



Land Development Consultants  
and Landscape Architects

*Microfilm*  
*R-87-99-XA*

October 9, 1991

Mr. John Alexander  
Office of Zoning Administration  
and Development Management  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: 4209 Blakely Avenue

Dear Mr. Alexander:

As you are aware, we are pursuing the extension of the existing CRG Plan and the approval of a red-lined plan for temporary use of the property for parking purposes. The extension request was filed with the Department of Public Services on August 14, 1991 and the red-lined plan is now circulation through various county departments.

The red-lined plan for the property indicates the following changes from the CRG Plan approved on September 22, 1988:

- 1) The existing and proposed buildings are being removed temporarily;
- 2) The proposed entrance on to Blakely Avenue is being removed temporarily;
- 3) The parking lot has temporarily been redesigned to provide parking for 33 vehicles instead of 18 vehicles; and
- 4) Access has been provided to the adjoining property temporarily.

These temporary measures have been precipitated by a series of unfortunate circumstances beyond the owner's control, which circumstances include changes in county requirements for the width of Blakely Avenue, the fire loss and demolition of the existing building and unfavorable financial conditions which do not permit moving forward at this time with the construction pursuant to the plan as approved on September 22, 1988.

Mr. John Alexander  
Office of Zoning Administration  
and Development Management  
Page Two  
October 9, 1991

The approval of the extension of the CRG and the approval of the red-lined plan is of the utmost importance and urgency due to the fact that the storm water management for the site has been designed and provided through the adjoining property and it is absolutely necessary that the surface of the property be protected with paving to avoid erosion and exacerbation of the unfavorable existing condition.

As parking was originally approved for the site pursuant to Case No. R-87-99-XA, a special hearing would not be required and for further reason that this requested use for the property is of a temporary nature until my client is capable of moving forward with the approved plan for development of the property in accordance with the CRG Plan.

As per your request, enclosed herewith you will find a check in the amount of \$35.00. payable to Baltimore County, as a fee for advising me that the red-lined plan may be reviewed and approved without the need for a special hearing.

Very truly yours,

Thomas J. Hoff, ASLA  
President

TJH/tjh  
C:\PROJDOC\0065-03.DOC

IN THE MATTER OF : ON REMAND FROM  
THE APPLICATION OF :  
LAVERNE M. REIFSNIDER, ET UX : CIRCUIT COURT FOR BALTIMORE  
J. MITCHELL ADOLPH, D.C. -P.C. :  
SW/S BLAKELY AVE., 300' SE OF : COUNTY - AT LAW  
THE C/L OF BELAIR ROAD :  
(4209 BLAKELY AVENUE) : CASE NO. 87-CG-469  
and : and  
THE APPLICATION OF : CASE NO. 87-CG-470  
HARBOR REALTY PARTNERSHIP :  
SW/S BLAKELY AVE., 400' SE OF : (ZONING CASE NO. R-87-99-XA  
THE C/L OF BELAIR ROAD : and  
FOR RECLASSIFICATION FROM : ZONING CASE NO. R-87-100-XA  
D.R. 5.5 TO R.O.; SPECIAL EXCEPTION  
CLASS B OFFICE BLDG.; AND SIGN  
VARIANCES #203.JC :

SUPPLEMENTARY OPINION AND ORDER

By Order of the Honorable A. Owen Hennegan, Judge, dated February 11, 1988, Case No. R-87-99-XA and No. R-87-100-XA are remanded from the Circuit Court to the Baltimore County Board of Appeals for further action as the Board feels necessary in light of the Court of Special Appeals decision in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term (1987), concerning Section 2-58.1(j) of the Baltimore County Code.

In essence, this section of the Code mandates that before any property may be reclassified, the Board must find that there has occurred substantial change in the character of the neighborhood or that the last classification of the property was established in error.

The Board has carefully reviewed all the lengthy testimony and evidence received in the original hearing in these cases. An evaluation of this testimony and evidence indicates that the Board's original conclusions were correct. Briefly stated, it is apparent that the following conditions existed at the time of the hearing, and that we have no evidence that any of these conditions have changed since that hearing. The property in question is abutted on one side by property zoned B.L. Across the street from these properties is

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

a large overhead transmission line and a commercial parking lot used by the Baltimore Gas & Electric Company. A portion of the rear of the sites is abutted by property presently being used as a junkyard. Blakely Avenue, upon which these properties are located, is at present a narrow, dead-end road on a 30-foot right-of-way. In answer to inquiry, James A. Markle, the Chief of the Bureau of Public Services, confirms the testimony given at the hearing that this street will be widened from its 30-foot right-of-way, provided with curb and gutter, and will become a major collector street for a major development to the rear, known as Silver Spring Station. Progress is now underway to acquire the necessary land to provide this larger right-of-way and construction scheduled to begin in the fall of 1988, final paving to be completed in the spring of 1989. In consideration of all this testimony and evidence, the Board will find as a fact that the residential classification afforded these properties is in fact in error, and that the R.O. classification requested is proper. In support of this R.O. classification, Petitioner has entered documented site plans which must be adhered to for his proposed use of these two properties.

Section 2-58.1(j)(1) of the Baltimore County Code mandates that before any property is reclassified pursuant to this section, the Board of Appeals must find that "there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error...." Testimony and evidence in this case indicates that the last classification of the property as residential was in fact in error. In addition, a substantial change in the character of the neighborhood is imminent with the conversion of Blakely Avenue from a narrow, two-lane dead-end street to a major collector street for a large development now significantly underway.

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

Pursuant to Section 2-58.1(j)(2) of the Code as that section has been interpreted by the Court of Special Appeals in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term, 1987, this Board has considered through the testimony of George Gavrellis and other witnesses the applicable factors enumerated therein. This section provides:

"...Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities; water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program."

The Board will not repeat herein at length the lengthy testimony received; however, incorporates by reference the transcript of this case which addressed each applicable factor. The Board finds as a matter of fact and after due consideration of each of these applicable factors that the current zoning is in error for the reasons set forth therein and that the proposed zoning of R.O. is proper.

As in the original Opinion, the Board is not convinced that the requested double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of a Class B office building. To permit illuminated signs of this size along what is to become a

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use and therefore the variance for the signs will be denied.

ORDER

Based upon the foregoing Opinion, it is therefore this 16th day of June, 1988 by the County Board of Appeals of Baltimore County ORDERED that the petitions for reclassification in Case No. R-87-99-XA and Case No. R-87-100-XA from D.R. 5.5 to R.O. be and the same are GRANTED:

IT IS FURTHER ORDERED that the special exceptions petitioned for in Case No. R-87-99-XA and Case No. R-87-100-XA be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted; and

IT IS FURTHER ORDERED that the petition for the variance for the 2-foot x 16-foot double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett  
William T. Hackett, Chairman

Harry E. Bugheister, Jr.  
Harry E. Bugheister, Jr.

Lawrence E. Schmidt  
Lawrence E. Schmidt



County Board of Appeals of Baltimore County

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

June 16, 1988

Julius W. Lichter, Esquire  
305 W. Chesapeake Avenue  
Towson, MD 21204

RE: Case No. R-87-99-XA and  
Case No. R-87-100-XA  
(Reifsnider/Harbor Realty)

Dear Mr. Lichter:

Enclosed is a copy of the Supplementary Opinion and Order issued this date by the County Board of Appeals in the subject cases.

Sincerely,

Kathleen C. Weidenhammer  
Kathleen C. Weidenhammer  
Administrative Secretary

Encl.

cc: Mr. Howard Brown  
Harbor Realty Partnership  
Mr. J. Mitchell Adolph  
Laverne M. Reifsnider, et ux  
James Earl Kraft  
Phyllis Cole Friedman, Esquire  
P. David Fields  
James G. Howell  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Iyer  
Docket Clerk -Zoning  
Arnold Jablon, County Attorney



Baltimore County, Maryland

PEOPLE'S COUNSEL  
RM. 223, COURT HOUSE  
TOWSON, MARYLAND 21204  
494-2188

PHYLLIS COLE FRIEDMAN  
People's Counsel

PETER MAX ZIMMERMAN  
Deputy People's Counsel

February 25, 1988

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

RE: Reifsnider & Harbor Realty Cases  
R-87-99-XA and R-87-100-XA

Dear Chairman Hackett:

We are in receipt of Mr. Lichter's letter dated February 23, 1988 and are opposed to the proposed Amended Opinion and Order as irregular.

We note that Rule 1c. of the County Board of Appeals requires that each case be decided by a panel of three. In the present case, it appears that Keith S. Franz is no longer on the Board. Therefore, the case must be reheard.

We would respectfully request a hearing on this case in any event. We would like to present evidence and have argument in reference to the remand. We are particularly concerned that the original Opinion of the County Board of Appeals was based on the premise that Blakely Avenue would imminently be extended and widened. To the best of our knowledge, Blakely Avenue remains a narrow semi-rural road. We also believe that there is no evidence, in reference to the Master Plan, which demonstrates that the existing zoning is inconsistent. In addition, evidence concerning the other factors should be taken directed to the 1984 decision and error.

It may be that the parties will be able to reach some agreement as to parts of the evidence to be presented at a new hearing. However, the Rules do require that the matter be heard again. It would be inappropriate for the Board to sign the proposed Amended Opinion and Order. Indeed, it would be inappropriate for the Board to proceed further without the scheduling of a new hearing with a panel of three.

Very truly yours,  
Peter Max Zimmerman  
Peter Max Zimmerman  
Deputy People's Counsel

Enclosure

cc: Julius W. Lichter, Esquire

PMZ:sh



Baltimore County, Maryland

PEOPLE'S COUNSEL  
RM. 223, COURT HOUSE  
TOWSON, MARYLAND 21204  
494-2188

PHYLLIS COLE FRIEDMAN  
People's Counsel

PETER MAX ZIMMERMAN  
Deputy People's Counsel

April 20, 1988

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

RE: Reifsnider/Harbor Realty - Zoning Cases  
No. R-87-99-XA (Item 15, Cycle III); and  
No. R-87-100-XA (Item 16, Cycle III)

Dear Chairman Hackett:

So as to facilitate consideration of these cases, I am forwarding to the County Board of Appeals the reports dated April 14, 1988 of James G. Hoswell, and April 18, 1988 of James A. Markle. We ask that these be considered as evidence or exhibits in the above cases.

In the event that the Petitioners dispute any of the facts or conclusions of the reports, we suggest that an evidentiary hearing be held. If not, we would like the opportunity to submit a brief written argument.

Very truly yours,

Peter Max Zimmerman  
Peter Max Zimmerman  
Deputy People's Counsel

Enclosures

cc: Julius W. Lichter, Esquire

PMZ:sh

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Peter Zimmerman, County Attorney  
Office of Law

DATE: April 18, 1988

FROM: James A. Markle, P.E.

SUBJECT: Blakely Avenue  
Silver Spring Station, Sec. III

Blakely Avenue is to be widened from 16-feet to 24-feet with concrete curb and gutter within the existing 30-foot right-of-way from Belair Road to approximately 750-feet east. From this point, the section gradually increases to the existing 40'/60' section approximately 800' to the northeast.

The Highway and Utility Plans were approved on March 8, 1988.

The Storm Water Management Plans were approved on April 8, 1988, and are now at the Soil Conservation District for final approval.

Subject to Soil Conservation District approval, Land Acquisition will submit the plans to Baltimore Gas and Electric. Due to the extend of taking, approximately two (2) months may be required for right-of-way clearance.

Another three (3) months is required for advertisement, bids, contracts and Notice to Proceed.

Construction may begin in the fall, and final paving completed in Spring, 1989.

James A. Markle, P.E., Chief  
Bureau of Public Services

JAM:pmg

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APR 20 1988  
COUNTY BOARD OF APPEALS

*Er*

PEOPLE'S COUNSEL FOR  
BALTIMORE COUNTY

Appellant

v.

LAVERNE F. REIFSNIDER, et ux

Appellees

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE COUNTY  
\* CASE NO. 87-CG-469

\*\*\*\*\*

PEOPLE'S COUNSEL FOR  
BALTIMORE COUNTY

Appellant

v.

HARBOR REALTY PARTNERSHIP

Appellee

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE COUNTY  
\* CASE NO. 87-CG-470

\*\*\*\*\*

ORDER

Appellant's (People's Counsel for Baltimore County) Motion to Alter or Amend Judgment and/or Reconsideration, Paper No. 8, GRANTED. Case is remanded to the Baltimore County Board of Appeals for further action as the Board feels necessary in light of the Court of Special Appeals' decision in People's Counsel for Baltimore County v. Robert W. Mockard, Mp/ 451, September Term (1987), concerning Section 2-58.1(j) of the Baltimore County Zoning Regulations.

Feb. 11, 1988

*A. Owen Hennegan*  
A. OWEN HENNEGAN, JUDGE

*169*

COPIES SENT:  
Peter Max Zimmerman, Esquire  
Julius W. Lichter, Esquire

FILED FEB 16 1988

CIRCUIT COURT FOR BALTIMORE COUNTY  
CIVIL GENERAL

*File*

DOCKET 35 PAGE 239 CASE NO. 87CG469 CATEGORY APPEAL

Case No. R-87-99-X

ATTORNEYS

Copy: J. Robert Haines

IN THE MATTER OF

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

V.

LAVERNE M. REIFSNIDER

J. MITCHELL ADOLPH, D.C.

Phyllis Cole Friedman  
Peter Max Zimmerman  
Room 223, Court House (04)  
494-2188

Julius W. Lichter  
113 Chesapeake Bldg.  
305 W. Chesapeake Ave. (04)  
321-0600

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COUNTY BOARD OF APPEALS  
1988 FEB 19 A 11:40

2-18-88 D/E Order sent to Bldg  
COSTS *appeal*

- (1) Feb. 10, 1987 = Appellant's Order for appeal from the decision of the County Board of appeals and Petition for Appeal fd.
- (2) Feb. 11, 1987 - Certificate of Notice fd.
- (3) Mar 9, 1987 - Pltff's Petition for Extension of Time to File Transcript of Proceedings and Order of Court Granting Same fd. (EAD,Jr) Copies sent.
- (4) March 10, 1987 - App. of Julius W. Lichter for the Deft & Same Day Response to Petition for Extension of Time to File Transcript of Proceedings fd.
- (5) Apr. 8, 1987 = Transcript of Record fd.
- (6) Apr. 8, 1987 = Notice of filing of record fd.
- (7) May 8, 1987 - Pltff's Motion to Consolidate the above case with case #87-CG-470 fd.
- (8) June 2, 1987 - Order of Court that the above case is hereby Consolidated with Case #87-CG-470 fd.(WMN)
- (9) June 9, 1987 = Correspondence fd.
- (10) june 12, 1987 - Appellee's Reply Memorandum fd.
- Sept. 10, 1987 Hon. A. Owen Hennegan. Hearing had. Ruling held sub-curia. Ruling to be filed.
- (11) Oct 14, 1987 - Opinion and Order of Court that the decision of the Baltimore County Board of Appeal be and is hereby AFFIRMED. (AOH)
- (12) Oct 20, 1987 - Pltff's Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing fd.

CASE NO. 87CG469

(13) Nov 4, 1987 - Appellees Response to Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing fd.

(14) Dec 9, 1987 - Pltff's Supplemental Memorandum in Support of Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing fd.

Feb. 10, 1988 Hon. A. Owen Hennegan. Hearing had. Case remanded back to the Board of Appeals.

(15) Feb 16, 1988 - Correspondence to Judge Hennegan with Exhibit fd.

(16) Feb 16, 1988 - Order of Court That Motion to Alter or Amend Judgment and /or Reconsideration is Granted and Case is REManded to Baltimore County Board of Appeals fd.



Laverne F. Reifsnider (Appellee) and Harbor Realty Partnership (Appellee), owners of the respective parcels, filed requests for reclassification from Density Residential (D.R.) to Residential Office (R.O.). Additionally, the Appellees filed requests for special exceptions to permit the construction of Class B office buildings on their respective properties.

Appeal was taken to the Board of Appeals which on October 28, 1986 ordered the reclassification and granted the special exceptions. The Board found the Baltimore County Council in error in retaining the subject parcels as purely residential zoning during the 1984 county-wide comprehensive zoning process. Appellants claim that the law of comprehensive zoning reserves the right to make important land use decisions in Baltimore County to the County Council. Appellants further assert that the Board of Appeals may not substitute its thinking for that of the County Council's and may only reclassify property where strong evidence of error exists. Appellant's claim such strong evidence of error is lacking in this case and have therefore brought an appeal before this Court.

In reviewing the decision of the Board of Appeals, this Court can not substitute its judgment in a zoning case as to the wisdom or soundness of the action of the Board of Appeals if its decision is supported by substantial evidence and the issue is fairly debatable. Montgomery County v. Woodward & Lothrop, Inc., 280 Md. 686, 706, 376 A. 2d 483 (1977), cert. den. 434 U.S. 1067, 98 S. Ct. 1245, S.S. L. Ed. 2d 769.

Based on its narrow scope of review, this Court can not say that the decision of the Board of Appeals in this case was not fairly debatable or

that the decision was not supported by substantial evidence. In reaching its decision, this Court notes the testimony of Mr. Howard Brown, an experienced builder and developer; Mr. George Gavrelis, former director of the Baltimore County Office of Planning and Zoning; Appellant's own expert, Mr. James Hoswell and the report from the Baltimore County Planning Board in favor of the request.

Mr. Brown testified to several factors including the use of the utility parking lot across the street by shift workers, coming and going at all times between 7:00 A.M. and 5:00 P.M., the use of a nearby residentially zoned parcel as a "junkyard", the adjoining and nearby commercial uses, the widening of Blakely Avenue and the fact that the Silver Spring subdivision will result in increased traffic on what is now a dead-end road. Mr. Brown testified that because of these and other factors the use of the subject sites for permitted residential uses was not possible.

Mr. George Gavrelis testified that in his opinion the transition zone requirements preclude the development of this site with townhouses, leaving from a zoning viewpoint, single family detached units as the only practical way to develop these sites. Mr. Gavrelis went on to say that "the combination of the unscreened parking lots, the power--the high voltage transmission lines, are such that an adverse relationship indeed is created and that the subject properties are really not suited for development in single family detached dwellings." (Tr. 116). Additionally, Mr. Gavrelis concluded that these sites were not reclassified in the 1984 Comprehensive Zoning process, but rather, were "simply affirmed by regulative action" and were "not considered in any recorded way" by the County Council.



Additionally, Appellant's own expert, Mr. Hoswell, testified that it was his opinion the "R.O. zone would be an appropriate zone in an area such as this." (Tr. 138).

When the entire record is considered, including the expert testimony referred to above, it is this Court's opinion that the Board of Appeals was presented with overwhelming evidence from which to conclude that the County Council erred in 1984 by failing to consider conditions then in existence which justified the rezoning of these parcels. With all the evidence taken in view, it can in no way be said that the Board's action was arbitrary and capricious.

Appellant's claim that the Board of Appeals can not substitute its judgment for that of the County Council, however, Section 2.58(j) of the Baltimore County Code gives the Board power to reclassify property if error is found in the last classification of the subject property and that the "prospective reclassification is warranted by that change or error."

Appellant further claims that the Board of Appeals erred in granting special exceptions for construction of proposed buildings on the subject properties. Specifically, Appellant charges that the Board did not consider the "compatibility" of the proposed buildings as required under the Baltimore County zoning regulations, Section 203.2. From the transcript, it is clear, however, that evidence of compatibility was presented to the Board in the form of expert testimony from Mr. Gavrelis.

Since this Court is restricted to a determination of whether the Board's decision to reclassify the subject properties, as well as grant a special exception to each was based on substantial evidence and was fairly debatable,

it can not substitute its judgment for that of the Board. Rather, using this standard, the Court finds that the Board's action was based on substantial evidence and was fairly debatable.

In light of the above, it is this 13<sup>th</sup> day of October, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Baltimore County Board of Appeals be and is hereby AFFIRMED.

  
A. OWEN HENNEGAN, JUDGE

COPIES SENT:

Peter Max Zimmerman, Esquire  
Julius W. Lichter, Esquire

CIRCUIT COURT FOR BALTIMORE COUNTY  
CIVIL GENERAL

DOCKET 35 PAGE 239 CASE NO. 87CG469 CATEGORY APPEAL

ATTORNEYS

IN THE MATTER OF  
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY  
v.  
LAVERNE M. REIFSNIDER  
J. MITCHELL ADOLPH, D.C.

Phyllis Cole Friedman  
113 Chesapeake Bldg.  
Peter Max Zimmerman  
Room 223, Court House (04)  
494-2188

Julius W. Lichter  
113 Chesapeake Bldg.  
305 W. Chesapeake Ave. (04)  
321-0600

COSTS

- (1) Feb. 10, 1987 - Appellant's Order for appeal from the decision of the County Board of appeals and Petition for Appeal fd.
- (2) Feb. 11, 1987 - Certificate of Notice fd.
- (3) Mar 9, 1987 - Pltff's Petition for Extension of Time to File Transcript of Proceedings and Order of Court Granting Same fd. (EAD,Jr) Copies sent.
- (4) March 10, 1987 - App. of Julius W. Lichter for the Deft & Same Day Response to Petition for Extension of Time to File Transcript of Proceedings fd.
- (5) Apr. 8, 1987 - Transcript of Record fd.
- (6) Apr. 8, 1987 - Notice of filing of record fd.
- (7) May 8, 1987 - Pltff's Motion to Consolidate the above case with case #87-CG-470 fd.
- (8) June 2, 1987 - Order of Court that the above case is hereby Consolidated with Case #87-CG-470 (d.(WMN))
- (9) June 9, 1987 - Correspondence fd.
- (10) June 12, 1987 - Appellee's Reply Memorandum fd.
- Sept. 10, 1987 Hon. A. Owen Hennegan. Hearing had. Ruling held sub-curia. Ruling to be filed.
- (11) Oct 14, 1987 - Opinion and Order of Court that the decision of the Baltimore County Board of Appeal be and is hereby AFFIRMED. (AOH)

DOCKET 35 PAGE 239 CASE NO. 87CG0469

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

means of finding the buildings. To permit illuminated signs of this size along a major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use, and therefore the variance for the signs will be denied.

ORDER

It is therefore this 14th day of January, 1987 by the County Board of Appeals ORDERED that the petitions for reclassification in Case No. R-87-99-X and Case No. R-87-100-X from D.R. 5.5 to R.O. be and the same are GRANTED. It is further ORDERED that the special exceptions petitioned for in Case No. R-87-99-X and Case No. R-87-100-X be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted. It is further ORDERED that the petition for the variance for the 2' x 16' double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Buckatt, Chairman  
Keith S. Franz  
Harold Buchmeister, Jr.

IN THE MATTER OF  
THE APPLICATION OF  
LAVERNE M. REIFSNIDER, ET UX  
J. MITCHELL ADOLPH, D.C. - P.C.  
S/W/S BLAKELY AVE., 300' SE OF  
THE C/L OF BELAIR ROAD  
(4209 BLAKELY AVENUE)  
and  
THE APPLICATION OF  
HARBOR REALTY PARTNERSHIP  
S/W/S BLAKELY AVE., 400' SE OF  
THE C/L OF BELAIR ROAD  
FOR RECLASSIFICATION FROM  
D.R. 5.5 TO R.O.; SPECIAL  
EXCEPTION - CLASS B OFFICE BLDG.;  
AND SIGN VARIANCES - \$203.3.C

BEFORE  
COUNTY BOARD OF APPEALS  
OF  
BALTIMORE COUNTY  
JAN 19 1987  
CASE NO. R-87-99-X  
and  
CASE NO. R-87-100-X

OPINION

These two cases come before the Board on petition for reclassification from D.R. 5.5 to R.O. with a request for a Special Exception for a Class B office building and a request for a variance from a sign regulation. Since both properties are abutting properties, and the exact same conditions exist on both properties, and the requests on both properties are identical, the cases were consolidated as one hearing. The property identified as Laverne M. Reifsnider contains .46 acre and the property identified as Harbor Realty Partnership contains .92 acre. Both are presently zoned D.R. 5.5.

Testimony in this case was received by Dr. J. Mitchell Adolph who now owns the property identified as Reifsnider. He testified that he purchased the property for use as his personal medical office and wants the special exception so that the usable area of the building can be increased. Mr. Howard Brown, partner of the Harbor Realty Partnership, testified as to his proposed use of the property for a Class B office building if the zoning can be acquired. Mr. Kenneth M. Johns, professional engineer, prepared the plats which are entered in this case as documented plans for the proposed use of both properties and are identified as Petitioners' Exhibits #3 and #4. Mr. Michael Townsley,

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 DR 5.5 zone to an RO 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

- CLASS B OFFICE BUILDING
- and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:
- 203.3.C to permit a freestanding, double face, illuminated, 64 sq. ft. sign in lieu of the allowed 8 sq. ft., on the building non-illuminated

OK to file  
1/14/87  
JWB

Property is to be posted and advertised as prescribed by The Baltimore County Code.  
I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser:  
J. Mitchell Adolph, D.C.  
(Type or Print Name)  
Signature  
8817 Belair Rd.  
Baltimore, Md. 21236  
City and State

Legal Owner(s):  
LAVERNE M. REIFSNIDER  
(Type or Print Name)  
Signature  
Laverne M. Reifsnider  
MARCO K. REIFSNIDER  
(Type or Print Name)  
Signature  
Harold K. Reifsnider

Attorney for Petitioner:  
JULIUS W. LICHTER, ESQ.  
(Type or Print Name)  
Signature  
305 W. Chesapeake Avenue  
Towson, Maryland 21204  
City and State  
Address  
(301) 321-0600  
Attorney's Telephone No.

4209 Blakely Avenue 256-8070  
Address  
Baltimore, Maryland 21236  
City and State  
Phone No.  
21236

Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
Julius W. Lichter, Esq.  
305 W. Chesapeake Avenue  
Towson, MD. 21204 (301) 321-0600  
Address Phone No.

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

an adjoining property owner, testified in favor of the petitions as did Mr. Al Redner, President of the Perry Hall Community Council. Mr. George Gavrelis, planning expert, testified as to the error in assigning D.R. 5.5 to these properties and the reasons why the reclassifications should be granted. People's Counsel presented Mr. James Hoswell, planner for Baltimore County, in opposition to the petitions. The Board will not attempt to summarize all this lengthy testimony but will let the record speak for itself.

From the testimony and evidence received, it is apparent that the following conditions exist. The property is abutted on two sides by property zoned B.L. Across the street from both properties is a large overhead transmission line and a commercial parking lot used by the Baltimore Gas & Electric Company. A portion of the rear of the sites is abutted by property presently being used as a junkyard. The presence of all these conditions certainly augments the Petitioners' claims and the expert testimony that residential use of these properties is impractical. There has been, however, no change in these uses since the 1984 map process. There is, however, one significant change to these two properties, both of which face Blakely Avenue, which is at present a 30-foot wide dead-end street. A major development known as Silver Spring Station to the rear of these two properties is now underway, and Blakely Avenue will be widened to a 50-foot width and thereupon become a major collector street for Silver Spring Station. Neither of these properties was an issue in the 1984 map process. Petitioners' Exhibits #10 and #11 are Planning Board recommendations in which they have cited all of the above conditions and have specifically recommended the reclassification to R.O.

People's Counsel in opposing the petitions specifically cites the fact that neither of these properties was an issue before the County Council. The

ENGINEERING ENTERPRISES, INC.

Description to Accompany Petition for Reclassification  
4209 Blakely Avenue  
11th Election District 5th Councilmanic District  
Baltimore County, Maryland 21236

BEGINNING for the same on the center line of a thirty foot road or right-of-way now known as Blakely Avenue at a point distant three hundred feet southeasterly from the intersection of the center of said thirty-foot road with the center line of Belair Road (before widening) thence leaving said point of beginning and running binding on the center line of said thirty-foot road South 68°30' East 100 feet; thence South 29° West 200 feet; thence North 68°30' West 100 feet; thence parallel with Belair Road North 29° East 200 feet to the point of beginning.



REVISED PLANG III-15  
4/14/86 ucr

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

Board will note that four years elapse between comprehensive maps and certainly conditions can arise that require individual consideration of properties as provided for by law. These two properties appear to meet this category. It is unrealistic for the Board to state positively what the County Council would have done had they had the same testimony and evidence before them as were presented this Board. Error in the comprehensive zoning map process may be committed by commission or may also be committed by omission. The drastic change in Blakely Avenue from a dead-end street to a major collector alone seems to justify the requested R.O. classification. Another major factor in the Board's consideration of this request is the fact that both properties are submitting documented site plans which means that precisely what is proposed must be built, no more and no less. To continue the residential use of the two sites under the conditions testified to is certainly inappropriate. For all of the above reasons, the Board is of the opinion that the requested reclassification as petitioned for should be granted and will so order.

Both properties are also petitioning for a special exception for a Class B office building. Both properties have submitted site plans which document exactly what the Class B office building must be. Both documented site plans meet all the requirements of Section 502.1 as testified to. Therefore, the Board is of the opinion that the special exception as evidenced by the documented site plans should be granted and will so order.

The Board is, however, not convinced that double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of the Class B office building. The Class B office buildings by themselves with normal permitted signs should certainly allow anyone reasonable

LAVERNE M. REIFSNIDER, ET UX #R-87-99-X  
J. Mitchell Adolph, D.C. - C.P. Item #15, Cycle III, 1986  
S/W/S Blakely Ave., 300' SE of the c/l of Belair Road (4209 Blakely Avenue) 11th District  
DR 5.5 to R.O. 0.46 acres  
SE - Class B Office Building  
Variances - \$203.3.C to permit a freestanding, double face, illuminated, 64 sq. ft. sign in lieu of the allowed 8 sq. ft. on the building, non-illuminated

Feb. 28, 1986 Petition filed

Julius W. Lichter, Esquire  
305 W. Chesapeake Ave. (21204) Counsel for Petitioners

J. Mitchell Adolph, D.C.  
8817 Belair Rd. (21236) Contract Purchaser

Laverne M. Reifsnider, et ux  
4209 Blakely Ave. (21236) Petitioners

James Earl Kraft  
Baltimore County Board of Education  
4209 Belair Road (21204)

Phyllis Cole Friedman People's Counsel

Norman E. Gerber  
James G. Hoswell  
Arnold Jablon  
Jean M. H. Jung  
James E. Dyer

87-99-X

LAVERNE REIFSNIDER, ET UX and HARBOR REALTY PARTNERSHIP SW/s Blakely Ave., 300' SE of c/l of Belair Rd. DR 5.5 to R.O. SE-Class B office bldg. Var.-Sign

R-87-99-X R-87-100-X 11th District

Feb. 28, 1986 Petition filed
Oct. 28 Hearing held on petition by C.B. of A.
Jan. 14, 1987 Order of the Board granting the reclassification and special exception and denying the variance for a double-faced illuminated sign.
Feb. 10 Order for Appeal filed in the Cir. Ct. by People's Counsel for Balto. Cty.
Feb. 11 Certificate of Notice sent to interested parties
April 8, 1987 Record of proceedings filed in the Circuit Ct. for Baltimore County.
May 8 Motion to Consolidate above cases and Memorandum fd by People's Counsel in Circuit Court.
Sept. 10 Hearing had in Circuit Court (Hon. A. Owen Hennegan).
Oct. 14 Opinion and Order of the Court AFFIRMING C.B. of A.
Oct. 21 Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing filed in CCT by People's Counsel.
Dec. 9 Supplemental Memorandum in Support of Motion to Alter or Amend Judgment, etc. filed by P.C. in CCT.
Feb 16, 1988 Order of the CCT -Motion to Alter or Amend Judgment and/or Reconsideration GRANTED; case to be REMANDED to CB of A for further action "as Board feels necessary." (Hennegan, J)
April 6 Meeting w/CBA (WTH & TJB), P. Zimmerman and J. Lichter -- CBA to request case files from CCT and have third Board member read transcript; Peter Zimmerman to proffer testimony and evidence which he would present if another hearing were held; said proffer to be sent to Jules Lichter at same time as to the CBA; J. Lichter to advise CBA whether or not he wishes to respond to proffer. Upon completion of above, CBA will issue an Amended Opinion.

NOTICE FOR RECLASSIFICATION Case No. R-87-99-XA LOCATION: Southeast Side of Blakely Avenue, 300 feet Southeast of the Centerline of Belair Road (4200 Blakely Avenue) PUBLIC HEARING Thursday, Oct. 28, 1986, at 10:00 A.M. The County Board of Appeals for Baltimore County, Md., will hold a public hearing on the petition of Laverne M. Reifsnider, et ux, for a special exception for a Class B office building, and on the petition of Harbor Realty Partnership, et ux, for a special exception for a Class B office building, on the above described property from a D.R. 5.5 Zone to an R.O. Zone and a Special Exception for a Class B office building. All interested parties should appear at the hearing on the above described property at the County Board of Appeals, 11th District, 110099 Oct. 9.

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD. October 9 1986 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on October 9 1986.

THE JEFFERSONIAN, Susan Studer Abbott Publisher Cost of Advertising 27.50

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL GENERAL

DOCKET 35 PAGE 239 CASE NO. 87CG469 CATEGORY APPEAL

CASE NO. R-87-99-X ATTORNEYS Phyllis Cole Friedman Peter Max Zimmerman Room 223, Court House (04) 494-2188

LAVERNE M. REIFSNIDER J. MITCHELL ADOLPH, D.C. Julius W. Lichter 113 Chesapeake Bldg. 305 W. Chesapeake Ave. (04) 321-0600

RECEIVED APPEALS COUNTY BOARD OF APPEALS FEB 19 4 11:40

- (1) Feb. 10, 1987 = Appellant's Order for appeal from the decision of the County Board of appeals and Petition for Appeal fd.
(2) Feb. 11, 1987 - Certificate of Notice fd.
(3) Mar 9, 1987 - Pltff's Petition for Extension of Time to File Transcript of Proceedings and Order of Court Granting Same fd. (EAD,Jr) Copies sent.
(4) March 10, 1987 - App. of Julius W. Lichter for the Deft & Same Day Response to Petition for Extension of Time to File Transcript of Proceedings fd.
(5) Apr. 8, 1987 = Transcript of Record fd.
(6) Apr. 8, 1987 = Notice of filing of record fd.
(7) May 8, 1987 - Pltff's Motion to Consolidate the above case with case #87-CG-470 fd.
(8) June 2, 1987 - Order of Court that the above case is hereby Consolidated with Case #87-CG-470 (C.M.H.)
(9) June 9, 1987 = Correspondence fd.
(10) June 12, 1987 - Appellee's Reply Memorandum fd.
Sept. 10, 1987 Hon. A. Owen Hennegan. Hearing had. Ruling held sub-curia. Ruling to be filed.
(11) Oct 14, 1987 - Opinion and Order of Court that the decision of the Baltimore County Board of Appeal be and is hereby AFFIRMED. (AOH)
(12) Oct 20, 1987 - Pltff's Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing fd.

DOCKET 35 PAGE 239 CASE NO. 87CG0469

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant AT LAW Case No. 87-CG-469
LAVERNE M. REIFSNIDER, et ux, Appellees
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant AT LAW Case No. 87-CG-470
HARBOR REALTY PARTNERSHIP, Appellee

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant AT LAW Case No. 87-CG-469
LAVERNE M. REIFSNIDER, et ux, Appellees
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant AT LAW Case No. 87-CG-470
HARBOR REALTY PARTNERSHIP, Appellee

PEOPLE'S COUNSEL'S MEMORANDUM

I. STATEMENT OF FACTS

The law of comprehensive zoning reserves to the elected representatives the right to make important judgments about land use in Baltimore County in a legislative process which occurs every four years. The interim administrative process is intended only for those cases where strong evidence of error exists, or where substantial change in the neighborhood occurs, and where a different classification is warranted. The County Board of Appeals may not substitute its thinking for the County Council's, and is not at liberty to select or approve such zoning as it may believe more desirable. The exercise of such a philosophy would degrade, and perhaps destroy, the legislative action.

In this case, the Board succumbed to the temptation to alter the comprehensive zoning on two adjoining properties. The Petitioners claimed that their proposed residential-office zoning for properties on the south side of Blakely Avenue, eastward of Belair Road, would fit with the need

for more offices in the area. On the one property (Reifsnider), an addition to an existing residence was proposed for Dr. Mitchell Adolph's chiropractic practice; the other property, a completely new office building measuring approximately 150 feet in length and accommodating approximately 20,000 square feet in office space. In each case, the existing zoning was D.R. 5.5 (density residential). In each case, the reclassification request was accompanied by a documented site plan and a request for special exception. The properties on the south side of Blakely Avenue, to the east, are zoned residential or in residential use. To the north is a B.C. & E. parking lot also zoned D.R. 5.5. To the rear are residences in a D.R. 5.5 zone in the southerly direction. The only abutting property zoned commercial is immediately to the west, but is occupied by a dwelling. The County Board of Appeals incorrectly stated that the properties are abutted on two sides by property zoned B.L. (Opinion, p. 2) the Board also gave a false impression that the properties were affected by a junkyard to the rear. As already stated, the relevant uses directly to the rear are residential, fronting on Raab Avenue. 1/

At the same time that the Board incorrectly described the area, it did not base its finding of error on the character of the existing neighborhood. As the board acknowledged, there was "...no change in these uses since the 1984 map process." (Opinion, p. 2) Rather, the basis for the Board's Opinion can fairly be located in its subsequent discussion:

1/ Copies of the pertinent zoning maps are attached as Exhibit A. (App. 1)

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Appellant
LAVERNE F. REIFSNIDER, et ux Appellees
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Appellant
HARBOR REALTY PARTNERSHIP Appellee
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
CASE NO. 87-CC-469
CASE NO. 87-CC-470

ORDER Appellant's (People's Counsel for Baltimore County) Motion to Alter or Amend Judgment and/or Reconsideration, Paper No. 8, GRANTED. Case is remanded to the Baltimore County Board of Appeals for further action as the Board feels necessary in light of the Court of Special Appeals' decision in People's Counsel for Baltimore County v. Robert W. Mockard, M/ 451, September Term (1987), concerning Section 2-58.1(j) of the Baltimore County Zoning Regulations.

FILED FEB 16 1988 A. OWEN HENNEGAN, JUDGE

RECEIVED COUNTY BOARD OF APPEALS

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

I HEREBY CERTIFY that on this 8th day of April, 1987, a copy of the foregoing Motion to Consolidate was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204; and J. Mitchell Adolph, D. C., 8817 Belair Road, Baltimore, MD 21236.

Concisely stated, the administrative finding of error in the comprehensive zoning is attributable to its belief that the ongoing development of Silver Spring Station and the future widening of Blakely Avenue would be inconsistent with residential zoning. The Board went on, in addition, to say that the requested special exceptions for office use met "all the requirements of Section 502.1 (of the Baltimore County Zoning Regulations)." (Opinion, p. 3).

But, the County Board of Appeals made no findings as to many specific factors enumerated and required to be considered under Section 2-58.1(j)(2) of the Baltimore County Code. Moreover, the Board completely failed to make a finding as to the compatibility of the proposed office buildings with the existing residential neighborhood as required by Section 203.2. That section in fact requires that such proposals "shall be highly compatible with the present or prospective uses of nearby residential property." To facilitate judicial review, People's Counsel appends the County Board of Appeals decision dated January 14, 1987 as Exhibit B. In addition, the written argument submitted to the Board is Exhibit C.

II. QUESTIONS PRESENTED

1. Whether the well-known ongoing development of the Silver Spring Station residential subdivision and the related future widening of Blakely Avenue was or is inconsistent with residential zoning on the subject properties, and whether such constitutes strong evidence of error by the County Council in failing to designate residential-office zoning in 1984?

2. Whether the County Board of Appeals simply failed to make the required findings pertinent to zoning reclassifications under Section 2-58.1(j)(2) of the Baltimore County Code?

3. Whether the proposed offices were or are highly compatible with the residential neighborhood, and, in any event, whether the Board failed to make the required findings as to compatibility under BCZR Section 203.2?

III. RELEVANT STATUTES

The Comprehensive Zoning Process, in which the County Council has opportunity to review reports and recommendations and hear testimony following consideration by the Baltimore County Planning Board, is established, and the process is outlined, in Sections 22-21 through 22-23 of the Baltimore County Code (1978, 1984 Cumulative Supplement).<sup>2/</sup>

The process in Baltimore County is cyclical and occurs every four years. It gives the legislature a unique opportunity to consider and appraise information on a relatively frequent basis so that comprehensive zoning in the county is tremendously dynamic. Its judicial approbation will be discussed below.

The administrative, or piecemeal, rezoning process, on the other hand, is set forth separately in Section 2-58.1 of the Code. (App. 7)

This includes, in Subsection (j), the "change/mistake" rule which has been a hallmark of Maryland zoning for some time. In addition, importantly, the law requires that any finding of error in the existing zoning and any finding that the prospective reclassification is warranted, must be accomplished by explicit consideration of the elements of zoning, such as population, public facilities, compatibility with the character of the neighborhood, and consistency with the Master Plan.

<sup>2/</sup>These are included in an appendix and are found at App. 4.

In the present case, the focus is on residential and residential-office zoning. In Baltimore County, residential zoning is organized around the concept of density units. Thus, D.R. 5.5 permits 5.5 units per acre, whereas D.R. 16 predictably allows 16 units per acre. However, the residential zoning classifications also provide for a wide variety of other compatible uses. These are included in Sections 1.B01.1A (uses permitted as of right) and 1.B01.1C (uses permitted by special exception) of the Baltimore County Zoning Regulations. (App. 12)

Residential-office zoning allows for moderate office use, including both conversions of residences, and free-standing office buildings subject to the special exception process. The R-O zoning classification is frequently used in areas involving some transition between residential neighborhoods, on the one hand, and more intensely developed commercial neighborhoods, on the other. The relevant uses and standards are set forth in BCZR 203. (App. 17) The key point here, of course, is the additional requirement of high compatibility. BCZR 203.2.

IV. THE "CHANGE/MISTAKE" RULE IN THE COURTS

In Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358, 328 A.2d 55 (1974), Judge Rita Davidson restated the applicable scope of judicial review:

"... Where a legislative body, or a board of county officials, pursuant to authority conferred upon it, has granted a rezoning of property, the question on judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable, Montgomery County v. Pleasants, 266 Md. 462, 295 A.2d 216 (1972); Himmelheber v. Charnock, 258 Md. 636, 267 A.2d 179 (1970); Chevy Chase Village v. Mont. Co., 258 Md. 27, 264 A.2d 861 (1970); Smith

v. Co. Comm'rs of Howard Co., 252 Md. 280, 249 A.2d 708 (1959). We shall follow that test in considering this appeal.

"While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced, Roskville v. Henley, 268 Md. 469, 302 A.2d 45 (1973); Heller v. Prince George's Co., 264 Md. 410, 412, 286 A.2d 772 (1972); Creswell v. Baltimore Aviation, 257 Md. 712, 721, 364 A.2d 838 (1970). Since, as we have also said, this burden is onerous, Cabin John Ltd. v. Montgomery Co., 259 Md. 661, 271 A.2d 174 (1970); Creswell v. Baltimore Aviation, supra; Wells v. Pierpont, 253 Md. 534, 253 A.2d 749 (1969), the task confronting appellants [appellees], whose application followed the comprehensive rezoning by merely four months, is manifestly a difficult one." (emphasis in original). 23 Md. App. at 367, citing Stratakis v. Beauchamp, 268 Md. 643, 652-53 (1973).

Moreover, in meeting a challenge to the application of the "change/mistake" rule to the Baltimore County process, Judge Davidson said:

"We see nothing in the 'cyclical' zoning scheme adopted by the Council which impels a modification of this rule. The fact that comprehensive rezoning may occur in Baltimore County with greater frequency than has been the case in the past does not alter the fact that it will result from careful study of changes occurring in wide areas and an assessment of future public needs and purposes. Indeed, in our view, the system will enhance the stability and permanence of zoning classifications by assuring that the majority of zoning classifications are determined in accordance with a carefully considered integrated plan of development, based upon a full understanding of the present and future needs of a broad area, rather than upon a piecemeal review of limited scope." 23 Md. App. at 369-70.

Indeed, the Coppolino case is of such importance and vitality that we include it in the appendix. (App. 19)

V. SCOPE OF JUDICIAL REVIEW

The scope of judicial review in cases involving a challenge to comprehensive zoning is different from the usual administrative law case. Because of the favored position of comprehensive zoning, the courts have required "strong evidence" to support an administrative decision overturning the comprehensive map. In this context, judicial review of such a decision is far more strict than in ordinary cases, where the courts are in the habit of deferring to administrative expertise. The "strong evidence" rule is illustrated not only in Coppolino, supra, but also in another well-known case arising in Baltimore County: Boyce v. Sembly, 25 Md. App. 43, 334 A.2d 137 (1975). Indeed, the Maryland courts have continued to follow the approach developed in these decisions of the early 1970's. See Howard County v. Dorsey, 2.2 Md. 351, 438 A.2d 1339 (1982).

At the same time, the courts in recent years have also focused attention upon the reasoning of agency decisions. Thus, it is said that "...in judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency." United Steel Workers v. Bethlehem Steel Corp., 298 Md. 665, 679, 472 A.2d 62 (1984). Thus, it is not the job of the court to search the record to determine if evidence (in this case, "strong" evidence) exists sufficient to support the decision. Rather, it is necessary to examine carefully the reasoning of the officers performing the administrative function.

Any question regarding the application of United Steel Workers to the zoning field was put to rest in Ocean Hideaway Condominium v. Boardwalk Plaza, 68 Md. 650, 661, 515 A.2d 485 (1986), where the Court of Special Appeals reiterated:

"Judicial review of administrative action differs from the appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency. (emphasis supplied) (citations omitted). Id. at 679, 472 A.2d 62.

Also, the Supreme Court in Burlington Truck Lines v. United States, 371 U.S. 156, 83 S.Ct. 239, 9 L. Ed.2d 207 (1962) found that:

"Expert discretion is the lifeblood of the administrative process, but "unless we make the requirements of administrative action strict and demanding, expertise, the strength of modern government, can become a monster which rules with no practical limits on discretion." (emphasis in original) (citation omitted)."

In addition, where a statute requires the agency to consider various factors on designated points, the failure to make specific findings in that connection itself requires reversal of the agency order. See Anne Arundel County v. A-Pac Ltd., 67 Md. App. 122, 130, 506 A.2d 671 (1986). In the present case, Section 2-58.1(j) lists the factors to be considered by the County Board of Appeals. (App. 10)

The requirement of explicit and articulate findings here indeed follows from the holding in the United Steel Workers case.

ARGUMENT

I. THE WELL-KNOWN ONGOING DEVELOPMENT OF THE SILVER SPRING STATION RESIDENTIAL SUBDIVISION AND THE RELATED FUTURE WIDENING OF BLAKELY AVENUE WAS NOT OR IS NOT INCONSISTENT WITH RESIDENTIAL ZONING ON THE SUBJECT PROPERTIES, AND SUCH DOES NOT CONSTITUTE STRONG EVIDENCE OF ERROR BY THE COUNTY COUNCIL IN FAILING TO DESIGNATE RESIDENTIAL-OFFICE ZONING IN 1984.

The Court of Special Appeals has outlined three approaches which an applicant may take to sustain his petition. Since it is presumed "that at the time of the adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing," (Boyce, supra, 25 Md. at 51, 52, 334 A.2d at 143), the applicant must show:

- "1. That specific physical facts were not readily visible or discernable at the time of the comprehensive zoning;
- 2. That such existing facts were not taken in account;
- 3. Or, ...that the Council failed to make any provision to accommodate any project, trend, or need which it itself, recognized as existing at the time of the comprehensive zoning." Ibid.

The focus, in this context, is on the impact of the Silver Spring Station development and the widening of Blakely Avenue. There is incidental discussion of the relevance of commercial zoning on the north side of Blakely Avenue, as well as a favorable Planning Board report (notwithstanding the recommendation of the professional planning staff to retain the existing zoning).

The courts have addressed similar problems. In Coppolino, supra, it is remarkable that discussion focused on "the proposed construction of Perry Hall Boulevard and the consequent possible improvement in the flow of traffic through the Ebenezer-Belair Road intersection." 23 Md. App., at 373. The property owners there asserted that the County Council

had erred by failing to take into account this significant road project, which would facilitate traffic flow. But Judge Rita Davidson underlined that the Council, being aware of the road proposal, could reasonably have concluded it to be in the public interest to defer consideration of rezoning at least until the next comprehensive maps and more current traffic studies.

Similarly, in Trainer v. Lipchin, 269 Md.667, 309 A.2d 479 (1973), the property owners based their claim of error on the failure of the legislature to take into account the proposed widening of York Road, in the area of West Ridgely Road. Again, the Court rejected the suggestion of error. It found "nothing in the record to show that the Council, upon adopting the comprehensive zoning map in March, was unaware of the plans." 269 Md., at 667. Moreover, Judge Irving Levine rejected the assertion that it would be impractical to undertake residential development because of commercial development across the street. 269 Md., at 674-75.

It should be added that in Coppolino, the courts observed that the recommendations of the Planning Board in favor of the rezoning were advisory and were not to be considered absent a basis to support a finding of error. See, e.g., Stratakis v. Beauchamp, supra. As a result, the appellate courts in each of these cases sustained the comprehensive zoning.

The present case is no different. There is nothing in the record to demonstrate or even suggest that the County Council was unaware of the prominent Silver Spring Station development and the proposed widening of Blakely Avenue. It was well within the discretion of the Council in 1984 to await the actual road construction and consider more current traffic studies as a part of the overall picture in the next comprehensive review. Indeed, as of the date of this writing, Blakely Avenue remains a narrow deadend road with one lane in each direction.

Moreover, there is no competent evidence (and even the Board of Appeals made no finding) that land use within the existing zoning is impossible on the south side of Blakely Avenue. There is no dispute that residential use is and has been the predominant use on the south side.

As to the favorable Planning Board report, it was devoid of any facts or observations to support a claim of error. Accordingly, the report was without any probative evidentiary value.

The bottom line is that the Board accepted the invitation of the developer to substitute its judgment in favor of a new zoning deemed more desirable and conducive to the interests of the property owners. This approach, unfortunately, is antithetical to the principles of comprehensive zoning.

As in the case of Cabin John Ltd. Partnership v. Montgomery County Council, 259 Md. 661, 271 A.2d 174, 180 (1970), the Board of Appeals appeared to base its conclusion on the idea that it would be, "more commercially feasible to use (the property) for other than residential purposes." To support a claim of error or confirmation on this ground would cause zoning restrictions in many areas to "collapse like a house of cards."

At the very least, there was no strong evidence of error so as to make the legislative decision arbitrary and capricious, and not fairly debatable. Consequently, the County Board of Appeals exceeded the proper scope of review of legislation.

II. THE COUNTY BOARD OF APPEALS FAILED TO ADDRESS THE LEGAL ELEMENTS NECESSARY TO A RECLASSIFICATION DECISION.

At the same time that the Board considered (improperly) the effect of Silver Spring Station and the future widening of Blakely Avenue, it ignored various other factors required for consideration and findings under Section 2-58.1(j)(2) of the Code. These are not optional. This

failure makes the Board opinion inherently defective.

Thus, under Anne Arundel County v. A. Pac Ltd., 67 Md. App. 122, 130, 506 A.2d 671 (1986), the appropriate course of action, on this ground, is to remand to the Board for further consideration. This point seems so plain as to require no further discussion.

III. THE PROPOSED OFFICES WERE NOT OR ARE NOT HIGHLY COMPATIBLE WITH THE RESIDENTIAL NEIGHBORHOOD, AND, IN ANY EVENT, THE BOARD FAILED TO MAKE THE REQUIRED FINDINGS AS TO COMPATIBILITY UNDER BCZR SECTION 203.2.

The Board's next error also involved omission. BCZR 203.2 makes "compatibility" a core issue in every case involving a proposal for office development in an R-O zone. The parties here addressed it and argued it in post-hearing memoranda. See Exhibit C, page 3. There was testimony directed to it. But the Board failed to make a specific finding.

The absence of such a finding itself requires reversal. United Steelworkers, supra. Judge Rodowsky there confirmed the rule of administrative law that,

"the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency... The courts may not accept appellate counsel's post hoc rationalizations... ." 298 Md. 665, 679-80.

Otherwise stated, it is not the function of the court to search the record for evidence to support any theory not incorporated as a finding and/or conclusion by the agency.

In a similar case, involving a "floating zone" in Montgomery County, fairly analogous to a special exception here, there was a requirement not only that the proposal would have no detrimental effect, but also that

contexts, but when you look at the distance of the residence from the edge of the paving on the plat for item number 16 or item number 15, it shows up on both, and look at the size of the backyard. It is not hard to realize that the backyard would be the outdoor area to use. What I am saying is that when you put 168 feet into something that you can visualize, not something necessarily a teardrop which should be done to be very attractive, not that the buildings may not be attractive, you are speaking about a wall more than half a football field including one end zone, 35 feet high. That, in effect, would be in the rear yard of the Raub Avenue residence. The reason why I am not so concerned about the length of the building on the Adolph property is that because of the way that the building is situated, the wall that the people in the rear would face would be much, much shorter. You are speaking of something maybe thirty-five feet at the rear, probably sixty feet as you move further to the front of the property. I think that the fact that -- I think it is just too big to meet the intent. It is a residential office zone. As such, it is supposed to permit buildings that are compatible. They barely meet, barely, by the skin of their teeth, by their testimony, meet the amenity open space requirements. In order to meet the parking provisions, although it is perfectly within the law, they park -- a number of cars would be parked across the street. Were those parking spaces to be provided on site, they would take up the rest of the amenity open space, for all practical purposes.

"So what I am saying, it is so much building for this site. It is not compatible with the residences in the rear. It has a greater impact on them, in my mind, than it does the one immediately to the east and the adjacent property that the gentlemen attested to. So, I have great problems with the special exception for number 16. I don't think it is compatible and I don't think it meets the intent of the R.O. regulations." Thus, even assuming that there were any error in the zoning, the approval of the office building on the Harbor Realty property was a gross deviation from the requirement of high compatibility.

CONCLUSION

For the foregoing reasons, the decision of the County Board of Appeals in each of these cases should be reversed.

*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

I HEREBY CERTIFY that on this 8<sup>th</sup> day of May, 1987, a copy of the foregoing People's Counsel's Memorandum was mailed to Julius W. Lichter, Esquire, 113 Chesapeake Building, 305 W. Chesapeake Ave., Towson, MD 21204; and J. Mitchell Adolph, D. C., 8817 Belair Rd., Baltimore, MD 21236.

*Peter Max Zimmerman*  
Peter Max Zimmerman

the project would be "compatible" with the existing uses in the general neighborhood. Aubinoe v. Lewis, 250 Md. 645 (1968). In this context, the Court of Appeals held that an express finding of compatibility was required and was not satisfied by a finding of no detrimental effect.

The same may be said here. In the typical special exception case in Baltimore County, pursuant to BCZR Section 502.1, the property owner is entitled to prevail so long as he demonstrates by substantial evidence that there is no adverse effect on neighboring properties and the use is generally in harmony with the comprehensive zoning; there is generally no requirement to establish affirmatively that the proposed use will be a benefit to the community. Miller v. Kiwanis Club of Loch Raven, 29 Md. App. 285 (1975); Anderson v. Sawyer, 23 Md. App. 612 (1974); Turner v. Hammond, 270 Md. 41 (1973). The matter of "compatibility" is more akin to an affirmative showing of benefit to the community and is not an element of the typical, garden-variety special exception.

Accordingly, when the County Board of Appeals here found that BCZR 502.1 was satisfied, it made this finding that fits the typical special exception case:

"Both properties are also petitioning for a special exception for a Class B office building. Both properties have submitted site plans which document exactly what the Class B office building must be. Both documented site plans meet all the requirements of Section 502.1 as testified to. Therefore, the Board is of the opinion that the special exception as evidenced by the documented site plans should be granted and will so order." (Opinion, p. 3)

But, clearly, the Board's finding went no further than the scope of BCZR 502.1 as understood and interpreted in cases such as Miller, Anderson, and Turner. There was no express finding of "compatibility," as is separately required by the particular and unusual legislative statement

for special exceptions in residential-office zones. Given the additional element, the reasoning of Aubinoe v. Lewis applies, and the administrative decision is defective.

In any event, even assuming arguendo that the Board had made the necessary finding, it would be clearly erroneous. The record itself fails to contain any substantial evidence of compatibility.

In this connection, James Hoswell's testimony is so apt that the pertinent portion shall be reprinted here beginning on page 133, line 21, of the transcript:

"Q All right. Separately in reference, assuming for the sake of argument we are putting the question of error aside for a minute and we know -- can you see on the proposed special exception on each of the two properties separately what is your observation as to the appropriateness of those proposals and their consistency with the legislative intent expressed under Section 203 of the Baltimore County Zoning Regulations referring to R.O. zone?"

"A I don't have a problem with the Adolph site, in response to your question as posed to me. I don't have a problem with that as it is proposed with the R.O. regulations. I do have a problem with the proposed building, in particular, the size of the second building. Maybe I can look at these. Well, renderings, if done well, look good, but my problem is this. The proposal on item 16 for a 168-foot long building 35 feet high to the peak line, if you notice on the petitioners' plat, parallel to that is an existing residence fronting on Raub Avenue. You are talking about the backyard of that residence. We have had a lot of conversations today about frontyard versus backyard in various

Report to the  
BOARD OF APPEALS OF BALTIMORE COUNTY  
by the  
BALTIMORE COUNTY PLANNING BOARD  
ZONING RECLASSIFICATION PETITIONS  
CYCLE III  
1986  
ADOPTED JULY 17, 1986

IN THE MATTER OF THE APPLICATION OF LAVERNE M. REIFENIDER, ET UX	IN THE CIRCUIT COURT
SW/S BLAKELY AVE., 300' SE OF THE C/L OF BELAIR RD. (4209 BLAKELY AVENUE)	FOR
FOR RECLASSIFICATION FROM DR 5.5 TO R.O.; SPECIAL EXCEPTION - CLASS B OFFICE BLDG.; AND SIGN VARIANCE 11th DISTRICT	BALTIMORE COUNTY AT LAW
	CG Doc. No. 35
PHYLLIS COLE FRIEDMAN, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, PLAINTIFF	Folio No. 229
	File No. 87-CG-669
FILE NO. R-87-99-X	

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, Keith S. Franz and Harry E. Buchheister, Jr., 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 DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY  
No. R-87-99-X  
February 28, 1986 Petition filed by Laverne M. Reifenido, et ux, for reclassification of property located on the southwest side of Blakely Ave., 300' southeast of the center line of Belair Rd. (4209 Blakely Avenue) from DR 5.5 to R.O. zoning, in the 11th District of Baltimore County.  
September 26 Certificate of Posting of Property - filed  
October 9 Publication in newspaper - filed  
October 9 Comments of Balto. County Zoning Plans Advisory Committee - filed  
October 28 At 10:00 a.m. hearing held on petition by County Board of Appeals

January 14, 1987 Order of the County Board of Appeals ordering that the reclassification be GRANTED and that the Special Exception be GRANTED with restriction. FURTHER ORDERED that the Petition for variance for double-faced illuminated sign be DENIED.

February 10 Order for Appeal filed in the Circuit Ct. for Baltimore County by Phyllis C. Friedman, People's Counsel for Baltimore County.

February 10 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County

February 11 Certificate of Notice sent to interested parties.

April 8 Transcript of testimony - filed

People's Counsel's Exhibit No. 1A-J --Photographs

" " " 2 - Zoning Reclass. Petitions.

Petitioners' Exhibit No. 1 - Deed of Reifsnider property.

" " " 2 - Deed between Crane and Harbor Partnership

" " " 3 - Plat of Harbor Realty

" " " 4 - Plat of Reifsnider property

" " " 5 - Aerial photo of site

" " " 6A-W - Photos of area locations in relation to subj. properties

" " " 7 - Inquisition granting BO&E property rights

" " " 8 - Building of Harbor Realty, (in Board's closet)

" " " 9 - Adolph Building Rendering (in Board's closet)

" " " 10 - Planning Bd. recommendation on Harbor Realty

" " " 11 - Planning Bd. recommendation on Reifsnider property.

April 8, 1987 Record of proceedings filed in the Circuit Court for Baltimore County.

Record of proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board. However, all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals' office, and upon request of the parties or the Court will be transmitted to the Court by whomsoever institutes the request.

Respectfully submitted,

*June Holmen*  
June Holmen  
County Board of Appeals of Baltimore County

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant  
v. LAVERNE M. REIFSNIDER, et ux, Appellees

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY  
AT LAW  
Case No. 87CG469

ORDER

Upon the foregoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED by the Circuit Court for Baltimore County this 6th day of March, 1987, that the time for filing in Court the transcript of proceedings before the Board of Appeals is hereby extended until Friday, April 10, 1987.

*Edward H. Dittler*  
JUDGE  
True Copy Test  
Suzanne Nensh, Clerk  
Per *[Signature]*  
Deputy Clerk

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant  
v. LAVERNE M. REIFSNIDER, et ux, Appellees

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY  
AT LAW  
Case No. 87CG469

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

People's Counsel for Baltimore County, Appellant herein, petitions this Court, pursuant to Maryland Rule B7(b), for an extension of time within which to file the transcripts of proceedings before the Baltimore County Board of Appeals and in support of this Petition states:

Bernard Danker, Court Reporter for the County Board of Appeals at the time of the hearing before said Board in the above-entitled case, has advised Appellant that because of a backlog of cases, he will need a thirty-day extension of time to prepare the transcript of proceedings.

WHEREFORE, Appellant prays this Honorable Court to extend the time for filing the transcript of proceedings until Friday, April 10, 1987, 60 days after the Petition on Appeal was filed.

*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

I HEREBY CERTIFY that on this 4th day of March, 1987, a copy of the foregoing Petition for Extension of Time to File Transcript of Proceedings was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 200, Court House, Towson, MD 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204, Attorney for Petitioner; and J. Mitchell Adolph, D. C., 8817 Belair Rd., Baltimore, MD 21236, Contract Purchaser.

*Peter Max Zimmerman*  
Peter Max Zimmerman

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant  
v. LAVERNE M. REIFSNIDER, et ux, Appellees

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY  
AT LAW  
Case No. 87CG469

RESPONSE TO PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

J. Mitchell Adolph, D.C., Appellee, by Julius W. Lichter and Levin, Gann & Hankin, P.A., his attorneys, in response to the Petition for Extension of Time to File Transcript of Proceedings, move to strike said Petition and for cause say:

1. That the People's Counsel for Baltimore County, Protestant below and Appellant herein, have appealed a decision of the County Board of Appeals that concluded the present zoning on a certain parcel of land was an erroneous classification.
2. That the Appellant, having allowed a full twenty-seven days to run from the date of the aforesaid decision prior to filing a Notice of Appeal, and then, delaying until March 4, 1987, a mere six days prior to the date within which to file a transcript, filed a Petition for Extension of Time to File Transcript of Proceedings.
3. That this undue delay and less than timely filing of Pleadings, has already served to greatly harm the interests of J. Mitchell Adolph, D.C., Appellee.

RECEIVED  
COUNTY BOARD OF APPEALS  
MARCH 13 1987

4. That any extension of time resulting in any further delay in a final determination of this matter would serve to irreparably harm the aforesaid Appellee who must begin to make improvements for the relocation of his office.
5. That the People's Counsel's Petition does not aver that promptly upon taking notice of appeal, that a transcript was ordered and without such an allegation, counsel for the Appellee can only assume that such a request was made in a less than timely fashion.
6. That the Petition does not state with any particularity the efforts taken by the Appellant to obtain a transcript.
7. That the Petition for Extension of Time to File Transcript of Proceedings does not state the authorities in support of the Motion as required by Maryland Rule 2-311(c).
8. That the burden is on the Appellant in a Petition for Extension of Time Transcript of Proceedings, to set forth with particularity both of the following:
  - A. The grounds of the Motion averring sufficient cause, and
  - B. The authorities in support of each grounds, including, not only the rules of court, but the citation of applicable case law and text authorities.

RELIEF REQUESTED:

- A. That the Appellant's Petition be stricken,
- B. That the Appellant's Motion be dismissed,
- C. That this Court pass an Order of Dismissal in the above captioned Appeal,

D. And for such other and further relief as the nature of this cause may require.

*Julius W. Lichter*  
Julius W. Lichter  
Levin, Gann & Hankin, P.A.  
113 Chesapeake Building  
305 W. Chesapeake Avenue  
Towson, Maryland 21204  
321-0600  
Attorneys for Appellee

POINTS AND AUTHORITIES

Maryland Rule 2-311(a)-Motions Generally.  
Maryland Rule 2-311(c)-Motions, Statement with Particularity.  
Maryland Rule B7(b)-Change of Time.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of MARCH, 1987, a copy of the foregoing Response to Petition for Extension of Time to File Transcript of Proceedings was hand delivered to the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 200, Court House, Towson, Maryland 21204, prior to presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed, by first class mail, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223 Court House, Towson, Maryland 21204.

*Julius W. Lichter*  
Julius W. Lichter

IN THE MATTER OF : IN THE  
 THE APPLICATION OF : CIRCUIT COURT  
 LAVERNE M. REIFSNIDER, ET UX :  
 SW/S BLAKELY AVE., 300' SE OF :  
 THE C/L OF BELAIR RD. : FOR  
 (4209 BLAKELY AVENUE) : BALTIMORE COUNTY  
 FOR RECLASSIFICATION FROM : AT LAW  
 DR 5.5 TO R.O.; SPECIAL :  
 EXCEPTION - CLASS B OFFICE :  
 BLDG.; AND SIGN VARIANCE :  
 CG Docket No. 35  
 PHYLLIS COLE FRIEDMAN, : Folio No. 239  
 PEOPLE'S COUNSEL FOR BALTIMORE :  
 COUNTY, PLAINTIFF : File No. 87-CG-469  
 FILE NO. R-87-99-X

CERTIFICATE OF NOTICE

Mr. Clerk:  
 Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Keith S. Franz and Harry E. Buchheister, Jr., 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, Julius W. Lichter, Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for the Petitioners; Laverne M. Reifsnider, et ux, 4209 Blakely Ave., Baltimore, Md. 21236, Petitioners; J. Mitchell Adolph, D.C., 8817 Belair Rd., Baltimore, Md. 21236, Contract Purchaser; and Phyllis Cole Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

*June Holmen*  
 June Holmen  
 County Board of Appeals of Baltimore County  
 Rm. 200, Court House, Towson, Md. 21204  
 494-3180

Laverne M. Reifsnider, et ux  
 Case No. R-87-99-X

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Julius W. Lichter, Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for the Petitioners; Laverne M. Reifsnider, et ux, 4209 Blakely Ave., Baltimore, Md. 21236, Petitioners; J. Mitchell Adolph, D.C., 8817 Belair Rd., Baltimore, Md. 21236, Contract Purchaser; and Phyllis Cole Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, on this 11th day of February, 1987.

*June Holmen*  
 June Holmen  
 County Board of Appeals of Baltimore County

PEOPLE'S COUNSEL FOR : IN THE CIRCUIT COURT  
 BALTIMORE COUNTY, : FOR BALTIMORE COUNTY  
 Appellant : AT LAW  
 v. : Docket No. 35  
 LAVERNE M. REIFSNIDER, et ux, : Folio No. 239  
 Appellee : File No. 87CG 469

NOTICE OF APPEAL

Please note an appeal from the decision in the above-captioned matter of the County Board of Appeals dated January 14, 1987 by the People's Counsel for Baltimore County.

*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

I HEREBY CERTIFY that on this 10th day of February, 1987, a copy of the foregoing Notice of Appeal was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204; and J. Mitchell Adolph, D.C., 8817 Belair Rd., Baltimore, MD 21236.

*Peter Max Zimmerman*  
 Peter Max Zimmerman

PEOPLE'S COUNSEL FOR : IN THE CIRCUIT COURT  
 BALTIMORE COUNTY, : FOR BALTIMORE COUNTY  
 Appellant : AT LAW  
 v. : Docket No. 35  
 LAVERNE M. REIFSNIDER, et ux, : Folio No. 239  
 Appellees : File No. 87CG 469

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the decision in the above-captioned matter of the County Board of Appeals dated January 14, 1987, files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the present zoning on the parcel which is the subject of this appeal is an erroneous classification and therefore their decision passed herein is illegal, arbitrary, and capricious.

WHEREFORE, Appellant prays that the decision of the Board of Appeals of Baltimore County under date of January 14, 1987 be reversed, and the action of the County Council of Baltimore County in zoning the subject property D.R. 5.5 be affirmed and reinstated.

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

- 2 -

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

I HEREBY CERTIFY that on this 11th day of February, 1987, a copy of the foregoing Petition on Appeal was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204; and J. Mitchell Adolph, D.C., 8817 Belair Rd., Baltimore, MD 21236.

*Peter Max Zimmerman*  
 Peter Max Zimmerman

County Board of Appeals of Baltimore County  
 Room 200 Court House  
 Towson, Maryland 21204  
 (301) 494-3180  
 February 11, 1987

Mrs. Phyllis C. Friedman  
 People's Counsel for Baltimore County  
 Court House  
 Towson, Md. 21204

Dear Mrs. Friedman: Re: Case No. R-87-99-X  
 Laverne M. Reifsnider, et ux

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 appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of 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 file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

*June Holmen*  
 June Holmen, Secretary

Enclosures

County Board of Appeals of Baltimore County  
 Room 200 Court House  
 Towson, Maryland 21204  
 (301) 494-3180  
 February 11, 1987

Julius W. Lichter, Esq.  
 305 W. Chesapeake Ave.  
 Towson, MD. 21204

Dear Mr. Lichter: Re: Case No. R-87-99-X  
 Laverne M. Reifsnider, et ux

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,

*June Holmen*  
 June Holmen, Secretary

Encl.  
 cc: Laverne M. Reifsnider, et ux  
 J. Mitchell Adolph  
 James E. Kraft  
 Norman E. Gerber  
 James G. Hoswell  
 Arnold Jablon  
 Jean Jung  
 James E. Dyer

IN THE MATTER OF : BEFORE  
 THE APPLICATION OF : COUNTY BOARD OF APPEALS  
 LAVERNE M. REIFSNIDER, ET UX :  
 J. Mitchell Adolph, D.C. - P.C. : OF  
 SW/S BLAKELY AVE., 300' SE OF :  
 THE C/L OF BELAIR ROAD : BALTIMORE COUNTY  
 (4209 BLAKELY AVENUE) :  
 and :  
 THE APPLICATION OF : CASE NO. R-87-99-X  
 HARBOR REALTY PARTNERSHIP : and  
 SW/S BLAKELY AVE., 400' SE OF :  
 THE C/L OF BELAIR ROAD : CASE NO. R-87-100-X  
 FOR RECLASSIFICATION FROM :  
 D.R. 5.5 TO R.O.; SPECIAL :  
 EXCEPTION -CLASS B OFFICE BLDG.:  
 AND SIGN VARIANCES -#203.3.C :

OPINION

These two cases come before the Board on petition for reclassification from D.R. 5.5 to R.O. with a request for a Special Exception for a Class B office building and a request for a variance from a sign regulation. Since both properties are abutting properties, and the exact same conditions exist on both properties, and the requests on both properties are identical, the cases were consolidated as one hearing. The property identified as Laverne M. Reifsnider contains .46 acre and the property identified as Harbor Realty Partnership contains .92 acre. Both are presently zoned D.R. 5.5.

Testimony in this case was received by Dr. J. Mitchell Adolph who now owns the property identified as Reifsnider. He testified that he purchased the property for use as his personal medical office and wants the special exception so that the usable area of the building can be increased. Mr. Howard Brown, partner of the Harbor Realty Partnership, testified as to his proposed use of the property for a Class B office building if the zoning can be acquired. Mr. Kenneth W. Jones, professional engineer, prepared the plans which are entered in this case as documented plans for the proposed use of both properties and are identified as Petitioners' Exhibits #3 and #4. Mr. Mitchell Townsend,



Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

an adjoining property owner, testified in favor of the petitions as did Mr. Al Redner, President of the Perry Hall Community Council. Mr. George Gavrelis, planning expert, testified as to the error in assigning D.R. 5.5 to these properties and the reasons why the reclassifications should be granted.

People's Counsel presented Mr. James Hoswell, planner for Baltimore County, in opposition to the petitions. The Board will not attempt to summarize all this lengthy testimony but will let the record speak for itself.

From the testimony and evidence received, it is apparent that the following conditions exist. The property is abutted on two sides by property zoned B.L. Across the street from both properties is a large overhead transmission line and a commercial parking lot used by the Baltimore Gas & Electric Company. A portion of the rear of the sites is abutted by property presently being used as a junkyard. The presence of all these conditions certainly augments the Petitioners' claims and the expert testimony that residential use of these properties is impractical. There has been, however, no change in these uses since the 1984 map process. There is, however, one significant change to these two properties, both of which face Blakely Avenue, which is at present a 30-foot wide dead-end street. A major development known as Silver Spring Station to the rear of these two properties is now underway, and Blakely Avenue will be widened to a 50-foot width and thereupon become a major collector street for Silver Spring Station. Neither of these properties was an issue in the 1984 map process. Petitioners' Exhibits #10 and #11 are Planning Board recommendations in which they have cited all of the above conditions and have specifically recommended the reclassification to R.O.

People's Counsel in opposing the petitions specifically cites the fact that neither of these properties was an issue before the County Council. The

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

Board will note that four years elapse between comprehensive maps and certainly conditions can arise that require individual consideration of properties as provided for by law. These two properties appear to meet this category. It is unrealistic for the Board to state positively what the County Council would have done had they had the same testimony and evidence before them as were presented this Board. Error in the comprehensive zoning map process may be committed by commission or may also be committed by omission. The drastic change in Blakely Avenue from a dead-end street to a major collector alone seems to justify the requested R.O. classification. Another major factor in the Board's consideration of this request is the fact that both properties are submitting documented site plans which means that precisely what is proposed must be built, no more and no less. To continue the residential use of the two sites under the conditions testified to is certainly inappropriate. For all of the above reasons, the Board is of the opinion that the requested reclassification as petitioned for should be granted and will so order.

Both properties are also petitioning for a special exception for a Class B office building. Both properties have submitted site plans which document exactly what the Class B office building must be. Both documented site plans meet all the requirements of Section 502.1 as testified to. Therefore, the Board is of the opinion that the special exception as evidenced by the documented site plans should be granted and will so order.

The Board is, however, not convinced that double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of the Class B office building. The Class B office buildings by themselves with normal permitted signs should certainly allow anyone reasonable

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

means of finding the buildings. To permit illuminated signs of this size along a major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use, and therefore the variance for the signs will be denied.

ORDER

It is therefore this 14th day of January, 1987 by the County Board of Appeals ORDERED that the petitions for reclassification in Case No. R-87-99-X and Case No. R-87-100-X from D.R. 5.5 to R.O. be and the same are GRANTED. It is further ORDERED that the special exceptions petitioned for in Case No. R-87-99-X and Case No. R-87-100-X be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted. It is further ORDERED that the petition for the variance for the 2' x 16' double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett  
William T. Hackett, Chairman  
Keith S. Franz  
Harry E. Buchheister, Jr.

County Board of Appeals of Baltimore County  
Room 200 Court House  
Towson, Maryland 21204  
(301) 494-3180  
January 14, 1987

Mr. Julius W. Lichter, Esquire  
305 W. Chesapeake Avenue  
Towson, MD 21204

RE: Case No. R-87-99-X  
Laverne M. Reifsnider, et ux  
and  
Case No. R-87-100-X  
Harbor Realty Partnership

Dear Mr. Lichter:

Enclosed is a copy of the Opinion and Order passed today by the County Board of Appeals in the subject cases.

Sincerely,

Kathleen C. Weidenhammer  
Kathleen C. Weidenhammer  
Administrative Secretary

Encl.

cc: J. Mitchell Adolph, D.C.  
Laverne M. Reifsnider  
James Earl Kraft  
Howard Brown, Partner  
Harbor Realty Partnership  
Phyllis Cole Friedman, Esquire  
Norman E. Gerber  
James G. Hoswell  
Arnold Jablon  
Jean M. H. Jung  
James E. Dyer

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 9, 1986

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

650

Chairman

MEMBERS

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

Julius W. Lichter, Esquire  
305 W. Chesapeake Avenue  
Towson, Maryland 21204

RE: Item No. 15 - Cycle No. III  
Petitioners: Laverne M. Reifsnider, et ux  
Reclassification Petition

Dear Mr. Lichter:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the April-October reclassification cycle (Cycle III). 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 judgment as to their accuracy and submit the necessary amendments to this office before October 28, 1986. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of the fact that the submitted site plan does not indicate a proposed use at this time, the comments from this Committee are general in nature. If the request is granted and an additional hearing is required at a later date, more detailed comments will be submitted at that time.

Page Two  
Item No. 15, Cycle III  
October 9, 1986

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 494-3391 or the commenting agency.

Very truly yours,

JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:kbb (MS018)

Enclosures

cc: Engineering Enterprises, Inc.  
2116 Maryland Avenue  
Baltimore, Maryland 21218

Mr. George Gavrelis  
George William Stephens, Jr.  
& Associates  
303 Allegheny Avenue  
P.O. Box 6828  
Towson, Maryland 21204

BALTIMORE COUNTY  
FIRE DEPARTMENT  
TOWSON, MARYLAND 21204-2566  
494-2500

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

APRIL 22, 1986

RE: Zoning Advisory Meeting of CYCLE III - RECLASS  
Item # 15 - CYCLE III  
Property Owner: LAVERNE M. REIFSNIDER,  
& ux  
Location: SW/S BLAKELY AVE. 300' SE OF THE E  
OF BELAIR RD. (4209 BLAKELY AVE.)

Dear Mr. Jablon:

The Division of Current Planning and Zoning has reviewed the subject petition and offers the following comments. The items enclosed below are applicable.

- (X) There are no site planning factors requiring comment AT THIS TIME.
- ( ) A County Review Group meeting is required.
- ( ) A County Review Group meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- ( ) This site is part of a larger tract therefore it is defined as a subdivision. The plan must show the entire tract.
- ( ) A record plat will be required and must be recorded prior to issuance of a building permit.
- ( ) The access is not satisfactory.
- ( ) The circulation on this site is not satisfactory.
- ( ) The parking arrangements is not satisfactory.
- ( ) Parking calculations must be shown on the plan.
- ( ) This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- ( ) Construction in or alteration of the floodplain is prohibited under the provisions of Section 20-5B of the Development Regulations.
- ( ) Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- ( ) The proposed development plan was approved by the Planning Board on [unclear].
- ( ) The property is located in a fire service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The sufficient service is [unclear].
- (X) The property is located in a fire service area [unclear] by a high level intersection as defined by Bill 178-79, and its construction should be reviewed by the County Council.

IF SUBJECT PROPERTY IS REZONED, ANY FUTURE DEVELOPMENT OF THE SITE MUST MEET THE REQUIREMENTS OF CHAPTER 56-82 OF THE DEVELOPMENT REGULATIONS.

cc: James Hoswell  
Eugene A. Dwyer  
Chief, Current Planning and Zoning

BALTIMORE COUNTY  
FIRE DEPARTMENT  
TOWSON, MARYLAND 21204-2566  
494-2500

PAUL H. RENCKE  
Chief  
May 13, 1986

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

Attention: William Hackett  
Chairman, County Board of Appeals

RE: Property Owner: Laverne M. Reifsnider, et ux  
J. Mitchell Adolph, D.C.  
Location: SW/S Blakely Ave. 300' SE of the c/l of Belair Rd. (4209 Blakely Avenue).  
Item No.: 15  
Zoning Agenda: Cycle III  
4/86 - 10/86

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.

- (X) 1. Fire hydrants for the referenced property are required and shall be located at intervals or 300 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 as [unclear] 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", 1978 edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- ( ) 7. The Fire Prevention Bureau has no comment at this time.

Noted and Approved:  
Paul H. Rencke  
Chief, Fire Prevention Bureau  
Special Inspection Division

/s/

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William F. Hackett - Chairman  
 Appeals Board  
 Charles E. "Ted" Burnham  
 FROM: Plans Review Chief, Department of Permits & Licenses  
 DATE: June 24, 1986  
 SUBJECT: April - October 1986 - Zoning Classification - Cycle III

Item #15 Property Owner: Laverne M. Reifsnider, et ux  
 Contract Purchaser: J. Mitchell Adolph, D.C.  
 Location: SW/S Blakely Ave., 300' SE of c/l of Belair Rd.  
 (4209 Blakely Ave.)  
 Existing Zoning: D.R. 5.5  
 Proposed Zoning: R.O. - Special Exception for a Class B Office Bldg.  
 Acres: 0.46 Acres  
 District: 11th Election District 203,3C

Changing use from Residence (R-3) Section 309.4 to Business Use Group "B" Section 309.0 requires a change of occupancy permit plus an alteration permit to upgrade the structure to the proposed new use. See Section 103.2 and Section 505.2 of the Baltimore County Building Code, Council Bill #17-85, which is comprised of the 1981 F.O.C.A. Basic National Building, Mechanical and Energy Codes. The Code of Maryland Regulations .05.01.07 is also applicable. The signs shall comply with Article 19 of the Building Code as amended in Bill #17-85.

See the attached form which lists the items that are most usually not in compliance when changing from a dwelling to commercial business use takes place.

CEB/vv



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

STEPHEN E. COLLINS  
 DIRECTOR

May 19, 1986

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

Cycle III April 1986  
 Item No. 15  
 Property Owner: Laverne M. Reifsnider, et ux  
 Contract Purchaser: J. Mitchell Adolph, D.C.  
 Location: SW/S Blakely Ave., 300' SE of the c/l of Belair Rd. (4209 Blakely Ave.)  
 Existing Zoning: D.R. 5.5  
 Proposed Zoning: R.O.; Special Exception for a class B office building and variances to Section: 203.3.C to permit a freestanding, double face, illuminated, 64 sq. ft. sign in lieu of the allowed 8 sq. ft. on the building, non-illuminated.  
 Acres: 0.46 acres  
 District: 11th Election District

Dear Mr. Hackett:

The existing D.R. 5.5 zoning for this site can be expected to generate 20 trips per day, and the proposed R.O. zoning can be expected to generate 55 trips per day or 165 trips per day as medical offices.

The required parking for this site is 11 parking spaces. The plan shows 10 parking spaces, rather than 16 as stated on the plan.

This item should be developed along with item # III-16. The two sites should have one common access point and the entrance a site as small as this should be 24 feet wide.

Very truly yours,  
*Michael S. Flanigan*  
 Michael S. Flanigan  
 Traffic Engineer Associate II

MSF:lt

REVISED PLANS III-15  
 4/15/86 uca

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 DR 5.5 zone to an R.O. 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 CLASS B OFFICE BUILDING

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

203.3.C to permit a freestanding, double face, illuminated, 64 sq. ft. sign in lieu of the allowed 8 sq. ft., on the building non-illuminated

Property is to be posted and advertised as prescribed by The Baltimore County Code.

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

Contract Purchaser: J. Mitchell Adolph, D.C.  
 Signature: J. Mitchell Adolph, D.C.  
 Address: 8817 Belair Rd.  
 City and State: Balto. Md 21236

Legal Owner(s): Laverne M. Reifsnider  
 Signature: Laverne M. Reifsnider  
 Address: 4209 Blakely Avenue  
 City and State: Baltimore, Maryland 21236

Harold K. Reifsnider  
 Signature: Harold K. Reifsnider  
 Address: 4209 Blakely Avenue 256-8070  
 City and State: Baltimore, Maryland 21236

Agency for Petitioner: Julius W. Lichter, Esq.  
 Signature: Julius W. Lichter, Esq.  
 Address: 305 West Chesapeake Avenue  
 City and State: Towson, Maryland 21204  
 Telephone No.: (301) 321-0600

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: \_\_\_\_\_ Date: June 24, 1986  
 FROM: \_\_\_\_\_  
 SUBJECT: Item #15 - Cycle III Zoning

R. O. OCCUPANCIES: From "R-3" to "B" use

- ( ) 1. A change of occupancy, alteration, and other miscellaneous permits are required.
- ( ) 2. Floor loading of 50 pounds live load design are required. Have a registered in Maryland structural engineer provide a letter of certification. See Section 903.0, 904.0, 905.0, Table 906.0, 907.0.
- ( ) 3. Office buildings with a single exit shall comply with Table 809.3 or two independent exits shall be required. See Sections 809.2, 807.0, 810.0, 811.0, 816.0, 819.0, as alternative requirements.
- ( ) 4. Interior stairs shall be enclosed with one hour rated assemblies and "B" label one hour doors.
- ( ) 5. Tenant demising walls, floor/ceiling assemblies shall have a minimum 1 hour rating. See Table 401 amended by Bill 4-82.
- ( ) 6. Exterior walls shall be a minimum of 1 hour rating and no openings are permitted within 3'-0" of an interior lot line.
- ( ) 7. See Section 1702.12, 1702.13, 1702.16 for sprinklers that may be required.
- ( ) 8. Exit stairs, handrails, etc. shall comply with Section 816.0.
- ( ) 9. Plan does not show the following handicapped requirements under the State Handicapped laws:
  - ( ) A. Parking (correct number of spaces, locations)
  - ( ) B. Signs
  - ( ) C. Parking lot accessibility (paving, etc.)
  - ( ) D. Building accessibility (entrance)
  - ( ) E. Required ramps
  - ( ) F. Interior access and usability, (elevators, toilet rooms, etc.)
  - ( ) G. Curb cuts, etc.
- ( ) 10. Interior finishes shall comply with Tables 1121.5 and 1121.7.
- ( ) 11. Ventilation of toilet rooms, work areas shall comply with the B.O.C.A. Mechanical Code, Article 10, Section M312.1.3 and Section 315.0 where rated assemblies are penetrated with ducts, diffusers, etc.

This is not intended to be a complete list of Code requirements. The above comments are for use by the designing architect/engineer. The above comments may not be applicable in all cases and are for informational purposes at this time. A full review of construction plans will be made when the plans are submitted for permits as noted in Item #1 above.

POINTS OF ERROR AND CHANGE

CONCERNING PROPERTY OF J. MITCHELL ADOLPH, D.C. (Contract Purchaser)  
 BLAKELY AVENUE AND BELAIR ROAD - ELEVENTH ELECTION DISTRICT - BALTIMORE COUNTY

THE PETITIONER, J. MITCHELL ADOLPH, D.C. (Contract Purchaser), HAROLD K. REIFSNIDER and LAVERNE M. REIFSNIDER state that the County Council committed error in classifying the subject property DR 5.5 and there are changes in the neighborhood supporting reclassification of the property to RO in that:

1. The property is zoned DR 5.5 and should have been classified in the RO zone.
2. There is insufficient RO zoning for offices in the area to adequately serve the community.
3. The DR 5.5 zoning placed on the property is not usable and is confiscatory in its application.
4. Due to the size, configuration, location and topography of the property, the DR 5.5 zone is confiscatory and does not recognize the potentials which the RO zone allows to serve the community.
5. There are changes in the area which have created a demand for property zoned in the RO zoning classification which cannot be addressed by the current zoning DR 5.5.
6. The RO zone recognizes Master Plan objectives and the attendant opportunities presented by the growing and now developing commercial and other business uses and has available and adequate transportation, water supply and other public facilities compatible with the RO zone and character of the surrounding area.
7. The adjoining property to the west and north is zoned BL and is developed for commercial and office use.
8. For such further and other reasons as may be disclosed upon more detailed review during the pendency of this Petition assigning error by the Council and change in the neighborhood.

Respectfully submitted,  
*Julius W. Lichter*  
 JULIUS W. LICHTER

Julius W. Lichter, Esquire  
 305 West Chesapeake Avenue  
 Towson, Maryland 21204

September 26, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION AND SPECIAL EXCEPTION  
 SW/S of Blakely Ave., 300' SE of the c/l of Belair Rd.  
 (4209 Blakely Ave.)  
 11th Election District  
 Harold K. Reifsnider, et ux - Petitioners  
 Case No. R-87-99-X (Cycle III, Item No. 15)

TIME: 10:00 a.m.

DATE: Tuesday, October 28, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

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

WTH:med

ccs: J. Mitchell Adolph, D.C.  
 8817 Belair Road  
 Baltimore, Maryland 21236

Mr. Harold K. Reifsnider  
 Mrs. Laverne M. Reifsnider  
 4209 Blakely Avenue  
 Baltimore, Maryland 21236

People's Counsel for Baltimore County

THIS IS TO ADVISE YOU THAT YOU WILL BE BILLED BY THE ZONING OFFICE FOR ADVERTISING AND POSTING COSTS WITH RESPECT TO THIS CASE APPROXIMATELY A WEEK BEFORE THE HEARING. THIS FEE MUST BE PAID AND THE SIGN AND POST RETURNED TO ROOM 113, COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVE., TOWSON, MARYLAND ON THE DAY OF THE HEARING OR THE ORDER WILL NOT BE ISSUED. W.T.H.

PETITION FOR RECLASSIFICATION

CASE NO. R-87-99-X

LOCATION: Southwest Side of Blakely Avenue, 300 feet Southeast of the Centerline of Belair Road (4209 Blakely Avenue)

PUBLIC HEARING: Tuesday, October 28, 1986, at 10:00 a.m.

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:  
 To reclassify the property from a D.R. 5.5 Zone to an R.O. Zone and a Special Exception for a Class B office building

All that parcel of land in the 11th Election District of Baltimore County

BEGINNING for the same on the center line of a thirty foot read or right-of-way now known as Blakely Avenue at a point distant three hundred feet southeasterly from the intersection of the center of said thirty-foot road with the center line of Belair Road (before widening) thence leaving said point of beginning and running binding on the center line of said thirty-foot road South 68°30' East 100 feet; thence South 29° West 200 feet; thence North 68°30' West 100 feet; thence parallel with Belair Road North 29° East 200 feet to the point of beginning.

Being the property of Harold K. Reifsnider, et ux as shown on the plat plan filed with the Zoning Department.

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



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

ARNOLD JABLON  
 ZONING COMMISSIONER

JEAN M. H. JUNG  
 DEPUTY ZONING COMMISSIONER

October 22, 1986

Julius W. Lichter, Esquire  
 305 West Chesapeake Avenue  
 Towson, Maryland 21204

RE: PETITION FOR ZONING RECLASSIFICATION AND SPECIAL EXCEPTION  
 SW/S of Blakely Ave., 300' SE of the c/l of Belair Rd. (4209 Blakely Ave.)  
 11th Election District  
 Harold K. Reifsnider, et ux - Petitioners  
 Case No. R-87-99-X (Cycle III, Item No. 15)

Dear Mr. Lichter:

This is to advise you that \$295.17 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THE FEE MUST BE PAID AND THE RECLASSIFICATION SIGN AND POST RETURNED TO THE BALTIMORE COUNTY ZONING OFFICE ON THE DAY OF THE BOARD OF APPEALS' HEARING OR THE ORDER WILL NOT BE ISSUED.

Please make your check payable to "Baltimore County, Maryland" and remit it to Ms. Margaret E. du Bois, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

*Arnold Jablon*  
 ARNOLD JABLON  
 Zoning Commissioner

AJ:med

BARC-PL-1

81th d 02 883 87M

Description to Accompany Petition for Reclassification  
4209 Blakely Avenue  
11th Election District 5th Councilmanic District  
Baltimore County, Maryland 21236

BEGINNING for the same on the center line of a thirty foot road or right-of-way now known as Blakely Avenue at a point distant three hundred feet south-easterly from the intersection of the center of said thirty-foot road with the center line of Belair Road (before widening) thence leaving said point of beginning and running binding on the center line of said thirty-foot road South 68°30' East 100 feet; thence South 29° West 200 feet; thence North 68°30' West 100 feet; thence parallel with Belair Road North 29° East 200 feet to the point of beginning.



REVISED PLANS III-15  
4/1/86 UCR

87-99\*

debatable? [Balto. Co. Code Sec. 2-58.1(j)(1)].  
(2) Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2) of the Balto. Co. Code?

(3) Was the condition placed on the reclassification erroneous?

The Board decided to grant Petitioner's request for a reclassification in zoning from business local (BL-CS-2) to business major (BM-CS-2). The Board added the condition "for the specific purpose of expanding the existing used and new car dealership". The Board's decision is based upon the "change or mistake" rule set forth in the Baltimore County Code:

Before any property is reclassified pursuant to this section, the board of appeals must find:

(1) That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error.

Balto. Co. Code 1978, Sec. 2-58.1(j)(1) (1985 Cum. Supp.).

I. Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly debatable?

Petitioners relied on the "mistake" portion of the "change or mistake" rule and argued to the Board that the BL (business local) zoning given to the subject property during the 1984 Comprehensive Zoning Process was an error in light of the

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY : IN THE CIRCUIT COURT  
Appellant : FOR BALTIMORE COUNTY  
Case No. 87-CG-469  
vs. :  
LAVERNE F. REIFSNIDER, et ux :  
Appellees :  
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY : IN THE CIRCUIT COURT  
Appellant : FOR BALTIMORE COUNTY  
Case No. 87-CG-470  
vs. :  
HARBOR REALTY PARTNERSHIP :  
Appellee :

RECEIVED  
COUNTY BOARD OF APPEALS  
OCT 20 5 22 PM '87

MOTION TO ALTER OR AMEND JUDGMENT AND/OR FOR RECONSIDERATION AND REQUEST FOR HEARING

People's Counsel for Baltimore County, pursuant to Maryland Rules 2-534 and 2-535, moves to alter or amend the judgment of the Circuit Court dated October 13, 1987, on the following ground:

1. The Circuit Court in its Opinion and Order did not address the argument that the County Board of Appeals failed to make the findings required by Section 2-58.1(j) of the Baltimore County Code.
2. In a comparable case, the Circuit Court (Nickerson, J.) found that such findings are required. See People's Counsel for Baltimore County, et al. v. Robert W. Mockard, et al., Case No. 86CG1262, attached.

WHEREFORE, People's Counsel requests that the Court alter or amend and/or Reconsider its judgment, and remand the case for findings pursuant to statute.

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

fact that it is surrounded by BM (business major) zones. They offered testimony from three expert witnesses, two of whom testified that in their opinion, a mistake had been made in the 1984 zoning. In addition, a letter from Norman E. Gerber, Director of Planning and Zoning, was accepted into evidence wherein the proposed reclassification was recommended, although no mistake in prior zoning was acknowledged. Photos and a zoning map were also presented to the Board.

This Court is aware that in a zoning appeal the Court may not substitute its judgment for that of the Board. The scope of review is limited to a determination of whether the issue presented to the Board, i.e. mistake, was fairly debatable. If so, the decision must be affirmed by the Circuit Court. Floyd v. County Council of P.G. Co., 55 Md. App. 246, 461 A.2d 76 (1983). However, in order to render the issue of "mistake" fairly debatable, substantial evidence of such mistake must have been presented to the Board. Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358, 328 A.2d 55 (1974). When a Board's finding cannot be said to be "fairly debatable", it is arbitrary, capricious and a denial of due process of law. Turner v. Hammond, 270 Md. 41, 310 A.2d 543 (1973).

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

I HEREBY CERTIFY that on this 20th day of October, 1987, a copy of the foregoing Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing was mailed to Julius W. Lichter, Esquire, 113 Chesapeake Bldg., 305 W. Chesapeake Ave., Towson, MD 21204.

Peter Max Zimmerman  
Peter Max Zimmerman

This Court will not disturb the Board's decision as to the issue of mistake. The evidence, including photographs, zoning map and expert testimony, presented to the Board was sufficient to create a fairly debatable issue of mistake.

II. Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2)?

People's Counsel argues that the written opinion of the Board does not reflect the requisite consideration of factors necessary for a reclassification, as set forth in Sec. 2-58.1(j)(2). This Court agrees. A careful reading of the Code section mandates that a reclassification may be made only upon consideration of factors . . . including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, and compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water supply facilities, and the capital program.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, ET AL. : IN THE CIRCUIT COURT  
Appellants :  
vs. :  
ROBERT W. MOCKARD, ET AL. : FOR BALTIMORE COUNTY  
Appellees :  
CASE NO. 86CG1262

OPINION AND ORDER

This case came before the Court on February 11, 1987 on appeal from a decision rendered by the Baltimore County Board of Appeals. Petitioners below, Robert W. Mockard, et al., requested a zoning reclassification of property located at Harford Road and East Avenue from BL-CS-2 to BM-CS-2. The Board granted the reclassification for the specific purpose of expanding the existing used and new car dealership (Griffith Chrysler-Plymouth). Orders for Appeal were filed by three parties: Petitioners; People's Counsel for Baltimore County; and Michael D. Eck, Protestant. The day prior to the hearing before this Court, Michael D. Eck filed a Consent to Judgment in Favor of Robert W. Mockard, et al., so that argument on February 11 was presented only by Petitioners and People's Counsel.

The issues raised on appeal are as follows:  
(1) Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly

In reviewing an agency action, the Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency. United Steel Workers v. Bethlehem Steel, 293 Md. 665, 472 A.2d 62 (1984). In the instant case, the Board's decision is conclusory in nature and specifically omits findings relative to the factors set forth above. The circuit court may not supply factual findings which were not made by the Board. Ocean Hideaway Condominium, et al. v. Boardwalk Plaza Venture, 68 Md. App. 650 (1986). This Court will remand for findings consistent with Sec. 2-58.1(j)(2).

III. Was the condition placed on the reclassification erroneous?  
Both Petitioner and People's Counsel urge that conditional zoning is invalid when the rezoning is accomplished by the open-plan method employed by Petitioners. Although testimony was taken relative to Petitioner's proposed use, their petition for reclassification was not a "specific-site plan" as specified in the Baltimore County Code Sec. 2-58.1(1). In Board of County Commissioners of Washington County v. H. Manny Holtz, Inc., 65 Md. App. 574, 501 A.2d 489 (1985), the Court of Appeals stated:



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

While we do acknowledge that certain text writers and various states have been attracted to conditional zoning as a valuable planning tool, we are not inclined to construe the statute [Article 66B] to provide for conditional use zoning in Maryland.

Although Sec. 2-58.1(1) provides an exception to the rule enunciated in Holtz, Petitioners did not utilize that provision.

It appears that the Board was attempting to mitigate any negative impact which the reclassification may have on the surrounding neighborhood by imposing the condition on the reclassification. However, conditional zoning is not a valid means by which to achieve that result. A more careful determination of the delineated factors should enable the Board to determine whether the prospective classification is, in fact, warranted.

Accordingly, it is this 31<sup>st</sup> day of March, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the County Board of Appeals be and the same is hereby REVERSED as to the condition imposed on the reclassification, and further

ORDERED that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion.

*William H. Nickerson*  
WILLIAM H. NICKERSON, JUDGE

-6-

IN THE MATTER OF THE PETITION FOR ZONING RECLASSIFICATION FROM D.R. 5.5 TO R.O. ZONE (Documented) AND PETITION FOR SPECIAL EXCEPTION AND VARIANCE SA/S of Blakely Ave., 300' SE of Belair Rd., 11th District  
LAVERNE M. REIFSNIDER, et al., Petitioners

: BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY  
: Case No. R-87-99-XA (Item 15, Cycle III)

ENTRY OF APPEARANCE

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

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

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

I HEREBY CERTIFY that on this 6th day of August, 1986, a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204, Attorney for Petitioners; and J. Mitchell Adolph, D.C., 8817 Belair Rd., Baltimore, MD 21236, Contract Purchaser.

*Peter Max Zimmerman*  
Peter Max Zimmerman

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

P-8799X  
R-87-100 Y

District: 11th Date of Posting: 9/24/86  
Posted for: Re-Classification & Special Exception  
Petitioner: Harold K. Reifsnider, et al. & Harbor Realty Partnership  
Location of Property: 300' SE of Belair Rd., 11th District  
Location of Signs: 300' SE of Belair Rd., 11th District  
Remarks: See app. 100' SE of Belair Rd.  
Posted by: M. H. [Signature] Date of return: 10/1/86  
Number of Signs: 2

Julius W. Lichter, Esquire  
305 W. Chesapeake Avenue  
Towson, MD 21204

RE: Case No. R-87-99-XA  
Laverne M. Reifsnider, et ux  
Case No. R-87-100-XA  
Harbor Realty Partnership

Dear Mr. Lichter:

Enclosed is a copy of the Supplementary Opinion and Order issued this date by the County Board of Appeals in the subject case.

Sincerely,

Kathleen C. Weidenhammer  
Administrative Secretary

Encl.

cc: J. Mitchell Adolph, D.C.  
Laverne M. Reifsnider  
James Earl Kraft  
Howard Brown, Partner  
Harbor Realty Partnership  
Phyllis C. Friedman, Esquire  
P. David Fields  
James G. Hoswell  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk - Zoning  
Arnold Jablon, County Attorney

PETITION FOR RECLASSIFICATION Case No. R-87-99-X  
LOCATION: Southwest Side of Blakely Avenue, 300 feet Southeast of the Centerline of Belair Road (4309 Blakely Avenue)  
PUBLIC HEARING: Towson, October 28, 1986, at 10:00 A.M.  
The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing.  
To reclassify the property from a D.R. 5.5 Zone to an R.O. Zone and a Special Exception for a Case B office building.  
All that parcel of land in the 11th Election District of Baltimore County, BEGINNING FOR THE SAME on the center line of a thirty foot road or culvert-way now known as Blakely Avenue as a point distant three hundred feet westerly from the intersection of the center of said thirty-foot road with the center line of Belair Road (before widening) thence leaving said road of beginning and running southerly on the center line of said thirty-foot road South 88° 10' West 100 feet; thence South 29° West 200 feet; thence North 88° 10' West 100 feet; thence parallel with Belair Road North 29° East 200 feet to the point of beginning.  
Being the property of Harold K. Reifsnider, et al., as shown on the plan filed with the Zoning Department.  
By Order Of  
WILLIAM T. HACKETT, Chairman  
County Board of Appeals  
Baltimore County  
10900 Oct. 9

CERTIFICATE OF PUBLICATION

TOWSON, MD., October 9, 1986

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on October 9, 1986.

THE JEFFERSONIAN,

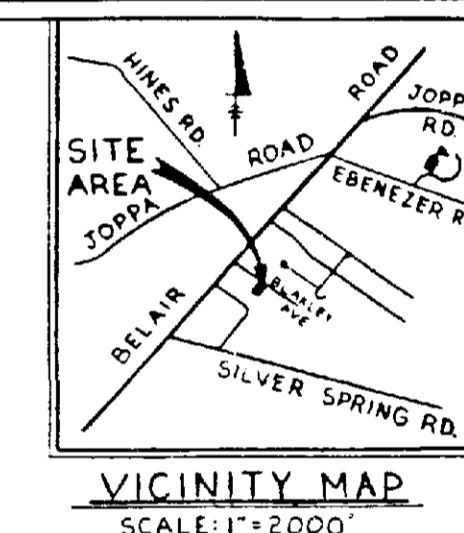
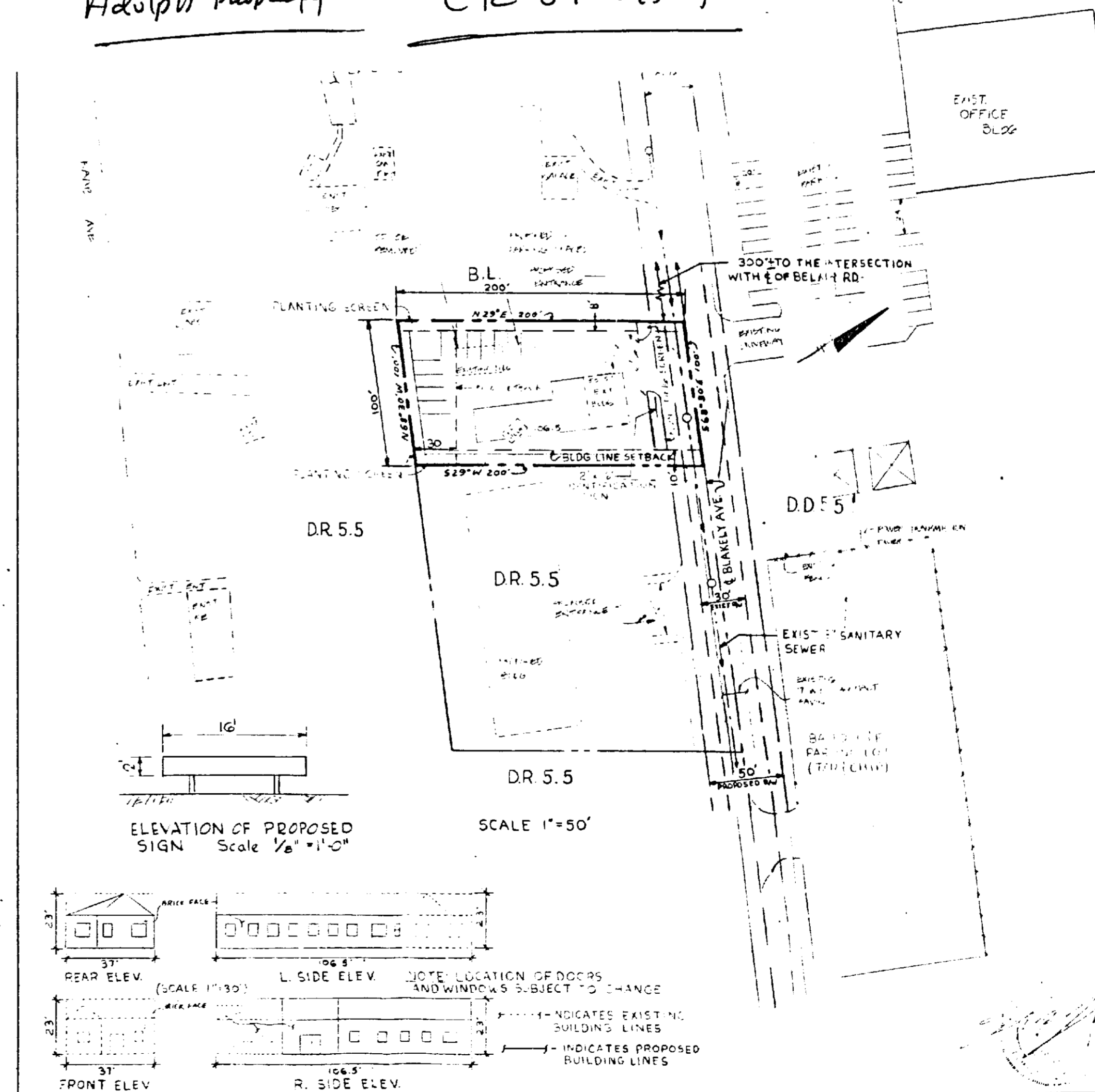
*Susan Sander Abbott*

Publisher

Cost of Advertising

27.50

Adolph Property CR 87-99XA



SITE ANALYSIS

SITE GROSS AREA = 0.46 ACRES  
ROADWAY AREA = 0.06 ACRES  
NET AREA = 0.40 ACRES

EXISTING ZONING DR 5.5  
PROPOSED ZONING R-O

EXISTING USE RESIDENCE  
PROPOSED USE OFFICE

FLOOR AREA RATIO TOTAL FLOOR AREA 1 STORY BLDG 20,000 SF

GROSS SITE AREA 20,000 SF

FLOOR AREA RATIO 1.00

PARKING BREAKDOWN 1 FLOOR OFFICE AREA 3074.50 SF

NO SPACES REQUIRED 3074.50 SF = 300 SF = 11

TOTAL NO. SPACES REQUIRED

TOTAL NO. SPACES PROVIDED

WATER SERVICE EXISTING IN BELAIR RD

SOIL TYPE: L-B-1 (CURE URBAN)

NO. OF EMPLOYEES 45 = 500 SQ FT / END

APPROX. # EMPLOYEES HOURS OF OPERATION

BLDG EXTERIOR MATERIAL - BRICK

BLDG HEIGHT = 3 FT

LANDSCAPING REQUIRED: 6 TREES

A 1 TREE PER 20 LF ROAD FRONTAGE (BLAKELY AVE)

R 1 TREE PER 2 CARS

LANDSCAPING PROVIDED: 6 TREES

A 100 x 20 = 5 TREES

R 10 CARS = 2 = 1 TREE

EVERGREEN SCREENING TO BE 5' HIGH, 3" O.C. AS SHOWN

GRASSES FALL FROM WEST TO EAST AT 10% SLOPE

ENGINEERING ENTERPRISES, INC.  
CONSULTING ENGINEERS BALTIMORE, MD.  
216 MARYLAND AVE. BALTIMORE, MD. 21218  
752-0549

PLAT ACCOMPANYING PETITION FOR RECLASSIFICATION  
PROPERTY OF HAROLD K. AND LAVERNE REIFSNIDER  
BLAKELY AVE.

11th ELECTION DISTRICT  
5th COUNCILMANIC DISTRICT

*Peter Max Zimmerman*

RECEIVED COUNTY BOARD OF APPEALS

103 ANS -6 A 11-09 E

ARNOLD JABLON  
ZONING COMMISSIONER

JEAN M. H. JAMES  
DEPUTY ZONING COMMISSIONER

January 23, 1987

SECOND BILL

Julius W. Lichter, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

RE: PETITION FOR ZONING RECLASSIFICATION AND SPECIAL EXCEPTION  
SW/S of Blakely Ave., 300' SE of the c/l of Belair Rd.  
(4209 Blakely Ave.)  
11th Election District  
Harold K. Reifsnider, et ux - Petitioners  
Case No. R-87-99-1 (Cycle III, Item No. 15)

Dear Mr. Lichter:

This is to advise you that \$296.17 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE RECLASSIFICATION SIGN AND POST RETURNED TO THE BALTIMORE COUNTY ZONING OFFICE.

Please make your check payable to "Baltimore County, Maryland" and remit it to Ms. Margaret E. du Bois, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204.

Very truly yours,

ARNOLD JABLON  
Zoning Commissioner

AJ:med

c.c. Mr. William T. Hackett  
Chairman  
Board of Appeals for Baltimore County

POINTS OF ERROR AND CHANGE

CONCERNING PROPERTY OF J. MITCHELL ADOLPH, D.C. (Contract Purchaser)  
BLAKELY AVENUE AND BELAIR ROAD - ELEVENTH ELECTION DISTRICT -  
BALTIMORE COUNTY

THE PETITIONER, J. MITCHELL ADOLPH, D.C. (Contract Purchaser), HAROLD K. REIFSNIDER and LAVERNE M. REIFSNIDER state that the County Council committed error in classifying the subject property DR 5.5 and there are changes in the neighborhood supporting reclassification of the property to RO in that:

1. The property is zoned DR 5.5 and should have been classified in the RO zone.
2. There is insufficient RO zoning for offices in the area to adequately serve the community.
3. The DR 5.5 zoning placed on the property is not usable and is confiscatory in its application.
4. Due to the size, configuration, location and topography of the property, the DR 5.5 zone is confiscatory and does not recognize the potentials which the RO zone allows to serve the community.
5. There are changes in the area which have created a demand for property zoned in the RO zoning classification which cannot be addressed by the current zoning DR 5.5.
6. The RO zone recognizes Master Plan objectives and the attendant opportunities presented by the growing and now developing commercial and other business uses and has available and adequate transportation, water supply and other public facilities compatible with the RO zone and character of the surrounding area.
7. The adjoining property to the west and north is zoned BL and is developed for commercial and office use.
8. For such further and other reasons as may be disclosed upon more detailed review during the pendency of this Petition assigning error by the Council and change in the neighborhood.

Respectfully submitted,

*Julius W. Lichter*  
JULIUS W. LICHTER 87-99-X



County Board of Appeals of Baltimore County

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

June 16, 1988

RECEIVED  
JUN 17 1988  
ZONING OFFICE

Julius W. Lichter, Esquire  
305 W. Chesapeake Avenue  
Towson, MD 21204

RE: Case No. R-87-99-XA and  
Case No. R-87-100-XA  
(Reifsnider /Harbor Realty)

Dear Mr. Lichter:

Enclosed is a copy of the Supplementary Opinion and Order issued this date by the County Board of Appeals in the subject cases.

Sincerely,

*Kathleen C. Weidenhammer*  
Kathleen C. Weidenhammer  
Administrative Secretary

Encl.

cc: Mr. Howard Brown  
Harbor Realty Partnership  
Mr. J. Mitchell Adolph  
Laverne M. Reifsnider, et ux  
James Earl Kraft  
Phyllis Cole Friedman, Esquire  
P. David Fields  
James G. Howell  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
Docket Clerk -Zoning  
Arnold Jablon, County Attorney

IN THE MATTER OF : ON REMAND FROM  
THE APPLICATION OF : LAVERNE M. REIFSNIDER, ET UX : CIRCUIT COURT FOR BALTIMORE  
J. MITCHELL ADOLPH, D.C. -P.C. : COUNTY - AT LAW  
SW/S BLAKELY AVE., 300' SE OF : THE C/L OF BELAIR ROAD : CASE NO. 87-CG-469  
(4209 BLAKELY AVENUE) : and : and  
THE APPLICATION OF : HARBOR REALTY PARTNERSHIP : CASE NO. 87-CG-470  
SW/S BLAKELY AVE., 300' SE OF : THE C/L OF BELAIR ROAD : (ZONING CASE NO. R-87-99-XA  
FOR RECLASSIFICATION FROM : D.R. 5.5 to R.O.; SPECIAL EXCEPTION : and  
CLASS B OFFICE BLDG.; AND SIGN : VARIANCES -#203.3C : ZONING CASE NO. R-87-100-XA

SUPPLEMENTARY OPINION AND ORDER

By Order of the Honorable A. Owen Hennegan, Judge, dated February 11, 1988, Case No. R-87-99-XA and No. R-87-100-XA are remanded from the Circuit Court to the Baltimore County Board of Appeals for further action as the Board feels necessary in light of the Court of Special Appeals decision in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term (1987), concerning Section 2-58.1(j) of the Baltimore County Code.

In essence, this section of the Code mandates that before any property may be reclassified, the Board must find that there has occurred substantial change in the character of the neighborhood or that the last classification of the property was established in error.

The Board has carefully reviewed all the lengthy testimony and evidence received in the original hearing in these cases. An evaluation of this testimony and evidence indicates that the Board's original conclusions were correct. Briefly stated, it is apparent that the following conditions existed at the time of the hearing, and that we have no evidence that any of these conditions have changed since that hearing. The property in question is abutted on one side by property zoned B.L. Across the street from these properties is

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

a large overhead transmission line and a commercial parking lot used by the Baltimore Gas & Electric Company. A portion of the rear of the sites is abutted by property presently being used as a junkyard. Blakely Avenue, upon which these properties are located, is at present a narrow, dead-end road on a 30-foot right-of-way. In answer to inquiry, James A. Markie, the Chief of the Bureau of Public Services, confirms the testimony given at the hearing that this street will be widened from its 30-foot right-of-way, provided with curb and gutter, and will become a major collector street for a major development to the rear, known as Silver Spring Station. Progress is now underway to acquire the necessary land to provide this larger right-of-way and construction scheduled to begin in the fall of 1988, final paving to be completed in the spring of 1989. In consideration of all this testimony and evidence, the Board will find as a fact that the residential classification afforded these properties is in fact in error, and that the R.O. classification requested is proper. In support of this R.O. classification, Petitioner has entered documented site plans which must be adhered to for his proposed use of these two properties.

Section 2-58.1(j)(1) of the Baltimore County Code mandates that before any property is reclassified pursuant to this section, the Board of Appeals must find that "there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error...." Testimony and evidence in this case indicates that the last classification of the property as residential was in fact in error. In addition, a substantial change in the character of the neighborhood is imminent with the conversion of Blakely Avenue from a narrow, two-lane dead-end street to a major collector street for a large development now significantly underway.

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

Pursuant to Section 2-58.1(j)(2) of the Code as that section has been interpreted by the Court of Special Appeals in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term, 1987, this Board has considered through the testimony of George Gavrellis and other witnesses the applicable factors enumerated therein. This section provides:

"...Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities; water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities; compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program."

The Board will not repeat herein at length the lengthy testimony received; however, incorporates by reference the transcript of this case which addressed each applicable factor. The Board finds as a matter of fact and after due consideration of each of these applicable factors that the current zoning is in error for the reasons set forth therein and that the proposed zoning of R.O. is proper.

As in the original Opinion, the Board is not convinced that the requested double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of a Class B office building. To permit illuminated signs of this size along what is to become a

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use and therefore the variance for the signs will be denied.

ORDER

Based upon the foregoing Opinion, it is therefore this 16th day of June, 1988 by the County Board of Appeals of Baltimore County ORDERED that the petitions for reclassification in Case No. R-87-99-XA and Case No. R-87-100-XA from D.R. 5.5 to R.O. be and the same are GRANTED:

IT IS FURTHER ORDERED that the special exceptions petitioned for in Case No. R-87-99-XA and Case No. R-87-100-XA be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted; and

IT IS FURTHER ORDERED that the petition for the variance for the 2-foot x 16-foot double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

*William T. Hackett*  
William T. Hackett, Chairman

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

*Lawrence E. Schmidt*  
Lawrence E. Schmidt

Julius W. Lichter, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

September 26, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION AND SPECIAL EXCEPTION  
SW/S of Blakely Ave., 300' SE of the c/l of Belair Rd.  
(4209 Blakely Ave.)  
11th Election District  
Harold K. Reifsnider, et ux - Petitioners  
Case No. R-87-99-XA (Cycle III, Item No. 15)

TIME: 10:00 a.m.

DATE: Tuesday, October 28, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

WTH:med

ccs: J. Mitchell Adolph, D.C.  
8817 Belair Road  
Baltimore, Maryland 21236

Mr. Harold K. Reifsnider  
Mrs. Laverne M. Reifsnider  
4209 Blakely Avenue  
Baltimore, Maryland 21236

People's Counsel for Baltimore County

THIS IS TO ADVISE YOU THAT YOU WILL BE BILLED BY THE ZONING OFFICE FOR ADVERTISING AND POSTING COSTS WITH RESPECT TO THIS CASE APPROXIMATELY A WEEK BEFORE THE HEARING. THIS FEE MUST BE PAID AND THE SIGN AND POST RETURNED TO ROOM 113, COUNTY OFFICE BUILDING, 113 W. CHESAPEAKE AVE., TOWSON, MARYLAND ON THE DAY OF THE HEARING OR THE ORDER WILL NOT BE ISSUED. W.T.H.

305 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21284  
301 521-0600

December 3, 1986

HAND DELIVERED

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

RE: Petition for Zoning Reclassification  
from DR 5.5 to RO  
ITEM NO. 15  
Cycle III  
Case No. R-87-100-XA  
Laverne M. Reifsnider and  
Dr. J. Mitchell Adolph  
and

Petition for Zoning Pecclassification  
from DR 5.5 to RO  
ITEM NO. 16  
Cycle III  
Case No. 87-99-X  
Harbor Realty Partnership

Dear Mr. Hackett:

Upon the passage of more than ten days after I submitted my letter to you containing my closing argument, I called the Office of People's Counsel on December 1, 1986 and discovered that People's Counsel's Memorandum containing its closing argument was delivered to you on November 21, 1986. I immediately picked up a copy and called June Holman of your office and advised that I would be sending you a reply or rebuttal to People's Counsel's argument contained in the November 21, 1986 Memorandum.

RECEIVED  
COUNTY BOARD OF APPEALS  
DEC 11 10 54 AM '86

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

Page 2  
December 3, 1986

RE: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

As to Paragraph I, People's Counsel states that the County Council, without objection, preserved the residential use in the adoption of the 1984 Comprehensive Zoning Map. The fact that the Planning Staff, Planning Board and the County Council did not identify either site as an issue despite the physical conditions that existed, were in progress and were to occur clearly indicates the ERROR in adopting the residential zone for both sites in 1984. To state that the residential zoning was imposed without objection would indicate that People's Counsel would have the comprehensive zoning process occur by objection rather than in accordance with sound planning principles which indicate that the RO zone and Special Exceptions would provide the appropriate transition use and buffer between Belair Road and the residential uses to the East. The testimony was extensive in this regard.

In reply to Paragraph II, the testimony reflects that the current partnership owning the Harbor Realty site are the same partners that had owned the Silver Spring Station property and that Mr. Howard Brown joined the partnership. The principals of the partnership had purchased the property for valuable consideration and the statement of People's Counsel that no money was paid is contrary to the evidence presented. The evidence presented clearly shows that the development of both sites shows a quality that would enhance the area together with the amenities necessary and required to maintain that quality. The documented plan reflects that the buildings would be of a height comparable to the height of surrounding residential uses and that they are buffered by wooded areas to the rear of each property while a good portion of the rear of the properties is occupied by a junk yard and commercial activity on the North and West. The adjoining residential areas to the East support the requested RO with the Special Exceptions for Class B Office Buildings.

Dr. Adolph purchased the Reifsnider parcel because he has outgrown his current office situation, wanted to own his own office property to gain the benefit of securing equity and to better serve his patients who live in the area.

The fact that the Petitioners did not participate in the 1984 Comprehensive Zoning Map process is not the issue. The issue is the

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

Page 3  
December 3, 1986

RE: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

ERROR of the County Council and its advisors in failing to plan this area of Baltimore County as evidenced by the testimony of George Gavrelis a well recognized Planning Expert of many years experience. This ERROR was acknowledged by the Baltimore County Planning Board by their recommending the RO zoning in accordance with the documented plan.

In reply to Paragraph III, the subject sites have been burdened with and have not co-existed but deteriorated due to facing the transmission lines and the unscreened parking lot. The Petitioners nor Baltimore County have any power to require the utility company to further screen their parking lot.

People's Counsel's suggestion that the Petitioners be further injured by waiting for time for the adverse conditions to get worse before seeking relief in the 1988 Comprehensive Zoning process is ridiculous.

The provisions of the Baltimore County Code allowing for reclassifications pursuant to documented site plans were adopted specifically for the situations present in both of these cases and compliment the zoning process rather than cause it harm as stated by People's Counsel.

Contrary to People's Counsel's statement as to compatibility pursuant to BCZR 203.2, the documented plan, the evidence presented and the testimony of Mr. Gavrelis firmly establishes that the Harbor Realty Special Exception is highly compatible within the area. Mr. Townsley's testimony clearly indicated his recognition of the ERROR of the current zoning of the properties along Blakely Avenue and the support of the Board to correct this ERROR in reclassification to RO with the Special Exceptions and Variances subject to the documented plans.

The Petitioners have clearly met the standards required to establish ERROR and to authorize the Board of Appeals to grant their requests. To require the Petitioners to await the adoption of the 1988 Comprehensive Map would be contrary to the law in this case and the overwhelming facts which support the Petitioners' requests.

Sincerely,

JULIUS W. LICHTER

JWL:jw  
cc: Peter Max Zimmerman, Esq.

305 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21284  
301 521-0600

December 3, 1986

HAND DELIVERED

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

RE: Petition for Zoning Reclassification  
from DR 5.5 to RO  
ITEM NO. 15  
Cycle III  
Case No. R-87-100-XA  
Laverne M. Reifsnider and  
Dr. J. Mitchell Adolph  
and

Petition for Zoning Reclassification  
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Mr. William T. Hackett  
Chairman, County Board of Appeals

Page 2  
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Mr. William T. Hackett  
Chairman, County Board of Appeals

Page 3  
December 3, 1986

RE: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

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Sincerely,

JULIUS W. LICHTER

JWL:jw  
cc: Peter Max Zimmerman, Esq.

*Mr. Hackett*

RE: In the Matter of the Petition : BEFORE THE COUNTY BOARD OF APPEALS  
for Zoning Reclassification from :  
D.R. 5.5 to R.O. : OF BALTIMORE COUNTY  
SW/S Blakely Ave., 300' SE of :  
C/L of Belair Rd. (4209 Blakely :  
Ave.), 11th District : Case No. R-87-99-XA  
LAVERNE M. REIFSNIDER, et ux, :  
Petitioners :

and :  
In the Matter of the Petition :  
for Zoning Reclassification from :  
D.R. 5.5 to R.O. :  
SW/S Blakely Ave., 400' SE of C/L :  
of Belair Rd., 11th District : Case No. R-87-100-XA  
HARBOR REALTY PARTNERSHIP, :  
Petitioner :

PEOPLE'S COUNSEL'S MEMORANDUM

I.

The question in this case is whether zoning is primarily subject to the judgment of the legislature or developers. The south side of Blakely Avenue, eastward of Belair Road, has been zoned and used residentially for many years. In 1984, without objection, the County Council preserved that use.

II.

Then, in 1986, regardless of the legislative process, the original owners of the Silver Spring Station property, a substantial residential development under construction just to the east, deeded the last remaining unimproved area of their tract to Harbor Realty Partnership, in which they participate along with Mr. Howard Brown. There was no money paid. The purpose was to rezone this last piece and get the maximum use out of the land with a huge office building out of proportion to the existing residences in the area.

At about the same time, Mr. Brown encouraged J. Mitchell Adolph to purchase the adjoining tract to the west to expand it for offices and to support rezoning on both sites.

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Suddenly, they all discovered an alleged zoning error, despite the fact that they were involved in the neighborhood for some time and chose not to participate in the 1984 Comprehensive Zoning Process.

III.

Petitioners claim that the properties are not suitable for residential use because of B.C.&E. transmission lines and a parking area on the north side; but residences here and in other places have co-existed with transmission lines for years, and the parking area can be screened.

They point to the residential development of Silver Spring Station (through which the B.C.&E. lines also run) and the eventual extension of Blakely Avenue, but these have not substantially been completed. Indeed, even if relevant, the uncertain impact of Silver Spring Station is reason for assigning this neighborhood to the 1988 Comprehensive Zoning Process.

They list the support of neighbors; but Mr. Michael Townsley simply sees this as leverage to rezone his property.

They note the approval of Mr. Al Redner, the President of the Perry Hall Community Council; but he brought no supporting documents.

Finally, they suggest that the documented site plan reclassification process provides an excellent opportunity for review not possible in comprehensive zoning. But this advantage is much overstated in requests for R.O. zoning in cases where special exceptions are required. Here, in the event that the County Council judges R.O. to be appropriate, the Zoning Commissioner and the County Review Group would in any event review the development plans to decide consistency with special exception standards.

These cases are appropriately consolidated because they show a pattern in which development interests seek to impose their judgment and will on the zoning process to the detriment of the respect necessary for the legislature to function effectively. Under standards given in Boyce v. Sembly, 25 Md. App. 43 (1975), and Coppolino v. County Board of Appeals, 23 Md. App. 358 (1974), there was clearly no error in 1984. Mr. James Hoswell testified there was no error and gave sufficient reasons. He stated that R.O. should be given serious consideration in 1988 by the County Council, but he did not give a positive or probable recommendation. Even if he had, this would not override the legislative prerogative to consider this entire neighborhood.

At the same time, the consolidation of cases should not obscure some separate problems with the requested special exceptions. In particular, there was no evidence that the Harbor Realty special exception would be highly compatible, as must be found under ECZR 203.2. Indeed, the proposed building is half a football field long and backs right up to residences to the south, on Raab Avenue. Mr. Townsley, on Blakely Avenue, made no objection orly because he wants office zoning for his property.

Once again, it comes down to choosing between the judgment of interested property owners and that of the County Council, for which they want to substitute.

There was nothing wrong done in 1984. There is no reason to impair a comprehensive zoning process which substantially resumes in 1987, and will wind up in 1988.

*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

I HEREBY CERTIFY that on this 21st day of November, 1986, a copy of the foregoing People's Counsel's Memorandum was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204.

*Peter Max Zimmerman*  
Peter Max Zimmerman

LAW OFFICES  
LEVIN, GANN & HANKIN  
A PROFESSIONAL ASSOCIATION  
305 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
301 321-0600  
November 10, 1986

HAND DELIVERED

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

RE: Petition for Zoning Reclassification  
from DR 5.5 to RO  
ITEM NO. 15  
Cycle III  
Case No. R-87-100-XA  
Laverne M. Reifsnider and  
Dr. J. Mitchell Adolph  
and  
Petition for Zoning Reclassification  
from DR 5.5 to RO  
ITEM No. 16  
Cycle III  
Case No. 87-99-X  
Harbor Realty Partnership

Dear Mr. Hackett:

The hearing with regard to the above captioned cases took place on October 28, 1986. The parties and the Board agreed that the cases should be consolidated for the purposes of the hearing and that the testimony presented would be with regard to both cases as the subject properties in each case adjoined each other on Blakely Avenue east of Belair Road.

The parties and the Board agreed that closing arguments would be submitted in writing by the Petitioners and by People's Counsel. This letter represents the closing argument on behalf of the Petitioners.

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Mr. William T. Hackett  
Chairman, County Board of Appeals  
Re: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

PETITION

The Petitions in each case include:

1. A request with a documented site plan that the property be reclassified from DR 5.5 to RO;
2. A request that a Special Exception be granted for a Class B Office Building; and
3. A request that a variance be granted for a building identification sign of 2 feet by 16 feet for a total of 32 square feet.

WITNESSES

Appearing and testifying on behalf of the Petitioners were:

1. Dr. J. Mitchell Adolph - Petitioners
2. Mr. Howard Brown - Partner of Petitioner Harbor Realty Partnership
3. Mr. Kenneth M. Johns - Professional Engineer
4. Mr. Michael Townsley - Adjoining Property Owner
5. Mr. Al Redmer - President of Perry Hall Community Council
6. Mr. George Gavrelis - Planning Expert

PLANNING BOARD RECOMMENDATION

The subject properties were not identified as specific issues in the adoption of the 1984 Comprehensive Zoning Map.

The Baltimore County Planning Board found that the physical circumstances of the area surrounding the property require that each property be zoned RO.

LEVIN, GANN & HANKIN, P.A.

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

RE: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

SITE DESCRIPTION

Each of the subject properties lies on the South side of Blakely Avenue 300 feet and 400 feet East of Belair Road respectively. Blakely Avenue is presently 30 feet wide and will be widened to 50 feet. Blakely Avenue will be a major access roadway through the large Silver Spring Station Development which is now under development and construction and other development to the East.

Each of the subject properties faces the Power Transmission lines and the Baltimore Gas and Electric parking lot which are located on the North side of Blakely Avenue and also in close proximity to the Blakely Office Building and its parking lot at the Northeast corner of Blakely Avenue and Belair Road.

The property immediately adjoining the Reifsnider-Adolph site to the West is zoned BL and is currently not occupied and being marketed for commercial development. A junk yard is located to the rear of a portion of the subject sites.

DOCUMENTED PLANS

1. The Reifsnider-Adolph Site - will be developed by improving the existing structure and the construction of an addition thereto of one story in height, all for office use in accordance with the Plat introduced at the time of the hearing.
2. Harbor Realty Partnership - The site is not improved at the present time. It will be developed in accordance with the Plan accompanying the Petition by a two story brick office structure which will provide access to each office from the front of the building on the first floor and from a balcony on the second floor. The second floor will be serviced by an interior stairway and elevator. All heating and air conditioning units will be located on the roof and hidden from view by a pitched residential style roof.

The Petitioners introduced into evidence renderings showing the character and quality of the proposed construction which the Petitioners feel, and we hope the Board feels, will provide an excellent addition to the area.

LEVIN, GANN & HANKIN, P.A.

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

RE: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

ARGUMENT

1. Each Petition has received the full support and recommendation of the Baltimore County Planning Board.
2. The adjoining neighbors support each Petition.
3. The Perry Hall Community Council supports each Petition.
4. The testimony produced by the Petitioners reflects that the documented plans meet Baltimore County requirements in all respects.
5. The testimony of all the witnesses on behalf of the Petitioners, and particularly the testimony of Mr. Brown and Mr. Gavrelis, firmly establishes the fact that neither site can reasonably be developed for residential use in the DR 5.5 zone or any residential zone.
6. The testimony supported the Petitioners in that the RO zone provides the needed transition between the adverse influence of the lots fronting on the power lines, parking lot and the soon to be built residential development to the South and East.
7. In the adoption of the 1984 Comprehensive Zoning Map, RO zoning was not considered as the properties were not an issue in the map consideration.
8. The County Council failed to study and consider the existing and prospective land uses and failed to consider and provide the needed buffering and transition required in the area.
9. The expert testimony and opinion of Mr. George Gavrelis, a recognized expert in the planning field, advised the Board the County Council committed error in designating the properties with DR 5.5 zoning in light of the adverse impact of the properties facing the transmission towers, overhead transmission lines and the surfact parking lots. The testimony of Mr. Howard Brown in this regard as an experienced developer and builder further supported the finding that the County Council committed error in designating the property with the DR 5.5 classification.

LEVIN, GANN & HANKIN, P.A.

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

RE: Petition for Zoning Reclassification  
Case No. R-87-100-XA  
and  
Case No. 87-99-X

10. Mr. Gavrelis further testified that in his opinion the RO classification is warranted by the error of the DR 5.5 zoning and remedies the adverse impact of the surrounding area.

11. Mr. Hoswell of the Baltimore County Department of Planning and Zoning testified that he would in all probability recommend RO zoning for the property in the Comprehensive Zoning process in 1988 and that the Comprehensive Zoning process does not allow for the adoption of a documented plan for zoning this property.

12. The documented site plans provide an excellent opportunity not afforded in any other forum where all concerned parties, including the neighbors, will know exactly what use and to what extent the property will be developed subject to the limitations on the Petitioners imposed by the respective plans submitted.

13. The testimony presented clearly establishes that the Petition for the Special Exception for Class B Office Buildings on each site and a variance for a sign of 2 feet by 16 feet on each site is warranted by the standards established for same by the Baltimore County Zoning Regulations.

We, therefore, request that the Board of Appeals Order:

1. That each property be reclassified in the RO zoning classification;
2. That a Special Exception for a Class B Office Building on each property be granted;
3. That a Variance to allow the erection of a 2 foot by 16 foot building identification sign be granted; and
4. That such other and further relief to carry out the Order be granted.

I wish to thank the members of the Board for their kind consideration in the hearing of the case.

Respectfully submitted,  
*Julius W. Lichter*  
Julius W. Lichter

JWL:lsp  
cc: Peter Max Zimmerman, Esquire  
Deputy People's Counsel

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Peter Max Zimmerman, Deputy People's Counsel
Date: April 14, 1988
FROM: James G. Hoswell, Senior Planner, CPZ
SUBJECT: Reifsnider/Harbor Realty Zoning Cases - #'s R-87-99-XA & R-87-100-XA (Item 15 & Item 16, Cycle III)

In response to your questions last week, please note that the existing zoning on both of the subject properties, D.R. 5.5, is consistent with the master plan, the county plan for sewerage and water-supply facilities, and the capital program.

This can be said about either the D.R. 5.5 or the R.O. classifications in this location. In the final zoning process, the Office of Planning and Zoning recommended the retention of D.R. 5.5 zoning; as a part of the 1988 Comprehensive Zoning Map process, this office is recommending R.O. zoning here.

James G. Hoswell, Senior Planner, Office of Planning and Zoning

JCH:sh

LAW OFFICES LEVIN, GANN & HANKIN

305 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
301-321-0600
301-296-2801
MAY 20, 1988

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

RE: Reifsnider/Harbor Realty - Zoning Cases No. R-87-99-XA (Item 15, Cycle III); and No. R-87-100-XA (Item 16, Cycle III)

Dear Mr. Hackett:

I have reviewed the correspondence of Mr. Zimmerman dated April 20, 1988 and the attachments thereto.

My comments to the Board are as follows:

- 1. The People's Counsel is attempting to introduce the testimony of Mr. Hoswell as to Master Plan, Sewer and Water Plan and Capital Program, consistency after the fact.
2. Mr. Hoswell testified at the hearing before you that DR 5.5 or RO were equally appropriate.
3. Mr. Markle's statements only verify the reality of the extension of Blakely Avenue as access to Silver Spring Station Development to the east and the status of that work effort.

I do not feel that any further comment is necessary from either party at this time as the Board has ordered and granted the RO zone and special exceptions for Class B Office Buildings. I would appreciate an Order being issued promptly consistent with the circuit court's instructions.

Many thanks for your attention in this matter.

Sincerely, Julius W. Lichter

JWL:isp
cc: Peter Max Zimmerman, Esquire, Deputy People's Counsel

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RECEIVED BALTIMORE COUNTY BOARD OF APPEALS MAY 20 1988

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION SW/S of Blakely Ave., 300' SE of C/L of Belair Rd. (4209 Blakely Ave.), 11th District
vs. HAROLD K. REIFSNIDER, et ux, Petitioner
Zoning Case No. R-87-99-XA

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION SW/S Blakely Ave., 400' SE of C/L of Belair Rd., 11th District
vs. HARBOR REALTY PARTNERSHIP, Petitioner
Zoning Case No. R-87-100-XA

REQUEST FOR HEARING

People's Counsel for Baltimore County respectfully requests an evidentiary hearing before the County Board of Appeals and a panel of three pursuant to the Circuit Court Remand and the Rules of Practice and Procedure of the County Board of Appeals 1c., 2., and 4.

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

I HEREBY CERTIFY that on this 25 day of February, 1988, a copy of the foregoing Request for Hearing was mailed to Julius W. Lichter, Esquire, 113 Chesapeake Bldg., 305 W. Chesapeake Ave., Towson, MD 21204.

Peter Max Zimmerman, Deputy People's Counsel

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY vs. LAVERNE F. REIFSNIDER, et ux
Appellant vs. Appellees
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY vs. HARBOR REALTY PARTNERSHIP
Appellant vs. Appellee
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
CASE NO. 87-CG-469
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
CASE NO. 87-CG-470

MEMORANDUM OPINION AND ORDER

This case comes before the Court on appeal from the Board of Appeals, ordering the reclassification of two contiguous tracts of land and granting special exception to each of the subject properties. Appellant (People's Counsel for Baltimore County) appeals from a finding that the Baltimore County Council erroneously retained the purely residential zoning classification of the subject parcels during the 1984 county-wide comprehensive zoning process.

The subject properties are two contiguous tracts of land in eastern Baltimore County, fronting on the presently dead-ending Blakely Avenue. The present zoning of the property at issue is Density Residential (D.R.).

FILED OCT 14 1988

Laverne F. Reifsnider (Appellee) and Harbor Realty Partnership (Appellee), owners of the respective parcels, filed requests for reclassification from Density Residential (D.R.) to Residential Office (R.O.). Additionally, the Appellees filed requests for special exceptions to permit the construction of Class B office buildings on their respective properties.

Appeal was taken to the Board of Appeals which on October 28, 1986 ordered the reclassification and granted the special exceptions. The Board found the Baltimore County Council in error in retaining the subject parcels as purely residential zoning during the 1984 county-wide comprehensive zoning process. Appellants claim that the law of comprehensive zoning reserves the right to make important land use decisions in Baltimore County to the County Council. Appellants further assert that the Board of Appeals may not substitute its thinking for that of the County Council's and may only reclassify property where strong evidence of error exists.

In reviewing the decision of the Board of Appeals, this Court can not substitute its judgment in a zoning case as to the wisdom or soundness of the action of the Board of Appeals if its decision is supported by substantial evidence and the issue is fairly debatable. Montgomery County v. Woodward & Lothrop, Inc., 280 Md. 686, 706, 376 A. 2d 483 (1977), cert. den. 434 U.S. 1067, 98 S. Ct. 1245, S.S. L. Ed. 2d 769.

Based on its narrow scope of review, this Court can not say that the decision of the Board of Appeals in this case was not fairly debatable or

that the decision was not supported by substantial evidence. In reaching its decision, this Court notes the testimony of Mr. Howard Brown, an experienced builder and developer; Mr. George Gavrelis, former director of the Baltimore County Office of Planning and Zoning; Appellant's own expert, Mr. James Hoswell and the report from the Baltimore County Planning Board in favor of the request.

Mr. Brown testified to several factors including the use of the utility parking lot across the street by shift workers, coming and going at all times between 7:00 A.M. and 5:00 P.M., the use of a nearby residentially zoned parcel as a "junkyard", the adjoining and nearby commercial uses, the widening of Blakely Avenue and the fact that the Silver Spring subdivision will result in increased traffic on what is now a dead-end road.

Mr. George Gavrelis testified that in his opinion the transition zone requirements preclude the development of this site with townhouses, leaving from a zoning viewpoint, single family detached units as the only practical way to develop these sites. Mr. Gavrelis went on to say that "the combination of the unscreened parking lots, the power--the high voltage transmission lines, are such that an adverse relationship indeed is created and that the subject properties are really not suited for development in single family detached dwellings." (Tr. 116). Additionally, Mr. Gavrelis concluded that these sites were not reclassified in the 1984 Comprehensive Zoning process, but rather, were "simply affirmed by regulative action" and were "not considered in any recorded way" by the County Council.

Additionally, Appellant's own expert, Mr. Hoswell, testified that it was his opinion the "R.O. zone would be an appropriate zone in an area such as this." (Tr. 138).

When the entire record is considered, including the expert testimony referred to above, it is this Court's opinion that the Board of Appeals was presented with overwhelming evidence from which to conclude that the County Council erred in 1984 by failing to consider conditions then in existence which justified the rezoning of these parcels. With all the evidence taken in view, it can in no way be said that the Board's action was arbitrary and capricious.

Appellant's claim that the Board of Appeals can not substitute its judgment for that of the County Council, however, Section 2.58(j) of the Baltimore County Code gives the Board power to reclassify property if error is found in the last classification of the subject property and that the "prospective reclassification is warranted by that change or error."

Appellant further claims that the Board of Appeals erred in granting special exceptions for construction of proposed buildings on the subject properties. Specifically, Appellant charges that the Board did not consider the "compatibility" of the proposed buildings as required under the Baltimore County zoning regulations, Section 203.2. From the transcript, it is clear, however, that evidence of compatibility was presented to the Board in the form of expert testimony from Mr. Gavrelis.

Since this Court is restricted to a determination of whether the Board's decision to reclassify the subject properties, as well as grant a special exception to each was based on substantial evidence and was fairly debatable,

it can not substitute its judgment for that of the Board. Rather, using this standard, the Court finds that the Board's action was based on substantial evidence and was fairly debatable.

In light of the above, it is this 13th day of October, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Baltimore County Board of Appeals be and is hereby AFFIRMED.

A. OWEN HENNEGAN, JUDGE

COPIES SENT: Peter Max Zimmerman, Esquire, Julius W. Lichter, Esquire



IN THE MATTER OF : ON REMAND FROM  
 THE APPLICATION OF : CIRCUIT COURT FOR BALTIMORE  
 LAVERNE M. REIFSNIDER, ET UV :  
 J. MITCHELL ADOLPH, D.C. -P.C. : COUNTY - AT LAW  
 SW/S BLAKELY AVE., 300' SE OF :  
 THE C/L OF BELAIR ROAD : CASE NO. 87-CG-469  
 (4209 BLAKELY AVENUE) : and  
 and : CASE NO. 87-CG-470  
 THE APPLICATION OF :  
 HARBOR REALTY PARTNERSHIP : (ZONING CASE NO. R-87-99-XA  
 SW/S BLAKELY AVE., 400' SE OF : and  
 THE C/L OF BELAIR ROAD : ZONING CASE NO. R-87-100-XA)  
 FOR RECLASSIFICATION FROM :  
 D.R. 5.5 to R.O.; SPECIAL EXCEPTION :  
 CLASS B OFFICE BLDG.; AND SIGN :  
 VARIANCES -#203.JC :

SUPPLEMENTARY OPINION AND ORDER

By Order of the Honorable A. Owen Hennegan, Judge, dated February 11, 1988, Case No. R-87-99-XA and No. R-87-100-XA are remanded from the Circuit Court to the Baltimore County Board of Appeals for further action as the Board feels necessary in light of the Court of Special Appeals decision in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term (1987), concerning Section 2-58.1(j) of the Baltimore County Code.

In essence, this section of the Code mandates that before any property may be reclassified, the Board must find that there has occurred substantial change in the character of the neighborhood or that the last classification of the property was established in error.

The Board has carefully reviewed all the lengthy testimony and evidence received in the original hearing in these cases. An evaluation of this testimony and evidence indicates that the Board's original conclusions were correct. Briefly stated, it is apparent that the following conditions existed at the time of the hearing, and that we have no evidence that any of these conditions have changed since that hearing. The property in question is abutted on one side by property zoned B.L. Across the street from these properties is

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
 CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
 Laverne M. Reifsnider, et ux and  
 Harbor Realty Partnership 2.

a large overhead transmission line and a commercial parking lot used by the Baltimore Gas & Electric Company. A portion of the rear of the sites is abutted by property presently being used as a junkyard. Blakely Avenue, upon which these properties are located, is at present a narrow, dead-end road on a 30-foot right-of-way. In answer to inquiry, James A. Markle, the Chief of the Bureau of Public Services, confirms the testimony given at the hearing that this street will be widened from its 30-foot right-of-way, provided with curb and gutter, and will become a major collector street for a major development to the rear, known as Silver Spring Station. Progress is now underway to acquire the necessary land to provide this larger right-of-way and construction scheduled to begin in the fall of 1988, final paving to be completed in the spring of 1989. In consideration of all this testimony and evidence, the Board will find as a fact that the residential classification afforded these properties is in fact in error, and that the R.O. classification requested is proper. In support of this R.O. classification, Petitioner has entered documented site plans which must be adhered to for his proposed use of these two properties.

Section 2-58.1(j)(1) of the Baltimore County Code mandates that before any property is reclassified pursuant to this section, the Board of Appeals must find that "there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error...." Testimony and evidence in this case indicates that the last classification of the property as residential was in fact in error. In addition, a substantial change in the character of the neighborhood is imminent with the conversion of Blakely Avenue from a narrow, two-lane dead-end street to a major collector street for a large development now significantly underway.

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
 CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
 Laverne M. Reifsnider, et ux and  
 Harbor Realty Partnership 3.

Pursuant to Section 2-58.1(j)(2) of the Code as that section has been interpreted by the Court of Special Appeals in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term, 1987, this Board has considered through the testimony of George Gavrellis and other witnesses the applicable factors enumerated therein. This section provides:

"...Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities; water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program."

The Board will not repeat herein at length the lengthy testimony received; however, incorporates by reference the transcript of this case which addressed each applicable factor. The Board finds as a matter of fact and after due consideration of each of these applicable factors that the current zoning is in error for the reasons set forth therein and that the proposed zoning of R.O. is proper.

As in the original Opinion, the Board is not convinced that the requested double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of a Class B office building. To permit illuminated signs of this size along what is to become a

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
 CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
 Laverne M. Reifsnider, et ux and  
 Harbor Realty Partnership 4.

major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use and therefore the variance for the signs will be denied.

ORDER

Based upon the foregoing Opinion, it is therefore this 16th day of June, 1988 by the County Board of Appeals of Baltimore County ORDERED that the petitions for reclassification in Case No. R-87-99-XA and Case No. R-87-100-XA from D.R. 5.5 to R.O. be and the same are GRANTED:

IT IS FURTHER ORDERED that the special exceptions petitioned for in Case No. R-87-99-XA and Case No. R-87-100-XA be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted; and

IT IS FURTHER ORDERED that the petition for the variance for the 2-foot x 16-foot double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS  
 OF BALTIMORE COUNTY

*William T. Hackett*  
 William T. Hackett, Chairman

*Harry E. Bugheister, Jr.*  
 Harry E. Bugheister, Jr.

*Lawrence E. Schmidt*  
 Lawrence E. Schmidt



County Board of Appeals of Baltimore County

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

June 16, 1988

Julius W. Lichter, Esquire  
 305 W. Chesapeake Avenue  
 Towson, MD 21204

RE: Case No. R-87-99-XA and  
 Case No. R-87-100-XA  
 (Reifsnider /Harbor Realty)

Dear Mr. Lichter:

Enclosed is a copy of the Supplementary Opinion and Order issued this date by the County Board of Appeals in the subject cases.

Sincerely,

*Kathleen C. Weidenhammer*  
 Kathleen C. Weidenhammer  
 Administrative Secretary

Encl.

cc: Mr. Howard Brown  
 Harbor Realty Partnership  
 Mr. J. Mitchell Adolph  
 Laverne M. Reifsnider, et ux  
 James Earl Kraft  
 Phyllis Cole Friedman, Esquire  
 P. David Fields  
 James G. Howell  
 J. Robert Haines  
 Ann M. Nastarowicz  
 James E. Iyer  
 Docket Clerk -Zoning  
 Arnold Jablon, County Attorney



Baltimore County, Maryland

PEOPLE'S COUNSEL  
 RM. 223, COURT HOUSE  
 TOWSON, MARYLAND 21204  
 494-2188

PHYLLIS COLE FRIEDMAN  
 People's Counsel

PETER MAX ZIMMERMAN  
 Deputy People's Counsel

February 25, 1988

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

RE: Reifsnider & Harbor Realty Cases  
 R-87-99-XA and R-87-100-XA

Dear Chairman Hackett:

We are in receipt of Mr. Lichter's letter dated February 23, 1988 and are opposed to the proposed Amended Opinion and Order as irregular.

We note that Rule 1c. of the County Board of Appeals requires that each case be decided by a panel of three. In the present case, it appears that Keith S. Franz is no longer on the Board. Therefore, the case must be reheard.

We would respectfully request a hearing on this case in any event. We would like to present evidence and have argument in reference to the remand. We are particularly concerned that the original Opinion of the County Board of Appeals was based on the premise that Blakely Avenue would imminently be extended and widened. To the best of our knowledge, Blakely Avenue remains a narrow semi-rural road. We also believe that there is no evidence, in reference to the Master Plan, which demonstrates that the existing zoning is inconsistent. In addition, evidence concerning the other factors should be taken directed to the 1984 decision and error.

It may be that the parties will be able to reach some agreement as to parts of the evidence to be presented at a new hearing. However, the Rules do require that the matter be heard again. It would be inappropriate for the Board to sign the proposed Amended Opinion and Order. Indeed, it would be inappropriate for the Board to proceed further without the scheduling of a new hearing with a panel of three.

Very truly yours,  
*Peter Max Zimmerman*  
 Peter Max Zimmerman  
 Deputy People's Counsel

Enclosure

cc: Julius W. Lichter, Esquire

PMZ:sh



Baltimore County, Maryland

PEOPLE'S COUNSEL  
 RM. 223, COURT HOUSE  
 TOWSON, MARYLAND 21204  
 494-2188

PHYLLIS COLE FRIEDMAN  
 People's Counsel

PETER MAX ZIMMERMAN  
 Deputy People's Counsel

April 20, 1988

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

RE: Reifsnider/Harbor Realty - Zoning Cases  
 No. R-87-99-XA (Item 15, Cycle III); and  
 No. R-87-100-XA (Item 16, Cycle III)

Dear Chairman Hackett:

So as to facilitate consideration of these cases, I am forwarding to the County Board of Appeals the reports dated April 14, 1988 of James G. Hoswell, and April 18, 1988 of James A. Markle. We ask that these be considered as evidence or exhibits in the above cases.

In the event that the Petitioners dispute any of the facts or conclusions of the reports, we suggest that an evidentiary hearing be held. If not, we would like the opportunity to submit a brief written argument.

Very truly yours,

*Peter Max Zimmerman*  
 Peter Max Zimmerman  
 Deputy People's Counsel

Enclosures

cc: Julius W. Lichter, Esquire

PMZ:sh

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Peter Zimmerman, County Attorney  
 Office of Law

DATE: April 18, 1988

FROM: James A. Markle, P.E.

SUBJECT: Blakely Avenue  
 Silver Spring Station, Sec. III

Blakely Avenue is to be widened from 16-feet to 24-feet with concrete curb and gutter within the existing 30-foot right-of-way from Belair Road to approximately 750-feet east. From this point, the section gradually increases to the existing 40'/60' section approximately 800' to the northeast.

The Highway and Utility Plans were approved on March 8, 1988.

The Storm Water Management Plans were approved on April 8, 1988, and are now at the Soil Conservation District for final approval.

Subject to Soil Conservation District approval, Land Acquisition will submit the plans to Baltimore Gas and Electric. Due to the extend of taking, approximately two (2) months may be required for right-of-way clearance.

Another three (3) months is required for advertisement, bids, contracts and Notice to Proceed.

Construction may begin in the fall, and final paving completed in Spring, 1989.

*James A. Markle*  
 James A. Markle, P.E., Chief  
 Bureau of Public Services

JAM:pmg

RECEIVED  
 COUNTY BOARD OF APPEALS  
 APR 20 1988



CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

Pursuant to Section 2-59.1(j)(2) of the Code as that section has been interpreted by the Court of Special Appeals in People's Counsel for Baltimore County v. Robert W. Mockard, No. 451, September Term, 1987, this Board has considered through the testimony of George Gavrellis and other witnesses the applicable factors enumerated therein. This section provides:

"...Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities; water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program."

The Board will not repeat herein at length the lengthy testimony received; however, incorporates by reference the transcript of this case which addressed each applicable factor. The Board finds as a matter of fact and after due consideration of each of these applicable factors that the current zoning is in error for the reasons set forth therein and that the proposed zoning of R.O. is proper.

As in the original Opinion, the Board is not convinced that the requested double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of a Class B office building. To permit illuminated signs of this size along what is to become a

CASE NO. 87-CG-469 (Zoning Case No. R-87-99-XA)  
CASE NO. 87-CG-470 (Zoning Case No. R-87-100-XA)  
Laverne M. Reifsnider, et ux and  
Harbor Realty Partnership

major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use and therefore the variance for the signs will be denied.

ORDER

Based upon the foregoing Opinion, it is therefore this 16th day of June, 1988 by the County Board of Appeals of Baltimore County ORDERED that the petitions for reclassification in Case No. R-87-99-XA and Case No. R-87-100-XA from D.R. 5.5 to R.O. be and the same are GRANTED:

IT IS FURTHER ORDERED that the special exceptions petitioned for in Case No. R-87-99-XA and Case No. R-87-100-XA be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted; and

IT IS FURTHER ORDERED that the petition for the variance for the 2-foot x 16-foot double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

William T. Hackett  
William T. Hackett, Chairman

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

Lawrence E. Schmidt

IN THE MATTER OF THE APPLICATION OF LAVERNE M. REIFSNIDER, ET UX J. MITCHELL ADOLPH, D.C. - P.C. SW/S BLAKELY AVE., 300' SE OF THE C/L OF BELAIR ROAD (4209 BLAKELY AVENUE) and THE APPLICATION OF HARBOR REALTY PARTNERSHIP SW/S BLAKELY AVE., 400' SE OF THE C/L OF BELAIR ROAD FOR RECLASSIFICATION FROM D.R. 5.5 TO R.O.; SPECIAL EXCEPTION -CLASS B OFFICE BLDG. AND SIGN VARIANCES -§203.3.C

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

JAN 19 1988

OPINION

These two cases come before the Board on petition for reclassification from D.R. 5.5 to R.O. with a request for a Special Exception for a Class B office building and a request for a variance from a sign regulation. Since both properties are abutting properties, and the exact same conditions exist on both properties, and the requests on both properties are identical, the cases were consolidated as one hearing. The property identified as Laverne M. Reifsnider contains .46 acre and the property identified as Harbor Realty Partnership contains .92 acre. Both are presently zoned D.R. 5.5.

Testimony in this case was received by Dr. J. Mitchell Adolph who now owns the property identified as Reifsnider. He testified that he purchased the property for use as his personal medical office and wants the special exception so that the usable area of the building can be increased. Mr. Howard Brown, partner of the Harbor Realty Partnership, testified as to his proposed use of the property for a Class B office building if the zoning can be acquired. Mr. Kenneth M. Johns, professional engineer, prepared the plats which are entered in this case as documented plans for the proposed use of both properties and are identified as Petitioners' Exhibits #3 and #4. Mr. Michael Townsley,

REVISED PLANS III-16  
7/11/86 uoc

PETITION FOR ZONING RE-CLASSIFICATION R-87-100-X  
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 DR 5.5 zone to an R.O. 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 Class B Office Building

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

203.3.C to permit a freestanding, double-face, illuminated, 6' x 16' sign in lieu of the allowed 2' x 16', on the building, non-illuminated

Property is to be posted and advertised as prescribed by The Baltimore County Code.

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

Contract Purchaser: (Type or Print Name) \_\_\_\_\_ Signature \_\_\_\_\_ Address \_\_\_\_\_ City and State \_\_\_\_\_

Legal Owner(s): HARBOR REALTY PARTNERSHIP (Type or Print Name) By: Howard Brown, Partner (Signature) \_\_\_\_\_ (Type or Print Name) \_\_\_\_\_ Signature \_\_\_\_\_ (Type or Print Name) \_\_\_\_\_

Attorney for Petitioner: JULIUS W. LICHTER, ESQ. (Type or Print Name) \_\_\_\_\_ Signature \_\_\_\_\_ 305-W. Chesapeake Avenue (Address) \_\_\_\_\_ Towson, Maryland 21204 (City and State) (301) 321-0600 (Attorney's Telephone No.)

9183 Reisterstown RD. 363-3434 (Address) \_\_\_\_\_ Garrison, Maryland 21055 (City and State) Julius W. Lichter, Esq. (Signature) \_\_\_\_\_ 305-W. Chesapeake Avenue (Address) \_\_\_\_\_ Towson, MD. 21204 (City and State) 321-0600 (Phone No.)

Address \_\_\_\_\_ Phone No. \_\_\_\_\_

FILED IN 82 823 100

CLERK OF THE BOARD OF APPEALS

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

Board will note that four years elapse between comprehensive maps and certainly conditions can arise that require individual consideration of properties as provided for by law. These two properties appear to meet this category. It is unrealistic for the Board to state positively what the County Council would have done had they had the same testimony and evidence before them as were presented this Board. Error in the comprehensive zoning map process may be committed by commission or may also be committed by omission. The drastic change in Blakely Avenue from a dead-end street to a major collector alone seems to justify the requested R.O. classification. Another major factor in the Board's consideration of this request is the fact that both properties are submitting documented site plans which means that precisely what is proposed must be built, no more and no less. To continue the residential use of the two sites under the conditions testified to is certainly inappropriate. For all of the above reasons, the Board is of the opinion that the requested reclassification as petitioned for should be granted and will so order.

Both properties are also petitioning for a special exception for a Class B office building. Both properties have submitted site plans which document exactly what the Class B office building must be. Both documented site plans meet all the requirements of Section 502.1 as testified to. Therefore, the Board is of the opinion that the special exception as evidenced by the documented site plans should be granted and will so order.

The Board is, however, not convinced that double-faced, illuminated signs of the size and nature requested are necessary nor in keeping with the transitional aspects of the Class B office building. The Class B office buildings by themselves with normal permitted signs should certainly allow anyone reasonable

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

means of finding the buildings. To permit illuminated signs of this size along a major collector street would not be in keeping with the intent of the R.O. classification and the Class B office building use, and therefore the variance for the signs will be denied.

ORDER

It is therefore this 14th day of January, 1987 by the County Board of Appeals ORDERED that the petitions for reclassification in Case No. R-87-99-X and Case No. R-87-100-X from D.R. 5.5 to R.O. be and the same are GRANTED. It is further ORDERED that the special exceptions petitioned for in Case No. R-87-99-X and Case No. R-87-100-X be and the same are GRANTED with the following restriction: Prior to the issuance of any building permits that the documented site plans presented as Petitioners' Exhibits #3 and #4 be entered among the Land Records of Baltimore County as a condition under which the R.O. classification is granted. It is further ORDERED that the petition for the variance for the 2' x 16' double-faced illuminated sign be and the same is DENIED.

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

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

William T. Hackett  
William T. Hackett, Chairman

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

Lawrence E. Schmidt

Case No. R-87-99-X  
Laverne M. Reifsnider, et ux and  
Case No. R-87-100-X  
Harbor Realty Partnership

an adjoining property owner, testified in favor of the petitions as did Mr. Al Radner, President of the Perry Hall Community Council. Mr. George Gavrellis, planning expert, testified as to the error in assigning D.R. 5.5 to these properties and the reasons why the reclassifications should be granted.

People's Counsel presented Mr. James Howell, planner for Baltimore County, in opposition to the petitions. The Board will not attempt to summarize all this lengthy testimony but will let the record speak for itself.

From the testimony and evidence received, it is apparent that the following conditions exist. The property is abutted on two sides by property zoned B.L. Across the street from both properties is a large overhead transmission line and a commercial parking lot used by the Baltimore Gas & Electric Company. A portion of the rear of the sites is abutted by property presently being used as a junkyard. The presence of all these conditions certainly augments the Petitioners' claims and the expert testimony that residential use of these properties is impractical. There has been, however, no change in these uses since the 1984 map process. There is, however, one significant change to these two properties, both of which face Blakely Avenue, which is at present a 30-foot wide dead-end street. A major development known as Silver Spring Station to the rear of these two properties is now underway, and Blakely Avenue will be widened to a 50-foot width and thereupon become a major collector street for Silver Spring Station. Neither of these properties was an issue in the 1984 map process. Petitioners' Exhibits #10 and #11 are Planning Board recommendations in which they have cited all of the above conditions and have specifically recommended the reclassification to R.O.

People's Counsel in opposing the petitions specifically cites the fact that neither of these properties was an issue before the County Council. The

POINTS OF ERROR AND CHANGE

CONCERNING PROPERTY OF HARBOR REALTY PARTNERSHIP  
BLAKELY AVENUE AND BELAIR ROAD - ELEVENTH ELECTION DISTRICT-  
BALTIMORE COUNTY

THE PETITIONER, HARBOR REALTY PARTNERSHIP (comprising Howard Brown, Charles Crane and Estate of Leon Crane) states that the County Council committed error in classifying the subject property DR 5.5 and there are changes in the neighborhood supporting reclassification of the property to R.O. in that:

1. The property is zoned DR 5.5 and should have been classified in the R.O. zone.
2. There is insufficient R.O. zoning for business in the area to adequately serve the community.
3. The DR 5.5 zoning placed on the property is not usable and is confiscatory in its application.
4. Due to the size, configuration, location and topography of the property, the DR 5.5 zone is confiscatory and does not recognize the potentials which the R.O. zone allows to serve the community.
5. There are changes in the area which have created a demand for property zoned in the R.O. zoning classification which cannot be addressed by the current zoning DR 5.5.
6. The R.O. zone recognizes Master Plan objectives and the attendant opportunities presented by the growing and now developing commercial and other business uses and has available and adequate transportation, water supply and other public facilities compatible with the R.O. zone and character of the surrounding area.
7. The property to the west and north is zoned BL and is developed for commercial and office use.
8. For such further and other reasons as may be disclosed upon more detailed review during the pendency of this Petition assigning error by the Council and change in the neighborhood.

Respectfully submitted,

Julius W. Lichter  
JULIUS W. LICHTER

R-87-100-X

IN THE MATTER OF : IN THE  
 THE APPLICATION OF : CIRCUIT COURT  
 HARBOR REALTY PARTNERSHIP :  
 SW/S BLAKELY AVE., 400' SE : FOR  
 OF THE C/L OF BELAIR RD. : BALTIMORE COUNTY  
 FOR RECLASSIFICATION FROM : AT LAW  
 D.R. 5.5 TO R.O.; SPECIAL : CG Doc. No. 35  
 EXCEPTION - CLASS B OFFICE :  
 BLDG.; AND SIGN VARIANCE :  
 11th DISTRICT :  
 PHYLLIS COLE FRIEDMAN, : Folio No. 240  
 PEOPLE'S COUNSEL FOR BALTIMORE :  
 COUNTY, PLAINTIFF : File No. 87-CG-470  
 FILE NO. P-87-100-X

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, Keith S. Franz and Harry E. Buchhelster, Jr., 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 DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY

No. R-87-100-X

February 28, 1986 Petition of Harbor Realty Partnership for reclassification of property located on the southwest side Blakely Ave., 400' southeast of the center of Belair Rd., from DR 5.5 to R.O. zoning, in the 11th District of Baltimore County.

September 25 Certificate of Posting of Property - filed

October 9 Publication in newspaper - filed

October 9 Comments of Balto. County Zoning Plans Advisory Committee - filed

October 28 At 10:00 A.M. hearing held on petition by County Board of Appeals

Harbor Realty Partnership  
 Case No. R-87-100-X

January 14, 1987 Order of the County Board of Appeals ordering that the reclassification be GRANTED and that the Special Exception be GRANTED with restriction. FURTHER ORDERED that the petition for variance for double-faced illuminated sign be DENIED.

February 10 Order for Appeal filed in the Circuit Ct. for Baltimore County by Phyllis C. Friedman, People's Counsel for Baltimore County.

February 10 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County

February 11 Certificate of Notice sent to interested parties.

April 8 Transcript of testimony - filed

People's Counsel's Exhibit No. 1A-J -- Photographs

" " " 2 - Zoning Reclass. Petitions.

Petitioners' Exhibit No. 1 - Deed of Reifsnider property.

" " 2 - Deed between Crane and Harbor Partnership

" " 3 - Plat of Harbor Realty

" " 4 - Plat of Reifsnider property

" " 5 - Aerial photo of site

" " 6A-W - Photos of area locations in relation to subj. properties

" " 7 - Inquisition granting BGSE property rights

" " 8 - Building of Harbor Realty, (in Board's closet)

" " 9 - Adolph Building Rendering (in Board's closet)

" " 10 - Planning Bd. recommendation on Harbor Realty

" " 11 - Planning Bd. recommendation on Reifsnider property

Harbor Realty Partnership  
 Case No. R-87-100-X

April 8, 1987 Record of proceedings filed in the Circuit Ct. for Baltimore County.

Record of proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board. However, all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals' office, and upon request of the parties or the Court will be transmitted to the Court by whomever institutes the request.

Respectfully submitted,  
 June Holmer  
 County Board of Appeals of Baltimore County

HARBOR REALTY PARTNERSHIP #R-87-100-X  
 Item #16, Cycle III, 1986

SW/S Blakely Ave., 400' SE of the c/l of Belair Rd. 11th District

DR 5.5 to R.O. 0.92 acres

SE - Class B Office Building  
 Variance - \$203.2C to permit a freestanding, double face, illuminated 64 sq. ft. sign in lieu of the allowed 8 sq. ft. on the building, non-illuminated

Feb. 28, 1986 Petition filed

Julius W. Lichter, Esquire  
 305 W. Chesapeake Ave. (21204) Counsel; for Petitioner ✓

Howard Brown, Partner  
 Harbor Realty Partnership  
 9183 Reisterstown Road  
 Garrison, MD 21055 Petitioner

James Earl Kraft  
 Baltimore County Board of Education  
 21204 Reisterstown Road (21204)  
 940 VERA  
 Phyllis Cole Friedman People's Counsel

Norman E. Gerber  
 James G. Hoswell  
 Arnold Jablon  
 Jean M. H. Jung  
 James E. Dyer

LAVERNE REIFSNIDER, ET UX and  
 HARBOR REALTY PARTNERSHIP R-87-99-X  
 R-87-100-X

SW/S Blakely Ave., 300' SE of c/l of Belair Rd. 11th District

DR 5.5 to R.O.  
 SE-Class B office bldg.  
 Var.-Sign

Feb. 28, 1986 Petition filed

Oct. 28 Hearing held on petition by C.B. of A.

Jan. 14, 1987 Order of the Board granting the reclassification and special exception and denying the variance for a double-faced illuminated sign.

Feb. 10 Order for Appeal filed in the Cir. Ct. by People's Counsel for Balto. Cty.

Feb. 11 Certificate of Notice sent to interested parties

April 8, 1987 Record of proceedings filed in the Circuit Ct. for Baltimore County.

May 8 Motion to Consolidate above cases and Memorandum filed by People's Counsel in Circuit Court.

Sept 10 Hearing had. (Hon. A. Owen Hennegan). Ruling held sub-curia; ruling to be filed.

Oct. 14 Opinion and Order of the Court AFFIRMING C.B. of A.

Oct. 20 Motion to Alter or Amend Judgment and/or for Reconsideration and Request for Hearing filed in CCT by People's Counsel.

Dec. 9 Supplemental Memorandum in Support of Motion to Alter or Amend Judgment, etc. filed by People's Counsel in CCT.

Feb 16, 1988 Order of the CCT - Motion to Alter or Amend Judgment and/or Reconsideration GRANTED; case REMANDED to CBoFA for further action "as Board feels necessary." (Hennegan, J) 12/10/88 - Hearing had - Hennegan, J; case remanded back to CB of A.)

April 6 Meeting w/CEA (WTH & TJS), P. Zimmerman, and J. Lichter - CFA to request case files from CCT and have third Board member read transcripts; Peter Zimmerman to proffer testimony and evidence which he would present if another hearing were held; said proffer to be sent to Jules Lichter at same time as to the CBA; J. Lichter to advise CBA whether or not he wishes to respond to proffer. Upon completion of above, CBA will issue an Amended Opinion.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant

v.

LAVERNE M. REIFSNIDER, et ux, Appellees

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant

v.

HARBOR REALTY PARTNERSHIP, Appellee

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

AT LAW

Case No. 87-CG-469

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

AT LAW

Case No. 87-CG-470

MOTION TO CONSOLIDATE

People's Counsel for Baltimore County, pursuant to Rule 2-503, moves to consolidate the above cases on the ground that they share some common factual and legal issues. These zoning appeals relate to petitions for zoning reclassification on adjoining properties, which were tried before the County Board of Appeals of Baltimore County in consolidated fashion.

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

Peter Max Zimmerman  
 Deputy People's Counsel

I HEREBY CERTIFY that on this 8th day of April, 1987, a copy of the foregoing Motion to Consolidate was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204; and J. Mitchell Adolph, D. C., 8817 Belair Road, Baltimore, MD 21236.

Peter Max Zimmerman  
 Deputy People's Counsel

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant

v.

HARBOR REALTY PARTNERSHIP, Appellee

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

AT LAW

CASE NO. 87CG470

RESPONSE TO PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

Harbor Realty Partnership, Appellee, by Julius W. Lichter and Levin, Gann & Hankin, P.A., their attorneys, in response to the Petition for Extension of Time to File Transcript of Proceedings, move to strike said Petition and for cause say:

1. That the People's Counsel for Baltimore County, Protestant below and Appellant herein, have appealed a decision of the County Board of Appeals that concluded the present zoning on a certain parcel of land was an erroneous classification.

2. That the Appellant, having allowed a full twenty-seven days to run from the date of the aforesaid decision prior to filing a Notice Of Appeal, and then, delaying until March 4, 1987, a mere six days prior to the date within which to file a transcript, filed a Petition for Extension of Time to File Transcript of Proceedings.

3. That this undue delay and less than timely filing of Pleadings, has already served to greatly harm the interests of Harbor Realty Partnership, Appellee.

RECEIVED  
 COUNTY BOARD OF APPEALS  
 APR 14 1987

4. That any extension of time resulting in any further delay in a final determination of this matter would serve to irreparably harm the aforesaid Appellee who is now precluded from concluding negotiations with prospective tenants of the building.

5. That the People's Counsel's Petition does not aver that promptly upon taking notice of appeal, that a transcript was ordered and without such an allegation, counsel for the Appellee can only assume that such a request was made in a less than timely fashion.

6. That the Petition does not state with any particularity the efforts taken by the Appellant to obtain a transcript.

7. That the Petition for Extension of Time to File Transcript of Proceedings does not state the authorities in support of the Motion as required by Maryland Rule 2-311(c).

8. That the burden is on the Appellant in a Petition for Extension of Time Transcript of Proceedings, to set forth with particularity both of the following:

A. The grounds of the Motion averring sufficient cause, and

B. The authorities in support of each grounds, including, not only the rules of court, but the citation of applicable case law and text authorities.

RELIEF REQUESTED:

A. That the Appellant's Petition be stricken,

B. That the Appellant's Motion be dismissed,

C. That this Court pass an Order of Dismissal in the above-captioned Appeal,

D. And for such other and further relief as the nature of this cause may require.

*Julius W. Lichter*  
JULIUS W. LICHTER  
Levin, Gann & Hankin, P.A.  
Suite 113  
305 W. Chesapeake Avenue  
Towson, Maryland 21204  
(301) 321-0600

POINTS AND AUTHORITIES

Maryland Rule 2-311(a) - Motions Generally.  
Maryland Rule 2-311(c) - Motions, Statement with Particularity.  
Maryland Rule B7(b) - Change of Time.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March, 1987, a copy of the foregoing Response to Petition for Extension of Time to File Transcript of Proceedings was hand delivered to the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 200, Court House, Towson, Maryland 21204, prior to presentation of the original to the Clerk of the Circuit Court for Baltimore County, and that a copy thereof was mailed, by first class mail, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223 Court House, Towson, Maryland 21204.

*Julius W. Lichter*  
JULIUS W. LICHTER

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant  
v.  
HARBOR REALTY PARTNERSHIP, Appellee  
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW  
Case No. 87CG470

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

People's Counsel for Baltimore County, Appellant herein, petitions this Court, pursuant to Maryland Rule B7(b), for an extension of time within which to file the transcript of proceedings before the Baltimore County Board of Appeals and in support of this Petition states:

Bernard Danker, Court Reporter for the County Board of Appeals at the time of the hearing before said Board in the above-entitled case, has advised Appellant that because of a backlog of cases, he will need a thirty-day extension of time to prepare the transcript of proceedings.

WHEREFORE, Appellant prays this Honorable Court to extend the time for filing the transcript of proceedings until Friday, April 10, 1987, 60 days after the Petition on Appeal was filed.

*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

I HEREBY CERTIFY that on this 11th day of March, 1987, a copy of the foregoing Petition for Extension of Time to File Transcript of Proceedings was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 200, Court House, Towson, MD 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204, Attorney for Petitioner.

*Peter Max Zimmerman*  
Peter Max Zimmerman

IN THE MATTER OF THE PETITION FOR ZONING RECLASSIFICATION FROM D.R. 5.5 TO R.O. (Documented) AND PETITION FOR SPECIAL EXCEPTION AND VARIANCE : BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY  
SM/S of Blakely Ave., 400' SE of Belair Rd., 11th District :  
HARBOR REALTY PARTNERSHIP, Petitioner : Case No. R-87-100-XA (Item 16, Cycle III)

ENTRY OF APPEARANCE

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

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

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

I HEREBY CERTIFY that on this 6th day of August, 1986, a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204, Attorney for Petitioner.

*Peter Max Zimmerman*  
Peter Max Zimmerman

RECEIVED  
COUNTY BOARD OF APPEALS  
10:50 AM - b A 11:09 AM

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant  
v.  
HARBOR REALTY PARTNERSHIP, Appellee  
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW  
Docket No. 35  
Folio No. 242  
File No. 87CG470

NOTICE OF APPEAL

Please note an appeal from the decision in the above-captioned matter of the County Board of Appeals dated January 14, 1987 by the People's Counsel for Baltimore County.

*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

I HEREBY CERTIFY that on this 10th day of February, 1987, a copy of the foregoing Notice of Appeal was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204.

*Peter Max Zimmerman*  
Peter Max Zimmerman

RECEIVED  
COUNTY BOARD OF APPEALS  
1:31 FEB 1987  
PZ-113

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant  
v.  
HARBOR REALTY PARTNERSHIP, Appellee  
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW  
Docket No. \_\_\_\_\_  
Folio No. \_\_\_\_\_  
File No. \_\_\_\_\_

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the decision in the above-captioned matter of the County Board of Appeals dated January 14, 1987, files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the present zoning on the parcel which is the subject of this appeal is an erroneous classification and therefore their decision passed herein is illegal, arbitrary, and capricious.

WHEREFORE, Appellant prays that the decision of the Board of Appeals of Baltimore County under date of January 14, 1987 be reversed, and the action of the County Council of Baltimore County in zoning the subject property D.R. 5.5 be affirmed and reinstated.

*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

I HEREBY CERTIFY that on this 16th day of February, 1987, a copy of the foregoing Petition on Appeal was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Towson, MD 21204.

*Peter Max Zimmerman*  
Peter Max Zimmerman

IN THE MATTER OF THE APPLICATION OF HARBOR REALTY PARTNERSHIP SW/S BLAKELY AVE., 400' SE OF THE C/O OF BELAIR RD. FOR RECLASSIFICATION FROM D.R. 5.5 TO R.O.; SPECIAL EXCEPTION - CLASS B OFFICE BLDG.; AND SIGN VARIANCE : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW  
PHYLLIS COLE FRIEDMAN, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, PLAINTIFF : CG Doc. No. 35  
FILE NO. R-87-100-X : Folio No. 240  
FILE NO. 87-CG-470

CERTIFICATE OF NOTICE

Mr. Clerk:  
Pursuant to the provisions of Rule B-2(c) of the Maryland Rules of Procedure, William T. Hackett, Keith S. Franz and Harry E. Buchhoister, Jr., 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, Julius W. Lichter, Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for the Petitioners: Howard Brown, Harbor Realty Partnership, 9183 Reisterstown Rd., Garrison, Md. 21055, Petitioner; and Phyllis Cole Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

*Gene Holmen*  
Gene Holmen  
County Board of Appeals of Baltimore County  
Rm. 200, Court House, Towson, Md. 21204  
494-3180



ARNOLD JABLON  
ZONING COMMISSIONER

JEAN M. H. JUNG  
DEPUTY ZONING COMMISSIONER

October 22, 1986

Julius W. Lichter, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

RE: PETITION FOR ZONING RECLASSIFICATION AND SPECIAL EXCEPTION  
SW/S Blakely Ave., 400' SE of the c/l of Belair Rd.  
11th Election District  
Harbor Realty Partnership - Petitioner  
Case No. R-87-100-X (Cycle III, Item No. 16)

Dear Mr. Lichter:

This is to advise you that \$316.79 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE RECLASSIFICATION SIGN AND POST RETURNED TO THE BALTIMORE COUNTY ZONING OFFICE ON THE DAY OF THE BOARD OF APPEALS' HEARING OR THE ORDER WILL NOT BE ISSUED.

Please make your check payable to "Baltimore County, Maryland" and remit it to Ms. Margaret E. du Bois, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

AJ:mod

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 11th Date of Posting: 9/26/86  
Posted for: Re-Classification & Special Exception  
Petitioner: Harbor Realty Partnership, et al.  
Location of property: SW/S Blakely Ave., 400' SE of Belair Rd.  
Location of Signs: SW/S Blakely Ave., 400' SE of Belair Rd.  
Remarks: 2nd sign, 100' SE of lot sign  
Posted by: M. H. Jung Date of return: 10/2/86  
Number of Signs: 2

Julius W. Lichter, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

September 26, 1986

**NOTICE OF HEARING**

RE: PETITION FOR ZONING RECLASSIFICATION AND SPECIAL EXCEPTION  
SW/S Blakely Ave., 400' SE of the c/l of Belair Rd.  
11th Election District  
Harbor Realty Partnership - Petitioner  
Case No. R-87-100-X (Cycle III, Item No. 16)

TIME: 10:00 a.m.

DATE: Tuesday, October 28, 1986

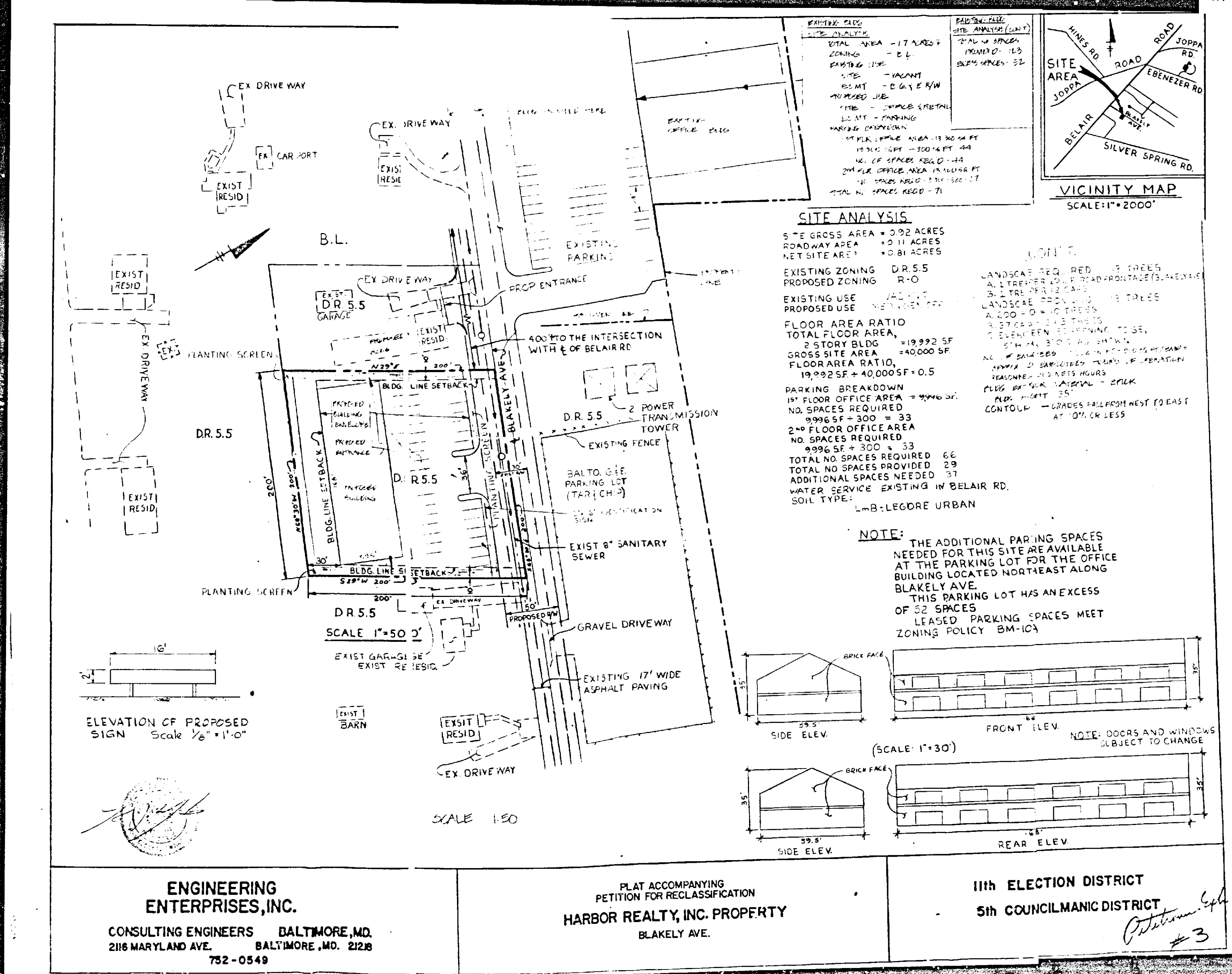
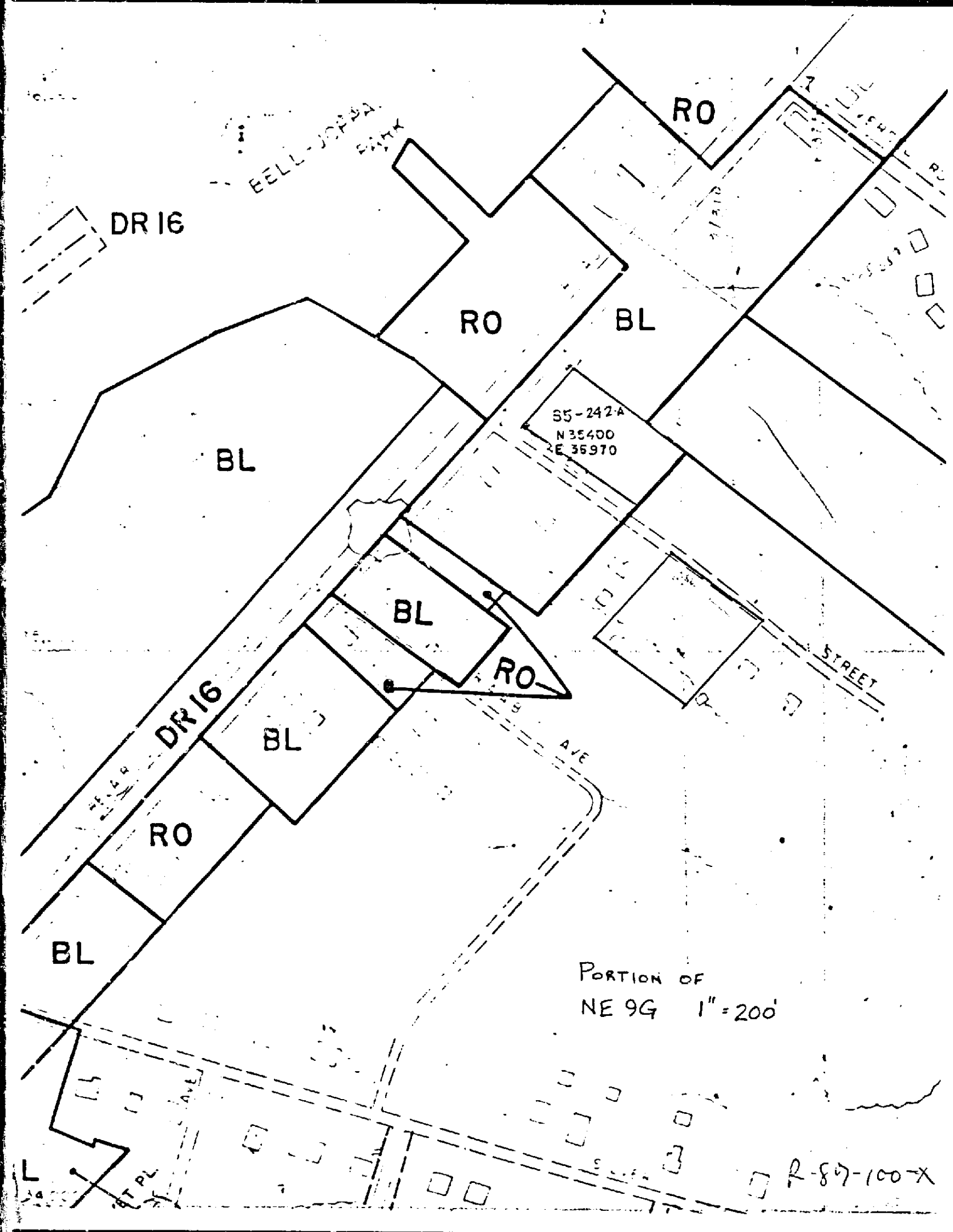
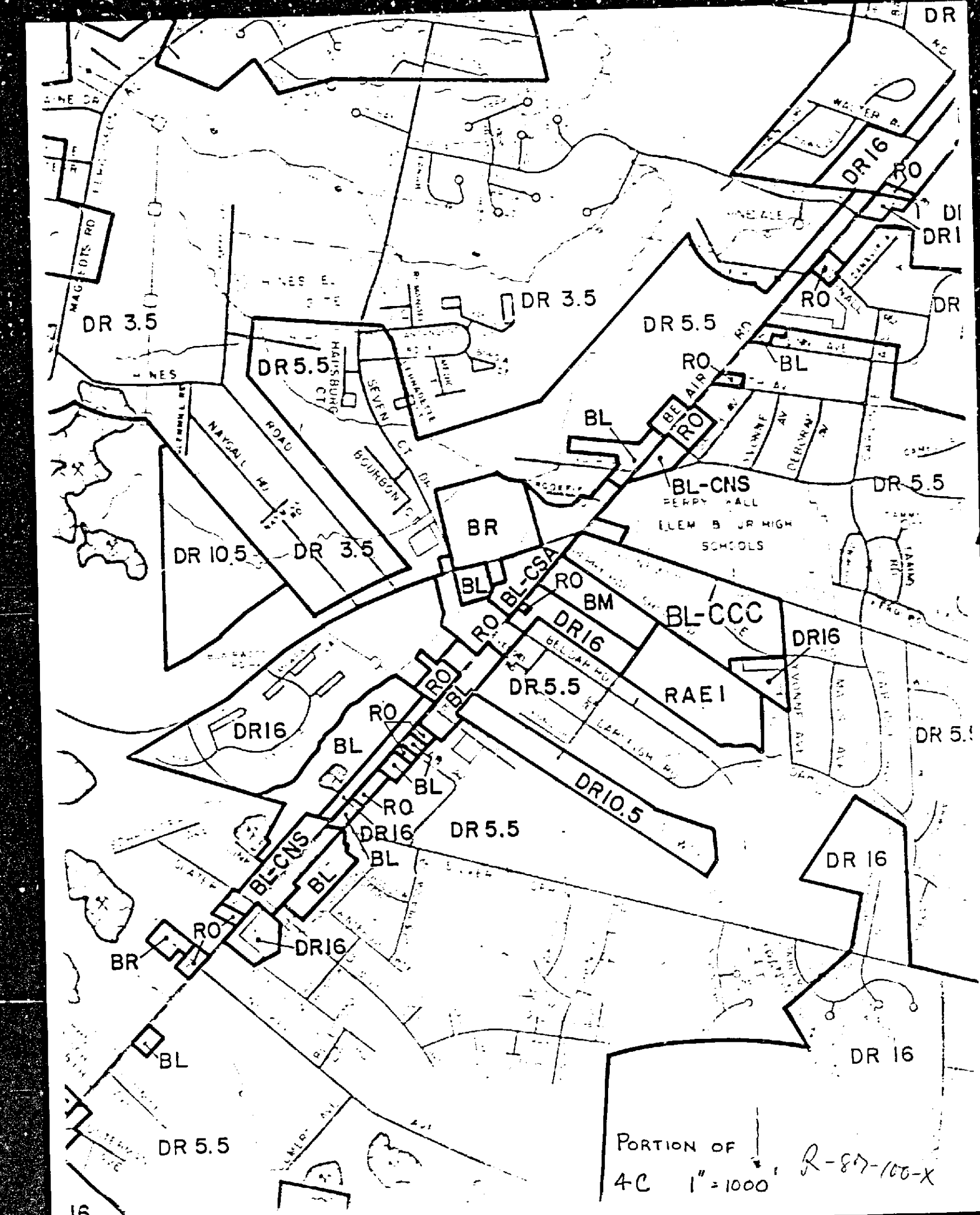
PLACE: Room 218, Courthouse, Towson, Maryland

WT:med

cc: Mr. Howard Brown, Partner  
Harbor Realty Partnership  
9183 Reisterstown Road  
Garrison, Maryland 21055

People's Counsel for Baltimore County

THIS IS TO ADVISE YOU THAT YOU WILL BE BILLED BY THE ZONING OFFICE FOR ADVERTISING AND POSTING COSTS WITH RESPECT TO THIS CASE APPROXIMATELY A WEEK BEFORE THE HEARING. THIS FEE MUST BE PAID AND THE SIGN AND POST RETURNED TO ROOM 113, COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVE., TOWSON, MARYLAND ON THE DAY OF THE HEARING OR THE ORDER WILL NOT BE REOPENED.



ENGINEERING ENTERPRISES, INC.

CONSULTING ENGINEERS BALTIMORE, MD.  
2116 MARYLAND AVE. BALTIMORE, MD. 21218  
752-0549

PLAT ACCOMPANYING PETITION FOR RECLASSIFICATION  
HARBOR REALTY, INC. PROPERTY  
BLAKELY AVE.

11th ELECTION DISTRICT  
5th COUNCILMANIC DISTRICT

*William T. Hackett*  
#3

STEPHEN E. COLLINS  
DIRECTOR

May 19, 1986

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

Cycle III April 1986  
Item No. 16  
Property Owner: Harbor Realty Partnership  
Location: SW/S Blakely Avenue, 400' SE of the c/l of Belair Road  
Existing Zoning: D.R. 5.5  
Proposed Zoning: R.O.; Special exception for a class B office building and variances to Section: 203.3.C to permit a freestanding, double face, illuminated, 64 sq. ft. sign in lieu of the allowed 8 sq. ft., on the building, non-illuminated.  
Acres: 0.92 acres  
District: 11th Election District

Dear Mr. Hackett:

The existing D.R. 5.5 zoning for this site can be expected to generate 40 trips per day, and the proposed R.O. zoning can be expected to generate approximately 350 trips per day as general offices or 1100 trips per day as medical offices.

This site should be developed with item #III-15. Item #III-15 and III-16 should have a common 24' wide entrance. A parking variance for this site will impact the residential area to the east of the site.

Very truly yours,

*Michael S. Flanagan*  
Michael S. Flanagan  
Traffic Engineer Associate II

MSF:it



County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3180

February 11, 1987

Julius W. Lichter, Esq.  
305 W. Chesapeake Ave.  
Towson, Md. 21204

Dear Mr. Lichter: Re: Case No. R-87-100-X  
Harbor Realty Partnership

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,

*June Holmen*  
June Holmen, Secretary

Encl.  
cc: Howard Brown  
James E. Kraft  
Norman E. Gerber  
James Hoswell  
Arnold Jablon  
Jean Jung  
James E. Dyer

Page Two  
Item No. 16, Cycle III  
October 9, 1986

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 494-3391 or the commenting agency.

Very truly yours,

*James E. Dyer*  
James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

JED:kbb (MS018)

Enclosures

cc: Engineering Enterprises, Inc.  
2116 Maryland Avenue  
Baltimore, Maryland 21218

Mr. George Gavrellis  
George William Stephens, Jr.  
& Associates  
303 Allegheny Avenue  
P.O. Box 6828  
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William P. Hackett - Chairman  
TO: Appeals Board Date: June 24, 1986  
Charles E. "E" Burnham  
FROM: Plans Review Chief, Department of Permits & Licenses  
SUBJECT: April - October 1986 - Zoning Classification - - Cycle III

Item #16 Property Owner: Harbor Realty Partnership  
Contract Purchaser: SW/S Blakely Ave., 400' SE of the c/l of Belair Road  
Location: SW/S Blakely Ave., 400' SE of the c/l of Belair Road  
Existing Zoning: D.R. 5.5  
Proposed Zoning: R.O., Special exception for a Class B office building and variances to Section 203.3.C  
Acres: 0.92  
District: 11th.

Proposed building shall comply with the Baltimore County Building Code as adopted by Council Bill #17-85. This includes the 1984 Edition of the B.O.C.A. Basic National Building, Mechanical, and Energy Codes. It shall also comply with Maryland Regulations .05.01.07 as required by the State Handicapped Laws.

There are no designated handicapped parking spaces, signs, curb cuts or other Handicapped Code features shown on this plat plan. For interior handicapped access an elevator is required.

No other comments at this time.

CEB/rw



County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3180

February 11, 1987

Mrs. Phyllis C. Friedman  
People's Counsel for Balto. County  
Court House  
Towson, Md. 21204

Dear Mrs. Friedman: Re: Case No. R-87-100-X  
Harbor Realty Partnership

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 appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

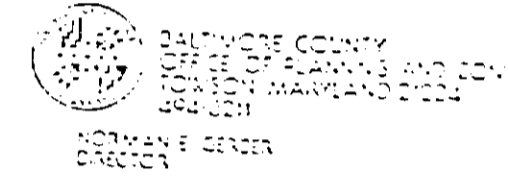
The cost of the transcript of the record must be paid by you. Certified copies of other documents necessary for the completion of the record must also be at your expense.

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 file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

*June Holmen*



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

April 23, 1986

Re: Zoning Advisory Meeting of Cycle III - Reclass.  
Item #16 - Cycle III  
Property: Harbor Realty Part.  
Location: SW/S Blakely Ave. 400' SE of the c/l of Belair Rd.

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- There are no site planning factors requiring comment, AT THIS TIME.
- A County Review Group Meeting is required.
- A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- This site is part of a larger parcel therefore it is defined as a subdivision. The plan must show the entire tract.
- No encroachment will be required and must be recorded prior to issuance of a building permit.
- The address is not satisfactory.
- The circulation on this site is not satisfactory.
- The existing development is not satisfactory.
- Parking calculations must be shown on the plan.
- This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-53 of the Development Regulations.
- Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- The amended Development Plan was approved by the Planning Board on [unclear].
- The property is not in compliance with Baltimore County Land Use Ordinance #173-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is [unclear].
- The property is located in a traffic area controlled by a non-level intersection as defined by Bill 173-79, and all conditions change are re-evaluated annually by the County Council.

**IF SUBJECT PROPERTY IS REZONED, ANY FUTURE DEVELOPMENT OF THE SITE MUST MEET THE REQUIREMENTS OF BILL 24-82 "THE DEVELOPMENT REGULATIONS"**

cc: James Hoswell

Eunora A. Borer  
Chief, Current Planning and Development



BALTIMORE COUNTY  
FIRE DEPARTMENT  
TOWSON, MARYLAND 21204 2586  
494-4500

PAUL H. RENCKE  
CHIEF

May 13, 1986

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

Attention: William Hackett  
Chairman, County Board of Appeals

Re: Property Owner: Harbor Realty Partnership

Location: SW/S Blakely Ave., 400' SE of the c/l of Belair Road

Item No.: 16

Zoning Agenda: Cycle III  
4/86 - 10/86

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.

(x) 1. Fire hydrants for the referenced property are required and shall be located at intervals or 300 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 [unclear] 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 "Fire Safety Code", 1976 edition prior to occupancy.

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

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

REVIEWER: Planning Group  
Special Inspection Division

Noted and Approved: *John E. O'Neill*  
Fire Prevention Bureau

amb

LAW OFFICES  
LEVIN, GANN & HANKIN

A PROFESSIONAL ASSOCIATION

305 W. CHESAPEAKE AVENUE

TOWSON, MARYLAND 21204

301 321 0600

TELECOPIER FAX 301 625 9000

August 24, 1987

Ms. June W. Holmen  
Baltimore County Board of Appeals  
Court House, 2nd Floor  
Towson, Maryland 21204

RE: Laverne M. Reifsnider - Case No. 87-CG-469  
Harbor Realty Partnership - Case No. 87-CG-470

Dear Ms. Holmen:

As you are probably aware, the above referenced cases have been appealed by the People's Council to the Circuit Court for Baltimore County. The Hearing Date has been rescheduled to Thursday, September 10, 1987 at 9:30 A.M. It is our understanding that, due to their size, not all exhibits have been transferred to the Circuit Court in preparation for this hearing. Therefore, by this letter we are requesting that all Exhibits from both of these cases be transferred to the Circuit Court prior to the scheduled September 10, 1987 Hearing date.

For your information, these cases were consolidated in the Circuit Court on June 1, 1987. Should you have any questions or need additional information regarding this request, please feel free to contact me at your convenience. Thanking you in advance, I am,

Very truly yours,

*Howard L. Alderman*  
Howard L. Alderman, Jr.

HLA:cc

12 21 p 12 21 1987  
LEVIN, GANN & HANKIN  
BALTIMORE COUNTY BOARD OF APPEALS

*Submits Exhibits to Circuit Court  
Sept 10, 1987  
Laverne M. Reifsnider  
Harbor Realty Part.  
Hearing Office*

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

October 9, 1986

cc: Chairman

Julius W. Lichter, Esquire  
305 W. Chesapeake Avenue  
Towson, Maryland 21204

RE: Item No. 16 - Cycle No. III  
Petitioner: Harbor Realty Partnership  
Reclassification Petition

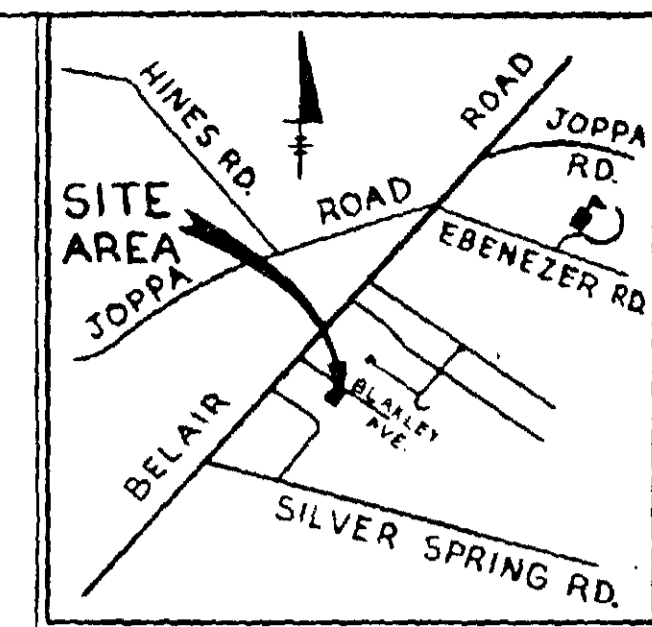
Dear Mr. Lichter:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the April-October reclassification cycle (Cycle III). 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.

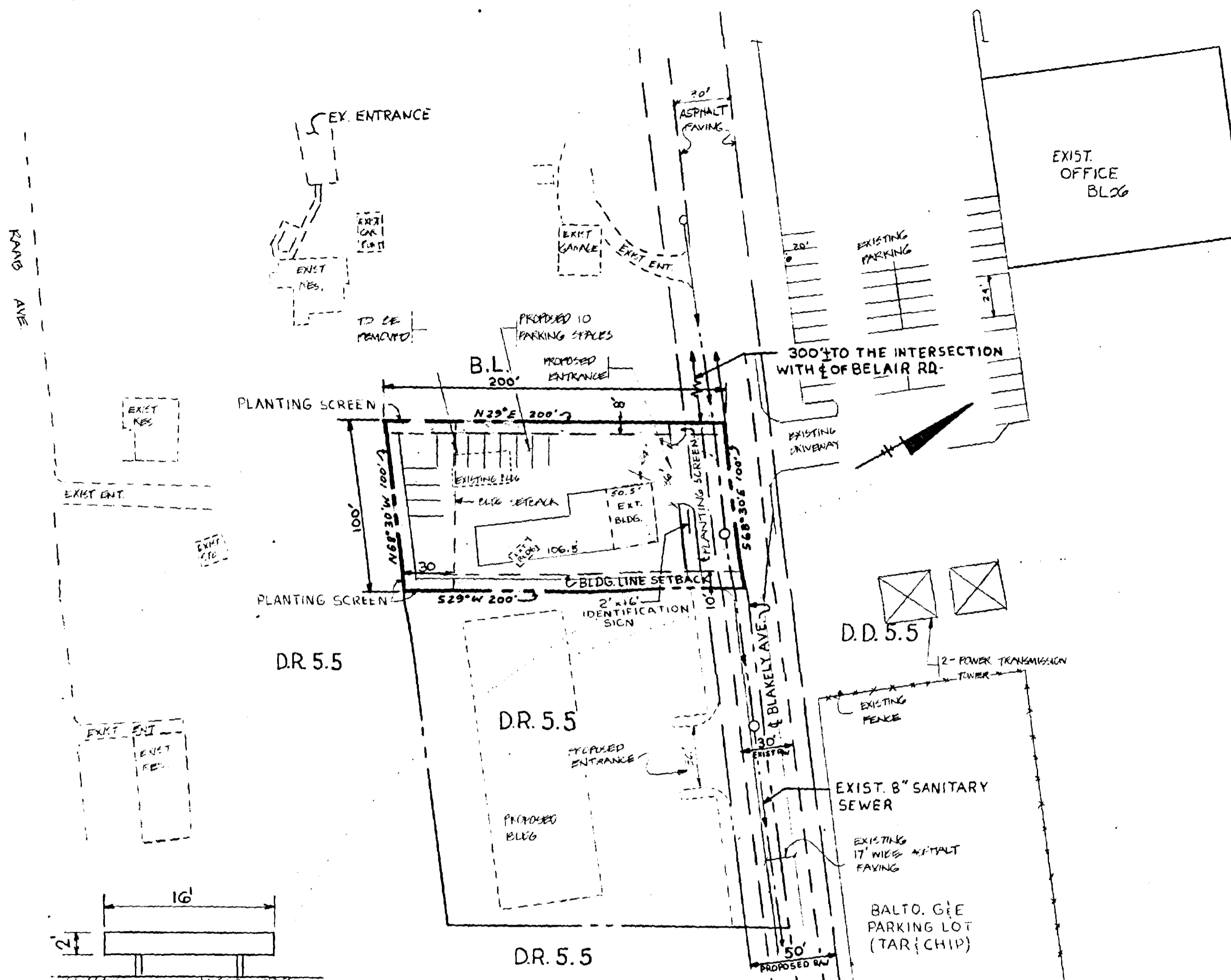
If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments to this office before October 23, 1986. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of the fact that the submitted site plan does not indicate a proposed use at this time, the comments from this Committee are general in nature. If the request is granted and an additional hearing is required at a later date, more detailed comments will be submitted at that time.





VICINITY MAP  
SCALE: 1"=2000'



**SITE ANALYSIS**

SITE GROSS AREA = 0.46 ACRES±  
ROADWAY AREA = 0.06 ACRES±  
NET AREA = 0.40 ACRES±

EXISTING ZONING D.R. 5.5  
PROPOSED ZONING R-O

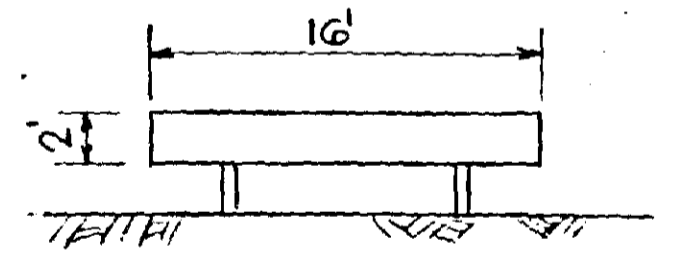
EXISTING USE RESIDENCE  
PROPOSED USE GEN. MEDICAL OFFICES

FLOOR AREA RATIO  
TOTAL FLOOR AREA,  
1 STORY BLDG. 3,074.50 SF  
GROSS SITE AREA 20,000 SF  
FLOOR AREA RATIO  
3,074.50 SF ÷ 20,000 SF = 0.15

PARKING BREAKDOWN  
1<sup>ST</sup> FLOOR OFFICE AREA 3074.50 SF  
NO. SPACES REQUIRED  
3074.50 SF ÷ 300 SF = 10

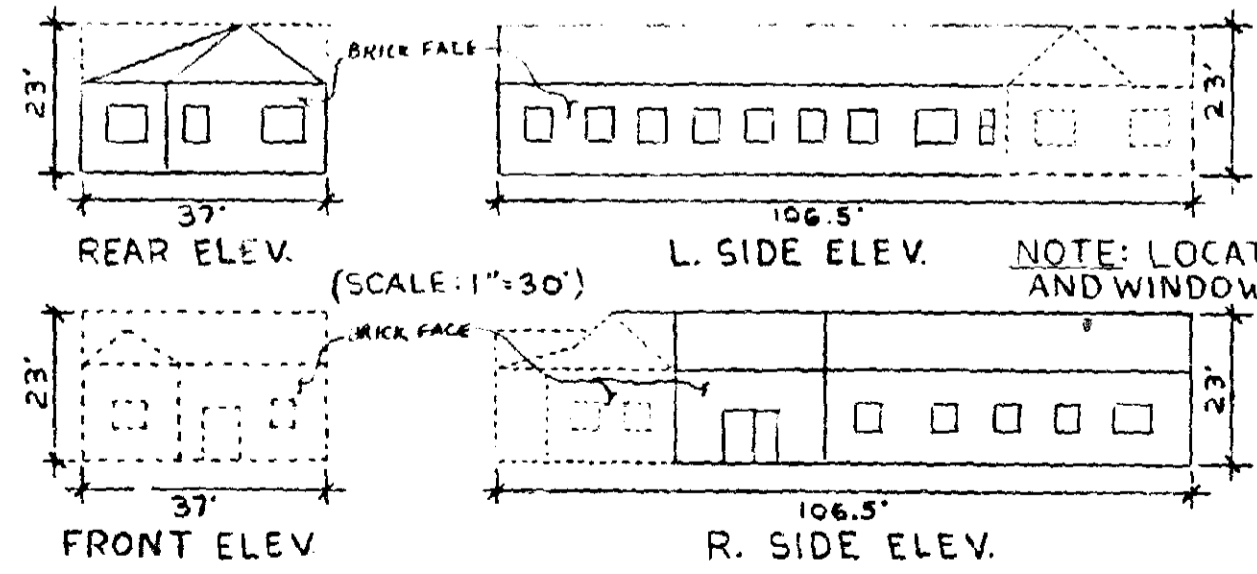
TOTAL NO. SPACES REQUIRED 16  
TOTAL NO. SPACES PROVIDED 16  
WATER SERVICE EXISTING IN BELAIR RD.  
SOIL TYPE:

LmB - LEGORE URBAN  
NO. OF EMPLOYEES: 3074.5 ÷ 500 SQFT/EMP.  
= APPROX 6 EMPLOYEES. HOURS OF OPERATION:  
REASONABLE BUSINESS HOURS  
BLDG EXTERIOR MATERIAL - BRICK  
BLDG HEIGHT - 23 FT.  
LANDSCAPING REQUIRED: 6 TREES  
A. 1 TREE PER 20 LF ROAD FRONTAGE (BLAKELY AVE.)  
B. 1 TREE PER 12 CARS  
LANDSCAPING PROVIDED: 6 TREES  
A. 100 ÷ 20 = 5 TREES  
B. 10 CARS ÷ 12 = 1 TREE  
C. EVERGREEN SCREENING TO BE 5'-HIGH,  
3' O.C. AS SHOWN  
CONTOURS — GRADES FALL FROM WEST TO EAST  
AT 10% OR LESS



ELEVATION OF PROPOSED SIGN Scale 1/8"=1'-0"

SCALE 1"=50'



NOTE: LOCATION OF DOORS AND WINDOWS SUBJECT TO CHANGE  
- - - - - INDICATES EXISTING BUILDING LINES  
————— INDICATES PROPOSED BUILDING LINES

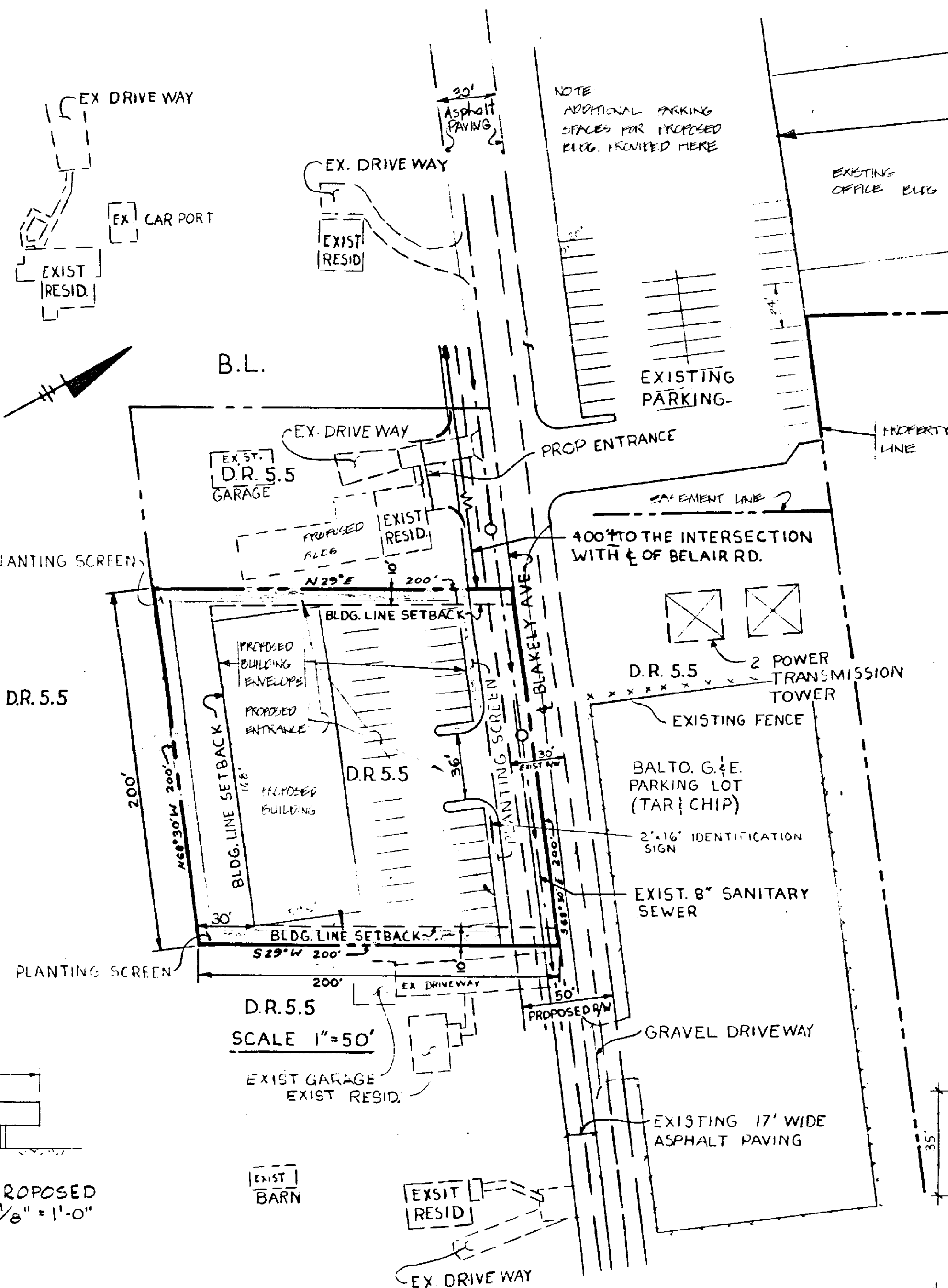


REVISED PLANS III-15  
4/11/86 uca  
2-87-99-X

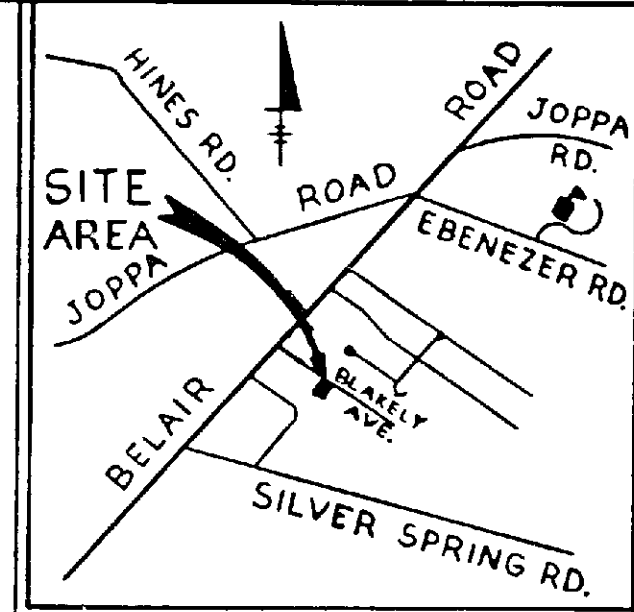
**ENGINEERING ENTERPRISES, INC.**  
CONSULTING ENGINEERS BALTIMORE, MD.  
2116 MARYLAND AVE. BALTIMORE, MD. 21218  
752-0549

PLAT ACCOMPANYING PETITION FOR RECLASSIFICATION  
**PROPERTY OF HAROLD K. AND LAVERNE REIFSNIDER**  
BLAKELY AVE.

11th ELECTION DISTRICT  
5th COUNCILMANIC DISTRICT



EXISTING BLDG	EXISTING PLSG
<b>SITE ANALYSIS</b>	<b>SITE ANALYSIS (CONT)</b>
TOTAL AREA - 17 ACRES ±	TOTAL NO. SPACES PROVIDED - 123
ZONING - B.L.	EXCESS SPACES - 52
EXISTING USE - VACANT	
ES'MT - E.G. & E.R/W	
PROPOSED USE - OFFICE & RETAIL	
ES'MT - PARKING	
PARKING BREAKDOWN	
1 <sup>ST</sup> FLR OFFICE AREA - 13,300 SQ FT	
13,300 SQ FT ÷ 300 SQ FT = 44	
NO. OF SPACES REQ'D - 44	
2 <sup>ND</sup> FLR OFFICE AREA - 13,300 SQ FT	
10 SPACES REQ'D - 13,300 ÷ 900 = 14.78	
TOTAL NO. SPACES REQ'D - 71	



**VICINITY MAP**  
SCALE: 1" = 2000'

**SITE ANALYSIS**

SITE GROSS AREA = 0.92 ACRES  
 ROADWAY AREA = 0.11 ACRES  
 NET SITE AREA = 0.81 ACRES

EXISTING ZONING D.R.5.5  
 PROPOSED ZONING R-O

EXISTING USE VACANT  
 PROPOSED USE MED. GEN OFFICE

FLOOR AREA RATIO  
 TOTAL FLOOR AREA,  
 2 STORY BLDG. = 19,992 SF  
 GROSS SITE AREA = 40,000 SF  
 FLOOR AREA RATIO,  
 19,992 SF ÷ 40,000 SF = 0.5

PARKING BREAKDOWN  
 1<sup>ST</sup> FLOOR OFFICE AREA = 9,996 SF  
 NO. SPACES REQUIRED  
 9,996 SF ÷ 300 = 33  
 2<sup>ND</sup> FLOOR OFFICE AREA  
 NO. SPACES REQUIRED  
 9,996 SF ÷ 300 = 33  
 TOTAL NO. SPACES REQUIRED 66  
 TOTAL NO. SPACES PROVIDED 29  
 ADDITIONAL SPACES NEEDED 37

WATER SERVICE EXISTING IN BELAIR RD.  
 SOIL TYPE: LmB-LEGORE-URBAN

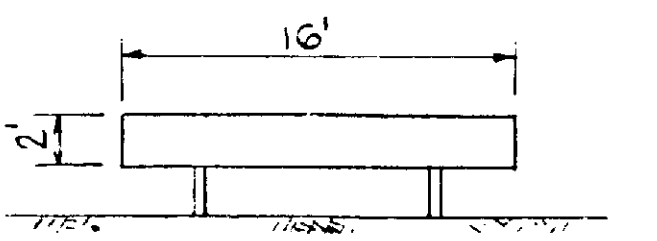
**CON'T.**

LANDSCAPE REQUIRED: 13 TREES  
 A. 1 TREE PER 20 L.F. ROAD FRONTAGE (BLAKELY AVE.)  
 B. 1 TREE PER 12 CARS  
 LANDSCAPE PROVIDED: 13 TREES  
 A. 200 ÷ 20 = 10 TREES  
 B. 37 CARS - 12 = 3 TREES  
 C. EVERGREEN SCREENING TO BE,  
 5' HIGH, 3' O.C. AS SHOWN

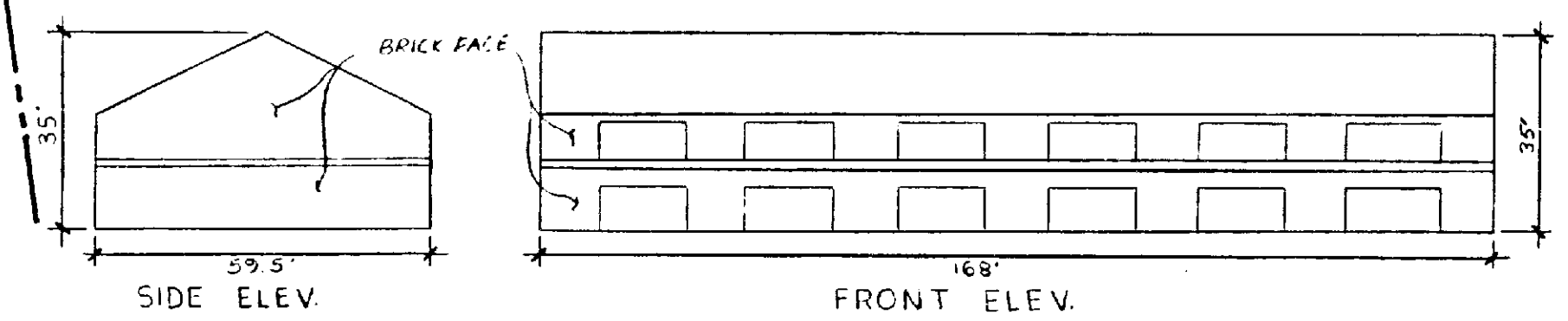
NO. OF EMPLOYEES: 19,992 SQ FT ÷ 500 SQ FT/EMP =  
 APPROX. 40 EMPLOYEES. HOURS OF OPERATION:  
 REASONABLE BUSINESS HOURS  
 BLDG. EXTERIOR MATERIAL - BRICK  
 BLDG. HEIGHT - 35'  
 CONTOURS - GRADES FALL FROM WEST TO EAST  
 AT 10% OR LESS

**NOTE:**

THE ADDITIONAL PARKING SPACES  
 NEEDED FOR THIS SITE ARE AVAILABLE  
 AT THE PARKING LOT FOR THE OFFICE  
 BUILDING LOCATED NORTHEAST ALONG  
 BLAKELY AVE.  
 THIS PARKING LOT HAS AN EXCESS  
 OF 52 SPACES  
 LEASED PARKING SPACES MEET  
 ZONING POLICY BM-10A

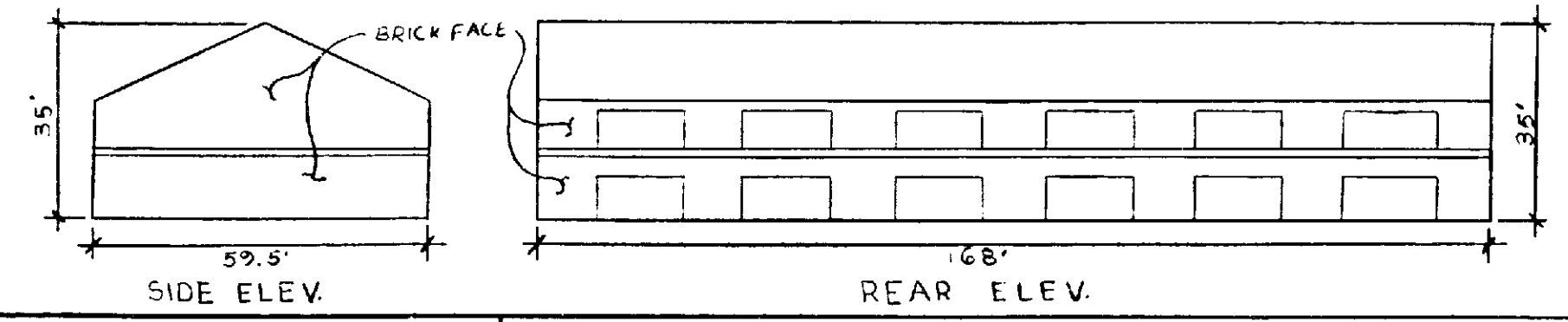


ELEVATION OF PROPOSED SIGN  
Scale 1/8" = 1'-0"



(SCALE: 1" = 30')

NOTE: DOORS AND WINDOWS SUBJECT TO CHANGE



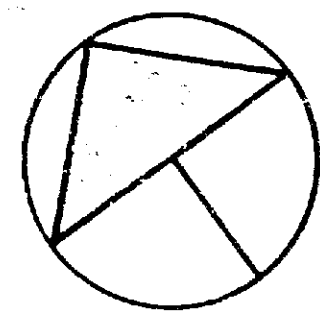
**ENGINEERING ENTERPRISES, INC.**

CONSULTING ENGINEERS BALTIMORE, MD.  
 2116 MARYLAND AVE. BALTIMORE, MD. 21218  
 752-0549

PLAT ACCOMPANYING  
 PETITION FOR RECLASSIFICATION  
**HARBOR REALTY, INC. PROPERTY**  
 BLAKELY AVE.

**11th ELECTION DISTRICT**  
**5th COUNCILMANIC DISTRICT**

REVISED PLANS III-16  
 4/11/86 ucn  
 2-87-100x



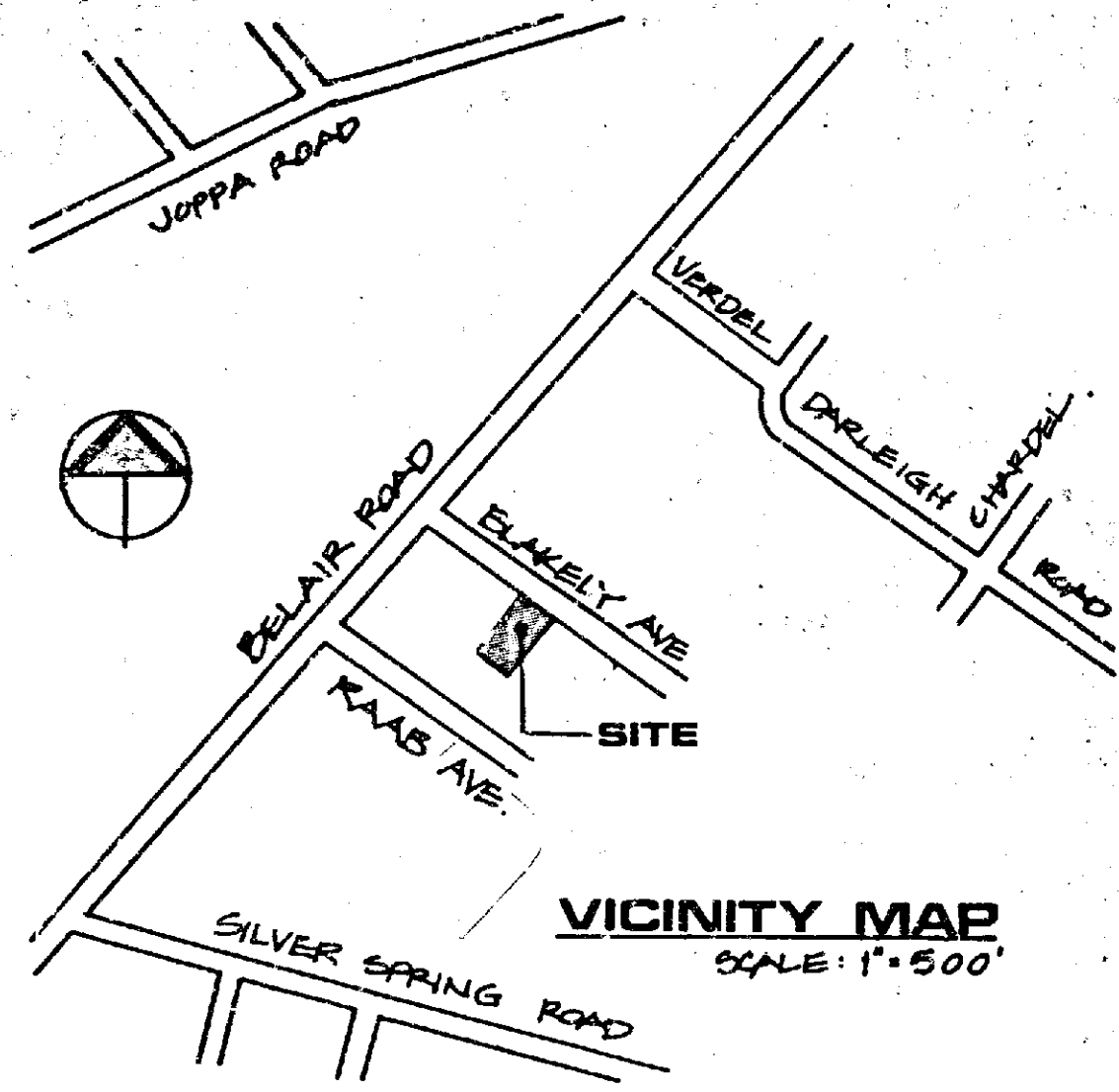
*No. 28: Amend to Harmonize to Match Zoning Comments.*  
*see meeting report 11/1/91*  
*11/1/91*

**ADDITIONAL NOTES: AS PER CRG PLAN 9/11/91**

- 16 SIGN TO BE LOCATED ON FRONT OF BLDG. AND CAN BE NO MORE THAN 6' IN HGT.
- 17 NUMBER OF EMPLOYEES = 0.
- 18 NORMAL HOURS OF OPERATION - 8:00 AM TO 6:00 PM.
- 19 PARKING LOT LIGHTING TO BE MOUNTED ON BLDG. AND DIRECTED AWAY FROM ADJACENT PROPERTIES.
- 20 ROOF DRAINING TO DRAIN TO PARKING LOT OR STORM DRAIN SYSTEM.
- 21 A WATER TIGHT TEST IS REQUIRED ON BELAIR RD. & BLAKELY AVE. PRIOR TO BLDG. PERMIT.
- 22 NO PARKING WILL BE ALLOWED IN FIRE LANES.
- 23 EXTENDED DETENTION OF STORM WATER MUST BE UTILIZED TO ALLOW FOR SOME SETTLING OF POLLUTANTS FOR WATER QUALITY PURPOSES. IN THE EVENT INFILTRATION IS NOT FEASIBLE.
- 24 AS PER OPTIMUM COMMENTS, THERE ARE NO WETLANDS ON SITE.

**ADDITIONAL NOTES: AS PER CRG PLAN EXTENSION COMMENTS 9/11/91.**

- 25. ALL PARKING, MANEUVERING & ISLE AREAS WILL BE PAVED & STAMPED.
- 26. THE DISTANCE TO THE CENTERLINE OF BELAIR RD. FROM THE PROPERTY CORNER IS 300' ±.
- 27. CYCLE III, 1986, ITEM # 15.
- 28. FLOOR PLANS WITH SOI FOOTINGS & USE AREAS IDENTIFIED. ELEVATION PLANS WITH EXTERIOR MATERIALS & HT. SHOWN AS PER THE DOCUMENTED SITE PLAN & ZONING POLICY RM-0 AND THE PROPOSED SIGN ON THE BLDG WALL ON ELEV. DRNG AS PER NOTE # 10 WITH SIZE 1/32 FOOTAGE WILL BE SHOWN ON THE BUILDING PERMIT PLAN.
- 29. THERE ARE NO EXISTING WELLS, SEPTIC SYSTEMS OR UNDERGROUND FUEL TANKS ON SITE.



**CRG NOTES**

1. There are no existing streams, bodies of water or springs on this site.
2. There are no critical areas, archeological sites, historical buildings, endangered species habitat or hazardous materials on this site.
3. Census Tract No. 4113.03
4. Watershed No. 6
5. Subwatershed No. 22
6. Councilmatic District No. 5
7. Stormwater Management will be provided.
8. This development will be served by public water and public sewer systems.
9. Topography shown taken from Baltimore County 200' scale topographic maps and Baltimore County road drawings.
10. Proposed grades are schematic and are not intended for construction purposes.
11. Property Deed reference: 7116/325
12. Property Tax Account No. 1118011100
13. Public Services CRG No. 08149
14. Planning No.
15. Zoning case No. R-87-99-XA

**DENSITY CALCULATIONS**

Gross Acreage	.46 acres
Net Acreage	.40 acres
Existing Zoning	RO
Existing Use	Vacant Dwelling
Proposed use	General and Medical Offices
Proposed building size	3074.5 SF
Floor Area Ratio	3074.5 SF / 20037 = .15
PARKING REQUIRED	
MEDICAL: 3074.5 @ 4.0/1000 #	12.3
TOTAL REQUIRED	14
PARKING PROVIDED (INCLUDED 1-HAND.CAP. & 3 EMPLOYEE SPACES)	10 SPACES
A.D.T. #	3074.5 @ 19/1000 #
	231
AMENITY OPEN SPACE REQUIRED	29.74 @ 0.40 AC
AMENITY OPEN SPACE PROVIDED	9091 #

INDICATED AMENITY OPEN SPACE AREA

**ADOLPH PROPERTY**  
**4209 BLAKELY AVE.**  
**CRG PLAN**

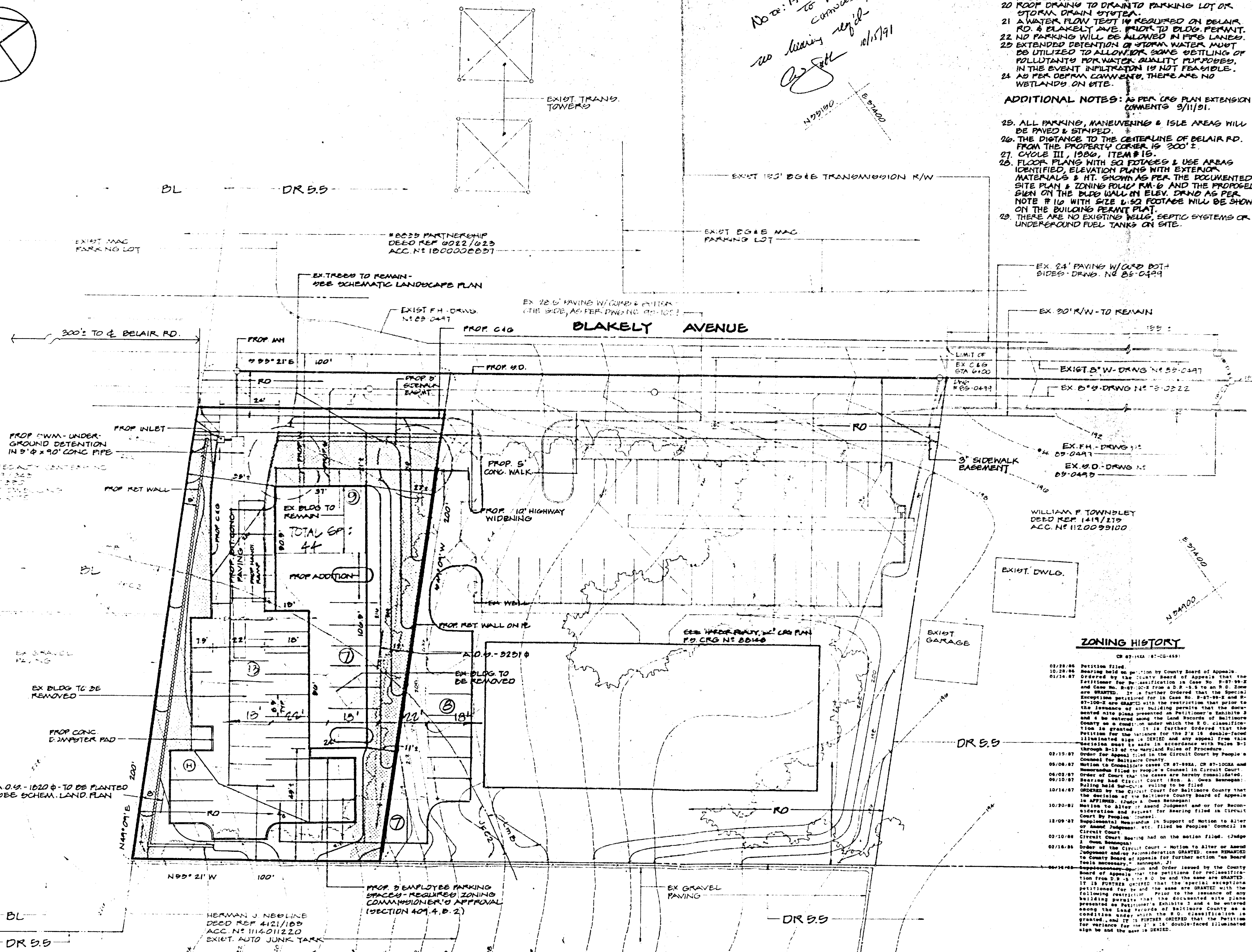
**ELECTION DISTRICT NO. 11**  
**BALTIMORE COUNTY, MARYLAND**

9/18/01, REDLINE	REVISIONS:	SCALE: 1"=20'
	9-14-00 - AS PER PRE CRG COMMENTS "9/12/00"	DATE: 8-27-00
	10-7-00 - AS PER CRG COMMENTS "9/22/00"	JOB NO: 0065/01
	8-10-01 - AS PER CRG EXT. COMMENTS "8/11/01"	DRAWN:
		CHECKED:

**HOFF & ANTONUCCI, INC.**  
*land development consultants and landscape architects*  
 p.o. box 27402  
 lowson, md 21285-7402  
 301-665-6318

**CRG-1**

SHEET OF



1
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HYDROLOGIC SOIL GROUP	SOIL TYPE AND LIMITATIONS				
	TYPE	CLASS	BUILDINGS W/ BASEMENTS	BUILDINGS WITHOUT BASEMENTS	PARKING LOTS
B	JRC2	COMPLEX	SLIGHT	SLIGHT	SEVERE: SLOPE
D	LmD	COMPLEX	SEVERE: HIGH WATER TABLE	SEVERE: HIGH WATER TABLE	SEVERE: HIGH WATER TABLE

**OWNER/APPLICANT**  
**HARBOR PARTNERSHIP**  
 9183 REISTERSTOWN RD.  
 GARRISON, MARYLAND 21055  
 301-363-3424