

IN THE MATTER OF:
BEACHWOOD II LTD PARTNERSHIP
E/S MORSE LANE, APPROX 1100' N OF
C/L OF WISE AVENUE
(BEACHWOOD MOBILE HOME PARK)

15th Election District
7th Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No.: 93-391-SPH
*

* * * * *

ORDER OF DISMISSAL

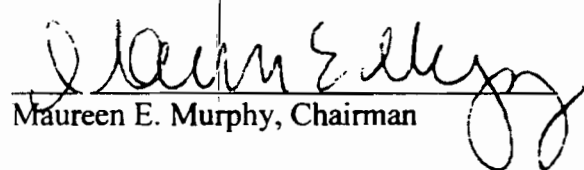
This matter having come before this Board on appeal dated August 25, 1993 from a decision of the Zoning Commissioner dated August 5, 1993, wherein a Petition for Special Hearing to obtain affirmation that approval granted in prior Case No.: 84-368-A remains valid and that property can be developed pursuant to site plan approved at that time was denied.

WHEREAS, the Board has been reviewing its docket with reference to inactive cases with the intent to dismiss and close as many of these cases as possible; and

WHEREAS, the subject matter has been held on the Board's docket since January 6, 1994, and no further action has occurred in this matter;

IT IS THEREFORE ORDERED, this 16th day of June, 2009 by the Board of Appeals for Baltimore County that the above-referenced appeal in Case No.: 93-391-SPH be and is hereby **DISMISSED FOR LACK OF PROSECUTION**.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Chairman

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
E/S Morse Lane, approx. 1100' *
N of c/l of Wise Avenue * ZONING COMMISSIONER
Beachwood Mobile Home Park *
15th Election District * OF BALTIMORE COUNTY
7th Councilmanic District *
Beachwood II Ltd. Partnership CASE # 93-391-SPH
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property known as Beachwood, located in the Sparrows Point section of Baltimore County. The Petition is filed by the current owners of the subject property, namely, the Beachwood II Limited Partnership. The Petitioner seeks validation of the special exception and variances which were granted in case No. 84-368-A. Stated another way, the Petitioner seeks an affirmation that the approval granted in that case remains valid and that the property can be developed pursuant to the site plan which was approved at that time.

Appearing at the public hearing held for this case were R. Bruce Alderman and Armando Cignarale, principals of the Beachwood II Limited Partnership. Also appearing was John J. Stamm, an engineer with G.W. Stephens, Jr., and Associates, Inc. Mr. Stamm and his firm have a long history of working with this property and the proposed development thereon pursuant to the previously approved special exception. Appearing as Protestants were Ethel Weber, Joan Biemiller, Pearl Gintling, Cabrina Dembow and Virginia Tolbert. These Protestants all reside near the subject site. They appeared primarily to voice concerns about the merits of the proposed development. However, as I indicated at the hearing, the desirability of the proposed plan is not at issue. Rather, this case revolves around a narrow question

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M. Spork

of whether the approved special exception and variances granted in the prior case remain valid.

Owing to the narrow issue presented, there was limited factual testimony offered at the hearing before me. That is, the issues delineated by Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) which relate to the effects of the proposed use on the surrounding locale were not examined. Instead, testimony regarding the history of the project was offered and received. This testimony may be summarized as follows:

The entire site, itself, is approximately 102 gross acres, with a proposed development area of about 78 acres. It is immediately adjacent to Back River in Sparrows Point. Vehicular access to the site is by way of Morse Lane, which abuts the property on its non-river (west) side. Further, the property is near the Patapsco Freeway and immediately adjacent to the Penn Central Railroad Line.

A site plan was submitted at the hearing before me which depicts the property and was marked as Petitioner's Exhibit No. 2. That plan shows that the site has been divided into three parcels. Parcel No. 1 is 42.76 acres in area and is composed of woods and wetlands. It is not proposed for any development and is apparently the most environmentally sensitive portion of the tract. Development of a trailer park, pursuant to the Petition for Special Exception is shown on parcel 2. This tract is 46.356 acres and comprises the core of the property. Parcel 3 is shown as 11.31 acres and is comprised of some wetlands and a contemplated future area of development. Specifically, three story garden apartments are shown as proposed on this parcel.

Prior to 1988, the site was zoned M.H.-I.M. Under that zoning classification, a trailer park is permitted only by special exception. Prior owners

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Mr. Good

of the property apparently desired to develop the site in that manner. Thus, in early 1985, they appeared before then Zoning Commissioner, Arnold Jablon, pursuant to Petitions for Special Exception and Variance seeking approval of a 203 unit trailer park. Commissioner Jablon considered the issue carefully and following a lengthy hearing, approved the Petitions for Special Exception and Variance, as requested. A copy of his opinion and Order, granting approval of the project as of April 2, 1985, was offered into the record as Petitioner's Exhibit No. 3. It is to be noted that Commissioner Jablon's Order contained a number of restrictions. First, he required that the Petitioner obtain County Review Group approval for the proposed trailer park. At that time, development in Baltimore County was permissible only after approval of a project plan was given by the County Review Group (more commonly known as C.R.G.). Further, Commissioner Jablon required that the Petitioner meet the State's then Chesapeake Bay Critical Area requirements. Those regulations, which were codified in Section 8-1813, Natural Resources Article, Annotated Code of Maryland, were being promulgated at that time and had only been recently enacted by the General Assembly.

Subsequent to this Order, the Petitioner obtained C.R.G. approval on April 25, 1985 (see Petitioner's Exhibit No. 4). Thus, by the end of April 1985, the Petitioner had obtained all Baltimore County approval necessary (i.e., granting of the special exception and approval of the development through the C.R.G. process) and could have moved forward with development.

Notwithstanding these approvals, however, the physical development of the property did not move forward. Testimony at the hearing before me was that there was no physical work done on the property following the obtaining of these approvals. Apparently, some preliminary site work had been done on the property before the special exception was granted and the C.R.G. plan

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approved. However, this work was extremely limited in scope. Specifically, a berm and stilling basin were built on the west side of the property near Morse Lane. However, this work was apparently done to clean up the property and facilitate the removal of junk and debris which had accumulated thereon. That is, field work which was done prior to the County's approval was not done to implement the development plan, per se, rather to clean up the property and make same ready for development.

The next chapter in the chronological history of this project occurred in late 1985. As noted above, Maryland's critical areas legislation was evolving during this period. The State and local standards, pursuant to the Chesapeake Bay Critical Area Act, were being prepared and implemented. The site, which is located immediately adjacent to Back River, is in an environmentally sensitive area and is part of the Chesapeake Bay Critical Area as that term is defined in the State regulations. Correspondence was exchanged in late 1985 between the Project Engineer and Baltimore County regarding the impact of the critical area legislation (see Petitioner's Exhibit No. 5). The sum and substance of that correspondence was that the project clearly fell within the grandfathering language of the critical area legislation and that further environmental reviews were not necessary. That is, since the development project had been approved by the C.R.G., in the Spring of 1985, it would not be subject to the critical area regulations which were issued by the State thereafter.

Nonetheless, the project still did not go forward. Testimony and evidence presented was that the then owners of the property were experiencing financial problems. Apparently, the principals of the corporate owner were tied into the savings and loan scandal which engulfed Maryland at that time. Also, the project was delayed to accommodate the necessary acquisi-

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By Mr. Novak

tion of a small portion of the tract which was then owned by Baltimore County. Specifically, the County owned a small strip within parcel 2 which was the bed of Lynhurst Road. In order to develop the property as planned, the Petitioner needed to acquire this strip through the road closing procedure provided in the Baltimore County Code. Eventually the road was closed in August of 1987, and in January of 1988, the Lynhurst Road bed was deeded to the developers. This road closing process and the signing of a public works agreement in December of 1987 contributed to the delay of the project and also prevented the filing of the record plat for same. However, ultimately, the record plat was recorded among the Land Records of Baltimore County on February 24, 1988.

Contemporaneously with the closing of Lynhurst Road and acquisition of the roadbed, the then property owners realized that Commissioner Jablon's approval of the Petitions for Special Exception and Variance would expire. That is, under Section 502.3 of the B.C.Z.R., a special exception is valid for a period of two years, unless the Order granting same specifically provides otherwise. Realizing that the approval granted thereunder was set to expire, the then property owners filed a Petition for Special Hearing in 1987. This Petition was considered by the Deputy Zoning Commissioner, Jean M. Jung. Deputy Commissioner Jung's findings and Order is of note and was received as Petitioner's Exhibit No. 6. Her opinion recounts the testimony offered to her that the special exception and C.R.G. approvals were issued in April of 1985, that a public works agreement was paid and a record plat executed, and that the internal road plans and preliminary water and sewer plans were completed. She also noted that the engineer who testified before her stated that additional improvements would be made, including the widening of Morse Lane, the extension of water to the site, the construction of

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internal roads, an independent sewer system and storm water management. Clearly, based on this testimony, the property owners realized when they came before Deputy Zoning Commissioner Jung in 1987 that the previously approved special exception had not been utilized and needed an extension. Their testimony, at that time, is consistent with that position, particularly since it is clear that no physical improvements or construction had been made to the site which would constitute a utilization of the special exception. After having considered all of the evidence and testimony presented, Deputy Zoning Commissioner Jung granted a three year extension for utilization of the special exception to April 2, 1990.

Notwithstanding the extension of the special exception per Deputy Commissioner Jung's Order, development still did not proceed. As more time elapsed, renewed questions about the impact of the passage of the critical area legislation were presented. Again, however, the County assured the developer that the site was grandfathered from critical area regulation. By his letter of March 10, 1988 (Petitioner's Exhibit No. 8), the Director of the Office of Planning and Zoning, P. David Fields, reiterated that the property was grandfathered from critical area regulations because final approval of the project had been obtained through the C.R.G. on April 25, 1985. Thus, consistent with previous Director Norman Gerber's letter (Petitioner's Exhibit No. 5) several years before, the County acknowledged that the project was exempt from current critical area requirements.

Director Fields' letter also referenced the pending rezoning of a portion of the property which was under contemplation at that time. In fact, a portion of the property was rezoned from M.H.-I.M. to R.C.20 in 1988. Four years later, during the 1992 process, the balance of the tract which had remained M.H.-I.M. was rezoned to D.R.1. Thus, at present, the entire tract

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is split zoned R.C.20 and D.R.1. Under the existing zoning classifications, the project cannot be developed as a mobile home park. Further, it is to be noted that Directors Fields' and Gerber's letters did not, in any manner, address the viability of the special exception.

The final chapter as to the history of this project occurred earlier this year, in March of 1993. At that time, the property owners noted that the record plat recorded on February 24, 1988 would expire on April 25, 1993 if not extended by legislation. Seeking clarification of this issue, the Petitioner's engineer corresponded to Arnold Jablon, Director of the Office of Zoning Administration and Development Management. Director Jablon's response (Petitioner's Exhibit No. 9) correctly states that Bill No. 139-92, which was enacted into law by the Baltimore County Council, extended the viability of the said record plat for a period of two years. Therefore, the plat for this project remains valid until April 25, 1995.

After tracing this extended history of the project and proposed development on this site, it is clear that the record plat remains valid and that the property is exempt from current critical area regulations. The developer has obtained assurance in these respects from Baltimore County. However, whether these conclusions extend the viability of the special exception is the issue. Simply stated, has the developer's actions, as outlined above, vested the special exception initially granted by Zoning Commissioner Jablon as extended by Deputy Commissioner Jung. Clearly, by its own terms, the approval granted thereunder would lapse on April 2, 1990, unless same was vested.¹

The crux of the Petitioner's argument is that the special exception was

¹ For the purposes of this discussion, the terms "vesting" and "utilization" are used interchangeably. Simply stated, the issue presented is whether the special exception approval is vested and/or utilized by the developer and its predecessors in title. If so, the project may be built out as proposed. If not, the Petitioner must return to square one with any development plans.

vested. In essence, they claim that the closing of Lynhurst Road, the filling of the record plat (which remains valid) and/or the construction of the berm and stilling basin are all sufficient actions to vest the special exception. Further, the Petitioner notes that but for the posting of the necessary collateral, grading permits have been approved and sediment control plans and water/sewer plans have been resubmitted and approved by the County. All of these factors form the basis of the Petitioner's argument that the approved special exception has been vested.

The above facts and contentions being summarized, attention is now turned to the law to be applied to this issue. Fortunately, the length of life of a special exception approval is addressed directly in the B.C.Z.R., specifically, in Section 502.3. As noted above, that section provides, in part, that a special exception is valid for a period of two years after its granting and may be extended to a period not exceeding a total of five years. Further, this section defines what constitutes utilization of the special exception in certain instances. The regulation provides that "A special exception which requires any construction for its utilization shall be deemed to have been used within its authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is, thereafter, pursued to completion with reasonable diligence." (Section 502.3)

The Zoning Commissioner's office, the County Board of Appeals on appeal and the courts of this State, have all considered this regulation in other cases. Recently, interpretation of this section was provided by the Court of Special Appeals in an unreported opinion entitled Baltimore County v. Joseph L. Soley, case No. 1475, Sept. Term 1986. In that case, the Court recognized that Section 502.3 mandates a two prong test for considering

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whether a special exception has been utilized. Specifically, the Court must determine if, (1) construction shall have commenced during the authorized period and, (2) if said construction thereafter was pursued to completion with reasonable diligence. In Soley, infra, the Court concluded that construction was commenced within the authorized time and the issue turned on whether it had been completed with reasonable diligence.

A similar issue was considered by the Court of Appeals in Rockville Fuel and Feed Company, Inc., v. Board of Appeals of the City of Gaithersburg, 266 Md. 117, 291 A2d. 672, (1972). In that case, the property owner had obtained special exception approval for the construction and operation of a concrete batching plant and the issue presented was whether said special exception was vested. After examining the issue, the Court concluded that the developer was not vested in that it had not made any substantial effort to begin construction of the building and had not committed the use of the land to the project granted. See Rockville, infra, pg. 677. Other cases before the Maryland Courts have resulted in a similar holdings. Most frequently, the issue has been presented in the context of a downzoning of a particular property. In these cases, the Court has consistently ruled that the property owner must make substantial and significant improvements to the property in order for vesting to occur. The holdings in these cases are substantially similar to the rationale employed in Section 502.3 requiring some physical construction to vest a property owner's right to develop. See e.g. Prince Georges County v. Sunrise Development Limited Partnership, et al, 330 Md. 297, 623 A2d. 1296 (1993), Pemberton v. Montgomery County 275 Md. 363, 340 A2d. 240 (1975), and Prince Georges County v. Equitable Trust, 44 Md. App. 272, 408 A2d. 737 (1970).² Although these

² Interesting, in the instant case, no attention has been paid to effect of the downzoning of the property in 1988 & 1992. Even assuming arguendo that the special exception is vested (valid) the project may be doomed due to this rezoning. However, this issue is a matter for another day, in that the sole issue presented in Petition for Special Hearing relates to the viability of the special exception previously granted.

citations are helpful, it is the language of Section 502.3 of the B.C.Z.R. which is controlling. That language is clear, for this special exception to be valid, that there must be some construction on site. Certainly, the use approved (trailer park) requires the owner to undertake certain contributions. For example, an internal roadway system must be developed, a storm water management system put in place, and construction of water/sewer management facilities. A mobile home trailer park requires a certain amount of infrastructure in order to be developed. As such, the case clearly falls within the language of Section 502.3 cited above which governs those special exception uses which require construction. As such, the special exception is considered utilized only if construction has been undertaken and same has been pursued towards completion, with reasonable diligence.

As to construction, same has not been commenced in any degree. Although a berm and stilling basin were created, this construction predated the approval authorized by Commissioner Jablon's Order and was clearly well before the extension granted by Deputy Commissioner Jung in 1987. Section 502.3 requires the construction shall have commenced during the authorized period, which did not begin until April 2, 1985 and was renewed as of April 2, 1987. Not only was construction not undertaken after Commissioner Jablon's Order, but, as importantly, no physical work was done on site after Deputy Commissioner Jung's Order. Moreover, it is clear that all concerned believed that the special exception had not been utilized during its first two years. That is, the extension requested from Deputy Commissioner Jung would not have even been sought if the special exception had been utilized by 1987. Additionally, the improvements that were made (berm and stilling basin) were not performed in furtherance of the construction of the mobile home park. They were done only to improve and clean up the property and

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8/5/93
J. H. Hark

make same ready for development. In sum, there has been no construction. No construction having been started, it clearly cannot have been diligently timed towards completion. The Petitioner fails both prongs of the test offered Section 502.3 of the B.C.Z.R. The special exception has not been utilized as required by Section 502.3. It is, therefore, no longer valid.

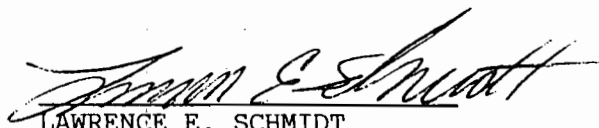
Notwithstanding their failure to satisfy this test, the Petitioner argues that the special exception has been vested by the filing of the record plat in the Land Records of Baltimore County in February 1988, and by the obtaining of the other County approvals (i.e., C.R.G.) and exemptions (i.e. from Critical Area regulations). In regards to the record plat, same is defined as "... the graphic representation of the development prepared pursuant to the approved plan for the purpose of recording in the Land Records of Baltimore County". See Section 26-168, Baltimore County Code. In contrast, a special exception is a zoning tool enabling the hearing authority to adjudge the appropriateness of certain uses which have been predetermined to be conditionally proper in a given zone. See Section 502 of the B.C.Z.R. and Schultz v. Pritts, 291 Md. 1, 432 A2d 1319 (1981). These are two entirely different zoning/planning mechanisms. They are apples and oranges. The filing of a record plat has nothing to do with the issue of the utilization/vesting of the special exception. Although this project requires special exception approval, not every record plat incorporates a special exception. In fact, most do not. The Petitioner may well have a valid record plat in the context of Bill 130-92. However, same does not translate into a utilized special exception. The special exception test contained in Section 502.3 is quite different. Unfortunately, for the Petitioner, its filing of the record plat does not extend the life of the special exception.

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By [Signature]

As to the balance of the Petitioner's arguments, they are without merit. The grandfathering of the project from the critical area regulations is likewise unrelated to the utilization of the special exception. The project, in an environmental context, may very well be exempt from compliance with the current regulations. However, this exemption is unrelated to the special exception and the utilization of same as governed by Section 502.3. Based upon the clear language of that section of the B.C.Z.R., I am required to determine that the special exception in this case has not been utilized. Notwithstanding the substantial expenditures and efforts made by the Petitioner and its representatives, the special exception is no longer valid. The window of opportunity for development in accordance with the approved special exception plan lasted for five years from April 2, 1985 through April 2, 1990. When the property owners did not develop the site within that time, the approval granted by the special exception was lost. No matter how justifiable the delay, the property owner's failure to act within the permissible timeframe doomed the viability of the special exception.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5TH day of August, 1993 that the Petition for Special Hearing for validation of the special exception and variances granted in case No. 84-360-XA, be and is hereby DENIED.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

CRITICAL

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Petition for Special Hearing

93-391-SPH

to the Zoning Commissioner 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 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~~ validate the Special Exception and Variances granted in Case No. 84-360XA

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/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Mr. John Gontrum

(Type or Print Name)

Signature

814 Eastern Boulevard

Address

Baltimore, Maryland 21221

City and State

Attorney's Telephone No.: 686-8274

Legal Owner(s):

Beachwood II Ltd. Partnership

(Type or Print Name)

Signature

R. Bruce Alderman

(Type or Print Name)

Signature

108 W. Timonium Road - Suite 200 560-1182

Address

Phone No.

Timonium, Maryland 21093

City and State

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

George William Stephens, Jr. & Associates, Inc.

Name

658 Kenilworth Drive - Suite 100 825-8120

Address Towson, MD 21204 Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: DATE



No REVIEW
5-4-93
WCR

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93-391-SPH

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Description to Accompany Special Hearing
to Validate the Special Exception and
Variances Granted in Case No. 84-360 XA,
PARCEL II BEACHWOOD, Containing 46.356
Acres of Land more or less.

May 1, 1993

Beginning for the same at a point on the easterly side of Morse Lane (66 foot wide) at the point being designated No. 26 having Baltimore County Metropolitan District coordinates of South 13319.19 and East 45313.62, shown on a Plat entitled "Parcel II BEACHWOOD", dated June 1985, recorded among the Plat Records of Baltimore County, Maryland in Plat Book S.M. 58 folio 22, said point of beginning being distant North 02 degrees 54 minutes 20 seconds West 1082.63 feet more or less from the centerline intersection of the existing paving of Morse Lane and Wise Avenue Extended, running thence leaving said point of beginning, binding on the easterly side of said Morse Lane and binding on the outline of said Plat, the four following courses, viz:

- 1) North 16 degrees 06 minutes 12 seconds West 140.32 feet to point No. 27 on said Plat,
- 2) northwesterly by a curve to the right having a radius of 1331.02 feet for a distance of 365.59 feet, said curve being subtended by a chord bearing North 08 degrees 14 minutes 05 seconds West 364.44 feet to point No. 28 on said Plat,
- 3) northwesterly by a curve to the left having a radius of 2990.93 feet for a distance of 1235.43 feet, said curve being subtended by a chord bearing North 12 degrees 11 minutes 58 seconds West 1226.67 feet to point No. 29 on said Plat and
- 4) North 24 degrees 01 minutes 58 seconds West 326.51 feet to point No. 30 on said Plat and to the easterly side of Lynhurst Road, running thence binding on the easterly side of said Lynhurst Road and continuing to bind on the outline of said Plat, the three following courses, viz:
 - 5) North 21 degrees 19 minutes 43 seconds West 51.80 feet to point No. 31 on said Plat,
 - 6) North 15 degrees 57 minutes 54 seconds West 381.05 feet to point No. 42 on said Plat and
 - 7) North 25 degrees 14 minutes 04 seconds West 77.01 feet to point No. 43 on said Plat, running thence leaving said Lynhurst Road, continuing to bind on the outline of said Plat, the two following courses, viz:
 - 8) North 74 degrees 02 minutes 06 seconds East 159.56 feet to point No. 1 on said Plat, and
 - 9) South 89 degrees 02 minutes 15 seconds East 780.50 feet to point No. 2 on said Plat and to the waters of Back River, running thence binding on the waters of said Back River and continuing to bind on the outline of said Plat, the sixteen following courses, viz:
 - 10) South 58 degrees 56 minutes 30 seconds East 42.91 feet to point No. 3 on said Plat,

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Description to Accompany Special Hearing
to Validate the Special Exception and
Variances Granted in Case No. 84-360 XA,
PARCEL II BEACHWOOD, Containing 46.356
Acres of Land more or less.

May 1, 1993
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- 11) South 44 degrees 27 minutes 50 seconds East 20.79 feet to point No. 4 on said Plat,
- 12) South 22 degrees 34 minutes 30 seconds East 90.29 feet to point No. 5 on said Plat,
- 13) South 30 degrees 57 minutes 30 seconds East 45.16 feet to point No. 6 on said Plat,
- 14) South 19 degrees 28 minutes 40 seconds East 70.40 feet to point No. 7 on said Plat,
- 15) South 29 degrees 05 minutes 20 seconds East 56.15 feet to point No. 8 on said Plat,
- 16) South 21 degrees 53 minutes 50 seconds East 179.55 feet to point No. 9 on said Plat,
- 17) South 18 degrees 57 minutes 10 seconds East 112.75 feet to point No. 10 on said Plat,
- 18) South 12 degrees 40 minutes 20 seconds East 94.04 feet to point No. 11 on said Plat,
- 19) South 01 degrees 11 minutes 00 seconds West 53.50 feet to point No. 12 on said Plat,
- 20) South 17 degrees 02 minutes 30 seconds East 167.13 feet to point No. 13 on said Plat,
- 21) South 06 degrees 08 minutes 40 seconds East 93.84 feet to point No. 14 on said Plat,
- 22) South 25 degrees 57 minutes 30 seconds East 79.51 feet to point No. 15 on said Plat,
- 23) South 23 degrees 34 minutes 50 seconds East 95.33 feet to point No. 16 on said Plat,
- 24) South 21 degrees 42 minutes 30 seconds East 109.05 feet to point No. 17 on said Plat and
- 25) South 26 degrees 04 minutes 50 seconds East 123.47 feet to point No. 18 on said Plat, running thence leaving the waters of said Back River and continuing to bind on the outline of said Plat, the eight following courses, viz:
 - 26) South 63 degrees 55 minutes 10 seconds West 15.01 feet to point No. 19 on said Plat,
 - 27) South 02 degrees 05 minutes 37.5 seconds East 231.47 feet to point No. 20 on said Plat,
 - 28) South 10 degrees 00 minutes 00 seconds West 285.00 feet to point No. 21 on said Plat,
 - 29) South 38 degrees 00 minutes 00 seconds West 264.10 feet to point No. 22 on said Plat,

93-391-SPH

Description to Accompany Special Hearing
to Validate the Special Exception and
Variances Granted in Case No. 84-360 XA,
PARCEL II BEACHWOOD, Containing 46.356
Acres of Land more or less.

May 1, 1993
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30) South 68 degrees 00 minutes 00 seconds West 264.40 feet to
point No. 23 on said Plat,

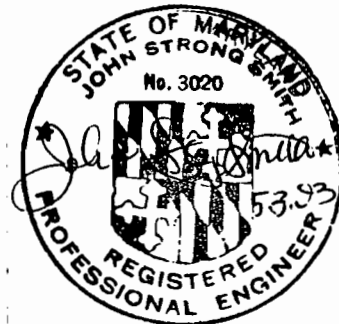
31) South 86 degrees 00 minutes 00 seconds West 318.69 feet to
point No. 24 on said Plat,

32) South 05 degrees 44 minutes 38 seconds East 346.25 feet to
point No. 25 on said Plat and

33) North 88 degrees 06 minutes 46 seconds West 58.20 feet to the
point of beginning.

Being all that parcel of land shown on a Plat entitled "Parcel II
BEACHWOOD", dated June 1985, recorded among the Plat Records of
Baltimore County, Maryland in Plat Book S.M. 58 folio 22, containing
46.356 acres of land more or less.

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT
TO BE USED FOR CONVEYANCES OR AGREEMENTS.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

93-391-SPH

District 15TH Date of Posting 6/10/93

Posted for: Special Hearing

Petitioner: Beacwood II Limited Partnership

Location of property: E/S Morse Lane, 1100 N/ Wils. Ave.

Location of Signs: Facing road way, near each end of property to
be heard at hearing.

Remarks: _____

Posted by M. H. Teale Date of return: 6/14/93
Signature

Number of Signs: 2

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #93-391-SPH
(Item 400)
E/S Morse Lane, approximately 1100' N of c/wise Avenue
15th Election District
7th Councilmanic
Petitioner(s):
Beachwood II Limited Partnership
Hearing: Monday,
June 14, 1993 at 2:00 p.m.
in Rm. 118, Old Courthouse.

Special Hearing to validate the special exception and variances granted in case #84-360-XA.

LAWRENCE E. SCHMIDT
Zoning Commissioner of
Baltimore County

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
5/244 May 20.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

5/20, 1993

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 5/20, 1993.

THE JEFFERSONIAN,

S. Zebe Orlov

Publisher

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

PB-391-524

District 152

Date of Posting 9/14/93

Posted for: Appeal

Petitioner: Beachwood II LTD Partnership

Location of property: E/S Morse Lane, 9220x 1100' N/W 1/4 Tr.

Location of Signs: Facing roadway on property being appealed.

Remarks: _____

Posted by M. Stealy
Signature

Date of return: 9/17/93

Number of Signs: 1



BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 118401

DATE 8-31-93 ACCOUNT R-001-6150

#140

AMOUNT \$ 175.00

RECEIVED FROM: JOHN B. GONTRUM

FOR: BEACHWOOD II - APPEAL
93-391-SPH

03A03#0032MICHRC

\$175.00

BA 6002-14PM09 01 93
VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

JAW

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 118402

DATE 8-31-93 ACCOUNT R-001-6150

#150

AMOUNT \$ 35.00

RECEIVED FROM: JOHN B. GONTRUM

FOR: 93-391-SPH - APPEAL
BEACHWOOD II

03A03#0031MICHRC

\$35.00

BA 6002-13PM09 01 93
VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

JAW



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

September 24, 1993

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 93-391-SPH

BEACHWOOD II LTD. PARTNERSHIP
E/s Morse Lane, approximately 1100' N of
c/l of Wise Avenue
(Beachwood Mobile Home Park)
15th Election District
7th Councilmanic District

SPH - To obtain affirmation that approval granted in prior Case No. 84-368-A remains valid (special exception and variances) and that property can be developed pursuant to site plan approved at that time.

8/05/93 -Z.C.'s Order in which Petition for Special Hearing was DENIED.

ASSIGNED FOR:

THURSDAY, JANUARY 6, 1994 at 10:00 a.m.

cc: John B. Gontrum, Esquire
R. Bruce Alderman, Esquire
and Mr. Armando Cignarale, Principals
Beachwood II Ltd. Partnership
John J. Stamm
G. W. Stephens, Jr. & Assoc.
Ms. Ethel Weber
Ms. Joan Biemiller
Ms. Pearl Gintling
Ms. Cabrina Dembow
Ms. Virginia Tolbert
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Counsel for Petitioner/Appellant

Petitioner/Appellant

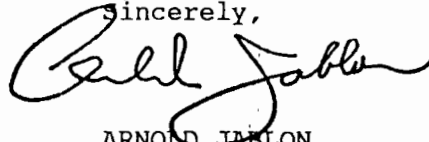
Kathleen C. Weidenhammer
Administrative Assistant



Appeal, Case No. 93-391-SPH
September 1, 1993
Page 2

If you have any questions concerning this matter, please do not
hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
Director

AJ:jaw

c: Mr. John J. Stamm
Mr. Armando Cignarale
People's Counsel

APPEAL

Petition for Special Hearing
E/S Morse Lane, approx. 1100' N
of c/l of Wise Avenue
(Beachwood Mobile Home Park)
15th Election District - 7th Councilmanic District
Beachwood II Ltd Partnership - PETITIONER
Case No. 93-391-SPH

✓ Petition(s) for Special Hearing

✓ Description of Property

✓ Certificate of Posting

✓ Certificate of Publication

✓ Zoning Plans Advisory Committee Comments

✓ Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: ✓ 1 - 1984 Zoning Map

✓ 2 - Plat to Accompany Special Hearing

✓ 3 - Findings of Fact and
Conclusions of Law 84-360-XA

✓ 4 - CRG Meeting Minutes

✓ 5 - Letter from Norman Gerber (11/19/85)

✓ 6 - Letter and Order, 88-5-SPH

✓ 7 - Letter from John J. Stamm (12/07/87)

✓ 8 - Letter from P. David Fields (03/10/88)

✓ 9 - Letter from Arnold Jablon (03/08/93)

✓ Zoning Commissioner's Order dated August 5, 1993 (Denied)

✓ Notice of Appeal received on August 30, 1993 from John B. Gontrum

* c: John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814
Eastern Blvd, Baltimore, MD 21221
R. Bruce Alderman, Esquire, 108 W. Timonium Road, Timonium, MD 21093
Mr. John J. Stamm, G.W. Stephens, Jr. & Associates, 658 Kenilworth
Drive, Towson, MD 21204
Mr. Armando Cignarale, 108 W. Timonium Road, Timonium, MD 21093
Ms. Ethel Weber, 4506 Todd Point Lane, Baltimore, MD 21219
Ms. Joan Biemiller, 4624 Todd Point Lane, Baltimore, MD 21219
Ms. Pearl Gintling, 7718 North Point Creek Road, Balto., MD 21219
Ms. Cabrina Dembow, 4544 Todd Point Lane, Baltimore, MD 21219
Ms. Virginia Tolbert, 7741 North Point Creek Road, Balto., MD 21219
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Patty Whitmore
4234 Lynhurst Rd
Baltimore MD 21222
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

✓✓E

93 SEP - 1 PM 3:35
RECEIVED
COUNTY BOARD OF APPEALS

9/24/93 - Following parties notified of hearing set for Thursday, January 6, 1994 at 10:00 a.m.:

John B. Gontrum, Esquire
R. Bruce Alderman, Esquire
and Mr. Armando Cignarale, Principals
Beachwood II Ltd. Partnership
John J. Stamm
G. W. Stephens, Jr. & Assoc.
Ms. Ethel Weber
Ms. Joan Biemiller
Ms. Pearl Gintling
Ms. Cabrina Dembow
Ms. Virginia Tolbert
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

1/04/94 - Request for postponement on record by J. Gontrum; P. Zimmerman will not object to same. (To facilitate alternative design by Petitioner.)
- Postponement to be granted on record 1/06/94; only one Board member to attend. Confirmed with both Gontrum and Zimmerman.

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221

TELEPHONE: (410)686-8274
FAX# 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

August 25, 1993

ELIZABETH A. VANNI

*ALSO ADMITTED IN D.C.

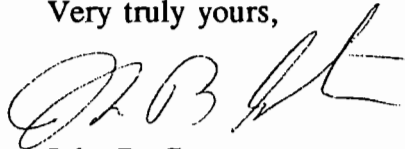
Zoning Commissioner of Baltimore County
Office of Planning and Zoning
400 Washington Avenue, Suite 113
Towson, Md 21204

Re: Beachwood II Limited Partnership
RGM File No.: 93.3008
Case No.: 93-391-SPH

Dear Mr. Commissioner:

Please enter an Appeal on the referenced matter on behalf of Beachwood II Limited Partnership, Petitioner.

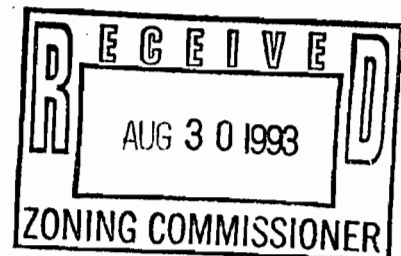
Very truly yours,



John B. Gontrum

JBG/bjb

cc: Bruce Alderman, Esquire, Beachwood II L.P.
Jack Stamm, G. W. Stephens
Armando Cignarale, Cignal Development Company



Dear Mr. William Kickett,

RE: Patty Whitmore
10/10/93

} Please inform me of the morning appeal
meeting for the area of Shynhurst and Morris
Lane (21222). The sign reads: 93-391-SFH.

The owner of the property is John Kordtman.

I would, along with the neighborhood, would

9234 Shynhurst Rd

like to attend. My address is East Hill 21222

* * * * *

* * * * *

JUDSON H. LIPOWITZ, Acting Chairman

APPEARANCES:

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel for Baltimore County

* * * * *

Recorded By:
Kathleen C. Weidenhammer

* * * * *

THE CHAIRMAN: Good morning. We are here on Case No. 93-391-SPH, Beachwood II Ltd. Partnership, an appeal from the Zoning Commissioner's Order dated August 5, 1993 in which the Petition for Special Hearing was denied. The request of Beachwood II Ltd. Partnership is for a special hearing to obtain affirmation that approval granted in prior Case No. 84-368-A remains valid and that the property can be developed pursuant to the site plan approved at that time. The property is on the east side of Morse Lane, approximately 1100' north of the centerline of Wise Avenue, Beachwood Mobile Home Park, in the 15th Election District, 7th Councilmanic District. The Petitioner/Appellant, Beachwood II Ltd. Partnership, is represented by Elizabeth (Betsy) Vanni from Gontrum's office. People's Counsel is here, Peter Max Zimmerman, and Deputy People's Counsel, Carole Demilio.

MR. ZIMMERMAN: Cabrina Dembow is also here from the neighborhood.

THE CHAIRMAN: I understand this is a request for a postponement.

MS. VANNI: I'm here on behalf of Beachwood II Ltd. Partnership. Since the appeal was filed, alternative designs have been proposed for new configuration and even the possibility of a different use. Time is needed to have these proposals reviewed by the County and also the residents in the neighborhood to reach

possible agreement. Also, a reclassification petition is pending in May of this year. I'm not sure of the exact date of that reclassification. It seeks a change in the current residential zoning classification.

THE CHAIRMAN: Ms. Demilio.

MS. DEMILIO: The Office of People's Counsel is not opposing this request for postponement, but as in most of these cases where a postponement is filed at a late date, our concern is for the citizens who do not advocate a delay in the proceedings. I'd like to mention that Mr. Gontrum called People's Counsel's office several days ago regarding this postponement for the reasons indicated. We appreciate his consideration, but not all of the citizens were afforded the statutory time for a postponement. It was made within the 15-day period. However, as I've indicated, our office respects the courtesy afforded by Mr. Gontrum by his telephone call, and will not oppose the postponement. We would like to permit the citizens to speak.

THE CHAIRMAN: Ms. Dembow.

MS. DEMBOW: I represent the community members interested in this case. Frankly, we're a little shocked at the idea that this postponement would come up. It's in contrast to the clear language of the letter we received announcing this date "No postponements will be granted without good and sufficient reasons. Requests for postponements must be in writing and in strict compliance with Rule 2(b). No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with

Rule 2(c)." This just seemed a last minute thing, and the citizens were also upset that they were not afforded the same courtesy in a previous hearing involved with Beachwood I, when they asked for a change of time the day before Thanksgiving and were flatly refused.

THE CHAIRMAN: The Board is going to grant the request for postponement. The Board is mindful of the fact that the strict language of Rule 2(c) of the postponement letter that Ms. Dembow referred to has not been complied with, but in some cases there is good cause for postponement, and in this case we find that Petitioners' proposal for alternative designs would be in the best interests of everybody to have those alternative designs presented, and not some design that is not even going to be used by the Petitioner. We will grant the request for postponement and, Ms. Vanni, your office should call our administrative assistant, Ms. Weidenhammer, and give her available dates, then we can coordinate the next hearing date.

MS. VANNI: Thank you.

MR. ZIMMERMAN: Thank you.

* * * * *

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 4, 1993

John B. Gontrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 93-391-SPH, Item No. 400
Petitioner: Beachwood II Ltd., Partnership
Petition for Special Hearing

Dear Mr. Gontrum:

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

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on May 4, 1993, and a hearing was scheduled accordingly.

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

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



Zoning Plans Advisory Committee Comments

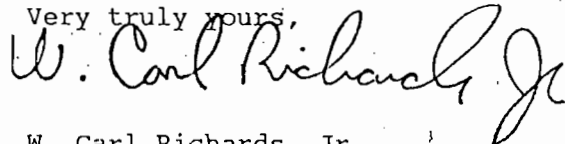
Date: June 4, 1993

Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

Very truly yours,

A handwritten signature in cursive script that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Zoning Coordinator

WCR:hek

Enclosures

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

DATE: May 26, 1993

SUBJECT: Beachwood Trailer Park

INFORMATION:

Item Number: 400
Petitioner: Beachwood II Ltd. Partnership
Property Size: _____
Zoning: M.H.I.M.
Requested Action: _____
Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

It appears from the plat's recordation date that it has expired. The Office of Planning made numerous attempts to ascertain whether the property was vested; at this point, it is unclear.

This office would recommend that either the petitioner resubmit the project through the regular development review process or that the petitioner clarify that the plat has not expired.

Prepared by: Jeffrey W. Long

Division Chief: Gabe P. Kelly for G.B.K.

PK/JL:lw

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Zoning Advisory Committee

Date May 14, 1993

FROM Captain Jerry Pfeifer
Fire Department

SUBJECT Comments for 05/24/93 Meeting

- Item 396 Buildings, roads and systems designed to deliver water for fire protection purposes shall be approved by the Fire Department.
- Item 397 Driveway shall be of a width to provide for Fire Department vehicle access.
- Item 398 No Comments
- Item 399 Space shall comply to the 1991 Life Safety Code and the Baltimore County Fire Prevention Code.
- Item 400 Townhouses, for which the initial building permit is applied for after July 1, 1992, are required by State Law to be sprinklered.
- Additional fire hydrants are needed on Binnacle Lane, Seabreeze Lane, and teh north section of Marina Drive.
- Item 401 No Comments
- Item 402 Space shall comply to the 1991 Life Safety Code and the Baltimore County Fire Prevention Code.
- Item 403 No Comments
- Item 404 No Comments

RECEIVED

MAY 17 1993

ZADM

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 21, 1993
Zoning Administration and Development Management

FROM *RWB* Robert W. Bowling, P.E. Senior Engineer
Development Plan Review

RE: Zoning Advisory Committee Meeting
for May 24, 1993
Item No. 400

The Development Plan Review Section has reviewed the subject zoning item. The Department of Public Works comments will be rendered during Development Plan review.

RWB:DAK:s

6/28/93

BALTIMORE COUNTY, MARYLAND

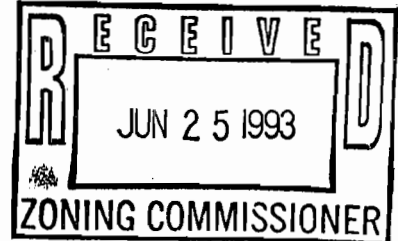
INTER-OFFICE CORRESPONDENCE

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

DATE: June 25, 1993

FROM: J. James Dieter

SUBJECT: Petition for Special Hearing - Item 400
Beachwood Mobile Home Park
Chesapeake Bay Critical Area Findings



SITE LOCATION

The subject property is located along Morse Lane. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA) and a Resource Conservation Area (RCA).

APPLICANT'S NAME Beachwood Limited Partnership

APPLICANT PROPOSAL

The applicant has requested a Special Hearing to validate the special exemption and variances granted in Case No. 84-360 XA.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts" <COMAR 14.15.10.01.0>.

REGULATIONS

COMAR 14.15.02.07 Grandfathering

- "A. A local jurisdiction shall permit a single lot or parcel of land that was legally of record on the date of the program approval to be developed with a single family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of the approved local program."
- "D. Nothing in this regulation may be interpreted as altering any requirements for development activities set out in COMAR 14.15.03 and 14.15.09 (Habitat Protection Areas) of this Subtitle".

DEFINITION

Baltimore County Code, Section 26-438

Habitat protection area means any existing area of open water, tidal or nontidal wetland, stream or river channel, stream or river bank, or upland, of any type and size, and including a reasonable protective area, within the critical area of the county which is delineated for compliance with at least one (1) of the following elements of the critical area criteria (COMAR 14.15.09):

- (1) Spawning habitat for anadromous fish;
- (2) Habitat of a species of plant or animal listed by state or federal authorities as endangered, threatened, or in need of conservation (i.e., critical species), or a designated natural heritage area;
- (3) Forest interior-breeding bird habitat;
- (4) Colonial water bird nesting habitat;
- (5) Habitat for the feeding, nesting, or grouping of wintering and migrating waterfowl species.

Mr. Arnold E. Jablon
June 25, 1993
Page 3

FINDING

A portion of this property is a Habitat Protection Area (HPA) for forest interior-breeding birds. This area is within the area mapped RCA and zoned RC-20. Some of the proposed mobile home park lies within the HPA. Therefore, additional investigation is required to determine measures that may be necessary to ensure continued protection of the habitat.

At this time the project has not commenced any grading or building activities. The site appears the same as in the 1986 aerial photographs. Current zoning regulations do not permit trailer parks within RC-20 zones.

CONCLUSION

Validation of this special exception would grandfather this project from the density provisions of the Critical Area Program. However, redesign may be required to avoid disturbance in the above referenced Habitat Protection Area. If this special exception is no longer valid, then growth allocation would be required to change the RC-20 zoning to a zone which allows mobile home parks. If there are any questions, please contact Ms. Nancy Pentz at 887-3980.

for Patricia M. J. J.
J. James Dieter, Director
Department of Environmental Protection
and Resource Management

JJD:NSP:jbm

Attachment

BEACHWOO/WQCBCA

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

John J. Stamm
ARMANDO CIGNARALE
R. BRUCE ALDERMAN

G.W. Stephens Jr & Assoc 655 Kenilworth Dr
108 W. Timonium Rd. Timonium

" " " " 21093

T. Ins!
2/20/81

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Ethel Weber

JOAN BEMILLAR

Pearl Gintling

CABRINA DEMBOW

VIRGINIA TOLBERT

4506 Todd Pt Lane Balto 21219

4624 TODD PT. LA. BALTO 21219

7718 N. Pt. Crk. Rd Balto 21219

4544 Todd Point Lane 21219

7741 NORTHPOINT CREEK RD 21219

**PETITIONER'S
EXHIBIT No 3**

IN RE: PETITIONS SPECIAL EXCEPTION
AND VARIANCE
SE/corner of Morse and Lyn-
hurst Roads - 15th Election
District

Beechwood Development Cor-
poration, et al,

Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Case No. 84-360-XA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception for a trailer park.
hearing was held on June 25, 1984, at which time testimony was presented.

The Petitioner, Beechwood Development Corporation (Beechwood), by its Pres-
ident, James L. Gay, appeared and testified and was represented by Counsel. Al-
so appearing on behalf of the Petitioners were William Kerwin, a landscape ar-
chitect and planner; Susan Bitter, an environmental biologist; and John Stamm,
the project manager and a registered engineer. Appearing as Protestants were
Mr. and Mrs. Weber.

Testimony indicated that Beechwood proposed to utilize approximately 41
acres of the 90-acre, more or less, tract, zoned M.H.-I.M., for a trailer park
containing 308 mobile home units. Each lot would measure 45' x 110' and have a
two-car parking pad and a wooden deck attached to the unit. The property is
presently being used as a community dump and by hunters. All of the testimony
from Mr. Kerwin and Mr. Stamm indicated that the proposed project would satisfy
the conditions precedent in Section 502.1, Baltimore County Zoning Regulations
(BCZ). Indeed, Ms. Bitter testified that the plant and wildlife habitats
thriving on the property would not be disturbed but instead would be protected,
that the property would be cleaned up, and that the poor drainage would be cor-
rected, all to greatly improve and enhance the area.

ORDER RECEIVED FOR FILING

DATE

BY

ADMINISTRATIVE ASSISTANT

MICROFILMED

The Protestants were opposed to the development on the grounds that there would be increased traffic and more congestion.

The hearing was continued in order to allow Beechwood to obtain necessary information to submit to the Office of Planning and Zoning so that guidance could be provided to this Commissioner, pursuant to Section 8-1813, Nat. Res. Art., Maryland Code, insofar as the proposed project may impact on the critical area of the Chesapeake Bay.

Since the first hearing, Beechwood has attempted to comply with the Office of Planning and Zoning's concerns about the critical area and has revised its original site plan in order to do so. This revised plan requested variances to permit trailers within 25 feet of Morse Lane instead of the required 100 feet and to permit trailers within 25 feet of a residential boundary line, to the north of the property, instead of the required 150 feet. A variance petition to that effect was filed before the Petitioners submitted another revised site plan to the Office of Planning and Zoning. This revised plan, introduced as Petitioners' Exhibit 1A, has negated the need for the latter variance.

The most recent plan has reduced the scope of the project to 203 mobile home units. The variance is needed in order to comply with the Office of Planning and Zoning's requirements that there be a 300-foot setback from the wetlands located on the site, in furtherance of the objectives delineated by the critical area legislation. In order to insure compliance with the Office of Planning and Zoning's concerns, the Petitioner will not develop and will maintain the northern half of the property in its natural state. The trailer park will be on the southern half and will meet the setback requirements established by the Office of Planning and Zoning. The County has apparently agreed to relieve the Petitioner from making improvements the entire length of Morse Lane, however, improvements on Morse Lane only to that area being utilized by the park

ORDER RECEIVED FOR FILING

April 2, 1983

ATE

ADMINISTRATIVE ASSISTANT

MICROFILMED

will be made. The County has also approved the construction of a sewage pumping station to serve the area. The latest proposal requires the variance requested and affects only 24 of the mobile home units. According to Mr. Stamm, the project would be economically unfeasible if it were not granted. To deny the requested variance would make the project impractical, if not impossible. The variance is needed only as a result of the Petitioners' compliance with the wetland setback determined by the Office of Planning and Zoning.

At the continued hearing, many Protestants appeared, see Protestants' Exhibit 2, although many seemed unaware of the reduced scope of the project. It would appear that many were not actually opposed but simply wanted their concerns satisfied.

The Petitioners seek relief from Section 256.4, pursuant to Section 502.1, BCZR, and from Section 414.4, pursuant to Section 307, BCZR.

It is clear that the BCZR permit the use requested by the Petitioners in a M.H. Zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioners.

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

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioners do not show that the proposed use

ADMINISTRATIVE ASSISTANT

at the particular location described by Petitioners' Exhibit 1A would have any adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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

An area variance may be granted where strict application of the zoning regulation 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 variance were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement from which the Petitioners seek relief would unduly restrict the use of the land due

MICROFILMED

DATE *April 25 1988*
Shall & Jones ask

ADMINISTRATIVE ASSISTANT

to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception and variance should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 2nd day of April, 1985, that the Petition for Special Exception for a trailer park and, additionally, the Petition for Zoning Variance to permit trailers within 25 feet of Morse Lane instead of the required 100 feet, in accordance with Petitioners' Exhibit 1A, be and the same are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief herein granted:

1. The trailer park must comply with all of the subsections of Section 414.
2. The Petitioners must obtain approval by the County Review Group (CRG). If the CRG determines that the site plan introduced as Petitioners' Exhibit 1A requires further revision, the Petitioners shall submit that revised site plan to the Zoning Commissioner for approval.
3. The special exception and variance granted herein shall be dependent on a letter of compliance from the Office of Planning and Zoning to the Zoning Commissioner, pursuant to Section 8-1813, indicating that the proposed project satisfies its requirements.



Zoning Commissioner of
Baltimore County

AJ/s

cc: Leslie M. Pittler, Esquire
Mrs. Ethel Weber
Mr. George Rose
Ms. Josephine Bocek
People's Counsel

BY

ORDER RECEIVED FOR FILING

DATE

ADMINISTRATIVE ASSISTANT

BLANCHWOOD

JUL 10 1985

District: 15 C7

GEO. WM. STEPHENS, JR.
ASSOCIATES, INC.

E/S Morse Lane South of Lynhurst Road

COUNTY REVIEW GROUP - THOSE PRESENT*

Gilbert S. Benson, Chairman	- Department of Public Works
Eugene Bober, Co-Chairman	- Office of Planning

Agency Representatives

None

Developer and/or Representatives

W. S. Armiger	- Real Estate Dyn.
Leslie M. Pittler	- Lawyer
Jim Gay	- Developer

*Interested Citizens

Mr. Benson convened the meeting at 2:30 p.m., introduced those present and stated that this was a continued meeting. Previous meetings were held on April 12, 1984 and January 10, 1985.

It was stated by the Chairman that Section 2 of the subdivision would not be approved until such a time as the issue of the wetlands has been resolved or a new plan presented without the development of the wetland area.

Gene Bober stated that the plan, as presented, now meets the critical area of legislation.

Jack Stamm, developer's engineer, stated that the approval for this project has been received from the Corps of Engineers, Department of Natural Resources and the Health Department. As stated by Mr. Bober, the plan now meets the concerns of the critical area of legislation.

Mr. Stamm also stated that the Zoning Office has approved the special exception for a trailer park, subject to C.R.G. approval.

Gene Bober, Co-Chairman, stated that the staff comments indicated that they would approve this plan. The comments have been made a part of the minutes and a copy given to the developer and developer's engineer.

**PETITIONER'S
EXHIBIT** 4/16/85 4



OFFICE OF THE DIRECTOR
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERBER
DIRECTOR

November 19, 1986

GEO. WM. STEPHENS, JR.
ASSOCIATES, INC.

Mr. John J. Stamm, P.E.
George William Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Re: Beachwood Mobile
Home Community

PETITIONER'S
EXHIBIT
105

Dear Mr. Stamm:

In response to your November 8th inquiry, the confusion and uncertainty about the "grandfathering" provisions in the Chesapeake Bay Critical Area Criteria is widespread. Indeed, the Critical Area Commission, in its continuing attempts to clarify its intentions, adopted yet another revised "grandfathering" text as recently as last Wednesday.

In one sense, the uncertainty cannot be resolved until the General Assembly acts on the Criteria during the 1986 session. The original intention was that the Assembly would have only two alternatives: accept the Criteria without amendment, or send the Criteria back to the Commission for further discussion, with final approval in the 1987 session.

Lately, however, the press has carried reports about opposition to certain of the Criteria (especially, the low-density requirement), and discussion of the strategies by which the Assembly might actually be able to amend the Criteria. Even if the opposition does manage to open the possibility for amendments, their purpose would be to make the Criteria more liberal (i.e., more favorable to development), not more restrictive.

Thus, my response to your question is based on the assumptions that there is scant likelihood of a substantive change in the specific regulation that would govern the Beachwood project (COMAR 14.15.02.07B(3)); and that the regulation will probably become effective on June 1, 1986.

The crucial term in the criterion, as it pertains to the Beachwood project, is "local jurisdiction's final approval". As I understand the Commission's intention, the County retains the authority to decide the point in the process at which a "final approval" occurs. I take this to be clearly synonymous with a "final action" by the County Review Group as that term is defined and used throughout the Development Regulations.

Thus, the Beachwood project clearly falls within the period defined in COMAR 14.15.02.07B(3) for projects to become grandfathered without any further limitations or reviews. Even if some later amendment or State interpretation

(which I certainly do not expect) might somehow bring the "final approval" date for Beachwood into the period after December 1, 1985, the consequences under the Criteria as now written would affect only the County (not Beachwood) by possibly making us subtract the area of this development from our eventual "growth increment". Even in that case, however, I do not believe that there would be an effect on the County because your excellent cooperation in bringing the project into conformance under the interim procedures should enable us to meet the Commission's "insofar as possible" test.

In a word, therefore, my answer is that, "yes", the Beachwood Mobile Home Community plan as approved by the CRG on April 25, 1985 is protected by Section 22-68(a) of the County's Development Regulations, and would also be protected (against additional Critical Area requirements) by the text of the proposed COMAR Section 14.15.02.07B(3). Because the "yes" cannot be stated unequivocally until the General Assembly does act on the Criteria, I've given you this somewhat lengthy response to constitute a record of what I believe the State's intentions are, and also what I believe the County's policy position should be. If any additional clarification is needed, I'll be glad to supply it.

Sincerely,



Norman E. Gerber, AICP, Director
Office of Planning and Zoning

NEG/TD/sf

cc: Sarah J. Taylor, Ph.D., Executive Director
Chesapeake Bay Critical Area Commission

The Honorable Donald P. Hutchinson, County Executive

The Honorable Ronald B. Hickernell, County Council

Mr. B. Melvin Cole, Administrative Officer

Ms. Judy Sussman, Administrative Assistant, Executive Office

Mr. Tim Dugan, Special Assistant to Director of Planning & Zoning

Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

August 13, 1987



Dennis F. Rasmussen
County Executive

Michael F. LeMire, Esquire
36 S. Charles Street, Suite 600
Baltimore, Maryland 21201

RE: Petition for Special Hearing
Int. of NE/S Morse Road and SE/S of Lynhurst Road
15th Election District
Case No. 88-5-SPH; Beachwood Development Corp. - Petitioner

Dear Mr. LeMire:

Pursuant to the recent hearing held on the subject case, enclosed please find a copy of the decision rendered. Your Petition for Special Hearing has been Granted in accordance with the attached Order.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "Jean M. H. Jung".

JEAN M. H. JUNG
Deputy Zoning Commissioner

JMHJ:bjs

Enclosures

cc: Thomas Crowe, Esquire ✓
1 North Charles Street, Suite 900, Baltimore, Md. 21201

Howard S. Klein, Esquire, and Lawrence Conn, Esquire
300 E. Lombard Street, Baltimore, Md. 21202

Mr. Walter Naylor, Jr.
4230 Lynhurst Road, Balto., Md. 21222

Ms. Ethel Weber
4506 Todd Point Lane, Balto., Md. 21219

Mr. Ken Dryden, Executive Office

People's Counsel

PETITIONER'S
EXHIBIT No 6

001330

IN RE: PETITION FOR SPECIAL HEARING *
Int. of NE/S of Morse Road, *
and SE/S of Lynhurst Road *
15th Election District *
7th Councilmanic District *

Beachwood Development Corp. *
Petitioners *

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY

Case No. 88-5-SPH

* * * * *

The Petitioners herein request a special hearing to approve a three-year extension to April 2, 1990 for utilization of the Special Exception for a trailer park granted in Case No. 84-360-XA.

Testimony on behalf of the Petitioners indicated that subsequent to the April 2, 1985 Order in which the Zoning Commissioner granted a special exception for a trailer park, the County Review Group approved plans on April 25, 1985, the Public Works agreement was paid, the record plat was executed, and internal road and preliminary water and sewer plans were completed. Since the Old Court Savings and Loan Association was involved in financing this project, and in fact, James L. Gay and Jeffrey Levitt were 50/50 owners, the project came to a standstill. Now, the Maryland Deposit Insurance Fund, as well as the current Petitioners, wish to proceed with the original plans. The instant petition was filed on March 26, 1987. The engineer testified that improvements would include the widening of Morse Road and the extension of water as well as internal roads, an independent sewer system with a private pumping station, and storm water management. Traffic volume will be increased but congestion will not occur. Sediment control is now stabilized and the flow will be directed to a stilling basin adjacent to Morse Lane. The CRG scrutinized the wetland situation in detail and determined that there would be no impact. Much of the woodland will remain. Plans revised in connection with County processes reduced the number of units to 203. All requirements of Section 502.1 of the Baltimore County Zoning Regulations (BCZR) continue to be met.

Three persons attended and requested to be noted in the file as Participants. Guido Guarnaccia did not testify. Walter Naylor, Jr. expressed his con-

cern that the property currently is used as a dump and commented that Baltimore County and the railroad company is helping the community to clean up the area. Ethel Weber testified in protest. As stated at the previous hearing held in 1985 and which was considered in the decision rendered in Case No. 84-360-XA, Ms. Weber repeated her opposition on the grounds of traffic congestion and expressed her opinion that the trailer park would be detrimental to wetlands. She said sediment control was presently in poor condition.

After due consideration of all testimony and evidence presented, as well as a review of the file and Order in Case No. 84-360-XA, of which a copy is included herein and identified as Petitioner's Exhibit 1, it is the opinion of the Deputy Zoning Commissioner that conditions relative to this project have not changed since the original public hearing and order. It appears that strict compliance with the Baltimore County Zoning Regulations (BCZR) would result in practical difficulty and unreasonable hardship upon the Petitioners. Baltimore County has reviewed the application involving property located in the Maryland Chesapeake Bay Critical Areas and has ascertained that it is consistent with the requirements of the State of Maryland to minimize adverse impacts on water quality and fish, wildlife, and plant habitat. In the opinion of the Deputy Zoning Commissioner, the requirements of Section 502.1 of the BCZR have been met and the relief requested will not adversely affect the health, safety, and general welfare of the community.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 13th day of August, 1987 that a three-year extension to August 2, 1990 for utilization of the Special Exception for a trailer park granted in Case No. 84-360-XA, be approved, and as such, the Petition for Special Exception and is hereby GRANTED, from and after the date of this Order.

001332


Deputy Zoning
of Baltimore

December 1987

PETITIONER'S EXHIBIT NO 7

Sharon Savings Bank
Administrative Offices
P.O. Box 1511
Baltimore, Maryland 21203

Attention: Mr. Steven Hurwitz

RE: Beachwood Development Corp.

Dear Steve,

I am returning herewith the letter to Beachwood Development Corp. from Mr. Norman E. Gerber dated November 20, 1987 which you recently forwarded to me for clarification.

I contacted Andrea Van Arsdale by telephone and was advised that the mobile home area as well as the "Beachwood South" area of the original plan, i.e., the area south of Wise Avenue to Todd Point, is classified as "Limited Development Area". This classification essentially permits the land to be developed as zoned, subject to more stringent criteria for protection of habitat and water quality within the Critical Area. The reason you received the letter is the fact that the area north and directly east of the mobile home area is to be classified as "Resource Conservation Area" which is in keeping with the CRG approval for the mobile home community.

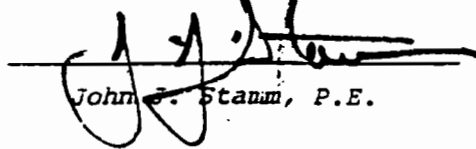
I am enclosing a partial copy of the latest "Draft" of "Chesapeake Bay Critical Area Land Use Areas" map, Map #104, for your reference.

I trust this relieves your concerns about the future developability of the property along the west bank of Back River.

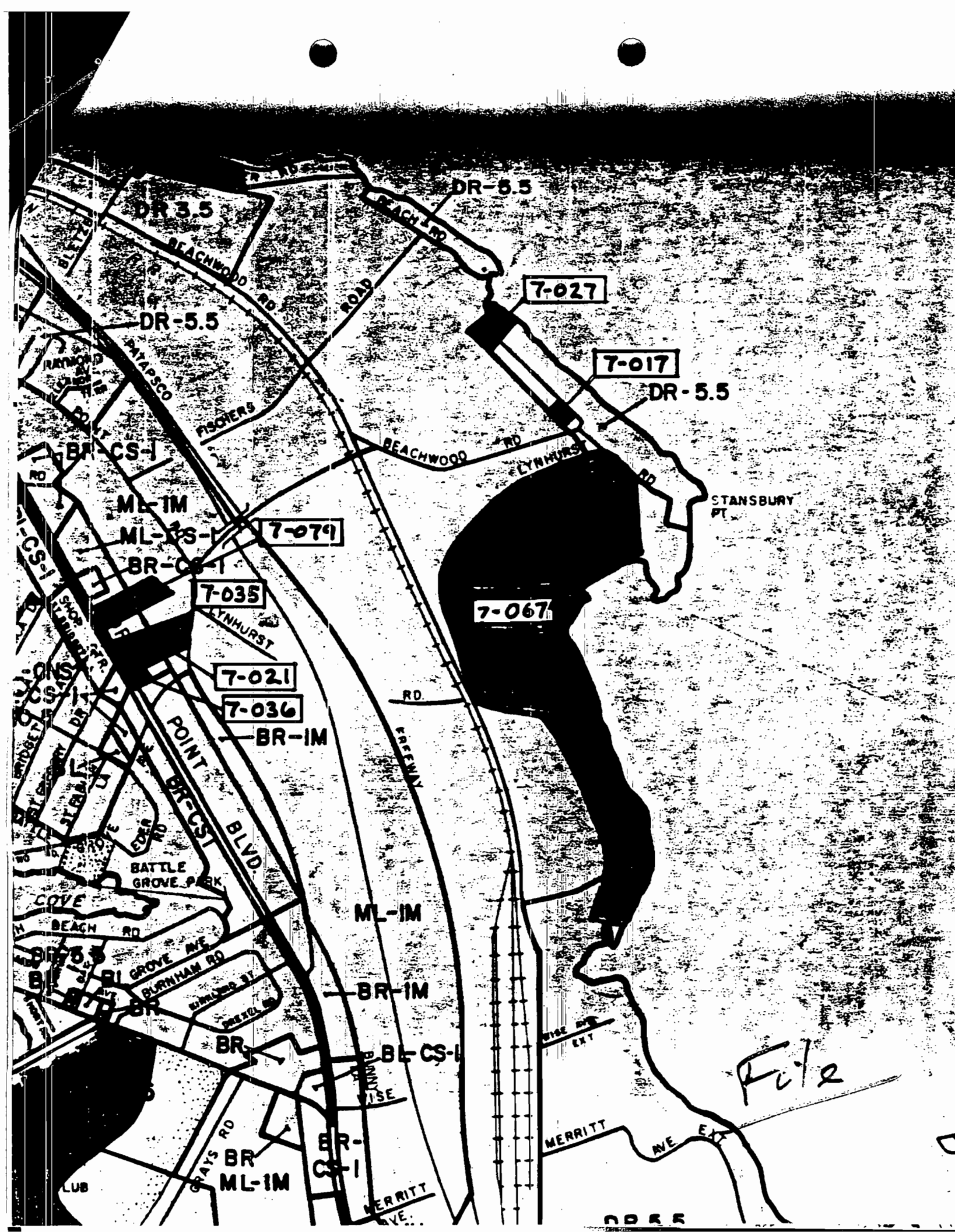
Please advise if I can be of further assistance.

Very truly yours,

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.


John J. Stamm, P.E.

JJS:kmh
Enclosures
cc: A. Van Arsdale w/enc1.



DR-3.5

DR-5.5

7-027

7-017

DR-5.5

DR-5.5

ML-IM

ML-CS-1

7-079

BR-CS-1

7-035

7-021

7-036

BR-IM

7-067

POINT BLVD

BATTLE GROVE PARK

ML-IM

BR-IM

BL-CS-1

BR

BR ML-IM

BR-CS-1

File 2

DDRS

494-3211

P. David Fields
Director

RECEIVED MAR 2 1 1988



RECEIVED

MAR 23 1988

**NOTICE TO PROPERTY OWNERS
1988 COMPREHENSIVE ZONING MAP PROCESS**

GEO. WM. STEPHENS, JR.
ASSOCIATES, INC.

Please be advised (in accordance with Baltimore County Code, 1978, Section 22-21(f), as amended) that your property at the following location:

S & E side Lynhyrst Road
at Back River
104-16-00201

is being considered for a possible change of zoning classification.

We regret that, because of the very large number of properties involved, it has not been possible to give prior notice, or to explain, in this letter the specific reasons why your property has been entered as an item in the comprehensive zoning process. The planning staff, however, is available to answer any questions you may have with respect to your property.

Your written comments are invited for consideration by the Baltimore County Planning Board before its final recommendations are made to the County Council. You are also welcome to participate in the Planning Board's public hearings, as listed in the enclosed brochure.

Please do not hesitate to contact this office, either in writing to the address above or by phone at (301) 494-3480. To assure that written comments are incorporated into the appropriate file, please be certain to include the following reference number:

Item No. 7 - 067

Sincerely,

P.D. Fields

P. David Fields, Director
Office of Planning and Zoning

**GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CONSULTING ENGINEERS**

GEORGE WILLIAM STEPHENS, JR.
(1888-1983)

BEL AIR
203 EAST BROADWAY
BEL AIR, MARYLAND 21014
301/879-1500
301/838-3800

LEONARD A. PARRISH P.E.
MILLARD T. SCHALB P.E.
WAYNE E. MAISENHOLDER P.L.S.
PAUL W. TAYLOR P.E.

March 7, 1988

Baltimore County
Office of Planning & Zoning
Courts Building, 4th Floor
Towson, Maryland 21204

Attention: Mr. Matthew G. Kohajda

Re: Beachwood Mobile Home Community
Zoning issues 7-067

Dear Matthew,

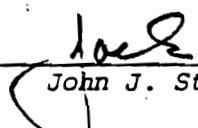
This is to confirm my recent conversation with you and Andrea regarding the implications of the boundary of the proposed RC Zoned reflected on the 1988 Comprehensive Zoning Issue Map for the subject issue, a partial copy of which is attached.

It is my understanding that the limit of the proposed RC Zone is based on the boundary of suitable habitat area within the Chesapeake Bay critical area and therefore, does not relate to any previously approved CRG Plans or Record Plats, etc. It is also my understanding that the approval of the CRG plan for Beachwood on April 25, 1985, and the subsequent recording of the Record Plat on February 24, 1988, grandfathered the approved development through the eight year term with expiration due on April 25, 1993. This grandfather status would allow the development to proceed as approved in spite of a portion of the proposed development be reclassified to a RC Zone upon adoption of the zoning maps. After the expiration date, if not extended by virtue of construction or building permits, etc., the limits of the future developments would be restricted by the zoning line.

Please contact me immediately if this understanding of the impact of the proposed rezoning is not correct.

Very truly yours,

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.


John J. Stamm

JJS:bls

cc: Mr. Steven Hurwitz, w/Enc.
Sharon Savings Bank

P. David Fields
Director

March 10, 1988

GEORGE WILLIAM STEPHENS, JR.
ASSOCIATES



Mr. John J. Stamm
George William Stephens, Jr.
and Associates, Inc.
303 Allegheny Avenue
P. O. Box 6828
Towson, Maryland 21204

Dennis F. Rasmussen
County Executive

Dear Mr. Stamm:

Re.: Beachwood Mobile Home Community
Zoning Issue 7-067

Let me confirm your March 7th letter to Matthew Kohajda by giving specific citations to the laws and regulations upon which our "grandfathering" interpretations are based.

The crux of the matter is a determination of the point at which "final approval" occurs in Baltimore County's regulatory system, in reference to the use of that term in the Critical Area Criteria. We presume that "final approval" of the Beachwood Development occurred by the CRG approval on April 25, 1985. Thus, the relevant portion of the State's "grandfathering" provision would be COMAR 14.15.02.07B(3), which mandates that the County allow the land "to be developed in accordance with density requirements in effect" at the time of the project's final approval. Thus, also, the record plat for the Beachwood project would come within the five-year expiration limit under Section 22-68 of the County's Development Regulations.

Your further interpretation that the grandfathering would, if necessary, supersede the pending re-zoning of part of the property (to R.C. 20 for implementing the Resource Conservation Area Requirements) appears to be supported by the mandatory nature of the basic State law (Natural Resources Article, Section 8-1808(c)(3)(v)), as well as by the intent of the grandfathering provision in Section 22-116(d) of the County's Interim Development Controls for the Critical Area. Because we obviously cannot state this as a conclusive legal interpretation, I am, by copy of this letter asking the Office of Law to notify you promptly if anything in this letter is improperly stated.

Sincerely

P. David Fields

P. David Fields, Director
Office of Planning and Zoning

PDF/TD/jat

cc: Arnold Jablon, Office of Law
Robert W. Sheesley
Matthew Kohajda

copy to: S. Horwitz
J. Gay

**PETITIONER'S
EXHIBIT** No 8

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



111 West Chesapeake Avenue
Towson, MD 21204

G J. Sm
File

copy to A. Cignani
F. Wolke
A. Alderman
(410) 887-3353

March 8, 1993

RECEIVED

Mr. John J. Stamm
G.W. Stephens, Jr. and Associates
658 Kenilworth Drive
Suite 100
Towson, MD 21204

MAR 11 1993

GEORGE WILLIAM STEPHENS JR.
& ASSOC., INC.

RE: Beachwood Estates
15th Election District

Dear Mr. Stamm:

I am in receipt of your letter, dated February 25, 1993.

The issue which was addressed to me in our meeting of February 23rd was whether the record plat approved by the County and subsequently recorded is either vested or at the very least extended by Bill No. 130-92.

While your letter did not refer to the specifics of the County review and approval of appropriate plans, I must delineate here the facts which are necessary for any opinion rendered by this office. If these facts as set out here are either insufficient or wrong, please let me know.

The CRG for the above referenced property was approved on April 25, 1985. Phase I was approved for 63 sites and phase II for 223 sites. A special exception was granted for a mobile home park on April 2, 1985. The record plat for the 203 sites was recorded on February 24, 1988, therefore the plat would expire on April 25, 1993 if neither vested nor extended by Bill No. 130-92. The particular property for which you are seeking clarification is phase II.

I am attaching a copy of a letter, dated March 20, 1992, from W. Carl Richards of this office to Charles E. Wehland, Esquire, which sets out the status of the special exception alluded to above.

PETITIONER'S
EXHIBIT

~~2/2/93~~ No 9



Mr. John J. Stamm
Page Two
March 8, 1993

At our meeting, you indicated there was correspondence from the Director of Planning relevant to the issue of vesting, but you did not attach any to your letter to me. In addition, it does not appear that any building permit has been issued (e.g., a grading permit); therefore, the issue is reduced to whether Bill 130-92 extends the statute of limitations of the instant plat.

The answer is yes. The legislation is simple. Any plat which would expire on or before June 30, 1996 will be extended for a period of two (2) years. Therefore, the plat at issue will expire on April 25, 1995.

I do not address the concomitant issue of the special exception here.

If you have any questions, please feel free to contact me.

Sincerely,



ARNOLD JABLON
Director

AJ:

cc: J. James Dieter
P. David Fields
Gene Neff

OCT 15 1992

MR. VINCE GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, JULY 6, 1992

A BILL ENTITLED

AN ACT concerning

Subdivision Plats

FOR the purpose of extending the expiration period for certain subdivision plats.
BY repealing and re-enacting, with amendments,

Section 26-216(a)

Title 26 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1988

WHEREAS, approved development projects may be delayed by the economic recession which has affected the State and Baltimore County; and

WHEREAS, the County Council believes that some relief is appropriate for such projects in the form of an extension of the time period for the validity of development plats, now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2. MARYLAND that Section 26-216(a) of Title 26 - Planning, Zoning and Subdivision
3. Control, of the Baltimore County Code, 1988, be and it is hereby repealed and
4. re-enacted, with amendments, to read as follows:

5. Sec. 26-216. Time limit for validity of subdivision plats.

6. (a) Unless extended pursuant to the provisions of section 26-217, a
7. subdivision plat shall lapse and be invalid for either the entire subdivision or
8. any section or parcel thereof, if such subdivision, section, or parcel has not

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

been developed, as defined in subsection (c) of this section, in accordance with the following time limits as applicable:

(1) Any plat, except a plat of a planned industrial park, recorded prior to the effective date of these regulations [June 11, 1982] shall expire five (5) years after recordation or on April 16, 1982, whichever is later.

(2) Any plat of a planned industrial park recorded prior to the effective date of these regulations shall expire twelve (12) years after recordation.

(3) Any plat, whether recorded or not, which is approved after the effective date of these regulations shall expire eight (8) years after the date of approval of the plan pursuant to which the plat was prepared, EXCEPT THAT A PLAT WHICH WILL EXPIRE ON OR BEFORE JUNE 30, 1996 SHALL BE EXTENDED FOR A TWO YEAR PERIOD. However, a plat for which there is an approved reclamation plan pursuant to division 5 of this article shall expire eight (8) years after the date of approval by the CRG of the plan pursuant to which the plat was approved but in no event later than twenty (20) years after the date of approval of the reclamation development plan by the planning board.

SECTION 2. And be it further enacted that this Act shall take effect forty-five days after its enactment.

B13092/BILLS92

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
E/S Morse Lane, approx. 1100' * ZONING COMMISSIONER
N of c/i of Wise Avenue *
Beachwood Mobile Home Park * OF BALTIMORE COUNTY
15th Election District *
7th Councilmanic District *
Beachwood II Ltd. Partnership * CASE # 93-391-SPH
Petitioner *****

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property known as Beachwood, located in the Sparrows Point section of Baltimore County. The Petition is filed by the current owners of the subject property, namely, the Beachwood II Limited Partnership. The Petitioner seeks validation of the special exception and variances which were granted in case No. 84-368-A. Stated another way, the Petitioner seeks an affirmation that the approval granted in that case remains valid and that the property can be developed pursuant to the site plan which was approved at that time.

Appearing at the public hearing held for this case were R. Bruce Alderman and Armando Cignarale, principals of the Beachwood II Limited Partnership. Also appearing was John J. Stamm, an engineer with G.W. Stephens, Jr., and Associates, Inc. Mr. Stamm and his firm have a long history of working with this property and the proposed development thereon pursuant to the previously approved special exception. Appearing as Protestants were Ethel Weber, Joan Biemiller, Pearl Gintling, Cabrina Dembow and Virginia Tolbert. These Protestants all reside near the subject site. They appeared primarily to voice concerns about the merits of the proposed development. However, as I indicated at the hearing, the desirability of the proposed plan is not at issue. Rather, this case revolves around a narrow question

ORDER RECEIVED FOR FILING
Date 8/13/83
By M. H. Hark

of whether the approved special exception and variances granted in the prior case remain valid.

Owing to the narrow issue presented, there was limited factual testimony offered at the hearing before me. That is, the issues delineated by Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) which relate to the effects of the proposed use on the surrounding locale were not examined. Instead, testimony regarding the history of the project was offered and received. This testimony may be summarized as follows:

The entire site, itself, is approximately 102 gross acres, with a proposed development area of about 78 acres. It is immediately adjacent to Back River in Sparrows Point. Vehicular access to the site is by way of Morse Lane, which abuts the property on its non-river (west) side. Further, the property is near the Patapsco Freeway and immediately adjacent to the Penn Central Railroad Line.

A site plan was submitted at the hearing before me which depicts the property and was marked as Petitioner's Exhibit No. 2. That plan shows that the site has been divided into three parcels. Parcel No. 1 is 42.76 acres in area and is composed of woods and wetlands. It is not proposed for any development and is apparently the most environmentally sensitive portion of the tract. Development of a trailer park, pursuant to the Petition for Special Exception is shown on parcel 2. This tract is 46.356 acres and comprises the core of the property. Parcel 3 is shown as 11.31 acres and is comprised of some wetlands and a contemplated future area of development. Specifically, three story garden apartments are shown as proposed on this parcel.

Prior to 1988, the site was zoned M.H.-I.M. Under that zoning classification, a trailer park is permitted only by special exception. Prior owners

ORDER RECEIVED FOR FILING
Date 8/13/83
By M. H. Hark

-2-

of the property apparently desired to develop the site in that manner. Thus, in early 1985, they appeared before then Zoning Commissioner, Arnold Jablon, pursuant to Petitions for Special Exception and Variance seeking approval of a 203 unit trailer park. Commissioner Jablon considered the issue carefully and following a lengthy hearing, approved the Petitions for Special Exception and Variance, as requested. A copy of his opinion and Order, granting approval of the project as of April 2, 1985, was offered into the record as Petitioner's Exhibit No. 3. It is to be noted that Commissioner Jablon's Order contained a number of restrictions. First, he required that the Petitioner obtain County Review Group approval for the proposed trailer park. At that time, development in Baltimore County was permissible only after approval of a project plan was given by the County Review Group (more commonly known as C.R.G.). Further, Commissioner Jablon required that the Petitioner meet the State's then Chesapeake Bay Critical Area requirements. Those regulations, which were codified in Section 8-1813, Natural Resources Article, Annotated Code of Maryland, were being promulgated at that time and had only been recently enacted by the General Assembly.

Subsequent to this Order, the Petitioner obtained C.R.G. approval on April 25, 1985 (see Petitioner's Exhibit No. 4). Thus, by the end of April 1985, the Petitioner had obtained all Baltimore County approval necessary (i.e., granting of the special exception and approval of the development through the C.R.G. process) and could have moved forward with development.

Notwithstanding these approvals, however, the physical development of the property did not move forward. Testimony at the hearing before me was that there was no physical work done on the property following the obtaining of these approvals. Apparently, some preliminary site work had been done on the property before the special exception was granted and the C.R.G. plan

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approved. However, this work was extremely limited in scope. Specifically, a berm and stilling basin were built on the west side of the property near Morse Lane. However, this work was apparently done to clean up the property and facilitate the removal of junk and debris which had accumulated thereon. That is, field work which was done prior to the County's approval was not done to implement the development plan, per se, rather to clean up the property and make same ready for development.

The next chapter in the chronological history of this project occurred in late 1985. As noted above, Maryland's critical areas legislation was evolving during this period. The State and local standards, pursuant to the Chesapeake Bay Critical Area Act, were being prepared and implemented. The site, which is located immediately adjacent to Back River, is in an environmentally sensitive area and is part of the Chesapeake Bay Critical Area as that term is defined in the State regulations. Correspondence was exchanged in late 1985 between the Project Engineer and Baltimore County regarding the impact of the critical area legislation (see Petitioner's Exhibit No. 5). The sum and substance of that correspondence was that the project clearly fell within the grandfathering language of the critical area legislation and that further environmental reviews were not necessary. That is, since the development project had been approved by the C.R.G., in the Spring of 1985, it would not be subject to the critical area regulations which were issued by the State thereafter.

Nonetheless, the project still did not go forward. Testimony and evidence presented was that the then owners of the property were experiencing financial problems. Apparently, the principals of the corporate owner were tied into the savings and loan scandal which engulfed Maryland at that time. Also, the project was delayed to accommodate the necessary acquisi-

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tion of a small portion of the tract which was then owned by Baltimore County. Specifically, the County owned a small strip within parcel 2 which was the bed of Lynhurst Road. In order to develop the property as planned, the Petitioner needed to acquire this strip through the road closing procedure provided in the Baltimore County Code. Eventually the road was closed in August of 1987, and in January of 1988, the Lynhurst Road bed was deeded to the developers. This road closing process and the signing of a public works agreement in December of 1987 contributed to the delay of the project and also prevented the filing of the record plat for same. However, ultimately, the record plat was recorded among the Land Records of Baltimore County on February 24, 1988.

Contemporaneously with the closing of Lynhurst Road and acquisition of the roadbed, the then property owners realized that Commissioner Jablon's approval of the Petitions for Special Exception and Variance would expire. That is, under Section 502.3 of the B.C.Z.R., a special exception is valid for a period of two years, unless the Order granting same specifically provides otherwise. Realizing that the approval granted thereunder was set to expire, the then property owners filed a Petition for Special Hearing in 1987. This Petition was considered by the Deputy Zoning Commissioner, Jean M. Jung. Deputy Commissioner Jung's findings and Order is of note and was received as Petitioner's Exhibit No. 6. Her opinion recounts the testimony offered to her that the special exception and C.R.G. approvals were issued in April of 1985, that a public works agreement was paid and a record plat executed, and that the internal road plans and preliminary water and sewer plans were completed. She also noted that the engineer who testified before her stated that additional improvements would be made, including the widening of Morse Lane, the extension of water to the site, the construction of

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internal roads, an independent sewer system and storm water management. Clearly, based on this testimony, the property owners realized when they came before Deputy Zoning Commissioner Jung in 1987 that the previously approved special exception had not been utilized and needed an extension. Their testimony, at that time, is consistent with that position, particularly since it is clear that no physical improvements or construction had been made to the site which would constitute a utilization of the special exception. After having considered all of the evidence and testimony presented, Deputy Zoning Commissioner Jung granted a three year extension for utilization of the special exception to April 2, 1990.

Notwithstanding the extension of the special exception per Deputy Commissioner Jung's Order, development still did not proceed. As more time elapsed, renewed questions about the impact of the passage of the critical area legislation were presented. Again, however, the County assured the developer that the site was grandfathered from critical area regulation. By his letter of March 10, 1988 (Petitioner's Exhibit No. 8), the Director of the Office of Planning and Zoning, P. David Fields, reiterated that the property was grandfathered from critical area regulations because final approval of the project had been obtained through the C.R.G. on April 25, 1985. Thus, consistent with previous Director Norman Gerber's letter (Petitioner's Exhibit No. 5) several years before, the County acknowledged that the project was exempt from current critical area requirements.

Director Fields' letter also referenced the pending rezoning of a portion of the property which was under contemplation at that time. In fact, a portion of the property was rezoned from M.H.-I.M. to R.C.20 in 1988. Four years later, during the 1992 process, the balance of the tract which had remained M.H.-I.M. was rezoned to D.R.1. Thus, at present, the entire tract

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is split zoned R.C.20 and D.R.1. Under the existing zoning classifications, the project cannot be developed as a mobile home park. Further, it is to be noted that Directors Fields' and Gerber's letters did not, in any manner, address the viability of the special exception.

The final chapter as to the history of this project occurred earlier this year, in March of 1993. At that time, the property owners noted that the record plat recorded on February 24, 1988 would expire on April 25, 1993 if not extended by legislation. Seeking clarification of this issue, the Petitioner's engineer corresponded to Arnold Jablon, Director of the Office of Zoning Administration and Development Management. Director Jablon's response (Petitioner's Exhibit No. 9) correctly states that Bill No. 139-92, which was enacted into law by the Baltimore County Council, extended the viability of the said record plat for a period of two years. Therefore, the plat for this project remains valid until April 25, 1995.

After tracing this extended history of the project and proposed development on this site, it is clear that the record plat remains valid and that the property is exempt from current critical area regulations. The developer has obtained assurance in these respects from Baltimore County. However, whether these conclusions extend the viability of the special exception is the issue. Simply stated, has the developer's actions, as outlined above, vested the special exception initially granted by Zoning Commissioner Jablon as extended by Deputy Commissioner Jung. Clearly, by its own terms, the approval granted thereunder would lapse on April 2, 1990, unless same was vested.¹

The crux of the Petitioner's argument is that the special exception was

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¹ For the purposes of this discussion, the terms "vesting" and "utilization" are used interchangeably. Simply stated, the issue presented is whether the special exception approval is vested and/or utilized by the developer and its predecessors in time. If so, the project may be built out as proposed. If not, the Petitioner must return to square one with any development plans.

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vested. In essence, they claim that the closing of Lynhurst Road, the filing of the record plat (which remains valid) and/or the construction of the berm and stilling basin are all sufficient actions to vest the special exception. Further, the Petitioner notes that but for the posting of the necessary collateral, grading permits have been approved and sediment control plans and water/sewer plans have been resubmitted and approved by the County. All of these factors form the basis of the Petitioner's argument that the approved special exception has been vested.

The above facts and contentions being summarized, attention is now turned to the law to be applied to this issue. Fortunately, the length of life of a special exception approval is addressed directly in the B.C.Z.R., specifically, in Section 502.3. As noted above, that section provides, in part, that a special exception is valid for a period of two years after its granting and may be extended to a period not exceeding a total of five years. Further, this section defines what constitutes utilization of the special exception in certain instances. The regulation provides that "A special exception which requires any construction for its utilization shall be deemed to have been used within its authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is, thereafter, pursued to completion with reasonable diligence." (Section 502.3)

The Zoning Commissioner's office, the County Board of Appeals on appeal and the courts of this State, have all considered this regulation in other cases. Recently, interpretation of this section was provided by the Court of Special Appeals in an unreported opinion entitled Baltimore County v. Joseph L. Soley, case No. 1475, Sept. Term 1986. In that case, the Court recognized that Section 502.3 mandates a two prong test for considering

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whether a special exception has been utilized. Specifically, the Court must determine if, (1) construction shall have commenced during the authorized period and, (2) if said construction thereafter was pursued to completion with reasonable diligence. In Soley, infra, the Court concluded that construction was commenced within the authorized time and the issue turned on whether it had been completed with reasonable diligence.

A similar issue was considered by the Court of Appeals in Rockville Fuel and Feed Company, Inc., v. Board of Appeals of the City of Gaithersburg, 266 Md. 117, 291 A2d. 672, (1972). In that case, the property owner had obtained special exception approval for the construction and operation of a concrete batching plant and the issue presented was whether said special exception was vested. After examining the issue, the Court concluded that the developer was not vested in that it had not made any substantial effort to begin construction of the building and had not committed the use of the land to the project granted. See Rockville, infra, pg. 677. Other cases before the Maryland Courts have resulted in a similar holdings. Most frequently, the issue has been presented in the context of a downzoning of a particular property. In these cases, the Court has consistently ruled that the property owner must make substantial and significant improvements to the property in order for vesting to occur. The holdings in these cases are substantially similar to the rationale employed in Section 502.3 requiring some physical construction to vest a property owner's right to develop. See e.g. Prince Georges County v. Sunrise Development Limited Partnership, et al., 330 Md. 297, 623 A2d. 1296 (1993), Pemberton v. Montgomery County 275 Md. 363, 340 A2d. 240 (1975), and Prince Georges County v. Equitable Trust, 44 Md. App. 272, 408 A2d. 737 (1970).² Although these

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² Interesting, in the instant case, no attention has been paid to effect of the downzoning of the property in 1988 & 1992. Even assuming arguendo that the special exception is vested (valid) the project may be doomed due to this rezoning. However, this issue is a matter for another day, in that the sole issue presented in Petition for Special Hearing relates to the viability of the special exception previously granted.

citations are helpful, it is the language of Section 502.3 of the B.C.Z.R. which is controlling. That language is clear, for this special exception to be valid, that there must be some construction on site. Certainly, the use approved (trailer park) requires the owner to undertake certain contributions. For example, an internal roadway system must be developed, a storm water management system put in place, and construction of water/sewer management facilities. A mobile home trailer park requires a certain amount of infrastructure in order to be developed. As such, the case clearly falls within the language of Section 502.3 cited above which governs those special exception uses which require construction. As such, the special exception is considered utilized only if construction has been undertaken and same has been pursued towards completion, with reasonable diligence.

As to construction, same has not been commenced in any degree. Although a berm and stilling basin were created, this construction predated the approval authorized by Commissioner Jablon's Order and was clearly well before the extension granted by Deputy Commissioner Jung in 1987. Section 502.3 requires the construction shall have commenced during the authorized period, which did not begin until April 2, 1985 and was renewed as of April 2, 1987. Not only was construction not undertaken after Commissioner Jablon's Order, but, as importantly, no physical work was done on site after Deputy Commissioner Jung's Order. Moreover, it is clear that all concerned believed that the special exception had not been utilized during its first two years. That is, the extension requested from Deputy Commissioner Jung would not have even been sought if the special exception had been utilized by 1987. Additionally, the improvements that were made (berm and stilling basin) were not performed in furtherance of the construction of the mobile home park. They were done only to improve and clean up the property and

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make same ready for development. In sum, there has been no construction. No construction having been started, it clearly cannot have been diligently timed towards completion. The Petitioner fails both prongs of the test offered Section 502.3 of the B.C.Z.R. The special exception has not been utilized as required by Section 502.3. It is, therefore, no longer valid.

Notwithstanding their failure to satisfy this test, the Petitioner argues that the special exception has been vested by the filing of the record plat in the Land Records of Baltimore County in February 1988, and by the obtaining of the other County approvals (i.e., C.R.G.) and exemptions (i.e. from Critical Area regulations). In regards to the record plat, same is defined as "... the graphic representation of the development prepared pursuant to the approved plan for the purpose of recording in the Land Records of Baltimore County". See Section 26-168, Baltimore County Code. In contrast, a special exception is a zoning tool enabling the hearing authority to adjudge the appropriateness of certain uses which have been predetermined to be conditionally proper in a given zone. See Section 502 of the B.C.Z.R. and Schultz v. Pritte, 291 Md. 1, 432 A2d 1319 (1981). These are two entirely different zoning/planning mechanisms. They are apples and oranges. The filing of a record plat has nothing to do with the issue of the utilization/vesting of the special exception. Although this project requires special exception approval, not every record plat incorporates a special exception. In fact, most do not. The Petitioner may well have a valid record plat in the context of Bill 130-92. However, same does not translate into a utilized special exception. The special exception test contained in Section 502.3 is quite different. Unfortunately, for the Petitioner, its filing of the record plat does not extend the life of the special exception.

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As to the balance of the Petitioner's arguments, they are without merit. The grandfathering of the project from the critical area regulations is likewise unrelated to the utilization of the special exception. The project, in an environmental context, may very well be exempt from compliance with the current regulations. However, this exemption is unrelated to the special exception and the utilization of same as governed by Section 502.3. Based upon the clear language of that section of the B.C.Z.R., I am required to determine that the special exception in this case has not been utilized. Notwithstanding the substantial expenditures and efforts made by the Petitioner and its representatives, the special exception is no longer valid. The window of opportunity for development in accordance with the approved special exception plan lasted for five years from April 2, 1985 through April 2, 1990. When the property owners did not develop the site within that time, the approval granted by the special exception was lost. No matter how justifiable the delay, the property owner's failure to act within the permissible timeframe doomed the viability of the special exception.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing must be Denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5th day of August, 1993 that the Petition for Special Hearing for validation of the special exception and variances granted in case No. 84-360-XA, be and is hereby DENIED.

LES:mmm

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 5, 1993

John Gontrum, Esquire
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: Case No. 93-391-SPH
Petition for Special Hearing
Beachwood II Ltd. Partnership, Petitioner

Dear Mr. Gontrum:

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 any party finds the decision rendered 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 the Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

encl.

cc: R. Bruce Alderman, Esquire
Mr. John J. Stamm
Mr. Armando Cignareale
cc: Ms. Ethel Weber
Ms. Joan Biemiller
Ms. Pearl Gintling
Ms. Cabrina Denbow
Ms. Virginia Tolbert

CRITICAL Petition for Special Hearing

to the Zoning Commissioner 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 for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve ...

validate the Special Exception and Variances granted in Case No. 84-360XA

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/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Mr. John Gontrum

(Type or Print Name)

Signature

614 Eastern Boulevard

Address

Baltimore, Maryland 21221

City and State

Attorney's Telephone No.: 686-8274

Legal Owner(s):

Beachwood II Ltd. Partnership

(Type or Print Name)

Signature

R. Bruce Alderman

(Type or Print Name)

Signature

108 W. Timonium Road - Suite 200 560-1182

Address

Timonium, Maryland 21093

City and State

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

George William Stephens, Jr. & Associates, Inc.

Name

658 Kenilworth Drive - Suite 100 825-8120

Address Towson, MD 21204 Phone No.



OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING - 1/2HR. - 1HR. - 1 1/2HR. - 2HR. - 3HR. - 4HR. - 5HR. - 6HR. - 7HR. - 8HR. - 9HR. - 10HR. - 11HR. - 12HR. - 13HR. - 14HR. - 15HR. - 16HR. - 17HR. - 18HR. - 19HR. - 20HR. - 21HR. - 22HR. - 23HR. - 24HR. - 25HR. - 26HR. - 27HR. - 28HR. - 29HR. - 30HR. - 31HR. - 32HR. - 33HR. - 34HR. - 35HR. - 36HR. - 37HR. - 38HR. - 39HR. - 40HR. - 41HR. - 42HR. - 43HR. - 44HR. - 45HR. - 46HR. - 47HR. - 48HR. - 49HR. - 50HR. - 51HR. - 52HR. - 53HR. - 54HR. - 55HR. - 56HR. - 57HR. - 58HR. - 59HR. - 60HR. - 61HR. - 62HR. - 63HR. - 64HR. - 65HR. - 66HR. - 67HR. - 68HR. - 69HR. - 70HR. - 71HR. - 72HR. - 73HR. - 74HR. - 75HR. - 76HR. - 77HR. - 78HR. - 79HR. - 80HR. - 81HR. - 82HR. - 83HR. - 84HR. - 85HR. - 86HR. - 87HR. - 88HR. - 89HR. - 90HR. - 91HR. - 92HR. - 93HR. - 94HR. - 95HR. - 96HR. - 97HR. - 98HR. - 99HR. - 100HR. - 101HR. - 102HR. - 103HR. - 104HR. - 105HR. - 106HR. - 107HR. - 108HR. - 109HR. - 110HR. - 111HR. - 112HR. - 113HR. - 114HR. - 115HR. - 116HR. - 117HR. - 118HR. - 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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue
September 24, 1993

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 93-391-SPH
BEACHWOOD II LTD. PARTNERSHIP
E/s Morse Lane, approximately 1100' N of
C/L of Wise Avenue
(Beachwood Mobile Home Park)
15th Election District
7th Councilmanic District

SPH - To obtain affirmation that approval granted in prior Case No. 84-368-A remains valid (special exception and variances) and that property can be developed pursuant to site plan approved at that time.

8/05/93 - Z.C.'s Order in which Petition for Special Hearing was DENIED.

ASSIGNED FOR: THURSDAY, JANUARY 6, 1994 at 10:00 a.m.

cc: John B. Gontrum, Esquire Counsel for Petitioner/Appellant
R. Bruce Alderman, Esquire
and Mr. Armando Cignarale, Principals
Beachwood II Ltd. Partnership Petitioner/Appellant
John J. Stamm
G. W. Stephens, Jr. & Assoc.
Ms. Ethel Weber
Ms. Joan Blumiller
Ms. Pearl Gintling
Ms. Cabrina Dembow
Ms. Virginia Tolbert
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

SEP 28 1993

ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 4, 1993

John B. Gontrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 93-391-SPH, Item No. 400
Petitioner: Beachwood II Ltd., Partnership
Petition for Special Hearing

Dear Mr. Gontrum:

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

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on May 4, 1993, and a hearing was scheduled accordingly.

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

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

Zoning Plans Advisory Committee Comments
Date: June 4, 1993
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Zoning Coordinator

WCR:hck

Enclosures

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 21, 1993
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E. Senior Engineer
Development Plan Review

RE: Zoning Advisory Committee Meeting
for May 24, 1993
Item No. 400

The Development Plan Review Section has reviewed the subject zoning item. The Department of Public Works comments will be rendered during Development Plan review.

RWB:DAK:6

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

DATE: May 26, 1993

SUBJECT: Beachwood Trailer Park

INFORMATION:

Item Number: 400
Petitioner: Beachwood II Ltd. Partnership
Property Size: _____
Zoning: M.H.I.M.
Requested Action: _____
Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

It appears from the plat's recordation date that it has expired. The Office of Planning made numerous attempts to ascertain whether the property was vested; at this point, it is unclear.

This office would recommend that either the petitioner resubmit the project through the regular development review process or that the petitioner clarify that the plat has not expired.

Prepared by: *Jeffrey M. Long*
Division Chief: *Pat Keller*
PK/JL:lw

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee Date: May 14, 1993
Captain Jerry Pfeifer
Fire Department

FROM: _____

SUBJECT: Comments for 05/24/93 Meeting

Item 396	Buildings, roads and systems designed to deliver water for fire protection purposes shall be approved by the Fire Department.
Item 397	Driveway shall be of a width to provide for Fire Department vehicle access.
Item 398	No Comments
Item 399	Space shall comply to the 1991 Life Safety Code and the Baltimore County Fire Prevention Code.
Item 400	Townhouses, for which the initial building permit is applied for after July 1, 1992, are required by State Law to be sprinklered. Additional fire hydrants are needed on Binnacle Lane, Seabreeze Lane, and teh north section of Marina Drive.
Item 401	No Comments
Item 402	Space shall comply to the 1991 Life Safety Code and the Baltimore County Fire Prevention Code.
Item 403	No Comments
Item 404	No Comments

RECEIVED
MAY 17 1993
ZADM

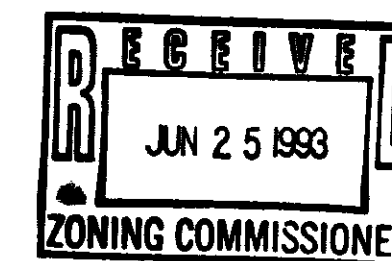
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold E. Jablon, Director DATE: June 25, 1993
Office of Zoning Administration
and Development Management

FROM: J. James Dieter

SUBJECT: Petition for Special Hearing - Item 400
Beachwood Mobile Home Park
Chesapeake Bay Critical Area Findings



SITE LOCATION

The subject property is located along Morse Lane. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA) and a Resource Conservation Area (RCA).

APPLICANT'S NAME Beachwood Limited Partnership

APPLICANT PROPOSAL

The applicant has requested a Special Hearing to validate the special exemption and variances granted in Case No. 84-360 JA.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts. <COMAR 14.15.10.01.D>

Mr. Arnold E. Jablon
June 25, 1993
Page 2

REGULATIONS

COMAR 14.15.02.07 Grandfathering

"A. A local jurisdiction shall permit a single lot or parcel of land that was legally of record on the date of the program approval to be developed with a single family dwelling, if a dwelling is not already placed there, not withstanding that such development may be inconsistent with the density provisions of the approved local program."

"D. Nothing in this regulation may be interpreted as altering any requirements for development activities set out in COMAR 14.15.03 and 14.15.09 (Habitat Protection Areas) of this Subtitle".

DEFINITION

Baltimore County Code, Section 26-438

Habitat protection area means any existing area of open water, tidal or nontidal wetland, stream or river channel, stream or river bank, or upland, of any type and size, and including a reasonable protective area, within the critical area of the county which is delineated for compliance with at least one (1) of the following elements of the critical area criteria (COMAR 14.15.09):

- (1) Spawning habitat for anadromous fish;
- (2) Habitat of a species of plant or animal listed by state or federal authorities as endangered, threatened, or in need of conservation (i.e., critical species), or a designated natural heritage area;
- (3) Forest interior-breeding bird habitat;
- (4) Colonial water bird nesting habitat;
- (5) Habitat for the feeding, nesting, or grouping of wintering and migrating waterfowl species.

Mr. Arnold E. Jablon
June 25, 1993
Page 3

FINDING

A portion of this property is a Habitat Protection Area (HPA) for forest interior-breeding birds. This area is within the area mapped RCA and zoned RC-20. Some of the proposed mobile home park lies within the HPA. Therefore, additional investigation is required to determine measures that may be necessary to ensure continued protection of the habitat.

At this time the project has not commenced any grading or building activities. The site appears the same as in the 1986 aerial photographs. Current zoning regulations do not permit trailer parks within RC-20 zones.

CONCLUSION

Validation of this special exception would grandfather this project from the density provisions of the Critical Area Program. However, redesign may be required to avoid disturbance in the above referenced Habitat Protection Area. If this special exception is no longer valid, then growth allocation would be required to change the RC-20 zoning to a zone which allows mobile home parks. If there are any questions, please contact Ms. Nancy Pentz at 887-3980.

JDD:NSP:jbm

Attachment

BEACHWOOD/WQCBCA

APPEAL

Petition for Special Hearing
E/S Morse Lane, approx. 1100' N
of c/l of Wise Avenue
(Beachwood Mobile Home Park)
15th Election District - 7th Councilmanic District
Beachwood II Ltd Partnership - PETITIONER
Case No. 93-391-SPH

Petition(s) for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protester(s) Sign-In Sheets

- Petitioner's Exhibits:
- 1 - 1984 Zoning Map
 - 2 - Plat to Accompany Special Hearing
 - 3 - Finding of Fact and Conclusions of Law #4-360-XA
 - 4 - CRG Meeting Minutes
 - 5 - Letter from Norman Gerber (11/19/85)
 - 6 - Letter and Order, 88-5-SPH
 - 7 - Letter from John J. Stamm (12/07/87)
 - 8 - Letter from P. David Fields (03/10/88)
 - 9 - Letter from Arnold Jablon (03/08/93)

Zoning Commissioner's Order dated August 5, 1993 (Denied)

Notice of Appeal received on August 30, 1993 from John B. Gontrum

cc: John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814 Eastern Blvd., Baltimore, MD 21221
R. Bruce Alderman, Esquire, 108 W. Timonium Road, Timonium, MD 21093
Mr. John J. Stamm, G.W. Stephens, Jr. & Associates, 658 Kenilworth Drive, Towson, MD 21204
Mr. Armando Cignarella, 108 W. Timonium Road, Timonium, MD 21093
Ms. Ethel Weber, 4506 Todd Point Lane, Baltimore, MD 21219
Ms. Joan Biemiller, 4624 Todd Point Lane, Baltimore, MD 21219
Ms. Pearl Gintling, 7718 North Point Creek Road, Balto., MD 21219
Ms. Cabrina Dembow, 4544 Todd Point Lane, Baltimore, MD 21219
Ms. Virginia Tolbert, 7741 North Point Creek Road, Balto., MD 21219
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

111 West Chesapeake Avenue
Towson, MD 21204

May 17, 1993

(410) 887-3353

John B. Gontrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Preliminary Petition Review (Item #400)
Legal Owner: Beachwood II Limited Partnership
Beachwood Mobile Home Park
15th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The petition was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

1. Indicate the complete zoning history on plan for all zoning actions, including case #84-360-XA; state what was granted or denied, key all variances to locations as granted and list and show intent to comply (and how) with all restrictions. This is of particular importance since the granted hearings and plan need validation per the hearing request. Also reference the letter from Carl Richards dated March 20, 1992 to Charles E. Wehland, Esquire.
2. Several changes are shown from the approved site plan. The special hearing wording on the petition forms must also request an amendment to permit these changes (which must be listed) on the plan under a revision heading.

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Baltimore County Government
Office of Zoning Administration
and Development Management



John B. Gontrum, Esquire
May 17, 1993
Page 2

3. Some apparent changes include, but are not limited to, the following:
 - A. The site area has been reduced from 90.104 acres to 46.356 acres. Approval of this reduction must be requested.
 - B. Two single family dwellings have been added. These are within the original area of the special exception (90 +/- acres) but are not within the area of this hearing as described (46 +/- acres). References to development of these lots must either be deleted or approval requested as an amendment as part of the 90 +/- acre original site as this conflicts with the facts, findings, and conclusions referenced on page 2 of the Zoning Commissioner's Order in case #84-360-XA, which states: "In order to insure compliance with the Office of Planning and Zoning's concerns, the Petitioner will not develop and will maintain the northern half of the property in its natural state". No other comments on the possibility of development of this R.C.-20 zoned land can be made as compliance with Section 1A05 of the BCZR is not shown on the plan. Any development of this property will require said compliance.
4. A title is required for the person signing for the legal owner on the petition form.
5. Submit revised plans, petition forms, and (if necessary) descriptions, along with a \$100 revision fee, addressing the above stated issues.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

John A. Lewis
Planner II

JLL:scj

cc: Zoning Commissioner
#84-360-XA

Enclosure: Receipt

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

111 West Chesapeake Avenue
Towson, MD 21204

March 20, 1992

(410) 887-3353

Charles E. Wehland, Esquire
3677 Park Avenue
Ellicott City, MD 21043-4586

RE: Beachwood, Parcel II
Proposed Trailer Park
E/S Morse Lane, S of Lynhurst Road
Zoning Case #84-360-XA
Planning File #KY-357
Zoned M.H.-I.M. (90 acres)
15th Election District

Dear Mr. Wehland:

Reference is made to your letter to the Director of the Office of Planning and Zoning, which has been referred to this office for reply. Simply stated, you have requested on behalf of your client the approved status of the proposed trailer park on the above referenced property relative to zoning and a recorded record plat and what procedures are necessary before development of the trailer park can commence.

On April 2, 1988, in zoning case #84-360-XA the then Zoning Commissioner Arnold Jablon granted a special exception for a trailer park in accordance with Petitioner's Exhibit #1A and variances on the above referenced property, subject to three restrictions:

1. The trailer park must comply with all of the subsections of Section 414 (B.C.Z.R.).
2. The Petitioners must obtain approval by the County Review Group (C.R.G.). If the C.R.G. determines that the site plan introduced as Petitioners' Exhibit #1A requires further revision, the Petitioners shall submit that revised site plan to the Zoning Commissioner for approval.
3. The special exception and variance granted herein shall be dependent on a letter of compliance from the Office of Planning and Zoning to the Zoning Commissioner, pursuant to Section 8-1813, indicating that the proposed project satisfies its requirement.

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Charles E. Wehland, Esquire
March 20, 1992
Page 2

*Note: The development area was reduced on Exhibit #1A to 26.2 acres and 203 proposed trailers. As discussed in the Order, the Petitioner would maintain the northern portion of the property in its natural state.

On February 24, 1988 a record plat was recorded in the land records of Baltimore County under Book 58/22 for Parcel II, Beachwood, 46 acres (the southern portion of the 76 acres development area approved for 203 trailers in the above referenced zoning case).

Pursuant to Section 502.3 (B.C.Z.R.) and absent any extensions granted in accordance with this Section (which cannot be documented), the special exception for a trailer park would be void if not utilized within the 2-year period. Utilization as established by the courts to determine "reasonable diligence" would be measured by the standard two prong test:

1. The commencement of some readily identifiable work; and
2. The work begun with the intention then formed to continue said work to its completion.

Obviously, if no work has commenced to develop the trailer park, the test would fail, the special exception would be void, and if the owner/developer wishes to proceed a new special exception for a trailer park must be petitioned for.

The validity of the subdivision record plat and any sunset provisions as required by Section 22-68 (26-216), Title 22, Article V, Baltimore County Code, would be applicable to the division of land and would not supersede the B.C.Z.R., increase the permitted number of trailers or extend the special exception utilization provisions as outlined above.

I am returning your plat as requested and am enclosing a copy of the Zoning Order and Section 502.3 (B.C.Z.R.) for your information. If I can provide any additional zoning clarification or assist you or your client with any future development or applications on the property, please do not hesitate to contact me at 887-3391.

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator

WCR:scj

cc: Mitchell Keilman

Enclosures

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 1, 1993

Ms. Ethel Weber
4506 Todd Point Lane
Baltimore, MD 212219

Ms. Joan Biemiller
4624 Todd Point Lane
Baltimore, MD 21219

Ms. Pearl Gintling
7718 North Point Lane
Baltimore, MD 21219

Ms. Cabrina Dembow
4544 Todd Point Lane
Baltimore, MD 21219

Ms. Virginia Tolbert
7741 North Point Creek Road
Baltimore, MD 21219

RE: Petition for Special Hearing
E/S Morse Lane, approx. 1100' N
of c/l of Wise Avenue
(Beachwood Mobile Home Park)
15th Election District
7th Councilmanic District
Beachwood II Ltd Partnership - Petitioner
Case No. 93-391-SPH

Dear Ms. Weber, Ms. Biemiller, Ms. Gintling,
Ms. Dembow and Ms. Tolbert:

Please be advised that an appeal of the above-referenced case was filed in this office on August 30, 1993 by John B. Gontrum, Esquire on behalf of Beachwood II Limited Partnership. All materials relative to the case have been forwarded to the Board of Appeals.

Printed with Soybean Ink
on Recycled Paper

400

TOWSON
COUNTY OFFICE
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(410) 887-3353

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CONSULTING ENGINEERS

DELAIR
COUNTY OFFICE
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(410) 887-3353

TO: Baltimore County
Zoning Office
Towson, Maryland 21204

DATE: April 27, 1993
REFERENCE: Beachwood Mobile Home Park

ATTENTION

We are:

- ☐ Submitting ☒ Herewith ☐ Under Separate Cover
☐ Forwarding
☐ Returning

COPIES

- | COPIES | DESCRIPTION |
|--------|---|
| 10 | Prints of Special Hearing Plat |
| 3 | Petition Forms |
| 3 | Descriptions |
| 3 | 1"=200' Zoning Map with property outlined |
| 1 | Check in the amount of \$250.00 |

- ☐ In accordance with your request
☐ For your review
☒ For processing
☐ Plans reviewed and accepted
☐ Plans reviewed and accepted as noted
- ☐ For your use
☐ Please call when ready
☐ Please return to this office
☐ Approval requested
☐ Meeting requested

Remarks

For further information, please contact the writer at this office

JCS:kmp
Enclosures
cc: Mr. R. Bruce Alderman
Mr. John Gontrum
Mr. Fred Walker

Sincerely yours,

J. Steven Smith, P.E.

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

7741 North Point Creek Road
Baltimore, MD 21219
June 17, 1993

Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Ave.
Towson, MD 21204

Dear Mr. Schmidt,

Our Community Council is requesting that a new hearing be heard concerning case #93-391-SPH (item 400) due to the nature of the case.

Special hearing to validate the special exception and variances granted in case #84-360-XA is not relevant to 1993. New laws and situations have happened since 1984 when that verdict was made changing the needs of this property.

This case impacts greatly on our neighborhood and we are requesting that the case be heard from the beginning. The zoning on this property has also been changed.

A hearing is scheduled for June 28, 1993. Please do what you can.

Sincerely,

Virginia Tolbert

Virginia Tolbert
President
(410) 477-4214



ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221
TELEPHONE: (410) 496-4274
FAX: (410) 496-4218

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.

DONALD H. BRUFFY
ELIZABETH A. VANCE

May 21, 1993

*ALSO ADMITTED IN D.C.

Arnold Jablon, Director,
Zoning Administration and Development Management
110 W. Chesapeake Ave.
Towson, Md 21204

Re: Case No.: 93-391-SPH (Item 400)
E/S Morris Lane, Approx. 1100' N of c/l Wise Ave.
Petitioner: Beachwood II Limited Partnership
Hearing: June 14, 1993 @ 2:00 p.m.
RGM File No.: 93-3008

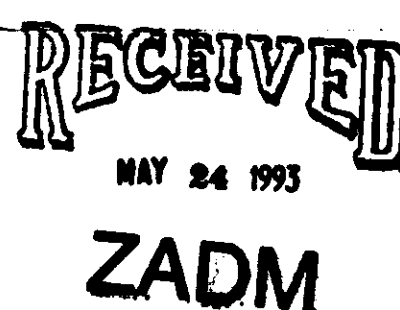
Dear Mr. Jablon:

I would like to request a postponement from the hearing date set in the above referenced case. At the time the case was filed it just did not occur to me that the case would be set so promptly. I have made arrangements several months ago to be out of town during the week of June 15th and the following week of June 21, 1993. I will be back in town after that and would appreciate the case being set anytime after June 28, 1993. My client's are most anxious to have this matter determined as their immediate plans to proceed with the mobile home park based on the outcome of this special exception hearing. Your consideration with respect to this matter is most greatly appreciated.

Very truly yours,

John B. Gontrum
John B. Gontrum

JBG/bjb



ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221
TELEPHONE: (410) 496-4274
FAX: (410) 496-4218

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.

ELIZABETH A. VANCE

August 25, 1993

*ALSO ADMITTED IN D.C.

Zoning Commissioner of Baltimore County
Office of Planning and Zoning
400 Washington Avenue, Suite 113
Towson, Md 21204

Re: Beachwood II Limited Partnership
RGM File No.: 93-3008
Case No.: 93-391-SPH

Dear Mr. Commissioner:

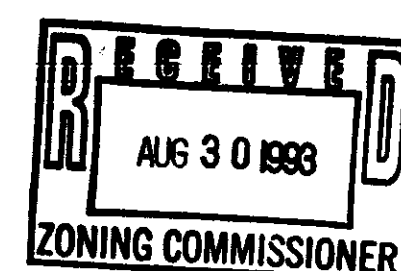
Please enter an Appeal on the referenced matter on behalf of Beachwood II Limited Partnership, Petitioner.

Very truly yours,

John B. Gontrum
John B. Gontrum

JBG/bjb

cc: Bruce Alderman, Esquire, Beachwood II L.P.
Jack Stamm, G. W. Stephens
Armando Cignarella, Cignal Development Company



Ethel B. Weber
4506 Todd Point Lane
Baltimore, Md 21214-1011
Phone: 477-4628
May 14, 1993



Mr. Lawrence C. Schmidt
40 Washington Ave
Towson, Md 21204

Dear Sir:

As a spokesperson for myself and the residents of Todd Point Lane, we are concerned about the reopening of a bar located at 4601 Todd Point Lane (across from Todd Point Lane).

This bar is in a de-13 zoning classification which was determined in the latest comprehensive zoning action. Also the bar has been closed for over a year since it was abandoned by the previous owner (Simmons).

Two hearings were held by the liquor license commissioners. The license was to be transferred to Frank S. Rose, Jr. and Angelina Guillen of Todd Point, Inc. The transfer was denied on March 24, 1993. However on May 13, 1993 I received a letter from the liquor license commissioners stating that they have reversed the denial based upon the fact that the two people involved do not fit under proper to operate the bar. The commissioners stipulated in this letter that zoning regulations would have to be satisfied along with local health system and setbacks for parking.

Ethel B. Weber

4544 Todd Point Lane
Baltimore, MD 21219

August 10, 1993

Lawrence Schmidt
Zoning Commissioner
400 Washington Ave.
Towson, MD 21204

Re: Case No. 93-391-SPH
Petition for Special Hearing
Beachwood II Ltd. Partnership, Petitioner

Dear Mr. Schmidt:

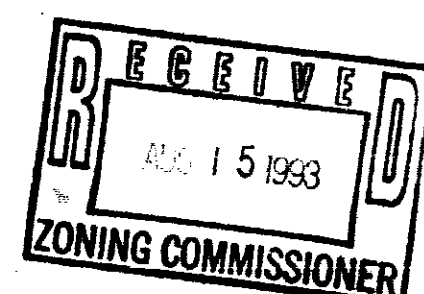
Thank you for your report dated August 5, 1993. It was like receiving a thoroughly delicious dessert!

It clearly illustrates a very difficult task being done extremely well, and I truly appreciate your extensive research and the wonderful explanations of your findings.

Congratulations to you and your staff for your excellent work.

Sincerely,

Cabrina Dembow
Cabrina Dembow



PLEASE PRINT CLEARLY

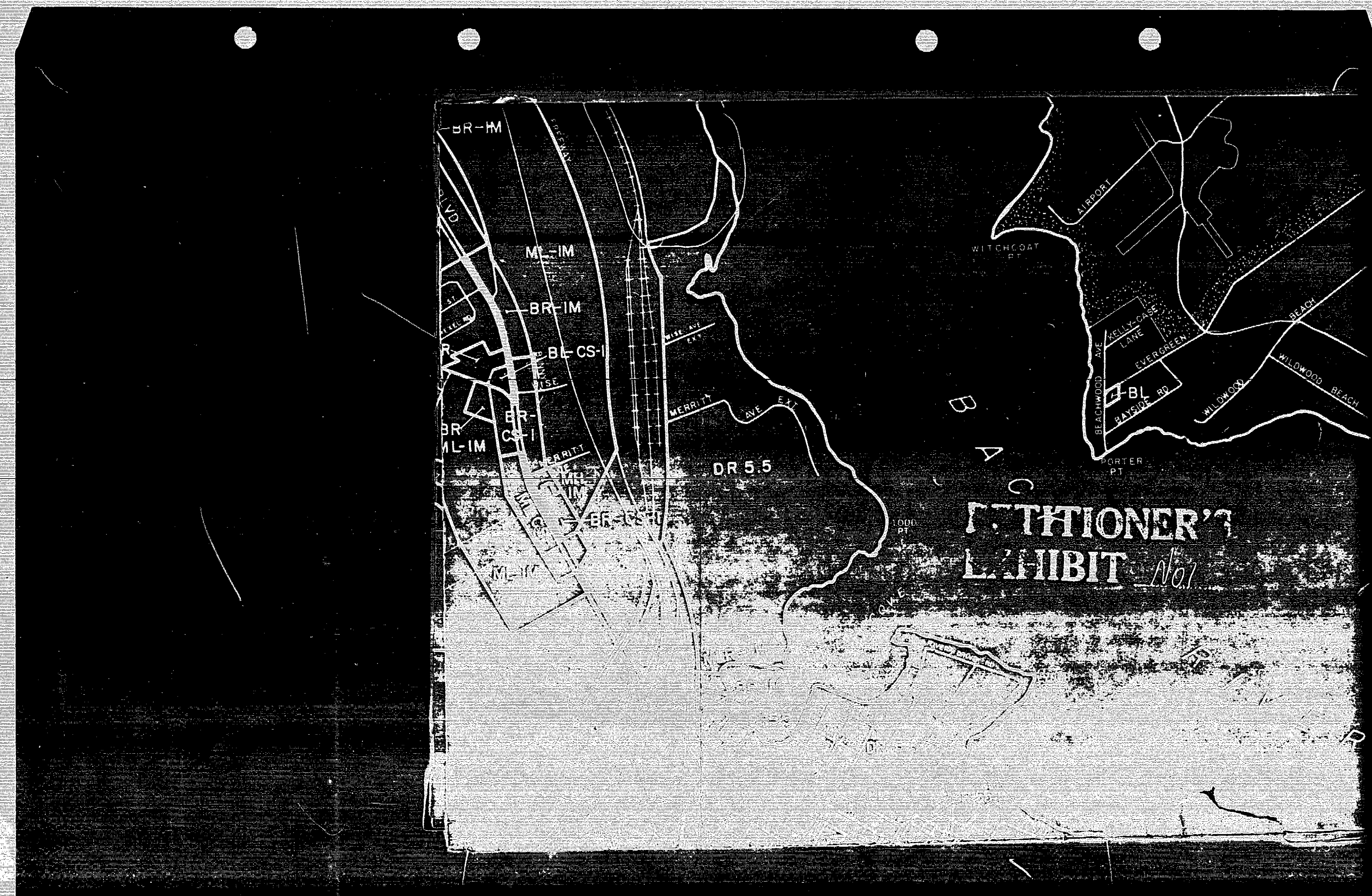
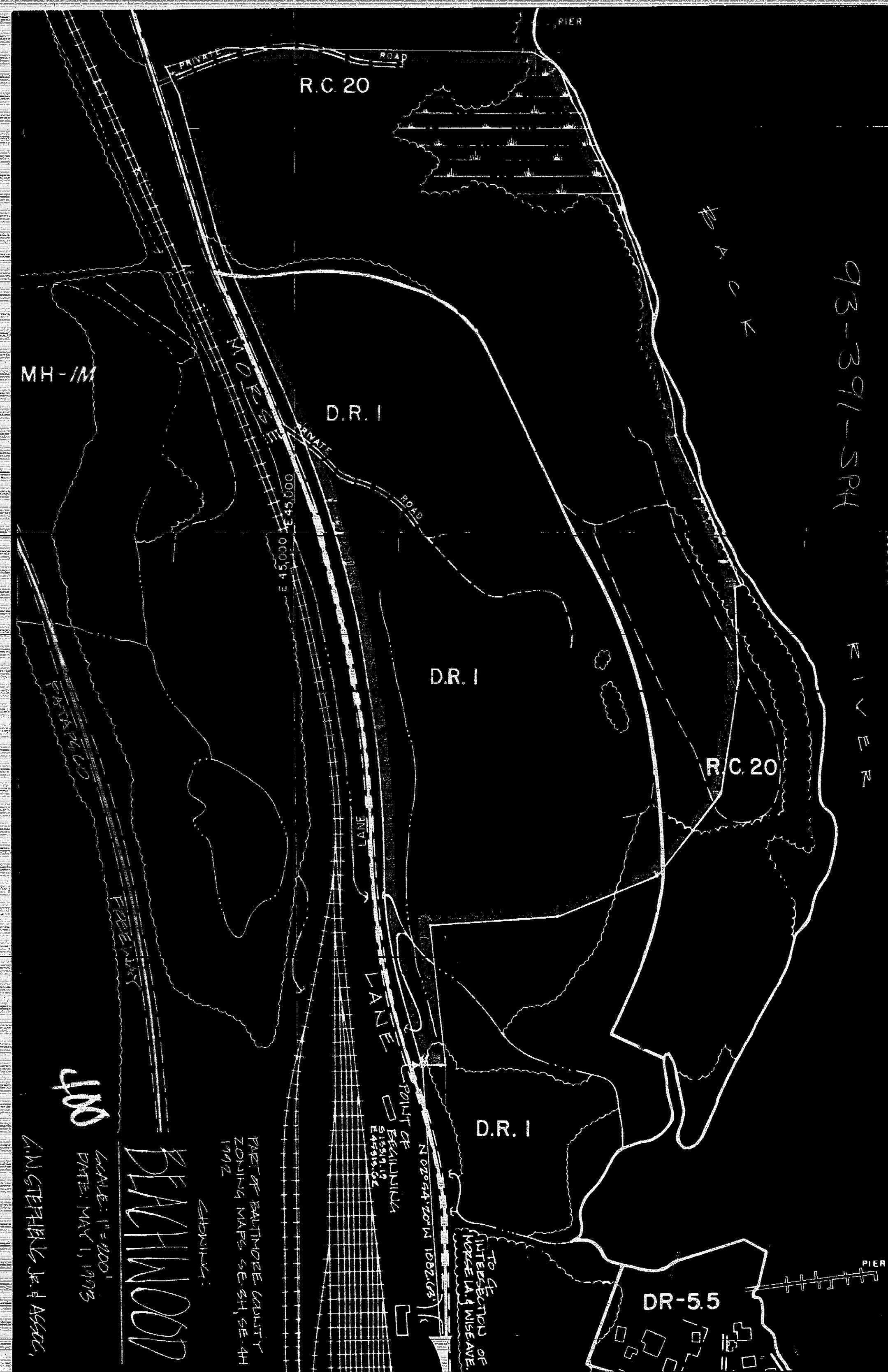
PROTESTANT(S) SIGN-IN SHEET

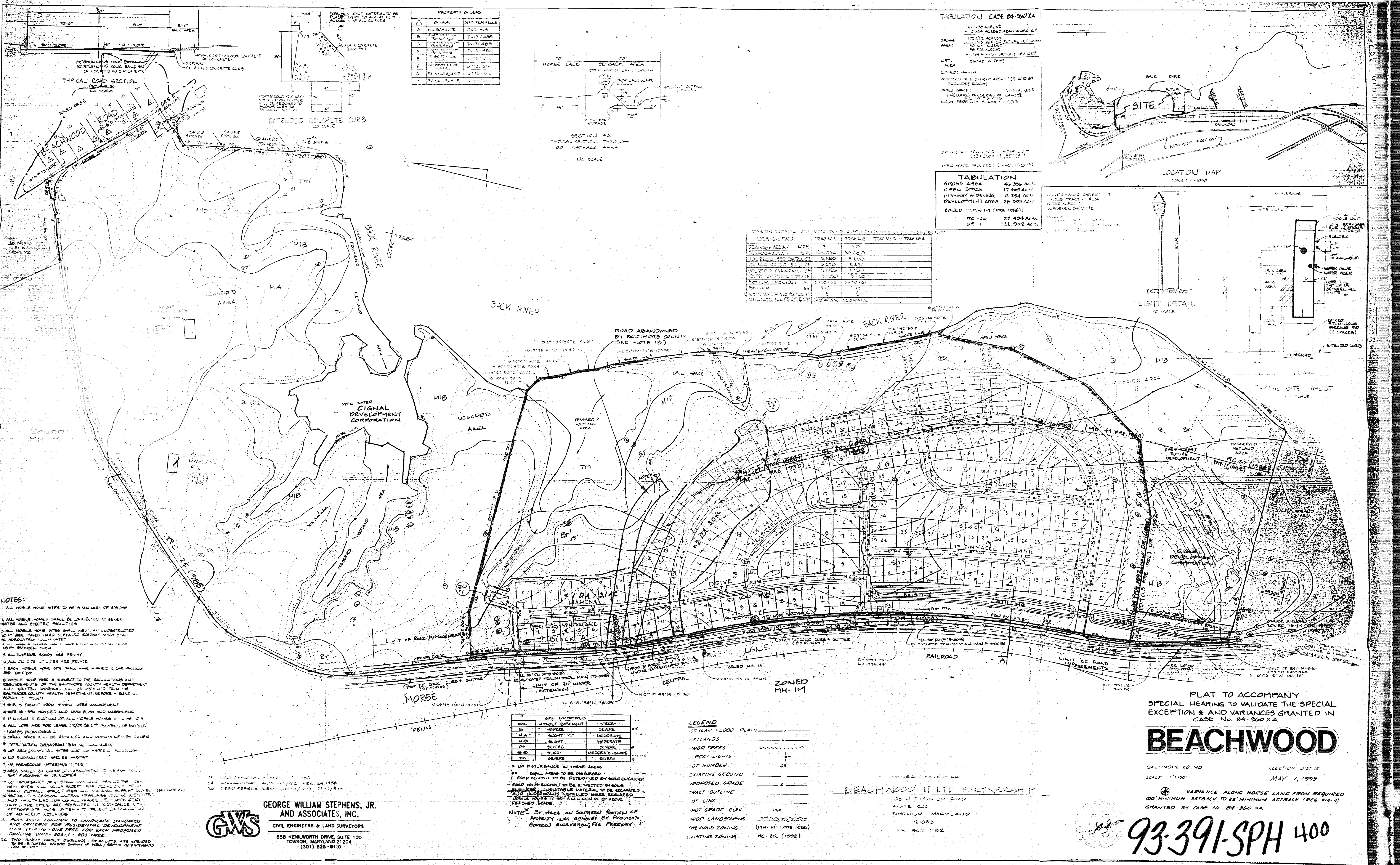
NAME	ADDRESS
Ethel Weber	4506 Todd Pt Lane Bldg 249
Joan Biemiller	4629 Todd Pt. A Bldg 21319
Pearl Gintling	728 N. P. Ck Rd Bldg 21219
CABRINA DEMBOW	4544 Todd Point Lane 21219
VERONICA TOLBERT	7741 North Point Creek Rd 21219

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
John J. Stamm	G.W. Stephens & Son 650 Hanilworth Bldg
Armando Cignarella	102 W. Titonium Rd. Titonium
R. Bruce Alderman	" " " " 21093





NOTES:
1. ALL MOBILE HOME SITES TO BE A MINIMUM OF 40'x50'.
2. ALL MOBILE HOMES SHALL BE CALISTO TO SEWER WATER AND ELECTRIC FACILITIES.
3. ALL MOBILE HOME SITES SHALL HAVE AN UNDISTURBED 50 FT WIDE PAVED HARD SURFACED ROADWAY WHICH SHALL BE ADEQUATELY ILLUMINATED.
4. ALL MOBILE HOMES SHALL HAVE A MINIMUM DISTANCE OF 10 FT BETWEEN THEM.
5. ALL INTERIOR ROADS ARE PRIVATE.
6. ALL SITE UTILITIES ARE RELATE.
7. EACH MOBILE HOME SITE SHALL HAVE A PAVED DRIVE PAVEMENT AND 10'x10' ED.
8. MOBILE HOME SITES ARE SUBJECT TO THE REGULATIONS AND REQUIREMENTS OF THE BALTIMORE COUNTY HEALTH DEPARTMENT AND WRITTEN APPROVAL MUST BE OBTAINED FROM THE BALTIMORE COUNTY HEALTH DEPARTMENT BEFORE A BUILDING PERMIT IS ISSUED.
9. SITE IS EXEMPT FROM SEWER WATER UNAVAILABLE.
10. SITE IS 15% WOODED AND 10% BUSH AND MARSHLAND.
11. MINIMUM ELEVATION OF ALL MOBILE HOMES MUST BE 0.4.
12. ALL LOTS ARE FOR LEASE INDETERMINATELY OF MOBILE HOMES FROM DUNN.
13. OPEN SPACE MUST BE RETAINED AND MAINTAINED BY OWNER.
14. SITE WITHIN DESIGNATED BAY AREA.
15. NO ARCHEOLOGICAL SITES AND NO OTHER CULTURAL OR ENDANGERED SPECIES HABITAT.
16. NO HAZARDOUS MATERIALS SITES.
17. AREA OWNED BY BALTIMORE COUNTY, ADJACENT TO BE ADJACENT FOR PURPOSES OF DEVELOPMENT.
18. NO DISTURBANCE OF EXISTING VEGETATION, INCLUDING THE REMOVAL OF TREES AND BUSHES, SHALL BE PERMITTED WITHOUT THE SUBMITTAL OF A DRAINAGE PLAN AND A MINIMUM SURVEY SURVEY (SEE NOTE 22).
19. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BALTIMORE STANDARDS FOR UTILITIES.
20. THE SITE IS ADJACENT TO THE BALTIMORE COUNTY HEALTH DEPARTMENT.
21. PLAN SHALL CONFORM TO LANDSCAPE STANDARDS AND CRITERIA FOR RESIDENTIAL DEVELOPMENT ITEM 1X-A-10 - ONE TREE FOR EACH PROPOSED DWELLING UNIT - 20'x11' - 8'03' TREE.
22. TWO DOUBLE RAILWAY OVERLAYS ARE INTRODUCED TO BE SITUATED WHERE SHOWN IN WELL / SEPTIC REQUIREMENTS CAN BE MET.

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8110

SOIL	UNSATURATED	STEEL
SOIL	WINDOUT EXHIBIT	SEVERE
SOIL	SLIGHT	MODERATE
SOIL	SLIGHT	MODERATE
SOIL	SEVERE	SEVERE
SOIL	SLIGHT	MODERATE
SOIL	SEVERE	SEVERE

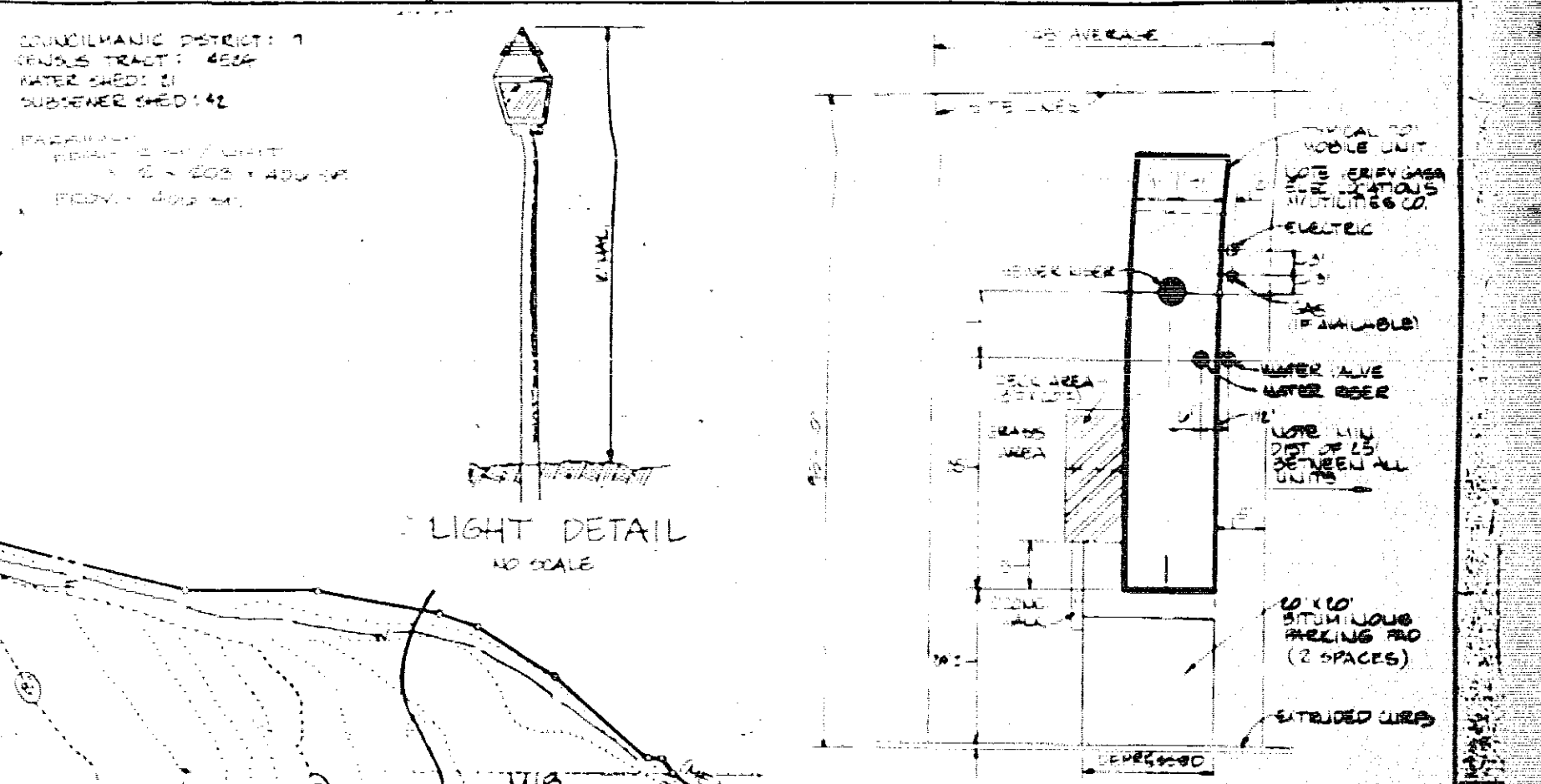
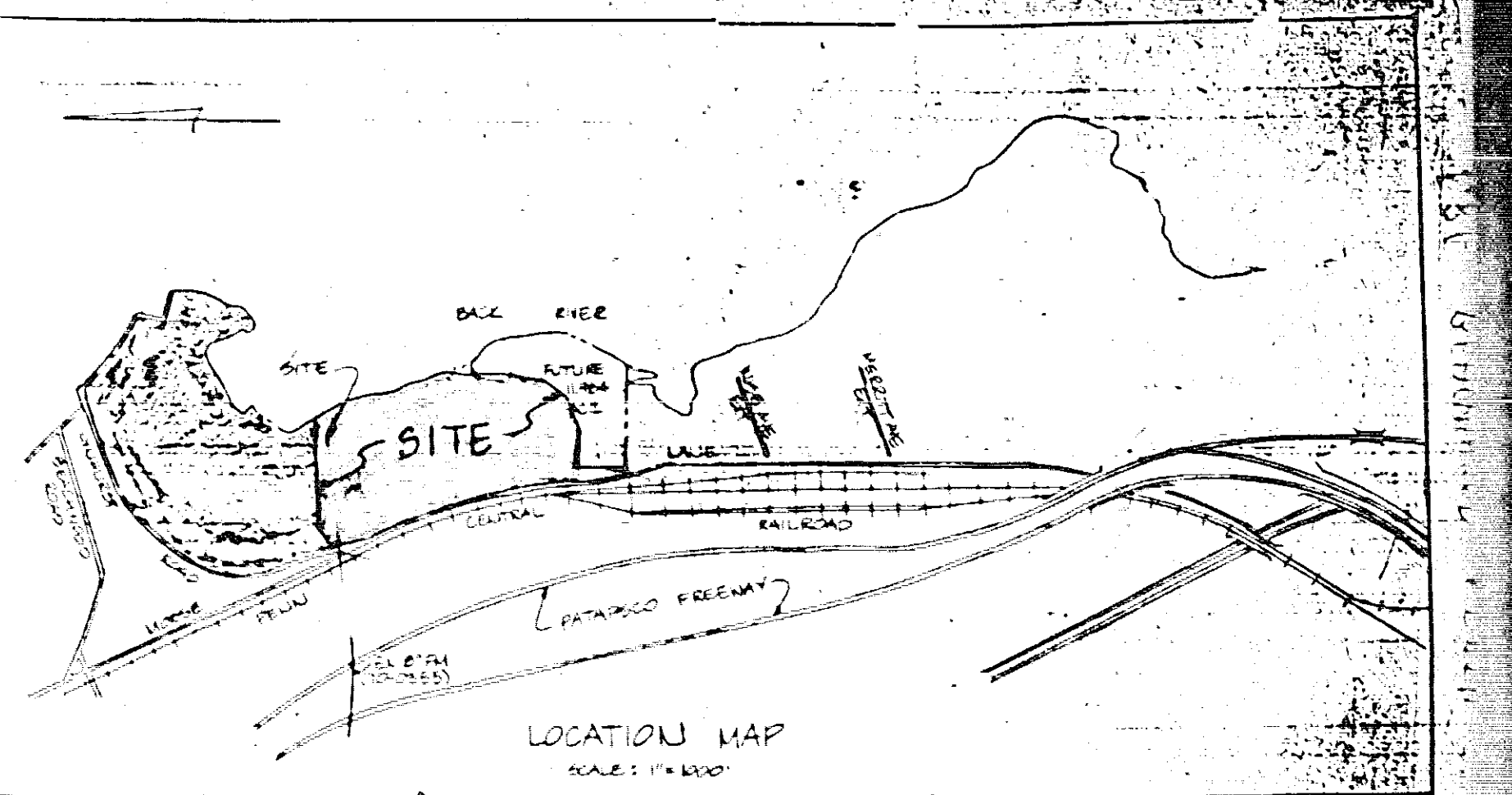
LEGEND
100 YEAR FLOOD PLAIN
WETLANDS
DRAINAGE
STREET LIGHTS
LOT NUMBER
EXISTING GROUND
PROPOSED GRADE
TRACT OUTLINE
LOT LINE
100' GRADE ELEV
PROPOSED ZONING
EXISTING ZONING

TABULATION CASE 84-360 XA

UNION ADDRESS - 1740 ALBERT AVE. (SEE NOTE 18)
GROSS AREA - 17,400 AC.
OPEN SPACE - 17,400 AC.
HIGHWAY WIDENING - 0.254 AC.
DEVELOPMENT AREA - 28,999 AC.
ZONED - MH-1M (PRE 1988)
MC-20 - 22,454 AC.
DR-1 - 22,928 AC.

TABULATION

GROSS AREA - 17,400 AC.
OPEN SPACE - 17,400 AC.
HIGHWAY WIDENING - 0.254 AC.
DEVELOPMENT AREA - 28,999 AC.
ZONED - MH-1M (PRE 1988)
MC-20 - 22,454 AC.
DR-1 - 22,928 AC.



PLAT TO ACCOMPANY
SPECIAL HEARING TO VALIDATE THE SPECIAL
EXCEPTION * AND VARIANCES GRANTED IN
CASE NO. 84-360 XA

BEACHWOOD

BALTIMORE CO. MD. ELECTION DIST. 15
SCALE: 1"=100' MAY 1, 1993

VARIANCE ALONG MORSE LANE FROM REQUIRED
100' MINIMUM SETBACK TO 25' MINIMUM SETBACK (REG. 114-4)
GRANTED BY CASE NO. 84-360 XA

93-391-SPH 400