

IN RE: PETITION FOR SPECIAL HEARING
NW/S Butler Road, 1,000' N of
Worthington Avenue
(Montanye Property)
4th Election District
3rd Councilmanic District

Carlyle N. Montanye, Jr.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-80-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for that property owned by the Montanye family, located on the northwest side of Butler Road near its intersection with Worthington Avenue in the vicinity of Glyndon. The Petition was filed by the owner of the property, Carlyle N. Montanye, Jr., pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). The Petitioner seeks approval of density transfers within an overall tract consisting of four contiguous parcels and to confirm that the total number of lots being proposed for development at this time does not exceed the total number permitted. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 5.

Appearing at the hearing on behalf of the Petition were Carlyle N. Montanye, Jr., property owner, Bruce E. Doak, Registered Property Line Surveyor who prepared the site plans for this property, and Howard L. Alderman, Esquire, attorney for the Petitioner. Appearing as an interested party was John Bernstein, Executive Director of the Valleys Planning Council (VPC). There were no Protestants at the hearing.

This case presents a number of complex issues for consideration. These include an evaluation of the purposes of the R.C. zoning classifica-

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Date 11/16/95

By [Signature]

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tion (more particularly, the R.C. 2 classification), the permissibility of transferring rights of subdivision from one R.C. tract to another, and exactly what uses are encompassed within the definition of "agriculture", as used in the B.C.Z.R. As is often the case with many matters which present issues regarding interpretation of the B.C.Z.R., the relevant facts relating to this particular Petition are largely not in dispute.

Testimony and evidence offered revealed that Carlyle N. Montanye, Jr. owns a large tract of land, zoned R.C.2, near Glyndon in northwestern Baltimore County. Specifically, Mr. Montanye inherited four different "lots of record" from his parents in December, 1984. A "lot of record" is defined by Section 101 of the B.C.Z.R. as "A parcel of land with boundaries as recorded in the Land Records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof." The four subject lots of record are all adjacent to one another and are fully identified in copies of deeds taken from the Land Records of Baltimore County which were submitted into evidence as Petitioner's Exhibits 1, 2, and 3. The Petitioner proposes density transfers within the overall tract which comprises the four contiguous parcels identified herein, to create six lots in accordance with Petitioner's Exhibit 1. Although the six lots created will not exceed the density allowed for the overall tract, the Petitioners seeks to cluster the lots in a manner not permitted as of right by the B.C.Z.R.

One of the parcels now owned by Mr. Montanye is described in the deeds and on the site plan as Parcel 89 and contains approximately 68.78 acres. The second of these lots is identified on the site plan as Parcel 37 and encompasses approximately 92 acres. Mr. Montanye also inherited the lot identified as Parcel 38, which contains approximately 51.88 acres.

The final lot inherited by Mr. Montanye from his parents is identified on the site plan as Parcel 202, which consists of 3.25 acres. All of the properties are lots of record and were independently designated parcels with separate legal descriptions of each in the Land Records of Baltimore County. As has been stated in numerous opinions by this Zoning Commissioner, the relevant date for determining lots of record in R.C. zones is November 25, 1979. It was on that date that the Baltimore County Council enacted legislation which established the R.C. zoning classification. Thus, all rights of subdivision and application of the pertinent provisions of the B.C.Z.R. are established on that date.

The R.C. regulations provide that no lot having an area of less than 1 acre can be created in an R.C. 2 zone (See Section 1A01.3.B.2 of the B.C.Z.R.). Moreover, as to residential density/rights of subdivision in an R.C. 2 zone, the regulations provide that any lot having a gross area of between 2 and 100 acres may be subdivided into no more than two lots total (See Section 1A01.3.B.1 of the B.C.Z.R.).

Each of the four lots of record owned by Mr. Montanye are between 2 and 100 acres in size. Thus, each can be subdivided into two lots. In sum, Mr. Montanye's original holdings, as inherited by him from his parents, could be subdivided so as to create 8 different lots.

In prior decisions of this office, this Zoning Commissioner has discussed the concept of density/rights of subdivision in the R.C. zones. In prior cases, the Valleys Planning Council (VPC) has taken the position that density is a concept which is not relevant to the R.C. zoning classification. Admittedly, the R.C. zoning regulations do not use the word "density" as that term is defined and utilized in other Sections of the B.C.Z.R. (i.e., Article 1B - Density Residential Zoning Classification).

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Mr. Montanye testified that he is advancing in age and wishes to make provisions for the disposition of this property to his family. Thus,

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he and his consultants have submitted a plan through the Petition for Special Hearing process to subdivide the four lots. That plan, including the amendments thereto, up to and through the date of the hearing, is identified herein as Petitioner's No. 7. That plan shows that the four lots of record owned by Mr. Montanye will be subdivided so as to create six new lots, one less than the overall tract density would allow. Three of the new lots to be created are located immediately east of an existing driveway which accesses the property from Butler Road. The first of these lots, Lot 1, is located adjacent to the previously conveyed parcel to Mr. Montanye's son and his wife. Lot 1 will consist of 8.628 acres in area. Lots 2 and 3 are located adjacent to Lot 1 and towards the interior of the site. Lot 2 will consist of 8.70 acres in area, and Lot 3, 13.15 acres. Lot 4 is located on the west side of the driveway, across the access road from Lot 1. Lot 4 will contain approximately 8 acres in area. The location of that lot and the building footprint thereon has been modified in accordance with that shown on the amended plan marked as Petitioner's Exhibit 7.

Lot 5 is further to the east of Lots 1 through 4, near the southern border of the entire tract. A new driveway connecting to the interior road will be created to serve Lot 5. Lot 5 is shown as a large lot containing approximately 54.76 acres. The sixth and final lot to be created encompasses the balance of the property. This lot is shown on the plan as the "estate lot" and will contain 95.13 acres. Again, a single family dwelling is proposed for this large lot. This lot is located at the end of the driveway which provides vehicular access to the proposed lots from Butler Road in the northern section of the property.

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Approval of Mr. Montanye's plans as shown on Petitioner's Exhibit 7, will require that this Zoning Commissioner grant the Petition for Special Hearing and allow the transfer of density/rights of subdivision from one lot of record to the next. Indeed, four of the newly created lots will be located entirely on the property formerly known as Parcel 89. As noted earlier in this Opinion, that parcel presently, without the requested relief, cannot be subdivided. One of the newly proposed lots, Lot 5, will be located on the property formerly shown as Lot 37. The house for the "estate lot" will be located on the property formerly shown as Parcel 38. The property formerly known as Parcel 202 will contain no dwellings.

The concept of density transfer is also a subject which has been the source of many hearings before this Zoning Commissioner. In previous cases, this Zoning Commissioner has granted Petitions for Special Hearing permitting the transfer of density/rights of subdivision from one lot to another in the R.C. zones. The reasons behind approving these transfers are fully set forth in the opinions issued. (See e.g. In Re: Dennis E. McGee, 94-42-SPH; In Re: Gary L. Wapner, 92-316-SPH; and In Re: Neal M. Graham, 95-23-SPH). As stated in the McGee opinion "... This Zoning Commissioner finds that the transfer of density is permissible pursuant to Section 500.7 of the B.C.Z.R. Therein the Zoning Commissioner is given broad authority to conduct such hearings as may be necessary to enforce and interpret the zoning regulations of Baltimore County. Under the cloak of authority provided by this regulation, I find that I may approve such density transfers, if same are consistent with the spirit and express purposes of the R.C. zoning classification and regulations."

In order to provide a factual basis for the necessary findings as enunciated in McGee, the Petitioner offers a number of arguments in sup-

port of his proposal. Primarily, the Petitioner notes that the proposed plan will permit the clustering of houses in a relatively small area, thereby preserving the balance of the tract for agricultural purposes. As noted above, new Lots 1 through 4 of the subdivision will all be located on the property previously designated as Parcel 89. This parcel is located adjacent to the existing home owned and occupied by Mr. Montanye, III, and in proximity of Butler Road and the driveway leading therefrom. The clustering of the houses in this portion of the tract, it is urged, is consistent with the purpose of the R.C. regulations. Specifically, the R.C. regulations were enacted to promote and protect the agricultural resources of the County. That portion of the tract shown for new Lots 1 through 4, does not predominantly contain the prime and productive soils which are located elsewhere on the overall tract and are used for active crop farming.

Photographs of the site show that a large portion of the entire tract is in crop and is a working farm. Mr. Montanye corroborated this fact and indicated that the property has been farmed for many years. He believes that by placing all of the houses on that portion of the property so designated, the large open fields can remain undisturbed and continue to be utilized for farming purposes. In this respect, the Petitioner submitted a copy of the plat (Petitioner's Exhibit 8) which discloses the proposed conveyance of a large portion of the subject property into the Maryland Environmental Trust (MET) easement program. Specifically, the entire "estate lot" and Lot 5, as well as Parcel 202 and that part of the property near Butler Road, will be voluntarily placed in the MET. This State-sponsored program is designed to protect and preserve agricultural land and will insure that there can be no further residential subdivision

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and/or development in the future. Specifically, conveyance of the property into the MET easement program will ensure that the lands so conveyed will continue to be used for agricultural purposes and not developed.

For all of these reasons, the Petitioner urges that the plan should be approved. The clustering of the homes, the conveyance into the MET easement program, and the placement of the proposed dwelling envelopes, largely outside the existing fields and areas of prime and productive soils, all justify a finding that the proposal is consistent with the R.C. zoning purposes and classification. In fact, the amendments to the plan show that certain adjustments have been made to accomplish these purposes and to satisfy recommendations made by the Office of Planning and Zoning (OPZ). Within their comments of October 6, 1995, OPZ recommended five conditions be imposed upon the granting of any relief pursuant to the Petition to ensure that the agricultural use of the overall tract will be protected to the extent possible. These conditions have been adopted and incorporated onto the amended plan, including; 1) limiting the building envelope for adjusted Lot 4 to the woods line; 2) relocating the driveway to Lot 5 to the edge of the woods; 3) requiring that any change in building envelope or driveway location require approval by OPZ and the Department of Environmental Protection and Resource Management (DEPRM); 4) agreement that Lot 5 and the "estate lot" will be placed into MET easement program; and 5) that the single unutilized density unit/right of subdivision shall be relinquished. These conditions have indeed been incorporated onto the plan.

Although generally supporting Mr. Montanye's efforts and the overall concept, Mr. Bernstein from the VPC does raise an objection as it relates to Parcel 202. This is a small triangular piece located on the

north side of the subject property and contains 3.25 acres in area. As noted above, this acreage would support two density units and could be subdivided for such purposes; however, under the proposed plan, there will be no dwellings constructed on that parcel.¹ Mr. Bernstein objects to the utilization of density attributed to this parcel elsewhere on the tract for several reasons. First, he claims that any construction on Parcel 202 would be difficult, owing to the slopes thereon, and he observes the potential difficulty in providing vehicular access thereto. Although that may or may not be the case, whether the parcel can be developed from a practical standpoint is not relevant to the rights of subdivision/density. It is the acreage and zoning classification which drives the permissible subdivision and density associated with a given parcel. Whether the parcel can or cannot be developed does not matter. This parcel, given its acreage and its existence as a lot of record prior to 1979, can be subdivided to create two lots.

Mr. Bernstein also maintains that the rights of subdivision associated with this lot should not be transferred to the other tracts, owing to the physical characteristics of the lot. He correctly notes that Parcel 202 is entirely wooded and not used for farming. Moreover, Parcel 202 does not contain the prime and productive soils which are featured on other portions of the overall tract. Since this parcel is not "prime and productive agricultural land", Mr. Bernstein argues that the spirit and

1. In this regard, it is difficult to determine whether one density unit or two density units is being derived from Parcel 202, in that the Petitioner proposes only six density units overall in lieu of the permitted seven. In any event, at least one density unit is being transferred from Parcel 202.

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intent of the R.C. 2 zoning classification would be violated by transferring a density unit from that parcel to elsewhere on the tract, which might result in development on working farmland.

The definition of "agriculture, commercial" is found within Section 101 of the B.C.Z.R. That definition provides that agriculture is considered not only to be the farming of land in field crops, but also includes forestry, animal husbandry, etc. The definition of agriculture is very broad. Notwithstanding this broad definition, an examination of the record does not support a finding that Parcel 202 is utilized for agricultural purposes. Although Parcel 202 could arguably be used for forestry or the production of timber products, there was no testimony presented that it is presently utilized for that purpose. Parcel 202 is wooded, and if any use is attributable to the current activity on that parcel, it is most closely associated with "open space". (See Section 101) Thus, the factual premise of Mr. Bernstein's claim is correct, namely, that density is being transferred from a parcel not in active agricultural use to a property in active agricultural use. On its face, such a factual finding would not allow a transfer of density.

If this case involved the transfer of density from only two parcels e.g., Parcel 202 to Parcel 38, I would agree with Mr. Bernstein's assessment. Transfers of density in R.C. zones should be approved sparingly. As I stated in McGee, density transfers should be approved only when the purposes and the spirit and intent of the R.C. zoning classification are observed. Transfers of density from a parcel of non-prime and productive soils not engaged in active agricultural pursuits, to a parcel on which the construction of dwellings would reduce or eliminate a working farm should not be allowed. However, I cannot consider this case in the

narrow manner which Mr. Bernstein presents. There are not just two parcels at issue here, but four. The Petitioner's plan presents an overall and comprehensive scenario for these parcels. I must consider whether the overall plan preserves and promotes the protection of agriculture in these R.C. 2 zoned lands.

Attention should be given to the alternatives if the Petition were denied. The Petitioner could, as of right, subdivide the four parcels to create seven lots, as described above. These lots could be placed throughout the tract at the Petitioner's election, without seeking any zoning relief. Moreover, placement of the lands in the MET easement program is a voluntary act, unless required as a part of zoning approval. There can be no doubt that the Petitioner's subdivision of his property as permitted by right would do far more harm to the agriculture resources on this tract than the proposed plan.

Taking these factors into consideration, I am persuaded to grant the Petition for Special Hearing. In my judgment, approval of the Petitioner's proposal promotes and protects the purposes of the R.C. zoning classification as set forth in the B.C.Z.R. Does the grant of such relief entail the loss of some farm land? The clear answer is "yes"; however, this must be weighed against the permissible subdivision of these properties as of right and the substantial benefits which will be gained by permitting the Petitioner to proceed under the proposed plan. Therefore, the Petition for Special Hearing shall be approved.

The plan which will be approved is identified as Petitioner's Exhibit 7, the amended site plan. As noted above, this plan adopts five of the recommendations made by the Office of Planning and Zoning (OPZ) as described above. Two other restrictions are suggested by OPZ and are

discussed below. First, OPZ suggested the relocation of building envelopes on Lots 1, 2, and 3 to a location outside of the line which marks the border of the prime and productive soils. I do not concur with this recommendation. These lots will be served by a common driveway and each lot will no doubt contain its own internal driveway and parking pad area. The disturbance of these lots for construction of dwellings and supporting areas will "break up" the small area of prime and productive soils which lie to the front of the building envelopes. Relocating the houses more towards the interior of Lots 1, 2, and 3, will only lengthen the driveways without providing any real benefit. It is difficult to imagine significant farming operations in the front yards of these dwellings in between driveways. If the subsequent lot owners wish to utilize their yards for farming purposes, so be it. However, in my judgment, the location of the building envelopes as shown on Petitioner's Exhibit 7 is appropriate.

I will adopt, however, OPZ's second comment regarding the size of the building envelopes and yard areas on Lot 5 and the "estate lot". Admittedly, this recommendation is a subjective standard, but it is based on appropriate considerations. A house and surrounding yard area, not to exceed 2 acres for the homesites on Lot 5 and the "estate lot", is appropriate. This will reduce the amount of disturbance on the working fields. Moreover, if actual conditions ultimately show that a larger lawn or dwelling area is needed, then the Petitioner can Petition for Special Hearing relief to amend this request based upon then existing circumstances.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the special hearing relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of November, 1995 that the Petition for Special Hearing seeking approval of density transfers within an overall tract consisting of four contiguous parcels to create six lots, in accordance with Petitioner's Exhibit 7, and to confirm that the total number of lots being proposed for development at this time does not exceed the total number permitted, 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) Pursuant to Section 502.2 of the B.C.Z.R., a new deed incorporating a reference to this case and the restrictions and conditions set forth herein shall be recorded among the Land Records of Baltimore County within sixty (60) days of the date of this Order and a copy of the recorded deed shall be forwarded to the Permits and Development Management (PDM) office for inclusion in the case file.
- 3) The Petitioner will be required to place those lands shown on Petitioner's Exhibit 8 into the MET easement program.
- 4) The size of the homesites, including dwellings and lawn areas, for Lot 5 and the "estate lot" shall not exceed 2 acres. However, if actual conditions ultimately show that a larger lawn or dwelling area is needed, then the Petitioner can Petition for Special Hearing relief to amend this restriction, based upon then existing circumstances.
- 5) When applying for any building permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

November 16, 1995

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NW/S Butler Road, 1,000' N of Worthington Avenue
(Montanye Property)
4th Election District - 3rd Councilmanic District
Carlyle N. Montanye, Jr. - Petitioner
Case No. 96-80-SPH

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing 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,

A handwritten signature in cursive script, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Carlyle N. Montanye, Jr.
4500 Prospect Avenue, Glyndon, Md. 21070

Mr. Bruce E. Doak, Gerhold, Cross & Etzel
320 E. Towsontown Boulevard, Towson, Md. 21286

People's Counsel

File





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at North west side of Butler Road ^{1000' N. of}
which is presently zoned R.C.-2 ^{Worthington Ave.}

This Petition shall be filed with the Office of Zoning Administration & Development Management.

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 Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

density transfers within an overall tract consisting of 4 contiguous parcels; the total number of lots requested does not exceed the number of lots (densities) allowed. The remaining densities will be assigned

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

I, or we, agree to pay expenses of 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

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

Legal Owner(s):

Carlisle N. Montange, Jr.

(Type or Print Name)

Signature

(Type or Print Name)

Signature

4500 Prospect Avenue

Address

833-4110

Phone No.

Glyndon, Maryland

City

State

21071

Zipcode

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

Gerhold Cross & Etzel

Name

320 E. Towson Town Blvd.

Address

823-4470

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY: MDIC

DATE 8/18/95

ORDER RECEIVED FOR FILING

Date 11/16/95

By [Signature]



GORDON T. LANGDON
EDWARD F. DEIACO-LOHR
BRUCE E. DOAK

GERHOLD, CROSS & ETZEL, LTD.

Registered Professional Land Surveyors

SUITE 100
320 EAST TOWSONTOWN BOULEVARD
TOWSON, MARYLAND 21286-5318

410-823-4470
FAX 410-823-4473

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD
PHILIP K. CROSS
OF COUNSEL
JOHN F. ETZEL
WILLIAM G. ULRICH

96-80-SPH

August 8, 1995

**Zoning Description
Montanye Property on Butler Road**

Beginning at a point in or near the centerline of Butler Road at a distance of 1,000 feet, more or less, Northerly from the intersection of Butler Road with Worthington Avenue, thence leaving said Butler Road and running the twenty-two following courses and distances around the perimeter of the compiled four parcels, viz:

- 1) North 58 degrees 30 minutes West 902.55 feet,
- 2) North 46 degrees West 720 feet, more or less,
- 3) North 85 degrees 22 minutes West 2130 feet, more or less,
- 4) North 03 degrees 16 minutes East 1119.0 feet,
- 5) North 89 degrees 55 minutes 58 seconds East 812.53 feet,
- 6) North 36 degrees 54 minutes East 1679.71 feet,
- 7) North 52 degrees 26 minutes 38 seconds West 750.03 feet
- 8) North 36 degrees 54 minutes East 810.3 feet,
- 9) North 42 degrees East 420 feet,
- 10) North 56 degrees 30 minutes East 1078.8 feet,
- 11) South 09 degrees 30 minutes East 287 feet,
- 12) North 63 degrees 08 minutes East 317 feet, more or less,
- 13) North 63 degrees 08 minutes East 123.2 feet,
- 14) South 04 degrees 24 minutes 30 seconds West 1925.2 feet,
- 15) South 74 degrees East 585.75 feet,
- 16) South 09 degrees 45 minutes West 1680 feet, more or less,
- 17) North 80 degrees 15 minutes West 770.0 feet,
- 18) South 09 degrees 45 minutes West 320.58 feet,
- 19) South 24 degrees 28 minutes 02 seconds East 174.59 feet,
- 20) South 44 degrees 06 minutes 44 seconds East 283.20 feet,
- 21) South 62 degrees 55 minutes 54 seconds East 438.83 feet, and
- 22) South 67 degrees 19 minutes 11 seconds East 450.0 feet to a point in or near the centerline of said Butler Road, thence binding on or near the centerline of said road,
- 23) South 34 degrees 15 minutes West 338 feet, more or less, to the place of beginning.

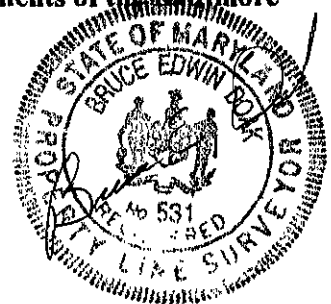
Containing 215 Acres of land, more or less.

This description is not for conveyance purposes and only fulfills the requirements of the Baltimore County Office of Zoning.

Montzon.des

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#77



96-80-SP4

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District HHS

Date of Posting 9/22/95

Posted for: Special Hearing

Petitioner: Carlyle Montoya, Jr.

Location of property: NW 1/4 Butler Rd, N of Worthington Ave

Location of Signs: Facing road way on property being zoned

Remarks: _____

Posted by M. J. Deady Date of return: 9/25/95
Signature

Number of Signs: 1

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CERTIFICATE OF PUBLICATION

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 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 for Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Case: #96-80-SPH (Item 77)
NW/SE Butler Road, 1000' N of Worthington Avenue
4th Election District
3rd Councilmanic
Legal Owner:
Caryle N. Montanye, Jr.
Hearing: Tuesday,
October 10, 1995 at 2:00 p.m.
in Rm. 118, Old Courthouse.
Special Hearing to approve density transfers with an overall tract consisting of 4 contiguous parcels.
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.
9/184 Sept. 21.

TOWSON, MD., 9/29, 1995

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 9/21, 1995.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

~~Publication~~

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

No.

004866

DATE 8/18/95 ACCOUNT 01-615

Item: 77

Taken By: MDIC

AMOUNT \$ 270.00

RECEIVED Montanye, Carlyle (NW/4 of Butler Rd, 1000'
 FROM: Not Worthington Ave

030 - Res Sp Heavy (410x) — \$200.00

080 - 2 signs

~~\$1000.00~~

FOR:

270.00

96-80-SPH

0200280041MCHRC

\$270.00

BA COOR: 43AM08-18-95

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

Baltimore County Government
Office of Zoning Administration
and Development Management

#77



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

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, DIRECTOR

For newspaper advertising:

Item No.: 77

Petitioner: Carlyle N. Montanye Jr.

Location: Northwest side of Butler Rd, 1000 ft. north of Worthington Ave

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Carlyle N. Montanye Jr.

ADDRESS: 4500 Prospect Avenue

Glyndon, Maryland 21071

PHONE NUMBER: 833-4110

AJ:ggs

(Revised 04/09/93)



TO: PUTUMENT PUBLISHING COMPANY
September 21, 1995 Issue - Jeffersonian

Please forward billing to:

Carylyle N. Montanye, Jr.
4500 Prospect Avenue
Glyndon, Maryland 21071
833-4110

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: 96-80-SPH (Item 77)
NW/S Butler Road, 1000' N of Worthington Avenue
4th Election District - 3rd Councilmanic
Legal Owner: Carlyle N. Montanye, Jr.

Special Hearing to approve density transfers with an overall tract consisting of 4 contiguous parcels.

HEARING: TUESDAY, OCTOBER 10, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

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.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 11, 1995

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: 95-80-SPH (Item 77)
NW/S Butler Road, 1000' N of Worthington Avenue
4th Election District - 3rd Councilmanic
Legal Owner: Carlyle N. Montanye, Jr.

Special Hearing to approve density transfers with an overall tract consisting of 4 contiguous parcels.

HEARING: TUESDAY, OCTOBER 10, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Carlyle N. Montanye, Jr.
Gerhold Cross & Etzel

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 AT 887-3391.

MICROFILMED





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 3, 1995

Mr. Carlyle N. Montanye, Jr.
4500 Prospect Avenue
Glyndon, Maryland 21071

RE: Item No.: 77
Case No.: 96-80-SPH
Petitioner: Montanye Property

Dear Mr. Montanye:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



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

TO: Mr. Arnold Jablon, Director September 18, 1995
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #77 - Montanye Property
N/W side of Butler Road
Zoning Advisory Committee Meeting of August 28, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Development of the property must comply with Regulations for Forest Conservation.

Ground Water Management

Prior to subdivision approval, a revised perc test plan must be approved.

Agricultural Preservation Program

This request is strongly opposed. The request will result in the transfer of two (2) density units from non prime and productive soils to land that is in cultivation and has prime and productive soils. This proposal provides for further consumption of the agricultural resources which the zone is intended to protect.

✓
JLP:VK:WL:sp

MONTANYE/DEPRM/TXTSBP

Montanye

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: Sept. 7, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Sub Development Plans Review

RE: Zoning Advisory Committee Meeting
for September 5, 1995
Items 065, 066, 067, 068, 074, 075, 076
077 and 079

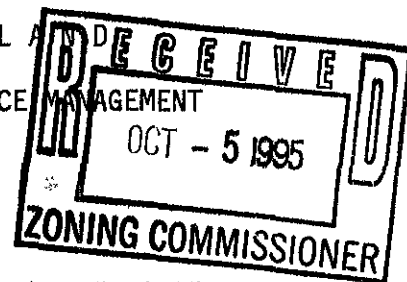
The Development Plans Review Division has reviewed
the subject zoning items and we have no comments.

RWB:sw

MICROFILMED

10/10

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



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

October 5, 1995

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #77 - Montanye Property - REVISED COMMENTS
N/W side of Butler Road
Zoning Advisory Committee Meeting of August 28, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Development of the property must comply with Regulations for Forest Conservation.

Ground Water Management

Prior to subdivision approval, a revised perc test plan must be approved.

Agricultural Preservation Program

Please accept the comments below as a modification to the Department's comments submitted on September 18, 1995. The modifications are a result of the landowner providing additional information about the proposed plan.

The recommendation is still to oppose the approval of this request, however, if modifications are made, the proposal could be approvable. The basis of the review is the impact the transfer of density units and the location of the lots will make upon the agricultural capability of the property. Below is a discussion of the proposal and the specifics of the objection.

The plan indicates four parcels and according to the landowner and engineer there are seven remaining development rights. The comments are based upon these calculations.

MICROFILMED

The estate lot is approvable as shown. It could be enhanced by moving the lot line along the edge of Lot 3 further into the woods so as to ensure the buffering of the field but this is not critical. This lot includes adding some of parcel 89 which is currently in cropland and this should be supported.

Lot 5 in a similar manner is approvable with the exception that the drive accessing the lot should be moved to the tree line and thus reduce the impact on the agricultural resources. Also, the transfer of the remaining acreage from parcel 37 to the Estate Lot should be supported in that it prevents the breaking up of farm fields.

The location of Lots 1, 2, 3 are generally acceptable. It is recommended that a building envelope be placed on each lot which restricts the house location so as to not be on the prime and productive soils. This would be consistent with the Prime and Productive soil regulations and policies.

The location of Lot 4 is not acceptable and the basis for the overall comment to disapprove the proposal. The proposed location splits the contiguous agricultural resources which run between the Estate Lot and Lot 5. The house is located on an open area of prime and productive soils which are being farmed. This location reduces the potential for large scale farming and thus diminishes the farming capability of the land. It will also increase the potential of nuisance conflicts since this house could be surrounded by agricultural operations.

Lot 4 should either be eliminated or moved so as to be out of the field area which connects the Estate Lot and Lot 5.

JLP:VK:WL:sp

MONTANYE/DEPRM/TXTSBP

MONTANYE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

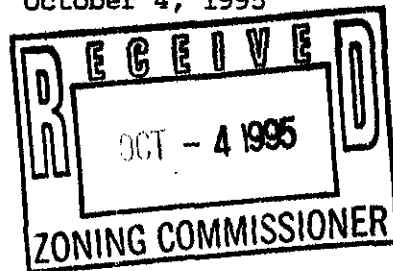
10/10

TO: Arnold Jablon, Director, PDM

DATE: October 4, 1995

FROM: Pat Keller, Director, OP

SUBJECT: Montanye Property



INFORMATION:

Item Number: 77

Petitioner: Carlyle N. Montanye, Jr.

Property Size: _____

Zoning: R.C. 4

Requested Action: Special Hearing

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments:

History:

In 1993/1994 Jack Dillon, Wally Lippincott and Lynn Lanham (planners with the Office of Planning) met with Carlyle Montanye to discuss possible subdivision alternatives for his property. Without the benefit of deed and possible subdivision history, potential density was approximated and various configurations for lots were discussed. Preservation of the agricultural resource was considered of primary importance in the discussions as this property falls within the Agricultural Preservation land use area.

The existing parcels and density allocation could allow a lot configuration that would totally subdivide and thus the agricultural resource. The feasibility of locating two lots on parcel 202 may be questionable due to length of driveway, but not impossible. We assumed that two lots could be located on parcel 38, one lot on parcel 89, and one lot on parcel 37. This configuration would effectively divide the farm fields into four different ownerships with no large contiguous parcel of agricultural land intact.

Recommendations:

- The plan should show a density tabulation chart: Density allowed for each parcel, density already allocated due to prior subdivision, density or lots proposed, and density remaining if any. A plan showing the original parcel configuration and density should be prepared.

TO: Arnold Jablon, Director, PDM
FROM: Arnold F. "Pat" Kell III, Director, OP

- Three schemes were evaluated. Schematic Design A was selected as best preserving the agricultural resource. In this scheme, four lots are clustered on parcel 89, with one existing lot previously subdivided for a total of five units. An estate farm lot (the sixth lot) was shown on parcel 38 adjacent to the woods. This lot was to contain any excess density to be tied to and valued as part of a MET easement. Parcels 37, 38, 202 and part of parcel 89 were combined within this estate lot to preserve a large portion of the farm fields. No future subdivision of the estate lot would be allowed. By clustering most of the lots on parcel 89 and retaining the majority of the farm fields on the estate lot, a large portion of the agricultural resource would be retained.
- The subdivision of parcel 37 as shown on the proposed plan created an additional subdivision (lot five) for the creation of a total of seven lots. This additional lot can not be supported, as it further subdivides the agricultural resource and destroys the intent of the lot reconfiguration as previously discussed. Our support was based on the retention of most of the farm area in single ownership. The plan and density transfers as shown are not acceptable.

Therefore, staff recommends that the applicant's request be denied.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Kerns

PK/JL

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/30/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF AUGUST 28, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen: ✓

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 66,67,68,69,70,71,73, //
74,75,77,79 & 80.

MICROFILMED

RECEIVED

SEP 5 1995

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

ZADM





**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary
Hal Kassoff
Administrator

September 14, 1995

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Baltimore County
MD 128 (west side)
1,000' north of Worthington
Avenue
Montanye Property
Special hearing
Item #077 (MJK)
Mile Post 1.47

Dear Ms. Watson:

This letter is in response to your request for our review of the plan for the referenced item.

A review of the State Highway Administration's (SHA) current and long range planning documents reveals there are no future roadway improvement projects in this area.

A field inspection of the property reveals there is an existing sub-standard gravel entrance onto MD 128 on the property, within SHA right-of-way.

Since our review of the plan reveals the development of four (4) additional lots on the subject property upon future development of the aforementioned lots, the developer needs to up-grade the existing entrance onto MD 128 to a minimum 25' wide residential entrance with 10' radii, using SHA approved bituminous concrete paving.

Since the existing entrance onto MD 128 will provide access to fewer than five (5) lots, the developer needs to contact Mr. Ron Lewis, Resident Maintenance Engineer for SHA at 410-329-6752, in order to obtain the residential access permit necessary to construct the required entrance improvements.

We have no objection to approval of the special hearing request, subject to our aforementioned entrance improvement comments.

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

Ms. Joyce Watson
Page Two
September 14, 1995

Should you have any questions, please contact Bob Small at 410-333-1350.
Thank you for the opportunity to review this plan.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. Burns", is written over the typed name.

for Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

cc: Mr. Ron Lewis w/att.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

10/10/95
hs

TO: Arnold Jablon, Director, PDM

DATE: October 6, 1995

FROM: Pat Keller, Director, OP *JP for PK*

SUBJECT: Montanye Property

Amended Comment

INFORMATION:

Item Number: 77

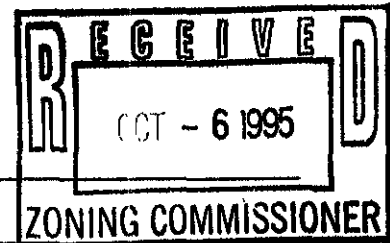
Petitioner: Carlyle N. Montanye, Jr.

Property Size: _____

Zoning: R.C. 4

Requested Action: Special Hearing

Hearing Date: _____



SUMMARY OF RECOMMENDATIONS:

This amended comment reflects staff's position based upon information provided by the applicant's engineer, Mr. Bruce Doak.

Should the subject request be granted, this office recommends that the following conditions be attached:

- 1) Limit building envelopes on lots 1,2 and 3 to the area outside of the prime and productive soils.
- 2) Limit the building envelope of the adjusted lot 4 to the woods line.
- 3) Limit the building envelopes and home use area on lot 5 and the estate lot to approximately 2 acres around the house location as shown.
- 4) The driveway to lot 5 shall be relocated as shown on the red-lined plan to the edge of the woods.
- 5) Any change in building envelope or driveway location shall require additional review by the Planning Office and DEPRM.
- 6) Lot 5 and the estate lot shall be placed into MET easements, and any remaining density shall be relinquished through the easement.

unresolved JEB
done on plan Ex 7
unresolved
done if approved by Balto Co.
OK

Prepared by: _____

Jeffrey M. Long

Division Chief: _____

Gary L. Kerns

PK/JL

MICROFILMED



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

December 6, 1995

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
(Montanye Property)
Case No. 96-80-SPH

Dear Mr. Alderman:

In response to your letter dated November 30, 1995 concerning the recordation of a new deed in the above-captioned matter, the following comments are offered.

I recognize the possibility of an appeal of my decision in this case as well as the fact that the project must undergo review through the Development Review process. Obviously, such an appeal and review may take some time; at the least, longer than the sixty (60) days afforded you in my Order to file a new deed for this property.

Under the circumstances, I will modify my Order to require recordation of the new deed within sixty (60) days after final approval of this project. Obviously, that date will be determined based upon when the final appeals, if any, are exhausted and the development review process has been completed.

Please do not hesitate to contact me should you have any further questions on the subject.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Carlyle N. Montanye, Jr., 4500 Prospect Avenue, Glyndon, Md. 21070

Mr. Bruce E. Doak, Gerhold, Cross & Etzel
320 E. Towsontown Boulevard, Towson, Md. 21286

Mr. John Bernstein, Executive Director, The Valleys Planning Council
212 Washington Avenue, Towson, Md. 21204

People's Counsel; Case File

MICROFILMED

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

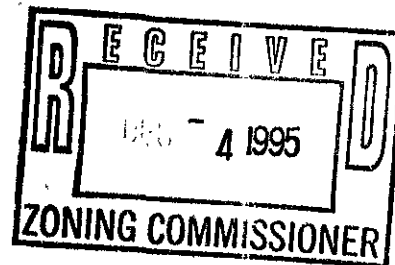
ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.

November 30, 1995

Lawrence E. Schmidt, Zoning Commissioner
Suite 112 Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Carlyle N. Montanye, Jr., Petitioner
Case No.: 96-80-SPH
Request for Clarification/Modification



Dear Commissioner Schmidt:

I have reviewed your decision, dated November 16, 1995 in the above referenced case and have discussed it with my client, Mr. Carlyle Montanye. The purpose of this letter is to request a clarification and/or modification of enumerated restriction two as shown on page thirteen. You will recall from the testimony presented at the hearing, this project will be subject to the Baltimore County Development process, including Community Input Meeting and Development Plan approval.

Therefore, it appears that the sixty day time frame within which a new Deed incorporating reference to the above-referenced case must be recorded is too short. I would, respectfully, request that your Order be modified to require that such a Deed be recorded not more than sixty days after the date of the final approval for the project.

Should you need additional information in this regard, or if I can further clarify the issues pertaining to this request, as always, please do not hesitate to contact me.

Very truly yours,


Howard L. Alderman, Jr.

HLA/lah

cc: Mr. Carlyle N. Montanye, Jr.
Andrew R. Sandler, Esquire

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

JOHN BERNSTEIN

ADDRESS

VALLEYS PLANNING COUNCIL



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

BRUCE E. DONK - GERHOLD, CROSS & ETSEL, LTD 320 E TOWNSHOWN BLVD TOWSON MD 21286

Carlyle N. Montanye

4500 Prospect Ave. Glyndon MD 21071

Howard L. Alderman, Jr. Esq.

305 W. Chesapeake Ave #113 Towson 21204

THIS DEED Made this 31st day of DECEMBER, in the year
one thousand nine hundred and Eighty-four by and between
✓ CARLYLE N. MONTANYE, JR., Personal Representative of the Estate of
✓ FLORENCE A. MONTANYE, Deceased, of Baltimore County in the State
of Maryland, party of the first part, Grantor, and ✓ CARLYLE N.
MONTANYE, JR. of Baltimore County in the State of Maryland, party
of the second part, Grantee.

WHEREAS, Florence A. Montanye departed this life on or
about June 27, 1983, being vested with title to the fee simple
property hereinafter described as the surviving tenant by the
entirety of Carlyle N. Montanye, Sr. who departed this life on or
about July 3, 1973, and

WHEREAS, Florence A. Montanye by her Last Will and
Testament duly probated in the Orphans' Court of Baltimore County
and recorded in the Office of the Register of Wills of Baltimore
County in Wills Estate No. 52749 appointed Carlyle N. Montanye,
Jr. as Personal Representative, and

WHEREAS, proper notice of said appointment and notice to
creditors was given by publication in The Jeffersonian, a weekly
newspaper published in Baltimore County which said notice expired
on January 15, 1984, and no objection was filed thereto, and

WHEREAS, by ITEM III of her Last Will and Testament
Florence A. Montanye devised and bequeathed all of the rest and
residue of her property real and personal to the said Carlyle N.
Montanye, Jr.

NOW, THEREFORE, WITNESSETH: That in consideration
the premises and for no monetary consideration, and in faithful
performance of his duties as required by law, and pursuant to the
Last Will and Testament of Florence A. Montanye, the Grantor does
hereby grant and convey unto the Grantee, his personal
representatives and assigns, forever, in fee simple, all that lot
and ground situate, lying and being in the Fourth Election

STATE DEPARTMENT OF
ASSESSMENTS & TAXATION

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

TRANSFER TAX NOT REQUIRED

Director of Finance
BALTIMORE COUNTY, MARYLAND

Per Joseph W. Carr

Authorized Signature

Date 1/2/85 Sec. 11.85/H

CLERK

DATE

SIGNATURE AF DATE 1-2-85

PETITIONER'S
EXHIBIT 1

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District of Baltimore County in the State of Maryland and described as follows, that is to say:

BEGINNING for the same at the beginning of the second or South eight and one-half degrees East seventy-three perches line of that parcel of land firstly described which by deed dated August 15 1919 and recorded among the Land Records of Baltimore County in Liber W P C No 515 folio 277 etc was conveyed by James S Clark and Mary L Clark his wife to George C Haskell and Martha E Haskell his wife running thence binding on said line South eight and one-half degrees East seventy-three perches to a flint stone at the beginning of the second or South forty-six degrees East forty perches line of that parcel of land secondly described in the above mentioned deed running thence binding on the second third fourth fifth and sixth lines of said deed the five following courses and distances viz South forty-six degrees East forty perches to a stone now planted thence South fifty-eight and one-half degrees East fifty-three and seven tenths perches to a marked hickory tree standing on the northwest side of the County Road leading from Reisterstown to Dover thence still South fifty-eight and one-half degrees East one perch to the centre of said road thence binding on the centre of said road North thirty-four and one-quarter degrees East twenty-one and three-quarters perches to intersect the North sixty-nine degrees West ninety-four perches line of that parcel of ground conveyed by the Ashland Iron Company of Baltimore County to Jacob D Geist dated February 25 1892 and recorded among the Land Records of Baltimore County in Liber L M B No 191 folio 163 etc thence binding on said line with a correction for variation North sixty-seven and one-half degrees West twenty-six and three-tenths perches to a stone planted at the beginning of the fourth or North nine and three-quarters degrees East one hundred forty-seven perches line of that parcel of land firstly described in the deed first above mentioned running thence binding on said line North nine and three-quarters degrees East one hundred forty-seven perches to a flint stone at the end of the South seven and one-half degrees West thirty-four perches line of a parcel of land mentioned in the deed dated May 15 1849 and recorded among the Land Records of Baltimore County in Liber H M F No 4 folio 1 etc from R H Love to Francis Kendig thence binding reversely on the South seventy-six degrees East thirty-five and one-half perches line of that parcel of land which by deed dated June 22 1859 and recorded among the Land Records of Baltimore County in Liber G H C No 26 folio 319 etc was conveyed by Robert H Love et al to George W Norris North seventy-four degrees west Thirty-five and one-half perches to a stone where a chestnut tree formerly stood running thence reversely binding on the fifth fourth third and second lines of that parcel of land which by deed dated September 10 1937 and recorded among the Land Records of Baltimore County in Liber C W B Jr No 1009 folio 419 etc was conveyed by Annie Haskell Flynn and Daniel H Flynn her husband to Carlyle N Montanye and Florence A Montanye his wife the four following courses and distances viz South thirteen degrees forty-eight minutes West thirty-five and one-tenth perches North seventy-six degrees fifty eight minutes West thirty-two and twelve one-hundredths perches South thirteen Degrees seventeen minutes West twenty-three and forty-two one hundredths perches and North eighty-one degrees twenty-seven minutes West twenty-four and eight-tenths perches to intersect the first or South twelve degrees West one hundred forty-six and one-half perches line of that parcel of land firstly described in the hereinbefore mentioned deed from James S Clark and Mary L Clark his wife to George C Haskell and Martha E Haskell his wife running thence binding on said line to the place of beginning.

Containing sixty-nine and three-quarters acres of land more or less.

SAVING AND EXCEPTING THEREFROM: Deed dated December 31, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K. Jr. No. 6248, folio 827, from Florence A. Montanye, widow, to Peter Constantine Chaconas.

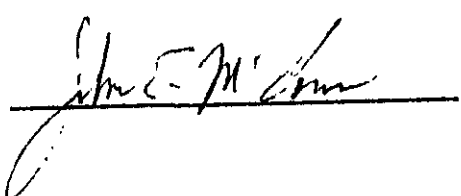
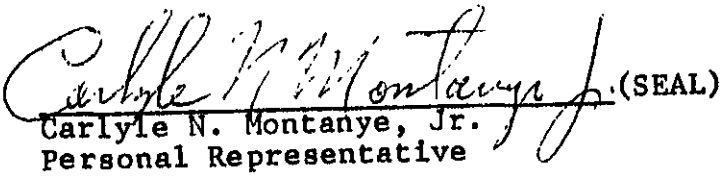
BEING a portion of that property which by Deed dated February 3, 1944, and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1329, folio 194 was granted and conveyed by Edith Powell Strobel and Albert P. Strobel, Jr., her husband, unto Carlyle N. Montanye and Florence A. Montanye, his wife.

TOGETHER with the buildings and improvements thereon and all and every the rights and appurtenances thereunto appertaining or in any wise belonging.

TO HAVE AND TO HOLD said lots of ground and premises unto and to the proper use and benefit of the said Grantee, his personal representatives and assigns, forever, in fee simple.

WITNESS the hand and seal of the Grantor.

WITNESS:

 
 Carlyle N. Montanye, Jr.
 Personal Representative

STATE OF MARYLAND }
 COUNTY OF BALTIMORE }

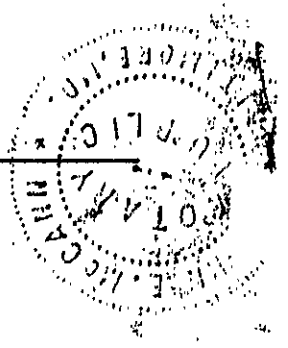
I HEREBY CERTIFY that on this 31st day of December, 1981, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared CARLYLE N. MONTANYE, JR., Personal Representative of the Estate of Florence A. Montanye, Deceased, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he

executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

John E. McDaniel
Notary Public

My Commission Expires: 7/1/86.



Rec'd for record JAN 2 1985 at 12:19 P.M.
Per Elmer H. Kahline, Jr., Clerk
Mail to Cable, McDaniel, Bowie & Bond
Receipt No. 1900

10823-1094

THIS DEED AND AGREEMENT, made this 7th day of March, in the year 1990, by CARLYLE N. MONTANYE, JR. of Baltimore County, Maryland, Grantor, and CARLYLE N. MONTANYE, III and KATHARINE A. MONTANYE, Grantees.

WITNESSETH that in consideration of the sum of \$95,000.00 and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part does grant and convey unto the parties of the second part, as tenants by the entireties, their heirs and assigns, the survivor of them, and the personal representatives and assigns of the survivor of them forever, in fee simple, all that lot or parcel of ground situate in Baltimore County, State of Maryland, and described as follows:

See Attached Schedule "A"

Together with the buildings and improvements thereon, and all and singular the rights, roads, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the above described property unto CARLYLE N. MONTANYE, III and KATHARINE A. MONTANYE, his heirs and assigns, the survivors of them and the personal representatives and assigns of the survivor of them, forever in fee simple, and SUBJECT, HOWEVER, TO THE FOLLOWING:

1. The Grantees herein, their heirs, personal representatives, assigns, shall have the use in common with the Grantor, his heirs, personal representatives, and assigns, of a right of way being of varying width and being more particularly shown on the plat attached hereto; said right of way to be used for the benefit of the Grantor, his heirs, personal representatives and assigns for ingress, egress and regress to and from Butler Road, a public roadway, and for the installation and maintenance of water and sewer lines and other utilities, said right of way to be used in common by the Grantees herein, their heirs and assigns and others entitled thereto.

2. At the request of the Grantor, his heirs, personal representatives and assigns, the Grantees, their heirs, personal representatives or assigns shall offer the right of way to Baltimore County to be dedicated for a public road to be constructed at Grantors expense and the Grantees join in this Deed to agree to said offer to dedicate, and thereby binds the Grantee's heirs, personal representatives and assigns.

3. In the event that the easement of right of way shall cease to be needed for ingress, egress and regress due to Grantor, his personal representatives, heirs and assigns being able to obtain access to Butler Road over or through other property of the Grantor, then the easement reserved in this Deed shall be forever extinguished, and the Grantees, their heirs, personal representatives and assigns shall hold the property previously subject to the easement free and clear of said easement.

4. Grantor, his heirs, personal representative and assigns reserves the right to further burden the easement by subdivision or development of the Grantor's remaining land, and the Grantees join in this Deed to consent to said reservation, and thereby binds the Grantee's heirs, successors and assigns.

AND the said CARLYLE N. MONTANYE, JR. hereby covenants that he will warrant specially the property hereby conveyed and that he will execute such other and further assurances of the same as may be requisite.

Return To:
Lloyd J. Hammond
616 Main St. P.O. Box 569
Reisterstown, Md. 21136

AGRICULTURAL GRANTEES
NOT APPLICABLE - LETTER OF INTENT

053****152040: a 8308 SIGNATURE

NOTED FOR TRANSFER
State Department of
Assessment & Taxation
for Baltimore County

39.00
325.00
475.00
0
839.00
04/06/9

PETITIONER'S
EXHIBIT 2

NO TITLE EXAMINATION

495-
325-
39

A. L. Snyder
Surveyor
1911 Hanover Pike
Hampstead, Maryland 21074

(301) 239-7744

Certificate of Survey

(301) 833-5791

September 15, 1989

all that lot or parcel of land, situate, lying and being in the Fourth Election District of Baltimore County, Maryland, on the northwest side of Butler Road and which, according to a survey and plat by A.L. Snyder, registered Surveyor, dated May 12, 1989 is described as follows:

Beginning for the same at a railroad spike now set in the northwest edge of Butler Road and at the beginning of the sixth or $N 67\frac{1}{2}^{\circ} W 26 \frac{3}{10}$ perches line of that tract of land of which the lot or parcel described herein is a part, which was conveyed by Carlyle N. Montanye, Jr., Personal Representative of the Estate of Florence A. Montanye, deceased, to Carlyle N. Montanye, Jr. by deed dated December 31, 1984 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 6843 folio 435 etc., said beginning point being also the point of beginning of that tract of land which was conveyed by Carroll M. Brown and Elizabeth M. Brown, his wife, to Henry S. Clark and Mary A. Clark, his wife, by deed dated April 18, 1952 and recorded among the aforementioned Land Records in Liber G.L.B. 2099 folio 409 etc., thence running reversely with and binding on the fifth or $S 69\frac{1}{2}^{\circ} E 26$ perches line thereof and with the said sixth or $N 67\frac{1}{2}^{\circ} W 26 \frac{3}{10}$ perches line of the first mentioned tract herein and along the south side of an old road which leads from Butler Road through the Clark land to the Montanye land and along the north side of a conditional 12 foot wide right-of-way which was conveyed by Earl Brown, Sr. and Elizabeth Brown, his wife, to Peter

Schedule A 1 of 5

MEMBER: Md. Sdc. of Surveyors • W. Va. Assoc. of Land Surveyors • A.C.S.M. • C.C.A.S.E.

Constantine Chaconas and thirdly described in a deed dated December 31, 1980 and recorded among the aforementioned Land Records in Liber E.H.K., Jr. 6248 folio 829 etc.

1.) N 67° 19' 11" W 433.95 feet to a steel bar now set, thence crossing the old road, running with and binding on a part of the seventh or N 9 3/4° E 147 perches line of the first mentioned tract and reversely with a part of the fourth or S 8 3/4° W 141 1/4 perches line of the second mentioned tract herein

2.) N 9° 45' 00" E 29.31 feet to a steel bar now set on the north side of the old road and at the end of the third or S 13° 07' 12" W 303.63 feet line of that parcel of land which was conveyed by Florence A. Montanye, widow, to Peter Constantine Chaconas by deed dated December 31, 1980 and recorded among the aforementioned Land Records in Liber E.H.K., Jr. 6248 folio 827 etc., thence running with and binding on the fourth or N 63° 45' W 40 feet line thereof to and with the first or N 63° 45' W 160.91 feet line of the lot or parcel of land firstly described in the aforementioned conveyance from Earl Brown, Sr. and Elizabeth Brown, his wife, to Peter Constantine Chaconas, in all,

3.) N 67° 07' 24" W 201.98 feet to a steel bar now set on the north side of the old road, thence running with and binding on the second and third lines of the aforementioned firstly described parcel or lot the following two courses and distances

4.) N 21° 04' 18" E 271.47 feet to a steel bar now set, thence

5.) S 80° 44' 52" E 143.42 feet to a steel bar now set in the aforementioned seventh or N 9 3/4° E 147 perches line of the first mentioned tract herein (Montanye to Montanye), thence running with and binding on a part of the said seventh line and reversely with a part of the aforementioned fourth or S 8 3/4° W 141 1/4 perches line of the second mentioned tract herein (Brown to Clark)

6.) N 9° 45' 00" E 405.00 feet to a steel bar now set, thence for lines of division now made through the whole tract (Montanye to Montanye) the following five courses and distances

7.) N 80° 15' 00" W 770.00 feet to a steel bar now set, thence

8.) S 9° 45' 00" W 320.58 feet to a steel bar now set, thence

9.) S 24° 28' 02" E 174.59 feet to a steel bar now set, thence

10.) S 44° 06' 44" E 283.20 feet to a steel bar now set, thence

11.) S 62° 55' 54" E 438.83 feet to a steel bar now set, thence

12.) S 67° 19' 11" E 450.00 feet, passing through a steel bar now set at 420.00 feet to a railroad spike now set in Butler Road, west of the centerline thereof and in the fifth or N 34 1/4° E 21 3/4 perches line of the first mentioned tract herein (Montanye to Montanye) distant S 34° 25' 49" W 20.43 feet from the end thereof, thence running with and binding on the said fifth line

13.) N 34° 25' 49" E 20.43 feet to the place of beginning

Containing 9.9481 Acres of land, more or less.

Being a part of that tract of land which was conveyed by Carlyle N. Montanye, Jr., Personal Representative of the Estate of Florence A. Montanye, deceased, to

Carlyle N. Montanye, Jr. by deed dated December 31, 1984 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 6843 folio 435 etc.

* See page 5 of 5

Subject to and together with the right to the use, in common with the grantor herein and others entitled thereto of the existing road which leads from the here-indescribed property out to Butler Road.

Also subject to the conditional rights-of-ways described in the second and third parts of a deed dated December 31, 1980 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 6248 folio 829 etc. from Earl Brown, Sr. and Elizabeth Brown, his wife, to Peter Constantine Chaconas.

Also subject to a right of way , a portion of which is fifty wide and a portion of which is of varying width to be reserved for dedication to Baltimore County Maryland for the purpose of constructing a road from Butler Road into the remainder of the Montanye Property at whatever time that remainder might be subdivided. The said right of way is shown on the attached Plat and the north margin of that right of way is described as follows:

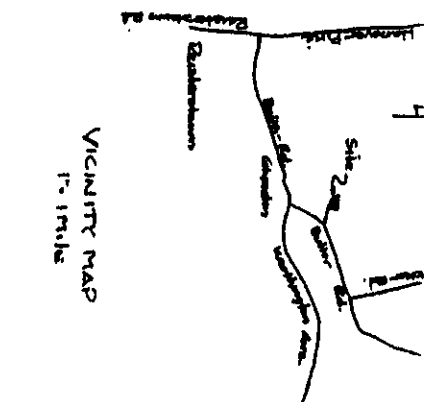
Beginning for the same in the eighth or S 9° 45' 00" W 320.58 feet
line of the hereindescribed lot or parcel distant 88.92 feet
reversely from the end of said eighth line and running thence paralleling
the ninth, tenth and eleventh lines of the hereindescribed
lot or parcel the following three courses and distances

- 1.) S 24° 28' 02" E 239.46 feet, thence
- 2.) S 44° 06' 44" E 266.25 feet, thence
- 3.) S 62° 55' 54" E 237.39 feet to intersect the

fourth or N 21° 04' 18" E 271.47 feet line of the here-
in described lot or parcel at a distance of 15.37 feet
from the beginning thereof, thence running reversely with
and binding on the said fourth line and third , second and
first lines thereof the following four courses and distances

- 4.) S 21° 04' 18" W 15.37 feet, thence
- 5.) S 67° 07' 24" E 201.98 feet, thence
- 6.) S 9° 45' 00" W 29.31 feet and thence
- 7.) S 67° 19' 11" E 433.95 feet to the west side
of Butler Road.

* Being also known as Lot No. 1 as shown on Plat for part of The
Montanye Property being last approved by Baltimore County Dept.
of Environmental Protection and Resource Management on 1/1/1990
and attached hereto and made part hereof.



Delivered by hand

[illegible]

AS WITNESS the hand and seal of the Grantor and Grantees herein.

WITNESS:

[Handwritten signatures of witnesses]

[Handwritten signature of Carlyle N. Montanye, Jr.] (SEAL)
CARLYLE N. MONTANYE, JR.

[Handwritten signature of Carlyle N. Montanye, III] (SEAL)
CARLYLE N. MONTANYE, III

[Handwritten signature of Katharine A. Montanye] (SEAL)
KATHARINE A. MONTANYE

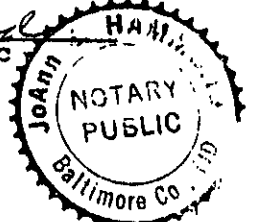
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 7 day of March, 1990, before me, the subscriber, a Notary Public of the State of Maryland, County of Baltimore, personally appeared CARLYLE N. MONTANYE, JR., and who, after being duly sworn, made oath in due form of law that the matters and facts set forth in this foregoing Deed are true and correct to the best of his knowledge, information and belief.

WITNESS my hand and Notarial Seal.

[Handwritten signature of JoAnn E. Hammond]
Notary Public

My Commission Expires July 1, 1990.



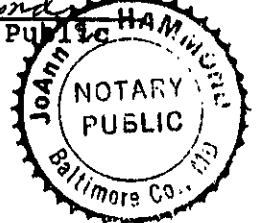
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 7th day of March, 1990, before me, the subscriber, a Notary Public of the State of Maryland, County of Baltimore, personally appeared CARLYLE N. MONTANYE, III and KATHARINE A. MONTANYE, and who, after being duly sworn, made oath in due form of law that the matters and facts set forth in this foregoing Deed are true and correct to the best of their knowledge, information and belief.

WITNESS my hand and Notarial Seal.

[Handwritten signature of JoAnn E. Hammond]
Notary Public

My Commission Expires July 1, 1990.



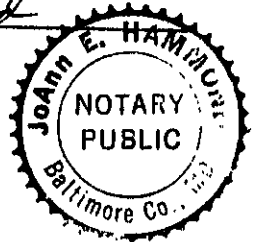
Pursuant to the provisions of Article-Tax-Property
 Section 13-203 (b) the undersigned Grantee(s) hereby make
 oath that the residence on the property described in the
 Deed to which this Affidavit is attached will be occupied
 by the Grantee(s)

Carlyle N. Montanye, III
 Carlyle N. Montanye, III

Katherine A. Montanye
 Katherine A. Montanye

Subscribed and Sworn to this 7th day of March, 1990.

JoAnn E. Hammond
 Notary Public



Floyd J. Hammond
 616 Main St
 P.O. Box 569
 Beostertown, Md 21136

THIS DEED Made this 31st day of DECEMBER, in the year one thousand nine hundred and Eighty-four by and between
 ✓ CARLYLE N. MONTANYE, JR., Personal Representative of the Estate of
 ✓ FLORENCE A. MONTANYE, Deceased, of Baltimore County in the State of Maryland, party of the first part, Grantor, and ✓ CARLYLE N. MONTANYE, JR. of Baltimore County in the State of Maryland, party of the second part, Grantee. 1014-1025

WHEREAS, Florence A. Montanye departed this life on or about June 27, 1983, being vested with title to an undivided one-half interest as tenant in common in and to the fee simple property hereinafter described, and

WHEREAS, Florence A. Montanye by her Last Will and Testament duly probated in the Orphans' Court of Baltimore County and recorded in the Office of the Register of Wills of Baltimore County in Wills Estate No. 52749 appointed Carlyle N. Montanye, Jr. as Personal Representative, and

WHEREAS, proper notice of said appointment and notice to creditors was given by publication in The Jeffersonian, a weekly newspaper published in Baltimore County which said notice expired on January 15, 1984, and no objection was filed thereto, and

WHEREAS, by ITEM III of her Last Will and Testament Florence A. Montanye devised and bequeathed all of the rest and residue of her property real and personal to the said Carlyle N. Montanye, Jr.

NOW, THEREFORE, WITNESSETH: That in consideration of the premises and for no monetary consideration, and in faithful performance of his duties as required by law, and pursuant to the Last Will and Testament of Florence A. Montanye, the Grantor does hereby grant and convey unto the Grantee, his personal representatives and assigns, forever, in fee simple, an undivided one-half interest as tenant in common in and to all those three (3) parcels of land situate, lying and being in the Fourth

B RC/F 19.0

DEED
 CARLYLE N. MONTANYE, JR.

19.0
 1986-04-01
 01/02

NOT AFFECTED
 SIGNATURE

ASSL

CLERK

TRANSFER TAX NOT REQUIRED
 Director of Finance
 BALTIMORE COUNTY, MARYLAND
 For Joseph W. Carr
 Authorized Signature
 Date 1/2/85 Sec. 11 85 H

PETITIONER'S
 EXHIBIT 3

Election District of Baltimore County in the State of Maryland and described as follows, that is to say:

(1.) BEGINNING for the first at the beginning of the land described in a deed from Elmira Dawson to Simon I. Kemp, dated September 21, 1905, and recorded among the Land Records of Baltimore County in Liber W.P.C. 292, folio 9, and running thence with and on the outline of said land as stated in said deed North 85 degrees 22 minutes 00 seconds West 1,877.00 feet to a stone, North 3 degrees 16 minutes 00 seconds East 1,119.00 feet, thence running and binding on the lands of Henry A. Duke the following three courses, viz; North 86 degrees 55 minutes 58 seconds East 812.53 feet to an iron pin set, thence North 36 degrees 54 minutes 00 seconds East 1,679.71 feet to an iron pin set, thence North 52 degrees 36 minutes 38 seconds West 750.03 feet to an iron pin set intersecting the South 36 degrees 54 minutes 00 seconds West 3,125 foot line of "Parcel B" in a deed dated September 30, 1968 and recorded in the aforesaid Land Records in Liber O.T.G. 4924, folio 439 was granted and conveyed by Carlyle N. Montanye and Florence A. Montanye, his wife, to the Baltimore Gas and Electric Company, thence binding on and running reversely with said deed, North 36 degrees 54 minutes 00 seconds East 810.29 feet to intersect the sixteenth or South 42 degrees East 561.00 foot line of that parcel of land which by deed dated January 30, 1940 was recorded in the aforesaid Land Records in Liber C.W.B. Jr. 1087, folio 558 was granted and conveyed by William F. Broening, Receiver to Carlyle N. Montanye and Florence A. Montanye, his wife, thence running with and binding on said conveyance the following courses: South 42 degrees 00 minutes 00 seconds East 420 feet more or less, North 69 degrees 02 minutes 00 seconds East 342.20 feet, South 11 degrees 23 minutes 00 seconds West 2,419.00 feet, South 8 degrees 50 minutes 00 seconds East 1,203.00 feet, North 67 degrees 23 minutes 00 seconds West 585.80 feet to the place of beginning. Containing 112 acres of land more or less.

BEING all and the same lot of ground which was conveyed to the said William F. Broening, Receiver, by Lawrence S. Kaufman, Assignee, by deed dated April 2, 1938, and recorded among the Land Records of Baltimore County in Liber C.W.B., Jr. 1026, folio 261, &c.

TOGETHER WITH the right of ingress and egress to Kemp Road across and along a twenty (20) foot fee simple strip as immediately hereinafter described, in the event Baltimore County authorities require such access for emergency purposes to any subdivision of the property hereinbefore described and owned by the Grantees herein and/or by the said Florence A. Montanye, and, further, so long as the Trustees of the Estate of Carlyle N. Montanye, Sr., deceased, and/or Florence A. Montanye, and/or Carlyle N. Montanye, Jr., or any of them own adjacent land, they shall have the right to use said twenty (20) foot fee simple strip and the farm road across this Parcel #1 to farm crops and graze livestock, the cost of any improvement or maintenance so required by Baltimore County and/or needed by the Grantees prior to the expiration of their easement shall be borne by the Grantees, the Trustees under the Last Will and Testament of Carlyle N. Montanye and/or Carlyle N. Montanye, Jr. Said twenty (20) foot fee simple strip being described as follows:

BEGINNING for the same at a point 575.94 feet from the beginning of the third line of Parcel B described in a conveyance from Carlyle N. Montanye and Florence A. Montanye, his wife, to the Baltimore Gas and Electric Company and recorded among the Land

Records of Baltimore County in Liber 4924, folio 438, said point being in or near the center line of an existing 12 foot wide stone or gravel road and running by center line and existing 10 feet on either side thereof the following four (4) courses: (1) south 69 degrees 16 minutes 35 seconds east 127.38 feet to a point, thence (2) north 75 degrees 15 minutes 06 seconds east 236.67 feet to a point, thence (3) south 11 degrees 44 minutes 00 seconds east 313.84 feet to a point, thence (4) south 1 degree 31 minutes 56 seconds east 250.08 feet to a point being south 77 degrees 48 minutes 00 seconds west, 293.59 feet from an existing stone found at the end of the lands of Carlyle N. Montanye and Florence A. Montanye which by deed dated January 30, 1940 was recorded among the Baltimore County Land Records in Liber C.W.B., Jr. No. 1087, folio 558.

AND TOGETHER WITH the right to cross the parcels of land described in a Deed dated September 30, 1968 from Carlyle N. Montanye, Sr. and Florence A. Montanye, his wife, to Baltimore Gas and Electric Company recorded among the Land Records of Baltimore County in Liber 4924, page 438, etc., and the right to extend roads and public utility facilities across said parcels of land anywhere except within fifty (50) feet of any structure of said Baltimore Gas and Electric Company; and if such roads or facilities interfere with the use of said parcels of land by the Baltimore Gas and Electric Company, the said Baltimore Gas and Electric Company will relocate them; and the right to farm and use the same in any other manner as long as such other use, in the sole judgment of the Baltimore Gas and Electric Company, its successors and assigns, will not interfere with the construction, operation and maintenance of said Baltimore Gas and Electric Company's existing or future facilities, but there shall not be erected any buildings or structures thereon by the Grantees herein; and any crops which may be damaged on land adjacent to said parcels of land because of such construction, operation and maintenance shall be paid for at prevailing market prices by the said Baltimore Gas and Electric Company.

②. A parcel of land containing 3.25 acres of land more or less and being the same lot or parcel which by deed dated December 23, 1944 and recorded among the Land Records of Baltimore County in Liber R.J.S. 1372, folio 454 was granted and conveyed by Henry A. Schaefer and Bertha L. Schaefer, his wife, to Carlyle N. Montanye and Florence A. Montanye, his wife.

③. All that fifth parcel of land containing 51.88 acres of land more or less and being that same lot or parcel which by deed dated July 26, 1949 and recorded among the Land Records of Baltimore County in Liber T.B.S. 1779, folio 581 was granted and conveyed by Carlyle N. Montanye and Florence A. Montanye, his wife, unto E. Paul Mason, Jr.

CONTAINING in all 167.13 acres of land more or less.

BEING part of the land which by Deed dated July 26, 1949, and recorded among the Land Records of Baltimore County in Liber 1779, folio 588 an undivided one-half interest in which was granted and conveyed by E. Paul Mason, Jr. unto each of Carlyle N. Montanye and Florence A. Montanye as tenants in common, his or her heirs and assigns.

SEE ALSO deed from Carlyle N. Montanye and Florence A. Montanye to said E. Paul Mason, Jr., dated July 26, 1949 and recorded among said Land Records in Liber 1779, folio 581 &c.

TOGETHER with the buildings and improvements thereon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereunto appertaining or in any wise belonging.

TO HAVE AND TO HOLD the above described parcels of land and premises unto and to the proper use and benefit of the said Grantee, his personal representatives and assigns, forever, in fee simple.

WITNESS the hand and seal of the Grantor.

WITNESS:

John E. Mason
Carlyle N. Montanye, Jr. (SEAL)
Personal Representative

STATE OF MARYLAND }
COUNTY OF BALTIMORE }

I HEREBY CERTIFY that on this 31st day of December, 1984, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared CARLYLE N. MONTANYE, JR., Personal Representative of the Estate of Florence A. Montanye, Deceased, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

John E. Mason
Notary Public

My Commission Expires: 7/1/85

Notary Seal
JAN 2 1985
Per Elmer H. Kahline, Jr. - Clerk
Mail to Cable, MacDaniel, Bowie + Bor.
Receipt No. 19.00



GLYNDON

COMMUNITY ASSOCIATION, INC.

GLYNDON, MARYLAND 21

copy

4 October 1994

RE: Montanye Property

According to the Minutes from the 19 September 1994 General membership meeting of the Glyndon Community Association, Carlyle Montanye presented a site plan of the property that proposes six home sites. A discussion was held and a motion was carried to support Mr. Montanye's plan as submitted to the membership that evening.

Respectfully submitted,

Mary Brooks Profaci
Secretary

Ret No
4A

MICROFILMED

The Emory Grove Association of Baltimore, Inc.

FOUNDED IN 1868

GLYNDON, MARYLAND 21071

copy

September 19, 1994

Carlyle N. Montanye, Jr.
4500 Prospect Avenue,
Glyndon, Maryland

Dear Mr. Montanye,

Thank you for your presentation at our Board of Directors meeting September 15th.

I am pleased to tell you that the Board unanimously approved a resolution to support, as outlined for us, your residential project which as we understand it entails the construction of six or fewer houses on your property and the inclusion of the remaining acres in the Maryland Environmental Trust.

The Board was equally unanimous in expressing its disapproval of the use of the land for a sportsmen/gun club headquarters.

We greatly appreciate your consideration in informing us of the possibility of development of your land.

Sincerely,

Robert J. Jones
Robert J. Jones
President

Ret 4B

WILSON

September 16, 1994

Dear Mr. Montanye,

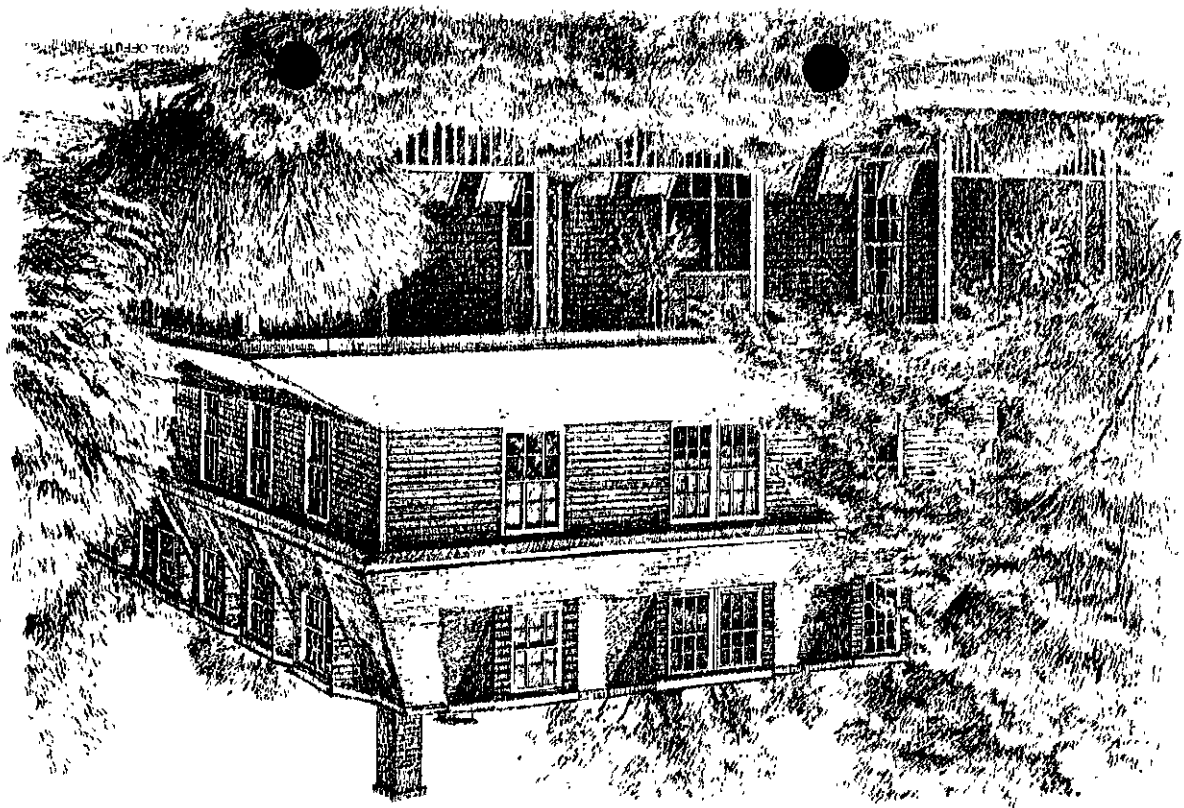
Please accept our warmest
thanks for your gracious presentation
of your projected plans for your
land. We appreciate your concern for
us and we will support you in
any way possible. We look forward
to our "neighborly" association for years
ahead!

Sincerely,
Dorothy Taylor

Secretary of The Emory Gile Association

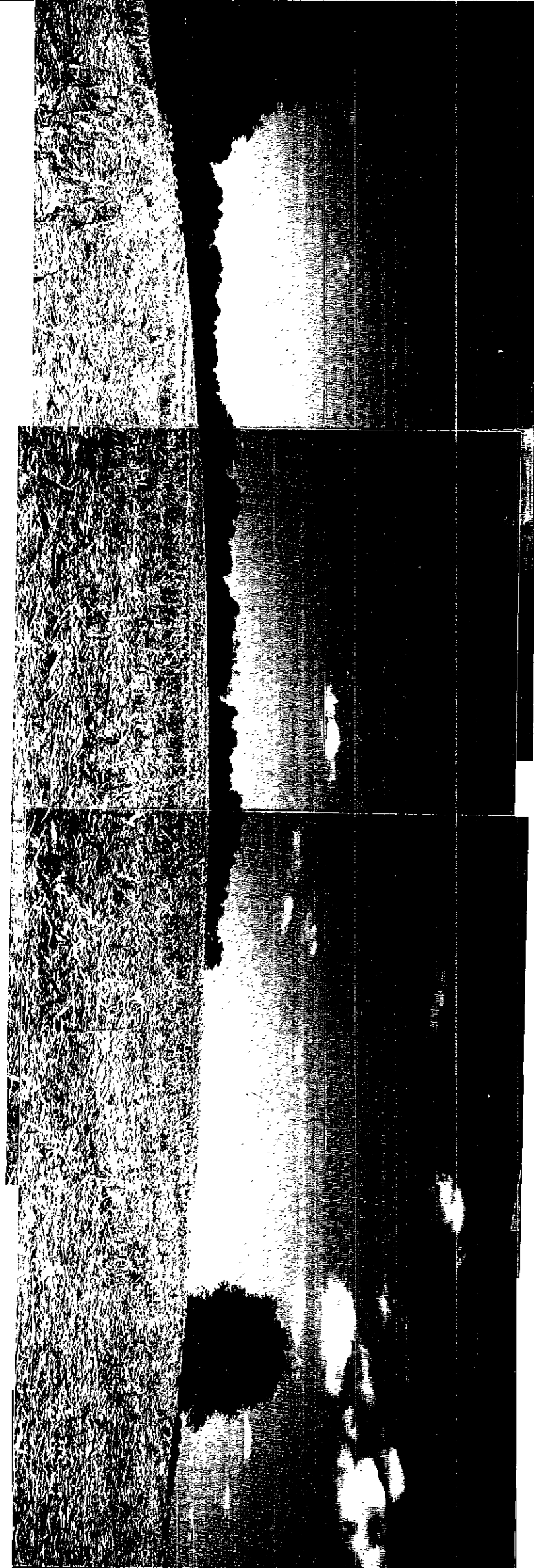
MICROFILMED

Ref No 4C



ORIGINAL PEN & INK DRAWING BY CAROL OFFUTT
EMORY GROVE HOTEL • GLYNDON, MARYLAND

photographs
96-80-5PH

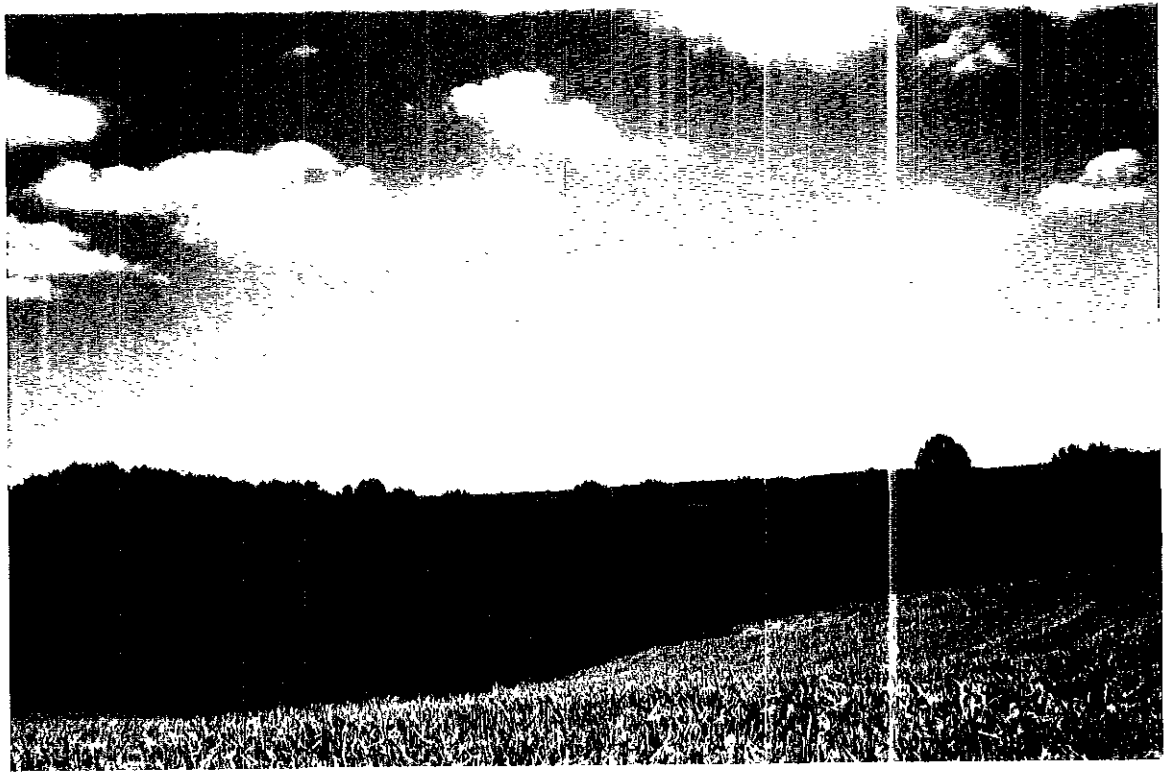






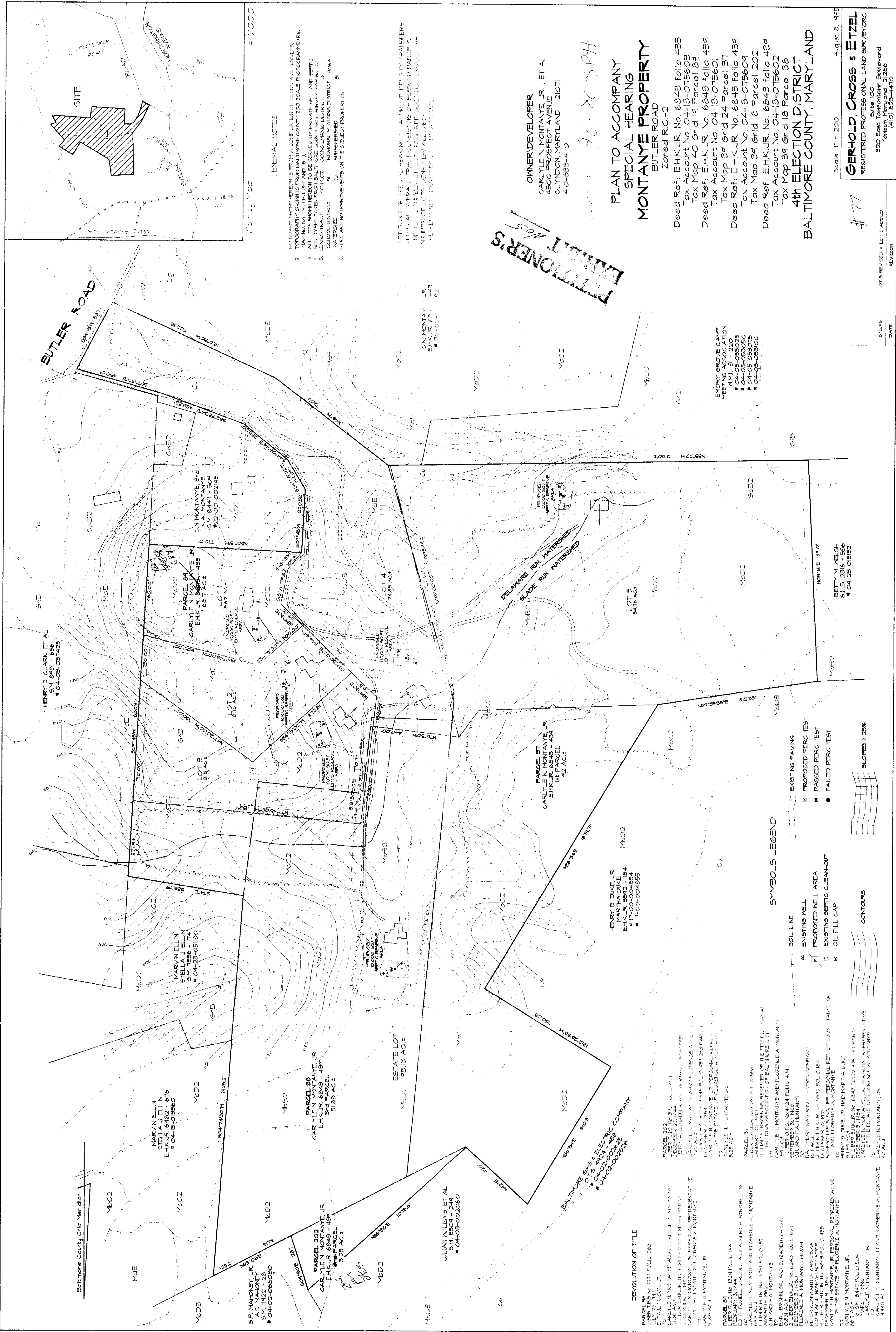












Scale: 1" = 200'

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Tonsontown Boulevard
Tonsom, Maryland 21286
(410) 835-4470

LOT 3 REVISED & LOT 5 ADDED

REVISION

66 #

DATE 8/5/05

—

04-23-01512
04-23-01512
G.L.B. 2316 - 590
BETTY M. MELSH

SLOPES > 25%



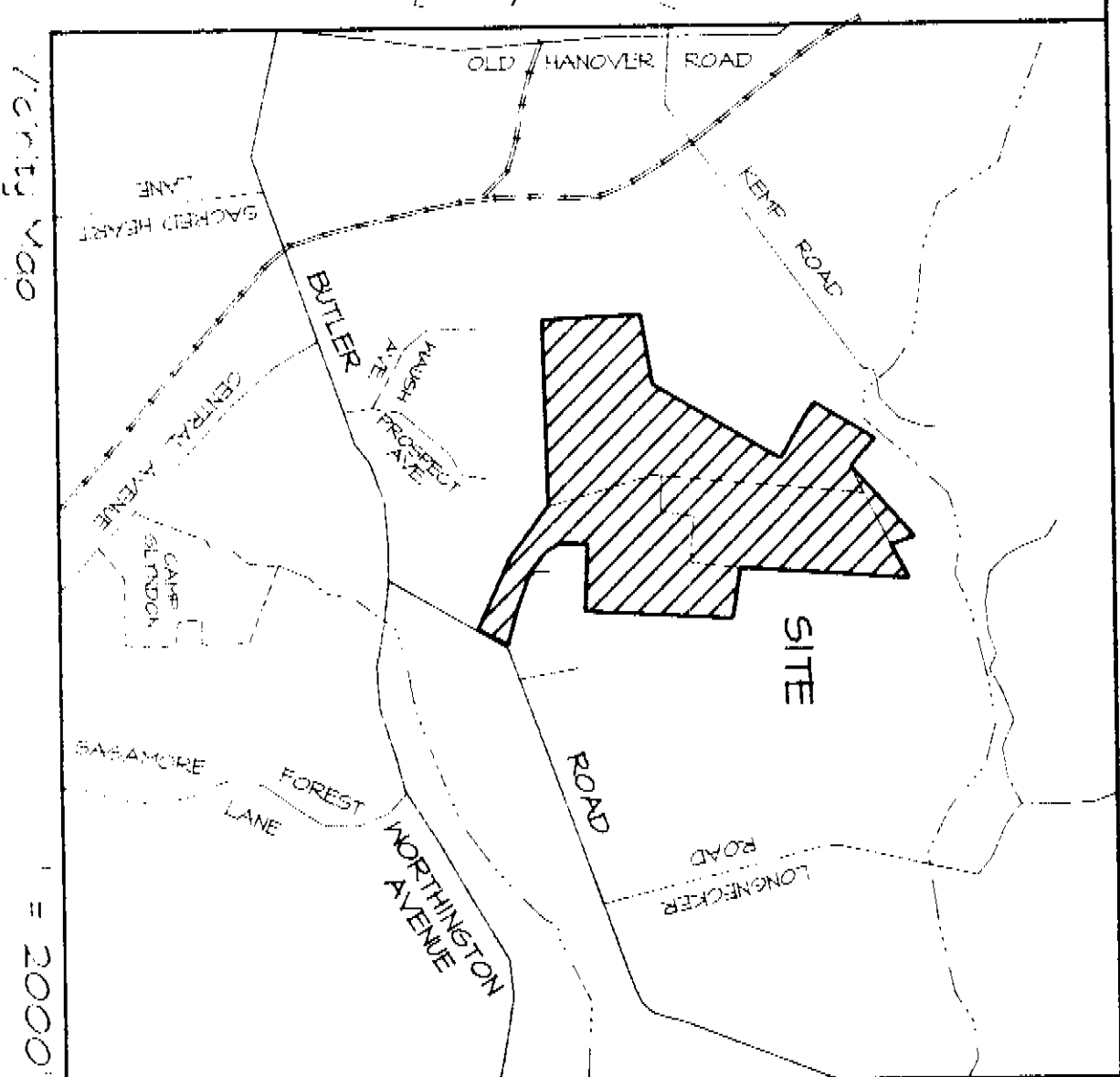
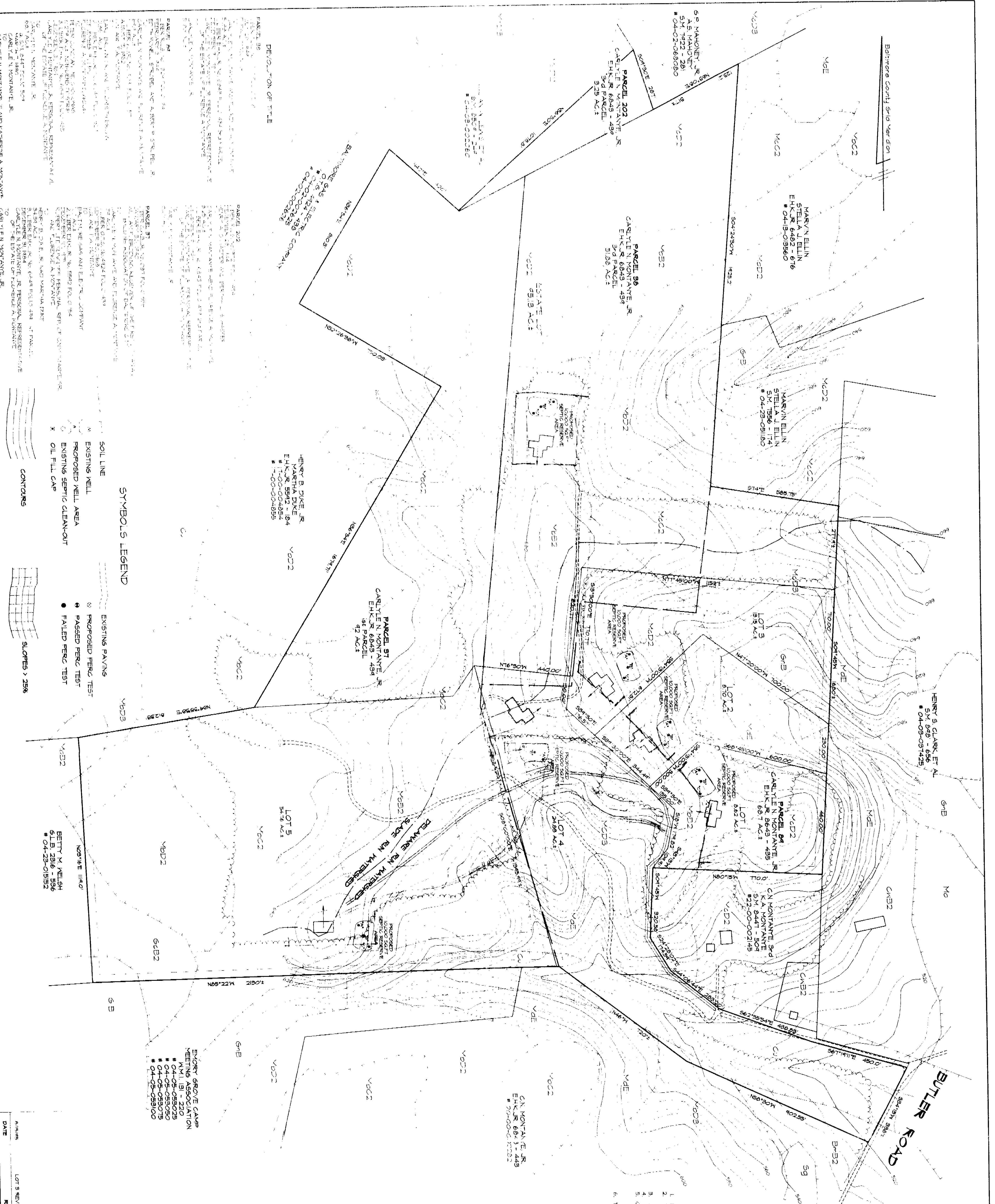
CONTOURS

OIL FILL CAP

R. No. 6643 FOLIO 484 1ST PARCEL
 484
 MONTANE, JR. PERSONAL REPRESENTATIVE
 ESTATE OF FLORENCE A. MONTANE
 MONTANE, JR.

R. PERSONAL REPRESENTATIVE
FLORENCE A. MONTANTE
TO AND FLORENCE
HENRY B. DUKE,
3439 AG.1
R.
LIBER E.H.K.J.
DECEMBER 3, 19
CARSTEN N. MONT
OF THE ESTATE
TO
CARSTEN N. MONT
42 AG.1

CARLYLE N. MONTANE,
OF THE ESTATE OF
TO CARLYLE N. MONTANE, JR.
687 AG.†
9.5M.8447 EOLLO 58
MARCH 1, 1940
CARLYLE N. MONTANE
TO
CARLYLE N. MONTANE
9,949 AG.†



GENERAL NOTES

1. BACKGROUND CHECK: IS FROM A COMPELLING OF DEEDS AND SURVEYS
2. PROPOSED TRACT IS FROM BATHURST COUNTY SOC SEAS PHOTOGRAPHIC
3. MAP NO. W-1, T-1, R-1 AND D-3
4. ALL LOTS W/IN TRACT TO BE SERVED BY PRIVATE WELL AND SEPTIC.
5. SOUTHERN POWER FROM BATHURST COUNTY TRACT # 300A
6. BATHURST COUNTY TRACT # 300A
7. REGIONAL PLANNING DISTRICT
8. BATHURST COUNTY TRACT # 300A
9. BATHURST COUNTY TRACT # 300A
10. BATHURST COUNTY TRACT # 300A
11. BATHURST COUNTY TRACT # 300A
12. BATHURST COUNTY TRACT # 300A
13. BATHURST COUNTY TRACT # 300A
14. BATHURST COUNTY TRACT # 300A
15. BATHURST COUNTY TRACT # 300A
16. BATHURST COUNTY TRACT # 300A
17. BATHURST COUNTY TRACT # 300A
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24. BATHURST COUNTY TRACT # 300A
25. BATHURST COUNTY TRACT # 300A
26. BATHURST COUNTY TRACT # 300A
27. BATHURST COUNTY TRACT # 300A
28. BATHURST COUNTY TRACT # 300A
29. BATHURST COUNTY TRACT # 300A
30. BATHURST COUNTY TRACT # 300A
31. BATHURST COUNTY TRACT # 300A
32. BATHURST COUNTY TRACT # 300A
33. BATHURST COUNTY TRACT # 300A
34. BATHURST COUNTY TRACT # 300A
35. BATHURST COUNTY TRACT # 300A
36. BATHURST COUNTY TRACT # 300A
37. BATHURST COUNTY TRACT # 300A
38. BATHURST COUNTY TRACT # 300A
39. BATHURST COUNTY TRACT # 300A
40. BATHURST COUNTY TRACT # 300A
41. BATHURST COUNTY TRACT # 300A
42. BATHURST COUNTY TRACT # 300A
43. BATHURST COUNTY TRACT # 300A
44. BATHURST COUNTY TRACT # 300A
45. BATHURST COUNTY TRACT # 300A
46. BATHURST COUNTY TRACT # 300A
47. BATHURST COUNTY TRACT # 300A
48. BATHURST COUNTY TRACT # 300A
49. BATHURST COUNTY TRACT # 300A
50. BATHURST COUNTY TRACT # 300A
51. BATHURST COUNTY TRACT # 300A
52. BATHURST COUNTY TRACT # 300A
53. BATHURST COUNTY TRACT # 300A
54. BATHURST COUNTY TRACT # 300A
55. BATHURST COUNTY TRACT # 300A
56. BATHURST COUNTY TRACT # 300A
57. BATHURST COUNTY TRACT # 300A
58. BATHURST COUNTY TRACT # 300A
59. BATHURST COUNTY TRACT # 300A
60. BATHURST COUNTY TRACT # 300A
61. BATHURST COUNTY TRACT # 300A
62. BATHURST COUNTY TRACT # 300A
63. BATHURST COUNTY TRACT # 300A
64. BATHURST COUNTY TRACT # 300A
65. BATHURST COUNTY TRACT # 300A
66. BATHURST COUNTY TRACT # 300A
67. BATHURST COUNTY TRACT # 300A
68. BATHURST COUNTY TRACT # 300A
69. BATHURST COUNTY TRACT # 300A
70. BATHURST COUNTY TRACT # 300A
71. BATHURST COUNTY TRACT # 300A
72. BATHURST COUNTY TRACT # 300A
73. BATHURST COUNTY TRACT # 300A
74. BATHURST COUNTY TRACT # 300A
75. BATHURST COUNTY TRACT # 300A
76. BATHURST COUNTY TRACT # 300A
77. BATHURST COUNTY TRACT # 300A
78. BATHURST COUNTY TRACT # 300A
79. BATHURST COUNTY TRACT # 300A
80. BATHURST COUNTY TRACT # 300A
81. BATHURST COUNTY TRACT # 300A
82. BATHURST COUNTY TRACT # 300A
83. BATHURST COUNTY TRACT # 300A
84. BATHURST COUNTY TRACT # 300A
85. BATHURST COUNTY TRACT # 300A
86. BATHURST COUNTY TRACT # 300A
87. BATHURST COUNTY TRACT # 300A
88. BATHURST COUNTY TRACT # 300A
89. BATHURST COUNTY TRACT # 300A
90. BATHURST COUNTY TRACT # 300A
91. BATHURST COUNTY TRACT # 300A
92. BATHURST COUNTY TRACT # 300A
93. BATHURST COUNTY TRACT # 300A
94. BATHURST COUNTY TRACT # 300A
95. BATHURST COUNTY TRACT # 300A
96. BATHURST COUNTY TRACT # 300A
97. BATHURST COUNTY TRACT # 300A
98. BATHURST COUNTY TRACT # 300A
99. BATHURST COUNTY TRACT # 300A
100. BATHURST COUNTY TRACT # 300A

PETITION FOR SPECIAL HEARINGS TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS. THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED. THE REMAINING DENSITIES WILL BE ASSIGNED

OWNER/DEVELOPER

CARLYLE N. MONTANE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDON, MARYLAND 21071
410-833-4110

PLAN TO ACCOMPANY SPECIAL HEARING MONTANE PROPERTY

BUICK ROAD
Zoned R.C.-2

RECEIVED

Deed Ref.: E.T.V. 7 R. N. 6843 folio 435
Oct 5

Tax Map 40 Grid 19 Parcel

Deed Ref.: U.T.V. 72. No. 6843
Tax Account No. 04-13-07

Tax Map 39 Grid 24 Parcels 1-10

Tax Account No. 04-13-07

Tax Map 39 Grid 18 Parc.

Deed Ref: M.H.V. No. 2070
Tax Account No. 04-3-07

Tax Map 39 Grid 18 Parcels

4TH ELECTION DAY TIME OF THE COUNTY

[illegible]

Scale: 1" = 200'

GRITOLD, CRO

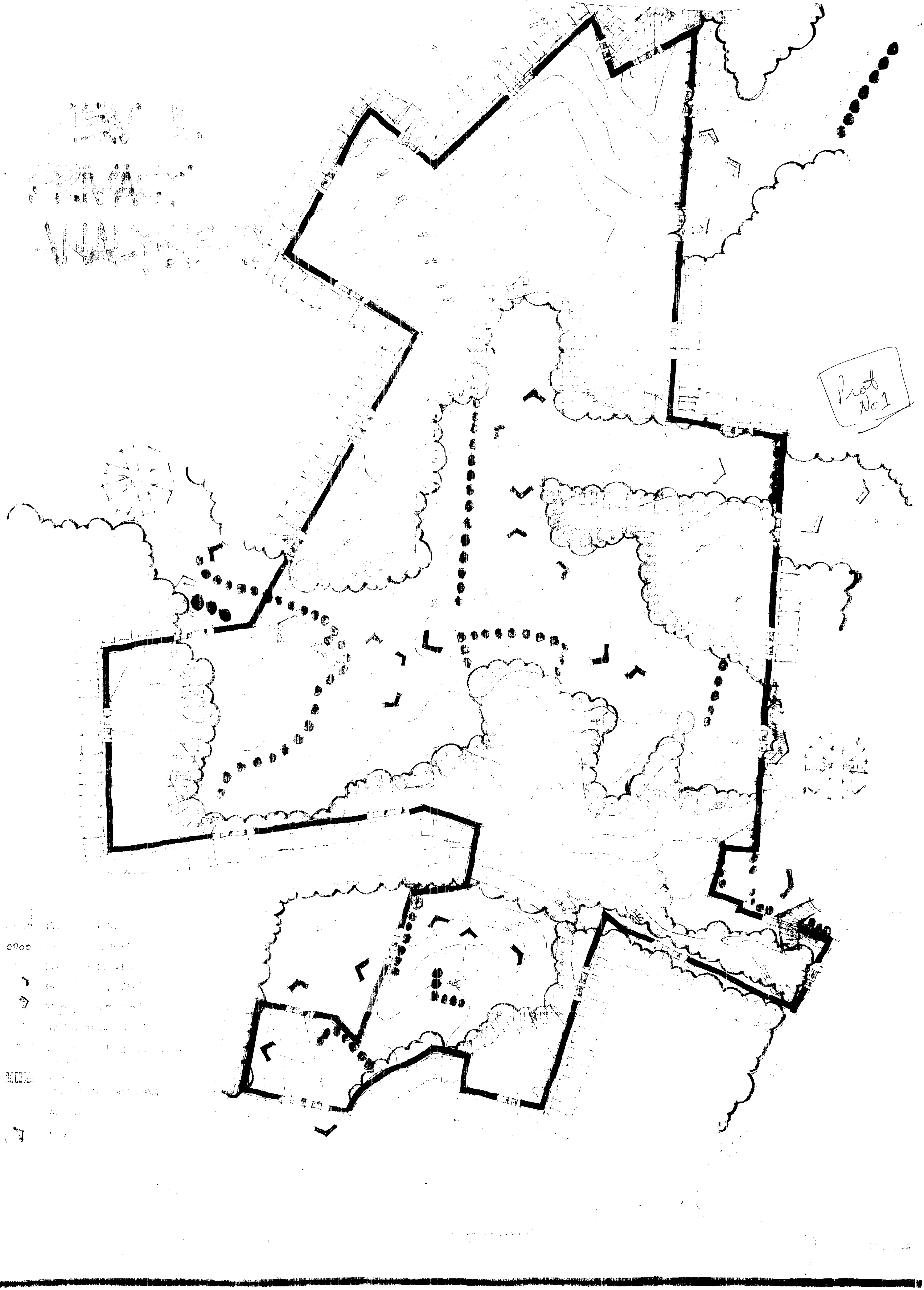
REGISTERED PROFESSION

320 East Tomsontown
Tomsen, Maryland

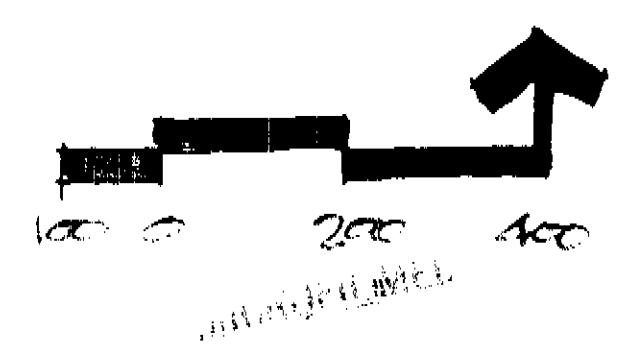
	(410) 623-44
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VIEW &
 PRIVATE
 ANALYSIS

Plot
 No 1



THE CARLYLE MONTANYE PROPERTY



KIDDE CONSULTANTS, INC.

MAY 1989

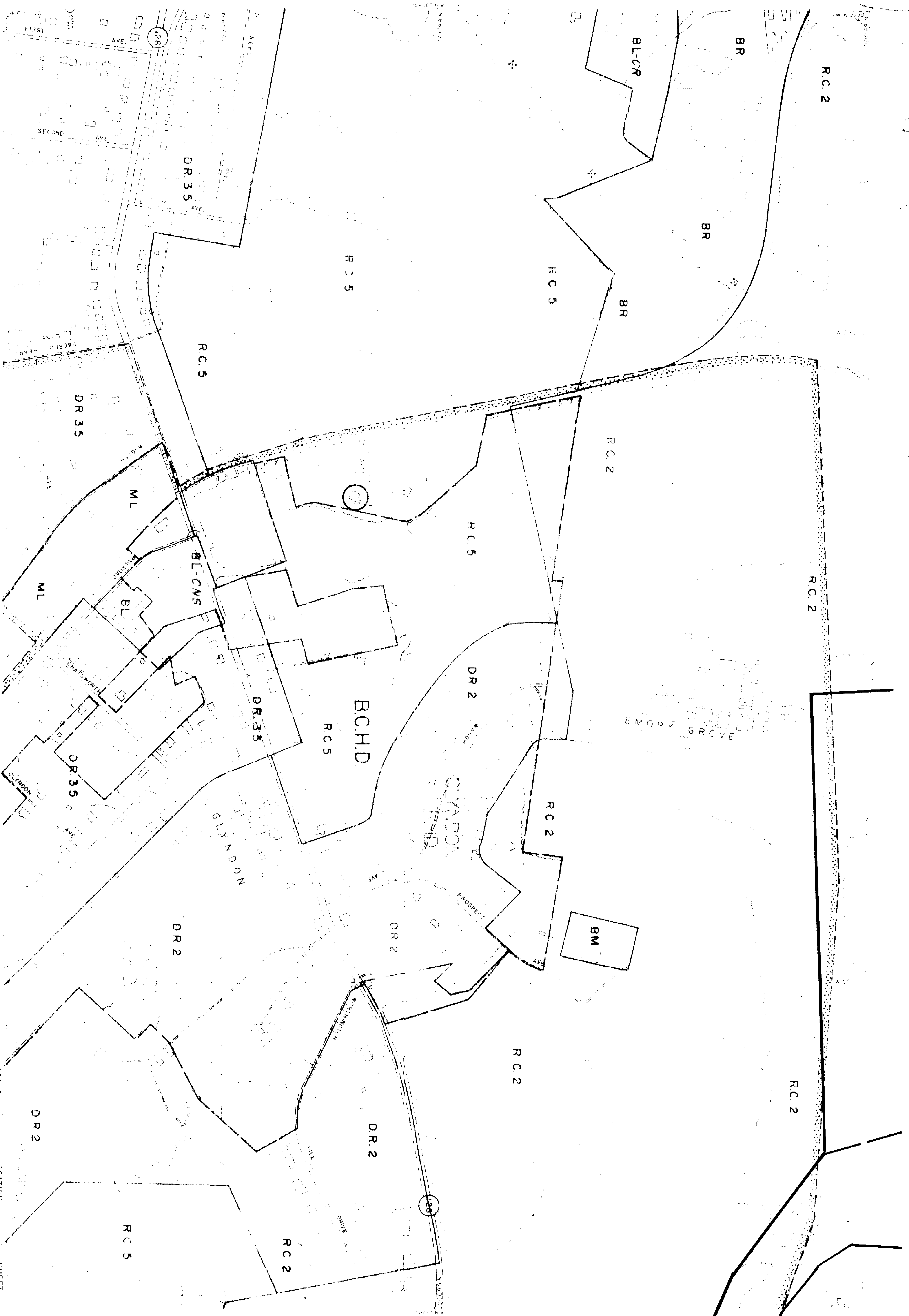
1036 CRIVELLO BRIDGE RD., BALTIMORE, MD 21204

01873711

[illegible]

William A. Howard Jr
Chairman, County Council

SHEE
N W
18-1



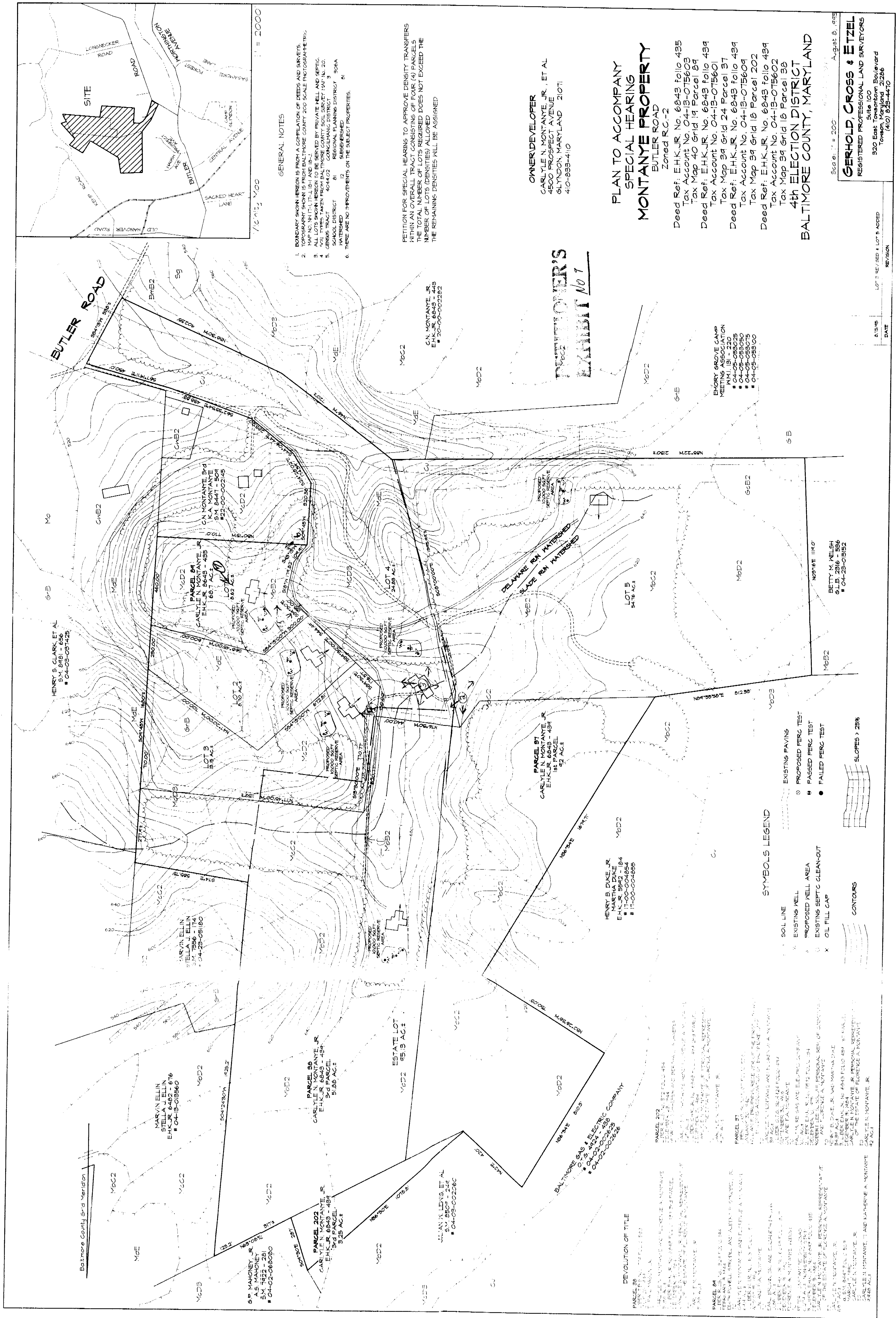
THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHHEIT-HORN, INC. BALTIMORE, MD 21219

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

Adopted by the Baltimore County Council
Date: 11/1/72
JANUARY 1973

DATE OF PHOTOGRAPHY	LOCATION	SHEET
JANUARY 1986	GLYNDON REISTERSTOWN AREA	NW 17-3

96-80-SRH#77

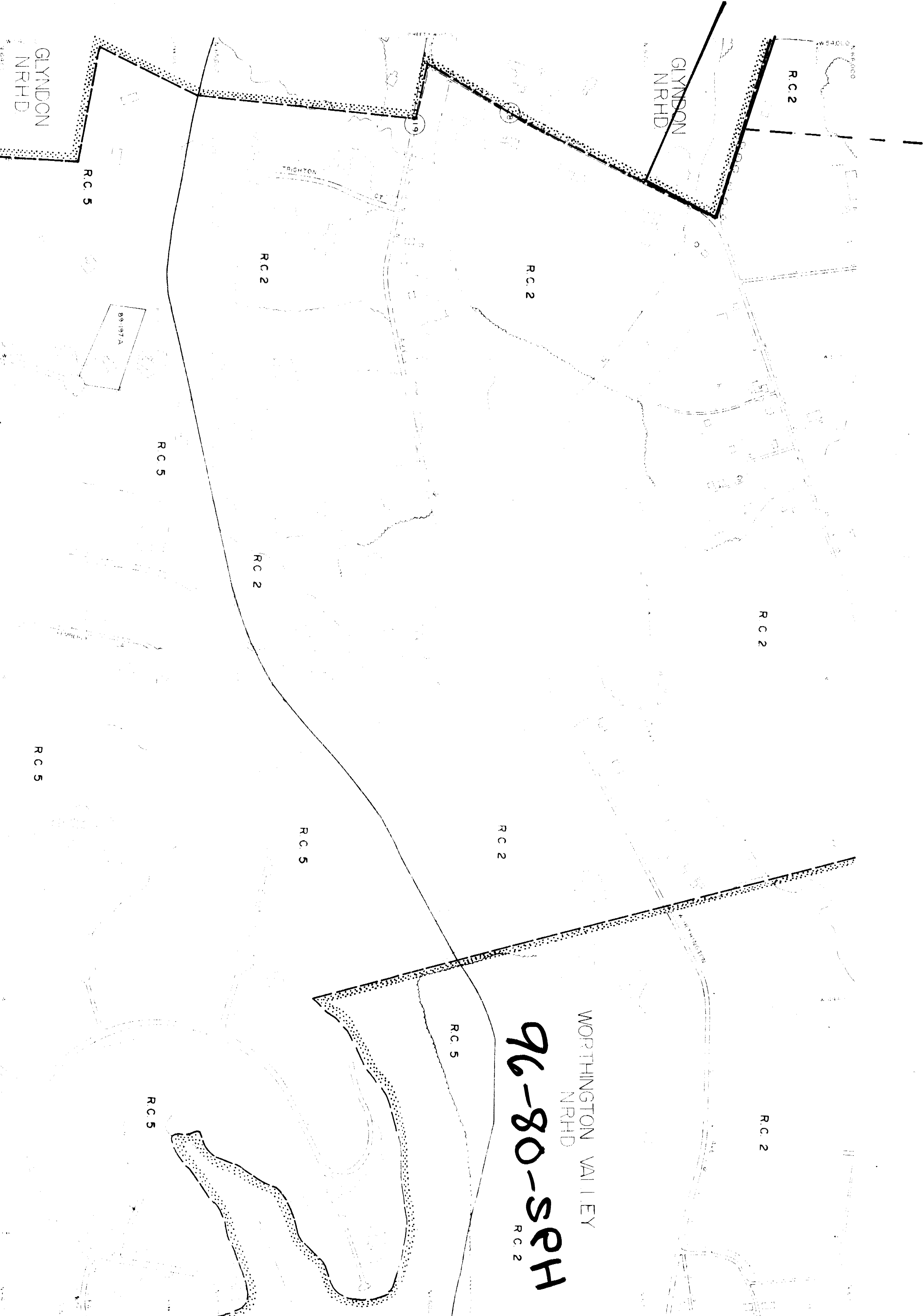


Scale: 1" = 200'

August 8, 1995

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsend Boulevard
Tomball, Texas 77366
(410) 835-4470



WORTHINGTON VALLEY
NRHD
96-80-SRH
RC 2

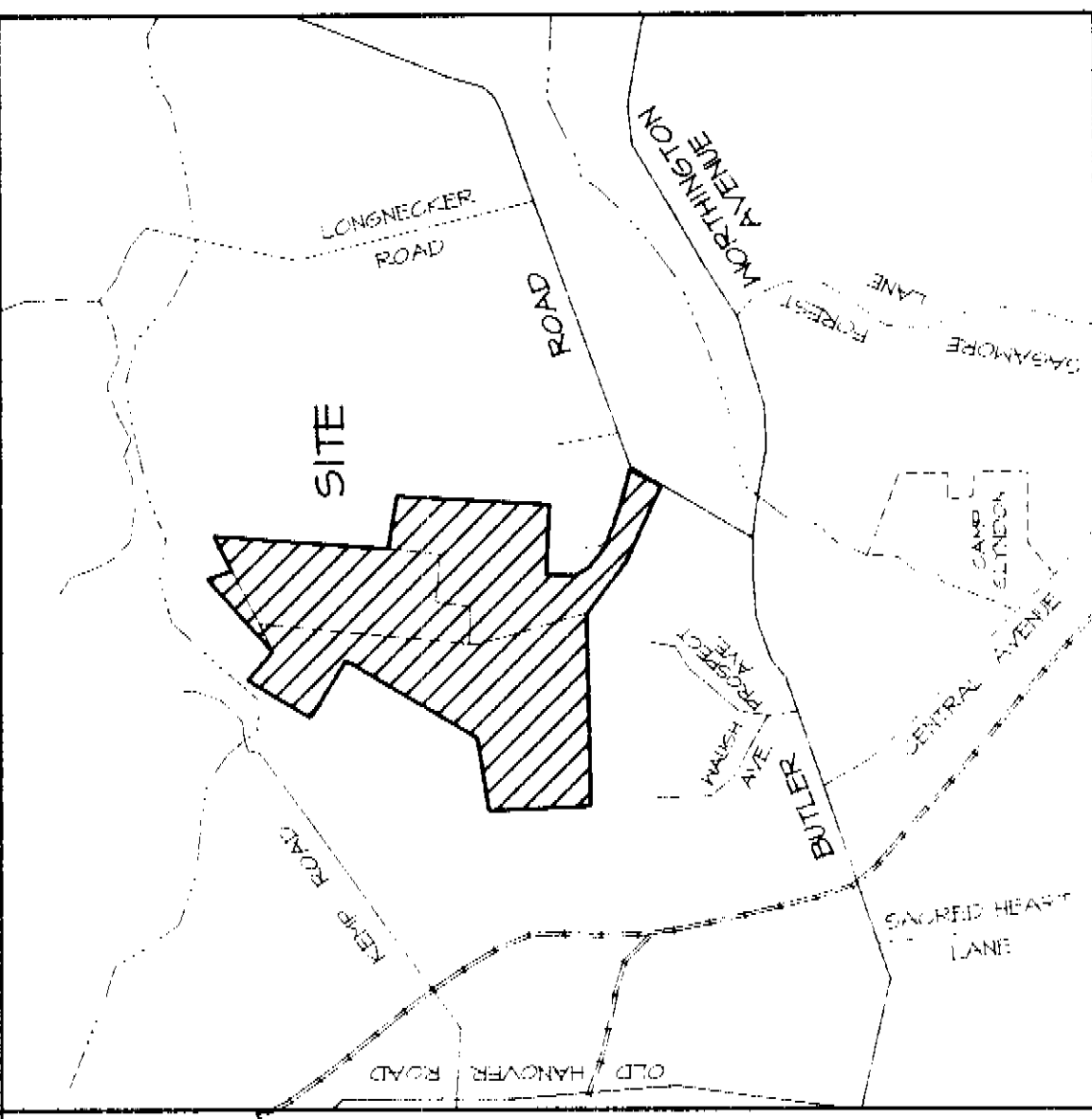
THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOOGRAPHY COMPILED BY PHOTOGRAMMETRIC
BY BUCHART HORN INC. BALTIMORE, MD 21210

[Signature]
BALTIMORE COUNTY

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
on 12/15/92

SCALE	LOCATION	SHEET
1" = 100'	WORTHINGTON	17-1
DATE OF PHOTOGRAPHY		
JANUARY 1996	# 77	



GENERAL NOTES

1. BOUNDARY SHOWN HEREON IS FROM A COMPILATION OF RECORDS AND SURVEYS.
2. TOPOGRAPHY SHOWN IS FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAPHIC SURVEY.
3. ALL LOTS, TRACTS AND PARCELS SHOWN WERE SURVEYED BY PRIVATE WELL AND SEPTIC.
4. ALL LOTS, TRACTS AND PARCELS SHOWN WERE SURVEYED BY PRIVATE WELL AND SEPTIC.
5. SOIL TYPES TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 20.
6. THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

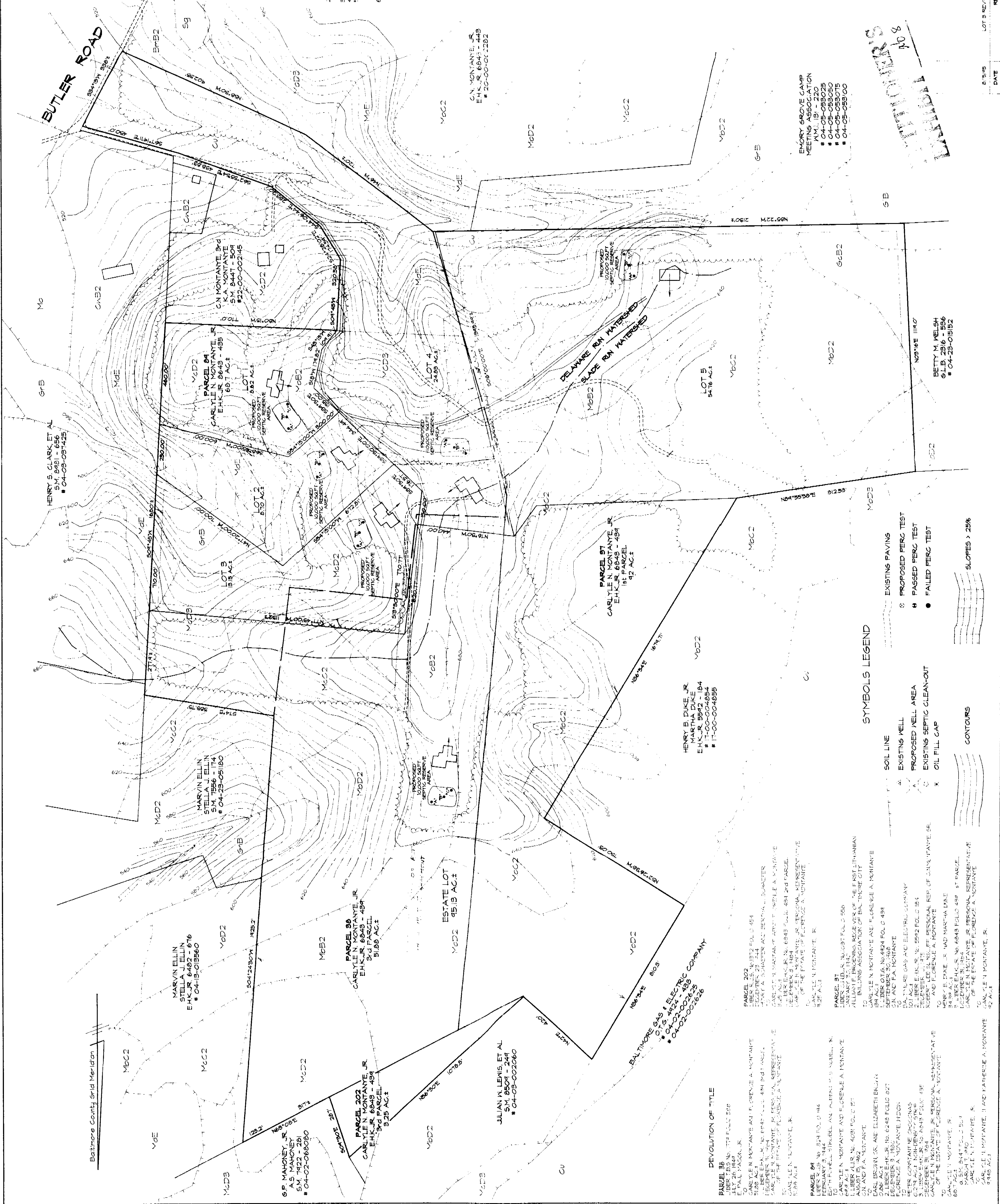
PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS. THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED.

OWNER/DEVELOPER
CARLYLE N. MONTANE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDEN, MARYLAND 21071
410-833-4110

PLAN TO ACCOMPANY
SPECIAL HEARING
MONTANE PROPERTY
BUTLER ROAD
Zoned R.C.-2

Deed Ref: E.H.K.JR. No. 6843 folio 435
Tax Account No. 04-13-075603
Tax Map 40 Grid 19 Parcel 89
Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075601
Tax Map 39 Grid 24 Parcel 37
Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075604
Tax Map 39 Grid 18 Parcel 202
Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075602
Tax Map 39 Grid 18 Parcel 36
4th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 200'
August 8, 1998
GERHOLD, Cross & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
320 East Towson Boulevard
Towson, Maryland 21286
(410) 533-4470



EMORY GROVE CAMP
MEETING ASSOCIATION
15000 EMBURY DRIVE
04-05-053025
04-05-053030
04-05-053075
04-05-053000

RECEIVED
JULY 10 1998
BALTIMORE COUNTY

SYMBOLS LEGEND

- SOIL LINE
- EXISTING WELL
- PROPOSED WELL AREA
- EXISTING SEPTIC CLEAN-OUT
- OIL FILL CAP
- EXISTING PAVING
- PROPOSED PERC TEST
- PASSED PERC TEST
- FAILED PERC TEST
- CONTOURS
- SLOPES 1:25%

REVISION OF TITLE

PARCEL 36
JULIAN N. LEWIS ET AL
SM. 9504 - 249
04-05-002060

PARCEL 39
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075603

PARCEL 37
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 38
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075604

PARCEL 35
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075602

PARCEL 34
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 33
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 32
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 31
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 30
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 29
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 28
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 27
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 26
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 25
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 24
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 23
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 22
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 21
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 20
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 19
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 18
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 17
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 16
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 15
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 14
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 13
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 12
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 11
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 10
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 9
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 8
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 7
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 6
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

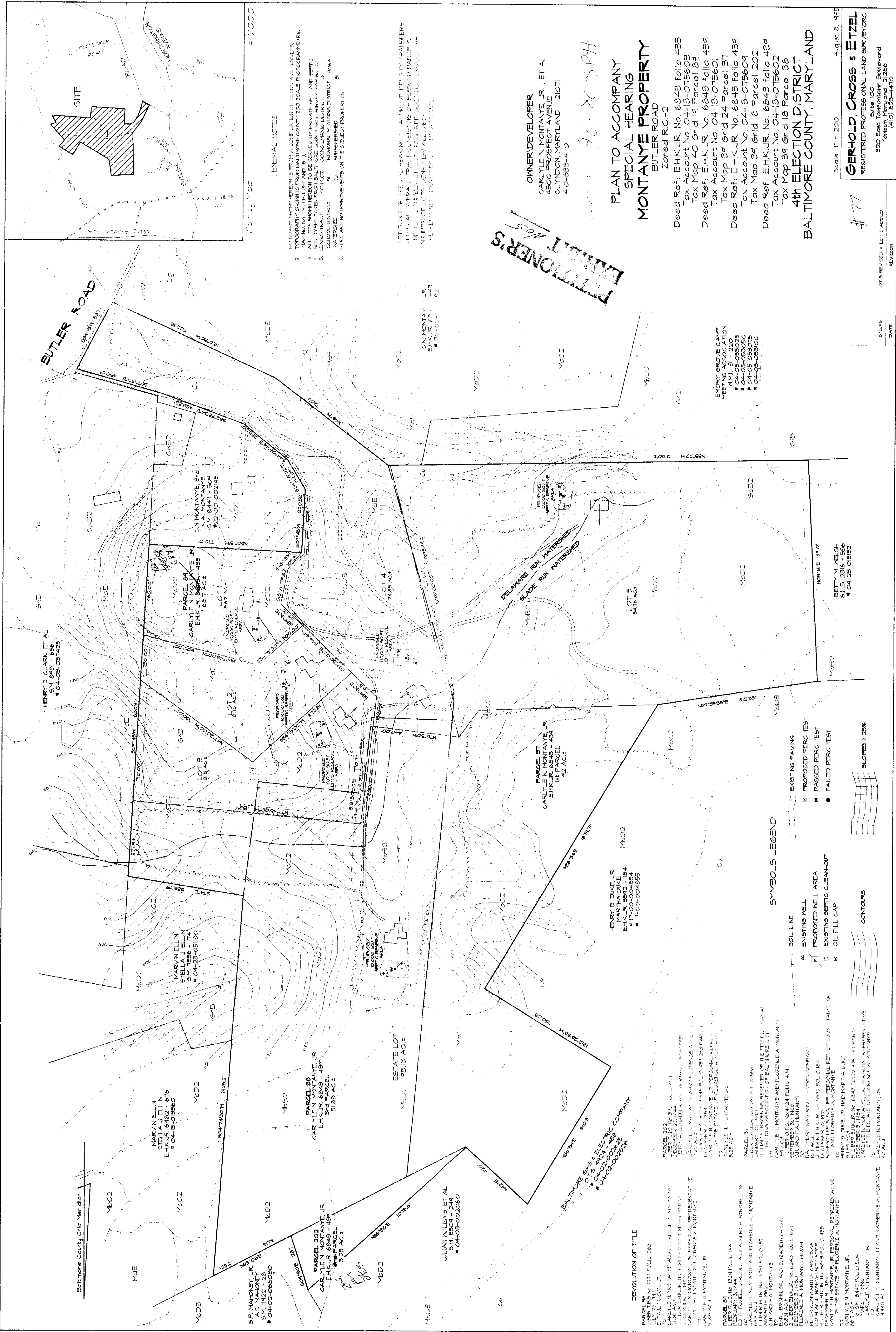
PARCEL 5
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 4
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 3
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 2
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601

PARCEL 1
CARLYLE N. MONTANE, JR.
E.H.K.JR. 6843 - 439
04-13-075601



Scale: 1" = 200'

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Tonsontown Boulevard
Tonsom, Maryland 21286
(410) 835-4470

LOT 3 REVISED & LOT 5 ADDED

REVISION

66 #

DATE 8/5/05

—

04-23-01512
04-23-01512
G.L.B. 2316 - 590
BETTY M. MELSH

SLOPES > 25%



CONTOURS

OIL FILL CAP

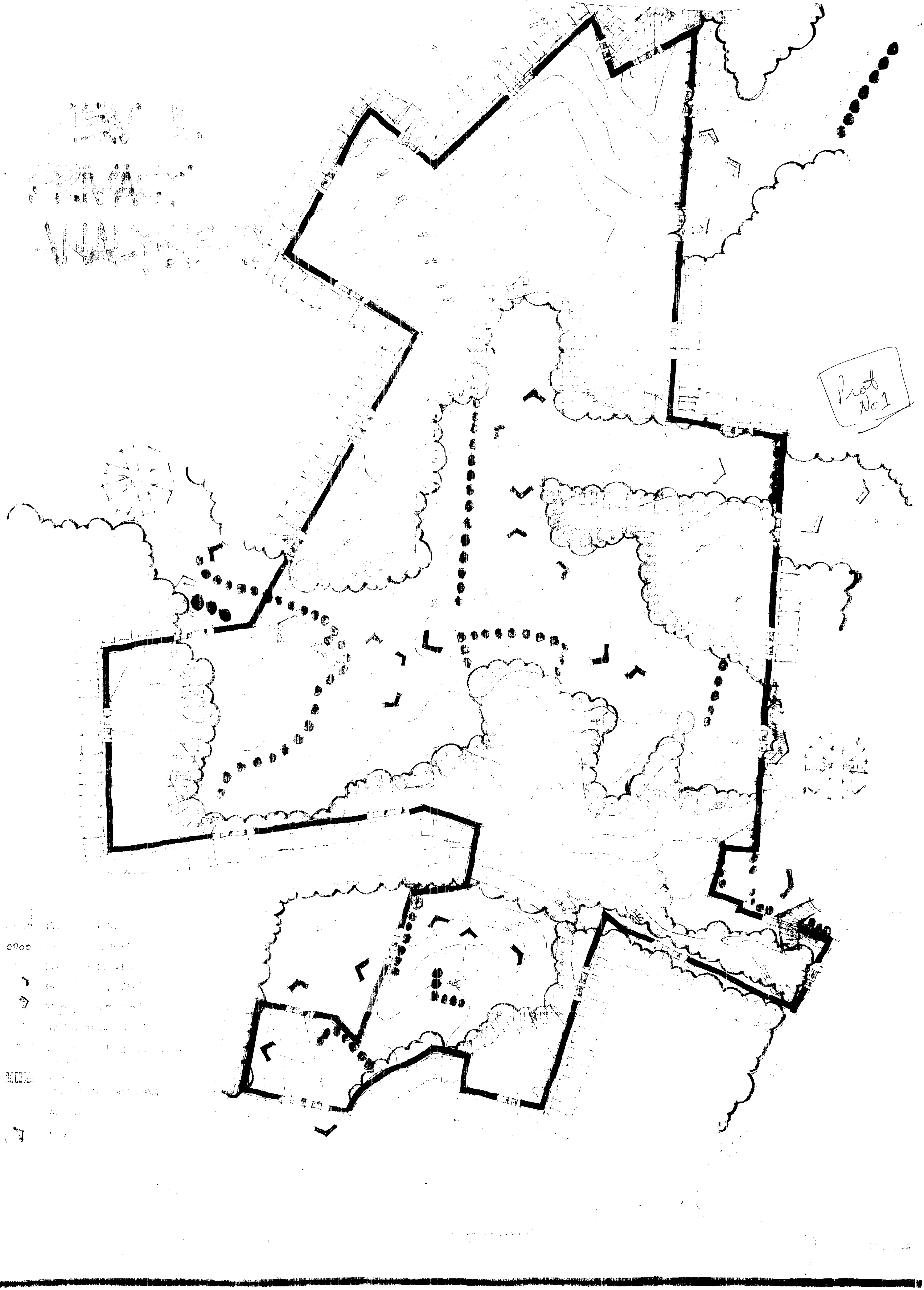
R. No. 6643 FOLIO 484 1ST PARCEL
 104
 MONTANE, JR. PERSONAL REPRESENTATIVE
 ESTATE OF FLORENCE A. MONTANE
 MONTANE, JR.

R. PERSONAL REPRESENTATIVE
FLORENCE A. MONTANTE
TO AND FLORENCE
HENRY B. DUKE,
3439 AG.1
R.
LIBER E.H.K.J.
DECEMBER 3, 19
CARSTEN N. MONT
OF THE ESTATE
TO
CARSTEN N. MONT
42 AG.1

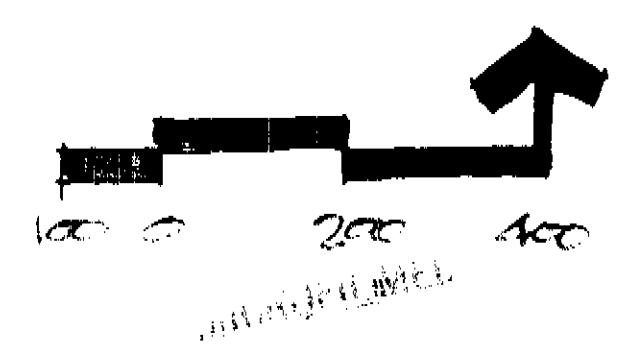
CARLYLE N. MONTAGNE,
OF THE ESTATE OF FIDELITY,
TO
CARLYLE N. MONTAGNE, JR.
66.7 AC.±
B447 EOLLO B.
MARCH 1940
TO
CARLYLE N. MONTAGNE,
TO
CARLYLE N. MONTAGNE,
9949 AC.±

VIEW &
 PRIVATE
 ANALYSIS

Plot
 No 1



THE CARLYLE MONTANYE PROPERTY



KIDDE CONSULTANTS, INC.

MAY 1989

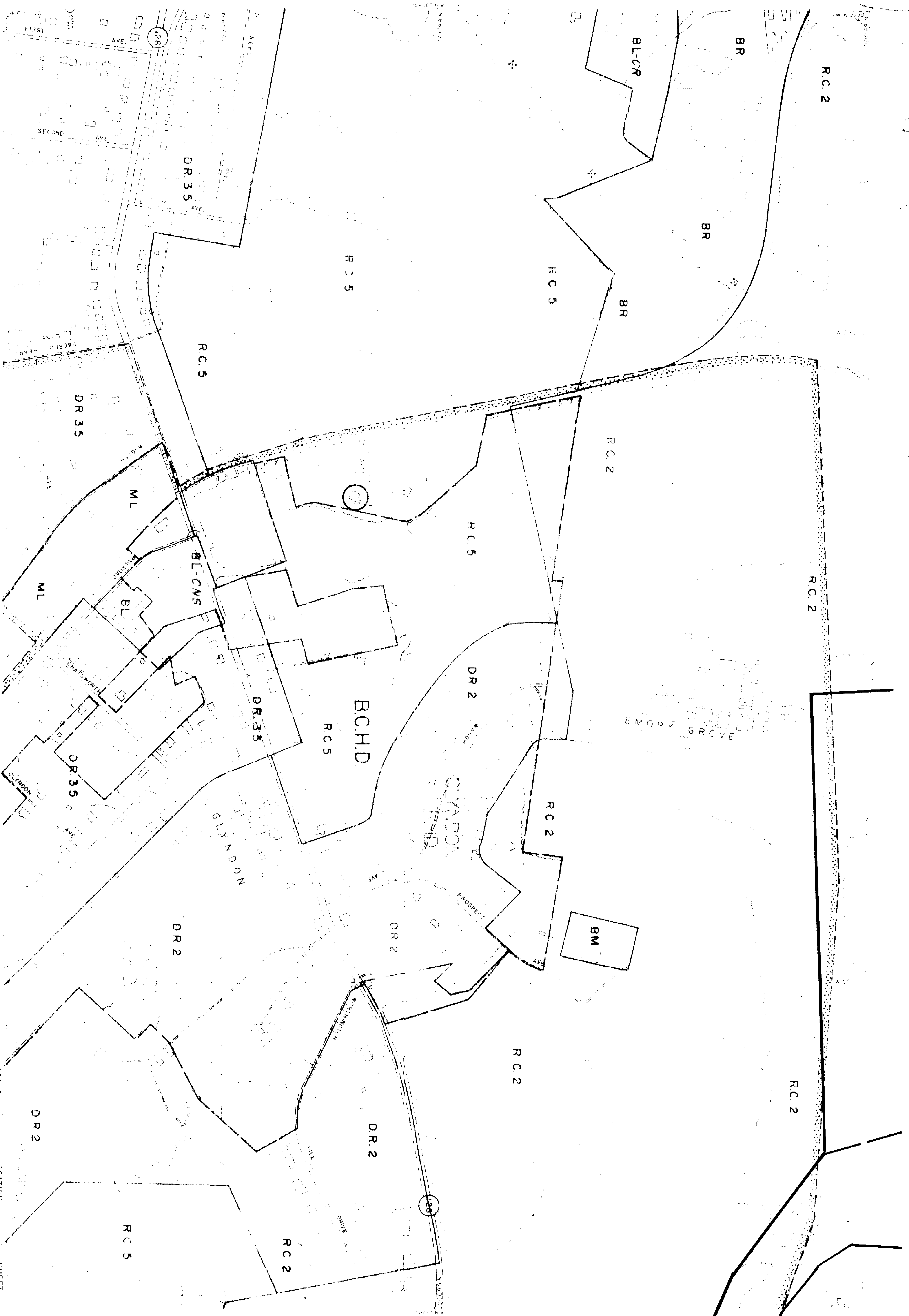
1036 CRIVELL BRIDGE RD, BALTIMORE, MD 21264

01873711

[illegible]

William A. Howard IV
Chairman, County Council

SHEE
N W
18-1



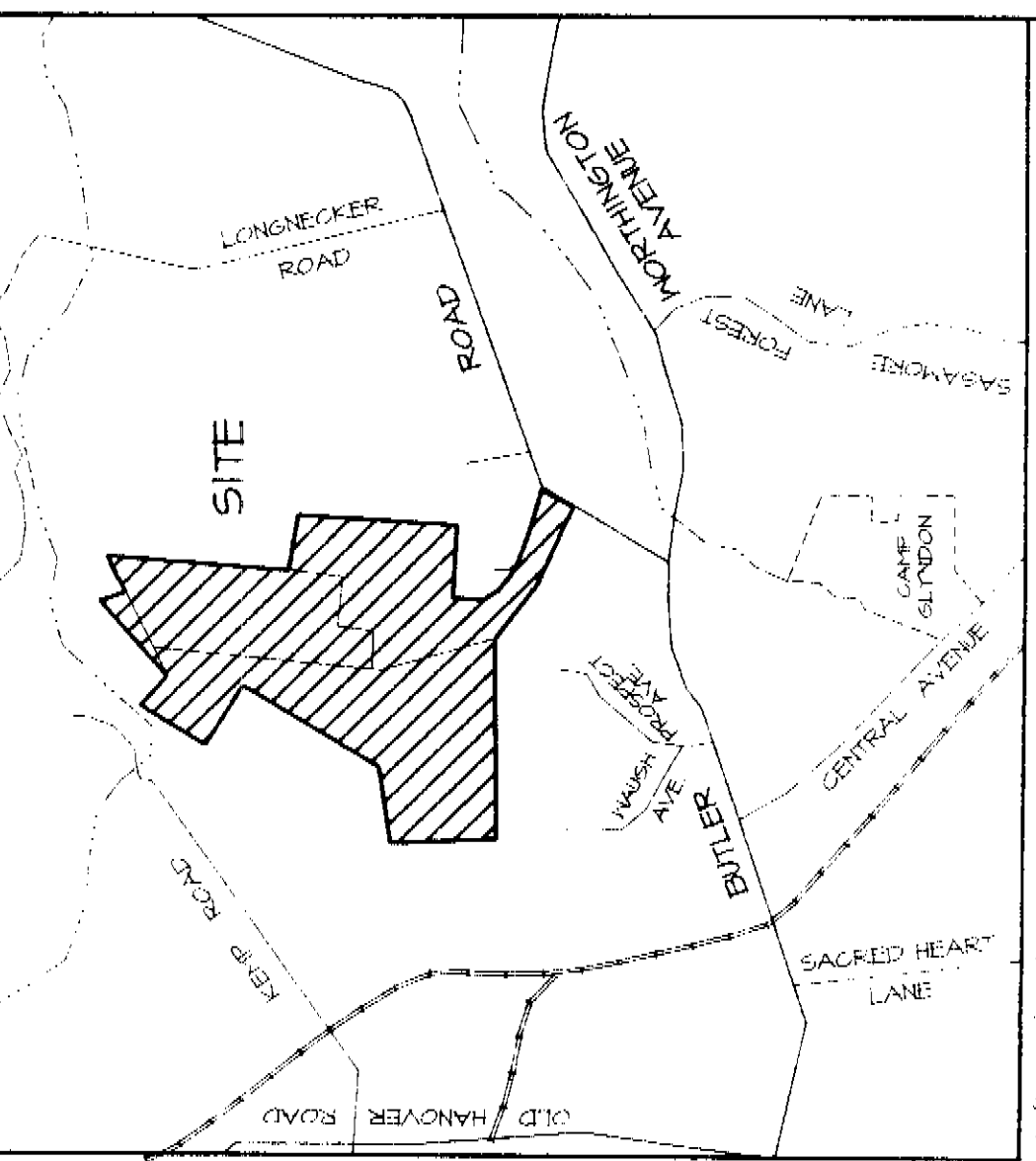
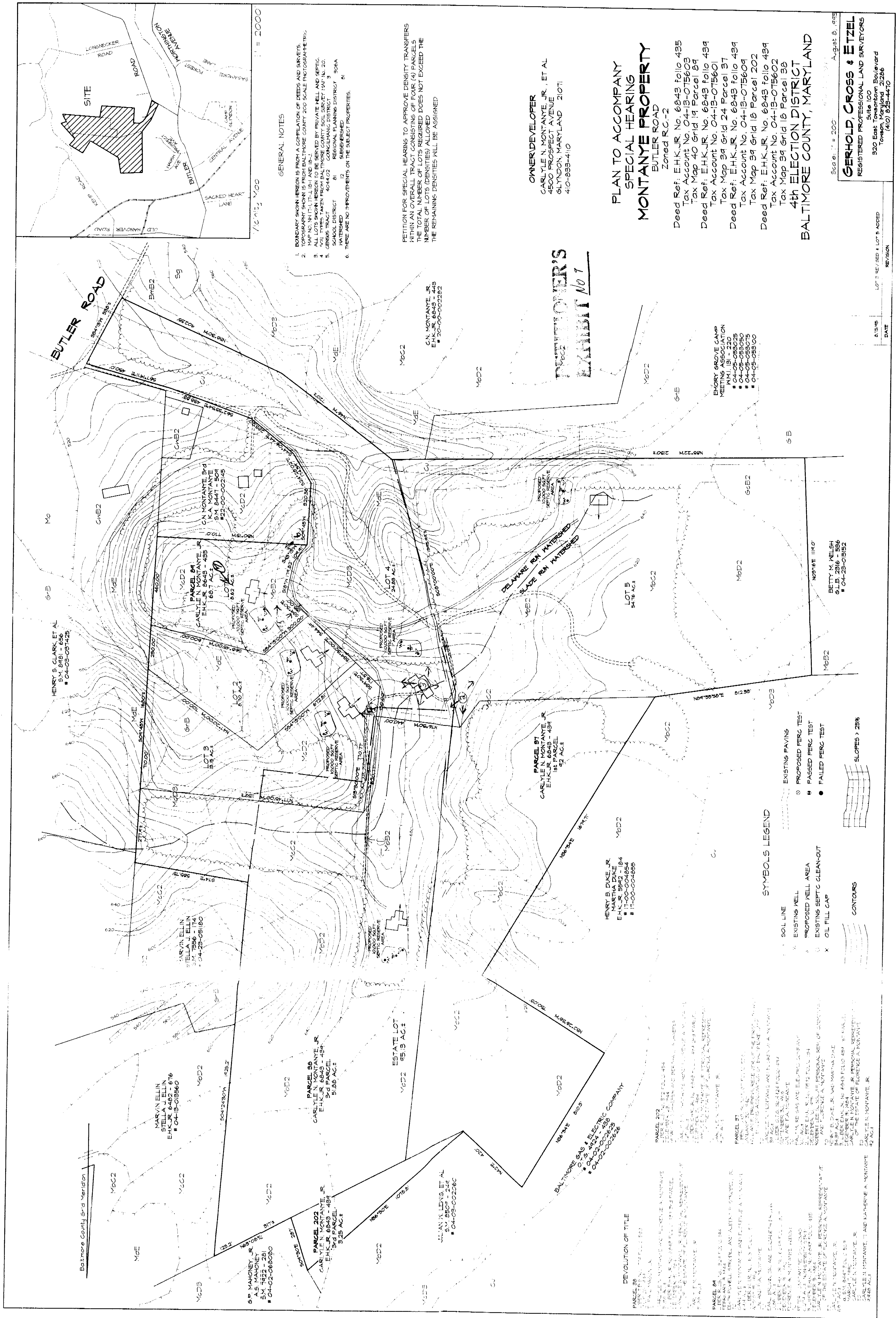
THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHHEIT-HORN, INC. BALTIMORE, MD 21219

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

Adopted by the Baltimore County Council
Date: 11/1/72
JANUARY 1973

DATE OF PHOTOGRAPHY	LOCATION	SHEET
JANUARY 1986	GLYNDON REISTERSTOWN AREA	NW 17-3

96-80-SRH#77



GENERAL NOTES

- 1. BOUNDARY SHOWN HEREIN IS FROM A COMPILATION OF DEEDS AND SURVEYS.
- 2. TOPOGRAPHY SHOWN IS FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAPHIC RELIEF.
- 3. MAP NO. 101-11-1, 101-11-2, AND 101-11-3.
- 4. 100' TYPED TAKEN FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAPHIC RELIEF.
- 5. 100' TYPED TAKEN FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAPHIC RELIEF.
- 6. THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS. THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED.

OWNER/DEVELOPER
CARLYLE N. MONTANE JR., ET AL
4500 PROSPECT AVENUE
GLYNDEN, MARYLAND 21201
410-833-4110

PLAN TO ACCOMPANY
SPECIAL HEARING
MONTANEY PROPERTY
BUTLER ROAD
Zoned R.C.-2

- Deed Ref: EHKJR No. 6843 Folio 435
- Tax Account No. 04-13-075603
- Tax Map 40 Grid 19 Parcel 89
- Deed Ref: EHKJR No. 6843 Folio 439
- Tax Account No. 04-13-075601
- Tax Map 39 Grid 24 Parcel 37
- Deed Ref: EHKJR No. 6843 Folio 439
- Tax Account No. 04-13-075604
- Tax Map 39 Grid 18 Parcel 202
- Deed Ref: EHKJR No. 6843 Folio 439
- Tax Account No. 04-13-075602
- Tax Map 39 Grid 18 Parcel 38

4th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 200'
August 8, 1998
GERHOLD CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
300 East Towson Road
Towson, Maryland 21206
(410) 835-4470

EXHIBIT No. 1

SYMBOLS LEGEND

- SOL LINE
- EXISTING WELL
- PROPOSED WELL AREA
- EXISTING SEPTIC CLEAN-OUT
- OIL FILL CAP
- EXISTING PAVING
- PROPOSED PERC TEST
- FAILED PERC TEST
- FAILED PERC TEST
- CONTOURS
- SLOPES > 25%

DEVOLUTION OF TITLE

- PARCEL 38
CARLYLE N. MONTANE JR.
EHKJR No. 6843 Folio 435
TAX MAP 40 GRID 19 PARCEL 89
04-13-075603
- PARCEL 39
CARLYLE N. MONTANE JR.
EHKJR No. 6843 Folio 439
TAX MAP 39 GRID 24 PARCEL 37
04-13-075601
- PARCEL 40
CARLYLE N. MONTANE JR.
EHKJR No. 6843 Folio 439
TAX MAP 39 GRID 18 PARCEL 202
04-13-075604
- PARCEL 41
CARLYLE N. MONTANE JR.
EHKJR No. 6843 Folio 439
TAX MAP 39 GRID 18 PARCEL 38
04-13-075602

W 58,500

R
C
N

R. C. N.

W 55'00

RC 2

200

2
C
R

~~RC2~~

200

256

200

200

200

三

RC 2

200

2

SCALE

LOCATION

SHEET

X - SE	W - SW
X - NE	W - NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART HORN, INC. BALTIMORE MD 21219

THE COMMISSIONER
Admitted to the Bar
Oct. 15, 1905
Bills Nos. 14 B.R., 145 B.R., 146 B.R.

Chairman, County Council

**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

1002 (C) 1997 by the American Psychological Association
0893-3200/97/\$12.00 DOI: 10.1037/0893-3200.11.4.1002

BH Nos. 183-97, 184 - 01, 185 - 02, 186 - 02, 187 - 02, 188 - 02, 189

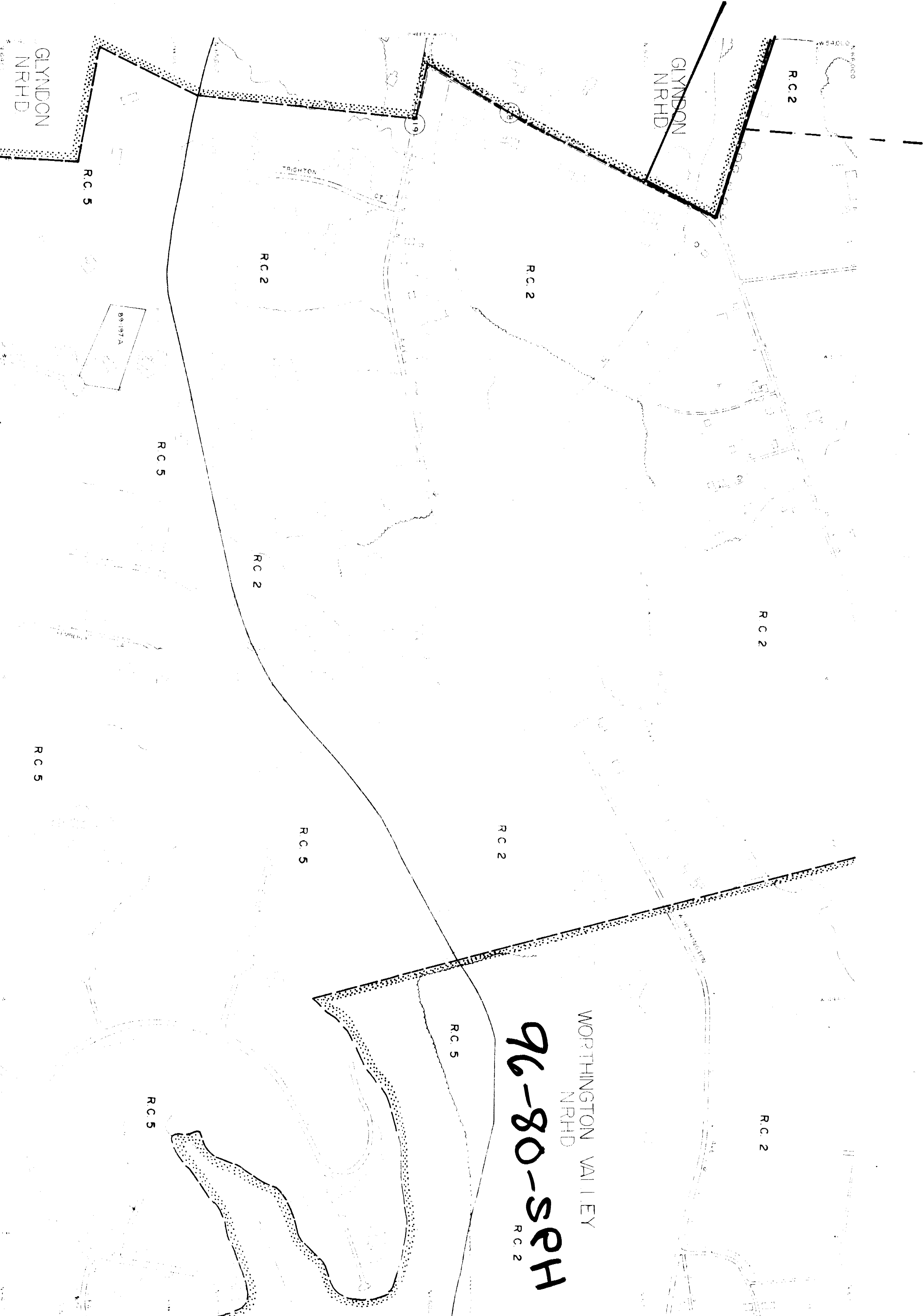
William A. Howard
Chairman, County Council

PHOTOGRAPHY

DATE _____

~~GLEN~~ MORRIS

21



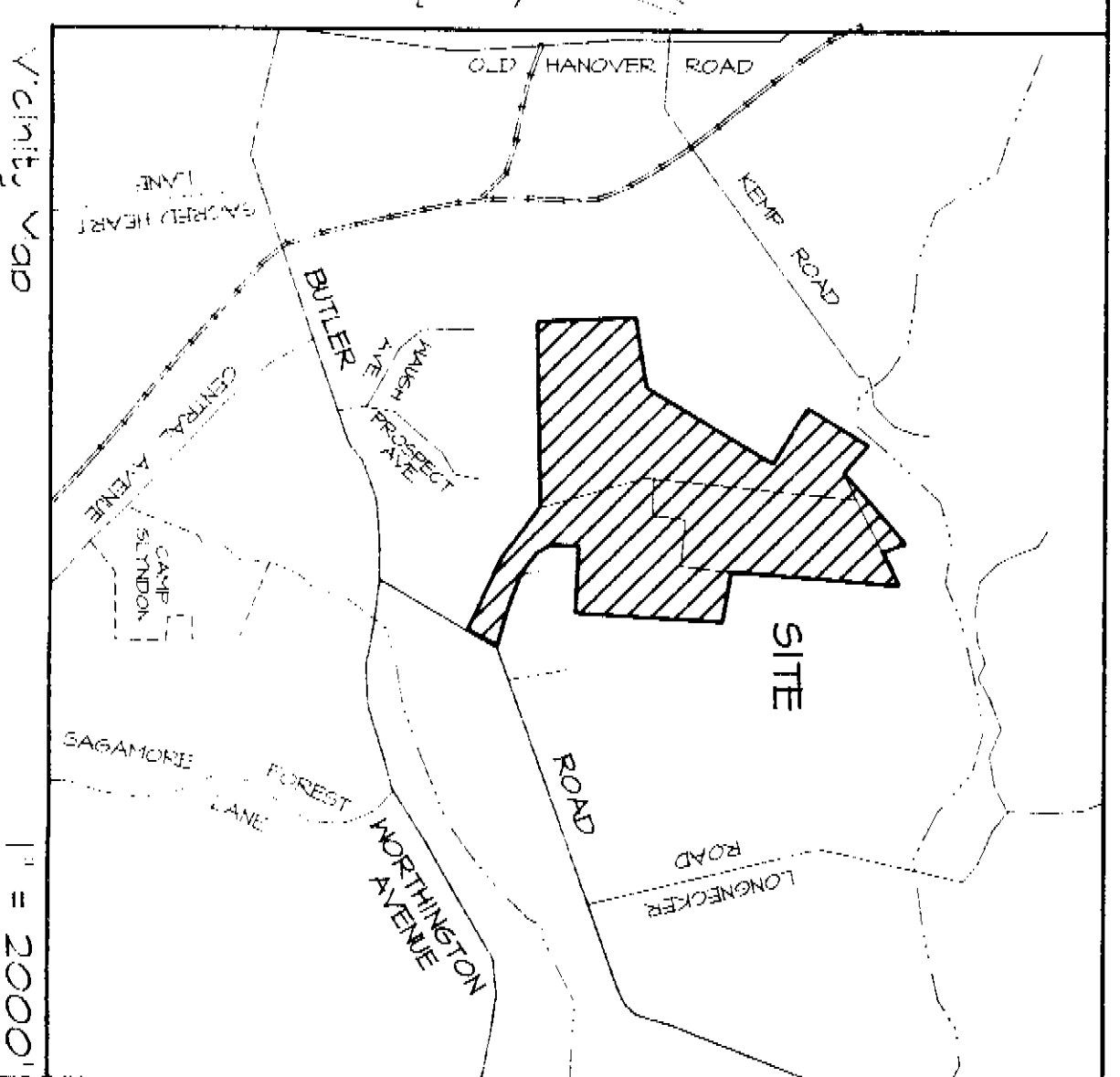
THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOOGRAPHY COMPILED BY PHOTOGRAMMETRIC
BY BUCHART HORN, INC. BALTIMORE, MD 21210

[Signature]
BALTIMORE COUNTY

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
on June 1, 1992

SCALE: 1" = 1/4" AS SHOWN
LOCATION: WORTHINGTON
SHEET: 17-1
DATE OF PHOTOGRAPHY: JANUARY 1996



- GENERAL NOTES
1. BOUNDARY SHOWN HEREON IS FROM A COMPILED SET OF DEEDS AND SURVEYS.
 2. THE SHOWN BOUNDARY IS FROM A COMPILED SET OF DEEDS AND SURVEYS.
 3. ALL LOTS SHOWN HEREON TO BE SERVED BY PRIVATE WELL AND SEPTIC.
 4. SOIL TYPES TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 20.
 5. CENSUS TRACT 404402 CONGRESSIONAL DISTRICT 3 BALTIMORE COUNTY.
 6. THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

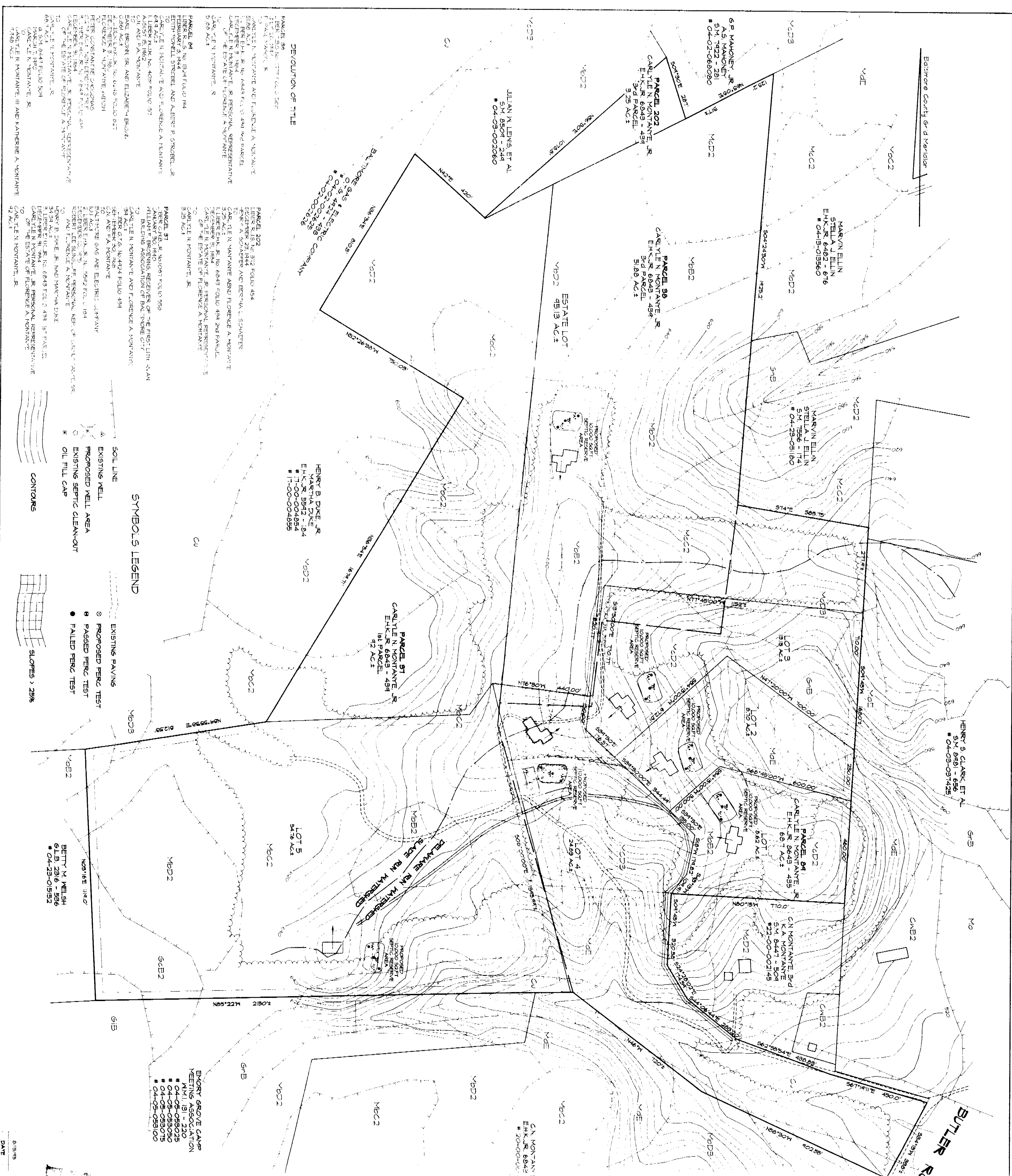
PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS. THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED.

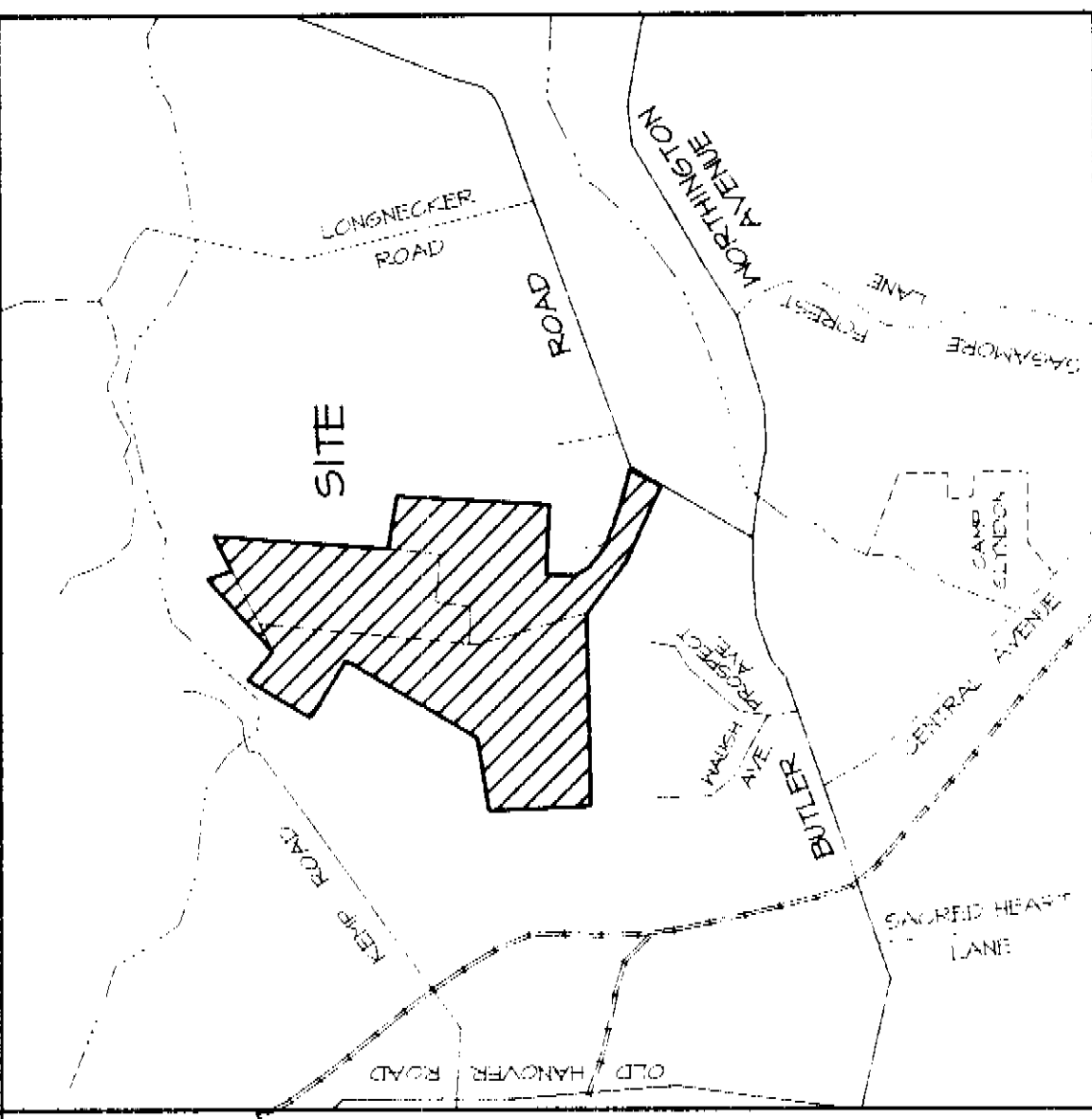
OWNER/DEVELOPER
CARLYLE N. MONTANE, JR., ET AL
4500 PROSPECT AVENUE
GILDON, MARYLAND 21071
410-833-4110

PLAN TO ACCOMPANY SPECIAL HEARING MONTANE PROPERTY BUTLER ROAD BALTIMORE COUNTY, MARYLAND

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
320 East Towson Boulevard
Suite 100
Towson, Maryland 21206
(410) 833-4110

- SYMBOLS LEGEND
- EXISTING LINE
 - PROPOSED WELL AREA
 - EXISTING SEPTIC CLEANOUT
 - EXISTING PAVING
 - PROPOSED PERC TEST
 - PAVED PERC TEST
 - FAILED PERC TEST
 - EXISTING FILL CAP
 - CONTOURS
 - SLOPES > 25%





1" = 2000'

GENERAL NOTES

1. BOUNDARY SHOWN HEREON IS FROM A COMPILATION OF RECORDS AND SURVEYS.
2. TOPOGRAPHY SHOWN IS FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAPHIC SURVEY.
3. ALL LOTS, TRACTS AND PARCELS SHOWN WERE SURVEYED BY PRIVATE WELL AND SEPTIC.
4. ALL LOTS, TRACTS AND PARCELS SHOWN WERE SURVEYED BY PRIVATE WELL AND SEPTIC.
5. SOIL TYPES TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 20.
6. THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS. THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED.

OWNER/DEVELOPER

CARLYLE N. MONTANE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDEN, MARYLAND 21071
410-833-4110

PLAN TO ACCOMPANY
SPECIAL HEARING
MONTANE PROPERTY

BUTLER ROAD
Zoned R.C.-2

- Deed Ref: E.H.K.J.R. No. 6843 folio 435
Tax Account No. 04-13-075603
Tax Map 40 Grid 19 Parcel 89
Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075601
Tax Map 39 Grid 24 Parcel 37
Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075604
Tax Map 39 Grid 18 Parcel 202
Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075602
Tax Map 39 Grid 18 Parcel 36
4th ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

Scale: 1" = 200'

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
320 East Towson Boulevard
Towson, Maryland 21286
(410) 833-4470

LOT 3 REVISED & LOT 5 ADDED
REVISION

DATE

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

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0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

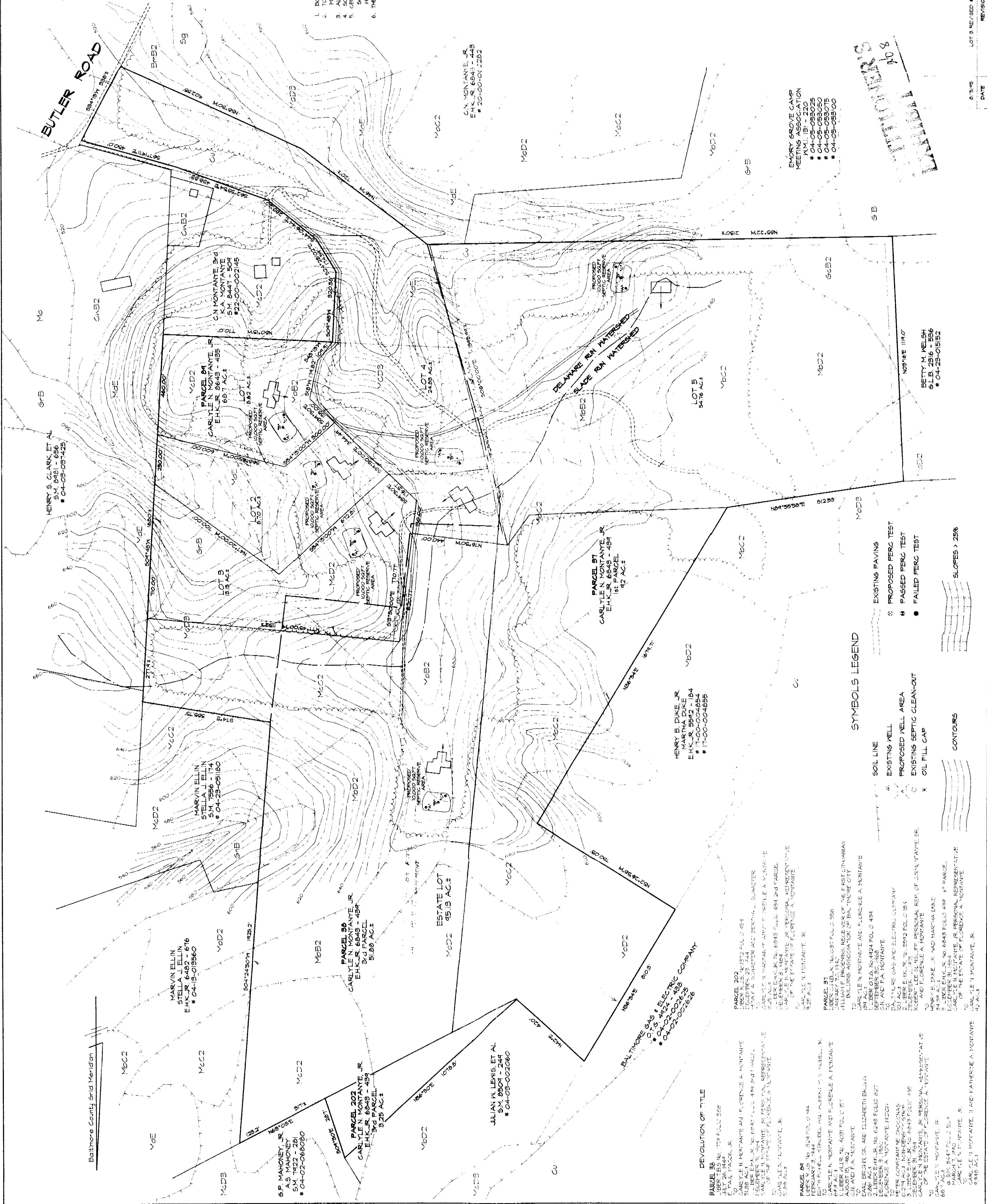
0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'

0 1/2" = 100'



SYMBOLS LEGEND

- SOIL LINE
- EXISTING WELL
- PROPOSED WELL AREA
- EXISTING SEPTIC CLEAN-OUT
- OIL FILL CAP
- EXISTING PAVING
- PROPOSED PERC TEST
- PASSED PERC TEST
- FAILED PERC TEST
- CONTOURS
- SLOPES > 25%

REVISION OF TITLE

- PARCEL 36
JULIAN N. LEWIS ET AL
SM. 9504 - 249
04-05-002060
- PARCEL 37
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 38
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 39
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 40
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 41
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 42
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 43
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 44
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 45
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 46
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 47
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 48
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 49
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 50
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 51
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 52
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 53
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 54
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 55
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 56
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 57
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 58
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 59
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 60
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 61
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 62
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 63
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 64
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 65
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 66
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 67
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 68
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 69
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 70
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 71
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 72
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 73
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 74
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 75
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 76
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 77
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 78
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 79
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 80
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 81
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 82
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 83
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 84
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 85
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 86
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 87
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 88
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 89
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 90
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 91
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 92
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 93
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 94
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 95
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 96
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 97
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 98
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
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- PARCEL 99
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060
- PARCEL 100
CARLYLE N. MONTANE, JR.
E.H.K.J.R. 6843 - 439
04-05-002060

IN RE: PETITION FOR SPECIAL HEARING
NW/8 Butler Road, 1,000' N of
Worthington Avenue
(Montanye Property)
4th Election District
3rd Councilmanic District
Carlyle N. Montanye, Jr.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-50-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for that property owned by the Montanye family, located on the northwest side of Butler Road near its intersection with Worthington Avenue in the vicinity of Glyndon. The Petition was filed by the owner of the property, Carlyle N. Montanye, Jr., pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). The Petitioner seeks approval of density transfers within an overall tract consisting of four contiguous parcels and to confirm that the total number of lots being proposed for development at this time does not exceed the total number permitted. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 5.

Appearing at the hearing on behalf of the Petition were Carlyle N. Montanye, Jr., property owner, Bruce E. Doak, Registered Property Line Surveyor who prepared the site plans for this property, and Howard L. Alderman, Esquire, attorney for the Petitioner. Appearing as an interested party was John Bernstein, Executive Director of the Valleys Planning Council (VPC). There were no Protestants at the hearing.

This case presents a number of complex issues for consideration. These include an evaluation of the purposes of the R.C. zoning classifica-

tion (more particularly, the R.C. 2 classification), the permissibility of transferring rights of subdivision from one R.C. tract to another, and exactly what uses are encompassed within the definition of "agriculture", as used in the B.C.Z.R. As is often the case with many matters which present issues regarding interpretation of the B.C.Z.R., the relevant facts relating to this particular petition are largely not in dispute.

Testimony and evidence offered revealed that Carlyle N. Montanye, Jr. owns a large tract of land, zoned R.C.2, near Glyndon in northwestern Baltimore County. Specifically, Mr. Montanye inherited four different "lots of record" from his parents in December, 1984. A "lot of record" is defined by Section 101 of the B.C.Z.R. as "A parcel of land with boundaries as recorded in the Land Records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof." The four subject lots of record are all adjacent to one another and are fully identified in copies of deeds taken from the Land Records of Baltimore County which were submitted into evidence as Petitioner's Exhibits 1, 2, and 3. The Petitioner proposes density transfers within the overall tract which comprises the four contiguous parcels identified herein, to create six lots in accordance with Petitioner's Exhibit 1. Although the six lots created will not exceed the density allowed for the overall tract, the Petitioners seeks to cluster the lots in a manner not permitted as of right by the B.C.Z.R.

One of the parcels now owned by Mr. Montanye is described in the deeds and on the site plan as Parcel 89 and contains approximately 68.78 acres. The second of these lots is identified on the site plan as Parcel 37 and encompasses approximately 92 acres. Mr. Montanye also inherited the lot identified as Parcel 38, which contains approximately 51.88 acres.

- 2 -

The final lot inherited by Mr. Montanye from his parents is identified on the site plan as Parcel 202, which consists of 3.25 acres. All of the properties are lots of record and were independently designated parcels with separate legal descriptions of each in the Land Records of Baltimore County. As has been stated in numerous opinions by this Zoning Commissioner, the relevant date for determining lots of record in R.C. zones is November 25, 1979. It was on that date that the Baltimore County Council enacted legislation which established the R.C. zoning classification. Thus, all rights of subdivision and application of the pertinent provisions of the B.C.Z.R. are established on that date.

The R.C. regulations provide that no lot having an area of less than 1 acre can be created in an R.C. 2 zone (See Section 1A01.3.B.2 of the B.C.Z.R.). Moreover, as to residential density/rights of subdivision in an R.C. 2 zone, the regulations provide that any lot having a gross area of between 2 and 100 acres may be subdivided into no more than two lots total (See Section 1A01.3.B.1 of the B.C.Z.R.).

Each of the four lots of record owned by Mr. Montanye are between 2 and 100 acres in size. Thus, each can be subdivided into two lots. In sum, Mr. Montanye's original holdings, as inherited by him from his parents, could be subdivided so as to create 8 different lots.

In prior decisions of this office, this Zoning Commissioner has discussed the concept of density/rights of subdivision in the R.C. zones. In prior cases, the Valleys Planning Council (VPC) has taken the position that density is a concept which is not relevant to the R.C. zoning classification. Admittedly, the R.C. zoning regulations do not use the word "density" as that term is defined and utilized in other Sections of the B.C.Z.R. (i.e., Article 13 - Density Residential Zoning Classification).

- 3 -

The difference between the D.R. and R.C. zoning classifications accounts for the absence of specific references to density in the R.C. regulations. By their very purpose, D.R. zones are geared to provide areas for housing and different types (i.e., densities) of dwellings. R.C. property on the other hand, is intended to be utilized to foster agricultural purposes. By its very nature, farms and agricultural properties almost always are comprised of a principal dwelling and several outbuildings, i.e., barns, sheds, etc.

Rather than the concept of density, the R.C. zones speak of rights of subdivision. For most practical purposes and discussion, the use of the term density in describing the subdivision of an R.C. zoned property, is utilized to compute the number of individual lots (each containing a single structure) which may be created on a given tract.

It is clear that each of the four parcels owned by Mr. Montanye can be subdivided once, or has the "density" to sustain two lots. Moreover, as is evidenced in Petitioner's Exhibit 2, one of the parcels has already been subdivided. Specifically, Parcel 89 was subdivided and a lot of approximately 9.9 acres was conveyed from Mr. Montanye to his son and daughter-in-law, Carlyle N. Montanye, III and Kathryn A. Montanye, on or about March 7, 1990. Mr. Montanye's son and his wife have constructed a single family dwelling on that property and now reside thereon. In that the conveyance occurred subsequent to November 25, 1979, it is clear that Parcel 89 has exercised its right of one subdivision, and thus, the four lots owned by Mr. Montanye can collectively be subdivided to produce no more than seven separate lots.

Mr. Montanye testified that he is advancing in age and wishes to make provisions for the disposition of this property to his family. Thus,

- 4 -

he and his consultants have submitted a plan through the Petition for Special Hearing process to subdivide the four lots. That plan, including the amendments thereto, up to and through the date of the hearing, is identified herein as Petitioner's No. 7. That plan shows that the four lots of record owned by Mr. Montanye will be subdivided so as to create six new lots, one less than the overall tract density would allow. Three of the new lots to be created are located immediately east of an existing driveway which accesses the property from Butler Road. The first of these lots, Lot 1, is located adjacent to the previously conveyed parcel to Mr. Montanye's son and his wife. Lot 1 will consist of 8.628 acres in area. Lots 2 and 3 are located adjacent to Lot 1 and towards the interior of the site. Lot 2 will consist of 8.70 acres in area, and Lot 3, 13.15 acres. Lot 4 is located on the west side of the driveway, across the access road from Lot 1. Lot 4 will contain approximately 8 acres in area. The location of that lot and the building footprint thereon has been modified in accordance with that shown on the amended plan marked as Petitioner's Exhibit 7.

Lot 5 is further to the east of Lots 1 through 4, near the southern border of the entire tract. A new driveway connecting to the interior road will be created to serve Lot 5. Lot 5 is shown as a large lot containing approximately 54.76 acres. The sixth and final lot to be created encompasses the balance of the property. This lot is shown on the plan as the "estate lot" and will contain 95.13 acres. Again, a single family dwelling is proposed for this large lot. This lot is located at the end of the driveway which provides vehicular access to the proposed lots from Butler Road in the northern section of the property.

- 5 -

Approval of Mr. Montanye's plans as shown on Petitioner's Exhibit 7, will require that this Zoning Commissioner grant the Petition for Special Hearing and allow the transfer of density/rights of subdivision from one lot of record to the next. Indeed, four of the newly created lots will be located entirely on the property formerly known as Parcel 89. As noted earlier in this opinion, that parcel presently, without the requested relief, cannot be subdivided. One of the newly proposed lots, Lot 5, will be located on the property formerly shown as Lot 37. The house for the "estate lot" will be located on the property formerly shown as Parcel 79. The property formerly known as Parcel 202 will contain no dwellings.

The concept of density transfer is also a subject which has been the source of many hearings before this Zoning Commissioner. In previous cases, this Zoning Commissioner has granted Petitions for Special Hearing permitting the transfer of density/rights of subdivision from one lot to another in the R.C. zones. The reasons behind approving these transfers are fully set forth in the opinions issued. (See e.g. In Re: Dennis E. McGee, 94-42-SPH; In Re: Gary L. Wagner, 92-316-SPH; and In Re: Neal M. Graham, 95-23-SPH). As stated in the McGee opinion "... This Zoning Commissioner finds that the transfer of density is permissible pursuant to Section 500.7 of the B.C.Z.R. Therein the Zoning Commissioner is given broad authority to conduct such hearings as may be necessary to enforce and interpret the zoning regulations of Baltimore County. Under the cloak of authority provided by this regulation, I find that I may approve such density transfers, if same are consistent with the spirit and express purposes of the R.C. zoning classification and regulations."

In order to provide a factual basis for the necessary findings as enunciated in McGee, the Petitioner offers a number of arguments in sup-

- 6 -

port of his proposal. Primarily, the Petitioner notes that the proposed plan will permit the clustering of houses in a relatively small area, thereby preserving the balance of the tract for agricultural purposes. As noted above, new Lots 1 through 4 of the subdivision will all be located on the property previously designated as Parcel 89. This parcel is located adjacent to the existing home owned and occupied by Mr. Montanye, III, and in proximity of Butler Road and the driveway leading therefrom. The clustering of the houses in this portion of the tract, it is urged, is consistent with the purpose of the R.C. regulations. Specifically, the R.C. regulations were enacted to promote and protect the agricultural resources of the County. That portion of the tract shown for new Lots 1 through 4, does not predominantly contain the prime and productive soils which are located elsewhere on the overall tract and are used for active crop farming.

Photographs of the site show that a large portion of the entire tract is in crop and is a working farm. Mr. Montanye corroborated this fact and indicated that the property has been farmed for many years. He believes that by placing all of the houses on that portion of the property so designated, the large open fields can remain undisturbed and continue to be utilized for farming purposes. In this respect, the Petitioner submitted a copy of the plat (Petitioner's Exhibit 8) which discloses the proposed conveyance of a large portion of the subject property into the Maryland Environmental Trust (MET) easement program. Specifically, the entire "estate lot" and Lot 5, as well as Parcel 202 and that part of the property near Butler Road, will be voluntarily placed in the MET. This State-sponsored program is designed to protect and preserve agricultural land and will insure that there can be no further residential subdivision

- 7 -

and/or development in the future. Specifically, conveyance of the property into the MET easement program will ensure that the lands so conveyed will continue to be used for agricultural purposes and not developed.

For all of these reasons, the Petitioner urges that the plan should be approved. The clustering of the homes, the conveyance into the MET easement program, and the placement of the proposed dwelling envelopes, largely outside the existing fields and areas of prime and productive soils, all justify a finding that the proposal is consistent with the R.C. zoning purposes and classification. In fact, the amendments to the plan show that certain adjustments have been made to accomplish these purposes and to satisfy recommendations made by the Office of Planning and Zoning (OPZ). Within their comments of October 6, 1995, OPZ recommended five conditions be imposed upon the granting of any relief pursuant to the Petition to ensure that the agricultural use of the overall tract will be protected to the extent possible. These conditions have been adopted and incorporated into the amended plan, including: 1) limiting the building envelope for adjacent lot 4 to the woods line; 2) relocating the driveway to Lot 5 to the edge of the woods; 3) requiring that any change in building envelope or driveway location require approval by OPZ and the Department of Environmental Protection and Resource Management (DEPRM); 4) agreement that Lot 5 and the "estate lot" will be placed into MET easement program; and 5) that the single unutilized density unit/right of subdivision shall be relinquished. These conditions have indeed been incorporated into the plan.

Although generally supporting Mr. Montanye's efforts and the overall concept, Mr. Bernstein from the VPC does raise an objection as it relates to Parcel 202. This is a small triangular piece located on the

- 8 -

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By [Signature]

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By [Signature]

ORDER RECEIVED FOR FILING
Date 11/16/95
By [Signature]

north side of the subject property and contains 3.25 acres in area. As noted above, this acreage would support two density units and could be subdivided for such purposes; however, under the proposed plan, there will be no dwellings constructed on that parcel.¹ Mr. Bernstein objects to the utilization of density attributed to this parcel elsewhere on the tract for several reasons. First, he claims that any construction on Parcel 202 would be difficult, owing to the slopes thereon, and he observes the potential difficulty in providing vehicular access thereto. Although that may or may not be the case, whether the parcel can be developed from a practical standpoint is not relevant to the rights of subdivision/density. It is the acreage and zoning classification which drives the permissible subdivision and density associated with a given parcel. Whether the parcel can or cannot be developed does not matter. This parcel, given its acreage and its existence as a lot of record prior to 1979, can be subdivided to create two lots.

Mr. Bernstein also maintains that the rights of subdivision associated with this lot should not be transferred to the other tracts, owing to the physical characteristics of the lot. He correctly notes that Parcel 202 is entirely wooded and not used for farming. Moreover, Parcel 202 does not contain the prime and productive soils which are featured on other portions of the overall tract. Since this parcel is not "prime and productive agricultural land", Mr. Bernstein argues that the spirit and

1. In this regard, it is difficult to determine whether one density unit or two density units is being derived from Parcel 202, in that the Petitioner proposes only six density units overall in lieu of the permitted seven. In any event, at least one density unit is being transferred from Parcel 202.

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Date 11/16/95
By [Signature]

- 9 -

intent of the R.C. 2 zoning classification would be violated by transferring a density unit from that parcel to elsewhere on the tract, which might result in development on working farmland.

The definition of "agriculture, commercial" is found within Section 101 of the B.C.Z.R. That definition provides that agriculture is considered not only to be the farming of land in field crops, but also includes forestry, animal husbandry, etc. The definition of agriculture is very broad. Notwithstanding this broad definition, an examination of the record does not support a finding that Parcel 202 is utilized for agricultural purposes. Although Parcel 202 could arguably be used for forestry or the production of timber products, there was no testimony presented that it is presently utilized for that purpose. Parcel 202 is wooded, and if any use is attributable to the current activity on that parcel, it is most closely associated with "open space". (See Section 101) Thus, the factual premise of Mr. Bernstein's claim is correct, namely, that density is being transferred from a parcel not in active agricultural use to a property in active agricultural use. On its face, such a factual finding would not allow a transfer of density.

If this case involved the transfer of density from only two parcels e.g., Parcel 202 to Parcel 38, I would agree with Mr. Bernstein's assessment. Transfers of density in R.C. zones should be approved sparingly. As I stated in McGee, density transfers should be approved only when the purposes and the spirit and intent of the R.C. zoning classification are observed. Transfers of density from a parcel of non-prime and productive soils not engaged in active agricultural pursuits, to a parcel on which the construction of dwellings would reduce or eliminate a working farm should not be allowed. However, I cannot consider this case in the

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Date 11/16/95
By [Signature]

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narrow manner which Mr. Bernstein presents. There are not just two parcels at issue here, but four. The Petitioner's plan presents an overall and comprehensive scenario for these parcels. I must consider whether the overall plan preserves and promotes the protection of agriculture in these R.C. 2 zoned lands.

Attention should be given to the alternatives if the Petition were denied. The Petitioner could, as of right, subdivide the four parcels to create seven lots, as described above. These lots could be placed throughout the tract at the Petitioner's election, without seeking any zoning relief. Moreover, placement of the lands in the MET easement program is a voluntary act, unless required as a part of zoning approval. There can be no doubt that the Petitioner's subdivision of his property as permitted by right would do far more harm to the agriculture resources on this tract than the proposed plan.

Taking these factors into consideration, I am persuaded to grant the Petition for Special Hearing. In my judgment, approval of the Petitioner's proposal promotes and protects the purposes of the R.C. zoning classification as set forth in the B.C.Z.R. Does the grant of such relief entail the loss of some farm land? The clear answer is "yes"; however, this must be weighed against the permissible subdivision of these properties as of right and the substantial benefits which will be gained by permitting the Petitioner to proceed under the proposed plan. Therefore, the Petition for Special Hearing shall be approved.

The plan which will be approved is identified as Petitioner's Exhibit 7, the amended site plan. As noted above, this plan adopts five of the recommendations made by the Office of Planning and Zoning (OPZ) as described above. Two other restrictions are suggested by OPZ and are

ORDER RECEIVED FOR FILING
Date 11/16/95
By [Signature]

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discussed below. First, OPZ suggested the relocation of building envelopes on Lots 1, 2, and 3 to a location outside of the line which marks the border of the prime and productive soils. I do not concur with this recommendation. These lots will be served by a common driveway and each lot will no doubt contain its own internal driveway and parking pad area. The disturbance of these lots for construction of dwellings and supporting areas will "break up" the small area of prime and productive soils which lie to the front of the building envelopes. Relocating the houses more towards the interior of Lots 1, 2, and 3, will only lengthen the driveways without providing any real benefit. It is difficult to imagine significant farming operations in the front yards of these dwellings in between driveways. If the subsequent lot owners wish to utilize their yards for farming purposes, so be it. However, in my judgment, the location of the building envelopes as shown on Petitioner's Exhibit 7 is appropriate.

I will adopt, however, OPZ's second comment regarding the size of the building envelopes and yard areas on Lot 5 and the "estate lot". Admittedly, this recommendation is a subjective standard, but it is based on appropriate considerations. A house and surrounding yard area, not to exceed 2 acres for the homesites on Lot 5 and the "estate lot", is appropriate. This will reduce the amount of disturbance on the working fields. Moreover, if actual conditions ultimately show that a larger lawn or dwelling area is needed, then the Petitioner can Petition for Special Hearing relief to amend this request based upon then existing circumstances.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the special hearing relief requested shall be granted.

ORDER RECEIVED FOR FILING
Date 11/16/95
By [Signature]

- 12 -

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of November, 1995 that the Petition for Special Hearing seeking approval of density transfers within an overall tract consisting of four contiguous parcels to create six lots, in accordance with Petitioner's Exhibit 7, and to confirm that the total number of lots being proposed for development at this time does not exceed the total number permitted, 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) Pursuant to Section 502.2 of the B.C.Z.R., a new deed incorporating a reference to this case and the restrictions and conditions set forth herein shall be recorded among the Land Records of Baltimore County within sixty (60) days of the date of this Order and a copy of the recorded deed shall be forwarded to the Permits and Development Management (PDM) office for inclusion in the case file.
- 3) The Petitioner will be required to place those lands shown on Petitioner's Exhibit 8 into the MET easement program.
- 4) The size of the homesites, including dwellings and lawn areas, for Lot 5 and the "estate lot" shall not exceed 2 acres. However, if actual conditions ultimately show that a larger lawn or dwelling area is needed, then the Petitioner can Petition for Special Hearing relief to amend this restriction, based upon then existing circumstances.
- 5) When applying for any building permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

[Signature]
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 11/16/95
By [Signature]

- 13 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

November 16, 1995

(410) 887-4386

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NW/S Butler Road, 1,000' N of Worthington Avenue
(Montanye Property)
4th Election District - 3rd Councilmanic District
Carlyle N. Montanye, Jr. - Petitioner
Case No. 96-80-SPH

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing 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,

[Signature]
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

cc: Mr. Carlyle N. Montanye, Jr.
4500 Prospect Avenue, Glyndon, Md. 21070

Mr. Bruce E. Doak, Gerhold, Cross & Etzel
320 E. Towsontown Boulevard, Towson, Md. 21286

People's Counsel

File

Printed with Baltimore Seal
Not for Distribution



Petition for Special Hearing
to the Zoning Commissioner of Baltimore County
for the property located at North west side of Butler Road
which is presently zoned R.C.-2

This Petition shall be filed with the Office of Zoning Administration & Development Management. 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 502.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

density transfers within an overall tract consisting of 4 contiguous parcels; the total number of lots requested does not exceed the number of lots (densities) allowed. The remaining densities will be assigned

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of 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.

Contract Purchaser/Lessor:
Type or Print Name
Signature
Address
City State Zipcode

Agency for Petitioner:
Type or Print Name
Signature
Address
City State Zipcode

ORDER RECEIVED FOR FILING
Date 11/16/95
By [Signature]

Legal Counsel:
Type or Print Name
Signature
Address
City State Zipcode

GERHOLD, CROSS & ETZEL, LTD.
Registered Professional Land Surveyors
SUITE 100
320 EAST TOWSONTOWN BOULEVARD
TOWSON, MARYLAND 21286-5318
410-823-4470
FAX 410-823-4473

August 8, 1995

Zoning Description
Montanye Property on Butler Road

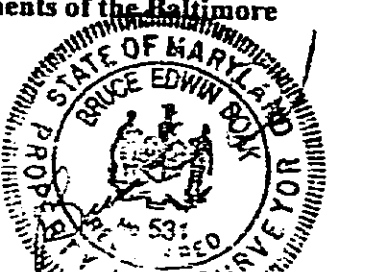
Beginning at a point in or near the centerline of Butler Road at a distance of 1,000 feet, more or less, Northerly from the intersection of Butler Road with Worthington Avenue, thence leaving said Butler Road and running the twenty-two following courses and distances around the perimeter of the compiled four parcels, viz:

- 1) North 58 degrees 30 minutes West 902.55 feet,
- 2) North 46 degrees West 720 feet, more or less,
- 3) North 85 degree: 22 minutes West 2130 feet, more or less,
- 4) North 03 degrees 16 minutes East 1119.0 feet,
- 5) North 89 degrees 55 minutes 58 seconds East 812.53 feet,
- 6) North 36 degrees 54 minutes East 1679.71 feet,
- 7) North 52 degrees 26 minutes 38 seconds West 750.03 feet,
- 8) North 36 degrees 54 minutes East 810.3 feet,
- 9) North 42 degrees East 420 feet,
- 10) North 56 degrees 30 minutes East 1078.8 feet,
- 11) South 09 degrees 30 minutes East 287 feet,
- 12) North 63 degrees 08 minutes East 317 feet, more or less,
- 13) North 63 degrees 08 minutes East 123.2 feet,
- 14) South 04 degrees 24 minutes 30 seconds West 1925.2 feet,
- 15) South 74 degrees East 385.75 feet,
- 16) South 09 degrees 45 minutes West 1680 feet, more or less,
- 17) North 80 degrees 15 minutes West 770.0 feet,
- 18) South 09 degrees 45 minutes West 320.58 feet,
- 19) South 24 degrees 28 minutes 02 seconds East 174.59 feet,
- 20) South 44 degrees 06 minutes 41 seconds East 283.20 feet,
- 21) South 62 degrees 55 minutes 54 seconds East 438.83 feet, and
- 22) South 67 degrees 19 minutes 11 seconds East 450.0 feet to a point in or near the centerline of said Butler Road, thence binding on or near the centerline of said road,
- 23) South 34 degrees 15 minutes West 338 feet, more or less, to the place of beginning.

Containing 215 Acres of land, more or less.

This description is not for conveyance purposes and only fulfills the requirements of the Baltimore County Office of Zoning.

Montanye.doc



#77

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 118 Date of Posting: 9/24/95
Posted for: Special Hearing
Petitioner: Carlisle N. Montanye, Jr.
Location of property: 4500 Prospect Ave., N. of Montanye, Jr.
Location of Sign: From 200' away on Prospect Ave. facing East
Remarks: _____
Posted by: Michelle Date of return: 9/27/95
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9/29, 1995
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 9/21, 1995.

THE JEFFERSONIAN.

A. Henrichs
LEGAL AD. - TOWSON

NOTICE OF HEARING
The Zoning Commission 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 West Chesapeake Avenue, Towson, Maryland 21204 as follows:
Case No. 96-80-SPH (Item 77)
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Special Hearing, to approve density transfers with an overall tract consisting of 4 contiguous parcels.
Hearing: Tuesday, October 10, 1995 at 2:00 p.m. in Room 118, Old Courthouse.
For the Zoning Hearing, Please Call 887-3353.
9/24/95

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

DATE: 9/12/95 ACCOUNT: 01-615
ITEM: 77
TAX: 770K AMOUNT: \$270.00
RECEIVED: Montanye, Carlisle
FROM: 030 - Res 50 Hwy (4.1.1.1) - \$200.00
080 - 2.5.1.1 - \$70.00
FOR: 96-80-SPH 37000000000000000000 \$270.00
PAID: 00000000000000000000
VALIDATION OR SIGNATURE OF CASHIER

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood 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.

Carl Jablon
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 77
Petitioner: Carlisle N. Montanye Jr.
Location: 4500 Prospect Avenue
Glyndon, Maryland 21071
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Carlisle N. Montanye Jr.
ADDRESS: 4500 Prospect Avenue
Glyndon, Maryland 21071
PHONE NUMBER: 833-4110

AJ:ggs

(Revised 04/09/93)

13

TO: PUTNEY PUBLISHING COMPANY
September 21, 1995 Issue - Jeffersonian

Please forward billing to:

Carlisle N. Montanye, Jr.
4500 Prospect Avenue
Glyndon, Maryland 21071
833-4110

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

CASE NUMBER: 96-80-SPH (Item 77)
N/S Butler Road, 1000' N of Worthington Avenue
4th Election District - 3rd Councilmanic
Legal Owner: Carlisle N. Montanye, Jr.

Special Hearing to approve density transfers with an overall tract consisting of 4 contiguous parcels.

HEARING: TUESDAY, OCTOBER 10, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

LAURENCE 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 887-3353.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 11, 1995

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

CASE NUMBER: 96-80-SPH (Item 77)
N/S Butler Road, 1000' N of Worthington Avenue
4th Election District - 3rd Councilmanic
Legal Owner: Carlisle N. Montanye, Jr.

Special Hearing to approve density transfers with an overall tract consisting of 4 contiguous parcels.

HEARING: TUESDAY, OCTOBER 10, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Carl Jablon
Arnold Jablon
Director

cc: Carlisle N. Montanye, Jr.
Gerhold Cross & Stutz

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 106, 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 AT 887-3353.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 3, 1995

Mr. Carlisle N. Montanye, Jr.
4500 Prospect Avenue
Glyndon, Maryland 21071

RE: Item No.: 77
Case No.: 96-80-SPH
Petitioner: Montanye Property

Dear Mr. Montanye:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
September 18, 1995
FROM: J. Lawrence Pilson
Development Coordinator, DEPRM
SUBJECT: Zoning Item #77 - Montanye Property
N/W side of Butler Road
Zoning Advisory Committee Meeting of August 28, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Development of the property must comply with Regulations for Forest Conservation.

Ground Water Management

Prior to subdivision approval, a revised perc test plan must be approved.

Agricultural Preservation Program

This request is strongly opposed. The request will result in the transfer of two (2) density units from non prime and productive soils to land that is in cultivation and has prime and productive soils. This proposal provides for further consumption of the agricultural resources which the zone is intended to protect.

JLP:VK:WL:sp

MONTANYE/DEPRM/TXTSP

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management
DATE: Sept. 7, 1995
FROM: Robert W. Bowling, P.E., Chief
Development Plans Review
RE: Zoning Advisory Committee Meeting
for September 5, 1995
Items 065, 068, 067, 068, 074, 075, 076
077 and 079

The Development Plans Review Division has reviewed the subject zoning items and we have no comments.

RWB:sw

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

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

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #77 - Montanye Property - REVISED COMMENTS
N/W side of Butler Road
Zoning Advisory Committee Meeting of August 28, 1995

October 5, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Development of the property must comply with Regulations for Forest Conservation.

Ground Water Management

Prior to subdivision approval, a revised perc test plan must be approved.

Agricultural Preservation Program

Please accept the comments below as a modification to the Department's comments submitted on September 18, 1995. The modifications are a result of the landowner providing additional information about the proposed plan.

The recommendation is still to oppose the approval of this request, however, if modifications are made, the proposal could be approvable. The basis of the review is the impact the transfer of density units and the location of the lots will make upon the agricultural capability of the property. Below is a discussion of the proposal and the specifics of the objection.

The plan indicates four parcels and according to the landowner and engineer there are seven remaining development rights. The comments are based upon these calculations.

The estate lot is approvable as shown. It could be enhanced by moving the lot line along the edge of Lot 3 further into the woods so as to ensure the buffering of the field but this is not critical. This lot includes adding some of parcel 89 which is currently in cropland and this should be supported.

Lot 5 in a similar manner is approvable with the exception that the drive accessing the lot should be moved to the tree line and thus reduce the impact on the agricultural resources. Also, the transfer of the remaining acreage from parcel 37 to the Estate Lot should be supported in that it prevents the breaking up of farm fields.

The location of Lots 1, 2, 3 are generally acceptable. It is recommended that a building envelope be placed on each lot which restricts the house location so as to not be on the prime and productive soils. This would be consistent with the Prime and Productive soil regulations and policies.

The location of Lot 4 is not acceptable and the basis for the overall comment to disapprove the proposal. The proposed location splits the contiguous agricultural resources which run between the Estate Lot and Lot 5. The house is located on an open area of prime and productive soils which are being farmed. This location reduces the potential for large scale farming and thus diminishes the farming capability of the land. It will also increase the potential of nuisance conflicts since this house could be surrounded by agricultural operations.

Lot 4 should either be eliminated or moved so as to be out of the field area which connects the Estate Lot and Lot 5.

JLP:VK:WL:sp

MONTANYE/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, PDM
FROM: Pat Keller, Director, OP
SUBJECT: Montanye Property

DATE: October 4, 1995

INFORMATION:

Item Number: 77
Petitioner: Carlyle N. Montanye, Jr.
Property Size: _____
Zoning: R.C. 4
Requested Action: Special Hearing
Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments:

History:

In 1993/1994 Jack Dillon, Wally Lippincott and Lynn Lanham (planners with the Office of Planning) met with Carlyle Montanye to discuss possible subdivision alternatives for his property. Without the benefit of deed and possible subdivision history, potential density was approximated and various configurations for lots were discussed. Preservation of the agricultural resource was considered of primary importance in the discussions as this property falls within the Agricultural Preservation land use area.

The existing parcels and density allocation could allow a lot configuration that would totally subdivide and thus the agricultural resource. The feasibility of locating two lots on parcel 202 may be questionable due to length of driveway, but not impossible. We assumed that two lots could be located on parcel 38, one lot on parcel 89, and one lot on parcel 37. This configuration would effectively divide the farm fields into four different ownerships with no large contiguous parcel of agricultural land intact.

Recommendations:

- The plan should show a density tabulation chart: Density allowed for each parcel, density already allocated due to prior subdivision, density or lots proposed, and density remaining if any. A plan showing the original parcel configuration and density should be prepared.

TO: Arnold Jablon, Director, PDM
FROM: Arnold F. "Pat" Keller, III, Director, OP

- Three schemes were evaluated. Schematic Design A was selected as best preserving the agricultural resource. In this scheme, four lots are clustered on parcel 89, with one existing lot previously subdivided for a total of five units. An estate farm lot (the sixth lot) was shown on parcel 38 adjacent to the woods. This lot was to contain any excess density to be tied to and valued as part of a MET easement. Parcels 37, 38, 202 and part of parcel 89 were combined within this estate lot to preserve a large portion of the farm fields. No future subdivision of the estate lot would be allowed. By clustering most of the lots on parcel 89 and retaining the majority of the farm fields on the estate lot, a large portion of the agricultural resource would be retained.

- The subdivision of parcel 37 as shown on the proposed plan created an additional subdivision (lot five) for the creation of a total of seven lots. This additional lot can not be supported, as it further subdivides the agricultural resource and destroys the intent of the lot reconfiguration as previously discussed. Our support was based on the retention of most of the farm area in single ownership. The plan and density transfers as shown are not acceptable.

Therefore, staff recommends that the applicant's request be denied.

Prepared by: Jeffrey M. Long

Division Chief: Edny L. Kems

PK/JL

ITEM77/PZONE/ZAC1

Pg. 2

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/30/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF AUGUST 28, 1995.

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 66,67,68,69,70,71,73, 74,75,77,79 & 80.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

RECEIVED
SEP 5 1995
ZADM

SHA Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

September 14, 1995

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Baltimore County
MD 128 (west side)
1,000' north of Worthington
Avenue
Montanye Property
Special hearing
Item #077 (MJK)
Mile Post 1.47

Dear Ms. Watson:

This letter is in response to your request for our review of the plan for the referenced item.

A review of the State Highway Administration's (SHA) current and long range planning documents reveals there are no future roadway improvement projects in this area.

A field inspection of the property reveals there is an existing sub-standard gravel entrance onto MD 128 on the property, within SHA right-of-way.

Since our review of the plan reveals the development of four (4) additional lots on the subject property upon future development of the aforementioned lots, the developer needs to up-grade the existing entrance onto MD 128 to a minimum 25' wide residential entrance with 10' radii, using SHA approved bituminous concrete paving.

Since the existing entrance onto MD 128 will provide access to fewer than five (5) lots, the developer needs to contact Mr. Ron Lewis, Resident Maintenance Engineer for SHA at 410-329-6752, in order to obtain the residential access permit necessary to construct the required entrance improvements.

We have no objection to approval of the special hearing request, subject to our aforementioned entrance improvement comments.

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

Ms. Joyce Watson
Page Two
September 14, 1995

Should you have any questions, please contact Bob Small at 410-333-1350.
Thank you for the opportunity to review this plan.

Very truly yours,

Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

cc: Mr. Ron Lewis w/att.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, PDM
FROM: Pat Keller, Director, OP
SUBJECT: Montanye Property

Amended Comment

INFORMATION:
Item Number: 77
Petitioner: Carlyle N. Montanye, Jr.
Property Size: _____
Zoning: R.C. 4
Requested Action: Special Hearing
Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

This amended comment reflects staff's position based upon information provided by the applicant's engineer, Mr. Bruce Doak.

Should the subject request be granted, this office recommends that the following conditions be attached:

- 1) Limit building envelopes on lots 1,2 and 3 to the area outside of the prime and productive soils. *unresolved*
- 2) Limit the building envelope of the adjusted lot 4 to the woods line. *done on plan*
- 3) Limit the building envelopes and home use area on lot 5 and the estate lot to approximately 2 acres around the house location as shown. *unresolved*
- 4) The driveway to lot 5 shall be relocated as shown on the red-lined plan to the edge of the woods. *done by approved by*
- 5) Any change in building envelope or driveway location shall require additional review by the Planning Office and DEPRM. *OK*
- 6) Lot 5 and the estate lot shall be placed into MET easements, and any remaining density shall be relinquished through the easement. *OK*

Prepared by: Jeffrey M. Long

Division Chief: Edny L. Kems

PK/JL



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

December 6, 1995

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
(Montanye Property)
Case No. 96-80-SPH

Dear Mr. Alderman:

In response to your letter dated November 30, 1995 concerning the recordation of a new deed in the above-captioned matter, the following comments are offered.

I recognize the possibility of an appeal of my decision in this case as well as the fact that the project must undergo review through the Development Review process. Obviously, such an appeal and review may take some time; at the least, longer than the sixty (60) days afforded you in my Order to file a new deed for this property.

Under the circumstances, I will modify my Order to require recordation of the new deed within sixty (60) days after final approval of this project. Obviously, that date will be determined based upon when the final appeals, if any, are exhausted and the development review process has been completed.

Please do not hesitate to contact me should you have any further questions on the subject.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Carlyle N. Montanye, Jr., 4500 Prospect Avenue, Glyndon, Md. 21070

Mr. Bruce E. Doak, Gerhold, Cross & Etzel
320 E. Towson Boulevard, Towson, Md. 21286

Mr. John Bernstein, Executive Director, The Valleys Planning Council
212 Washington Avenue, Towson, Md. 21204

People's Counsel; Case File

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
5TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-629-9950

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL CORPORATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0500
TELECOPIER 410-296-2801

LEVIN & GANN (1993-1995)

HOWARD L. ALDERMAN, JR.

November 30, 1995

Lawrence E. Schmidt, Zoning Commissioner
Suite 112 Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Carlyle N. Montanye, Jr., Petitioner
Case No.: 96-80-SPH
Request for Clarification/Modification

Dear Commissioner Schmidt:

I have reviewed your decision, dated November 16, 1995 in the above referenced case and have discussed it with my client, Mr. Carlyle Montanye. The purpose of this letter is to request a clarification and/or modification of enumerated restriction two as shown on page thirteen. You will recall from the testimony presented at the hearing, this project will be subject to the Baltimore County Development process, including Community Input Meeting and Development Plan approval.

Therefore, it appears that the sixty day time frame within which a new Deed incorporating reference to the above-referenced case must be recorded is too short. I would, respectfully, request that your Order be modified to require that such a Deed be recorded not more than sixty days after the date of the final approval for the project.

Should you need additional information in this regard, or if I can further clarify the issues pertaining to this request, as always, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA/lah
cc: Mr. Carlyle N. Montanye, Jr.
Andrew R. Sandler, Esquire

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME
JOHN BERNSTEIN

ADDRESS
VALLEYS PLANNING COUNCIL

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Deane E. Doak, Gerhold, Cross & Etzel, Ltd. 320 E. Towson Blvd Towson MD 21286
Carlyle N. Montanye 4500 Prospect Ave. Glyndon MD 21071
Howard L. Alderman, Jr. Esq. 305 W. Chesapeake Ave #113 Towson 21204

THIS DEED Made this 11th day of December, in the year one thousand nine hundred and eighty-four by and between CARLYLE N. MONTANYE, JR., Personal Representative of the Estate of FLORENCE A. MONTANYE, Deceased, of Baltimore County in the State of Maryland, party of the first part, Grantor, and CARLYLE N. MONTANYE, JR. of Baltimore County in the State of Maryland, party of the second part, Grantee.

WHEREAS, Florence A. Montanye departed this life on or about June 27, 1983, being vested with title to the fee simple property hereinafter described as the surviving tenant by the entirety of Carlyle N. Montanye, Sr. who departed this life on or about July 3, 1973, and

WHEREAS, Florence A. Montanye by her Last Will and Testament duly probated in the Orphans' Court of Baltimore County and recorded in the Office of the Register of Wills of Baltimore County in Wills Estate No. 52749 appointed Carlyle N. Montanye, Jr. as Personal Representative, and

WHEREAS, proper notice of said appointment and notice to creditors was given by publication in The Jeffersonian, a weekly newspaper published in Baltimore County which said notice expired on January 15, 1984, and no objection was filed thereto, and

WHEREAS, by ITEM III of her Last Will and Testament Florence A. Montanye devised and bequeathed all of the rest and residue of her property real and personal to the said Carlyle N. Montanye, Jr.

NOW, THEREFORE, WITNESSETH: That in consideration of the premises and for no monetary consideration, and in faithful performance of his duties as required by law, and pursuant to the Last Will and Testament of Florence A. Montanye, the Grantor does hereby grant and convey unto the Grantee, his personal representatives and assigns, forever, in fee simple, all that lot and ground situate, lying and being in the Fourth Election

STATE DEPARTMENT OF
ASSESSMENTS & TAXATION
CLERK DATE

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE DATE

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY MARYLAND
Per [Signature] Sec 11.85 H

PETITIONER'S
EXHIBIT 1

LIBER 8447 PAGE 509

THIS DEED AND AGREEMENT, made this 7th day of March, in the year 1990, by CARLYLE N. MONTANYE, JR. of Baltimore County, Maryland, Grantor, and CARLYLE N. MONTANYE, III and KATHARINE A. MONTANYE, Grantees.

WITNESSETH that in consideration of the sum of \$95,000.00 and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part does grant and convey unto the parties of the second part, as tenants by the entireties, their heirs and assigns, the survivor of them, and the personal representatives and assigns of the survivor of them forever, in fee simple, all that lot or parcel of ground situate in Baltimore County, State of Maryland, and described as follows:

See Attached Schedule "A"

Together with the buildings and improvements thereon, and all and singular the rights, roads, ways, waters, privileges, appurtenances and advantages thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD the above described property unto CARLYLE N. MONTANYE, III and KATHARINE A. MONTANYE, his heirs and assigns, their heirs and assigns, the survivor of them, and the personal representatives and assigns of the survivor of them, forever in fee simple, and SUBJECT, HOWEVER, TO THE FOLLOWING:

1. The Grantees herein, their heirs, personal representatives, assigns, shall have the use in common with the Grantor, his heirs, personal representatives, and assigns, of a right of way being of varying width and being more particularly shown on the plat attached hereto; said right of way to be used for the benefit of the Grantor, his heirs, personal representatives and assigns for ingress, egress and regress to and from Butler Road, a public roadway, and for the installation and maintenance of water and sewer lines and other utilities, said right of way to be used in common by the Grantees herein, their heirs and assigns and others entitled thereto.

2. At the request of the Grantor, his heirs, personal representatives and assigns shall offer the right of way to Baltimore County to be dedicated for a public road to be constructed at Grantors expense and the Grantees join in this Deed to agree to said offer to dedicate, and thereby binds the Grantee's heirs, personal representatives and assigns.

3. In the event that the easement of right of way shall cease to be needed for ingress, egress and regress due to Grantor, his personal representatives, heirs and assigns being able to obtain access to Butler Road over or through other property of the Grantor, then the easement reserved in this Deed shall be forever extinguished, and the Grantees, their heirs, personal representatives and assigns shall hold the property previously subject to the easement free and clear of said easement.

4. Grantor, his heirs, personal representative and assigns reserves the right to further burden the easement by subdivision or development of the Grantor's remaining land, and the Grantees join in this Deed to consent to said reservation, and thereby binds the Grantee's heirs, successors and assigns.

AND the said CARLYLE N. MONTANYE, JR. hereby covenants that he will warrant specially the property hereby conveyed and that he will execute such other and further assurances of the same as may be requisite.

Return To:
Lloyd J. Hammond 1
616 Main St., P.O. Box 568
Reisterstown, Md. 21136

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
Per [Signature] Sec 11.85 H

PETITIONER'S
EXHIBIT 2

THIS DEED Made this 11th day of December, in the year one thousand nine hundred and eighty-four by and between CARLYLE N. MONTANYE, JR., Personal Representative of the Estate of FLORENCE A. MONTANYE, Deceased, of Baltimore County in the State of Maryland, party of the first part, Grantor, and CARLYLE N. MONTANYE, JR. of Baltimore County in the State of Maryland, party of the second part, Grantee.

WHEREAS, Florence A. Montanye departed this life on or about June 27, 1983, being vested with title to an undivided one-half interest as tenant in common in and to the fee simple property hereinafter described, and

WHEREAS, Florence A. Montanye by her Last Will and Testament duly probated in the Orphans' Court of Baltimore County and recorded in the Office of the Register of Wills of Baltimore County in Wills Estate No. 52749 appointed Carlyle N. Montanye, Jr. as Personal Representative, and

WHEREAS, proper notice of said appointment and notice to creditors was given by publication in The Jeffersonian, a weekly newspaper published in Baltimore County which said notice expired on January 15, 1984, and no objection was filed thereto, and

WHEREAS, by ITEM III of her Last Will and Testament Florence A. Montanye devised and bequeathed all of the rest and residue of her property real and personal to the said Carlyle N. Montanye, Jr.

NOW, THEREFORE, WITNESSETH: That in consideration of the premises and for no monetary consideration, and in faithful performance of his duties as required by law, and pursuant to the Last Will and Testament of Florence A. Montanye, the Grantor does hereby grant and convey unto the Grantee, his personal representatives and assigns, forever, in fee simple, an undivided one-half interest as tenant in common in and to all those three (3) parcels of land situate, lying and being in the Fourth

STATE DEPARTMENT OF
ASSESSMENTS & TAXATION
CLERK DATE

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY MARYLAND
Per [Signature] Sec 11.85 H

PETITIONER'S
EXHIBIT 3



4 October 1994

RE: Montanye Property

According to the Minutes from the 19 September 1994 General membership meeting of the Glyndon Community Association, Carlyle Montanye presented a site plan of the property that proposes six home sites. A discussion was held and a motion was carried to support Mr. Montanye's plan as submitted to the membership that evening.

Respectfully submitted,

Mary Brooks Profaci
Secretary

Ret 26
4A

The Emory Grove Association of Baltimore, Inc.

FOUNDED IN 1888
GLYNDON, MARYLAND 21071

September 19, 1994

Carlyle N. Montanye, Jr.
4500 Prospect Avenue,
Glyndon, Maryland

Dear Mr. Montanye,

Thank you for your presentation at our Board of Directors meeting September 15th.

I am pleased to tell you that the Board unanimously approved a resolution to support, as outlined for us, your residential project which as we understand it entails the construction of six or fewer houses on your property and the inclusion of the remaining acres in the Maryland Environmental Trust.

The Board was equally unanimous in expressing its disapproval of the use of the land for a sportsmen/gun club headquarters.

We greatly appreciate your consideration in informing us of the possibility of development of your land.

Sincerely,
Robert J. Jones
Robert J. Jones
President

Ret 4B

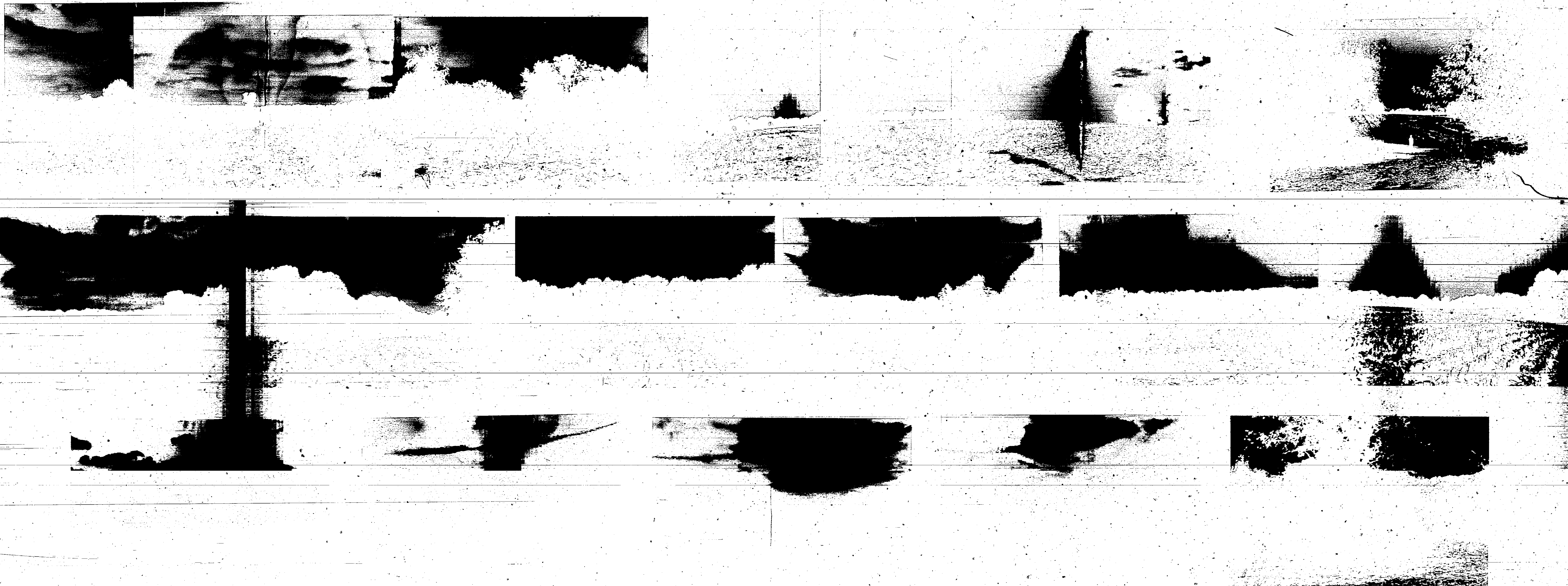
September 16, 1994

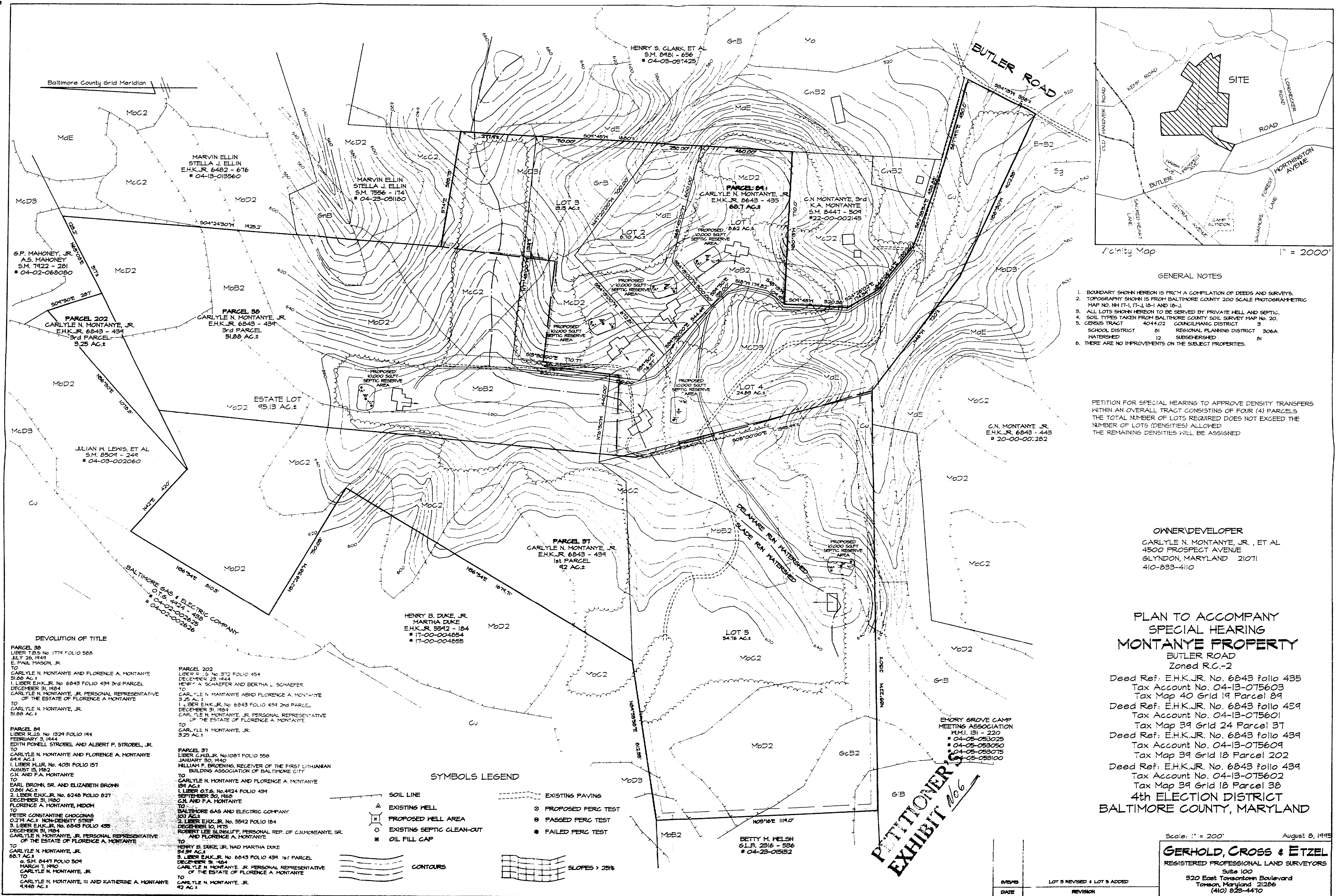
Dear Mr. Montanye,
Please accept our warmest thanks for your gracious presentation of your proposed plans for your land. We appreciate your concern for us and we will support you in any way possible. We look forward to our neighbors' association for you and all.

Sincerely,
Barbara Taylor
Secretary of the Emory Grove Association

Ret 26
4C

photograph
96-80-57H





GENERAL NOTES

1. BOUNDARY SHOWN HEREON IS FROM A COMPILATION OF DEEDS AND SURVEYS.
2. TOPOGRAPHY SHOWN IS FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAPHIC MAP NO. 10111, 11-1, 12-1 AND 13-1.
3. ALL LOTS SHOWN HEREON TO BE SERVED BY PRIVATE WELL AND SEPTIC.
4. SOIL TYPES TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 20.
5. GENUS TRACT 4044.02 COUNCILMANIC DISTRICT 3
6. THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED THE REMAINING DENSITIES WILL BE ASSIGNED

OWNER/DEVELOPER
CARLYLE N. MONTANYE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDON, MARYLAND 21071
410-833-4110

**PLAN TO ACCOMPANY
SPECIAL HEARING
MONTANYE PROPERTY
BUTLER ROAD
Zoned R.C.-2**

Deed Ref: E.H.K.J.R. No. 6843 folio 435
Tax Account No. 04-13-075603
Tax Map 40 Grid 19 Parcel 89

Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075601
Tax Map 39 Grid 24 Parcel 37

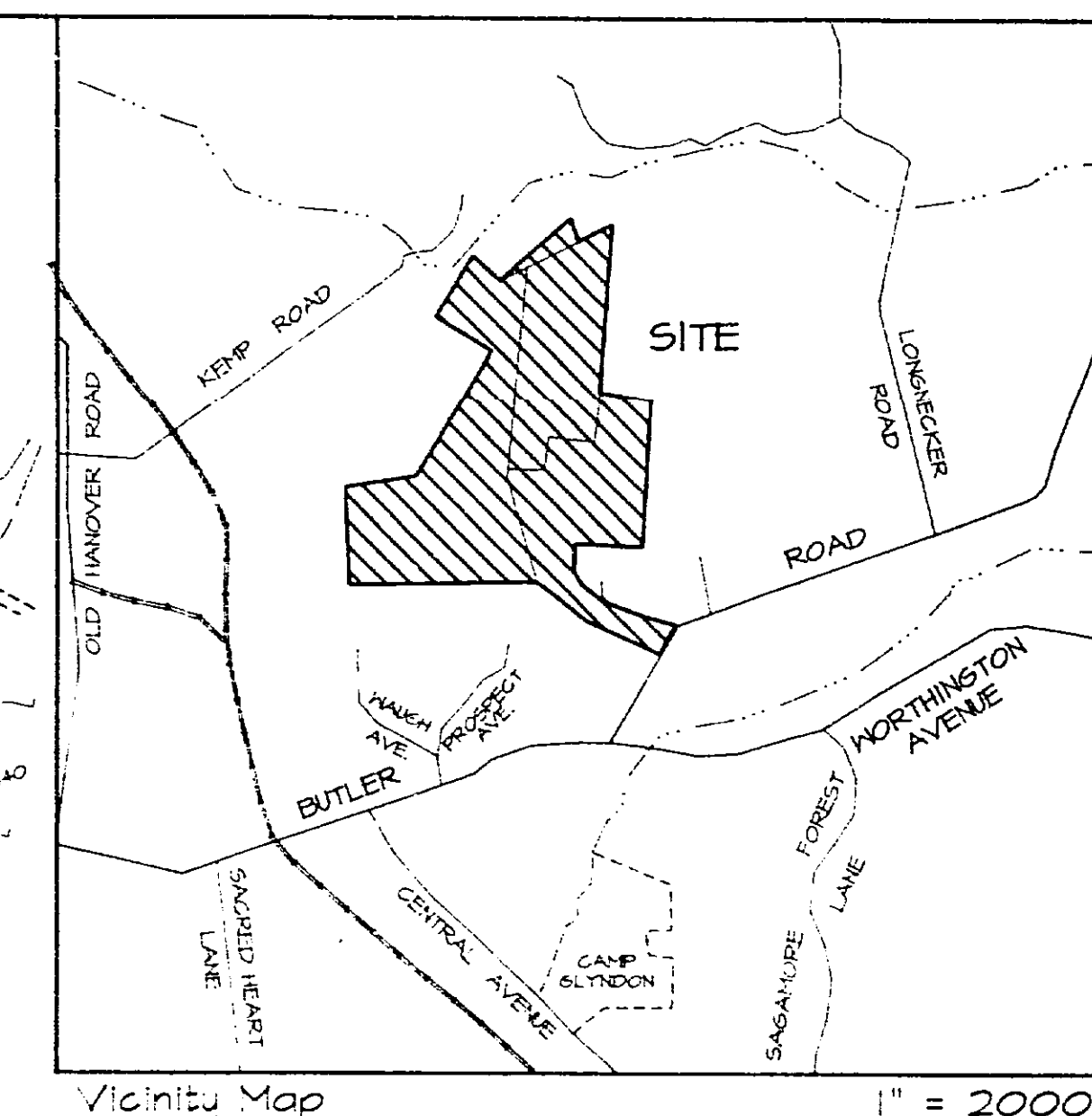
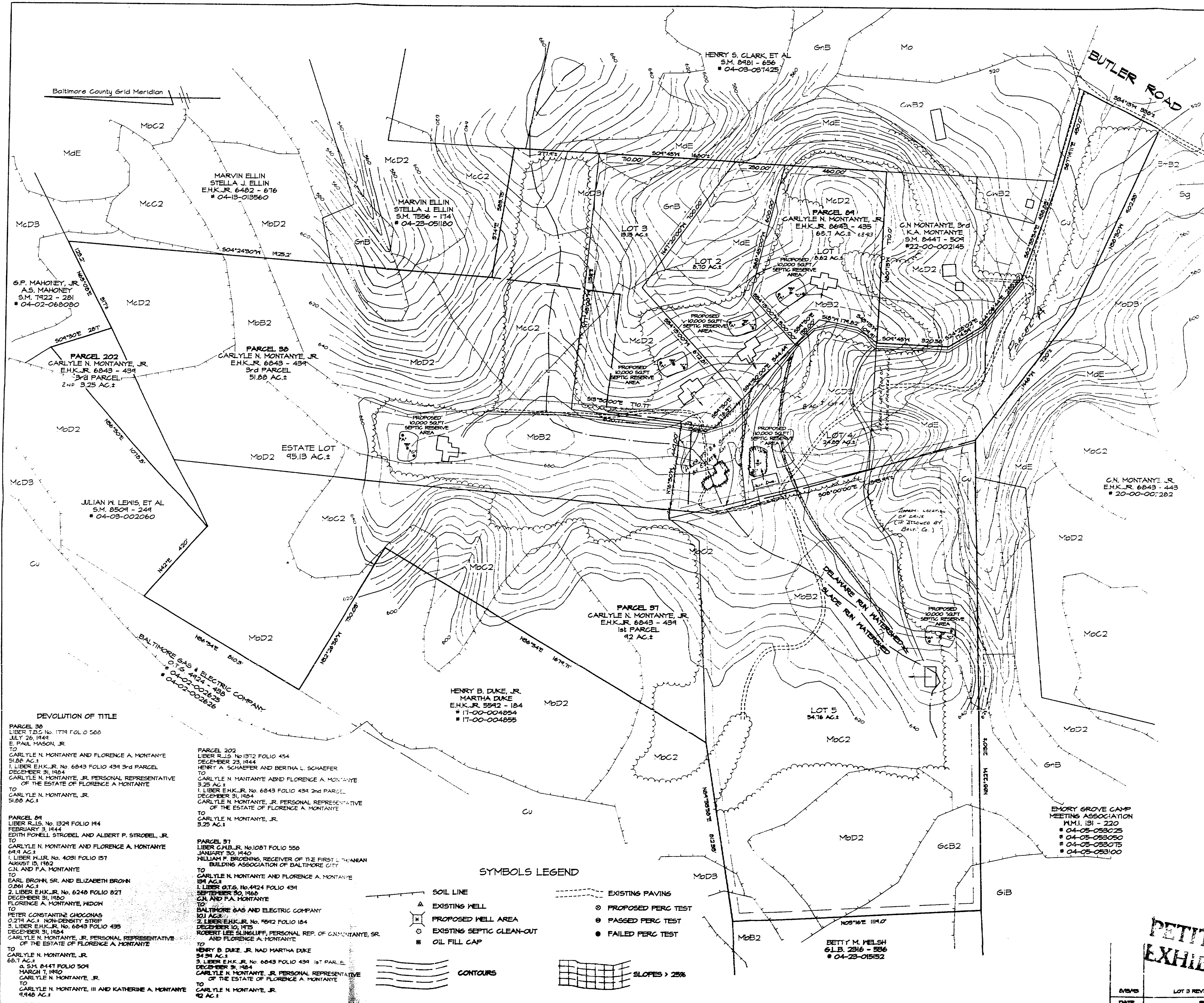
Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075609
Tax Map 39 Grid 18 Parcel 202

Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075602
Tax Map 39 Grid 18 Parcel 38

**4th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

Scale: 1" = 200' August 8, 1995

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
520 East Towson Boulevard
Towson, Maryland 21206
(410) 825-4470



- GENERAL NOTES
1. BOUNDARY SHOWN HEREON IS FROM A COMPILATION OF DEEDS AND SURVEYS.
 2. TOPOGRAPHY SHOWN IS FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAMMETRIC MAP NO. 18-11, 18-12 AND 18-13.
 3. ALL LOTS SHOWN HEREON TO BE SERVED BY PRIVATE WELL AND SEPTIC.
 4. SOIL TYPES TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 20.
 5. CENSUS TRACT 4044.02 COUNCILMANIC DISTRICT 3
 6. SCHOOL DISTRICT 81 REGIONAL PLANNING DISTRICT 306A
 7. WATERSHED 12 SUBSERVED 81
 8. THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS. THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED. THE REMAINING DENSITIES WILL BE ASSIGNED.

OWNER/DEVELOPER
CARLYLE N. MONTANYE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDEN, MARYLAND 21071
410-833-4110

PLAT SHOWING REVISIONS AGREED UPON WITH DEPRM

PLAN TO ACCOMPANY
SPECIAL HEARING
MONTANYE PROPERTY
BUTLER ROAD
Zoned R.C.-2

Deed Ref: E.H.K.JR. No. 6843 folio 435
Tax Account No. 04-13-075603
Tax Map 40 Grid 19 Parcel 89

Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075601
Tax Map 39 Grid 24 Parcel 37

Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075609
Tax Map 39 Grid 18 Parcel 202

Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075602
Tax Map 39 Grid 18 Parcel 38

4th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 200' August 2, 1995

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towson Boulevard
Towson, Maryland 21286
(410) 825-4470

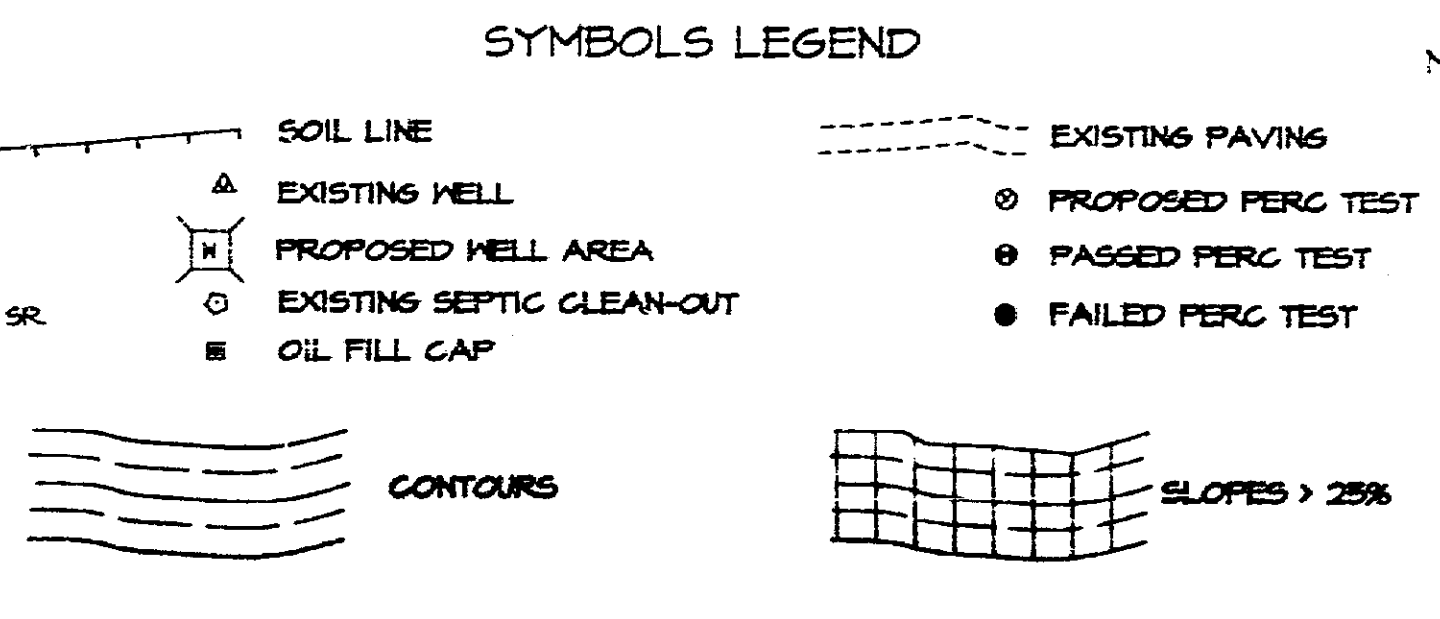
DEVOLUTION OF TITLE

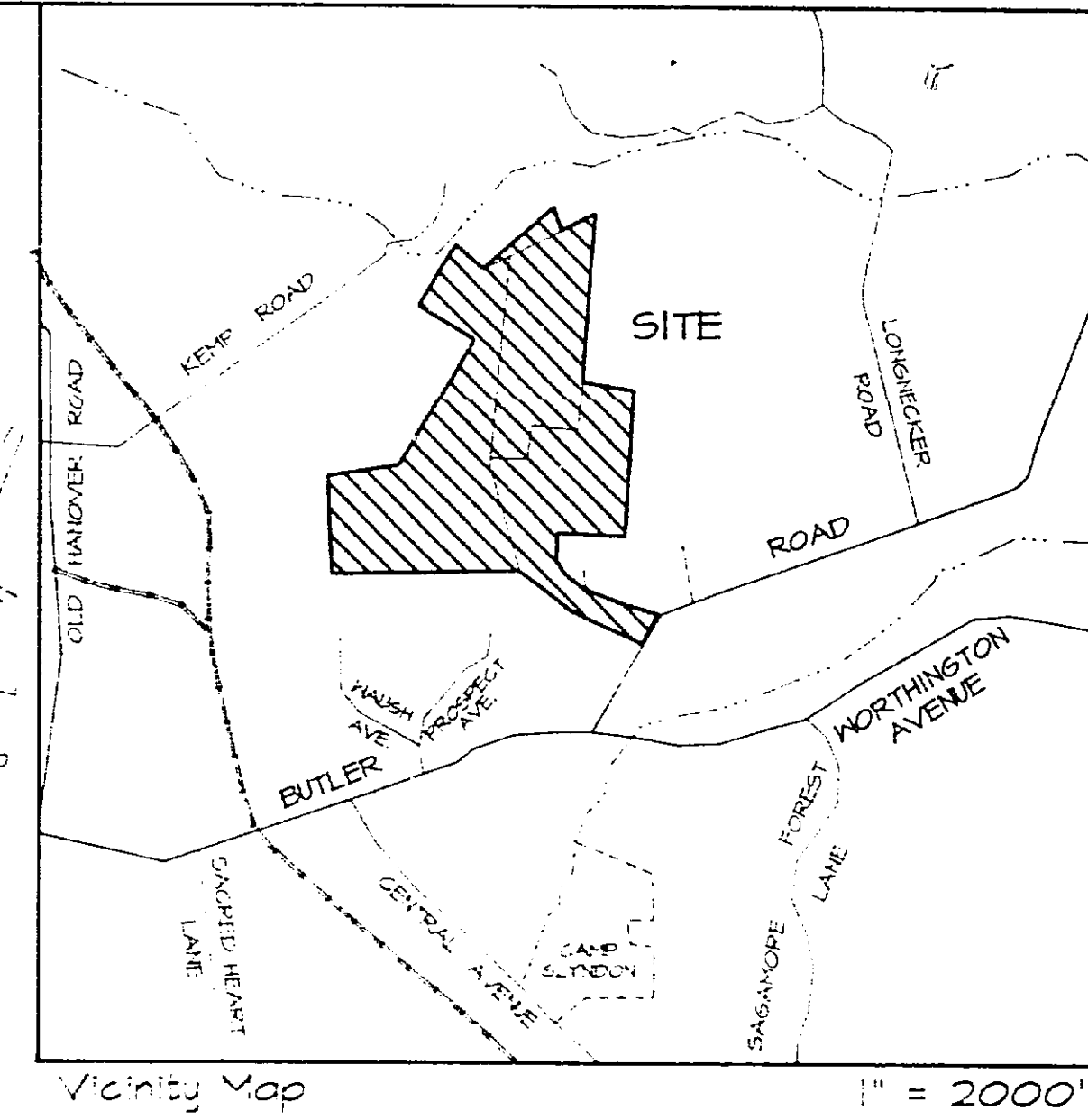
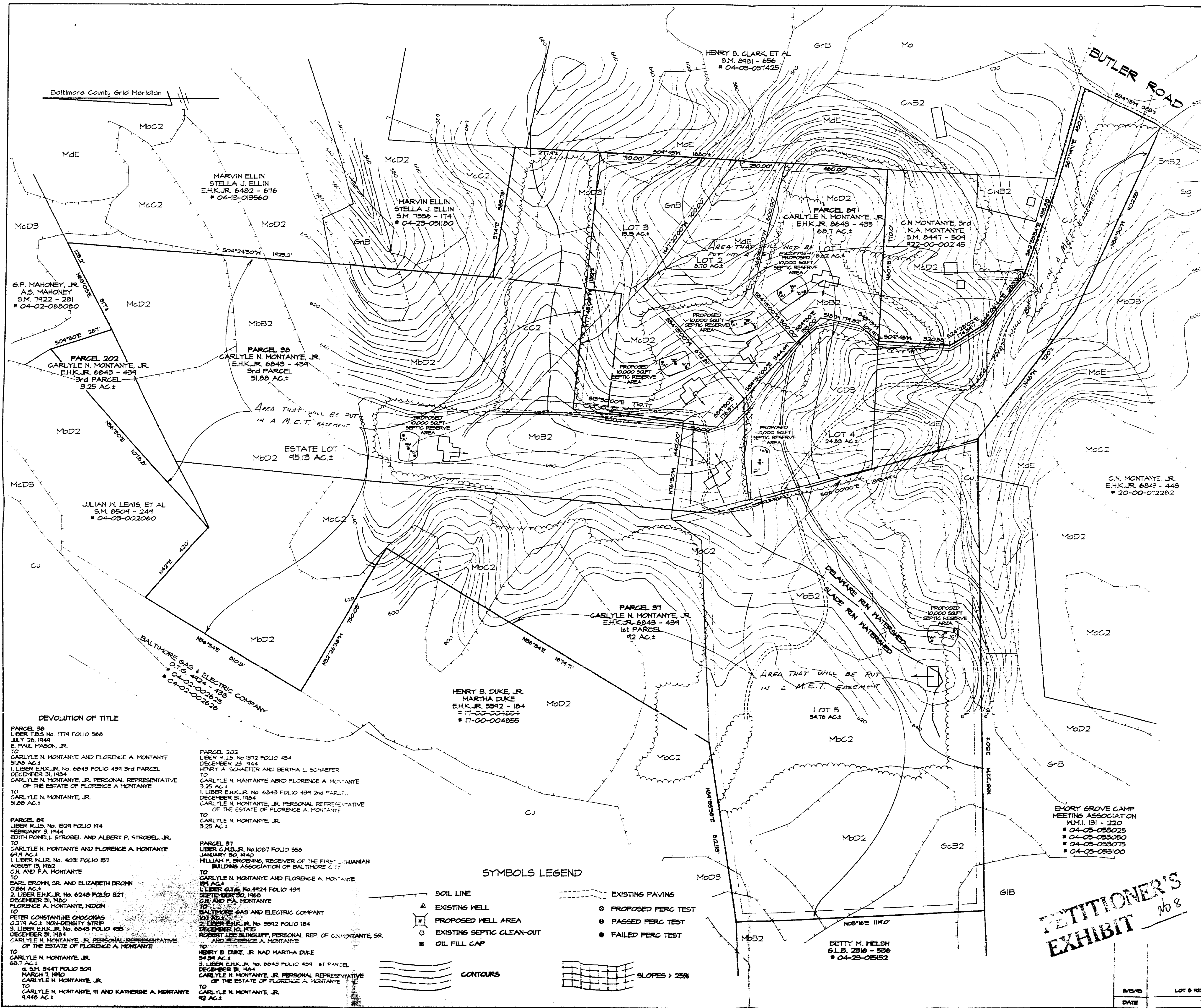
PARCEL 50
LIBER R.L.S. No. 1774 FOLIO 560
JULY 26, 1944
TO PAUL MASON, JR.
TO CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
5.00 AC.±
1. LIBER E.H.K.JR. No. 6843 FOLIO 439 3rd PARCEL
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO CARLYLE N. MONTANYE, JR.
5.00 AC.±

PARCEL 84
LIBER R.L.S. No. 1324 FOLIO 144
FEBRUARY 3, 1944
EDITH FOMELL STROBEL AND ALBERT P. STROBEL, JR.
TO CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
64.9 AC.±
1. LIBER M.U.R. No. 4031 FOLIO 157
AUGUST 15, 1962
C.N. AND F.A. MONTANYE
TO EARL BROWN, SR. AND ELIZABETH BROWN
JUNIOR AC.±
2. LIBER E.H.K.JR. No. 6248 FOLIO 827
DECEMBER 31, 1980
FLORENCE A. MONTANYE, MDCON
TO PETER CONSTANTINE CHOCOWAS
0.274 AC.± NON-DENSITY STRIP
3. LIBER E.H.K.JR. No. 6843 FOLIO 439
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO CARLYLE N. MONTANYE, JR.
65.1 AC.±
4. S.M. 8441 FOLIO 509
MARCH 1, 1980
CARLYLE N. MONTANYE, JR.
TO CARLYLE N. MONTANYE, III AND KATHERINE A. MONTANYE
9.940 AC.±

PARCEL 202
LIBER R.L.S. No. 1912 FOLIO 454
DECEMBER 23, 1944
HENRY A. SCHAEFER AND BERTHA L. SCHAEFER
TO CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
3.25 AC.±
1. LIBER E.H.K.JR. No. 6843 FOLIO 439 3rd PARCEL
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO CARLYLE N. MONTANYE, JR.
3.25 AC.±

PARCEL 57
LIBER G.H.B. JR. No. 1087 FOLIO 550
JANUARY 30, 1940
WILLIAM F. BROOKING, RECEIVER OF THE FIRST LUTHERAN
BUILDING ASSOCIATION OF BALTIMORE CITY
TO CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
12.1 AC.±
1. LIBER E.H.K.JR. No. 4424 FOLIO 439
SEPTEMBER 30, 1966
C.N. AND F.A. MONTANYE
TO BALTIMORE GAS AND ELECTRIC COMPANY
12.1 AC.±
2. LIBER E.H.K.JR. No. 7542 FOLIO 154
DECEMBER 10, 1975
ROBERT LEE SLINGLUFF, PERSONAL REP. OF CARLYLE, SR.
AND FLORENCE A. MONTANYE
TO HENRY B. DUKE, JR. AND MARTHA DUKE
34.34 AC.±
3. LIBER E.H.K.JR. No. 6843 FOLIO 439 1st PARCEL
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO CARLYLE N. MONTANYE, JR.
42 AC.±





GENERAL NOTES

- BOUNDARY SHOWN HEREON IS FROM A COMPILATION OF DEEDS AND SURVEYS.
- TOPOGRAPHY SHOWN IS FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAMMETRIC MAP NO. 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200.
- ALL LOTS SHOWN HEREON TO BE SERVED BY PRIVATE WELL AND SEPTIC.
- SOIL TYPES TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 20.
- GENUS TRACT 404-02 CONGRESSIONAL DISTRICT 3 SCHOOL DISTRICT 01 REGIONAL PLANNING DISTRICT 306A WATERSHED 12 SUBWATERSHED 01
- THERE ARE NO IMPROVEMENTS ON THE SUBJECT PROPERTIES.

PETITION FOR SPECIAL HEARINGS TO APPROVE DENSITY TRANSFERS WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE NUMBER OF LOTS (DENSITIES) ALLOWED THE REMAINING DENSITIES WILL BE ASSIGNED

OWNER/DEVELOPER
CARLYLE N. MONTANYE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDEN, MARYLAND 21071
410-833-4110

PLAT SHOWING AREAS OF LAND TO BE PUT IN A M.E.T. EASEMENT

PLAN TO ACCOMPANY SPECIAL HEARING MONTANYE PROPERTY BUTLER ROAD Zoned R.C.-2

Deed Ref: E.H.K.J.R. No. 6843 folio 435
Tax Account No. 04-13-075603
Tax Map 40 Grid 19 Parcel 89

Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075601
Tax Map 39 Grid 24 Parcel 37

Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075609
Tax Map 39 Grid 18 Parcel 202

Deed Ref: E.H.K.J.R. No. 6843 folio 439
Tax Account No. 04-13-075602
Tax Map 39 Grid 18 Parcel 38

4th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

Scale: 1" = 200' August 8, 1995

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towson Boulevard
Towson, Maryland 21286
(410) 833-4470

DEVOLUTION OF TITLE

PARCEL 30
LIBER T.B. No. 1774 FOLIO 500
JULY 26, 1944
E. PAUL NASON, JR.
TO
CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
51.88 AC.
1. LIBER E.H.K.J.R. No. 6843 FOLIO 434 3rd PARCEL
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO
CARLYLE N. MONTANYE, JR.
51.88 AC.

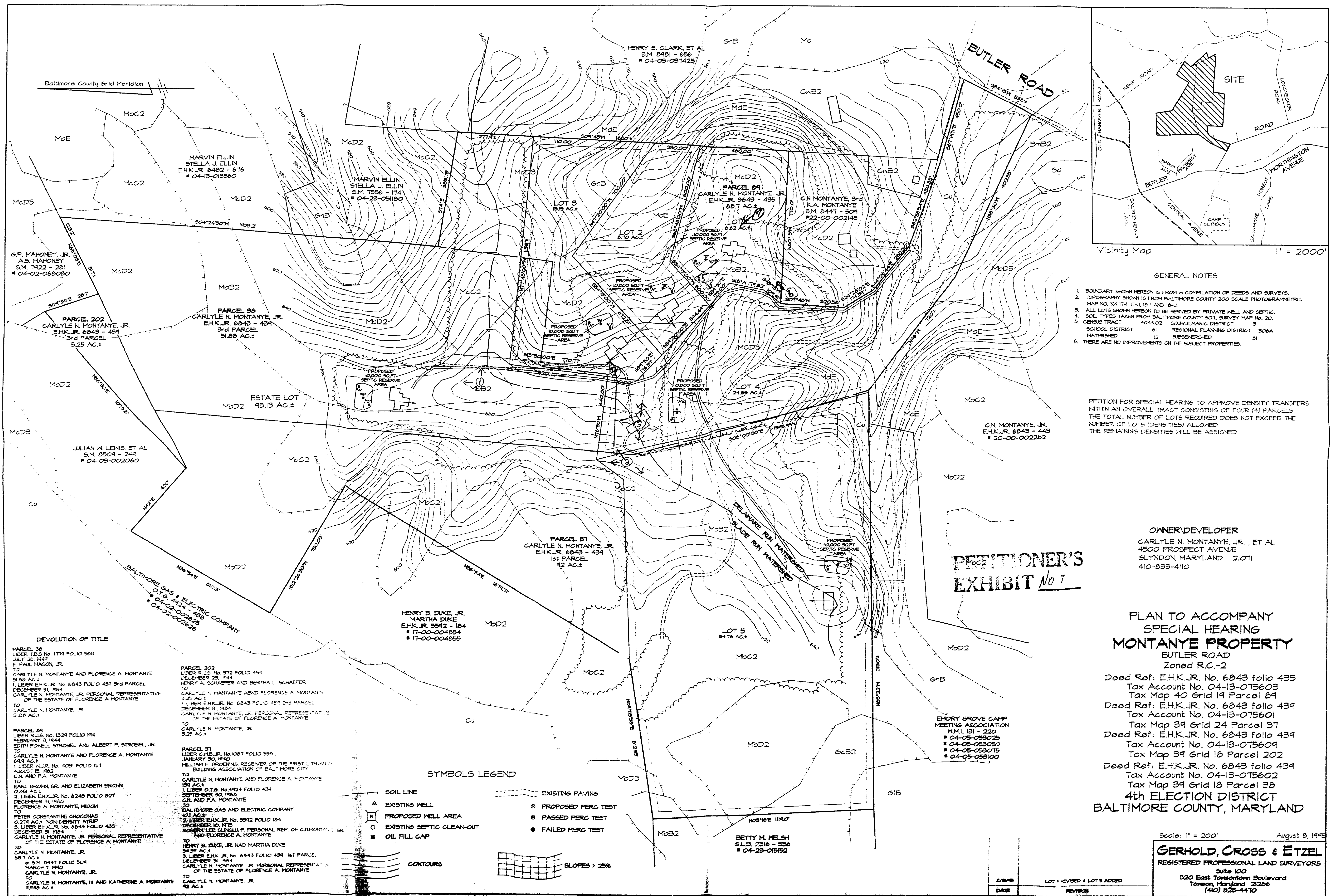
PARCEL 04
LIBER R.J.S. No. 1524 FOLIO 114
FEBRUARY 3, 1944
EDITH FOMELL STROBEL AND ALBERT P. STROBEL, JR.
TO
CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
6.14 AC.
1. LIBER R.J.S. No. 1091 FOLIO 157
AUGUST 15, 1962
CARLYLE N. MONTANYE, JR.
TO
CARLYLE N. MONTANYE, JR. AND FLORENCE A. MONTANYE
0.89 AC.
2. LIBER E.H.K.J.R. No. 6248 FOLIO 827
DECEMBER 31, 1984
FLORENCE A. MONTANYE, NIDON
TO
PETER CONSTANTINE CHOCONAS
0.274 AC. NON-DENSITY STRIP
3. LIBER E.H.K.J.R. No. 6048 FOLIO 438
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO
CARLYLE N. MONTANYE, JR.
6.14 AC.

PARCEL 202
LIBER R.J.S. No. 1372 FOLIO 454
DECEMBER 13, 1944
HENRY A. SCHAEFER AND BERTHA L. SCHAEFER
TO
CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
3.25 AC.
1. LIBER E.H.K.J.R. No. 6843 FOLIO 434 2nd PARCEL
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO
CARLYLE N. MONTANYE, JR.
3.25 AC.

PARCEL 51
LIBER C.A.B.J.R. No. 1087 FOLIO 550
JANUARY 30, 1940
WILLIAM F. BROWNING, RECEIVER OF THE FIRST MICHIGAN
BUILDING ASSOCIATION OF BALTIMORE CITY
TO
CARLYLE N. MONTANYE AND FLORENCE A. MONTANYE
12 AC.
1. LIBER O.T.E. No. 4124 FOLIO 434
SEPTEMBER 30, 1965
CARLYLE N. MONTANYE, JR.
TO
Baltimore Gas and Electric Company
2. LIBER E.H.K.J.R. No. 5542 FOLIO 184
DECEMBER 31, 1984
ROBERT LEE SLINGLUFF, PERSONAL REP. OF CARLYLE N. MONTANYE, JR.
AND FLORENCE A. MONTANYE
TO
HENRY B. DUKE, JR. AND MARTHA DUKE
12 AC.
3. LIBER E.H.K.J.R. No. 6843 FOLIO 434 1st PARCEL
DECEMBER 31, 1984
CARLYLE N. MONTANYE, JR. PERSONAL REPRESENTATIVE
OF THE ESTATE OF FLORENCE A. MONTANYE
TO
CARLYLE N. MONTANYE, JR.
12 AC.

SYMBOLS LEGEND

SOIL LINE	EXISTING PAVING
EXISTING WELL	PROPOSED PERC TEST
PROPOSED WELL AREA	PASSED PERC TEST
EXISTING SEPTIC CLEAN-OUT	FAILED PERC TEST
OIL FILL CAP	
CONTOURS	SLOPES > 25%



PETITION FOR SPECIAL HEARING TO APPROVE DENSITY TRANSFERS
WITHIN AN OVERALL TRACT CONSISTING OF FOUR (4) PARCELS
THE TOTAL NUMBER OF LOTS REQUIRED DOES NOT EXCEED THE
NUMBER OF LOTS (DENSITIES) ALLOWED
THE REMAINING DENSITIES WILL BE ASSIGNED

OWNER/DEVELOPER
CARLYLE N. MONTANYE, JR., ET AL
4500 PROSPECT AVENUE
GLYNDON, MARYLAND 21071
410-833-4110

PLAN TO ACCOMPANY
SPECIAL HEARING
MONTANYE PROPERTY
BUTLER ROAD
Zoned R.C.-2

Deed Ref: E.H.K.JR. No. 6843 folio 435
Tax Account No. 04-13-075603
Tax Map 40 Grid 19 Parcel 89

Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075601
Tax Map 39 Grid 24 Parcel 37

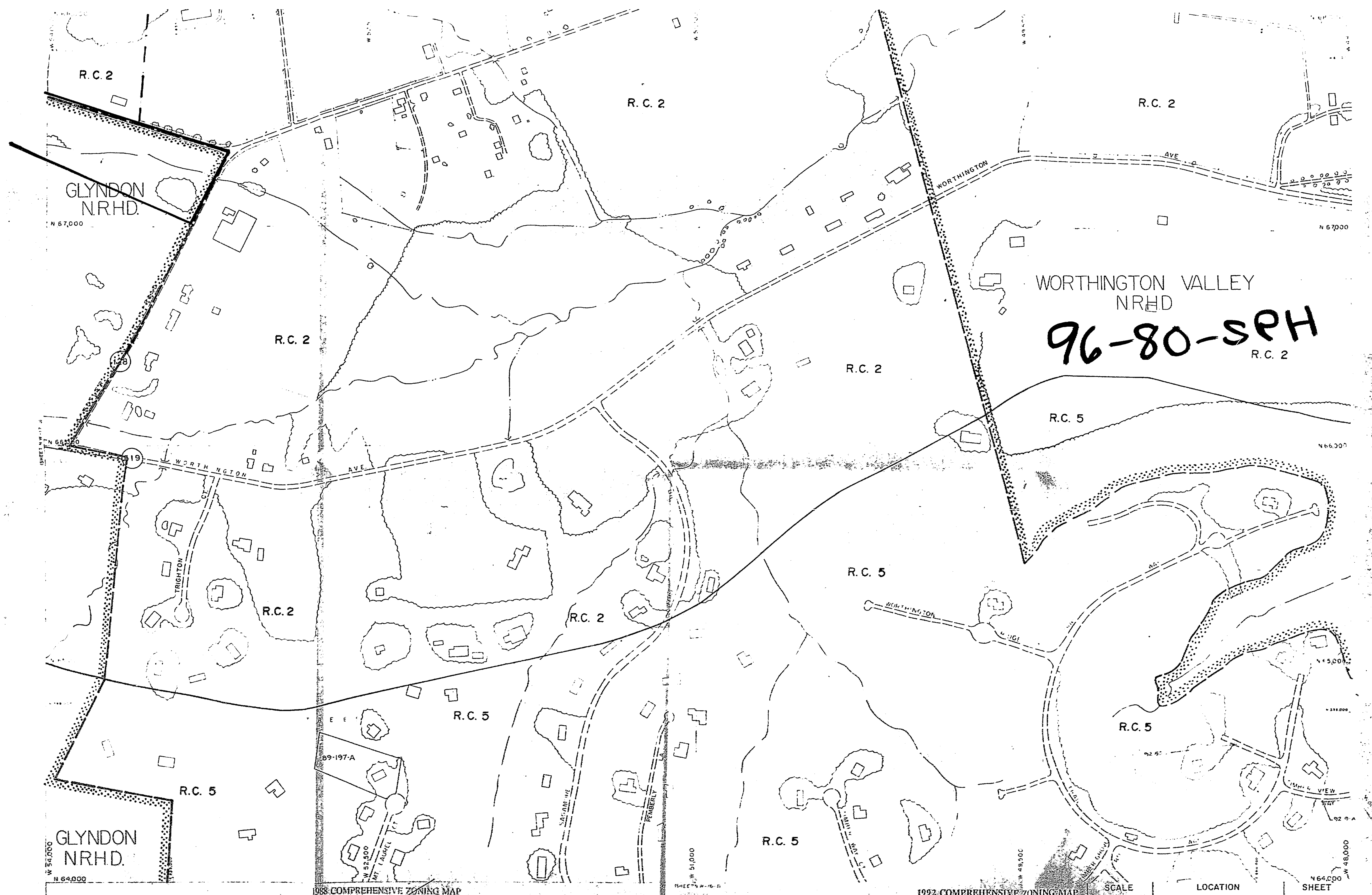
Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075609
Tax Map 39 Grid 18 Parcel 202

Deed Ref: E.H.K.JR. No. 6843 folio 439
Tax Account No. 04-13-075602
Tax Map 39 Grid 18 Parcel 38

4th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 200' August 8, 1995

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Tansontown Boulevard
Towson, Maryland 21286
(410) 823-4470



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council

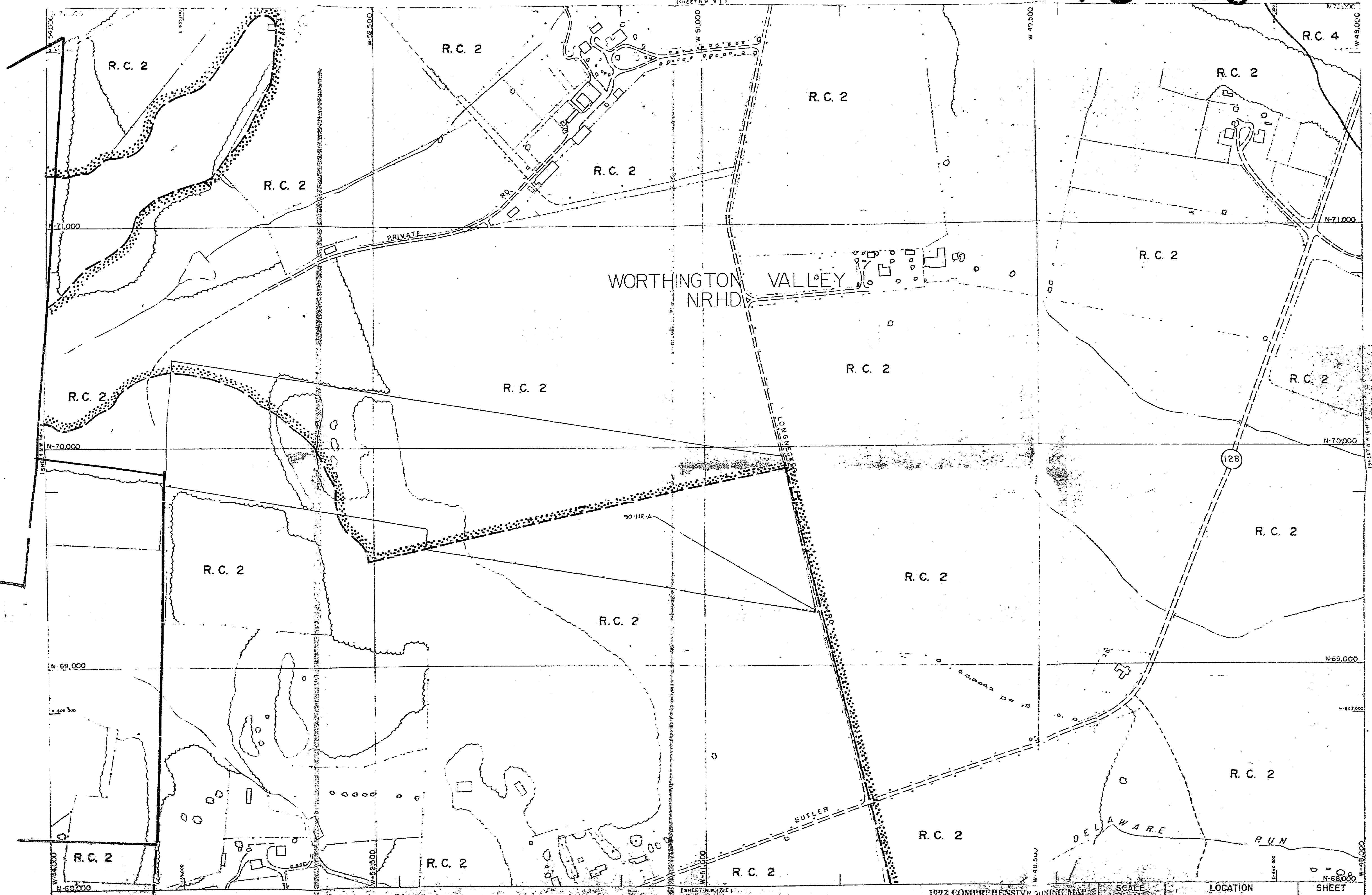
William H. Smith
Chairman, County Council

SCALE
LOCATION
WORTHINGTON
77

SHEET

17-1

96-80-SPH



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

1992 COM.
Adopted
Chairman

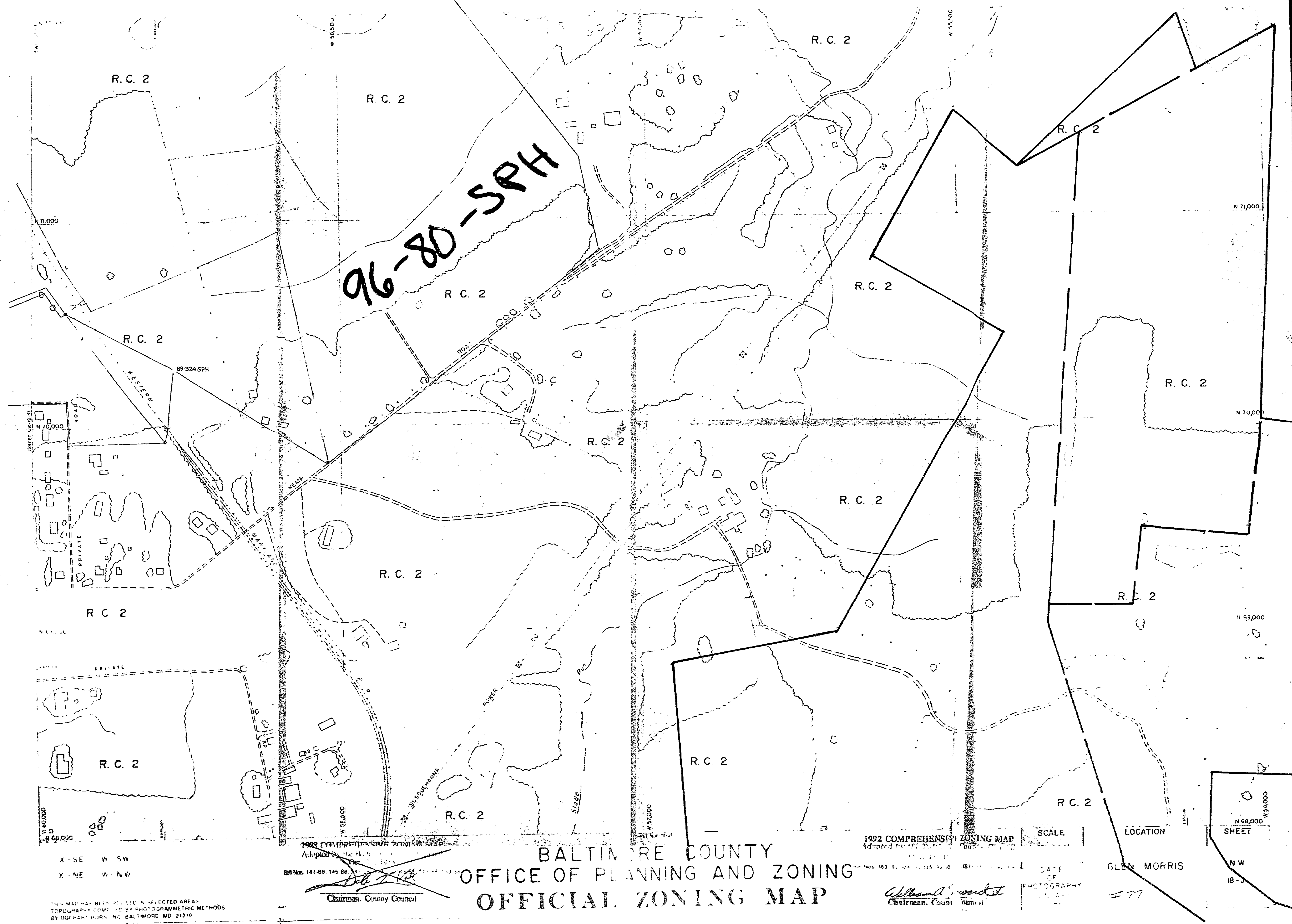
BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore
Oct. 15, 1992
Bill Nos. 183-92, 184-92, 185-92, 186-92
Chairman, County Council

SCALE
DATE
OF
PHOTOGRAPHY

LOCATION
NORTHEAST OF
EMORY GROVE
#77

SHEET
N W
18-1



96-80-SPH

X SE W SW
X NE W NW

THIS MAP HAS BEEN REPRODUCED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHANAN, INC. BALTIMORE, MD 21210

1992 COMPREHENSIVE ZONING MAP
Adopted by the Board of Commissioners
SAC Nos. 144-89, 145-89
[Signature]
Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Board of Commissioners

[Signature]
Chairman, County Council

SCALE

DATE
OF
PHOTOGRAPHY

LOCATION

GLEN MORRIS

#77

N 68,000
W 54,000
SHEET
NW
18-J