* BEFORE THE IN THE MATTER OF THE THE APPLICATION OF * COUNTY BOARD OF APPEALS FOR A ZONING RECLASSIFICATION FROM R.C. 2 TO R.C. 5 ON PROPERTY * LOCATED ON THE WEST SIDE FALLS ROAD BALTIMORE COUNTY (400' WEST OF CENTERLINE & APPROXI-* MATELY 3200' SOUTH BENSON MILL RD. * CASE NO. R-91-363 (15906 FALLS ROAD) Item #5, Cycle V 5th ELECTION DISTRICT 1991 3RD COUNCILMANIC DISTRICT * * * * * * * * *

This case comes before this Board on Petition for Reclassification from R.C. 2 to R.C. 5 for a 4-acre parcel located in Baltimore County. A history of this 4-acre parcel is in actuality the crux of this whole hearing. Testimony from Dennis McGee who has purchased the parcel was heard, and testimony from Wallace Lippincott, Baltimore County Planner, as regarding this property was heard, and from this testimony the history of this property is documented.

OPINION

Bessie Curtis, the owner of the original 12-acre parcel, passed away in 1983 and by will divided the property among her three children. On August 17, 1984, the three children filed a deed in lieu of partition in the Land Records of Baltimore County, illegally dividing the 12-acre tract into three parcels. Since 1984, there has been no construction on any of the three parcels. Parcel 1 was given to the daughter, Martha Kohler, who passed away and willed this parcel to Thomas Curtis's daughters. Parcel 2 was deeded to Thomas Curtis. Parcel 3 was deeded to Martha Kohler as trustee for her brother, Harry Curtis. Parcel 3 is the subject site in this case. Parcel 3 was subsequently sold in 1984 to a Mr.

In 1932, by deed dated March 15, 1932, the 12.00 acre Tract and an additional 2.00 acres, more or less, were purchased by Levy and Bessie Curtis. Subsequently, by deed dated May 6, 1971, Bessie A. Curtis, then a widow, transferred 1.451 acres of the 14.00 acres, more or less, to her son, Thomas Curtis and Dorothy R. Curtis, his wife. Thereafter, .7 acres of the remaining acreage was deeded to the Baltimore Gas and Electric Company in 1973. After this conveyance, there remained the 12.00 acre Tract. Bessie Curtis passed away in February, 1983, and by will divided the Property among her three children. On August 17, 1984, the three children filed a deed in lieu of partition in the Land Records of Baltimore County dividing the remaining 12.00 acre Tract illegally into three parcels. Since 1984, there has been no construction on any of the three parcels. Parcel One (as described on the Plan submitted with this Petition) was given to the daughter, Martha Kohler, who has since passed away. She left Parcel One to Thomas Curtis' daughters. Parcel Two was deeded to Thomas Curtis, the adjoining Property owner of Parcel A (also described on the Plan) and Parcel Three was deeded to Martha Kohler as Trustee for her brother, Harry Curtis. Parcel Three was subsequently sold in 1984 to Petitioner's predecessor in interest, Lee.

<u>.</u> . .

After failing to obtain a building permit for the Property, Petitioner filed a Petition for Special Hearing (case No.: 90-62-SPH) which essentially requested that the division of the Tract be resolved in such a way that would enable Petitioner to get his building permit. The Commissioner denied Petitioner's request,

Case No. R-91-363 Dennis McGee

After failing to obtain a building permit for the property, Petitioner filed a Petition for Special Hearing (Case No. 90-62-SPH) which requested that the division of the tract be resolved in such a way that would enable Petitioner to get his building permit. The Zoning Commissioner denied Petitioner's request, and the Board of Appeals, after hearing in August 1990, also denied the Petitioner's request. Under Section 1A01.3B of the Baltimore County Zoning Regulations, any property zoned R.C. 2 of between 2 and 100 acres may be subdivided into only two parcels. It is the opinion of this Board, therefore, that the subdividing of the 12acre original parcel into three sub-parcels is in fact an illegal subdivision and is a bitter fact we have to face.

There is ample evidence that the Petitioner purchased this 4acre parcel with the full understanding from the seller that it was a buildable parcel. The Petitioner has had a well drilled and tested, has had the property perk tested for sewerage, and has obtained the right-of-way for access to the property, all of which evidence good faith on Mr. McGee's part and his desire to build his residence on this lot. The Board, however, does not have the authority to reclassify an illegal parcel that would permit the obtaining of a building permit. To attempt to reclassify this one isolated 4-acre parcel into an R.C. 5 designation, in addition to reclassifying an illegal subdivision, would also be blatant spot zoning, and would never stand the test of time. After considering all the testimony and evidence received, the Board will find as a

primarily due to the failure of Thomas Curtis to take any action that would alleviate Petitioner's problem.

Petitioner appealed the decision of the Commissioner to the County Board of Appeals. After a hearing before the Board on August 17, 1990, the Board denied the Petitioner's request, once again finding that Thomas Curtis' action was necessary but not forthcoming.

The Board further found, as did the Commissioner, that the division of the Tract into three (3) lots was an illegal subdivision in violation of Section 1A01.3 of the B.C.Z.R. Petitioner spent considerable sums of money in relying on Lee's representations concerning the ability to build on the Property. The acquisition price of the Property was in excess of \$34,000.00, a cost clearly anticipating a buildable lot. Further, Petitioner spent thousands of dollars in legal fees, professional fees, surveying expenses and other expenses in attempting to obtain a building permit and securing financing. Without the ability to build on the Property, Petitioner will suffer a severe loss through no fault of his own.

No protestants have appeared in any of the zoning hearings concerning the Property. Experts at the hearings testified that the Petitioner's requests relating to his Property meet all of the requirements of B.C.Z.R. Section 502.1.

The Petitioner recognizes the interests of Baltimore County in creating the R.C. 2 zone in which the Property is presently located. However, granting the Petitioner's request will not infringe on the County's interests and will prevent a severe

Case No. R-91-363 Dennis McGee

fact that this 12-acre parcel was illegally subdivided and that no building permits can be issued for any of the three parcels until the subdivision problems are resolved. Mr. McGee, however, was obviously misled by the seller of the parcel and has evidenced very good faith by his actions that he was under the impression and relied upon the seller that this was a buildable lot, and should carefully consider Code Section 26-173 to seek relief from problems not self-created.

ORDER

IT IS THEREFORE this // day of horywhee, 1991 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification of the subject from R.C. 2 to R.C. 5 be and the same is hereby DENIED.

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

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

* Case No.: * * * * * * * * * * * *

IN RE: PETITION FOR RECLASSIFICATION *

3rd Councilmanic District

c/1 of Benson Mill Road

5th Election District

(15906 Falls Road)

W/S Falls Road, 2500' S of the

PETITION FOR RECLASSIFICATION

BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

Petitioner, Dennis G. McGee, owns a tract of land located in the 5th election district, northern Baltimore County, consisting of 4.00 acres, more or less, known as 15906 Falls Road (the "Property").

The Petitioner requests a zoning reclassification to change the zoning of the Property from an R.C. 2 zone to an R.C. 5 zone.

The recent history of the Property is somewhat complicated. The subject Property was part of a 12.00 acre tract (the "Tract") zoned R.C. 2 located off Falls Road. The Property consists of 4.00 acres which Petitioner purchased from Michael Lee ("Lee") by deed dated November 7, 1986. At the time of the purchase, Lee represented to Petitioner that the Property was a buildable lot, and Petitioner subsequently obtained all necessary financing for the construction of a home. However, upon application for building permit approval by the Zoning Office, he was advised that the subdivision of the 12.00 acre Tract into the three lots was an illegal subdivision, as the R.C. 2 classification permits subdividing into only two lots.

injustice, economic and otherwise, from being suffered by the

Respectfully submitted,

Hurst R. Hessey Attorney for Petitioner Hessey, Durbin, Twomey & Fowler, P.A. 36 South Charles Street Suite 2400 Baltimore, Maryland 21201 301-539-3300

zonmcgee.228

Petitioner.

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS FROM R.C. 2 TO R.C. 5 ZONE W/S Falls Rd. (400' W of C/L) and approximately 3200' South Benson Mill Rd. (15906 Falls Rd.), 5th Election District

3rd Councilmanic District

Petitioner.

: Case No. R-91-363 (Item 5, Cycle V) DENNIS McGEE, Petitioner

::::::

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned 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 People's Counsel for Baltimore County

OF BALTIMORE COUNTY

Peter Max Zimmerman Deputy People's Counsel Room 304, County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204 (301) 887-2188

I HEREBY CERTIFY that on this 16th day of October, 1991, a copy of the foregoing Entry of Appearance was mailed to Hurst R. Hessey, Esquire, 36 South Charles St., Suite 2400, Baltimore, MD 21201, Attorney for

52:3 11 21 130 16



County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

November 14, 1991

Hurst R. Hessey, Esquire 36 S. Charles Street Suite 2400 Baltimore, MD 21201

RE: Case No. R-91-363 Dennis McGee

Dear Mr. Hessey:

Enclosed please find a copy of the final Opinion and Order

issued this date by the County Board of Appeals of Baltimore County

in the subject matter.

Kathleen C. Weidenhammer Administrative Assistant

cc: Mr. Dennis McGee c/o Hurst R. Hessey, Esq. Mr. James Earl Kraft People's Counsel for Baltimore County P. David Fields Pat Keller Lawrence E. Schmidt Timothy M. Kotroco James E. Dyer W. Carl Richards, Jr. Docket Clerk - Zoning Arnold Jablon, Director of Zoning Administration

Property (Description
Beginning for the same at a point distant southerly 2500 feet more or less, South 09 degrees 25 minutes west 85.00 feet, South 03 degrees 30 minutes wests 368.69 feet, South 45 degrees 56 minutes west 347.40 feet and North 44 degrees 04 minutes west 65.00 feet from the intersection of the centerline of Falls Road (State Route No. 25) with the centerline of Berson Mill Road, thence running the eight tollowing courses and distances, viz: feet, 3) North 33 degrees 39 minutes 40 seconds west 370.00 5) North 47 degrees 35 minutes 29 seconds east 218.00 feet.
6) South 36 degrees 09 minutes 40 seconds east 327.00 feet, 7) North 45 degrees 35 minutes 20 seconds east 158.00 feet and
8) South 44 degrees 04
minutes east 232.50 feet to the
place of beginning.
Containing 4.00 acres of land
more or less.
RECLASSIFICATION: Petition RECLASSIFICATION: Petition to reclassify the property from an R.C 2 zoning to R.C.5 zoning.
TIME: 10:00 A.M.
DATE: WED., OCT. 23, 1991
LOCATION: Flm. 301,
County Office Building,
111 W. Chesapeake Avenue,
Towson, Maryland 21:204.
WILLIAM T. HACKETT,
Chairman
County Board of Appeals
TT/J9/295 September 28.

CERTIFICATE OF PUBLICATION

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 ____ successive weeks, the first publication appearing on 1114.

TOWSON TIMES,

Case # R.91-363

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

Please Make Checks Payable To: Baltimore County

PETITION FOR ZONING RE-CLASSIFICATION SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an $\frac{RC-2}{2}$ zone to an $\frac{RC-5}{2}$ zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property.

for single residential use, to secure a building permit.

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

Sec 2.581 (L) /2 40,1(L) Wire Stated - nort Olor comented 1 Herdagi

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

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

Legal Owner(s): Contract Purchaser: Dennis McGee (Type or Print Name) (Type or Print Name) tem the -----------(Type or Print Name) Address City and State Attorney for Petitioner: c/o Hurst R. Hessey, attorney _(Type or Print Name), Itus Detor ______ 36 South Charles Street, Suite 2400 Name, address and phone number of legal owner, con-Hurst R. Hessey Baltimore, Maryland 21201

BAHC -Form 1

Attorney's Telephone No.: 301-539-3300

19 ipt

Account: R-001-6150 Number

36 S. Charles Street 301-539-3300

Baltimore, Maryland 21201 Phone No.

04A04#0024NICHRC Please Make Checks Payable To: Beltimore Gentigi 03:27FH03-01-91 NEXT BUSINESS DAY

MICHAEL B. DALLAS
Registered Surveyor SUITE 200 24 W. PENNSYLVANIA AVENUE

TOWSON, MD. 21204 494-0020

ZONING DESCRIPTION 15906 Falls Road

BEGINNING for the same at a point distantsoutherly 2500 feet more or less, South 09 degrees 25 minutes west 85.00 feet, South 03 degrees 30 minutes west 368.69 feet, South 45 degrees 56 minutes west 347.40 feet and North 44 degrees 04 minutes 65.00 feet from the intersection of the centerline of Falls Road (State Route No. 25) with the centerline of Benson Mill Road,

thence running the eight following courses and distances, viz; 1. South 45 degrees 30 minutes west 440.00 feet, 2. North 31 degrees 49 minutes 40 seconds west 140.00 feet, 3. North 33 degrees 39 minutes 40 seconds west 370.00 feet,

4. North 23 degrees 39 minutes 40 seconds west 45.00 feet, 5. North 47 degrees 35 minutes 29 seconds east 218.00 feet. 6. South 36 degrees 09 minutes 40 seconds east 327.00 feet,

7. North 45 degrees 35 minutes 20 seconds east 158.00 feet and 8. South 44 degrees 04 minutes east 232.50 feet to the place of beginning.

CONTAINING 4.00 acres of land more or less.

Zev 3-1-1991



887-3353

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Date of Posting 32 - Sull Course Hill Sout & her True Kinds

Zoning Reclassification
Case Number: R-91-363
W/S Falls Road,
(400' W of centerline) &
approximately 3200'
South Benson Mill Road
15006 Falls Road
5th Election District
3rd Councilmanic
Petitioner(s): Dennis McGee CERTIFICATE OF PUBLICATION Property Description
Beginning for the same at a
point distant southerly 2500 feet
more or less, South 09 degrees
25 minutes west 85.00 feet,
South 03 degrees 30 minutes
west 368.69 feet, South 45
degrees 56 minutes west 347.40
feet and North 44 degrees 04
minutes west 65.00 feet from the
intersection of the centerline of
Falls Road (State Route No. 25)
with the centerline of Benson Mill
Road, thence running the eight
following courses and distances,
viz; TOWSON, MD., _____ 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 ____ successive

THE JEFFERSONIAN.

weeks, the first publication appearing on 977, 1991

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning 10-4-91

ofo Hurst R. Hessey, Esq. 36 S Charles Street

Baltimore, Maryland 21201

7est Chesapeake Avenue

son, MD 2120+

Re: Petition for Zoning Reclassification CASE NUMBER: R-91-363 W/S Falls Road, (400' W of centerline) & approximately 3200' South Benson Mill Road 15906 Falls Road

5th Election District - 3rd Councilmanic Petitioner(s): Dennis McGee HEARING: WEDNESDAY, OCTOBER 23, 1991 at 10:00 a.m.

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

Please make your check payable to "Baltimore County, Maryland" and immediately mail same to the attention of G. Stephens, Zoning Office, Room 113, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, before the hearing.

> Very truly yours, Zoning Commissioner

NOTICE OF HEARING Petition for Zoning Reclassification CASE NUMBER: R-91-363 W/S Falls Road, (400' W of centerline) & approximately 3200' South Benson Mill Road 15906 Falls Road 5th Election District - 3rd Councilmanic

Petitioner(s): Dennis McGee

NOTICE OF HEARING

1) South 45 degrees 30 minutes west 440,00 feet,
2) North 31 degrees 49 minutes 40 seconds west 140,00

3) North 33 degrees 39 minutes 40 seconds west 370.00

4) North 23 degrees 35 minutes 40 seconds west 45.80

5) North 47 degrees 3: minutes 29 seconds east 218.00

feet, 6) South 36 degrees 09 minutes 40 seconds east 327.00

7) North 45 degrees 35 minutes 20 seconds east 158.00 feet and 8) South 44 degrees 04

minutes east 232.50 feet to the place of beginning.
Containing 4.00 acres of land more or less.
RECLASSIFICATION: Petition to reclassify the property from an R.C 2 zoning to R.C.5 zoning.
TIME: 10:00 A.M.
DATE: WED., OCT. 23, 1991
LOCATION: Rm. 301,
Journty Office Building,
11 W. Chesapeate Avenue,
owson, Maryland 21204.
WILLIAM T. HACKETT,
Chairman

Beginning for the same at a point distant southerly 2500 feet more or less, South 09 degrees 25 minutes west 85.00 feet, South 03 degrees 30 minutes west 368.69 feet, South 45 degrees 56 minutes west 347.40 feet and North 44 degrees 04 minutes west 65.00 feet from the intersection of the centerline of Falls Road (State Route No. 25) with the centerline of Benson Mill Road, thence running the eight following courses and distances, viz;

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PROPERTY DESCRIPTION

3) North 33 degrees 39 minutes 40 seconds west 370.00 feet, 4) North 23 degrees 39 minutes 40 seconds west 45.00 feet, 5) North 47 degrees 35 minutes 29 seonds east 218.00 feet,

6) South 36 degrees 09 minutes 40 seconds east 327.00 feet, 7) North 45 degrees 35 minutes 20 seconds east 158.00 feet and 8) South 44 degrees 04 minutes east 232.50 feet to the place of beginning. Containing 4.00 acres of land more or less.

RECLASSIFICATION: Petition to reclassify the property from R.C. 2 zoning to R.C.5 zoning.

WEDNESDAY, OCTOBER 23, 1991 at 10:00 a.m.

County Office Building, Room 301 111 W. Chesepeake Avenue Towson, Maryland 21204

WILLIAM T. HACKETT, CHAIRMAN COUNTY BOARD OF APPEALS

10/23/91 -Hearing had before the Board; hold one week for receipt of information from Mr. Hessey.

11/06/91 -Received letter dated 11/05/91 from Mr. Hessey -- response to questions raised at hearing re issuance of permit (see letter)

111 West Chesapeake Avenue Towson, MD 2120 c

October 17, 1991

887 3353

Hurst R. Hessey, Esquire 36 South Charles Street, Suite 2400 Baltimore, MD 21201

RE:

Item No. 5 Case No. R91-363 Petitioner: Dennis McGee Reclassification Petition

Dear Mr. Hessey:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October-April reclassification cycle (Cycle V). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments to this office on or before October 23, 1991. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

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

R91-363 Dennis McGee Page 2

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 887-3391 or the commenting agency.

Zoning Plans Advisory Committee

Enclosures

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

A West Chesagnerice Avenue Low som MD (2, 26)

565 C 335 3

Your petition has been received and accepted for filing this

1st day of March, 1991.

Zoning Plans Advisory Committee

Petitioner: Dennis McGee, et al Petitioner's Attorney: Hurst R. Hessey BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: June 19, 1931

Mr. I. Robert Haines Zoning Commissioner

FROM: Rahee J. Famili

SUBJECT: Zoning Reclassification Cycle V

ITEM NUMBER: '

The existing R.C.-2 zoning for this site can be expected to generate very low agriculturally related vehicle trips per day, and the proposed R.C. 5 Zoning is expected to generate approximately 40 vehicle trips per day.

RJF/tvd

887-3211

-01 Bosiev Avenue Towson, MD 21204

AND THE STATE OF T

RESOLUTION Adopting a Report To The

WHEREAS, in compliance with Section 2-58.1(e) of the Baltimore County Code, 1978, as amended, the Director of Planning and Zoning has published and submitted a Report dated May 31, 1991 regarding the

COUNTY BOARD OF APPEALS

Baitimore County Government

Planning Board

WHEREAS, the Director's Report has been reviewed and discussed in Committee meeting on July 11, 1991 and presented at the Planning Board's regular monthly meeting on July 18, 1991;

zoning reclassification petitions in Cycle V, 1991; and

NOW, THEREFORE, BE IT RESOLVED, pursuant to County Code Section 2-58.1(f), that the Planning Board hereby adopts the Director's report, excluding Item number 3 which has been exempted under Section 2-58.1(i), to constitute the Planning Board's report and recommendations on the petitions in Cycle V; except that, in regard to Item 1 (Case number CR-91-359-XA), the Board finds that the requested variance to allow more than 2-1/2 times the normally permitted square footage of signs would be excessive and unjustified, and requests that the petitioner consult with Planning staff to reduce the request to a reasonable size and number consonant with the Design Principles in the Master Plan, 1989-2000; and

BE IT FURTHER RESOLVED that this Resolution and accompanying report shall be submitted to the County Board of Appeals.

DULY ADOPTED by vote of the

Secretary to the Planning

Hessey, Durbin, Twomey & Fowler, P. A. ATTORNEYS AT LAW 2400 CHARLES CENTER SOUTH 36 SOUTH CHARLES STREET BALTIMORE, MARYLAND 21201:3010 (301) 539-3300 FAX (301) 539-3305

November 5, 1991

Hon. William T. Hackett Chairman County Board of Appeals Room 115, County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Dear Mr. Hackett:

RE: Petitioner: Dennis McGee; Reclassification Petition Case No.: R91-363

At the hearing before the Board of Appeals on October 23, 1991, in the captioned matter, the Board raised some questions as to why a building permit had not been issued for one of the two lots that are the subject of this zoning proceeding. Essentially, as was adduced at the hearing, a 12-acre tract was illegally subdivided into three lots of approximately four acres each, one of which already has an existing dwelling. The question the Board raised was why, because RC2 zone permits two lots, a building permit had not been issued for either of the two remaining lots, to the exclusion of the other.

I apologize for the delay in answering the Board's question, but I wanted to research this matter through the construction company hired by Mr. McGee to construct his home at the property. In this regard, I spoke with Sherry Woods of Woods Construction Company, who informed me that she was the person responsible for obtaining the building permit. The process went very smoothly until she checked with the zoning office, and it was then denied her, without explanation.

I followed up with the zoning office, and after several conversations, the essential problem appears to be not the granting of a building permit, but the existence of the illegally subdivided

Li : II ... 1 - 1011 16

Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 2120+5500

APRIL 24, 1991

(301) 887-4500

APRIL, 1991 - OCTOBER, 1991 ZONING RECLASSIFICATION CYCLE V

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

DENNIS MCGEE RE: Property Owner:

> #15906 FALLS ROAD Location: Item No.:

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.

7. The Fire Prevention Bureau has no comments at this time.

Planning Group Approved Cartoine to nacy Mich Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 17, 1991 FROM: Dennis A. Kennedy, P.E.

Zoning Advisory Committee Meeting for Zoning Reclassification Cycle V April 1991 - October 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 5 and 7.

For Items 1, 2 and 4, County Review Group Meeting will be required.

For Items 3 and 6, revised County Review Group Meetings will be required

> Dennis A. Kennedy, P.E., Acting Chief, Developers Engineering Division

DAK:s

Planning Board this 18th day of July 1991

Tout telds

PDF/TD/prh RESOLCBA/TXTFRH

Hon. William T. Hackett November 5, 1991 Page 2

The zoning office focused on Section 1A01.3 B.1. in denying the building permit. This statute provides that no lot "having a the building permit. This statute provides that no lot having a gross area between 2 and 100 acres may be subdivided into more than two lots (total), Accordingly, once the lot issue is created, the zoning office will not sign off on a building permit. In short, the process stops upon the problem arising with the existence of the lot.

This means that the building permit was not granted to Mr. McGee, and will not be granted to him or the contiguous property owner until such time as the lot matter is resolved.

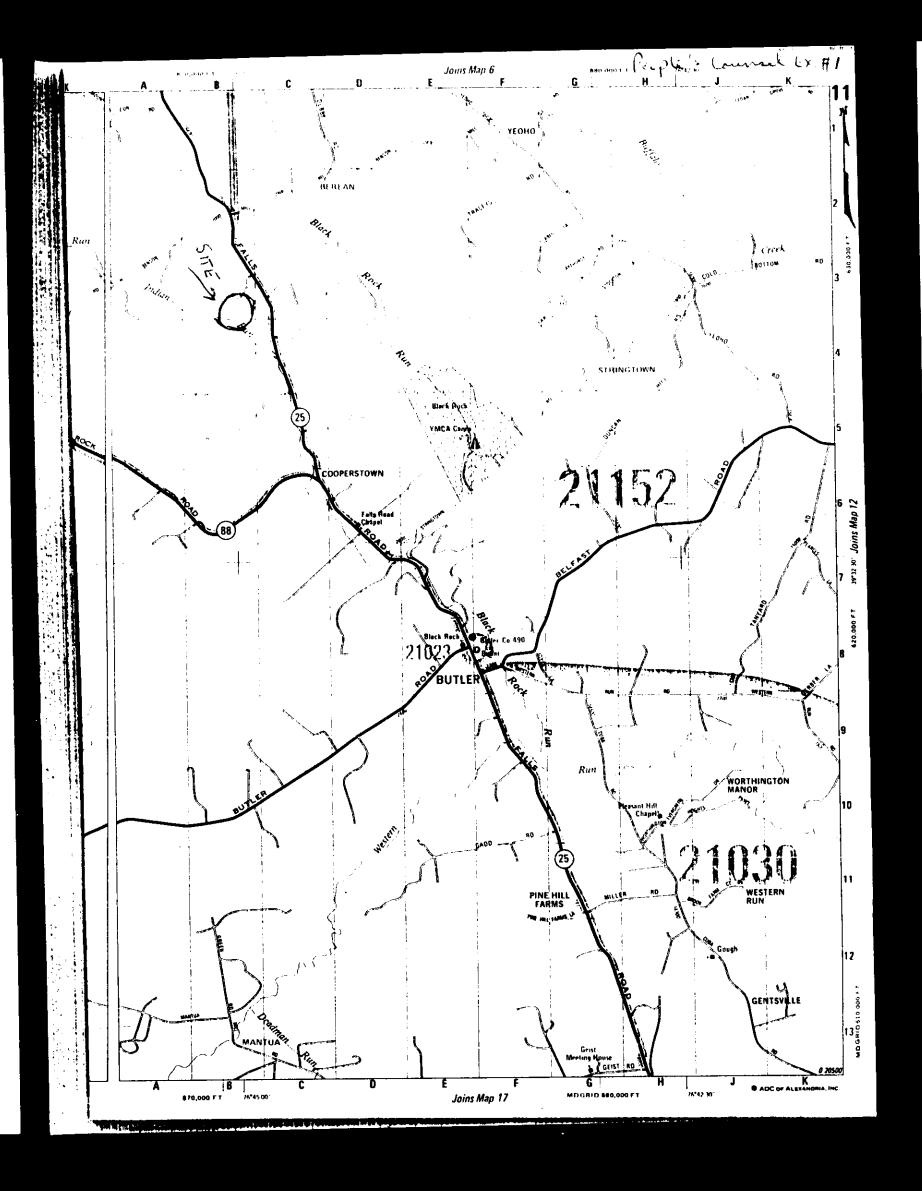
Once again, I apologize for the delay in responding to your request, and I hope that the Board will consider this matter in reaching its decision.

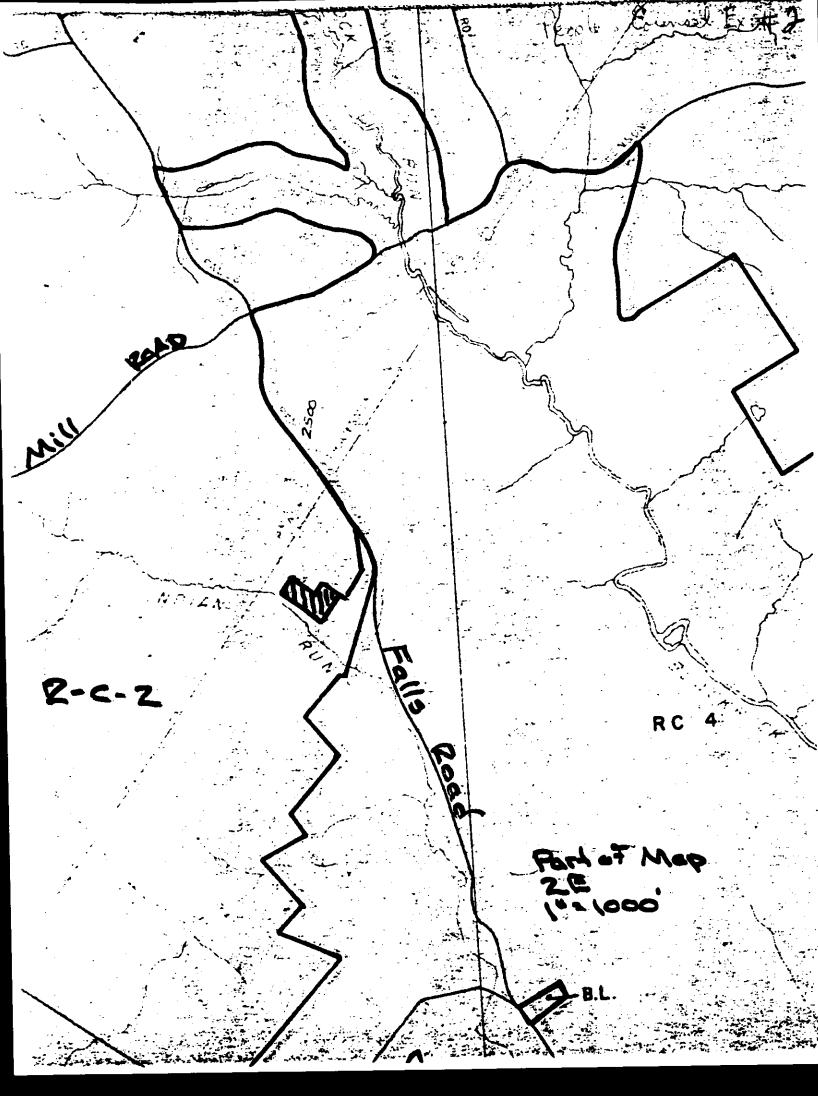
If the Board requires any additional or supplemental information, please do not hesitate to contact me.

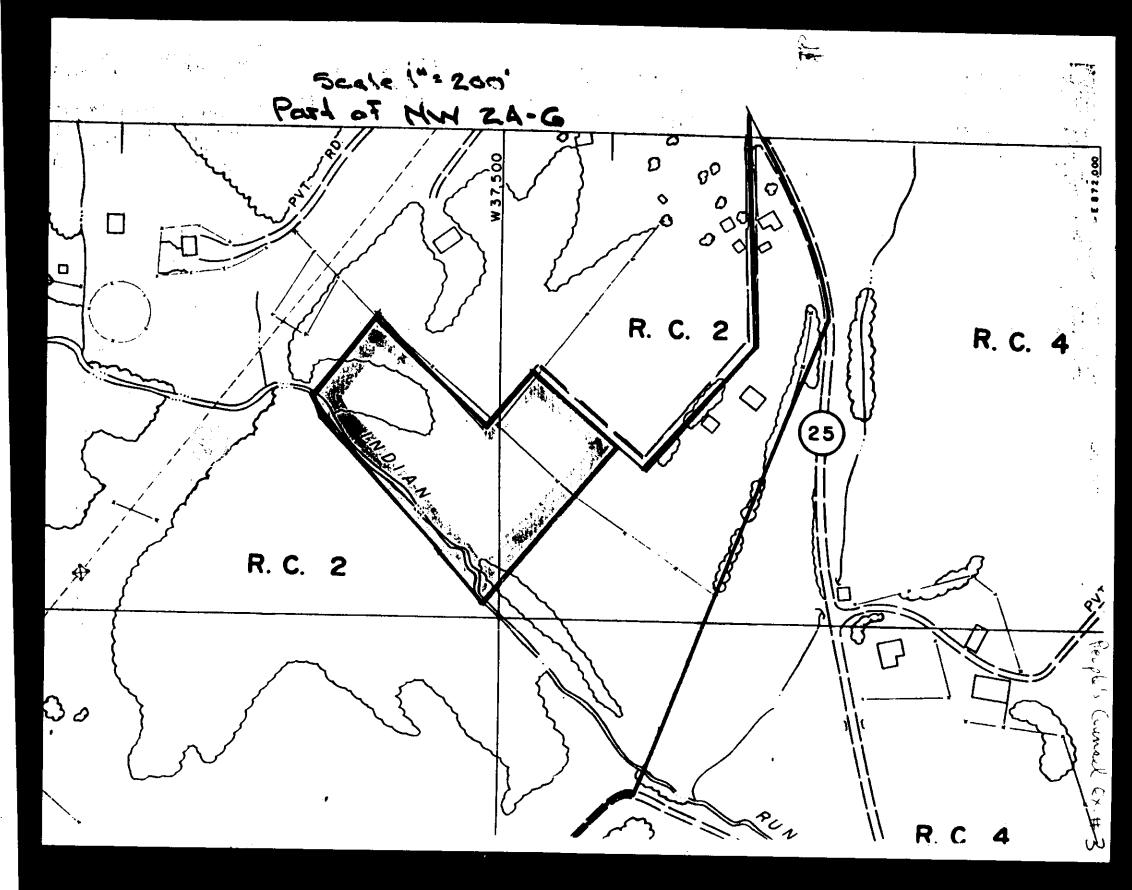
Sincerely,

cc: Mr. Dennis McGee Peter Max Zimmerman, Esquire Peoples' Counsel

letwth.n05







IN THE MATTER OF THE

APPLICATION OF DENNIS G. MCGEE

FOR A SPECIAL HEARING ON



People's Coursel Ex. #4

Ronald M. Kreitner

May 9, 1991

Mr. Harold Reid Baltimore County Planning Board Courts Building 401 Bosley Avenue

Towson, Maryland 21204

William Donald Schaefer

Dear Mr. Reid: Thank you for the opportunity to examine your Cycle V zoning reclassification petitions to the Board of Appeals.

We have several comments concerning Case Number R-91-363, which concerns Mr. Dennis McGee's request for reclassification of his 4-acre property from RC-2 to RC-5.

This property lies in an area now zoned entirely RC-2 and RC-4 for agriculture and watershed protection. There is no RC-5 land anywhere nearby. For this reason this appears to be a "spot" rezoning which would allow residential densities far greater than any allowed nearby.

We are concerned that a rezoning action allowing potential residential densities inappropriate to this rural area of Baltimore County sets a precedent for future reclassification petitions of this type which would endanger nearby agricultural and watershed lands if they are approved.

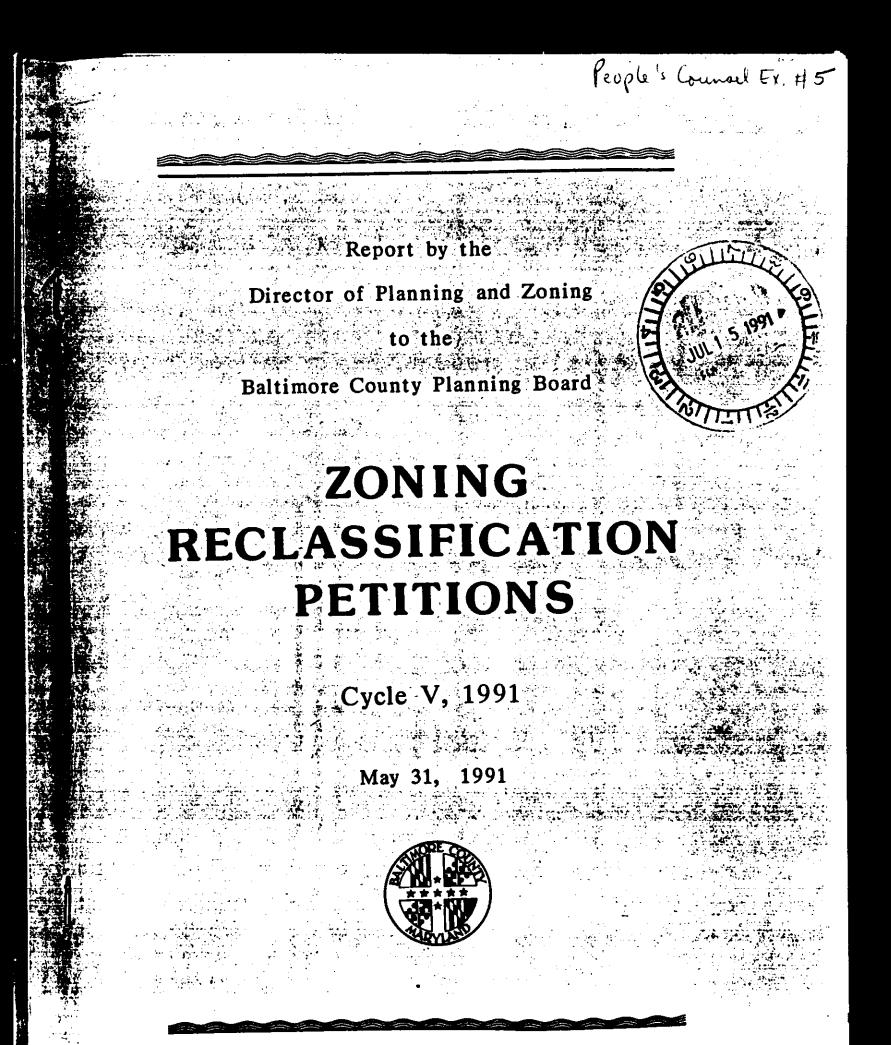
Please enter this letter into the hearing record for this case.

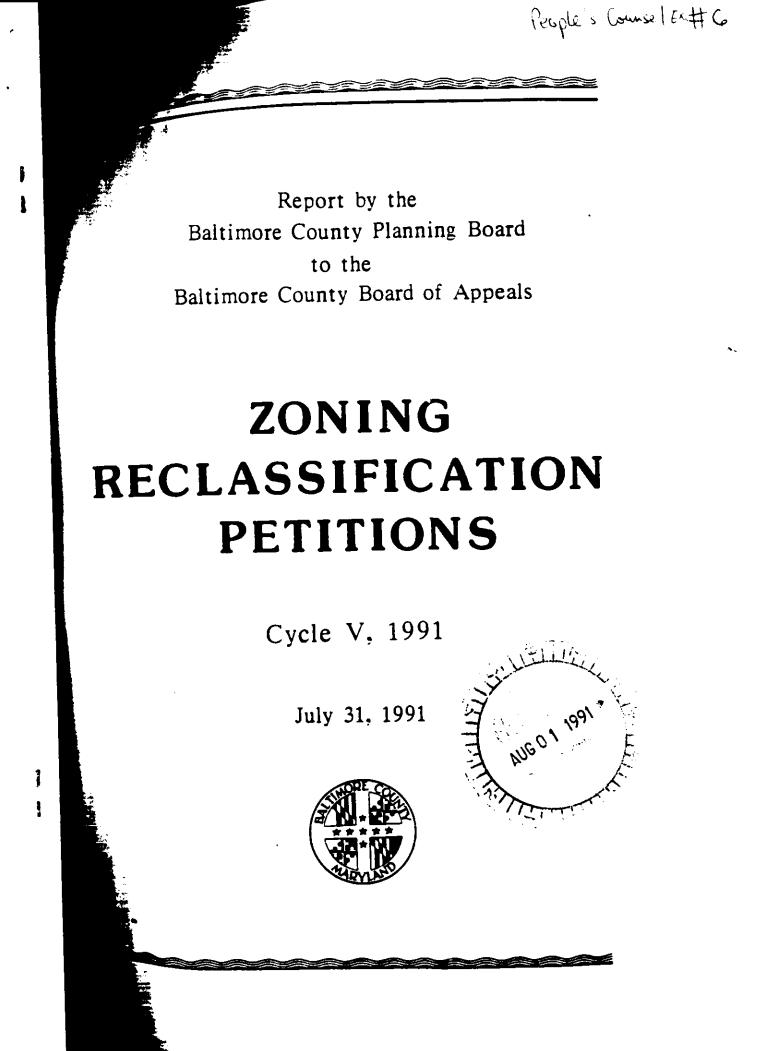
Thank you again for the opportunity to reply.

cc: William T. Hackett, Chairman, Baltimore County

Board of Appeals P. David Fields, Baltimore County Director of Planning

> 301 West Presion Street • Baltimore. Maryland 21201-2365 Office of the Director: (301) 225-4500 Fax: 225-4480 TTY: 383-7555





PROPERTY LOCATED ON THE WEST SIDE OF FALLS ROAD, 2500' SOUTH OF THE CENTERLINE OF BENSON MILL ROAD (15906 FALLS * BALTIMORE COUNTY * CASE NO. 90-62-SPH 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT This is an appeal from the decision of the Deputy Zoning Commissioner's Order dated January 11, 1990 wherein Petitioner's Special Hearing request was denied. Specifically, the Petitioner is requesting non-density transfer of 4.00 acres to an adjoining property owner and to establish not more than two (2) lots from a 12.00 acre parcel in an RC-2 zone. The appeal to this Board is de This decision is based upon the evidence and testimony presented to this Board including the stipulation of facts, proffers of testimony made by the Appellant and exhibits filed

Pripa & Counsel Ex. # 7

COUNTY BOARD OF APPEALS

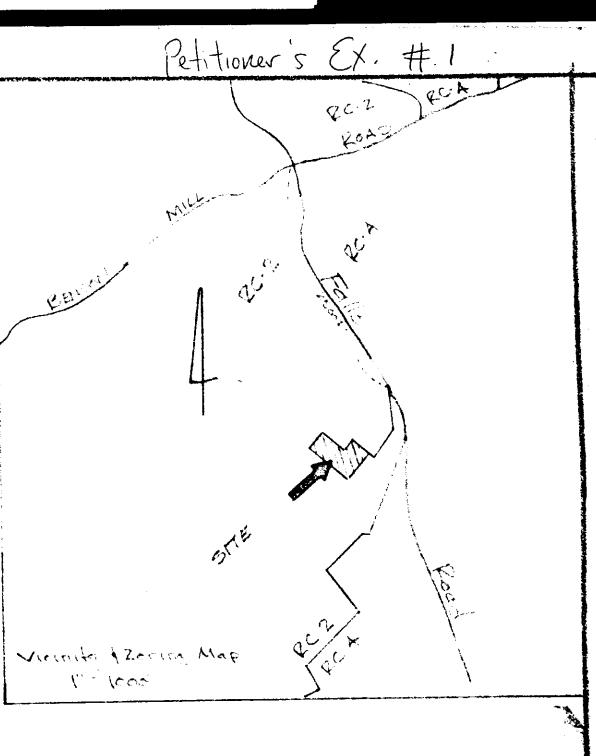
The Appellant appeared and testified in these proceedings represented by Counsel, Hurst R. Hessey, Esquire. Petitioner also produced the testimony of Michael B. Dallas, a registered surveyor, who offered the plat of the subject property into evidence as Petitioner's Exhibit No. 1. Deputy People's Counsel, Peter Max Zimmerman, Esquire, also participated in these proceedings and offered the testimony of Wallace S. Lippincott, Jr., Community Planner with the Office of Planning and Zoning.

The subject property is known as 15906 Falls Road and consists of part of a 12-acre tract presently zoned RC-2 located off of



3rd Councilmanic District			BALTIMORE COUNTY 1988 COMPREHENSIVE ZONING MAP ISSUES					Date: 10/27/88 Sheet: 9
NO.	SPONSOR, OWNER, PETITIONER, ORGANIZATION OR PLACE NAME	LOCATION	TOTAL ACRES	EXISTING ZONING and ACRES	REQUESTED ZOWING and ACRES	ZONIO PLAN BD RECONNEX- DATIONS	DECISIONS COUNTY COUNTY COUNTY	CONSTRATES
-061		SW of Reisterstown Rd SE of Welston Rd	2.00	RO 2.00	BL 2.00	2.00	*0-1	See Issues 3-011, 3-031, 3-130, 3-367
-062	DIM O NOME TO S	SW Cor of York Rd & Roosevelt St (2418 York Rd)	0.11	0.11	BL 0.11	RO 0.11	RO	
-063	John Merryman/Clover Hill Farm	SE cor of Walker & Eagle Mill Rds NW Side of Eagle Mill Rd	91.00	RC 4 91.00	RC 5 91.00	RC 4 91.00	RC 4	yaadaaaaaaaaaa
-064	Marie J Chiaruttini, et al by Holan, Plumboff & Williams	W Side of Dubbs Rd N of Benson Mill Rd	36.71	RC 2 36.71	RC 4 36.71	RC 2 36.71	RC 2	See Issue 3-332
I-065	Sabina D Beale	N Side of Green Rd 1320' E of Kirkwood Shop Rd	16.92	RC 2 16.92	RC 5 16.92	RC 2 16.92	RC 2	
3-066	Charles Trayers et al	SW Cor Middletown & Gores Mill Rds	90.80	RC 5 53.60 RC 4 29.50 RC 2 7.70		RC 5 53.60 RC 4 29.50 RC 2 7.70	RC 5 RC 4 RC 2	See Issues 3-057, 3-213, 3-234, 3-328
3-067	Steve Wilson	SW Side of Central Ave N of Bond Ave	2.50	DR 3.5 2.50		DR 3.5 2.50	DR 3.5	
3-068	Jon Allen & Wilma J Thompson	W Side of York Rd 600' S of I-83 (19220 York Rd)	5.00	RC 5 5.00	BL-CR	RC 5 3.50 BL-CR 1.50		OVERLAY adopted

502 55 E W.L. 4 L.V. Contraction of the second of t Kitchnet Gogg/196 Marina Columbia Panel Ove · April Long Mayajini Down Garage - 7404/C40 Accit # Zorone B. 4 M.E. Basignami 8039/147 And & Acces Thoras Ficilia 6775 (282 Porer) Two KEY Total Holding as in Nov. 85,1979 Deed Let: 875/75 saving & excepting 5209/18 Maga,1971 5535 52 April 26, 1973 Cortis Family Parcel Number One Lot Created by Deed your of Fartidian 6796/282 August 17,1984 Curtin Family Percel Humber Town Parcel Transferred to Advaced Property Syrver
by Deed in Lieu of Part Time
C-126/282 Availat 17,1984 Curtis Family Parcel Gurante Trace Areado be Re. CARCIZES Acoust 17, 1984 Zoned From PC-2 to PC-5 Novi TACA/GAO NOVITILAGO



Proposed Zoning RC-2
Proposed Zoning RC-4
Area of site 4.00 Acres

Private well and Septic system

3rd Council Manic District

ZONING DATA

ZONING PLAT 15906 Falls Road

Sth Election District, Baltimore County, Md.

Scale 1" = 100'

February 28 (1991)

OWNER: Dennis G. McGee

Horst R. Hesse, Esq.
2400 Charles Center South
36 5. Charles Street
Ballimore. Maryland 21201
301-539-3300



MICHAEL B. DALLAS
REGISTERED SURVEYOR
SUITE 200
24 W. PENNSYLVANIA AVENUE
TOWSON, MD. 21204
301 - 494 - 0020

· Petitioner's Ex. #2

IN RE: PETITION FOR SPECIAL HEARING

W/S Falls Road, 2500' S of the

c/l of Benson Mill Road

(15906 Falls Road)

5th Election District

3rd Councilmanic District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 90-62-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the non-density transfer of 4.00 acres to an adjoining property owner and to establish not more than two lots from a 12.00 acre parcel in an R.C. 2 zone, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by J.

Melville Townsend, Esquire. Also appearing on behalf of the Petition was

Michael B. Dallas, Registered Property Line Surveyor. There were no Prot-

Testimony indicated that the subject property, known as 15906 Falls Road, was part of a 12.00 acre tract zoned R.C. 2 located off of Falls Road, and is designated as Parcel 3 on Petitioner's Exhibit 1. Said property consists of 4.00 acres which Petitioner purchased by deed dated November 7, 1986. Mr. McGee testified that at the time of purchase, he understood the property was a buildable lot and he subsequently obtained all necessary financing for the construction of a home. However, upon application, for building permit approval by the Zoning Office, he was adivsed that the subdivision of the 12.00 acres into the three lots was an illegal subdivision as the R.C. 2 classification permits subdividing into only two lots. Through his Counsel, Mr. McGee argued that the spirit and intent of the zoning regulations can be met as one of the two parcels will

