

IN RE: PETITION FOR SPECIAL EXCEPTION
N/S Fusting Avenue, 403' E of
Winters Lane
(350 Fusting Avenue)
1st Election District
1st Councilmanic District
Baltimore Gas & Electric Co.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-117-X

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception filed by the legal owner of the subject property, the Baltimore Gas & Electric Company, by H. D. Coss, Jr., Vice President, and their attorney, Robert A. Hoffman, Esquire. The Petitioner requests approval to use the subject property for the construction and operation of an outdoor electric public utility service center (electric substation) on the subject property, zoned D.R. 5.5, in accordance with Petitioner's Exhibit 1.

Appearing at the public hearing on behalf of the Petition were Martha A. Delea, Esquire, in-house Counsel for Petitioner, and E. J. Schultz, Jr., Planner. Also appearing on behalf of the Petition were Charles T. Lacey, Jr., Professional Engineer; Walter J. Ruppert, Certified General Appraiser; and Bonnie L. Johansen. The Petitioners were represented by Robert A. Hoffman, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 350 Fusting Avenue, consists of 7.287 acres, more or less, zoned D.R. 5.5 and is presently unimproved. The Petitioner is desirous of constructing and operating an electric substation on 3.614 acres of the subject site as shown on Petitioner's Exhibit 1. The proffered testimony indicated that the proposed project is necessary to meet increased service demands in the

Catonsville area, which is currently served by a substation on Frederick Road and another in Baltimore City. Charles Lacey testified concerning the proposed improvements to the site and indicated that this project will be constructed in two phases. Phase I will be constructed upon approval of the instant Petition. Phase II is planned for completion in the year 2002. Testimony indicated that compliance with all special exception requirements will be met and that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

In addition to satisfying the special exception standards set forth in Section 502.1 of the B.C.Z.R., the Petitioner must also comply with Sections 411.1 and 411.2 of the B.C.Z.R. In this regard, it is clear from the testimony that the relief requested is necessary to meet increased service demands in the Catonsville area. Testimony presented was that this community may suffer power shortages in the future if the substation is not installed. Further testimony indicated that the design and nature of the facility will be compatible with the surrounding residential uses. To achieve this compatibility, the Petitioner intends to leave much of the natural landscape undisturbed so as to create a buffer from the surrounding residential community.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

It is also noted that the two phases of the proposed project will take several years to complete and therefore, an extension of the period allowed for utilization of the special exception is necessary. Therefore, I shall also permit the Petitioners five (5) years from the date of this Order in which to utilize the special exception granted, further holding that construction of any of the proposed improvements on the subject site during this 5-year period shall constitute a utilization of the special exception granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of December, 1992 that the Petition for Special Exception to permit the construction and operation of an outdoor electric public utility service center (electric substation) on the subject property, zoned D.R. 5.5, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The special exception granted herein must be utilized within five (5) years of the date of this Order. Commencement of construction of any of the proposed improvements shown on Petitioner's Exhibit 1 shall be considered utilization of the special exception granted.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

December 1, 1992

(410) 887-4386

Robert A. Hoffman, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION
N/S Fusting Avenue, 403' E of Winters Lane
(350 Fusting Avenue)
1st Election District - 1st Councilmanic District
Baltimore Gas and Electric Company - Petitioners
Case No. 93-117-X

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: People's Counsel
file

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

93-117-X

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 Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for the construction and operation of an outdoor electric public utility service center (electric substation) in a Residential Zone (DR 5.5).

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

I, or we, agree to pay expenses of above Special Exception 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/Lessee:

N/A

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Robert A. Hoffman, Esquire

(Type or Print Name)

Signature

Address

City and State

Telephone No.:

494-9292

Legal Owner(s):

Baltimore Gas and Electric Company

(Type or Print Name)

By: [Signature]

Signature

(Type or Print Name)

Signature

Address

City and State

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

Martha A. Delea, Esquire

Name

Baltimore Gas and Electric Company

P. O. Box 1675

Baltimore, MD 21203

Phone No.

724-5687

OFFICE USE ONLY

RECEIVED DATE OF HEARING

DATE 10/1/92



Frederick Ward Associates, Inc.
ENGINEERS - ARCHITECTS - SURVEYORS

93-117-X

BEGINNING for the same at a point in the center of Fusting Avenue (30 feet wide), a distance 403 feet more or less easterly from the northeast line of Winters Lane (30 feet wide). Thence leaving said road

- 1) North 09°40'43" East 56.31 feet,
- 2) North 29°06'41" West 580.22 feet,
- 3) North 66°00'01" East 245.96 feet to a concrete monument,
- 4) South 29°06'41" East 652.89 feet to a spike in the center of Fusting Avenue. Thence binding along said road,
- 5) South 72°23'02" West 218.03 feet,
- 6) South 67°05'54" West 67.00 feet to the beginning.



FOR ZONING PURPOSES ONLY

5 South Main Street • P.O. Box 727 • Bal. Md. 21204 • (410) 887-7700 / 879-3070 • Fax (410) 887-4300
117 North Street • P.O. Box 610 • Bal. Md. 21202 • (410) 278-3333 • Fax (410) 278-0776

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

93-117-X

District: 13+ Date of Posting: 11/24/92
Posted for: Special Exception
Petitioner: Baltimore Gas & Electric Co.
Location of property: N/S Fusting Ave. 403' E of Winters Lane
Location of Sign: Posting per sign on property to remain, at gate - g. entrance
Remarks: _____
Posted by: [Signature] Date of return: 11/30/92
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 10/22, 19 92

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 10/22, 19 92

THE JEFFERSONIAN,

S. Zafar Khan
Publisher

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-4150
Number

Date: **PAID PER HAND WRITTEN RECEIPT DATED 10/8/92**

10/06/92 H9300124

PUBLIC HEARING FEES	QTY	PRICE
050 -SPECIAL EXCEPTION	1 X	\$300.00
		TOTAL: \$300.00

LAST NAME OF OWNER: B.G.S.E.

93-117-X 124

Please Make Checks Payable To: Baltimore County

Cashier Validation



93-117-X

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-4150
Number

Date: **93-117 11/16/92 HEARING**

PUBLIC HEARING FEES	QTY	PRICE
050 -SPECIAL EXCEPTION	1 X	\$300.00
		TOTAL: \$300.00

LAST NAME OF OWNER: B.G.S.E.

93-117-X

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: **11-2-92**

Baltimore Gas & Electric Company
P. O. Box 1475
Baltimore, Maryland 21203

ATTN: MARTHA A. DELER, ESQ.

RE:
CASE NUMBER: 93-117-X (Item 124)
N/S Paving Avenue, 403' S of Winters Lane
1st Election District - 1st Councilmember
Petitioner(s): Baltimore Gas and Electric Company
HEARING: MONDAY, NOVEMBER 16, 1992 at 2:00 p.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$ **65.50** is due for advertising and posting of the above captioned property and hearing date.

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

PLEASE FORWARD YOUR CHECK VIA RETURN MAIL to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Arnold Jablon
DIRECTOR

cc: Robert A. Hoffman, Esq.

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: **10/15/92**

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-117-X (Item 124)
N/S Paving Avenue, 403' S of Winters Lane
1st Election District - 1st Councilmember
Petitioner(s): Baltimore Gas and Electric Company
HEARING: MONDAY, NOVEMBER 16, 1992 at 2:00 p.m. in Rm. 118, Old Courthouse.

Special Exception for the construction and operation of an outdoor electric public utility service center (electric substation).

Lawrence E. Schmidt
Zoning Commissioner of Baltimore County

cc: Baltimore Gas & Electric Company/Martha A. Deler, Esq.
Robert A. Hoffman, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

November 2, 1992

Robert A. Hoffman, Esquire
210 Allegheny Avenue
Towson, MD 21204

RE: Item No. 124, Case No. 93-117-X
Petitioner: Baltimore Gas & Electric Company, et al
Petition for Special Exception

Dear Mr. Hoffman:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this 6th day of October, 1992.

Arnold Jablon
DIRECTOR

Received By:
W. Carl Richards Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Baltimore Gas & Electric Company, et al
Petitioner's Attorney: Robert A. Hoffman

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BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: October 26, 1992
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Division

RE: Zoning Advisory Committee Meeting
for October 26, 1992
Item No. 124

The Developers Engineering Division has reviewed the subject zoning item. This site is subject to the Landscape Manual requirements including having an approved landscape plan prior to building permit approval. The landscaping shown on this plan is insufficient.

RWB:DAK:s

Rec'd 10/20/92

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: +124 (JUL)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact David Ramsey at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
David A. Ramsey 10/19/92
John Contestabile, Chief
Engineering Access Permits
Division

Rec'd 10/20/92

My telephone number is _____

389-7866 Baltimore Metro - 888-5451 D.C. Metro - 1-800-495-5982 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-8717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: October 20, 1992

FROM: Ervin Mc Daniel, Chief
Office of Planning and Zoning
Development Review Section

SUBJECT: Petitions from Zoning Advisory Committee
(October 20, 1992)

The Office of Planning and Zoning has no comments on the following petition(s):

Baltimore Gas & Electric Company, Item No. 124
The Boy's School of St Paul's Parish, Item No. 125
Melvin and Debbie Kramer, Item No 126
John and Elaine Baker, Item No 127

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

Prepared by: Francis Morsey

Division Chief: Ervin M Daniel

EMCD/FM:rdn

124567.ZAC/ZAC1

DPW/Traffic Engineering
Development Review Committee Response For
Authorized signature Robert J. Family 10/20/92
Date 10/20/92

File Number	Project Name	Waiver Number	Zoning Issue	Meeting Date
✓	April L. and Wayne M. Rother		118	10-19-92
DED DEPRM RP STP TE	York Stevenson Limited Partnership		121	
DED DEPRM RP STP TE	Cheryl Cronin		122	
DED DEPRM RP STP TE	Operating engineers Local No. 37		123	
DED DEPRM RP STP TE	Baltimore Gas And Electric Company		124	
DED DEPRM RP STP TE	St Paul's Boy's and Girls school of St. Paul's Parish		125	
DED DEPRM RP STP TE	Melvin N. and Debbie G. Kramer		126	
DED DEPRM RP STP TE	John Henry and Elaine Eleanor Baker		127	
DED DEPRM RP STP TE	Lewis Brooks Ramsey		128	

COUNT 9

Stonegate at Patapsco (Azeal Property)
90476
ZON DED TE (Waiting for developer to submit plans first) 6-1-92

COUNT 1

FINAL TOTALS
COUNT 10

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21204-5500

OCTOBER 16, 1992

(410) 887-4500

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

RE: Property Owner: BALTIMORE GAS AND ELECTRIC COMPANY

Location: N/S FUSTING AVENUE

Item No.: +124 (JLL) Zoning Agenda: OCTOBER 19, 1992

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. Henry G. Jones
Planning Group
Special Inspection Division

JP/KEK

Rec'd 10/16/92

93-117-X 11-16-92

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

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

DATE: November 2, 1992

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #124
N/S Fusting Avenue, 403' E of Winters Lane
Zoning Advisory Committee Meeting of October 19, 1992

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

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

The proposed development site is entirely uplands. If the adjacent site is developed in the future, the above-referenced Regulations will apply.

LP:sp

FUSTING/TXTSPB

Rec'd 11/10/92

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Rob Hoffman	26 Allegheny Ave 21204
E. J. Schmitt Jr.	P.O. Box 1475 Baltimore, MD 21203
Martha Decker	700 Box 1475 Baltimore, MD 21203
Walter J. Ruppert	5230 Everside Dr. St. 130 Balto 21208
Chuck J. Young	15 North Street G. Catonsville MD 21040
Bonnie L. Andersen	3813 Cedarbrooke Pl. Balto MD 21236

Real Property Consultants, Inc.

QUALIFICATIONS

Walter J. Ruppert
Certified General Appraiser #04-2258

EDUCATION - University of Maryland, College of Business Administration (2 years)
Graduate of McDonogh School, Baltimore, Maryland

CERTIFICATION - Certified General Real Estate Appraiser #04-2258

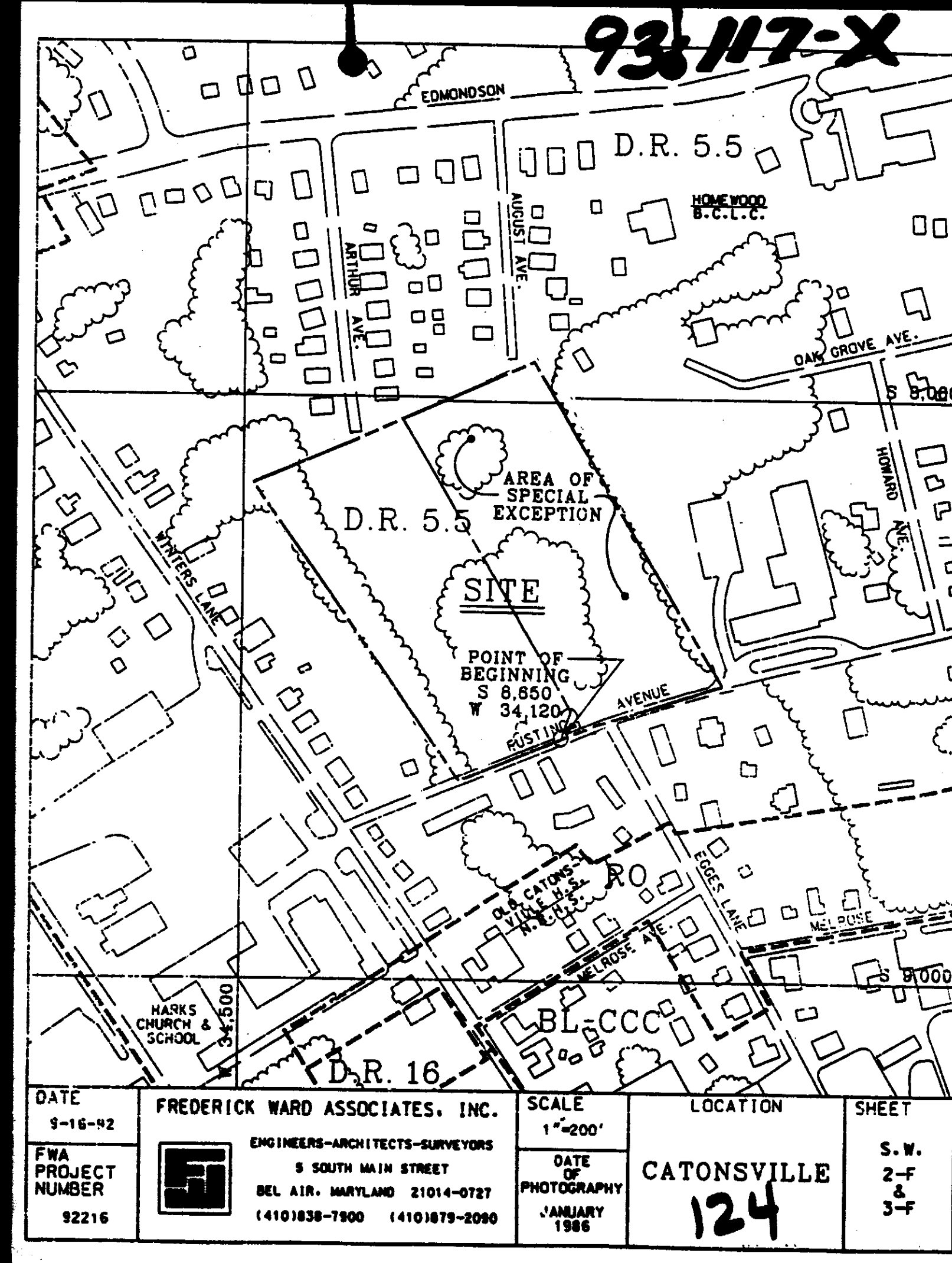
CONTINUING EDUCATION - Course 101 - "Introduction to Appraising Real Property", Society of Real Estate Appraisers, 1980
Course 102 - "Applied Residential Property Valuation", Society of Real Estate Appraisers, 1986
USPAP Ethics Course, 1991
Principles of Capitalization, Appraisal Institute, 1991
Seminars, conventions, study courses, etc.

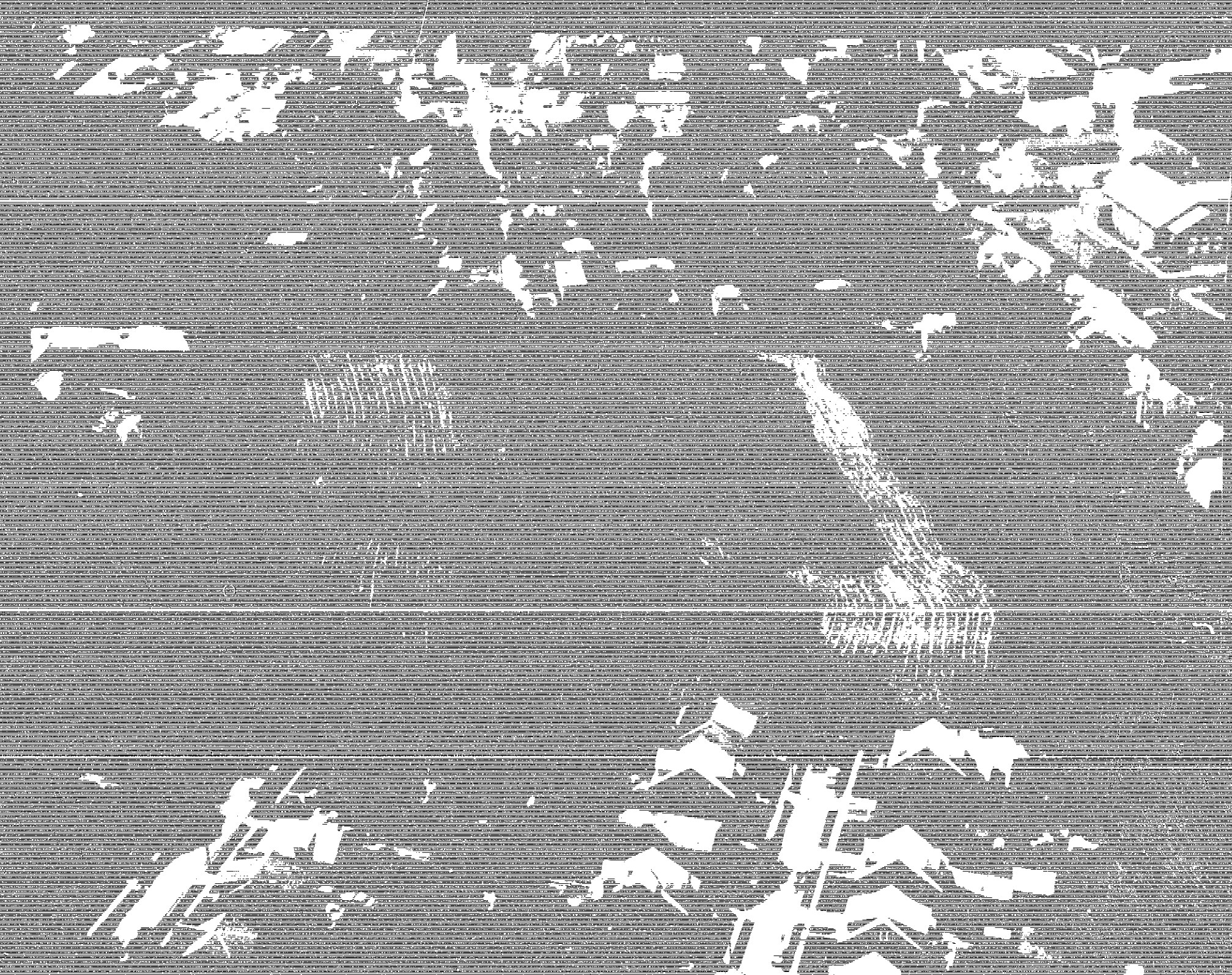
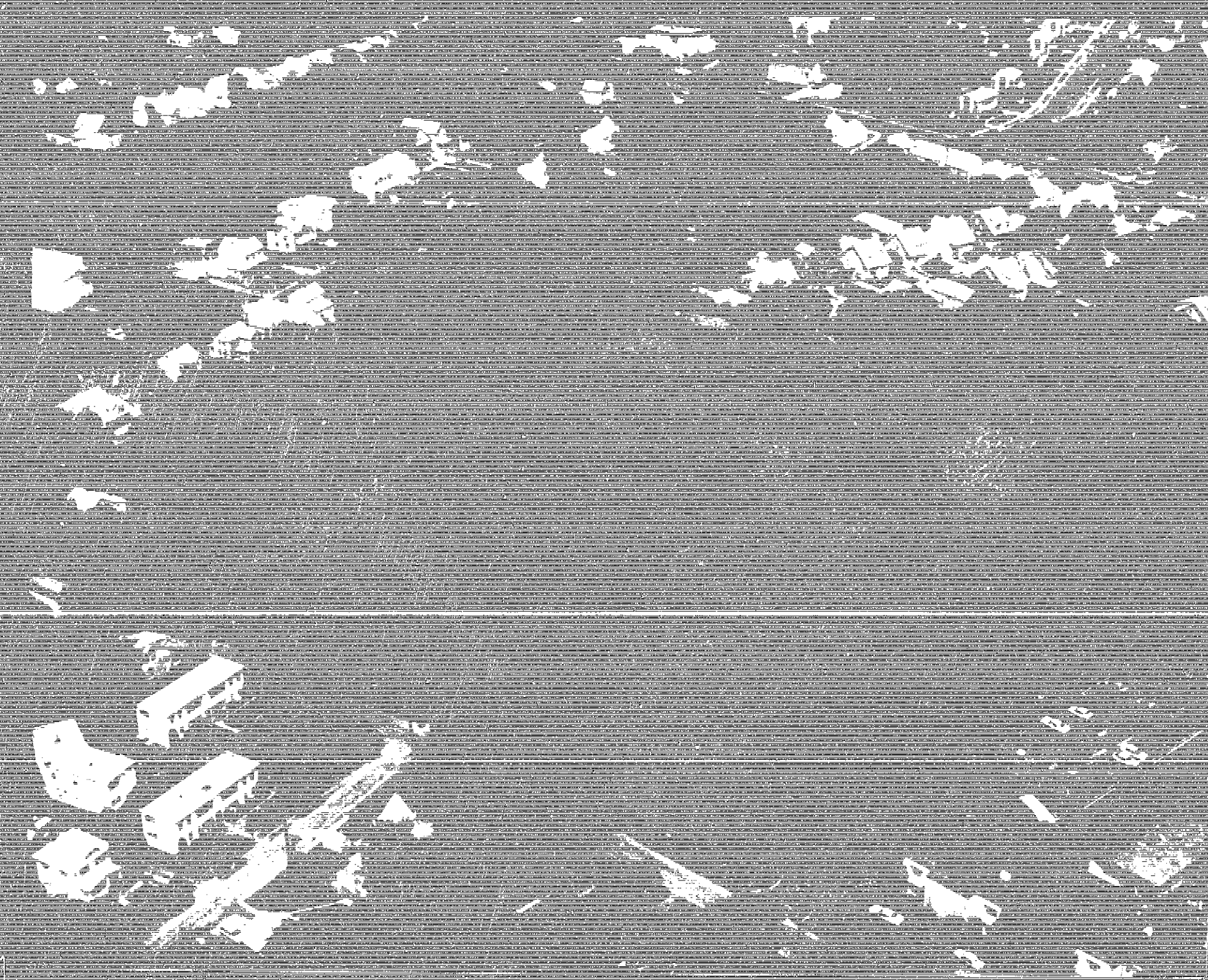
EXPERIENCE - Associated with Real Property Consultants Inc. since 1979. Actively engaged in the sale, rental and appraisal of real estate within the Greater Baltimore metropolitan area since 1966.

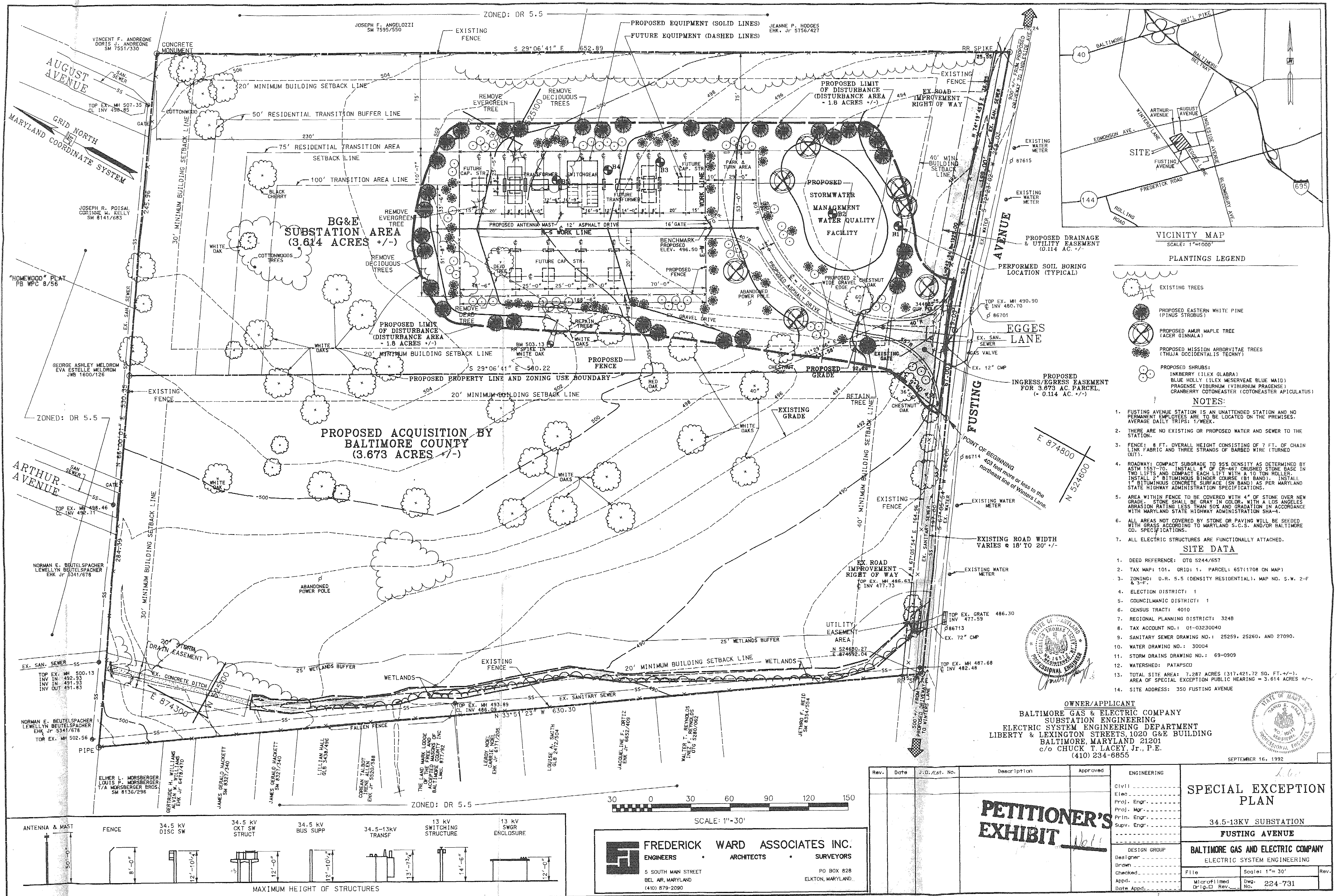
CERTIFICATION - Member - National Association of Realtors
Member - Maryland Association of Realtors
Member - Greater Baltimore Board of Realtors
Licensed Maryland real estate agent since 1966
Licensed Maryland real estate broker since 1977

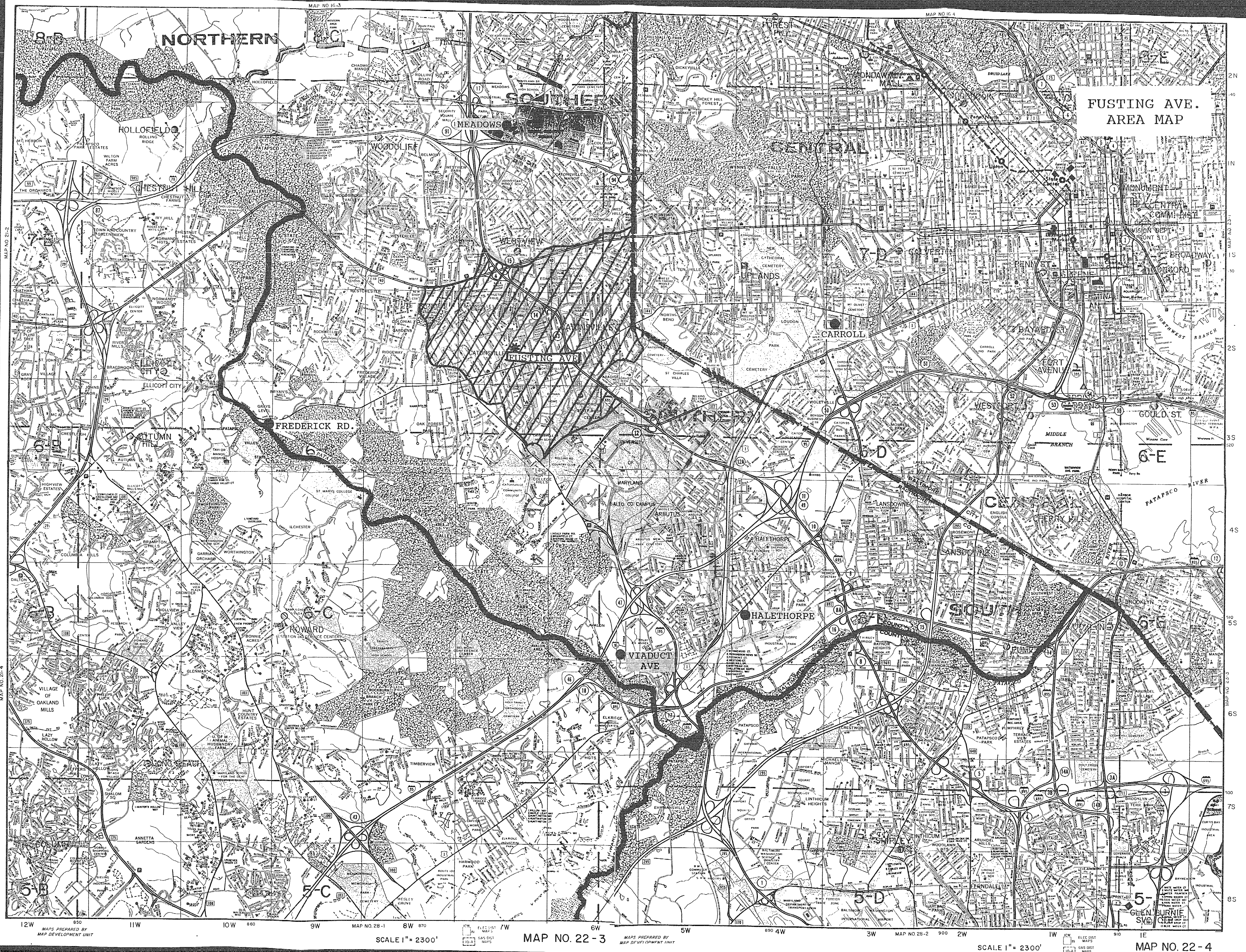
CLIENTS - Reisterstown Federal Savings Bank
Chesapeake Federal Savings & Loan Assn.
Commercial & Farmers Bank
Baltimore Savings & Loan Assn.
Fairview Federal Savings & Loan Assn.
Key Federal Savings Bank
State Highway Administration
Department of General Services, Real Estate Division
Baltimore County Office of Law

PETITIONER'S
EXHIBIT No 3









FUSTING AVE.
AREA MAP