

PETITION FOR ZONING RE-CLASSIFICATION SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an D.R. 5 zone to an R-2 zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for the reasons given in the attached statement, a variance from the following sections of the Baltimore County Code:

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 107987

DATE: 8/31 ACCOUNT: 01-662
AMOUNT: \$100.00

RECEIVED FROM: *E. DiNenna*
FOR: *Paul Lee Engineering, Inc.*

142000001000010 02100

VALIDATION OR SIGNATURE OF CAMMER

regulations and restrictions of Baltimore County

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

S. Eric DiNenna, Esquire, P.A.

(Type or Print Name)

Signature S. Eric DiNenna

406 W. Pennsylvania Avenue

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 825-1630

Legal Owner(s):

Eleanor V. Broadwater, Ronald L. Broadwater, Sr.

(Type or Print Name)

Signature

Judith H. Broadwater, Clyde B. Broadwater

(Type or Print Name)

Signature

12 Brecon Place

Cockeysville, MD 21030

City and State

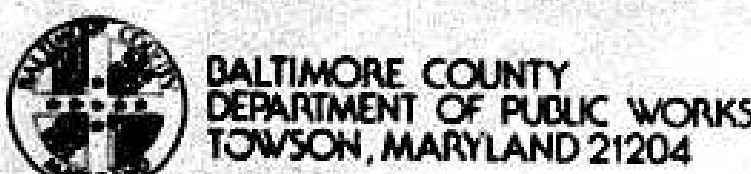
Name, address and phone number of legal owner, contract purchaser or representative to be contacted

S. Eric DiNenna

406 W. Pennsylvania Ave. 825-1630

Address Phone No.

BABC-Form 1



HARRY J. PISTEL, P.E.
DIRECTOR

October 11, 1982

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

Re: Item #5 Zoning Cycle IV (Oct. 1982-Apr. 1983)
Property Owner: Eleanor V. Broadwater, et al
S/S Brecon Place 498' W. from centerline of York Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: R-2
Acres: 0.661
District: 8th

Dear Mr. Hackett:

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

Highways:

Warren Road (Md. 143) is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road come under the jurisdiction of the Maryland State Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Brecon Place, an existing public road, is proposed to be further improved in the future as a 30-foot closed section roadway on a 50-foot right-of-way, with a standard-type roadway termination.

The entrance locations are subject to approval by the Department of Traffic Engineering.

Sediment Control:

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

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

November 4, 1982

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

Chairman
Nicholas B. Commodari

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

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 5 - Cycle No. IV
Petitioner - Eleanor V. Broadwater, et al
Reclassification Petition

Dear Mr. DiNenna:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October-April reclassification cycle (Cycle IV). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgement as to their accuracy and submit the necessary amendments to this office before Monday, November 29, 1982. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

Located at the westerly termination of Brecon Place, west of York Avenue in the 8th Election District, the subject property is improved with a detached dwelling. Similar uses exist to the north and east along Brecon Place, while an office building and related parking area exist to the south.

In view of your clients' proposal to convert the existing dwelling to offices, this hearing is required. Access to the office building is proposed through the existing parking area to the south. In view of this,

Item No. 5 - Cycle No. IV
Petitioner - Eleanor V. Broadwater, et al
Reclassification Petition
Page 2

particular attention should be afforded to the comments from the State Highway Administration. In addition, the site plan should be revised to include the type of paving and additional screening for the proposed parking lot, and lighting, if proposed.

Since any development in an R.O. zone is subject to Bill No. 56-82, I strongly suggest that you contact Mr. Jack Wimbley at 494-3335 to determine how said Bill will affect your clients' proposal.

If you have any questions concerning the enclosed comments, please feel free to contact me at 494-3391. Notice of the specific hearing date which will be between March 1 and June 30, 1983, will be forwarded to you in the future.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: Paul Lee Engineering, Inc.
304 W. Pennsylvania Avenue
Towson, Maryland 21204

Item #5 Zoning Cycle IV (Oct. 1982-Apr. 1983)
Property Owner: Eleanor V. Broadwater, et al
Page 2
October 11, 1982

Storm Drainage:

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

Water and Sanitary Sewer:

Public water supply and sanitary sewerage are serving the present residence.

Very truly yours,

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

RAM:EAM:FWR:bs

cc: Jack Wimbley

V-SE Key Sheet
65 & 66 NW 5 Pos. Sheets
NW 17 B Topo
51 Tax Map



Maryland Department of Transportation

State Highway Administration

Lowell K. Bridwell
Secretary
M. S. Calver
Administrator

September 22, 1982

Mr. William Hackett, Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204

Re: RE-CLASSIFICATION PETITIONS
CYCLE IV - 1982
MEETING OF SEPTEMBER 14, 1982

ITEM: #5.
Property Owner: Eleanor V. Broadwater, et al
Location: S/S Brecon Place
Route 45, 498' W. from centerline of York Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: R-2
Acres: 0.661
District: 8th

Dear Mr. Hackett:

On review of the site plan of August 25, 1982 and field inspection, the State Highway Administration finds the plan generally acceptable.

With the existing Broadwater Medical Center requiring 75 parking spaces and the plan showing 88 existing parking spaces, the State Highway Administration recommends two (2) additional parking spaces be eliminated with a total of 82 remaining on the Broadwater site.

The elimination of two (2) additional spaces (one on each side of the curb cut) at the north property line would provide an additional safety factor with access to the north site and

Mr. W. Hackett

-2-

September 22, 1982

eliminates pedestrians from entering and leaving their vehicles within the traveled way of vehicles entering the adjoining site.

Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

CL:GW:maw

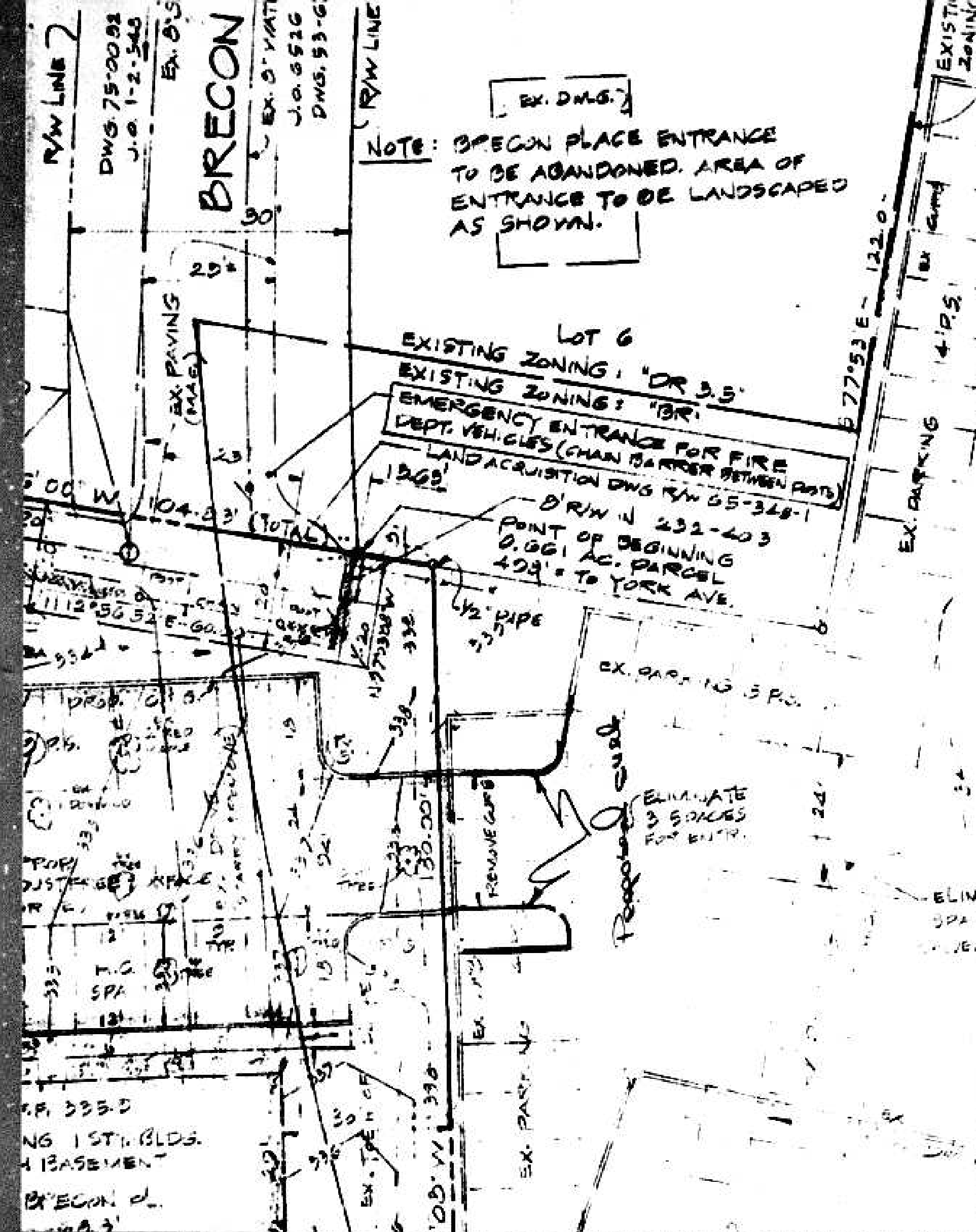
Attachment

cc: Mr. J. Wimbley

By: George Wittman

My telephone number is (301) 659-1350

Toll-free for impaired hearing or speech
365-7555 Baltimore Metro - 865-0451 D.C. Metro - 1-800-492-5002 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St. Baltimore, Maryland 21203 - 0717



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

STEPHEN E. COLLINS
DIRECTOR

November 1, 1982

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle IV - Meeting of September 14, 1982
Item No. - 5
Property Owner: Eleanor V. Broadwater, et al.
Location: S/S Brecon Place 498' W. from centerline
of York Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: R.O.
Acres: 0.661
District: 8th

Dear Mr. Hackett:

The proposed office building can be expected to generate approximately 40 trips per day as general offices and 220 trips per day as medical offices.

Michael S. Planigan
Traffic Engineer II

NSP/ccm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

NICHOLAS COMMODARI, Chairman
TO: Zoning Plans Advisory Committee Date: October 21, 1982
FROM: PAUL J. SOLOMON, Head
Environmental Planning Sec., OP2
Cycle III, No. 5 and No. 6, Review of
SUBJECT: Submitted environmental impact statements

The environmental impact statements for Item No. 5 and No. 6 meet the requirements of Section 101 of the Baltimore County Zoning Regulations.

PJS:vh

PAUL J. SOLOMON, Head
Environmental Planning Sec.

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

September 27, 1982

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

Dear Mr. Hackett:

Comments on Item #5, Cycle IV Meeting, September 14, 1982, are as follows:

Property Owner: Eleanor V. Broadwater, et al.
Location: S/S Brecon Place 498' W. from centerline of York Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: R-O
Acres: 0.661
District: 8th

The existing building is presently served by metropolitan water and sewer. The proposed conversion of the building to offices should not pose any health hazard.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

September 29, 1982

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

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Eleanor V. Broadwater, et al

Location: S/S Brecon Place 498' W. from centerline of York Avenue

Item No.: 5 Zoning Agenda: Meeting of September 14, 1982

Gentlemen:

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

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

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

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

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

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

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

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

Noted and Approved: _____
Special Inspection Division

Approved: _____
Fire Prevention Bureau

JR/mb/cn

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

C/O Nicholas Commodari
TO: Chairman Balto. Co. Board of Appeals Date: September 29, 1982
William T. Hackett
FROM: Charles E. Burnham, Plans Review Chief
Cycle Zoning IV, 1982

Item 5. Eleanor V. Broadwater, et al

Any new structures, alterations, additions or changes of use shall require permits from the Baltimore County Department of Permits and License before proceeding. The applicable codes are the 1981 BOCA Basic Building Code as amended by Council Bill #1-82, the 1981 BOCA Basic Mechanical Code, the 1981 BOCA Basic Energy Code and the Maryland State Code for the Handicapped (Md. Reg. 05.01.07.)

It shall be the owners responsibility to verify if the building can in fact comply or be made to comply with table 303.2 of the BOCA Building Code the Mechanical, Energy & State Code. Before applying for a change of occupancy alteration and other required permits.

There do appear to be problems with ceiling heights (7'-6 min) for Habitable areas, sprinklers in storage areas, exits, possible fire separations, and compliance to the Handicapped Code (BOCA Sect. 515 as well as the State Code.).

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland - 21204

Date: 9/17/82

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: 9/14/82

RE: Item No: 5
Property Owner: Eleanor V. Broadwater, et al
Location: S/S Brecon Place 498' W. from centerline of York Avenue
Present Zoning: D.R. 3.5
Proposed Zoning: R-O

District: 8th
No. Acres: 0.661

Dear Mr. Hammond:

Acreage too small to have effect on student population.

Very truly yours,

Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

RE: PETITION FOR RECLASSIFICATION: BEFORE THE COUNTY BOARD OF APPEALS
from D.R. 3.5 to R.O. Zone
S/S Brecon Place 498' W from
Centerline of York Avenue,
8th District
OF BALTIMORE COUNTY

ELEANOR V. BROADWATER, et al, Petitioners
Case No. CR-83-192 (Item 5, Cycle IV, 1982)

ORDER TO ENTER APPEARANCE

To the Honorable, Members of Said Board:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated thereto, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 25th day of January, 1983,
a copy of the foregoing Order was mailed to S. Eric DiNenna, Esquire and S. Eric DiNenna, P.A., 406 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioners.

John W. Hession, III

IN THE MATTER OF
THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL.
FOR REZONING FROM
D.R. 3.4 TO R-O
ON PROPERTY LOCATED ON THE SOUTH
SIDE OF BRECON PLACE, 498' WEST
FROM THE CENTER LINE OF YORK AVENUE,
8TH DISTRICT
Zoning File No. CR-83-192

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* AT LAW
* 83 M 230

MEMORANDUM OPINION

This case comes before this Court on appeal by the People's Counsel for Baltimore County from an Opinion and Order of the County Board of Appeals of Baltimore County, under date of May 25, 1983, granting a zoning reclassification on the subject property from D.R. 3.5 to R-O zoning. After careful consideration of the case below and applicable Maryland law, this Court is constrained to affirm the holding of the Board of Appeals.

It is well settled in Maryland that "where a legislative body, or a board... has granted a rezoning of property, the question on judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable." Boyce v. Samsby, 25 Md. App. 43, 49, 334 A.2d 137 (1975). The Court in Eger v. Stone, 253 Md. 533, 542, 253 A.2d 372 (1969), defined a "fairly debatable" decision as that which involved testimony "from which a reasonable man could come to different conclusions...." Prince George's County v. Meininger, 264 Md. 140, 152, 285 A.2d 649 (1972). Quoting from Supreme Court Justice Frankfurter's opinion in Universal Camera Corp. v. National Labor Relations Board, 340 U.S. 474, 95 L.Ed. 456, the Court in Board v. Oak Hill Farms, 232 Md. 274, 280, 192 A.2d 761 (1963), stated that "substantial evidence" has been held to mean "more than a scintilla" and was such evidence

"as a reasonable mind might accept as adequate to support a conclusion * * * and enough to justify, if the trial were to a jury, a refusal to direct a verdict * * *."

To support a zoning reclassification, the property owners must prove "mistake" or "error" in the original zoning. On this question of original mistake, the courts have held that when an assumption upon which a particular use is predicated proves, with the passage of time to be erroneous, this is sufficient to authorize a rezoning. Rockville v. Stone, 271 Md. 655, 662, 319 A.2d 536, 541 (1974).

The evidence submitted by Petitioners, the property owners, to the Board of Appeals was strong, material and substantial, and sustained their burden of proof that the original zoning was in error. The uncontroverted evidence produced by Petitioners showed that the subject property was bisected in part by B.R. (Business, Roadside) zoning, abutted on two sides by B.R. zoning, and abutted on one side by R-O (Residential, Office) zoning. Neighboring parcels contain a Kimmel Tire Co. store and repair center and a medical offices building, both commercial establishments erected subsequent to Petitioners' purchase of the subject property. In imposing the original zoning, the County Council failed to take into account then-existing facts, projects and trends, such as the ever expanding commercial and business use of the York Road corridor, which were reasonably foreseeable of fruition in the future. In addition, the Council ignored the fact that due to the small size of the parcel (approximately .66 acre) and its proximity to the medical office building, the parcel was obviously intended and hoped for use in conjunction with the medical building.

The Board of Zoning Appeals had before it substantial evidence of error in the 1980 comprehensive map process with regard to the subject property and the Order of the Board of Zoning Appeals granting the rezoning is affirmed.

Dated 5/8/84

Austin W. Brizendine, Judge

Copies sent to:

Peter Max Zimmerman, Esquire
S. Eric DiNenna

CIRCUIT COURT FOR BALTIMORE COUNTY

CATEGORY APPEAL

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

IN THE MATTER OF THE
APPLICATION OF
ELEANOR V. BROADWATER, ET AL.
FOR REZONING FROM
D.R. 3.5 TO R-O
ON PROPERTY LOCATED ON THE SOUTH
SIDE OF BRECON PLACE, 498' WEST
FROM THE CENTER LINE OF YORK AVENUE,
8TH DISTRICT
Petitioners - Appellees
Zoning File No. R-83-192

ATTORNEYS

John W. Hessian, III
Peter Max Zimmerman
Rm. 223, Court House
494-2188 (04)

S. Eric DiNenna
406 W. Penna. Ave. (04) 825-1650

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

- (1) June 22, 1983 - People's Counsel for Baltimore County's Order for Appeal from the decision of the County Board of Appeals of Baltimore County & Petition for Appeal fd.
- (2) June 30, 1983 - Certificate of Notice fd.
- (3) July 18, 1983 - Transcript of Record fd.
- (4) July 18, 1983 - Notice of Filing of Record fd.
- (5) July 18, 1983 - App. of S. Eric DiNenna for Petitioners and Appellee and Same Day Answer to Petition of Appeal fd.
- (6) Aug. 4, 1983 Appellant's Memorandum fd.
- (7) Aug. 31, 1983 - Petitioners and Appellees Memorandum fd.
- Feb. 14, 1984 Hon. Austin W. Brizendine, Hearing had. Ruling held sub-curia. Order and Opinion to be filed.
- (8) May 9, 1984 - Memorandum Opinion and Order of Court that the Order of the Board of Zoning Appeals Granting the Rezoning is Affirmed fd. (AWB)

COSTS
HISC # 83230 #
L-CLERK 60.00
CHECK R 40.00
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04/22/83

RECEIVED
COUNTY BOARD OF APPEALS
MAY 10 1984

DOCKET 15 PAGE 265 CASE NO. 83-M-230

FILED MAY-9-1984

Mackett -2- September 22, 1982
eliminates pedestrians from entering and leaving their vehicles within the traveled way of vehicles entering the adjoining site.

Very truly yours,
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw
Attachment
cc: Mr. J. Wimbley

September 22, 1982

Re: RE-CLASSIFICATION PETITIONS
CYCLE IV - 1982
MEETING OF SEPTEMBER 14, 1982

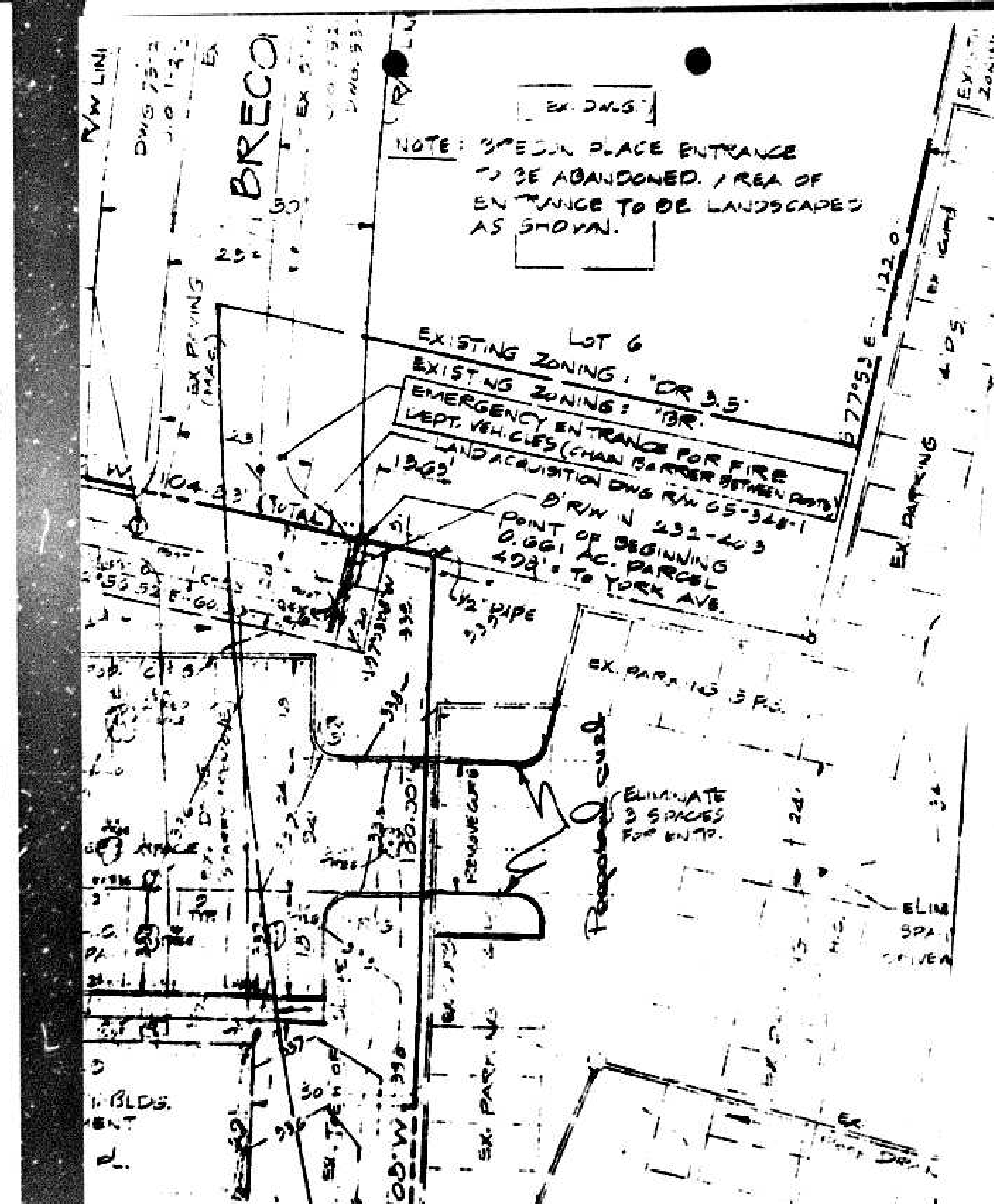
ITEM: #5.
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Location: S/S Brecon Place
Route 45, 498' W. from
centerline of York Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: R-O
Acres: 0.661
District: 8th

Dear Mr. Mackett:

On review of the site plan of August 25, 1982 and field inspection, the State Highway Administration finds the plan generally acceptable.

With the existing Broadwater Medical Center requiring 75 parking spaces and the plan showing 88 existing parking spaces, the State Highway Administration recommends two (2) additional parking spaces be eliminated with a total of 82 remaining on the Broadwater site.

The elimination of two (2) additional spaces (one on each side of the curb cut) at the north property line would provide an additional safety factor with access to the north site and



Mr. William Mackett, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Mackett:

Comments on Item #5, Cycle IV Meeting, September 14, 1982, are as follows:

Property Owner: Eleanor V. Broadwater, et al
Location: S/S Brecon Place 498' W. from centerline of York Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: R-O
Acres: 0.661
District: 8th

The existing building is presently served by metropolitan water and sewer. The proposed conversion of the building to offices should not pose any health hazards.

Very truly yours,
Dan J. Stewart, Director
BUREAU OF ENVIRONMENTAL SERVICES

RECEIVED
BALTIMORE COUNTY
OCT 11 10 10 AM '82
COUNTY BOARD
OF APPEALS

IN THE MATTER OF
THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL
FOR REZONING FROM
D.R. 3.5 TO R-O
ON PROPERTY LOCATED ON THE SOUTH
SIDE OF BRECON PLACE, 498' WEST
FROM THE CENTER LINE OF YORK AVENUE
8th District

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. CR-83-192

OPINION

This case comes before this Board on petition for a zoning reclassification from D.R. 3.5 to R.O. The property contains some 0.661 acres of which 0.551 acres is zoned D.R. 3.5 and 0.11 acres is zoned B.R. Case was heard this day in its entirety.

This petition was presented this Board under a specific plan use and all requirements of Bill 46-79 in this aspect were complied with. Mr. Paul Lee, Registered Professional Engineer, first testified for Petitioner. He prepared all required plans, the environmental impact statement and also described for the Board the subject site and its general relationship to abutting properties. Mr. and Mrs. Clyde Broadwater, part owners, (1/2) who reside at the subject site, next testified. Testimony was that her brother-in-law owns the medical center directly to the south and also part interest in the subject site. Their cumulative testimony indicated that when they took possession in 1979, the medical center was not yet built, although it was proposed. Since its erection, the elevation of the parking lot is detrimental to the normal expected peaceful use of their residence. As an aside at this point, the Board questions that since they are all family involved in the two properties, could not a privacy type fence correct to a great degree this problem. Testimony also noted a large tire repair business erected since their occupancy on property to the west. Dr. Ronald Broadwater, 2222 Springtown Road, Butler, Maryland, a general partner in the firm that owns the medical building, and 1/2 owner of the subject site, testified as to the proposed use of the property for general and medical offices and stated that he was fully aware that if his request was granted, he must fully comply with the submitted specific site plan. He also noted that this property, the

Eleanor V. Broadwater, et al
Case No. R-83-192

2.

subject site, was acquired at relatively the same time as the site was purchased for the now existing medical center. Mr. Frederick Klaus, a real estate appraiser and developer, then testified in support of this petition. He described all surrounding properties in detail, their zonings and present uses. He stated that it was his opinion the property is no longer suitable for a family residence and that R.O. would be the proper zoning. He also testified that the D.R. 16 zoning request that was an issue on the 1980 comprehensive maps, was an error and that R.O. should have been requested at that time. All witnesses testified that the proposed R.O. zoning would have no detrimental effect on any surrounding properties. This concluded Petitioners' case.

In opposition to the granting of this requested reclassification, People's Counsel had five nearby residents testify. Their names and addresses are as follows:

1. Dr. Stephen Lane, 10 Brecon Place
2. Roberto Myers, 9 Brecon Place
3. Mabel DeFonso, 5 Brecon Place
4. Nancy Criss, 22 Warren Road
5. Phillip Walker, 6 Brecon Place

All residents testified that their opposition to this request was based on opposition to any commercial use on their street, Brecon Place. There was testimony that such use would be detrimental to their property values, that they had no wish to see increased vehicular use and parking on the site and that the present use was appropriate for the site. All noted the pure residential aspect of Brecon Place, its many years existence, and their desire that it continue in this use. Mr. James Haswell, Planner for Baltimore County, was the final witness in this case. He testified that he wrote the report entered as People's Counsel's Exhibit No. 2. He noted that this property was an issue on the 1980 maps as a request for D.R. 16 zoning, which was denied by the County Council and the D.R. 3.5 retained. He noted the pure residential use of Brecon Place and stated that it was his opinion that the D.R. 3.5 provided a reasonable use for this site and that the zoning maps were correct and that the County Council made no error in so classifying it. On cross examination, he also affirmed that one property, the Gosnell property, directly abutting the medical center to the east, was presently zoned R.O. This concluded People's Counsel's case.

Eleanor V. Broadwater, et al
Case No. R-83-192

3.

After careful and lengthy consideration of all the testimony and especially the exhibits presented this day, the Board will note in our opinion some rather unusual aspects of this case. Mr. and Mrs. Clyde Broadwater's contentions that residential use was no longer reasonable can in no way evidence any error by the County Council. They entered into partnership purchase of the property with full knowledge that the abutting property was to be heavily developed as a medical center by their own partner. They should certainly have been aware of all the B.R. zoning abutting this parcel and its possible uses. The Board will however consider the parcel as it now exists and as it existed during the 1980 comprehensive map process. Part of the site is already classified B.R., as the zoning lines bisect the property on the east and on the south. The proposal on the specific site plan closes all access to Brecon Place and screens that side of the property from the Brecon Place residents. This surely removes permanently, any traffic, service or customers, from their neighborhood. An R.O. office use sandwiched between B.R. and D.R. 3.5 does not appear to be particularly objectionable. In Mr. Haswell's report, People's Counsel's Exhibit No. 3, he states, "Further, the commercial and office uses in the area are oriented to the York and Warren Roads: to extend these type uses to a Brecon Place property would be an unwarranted intrusion into this firmly established residential area." The site plan, as presented, removes this potential from the area. The only access to this site will now be through the medical center onto Warren Road and all access to Brecon Place will be permanently closed so that now there will be even less traffic on Brecon Place. The fact that this property was an issue on the 1980 map process with a specific request for D.R. 16 to allow parking for the medical center, should surely have caused the County Council to carefully consider this property. The Board can well see that to grant D.R. 16 to this site would be inappropriate and spot zoning. However, at that time, the R.O. zoning was being considered by the Council for all D.R. 16 properties that might be precluded from office use by special exception as a result of the newly enacted R.O. zoning. Here is a property bisected

Eleanor V. Broadwater, et al
Case No. R-83-192

4.

in part by B.R. zoning, abutted on two sides by B.R. zoning and obviously intended and hoped for use in conjunction with the medical building, yet the D.R. 3.5 was retained. At the same time the Gosnell parcel abutted on only one side by B.R. zoning and facing and abutting D.R. 3.5 on the other three sides was afforded R.O. zoning. For all these reasons, the Board is of the opinion that the County Council erred in classifying the subject site D.R. 3.5 instead of R.O. that was available at that time and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 29th day of May, 1983, by the County Board of Appeals, ORDERED that the petition requesting the reclassification of 12 Brecon Place from D.R. 3.5 to R.O. be and the same is GRANTED with the following restrictions:

1. The entrance to Brecon Place be permanently closed and all access to the site be through the medical center onto Warren Road as shown on Petitioners' Exhibit No. 2.
2. That adequate and dense screening be provided along the east property line abutting Brecon Place as shown on Petitioners' Exhibit No. 2.
3. That all other aspects of development be as shown on Petitioners' Exhibit No. 2.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Larry S. Spurr
Larry S. Spurr

William R. Evans
William R. Evans

IN THE MATTER OF
PETITION FOR RECLASSIFICATION
12 BRECON PLACE
BALTIMORE COUNTY, MARYLAND
RONALD BROADWATER, SR., et al
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

MEMORANDUM OF LAW

Ronald Broadwater, Sr., M.D., et al, Petitioners, by S. ERIC DINENNA and S. ERIC DINENNA, P.A., their attorneys, respectfully request a reclassification for the above captioned subject property from a DR3.5 Zone to an R0 Zone, for the property located and known as 12 Brecon Place, Baltimore County, Maryland.

Pursuant to Bill 46-79 your Petitioners submit a plan, herewith, concerning the proposed use as general and medical offices for property containing 0.661 acres of land, more or less.

The property is sandwiched between a residential area of DR3.5 and the BR Zone and BR used properties along Warren Road and York Road.

The Petitioner claims error in that a proper buffer was not provided by the Baltimore County Council in its adoption of the 1980 Comprehensive Zoning Map between the BR Zone to the west and south and to the DR3.5 Zone to the east. This makes the property virtually unusable as a residential zone considering that it is sandwiched and surrounded by the BR Zone and uses permitted in the BR Zone.

Secondly, pursuant to Bill 46-79, the specific use of the property as aforementioned is general offices and medical offices and Petitioners will be bound by the plans as submitted. The property is presently improved with a one story family dwelling.

There will be no entrance to Brecon Place; the entrance to the subject property will be from the office complex adjoining the subject property and fronting Warren Road. Both properties are in common ownership.

Furthermore, there is a need in this general vicinity for medical offices.

For the above reasons and further reasons to be presented at the time of hearing, the Petitioners respectfully request a reclassification from the DR3.5 Zone to the R0 Zone.

Respectfully submitted,

S. ERIC DINENNA
S. ERIC DINENNA, P.A.
406 W. Pennsylvania Avenue
Towson, Maryland 21204
825-1630
Attorneys for Petitioners

IN THE MATTER OF
THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL
FOR REZONING FROM
D.R. 3.5 TO R-O
ON PROPERTY LOCATED ON THE SOUTH
SIDE OF BRECON PLACE, 498' WEST
FROM THE CENTER LINE OF YORK AVE.,
8th District

Zoning File No. R-83-192

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Misc. Docket No. 15

Folio No. 265

File No. 83-M-230

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of May 25, 1983, granting a zoning reclassification on the subject property from D.R. 3.5 to R-O zone.

John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 22nd day of June, 1983, a copy of the foregoing Order for Appeal was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Rm. 200, Court House, Towson, MD 21204; and that a copy thereof was mailed to S. Eric Dinenna, Esquire, 406 W. Pennsylvania Ave., Towson, MD 21204.

Received:
Edith T. Eisenhart
Administrative Secretary,
Board of Appeals of Baltimore County

IN THE MATTER OF
THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL
FOR REZONING FROM
D.R. 3.5 TO R-O
ON PROPERTY LOCATED ON THE SOUTH
SIDE OF BRECON PLACE, 498' WEST
FROM THE CENTER LINE OF YORK AVE.,
8th District

Zoning File No. R-83-192

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Misc. Docket No.

Folio No.

File No.

PETITION ON APPEAL

The People's Counsel for Baltimore County, Proponent below and Appellant herein, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this appeal is taken, viz:

1. The decision of the Board of Appeals to reclassify the subject property was arbitrary, capricious, and not based on substantial and legally competent evidence.
2. The County Council, in the course of the 1980 Comprehensive Zoning process, placed an appropriate zoning classification on the subject property, and provided for it a reasonable use.
3. The Board of Appeals, in its finding of error, wrongfully substituted its judgment for that of the County Council.

WHEREFORE, Petitioner prays that the Order of the Board of Appeals dated May 25, 1983 be reversed, and the D.R. 3.5 zoning classification enacted by legislation be reinstated.

AND AS IN DUTY BOUND, etc.,

John W. Hession, III
People's Counsel for Baltimore County

Rec'd. 10:45 P.M.
6/27/83

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HERESY CERTIFY that on this 22nd day of June, 1983, a copy of the
aforegoing Petition on Appeal was served on the Administrative Secretary of the
County Board of Appeals of Baltimore County, Rm. 200, Court House, Towson, MD
21204; and that a copy thereof was mailed to S. Eric DiNenna, Esquire, 406 W.
Pennsylvania Ave., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

Received:
Edith T. Eisenhart Date 4/23/83
Edith T. Eisenhart
Administrative Secretary,
Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL
FOR REZONING FROM
D.R. 3.5 TO R-O
on property located on the south
side of Brecon Place, 498' west
from the centerline of York Avenue
8th District

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Case No. CR-83-192
Misc. Docket No. 15
People's Counsel for
Baltimore County, Appellant
Folio No. 265
File No. 83-M-230

CERTIFICATE OF NOTICE

Mr. Clerk:
Pursuant to the provisions of Rule B-2 (d) of the Maryland Rules of Procedure,
William T. Hackett, LeRoy B. Spurrier and William R. Evans, constituting the County Board
of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the
representative of every party to the proceeding before it; namely, S. Eric DiNenna, Esquire,
406 West Pennsylvania Avenue Towson, Maryland 21204, Counsel for Petitioners, and
Eleanor V. Broadwater, et al, 12 Brecon Place, Cockeysville, Maryland 21030, Petitioners,
and John W. Hession, III, Esquire, Courthouse, Towson, Maryland 21204, People's Counsel
for Baltimore County, and Mabel Dalfonso, 5 Brecon Place, Cockeysville, Maryland 21030
and Mrs. Nancy Kase, 22 Warren Road, Cockeysville, Maryland 21030, a copy of which
Notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, Md. 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been
mailed to S. Eric DiNenna, Esquire, 406 West Pennsylvania Avenue, Towson, Maryland
21204, Counsel for Petitioners, and Eleanor V. Broadwater, et al, 12 Brecon Place,
Cockeysville, Maryland 21030, Petitioners, and John W. Hession, III, Esquire, Courthouse,
Towson, Maryland 21204, People's Counsel for Baltimore County, and Mabel Dalfonso, 5
Brecon Place, Cockeysville, Maryland 21030 and Mrs. Nancy Kase, 22 Warren Road,
Cockeysville, Maryland 21030, on this 30th day of June, 1983.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL
FOR REZONING FROM
D.R. 3.5 TO R-O
on property located on the south
side of Brecon Place, 498' west
from the center line of York Avenue
8th District

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Case No. CR-83-192
Misc. Doc. No. 15
People's Counsel for
Baltimore County, Appellant
Folio No. 265
File No. 83-M-230

CERTIFIED COPIES OF PROCEEDINGS BEFORE
THE BOARD OF APPEALS OF BALTIMORE
COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and William R.
Evans, constituting the County Board of Appeals of Baltimore County, and in answer to
the Order for Appeal directed against them in this case, herewith return the record of
proceedings had in the above entitled matter, consisting of the following certified copies
or original papers on file in the office of the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS OF
BALTIMORE COUNTY

No. CR-83-192
August 31, 1982 Petition of Eleanor V. Broadwater, et al, for zoning reclassification
from a D.R. 3.5 to R-O zone, on property located on the south
side of Brecon Place, 498' west from the center line of York Avenue,
8th District - filed
Order of William T. Hackett, Chairman, County Board of Appeals,
directing advertisement and posting of property - date of hearing
set for April 12, 1983, at 10 a.m.
November 4, 1982 Comments of Baltimore County Zoning Plans Advisory Committee
March 24, 1983 Certificate of Publication in newspaper - filed
March 28, 1983 Certificate of Posting of property - filed

Eleanor V. Broadwater, et al
Case No. CR-83-192

April 12, 1983 At 10:00 a.m. hearing held on petition
May 25, 1983 Order of County Board of Appeals granting the petition for
reclassification from D.R. 3.5 to R.O., with restrictions
June 22, 1983 Order for Appeal filed in the Circuit Ct. for Baltimore County
by John W. Hession, Esq., People's Counsel for Baltimore County
June 22, 1983 Petition to accompany Order for Appeal filed in Circuit Court
June 30, 1983 Certificate of No ice sent to all interested parties
July 18, 1983 Transcript of testimony filed
Petitioners' Exhibit No. 1 - 1A thru 1M, series of photos
" " " 2 - Plot, Paul Lee, Aug. 25, 1982
" " " 3 - Plot (marking in red)
" " " 4 - Environmental Impact Statement
People's Counsel Exhibit No. 1 - 1A thru 1J, series of photos
" " " 2 - Planning Board recommendation
" " " 3 - Letter from Dr. Broadwater to
Councilman Smith, May 21, 1980
July 18, 1983 Record of proceedings filed in the Circuit Court for Baltimore County
Record of proceedings pursuant to which said Order was entered and
said Board acted are permanent records of the Board of Appeals of Baltimore County and
your respondents respectively suggest that it would be inconvenient and inappropriate to
file the same in this proceeding, but your respondents will produce any and all such rules
and regulations whenever directed to do so by this Court.

Respectfully submitted,

John Holman
John Holman
County Board of Appeals of Baltimore County

cc: Eric DiNenna
Jack Hession

Paul Lee P.E.

Paul Lee Engineering Inc.
304 W. Pennsylvania Ave.
Towson, Maryland 21204
824-5311

DESCRIPTION

#12 BRECON PLACE

This Description is for Reclassification of Property from "DR 3.5" to "R-O".

Beginning for the same at a point at the end of the south side of Brecon
Place, said point being located at 498' westerly from the centerline of York
Avenue thence leaving said south side of Brecon Place the 9 following courses
and distances:

- (1) S 12°56'00" W 13.63'
- (2) N 88°16'08" W 190.00'
- (3) N 12°23'52" E 111.00'
- (4) N 00°26'33" W 72.59'
- (5) S 72°22'00" E 63.00'
- (6) N 86°36'00" E 79.20'
- (7) S 20°43'02" E 73.70'
- (8) S 86°16'37" E 15.00'
- (9) S 12°56'00" W 91.20'

to the point of Beginning.

Containing 0.661 acres of land more or less and known as #12 Brecon Place,
Baltimore County, Maryland.

Saving and excepting portions of the above described parcel presently
zoned "BR".

Engineers — Surveyors — Site Planners

8/26/82

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

WILLIAM E. HAMMOND
ZONING COMMISSIONER

April 7, 1983

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Conditional Reclassification
S/S of Brecon Place, 498' W from the
c/b of York Avenue
Eleanor V. Broadwater, et al - Petitioners
Case No. CR-83-192

Dear Mr. DiNenna:

This is to advise you that \$334.46 is due for advertising and posting
of the above property.

Please make the check payable to Baltimore County, Maryland, and remit
to Arlene January, Zoning Office, Room 113, County Office Building, Towson.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE & REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 117620
DATE 3/23/83 ACCOUNT R-01-618-000
AMOUNT \$334.46
RECEIVED FROM Ronald L. Broadwater, Sr. (\$167.23 paid)
Laboratory Account (\$167.23 paid)
FOR Advertising and Posting Case No. CR-83-192
(Eleanor V. Broadwater, et al)
8 071*****33446-B 8248A

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF PUBLICATION

TOWSON, MD. 4/7 1983

THIS IS TO CERTIFY, that the annexed
advertisement was published in THE TOWSON
TIMES, a weekly newspaper distributed in
Towson, Baltimore County, Md., once a
week, for 1 successive weeks,
the first publication appearing on the
23rd day of March 1983.

THE TOWSON TIMES

Cost of Advertisement, \$24.75

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8 Date of Posting 3/23/83
Posted for: Petition for Conditional Reclassification
Petitioner: Eleanor V. Broadwater, et al
Location of property: S/S Brecon Place, 498' W of York Ave.
Location of Sign: front of property (S/S Brecon Pl.)
Remarks: none
Posted by: Arlene January Date of return: 4/1/83
Number of Signs: 1

DUPLICATE
CERTIFICATE OF PUBLICATION

TOWSON, MD. March 24, 1983

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., once a week,
the first publication appearing on the 24th day of March 1983.

THE JEFFERSONIAN

Cost of Advertisement, \$11.00

IN THE CIRCUIT COURT

Vs.
County Bd. of Appeals of Balto. Co.

FOR

BALTIMORE COUNTY

Docket 15 Folio 265

Case No. 83-M-230

NOTICE OF FILING OF RECORD

TO: John W. Hession, III - Peter Max Zimmerman
Room 223 Court House Towson, Md. 21204
Mail Stop 2206

June Holmen
Mail Stop 2203
S. Eric DiNenna
406 W. Pennsylvania Ave.
Towson, Md. 21204

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on July 18, 1983.

Eleanor V. Broadwater
Clerk

FILED JUL 18 1983

455

Rec'd. 7/19/83

MANDATE
Court of Special Appeals of Maryland

PGC No. 334, September Term, 1984

People's Counsel for Baltimore County

v.

Eleanor V. Broadwater, et al

November 23, 1984 - Voluntary Dismissal
treated as a Line of Dismissal filed
by counsel for appellant. Appeal
Dismissed.

November 23, 1984 - Mandate Issued.

STATEMENT OF COSTS:

In Circuit Court: Baltimore County

(Law No. 83-M-230)

Record
Stenographer's Costs

In Court of Special Appeals:

Filing Record on Appeal
Printing Brief for Appellant
Reply Brief
Portion of Record Extract - Appellant
Printing Brief for Cross-Appellee

Printing Brief for Appellee
Portion of Record Extract - Appellee
Printing Brief for Cross-Appellant

RECEIVED
COUNTY BOARD OF APPEALS
MAY 26 1984

STATE OF MARYLAND, Set:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this twenty-third day of November A.D. 1984.

James E. Jordan
Clerk of the Court of Special Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

PETITION FOR CONDITIONAL RECLASSIFICATION

8th Election District

ZONING: Petition for Conditional Reclassification

LOCATION: South side of Brecon Place, 498 ft. West from the centerline of York Avenue

DATE & TIME: Tuesday, April 12, 1983 at 10:00 A.M.

PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Petition for Conditional Reclassification from a
D.R. 3.5 zone to an R-O zone

All that parcel of land in the Eighth District of Baltimore County

Being the property of Eleanor V. Broadwater, et al, as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, April 12, 1983 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

December 6, 1982

MEMBER
NICHOLAS B. COMMODARI
CHAIRMAN

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

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 5 - Cycle No. IV
Petitioner - Eleanor V. Broadwater, et al
Reclassification Petition

Dear Mr. DiNenna:

Enclosed please find addendum comments for the above referenced petition.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosure

cc: Paul Lee Engineering, Inc.
304 W. Pennsylvania Avenue
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Paul Solomon Date September 29, 1982

FROM: Nicholas Commodari

SUBJECT: Cycle IV
#5 - Eleanor V. Broadwater, et al
S/S Brecon Place 498' W. of centerline of York Avenue
#6 - Leroy M. Merritt
N/S Joppe Road 71.50' W. of centerline of Drumwood Road

Enclosed is an "environmental impact statement" for Item #5 and an "environmental effects report" for Item #6 in the current Zoning Cycle IV.

Please review these documents and submit written comments indicating whether they comply with the requirements of Section 101 of the zoning regulations.

In addition, on July 27, 1982, I submitted an environmental impact statement and a statement in compliance with Section 1A03.2 of the zoning regulations for your comments. This pertained to Item #269 D & R Joint Venture, which has also been included in Cycle IV. As of this writing, I have not received any response.

All comments on these three petitions should be submitted prior to October 14, 1982.

Thank you for your anticipated cooperation.

Nicholas Commodari
NICHOLAS COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:msch

cc: S. Eric DiNenna, P.A.
406 W. Pennsylvania Avenue
Towson, Maryland 21204

Charles F. Obrecht, Jr.
906 Munsey Building
Baltimore, Maryland 21202

Jir Roswell

March 16, 1983

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING
Re: Petition for Conditional Reclassification
S/S of Brecon Place, 498 ft. W from the
c/l of York Avenue
Eleanor V. Broadwater, et al - Petitioners
Case #CR-83-192 Cycle IV - Item #5

TIME: 10:00 A.M.

DATE: Tuesday, April 12, 1983

PLACE: Room 218, Courthouse, Towson, Maryland

cc: People's Counsel

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

4/12/83 - P. Zimmerman to file Memo in 15 days ---- E. DiNenna 15 days to reply

S. Eric DiNenna, P.A.
Attorney at Law

406 W. Pennsylvania Avenue
Towson, Maryland 21204

May 16, 1983

The Honorable William T. Hackett,
Chairman
County Board of Appeals
Room 200
Courthouse
Towson, Maryland 21204

RE: Eleanor V. Broadwater, et al,
Petitioners
Case No.: CR-83-192

Dear Mr. Hackett and Members of the Board:

This letter is a substitution for closing argument after evidence was presented to the Board concerning the above captioned matter.

The facts of this matter are very simple. The Petitioners own a house on a parcel of property zoned DR3.5 on Brecon Place, which is a street that deadends into the subject property. The property is surrounded on three sides by commercial uses and/or zoning. To the south a three (3) story office building; to the southwest an automobile tire and battery service company; to the immediate west a property was converted to a restaurant and further to the northwest property being operated as a contractors' equipment company. The entrance, at present, to the subject property is via Brecon Place. Pursuant to Section 2-58 of the Baltimore County Code, the Petitioners submitted with the Petition a documented site plan, cutting off access to Brecon Place and making access through the parking lot of the office building immediately to the south, with permission of the owners of the office building.

Testimony presented before this Honorable Board indicated that the property, being surrounded as aforesaid, is classified in error in its present DR3.5 Classification. The County Council in its adoption of its 1980 Comprehensive Zoning Map, though the subject property was at issue from the DR3.5 zone to a DR16 Zone, chose not to change the zoning on the subject property and classified DR3.5. It did not in fact provide an offer for the

Rec'd. 5/17/83
10:35 am

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211
NORMAN E. GERBER
DIRECTOR

December 3, 1982

Mr. William T. Hackett, Chairman
Board of Appeals
Room 219 - Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #5, Zoning Advisory Committee Meeting, Zoning Cycle IV - 1982, September 14, 1982, are as follows:

Property Owner: Eleanor V. Broadwater, et al
Location: S/S Brecon Place 498' W. from centerline of York Avenue
Acres: 0.661
District: 8th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

If the petition is granted, the developer must comply with Bill 56-82 (Baltimore County Development Regulations).

Very truly yours,

John L. Wimbley
John L. Wimbley
Planner III
Current Planning & Development

JLW:th

The Honorable William T. Hackett
Page Two May 16, 1983

RE: Case No.: CR-83-192

residential uses immediately to the east of the York Road corridor. This is contrary to what they did immediately to the east on Warren Road next to the three (3) story office building in that they classified the first property in the R0 Classification being requested by the Petitioners. In the R0 Zone and providing a buffer along the Warren Road from the commercial properties to the west from the residential uses to the east. This was not done in the case of the subject property.

All expert testimony before the Board indicated that the present classification of the DR3.5 Zone is in fact in error in that the County Council did not provide a buffer as it did along Warren Road, that the specific development of the office building to the south, the tire, battery and accessory shop on York Road to the rear of the subject property, the commercial activity along York Road to the rear of this property, does not afford the subject property to be residential use any longer and this should have been recognized by the Baltimore County Council in its adoption of the Comprehensive Zoning Map in 1980.

Going a step further, this Petition having been filed under Section 2-58, guarantees not only to Baltimore County, but to the residents of the area, the development of the property in accordance with the plans submitted.

Accordingly, the Petitioners respectfully request that the Request for Reclassification be granted.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA

SED:Wjt



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel

TEL 494-2180

April 22, 1983

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Eleanor V. Broadwater, et al, Petitioners
Zoning Case No. CR 83-192 (Item 5,
Cycle IV)

Dear Mr. Hackett:

Introduction

In about 1979, the Broadwater family acquired interests in two adjoining tracts. One of the parcels fronts on Warren Road, several hundred feet to the east of York Road. Dr. Broadwater purchased this piece, zoned B.R., with the intent to construct a medical center. Separately, his brother, Clyde Broadwater, had purchased the subject property, zoned D.R. 3.5. Dr. Broadwater then purchased a half interest in this property as well, with the intent of using it as a parking lot ancillary to the medical center. The subject property was, however, then occupied by a residence with sole access to Brecon Place, a pleasant residential community.

Dr. Broadwater knew that the fulfillment of his plans would require a zoning change. He specifically requested that the County Council, as part of the 1980 Comprehensive Zoning process, reclassify the subject property from D.R. 3.5 to D.R. 16. The existing zoning precluded the parking lot use because of the then applicable residential transition area regulations. The D.R. 16 classification would solve this problem.

The 1980 Comprehensive Zoning Process

Dr. Broadwater made his plans explicit in a letter to County Councilman James Smith and, at the same time, acknowledged a concern for the impact of the commercial development on the residential neighborhood on Brecon Place. As an inducement to securing the cooperation of the neighbors, the Broadwaters made an informal representation that their plans for the parking lot would not involve a change in the residence.

The Honorable
William T. Hackett, Chairman
County Board of Appeals

April 22, 1983

The County Council considered the matter and made its judgment that the D.R. 3.5 zoning should remain, and the residential area along Brecon Place stay intact. There is no evidence that the County Council was unaware of relevant facts or failed adequately to take such facts into account. There was no error.

The Broadwaters Make Even Bigger Plans

Dr. Broadwater then proceeded with his original undertaking to construct the medical office building on Warren Road. He now wants not only to put a parking lot in the rear, but also, contrary to the representations made to the County Council and to the neighbors in 1980, to convert the residence to an additional medical office. In order to succeed in this speculative venture, the Broadwaters have the nerve to claim error and suggest that the subject property should appropriately be rezoned to R-O with a specific plan.

The Reclassification Case: Fact and Fiction

The testimony presented to the Board of Appeals by the Petitioners is remarkable for its distortion of the issues.

The Petitioners opened with Mr. and Mrs. Clyde Broadwater to suggest that they suffered a hardship in occupying the dwelling to the rear of the medical center and that they had made a mistake to purchase the property. They were aware, of course, of the plans for the medical center but failed to mention the early plans to rezone to D.R. 16 for a parking lot.

Dr. Broadwater described the plans for the additional office and parking use on Brecon Place and also failed to mention his participation in the 1980 Comprehensive Zoning process. Petitioners then sponsored Frederick Klaus as their real estate expert. He purported to have undertaken a thorough review of the matter and concluded that the D.R. 3.5 zoning was in error. He noted that the Petitioners had requested D.R. 16 in 1980 and, surprisingly, said that this was ill-advised because of amendments to that zone which eliminated the previously existing special exception for office use. He failed to state that the D.R. 16 could certainly be used for parking, and failed further to state that Dr. Broadwater certainly understood this as shown in his letter to Councilman Smith.

Klaus' critical review of the Broadwater request for D.R. 16 in 1980 was an indispensable premise for his conclusion of error. Even if he had been correct in his assumption, any error of the Broadwaters would certainly not be a basis for claiming error of legislative judgment. But the truth is that the Broadwaters understandably wanted D.R. 16 zoning for a parking lot, and the Council knew it. Therefore, it was Klaus who was unfamiliar with the facts of the 1980 Comprehensive Zoning process, and Klaus whose conclusions were based on a false premise.

The Honorable
William T. Hackett, Chairman
County Board of Appeals

April 22, 1983

Howell and the Neighbors

James Howell, the County Planner responsible for evaluation of cycle rezoning petitions, testified that the existing zoning is appropriate and provides for the reasonable residential use along Brecon Place. He clarified that the property had been a specific issue in the 1980 process and produced Dr. Broadwater's letter to Councilman Smith.

A number of the neighbors opposed the petition for the understandable reason that a parking lot and office at the end of their community street would destroy the character of their neighborhood and upset their lifestyle. They remained steadfast in their opposition despite Petitioners' suggestion that Brecon Place would be closed from the usual office traffic, excepting emergency vehicles.

Conclusion

The key to this case is Dr. Broadwater's letter to Councilman Smith, which we attach hereto for emphasis. It demonstrates the extent to which the Petitioners have manipulated their factual presentation. It is pure poppycock for the Broadwaters to complain of misfortune and hardship in their present quarters on Brecon Place since the residence was purchased as part of a speculative package deal. It is pure poppycock for Klaus to suggest that Dr. Broadwater was out in left field when he requested D.R. 16 zoning in 1980 when that approach fit perfectly with the plans for a medical center and rear parking lot.

The truth is that the Broadwaters planned from the beginning to take residential property and make it a part of their office complex extending northward from Warren Road. It is understandable that the Broadwaters would have planned such a complex. The objection here is that they disguised these plans in their presentation to the Board of Appeals in order to pretend that some sort of misjudgment was made in 1980.

If there was any misjudgment, it was the apparent failure of the Petitioners to anticipate that the true facts would come out about the plans detailed in Dr. Broadwater's letter. It is obvious from this letter that the County Council was aware of all relevant facts and made the reasonable judgment that the residential character of Brecon Place should be spared the intrusion of an additional office use. Under all of the circumstances, it is vitally important that the Board of Appeals respect the Council judgment in this particular case.

Enclosure

cc: S. Eric Dinenna, Esquire

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

RONALD L. BROADWATER, SR., M.D.
2420 EASTRIDGE ROAD
TIMONIUM, MARYLAND 21093
Telephone 252-8141

May 21, 1980

The Honorable James T. Smith
Third Councilmanic District
Baltimore County Council
Towson, Maryland 21204

Dear Jim:

As you have probably heard by now, we are moving steadily forward with the Warren Road Medical Office Building. The land has been graded and the rolling steel for the foundation has been ordered.

BOUNDARY DISCUSSION

This letter, however, is directed primarily towards our collective efforts to rezone the land immediately north of the Warren Road property, situated at 12 Brecon Place. As you may remember from our earlier correspondence on this subject, the land at 12 Brecon Place is contiguous to the site where the medical office building will be constructed. It has been, and continues to be, my aspiration to request that this tract (12 Brecon Place) be rezoned from its existing classification of D. R. 3.5 to D. R. 16 so that we may use the property for additional parking for the medical office building. The only reason that it may not be used in this regard at this time is because the property falls within the transition zone, i.e. it is within 300 feet of an existing residential home. I would like to add, however, that the property is bounded on the western and southern boundaries by BR zoning, and to its southeast is a tract of D. R. 16 with special exception for office use. To the north of the property is a stream; to the northeast, vacant land; and only to the east - and screened off from the rest of the neighborhood, do we find residential homes. The medical office building will be to the south and a shopping center is planned for the property to the west, on the property bounding York Road. The erection of these two facilities will diminish the residential value of the subject property.

I fully appreciate the reticence of other homeowners in the area to too much commercial exploitation of property adjacent to them, if such might be their reaction. I doubt, however, that the property owners would be in too much disagreement with my proposal since it will definitely guarantee against an overspill of parked cars onto Warren Road from the use of the medical facility. Furthermore, I have every intention of improving the screening of this property from the other residential homesteads, as is required by law, to avoid any nuisance effect on their quality of life.

This letter is being directed to you at this time in response to your request earlier in the year that we take this action at this time. I am, therefore, very hopeful that you will enter this request as an issue on the 1980 Baltimore County Comprehensive Zoning Map.

RONALD L. BROADWATER, SR., M.D.
2420 EASTRIDGE ROAD
TIMONIUM, MARYLAND 21093
Telephone 252-8141

The Honorable James T. Smith
- page 2 -

Thank you for your kind attention to this matter. If I can be of further assistance in this matter or answer any additional questions, please feel free to contact me at 252-8141 during normal business hours, or you may call my real estate advisor, John Miller, at 252-8438 or 321-6543.

A plat map of the subject property has been enclosed for your convenience.

Many thanks again,

Sincerely,

Ronald L. Broadwater, Sr., M.D., F.A.
2420 Eastridge Road
Timonium, Maryland 21093

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 25, 1983

S. Eric Dinenna, Esq.
406 W. Panna. Ave.
Towson, Md. 21204

Re: Case No. CR-83-192
Eleanor V. Broadwater, et al

Dear Mr. Dinenna:

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

Very truly yours,

John Holman
John Holman, Secretary

Encl.

cc: Eleanor V. Broadwater, et al
Mabel Dalfonso
Dr. S. A. Lane
Nancy Kase
J. W. Hessian, Esq.
W. E. Hammond
J. E. Dyer
N. E. Gerber
J. G. Howell
Board of Education

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

June 30, 1983

S. Eric Dinenna, Esquire
406 W. Pennsylvania Avenue
Towson, Md. 21204

Re: Case No. CR-83-192
Eleanor V. Broadwater, et al

Dear Mr. Dinenna:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Eleanor V. Broadwater, et al
Mabel Dalfonso
Mrs. Nancy Kase

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204
June 30, 1983

John W. Hession, III, Esquire
Courthouse
Towson, Md. 21204

Re: Case No. CR-83-192
Eleanor V. Broadwater, et al

Dear Mr. Hession:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

Edith T. Fisenhart
Edith T. Fisenhart, Adm. Secretary

Encls.

SED:wt
7-15-83
482-48

IN THE MATTER OF
THE APPLICATION OF
ELEANOR V. BROADWATER, ET AL
FOR REZONING FROM
D.R. 3.5 TO R-O
on property located on the south
side of Brecon Place, 489' west
from the center line of York Ave.,
6th District

Zoning File No. R-83-192

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
15/265/83M230

ANSWER TO PETITION ON APPEAL

Now Comes Eleanor V. Broadwater, et al, Petitioners below,
and Appellee herein, pursuant to Maryland Rule B-9, files this
answer to the Petition on Appeal and says:

1. That the decision of the Board of Appeals to classify the subject property was based on substantial and legally competent evidence and was not arbitrary, capricious or illegal.
2. That the County Council, in the course of the 1980 Comprehensive Rezoning process, placed an inapplicable and erroneous zoning classification on the subject property.
3. That the Board of Appeals in its finding of error corrected the erroneous classification of D.R.3.5 and that the Board of Appeals is correct in substituting its judgment for that of the County Council when error is committed.

WHEREFORE, the Appellee prays that the Order of the Board of Appeals dated May 25, 1983 be affirmed and that the R-O Zoning Classification be allowed to remain on the subject property.

S. ERIC DINENNA
S. ERIC DINENNA, P.A.
406 W. Pennsylvania Avenue
Towson, Maryland 21204
825-1630
Attorneys for Appellees

*Rec'd. 7/20/83
10:00 AM*

I HEREBY CERTIFY that on this 15 day of July, 1983, a copy of the foregoing Answer to Petition on Appeal was mailed to John W. Hession, III, Esquire, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204 and the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 200 Court House, Towson, Maryland 21204.

(L)
S. ERIC DINENNA

-2-

Kathy Ruckman - 494-2880
Assignment - Jury - Motions
Marilyn Fennell
Assistant Clerk Typist
James Summers - 494-2881
Assignment - Jury - Motions
Freddie Grove
Assistant Clerk Typist

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Boyer Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
December 19, 1983.

John V. Ruppel, III, Esq.
Peter Max Zimmerman, Esq.
S. Eric DiNenna, Esq.
County Board of Appeals of Baltimore Co.

TO:

RE: RUN JURY - 83 M 230 - ELEANOR V. BROADWATER ET AL VS COUNTY BOARD OF APPEALS OF BALTIMORE CO.

HEARING DATE: Sunday, February 14, 1984, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 1/2 hours

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3497.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CYONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

Rec'd. 10/10/83

Kathy Ruckman - 494-2880
Assignment - Jury - Motions
Marilyn Fennell
Assistant Clerk Typist
James Summers - 494-2881
Assignment - Non-Jury - Motions
Freddie Grove
Assistant Clerk Typist

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Boyer Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
November 2, 1983.

John V. Ruppel, III, Esq.
Peter Max Zimmerman, Esq.
S. Eric DiNenna, Esq.
County Board of Appeals of Baltimore Co.

TO:

RE: RUN JURY - 83 M 230 - ELEANOR V. BROADWATER ET AL VS COUNTY BOARD OF APPEALS OF BALTIMORE CO.

HEARING DATE: Wednesday, December 14, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeals 1 1/2 hours

Notes Confirming an agreed counsel date.

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3497.

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Rec'd. 10/10/83

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3497.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CYONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

RE: RUN JURY - 83 M 230 - ELEANOR V. BROADWATER ET AL VS COUNTY BOARD OF APPEALS OF BALTIMORE CO.

HEARING DATE: Monday, October 24, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeals 1 1/2 hours

Notes Confirming an agreed counsel date.

John V. Ruppel, III, Esq.
Peter Max Zimmerman, Esq.
S. Eric DiNenna, Esq.
County Board of Appeals of Baltimore Co.

TO: John V. Ruppel, III, Esq.
Peter Max Zimmerman, Esq.
S. Eric DiNenna, Esq.
County Board of Appeals of Baltimore Co.

John Adams - 494-2880
Assignment - Jury - Motions
Marilyn Fennell
Assistant Clerk Typist
James Summers - 494-2881
Assignment - Non-Jury - Motions
Freddie Grove
Assistant Clerk Typist

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Boyer Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
July 29, 1983.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY,
Appellant
v.
ELEANOR V. BROADWATER,
et al,
Appellees

NOTICE OF APPEAL

MR. CLERK:
Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned case, under date of May 8, 1984, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

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

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

RECEIVED
COUNTY BOARD OF APPEALS
JUN 5 1984

I HEREBY CERTIFY that on this 10 day of June, 1984, a copy of the foregoing Notice of Appeal was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204.

Peter Max Zimmerman
Peter Max Zimmerman

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, IN THE COURT OF SPECIAL APPEALS OF MARYLAND
Appellant
v.
ELEANOR V. BROADWATER, et al,
Appellees

VOLUNTARY DISMISSAL

People's Counsel for Baltimore County, Appellant, hereby voluntarily dismisses the above-entitled appeal. The reason for the voluntary dismissal is that on November 13, 1984, the County Council for Baltimore County enacted Bill 136-84, a comprehensive zoning ordinance, and the said ordinance moots this appeal.

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

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

RECEIVED
COUNTY BOARD OF APPEALS
JUN 20 1984

I HEREBY CERTIFY that on this 20 day of November, 1984, a copy of the foregoing Voluntary Dismissal was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204.

Peter Max Zimmerman
Peter Max Zimmerman



**Court of Special Appeals
of Maryland**

Annapolis, Md. 21401-1698

HOWARD E. FRIEDMAN
CLERK

ROBERT J. BOOZE
CHIEF DEPUTY

(301) 269-3646 (DIRECT LINE)
(301) 261-2620 (WASHINGTON AREA)

TTY FOR DEAF
(301) 269-2608 (DIRECT LINE)
(301) 268-0450 (WASHINGTON AREA)

November 23, 1984

Elmer H. Kahline, Jr., Clerk
Circuit Court for Baltimore County
Courthouse
Towson, Maryland 21204

Re: People's Counsel for Baltimore County v. Eleanor V.
Broadwater, et al
PHC No. 334, September Term, 1984
Your Law No. 83-M-236

Dear Mr. Kahline:

Enclosed find a Voluntary Dismissal treated as a Line of
Dismissal that was filed with this Court on November 23, 1984.
We are making a copy for our files and sending the original to
you for docketing.

Also, find enclosed the original mandate of this Court,
reflecting this dismissal, which together with the Line should
be placed in the record.

Very truly yours,

Howard E. Friedman
Howard E. Friedman
Clerk

HEF:cdq

Enclosure

cc: Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire
S. Eric DiNenna, Esquire

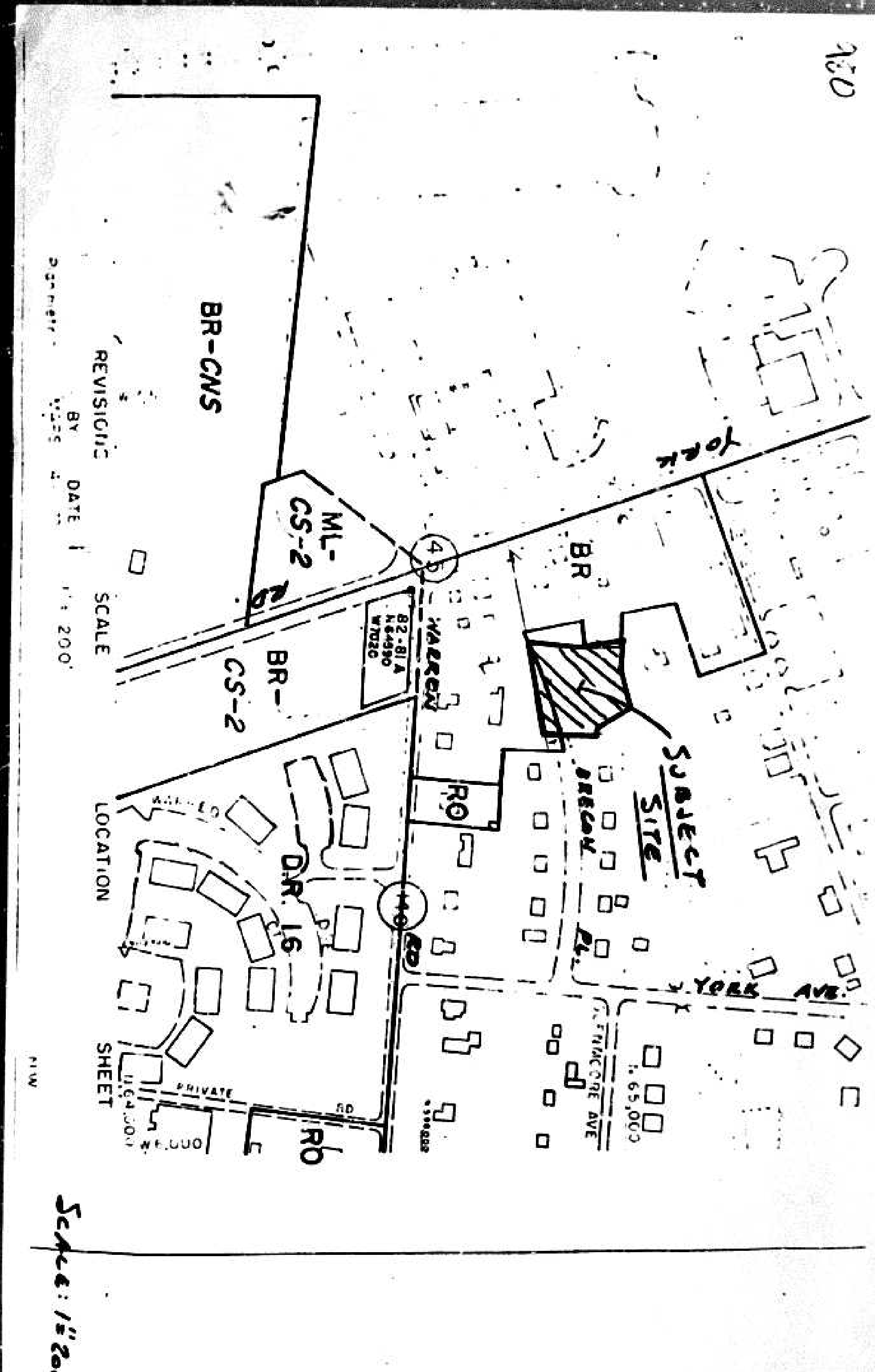
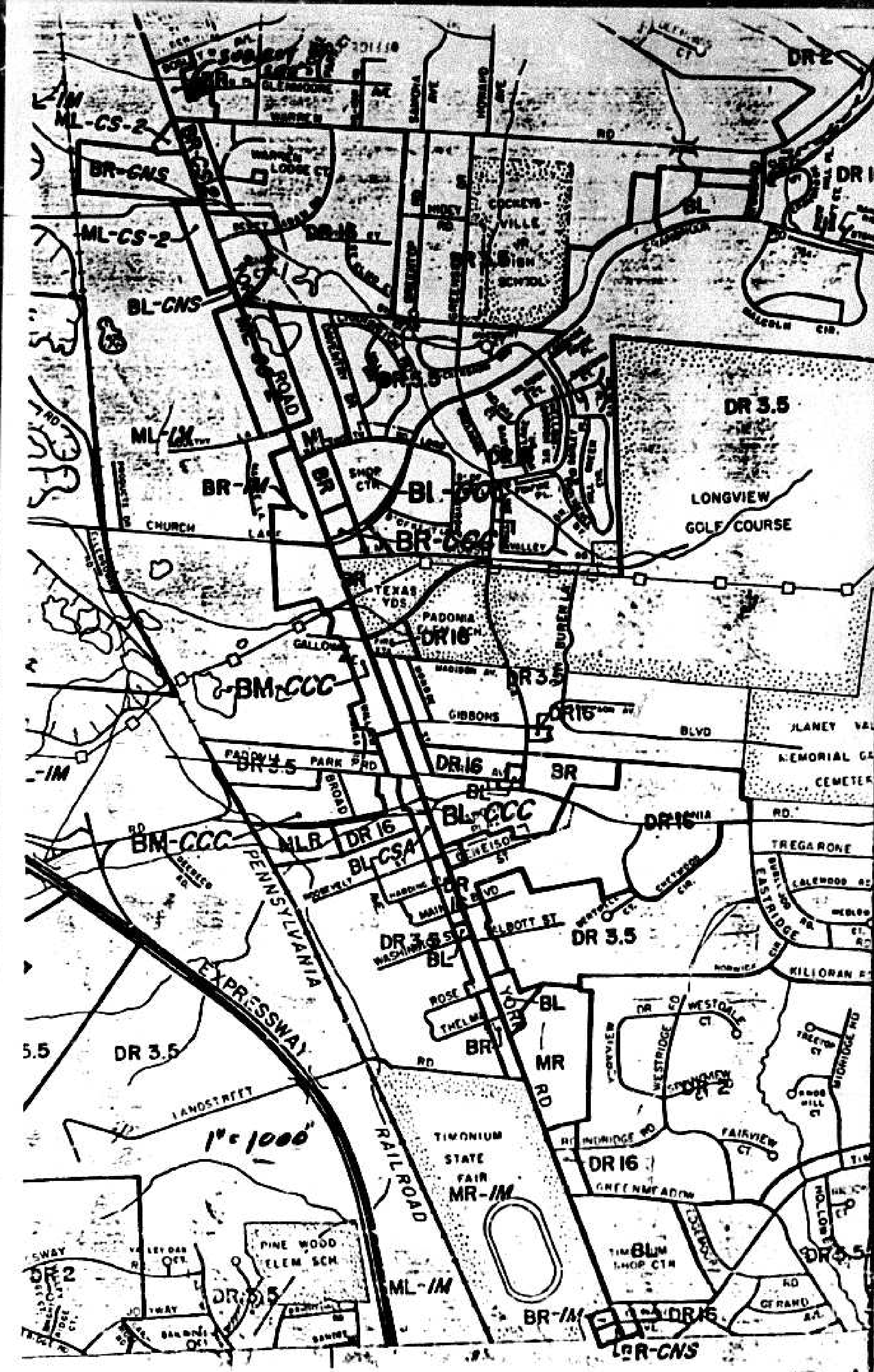
RECEIVED
COUNTY BOARD OF APPEALS
NOV 26 P 12:28

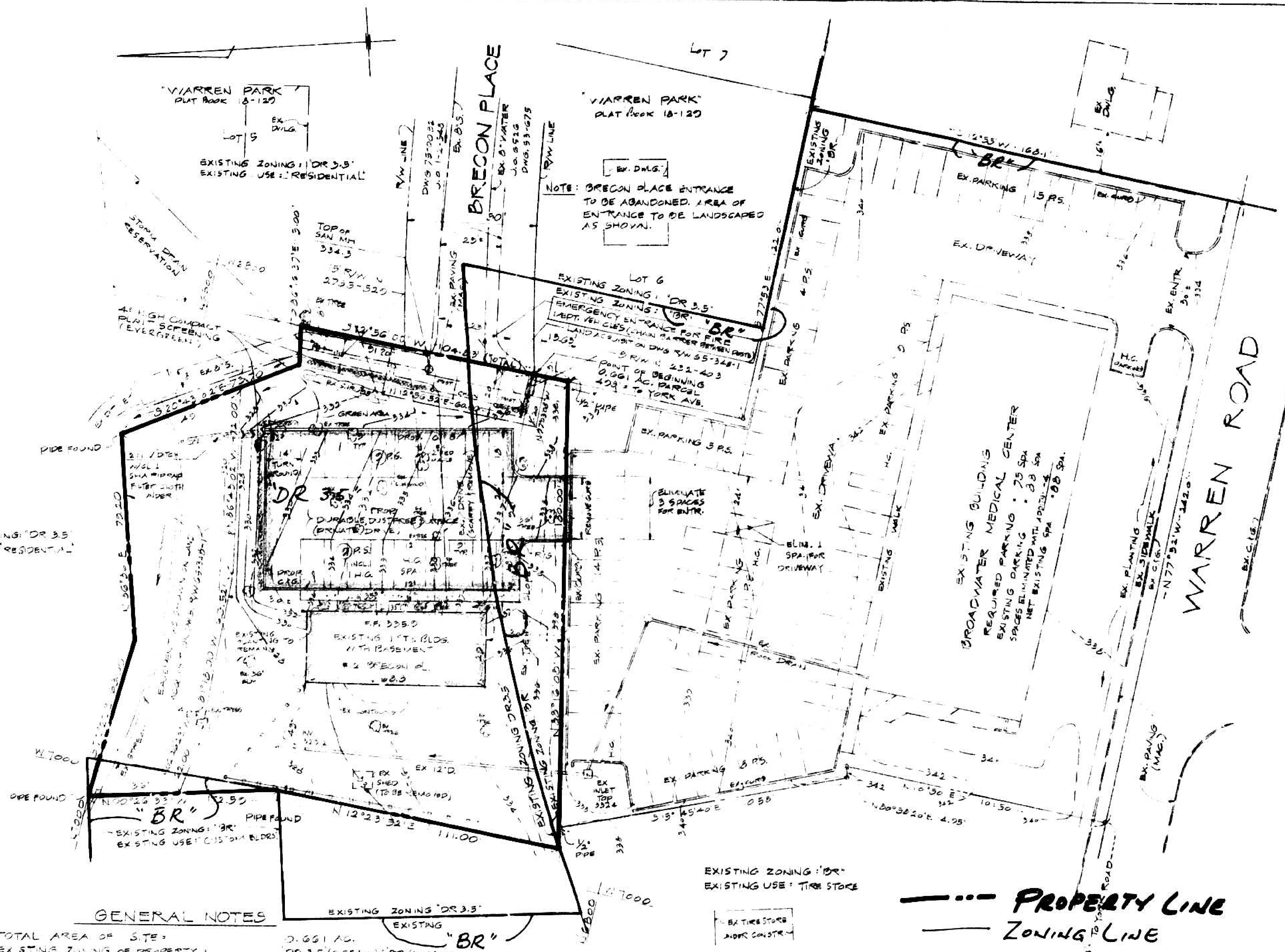
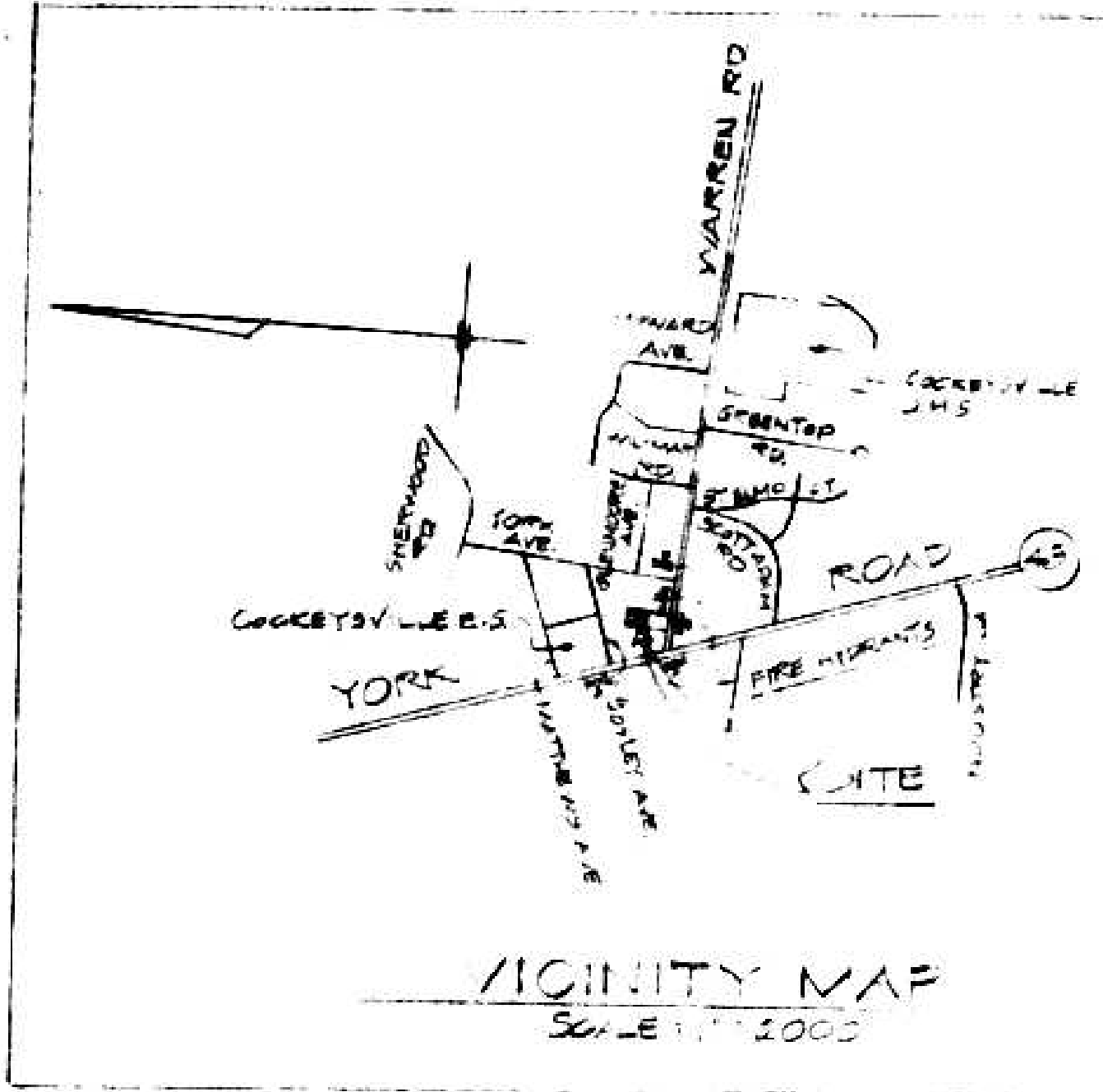
ELEANOR V. BROADWATER, ET AL CR-83-192

S/s Brecon Pl., 498' W from c/A of York Rd. 8th District

DR 3.5 to R-O 0.661 acres

Aug. 31, 1982 Petition filed
Apr. 12, 1983 Hearing before the Bd.
May 25, " Order of the Board granting the petition
June 22, " Order for Appeal filed in Cir. Ct. by
John Hession, People's Counsel for Balto.
County
July 18, " Record of proceedings filed in Cir. Court
May 9, 1984 Board AFFIRMED - Judge Austin W. Br. sendine
5/11/84 - cc: A. Jablon
A. January
J. Hoswell
June 5 Order for Appeal filed in the Court of Special
Appeals by People's Counsel
cc: A. Jablon
A. January
J. Hoswell
Nov. 20 Voluntary Dismissal filed by People's Counsel
(Case moot due to new maps)
Nov. 23 Case dismissed in the Court of Special Appeals
" 23 Mandate Issued





NOTES:
 COUNCILMANIC DISTRICT: 3
 CENSUS TRACT: 4089
 WATERSHED: 11, SUBWATERSHED: 34
 POSITION SHEET 65 NW 5 KEY SHEET 15 E
 SOIL TYPE: BmB2, BmB2, BmB2

- GENERAL NOTES**
- TOTAL AREA OF SITE: 0.661 AC.
 - EXISTING ZONING OF PROPERTY: DR 3.5 (0.551 AC) DR (0.10 AC) RESIDENTIAL
 - EXISTING USE OF PROPERTY: MEDICAL: GENERAL OFFICE BUILDING
 - PROPOSED ZONING OF PROPERTY: R-O
 - PROPOSED USE OF PROPERTY: MEDICAL: GENERAL OFFICE BUILDING
 - OFF-STREET PARKING DATA:
 - AREA OF BUILDING: 10061 SF, BASEMENT: 1406.5
 - PARKING REQUIRED:
 - BASEMENT: 1406.5 / 300²SP = 4.68 PS.
 - 1ST FLOOR: 10061 / 300²SP = 3.35
 - TOTAL PARKING REQUIRED: 8.03 PS.
 - PARKING PROVIDED: 18 SPA.
 - HOURS OF OPERATION: 9:00 AM - 5:00 PM, MON-FRI. MEDICAL EMERGENCIES 24 HOURS. SATURDAY 9:00 AM - 1:00 PM. OCCUPANCY ANYTIME.
 - MAXIMUM NO. OF EMPLOYEES: 0 EMPLOYEES (EST. NUMBER MAY CHANGE)
 - THERE WILL BE NO OBJECTIONABLE EVALUATIONS FROM BUILDING.
 - IMPROVEMENTS TO EXISTING BUILDING WILL MEET BUILDING CODE & FIRE CODE REGULATIONS.
 - LOCATION & SIZE OF ANY PROPOSED SIGNS MUST BE IN ACCORDANCE WITH ZONING REGULATIONS FOR "R-O" ZONING.

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF N2 12 BRECON PLACE (ADJOINING 1110-12 WARREN RD.)

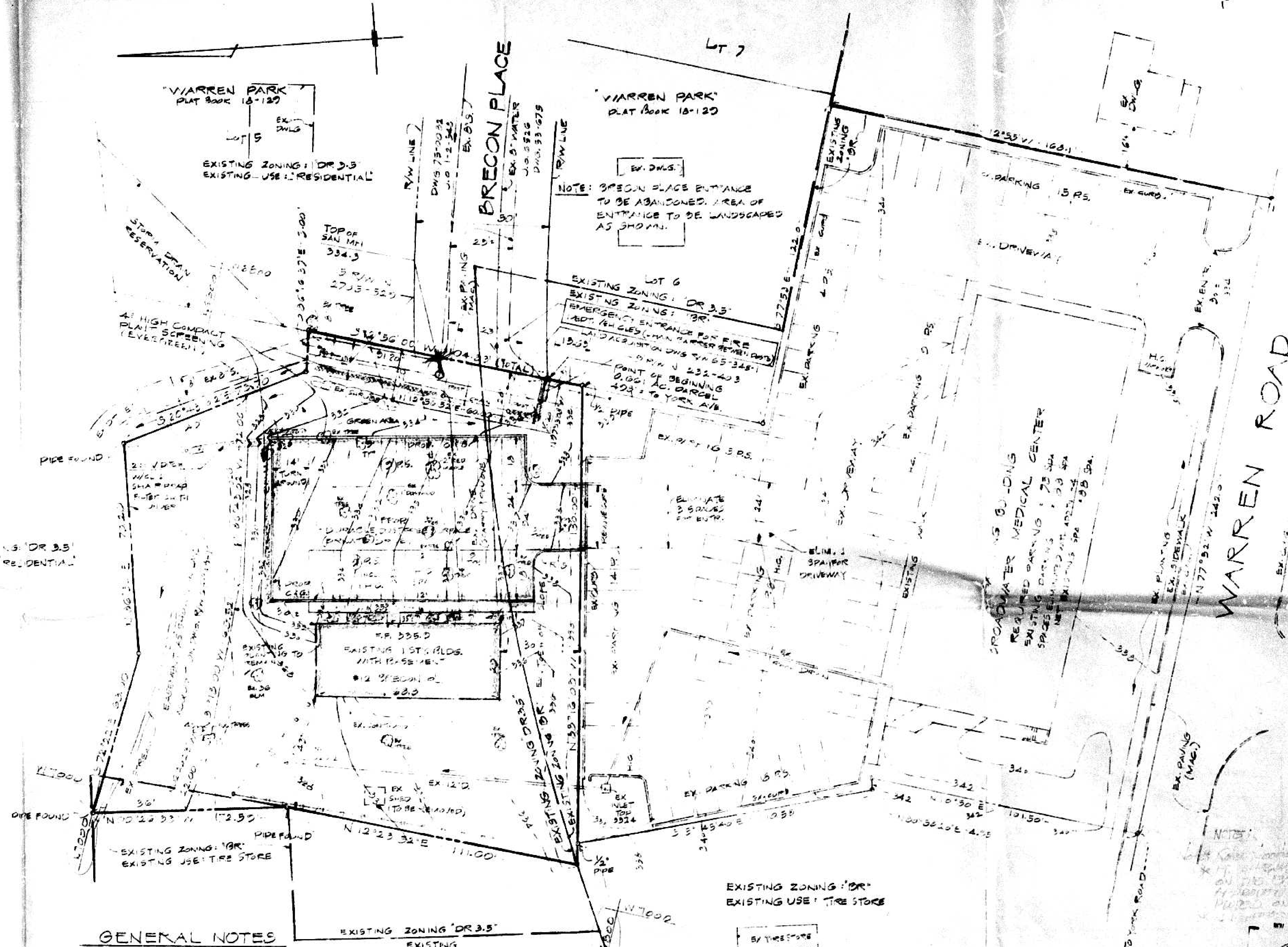
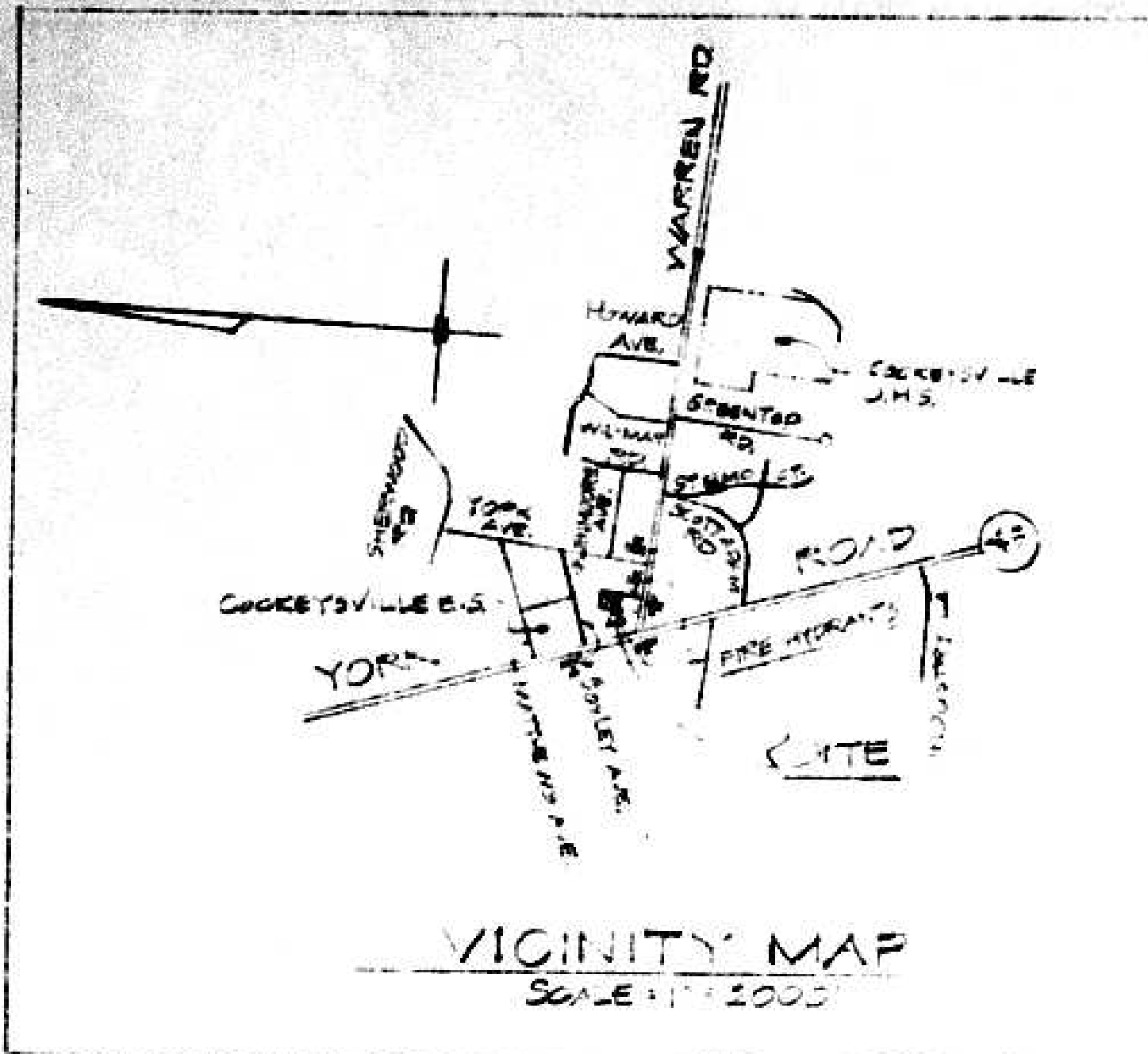
ELECTION DISTRICT N2 03 BALTIMORE COUNTY, MD.
 SCALE: 1" = 20' AUG. 23, 1992

PROPERTY LINE
ZONING LINE

PETITIONER:
 CLYDE RICHARD BROADWATER, et al.
 12 BRECON PLACE
 COCKEYSVILLE, MD. 21030

Paul Lee Engineering, Inc.
 304 W. Pennsylvania Ave.
 Trappe, Maryland 21098
 TEL. 821-5541



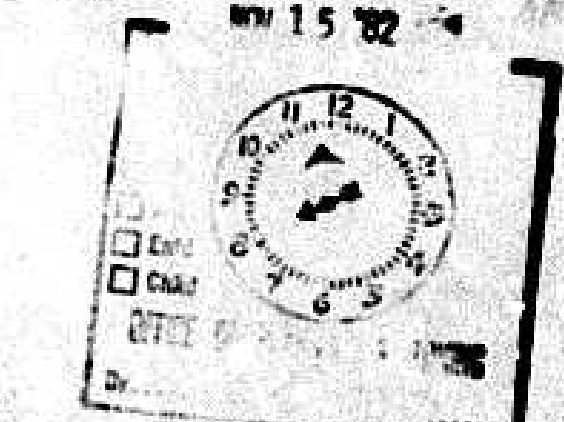
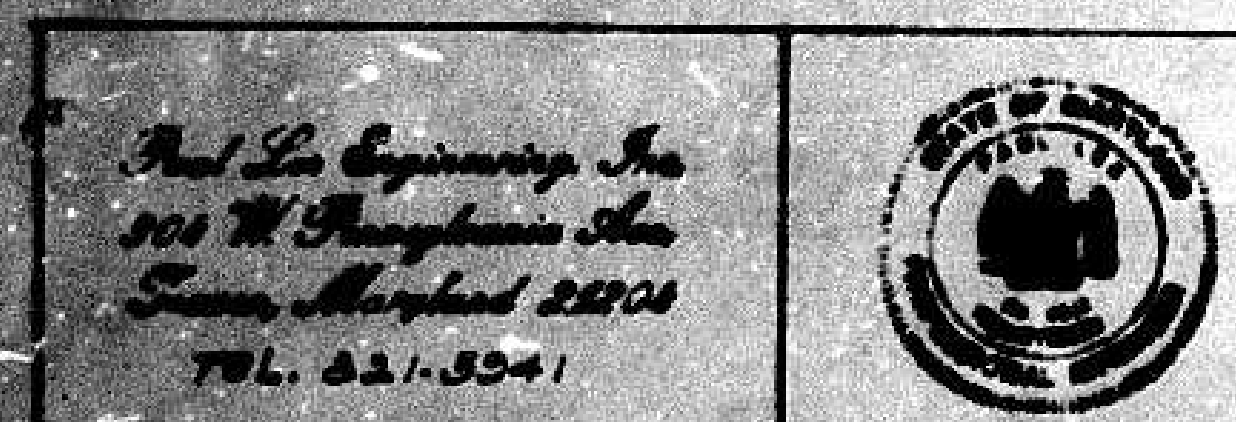


NOTES:
COUNCILMANIC DISTRICT: 3
GENUS TRACT: 4089
WATERSHED: 11, SUBWATERSHED: 34
POSITION SHEET 65 NW5 KEY SHEET 15E
SOIL TYPE: B-702 (BALD. SLT.)

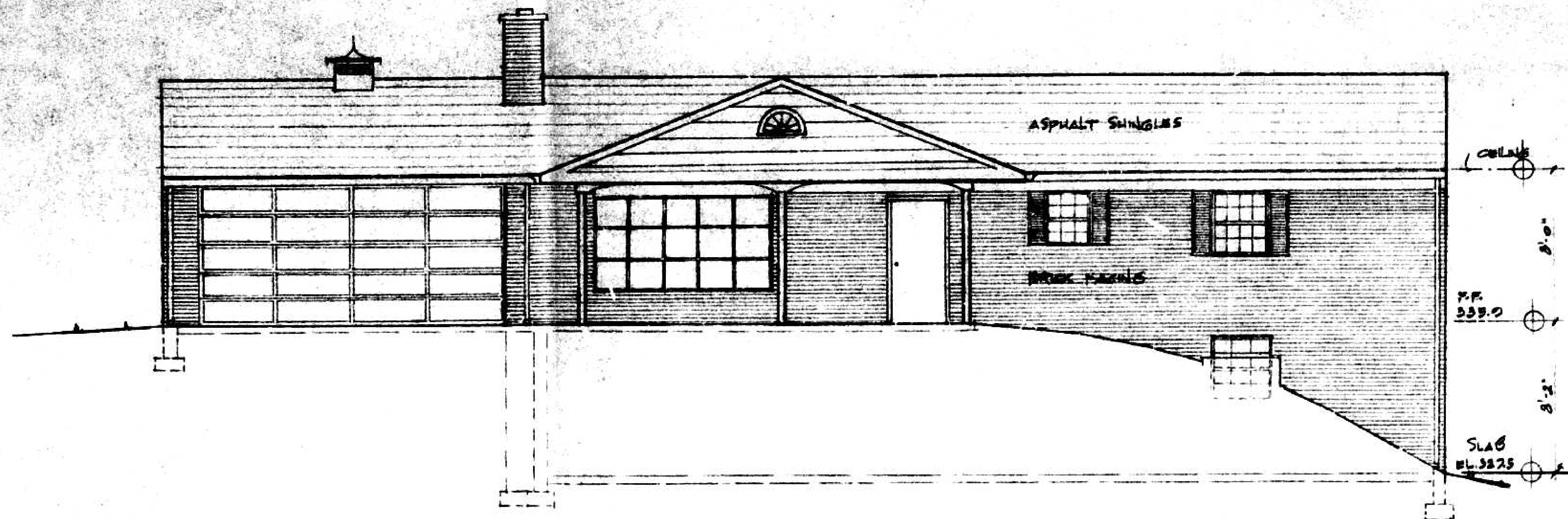
- GENERAL NOTES**
- TOTAL AREA OF SITE: 0.661 AC.
 - EXISTING ZONING OF PROPERTY: DR 3.5 (0.551 AC) DR (0.110 AC)
 - EXISTING USE OF PROPERTY: RESIDENTIAL
 - PROPOSED ZONING OF PROPERTY: R-0
 - PROPOSED USE OF PROPERTY: MEDICAL / GENERAL OFFICE BUILDING
 - OFF-STREET PARKING DATA:
 - A. AREA OF BUILDING: 1206.1 SF, BASEMENT: 1406.5
 - B. PARKING REQUIRED:
 - BASEMENT: 1206.5 / 300' sq. = 4.02 RS.
 - 1ST FLOOR: 1206.1 / 300' sq. = 4.02
 - TOTAL PARKING REQUIRED: 8.0 RS.
 - C. PARKING PROVIDED: 18 SPA.
 - HOURS OF OPERATION: 9:00 AM - 5:00 PM, MON - FRI. MEDICAL EMERGENCIES 24 HOURS. OCCUPANCY AT THE 9:00 AM - 1:00 PM SATURDAY
 - MAXIMUM NO. OF EMPLOYEES: 6 EMPLOYEES (EST. NUMBER MAY CHANGE)
 - THERE WILL BE NO OBJECTIONABLE EMANATIONS FROM BUILDING.
 - IMPROVEMENTS TO EXISTING BUILDING WILL MEET BUILDING CODE & FIRE CODE REGULATIONS.
 - LOCATION & SIZE OF ANY PROPOSED SIGNS MUST BE IN ACCORDANCE WITH ZONING REGULATIONS FOR R-0 ZONING.

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF N2 12 BRECON PLACE (ADJOINING N10-12 WARREN RD.)
ELECTION DISTRICT N2-03 BALTIMORE COUNTY, MD.
SCALE: 1" = 20' AUG. 23, 1992

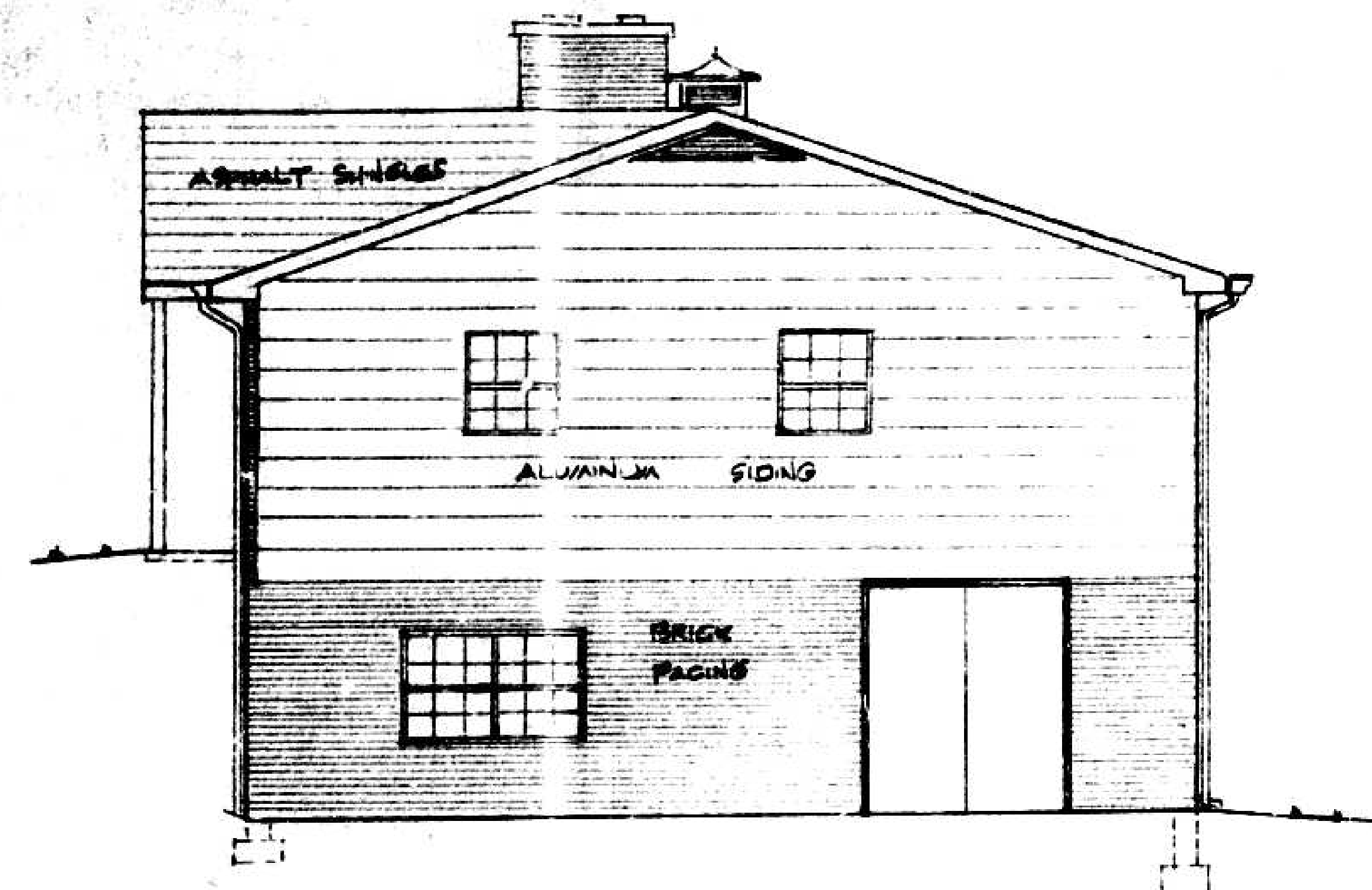
PETITIONER:
CLYDE RICHARD BROADWATER, et al.
12 BRECON PLACE
COCKEYSVILLE, MD. 21030



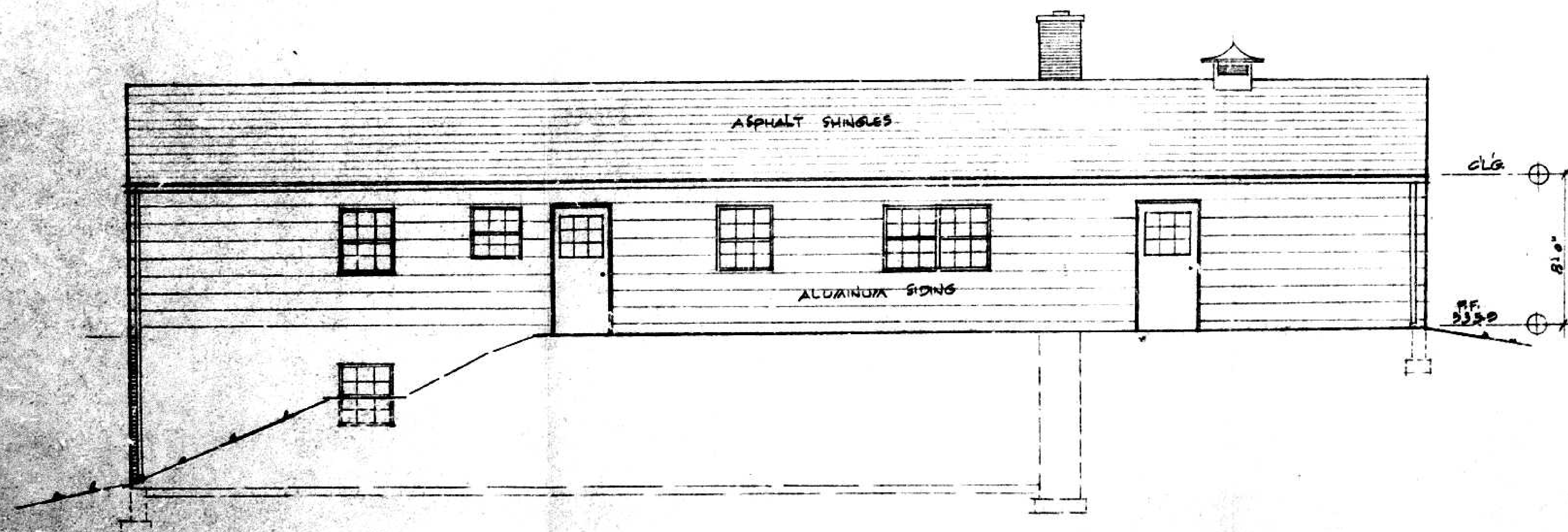
Map #5
Cycle IV



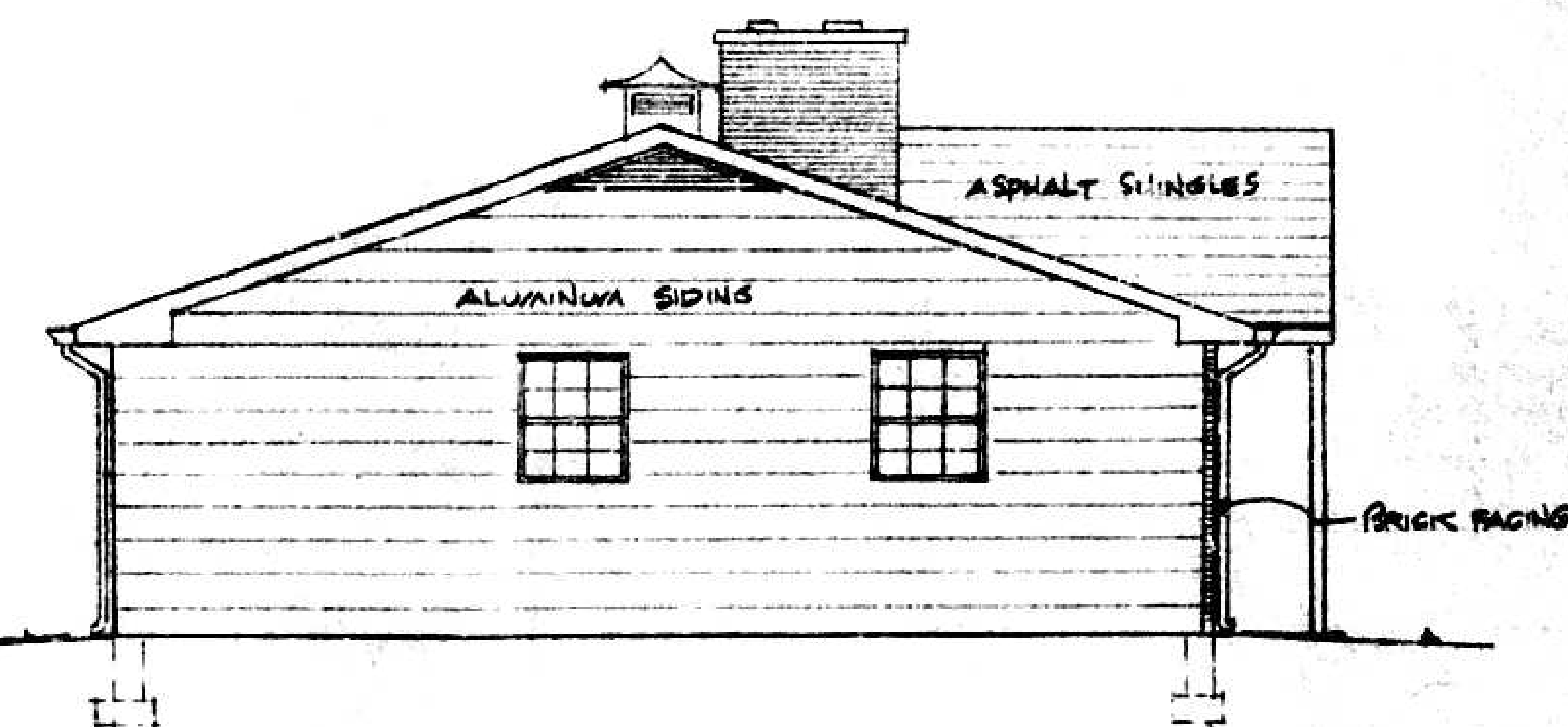
FRONT ELEVATION



RIGHT SIDE ELEVATION



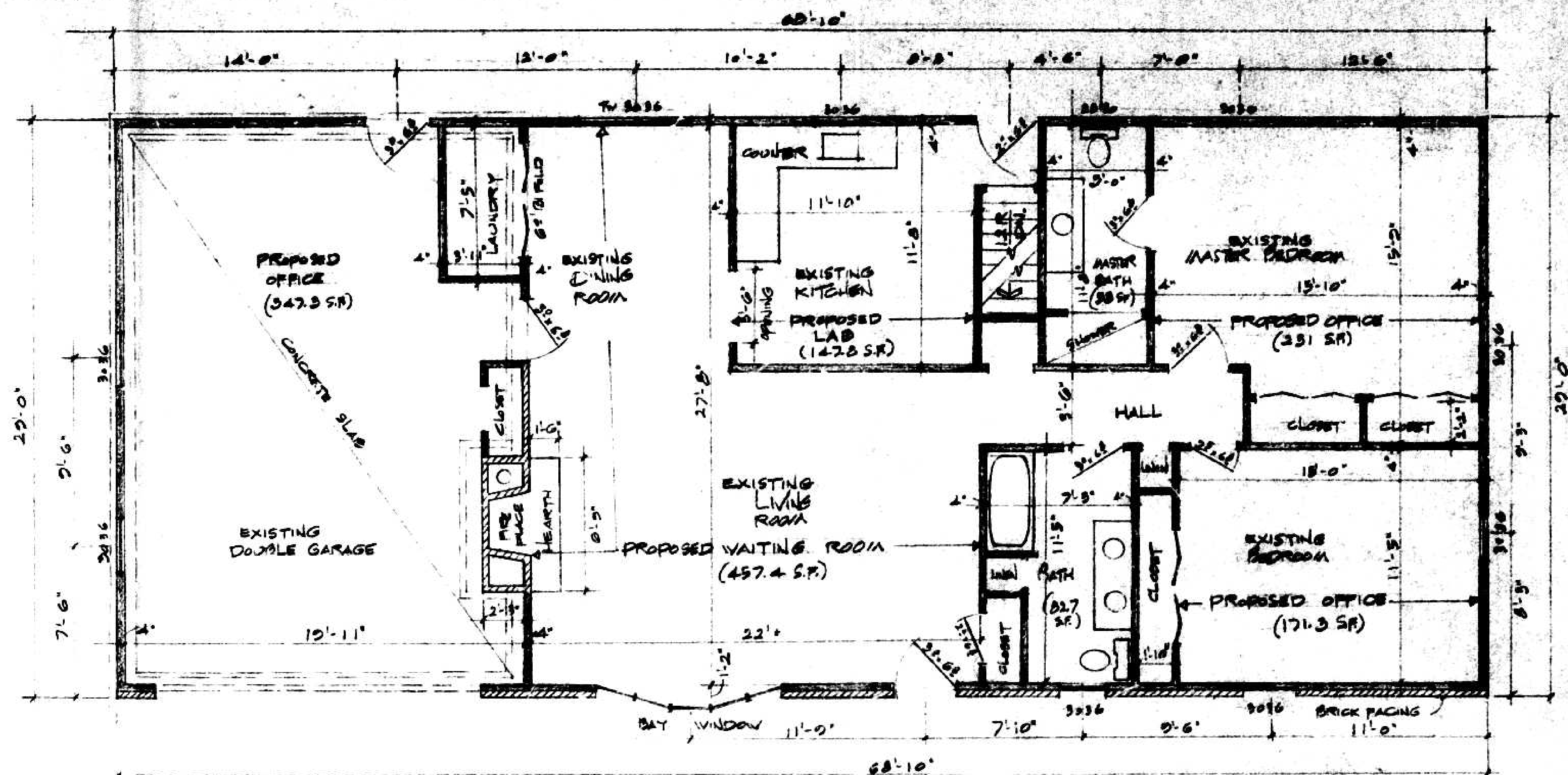
REAR ELEVATION



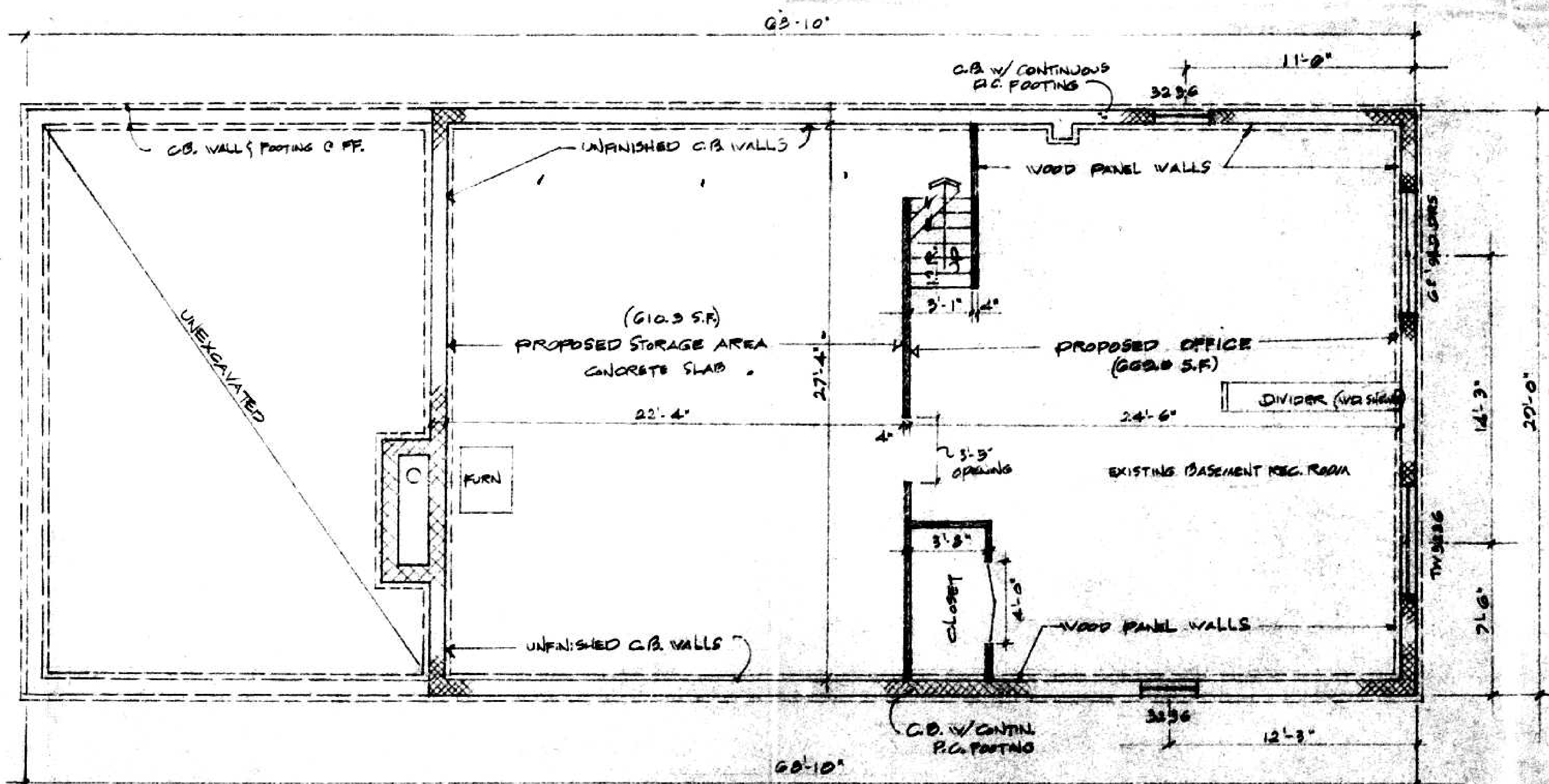
LEFT SIDE ELEVATION

ELEVATIONS
 EXISTING DWELLING
 N° 12 BRECON PLACE
 Scale: 1/4" = 1'-0" AUG. 23, 1982





FIRST FLOOR PLAN



BASEMENT PLAN

NOTE: POSSIBLE PROPOSED USES ARE SHOWN
OWNER RESERVES THE RIGHT TO CHANGE
LAYOUT AT A LATER DATE IF NECESSARY.
ALL CHANGES TO BE IN ACCORDANCE
WITH BALTIMORE COUNTY BUILDING CODE.

FLOOR PLANS
EXISTING DWELLING
№ 12 DRECON PLACE
SCALE: 1/4" = 1'-0"
AUG. 23, 1988