



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

August 7, 2003

Mr. Robert Boston
13 Ivy Trace Court
Cockeysville, MD 21030

Dear Mr. Boston:

Re: Bldg. Permit #B-514518, 6607 Cherry Hill Road (Lot #2, 2.64 ac. 2,000 ft. E. of Fork Road)

This office has recently received an inquiry and information in reference to this permit which seems to indicate that it was approved by this office in error. Zoning Case #90-456 SPH, a special hearing to allow a 2.64 acre lot #2 to be a buildable lot, was denied by the Zoning Commissioner on 6-8-90. The original permit application which contains note(s) from this office as well as a site plan and "Affirmation of Landowner," etc. have been sent to be microfilmed and unfortunately will not be available for several weeks. As such this office's approval of this permit has been suspended and unless any new positive information is received will be rescinded.

If you have any questions you may contact this office at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Sullivan, Jr.".

John J. Sullivan, Jr.
Planner II
Zoning Review

Enclosure

C: Zoning Case #90-456 SPH
Bldg. Permit File

JJS/KLM

Come visit the County's Website at www.co.ba.md.us



IN RE: PETITION FOR SPECIAL HEARING
 E/S Cherry Hill Rd., 2,000' E
 of Fork Rd.
 6631 Cherry Hill Road
 11th Election District
 6th Councilmanic District
 Jo Ann Rogge and Linda Ann Puto
 Petitioners

* BEFORE THE
 * ZONING COMMISSIONER
 * OF BALTIMORE COUNTY
 * CASE # 90-456-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein, pursuant to the Petition for Special Hearing, requests a determination that Lot No. 2, as recorded in Liber SM No. 8341, folio 144, is a legal buildable lot due to the particular situation as stated in an accompanying brief attached hereto, as more particularly described on Petitioners' Exhibit No. 1 and 2.

The Petitioners, Jo Ann Rogge and Linda Ann Puto, appeared and testified. Appearing and testifying on behalf of the Petition was Mrs. Puto's husband, and Robert Spellman, President of Spellman, Larson and Associates, Inc. Phyllis Cole Friedman, Esquire, appeared in opposition, in her official capacity as Peoples Counsel for Baltimore County.

The Petitioners by way of proffered and direct testimony, offered evidence that tends to establish that an original parcel of land containing approximately 48 acres was subdivided on four different occasions from 1958 through and including February 29, 1980. These subdivisions of the parcel are graphically shown on Petitioners' Exhibit No. 2. The various subdivisions are outlined in a letter of February 13, 1990 which is marked Petitioners' Exhibit No. 6.

The relevant subdivision for purposes of this order is the subdivision of Bernard Rogge to William Frederick Rogge and Jo Ann W. Rogge on February

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 Date 5/16/90
 By M. J. P. [Signature]

29, 1980 in a deed recorded among the Land Records of Baltimore County at EHK, Jr., 6141, folio 46. This deed conveyed a 7.26 acre parcel of land, as shown on Petitioners' Exhibit No. 2 as Lot No. 5 outlined in black. This is the same lot or parcel of land which is shown on Petitioners' Exhibit No. 1 in greater detail. The original lot No. 5 containing 7.26 acres of land has been subdivided and renumbered to Lots 1 and 2 as shown on Petitioners' Exhibit No. 1.

The issue before the Zoning Commissioner is whether or not Lot No. 2 as shown on Petitioners' Exhibit No. 1, which is a 2.64 acre portion of original Lot No. 5 on Petitioners' Exhibit No. 2, is a legal buildable lot.

The Petitioners have offered testimony and evidence that the original Lot No. 5 which contained 7.26 acres of ground was subdivided into Lots Nos. 1 and 2 as shown on Petitioners' Exhibit No. 1, in order to provide a buildable lot for the Co-Petitioner, Linda Ann Puto and her husband. This proposed lot of ground was proposed for subdividing by Mr. and Mrs. Rogge in October of 1987. According to Mrs. Rogge's testimony, she was instructed by a member of the staff of the Office of Current Planning of the Department of Planning and Zoning that she could subdivide the lot into two parcels for building purposes. After retaining the services of Spellman, Larson and Associates, Inc. to consummate this subdivision, it was later determined when a building permit was requested by Linda Puto for newly created Lot No. 2, that this lot had been created in contradiction to the specific authority set forth in County Council Bill No. 178-79 concerning development of R.C.2 land. The relevant parts of this legislation is codified at Section 1A01.3 of the B.C.Z.R.

The testimony and evidence, clearly, indicates that all of the subject land has been and continues to be zoned R.C.2. The Petitioners move for-

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ward with certain improvements to proposed Lot No. 2, in anticipation of obtaining a building permit for the house to be located on that lot.

The Petitioners' case does not stand upon any legal doctrine. The Petitioners' case is solely based upon an equitable request. The Petitioner wants the Zoning Commissioner to provide the necessary density to enable the development of this lot as a result of the hardships they claimed to have suffered. Specifically, the Petitioners cite their belief that a lot of record is entitled to subdivision. Furthermore, they cite their alleged good faith undertaking to subdivide this particular lot and the failure to be informed that the lot would not be permitted. They also believed that they have proceeded in good faith without any attempts to evade any of the zoning requirements and that the hardship has resulted due to their lack of knowledge of the specific regulations.

Phyllis Cole Friedman, Esquire, on behalf of the Office of People's Counsel for Baltimore County, argues in opposition to the granting of this relief citing that the relief is in direct contradiction to the specific provisions of Baltimore County Zoning Regulations (B.C.Z.R.) concerning the subdivision of R.C.2 zone. Specifically, Mrs. Friedman argues that the granting of this relief would be in contradiction to the provisions of Section 1A01.3 of the B.C.Z.R. These regulations specifically provide that a lot having an area of between 2 and 100 acres may not be subdivided into more than two lots. Clearly, the subdivision on February 29, 1980 of Lot No. 5 from Lot No. 1, as shown on Petitioners' Exhibit No. 2 was the only legal subdivision of this parcel, as provided by the B.C.Z.R. in Section 1A01.3.B.1.

The Office of Planning and Zoning, through official comments of the Deputy Director, Arnold F. (Pat) Keller, clearly, indicate:

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 By M. J. P. [Signature]

The subject property is zoned R.C.2 (Resource Conservation Agriculture) and is within an R.C.2 area. The purpose of R.C.2 zoning is "to foster conditions favorable to continued agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban areas..." (BCZR 1A01.B.). Specifically subdivision in the R.C. 2 is limited to "... no such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total)..." (BCZR 1A01.3.B.1).

Since this lot was subdivided from another parcel after 1979, it cannot be subdivided again. The only relief for the petitioner is to attempt to rezone this property through the Comprehensive Zoning or the Cycle Zoning process.

The Baltimore County Zoning Regulations provide for several different types of relief to be granted by the Zoning Commissioner through the various public hearing processes. One of the very specific limitations upon the Zoning Commissioner's authority resides in Section 307.1 of the B.C.Z.R. That section provides for the standard under which the Zoning Commissioner may grant variances. This matter has not been specifically filed as a variance case, however, the prohibition against granting a residential density variance is, clearly, set forth in Section 307.1. That section states "no increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations". The regulation then goes on to cite the types of variances that the Zoning Commissioner is empowered to grant and then, specifically, states that the Zoning Commissioner shall have no power to grant any other variances.

Likewise, the authority of the Zoning Commissioner to conduct other hearings such as the one filed for herein rest in the authority granted to the Zoning Commissioner pursuant to Section 500.7 of the B.C.Z.R. That section of the regulations provides the Zoning Commissioner with the power

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 By M. J. P. [Signature]

to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations. The Zoning Commissioner also has the authority, pursuant to Section 500.7 of the B.C.Z.R. to conduct such other hearings as are necessary to determine any rights whatsoever of such property owners or persons with an interest in property in Baltimore County insofar as they are affected by these regulations. The Petitioner has chosen to avoid the residential density variance issue by filing a request for relief, pursuant to Section 500.7.

Although, the Zoning Commissioner is empowered by Section 500.7 to pass such Orders as are necessary for the proper enforcement of the B.C.Z.R., or for the proper determination of property rights as they are affected by the B.C.Z.R., I do not believe that Section 500.7 of the B.C.Z.R. grants to the Zoning Commissioner a specific authority that has been removed by the clear language of another specific prohibition found elsewhere in the regulations. Specifically, Section 307.1 of the B.C.Z.R. denies to the Zoning Commissioner the authority to create additional density units or thereby create an increase in residential density by use of the variance authority. It is my opinion that Section 500.7 cannot be used to create a right in property, specifically, an additional density unit which has been specifically denied to the Zoning Commissioner elsewhere in the regulations.

Furthermore, I do not believe that it is within the authority of the Zoning Commissioner to ignore the clear and unequivocal language set forth in Section 1A01.3 concerning the area regulations and specifically the subdivision of lots for density purposes as set forth in those regulations. I do not believe that an equitable determination is permitted to

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supersede and emasculate the clear and unequivocal language of the specific regulations which limit certain property rights, i.e., specifically, density units within a particular zone.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 8th day of June, 1990, that determination of Lot No. 2, as recorded in Liber SM No. 8341, folio 144, is a legal buildable lot due to the particular situation, in accordance with Petitioners' Exhibit No. 1, is hereby DENIED.

J. Robert Haines
 Zoning Commissioner for Baltimore County

JRH:mmn
 cc: Peoples Counsel

ORDER RECEIVED FOR FILING
 Date 5/16/90
 By M. J. P. [Signature]

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

June 6, 1990



Dennis F. Rasmussen
 County Executive

Mrs. Jo Ann W. Rogge
 Mrs. Linda Ann Puto
 6707 Cherry Hill Road
 Baldwin, Maryland 21013

RE: Petition for Special Hearing
 Johann W. Rogge and Linda Ann Puto, Petitioners
 Case #90-456-SPH

Dear Mrs. Rogge and Mrs. Puto:

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
 for Baltimore County

JRH:mmn
 att.
 cc: Peoples Counsel
 Robert Spellman
 Spellman, Larson and Assoc. Inc.
 Room 107, 105 W. Chesapeake Avenue
 Towson, Maryland 21204

PETITION FOR SPECIAL HEARING
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-456-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 a determination that Lot No. 2 as recorded in Liber SM No. 8341, folio 144, is a legal buildable lot due to the particular situation as stated in an accompanying brief.

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

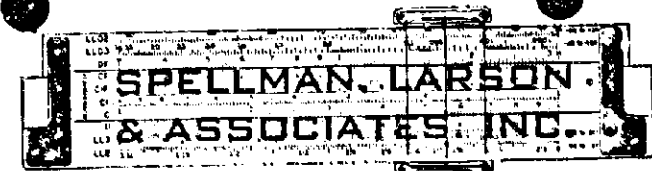
I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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 136 17.1
(Type or Print Name)	Jo Ann W. Rogge	D-4
Signature	[Signature]	B. B. 11/94
Address	Linda Ann Puto	DATE 5/16/90
City and State	[Signature]	100
Attorney for Petitioner:	6707 Cherry Hill Road	1000
(Type or Print Name)	Address	98 D-2-F
Signature	Baldwin, MD 21013 592-9492	
Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted	
City and State	Spellman, Larson & Assoc. Inc.	
Attorney's Telephone No.:	105 W. Chesapeake Ave. Suite 107	
	Towson, MD 21204 823-3535	
	Address	Phone No.

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.
 Filed on 3/16/90 By JRH.
 Hearing Time 2 to 4:30.
 Day Time or Day
 J. Robert Haines
 Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
 Date 5/16/90
 By M. J. P. [Signature]



SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

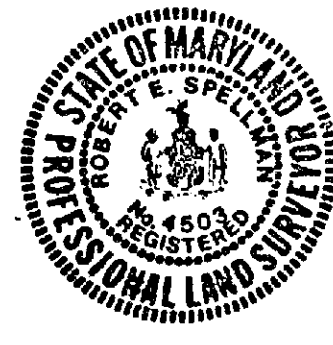
321
90-456-SPH

DESCRIPTION FOR A SPECIAL HEARING, ROGGE PROPERTY,
CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MD

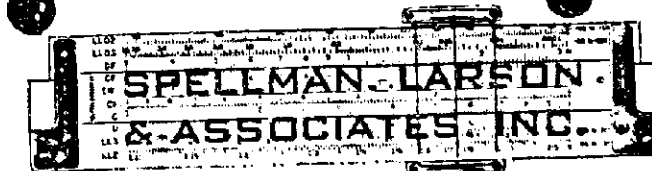
Beginning for the same at the two following distances from the centerline of Cherry Hill Road which is approximately 2,000 feet east of Fork Road: that is, easterly 25 feet, more or less, to the west side of a 25 foot right of way and 275 feet, more or less, southerly along the west side of said 25 foot right of way; and running thence North 82 Degrees 00 Minutes 40 Seconds East 500.00 feet South 16 Degrees 27 Minutes 10 Seconds East 634.60 feet North 89 Degrees 29 Minutes 20 Seconds West 600.00 feet and North 07 Degrees 59 Minutes 20 Seconds West 539.00 feet to the place of beginning.

Containing 7.26 acres of land, more or less.

3/15/90



RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION



SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

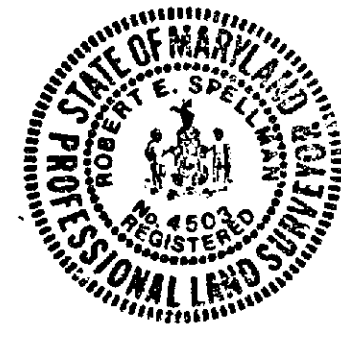
321

DESCRIPTION FOR A SPECIAL HEARING, ROGGE PROPERTY,
CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MD, LOT 1

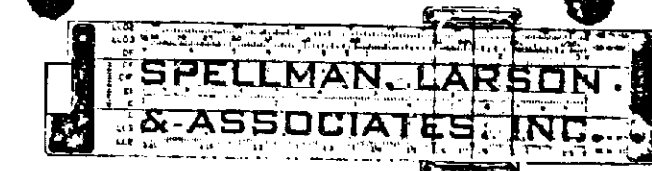
Beginning for the same at the two following distances from the centerline of Cherry Hill Road which is approximately 2,000 feet east of Fork Road: that is, easterly 25 feet, more or less, to the west side of a 25 foot right of way and 498 feet, more or less, southerly along the west side of said 25 foot right of way; and running thence North 82 Degrees 00 Minutes 40 Seconds East 533.18 feet South 16 Degrees 27 Minutes 10 Seconds East 409.14 feet North 89 Degrees 29 Minutes 20 Seconds West 600.00 feet and North 07 Degrees 59 Minutes 20 Seconds West 316.00 feet to the place of beginning.

Containing 4.62 acres of land, more or less.

3/15/90



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LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION



SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

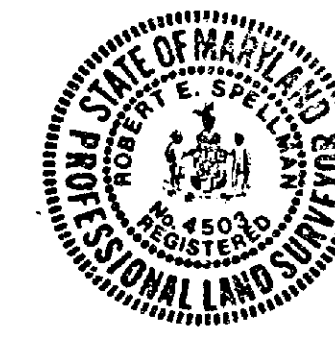
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DESCRIPTION FOR A SPECIAL HEARING, ROGGE PROPERTY,
CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MD, LOT 2

Beginning for the same at the two following distances from the centerline of Cherry Hill Road which is approximately 2,000 feet east of Fork Road: that is, easterly 25 feet, more or less, to the west side of a 25 foot right of way and 275 feet, more or less, southerly along the west side of said 25 foot right of way; and running thence North 82 Degrees 00 Minutes 40 Seconds East 500.00 feet South 16 Degrees 27 Minutes 10 Seconds East 225.47 feet South 82 Degrees 00 Minutes 40 Seconds West 533.18 feet and North 07 Degrees 59 Minutes 20 Seconds West 223.00 feet to the place of beginning.

Containing 2.64 acres of land, more or less.

3/15/90



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LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 5/11/90
Posted for: Special Hearing
Petitioner: Jo Ann M. Rogge & Linda Ann Puto
Location of property: E/S Cherry Hill Rd, 2000' E of Fork Rd, 6631 Cherry Hill Rd
Location of Sign: Cherry Hill Rd, 5700' S of Fork Rd, R-1 property of Baltimore
Remarks:
Posted by: [Signature] Date of return: 5/18/90
Number of Signs: 1



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

Account: R0014150
Number: 177

Date:

3/16/90

H9000321

PUBLIC HEARING FEES	QTY	PRICE
040 - SPECIAL HEARING (OTHER)	1 X	\$175.00
		TOTAL: \$175.00

LAST NAME OF OWNER: PUTO
B 8100*****17500** \$162F

Cashier Validation:

Please make checks payable to: Baltimore County

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 3, 1990.

NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

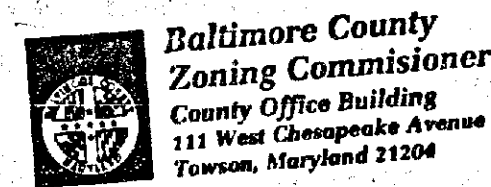
S. Zabe Orlov

Publisher

NOTICE OF HEARING

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 21204 as follows:
Petition for Special Hearing Case Number: 90-456-SPH E/S Cherry Hill Road, 2000' E of Fork Road, 6631 Cherry Hill Road, 11th Election District
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
Hearing Date: Tuesday, May 29, 1990 at 9:30 a.m.
Special Hearing: A determination that the subject property is a residential lot.
In the event that the Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing and above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
MAY 29, 1990

receipt



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

Account: R0014150
Number: 2613

90-456

H9000855

Date:

3/29/90

PUBLIC HEARING FEES	QTY	PRICE
080 - POSTING SIGNS / ADVERTISING	1 X	\$105.46
		TOTAL: \$105.46

LAST NAME OF OWNER: PUTO

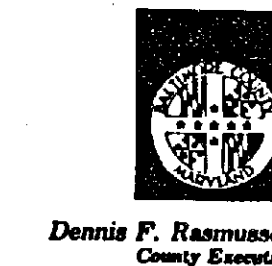
B 8003*****10546** \$261F
Please make checks payable to: Baltimore County

Cashier Validation:

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

J. Robert Haines
Zoning Commissioner

DATE: 5/14/90



Dennis F. Raasman
County Executive

Jo Ann M. Rogge
Linda Ann Puto
6717 Cherry Hill Road
Baltimore, Maryland 21013

Re: Petition for Special Hearing
CASE NUMBER: 90-456-SPH
E/S Cherry Hill Road, 2000' E of Fork Road
6631 Cherry Hill Road
11th Election District - 6th Councilmanic
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
HEARING: TUESDAY, MAY 29, 1990 at 9:30 a.m.

Dear Petitioners:

Please be advised that \$105.46 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
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

NOTICE OF HEARING



Dennis F. Raasman
County Executive

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

J. Robert Haines
Zoning Commissioner

April 12, 1990

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 21204 as follows:

Petition for Special Hearing
CASE NUMBER: 90-456-SPH
E/S Cherry Hill Road, 2000' E of Fork Road
6631 Cherry Hill Road
11th Election District - 6th Councilmanic
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
HEARING: TUESDAY, MAY 29, 1990 at 9:30 a.m.

Special Hearing: A determination that Lot No. 2 as Recorded in Liber SP No. 8341, Folio 144, is a legal buildable lot.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Petitioners
Spellman, Larson & Assoc., Inc.

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 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 May 3, 1990.

THE JEFFERSONIAN,

S. Zabe Orlov

Publisher

NOTICE OF HEARING

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 21204 as follows:
Petition for Special Hearing Case Number: 90-456-SPH E/S Cherry Hill Road, 2000' E of Fork Road, 6631 Cherry Hill Road, 11th Election District
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
Hearing Date: Tuesday, May 29, 1990 at 9:30 a.m.
Special Hearing: A determination that the subject property is a residential lot.
In the event that the Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing and above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
MAY 29, 1990

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
 E/S Cherry Hill Rd., 2,000' E
 of Fork Rd. (6631 Cherry Hill : OF BALTIMORE COUNTY
 Rd.), 11th Election District
 6th Councilmanic District
 JO ANN ROGGE & LINDA ANN PUTO, : Case No. 90-456-SPH
 Petitioners

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

RECEIVED
 MAY 6 1990
 ZONING OFFICE

Peter Max Zimmerman
 Peter Max Zimmerman
 Deputy People's Counsel
 Room 304, County Office Building
 Towson, Maryland 21204
 857-2188

I HEREBY CERTIFY that on this 4th day of May, 1990, a copy of the foregoing Entry of Appearance was mailed to Jo Ann Rogge and Linda Ann Puto, 6707 Cherry Hill Rd., Baldwin, MD 21013, Petitioners; and Spellman, Larson & Assoc., Inc., 105 W. Chesapeake Ave., Suite 107, Towson, MD 21204, which requested notification.

Peter Max Zimmerman
 Peter Max Zimmerman

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BRIEF FOR A SPECIAL HEARING
 ROGGE PROPERTY, CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MARYLAND

In May of 1986 Jo Ann Rogge, Executive Secretary and Office Manager for Spellman, Larson & Associates, Inc. met with a representative of the current Planning Division of the Office of Planning and Zoning and asked if it was possible to sub-divide her property. The intention was to divide a lot off the property for her daughter to build a house. The representative checked the zoning map and said the property could be sub-divided one time and he gave her a list of requirements.

In October, 1987 Ms. Rogge asked her employers to survey a parcel of ground containing 7.26 acres of land south of Cherry Hill Road and east of Fork Road in Baldwin, Maryland. The property was owned by William F. & Jo Ann W. Rogge by virtue of a deed dated February 29, 1980 and recorded among the Land Records of Baltimore County in EHK, Jr. No. 6141, Folio 46. This property was conveyed by Bernhard Rogge, widower, who owned 48 acres originally.

The intention was to sub-divide the property into 2 lots conveying a lot (lot No. 2) to her daughter, Mrs. Linda Puto. Spellman, Larson & Associates, Inc. were unaware of the affect that bill 178-79 had on this property, since it is

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a matter of record. It was conveyed approximately 3 months after the effective date of said bill.

In August, 1989 Mr. William Rogge died, vesting the property in the name of Jo Ann Rogge. Work progressed slowly until a finished sub-division Plat was approved in September of 1989 and recorded among the Plat Records of Baltimore County in Liber SM No. 8341/Folio 144 on Dec. 4, 1989.

In June 1989, following the instructions of the Baltimore County Department of Health, Ms. Rogge had a new septic system installed on Lot No. 1 and wells percolated and drilled on Lot No. 1 and Lot No. 2 of the property. The underground oil tanks were removed and a gully was cleaned of all debris. This was also in accordance with the Department of Health and was subsequently examined by that Department and found to comply with requirements.

Mrs. Puto proceeded to file an application for a Building Permit to construct a house on lot No. 2. This application was held up by the Baltimore County Zoning Department due to the apparent conflict with bill 178-79.

Since all procedures were done in good faith with out any attempt to evade any of the zoning requirements it is requested that a hardship does exist and that the Zoning Commissioner or Deputy Zoning Commissioner would look

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favorable upon this request for a variance to the zoning regulations.

Linda Ann Puto *Linda Ann Puto*

Jo Ann W. Rogge *Jo Ann W. Rogge*

1369/119
 90-456-SPH
 1369/119
 530162
 270142 RW
 #321

This Deed Made this 30th day of October in the year one thousand nine hundred and forty four by and between George W Shipley and Catherine Shipley his wife of the first part and Bernhard Rogge and Anna Marie Rogge his wife of the second part and Bernhard Rogge William Frederick Rogge and Nancy Ann Rogge of the third part all of Baltimore County State of Maryland

Witnesseth that in consideration of the sum of five dollars and other good and valuable considerations this day paid receipt whereof is hereby acknowledged said parties of the first part do hereby grant and convey unto the parties of the second part for and during the term of their natural lives and for and during the term of the natural life of the survivor of them and with remainder over upon the death of the survivor of them as hereinafter provided and subject to the powers limitations covenants conditions hereinafter set forth all that lot of land situate in the Eleventh Election District of Baltimore County and described as follows

Being the same and all of that parcel of land containing 18 acres 3 rods 3/4 more or less which by deed dated October 26 1920 and recorded among the Land Records of Baltimore County in Liber W P C No 530 Folio 462 was granted and conveyed by Henry H Roberts and wife to George E Weichert and wife reference to which deed is hereby made for a more particular description of said property

Being also the same and all of that parcel of land which by deed dated June 1933 and recorded among the Land Records of Baltimore County in Liber L M L No 916 Folio 53 was granted and conveyed by George E Weichert and wife to George W Shipley (one of the Grantors herein) and Clara M Shipley as tenants by the entireties the said Clara Shipley having since died and the said George W Shipley having remarried with M Bernice Shipley (one of the Grantors herein)

Together with all the rights ways waters privileges and appurtenances thereto belonging or appertaining and especially together with the right to the said lands herein their successors heirs and assigns as hereinabove set forth to use in common with others entitled thereto a road or right of way from the within described land out to the Old Joppa and Manor Road as conveyed in a deed from Thomas B Gorsuch to Michael Joppa et al dated September 1 1896 and recorded among the Land Records of Baltimore County in Liber L M B No 220 Folio 42

To have and to hold the said lot of ground above described and mentioned and by intended to be conveyed together with the rights privileges appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Bernhard Rogge and Anna Marie Rogge his wife for and during the term of their natural and forced during the term of the natural life of the survivor of them with full power and authority in the said Bernhard Rogge and Anna Marie Rogge his wife during their lives and with like power and authority in the survivor of them during his or her life to the said rights ways waters privileges and appurtenances to the same belonging, or otherwise appertaining.

TO HAVE and TO HOLD the said lot of ground above described and mentioned, and hereby intended to be conveyed, together with the rights,

LIBER 8351 PAGES 86
 90-456-SPA
 CURRENT DEED
 #321

This Deed, Made This 14th day of DECEMBER, 1989

of the year one thousand nine hundred and eighty-nine by and between JO ANN W. ROGGE of Baltimore County, State of Maryland, of the first part, and LINDA ROGGE PUTO, of the second part.

Witnesseth, That in consideration of the sum of Zero Dollars (\$-0-), the said party of the first part does grant and convey to the said party of the second part, her personal representatives, heirs, assigns, in fee simple, all that lot of ground situate in the 11th District of Baltimore County, State of Maryland, and described as follows, that is to say:

FOR DESCRIPTION, SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

RECEIVED FOR TRANSFER State Department of Assessments & Taxation
 12-14-89

TRANSFER TAX NOT REQUIRED BY APPLICABLE BALTIMORE COUNTY ORDINANCE
 12/14/89

AGRICULTURAL TRANSFER TAX NOT APPLICABLE
 12-14-89

90-456-SPH
 LIBER 8341 PAGE 144
 LOT #2 DEED CURRENTLY RECORDED.
 IN 8351/586 SOLD TO DAUGHTER LINDA ROGGE PUTO

This Deed, Made This day of of the year one thousand nine hundred and eighty-nine by and between JO ANN W. ROGGE of Baltimore County, State of Maryland, of the first part, and JO ANN W. ROGGE, of the second part.

Witnesseth, That in consideration of the sum of Zero Dollars (\$-0-), the said party of the first part does grant and convey to the said party of the second part, her personal representatives, heirs, assigns, in fee simple, all that lot of ground situate in the 11th Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

FOR DESCRIPTION OF PROPERTIES, SEE EXHIBIT A Plat Known as EXHIBIT A Page 3 on 1 HEREOF. PAGE A PART

RECEIVED FOR TRANSFER State Department of Assessments & Taxation
 12-14-89

TRANSFER TAX NOT REQUIRED BY APPLICABLE BALTIMORE COUNTY ORDINANCE
 12/14/89

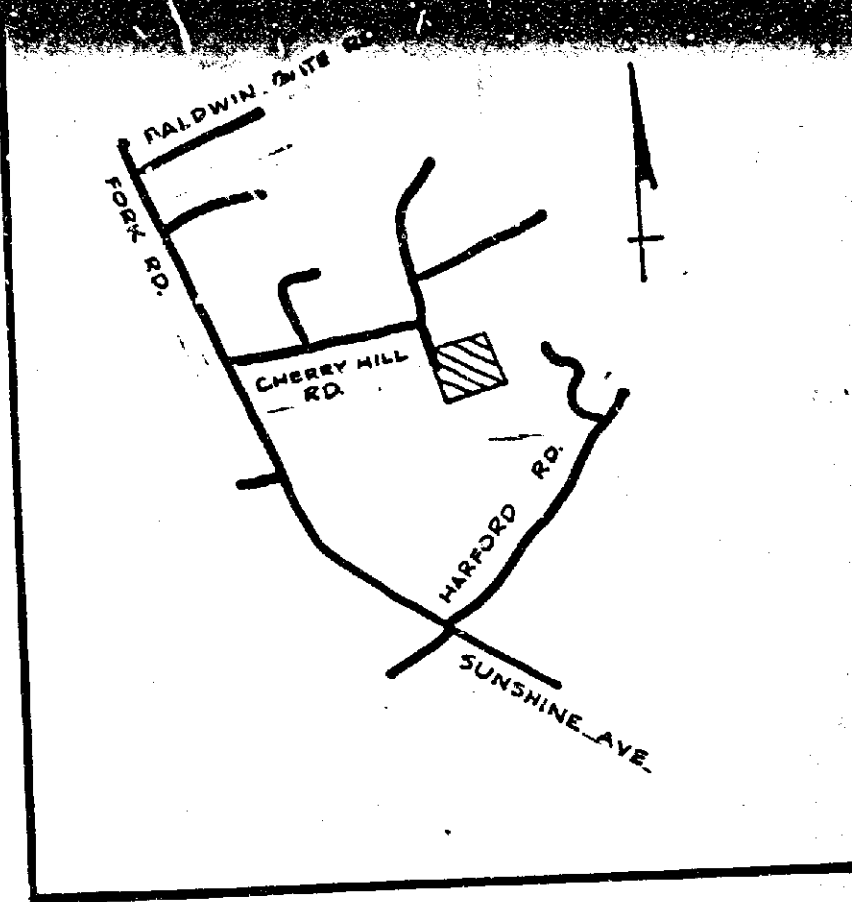
AGRICULTURAL TRANSFER TAX NOT APPLICABLE
 12-14-89

90-456-SPA
 R.C. 2

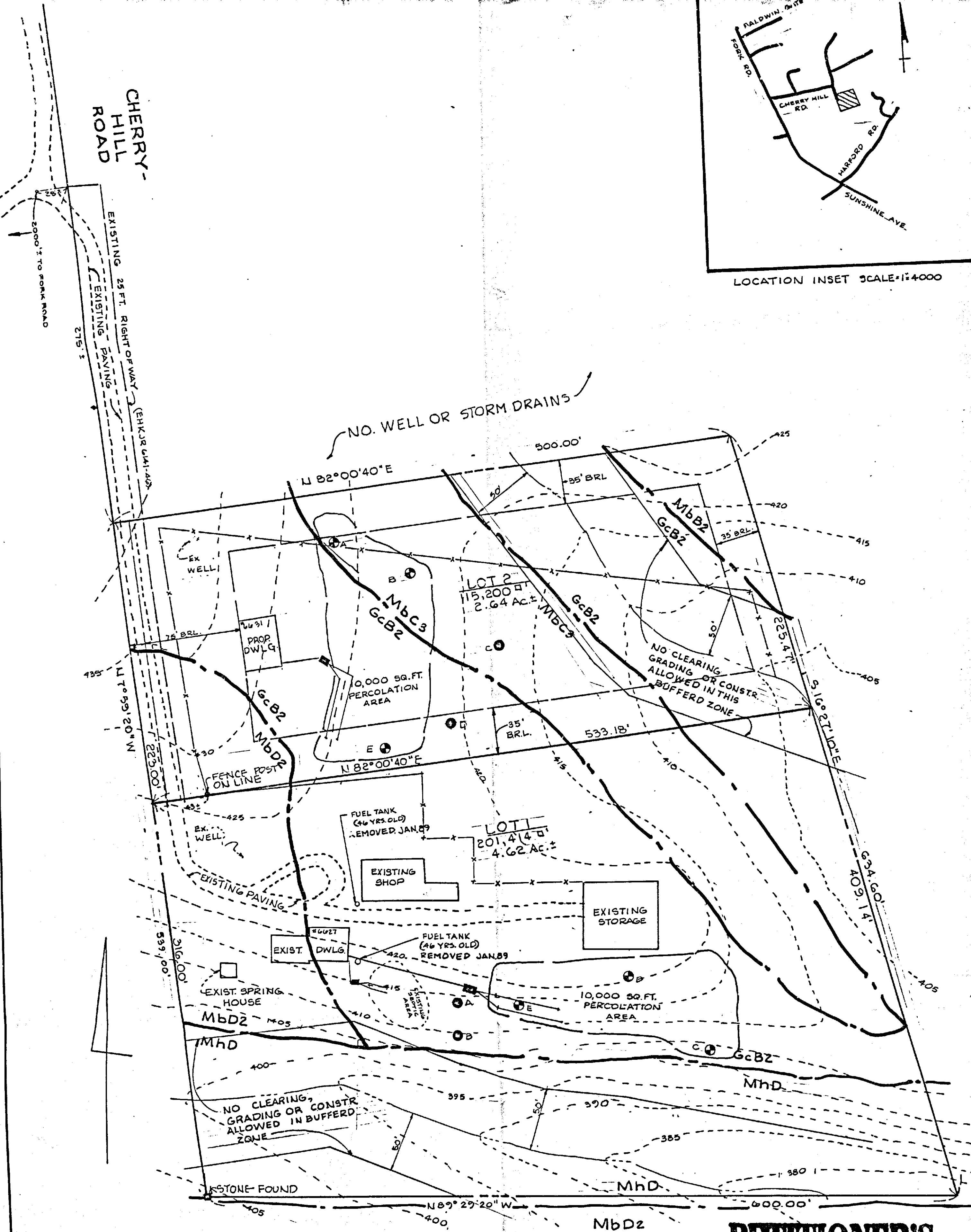
1/4 200' NE 17-I

1988 COMPREHENSIVE ZONING MAP Adopted by the Baltimore County Council Oct. 13, 1988

Chairman, County Council



LOCATION INSET SCALE 1:4000



PETITIONER'S EXHIBIT 1

90-456-SPH

PROPERTY OUTLINES ARE THOSE AS APPROVED AND RECORDED IN LIBER EHK JR. 6141, FOLIO 46.

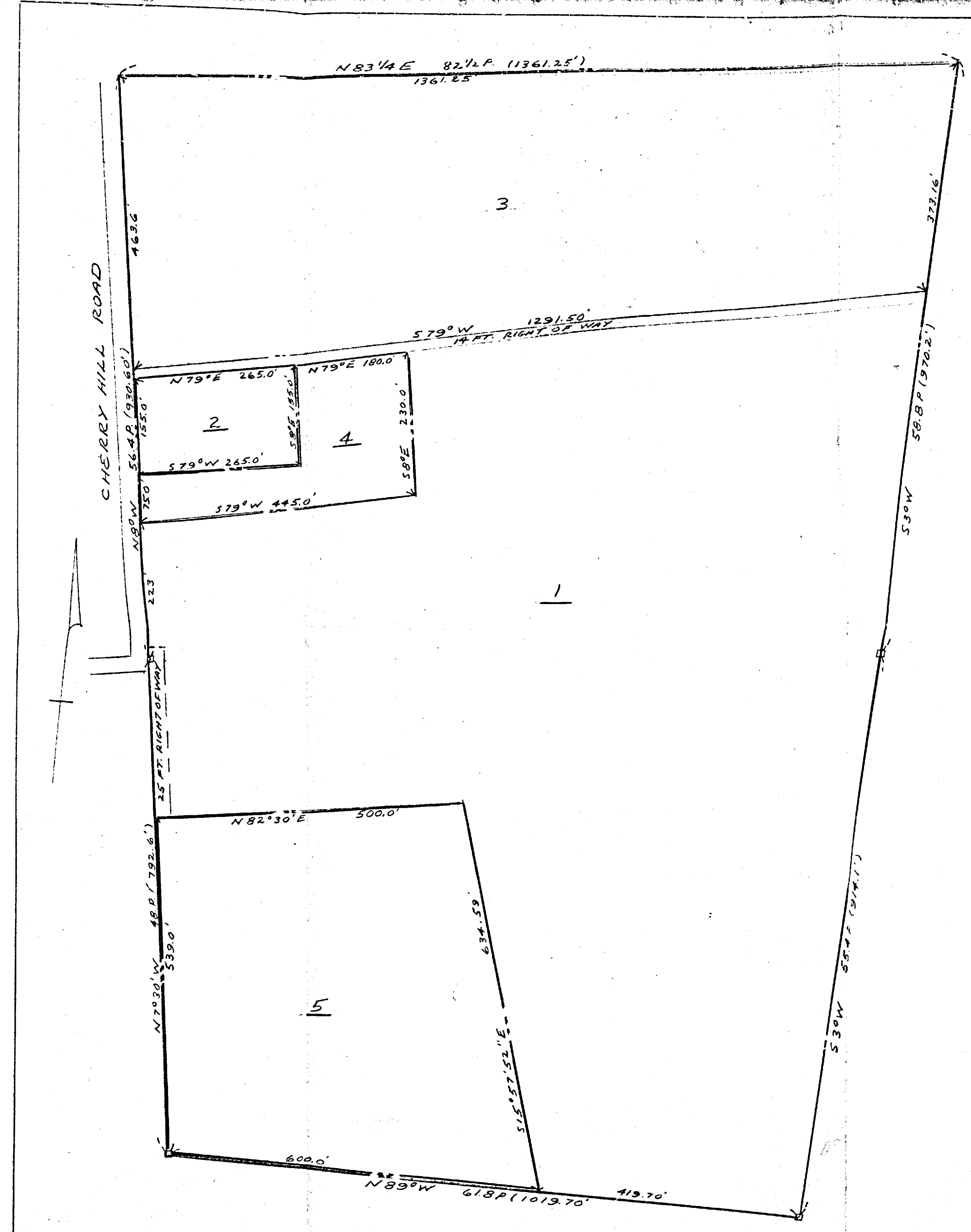
EXISTING ZONING: RC 2
 No. OF LOTS: 2
 AREA: 7.26± AC.
 (LOT 1: 4.62± AC.)
 (LOT 2: 2.64± AC.)
 11TH ELECTION DISTRICT
 6SP COUNCILMANIC DISTRICT
 PRIVATE SEWER AND WATER

APPLICANTS AND OWNERS
 JOANN W. ROGGE
 LINDA ANN PUTO
 6707 CHERRY HILL ROAD
 BALDWIN, MD 21013
 PHONE: 592-9482



SPELLMAN, LARSON & ASSOCIATES INC.
 Towson, Maryland 21284
 823-3535
 Scale: 1" = 50' MAR 14, 1990

87101



1. RJ 1369-119 - OCT. 30, 1944
 GEORGE W. SHIPLEY & WF.
 TO
 BERNHARD ROGGE & WF.,
 BERNHARD ROGGE, WILLIAM
 FREDERICK ROGGE & NANCY ROGGE
2. GLB 3343-58 - MAY 1, 1958
 BERNHARD ROGGE & WF.
 TO
 WILLIAM FREDERICK ROGGE & WF.
3. EHK JR. 5442-429 - MAY 1, 1974
 BERNHARD ROGGE & WF.
 TO
 EDWARD L. SCHNEIDER & WF.
4. EHK JR. 5444-443 - APR. 20, 1977
 BERNHARD ROGGE, WIDOWER
 TO
 WILLIAM FREDERICK ROGGE & WF.
5. EHK JR. 6141-46 - FEB. 23, 1980
 TO
 WILLIAM FREDERICK ROGGE & WF.

TITLE PLAT
 ROGGE PROPERTY
 CHERRY HILL ROAD
 11TH DISTRICT
 BALTIMORE CO. MD.

PETITIONER'S EXHIBIT 2

90-456-SPA
 KEEP IN HEARING FILE #321



SPELLMAN, LARSON & ASSOCIATES INC.
 Towson, Maryland 21284
 823-3535
 Scale: 1" = 100' FEB 22, 1990

87101

PETITIONER'S EXHIBIT 3

90-456SPH

THE UNDERSIGNED HEREBY ATTEST THAT WE ACKNOWLEDGE AND FULLY UNDERSTAND THE MEANING AND INTENT OF THE ZONING PETITION FILED BY JO ANN ROGGE AND HER DAUGHTER LINDA ANN PUTO IDENTIFIED AS CASE NO. 90-456-SPH AND FURTHER ATTEST THAT WE ARE IN COMPLETE ACCORD AND FAVOR OF GRANTING SAID PETITION.

- H. C. Bright - 6708 Cherry Hill Road 21013
- M. M. O'Leary - 6709 Cherry Hill Rd. 21013
- Kenneth Scottower - 6709 Cherry Hill Rd 21013
- Nancy Gustafson - 6712 Cherry Hill Rd. 21013
- James W. Rodgers - 6627 Cherry Hill Rd 21013
- Roxie Brady - 6600 Cherry Hill Rd 21013
- Dixie B. Rodgers - 6600 Cherry Hill Road 21013
- Georgie M. Rowan - 6716 Cherry Hill Rd. 21013
- William A. Ryan - 6716 Cherry Hill Rd. 21013
- Susan Harmon - 6622 Cherry Hill Rd. 21013
- Harmon A. Jamison - 6622 Cherry Hill Rd. 21013
- Donna R. Liberto - 6620 Cherry Hill Rd., 21013
- Barbara Frank - 6711 Cherry Hill Rd. 21013
- James A. Frank - 6711 Cherry Hill Rd. 21013
- Richard M. Petrucca - 6608 Cherry Hill Rd. 21013

301/557-WELL

C. WAYNE CASWELL, INC.
WATER WELL DRILLING
3515 N. FURNACE ROAD
JARRETTSVILLE, MARYLAND 21084

90-456 SPH

STATEMENT

Mr. & Mrs. William Rogge

PETITIONER'S EXHIBIT 4

Page 2 of 2

DATE	INVOICE NUMBER	DESCRIPTION	CHARGE	CREDITS	BALANCE
		LOT 2 ROGGE PROPERTY		BALANCE FORWARD	
11/14/89		Well 250' 8.33 g.p.m.	1875.00		
		Extra Gasing	240.00		
		Grout	150.00		
		Extra Grout	178.50		
		Pump Test	150.00		
		Capping	15.00		2608.50
		Lot 1	2891.50		2891.50
		Lot 2	2608.50		2608.50
		Total		322.00	5500.00
		Deposit		300.00	5200.00

FORM 895
PLEASE PAY LAST AMOUNT IN THIS COLUMN

C. WAYNE CASWELL, INC.
WATER WELL DRILLING
3515 N. FURNACE ROAD
JARRETTSVILLE, MARYLAND 21084

2408.50 2408.50

TERMS: NET DUE UPON RECEIPT. A FINANCE CHARGE OF 1% (ANNUAL RATE OF 18%) WILL BE ADDED TO PAST DUE BALANCE 10 DAYS FROM DAY OF CHARGE.

BALTIMORE COUNTY
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
County Courts Building
401 Bosley Avenue - Towson, MD 21204

APPROVAL LETTER

September 13, 1989

Spellman Larson, Inc.
105 West Chesapeake Avenue
Towson, Maryland 21204

Re: 6607/6625 Cherry Hill Road, E.D. 11
Rogge Property, TA# 18-00-012991

Dear Sirs:

A representative of this office, Susan S. Farinetti, R.S. conducted soil evaluations on August 11, 1989 regarding the above referenced lot(s). The results are as follows:

TEST PIT	DRAWDOWN	DEPTH	SOIL

SEE PAGE 3

PETITIONER'S EXHIBIT 5

90-456 SPH

Based on the evaluations and the revised plot plan dated September 7, 1989, APPROVAL will be granted for the installation of a private sewage disposal system. Soil evaluation results will be valid for a period of three (3) years. At the expiration of this period of time, the results will become void without notice to that effect having been given by the approving authority.

It should be noted, there is an area designated on the site plan for the sewage disposal system and expansion thereof. Under no circumstances shall any permanent structures above or below ground, be permitted within this area. Also, no underground electric lines, water pipes, gas lines, etc., shall be permitted in the disposal system area.

W/S APP'VL(3-89)



321

ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON
HENRY M. APPEL

SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

February 13, 1990

Baltimore County
Department of Planning & Zoning
County Office Building
Towson, MD 21204

Re: Rogge Property
Cherry Hill Road, 11th Election District,
Baltimore County, MD

Attn: Mr. John Lewis

Dear Mr. Lewis:

Following is a Title Report enumerating various conveyances of the Rogge Property since 1944:

1. RJS 1369, Folio 119 - October 30, 1944
George W. Shipley and wife
to
Bernhard Rogge and Anna Maria Rogge, his wife,
Bernhard Rogge, William Frederick Rogge and Nancy
Ann Rogge

This deed conveyed forty-eight acres on the eastside of Cherry Hill Road.

2. GLB 3343, Folio 58 - May 1, 1958
Bernhard Rogge and Anna Maria Rogge, his wife
to
William Frederick Rogge and Jo Ann W. Rogge

This deed conveyed 0.94 acres of land on the eastside of Cherry Hill Road south of a fourteen foot right-of-way.

3. EHK, Jr. 5442, Folio 429 - May 1, 1974
Bernhard Rogge and Anna Maria Rogge, his wife
to
Edward L. Schneider and wife

This deed conveyed 12.61 acres of land, more or less on the eastside of Cherry Hill Road north of a fourteen foot right-of-way.