

IN THE MATTER OF  
THE APPLICATION OF  
THEODORE C. JULIO  
FOR A VARIANCE ON PROPERTY  
LOCATED ON THE WEST SIDE OF  
FALLS ROAD, 557' NORTH OF THE  
CENTER LINE OF SOMERSET PLACE  
(11506 FALLS ROAD)  
8TH ELECTION DISTRICT  
3RD COUNCILMANIC DISTRICT

BEFORE THE  
COUNTY BOARD OF APPEALS  
OF  
BALTIMORE COUNTY  
CASE NO. 94-68-A

**OPINION**

This matter comes before this Board on appeal from the decision of the Deputy Zoning Commissioner dated October 28, 1993, granting a Petition for Variance with restrictions. The Petitioner requests a variance from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (BCZR) to allow a side yard setback of 25 feet in lieu of the required 50 feet.

The Petitioner/Property Owner, Theodore C. Julio, appeared and testified on his own behalf. Dr. Marshall Fesche, Protestant and a neighbor of the Petitioner, and Jeffrey D. Herschman, President of the Clearings Community Association, testified in opposition to the relief requested. The Petitioner was represented by Anthony J. DiPaula, Esquire, while the Protestant represented himself.

From the testimony and exhibits we find the following facts. The subject property, located in a subdivision known as The Clearings, consists of two lots, Lot 5 and Tract A, both zoned R.C. 5. The Appellant purchased Lot 5, containing 1.809 acres, ten years ago, and purchased Tract A, containing 0.566 acres, in-fee simple, in 1991, from another developer. Tract A was originally a 50-foot by 450-foot right-of-way.

The Petitioner proposes to build a single-family dwelling, swimming pool, play area and paved driveway as shown on Petitioner's Exhibit 1. As proposed, his attached garage would be within 25 feet of the northern property line of Lot 5, which is contiguous to Tract A. The Petitioner is thus requesting a setback variance from his own property. He is required to do so because they are separate parcels. The proposed dwelling will actually be 75 feet from the property line of Lot 4, owned by Richard and Brenda Kim, his closest neighbors to the north.

The Petitioner testified that it would cause practical difficulty to move the house 25 feet to the south because the lower elevation of the land to the south would necessitate building a 4-foot

Case No. 94-68-A Theodore C. Julio

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retaining wall in front of the house. He further testified that the proposed house is over 100 feet long, and is on one elevation and on a slab, making it difficult to accommodate it to the drop in elevation on the southern portion of the property; but he could not create a slope to accommodate it because to do so he would have to cover the septic reserve area in the southeast corner of the property, and such covering is not permitted.

Dr. Fesche testified that in his opinion the hardship cited by the Petitioner does not exist, because his experience in the construction business convinces him that the difference in elevation in the property is not significant enough to require a variance. He testified that the Petitioner is proposing a 6,000-square-foot house in a community where most homes are 3,000 to 4,000 square feet, thus making it more difficult to site it without a variance.

Dr. Fesche further testified that the subdivision's covenants prohibit private driveways from exiting onto Falls Road. The Petitioner's plan proposes a driveway on Tract A that would exit onto Falls Road. A letter from John Contestabile of the State Highway Administration (SHA) (Protestants' Exhibit 1) states that SHA prefers that the Petitioner access his property via St. David's Lane rather than Falls Road, which is a state highway, but that the Petitioner could legally access onto Falls Road. The Petitioner has, in fact, received a permit from SHA to access a driveway onto Falls Road (Petitioner's Exhibit 4).

Dr. Fesche testified that if the Petitioner is granted the variance, his house would be only 25 feet instead of 50 feet away from what could be a future access road. He stated that granting the variance would affect the health and safety of the neighborhood because Tract A could be used in the future as an emergency right-of-way to the homes on St. David's Lane, which is a dead-end road.

Mr. Herschman, representing the Clearings Community Association (the Association), testified that the Association is not concerned with access by Tract A to the homes on St. David's Lane, and that although the Association opposes granting a variance to allow a 25-foot side yard setback because it would create a precedent, the setback is a minor issue with the Association, because what the Petitioner is proposing is a setback variance from his own land.

Mr. Herschman testified that the Association is chiefly opposed to the Petitioner's driveway accessing onto Falls Road. According to a Resolution adopted by the Clearings Community

Case No. 94-68-A Theodore C. Julio

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Association dated February 28, 1994 (Protestants' Exhibit 3), the final development plan for The Clearings as approved by the County Review Group (CRG) prohibited private driveways having direct access to Falls Road, and permitting such a driveway would be a material amendment to the development plan as approved by CRG without the amendment being reviewed and approved in the same manner as the original plan.

But whether or not the Petitioner's driveway should access onto Falls Road is not an issue before this Board. That issue and others pertaining to the design and orientation of the proposed improvements will be reviewed, prior to seeking building permit approval, by the Architectural Review Committee of The Clearings.

The only matter before the Board is whether to grant the requested variance. Regarding the granting of variances, Section 307.1 of the BCZR states, in pertinent part:

... (T)he County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations... only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area... regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare...

The Board has considered the law and all of the testimony and evidence in this case, and finds that the Petitioner has satisfied the requirements of Section 307.1. Special circumstances do indeed exist that are peculiar to the subject land or structure: most prominent among them is the fact that the Petitioner is seeking a setback variance between two parcels of land both of which he owns, and that with the variance the setback from his nearest neighbor will be 25 feet in excess of the required 50 feet.

The Board finds that siting the house further to the south would create a practical difficulty because the topography of the land would require the construction of a retaining wall. Further, the Board is not persuaded by the argument that building the proposed dwelling within 25 feet of a possible future emergency access road would injure the public health, safety and welfare.

**ORDER**

IT IS THEREFORE this 4th day of May, 1994, by the County Board of Appeals of Baltimore County

Case No. 94-68-A Theodore C. Julio

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**ORDERED** that the Petition for Variance to permit a side yard setback of 25 feet in lieu of the required 50 feet be and is hereby **GRANTED**, subject to the following restrictions:

1) The Petitioner may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2) Prior to the issuance of any permits, the existing well shall be retested for yield, and soil percolation tests conducted in compliance with the recommendations set forth in the comments submitted by DEPRM dated August 27, 1993.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

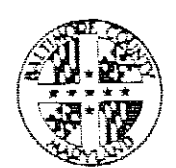
Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Harry E. Buchheiser, Jr.

S. Diane Levero



County Board of Appeals of Baltimore County

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

May 4, 1994

Anthony J. DiPaula, Esquire  
COVAHEY & BOOZER, P.A.  
614 Bosley Avenue  
TOWSON, MD 21204

RE: Case No. 94-68-A  
Theodore C. Julio - Petitioner

Dear Mr. DiPaula:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,  
Charlotte E. Radcliffe  
Legal Secretary

encl.  
cc: Theodore C. Julio  
Jeffrey D. Herschman, Esquire  
Dr. & Mrs. Marshall Fesche  
Richard S. Kim  
People's Counsel for Baltimore County  
Pat Keller  
Lawrence E. Schmidt  
Timothy M. Kotroco  
W. Carl Richards, Jr. /ZADM  
Docket Clerk /ZADM  
Arnold Jablon, Director/ZADM

ORDER RECEIVED FOR FILING  
Date 10/28/93  
By [Signature]

IN RE: PETITION FOR VARIANCE  
W/S Falls Road, 557' N of  
the c/l of Somerset Place  
(11506 Falls Road)  
8th Election District  
3rd Councilmanic District  
Theodore C. Julio  
Petitioner

BEFORE THE  
DEPUTY ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 94-68-A

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owner of the subject property, Theodore C. Julio. The Petitioner seeks relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet and an amendment to the last approved Final Development Plan of The Clearings, Plat One, for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Theodore C. Julio, property owner, and his attorney, Anthony J. DiPaula, Esquire. Appearing as Protestants in the matter were Dr. and Mrs. Marshall Fesche, and Richard S. Kim, adjoining property owners.

Testimony indicated that the subject property, known as 11506 Falls Road, consists of two lots, known as Lot 5 and Tract A of the subdivision known as The Clearings. Lot 5 contains 1.809 acres and Tract A consists of 0.566 acres. Both lots are zoned R.C. 5. Testimony indicated that the Petitioner is desirous of developing the property with a single family dwelling, swimming pool, play area and paved driveway area as depicted on Petitioner's Exhibit 1. Due to the location of the septic reserve area on the lot, and for aesthetic reasons, the Petitioner wishes to situate the proposed dwelling in the center of the lot and orient the

front of the dwelling towards Falls Road, a State highway. Due to the size of the dwelling and its location on the lot, the northern end of the structure will be located 25 feet from the property line of Lot 5, thereby necessitating a variance.

It is to be noted that the Petitioner owns Lot 5 and Tract A and as such, the relief sought is for a setback from a property the Petitioner owns. The proposed dwelling will actually be located 75 feet from the property line of Lot 4, owned by Richard and Brenda Kim. Further testimony revealed that Tract A was previously a 50-foot right-of-way owned by another developer. Mr. Julio testified that he purchased Tract A in-fee simple, by deed dated March 27, 1991, a copy of which was submitted into evidence as Petitioner's Exhibit 3. As for the house facing Falls Road, Mr. Julio introduced as Petitioner's Exhibit 4, a State Highway Administration (SHA) access permit which permits him access to his property from Falls Road.

After the hearing was concluded, the case file was returned to the Zoning Administration and Development Management (ZADM) for a determination as to whether the proposed dwelling and accessory improvements could be situated on the property in the manner depicted on Petitioner's Exhibit 1. This Deputy Zoning Commissioner was advised that the Petitioner was proceeding in accordance with County regulations in the development of Lot 5 and Tract A. Mr. Julio received all County agency approvals but was advised, pursuant to inter-office correspondence dated August 27, 1993 from the Department of Environmental Protection and Resource Management (DEPRM), that the well on the subject property would have to be retested for yield and additional soil percolation tests would be required prior to

building permit approval. As a condition of the relief granted, these requirements will be made restrictions of this Order.

Appearing and testifying in opposition to Mr. Julio's request was Tommy Fesche. Mrs. Fesche and her husband reside on the adjacent property, known as Lot 6. The Fesches own a very attractive home as was evidenced in photographs submitted as Protestants' Exhibit 1. The Fesches are very concerned over the proposed orientation of the dwelling on the subject property. They feel that the house should not front on Falls Road but face St. David's Lane as does their dwelling. They are concerned over having to look upon the rear yard of the subject property which is proposed for development with a deck, swimming pool and play area for the children. The Fesches believe that the value of their home will decrease by virtue of the proposed dwelling's orientation on the subject property. Mr. Julio and the Fesches also agreed that Mr. Julio would submit architectural drawings of the proposed improvements to the Architectural Review Committee of The Clearings prior to seeking building permit approval. The issue concerning the design and orientation of the proposed dwelling would, in my opinion, be better left to the said Architectural Review Committee whose job it is to ensure that all proposed improvements within their subdivision are in character and keeping with existing improvements. Therefore, I will not rule upon the orientation of the proposed dwelling but will merely address the variance that has been requested.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and his property. *Melton v. Soley*, 270 Md. 508 (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

ORDER RECEIVED FOR FILING  
Date 10/28/93  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 10/28/93  
By [Signature]

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 is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of October, 1993 that the Petition for

Variance requesting relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet and an amendment to the last approved Final Development Plan of the Clearings, Plat One, for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2) Prior to the issuance of any permits, the existing well shall be retested for yield, and soil percolation tests conducted in compliance with the recommendations set forth in the comments submitted by DEPRM dated August 27, 1993.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TWK:bjs

Timothy M. Kotroco, Deputy Zoning Commissioner for Baltimore County

ORDER RECEIVED FOR FILING

Date 10/28/93 By [Signature]

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

October 28, 1993

(410) 887-4386

Anthony J. DiPaola, Esquire Covahay & Boccer 614 Bosley Avenue Towson, Maryland 21204

RE: PETITION FOR VARIANCE W/S Falls Road, 557' N of the c/l of Somerset Place (11506 Falls Road) 8th Election District - 3rd Councilmanic District Theodore C. Julio - Petitioner Case No. 94-68-A

Dear Mr. Covahay:

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

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco, Deputy Zoning Commissioner for Baltimore County

TWK:bjs

cc: Dr. & Mrs. Marshall Feache 11506 St. David's Lane, Lutherville, Md. 21093

Mr. Richard S. Kim 11511 St. David's Lane, Lutherville, Md. 21093

People's Counsel

file

Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at 11506 FALLS ROAD

which is presently zoned R.C. 5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A04.3.B.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS MINIMUM PROPERTY LINE SETBACK, TO PERMIT A SETBACK OF 25 FT. IN LIEU OF 50 FT. AND TO AMEND THE LAST APPROVED FINAL DEVELOPMENT PLAN OF THE CLEARINGS, PLAT ONE, FOR A PROPOSED DWELLING IN ACCORDANCE WITH PETITIONER'S EXHIBIT 1, BE AND IS HEREBY GRANTED, SUBJECT TO THE FOLLOWING RESTRICTIONS: DUE TO THE ACQUISITION OF TRACT "A", A 25' SETBACK VARIANCE IS REQUESTED IN ORDER TO CENTRALLY LOCATE THE PROPOSED HOUSE ON THE LOT AND CLEAR SEPTIC RESERVE AREA.

Property is to be posted and advertised as prescribed by Zoning Regulations. I do hereby agree to pay expenses of above variance advertising, posting, etc., upon filing of the 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.

Form with fields for Petitioner Name (Theodore C. Julio), Address (9640 Deereco Road, Timonium, MD 21093), and other details.

ORDER RECEIVED FOR FILING

Date 10/28/93 By [Signature]

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

94-68-A

6603 York Road Baltimore, Maryland 21212 (410) 377-2600 (410) 377-2625 Fax

ZONING DESCRIPTION

FOR 11506 FALLS ROAD LOT 5 SECTION 2 BLOCK B 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

Beginning at a point on the west side of Falls Road, which varies in right-of-way, at a distance of 557 feet north of the centerline of Somerset Place at Falls Road. Being Lot 5, Block B, Section Two in the subdivision of The Clearings Plat One as recorded in Baltimore County Plat Book E.H.K., Jr. 50, Folio 143, containing 78,800 sq. ft. or 1.809 acres.

# 70

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

94-68-A

6603 York Road Baltimore, Maryland 21212 (410) 377-2600 (410) 377-2625 Fax

ZONING DESCRIPTION

FOR TRACT A/THE CLEARINGS SECTION 2 PLAT 1 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

Beginning at a point on the west side of Falls Road, which varies in right-of-way, at a distance of 786 feet north of the centerline of Somerset Place at Falls Road. Being Tract A, Section Two in the subdivision of The Clearings Plat One as recorded in Baltimore County Plat Book E.H.K., Jr. 50, Folio 143, containing 24,655 sq. ft. or 0.566 acres.

# 70

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

District 974 Date of Posting 10/27/93 Posted for: Theodor C. Julio Petitioner: 11506 Falls Rd. N/S, 557' N of Somerset Place Location of Sign: Falls Road, N/S, 557' N of Somerset Place Remarks: Sign road sign, as property being appealed. Posted by: [Signature] Date of return: 10/28/93 Number of Signs: 1

MISCELLANEOUS CASH RECEIPT for \$175.00

MISCELLANEOUS CASH RECEIPT for \$35.00

CERTIFICATE OF PUBLICATION

TOWSON, MD. Aug 22, 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 Aug 26, 1993.

THE JEFFERSONIAN

A. Honickman, LEGAL AD. - TOWSON

receipt form with fields for Date (8/12/93), Amount (\$155.00), and other details.

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

August 18, 1993

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 NUMBER: 94-68-A (Item 70)  
11506 Falls Road  
W/S Falls Road, 557' N of c/1 Somerset Place  
8th Election District - 3rd Councilmanic  
Petitioner(s): Theodore C. Julio  
HEARING: THURSDAY, SEPTEMBER 23, 1993 at 11:00 a.m. in Room 118 Courthouse.

Variance to permit a side yard setback of 25 feet in lieu of 50 feet; and to amend the last approved final development plan of the Clearings, Plat One.

*Carl Julio*  
Arnold Jablon  
Director

cc: Theodore C. Julio

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE BY 887-3391.

Printed with Soy-based Ink on Recycled Paper

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

September 20, 1993

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 NUMBER: 94-68-A (Item 70)  
11506 Falls Road  
W/S Falls Road, 557' N of c/1 Somerset Place  
8th Election District - 3rd Councilmanic  
Petitioner(s): Theodore C. Julio  
HEARING: THURSDAY, SEPTEMBER 23, 1993 at 11:00 a.m. in Room 118 Courthouse.

Variance to permit a side yard setback of 25 feet in lieu of 50 feet; and to amend the last approved final development plan of the Clearings, Plat One.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

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Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

September 20, 1993

Mr. Theodore C. Julio  
9640 Deereco Road  
Timonium, Maryland 21093

RE: Case No. 94-68-A, Item No. 70  
Petitioner: Theodore C. Julio  
Petition for Variance

Dear Mr. Julio:

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 August 13, 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.

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Zoning Plans Advisory Committee Comments  
Date: September 20, 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.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Very truly yours,  
*W. Carl Richards, Jr.*  
W. Carl Richards, Jr.  
Zoning Coordinator

MCR:cm  
Enclosures

SHA Maryland Department of Transportation  
State Highway Administration

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

August 30, 1993

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

RE: Baltimore County  
MD 25  
Julio Property  
Variance Request  
Item no. 70 (MJK)

Dear Ms. Kehring:

This office has reviewed the plan for the referenced item and we offer the following:

We have no objection to approval for the variance request to permit a side-yard setback of 25' in lieu of the required 50', and to amend the last approved final development plan of the Clearings, Plat One.

However, the proposed entrance onto MD 25 indicated on the plan, will require a residential access permit to be issued by Mr. Gary Ewers, Resident Maintenance Engineer. Mr. Ewers can be reached at 410-574-4511.

Please contact Bob Small at 410-333-1350 if you have any questions. Thank you for the opportunity to review this item.

Very truly yours,  
*John Contestabile*  
John Contestabile, Chief  
Engineering Access Permits  
Division

BS/es

cc: Mr. Gary Ewers

My telephone number is 410-333-1350 (Fax# 333-1041)  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free  
Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: August 23, 1993

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

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):  
Item Nos. 46, 45, 67, 68, 69 and 70.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey Long*  
Division Chief: *Leid. Miller*  
M/J:lw

ENC. 04/PZ/08/2393

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

August 27, 1993

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

FROM: J. Lawrence Pilson  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #70 - Julio Property  
11506 Falls Road, Lot 5 & Tract "A" The Clearings Sub. E.O. - 8  
Zoning Advisory Committee Meeting of August 23, 1993

Ground Water Comments:

1. The existing well will have to be retested for yield. The yield test must meet the minimum requirements of 1 gal./min. actual recovery after 6 hours of continuous pumping. The results of this test must be submitted prior to building permit approval.

2. Additional soil percolation tests are required prior to building permit approval. A soil percolation test permit must be applied for through the Department of Permits & Licenses.

JLP:sp  
JULIO/DEPRM/TITTSB

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

November 29, 1993

RE: Petition for Variance  
W/S Falls Road, 557' N of the c/1  
of Somerset Place  
(11506 Falls Road)  
8th Election District  
3rd Councilmanic District  
Theodore C. Julio - Petitioner  
Case No. 94-68-A

Dear Mr. Covehey:

Please be advised that an appeal of the above-referenced case was filed in this office on November 26, 1993 by Marshall Pasche. All materials relative to the case have been forwarded to the Board of Appeals.

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

Sincerely,  
*Carl Julio*  
ARNOLD JABLON  
Director

AJ:jaw  
cc: Mr. Richard S. Kim  
People's Counsel

APPEAL

Petition for Variance
W/S Falls Road 557' W of the c/l of Somerset Place
(11506 Falls Road)
8th Election District - 3rd Councilmanic District
Theodore C. Julio - PETITIONER
Case No. 94-68-A

Petition(s) for Variance
Description of Property
Certificate of Publication
Entry of Appearance of People's Counsel
Zoning Plans Advisory Committee Comments
Petitioner(s) and Protestant(s) Sign-in Sheets
Petitioner's Exhibits: 1 - Plat to Accompany Variance
2 - The Clearings Site and Grading Plan
3 - Deed for Liber 8922, Page 654
4 - State Highway Administration Permission
Protestant's Exhibits: 1 - Six Photographs
2 - Letter of Opposition dated September 22, 1993
Deputy Zoning Commissioner's Order dated October 28, 1993 (Granted)
Notice of Appeal received on November 26, 1993 from Marshall Fesche
c: Anthony J. DiPaula, Esquire, Covahay & Booser, 614 Bosley Avenue, Towson, MD 21204
Dr. & Mrs. Marshall Fesche, 11506 St. David's Lane, Lutherville, MD 21093
Mr. Richard S. Kim, 11511 St. David's Lane, Lutherville, MD 21093
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
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

12/15/93 -Notice of Assignment for hearing scheduled for Thursday, March 3, 1994 at 10:00 a.m. sent to following:

Anthony J. DiPaula, Esquire
Theodore C. Julio
Dr. & Mrs. Marshall Fesche
Mr. Richard S. Kim
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /SADM
Docket Clerk /SADM
Arnold Jablon, Director /SADM

3/02/94 -T/C from Tony DiPaula --his client's flight from Florida to Baltimore has been cancelled due to weather conditions. Will not be able to get here until 3:00 p.m. Thursday afternoon at the earliest, if then. Will request continuance on record 3/03/94.
-Advised Chairman Hackett of above 3/02/94 at 4:30 p.m.; DiPaula has contacted representative for Dr. & Mrs. Fesche, who has no objection to postponement based on circumstances.

3/03/94 -Hearing postponed on the record by request of Mr. DiPaula; case reset to Thursday, April 21, 1994 at 10:00 a.m.; Notice of PP and Reassignment sent to above parties; also added to file: Jeffrey D. Herschman, Esquire.

4/21/94 -Hearing concluded; variance granted in open deliberation; written Opinion and Order to be issued; appellate period to run from date of that written Opinion and Order.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Soning Administration &
Development Management
DATE: June 6, 1994
FROM: Charlotte E. Radcliffe
County Board of Appeals
SUBJECT: Closed File: Case No. 94-68-A
THEODORE C. JULIO -Petitioner
District 8C3

As no further appeals have been taken regarding the subject case, we are closing the file and returning same to you herewith.

Attachment

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Theodore C. Julio
Case No. 94-68-A
DATE: April 21, 1994 /10 a.m.
BOARD /PANEL: William T. Hackett, Chairman (WTH)
S. Diane Levero (SDL)
Harry E. Buchheister, Jr. (HEB)
SECRETARY: Charlotte E. Radcliffe
Legal Secretary
- Opening statements by Chairman Hackett
Those present included Anthony DiPaula, Counsel for Petitioner and Dr. Marshall Fesche, Protestant.
Purpose --to deliberate issues and matter of petition for variance presented to the Board; testimony and evidence taken this date. Opinion and Order to be issued by Board setting forth written findings of fact.
Minutes taken by Legal Secretary, as appears to be required under Section 509(c). Pursuant to statute, Counsel and parties and public have opportunity to observe deliberation process.
WTH: Began by acknowledging abundance of arguments; stated nothing earth-shattering said about variance which is why the case was heard; Mr. Julio owns this property and pays taxes on it. Believes by pushing house south to gain 25' would encroach on septic system, making one of Baltimore County's major problems worse; noted that Board only has to allow 25' from existing lot line and 75' in front of existing 50' of Tract A; access to St. David's Lane would be just as easy as Falls Road; no reason to turn request down.
Petition for Variance should be granted.
SDL: Agrees with WTH; practical difficulty and hardship was proven in that the slope of land needs retaining wall; inclined to grant variance.
Petition for Variance should be granted.
HEB: Noted SHA originally saw Parcel A as future access to serve the golf course before they sold the property to Mr. Julio; some merit to limit access to Falls Road; after review of

Minutes of Deliberation /Theodore C. Julio 94-68-A

final plan exit could be shifted to St. David's Lane; reasonable degree of practical difficulty; inclined to grant variance.

Petition for Variance should be granted.

Closing statement by Chairman Hackett; Petition will be GRANTED; written opinion and order to be issued by the Board reflecting that decision; appellate period to run from date of that written Opinion and Order.

Respectfully submitted,

Charlotte E. Radcliffe
Legal Secretary



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
December 15, 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. 94-68-A
THEODORE C. JULIO - Petitioner
W/S Falls Road, 557' W of c/l of Somerset Place (11506 Falls Road)
8th Election District
3rd Councilmanic District

VAR -To permit side yard setback of 25 feet in lieu of the required 50 feet; and amendment to the last approved FDP of The Clearings, Plat One, for a proposed dwelling.

10/28/93 -D.E.C.'s Order in which Petition for Variance was GRANTED with restrictions.

ASSIGNED FOR: THURSDAY, MARCH 3, 1994 at 10:00 a.m.

cc: Anthony J. DiPaula, Esquire Counsel for Petitioner
Theodore C. Julio Petitioner
Dr. & Mrs. Marshall Fesche Appellants /Protestants
Mr. Richard S. Kim
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /SADM
Docket Clerk /SADM
Arnold Jablon, Director /SADM

Kathleen C. Weidenhammer
Administrative Assistant



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
March 3, 1994

NOTICE OF POSTPONEMENT & REASSIGNMENT

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. 94-68-A
THEODORE C. JULIO - Petitioner
W/S Falls Road, 557' W of c/l of Somerset Place (11506 Falls Road)
8th Election District
3rd Councilmanic District

VAR -To permit side yard setback of 25 feet in lieu of the required 50 feet; and amendment to the last approved FDP of The Clearings, Plat One, for a proposed dwelling.

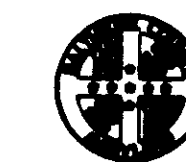
10/28/93 -D.E.C.'s Order in which Petition for Variance was GRANTED with restrictions.

which was scheduled for hearing on March 3, 1994 was POSTPONED ON THE RECORD at the request of Counsel for Petitioner; and has been

REASSIGNED FOR: THURSDAY, APRIL 21, 1994 at 10:00 a.m.

cc: Anthony J. DiPaula, Esquire Counsel for Petitioner
Theodore C. Julio Petitioner
Jeffrey D. Herschman, Esquire
Dr. & Mrs. Marshall Fesche Appellants /Protestants
Mr. Richard S. Kim
People's Counsel for Baltimore County
P. David Fields (Mr. Lewis)
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /SADM
Docket Clerk /SADM
Arnold Jablon, Director /SADM

Kathleen C. Weidenhammer
Administrative Assistant



County Board of Appeals of Baltimore County

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

June 6, 1994

Anthony J. DiPaula, Esquire
COVAHEY & BOOSER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 94-68-A
THEODORE C. JULIO - Petitioner

Dear Mr. DiPaula:

As no further appeals have been taken regarding the subject matter, we have closed the file and returned same to the Office of Zoning Administration and Development Management, along with any exhibits entered in this matter. The Zoning Office maintains the permanent file.

Anyone interested in either the file or the exhibits is advised to contact the Zoning Director's office at 887-3353 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in this file have been notified.

Sincerely,
Charlotte E. Radcliffe
Legal Secretary

cc: Theodore C. Julio
Jeffrey D. Herschman, Esquire
Dr. & Mrs. Marshall Fesche
People's Counsel for Baltimore County

7400-93

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER  
 W/S Falls Rd., 557' N of C/L : OF BALTIMORE COUNTY  
 Somerset Place (11506 Falls Rd.): 3rd Election District : Case No. 94-68-A  
 3rd Councilmanic District :  
 THEODORE C. JULIO, Petitioner :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Peter Max Zimmerman*  
 Peter Max Zimmerman  
 People's Counsel for Baltimore County

*Carole S. Deallio*  
 Carole S. Deallio  
 Deputy People's Counsel  
 Room 47, Courthouse  
 400 Washington Avenue  
 Towson, Maryland 21204  
 (410) 887-2188

I HEREBY CERTIFY that on this 2nd day of September, 1993,  
 a copy of the foregoing Entry of Appearance was mailed to Theodore C.  
 Julio, 9640 Deereco Rd., Timonium, MD 21093, Petitioner.

*Peter Max Zimmerman*  
 Peter Max Zimmerman

RECEIVED  
 SEP 3 1993  
 ZADM

Baltimore County Government  
 Office of Zoning Administration  
 and Development Management

# 70

111 West Chesapeake Avenue  
 Towson, MD 21204 (410) 887-3383

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

*Arnold Jablon*  
 ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 70  
 Petitioner: Theodore C. Julio  
 Location: 11506 Falls Road  
 PLEASE FORWARD ADVERTISING BILL TO:  
 NAME: Theodore C. Julio  
 ADDRESS: 9640 Deereco Rd.  
Timonium, MD 21093  
 PHONE NUMBER: 541-1308

AJ:ggg (Revised 04/09/93)

AFFIDAVIT

Jeffrey D. Herschman, being duly sworn upon his oath, deposes and says as follows:

1. That he is the duly elected president of the Clearings Community Association, Inc. (the "Association").
2. That he is a duly elected member of the board of directors of the Association.
3. That the board of directors of the Association adopted the Resolution attached as Exhibit A at a meeting held on February 15, 1994.
4. As is set forth in the Resolution, Jeffrey D. Herschman was instructed and authorized to present on the views of the Association on the Case 94-68-A.

Attested to:

*Anne K. Grigg* Anne K. Grigg, Secretary  
*Jeffrey D. Herschman* Jeffrey D. Herschman, President

Subscribed and Sworn to before me a Notary Public on this 2nd day of February, 1994.

*Barbara S. Ciosek*  
 Barbara S. Ciosek, Notary Public

RESOLUTION

WHEREAS, a meeting of the board of directors of the Clearings Community Association, Inc. (the "Association") was held on February 15, 1994 at 1114 Somerset Place, Lutherville, Maryland;

WHEREAS, a quorum of directors attended the meeting held on February 15, 1994;

WHEREAS, the by-laws of the Association vest the board of the Association with the responsibility for reviewing, formulating a position, and acting on all zoning matters impacting the Association;

WHEREAS, the board considered the zoning case now pending before the County Board of Appeals of Baltimore County, Case No. 94-68-A (the "Zoning Case");

WHEREAS, all interested association members including, but not limited to, Theodore C. Julio and/or his attorney were invited to attend the February 15, 1994 board meeting to offer their views on the Zoning Case and what, if any, action the Association ought to take with regards to the Zoning Case;

AND, WHEREAS, the board of the Association considered those views offered to it at the February 15, 1994 meeting.

NOW, THEREFORE, be it resolved as follows:

1. Jeffrey D. Herschman, President of the Association, is hereby authorized to testify as to the views of the Association at the hearing in the Zoning Case now scheduled for March 3, 1994.
2. Jeffrey D. Herschman is instructed to convey to the County Board of Appeals of Baltimore County the views of the Association with respect to the Zoning Case as is set forth in this Resolution.
3. The Association supports that portion of the October 28, 1993 of the Deputy Zoning Commissioner which reads as follows:

"Mr. Julio and the Pesches also agreed that Mr. Julio would submit architectural drawings of the proposed improvements to the Architectural Review Committee of the Clearings prior to seeking building permit approval. The issue concerning the design and orientation of the proposed dwelling would, in my opinion, better left to the said Architectural Review Committee whose

job it is to insure that all proposed improvements within their subdivision are in character and keeping with existing improvements."

4. To the extent, however, that an argument may be presented for consideration by the County Board of Appeals of Baltimore County that orientation of the proposed dwelling is properly a subject of decision by the County Board of Appeals rather than the Architectural Review Committee, which has not yet been presented any plans by Mr. Julio, that it is the position of the Association that the proposed dwelling should be oriented towards St. Davids Lane rather than Falls Road because to do otherwise would not be in keeping with the character of existing improvements on adjacent properties and would decrease the value of adjacent and nearby properties located along St. Davids Lane.

5. The Association is also opposed to that portion of the Deputy Zoning Commissioner's opinion permitting a 25 foot side yard setback in lieu of the required 50 foot side yard setback. It is the position of the Association that observing the required 50 foot side yard setback would not unreasonably prevent Mr. Julio from utilizing his property. The condition of this undeveloped lot has not changed since Mr. Julio purchased the property, but instead all that has changed is his plans for the development of the property. The creation of a 25 foot side yard setback variance would potentially harm other Association members as it would establish a precedent for variance where none has previously existed.

6. The Association also opposes the decision of the Deputy Zoning Commissioner to the extent that it permits Mr. Julio to have a driveway having direct access on to Falls Road. The Association opposes this portion of the Deputy Zoning Commissioner's opinion on the following grounds:

a. The final development plan for The Clearings as approved by CRG prohibited private driveways having direct access on to Falls Road. Now permitting such a driveway would be a material amendment to the development plan as approved by CRG without the amendments being reviewed and approved in the same manner as the original plan.

b. The proposed driveway on to Falls Road would pose a safety hazard to those travelling on Falls Road including members of the Association.

c. A proposed driveway having direct access on to Falls Road would not be in keeping with the overall character or presentation of The Clearings Community.

d. At least one previous request or attempt by an Association member to have a private driveway having direct access on to Falls Road has been denied.

e. Mr. Julio purchased his property knowing that the approved development plan for The Clearings prohibited driveways having direct access on to Falls Road.

7. The secretary of the Association is directed to place one original copy of this resolution among the minutes of the Association and is directed to deliver two original copies to Jeffrey D. Herschman for delivery to the County Board of Appeals.

Attested to:

*Anne K. Grigg* Anne K. Grigg, Secretary  
*Jeffrey D. Herschman* Jeffrey D. Herschman, President

11/2  
 9307-93  
 OCTOBER 24, 1992

COUNTY BOARD OF APPEALS  
 ZONING ADMINISTRATION  
 BALTIMORE COUNTY GOVERNMENT  
 OFFICE OF PLANNING AND ZONING  
 TOWSON, MARYLAND 21204

DEAR COUNTY BOARD OF APPEALS,  
 MARSHALL AND TAMMY PESCHE  
 WOULD LIKE TO FILE AN APPEAL  
 OF 94-68-A. WE HAVE FOUND  
 THE DECISION RENDERED UNFAVORABLE.  
 THANK YOU.

SINCERELY,  
*Marshall Pesche*

*attn: Julie*

RECEIVED  
 SEP 20 1993  
 ZADM

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
DR. Marshall Pesche	11506 ST. DAVID'S LANE
Tammy Pesche	LUTHERVILLE MD 21093
Richard S. YML	11571 ST. DAVID'S LANE
	LUTHERVILLE MD 21093

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Andrew J. O'Brien, Esq.	614 Sulby Ave - Towson MD 21204
Teed Julio	9640 Deereco Rd. Timonium, MD 21093

**Maryland Department of Transportation**  
State Highway Administration

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

November 25, 1992

Mr. Richard A. Manfred  
C/O Neuberger, Quinn, Gielen  
and Rubin, P.A.  
Equitable Bank Center Tower II  
100 South Charles Street  
Baltimore, Maryland 21201

RE: Baltimore County  
MD 25  
Julio Property  
(The Clearings)

Dear Mr. Manfred:

Thank you for your letter dated November 20th and subsequent fax transmittal received November 20th, regarding access to the referenced property.

In keeping with our practice of minimizing access to State highways whenever possible, we would prefer that your client limit the access to the property via St. David's Lane.

However, the State Highway Administration cannot legally deny your client the right to access the property in question, that being the former reservation area identified on The Clearings, Section Two, Plat one record plat.

Entrance construction would be subject to the terms and conditions of a residential entrance permit (provided it serves no more than five residences), which may be obtained from Mr. Gary Ewers, Resident Maintenance Engineer, at 410-574-4511.

Please contact me or David Ramsey of this office at 410-333-1350 if you have any further questions or wish to discuss this further.

Very truly yours,  
John Contestabile, Chief  
Engineering Access Permits  
Division

DR/es  
cc: Mr. Gary Ewers w/att.

My telephone number is 410-333-1350 (Fax# 333-1041)  
Teletypewriter for Impaired Hearing or Speech  
383-7555 Baltimore Metro - 855-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21203-0717

September 22, 1993

Office of Spring Administration  
111 West Chesapeake Avenue  
Towson, Maryland 21204

**PROTESTANT'S EXHIBIT NO. 2**

Dear Deputy Spring Commissioner,

The Architectural Committee of the Clearings would like to express reservations to the Deputy Spring Commissioner about various request case number 94-68-A. It states in the Zoning Notes on the Clearings Plat under number 19 that "Private driveways are prohibited on Falls Road." The Committee believes that this request is in violation of these development plans and also that the safety and welfare of the entire Clearings Community would be compromised with approval. The corner of this lot five has positioned four permanent structures into their 50 feet easement for the future expansion of Old Lyme Road - a private driveway, two walls, and a play area. These emergency vehicles would not have a second and quicker means of gaining access to Saint Davids Lane.

Also the Committee has reservations about the owner of this lot reversing his house so that his back yard faces the community street and the front of the house across from the lot. They believe that children playing in the backyard of lot five would be close to the street when the other commissioners would be driving.

The undersigned Committee members thus oppose this variance request with good reason.

Thank you

Sincerely,  
Richard A. Manfred  
Meredith Speck

9. PRIVATE PARKING AREAS AND DRIVEWAYS SHALL BE PAVED WITH A DURABLE AND DUSTLESS SURFACE (BITUMINOUS CONCRETE OR MACASAM SURFACING)

10. THE LOCATION OF DRIVES AND PARKING TO BE DETERMINED BY THE LOCATION OF THE RESIDENCE

11. MAXIMUM HEIGHT OF ANY STRUCTURE SHALL BE 35'

12. ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF THE PRINCIPAL BULFINCS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTION 403 AND 301 OF THE BALTO COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS)

13. TRASH REMOVAL TO BE PROVIDED BY BALTO COUNTY.

14. NO OPEN SPACE IS REQUIRED

15. STREET LIGHTS SHOWN THUS (12' MAX HEIGHT)

16. THE PAVING SHOWN WITHIN PANHANDLES AND ACCESSWAYS SHALL PROVIDE A COMMON MEANS OF INGRESS AND EGRESS FOR OWNERS OF LOTS DEPENDENT UPON THIS MEANS OF ACCESS AND FOR LOTS WHICH ABOUT PANHANDLES AND USE THE PAVING FOR VEHICULAR ACCESS. THE DEVELOPER SHALL PROVIDE A MAINTENANCE AGREEMENT AND COVENANTS WITH THE CONVEYANCE OF LOTS.

17. ALL LOT DIMENSIONS ARE PLUS OR MINUS DISTANCES AND ARE WITHIN 05' OF ACTUAL DISTANCE.

18. WOODED AREAS THUS OTHER AREAS ARE GRASS

19. PRIVATE DRIVEWAYS ARE PROHIBITED ON FALLS ROAD

LOT ANNEEXED NOTES: 8-3-83  
1. REVISED LOT 10 BLOCK A (SIDE NEXT TO PRIVATE DRIVE REMOVED)  
2. MIDDLE LOT REVISOR (PRIVATE DRIVE) ADDED TRACT A. ORIGINAL LOTS RE-TRACT B ADDED TO BLOCK B  
3. LOTS 510 BLOCK E REVISED (ENLARGED)

5. NO LOTS SOLD WITHIN 300' OF THE ABOVE CHANGES.

2ND ANNEEXED LOTS: 12-2-83  
1. TRACT B, BLOCK B RELOCATED INTO LOTS 214 AND RELOCATED ACCORDINGLY.  
2. EXTENDED ST DAVID'S LANE (PRIVATE)  
3. NO LOTS SOLD WITHIN 300' OF THE ABOVE CHANGES.

**LEGEND**

EX PRI  
STORM WATER FACILIT  
EX PON

**AFFIDAVIT**

Jeffrey D. Herschman, being duly sworn upon his oath, deposes and says as follows:

- That he is the duly elected president of the Clearings Community Association, Inc. (the "Association").
- That he is a duly elected member of the board of directors of the Association.
- That the board of directors of the Association adopted the Resolution attached as Exhibit A at a meeting held on February 15, 1994.
- As is set forth in the Resolution, Jeffrey D. Herschman was instructed and authorized to present on the views of the Association on the Case 94-68-A.

Attested to:  
Anne K. Grigg, Secretary  
Jeffrey D. Herschman, President

Subscribed and Sworn to before me a Notary Public on this 22nd day of February, 1994.

Barbara S. Ciosek, Notary Public

(Corporation Form) 8922 PMS 654  
COVAHEY & BOOZER  
ATTORNEYS AT LAW

File No. 9975-C

This Deed, Made this 27th day of March, in the year one thousand nine hundred and ninety-one, by and between FRANKLIN CIRCLE, INC., a body corporate of the State of Maryland, of the first part, Grantor, and THEODORE C. JULIO, party of the second part, Grantee.

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the actual consideration paid or to be paid is \$500.00, receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey and assign unto the said party of the second part, his personal representatives and assigns, in fee simple, all that lot(s) of ground situate in Baltimore County in the State of Maryland, and described as follows, that is to say:

See Schedule A attached hereto and incorporated herein by reference.

C. REC/F	14.00
C. T. TX	2.50
C. DOCS	2.50
CC THP	5.00
DEED	0.00
SM CLERK	24.00
SH CLERK	24.00
D #	
#60423 C001 R02 715:04	
09/25/91	

I certify that this Deed was prepared by an attorney admitted to practice before the Court of Appeals or under his supervision.

THOMAS P. DORE, ESQUIRE

**PETITIONER'S EXHIBIT 3**

RECEIVED FOR TRANSFER  
State Department of Assessments & Taxation  
for Baltimore County  
9/25/91

MULTI-CULTURAL TRANSFER TAX NOT APPLICABLE

SIGNATURE DATE 9/25/91

01A9180455TL TRTX \$8.00  
EA C001:27PH09-19-91

**PETITIONER'S EXHIBIT 4**

July 21, 1993  
MD 25  
Falls Road

DEPARTMENT OF TRANSPORTATION  
STATE HIGHWAY ADMINISTRATION OF MARYLAND

No. B-4-018-93 Baltimore, Md.

PERMISSION IS HEREBY GIVEN:

Mr. Ted Julio, 11506 Falls Road, Lutherville, MD, 666-1000. Mailing Address: 9640 Deerco Road, Timonium, MD 21093.

so far as the State Highway Administration has the right and power to grant same; to construct a driveway entrance at the west side of MD 25 (Falls Road), beginning 10 feet south of B66E utility pole #364207.

- PIPE: N/A
- The entrance will be 30 feet in width with flares tying into the edge of the traveled portion of roadway.
- Cross-section of entrance to be no less than 6 inches of compacted crusher run stone or bank run bituminous concrete. This paving section to extend from the normal edge of the roadway proper and continue to the right of way line, a distance of 20 feet from the centerline of MD 25.
- Grade shall fall in the shoulder area 1/3 inch per foot for 4 feet then continue to the property line on a grade not to exceed 3% +/-.
- Drainage conditions created by this work shall be relieved by permittee with no change in grade or alignment along shoulder of MD 25.
- This area, after completion of work, shall be either seeded or sodded in its entirety to eliminate erosion. Right of way to be left free of all excess and other materials.
- Consideration for placement of, and access to, a mailbox is the responsibility of permittee and if necessary the cross-section of entrance is to be used for this access.
- Sight distance at entrance and for the traveling public approaching the entrance shall be the responsibility of permittee. Future plantings must be placed and maintained with this sight distance in mind.
- Normal traffic shall be maintained during construction along Route 25 at all times. NO lane shall be obstructed before the hours of 9:00 a.m. or after 3:00 p.m.

**PET EX 5-A**

**REAL PROPERTY TAX BILL**  
IMPORTANT INFORMATION FOR PROPERTY OWNERS

You may pay this bill at the Office of Finance, Revenue Division, Court House, Room 150, Towson, Maryland 21204, Monday thru Friday between the hours of 8:30 a.m. and 4:30 p.m.

For tax bills dated July 1, a discount of 2% of the Baltimore County tax will be allowed for a July payment and a 1% discount will be granted for an August payment. The gross amount is payable during the month of September. This bill becomes delinquent on October 1 and is subject to interest at the rate of 1% per month until paid. For bills dated other than July 1, a discount of 2% of the county tax will be allowed, provided the net bill is paid within 30 days from the billing date. After 30 days, interest will be added at the rate of 1% per month until paid. Discounts, interest and penalties are calculated on the net amount of the bill after any credits have been applied.

This bill is due when rendered. If you have appealed your assessment and the appeal is still pending, you must pay this bill in order to avoid interest and penalties. Should your appeal result in a reduction of the tax due, any overpayment occurring by reason of the reduction will be refunded to you with interest.

Failure to receive a bill does not excuse the payment of taxes, interest or penalties. If taxes remain unpaid, properties are subject to be sold at the annual tax sale held in May.

If you have a mortgage on your property, it is your responsibility to send or deliver this bill to your bank, building association or other lending institution if that organization pays your taxes.

A returned check charge of \$25.00 will be assessed on each bill which is paid with a check that is returned by the bank or financial institution on which it is drawn. Payment of this bill for current taxes will not prevent legal action if taxes for prior years are unpaid.

See enclosed brochure for additional information and/or change of mailing address.

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MD.	BALTIMORE COUNTY, MARYLAND STATE AND COUNTY REAL PROPERTY TAXES	TAXPAYER'S COPY DETACH AND RETAIN TELEPHONE: 887-2403
LEVY PERIOD: JULY 1, 1993-JUNE 30, 1994	ELECTION CODE: 08	ASSESSMENT: \$6,140
PROPERTY NUMBER: 94	18-00-011134	94 7
EXPIRES: 07/01/93		
<b>METROPOLITAN CHARGES</b>		
SEWER SERVICE	NON OCCUPIED	CHARGES
WATER SERVICE	NON OCCUPIED	2.88
WATER DISTRIBUTION	NON OCCUPIED	1,408.61
TOTAL METROPOLITAN		1,411.49
OWNERS NAME AND ADDRESS	JULIO THEODORE C 10 PARK AVENUE COCKEYSVILLE MD 21030	
PROPERTY DESCRIPTION	THE CLEARINGS 1.808 AC 11808 SAINT DAVIDS LA	GROSS BILL: 1,720.30
LOT BLOCK SEC PLAT BOOK FOLIO	8 B 2 1 80 143	INTEREST/DISCOUNT
CONSTANT YIELD 2.781 DIFFERENCE 0.074		NET TOTAL

**PET EX 5-B**

**REAL PROPERTY TAX BILL**  
IMPORTANT INFORMATION FOR PROPERTY OWNERS

You may pay this bill at the Office of Finance, Revenue Division, Court House, Room 150, Towson, Maryland 21204, Monday thru Friday between the hours of 8:30 a.m. and 4:30 p.m.

For tax bills dated July 1, a discount of 2% of the Baltimore County tax will be allowed for a July payment and a 1% discount will be granted for an August payment. The gross amount is payable during the month of September. This bill becomes delinquent on October 1 and is subject to interest at the rate of 1% per month until paid. For bills dated other than July 1, a discount of 2% of the county tax will be allowed, provided the net bill is paid within 30 days from the billing date. After 30 days, interest will be added at the rate of 1% per month until paid. Discounts, interest and penalties are calculated on the net amount of the bill after any credits have been applied.

This bill is due when rendered. If you have appealed your assessment and the appeal is still pending, you must pay this bill in order to avoid interest and penalties. Should your appeal result in a reduction of the tax due, any overpayment occurring by reason of the reduction will be refunded to you with interest.

Failure to receive a bill does not excuse the payment of taxes, interest or penalties. If taxes remain unpaid, properties are subject to be sold at the annual tax sale held in May.

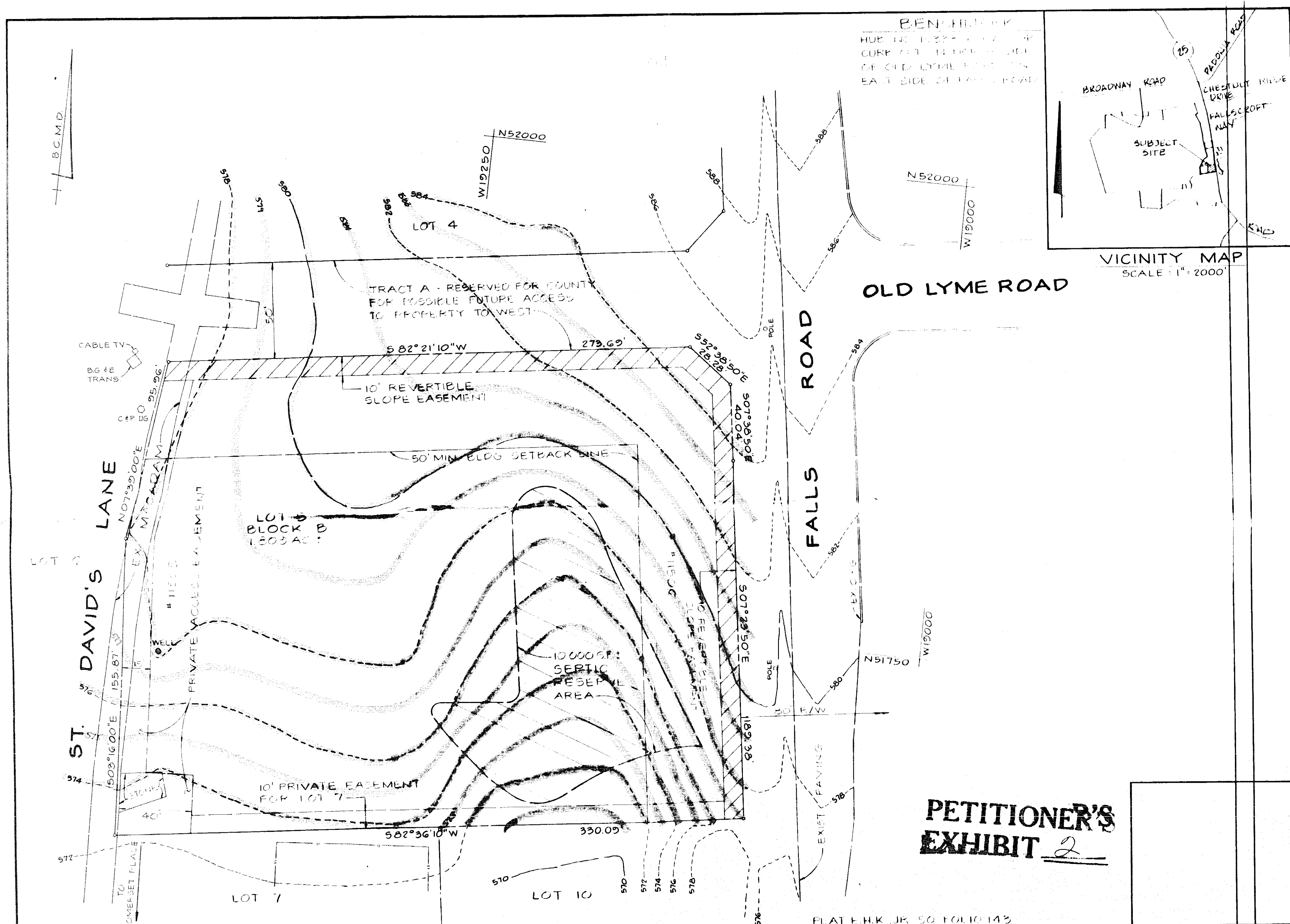
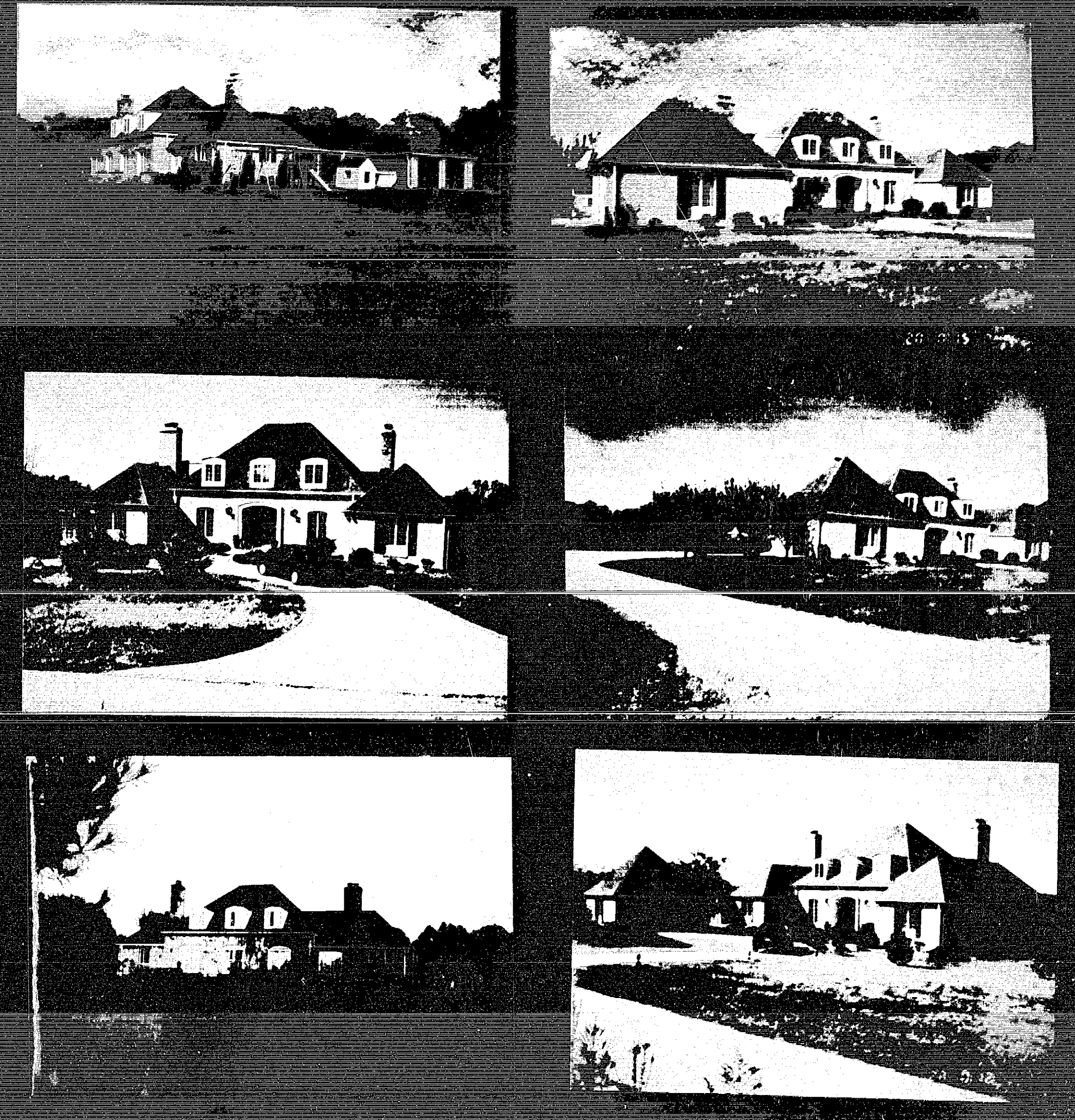
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A returned check charge of \$25.00 will be assessed on each bill which is paid with a check that is returned by the bank or financial institution on which it is drawn. Payment of this bill for current taxes will not prevent legal action if taxes for prior years are unpaid.

See enclosed brochure for additional information and/or change of mailing address.

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MD.	BALTIMORE COUNTY, MARYLAND STATE AND COUNTY REAL PROPERTY TAXES	TAXPAYER'S COPY DETACH AND RETAIN TELEPHONE: 887-2403
LEVY PERIOD: JULY 1, 1993-JUNE 30, 1994	ELECTION CODE: 08	ASSESSMENT: 200
PROPERTY NUMBER: 94	22-00-00804	94 0
EXPIRES: 07/01/93		
<b>METROPOLITAN CHARGES</b>		
SEWER SERVICE	NON OCCUPIED	CHARGES
WATER SERVICE	NON OCCUPIED	2.88
WATER DISTRIBUTION	NON OCCUPIED	9.72
TOTAL METROPOLITAN		12.60
OWNERS NAME AND ADDRESS	JULIO THEODORE C 10 PARK AVENUE COCKEYSVILLE MD 21030	
PROPERTY DESCRIPTION	THE CLEARINGS TRACT A 868 AC FALLS RD	GROSS BILL: 6.18
LOT BLOCK SEC PLAT BOOK FOLIO	80 143	INTEREST/DISCOUNT
CONSTANT YIELD 2.781 DIFFERENCE 0.074		NET TOTAL

*Protestant's  
Exhibit 1  
94-68-A  
photograph*



**PETITIONER'S  
EXHIBIT 2**

Drawing JFB Check Prep Ink	DATE	REVISIONS	<b>DEVELOPMENT ENGINEERING CONSULTANTS, INC.</b> SITE ENGINEERS & SURVEYORS 6603 YORK ROAD BALTIMORE, MARYLAND 21212	SHEET 1 OF 1 DATE JUNE 1993 SCALE 1" = 30' CONTRACT NUMBER 02-114

*Per Ex. 4*  
July 21, 1993  
MD 25  
Falls Road

DEPARTMENT OF TRANSPORTATION  
STATE HIGHWAY ADMINISTRATION  
OF MARYLAND

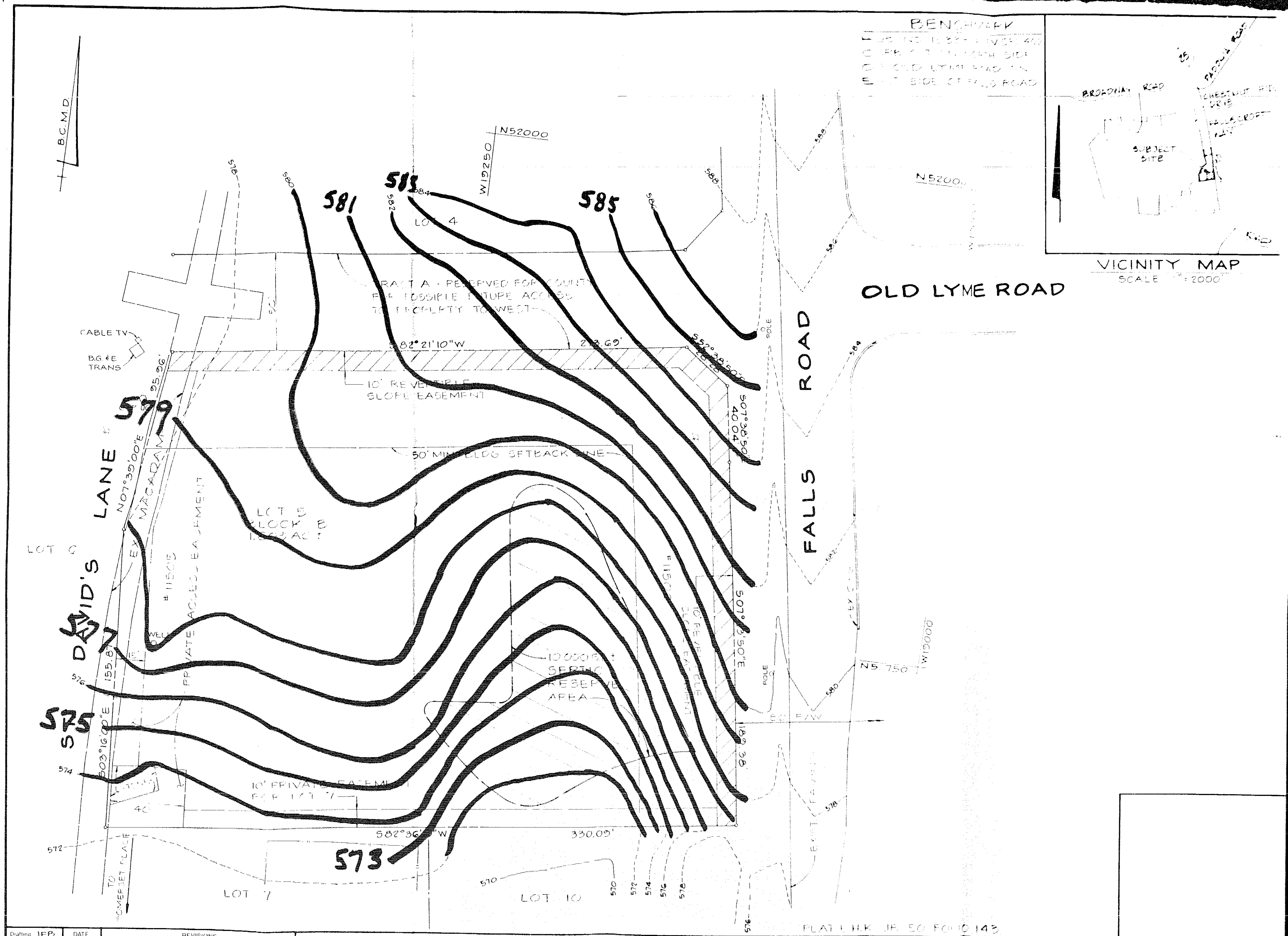
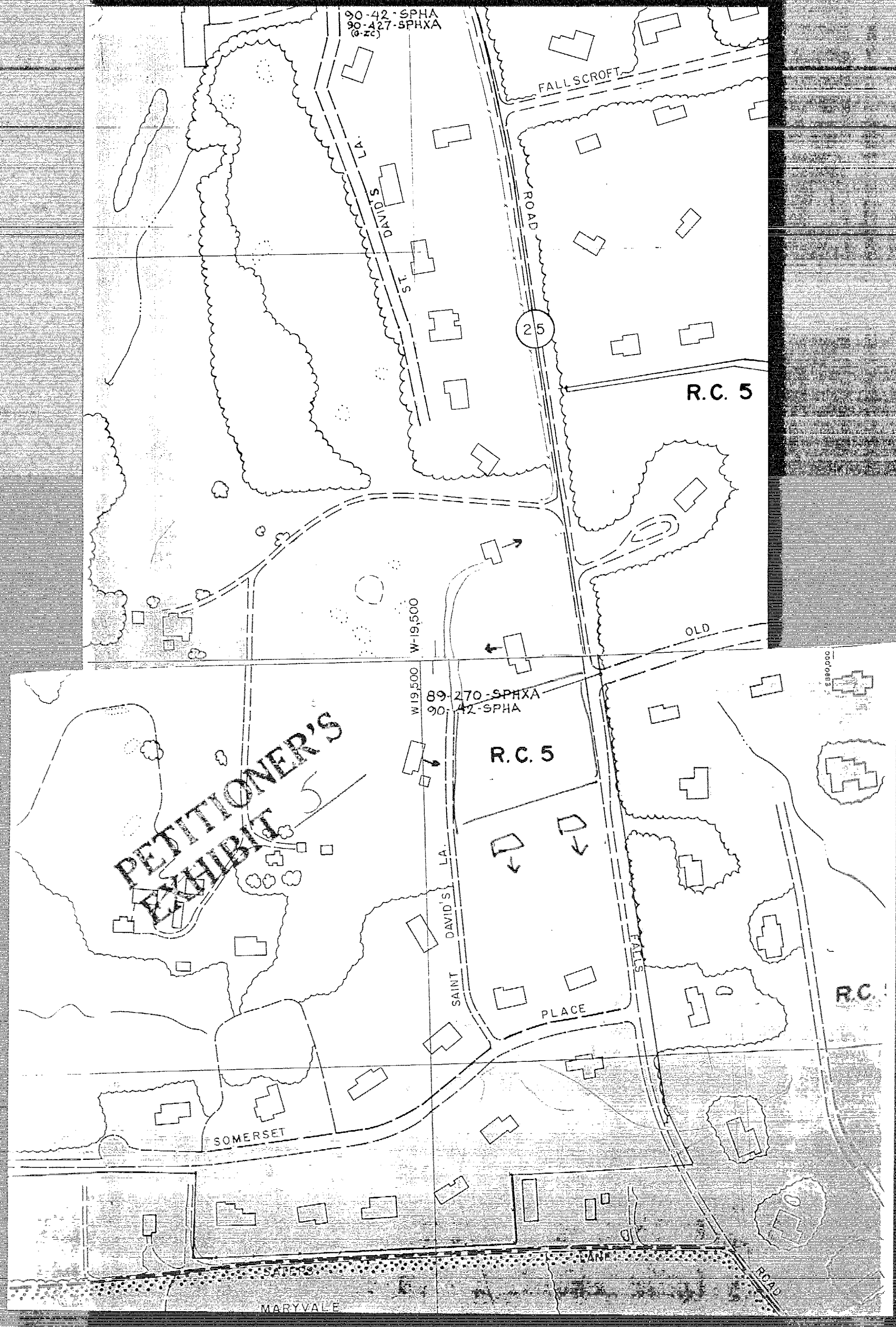
No. B-4-018-93  
Baltimore, Md.

PERMISSION IS HEREBY GIVEN:

Mr. Ted Julio, 11506 Falls Road, Lutherville, MD, 666-1000.  
Mailing Address: 9640 Deerce Road, Timonium, MD 21093.

so far as the State Highway Administration has the right and power to grant same, to construct a driveway entrance at the west side of MD 25 (Falls Road), beginning 10 feet south of BG&E utility pole #364207.

1. PIPE: N/A
2. The entrance will be 30 feet in width with flares tying into the edge of the traveled portion of roadway.
3. Cross-section of entrance to be no less than 6 inches of compacted crusher run stone or bank run gravel and double surface treated with asphalt and stone chips of 2 inches of bituminous concrete. This paving section to extend from the normal edge of the roadway proper and continue to the right of way line, a distance of 20 feet from the centerline of MD 25.
4. Grade shall fall in the shoulder area 1/3 inch per foot for 4 feet then continue to the property line on a grade not to exceed 3% +/-.
5. Drainage conditions created by this work shall be relieved by permittee with no change in grade or alignment along shoulder of MD 25.
6. This area, after completion of work, shall be either seeded or sodded in its entirety to eliminate erosion. Right of way to be left free of all excess and other materials.
7. Consideration for placement of, and access to, a mailbox is the responsibility of permittee and if necessary the cross-section of entrance is to be used for this access.
8. Sight distance at entrance and for the traveling public approaching the entrance shall be the responsibility of permittee. Future plantings must be placed and maintained with this sight distance in mind.
9. Normal traffic shall be maintained during construction along Route 25 at all times. No lane shall be obstructed before the hours of 7:00 a.m. or after 3:00 p.m.



DATE	REVISIONS

**DEVELOPMENT ENGINEERING CONSULTANTS, INC.**  
 SITE ENGINEERS & SURVEYORS  
 6603 YORK ROAD BALTIMORE, MARYLAND 21212

PLAT 1 HK 1F 50 F010 143  
 SITE & GRADING PLAN  
 LOT 5, BLOCK E, SECTION 3, PLAT 1  
**THE CLEARINGS**  
 WHEELING DISTRICT BALTIMORE COUNTY, MD.

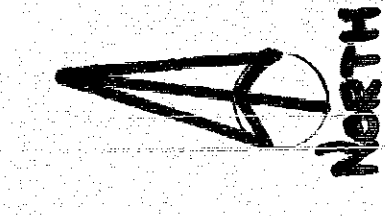
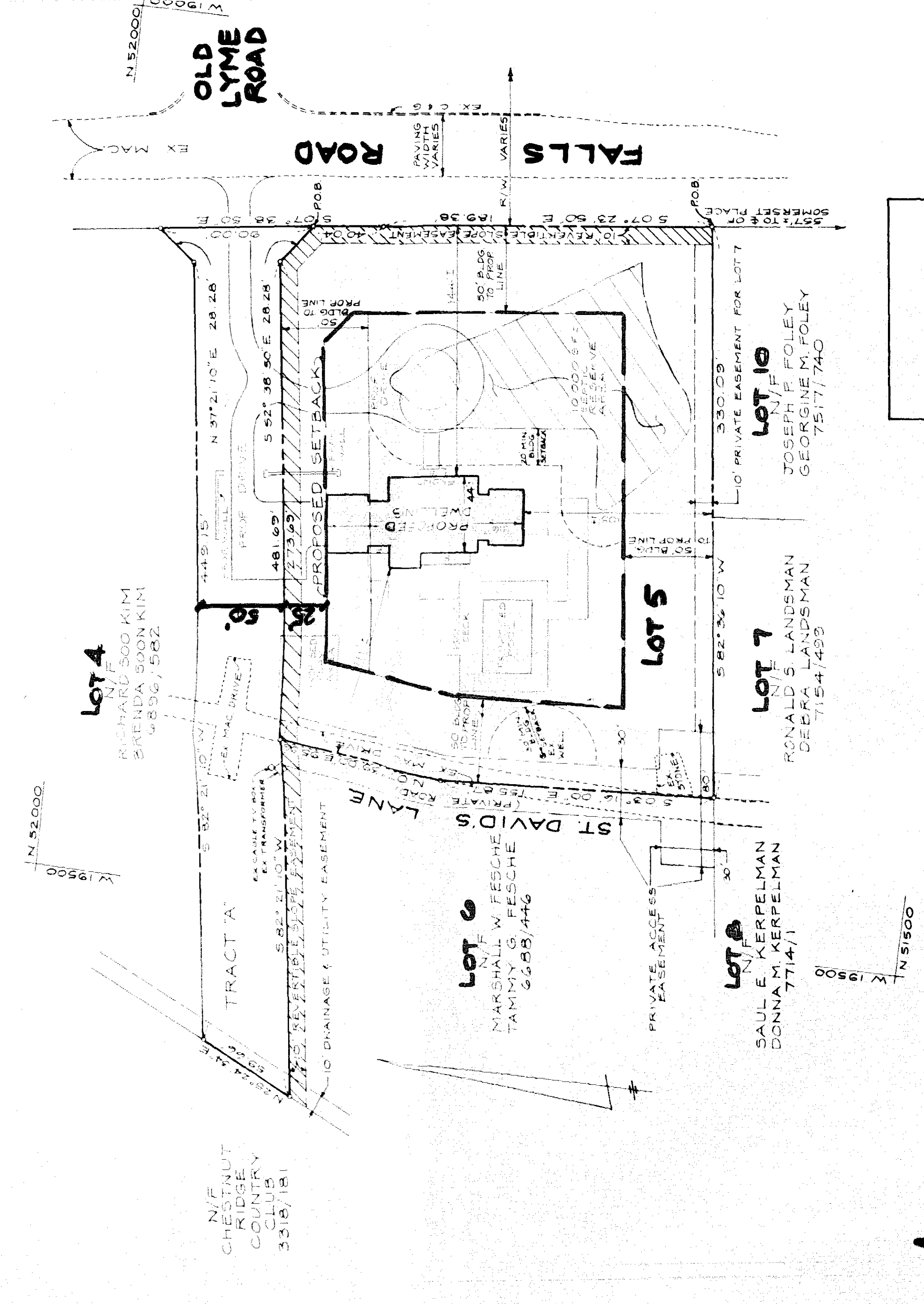
SHEET 1	DATE JUNE 1993	CONTRACT NUMBER 23-114
OF 1	SCALE 1"=30'	

P. L. E. R.



PLAT TO ACCOMPANY PETITION FOR ZONING  VARIANCE  SPECIAL HEARING

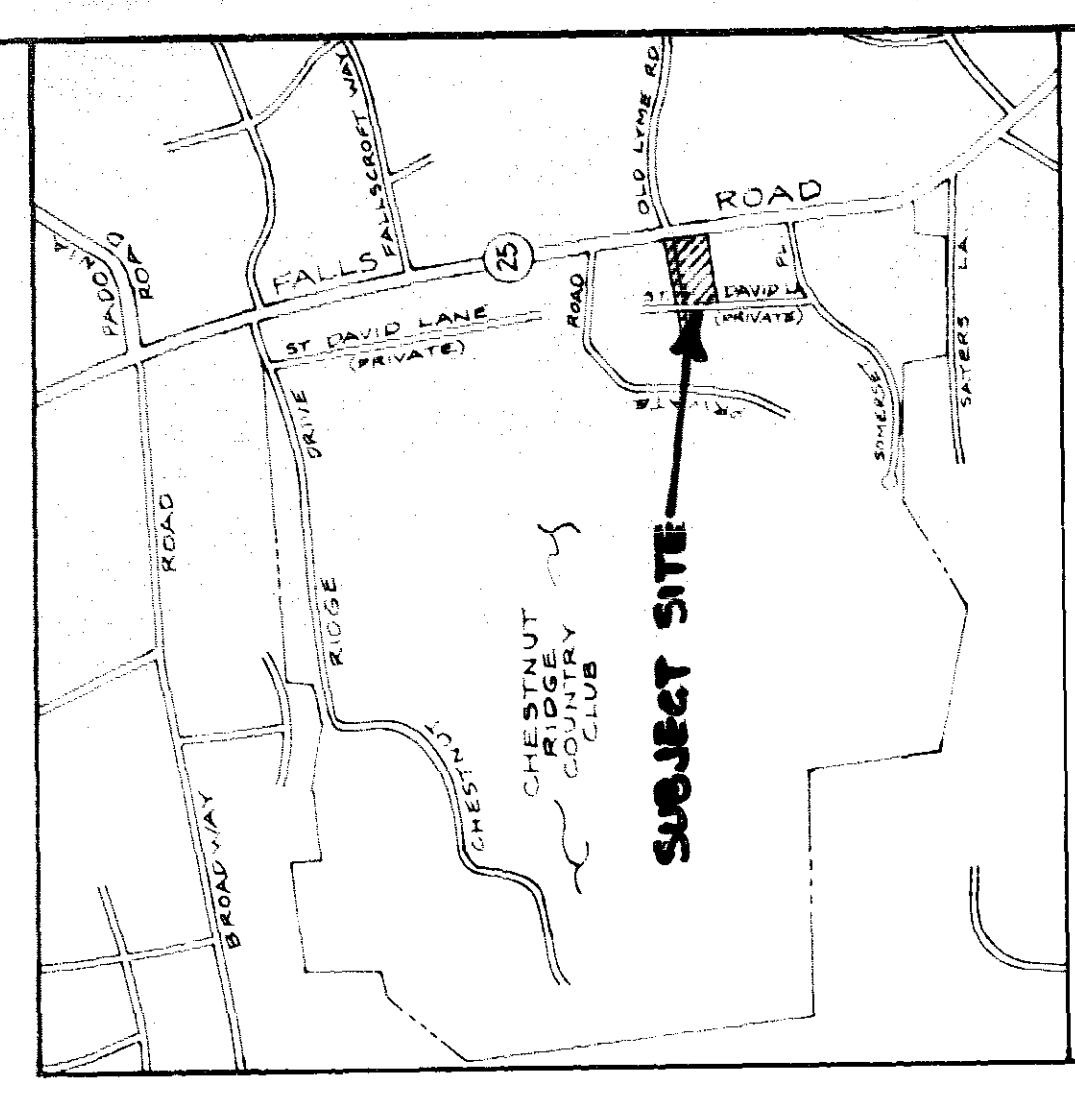
PROPERTY ADDRESS: 11500 FALLS ROAD, BALTIMORE, MD. 21222  
 SUBDIVISION NAME: THE CLEARINGS  
 PLAT BOOK E 50, FOLIO # 143, LOT # 5, SECTION # 2, BLOCK B  
 OWNER: THEODORE C. JULIO



DATE: JULY 22, 1993  
 PREPARED BY: D.E.C.  
 SCALE OF DRAWING: 1" = 50'

DEVELOPMENT ENGINEERING CONSULTANTS, INC.  
 SITE ENGINEERS & SURVEYORS  
 6603 YORK ROAD (410) 377-2600 BALTIMORE, MARYLAND 21212

OWNER: THEODORE C. JULIO 9040 DEERWOOD ROAD TIMONIUM, MD 21093 (410) 561-1300	DATE: JULY 22, 1993	SHEET: 1	CONTRACT NUMBER: 23-114
	SCALE: 1" = 50'		



VICINITY MAP  
 SCALE: 1" = 1000'

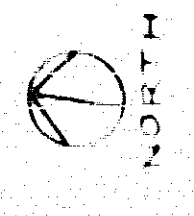
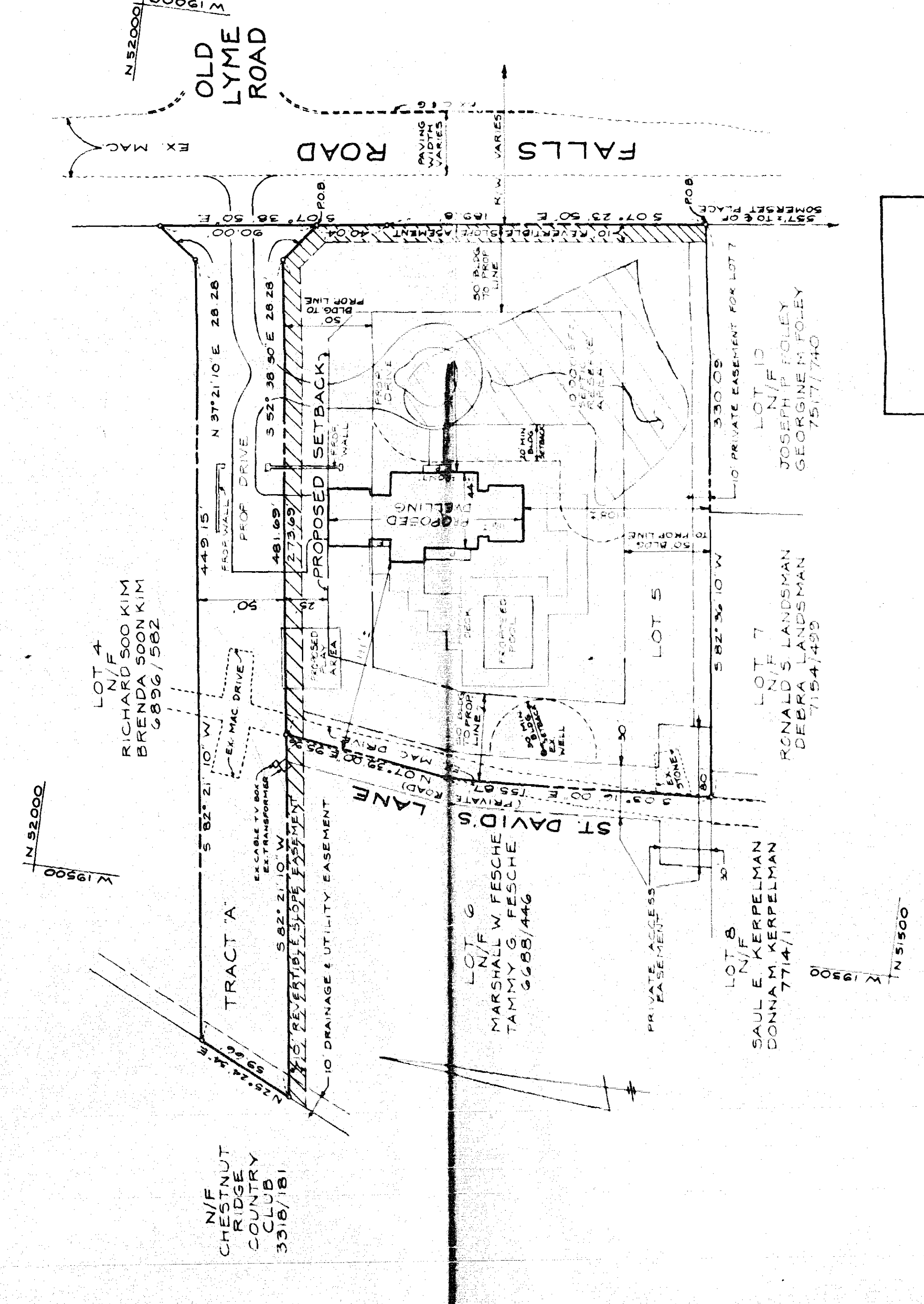
LOCATION INFORMATION  
 ELECTION DISTRICT: 6  
 COUNCILMAN'S DISTRICT: 3  
 1" = 200' SCALE MAP: NW 13-D  
 ZONING: RC-5  
 LOT SIZE:  
 LOT 5: 1,800 AC. 78500 SQ FT  
 TRACT A: 0.566 AC. 24655 SQ FT  
 PUBLIC UTILITY:  
 SEWER:   
 WATER:   
 CHEESAPEAKE BAY CRITICAL AREA:   
 PRIOR ZONING HEARINGS:  
 NONE

ZONING OFFICE USE ONLY!  
 REVIEWED BY: ITEM #: CASE #:

Pt. Ex. 1

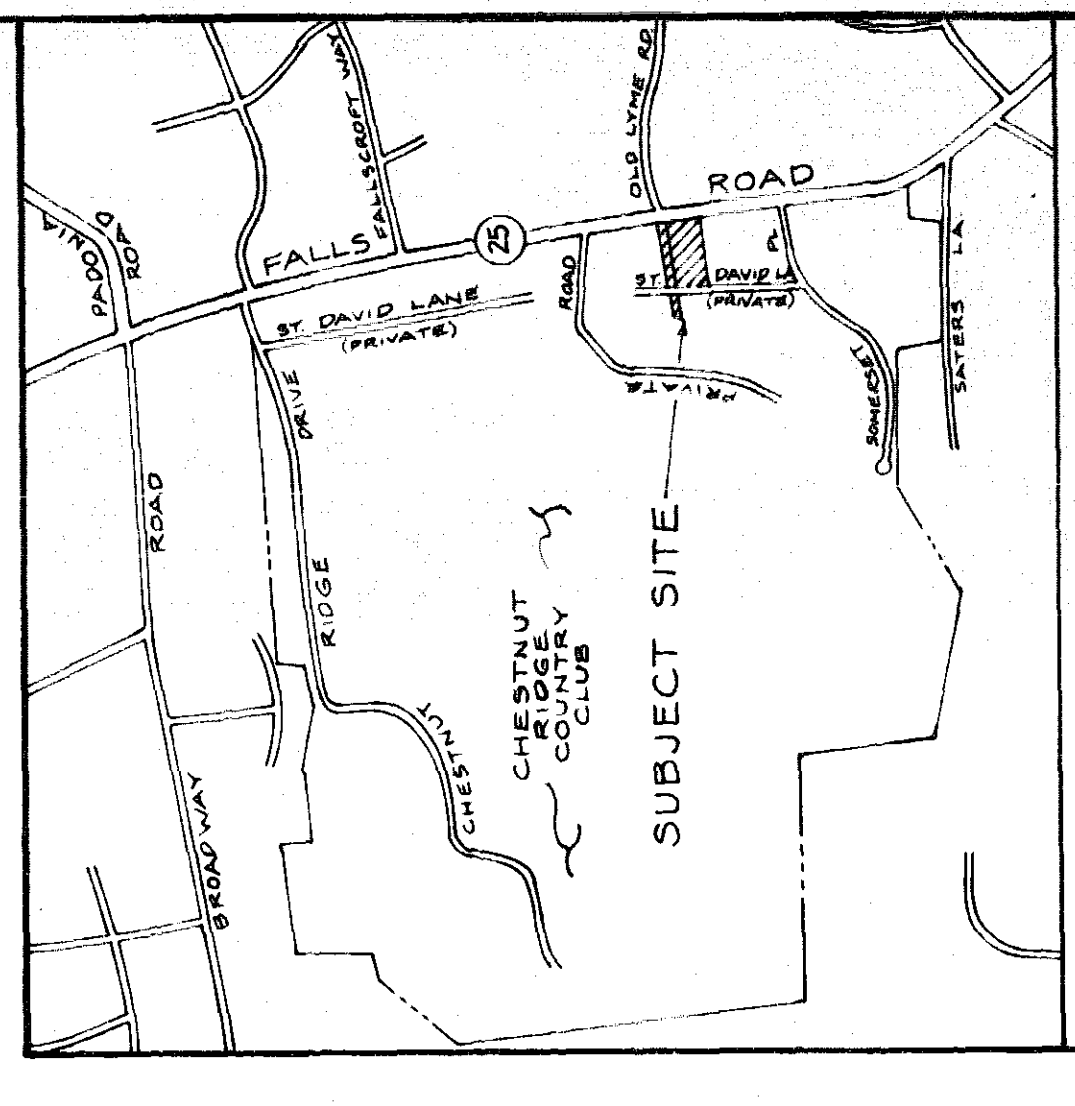
PLAT TO ACCOMPANY PETITION FOR ZONING  VARIANCE  SPECIAL HEARING

PROPERTY ADDRESS: 11500 FALLS ROAD / BALTO., MD. 21222  
 SUBDIVISION NAME: THE CLEARINGS  
 PLAT BOOK E 50, FOLIO # 143, LOT # 5, SECTION # 2, BLOCK B  
 OWNER: THEODORE C. JULIO



DATE: JULY 22, 1993  
 PREPARED BY: D.E.C.  
 SCALE OF DRAWING: 1" = 50'

DEVELOPMENT ENGINEERING CONSULTANTS, INC.  
 SITE ENGINEERS & SURVEYORS  
 6603 YORK ROAD (410) 377-2600 BALTIMORE, MARYLAND 21212



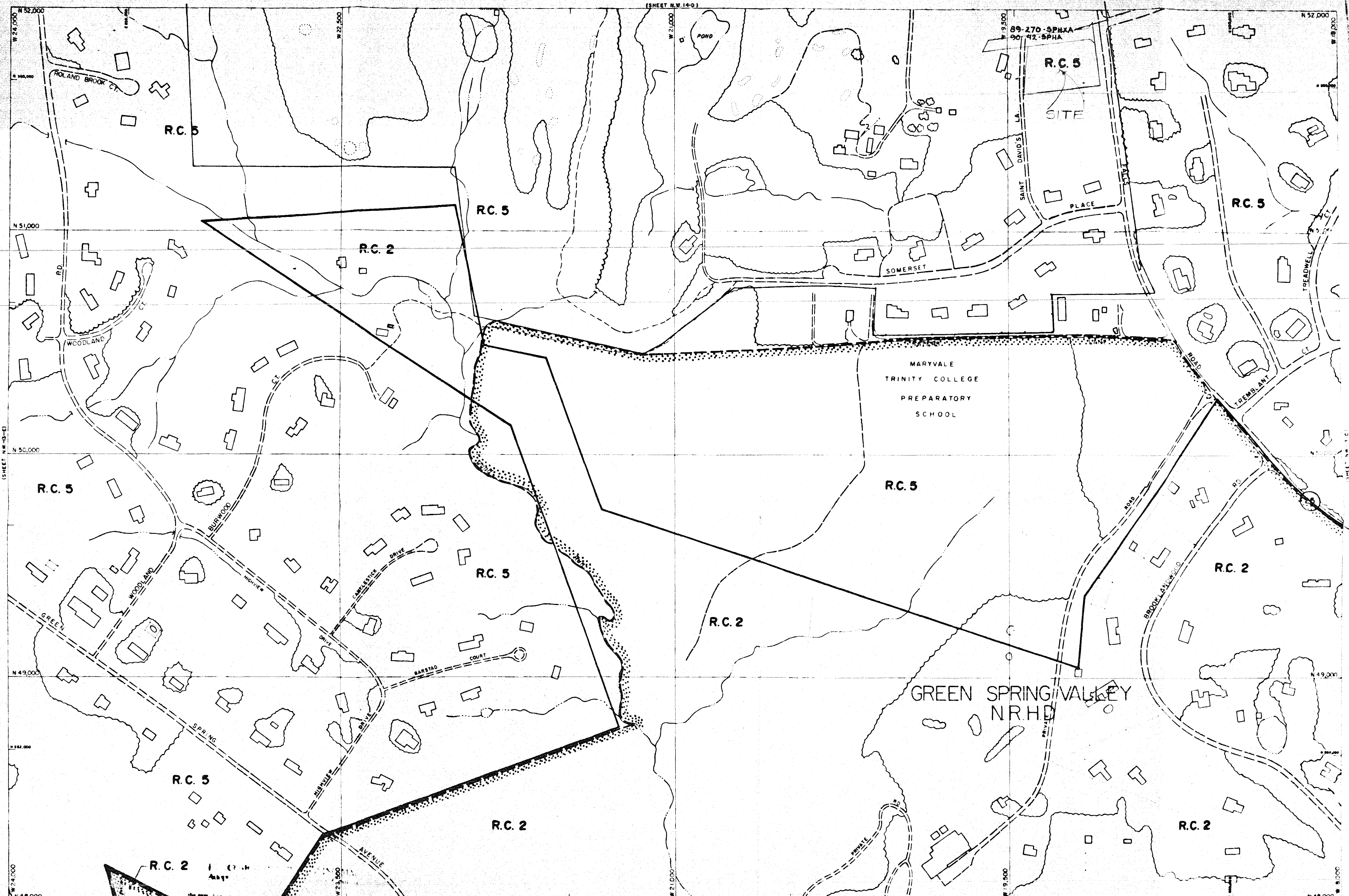
VICINITY MAP  
 SCALE: 1" = 1000'

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 SEWER:   
 WATER:   
 CHEESAPEAKE BAY CRITICAL AREA:   
 PRIOR ZONING HEARINGS:  
 NONE

ZONING OFFICE USE ONLY!  
 REVIEWED BY: ITEM #: CASE #:  
 MTR 70

94-68-A  
 PETITIONER'S EXHIBIT 1

OWNER: THEODORE C. JULIO 9040 DEERWOOD ROAD TIMONIUM, MD 21093 (410) 561-1300	DATE: JULY 22, 1993	SHEET: 1	CONTRACT NUMBER: 23-114
	SCALE: 1" = 50'		



S - SW  
S - NW

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

Bill H. ...  
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.  
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS  
BY BUCKHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP  
Adopted by the Baltimore County Council  
Oct. 15, 1992

Bill ...  
Chairman, County Council

SCALE 1" = 200' ±	LOCATION BROOKLANDVILLE	SHEET N W 13-D
DATE OF PHOTOGRAPHY JANUARY 1986		

A-89-70

#70