IN THE MATTER OF THE APPLICATION OF EMIL A. BUDNITZ, JR. -OWNER; JEFF BUDNITZ, CP /PETITIONERS FOR VARIANCE ON PROPERTY LOCATED ON THE NE/S HOLLINS AVE 251' E OF THE C/L OF LAKE MANOR DRIVE (6019 HOLLINS AVENUE) 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 99-113-A

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OPINION

This case comes to the Baltimore County Board of Appeals based on a decision of the Deputy Zoning Commissioner dated December 8, 1998, in which a Petition for Variance was granted, pursuant to Section 1B02.3.B of the *Baltimore County Zoning Regulations* (BCZR) to permit a front yard setback of 3 feet 10 inches in lieu of the required 40 feet for a proposed dwelling. An appeal was timely filed and the matter was heard over a three-day period on June 17, October 26, and October 27, 1999. In lieu of final argument, counsel submitted closing memorandums, and a public deliberation was held on January 5, 2000.

Edward C. Covahey, Jr., Esquire, appeared on behalf of Petitioners, Emil A. Budnitz, Property Owner, and Jeff Budnitz, Contract Purchaser. The Appellants /Protestants, Mr. And Mr. Ralph Willis, were represented by Patricia A. Malone, Esquire.

As a preliminary matter, counsel for Petitioner objected to the appearance of J. Carroll Holzer, Esquire, on behalf of Dr. and Mrs. Robert Sussman. Inasmuch as the appellate period from the issuance of the Deputy Zoning Commissioner's decision of December 8, 1998 expired on January 7, 1999, the Sussmans are barred from becoming "Appellants" in this case. However, Maryland's upper courts have addressed the issue of becoming a "party" to an

administrative proceeding, as indicated in the following. In Morris v. Residential and Development Corporation, 278 Md. 417, 365 A.2d 34 (1976), the Court of Appeals stated that, under Maryland Common Law, anyone clearly identifying himself for the record as having an interest in the outcome of a matter being considered by an administrative agency becomes a party to the proceeding. In addition, in Baxter v. Montgomery County, 248 Md. 111-113, 235 A.2d 536 (1967), the Court held that merely submitting a name in writing as a protestant is sufficient; in Bzyniarski v. Montgomery County, 247 Md. 137, 143, 230 A.2d 289, 293-294 (1967), merely appearing and testifying before the agency was sufficient; and, more recently, in Dubay v. Crane, 240 Md. 180, 184, 218 A.2d 487-489 (1995), simply identifying oneself on the record as a party was sufficient. While the Sussmans may not be "Appellants" in these proceedings, they are parties before this Board, and Mr. Holzer's entry of appearance as counsel for Dr. and Mrs. Sussman was accepted.

Testimony and evidence offered indicate that the subject property consists of 1.19 acres, more or less, zoned D.R. 2 and is situated approximately 1,500 feet to the south of Lake Roland near the Baltimore City line. The property more particularly is located in what is known as "The Gay Property." This subdivision is made up of 11 properties in which the subject property remains as the only unimproved lot. The entire subdivision is serviced by four fee strips (private roads) which are accessed from Hollins Avenue.

Joseph McGraw, Jr., a licensed professional land

surveyor since 1978, and accepted as an expert in land planning, was the first to testify in support of Petitioner's variance request. He is the author of the proposed site plan (Petitioner's Exhibit #2) which illustrated the wetlands, existing trees, stream and proposed improvements to the site. He also performed a topographical survey, which he reproduced on the plat to illustrate the contour elevations associated with this property. He indicated that he had visited the site numerous times and was requested by the Petitioner to locate the proposed dwelling in such a manner as not to disturb the large stand of trees on the northwest section of the property, or to negatively impact the stream and wetlands area. Mr. McGraw described these trees as being mature hemlocks with diameters ranging from 6 inches to 44 inches, with the tallest tree reaching 120 feet in height. He also detailed the slopes on this corner of the property, producing grades ranging from 33.6 degrees to 51.4 degrees compared to 20 degrees at the proposed location.

On cross-examination, Mr. McGraw noted that, although the same footprint of the proposed dwelling could be placed on this section of the property, meeting all setback requirements, it would be more difficult to construct due to the steep contours which would require extensive grading to shore the driveway, and result in the loss of additional trees. Mr. McGraw opined that this property was unique due to an existing stone wall which parallels the private drive, a spring house, and the presence of the wetlands area. He stated that the wetlands area provided the only level area in which to build, but cannot be encroached upon in accordance

with Department of Environmental Protection & Resource Management (DEPRM) constraints, also requiring a 25-foot buffer area. He stated that a variance at the proposed location would meet the spirit and intent of the zoning regulations. He stated that he did not compare the subject site with properties in the Lake Roland area but acknowledged that other properties in the immediate neighborhood were wooded, and possessed varying degrees of sloped terrain. He further indicated that the Emil Budnitz property immediately adjacent to the subject site also contains similar sloped areas and had the presence of a stream.

Next to testify in support of the Petitioner was Arthur Valk, a licensed architect in the state of Maryland since 1980. He described the design of the proposed dwelling as a one-story, four-bedroom stone and stucco structure consisting of approximately 3,600 square feet. The main dwelling would be partially depressed into the ground which incorporated a hip roofed design producing a 15-foot height extending above the road base. He described the attached garage, being oriented nearest the private road, as being below ground and having a flat roof, which would be fully covered by earth and which would support numerous plantings, allowing the entire structure to blend in with the landscape. He stated that the design and size of the proposed structure were based on several factors which included the Petitioner's personal living needs and desire to save as many trees, while also limiting the amount of excavation required to minimize water runoff. Stemming from several site visits, Mr. Valk stated other obstacles

he had to consider included in the wetlands area which could not be encroached upon, namely, the wetlands buffer zone and the stream, which left approximately 1/3 of the site buildable, thus, he opined, making this site unique.

Mr. Valk also noted that the Petitioner, acting out of caution and prior to obtaining any building permits, applied for and was granted a variance from the forest buffer setback requirements. DEPRM, in approving the variance, required that a terraced timber wall as shown on Petitioner's Exhibit #2 act as a buffer to keep foot traffic out of this buffer area.

On cross-examination, Mr. Valk stated that a forest buffer variance would be required for any development to this property. While he stated that this property was unique, he did not compare the subject site to other properties in the neighborhood to determine if they were impacted by wetlands or steep slopes. Mr. Valk acknowledged that the proposed house could physically be located on the northwestern portion of the property, as shown on Petitioner's Exhibit #3, which would possibly require a lesser variance. He indicated that it would be more costly to both construct the proposed dwelling and to divert water runoff at this location.

John Rohde, who was accepted as an expert landscape architect and an expert in the field of wetlands delineation, was next to testify in support of Petitioner. He testified that he visited the site, which he described as triangular in shape, very steep in places, and having a stream and spring house. He

indicatead due to the presence of the stream a wetlands delineation was required. The wetlands delineation itself was difficult to do, since it was mowed over, which made it difficult to locate any plant life. After the field survey was completed, the wetlands delineation report (Petitioner's Exhibit No. 13) was submitted to DEPRM for review. Ultimately, this resulted in a site visit with a representative from DEPRM in which Mr. Rohde was also present. DEPRM approved the wetlands delineation, as well as the proposed location of the house.

Mr. Rohde acknowledged that, while the proposed dwelling could be relocated on the northwestern portion of the property without requiring a variance, the proposed location offered a better placement, since the alternate location would need a longer driveway, requiring more retaining wall, and resulting in the loss of more trees. He stated the loss of additional trees posed sediment control problems, which could impact the stream.

Petitioner Jeff Budnitz testified that he grew up next door to the subject site, but currently resides elsewhere. He stated that the subject site was a gift from his father, which afforded him the opportunity to raise his family, while also remaining closes to his father, since they are in business together. He is desirous of building a house, which would be sensitive to the environment, and would not be invasive to his neighbors. He indicated the cost of the house to be between $500,000 to $700,000 with a sizable amount required for the garage alone. He noted the house would actually sit about 17 feet from

the private road since the garage itself would be underground. He did acknowledge that a house could be built on another portion of the property, without requiring a variance, but would be insensitive to the environment. He indicated that 10 to 13 trees would have to be removed if the proposed dwelling is built on the northwest section of the lot, compared to the loss of only one tree at the proposed location. He also produced several photos of the property depicting the subject site, which were placed into evidence. He described Petitioner's Exhibits #5 and #6 as being a large hedgerow which would shield the proposed dwelling from the Sussman property, which is directly opposite his property.

Petitioner Jeff Budnitz further indicated this location posed a natural depression which would further shield the view of the house, and would enable the existing stone wall to continue around the private drive. He opined that his property was unique compared to neighboring properties in this subdivision. He described those properties as having varying degrees of slope, but also containing some flat areas in which to build, while the only level area associated with his property was in the wetlands area, and the remainder of the site possessed very steep slopes. He further stated the slopes associated with the alternate site posed a greater impact, causing him to suffer practical difficulty and unreasonable hardship by requiring more retaining wall to be built.

Emil Budnitz also testified in support of the variance request. He testified that he has lived next to the subject site for the past 30 years. He stated that he had acquired a variance

over protest from Mr. Willis when he built his home, and that his garage sits very close to the road. He described the private road as being very lightly traveled. He indicated that Mr. and Mrs. Willis use the road but live in Florida half of the year, while the Sussmans have their driveway orientated further to the east. He stated that, when he purchased the subject property from the Gay family estate, it was overgrown. His intent was to give this property to his son for the purpose of constructing his own home.

Thomas S. Bozzuto, also a resident of this subdivision, appeared in support of the proposed dwelling. He supported the proposed location as being the least intrusive to the community. He also believed that the Petitioner was acting in a manner that was sensitive to the environmental concerns of the neighbors.

Sarah Lord appeared in opposition to the variance request. Rule 8 papers (Protestants' Exhibit No. 6) were submitted, and Ms. Lord testified in her capacity as Zoning Chairman for the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. She testified that the Association was opposed to the requested variance since the proposed location would set precedent, and would change the character of the neighborhood. The Association is also opposed to DEPRM granting a 25-foot wetland buffer variance. The Association is concerned that, if the dwelling is constructed at the proposed location, it will impact the wetlands area and pose a threat to both the Jones Falls watershed and Lake Roland.

Dr. Robert Sussman, resident of the former Gay Property

for the past 5 years, also testified in opposition to the variance. He testified that the Petitioner informed him of the proposed plan for the subject site in the summer of 1998. He eventually performed a walk-through of the property identifying the stakeout of the proposed dwelling. Resulting from this site visit and taking measurements of the footprint, he became concerned with the spring house, spring head, and large trees which would be impacted by the location of the house. He described this section of the property as being environmentally sensitive, triangular in shape, and referred to it as the "apex." In describing the entire subject property, he referenced numerous photographs and charts placed into evidence which he prepared, illustrating the number of trees and vegetation on this site. He opined that placing the house on the northwestern portion of the property would be less damaging to the environment. He further stated that, in his opinion, the stand of trees on this section of the property was being overstated as to both their size and significance. He also believed that the proposed location would alter the character of the neighborhood and would pose traffic concerns for the neighborhood.

On cross-examination, Dr. Sussman acknowledged that he preferred that the subject site remain untouched.

Bruce Doak, a licensed property line surveyor and accepted as an expert, next testified. He prepared a plat of the subject site depicting an alternate site location for the proposed house (Protestants' Exhibit #19). He stated that he only made one site visit and did not physically take any measurements of the

property. He generated the plat reviewing topography maps and incorporating Mr. McGraw's site plan and plat. He computer-generated this alternative location in which the proposed dwelling could be placed meeting the 40-foot road setback, 20-foot side yard setback, and 25-foot wetlands buffer requirement. He stated that he was also familiar with the neighboring properties. He opined that this property was not unique, since most of the properties in the Ruxton area are situated on hills with 10 to 35 percent grades, making them even steeper than the subject lot. He also stated that properties throughout this area also contain streams, springs, and are heavily wooded as depicted on Protestants' Exhibit #4 (the topographical map). He further stated that the exact footprint of the proposed dwelling could be placed on the northwest section of the property without requiring a variance.

Dennis J. LaBare, accepted as an expert in the fields of forest conservation and wetlands delineation, also testified in support of the Protestants. He made a site visit in May 1999, in which he performed a wetlands analysis of the subject site. His study found that soil conditions indicated the wetlands area actually extended closer to the proposed dwelling. He concluded from this study that the proposed retaining wall required by DEPRM actually encroached 8 feet further into the wetlands buffer area.

On cross-examination, he indicated that this study took less than 1 hour to conduct and was not an exact science. Mr. LaBare also described the stand of hemlocks and Norway spruce associated with the northwest section of the property as not being

natural species to the area. He minimized their overall value and noted that this area is also devoid of underbrush and ground cover. He stated that the wetlands area contained lush vegetation and trees native to the area. Thus, he opined, the placement of the house on the northwest portion of the property would have less of an environmental impact at this location.

Ralph Willis, who has lived on Hollins Avenue across from Emil Budnitz for the past 35 years, was next to testify. Mr. Willis stated that Hollins Avenue was intended to serve only four homes in this subdivision, but other residents also utilized the road occasionally. He was concerned that the location of the house would pose serious traffic problems with ingress and egress from the driveway at this site. He also stated that, when Emil Budnitz was granted a variance for his property, he was unaware of the time frame in which to appeal that variance. As a result, he feels the community is burdened by the placement of his garage which is situated very close to the road. His concern, if the Petitioner is allowed to construct the proposed dwelling 3 feet 10 inches from the private road, is that the problem will be compounded.

Cecelia Matthia, a resident of the subdivision, also appeared in protest to the proposed dwelling. She was concerned that, if the variance were granted, the character of the neighborhood would be compromised. She also expressed concerns as to the drainage of the property and to the placement of the driveway in proximity to the road.

The Board, in its deliberation, acknowledged the excellent case

presentation and closing memorandum presented by both counsel. The Board further recognizes the sincere efforts of the Petitioner as to the creative design of the proposed dwelling.

The Board, in reaching its conclusions, is mindful of the responsibility in this *de novo* hearing, that the Petitioner has the burden of proving his case by the weight or preponderance of evidence. The granting of variances is governed by Section 307.1 of the BCZR which provides, in relevant part, that variances may be granted:

> ...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance...would result in practical difficulty or unreasonable hardship.

The Court of Special Appeals, in Cromwell v. Ward, 102 Md.App. 691 (1995), has construed this regulation to mean that obtaining a variance is at least a two-step process. The first step requires a finding that the subject property is unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. The second step requires a finding that denial of the requested variance would result in practical difficulty or unreasonable hardship.

Cromwell v. Ward states that "{u}nless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship.

The Petitioner failed to present any testimony or evidence to this Board showing that his property was unique when compared to neighboring properties.

Upon cross-examination by Mr. Holzer, Petitioner's first witness, Joseph McGraw, confirmed that neighboring properties were impacted with varying degrees of sloped terrain. He further indicated that the property of Emil Budnitz, immediately adjacent to the subject site, had sloped areas and also had the presence of a stream. Petitioner's other expert witness opined that the subject site was unique but failed to compare this site with surrounding properties. The Petitioner himself, while indicating his property did not have any level area in which to build, did acknowledge the presence of hilly terrain on neighboring properties.

As well, Protestants' expert witness, Bruce Doak, stated that most of the properties in the Ruxton area produce steep grades, and that streams, springs and wooded lots are prevalent throughout this area.

The Board further references the Planimetrics Plot (Protestants' Exhibit #4) in determining the steep grades associated with this subdivision and surrounding area. Thus, the first step of the variance process was not met, and the practical difficulty or unreasonable hardship requirement cannot be properly considered. However, even assuming for the sake of argument that the property meets the requirement of uniqueness, the Petitioner failed to produce convincing evidence of practical difficulty or

ORDERED that the Petition for Variance seeking relief from Section 1B02.3.B of the *Baltimore County Zoning Regulations* to permit a front yard setback of 3 feet, 10 inches in lieu of the minimum required 40 feet for a proposed dwelling be and the same is hereby **DENIED.**

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

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OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Margaret Worrall

Thomas P. Melvin

unreasonable hardship.

Again, Petitioner's expert witness acknowledged that the footprint of the proposed dwelling could be placed on the northwestern portion of the property, meeting all setback requirements; thus not requiring a variance. Mr. Valk indicated that this location could possibly require some variance relief, but it would be less than at the proposed location. The Petitioner, himself, stated that he could build a dwelling at this location absent any variance, but the house, in his opinion, would not be as environmentally sensitive. He also indicated that it would be more costly as it would require more retaining wall. The expert testimony of Bruce Doak also clearly established that an alternate site is present enabling the Petitioner to utilize this property without requiring a variance.

Lacking the finding of uniqueness, the Board is required to deny the requested variance relief. Based upon the testimony and evidence, the Board finds that the Petitioner has failed to satisfy the requirements of Section 307.1 of the BCZR. The property does not satisfy the first prong of Cromwell v. Ward as to any uniqueness or unusual features. Economic relief is not a factor as cited in Easter v. Mayor & City Council of Baltimore, 195 Md. 395 (1950). Therefore, this Board must deny Petitioner's request for variance.

O R D E R

THEREFORE, IT IS THIS 7th day of March, 2000 by the County Board of Appeals of Baltimore County

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IN THE MATTER OF EMIL A. BUDNITZ, JR., OWNER JEFF BUDNITZ, CONTRACT LESSEE 6019 HOLLINS AVENUE 9TH ELECTION DISTRICT 4TH COUNCILMANIC	* * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 99-113-A

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BRIEF OF EMIL A. BUDNITZ, JR., OWNER, AND
JEFFREY BUDNITZ, CONTRACT PURCHASER, PETITIONERS/APPELLEES

Emil A. Budnitz, Jr., and his son, Jeffrey Budnitz, to whom the father proposes to gift the subject property, respectfully submit this Memorandum in Lieu of Closing Argument as requested by the Board at the conclusion of the last hearing held on October 26, 1999.

PROCEDURAL HISTORY

The instant matter comes before this Board as a result of an appeal filed by Bo Willis and Sally Willis from the decision of the Deputy Zoning Commissioner for Baltimore County granting Appellee's Variance Petition for a front yard set-back of three feet ten inches (3'10") in lieu of the required forty feet (40'). Importantly, the Willis appeal was the only appeal timely filed of record, and the Board, over Appellee's objection, permitted J. Carroll Holzer to enter his appearance on behalf of Dr. and Mrs. Robert Sussman, who had noted an untimely appeal from the decision of the Deputy Zoning Commissioner. The Board very graciously devoted three (3) days of its time to opening argument, testimony, and the introduction of numerous exhibits.

FACTS

The property that is the subject of this appeal is a 1.19 acre tract of land that is one of eleven (11) lots in a recorded subdivision known as "A Subdivision of the Gay Property." Petitioners' property is identified as Lot 11 and is the only lot in the Subdivision that is not improved by a private residence. While Lot 11 enjoys frontage on Hollins Avenue, access is provided by four (4) fee strips, each fee strip enjoying a reciprocal easement over the other three (3) strips. Emil Budnitz' house is adjacent to Lot 11 on the northwest, the Willis property is north of the site on the other side of the four (4) fee strips, which for brevity are hereinafter referred to as the "Private Road," and the Sussman property is directly opposite the proposed site. Protestant/Appellant Bo Willis conceded that legally only these four (4) lots are granted access to the Private Road that was constructed within the perimeter of the four (4) fee strips. However, on occasion the other subdivision lots access their properties over this road, even though they have their own access to Hollis Avenue over their fee strips as shaded in purple on Protestant's Exhibit 4, the flown topographical map.

The Gay Subdivision is situate approximately fifteen hundred (1,500) feet to the south of Lake Roland in an area best described as Lake Roland. Hollins Avenue, a County road, accesses the Subdivision and intersects Lake Avenue, at a T intersection, approximately three-quarters (3/4) of a mile to the south. As the Board is aware, Lake Avenue connects to Falls Road on the west, Charles Street to

the east, and Roland Avenue to the south, enabling the Subdivision easy access to Towson, downtown Baltimore, and the Baltimore County Beltway.

The dwellings built in the Gay Subdivision represent a blend of architectural styles located generally to the front of irregularly shaped lots, all of which exceed one-half (1/2) acre in size consistent with the DR (Density Residential) 2 zoning classification for the neighborhood. The entire Subdivision was originally a part of a tract of land owned by Dr. and Mrs. Gay who were succeeded in title by their son who was a friend of the Appellees and particularly close to Jeffrey Budnitz. The son, through his eminent counsel, Arthur W. Machen, Jr., conveyed Lot 11 to Emil Budnitz, and in the Machen letter (Petitioners' Exhibit 20) counsel referenced the intent that this lot be ultimately gifted to Jeffrey Budnitz because of his friendship with the Gays. Jeffrey Budnitz had become acquainted with the Gays while living on his father's adjacent lot since the approximate age of one and a half, that lot having been acquired by Emil Budnitz, Sr. from the Gays in the latter part of the 1960s.

The witnesses were virtually unanimous in describing the Subdivision properties as being characterized by grades of varying degrees of steepness although the subject property was distinguishable from the other properties in the Subdivision in that the other lots enjoyed some flat areas that supported and sustained the dwellings that were ultimately constructed on those lots. The field topographical survey by Joseph William McGraw, Jr., a registered property line surveyor, who also was accepted by the Board as a land planner, was reproduced

on the plat (Petitioners' Exhibit 2) to show the contour elevations of the lot upon which was superimposed architect Arthur Valk's drawing detailing the footprint of the proposed house and garage. Exhibit 2 prominently shows the stand of hemlock trees and northern spruce that predominate the northwestern portion of the tract in the vicinity of Emil Budnitz' house. Joe McGraw field located these trees and testified that their diameters varied from fifty-nine inches (59") as to one tree with multiple trunks, and other diameters varied from six inches (6") to forty-four inches (44"), and that some of the hemlocks exceeded one hundred twenty feet (120') in height. Petitioners' testimony showed that the trees on the southeastern portion of the property were not platted, as they were not considered with respect to where the dwelling could be located for the simple reason that the spring house and the stream precluded development on that portion of the property, and their location was not germane to the issues before the Board.

Dr. Sussman resides in the former Gay estate property, and on direct examination and twice on cross-examination, conceded that he did not want any dwelling constructed on the subject lot, and in particular that he did not want a dwelling constructed in the location as proposed. The relevance of his testimony with respect to measurements from the corner of the proposed house to the spring house and the location of trees in the southeastern corner of the property which would not be impacted by the construction is questionable, and serves to illustrate the extent of his maniacal and irrational opposition to the request. Likewise, the relevance of the numerous pictures of trees that he photographed and introduced

into evidence is questionable, as indicated by his concession that the trees were not within the footprint of the proposed house. Dr. Sussman also admitted that in taking the photographs, he trespassed on the property and that his measurements were made some three (3) months after the footprint of the proposed dwelling had been delineated by stakes which could have easily been moved, altered, or misplaced.

Joe McGraw was unequivocal in his testimony and demonstrated by reference to his topographical plat (Petitioners' Exhibit No. 2) that if the variance were not granted the only location that would support the house would be the area in the northwest portion of the lot situated between the forty foot (40') front setback and the twenty-five foot (25') wetlands buffer. This location was characterized by grades that, descending from the road to the wetlands buffer, produced a thirty-seven and four-tenths percent (37.4%) grade, and from the forty foot (40') front setback line to the wetlands buffer, a slope of thirty-three and six-tenths degrees (33.6°). This is in contrast to locating the house as proposed, which produces a maximum grade of only twenty percent (20%). Accordingly, locating the house as proposed would reduce the grades that need to be encountered and mastered by approximately thirteen percent (13%), to seventeen percent (17%). If the house were constructed in the non-variance area, McGraw stated, "It would be virtually impossible to take the driveway directly down this hill." It could only be accessed by exiting the driveway from the Private Road in the area of the proposed house, and then running it perpendicular to the excessive grades to the northwest. This would involve destruction of many more trees and vegetation than would be destroyed by

building in accordance with the proposal. At a minimum, the non-variance site would entail the destruction of nine (9) to twelve (12) large hemlock trees as opposed to the destruction of only one (1) tree if the dwelling were built within the proposed building footprint. It was McGraw's professional opinion that the non-variance approach would entail much more erosion than the proposal in that it would involve disturbing considerably more soil and would increase the destruction of vegetation that is essential in thwarting erosion and water run-off. As McGraw phrased it, the non-variance approach would involve considerably more ecological damage. On cross-examination, McGraw pointed out that you cannot access the non-variance location from Hollins Avenue because any driveway would have to cross both the stream and the wetlands area.

McGraw, in his expert capacity as both a surveyor and a land planner, concluded that the subject property was unique and different from other properties in the neighborhood because of its lack of a level building area, the steepness of its grades toward the northwest, the presence of the stream, the existence of the stone wall paralleling the private driveway, the large wetlands area, and the presence of the hemlocks and northern spruce trees in the so-called non-variance area. In his opinion, denial of the variance would create unreasonable hardship or practical difficulty because of the necessity to drastically increase the length of the driveway and stabilize its banks, thereby "doubling the damage" to the environment because of the inherent destruction of vegetation caused by the construction of the dwelling on a site with slopes much steeper than would be encountered at the proposed

location and the much longer driveway cutting across the face of the grades. He further pointed out that granting the variance would be in accordance with the spirit and intent of the Zoning Regulations, as the proposed dwelling site would have significantly less adverse impact on the environment than any other location, and would, therefore, be beneficial to the health, safety, and general welfare of the community.

Joe McGraw, Dr. Sussman, and Jeff Budnitz all established the fact that the Sussman house is not observable from the proposed site and vice-versa because of intervening trees and vegetation. However, if the dwelling were to be built within the non-variance area, the photographs and testimony conclusively established that both dwellings would be directly visible to each other.

Arthur Valk, the architect, and Jeff Budnitz amply demonstrated the Petitioners' concerns for minimally impacting the environment and the neighborhood by designing a dwelling that was harmonious with the neighborhood, and would be served by a garage supporting one and one-half feet (1.5') of top soil and vegetation compatible with existing trees and shrubs. The cross-examination of Arthur Valk reinforced his conclusion that all of the other houses in the Gay Subdivision were constructed on lots with flatter areas than the subject lot, once again establishing that this is a unique lot with characteristics peculiar to it that create a practical difficulty in attempting to construct a dwelling other than as proposed. The Protestants, in cross-examining McGraw, attempted to establish that a non-variance location could be accessed by an easement through the Emil Budnitz tract.

However, on re-direct, the witness was shown Petitioners' Exhibit 7, which created the restrictive covenants for the Gay Subdivision, which covenants would legally preclude creation of any easement through the Emil Budnitz site. This again illustrates the problems inherent in building on this tract.

It was part of the Petitioners' charge to Arthur Valk that he design a house that could be accommodated by the unique topographical considerations of the site. The major obstacles to overcome were the excessively steep grades, the wetlands area, the wetlands buffer zone, the stream, and the heavily forested areas. At the outset, the wetlands and the buffer left only one-third (1/3) of the tract that was not so encumbered. On the proposed location, the house is depressed into the ground, taking advantage of the slope to the rear as to minimize ground disturbance, and at the maximum, only fifteen feet (15') of the house would protrude above the Private Road elevations. Valk confirmed Joe McGraw's observation that the location of the house within the proposed footprint would require the removal of only one (1) oak tree which was highlighted in green on Petitioners' Exhibit 2. A large pine tree is within the footprint of the house deck that would be built around it in order to ensure the survival of this tree.

It was clear from the testimony that before a dwelling could be constructed on this lot, the owner, as a prerequisite to obtaining a building permit, would have to comply with the requirements of the Department of Permits and Development Management and the Department of Environmental Protection and Resource Management (hereinafter "DEPRM"), as to wetlands and forest conservation. There

is nothing in the Baltimore County Code or the Baltimore County Zoning Regulations that require any submission to DEPRM as a condition precedent to filing for and obtaining a variance from a building setback requirement. Notwithstanding such a requirement, the Petitioners, in an abundance of caution, complied with all DEPRM requirements, and a variance was granted from the forest buffer requirements. The wetlands area as located and delineated by the landscape architect, John Rohde, was also approved by DEPRM. From DEPRM's standpoint, this proposed dwelling location was the preferred location subject to one condition, and that is, construction of a terrace timber wall as reflected on Petitioners' Exhibit 2, extending into the wetlands buffer in order to act as a barrier to keep foot traffic out of the buffer. The dwelling as designed by Valk that would be built on the site was described as a one (1) story hip roofed structure of stucco and stone, "conservative in its treatment of materials," and "quiet in its proportions that would be unobtrusive and blend in with the landscape." The old fieldstone wall paralleling the Private Road out to Hollins Avenue would be preserved. Anticipating Willis' objections to the turn radius, Arthur Valk testified that in exiting the garage, there was available a thirty-two foot (32') turn radius circle that would eliminate any backing of automobiles except for large vehicles such as Cadillacs and Lincoln Town cars. Valk, Rohde, and McGraw all agreed that the proposed structure would not impact the stream.

Petitioners, in establishing compliance with DEPRM's requirements, called John Rohde, registered landscape architect, environmental consultant, certified

horticulturist, and Maryland licensed tree expert, to explain what he did with respect to preparing the wetlands delineation to the requirements of DEPRM. Much of this work was done by his then-employee, John Russo, who is now with DEPRM. Rohde was present when Valerie Klein of DEPRM approved the wetlands delineation, and also approved the proposed location of the house. Rohde fortified the testimony of McGraw and Valk that this property was unique and different from the others in the eleven (11) lot Gay Subdivision in that the other houses were built on flat areas, even though concededly those lots had steep slopes. Rohde and the testimony of Protestants' witness, Dennis LaBare, a non-licensed environmental consultant who prepares some wetlands delineations, agreed that it is not an exact science, and that three things are to be considered: (1) the presence of water; (2) the presence of aquatic plants; and (3) the nature of the soil. While LaBare disagreed with Rohde's delineation and that he would include an additional area in the southeastern portion of the property within the wetlands delineation, this did not alter the viability of the proposal, and it is without significance to the issues and questions before the Board. To this witness' credit, he stated he visited the site and spent only a half hour to forty-five minutes in his investigation of the wetlands and conceded that in his brief examination, the non-variance location would destroy the northern spruce and hemlock trees. Rohde pointed out the obvious, that Protestants' Exhibit 4, the topographical lines as prepared by the aerial photographs, are not as exact as actual topographical surveys prepared from field

transom surveys as were done in the instant case, and that Protestant's Exhibit 4 is very general as to property elevation contours.

Bruce Doak, the property line surveyor called by the Protestants, did not measure any topographical grades, and conceded that he did not consider, "either the forest or the trees with respect to the alternate site." The only thing he did was to make a determination that the alternate site or the non-variance site would allow the footprint of the house to fit within its perimeter, taking into consideration the setbacks and the wetlands. He attempted to broad-brush the subject site as being within, as he characterized it, the Ruxton-Riderwood neighborhood. However, on cross-examination, he conceded that it is not really within the Ruxton-Riderwood area, as Ruxton and Riderwood are both on the opposite side of Lake Roland, and that the southern boundary of the Lake is more than two thousand feet (2000') to a half (1/2) mile distant from the property as the crow flies. The maps establish that by automobile, Ruxton-Riderwood is at least two and one-half (2-1/2) to three (3) miles from the property. He further was forthright and honest in testifying that he primarily viewed the other sites from the security of his automobile. He also conceded that field topographical surveys using a transom are much more accurate that the Protestants' Exhibit 4, the flown aerials. Doak did not take into consideration the garage when he situated the proposed dwelling in the alternate location. Bruce Doak failed to provide a means of ingress and egress to both sides of the garage, and the footprint as situate in his location, did not provide a driveway servicing both sides of the garage. Bruce Doak's testimony further illustrated the

practical difficulty that would be encountered by using his location and in constructing two (2) driveways within the thirty-seven percent (37%) slope area. On cross-examination, he reluctantly conceded that in designing the alternate non-variance location, he did not consider "either the forest or the trees with respect to the alternate site," highlighting Protestant's inability to see the forest for the trees.

Jeffrey Budnitz testified regarding his familiarity with the area as he has resided next door since he was a year and a half old. Specifically, Jeffrey Budnitz stated that he is familiar with each lot in the subdivision, and that this property is unique from the other properties in the Gay Subdivision because the other dwellings are constructed on the flat areas, and that those lots have flat areas upon which dwellings were constructed and were not burdened by the excessive slopes present on the lot before the Board.

It is significant that the Protestants could only muster three (3) witnesses in the Subdivision who were opposed to the proposal. Sarah Lord appeared before the Board twice claiming to represent the Lake Roland Improvement Association, however, on both appearances, she failed to comply with Rule 8 with respect to documenting her authority to speak on behalf of the Association. The Board granted her until 4:00 on the last day of the hearing to present such documentation. Significantly, as of the date of this Memorandum, neither counsel nor the Petitioners have been supplied with any such documentation, and accordingly, assuming same was never provided, her testimony must be completely discounted as purporting to represent the position of the Ruxton-Riderwood-Lake Roland Improvement

Association. Cecelia Matthia was concerned mainly with traffic which would, of course, be generated no matter where the dwelling was built, and conceded that the primary access to her property is not through the Private Road, but by her own private road to which she has a fee strip and reciprocal easements with others entitled to the use in common thereof. Thomas S. Bozzuto, builder, developer, and a resident of the Gay Subdivision, appeared in support of the application, and was enthusiastic with respect to the location, and that from his perspective as a neighbor, "the proposed location was the least intrusive." He further felt that Jeff Budnitz had cooperated with all of the neighbors and was very sensitive to all of the environmental concerns and issues.

QUESTIONS PRESENTED

Within the context of Section 307 of the Baltimore County Zoning Regulations, do special circumstances or conditions exist that are peculiar to this site whereby strict compliance with the forty foot (40') setback would result in a practical difficulty or unreasonable hardship to the Petitioners/Appellees?

ARGUMENT

The Court of Special Appeals in Cromwell v. Ward, 102 Md.App. 691 (1995) articulated the benchmark against which all Baltimore County variance cases are to be measured, subject to the various interpretations of Baltimore County Zoning Regulations Section 307 by the Court of Appeals. Judge Cathell, writing for the Court in Cromwell, equates circumstances or limitations peculiar to the tract to a determination in the first instance as to whether the property is itself unique. The

Court points out that if the property is found to be unique, it is then incumbent upon the Board to apply the second prong of the test to decide whether denial of the variance would result in a practical difficulty or unreasonable hardship. Id. at pages 694-695. Cromwell reiterates the observations of the Court of Appeals in Loyola Loan Association v. Buschman, 227 Md. 243 (1961) that practical difficulty or unreasonable hardship are used in the disjunctive; that is, they are alternates to each other. Id. at page 698. The Court in Cromwell by footnote at page 695 contrasted the distinction between practical difficulty and unreasonable hardship when used in the disjunctive by noting that various jurisdictions require "the unreasonable hardship standard to be used when 'use' variances are sought because use variances are believed to be more disruptive of zoning goals and purposes, but require the lesser 'practical difficulty' standard when 'area' variances are sought." The variance sought in this case involves a request for an area variance, and therefore, the Petitioners need only meet the lesser practical difficulty standard. Unlike the facts in the case at bar, Judge Cathell in Cromwell found that the Ward property was not "peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction impact upon the subject property would be different from the restrictions impact upon neighboring properties." Cromwell, 102 Md.App. at 726. There, this Board granted Ward's variance despite the fact that Ward constructed his garage and wine cellar above the fifteen foot (15') height limit and misrepresented its height on the application for the building permit and applied for the variance after the fact to

eliminate a condition he had created in the first instance. The Court of Special Appeals pointed out that for obvious reasons, while both hardship and practical difficulty would be encountered if the variance were not granted, Ward had not shown that his property was itself peculiar or unusual.

In further analyzing the impact of Cromwell on the law of zoning, it must be borne in mind that it is a Court of Special Appeals' decision, and that it does not change the law as enunciated by the Court of Appeals. The Loyola case, supra involving the six (6) story building on Towson's Pennsylvania Avenue west of the Elks Club is illustrative of this point, and it and its progeny represent the law to be applied in this case. In sustaining the Board's granting of the height variance to Loyola, and reversing the decision of the Circuit Court, the Court of Appeals found that the presence of underground springs satisfied the test of uniqueness in determining and differentiating that property from its neighbors in that the building had to be reconfigured to provide for above ground parking, as basement parking could not be constructed because of the subterranean water condition. Loyola Loan Assoc., 227 Md. at 250.

McLean v. Soley, 270 Md. 208 (1973) followed the logic of Loyola in affirming the grant of a side yard window variance for an apartment house and office complex on York Road opposite Towson University. Judge Levine for the Court of Appeals succinctly crystallized the uniqueness of that tract when he said, "That the construction of the buildings in strict compliance with the sideyard requirements would result in the destruction of the trees; . . . that the benefits of retaining the

trees would accrue to the general public; . . . and that there was only meager evidence to support the contention that a detriment would befall the neighboring property owner." Id. at 215.

It is beyond cavil that the northwesterly portion of the Petitioners' property is characterized by steep grades that constitute a thirty-seven and 49/100 percent (37.49%) grade as opposed to the twenty percent (20%) grade at the proposed location. Constructing a dwelling on that portion of the property inherently involves a practical difficulty because constructing the house on a steeper grade would require additional dirt excavation for the extra length of the driveway, and constructing it perpendicular to the slope would require additional cut and fill and destruction of many more trees and vegetation. Petitioners' property is not unlike that in Soley where the Court of Appeals emphasized that in sustaining the grant of the variance, the property's trees would be preserved which would further entail a benefit to the general neighborhood, as opposed to a detriment. Testimony of both Protestants and Petitioners establish that this property is unique and different from the neighbors' properties in that all the other lots in the Gay Subdivision have flat areas upon which the dwellings were constructed. The Budnitz property does not have a flat area upon which a dwelling can be constructed, however, the proposal provides for the dwelling to be constructed on the flattest area with the least grade. The proposed house would have minimal impact on the environment, and as characterized by Arthur Valk, would be non-intrusive and blend into and complement the topography and vegetation that exist on the site. It is important to

bear in mind that Petitioners could erect and construct within the non-variance area a small pre-fabricated house and the driveway to serve such a house, which construction would virtually destroy the hemlocks, northern spruce, and other vegetation. This approach would be environmentally unsound, and would be clearly detrimental to the neighbors. While Dr. Sussman presented many arguments to the Board, it would appear that his protest is in fact a thinly veiled attempt to thwart any and all construction on Petitioners' property, so that the Doctor can continue to enjoy viewing a lot absent a dwelling.

The Petitioners have a property right and a right to build a dwelling on this lot, and solicit the Board's assistance in approving a variance that would eliminate the practical difficulties inherent in constructing a dwelling other than where proposed, while at the same time preserving the hemlocks and spruce trees, and eliminating the mammoth excavation that would be required in constructing any dwelling in the alternate location. Within the setting of this case, it was unusual to discern the concern that Jeff Budnitz showed his neighbors in that he discussed his plans with them, showed all of them the plats, and further, had the surveyor stake the lot so that the dwelling footprint could be easily located.

The Deputy Zoning Commissioner, in a very well reasoned Opinion, "found the property to be unique, given its topography, steep slopes and wetlands." His decision was based not only on the evidence adduced at the Commissioner hearing, but from his personal visit to the site. It is worth repeating the observations he enunciated at page 3 of his Opinion:

> It was difficult for me to conceive how a single family residence could be built on this lot at all. Mr. Valk had great vision when designing a house for this lot. Furthermore, in my view, Mr. Valk and the Petitioners have made every effort to mitigate the impact of this house by choosing the location shown on Petitioners' Exhibit 1, and designing the two car garage in such a manner that landscaping could be installed on its roof. In all of the zoning cases for building lots that I have entertained over the past 8 years, this lot is certainly one which is deserving of a variance.

The Zoning Commissioner's sentiments were seconded by DEPRM when Valerie Klein agreed that this was the most appropriate site for a dwelling on such an environmentally impacted lot. As the Board understands, zoning is an exercise of the police power, and in applying zoning restrictions the Board must balance the interests of the community with the property rights of the individual involved. In balancing the respective rights in the case at bar, it is clear that the weight of the evidence establishes that this property is unique, that a severe practical difficulty would be encountered in building other than where proposed, and that the proposal would be in accordance with the spirit and the intent of the Zoning Regulations, and would not be detrimental to the health or welfare of the neighbors.

CONCLUSION

Petitioners respectfully request that the variance as sought be granted to permit construction of a dwelling in accordance with Petitioners' Exhibit 2. Legally, the decision of this Board would pass judicial muster, and should the Board see fit to grant the variances, it is clear that within the rationale of the standard of judicial review, that a reasoning mind reasonably could have reached the conclusion that

the subject property was unique and a practical difficulty would be incurred in building in any location other than the proposed. Supervisor of Assessments of Montgomery County v. Ely, 272 Md. 77 (1974). Fundamental fairness virtually mandates the approval of this variance request.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of December, 1999, a copy of the foregoing Brief of Emil A. Budnitz, Jr., Owner, and Jeffrey Budnitz, Contract Purchaser, Petitioners/Appellees, was mailed to:

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and

Ruxton-Riderwood-Lake Roland
Improvement Association
P. O. Box 204
Riderwood, MD 21139

EDWARD C. COVAHEY, JR.

ldr991119

IN RE: PETITION FOR VARIANCE NE/S HOLLINS AVENUE, 251 feet East of the C/L Lake Manor Drive (6019 Hollins Avenue)	* * * *	BEFORE THE COUNTY BOARD OF APPEALS OF
9th Election District, 4th Councilmanic District	*	BALTIMORE COUNTY
Emil A. Budnitz, Jr., Owner; Jeff Budnitz, Contract Purchaser	* *	Case No. 99-113-A

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MEMORANDUM IN LIEU OF FINAL ARGUMENT

Protestants, Dr. and Mrs. Robert Sussman, 6 Hollins Avenue, Baltimore, Maryland, and adjacent property owners, hereby submit this Memorandum in Lieu of Final Argument as requested by the Baltimore County Board of Appeals, and say:

STATEMENT OF THE CASE

This matter comes before the Baltimore County Board of Appeals for consideration on a hearing de novo of a Petition for Variance filed by the owner of the subject property, Emil A. Budnitz, Jr., and his son Jeff Budnitz, the Contract Purchaser. The Petitioners seek relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (hereinafter "B.C.Z.R."), (Sec. 205.2 of the 1963 Regulations) to permit a front yard setback of three feet, ten inches in lieu of the minimum code requirement of forty (40) feet for a proposed dwelling. The subject property and relief sought is more particularly described on the Site Plan submitted as Petitioners Exhibit #1. Protestants Dr. and Mrs. Robert Sussman reside at 6 Hollins Avenue, Baltimore, Maryland, directly across from the subject site and also share a private driveway with the Budnitz's. The matter was heard before the Deputy Zoning Commissioner for Baltimore County and on December 8, 1998 the Petition for Variance was granted subject to restrictions. From that

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decision an appeal was taken by Sally and Bo Willis, another Protestant located at 6017 Hollins Avenue, Baltimore, Maryland. Dr. Sussman became a party to the matter before the Board of Appeals by appearing and testifying as a Protestant.

The Board of Appeals conducted hearings on June 17th, 1999 as well as October 26th and 27th, 1999.

STATEMENT OF FACTS

The subject property consists of a gross area of 1.19 acres, more or less, zoned DR2, and is presently unimproved. The property is located in the vicinity of Denby Hills, not far from Lake Roland, near the Baltimore City line.

All of the principles involved in this hearing are owners of lots contained in the subdivision known as "The Gay Property" recorded in R.R.G.30, folio 13. Dr. Sussman resides on the original Julia Adele Gay home which is not a numbered lot within the subdivision. However, Mr. and Mrs. Willis reside on lot #1, Emil Budnitz resides on lot #2, and the subject property, also owned by Julia Adele Gay, was conveyed to Budnitz in land records of Baltimore County 8920/569. All parties have an equal right to utilize the private road which runs in a northwesterly direction from Hollins Avenue and provides access to Sussman, Willis and the subject site.

The subject lot has been described as more or less a triangle with the northern border being the private road serving the Gay subdivision; the Western boundary being the property line shared between the subject site and Emil Budnitz, and bounded along Hollins Avenue in the South. The property has been described by all parties as wooded along the Northern border, with an open plain on the Southwestern side which contains wetlands delineated along a stream paralleling Hollins Avenue. The "apex" has been defined by Dr. Sussman as that portion of the

property from the private road juncture with Hollins Avenue in a westerly direction to the proposed site for the Jeff Budnitz house. This area consists of heavily wooded steep slopes, a spring and a spring house from which the stream and the wetlands originate.

The Petitioner, Jeff Budnitz proposes to locate a 3,600 square foot house within three feet, ten inches of the private driveway serving the Gay subdivision and has requested this Variance from the required forty foot setback, alleging that the nature of the lot requires the location of the house site as proposed. There is absolutely no disagreement among the parties that the exact same footprint for the proposed house can be located elsewhere on the site which would not require a Variance request; however, the applicants propose that the Variance be granted in order to save trees along the Northwestern portion of the site. Basically, Sussman opposes the Variance because the house is too close to the road and also because in its current location, it impacts the environmentally sensitive triangular area more than if the proposed house were located in the alternate site as shown on Protestants exhibit.

It is recognized that the Board of Appeals members made numerous notes involving the testimony of all of the witnesses and therefore in this Memorandum, Protestants will simply highlight testimony of various witnesses germane to the Variance request and the law as it's applied to approve the Variance.

A. <u>Applicants Case</u>

Joseph McGraw, a professional land surveyor for the Petitioner, testified on cross-examination that it was physically possible to place the house in another location on the lot. Such relocation would result in the loss of certain trees and possible increased grading of the site. The Board can see from the topographical lines shown on Petitioners Exhibit #1 that he grades do not appear as steep on the Westerly side of the property as they do at the triangular portion

and in the present location of the house. Nevertheless, McGraw acknowledged that there existed another location to place the same house footprint. While McGraw opined that this property was unique, he failed to compare it with any other lots in the neighborhood in order to draw the conclusion that it was unique. He acknowledged performing no comparison of the subject site with any other properties in the Lake Roland area. Furthermore, McGraw acknowledged that Emil Budnitz's lot also had grades and was forested, as were other lots that he was aware of in the immediate neighborhood. McGraw tried to justify the uniqueness on the basis of the stone walls existing on the subject site along with the spring house. Of course, the Board would recognize that these are not natural features of the lot which would invite comparison and a determination of uniqueness under Cromwell. McGraw also acknowledged that the current retaining wall was inside the buffer area which is an area not to be encroached upon according to DEPRM.

Next followed Arthur Valk, architect who designed the proposed house for the Petitioner. Valk, while testifying to his concern about the wetlands, the buffer zone, and the existing trees, acknowledged that he had not considered any other location on the proposed lot before applying for the Variance. Valk also acknowledged that there would be other alternative sites on the property where the home could be located without a Variance being requested from either setback or buffer lines. The witness alleged that a house at an alternate site would be visibly taller (although that opinion appears to be contrary to the proposed alternative suggested by the Protestants). Also, Valk, while calling the lot unique, failed to explore or compare any other properties and lots in the neighborhood; he failed to measure or determine grades on other lots in the neighborhood and he acknowledged that other lots have extensive mature vegetation on them similar to the subject site. Importantly, Valk also acknowledged that Protestants Exhibit #3, a

proposed alternative location suggested by the Applicant himself, would require a lesser Variance than the one requested. Protestants Exhibit #3 was an amended location for the proposed house prepared by Applicant to permit circular access to the private road, further back from the road requiring less of a Variance to the forty foot buffer. The fact that the Petitioners themselves prepared a drawing illustrating an alternative location for the house which required less of a Variance is reason enough for the Board to deny the Variance request under the Variance law of Baltimore County. As will be explained later, the B.C.Z.R. Section 307 provides for the minimum amount of Variance necessary.

Finally, John Rohde, landscape architect, the third expert witness called by the Petitioners likewise acknowledged that another location is physically possible for the house, which site would not require a Variance request. However, he defended the location of the proposed house on the basis that it preserves a large stand of trees which would be required to be removed on the Northwest corner of the site if the house was relocated. Rohde then proceeded to justify the present proposed location for the house while acknowledging that it could be located elsewhere. Rhode claimed it would require more retaining wall, longer driveway, and a loss of more trees. In the Legal Argument portion of this brief, Protestants will establish for the Board that these are not legally acceptable reasons for the Board to grant a Variance.

The testimony of Jeffrey Budnitz had little impact on the legal analysis required for Variance approval. In his testimony, Jeffrey Budnitz indicated the cost of the home to be projected between $500,000 and $700,000, that he believed it was the right location for the proposed house, and that he believed the location of the house being on the private road would have less of an impact on the neighbors than if it was moved. Much of his testimony centered upon trying to establish the views from Dr. Sussman's home and the activities performed by Dr.

Sussman on his own property. Protestants position, which will be argued later herein, is that the Protestants did not need to testify in this matter at all and that it is irrelevant what activities were performed on the Sussman property. The simple fact is that the Petitioners case failed to establish and meet the necessary criteria for the grant of a Variance. Protestants could easily have submitted without any testimony and this Board, based on record and testimony from Petitioner, must still deny the Variance.

Finally, Emil Budnitz, the father, testified that he wanted the Variance because he wanted for his son to be able to live next to him. Mr. Thomas Bozzuto, a neighbor, found no fault with the Variance.

B. PROTESTANTS CASE

Sara Fino Lord, Zoning Chairman of the Ruxton Rider-Wood Lake Roland Area Improvement Association testified to that association's objection to the grant of a Variance to permit the proposed home within the forty foot setback and called upon the Board to deny the request. Dr. Sussman testified extensively in regard to photos and charts, which he prepared, establishing the fact that the triangular portion of the property was more environmentally sensitive because it included the spring head, the spring house, and numerous trees, very close to the Southeast corner of the proposed dwelling. It was Sussman's opinion that more damage would be done to the eastern portion of the property, including the trees and the spring, than was justified. He favored moving the location of the proposed house to the northwest and felt that the existing stand of trees which would be lost by such movement was not as significant environmentally as the eastern triangular portion of the site. Dr. Sussman likewise objected to the house being so close to the road and felt that it negatively impacted his property both from the aesthetic standpoint as well as producing a traffic impact on the private road for the

neighbors. See, Daihl v. County Board of Appeals of Baltimore County, 258 Md 157 (1970) where the grant of a variance would affect the "aesthetic ambiance" of the residentially zoned properties in the area was sufficient to deny the variance based on disharmony with the spirit and intent. Dr. Sussman conducted an extensive analysis of the trees which were allegedly being preserved by the Petitioners in the Northwest corner, and found that, in his opinion, their size and significance was overstated. Sussman supported an alternative location for the house as drawn by Bruce Doak, who was retained by Sussman to analyze the subject site. Bruce Doak, a licensed property line surveyor, testified that he prepared a plat based upon the drawings and plat prepared by the Petitioner which showed the location of the site. (Marked as a Protestants Exhibit). Doak's plat, established an alternate dwelling site meeting all County setbacks. It met the forty foot zoning setback from the road. It met the twenty foot zoning setback from the Westerly property line. It met the setback from the twenty five foot wetlands buffer, and as can be seen from the Exhibit, the topographical lines show that its location is not on a steep slope, but in fact is on a less steep slope than is the house of Emil A. Budnitz, Jr. Furthermore, Doak prepared an alternative dwelling location for the exact size of the proposed dwelling including the garage connected to the house as one entity. Petitioner can have his exact house located without a Variance and meeting all County setbacks and requirements if the Doak alternate dwelling location is utilized. Interestingly enough, this alternate dwelling location was never by the Petitioners.

Doak also testified that he is very familiar with the subject site and neighborhood, and that the proposed site is not unique but is similar in characteristics including forestation and slopes to many other properties in the neighborhood. He utilized the County aerial plat to establish the nature of the general area and his familiarity therewith and the fact that there are

many other properties in Ruxton Rider-Wood Lake Roland area that have similar site constraints. He concluded that this site is not unique. He testified that it has fine access to it both from Hollins Avenue, the private road, and from across the Emil Budnitz property to the West. Since this is a father/son arrangement, Emil Budnitz, the father, clearly could provide access to the subject site if needed, across his property for his son. Doak testified that having constrained or limited building envelope areas in Ruxton is not unique to the area. In Doak's opinion it would be easier to justify the proposed new location to DEPRM than the existing proposed site. Doak opined that the proposed Variance should not be granted.

Dennis J. LaBare was qualified as an environmental consultant, and testified for the Protestants that the proposed retaining wall is approximately eight (8) feet into the wetland buffer while the plan depicts the wall outside the buffer area except at the corner closest to the spring origins of the small stream. He opined that the subject site is a narrow, small stream valley, that widens as one proceeds downstream and that the Petitioner is attempting to force the proposed structure into the narrowest portion of the site which causes wetland buffer impacts which are avoidable. LaBare also opined that the small stand of Norway Spruce trees which Petitioner claims is worth saving possesses no shrub layer or understory and therefore is not a remarkable resource of value. He opined that the alternate site proposed by Protestants would have less of an environmental impact on the subject site.

Finally, Mr. Bo Willis an adjacent property owner testified as to his opposition to the granting of this Variance. When questioned about the previous Variance granted to Emil Budnitz for his garage, Willis indicated that he was not in agreement with the Variance and that it was granted prior to the time he could do anything about opposing such an action (the Board is

aware from the North case that the fact that others have received Variances is not a sufficient basis upon which to grant a Variance in the subject site).

QUESTIONS PRESENTED

1. In light of testimony of the Petitioners own experts that another suitable location is available on the subject site for the proposed location of the house, can the CBA grant a Variance?
2. Is the subject site unique? (The Protestants submit that the clear answer to both questions is a resounding no!)

LEGAL ARGUMENT

A. Case Law Applicable to Variances –

1. Uniqueness:

The Board is very much aware of the recent Maryland Appellate Court decisions related to the granting of Variances by an administrative body, however, the Protestants would provide herein a short analysis of the development of the case law.

In zoning law, a variance, if granted, permits a use which is prohibited and presumed to be in conflict with the ordinance. An Applicant for a variance, therefore, bears the burden of overcoming the presumption that the proposed use is unsuitable. That is done, if at all, by completely satisfying the dictates of the statue authorizing the variance. North v. St. Mary's County, 99 Md. App. 502 (1994). As was pointed out there, the burden is upon the Applicant to show by substantial evidence that all of the requirements set forth in the Regulations have been met. At least in the opinion of the North Court, the provisions for variance approval are strict and not easily met.

In North, the Court said:

"Once an ordinance such as that in the case sub judice becomes effective, an Applicant's burden cannot generally be met by reference to Thoreau's hut on Walden Pond. Once these types of variance provisions are enacted, the result is generally that any project that does not cause damage to the environment will also be of such an inconsequential nature that it will not constitute an unwarranted hardship for it to be denied. North v. St. Mary's County, supra."

Again in North,: "The St. Mary's County ordinance especially in light of the Commission's approval function, is as strict as can be imagined. We have seen none tougher."

The Court of Appeals has generally adopted an extremely strict position in regard to the granting of variances:

> "As a general rule, variances are granted sparingly and under exceptional circumstances. To do otherwise would decimate zonal restrictions and eventually destroy all zoning regulations." Carney v. City of Baltimore, 201 Md. 130, 137 (1952).

The CSA warned that "strong evidence" is required.

The Court of Appeals in Park Shopping Center, Inc., v. Lexington Park Theater Company, 216 Md. 271, 276-77 (1958) speaking in respect to the St. Mary's County ordinance opined:

> "The zoning ordinance for St. Mary's County...states that the Board shall have power to authorize...such variance...where, owing to special conditions, the enforcement...will result in unwarranted hardship and injustice.... It is in language typical of a variance as distinguished from an exception....
>
> ...The criteria for determining unnecessary hardship is whether the...restriction when applied to the property in the setting of its environment is so unreasonable as to constitute an arbitrary and capricious interference with the basic right of private ownership."

In North, the Court then recited a partial list of cases in which variances have been rejected. Ad+ Soil, Inc., v. County Commissioners, 307 Md. 307 (1986) (ignorance of setback

requirements for sewer sludge facility was not a hardship); Burns v. Mayor and City Council, 251 Md. 554 (1968) (financial crisis generally not hardship, especially when same crisis applies to other property in same neighborhood); Salisbury Board of Zoning Appeals v. Bounds, 240 Md. 547 (1965) (self-inflicted hardship), and others.

Finally, in North, the Court discussed the additional requirement that in the zoning context, the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property or upon neighboring property. In clarifying this element of proof necessary, the North Court stated:

> "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e. its shape, topography, subsurface condition, environmental factors, historical significance, access and non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." (Emphasis supplied.)

In North, the court found, of course, that there was nothing unique about the subject property. Indeed, Section 307 of the Baltimore County Zoning Ordinance invites the same comparison of the subject site with "other property within the same zoning classification.

A more recent case examining the requirements for a grant of variance arose in Baltimore County and was reported as David Cromwell, et al., v. Arthur Thomas Ward III, 102 Md. App. 691 (1995). In that case, Judge Cathell for the Court again extensively discussed the uniqueness standard and comprehensively reviewed the case law in Maryland applicable to that issue, as well as extensively discussing cases from other jurisdictions and treatises. There, the Court outlined the uniqueness argument as follows:

[Variance]
"The first step--uniqueness or peculiarity of the subject property...

The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. See, e.g., A. Rathkopf, 3 The Law of Zoning and Planning, Section 38 (1979)....

"The requirement of the uniqueness of the subject property, as we have indicated, is specifically set out for non-Charter counties in this state enabling legislation, Maryland Code Article 66B, and it is also set out in the Baltimore County ordinance applicable here. Additionally, it has been a necessary prerequisite almost since the inclusion of variance practice in zoning laws--and, before that, it was part of Maryland case law."

The Court then stated:

"In any event, as to variances, the Court of Appeals, applying the uniqueness standard, stated:

> It was incumbent upon the Marinos to have shown...(ii) that the difficulties of hardships were peculiar to the property in question in contrast with those of other property owners in the same district, and (iii) that the hardship was not the result of the Applicants' own actions." (Emphasis supplied).

Marino v. Mayor and City Council of Baltimore, 215 Md. 206, 218 (1957).

The Court continued:

"Frankel v. Mayor and City Council of Baltimore County, 223 Md. 97, 104 (1960):

It was incumbent...to show that the hardship...affected his particular premises and was not...common to other property in the neighborhood...." (Emphasis supplied); Park Shopping Center, Inc., v. Lexington Park Theater Co., Inc., 216 Md. 271, 277-278 (1958).

Sections 14(b), 14(d), and 16...have been held not to authorize a granting for the mere convenience to the owner, but to require a showing of urgent necessity, hardship peculiar to the particular property...."

The Court then analyzed in Cromwell its previous discussion in North:

"In North v. St. Mary's County, 99 Md. App. At 512, we held that the ordinance there required a finding that 'special conditions or circumstances exist that are peculiar to the land....' We there stated that, in the zoning context, the term "unique" has a customized meaning:

> 'In the zoning context, the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the

property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing of party walls.'" [Emphasis supplied.]

Judge Cathell continued his analysis in Cromwell:

"...The seventy-five foot width and aggregation requirements do not put a burden on [appellants'] property which does not apply to other properties in the vicinity... *Id.* at 169. In the case *sub judice*, the Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward's property alone; it applies to all of the properties in the neighborhood." [Emphasis supplied.]

And again:

"See also Chambers v. Smithfield City, 714 P.2d 1133, 1135 (Utah 1986), where the Court stated, 'There is no evidence of special conditions attached to the property itself which do not also attach to other property in the vicinity.' " (Emphasis supplied).

And:

"In Sibley v. Inhabitants of the Town of Wells, 462 A.2d 27, 30-31 (Me. 1983), the Supreme Judicial Court of Maine upheld the denial of a variance, holding:

The need for a variance must be due to the unique circumstances of the property and not to the general conditions in the neighborhood.... (Emphasis supplied).

...The hardship must not be the result of action taken by the appellant or a prior owner.

...However, the mere fact that the lot is substandard is not a unique circumstance; all the undeveloped lots in that neighborhood are of substandard size...

...However, when a landowner purchases land with actual or constructive knowledge of the zoning restrictions, he may not be granted a variance of undue hardship."

Also:

> "A prerequisite to the granting of a hardship zoning variance is the presence of an exceptional and unique hardship to the individual landowner, *unique to that parcel* and not shared by other property owners in the area.... Indialantic's zoning restrictions are common difficulties shared by all other ocean-front lot owners in the area, and are therefor not the unique hardship required to support a variance. Town of Indialantic v. Nance, 400 So.2d 37, 40 (Fla. App. 5th Dist. 1981)."

Judge Cathell in analyzing various zoning treatises found:

> "The treatise writers are also in accord with the rule that variances should only be granted when the uniqueness or peculiarity of a subject property is not shared by neighboring property and where the uniqueness of the property results in an extraordinary impact upon it by the operation of the statute, thus creating undue difficulty (or unnecessary hardship in respect to use variances).
>
> > 'It is *fundamental* that the difficulties or hardships must be unique to justify a variance; they must be peculiar to the application of zoning restrictions *to particular property* and not general in character...It is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion. If the hardship is common to the whole neighborhood, it may be ground for an exception or special use permit [if the statute so provides]....The hardship [in order to justify a variance, however,]...must relate to the particular property of the Applicant.'
>
> McQuillin, supra Section 25.167 [emphasis added, footnotes omitted].
>
> > It is held that a variance may be granted only for hardship which relates specifically to the Applicant's land. Thus, a landowner was not entitled to a variance to relieve his land from a restriction which applied equally to all lots of similar size. (Emphasis supplied).

Finally:

> "Yokley quotes from Taxpayers Association v. Board of Zoning Appeals, 93 N.E.2d. 645, 647 (N.Y. 1950):

> 'The record does not show that the property suffers a unique or singular disadvantage, not common to other property in the district, through the operation of the zoning ordinance. Here, the hardship, if any, is general and characteristic of the entire area, and the remedy lies in a revision of the zoning ordinance through legislative action, not by the granting of a variance to a single property owner.' " (Emphasis supplied.)

Judge Cathell discussed variances again in Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County, 103 Md. App. 324 (1995). The Court in reviewing the record in that case found "not one minute speck of evidence was produced indicating that this property is inherently unique as compared to other properties in the area or that the zoning ordinances impact on other properties in the neighborhood, area, or district was in any way different than its impact on the subject property." (Emphasis supplied). In discussing the difficulty which occasionally arises in the area where environmental regulations (critical area regulations) overlay zoning regulations, the Court in Chester Haven stated:

> "We do not perceive that it was the legislative intention in passing the State or local critical area legislation that zoning variance procedures would be prostituted in order to alleviate the harshness of environmental regulation. If that is the intention of the legislative entities, they have the power to express clearly that intention. It may well be that the legislature should direct its attention to amending the variance provisions of Article 66B to include the effect of subjection to environmental regulations as a unique quality of property so as to enable local jurisdictions to provide by ordinance for such consideration."

It is implicit from the discussion in North and Cromwell that in order for the CBA to determine the "uniqueness" of the subject property, some analysis and comparison of the neighboring properties must be made. In short, there must be some discussion before the CBA, and if you will, some comparison made between the subject site and the other properties within the appropriate neighborhood or district, to illustrate the uniqueness of the site which is the subject of the request. Protestants submit in this case that such analysis or comparison is lacking in the record before the CBA.

2. Hardship

"A hardship created by the owner...constitutes no valid basis for a variance..." Cromwell, supra. The courts here have long held that the hardship must be caused solely by the operation of the ordinance upon the subject property. Wilson v. Mayor and Commissioner's of Town of Elkton, 35 Md. App. 417 (1977). The case of Ad Soil, Inc. v. County Commissioners of Queen Anne's County, 307 Md 307 (1986) is quite similar to the instant case. There, appellant sought a variance from setback requirements, but the evidence revealed that appellant's site was large enough to fully comply with setback requirements, and that the hardship in the location of its facilities was self-inflicted and not the result of exceptional or extraordinary characteristics of the land itself and therefore not the kind of hardship recognized under the zoning ordinance. Such is the case here. Also, Carney v. City of Baltimore, 201 Md 130, 137 (1952) recognized that the need sufficient to justify an exception must be substantiated and urgent and not merely for the convenience of the applicant.

In Cromwell, the Court discussed the rule on "Self-Inflicted Hardships" and (citing numerous cases in which "the placement of the improvements...was within the control of the Ganetts and their contractor, Raintree...") concluded that such hardships would emasculate the zoning ordinances to the point that zoning would become meaningless.

B. Case Law as Applied to the Facts in the Instant Case –

1. The Subject Site is Not Unique

Protestants submit that the facts before the Board, including testimony, plats, and photographs, support the initial proposition that the subject property is not unique when compared with that of neighboring properties in the Lake Roland area. For the reasons provided by Bruce Doak, it is clear that other properties in both the immediate and the surrounding

neighborhood consist of extremely steep slopes, many streams and wetlands, and much forested area. When comparing this site with even the other lots in the Gay subdivision, it is clear that it is no different from the other lots. The site is similar to the lot on which Emil Budnitz constructed his home. A broader comparison with other properties in the general area of Lake Roland establish the same fact. Additionally, this Board heard from all three expert witnesses testifying for the Petitioner, that they failed to do a comparison of the subject site with any other lots in the neighborhood. This failure directly effects and negates their ultimate conclusion that this property is unique. To the contrary, Bruce Doak has done surveys in the area and is familiar with the neighborhood. Doak did analyze the adjacent neighborhood and concluded that this lot was not unique in comparison to the lots on the Gaye subdivision nor in the Ruxton Lake Roland area. Applying the law in North, Cromwell, Sibley and Chambers to the facts before the CBA, it is clear that the Petitioners have not met their burden of establishing the uniqueness of the subject site.

2. Other Suitable Locations – Self Inflicted Hardship

Secondly, Protestants submit that the Petitioners themselves, through the testimony of all three experts, acknowledging that there is an alternative location on the site, have failed to meet the criteria required under the case law and Section 307.1 of the B.C.Z.R. The regulations and law require that the minimum amount of Variance requested be granted in order to accommodate the intent of the setback legislation. Here, the Petitioners themselves prepared an alternative location for the proposed house which requires less of a Variance than that requested in the Petition. This acknowledgment in and of itself is sufficient for the CBA to deny the Variance request.

Additionally, all three of Petitioners experts acknowledge that there other locations physically capable of handling the proposed dwelling exist. In addition, Bruce Doak provided the Protestants Exhibit to establish for the Board the other alternative location. In the face of this evidence, the CBA must deny the requested Variance based upon the cases of Ad + Soil, Inc, Wilson, Carney and Cromwell.

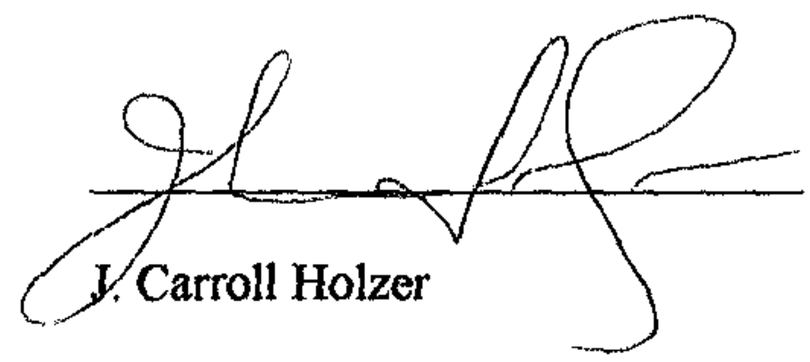
Finally, the Petitioners in an effort to justify the grant of a Variance suggest that it is more important to preserve the treed area in the Northwest corner of the subject site than the ones which will be impacted in the eastern portion of the site. The evidence before the CBA, presented by Dennis LaBare Protestants environmental expert, established that the three criteria that define a forest, i.e. mature trees, understory, and woody ground cover, were not present in the stand of Norway Spruce and Hemlocks. Therefore, under Baltimore County standards, the treed area on the Northwest portion of the property, was not significant enough to require protection. In any event, Protestants submit that the CBA should not be in the position of balancing which trees to preserve by granting a Variance. It is not an appropriate function of this Board to consider the granting of a variance where the law prohibits such self inflicted hardship as a basis for an exception to the setback requirements.

Respectfully submitted,

J. Carroll Holzer
508 Fairmount Avenue
Towson, MD 21286
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 15th day of December, 1999, a copy of the foregoing Memorandum was mailed first class, postage pre-paid to Patricia Malone, Esq. at 210 Allegheny Avenue, Towson, Maryland 21204-4021(Attorney for Bo Willis), and Ed Covahey at 615 Bosley Avenue, Towson, Maryland 21204-4029 (Attorney for Petitioner).



J. Carroll Holzer

My Documents\Memos\Dr. Sussman – Budnitz Memo.doc

IN RE: PETITION FOR VARIANCE NE/S Hollins Avenue, 251' E of the c/l Lake Manor Drive (6019 Hollins Avenue) 9th Election District 4th Councilmanic District Emil A. Budnitz, Jr., Owner; Jeff Budnitz, Contract Lessee	* * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 99-113-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Emil A. Budnitz, Jr., and his son, Jeff Budnitz, the Contract Purchaser. The Petitioners seek relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section 205.2 of the 1963 Regulations) to permit a front yard setback of 3 feet, 10 inches, in lieu of the minimum required 40 feet, for a proposed dwelling. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Emil Budnitz, property owner, his son and daughter-in-law, Jeff Budnitz and Siobhan O'Brien-Budnitz, Joseph W. McGraw, Jr., Professional Land Surveyor who prepared the site plan for this property, Arthur D. Valk, III, Architect, and Ed Covahey, Jr., Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were several residents of the surrounding community, all of whom signed the Citizen Sign-In Sheet. Some of the Protestants were represented by attorneys James N. Phillips, Esquire, and Robert A. Hoffman, Esquire.

Testimony and evidence offered revealed that the subject property consists of a gross area of 1.19 acres, more or less, zoned D.R.2, and is presently unimproved. The property is located in the vicinity of Demby Hills, not far from Lake Roland, near the Baltimore City Line. Testimony indicated that Emil Budnitz has resided on an adjacent lot since 1969, and purchased

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Date
By

the subject lot as an extra parcel approximately 20 years ago. Mr. Budnitz' son and daughter-in-law are desirous of developing the property with a single family dwelling. However, due to the site constraints associated with this property, the requested variance is necessary in order to proceed. Photographs of the subject property, and my personal site inspection revealed that the lot in question is a very challenging lot upon which to build a home. As can be seen from the site plan, there exists 12,350 sq.ft. of wetlands in the front portion of the lot adjacent to Hollins Avenue. In addition, a small stream traverses the lot, parallel to Hollins Avenue. Furthermore, the topography of the land is steep sloped with the only level area of the lot being located in the wetlands where no structure can be built. Mr. Budnitz retained the services of Arthur Valk, III, an Architect, who has designed what they believe to be the most appropriate style of home to be built on this lot. However, due to the large wetlands area on the property, the proposed dwelling will be located close to the narrow driveway that serves this lot. As shown on the site plan, the proposed dwelling, and more particularly, the two-car garage attached thereto, will be situated 3' 10" from the driveway right-of-way. Thus, the requested variance is being requested.

In my opinion, the Petitioners' Architect has done an excellent job of designing a home to fit into the natural topography of the subject property. In fact, the proposed garage will actually be located below ground level and will not be visible from the road. The garage will have a flat roof upon which the Petitioners can install landscaping and plantings. The driveways which serve the homes in this area are very narrow, winding, and have a lot of vegetation and screening alongside them. Therefore, motorists traveling along the driveway that serves this lot will only see a small stone wall, approximately 2 to 4 feet above grade with landscaping beyond, as they pass by. Beyond the garage will sit the house itself. The use of a stone wall was chosen due to the existence of other stone walls in the neighborhood. The house itself has been designed to be long and narrow, again, to conform to the steep slope on this lot. While the garage is located only 3 feet, 10 inches from the road right-of-way, the house will sit back some 20 feet from the road.

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As noted above, several residents from the surrounding community appeared in opposition to the Petitioners' request. In addition, a number of letters evidencing the objections of several neighbors in the area, were received by this Office. These residents are concerned over the perceived impact that this new home will have upon existing homes in the neighborhood. They are also concerned about the additional traffic that will be generated by virtue of another family living in the community.

After considering the testimony and evidence offered at the hearing, I found it necessary to personally visit the site. From my perspective, I found the property to be unique, given its topography, steep slopes, and wetlands. In addition, there are a great many large, mature trees on this property, and on many of the surrounding properties. It was difficult for me to conceive how a single family residence could be built on this lot at all. Mr. Valk had great vision when designing a house for this lot. Furthermore, in my view, Mr. Valk and the Petitioners have made every effort to mitigate the impact of this house by choosing the location shown on Petitioner's Exhibit 1, and designing the two-car garage in such a manner that landscaping could be installed on its roof. In all of the zoning cases for building lots that I have entertained over the past 8 years, this lot is certainly one which is deserving of a variance.

Emil Budnitz testified that he purchased this unimproved lot some 20 years ago. He testified that his son is his closest and dearest friend. It is now his hope and desire that his son and daughter-in-law can live next door to him and raise their family. The density of the lot is such that two houses could be built on the property; however, practically speaking, only one single family dwelling could possibly be built on this challenging lot. This is not a situation where a builder is speculating on the sale of a house on this lot, and profiting therefrom. This is a situation where a father wishes to have his son and his family live next door to him on a lot that he purchased many years ago.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the

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following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, including the letters of opposition I received from numerous residents in the area, and my personal site inspection of the property, I am persuaded to grant the variance. It is clear that practical difficulty or unreasonable hardship will result if the requested relief were denied. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In my view, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8th day of December, 1998 that the Petition for Variance seeking relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section 205.2 of the 1963 Regulations) to permit a front yard setback of 3 feet, 10 inches, in lieu of the minimum required 40 feet, for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

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Date 12/9/98
By

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

2) The Petitioners shall install landscaping on the roof of the two-car garage in an effort to further mitigate the effects of the proposed dwelling.

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

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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Date 12/3/99
By

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 6019 Hollins Ave.

which is presently zoned DR-2

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

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1 BOR, 3, B (205.2, 1963) TO allow a front yard setback of 3 ft 10 in. in lieu of the minimum required 40 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

THERE IS A STREAM ON SITE WHICH CREATES A FOREST BUFFER ON THE SOUTHERN 1/2 OF THE PROPERTY. THE WEST + NORTHWEST AREA OF THE LOT HAS A STAND OF TALL, OLD PINES WHICH THE OWNER AND BALTO. CO. DEPRM DON'T WANT DISTURBED. THIS AREA SHOWN ON PLAT FOR HOUSE SITE IS THE ONLY AREA REMAINING.

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

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

JEFF BUDNITZ
(Type or Print Name)

Signature

4411-C FALLS BR DR.
Address

BALTIMORE MD 21211
City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

Legal Owner(s):

EMIL A. BUDNITZ JR
(Type or Print Name)

Signature

#113

(Type or Print Name)

Signature

6019 HOLLINS AVE 410-377-9627
Address Phone No

BALTIMORE MD 21210
City State Zipcode

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

EMIL BUDNITZ
Name

6115 FALLS RD 410-435-3100
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL ✓ OTHER

REVIEWED BY: DATE 9-15-98

99-113-A

Printed with Soybean Ink on Recycled Paper

ZONING DESCRIPTION FOR #6019 Hollins Avenue

Beginning at a point in the centerline of Hollins Avenue which is 50 feet wide at the distance of 251 feet east of the centerline of the nearest improved intersecting street Lake Manor Drive which is 50 feet wide, thence S. 70 55' 10" E. 119 ft., S. 57 10' 10" E. 99 ft., S. 45 10' 10" E. 52.09 ft., N. 44 49' 50" E. 20.48 ft., N. 07 18' 50" W. 143.14 ft., N. 29 36' 20" W. 74.72 ft., N. 35 15' 50" W. 80.73 ft., N. 55 25' 50" W. 85.73 ft., S. 60 49' 40" W. 104.76 ft., S. 16 22' 40" W. 107.00 ft., and S. 41 49' 00" E. 70.42 ft. to the place of beginning, as recorded in Deed Liber 8920, Folio 569, containing 1.192 acres. Also known as #6019 Hollins Avenue and located in the 9TH Election District, 4TH Councilmanic District.

113

99-113-A

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

FAX 410-823-7530

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DiPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

* ALSO ADMITTED TO D. C. BAR

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

November 9, 1999

RECEIVED
COUNTY BOARD OF APPEALS
NOV 10 PM 12:42
99

Lawrence S. Westcott, Esq.
Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Case No. 99-113-A
Owner: Emil A. Budnitz, Jr.
6019 Hollins Avenue

Dear Mr. Westcott:

Enclosed please find variance application, Protestant's Exhibit No. 2. Unfortunately, neither the engineer nor the architect could locate a copy, and the enclosure represents the copy that was provided to me from DEPRM. Sorry it took so long.

Very truly yours,

Edward C. Covahey, Jr.

ECC,Jr./ldr
Enclosure
1109ldr10

cc: J. Carroll Holzer, Esq. (w/enc.)

VARIANCE APPLICATION

Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains

Part A. Applicant information.

Applicant(s):

Name(s) ARTHUR D. VALK Phone No. (410) 321-6925

Company VALK DESIGN ASSOCIATES, ARCHITECTS

Street Address 7910 SHERWOOD AVE.

City BALTIMORE State MD. Zip Code 21204

Property Owner(s):

Name(s) MR. EMIL BUDNITZ Phone No. (410) 377-9677

Company —

Street Address 6019 HOLLINS AVE.

City BALTIMORE State MD. Zip Code ~~21215~~ 21210

Contract Purchaser(s):

Name(s) — (AS ABOVE) — Phone No. ( )

Company

Street Address

City State Zip Code

Engineer/Other Representative:

Name JOHN RHODE Phone No. (410) 825-3885

Company HUMAN & RHODE - LANDSCAPE

Street Address

City State Zip Code

Principal Contact:

Name ARTHUR D VALK Phone No. (410) 321-6925

Company VALK DESIGN ASSOCIATES

Street Address 7910 SHERWOOD AVE.

City BALTIMORE State MD. Zip Code 21204

Prot. #2

Part B. Property Information.

Property Address/Location LOT IMMEDIATELY EAST OF # 6019 HOLLINS AVE -

Tax Account Number(s) 0409170000108 38 / 4691

Subdivision "THE GAY PROPERTY" / -(30/13)

Tax Map 79 Parcel No. 226 Lot No. _____

Acreage/Lot Size 1.19 Zoning DR-2

Water: ✓ public _____ private

Sewer: ✓ public _____ private

Part C. Variance Type.

Indicate the specific section(s) of the Code from which you are requesting a variance _____

Indicate the reason why you are applying for a variance. Please check only one item.

✓ practical difficulty or hardship

_____ public improvement project

_____ repair/maintenance of public improvement

_____ had stream/forest buffer applied in conformance with Water Quality Management Policy or Executive Order

Part D. Indication of Practical Difficulty or Unreasonable Hardship.

Indicate practical difficulty or unreasonable hardship if this is the reason you applied for a variance.

The Owner purchased this lot, which is immediately adjacent to his primary residence (located on LOT 1 shown on the accompanying plat after the birth of his son in the early 1970's for the express purpose of allowing his son to construct a home at some time in th future. The delineated wetlands provide virtually no permitable area within the lot boundaries that is not within the required forest buffer.

Part E. Project Description.

Briefly describe the proposed project or activity.

The Owner wishes to construct a reasonably sized (in keeping with other homes in this community) single family residence for his son's growing family at the location illustrated on the accompanying plat, keeping the footprint at least 25 feet from the wetlands. This location is the only desirable portion of the site because of 1) vehicular access, 2) the desire to save mature (and some specimen) trees, and, 3) proximity to other neighboring houses. Locations closer to Lot 1 would disturb mature conifers and approach the existing residence on Lot 1 more closely than other houses in this community.

Part F. Existing Resources.

Briefly describe the existing resources (e.g., streams, wetlands, floodplains, steep slopes/erodible soils, vegetation) present within the Forest Buffer, and the condition/quality of these resources.

This 1.13 acre property is traversed by a stream with associated wetlads that begin onsite. Also present are the remains of several stone spring houses. The majority of the site is mowed lawn with numerous large and some specimen trees that could possibly be construed as forest. In general the topography flanking the stream slopes moderately with some adjacent steep slopes. The glenville soils along the stream are highly erodible, while the brandywine soils on the remaining adjacent slopes have a moderate erodibilty.

Part G. Proposed Forest Buffer Impacts.

Briefly describe the proposed Forest Buffer impacts (e.g., type/acreages of wetlands to be filled, forest to be cleared, width of buffer to be impacted, etc.). Include a description of the Forest Buffer that would remain, if these impacts are allowed to occur.

The proposed house will impact the required forest buffer and the 15 ft. side-yard building setback. Only the footprint area plus the driveway area (4000 sq. ft.) need to be cleared, requiring the removal of only two mature trees.

Part H. Minimization of Impacts.

Briefly describe how the proposed project or activity will minimize impacts to water quality, streams, wetlands and floodplains, both during construction and over the long term. Include a description of any proposed mitigative measures.

All portions of this site are within the required forest buffer. Only the house footprint area plus the driveway area (4000 sq. ft.) need to be cleared.

All construction activities can be conducted from the 30 ft. right-of-way and within the footprint of the structure. All excavated soils will be hauled from the site or placed behind foundation or retaining walls. No other intrusion is foreseen.

Part I. Supplemental Information.

Indicate any supplemental information included with the application.

____ functional assessment of _____

____ alternatives analysis for proposed impacts to _____

____ a conceptual mitigation plan for proposed impacts to _____

____ wetland data sheets

____ copies of pertinent State and Federal permits

✓ other (explain) PLAT OF SURVEY DATA & PROPOSED IMPROVEMENTS

Part J. Additional Information.

Use this space to explain answers to any of the questions on this form in greater detail, or to provide any other information about the site or project pertinent to this variance request. Attach additional sheets if necessary.

/We do solemnly declare and affirm under the penalties of perjury that the contents of this application are true and correct to the best of my/our knowledge, and that the application contains names and addresses of all persons having legal or equitable interest in the property.

Arthur Vallier 2/22/98

Applicant Signature Date

Applicant Signature Date

Edd A. Budrick

Property Owner Signature Date

Property Owner Signature Date

Contract Purchaser Signature Date

Contract Purchaser Signature Date

VARIANCE APPLICATION

Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains

Part A. Applicant Information.

Applicant(s):

Name(s) ARTHUR D. VALK Phone No. (410) 321-6925

Company VALK DESIGN ASSOCIATES, ARCHITECTS

Street Address 7910 SHERWOOD AVE.

City BALTIMORE State MD. Zip Code 21204

Property Owner(s):

Name(s) MR. EMIL BUDNITZ Phone No. (410) 377-9677

Company —

Street Address 6019 HOLLINS AVE.

City BALTIMORE State MD. Zip Code ~~21215~~ 21210

Contract Purchaser(s):

Name(s) — (AS ABOVE) — Phone No. ( )

Company

Street Address

City State Zip Code

Engineer/Other Representative:

Name JOHN RHODE Phone No. (410) 825-3885

Company HUMAN & RHODE - LANDSCAPE

Street Address

City State Zip Code

Principal Contact:

Name ARTHUR D VALK Phone No. (410) 321-6925

Company VALK DESIGN ASSOCIATES

Street Address 7910 SHERWOOD AVE.

City BALTIMORE State MD. Zip Code 21204

Part B. Property Information.

Property Address/Location LOT IMMEDIATELY EAST OF # 6019 HOLLINS AVE -

Tax Account Number(s) 0409170001083 8/4691

Subdivision "THE GAY PROPERTY" / -(30/13)

Tax Map 79 Parcel No. 226 Lot No. _____

Acreage/Lot Size 1.19 Zoning DR-2

Water: ✓ public _____ private

Sewer: ✓ public _____ private

Part C. Variance Type.

Indicate the specific section(s) of the Code from which you are requesting a variance _____

Indicate the reason why you are applying for a variance. Please check only one item.

✓ practical difficulty or hardship

_____ public improvement project

_____ repair/maintenance of public improvement

_____ had stream/forest buffer applied in conformance with Water Quality Management Policy or Executive Order

Part D. Indication of Practical Difficulty or Unreasonable Hardship.

Indicate practical difficulty or unreasonable hardship if this is the reason you applied for a variance.

The Owner purchased this lot, which is immediately adjacent to his primary residence (located on LOT 1 shown on the accompanying plat after the birth of his son in the early 1970's for the express purpose of allowing his son to construct a home at some time in the future. The delineated wetlands provide virtually no permitable area within the lot boundaries that is not within the required forest buffer.

Part E. Project Description.

Briefly describe the proposed project or activity.

The Owner wishes to construct a reasonably sized (in keeping with other homes in this community) single family residence for his son's growing family at the location illustrated on the accompanying plat, keeping the footprint at least 25 feet from the wetlands. This location is the only desirable portion of the site because of 1) vehicular access, 2) the desire to save mature (and some specimen) trees, and, 3) proximity to other neighboring houses. Locations closer to Lot 1 would disturb mature conifers and approach the existing residence on Lot 1 more closely than other houses in this community.

Part F. Existing Resources.

Briefly describe the existing resources (e.g., streams, wetlands, floodplains, steep slopes/erodible soils, vegetation) present within the Forest Buffer, and the condition/quality of these resources.

This 1.13 acre property is traversed by a stream with associated wetlands that begin onsite. Also present are the remains of several stone spring houses. The majority of the site is mowed lawn with numerous large and some specimen trees that could possibly be construed as forest. In general the topography flanking the stream slopes moderately with some adjacent steep slopes. The glenville soils along the stream are highly erodible, while the brandywine soils on the remaining adjacent slopes have a moderate erodibilty.

Part G. Proposed Forest Buffer Impacts.

Briefly describe the proposed Forest Buffer impacts (e.g., type/acreages of wetlands to be filled, forest to be cleared, width of buffer to be impacted, etc.). Include a description of the Forest Buffer that would remain, if these impacts are allowed to occur.

The proposed house will impact the required forest buffer and the 15 ft. side-yard building setback. Only the footprint area plus the driveway area (4000 sq. ft.) need to be cleared, requiring the removal of only two mature trees.

Part H. Minimization of Impacts.

Briefly describe how the proposed project or activity will minimize impacts to water quality, streams, wetlands and floodplains, both during construction and over the long term. Include a description of any proposed mitigative measures.

All portions of this site are within the required forest buffer. Only the house footprint area plus the driveway area (4000 sq. ft.) need to be cleared.

All construction activities can be conducted from the 30 ft. right-of-way and within the footprint of the structure. All excavated soils will be hauled from the site or placed behind foundation or retaining walls. No other intrusion is foreseen.

Part I. Supplemental information.

Indicate any supplemental information included with the application.

____ functional assessment of _____

____ alternatives analysis for proposed impacts to _____

____ a conceptual mitigation plan for proposed impacts to _____

____ wetland data sheets

____ copies of pertinent State and Federal permits

✓ other (explain) PLAT OF SURVEY DATA & PROPOSED IMPROVEMENTS

Part J. Additional Information.

Use this space to explain answers to any of the questions on this form in greater detail, or to provide any other information about the site or project pertinent to this variance request. Attach additional sheets if necessary.

/We do solemnly declare and affirm under the penalties of perjury that the contents of this application are true and correct to the best of my/our knowledge, and that the application contains names and addresses of all persons having legal or equitable interest in the property.

Arthur Vallet 2/22/98

Applicant Signature Date

Applicant Signature Date

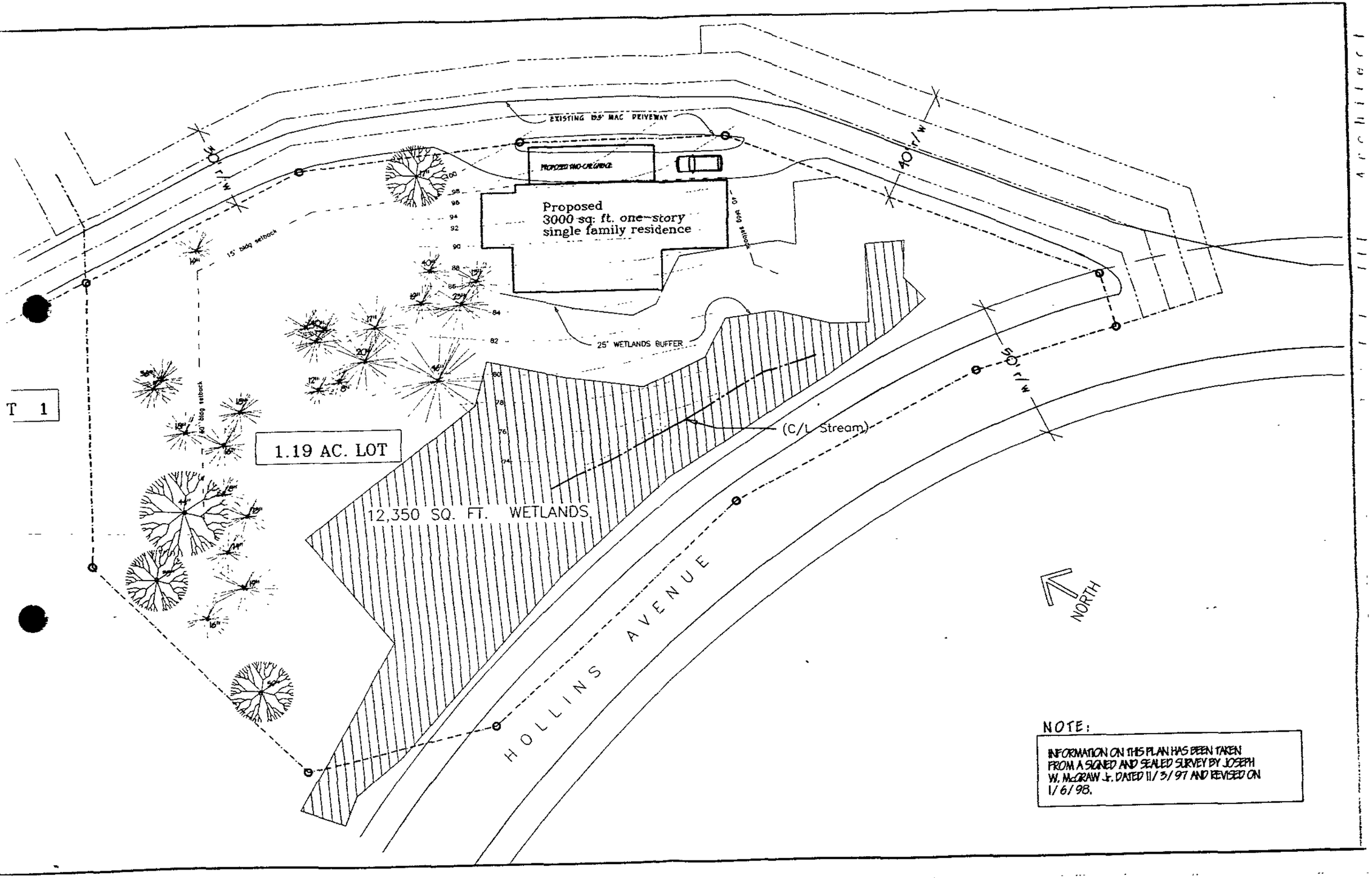
Edward Budnitz Jr

Property Owner Signature Date

Property Owner Signature Date

Contract Purchaser Signature Date

Contract Purchaser Signature Date



NOTE:

INFORMATION ON THIS PLAN HAS BEEN TAKEN FROM A SIGNED AND SEALED SURVEY BY JOSEPH W. McGRAW Jr. DATED 11/3/97 AND REVISED ON 1/6/98.

October 28, 1998

Mr. Jeffrey Budnitz
Lake Falls Medical Center
6115 Falls Road
Baltimore, MD 21209

Dear Jeffrey:

Thank you for taking the time to present the drawings for your proposed house to my wife and me. After reviewing them carefully, I wanted to compliment you on your sensitive approach to the use of this property.

My wife and I are probably no different that anyone else in preferring to see the piece of ground left unimproved, particularly one as pretty as the one you are buying. However, I would much rather have someone build on it who approaches it as sensitively as you have than someone who meets the technical requirements of the code but destroys the character of the neighborhood.

Please feel free to submit this letter as evidence of my support of your rezoning request and best wishes.

Sincerely,

Tom Bozzuto

Thomas S. Bozzuto
6025 Hollins Avenue
Baltimore, MD 21210

8

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

September 30, 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:

CASE NUMBER: 99-113-A
6019 Hollins Avenue
NE/S Hollins Avenue, 251' E of centerline Lake Manor Drive
9th Election District - 4th Councilmanic District
Legal Owner: Emila Budnitz, Jr.
Contract Purchaser: Jeff Budnitz

Variance to allow a front yard setback of 3 feet, 10 inches in lieu of the minimum required 40 feet.

HEARING: Friday, October 30, 1998 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue

Arnold Jablon
Director

c: Emil A. Budnitz, Jr.
Emil Budnitz
Jeff Budnitz

NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY OCTOBER 15, 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.

Printed with Soybean Ink
on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
October 15, 1998 Issue - Jeffersonian

Please forward billing to:
Jeff Budnitz 410-435-3100
4411-C Falls Bridge Drive
Baltimore, MD 21211

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: 99-113-A
6019 Hollins Avenue
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9th Election District - 4th Councilmanic District
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Variance to allow a front yard setback of 3 feet, 10 inches in lieu of the minimum required 40 feet.

HEARING: Friday, October 30, 1998 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue

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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) 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 the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 99-113-A

Petitioner: JEFF BUDNITZ

Address or Location: 4411-C FALLS BRIDGE DR. BALT. MD. 21211

PLEASE FORWARD ADVERTISING BILL TO:

Name: JEFF BUDNITZ

Address: 4411-C FALLS BRIDGE DR.
BALT. MD. 21211

Telephone Number: 410-435-3100

Revised 2/20/98 - SCJ

Exhibit B

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.: 99-113-A

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

PLACE: _____

DATE AND TIME: _____

REQUEST: A Variance To permit a front yard setback of 3 ft. 10 in. in lieu of the minimum required 40 ft.

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

9/96
post.4.doc

CERTIFICATE OF POSTING

RE: Case No.: 99-113 A

Petitioner/Developer: EMIL BUDNITZ JR.

Date of Hearing/Closing: _____

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

[redacted]

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 6019 HOLLINS AVE.

The sign(s) were posted on 3/9/99
(Month, Day, Year)

Sincerely,

Gary C. Freund 3/9/99
(Signature of Sign Poster and Date)

GARY C. FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

9/96
cert.doc

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

March 7, 2000

Patricia Malone, Esquire
Robert A. Hoffman, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: In the Matter of Emil A. Budnitz, Jr. -Owner;
Jeff Budnitz, Contract Lessee /Petitioner
Case No. 99-113-A

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe

Kathleen C. Bianco
Administrator

encl.

cc: Mr. and Mrs. Ralph Willis
J. Carroll Holzer, Esquire
Dr. & Mrs. Robert Sussman
Edward C. Covahey, Jr., Esquire
Emil A. Budnitz /Owner
Jeff Budnitz /Contract Lessee
Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink
on Recycled Paper

12/15/99 -Memorandum in Lieu of Final Argument filed by Patricia A. Malone, Esquire, on behalf of Mr. and Mrs. Ralph Willis, Appellants /Protestants, in which they incorporated and adopted as their own the Memorandum of Dr. and Mrs. Sussman.

- Brief of Emil A. Budnitz, Jr., Owner, and Jeffrey Budnitz, CP, Petitioners /Appellees filed by Edward C. Covahey, Jr., Esquire.
- Copies to S.W.M. - to be hand-delivered to them on 12/16/99.

1/05/2000 - Deliberation concluded; variance denied. Written Order to be issued; appellate period to run from date of written Order. (S.W.M.)

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:		Emil A. Budnitz, Jr. -Owner; Jeff Budnitz -C.L.-Petitioner Case No. 99-113-A	
DATE	:	January 5, 2000 @ 9:30 a.m.	
BOARD /PANEL	:	Lawrence S. Wescott Margaret Worrall Thomas P. Melvin	(LSW) (MW) (TPM)
SECRETARY	:	Charlotte E. Radcliffe Legal Secretary	

The Board convened for public deliberation of the subject matter; testimony and evidence received at hearings of June 17; October 26; and October 27, 1999. People's Counsel did not participate in these proceedings.

LSW: We are here to deliberate the matter of Emil A. Budnitz, Jr. for a requested variance. This variance was granted with restrictions by the Deputy Zoning Commissioner.

I have contemplated this matter very hard; this is a very difficult case. I think Mr. Budnitz is very sincere in his wish to put a home on that property which would be a credit to the neighborhood. However, a variance should be granted very sparingly. Variances are not something we should grant because we like an individual or are sympathetic. It is my feeling that there was not sufficient evidence to show that this piece of property was unique in that particular area. The map shows the surveyor has given a much more accurate picture of the situation. Every lot on the map in that subdivision appears to have a very steep slope. Whether or not they have cut off the slope for the house, it does not appear that the slopes were any less than the property in question; and, his witness, Mr. McGraw said the property was similar to Emil Budnitz, Sr.'s property. There is also the possibility of putting the house on another part of the property.

I have read Cromwell v. Ward; a variance granted for Mr. Budnitz, Sr. is not a basis for granting in this situation. My own feeling, and I'll be happy to discuss this further, but there was not enough evidence presented to show the property was unique; I would deny the variance.

TPM: This case was difficult, and the briefs do not make it any easier. I read Cromwell v. Ward, and also looked at the

contour map and noticed other houses faced with various steep slopes. The first step is to find uniqueness. Personally I am not opposed, but I do not see where this is unique. It has characteristics that are unique compared to Dundalk, but not in this subdivision. I agree on that point.

MW: I have agonized over this case; after three days of testimony on the proposed dwelling, it appears to me that they have done everything that can possibly be done to fit in the neighborhood -- to make it attractive. To negate any environmental impact to fit in. The fact of the matter is the stand we are faced with is of uniqueness. Other houses may have been built long ago; maybe they took off part of the hillside; they may have drained wetlands; the only really flat place on this parcel is in the wetlands. Alot of testimony of cutting down trees and importance of not cutting down trees. I have to say that really I could see the value of that situation; ... the fact is that this is basically a subdivision of wooded lots and consequently everyone would be faced with this. I think the law is clear on a foundation of not permitting variances when there are choices; whether the person likes the choices or not is not the issue.

LSW: The idea is -- without the variance the individual would not be able to use the lot; it is not what they would like to see -- that is not our call. Variances - Cromwell v. Ward cites the fact that the Court reviewed a number of cases at -- in only five (5) cases where the Court sustained the Variance.

MW: The Court's point came strongly to us... "you are handing these out like Santa Claus; like candy...". They are really to be a unique situation; not unique as compared to the eastern or northern part of the County. One other thing that bothered me... I did not feel that enough investigation had been done. Sufficient evidence was placed on "yes, there were other places ... no variance needed for the driveway...". Bruce Doak proposed there was an alternative site. He did not deal with the evidence of the steepness of slopes. If that had been the proposed site someone would have said you cannot put the driveway there.

LSW: From testimony... because the driveway was so steep, nothing could be put in there.

TM: There would be alot more moving of the earth, but the driveway could be put in there.

MW: DEPRM could come in and say you can't put the driveway there, it is too steep. I am very sympathetic; it is a difficult site.

LSW: Another thing, the DZC had as much material in front of him as we had. He said he addressed the fact that it was a very difficult site. He sort of skirts the uniqueness issue. This is a de novo hearing, and the burden is starting all over again. We are in agreement that it does not pass the first prong of uniqueness. It does appear it cannot be placed somewhere without a variance.

TM: That is right. I really had to look at the map; the neighbors were faced with the same situation. Unfortunately, my decision is to stop there. We will issue an opinion denying the variance; any aggrieved may take an appeal from that written decision, not from today's deliberation.

****

NOTE: This document confirms for the file that public deliberation was held this date in the subject matter and a final decision rendered in which the requested variance was denied as determined in public deliberation.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order; anyone feeling aggieved by the Board's decision may appeal to Circuit Court.

Respectfully submitted,

Charlotte E. Radcliffe

Charlotte E. Radcliffe

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 19, 1999

AMENDED NOTICE OF DELIBERATION **
** Amended to correct day of week shown on previous notice

IN THE MATTER OF: EMIL A. BUDNITZ -OWNER; JEFF BUDNITZ -CONTRACT LESSEE /Case No. 99-113-A

The subject matter, having been heard by the Board of Appeals in three days of hearing on June 17, October 26, and October 27, 1999, has been assigned the following date and time for public deliberation:

DATE AND TIME : WEDNESDAY, JANUARY 5, 2000 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants: Patricia Malone, Esquire
Robert A. Hoffman, Esquire
Appellants /Protestants: Mr. and Mrs. Ralph Willis

Counsel for Protestants (Sussman) : J. Carroll Holzer, Esquire
Protestants : Dr. & Mrs. Robert Sussman

Counsel for Petitioners : Edward C. Covahey, Jr., Esquire
Petitioners : Emil A. Budnitz /Owner
Jeff Budnitz /Contract Lessee

Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Copies to: S.W.M.

Printed with Soybean Ink
on Recycled Paper

6/17/99 -Completed Day #1; assigned for days 2 and 3 upon confirmation by counsel as to availability of parties and witnesses; Notice of Assignment for hearing days 2 and 3 assigned for Tuesday, October 26, 1999 and Wednesday, October 27, 1999 both days beginning at 10:00 a.m. sent to following:

Patricia Malone, Esquire
Robert A. Hoffman, Esquire
Mr. and Mrs. Ralph Willis
J. Carroll Holzer, Esquire
Dr. & Mrs. Robert Sussman
Edward C. Covahey, Jr., Esquire
Emil A. Budnitz /Owner
Jeff Budnitz /Contract Lessee
Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

6/29/99 -Letter from Sarah Lord to S.W.M. regarding Rule 8 papers as as proferred on 6/17/99 and required authorization for Ms. Lord to testify. First annual meeting of RRLR Imp Assn this evening; requests information as to what else is needed to comply. Ms. Lord also enclosed copies of Rule 8 papers as previously proferred on 6/17/99.
-T/C to RRLR Imp Assn; spoke with Mr. Peggy Squitieri - advised her that Rule 8 papers as submitted are complete and in compliance. Letter sent to Ms. Lord this date with cy to Ms. Squitieri indicating same. Also provided current copy of People's Counsel Rule 8 packet and current copy of Board's complete rules. (Advised S of same.)

10/26/99 -Completed day #2; continued to day #3 -10/27/99. (Wescott, Worrall, Melvin)

10/27/99 - Concluded testimony and evidence; memos due from counsel Wednesday, December 15, 1999. Public deliberation to be scheduled for Wednesday, January 5, 2000 at 9:30 a.m. Notice to be sent.

11/10/99 -Letter from Edward Covahey, Esquire -- providing copy of Protestant's Exhibit No. 2 - Variance Application (unable to locate at day #2 of hearing; provided at request of Board).

11/12/99 -Notice of Deliberation sent to parties; scheduled for Wednesday, January 5, 2000 at 9:30 a.m. Copy to S.W.M.

11/19/99 -Amended Notice of Deliberation sent to parties; notice amended only as to day of the week shown on original notice (scheduled for Wednesday, January 5, 2000.

12/14/99 -Memorandum in Lieu of Final Argument filed by J. Carroll Holzer, Esquire, on behalf of Dr. and Mrs. Robert Sussman.

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 15, 1999

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 15 PM 4:56

Charles L. Marks, Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: Petition for Variance
6019 Hollins Avenue, NE/S Hollins Avenue,
251' E of c/l Lake Manor Drive, 9th Election Dist.,
4th Councilmanic
Emil A. Budnitz, Jr., / Jeff Budnitz, Petitioners
Case No.: 99-113-A

Dear Chairman Marks:

The Petitioners seek approval for a severe front yard variance to build a house on Hollins Avenue property purchased twenty years ago.

According to the Deputy Zoning Commissioner's Opinion, Petitioner Emil Budnitz has resided on the adjacent lot since 1969 and subsequently bought the subject lot as an "extra parcel." State tax records show that Mr. Budnitz's existing residence on .82 acres is assessed at a substantial value.

While the 1.19-acre parcel at issue here is separately identified, it is constrained by wetlands and steep slopes, and is best viewed as part of the entire 2-acre property owned by Petitioner. Environmental limitations are common to the Lake Falls area, especially where the land north of Lake Avenue falls to Lakeside Drive.

Petitioners' request is for a large house just three (3) feet from Hollins Avenue, a local residential road with access to Lake Roland and Robert E. Lee Park. It is accompanied by a variance from wetland buffer limits.

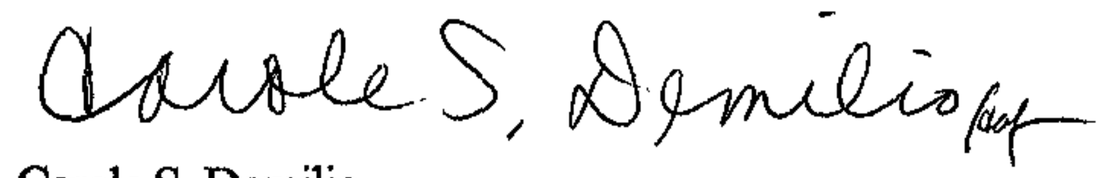
Many neighboring citizens have expressed concern or opposition. There are serious questions as to whether the proposed variance is out of character with this single-family home area and

overcrowds an environmentally sensitive lot. It also appears that any "difficulty" or "hardship" was self-created.

In sum, our preliminary review indicates no genuine justification for a zoning variance.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/caf

cc: Edward C. Covahey, Jr., Esq., Attorney for Petitioners

James N. Phillips, Esq., Attorney for Protestants

Robert A. Hoffman Esq., Attorney for Protestants

J. Carroll Holzer, Esq., Attorney for Protestants

Ruxton-Riderwood-Lake Roland Improvement Assn.

IN THE MATTER OF	*	**BEFORE**
EMIL A. BUDNITZ, JR.-OWNER;	*	**COUNTY BOARD OF APPEALS**
JEFF BUDNITZ-CONTRACT LESSEE 6019 HOLLINS AVENUE	*	**OF**
9TH ELECTION DISTRICT; 4th COUNCILMANIC	*	**BALTIMORE COUNTY**
	*	**CASE NO.** 99-113-A
	*	

* * * * * * * * *

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on June 9, 1999, I effected service of process by personally serving a Subpoena upon Valerie Klein at Department of Environmental Protection and Resource Management, 401 Bosley Ave., Room 416, Towson, MD, to appear before the County Board of Appeals of Baltimore County.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under penalty of perjury that the contents of this Affidavit are true and correct to my knowledge.

(signature)

Name: Sammy A. Azzouz, Law Clerk

Firm: Covahey & Boozer, P.A.

Address: 614 Bosley Avenue
Towson, MD 21204
410-828-9441

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 14 PM 3:37

6/10/99
Paul Devries
DEPRM 3980 Telephoned -
Valerie Klein is on
maternity leave -
Mr. Devries will
appear with
file on
6/17/99

RE: IN THE MATTER OF
EMIL A. BUDNITZ, JR.-OWNER;
JEFF BUDNITZ-CONTRACT LESSEE
6019 HOLLINS AVENUE
9TH ELECTION DISTRICT;
4TH COUNCILMANIC

* BEFORE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 99-113-A

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

VALERIE KLEIN
DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT
401 BOSLEY AVE., ROOM 416
TOWSON, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (XX) Personally appear and produce documents or objects;

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204
on THURSDAY, JUNE 17, 1999 at 10:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

ANY AND ALL DOCUMENTS, FILES, NOTES, ETC. REGARDING THE ABOVE-CAPTIONED

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN -9 AM 11:23

SUBPOENA REQUESTED BY:

EDWARD C. COVAHEY, JR.
(Name of Party /Attorney)
614 BOSLEY AVENUE
TOWSON, MD 21204
(Address /Telephone #)
410-828-9441

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (X) the Sheriff, (____) Private Process Server, to issue the summons set forth herein.

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

IN THE MATTER OF	*	BEFORE THE
Emil Budnitz, Jr. - Owner	*	COUNTY BOARD OF APPEALS
Jeff Budnitz, Contract Lessee	*	BALTIMORE COUNTY
Petition for Variance	*	CASE NO. 99-113-A

* * * * * * * * * * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Thursday June 17, 1999 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave., Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Custodian of the Records
Address: DEPRM, County Courts Bldg.
Towson, MD

Note: Any and all files, memos, comments, correspondence, etc. related to the above case, located at 6019 Hollins Ave.

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286

410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Charlotte E. Radcliffe
County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19____

Not Served: _____, 19____

Sheriff of Baltimore County

a:\forms\cba.sub

Case No. 99-113-A

VAR -To permit a front yard setback of 3'10" ilo the minimum required 40' for proposed dwelling.

12/08/98 -D.Z.C.'s Order in which Petition for Variance was GRANTED with restrictions.

1/19/99 -Letter from James N. Phillips, Esquire - entering appearance on behalf of Dr. and Mrs. Robert L. Sussman; indicates that Dr. & Mrs. Sussman wish to "join in the appeal filed by Robert A. Hoffman" and further that they would be represented by Mr. Phillips as "appellants."
- Mr. Phillips added to file as counsel on behalf of Dr. & Mrs. Sussman, who have also been added to the file as interested parties. However, they cannot be added as appellants inasmuch as the 30-day appeal period has ended, and the only appellants to this matter must remain Mr. & Mrs. Willis, whose appeal was filed within the 30-day appeal period. A letter will be sent to Mr. Phillips advising same.

2/12/99 -Letter to Mr. Phillips advising him that (1) both he and the Sussmans have been added to the file; however, the Sussmans have been added as "parties" rather than "appellants" inasmuch as the 30-day appeal period ended January 7, 1999.

3/11/99 -Entry of appearance filed by J. Carroll Holzer, Esquire on behalf of Dr. and Mrs. Robert Sussman in the appeal of Mr. and Mrs. Ralph Willis in this matter. File noted.

4/12/99 -Notice of Assignment for hearing scheduled for Thursday, June 17, 1999 at 10:00 a.m. sent to following:

Robert A. Hoffman, Esquire
Mr. and Mrs. Ralph Willis
J. Carroll Holzer, Esquire
Dr. & Mrs. Robert Sussman
Edward C. Covahey, Jr., Esquire
Emil A. Budnitz /Owner
Jeff Budnitz /Contract Lessee
Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

6/10/99 -Copy of letter from C. Holzer to Director of DEPRM - regarding location of DEPRM file required for preparation of 6/17/99 hearing before the CBA -- if file cannot be located by 6/11/99, he would request a PP of CBA hearing.

6/15/99 -Entry of Appearance filed by People's Counsel /Peter Max Zimmerman, People's Counsel, and Carole S. Demilio, Deputy People's Counsel.
-Letter from Peter Zimmerman citing no justification for zoning variance with copies sent to all counsel of record.

FILE

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: L. Wescott
M. Worrall
T. Melvin

DATE: December 15, 1999

FROM: Kathi

SUBJECT: Case No. 99-113-A /Emil A Budnitz, Jr., Owner; Jeffrey Budnitz, C.P. - Memos filed by counsel

The subject matter has been scheduled for public deliberation on Wednesday, January 5, 2000 at 9:30 a.m. A copy of that Notice was forwarded to you in November.

Enclosed for your review are the following documents which were filed in this matter:

1. Memorandum in Lieu of Final Argument filed by J. Carroll Holzer, Esquire, on behalf of Dr. and Mrs. Robert Sussman;

2. Memorandum in Lieu of Final Argument filed by Patricia Malone, Esquire, on behalf of Mr. and Mrs. Ralph Willis (adopting as their own the Memorandum filed by Mr. Holzer on behalf of the Sussmans); and

3. Brief of Emil A. Budnitz, Jr., et al, filed by Edward C. Covahey, Jr., Esquire, on behalf of Petitioners.

Should you have any questions regarding the above, please let me know.

kathi

Attachments

NOTE: Above copies to be given to S.W.M. on 12/16/99.

RE: IN THE MATTER OF
EMIL A. BUDNITZ, JR.-OWNER;
JEFF BUDNITZ-CONTRACT LESSEE
6019 HOLLINS AVENUE
9TH ELECTION DISTRICT;
4TH COUNCILMANIC

BEFORE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 99-113-A

* * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

R. BRUCE SEELEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
401 BOSLEY AVE., ROOM 416
TOWSON, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (xx) Personally appear and produce documents or objects;

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204
on Tuesday, October 26, 1999 at 10:00 a.m.
AND Wednesday, October 27, 1999 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

ANY AND ALL DOCUMENTS, FILES, NOTES, ETC. REGARDING THE ABOVE-CAPTIONED

RECEIVED
COUNTY BOARD OF APPEALS
99 OCT 18 PM 2:42

SUBPOENA REQUESTED BY:

EDWARD C. COVAHEY, JR.
(Name of Party /Attorney)
614 BOSLEY AVENUE
TOWSON, MD 21204
(Address /Telephone #)
410-828-9441

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (X) the Sheriff, (____) Private Process Server, to issue the summons set forth herein.

Charles E. Rodde Jr.
County Board of Appeals of
Baltimore County

IN THE MATTER OF	*	**BEFORE**
EMIL A. BUDNITZ, JR.-OWNER;	*	**COUNTY BOARD OF APPEALS**
JEFF BUDNITZ-CONTRACT LESSEE		
6019 HOLLINS AVENUE	*	**OF**
9TH ELECTION DISTRICT;		
4th COUNCILMANIC	*	**BALTIMORE COUNTY**
	*	**CASE NO.** 99-113-A
	*	

* * * * * * * * *

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on 10/18/99, I effected service of process by personally serving a Subpoena upon R. Bruce Seeley at Department of Environmental Protection and Resource Management, 401 Bosley Ave., Room 416, Towson, MD, to appear before the County Board of Appeals of Baltimore County.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under penalty of perjury that the contents of this Affidavit are true and correct to my knowledge.

(signature)

Name: Jeff Mickletz, Law Clerk

Firm: Covahey & Boozer, P.A.

Address: 614 Bosley Avenue
Towson, MD 21204
410-828-9441

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

June 17, 1999

NOTICE OF ASSIGNMENT /Days 2 and 3

CASE #: 99-113-A

IN THE MATTER OF: EMIL A. BUDNITZ, JR. -Owner; JEFF BUDNITZ -Contract Lessee 6019 Hollins Avenue
9th Election District; 4th Councilmanic

(Petition for Variance GRANTED with restrictions by D.Z.C.)

ASSIGNED FOR: TUESDAY, OCTOBER 26, 1999 at 10:00 a.m. /Day #2
and WEDNESDAY, OCTOBER 27, 1999 at 10:00 a.m. /Day #3

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

---

cc: Counsel for Appellants /Protestants: Patricia Malone, Esquire
Robert A. Hoffman, Esquire
Appellants /Protestants: Mr. and Mrs. Ralph Willis

Counsel for Protestants (Sussman) : J. Carroll Holzer, Esquire
Protestants : Dr. & Mrs. Robert Sussman

Counsel for Petitioners : Edward C. Covahey, Jr., Esquire
Petitioners : Emil A. Budnitz /Owner
Jeff Budnitz /Contract Lessee

Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 12, 1999

NOTICE OF ASSIGNMENT

CASE #: 99-113-A

IN THE MATTER OF: EMIL A. BUDNITZ, JR. -Owner; JEFF BUDNITZ -Contract Lessee 6019 Hollins Avenue
9th Election District; 4th Councilmanic

(Petition for Variance GRANTED with restrictions by D.Z.C.)

ASSIGNED FOR: **THURSDAY, JUNE 17, 1999 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

---

cc: Counsel for Appellants /Protestants: Robert A. Hoffman, Esquire
Appellants /Protestants: Mr. and Mrs. Ralph Willis

Counsel for Protestants (Sussman) : J. Carroll Holzer, Esquire
Protestants : Dr. & Mrs. Robert Sussman

Counsel for Petitioners : Edward C. Covahey, Jr., Esquire
Petitioners : Emil A. Budnitz /Owner
Jeff Budnitz /Contract Lessee

Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

RE: PETITION FOR VARIANCE 6019 Hollins Avenue, NE/S Hollins Ave, 251' E of c/l Lake Manor Dr, 9th Election District, 4th Councilmanic	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
	*	FOR
Legal Owners: Budnitz, Emil A. Jr. Contract Purchaser: Budnitz, Jeff	*	BALTIMORE COUNTY
Petitioner(s)	*	Case Number: 99-113- A

* * * * * * * * * * * * * *

COUNTY BOARD OF APPEALS
RECEIVED
99 JUN 15 PM 4:56

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 of other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of June, 1999, a copy of the foregoing Entry of Appearance was mailed to Edward C. Covahey, Jr., Esq., Covahey & Boozer, 614 Bosley Avenue, Towson, MD 21204, attorney for Petitioners, to James N. Phillips, Esq., 18 W. Franklin Street, Baltimore, MD 21201, attorney for Protestants, to Robert A. Hoffman, Esq., Venable, Baetjer and Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Protestants, to J. Carroll Holzer, Esq., 508 Fairmount Avenue, Towson, MD 21286, attorney for Protestants, and to Ruxton-Riderwood-Lake Roland Improvement Assn., P.O. Box 204, Riderwood, MD 21139.

PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

January 6, 1999

99 JAN -7 PM 3:30
RECEIVED
COUNTY BOARD OF APPEALS

Mr. Emil A. Budnitz, Jr.
6019 Hollins Avenue
Baltimore, Maryland 21210

Dear Mr. Budnitz:

RE: Petition for Variance, Case No. 99-113-A, 6019 Hollins Avenue, 9th Election District:, Emil A. Budnitz, Jr., Owner; Jeff Budnitz, Contract Purchaser - Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on January 5, 1999 by Robert A. Hoffman, Esquire on behalf of Mr. and Mrs. Ralph N. Willis. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Director

AJ:cjs

c: People's Counsel
Mr. Jeff Budnitz, 4411-C Falls Branch Drive, Baltimore, MD. 21211
Mr. Joseph Gerlak, 4 Lake Manor Court, Baltimore, MD. 21210
Ms. Betty Ruano, 10 Lake Manor Court, Baltimore, MD. 21210
Ms. Cecily Matthai, 6035 Hollins Avenue, Baltimore, MD. 21210
Sally & Bo Willis, 6017 Hollins Avenue, Baltimore, MD. 21210
Bonnie & Anton Dahbure, 6033 Hollins Avenue, Baltimore, MD. 21210
James N. Philips, Esquire, 18 W. Franklin Street, Baltimore, MD. 21201
Mr. & Mrs. Robert L. Sussman, 6 Hollins Avenue, Baltimore, MD. 21210

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR VARIANCE NE/S HOLLINS AVENUE 251 Feet East of the C/L of Lake Manor Drive (6019 Hollins Avenue)	* * * *	BEFORE THE COUNTY BOARD OF APPEALS OF
9th Election District 4th Councilmanic District	* *	BALTIMORE COUNTY
Emil A. Budnitz, Jr., Owner Jeff Budnitz, Contract Purchaser	* *	Case No. 99-113-A

* * * * * * * * *

RECEIVED
COUNTY BOARD OF APPEALS
99 DEC 15 AM 10:58

MEMORANDUM IN LIEU OF FINAL ARGUMENT

Mr. and Mrs. Ralph N. Willis, Appellants/Protestants, by Patricia A. Malone with Venable, Baetjer and Howard, LLP, their attorney, incorporate by reference and adopt as their own the Memorandum in Lieu of Final Argument filed by Dr. and Mrs. Robert Sussman.

PATRICIA A. MALONE
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6200
Attorney for Mr. and Mrs. Willis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of December, 1999, a copy of the foregoing Memorandum in Lieu of Final Argument was mailed first class, postage prepaid, to Edward C. Covahey, Jr., Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Attorney for the Appellees/Petitioners; and to J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland 21286, Attorney for Protestants Dr. and Mrs. Sussman.

PATRICIA A. MALONE

TO1DOCS1/pam01/#92853 v1

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: #99-113-A
6019 Hollins Avenue
NE/S Hollins Avenue, 251' E of centerline Lake Manor Drive
9th Election District
4th Councilmanic District
Legal Owner(s):
Emila Budnitz, Jr.
Contract Purchaser:
Jeff Budnitz
Variance: to allow a front yard setback of 3 feet, 10 inches in lieu of the minimum required 40 feet.

Hearing: Friday, October 30, 1998 at 9:00 a.m., in Room 106, County Office Building, 111 W. Chesapeake Avenue.

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.

10/248 Oct 15 C266143

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/15/, 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 10/15/, 1998.

THE JEFFERSONIAN,

A. Henrickson

LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

RE: Case # 99-113-A
Petitioner/Developer:
(Emil Budnitz)
Date of Hearing/Closing:
(Oct. 30, 1998)

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

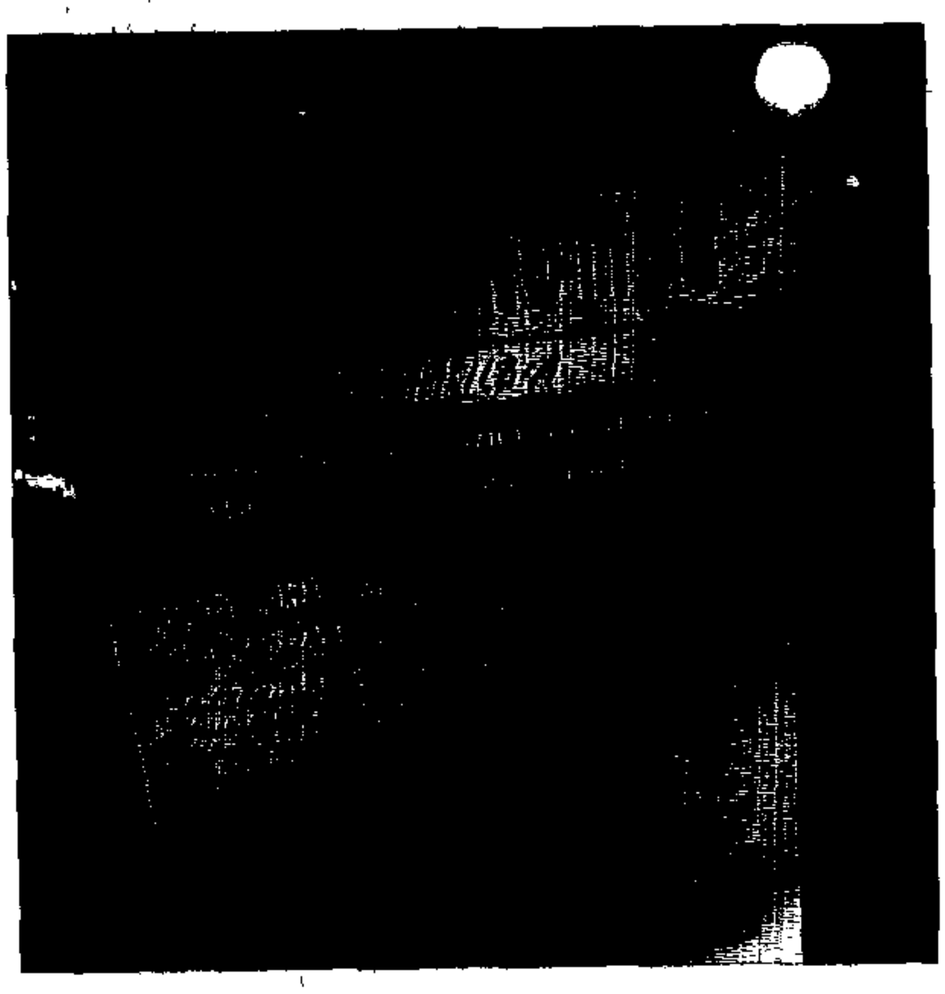
Attention : Ms. Gwendolyn Stephens

Ladies and Gentleman:

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_____

6019 Hollins Ave. Baltimore, Maryland 21210_____

The sign(s) were posted on_____Oct. 20, 1998_____
(Month, Day, Year)



Sincerely,

Thomas P. Ogle Sr. 10/20/98
(Signature of Sign Poster & Date)

_____Thomas P. Ogle, Sr._____

_____325 Nicholson Road_____

_____Baltimore, Maryland 21221_____

_____(410)-687-8405_____
(Telephone Number)

Baltimore County
Zoning Commissioner
Office of Planning

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

December 8, 1998

Edward Covahey, Jr.
Covahey & Boozer
614 Bosley Avenue
Towson, Md. 21204

RE: PETITION FOR VARIANCE
NE/S Hollins Avenue, 251' E of the c/l Lake Manor Drive
(6019 Hollins Avenue)
9th Election District – 4th Councilmanic District
Emil A. Budnitz, Jr., Owner; Jeff Budnitz, Contract Purchaser – Petitioners
Case No. 99-113-A

Dear Mr. Covahey:

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

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

Very truly yours,

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Emil A. Budnitz, Jr., 6019 Hollins Avenue, Baltimore, Md. 21210
Mr. Jeff Budnitz, 4411-C Falls Branch Drive, Baltimore, Md. 21211
Mr. Joseph Gerlak, 4 Lake Manor Court, Baltimore, Md. 21210
Ms. Betty Ruano, 10 Lake Manor Court, Baltimore, Md. 21210
Ms. Cecily Matthai, 6035 Hollins Avenue, Baltimore, Md. 21210
Sally & Bo Willis, 6017 Hollins Avenue, Baltimore, Md. 21210
Bonnie & Anton Dahbure, 6033 Hollins Avenue, Baltimore, Md. 21210
James N. Phillips, Esquire, 18 W. Franklin Street, Baltimore, Md. 21201
Robert A. Hoffman, Esquire, 210 Allegheny Avenue, Towson, Md. 21204
Mr. & Mrs. Robert L. Sussman, 6 Hollins Avenue, Baltimore, Md. 21210
People's Counsel; Case File

Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 061796

DATE 1/6/99 ACCOUNT 001-6150

AMOUNT $ 210.00

RECEIVED FROM: Venable Baetjer + Howard

FOR: APPEAL 6019 Hollins Ave

99-113-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
1/07/1999 1/06/1999 14:22:36
REG W006 CASHIER MWEL MRW DRAWER 6
5 MISCELLANEOUS CASH RECEIPT
Receipt # 062193 OLD
CR NO. 061796
210.00 CHECK
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Item 113 No. 054721

DATE 9-15-98 ACCOUNT R-001-6150

AMOUNT $ 50.00

RECEIVED FROM: VTS T

FOR: Residential Variance filing fee
6019 Hollins Ave.

99-113-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
9/15/1998 9/15/1998 09:46:21
REG W005 CASHIER PWES PEW DRAWER 4
5 MISCELLANEOUS CASH RECEIPT
Receipt # 080359 OLD
CR NO. 054721
50.00 CHECK
Baltimore County, Maryland

Case No. 99-113-A

EMIL A. BUDNITZ, JR., - L.O. - and
JEFF BUDNITZ, C.L. - Petitioners

NE/s Hollins Ave., 251' E of c/l of Lake Manor Drive (6019 Hollins Avenue)

9th Election District Appealed: 1/5/99

(See attached Plan - Pet. Ex. #1)

APPEAL

Petition for Variance
NE/S Hollins Avenue, 251' E of the c/l of Lake Manor Drive
(6019 Hollins Avenue)
9th Election District - 4th Councilmanic District
Emil A. Budnitz, Jr. - Owner
Jeff Budnitz, Contract Lessee
Case Number: 99-113-A

Petition for Variance

Description of Property

Certificate of Posting

Certification of Publication

Zoning Advisory Committee Comments

Entry of Appearance of People's Counsel

Petitioner's Sign-In Sheets

Citizen's Sign-In Sheets

Petitioners' Exhibits:
1 - Plat to Accompany Petition for Variance dated 8/14/98
2 - Revised Site Plan dated 8/13/98
3 - Photographs
4 - Photographs
5 - Photographs
6 - Subdivision Plat of Gay Property dated 7/17/64
7 - Plat of Plans and Elevations dated 8/3/98
8 - Photograph
8 - Letter from Thomas S. Bozzuto to Jeffrey Budnitz dated October 28, 1998

Six miscellaneous correspondence

Letter from James N. Phillips, Esquire to Timothy Kotroco dated 10/30/98 entering appearance for Shirley and Robert Sussman, Protestants

Letter from Edward Covahey, Jr., Esquire to Timothy Kotroco dated 12/1/98

Findings of Fact and Conclusions of Law by the Deputy Zoning Commissioner's Order dated December 8, 1998 (Granted)

Notice of Appeal received on January 5, 1999 from Robert A. Hoffman, Esquire on behalf of Mr. and Mrs. Ralph N. Willis

c: People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM
* Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, P. O. Box 5517, Towson, Maryland 21204
Mr. Emil A. Budnitz, Jr., 6019 Hollins Avenue, Baltimore, Maryland, 21210
Mr. Jeff Budnitz, 4411-C Falls Branch Drive, Baltimore, Maryland 21211

Mr. and Mrs. Ralph N. Willis, 6017 Hollins Avenue, Balto, MD 21210
Edward C. Covahey, Jr., Esquire, COVAHEY & BOOZER, P.A., 614 Bosley Avenue, Towson, MD 21204
James N. Phillips, Esquire, PHILLIPS, SLOAN & SILVERMAN, P.A., 18 W. Franklin Street, Baltimore, MD 21201-5050 410-539-3327 FAX 410-539-3337
Dr. & Mrs. Robert Sussman, 6 Hollins Avenue, Baltimore, MD 21210
Joseph Gerlak, 4 Lake Manor Ct, Baltimore, MD 21210
Betty Ruano, 10 Lake Manor Ct, Baltimore, MD 21210
Cecily Matthai, 6035 Hollins Avenue, Baltimore, MD 21210
Bonnie and Anton Dahbure, 6033 Hollins Ave, Baltimore, MD 21210

J. Carroll Holzer, Esq., HOLZER & LEE, 508 Fairmount Ave., Towson, MD 21286
(entered appearance as counsel for Dr. & Mrs. Robert Sussman)

99 JAN -7 PM 3:30

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: June 5, 2000

TO: Arnold Jablon, Director
Permits & Development Management

FROM: Charlotte E. Radcliffe
Board of Appeals

SUBJECT: **CLOSED FILES:**

99-11-SPH –Robert F. Webbert, et ux
99-54-SPHXA –David M. Coleman-LO; Francis Honeywell-CP
99-57-A –Stamatios Papastefanou, et ux
99-73-SPHXA –Donald E. Warrener, Jr.
99-113-A – Emil A. Budnitz, Jr. –LO;Jeff Budnitz-CP
99-215-SPH – Ida A & Benjamin A. Petrilli
99-242-XA –Ernest Diegert-LO; Eller Media Co.-CP
99-279-A – Ruth Phillips & Andrew Erdman
99-291-SPH –Schoolden's Automotive Repair, Inc.
99-310-X – Eastern Boulevard Center, Inc. (Famous Pawn, Inc.)
99-318 –Roddick Realty Partnership I-LO;
and Cloverland Farms Dairy, Inc.-CP
99-359-A –Shirley & David Morrison-LO; David Waldhauser-CP
99-492-SPH –William A. and Mary H. Kraft
99-504-SPHXA –Estate of Sol Goldman-LO; Eller Media-CP

Since the above captioned cases have been finalized and no further appeals were taken, we are hereby closing the files and returning same to your office herewith.

Attachments: Case File Nos.: 99-11-SPH; 99-54-SPHXA; 99-57-A; 99-73-SPHXA w/ large exhibit box; 99-113-A; 99-215-SPH w/ large exhibit; 99-242-XA; 99-279-A; 99-291-SPH; 99-310-X; 99-318-X; 99-359-A; 99-492-SPH; and 99-504-SPHXA

Date: September 30, 1998

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS/JP

SUBJECT: Zoning Item #113

Budnitz Property - 6019 Hollins Avenue

Zoning Advisory Committee Meeting of September 28, 1998

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

_____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

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

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code). A variance has been granted.

__X__ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code). An intra-family transfer declaration of intent is required.

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: October 5, 1998

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for October 5, 1998
Item No. 113

The Development Plans Review Division has reviewed the subject zoning item. Per our records, the public sewer is not available for this site. The closest public sanitary sewer is at the intersection of Hollins Avenue and Lake Manor Drive. See drawing #75-0397 (file 1).

RWB:HJO:jrb

cc: File

ZAC1005.113

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: September 28, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comment on the following petition (s):
Item No (s): 113, 115, 117, 118, and 119

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief: Jeffrey W. Long

AFK/JL

RECEIVED
2 8 1998
PDM

S:\ZAC\113.doc

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

Date: 9.25.98

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 113 JJS

Dear Ms. Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

FAX 410-823-7530

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DiPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

* ALSO ADMITTED TO D. C. BAR

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD. 21204

December 1, 1998

Timothy M. Kotroco, Deputy Zoning Commissioner
for Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
-4
ZONING COMMISSIONER

Re: Case No. 99-113A
Application of Budnitz
6019 Hollins Avenue

Dear Mr. Kotroco:

I understand that subsequent to the hearing on the above-captioned, that the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. has written you with respect to same. In view of the fact that this communication occurred subsequent to the hearing and is not part of the evidence, I would ask that in your discretion, you totally disregard same.

I thank you for your attention to this matter.

Very truly yours,

Edward C. Covahey, Jr.

ECC,Jr./ldr
011dr.12

cc: Mr. Emil Budnitz, Jr.

PHILLIPS, SLOAN & SILVERMAN, P.A.
ATTORNEYS AT LAW

JAMES N. PHILLIPS
JOHN W. SLOAN
DENNIS G. SILVERMAN

18 W. FRANKLIN STREET
BALTIMORE, MD. 21201-5050
(410) 539-3327
FAX
(410) 539-3337

October 30, 1998

Mr. Timothy Kotroco
Deputy Zoning Commissioner for
Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
OCT 5
ZONING COMMISSIONER

Re: Case No: 99-113A
Application of Budnitz

Dear Mr. Commissioner:

Please enter my appearance for Robert L. Sussman and Shirley Sussman, protestants in the captioned matter.

Very truly yours,

James N. Phillips

JNP/rmh-9

cc: Edward C. Covahey, Jr., Esq.
614 Bosley Avenue
Towson, MD 21204-4029

cc: Robert Hoffman, Esq.
210 Allegheny Avenue
P.O. Box 5517
Towson, MD 21204

cc: Dr. Robert Sussman
6 Hollins Avenue
Baltimore, MD 21210-1005

RE: PETITION FOR VARIANCE 6019 Hollins Avenue, NE/S Hollins Ave, 251' E of c/l Lake Manor Dr, 9th Election District, 4th Councilmanic	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	FOR
Legal Owners: Emil A. Budnitz, Jr. Contract Purchaser: Jeff Budnitz	*	BALTIMORE COUNTY
Petitioner(s)	*	Case Number: 99-113-A

* * * * * * * * * * * * * * *

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
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of October, 1998, a copy of the foregoing Entry of Appearance was mailed to Legal Owner Emil A. Budnitz, Jr., 6115 Falls Road, Baltimore, MD 21209, and to Contract Purchaser Jeff Budnitz, 4411-C Falls Bridge Drive, Baltimore, MD 21211, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
JOSEPH W. McGRAW JR.	6912 NORTH RIVER DRIVE 21220
ARTHUR D. VALK III	7910 SHERWOOD AVE. 21204
JEFF BUDNITZ	4411 FALLS BRIDGE DR. 21209
Siobhan O'Brien-Budnitz	4411 Fallsbridge Dr. 21211
~~Robert C. Sass Jr.~~	~~6214 Hillside Ave. 21210~~
ED COVAHEY	614 BOSLEY AVE Towson Md 21204

Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Joseph Gerlak 377-0733 5725	4 Lake Manor Ct. Balto. 21210
Betty Ruano 377-9652	10 Lake Manor Ct. Balt. 21210
Cecily Matthai 377-3560	6035 Hollins Ave Balto 21210
Sally & Bo Willis 377-3514	6017 Hollins Ave - 21210
Bonnie & Anton Dahbura 377-0021	6033 Hollins Ave 21210
Robert L. Sussman	6 Hollins Ave 21210
James N Phillips - Atty For Roberta Shirley Sussman	18 W. Franklin St Balto 21201
Rob Hoffman	210 Allegany Ave 21204

The Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.
P. O. Box 204
Riderwood, Maryland 21139
Telephone/FAX 410-377-4700

November 13, 1998

18

Mr. Timothy Kotroco
Deputy Zoning Commissioner
Baltimore County Courthouse
401 Bosley Avenue
Towson, MD 21204

Dear Commissioner Kotroco:

RE: Case No. 99-113-A
6019 Hollins Avenue

The Ruxton-Riderwood-Lake Roland Area Improvement Association supports the residents who live in the Hollins Avenue neighborhood in urging that you not grant a variance to Baltimore County's building regulations.

The County's well-conceived zoning and building regulations are its residents' only defense against changes which harm a community's residential character. Granting a three or four foot setback, when regulations require a forty foot setback, would bring about an unwelcome change in the neighborhood. So minuscule a setback would not only be an unsightly alteration to standards thereabouts, it would set a precedent affecting future building practices in the neighborhood. We respect the owner's right to build on his property, but not at the expense of setting a precedent.

In the opinion of this Association, the forty foot setback regulation which Baltimore County has prudently adopted should be strictly adhered to. Placement of the structure(s) this owner may construct, however, must not negatively impact on the wetlands or unduly alter the character of the neighborhood.

Sincerely,

Michael Sicher
President

cc: Emil Budnitz

RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

The Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. is an umbrella organization of Baltimore County neighborhoods bounded by Lake Avenue and the Baltimore City line to the south, taking in Falls Road on the west, reaching to the beltway to the north, and including Charles Street Avenue as its eastern border.

As of October 26, 1999, this Association has a paid membership of 1129 households.

RESOLVED: that Sarah Lord, Zoning Chair, is authorized by the RRLRA Board of Directors to testify on behalf of this Association in all zoning matters, for the year beginning June 21, 1999, and ending at the Association's June meeting in the year 2000.

AS WITNESS OUR HAND AND SEAL, THIS 26th DAY OF OCTOBER, 1999.

THE RUXTON-RIDERWOOD-
LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.

ATTEST:

Judith Wright
Secretary

Barry Truax
President

RECEIVED
COUNTY BOARD OF APPEALS
99 OCT 27 PM 2:30

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.
P.O. Box 204
Riderwood, Maryland 21139
Tel. & FAX: 410-377-4700

Appeals Board of Baltimore County
Old Courthouse
Towson, MD 21204

Case #99-113-A
6019 Hollins Avenue

October 26, 1999

Dear Members of the Appeals Board:

My name is Sarah Lord. I live at 6134 Barroll Road in Baltimore County. I am a member of the Board of Directors of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc., which is an umbrella organization of Baltimore County neighborhoods bounded by Lake Avenue and the city line to the south, taking in Falls Road on the west, reaching to the beltway to the north, and including Charles Street Avenue as its eastern border. As of June 1999, this Association had 1107 paid members. I serve as its Zoning Chair. I am authorized today to speak on behalf of the Association.

The Ruxton-Riderwood Lake Roland Area Improvement Association, Inc. requests that after due consideration you reverse Deputy Zoning Commissioner Timothy Kotrocco's granting of a zoning variance at 6019 Hollins Avenue. Residences in this neighborhood are set back from the road by at least forty feet. It considerably changes the character of the neighborhood to have garages and houses built adjacent to the road. Mr. Jeff Budnitz seeks to build four feet from the road right-of-way, an unwarranted departure from the neighborhood norm.

It is true that Mr. Budnitz can cite a precedent, and on this very tract. Some years ago his father, Mr. Emil Budnitz, was granted a variance to build four feet from the road -- a situation very much against the wishes of the community, and one which remains a startling deviation.

This Association also strongly urges that you overturn DEPRM's inappropriate permitting of construction within the Maryland Department of the Environment's 25-foot wetlands buffer, when DEPRM regulations require a 100-foot buffer between the center of the stream and construction. Baltimore County's Department of Environmental Protection and Resource Management is mandated to protect the *more than* 12,350 square feet of wetlands on this triangulated property and its stream which flows into the Jones Falls. These are a vulnerable and valuable part of the Jones Falls watershed, which Baltimore County and the Army Corps of Engineers jointly undertook to protect and improve.

It is discouraging to County citizens to discover after the fact that the agencies of our government, which exist to protect shared resources and uphold community

standards, are actually handing out waivers, variances and exceptions to important regulations -- like so many birthday presents. There have been some misrepresentations in this case, and we hope you examine the facts with care.

As there does exist another building site on the property -- which would meet the 40-foot zoning setback as well as considerably expand the stream and wetlands buffer -- it is clear that that neither hardship nor practical difficulty can be argued in this case.

Ladies and gentlemen, we urge that you reverse the variance to the zoning setback of 40-feet granted by Deputy Zoning Commissioner Timothy Kotrocco. It is not the responsibility of Baltimore County through its permitting and planning and zoning process to find for the landowner a use perfectly desirable to him.

But county citizens do consider it the responsibility of their government to protect the environment and assure community standards -- by enforcing well-considered regulations.

Very truly yours,

Sarah Fenno Lord

Sarah Fenno Lord
Zoning Chair

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: That at the first meeting of the RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION held on June 29, 1999, it was decided by the Association that responsibility for review and action on all zoning matters for the period June 1999 through June 2000 be placed in the Board of Directors and Executive Director consisting of the following members:

Bruce Boswell
Michael Chasney
Lynn Clifford
Joseph Coale, III
Alan Edelman
Rosalyn Evans
Liz Bowie Fesperman
Gene Funk
Thomas George
Sophie Gerard
Brett Goodrich
Harry Gormley
Benjamin Hearn
William Heller
Nancy Hill
Richard Huether
Sarah Lord
Cecily Matthai
Herbert Mittenthal
Frederick Rasmussen
Tate Showers
Barry Truax
David Whitman
Judith Wright
Peggy Squitieri

AS WITNESS OUR HAND AND SEAL THIS 29th day of June, 1999.

Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.

ATTEST:

Judith Wright
Secretary

Barry Truax
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

Sarah Lord

Sarah Lord

The Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

ATTEST:

Judith Wright

Judith Wright
Secretary

Barry Truax
President

Date: June 29, 1999

RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: By the Executive Committee of the Board of Directors of this Association that the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. supports the appeal before the Board of Appeals of Baltimore County, by the Hollins Avenue and Lake Manner Court neighborhoods, opposing the DEPRM variance to stream buffer regulations and the zoning variance granted to Emil and Jeff Budnitz who intend to build within the Maryland Department of the Environment's 25-foot wetlands buffer (instead of the required 100 ft. from the stream's center) and five feet from the road (instead of the required 40 ft.) at 6019 Hollins Avenue.

AS WITNESS OUR HAND AND SEAL, THIS 25th DAY OF OCTOBER, 1999.

THE RUXTON-RIDERWOOD-
LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.

ATTEST:

Judith M. Wright

Judith Wright
Secretary

Barry Truax
President

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

June 29, 1999

Ms. Sarah Fenno Lord
The Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.
P.O. Box 204
Riderwood, MD 21139

RE: Case No. 99-113-A /Emil Budnitz, et al
Rule 8 Requirements

Dear Ms. Lord:

This letter will confirm my telephone conversation this afternoon with Peggy Squitieri in response to your letter of June 25, 1999.

As indicated to Ms. Squitieri, the Rule 8 documents which you have submitted in the subject case are acceptable as filed and fully in compliance with Rule 8 of the Board's Rules of Practice & Procedure. The Board will provide any further and/or necessary clarification for the record when this hearing resumes for day 2 on Tuesday, October 26, 1999 at 10:00 a.m.

For your further information, I've enclosed a copy of the current packet prepared by the Office of People's Counsel, as well as a copy of the Board's complete Rules of Practice and Procedure.

Should you have any additional questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosures (2)

cc: J. Carroll Holzer, Esquire
Patricia Malone, Esquire
Peggy Squitieri
Office of People's Counsel

FILE

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on Recycled Paper

HOLZER
&
LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

June 9, 1999
#7132

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 10 AM 11:55

HAND DELIVERED
Department of Environmental
Protection and Resource Management
George Perdikakis, Director
401 Bosley Avenue
Towson, MD

Re: 1619 Hollins Avenue
Emil A. Budnitz, Jr. Owner, Jeff Budnitz Contract Purchaser
Zoning Commissioner Case No. 99-113-A

Dear Mr. Perdikakis:

Please be advised that the above captioned case is scheduled for hearing next Thursday, June 17,1 999 before the County Board of Appeals. My client, Dr. Robert Sussman has been trying to locate a file within DEPRM for review of the proposed house to be located on this subject site and your Department has been unable to find the file. We know your Department has the file in that Dr. Sussman, a number of months ago, had reviewed it at the time the case was before the Zoning Commissioner. The case is now before the County Board of Appeals and we need to review your file in order to properly prepare for the case next week. To date DEPRM has been unable to locate where the file is, although it has acknowledged that there is a file existing within DEPRM. I appreciate your assistance in making all efforts to locate this file promptly so that we can prepare for a hearing before the County Board of Appeals.

If we are unable to locate the file, it will be necessary for me to ask for a postponement before the Baltimore County Board of Appeals of this hearing by Friday, June 11, 1999. Thank you very much for your assistance in this regard.

Very truly yours,

J. Carroll Holzer

cc: Kathy Bianco
Dr. Robert Sussman
a:/letters/deprm.ltr

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: That at the first meeting of the RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION held on June 22, 1998, it was decided by the Association that responsibility for review and action on all zoning matters for the period June 1998 through June 1999 be placed in the Board of Directors and Zoning Committee consisting of the following members:

Michael Sicher	Sarah Lord
George Grose	Peggy Squitieri
Barry Truax	Nancy Hill
Carol Shear	David Whitman

AS WITNESS OUR HAND AND SEAL THIS 22rd day of June, 1998.

Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.

ATTEST:

Sarah Lord
Secretary

Michael Sicher
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors and/or Zoning Committee of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

Sarah Lord

The Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

ATTEST:

Sarah Lord
Secretary

Michael Sicher
President

Date: June 22, 1998

RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: By the Executive Committee of the Board of Directors of this Association that the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. supports the appeal before the Board of Appeals of Baltimore County, by the Hollins Avenue and Lake Manner Court neighborhoods, opposing the DEPRM variance to stream buffer regulations and the zoning variance granted to Emil and Jeff Budnitz who intend to build 18 feet from the stream (instead of the required 100 ft.) and three-and-one-half feet from the road (instead of the required 40 ft.) at 6019 Hollins Avenue.

AS WITNESS OUR HAND AND SEAL, THIS 17th DAY OF JUNE, 1999.

THE RUXTON-RIDERWOOD-
LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.

ATTEST:

Judith Wright
Secretary

Barry Truax
President

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.
P.O. Box 204
Riderwood, Maryland 21139
Tel. & FAX: 410-377-4700

The Honorable Thomas P. Melvin
Appeals Board Member
Baltimore County Board of Appeals
Old Courthouse
400 Washington Avenue
Towson, MD. 21204

25 June, 1999

Dear Mr. Melvin,

At the Budnitz variances appeal (Case 99-113-A) on June 17, 1999, your panel ruled that I could not testify on behalf of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. It was the panel's judgment that I did not present specific authorization from this Association to testify on this issue.

I enclose a copy of the People's Counsel's instructions to community associations wishing to testify before the Appeals Board, as well as a copy of Rule 8.

I also enclose Xeroxes of the two resolutions and of the affidavit, which I proffered after being sworn in. These are routinely presented by this Association prior to testimony, and to my knowledge have never been ruled inadequate before. Please note that they follow exactly the instructions set out by the People's Counsel and the directives of Rule 8.

If community associations which have followed the directives of Rule 8 are denied the right to testify because additional affidavits will be required by the Appeals Board panel, I think it only fair that the Appeals Board specify what those are to be – prior to the hearing. Testifying at hearings can be burdensome and hard on the pocketbook for communities. Keeping the rules clear at least reduces the frustration.

I would be very grateful if you would specifically inform me what else I must present (besides the enclosed Rule 8 documents) in order to testify on behalf of this Association, when this hearing is continued.

Very truly yours,

Sarah Fenno Lord

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 29 PM 12: 25

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: That at the first meeting of the RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION held on June 22, 1998, it was decided by the Association that responsibility for review and action on all zoning matters for the period June 1998 through June 1999 be placed in the Board of Directors and Zoning Committee consisting of the following members:

Michael Sicher	Sarah Lord
George Grose	Peggy Squitieri
Barry Truax	Nancy Hill
Carol Shear	David Whitman

AS WITNESS OUR HAND AND SEAL THIS 22rd day of June, 1998.

Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.

ATTEST:

Sarah Lord
Secretary

Michael Sicher
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors and/or Zoning Committee of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

Sarah Lord

The Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

ATTEST:

Sarah Lord
Secretary

Michael Sicher
President

Date: June 22, 1998

RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: By the Executive Committee of the Board of Directors of this Association that the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. supports the appeal before the Board of Appeals of Baltimore County, by the Hollins Avenue and Lake Manner Court neighborhoods, opposing the DEPRM variance to stream buffer regulations and the zoning variance granted to Emil and Jeff Budnitz who intend to build 18 feet from the stream (instead of the required 100 ft.) and three-and-one-half feet from the road (instead of the required 40 ft.) at 6019 Hollins Avenue.

AS WITNESS OUR HAND AND SEAL, THIS 17th DAY OF JUNE, 1999.

THE RUXTON-RIDERWOOD-
LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.

ATTEST:

Judith Wright
Secretary

Barry Truax
President

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old Court House
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

MEMORANDUM TO: All Civic Associations **DATE:** June 22, 1993

FROM : People's Counsel for Baltimore County

SUBJECT : Appearance before the Board of Appeals as Representative of a Civic Association

Attached to this memorandum is a copy of Rule 8 of the Rules of Practice and Procedure of the County Board of Appeals which governs the appearance before the Board of representatives of civic or improvement associations.

This rule requires the following:

1. That the person who testifies can describe accurately the number of members in the association and the geographic limits of the association; and

1107 members as of 6/15/99 Falls Rd Beltway Ayling Lane Thos St. Ave

2. That the person is authorized to speak for and present the views of the association. This second requirement can <u>only</u> be met by:

   a. A resolution (in duplicate) adopted by the association at its annual meeting or first meeting of the year signed by the president and attested by the secretary. This resolution must state that the responsibility for review and action of all zoning matters is placed in the board of directors or a duly elected zoning committee; and

   OR AT A SPECIAL MEETING

   b. A written affidavit (in duplicate) signed by the president of the association and attested by the secretary that he is currently a duly elected member of the board of directors or zoning committee of that association, or is an attorney appointed to represent the board of directors or zoning committee; and

   c. A resolution (in duplicate) adopted by the board of directors or zoning committee signed by the president and attested by the secretary stating the position of the association.

For your assistance, we have also attached sample resolutions and affidavits which may be used by your association. They have been reviewed by the Board of Appeals for form, but, of course, the substance remains the responsibility of the community association.

Peter Max Zimmerman
People's Counsel for Baltimore County

Post-it™ brand fax transmittal memo 7671	# of pages ▸ 2
NANCY HORST	From CAROL FISHER
	Co. PEOPLE'S COUNSEL
pt.	Phone # 887-2188
[redacted]25-0517	Fax #

EXCERPT FROM RULES OF PRACTICE AND PROCEDURE OF COUNTY BOARD OF APPEALS

Rule 8. Special rule pertaining to persons appearing before the board as representatives of civic or improvement associations.

a. Before any person shall testify on behalf of any civic or improvement association, it shall be shown that he has accurate knowledge of the number of members in the association and geographical limits of the association.

b. Before any such person shall testify it shall also be shown that he is authorized to speak for and present the views of the civic or improvement association.

c. Such authorization shall consist of presenting at the hearing or prior thereto a resolution in duplicate duly adopted by the association at its annual meeting or first meeting of each year, signed by the president and attested by the secretary, providing that the responsibility for review and action on all zoning matters be placed in its board of directors or a duly elected zoning committee.

d. Before any such authorized person shall testify, it shall be shown by written affidavit in duplicate, signed by the president of the association and attested by the secretary, that he is currently a duly elected member of the board of directors or zoning committee of that association, or is an attorney appointed to represent the board of directors or zoning committee.

e. Before any such authorized person shall testify, a resolution stating the position of the association as adopted by the board of directors or zoning committee, signed by the president and attested by the secretary, shall also be produced in duplicate at the hearing.

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.
P.O. Box 204
Riderwood, Maryland 21139
Tel. & FAX: 410-377-4700

The Honorable Margaret Worrall
Appeals Board Member
Baltimore County Board of Appeals
Old Courthouse
400 Washington Avenue
Towson, MD. 21204

25 June, 1999

Dear Mrs. Worrall,

At the Budnitz variances appeal (Case 99-113-A) on June 17, 1999, your panel ruled that I could not testify on behalf of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. It was the panel's judgment that I did not present specific authorization from this Association to testify on this issue.

I enclose a copy of the People's Counsel's instructions to community associations wishing to testify before the Appeals Board, as well as a copy of Rule 8.

I also enclose Xeroxes of the two resolutions and of the affidavit, which I proffered after being sworn in. These are routinely presented by this Association prior to testimony, and to my knowledge have never been ruled inadequate before. Please note that they follow exactly the instructions set out by the People's Counsel and the directives of Rule 8.

If associations which have followed the directives of Rule 8 are to be denied the right to testify because additional affidavits will be required by the Appeals Board panel, I think it only fair that the Appeals Board specify what those are to be – prior to the hearing. I know you remember, from your own long and capable service on behalf of communities, that testifying at hearings can be burdensome and hard on the pocketbook for citizens. Keeping the rules clear at least reduces the frustration.

I would be very grateful if you would specifically inform me what else I must present (in addition to the enclosed Rule 8 documents) in order to testify on behalf of this Association, when this hearing is continued.

Very truly yours,

Sarah Fenno Lord

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 29 PM 12:18

HOLZER

& LEE

LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

March 11, 1999
 # 7132

Kathleen Bianco, Administrator
County Board of Appeals
Old Courthouse, Room 49
Towson, Maryland 21204

Re: Appeal Petition for Variance, Case No. 99-113-A
6019 Hollins Ave.
4th Councilmanic District
Emil A. Budnitz, Jr., Owner

Dear Ms. Bianco:

Please enter my appearance on behalf of Dr. and Mrs. Robert Sussman in the Appeal of Mr. and Mrs. Ralph Willis filed by Rob Hoffman, Esquire in Case No. 99-113-A rendered by the deputy Zoning Commissioner on or about December 8, 1998.

If you have any questions, please call me at 410-825-6961.

Very truly yours,

J. Carroll Holzer

JCH:clh

cc: Dr. and Mrs. Robert Sussman

c:letters\Bianco.3

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

February 12, 1999

James N. Phillips, Esquire
PHILLIPS, SLOAN & SILVERMAN, P.A.
18 W. Franklin Street
Baltimore, MD 21201-5050

RE: Case No. 99-113-A /In the Matter of
Emil A. Budnitz, Jr. -Owner; Jeff Budnitz
-Contract Purchaser /Petitioners

Dear Mr. Phillips:

The Board is in receipt of your recent correspondence dated January 18, 1999 regarding the subject matter.

In response to your request, you have been entered as counsel for Dr. and Mrs. Sussman. Also, Dr. and Mrs. Sussman have been added to the file as parties in this matter. However, no further appeals may be taken at this time, nor Appellants added. The Deputy Zoning Commissioner's Order was dated December 8, 1998; therefore, any appeal from his decision must have been filed by January 7, 1999, within the required 30-day appeal period.

Should you have any questions or require any additional information, please don't hestitate to contact me.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

cc: Edward C. Covahey, Jr., Esquire
Jeff Budnitz
Emil A. Budnitz, Jr.
Dr. & Mrs. Robert L. Sussman
Robert A. Hoffman, Esquire
Mr. & Mrs. Ralph N. Willis
Joseph Gerlak
Betty Ruano
Cecily Matthai
Bonnie and Anton Dahbure
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink

PHILLIPS, SLOAN & SILVERMAN, P.A.
ATTORNEYS AT LAW

JAMES N. PHILLIPS
JOHN W. SLOAN
DENNIS G. SILVERMAN

18 W. FRANKLIN STREET
BALTIMORE, MD. 21201-5050
(410) 539-3337
FAX
(410) 539-3337

JAN 19 PM 3:05

January 18, 1999

To: BALTIMORE COUNTY BOARD OF APPEALS
111 West Chesapeake Avenue
Towson, MD 21204

Re: Petition for Variance, Case No. 99-113-A, 6019 Hollins Avenue, 9th Election District, Emil A. Budnitz, Jr., Owner, Jeff Budnitz, Contract Purchaser - Petitioners

APPEAL OF THE ABOVE-REFERENCED CASE

Gentlemen:

Please be advised that Dr. & Mrs. Robert L. Sussman wish to join in the appeal filed by Robert A. Hoffman, Esquire on behalf of Mr. & Mrs. Ralph N. Willis in the captioned case. The Sussmans as appellants will be represented by the undersigned and will cooperate with the appellants, Mr. & Mrs. Ralph N. Willis, and lead counsel, Robert A. Hoffman, Esquire.

Sincerely yours,

James N. Phillips

jnp:slk#11

cc: Mr. Jeff Budnitz, 4411-C Falls Branch Dr., Baltimore, MD 21211
Mr. Joseph Gerlak, 4 Lake Manor Ct., Baltimore, MD 21210
Ms. Betty Ruano, 10 Lake Manor Ct., Baltimore, MD 21210
Ms. Cecily Matthai, 6035 Hollins Ave., Baltimore, MD 21210
Sally and Bo Willis, 6017 Hollins Avenue, Baltimore, MD 21210
Bonnie and Anton Dahbure, 6033 Hollins Ave., Baltimore, MD 21210
Mr. & Mrs. Robert L. Sussman, 6 Hollins Ave., Baltimore, MD 21210

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147
www.venable.com

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

VENABLE
ATTORNEYS AT LAW

Robert A. Hoffman
(410) 494-6262

$ Cashier

January 5, 1999

HAND-DELIVERED

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

County Board of Appeals of
Baltimore County
Attention: Kathleen Bianco
Old Courthouse, Basement
400 Washington Avenue
Towson, Maryland 21204

Re: Notice of Appeal
Petition for Variance – NE/S of Hollins Avenue, 251' E of the c/l of Lake Manor Drive (6019 Hollins Avenue)
Petitioners: Emile A. Budnitz, Owner, Jeff Budnitz, Contract Purchaser
Case No. 99-113-A
9th Election District
4th Councilmanic District

Dear Mr. Jablon and Mrs. Bianco:

Please note that we represent Mr. and Mrs. Ralph N. Willis, 6017 Hollins Avenue, Baltimore, Maryland 21210. Please note an Appeal on behalf of our clients from the decision of the Deputy Zoning Commissioner for Baltimore County, dated December 8, 1998, granting the Petitioners a variance in Case No. 99-113-A. I am enclosing a check in the amount of $210.00 to cover the costs of this appeal.

VENABLE
ATTORNEYS AT LAW

Yours truly,

Robert A. Hoffman

RAH/pam

cc: Mr. and Mrs. Ralph N. Willis

TO1DOCS1/pam01/#76539 v1

RECEIVED
JAN - 5 1998
99-29
PDM

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

January 6, 1999

Mr. Emil A. Budnitz, Jr.
6019 Hollins Avenue
Baltimore, Maryland 21210

Dear Mr. Budnitz:

RE: Petition for Variance, Case No. 99-113-A, 6019 Hollins Avenue, 9th Election District:, Emil A. Budnitz, Jr., Owner; Jeff Budnitz, Contract Purchaser - Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on January 5, 1999 by Robert A. Hoffman, Esquire on behalf of Mr. and Mrs. Ralph N. Willis. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Director

AJ:cjs

c: People's Counsel
Mr. Jeff Budnitz, 4411-C Falls Branch Drive, Baltimore, MD. 21211
Mr. Joseph Gerlak, 4 Lake Manor Court, Baltimore, MD. 21210
Ms. Betty Ruano, 10 Lake Manor Court, Baltimore, MD. 21210
Ms. Cecily Matthai, 6035 Hollins Avenue, Baltimore, MD. 21210
Sally & Bo Willis, 6017 Hollins Avenue, Baltimore, MD. 21210
Bonnie & Anton Dahbure, 6033 Hollins Avenue, Baltimore, MD. 21210
James N. Philips, Esquire, 18 W. Franklin Street, Baltimore, MD. 21201
Mr. & Mrs. Robert L. Sussman, 6 Hollins Avenue, Baltimore, MD. 21210

Printed with Soybean Ink
on Recycled Paper

GRACE GARDNER
6027 HOLLINS AVENUE
BALTIMORE, MARYLAND 21210

11/14/98

18

Dear Mr Kotroco:

In regards to Case 99-11-34 I say no to variance to Baltimore County 40 foot set back regulation at 6019 Hollins Avenue,

This would harm the Caracter of the area + cause more added Traffic which is heavy from Traffic going to Robert E. Lee Park.

Sincerely,
Grace Gardner

RODNEY J. BROOKS
~~2ND SAINT PAUL PLACE~~
BALTIMORE
6011 Hollins Ave
Balto Co 21210

11/14/98

Dear Mr Kotroco

Re: 99-11-3A
Dept of Zoning
Balto Co Court House
Towson 21204

Regarding Mr Budnitz's request for a variance instead of existing ho' I believe is not a proper request for this area. The road is too narrow at this point for a change in variance. Thank you for your consideration

Thomas Miller Jr

Robert and Shirley Sussman
6 Hollins Ave.
Baltimore, MD 21210

23

Timothy Kotroco
Deputy Zoning Commissioner
Baltimore County Courthouse
Towson, MD 21204

Dear Commissioner Kotroco:

As homeowners directly across from the proposed homesite at 6019 Hollins Ave., we would like to voice our opposition to the requested variance of Baltimore County's building regulations in case #99-113A (3ft. versus a 40 ft. setback).

Based on observations made by a real estate agent knowledgeable about this neighborhood, granting this variance will have a negative effect on the value of our property. The lot, as it currently stands, lends a rural atmosphere to the area. With a house 3 feet from the road, the entire aesthetic is diminished.

We request that the law be applied as written. A precedent such as this not only alters the character of this neighborhood, but also opens the door to other potentially unsightly building practices. These variances will ultimately affect everyone who is currently protected by this law, including our good neighbor, Mr. Budnitz.

Sincerely,

Shirley Sussman

(for) Robert and Shirley Sussman

4 Lake Manor Court
Baltimore, MD 21210

November 12, 1998

Timothy Kotroco
Deputy Zoning Commissioner
Baltimore County Courthouse
Towson, MD 21204

RECEIVED
18
ZONING COMMISSIONER

RE: Case # 99-11-3A

Dear Commissioner Kotroco,

I am writing to voice my concern and opposition to granting a variance to Mr. Budnitz (Case # 99-11-3A). Granting a variance of this magnitude for new home construction would set a dangerous precedent.

This neighborhood is unique because of the low density and generous setback. Fortunately, Baltimore County zoning and building regulations require a 40 foot setback. To change this standard is to significantly and negatively change the character of our neighborhood.

I understand Mr. Budnitz has a right to develop his property, but this is the second time he is asking his neighbors to extend special consideration for his building projects. His plan, if approved, will have a grave impact on our neighborhood. I have discussed this with more than a dozen neighbors. None of them supports Mr. Budnitz's project.

I hope you will be fair and take into consideration my opinion when making your decision.

Sincerely,

Joseph Gerlak

Joseph Gerlak

Petition

We, the undersigned neighbors surrounding Lot 226, Deed Reference # 8920-569 on Hollins Avenue, feel strongly about preserving the character or our neighborhood by maintaining the existing setback requirement. We oppose the variance requested for new home construction at this site. CASE # 99-11-3A

	Name	Street Address	Phone
1	Joseph Gerlak	4 Lake Manor Ct. Balto.	377-5175
2	Betty J. Ruano	10 Lake Manor Ct. Balt.	377-9652
3	Stacy A Horkey	6 Lake Manor Ct Balto.	377-2860
4	Marilyn Pletcher	8 Lake Manor Ct. Balt.	377-0579
5	Shirley Lussman	6 Hollins Ave. Balt.	377-8344
6	Grace Gardney	6027 Hollins Ave	377-0544
7	Joseph [illegible]	2 Lake Manor Ct	377-2827
8	Amelia Andres	6010 Lake Manor Dr	377-5913
9	William M. Drehl	6005 Lake Manor Dr	377-446
10			
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9-15-98

MEMO TO The File

TO: ZC/Deputy ZC

From: JJS, Planner II

Subject: Variance Petition Item # 113
6019 Hollins Ave.

Per the applicant, Mr. Joseph McGraw, a registered Engineer, this property (per Mr. Reg Tang + Mr Donald Rascoe of this office had to be reviewed by the DRC as on the record plat it was shown as a parcel. However per Mr. McGraw at the DRC meeting w/ Carl Richards, Zon. Super happened to be in attendence that day & stated that the DRC was not necessary & that the petition could just proceed thru the Zon. Variance process.

99-113-A

11-14-00

To: Jim 11/15/00
11/17/00 WCR

Shirley & Robert Sussman
6 Hollins Ave.
Baltimore, MD 21210
Phone 410-377-8244

00-3686
NOV 15 2000
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

Arnold Jablon
Director of PDM
111 W. Chesapeake Ave
Towson, MD 21204

To: Dave
11/20/00
Appeal's case
Pls. contact Ms. Sussman

Dear Mr. Jablon:

At your earliest convenience, please return the exhibits for case # 99-113-A. Thank you for your attention to this matter.

Respectfully,

Shirley Sussman

Date: September 30, 1998

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS/JP

SUBJECT: Zoning Item #113

Budnitz Property - 6019 Hollins Avenue

Zoning Advisory Committee Meeting of September 28, 1998

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

_____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

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

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code). A variance has been granted.

__X__ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code). An intra-family transfer declaration of intent is required.

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: October 5, 1998

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for October 5, 1998
Item No. 113

The Development Plans Review Division has reviewed the subject zoning item. Per our records, the public sewer is not available for this site. The closest public sanitary sewer is at the intersection of Hollins Avenue and Lake Manor Drive. See drawing #75-0397 (file 1).

RWB:HJO:jrb

cc: File

ZAC1005.113

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: September 28, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comment on the following petition (s):
Item No (s): 113, 115, 117, 118, and 119

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief: Jeffrey W. Long

AFK/JL

RECEIVED
2 8 1998
PDM

S:\ZAC\113.doc

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

Date: 9.25.98

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 113 JJS

Dear Ms. Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Prot. #6

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.
P.O. Box 204
Riderwood, Maryland 21139
Tel. & FAX: 410-377-4700

Appeals Board of Baltimore County
Old Courthouse
Towson, MD 21204

Case #99-113-A
6019 Hollins Avenue

October 26, 1999

Dear Members of the Appeals Board:

My name is Sarah Lord. I live at 6134 Barroll Road in Baltimore County. I am a member of the Board of Directors of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc., which is an umbrella organization of Baltimore County neighborhoods bounded by Lake Avenue and the city line to the south, taking in Falls Road on the west, reaching to the beltway to the north, and including Charles Street Avenue as its eastern border. As of June 1999, this Association had 1107 paid members. I serve as its Zoning Chair. I am authorized today to speak on behalf of the Association.

The Ruxton-Riderwood Lake Roland Area Improvement Association, Inc. requests that after due consideration you reverse Deputy Zoning Commissioner Timothy Kotrocco's granting of a zoning variance at 6019 Hollins Avenue. Residences in this neighborhood are set back from the road by at least forty feet. It considerably changes the character of the neighborhood to have garages and houses built adjacent to the road. Mr. Jeff Budnitz seeks to build four feet from the road right-of-way, an unwarranted departure from the neighborhood norm.

It is true that Mr. Budnitz can cite a precedent, and on this very tract. Some years ago his father, Mr. Emil Budnitz, was granted a variance to build four feet from the road -- a situation very much against the wishes of the community, and one which remains a startling deviation.

This Association also strongly urges that you overturn DEPRM's inappropriate permitting of construction within the Maryland Department of the Environment's 25-foot wetlands buffer, when DEPRM regulations require a 100-foot buffer between the center of the stream and construction. Baltimore County's Department of Environmental Protection and Resource Management is mandated to protect the *more than* 12,350 square feet of wetlands on this triangulated property and its stream which flows into the Jones Falls. These are a vulnerable and valuable part of the Jones Falls watershed, which Baltimore County and the Army Corps of Engineers jointly undertook to protect and improve.

It is discouraging to County citizens to discover after the fact that the agencies of our government, which exist to protect shared resources and uphold community

standards, are actually handing out waivers, variances and exceptions to important regulations -- like so many birthday presents. There have been some misrepresentations in this case, and we hope you examine the facts with care.

As there does exist another building site on the property -- which would meet the 40-foot zoning setback as well as considerably expand the stream and wetlands buffer -- it is clear that that neither hardship nor practical difficulty can be argued in this case.

Ladies and gentlemen, we urge that you reverse the variance to the zoning setback of 40-feet granted by Deputy Zoning Commissioner Timothy Kotrocco. It is not the responsibility of Baltimore County through its permitting and planning and zoning process to find for the landowner a use perfectly desirable to him.

But county citizens do consider it the responsibility of their government to protect the environment and assure community standards -- by enforcing well-considered regulations.

Very truly yours,

Sarah Fenno Lord

Sarah Fenno Lord
Zoning Chair

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: That at the first meeting of the RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION held on June 29, 1999, it was decided by the Association that responsibility for review and action on all zoning matters for the period June 1999 through June 2000 be placed in the Board of Directors and Executive Director consisting of the following members:

Bruce Boswell
Michael Chasney
Lynn Clifford
Joseph Coale, III
Alan Edelman
Rosalyn Evans
Liz Bowie Fesperman
Gene Funk
Thomas George
Sophie Gerard
Brett Goodrich
Harry Gormley
Benjamin Hearn
William Heller
Nancy Hill
Richard Huether
Sarah Lord
Cecily Matthai
Herbert Mittenthal
Frederick Rasmussen
Tate Showers
Barry Truax
David Whitman
Judith Wright
Peggy Squitieri

AS WITNESS OUR HAND AND SEAL THIS 29th day of June, 1999.

Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.

ATTEST:

Judith Wright
Secretary

Barry Truax
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

Sarah Lord

The Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.

ATTEST:

Judith Wright
Secretary

Barry Truax
President

Date: June 29, 1999

RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC.

RESOLVED: By the Executive Committee of the Board of Directors of this Association that the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. supports the appeal before the Board of Appeals of Baltimore County, by the Hollins Avenue and Lake Manner Court neighborhoods, opposing the DEPRM variance to stream buffer regulations and the zoning variance granted to Emil and Jeff Budnitz who intend to build within the Maryland Department of the Environment's 25-foot wetlands buffer (instead of the required 100 ft. from the stream's center) and five feet from the road (instead of the required 40 ft.) at 6019 Hollins Avenue.

AS WITNESS OUR HAND AND SEAL, THIS 25th DAY OF OCTOBER, 1999.

THE RUXTON-RIDERWOOD-
LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.

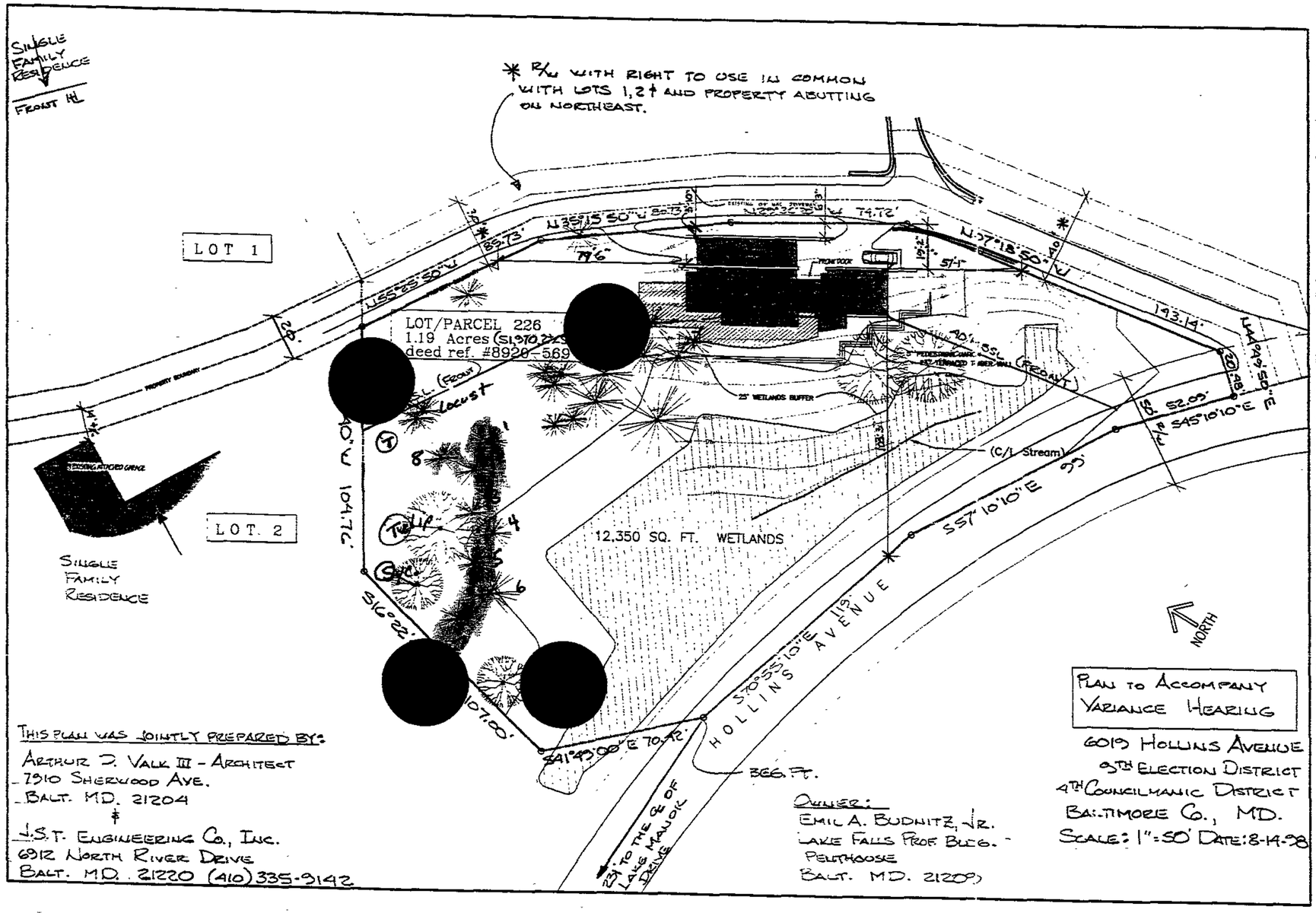
ATTEST:

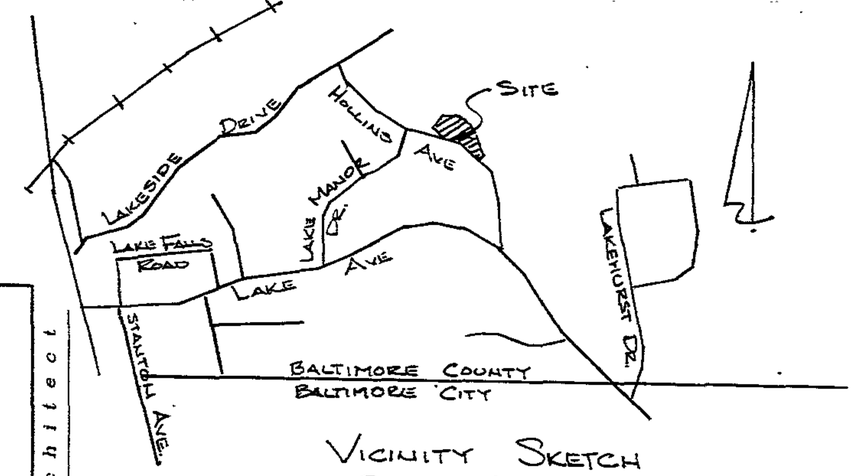
Judith Wright
Secretary

Barry Truax
President

Prot. #10

SINGLE FAMILY RESIDENCE
FRONT HL +/-

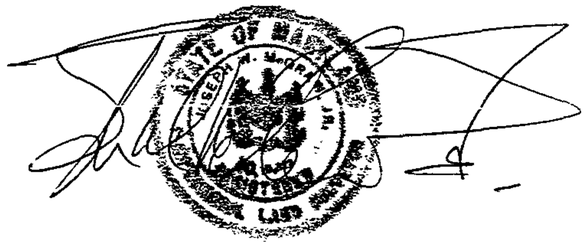




VICINITY SKETCH
SCALE: 1" = 1000'

NOTES:

1. AREA OF PROP. = 1.19+/- ACS. 51,970.2 +/- SQ. FT.
2. ZONING OF PROP. D.R. 2
3. THERE ARE NO PRIOR ZONING HEARINGS ON THIS SITE.
4. BALT. CO. DEPRM HAS APPROVED THE 25' WETLANDS BOFFER SHOWN HEREON



THIS PLAN WAS JOINTLY PREPARED BY:
ARTHUR D. VALK III - ARCHITECT
7910 SHERWOOD AVE.
BALT. MD. 21204
&
J.S.T. ENGINEERING CO., INC.
6912 NORTH RIVER DRIVE
BALT. MD. 21220 (410) 335-9142

OWNER:
EMIL A. BUDNITZ, JR.
LAKE FALLS PROF BLDG.
PENTHOUSE
BALT. MD. 21209

PLAN TO ACCOMPANY VARIANCE HEARING
6019 HOLLINS AVENUE
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
BALTIMORE CO., MD.
SCALE: 1" = 50' DATE: 8-14-98

ARTHUR D. VALK III Architect
7910 SHERWOOD AVENUE BALTIMORE, MARYLAND 21204 (410) 321-6928
6019 HOLLINS AVENUE

SP-1

Plot. #15

Norway Spruce

#1 19.4"
2 15.9"
3 14"
4 15.9"
5 14.6"
6 19.7"
7 16.2"
8 19.7"

Hemlock Grove

8 hemlock
1 scotch pine } max dia 19.2"

3 of these are "dual trunk"

W-20 — Sycamore A — 31.8"
Sycamore B — 44.3"
W-19 Tulip Poplar — 45.9"

White Pine — 30.9"
Oak — 27.4" } To be taken down

Black walnut 15.1 } cut down spring 99

McG #1 — quadruple trunked Ash tree

* all measurements taken at 4½' from ground

PLOT. # 18

BRUCE E. DOAK
LICENSED PROPERTY LINE SURVEYOR
11 Cedarwood Circle
Pikesville, Maryland 21209
(410) 486-4362

REGISTRATION: State of Maryland, Registered Property Line Surveyor #531

EXPERIENCE:
Partner - Gerhold, Cross & Etzel, Towson, Maryland
January 1992 - Present

Job Description: Complete Project Management for Major and Minor Residential Subdivisions and Commercial Development; perform comprehensive zoning services and oversee thorough boundary surveys.

Project Surveyor - Draft-McCune-Walker, Inc., Towson, Maryland
February 1988 - January 1992

Job Description: Effective client interaction; thorough computations for boundary surveys, construction stakeout, subdivisions, easements, right-of-ways, and utilities; coordination of field crews; comprehensive record research and legal description writing.

Senior Crew Chief - George W. Stephens, Jr. & Associates, Towson, Maryland
August 1986 - July 1988

Job Description: Supervision of a field crew on boundary and constructions surveys; thorough computations for boundary surveys, construction stakeout, and subdivisions.

Owner and Operator - Marshall and Marshall Land Surveyors, Parkersburg, West Virginia
October 1982 - August 1986

Job Description: Effective client interaction; complete billing of jobs; thorough computations for boundary surveys, construction stakeout, subdivisions, easements, right-of-ways, and utilities; coordination of field crews; comprehensive record research and legal description writing.

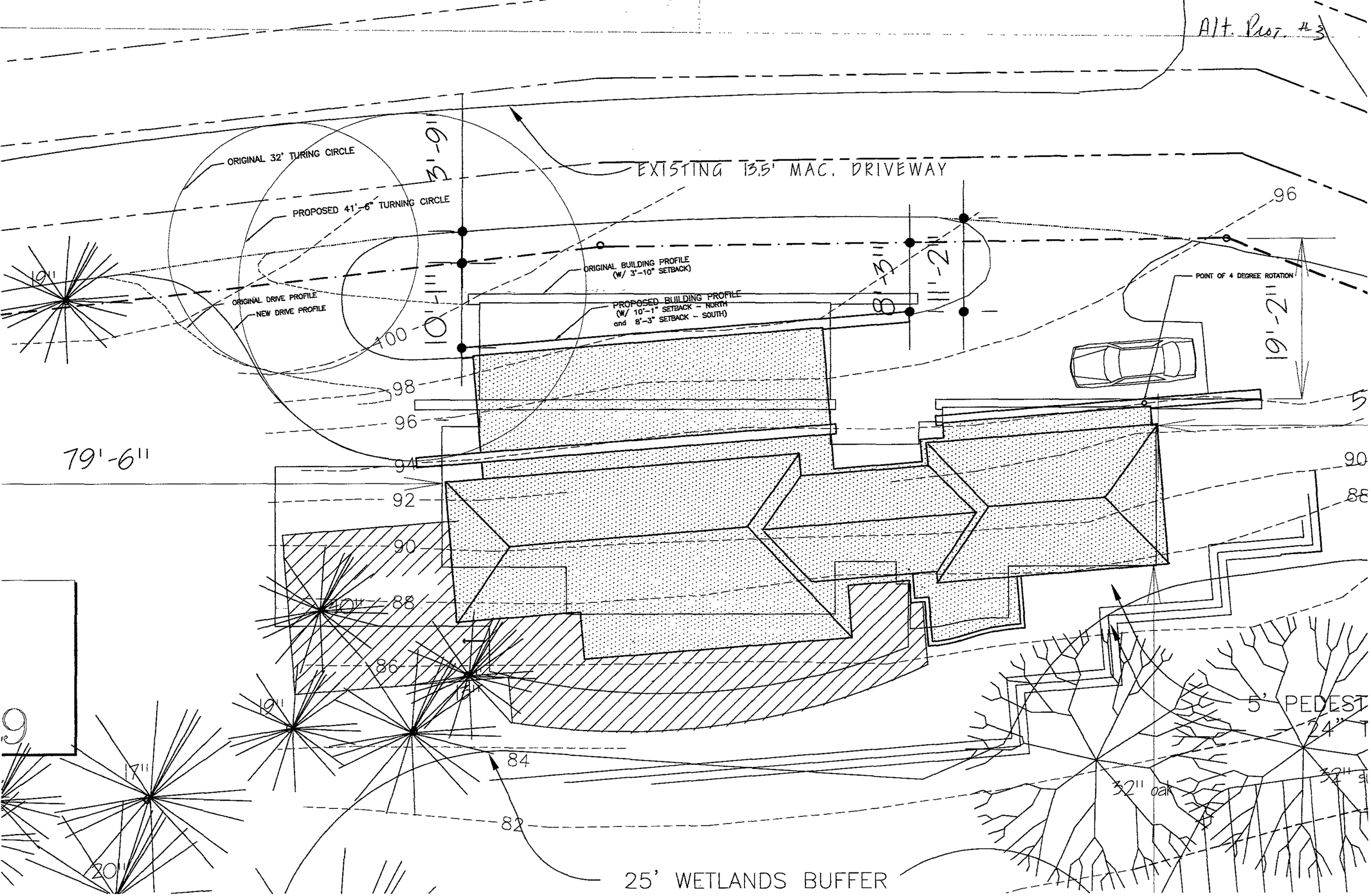
Crew Chief - Davis-Wilcox Construction, Parkersburg, West Virginia
June 1980 - September 1982

Job Description: Supervision of a field crew on boundary and construction surveys; thorough computations for boundary surveys, construction stakeout, and subdivisions

Student - Glenville State College, Glenville, West Virginia
September 1978 - May 1980

Associate Degree in Land Surveying

Alt. Plot #3


ORIGINAL 32' TURNING CIRCLE
PROPOSED 41'-6" TURNING CIRCLE
ORIGINAL DRIVE PROFILE
NEW DRIVE PROFILE
EXISTING 13.5' MAC. DRIVEWAY
ORIGINAL BUILDING PROFILE (W/ 3'-10" SETBACK)
PROPOSED BUILDING PROFILE (W/ 10'-1" SETBACK - NORTH and 8'-3" SETBACK - SOUTH)
POINT OF 4 DEGREE ROTATION
5'-9"
10'-0"
8'-3"
8'-2"
19'-2"
79'-6"
96
98
100
94
92
90
88
86
84
82
5
19"
10"
17"
20"
32" oak
5' PEDEST
24"
25' WETLANDS BUFFER

Pet. 17

THIS DEED, Made this 19th day of June, in the year one thousand nine hundred and sixty-four, by and between JULIA ADELE GAY and LESLIE N. GAY, her husband, of Baltimore County, in the State of Maryland, Grantors; and LAIRD, ROCK AND SMALL, INC., a body corporate, duly incorporated under the Laws of the State of Maryland, Grantee.

WITNESSETH, that in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations, the receipt thereof is hereby acknowledged, the said Grantors do hereby grant and convey unto the said Grantee, its successors and assigns, in fee simple, all that tract of land situate in the 9th Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same at a stone heretofore set at the end of the first or North 45 degrees 20 minutes West 240 foot line of the parcel of land which by a Deed dated January 7, 1910 and recorded among the Land Records of Baltimore County in Liber WPC No. 353, folio 313, was conveyed by Margaret B. Elliott, et al, to Mary M. Griffith, and running thence binding on the outline of said conveyance (the courses herein being referred to the meridian of the Baltimore County Coordinate System), (1) South 73 degrees 09 minutes 20 seconds West 31.57 feet, (2) South 53 degrees 34 minutes 50 seconds West 118.00 feet, (3) South 42 degrees 19 minutes 50 seconds West 162.00 feet to a large marble stone, (4) South 59 degrees 19 minutes 50 seconds West 387.24 feet to a large marble stone, (5) South 45 degrees 19 minutes 50 seconds West 204.00 feet, (6) South 56 degrees 10 minutes 10 seconds East 130.50 feet, (7) South 34 degrees 40 minutes 10 seconds East 110.50 feet, (8) South 17 degrees 40 minutes 10 seconds East 133.75 feet, (9) South 40 degrees 25 minutes 10 seconds East 95.00 feet, (10) North 5 degrees 34 minutes 50 seconds East 33.00 feet, (11) South 53 degrees 55 minutes 10 seconds East 66.00 feet, (12) South 77 degrees 55 minutes 10 seconds East 92.50 feet and (13) South 85 degrees 55 minutes 10 seconds East 158.50 feet, thence for lines of division now made (14) North 41degrees 49 minutes 00 seconds East 70.42 feet, (15) North 16 degrees 22 minutes 40 seconds East 107.00 feet to an iron bolt, (16) North 60 degrees 49 minutes 40 seconds East 109.76 feet, (17) South 55 degrees 25 minutes 50 seconds East 85.73 feet, (18) South 35 degrees 15 minutes 50 seconds East 80.73 feet, (19) South 29 degrees 36 minutes 20 seconds East 74.72 feet, (20) South 7 degrees 18 minutes 50 seconds East 143.14 feet, (21) South 44 degrees 49 minutes 50 seconds West 20.48 feet to intersect the 17th or South 38 degrees 30 minutes East 99 foot line of the aforesaid conveyance to Mary M. Griffith thence binding on a part thereof, (22) South 45 degrees 10 minutes 10 seconds East 20.00 feet to a point 26.91 feet Northwesterly from the end of said line, thence for lines of divisionnow made parallel and 20 feet easterly from the 17th thru 21st lines above, (23) North 44 degrees 49 minutes 50 seconds East 30.26 feet, (24) North 7 degrees 18 minutes 50 seconds East 156.86 feet, (25) North 29 degrees 36 minutes 20 seconds West 79.64 feet, (26) North 35 degrees 15 minutes 50 seconds West 85.27 feet, (27) North 55 degrees 25 minutes 50 seconds West 80.42 feet to a point North 41 degrees 43 minutes 30 seconds East 2.73 feet from an iron bolt, thence still for lines of division now made, (28) North 41 degrees 43 minutes 30 seconds East 110.60 feet and (29) North 60 degrees 10 minutes 50 seconds East 82.50 feet, (30) North 37 degrees 01 minutes 00 seconds West 96.16 feet and (31) North 52 degrees 00 minutes 00seconds East 255.11 feet to intersect the 24th line of the aforesaid conveyance to Mary M. Griffith at a point 54 feet from the beginning of said line, thence binding on said outline, (32) North 39 degrees 30 minutes 10 seconds West 90 feet and North 50 degrees 33 minutes 40 seconds West 352.12 feet to the place ofbeginning.

Pet. #8

Baltimore County
Department of Environmental Protection
and Resource Management

BUREAU OF RESOURCE MANAGEMENT
AND ENGINEERING SERVICES
401 Bosley Avenue, Suite 416
Towson, Maryland 21204
410-887-3980
Fax: 410-887-4804

March 9, 1998

Mr. Arthur Valk
Valk Design Associates
7910 Sherwood Avenue
Towson, MD 21204

Re: Budnitz Property
Forest Buffer Variance Request

Dear Mr. Valk:

Environmental Impact Review staff have reviewed the subject submission. We recognize the severe constraints associated with the construction of a home on this site. However, before we can finalize the review of this request, we would like you to investigate some minor design changes to minimize the impacts associated with developing this site. Specifically, we request that the size and/or shape of the house is changed to allow the construction of a retaining wall at the limit of the Forest Buffer.

When we have received your response, we will resume the review of this request. If you have any questions regarding this correspondence, please contact Ms. Valarie Klein at (410) 887-3980.

Very truly yours,

Patricia M. Farr, Supervisor
Environmental Impact Review

PMF:vmk/valk.doc

discussed function; 1. stop "flow"
2. delineate "edge" of Buffer - usually -
3 - suggested "HA-HA" she said OK - check it up!

Printed with Soybean Ink

Per. #9

Baltimore County
Department of Environmental Protection
and Resource Management

Office of the Director
401 Bosley Avenue, Suite 416
Towson, Maryland 21204
410-887-3733
Fax: 410-887-4804

April 21, 1998

Mr. Arthur Valk
Valk Design Associates, Inc.
7910 Sherwood Avenue
Towson, MD 21204

Re: Budnitz Property
Forest Buffer Variance Request

Dear Mr. Valk:

A request for a variance from Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains was received on March 2, 1998 and revised on April 14, 1998. This request proposes the construction of a single family dwelling within 25 feet of the nontidal wetlands which exist on this lot. The required Forest Buffer Easement for this lot encompasses the entire lot. In order to minimize impacts to the remaining Forest Buffer Easement, a terraced timber wall is proposed at the edge of the Forest Buffer Easement.

We have reviewed this request, and acknowledge that full application of these Regulations would render this lot unbuildable. Therefore, we will approve this variance with the following conditions:

1. The proposed terraced timber wall shall be built as shown on the site plan dated April 3, 1998.

2. The following note shall appear on all development plans for this property:

   "A variance was granted by the Baltimore County Department of Environmental Protection and Resource Management from Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. The Forest Buffer Easement and building setback shown hereon are reflective of the fact that this variance was granted."

3. All required State permits shall be obtained prior to constructing the retaining wall within the nontidal wetland buffer.

It is the intent of this Department to grant this variance subject to the above conditions. Any changes in site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement below and return a signed copy to this office within 21 calendar days. Failure to return a signed copy of this letter may render this variance approval null and void, or may result in delays in processing of plans for this project.

If you have any questions regarding this correspondence, please contact Ms. Valarie Klein at (410) 887-3980.

Sincerely yours,

George G. Perdikakis
Director

GGP:vmk/valk2.doc

I agree to the above conditions to bring my property into conformance with Regulations for the Protection of Water Quality, Streams, Wetlands, and Floodplains.

_____ _____
Property Owner Date

Baltimore County
Department of Permits and
Development Management

County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

October 22, 1998

[illegible] A. Kuberez, Jr.
[illegible] Falls Professional Building
[illegible]
[illegible] Falls Road
[illegible] MD 21209
"DR-2"

RE: Item No.: 113
Case No.: 99-113-A
Location: 6019 Bellton Avenue

[illegible] revised petition was accepted for processing [illegible] Zoning Review, Department of Permits and Development M[illegible] ([illegible]), on November 15, 1998.

The Zoning Advisory Committee (ZAC), which comprises representatives from several Baltimore County approval agencies, [illegible] the plans that were submitted with your petition. All [illegible] thus far from the members of the ZAC are attached. These are not intended to indicate the appropriateness of the zoning requested, but to ensure that all parties (zoning commissioner, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this petition. All comments will be placed in the permanent case file.

[illegible] you [illegible] the information or have any questions [illegible] comments, [illegible] not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Zoning Review Coordinator
[illegible]

[illegible]

[illegible] Visit the County's [illegible] at www.[illegible]

Per. # 11

Date: September 30, 1998

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS/pp

SUBJECT: Zoning Item #113

Budnitz Property - 6019 Hollins Avenue

Zoning Advisory Committee Meeting of September 28, 1998

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

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

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Section 14-331 through 14-350 of the Baltimore County Code). A variance has been granted.

X Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code). An intra-family transfer declaration of intent is required.

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other sections, of the Baltimore County Code).

Per. # 12

7. Brief resume of key persons, specialists, and individual consultants anticipated for this project.

a. Name & Title:
John C. Rohde, Principal

b. Project Assignment:
Landscape Architect

c. Name of Firm with which associated:
Human & Rohde, Inc.

d. Years experience: With This Firm 19 With Other Firms 7

e. Education: Degree(s)/Year/Specialization
University of Maryland, BS 1967 - Horticulture
University of Virginia, BLA 1973
1994-1996 / Environmental Studies / Johns Hopkins University

f. Active Registration: Year First Registered/Discipline
1977 Maryland, Maryland Registered Landscape Architect #353
1995 Maryland, Certified Horticulturist
1998 Maryland Licensed Tree Expert #99

g. Other Experience and Qualifications relevant to the proposed project:

Mr. Rohde is a Registered Landscape Architect and has been practicing in Maryland since 1973. He has been President of Human & Rohde, Inc. since 1982. He is experienced in a wide range of projects and responsibilities involving all phases of design and construction from schematic design through construction documents and construction inspection, including permits. Mr. Rohde's considerable experience in coordinating design teams and understanding of the planning and construction processes is an asset to any project.

Mr. Rohde brings greenway and park planning and design experience to the project, as well as an understanding of Baltimore City design standards, specifications, and procedures.

RELEVANT EXPERIENCE

PATAPSCO RIVER NON-STRUCTURAL STABILIZATION
Mr. Rohde prepared contract documents for non-structural (vegetative) stabilization of an eroding shoreline of the Patapsco River. This project is a joint State and City demonstration project to show the effectiveness and potential cost savings of vegetative versus structural stabilization. Human & Rohde, Inc. was selected as a sole source contractor for this important pilot project.

RITCHIE ROAD
The expansion of this Prince Georges County road included crossing the Ritchie Branch. Mr. Rohde delineated the wetlands and identified a mitigation site. Soil borings verified the suitability of the site for mitigation and a mitigation plan was prepared and approved by the Corps of Engineers. Permits have been received.

MD ROUTE 228
The expansion and realignment of this road crossed extensive wetlands associated with the Mattawoman Creek on the border of Prince Georges and Charles Counties.

Mr. John Rohde was responsible for coordinating data from the Environmental Impact Statement and making field investigations to delineate 12 wetlands along the project. These delineations were reviewed and approved by the U.S. Army Corps of Engineers and the Fish and Wildlife Service. Maps and a Joint Permit Application for Altering Wetlands were prepared. Through the use of aerial photographs, soils maps, and field investigations, sufficient sites for mitigation were identified to satisfy the mitigation requirements.

HONEYGO RUN STREAM VALLEY PARK
Mr. Rohde was responsible for preparing two master plan alternatives for this 185 acre stream valley site. Extensive wetlands and other environmental constraints were mapped and two viable plans were produced that included a trail system and recreational facilities.

HARBOR WAY: Mr. Rohde prepared the plans and specifications for Harbor Way, a housing development in the Inner Harbor area. The project consisted of site planning, streetscapes, and design and implementation of a small urban park called Andrew Place.

CANTON SQUARE: Mr. Rohde worked with the architects, developer, and contractor to design and construct this housing project in Baltimore City. He was responsible for the overall layout and design of the central park area, including details and planting.

Per. # 13

WETLAND DELINEATION REPORT

HOLLINS AVENUE
Baltimore County

ADC Map 26 H11
Watershed: Jones Falls

December 12, 1997

Prepared for:

Mr. Joe McGraw
J.S.T. Engineering Co., Inc.
3812 Mary Avenue
Baltimore, Maryland 21206
(410) 444-8848

Prepared by:

Human & Rohde, Inc.
512 Virginia Avenue
Towson, Maryland 21286
(410) 825-3885

Human & Rohde, Inc.
landscape architects/land planners

JOHN C. ROHDE, ASLA
SALLY MALENA, ASLA

512 VIRGINIA AVENUE
TOWSON, MARYLAND 21286
TEL: (410) 825-3885
FAX: (410) 825-3887

December 12, 1997

Ms. Patricia Farr
Department of Environmental Protection
and Resource Management
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Hollins Avenue
ADC Map 26 H11
Watershed: Jones Falls

Dear Ms. Farr:

Enclosed is a drawing with the schematic wetland limits shown, photographs, and completed data forms for the above referenced site.

We visited the site and delineated the wetland areas on December 12, 1997. Our ribbons are numbered and in place. We are requesting that a representative from your department review, and approve or modify. Our delineation at your earliest convenience. We would prefer to meet with your representative on site.

Please have a representative call and set up a time for a site inspection.

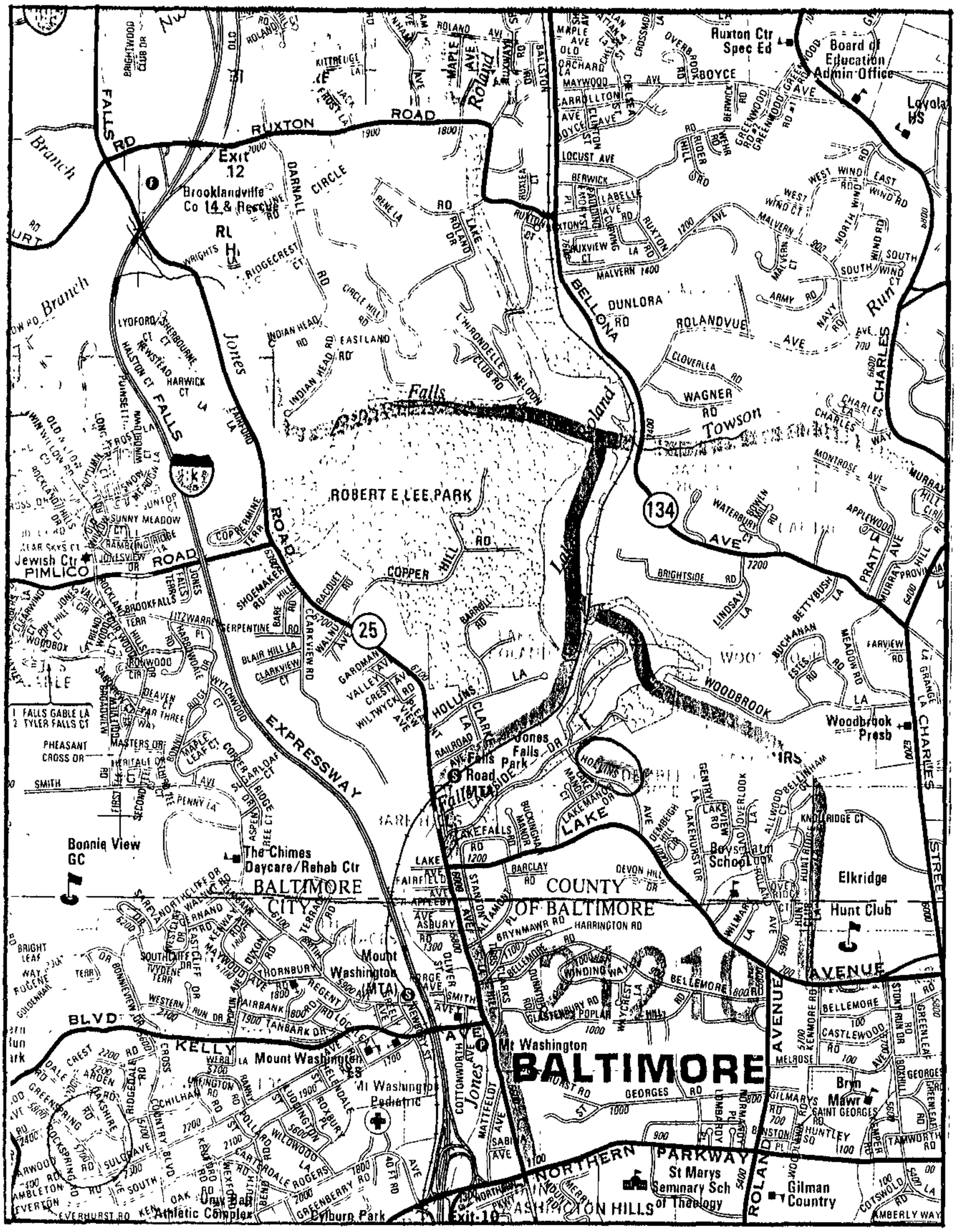
Sincerely,

HUMAN & ROHDE, INC.

John C. Rohde

Enclosures
cc: Joe McGraw
Arthur Valk

JCR/jms
#3/hollins.wtl



VICINITY MAP

WETLAND DELINEATION

HOLLINS AVE (ADC MAP 26 H11)
BALTIMORE CO., MD
DECEMBER 1997

HUMAN & ROHDE, INC.
Landscape Architects
512 Virginia Avenue
Towson, Maryland 21286
(410) 825-3885

LOOKING WEST AT EXISTING STREAM ONSITE
AT RIGHT WETLAND BEGINS TO MOVE UPHILL.

LOOKING EAST TO EXIST. STREAM & OLD SPRING –
HOUSE FOUNDATION WITH PIPE FLAGGED AS
BEGINNING OF STREAM

WETLAND DELINEATION

HOLLINS AVE (ADC MAP 26 H11)
BALTIMORE CO., MD
DECEMBER 1997

HUMAN & ROHDE, INC.
Landscape Architects
512 Virginia Avenue
Towson, Maryland 21286
(410) 825-3885

DATA FORM
ROUTINE ONSITE DETERMINATION METHOD[1]

Field Investigator(s): Human & Rohde, Inc. Date: 12-12-97
Project/Site: HOLLINS AVE State: MD. County: BALTIMORE
Applicant/Owner: JST. Plant Community #/Name: MEADOW / STREAM
Note: If a more detailed site description is necessary, use the back of data form or a field notebook.

Do normal environmental conditions exist at the plant community?
Yes X No ____ (If no, explain on back)
Has the vegetation, soils, and/or hydrology been significantly disturbed?
Yes X No ____ (If yes, explain on back) MAJORITY OF WETLAND IS FREQUENTLY MOWED LAWN

VEGETATION

Dominant Plant Species	Indicator Status	Stratum	Dominant Plant Species	Indicator Status	Stratum
1. PLATANUS OCCIDENT.	FACW	T	11.		
2. FRAXINUS PENSYLVAN.	FACW	T	12.		
3. ACER RUBRUM	FAC	T	13.		
4. ONOCLEA SENSIBILIS	FACW	H	14.		
5. OSMUNDA REGALIS	OBL	H	15.		
6. CAREX SP.	FACW	H	16.		
7. JUGLANS NIGRA	FACU	T	17.		
8. ELEOCHARIS ROSTELLATA	OBL	H	18.		
9. POA	FAC	H	19.		
10.			20.		

Percent of dominant species that are OBL, FACW, and/or FAC 75 %
Is the hydrophytic vegetation criterion met? Yes X No ____
Rationale: EXCEPT IN FREQUENTLY MOWED AREAS THE VAST MAJORITY OF PLANTS ARE FAC OR GREATER

SOILS

Series/phase: GnB GLENVILLE Subgroup:[2]
Is the soil on the hydric soils list? Yes X No ____ Undetermined ____
Is the soil a Histosol? Yes ____ No X Histic epipedon present? Yes ____ No X
Is the soil: Mottled? Yes X No ____ Gleyed? Yes X No ____
Matrix Color: 10 YR 4/2 6/2 Mottle Colors: RUST
Other hydric soil indicators: SOILS SATURATED OR SEEPS
Is the hydric soil criterion met? Yes X No ____
Rationale: THE SOIL CRITERIA IS VERY STRONG & IS UNQUESTIONABLY HYDRIC

HYDROLOGY

Is the ground surface inundated? Yes X No ____ Surface water depth: ____
Is the soil saturated? Yes X No ____
Depth to free-standing water in pit/soil probe hole: ____
List other field evidence of surface inundation or soil saturation.
SEVERAL OLD SPRINGHOUSE FOUNDATIONS PRESENT
Is the wetland hydrology criterion met? Yes X No ____
Rationale: WETLAND FLANKS AN EXISTING STREAM ONSITE

JURISDICTIONAL DETERMINATION AND RATIONALE

Is the plant community a wetland? Yes X No ____
Rationale for jurisdictional decision:
ALL 3 CRITERIA MET

[1] This data form can be used for the Hydric Soil Assessment Procedure and the Plant Community Assessment Procedure.
[2] Classification according to "Soil Taxonomy."

SOILS MAP # 38

WATERSHED - JONES FALLS

WETLAND DELINEATION

HOLLINS AVE (ADC MAP 26 H11)
BALTIMORE CO., MD
DECEMBER 1997

HUMAN & ROHDE, INC.
Landscape Architects
512 Virginia Avenue
Towson, Maryland 21286
(410) 825-3885

terials for vegetation must be determined locally at each site. Capability unit and woodland subclass not assigned.

Glenville Series

The Glenville series consists of deep, moderately well drained to somewhat poorly drained, nearly level to gently sloping acid soils that have a fragipan. These soils are on the Piedmont Plateau. They are on flats, in depressions, at the foot of hillsides, and around the heads of drains. They formed mostly in material weathered in place from underlying micaceous rocks, but in some places the upper part of the soil profile formed in local alluvium. The native vegetation is water-tolerant hardwoods.

In a representative profile the surface layer is brown or dark-brown silt loam about 10 inches thick. The upper part of the subsoil, about 16 inches thick, is yellowish-brown silt loam or silty clay loam that is mottled with grayish brown and other colors in the lower part. The lower part of the subsoil, about 21 inches thick, is the fragipan. It is firm, brittle, and dense, and water moves slowly through it. This layer is brown to grayish-brown, mottled with other colors. The underlying material is grayish-brown, strong-brown, and dark yellowish-brown loam derived from disintegrated rock. It is characteristically very micaceous.

Glenville soils are fairly easy to work at a favorable moisture content. They are wet in spring and slow to warm, so planting frequently is delayed. These soils have a moderate available moisture capacity but permeability is moderately slow because of the fragipan. They are limited for many uses by seasonal wetness, impeded drainage, moderately slow movement of water through the lower part of the subsoil, restricted depth of the root zone, and in sloping areas by the hazard of erosion.

Representative profile of Glenville silt loam, 3 to 8 percent slopes, in a formerly cultivated area 1½ miles east of Texas:

Ap—0 to 10 inches, brown or dark-brown (10YR 4/3) silt loam; moderate, fine to medium, granular structure; very friable; common roots; medium acid; abrupt, smooth boundary.

B21t—10 to 16 inches, yellowish-brown (10YR 5/4) heavy silt loam; weak, medium, blocky structure; firm, slightly sticky; common roots; thin, discontinuous clay films; medium acid; clear, wavy boundary.

B22t—16 to 26 inches, yellowish-brown (10YR 5/6) silty clay loam; common, medium, distinct mottles of grayish-brown (10YR 5/2) and strong brown (7.5YR 5/8); moderate, fine and medium, subangular blocky structure; firm, sticky and plastic; common roots; brown (7.5YR 5/2) discontinuous clay films; medium acid; gradual, wavy boundary.

Bx1—26 to 34 inches, grayish-brown (10YR 5/2) light silty clay loam; many, coarse, distinct mottles of strong brown (7.5YR 5/6); moderate, coarse, blocky and thin, platy structure; firm, brittle, sticky and slightly plastic; few roots; brown (7.5YR 5/2) discontinuous clay films; strongly acid; clear, smooth boundary.

Bx2—34 to 47 inches, brown (7.5YR 5/2) silt loam, many, coarse, distinct mottles of gray or light gray (10YR 6/1) and medium prominent mottles of strong brown (7.5YR 5/6); weak, coarse, blocky and thin, platy structure; very firm, slightly sticky and slightly plastic; discontinuous clay films; micaceous; very strongly acid; clear, wavy boundary.

C—47 to 72 inches, variegated grayish-brown (10YR 5/2), strong-brown (7.5YR 5/6), and dark yellowish-brown (10YR 4/4) loam; massive, shows inherent rock structure; friable; very micaceous; very strongly acid.

Hue throughout the profile is mostly 10YR but ranges to 7.5YR in some B horizons.

In the A horizon, the value ranges from 3 to 6 and the chroma from 1 to 4. The value of 3 and chroma of 1 are limited to undisturbed A1 horizons less than 6 inches thick, and values of 5 and 6 are limited to undisturbed A2 horizons.

In the Bt horizon both value and chroma of the matrix range from 4 to 6. The upper, unmottled part of this horizon is less than 10 inches thick. The lower part always has mottling with chroma of 2 or less and has high-chroma mottling in places. The Bt horizon ranges from heavy loam or silt loam to silty clay loam. It is 20 to 30 percent clay.

In the Bx horizon matrix colors are similar to those in the Bt horizon, but chroma is as low as 2 or 3. The Bx horizon generally has more low and high-chroma mottles than the mottled part of the Bt horizon. The Bx horizon has the same textural range as the Bt horizon, but the clay content of the Bx averages less than that of the Bt horizon and generally decreases with depth.

The C horizon is more friable, more micaceous, and coarser in texture than the Bt and Bx horizons.

The solum ranges from about 30 to 48 inches in thickness. Depth to bedrock ranges from about 4 to 10 feet. Small amounts of quartzite gravel are present in the solum or C horizon, and weathered schist fragments are in the C horizon in places.

Glenville soils resemble Aldino, Beltsville, and Captina soils somewhat but are less well aerated and are wetter seasonally. They are shallower to bedrock than Beltsville soils, less silty than Aldino and Captina soils, and more strongly acid and micaceous than Aldino soils. Glenville soils generally are associated with poorly drained Baile soils.

Glenville silt loam, 0 to 3 percent slopes (GnA).—The profile of this soil is similar to that described as representative of the series, but in many places it has a thicker surface layer. Included in mapping are a few eroded spots.

The main limitations to use are seasonal wetness and impeded natural drainage. Artificial drainage is needed for most crops. The soil is suited to cultivation but the choice of crops is limited because the fragipan restricts root penetration. Herbaceous perennials such as alfalfa are subject to damage by frost heaving on this soil. Erosion generally is not a serious hazard. Capability unit IIw-1; woodland subclass 2w.

Glenville silt loam, 3 to 8 percent slopes (GnB).—This soil has the profile described as representative of the series. It is mostly in small areas in all parts of the Piedmont Plateau where soils have formed over acid micaceous rocks. Included in mapping are some eroded spots and some small areas of soils that slope more than 8 percent.

The soil is suited to some cultivated crops and to pasture and trees. The hazard of erosion generally is a more important management concern than impeded drainage, though in places artificial drainage is needed for some crops. Capability unit IIe-16; woodland subclass 2w.

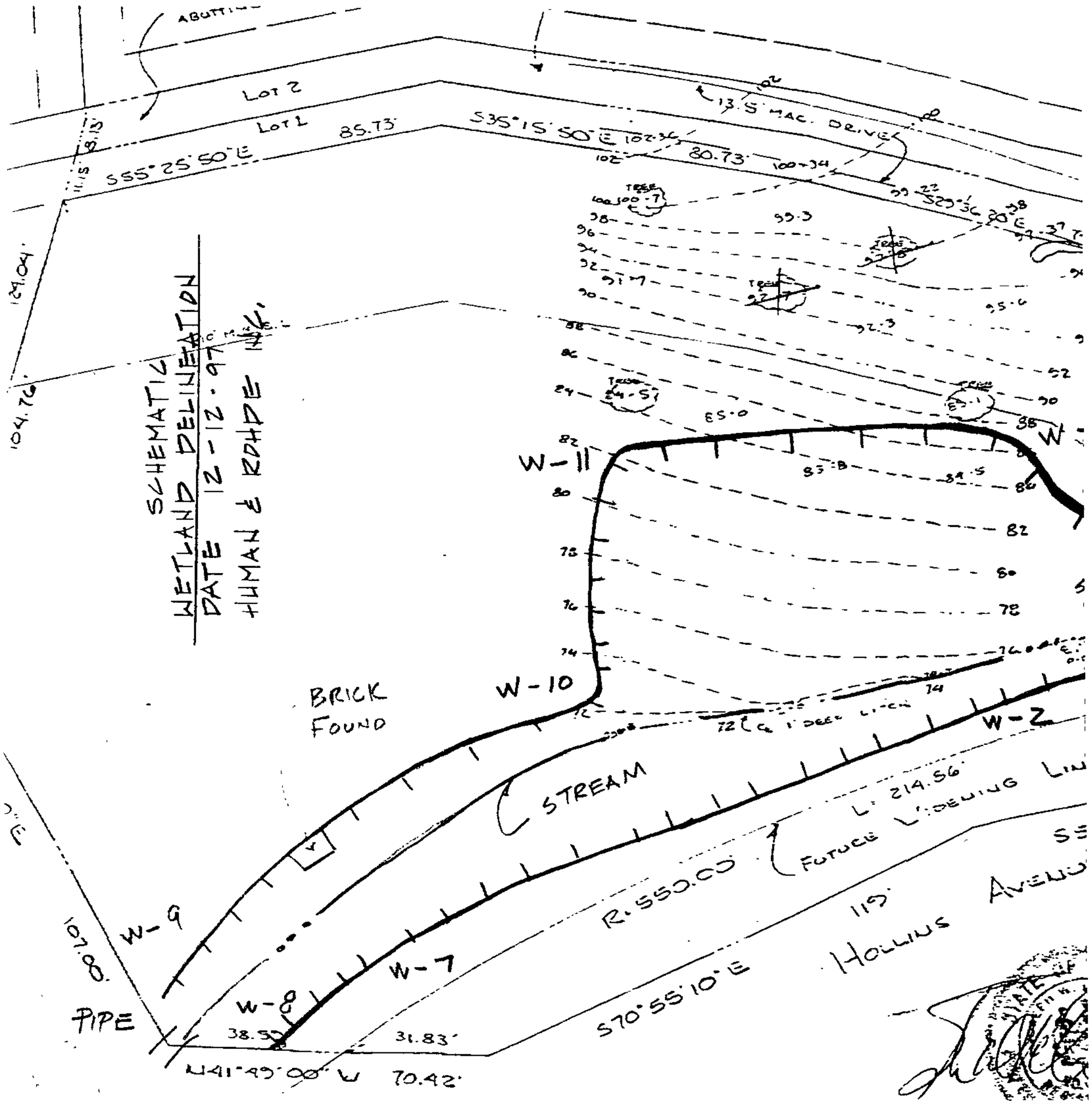
Glenville-Urban land complex, 0 to 8 percent slopes (GuB).—This complex consists of soils of the Glenville series, most of which have been cut, filled, graded, or otherwise disturbed for residential or other nonfarm uses. Included in mapping are a few areas of soil that slope more than 8 percent.

In about 35 percent of the area of this complex the soils are undisturbed. In about 50 percent of the complex, the soils have been covered by as much as 18 inches

HYDRIC SOILS - BALTIMORE COUNTY, MARYLAND (Cont'd)

Map Units with Hydric Soil Inclusions - Individual units potentially contain small inclusions of soils on the National Hydric Soil list.

Map Symbol	Mapping Unit	Hydric Components	Location of Hydric Soils
Cu	Codorus silt loam	Hatboro inclusions	In old stream channels and depressions
DcB	Delanco silt loam, 3 to 8 percent slopes	Unnamed inclusions	In depressions and drainageways
Eo	Elkton-Urban land complex	Elkton part of map unit	In unurbanized areas
GnA	Glenville silt loam, 0 to 3 percent slopes	Baile inclusions	In depressions and drainageways
GnB	Glenville silt loam, 3 to 8 percent slopes	Baile inclusions	In drainageways and seepage areas
GuB	Glenville-Urban land complex, 0 to 8 percent slopes	Baile inclusions	In depressions, drainageways and seepage spots in unurbanized areas
Iu	Iuka silt loam	Bibb inclusions	In old stream channels and depressions
KeB2	Kelly silt loam, 3 to 8 percent slopes, moderately eroded	Watchung inclusions	In depressions, drainageways and seepage areas
KeC2	Kelly silt loam, 8 to 15 percent slopes, moderately eroded	Watchung inclusions	In drainageways and seepage areas
KsC	Kelly very stony silt loam, 0 to 15 percent slopes	Watchung inclusions	In depressions, drainageways and seepage areas
KuB	Kelly-Urban land complex, 0 to 8 percent slopes	Watchung inclusions	In depressions, drainageways and seepage areas in unurbanized areas


SCHEMATIC
WETLAND DELINEATION
DATE 12-12-97
HUMAN & RHODE INC.
LOT 2
LOT 2
S55°25'50"E
85.73'
S35°15'50"E 102.36'
80.73'
13.5' MAC. DRIVE
S29°36'30"E
129.04'
104.76'
W-11
W-10
W-9
W-8
W-7
W-2
BRICK FOUND
STREAM
R. 550.00'
L: 214.56'
FUTURE WIDENING LINE
HOLLINS AVENUE
S70°55'10"E
107.8'
PIPE
38.52'
31.83'
N41°49'00"W 70.42'

3 SPECIMEN TREES
@ WETLAND LIMIT

WETLAND DELINEATION

HOLLINS AVENUE
12 - 12 - 97

NOTES FOR SURVEYOR: (NOT ALL FLAGS ARE WETLAND LIMIT SOME MARK STREAM ℄ ETC.) ALL FLAGS WITH (W - #) ARE WETLAND LIMIT.

#1A BEGIN OF STREAM @ PIPE IN BRICK FOUNDATION
(W-1) WETLAND LIMIT
(W-6) " " @ GR. ASH
(W-7) " " @ GR ASH
(W-9) " " @ TULIP POPLAR
(W-8) NEAR PIPE (@ STREAM)
(W-9) OTHER SIDE OF WETLAND
(W-10) @ BLK WALNUT TREE
(W-11) WETLAND GOES UP HILL
(W-15) HEAVY SEEP BELOW
(W-16) OLD STONE FOUNDATION (WITH PIPE THAT MAY GO TO #16A)
* #16A MARKS PIPE ONLY
(W-17) WETLAND @ SENSITIVE FERN / ROYAL FERN CAREX
(W-19) WETLAND @ 42" TULIP POPLAR
(W-20) " @ 45" SYCAMORE
(W-21) " " 32" "

HOLLINS AVENUE

12 - 12 - 97

(W - 22) @ SWALE TO DEEP STONE FOUNDATION

W - 23, 24, 25, 26, (10' x 10' STONE FOUNDATION 8 - 10' DEEP W/ WATER IN BOTTOM

(W - 27) TOP OF SWALE

1B STREAM CENTER LINE (RIBBON YELLOW/BLUE) THIS IS NOT WETLAND LIMIT @ OLD STONE FOUNDATION W/ PIPE NEAR MARKED # 16 A

(W -) SMALL BRICK FOUNDATION APPROX. 3' x 4' NEAR FLAG (W - 9) - THIS IS @ WETLAND LIMIT

* LOCATE STREAM ℄

PHOTO #3 taken from Pg [illegible] [illegible]
[illegible] of [illegible] [illegible].

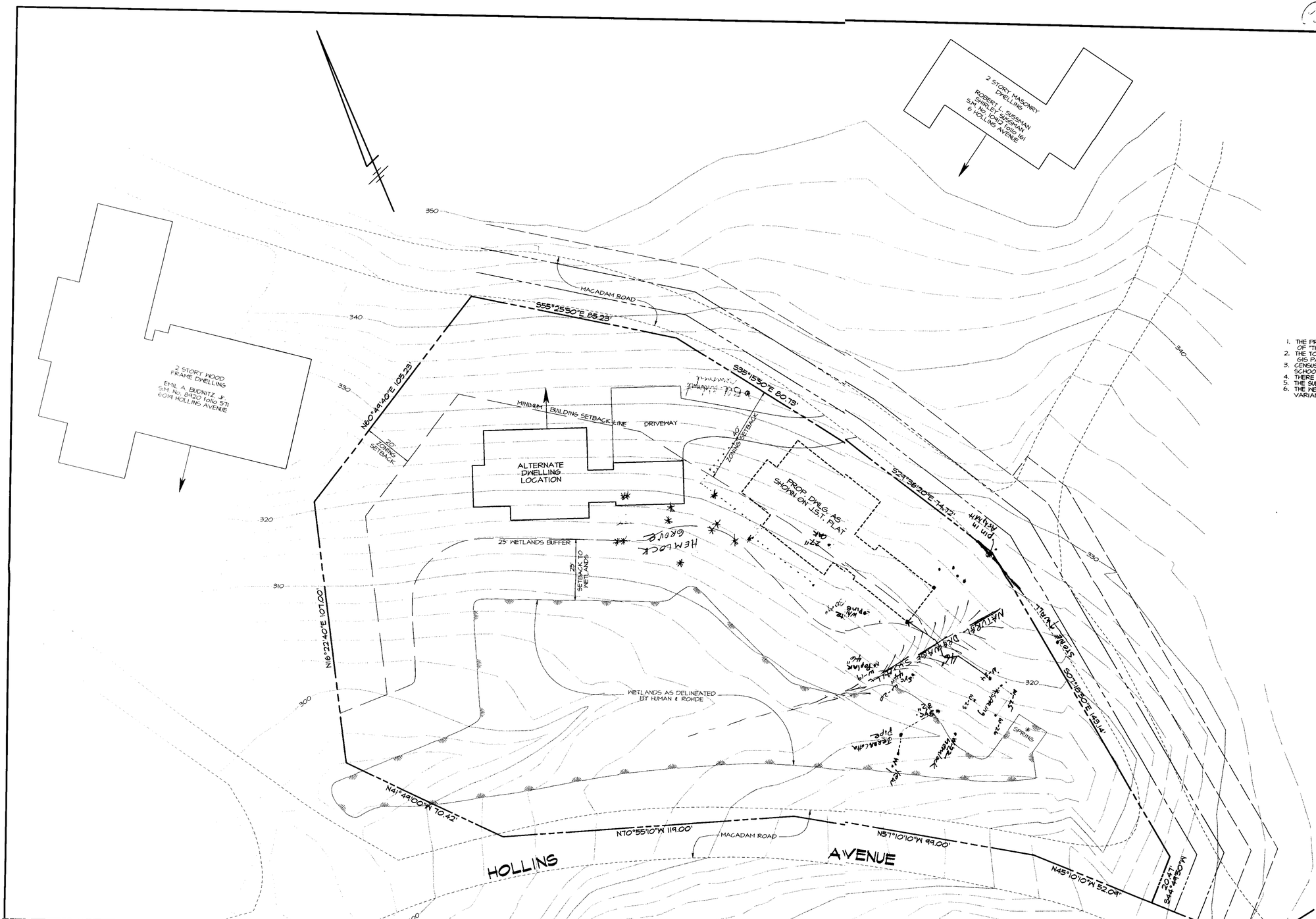
PE[illegible]
EXHIBIT NO. 3

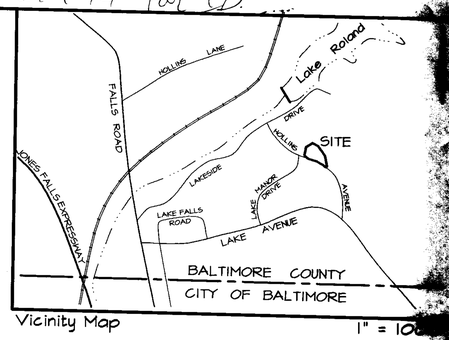
PICTURE SET #1 TAKEN FROM
PT. A, LOOKING NORTHERLY
THROUGH TREES ON LOT 5, NORTHEASTERLY
TOWARD STAND OF TREES ON SUBJECT SITE
& EASTERLY TOWARD STREAM ON SUBJECT SITE
AND HOLMES AVENUE.

P
E 5

PICTURE SET #2 TAKEN FROM PT "B" ON THE SOUTH SIDE OF [illegible] AVENUE LOOKING, NORTHERLY, NORTHEASTERLY AND EASTERLY TOWARD THE SUBJECT SITE.

Prot. Exh 14 for ID





Vicinity Map

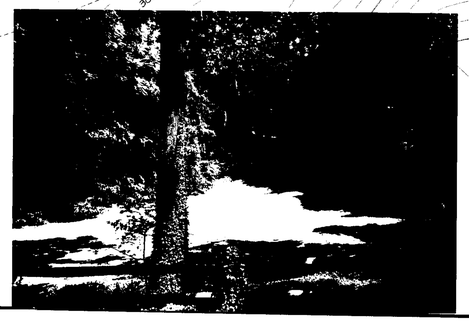
1" = 100

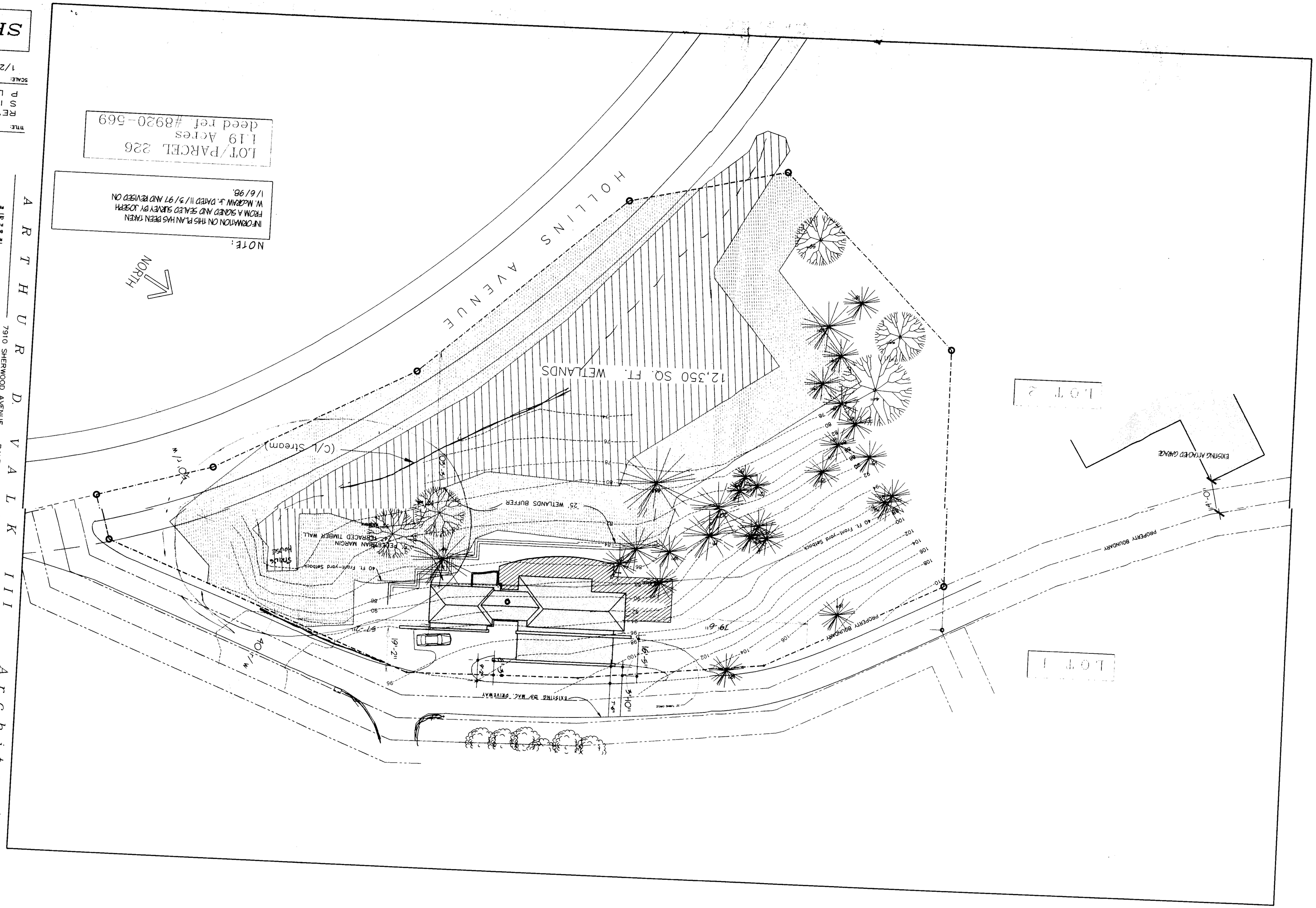
GENERAL NOTES

1. THE PROPERTY LINES SHOWN HEREON WERE TAKEN FROM DEED S.M. No. 8920 folio 569 AND THE PLAT OF THE GAY PROPERTY" PLATBOOK R.R.G. No. 30 folio 13.
2. THE TOPOGRAPHY, PAVING AND DWELLINGS SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY GIS PANEL No.
3. CENSUS TRACT 4905.01 A.D.C. MAP & GRID 26 H-10
   SCHOOL DISTRICT 15 REGIONAL PLANNING DISTRICT 314
4. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
5. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
6. THE WETLANDS SHOWN HEREON WERE DIGITIZED FROM A PLAT ENTITLED "PLAN TO ACCOMPANY VARIANCE HEARING" PREPARED BY J.S.T. ENGINEERING CO.,INC. DATED 8-14-98.

PLAT SHOWING THE PROPERTY OF
EMIL A. BUDNITZ, Jr.

HOLLINS AVENUE
Deed Ref: S.M. No. 8920 folio 569
Tax Account No.: 17-00-010838
Zoned DR 2





A R T H U R D. V A L K I I I A r c h i t e c t

7910 SHERWOOD AVENUE
BALTIMORE, MARYLAND 21204
(410) 321-6925

6019 HOLLINS AVENUE

DATE: 8/3/98

CONSULTANTS:

RELEASED FOR:
Bids –
Permits –
Construction –

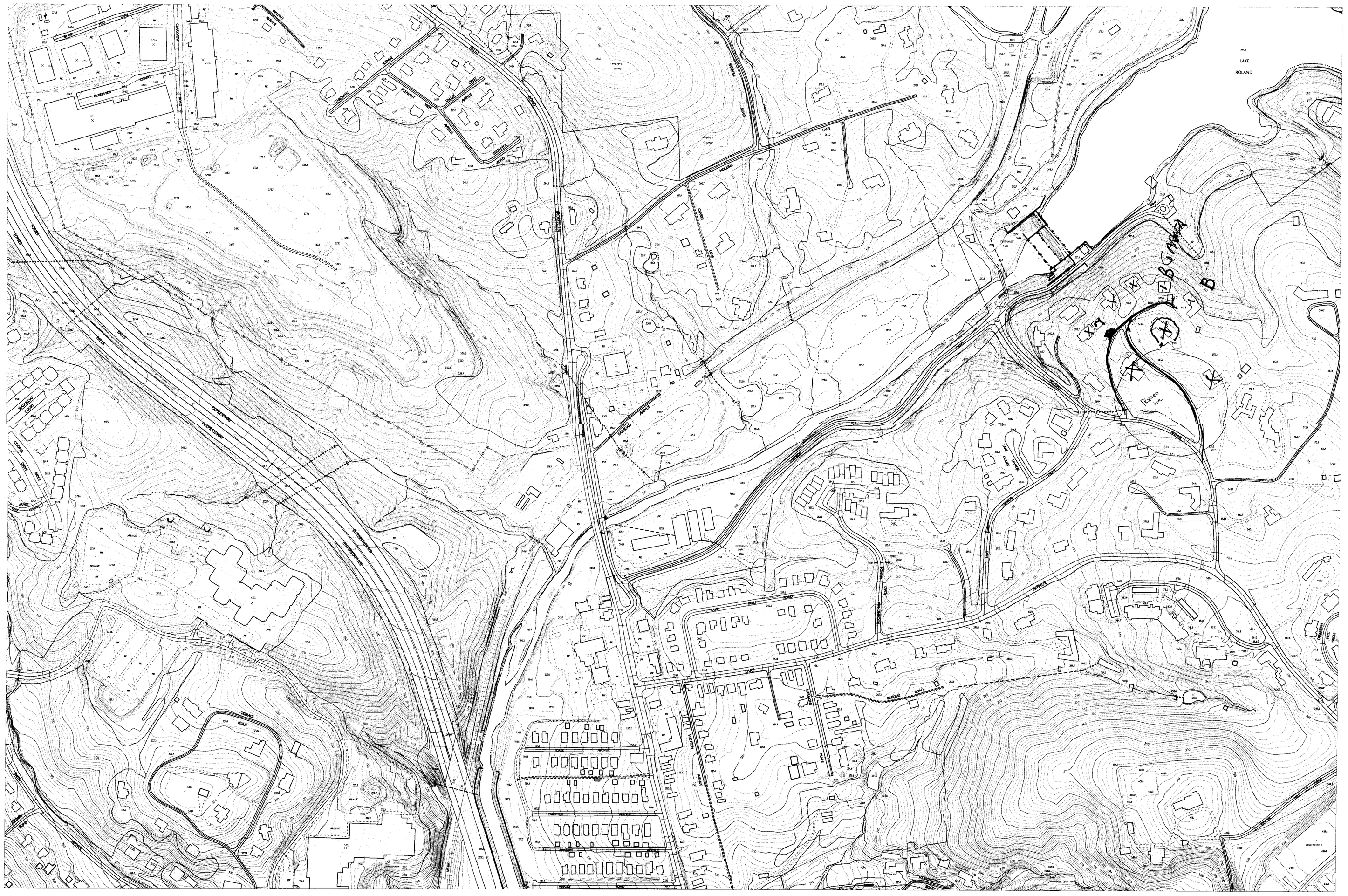
REVISIONS:

TITLE: REVISED SITE PLAN

SCALE: 1/20" = 1'-0"

SP-1

PLANIMETRICS PLOT



Legend

- Mapsheet Index
- Residential Buildings
- Commercial Buildings
- Institutional Buildings
- Garages and Other Structures
- Buildings Under Construction
- Toll Booths and Rail Stations
- Water Towers and Storage Tanks
- Curbs
- Paved Roads
- Unpaved Roads
- Paved Alleys
- Unnamed Roads
- Hidden Roads, Roads Under Construction
- Road Intersections
- Paved Parking Lots, Driveways, Runways, Taxiways
- Bridges and Overpasses
- Tunnel Portal
- Rail Line
- Hidden Rail Line
- Abandoned Rail
- Metro Rail
- Light Rail
- Transmission Line
- Pipeline
- Junkyards, Landfills, Quarries, Gravel and Sand Pits
- Areas Under Construction, Power Stations
- Race Tracks, Cemeteries
- Wooded Areas, Orchards/Nurseries
- Tree Rows
- Wetlands/Swamps
- State Plane Grid Lines
- Street Centerlines
- Alley Centerlines
- Ramp Centerlines
- Recreational Areas, Golf Courses
- Commercial Pools
- Bike/Hike Areas
- Athletic Fields, Tennis Courts, Playgrounds
- Natural Hydrography
  Reserviors
  SW Retention Ponds
- Bay Area
- Boat Ramps, Piers, Dams, and Bulkheads
- Drainage Connector
- Culverts
- Headwall/Floodwall
- Hidden Hydrography
- Index Contour
- Intermediate Contour
- Index Depression Contour
- Intermediate Depression Contour
- Obscured Index Contour
- Obscured Intermediate Contour
- Obscured Index Depression Contour
- Obscured Intermediate Depression Contour
- Hidden Contour
- Critical Area Boundary
- Neatline
- Radio Towers
- Transmission Towers
- Microwave Transmitters
- Spot Elevations
- Water Elevations
- Bridge Elevations
- Rooftop Elevations

Note: This data is released with the understanding that the data has not completed the entire QA/QC process, but is undergoing it at present. This map is for internal purposes only!

Layers:
INDEX, BLDG, ROADS, CLINE, TRANS
CULT, VEG, REC, HYDROL, HYDROP, SPGRID
COMM, SPOT, TOPO

Coordinate System:
Maryland State Plane: NAD83/91 Horiz. Datum
Elevations in Feet: NAVD88 Verticle Datum

Date: October 20, 1999 Time: 4:11 PM

Tile ID: 079b1

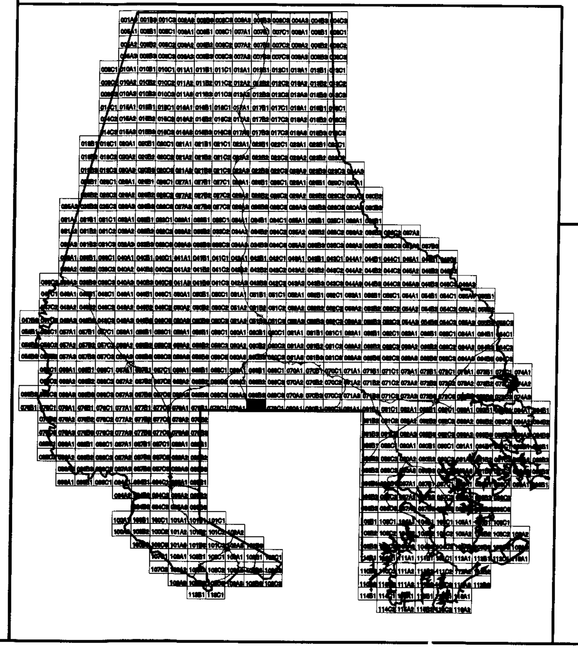
1:2400

0ft 1000ft

0m 100m 200m 300m

N

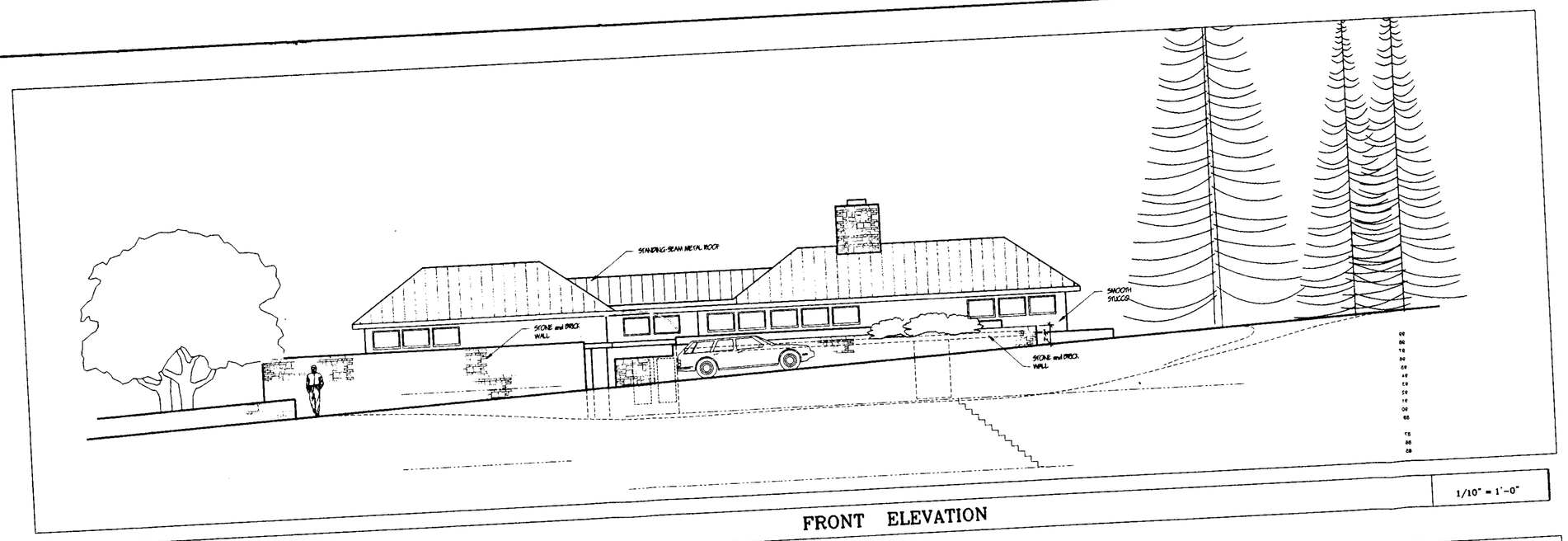
Baltimore County - OIT GIS Services Unit



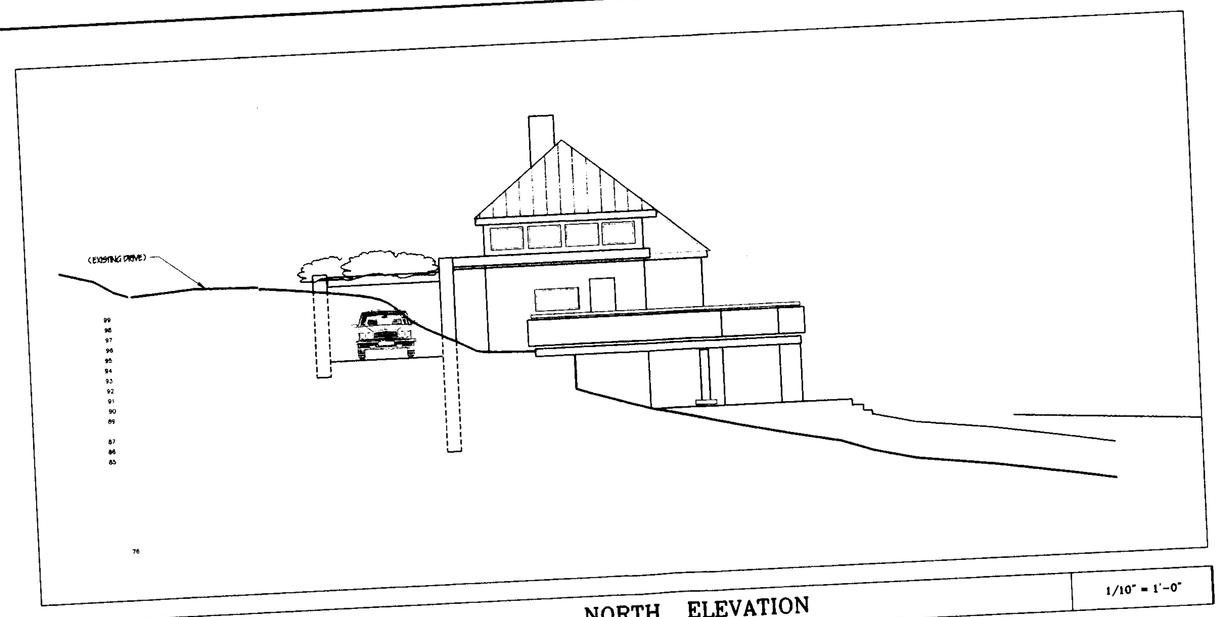
Annotation Symbology

- ABCD Index Contours
- ABCD Street Names
- ABCD Bridges
- ABCD Parking Lots
- ABCD RR, Transmission, Pipelines
- ABCD Metro Rails
- ABCD Abandoned Railroads
- ABCD Cemeteries, Landfills
- ABCD Miscellaneous Cultural
- ABCD Pools
- ABCD Golf Courses
- ABCD Athletic Fields
- ABCD Bike/Hike Trail Features
- ABCD Lakes
- ABCD Ponds
- ABCD Rivers/Canals
- ABCD Streams
- ABCD Spot Elevations
- ABCD Rooftop Elevations
- ABCD Institutional Buildings

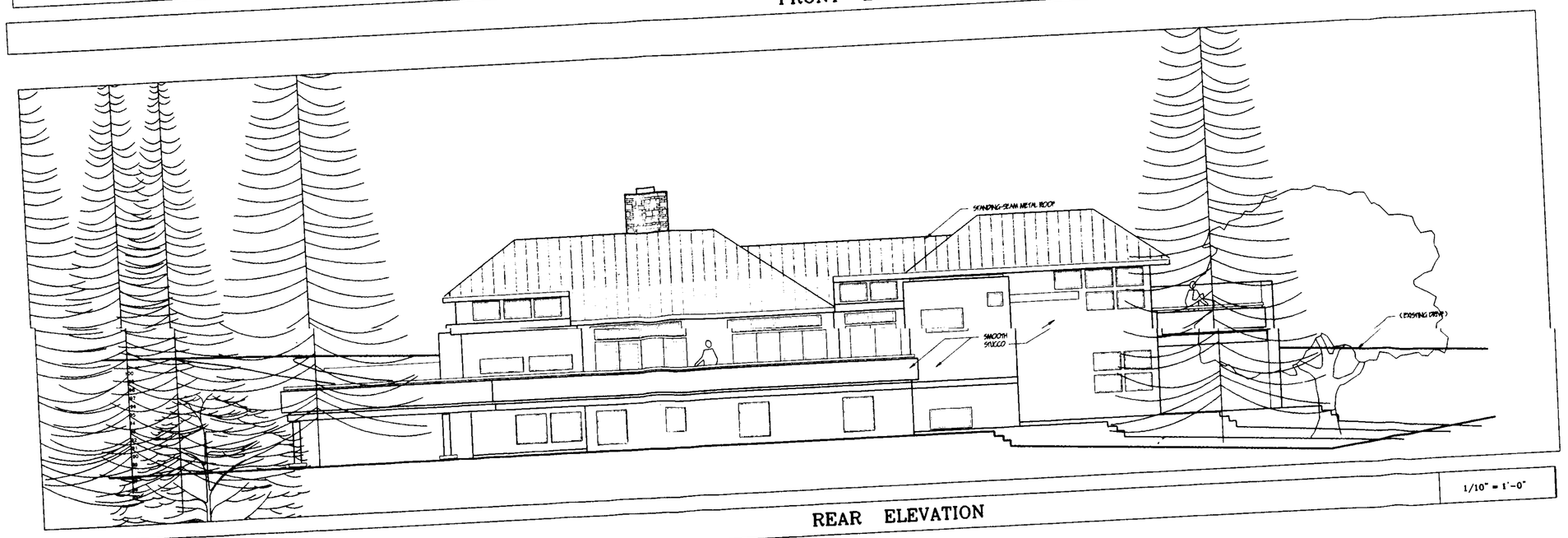
Rev. #3



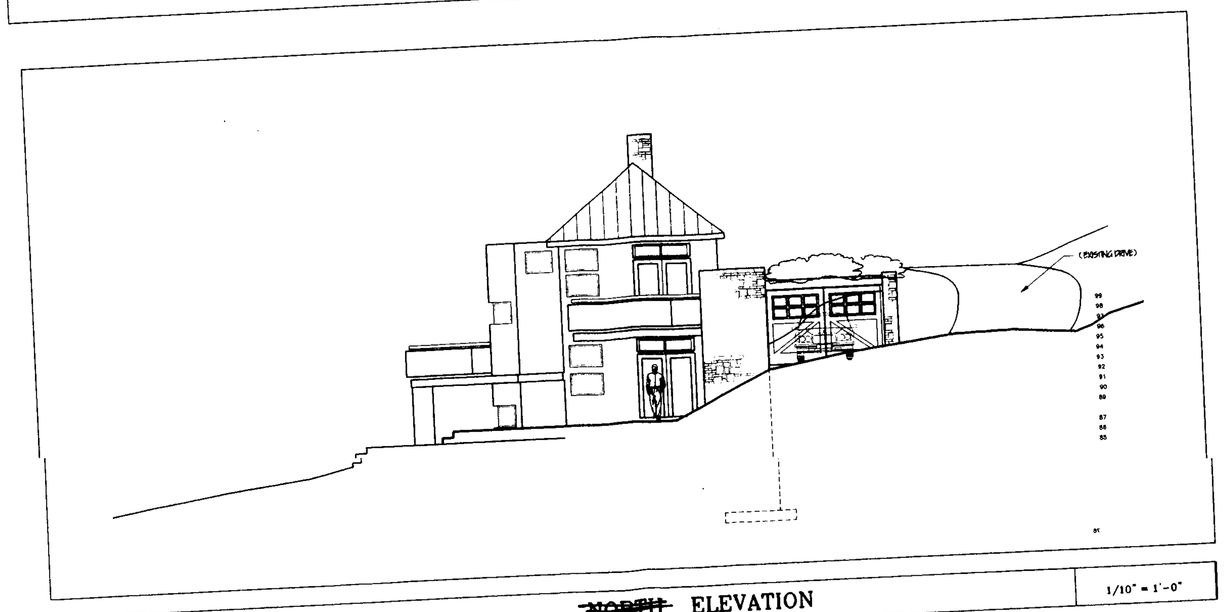
FRONT ELEVATION 1/10" = 1'-0"



NORTH ELEVATION 1/10" = 1'-0"

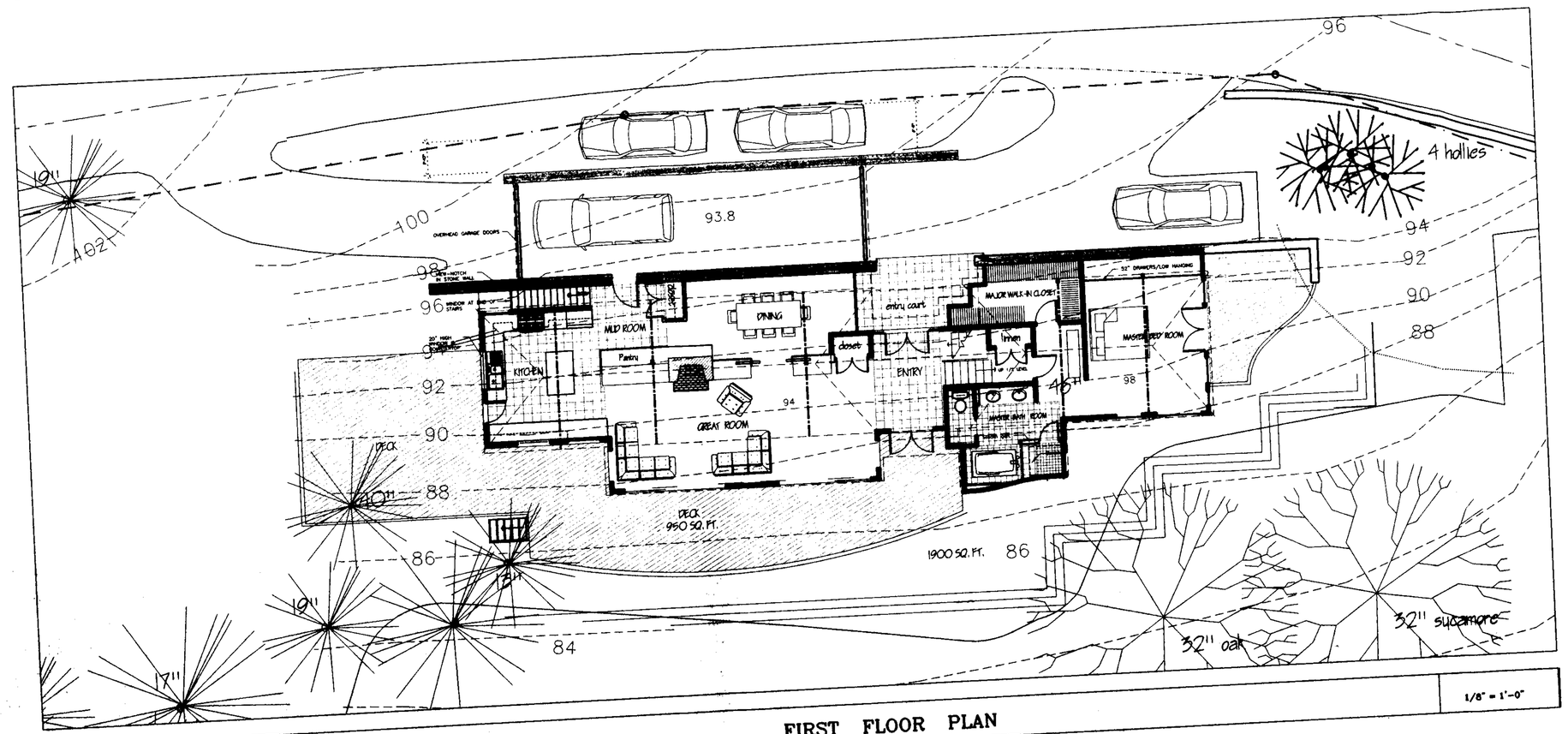


REAR ELEVATION 1/10" = 1'-0"

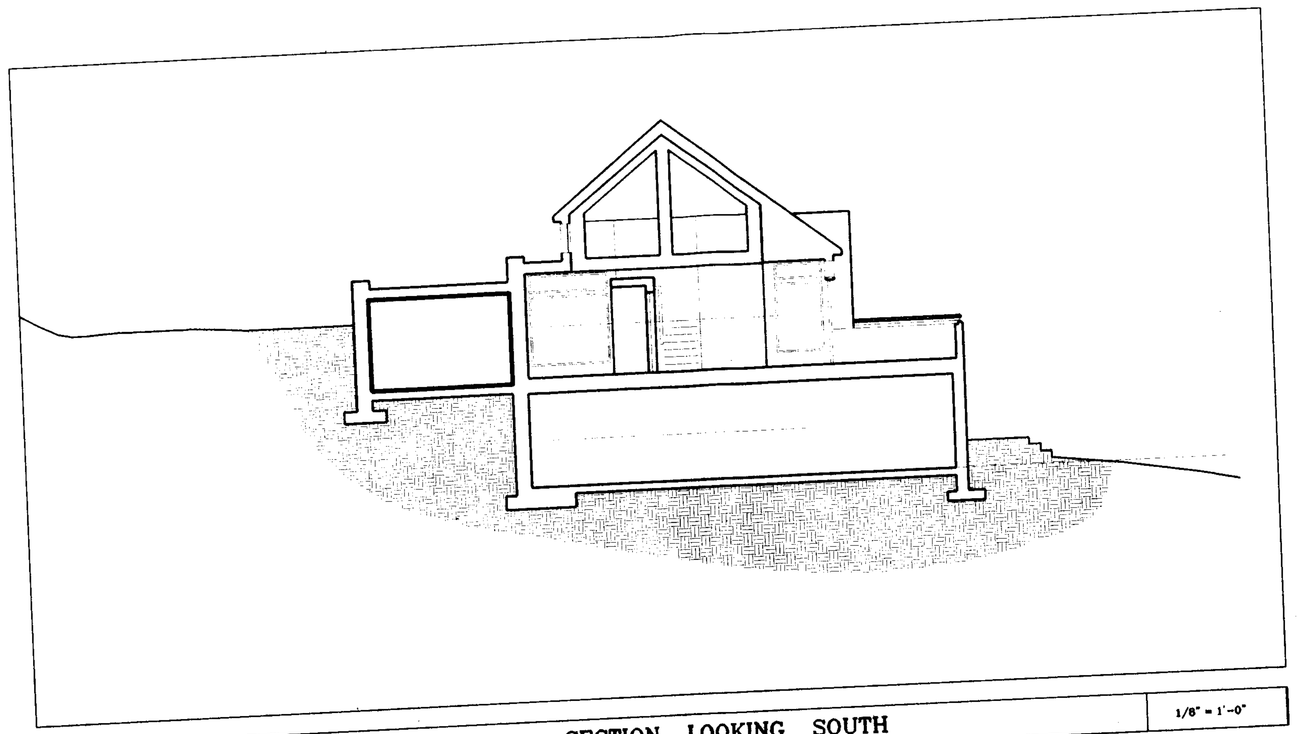


~~NORTH~~ ELEVATION 1/10" = 1'-0"

SOUTH
WORKED.



FIRST FLOOR PLAN 1/8" = 1'-0"



SECTION LOOKING SOUTH 1/8" = 1'-0"

ARTHUR D. VALK III Architect
7910 SHERWOOD AVENUE BALTIMORE, MARYLAND 21204 (410) 321-6925

DATE: 8/3/98

CONSULTANTS:

RELEASED FOR:
Bids –
Permits –
Construction –

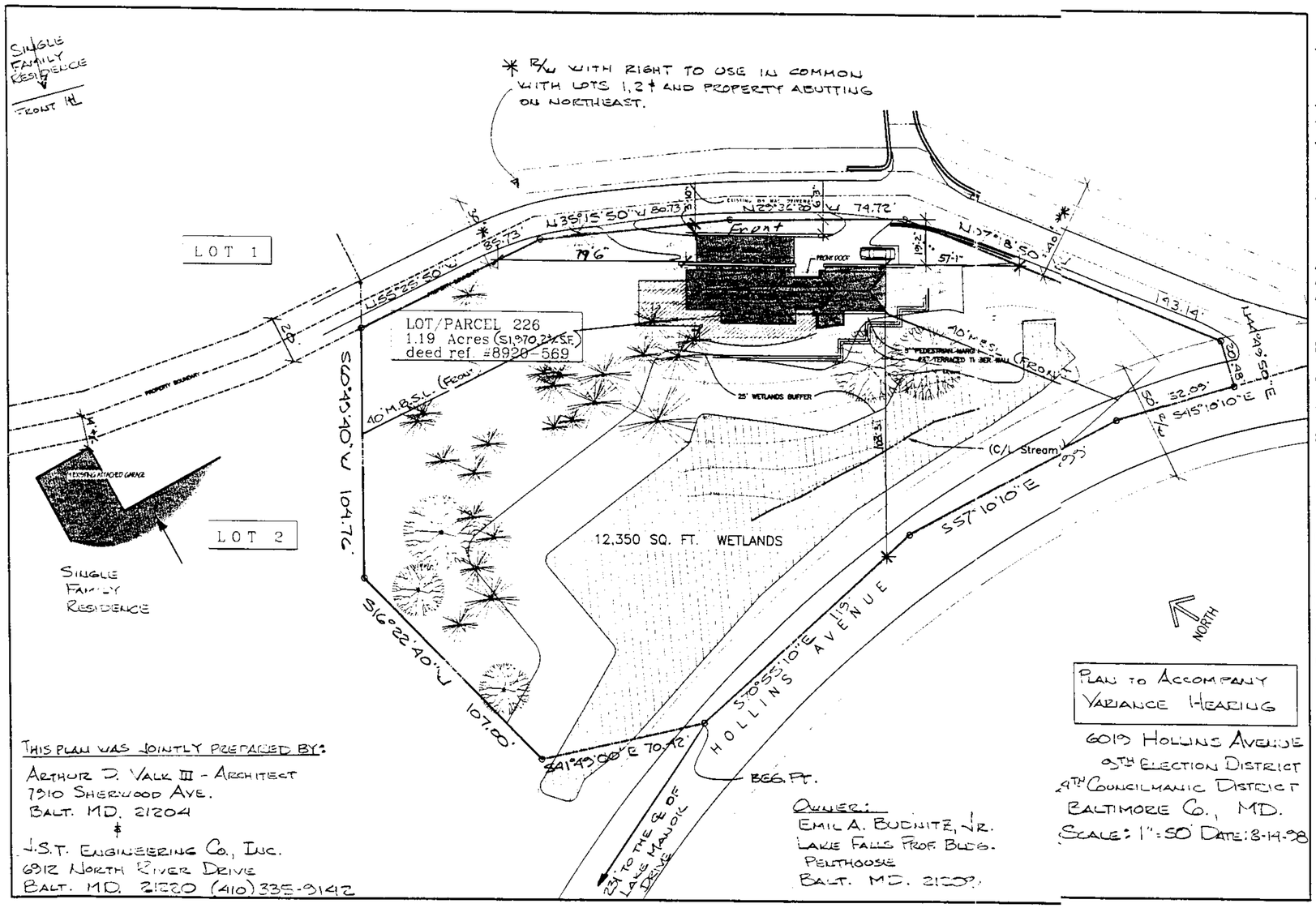
REVISIONS:

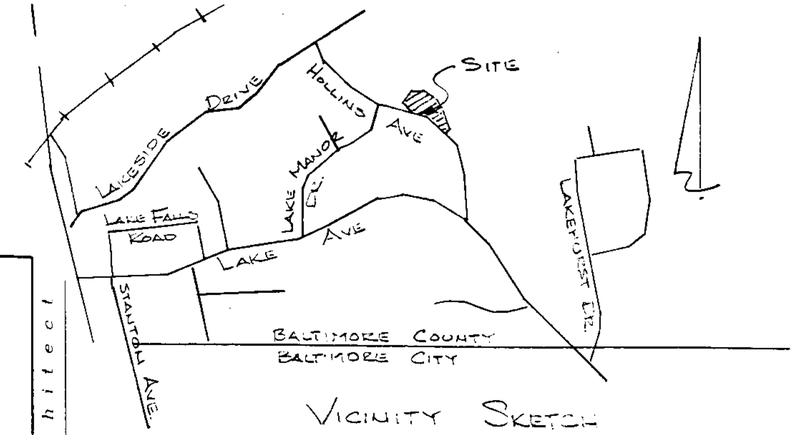
TITLE:
PLANS and ELEVATIONS

SCALE:
(AS NOTED)

A–1

SINGLE FAMILY RESIDENCE
FRONT HL +/-





VICINITY SKETCH
SCALE: 1" = 1000'

NOTES:

1. AREA OF PROP. = 1.19 +/- ACS.
   51,970.2 +/- SQ. FT.
2. ZONING OF PROP. D.R. 2
3. THERE ARE NO PRIOR ZONING HEARINGS ON THIS SITE.
4. BALT. CO. DEPRM HAS APPROVED THE 25' WETLANDS BUFFER SHOWN HEREON.
5. THIS PROPERTY IS NOT IN A CRITICAL AREA.
6. PUBLIC WATER + SEWER ARE AVAILABLE FOR THIS PROPERTY.

PLAN TO ACCOMPANY VARIANCE HEARING
6019 HOLLINS AVENUE
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
BALTIMORE CO., MD.
SCALE: 1":50' DATE: 8-14-98

OWNER:
EMIL A. BUDNITZ, JR.
LAKE FALLS PROF. BLDG.
PENTHOUSE
BALT. MD. 21209

THIS PLAN WAS JOINTLY PREPARED BY:
ARTHUR D. VALK III - ARCHITECT
7910 SHERWOOD AVE.
BALT. MD. 21204
&
J.S.T. ENGINEERING CO., INC.
6912 NORTH RIVER DRIVE
BALT. MD. 21220 (410) 335-9142

ARTHUR D. VALK III Architect
7910 SHERWOOD AVENUE BALTIMORE, MARYLAND 21204 (410) 321-8925

6019 HOLLINS AVENUE

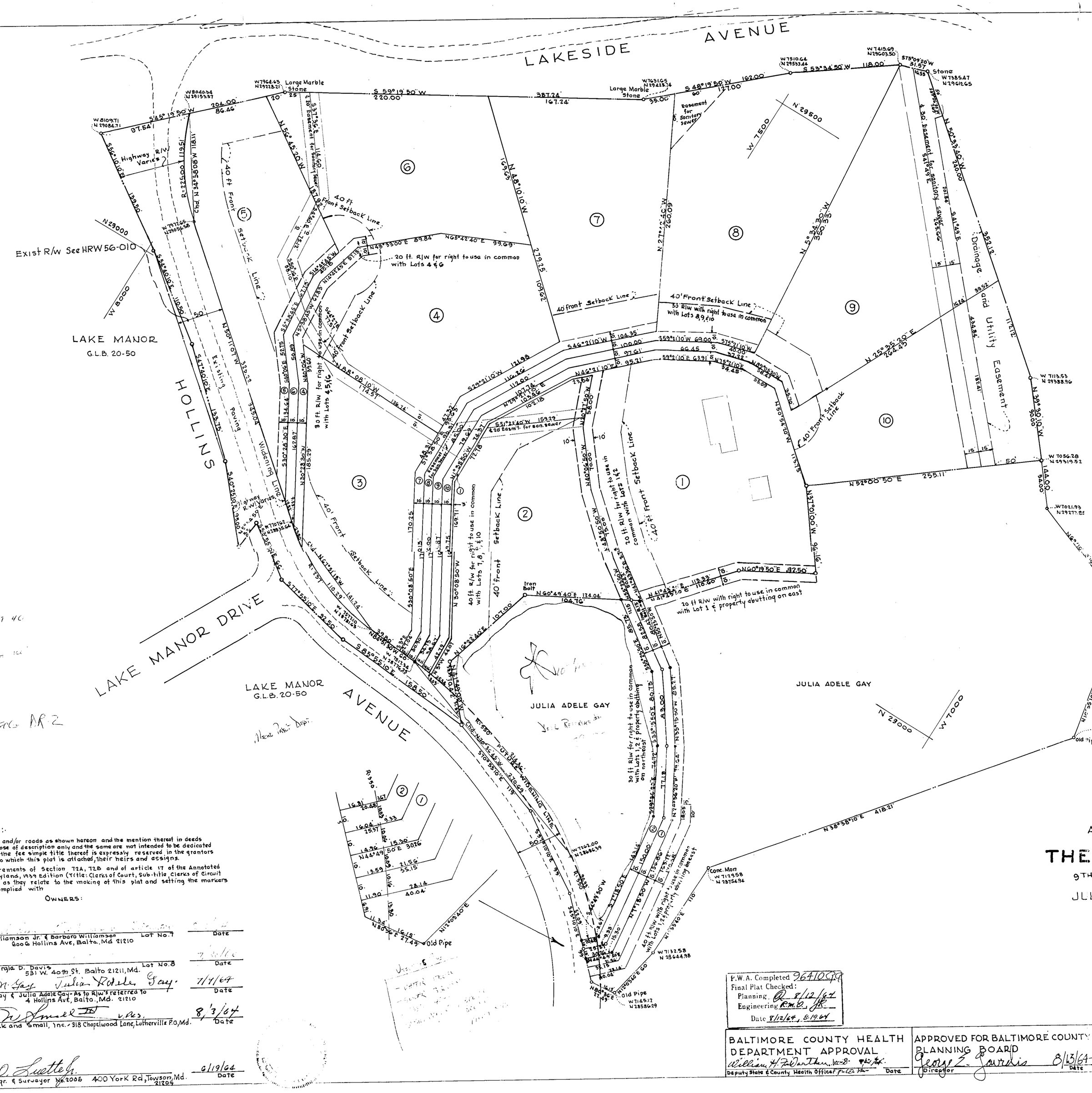
SP-1

Item #113

99-113-A

Taken in by 9-15-98

26H10



NOTE:
The coordinates shown hereon are based upon the system established by the Baltimore County Metropolitan District

TRAVERSE STATIONS
36888 ... ℄ San. MH. W. side Jones Falls - 450± S. of Footbridge W 865938 N 291643.84
514565 ... " " " " " " " - 50± " " " W 815206 N 293888.82

R.R.G. 30 FOLIO 13
RECEIVED for Record
AUG 24 1964 at A.M. P.M.
same day recorded in liber R.R.G. No. ____ folio ____ One of the ____ Records of Baltimore County and examined, per
Clerk

NOTE:
The streets and/or roads as shown hereon and the mention thereof in deeds are for the purpose of description only and the same are not intended to be dedicated to public use; the fee simple title thereof is expressly reserved in the grantors of the deed to which this plat is attached, their heirs and assigns.

The requirements of Section 72A, 72B and of article 17 of the Annotated Codes of Maryland, 1959 Edition (Title: Clerks of Court, Sub-title Clerks of Circuit Courts) as far as they relate to the making of this plat and setting the markers have been complied with

OWNERS:

John S. Williamson Jr. & Barbara Williamson — LOT No. 7 — Date
6006 Hollins Ave, Balto., Md 21210

Mrs. Georgia D. Davis — LOT No. 8 — Date
531 W. 40th St. Balto 21211, Md.

Dr. Leslie N. Gay & Julia Adele Gay — 7/1/64 — Date
Dr. Leslie N. Gay & Julia Adele Gay - As to R/w's referred to
4 Hollins Ave, Balto., Md. 21210

Laird, Rock and Small, Inc. - 318 Choptwood Lane, Lutherville P.O, Md. — 8/3/64 — Date

Wm. O. Luttell — 6/19/64 — Date
Pro. Engr. & Surveyor No 2005 400 York Rd, Towson, Md. 21204

A SUBDIVISION OF

THE GAY PROPERTY

9TH ELECT. DIST. BALTO. CO., MD.

JULY 17, 1964 SCALE: 1" = 50

P.W.A. Completed 9/4/1964
Final Plat Checked:
Planning 8/12/64
Engineering
Date 8/12/64, 8/19/64

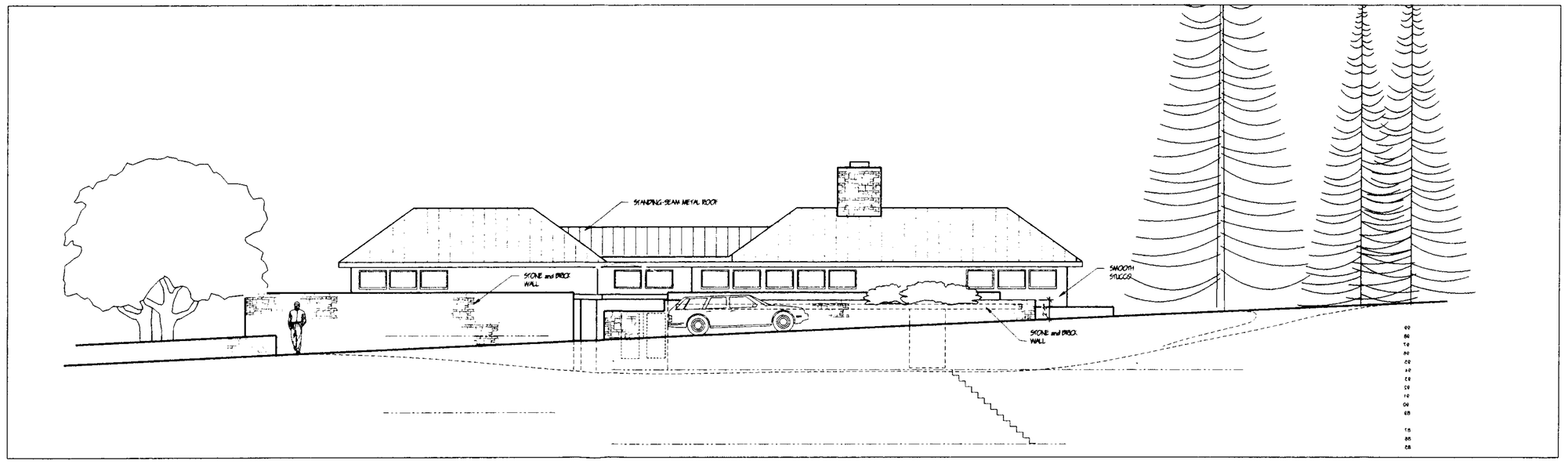
BALTIMORE COUNTY HEALTH DEPARTMENT APPROVAL
William H. Verdun Jr. M.D. — Date
Deputy State & County Health Officer

APPROVED FOR BALTIMORE COUNTY PLANNING BOARD
George E. Gavrelis — 8/13/64 — Date
Director

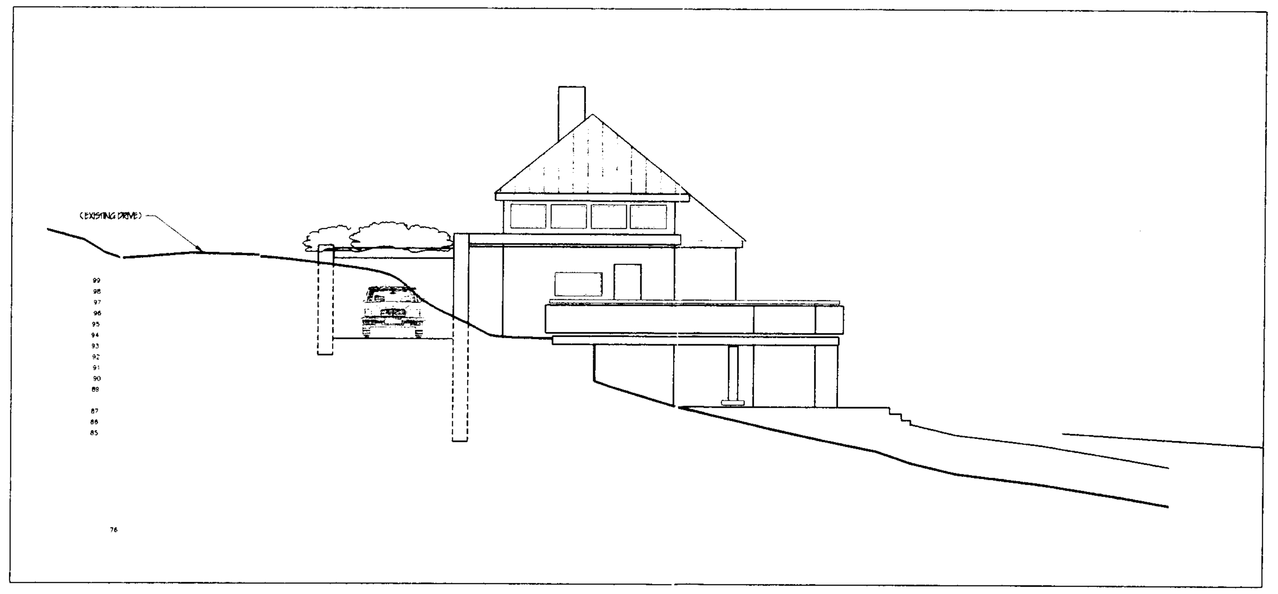
COUNTY HIGHWAYS DEPT. OF BALTO. COUNTY APPROVED FOR STREET ALIGNMENT & LOCATION
Thomas D. Reeving — 8/6/64 — Date
Roads Engineer

JAMES S. SPAMER & ASSOCIATES
ENGINEERS & SURVEYORS
400 YORK ROAD
TOWSON 4, MD.

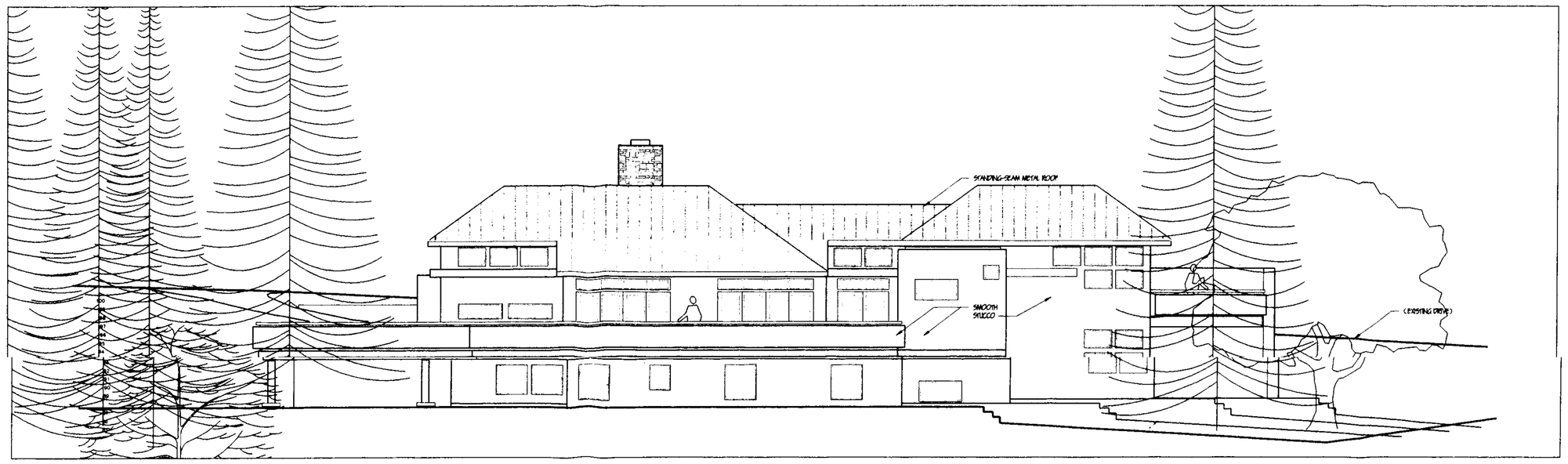
30-13



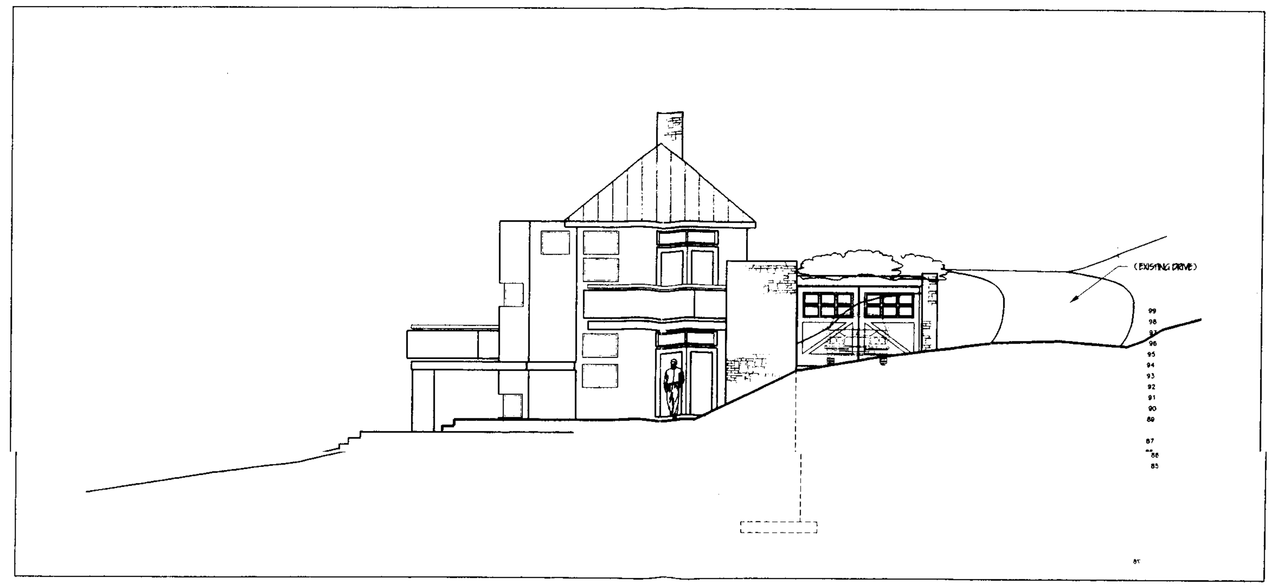
FRONT ELEVATION 1/10" = 1'-0"



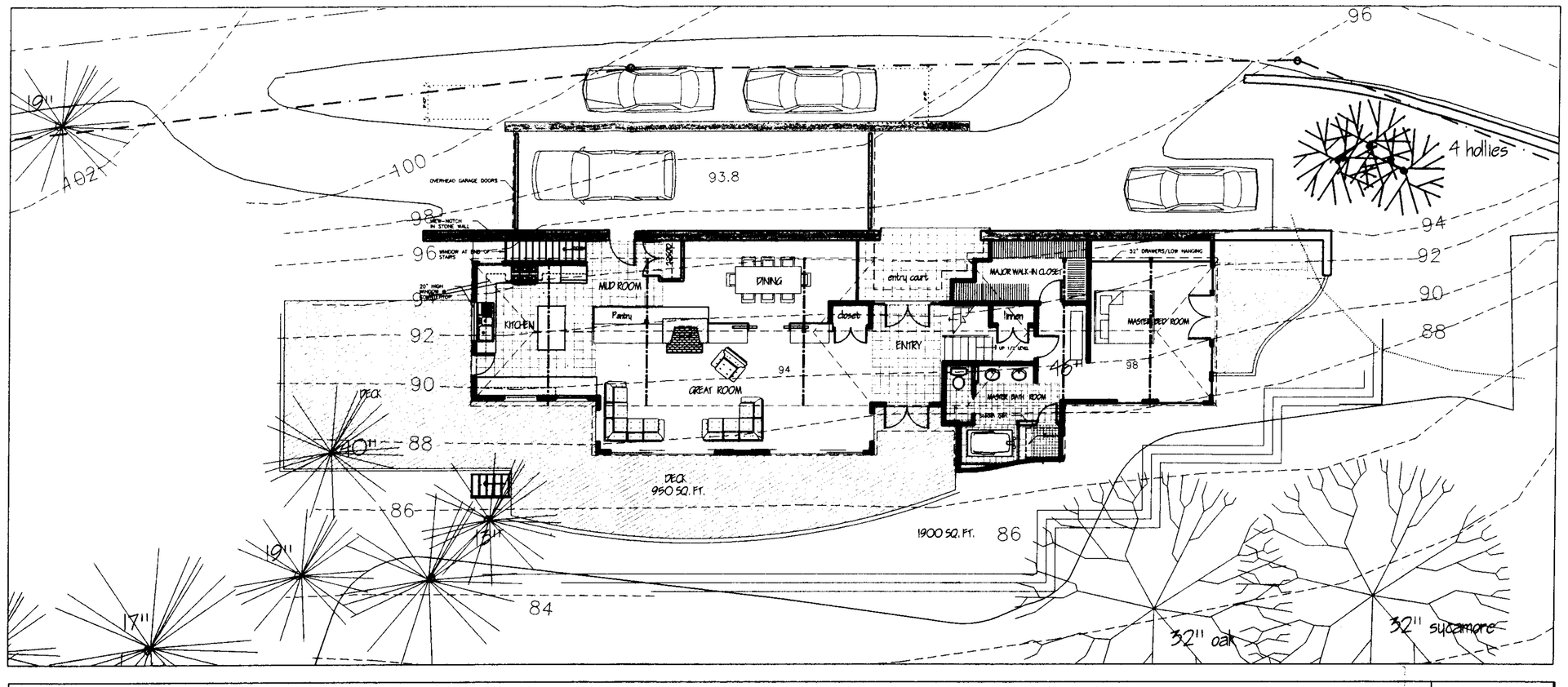
NORTH ELEVATION 1/10" = 1'-0"



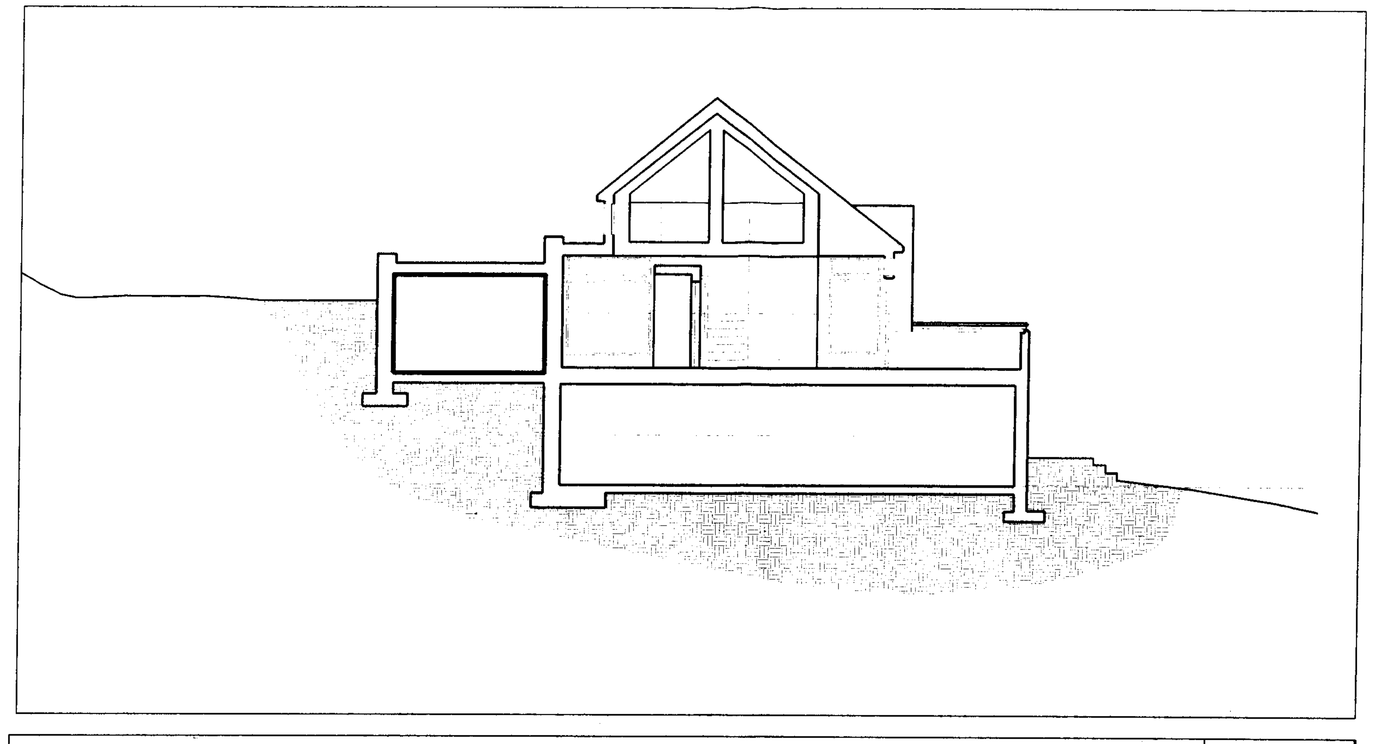
REAR ELEVATION 1/10" = 1'-0"



NORTH ELEVATION 1/10" = 1'-0"



FIRST FLOOR PLAN 1/8" = 1'-0"



SECTION LOOKING SOUTH 1/8" = 1'-0"

7

ARTHUR D. VALK III Architect
7910 SHERWOOD AVENUE BALTIMORE, MARYLAND 21204 (410) 321-6925

DATE: 8/3/98

CONSULTANTS:

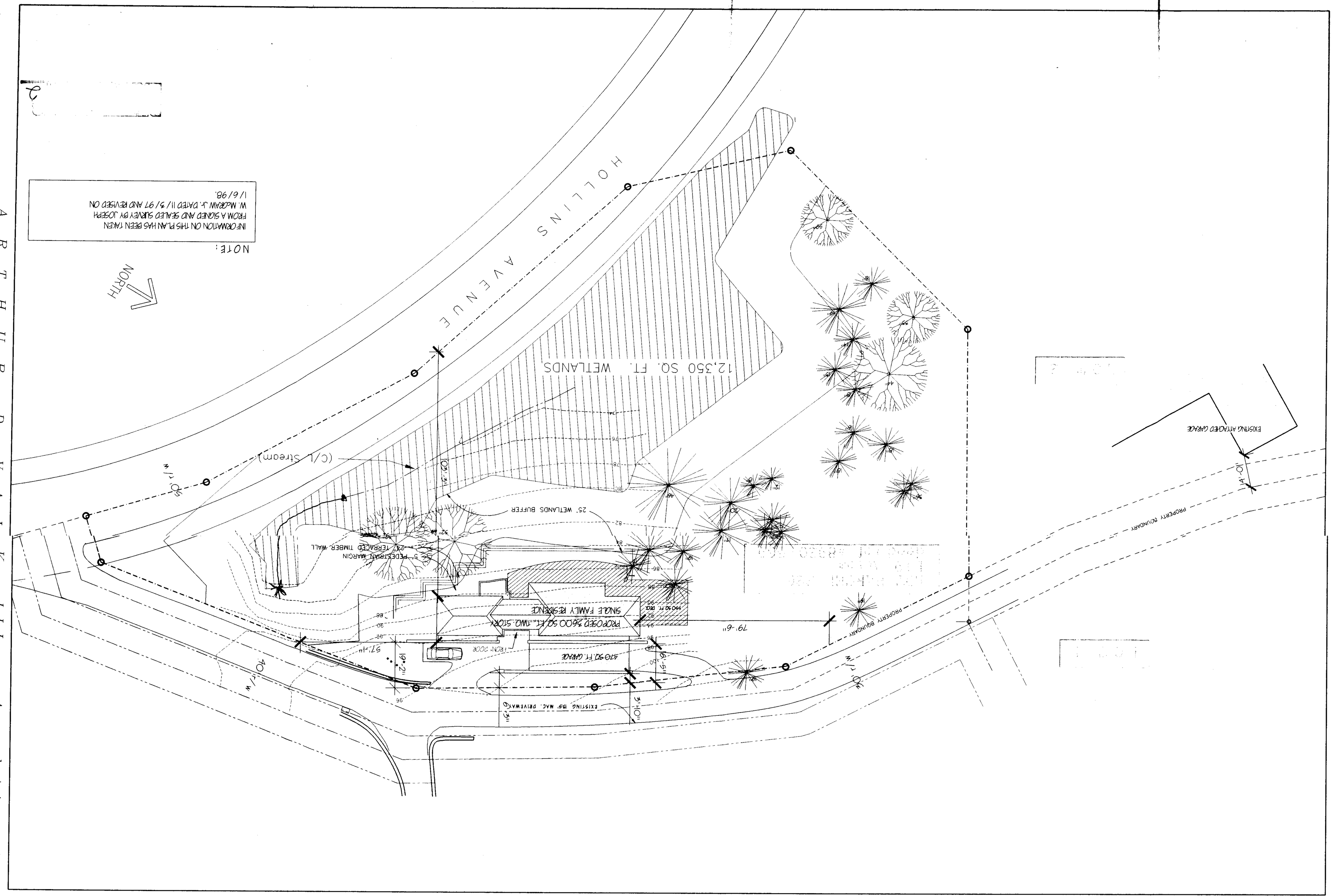
RELEASED FOR:
Bids –
Permits –
Construction –

REVISIONS:

TITLE:
PLANS and ELEVATIONS

SCALE:
(AS NOTED)

A–1



NOTE:
INFORMATION ON THIS PLAN HAS BEEN TAKEN FROM A SIGNED AND SEALED SURVEY BY JOSEPH W. MADRAW Jr. DATED 11/5/97 AND REVISED ON 1/6/98.

TITLE: REVISED SITE PLAN

SCALE: 1/80" = 1'-0"

SP-1

DATE: 8/3/98

CONSULTANTS:

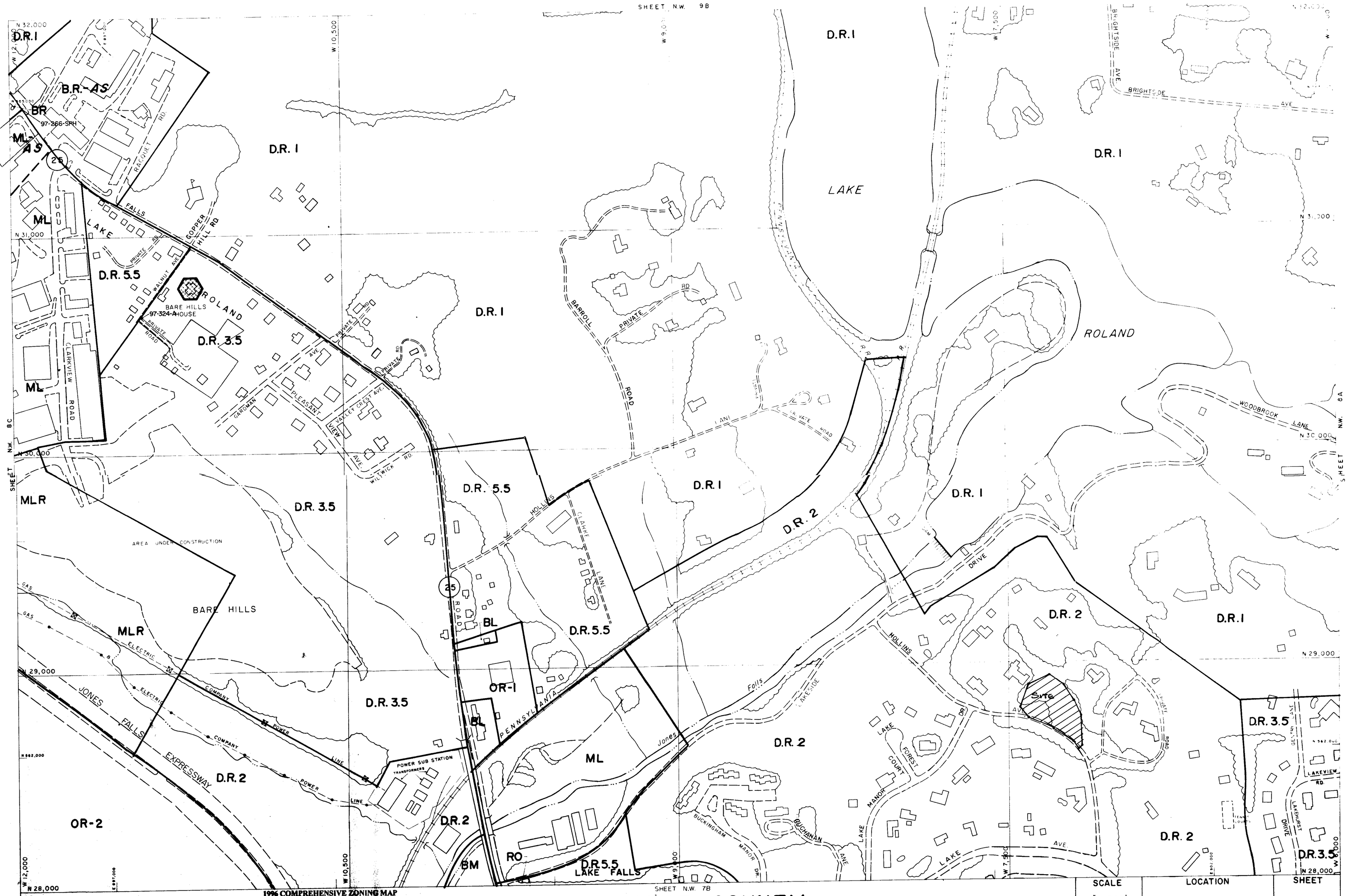
RELEASED FOR:
Bids –
Permits –
Construction –

REVISIONS:

A R T H U R D. V A L K I I I A r c h i t e c t

7910 SHERWOOD AVENUE BALTIMORE, MARYLAND 21204 (410) 321-6925

6019 HOLLINS AVENUE



0 - SE

0 - NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY 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 Kamenetz
Chairman, County Council

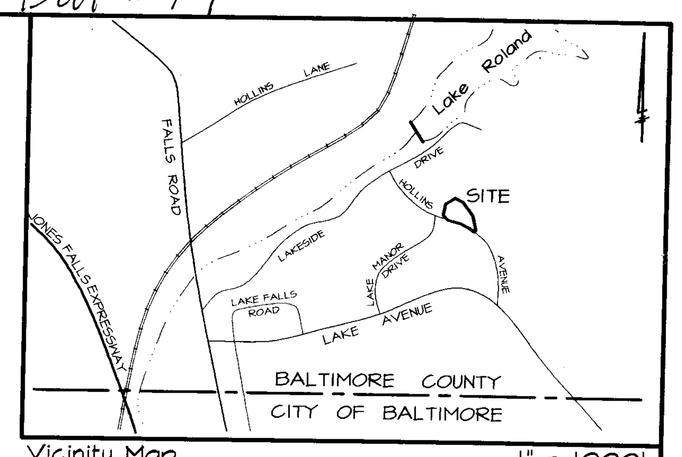
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	LAKE ROLAND AREA	N. W. 8 - B
DATE OF PHOTOGRAPHY JANUARY 1986		

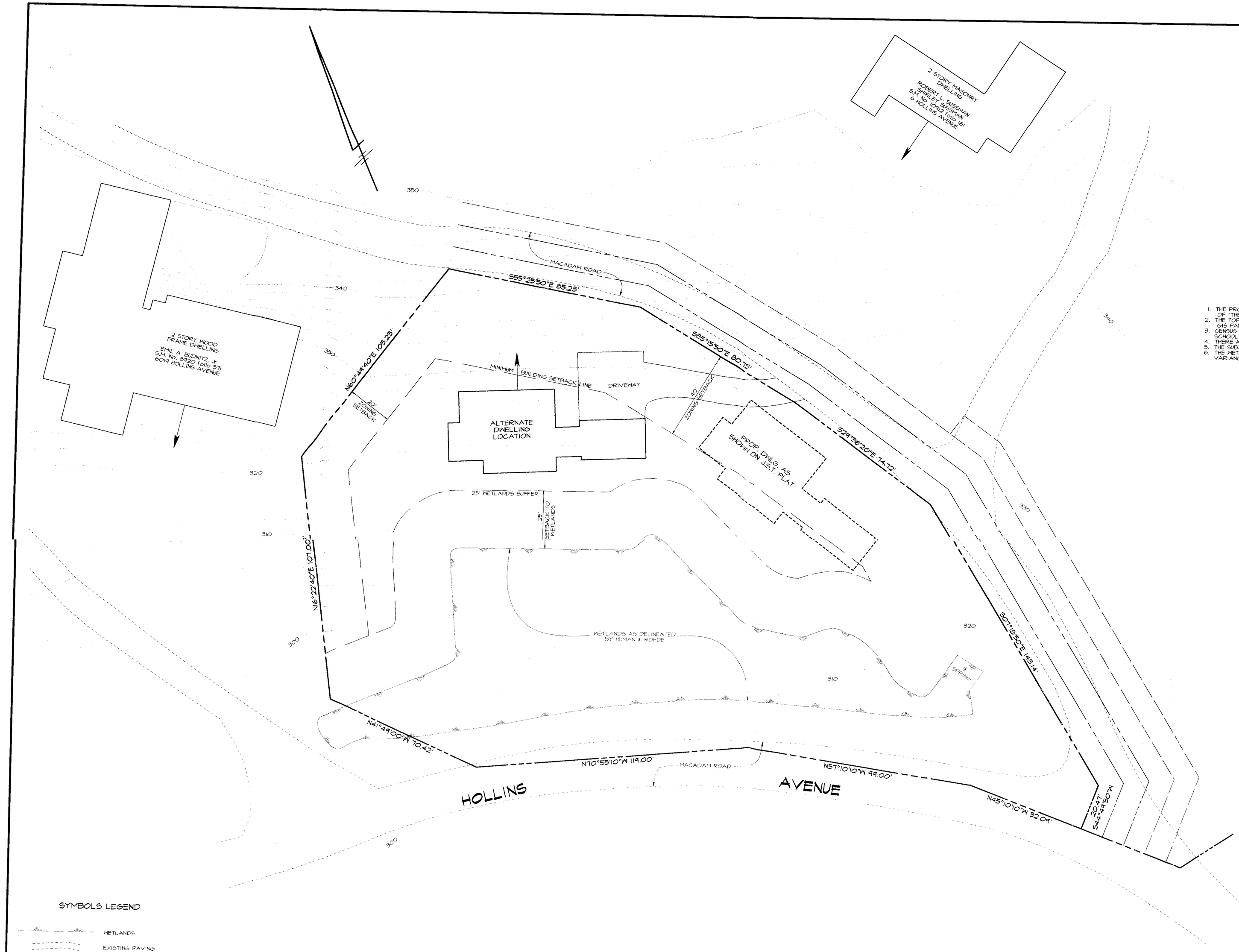
99-113-A

#113

Prot # 19



Vicinity Map 1" = 1000'



GENERAL NOTES

1. THE PROPERTY LINES SHOWN HEREON WERE TAKEN FROM DEED S.M. No. 8920 folio 569 AND THE PLAT OF "THE GAY PROPERTY" PLATBOOK R.R.G. No. 30 folio 13.
2. THE TOPOGRAPHY, PAVING AND DWELLINGS SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY GIS PANEL No.
3. CENSUS TRACT 4905.01 A.D.C. MAP & GRID 26 H-10
   SCHOOL DISTRICT TS REGIONAL PLANNING DISTRICT 314
4. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
5. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
6. THE WETLANDS SHOWN HEREON WERE DIGITIZED FROM A PLAT ENTITLED "PLAN TO ACCOMPANY VARIANCE HEARING" PREPARED BY J.S.T. ENGINEERING Co.,Inc. DATED 8-14-98.

SYMBOLS LEGEND

- WETLANDS
- EXISTING PAVING
- PROPERTY LINE
- CONTOURS

PLAT SHOWING THE PROPERTY OF
EMIL A. BUDNITZ, Jr.

HOLLINS AVENUE
Deed Ref: S.M. No. 8920 folio 569
Tax Account No.: 17-00-010838
Zoned D.R. 2
Tax Map 79; Grid 4; Parcel 226
9th ELECTION DISTRICT
4th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" =20' June 15, 1999

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

REVISION	DATE

Baltimore County GIS Services Unit Date of Photography: March 1996 Scale: 1 inch = 200 feet

Baltimore County Tile: 079b1

BEING part of the property described in a Deed dated January 7, 1910 and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 353, folio 313, from Margaret B. Elliott, widow, et al, to Mary M. Griffith. The said Mary M. Griffith having since departed this life on February 18, 1929, leaving a Last Will and Testament which was duly admitted to probate in the Officeof the Register of Wills of Baltimore County in Wills Liber W.J.P. No. 25, folio 360, wherein she devised and bequeathed her entire estate to her husband, Frederick J. Griffith. The said Frederick J. Griffith having since departed this life on December 23, 1934, leaving a Last Will and Testament, which Will was duly admitted to probate in the Office of the Register of Wills in Liber J.P.C. No. 30, folio 168, and by Item 6 of said Will he devised and bequeathed all his real and leasehold property to his daughter, Julia Adele Gay.

ALL of their right, title and interest reserved in Mary M. Griffith and Frederick J. Griffith, her husband, under Deed dated November 30, 1927 and recorded among the Land Records of Baltimore County in Liber WIM No. 652, folio 45, wherein they (Mary M. Griffith and Frederick J. Griffith) reserved the right to approve plans and alterations of improvements for the above described tract of land.

TOGETHER with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the said tract of land unto

and to the use of the said Grantee, its successors and assigns, in fee

simple, forever; subject, however, to the following restrictions:
Paragraph A- Definitions

1. The word "Seller" as hereinafter used shall mean Laird, Pock and Small, Inc. and its successor or successors.

2. The words "Tract" and "Tract of Land"shall mean the land shown on Plat of "Gay Property", recorded or intended to be recorded among the Land Records of Baltimore County.

3. The word "Building" as used herein is intended to mean one detached building.

4. The word "Lot" shall mean one unit of said tract as shown on the said Plat.

Paragraph B - Absolute Restrictions

There shall not be erected, permitted or maintained upon any land in said tract, any building other than private dwelling houses, each dwelling being designated for occupation by a single family and private garages for the sole use of the respective owners or occupant of the lots upon which such garages are erected; there shall not be erected or maintained on said tract of land an apartment house or houses designed or altered for occupation by more than one family and no more than one dwelling may be erected on a lot. This restriction shall not preclude a physician or dentist from having an office in his home, a business man from having a private office, nor prevent the erection and maintenance of any office by "Seller" for the sale and management of the property which the "Seller" may deem to be of benefit and advantage to future dwellers in the Village.

Fences shall be of wood with two rails for split rail fence, or two or three horizontal boards not over six inches wide, with top rail in all cases a maximum of thirty-sixinches above ground except required fences around swimming pools shall not exceed 54" from ground level and shall be kept at least 25 feet from property lines.

All exterior lights with exposed bulbs shall have bulbs not exceeding twenty-five watts, unless protected by translucent shades or panes and then shall not exceed fifty watts. Flood lights, or spot lights must not have an aiming angle over 45° from horizontal and must be directed in such a way as to not be objectionable to adjacent property owners.

Exterior air conditioning equipment must be kept so shielded or baffled as toeliminate objectionable noise from adjacent property.

Paragraph C - Approval of Plans

No building, fence, wall or other structure shall be commenced, erected or maintained, nor shall any addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, location and approximate cost of such structure and the grading plan of the lot to be built upon, shall have been submitted to, and approved in writing by the "Seller", and a copy thereof, as finally approved, lodged permanently with the "Seller". The "Seller" shall have the right to refuse to approve any such plans and specifications or grading plan which are not suitable or desirable, in his opinion, for aesthetic or other reasons; and in so passing upon such plans, specifications and grading plan, he shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials, of which it is to be built, to the site upon which it is proposed to erect the same,the harmony thereof with the surroundings and the effect of the building or other structure or the roadway, as planned on the outlook from the adjacent or neighboring property.

Paragraph D - Easements and Rights Reserved

The right andeasement are reserved to construct and maintain on the rearmost and sidemost ten foot strips or portions of any lot shown on the Plat the poles, anchors, and guys, with their attachments that may be reasonable necessary in the construction and maintenance of the pole lines erected in furnishing electric current, telephone and other public utility services to the occupants of said tract, provided that, if any poles, anchor, guy or attachment shall interfere with any building that may hereafter beerected on said tract, the pole, anchor, guy or attachment shall be relocated, without expense to the owner of the plot on which it is located. Also along such ten foot strips, for the construction and maintenance of conduits to carry such wires below ground and for the construction and maintenance of storm water drains, land drains, sewers, pipe lines supplying gas, water or heat, and for any other public or quasi-public utility or function conducted, maintained, furnished or performed by or in any method beneath the surface of the ground. The right is reserved to prune or trim any tree or shrub on any lot that interferes with the construction, maintenance or efficiency of said electric current, telephone or other public utility service. Also to trim or prune, at the expense of the owner maintaining the same, any

The "Seller" reserves the right at the time of, or after, grading any street, or any part thereof, to enter upon any abutting lot and grade the portion of such lot adjacent to such street to a slope of two to one, but the "Seller" shall not be obligated to do such grading or to maintain the slope.

Paragraph E - Streets and Roads

It is hereby expressly stated and provided that nothing herein contained shall constitute a dedication of any street or road shown on said Plat, the title to all such streets and roads being hereby expressly reservedto the "Seller"; nor shall any deed from the "Seller" hereafter made, conveying any part of the land included in said tract, be held to convey the title or to dedicate the bed of any street or road, except where expressly so conveyed or dedicated in the deed.

The "Seller" hereby gives and grants to each owner, hereafter acquiring title to any of the land included in said tract; the right to such use of the streets or roads shown on said Plat as may be necessary for reasonable and convenient ingress and egress to and from the land belonging to such owner; but, subject, to such use by said owner, the "Seller" expressly reserves to himself the title to both the surface and beds of all said streets and roads, and the right to use and occupy the same or to allow others so to do in any manner that does not materially interfere with said user of ingress and egress, and he further expressly reserves the exclusive right to grade, change the grade of, regrade, change the location of, close or partly close any street or road shown on said plat, but no change of location or closing shall be made that will prevent reasonably convenient ingress and egress to and from or take any portion of, any lot sold by or conveyed by the "Seller" prior to such change of location or closing.

The "Seller" reserves, however, the right to dedicate to public use and the right to convey to any public authority or to any corporation having power to acquire the same, all his right, title and interest in and to any street or road shown on said Plat or hereafter laid out in said tract, subject to the rights of property owners as herein-before granted.

All of the restrictions, conditions, covenants, easements and agreements contained herein shall run with the land shall be binding upon all parties and persons claiming underthem until July 1, 1984, at which time said restrictions, conditions, covenants, easements and agreements shall be automatically extended for successive periods of ten years unless by a vote of the majority of the then owners of the lots it is agreed to change the same in whole or in part. Provided, however, if at any time before the above date eighty per cent (80%) of the lots in said tract have been sold, houses erected and occupied the then owners of such improved lots by a majority vote may cancel or obviate in whole or in part any of the provisions herein contained by recording in the proper Land Records of the County an appropriate instrument or instruments in writing executed by said owners.

Wherever the context hereof so requires, the masculine shall include the feminine and/or the neuter and the singular shall

WITNESS:

Regina Graham

Julia Adele Gay (SEAL)
Julia Adele Gay

Leslie N. Gay (SEAL)
Leslie N. Gay

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY that on this 19th day of June, in the year one thousand nine hundred and sixty-four, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared JULIA ADELE GAY and LESLIE N. GAY, her husband, the within named Grantors, and acknowledged the aforegoing Deed to be their act.

WITNESS my hand and Notarial Seal.

REGINA GRAHAM NOTARY PUBLIC BALTIMORE, MD.

Regina Graham - Notary Public

[illegible] — Baltimore County, [illegible]

A-23-[illegible] 2577 0 48616 MPD--- [illegible]
A-23-[illegible] 2577 0 48616 MPD--- [illegible]

Pet. #20

COPY

VENABLE, BAETJER AND HOWARD
ATTORNEYS-AT-LAW
1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201

February 3, 1977

Emil A. Budnitz, Esq.
3405 Greenway
Baltimore, Maryland 21218

Re: Estate of Julia Adele Gay

Dear Mr. Budnitz:

I enclose herewith a copy of a draft of Deed for the "Hollow" from Mrs. Gay's Personal Representatives to your son. I used the description prepared by Mr. Spamer.

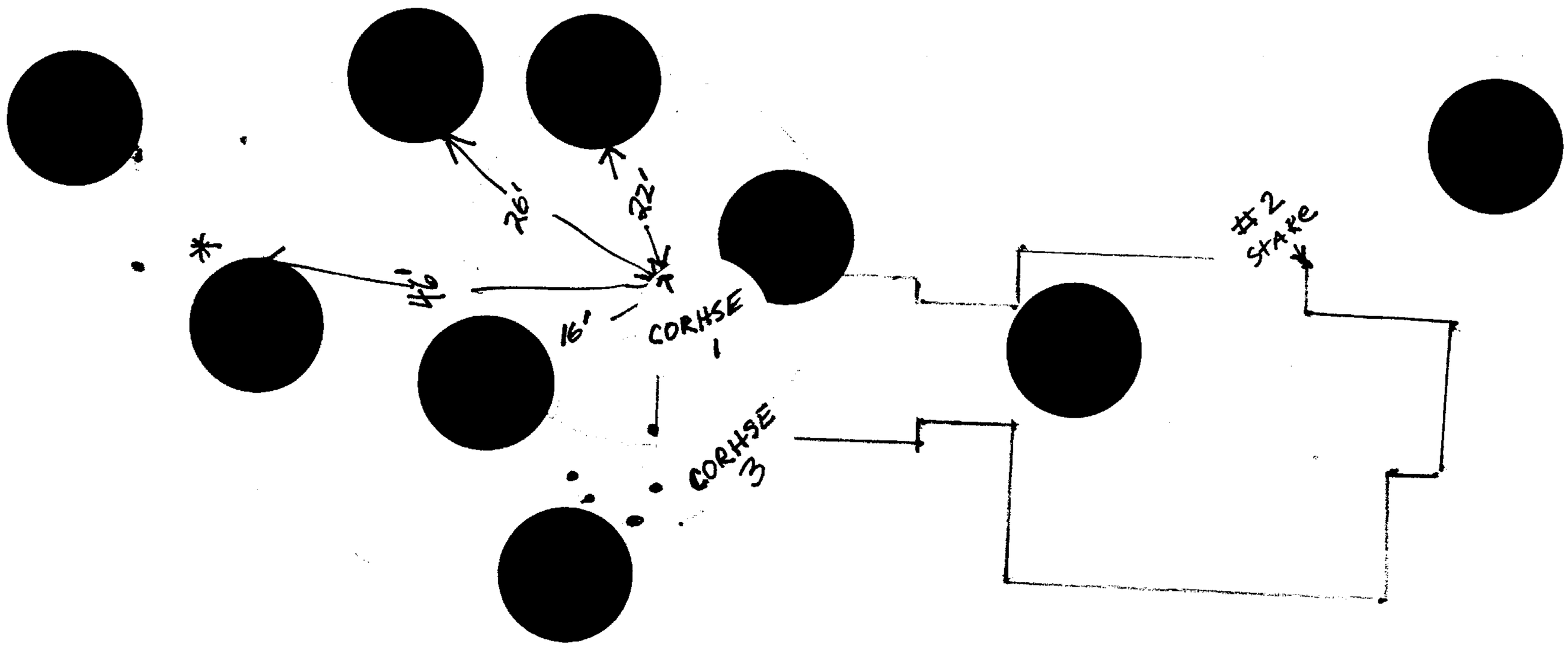
Please let me know when you will be ready to settle on this transaction.

Sincerely yours,

Arthur W. Machen, Jr.

AWMjr:jc
51667
Enclosure

cc: Mr. Emil A. Budnitz, Jr.
Mr. Leslie N. Gay, Jr.



Plat #7

Plot. # 20

DENNIS J. LABARE

Mr. LaBare has been engaged in biological and ecological research and monitoring of freshwater systems in Central Maryland and Southern Pennsylvania since 1976. He has performed studies in the Gunpowder, Monocacy, Patapsco, and Potomac drainage basins while developing expertise in aquatic system inventories, assessment, and planning. He has performed hundreds of wetland delineations throughout the piedmont and coastal plain on sites from less than one to more than one-thousand acres and has designed numerous restorative and water quality enhancement mitigation projects. All these endeavors have been undertaken in a manner to facilitate land use planning decisions built on sound science and common sense. He has performed and prepared hundreds of Forest Stand Delineations and Forest Conservation Plans in the same region since the inception of the law and has provided training on the subject to other land use professionals. Mr. LaBare's thesis to complete the requirements for the Master of Science Degree entitled "The Temporal Variability in Several Indices Used to Evaluate Freshwater Stream Macrobenthic Communities as Indicators of Water Quality" was the first intensive time-series statistical analysis to be performed on pollutional indices commonly used by regulatory authorities in the United States and the United Kingdom.

For over twenty years Mr. LaBare's activism and leadership in the environmental conservation arena have provided him a familiarity with the regulatory environment and its personnel. This knowledge coupled with his four years experience in retail and wholesale real estate sales and property tax valuation consulting gives him the unique perspective of both sides of land use issues. Known for his amiable personality and powerful service ethic, he has an outstanding reputation for his ability to communicate with clients and regulators on a positive, co-operative basis, and for effectively managing complicated projects.

EDUCATION

M.S., Towson State University, 1986
B.S., University of Maine, 1977

MISC.

Formerly Adjunct Faculty, The Johns Hopkins University
Lecturer in Stream Ecology

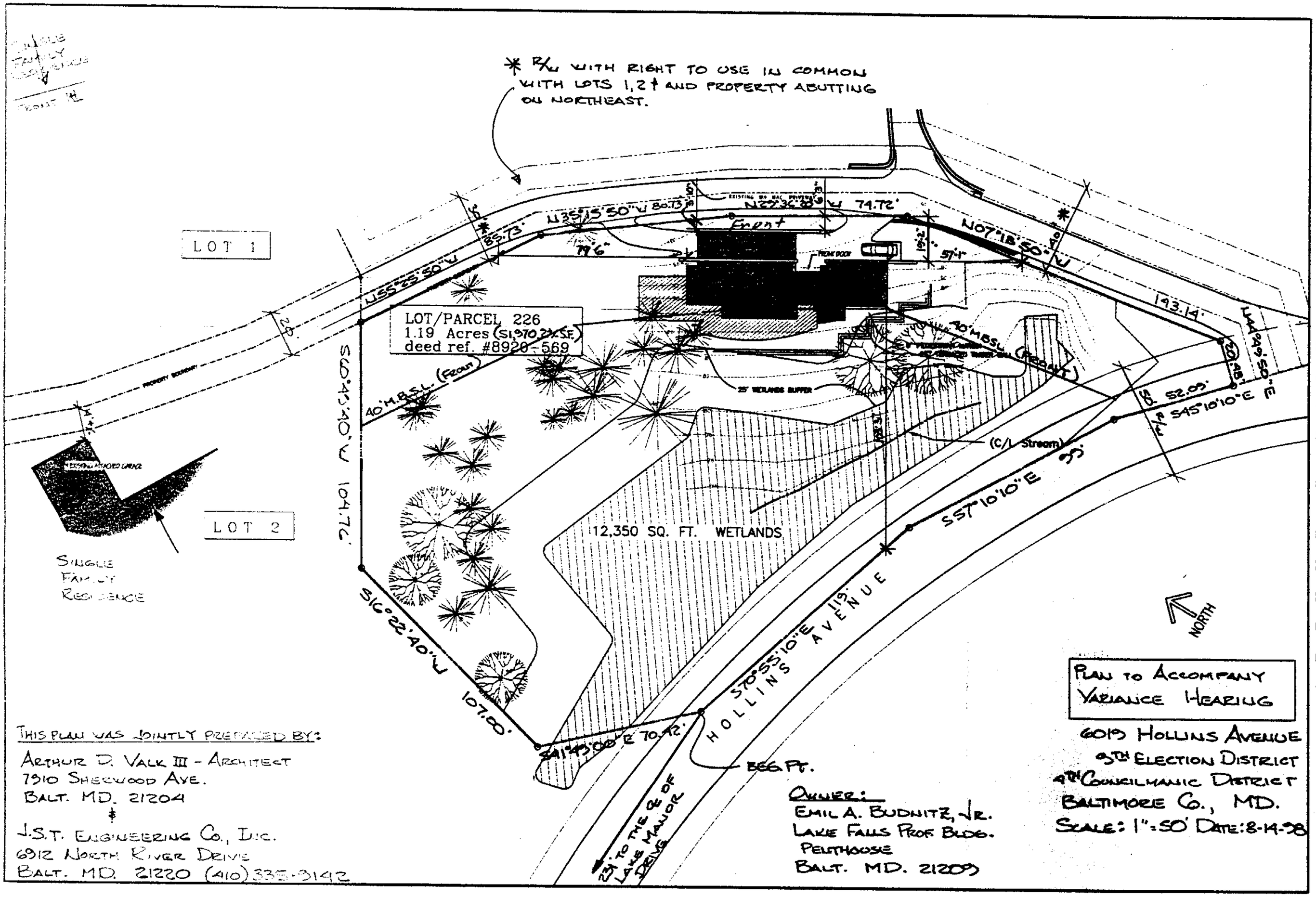
Qualified Professional, Maryland Forest Conservation Act

Recipient, 1993 National Trout Unlimited "Trout Conservation Award", TU's highest national/international award for a volunteer.

Pet. #1

SINGLE FAMILY RESIDENCE

FRONT HL +/-



SINGLE FAMILY RESIDENCE

FRONT HL

THIS PLAN WAS JOINTLY PREPARED BY:

ARTHUR D. VALK III - ARCHITECT
7910 SHERWOOD AVE.
BALT. MD. 21204

J.S.T. ENGINEERING CO., INC.
6912 NORTH RIVER DRIVE
BALT. MD. 21220 (410) 335-3142

OWNER:
EMIL A. BUDNITZ, JR.
LAKE FALLS PROF. BLDG.
PENTHOUSE
BALT. MD. 21209

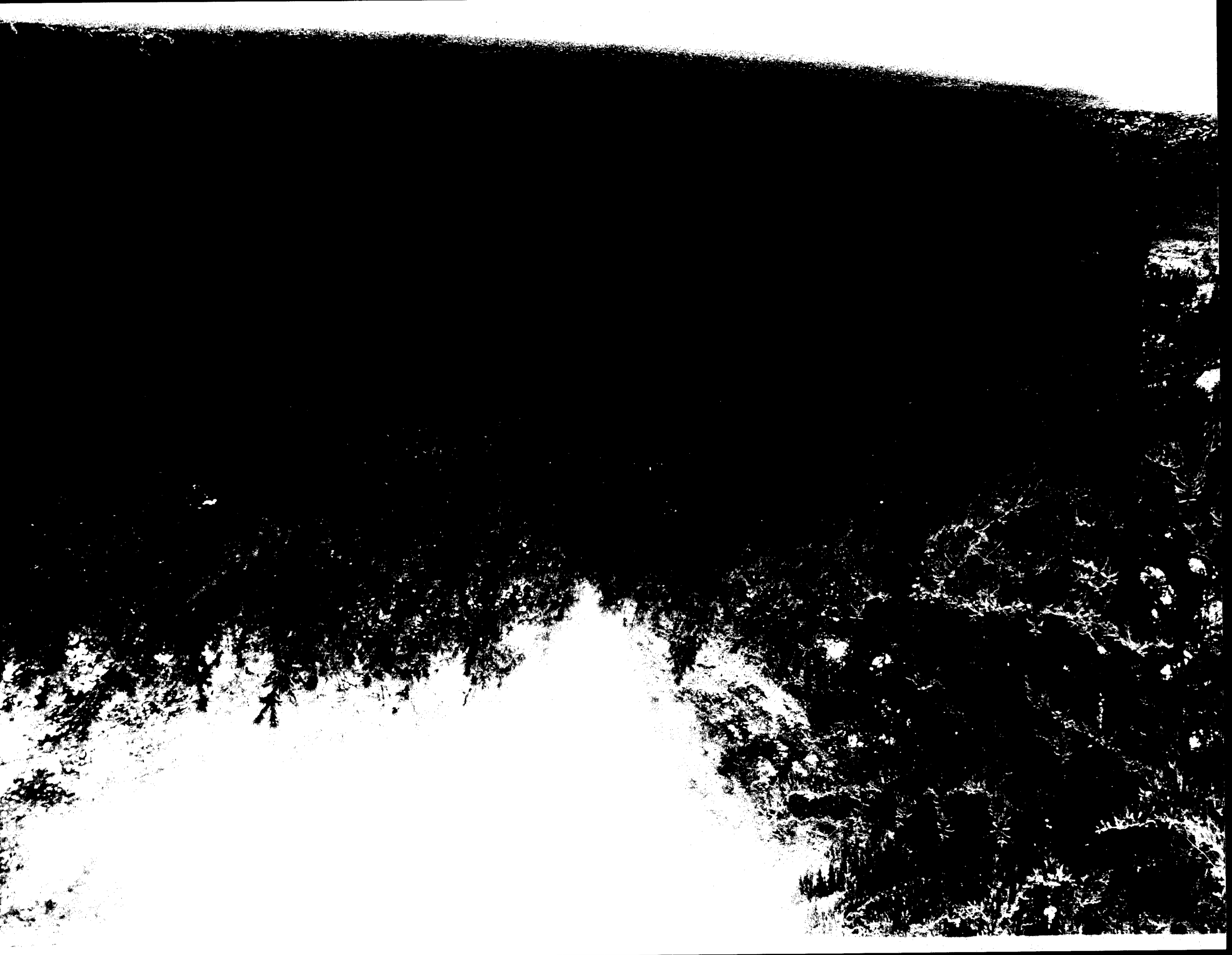
PLAN TO ACCOMPANY VARIANCE HEARING

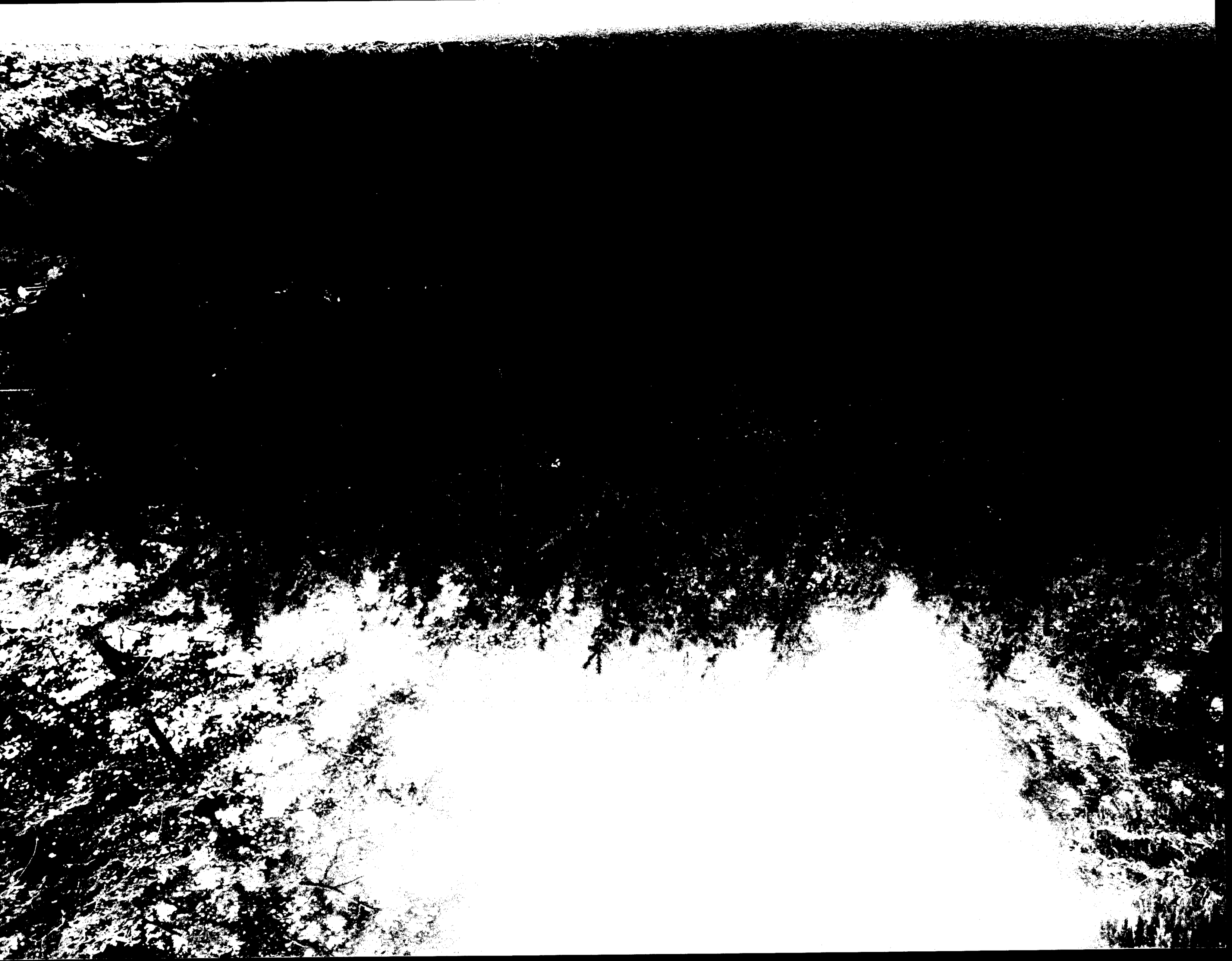
6019 HOLLINS AVENUE
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
BALTIMORE CO., MD.
SCALE: 1"=50' DATE: 8-14-98

ARTHUR D. VALK III Architect
7910 SHERWOOD AVENUE BALTIMORE, MARYLAND 21204 (410) 321-6925

6019 HOLLINS AVENUE

SP-1

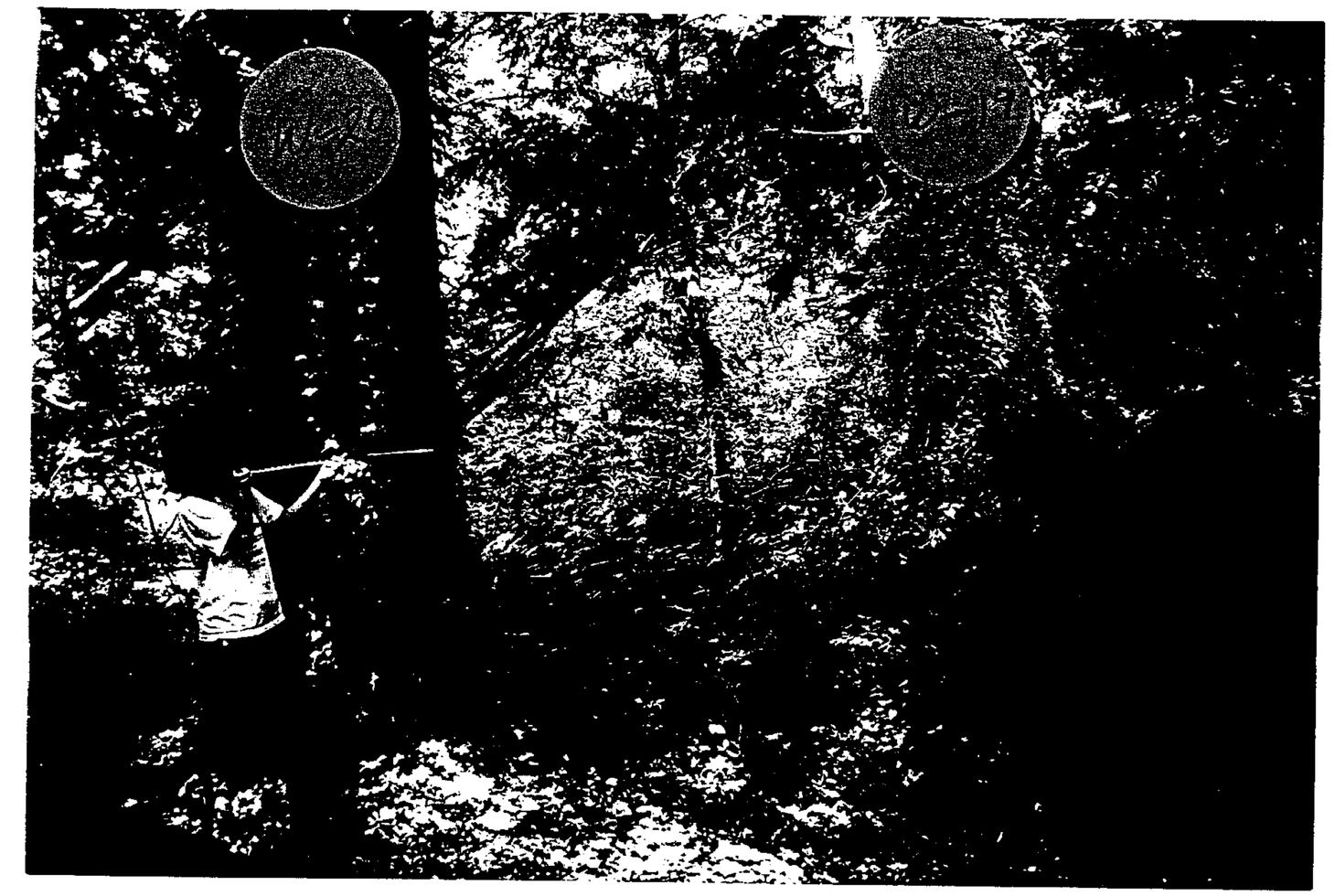




PLOT. #9

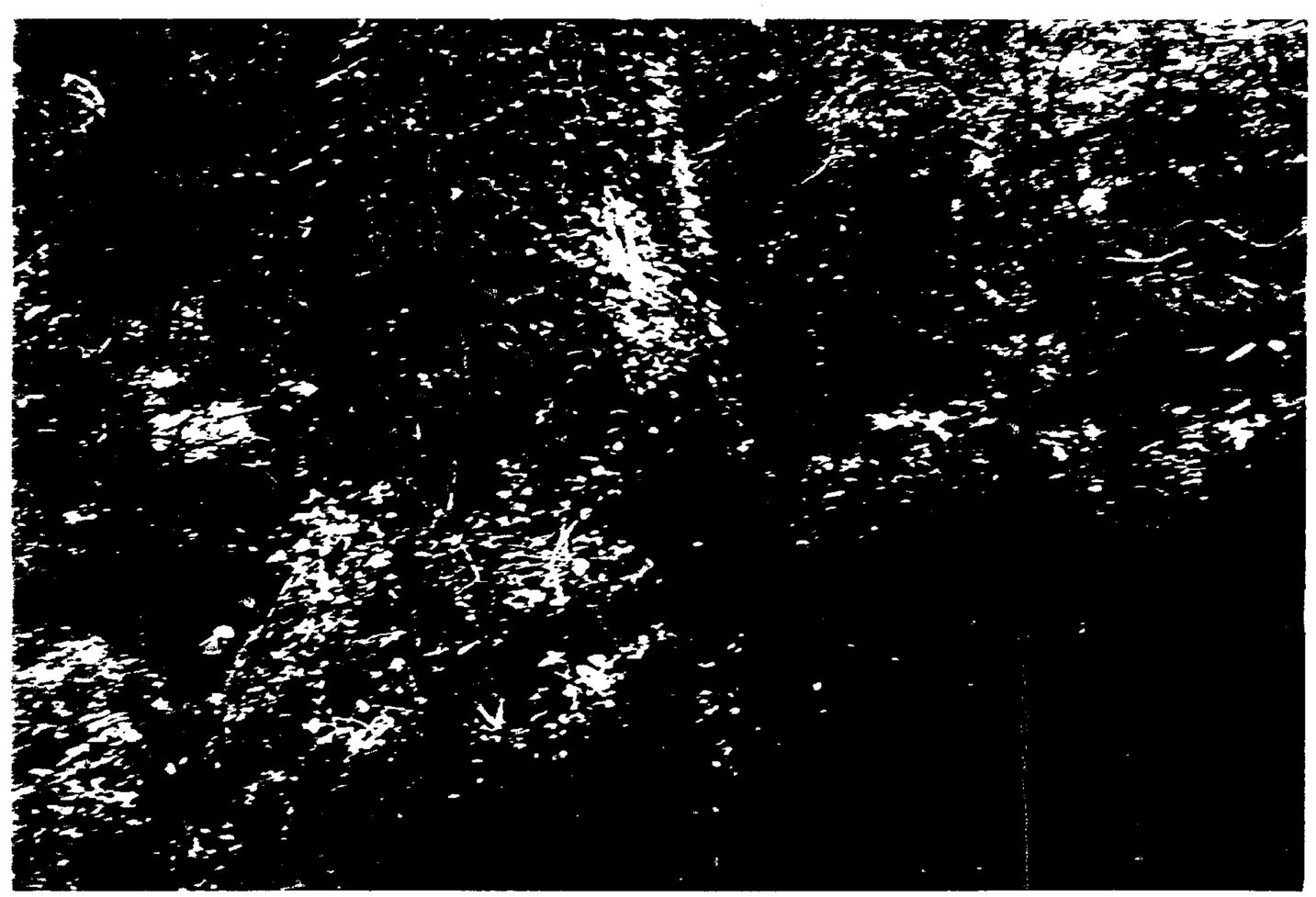
W-20

44.3"
SYCAMORE



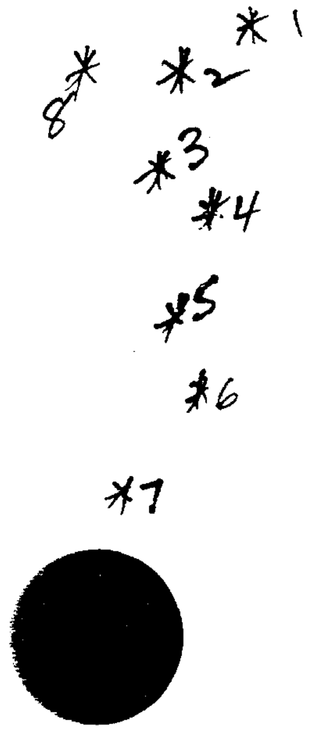
Natural Drainage Swail
Ferns, Pachysandra

W-20 ← SWAIL 17' → W-19



W-19

45.9"
Tulip



NORWAY SPRUCE along Budnitz property line

NORWAY SPRUCE	
#1	19.4"
#2	15.9"
#3	14"
#4	15.9"
#5	14.6"
#6	19.7"
#7	16.2"
#8	19.7"

EB → House of Emil Budnitz

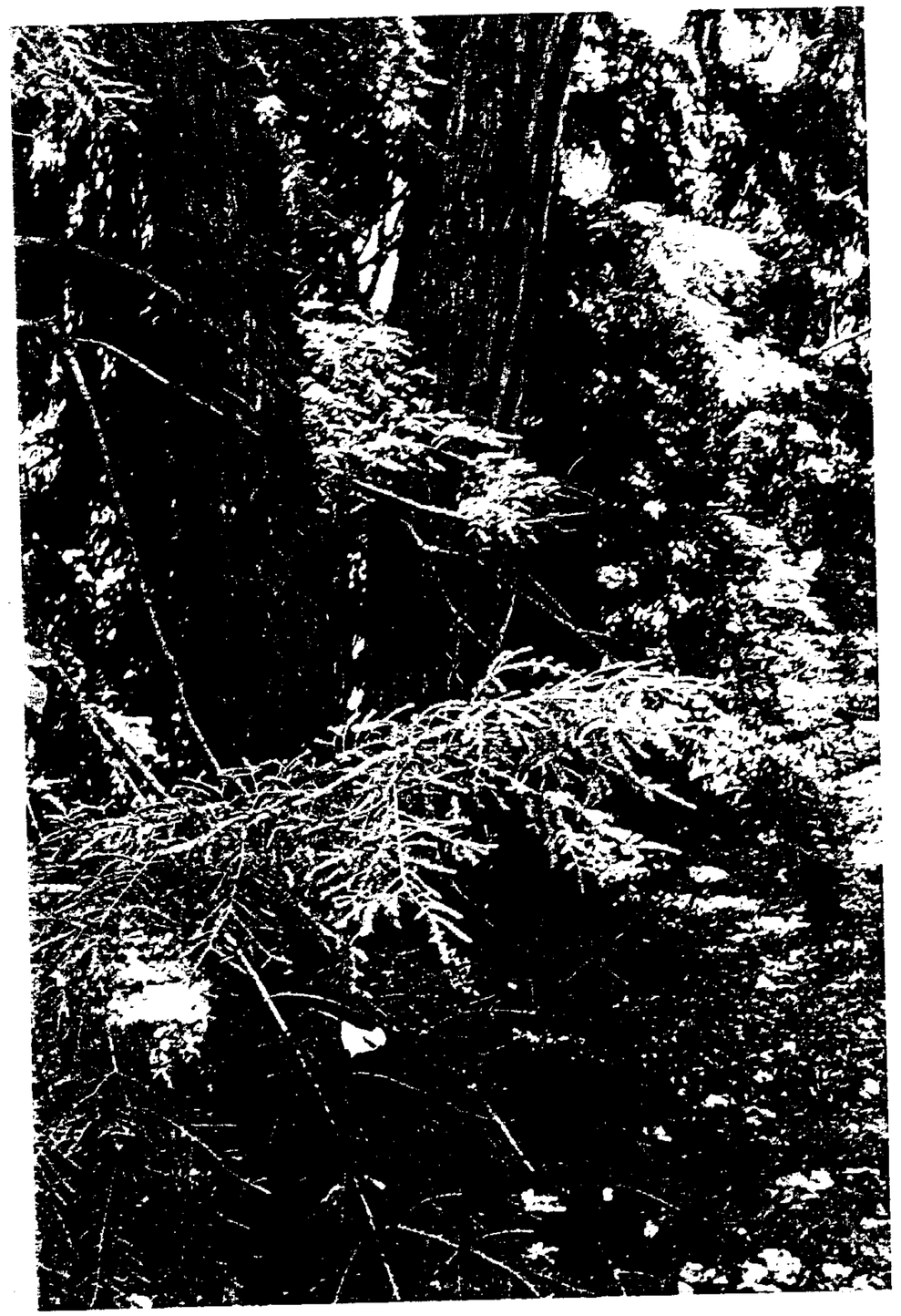
Pict. #12

Plot. # 11

Hemlock Grove
consisting of 8 Hemlock
1 scotch Pine
Maximum dia is 19.2"
3 of these Hemlock are
"dual trunked"

#2 Stake

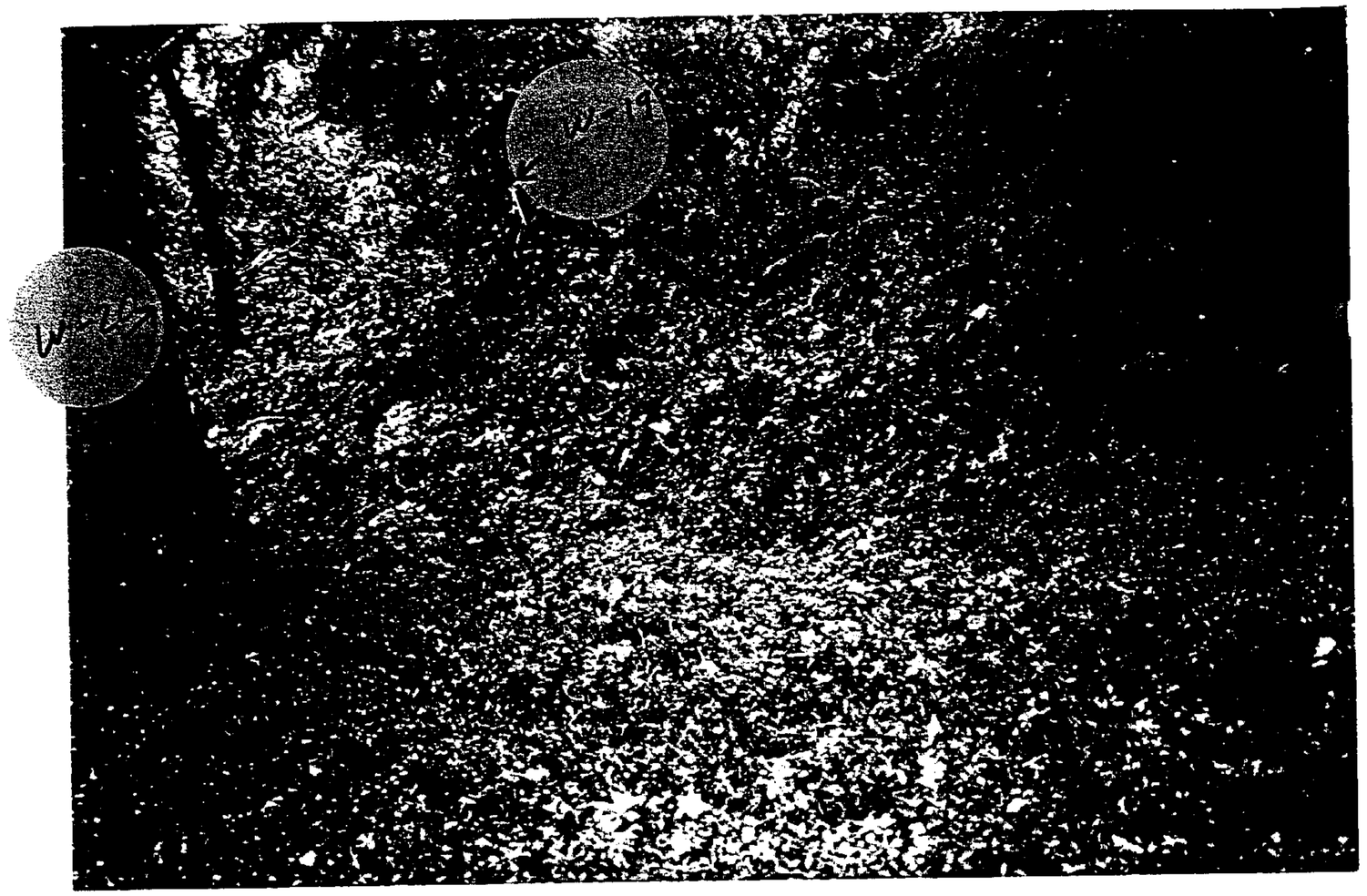
"Dual" trunk Hemlock



McG #2 "Large tree" dual trunked locust

McG #1 "54 inch" Ash tree

Plot. #13



Natural Drainage Swail

Natural Drainage Swail

Center of swail is 16' from house

Stake #1

Plot. # 46

Additional Views
from SUSSMAN property
front YARD facing proposed
building site

Multiple photo's taken from SUSSMAN front yard facing proposed Building site

Y 35' yew on SUSSMAN Property

Pur # 17

Prot. #8

22'

HOUSE
CORNER
#1

Note 45° slope; Fern, Pachysandra
FRIABLE soil

Pine
31"

White Pine tree
31" diameter

4 American Holly Trees 6ft to 11ft FROM CORHSE 3

Holly

CORHSE
3