

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 W/S Courtney Road, 550' S * ZONING COMMISSIONER
 of c/l of Wilkens Avenue * OF BALTIMORE COUNTY
 919 Courtney Road * CASE # 90-339-SPH
 13th Election District *
 1st Councilmanic District *
 Gary L. Browne *
 Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests Petition for Special Hearing to approve the nonconforming use of a two family dwelling, as more particularly described on Petitioner's Exhibit No.1.

The Petitioner, Gary L. Browne, appeared and testified. Also appearing on behalf of the Petition were Mr. and Mrs. Kibby who rent the subject property. There were no Protestants.

Testimony indicated that the subject property known as 919 Courtney Road consists of .15 acres zoned D.R. 5.5 and is currently improved with a two story bungalow.

Testimony indicated that the Petitioner purchased this property in 1978 as a two apartment dwelling with a common hallway entrance. The Petitioner testified that he has no knowledge, prior to 1973, of said apartments being utilized as such.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations

(Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See *Kahl v. Cons. Gas Elec. Light. and Pwr. Co.*, 191 Md. 249, 254, 60 A.2d 754 (1948); *Calhoun v. County Board of Appeals*, 262 Md. 265, 277 A.2d 589 (1971).

Section II of the regulations created seven zones, four being residential, one commercial, and two industrial. See *McKenney v. Baltimore County*, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different such nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to conforming use not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement

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 Date 2/13/90
 By J. Robert Haines

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cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel or land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

After due consideration of the testimony and evidence presented, it is clear that the Petitioner has not established the nonconforming use for the statutory period. Therefore the requested relief must be denied.

Pursuant to the advertising, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested Special Hearing should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 21 day of March, 1990 that the Petition for Special Hearing to approve the nonconforming use of a two family dwelling, in accordance with Petitioner's Exhibit No. 1, be and is hereby DENIED; and IT IS FURTHER ORDERED that the nonconforming use at issue herein shall cease and desist on October 31, 1990.

JRH:smm
 cc: Peoples Counsel

J. Robert Haines
 Zoning Commissioner for Baltimore County

PETITION FOR SPECIAL HEARING
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-339-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the nonconforming use of a two family dwelling.

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

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

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

Contract Purchaser:	Legal Owner(s):	MAP 30-4-2
(Type or Print Name)	GARY L. BROWNE	G-1
Signature	Gary L. Browne	B-2 13
Address	(Type or Print Name)	DATE 1/13/90
City and State	Signature	1000
Attorney for Petitioner:	Address	OP V.Z.C.
CHARLES W. SIMMS	H. 747-1070	
(Type or Print Name)	6120 EDMONDSON AVE. W. 455-2033	
Signature	Address	
Address	CATONSVILLE, MD. 21228	
City and State	Name, address and phone number of legal owner, contract purchaser or representative to be contacted	
10076 COURTNEY DRIVE	Name	
Address	Address	
City and State	Phone No.	
ELLICOTT CITY, MD 21043		
Attorney's Telephone No. 445-5838		

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____ 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____ 19____, at _____ o'clock _____ M.

J. Robert Haines
 Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
 Date 2/13/90
 By J. Robert Haines

90-339-SPH

ZONING DESCRIPTION

Beginning at a point on the east side of Courtney Road which is 50 feet wide at the distance of 550 south of the centerline of the nearest improved intersecting street, Wilkens Avenue, which is 200 feet wide. Being Lots 27 and 28 in Section B in the subdivision of Wilkens Terrace as recorded in Baltimore County Plat Book W. P. C. 7, Folio 173, containing 6800 square feet. Formerly known as 919 Second Avenue and now known as 919 Courtney Road and located in the 13th Election District.

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 (301) 887-3333

J. Robert Haines
 Zoning Commissioner

DATE 2/13/90

Gary L. Browne
 8120 Edmondson Avenue
 Catonsville, Maryland 21228

Re: Petition for Special Hearing
 CASE NUMBER: 90-339-SPH
 E/S Courtney Road, 550' S of c/l of Wilkens Avenue
 919 Courtney Road
 13th Election District - 1st Councilmanic
 Petitioner(s): Gary L. Browne
 HEARING: THURSDAY, MARCH 8, 1990 at 1:00 p.m.

Dennis F. Rasmussen
 County Executive

Dear Petitioners:

Please be advised that \$104.26 is due for advertising and posting of the above captioned property.

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

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

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,
 J. Robert Haines
 ZONING COMMISSIONER

cc: Charles W. Simms, Esq.
 File

NOTE: If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3331 to confirm hearing date.)

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 (301) 887-3333

J. Robert Haines
 Zoning Commissioner

January 23, 1990

NOTICE OF HEARING

Dennis F. Rasmussen
 County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
 CASE NUMBER: 90-339-SPH
 E/S Courtney Road, 550' S of c/l of Wilkens Avenue
 919 Courtney Road
 13th Election District - 1st Councilmanic
 Petitioner(s): Gary L. Browne
 HEARING: THURSDAY, MARCH 8, 1990 at 1:00 p.m.

Special Hearing: Nonconforming use of a two family dwelling.

In the event that this Petition is granted, a building permit may be issued within the thirty day appeal period. The Zoning Commissioner will, however, entertain any request for a permit in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE: If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3331 to confirm hearing date.)

J. Robert Haines
 ZONING COMMISSIONER
 BALTIMORE COUNTY, MARYLAND

cc: Gary L. Browne
 Charles W. Simms, Esq.
 Sue Szilagi
 File

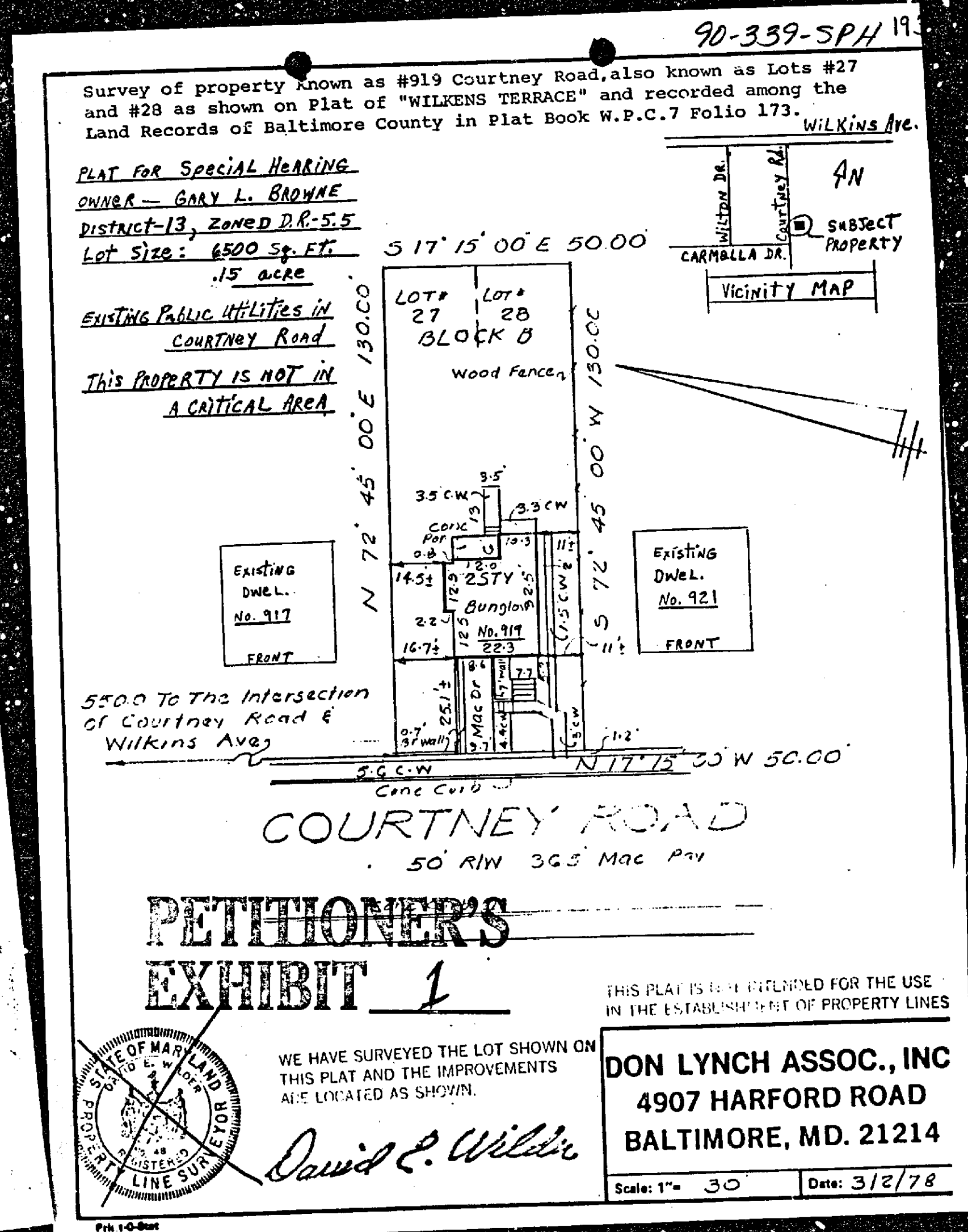
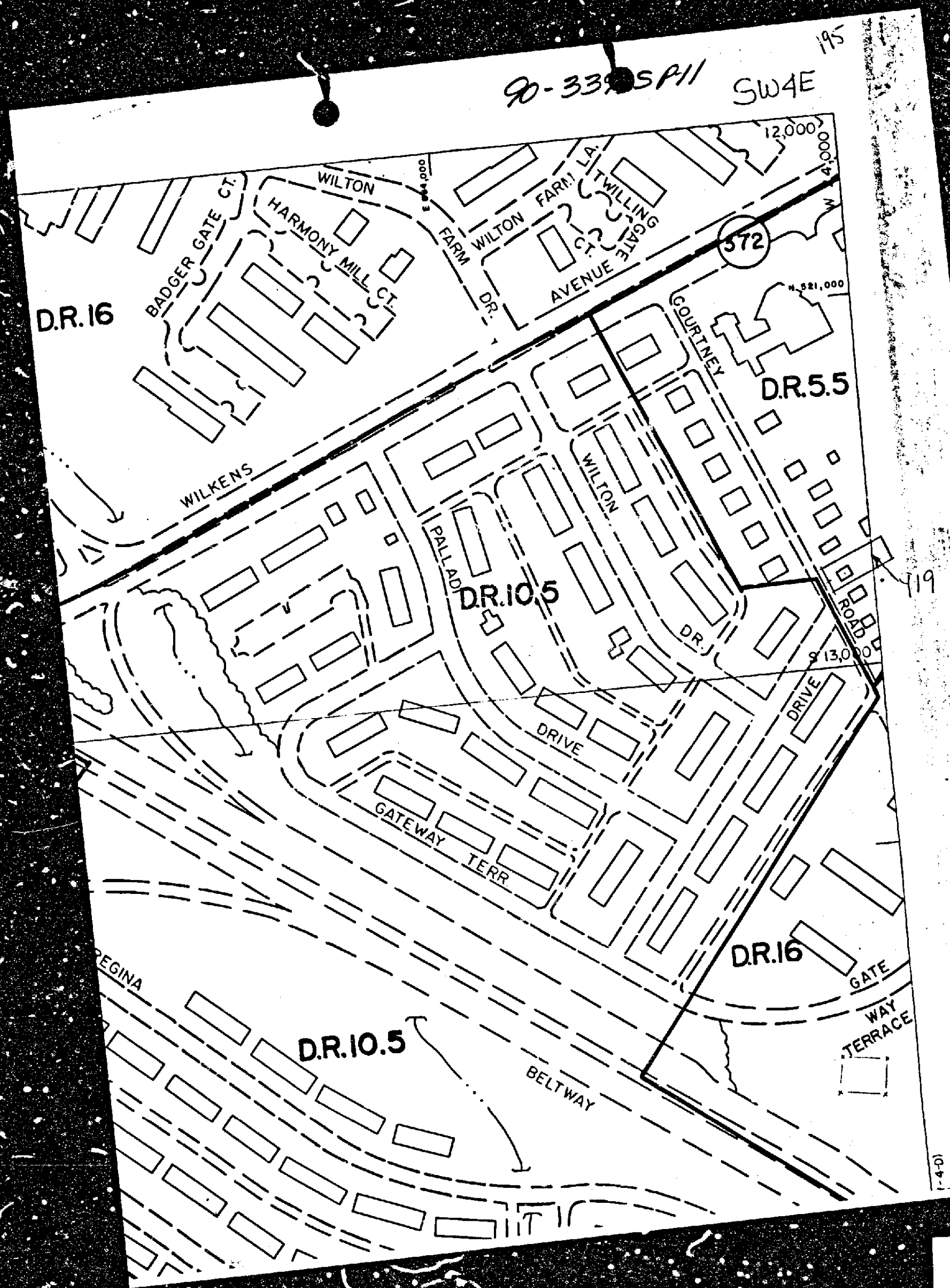
CERTIFICATE OF PUBLICATION

TOWSON, MD., February 8, 1990
 THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Feb 8, 1990.

THE JEFFERSONIAN,

S. Zabe Olson
 Publisher

NOTICE OF HEARING
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 J. Robert Haines
 Zoning Commissioner of Baltimore County
 AUG 122 Feb. 8.



PETITIONER'S EXHIBIT 1

THIS PLAT IS TO BE REFERRED FOR THE USE IN THE ESTABLISHMENT OF PROPERTY LINES

WE HAVE SURVEYED THE LOT SHOWN ON THIS PLAT AND THE IMPROVEMENTS ARE LOCATED AS SHOWN.

David E. Willis

DON LYNCH ASSOC., INC
4907 HARFORD ROAD
BALTIMORE, MD. 21214

Scale: 1" = 30' Date: 3/2/78

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

J. Robert Haines
Zoning Commissioner

March 20, 1990

Mr. Gary L. Browne
6120 Edmondson Avenue
Catonsville, Maryland 21228

RE: Petition for Special Hearing
Case No. 90-339-SPH

Dear Mr. Browne:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mn
cc: Peoples Counsel

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE 90-339-SPH

TO: James Dyer
Zoning Supervisor
Date: December 14, 1989

FROM: James Thompson
Zoning Enforcement Coordinator

Item No.: 195 (if known)

SUBJECT: Petitioner's Browne (if known)

VIOLATION CASE #C-90-1017

LOCATION OF VIOLATION 919 Courtney Road
6120 Edmondson Road

DEFENDANT Gary L. Browne
ADDRESS Baltimore, MD 21228

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
Sue Barigo	921 Courtney Road Baltimore, MD 21227

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE 90-339-SPH

TO: James Dyer
Zoning Supervisor
Date: December 14, 1989

FROM: James Thompson
Zoning Enforcement Coordinator

Item No.: 195 (if known)

SUBJECT: Petitioner's Browne (if known)

VIOLATION CASE #C-90-1017

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6120 Edmondson Road

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Sue Barigo	921 Courtney Road Baltimore, MD 21227

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

J. Robert Haines
Zoning Commissioner

February 20, 1990

Charles W. Simms, Esquire
10076 Century Drive
Ellicott City, MD 21043

RE: Item No. 195, Case No. 90-339-SPH
Petitioner: Gary L. Browne
Petition for Special Hearing

Dear Mr. Simms:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

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

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

cc: Mr. Gary L. Browne
6120 Edmondson Avenue
Catonsville, MD 21228

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

J. Robert Haines
Zoning Commissioner

Your petition has been received and accepted for filing this 27th day of December, 1989.

J. Robert Haines
ROBERT HAINES
ZONING COMMISSIONER

Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Gary L. Browne
Petitioner's Attorney: Charles W. Simms

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: December 20, 1989

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

SUBJECT: Gary L. Browne, Item 195

The Petitioner requests a Special Hearing to establish the non-conforming use of a two-apartment dwelling.

In reference to this request, staff offers no comment.

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

PK/JL/cmm

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3354

January 11, 1990

Dennis F. Rasmussen
County Executive

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

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 191, 192, 194, 195, 196 and 197.

Very truly yours,
Michael S. Flanagan
Michael S. Flanagan,
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
JAN 13 1990
COUNTY OFFICE

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

Paul H. Reinecke
Chief

DECEMBER 29, 1989

Dennis F. Rasmussen
County Executive

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

RE: Property Owner: GARY L. BROWNE
Location: E/S COURTNEY ROAD
Item No.: 195 Zoning Agenda: DECEMBER 26, 1989

Gentlemen:

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

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", 1988 edition prior to occupancy.

REVIEWER: *Capt Wm Bradley* Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

JAN 0 9 1990

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

Account: R-001-6150
Number: 672

receipt

Date: 14 Dec
Item # 195
Special Hearing (Individual Res Lot)
Gary L. Browne
\$ 35.00

151

B 8 827 *****351013 714-F
Please make checks payable to: Baltimore County

Cashier Validation:

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

Account: R-001-6150
Number: 1641

receipt

Date: 3/08/90

PUBLIC HEARINGS FEES
080 - POSTING SIGNS / ADVERTISING 1 x \$104.25
TOTAL: \$104.25

LAST NAME OF OWNER: BROWNE

B 8 893 *****1042513 608-F
Please make checks payable to: Baltimore County

Cashier Validation:

CERTIFICATE OF PUBLICATION

February 8, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on February 7, 1990.

ARBUS TIMES
Publisher

D. F. C.

NOTICE OF HEARING

The Zoning Commission of Baltimore County will hold a public hearing on the proposed Zoning Ordinance at the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204, on the following date and time:

February 8, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on February 7, 1990.

ARBUS TIMES
S. Zebe Orlean
Publisher

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1312
Posted for: Special Hearing
Petitioner: Gary L. Browne
Date of Posting: 2-12-90
Location of property: 616 S of Courtney Road, 500 S of Williams
Address: 616 S of Courtney Road
Location of Sign: 1st part of 919 Courtney Road

Remarks:
Posted by: A. J. [unclear]
Number of Signs: 1
Date of return: 2-16-90