

IN RE: PETITION FOR ZONING VARIANCE  
W/S of Blake Court, 602.31' W  
of the c/l of Tarragon Road  
(24 Blake Court); and W/S of  
Tarragon Road, 195' S of the  
c/l of Blake Court  
(13036 Tarragon Road)  
4th Election District  
3rd Councilmanic District  
Berryman's Joint Venture  
Petitioners

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 90-263-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a building to tract boundary setback of 25 feet in lieu of the required 30 feet for Lot 16, also known as 24 Blake Court, side yard setbacks of 0 feet and 10 feet in lieu of the required 50 feet for Lot 26, also known as 13036 Tarragon Road, and to amend accordingly the Final Development Plan of Berryman's Hollow, Section 2, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Jay Weiss, on behalf of the Ashley Group, and Janet Strauss, on behalf of Diversified Homes, Builders. The following individuals appeared as Protestants: Jerre S. Diener, David A. Aaron, and Mark A. Sibel, all nearby residents.

Testimony indicated that the instant Petition contains two variance requests. The first request is for Lot 16, or 24 Blake Court, which consists of 11,683 sq.ft., zoned D.R. 3.5 and is proposed to be developed with a single family dwelling. Petitioner testified the plans call for the dwelling to be situated rectangularly on Lot 16, more or less facing the side yard of adjoining Lot 17, but running lengthwise parallel to the property on the other side, Lot 15, as more clearly set forth in Petitioner's Exhibit 1. Testimony indicated that the Protestants, who appeared in

opposition to the plans proposed for Lot 16 only, do not object to the property being developed, but are opposed to the proposed placement of the dwelling. The Protestants are desirous of the dwelling being situated on the property so close to face Blake Court as much as possible, rather than facing Lot 15. Mr. Weiss testified that the proposed dwelling is 45 feet wide and will not fit the building envelope in a manner that will allow it to face Blake Court. Therefore, Petitioners have requested a tract boundary variance of 10 feet on the south side of the lot in order to construct the home more favorably to the Protestants. Testimony indicated that the Petitioners and the Protestants agreed to the tract boundary variance.

Testimony concerning Lot 26, or 13036 Tarragon Road, indicated that the subject property consists of 12,631 sq.ft. zoned D.R. 3.5 and is proposed to be developed with a single family dwelling. Mr. Weiss testified that Lot 26 is proposed to be developed with a 54-foot wide dwelling which will run from the south property line, which is adjacent to local open space, up to 10 feet away from the adjoining property, Lot 25, which is currently unimproved.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances requested for Lot 16 are granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare. It is also clear that if a variance is granted for Lot 26, as hereinafter modified, the relief requested will not result in any harm to the surrounding community. In the opinion of the Zoning Commissioner, the 45-foot wide dwelling proposed for Lot 16 could just as easily be constructed on Lot 26. The 54-foot wide dwelling proposed for Lot 26 is an overdevelopment of the property and would not be within the spirit and intent of the zoning regulations. It is clear that all the other properties depicted in Petitioner's Exhibit 1 have substantial side yards. It is equally clear that the requested variance is necessary for Petitioners to build an oversized dwelling. The lesser relief granted will permit the development of the subject property consistent with other homes in the neighborhood which will maintain the spirit and intent of the regulations and bring harmony to the community.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested, as hereinafter modified, should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 19th day of January, 1990 that the Petition for Zoning Variance to permit a building to tract boundary setback of 25 feet

in lieu of the required 30 feet for Lot 16, or 24 Blake Court, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance to permit a side yard setback of 10 feet from the north property line, and a side yard setback of 6 feet from the south property line abutting the local open space, both in lieu of the required 50 feet, for Lot 26, or 13036 Tarragon Road, be and is hereby GRANTED; and,

IT IS FURTHER that a variance to amend the Final Development Plan of Berryman's Hollow, Section 2, in accordance with the relief granted herein, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the relief granted herein is subject to the following restrictions which are conditions precedent to the relief granted:

- 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) Compliance with the requirements set forth in the comments submitted by the Office of Planning dated December 15, 1989, attached hereto and made a part hereof.
- 3) Prior to the issuance of any permits, Petitioners shall submit for approval by the Baltimore County Landscape Planner a landscaping plan which, at a minimum, incorporates the requirements set forth in the Office of Planning comments dated December 15, 1989 and attached hereto.

J. Robert Haines  
Zoning Commissioner  
for Baltimore County

JRH:bjs

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3363  
J. Robert Haines  
Zoning Commissioner

Mr. Allan Klatsky  
Mr. Jay Weiss  
Ashley Group  
3655-A Old Court Road  
Baltimore, Maryland 21208

RE: PETITION FOR ZONING VARIANCE  
Lots 16 and 26 of Berryman's Hollow  
(24 Blake Court, and 13036 Tarragon Road)  
4th Election District - 3rd Councilmanic District  
Berryman's Joint Venture - Petitioners  
Case No. 90-263-A

Dear Messrs. Klatsky & Weiss:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance 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 887-3391.

Very truly yours,

J. Robert Haines  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: Mr. Jerre S. Diener  
20 Blake Court, Reisterstown, Md. 21136  
Mr. David A. Aaron  
22 Blake Court, Reisterstown, Md. 21136  
Mr. Mark A. Sibel  
15 Blake Court, Reisterstown, Md. 21136  
People's Counsel  
File

#### PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto, hereby petition for a Variance from Section 504, V.B. 5.5, (CHDP) TO PERMIT A 25 FT. BUILDING TO TRACT BOUNDARY SETBACK IN LIEU OF THE REQUIRED 30 FT. FOR LOT 16 AND TO AMEND THE FINAL DEVELOPMENT PLAN OF BERRYMAN'S HOLLOW, SECTION 2 TO PERMIT THE AFOREMENTIONED CHANGE AND TO ALLOW A 10' AND 0' SIDE SETBACK FOR LOT 26.

THE AFOREMENTIONED CHANGE AND TO ALLOW A 10' AND 0' SIDE SETBACK FOR LOT 26. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate in which or which practical difficulty)

1. BUILDING AREA TOO SMALL
2. CANNOT SELL LOTS, BUYERS WOULD LIKE LARGER HOUSE FOR RESALE VALUE
3. TO KEEP UP WITH NEIGHBORS-SIZE OF HOUSES WOULD BE TOO SMALL

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

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree 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:  
(Type or Print Name)  
Signature  
Address  
City and State  
Attorney for Petitioner:  
VENABLE, BARTJER AND HOWARD  
(Type or Print Name)  
Signature  
Address  
City and State  
Attorney's Telephone No.: 823/4111  
Name  
Address  
City and State  
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of January, 1990.

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 held before the Zoning Commission of Baltimore County in Room 104, County Office Building in Towson, Baltimore County, on the 2nd day of Jan. 1990 at 9:30 o'clock.

County, on the 2nd day of Jan. 1990.

J. Robert Haines  
Zoning Commissioner of Baltimore County

FILED BY J.L.L. 1/19/90  
ANYTIME OF DAY  
5 HR. HAND TIME.

Columbia Office  
Walter Park  
Registered Surveyor  
Phone 730-8000

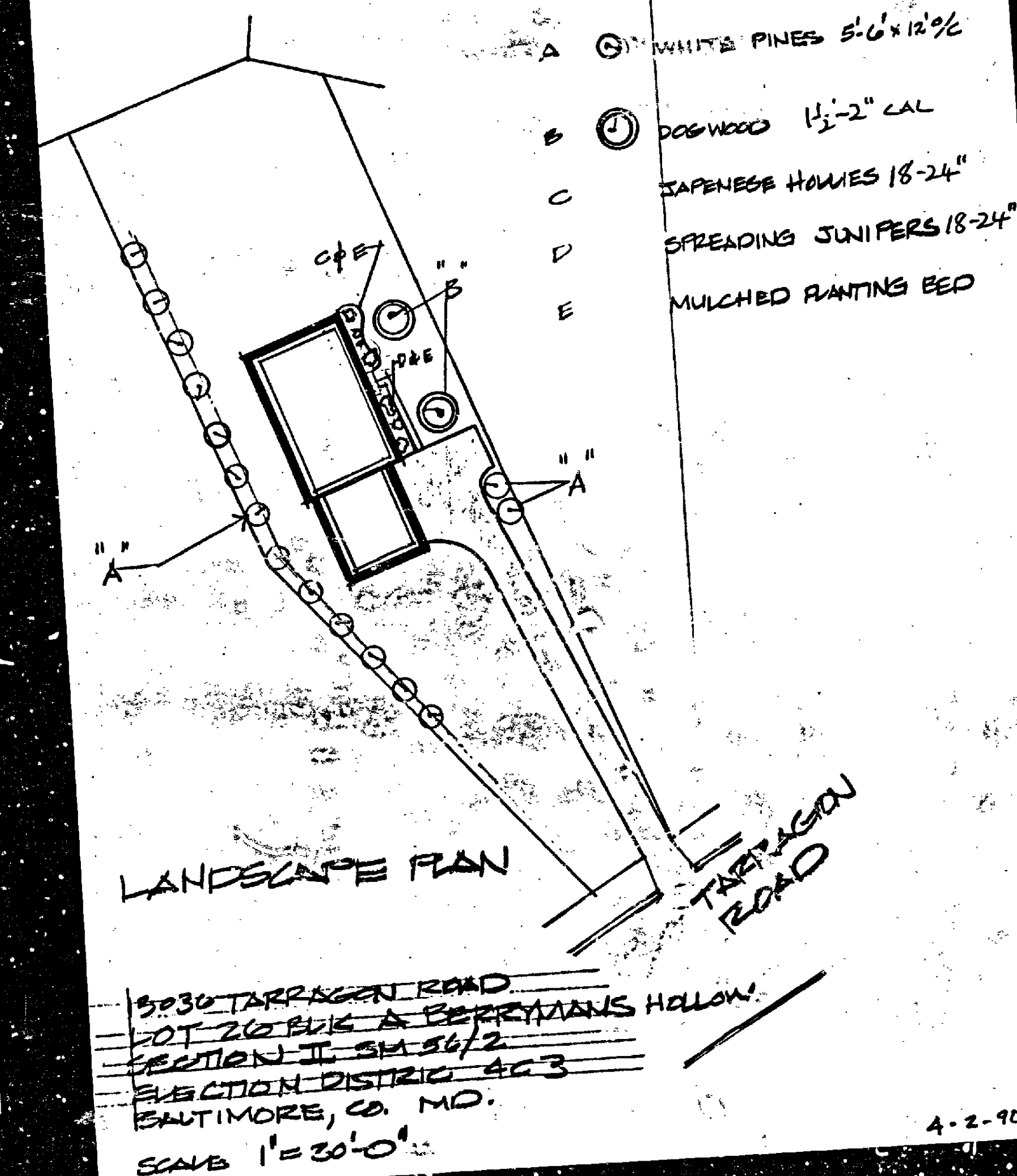
M. DEVELOPMENT ENGINEERS, INC. #126  
200 EAST JOFFA ROAD  
ROOM 101, SHELL BUILDING  
TOWSON, MARYLAND 21204  
OCTOBER 5, 1989

ZONING DESCRIPTION  
LOT 16

Beginning at a point on the west side of Blake Court which is 100 feet wide at the distance of 602.31 feet west of the centerline of Tarragon Road which is 60 feet wide. Beign lot 16, Block "A", Section Two in the subdivision of Berryman's Hollow as recorded in Baltimore County, Plat Book S.M. No. 56, Folio 2, containing 11,683 square feet or 0.268 of an acre, more or less. Also known as No. 24 Blake Court and located in the fourth Election District.



Malcolm E. Hudkins  
Registered Surveyor #5095



4-2-90

BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
SIGNATURE AND CERTIFICATION BLOCK

1. I certify that this Final Landscape Plan meets all requirements (check where appropriate):

☐ - Baltimore County Landscape Manual  
☒ - Office of Planning Zoning CRG or Waiver No. 90-263-A  
☒ - Special Exception/Hearing/Variance No. N/A  
☒ - Rezoning, Documented Site Plan No. N/A

Landscape Architect's Signature: [Signature] L.A.'s Name (please print): ALLAN ACKERMAN

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

2. "I certify that I have reviewed this Final Landscape Plan, that I am aware of the regulations printed in the Baltimore County Landscape Manual, and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to implement this plan and certify to Baltimore County its implementation within one year of approval."

Owner's Signature: [Signature] Date: \_\_\_\_\_ Owner's Name (please print): ONE RESERVOIR CHURCH  
 Address: BALTIMORE MD 21208 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3. REVIEWED BY: [Signature]

BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
LANDSCAPE PLAN APPROVED

[Signature]  
Date: 4-16-90

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., December 7, 1989

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 Dec 7, 1989.

THE JEFFERSONIAN,  
S. Zebe Olson  
Publisher

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

Robert Haines  
Zoning Commissioner

November 9, 1989

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 119, 120, 121, 122, 123, 124, 125, 126, and 127.

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

MSF/lab

Received By: [Signature]  
J. Robert Haines  
ZONING COMMISSIONER

Petitioner: Berryman's Joint Venture, et al  
Petitioner's Attorney: Venable, Baetjer and Howard

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner  
FROM: Pat Keller, Deputy Director, Office of Planning and Zoning  
SUBJECT: Berryman's Joint Venture, Item 126  
Zoning Petition No. 90-263A

DATE: December 15, 1989

The Petitioner requests side yard setback variances and amendments to the final development plan for two unimproved lots in the "Berryman's Hollow" subdivision.

In reference to this request, staff offers the following comments:

The subdivision received CRG approval on March 7, 1985 (File No. IV-247). The approved CRG plan indicated typical dwellings that could be constructed on each lot which met the provided setbacks (see attachments). Proposed dwellings should be indicated on the subject lots in order to justify that any setback other than economics or preference exists.

This office has no objection to the requested tract boundary setback request for a non-windowed wall on Lot 16. In reference to the plan amendments for Lot 26, the distance between dwellings on Lots 26 and 25 is less than the minimum setback. This office strongly encourages an encroachment of private use onto the public land. We recommend a minimum setback of six feet and the provision of landscape screening between the deficient setback and the Local Open Space.

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.

JK/JL/cmm

**CERTIFICATE OF POSTING** 90-263-A  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 4 Date of Posting: December 15, 1989

Posted for: Variance

Petitioner: Berryman's Joint Venture

Location of property: Lots 16 and 26, Berryman's Hollow

Location of signs: 1 sign in front of Lot 16 and 1 sign in front of Lot 26

Remarks: [Signature] Date of return: December 15, 1989

Number of signs: 2

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

J. Robert Haines  
Zoning Commissioner

DATE: \_\_\_\_\_

Berryman's Joint Venture  
c/o Bailey Group  
3655A Old Court Road  
Baltimore, Maryland 21208

ATTN: ALLAN ELATSET

Re: Petition for Zoning Variance  
CASE NUMBER: 90-263-A  
Lots 16 and 26 of Berryman's Hollow  
13036 Tarragon Road and 24 Blake Court  
4th Election District - 3rd Councilmanic  
District (CD); Berryman's Joint Venture  
HEARING SCHEDULED: TUESDAY, JANUARY 2, 1990 at 9:30 a.m.

**receipt**

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

Account: 8-001-6150  
No. 758  
70-263-A

Date: 1-2-90

12/12/89

PUBLIC HEARING FEES: QTY PRICE  
060 - POSTING SIGNS / ADVERTISING: 1 X \$154.81  
TOTAL: \$154.81

LAST NAME OF OWNER: BERRYMAN'S JOINT

Baltimore County  
Fire Department  
800 York Road  
Towson, Maryland 21204-2585  
(301) 887-4500

Paul H. Reincke  
Chief

OCTOBER 20, 1989

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

RE: Property Owner: BERRYMAN'S JOINT VENTURE  
Location: LOTS 16 AND 26 OF BERRYMAN'S HOLLOW  
Item No.: 126  
Gentlemen: Zoning Agenda: OCTOBER 17, 1989

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

REVIEWER: [Signature] Noted and  
Planning Group Approved  
Special Inspection Division Fire Prevention Bureau

JK/MEK

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., December 7, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 7, 1989.

TOWSON TIMES,  
S. Zebe Olson  
Publisher

PROTESTANT(S) SIGN-IN SHEET

NAME ADDRESS

David R. Aaron 80 BLAKE COURT 21136

MARK A. Stibel 22 BLAKE COURT (LOT 15) 21136

15 BLAKE COURT (LOT 17) 21136

April 19, 1990

Baltimore County Permits & Licenses  
11 W. Chesapeake Avenue  
Mail Stop 1012  
Towson, Maryland 21204

RE: Building Permit #B045625  
Variance Case # 90-263-A

To whom it may concern:

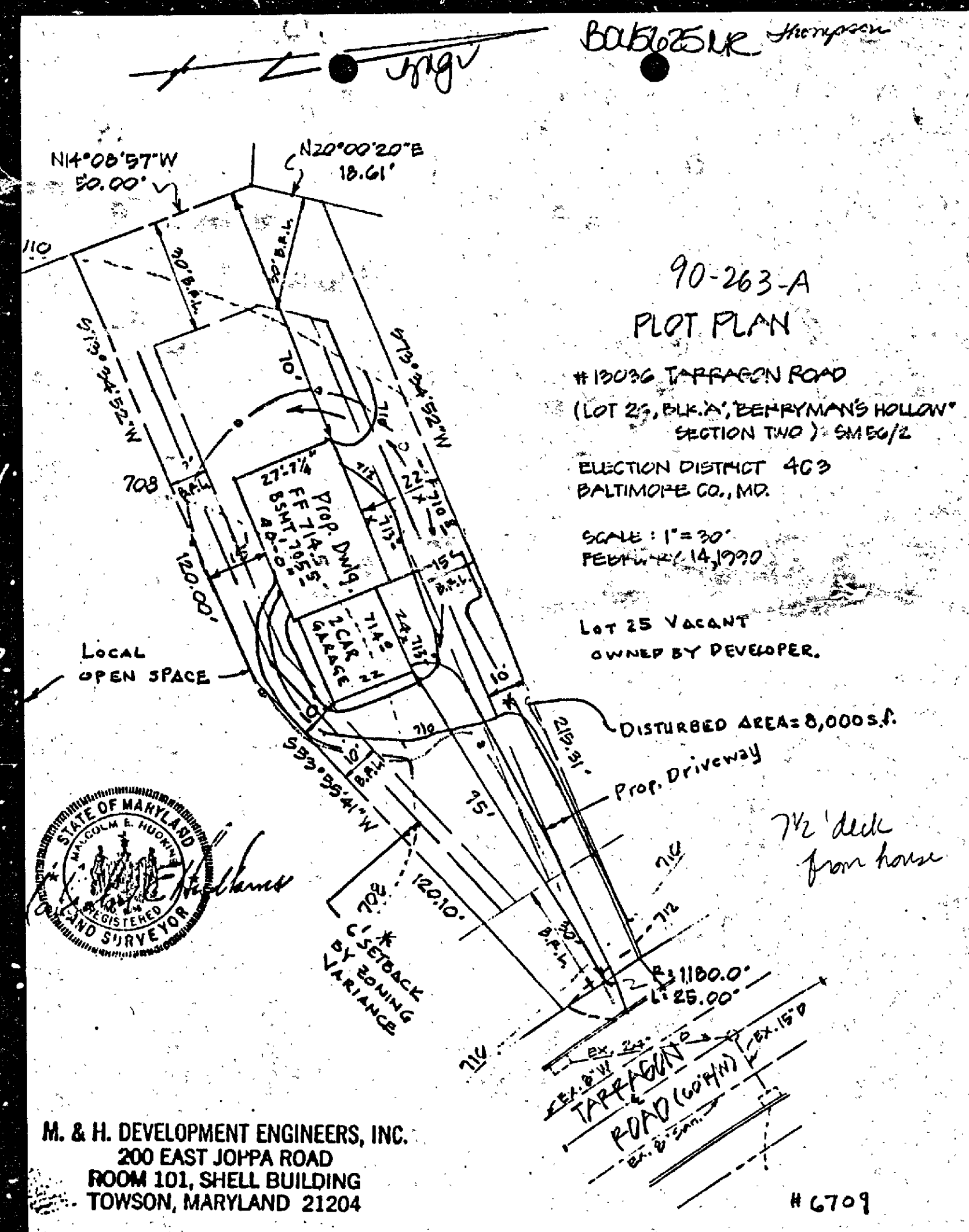
We have decided to abandon the variance in Case # 90-263-A granted on January 19, 1990. We have submitted a revised site plan according to the original requirements of the Berryman's Hollow Section 2-FDP.

Sincerely,  
Alan Klatsky  
Alan Klatsky

AK/et

Letter per 1/24/90

CUSTOM BUILDERS AND DEVELOPERS  
One Reservoir Circle, Suite 100, Baltimore, Maryland 21208 Telephone (301) 486-1366



BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
SIGNATURE AND CERTIFICATION BLOCK

1. I certify that this Final Landscape Plan meets all requirements (check where appropriate):

- ☐ - Baltimore County Landscape Manual  
☐ - Office of Planning Zoning CRG or Waiver No. 90-263-A  
☐ - Special Exception/Hearing/Variance No. 90-263-A  
☐ - Rezoning, Documented Site Plan No.

Landscape/Architect's Signature L.A.'s Name (please print)

Address City State Zip Phone

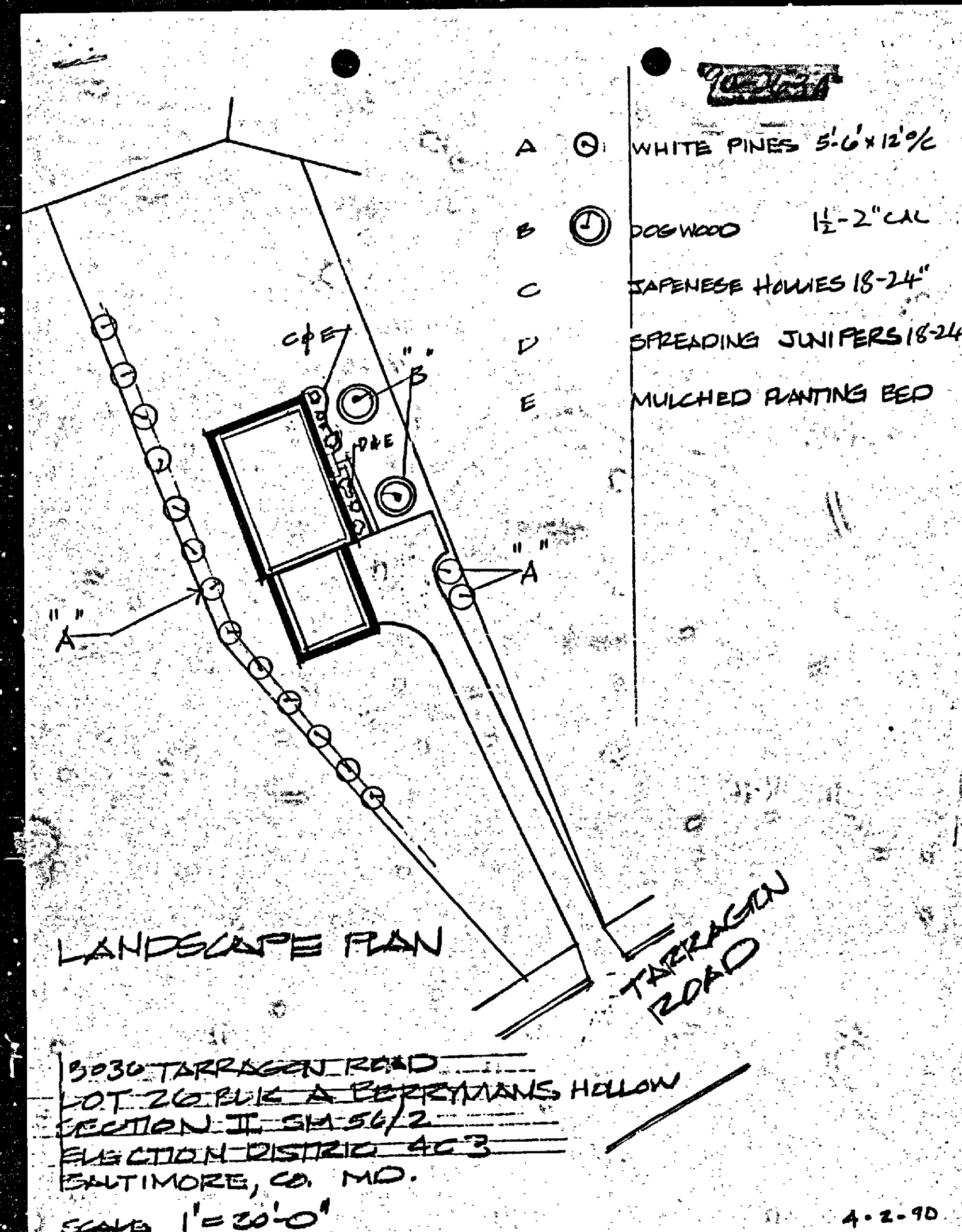
2. "I certify that I have reviewed this Final Landscape Plan, that I am aware of the regulations presented in the Baltimore County Landscape Manual, and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to implement this plan and certify to Baltimore County its implementation within one year of approval."

Owner's Signature Date Owner's Name (please print)

ONE RESERVOIR CIRCLE BALTIMORE MD 21208  
Address City State Zip

3. REVIEWED BY: [Signature]

Cheryl Hawla  
4-16-90



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

December 20, 1989

Venable, Baetjer and Howard  
2 Hopkins Plaza  
Baltimore, MD 21201

RE: Item No. 126, Case No. 90-263-A  
Petitioner: Berryman's Joint Venture, et al  
Petition for Zoning Variance

Gentlemen:

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 planning 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 JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

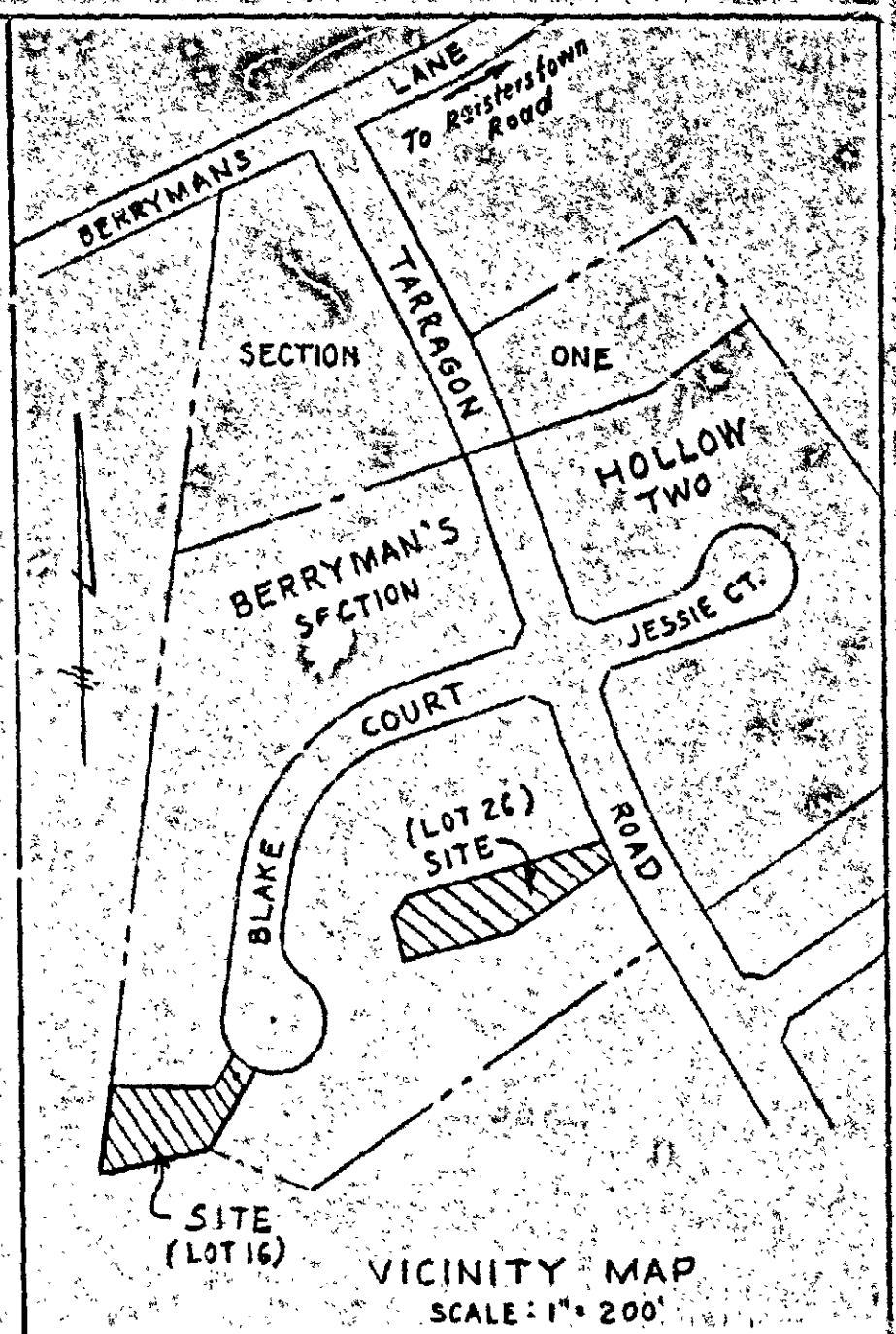
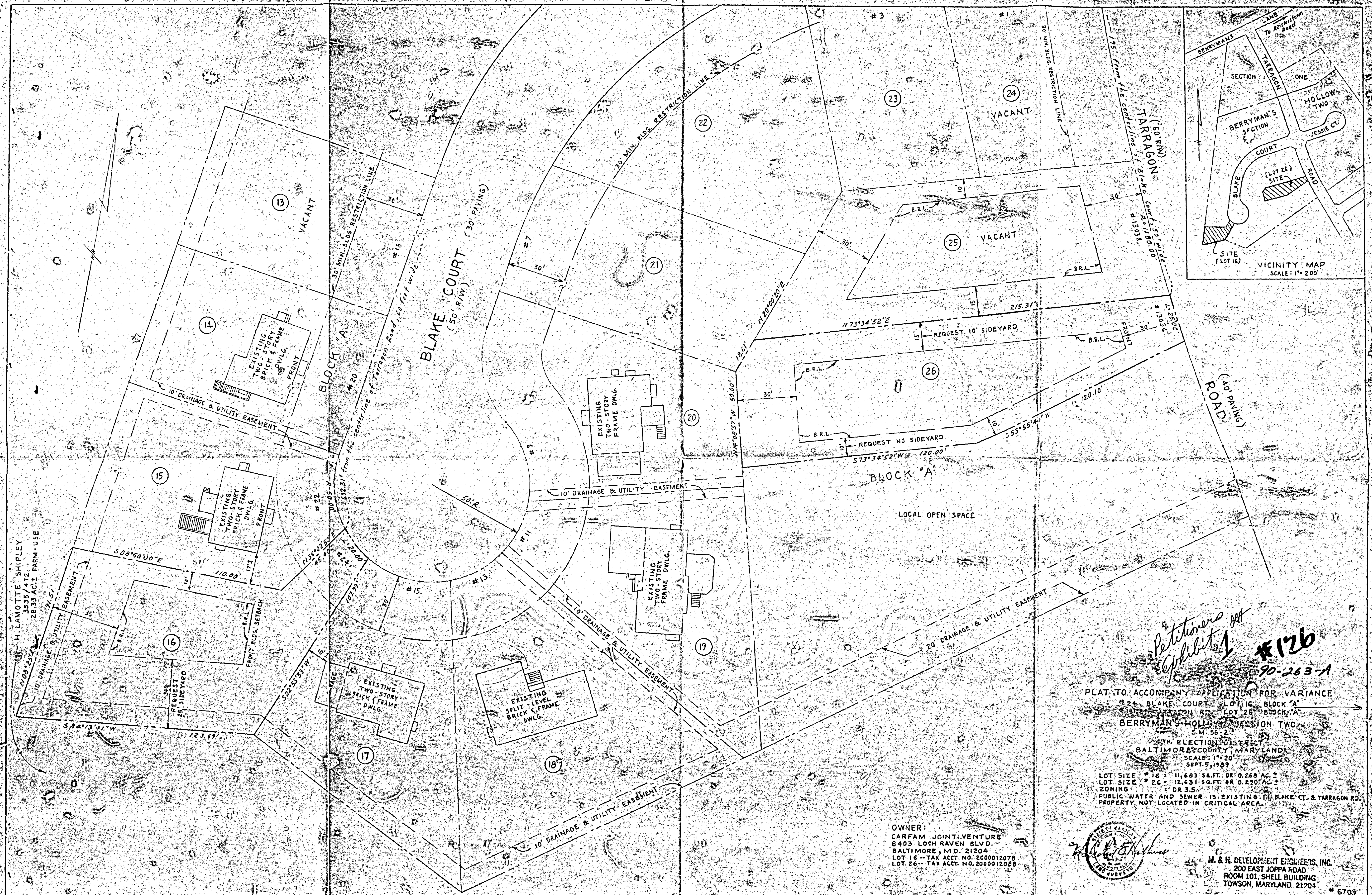
Very truly yours,

James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Allan Klatsky  
Berryman's Joint Venture  
Ashley Group



*Petitioner's Exhibit #1*  
**#126**  
**90-263-A**  
PLAT TO ACCOMPANY APPLICATION FOR VARIANCE  
24 BLAKE COURT LOT 16 BLOCK "A"  
TARRAGON RD LOT 26 BLOCK "A"  
BERRYMAN'S HOLLOW SECTION TWO  
S.M. 56-2  
4TH ELECTION DISTRICT  
BALTIMORE COUNTY, MARYLAND  
SCALE: 1"=20'  
SEPT. 5, 1989  
LOT SIZE \* 16 \* 11,683 SQ. FT. OR 0.268 AC. ±  
LOT SIZE \* 26 \* 12,631 SQ. FT. OR 0.290 AC. ±  
ZONING \* R-3.5  
PUBLIC WATER AND SEWER IS EXISTING IN BLAKE CT. & TARRAGON RD.  
PROPERTY NOT LOCATED IN CRITICAL AREA

OWNER:  
CARFAM JOINT VENTURE  
8403 LOCH RAVEN BLVD.  
BALTIMORE, MD. 21204  
LOT 16 -- TAX ACCT. NO. 2000012078  
LOT 26 -- TAX ACCT. NO. 2000012088



M. & H. DEVELOPMENT ENGINEERS, INC.  
200 EAST JOPPA ROAD  
ROOM 101, SHELL BUILDING  
TOWSON, MARYLAND 21204  
# 6709