

IN RE:

PETITION FOR SPECIAL HEARING AND  
DEVELOPMENT PLAN APPROVAL OF  
"Locksley Conserve" Project

End of Donerin Way, E of Manor Road

10<sup>th</sup> Election District, 6<sup>th</sup> Councilmanic District  
Estate of Albert I. Dunstan, Owner  
Barbara A. Andrews, Contract Purchaser/Developer

\* COUNTY BOARD OF  
\* APPEALS FOR  
\* BALTIMORE COUNTY

\* Case No.: \_\_\_\_\_

\* (Appeal from Zoning  
\* Commissioner  
\* Case No. 98-319-SPH  
\* and HOH PDM #10-354)

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\* \* \* \* \*

### PETITION ON APPEAL

Protestants/Appellants, William Malstrom, David Nudelman, Glen Thomas and Locksley Conserve Community Committee, Inc., by and through their attorney, William D. Shaughnessy, Jr., respectfully request the County Board of Appeals for Baltimore County (the "Board") enter an Order reversing and remanding the final action of the Hearing Officer in the above Development Plan action, which final action was taken on December 10, 1998 pursuant to a Hearing Officer's Opinion and Development Plan Order dated December 10, 1998 (the "Order"), and say:

A. Jurisdiction of the Board to hear appeals from the determination of the Hearing Officer is proper. The Order was issued December 10, 1998. Appellants filed their appeal from the Order on January 8, 1999. Appellant William Malstrom, who appeared and testified at the hearing below, is an individual who owns property in the development of Manor Glen which adjoins the subject development plan and, as such, is aggrieved by the final action and Order of the Hearing Officer. Appellant David Nudelman, who appeared and testified at the hearing

below, is an individual whose property abuts and shares a common boundary line with the subject development plan and, as such, is aggrieved by the final action and Order of the Hearing Officer. Appellant Glen Thomas, who appeared and testified at the hearing below, is an individual who owns property in the development of Manor Glen which adjoins the subject development plan and, as such, is aggrieved by the final action and Order of the Hearing Officer. Appellant Locksley Conserve Community Committee, Inc. (the "LCCC") is a non-profit, civic and improvement membership corporation which has as one of its purposes, to ensure that any development of the Locksley Conserve site is done in a manner so as to cause the least detrimental impact upon the environment and adjacent communities; as set forth in its charter, membership is open to persons in the communities of Manor Glen, Green Glade and other communities adjacent to the Locksley Conserve project; representatives of LCCC appeared and testified at the hearing below and, as such, LCCC is aggrieved by the final action and Order of the Hearing Officer.

B. This Board must reverse and remand this case to the Hearing Officer with instructions that the Hearing Officer deny or modify the development plan as submitted by contract purchaser/developer, Barbara A. Andrews, to address the concerns raised by Appellants/Protestants at the hearings and as summarized below, for the following reasons:

1. The record reflects that there was substantial testimony and argument before the Hearing Officer regarding storm water management proposals at this site. The Hearing Officer erroneously and unlawfully approved a Development Plan and storm water management plan which improperly exempts Lots 16 through 21 of the Development Plan approved as Petitioner's Exhibit 8 from the requirements of storm water management. The exemption from storm water management granted to these lots is unlawful, in violation of the plain language of the Baltimore

County Code and Maryland State Regulations, and the Hearing Officer approval of such exemption is also unlawful, arbitrary, capricious and not supported by competent, material and substantial evidence.

2. The record reflects that there was substantial testimony and argument before the Hearing Officer regarding storm water management proposals at this site. The Hearing Officer erroneously and unlawfully approved a Development Plan and storm water management plan which improperly permits the developer not to provide storm water management for a “ten year storm.” The variance/waiver from the requirement to manage for a “ten year storm” granted by the Department of Environmental Protection and Resource Management (“DEPRM”) and validated by the Hearing Officer in the approval of the Plan, is unlawful, in violation of the plain language of the Baltimore County Code and Maryland State Regulations, and the Hearing Officer approval of such exemption is also unlawful, arbitrary, capricious and not supported by competent, material and substantial evidence. There was no evidence of any exceptional circumstances which would justify a deviation from the requirement of managing for a “ten year storm”; to the contrary, there was substantial testimony that this requirement could have been satisfied by raising the walls of the proposed facility.

3. The record reflects that there was substantial testimony and argument before the Hearing Officer regarding storm water management proposals at this site. The Hearing Officer erroneously and unlawfully approved a Development Plan and storm water management plan which: (i) does not provide for accurate computations and calculations of existing drainage areas, preliminary hydrology computations and demonstration of suitable outfall; (ii) does not maintain as nearly as practicable “pre-development run-off characteristics”, and (iii) does not provide for

suitable protection to the Use III trout streams which surround three sides of the property which is being subject to development.

4. The record reflects that there was substantial testimony and argument before the Hearing Officer regarding inaccuracies in the boundary lines of the development proposed at this site. The Hearing Officer erroneously and unlawfully approved a Development Plan which contains a boundary dispute known to exist between the owners of the property subject to the Development Plan and the owners of lots in the adjoining Manor Glen development.

5. The record reflects that there was substantial testimony and argument before the Hearing Officer regarding the detrimental impact of development of the property subject to the Development Plan upon the adjacent Use III trout streams which surround the site on three sides, as well as the detrimental effects that unsuitable or defective storm water management practices at the site could have on such streams. Appellant/Protestants requested that the Hearing Officer impose numerous conditions on any approval of a development plan for this project, including without limitation, conditions that (i) no development occur in the areas of Lots 13, 14, and 15 (wooded lots extremely close to the streams, situated on steep slopes), (ii) the developer produce specific studies as to the impact of the proposed development upon the streams (including studies of thermal impacts, etc.), (iii) the entire plan be resubmitted with accurate data as to drainage areas, demonstration of suitability of outfall, and preliminary hydrology studies, (iv) eliminate the exemption from storm water management requirements granted by DEPRM as to lots in Drainage Area 1 (lots 16 through 21 on Developer's Exhibit 8); (v) require storm water infiltration throughout the entire site, not merely concentrated in one area, in an effort to ameliorate detrimental effects of development upon the adjacent streams, (vi) lessen the number of lots permitted to be developed at the project, in an effort to ameliorate detrimental effects of

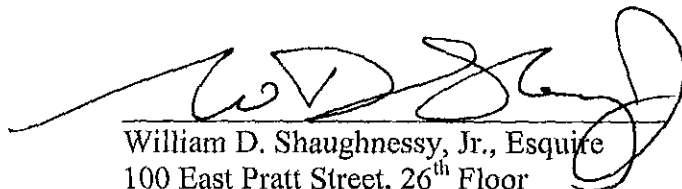
development upon the adjacent streams, and (vii) require sufficient assuredness of maintenance of any stormwater management facility installed at the proposed site. The Hearing Officer erroneously and unlawfully approved a Development Plan and storm water management plan which does not provide for protection of the streams from the detrimental impacts of development at this site.

6. The Hearing Examiner erred when he failed to require that the Developer install a cul-de-sac at the terminus of the proposed extension of Donerin Way to address concerns raised by citizens and the Chief of the Jacksonville Volunteer Fire Company regarding turn-around areas for fire apparatus.

7. The Hearing Examiner erred when he failed to address Protestants' safety concerns regarding traffic generated by the proposed development, and in failing to require that the Developer install a secondary access to the proposed development through Dunstans Way to address concerns raised by citizens regarding traffic through the existing Manor Glen subdivision.

For all of the foregoing reasons, and such others as may be more fully elaborated upon at the hearing in this matter, the Order should be reversed and the case remanded, if necessary, to the Hearing Officer to require that the errors set forth above be eliminated, corrected, if possible, and a revised development plan resubmitted.

Respectfully submitted,



William D. Shaughnessy, Jr., Esquire  
100 East Pratt Street, 26<sup>th</sup> Floor  
Baltimore, MD 21202  
(410) 752-9700

Counsel for Appellants/Protestants, William  
Malstrom, David Nudelman, Glen Thomas  
and Locksley Conserve Community  
Committee, Inc.

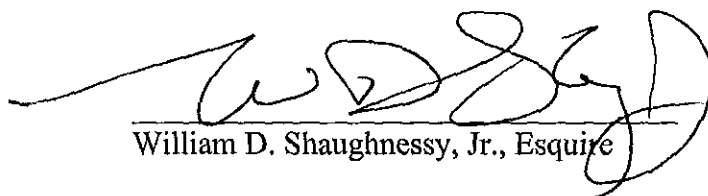
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18<sup>th</sup> day of January, 1999, a copy of the foregoing  
Petition on Appeal was mailed first class postage pre-paid, and sent via facsimile, to:

Howard L. Alderman, Esquire  
305 W. Chesapeake Ave.  
Towson, MD 21204  
(410) 321-0600

Counsel for Barbara Andrews, Developer

Honorable Lawrence E. Schmidt  
Hearing Officer for Baltimore County  
Suite 415, County Courts Building  
401 Bosley Avenue  
Towson, Maryland 21204



William D. Shaughnessy, Jr., Esquire

IN RE: DEVELOPMENT PLAN HEARING and \* BEFORE THE  
PETITION FOR SPECIAL HEARING  
(Locksley Conserve) \* ZONING COMMISSIONER  
End of Donerin Way, E of Manor Road  
10th Election District \* OF BALTIMORE COUNTY  
6th Councilmanic District \* Cases Nos. X-354 and 98-319-SPH  
  
The Estate of Albert I. Dunstan, Owners;  
Barbara A. Andrews, Contract Purchaser/Developer

\* \* \* \* \*

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Zoning Commissioner/Hearing Officer for further proceedings pursuant to the prior Orders issued on October 6, 1998 and November 5, 1998. The matter under consideration is a request by Barbara A. Andrews, Developer/Contract Purchaser, for approval of a development plan for 21 single family residential lots on the subject property. The property is an irregularly shaped parcel, containing a gross area of 49.037 acres, more or less, split zoned R.C.2 (8.18 acres) and R.C.5 (40.86 acres), and is located south of Stansbury Mill Road, at the end of Donerin Lane in the vicinity of Jarrettsville Pike and Manor road. The development proposal submitted herein has undergone substantial review and comment, pursuant to the Baltimore County development review process, as codified in the County Code. Ultimately, following multiple hearing days before me, an Opinion and Order was issued on October 6, 1998, conditionally approving the plan subject to seven restrictions imposed therein. Of particular note was Restriction No. 6 relative to the Developer's storm water management plan. That restriction required that the Developer submit such documentation and/or plans as was determined necessary by the Department of Environmental Protection and Resource Management (DEPRM) for the development of the storm water management plan. Upon that County agency's review of the information submitted, the matter was to be reset for further

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proceedings consistent with the terms and conditions of the Order issued on October 6, 1998. That Order was clarified and amended by subsequent Order dated November 5, 1998. That subsequent Order established hearing dates and a time schedule for the further proceedings. To the extent that same are not contradicted or overruled herein, the findings, terms and conditions of those prior Orders are incorporated herein and adopted.

As noted above, the topic at issue at the subsequent hearing called for this case related to the Developer's storm water management plan. Testimony and evidence was offered on behalf of the Developer and from the Department of Environmental Protection and Resource Management (DEPRM) on November 25, 1998. The Protestants (Locksley's Conserve Community Committee, Inc.) presented testimony and evidence on December 8, 1998. The Developer was represented at those hearings by Howard L. Alderman, Jr., Esquire, and the Protestants, by William B. Shaughnessy, Jr., Esquire.

As was duly noted in my prior Opinion of October 6, 1998, the subject site is unique in character. The uniqueness is primarily caused by the existence of a fragile eco-system containing streams which envelope the property in a U shape. The western tributary obviously abuts the property on its western edge and the eastern tributary near the eastern tract boundary. These streams ultimately converge and become part of the Saw Mill Branch, located north of this site. Due to the existence of these streams, I required that the Developer undertake additional study in order to develop a storm water management plan which would insure that there would be no adverse impact on these stream systems as a result of this development. Although frequently much of the finite engineering needed for the development of a storm water management plan is typically performed during Phase II of the development review process, I felt it appropriate that such study and work be performed as part of the development plan review



process and be resolved by the Hearing Officer's decision.<sup>1</sup> The proceedings subsequent to my Opinion and Order dated October 6, 1998 have further convinced me that my decision to require a resolution of the storm water issue as part of the Hearing Officer's Hearing was appropriate.

Following the issuance of my Order on October 6, 1998, the Developer's consultants had extensive conversations and communications with the Department of Environmental Protection and Resource Management (DEPRM). Moreover, representatives for the Protestants were permitted to share in this exchange of information.

Substantial testimony was offered at the November 25, 1998 hearing regarding the developed storm water management plan. Specifically, testimony was received from the engineer, Mark S. Richmond of KCI Technologies, Inc., who actually devised the details and particulars of the storm water management plan. Testimony was also received from Robert Sheeseley, an environmental resource expert. Suffice it to say, the record of the case will fully disclose the details of the storm water management plan and these witnesses testimony. However, it is of note that the plan has been amended so that one single family dwelling lot has been eliminated from the original proposal. Under the present plan (Developer's Exhibit 8) there are 21 lots proposed, as opposed to the 22 for which approval was originally sought. This change was to allow a larger area to accommodate the storm water management facility. Mr. Richmond described in detail the existing and proposed drainage patterns on the site (See Developer's Exhibit 10). He also testified as to how storm water would be collected from the areas of impervious surface (i.e., roadways, driveways, rooftops, etc.) and then directed to a storm water management reservation area which will be located adjacent to proposed Lots 11 and 12. The storm water will be managed by that facility through an infiltration system. The particulars of

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<sup>1</sup> The Hearing Officer's Hearing and Order mark the end of Phase I of the development review process. If approved, a plan then goes on to Phase II for the submission of more finitely engineered plans and approvals.

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that system were fully described at the hearing. Generally, the system will be designed and constructed to mitigate and reduce the potentially detrimental impacts which are of concern to both DEPRM and the Protestants. These areas include the volume and rate of discharge, the temperature of the water, the infiltration of storm water into the ground water system, the outfall design, and the control of sedimentation.

In addition to the infiltration facility, storm water will also be handled on other individual lots within the proposed subdivision by a sheet flow method. Essentially, sufficient areas of those lots will be left undisturbed to permit water to flow from developed portions of the lots in a manner which will reduce the rate of flow and filter the water to protect the stream system. All of the detailed testimony offered by Messrs. Richmond and Sheeseley is contained within the record of this case.

Testimony was also received from representatives of DEPRM at the hearing on November 25, 1998. Copies of written correspondence from DEPRM were received into evidence at that time. One such letter was from Thomas L. Vidmar, Professional Engineer and a supervisor in the Resource Management and Engineering Services Division of DEPRM. He opined that the granting of a variance was appropriate from the 10-year peak storm management requirements.<sup>2</sup> Essentially, Mr. Vidmar's letter indicated that a variance from that requirement was appropriate, conditioned upon a requirement that the first 1 and ½ inches of runoff coming from impervious areas to the storm water management pond receive water quality treatment. Mr. Vidmar's full letter and findings expressed therein are contained within Developer's Exhibit 14. A second letter was received from Patricia M. Farr, Supervisor in the Environmental Impact Review Division of DEPRM. Ms. Farr's letter (Developer's Exhibit 15) indicates that the storm

<sup>2</sup> The Director of DEPRM, and not the Hearing Officer, is authorized to grant waivers and/or variances from the provisions of the storm water management regulations (See Sections 14 - 155, Baltimore County Code).

water management plan prepared by the Developer "adequately addressed" the storm water management issues. Additionally, Al Wirth, Lee Dreiger, and Patricia Farr all appeared at the hearing on November 25, 1998. They unequivocally stated that they were satisfied with the documentation and data which the Developer had submitted and endorsed the storm water management plan. They expressed absolutely no reservations about the propriety of the plan and the detailed computations submitted therewith.

A second additional hearing day was scheduled for December 8, 1998. At that time, testimony and evidence was received from Richard Klein and Philip Der, P.E., on behalf of the Protestants. Again, much of this testimony will not be repeated herein, as it is fully contained within the record of this case. Generally, Messrs. Klein and Der opined that the Developer's efforts to develop a storm water management plan which had occurred since the issuance of the October 6, 1998 Order, represented a "step in the right direction." However, Messrs. Der and Klein are not fully satisfied. They are chiefly concerned about the lots which will utilize the sheet flow method of storm water management control.

In considering all of the testimony and evidence offered, I am persuaded that the storm water management plan which has been offered and is shown as part of Developer's Exhibit 8, is appropriate, and that the plan should therefore be approved. I am satisfied, based upon the competent testimony of the Developer's engineers and experts, that there will not be adverse impacts upon the surrounding systems. Moreover, I place great reliance upon the testimony of the representatives of the Department of Environmental Protection and Resource Management (DEPRM). Their clear and convincing testimony was that the storm water management system was appropriate.

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In reaching this decision, it is of note that Mr. Klein, in particular, suggested alternatives which might be implemented to address storm water ramifications of this development. For example, he proposes the installation of multiple bio-retention facilities throughout the site. Although such an approach may be effective, I view this suggestion as an alternative, only, and not the sole means to properly handle storm water. There may very well be as many different approaches as there are experts and engineers who could address this issue. Despite the potential for multiple approaches, the Developer is required only to submit a single approach and design which effectively addresses the issue and satisfies the County's requirements. The proposed means of storm water management, in my judgment, achieves this goal.

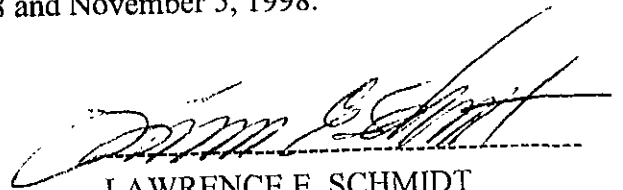
As to the Protestants' objections to the sheet flow method proposed for certain individual lots, it was argued that some of those lots contain steep slopes and/or are less than 2.00 acres in area. Although this is indeed the case, the site conditions testified to by the Developer's engineers and experts are considerations which are persuasive to a finding that the sheet flow method is appropriate. Many of the lots at issue contain undisturbed areas of forest and heavy ground cover, which will be effective in handling runoff from the developed portions. Moreover, although certain of the lots are under 2.00 acres in size, many abut the area shown on the plan as Parcel B. Parcel B is located in that portion of the site zoned R.C.2 and under the original plan, was to be subdivided and added to the rear of many of the lots at issue. Although there will be no such subdivision based on the factors enumerated in my prior Order, that area will be undisturbed and will effectively create a larger buffer area for the stream system to the west of this site.

In my prior Order, I noted that an innovative approach was needed to address the storm water management issue. I believe that the Developer has proposed such an approach. For all of

these reasons I decline to adopt any of the conditions recommended by the Protestants at the continued hearing. At this time, I believe that the plan is appropriate and is meritorious. I will therefore unconditionally approve the plan, subject to the applicable provisions as set out in my Order of October 6, 1998. In summary, I am satisfied that the Developer's post-hearing efforts have resulted in the development of a storm water management plan for this site which will protect the surrounding community and prevent adverse impact on adjacent properties, including, but not limited to, the sensitive environmental eco-systems (streams) which adjoin same.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the development plan shall be approved.

THEREFORE, IT IS ORDERED by the Zoning Commissioner/Hearing Officer for Baltimore County this 11<sup>th</sup> day of December, 1998 that the development plan/storm water management plan, identified herein as Developer's Exhibit 8, be and is hereby APPROVED, subject to the terms and conditions expressed thereon, and, as applicable, the terms and conditions of my prior Orders dated October 6, 1998 and November 5, 1998.



LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

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BY [Signature]



Baltimore County  
Zoning Commissioner  
Office of Planning

Suite 405, County Courts Bldg.  
401 Bosley Avenue  
Towson, Maryland 21204  
410-887-4386

December 10, 1998

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

RE: DEVELOPMENT PLAN & PETITION FOR SPECIAL HEARING  
(Locksley Conserve)  
End of Donerin Way, E of Manor Road  
10<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District  
Estate of Albert I Dunstan, Owners, Barbara A. Andrews, Contr. Purchaser/Developer  
Case No. X-354 & 98-319-SPH

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Development Plan has been approved 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 black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: William D. Shaughnessy, Jr., Esq. 20 S. Charles Street, 10<sup>th</sup> Floor, Baltimore, Md. 21201  
Ms. Barbara Andrews, 1552 Glencoe Road, Sparks, Md. 21152  
Mr. Philip Der, 3813 Donerin Way, Phoenix, Md. 21131  
Dave Flowers, DPDM; DEPRM; DPW; R&P; People's Counsel; Case File



IN RE: DEVELOPMENT PLAN HEARING and  
PETITION FOR SPECIAL HEARING  
(Locksley Conserve)  
End of Donerin Way, E of Manor Road  
10th Election District  
6th Councilmanic District

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY

\* Cases Nos. X-354 and 98-319-SPH

The Estate of Albert I. Dunstan, Owners;  
Barbara A. Andrews, Contract Purchaser/Developer

\* \* \* \* \*

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

INTRODUCTION

This matter comes before this Hearing Officer/Zoning Commissioner for consideration of a development plan prepared by Gerhold, Cross & Etzel, Ltd., for the proposed development of the subject property with a 22-lot residential subdivision to be known as the Locksley Conserve. The property is an irregular shaped parcel containing a gross area of 49.037 acres, more or less, split zoned R.C.2 (8.18 acres) and R.C.5 (40.86 acres), and is located south of Stansbury Mill Road, at the end of Donerin Lane in the vicinity of Jarrettsville Pike and Manor Road. The property is currently owned by the Estate of Albert I. Dunstan, but is under contract to be purchased by Barbara A. Andrews, Developer of the proposed subdivision. In addition to development plan approval, the Developer originally requested zoning relief, pursuant to the Petition for Special Hearing, to approve the division of approximately 8.2 acres of land located in the R.C.2 zoned portion of the property into 12 nondensity parcels, and to approve a part of the septic reserve area for proposed Lot 5 to be located in the R.C.2 zone while the dwelling thereon would be located in the R.C.5 zone. However, as noted below, Counsel for the Developer subsequently withdrew the Petition. Thus, no zoning relief is presently at issue.

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Pursuant to Section 26-206 of the Baltimore County Code (BCC), this matter comes before this Zoning Commissioner for a public hearing to consider the merits of the proposal. Pursuant to Section 26-168 of the BCC, the Zoning Commissioner, or Deputy Zoning Commissioner, is designated as the Hearing Officer, as mandated by the development review process codified in Section 26-166, et seq, of the BCC. In essence, these regulations set out a sequential process for the submission and consideration of proposals for the development of land in Baltimore County. The development review process begins with the filing of a concept plan by the Developer/ property owner. As the name suggests, the concept plan is schematic in nature and is intended to provide the reviewing agencies of Baltimore County with an unrefined representation of the development proposal. In this case, a concept plan was submitted on October 14, 1997. Pursuant to the BCC, the County reviewed that plan and issued written comments addressing the sufficiency of the proposal. Following the submission of a concept plan and receipt of the County comments, the Developer is required to conduct a Community Input Meeting (CIM), pursuant to Section 26-202(h) of the BCC. That meeting is held during the evening hours at a location within the community in which the development is proposed. The CIM is designed to give interested neighbors and property owners an opportunity to question the Developer and the County representatives about the proposal and to share concerns and suggestions regarding the property and development at issue.

In this case, a CIM was conducted on November 5, 1997 at the Jacksonville Elementary School Library. In view of the significant interest of the community and numerous issues raised, a second CIM was scheduled and conducted on November 19, 1997 at the same location. The minutes



of those CIMS are part of the record of this case. Following the CIMS, the Developer typically refines the plan, based upon comments received from Baltimore County and the property's neighbors through the concept plan conference and the CIMS. The resultant proposal, known as the development plan, is then submitted to the County for further review. In this case, a development plan was submitted and a conference held thereon on April 8, 1998. Following that conference, written comments concerning that plan are issued by the County agencies, after which, the matter is then scheduled before a Hearing Officer for consideration.

In this case, an initial Hearing Officer's Hearing was set for May 1, 1998. The development regulations also permit the Developer to combine a request for zoning relief (e.g., Petition for Variance, Special Exception and/or Special Hearing) with the Hearing Officer's Hearing seeking development plan approval. (See BCC Section 26-206.1) In this case, the Developer filed the Petition for Special Hearing as described above, and the required public hearings for the zoning relief and development plan approval were combined. However, at the May 1, 1998 hearing, legal counsel for the Developer moved for a continuance to permit County agencies to conclude their respective reviews of the plan and to allow the Developer to re-evaluate its plan and special hearing request. Subsequently, the Petition for Special Hearing was withdrawn; thus, no zoning relief is at issue. On or about May 15, 1998, the Developer submitted a revised plan, which among other things, reconfigured some of the lots due to the abandonment of the special hearing request. The process and timing of this submission had been agreed to by the parties at the May 1, 1998 hearing. The matter was then reconvened for public hearing on June 30, 1998. Due to the significant volume of testimony and evidence presented, that hearing

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consumed six (6) days. Testimony and evidence were received on June 30, 1998, July 16, 1998, August 26, 27, and 28, 1998, and September 3, 1998. At the conclusion of the hearing on September 3, 1998, the Hearing Officer provided each party with an opportunity to submit written memoranda in lieu of closing argument. Memoranda were due, and, in fact, received by the close of business on Monday, September 21, 1998. As required by the BCC, the following Opinion and Order is provided.

The issuance of the Hearing Officer's Opinion and Development Plan Order represents the conclusion of Phase I of the development review process. As set out in Section 26-206 of the BCC, the Hearing Officer can either approve the plan as submitted, deny the plan, or approve the plan and attach conditions and/or restrictions thereto. Assuming a plan is approved, either with or without restrictions, the matter then proceeds to Phase II of the development review process. It is during this phase that the Developer submits a more finitely engineered plan. Also, more specific plans (i.e., storm water management plan, grading plan, etc.) and supporting data are typically submitted during that phase. Obviously, any ultimate construction must be substantially similar to that shown and approved on the development plan. This process is emphasized, in view of the conflicting opinions offered by the parties regarding the extent of detail which need be shown on the development plan offered at the Hearing Officer's Hearing.

#### THE PARTIES

As noted above, the Developer of the subject site is Barbara A. Andrews. Ms. Andrews is under contract to purchase the subject property from the Dunstan family, which has owned and farmed the property for many years. The original owners from that family are now deceased. At the

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hearing, Ms. Andrews was represented by Howard L. Alderman, Jr., Esquire. In addition to testimony offered by Ms. Andrews, she produced a number of expert witnesses who provided testimony endorsing the merits of the plan. These included Bruce Doak, a Property Line Surveyor with Gerhold, Cross & Etzel, the consulting firm which prepared the development plan submitted into evidence as Developer's Exhibit 1. Also presenting testimony was Jeffrey Jollie, an environmental expert in the field of underground water resources from E.A. Engineering, Science and Technology, Inc.; Michael Ertel, a professional engineer with KCI Technologies, Inc.; and Robert Sheesley, a registered sanitarian and an accepted expert in the field of environmental science.

Numerous individuals appeared in opposition to the request. Moreover, the community organized and formed a corporation to carry on its opposition to the proposed development. That entity, known as the Locksley Conserve Community Committee, Inc., (LCCC) was comprised of a number of individuals in the community. The LCCC was represented by William D. Shaughnessy, Jr., Esquire. In addition to Mr. Shaughnessy, Christopher Trikeriotis, Esquire, an adjacent landowner, also appeared at some of the hearings. Others who appeared at the hearing and/or testified were Dr. and Mrs. Richard W. McQuaid, Philip Der, P.E., a professional engineer and a resident of the surrounding community, Richard Klein, an expert engaged to testify about the impact of the proposed development on adjacent streams Claude C. Gambill, Chief of the Jacksonville Volunteer Fire Company, David Nudelman, Glenn Thomas, Joseph Nichols, Elizabeth Shaughnessy, Charles Gougeon with the Department of Natural Resources, and William Malstrom. The record of this case, including the sign-in sheets which were circulat-

In addition to the Developer and her development team, as well as the Protestants identified above, testimony was also received from representatives of the County agencies which reviewed the plan. Among those individuals who appeared were R. Bruce Seeley, Al Wirth, Lee Dreiger, II, and Patricia Farr, all from the Department of Environmental Protection and Resource Management (DEPRM), Bob Bowling, Joe Merrey, Kate Milton, Ron Goodwin, and Dave Flowers, all representatives of the Zoning and Development Review Divisions of the Department of Permits and Development Management (DPDM), and Dennis Wertz and Ervin McDaniel with the Office of Planning (OP).

Section 26-206 of the BCC sets out the Hearing Officer's responsibilities in evaluating the development plan. That Section provides that the hearing shall be conducted on any agency comment or proposed or requested condition which remains unresolved. The Hearing Officer can require such testimony and evidence as is necessary to consider an issue.

10/10/98

Planning, the Department of Environmental Protection or the Zoning Division of the Department of Permits and Development Management.

UNRESOLVED ISSUES AND COMMENTS

1) Alleged Property Boundary Discrepancy and Property Description as shown on the Development Plan:

Section 26-203 of the BCC mandates that information which must be shown on the development plan. Section 26-203(b)(6) requires that the plan show, "ownership of the subject property and adjacent properties, including deed references and tax account numbers, as shown on the most recent tax maps published by the Department of Assessments and Taxation on the basis of more current information if same is available to the applicant." Quite obviously, the plan need provide an accurate representation of the property at issue. Typically, a development plan will show the "four corners" of the property as same is described in the deed or other documents contained in the Land Records of Baltimore County.

In this regard, a contention was made by the Protestants that the plan is not accurate. Moreover, the Developer acknowledged a discrepancy; however, claimed that same was without significance, and in any event, does not warrant a rejection of the plan.

Bruce Doak, the Property Line Surveyor who prepared the plan, testified that his company performed a field survey to determine the boundaries and property lines of this site. He testified that, as a result of this field run survey, a discrepancy existed as to the western boundary of the property. When the development plan is inspected, that property line is at the "bottom" of the tract, and separates this property from a number of individual residential lots which abut Donerin Way and are part of the adjacent subdivision known as Manor Glen.

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Through the testimony of Mr. Doak, it was readily determined that the discrepancy in the precise location of the western property line was due to a difference in the deed descriptions contained in the Land Records of Baltimore County of the subject property, as well as those lots which abut the property in Manor Glen.

Choosing the conservative path, Mr. Doak testified that the property line had been drawn on the plan to provide adjacent property owners with the benefit of any doubt, to the detriment of the Developer. That is, rather than drawing the property line at a location which might arguably be on property owned by residents in Manor Glen, Mr. Doak drew the line so that the rear (eastern) property lines of the Manor Glen lots extended to a distance from those dwellings as far as might be argued, thereby reducing the size of the parcel to be developed as Locksley Conserve. Mr. Doak's plan simply shows that any disputed land is owned by the respective residents of Manor Glen and not part of this site. Notwithstanding Mr. Doak's conservative approach, the Protestants nonetheless believe that this issue represents a fatal flaw to the plan and that the plan must be denied. I disagree and explain.

As I observed at the hearing, the Hearing Officer's authority is conferred by the BCC and development regulations contained therein. The Hearing Officer has no authority to determine boundaries or quiet questions of title. Such questions are properly resolved through a hearing before a Judge of the Circuit Court for Baltimore County.

It is no doubt the purpose of requiring a definitive drawing of the property to enable the Hearing Officer and reviewing County agencies to determine if the proposal is in compliance with all standards, policies, and regulations. For example, an accurate representation of the plan must

be shown to determine acreage of the site. As is well-settled, the zoning density (e.g., number of units permitted), is largely based on the acreage of the tract. Generally, the bigger the parcel, the more development may occur thereon. Thus, an accurate representation of the acreage must be shown to determine the maximum extent of development. Similarly, zoning setbacks are measured from property lines. Thus, the property lines must be shown accurately to determine if proposed buildings maintain an appropriate distance from property lines.

It is to be emphasized that Mr. Doak's development plan takes the most conservation approach. That is, he located the boundary as far away from dwellings on the lots in Manor Glen as that line could be arguably located. To the Developer's detriment, the acreage of the parcel was reduced and the setbacks which need be maintained from the property line provide an increased distance from existing houses in Manor Glen. Had the Developer not chosen to proceed in that fashion, the Protestants' objections may have merit. If, for example, the Developer had attempted to use acreage in disputed ownership to support density in the development, the plan could not have been approved. Moreover, if the Developer attempted to avoid setback variances by locating the property line at a disputed location, the plan would properly be denied.

I recognize that the precise location of the property line is a legitimate issue which should be resolved between the parties. However, it cannot be resolved here, but must be reserved to the jurisdiction of the Circuit Court. As it applies to the review of the development plan, the issue, as it is framed, is insignificant as to reaching a conclusion of the propriety of the plan. Indeed, if the plan is ultimately determined to be flawed, the error is harmless. If the subject parcel is

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ultimately determined to be larger than shown, and the property line further to the west, the proposed lots will merely be larger, the provided setbacks greater, and the density less. In this case, and under these circumstances, the failure of the Developer to provide an undisputed location for this property line does not warrant a denial of the plan.

2) Fire Suppression:

There was a significant volume of testimony regarding fire suppression. Much of this testimony was offered by Chief Claude Gambill of the Jacksonville Volunteer Fire Department. Chief Gambill is also Chairman of the Rural Water Resources Committee, a committee established by the Baltimore County Council to study issues regarding the availability of water in rural areas for the purposes of fire suppression. As it turned out, much of his testimony was rendered moot, in view of the recent enactment by the Baltimore County Council of Bill No. 82-97 which is a local modification to the National Fire Prevention Code.

Chief Gambill offered a variety of opinions regarding the proposed development. Much of his testimony centered on the need for rural fire companies to have readily available sources of water in the event of a fire in a rural subdivision. Testimony was also offered regarding access to the individual homes in the proposed development and the proposed interior public roads. As correctly noted in the Memorandum submitted by Counsel for the Developer, Ms. Andrews and/or others who develop Locksley Conserve, will be required, as a matter of law, to comply with the residential rural water requirements as adopted by Bill No. 82-97. Those requirements state that on any subdivision of ten (10) lots or more, one of the following measures must be employed for fire suppression: 1) a pond or stream that meets minimum flow capability requirements; 2) a cistern;



3) an underground fiberglass tank; 4) a drafting hydrant served by a water source that meets minimum flow capability requirements; or, 5) a dry stand pipe served by a water source that meets minimum flow capability requirements. Moreover, the Code provides an exemption from these requirements, if an approved sprinkler system is incorporated into the proposed homes.

Testimony offered on behalf of the Developer was that the houses will be equipped with sprinkler systems. Thus, if an acceptable sprinkler system is installed, the development will be in compliance with the recently amended local fire prevention code. Compliance with the provisions of Bill No. 82-97 renders the plan appropriate as to this issue. Therefore, I shall not deny approval of the development plan based on the testimony and evidence offered by the Protestants on this issue. Instead, I will require (as is already required by law) that the Developer meet current Baltimore County standards as they relate to fire suppression. Specifically, the Developer must meet the requirements as set out in Council Bill No. 82-97. The Developer must supply the proposed means of water or provide sprinkler systems within the homes as required. Assuming that the Developer meets these current standards, the plan is legally sufficient. Moreover, the propriety of the sprinkler system proposed must be reviewed and approved by the Fire Department.

As to the issues raised by Chief Gambill regarding access, I find that the plan is in compliance with all County standards and regulations. Chief Gambill freely interchanged the concept of "panhandle" driveways (as defined by the regulations) versus long driveways serving single dwellings. As required, this plan has been reviewed by the Baltimore County Fire Department. Access to the individual lots as shown on the plan has been deemed to be acceptable to that Department as meeting County stan-

dards. Chief Gambill admitted as much on cross examination. Moreover, the termination of Donerin Way in a "T" turnaround configuration meets County standards and is appropriate. Therefore, I find no merit in denying the plan based on improper access or interior road design.

3) Potable Water Supply:

Concerns were also raised by the Protestants regarding the installation of new wells to serve the proposed dwellings and the impact on existing wells on adjacent properties. Apparently this has been the subject of significant interest throughout the development review process for this project. The minutes of the Community Input Meetings indicate a discussion of this subject and the fact that this issue was raised by many residents. Additionally, those minutes indicate that William Ensor, an official in the Groundwater Division of the Department of Environmental Protection and Resource Management (DEPRM), opined that the proposed wells will not have a detrimental impact on existing wells.

Significant testimony was offered by the Protestants' witnesses on this subject. In addition to the residents of this immediate area who testified, I also heard from Dr. Richard McQuaid, a frequent participant in zoning hearings. I am appreciative of Dr. McQuaid's testimony and position. He candidly believes that development in the rural areas of Baltimore County is inappropriate and should be halted. He expressed concerns relating to a number of issues regarding development in the County's agricultural/rural zones, including a fear of a detrimental impact on ground water resources.

It seems clear that Dr. McQuaid proposes a blanket moratorium of development in many of the rural areas of Baltimore County. Although the merits of such a moratorium might be debated, it must be understood that

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it is not the role of this Hearing Officer to impose such a prohibition. If a moratorium is appropriate, that issue must be legislatively implemented by the Baltimore County Council. It is the legislative prerogative of government to enact standards to determine if there should be active growth, limited growth, or, no growth. In the absence of a moratorium, I am required to apply the existing development standards specifically promulgated by Baltimore County and apply my judgment to the testimony and evidence presented before me.

In this case, expert testimony was received from Jeffrey Jollie on this issue. From my perspective, I found Mr. Jollie's testimony both credible and logical. He first stated that the proposed well locations met all County standards. Further, Mr. Jollie noted the unusual site characteristics of this property; to wit, the fact that the property is surrounded on three sides by a "U" shaped stream configuration. Based on the topography of the site and the geologic conditions, Mr. Jollie opined that there was more than sufficient recharge opportunity for the water resources serving this property to be self-sufficient. That is, Mr. Jollie believes that the topography of the site effectively creates a hydro-geologic sub-basin and that the limited amount of impervious surfaces attributable to development on the property would not adversely impact groundwater recharge.

Mr. Jollie also testified in some detail about the County's regulations relative to wells and the different formula now used to determine the yield of a well, as opposed to the formula utilized at the time Manor Glen was developed. Essentially, the current procedure requires a much more accurate determination of the actual volume of water being

withdrawn from the ground and does not take into account water that might be stored within the existing well column.

In summary, I am persuaded by Mr. Jollie's testimony. In my judgment, there is no credible evidence in the record that development of the property as proposed will cause an adverse impact on adjacent wells. This is, obviously, contingent upon compliance with County standards as to the location of the proposed wells. However, assuming development of the project as provided by the plan is in compliance with all County regulations, this is not an issue which warrants a denial of the plan. If the County Council wishes to impose a moratorium on development on the rural areas to address the fears raised by Dr. McQuaid and others, it may do so. However, until such time as legislation is passed, I am bound by the present standards in place. This plan meets those standards.

4) Traffic:

Another issue raised by many of the Protestants who testified related to traffic. As proposed, vehicular access to the site will be by way of an extension of Donerin Way. Presently, Donerin Way terminates at the property's western boundary. That roadway will be extended into the interior of the property and terminate at the "T" turnaround on the property's south side, adjacent to an unimproved parcel owned by the Stautberg family. Additionally, there will be a small cul-de-sac constructed off of Donerin Way, to be known as Dunstan Court. The proposed roadways and traffic pattern are more fully described on Petitioner's Exhibit 1.

A significant volume of evidence was offered on this issue. In addition to the oral testimony, a video of existing traffic patterns and roadways was shown. More helpful to this Zoning Commissioner, however, was a drive through the area. I personally visited the site and drove the

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roads at issue. It appears the most common means of access to this neighborhood will be by Jarrettsville Pike. From the southwest (e.g., Jacksonville, Towson, etc.) one will pass through the Four Corners intersection in Jacksonville and proceed northeasterly on Jarrettsville Pike. Thereafter, vehicular access to the immediate neighborhood can be obtained by turning either right (south) on Manor Road or right (southeast) onto Stansbury Mill Road. Following either of those routes, one would then pass through the intersection of Stansbury Mill Road and Manor Road and after proceeding south on Manor Road, turn left (west on Donerin Way) to access this specific property.

As one might expect, the road system in this area is rural in character. The roads are mostly a single lane in each direction, with either no shoulder or a limited shoulder area. There is no doubt that the roads are quite old and were laid out many years ago. The intersection of Stansbury Mill Road and Jarrettsville Pike is somewhat difficult, particularly for traffic entering Jarrettsville Pike heading towards Jacksonville. A driver has to "look back" over his/her shoulder to view traffic on Jarrettsville Pike. Although a problem for the area at large, this intersection is a significant distance from the subject site.

Many of the Protestants were particularly concerned about the intersection of Stansbury Mill Road and Manor Road. Indeed, for traffic proceeding north on Manor Road, visibility is limited when one wishes to make a left turn onto Stansbury Mill Road. Due to this factor, many of the Protestants requested that consideration be given to providing access to the site from Dunstan Lane. Dunstan Lane approaches the property from the north and intersects Stansbury Mill Road, east of the intersection of Stansbury Mill Road with Manor Road.

In considering this alternative, and whether a condition should be attached to the plan, I paid particular attention to three intersections; namely, Donerin Way and Manor Road, Stansbury Mill Road and Manor Road, and Dunstan Lane and Stansbury Mill Road. From a visibility perspective, the best of those three was the intersection of Donerin Way and Manor Road. I found sufficient site distances at that intersection in both directions. In my judgment, the increased volume of traffic caused by this development on that intersection will not be problematic. Admittedly, there is limited visibility at the Manor Road/ Stansbury Mill Road intersection, particularly when approaching same from the south on Manor Road. However, a careful driver who turns left when approaching the intersection from that direction can see oncoming traffic. Moreover, it is not certain that all of the traffic generated by this intersection will actually make that turning movement. Traffic heading towards Harford County, for example, would not turn left at that intersection, and even those who wish to proceed towards Jacksonville and Towson in a southeasterly direction, may wish to take advantage of the better intersection of Jarrettsville Pike and Manor Road, as opposed to turning movements at Manor Road and Stansbury Mill Road, and Jarrettsville Pike and Stansbury Mill Road.

In my judgment, the most difficult intersection is Dunstan Lane and Stansbury Mill Road. My inspection of that intersection was persuasive that to require traffic to exit this site by that route would be inappropriate. Particularly, there is a large tree which is located at that intersection which significantly impedes the view of drivers turning onto Stansbury Mill Road from Dunstan Lane. Of the three intersections, I believe that this is the most difficult. In view of my site inspection,

and based upon the written comments offered by the County, and the testimony and evidence received, I will not change the proposed traffic pattern.

Testimony was also offered regarding traffic within Manor Glen, particularly the intersection of Donerin Way and Edgarwood Court. At the time of my site inspection, traffic was very light. This is a residential area and there are slight traffic volumes. I do not believe that the construction of an additional 22 homes will change the character of the traffic within this residential community.

Lastly, a sentiment similar to that expressed by Dr. McQuaid was presented on the issue of traffic. Many of the residents essentially stated that there should be a moratorium on development in this area of the County due to increased traffic over the recent years. Again, I appreciate this position and acknowledge the fact that traffic in this area is heavier than before. Surely, the extensive growth in Harford County, as well as this portion of Baltimore County, has placed more traffic on the roads and at times, overburdened the rural roadway network. However, is this a sufficient consideration to warrant a denial of this particular plan? I think not. Again, the issue presented in a blanket fashion is a legislative prerogative. The County Council does have basic service legislation within the Baltimore County Zoning Regulations (B.C.Z.R.) which can result in a moratorium on construction in an area which features a failing intersection. There is no such moratorium for the subject area. Moreover, the Council has not directed that there be no growth in the northern areas of Baltimore County. Until such a legislative mandate is passed, I again rely upon the regulations as set out in the B.C.Z.R. and the Baltimore County Code. In my judgment, the development plan offered meets or exceeds those regulations as they relate to traffic, roadway design, and

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similar issues. The addition of a mere 22 homes will not overburden this area. Thus, the plan should not be disapproved on that basis.

5) Storm Water Management:

The most significant issue raised by the parties for consideration by this Hearing Officer relates to storm water management. Each of the memoranda submitted by Counsel for the parties contained a significant analysis and discussion of this issue. Those memoranda recounted much of the testimony and evidence which was presented. I will not repeat that herein, in that the evidence was lengthy and the record of this case will speak for itself.

On behalf of the Protestants, however, it should be noted that testimony was received from Philip Der, a professional engineer and resident of the community, Richard Klein, an expert in the area of the impact of development on water resources, and Charles Cougen, a fisheries biologist with the Maryland Department of Natural Resources. On behalf of the Developer, testimony was received from Messrs. Ertel and Sheesley, expert witnesses whose fields of expertise are set out hereinabove. Moreover, testimony was received from Lee Dreiger, II, an employee of the Storm Water Management Division of the Department of Environmental Protection and Resource Management (DEPRM) for Baltimore County. Mr. Dreiger was the individual assigned by DEPRM to review the storm water management issue.

The cumulative testimony of those witnesses, the evidence offered, and my field investigation were all persuasive to a finding that the Locksley Conserve property is indeed a unique site. Presently, the property is nearly entirely undeveloped, but for a solitary single family dwelling. Much of the site contains steep slopes and woodlands. The single most fascinating physical characteristic of the property is the stream system



which abuts same. As noted frequently during testimony, a "U" shaped stream system surrounds three sides of the property. The eastern border of the property contains a Use III trout stream, referred to in testimony as the "eastern tributary". Running along the western boundary is a second Use III trout stream, referred to as the "western tributary". At the southernmost boundary of the property, these streams converge at the Saw Mill Branch, a Use III trout stream. Mr. Cougen and other residents of the area testified extensively about these stream systems. Similarly, testimony was offered by the Developer's expert witnesses regarding the physical features of these stream systems. Apparently, these systems are presently very healthy, in that they support trout and other aquatic life. To say the least, the Protestants fear the impact of development on these stream systems and the possible degradation of same. To the contrary, the Developer believes that the property can be developed in a manner as shown on the development plan without adverse impact on these stream systems.

An examination of the Hearing Officer's responsibilities and a statement of the law is appropriate. Section 26-203 of the BCC sets out with particularity those items which must be contained on the development plan. Subsection 26-203(d)(10) is applicable to this issue. That Section states that "storm water management areas supported by preliminary hydrology computations, proposed and existing storm drainage systems, and verification of a suitable outfall" must be shown on the plan.

In addition to that mandated information, the requirements of Section 26-206(o) are also relevant. That Section authorizes the Hearing Officer to condition or restrict an approval of a development plan. Among the considerations specifically enumerated is a requirement that the

Hearing Officer find that, "without the condition, there will be an adverse impact on the health, safety or welfare of the community." (See Section 26-206(o)(2) of the BCC.)

In addition to these portions of the BCC, both sides referenced other law, both state and local. Both parties refer to the Code of Maryland Regulations, which sets out environmental regulations designed for the protection of the environment and also direction to the local jurisdictions' treatment of this issue. Moreover, Title 14 of the BCC establishes the Department of Environmental Protection and Resource Management and regulates its authority. Sub-article V of that Section specifically sets out that Department's responsibilities as to storm water management in Sections 14-151, et seq.

Both sides attempted to characterize the law or use portions thereof to their advantage. This Hearing Officer is not suggesting that either party acted in bad faith; however, I believe that a comprehensive application of all of these sources must be undertaken. In my judgment, the piecemeal application of specific portions of regulations favorable to one side or the other will not result in the satisfaction of the purposes and intent of the legislation; to wit, to insure that development can responsibly be completed without adverse impact on a sensitive environmental ecosystem.

The Developer's original plan, for example, showed 22 single residential lots, each over 2 acres in area. In preparing that plan, the Developer used the R.C.2 portion of the property and subdivided same into 12 small parcels; thereafter, piggy-backing those parcels to the rear of adjacent R.C.5 lots. By adding this acreage to the R.C.5 lots, the lots became over 2 acres in area, thereby potentially qualifying for an exemp-

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tion from storm water management requirements. As pointed out by Mr. Dreiger, DEPRM may waive the application of storm water management measures, if each lot is over 2 acres in size. This piggy-backing of the R.C.2 lots was the subject of the Petition for Special Hearing which was originally filed. The Protestants immediately objected, and contended that the B.C.Z.R. did not allow a subdivision of the R.C.2 zoned land as contemplated. Ultimately, the Developer realized that its Petition for Special Hearing may not pass muster under the applicable provisions of the B.C.Z.R. and the scheme to subdivide the R.C.2 zoned land was abandoned. The latest version of the development plan therefore shows the R.C.2 land as a single lot, with several of the residential lots less than 2 acres in area. The plan also shows a storm water management system to which the Protestants now object, claiming that the storm water management facility proposed by the Developer will cause irreversible adverse impact.

As noted above, the development plan must contain certain storm water information as specifically described in Section 26-203(d)(10). Uncontradicted testimony was received in this regard from Mr. Dreiger. Mr. Dreiger's testimony here is very persuasive. He is, indeed, the individual who has been assigned the responsibility to examine the storm water management issue by DEPRM. Mr. Dreiger unequivocally testified that the required information was on the plan. That is, he testified that the storm water management areas were properly shown, that preliminary hydrology computations were provided, that proposed and existing storm drainage systems were shown, and that verification of suitable outfall was provided. Obviously, the Protestants' witnesses who testified disagreed, and the experts produced by the Developer concurred with Mr. Dreiger's analysis. After thorough consideration of the testimony offered, I am persuaded to

accept the testimony of Mr. Dreiger, which I find credible. I will not deny the development plan, based on an alleged failure to comply with Section 26-203(d)(10). I am satisfied that the plan is adequate in this respect.

However, the Hearing Officer has responsibilities above and beyond merely insuring that the plan contains all necessary information. Mine is a two step process; first, determining if the plan is legally sufficient, and second, applying any restrictions or conditions which are appropriate to protect the locale. I believe that the welfare of the locale includes the health of the adjoining streams. In this regard, Mr. Dreiger's testimony was again instructive. He candidly admitted that he had not had input from the Environmental Impact Review Division of his office. Many of the concerns which the Protestants raised (e.g., thermal impact of the storm water runoff on the aquatic resource) have not yet been evaluated by him.

The Developer's witnesses adopted a "Trust us; this will be resolved in Phase II" approach. The Developer contends that the development review process in Baltimore County is dependent on an orderly submission and evaluation of the plan. As the Developer's witnesses repeatedly stated, the development plan under my consideration is not the final approval. Indeed, under the strict legal view, such an interpretation is appropriate. Section 26-206(1) provides that, "All subsequent detailed development plans, such as final grading and sediment control plan, storm water management plan, landscape plan, and record plats, shall be sealed and certified as being in accordance with the approved development plan." (emphasis added) Moreover, the Court of Special Appeals, in one of the few reported cases considering the current development review process in

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Baltimore County, has endorsed that concept. In Monkton Preservation Association, et al, vs. Gaylord Brooks Realty Corporation, 07 Md. App. 573 (1996), the Court looked with favor upon the passage from the Hearing Officer's Opinion in that case. In that matter, Deputy Commissioner Kotroco, sitting as a Hearing Officer, stated, "The Development process must proceed in different steps and phases. Common sense dictates that it must proceed in this fashion. The Developer must have an approved plan to work with and to rely upon in order to proceed with his investment. Therefore, it is obvious that the various departments in Baltimore County must continue with their review of this plan as the Developer gets closer to the actual construction phase. It is an ongoing process that continues past this Hearing Officer's Hearing." (Page 585.) The Court of Special Appeals agreed, stating, "We agree with this conclusion. The development process is indeed an 'ongoing process' and the Hearing Officer's affirmation of the plan is just the first step." (Page 585.)

Although that is indeed an appropriate summation of the process, the unique consideration here is founded upon the very special site constraints present on this property and in this neighborhood. That is, the impact of the development on the sensitive ecosystem here are particularly unique factors which must be evaluated, particularly in connection with the requirements of Section 26-206(o)(2). If they are not evaluated now, I cannot impose conditions/restrictions during Phase II. The Protestants offer a number of conditions which they believe I should impose. Chief among these conditions is an elimination of a number of lots. This would obviously result in less impervious surface and cause less storm water runoff to be managed and ultimately discharged into the stream system.

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The Developer suggests that there may be requirements or conditions added but suggests that they be deferred for further study in Phase 2.

The difficulty with both of these proposals is that there was no factual foundation to support either. The Developer has not done its work on this issue; choosing to defer same to Phase II. The Protestants' blanket proposal to reduce lots is unsupported by competent evidence. It is impossible for this Hearing Officer to suggest any appropriate conditions or restrictions on this plan in that sufficient studies have not been completed to allow a reasonable application of what restrictions or conditions should be applied. To this point, the Developer has not submitted the volume of detailed information which would permit the County and/or this Hearing Officer to evaluate the potential impacts of this development on the environment and what conditions, if any, should be applied. This is not to say that the plan should be denied; it clearly is sufficient to pass the muster requirements of Section 26-203, but insufficient to allow a reasonable finding as to the imposition of conditions and restrictions.

I do not fault the Developer. As noted by Mr. Kotroco in his prior Order referenced above, the Developer indeed has an investment and must have an approved plan in order to proceed with same. Likewise, I find no fault with the Protestants in that their motives to preserve and protect the environment are sincere. They are not required to do the Developer's work.

6) Miscellaneous:

There are several minor issues which also need be resolved within this Opinion and Order.

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First, the plan shows a small 40-foot wide strip, labeled as Parcel A, which leads from Lot 2 to Stansbury Mill Road. The strip has no practical use and the Developer seeks clarification of its future. The Developer may sell/convey this strip to adjacent off-site property owners, if desirable. If such a transaction is not completed by the time Lot 2 is marketed to a future owner as a developable lot, the strip shall thereafter become part of Lot 2.

Second, a "T" turnaround, sufficiently sized to accommodate emergency vehicles and subject to the review and approval by the Department of Public Works and Fire Department, shall be shown on the plan at the terminus of Donerin Way.

Third, a brief comment is in order about the zoning of this property, which was apparently put in place by the County Council during the 1996 quadrennial process. The zoning is what it is, and the property can be developed according to the B.C.Z.R. as it governs R.C.5 and R.C.2 zoned land. There is no credible evidence of any contract for the development of this site, in any particular fashion, and, even if one existed, it would be, in my judgment, unenforceable under the doctrine of "contract zoning". This property was not rezoned by the County Board of Appeals under a documented site plan, and thus, there is no legal impediment to the proposed development on this basis.

Fourth, the dwelling on Lot 17 shall be labeled with orientation arrows as requested by the Office of Planning.

#### CONCLUSION

Therefore, in that I have dispensed with all other issues relating to this plan, I can make a finding that the plan sufficiently complies with the development regulations of Baltimore County so that same should

not be denied. The issues as discussed above, relating to traffic, well water, fire suppression, etc., do not warrant a denial of the plan as requested by the Protestants. In my judgment, this plan is legally sufficient, and development should be permitted to proceed in schematic accordance with the development plan offered. However, I decline to offer final approval until a reasonable determination of what conditions or restrictions should be entered in order to protect the environment, particularly the streams.

For all of these reasons, I will therefore remand this matter and direct that the Developer submit a storm water management plan to the Department of Environmental Protection and Resource Management (DEPRM) for review and approval. I will not fetter that Department with any requirements, but will leave it to their best judgment as to the nature and design of this plan. I believe that Mr. Draiger's testimony was appropriate and accurate when he opined that an "innovative solution" is best for this project. The purpose of all of the environmental protection statutes is to preserve environmental resources and should be the paramount consideration. The opponents should not use this remand as an attempt to obtain a decrease in density because they generally oppose development. This decision is not the moratorium on development which apparently they seek. However, the Developer should appreciate that the issue in this case need be resolved before the Hearing Officer. It would be contrary to the scheme of the legislation for the Developer to proceed to Phase II, insist on the strict application of the storm water management regulations, only, (without modification to address the sensitive environmental resources here), because no restrictions/conditions were imposed by the Hearing Officer. What is needed is a more thorough study of the issue presented

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then what has been accomplished heretofore, which will result in a plan that will preserve the environment while allowing reasonable development.

Upon completion of the environmental protection analysis, the Hearing Officer's Hearing will be reconvened. At that time, I will accept suggestions by either side as to restrictions or conditions which might be imposed. Obviously, the Department of Environmental Protection and Resource Management, as a party to this proceeding, may offer suggestions based on their study. Thereafter, the plan (in whatever form) will be approved, subject to conditions/restrictions designed to manage storm water runoff so as to not adversely impact the existing environmental system.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the development plan shall be given conditional approval, consistent with the comments contained herein and the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by the Zoning Commissioner/Hearing Officer for Baltimore County this 6<sup>th</sup> day of October, 1998 that the development plan for Locksley Conserve, identified herein as Developer's Exhibit 1, be and is hereby CONDITIONALLY APPROVED, subject to the following restrictions:

- 1) Within thirty (30) days of the date of this Order, the Owner/Developer shall submit a revised development plan incorporating the terms and conditions of this Order.
- 2) The proposed dwelling on Lot 17 shall show orientation arrows as required by the Office of Planning.
- 3) The terminus of Donerin Way shall be shown on the plan as a "T" turnaround. Said "T" turnaround shall be sufficient to accommodate emergency vehicles, subject to the review and approval of the Baltimore County Fire Department and the Department of Public Works.

4) The 40-foot wide strip of land shown on the plan as Parcel A shall be sold/conveyed to off-site adjacent landowners prior to the conveyance of Lot 2 for development, or, if not so conveyed, become part of Lot 2.

5) The Developer shall comply with the provisions of Bill No. 82-97 as it relates to fire suppression issues.

6) The Developer is hereby directed to submit such data, documentation, and/or plans as shall be required by DEPRM for the development of a storm water management plan. Such information shall enable DEPRM to assist the Developer in producing a storm water management plan that is in compliance with all appropriate governmental standards/regulations, and will prevent adverse impact on the adjacent environmental ecosystem. Such information shall be made available to William D. Shaughnessy, Esquire, as Counsel for the LCCC, Inc. Upon completion of its evaluation, DEPRM shall contact this Hearing Officer to arrange for the reconvening of a hearing, during which time testimony and evidence shall be received as is necessary for consideration of any restrictions/conditions which need be incorporated into the final approval of the development plan to insure that there will be no adverse impact on adjacent properties, including the abutting stream systems.

7) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

  
LAWRENCE E. SCHMIDT  
Hearing Officer  
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING  
Date 10/16/88  
By [Signature]



Baltimore County  
Zoning Commissioner  
Office of Planning

Suite 405, County Courts Bldg.  
401 Bosley Avenue  
Towson, Maryland 21204  
410-887-4386

October 6, 1998

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

RE: DEVELOPMENT PLAN HEARING and PETITION FOR SPECIAL HEARING  
(Locksley Conserve)  
End of Donerin Way, E of Manor Road  
10th Election District - 6th Councilmanic District  
The Estate of Albert I. Dunstan, Owners;  
Barbara A. Andrews, Contract Purchaser/Developer  
Cases Nos. X-354 and 98-319-SPH

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Development Plan has been conditionally approved 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 black ink, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT  
Hearing Officer  
for Baltimore County

LES:bjs

cc: Ms. Barbara Andrews, 1552 Glencoe Road, Sparks, Md. 21152  
Mr. Bruce Doak, Gerhold/Cross/Etzel, 320 E. Towsontown Blvd. 21286  
William D. Shaughnessy, Esq., 14 Edgarwood Court, Phoenix, 21131  
Mr. David Nudelman, 3816 Donerin Way, Phoenix, Md. 21131  
Mr. Philip Der, 3813 Donerin Way, Phoenix, Md. 21131  
Mr. William Malstrom, 15 Edgarwood, Phoenix, Md. 21131  
Christopher Trikeriotis, Esq., 14915 Dunstan Lane, Monkton, 21111  
Mr. Glen Thomas, 3806 Donerin Way, Phoenix, Md. 21131  
Dr. Richard W. McQuaid, 1501 Harris Mill Road, Parkton, Md. 21120

Dave Flowers, DPDM; DEPRM; DPW; OP; R&P; People's Counsel; Case File





# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

14900 DONSTAN LANE  
the east end of Donerin Way

which is presently zoned RC-2 & RC-5

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

- 1.) the division of approximately <sup>8.2</sup>~~7.5~~ Acres of land in RC-2 Zone into 12 Non-Density Parcels

- 2.) a <sup>portion of the septic reserve area for Lot 5</sup>~~well and septic system~~ be located in RC-2 Zone while the Dwelling is located in RC-5 Zone.

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

Barbara Andrews

(Type or Print Name)

*Barbara F. Andrews*  
Signature

1552 Glencoe Road

Address

Sparks, Md. 21152

City

State

Zipcode

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.

Legal Owner(s):

The Estate of Albert I. Dunstan

By: Allen S. Dunstan, Personal Representative

(Type or Print Name)

*Allen S. Dunstan*  
Signature

(Type or Print Name)

Signature

17426 Alexander Run

Address

Phone No.

Jupiter, Florida

33478

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Scott A. Lindgren

Gerhold, Cross & Etzel, Ltd.

Name

Suite 100

320 E. Towsontown Blvd. 21286 410-823-4470

Address

Phone No.

Attorney for Petitioner:

*Howard L. Alderman, Jr.*  
(Type or Print Name)

Howard L. Alderman, Jr., Esquire

Levin & Gann, P.A.

305 W. Chesapeake Avenue, Suite 113

Signature

Towson, MD 21204

Address

Phone No.

City

State

Zipcode

410-321-0600

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates \_\_\_\_\_ Next Two Months

ALL \_\_\_\_\_ OTHER \_\_\_\_\_

REVIEWED BY: \_\_\_\_\_ DATE \_\_\_\_\_

ORDER RECEIVED FOR FILING

Date

By

98-319-SPH



319

GORDON T. LANGDON  
EDWARD F. DEIACO-LOHMEYER  
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

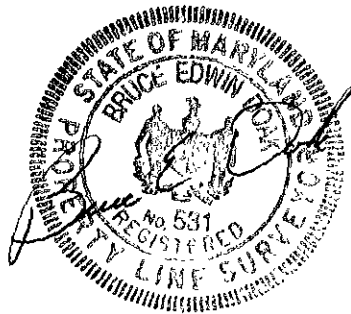
March 5, 1998

## **Zoning Description Locksley Conserve**

Beginning in the center of Stansbury Mill Road 1750 feet more or less measured easterly from Manor Road, running thence in the center of Stansbury Mill Road North 73 degrees 26 minutes 10 seconds East 40.00 feet, thence leaving said road South 18 degrees 21 minutes 49 seconds West 684.24 feet, South 31 degrees 22 minutes 28 seconds East 4.65 feet, North 73 degrees 26 minutes 10 seconds East 796.76 feet and North 63 degrees 28 minutes 59 seconds East 54.90 feet to the right of way line of Dunstan Lane, thence binding on the right of way line of Dunstan Lane South 16 degrees 33 minutes 11 seconds East 44.95 feet, North 73 degrees 26 minutes 49 seconds East 78.94 feet and North 16 degrees 33 minutes 11 seconds West 8.41 feet, thence leaving Dunstan Lane North 77 degrees 06 minutes 29 seconds East 114.32 feet, South 31 degrees 15 minutes 43 seconds East 1784.59 feet, South 35 degrees 25 minutes 07 seconds East 734.79 feet, South 73 degrees 39 minutes 09 seconds East 248.20 feet, South 21 degrees 23 minutes 03 seconds West 132.54 feet, North 74 degrees 39 minutes 30 seconds West 478.34 feet, North 47 degrees 51 minutes 19 seconds West 945.42 feet, South 47 degrees 11 minutes 03 seconds West 546.70 feet, North 30 degrees 12 minutes 52 seconds West 1772.44 feet, North 48 degrees 04 minutes 50 seconds West 185.28 feet and North 18 degrees 21 minutes 49 seconds East 684.96 feet to the point of beginning.

Containing 49.037 Acres of land, more or less.

This description only satisfies the requirements of the Office of Zoning and is not for conveyance purposes.



c:\zonlocke des

98-319-SPH<sup>319</sup>

**NOTICE OF ZONING  
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #98-319-SPH  
14900 Dunstan Lane  
Centerline Stansbury Mill  
Road, 1750' E of Manor Road  
10th Election District  
6th Councilmanic District  
Legal Owner(s):

The Estate of Albert I. Dunstan

Contract Purchaser:  
Barbara Andrews

**Special Hearing:** to approve the division of approximately 8.2 acres of land in R.C.-2 zone into 12 non-density parcels; and to approve a portion of the septic reserve area for Lot 5 to be located in the R.C.-2 zone, while the dwelling is located in the R.C.-5 zone.

**Hearing:** Friday, May 1, 1998 at 9:00 a.m. AND Wednesday, May 6, 1998 at 2:00 p.m. AND Friday, May 8, 1998 at 2:00 p.m. in Room 108, County Office Building, 111 W. Chesapeake Ave.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.  
(2) For Information concerning the File and/or Hearing, Please Call (410) 887-3391

4/229 April 16

C221070

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., 4/16/, 1998

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 4/2/, 1998

**THE JEFFERSONIAN,**

*A. Henickson*

**LEGAL AD. - TOWSON**

BALTIMORE COUNTY, MARYLAND AND  
OFFICE OF BUDGET & FINANCE  
MISCELLANEOUS RECEIPT

No. 050991

DATE 6 MAR 98 ACCOUNT Q-0001-615  
AMOUNT \$ 600.00

RECEIVED FROM: Andrews

FOR: Locksley Company  
SPH

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME  
3/06/1998 3/06/1998 11:05:36  
REG MS01 CASHIER CLON CHA. DRIVER  
MISCELLANEOUS CASH RECEIPT  
Receipt # 040090  
OR NO. 050991

600.00 CHECK  
Baltimore County, Maryland

98-319-SPH

CASHIER'S VALIDATION

HEARING OFFICER HRG &  
RE Case No 98-319-S.P.H.  
P.D.M.-10-045 B. ANDREWS, ETAL  
Petitioner/Developer  
c/o BRUCE DOAK, G.C.F.E.

Date of Hearing/Closing 5/1, 5/6 & 5/8/98  
EACH DAY AS NECESSARY  
LOCKSLEY CONSERVE

Baltimore County Department of  
Permits and Development Management  
County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Attention: Ms Gwendolyn Stephens

Ladies and Gentlemen

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law  
were posted conspicuously on the property located at

@ END OF DONERIN WAY  
@ END DUNSTAN LANE - 4 SIGNS TOTAL

The sign(s) were posted on

4/1/98  
(Month, Day, Year)

Sincerely,

Patrick M. O'Keefe 4/1/98  
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE  
(Printed Name)

523 PENNY LANE  
(Address)

HUNT VALLEY, MD. 21030  
(City, State, Zip Code)

410-666-5366 ; CELL-410-905-8571  
(Telephone Number)

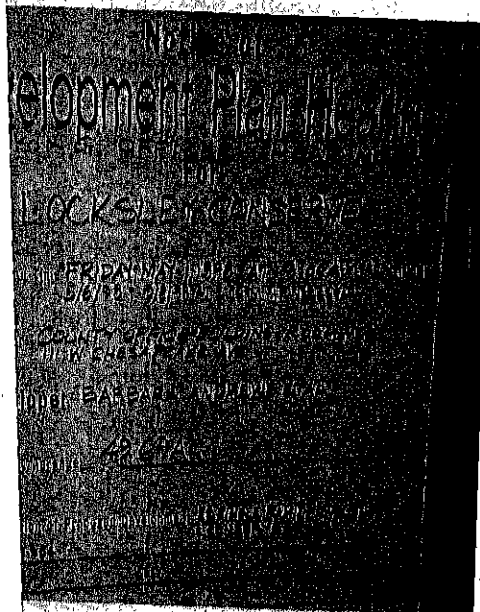
# ZONING NOTICE

Case No. 98-319-S.P.H.

A PUBLIC HEARING WILL BE HELD BY  
THE ZONING COMMISSIONER  
IN TOWSON, MD.

PLACE HERE TO FIND OUT  
TIME & DATE

SPECIAL HEARING  
TO APPROVE THE  
ZONING  
CHANGE  
(SEE DOWNSIDE FOR MORE INFORMATION)







Baltimore County  
Department of Permits and  
Development Management

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

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 (responsibility of which, lies with the petitioner/applicant) 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 advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

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.: 319

Petitioner: BARBARA ANDREWS

Location: \_\_\_\_\_

PLEASE FORWARD ADVERTISING BILL TO:

NAME: BARBARA ANDREWS

ADDRESS: 1552 GLENCOE ROAD

SPARKS, MARYLAND 21152

PHONE NUMBER: 410-771-4365

AJ:ggs

(Revised 09/24/96)

48-319-SPH

219 -16-



Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than \_\_\_\_\_

Format for Sign Printing, Black Letters on White Background:

## ZONING NOTICE

Case No.: 98-319-SPH

A PUBLIC HEARING WILL BE HELD BY  
THE ZONING COMMISSIONER  
IN TOWSON, MD

PLACE: \_\_\_\_\_

DATE AND TIME: \_\_\_\_\_

REQUEST: Special Hearing to create  
12 new density parcels and to  
allow a support area (septic system)  
to be in a different zone than the house

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.  
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TO: PATUXENT PUBLISHING COMPANY  
April 16, 1998 Issue - Jeffersonian

Please forward billing to:

Barbara Andrews 410-771-4365  
1552 Glencoe Road  
Sparks, MD 21152

---

**NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-319-SPH

14900 Dunstan Lane

centerline Stansbury Mill Road, 1750' E of Manor Road

10th Election District - 6th Councilmanic District

Legal Owner: The Estate of Albert I. Dunstan

Contract Purchaser: Barbara Andrews

Special Hearing to approve the division of approximately 8.2 acres of land in R.C.-2 zone into 12 non-density parcels; and to approve a portion of the septic reserve area for Lot 5 to be located in the R.C.-2 zone, while the dwelling is located in the R.C.-5 zone.

HEARING: Friday, May 1, 1998 at 9:00 a.m. AND Wednesday, May 6, 1998 at 2:00 p.m. AND Friday, May 8, 1998 at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake Ave.



Lawrence E. Schmidt sc

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.



Baltimore County  
Department of Permits and  
Development Management

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

March 19, 1998

### NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

#### HEARING OFFICERS HEARING

Project Name: Locksley Conserve

Project Number: 10-354

Location: end of Donerin Way, E of Manor Road

Acres: 49.6

Developer: Barbara Andrews

Engineer: Gerhold, Cross & Etzel, Ltd.

Proposal: 22 Single Family Lots

\*\*\*\*\*AND\*\*\*\*\*

CASE NUMBER: 98-319-SPH

14900 Dunstan Lane

centerline Stansbury Mill Road, 1750' E of Manor Road

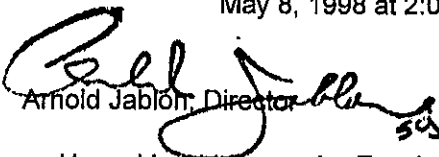
10th Election District - 6th Councilmanic District

Legal Owner: The Estate of Albert I. Dunstan

Contract Purchaser: Barbara Andrews

Special Hearing to approve the division of approximately 8.2 acres of land in R.C.-2 zone into 12 non-density parcels; and to approve a portion of the septic reserve area for Lot 5 to be located in the R.C.-2 zone, while the dwelling is located in the R.C.-5 zone.

HEARING: Friday, May 1, 1998 at 9:00 a.m. AND Wednesday, May 6, 1998 at 2:00 p.m. AND Friday, May 8, 1998 at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake Ave.

  
Arnold Jablon, Director

c: Howad L. Alderman, Jr., Esquire  
Gerhold, Cross & Etzel, Ltd.  
The Estate of Albert I. Dunstan  
Barbara Andrews

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY APRIL 16, 1998.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.



RE: DEVELOPMENT PLAN HEARING \* BEFORE THE  
PETITION FOR SPECIAL HEARING \*  
LOCKSLEY CONSERVE, End of Donerin Way, \* ZONING COMMISSIONER  
E of Manor Rd., Proposed 22 single \*  
family lots; 14900 Dunstan Lane, c/l \* OF BALTIMORE COUNTY  
Stansbury Mill Rd., 1750' E of Manor Rd. \*  
10th Election District, 6th Councilmanic \* PROJECT NO. X-354  
  
Legal Owner: Estate of Albert I. Dunstan \* CASE NO. 98-319-SPH  
Developer/Contract Purchaser: Barbara Andrews \*  
Petitioners \*

\* \* \* \* \*

ENTRY OF APPEARANCE

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

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15<sup>th</sup> day of April, 1998, a copy of the foregoing Entry of Appearance was mailed Howard L. Alderman, Jr., Esq., Levin & Gann, 305 W. Chesapeake Avenue, Suite 113, Towson, MD 21204, attorney for Petitioners.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN

ATTORNEYS AT LAW

TYDINGS & ROSENBERG LLP

1/20/99  
WCR

WILLIAM D. SHAUGHNESSY, JR.  
410/752-9724  
wshaughnessy@tydingslaw.com

January 18, 1999

**Via Hand-delivery**

Arnold Jablon, Director  
Department of Permits and  
Development Management  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

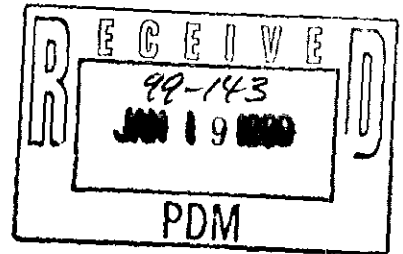
**Via Hand-delivery**

Baltimore County Board of Appeals  
Old Court House, Ground Floor  
400 Washington Avenue  
Towson, Maryland 21204  
Attn: Kathleen C. Bianco, Administrator

Re: DEVELOPMENT PLAN HEARING AND PETITION FOR SPECIAL  
HEARING (Locksley Conserve)  
End of Donerin Way, E of Manor Road  
10<sup>th</sup> Election District  
6<sup>th</sup> Councilmanic District  
The Estate of Albert I Dunstan, Owner  
Barbara A. Andrews, Contract Purchaser/Developer

**Petition on Appeal to County Board of Appeals**

**From Order dated December 10, 1998 on matter  
before the Zoning Commissioner of Baltimore County  
as Cases Nos. X-354 and 98-319-SPH**



Dear Mr. Jablon and Ms. Bianco:

On January 8, 1998, the undersigned filed an appeal on behalf of William Malstrom, David Nudelman, Glen Thomas and the Locksley Conserve Community Committee, Inc., PROTESTANTS in the above matter. To date, I have not received a case number from the Board of Appeals.

On behalf of Mr. Malstrom, Mr. Nudelman, Mr. Thomas and the Locksley Conserve Community Committee, Inc., I am filing a Petition on Appeal. Please file accordingly.

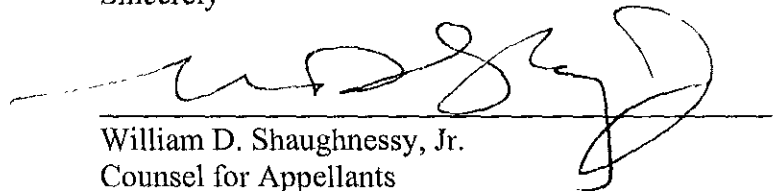
TYDINGS & ROSENBERG LLP

Please advise as to the date and time of the proposed hearing.

**Please arrange to have copies of the tapes from the hearings before the Zoning Commissioner/Hearing Officer transmitted to the Board of Appeals as part of the record.** If there is a charge for transmitting such tapes, please let me know.

If anything further is required, please contact me. Thank you for your attention to this matter.

Sincerely



William D. Shaughnessy, Jr.  
Counsel for Appellants  
100 East Pratt Street – 26<sup>th</sup> Floor  
Baltimore, Maryland 21202  
(410) 752-9700

WDS:glc

cc: Howard L. Alderman, Esq.  
Attorney for Developer

People's Counsel  
Attn: Peter Max Zimmerman

Honorable Lawrence E. Schmidt  
Hearing Officer for Baltimore County

TEL: (410) 539-6967  
FAX: (410) 666-5033

FAX: (410) 752-0685  
EMAIL: wshaughn@khglaw

**WILLIAM D. SHAUGHNESSY, JR.**  
ATTORNEY AT LAW

KAPLAN, HEYMAN, GREENBERG,  
ENGELMAN & BELGRAD, P.A.

TENTH FLOOR - SUN LIFE BUILDING  
20 S. CHARLES STREET  
BALTIMORE, MARYLAND 21201

ATTORNEYS AT LAW

**TYDINGS & ROSENBERG LLP**

**WILLIAM D. SHAUGHNESSY, JR.**  
wshaughnessy@tydingslaw.com

100 EAST PRATT STREET  
BALTIMORE, MARYLAND 21202  
410/752-9724  
FAX 410/727-5460

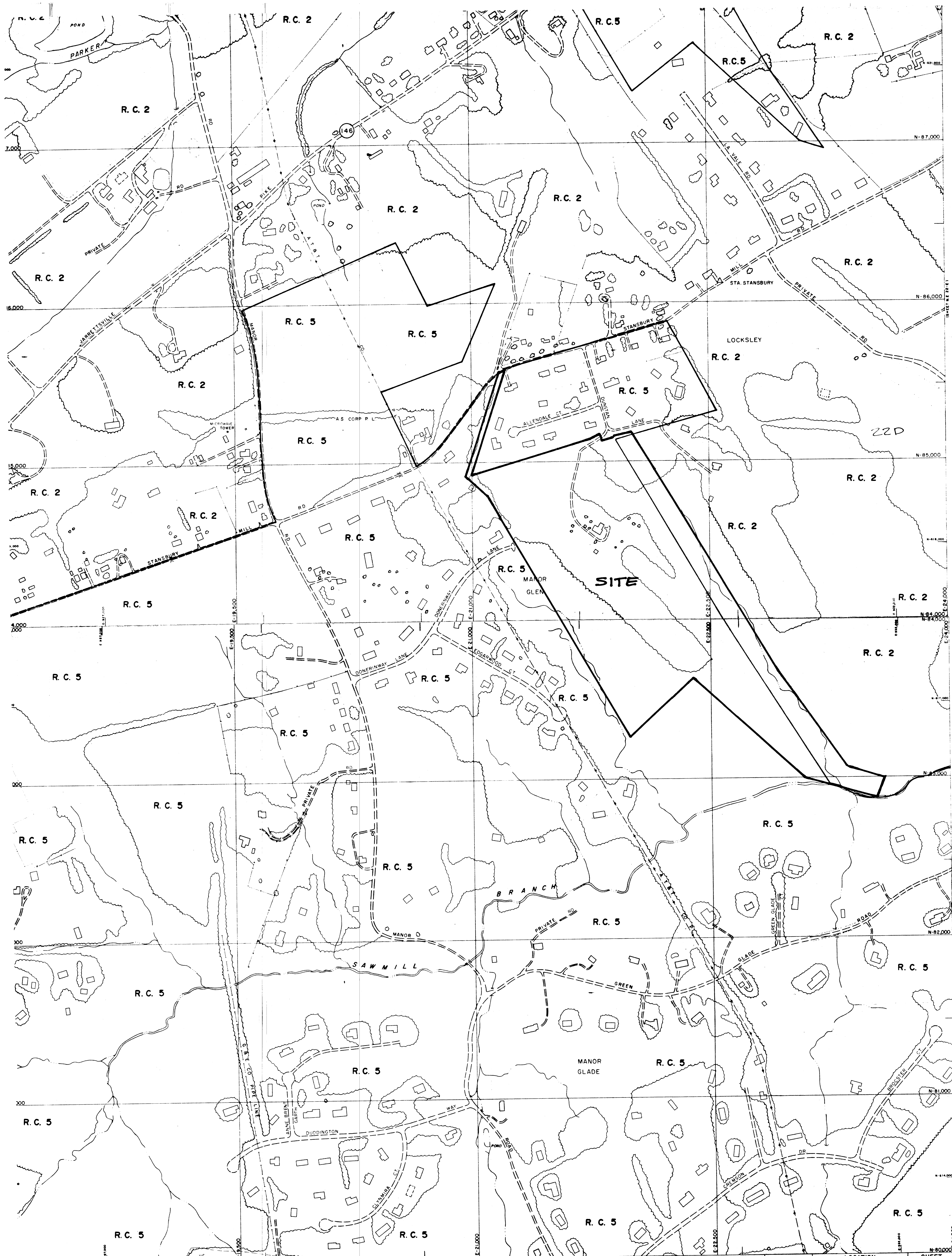
WASHINGTON DC OFFICE  
202/296 1647  
FAX 202/828 1130

**LAW OFFICE  
OF  
CHRISTOPHER TRIKERIOTIS, P.C.**

GREENSPRING VALLEY OFFICE CENTER  
9505 REISTERSTOWN ROAD  
SUITE 2A NORTH  
OWINGS MILLS, MARYLAND 21117

PHONE: 410-902-7200  
FAX: 410-902-9360  
PAGER: 410-880-9578  
MOBILE: 410-960-5533





-SE  
-NE

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

1996 COMPREHENSIVE ZONING MAP  
ADOPTED BY  
THE BALTIMORE COUNTY COUNCIL  
OCTOBER 8, 1996  
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96  
*Kevin Kamenev*  
Chairman, County Council

BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
OFFICIAL ZONING MAP

|                                              |                                 |                              |
|----------------------------------------------|---------------------------------|------------------------------|
| SCALE<br>1" = 200' ±                         | LOCATION<br>GREEN GLADE<br>ROAD | SHEET<br>N.E.<br>319<br>21-D |
| DATE<br>OF<br>PHOTOGRAPHY<br>JANUARY<br>1986 | 98-319-SPH                      |                              |



