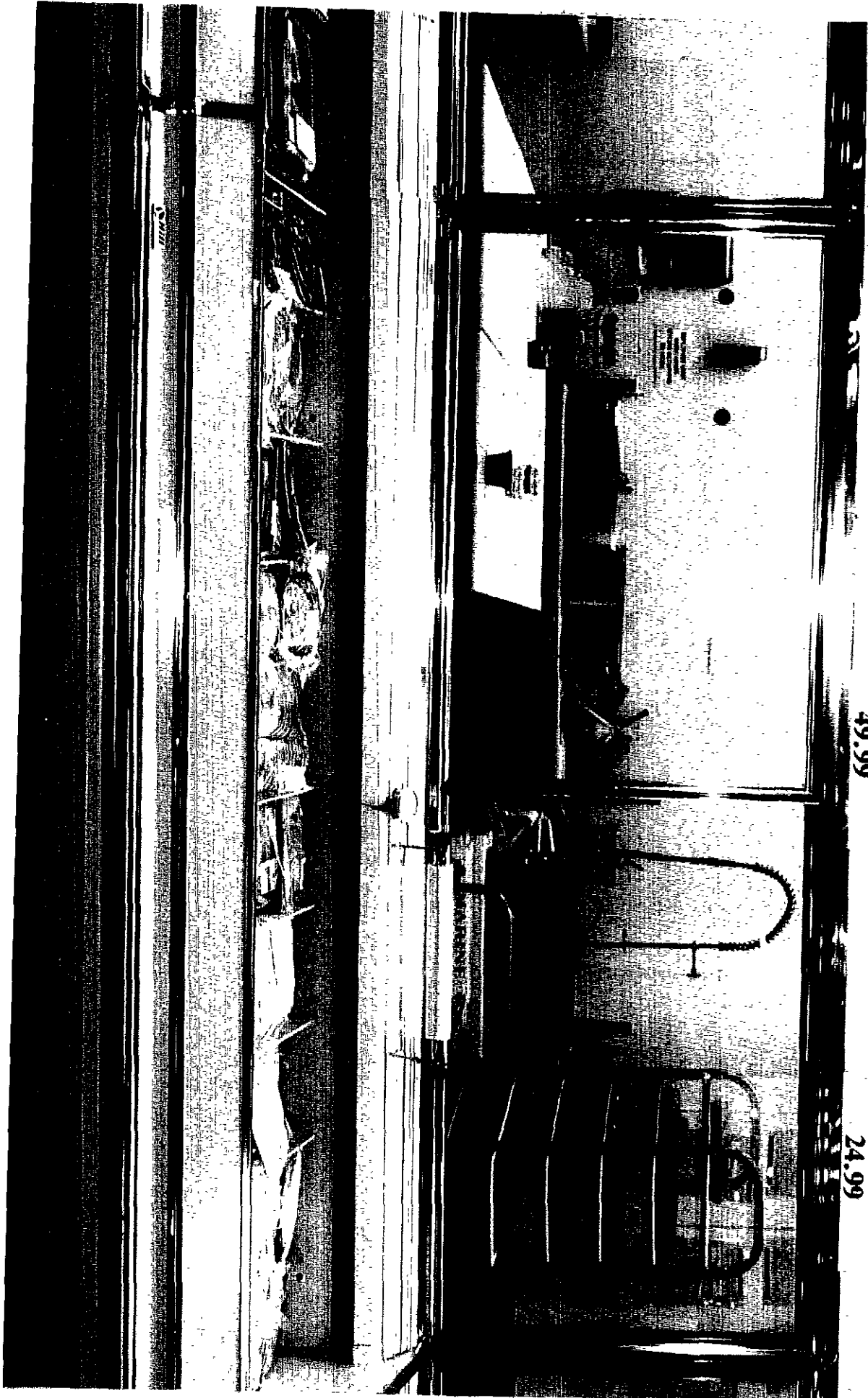
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TRAY
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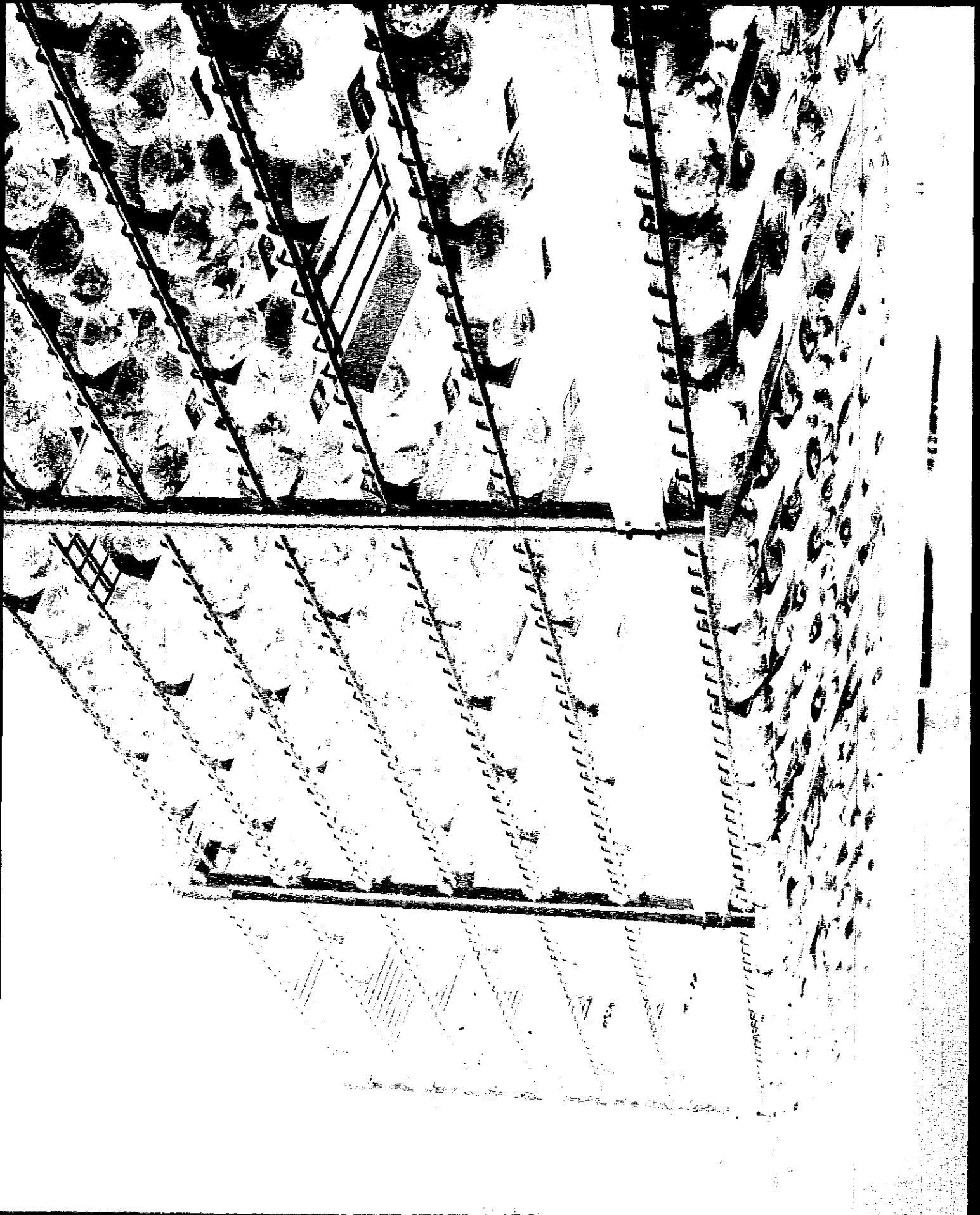


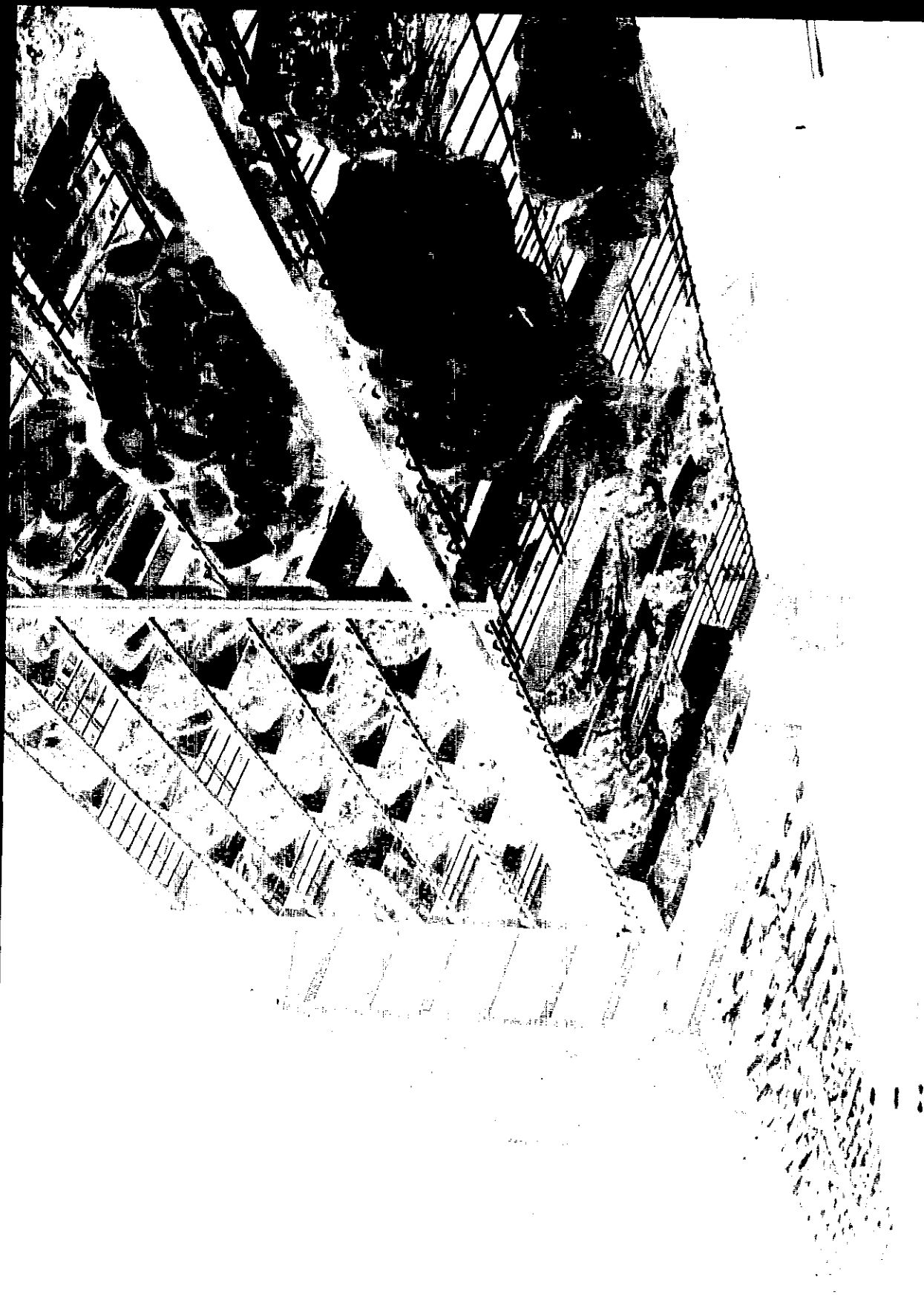
SHRIMP
PLATTER
49.99

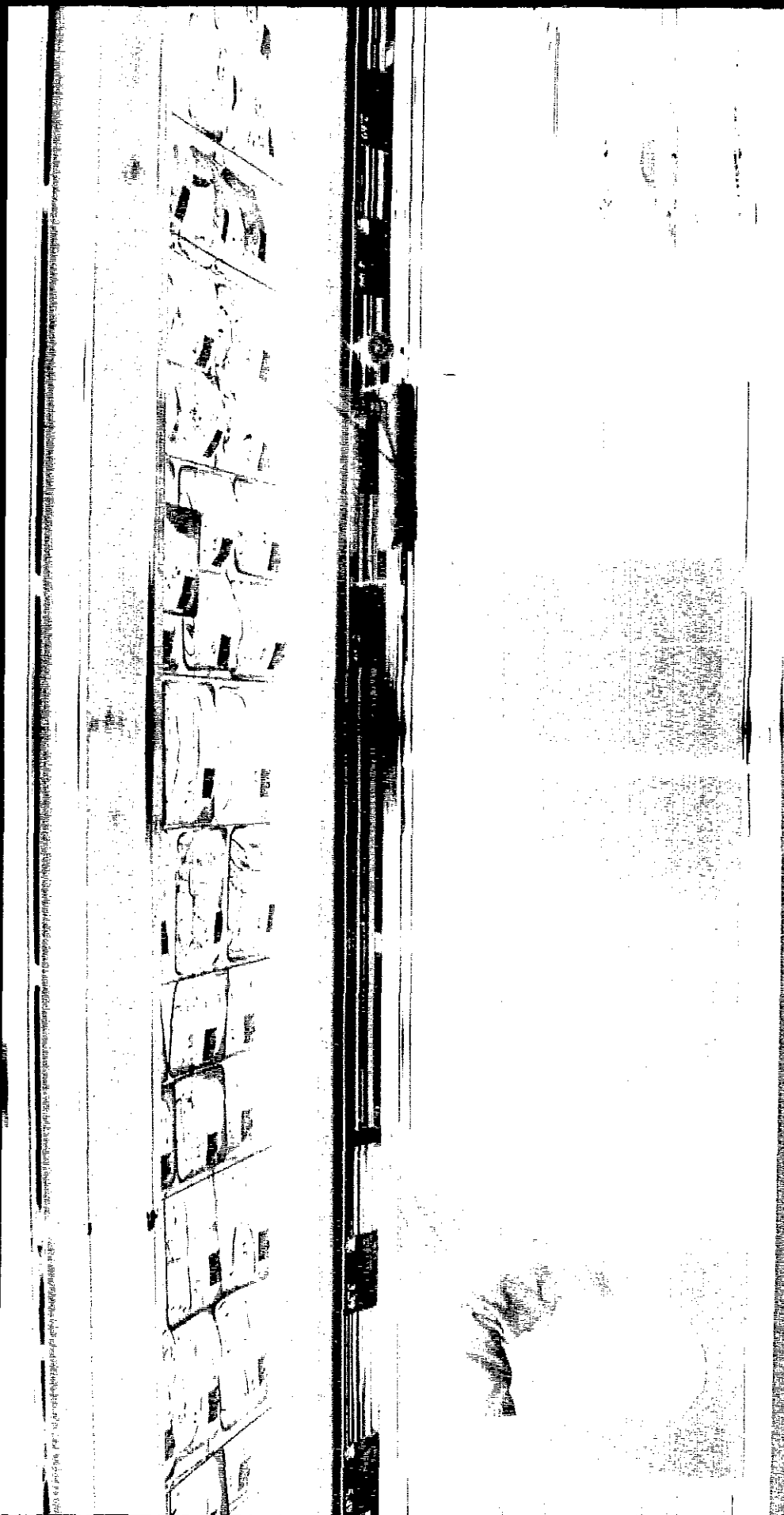


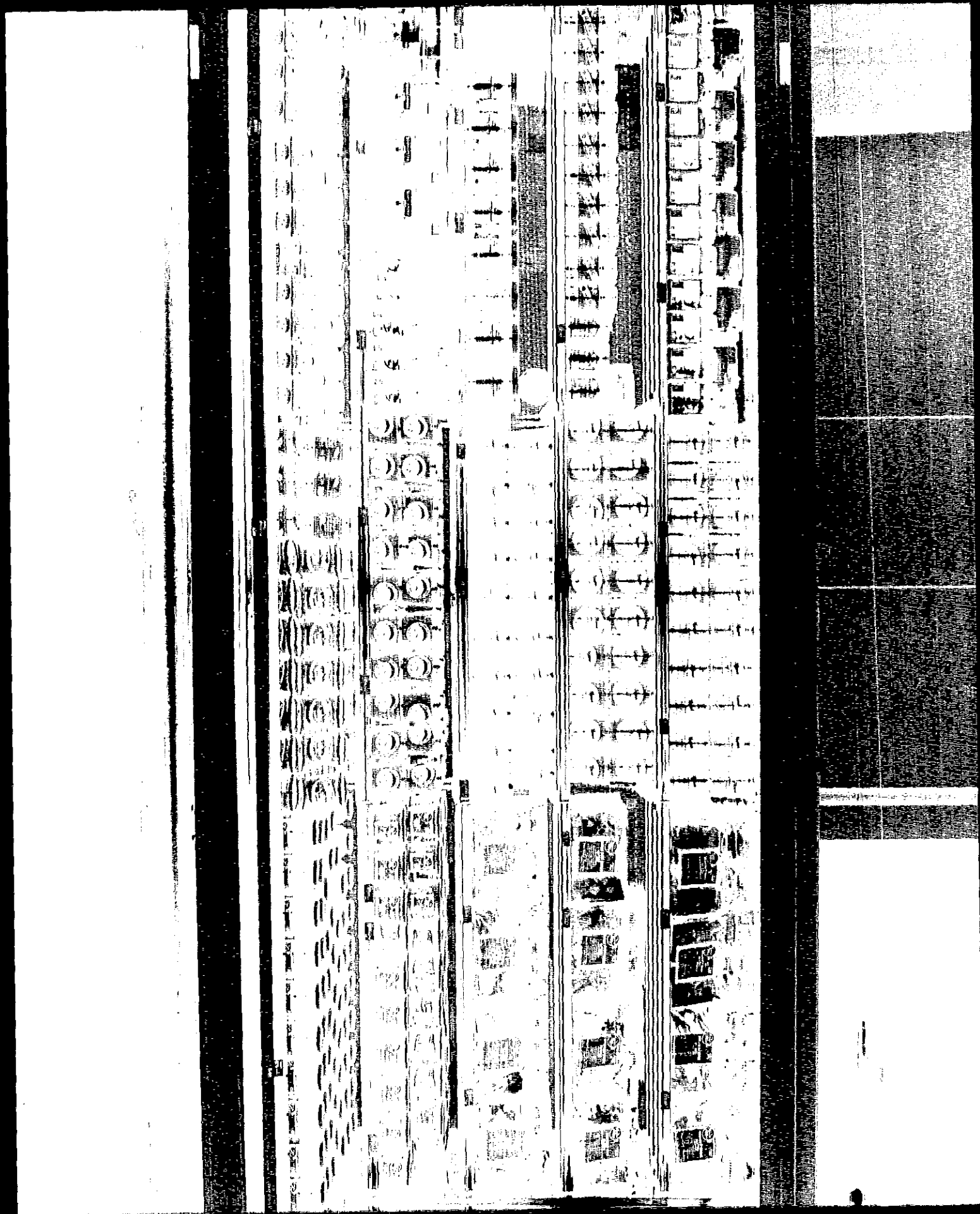
TURKEY/SWISS
HYE ROLLER
24.99













Realty Group

*Legg Mason Realty Group, Inc.
7 East Redwood Street, P.O. Box 1476, Baltimore, MD 21203 • 1476
410 • 528 • 3400 Fax: 410 • 528 • 3446*

March 26, 1996

Mr. Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21285

**PETITIONER'S
EXHIBIT 13**

Subject: Determination of Price Club Business Classification

Dear Mr. Hoffman:

Legg Mason Realty Group, Inc. (LMRG) has been retained by PriceCostco, Inc. to research certain issues regarding whether the Price Club membership warehouse stores should be considered a retail business of the type permitted in Baltimore County's Business Local (BL) zone. That zone permits uses including: bakery, clothing and accessory store, department store, drug store, food store, furniture and upholstery store, hardware store, stationery store, variety and dry goods store.

1. Qualifications

LMRG is the real estate and economic consulting subsidiary of Legg Mason, Inc. Legg Mason, Inc., founded in 1899, is a New York Stock Exchange listed securities firm headquartered in Baltimore, Maryland. The firm is engaged in investment banking, public finance, funds management, pension advisory and real estate consulting, appraisal, finance, mortgage banking and commercial mortgage servicing. The firm currently manages more than \$24 billion in assets and has a total capital of more than \$330 million.

With 20 years of experience, LMRG is recognized as one of the leading sources of real estate expertise in the Mid-Atlantic states. Our 40 person staff operates from offices in Baltimore, Bethesda and Philadelphia. LMRG serves a diverse private and public sector client base including private builders and developers, banks and insurance companies, public institutions and government agencies.

WTC: [illegible]

Mr. Robert A. Hoffman, Esq.
March 26, 1996
Page 2

2. Findings

LMRG has researched these sources to determine how they classify Price Club within their own scope of responsibilities: U.S. Department of Labor, State of Maryland Office of the Comptroller, Wall Street securities analysts, and real estate development industry. Our findings are as follows:

Standard Industrial Classification

The Standard Industrial Classification ("SIC") system was developed by the federal government for use in the classification of establishments by type of activity in which they are engaged; for purposes of facilitating the collection and analysis of data relating to establishment; and for promoting uniformity and comparability in the presentation of statistical data collected by all federal, state and local agencies as well as private research organizations. The SIC covers the entire field of economic activities.

Each establishment is assigned an SIC industry code on the basis of its primary activity, which is determined by its principal product produced or distributed or services rendered. That principal product or service is determined by its relative share of the "value added" at the establishment.

LMRG has interviewed numerous authorities in the U.S. Department of Labor (which monitors the SIC system), the Maryland Department of Business and Economic Development and academic institutions regarding the classification of Price Club and similar businesses. We have determined that Price Club has been classified as:

SIC 5311 Retail Trade / General Merchandise Stores / Department Stores

This classification includes establishments engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of the goods. It is further defined as "retail stores which sell a number of lines of merchandise, such as dry goods, apparel and accessories, furniture and home furnishings, small wares, hardware, and food."

Mr. Robert A. Hoffman, Esq.
March 26, 1996
Page 3

Establishments selling exclusively to business establishments, institutional and industrial users or contractors are classified as Wholesale Trade--an entirely different classification group.

State of Maryland Office of the Comptroller

LMRG has interviewed field auditors in the Sales Tax Department in the Office of the Comptroller of the Treasury. We have confirmed that Price Club is classified as a retailer by that department since Price Club sells primarily to the end consumer of the product. The Department further refines its definition of "end consumer" as a purchaser buying without a Resale Tax Certificate. Companies selling to purchasers with such Resale Tax Certificates are classified as wholesalers.

Wall Street Securities Analysts

LMRG has consulted the securities industry research literature and interviewed numerous stock market analysts. We find that PriceCostco, Inc. (PCCW) is universally viewed as a Retail Trade industry investment and analyzed as such, often within the retailing sub-categories called the "membership club" or "mass merchandising."

The analytical framework for evaluating PCCW is essentially the same as that for all retail mass merchandisers. Some analysts have also made note of the expansion of ancillary departments within Price Club including: pharmacy, food court, mini-photo labs, optical, Quest, hearing aids.

Real Estate Development Industry

LMRG has reviewed the real estate industry literature concerning changes in retailing and their effect on the real estate development environment over the past decade. Our sources have included the Urban Land Institute, the Appraisal Institute and numerous industry publications.

The industry literature speaks of the growth of membership clubs as one important trend in the ever-evolving retail industry. Other trends currently also include the growth of power centers, specialized "category killer" stores, value retailing, and the evolution of community shopping

Mr. Robert A. Hoffman, Esq.

March 26, 1996

Page 4

centers and regional malls. Each of these retail segments is responding in its own way to the changing needs of the consumer:

- Less Time - The increased number of dual-earner households in our society over the past twenty years has greatly reduced the available shopping time of families, and
- Value Conscious - The slow growth in real incomes for the majority of U.S. households in recent years has made many much more value conscious.

Price Club and similar stores are able to offer the consumer value as the result of their low overhead structure, based on: high sales volumes, limited number of inventory items, sophisticated distribution logistics and moderate real estate costs. While early efforts in the membership club industry often located in warehouse-type buildings in industrial areas, those locations were always picked with a keen eye to highway access and consumer demographics, often near regional shopping malls to take advantage of their high traffic counts. In recent years the membership club business has gained further acceptance within the mainstream of U.S. retailing, with many club stores opening within power centers or even right next door to conventional retailers. Though the large scale warehouse format has remained, it is now typically much more consumer- and community-sensitive with better exterior and interior design treatments and other typical retail features.

3. Conclusions

Legg Mason Realty Group finds that Price Club is considered a retail business by all the government agency and industry sources we have researched. Their determinations are based on Price Club's customer (the end consumer), its functional characteristics and the dynamics of its real estate location decisions.



Mr. Robert A. Hoffman, Esq.

March 26, 1996

Page 5

We further find that Price Club's stores contain retail business uses which are already permitted within the BL zone. Price Club stocks product lines and offers services which give it the characteristics of a department store, drug store, food store and other permitted uses.

If you have any further questions about this matter, you may contact me at (410) 528-3438.

Sincerely,

Legg Mason Realty Group, Inc.

A handwritten signature in dark ink, appearing to read "Joseph M. Cronyn", with a long horizontal flourish extending to the right.

Joseph M. Cronyn
Vice President



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 19, 1996

John B. Howard/Robert A. Hoffman
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Item No.: 309
Case No.: 96-310-SPH
Petitioner: Price/Costco, Inc.

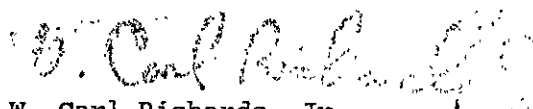
Gentlemen:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on February 14, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,


W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



14-309-11

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director March 20, 1996
Zoning Administration and
Development Management

FROM: Robert A. Wirth *RAW/nme*
DEPRM

SUBJECT: Zoning Item #309 - Price/Costco, Inc.
Zoning Advisory Committee Meeting of February 26, 1996

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).

RAW:BS:sp

PRICE/DEPRM/TXTSBP

14-309-11

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: March 1, 1996

FROM: *RWB* Robert W. Bowling, Chief
Development Plans Review Division
Department of Permits & Development
Management

SUBJECT: Zoning Advisory Committee Meeting
for March 4, 1996
Items 305 (Revised), 306 (Revised),
308, 309, 310, 313, 314 *4*

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:jrb

cc: File

Baltimore County Government
Fire Department



700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4880

DATE: 02/27/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: PRICE/COSTCO, INC.

Location: NO SPECIFIC SITE

Item No.: 309

Zoning Agenda: SPECIAL HEARING

Gentlemen:

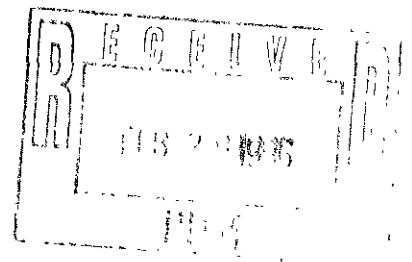
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

February 23, 1996

John B. Howard, Esquire
Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Preliminary Petition Review (Item #309)
Petitioner: Price/Costco, Inc.
No Specific Location

Dear Mr. Howard and Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

To avoid confusion, the reference to "No Specific Site" should be referenced in the petition wording.

An amendment to zoning case #86-334-SPH, which justified and approved the Price Club warehouse use in the M.L. zone, must also be requested.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "John L. Lewis".
John L. Lewis
Planner II, Zoning Review

THIS IS OK.
JAL 3/5/96
SEE PET. WORDING.

c: Zoning Commissioner
Zoning Case #86-334-SPH





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 22, 1996

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
Old Courthouse, Room 118
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: Petition for Special Hearing
No Specific Site (Zoned B.L.)
PETITIONER: PRICE/COSTCO, INC.
Case No. 96-310-SPH
Hearing Date: 3/26/96, 2:00 p.m.

Dear Mr. Schmidt:

Upon inquiry from several community associations, this office has reviewed the background of zoning for membership warehouses in Baltimore County. The question revolves around the mixed character of these uses, having both industrial (warehouse/distribution) and retail (consumer) aspects.

The issue first arose in the Pace Membership Warehouse case (86-97-SPH), a decade ago. At that time, Pace sought classification as an industrial (M.L.) use. Our office challenged that characterization in an appeal of Commissioner Arnold Jablon's decision. As a result, there was a thorough exploration of the subject. The Board of Appeals, in its (enclosed) decision dated May 14, 1986, concluded M.L. to be a proper zone, with the use allowed as a warehouse/membership sales.

Our office respected that decision and did not appeal it. In the ten years since, the County Council has left the decision alone and made no amendment to overturn the decision. The zoning office, to our knowledge, has followed the decision. Other membership warehouses, such as the Price Club, have similarly been classified as M.L. uses in Zoning Commissioner decisions.

Preliminary research shows that the Zoning Commissioner's office approved a Price Club in an M.L. zone in Case No.

RECORDED

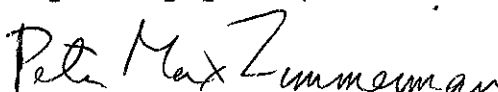
Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
March 22, 1996
Page Two

86-334-SPH on June 11, 1986 (Jean Jung, Deputy Zoning Commissioner - copy of decision enclosed). Subsequently, in another Pace case, Shopping Center Realty Associates, Case No. 90-137-SPHXA, on March 19, 1990 (also enclosed), Deputy Zoning Commissioner Ann Nastarowicz reexamined the issue, this time in response to a request for membership warehouse in a shopping center zoned B.L.-C.C.C. Despite Pace's arguments emphasizing its retail aspects, the Commissioner found that such positions were evaluated in the first Pace case. Moreover, while draft legislation had been prepared to deal particularly with the issue, it had not led to any County Council action. Accordingly, the petition was denied.

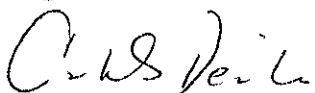
Because of this history, and the enactment of zoning maps based on this understanding, it would appear on principle that the established zoning view should be maintained. Any change in the zone classification for box warehouses must come from the County Council as an amendment to the BCZR.

We hope this letter will be helpful to the Commissioner and the parties at the upcoming hearing.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/caf
Enclosures

cc: Martha H. Clarke, Towson Estates Community Association
Eleanor VanDevender, Maiden Choice Community Association
John Lewis, Office of Permits and Development Management
Arnold F. Keller, III, Director, Office of Planning
John B. Howard, Esq./Robert A. Hoffman, Esq.,
Venable, Baetjer and Howard, Attorneys for Petitioner

ENCLOSURE

IN THE MATTER OF
PACE MEMBERSHIP WAREHOUSE
RE PETITION FOR SPECIAL
HEARING FOR WAREHOUSE IN
AN M.L. ZONE
(NO PARTICULAR LOCATION)

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 86-97-SPH

: : : : : : : : :

O P I N I O N

This case comes before the Board as an appeal from the Order of the Zoning Commissioner of Baltimore County, dated November 26, 1985, which granted the petition for special hearing of Pace Membership Warehouse Inc. The petition seeks only an interpretation of the Baltimore County Zoning Regulations (hereafter BCZR); it does not seek relief under same for any specific property. Specifically, the petition requests an interpretation of whether Pace's business activities are permitted in an area zoned M.L.

Section 253.1.B.15 of the BCZR permits, as a matter of right in M.L. zones, "Storage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones". Additionally, pursuant to BCZR Sec. 253.1.F.1, incidental sales, either wholesale or retail, as an accessory use are permitted in M.L. zones as a matter of right. Therefore, it follows that under the combined and consistent interpretation of the above BCZR provisions, storage of those products designated under Section 253 of the BCZR and wholesale sales at a warehouse (storage) facility, are permitted as a matter of right in an M.L. zone.

Although wholesale sales at a warehouse facility in an M.L. zone is permitted as a matter of right, a strict retail sale facility is not permitted. That is, under the BCZR definition (Section 101) of "warehouse", it is specifically provided that the term does not encompass a "retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises".

Thus, considering the impact of all of the applicable BCZR taken together, the issue is then presented; if Pace's business activities constitute only wholesale sales at a warehouse facility, said activity is permitted, conversely, if this operation is a retail outlet, it is not allowed.

On this issue, the Board heard lengthy testimony describing Pace's operation. On behalf of Pace, two (2) employees testified. They were a marketing representative, William B. O'Connel and a member of Pace's real estate acquisition department, Terry Guy. Both witnesses addressed Pace's operation. It was described by these witnesses as a "wholesale cash and carry membership warehouse". The witnesses emphasized that Pace geared its operation to the wholesale distribution of products to small businesses. It was further noted that Pace is not open to the general public, that credit is not available to purchasers and that a membership is necessary to shop at Pace. Also, of particular note was the packaging and marketing of Pace's products. That is, Pace sells in bulk quantities; goods are sold in those same size lots and quantities as are received from the manufacturer. Additionally, Pace does not advertise once a facility has opened and does not market its products with the same luster and puffing that surrounds retail stores. Additionally, there are no "sales" or "specials". Finally, the facility's physical appearance itself is of note; it resembles the traditional high ceiling, no gloss warehouse, rather than a retail facility.

In opposition to these views, People's Counsel offered the testimony of Francis Alessi. Mr. Alessi testified that he visited a Pace facility and then described its operation. He pointed out that although the facility is not open to the public, membership is relatively easy to obtain as membership in numerous credit unions, labor unions, etc. qualifies one to join Pace. He also testified that some "small lots" and retail type quantities of

goods were available. Finally, he noted that some personnel were available to assist customers.

In addition to the testimony of the above witnesses, this Board also notes the testimony of Gerald Patnode, a Professor of Marketing at Gettysburg College. In a nutshell, the Professor concluded that Pace, although having some elements of a retail facility, would be considered a wholesaler pursuant to the standards of the American Marketing Association. The reasons for this conclusion were primarily the lot size of products sold, the non-credit payment system and the product mix available.

In addition to this testimony, the Board must consider the terms "wholesale" and "retail" as defined both in common usage and at law. The American College Dictionary defines retail as "the sale of commodities to household or ultimate consumers, usually in small quantities". Wholesale is defined as "the sale of commodities in large quantities, as to retailers or jobbers rather than to consumers directly". Black's Law Dictionary notes retail as "to sell by small quantities . . . not in bulk", and wholesale as, "a sale in large quantities or in bulk". Additionally, the Annotated Code of Maryland, Commercial Law Article, Sections 11-401 and 12-601 have defined retail and wholesale sales. These definitions focus upon the resale of the offered goods, as opposed to sale for ultimate consumption.

In our view, based upon the testimony of all witnesses and the definitions as set forth above, the type of activity which occurs at a Pace facility as described to this Board, is of a wholesale, not retail nature. We believe Mr. Patnode summed it up best; the facility may have elements of retail sales within its operation, but it is primarily wholesale. We believe that prohibitions within the BCZR to retail outlets in M.L. zones was not intended to exclude the type of operation described here.

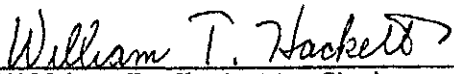
We further note the restrictions imposed by the Zoning Commissioner in his Order. Although we agree with the spirit of same, we decline to repeat them in our Order. The petition before us seeks only an interpretation and clarification of the BCZR, not a specific proposal at a specific site. We trust that this opinion has provided a delineable guideline for this issue. If a proposal for development within an M.L. zone is presented to this Board with substantial differences than that operation as described here, it will be considered in light of the BCZR on its own merits. We will not impose restrictions in this instance when there is no specific site before us.

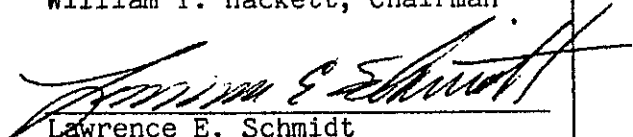
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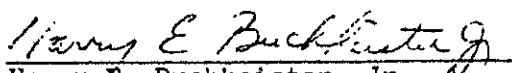
For the reasons set forth in the foregoing Opinion, it is this 14th day of May, 1986, by the County Board of Appeals, ORDERED that the particular wholesale operation as described by the Petitioner herein is permitted as a matter of right in an M.L. zone and as such the Petition for Special Hearing is hereby GRANTED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


William T. Hackett, Chairman


Lawrence E. Schmidt


Harry E. Buchheister, Jr.

1. **Introduction**

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
No Particular Location

R

The Price Club warehouse itself is divided into three areas: food related articles; soft products, such as office supplies, cigarettes, towels and tires; and housewares and appliances. The only service provided in the Price Club is a photo print drop box.

There was further testimony that the Price Club has no sales representatives or sales persons among its employees, that there was no day-to-day advertising except certain advertising prior to the opening of a new location and that no free-standing signs are placed on the site.

In order to shop in a Price Club, a membership card is required. There are two types of membership, a wholesale member, which is a business that presents a business license or tax identification number for that organization; and a group member, which is an individual who is a member of a selected credit union or governmental agency.

Accurate records are compiled showing a division between wholesale sales and group membership sales. These figures show that sixty percent (60%) nationally of the sales are to wholesale members and forty percent (40%) are to group members.

There were no Protestants

Pursuant to the advertisement, posting of property and public hearing on the Petition, and after due consideration of the testimony and evidence presented, in

RECEIVED FOR FILE

DATE

BY *[Signature]*

13/4/16. m.d.
PL 351-50H
#236

the opinion of the Deputy Zoning Commissioner, the granting of the approval requested in the Petition for Special Hearing would be in strict harmony with the spirit and intent of the Baltimore County Zoning Regulations (BCZR) and would not be detrimental to the health, safety and general welfare of the community and, therefore, should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 11th day of June, 1966, that the approval of the particular wholesale operation of a Price Club as a matter of right in a ML zone, in the manner described herein, as requested in the instant Petition for Special Hearing, is hereby GRANTED from and after the date of this Order, subject, however, to the following restrictions:

1. That at such time as Petitioner's facility is in full operation verifiable records shall be maintained and available to zoning enforcement inspectors indicating that at least 55% of the dollar volume of sales at any location shall be to wholesale customers.

2. There shall be no free standing signs. The name painted on the building shall be similar to that shown in the photograph marked Petitioner's Exhibit 4.

John M. H. [Signature]
Deputy Zoning Commissioner
of Baltimore County

TO THE ZONING

The undersigned described in the de Special Hearing und ther or not the Zom

the use by Pr of right in a

Property is to

I, or we, agree ing of this Petition, mons of Baltimore C

XXXXXXXXXXXXXXXXXXXX

Price Club
(Type or Print Name)

Signature By: *[Signature]*

2657 Ariane D.
Address

San Diego, Ca.
City and State

Attorney for Petition

John B. Howar
(Type or Print Name)

[Signature]
Signature

210 Allegheny
Address

Towson, Maryl
City and State

Attorney's Telephone

ORDERED By TH
May

of January required by the Zoning out Baltimore County, Commissioner of Balt

County, on the

UNDER RECEIVED FOR FILED
DATE 6/11/66
BY *[Signature]*
ADMINISTRATIVE ASSISTANT

UNDER RECEIVED FOR FILED

DATE June

BY *[Signature]*
ADMINISTRATIVE ASSISTANT

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

March 19, 1990

PCF: ✓
PMZ: ✓

Newton A. Williams, Esquire
Nolan, Plumhoff & Williams
700 Court Towers
Towson, Maryland 21204



Dennis F. Rasmussen
County Executive

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & ZONING VARIANCE
SW/S of Joppa Road, SE of Perring Parkway
9th Election District - 4th Councilmanic District
Shopping Center Assoc./Federal Realty Investment Trust - Petitioners
Case No. 90-137-SPHXA

(Pase
Warrick)

Dear Mr. Williams:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception, and Zoning Variance have been denied 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,

ANN M. NASTAROWICZ

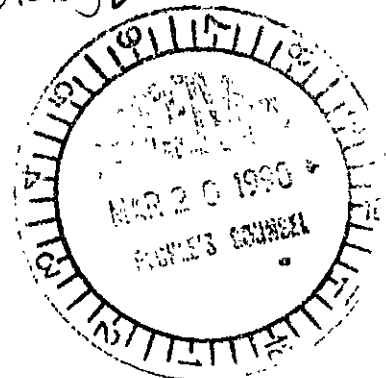
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File FILE: OUTSTANDING DECISIONS ✓

*This is an excellent
decision. I recommend
defense of it if appealed.
PMZ 3/21*



IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
SPECIAL EXCEPTION & ZONING
VARIANCE - Corner SW/S Joppa * DEPUTY ZONING COMMISSIONER
Road and SE/S Perring Parkway
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District * Case No. 90-137-SPHXA
Shopping Center Associates/
Federal Realty Investmt. Trust - *
Petitioners
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve a Pace retail "membership" outlet in a B.L.-C.C.C. zone, the amendment of a parking variance previously granted in Case No. 71-57-A, and the amendment of the site plan previously approved in Case No. 5869-X. Petitioners also request a special exception to use a portion of the subject property for a service garage in conjunction with the retail "membership" outlet, and a variance to permit 1703 parking spaces in lieu of the required 2278 spaces, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Federal Realty Investment Trust, by Burneil L. Lindquist, Development Manager, and Jack E. Heinemann, Vice President of Development, appeared, testified, and were represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petitions were Michael Owen, Warehouse Manager of the Woodlawn Pace Membership Warehouse, John J. Stamm with George W. Stephens, Jr. & Associates, and Wes Guckert of The Traffic Group. There were no Protestants.

Testimony indicated that the subject property consists of 29.36 acres, zoned B.L.-C.C.C., and is the site of the Perring Plaza Shopping Center which was purchased by Petitioners in 1985. Said property is bounded on the west side by the Baltimore Beltway (I-695), on the northwest side by Perring Parkway, on the northeast side by Joppa Road and Satyr

Hill Road, and on the southeast side by Satyr Hill Road. Testimony indicated the "anchor" tenant for the shopping center, which was originally constructed in the early 1960s, was the Korvette's store. Petitioner testified that Korvette's moved out in the middle-1980's and has since been replaced in part by a toy store chain and junior department store. At the present time, the shopping center also includes various furniture, assorted retail, banks, theatre, and automotive uses.

Petitioners indicated the shopping center has been having difficulty despite its efforts at revitalizing its facilities due to its lack of a new "anchor" tenant and thus is currently under-utilized. In connection with upgrading the center, Petitioners are desirous of placing a Pace Membership Warehouse outlet on the premises which it believes will serve as the needed anchor tenant and draw for the Center.

This raises the principle issue in this case which is whether or not the Pace Membership Warehouse outlet is permitted in a B.L.-C.C.C. zone. As noted by Petitioners, fundamental changes have occurred in recent years in merchandizing areas. When Pace Membership Warehouse and its competitors, Makro and Price Club, first came to the Baltimore County area, there was a question as to in which zones they were permitted to operate. As a result, petitions were filed by Pace Membership Warehouse, Price Club and Makro, Inc. to approve the various operations in a M.L. zone as a matter of right. The first case was filed by Pace, the proposed tenant of this shopping center. See In Re: Petition for Special Hearing, Pace Membership Warehouse, Petition before the Zoning Commissioner for Baltimore County, Case No. 86-97-SPH. The Board of Appeals found that the type of activity which occurs at a Pace facility as described to the Board to be a wholesale not retail nature, thus the prohibition within the

B.C.Z.R. to retail outlets in an M.L. zone was found not to exclude the Pace operation. Pace was found to be permitted as of right in an M.L. zone.

Counsel has introduced the opinion of the Board in Case No. 86-97-SPH and argued that the operation of Pace has changed since the hearing was heard in April 1986 and the opinion written on May 14, 1986. At the hearing before the Board, Pace's operation was described as follows:

"a 'wholesale cash and carry membership warehouse'. The witnesses emphasized that Pace geared its operation to the wholesale distribution of products to small businesses. It was further noted that Pace is not open to the general public, that credit is not available to purchasers and that a membership is necessary to shop at Pace. Also of particular note was the packaging and marketing of Pace's products. That is, Pace sells in bulk quantities; goods are sold in those same size lots and quantities as are received from the manufacturer. Additionally, Pace does not advertise once a facility has opened and does not market its products with the same luster and puffing that surrounds retail stores. Additionally, there are no 'sales' or 'specials'. Finally, the facility's physical appearance itself is of note; it resembles the traditional high ceiling, no gloss warehouse, rather than a retail facility." (Page 2 of the Board of Appeals' Opinion in Case No. 86-97-SPH.)

The present operation of Pace was described by Mr. Owens. He indicated he has been Warehouse Director/Manager of the Pace located off of Security Boulevard for the past two years. Mr. Owens testified since March, 1986, Pace has had a premier membership which entitles any member of the general public to shop at the store after paying the membership fee of \$25. Additionally, there are the business and group members noted in the earlier hearing. Mr. Owens testified that the premier membership accounts for approximately 64% of the members utilizing the facility at Security Mall while the individual group accounts for approximately 21% and the business members approximately 18% to 20% at Security Mall.

(Note: These figures exceed 100% but were provided as approximations only by Mr. Owens). Mr. Owens testified that Pace would expect similar percentages at the proposed location. He indicated that the Security store has a grocery section where one can purchase a gallon of milk and fresh meats. With respect as to whether there had been any changes since the hearing and the advertisement of memberships, Mr. Owens testified that advertisement is "nominal", but brochures are mailed to members and targeted groups 4 to 5 times a year, as well as the general public at the time of the general opening. He indicated that Pace was studying the acceptance of credit. The building and the sale of items in bulk has not changed.

Petitioners further argued the uses are similar to a department store and/or a Caldor which are permitted in a B.L. zone. To support this position, Mr. Owens testified advertisements in various cities are placed under department stores in the yellow pages and that the government agencies, for example, the Fire Department, in the locations of the various stores and pose the same standards that would be imposed for a department store.

In reviewing the Board's decision in Case No. 86-97-SPH, the Board examined the definition of a wholesale and retail operation as defined in common useage and at law as the words are not defined in the zoning regulations. Since that case, the zoning regulations have been amended by Bill No. 149 in 1987 and direct that when any word is not defined in Section 101 of the B.C.Z.R. the words "shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New Dictionary of the English Language Unabridged". Said dictionary defines retail as "the sale of commodities or goods in small quantities to ultimate consumers - opposed to wholesale". Wholesale is defined as "the

sale of goods or commodities in quantity usually for resale". Clearly, the testimony presented here is that the use has characteristics of both a retail and a wholesale use, probably a hybrid use as suggested by Counsel for Petitioner. Many of the factors addressed by the Board remain the same. Products are sold in bulk, Pace has not proposed any changes to the facility, nor has it suggested or foreclosed the possibility of a Pace store in the M.L. zone.

As Counsel noted, the issue of the appropriate zone for placement of the proposed use has been examined by the Planning Board subsequent to the earlier decisions rendered in Pace, Price Club and Makro, Inc. In May, 1988, the Planning Board recommended that the County Council define membership warehouse clubs and permit said use as of right in a B.M. and M.L. zones. The definition proposed by the Planning Board did, at that time, limit membership warehouse clubs to "an organization which sells goods only to customers who have obtained a membership in the organization, and whose primary purpose is the wholesale distribution of goods to small businesses". The recommendations have not been adopted as of this date. Further, it should be noted that in October, 1989, the Director of Planning suggested that the Planning Board re-examine their original recommendations to Council in that the marketing strategies for membership warehouse clubs have changed. The Director of Planning questioned the accuracy of the originally proposed definition stated above as he noted that currently the "membership warehouse clubs offer discounts to consumers buying for home use." (See Letter dated October 2, 1989 from P. David Fields, Secretary of the Planning Board, to Harold Reid, Chairman of the Planning Board attached to Petitioners' memorandum filed in this case.) The revised amendments do not propose the use be permitted as of right in

a B.L. and/or B.L.-C.C.C. zone as the case presents here but be permitted in the B.M. and M.L. zones.

Since the cases presented in 1985 and 1986 by Pace, Makro, Inc. and Price Club, the zoning regulations have been interpreted to permit the use in a M.L., B.M. and B.R. zones.

The most expedient decision in this instance would be to find that the use is retail and is permitted as of right; however, to do so would require ignoring the earlier decision and encourage petitioners to present facts which would meet their immediate needs. Further, and most importantly, it is my firm belief that it is the role of the Deputy Zoning Commissioner simply to interpret the regulations, not to create them. The Deputy Zoning Commissioner cannot grant relief which is not permitted under the zoning regulations. To do so would usurp County Council's legislative powers which clearly is not the function of the Deputy Zoning Commissioner. The function is limited to interpreting and implementing the B.C.Z.R. as enacted by the County Council.

While the findings in this case may not be favored by Petitioners and others, as it is undisputed at this time that it would rejuvenate the shopping center, it is important that the process be followed. The decision should not be rendered based upon the desired outcome.

In conclusion, the Pace operation as proposed is not permitted in the B.L.-C.C.C. zone under the current regulations. In my opinion, under the current regulations and under the facts presented by Pace Membership, the use is still primarily wholesale as determined by the Board and would be permitted as of right in the M.L., B.M., and B.R. zones. It is permitted in the M.L. zones pursuant to Section 253.1B.15 of the B.C.Z.R. which reads:

"storage, warehouse and/or wholesale distribution of any product whose sale (retail or wholesale) for final processing or production is permitted as of right as a principle use in an M.L. zones."

Pursuant to Section 233.2, Warehouses, and Section 236.1 the use is permitted in B.M. and B.R. zones, respectively. Said Sections permit warehouses. A warehouse is defined under Section 101 of the B.C.Z.R. to include the storage of goods sold wholesale from the premises.

For the reasons set forth above, the relief requested in the Petition for Special Hearing shall be denied. In light of the relief requested in the other Petitions being contingent upon a favorable finding in the special hearing, the testimony will not be examined and the relief requested herein shall also be denied.

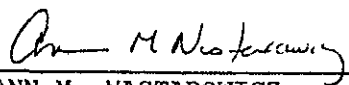
Pursuant to the advertisement, posting of the property, and the public hearing on these Petitions held, the relief requested in the Petitions for Special Hearing, Special Exception and Zoning Variance shall be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of March, 1990 that the Petition for Special Hearing to approve a Pace retail "membership" outlet in a B.L.-C.C.C. zone, the amendment of a parking variance previously granted in Case No. 71-57-A, and the amendment of the site plan previously approved in Case No. 5869-X, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to use a portion of the subject property for a service garage in conjunction with the retail "membership" outlet, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit 1703 parking spaces in lieu of the required 2278 spaces, all as

more particularly described in Petitioner's Exhibit 1, be and is hereby
DENIED.



ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

Section 101-- DEFINITIONS. [B.C.Z.R., 1955.]

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below: [B.C.Z.R., 1955; Bill No. 149, 1987.]

Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. [Bill No. 149, 1987.]

Accessory Building: One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building. [B.C.Z.R., 1955.]

Accessory Use or Structure: A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. [Bills No. 100, 1970; No. 26, 1988.]

"Acreage, Gross Residential..." {Deleted by Bill No. 100, 1970.}

After-Hours Club: A commercial establishment whose principal business is the provision of live or recorded entertainment, with or without a dance floor, which is open primarily between 11:00 p.m. and 4:00 a.m. and which does not have a Baltimore County Liquor License. An After-Hours Club is not a nightclub as defined in the zoning regulations or the Building Code of Baltimore County, Maryland. [Bill No. 85, 1994.]

Agriculture, Commercial: The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the tax-property article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes

ancillary activities such as processing, packing, storing, financing, managing, marketing, or distributing provided that any such activity shall be secondary to the principal agricultural operations. {Bill No. 51, 1993.}

Airport: Any area of land or water designed and set aside for landing or taking off of aircraft. [B.C.Z.R., 1955.]

Alley: A right of way 20 feet or less in width, designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed, which provides service access for vehicles to the side or rear of abutting property. [B.C.Z.R., 1955.]

Ambulatory: A roofed area, leading to but outside of the main entrance of a non-residential building, which may be enclosed for purposes of energy conservation and which may be used only as a passageway. [Bill No. 85, 1983.]

Ambulatory Surgical Facility (or Center): Any entity or part thereof which operates primarily for the purpose of providing surgical services to patients not requiring hospitalization and which is regulated by the state as a health care facility. [Bill No. 37, 1988.]

Amenity Open Space: The available open space on a lot minus the area used for vehicular traffic, maneuvering, and parking. In addition to uncovered ground area, the term includes such usable uncovered open area of buildings suitably improved as open space and designated by the owner for the use of occupants or the public, and, in enclosed malls in designated town centers, such usable covered open area of buildings, other than parking areas, suitably improved as open space and designated by the owner for the use of occupants or the public.

Covered open space includes exterior space which is open on its sides to weather but not open above, and which is not in excess of twice the total area of the clear, open and unobstructed portions of the open and partially open sides. The areas of roofed porches, covered exterior balconies, and exterior spaces covered by portions of buildings supported on columns or cantilevers, such as porticoes, loggia, arcades, breezeways, or galleries may be considered as covered open space if meeting the above-stated limitations.

Open ground area less than 10 feet wide may not be designated amenity open space, except that a suitably planted area as little as seven feet wide may be so designated if that area is within a parking lot. [Bills No. 111, 1968; No. 167, 1980; No. 115, 1982.]

Amenity Open Space Ratio: The total amenity open space on a lot divided by the adjusted gross floor area of buildings on the lot. [Bill No. 111, 1968.]

Amusement Devices: Pinball machines (with or without flippers), video games, electronic games, and other similar player-operated amusement games, machines and devices, but excluding

coin-operated pool tables, music boxes, children's rides, and shuffleboards. [Bill No. 29, 1982.]

Animal Boarding Place: Any building, other structure or land, or any portion thereof, which is used, intended to be used, or arranged for the boarding, breeding or other care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarian. [Bill No. 85, 1967.]

Animal Boarding Place, Class A: An animal boarding place exclusively for dogs, cats, birds, and/or other household pets. [Bill No. 85, 1967.]

Animal Boarding Place, Class B: Any other animal boarding place not excluded under the general definition of "Animal Boarding Place", above. [Bill No. 85, 1967.]

Antenna, Long-wire: A single, flexible wire not thicker than 12-gauge, stretched between two stationary insulators and used as an antenna for the transmission and/or reception of broadcast signals. [Bill No. 61, 1967.]

Antenna, Rigid-structure: Any exterior wireless antenna other than a long-wire antenna. [Bill No. 61, 1967.]

{"Apartment Building..." } {Deleted by Bill No. 2, 1992.}

{"Apartment, Group-house..." } {Deleted by Bill No. 2, 1992.}

{"Apartment House..." } {Deleted by Bill No. 111, 1968.}

Arcade: A building or part of a building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained. [Bill No. 29, 1982.]

Area, Net: Land area not including area of land in public streets or other fee-simple public rights of way. [Bill No. 40, 1967.]

Arterial Street: A motorway or portion thereof which: is, or is intended, for travel to or from major employment centers, such as town centers; has or is intended to have, four or more lanes for moving traffic; is, or is intended to be, designed for traffic speeds of at least 40 miles per hour; has or is intended to have, a right of way at least 66 feet wide; is not a freeway or an expressway; and has been designated as an arterial street (or as a boulevard or thoroughfare) by the planning board. [Bill No. 40, 1967.]

Assisted Living Facility: A building, or a section of a building, or a residence that provides: 1) a residential environment assisted by congregate meals, housekeeping, and personal services, for persons 62 years of age or older, who have temporary or periodic difficulties with one or more essential activities of daily living, such as feeding, bathing, dressing or mobility, and for persons, regardless of age, who have physical or developmental disabilities; or

2) three daily meals in a family setting, housekeeping, and personal services such as assistance with bathing, dressing or laundry for no more than 15 persons 62 years of age or older, and which satisfies and complies with Section 432 of these regulations. Such a facility must be certified or licensed by the Maryland Office of Aging as is otherwise required in COMAR, Title 14.11.07, and {Bill No. 188, 1993.}

A. Where such services are located in a converted dwelling or other building that has not been enlarged to accommodate the facility by more than 25% of ground floor area within a period of five years prior to the date of application, it shall be referred to in these regulations as assisted living facilities Class A. {Bill No. 188, 1993.}

B. Where such services are located in a new building constructed for that purpose or in a dwelling or other building that has been enlarged to accommodate the facility by 25% or more of ground floor area within a period of five years prior to the date of application, it shall be referred to in these regulations as assisted living facilities Class B. {Bill No. 188, 1993.}

For the purposes of these regulations, this definition does not include: 1) a room or dwelling unit containing a complete kitchen, including a stove, intended for the daily preparation of meals for the resident; or 2) the provision of personal, housekeeping and congregate meal services in housing for the elderly, in a multi-family building or in other dwellings designed with complete kitchens in individual units. Density for such facilities shall be calculated at 0.25 for each bed. {Bill No. 188, 1993.}

Any such facility which is not covered by another chapter of the National Fire Protection Association Life Safety Code, 1991 Edition, shall comply with Chapter 22 of said code, entitled Residential Board and Care Occupancies. However, a facility with less than four persons who are capable of self-preservation and prompt evacuation is exempt. [Bills No. 36, 1988; No. 188, 1993.]

Bank: The term "bank" includes bank station, building and loan association, savings and loan association, credit union, and similar chartered financial institutions. The term also includes automatic teller machines or banking devices and drive-through banking facilities except as limited by the use listing in any zone where a bank is permitted. [Bills No. 13, 1980; No. 191, 1990.]

Basement: That portion of a building below the first floor, the floor of which is less than one-half of the height of the room below the average grade of the adjoining ground (see definitions of "Cellar and Story"). [B.C.Z.R., 1955.]

Bed and Breakfast Home: A home occupation that provides one to three rooms (limited to two persons or one family per unit/room) for occasional paying guests on an overnight basis for periods not to exceed 14 days with breakfast being available on premises at no

additional cost. A bed and breakfast home is allowable only in a building originally constructed as a one-family dwelling pursuant to the provisions and procedures prescribed in Section 402D of these regulations. [Bill No. 113, 1988.]

Bed and Breakfast Inn: A tourist home that provides four to twelve rooms (limited to a maximum of 16 persons) for paying guests on an overnight basis for periods not to exceed 14 days with breakfast being available on premises at no additional cost. A bed and breakfast inn is allowable only in a building originally constructed as a one-family dwelling pursuant to the provisions and procedures prescribed in Section 402D of these regulations. [Bill No. 113, 1988.]

Bedroom: The term "bedroom" includes a bedroom, any other room used principally for sleeping purposes, an "all-purpose room," a study, or a den, provided that no room having less than 100 square feet of floor area shall be considered a bedroom. [Bill No. 100, 1970.]

Billiard or Pool Room: A business establishment where the principal use is the playing of pool or billiards and at least 75 percent of the net floor area of the establishment's interior space is devoted exclusively to this use. The net floor area does not include space that is not available for use by the public. [Bill No. 30, 1983.]

Boarding or Rooming House: A building:

- A. 1. Which is the primary residence of the owner and in which rooms with or without meals are provided, for compensation, to three or more adult persons not related by blood, marriage or adoption to the owner; or
2. Which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other.
- B. The term does not include a hotel, motel, apartment building, or a facility for foster care (as defined in the Family Law Article, Section 5-501(F) of the Annotated Code of Maryland and COMAR 07.02.17). The term does include a care home (as defined in the Health General Article, Section 19-307(B) of the Annotated Code of Maryland. {B.C.Z.R., 1955; Bills No. 44, 1982; No. 124, 1993.}

Boat Yard: A commercial or non-profit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling, and general servicing of marine craft of all types. [Bill No. 64, 1963.]

Building: A structure enclosed within exterior walls or fire-walls for the shelter, support, or enclosure of persons, animals, or property of any kind. [B.C.Z.R., 1955.]

Building Height: The height of the highest point on a building or other structure as measured by the vertical distance from the highest point on the structure to the horizontal projection of the closest point at exterior grade. In instances where it is obvious that the exterior grade has been artificially built up above natural or surrounding finished grade, the vertical distance will be measured by projecting the natural or surrounding finished exterior grade to the closest point (foundation wall). [Bill No. 151, 1988.]

Building Line: The line established by law beyond which a building shall not extend. [B.C.Z.R., 1955.]

Building Materials Storage and Sales Yard: The use of any space, whether inside or outside a building used principally for the storage or sale of building materials or supplies. [Bill No. 149, 1987.]

Bus Terminal: A station for common carrier vehicles having a carrying capacity of ten or more passengers. In addition to providing passenger services such as ticket sales, boarding and alighting, a bus terminal has areas for short term storage of busses during layover periods not exceeding one night. This definition does not include mass transit administration vehicles or Baltimore County public school busses. [Bill No. 91, 1990.]

Car Wash: An area of land and/or a structure with machine or hand-operated facilities used for the cleaning, washing, polishing, or waxing of motor vehicles as a principal or accessory use. [Bills No. 108, 1964; No. 172, 1993.]

Car Wash, Full-Service: A car wash providing automated exterior washing or waxing services, or which provides cleaning, washing, waxing, drying, or interior cleaning by hand. For the purpose of these regulations, a facility which provides complete interior and exterior detail cleaning that takes more than approximately two hours per car shall not be considered a full-service car wash. [Bill No. 172, 1993.]

Car Wash, Roll-Over: A car wash where exterior-only cleaning, washing or waxing services are provided on a roll-over basis with the vehicle in a stationary position during the servicing. [Bill No. 172, 1993.]

Car Wash, Self-Service: A car wash where equipment or facilities are provided for the self-service cleaning and washing of motor vehicles. [Bill No. 172, 1993.]

Catering Hall: A facility or part of a facility used regularly for serving beverages and food to groups which reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant. [Bill No. 110, 1993.]

Cellar: That portion of a building below the first floor, the floor of which is more than one-half the height of the room below the average grade of the adjoining ground (see definition of "Basement"). [B.C.Z.R., 1955.]

Collector Street, Major: A street, or a part of one, that: is intended for travel between neighborhoods or between neighborhoods and other places, but not for travel within neighborhoods; is not an arterial street; and has been designated as a major collector street by the planning board by the same method used to designate freeways, expressways, and arterial streets. [Bill No. 18, 1976.]

Collection Trailer: A trailer whose express purpose is to accommodate the collection of recyclable items for the good of the general public by:

- (a) Reducing the amount of waste to be picked up and disposed of by the county;
 - (b) Reducing roadside litter, and;
 - (c) Encouraging the conservation of energy (see Section 415B).
- [Bill No. 154, 1982.]

Commercial Film Production: The shooting of film or video tape on location in a natural setting for the purpose of producing a feature-length movie, made-for-television movie, television series, documentary, commercial advertisement, industrial film, or commercial still photograph. This term shall not include the shooting of current news events or filming, videotaping, or photography in a studio. [Bill No. 57, 1990.]

"Commercial Fishing, Crabbing and Shellfishing Operation..." {Deleted by Bill No. 98, 1975.}

"Primary and Secondary..." {Deleted by Bill No. 30, 1978. (see Fishing and Shellfishing Facility) Section 101.}

Commercial Recreational Facilities: Facilities whose principal purpose is to provide space and equipment for non-professional athletic activities. A commercial recreational facility includes, but is not limited to a health or athletic club; baseball-batting range or cage; golf-driving range; putting green; miniature golf; athletic field; swimming pool; skating rink or course; baseball, racquetball, tennis or squash court; bowling alley; archery range or similar facility or any combination of the above. For the purpose of these regulations, a commercial recreational facility shall not include a rifle, pistol, skeet, or trap range, go-cart course, amusement park, or similar use. {Bill No. 176, 1994.}

"Commercial Motorway, Class I..." {Deleted by Bill No. 172, 1993.}

"Commercial Motorway, Class II..." {Deleted by Bill No. 172, 1993.}

Commercial Vehicle: Any vehicle with a gross vehicle weight or gross combination weight over 10,000 pounds, or any vehicle, regardless of weight, which: (1) is used for the transportation of materials, products, freight, other vehicles, or equipment in furtherance of any commercial activity; or (2) is used "for hire"; or (3) displays advertising thereon. Identification of the vehicle's manufacturer model or dealer shall not be considered as advertising. Commercial vehicles shall not be deemed to include any farm vehicle or farm equipment actually and regularly used on a farm, satellite farm, or farmette; school or church vehicle located at a civic, educational, social, recreational, or religious institution; recreational vehicle as defined in Section 101; trailer (or mobile home) as defined in Section 101; vanpool or historic vehicle as registered with the state motor vehicle administration. As used herein, gross vehicle weight or gross combination weight means the weight recorded by the state motor vehicle administration on the vehicle's registration certificate or recorded by the manufacturer on the certificate of origin if no specific weight is recorded on the registration certificate. {Bill No. 70, 1988}

{"Community..." } {Deleted by Bill No. 3, 1992.}

Community Care Center: A small-scale facility, sponsored or operated by a private charitable organization or by a public agency and licensed by the Maryland State Department of Health and Mental Hygiene or by the Maryland State Department of Social Services, for the housing, counseling, supervision, or rehabilitation of alcoholics or drug abusers or of physically or mentally (including emotionally) handicapped or abused individuals who are not subject to incarceration or in need of hospitalization. [Bill No. 142, 1979.]

Compartmentalized Warehouse Establishment: A building consisting of individual, small, self-contained units that are leased or owned for self-service storage of business or household goods. [Bill No. 46, 1992.]

Conservancy Area: The portion of a rural cluster development which contains significant natural or historic features and which has been dedicated through deed restriction and easements for continued farming, forestry, or open space use in order to remain largely undisturbed. {Bill No. 113, 1992.}

Construction Equipment Storage Yard: The use of any space, whether inside or outside a building for the storage of construction equipment or machinery, including landscaping equipment and associated materials. [Bill No. 149, 1987.]

Continuing Care Facility: A building or group of buildings that contains dwelling facilities for assisted living, and facilities for convalescent or nursing care on the same site, where occupancy of the facility is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older. [Bill No. 36, 1988.]

Contractor's Equipment Storage Yard: The use of any space, whether inside or outside a building for the storage or keeping of contractor's equipment or machinery, including building materials storage, construction equipment storage, or landscaping equipment and associated materials. [Bill No. 149, 1987.]

Contractor's Office: A room or group of rooms for conducting the business affairs of a building trade. [Bill No. 149, 1987.]

Contractor's Shops: Establishments for trades involved in the installation and servicing of items whose use is related to the construction, improvement or maintenance of buildings or landscaping of grounds. [Bill No. 149, 1987.]

Controlled-Environment Structure: A temporary or permanent structure enclosed by glass or plastic, utilized exclusively to cultivate plants, to protect plants from the elements, or to produce plants out of season. {Bill No. 41, 1992.}

Convenience Store: A retail establishment which primarily sells refrigerated products, household items, carry-out food products or prepackaged frozen, chilled, or sealed foods and meals, that may be heated by the customer at the premises, but are generally eaten off-site. A convenience store does not exceed a gross floor area of 5,000 square feet and is usually open for at least 12 hours in a 24 hour period. {Bill No. 86, 1994.}

Country Club: A 9 or 18-hole golf course with a clubhouse and other appropriate facilities, which may include other recreational facilities (see Section 406A). [Bill No. 62, 1978.]

Country Inn: A bed and breakfast inn that also contains a full-service restaurant which also serves the general public. A country inn is allowable only in a building originally constructed as a one-family dwelling pursuant to the provisions and procedures prescribed in Section 402E of these regulations. [Bill No. 113, 1988.]

County Trucking-Facilities-Development Officials: A committee consisting of the county administrative officer, as chairman; the directors of planning, public works, permits and licenses, and traffic engineering; and the director of the industrial development commission; or their respective designees. [Bill No. 18, 1976.]

["Density, Gross..."] {Deleted by Bill No. 106, 1963.}

["Density, Gross Residential..."] {Deleted by Bill No. 100, 1970.}

["Density, Net..."] {Deleted by Bill No. 100, 1970.}

Density Unit: An expression of extent or density of dwelling use as related to number of rooms in, or type of, dwelling unit, so that:

Each efficiency apartment is equivalent to 0.50 density unit;

Each 1-bedroom dwelling unit is equivalent to 0.75 density unit;

Each 2-bedroom dwelling unit is equivalent to 1.00 density unit;

Each dwelling unit with 3 or more bedrooms is equivalent to 1.50 density units; [Bill No. 100, 1970.]

Design Provisions, Adopted: Design provisions adopted by the planning board under the authority of Section 504.1 of these regulations. [Bill No. 98, 1975.]

Diametral Dimension (of a lot): The diameter of the largest circle that may be inscribed within lot lines. [Bill No. 98, 1975.]

Disabled Person: Any person who at the time of the filing of a petition for special exception for a home occupation of a disabled person has been determined to be disabled or handicapped pursuant to the provisions and procedures prescribed in Subsection 13-616(A)(1) of the transportation article of the Annotated Section 13-616(A)(1) of the Transportation Code of Maryland, 1977 Volume, 1980 Cumulative Supplement, as amended; in U.S.C.A. Sec. 416; in 29 U.S.C.A. Sec. 715; or in 42 U.S.C.A. Sec. 6001 (7). [Bill No. 27, 1981.]

Drive-in Cluster, Planned: An integral commercial development for which an overall plan has been approved by the office of planning and zoning and which: is under common ownership or control; is on a site at least three acres in net area; has at least 500 feet of lot frontage on arterial streets; and is devoted primarily to drive-in uses or other vehicle-oriented establishments, with vehicular access to any use in the development solely from service drives on the site. [Bill No. 40, 1967.]

Drive-in Restaurant: A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles. [Bill No. 40, 1967.]

Duplicating Service Business: A business establishment containing no more than 3,000 square feet of net floor area where the principal use is the provision of quick-copy duplicating and printing of reports, resumes, correspondence, office forms and other similar services to businesses and individuals. For the purpose of this definition, the term net floor area includes selling and working space and accessory storage areas, but it does not include areas intended and utilized for permanent uses such as sanitary facilities, stairwells, heating equipment, fire corridors and enclosed parking. The term duplicating service business does not include any printing operation which uses a press larger than 17 x 24 inches (maximum sheet size). [Bill No. 117, 1983.]

Durable and Dustless Surface: A surface adequately covered in accordance with good practice with bituminous surface treatment, concrete, bituminous concrete, or equivalent paving material approved by the zoning commissioner, and maintained in good condition at all times. The words "equivalent paving material" as used herein mean any alternative paving material that, in the judgement of the zoning commissioner, will, in the case of a particular property or use, allow for equal or better results in preventing dust, erosion, or other undesirable conditions. [Bill No. 26, 1988.]

Dwelling: A building or portion thereof which provides living facilities for one or more families. [B.C.Z.R., 1955.]

Dwelling, Alternative Site Design: A dwelling sited on a zero lot line or zipper lot, patio house or neo-traditional dwelling as prescribed in the Comprehensive Manual of Development Policies. [Bill No. 2, 1992.]

["Dwelling, Duplex", "Dwelling, Group House", "Dwelling, One Family", "Dwelling, Semi-detached", and "Dwelling, Two-Family..."]
[Deleted by Bill No. 100, 1970.]

Dwelling, Single-Family Detached: A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. [Bill No. 2, 1992.]

Dwelling, Two-Family: A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. [Bill No. 2, 1992.]

Elderly Housing Facility: The term elderly housing facility includes an assisted living facility, a continuing care facility, and Class A or Class B housing for the elderly. [Bills No. 36, 1988; No. 188, 1993.]

Enclosed Mall: A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). [Bill No. 29, 1982.]

Environmental Impact Statement: A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

1. A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact.
2. Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action.
3. Any adverse environmental effects that cannot be avoided.
4. Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives.
5. An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity.
6. Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98, 1975.]

Excavations, Uncontrolled: The digging of soil, sand, gravel, rock, minerals, clay, or other earthen material from a land surface for any of the following purposes:

1. When incidental to the operation of a permitted business or manufacturing use located on the same property, but excluding any digging of material for sale, exchange, processing, or manufacture;
2. For grading or other purposes incidental to improvement of the land;
3. When incidental to the development of land or to grading for public improvements. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Excavations, Controlled: All types of excavations other than those defined above as "Excavations, Uncontrolled". [B.C.Z.R., 1955.]

Expressway: A motorway or portion thereof which: is, or is intended, for intra-metropolitan travel of varying distances; has or is intended to have a center median strip and a total of four or more lanes for moving traffic; is designed or intended for traffic speeds of at least 55 miles per hour; has no direct access to individual uses on abutting private property; and has been designated as an expressway by the planning board. [Bill No. 40, 1967.]

Face-Rear Orientation: Orientation of a building (automotive service station) in such a manner that the pumps, openings to the service bays, etc., face away from any street and toward the rear of the site. [Bill No. 40, 1967.]

Face-Side Orientation: Orientation of a building (automotive service station) in such a manner that the pumps, openings to the service bays, etc., face away from any street and toward a side of the site. [Bill No. 40, 1967.]

Family: Any number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel. [B.C.Z.R., 1955.]

Family Child Care Home: A private residence wherein care, protection, and supervision is provided for a fee for part or all of a day at least twice a week to no more than eight children at one time including children of the adult provider. The operator of a family child care home shall hold at least one fire drill each week for the benefit of the children (see Section 424). [Bills No. 47, 1985; No. 7, 1991.]

Farm: Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, firewood operations, and horticultural nursery businesses. {Bills No. 85, 1967; No. 51, 1993.}

{"Farm..." } {Deleted by Bill No. 51, 1993.}

Farm (Limited-Acreage Wholesale Flower Farm): A limited-acreage wholesale flower farm is less than three acres of land, and any improvements thereon and is primarily used for the growing of flowers and small plants and their wholesale distribution. [Bills No. 85, 1967; No. 41, 1992.]

{"Farm, Satellite..." } {Deleted by Bill No. 51, 1993.}

{"Farmers' Co-op Roadside Stands..." } {Deleted by Bill No. 41, 1992.}

Farmer's Roadside Stand: An accessory structure owned and operated by an agricultural producer, used for the sale of indigenous farm products, the majority of which have been grown on the premises, adjacent land, or on properties farmed by the same agricultural producer. [B.C.Z.R., 1955; Bill No. 41, 1992.]

{"Farmette..." } {Deleted by Bill No. 51, 1993.}

{"Farming..." } {Deleted by Bill No. 85, 1967.}

Farm Market: An accessory or principal building or structure other than a dwelling which is used by one or more farmers for the sale of produce grown primarily on their own farms or for the sale of other locally grown produce. A farm market may sell a limited amount of locally produced non-agricultural goods such as handcrafted items, homemade baked goods, homemade preserves, jams, and processed dairy products. {Bill No. 41, 1992.}

Firewood Operation: The business of processing wood so that it can be marketed and burned as fuel. Such operations include, but are not limited to, harvesting, transporting, yarding, seasoning, marketing, shipping and receiving of logs and firewood. A farm which limits the processing and marketing of firewood to owner-produced forestry resources shall not be considered a firewood operation. {Bill No. 151, 1992.}

Fishing and Shellfishing Facility, Shoreline: A principal use that consists of the buildings, equipment, or other facilities necessary to accommodate the onshore activities of a fishing and shellfishing business (including retailing or wholesaling of the catches) and that is situated on a lot on the shoreline of tidal waters. [Bill No. 30, 1978.]

Fishing and Shellfishing Facility, Shoreline, Class I: A shoreline fishing and shellfishing facility that can accommodate a fishing business no larger than that entailing the use of not more than two commercial fishing boats and that is situated on a lot also occupied by the primary residence of its operator, who is a person required to have a license by any of the provisions of Title 4 of the Natural Resources Article of the Annotated Code of Maryland. For the purposes of these regulations, a "commercial fishing boat" does not include a boat more than 45 feet long. [Bill No. 30, 1978.]

Fishing and Shellfishing Facility, Shoreline, Class II: A shoreline fishing and shellfishing facility other than a Class I shoreline fishing facility. [Bill No. 30, 1978.]

Floodplain, 100-year: The 100-year floodplain includes all of the land that is adjacent to a watercourse and that would be inundated by a flood whose severity is such that the probability of its occurring once during a given year is considered to be 1%. [Bill No. 98, 1975.]

Floor Area, Adjusted Gross: The sum of the gross areas of the several floors of a building or buildings on a lot, measured from the exterior faces of exterior walls. In particular, adjusted gross floor area includes:

- (a) Basement space, unless it is specifically excluded under another provision of this definition;
- (b) Elevator shafts or stairwells at each floor;
- (c) Attic space (whether or not a floor is exterior faces of exterior walls.

In particular, adjusted gross floor area includes:

- (a) Basement space, unless it is specifically excluded under another provision of this definition;
- (b) Elevator shafts or stairwells at each floor;
- (c) Attic space (whether or not a floor is laid) with structural headroom of seven feet or more;
- (d) Floor space of interior balconies or mezzanines;
- (e) Except in an O-2 zone [Bill No. 126, 1986], above-grade floor space used for accessory off-street parking spaces; and
- (f) Any other floor space not specifically excluded.

The adjusted gross floor area of a building shall not include:

- (a) Water tanks, cooling towers, or elevator or stair bulkheads;
- (b) Uncovered steps;
- (c) Attic space with structural headroom of less than seven feet;
- (d) Floor space on exterior unenclosed balconies, terraces, or other open areas;
- (e) Below-grade floor space upon which are situated accessory heating or air conditioning plants or other accessory mechanical or electrical utility equipment; and
- (f) Below-grade floor space used for accessory off-street parking spaces.

As used in this definition, the terms "above-grade" and "below-grade" shall refer to the grade of the street to which the major pedestrian access is established, at the place of access. [Bill No. 111, 1968.]

Floor Area, Gross: The sum of the gross horizontal areas of all floors of a building, measured from the exterior faces of exterior walls and from the center line of walls separating two or more buildings, but not including floor space used for off-street parking, or any space where the floor-to-ceiling height is less than six feet. This term does not include any floor space in a basement or cellar which is used exclusively for storage or upon which are situated accessory heating or air conditioning equipment or other accessory mechanical or electrical utility equipment, nor does it include any floor space in an atrium or lobby which is not leasable to or occupied by individual tenants. [Bill No. 26, 1988.]

Floor Area Ratio: The total adjusted gross floor area of buildings on a site divided by the gross area of the site. [Bills No. 56, 1961; No. 111, 1968.]

Freeway: A motorway or portion thereof which: is, or is intended, for both intra- and inter-metropolitan travel; has or is intended to have a center median strip and a total of four or more lanes for moving traffic; is designed or intended for traffic speeds of at least 60 miles per hour; has no access to abutting private property; has no grade intersections with other motorways; and has been designated as a freeway by the planning board. [Bill No. 40, 1967.]

Fuel Service Station: A structure or land used or intended to be used for the retail sale of automotive fuel, but not a truck stop. For the purpose of these regulations, any establishment which sells auto fuel retail shall be considered a fuel service station, unless it is classified as a truck stop or trucking facility. [Bills No. 40, 1967; No. 18, 1976; No. 172, 1993.]

Fuel Servicing Space: On a fuel service station site, any one of the maximum number of spaces on which cars may be situated simultaneously while being fueled. [Bills No. 40, 1967; No. 172, 1993.]

Garage, Community: A structure or series of structures for the storage of automobiles of residents of the neighborhood, and not used for making repairs. [B.C.Z.R., 1955.]

Garage, Residential: An accessory building, portion of a main building, or building attached thereto, used for storage of private motor vehicles. [B.C.Z.R., 1955; Bill No. 70, 1988.]

Garage, Service: A garage, other than a residential garage, where motor-driven vehicles are stored, equipped for operation, repaired, or kept for remuneration, hire or sale. [B.C.Z.R., 1955.]

Garden Center: A place of business where garden related products, horticultural materials or produce are sold to the retail customer. A garden center may include a nursery or controlled environment structures. [Bill No. 41, 1992.]

Gross Leasable Area (GLA): The total floor area of a building for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use. Gross leasable area does not include public or common areas which are not leasable to individual tenants; e.g., enclosed pedestrian concourses in shopping malls. [Bill No. 26, 1988.]

Group Child Care Center: A building or structure wherein care, protection and supervision is provided for part or all of a day, on a regular schedule, at least twice a week to at least nine children including children of the adult provider (see Section 424). [Bills No. 47, 1985; No. 7, 1991.]

Group Child Care Center, Class A: A group child care center wherein group child care is provided for no more than 12 children at one time. [Bill No. 47, 1985.]

Group Child Care Center, Class B: A group child care center wherein group child care is provided for more than 12 children. [Bill No. 47, 1985.]

Group House: A group of not less than three attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling unit separated from another by a party wall. Group houses include town-house apartment buildings, group-house apartment buildings, back-to-back group houses, and other groups of at least three attached dwellings. A group house does not include a duplex or semi-detached dwelling. A single-family group house refers to any one dwelling within the attached group. [Bills No. 100, 1970; No. 2, 1992.]

Group House, Back-To-Back: A group house which is attached to two or more other dwelling units by a side and rear party wall. [Bill No. 2, 1992.]

Helicopter: Any rotary-wing aircraft which depends principally for its support and motion in the air on the lift generated by one or more power-driven rotors rotating on substantially vertical axes. [Bill No. 85, 1967.]

Helicopter Operation: A landing and take-off by a helicopter. [Bill No. 85, 1967.]

Heliport, Type I: Any area of land, water or structural surface which meets the design standards of the Federal Aviation Agency and has been authorized by the Maryland State Aviation Commission⁵ to be used for scheduled operations by helicopter carriers certified by the Civil Aeronautics Board. [Bill No. 85, 1967.]

Heliport, Type II: Any area of land, water, or structural surface which has been authorized by the Maryland State Aviation Commission⁶ to be used for non-scheduled but regular helicopter operations, and which does not serve for major support operations. As used herein, the term "major support operations" means "maintenance other than fueling; cargo loading; or any accessory operations using 2,500 square feet or more of floor area." [Bill No. 85, 1967.]

Helistop: Any area of land, water, or structural surface which is located at least 500 feet from any property line, which has been authorized by the director of public safety⁷ to be used for helicopter operations, which is not a heliport, and which does not serve for major support operations (see definition for "Heliport, Type II"); or any area of land, water or structural service⁸ which is located closer than 500 feet to a property line, which has been authorized by the director of public safety⁹ to be used for not more than 15 helicopter operations per month, which is not a heliport, and which does not serve for major support operations. [Bill No. 85, 1967.]

Hereafter: After the effective date of the provision (in which the word occurs). [Bill No. 98, 1975.]

Home Occupation: Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A "Home Occupation" does not include fortune-telling. [B.C.Z.R., 1955, Bills No. 124, 1978; No. 27, 1981.]

Hospital: An institution which is licensed as a hospital by the state and which receives inpatients and provides medical, surgical, psychiatric or obstetrical care. This term includes any health-related facilities which are established in connection with a hospital and are located on the same site as the hospital. Such health-related facilities shall include, but not be limited to, diagnostic facilities, rehabilitation centers, laboratories, training facilities, outpatient care facilities, facilities for chronic or convalescent care, and elderly housing facilities. [B.C.Z.R., 1955; Bill No. 37, 1988.]

["Hospital, Class A" and "Hospital, Class B..."] {Deleted by Bill No. 100, 1970.}

Hotel or Motel: A building or group of buildings containing guest rooms or units, where, for compensation, lodging is provided on a daily, weekly, or similar short-term basis. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations on a short-term basis such as an apartment hotel. A hotel or motel may contain restaurants, meeting rooms, recreation facilities, lounges, retail shops, and personal services as ancillary uses. [B.C.Z.R., 1955; Bill No. 82, 1984.]

Housing for the Elderly: Class A: A building, a section of a building, or a group of buildings that contains dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or to couples where either the husband or wife is 60 years of age or older, and to any person, regardless of age, who has a physical or developmental disability. Class A housing for the elderly is constructed under the applicable provisions of a federal or state housing or tax act.

Class B: A building, a section of a building, or a group of buildings that contains dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or to couples where either the husband or wife is 60 years of age or older and to any person, regardless of age, who has a physical or developmental disability. Class B housing for the elderly is not constructed under the provisions of a federal or state housing or tax act. [Bill No. 36, 1988.]

Indigenous Crops: Produce which can be grown in the area under natural conditions, without the help of controlled-environment structures. [Bill No. 41, 1992.]

Industrial Park, Planned: An integral industrial development for which an overall plan has been approved by the office of planning and zoning, and which is under common ownership or control. [Bill No. 40, 1968.]

Industrial, Quasi-industrial, or Industry-related use: Any use listed in Section 253.1.A other than Item 33; any use listed in Sections 253.1.B, 253.2.A, or Section 256.2; any manufacturing use not listed in those provisions; or any use accessory to one of those uses. [Bill No. 178, 1979.]

Industrial Service Road, Public: A motorway that is owned or maintained by the county, state, or federal government and:

1. That was designed for the primary or exclusive use of trucks or other vehicles traveling to or from industrial uses, or that was not originally designed for that use but, because of its relation to industrial properties, is suitable for that use; and
2. Has been officially designated as a public industrial service road by the director of traffic engineering in conformance with the criteria stated above. (Such a designation may be appealed to the board of appeals, as provided under Section 602 of the Baltimore County Charter, as amended.) [Bill No. 218, 1980.]

Infectious Waste: Any waste material or substance which is known or suspected to be contaminated with organisms capable of producing disease in humans, and as further defined in the Code of Maryland Regulations (COMAR), Title 10, Subtitle 18, Chapter 8, as amended from time to time. [Bill No. 87, 1987.]

Infectious Waste Incinerator: An enclosed device or contrivance using controlled flame combustion or heat for the thermal destruction of infectious waste or other refuse. [Bill No. 87, 1987.]

Inoperative Motor Vehicle: Any motor vehicle that cannot be operated in its existing condition because the parts necessary for operation, including but not limited to tires, windshield, engine, drive train, driver's seat, steering wheel or column, or gas or brake pedals are removed, destroyed, damaged, or deteriorated. [Bill No. 135, 1986.]

Jet-Propelled Skis: A type of watercraft which consists of self-propelled water skis designed to accommodate one or two riders. For the purpose of these regulations, jet-propelled skis shall not be considered boats or recreational vehicles. {Bill No. 54, 1993}

Junk Yard: Any land used commercially or industrially for storage or for sale of scrap metal, waste paper, rags, or other junk, and any land, except as provided for by Section 428, used for the storage of unlicensed or inoperative motor vehicles, dismantling, or storage of such vehicles or parts thereof, or used machinery, regardless of whether repair or any other type of commercial operation occurs, but excluding scrap for use in manufacturing processes on the premises or waste materials resulting from such processes or resulting from the construction or elimination of facilities for such processes. The term does not include unlicensed motor vehicles located at automotive service stations, service garages, new or used motor vehicle outdoor sales areas, or any vehicle stored pursuant to Section 405A. [Bill No. 135, 1986.]

Kennel: Any building, other structure or land, or any portion thereof, which is used, intended to be used, or arranged for the housing of more than three dogs, not counting puppies less than four months old, for purposes of show, hunting, breeding, or sale, or as pets, excluding a farm or pet shop. [Bill No. 85, 1967.]

Laboratory: A building or group of buildings used primarily for applied and development research where the product testing process is a major function of the operation, but where the operation does not involve any mass manufacturing. [Bill No. 76, 1964.]

Landscape Service Operation: An operation primarily engaged in the designing, installing, planting or maintaining of lawns, gardens or other plantings at off-site commercial or residential uses. {Bill No. 41, 1992.}

Locally Grown Produce: Crops which have been produced in Baltimore County or its immediate vicinity. The following areas shall be considered as immediate vicinity: Maryland, Pennsylvania, West Virginia and Delaware. {Bill No. 41, 1992.}

Lot, Corner: A lot abutting on and at the intersection of two or more streets. [B.C.Z.R., 1955.]

Lot, Interior: A lot other than a corner or through lot. [B.C.Z.R., 1955.]

Lot, Through: A lot having its front and rear yards each abutting on a street. [B.C.Z.R., 1955.]

Lot Depth: The mean horizontal distance between the front and rear lot lines. [B.C.Z.R., 1955.]

Lot of Record: A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof. [Bill No. 100, 1970.]

Marina: A modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: berthing, launching, and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing, as well as the incidental sale of boats and also land (out-of-water) storage as provided in Section 417.7. [Bills No. 64, 1963; No. 149, 1992.]

["Motel or Motor Court..."] {Deleted by Bill No. 82, 1984.}

Medical Clinic: The term includes ambulatory care centers, diagnostic centers, birthing centers, and dialysis satellite units. The term does not include ambulatory surgical facilities. [Bill No. 37, 1988.]

Medical Office: A place for the treatment of outpatients by one or more medical practitioners. This term does not include a veterinarian's office, medical clinic, ambulatory care center, diagnostic center, birthing center, or dialysis satellite unit. The term does not include ambulatory surgical facilities. {Bill No. 37, 1988.}

Medical Practitioner: A physician, dentist, optometrist, chiropractor, podiatrist, psychologist, physical therapist, nurse, or other similar health professional licensed by the state. [Bill No. 37, 1988.]

Multi-Family Building: A structure containing three or more apartments. A multi-family building includes garden and other apartment buildings. {Bill No. 2, 1992.}

["Neighborhood..."] {Deleted by Bill No. 3, 1992.}

Nightclub: A tavern or other commercial establishment which provides live or recorded entertainment, with or without a dance floor, and which is categorized as a nightclub by the building code of Baltimore County. {Bill No. 110, 1993.}

Nonconforming Use: A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [B.C.Z.R., 1955; Bill No. 18, 1976.]

Nonindustrial Use: Any use other than an industrial, quasi-industrial, or industry-related use. [Bill No. 178, 1979.]

Nudity: A state of dress in which a human buttock, anus, genitalia, or female breast is completely bared. [Bill No. 137, 1990.]

Nudity, Partial: A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices. [Bill No. 137, 1990.]

Nursery, Horticultural: An agricultural operation primarily engaged in the production and marketing of trees, shrubs and plants. The plant materials may be produced on the premises and may be purchased elsewhere at any stage of maturity for further production. Horticultural nurseries may engage in accessory uses such as storage of plant materials, sale of products necessary for the health of the nursery stock, and provision of limited landscape services. A nursery which sells plant materials grown exclusively on-site and which does not offer any of the accessory services permitted at horticultural nurseries, shall be considered a farm. {Bill No. 41, 1992.}

Nursery School: A school or a level within a school providing educational instruction for children between two and four years old. [Bill No. 47, 1985.]

Nursing Home: (Formerly Convalescent Home): A facility which provides board, shelter, and nursing care to chronic or convalescent patients. This term also includes facilities which provide domiciliary care within a nursing home. [Bill No. 37, 1988.]

Office: A building or portion of a building used for conducting the affairs of a business, profession, service, industry, or government, including a medical office. The term "office" does not include a bank, a post office, a veterinarian's office, nor an establishment where merchandise is stored on or sold from the premises. [Bills No. 13, 1980; No. 167, 1980; No. 37, 1988; No. 186, 1994.]

Office Building, Class A: A principal building that was originally constructed as a one-family or two-family detached dwelling and that is converted by proper permit to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition, enclosure of a porch of a house or the addition of an exterior stairway at the side or rear of the building does not constitute external enlargement. [Bills No. 13, 1980; No. 170, 1991.]

Office Building, Class B: A principal building used for offices and which is not a Class A office building. [Bills No. 151, 1988; No. 186, 1994.]

Open Dump: Any land publicly or privately owned, other than a sanitary landfill, on which there is deposit and accumulation, either temporary or permanent, of any kind of organic or inorganic refuse, including but not limited to waste materials, waste products, waste paper, garbage, empty cans, broken glass, rags, and all other kinds of organic or inorganic refuse but excluding scrap for use in manufacturing processes on the premises, or waste materials resulting from such processes, or resulting from the construction or elimination of facilities for such processes. [B.C.Z.R., 1955; Bill No. 140, 1962.]

Open Space, Common: Local open space, public parks, or other park like open space reserved for the public use and enjoyment, whether privately owned or owned by the county, state or federal government or other agencies. Space that lies within the boundaries of an area designated as common open space and is devoted to such recreational facilities as are customarily found in public parks is considered part of the common open space. Amenity open space (as defined elsewhere in this section) is not common open space unless it is so designated by the developer of the tract on which the space is located. Upon the adoption of appropriate standards pursuant to the authority of Section 504, non-tidal streams and lakes and other non-tidal watercourses or bodies of water lying within, lying partially within, or abutting common-open-space land areas are to be considered part of the common open space to the extent permitted under those standards. Storm-drainage-reservation strips and floodplains may be designated common open space, but fenced portions of storm-water-management facilities do not constitute common open space. [Bills No. 98, 1975; No. 62, 1978; No. 167, 1980.]

Open Space Tract, Local: Land provided in residential subdivisions and necessary and desirable for the local recreational needs of residents of such subdivisions for such recreation types of spaces as play lots, local play areas, small parks, stream valley parks, natural woods, areas of unusual natural scenic beauty, recreational walkways and pathways, and special street center islands, but the term "local open space tract" shall not include the larger open space park and playfield areas of the type which serve larger than local need and which are incorporated in the master plan. [Bill No. 106, 1963.]

Or: The word "or" shall mean "and/or" unless modified by use of the word "either", or unless the context otherwise clearly indicates another meaning. [Bill No. 111, 1968.]

Out-of-Water Storage Facility, Class A: A cradle, block or berth for the land storage of one or more recreational boats, which does not provide for the vertical stacking of such vessels. {Bill No. 149, 1992.}

Out-of-Water Storage Facility, Class B: Cradles or berths for the land storage of boats that allow boats to be stored on multi-level racks, not exceeding a height of three levels. A Class B out-of-water storage facility shall be considered a structure whether it is fully or partially enclosed or open. {Bill No. 149, 1992.}

Panhandle Driveway: The paved roadway which is located within the in-fee strip area of one or more abutting panhandle lots and provides vehicular access to the local street or to a collector street. A "use in common" agreement is established if the panhandle driveway serves two or more abutting panhandle lots. [Bill No. 172, 1989.]

Panhandle Lot: A lot so shaped and situated that its only frontage or access to the local or collector street is a narrow in-fee strip of land which contains a driveway and may contain water and sewer lines and other utilities. [Bill No. 172, 1989.]

Parking Bay on a Street: See Parking Space, Off-street. [Bill No. 26, 1988.]

Parking Space, Off-street: A parking space of such dimensions as may be prescribed by these zoning regulations and located on a lot or in a parking bay on a street. As used in this definition, a "Parking Bay on a Street" is a length of paving which is laid out next to and along the paved traveled way of a street, and which serves as a parking facility for a residential use; it is not a parking lane. [Bill No. 26, 1988.]

Performance based business zones (86-94)

Pawnshop: A business which loans money on deposits of personal property, other than securities or printed evidences of indebtedness, or deals in the purchase or possession of personal property on condition of selling the same back to the pledgor or depositor. A pawnshop is licensed by the state as a dealer and defined by the state as a pawnbroker. For the purposes of these regulations, a business operated by a dealer who loans money on deposits of secondhand precious metals only, shall not be considered a pawnshop provided that the dealer does not loan money on deposits of any other kind of personal property. {Bill No. 14, 1995.}

Pet Shop: A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets, and related supplies and equipment. [Bill No. 85, 1967.]

Prime and Productive Soils: Soil types defined in the U.S.D.A. soil survey of Baltimore County issued March, 1976, and as updated, as agricultural capability Classes I, II or III. {Bill No. 113, 1992.}

Principal Arterial: A motorway, or portion thereof which:

1. Is or is intended for travel to or from major activity centers; and
2. Which is designated as such on the most recently approved federal highway functional classification map for the Baltimore urbanized area. [Bill No. 151, 1988.]

Principal Use: A main use of land, as distinguished from an accessory use. [Bill No. 100, 1970.]

Produce Stand: An accessory structure or a vehicle temporarily placed on a farm property for the sale of indigenous produce all of which has been grown or produced on that property, or on adjacent land, or on properties farmed by the same agricultural producer. [Bill No. 41, 1992.]

Rail Passenger Station: A facility designed as a place for boarding and alighting from rail passenger vehicles. A rail passenger station may include such facilities as bus bays, parking areas or taxicab stands as accessory uses. [Bill No. 91, 1990.]

Record Lot: A lot or parcel of land that has been created in accordance with the provisions of Title 22, Section 32 of the Baltimore County Code, 1968 Edition, and recorded among the land records of Baltimore County on or before the effective date of these regulations. [Bill No. 98, 1975.]

Recreational Vehicle and Boat: A vehicular type unit which is primarily designed for recreation, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, which except for a boat kept in water, is not more than 35

feet in length, and which, in general, is of such size and weight as not to require special highway movement permits when driven, or drawn by a passenger automobile or pick-up truck. The following shall be considered recreational vehicles: {Bill No. 54, 1993.}

- Motorhome: A vehicular unit built on a self-propelled motor vehicle chassis.
- Travel Trailer: A vehicular portable unit mounted on wheels, designed to be towed by a passenger automobile or pick-up truck.
- Fifth-wheel Trailer: A vehicular portable unit mounted on wheels, designed and constructed to be towed by a passenger automobile or pick-up truck fitted with a fifth-wheel hitch.
- Truck Camper: A portable unit designed to be loaded onto, or affixed to, the bed or chassis of a truck or automobile.
- Camping Trailer: A vehicular portable unit mounted on wheels and constructed with collapsible side walls which fold down for towing by another vehicle and unfold at campsite to provide temporary living quarters.
- Boat: A recreational boat with or without a trailer. If in combination with a trailer, a boat is normally towed by a vehicle. [Bills No. 29, 1974; No. 54, 1993.]

Research Institute: A building or group of buildings used primarily for basic and applied research wherein the scientific inquiry process is conducted in a manner similar to that of institutions of higher learning, and where all parts of the operation involving the development research process, e.g., product testing, are incidental to the above. [Bill No. 76, 1964.]

Residential Art Salon: A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an "original work of art" shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A "residential art salon" shall not include a photographic studio. [Bill No. 85, 1967; Bill No. 32, 1978.]

Residential Zone: A zone classified as R.C., D.R., R-O-A, or R.A.E. "zoned for residential purposes: Within a residential zone. [Bills No. 98, 1975; No. 170, 1991.]

Restaurant, Carry-Out: An establishment whose principal business is the sale of ready-to-consume food and beverages to customers who order their food and beverages over the counter, by telephone or fax machine and whose principal characteristic is that food and beverages are consumed off the premises. {Bill No. 110, 1993.}

Restaurant, Fast Food: An establishment whose principal business is to sell ready-to-consume food and beverages in disposable containers and which is not a drive-in restaurant. A fast food restaurant has some or all of the following characteristics:

- A. Prepackaged frozen, chilled, or sealed food and meals are cooked in advance for immediate sale.
- B. Food and beverages are ordered over the counter or by motorists from within their vehicles.
- C. Food and beverages are consumed on the premises of the restaurant, or within a motor vehicle on or off the premises. {Bill No. 110, 1993.}

Restaurant, Fast Food, Drive-Through Only: A fast food restaurant, as defined in Section 101, except that no customer seating is provided inside the restaurant. Food and beverages are ordered by motorists from a drive-through lane or from a walk-up window on the outside of the building, or within a vestibule. Orders are primarily consumed off the premises, but restaurants may provide seating at tables outside the building on the premises. {Bill No. 110, 1993.}

Restaurant, Standard: A facility or part of a facility use primarily for serving meals and beverages to persons seated at tables on the premises of the establishment. The term includes cafes, cafeterias, tea rooms and outdoor cafes. The term does not include a catering hall. A standard restaurant may offer a carry-out service, provided such service is accessory to the principal restaurant operations. {Bill 110, 1993.}

Restricted Parking Space: A parking space in any parking facility which is designated by the owner or operator of the parking facility as being reserved or restricted for the exclusive use of any person or class of persons at all times or during any designated time periods, and is clearly identified by a sign, located on an immediately adjacent wall or post, or by painting on the immediately adjacent wall or on the pavement within the parking space. [Bill No. 26, 1988.]

Ridesharing: A form of transportation wherein shared rides are prearranged for people traveling at similar times from approximately the same origin to approximately the same destination. This term includes carpools, vanpools, or similar arrangements where more than one person occupies a vehicle for the length of a trip. [Bill No. 26, 1988.]

Riding Stable: A building where riding horses are boarded or kept for hire. [B.C.Z.R., 1955.]

Rooming House... {Deleted by Bill No. 124, 1993.}

Rubble: Rubble means building demolition debris, tree stumps, and other land clearing debris, solidified road paving debris and other similar wastes authorized by the approving authority. Rubble does not include garbage, friable asbestos, refractory brick, liquid petroleum products, hazardous materials (as defined in COMAR 12.51.01), or free liquid. [Bill No. 97, 1987.]

Rubble Landfill: Rubble landfill means a system of rubble disposal or land reclamation for public or private use for which a permit has been issued if required. [Bill No. 97, 1987.]

Rural Cluster Development: A form of residential subdivision for use in an R.C.4 zone in which the permitted density for an entire tract is located only on a designated portion of the tract in order to preserve significant natural, scenic, or historic features. {Bill No. 113, 1992.}

Sanitary Landfill: A planned and systematic method of disposal for garbage and other wastes whereby such waste material is placed so that it is thoroughly compacted and covered at the end of each day's operation with such depth and consisting of such types of materials as are acceptable to the Baltimore County Departments of Health and Public Works, and the Maryland State Department of Health. When the fill is completed a covering of such depth and consisting of such types of materials as are acceptable to the aforesaid county and state departments shall be provided. [B.C.Z.R., 1955; Bill No. 145, 1962.]

Satellite Receiving Dish: A device used or designed to receive electromagnetic signals from earth-orbiting satellites and other extraterrestrial sources and is external to or is attached to the exterior of any building. The term satellite receiving dish includes satellite earth station, satellite television antenna, satellite dish antenna, or any other device designed to receive signals from satellites in the manner described above. For the purposes of these regulations, accessory satellite receiving dishes shall not be considered as wireless transmitting and receiving structures, rigid-structure antennas or long-wire antennas. [Bill No. 71, 1987.]

Sawmill Operation: The process whereby sawlogs are debarked and sawn into dimension lumber. Such operations include, but are not limited to, forestry and logging operations, harvesting, extracting, transporting, processing, yarding, drying, finishing, marketing and shipping of dimension lumber or ancillary products such as: firewood, slabs, edging and trim, sawdust, mulch, and chips. {Bill No. 151, 1992.}

Setback: The required minimum horizontal distance between the building line (as defined in Section 101) and the related front, side, or rear property line. [B.C.Z.R., 1955; Bill No. 138, 1962.]

Sewage Sludge Composting: Sewage sludge composting is defined as a process wherein material is produced by subjecting a mixture of sewage sludge and a bulking agent, such as wood chips, to aerobic decomposition in a manner so as to destroy primary pathogenic and malodorous components. [Bill No. 46, 1982.]

Sewerage System, Public: A sewerage system which is operated by the county or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the county or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional sewerage system. [Bill No. 100, 1970.]

Shopping Center: A group of three or more commercial uses which: (a) are designed as a single commercial group; (b) are under common ownership or control; (c) are connected by party walls, partitions, canopies or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by walkways designed to facilitate customer interchange between the uses; (d) share a common parking area; and (e) otherwise present the appearance of one continuous commercial area. This term shall not include a "shopping center, planned" as defined in this section. A grouping of predominately non-retail uses which meet the criteria specified in (a) through (e) herein shall not be deemed a shopping center. [Bill No. 26, 1988.]

Shopping Center, Planned: An integral retail shopping development for which an overall plan has been approved by the office of planning and zoning and which: is under common ownership or control; has a site at least three acres in net area; has vehicular access to physically separate buildings on the site by means of interior service drives or ways; and has no more than two points of vehicular access from the site to public streets except as follows:

1. A planned shopping center may have one additional vehicular access point to a public street for each 250 feet of street frontage thereon in excess of 500 feet; and
2. A planned shopping center may have a greater number of vehicular access points than as defined above if an overall plan for such center has been approved by the office of planning and zoning before the adoption of this definition, provided that the number of vehicular access points is not further increased after the adoption of this definition.¹⁰
[Bill No. 40, 1967.]

Sign: Any structure, part thereof, or device attached thereto or painted or represented thereon, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, warning, or designation of any

person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry, which is located upon any land, on any building, or on the outside of a window. The flag, emblem, insignia, poster, or other display of a nation, political unit, educational, charitable, religious, or similar group, campaign, drive, or event shall not be included in this definition. [B.C.Z.R., 1955.]

Sign, Business: A sign which calls attention to a business, service, industry, or other activity conducted on the premises upon which the sign is located. [B.C.Z.R., 1955.]

Sign, Outdoor Advertising: A sign which calls attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered elsewhere than on the premises upon which the sign is located. [B.C.Z.R., 1955.]

Sludge: The accumulated settled solids, deposited from sewage or non-hazardous industrial wastewater in any wastewater treatment facility tank or basin, which have been stabilized. [Bill No. 46, 1982.]

Sludge-Co-Landfilling: Co-landfilling is defined as the mixing and compacting of sludge with solid waste as part of a normal sanitary landfill operation. [Bill No. 46, 1982.]

Sludge-Handling in General: Handling in general is defined as any manner in which sewage sludge is handled, utilized, and managed or stored on land other than by incineration, composting, co-landfilling, and land spreading. [Bill No. 46, 1982.]

Sludge-Incineration: Incineration is defined as the combustion of sewage sludge in a closed system with adequate control to yield a non-putrescible ash and an air effluent of a quality permissible by law. [Bill No. 46, 1982.]

Sludge-Land Spreading: Land spreading is defined as the spreading of sewage sludge or wastewater solids on the soil surface or incorporation including injection of such material into the root zone or soil profile. [Bill No. 46, 1982.]

Sludge-Surface Impoundment: A facility or part of a facility which is a natural topographical depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) which is designed to hold an accumulation of solid waste in semi-solid or liquid form. Examples of surface impoundments are holding, storage settling, and aeration pits, ponds, and lagoons. [Bill No. 46, 1982.]

Sludge Disposal Facility: Any facility used to contain, store, utilize, or dispose of stabilized sludge, including a surface impoundment, a site used for incineration, co-landfilling, land spreading, or composting of stabilized sludge. [Bill No. 46, 1982.]

Stabilized Sludge: The sludge that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms and, except for lime stabilization, reduce the folatile [sic] solids content. [Bill No. 46, 1982.]

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes. [B.C.Z.R., 1955.]

Street: A motorway which is not a freeway or expressway, but which has a right of way more than 20 feet in width. [B.C.Z.R., 1955; Bill No. 100, 1970.]

Street Line: A line which divides the right of way of a street from other property: a street right of way line. [Bill No. 111, 1958.]

Striptease Business: A commercial establishment where persons appear in a state of total or partial nudity in person or on film, slides or videotapes. For the purposes of this definition, the term "film" shall not include motion pictures rated by the Motion Picture Association of America. Such establishment shall, for example, include, but not be limited to, a restaurant, nightclub, dance club, peep show or social hall if such entertainment is provided as an accessory or principal use. A striptease business, including the building or portion thereof that contains or advertises the business, must be located at least 1000 feet from a dwelling, church, park, child care center or school existing on the effective date of this legislation and be arranged so that the interior is not visible from the outside. A striptease business may not operate between 2:00 A.M. and 6:00 A.M.

For the purpose of this definition, an establishment which is duly licensed by the Board of Liquor License Commissioners for Baltimore County and which features striptease dancing, nudity, or partial nudity as an accessory use shall not be considered a striptease establishment, except that it shall satisfy the setback limitation established hereinabove for a striptease business.

The 1,000 foot distance requirement shall be considered an area requirement and, in addition to the authority and limitations set forth in Section 307.1 of these regulations, a variance may be granted if strict compliance with said setback would result in severe economic hardship and the variance request is not based on conditions or circumstances which are the result of actions by the Petitioner. [Bill No. 137, 1990.]

Subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes. [B.C.Z.R., 1955.]

["Subdivision, Cluster..."] {Deleted by Bill No. 100, 1970.}

System of Rubble Disposal or Land Reclamation for Public or Private Use: System of rubble disposal or land reclamation for public or private use means the services, facilities, or properties used in connection with the disposal of rubble or land reclamation, unless these activities are limited to rubble generated by a single individual or business and disposed of on the same property where generated. While limited operation of a rubble landfill can be accessory to agricultural use, it is not a primary agricultural activity. [Bill No. 97, 1987.]

Tavern: An establishment which has a Baltimore County Class D liquor license. A tavern which meets the criteria of nightclub, as defined in these regulations, shall be considered a nightclub. {Bill No. 110, 1993.}

Tennis Facility: A single court, or 2 or more adjoining courts on a single lot, for playing tennis, paddleball, handball, squash, jai alai, or other, similar games or sports. [Bill No. 62, 1978.]

Tourist Home: A rooming house primarily for transient guests. [B.C.Z.R., 1955.]

["Town..."] {Deleted by Bill No. 3, 1992.}

Town Center: A locality designated and delimited as a town center by the planning board to serve as the primary center of commercial (including supporting commercial) and higher-density residential development for an area having a population of approximately 100,000 or more persons, and meeting criteria or guidelines adopted and published by the planning board.11 Industrial, lower-density residential, and institutional uses are not excluded from town centers (when allowed under the regulations for the zone in which they are located). [Bill No. 40, 1967.]

Town-center Distributor-bypass Road: An arterial street which is designed to distribute traffic to a town center as well as to carry traffic around and away from such a center, and which is designated by the planning board as a town-center distributor-bypass road. [Bill No. 40, 1967.]

Trailer (or Mobile Home): Any of the various types of vehicles or mobile homes, with or without motive power, including small structures transportable by a pickup truck or similar vehicle, which

are used for human habitation or for business purposes, but excluding vehicles used only for transportation of materials, products, or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by removing its wheels, or otherwise, and placing it on a stable foundation, or rigid supports. Recreational vehicles, as defined herein, are excepted from this definition. [B.C.Z.R., 1955; Bills No. 145, 1959, Section 415.5; No. 109, 1964; No. 29, 1974.]

Trailer Park: A tract of land specifically planned and equipped to accommodate residential trailers for temporary or continuing occupancy, including all buildings, structures, tents, vehicles, utilities, and accessories used or intended as equipment for such trailer park. [B.C.Z.R., 1955.]

Transit Center: A structure or portion of a structure and bus staging area designed and located to facilitate transfers among bus routes operated by the state mass transit administration. A transit center may also be designed with parking to facilitate transfers between other modes of transportation including taxicabs, automobiles, commuter vanpools, airport limousines, and privately owned buses. [Bill No. 91, 1990.]

Transit Facility: A structure or any combination of structures, including at-grade, elevated, or below-grade fixed guideways, tunnels, electrical substations, or fixtures necessary to support public mass transportation operations owned or operated by or on behalf of the mass transit administration. This term shall not include a transit center, a transit storage and repair yard, bus terminal, or rail passenger station. [Bill No. 91, 1990.]

Transit Storage and Repair Yard: A site used primarily for the storage and maintenance of common carrier vehicles, and for the repair of equipment associated with such vehicles. [Bill No. 91, 1990.]

["Truck Terminal..."] {Deleted by Bill No. 18, 1976.}

Trucking Facility: A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. The term "trucking facilities" includes facilities for the storage of freight-shipping containers designed to be mounted on chassis for part or all of their transport, but does not include a warehouse, moving and storage establishment, or truck stop. Land used for the parking, storage or repair of trucks used as an accessory to a lawful business or industrial use of the land that such parking or storage area forms a part

of shall not be considered a trucking facility within the meaning of this definition. As used in this definition, the terms "trucks", "truck-trailers", and "truck tractors" do not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the state motor vehicle administration. [Bills No. 18, 1976; No. 218, 1980.]

Trucking Facility, Class I: (Truck Terminal): A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels. [Bill No. 18, 1976.]

Trucking Facility, Class II: A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, truck trailers, or truck tractors. [Bill No. 18, 1976.]

Truck Stop: A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental service or repair of trucks; or a group of facilities consisting of such a use and attendant eating, sleeping, or truck parking facilities. As used in this definition, the term "trucks" does not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the state motor vehicle administration. [Bill No. 18, 1976.]

Unlicensed Motor Vehicle: Any motor vehicle which does not have a current and valid registration plate or plates and validation tab or tabs attached to and displayed on the vehicle for the then current registration period. [Bill No. 135, 1986.]

Urban-rural Demarcation Line: A boundary line established by the planning board, dividing that portion of Baltimore County considered as "urban" from that portion of the county considered as "rural." In establishing or relocating such line, the planning board shall consider population density, existing public water supply and sewerage facilities, other existing public facilities, and public facilities scheduled for planning or construction in the capital budget and five-year capital program. [Bill No. 40, 1967.]

Veterinarian: A person licensed to engage in the practice of veterinary medicine. [Bill No. 85, 1967.]

Veterinarian's Office: An office which is maintained by a veterinarian for the treatment of animals, and in which no animal is kept overnight. [Bill No. 85, 1967.]

Veterinarianium: Any building or portion thereof which is used, intended to be used, or arranged primarily for treatment of animals by a veterinarian, where overnight care is allowed, and where all areas used for treatment or housing of animals are odor-proofed and sound-proofed. [Bill No. 85, 1967.]

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

Water-supply System, Public: A water-supply system which is operated by the county or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the county or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional water-supply system. [Bill No. 100, 1970.]

Wetland: A private wetland or a state wetland as defined in Section 9-101 of the natural resources article of the Annotated Code of Maryland, 1974, and, if a private wetland, as delineated under Section 9-301 of that article. [Bill No. 18, 1976.]

{"Window Facing a Property Line..." } {Deleted by Bill No. 2, 1992.}

{"Windows, Facing..." } {Deleted by Bill No. 2, 1992.}

Yard: Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in these regulations. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building. {B.C.Z.R., 1955.}

Yard, Front: A yard extending across the full width of the lot, between the front lot line and the front foundation wall of the main building. {B.C.Z.R., 1955.}

Yard, Rear: A yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building. {B.C.Z.R., 1955.}

Yard, Side: A yard extending from the front yard to the rear yard, between the side lot line and the side foundation wall of the main building.

{"Zone..." } {Deleted by Bill No. 40, 1967.}

B.L. Zone--Business, Local [B.C.Z.R., 1955.]

Section 230^{1,2}--USE REGULATIONS

The following uses only are permitted (See Section 230.12):

230.1--Uses permitted and as limited in the residential zone immediately adjoining except that animal boarding place, Class A is permitted only as a special exception and kennel is prohibited. [B.C.Z.R., 1955; Bill No. 85, 1967.]

230.2--Convalescent home.

230.3--Tourist home, boarding or rooming houses.

230.4--Fast food, drive-through only restaurant, carry-out restaurant, fast food restaurant, and standard restaurant, tea room, convenience store, and dairy bar, except drive-in restaurant. [B.C.Z.R., 1955; Bills No. 40, 1967; No. 110, 1993; No. 86, 1994.]

ATM ✓ 230.5--Bank, building and loan association.

230.6--Offices and office buildings.

230.7--Private colleges, dancing schools, conservatory for music and the arts, dormitories, and fraternity and sorority houses. [B.C.Z.R., 1955; Resolution, November 21, 1956; Bill No. 47, 1985.]

230.8--Business and trade schools.

230.9³--Alcoholic beverage package store.
Amusement devices, subject to the provisions of Section 422. [Bill No. 29, 1982.]
Antique shop.
Arcade, subject to the provisions of Section 423.A. [Bill No. 29, 1982.]
✓ Automobile accessory shop.
✓ Automobile parking lot.
✓ Bakery, but goods baked on the premises must be sold only at retail on the premises.
Barber and beauty shops, establishments for chiropody and massage.
Billiard and pool rooms. [Bills No. 61, 1967; No. 85, 1967.]
Bowling alley. [Resolution, November 21, 1956; Bills No. 58, 1957; No. 85, 1967.]
✓ Camera, photo-supply, or film-processing shops or pick-up stations (including "drive-by" facilities). [Bill No. 43, 1970.]

- ✓ Candy store, but goods made on the premises must be sold only at retail on the premises.
- ✓ Clothing and accessory stores.
- Commercial film production, subject to Section 435. [Bill No. 57, 1990.]
- ✓ Dairy products store.
- ✓ Department store.
- Dressmaking and millinery establishments;
- ✓ Drug store.
- Dry cleaning establishment, coin-operated, or retail store plant, etc. (as regulated by the Baltimore County Building Code, Baltimore County Fire, Health and Police Regulations). [Bills No. 142, 1962; No. 85, 1967.]
- Dry cleaning pick-up station.
- Duplicating service business. [Bill No. 117, 1983.]
- Electrical contractors and appliance repair shop. [Bills No. 58, 1957; No. 85, 1967.]
- ✗ Florist.
- ✗ Food store.
- Fortune telling establishments. [Bill No. 124, 1978.]
- Fuel service stations in a planned shopping center or drive-in cluster only, subject to Section 405. {Bill No. 172, 1993.}
- ["Funeral Establishments" deleted by Bill No. 43, 1970.]
- Furniture and upholstery stores.
- Garden center. {Bill No. 41, 1992.}
- ✓ Gift shop.
- Hand laundry employing not more than 5 persons;
- ✓ Hardware store.
- Helistop. [Bill No. 85, 1967.]
- Hobby shop.
- Household appliance store.
- ✓ Jewelry store.
- Laundromat or self-service laundry.
- Laundry-pick-up station.
- Medical clinic. [Bill No. 37, 1988.]
- Parking lot. [Resolution, November 21, 1956; Bill No. 85, 1967.]
- Pet shop.
- Photographic studio.
- Picnic grove. [Resolution, November 21, 1956; Bill No. 85, 1967.]
- Public utility service center.
- Radio shop.
- Radio studio.
- Rail passenger stations, subject to Section 434. [Bill No. 91, 1990.]
- Residential art salon. [Bill No. 85, 1967.]
- Shoe repair shop.
- Social clubs and fraternal organizations.
- Sporting goods store.
- Stationery store.
- Swimming pool.
- Tailor shop.

Tavern. [Bills No. 43, 1963⁴; No. 85, 1967.]

Television shop.

Television studio.

Temporary or occasional outdoor sales of cut flowers, or live plants (not in connection with florists' establishments), provided that the sales area does not exceed 200 square feet and that the sales are carried on for no more than 120 days per year. Before approving an application for any license required, the zoning commissioner must approve a site plan for the premises, showing the sales area and the dates on which flowers or plants are to be sold. Any provision of these regulations to the contrary notwithstanding, the zoning commissioner's approval of such a license shall expire 1 year after its issuance; however, such a license may be reapproved annually upon request of the licensee. [Bill No. 174, 1981.]

Transit facilities. [Bill No. 91, 1990.]

~ Variety and dry goods store.

Veterinarian's office. [Bill No. 85, 1967.]

Veterinarianium. [Bill No. 85, 1967.]

Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426). [Bill No. 64, 1986.]

230.10--Combinations of the above uses. [Bill No. 111, 1968.]

230.11--Accessory uses or structures, including business signs (see Sections 413.2, 413.4, and 413.5), garages, and parking spaces for the use of owners, employees, tenants, and invitees. A maximum of six (6) coin-operated children's rides are permitted as an accessory use. [B.C.Z.R., 1955, Subsections 230.10 and 230.11; Bills No. 111, 1968; No. 29, 1982.]

230.12--All the above uses in Section 230 are subject to the following conditions:

- A. They shall be contained, except for signs, restaurants, swimming pools, outdoor sales or display areas, parking lots, helistops, or picnic groves within completely enclosed buildings. [B.C.Z.R., 1955; Bill No. 85, 1967.]
- B. Not more than 5 persons shall be engaged in the repair or fabrication of goods on the premises.
- C. Not more than 5 horsepower shall be employed in the operation of any one machine used in repair or fabrication, and not more than 15 horsepower in the operation of all such machines.

D. Storage and display of materials, vehicles and equipment are permitted in the front yard, but not more than 5 feet in front of the required front building line.

E. In case any property line of a commercially-zoned corner lot abuts a residential zone on a side street, no separate and distinct commercial use may be made of that portion of the lot which abuts on the side street unless a site plan for the entire corner lot as a commercial unit shall have been approved by the Baltimore County Office of Planning⁵ and the Baltimore County Division of Engineering,⁶ Department of Public Works. Any division of ownership of such lots shall be a subdivision and require approval of the Office of Planning.⁷ [B.C.Z.R., 1955; Resolution, November 21, 1956.]

F. Where the requirements in Section 230.12 (A, B, or C) would create an undue hardship, the zoning commissioner may approve a modified plan upon petition and public hearing thereon.

230.13--Special Exceptions--The following uses when permitted as special exceptions (see Sections 270 and 502):

Animal boarding place, Class A. [Bill No. 85, 1967.]

Arcade, subject to the provisions of Section 423B.

[Bill No. 29, 1982.]

Automotive-service station: subject to the provisions of Section 405. [Bills No. 40, 1967; No. 85, 1967.]

Boat yard. [Bills No. 64, 1963; No. 85, 1967.]

Car wash. [Bills No. 108, 1964; No. 85, 1967.]

Commercial beach; with provision of adequate parking area, and permitting dressing facilities, snack bar, picnic area, and boat rental. [Bills No. 64, 1963; No. 85, 1967.]

Community building, swimming pool, or other structural or land use devoted to civic, social, recreational and educational activities, including use of the building as a catering hall. [Bills No. 64, 1963; No. 85, 1967; No. 26, 1988; No. 110, 1993.]

Community care center. [Bill No. 91, 1974.]

Drive-in restaurant. [Bills No. 40, 1967; No. 85, 1967.]

Dry cleaning plant (see Section 416). [Bills No. 133, 1958; No. 85, 1967.]

Excavations, controlled (see Section 403).

["Filling station;" deleted by Bill No. 40, 1967.]

Funeral establishment, except that any funeral establishment which was a legal use immediately prior to this provision's taking effect⁸ and which has since remained continuously in operation is a conforming use, permitted

as of right; as such, it may be expanded or otherwise changed in the same manner as any other use permitted as of right.

Such funeral establishments shall be a permitted use without the necessity of obtaining a special exception provided said site was either owned or leased for a term in excess of fifteen (15) years by a funeral director who is duly registered as such in accordance with state law, prior to April 9, 1970 and provided said ownership or lease is either as an individual person or in the name of a corporation, the majority of the common stock of which is owned by said registered funeral director or together with a spouse as joint owners, or joint lessees, or as tenants in common or joint lessees by virtue of a partnership or joint venture with one or more other duly registered funeral directors; and provided further said registered funeral director files with the zoning commissioner of Baltimore County no later than December 31, 1970 satisfactory evidence of ownership or leasehold interest as outlined above. [Bills No. 43, 1970; No. 105, 1970.]

Garage, service.

Golf course, country club, or other outdoor recreational clubs; also quasi-public camp, including day camps, but no such uses shall be located on less than five acres, and no building, parking lot, or out-of-water marine craft storage thereon shall be located within 60 feet of any residential property line. [Bills No. 64, 1963; No. 85, 1967.]

Golf driving range, miniature golf, and baseball batting range.

Heliport, Type II. [Bill No. 85, 1967.]

Hotel.

Laboratory.

Living quarters in a commercial building.

Marina. [Bills No. 64, 1963; No. 85, 1967.]

Motel or motor court.

Public utility uses other than those noted in Sections 200.11 and 230.9 (see Section 411).

Signs, outdoor advertising (see Sections 413.3 and 413.5).

Sludge disposal facility - Co-landfilling (see Section 412.A2.A). [Bill No. 46, 1982.]

Sludge disposal facility - Composting (see Section 412.A2.B). [Bill No. 46, 1982.]

Sludge disposal facility - Handling in general (see Section 412.A2.C). [Bill No. 46, 1982.]

Sludge disposal facility - Incineration (see Section 412.A2.D). [Bill No. 46, 1982.]

Sludge disposal facility - Landspreading (see Section 412.A2.E). [Bill No. 46, 1982.]
Theatre, excluding drive-in.
Volunteer fire company.
Wireless transmitting or receiving structure¹⁰ not permitted by Section 426. [Bills No. 61, 1967; No. 35, 1967; No. 64, 1986.]

Section 231--HEIGHT REGULATIONS¹¹ [B.C.Z.R., 1955.]

- A. Purpose and Intent--The intent of the following method of height determination is to permit maximum flexibility in proportioning height and bulk in the architectural design and functional planning of buildings in commercial zones, while assuring that a new building will not deprive existing or potential adjacent buildings of adequate light and air circulation. Terms placed in quotation marks are not found as definitions in Section 101 and apply specifically to this section only. The regulations impose a flexible height "tent" within which the building may rise. Along a street, alley, or other public way, such "tent" extends upward at a 45 degree angle toward the subject property from the opposite side of the street or alley along its front, side, or rear. The height may be averaged--that is, some portions of the building may project above the "tent", provided other portions, equal in total area, stay proportionately below it. From any rear or side lot line which does not adjoin a street, alley, or other public way, a similar "tent" would extend upward more steeply with no averaging of height. These provisions make it practicable to assure adequate light and air to adjacent properties if the building height exceeds 40 feet. [Bill No. 7, 1962.]
- B. Height Determination--The height limitation of a building shall be determined as follows: The "basic height" of the front or rear wall of a building along a street, alley, or other public way is determined by a "base line plane" extending upward at a 45 degree angle from a "base line" at the average elevation on the property line on the opposite side of the right of way, toward a vertical plane (the "measure plane") on the building line, as defined in Section 101. The horizontal line formed by the intersection of these two planes determines the "basic height", which is the vertical distance above the building line. Regardless of the right of way width the "basic height" shall not exceed 100 feet, except as permitted hereinafter as "averaged height", nor shall it be required to be less than 40 feet. In calculating "averaged height" on the

"measure plane" the area resulting from multiplying the sum of the heights of portions remaining below the "basic height" by their respective widths shall not exceed the area resulting from multiplying the sum of the heights of portions extending above the basic height by their respective widths. In averaging the heights of component parts of the said wall along a public right of way the total horizontal distances used for averaging shall not exceed twice the "basic height", nor shall the maximum height at the building line, resulting from averaging the height of said wall, exceed twice the "basic height". Any part of the building which is set back from the building line shall not project above a plane or planes sloping inward and upward at a 45 degree angle from the averaged permitted heights at the building line, except that heights of such portions of the building so set back may be used to determine the averaged height by projecting them downward at 45 degrees to the "measure plane". [Bill No. 7, 1962.]

- C. On a corner lot a building may have a height along the side street equal to the permitted height of the front wall of the building, determined as provided in Subsection 231.2.a.¹² for a distance from the front corner of the lot equal to the width of the front right of way. For the remainder of the building wall along this side of such lot the permitted height shall be computed in the manner specified in Subsection 231.2.a.¹³ [Bill No. 7, 1962.]
- D. No part of any building wall adjacent to a side or rear lot line that does not adjoin a street or other public way shall exceed a height of 40 feet above the average ground level along such wall except that any part of such wall may exceed that height provided that no portion of the building would project above a plane sloping inward and upward from the lot line at the rate of one foot horizontally for each five feet of vertical distance above said average ground level. [Bill No. 7, 1962.]

NOTE--SEE APPENDIX I FOR DIAGRAMS TO BE USED AS A GUIDE IN DETERMINING THE BASIC AND AVERAGED HEIGHT.

Section 232--AREA REGULATIONS [B.C.Z.R., 1955.]

Minimum requirements, except as provided in ARTICLE 3, shall be as follows: [B.C.Z.R., 1955.]

232.1--Front Yard--For residences, as in Sections 302 and 303.1; for commercial buildings the front building line shall be not less than 10 feet from the front property

line and not less than 40 feet from the center line of the street, except as specified in Section 303.2. [B.C.Z.R., 1955.]

232.2¹⁴--Side Yards--[B.C.Z.R., 1955.]

- A. For residences, as in Section 302; [B.C.Z.R., 1955.]
- B. For commercial buildings, none required on interior lots, except that where the lot abuts a lot in a residence zone there must be a side yard not less than the greater minimum width required for a dwelling on the abutting lot and on corner lots the side yard on the street side shall be not less than 10 feet in width. [B.C.Z.R., 1955.]

232.3--Rear Yard--[B.C.Z.R., 1955; Bill No. 26, 1963.]

- A. For residences, as in Section 302; [B.C.Z.R., 1955; Bill No. 26, 1963.]
- B. For commercial buildings, none required except that where the rear lot line abuts a lot in a residence zone there shall be a rear yard not less than 20 feet deep. [B.C.Z.R., 1955; Bill No. 26, 1963.]

232.4--Parking Area and Loading Space--In accordance with the provisions of Section 409. [B.C.Z.R., 1955.]

232.5--Floor Area Ratio. The maximum permitted floor area ratio for any site in a B.L. zone, excepting C.C.C. and C.T. districts, shall be 3.0. [Bills No. 7, 1962; No. 111, 1968; No. 100, 1970.]

Section 232A--SPECIAL REGULATIONS FOR C.C.C. DISTRICTS.¹⁵
[Bills No. 100, 1970; No. 26, 1988.]

Contrary provisions of these zoning regulations notwithstanding, the regulations of this section shall apply in C.C.C. districts superimposed upon B.L. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these zoning regulations.) [Bill No. 100, 1970.]

232A.1--Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building. [Bills No. 100, 1970; No. 36, 1988.]

232A.2--No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The

minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet. [Bill No. 100, 1970.]

232A.3--The maximum permitted floor area ratio for any site shall be 4.0; the specific number of dwelling or density units, as such, shall not be directly limited. [Bill No. 100, 1970.]

232A.4--The minimum permitted amenity open space ratio shall be 0.2. [Bill No. 100, 1970.]

Section 232B--SPECIAL REGULATIONS FOR C.T. DISTRICTS.

[Bill No. 111, 1968, Section 232A, No. 100, 1970; No. 26, 1988; No. 36, 1988.]

Notwithstanding other provisions of these zoning regulations to the contrary, the following regulations shall apply in C.T. districts superimposed upon B.L. zones (all aspects of matters not governed by the following provisions of this subsection shall be governed by all other applicable provisions of these zoning regulations): [Bills No. 111, 1968, Section 232A; No. 100, 1970.]

232B.1--Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building. [Bills No. 111, 1968, Subsection 232A.1; No. 100, 1970; No. 36, 1988.]

232B.2--No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet. [Bills No. 111, 1968, Subsection 232A.2; No. 100, 1970.]

232B.3--The maximum permitted floor area ratio for any site shall be 5.5; the specific number of dwelling or density units, as such, shall not be directly limited. [Bills No. 111, 1968, Subsection 232A.3; No. 100, 1970.]

232B.4--The minimum permitted amenity open space ratio shall be 0.1, except that for above-grade floor space used for accessory off-street parking spaces, the ratio shall be 0.02. [Bills No. 111, 1968, Subsection 232A.4; No. 100, 1970; No. 115, 1982.]

232B.5--The maximum average permitted height of any building shall be 1-1/2 times the maximum average height otherwise permitted in B.L. zones. [Bills No. 111, 1968, Subsection 232A.5; No. 100, 1970.]

B.M. Zone--Business, Major [B.C.Z.R., 1955.]

Section 233¹⁶--USE REGULATIONS

The following uses only are permitted (see Section 233.3):

233.1--Uses Permitted in B.L. Zone.

233.2¹⁷--Animal boarding place, Class A. [Bill No. 85, 1967.]

["Animal hospital..." deleted by Bill No. 85, 1967.]

Automobile sales room and adjoining outdoor sales area, provided that dismantled or junked cars unfit for operations on the highways shall not be stored outdoors.

["Billiard and pool rooms;" deleted by Bill No. 61, 1967.]

Boat yard. [Bills No. 64, 1963; No. 85, 1967.]

Bowling alleys.

Carpentry, electrical, plumbing, heating, sheetmetal, electroplating and painting shops.

Catering hall {Bill No. 110, 1993.}

Clothes cleaning and dyeing where not more than 2 units with combined capacity of not more than 50 pounds are employed.

Commercial beach, with provision of adequate parking area; and permitting dressing facilities, snack bar, picnic area, and boat rental. [Bills No. 64, 1963; No. 85, 1967.]

Commercial recreation enterprises, including dance halls, skating rinks, and others which--in the judgment of the zoning commissioner--are similar, but excluding merry-go-rounds and freak shows, shooting galleries and penny arcades.

Community building, swimming pool, or other structural or land use devoted to civic, social, recreational, and educational activities; [Bills No. 64, 1963; No. 85, 1967; No. 26, 1988.]

Funeral establishment; [Bill No. 43, 1970.]

Garage, service;

Golf course, country club, or other outdoor recreation clubs; also quasi-public camp, including day camps, but no such uses shall be located on less than five acres, and no building, parking lot, or out-of-water marine craft storage thereon shall be located within 60 feet of any residential property line; [Bills No. 64, 1963; No. 85, 1967.]

Hotel;

Machinery sales store;

Marina; [Bills No. 64, 1963; No. 85, 1967.]

Night club;

~~Pawn shop~~; (112-95)

Printing, lithographing, or publishing plant, employing not more than 25 persons;

Second-hand store;

["Tavern" deleted by Bill No. 85, 1967.]

Theatre, excluding drive-in;

Transit centers, subject to Section 434;

[Bill No. 91, 1990.]

Warehouses; [Bill No. 18, 1967.]

["Warehouses sales and storage" deleted by Bill No. 18, 1976.]

233.2A Combinations of the above uses. [Bill No. 111, 1968.]

233.2B Accessory uses or structures, including business signs (see Sections 413.2, 413.4, and 413.5), garages, and parking spaces for the use of owners, employees, tenants, and invitees. A maximum of six (6) coin-operated children's rides are permitted as an accessory use. [Bills No. 111, 1968; No. 29, 1982.]

233.3 All permitted uses are subject to the following conditions:

A. They shall be contained, except in the case of signs, restaurants, swimming pools, outdoor sales or display areas, and parking lots, within a completely enclosed building.

- b. plans or sketches of all elevations of each building exterior, indicating building materials; [Bill No. 56, 1961.]
- c. a general explanation of the proposed plan of use and operation, including, but not limited to such factors as: expected maximum number of employees and times of operation; timing and routing of movements of raw materials to the site and of finished products therefrom; expected levels of potential emanations, including but not limited to noise, dust, odors, vibration, glare and heat. [Bill No. 56, 1961.]

Section 253 M.L. ZONE (MANUFACTURING, LIGHT) USE REGULATIONS
[B.C.Z.R., 1955; Bills No. 85, 1967; No. 100, 1970.]

253.1²³ Uses permitted as of right. The uses listed in this subsection, only, shall be permitted as of right in M.L. zones, subject to any conditions hereinafter prescribed. [B.C.Z.R., 1955, Section 253, Bills No. 85, 1967, Section 253; No. 100, 1970.]

A.²⁴ The following industrial uses:

- 1. Airplane assembly;
- 2. Automobile assembly;
- 3. Boat yards (including marinas or marine railways);
- 4. Bottling establishments, soft-drink;
- 5. Candy manufacture, packaging, or treatment;
- 6. Carpet or rug cleaning;
- 7. Cellophane-products manufacture or processing-restricted production (see Section 253.3.).
- 8. Cleaning or dyeing;
- 9. Concrete-products manufacture, including manufacture of concrete blocks or cinder blocks;
- 10. Cork-products manufacture or processing-restricted production (see Section 253.3.);
- 11. Cosmetics manufacture, compounding, packaging, or treatment;
- 12. Drug manufacture, compounding, packaging, or treatment;
- 13. Electrical-appliance assembly;
- 14. Enameling, japanning, or lacquering;
- 15. Excavations, controlled, except those involving the use of explosives;
- 16. Fiber-products manufacture or processing, including the manufacture or processing of articles made of felt or yarn, or of textiles, canvas, or other cloth-restricted production (see Section 253.3.);
- 17. Food-products manufacture, compounding, packaging, or treatment, including but not limited to: whole-sale bakeries; canning plants or packing houses for canning, packing, or processing of vegetables; creameries or milk-pasteurization or distributing stations; or cold-storage plants;

18. Fur-products manufacture or processing-restricted production (see Section 253.3.);
19. Glass-products manufacture or processing-restricted production (see Section 253.3.);
20. Grain processing, provided equipment is installed for effective precipitation and recovery of dust.
21. Greenhousing, wholesale;
22. Horn-products manufacture or processing-restricted production (see Section 253.3.);
23. Ice manufacture;
24. Ink blending, etc., restricted production (see Section 253.3.);
25. Instrument manufacture, of precision instruments including manufacture of watches or clocks;
26. Jewelry manufacture or processing, or manufacture or processing of other articles made of precious or semi-precious metals or stones-restricted production (see Section 253.3.);
27. Laboratories;
28. Leather-products manufacture or processing-restricted production (see Section 253.3.);
29. Lumber yards;
30. Metal-products manufacture or processing, limited to the restricted production (see Section 253.3.) of articles made of sheet metal, light metal mesh, pipe, wire, rods, strips, or other shapes or similar component parts;
31. Metal-stamp manufacturing;
32. Musical-instruments manufacture;
33. Offices or Office Buildings or Medical Clinics; [Bill No. 37, 1988.]
34. Paint blending etc.-restricted production (see Section 253.3.);
35. Paper- and paperboard-products manufacture or processing-restricted production (see Section 253.3.);
36. Perfume manufacture, compounding, packaging, or treatment;
37. Phonograph assembly;
38. Plastic-products manufacture or processing-restricted production (see Section 253.3.).
39. Plating, including galvanizing;
40. Poultry killing;
- 40a. Practice or training physical conditioning facilities and fields for amateur or professional sports organizations, provided that: there shall not be any accommodations for public spectators, no more than one sports organization uses such a facility at one time, and no such facility includes any lighting that would produce substantial off-site illumination,

nor any provisions for selling public admissions to sports events to be conducted thereon. For the purposes of these regulations, "practice or training physical conditioning facilities and fields for amateur or professional sports organizations" may include such offices as are necessary for the administration of the organization; [Bill No. 125, 1978.]

41. Printing, lithographing, or publishing plants;
42. Radio assembly, or assembly of other electronic instruments or devices;
43. Research institutes;
44. Rubber-stamp manufacture, and manufacture of other small molded rubber products;
45. Shell-products manufacture or processing-restricted production (see Section 253.3.);
46. Stone or monument works;
47. Tire retreading or recapping;
48. Tobacco-products manufacture or processing-restricted production (see Section 253.3.);
49. Toy manufacture, or manufacture of novelties;
50. Trailer assembly, including the assembly of truck trailers or mobile homes;
51. Wax-products manufacture or processing-restricted production (see Section 253.3.);
52. Wood-products manufacture or processing-restricted production (see Section 253.3.);
53. Wrought-iron products manufacture; and
54. Other manufacture of articles of merchandise made from materials permitted to be used and made by processes permitted to be employed in the production activities more specifically listed above.

B.²⁵ The following transportation, storage, or quasi-public uses or utilities:

1. Bus terminals;
2. Building-materials storage or sales yard, general;
3. Construction-equipment storage yards;
4. Above-ground electrical-power, telephone or telegraph lines, except above-ground electrical-power lines having a capacity of 35 kilovolts or more; pole-mounted transformers or transformer banks;
5. Cables and conduits not described under item "4", above; gas, water, or sewer mains; or storm-drain systems-all underground;
6. Feed or grain sales or storage;
7. Fluid storage and sale, above ground, offflammable liquids or gases;
8. Freight storage;
9. Fuel storage and sale, of solid or gaseous fuels;

10. Heliports, Type I;
11. Heliports, Type II;
12. Helistops;
13. Railroads;
- 13a. Rail passenger stations, subject to Section 434; {Bill No. 91, 1990.}
14. Steam-power plants;
15. Storage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones; public warehousing;
- 15a. Transit centers, subject to Section 434; {Bill No. 91, 1990.}
- 15b. Transit facilities; {Bill No. 91, 1990.}
- 15c. Transit storage and repair yards, subject to Section 434; {Bill No. 91, 1990.}
- *16. Utility service center; 17. Utility storage yards;
18. Volunteer-fire-company facilities;
19. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426); and {Bill No. 64, 1986.}
20. Commercial film production, subject to Section 435. {Bill No. 57, 1990.}

C.²⁶ The following auxiliary retail or service uses or semi-industrial uses, provided that any such use is located in a planned industrial park at least 25 acres in net area or in an I.M. district: {Bill No. 172, 1993.}

1. Automobile-rental agencies;
2. Bakeries, retail;
3. Barbershops;
4. Banks, savings and loan associations, or other, similar chartered financial institutions accepting deposits;
5. Beauty shops;
6. Business or trade schools;
7. Carpentry or cabinet-making shops;
- 7a. Car wash in a planned industrial park only, subject to Section 419; {Bill No. 172, 1993.}
8. Drug stores, but the gross floor area devoted to any such store shall not exceed 1500 square feet;
9. Electrical-contractors' shops;
10. Electroplating shops;
11. Food stores, but the gross floor area of any such store shall not exceed 2500 square feet;
- 11a. Fuel service station in a planned industrial park only, subject to Section 405; {Bill No. 172, 1993.}
12. Heating- or air-conditioning-contractors' shops;

13. Laundry, dry-cleaning, or clothing-repair or -alteration establishments or stations, including self-service laundry or dry-cleaning facilities;
14. Liquor or package stores;
15. Machinery-sales or -repair establishments;
16. Parking lots or garages;
17. Painting shops;
18. Plumbing-contractors' shops;
19. Carry-out, fast food, and standard restaurants, except drive-in restaurants; {Bill No. 110, 1993.}
20. Sheet-metal shops;
21. Shoe-repair shops;
22. Stationery or office-supply stores;
23. Taverns; and
24. Truck-rental and truck-trailer-rental agencies.

D. The following temporary use: carnivals, temporary, provided that no such use shall be established for more than 90 days in any one-year period. [Bill No. 100, 1970.]

E. Combinations of the uses listed above. [Bill No. 100, 1970.]

F. ^{2/}Accessory uses or structures, including but not limited to:

1. Incidental sales (wholesale or retail);
2. Living quarters for watchmen or caretakers and their families, and accessory uses or buildings subsidiary thereto;
3. Trailers for temporary use, as permitted under Section 415;
4. Industrial medical clinics;
5. Employees' recreation facilities;
6. Excavations, uncontrolled;
7. Parking spaces (see Section 409); and
8. Signs (see Section 413).

G. Hotels and motels when within an M.L. zone which is part of a contiguous area of 25 acres or more of industrial zoning, and provided that the combined tract areas developed for such uses do not occupy more than 25% of the particular contiguous area of industrial zoning in which they are located. [Bill No. 82, 1984.]

253.2 Uses Permitted by Special Exception. The uses listed in this subsection are permitted by special exception only (see Section 502). {B.C.Z.R., 1955, Section 253.5; Bill No. 85, 1967, Section 253.5; Bill No. 100, 1970.}

A.²⁸ The following industrial, quasi-industrial, transportation, storage, or quasi-public uses or utilities:

1. Airstrips or airports, where it is shown that such use will serve primarily the industrial uses in the same area;
2. Airports, general aviation, if located in accordance with the master plan;
3. Excavations, controlled, involving the use of explosives (see Section 403);
- 3a. Moving and storage establishments; {Bill No. 18, 1976.}
4. Sanitary or rubble landfills (see Section 412); {Bill No. 97, 1987.}
5. Storage, warehousing, or distribution not permitted as of right;
- 5a. Sludge disposal facility - Co-landfilling (see Section 412.A2.A); {Bill No. 46, 1982.}
Sludge disposal facility - Composting (see Section 412.A2.B); {Bill 46, 1982.}
Sludge disposal facility - Handling in general (see Section 412.A2.C); {Bill No. 46, 1982.}
Sludge disposal facility - Incineration (see Section 412.A2.D); {Bill No. 46, 1982.}
Sludge disposal facility - Landspreading (see Section 412.A2.E); {Bill No. 46, 1982.}
6. Trucking facilities (see Sections 410 and 410A). {Bill No. 18, 1976.}
- 6a. Truck stops; and {Bill No. 18, 1976.}
{"Truck Terminals"; deleted by Bill No. 18, 1976.}
7. Utilities not permitted under the provisions of Section 253.1.

B.²⁹ The following auxiliary service uses, provided that any such use shall be located in a planned industrial park at least 25 acres in net area or in an I.M. district, provided, further, that it is shown that any such use will serve primarily the industrial uses and related activities in the surrounding industrial area: {Bill No. 172, 1993.}

1. Automotive-service stations, subject, further, to the provisions of Section 405;
2. Car washes, subject, further, to the provisions of Section 419;
3. Garages; service, including establishments for the service or repair of trucks, of truck trailers, or of freight-shipping containers designed to be

mounted on chassis for part or all of their transport; and [Bill No. 218, 1980.]

4. Union halls or other places of assembly for employment-related activities.

C.³⁰ The following interim uses, provided that it is shown by the petitioner and verified by the director of public works that public sewerage and water-supply facilities will not be available to the site of any such use for a period of at least two years after the time the petition is heard, and provided, further, that any such use shall be discontinued and the grant of the special exception shall expire on a date within a year after such time as public sewerage and water-supply facilities do become available to the site, as shall be more particularly stipulated in the order granting the special exception:

1. Amusement parks;
2. Baseball-batting ranges;
3. Farms, or limited-acreage wholesale flower farms;
4. Golf-driving ranges;
5. Kennels;
6. Miniature-golf courses;
7. Radio or television broadcasting studios;
8. Racetracks;
9. Riding stables, commercial;
10. Shooting ranges;
11. Trailers, non-accessory, subject to the provisions of Section 415, except that trailer parks are not permitted;
12. Used-motor ³¹ vehicle outdoor sales areas; and
13. Veterinarians' offices.

D.³² The following miscellaneous uses:

1. Signs, outdoor-advertising (see Section 413.3);
2. Wireless transmitting or receiving structure not permitted by Section 426; and [Bill No. 64, 1986.]
3. After-Hours Club, provided that is located at least 1,000 feet from any residentially-used dwelling, residential zone line, church, park, child care center, or school existing prior to the filing of the application for special exception. {Bill No. 85, 1994.}

E. Combinations of the uses listed in this subsection, or combinations of such uses with uses which are permitted as of right. [Bill No. 100, 1970.]

253.3 Scope of "Restricted Production." For the purposes of this section, "restricted production" shall include only the assembly, manufacture, or compounding of articles of merchandise from previously prepared materials, or the machining, electroplating, or other, comparable light processing or treatment of such articles; but it shall not include the manufacture of large stampings (such as motor-vehicle fenders or bodies). (However, the exclusion of a use under a particular entry, whether by virtue of a limitation to restricted production or otherwise, does not affect the applicability of any other entry under which the use may be described.) [Bill No. 100, 1970.]

253.4 Within 100 feet of any residential zone boundary or the right of way of any street abutting such a boundary, only passenger-automobile accessory parking and those uses permitted in M.R. zones, as limited by the use regulations in Section 241, are permitted. Any use other than passenger automobile accessory parking and those uses permitted in M.R. zones as limited by the use regulations in Section 241 established within 100 feet of the right of way of an existing or proposed freeway or expressway so designated by the planning board shall be screened from the motorway in accordance with the standards and criteria contained in the Baltimore County landscape manual adopted pursuant to Section 22-105 of Title 22 of the Baltimore County Code. Notwithstanding the foregoing, no trucking facility or part of a trucking facility may be established within 100 feet of such a right of way. [Bills No. 100, 1970; No. 176, 1981; No. 31, 1984.]

253.5 Conflicts with Section 270. Wherever any provision of this section may conflict with a provision of Section 270, the provision in this section shall control. [Bill No. 100, 1970.]

Section 254³³ HEIGHT REGULATIONS [B.C.Z.R., 1955.]

Height unlimited except that no building hereafter erected on a lot which abuts a residence or business zone shall exceed a height of 40 feet or three stories if any part of said building is within 100 feet of the boundary line of said residence or business zone (see Sections 255.134 and 300). [B.C.Z.R., 1955; Bill No. 56, 1961.]

IN THE MATTER OF
PETITION FOR SPECIAL HEARING
NO SPECIFIC SITE

*

BEFORE THE

*

ZONING COMMISSIONER

*

OF

PRICE/COSTCO, INC.
PETITIONER

*

BALTIMORE COUNTY

*

CASE NO. 96-310-SPH

* * * * *

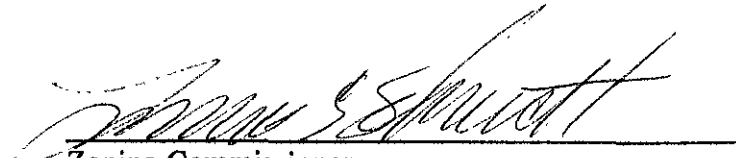
SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Zoning Commissioner of Baltimore County at the hearing for the matter captioned above on Tuesday, March 26, 1996 at 2:00 p.m. in Room 118 of the Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Zoning Commissioner.

Witness: Jeffrey W. Long, Planner
Baltimore County Office of Planning
Address: County Courts Building
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Requested By: Robert A. Hoffman, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410)494-6200

The witness named above is hereby ordered to so appear before the County Zoning Commissioner.


Zoning Commissioner

IN THE MATTER OF
PETITION FOR SPECIAL HEARING
NO SPECIFIC SITE

*

BEFORE THE

*

ZONING COMMISSIONER

*

OF

PRICE/COSTCO, INC.
PETITIONER

*

BALTIMORE COUNTY

*

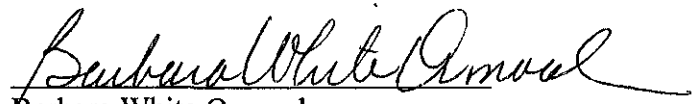
CASE NO. 96-310-SPH

* * * * *

RETURN OF PRIVATE PROCESS SERVER

Pursuant to Maryland Rule 2-126(a), I, the undersigned, hereby certify that service of process was executed on Jeffrey W. Long, on the 25th day of March, 1996, by delivering and leaving a copy of the Subpoena.

I further certify that I am over eighteen years of age and am not a party to this action. I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.


Barbara White Ormord

TO1DOCS1/BAW01/0021615.01

RE: PETITION FOR SPECIAL HEARING
No Specific Site (Zoned BL)

Price/Costco, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-310-SPH

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 1996, a copy of the foregoing Entry of Appearance was mailed to John B. Howard, Esq. and Robert A. Hoffman, Esq., Venable, Baetjer and Howard, 210 Allegheny Avenue, Towson, MD 21204, attorneys for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

VENABLE
ATTORNEYS AT LAW

94-1742
2/13/96
V
OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA
309

February 12, 1996

Hand Delivery

Arnold Jablon, Director
Department of Permits
& Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

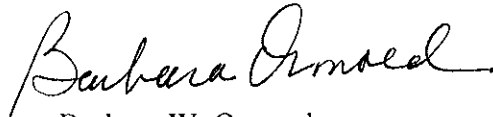
Re: Price/Costco, Inc.
Petition for Special Hearing
No Specific Site

Dear Mr. Jablon:

Enclosed please find a Petition for Special Hearing and check in the amount of \$250.00 to cover the cost of this filing.

If you have any questions, please give me a call.

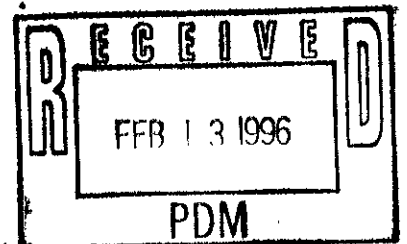
Sincerely,



Barbara W. Ormord
Legal Assistant

Enclosure
cc: Robert A. Hoffman, Esquire

TO1DOCS1/BAW01/0019553 01



Drop Filing

309

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

VENABLE
ATTORNEYS AT LAW

Sophie:
No violations since
there is no specific
side and no one
has previously
reviewed. But

Hand Delivery

Arnold Jablon, Director
Department of Permits
& Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

MAIDEN CHOICE COMMUNITY ASSOCIATION, INC.

P.O. Box 18262
Baltimore, Maryland 21227

March 25, 1996

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
Old Courthouse, Room 118
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
No Specific Site (Zoned B.L.)
Hearing Date: 3/26/96, 2:00 pm
Case No. 96-310-SPH

Dear Mr. Schmidt:

Our Community Association strongly opposes a Price Club as a use permitted as a right in a B.L. zone. Similar stores have been classified as M.L. uses and this classification should be maintained.

Sincerely yours,

MAIDEN CHOICE COMMUNITY
ASSOCIATION, INC.

Eleanor R. VanDevender

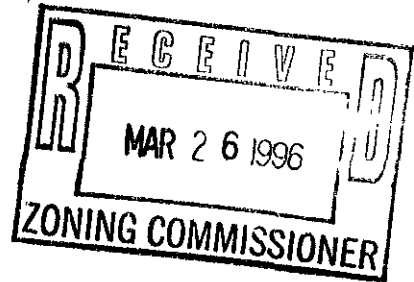
Eleanor R. VanDevender
President



THE GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, INC.
620 MURDOCK ROAD • BALTIMORE, MD • 21212

March 25, 1996

The Honorable Lawrence Schmidt
Baltimore County Zoning Commissioner
Old Court House
400 Washington Avenue
Towson, Maryland 21204



Re: Special Hearing
Item No.: 309
Case No.: 96-310

Dear Commissioner Schmidt:

Please accept this letter on behalf of the Greater Towson Council of Community Associations to voice our opposition to the Price Club's request for permission to locate in a B.L. zone. This letter was authorized by a vote at its regularly scheduled meeting on Thursday, March 21, 1996.

By allowing Price Club, and other similar type membership operations, to locate in a B.L. zone would be contrary to a long line of precedent restricting such places of business to M.L., B.M., and B.R. zones. To expand this list to allow the inclusion of a B.L. zone would result, in many cases, in a serious change in the nature of the centers that now occupy those zones. Typically, centers in a B.L. zone are neighborhood in nature, with limited avenues and streets servicing the property and somewhat limited parking. By granting the request, these centers would be transformed into regional places of business without the infrastructure to support it and without sufficient parking, thus further overloading, in many cases, streets already ill equipped to handle the already existing flow of traffic.

We therefore ask that you consider this when deciding the issue before you and to deny the petitioner's relief.

Very truly yours,


Justin J. King

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Rob Hoffman

210 Allegheny Ave 21204

NEAL HARRIS

46000 RANNEY PLACE STANFORD VA 22184

David Jones

Woodlawn Plaza Sterling VA 20166

Joseph Cronen

7 E. Redwood St, Balt. 21202



PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Marta Clarke

828 East Joyce Road
Towson, MD 21286

Clara Vandevender

MCCA, P.O. Box 18262
Baltimore, MD 21227

Donna Cameron

MCCA PO Box 18262
Baltimore MD 21227

Kristine Frayle
Leon J. Pzankowski

P.O. Box 5402, Towson, MD 21285

1606 Thetford Rd

Baltimore, Md. 21286



IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
(No Specific Location) * DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
Price/Costco, Inc. * Case No. 96-310-SPH
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by Douglas M. Riley, Corporate Counsel for Price/Costco, Inc., Petitioner, through their attorneys, John B. Howard, Esquire and Robert A. Hoffman, Esquire. The Petitioner seeks approval of the Price Club wholesale/retail sales facility through membership only as a use permitted as of right in a B.L. zone. There is no specific location proposed at this time, merely a determination that such use is permitted in the B.L. zones.

Appearing at the hearing on behalf of the Petition were Neil Harris, Regional Manager for Price/Costco, Inc., David Jones and Joseph Cronyn, Real Estate Analyst, and John B. Howard and Robert A. Hoffman, Attorneys for the Petitioner. Also appearing on behalf of the Petitioner was Jeffrey Long, a representative of the Office of Planning. Appearing as Protestants in the matter were Martha Clarke, a representative of the Towson Estates Association, Eleanor VanDevender and Donna Cameron, representatives of the Maiden Choice Community Association, Kristin Forsyth, a representative of the Valleys Planning Council, and Leon J. Rozankowski.

Testimony and evidence in support of the request was first offered by Mr. Neil Harris. Mr. Harris testified that he has been working for Price Club for the past 16 and 1/2 years, having started as a Clerk/Cashier

and moving up to Store Manager in 1993. He is currently Regional Manager, responsible for their operations in the Mid-Atlantic and Northeast regions of the United States. Mr. Harris testified that 2 and 1/2 years ago, Price Club merged and became Price/Costco, Inc. His testimony centered around the historical operations of the Price Club since it came to the East Coast in 1986 and how its operation has changed in the past 10 years.

Mr. Harris testified that Price Club began its operation as a wholesaler of goods to small businesses who would then offer those goods for resale to the general public. Small business owners were required to obtain a membership in order to shop at Price Club and take advantage of what were advertised as lower prices. Mr. Harris testified that over the past several years, operations at Price Club have changed drastically. He stated that in today's market, 90% of Price Club's operations are geared to the retail customer, with only about 10% remaining as a wholesale use. He attributes this change to other wholesale operations entering the market. He identified Circuit City, Home Depot, Office Depot, Best Buy, and others as those types of businesses which have recently sprouted up and attacked the wholesale operation of Price Club. Now, instead of the small business owner purchasing office supplies at Price Club, they may be persuaded to go to Office Depot or Staples to buy their office goods. This has caused Price Club to alter its marketing strategy and now become almost entirely a retail operation. It is now possible for individuals to purchase groceries, contact lenses and eyeglasses, bakery goods, as well as prescriptions since Price Club now has its own pharmacy. Mr. Harris concluded his testimony, arguing that Price Club has evolved into a true retail operation which is more fitting in the B.L., B.M., B.R. zones as

- 2 -

opposed to the M.L. zones which was first determined to be the appropriate location for a wholesale/warehouse activity.

Mr. Jeff Long, a representative with the Office of Planning, next appeared and testified on behalf of the Petitioner. Mr. Long testified that when Price Club moved to Baltimore County, his office as well as the Zoning Commissioner's office determined that this type of warehouse/wholesale use was better fitted to the M.L. zones as opposed to the B.R., B.M., and B.L. zones. However, the Office of Planning realizes that this use has evolved over the years and that it is no longer best suited to be located in an M.L. zone. In fact, the Price Club operation has changed so much to retail that the Planning Office is requesting that I not only find that Price Club can operate in the B.L. zones, but that I also find that it can no longer operate in the M.L. zone. Mr. Long testified that he is personally familiar with the Price Club operation and in his opinion, believes it to be a retail operation, similar in use to Wal-Mart, Target, Home Depot, Office Depot, all of which are permitted uses in the B.L. zones today. His office, therefore, supports the granting of the special hearing to allow Price Club to operate in the B.L. zone and has further requested that they be prohibited from operating in the M.L. zones.

Mr. Joseph Cronyn, a Real Estate Analyst with the Legg Mason Realty Group, appeared and testified on behalf of the Petitioner. He testified that Wall Street analysts consider Price/Costco, Inc. to be a retailer. He noted that businesses are classified according to their "SIC" code (Standard Industrial Classification) which was developed by the Federal government for use in the classification of establishments by the type of activity in which they are engaged, and that Wall Street has

- 3 -

determined Price Club to be a retail operation. Furthermore, he stated that the Comptroller's Office also considers Price Club to be a retailer.

Several residents of Baltimore County appeared in opposition to the Petitioners' request. Ms. Eleanor VanDevender, Ms. Martha Clark, and Mr. Leon Rozankowski, all testified in opposition to the Petitioner's request. The cumulative testimony of these individuals was that they oppose the relief requested, arguing that they believe Price Club is not a proper operation to be located in the B.L. zones. Arguments were made that this type of decision would be better left to the County Council, by way of passing legislation to address this issue, rather than having it decided upon on a case by case basis before the Zoning Commissioner's Office. They argued that large scale business operations such as Price Club would overwhelm the business local zone and should not be permitted therein.

In addition to the testimony and evidence offered at the hearing before me, I also received a letter dated March 22, 1996 authored by the Office of People's Counsel, relating to the history of these types of uses and previous decisions made concerning appropriate locations for same. The Office of People's Counsel provided samples of two of those cases, one of which is 10 years old, and the other is 6 years old. Because of the way the Price Club operation has evolved over the past several years, I believe that these cases are not applicable to the present day situation. Furthermore, the Office of People's Counsel failed to attend or participate at the hearing before me and therefore did not have the benefit of the testimony and evidence that was presented.

This particular Petition for Special Hearing and the testimony and evidence offered regarding the retail operation of this business was for Price Club, only. There was no testimony offered at the hearing as to

- 4 -

the operations of Pace, BJ's, Sam's or any other type of membership/wholesale club business. Therefore, my decision in this case shall only pertain to the operations of the Price Club as Price Club was the only Petitioner who came before me at this hearing. I do not believe it is appropriate to issue a decision dealing with the previously mentioned warehouse membership type businesses, and whether they could operate in the B.L. zone. That, I believe, is a decision that should be considered by the County Council by way of legislation. I have only been requested to render my decision relative to the Price Club operation inasmuch as they were the only entity to present testimony at the hearing before me and I shall restrict my order accordingly.

Having considered all of the testimony and evidence presented by the Petitioner's witnesses as well as the residents who appeared at the hearing, I find that the operation of the Price Club is that of a retail operation, which is permitted in the B.L. zone as of right. It is clear to this Deputy Zoning Commissioner that the operation of the Price Club has evolved over the past 10 years. Market competition by Circuit City, Office Depot, Staples, Pet Smart, etc., have caused the Price Club to alter its operations to that of a retail operation as opposed to a wholesale operation as they were in the beginning. Testimony demonstrated that present day operations of the Price Club include a myriad of retail uses, all of which are listed as permitted uses in the B.L., B.M. and B.R. zones on Pages 2-41 thru 2-43 of the B.C.Z.R. Furthermore, I find that the operation of the Price Club is no longer a permitted use in the M.L. zone, given that it is now retail in nature, and not a warehouse/wholesale operation. As such, the relief granted in prior Case No. 86-334-SPH be and is hereby vacated by this Order.

- 5 -

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of May, 1996 that the Price Club wholesale/retail sales facility through membership only is a use permitted as of right in the B.L., B.M., and B.R. zones, in that it operates as a combination of the retail uses listed therein, and as such, the Petition for Special Hearing is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Price Club is no longer permitted to operate in the M.L. zones, given the present-day operations of Price Club, and as such, the decision rendered in prior Case No. 86-334-SPH be and is hereby VACATED; and,

IT IS FURTHER ORDERED that the relief granted herein is limited to Price Club and to no other wholesale/warehouse membership facility.

TMK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date *5/24/96*
By *HP*

- 6 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

May 20, 1996

(410) 887-4386

John B. Howard, Esquire
Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
(No Specific Location)
Price/Costco, Inc. - Petitioner
Case No. 96-310-SPH

Dear Messrs. Howard & Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing 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 the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

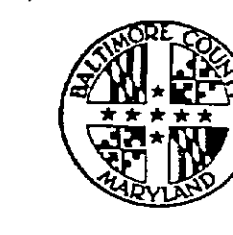
TMK:bjs

cc: Douglas N. Riley, Corporate Counsel, Price/Costco, Inc.
10 State Street, Suite 211B, Newbury Port, MA 01950

Ms. Martha Clarke, 828 East Joppa Road, Towson, Md. 21286
Ms. Eleanor VanDevender, MCCA, P.O. Box 18262, Baltimore, Md. 21227
Ms. Kristin Forsyth, VPC, P.O. Box 5402, Towson, Md. 21285
Mr. Leon Rozankowski, 1606 Thetford Road, Baltimore, Md. 21286
Mr. Justin J. King, GPOCA, 620 Murdock Road, Baltimore, Md. 21212
People's Counsel

File

Printed with Soybean Ink
on Recycled Paper



Petition for Special Hearing
to the Zoning Commissioner of Baltimore County
for the property located at No Specific Site
which is presently zoned BL

96-310-SPH

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made part of hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a Price Club as a use permitted as of right in a BL zone. A Price Club is a facility that sells a wide variety of products, both retail and wholesale through membership only. Approval of a Price Club in a BL zone would vacate the relief granted in Case No. 86-334-SPH, which permitted the Price Club in a M.L. zone and would be consistent with the Price Club's current combinations of use.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing 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.

Petitioner
Price/Costco, Inc.
(Type or Print Name)
Signature *Douglas N. Riley, Corporate Counsel*
10 State Street, Suite 211B
Newbury Port, MA 01950
Address State Zipcode
Towson MD 21204
Attorney for Petitioner:
John B. Howard/Robert A. Hoffman
Venable, Baetjer and Howard, LLP
Signature *John B. Howard*
Signature *Robert A. Hoffman*
210 Allegheny Ave. (410) 494-6200
Address Phone No.
Towson MD 21204
City State Zipcode
ESTIMATED LENGTH OF HEARING
unavailable for hearing the following dates
Next Two Months
ALL OTHER
REVIEWED BY: DATE

DROP-OFF
NO REVIEW
2/14/96 KCR

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed application for a Special Hearing to approve a Price Club as a use permitted as a right in a B.L. zone. Hearing: Tuesday, March 26, 1996 at 2:00 p.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearing is handicapped accessible. For special accommodations please call 887-3353. (2) For information concerning the file and/or hearing, contact this office at 887-3391.

CERTIFICATE OF PUBLICATION

TOWSON, MD. 21204, 1996
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 2/29, 1996.

THE JEFFERSONIAN,
G. Henderson
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 013473

DATE: 2/14/96 ACCOUNT: 001-0150 ITEM: 309
96-310-584
AMOUNT: \$50.00 (WCP)

RECEIVED FROM: Venable, Baetjer & Howard
#040 - SPECIAL HEARING
Price Club - No Specific Location

FOR: [Signature]
VALIDATION OR SIGNATURE OF CASHIER
CASHIER: [Signature]

TO: PUBLISHED PUBLISHING COMPANY
Feb. 29, 1996 Issue - Jeffersonian
Please forward billing to:
Barbara Ormond
Venable, Baetjer & Howard
210 W. Allegheny Avenue
Towson, MD 21204
494-6200

NOTICE OF HEARING

The Zoning Commission 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 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

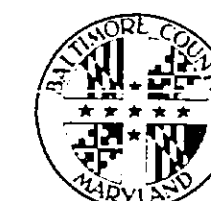
CASE NUMBER: 96-310-SPH (Item 309)
No Specific Site
Petitioner: Price/Costco, Inc.

Special Hearing to approve a Price Club as a use permitted as a right in a B.L. zone.

HEARING: TUESDAY, MARCH 26, 1996 at 2:00 p.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

February 26, 1996

NOTICE OF HEARING

The Zoning Commission 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 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-310-SPH (Item 309)
No Specific Site
Petitioner: Price/Costco, Inc.

Special Hearing to approve a Price Club as a use permitted as a right in a B.L. zone.

HEARING: TUESDAY, MARCH 26, 1996 at 2:00 p.m. in Room 118, Old Courthouse.

Arnold Jablon
Director

cc: Price/Costco, Inc.
John B. Howard/Robert A. Hoffman

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 19, 1996

John B. Howard/Robert A. Hoffman
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Item No.: 309
Case No.: 96-310-SPH
Petitioner: Price/Costco, Inc.

Gentlemen:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on February 14, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCB/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
March 20, 1996

FROM: Robert A. Wirth
DEPRM

SUBJECT: Zoning Item #309 - Price/Costco, Inc.
Zoning Advisory Committee Meeting of February 26, 1996

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).

RAW:BS:sp
PRICE/DEPRM/TXTSBB

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management
Date: March 1, 1996

FROM: Robert W. Bowling, Chief
Development Plans Review Division
Department of Permits & Development
Management

SUBJECT: Zoning Advisory Committee Meeting
for March 4, 1996
Items 309 (Revised), 306 (Revised),
308, 309, 310, 313, 314

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:jrb

cc: File

ZONECOMM.396

Baltimore County Government Fire Department

700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4880

DATE: 02/27/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: PRICE/COSTCO, INC.

Location: NO SPECIFIC SITE

Item No.: 309

Zoning Agenda: SPECIAL HEARING

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.

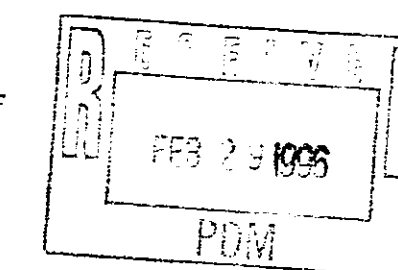
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed with Soybean Ink
on Recycled Paper



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

February 23, 1996

John B. Howard, Esquire
Robert A. Hoffman, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Preliminary Petition Review (Item #309)
Petitioner: Price/Costco, Inc.
No Specific Location

Dear Mr. Howard and Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

To avoid confusion, the reference to "No Specific Site" should be referenced in the petition wording.

An amendment to zoning case #8: 334-SPH, which justified and approved the Price Club warehouse use in the M.L. zone, must also be requested.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

John L. Lewis
Planner II, Zoning Review

cc: Zoning Commissioner
Zoning Case #86-334-SPH

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on Recycled Paper



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-2188

CAROLE S. DEMILIO
Deputy People's Counsel

March 22, 1996

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
Old Courthouse, Room 118
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: Petition for Special Hearing
No Specific Site (zoned B.L.)
PETITIONER: PRICE/COSTCO, INC.
Case No. 96-310-SPH
Hearing Date: 3/26/96, 2:00 p.m.

Dear Mr. Schmidt:

Upon inquiry from several community associations, this office has reviewed the background of zoning for membership warehouses in Baltimore County. The question revolves around the mixed character of these uses, having both industrial (warehouse/distribution) and retail (consumer) aspects.

The issue first arose in the Pace Membership Warehouse case (86-97-SPH), a decade ago. At that time, Pace sought classification as an industrial (M.L.) use. Our office challenged that characterization in an appeal of Commissioner Arnold Jablon's decision. As a result, there was a thorough exploration of the subject. The Board of Appeals, in its (enclosed) decision dated May 14, 1986, concluded M.L. to be a proper zone, with the use allowed as a warehouse/membership sales.

Our office respected that decision and did not appeal it. In the ten years since, the County Council has left the decision alone and made no amendment to overturn the decision. The zoning office, to our knowledge, has followed the decision. Other membership warehouses, such as the Price Club, have similarly been classified as M.L. uses in Zoning Commissioner decisions.

Preliminary research shows that the Zoning Commissioner's office approved a Price Club in an M.L. zone in Case No.

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
March 22, 1996
Page Two

86-334-SPH on June 11, 1986 (Jean Jung, Deputy Zoning Commissioner - copy of decision enclosed). Subsequently, in another Pace case, Shopping Center Realty Associates, Case No. 90-137-SPH, on March 19, 1990 (also enclosed), Deputy Zoning Commissioner Ann Nastarowicz reexamined the issue, this time in response to a request for membership warehouse in a shopping center zoned B.L.-C.C.C. Despite Pace's arguments emphasizing its retail aspects, the Commissioner found that such positions were evaluated in the first Pace case. Moreover, while draft legislation had been prepared to deal particularly with the issue, it had not led to any County Council action. Accordingly, the petition was denied.

Because of this history, and the enactment of zoning maps based on this understanding, it would appear on principle that the established zoning view should be maintained. Any change in the zone classification for box warehouses must come from the County Council as an amendment to the BCZR.

We hope this letter will be helpful to the Commissioner and the parties at the upcoming hearing.

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/csf
Enclosures

cc: Martha H. Clarke, Towson Estates Community Association
Eleanor VanDevender, Maiden Choice Community Association
John Lewis, Office of Permits and Development Management
Arnold F. Keller, III, Director, Office of Planning
John B. Howard, Esq./Robert A. Hoffman, Esq.,
Venable, Baetjer and Howard, Attorneys for Petitioner

IN THE MATTER OF
PACE MEMBERSHIP WAREHOUSE
RE: PETITION FOR SPECIAL
HEARING FOR WAREHOUSE IN
AN M.L. ZONE
(NO PARTICULAR LOCATION)

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 86-97-SPH

OPINION

This case comes before the Board as an appeal from the Order of the Zoning Commissioner of Baltimore County, dated November 26, 1985, which granted the petition for special hearing of Pace Membership Warehouse Inc. The petition seeks only an interpretation of the Baltimore County Zoning Regulations (hereafter BCZR); it does not seek relief under same for any specific property. Specifically, the petition requests an interpretation of whether Pace's business activities are permitted in an area zoned M.L.

Section 253.1.B.15 of the BCZR permits, as a matter of right in M.L. zones, "Storage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones". Additionally, pursuant to BCZR Sec. 253.1.F.1, incidental sales, either wholesale or retail, as an accessory use are permitted in M.L. zones as a matter of right. Therefore, it follows that under the combined and consistent interpretation of the above BCZR provisions, storage of those products designated under Section 253 of the BCZR and wholesale sales at a warehouse (storage) facility, are permitted as a matter of right in an M.L. zone.

Although wholesale sales at a warehouse facility in an M.L. zone is permitted as a matter of right, a strict retail sale facility is not permitted. That is, under the BCZR definition (Section 101) of "warehouse", it is specifically provided that the term does not encompass a "retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises".

Section 101-- DEFINITIONS. [B.C.Z.R., 1955.]

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below: [B.C.Z.R., 1955; Bill No. 149, 1987.]

Any word or term not defined in this section shall have the ordinary accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. [Bill No. 149, 1987.]

Accessory Building: One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building. [B.C.Z.R., 1955.]

Accessory Use or Structure: A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. [Bills No. 100, 1970; No. 26, 1988.]

["Acreage, Gross Residential..."] (Deleted by Bill No. 100, 1970.)

After-Hours Club: A commercial establishment whose principal business is the provision of live or recorded entertainment, with or without a dance floor, which is open primarily between 11:00 p.m. and 4:00 a.m. and which does not have a Baltimore County Liquor License. An After-Hours Club is not a nightclub as defined in the zoning regulations or the Building Code of Baltimore County, Maryland. (Bill No. 85, 1994.)

Agriculture, Commercial: The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the tax-property article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes

REV 3/95

1-4

2-40

STATIONS OF COLORED STORAGE PLANTS,

REV 3/95

2-65

IN THE MATTER OF
PETITION FOR SPECIAL HEARING
NO SPECIFIC SITE

PRICE/COSTCO, INC.
PETITIONER

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
CASE NO. 96-310-SPH

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Zoning Commissioner of Baltimore County at the hearing for the matter captioned above on Tuesday, March 26, 1996 at 2:00 p.m. in Room 118 of the Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Zoning Commissioner.

Witness: Jeffrey W. Long, Planner
Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Requested By: Robert A. Hoffman, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410)494-6200

The witness named above is hereby ordered to so appear before the County Zoning Commissioner.

Lawrence E. Schmidt
Zoning Commissioner

TO:DOCS1/BAW01/0021613.01

IN THE MATTER OF
PETITION FOR SPECIAL HEARING
NO SPECIFIC SITE

PRICE/COSTCO, INC.
PETITIONER

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
CASE NO. 96-310-SPH

RETURN OF PRIVATE PROCESS SERVER

Pursuant to Maryland Rule 2-126(a), I, the undersigned, hereby certify that service of process was executed on Jeffrey W. Long, on the 25th day of March, 1996, by delivering and leaving a copy of the Subpoena.

I further certify that I am over eighteen years of age and am not a party to this action. I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

Barbara White Ormond
Barbara White Ormond

TO:DOCS1/BAW01/0021615.01

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

March 19, 1990

Newton A. Williams, Esquire
Nolan, Plumbhoff & Williams
700 Court Towers
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & ZONING VARIANCE
SW/S of Joppa Road, SE of Perring Parkway
9th Election District - 4th Councilmanic District
Shopping Center Assoc./Federal Realty Investment Trust - Petitioners
Case No. 90-137-SPHGX

Dear Mr. Williams:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception, and Zoning Variance have been denied 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 887-3331.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File FILE: OUTSTANDING DECISIONS

This is an excellent
decision. I recommend
defense of it if appealed,
P42 3/21



RE: PETITION FOR SPECIAL HEARING
No Specific Site (Zoned BL)

Price/Costco, Inc.
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 96-310-SPH

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of March, 1996, a copy of the foregoing Entry of Appearance was mailed to John B. Howard, Esq. and Robert A. Hoffman, Esq., Venable, Baetjer and Howard, 210 Allegheny Avenue, Towson, MD 21204, attorneys for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

VENABLE, BAETJER AND HOWARD, LLP
Including pro se and out-of-state attorneys
210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21204-5517

VENABLE
ATTORNEYS AT LAW

VENABLE, BAETJER AND HOWARD, LLP
Including pro se and out-of-state attorneys
210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21204-5517
(410) 494-6200, Fax (410) 421-9147

February 12, 1996

Hand Delivery

Arnold Jablon, Director
Department of Permits
& Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Price/Costco, Inc.
Petition for Special Hearing
No Specific Site

Dear Mr. Jablon:

Enclosed please find a Petition for Special Hearing and check in the amount of \$250.00 to cover the cost of this filing.

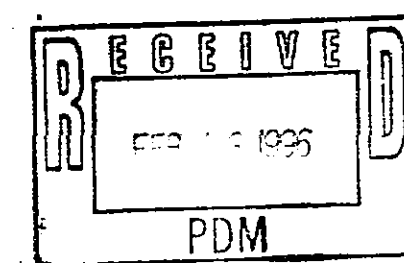
If you have any questions, please give me a call.

Sincerely,

Barbara W. Ormord
Barbara W. Ormord
Legal Assistant

Enclosure
cc: Robert A. Hoffman, Esquire

TO:DOCS1/BAW01/0019553.01



MAIDEN CHOICE COMMUNITY ASSOCIATION, INC.

P.O. Box 18262
Baltimore, Maryland 21227

March 25, 1996

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
Old Courthouse, Room 118
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
No Specific Site (Zoned B.L.)
Hearing Date: 3/26/96, 2:00 pm
Case No. 96-310-SPH

Dear Mr. Schmidt:

Our Community Association strongly opposes a Price Club as a use permitted as a right in a B.L. zone. Similar stores have been classified as M.L. uses and this classification should be maintained.

Sincerely yours,

MAIDEN CHOICE COMMUNITY
ASSOCIATION, INC.

Eleanor R. VanDevender
Eleanor R. VanDevender
President



THE GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, INC.
620 MURDOCK ROAD • BALTIMORE, MD • 21212

March 25, 1996

The Honorable Lawrence Schmidt
Baltimore County Zoning Commissioner
Old Court House
400 Washington Avenue
Towson, Maryland 21204

Re: Special Hearing
Item No.: 309
Case No.: 96-310

Dear Commissioner Schmidt:

Please accept this letter on behalf of the Greater Towson Council of Community Associations to voice our opposition to the Price Club's request for permission to locate in a B.L. zone. This letter was authorized by a vote at its regularly scheduled meeting on Thursday, March 21, 1996.

By allowing Price Club, and other similar type membership operations, to locate in a B.L. zone would be contrary to a long line of precedent restricting such places of business to M.L., B.M., and B.R. zones. To expand this list to allow the inclusion of a B.L. zone would result, in many cases, in a serious change in the nature of the centers that now occupy those zones. Typically, centers in a B.L. zone are neighborhood in nature, with limited avenues and streets servicing the property and somewhat limited parking. By granting the request, these centers would be transformed into regional places of business without the infrastructure to support it and without sufficient parking, thus further overloading, in many cases, streets already ill equipped to handle the already existing flow of traffic.

We therefore ask that you consider this when deciding the issue before you and to deny the petitioner's relief.

Very truly yours,

Justin J. King
Justin J. King

VENABLE
ATTORNEYS AT LAW

Hand Delivery

Arnold Jablon, Director
Department of Permits
& Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Rob Hoffman	210 Allegheny Ave 21204
NEOL HARRIS	16000 NANTUCKET PLAZA SPANISH LAKE, MD 21115
David Jones	4600 Woodlawn Plaza Sterling VA 22166
Joseph C. Brown	7 E. Redwood St. Balt. 21202

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Marinda Clarke	833 East Lakes Road Baltimore, MD 21206
Christa VanDevender	1100 P.O. Box 15262 Baltimore, MD 21227
John Connor	1100 P.O. Box 15262 Baltimore, MD 21227
Kristen Hays	P.O. Box 15262 Baltimore, MD 21227
Sean J. Gumbrecht	1100 P.O. Box 15262 Baltimore, MD 21227

IN RE:	BEFORE THE
PETITION SPECIAL HEARING	DEPUTY ZONING COMMISSIONER
PRICE CLUB, Petitioner	OF
	BALTIMORE COUNTY
	Case No.: 96-334-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Hearing for the purpose of approving the use by the Price Club of their wholesale operation as a matter of right in a ML Zone.

Testimony on behalf of the Petitioner indicated that the Price Club, approximately 10 years ago, originated the idea of a wholesale cash and carry operation. This concept has now spawned at least eleven (11) similar operations across the country. The original and current concept of the Price Club is to provide a better way to distribute goods on a wholesale basis to small businesses.

The Price Club has 24 locations nationally, each with a building approximately one hundred thousand (100,000) square feet in size. Each store offers approximately 3,500 items which are purchased directly from the manufacturer.

IN THE MATTER OF	BEFORE
PACE MEMBERSHIP WAREHOUSE	COUNTY BOARD OF APPEALS
RE: PETITION FOR SPECIAL	OF
HEARING FOR WAREHOUSE IN	BALTIMORE COUNTY
AN M.L. ZONE	No. 96-97-SPH
(NO PARTICULAR LOCATION)	

OPINION
This case comes before the Board as an appeal from the Order of the Zoning Commissioner of Baltimore County, dated November 26, 1985, which granted the petition for special hearing of Pace Membership Warehouse Inc. The petition seeks only an interpretation of the Baltimore County Zoning Regulations (hereafter BCZR); it does not seek relief under same for any specific property. Specifically, the petition requests an interpretation of whether Pace's business activities are permitted in an area zoned M.L.

Section 253.1.B.15 of the BCZR permits, as a matter of right in M.L. zones, "Storage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. zones". Additionally, pursuant to BCZR Sec. 253.1.F.1, incidental sales, either wholesale or retail, as an accessory use are permitted in M.L. zones as a matter of right. Therefore, it follows that under the combined and consistent interpretation of the above BCZR provisions, storage of those products designated under Section 253 of the BCZR and wholesale sales at a warehouse (storage) facility, are permitted as a matter of right in an M.L. zone.

Although wholesale sales at a warehouse facility in an M.L. zone is permitted as a matter of right, a strict retail sale facility is not permitted. That is, under the BCZR definition (Section 101) of "warehouse", it is specifically provided that the term does not encompass a "retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises".

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & ZONING VARIANCE - Corner SW/S Joppa Road and SE/S Perring Parkway 9th Election District 4th Councilmanic District

* BEFORE THE DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY

Shopping Center Associates/ Federal Realty Investmt. Trust - Petitioners

Case No. 90-137-SPHXA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve a Pace retail "membership" outlet in a B.L.-C.C.C. zone, the amendment of a parking variance previously granted in Case No. 71-57-A, and the amendment of the site plan previously approved in Case No. 5869-X. Petitioners also request a special exception to use a portion of the subject property for a service garage in conjunction with the retail "membership" outlet, and a variance to permit 1703 parking spaces in lieu of the required 2278 spaces, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Federal Realty Investment Trust, by Burnell L. Lindquist, Development Manager, and Jack E. Heinemann, Vice President of Development, appeared, testified, and were represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petitions were Michael Owen, Warehouse Manager of the Woodlawn Pace Membership Warehouse, John J. Stamm with George W. Stephens, Jr. & Associates, and Wes Guckert of the Traffic Group. There were no Protestants.

Testimony indicated that the subject property consists of 29.36 acres, zoned B.L.-C.C.C., and is the site of the Perring Plaza Shopping Center which was purchased by Petitioners in 1985. Said property is bounded on the west side by the Baltimore Beltway (I-695), on the northwest side by Perring Parkway, on the northeast side by Joppa Road and Satyr

FINAL REPORT of the Baltimore County Planning Board Adopted May 19, 1988 (No Public Hearing Held)

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING COMMERCIAL USES IN M.L. ZONES

Office of Planning and Zoning
Baltimore County, Maryland

NEW PLANNING BOARD
COUNTY CLERK BUILDING, Suite 400
401 Bayview Avenue
Towson, Maryland 21204
(410) 387-3211

P. David Fields
Director

October 20, 1989



Dennis J. Casperson
Acting Director

The Honorable William A. Evans, Chairman
Baltimore County Council
Court House
Towson, MD 21204

Dear Mr. Evans:

The Planning Board issued a Final Report, "Proposed Amendments to the Baltimore County Zoning Regulations concerning Commercial Uses in M.L. Zones" in May, 1988. Council has not enacted legislation in response to this report. At the October 19 meeting, the Planning Board agreed that the report should be modified so that a membership warehouse club, as defined in the proposed legislation, would be considered a retail rather than a wholesale use, and not permitted in M.L. Zones. I would be pleased to discuss this issue with you if you have any questions, at your convenience.

Sincerely,

P. David Fields, Secretary
to the Planning Board

PDF/MSR:prh

cc: Mr. Frank C. Robey, Jr., Administrative Officer
Members, Baltimore County Council
Members, Baltimore County Planning Board
Mr. Arnold Jablon, County Attorney

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING MEMBERSHIP WAREHOUSE CLUBS

A Final Report of the Baltimore County Planning Board
December 6, 1990

PROJECT DESCRIPTION

The Manufacturing, Light (M.L.) zone was established to provide for the locational needs of certain types of industrial uses which have less impact on the surrounding areas than heavier industrial uses. Commercial establishments are generally not permitted in the M.L. zones. However, changes in the way goods are distributed have increased the amount of land some types of businesses require, making it difficult for them to locate in Business Zones. Staff investigated the feasibility of permitting membership warehouse clubs in the M.L. zone.

BACKGROUND

In May, 1988 the Planning Board recommended to Council that the Zoning Regulations be amended to permit certain commercial uses which require a large amount of floor area -- furniture stores and membership warehouse clubs -- to locate in M.L. Zones. Section 22-24 of the County Code gives the Council two years to act on a recommendation of the Planning Board regarding a zoning text amendment. After reconsideration in October 1989, the Planning Board sent a letter to Council recommending that membership warehouse clubs not be permitted in M.L. zones.

Because Council did not act on the May, 1988 Final Report within two years, the Council cannot enact an amendment to the Zoning Regulations regarding this issue unless the Council first receives another report from the Planning Board.

DISCUSSION

Membership warehouse clubs are facilities which admit customers by membership only. These clubs sell a wide range of merchandise, usually in large quantities. Because goods are stored on the premises, to be picked up by the customer, a large amount of floor area is required.

Webster's Third New International Dictionary

OF THE ENGLISH LANGUAGE

UNABRIDGED

A Merriam-Webster
REG. U.S. PAT. OFF.

Utilizing all the experience and resources of more than
one hundred years of Merriam-Webster® dictionaries

EDITOR IN CHIEF

PHILIP BABCOCK GOVE, Ph.D.

AND

THE MERRIAM-WEBSTER

EDITORIAL STAFF



MERRIAM-WEBSTER INC., Publishers
SPRINGFIELD, MASSACHUSETTS, U.S.A.

SOCIAL LAW 48 49 1995 SUPPLEMENT \$ 12-601

11 Credit Accounts.

he following words have the meanings

retail credit account.

person who, under a retail credit account

uses from a seller not principally for the

agreement with a financial institution

s to pay the debts of the buyer as they

ated by the financial institution, in

the financial institution the cash sale

price" means the price for which the

the goods or services which are the

le were a sale for cash and not under

es and charges for delivery, installa-

improvement which is supplied or

i account" means a retail credit ac-

count in advance and assessed on the

price.

e" means the amount, however ex-

a seller or financial institution

having goods or services in a retail

ial institution" means a person who

which the person agrees to extend

ed by him by use of a credit card

ncorporated bank, savings institu-

gible personal property purchased

id purposes, including any certifi-

ter the time of sale are affixed to

ther or not severable from it.

primarily for industrial, commer-

te Motor Vehicle Law; or

ie Maryland Home Improvement

(1) **Holder.** — "Holder" means a person, including a seller and a financial institution, entitled to enforce a retail credit account against a buyer.

(2) **Open end account.** — "Open end account" means a retail credit account in which the finance charge is assessed on the outstanding balances from month to month.

(3) **Person.** — "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(4) **Retail credit account.** — (1) "Retail credit account" means an agreement or transaction for the retail sale of goods or services, which is negotiated or entered into and pursuant to which a time sale price is established.

(2) "Retail credit account" includes credit card financing by a financial institution.

(m) **Seller.** — "Seller" means a person regularly engaged in the business of selling goods to retail buyers.

(n) **Services.** — (1) "Services" means work, labor, and services furnished primarily for personal, family, or household purposes.

(2) "Services" includes:

(i) Services furnished in connection with the improvement of real property; and

(ii) Contributions to a "charitable organization" as defined in the Maryland Charitable Solicitations Act.

(3) "Services" does not include any:

(i) Work, labor, or service furnished primarily for industrial, commercial, or agricultural purposes; or

(ii) Services for which the tariff, rate, charge, cost, or expense, including in each instance the time sale price, is required by law to be filed with or approved by the United States, the State, or any department, division, commission, or agency of either.

(o) **Time sale price.** — "Time sale price" means the total of the cash sale price and the amount of the finance charge. (An. Code 1957, art. 83, §§ 153A, 153D; 1975, ch. 49, § 3; 1982, ch. 378; 1992, ch. 26, § 2.)

Cross references. — As to Maryland Charitable Solicitations Act, see § 6-101 et seq. of the Business Regulation Article.

Effect of amendments. — The 1992 amendment, effective Oct. 1, 1992, substituted the Maryland Charitable Solicitations Act for "Article 41 of the Code" in (m) (2) (ii).

Subtitle 6. Retail Installment Sales.

Part I. Definitions.

§ 12-601. Definitions.

(a) **In general.** — In this subtitle the following words have the meanings indicated.

(b) **Buyer.** — "Buyer" means a person who:

(1) acquires tangible personal property in a sale; or

(2) obtains a taxable service in a sale.

(c) **Agreement.** — "Agreement" means an installment sale agreement, a renewed or extended installment sale agreement, and any renewal, extension, or refund agreement made in connection with an installment sale agreement.

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ment with the intent of this Act to provide a change in taxation on the retail vehicle industry, expecting to generate a revenue stream to each of the General Fund and the Transportation Trust Fund, equivalent to that which would have been received for the coming fiscal years under the law in effect on January 1, 1990.

(5) Any additional type of data or information that would be useful for further analysis of the retail vehicle industry or the taxes levied by the State on the industry; and

(6) Any other relevant information or policy options arising from the further collection of data or experience under the provisions of this Act.

Section 3, ch. 284, Acts 1989, as amended by § 1, ch. 125, Acts 1990, effective June 1, 1990, provides that "this Act shall take effect June 1, 1990. It shall remain effective for a period of 5 years and 1 month and, at the end of June 30, 1995, no further action required by the General Assembly, this Act shall be stricken and of no further force and effect. The increased sales and use tax rate for short-term rentals of passenger cars and multipurpose passenger vehicles provided under this Act shall be applicable to all charges for rental agreements entered into on or after June 1, 1995 and before the termination of this Act. The altered definition of taxable price for short-term vehicle rentals and the sales and use tax rate provided under this Act shall be applicable to all rental agreements entered into on or after June 1, 1990 and before the termination of this Act. The credit for the vehicle excise tax on purchases of passenger cars and multipurpose vehicles used for short-term rentals provided under this Act shall apply to all vehicles titled on or after May 1, 1993 and before the termination of this Act. These credits may not be used to offset sales tax remittances until after July 1, 1993.

Section 3, ch. 685, Acts 1994, provides that "this Act shall take effect January 1, 1995, contingent on a downward adjustment in estimated revenues of not less than \$1,000,000 being incorporated into a Supplemental Budget and enacted with the Annual Budget Bill for Fiscal Year 1995 for the purpose of financing the provisions of this Act, and if that downward adjustment in estimated revenues is not incorporated into a Supplemental Budget and enacted with the Annual Budget Bill for Fiscal Year 1995, this Act shall be null and void without the necessity of further action by the General Assembly."

The contingencies of § 3 of ch. 685 and § 2 of ch. 690 are deemed to have been met.

Section 2, ch. 125, Acts 1990, provides that "the Comptroller's office shall continue to monitor the effects of Chapter 284 of the Acts of 1989 and the revenues generated by the taxes imposed by the State of Maryland on the short-term vehicle rental industry. The Department of Fiscal Services shall review these effects and shall be prepared to brief the fiscal committee or other committees of the General Assembly on request."

Reclassification to avoid collecting tax. — Classifying itself as an independent contractor rather than as an agent of a vendor does not free such an agent of the responsibility to collect the tax. *Ridgewood Log Homes, Inc. v. Comptroller of Treas.*, 77 Md. App. 382, 550 A.2d 707 (1989).

Dealers for out-of-state manufacturer of precast log home kits, who solicited and wrote up orders for manufacturer's kits and provided technical assistance to customers in constructing homes, qualified as "vendors" jointly responsible with manufacturer for payment of tax. *Ridgewood Log Homes, Inc. v. Comptroller of Treas.*, 77 Md. App. 382, 550 A.2d 707 (1989).

Cited in: *Chesapeake Indus. Leasing Co. v. Comptroller*, 331 Md. 428, 628 A.2d 234 (1993).

(Abrogation of amendment effective June 30, 1999.)

§ 11-101. Definitions.

(a) **In general.** — In this title the following words have the meanings indicated.

(b) **Buyer.** — "Buyer" means a person who:

(1) acquires tangible personal property in a sale; or

(2) obtains a taxable service in a sale.

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PRICE COSTCO PETITIONER'S

Department	1989 Sales Pen. %	1996 Sales Pen. %
Cigarettes	2.7	4.4
Candy	5.0	5.1
Dry Grocery	14.5	14.7
Sundries / H.B.A.	15.3	17.2
Frozen / Cooler	11.4	9.2
Office Supplies	4.9	2.4
Apparel	10.4	6.6
Automotive	5.2	2.5
Hardware	8.7	3.4
Housewares / Toys	4.3	3.4
Small Appliances	3.9	1.5
Major Appliances	6.4	4.9
Media (Tapes, C.D.'s, Videos)	2.0	4.1
Sporting Goods / Cameras	3.3	2.5
Jewelry	2.0	1.4
Gourmet Deli	N/A	1.4
Fresh Meat	N/A	4.6
Bakery	N/A	1.5
Slicing Deli / Entrees	N/A	0.7
Produce	N/A	2.5
Pharmacy / O.T.C.	N/A	3.5
Food Court	N/A	1.0
1 Hour Photo	N/A	0.6
Optical	N/A	0.9
Total	100.0	100.0

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March 26, 1996

Mr. Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21285

Subject: Determination of Price Club Business Classification

Dear Mr. Hoffman:

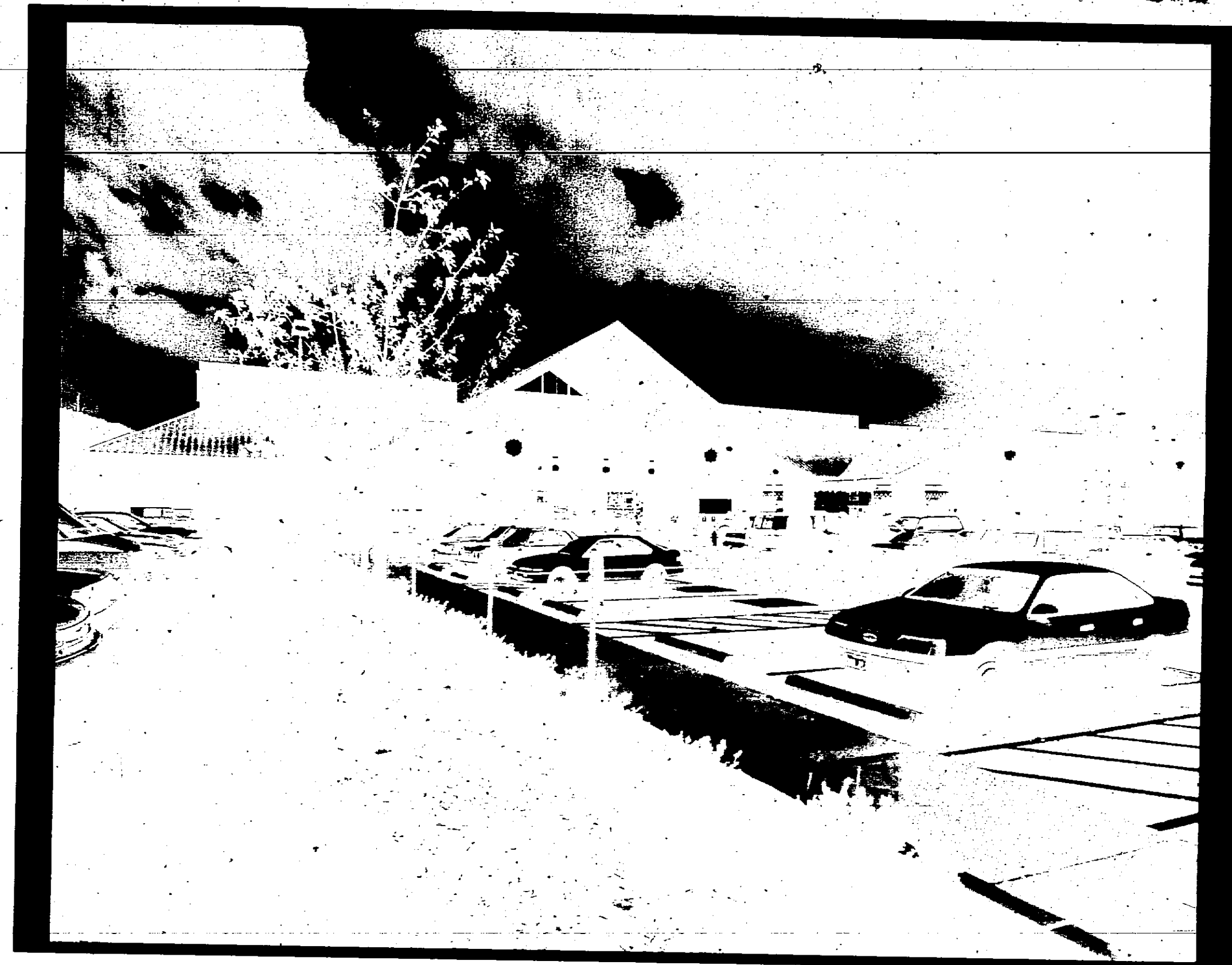
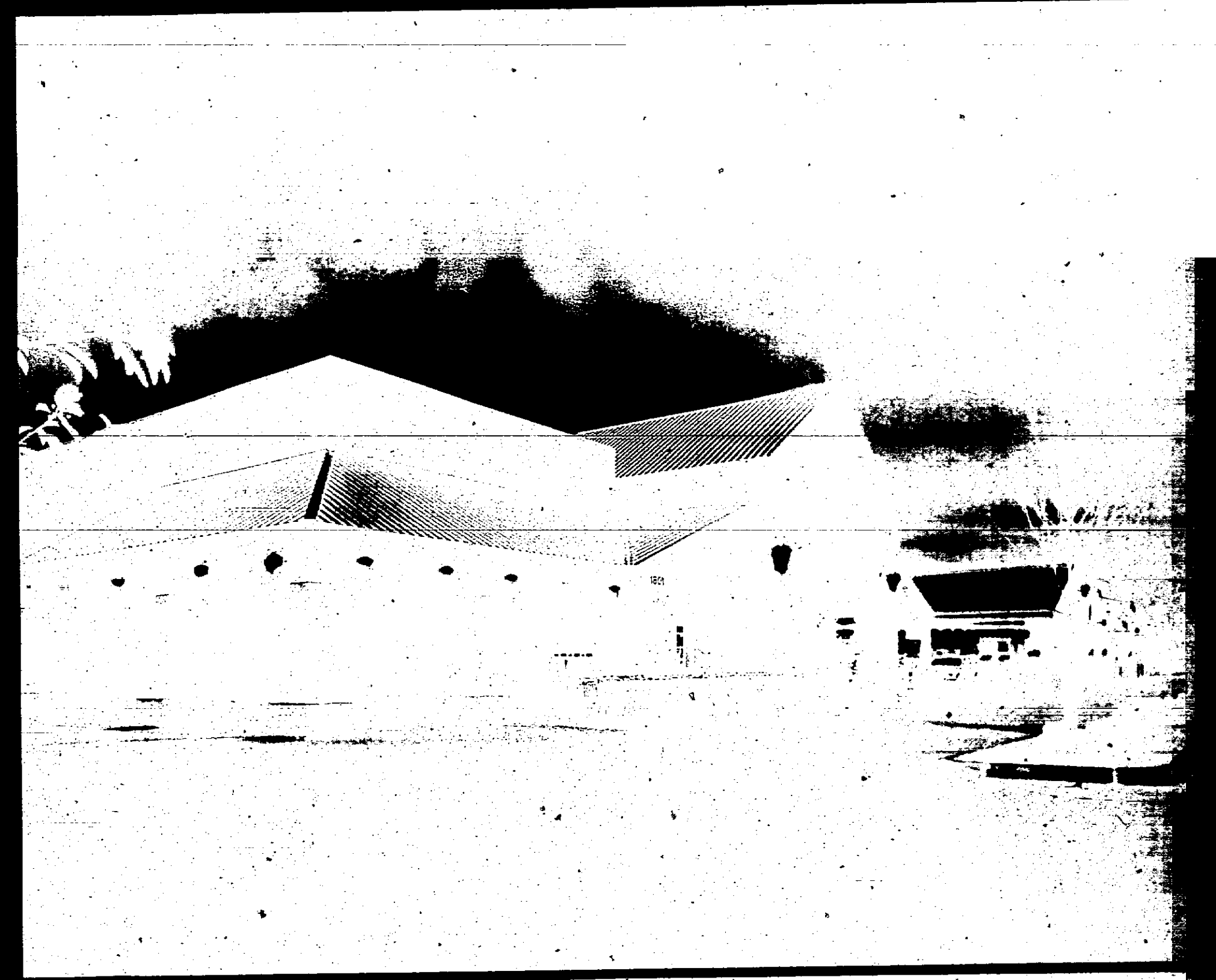
Legg Mason Realty Group, Inc. (LMRG) has been retained by PriceCostco, Inc. to research certain issues regarding whether the Price Club membership warehouse stores should be considered a retail business of the type permitted in Baltimore County's Business Local (BL) zone. That zone permits uses including: bakery, clothing and accessory store, department store, drug store, food store, furniture and upholstery store, hardware store, stationery store, variety and dry goods store.

1. Qualifications

LMRG is the real estate and economic consulting subsidiary of Legg Mason, Inc. Legg Mason, Inc., founded in 1899, is a New York Stock Exchange listed securities firm headquartered in Baltimore, Maryland. The firm is engaged in investment banking, public finance, funds management, pension advisory and real estate consulting, appraisal, finance, mortgage banking and commercial mortgage servicing. The firm currently manages more than \$24 billion in assets and has a total capital of more than \$330 million.

With 20 years of experience, LMRG is recognized as one of the leading sources of real estate expertise in the Mid-Atlantic states. Our 40 person staff operates from offices in Baltimore, Bethesda and Philadelphia. LMRG serves a diverse private and public sector client base including private builders and developers, banks and insurance companies, public institutions and government agencies.

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EXHIBIT 13



CONTACT LENSES OPTICAL

