

Mr. Richard A. Grossman, Zoning Enforcement Officer (continued)

designed to be used for the manufacture or refining of petroleum or asphalt or any of their products. It was our original understanding that the application for a permit called for the erection of asphalt plants at the Annapolis Road premises. Clearly the erection of a plant for the manufacture of asphalt could not be permitted without an ordinance, but in a conference with the Zoning Commission on January 27th, it was made evident that what was contemplated by the applicant was not the manufacture of asphalt but the blending of already manufactured asphalt with other materials into a new product, paving mix.

Our investigation shows that permits have been granted for similar structures without the necessity of an ordinance, as follows:

1. Potts & Callahan Paving Co., at 2801 Falls Road;
2. Mahoney Bros., at 4221 Erdman Avenue;
3. Arundel Construction Co., Inc., at 1000 Lehigh Street;
4. A. H. Smith Co., Pennington Avenue and Western Maryland Railway

The basis for the issuance of permits in the past without the requirement of an ordinance is that the Zoning Commissioner's office does not regard the blending and mixing of paving materials as the manufacture of asphalt or asphalt products.

The present case involves an application to erect structures similar to the ones cited above.

It is the opinion of this office, therefore, that if the Zoning Commissioner is satisfied that paving mix does not meet the chemical definition of an asphalt product, then a permit may be issued without the requirement of an ordinance.

Very truly yours,

/s/

HUGO A. RICCIUTI
City Solicitor

/s/

JAMES S. SYKAS
Assistant City Solicitor

R/S/A

CC: Board of Municipal and Zoning Appeals
Messrs. Raughley L. Porter, Building Inspection Engineer
John J. Lang, Deputy Director, Planning Commission
Leroy Frederick, Secretary, City Council