3/22/02

IN THE MATTER OF THE APPLICATION OF JARVIS STEEL & LUMBER CO., INC - PETITIONER -- FOR A ZONING RECLASSIFICATION FROM R.C. 4 TO R.C. 5 ON PROPERTY LOCATED ON THE SW/S DOVER ROAD, APPROXIMATELY 600' N OF BAUBLITZ ROAD 4th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. R-01-437 Out-of-Cycle, 2001

* * * * * * * * *

MAJORITY OPINION

This case comes to the Baltimore County Board of Appeals under § 602 of the Baltimore County Charter. Under subsection (e), this Board has original and exclusive jurisdiction over all petitions for reclassification. While having such jurisdiction, the County Council has placed certain constraints upon the Board. These are specified under § 2-356(j)(1) and (2) of the *Baltimore County Code* (BCC). Essentially, the Petitioner has the burden to prove that there has "occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified; or, that the last classification of the property was established in error." Certain factors identified in subsection (2) must be satisfied before any reclassification may be granted. On October 10, 2000, the Baltimore County Council, in legislative session, considered, and voted on, all requests for zoning changes on properties that were filed as part of the 2000 Comprehensive Zoning Map Process. Subsequent to the Council's actions, the Petitioners filed a Petition to rezone four parts of a property in the County. Subsequent to the Petition request, the normal procedures followed through the appropriate channels of government. After appropriate property posting, this Board held a public hearing to entertain the request for reclassification of the property. Two additional hearing dates were scheduled for October 25, 2001 and November 29, 2001. Following the public hearings,

Counsel was requested to submit written briefs on a simultaneous basis to the Board members. A public deliberation was scheduled for Wednesday, February 6, 2002. However, one of the Board members was suddenly hospitalized, and deliberation was rescheduled for February 14, 2002. Counsel for the Petitioner was Howard L. Alderman, Jr., Esquire; Robert D. Sellers, Esquire, for the Protestants; and Peter Max Zimmerman, People's Counsel for Baltimore County, participated on behalf of that Office.

The reclassification petition seeks to rezone four parts of a property shown on Petitioner's Exhibits 4, 5, 6 and 7 as Reclassification Area #1 (11.6 acres); Reclassification Area #2 (.043 acre); Reclassification Area #3 (.007 acre); and Reclassification Area #4 (7.4 acres). The subject property is owned by Jarvis Steel and Lumber Co., Inc. It is located on the west side of Dover Road, north of Baublitz; and north of a residential subdivision known as "Chestnut Woods." Prior to the County Council's vote on October 10, 2000, the property was zoned in its entirety as R.C. 5. While the property was zoned R.C. 5, the subject property was under consideration for development, with the Hearing Officer conducting proceedings as regulated by the *Baltimore County Code*. During the development process, and while the property was still zoned R.C. 5, the Petitioner was aware that the property was being considered for rezoning and apparently aware that, if the property were rezoned, would impact its pending development proposal. Ultimately, a development plan was approved by the Hearing Officer. However, the Petitioner was not able to secure a permit or begin substantial construction before the new maps became effective, which was 45 days subsequent to October 20, 2000. That left the Petitioner with but one course of action; and that was the filing of the instant Petition to reclassify the property back to R.C. 5 in order to substantially comply with the approved development plan. (It

should be noted that at the time of this "Opinion and Order," the approval of the development plan by the Hearing Officer is on appeal by one of the Protestants in this case.)

After the rezoning, portions of the property were zoned R.C. 4, with the balance retaining the R.C. 5 classification. The property was part of Issue No. 3-160 consisting of 526 acres filed by Councilman McIntire at the request of one of the current Protestants, the Falls Road Community Association. During the Comprehensive Zoning Map Process (CZMP), the Baltimore County Planning Board had voted to retain the R.C. 5 zoning on the subject property and other properties which amounted to 245 of the 526 areas comprising issue 3-160. Councilman McIntire had requested that the Baltimore County Planning Office prepare for him certain "overlay" maps for the rezoning of areas that lay within 300 feet of stream or streams. The Planning Office used data on this property from the 1950s without any field verification.

Subsequent to the Council's approval of the new maps, the Planning Office, heard from Mr. Bruce Doak, a registered professional land surveyor retained by the Petitioner, that there was no verified field stream data. It was his contention that information now existed that contradicted the stream information reflected on the base map that had been used to prepare the overlay for Councilman McIntire and the County Council. The Office of Planning determined that the official 2000-foot scale maps would be used to depict the zone being approved by the County Council on October 10, 2000 based on the overlay requested by the Councilman. Mr. Hughey of the Planning Office had prepared that overlay, even though the lines did not comport with the zoning lines reflected on the proposed development plan. At the Hearing Officer's proceedings, Mr. Hughey opined that, if the zoning lines reflected on the development plan under consideration showed R.C. 4 zoning 300 feet from DEPRM field-verified streams, such

zoning lines would be those indicated on the official 200-foot scale zoning maps, which would take effect in late December 2000.

The Office of Planning, however, determined that the official 200-foot scale maps would depict the zone lines approved by the County Council on October 10, 2000, based on the overlay prepared for Councilman McIntire, without consideration of the fact that the lines relative to the property did not comport with field-verified information.

While the Petitioner requested the Office of Planning to invoke the zone map correction process to change the maps, that office refused to do so because the error was in the base information, and not due to the required drafting error as specified under the *Baltimore County Code* as referenced by § 26-136 (correction of zoning maps); hence, the request by the Petitioner for a request for reclassification of the property.

Both sides to the issue had ample time and opportunity to present their case. The first witness offered by the Petitioner was Mr. William Hughey, of the Baltimore County Office of Planning. Mr. Hughey is the Council area planner assigned to the Third Councilmanic District, and was quite familiar with the majority of issues raised during the last CZMP. He opined that Councilman McIntire had filed issue 3-160 at the request of the Falls Road Community Association. That issued encompassed 526 acres, included in which was the subject property. He opined that the Baltimore County Planning Board had voted to retain the existing R.C. 5 zoning on the property and other properties (amounting to 245 of the 526 acres) within Issue # 3-160.

Because the local Councilman was concerned about areas in the issue that were within 300 feet of a stream or streams, Mr. Hughey was requested to prepare the customary "overlay" maps for the anticipated rezoning of properties that were within 300 feet of a stream or streams

to apparently accommodate a reclassification of R.C. 4. To accomplish this, Mr. Hughey stated that he started with the 1,000 foot base map based on data reflected on the official 200-scale zoning maps. He then enlarged the 1000-foot scale zoning maps to a scale of 1 inch to 600 feet. Features, symbols, and geographic data that included streams were placed using the 1950 data from the 200-foot scale maps. No County agency verified by way of a field investigation the existence or nonexistence of the streams reflected on the enlarged 1000-scale maps that had been used for the overlay requested by Councilman McIntire. While the Planning Office specifically requested that DEPRM (Department of Environmental Protection & Resource Management) personally conduct an independent investigation of the existence or nonexistence of streams on other properties in the Third Councilmanic District, none was requested relative to the subject property.

Based upon the overlay, the October 10, 2000 vote by the Council changed the zoning on the property. Portions of the property 300 feet from a stream were rezoned to R.C. 4, and a portion of the property having a stream running through it was not rezoned to R.C. 4; rather, the pre-existing R.C. 5 zoning was continued. Thereafter, subsequent to the vote, Mr. Bruce Doak contacted Mr. Hughey and indicated that there was reliable information now available which specifically contradicted the stream information that was reflected on the base maps that had been used to prepare the overlay for the County Council. Mr. Hughey recounted his testimony at the Hearing Officer's hearing relative to the development plan that was being considered for the property. He stated that the zoning lines reflected on the development plan that was under consideration reflected R.C. 4 zoning 300 feet from DEPRM verified streams, and that such zoning lines would be those depicted on the 200-foot scale maps when they took effect in late December 2000. The witness proceeded to describe the later changes in the Office of Planning

position that the 200-foot scale maps would depict the zone lines that had been approved by the County Council on October 10, 2000, based on the overlay which he had prepared, and not considering the fact that the lines pertaining to the project did not agree with verified field information. The witness opined that he had received a request from the Petitioner to invoke the zoning map correction process because the issue was in the base information utilized and not due to a drafting area required, *Baltimore County Code* § 26-136 (Correction of Zoning Maps). It was Mr. Hughey's contention that the Office of Planning would support the reclassification of all areas within 300 feet of a stream or streams to a designation of R.C. 4; and all areas beyond 300 feet to R.C. 5 in association with the guidelines stated by the Councilman during the 2000 CZMP. Reference was made to the Office of Planning letter dated June 15, 2001, (Petitioner's Exhibit No. 13) as follows:

> The 200 scale base map used to prepare the zone lines covered under Issue 3-160 depicted conditions that do not reflect field verified data and conditions, and as a result the final zoning on the 2000 Comprehensive Zoning Map does not, in the opinion of this office, reflect the County Council's intent to only rezone certain property based on strict criteria as part of the zoning process.

On day #2, Mr. David Lykens testified. He is with DEPRM and is a natural resource specialist engaged in wetlands protection and environmental matters. He testified at length that he had personally visited the site four or six times and was familiar with the subject property. He reviewed data relative to Petitioner's Exhibit No. 1. He indicated that which in his opinion constituted a stream; and what was a periodic intermittent stream or streams, and that for the most part are constant in nature. Intermittent streams, he explained, come and go and could be confused as swales. He described what he looked for on the property during his visits and could not physically locate any regular streams or what could be considered intermittent streams. In addition to field visits, he considered available maps, development plans, tax data and soil maps

before reaching any final conclusions. Before rendering any final opinion, or analysis, he stated that he always makes one final visit. He very adeptly described the process which involved data from the U.S. Soil Conservation Service, the field survey process, and in particular his examination of a drainage /swale /channel area in the central /northern portion of the property. He opined that the only stream on the property was positioned in the southwest portion as reflected on the undocumented site plan that accompanied the Petition for Reclassification. In his opinion, there were no "intermittent streams" on the property; and in his expert opinion, the streams and forest areas were correctly and accurately shown on Petitioner's Exhibit No. 1. He also indicated that, during his visits, he could not find any evidence of groundwater present that would constitute groundwater sufficient to consistently flow actively in the area.

Mr. Zimmerman conducted a cross-examination of the witness. Reference was made to a recommendation by Mr. George Perdikakis who was the Director of DEPRM that recommended R.C. 4 zoning on the property. Mr. Lykens opined that the DEPRM recommendation was made in February 2000 before any field verification had been done. He opined that he had visited the site in the Spring or Summer of 2000 in connection with the development plan and not the CZMP. He indicated that the development plan would have to address swales and streams, if they existed, by way of stormwater management decisions, which would include a 100-year flood plan. Mr. Sellers inquired about the definition of a "stream." Mr. Lykens opined that the County's photogrammetric meter maps are used as a guide for preliminary evaluation of water but that field verified information is the most accurate method of determining such sources. Relative to the channel previously referenced, Mr. Lykens stated it was a drainage swale generated during storm events. Such intermittent streams have groundwater and are not event related as their origin.

Mr. Bruce Doak testified on behalf of the Protestants. He is a registered field land surveyor and has been accepted by this Board on prior occasions as an expert in surveying and zoning matters. He opined that he had prepared Petitioner's Exhibit No. 1 which contained his professional seal. That exhibit describes the property sites. Each of the four areas proposed for reclassification was described. He indicated that for the development process he had prepared perk tests on various areas of the site. He stated that DEPRM has a policy not to permit any perk tests in the areas of a channel if, in fact, a channel or stream is present based on site visits. The development hearings did not recite any deficiencies in the property relative to stream issues.

Subsequent to the County Council's vote in October of 2000, Mr. Doak stated that he met with Mr. Hughey, Baltimore County Office of Planning. The overlay maps that had been used by the County Council, as shown to him, proposed reclassification of the channeled area of the property to an R.C. 4 zone, but did not change the R.C. 5 zoning in the southwest areas where, in fact, there did exist a bona fide stream located in a 100-year flood plain. In order to bolster his contention that no streams existed elsewhere on the property, the Petitioner engaged the services of a recognized environmental consulting firm to check out the property, and identify areas in which streams or wetlands might exist.

Subsequent thereto, Mr. Doak re-surveyed the property and delineated the wetlands and streams and stream resources with survey flags. He personally visited the sites and verified the information and stated that the DEPRM field verified the information, and that was transmitted to the Baltimore County Office of Planning subsequent to the October 10, 2000 vote of the County Council.

Mr. Robert W. Sheesley also testified on behalf of the Petitioner. Mr. Sheesley is president of EcoSense, Inc., a private environmental consulting company that provides

environmental land services to landowners and environmental agencies relative to environmental concerns. Mr. Sheesley served as DEPRM Director for Baltimore County from 1987 through 1990, and is certified as a Maryland State Registered Sanitarian. Mr. Sheesley opined that he was familiar with the property. He had visited the site on several occasions, and described his observations of the property that included the "channel" located on the northern part of the property, and identified those forests, streams, and wetland areas present on-site. Mr. Sheesley opined concerning those characteristics that would normally be associated with a stream which indicated habitat that would be in the stream area. In this case, he found none, nor, in his opinion, were there any normally recognized characteristics associated with a perennial or intermittent stream wetland. He stated that County and State laws and regulations do not permit percolation tests in any channel or swale area, and that these tests had been performed on the subject site as indicated by Mr. Lykens' testimony, and some of the exhibits. Mr. Sheesley referenced Petitioner's Exhibit No. 1 and the stream that apparently existed in the southwest portion of the property. He also restated the County's forest stream buffer policy as codified by the *Baltimore County Code*. That definition of a stream under BCC § 14-336 defines "streams" as follows:

> Stream means those perennial and intermittent water courses identified through site inspection and as approved by the department. The most recent county photogrammetric maps may be used as a guide for the preliminary establishment of possible watercourses.

Relative to the required Environmental Impact Statement, it was Mr. Sheesley's opinion that, if the Board reclassified the property, there would not be any detriment to the environment or ecological systems in the area or the water quality in the watershed or any public water resources. He opined that some of the property would be improved in areas of impervious surfaces, but that the same quantity of area would be converted to impervious use irrespective of

the change in zoning classification. Mr. Sheesley also stated that what the requested reclassification would actually do would be to provide a 300-foot buffer to the wetland and stream areas in existence on the property, and that the 300-foot buffer of R.C. 4 zoning would not be present in these areas if the reclassification petition was denied.

Mr. Jack Dillon, Executive Director of the Valleys Planning Council, appeared in opposition to the reclassification petition. As in previous cases, Mr. Dillon presented a history of the R.C. zones in which he was an active participant while employed by Baltimore County. Mr. Dillon was quite familiar with the procedures employed by Mr. Hughey in compliance with the overlay requested by Councilman McIntire. Mr. Dillon was quite emphatic that the main purpose of the R.C. 4 classification was to provide land use protection for water flow into the watershed and reservoir areas. He opined concerning his opinion relative to what constituted a "parcel" and, in the instant case, the Board should look at the entire parcel, and not just the isolated portions of same. He stated concerns that any runoff is ultimately going to flow into the Loch Raven Reservoir, and that any increase in density would cause additional runoff. In essence, to protect the watershed, less density instead of more density was to be preferred.

On cross-examination, Mr. Dillon agreed that one of the areas on the subject site was located in a one-year flood plain area.

Mr. Tim Roberts also testified. He is the son-in-law of the family that owns the property just north of the Jarvis property consisting of roughly 723 acres. He provided the Board with his observations of the subject property. He stated that it appeared very wet and holds water all year long. He opined concerning the very dry period that had prevailed during the last two years, yet he believed streams to exist on the property.

Mr. Joseph Berg also testified. He is employed by BioHabitats, Inc., an eco-consulting firm. He holds a B.S. and Masters Degree in ecology, aquatic systems, and wetland delineation. He indicated he had published several articles relative to aquatic life. He was acknowledged to be an expert in ecology and wetlands delineation. He opined that he, too, had made site visits and to that end had prepared Protestant's Exhibit No. 15. He related his opinions concerning his belief that there was a channel area or areas that produced an intermittent stream. He stated that the area was dry on his visit. The basic thrust of his testimony was that buffers would be needed if the number of houses allowed under R.C. 5 zoning were permitted, and that the property warranted protection from excessive development, and that one must look at the cumulative effect of development and the ultimate effect it has on the watershed and reservoir systems.

Mr. John Martin also testified. He is a resident of Glyndon, Maryland and owns the property to the north. He indicated on Petitioner's Exhibit No. 1 where his property is located. He owns approximately 723 acres. He described the characteristics of the subject property; that the area was consistently wet with moisture. He testified that, because of the drought situation, his water table was quite low and that it continued to be dry, even at the present time, and that he was opposed to the rezoning petition.

Mr. John Galbreath was the final witness for the Protestants. He described his position with the Falls Road Community Association and indicated that they had a membership of 482. Mr. Galbreath opined that he had attended the Hearing Officer's hearing relative to the proposed development plan and that he had appealed the decision to this Board. He stated that before the Board on the development plan appeal he was not permitted to introduce additional evidence in the form of a substantial number of photographs he had taken on the property. The Board, during this hearing, did permit Mr. Galbreath to both introduce and review a large number of

photographs of the subject property which, in several instances, did depict water that was obviously flowing in some sort of channel. He indicated that, for several months, the region had been experiencing drought conditions. He submitted a copy of *The Baltimore Sun* from May 7, 2001 in which it was reflected that there had been very little rainfall in the past 24 hours. He opined that the Petitioner had had the opportunity to participate in the Comprehensive Map Process but declined to do so, rather relying upon the development plan approval process. He indicated that he had become actively involved in the case when he heard about the reclassification petition being filed by Jarvis Steel. He was disturbed at the prospect that the zoning lines were going to be changed. He accordingly went to see People's Counsel, Mr. Peddicord, the Council's counsel, and that the reclassification was an attempt to thwart the intentions of the Councilman to protect an area that lay within 300 feet of a stream or streams. Mr. Galbreath was very emphatic that there was a considerable flow of water on the property that was precipitated by a very modest rainfall and that the water continued to flow for hours after the rainfall. (Joint Exhibit 18A and B)

There are, as People's Counsel has identified in his "Memorandum," submitted to this Board subsequent to the public hearings, four key issues:

1. Does the petition for reclassification of property in an R.C. 4 zone meet the threshold BCZR 1A03.2E requirement of a proper certification that "The parcel does not lie within a one-hundred-year floodplain"?
2. Does the petition meet the threshold BCZR 1A03.2F certification and "Environmental Impact Statement" requirement?
3. Is there legally sufficient evidence of "mistake" in the comprehensive zoning?
4. Is the reclassification to R.C. 5 "warranted"?

Issue No. 1

BCZR § 1A03.2E requires that an engineer, architect, landscape architect, or surveyor must certify "that the parcel does not lie within a 100-year floodplain," if the Petition seeks reclassification to an R.C. 4 zone. The applicable question in this case is what constitutes a parcel. There is no question but that the Petitioner is the owner of the 40 +/- acres as identified in the submitted site plan and tax map references. It is also undisputed that included therein is a 100-year floodplain in the southwest portion of the property. Protestants assert that the Board should be guided in its decision by the rationale employed in Case No. 93-307-SPHXA (People's Counsel Exhibit 33A).

> The Board finds as a fact that the parcel under consideration includes the entire area of the site, as defined by its metes and bounds as the lot of record which existed on the date of the zoning regulation which governs it, which, in this case, is the date of the last Comprehensive Zoning Map adoption date by the County Council, October 15, 1992. In finding this fact, the Board therefore finds that the zoning line proposed by the Petitioner to separate the proposed developable area as D.R. 10.5 and B.L. from existing and to-remain R.C. 4 property on the instant site is an artificial line not recognized by the BCZR as definable in the context of the word "parcel" and/or "lot of record."

On appeal, Judge Levitz of the Baltimore County Circuit Court agreed:

> The site in question is a contiguous tract of land, all owned by the Appellant, therefore, it is one parcel. [People's County Exhibit 33B)
>
> Thereafter, the Court of Special Appeals affirmed by stating, "...in the authority to hear all petitions for reclassification does not carry with it the right to ignore valid restrictions in the law that is applicable to a particular petition." [People's Counsel Exhibit 33C] (An unreported decision of that Court, reference Md. Rule 8-114.)

The Board has examined the Security Management case and does not believe that it has applicability in the instant case. In that case, the Petitioner attempted to reclassify a portion of an apparently "single-zoned R.C. 4 parcel that directly abutted the Loch Raven Reservoir (contra BCZR § 1A03.2.A) by attempting to reclassify only areas of that parcel that were located more

than 400 feet from the common boundary line with the Reservoir." In addition, the Petitioner in that case was seeking to reclassify one or more portions of the parcel to something other than a Resource Conservation classification with a showing in the affirmative that the area would be serviced by public water and sewerage within 2 years after the Petition was submitted. (contra BCZR § 1A00.3A.1.a)

The Board accepts the rationale employed by the Petitioner. That is, that the Code of County Regulations ("CCR") applies in this case. (*Baltimore County Code* § 2.416 et seq) Under directive of the County Council, agencies of Baltimore County are required to adopt any policies or interpretations used by each agency by codification. A substantial number of County agencies have accordingly adopted these policies as part of the CCR, including the Department of Permits & Development Management. The previous Zoning Commissioner's Policy No. RSD 5/7 is now incorporated as part of the CCR ("the Parcel Policy"). That Parcel Policy, it appears to this Board, is quite clear.

> *Application to tract divided by zone boundary.* Whenever a single tract is divided by a zone boundary so that portions of such a tract lie within R.C. Zones of different classifications, the total number of dwellings or density units permitted shall apply to each tract individually, and **for the purpose of these regulations, shall be considered as separate parcels.** [BCZR § 1A00.5] [Emphasis added.]

The Board considers the "tract" as the property perimeters. Within the "tract" are a variety of zone boundaries. A perusal of Petitioner's Exhibit 3 discloses that neither Reclassification Area #1 nor Reclassification Area #2, each a separate parcel for zoning purposes, violates the statutory standards established in BCZR § 1A03.2. The difference here, as distinguished in the *Security Management* case, is that in the latter case only one, single R.C. 4 zone existed across the entire property/tract. In reaching this conclusion, the Board would

specifically reference Exhibit A, "Code of County Regulations Zoning Commissioner's Policy Manual," § 1A00.5.a, Appellant's Brief to this Board.

Issue No. 2

BCZR § 1A03.2E also requires that an engineer, architect, landscape architect, or surveyor must certify, "F. As shown by an environmental impact statement, the manner in which proposed reclassification will affect water quality in the watershed or any public water reservoir." Section 101 of the BCZR defines an environmental impact statement as follows:

> Environmental Impact Statement – A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following: a detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impacts; discussion of the probable impact on the environment including any impact on ecological systems and any direct or indirect consequence that may result from the action; any adverse environmental effects that cannot be avoided; alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of costs and environmental impact of these alternatives; an assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment.

People's Counsel contends that the Environmental Impact Statement (EIS) should be a detailed written statement which covers the six areas set forth in the detailed definition outlined in the regulations. He cites *Calvert Cliffs Coordinating Committee v. AEC,* 449 F.2d 1109 (D.C. Circuit 1971) and the treatise, *Findley and Farbor, Environmental Law in a Nutshell,* Fourth Edition, 1996. In addition, People's Counsel has submitted the *Handbook on Environmental Law* authored by William H. Rogers, Jr., Professor of Law at Georgetown University (1977) which states at page 727:

> The form and scope of the EIS should serve the audience as addressed. It must be comprehensible to the layman and instructive to the expert. It "must be written in language that is understandable to the non-technical minds and yet contain

> enough scientific reasoning to alert specialists within the field of their expertise." This obligation to popularize scientific concepts is no small challenge, and it is often not met by the anonymous authors of an EIS. CEQ urges that the statement be "an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross-references."

The Petitioner states "a Petitioner seeking reclassification of R.C. 4-zoned land must present evidence qualifying as an environmental impact statement." BCZR § 1A03.2F Petitioner states that the expert testimony of Mr. Robert Sheesley, past Director of DEPRM, was sufficient to show that there would be no adverse impact to the water quality in the watershed or any public water reservoir associated with the requested reclassification. They state his expert reasoning was based on an analysis of data and conditions which meets the requirements of an Environmental Impact Statement as defined in BCZR § 101.

The Majority finds that the Petitioners have misquoted § 1A03.2F of the BCZR. That section does not state that the Petitioner must present evidence qualifying as an Environmental Impact Statement; it states that a certified professional engineer, architect, landscape architect or land surveyor must certify "as shown by an Environmental Impact Statement" the manner in which the proposed reclassification will affect water quality in the watershed.

Mr. Sheesley is not a certified professional engineer, architect, landscape architect or land surveyor. In addition, the Majority is of the opinion that his testimony does not qualify as an Environmental Impact Statement in that an Environmental Impact Statement must be a written document meeting the requirements of § 101 of the BCZR. On that basis, the Majority would deny the Petition for Reclassification of the subject property.

Issue No. 3

The Majority also finds that there is insufficient evidence of a mistake in the Comprehensive Zoning to warrant granting the Petition for Reclassification.

While the Majority questions whether or not there might be an error in the classification of Area No. 4 (7.498 acres) as R.C. 5, since that parcel encompasses a 100-year floodplain, the Majority finds that there is insufficient evidence that an error was made by the Council with respect to the reclassification of Area No. 1 (11.66 acres) to R.C. 4. Both sides presented expert testimony with respect to whether or not there were "intermittent streams" on the property. The period during which the property was inspected was a very dry period and the photographs presented by the Petitioner showed little or no water in the streambeds examined by their experts. As stated above, the Protestants' expert, Mr. Joseph Berg, testified that it was his belief there was a channel area or areas that produced an intermittent stream. Protestants presented photographs of the area where stream water was flowing through the streambeds in the forest area in Reclassification Area #1.

The Majority feels that the burden of proving error on the part of the County Council in the reclassification process is extremely heavy. The Majority does not feel that the overlay utilized by the Council was totally incorrect. The experts on both sides presented conflicting testimony. Where there is a conflict between the testimony of two experts, the Majority finds that the heavy burden placed upon the Petitioner has not been met. Therefore, the Majority would also deny the Petition on the basis that there was no legally sufficient evidence of a mistake in the Comprehensive Zoning Process.

Issue No. 4

The Majority finds that the reclassification to R.C. 5 is not warranted based upon the findings above in Issues No. 2 and No. 3.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 22nd day of March, 2002, that the Petition for Reclassification to rezone four parts of a property shown on Petitioner's Exhibits 4, 5, 6 and 7 as Reclassification Area #1 (11.6 acres); Reclassification Area #2 (.043 acre); Reclassification Area #3 (.007 acre); and Reclassification Area #4 (7.4 acres) in Case No. R-01-437 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*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Richard K. Irish

IN THE MATTER OF THE APPLICATION OF JARVIS STEEL & LUMBER CO., INC - PETITIONER -- FOR A ZONING RECLASSIFICATION FROM R.C. 4 TO R.C. 5 ON PROPERTY LOCATED ON THE SW/S DOVER ROAD, APPROXIMATELY 600' N OF BAUBLITZ ROAD	* * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
4th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT	* *	Case No. R-01-437 Out-of-Cycle, 2001

* * * * * * * * *

Dissenting Opinion

This Board member respectfully disagrees with the Board Majority and believes that Petitioner's request for reclassification should be granted. The areas of disagreement follow:

Issue #2

This Board member does not agree that the "Environmental Impact Statement" as defined under *Baltimore County Zoning Regulations* § 101 is required to be in writing. The definition simply requires that the Statement be a "comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must indicate the following:

> A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;
>
> Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;
>
> Any adverse environmental effects that cannot be avoided;
>
> Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

> An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and
>
> Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98-1975]

People's Counsel provides a detailed analysis concerning the rationale why such statements must be in writing. It is People's Counsel's belief that "when the County Council in 1975 formulated its EIS definition and adopted the EIS standard for R.C. 4 rezoning petitions, it modeled it upon the National Environmental Policy Act of 1969." It is stated in People's Counsel's Brief that "case law takes it as elementary that the EIS is a detailed written statement intended to integrate environmental consideration of an action covered by NEPA."

It is agreed that "while many issues have been litigated, before and after, no one has argued seriously against the concept that an EIS must be prepared in the form of a report or written composition which integrates all the required elements." Yet the fact remains that when the County Council formulated its EIS definition it had the opportunity to strengthen the requirement by requiring that the "comprehensive study" be in writing. The Council saw fit not to do so. In many areas of the law, the County Council enacts legislation that permits oral testimony to satisfy the requirements of the statute or ordinance. One must only look at the Special Exception Regulations which are established not necessarily in writing, but by oral testimony at the time of public hearing.

It is not the responsibility of this Board to legislate and enact the law. That is the sole responsibility of the County Council. If the County Council had intended that the EIS be required to be reduced to writing, it had the opportunity to do so. Its members elected not to do so. If the Board requires such statements to be in writing, it is functioning as a law-making

body, not responsive to the citizens of Baltimore County every 4 years. As long as the Petitioner has met his burden by way of oral testimony, that is, in the opinion of this dissenting Board member, sufficient to satisfy the requirements of the EIS.

Additionally, this Board member believes that a review of the record will disclose that the totality of Mr. Bruce Doak's testimony satisfies the requirement under BCZR § 1A03.2F relative to "the manner in which the proposed reclassification will affect water quality in the watershed or any public water reservoir" supported by the further testimony of Mr. Robert Sheesley, a former Director of Baltimore County DEPRM and a certified registered Sanitarian.

Issue #3

It is also obvious to this dissenting Board member that the decision to rezone a portion of the subject site from R.C. 5 to R.C. 4 was based on seriously flawed information.

1. Clearly, it was Councilman McIntire's intent to protect areas within 300 feet of a stream or streams to a classification of R.C. 4 during the 2000 CZMP.

2. Clearly, the County planners used data going back to the 1950s to prepare the overlay given to the Councilman.

3. Clearly, some properties in the Third Councilmanic District were actually field-verified to determine the presence of a stream or streams. The subject property was not field-verified by the Office of Planning but was field-verified by DEPRM during the course of development proceedings occurring during the CZMP.

4. Clearly, development plans for the subject site reflect zoning lines and R.C. 4 zoning from DEPRM field-verified streams and that such zoning lines would be depicted on the official 200-foot scale zoning maps when they took effect in December 2000.

5. Clearly, the Office of Planning ignored DEPRM's findings when that Department decided to use and make official the 200-foot scale map that depicted the zoning lines approved by the County Council on October 10, 2000, even though those maps did not accurately represent field-verified information.

6. Petitioner's Exhibit 13 dated June 15, 2001 acknowledges that:

> The 200 scale base map used to prepare the zone lines covered under Issue 3-160 depicted conditions that do not reflect field verified data and conditions, and as a result the final zoning on the 2000 Comprehensive Zoning Map does not, in the opinion of this office, reflect the County Council's intent to only rezone certain property based on strict criteria as part of the zoning process.

7. Mr. David Lykens provided expert testimony concerning DEPRM's investigations. Recall that the definition of "streams" under BCC § 14-336 means "those perennial and intermittent watercourses identified through site inspection and as approved by the department." [Emphasis added.]

8. Clearly, the testimony of Mr. Lykens was buttressed by the testimony of Mr. Robert Sheesley, former director of DEPRM, Baltimore County.

9. Clearly, a portion of the property is incorrectly zoned R.C. 5, because it is undisputed that Area 4 is within a 100-year floodplain and is presently zoned R.C. 5.

10. Clearly, the County Council relied upon old data and totally inaccurate information when the property was rezoned from R.C. 5 to R.C. 4. Had the Office of Planning used the most current information available from DEPRM as a result of field-verified information by DEPRM (relative to the presence of streams or water flow as required by BCC § 14-336), the Council would have determined that Reclassification Area #1 did not contain any streams as defined by the Code.

There were present conditions that made the zoning incorrect because of "the literal failure of the Council to have considered these facts and conditions." *[People's Counsel of Baltimore County v. Beechwood Ltd. Partnership*, 107 Md.App. 627, 670 A.2d 484 (1995)]. This Board member is well aware of *Boyce v. Sembly*, 25 Md.App. 52, in which the Court stated that "unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded the comprehensive zoning is not overcome, the question of error is not 'fairly debatable.'" In this instance, the question of error is more than "fairly debatable." It is factual.

Therefore, once probative evidence has been demonstrated to this body, Petitioners seeking reclassification must demonstrate that the requested reclassification is warranted.

Issue #4

It appears evident to the dissenting Board member that the requested rezoning is certainly warranted to the extent that it would reflect the intentions of both the Councilman and the entire County Council to protect those known stream resources that lay within 300 feet of the property. Based on the testimony of Mr. Lykens, Mr. Sheesley, and Mr. Hughey, the existing stream on the property was not depicted on the base map used by the Office of Planning, consequently, an area within 300 feet of that stream was not rezoned as intended by the Council. The Petitioner is requesting rezoning limited solely to the mistake on the part of the County Council. As reflected on the plats which were submitted along with the Petition for Reclassification, all areas of the subject property within 300 feet of field verified streams are requested for reclassification to R.C. 4, with all areas of the property outside that buffer being classified as R.C. 5. Petitioner seeks to

correct the error made by the County Council and does not seek to rezone any portion of the property in a classification different than the stated intent of the County Council.

This dissenting member believes that, had the County Council known of the incorrect base map, it certainly would have corrected the zoning lines to reflect the intent as shown on the plat which accompanied the Petition. Therefore, the requested reclassification is justified and should be granted.

Charles L. Marks

DATE: March 22, 2002

County Board of Appeals of Baltimore County

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

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204-4525

March 22, 2002

RE: *In the Matter of: Jarvis Steel & Lumber Co., Inc.*
Case No. R-01-437

Dear Mr. Alderman:

Enclosed please find a copy of the final Majority Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of Mr. Marks' dissenting opinion.

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*, **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,

Kathleen C. Bianco /krs

Kathleen C. Bianco
Administrator

Enclosure

c: Jarvis Steel & Lumber Co., Inc.
Bruce Doak /Gerhold, Cross & Etzel, Ltd.
Robert D. Sellers, Esquire
John Galbreath, et al
Edward Kohls
Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
Baltimore County Council, 3rd District
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

02-0940
MAR 22 2002

Printed with Soybean Ink
on Recycled Paper

1/14/02

PETITION FOR RECLASSIFICATION W/S Dover Road, North of Baublitz Road	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
JARVIS STEEL & LUMBER CO., INC. Petitioner/Owner	*	FOR BALTIMORE COUNTY
	*	**Case No. R- 01- 437**

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

02 JAN 14 PM 3:47

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

This memorandum identifies and discusses these key issues:

1. Does the petition for reclassification of property in an R.C. 4 zone meet the threshold BCZR 1A03.2E requirement of a proper certification that "The parcel does not lie within a one-hundred-year floodplain?"
2. Does the petition meet the threshold BCZR 1A03.2F certification and "Environmental Impact Statement" requirements?
3. Is there legally sufficient evidence of "mistake" in the comprehensive zoning?
4. Is the reclassification to R.C. 5 "warranted?"

If the answer to any of these questions is "no," then the reclassification must be denied. In our view, the answer is "no" to all of them.

The Watershed Protection Zone: History and Purpose

The R.C. 4 (watershed protection) zone came in with Bill 98-75, along with three other resource conservation zones: R.C.2 (agricultural), R.C. 3 (rural deferred planning), and R.C. 5 (rural-residential). There is a helpful discussion of the history in Security

Management Corp. v. Baltimore County, 104 Md.App. 234 (1995), attached. The County Council first mapped these zones in 1976.

The Council revisited these zones in 1979. Based upon a July-August Planning Board Report, the legislature passed Bill 178-79. P.C. Exh. 12-13. The Report stated, in pertinent part:

> "Agricultural and Environmental Protection. The amendments to regulations of the Resource Conservation classifications contained in this report would significantly strengthen those classifications to more fully achieve their intended purposes....
>
> * * *
>
> The R.C. 4 (watershed protection) zoning classification would be made more effective under the Board's proposal to extend its application to the critical watershed of any public water-supply source in the County; .... In addition, the present prohibition on filing a rezoning petition for R.C. 4 zoned land under certain circumstances would be changed to a more defensible prohibition on granting any rezoning petition under essentially the same circumstances."

To achieve these objectives, the Bill revised, among other things, the Council's findings and legislative policy, BCZR 1A03.1. It states the finding that "major, high-quality sources of [metropolitan] water supply... lie within Baltimore County and that continuing development in the critical watersheds... is causing increased pollution and sedimentation in the impoundments...." It establishes the policy:

> "The R.C. 4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds."

It also revised the six BCZR 1A03.2A-F baseline eligibility requirements for rezoning by petition, the last two of which are at issue here.

The Council further refined the R.C.4 zone in Bill 113-92, which established the now-familiar conservancy area structure. This did not alter the essential function and purpose of the zone.

I. Threshold Requirements for Rezoning in R.C. 4 Zones (1); Exclusion of Parcels in Floodplain; the Meaning of "Parcel"

It is to be remembered that the "mistake-change" test for piecemeal zoning reclassification predated codification. In Baltimore County, it was not until 1978, with Bill 122, that the County enacted legislation to codify and elaborate upon this standard. As amended, it is now found in Code Sec. 2-356.

In addition to standards applicable to all petitions, the Council has chosen to enact specific requirements for petitions in environmentally sensitive areas. The BCZR 1A03.2 standards for the R.C. 4 zone and Sec. 2-356(j) standards for the Chesapeake Bay Critical Area both perform this function. See People's Counsel v. Beachwood, 107 Md.App. 627 (1995) as to the latter.

For petitions in the R.C. 4 zone, BCZR 1A03.2E requires an engineer, architect, landscape architect, or surveyor must first certify: "that the parcel does not lie within a 100-year floodplain." But the site plan reveals that part of the Jarvis parcel lies within the 100-year floodplain. It is also undisputed that it lies within the watershed of the Waterspout Run, a tributary of the Western Run, which joins the Gunpowder Falls to flow into the Loch Raven Reservoir.

Jarvis claims nevertheless that its "parcel" is not involved because the part of its land it seeks to rezone from R.C. 4 to R.C. 5 does not include the floodplain. But the

CBA rejected essentially the same argument in its Ruling on Motion for Dismissal in the Security Management Corporation case, No CR-93-307-SPHXA. P.C. Exh. 33A. Its 1995 opinion discusses the meaning of "parcel" under BCZR 1A03.2 extensively and reviews the Webster's Dictionary definition, Black's Law Dictionary definition, Words and Phrases examples, and analogous BCZR 101 definition of "lot of record." Pages 2-5. All of these definitions and illustrations refer to a contiguous or continuous plot of land in the possession or ownership of the same person or company. The opinion then states:

> "The Board finds as a fact that the parcel under consideration includes the entire area of the site, as defined by its metes and bounds as the lot of record which existed on the date of the zoning regulation which governs its, which, in this case, is the date of the last Comprehensive Zoning Map adoption date by the County Council, October 15, 1992. In finding this fact, the Board therefore finds that the zoning line proposed by the Petitioner to separate the proposed developable area as D.R. 10.5 and B.L. from existing and to-remain R.C. 4 property on the instant site is an artificial line not recognized by the BCZR as definable in the context of the word 'parcel' and/or 'lot of record.'"

Judge Dana Levitz reviewed the same definitions and illustrations and came to the same conclusion:

> "The site in question is a contiguous tract of property, all owned by the Appellant, therefore it is one parcel." P.C. Exh. 33B.

The Court of Special Appeals affirmed. It said at page 7 that "... the authority to hear all petitions for reclassification does not carry with it the right to ignore valid restrictions in the law that is applicable to a particular petition." P.C. Exh. 33C.

In the present case, it is undisputed that Petitioner owns and possesses the entire plot of land of about 40 acres. The site plan shows it, and so do the metes and bounds description and tax map references. It includes the 100-year floodplain in its

southwestern section. Petitioner has been the owner since before the 2000 CZMP. Indeed, as it proceeded through the development process in July, 2000, Petitioner showed its awareness of the potential impact of the CZMP at the Community Input Meeting. The minutes state:

> "A resident asked if the property was up for consideration in the Comprehensive Zoning Map Process (CZMP), the County Quadrennial Re-Zoning Process. Mr. Howard Alderman, attorney representing the developer, stated the land was being considered for re-zoning. He stated that the developer must get a building permit prior to the new zoning classification becoming effective. The Baltimore County Council will vote on the new maps in October, 2000, with the maps becoming effective 45 days later, sometime in early December, 2000.... Mr. Alderman called it a 'race to the courthouse.'" P.C Exh. 21.

Petitioner was still the owner at the time of the adoption of the October 10, 2000 comprehensive zoning map. P.C. Exh. 10.

The potential became real upon legislative action on Issue 3-160. Petitioner did not obtain a building permit or achieve substantial construction prior to effectiveness of the new map. Therefore, it filed this petition for reclassification. Because the parcel does include a 100-year floodplain area, the petition does not satisfy BCZR 1A03.2E and cannot be granted.

The Security Management Co. case is sufficient to reach this conclusion. But we reinforced it with testimony of John J. Dillon, retired county planner. He reviewed the history of the R.C. 4 zones, his office's intent to protect broadly against piecemeal reclassifications in such zones, and the use the word "parcel" broadly to encompass the entire contiguous area under one ownership. Such testimony has been approved recently in Marzullo v. Kahl, 366 Md. 158 (2000).

II. Threshold Requirements (2); The Environmental Impact Statement

At the conclusion of the evidentiary hearing, People's Counsel referred to the BCZR 101 definition of "ENVIRONMENTAL IMPACT STATEMENT (EIS)" in conjunction with BCZR 1A03.2F EIS certification requirement. Counsel for Petitioner advised he thought this requirement could be met by or inferred from testimony. We disagree.

The EIS definition is modeled after the famous "detailed statement" of Section 102 of the National Environmental Policy Act of 1969. Since the advent of NEPA, the EIS has become the heart of the Act. It is a detailed written statement which covers six areas set forth in detail in the definition and outlined here: Description of the proposed action, including information and technical data; Discussion of probable impact on the environment, direct and indirect; Any adverse environmental effects that cannot be avoided; Alternatives to the proposed action, including a cost analysis; Assessment of cumulative long-term effects; and Any irreversible or irretrievable commitment of resources which would curtail beneficial use of the environment.

The seminal NEPA case, which includes a discussion of the EIS, is Calvert Cliffs Coordinating Committee v. AEC, 449 F.2d 1109 (D.C. Cir. 1971). This case, and hundreds after it, take it as elementary that the EIS is a detailed written statement intended to integrate environmental consideration of an action covered by NEPA. Findley and Farber, Environmental Law in a Nutshell (4th Ed. 1996) devote most of Chapter 1B to NEPA's EIS requirements, at 24-51. They write:

> "In essence, the statute requires the agency to prepare a detailed explanation of the environmental consequences of its actions, and to make that report available to higher-level agency officials, other agencies, and the public.... [S]oon after the statute was passed, it became clear that courts would become actively involved in enforcing it."

The discussion proceeds to identification of when an EIS must be prepared, and if so, the scope, timing and content.

The importance of the EIS requirement led the Council on Environmental Quality to promulgate detailed regulations. The Supreme Court has reviewed EIS issues on a number of occasions. See, e.g. Kleppe v. Sierra Club, 427 U.S. 390 (1976); Robertson v. Methow Valley Citizens Council, 490 U.S. 332 (1989).

Professor William Rodgers' 1978 treatise on Environmental Law Sec. 7.4 (attached) shows the early recognition of the EIS as a detailed report intended to bring environmental factors into the decision-making process. While many issues have been litigated, before and after, no one has argued seriously against the concept that an EIS must be prepared in the form of a report or written composition which integrates all the required elements.

When the County Council in 1975 formulated its EIS definition and adopted the EIS standard for R.C. 4 rezoning petitions, it modeled it upon NEPA. There was no other source.

The EIS requirement is a major requirement. In the federal system, it involves a significant effort. The county legislation requires no less. It may be that some zoning petitioners ignore, downplay, or take casually the EIS mandate.

Usually, petitioners make a pass at filing a statement certified by some expert, and the issue becomes the adequacy of the statement.

Here, Petitioner did not even make the pretense of filing a statement. Rather, the claim is that it can be assimilated or inferred from testimony. This is an absurd claim. The CBA should take this case as an opportunity to underline that the EIS standard must be taken seriously, and that a statement must be presented which meets the definitional criteria and intent of the law.

III. There Was No "Mistake" in the 2000 CZMP

The claim of "mistake" under Code Sec. 2-356(j) focuses on the decision to draw the R.C. 4 zoning line boundary within 300 feet of streams shown on zoning maps, utilizing existing photogrammetry in the Waterspout Run area.

The County Council introduced Issue 3-160 after a request by the Falls Road Community Association to consider placement of the R.C. 4 or R.C. 2 zone anywhere within 550 feet of Waterspout Run and Councilmans Run. The zoning maps of the area show these streams based on photogrammetric work done some years ago. In this connection, the Code Sec. 14-336 defines "streams" as follows:

> "*Stream* means those perennial and intermittent watercourses identified through site inspection and as approved by the department. The most recent county photogrammetric maps may be used as a guide for the preliminary establishment of possible watercourses."

During the 2000 CZMP, despite awareness of the issue, Petitioner did not communicate to the Council about any possible discrepancy between the existing maps and field conditions. Neither the property owner nor its representatives, so far as the

record discloses, complained about the accuracy of the maps or the location of Waterspout Run. Meanwhile, John Galbreath and the Chestnut Woods Community Association communicated the area citizens' concerns about protecting the watershed in this neighborhood. P.C. Exh. 24-27.

Therefore, when the Council elected to draw the line 300 feet from Waterspout Run, it had in mind the stream as shown on the existing maps. On October 10, 2000, the Council enacted a specific overlay at "600 scale" which reflects Waterspout Run branches in the wooded north-central section of the property. Pet. Exh. 9. In this connection, there is no evidence that the Council assumed these streams were identified with perfection or that the photogrammetry was current. Rather, the most that the Council could assume was that the maps showed at least the approximate location of these streams.

Upon enactment of the maps, Petitioner's agents, hitherto silent, surfaced. In the autumn of 2000, they asked the Planning Office to redraw the zoning line to accord with their opinion that recent field conditions showed an inverted Y-shaped drainage ditch, rather than stream, in the north-central section of the property. The planning office initially acquiesced, and was prepared to modify the enacted overlay to satisfy Petitioner.

But John Galbreath, a neighboring property owner, got wind of this extraordinary unilateral alteration. After initial inquiries, he communicated with the Secretary of the County Council, Thomas J. Peddicord, and with Councilman Bryan McIntire. After these communications, Mr. Peddicord instructed the Planning Office in December, 2000 not to

alter the official maps. Clearly, Councilman McIntire was aware of the situation. See, e.g. P.C. Exh. 28-30.

William Hughey, the area planner, confirmed his office's initial inclination to modify the map, followed by its retreat to the legislative overlay after communication from Mr. Peddicord. This petition for rezoning followed. While the Council allowed its request for expedited consideration, Mr. Peddicord made clear in a June 14, 2001 memorandum that exemption from the normal schedule was not an indication of any view on the merits of the petition. P.C. Exh. 29.

There was a dispute about the current status of the wooded north-central section of the property. Petitioner's engineer Bruce Doak and environmental expert Robert Sheesley, and David Lykens of DEPRM, said that recent field inspections showed drainage ditches running downstream to the offsite headwaters of Waterspout Run.

But John Galbreath and other area residents said these recent inspections occurred during unusually dry periods, and that this wooded area has a well-defined intermittent stream. Galbreath produced photographs, which contradicted Doak's description, and weather records, which proved Sheesley visited the site during an unusually dry spring.

Joseph Berg, an environmental expert, corroborated their testimony. He also reviewed the adverse environmental impacts, both onsite and offsite, which could occur upon development over this area. He produced, for hypothetical review, a development plan scenario which would destroy the valuable wooded area in the north central section. See P.C. Exh. 16.

In our view, the issue of the current status of the stream is sufficiently debatable so that there is lacking the "strong" evidence sufficient to overcome the presumption in favor of comprehensive zoning. Boyce v. Sembly, 25 Md.App. 43 (1975); Howard County v. Dorsey, 292 Md. 351 (1992); People's Counsel v. Beachwood, 107 Md.App. 627 (1995). But even if the CBA were to conclude there is a discrepancy between current field conditions and the enacted map, it would not constitute a "mistake" as defined in the case law.

The comprehensive zoning process provides the council the opportunity to consider information on planning, population, roads, natural resources, the environment, and other data provided by county agencies, property owners, and citizens. The council makes decisions based on the best information available. It is never assumed that information is perfect. There are lag times, gaps, and imperfections in all census data, environmental information, and other input.

The piecemeal rezoning process was not designed to fill in, revise, or second-guess every arguable discrepancy or gap in information. Rather, it was established to correct major and fundamental mistakes, such as zoning which obviously is incompatible with a neighborhood or which deprives a property owner of all reasonable use of property. This is especially true in Baltimore County, where the CZMP occurs so frequently, every four years. Coppolino v. County Board of Appeals, 23 Md.App. 358 (1974).

Here the R.C. 4 zoning is consistent with the legislative purpose of the zone to protect reservoir watersheds. It is not clearly out of character with the area. Nor does it result in any significant impairment of the developer's ability to develop the entire

property. Rather, it results in a few less lots. At the same time, it protects the environmentally sensitive area.

John J. Dillon, Jr., the former county planner who played a large role in the development of the R.C. zones, testified that the R.C. 4 zone is reasonable and contributes to watershed protection. Even if the wooded area is viewed as a drainage ditch, it is an integral part of the Waterspout Run watershed. It facilitates stormwater runoff. It is also an attractive wooded area.

The R.C. 4 zone extends over large watershed areas. Most properties zoned R.C.4 include areas more than 300 feet from streams. The Master Plan 2010, moreover, identifies "watersheds" as "a useful framework for resource management ...." P.C. Exh. 8, Page 124. It goes on to state:

> "Land use activities within watersheds impact the water quality of the streams associated with the watershed, and the water bodies downstream. For example, the clearing of forests increases runoff of storm water to streams, causing an increase in the sediments, nutrients, and toxins carried to the streams, and erosion of stream channels. Changes in sediment and nutrient levels can degrade the habitat quality of the stream for both plants and animals."

The Master Plan also identifies problems associated with suburban development in rural areas. Page 244.

Here, the Council could confidently use existing maps as helpful guides to locate Waterspout Run. This facilitated the delineation of functional zoning lines for the R.C. 4 zone. It is always possible to debate that, here or there, the line could be moved one way or the other. But whether or not some areas thought to be headwaters were now drainage

areas, or vice versa, is not good cause to erode or impair the comprehensive impact and integrity of the legislative rezoning process.

When one remembers that the property owner neglected to participate during the 2000 CZMP (in contrast to the precipitous dispatch of its minions to lobby the Planning Office after it ended), its claim of "mistake" rings especially hollow. It can develop this property substantially under existing zoning. Or it may choose to ask the Council to reconsider the situation in the 2004 process.

Ironically, if there were any lingering question about the Council's October, 2000 decision, it is answered by the extraordinary events at the end of the year. When Petitioner tried to have the Planning Office redraw the line, the Council blocked this move upon being alerted by Galbreath. Apparently, the Council was unimpressed by Petitioner's belated end-around to redraw the line. While Petitioners were later able to secure the consolation of a scheduling advantage, this does not translate to evidence of mistake.

IV. The Requested R.C. 5 Zone is Not Warranted

Code Sec. 2-356 codifies not only the "mistake" standard, but also the correlative requirement to show that the proposed zoning is warranted. The record does not support Petitioner in this regard, either.

It appears that the proposal conflicts with the purpose of the master plan. We quoted above the relevant parts of the plan, which state the intent to protect watershed drainage areas on a holistic basis, and to limit suburban development.

Joseph Berg provided the only cogent evidence of the potential impact of the R.C. 5 zoning reclassification. He showed how it could destroy the sensitive upper part of the watershed, whether it includes headwaters or drainage area, or both. The Board may infer that the development plan scenario reviewed hypothetically is a realistic illustration of this Petitioner's intention.

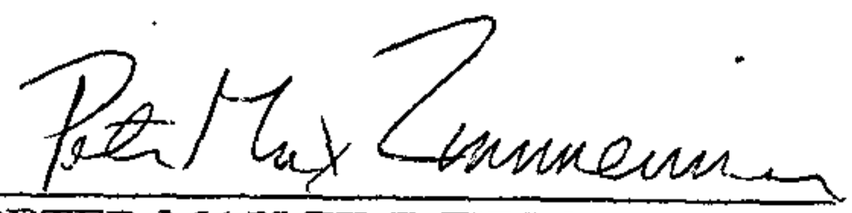
To be sure, Petitioner has sought to make its proposal seem more attractive and fair-minded by including a request from R.C. 5 to R.C. 4 in the southwest portion of the site, admitting to a stream the zoning map does not show. But this is an illusory offer. There is no way that the developer may place houses around this stream in any event. The developer is not giving anything away here.

Conclusion

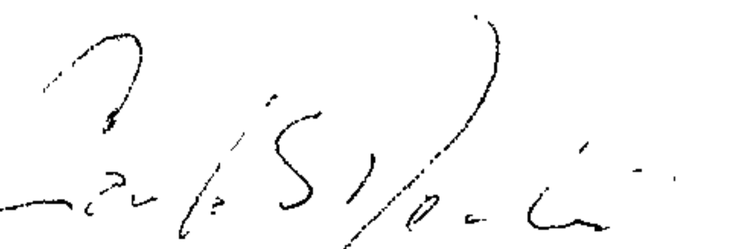
The petition does not meet the threshold requirements for rezoning petitions in the R.C. 4 zone. There is a 100-year floodplain on the parcel. There is no environmental impact statement.

The petition fails to satisfy the essential "mistake" standard. The evidence also shows that the requested R.C. 5 classification is not warranted.

The petition must be denied.



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 14th day of January, 2002, a copy of the foregoing People's Counsel's Memorandum was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner, and to Robert D. Sellers, Esq., 401 Washington Avenue, Suite 303, Towson, MD 21204, attorney for Protestants John Galbreath, et al.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

HANDBOOK

ON

ENVIRONMENTAL LAW

WILLIAM H. RODGERS, JR.

Professor of Law

Georgetown University Law Center

HORNBOOK SERIES

ST. PAUL, MINN.

WEST PUBLISHING CO.

1977

ENVIRONMENTAL HEALTH ENGINEERING
SCHOOL OF HYGIENE AND PUBLIC HEALTH
THE JOHNS HOPKINS UNIVERSITY
615 N. WOLFE STREET
BALTIMORE, MARYLAND 21205

communications, where they are invoked to withhold access to agency information relevant to environmental quality. A more probable interpretation of subsection 102(2)(G) is that it requires agencies to disclose information in their possession pertinent to an ongoing NEPA evaluation,[64] necessitates supplemental impact statements to accommodate recent information,[65] and substantiates further the general NEPA obligation of the agencies to "lay their cards on the table in full public view." [66]

Section 102(2)(I), formerly 102(2)(H), makes it mandatory for each agency to "assist the Council on Environmental Quality". This is meant to be helpful to CEQ alone. Specific instances of lack of cooperation, such as refusing to disclose pertinent information or to file environmental impact statements with CEQ, coincidentally may be useful to others in collateral attacks on agency actions under NEPA.

§ 7.4 Review of Agency Decision-Making: Environmental Impact Statement Procedures

Section 102(2)(C) [1] is the heart of NEPA. It combines the legislative objectives of full disclosure, consultation, and reasoned decision-making prescribed as the cutting edge of administrative reform. Discussed here are the general purposes and language of section 102(2)(C) and the courts' interpretation of them. Addressed elsewhere are specific questions concerning whether,[2] when,[3] and by whom [4] an environmental impact statement must be prepared, what it must contain,[5] and remedies available for violations.[6]

Section 102(2)(C) requires a "detailed statement" on the environmental impact of, and alternatives to, various federal actions.[7]

64. See I-291 Why? Ass'n v. Burns, 372 F.Supp. 223, 253–60, 4 ELR 20230, 20242–46 (D.C.Conn.1974), affirmed per curiam, 517 F.2d 1077, 5 ELR 20430 (2d Cir. 1975) (discussing noise and air quality studies commissioned *the same day design approval for the* highway was given) (no discussion of 102(2)(G)).

65. See Sierra Club v. Mason, 365 F. Supp. 47, 49, 4 ELR 20186, 20187 (D.C.Conn.1973).

66. Wisconsin v. Callaway, 371 F.Supp. 807, 811, 4 ELR 20296, 20298 (W.D. Wis.1974); see Natural Resources Defense Council, Inc. v. Securities & Exch. Comm'n, 389 F.Supp. 689, 695, 5 ELR 20074, 20076 (D.C.D.C.1974) (citing 102(2)(G) in support of determination that Commission violated APA in rulemaking proceeding regarding the disclosure of environmentally related information under the securities laws) ("*Congress* has determined that the dissemination of information to governmental units, institutions and individuals, can aid the purposes of NEPA") (emphasis in original).

1. 42 U.S.C.A. § 4332(2)(C).

2. § 7.6 below.

3. § 7.7 below.

4. § 7.8 below.

5. § 7.9 below.

6. § 7.10 below.

7. The subjects an impact statement must address bear repetition:
   (i) the environmental impact of the proposed action,

Numerous cases [8] invoke the obligation to prepare a "detailed statement" in support of the bedrock premise that NEPA is an "environmental full disclosure law." [9] The audiences addressed in any environmental impact statement are three: (1) the general public, both laymen and experts; [10] (2) other entities of government; [11] and (3) other persons within the issuing agency.[12] The interests of these groups are obvious: the citizen needs to know because he is the prime instrument for enforcing the Act. The President, the Congress, the Council on Environmental Quality, and the Environmental Protection Agency need to know because they have authority to review and redirect environmentally damaging activities. Other agencies need to know because they have special expertise brought explicitly into the decision-making process by NEPA. That an agency must talk clearly not only to others but also to itself is unremarkable if for no other reason than that a government enterprise today can resemble a sprawling megalopolis with a thorough breakdown in communication between its separate members.[13]

It is often said that the EIS requirement acts as an alarm bell [14] or that "notice of environmental consequences is all that is required." [15] This is true as far as it goes, but it is not enough for a statement to disclose only that something is amiss or that controversy exists. Notice must be accompanied by information allowing others

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
(iii) alternatives to the proposed action,
(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

8. E. g., Monroe County Conservation Council, Inc. v. Volpe, 472 F.2d 693, 697, 3 ELR 20006, 20008 (2d Cir. 1972).

9. Environmental Defense Fund, Inc. v. Corps of Engineers (Gillham Dam), 325 F.Supp. 749, 759, 1 ELR 20130, 20141 (E.D.Ark.1971).

10. Environmental Defense Fund, Inc. v. Froehlke (Cache River), 473 F.2d 346, 350–51, 3 ELR 20001, 20003 (8th Cir. 1972); Calvert Cliffs' Coord. Comm. v. Atomic Energy Comm'n, 146 U.S.App.D.C. 33, 38, 449 F.2d 1109, 1114, 1 ELR 20346, 20348 (1971), cert. denied 404 U.S. 942 (1972).

11. Jones v. District of Columbia Redev. Land Agency, 162 U.S.App.D.C. 366, 375, 499 F.2d 502, 511, 4 ELR 20479, 20482 (1974); Natural Resources Defense Council, Inc. v. Grant, 341 F.Supp. 356, 364, 2 ELR 20185, 20188 (E.D.N.C.1972).

12. Environmental Defense Fund, Inc. v. Corps of Engineers (Tennessee-Tombigbee), 492 F.2d 1123, 1136, 4 ELR 20329, 20335 (5th Cir. 1974).

13. See Simmans v. Grant, 370 F.Supp. 5, 22, 4 ELR 20329, 20335 (5th Cir. 1974).

14. See Hearings on the Nomination of William Ruckelshaus as EPA Administrator, Before the Senate Comm. on Public Works, 91st Cong., 2d Sess. 45–46 (1970) (remarks of Sen. Muskie).

15. Iowa Citizens for Environmental Quality, Inc. v. Volpe, 487 F.2d 849, 853, 4 ELR 20056, 20058 (8th Cir. 1972).

to make independent judgments about the project. Outsiders from the public and other agencies are commissioned by NEPA to be consultants in the decision-making process, and the consultant's judgment is only as useful as the information upon which it is based. A "detailed statement" is "that which is sufficient to enable those who did not have a part in its compilation to understand and meaningfully consider the facts involved." [16]

The form and scope of the EIS should serve the audiences addressed. It must be comprehensible to the layman and instructive to the expert. It "must be written in language that is understandable to the nontechnical minds and yet contain enough scientific reasoning to alert specialists within the field of their expertise." [17] This obligation to popularize scientific concepts is no small challenge,[18] and it is often not met by the anonymous authors of an EIS. CEQ urges that the statement be "an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross references." [19] Underlying reports or documents considered during preparation, including cost-benefit analyses, should either be appended or identified in the document, along with an indication of how the information can be obtained.[20] Comprehensive bibliographies are recommended.[21] An EIS, on the other hand, need not be cluttered with backup data unnecessary to an understanding of the agency's reasoning process.[22] The more common affliction appears to be too little

16. Environmental Defense Fund, Inc. v. Corps of Engineers (Tennessee-Tombigbee), 492 F.2d 1123, 1136, 4 ELR 20329, 20335 (5th Cir. 1974); see Iowa Citizens for Environmental Quality v. Volpe, 487 F.2d 849, 851, 4 ELR 20056, 20057 (8th Cir. 1974) (the EIS "is to serve as a basis for consideration of environmental factors by the agency involved and is to provide a basis for critical evaluation by those not associated with the agency"), citing Environmental Defense Fund, Inc. v. Froehlke (Cache River), 473 F.2d 346, 350–51, 3 ELR 20001, 20003 (8th Cir. 1972); Environmental Defense Fund, Inc. v. Corps of Engineers (Gillham Dam), 470 F.2d 289, 297–99, 2 ELR 20740, 20743 (8th Cir. 1972); Calvert Cliffs' Coord. Comm. v. Atomic Energy Comm'n, 146 U.S.App.D.C. 33, 449 F.2d 1109, 1 ELR 20346 (1971), cert. denied 404 U.S. 942 (1972); Cummington Preservation Comm. v. Federal Aviation Administration, 524 F.2d 241, 5 ELR 20696 (1st Cir. 1975).

17. Environmental Defense Fund, Inc. v. Corps of Engineers (Tennessee-Tombigbee), 348 F.Supp. 916, 933, 2 ELR 20536, 20542 (N.D.Miss.1972), aff'd 492 F.2d 1123, 4 ELR 20329 (5th Cir. 1974), quoted with approval in several cases including Natural Resources Defense Council, Inc. v. Grant, 355 F.Supp. 280, 286, 3 ELR 20176, 20178 (E.D.N.C.1973).

18. Compare In re Virginia Elec. & Power Co. (North Anna Power Units 1 and 2), Constr. Permit Nos. CPPR-77, -78, ALAB 324, 3 NRC 347, aff'd NRCI 76/11, 480 (1976), petition for review pending VEPCO v. Nuclear Regulatory Comm'n, Civil No. 76-2275 (4th Cir.) (rejecting reasonable layman test in favor of a reasonable expert test for evaluating accuracy of representations in technical submissions to the Nuclear Regulatory Commission).

19. 40 CFR § 1500.8(b).

20. Ibid; § 1500.8(a)(7).

21. Id. § 1500.8(b).

22. Environmental Defense Fund, Inc. v. Armstrong, 352 F.Supp. 50, 55, 2 ELR 20735, 20737 (N.D.Cal.1972),

documentation rather than too much; the bases of impact predictions are rarely provided in sufficient detail for the reader to validate them independently.[23]

The requirement that the EIS be a self-contained instrument like a judicial opinion strengthens its role in rationalizing agency decisions affecting the environment. It is said that the EIS "must stand the test alone—i. e., in and of itself it must either meet the requirements of NEPA or fail." [24] Neither subsequent argument of counsel,[25] nor proof in court,[26] nor a hastily prepared supplement [27] can justify an EIS inadequate on its face. Strict adherence to form, like practicing the piano, is the way recommended to overcome engrained habits of agency decision-making. Once the EIS becomes less than a complete environmental decision, it is in danger of becoming just another bit of information along the way. That fate would fulfill little of NEPA's promise of full disclosure and methodological reform.

One authority on NEPA urges that care must be taken to confine the scope of the EIS to an assessment of environmental impacts.[28] It is true that balancing short-term uses against long-term productivity under 102(2)(C)(iv) requires some exploration of need and project justification in the impact statement. But "there is a danger that project justifications and economic and technical considerations will swallow up environmental impact analysis if the scope of the statement is expanded." [29] This should not happen if both purposes of NEPA are kept clearly in focus: full disclosure of environmental effects and a statement of reasons as to why those effects are acceptable and how they can be minimized. An exposition on project benefits may be needed to rationalize the consequences but the emphasis is on answering environmental questions.

aff'd 487 F.2d 814, 4 ELR 20001 (9th Cir. 1973), cert. denied 416 U.S. 974 (1974) ("the EIS need not be an exhaustive collection of various and sundry minute scientific details").

23. Andrews, NEPA in Practice: Environmental Policy or Administrative Reform, 6 ELR 50001, 50002 (1976).

24. *Environmental Defense Fund, Inc.* v. Corps of Engineers (Tennessee-Tombigbee), 492 F.2d 1123, 1130, 4 ELR 20329, 20331 (5th Cir. 1974).

25. Natural Resources Defense Council, Inc. v. Morton, 148 U.S.App.D.C. 5, 14, 458 F.2d 827, 836, 2 ELR 20029, 20033 (1972).

26. Greene County Planning Bd. v. Federal Power Comm'n (I), 455 F.2d 412, 420–21, 2 ELR 20017, 20020 (2d Cir.), cert. denied 409 U.S. 849 (1972) (the written testimony of the agency's staff "cannot replace a single coherent and comprehensive environmental analysis, which is itself subject to scrutiny during the agency review process").

27. Natural Resources Defense Council, Inc. v. Morton, 337 F.Supp. 170, 172, 2 ELR 20071, 20072 (D.C.D.C. 1972) (on remand). Supplemental data and statements are permissible so long as they are circulated among the agencies and considered prior to final action being taken. See Natural Resources Defense Council, Inc. v. Callaway, 524 F.2d 79, 91–92, 5 ELR 20640, 20646 (2d Cir. 1975).

28. Anderson, The National Environmental Policy Act, in Environmental Law Institute, Federal Environmental Law 238, 311–14 (E. L. Dolgin & T. G. P. Guilbert eds. 1974).

29. Id. at 312.

Section 102(2)(C) says clearly that "[prior to making any detailed statement], the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." This is an important aspect of the interdisciplinary decision-making sought to be promoted by NEPA because the consultation must precede the statement which in turn must precede the action. The federal agencies having jurisdiction by law or special expertise over particular environmental impacts are listed in the CEQ guidelines.[30] The list is not necessarily exhaustive and obviously is not static. Consultation requires more than a cursory or ritualistic request for information and, depending on the circumstances, may call for meetings, follow-up inquiries, and continued deliberation of the questions raised.[31] An issue of considerable importance is whether the section 102(2)(C) consultation provisions afford agencies with environmental expertise a veto power over aspects of other agencies' actions.[32] The answer probably is in the negative although as a practical matter an agency going against the advice of an expert sister agency will have difficulty justifying its choice.[33] In particular, failure to implement mitigation measures recommended by other expert agencies may be subject to correction by the courts under the substantive provisions of NEPA.[34]

Section 102(2)(C) also provides for securing comments on the statement from federal, state and local agencies "which are authorized to develop and enforce environmental standards." These comments "shall accompany the proposal through the existing agency review processes" which means more than traveling in juxtaposition to the proposal as it undergoes agency review.[35] The purpose, quite clearly, is to require an agency to consider, evaluate and, if necessary, act

30. 40 CFR § 1500, App. II.

31. See Akers v. Resor, 3 ELR 20157, 20158 (W.D.Tenn.1972); Sierra Club v. Froehlke (Wallisville-Trinity River), 359 F.Supp. 1289, 1346, 3 ELR 20248, 20267 (S.D.Tex.1973), rev'd and remanded on other grounds 499 F.2d 982, 4 ELR 20731 (5th Cir. 1974); cf. Davis v. Coleman, 521 F.2d 661, 678–79, 5 ELR 20633, 20639 (9th Cir. 1975) (interpreting the word "consideration" in 23 U.S.C.A. § 128).

32. Sierra Club v. Froehlke (Wallisville-Trinity River), 359 F.Supp. 1289, 3 ELR 20248 (S.D.Tex.1973), rev'd 499 F.2d 982, 993, 4 ELR 20731, 20737 (5th Cir. 1974); cf. Sierra Club v. Froehlke (Meramec Park Lake Dam), 534 F.2d 1289, 1313, 6 ELR 20448, 20454 (8th Cir. 1976) ("consultation" under Section 7 of the Endangered Species Act "does not require acquiescence"). Compare § 7.3 n. 37 above.

33. See Conservation Council of North Carolina v. Costanzo (II), 398 F.Supp. 653, 661, 5 ELR 20666, 20669 (E.D. N.C.), aff'd 528 F.2d 250, 6 ELR 20116 (4th Cir. 1975) (reciting testimony that Corps of Engineers in that district had never overridden objection of another agency to the issuance of a permit). But see Sierra Club v. Callaway (Wallisville-Trinity River), 499 F.2d 982, 4 ELR 20731 (5th Cir. 1974).

34. § 7.5 below.

35. Calvert Cliffs' Coord. Comm. v. Atomic Energy Comm'n, 146 U.S.App. D.C. 33, 41–42, 449 F.2d 1109, 1117–18, 1 ELR 20346, 20350 (1971), cert. denied 404 U.S. 942 (1972).

upon qualified opinion from other agencies while developing a specific proposal. The methodology requires "a two-way discussion; a forced dialogue." [36] The physical act of the comments accompanying the proposal is designed to be the harbinger of reasoned decision-making by the agency. Case law indicates that expert opinion from sources other than environmental standard-setting agencies must be treated similarly, and that a failure to include responsible opposing scientific views in an environmental impact statement will render it inadequate.[37]

The environmental impact statement thus serves not only to give notice of environmental consequences but also to verify the genuineness of the decision-making process. The document should show who was consulted, what they said, and the agency's response. The consultation and consideration requirements of section 102(2)(C) (the comments "shall accompany the proposal through the existing agency review processes") tend to assure the reasoned results which courts today demand of the agencies.[38] Characterization of the EIS as a reasoned document are many: it must be "sufficient to permit a reasoned choice" ; [39] should treat the decision "as an impending choice to be pondered, [not] as a foregone conclusion to be rationalized" ; [40] must "include the results of the [agency's] own investigation and evaluation of alternatives so that the reasons for the choice of a course of action are clear"; [41] should "explicate fully [the agency's] course of inquiry, its analysis and its reasoning"; [42] and must "go beyond mere assertions and indicate its basis for them." [43]

The great majority of NEPA cases finding inadequacies in EIS' detect marked deviations from the 102(2)(C) requirements of a "detailed statement", consultation with other agencies, and deliberate decision-making. Although generalities do not decide concrete cases, they are worth repeating: the EIS is supposed to be a reasoned and a relatively complete effort. It is not conceived as a "promotional document" catering to "just the sort of tendentious decision-making the NEPA seeks to avoid." [44] Nor should it be a purely mechanical

36. Tierrasanta Community Council v. Richardson, 4 ELR 20309, 20311 (S.D. Cal.1973).

37. Comm. for Nuclear Responsibility v. Seaborg, 149 U.S.App.D.C. 380, 384, 463 F.2d 783, 787, 1 ELR 20469, 20470 (1971).

38. §§ 1.5, 7.3 above.

39. Natural Resources Defense Council, Inc. v. Morton, 148 U.S.App.D.C. 5, 14, 458 F.2d 827, 836, 2 ELR 20029, 20033 (1972).

40. I–291 Why? Ass'n v. Burns, 372 F. Supp. 223, 249, 4 ELR 20230, 20241 (D.Conn.1974), aff'd per curiam, 517 F.2d 1077, 5 ELR 20430 (2d Cir. 1975).

41. Environmental Defense Fund, Inc. v. Froehlke (Cache River), 473 F.2d 346, 350, 3 ELR 20001, 20002 (8th Cir. 1972).

42. Ely v. Velde, 451 F.2d 1130, 1139, 1 ELR 20612, 20615 (4th Cir. 1971).

43. Silva v. Lynn, 482 F.2d 1282, 1283, 3 ELR 20698 (1st Cir. 1973).

44. I–291 Why? Ass'n v. Burns, 372 F.Supp. 223, 253, 4 ELR 20230, 20242 (D.Conn.1974), aff'd per curiam 517 F.2d 1077, 5 ELR 20430 (2d Cir. 1975).

exercise [45] or a "paperwork" justification.[46] On the other hand, a court must look only for "adequacy and completeness . . . not perfection," [47] nor "the impossible," [48] nor an "objection free" document.[49] An EIS need not be "exhaustive," [50] documenting each problem "from every angle to explore its potential for good or ill." [51] A court will not "fly speck" [52] an EIS nor sustain criticism that is viewed as "overly technical," "hypercritical," [53] "chronic faultfinding," [54] or reflecting "hindsight and sophisticated editing." [55] What is required is "full, fair, bona fide compliance." [56]

Environmental impact statements found inadequate by the courts customarily display serious lapses of disclosure and reasoned decisions. Thus, prominent indicia of a defective EIS include conclusions that are sweepingly vague,[57] unsupported in fact,[58] scientifically indefensible,[59]

45. Canal Authority of Florida v. Callaway, 4 ELR 20259, 20265 (M.D. Fla.1974).

46. Montgomery v. Ellis, 364 F.Supp. 517, 528, 3 ELR 20845, 20849 (N.D. Ala.1973).

47. National Helium Corp. v. Morton (II), 486 F.2d 995, 1004, 4 ELR 20041, 20045 (10th Cir. 1973).

48. Environmental Defense Fund, Inc. v. Tennessee Valley Authority (Tellico Dam), 492 F.2d 466, 468 n. 1, 4 ELR 20225 n. 1 (6th Cir. 1974) (per curiam).

49. Bucks County Bd. of Commissioners v. Interstate Energy Co., 403 F. Supp. 805, 814, 6 ELR 20406, 20410 (E.D.Pa.1975), citing Cape Henry Bird Club v. Laird, 359 F.Supp. 404, 412, 3 ELR 20571, 20574 (W.D.Va.), aff'd 484 F.2d 453, 3 ELR 20786 (4th Cir. 1973).

50. Iowa Citizens for Environmental Quality, Inc. v. Volpe, 487 F.2d 849, 852, 4 ELR 20056, 20057 (8th Cir. 1973).

51. Sierra Club v. Froehlke (Kickapoo River), 345 F.Supp. 440, 444, 2 ELR 20307, 20308 (W.D.Wis.1972), aff'd 486 F.2d 946, 3 ELR 20823 (7th Cir. 1973); see Natural Resources Defense Council v. Callaway, 524 F.2d 79, 88, 5 ELR 20640, 20644 (2d Cir. 1975) (EIS need not be "all-encompassing in scope" so that the task of preparing it would become "either fruitless or well nigh impossible").

52. Lathan v. Brinegar (II), 506 F.2d 677, 693, 4 ELR 20802, 20808 (9th Cir. 1974) (en banc).

53. Environmental Defense Fund, Inc. v. Tennessee Valley Authority (Tellico Dam), 492 F.2d 466, 468 n. 1, 4 ELR 20225 n. 1 (6th Cir. 1974) (per curiam).

54. Environmental Defense Fund, Inc. v. Froehlke (Truman Dam), 368 F. Supp. 231, 238, 4 ELR 20062, 20064–65 (W.D.Mo.1973), quoting Lathan v. Volpe (II), 350 F.Supp. 262, 266, 2 ELR 20545, 20547 (W.D.Wash.1972).

55. Nat'l Forest Preservation Group v. Butz, 485 F.2d 408, 412, 3 ELR 20783, 20784 (9th Cir. 1973).

56. Lathan v. Brinegar (II), 506 F.2d 677, 693, 4 ELR 20802, 20808 (9th Cir. 1974) (en banc).

57. Akers v. Resor, 3 ELR 20157, 20159 (W.D.Tenn.1972).

58. Simmans v. Grant, 370 F.Supp. 5, 21, 4 ELR 20197, 20202 (S.D.Tex.1975); Akers v. Resor, 3 ELR 20157, 20159 (W.D.Tenn.1972); Rankin v. Coleman, 394 F.Supp. 647, 661, 5 ELR 20626, 20629 (E.D.N.C.1975).

59. Romulus v. Wayne, 392 F.Supp. 578, 592, 5 ELR 20302, 20306 (E.D. Mich.1975) (airport noise case) ("[T]he choice of 85dB(A) as a threshold of unacceptability was highly misleading and did not conform to what is scientifically known about the effects of noise on humans").

wholly unquantified,[60] unexplained in comprehensible terms,[61] internally contradictory,[62] basically flawed,[63] obviously misleading [64] or incomplete,[65] excessively cryptic [66] or perfunctory,[67] argumentative,[68] genuinely preposterous,[69] dependent upon stale data [70] or biased procedures,[71] ignore important topics,[72] delete telling information,[73] exude

60. Romulus v. Wayne, 392 F.Supp. at 593, 5 ELR at 20306 (the EIS "*does not quantify the increase in* [noise] exposure to some areas and the exposure of formerly unexposed areas"); see Sierra Club v. Froehlke (Wallisville-Trinity River), 359 F.Supp. 1289, 1352–53, 3 ELR 20248, 20272 (S.D.Tex.1973), rev'd 499 F.2d 982, 4 ELR 20731 (5th Cir. 1974) (stressing the Corps' failure to use established techniques to predict estuarine damage).

61. Davis v. Coleman, 521 F.2d 661, 674, 5 ELR 20633, 20637 (9th Cir. 1974) (characterizing a negative declaration as "bureaucratic double-talk"); Natural Resources Defense Council v. Callaway, 524 F.2d 79, 94, 5 ELR 20640, 20647–48 (2d Cir. 1975) (EIS leaves reader "completely in the dark" as to why one dumping site was "suddenly chosen" over another); Romulus v. Wayne, 392 F.Supp. at 594, 5 ELR at 20307.

62. Minnesota Pub. Interest Research Group v. Butz (II), 401 F.Supp. 1276, 1309–10, 6 ELR 20133, 20143 (D.C. Minn.1975), rev'd 541 F.2d 1292, 6 ELR 20736 (8th Cir. 1976) (criticizing shifting definitions and assumptions).

63. Minnesota Pub. Interest Research Group v. Butz (II), 401 F.Supp. at 1304, 6 ELR at 20142.

64. See Rhode Island Comm. on Energy v. General Serv. Administration, 397 F.Supp. 41, 49 n. 14, 5 ELR 20685, 20688 n. 14 (D.C.R.I.1975) (negative declaration; agency public statements explaining its action are characterized as "misleading").

65. Montgomery v. Ellis, 364 F.Supp. 517, 522, 3 ELR 20845, 20847 (N.D. Ala. 1973).

66. Appalachian Mtn. Club v. Brinegar, 394 F.Supp. 105, 118, 5 ELR 20311, 20315 (D.C.N.H.1975) ("While quantity does not connote quality, an assessment of alternatives that is limited to two pages raises a red flag that there has not been an examination to the 'fullest extent possible' "); McDowell v. Schlesinger, 404 F.Supp. 221, 251, 6 ELR 20224, 20238 (W.D.Mo.1975) ("extremely terse"; "perfunctory and superficial").

67. Breckinridge v. Schlesinger, —— F. Supp. ——, ——, 6 ELR 20111, 20113 (E.D.Ky.1975), rev'd 537 F.2d 864, 6 ELR 20597 (6th Cir. 1976).

68. Students Challenging Regulatory Agency Procedures v. United States (SCRAP II), 371 F.Supp. 1291, 1302, 4 ELR 20267, 20271 (D.C.D.C.1974), rev'd sub nom. Aberdeen & Rockfish R. R. v. SCRAP, 422 U.S. 289, 95 S.Ct. 2336, 45 L.Ed.2d 191 (1975) (criticizing the "combative, defensive and advocatory language and style" used in the EIS).

69. Brooks v. Volpe, 350 F.Supp. 269, 278, 2 ELR 20704, 20707 (W.D.Wash. 1972) (comparing impact of seven-lane highway to old wagon road "hardly comports with common sense, let alone objective research").

70. Romulus v. Wayne, 392 F.Supp. 578, 588, 5 ELR 20302, 20304 (E.D. Mich.1975) (airport noise case; "the failure to include figures *then* available as to actual operations and future forecasts prepared by the FAA was potentially misleading, both to the agency decision-makers, other reviewing agencies and the public") (emphasis in original) (footnote omitted).

71. Montgomery v. Ellis, 364 F.Supp. 517, 532, 3 ELR 20845, 20850 (N.D. Ala.1973) (Soil Conservation Service cost-benefit computation based on "artificial and unrealistic" interest rate and "unduly long" project life). See also Environmental Defense Fund, Inc. v. Corps of Engineers (Gillham Dam), 325 F.Supp. 749, 761, 1 ELR 20130, 20142 (E.D.Ark.1971).

72. Rankin v. Coleman, 394 F.Supp. 647, 661, 5 ELR 20626, 20632 (E.D. N.C.1975) (certain subjects "completely overlooked").

73. Breckinridge v. Schlesinger, —— F. Supp. ——, ——, 6 ELR 20111, 20113

arrogance,[74] callousness [75] or whimsy unresponsive to expert criticism,[76] or demonstrate a reluctant, begrudging compliance.[77] Courts are particularly demanding in scrutinizing statements prepared in connection with actions that offend local land use planning requirements,[78] exact heavy environmental consequences,[79] trigger other consequential developments,[80] are implemented in secrecy,[81] or undertaken by agencies not likely to be sympathetic to environmental concerns.[82] On the other hand, courts are likely to be satisfied with lesser detail and a more limited analysis in impact statements on actions having no unusual environmental effects [83] or limited in scale; [84] where the effects are more social than environmental,[85] or

(E.D.Ky.1975), rev'd 537 F.2d 864, 6 ELR 20597 (6th Cir. 1976) (surreptitious editing of study on effects of closing army depot).

74. Appalachian Mtn. Club v. Brinegar, 394 F.Supp. 105, 118, 5 ELR 20311, 20316 (D.C.N.H.1975) (EIS describes comments that action may have a major adverse impact as "specious").

75. Rhode Island Comm. on Energy v. General Serv. Administration, 397 F.Supp. 41, 58, 5 ELR 20685, 20693 (D.R.I.1975) (noting the agency's "utter disregard" for environmental concerns).

76. I-291 Why? Ass'n v. Burns, 372 F.Supp. 223, 254, 4 ELR 20230, 20243 (D.C.Conn.1974), aff'd per curiam 517 F.2d 1077, 5 ELR 20430 (2d Cir. 1975) (author of air pollution aspects of a highway EIS admitted to writing it "off the top of my head" without support of any empirical data).

77. Prince George's County v. Holloway, 404 F.Supp. 1181, 1184, 6 ELR 20109, 20110 (D.C.D.C.1975) (NEPA is not to be treated as a bureaucratic "annoyance").

78. Maryland-Nat'l Capital Park & Planning Comm'n v. Postal Serv., 159 U.S.App.D.C. 158, 164-65, 487 F.2d 1029, 1035-37, 3 ELR 20702, 20704 (1973); Ely v. Velde, 451 F.2d 1130, 1 ELR 20612 (4th Cir. 1971); Goose Hollow Foothills League v. Romney, 334 F.Supp. 877, 1 ELR 20492 (D.C. Or. 1971).

79. Nelson v. Butz, 377 F.Supp. 819, 821, 4 ELR 20840 (D.Minn.1974) ("where particularly unique aspects are affected, the EIS should note them in some detail"); Indian Lookout Alliance v. Volpe, 345 F.Supp. 1167, 1170, 3 ELR 20051, 20053 (S.D. Iowa 1972). See also Iowa Citizens for Environmental Quality, Inc. v. Volpe, 487 F.2d 849, 852, 4 ELR 20056, 20057 (8th Cir. 1973) (" 'The extent of detail required must necessarily be related to the complexity of the environmental problems created by the project' ") (quoting opinion of lower court).

80. Natural Resources Defense Council, Inc. v. Morton, 148 U.S.App.D.C. 5, 13, 458 F.2d 827, 835, 2 ELR 20029, 20032 (1972) ("When the proposed action is an integrated part of a coordinated plan to deal with a broad problem, the range of alternatives that must be evaluated is broadened"). See also Environmental Defense Fund, Inc. v. Corps of Engineers (Gillham Dam), 325 F.Supp. 749, 761, 1 ELR 20130, 20138 (E.D. Ark.1971).

81. McDowell v. Schlesinger, 404 F. Supp. 221, 252 n. 43, 6 ELR 20224, 20239 n. 43 (W.D.Mo.1975).

82. Leventhal, Environmental Decision-making and the Role of the Courts, 122 U.Pa.L.Rev. 509, 515, 525 (1974).

83. Rankin v. Coleman, 394 F.Supp. 647, 654, 5 ELR 20626, 20628 (E.D. N.C.1975) (adequacy of an EIS "must be viewed in terms of the size and scope of a project, the commitment of resources involved, and the extent and gravity of potential environmental impacts").

84. Ibid.

85. Nucleus of Chicago Homeowners Ass'n v. Lynn, 524 F.2d 225, 5 ELR 20698 (7th Cir. 1975), cert. denied

merely aesthetic,[86] or remote and speculative,[87] or extremely hypothetical when the outcome is practically pre-ordained;[88] where alternatives are clearly disadvantageous,[89] or there is little room for variation[90] or mitigation;[91] where problems can be corrected later[92] by the exercise of continuing regulatory control;[93] or where criticisms of the statement are mentioned for the first time at trial[94] thus detracting from their seriousness.

The proper contents of an EIS are outlined in the CEQ guidelines[95] which track the five subjects of inquiry identified in Section 102(2)(C) of the Act. Needless to say, the statements themselves do

424 U.S. 967 (1976); Natural Resources Defense Council, Inc. v. Tennessee Valley Authority, 367 F.Supp. 128, 3 ELR 20725 (E.D.Tenn.1973), aff'd per curiam, 502 F.2d 852, 4 ELR 20737 (6th Cir. 1974); cf. § 2.4 above (discussing leniency accorded social nuisances).

86. See Maryland Nat'l Capital Park & Planning Comm'n v. Postal Serv., 159 U.S.App.D.C. 158, 167–68, 487 F. 2d 1029, 1038–39, 3 ELR 20702, 20705–06 (1973).

87. Sierra Club v. Morton, 510 F.2d 813, 824, 5 ELR 20249, 20253 (5th Cir. 1975); Trout Unlimited v. Morton, 509 F.2d 1276, 1283, 5 ELR 20151, 20154 (9th Cir. 1974) (one of the remote consequences was the collapse of the Teton Dam which occurred subsequently); accord, Warm Springs Dam Task Force v. Gribble, 378 F. Supp. 240, 245–46, 4 ELR 20661, 20663 (N.D.Cal.), order stayed pending appeal 417 U.S. 1301, 94 S.Ct. 2542, 41 L.Ed.2d 654 (Douglas, J., sitting as Circuit Justice), aff'd per curiam, 418 U.S. 910 (1974).

88. E. g., Daly v. Volpe, 514 F.2d 1106, 5 ELR 20257 (9th Cir. 1975); Sierra Club v. Morton, 510 F.2d 813, 5 ELR 20249 (5th Cir. 1975); Conservation Soc'y of Southern Vermont v. Brinegar (I), 508 F.2d 927, 5 ELR 20068 (2d Cir. 1974), vacated 423 U.S. 809 (1975); Environmental Defense Fund, Inc. v. Corps of Engineers (Tennessee-Tombigbee), 492 F.2d 1123, 4 ELR 20329 (5th Cir. 1974); Environmental Defense Fund, Inc. v. Corps of Engineers (Gillham Dam), 470 F.2d 289, 2 ELR 20740 (8th Cir. 1972).

89. Cummington Preservation Comm. v. Federal Aviation Administration, 524 F.2d 241, 244, 5 ELR 20696, 20698 (1st Cir. 1975) (need not discuss alternatives ruled out by scientific realities); cf. Natural Resources Defense Council, Inc. v. Morton, 148 U.S.App.D.C. 5, 15, 458 F.2d 827, 837, 2 ELR 20029, 20034 (1972) ("We do not suppose Congress intended discussion of the environmental impact of alternatives so remote from reality as to depend on, say, repeal of the antitrust laws"); Iowa Citizens for Environmental Quality, Inc. v. Volpe, 487 F.2d 849, 853, 4 ELR 20056, 20058 (8th Cir. 1973).

90. Groton v. Laird, 353 F.Supp. 344, 351, 3 ELR 20316, 20319 (D.C.Conn. 1972) (proposed action only known alternative).

91. Iowa Citizens for Environmental Quality, Inc. v. Volpe, 487 F.2d 849, 852, 4 ELR 20056, 20058 (8th Cir. 1973) (no need for exhaustive analysis where no "significant differences in environmental impact among alternatives").

92. Life of the Land v. Brinegar, 485 F.2d 460, 473, 3 ELR 20811, 20816 (9th Cir. 1973) (". . . if the size of the [replacement] habitats do indeed prove to be inadequate, there is no reason why adjustments could not be made even if the construction as planned proceeds to completion").

93. Sierra Club v. Morton, 510 F.2d 813, 828, 5 ELR 20249, 20255 (5th Cir. 1975) ("continuing control must be considered in determining the reasonableness of the impact statement").

94. Sierra Club v. Morton, 510 F.2d at 826, 5 ELR at 20254.

95. 40 CFR § 1500.8.

not always conform to the CEQ credo or the courts' views of an adequate EIS. While the grounds for inadequacy defy summary restatement, some per se categories are slowly emerging. Fatal defects often involve major deviations from the terms of 102(2)(C) and the guidelines: (1) failure to consult;[96] (2) inadequate description of the project area[97] or the policy[98] being implemented; (3) inadequate discussion of the relationship of the project to land use plans;[99] (4) incomplete discussion of probable environmental impacts,[1] (5) its cumulative effects,[2] or (6) secondary impact such as induced population growth;[3] (7) inadequate discussion of how

96. Simmans v. Grant, 370 F.Supp. 5, 19, 4 ELR 20197, 20202 (S.D.Tex. 1974); James v. Lynn, 374 F.Supp. 900, 4 ELR 20675 (D.C.Colo.1974).

97. 40 CFR § 1500.8(a)(1); see Montgomery v. Ellis, 364 F.Supp. 517, 521, 3 ELR 20845, 20846 (N.D.Ala.1973) ("It would seem elemental for an environmental impact statement to describe . . . adequately the project in question so that those removed from the initial decisionmaking process may be appraised what type of project is being considered").

98. Minnesota Pub. Interest Research Group v. Butz (II), 401 F.Supp. 1276, 1303, 6 ELR 20133, 20142 (D.Minn. 1975), rev'd on other grounds 541 F. 2d 1292, 6 ELR 20736 (8th Cir. 1976).

99. 40 CFR § 1500.8(a)(2); see Tierransanta Community Council v. Richardson, 4 ELR 20309 (S.D.Cal.1973); Environmental Defense Fund, Inc. v. Tennessee Valley Authority (Tellico Dam), 339 F.Supp. 806, 809, 2 ELR 20044, 20045 (E.D.Tenn.1972) (quoting the EIS as evidencing a lack of careful research and planning: "While land use planning is far from complete, *broad conclusions* concerning the environmental impact . . . *can be made at the present time*") (emphasis added by court).

1. 40 CFR § 1500.9(a)(3); see Chelsea Neighborhood Ass'ns v. Postal Serv., 516 F.2d 378, 387, 5 ELR 20373, 20377 (2d Cir. 1975); Appalachian Mtn. Club v. Brinegar, 394 F.Supp. 105, 117, 5 ELR 20311, 20314 (D.C.N.H.1975); Nelson v. Butz, 377 F.Supp. 819, 821, 4 ELR 20840, 20841 (D.C.Minn.1974); Lathan v. Volpe (II), 350 F.Supp. 262, 266, 2 ELR 20545, 20547 (W.D.Wash. 1972).

2. 40 CFR § 1500.8(a)(3); see Natural Resources Defense Council, Inc. v. Grant, 355 F.Supp. 280, 287, 3 ELR 20176, 20179 (E.D.N.C.1973) (cumulative effects of sedimentation caused by other channelization projects); Jones v. Lynn, 477 F.2d 885, 891, 3 ELR 20358, 20360 (1st Cir. 1973) (cumulative effects of urban development); Natural Resources Defense Council, Inc. v. Callaway, 524 F.2d 79, 94, 5 ELR 20640, 20645 (2d Cir. 1975) (cumulative effects of ocean dumping); Prince George's County v. Holloway, 404 F.Supp. 1181, 6 ELR 20109 (D.C.D.C.1975) (cumulative effects of other government installations).

3. 40 CFR § 1500.8(a)(3); see Davis v. Coleman, 521 F.2d 661, 680–81, 5 ELR 20633, 20640 (9th Cir. 1975):

> [the evaluation] contains no detailed discussion of the project's probable impact on growth, land use or the planning process in the Dixon-Kidwell area, no detailed consideration of the effect industrialization would have on the proposed recreational development along Putah Creek, no estimate of the increased demand for Davis city services which increased population would occasion, no indication that the effects on community cohesion and the tax base have been studied, and no scientifically supported estimate of the effects of industrialization on air and noise pollution or on the quality and sufficiency of Davis' water supply.

See also Council on Environmental Quality, Fifth Ann.Rep. 410–11 (1974) (stressing the importance of analyzing secondary effects); Appalachian Mtn. Club v. Brinegar, 394 F.Supp. 105, 115, 5 ELR 20311, 20314 (D.C. N.H.1975) ("The Final EIS turned a blind eye to the possible incidental environmental effects that could occur

avoidable effects will be mitigated;[4] (8) inadequate discussion of other interests and considerations of federal policy thought to offset adverse environmental consequences;[5] (9) inadequate discussion of alternatives;[6] (10) slighting of tradeoffs between immediate benefits and long-term costs;[7] (11) failure to identify irreversible and irretrievable commitments of resources;[8] and (12) failure to recite the "history of success or failure of similar projects."[9]

There is authority for the proposition that a party attacking the adequacy of an EIS need only make a *prima facie* showing of inadequacy whereupon the burden of persuasion shifts to the agency to sustain the adequacy of the statement.[10] The prevailing view is that plaintiff has the traditional burden of proving by a preponderance of the evidence that the EIS is inadequate.[11] As the courts occasionally

in Franconia Notch, located only thirteen miles south of the proposed construction"). Compare Trout Unlimited v. Morton, 509 F.2d 1276, 1283, 5 ELR 20151, 20154 (9th Cir. 1975) (need not discuss "remote possibilities" of secondary development in vicinity of a dam site) (the project, the Teton Dam, later suffered a catastrophic collapse); Life of the Land v. Brinegar, 485 F.2d 460, 469, 3 ELR 20811, 20815 (9th Cir. 1973) (need not discuss "speculative" demographic effects).

4. 40 CFR § 1500.8(a)(5); see Prince George's County v. Holloway, 404 F. Supp. 1181, 1187, 6 ELR 20109, 20110 (D.C.D.C.1975); Simmans v. Grant, 370 F.Supp. 5, 21, 4 ELR 20197, 20203 (S.D.Tex.1974); Montgomery v. Ellis, 364 F.Supp. 517, 523, 3 ELR 20845, 20848 (N.D.Ala.1973).

5. 40 CFR § 1500.8(a)(8); see Natural Resources Defense Council, Inc. v. Morton, 148 U.S.App.D.C. 5, 13, 458 F.2d 827, 835, 2 ELR 20029, 20032–33 (1972); Chemical Leaman Tank Lines, Inc. v. United States, 368 F.Supp. 925, 948–49 (D.C.Del.1973).

6. 40 CFR § 1500.8(a)(4); see § 7.9 below.

7. 40 CFR § 1500.8(a)(6); see Sierra Club v. Morton, 510 F.2d 813, 827, 5 ELR 20249, 20255 (5th Cir. 1975) (holding that a cost-benefit analysis is not required by 102(2)(C)(iv); "the use of a postulated economic equation to express these values is permissible and in many instances desirable, but it is not a *sine qua non*").

8. 40 CFR § 1500.8(a)(7); Scientists' Inst. for Pub. Information v. Atomic Energy Comm'n, 156 U.S.App.D.C. 395, 481 F.2d 1079, 3 ELR 20525 (1973); Nelson v. Butz, 377 F.Supp. 819, 821, 4 ELR 20840 (D.C.Minn. 1974) (inadequate discussion of effects of inundation of unique resources); see § 7.7 below.

9. Natural Resources Defense Council Inc. v. Grant, 355 F.Supp. 280, 288 (E.D.N.C.1973); see Sierra Club v. Morton, 510 F.2d 813, 824, 5 ELR 20249, 20253 (5th Cir. 1975).

10. Scherr v. Volpe, 466 F.2d 1027, 1034, 2 ELR 20453, 20456 (7th Cir. 1972); Simmans v. Grant, 370 F.Supp. 5, 12, 4 ELR 20197, 20199 (S.D.Tex. 1974) (citing superior resources and expertise possessed by federal agency); Sierra Club v. Froehlke (Wallisville-Trinity River), 359 F.Supp. 1289, 1334–35, 3 ELR 20248, 20263 (S.D.Tex. 1973), rev'd 499 F.2d 982, 4 ELR 20731 (5th Cir. 1974). See also Maryland-Nat'l Capital Park & Planning Comm'n v. Postal Serv., 159 U.S.App.D.C. 158, 168, 487 F.2d 1029, 1039, 3 ELR 20702, 20706 (1973) (agency must provide "convincing reasons" why EIS not required).

11. Sierra Club v. Morton, 510 F.2d 813, 818, 5 ELR 20249, 20250 (5th Cir. 1975); Environmental Defense Fund, Inc. v. Corps of Engineers (Tennessee-Tombigbee), 492 F.2d 1123, 1130–31, 4 ELR 20329, 1126 (5th Cir. 1974); Trinity Episcopal School Corp. v. Romney, 387 F.Supp. 1044, 1080 (S.D.N.Y.1974), aff'd 523 F.2d 88, 5 ELR 20497 (2d 1975); Boone v.

recognize,[12] the significance of the burden of persuasion issue turns upon the depth of pretrial discovery and the scope of the hearing before the court. The burden is tolerable for the unusual plaintiff who enjoys free access to government files. Where discovery is limited and grudgingly conceded, assigning the burden of rebutting a *prima facie* case to the party with ready access to the facts is appropriate. The burden of persuasion is one more weapon in the arsenal of courts intent upon taking a hard look at agency decision-making.[13]

Judicial review of agency compliance with NEPA, especially the procedural aspects, is consistently rigorous. Although courts are mindful of limitations on their powers to second-guess the agencies, they scarcely could be more demanding of the decision-making process if they were sitting in nuisance cases with absolute authority to shape the final outcome. The practice is to examine every scrap of evidence considered by the agency in making its decision, to probe deeply into the reasoning process, and to supplement the administrative record where necessary. Judge Leventhal cites the twenty-five day trial after remand in *Overton Park*[14] as an example of the "hard look doctrine in spades,"[15] and there are several comparable cases arising under NEPA.[16] Discovery can be extensive—a deposition from the Secretary of Transportation, production routinely of the entire administrative record and explanations beyond it;[17] testimony

Tillatoba Creek Drainage Dist., 379 F. Supp. 1239, 1241 (N.D.Miss.1974).

12. See Sierra Club v. Froehlke (Wallisville-Trinity River), 359 F.Supp. 1289, 1334–35, 3 ELR 20248, 20264–65 (S.D.Tex.1973), reversed on other grounds 499 F.2d 982, 4 ELR 20731 (5th Cir. 1974). See also Calvert Cliffs' Coord. Comm. v. Atomic Energy Comm'n, 146 U.S.App.D.C. 33, 42–43, 449 F.2d 1109, 1118–19, 1 ELR 20346, 20351 (1971).

13. Cf. International Harvester Co. v. Ruckelshaus, 155 U.S.App.D.C. 411, 438, 478 F.2d 615, 642, 3 ELR 20133, 20142 (1973).

14. 335 F.Supp. 873 (W.D.Tenn.1972), rev'd 494 F.2d 1212 (6th Cir. 1974).

15. Leventhal, supra note 82, at 514.

16. E. g., Brooks v. Volpe, 319 F.Supp. 90, 1 ELR 20045 (W.D.Wash.1970), rev'd 460 F.2d 1193, 2 ELR 20139 (9th Cir.), on remand 350 F.Supp. 269, 2 ELR 20704 (W.D.Wash.), injunction granted 350 F.Supp. 287, 3 ELR 20211 (W.D.Wash.1972), injunction dissolved 380 F.Supp. 1287, 5 ELR 20001 (W.D.Wash.), aff'd 518 F.2d 17, 5 ELR 20444 (9th Cir. 1974); Environmental Defense Fund, Inc. v. Corps of Engineers (Gillham Dam), 325 F.Supp. 728, 749, 1 ELR 20130 (E.D.Ark.1972), 342 F.Supp. 1211, 2 ELR 20353 (E.D.Ark.), aff'd 470 F.2d 289, 2 ELR 20740 (8th Cir.); Natural Resources Defense Council, Inc. v. Grant, 341 F.Supp. 356, 2 ELR 20185 (E.D.N.C.1972), 355 F.Supp. 280, 3 ELR 20176 (E.D.N.C.1973).

17. Production of the administrative record of course is mandatory. Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 421, 91 S.Ct. 814, 825, 28 L.Ed.2d 136, 155 (1971). See, e. g., Chelsea Neighborhood Ass'ns v. Postal Serv., 516 F.2d 378, 389, 5 ELR 20373, 20378 (2d Cir. 1975) (studies cited by agency in support of conclusions contained in EIS); Silva v. Lynn, 482 F.2d 1282, 1283, 3 ELR 20698 (1st Cir. 1973) (citing Administrative Procedure Act, 5 U.S.C.A. § 706); Natural Resources Defense Council, Inc. v. Morton, 148 U.S.App.D.C. 5, 13, 458 F.2d 827, 836, 2 ELR 20029, 20033 (1972); Comm. for Nuclear Responsibility, Inc. v. Seaborg, 149 U.S.App.D.C. 385, 391,

at trial can be wide ranging—cross-examination of the administrative decision-maker or the draftsmen of the environmental impact statement. *This often results in seemingly technical decisions requiring* agencies to retrace the commenting procedures,[18] rewrite the EIS,[19] and otherwise reconsider projects [20] under circumstances where the outcome is unlikely to be influenced. The protagonists may be displeased: agencies ask why they should be put through a ritual and exposed to delay; complaining parties question the value of a paper victory. The answer is that requiring the government to turn square corners when dealing with the environment is thought to be the best assurance of a sound result.

§ 7.5 Review of Agency Decision-Making: Substance

Substantive judicial review under the National Environmental Policy Act is a subject much mooted in the journals.[1] Substantive

463 F.2d 788, 794, 1 ELR 20529, 20531 (1971) (adverse comments received from other federal agencies); Romulus v. Wayne, 392 F.Supp. 578, 588, 5 ELR 20302, 20304 (E.D.Mich. 1975) (raw data and future forecasts used by agency).

18. Natural Resources Defense Council, Inc. v. Morton, 337 F.Supp. 165, 167, 2 ELR 20028, 20029 (D.D.C.), aff'd 148 U.S.App.D.C. 5, 458 F.2d 827, 2 ELR 20029 (1972).

19. § 7.10 below.

20. E. g., Arizona Pub. Serv. Co. v. Federal Power Comm'n, 157 U.S.App. D.C. 272, 280, 483 F.2d 1275, 1283, 3 ELR 20776, 20778 (1973) (preparation of EIS or finding why EIS unnecessary); Greene County Planning Bd. v. Federal Power Comm'n (I), 455 F.2d 412, 422, 2 ELR 20017, 20021–22 (2d Cir. 1972), cert. denied 409 U.S. 349 (preparation of EIS in lieu of assessment prepared by applicant); Appalachian Mtn. Club v. Brinegar, 394 F.Supp. 105, 122, 5 ELR 20311, 20317 (D.C.N.H.1975); City of New York v. United States, 337 F. Supp. 150, 162–63, 2 ELR 20275, 20277 (E.D.N.Y.1972) (consideration of environmental issues adduced at trial).

1. E. g., Andrews, NEPA in Practice: Environmental Policy or Administrative Reform?, 6 ELR 50001 (1976); Arnold, The Substantive Right to Environmental Quality Under the National Environmental Policy Act, 3 ELR 50028 (1973); Briggs, NEPA as a Means to Preserve and Improve the Environment—The Substantive Review, 15 B.C.Ind. & Com.L.Rev. 699 (1974); Bue, Judicial Review as Reviewed by the Judiciary, 4 ELR 50148 (1974); Cohen & Warren, Judicial Recognition of the Substantive Requirements of the National Environmental Policy Act of 1969, 13 B.C. Ind. & Com.L.Rev. 685 (1972); Leventhal, Environmental Decisionmaking and the Role of the Courts, 122 U.Pa.L.Rev. 509, 527–29 (1974); Robie, Recognition of Substantive Rights Under NEPA, 7 Nat.Res.L. 387 (1974); Yarrington, Judicial Review of Substantive Agency Decisions: A Second Generation of Cases Under the National Environmental Policy Act, 19 S.D.L.Rev. 279 (1974); Comment, The Role of the Courts Under the National Environmental Policy Act, 23 Cath.U.L.Rev. 300 (1973); Comment, Judicial Review of Administrative Decisions Under the National Environmental Policy Act of 1969, 9 Land & Water L.Rev. 145, 155–63 (1974); Note, Substantive Review Under the National Environmental Policy Act: EDF v. Corps of Engineers, 3 Ecology L.Q. 173 (1973); Note, Scenic Hudson Revisited: The Substantial Evidence Test and Judicial Review of Agency Environmental Findings, 2 Ecology L.Q. 837 (1972); Note, The Least Adverse Alternative Approach to Substantive Review Under NEPA, 88 Harv.L.Rev. 735 (1975); Note, The National Environmental

1/14/02

IN THE MATTER OF	* BEFORE THE
PETITON FOR RECLASSIFICATION	* BOARD OF APPEALS
W/S DOVER ROAD	* FOR
N/O BAUBLITZ ROAD	* BALTIMORE COUNTY
3rd COUNCIL DISTRICT	*
Petitioners	*
JARVIS STEEL & LUMBER CO., INC.	* Case No. R-01-437

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

PROTESTANTS' MEMORANDUM IN LIEU OF CLOSING ARGUMENT

The Falls Road Community Association, Inc. and John Galbreath (collectively referred to as "Protestants") by Robert D. Sellers, their attorney, submit this Memorandum in Lieu of Closing Argument.

STATEMENT OF THE CASE

Petitioners seek to rezone four parts of a property pursuant to Baltimore County Code §2-356, et seq. shown on Petitioner's Exhibits (P) 4, 5, 6 and 7 as Reclassification Area #1, consisting of 11.6 acres; Reclassification Area #2, consisting of .043; Reclassification Area #3, consisting of .007 acres; and Reclassification Area #4, consisting of 7.4 acres.

There is no real dispute about Reclassification Areas 2, 3 and 4. Protestants believe that technical defects in Petitioners' case prevent the Board from granting any reclassification in this matter but have not argued against reclassifying those areas and have not put on any evidence regarding those areas. Areas 2 and 3 are extremely small, and Area 4 is densely wooded with steep slopes and unlikely to be developed regardless of the zoning. This case is clearly about Reclassification Area #1.

02 JAN 14 PM 3:19

QUESTIONS PRESENTED

1. Does the Petition meet the requirements of BCZR 1A03.2.F regarding a proper certification and environmental impact statement?

2. Does the land meet the requirement of BCZR 1AO3.2.E regarding the one-hundred-year floodplain?

3. Has the burden to prove a mistake been met?

4. Is the change warranted as required by the County Code §2-356(j)(2)?

I. The zoning reclassification sought by Petitioners cannot be granted because Petitioners have not complied with BCZR §1AO3.2.F.

BCZR §1AO3.2 governs the rezoning of RC4 lands by petition and states:

> "No petition for reclassification of property in an R.C.4 Zone may be granted unless a registered professional engineer, architect, landscape architect or land surveyor first certifies that:
> A. The parcel of land under petition lies at least 200 feet from the property line of any public water reservoir;
> B. The parcel lies at least 300 feet from any first or second order or greater stream that flows directly into a public water reservoir;
> C. That the parcel lies at least 300 feet from any third order or greater stream that flows directly or indirectly into a public water reservoir;
> D. No more than 30% of the parcel has a slope of more than 20%;
> E. The parcel does not lie within a one-hundred-year floodplain; and
> F. As shown by an environmental impact statement, the manner in which proposed reclassification will affect water quality in the watershed or any public water reservoir.

In this case no "registered professional engineer, architect, landscape architect or land surveyor" certified that an environmental impact statement showed the "manner in which proposed reclassification will affect water quality in the watershed or any public water reservoir." "Environmental impact statement" is defined in BCZR §101:

> ENVIRONMENTAL IMPACT STATEMENT -- A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement <u>must</u> include the following:
> A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;
> Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;
> Any adverse environmental effects that cannot be avoided;

Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and

Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. (Emphasis added).

Petitioners apparently maintain that the sum of their experts' work, taken as a whole, is the equivalent of an environmental impact statement. That cannot possibly meet the definition. It is clear that "technical data" and cost analysis of alternatives, among other specific elements, are to be considered. There was no evidence that those required studies were done or that any of Petitioners' experts based testimony on any such information. It is also noteworthy that BCZR §1A03.2 mandates that the certifications be made by "a registered professional engineer, architect, landscape architect or land surveyor." Petitioners' witnesses, Robert Sheesley and David Lykens, do not have expertise in the listed occupations and cannot supply the required certifications. Only Mr. Doak could do so and his testimony was largely limited to a description of the land, and CZMP process.

No environmental impact statement was submitted into evidence nor was there any testimony that an environmental impact statement had been prepared or was the basis of any testimony. There is no evidence in the record from which the Board would conclude that a proper environmental impact statement had been done or relied upon for any certification or testimony regarding the effect of the proposed reclassification in the watershed or any public reservoir. Without that evidence, it is clear that the relief may not be granted.

II. The property lies with within a one-hundred-year floodplain and may not be reclassified.

BCZR §1AO3.2.E is a mandatory prerequisite, and no petition for reclassification of RC4 property may be granted unless the "parcel does not lie within a one-hundred-year flood plain."

There is absolutely no dispute that the portion of the property in the southwest corner, which makes up Reclassification Area 4, is within a one-hundred-year flood plain. Petitioners argue the entire "parcel" must be within the one-hundred-year flood plain for the section to prevent reclassification. Fortunately, there are prior Board of Appeals decisions and appellate affirmations of those decisions on this specific BCZR section.

The Security Management Corporation case, CR-93-307 SPHXA, which involved the reclassification of property zoned RC4, required the Board of Appeals to construe the use of the word "parcel" in the various sections of BCZR §1AO3.2. The Board found that the word "parcel" in this section referred to the entire piece of land and that if any part of the land or parcel did not meet the standards set out, then the reclassification could not be granted. That interpretation was affirmed by the Circuit Court of Baltimore County and again by the Court of Special Appeals. Joint Exhibits 33A, B and C.

Additionally, Jack Dillon, former County Planner, testified that interpretation was consistent with the original intent of the legislation, based on his active participation in the drafting of these sections of the BCZR. It is clear from Mr. Dillon's testimony and from the previous decision of this Board and Circuit Court that because the part of the subject "parcel" indisputably lies within a one-hundred-year flood plain that the petition for reclassification may not be granted.

III. **There was no mistake.**

The cases regarding reclassification based on "mistake" are clear that strict standards and burdens are required of an applicant seeking rezoning under the rule. There is a strong presumption of correctness of the original comprehensive rezoning, and it requires strong evidence to sustain a piecemeal change from zoning enacted by the legislative body. If the

issues presented are fairly debatable, the Courts may not substitute their judgment for that of the legislative body. Anne Arundel County vs. Maryland National Bank, 32 Md. App. 437, 361 A2d 134 (1976). The mistake alleged must be a "basic and actual mistake". Bartnik vs. Calvert County Hospital, 262 Md. 434, 277 A.2d 596 (1971).

In order to demonstrate mistake, there must be evidence that assumptions relied upon by the County Council were invalid. It is more than the exercise of bad judgment based on complete and accurate information. The applicant must show the conditions which made the zoning incorrect. In addition, there is a burden on the applicant to show "the literal failure of the council to have considered these facts and conditions". People's Counsel for Baltimore County vs. Beechwood I Limited Partnership 107 Md. App.627.670 A2d 484 (1995). There must also be a showing that the owner is deprived of all reasonable use of his property. In this case, the evidence shows clearly that a viable and reasonable use of the property remains. In fact, the testimony was that virtually the same number of homes could be built on the site if the lots were slightly re-configured on the development plan which has already been submitted and "approved" by the Hearing Officer for the subject property.

It is, therefore, Petitioners' heavy burden to show: the Council's intent for placing RC4 zoning on this property during the CZMP; the false assumptions relied upon during the legislative process; and that the resulting zoning does not carry out that intent because of some mistake. Petitioners argue that the Council intended to protect areas within 300 feet of "streams" and that because Reclassification Area 1 does not contain any "streams" (as defined in the Baltimore County Code or by their experts), a mistake was made. But there is no evidence that the Council intended to protect only areas around "streams" as defined in the Code or "field verified streams."

Mr. Hughey and Mr. Galbreath both testified about conversations with Councilman McIntire. He never used the term "field verified." He never referred to any specific definition of "stream." It was clear that the Councilman was aware that the base planametric maps used to identify areas for RC4 zoning may contain discrepancies. Furthermore, there was testimony that Councilman McIntire knew that there were both perennial and intermittent streams in the areas being considered for RC4 zoning and made no effort to distinguish between them. His intent was to protect any watercourse that carried a significant amount of water, not just watercourses that met particular technical definitions.

The character of the reclassification area in question is strongly disputed. It is clear that the v-shaped wooded area, much discussed during the case, does collect water from a sizeable area and conveys it into Waterspout Run and ultimately Loch Raven Reservoir. Petitioners' witnesses describe a "depression" or "swale" or "gully" that is not a wetland and which only conveys surface water after a heavy rain event. Mr. Sheesley estimated that it would require more than three inches of rain in a 24-hour period to produce water flowing in the channels. To the contrary, Protestants produced evidence through Mr. Galbreath's testimony and photos (Joint Exhibits 18 A and B) that a considerable flow of water was triggered by a very modest rain and that the water still flowed hours after the rain ended.

There is also evidence indicating that at times groundwater has flowed in the channels. Mr. Berg believed that to be the case. Protestants produced evidence that recent years have been unusually dry and the water table in the area is much lower than several years ago. Joint Exhibit 22. Mr. Martin owns the adjacent land and has observed the area for almost 60 years. He testified that the v-shaped area was frequently wet and had always tended to be wet. He also

corroborated the USGS information regarding the lowered water table, testifying that the flow into his nearby farm's cistern was the lowest it had ever been.

There is considerable evidence that the current condition of the area is not typical and ordinarily it may be considerably more wet. It may convey ground water at times when the water table is at a more normal level and thereby meet even the most technical definition of a stream. If that is the case, the 1959 topo/planametric base map used as a reference by the Council may be more accurate than the observations of Petitioners' experts who have only seen the property in the past very dry two years.

The facts in evidence do not make a case that is legally sufficient to demonstrate that a mistake was made.

IV. The reclassification is not warranted.

Baltimore County Code, §2-356 mandates that even where an error has occurred, one additional element is necessary before the property can be properly reclassified. Section 2-356(j)(2) requires a finding that the prospective reclassification of the property is warranted by that change or error.

> "Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including but not limited to all of the following: population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program". County Code §2-356(e).

Thus, the Petitioners have the additional burden to demonstrate that the prospective reclassification of the property is warranted. When determining whether or not a Petitioner has met that burden, the Board is required to consider "only" factors relating to the purposes of the

zoning regulations. The purpose of RC4 zoning could not be more clear. It is intended to protect watercourses and in particular, those water courses which make up the watersheds of the municipal water supply.

Every Master Plan ever adopted by Baltimore County underscores that purpose and goal. The testimony of Mr. Berg, Mr. Hughey and Petitioners' experts as well, establish without a doubt that the area in question gathers water into channels which eventually becomes Waterspout Run which then runs into Western Run and eventually leads to the Loch Raven watershed.

Mr. Berg clearly made the point that the area warranted RC4 protection and discussed at some length the negative impact on water quality caused by more densely developed land than that which is less densely developed. Mr. Galbreath's testimony regarding his conversation with Councilman McIntire is strong evidence that the Councilman was very aware that areas where channelized water flows need to be protected from overly dense development. Mr. Galbreath had provided him with a newspaper article containing information about a report of the Maryland Department of Natural Resources which made the same point. Joint Exhibit 27.

Whether or not the land subject to this petition contains a "stream" defined technically or generically, there is no dispute that the area drains a significant amount of land and that the water is channelized and that it is part of the Loch Raven Reservoir watershed. The testimony of Mr. Berg was clear that the area warrants protection for these reasons, whether or not the water flow on the site was constant or intermittent and whether or not it was a mixture of ground and surface water or entirely surface water. As such, RC4 protection of this land will carry out the intent of the zoning regulations.

Petitioners ask this Board to overturn and reverse a legislative act taken after a lengthy process. The RC4 zoning placed on this property was the direct result of a citizen group's request. The CZMP process is lengthy and well publicized. One of the county's primary goals in the CZMP is to notify owners and citizens of the ongoing process. Their participation is vigorously and repeatedly solicited over the entire 18-month time of the process. Mr. Doak's testimony and the CIM minutes dated July 6, 2000, (Joint Exhibit 21), are indisputable evidence that Petitioners knew the CZMP process was under way and, more important, knew that the subject parcel was being considered for RC4 zoning, not just 300 feet from any stream but, as Mr. Mr. Galbreath testified, possibly up to 500 feet from the stream.

Petitioners did not participate in the CZMP process in any way. Mr. Hughey testified that the Planning Office file contained no evidence whatsoever that Petitioners participated in the process. Mr. Galbreath, who followed this issue closely throughout the CZMP process, testified that he was not aware of any participation by Petitioners at any time. Not one witness testified to any input into the CZMP process by Petitioners. It should be noted that Petitioners' counsel, twice during the hearing implied that there had been participation but <u>no evidence of any participation was ever offered</u>. In fact, there is ample proof that Petitioners chose not to participate, and instead consciously attempted to get their development plan vested before the new zoning took effect. As indicated in the CIM minutes, Petitioners chose to "race to the courthouse" rather than participate in the CZMP process. Joint Exhibit 21.

Under those circumstances, fundamental fairness and equitable principles as well as general public policy, are more than sufficient to deny the requested reclassification. One can hardly think of a worse precedent to set in a reclassification case: a property owner proposing a development plan as the CZMP occurs; represented by attorneys, surveyors, engineers and other

land use experts; with actual knowledge of the CZMP process and the potential impact on their property; choosing not to participate; making a conscious decision to engage in a "race"; and then after the race is lost asking this Board to undo the legislative act because the council made a "mistake." The mistake, if any, was made by Petitioners in not participating in the process.

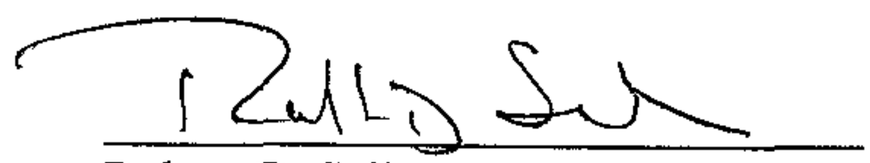
CONCLUSION

The Petitioners have not met the requirements of BCZR §1A03.2.E and F. No certification based on an environmental impact statement was made. The parcel lies within a one-hundred-year floodplain. The BCZR is clear. No petition for reclassification of property in an RC4 zone may be granted under those circumstances. Public policy provides a strong reason to deny the petition. There was no mistake and the reclassification is not warranted because the RC4 zoning placed on the parcel by the County Council provides the very protection intended for such properties by that zone.

Robert D. Sellers, Esquire
Robert D. Sellers & Associates, P.A.
401 Washington Ave., Suite 303
Towson, Md. 21204
410-583-1712

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of January, 2002, a copy of the foregoing Memorandum in Lieu of Closing Argument was mailed first class, postage prepaid to Howard L. Alderman, Jr., Esquire, Levin and Gann, P.A., 502 Washington Ave., Towson, Md. 21204 and Peter Max Zimmerman, People's Counsel, 400 Washington Ave., Towson, Md. 21204.



Robert D. Sellers

Jarvis-Memo Lieu Closing Argu

2/19/01

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN RE:	**PETITION FOR RECLASSIFICATION** **W/S Dover Road, N of Baublitz Road** **4th Election District** **3rd Councilmanic District** **Jarvis Steel & Lumber Co., Inc.,** ***Petitioner/Owner***	**Case No.:**

MEMORANDUM IN SUPPORT OF PETITION

JARVIS STEEL & LUMBER COMPANY, INC. (referred to hereafter as "Owner" or "Jarvis"), by and through its undersigned legal counsel and in support of its Petition for Reclassification of the property which it owns on the west side of Dover Road, north of Baublitz and north of the residential subdivision known as Chestnut Woods (the "Property") submits the following information for consideration by the Office of Planning ("Office of Planning"), the Baltimore County Planning Board ("Planning Board") and the County Board of Appeals for Baltimore County ("Board").

Location/Zoning

The Property is located in the Third Councilmanic District, north of Baublitz Road and Knox Avenue. The Property is comprised of approximately 40.5 acres and is very deep and narrow in shape. Adjoining the Property to the south is the subdivision of Chestnut Woods, a residential subdivision developed under a zoning classification of RC-5 containing lots, on the average, in the 1 to 2 acre range in

size.

Prior to October 10, 2000, the Property was zoned, in its entirety, as Resource Conservation 5 ("RC-5"). Subsequent to the Council's vote on the legislation effecting the 2000 Comprehensive Zoning Map decisions for the Third Councilmanic District (Issue No. 3-160), portions of the property were zoned RC-4 with the balance retaining the RC-5 classification. Prior to the effective date of the change in zoning classification, the Property had received final approval of a Development Plan for a residential development consisting of lots, all in excess of 2 acres in size, which respected the post 2000 CZMP zoning lines to take effect as those zoning lines were described in detail by the Office of Planning at the Hearing Officer's Hearing.

History

At the Hearing Officer's Hearing, there was much testimony regarding the zoning classifications applicable to the Property after the effective date of the Council's vote on the 2000 Comprehensive Zoning Map Process. The Hearing Officer summoned Mr. William Hughey from the Office of Planning to appear and testify at the Hearing. Mr. Hughey testified that, notwithstanding the overlay map used for consideration by the County Council, it was the Third District Councilman's intent to rezone all those land areas within 300 feet of verified streams to a classification of RC-4. At the Hearing, Mr. Hughey acknowledged that

the base map used to prepare the overlay for consideration by the Council was prepared in the 1950's. Mr. Hughey acknowledged further that the Office of Planning had been unable to verify the existence and location of streams on the base map used for Issue No. 3-160 prior to the Council's vote.

The Hearing Officer suspended the Hearing and requested that David Lykens, an official with the Baltimore County Department of Environmental Protection and Resource Management, be summoned to the Hearing to testify as the County official that had visited the site with respect to existing streams in the area of the proposed development. Mr. Lykens appeared and testified that he had field verified all streams in the area of the subject property and that the streams as shown on the Development Plan under consideration were accurate. Mr. Lykens further testified that in one area where the base map used by the Office of Planning reflected a stream, there was no such stream and in fact, the DEPRM permitted the Owner to conduct soil percolation tests in that same the area. Additionally, Mr. Lykens noted the verified existence of a stream that was not reflected on the base map used by the Office of Planning

Once Mr. Lykens had verified the location of all water/stream resources in the area of the subject Property, Mr. Hughey reviewed the Development Plan under consideration and advised that the RC-4 zoning line would be drawn 300 feet from the center line of the field-verified streams. Based upon the testimony and evidence

presented with respect to the development overall and specifically with respect to the location of field-verified streams and the delineation of zoning lines shown on the red-lined Development Plan, the Hearing Officer issued his decision approving the Development Plan with the zoning lines that would take effect on December 21, 2000. A copy of that Hearing Officer's decision is attached hereto and incorporated herein as Exhibit A.

An adjoining neighbor in the Chestnut Woods subdivision noted an appeal of the Development Plan to the Board. The Board conducted a hearing on the appeal and on the record of the evidence as its exists in the record of the Development Plan approval case. Upon conclusion of the appeal hearing, the Board then scheduled a date for public deliberation of the arguments presented.

Prior to the date of public deliberation, legal counsel for the Owner received word from the Office of Planning that, notwithstanding the testimony presented at the Hearing Officer's Hearing or the acknowledged errors in the base map used to prepare the Council overlay map, the zoning classifications on the subject Property would be those shown on the overlay map adopted by the Council on October 10, 2000, irrespective of the fact that those zoning lines reflect verifiable and recognizable errors.

With respect to the approved Development Plan for the Property, the Owner's legal counsel filed with the Board, a Motion for Limited Remand to the

Hearing Officer pending an outcome of the Petition for Reclassification that the Owner was advised by the Office of Planning that it must file. The Board issued a Limited Remand Order, a copy of which is attached hereto and incorporated herein as Exhibit B.

Master Plan

The proposed development is consistent with the policies and objectives of the *Baltimore County Master Plan 2010*. The Office of Planning recommended that the development depicted on the red-lined Development Plan approved by the County Hearing Officer be approved. In advance of recommending approval, the Office of Planning ensured that the development as proposed designated Dover Road as a "Scenic Corridor" and advised the Hearing Officer that the "development guidelines and approval process for scenic views contained in the *Comprehensive Manual of Development Policies* will apply to this project." (*Office of Planning Development Plan Comments, Nancy Lee Farms II, Project Number IV-557* at page 2.)

Change/Mistake

The County Council and the Office of Planning have recognized the area in which the Property is located as appropriate for residential development; the Council through its intended retention of the Resource Conservation/Residential zoning on the Property and the Office of Planning as noted above. The County

Council took an additional measure to ensure compatibility of the development of the Property with the natural resources in the area by including it in Issue 3-160 during the 2000 CZMP; an Issue where the uncontradicted intent of the Council was to zone all land within three hundred (300) feet of verifiable streams with a classification of RC-4 (Watershed Protection).

The official 200 foot scale zoning maps applicable to the Property as adopted by the Council are based on an actual mistake of fact. The Councilman and the Office of Planning have stated that the intent of the rezoning effected by Issue No. 3-160 was to reclassify those portions of properties included in the Issue three hundred (300) feet in all directions from the centerline of actual and verified streams. The Office of Planning has acknowledged that the base map used to prepare the zoning lines on properties covered by Issue No. 3-160, as those lines were adopted by the County Council during the 2000 CZMP, depicts out-of-date conditions and does not reflect field verified information. The mistake in implementing the stated intent of the Council is further evidenced by the fact that there is a stream within 300 feet of the Property that was not depicted on the base map used by the Office of Planning. Consequently, the area within 300 feet of that stream was not rezoned as intended by the Council.

The requested rezoning <u>is limited</u> to the rectification of the mistake of the County Council. As shown on the plats to accompany the Petition for

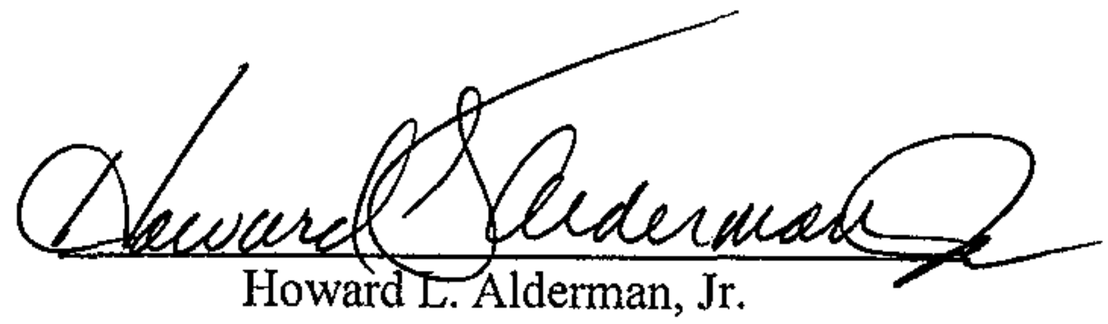
Reclassification, all areas of the Property within 300 feet of field verified streams are requested for reclassification to RC-4, with all areas of the Property outside of that buffer being classified as RC-5. The Petition as filed does not seek to rezone any portion of the Property in a classification different than the stated intent of the County Council. Your Petitioner suggests that had the County Council known of the erroneous base map, it would have corrected the zoning lines to effect its intent as shown on the Plat which accompanies the Petition.

Summary

The facts and circumstances which form the basis for this request are not in dispute. The mistake of the County Council in reclassifying portions of the Property as it did are obvious and contrary to the stated intent behind Issue No. 3-160. This Petition seeks only to correct that mistake and not to change the zoning classifications on the Property in any other manner. The RC-4/RC-5 zoning lines shown on the Plat and approved by the Hearing Officer for Baltimore County (after consideration of extensive testimony on the intent of the Council and field verified information) should be approved as shown.

For all of the above-described reasons, as well as those which will be presented to this Board at the time of the hearing on this Petition, Jarvis Steel & Lumber Co., Inc. respectfully requests that its Petition for Reclassification be granted. The Owner and its undersigned legal counsel remain available to answer

any questions that the staff of reviewing County agencies may have or any questions of this Board.



Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
Halderman@LevinGann.com [e-mail]

Attorneys for Jarvis Steel & Lumber Co., Inc.

IN RE: DEVELOPMENT PLAN HEARING
W/S Dover Road, N of Baublitz Road
(Nancy Ellen Farms II)

4th Election District
3rd Council District

Jarvis Steel &Lumber Co., Inc.
Owner/Developer

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. IV-557

*

EXHIBIT A

* * * * * * * * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for consideration of a development plan prepared by Gerhold, Cross & Etzel, LTD, for the proposed residential development of the subject property by Jarvis Steel & Lumber Company, Inc., Owner/Developer, with 17 single family dwellings. The property consists of a gross area of 40.5 acres, more or less, presently zoned R.C.5, and is located on the west side of Dover Road, just north of its intersection with Chestnut Woods Court in Glyndon. The proposed development is more particularly described on the red-lined development plan submitted into evidence and marked as Developer's Exhibit 1.

As to the history of this project, a concept plan of the proposed development was prepared and a conference held thereon on May 30, 2000. As required, a community input meeting was held on July 6, 2000 at the Glyndon Volunteer Fire Department. Subsequently, a development plan was submitted and a conference held thereon on September 27, 2000. Following the submission of that plan, development plan comments were submitted by the appropriate reviewing agencies of Baltimore County and a revised development plan incorporating these comments was submitted at the hearing held before me on October 19, 2000.

Appearing at the public hearing required for this project were Michael Fisher, a representative of Jarvis Steel and Lumber Company, Owner/Developer; Bruce E. Doak and Scott A. Lindgren, representatives of Gerhold, Cross & Etzel, the land surveyors who prepared the development plan; and, Howard L. Alderman, Jr., Esquire, attorney for the Owner/Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended

the hearing, including Donald Rascoe, Development Management, Robert W. Bowling, Development Plans Review, Ron Goodwin, Land Acquisition, and Lloyd Moxley, Zoning Review, all divisions of the Department of Permits and Development Management (PDM); Jan Cook with the Department of Recreation and Parks (R&P); R. Bruce Seeley, David Lykens, and Allison Cauthorn with the Department of Environmental Protection and Resource Management (DEPRM); and Mark Cunningham and William Hughey with the Office of Planning (OP). Appearing as interested persons were John Galbreath, Glenn R. Martin, Nancy M. Roberts, Wendol Williams and Cheryl Jones, all residents from the surrounding community.

As noted above, the subject property is an irregular shaped parcel containing approximately 40.5 acres. The property has frontage on Dover Road near Knox Avenue in the Greenspring Valley area. Presently, the property is in agricultural use and a portion thereof is wooded.

The Owner/Developer proposes to develop the subject property with 17 single family homes. As shown on the development plan, vehicular access will be provided by way of a new road to be constructed and known as Deer Meadow Court. This court will provide direct vehicular access to 14 of the proposed lots, and a panhandle driveway from the terminus of that court will be constructed to provide access to the remaining 3 additional lots. The development plan also shows a forest conservation area and forest buffer easement, as well as the 100-year floodplain and drainage and utility easement on the southwestern portion of the site.

Pursuant to Section 26-206 of the Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, I am required to first identify any unresolved agency comments or issues. After such issues and/or comments are identified, testimony and evidence is received in order to decide same. There were two major issues identified in the preliminary stage of the hearing. Following the identification of these issues, testimony and evidence was then taken relative to those issues. The first issue relates to the zoning of the property.

At the time of the hearing, the entire parcel was zoned R.C.5. Under that zoning classification, the property's acreage would yield 27 lots. As noted above, the Owner/Developer

proposes a 17-lot subdivision, which is less than the density permitted under the current R.C.5 zoning classification for a property of this size. Irrespective of the fact that the zoning of the property on the date of the Hearing Officer's Hearing (October 19, 2000) was R.C.5, it was indicated that the property had been identified during the comprehensive zoning map process as Issue No. 3-160. Under that issue, the Baltimore County Council considered a rezoning request for a portion of the subject site. The Council did, in fact, vote to rezone a part of the property to R.C.4 and that rezoning will take effect in December, 2000.

There was a great amount of discussion and testimony about the area of the property to be rezoned. Testimony was received from Bruce Doak, the Surveyor who prepared the plan, William Hughey, the District Planner for this area from the Office of Planning, and David Lykens of DEPRM. Based upon the uncontradicted testimony and evidence offered, it is apparent that the County Council intended to rezone a portion of this property to R.C.4. It is clear that the purpose of that rezoning was to protect streams in the area. The R.C.4 zoning classification is indeed a resource conservation zone designed to protect water resources.

Testimony from Mr. Doak indicated that there are no streams on the property. In fact, he indicated that he had visited the site with Mr. Lykens to field investigate the parcel. Mr. Lykens corroborated Mr. Doak's testimony. However, they agreed that there are streams on adjacent properties. Moreover, it was indicated, through the testimony of Mr. Hughey, that it was the intent of the County Council to provide a 300-foot buffer from those streams. Based upon the field investigation and consultation with County records and maps, the Developer submitted a red-lined plan at the hearing which shows the location of the new R.C.4 and R.C.5 zone line on this property. On the north side of this parcel, that zone line bifurcates proposed Lot 11. On the south of the property, the R.C.4/R.C.5 zone line bifurcates Lot 9. Moreover, the new R.C.4 area will encompass most of Lots 7 and 8. It is also to be emphasized that the proposed dwellings on Lots 7 and 8 will be entirely within the R.C.4 zone. The future dwellings for Lots 9 and 11 will be on land that will remain zoned R.C.5

Consideration of this issue is difficult, in that the Council did not, by its vote, establish a precise location for the new zone lines, but rather required that the R.C.4 zone be extended 300 feet from the water resource, wherever that might be.

Based upon the testimony and evidence offered, it is clear, and I so find, that the location of the "new" R.C.4/R.C.5 zone line in this property is accurately shown on the plan. Indeed, I find as fact that there are no active streams on the site and that the zone line when ultimately published on official County maps, will bifurcate proposed Lots 9 and 11. The R.C.4 zone will encompass most of Lots 7 and 8.

The location of this zoning line alters the number of dwellings which are permitted by right on the property. As noted above, under the current R.C.5 zoning classification, the entire site yielded 27 units. Based on the rezoning of the property, 23 units are permitted. In either case, the proposed subdivision (17 units) is less than the maximum allowed. I also note that taken individually, the acreage of the respective zones is sufficient to support the requested subdivision. That is, utilizing the R.C.4 acreage, alone (8.5 acres), 2 lots are permitted. Indeed, there are two building envelopes on land zoned R.C.4. Moreover, both of these lots (Lots 7 and 8) meet the minimum area requirements for an R.C.4 zoned lot. Furthermore, 21 lots are permitted in the R.C.5 zoned lands and only 15 are proposed. Moreover, for Lots 9 and 11, that portion of the R.C.5 acreage is sufficiently sized to support a single family dwelling.

In sum, even with the rezoning, there is sufficient density to support the proposed subdivision. All of the lots exceed the minimum area requirements, depending on the applicability of the R.C.4 or R.C.5 zoning requirements as the case may be. Moreover, total density for the subdivision is within the limits allowed. Thus, I find that the amended red-lined plan is accurate and the zoning and acreage sufficient to support this subdivision.

The second major issue presented relates to the originally proposed extension of Red Tree Lane into the site. Red Tree Lane is currently an existing public road which provides access to the adjacent subdivision to the south known as Chestnut Woods. Presently, Red Tree Lane terminates between Lots 34 and 35 of that subdivision. The point of termination of that road is immediately

south of the subject property and rear of proposed Lots 4 and 5 of the Nancy Lee Farms II subdivision.

There was significant testimony regarding this issue. Originally, it was proposed that Red Tree Lane be extended into the site and linked to Deer Meadow Court. However, neither the Developer of the subject property nor the neighbors in Chestnut Woods desire that connection. After discussing this issue, Mr. Bowling, on behalf of the Department of Public Works (DPW), agreed that that agency would not require that the connection be made.

Although there will be no connection to accommodate vehicular traffic, it was indicated that a public pedestrian walkway easement will be extended from the termination of Red Tree Lane into the subject property and connect with Deer Meadow Court. Although motor vehicles cannot use this connection, these proposed improvements will provide for pedestrian access between these communities. In this regard, a note has been added to the plan which provides that the public pedestrian walkway easement will be paved with stone, mulch or similar product to identify it as a public walkway; that it will be maintained by the Homeowners' Association for Deer Meadow Court; and, that no fences, other buildings or structures may be constructed thereon to block or interfere with the rights of use of same.

Another issue relating to Red Tree Lane is the present state of the termination of that roadway in the Chestnut Woods subdivision. A temporary T-turnaround was constructed to serve as a termination point for Red Tree Lane when Chestnut Woods was developed. The temporary T-turnaround was installed in anticipation of the ultimate extension of that roadway into the subject property. Although the roadway will not now be extended, it is recognized that the T-turnaround in which Red Tree Lane terminates should be improved.

Subsequent to the hearing, correspondence was received with input from the owners of Lots 34 and 35 of the Chestnut Woods subdivision. These lots are located immediately adjacent to the T-turnaround. Within this correspondence, it is stated that those owners desire to see road improvements to Red Tree Lane and are willing to dedicate additional land, as necessary, for the improved T-turnaround. The permanent turnaround will be sufficiently sized to accommodate

maintenance vehicles, snowplows and garbage trucks. In recognition of the willingness of these adjacent property owners to assist in this endeavor, a condition will be added to the approval of this plan requiring the Owner/Developer of Nancy Lee Farms II to construct a permanent T-turnaround on Red Tree Lane as set forth herein.

With the resolution of these two major issues (rezoning and Red Tree Lane terminus), it was indicated at the hearing that the plan generally met all County requirements and standards. Several issues were raised by the County agency representatives who were present at the hearing; however, they were resolved during the course of the hearing through the addition of notes on the plan. Generally, these issues concern a requested note from the Office of Planning regarding the required paving of panhandles, a note requested by DEPRM regarding forest buffers and wells, and notes requested by the Land Acquisition Division of PDM regarding access to a 28' x 20" culvert which is located adjacent to the northeast corner of the site near Dover Road. These note additions were made during the course of the hearing and this Developer will be required to comply with these notations and the development plan comments authored by the various County reviewing agencies. The community representatives who appeared at the hearing support the changes to the plan as described above, including the non-extension of Red Tree Lane, and the construction of a pedestrian walkway from its current terminus through the subject development to Deer Meadow Court. In my judgment, with these amendments the plan is in compliance with all County regulations and should be approved. This includes the location of the proposed well and septic systems as shown on the plan.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 3rd day of November, 2000 that the development plan for Nancy Lee Farms II, identified herein as Developer's Exhibit 1, be and is hereby APPROVED, consistent with the red-line amendments set forth herein; and,

IT IS FURTHER ORDERED that the proposed development shall be in compliance with all development plan comments submitted by the various County reviewing agencies; and

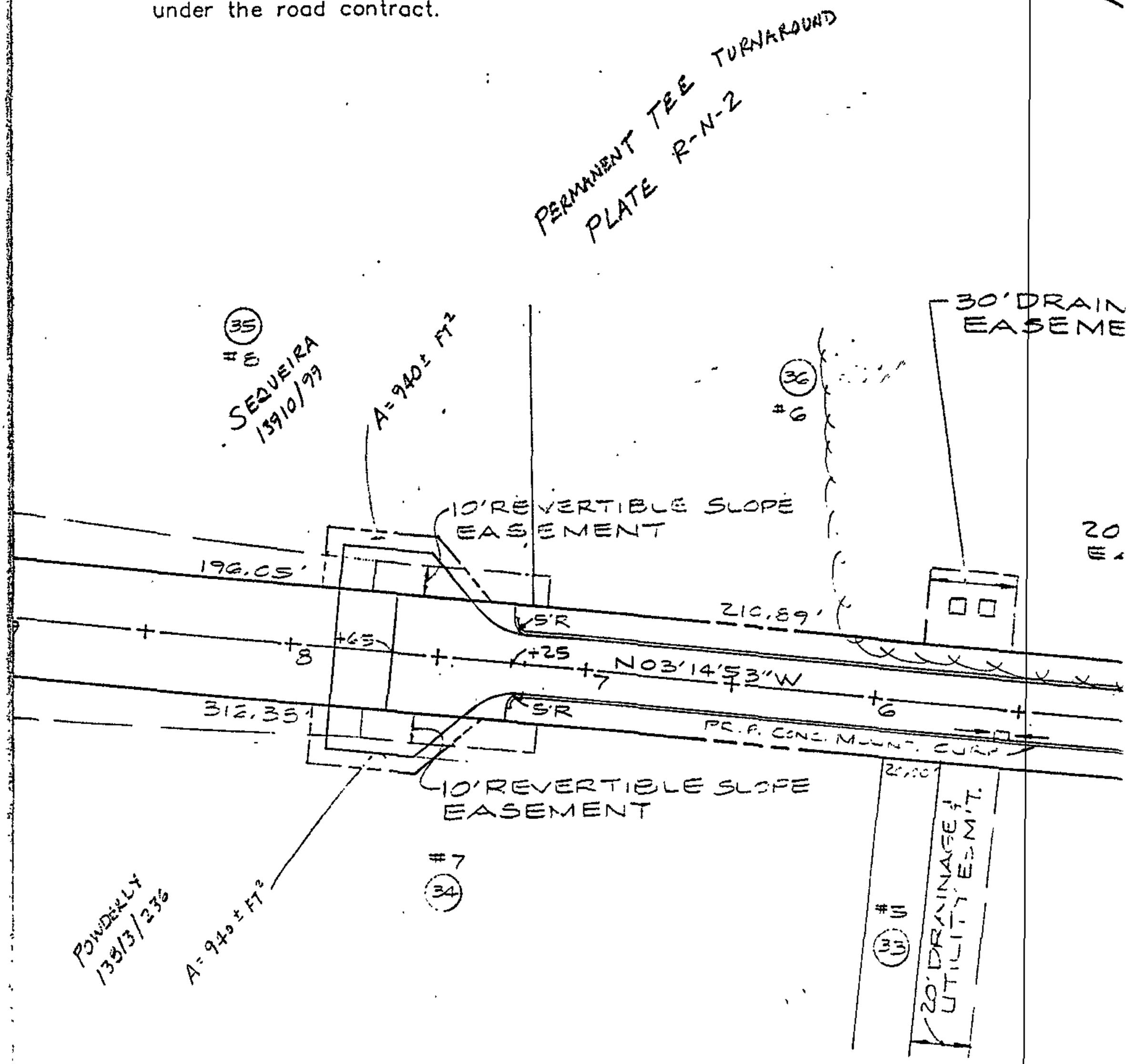
IT IS FURTHER ORDERED that the Owner/Developer and the Department of Public Works (DPW) shall coordinate the design and extent of improvements to be made by the Developer to the existing terminus of Red Tree Lane with the owners of Lots 34 and 35 of the Chestnut Woods Subdivision (7 and 8 Red Tree Lane, respectively). If the owners of Lots 34 and 35 agree to dedicate to Baltimore County, without cost to the County or the Owner/Developer of Nancy Lee Farms II, an area for additional right-of-way, then the Developer shall install, in accordance with the design approved by DPW, the necessary improvements to complete a permanent T-turnaround for Red Tree Lane. If the owners of Lots 34 and 35 on Red Tree Lane do not agree to dedicate to Baltimore County such additional lands, without cost to the County or the Owner/Developer of Nancy Lee Farms II, then the Owner/Developer shall be responsible for improving the existing northern terminus of Red Tree Lane in the Chestnut Woods subdivision within the current dedicated right-of-way, as may be required by the DPW. Moreover, all costs associated with the improvement of the T-turnaround, with the exception of the acquisition costs for land on which the turnaround is to be constructed, shall be borne by the Developer. If appropriate, the Developer, the owners of Lots 34 and 35 of the Chestnut Woods subdivision, and DPW may agree to the improvements and land conveyance as schematically shown on a drawing attached hereto, which was prepared by the Department of Public Works.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer
for Baltimore County

LES:bjs

All tops of manholes, inlets and valves located within the road metal shall be built to an elevation 0.2' lower than proposed final grade. The interim grade will be adjusted to final grade under the road contract.



Spring Conv. Attachment
IV-55h

$\frac{37+57}{2} \times 20 = 940$

IN THE MATTER OF NANCY LEE FARMS II PDM FILE NO. IV-557 W/S OF DOVER ROAD, N OF BAUBLITZ ROAD 4TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	* * * * *	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
RE: DEVELOPMENT PLAN DECISION	*	CASE NO. CBA-00-166

EXHIBIT B

* * * * * * * * *

ORDER OF LIMITED REMAND

Upon consideration of the Motion for Reconsideration and Limited Remand filed with this Board by the Owner /Respondent, and upon consideration of the evidence in this case, it is this 10th day of January, 2001, by the County Board of Appeals of Baltimore County, **ORDERED** that the redlined Development Plan, and the Hearing Officer's Opinion and Development Plan Order dated November 3, 2000 issued by the Hearing Officer for Baltimore County approving same, is hereby **REMANDED** to the Hearing Officer for the limited purpose of further consideration of the zoning lines shown on the redlined Development Plan as the same are affected, if at all, by the final decision rendered on the *Petition for Reclassification* to be filed by the Owner relative to the Property which is the subject of the Development Plan.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Lawrence M. Stahl

Lynn Barranger

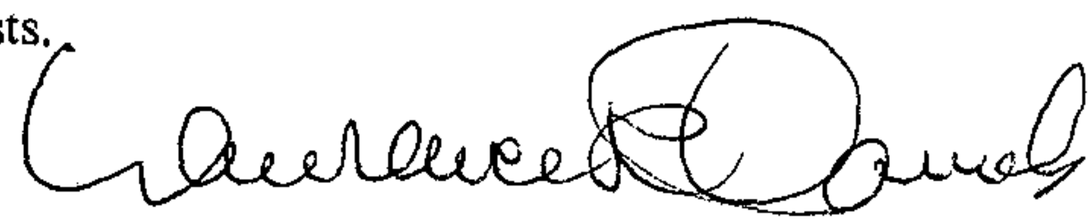
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Jarvis Steel and Lumber Company, Inc., *Appellant,* *v.* **Baltimore County Office of People's Counsel,** ***et al,*** *Appellees.*	**CIVIL** **ACTION** **NO. 03-C-02-004475**

ORDER

This matter having come before the Court on a Joint Stipulation of Dismissal filed by the parties of record, and this Court having determined that the appeal in this case should be dismissed, it is this 20th day of Dec 2002,

ORDERED, that the appeal, filed by Jarvis Steel and Lumber Company, Inc. of the decision of the County Board of Appeals for Baltimore County, is hereby DISMISSED, with each party to the appeal to pay their own and respective costs.



JUDGE

Copies to:
Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

Robert D. Sellers
Robert D. Sellers & Associates, PA
401 Washington Avenue, Suite 303
Towson, Maryland 21204

Peter Max Zimmerman
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

Board of Appeals for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

FILED DEC 27 2002

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Jarvis Steel and Lumber Company, Inc., *Appellant,* *v.* **Baltimore County Office of People's Counsel,** ***et al,*** *Appellees.*	**CIVIL** **ACTION** **NO. 03-C-02-004475**

JOINT STIPULATION OF DISMISSAL

JARVIS STEEL & LUMBER CO., INC., a Maryland corporation, Appellant ("Jarvis"); FALLS ROAD COMMUNITY ASSOCIATION, INC., a Maryland corporation ("FRCA"); JOHN A. GALBREATH, individually ("Galbreath"); and OFFICE OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY ("People's Counsel"), hereby stipulate that based on an Agreement reached among Jarvis, FRCA and Galbreath [People's Counsel is not a party to the referenced Agreement but joins herein solely for purposes of agreeing to dismissal of this appeal] that the appeal in the above-captioned case is hereby DISMISSED, with each party to these proceedings to pay their own and respective costs.

Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410-321-0600
Attorneys for Appellant

Robert D. Sellers
Robert D. Sellers & Associates, PA
401 Washington Avenue, Suite 303
Towson, Maryland 21204
410-583-1712
Attorney for FRCA and Galbreath, Appellees

Peter Max Zimmerman
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204
410-887-2188
Office of People's Counsel, Appellee

DEC 27 2002

cc: Zimmerman, Alderman, Sellers

4/30/02.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
	*	
PETITION OF: JARVIS STEEL & LUMBER CO., INC.	*	
	*	CIVIL ACTION NO.: 03-C-02-004475
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD	*	
OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49	*	
400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	
IN THE MATTER OF:	*	
THE APPLICATION OF JARVIS STEEL & LUMBER CO., INC., FOR ZONING	*	
RECLASSIFICATION		
	*	
Case No.: R-01-437		
	*	

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

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A., 8th Flr., Nottingham Centre,
502 Washington Avenue, Towson, MD 21204

Jarvis Steel & Lumber Co., Inc.
Victor Frenkil, Jr., President, 1030 Patapsco Avenue, Baltimore, MD 21225

Bruce Doak
Gerhold, Cross & Etzel, Ltd., 320 E. Towsontown Boulevard,
Suite 100, Towson, MD 21286

Robert D. Sellers, Esquire
401 Washington Avenue, Suite 303, Towson, MD 21204

John Galbreath, et al
2516 Chestnut Woods Court, Reisterstown, MD 21136

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Theresa R. Shelton

Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Howard L. Alderman, Jr., Esquire, Levin & Gann, P.A., 8th Flr., Nottingham Centre, 502 Washington Avenue, Towson, MD 21204; Jarvis Steel & Lumber Co., Inc., Victor Frenkil, Jr., President, 1030 Patapsco Avenue, Baltimore, MD 21225; Bruce Doak, Gerhold, Cross & Etzel, Ltd., 320 E. Towsontown Boulevard, Suite 100, Towson, MD 21286; Robert D. Sellers, Esquire, 401 Washington Avenue, Suite 303, Towson, MD 21204; John Galbreath, et al., 2516 Chestnut Woods Court, Reisterstown, MD 21136; and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 30th day of April, 2002.

Theresa R. Shelton

Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

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

April 30, 2002

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-02-004475
Petition for Judicial Review
Jarvis Steel & Lumber Co., Inc.
-- Petition for Reclassification
Case No.: R-01-437

Dear Mr. Alderman:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

Costs incurred for the transcript of proceedings necessary for the completion of the record must be at your expense. In addition, the costs must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with the Maryland Rules.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

c: Jarvis Steel & Lumber Co., Inc.
Bruce Doak
Robert D. Sellers, Esquire
John Galbreath, et al
People's Counsel for Baltimore County
Arnold F. Keller, III, Director, Office of Planning
Jeffrey Long / Planning
Lawrence E. Schmidt / Zoning Commissioner
W. Carl Richards / PDM
Arnold Jablon, Director / PDM

MAY 1 2002
02-1477

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

April 30, 2002

Robert D. Sellers, Esquire
401 Washington Avenue, Suite 303
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-02-004475
Petition for Judicial Review
Jarvis Steel & Lumber Co., Inc.
-- Petition for Reclassification
Case No.: R-01-437

Dear Mr. Sellers:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on April 19, 2002, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-02-004475.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

c: Howard L. Alderman, Jr., Esquire
Jarvis Steel & Lumber Co., Inc.
Bruce Doak
John Galbreath, et al
People's Counsel for Baltimore County
Arnold F. Keller, III, Director, Office of Planning
Jeffrey Long / Planning
Lawrence E. Schmidt / Zoning Commissioner
W. Carl Richards / PDM
Arnold Jablon, Director / PDM

Printed with Soybean Ink
on Recycled Paper

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at W/S Dover Road N of Knox Avenue
which is presently zoned/districted RC4 & RC5

This Petition shall be filed with the Department of Permits and 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: (1) that the zoning/district status of the herein described property be reclassified,

pursuant to the zoning law of Baltimore County from a RC4/RC5 zone/district to a RC4/RC5 zone/district, for the reasons given in the attached ~~and (2) for a Special Exception under the zoning regulations of Baltimore County, to use the herein described property for~~ and as shown on the Plat to accompany this Petition.

~~and (3) for the reasons given in the attached statement, a Variance from the following sections of the zoning regulations of Baltimore County:~~

RECEIVED
COUNTY BOARD OF APPEALS
03 MAR -1 PM 3:28

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded 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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

Jarvis Steel & Lumber Co., Inc.
Name - Type or Print

By: [signature]
Signature Victor Frenkil, Jr., President

Name - Type or Print

Signature

1030 Patapsco Avenue 410-355-3000
Address Telephone No.

Baltimore, Maryland 21225
City State Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr.
Name - Type or Print

[signature]
Signature Levin & Gann, P.A.

Nottingham Centre, 8th Floor
Company

502 Washington Avenue 410-321-0600
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Representative to be Contacted:

Bruce Doak
Name

Gerhold, Cross & Etzel, Ltd.

320 E. Towsontown Blvd., Ste. 100 410-823-4470
Address Telephone No.

Towson, Maryland 21286
City State Zip Code

REV 9/18/98

#06

To file
Pay OK

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #1

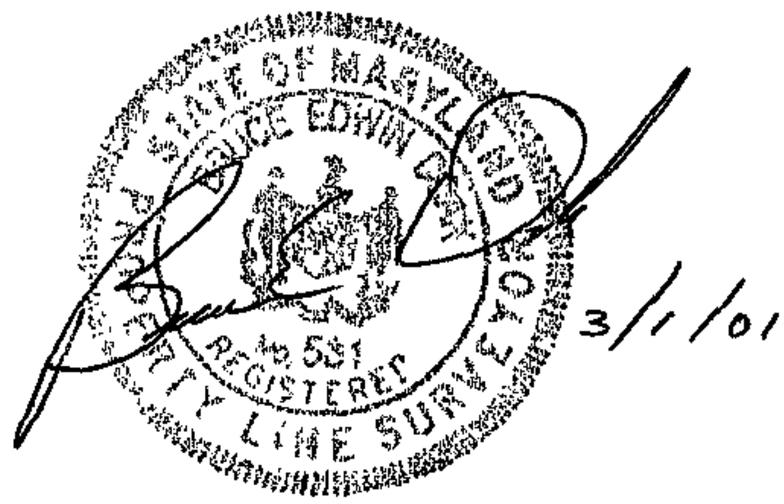
Commencing at a point on the northernmost outline of the Property of Jarvis Steel & Lumber Company known as "Nancy Lee Farms II" 2356 feet, more or less, northerly along the center of Dover Road from the center of Knox Avenue and South 87 degrees 33 minutes 11 seconds West 733.03 feet along the northernmost outline of "Nancy Lee Farms II" to the point of beginning, thence from the point of beginning and running for the lines of Reclassification Area #1, the forty following lines, viz: (1) South 30 degrees 54 minutes 47 seconds East 51.11 feet, (2) South 23 degrees 41 minutes 14 seconds East 43.44 feet, (3) South 17 degrees 44 minutes 58 seconds East 37.61 feet, (4) South 05 degrees 43 minutes 00 seconds East 66.04 feet, (5) South 05 degrees 36 minutes 24 seconds West 61.26 feet, (6) South 10 degrees 11 minutes 52 seconds West 28.75 feet, (7) South 20 degrees 40 minutes 35 seconds West 62.66 feet, (8) South 33 degrees 27 minutes 26 seconds West 57.89 feet, (9) South 44 degrees 33 minutes 28 seconds West 30.56 feet, (10) South 50 degrees 28 minutes 00 seconds West 48.68 feet, (11) South 02 degrees 23 minutes 43 seconds West 17.74 feet, (12) South 15 degrees 35 minutes 13 seconds West 60.85 feet, (13) South 22 degrees 33 minutes 29 seconds West 22.68 feet, (14) South 29 degrees 34 minutes 01 second West 22.48 feet, (15) South 35 degrees 29 minutes 01 second West 32.11 feet, (16) South 33 degrees 03 minutes 13 seconds West 34.53 feet, (17) South 50 degrees 27 minutes 09 seconds West 70.34 feet, (18) South 65 degrees 24 minutes 55 seconds West 101.70 feet, (19) South 75 degrees 47 minutes 09 seconds West 39.42 feet, (20) South 85 degrees 58 minutes 17 seconds West 41.52 feet, (21) North 88 degrees 44 minutes 45 seconds West 39.85 feet, (22) North 80 degrees 24 minutes 23 seconds West 36.38, (23) North 69 degrees 21 minutes 55 seconds West 36.44 feet, (24) North 69 degrees 18 minutes 50 seconds West 52.01 feet, (25) North 56 degrees 57 minutes 58 seconds West 33.09 feet, (26) North 43 degrees 21 minutes 50 seconds West 31.14 feet, (27) North 34 degrees 44 minutes 02 seconds West 62.15 feet, (28) North 28 degrees 16 minutes 26 seconds West 86.70 feet, (29) North 24 degrees 40 minutes 23 seconds West 36.99 feet, (30) North 48 degrees 28 minutes 48 seconds West 44.01 feet, (31) North 44 degrees 55 minutes 08 seconds West 62.25 feet, (32) North 25 degrees 16 minutes 27 seconds West 34.75 feet, (33) North 34 degrees 41 minutes 12 seconds West 15.47 feet, (34) North 57 degrees 41 minutes 00 seconds West 37.07 feet, (35) North 65 degrees 59 minutes 19 seconds West 81.66 feet, (36) North 62 degrees 51 minutes 53 seconds West 47.75 feet, (37) North 55 degrees 35 minutes 09 seconds West 84.20 feet, (38) North 52 degrees 41 minutes 16 seconds West 139.23 feet, (39) North 60 degrees 15 minutes 19 seconds East 4.48 feet, and (40) by a line curving to the left having a radius of 300.00 feet, an arc length of 280.61 feet (the chord of said arc bearing North 67 degrees 28 minutes 37 degrees East 270.50 feet) to intersect the said

northernmost outline of "Nancy Lee Farms II", and thence along said northernmost outline, (41) North 87 degrees 33 minutes 11 seconds East 838.74 feet to the point of beginning.

Containing 11.666 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.



Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #2

Commencing at a point, the five following lines from the center of Dover Road, 2356 feet, more or less, South 87 degrees 33 minutes 11 seconds West 2,002.96 feet, South 11 degrees 24 minutes 12 seconds West 171.68 feet, North 78 degrees 13 minutes 48 seconds East 15.37 feet, and North 84 degrees 48 minutes 20 seconds East 30.29 feet to the point of beginning, thence from said point of beginning and running for the lines of Reclassification Area #2, the six following courses and distances, viz: (1) North 67 degrees 05 minutes 32 seconds East 61.58 feet, (2) North 57 degrees 30 minutes 11 seconds East 65.55 feet, (3) North 54 degrees 37 minutes 04 seconds East 49.71 feet, (4) South 47 degrees 32 minutes 53 seconds East 16.34 feet, (5) South 60 degrees 15 minutes 18 seconds West 143.61 feet, and (6) South 84 degrees 48 minutes 20 seconds West 41.26 feet to the point of beginning.

Containing 0.043 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.

STATE OF MARYLAND
BRUCE EDWIN DOWNS
No. 531
REGISTERED
PROPERTY LINE SURVEYOR

3/1/01

C:\My Documents\reclassnancyleearea2.doc

R-01-437

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #3

Commencing at a point, the three following lines from the center of Knox Avenue, northerly along the center of Dover Road, 2356 feet, more or less, South 87 degrees 33 minutes 11 seconds West 2,002.96 feet, South 11 degrees 24 minutes 12 seconds West 171.68 feet to the point of beginning, thence from said point of beginning and running for the lines of Reclassification Area #3, the five following courses and distances, viz: (1) North 78 degrees 13 minutes 48 seconds East 15.37 feet, (2) North 84 degrees 48 minutes 20 seconds East 30.29 feet, (3) South 67 degrees 22 minutes 06 seconds West 19.57 feet, (4) South 73 degrees 00 minutes 02 seconds West 30.62 feet, and (5) North 11 degrees 24 minutes 12 seconds East 10.82 feet to the point of beginning.

Containing 0.007 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.

STATE OF MARYLAND
BRUCE EDWIN CORK
No. 531
REGISTERED
PROPERTY LINE SURVEYOR

3/1/01

C:\My Documents\reclassnancyleearea3.doc

R-01-437

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #4

Commencing at a point, the six following lines from the center of Knox Avenue, northerly along the center of Dover Road, 1,900 feet, more or less, South 83 degrees 24 minutes 43 seconds West 270.90 feet, South 07 degrees 17 minutes 26 seconds West 218.54 feet, South 88 degrees 15 minutes 49 seconds West 659.89 feet, South 80 degrees 35 minutes 16 seconds West 796.11 feet, and South 00 degree 13 minutes 00 seconds West 78.15 feet to the point of beginning, thence from said point of beginning and running for the lines of Reclassification Area #4, the twelve following courses and distances, viz: (1) South 00 degree 13 minutes 00 seconds West 406.58 feet, (2) North 89 degrees 03 minutes 58 seconds West 688.34 feet, (3) North 11 degrees 24 minutes 12 seconds East 679.18 feet, (4) South 45 degrees 53 minutes 15 seconds East 50.72 feet, (5) South 54 degrees 01 minute 25 seconds East 92.00 feet, (6) South 51 degrees 03 minutes 20 seconds East 68.69 feet, (7) South 54 degrees 18 minutes 45 seconds East 91.43 feet, (8) South 88 degrees 19 minutes 20 seconds East 26.16 feet, (9) South 77 degrees 03 minutes 07 seconds East 80.95 feet, (10) South 83 degrees 41 minutes 54 seconds East 52.07 feet, (11) North 89 degrees 41 minutes 43 seconds East 35.83 feet, and (12) South 64 degrees 11 minutes 31 seconds East 138.11 feet to the point of beginning.

Containing 7.498 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.

STATE OF MARYLAND
BRUCE EDWIN DOAK
No. 551
REGISTERED
PROPERTY LINE SURVEYOR
3/1/01

C:\My Documents\reclassnancyleearea4.doc

R-01-437

NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Section 602.(e) and Section 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #R-01-437
SW/S Dover Rd., approximately 600' N of Baublitz Road
4th Election District
3rd Councilmanic District
Legal Owner(s): Jarvis Steel & Lumber Co., Inc.
Reclassification: from R.C.4 to R.C.5.
Hearing: Wednesday, June 27, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue.

LAWRENCE S. WESCOTT
Chairman

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations please call (410) 887-3180.
(2) For information concerning the File and/or Hearing, Contact this office at (410) 887-3180.
JT/6/684 June12 C474440

CERTIFICATE OF PUBLICATION

6/14/, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/12/, 2001.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

Date: 6/8/01

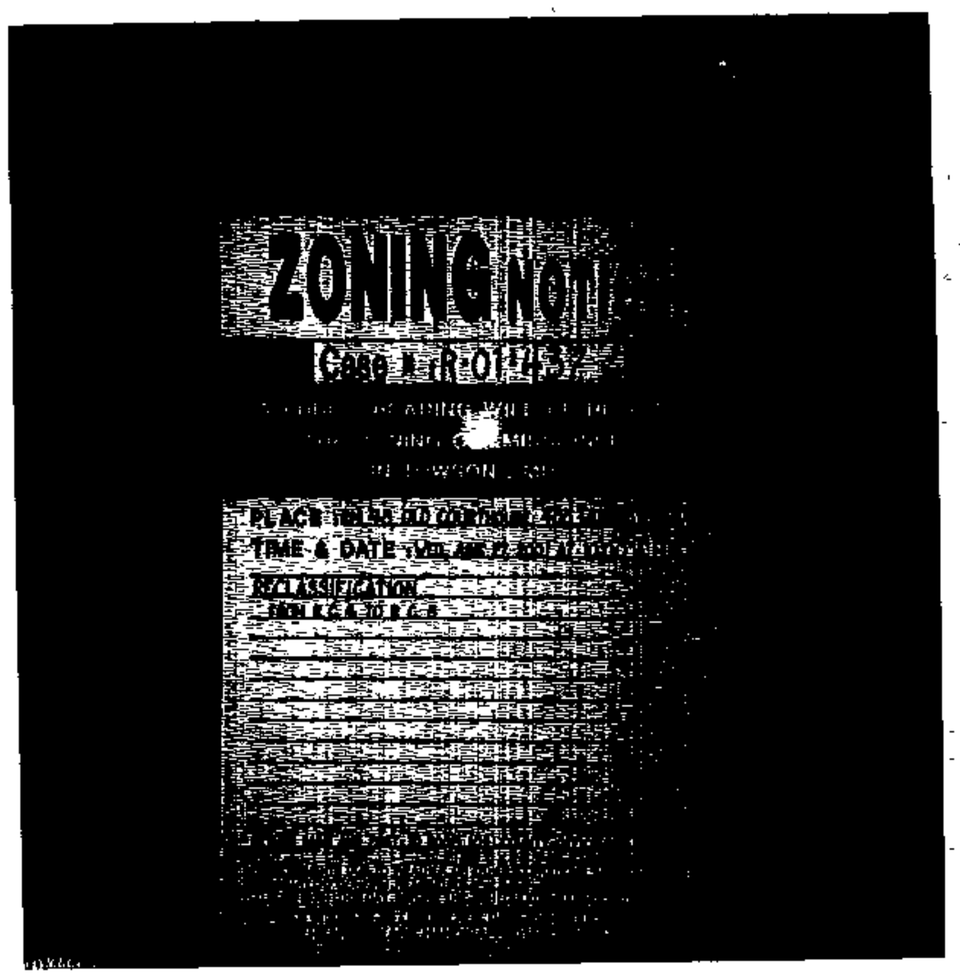
RE: Case Number R-01-437

Petitioner: Jarvis Steel & Lumber Co., Inc.

Date of Hearing: Wednesday, June 27, 2001

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at Dover Rd North of #12830

The sign(s) were posted on 6/8/01
(Month, Day, Year)



(Signature of Sign Poster)

Gary Freund
(Printed Name of Sign Poster)

Balto. Co. Code Enforcement
(Street Address of Sign Poster)

Towson, MD 21204
(City, State, Zip Code of Sign Poster)

Revised 3/1/01 - SCJ

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING RECLASSIFICATION 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 reclassification hearing. This is accomplished by Baltimore County posting a sign on the property at least fifteen (15) days before the hearing and advertising in local newspapers. The advertising consists of a list and map of all reclassification petitions (cost evenly distributed between all petitioners), as well as individual advertising in local newspapers. The list and map must be published in two newspapers for three different weeks and the individual advertisements must be published in two newspapers fifteen (15) days prior to 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: [redacted]

Petitioner: Jarvis Steel & Lumber Co., Inc.

Address or Location: W/S Dover Dover N or Knox Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jarvis Steel & Lumber Co., Inc.

Address: c/o Mr. Victor Frenkil, Jr.

1030 East Patapsco Avenue, Baltimore, Maryland 21225

Telephone Number: (410) 355-3000

Revised 2/20/98 - SCJ

R-01-437

TO: PATUXENT PUBLISHING COMPANY
Wednesday, June 6, 2001 – The North County News

Please forward billing to:
Jarvis Steel & Lumber Co., Inc. 410-355-3000
c/o Mr. Victor Frenkil, Jr.
1030 East Patapsco Avenue
Baltimore, MD 21225

NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Section 602.(e) and Section 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: R-01-437
SW/S Dover Road, approximately 600' N of Baublitz Road
4th Election District – 3rd Councilmanic District
Legal Owner: Jarvis Steel & Lumber Co., Inc.

Reclassification from R.C.4 to R.C.5

HEARING: Wednesday, June 27, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S. Wescott
Chairman

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3180.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3180.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 12, 2001 Issue - Jeffersonian

Please forward billing to:
Jarvis Steel & Lumber Co., Inc. 410-355-3000
c/o Mr. Victor Frenkil, Jr.
1030 East Patapsco Avenue
Baltimore, MD 21225

NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Section 602.(e) and Section 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: R-01-437
SW/S Dover Road, approximately 600' N of Baublitz Road
4th Election District – 3rd Councilmanic District
Legal Owner: Jarvis Steel & Lumber Co., Inc.

Reclassification from R.C.4 to R.C.5

HEARING: Wednesday, June 27, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S. Wescott
Chairman

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3180.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3180.

County Board of Appeals of Baltimore County

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

May 29, 2001

NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Section 602.(e) and Section 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: R-01-437
SW/S Dover Road, approximately 600' N of Baublitz Road
4th Election District – 3rd Councilmanic District
Legal Owner: Jarvis Steel & Lumber Co., Inc.

Reclassification from R.C.4 to R.C.5

HEARING: Wednesday, June 27, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S Wescott/scj
Lawrence S. Wescott
Chairman

WCR:scj

c: Howard L. Alderman, Jr., Esquire, Levin & Gann, PA, Nottingham Centre, 8th Floor, 502 Washington Avenue, Towson, MD 21204
Jarvis Steel & Lumber Co., Inc., Victor Frenkil, Jr., President, 1030 Patapsco Avenue, Baltimore, MD 21225
Bruce Doak, Gerhold, Cross & Etzel, Ltd., 320 E. Towsontown Blvd., Suite 100, Towson, MD 21286

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3180.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3180.

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

February 6, 2002

SECOND NOTICE OF DELIBERATION

IN THE MATTER OF:

***Jarvis Steel & Lumber Co., Inc.* –Petitioner**
Case No. R-01-437

This deliberation, previously assigned for 2/06/02, has been **POSTPONED** by the Board due to illness; and has been reassigned as follows (this matter having been concluded after three days of hearing (6/27/01; 10/25/01; and 11/29/01):

DATE AND TIME : THURSDAY, FEBRUARY 14, 2002 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

c: Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Jarvis Steel & Lumber Co., Inc.
Bruce Doak /Gerhold, Cross & Etzel, Ltd.

Counsel for Protestants : Robert D. Sellers, Esquire
Protestants : John Galbreath, et al

Edward Kohls

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J (changed 8/14/01)
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

FYI: S.C.R.

Printed with Soybean Ink
on Recycled Paper

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 29, 2001

NOTICE OF DELIBERATION

IN THE MATTER OF:

Jarvis Steel & Lumber Co., Inc. **–Petitioner**
Case No. R-01-437

Having concluded this matter after three days of hearing (6/27/01; 10/25/01; and 11/29/01), public deliberation has been assigned as follows:

DATE AND TIME : WEDNESDAY, FEBRUARY 6, 2002 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Closing memos are due from counsel on Monday, January 14, 2002.
(ORIGINAL AND THREE [3] COPIES)

Kathleen C. Bianco
Administrator

---

c: Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Jarvis Steel & Lumber Co., Inc.
Bruce Doak /Gerhold, Cross & Etzel, Ltd.

Counsel for Protestants : Robert D. Sellers, Esquire
Protestants : John Galbreath, et al

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J (changed 8/14/01)
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

FYI: S.C.R.

Printed with Soybean Ink
on Recycled Paper

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

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

DATE: April 19, 2001

FROM : Kathleen C. Bianco
County Board of Appeals

SUBJECT: Out-of-Cycle Request for Reclassification –
Petition filed by: Jarvis Steel & Lumber Company /Case No. R-01-437
Approval by County Council: April 2, 2001
REVISED Date for Hearing – Wednesday, June 27, 2001

Pursuant to Section 2-356(i), *Baltimore County Code*, the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Wednesday, June 27, 2001 at 10:00 a.m. in Room 48, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its April 2, 2001 meeting (a copy of this resolution was forwarded to you on April 11, 2001).

I have copied Sophie Jennings on this memorandum so that the necessary advertising and posting can be accomplished by the Petitioner as required and notice sent by your office (as done in Cycle I through Cycle V reclassification requests) to the appropriate parties reflecting the hearing date of June 27, 2001.

Should you have any questions, please call me at extension 3180.

Attachment

cc: Carl Richards, Jr. /PDM
Sophie Jennings /PDM
Jeffrey Long /Planning
Office of People's Counsel
The Honorable T. Brian McIntyre
Baltimore County Council /3rd District

R-01-437

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

DATE: January 16, 2002

TO: L. Wescott - 1/16
C. Marks - 1/17
R. Irish - 1/16
in office

FROM: Kathi

SUBJECT: Case No. R-01-437 /*Jarvis Steel & Lumber Co., Inc.* - Memos
Deliberation Scheduled for Wednesday, February 6, 2002 at 9:00 a.m.

Attached for your review are the following:

1. Protestants' Memorandum in Lieu of Closing Argument filed by Robert D. Sellers, Esquire, on behalf of Falls Road Community Assn and John Galbreath;

2. Owner's Post-Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of Jarvis Steel & Lumber Co., Inc.; and

3. People's Counsel for Baltimore County's Memorandum.

The public **deliberation** is scheduled for Wednesday, **February 6, 2002 at 9:00 a.m.** (to be followed by a 10:00 a.m. reclassification hearing /day #1 /Jones Property, same panel).

Please call me if you have any questions.

Kathi

Attachments (3)

FILE

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

September 5, 2001

AMENDED NOTICE OF ASSIGNMENT /Days #2 and #3 **

CASE #: R-01-437
(Out of Cycle /2001)

(Days 2 & 3 from 6/27/01)

IN THE MATTER OF: ***Jarvis Steel & Lumber Co., Inc.***
Petitioner SW/s Dover Road, approx 600' N of Baublitz Road
4th Election District; 3rd Councilmanic District

Reclassification: From R.C. 4 and R.C. 5 to R.C. 4 and R.C. 5 – as shown on Plat Accompany Petition

**** Amended to reflect change in day #3 to 11/29/01, per confirmation with counsel this date.**

ASSIGNED FOR: **THURSDAY, OCTOBER 25, 2001 at 10:00 a.m. /Day #2 and THURSDAY, NOVEMBER 29, 2001 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Jarvis Steel & Lumber Co., Inc.
Bruce Doak /Gerhold, Cross & Etzel, Ltd.

Counsel for Protestants : Robert D. Sellers, Esquire
Protestants : John Galbreath, et al

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J (changed 8/14/01)
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

#3

Reassigned day to 11/29/01 notice sent 9/05/01

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

June 28, 2001

NOTICE OF ASSIGNMENT /Days #2 and #3

CASE #: R-01-437
(Out of Cycle /2001)

(Days 2 & 3 from 6/27/01)

IN THE MATTER OF: ***Jarvis Steel & Lumber Co., Inc.***
Petitioner SW/s Dover Road, approx 600' N of Baublitz Road
4th Election District; 3rd Councilmanic District

Reclassification: From R.C. 4 and R.C. 5 to R.C. 4 and R.C. 5 – as shown on Plat Accompany Petition

ASSIGNED FOR:

THURSDAY, OCTOBER 25, 2001 at 10:00 a.m. /Day #2 and
TUESDAY, OCTOBER 30, 2001 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Jarvis Steel & Lumber Co., Inc.
Bruce Doak /Gerhold, Cross & Etzel, Ltd.
Bob Sellers for John Galbreath et al

James Earl Kraft /Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmist /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

October 26, 2001

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204-4525

Robert D. Sellers, Esquire
401 Washington Avenue
Suite 303
Towson, MD 2104

Peter Max Zimmerman
People's Counsel for
Baltimore County
Room 48, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Jarvis Steel & Lumber Co., Inc.*
Case No. R-01-437 /Confirmation of Day #3

Dear Counsel:

This letter will confirm that the Board will convene on Thursday, November 29, 2001 at 10:00 a.m. for hearing day #3 in the subject matter. This date had been noted as "Day #3" on the original Notice of Assignment, a copy of which is attached for your convenience.

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

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

c: Jarvis Steel & Lumber Co., Inc.
Bruce Doak /Gerhold, Cross & Etzel, Ltd.
John Galbreath, et al
Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

FILE

Printed with Soybean Ink
on Recycled Paper

wcl

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 ******
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF FEBRUARY 4, 2002

TUESDAY 2/05 10:00 am Case No.: CBA-01-105 /HEARING
In the Matter of:
McDonald's (Cynthia Brown- Owner)
6005 Liberty Road, Baltimore, MD 21207

RE: False Alarm Fees / Reg # C995985-1

WEDNESDAY 2/6 9:00 am Case No.: [redacted] /Deliberation
In the Matter of:
Jarvis Steel & Lumber Co., Inc.
SW/s Dover Road, approx 600' N of Baublitz Road
4th Election; 3rd Councilmanic

10:00 am Case No.: CR-02-070 /HEARING
In the Matter of:
Jones Property / Maud D. and Lee Jones – Legal Owners
John F. Owings - CP
24 Old Tollgate Road
4th Election; 3rd Councilmanic

RE: Petition for Reclassification – From D.R. 3.5 to D.R. 10.5
DOCUMENTED SITE PLAN

THURSDAY 2/07 10:00 am Case No.: 01-025-SP0H /HEARING
In the Matter of:
Jeanette R. Clark and William F. Clark
NE/c intersection Taylor Ave & Chestnut Avenue
2900 Taylor Avenue
9 th Election; 6th Councilmanic

Printed with Soybean Ink
on Recycled Paper

c: Executive Office
Law Office
Director /PDM

People's Counsel
Planning Office
Court Info. Desk

County Council
Board Members
Court Reporter

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* ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF NOVEMBER 26, 2001

TUESDAY **11/27 10:00 am** **HEARING PULLED**

WEDNESDAY **11/28 9:30 am** **Case No.: CR-02-120-A** **/Deliberation**
In the Matter of:
Pennrose Properties, Inc.
2nd Election District; 2nd Councilmanic District

10:00 am *(Sun Oil cases postponed to December 5, 2001)*

THURSDAY **11/29 10:00 am** **Case No.: R-01-437** **/Hearing**

In the Matter of:
Jarvis Steel & Lumber Co., Inc. – Applicant
SW/s Dover Road, approx 600' N of Baublitz
4nd Election District; 3nd Councilmanic District

Reclassification: From RC 4 and RC 5 to RC 4 and RC 5 as shown on Plat to Accompany Petition

Day #3 from 10/25/01

---

c: Executive Office
Law Office
Director /PDM
People's Counsel
Planning Office
Court Info. Desk
County Council
Board Members
Court Reporter

Printed with Soybean Ink
on Recycled Paper

TO WCR for file
to: George
File war

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
	*	
PETITION OF: JARVIS STEEL & LUMBER CO., INC.	*	
	*	CIVIL ACTION
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD	*	NO.: 03-C-02-004475
OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49	*	
400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	
IN THE MATTER OF:	*	
THE APPLICATION OF JARVIS STEEL & LUMBER CO., INC., FOR ZONING	*	
RECLASSIFICATION		
	*	
Case No.: R-01-437		
	*	

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

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY:

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD APPEALS
AND DEPARTMENT OF PERMITS & LICENSES OF BALTIMORE COUNTY

R-01-437

March 1, 2001	Petition for Reclassification filed by Howard L. Alderman, Jr., Esquire, on behalf of Jarvis Steel & Lumber Co., Inc.
May 29	Notice of Zoning Reclassification Hearing

May 3 and May 10		Publication in newspaper
June 7		Entry of Appearance filed by People's Counsel for Baltimore County
June 8		Certificate of Posting
June 25		Entry of Appearance filed by Robert D. Sellers on behalf of the Falls Road Community Association (FRCA) and John Galbreath.
June 27		Hearing held before the Board of Appeals – Day #1
October 25		Hearing held before the Board of Appeals – Day #2
November 29		Hearing held before the Board of Appeals – Day #3
Petitioner's Exhibits	1	Undocumented Site Plan, dated 2/16/01
	2	Baltimore County Official Zoning Map (Oct. 10, 2000) with prop. outlined
	3	Baltimore County Official Zoning Map (Dec. 1994) with prop. outlined
	4	Meets and Bounds description – Reclassification Area #1, dated March 1, 2002
	5	Meets and Bounds description – Reclassification Area #2, dated March 1, 2002
	6	Meets and Bounds description – Reclassification Area #3, dated March 1, 2002
	7	Meets and Bounds description – Reclassification Area #4, dated March 1, 2002
	8	Baltimore County 2000 Comprehensive Zoning Map Issues, dated October 10, 2000 with 3-160 highlighted in orange
	9	Copy of overlay at 600' scale on issue 3-160, dated 10/10/00
	10	Letter dated January 2, 2001 from Arnold F. 'Pat' Keller, III to Mr. Victor Frenkil, Jr., President.

	11	Letter dated March 14, 2001 from Arnold F. 'Pat' Keller, III to The Hon. S.G. Samuel Moxley; Baltimore County Office of Planning Memorandum from Arnold F. 'Pat' Keller, III, dated February 20, 2001 to the Baltimore County Planning Board; HAND DELIVERY letter to from Arnold F. 'Pat' Keller, III, dated February 19, 2001 from Howard L. Alderman, Jr.
	12	County Council of Baltimore County, Maryland – Resolution No. 42-01
	13	Inter-Office Correspondence dated June 15, 2001 from Arnold F. 'Pat' Keller, III to Mr. Lawrence S. Wescott, Chairman.
	14	Soil Survey – Baltimore County Maryland
	15A	Three photographs with descriptions dated 5/01
	15B	Three photographs with descriptions dated 5/01
Protestants and People's Council Exhibits		
	1	People's Counsel's Sign-In Sheet
	2	Letter w/ attachments dated December 14, 1999 from John F. Meredith, President – Falls Road Community Association to Councilman T. Bryan McIntire regarding 1999-2000 Comprehensive Zoning Map Process
	3	Comprehensive Zoning Map Process 2000
	4	Baltimore County 2000 Comprehensive Zoning Map Process
	5	Issue Address Report 3-160 with Jarvis Steel highlighted in orange
	6	Baltimore County 2000 Comprehensive Zoning Map Final Log of Issues Adopted October 10, 2000
	7	Implementing the Master Plan – Master Plan 2010 * Page 259

8 Master Plan 2010 as adopted by Baltimore County Council February 22, 2000

9 Inter-Office Correspondence dated February 8, 2000 from George G. Perdikakis, Director, Environmental Protection and Resource Management to Arnold F. 'Pat' Keller, III

10 Baltimore County Council Minutes Legislative Session 2000, Special Session October 10, 2000 7:00 P.M.

11 Affidavit of Jack Dillon dated 6-26-01; The Valleys Planning Council, Inc., Resolution, dated 26th day of June, 2001; and The Valleys Planning Council, Inc., Resolution, dated 26th day of June, 2001

12 County Council of Baltimore County, Maryland Legislative Session 1979, Legislative Day No. 20 BILL NO. 178-79

13 Growth-Management Legislation: Phase I – Final Report of the Baltimore County Planning Board Adopted July 26, 1979 and August 2, 1979

14 Resume' of Joseph A. Berg, PWS, consisting of 9 pages.

15 Letter dated June 12, 2001 from J. Keith Bowers, President, BIOHABITATS, INC. to John Galbreath regarding Potential Water Quantity/Quality Impacts.

16 Hypothetical Plat of Site

17A The Falls Road Community Association, Inc., Resolutions, dated 19th day of November, 2001.

17B The Falls Road Community Association, Inc., Resolutions, dated 19th day of November, 2001.

18A Large Exhibit of Photographs labeled 1-12, Dec 2000

18B Large Exhibit of Photographs labeled 13-20, Dec 2000

19 Large Exhibit of Photographs labeled 1-4, June 2001

20 Page 14B: Monday, May 7, 2001: The Sun

21 Community Input Meeting Minutes, dated July 6, 2000 PDM File No.: IV-557

22 http://water.usgs.gov/nwis/gwlevels dated 11/24/01 Ground-water Levels for the Nation – 1 site found

23 Copy of Issue discussed with Mr. Huey

24 Letter dated Sept. 1, 2000 from John Galbreath to Baltimore County Council c/o Councilman T. Bryan McIntire

25 PETITION FROM THE RESIDENTS OF CHESTNUT WOODS TO BALTIMORE COUNTY COUNCIL SUPPORTING PROPOSED ZONING CHANGE #160 (THIRD DISTRICT)

26 Letter dated September 8, 2000 from T. Bryan McIntire, Councilman, Third District to John Galbreath, regarding CZMP Issues 3-108 and 3-160

27 Letter w/attachment dated October 2, 2000 from John Galbreath to Baltimore County Council c/o Councilman T. Bryan McIntire

28 Letter dated February 2, 2001 from John Galbreath to Baltimore County Council c/o Councilman T. Bryan McIntire

29 Inter-Office Correspondence dated June 14, 2001 from Thomas J. Peddicord, Jr., Legislative Counsel/Secretary to The Honorable T. Bryan McIntire, Councilman, Third District.

30 Letter dated August 6, 2001 from T. Bryan McIntire, Councilman, Third District to from Arnold F. 'Pat' Keller, III, Director, regarding Resolution 42-01

31 Baltimore County Zoning Regulations § 1A03.3

32 Baltimore County Zoning Regulations § 101

33A BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY / CASE NO.: CR-93-307-SPHXA – RULING ON MOTION FOR DISMISSAL, DATED 29TH DAY OF SEPTEMBER, 1995.

	33B IN THE CIRCUIT COURT FOR BALTIMORE COUNTY / C-95-9688 – OPINION – DATED 8/26/96
	33C UNREPORTED – IN THE COURT OF SPECIAL APPEALS OF MARYLAND – No. 1787 – September Term, 1996 – SECURITY MANAGEMENT CORP. vs BALTIMORE COUNTY, MARYLAND ET AL., Filed August 20, 1997
January 14, 2002	Owner's Post-Hearing Memorandum in Support of Reclassification filed by Howard L. Alderman, Jr., Esquire, on behalf of Jarvis Steel & Lumber Co., Inc. --Post- Hearing Memorandum filed by Office of People's Counsel. --Protestant's Memorandum in Lieu of Closing Argument filed by Robert D. Sellers, Esquire, on behalf of FRCA and John Galbreath.
February 14	Public Deliberation by Board of Appeals
March 22	Majority Opinion and Order issued by the Board of Appeals. Petitioner's Request for Reclassification is DENIED.
April 19	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Howard L. Alderman, Jr., Esquire, on behalf of Jarvis Steel & Lumber Co., Inc.
April 24	Petition for Judicial Review received by Board of Appeals.
April 30	Certificate of Notice sent to interested parties.
June 17	Joint Motion and Order for Extension of Time for Transmittal of Record signed and docketed. Record of Proceeding due in Circuit Court on August 15, 2002.
August 15	Record of Proceedings filed in the Circuit Court for Baltimore County. **Note: Said record does not include the transcript of the proceedings before the County Board of Appeals; transcript was not requested by Petitioner; and therefore not submitted for timely filing with balance of record.**

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Theresa R. Shelton

Theresa R. Shelton, Legal Secretary
County Board of Appeals of Baltimore County
400 Washington Avenue, Room 49
Towson, MD 21204 (410) 887-3180

c: Howard L. Alderman, Jr., Esquire
Jarvis Steel & Lumber Co., Inc.
Bruce Doak
Robert D. Sellers, Esquire
John Galbreath, et al
People's Counsel for Baltimore County
Arnold F. Keller, III, Director, Office of Planning
Jeffrey Long / Planning
Lawrence E. Schmidt / Zoning Commissioner
W. Carl Richards / PDM
Arnold Jablon, Director / PDM

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: *Arnold Jablon, Director*
Department of Permits & Development Mgmt.

DATE: *June 27, 2001*

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: *Zoning Advisory Committee Meeting*
For The Zoning Reclassification Cycle I
April 2001 – October 2001
Item Nos. 5 and 6

The Bureau of Development Plans Review did not receive plans for the subject zoning items.

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: June 27, 2001

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 29, 2001
Out-of-Cycle Documented Zoning
Reclassification Petition
Case No. R-01-437
SW/S Dover Road, approximately
600' N of Baublitz Road
District 4C3

The Bureau of Development Plans Review has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

ZAC-5-29-2001-CASE NO R-01-437-6272001.doc

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

June 12, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: Jarvis Steel and Lumber Co., Inc.

Location: DISTRIBUTION MEETING OF May 29, 2001

Item No.: 437

Dear Ms. Stephens:

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

THE FIRE MARSHAL'S OFFICE HAS NO COMMENTS IN REGARD TO THE FOLLOWING ITEM # (S).

437, Case Number: R-01-437

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

Printed with Soybean Ink
on Recycled Paper

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

DATE: January 3, 2003

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton trs
Board of Appeals

SUBJECT: **Jarvis Steel & Lumber Co.**
CBA No.: R-01-437
PDM File Nos.: R-01-437 (former Cycle 1, 2001, Item #5)
Circuit Court Case No.: 03-C-002-4475

Circuit Court issued an Order on December 27, 2002 issuing a Joint Stipulation of Dismissal filed by the parties. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

RE: PETITION FOR RECLASSIFICATION Dover Road, SW/S Dover Rd, appx. 600' N of Baublitz Rd 4th Election District, 3rd Councilmanic	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
	*	FOR
Legal Owner: Jarvis Steel & Lumber Co., Inc. Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No. R-01-437

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

01 JUN -6 PM 1:45
COUNTY BOARD OF APPEALS

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. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**

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 7th day of June, 2001 a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

IN RE: Petition For Reclassification w/s Dover Road, not Baublitz Road 4th Election District 3RD Councilmanic District	*	BEFORE THE
	*	BOARD OF APPEALS
	*	FOR
	*	BALTIMORE COUNTY
Jarvis Steel & Lumber Co., Inc. Petitioner/Owner	*	CASE NO.: R-01-437

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

ENTRY OF APPEARANCE

Please enter the appearance of Robert D. Sellers in the above-captioned matter on behalf of the Falls Road Community Association (FRCA) and John Galbreath.

Robert D. Sellers, Esquire
401 Washington Avenue
Suite 303
Towson, MD 21204
410-583-1712

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN 25 AM 11:46

Addresses of the parties:

FRCA - P.O. Box 555, Brooklandville, MD 21022
John Galbreath – 2516 Chestnut Woods Court, Reisterstown, MD 21136

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 6/25/01 date, a copy of the Entry of Appearance was mailed first class, postpaid to Howard L. Alderman, Jr., Levin & Gann, P.A., 8th Floor, Nottingham Center, 502 Washington Avenue, Towson, MD 21204, attorney for Jarvis Steel & Lumber Co., Inc. and Peter Zimmerman, People's Council, Basement Level, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.

Robert D. Sellers

FRCA-Entry of App.

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN RE: PETITION FOR RECLASSIFICATION W/S Dover Road, N of Baublitz Road 4th Election District 3rd Councilmanic District Jarvis Steel & Lumber Co., Inc., *Petitioner/Owner*	Case No.: R-01-437

RECEIVED
COUNTY BOARD OF
01 JUN 20 AM 10:45

SUBPOENA *DUCES TECUM*

STATE OF MARYLAND, BALTIMORE COUNTY to wit:

Serve On:

Mr. William P. Hughey
Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson, Maryland 21204
410-887-3480

YOU ARE HEREBY COMMANDED TO: Personally appear in Room **48, Basement of the Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on Wednesday, June 27, 2001 at 10:00 a.m.** and to continue until conclusion of the hearing on this case.

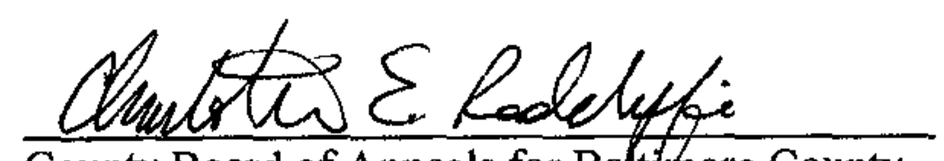
YOU ARE COMMANDED TO produce **any and all documents, plans, orders, decisions, policies, denials, computations, approvals, files and records in his or the Office of Planning's custody, possession or control** concerning the above-captioned matters, and any related matters for the above captioned case and property.

SUBPOENA REQUESTED BY:

Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
halderman@LevinGann.com [e-mail]

Attorneys for Jarvis Steel & Lumber Co., Inc.

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



County Board of Appeals for Baltimore County

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN RE: PETITION FOR RECLASSIFICATION **W/S Dover Road, N of Baublitz Road** **4th Election District** **3rd Councilmanic District** **Jarvis Steel & Lumber Co., Inc.,** ***Petitioner/Owner***	**Case No.: R-01-437**

01 JUN 20 AM 10:45
COUNTY BOARD OF APPEALS

SUBPOENA *DUCES TECUM*

STATE OF MARYLAND, BALTIMORE COUNTY to wit:

Serve On:

Mr. David V. Lykens
Baltimore County Department of Environmental Protection & Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204
410-887-3980

YOU ARE HEREBY COMMANDED TO: Personally appear in Room **48, Basement of the Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on Wednesday, June 27, 2001 at 10:00 a.m.** and to continue until conclusion of the hearing on this case.

YOU ARE COMMANDED TO produce **any and all documents, plans, orders, decisions, policies, denials, computations, approvals, files and records in his or the Office of Planning's custody, possession or control** concerning the above-captioned matters, and any related matters for the above captioned case and property.

SUBPOENA REQUESTED BY:

Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
halderman@LevinGann.com [e-mail]

Attorneys for Jarvis Steel & Lumber Co., Inc.

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

County Board of Appeals for Baltimore County

IN THE MATTER OF	*	**BEFORE**
Petition for Reclassification	*	**COUNTY BOARD OF APPEALS**
Jarvis Steel & Lumber Co., Inc.	*	**OF**
	*	**BALTIMORE COUNTY**
	*	**Case No. R-01-437**

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

SUBPOENA

01 JUN 25 AM 11:49
COUNTY BOARD OF APPEALS

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: William Hughey
401 Bosley Ave.
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 **Wednesday, the 27th day of June, 2001, at 10 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects:

All records in your possession relating to CZMP Issue #3-160 and County Council action on that issue.

Subpoena requested by:

Robert D. Sellers, Esquire, 401 Washington Avenue, Suite 303, Towson, Md. 21204
410-583-1712

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).

County Board of Appeals of
Baltimore County

(Forms) Subpoena-Bd of Appeals

IN THE MATTER OF	*	**BEFORE**
Petition for Reclassification	*	**COUNTY BOARD OF APPEALS**
Jarvis Steel & Lumber Co., Inc.	*	**OF**
	*	**BALTIMORE COUNTY**
	*	**Case No. R-01-437**

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

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN 25 AM 11:49

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Thomas J. Peddicord, Jr.
400 Washington Ave.
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 **Wednesday, the 27th day of June, 2001, at 10 a.m.**

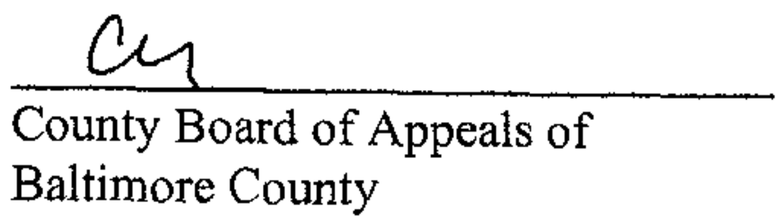
YOU ARE COMMANDED TO produce the following documents or objects:

All records in your possession relating to CZMP Issue #3-160 and County Council action on that issue.

Subpoena requested by:

Robert D. Sellers, Esquire, 401 Washington Avenue, Suite 303, Towson, Md. 21204
410-583-1712

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).



County Board of Appeals of
Baltimore County

(Forms) Subpoena-Bd of Appeals

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Lawrence S. Wescott, Chairman
Baltimore County Board of Appeals

DATE: June 15, 2001

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

SUBJECT: Case # R-01-437
Jarvis Steel & Lumber Company, Inc.
Southwest side of Dover Road,
approximately 600 feet north of Baublitz Road

At its regularly scheduled monthly meeting on March 1, 2001, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the Petition for Zoning Reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on April 2, 2001.

Enclosed herewith is a copy of the report of the Office of Planning.

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:JWL:kma

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN 19 PM 3:00

M:\DEVREV\R-01-437JarvisSteel.doc

CASE NO:
R-01-437

PETITIONER:
Jarvis Steel & Lumber Co., Inc.

REQUESTED ACTION:
Reclassification to RC-5 (Resource Conservation, Rural Residential)

EXISTING ZONING:
RC-4 (Resource Conservation, Watershed Protection)

LOCATION:
Southwest side of Dover Road, approximately 600' north of Baublitz Road

AREA OF SITE:
19.21 acres

ZONING OF ADJACENT PROPERTY/USE:

North:	RC 4/RC 5	Rural residential
South:	RC 5	Rural residential
East:	RC 5	Rural residential
West:	RC 4	Undeveloped

SITE DESCRIPTION:
The petitioner's property consists of 19.21 acres of land zoned RC 4. The subject property is currently undeveloped; however, it has recently been in an agricultural use.

WATER AND SEWERAGE:
The site is located within a no planned water and sewer service area, and is designated W-7, S-7 on the Master Water and Sewer Plan.

TRAFFIC AND ROADS:
The site has access to Dover Road, a 2-lane local road. Dover Road is also designated as a scenic route in the Baltimore County Master Plan.

ZONING HISTORY:
The property was the subject of map issue filed as part of the 2000 Comprehensive Zoning Map Process (see Issue No. 3-160). The County Council voted to rezone the property from RC 5 to RC 4.

MASTER PLAN:
The proposed land use map, adopted by the Baltimore County Council on February 22, 2000, indicates the site is designated for single-family detached rural standards development.

PROPOSED vs. EXISTING ZONING:

The RC 4 zoning classification was established to protect the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through undesirable development. The use regulations for the RC 4 zone are found in Section 1A03.3 of the Baltimore County Zoning Regulations. No petitions for reclassification of RC 4 zoned property may be granted unless professional certification is provided to insure that strict environmental criteria can be met.

The use regulations for the RC 5 zone may be found in Section 1A04.2 of the Baltimore County Zoning Regulations. The RC 5 zone was created to provide for orderly residential growth in areas that will not be served by public water and sewer.

OFFICE OF PLANNING RECOMMENDATION:

As part of the 2000 Comprehensive Zoning Process, it was understood by the Office of Planning that the Third District Councilman intended to rezone all property located within 300 feet of verified streams to the RC 4 zone classification. The 200 scale base map used to prepare the zone lines covered under Issue No. 3-160 depicted conditions that do not reflect field verified data and conditions, and as a result the final zoning on the 2000 Comprehensive Zoning Map does not, in the opinion of this office, reflect the County Council's intent to only rezone certain property based on strict criteria as part of the zoning process. Therefore, the Office of Planning recommends the subject property be rezoned to the RC 5 zone classification.

ZONING ADVISORY COMMITTEE AGENDA
DISTRIBUTION MEETING OF MAY 29, 2001

* Agenda Only
\+ Agenda and Petition
& Agenda and Plat
\# Agenda, Petition and Plat

Distribution:

\# Board of Appeals (Kathi Bianco); MS #2013
* Zoning Commissioner's Office (Lawrence Schmidt); MS #2112
\# PDM, Zoning Review H.O. Hearing File (George Zahner)
\# PDM, Zoning Review DRC/ZAC Meeting File (W. Carl Richards, Jr.)
* PDM, Code Enforcement (Helene Kehring)
* PDM, Building Inspection (Karen Hopkins)
& PDM, Development Plans Review (Robert W. Bowling)
\# Planning Office (Mark Cunningham); *Director (Pat Keller)
* Recreation and Parks (Jean Tansey); MS #52
\# DEPRM (Bruce Seeley) - 2 plats
& State Highway Administration, Access Permits Division (Michael M. Lenhart)
& PDM, Building Plans Review (Lt. Herb Taylor); MS #1102F
* Economic Development Commission, Business Develop. (Robert Hannon); MS #2M07
* Highways (Tim Burgess); MS #1003
* Community Conservation (David Fields); MS #1102M
\+ People's Counsel (Peter Zimmerman); MS #2010
* Honorable McIntire, County Council, District 3; MS #2201
\# IF CRITICAL AREA, Maryland Office of Planning (Charles Armstrong)
\# IF FLOODPLAIN, Department of Natural Resources (John Joyce)
\# IF FLOODPLAIN, Public Works (David Thomas); MS #1315
* IF FLOODPLAIN, Permits (John Reisinger)
* IF FLOODPLAIN, Code Enforcement (Rick Wisnom)
\# IF ELDERLY HOUSING, Community Development; MS #1102M
\# IF HELICOPTER, Police Department, Aviation Unit (Officer Taylor or Sgt. Wines)
\# IF PAWN SHOP, Police Department, Burglary/Pawn Unit (Det. Kropfelder); MS #1102E
* IF TOWER, Tower Coordinator, c/o OIT; MS #2007

The attached information is being forwarded to you for comment. Your comments should reflect any conflicts with your office or department's code, standards or regulations. Development representatives that attend the meeting should be prepared to submit their agency's response as either "no comment", "written comment" or "more review time required" before the hearing date. If no written response is received by the committee before this hearing date, it is assumed that your agency has "no comment". All written comments must reference the ZAC item number or case number. All comments received will be compiled and included in the zoning/development file for review and consideration by the hearing officer during the course of the upcoming zoning/development hearing.

If your agency or section is not represented at the meeting, you should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: George Zahner. If you have any questions regarding these zoning petitions, please contact Carl Richards at 410-887-3391 (FAX - 410-887-5708).

Revised 8/11/00

R-01-437

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: May 29, 2001

TO: Baltimore County Zoning Advisory Committee

FROM: W. Carl Richards, Jr.
Zoning Review Supervisor (410-887-3391)

SUBJECT: Out-of-Cycle Documented Zoning Reclassification Petition
Case Number: R-01-437
Legal Owner: Jarvis Steel & Lumber Co., Inc.
Contract Purchaser: N/A
Description: SW/S Dover Road, approximately 600' N of Baublitz Road
4th Election District; 3rd Councilmanic District

THE ABOVE REFERENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON MARCH 1, 2001 AND BY RESOLUTION NO. 42-01 OF THE BALTIMORE COUNTY COUNCIL DATED APRIL 2, 2001 (ATTACHED). PURSUANT TO SECTION 2-356(I) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE. YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS TO THIS OFFICE UNDER THE ABOVE REFERENCE PRIOR TO THE HEARING DATE. IF YOU NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY, OR MYSELF IMMEDIATELY.

WCR:scj

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

4/13/01
wcp

JARVIS

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

DATE: April 11, 2001

FROM : Kathleen C. Bianco
County Board of Appeals

SUBJECT: Out-of-Cycle Exemption / Request for Reclassification –
Property located North of Baublitz Road /Dover Road Property
Third Councilmanic District
Petition filed by: Jarvis Steel & Lumber Company
Approval by County Council: Resolution No. 42-01 on April 2, 2001
Date for Hearing before the Board – June ~~13~~ 12, 2001 @ 10 a.m.

Pursuant to Section 2-356(i), *Baltimore County Code*, the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Wednesday, June 13, 2001 at 10:00 a.m. in Room 48, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its April 2, 2001 meeting (a copy of Resolution # 42-01 is attached for your information and file).

I have copied Carl Richards on this memorandum so that the necessary advertising and posting can be accomplished by the Petitioner as required and notice sent by your office (as done in Cycle I through Cycle V reclassification requests) to the appropriate parties reflecting the hearing date of June 13, 2001.

Should you have any questions, please call me at extension 3180.

Attachment

cc: Carl Richards, Jr. /PDM
George Zahner /PDM
Jeffrey Long /Planning
Office of People's Counsel
The Honorable T. Brian McIntyre
Baltimore County Council /3rd District

R-01-437

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

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

DATE: April 19, 2001

FROM : Kathleen C. Bianco
County Board of Appeals

SUBJECT: Out-of-Cycle Request for Reclassification –
Petition filed by: Jarvis Steel & Lumber Company /Case No. R-01-437
Approval by County Council: April 2, 2001
REVISED Date for Hearing – Wednesday, June 27, 2001

Pursuant to Section 2-356(i), *Baltimore County Code*, the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Wednesday, June 27, 2001 at 10:00 a.m. in Room 48, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its April 2, 2001 meeting (a copy of this resolution was forwarded to you on April 11, 2001).

I have copied Sophie Jennings on this memorandum so that the necessary advertising and posting can be accomplished by the Petitioner as required and notice sent by your office (as done in Cycle I through Cycle V reclassification requests) to the appropriate parties reflecting the hearing date of June 27, 2001.

Should you have any questions, please call me at extension 3180.

Attachment

cc: Carl Richards, Jr. /PDM
Sophie Jennings /PDM
Jeffrey Long /Planning
Office of People's Counsel
The Honorable T. Brian McIntyre
Baltimore County Council /3rd District

Sophie: Per our phone conversation. Please forward a copy of the Notice of Hearing for our file and information once it's been sent out.

Thanks
Kathi

County Council of Baltimore County
Court House, Towson, Maryland 21204
410-887-3196
Fax 410-887-5791

S. G. Samuel Moxley
FIRST DISTRICT

Kevin Kamenetz
SECOND DISTRICT

T. Bryan McIntire
THIRD DISTRICT

Wayne M. Skinner
FOURTH DISTRICT

Vincent J. Gardina
FIFTH DISTRICT

Joseph Bartenfelder
SIXTH DISTRICT

John Olszewski, Sr.
SEVENTH DISTRICT

Thomas J. Peddicord, Jr.
LEGISLATIVE COUNSEL
SECRETARY

April 3, 2001

Lawrence S. Wescott, Chairman
Baltimore County Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Wescott:

Attached please find a copy of Resolution 42-01 approving the Planning Board's certification that the zoning reclassification petition filed by Jarvis Steel & Lumber Company, Inc.,for the property located on Dover Road and situated in the Third Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

This Resolution was unanimously approved by the County Council at its April 2, 2001 meeting and is being forwarded to you for appropriate action.

Sincerely,

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

TJP:dp
Enclosure

r04201.wpd

01 APR -6 AM 10: 23
RECEIVED
COUNTY BOARD OF APPEALS

6/13

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 7

Resolution No. 42-01

Mr. T. Bryan McIntire, Councilman

By the County Council, April 2, 2001

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Jarvis Steel & Lumber Company, Inc., for the property located on Dover Road and situated in the Third Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

WHEREAS, the Planning Board, by Resolution dated March 1, 2001, has certified that early action on the Petition for Zoning Reclassification filed by Jarvis Steel & Lumber Company, Inc., requesting a reclassification of the above described property is manifestly required in the public interest; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of Section 2-356(i), may approve said certification and exempt the Petition for Zoning Reclassification from the regular procedures of Section 2-356.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the certification by the Planning Board that early action on the zoning reclassification petition filed by Jarvis Steel & Lumber Company, Inc., be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-356(i) of the Baltimore County Code.

r04201.bil

READ AND PASSED this 2nd day of April, 2001.

BY ORDER

Thomas J. Peddicord, Jr.
Secretary

ITEM: Res.42-01

ZONING ADVISORY COMMITTEE
MEETING OF MAY 29, 2001

Case Number:	R-01-437
Item Number:	437
Hearing Date/Time:	Wednesday, June 27, 2001/10:00 a.m.
Legal Owner:	Jarvis Steel & Lumber Co., Inc.
Contract Purchaser:	N/A
Location:	SW/S Dover Road, approximately 600' N of Baublitz Road
Existing Zoning:	R.C.4
Proposed Zoning:	R.C.5
Area:	19.214 acres
District:	4th Election District 3rd Councilmanic District
Attorney:	Howard L. Alderman, Jr.
Miscellaneous:	Floodplain Originally Filed as part of Cycle I

R-01-437
(Out of Cycle 2001 /former Cycle I)

JARVIS STEEL & LUMBER CO., INC. –Petitioner

HEARING DATE: Wednesday, June 27, 2001 at 10:00 a.m.
(Notice sent by PDM)

6/27/01 – Concluded day #1; tentatively assigned for 10/25/01 and/or 10/30/01; awaiting final confirmation from R. Sellers regarding these dates.

6/28/01 – T/C from R. Sellers; both 10/25/01 and 10/30/01 are good for him; Notice of Assignment /Days 2 and 3 sent to following parties; case assigned for day #2, Thursday, October 25, 2001 at 10:00 a.m. and day #3, Tuesday, October 30, 2001 at 10:00 a.m. FYI copy to S.C.R.

7/09/01 – Per T/C from Nancy Bittner, Bd of Ed – Mr. Kraft has retired; add to notice – Donald Krempel, Exec. Director, Physical Facilities, Bd of Ed. Changed all cover sheets.

8/14/01 – Contact person at Board of Education – now Robert J. Haines, Esquire – per t/c from Mr. Krempel's office 8/13/01.

9/05/01 – Upon confirmation of availability with Messrs. Zimmerman, Alderman, and Sellers – Amended Notice of Assignment sent to parties for days 2 and 3 (Board member S unavailable on 10/30/01 /day #3; out of state court matter); day #2 remains at 10/25/01; day #3 reassigned to Thursday, November 29, 2001 at 10:00 a.m.

10/25/01 – Day #2 completed; will convene again on 11/29/01 at 10:00 a.m. for Day #3 (as originally scheduled per Notice of Assignment issued September 5, 2001. (S.C.R.)

10/26/01 – Copy of 9/05/01 notice to all listed w/ cover note – to confirm day #3 as Thursday, November 29, 2001 at 10:00 a.m. as originally scheduled.

11/29/01 – Concluded hearing and day #3 (S.C.R); memos due from counsel Monday, 1/14/02.
-- Notice of Deliberation sent to parties; assigned for Wednesday, February 6, 2002 at 9:00 a.m. FYI copy to S.C.R.

1/14/2002 – Protestants' Memorandum in Lieu of Closing Argument filed by Robert D. Sellers, Esquire, on behalf of Falls Road Comm Assn and John Galbreath.
-- Owner's Post-Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of Jarvis Steel & Lumber Co.
-- People's Counsel for Baltimore County's Memorandum filed by P. Zimmerman and C. Demilio.

1/16/02 – Copies of Memos transmitted to S.C.R. (deliberation assigned for 2/06/02 @ 9 a.m.) (Wescott and Irish in the office this date; Marks in the office on 1/17/02).

1/16/02 – Letter from Mr. Zimmerman – comment on first time issue raised in Memo filed by counsel for Petitioner.

2/06/02 – Deliberation scheduled for this date POSTPONED due to illness of Board member; reassigned to 2/14/02 – Second Notice of Deliberation sent to parties; reassigned to Thursday, 2/14/02 at 9:30 a.m. Added Edward Kohns 13011 Dover Road Reisterstown to mailing list. (FYI copy to SCR)

2/14/02 – Deliberation concluded; majority decision (S and R) – Reclassification is DENIED; Dissent by C. Order to be issued; appellate period to run from date of written Order.

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Jarvis Steel & Lumber Co., Inc. Petitioner
Case No.: R-01-437

DATE: February 14, 2002

BOARD/PANEL:

Lawrence S. Wescott	LSW
Richard K. Irish	RKI
Charles L. Marks	CLM

RECORDED BY: Theresa R. Shelton / Legal Secretary

PURPOSE: Public Deliberation of certain core issues with regards to parcel; environmental issues and element of mistake.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

The members discussed in detail the environmental issues (100 Year Flood Plain and Environmental Impact Statement); if a mistake was made by the Council with the documentation they had (also if Planning and Development made mistakes) and the issue of the number of parcel(s) (is it one or four and the zoning of the parcel(s)). All material was evaluated and exhibits were taken into consideration and discussed. Each Board Member said that this was a very very problematical matter to decide, due in part, because of the contradictory testimony.

DECISIONS BY BOARD MEMBERS:

As to Parcels:

All Board Members in agreement that different classes of zoning security case does not apply. There are four (4) different parcels; not one (1) parcel.

As to Environmental Issues:

LSW and RKI agree that the Enviroment Impact Statement should have been provided in writing.

CLM's opinion is that since written is not specified in the Code, that testimony can be given to certify environmental issues. He also feels that testimony was adequate in this matter with the exception of 4F.

As to Mistake in Element:

LSW and RKI in agreement that there was no mistake made in the concept that a STREAM IS PRESDENT.

CLM held that oppoisut opinion that there was NO STREAM.

FINAL DECISION: A majority opinion by Lawrence S. Wescott (LSW) and Richard K. Irish (RKI) that the Petition for Reclassification is DENIED. A dissenting opinion by Charles L. Marks that the Petition for Reclassification is APPROVED.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,

Theresa R. Shelton

Theresa R. Shelton
County Board of Appeals

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

COUNTY BOARD OF APPEALS
02 JAN 16 PM 3:42

January 16, 2002

Lawrence S. Wescott, Panel Chairman
County Board of Appeals
of Baltimore County
400 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: Petition for Reclassification
SW/S Dover Rd, appx. 600' N of Baublitz Rd,
4th Election District, 3rd Councilmanic
Jarvis Steel & Lumber Co., Inc., Petitioner
Case No.: R-01-437

Dear Mr. Wescott:

For the first time in his memorandum, counsel for Petitioner cites the "Parcel Policy of the CCR" in the Policy Manual and BCZR 1A00.5 with respect to consideration of "parcels."

It is our position that these govern the calculation of density, and do not affect the interpretation of "parcel" for the purpose of BCZR 1A03.2 rezoning eligibility.

We appreciate the Board's consideration of this case, which is of public importance in the implementation of the Resource Conservation zones.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Lawrence S. Wescott, Panel Chairman
County Board of Appeals
of Baltimore County
January 16, 2002

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Howard L. Alderman, Jr., Esq.
Attorney for Petitioner

Robert D. Sellers, Esq.
Attorney for Protestants John Galbreath, et al.

12206 Boxer Hill Road
Cockeysville, Maryland 21030
June 22, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Avenue
Towson, Maryland 21204

Dear Members of the Board:

I am writing this letter regarding the upcoming Petition for Rezoning – Case Number R-01-437. The petition concerns the development plan entitled Nancy Lee Farms II. The petition requests that the RC-4 Watershed Protection zoning be overturned. ***I urge you in the strongest terms possible, to rule against this request.***

As a Director in the Falls Road Community Association, I personally along with several others worked very hard in preparing, submitting, and the follow up activities in requesting necessary protection of Beaver Dam Run and its tributaries by changing RC-5 to RC-4 (CZMP Issue 3-160). With the help of Councilman Bryan McIntire, the majority of our requests were granted, including the area involved in this case. Our request was approved after careful consideration in order to protect this very valuable asset in our area. ***I believe it would be very wrong to overturn this wise decision that has important short and long-term benefits to our community.***

The RC-4 zoning was initiated to protect valuable watersheds, such as Beaver Dam Run and its tributaries, and it had the full backing of our 2,500 family community association. I firmly believe the RC-4 zoning should be retained and urge the board to vote against the requested rezoning change. Please include my letter as part of the record for this case.

Sincerely,

Marvin Tenberg

Marvin Tenberg

Cc: Bryan McIntire,
Councilman 3rd District

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN 25 PM 1:54

WORTHINGTON FARMS

GLYNDON, MARYLAND 21071

MR. AND MRS. J.W. Y. MARTIN, JR.
OFFICE: (410) 833-4104
HOUSE: (410) 833-1167

May 8, 2001

Mr. Pat Keller
Director, Balt Co.Office of Planning
4th Fl. 401 Bosley Ave.
Towson, Md. 21204

Dear Mr. Keller,

I am writing to express my huge concern regarding a recently filed Petition for Zoning Reclassification - Case # R-01-437.

The petition is for a parcel west of Dover Rd & north of Baublitz Rd in the 3rd Councilmanic District. It is the subject of a development plan called "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning now on a portion of this property (CZMP Issue 3-160) be overturned.

The Office of Planning will be making its recommendation on this petition in early May, and I URGE YOU TO RECOMMEND AGAINST OVERTURNING THE ESTABLISHED WATERSHED PROTECTION ZONING!

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run (a major stream which flows through our farm & into Western Run) begins precisely in the parcel under petition. It would be WRONG to allow a greedy developer to change the appropriate RC-4 zoning in such a critical location.

Thank you for your consideration.

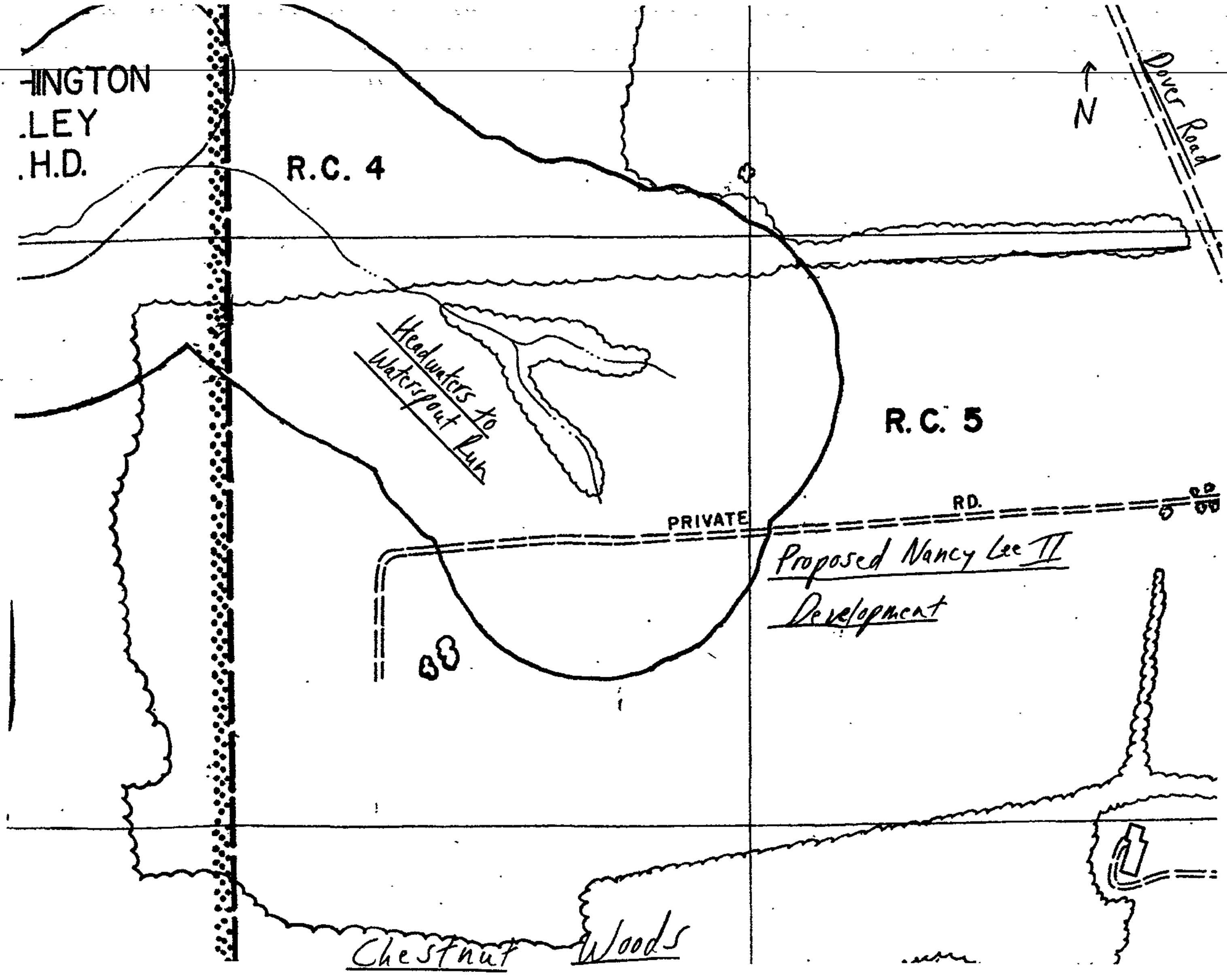
Sincerely,

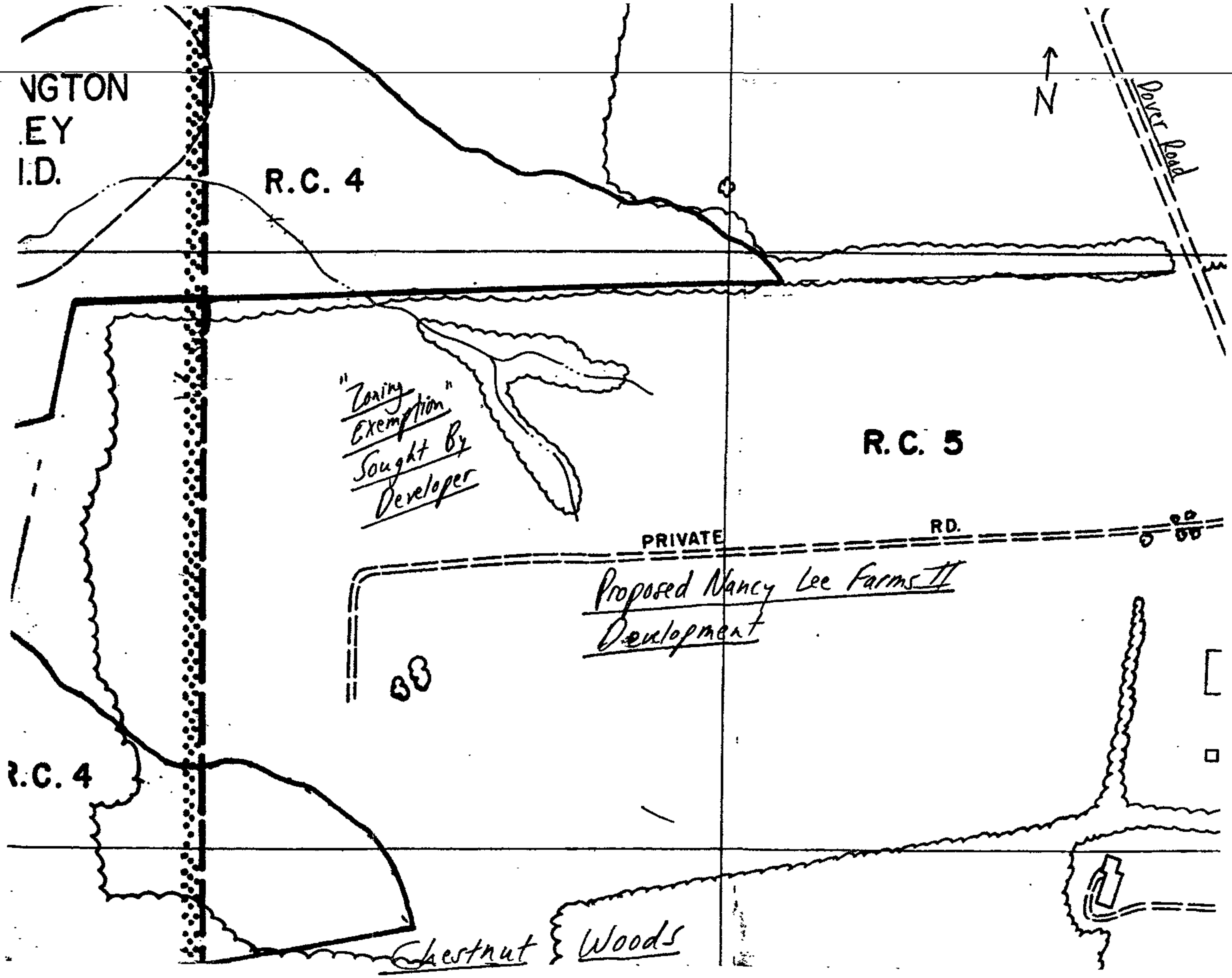
Jw y Martin Jr

J.W.Y. Martin, Jr.

cc: Balt Co. Board of Appeals
T. Bryan McIntire, Jr.

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12: 25


HINGTON
.LEY
.H.D.
R.C. 4
N
Dover Road
Headwaters to
Waterspout Run
R.C. 5
PRIVATE
RD.
Proposed Nancy Lee II
Development
Chestnut Woods


VGTON
.EY
I.D.
R.C. 4
N
Dover Road
"Zoning Exemption" Sought By Developer
R.C. 5
PRIVATE
RD.
Proposed Nancy Lee Farms II Development
R.C. 4
Chestnut Woods

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
FACSIMILE 410-296-2801

ELLIS LEVIN (1893-1960)

January 14, 2002

02 JAN 14 PM 4:00

VIA HAND DELIVERY
Lawrence S. Wescott, Chairman
County Board of Appeals for Baltimore County
Old Courthouse, Suite 49
400 Washington Avenue
Towson, Maryland 21204

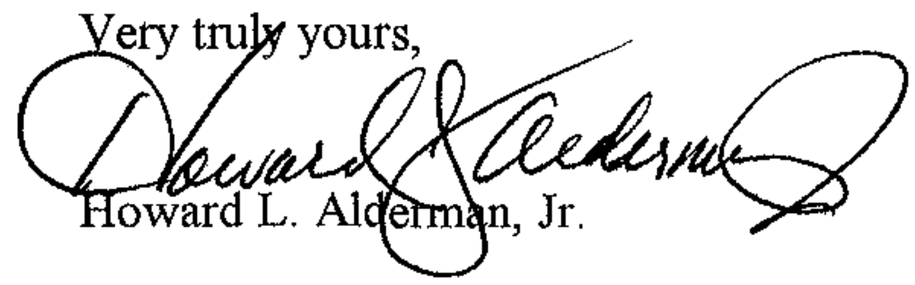
RE: Jarvis Steel & Lumber Co., Inc., Petitioner
Case No. R-01-437
Owner's-Post Hearing Memorandum

Dear Mr. Wescott:

As directed at the conclusion of the last day of hearing held on the above-referenced case, I am transmitting one original and three (3) copies of the *Owner's Post-Hearing Memorandum*, in lieu of closing argument on this matter. Should you or any member of the Board desire additional information or additional copies of the enclosed, please do not hesitate to contact me.

Thanks to you and the Board Members for their careful consideration of this most important issue.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c: (w/encl.): Jarvis Steel & Lumber Co., Inc.
Robert D. Sellers, Esquire
People's Counsel for Baltimore County

Falls Road Community Association
P.O. Box 555 Brooklandville, Maryland 21022

ESTABLISHED
1947

Mr. John F. Meredith
President, Falls Road Community Association
1439A Ivy Hill Rd.
Cockeysville, MD 21030

May 21, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Opposition Letters

Recvd prior To hearing Day #1

Dear Members of the Board:

I am writing to express my personal concern, and that of the Falls Road Community Association, regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our Association fought hard, and successfully, for the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas. I have myself seen the photographic evidence that documents this.

Falls Road Community Association
P.O. Box 555 Brooklandville, Maryland 21022

ESTABLISHED
1947

Watershed Protection zoning is thus highly appropriate for this parcel, and at our April 19 meeting, the Association unanimously agreed to fight for the maintenance of the established zoning. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

John F. Meredith

John F. Meredith

Baltimore County
Planning Board

401 Bosley Avenue - Ste 406
Towson, Maryland 21204
410-887-3495
Fax: 410-887-5862
E-mail: planning@co.ba.md.us

3/19/01
10 CL
V

March 14, 2001

The Hon. S. G. Samuel Moxley
Chairman, Baltimore County Council
County Courthouse
Towson, MD 21204

Re: Certification on Reclassification Petition -
Property on Dover Road (Jarvis Steel & Lumber)

Dear Councilman Moxley:

At a regularly scheduled meeting on March 1, 2001, the Baltimore County Planning Board voted, in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the petition by the Jarvis Steel & Lumber Company for zoning reclassification of the property on Dover Road, north of Baublitz Road, is manifestly required in the public interest.

Enclosed is the report on this matter by the Office of Planning, as accepted by the Planning Board. The Planning staff will be pleased to assist the Council in the consideration of this matter.

Sincerely,

Arnold F. 'Pat' Keller, III
Secretary

AFK:TD:rlh

Enclosure

c: Members, Baltimore County Council
Thomas Peddicord, Legislative Counsel/Secretary
Brian Rowe, County Auditor
John Wasilisin, Administrative Officer
Virginia Barnhart, County Attorney
Lawrence S. Wescott, Chairman, Board of Appeals
Peter M. Zimmerman, People's Counsel
Arnold Jablon, Director, Permits & Development Management
Howard L. Alderman, Jr., Petitioner's Representative

R-01-437

M:\PLANBRD\Out-of-cycle\certJarvisSteel&Lumber.doc

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862

Date: February 20, 2001

To: Baltimore County Planning Board

From: Arnold F. 'Pat' Keller, III

Re: Exemption from Cyclical Procedure – Jarvis Steel & Lumber Company, Inc. (Dover Road Property, North of Baublitz Road)

The attached letter requests certification by the Planning Board for out-of-cycle action on a zoning petition for reclassification of the subject property.

Section 2-356(i) of the Baltimore County Code authorizes the Planning Board to certify to the County Council that expedited scheduling of a reclassification hearing by the Board of Appeals "is manifestly required in the public interest or because of an emergency." Neither the certification by the Planning Board nor a concurrence by the County Council would constitute an opinion on the merits of the petition; the effect is simply to take the petition out of the normal cycle zoning schedule for an earlier hearing.

The subject request for certification has been reviewed by planning staff and without taking a position on the merits of the case, the Office of Planning recommends to the Planning Board that certification for early action upon this zoning reclassification petition is required.

Sincerely,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK/JL
Attachment

C:\My Documents\jarvis.doc

Printed with Soybean Ink
on Recycled Paper

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION

NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
FACSIMILE 410-296-2801

COPY

ELLIS LEVIN (1893-1960)

February 19, 2001

VIA HAND DELIVERY
Mr. Arnold F. "Pat" Keller, Director
Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson, Maryland 21204

Re: Jarvis Steel & Lumber Company, Inc.
Dover Road Property, North of Baublitz Road
Third Councilmanic District
Petition for Zoning Reclassification
Request for Baltimore County Planning Board Consideration and Action

Dear Mr. Keller:

As you may be aware, this office represents Jarvis Steel & Lumber Company, Inc. Our client owns approximately forty acres on the west side of Dover Road, north of Baublitz Road (the "Jarvis Property") and adjoining the previously approved residential subdivision known as Chestnut Woods. The Jarvis Property was zoned RC-5 in its entirety prior to December 21, 2000.

The Jarvis Property was included in Issue No. 3-160 raised by Councilman McIntire during the 2000 *Comprehensive Zoning Map Process*. Prior to the final Council vote on all issues on October 10, 2000, the Councilman asked the Office of Planning to prepare an overlay map which depicted a RC-4 zoning classification three hundred (300) feet in all directions from the centerline of actual and verified streams on properties included in this Issue. The zoning classifications outside of this 300 foot buffer were to remain unchanged, unless affected by some other Issue.

Subsequent to the Council's vote on the 3rd District Issues, a portion of the Jarvis Property was zoned RC-4 with a balance retained in its classification of RC-5. As you may also be aware, subsequent to the Council's vote the Baltimore County Hearing Officer approved a development plan (PDM #IV-557) for the Jarvis Property ("Development Plan"). At the Hearing Officer's hearing, a representative from your Office appeared and testified that the RC-4 zoning lines shown on the Jarvis Property, being 300 feet from the DEPRM verified streams, were the lines that would appear on the official 200 foot scale zoning maps which would become effective on December 21, 2000. That Development Plan was given final approval and was appealed to the County Board of Appeals for Baltimore County.

After the hearing on appeal but before the Board could deliberate in public, I received a call from Mr. Kerns of your staff advising that the new zoning lines on the Jarvis Property would be as shown on the on October 10, 2000 overlay (irrespective of the known errors on said map) and not as testified to by representatives of your Office at the Hearing Officer's Hearing. The base map used by the Office of Planning, from which the overlay for Issue No. 3-160 was prepared, was based on dated information especially in the area of the Jarvis Property. Unfortunately, the Councilman did not pick up the fact that the base map used showed stream resources where none exist and failed to show stream resources where they do exist. Thus, the delineation of the new RC-4 buffer area, as approved by the Council, was incorrect because it does not reflect the Councilman's intention for the protection of streams and stream resources and the Council failed to recognize the mistaken information provided.

Therefore, I filed with the Board a motion for limited remand to the Hearing Officer, pending the outcome of a Petition for Reclassification to be filed. That remand was ordered and the Development Plan was ordered to be returned to the Hearing Officer. At the time of preparation of this letter, the plats to accompany the Petition for Reclassification are being prepared. As soon as those plats have been reproduced, I will be filing the Petition (a copy of which is enclosed for your reference) with the Department of Permits and Development Management.

Pursuant to Section 2-356(i) of the Baltimore County Code, our client desires to obtain an exemption from the cyclical procedures because early action on the zoning reclassification petition is manifestly required in the public interest. There is no doubt that the map adopted by the Council in October, 2000 contained a variety of errors and did not effect the intent of the Councilman for the Third District to reclassify land within 300 feet of verifiable streams to a classification of RC-4. I have been advised that the base map used to prepare the overlay map considered by the Council showed streams where none exist and failed to show a stream that has been field verified by the Department of Environmental Protection and Resource Management. The uncontradicted testimony, at the Hearing Officer's Hearing by a representative of your Officer, regarding the extent of the RC-4/RC-5 zoning lines after the 2000 *Comprehensive Zoning Map Process* led my client to move forward with the development approvals on the Jarvis Property, as a result of which substantial expense has been incurred.

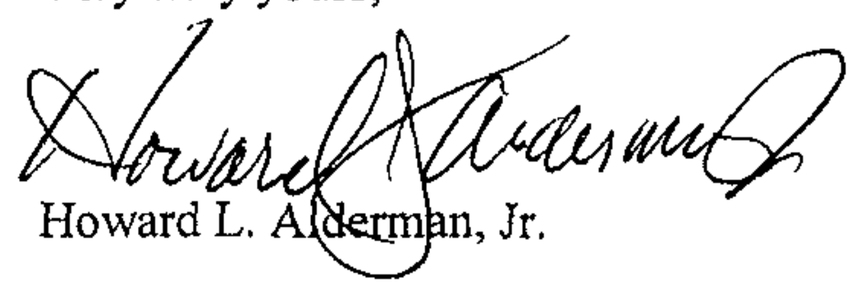
No one is disputing that the current RC-4/RC-5 zone lines on the Jarvis Property are not what the Councilman intended. Clearly, had the Council been aware of the fact that the base map used was erroneous, the result would, undoubtedly, have been different. Everyone agrees, unfortunately, that the only way to correct the error of the County Council is through the reclassification process. In order that my client not be further prejudiced for an error not of its own making, it is imperative that the Request for Reclassification be considered outside of the general time frame. Contractual

commitments on the Jarvis Property, made subsequent to the approval of the Development Plan showing the intended RC-4/RC-5 zoning lines, will be jeopardized without the requested exception from the cyclical procedure.

Therefore, on behalf of my client, I am respectfully requesting that you place this item on the agenda of the Baltimore County Planning Board for consideration by the appropriate committee as soon as possible. If you or any member of your staff, the planning board, the County Council or other County agencies desire any additional information, please do not hesitate to contact me.

I will await your favorable reply on this request.

Very truly yours,



Howard L. Alderman, Jr.

HLA/pal
Enclosure
cc: Jarvis Steel & Lumber Company, Inc.
The Honorable T. Bryan McIntire

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 3, 2001 & Thursday, May 10, 2001 Issues - Jeffersonian
Full-Page Ad

Advertising costs should be divided between the following petitioners.
Please forward billing to:

CR-01-433-X	Sohan L. Sambhi 9 Upman Court Baltimore, MD 21228	410-719-1624
R-01-434	Robert A. Hoffman (Amy Dontell) 210 Allegheny Avenue Towson, MD 21204	410-494-6200
R-01-435	Amy Dontell 210 Allegheny Avenue Towson, MD 21204	410-494-6201
CR-01-436	Stuart D. Kaplow, P.A. 15 East Chesapeake Avenue Towson, MD 21286	410-339-3910
R-01-439	Amy Dontell 210 Allegheny Avenue Towson, MD 21204	410-494-6201

NEWSPAPER AD MUST BE FULL-PAGE AD.

SEE ATTACHED SAMPLE FOR PROPER SET-UP OF AD. SEE ATTACHED PAPERS FOR CORRECT WORDING FOR ZONING RECLASSIFICATION CYCLE I (APRIL – OCTOBER 2001) AND CORRECT MAP.

PLEASE FORWARD TO ZONING REVIEW, PERMITS & DEVELOPMENT MANAGEMENT (ATTENTION CARL RICHARDS), A CONTACT POSITIVE PRINT.

ANY QUESTIONS CONCERNING THIS AD, PLEASE CONTACT EITHER CARL RICHARDS AT 410-887-3391 OR SOPHIA JENNINGS AT 410-887-8091.

RECLASSIFICATION & REDISTRICTING PETITIONS ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE APRIL – OCTOBER 2001 ZONING RECLASSIFICATION CYCLE I

BY ORDER OF
LAWRENCE S. WESCOTT, CHAIRMAN, BALTIMORE COUNTY BOARD OF APPEALS
ARNOLD F. KELLER, III, DIRECTOR, OFFICE OF PLANNING AND COMMUNITY CONSERVATION

ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS
FOR THE ZONING RECLASSIFICATION CYCLE I
APRIL 2001 – OCTOBER 2001

WESTERN SECTOR

ITEM #1

Property Owner:	Sohan L. Sambhi & Joginder Kaur
Case No./Hearing Date:	CR-01-433-X -- Wednesday, November 14, 2001 at 10:00 a.m.
Contract Purchaser:	N/A
Location:	9217 Liberty Road – SW/S Liberty Road, corner SE/S Chapman Road
Existing Zoning:	R-0
Election District:	2nd
Councilmanic District:	2nd
Acres:	.2783
Proposed Zoning:	B.L. Special Exception for a service garage.
Miscellaneous:	Documented Plan

ITEM #2

Property Owner:	Baltimore County Revenue Authority (Lot A); Paul C. Gourley (Lot B); Ethel B. Smith (Lot C); BP Amoco Corporation (Parcel 246)
Case No./Hearing Date:	R-01-434 -- Wednesday, October 3, 2001 at 10:00 a.m.
Contract Purchaser:	BP Amoco Corporation
Location:	520 Reisterstown Road (rear) – S/S Slade Avenue and N/S Linden Terrace, also 175' SW of centerline Reisterstown Road
Existing Zoning:	R-O
Election District:	3rd
Councilmanic District:	2nd
Acres:	.47
Proposed Zoning:	B.L.-A.S.
Miscellaneous:	Open Plan

ITEM #3

Property Owner:	Painters Mill Venture, LLP
Case No./Hearing Date:	R-01-435 -- Wednesday, September 26, 2001 at 10:00 a.m.
Contract Purchaser:	N/A
Location:	NWC Owings Mills Boulevard and Lyons Mill Road
Existing Zoning:	D.R.5.5
Election District:	2nd
Councilmanic District:	3rd
Acres:	18.3
Proposed Zoning:	D.R.16
Miscellaneous:	Open Plan

ITEM #4

Property Owner:	Highway Realty, Inc. (9913); Eastrel, LLC (9915); David A. Pisanic (9917); Patricia E. Franey (9919); Marie P. & Donald G. Haga (9921)
Case No./Hearing Date:	CR-01-436 – Wednesday, October 24, 2001 at 10:00 a.m.
Contract Purchaser:	N/A
Location:	9913, 9915, 9917, 9919, & 9921 Reisterstown Road – NE/S Reisterstown Road, approximately 200' SE of Olive Lane
Existing Zoning:	R-O
Election District:	3rd
Councilmanic District:	3rd
Acres:	1.95 +/-
Proposed Zoning:	B.L.
Miscellaneous:	Documented Plan (originally filed as open plan, was revised and filed as documented plan)

NORTHERN SECTOR

ITEM #5

Property Owner:	Jarvis Steel & Lumber Co., Inc.
Case No.:	R-01-437
Location:	SW/S Dover Road, approximately 600' N of Baublitz Road
Election District:	4th Councilmanic District: 3rd
Miscellaneous:	FILED FOR CYCLE I, BUT IS NOW OUT-OF-CYCLE RECLASSIFICATION. SEE COUNTY COUNCIL RESOLTUION NUMBER 42-01.

CENTRAL SECTOR

No Petitions Were Filed in the Central Sector for Cycle I

EASTERN SECTOR

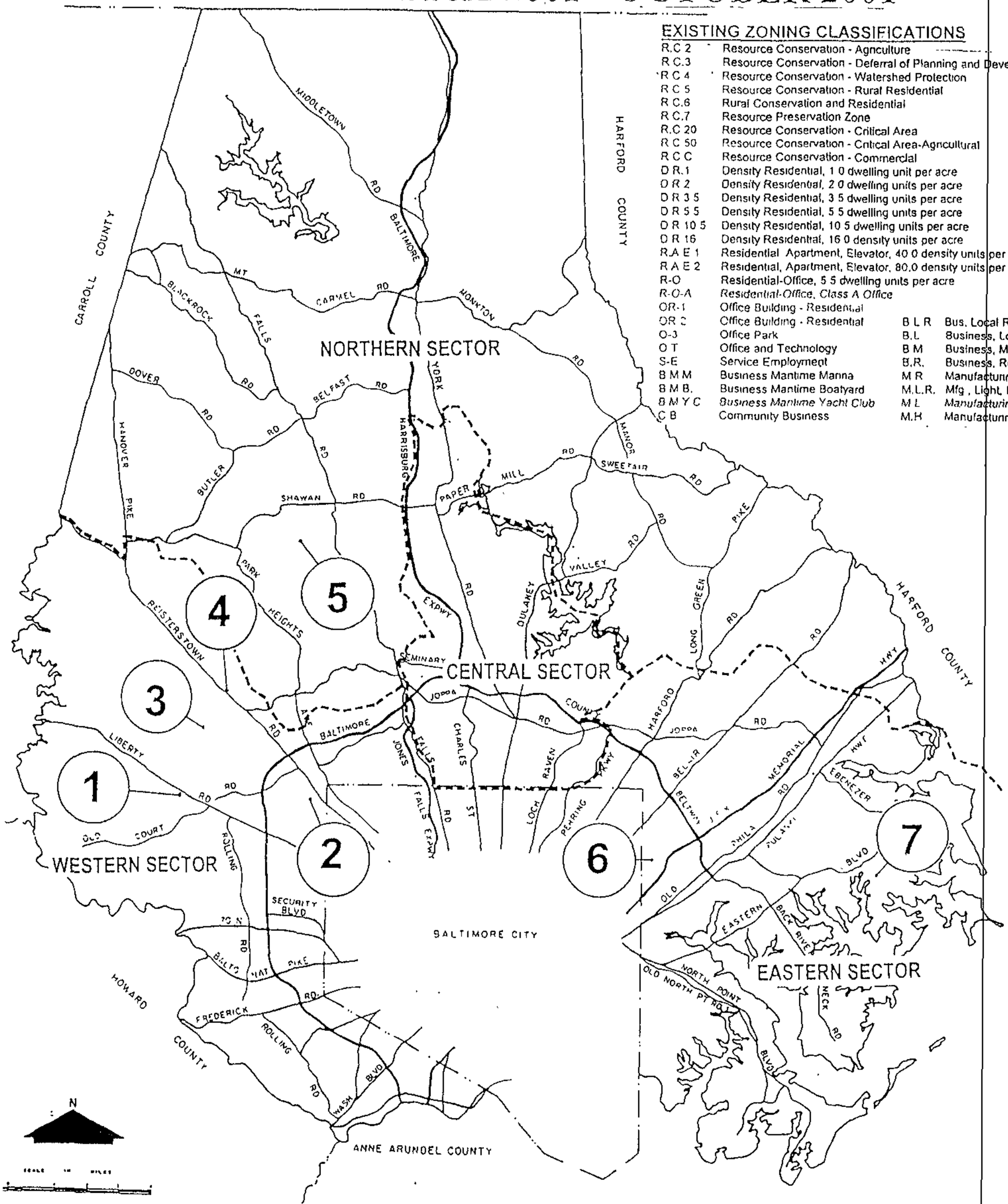
ITEM #6

Property Owner:	Merritt Properties, LLC
Case No.:	R-01-438
Location:	4932 Hazelwood Avenue (Hazelwood Plaza) – NE/S Hazelwood Ave
Election District:	14th Councilmanic District: 6th
Miscellaneous:	FILED FOR CYCLE I, BUT IS NOW OUT-OF-CYCLE RECLASSIFICATION. SEE COUNTY COUNCIL RESOLUTION NUMBER 40-01.

ITEM #7

Property Owner:	7-Eleven Inc.
Case No./Hearing Date:	R-01-439 -- Wednesday, October 17, 2001 at 10:00 a.m.
Contract Purchaser:	N/A
Location:	204 Bowley's Quarters Road – SW/S Bowleys Quarters Road and SW/S Carroll Island Road
Existing Zoning:	B.L.
Election District:	15th
Councilmanic District:	5th
Acres:	.33
Proposed Zoning:	B.L.-A.S.
Miscellaneous:	Open Plan

LOCATIONS OF PROPERTIES UNDER PETITION
CYCLE I --- APRIL 2001 - OCTOBER 2001



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW

SAMPLE ONLY

BALTIMORE COUNTY, MARYLAND

PUBLIC NOTICE

RECLASSIFICATION & REDISTRICTING PETITIONS ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE OCTOBER, 1993 - APRIL, 1994 ZONING RECLASSIFICATION CYCLE II

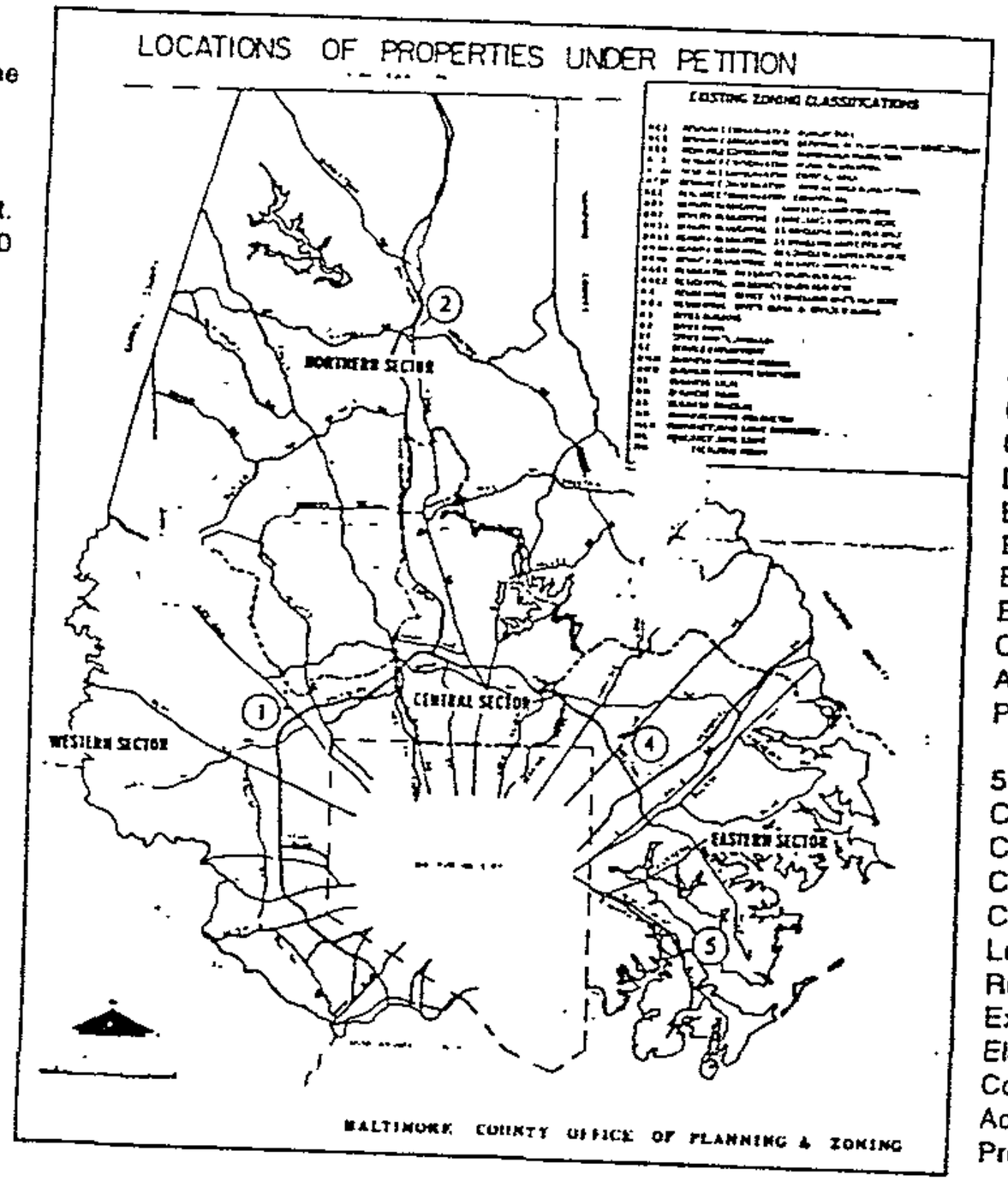
WESTERN SECTOR

1. Property Owner. J.F.O. Holding Corporation & Josephine Owings Grinnings
Case No./Hearing Date: R-94-141; 3/9/94
Contract Purchaser: J. Patrick Gill
Location: SW/S Reisterstown Road, 540' SE of centerline Mt. Wilson Lane, opposite Castleton Avenue (#1838-1850 Reisterstown Road)
Existing Zoning: R.O.
Election District: 3rd
Councilmanic District: 3rd
Acres: 5.81 +/- or 5.25 +/-
Proposed Zoning: B.L.

NORTHERN SECTOR

2. Property Owner: Harford Joint Venture
Case No./Hearing Date: R-94-142; 3/23/94
Contract Purchaser: N/A
Location: N/S Everett Road, W/S York Road (Monkton Centre)
Existing Zoning: R.C.-5
Election District: 7th
Councilmanic District: 3rd
Acres: .90 +/-
Proposed Zoning: B.M.-C.R.

3. Property Owner: The Prosser Company, Inc.
Case No./Hearing Date: CR-94-143; 4/6/94
Contract Purchaser: N/A
Location: SE/S Long Green Pike and NW/S Glen Arm Road (12107 & 12109
Long Green Pike and 5328 Glen Arm Road)
Existing Zoning: R.O. & R.C.-5
Election District: 11th



Councilmanic District: 6th
Acres: 5.2 +/-
Proposed Zoning: M.L.

CENTRAL SECTOR

No Petitions in the Central Sector

EASTERN SECTOR

4. Property Owner: State Highway Administration
Case No./Hearing Date: R-94-144; 4/20/94
Contract Purchaser: White Marsh Dinner Theatre, Inc.
Location: NW/S Belair Road, corner NE/S White Mar Boulevard (8204
Belair Road)
Existing Zoning: D.R.-5.5
Election District: 14th
Councilmanic District: 6th
Acres: .61 +/-
Proposed Zoning: B.M.

5. Property Owner: Beachwood II Limited Partnership Cignal Development
Corporation
Case No./Hearing Date: R-94-145; 5/4/94
Contract Purchaser: N/A
Location: E/S Morse Lane between Lynhurst and Shor Roads (Beachwood)
Existing Zoning: D.R.-1
Election District: 15th
Councilmanic District: 7th
Acres: 27.309
Proposed Zoning: D.R.-3.5 or D.R.-5.5 or D.R.-10.5

LISTINGS OF PETITIONS: Numbers in the listings are keyed to the map above.

BY ORDER OF
WILLIAM HACKETT, CHAIRMAN BALTIMORE COUNTY BOARD OF APPEALS
P. DAVID FIELDS, DIRECTOR BALTIMORE COUNTY PLANNING AND ZONING

Ms. Nancy Roberts
3201 Tufton Avenue
Glyndon, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Nancy M. Roberts

Nancy Roberts

01 JUN 19 PM 12:57
RECEIVED
COUNTY BOARD OF APPEALS

Albert & Barbara Swartz
12704 Dover Road
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

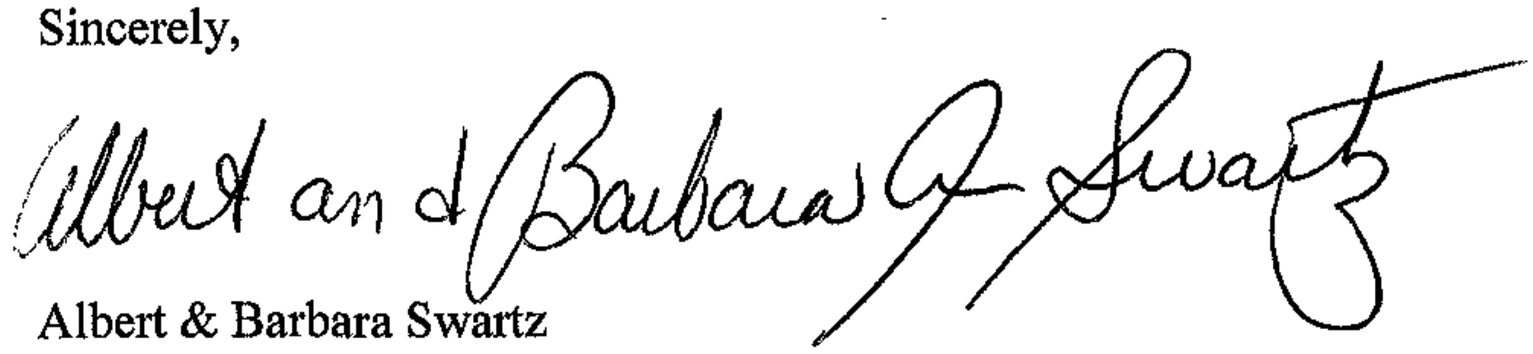
The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,



Albert & Barbara Swartz

Alan & Carolyn Fell
13201 Dover Road
Reisterstown, MD 21136

May 24, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Alan & Carolyn Fell

Mr. John A. Galbreath
2516 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -7 PM 12:22

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

John Galbreath

Ms. Patrice Mezzanotte
2507 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY -7 PM 12:27
RECEIVED
COUNTY BOARD OF APPEALS

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

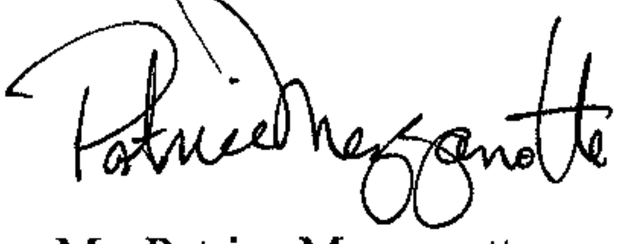
The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,



Ms. Patrice Mezzanotte

Tim & Christine Barger
2503 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY -7 PM 12:27
COUNTY BOARD OF APPEALS

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Christine Barger

Tim & Christine Barger

Mr. & Mrs. J. Russell Kimmel
2502 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -3 PM 12: 10

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Jane C. Kimmel

Mr. & Mrs. J. Russell Kimmel

Xiao Ming Cao
2504 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -3 PM 12:10

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Xiao Ming Cao

Mr. Dale Kowalewski
2505 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 14 PM 12:38

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Dale Kowalewski

Mr. David Truax
2206 Tufton Ridge Road
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 14 PM 12:38

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

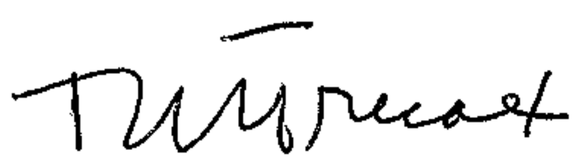
The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,



David Truax

Steven & Caroline Nimetz
12923 Dover Road
Reisterstown, MD 21136

May 4, 2001

01 MAY 14 PM 12:32
RECEIVED
COUNTY BOARD OF APPEALS

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Steven & Caroline Nimetz

John & Katherine Astin
12700 Dover Road
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY 14 PM 12:32
RECEIVED
COUNTY BOARD OF APPEALS

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

John & Katherine Astin

Jed & Jodi Rosen
12919 Dover Road
Reisterstown, MD 21136

May 4, 2001

01 MAY 14 PM 12:29
COUNTY BOARD OF APPEALS

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Jed & Jodi Rosen

Mary & James Sinclair
12907 Dover Road
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY 17 PM 2:15
COUNTY BOARD OF APPEALS

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Mary & James Sinclair

Keith & Kathy Calta
2606 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 17 PM 2:16

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Kathy Calta

Keith & Kathy Calta

Bernie & Anne Marie Boehnlein
2511 Chestnut Woods Ct.
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 17 PM 2:15

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Annemarie Boehnlein Bernard M Boehnlein

Bernie & Anne Marie Boehnlein

Nathan & Malinda Siegel
12702 Dover Road
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 17 PM 2:15

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

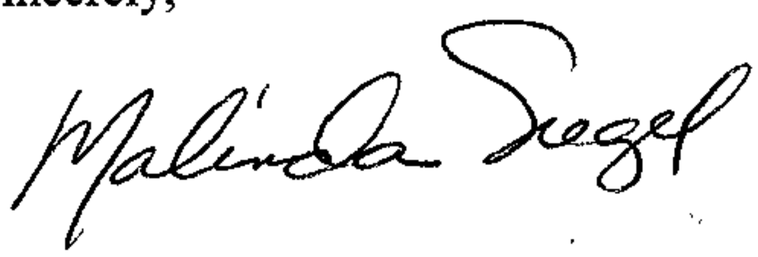
The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,



Nathan & Malinda Siegel

Mr. Andrew Powderly
7 Red Tree Lane
Reisterstown, MD 21136

April 30, 2001

01 MAY 22 PM 12:40
RECEIVED
COUNTY BOARD OF APPEALS

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Andrew Powderly

Ms. Diane Powderly
7 Red Tree Lane
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 22 PM 12: 39

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Diane Powderly

Mr. Glenn R. Martin
2700 Tufton Avenue
Glyndon, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12:28

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Glenn R. Martin

Glenn R. Martin

Mr. Jerry Schultz
2618 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -8 PM 1:58

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Jerry Schultz

Rudolf Zagranichny
2518 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
2001 MAY -8 PM 1:54
COUNTY BOARD OF APPEALS

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Rudolf Zagranichny

Ms. Inca Schultz
2618 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -8 PM 1:56

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Inca Schultz

Inca Schultz

Alejandro & Magda Sequeira
8 Red Tree Lane
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 11 PM 2:41

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

A J Sequeira Magda Sequeira

Alejandro & Magda Sequeira

Les & Lori Ireland
2501 Chestnut Woods Ct.
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY 10 PM 1:32
COUNTY BOARD OF APPEALS

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Les H. Ireland
Lori A. Ireland

Les & Lori Ireland

Leslie Douglas & Laura Duirk
4 Red Tree Lane
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 10 PM 1:3

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Leslie Douglas & Laura Duirk

Mr. Rick Davis
2611 Chestnut Woods Ct.
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 10 PM 1:30

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Rick Davis

Edward & Kathleen Kohls
13011 Dover Road
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY 10 PM 1:30
COUNTY BOARD OF APPEALS
RECEIVED

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Edward & Kathleen Kohls

Patrick & Bonnie Lynch
2616 Chestnut Woods Ct.
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY 10 PM 1:28
RECEIVED
COUNTY BOARD OF APPEALS

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Bonnie Lynch

Patrick & Bonnie Lynch

Mr. Gene Jordon
2612 Chestnut Woods Ct.
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY 24 PM 2:04

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Gene Jordon

Ms. Paula Kowalewski
2614 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

01 MAY -9 PM 12:18
RECEIVED
COUNTY BOARD OF APPEALS

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Paula Kowalewski

Paula Kowalewski

Mr. Rex Kowalewski
2614 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12:21

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Rex Kowalewski

Rex Kowalewski

Mr. Ray Albert Heller
13215 Dover Road
Reisterstown, MD 21136

May 4, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12:21

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Ray Albert Heller

Ms. Keli Isaacson
2609 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12: 22

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Keli Isaacson

Mr. Scott Isaacson
2609 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12: 22

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Scott Isaacson

Scott Isaacson

Arthur & Bernice Carter
12814 Dover Road
Reisterstown, MD 21136

May 4, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -9 PM 12: 22

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Arthur Carter
Bernice Carter

Arthur & Bernice Carter

Mr. Rick Bell
2507 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Rick Bell

Jacqueline & Gary Lessing
2513 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -7 PM 12:23

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Jacqueline Lessing Gary Lessing

Jacqueline & Gary Lessing

Dr. & Mrs. Robert Frieman
2602 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -7 PM 12:22

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

Dr. & Mrs. Robert Frieman

Denise & Bill Payne
2604 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -7 PM 12: 22

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

We are writing to express our concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

We urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. We again urge you to decide against this ill-advised zoning reclassification, and we request that this letter be included as part of the case record.

Sincerely,

W. B. Payne
Denise Payne

Denise & Bill Payne

Mr. Randall Tognazzini
2522 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -4 PM 1:18

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Randall Tognazzini

Dr.
~~Ms.~~ Brenda Richardson
2500 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Brenda Richardson

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -4 PM 1:18

Ms. Carol Tognazzini
2522 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -4 PM 1:17

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Carol Tognazzini

Carol Tognazzini

Mr. Gary Goldberg
12622 Dover Road
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -4 PM 1:16

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Gary Goldberg

Mr. Jeffrey Blavatt
2603 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

01 MAY -4 PM 1:16
COUNTY BOARD OF APPEALS
RECEIVED

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Jeffrey Blavatt

Jeffrey Blavatt

Ms. Marie R. LaPorte
2516 Chestnut Woods Ct.
Reisterstown, MD 21136

April 30, 2001

RECEIVED
COUNTY BOARD OF APPEALS
01 MAY -4 PM 1:15

Baltimore County Board of Appeals
Old Courthouse Building
400 Washington Ave.
Towson, MD 21204

Dear Members of the Board:

I am writing to express my concern regarding an upcoming Petition for Zoning Reclassification, Case No. R-01-437.

The petition is for a parcel west of Dover Road and north of Baublitz Road in the Third Councilmanic District. This parcel is the subject of a development plan entitled "Nancy Lee Farms II". The petition asks that the RC-4 Watershed Protection zoning established for a portion of this parcel (CZMP Issue 3-160) be overturned.

I urge you to rule against overturning the established Watershed Protection zoning.

Our community emphatically supported, via petition, the establishment of RC-4 zoning around critical water resources during the CZMP process. A portion of the headwaters of Waterspout Run, one of two major stream systems in the area, begin precisely in the portion of the parcel under petition. These headwater channels convey water directly into Waterspout Run during rainy periods, and as such, have a profound impact on the ecology of downstream areas.

Watershed Protection zoning is thus highly appropriate for this parcel. I again urge you to decide against this ill-advised zoning reclassification, and I request that this letter be included as part of the case record.

Sincerely,

Marie R. LaPorte

Ms. Marie R. LaPorte

Verified 6/27/2001
Verified 10/25/01
Verified 11/29/01

Exhibits

Jarvis Steel Reclass
R-01-437

PETITIONERS

1. UNDOCUMENTED SITE PLAN DATED 2/16/01
2. B.C. OFFICIAL ZONING MAP (OCT. 10, 2000) w/PROP. OUTLINE NWITF SCALE 1"=200'
3. B.C. OFFICIAL ZONING MAP (DEC. 1994) w/PROP. OUTLINE · 2D SCALE 1"=1000'
4. LETTER ON MEETS + BOUNDARIES AREA #1 DATED 3/1/01 FROM GC+E
5. " " " " AREA #2 DATED 3/1/01 " "
6. " " " " " #3 " " " "
7. " " " " " #4 " " " "
8. B.C. 2000 COMPREHENSIVE ZONING MAP ISSUES DATED 10/10/2000 Pg. 21 of 22
9. COPY OF OVERLAY AT 600' SCALE ON ISSUE 3-160 DATED 10/10/00
10. Letter from PAT KELLER, OFFICE OF PLANNING, TO V. FRENKIL, PRES. JARVIS 11/2/01
11. Letter fr P. Keller to Councilman Moxley, 3/14/01; fr P. Keller to B.C. Planning Board, 2/20/01; fr H. Alderman to P. Keller, 2/19/01.
12. B.C. Council Resolution #42-01, 4/2/01
13. Inter-Office Correspondence fr P. Keller to Chairman Wescott, 6/15/01

PROTESTANTS + PEOPLE'S COUNCIL

1. People's Council SIGN-IN SHEET
2. Parts of Zoning issue 3-160
3. Comprehensive Zoning Map Process for YEAR 2000.
4. " " " " " " " time line. 2/4/99
5. Issue Address Report 3-160
6. Actions of County Council on issues dated 10/10/00.
7. Implementing the Master Plan, Master Plan 2010 pg. 259
8. Master Plan 2010, numerous pages

10am
10/25/01

Verified 10/25/01 Verified 11/29/01

EXHIBITS

R-01-437

PETITIONERS

14. SOIL SURVEY BY ECO SENSE.
15A. 3 Photos w/descriptions taken @ 5/01
15B. 3 Photos w/descriptions taken @ 5/01

PROTESTANTS + PEOPLE'S COUNSEL

9. Letter from George Perdikakas to Pat Keller on CZMP2000 3-160 2/8/00
10. Balto. Co. Minutes of Legislative Session 2000 10/10/00 pgs. 1, 8, 12
11. Rule 8 material for Mr. Dillon with The Valleys Planning Council
12. Exerts from Bill 178-79 pgs. 1-3, 16-23.
13. Growth-Management Legislation Phase I adopted 7/26/79 + 8/2/79
PROTESTANTS 14. JOE BERG'S CV
15. Report done by Biohabitats, Inc. dated 6/12/01
16. hypothetical plat of site

Verified 11/29/01

DAY 3

JARVIS STEEL RECLASS

11/29/01 EXHIBITS R-01-437

Protestants + Peoples Council

17A. Rule 8 papers for Mr. John Galbreath. 11/19/01
17B. Rule 8 papers for Mr. John Galbreath. 11/19/01
18A. Photos 1-12 DEC. 2000 Large exhibit — in closet
18B. Photos 13-20 DEC. 2000 Large exhibit — in closet
19. Photos 1-4 June, 2001 Large exhibit — in closet
20. Sunpaper weather clipping - 5/7/2001
21. Community Input Meeting Minutes - July 6, 2000
22. USGS Ground-water levels 11/24/01
23. Copy of issue discussed with Mr. Huey.
24. Letter from John Galbreath to Councilman McIntire. 9/1/00
25. Petition from Chestnut Woods to B.C. Council
26. Letter from Councilman McIntire 9/8/00
27. Letter from John Galbreath to Councilman McIntire 10/2/00
28. Letter from John Galbreath to Councilman McIntire. 2/2/01
29. Letter from Thomas Peddicord to Councilman McIntire 6/14/01
30. Letter from Councilman McIntire to Pat Keller. 8/6/01
31. B.C.Z.R. 1A03.1 - 1A03.3
32. B.C.Z.R. 101
33A. B.O.A. CR-93-307-SPHXA 9/29/95
33B. CIRCUIT COURT C-95-9688 8/26/96
33C. COURT OF SPECIAL APPEALS #1787 9/1996 FILED 8/20/97

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

PETITIONER'S EXHIBIT 4

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #1

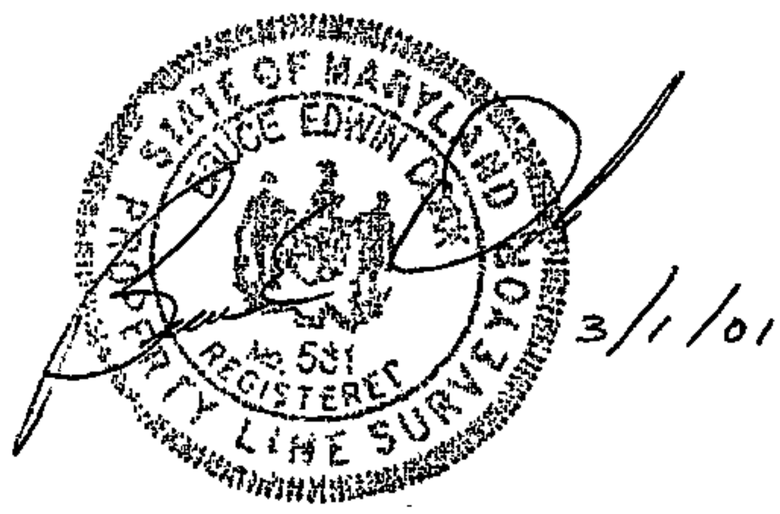
Commencing at a point on the northernmost outline of the Property of Jarvis Steel & Lumber Company known as "Nancy Lee Farms II" 2356 feet, more or less, northerly along the center of Dover Road from the center of Knox Avenue and South 87 degrees 33 minutes 11 seconds West 733.03 feet along the northernmost outline of "Nancy Lee Farms II" to the point of beginning, thence from the point of beginning and running for the lines of Reclassification Area #1, the forty following lines, viz: (1) South 30 degrees 54 minutes 47 seconds East 51.11 feet, (2) South 23 degrees 41 minutes 14 seconds East 43.44 feet, (3) South 17 degrees 44 minutes 58 seconds East 37.61 feet, (4) South 05 degrees 43 minutes 00 seconds East 66.04 feet, (5) South 05 degrees 36 minutes 24 seconds West 61.26 feet, (6) South 10 degrees 11 minutes 52 seconds West 28.75 feet, (7) South 20 degrees 40 minutes 35 seconds West 62.66 feet, (8) South 33 degrees 27 minutes 26 seconds West 57.89 feet, (9) South 44 degrees 33 minutes 28 seconds West 30.56 feet, (10) South 50 degrees 28 minutes 00 seconds West 48.68 feet, (11) South 02 degrees 23 minutes 43 seconds West 17.74 feet, (12) South 15 degrees 35 minutes 13 seconds West 60.85 feet, (13) South 22 degrees 33 minutes 29 seconds West 22.68 feet, (14) South 29 degrees 34 minutes 01 second West 22.48 feet, (15) South 35 degrees 29 minutes 01 second West 32.11 feet, (16) South 33 degrees 03 minutes 13 seconds West 34.53 feet, (17) South 50 degrees 27 minutes 09 seconds West 70.34 feet, (18) South 65 degrees 24 minutes 55 seconds West 101.70 feet, (19) South 75 degrees 47 minutes 09 seconds West 39.42 feet, (20) South 85 degrees 58 minutes 17 seconds West 41.52 feet, (21) North 88 degrees 44 minutes 45 seconds West 39.85 feet, (22) North 80 degrees 24 minutes 23 seconds West 36.38, (23) North 69 degrees 21 minutes 55 seconds West 36.44 feet, (24) North 69 degrees 18 minutes 50 seconds West 52.01 feet, (25) North 56 degrees 57 minutes 58 seconds West 33.09 feet, (26) North 43 degrees 21 minutes 50 seconds West 31.14 feet, (27) North 34 degrees 44 minutes 02 seconds West 62.15 feet, (28) North 28 degrees 16 minutes 26 seconds West 86.70 feet, (29) North 24 degrees 40 minutes 23 seconds West 36.99 feet, (30) North 48 degrees 28 minutes 48 seconds West 44.01 feet, (31) North 44 degrees 55 minutes 08 seconds West 62.25 feet, (32) North 25 degrees 16 minutes 27 seconds West 34.75 feet, (33) North 34 degrees 41 minutes 12 seconds West 15.47 feet, (34) North 57 degrees 41 minutes 00 seconds West 37.07 feet, (35) North 65 degrees 59 minutes 19 seconds West 81.66 feet, (36) North 62 degrees 51 minutes 53 seconds West 47.75 feet, (37) North 55 degrees 35 minutes 09 seconds West 84.20 feet, (38) North 52 degrees 41 minutes 16 seconds West 139.23 feet, (39) North 60 degrees 15 minutes 19 seconds East 4.48 feet, and (40) by a line curving to the left having a radius of 300.00 feet, an arc length of 280.61 feet (the chord of said arc bearing North 67 degrees 28 minutes 37 degrees East 270.50 feet) to intersect the said

northernmost outline of "Nancy Lee Farms II", and thence along said northernmost outline, (41) North 87 degrees 33 minutes 11 seconds East 838.74 feet to the point of beginning.

Containing 11.666 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.



Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

PETITIONER'S EXHIBIT 3

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #2

Commencing at a point, the five following lines from the center of Dover Road, 2356 feet, more or less, South 87 degrees 33 minutes 11 seconds West 2,002.96 feet, South 11 degrees 24 minutes 12 seconds West 171.68 feet, North 78 degrees 13 minutes 48 seconds East 15.37 feet, and North 84 degrees 48 minutes 20 seconds East 30.29 feet to the point of beginning, thence from said point of beginning and running for the lines of Reclassification Area #2, the six following courses and distances, viz: (1) North 67 degrees 05 minutes 32 seconds East 61.58 feet, (2) North 57 degrees 30 minutes 11 seconds East 65.55 feet, (3) North 54 degrees 37 minutes 04 seconds East 49.71 feet, (4) South 47 degrees 32 minutes 53 seconds East 16.34 feet, (5) South 60 degrees 15 minutes 18 seconds West 143.61 feet, and (6) South 84 degrees 48 minutes 20 seconds West 41.26 feet to the point of beginning.

Containing 0.043 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.

STATE OF MARYLAND
BRUCE EDWIN DOAK
No. 531
REGISTERED
PROPERTY LINE SURVEYOR

3/1/01

C:\My Documents\reclassnancyleearea2.doc

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

PETITIONER'S EXHIBIT 2

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #3

Commencing at a point, the three following lines from the center of Knox Avenue, northerly along the center of Dover Road, 2356 feet, more or less, South 87 degrees 33 minutes 11 seconds West 2,002.96 feet, South 11 degrees 24 minutes 12 seconds West 171.68 feet to the point of beginning, thence from said point of beginning and running for the lines of Reclassification Area #3, the five following courses and distances, viz: (1) North 78 degrees 13 minutes 48 seconds East 15.37 feet, (2) North 84 degrees 48 minutes 20 seconds East 30.29 feet, (3) South 67 degrees 22 minutes 06 seconds West 19.57 feet, (4) South 73 degrees 00 minutes 02 seconds West 30.62 feet, and (5) North 11 degrees 24 minutes 12 seconds East 10.82 feet to the point of beginning.

Containing 0.007 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.

STATE OF MARYLAND
BRUCE EDWIN COX
No. 531
REGISTERED
PROPERTY LINE SURVEYOR

3/1/01

C:\My Documents\reclassnancyleearea3.doc

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

PETITIONER'S EXHIBIT 7

March 1, 2001

NANCY LEE FARMS II
RECLASSIFICATION AREA #4

Commencing at a point, the six following lines from the center of Knox Avenue, northerly along the center of Dover Road, 1,900 feet, more or less, South 83 degrees 24 minutes 43 seconds West 270.90 feet, South 07 degrees 17 minutes 26 seconds West 218.54 feet, South 88 degrees 15 minutes 49 seconds West 659.89 feet, South 80 degrees 35 minutes 16 seconds West 796.11 feet, and South 00 degree 13 minutes 00 seconds West 78.15 feet to the point of beginning, thence from said point of beginning and running for the lines of Reclassification Area #4, the twelve following courses and distances, viz: (1) South 00 degree 13 minutes 00 seconds West 406.58 feet, (2) North 89 degrees 03 minutes 58 seconds West 688.34 feet, (3) North 11 degrees 24 minutes 12 seconds East 679.18 feet, (4) South 45 degrees 53 minutes 15 seconds East 50.72 feet, (5) South 54 degrees 01 minute 25 seconds East 92.00 feet, (6) South 51 degrees 03 minutes 20 seconds East 68.69 feet, (7) South 54 degrees 18 minutes 45 seconds East 91.43 feet, (8) South 88 degrees 19 minutes 20 seconds East 26.16 feet, (9) South 77 degrees 03 minutes 07 seconds East 80.95 feet, (10) South 83 degrees 41 minutes 54 seconds East 52.07 feet, (11) North 89 degrees 41 minutes 43 seconds East 35.83 feet, and (12) South 64 degrees 11 minutes 31 seconds East 138.11 feet to the point of beginning.

Containing 7.498 Acres of land, more or less.

The above mentioned lines were scaled and digitally manufactured from existing 200 foot scale Year 2000 Comprehensive Zoning Map NW17F and do not reflect a field survey.

Note: This description only satisfied the requirements of the Office of Zoning and should not be used for conveyance purposes.

STATE OF MARYLAND
BRUCE EDWIN DOAK
No. 531
REGISTERED
PROPERTY LINE SURVEYOR

3/1/01

C:\My Documents\reclassnancyleearea4.doc

PETITIONER'S EXHIBIT 2

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comments
3-156	County Council	East side of I-795 at Berrymans Ln									
			DR 2	7.8	DR 2	7.8	DR 2	7.8	DR 2	7.8	
			DR 5.5	9.9	DR 5.5	9.9	DR 5.5	9.9	DR 5.5	9.9	
			DR 3.5	51.5	DR 3.5	51.5	DR 3.5	51.5	DR 3.5	51.5	
			Total	69.2	Total	69.2	Total	69.2	Total	69.2	
3-157	County Council	North side of Reisterstown Rd, 1300' west of Greenspring Valley Rd									Overlay Adopted
			DR 3.5	6.1	BM	6.1	DR 3.5	1.2	DR 3.5	1.2	
			Total	6.1	Total	6.1	BM	4.9	BM	4.9	
							Total	6.1	Total	6.1	
3-158	County Council	4 Gwynnbrook Ave, north side Gwynnbrook Ave at Reisterstown Rd									
			DR 16	0.7	BM	2.0	DR 16	0.7	DR 16	0.7	
			DR 3.5	1.3	Total	2.0	DR 3.5	1.3	DR 3.5	1.3	
			Total	2.0			Total	2.0	Total	2.0	
3-159	County Council	13015 Beaver Dam Rd, south side of Beaver Dam Rd, west of I-83									
			RC 4	22.7	RC 5	22.7	RC 4	22.7	RC 4	22.7	
			Total	22.7	Total	22.7	Total	22.7	Total	22.7	
3-160	County Council	North side of Baublitz Rd, east of Greenspring Ave									See Issue 3-108
			RC 5	526.0	RC 4	526.0	RC 5	526.0	RC 5	245.0	
			Total	526.0	Total	526.0	Total	526.0	RC 4	281.0	
									Total	526.0	
3-161	County Council	15225 Tanyard Rd, east side of Tanyard Rd at Pearces Ln									
			RC 2	141.4	RC 2	141.4	RC 2	141.4	RC 2	141.4	
			Total	141.4	Total	141.4	Total	141.4	Total	141.4	
3-162	County Council	403 Falls Rd, south side of Falls Rd, 350' west of Old Barn Rd									
			RC 4	2.1	RC 2	2.1	RC 2	2.1	RC 2	2.1	
			Total	2.1	Total	2.1	Total	2.1	Total	2.1	
3-163	County Council	5425 Mt. Gilead Rd, west side of Mt. Gilead Rd, west of Hanover Pike									
			RC 4	77.0	RC 2	77.0	RC 4	77.0	RC 4	77.0	
			Total	77.0	Total	77.0	Total	77.0	Total	77.0	

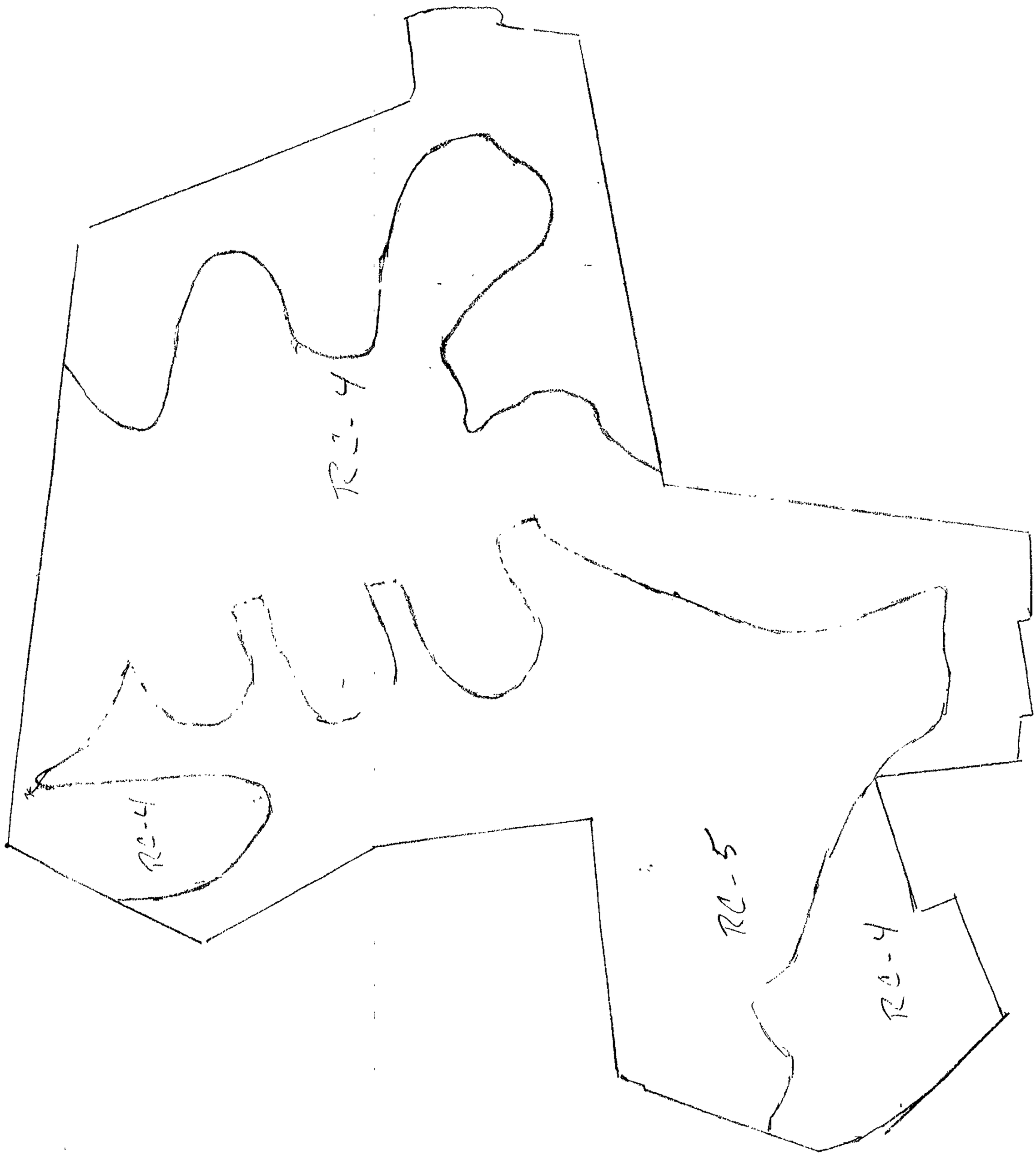
ISSUE 3-160
10/10/00 C.C. Overlay
600 scale Tax Map Base

RC-4 281 ac.
RC-5 245 ac.

T. Bryan Wilstach

PETITIONER'S EXHIBIT 9

ISSUE
10/10/00



Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3211
Fax: (410) 887-5862

January 2, 2001

Mr. Victor Frenkil, Jr., President
Jarvis Steel & Lumber Co., Inc.
1030 Patapsco Avenue
Baltimore, MD 21225

Dear Mr. Frenkil:

Please be advised that the new zoning maps adopted by the Baltimore County Council on October 10, 2000 as part of the 2000 Comprehensive Zoning Map Process (CZMP) impact the property known as Nancy Lee Farms II. The new zoning lines, adopted as part of CZMP Issue 3-160, were based on an overlay prepared by this office under the direction of County Councilman T. Bryan McIntire. This overlay, as adopted by the County Council on October 10, 2000, formed the basis for the new zoning lines on the official zoning map for Baltimore County.

For more information or clarification on this matter, please contact either Bill Hughey or Gary Kerns in the Office of Planning on 410-887-3480.

Sincerely,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK:GK:bjs

c. Hon. T. Bryan McIntire, Councilman Third District
Thomas J. Peddicord, Jr., Legislative Counsel/Secretary
Howard L. Alderman, Jr., Esquire

PETITIONER'S EXHIBIT 10

S:\COMPLAN\GARY\NancyLeeFarms zoning.doc

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Planning Board

401 Bosley Avenue - Ste 406
Towson, Maryland 21204
410-887-3495
Fax: 410-887-5862
E-mail: planning@co.ba.md.us

March 14, 2001

The Hon. S. G. Samuel Moxley
Chairman, Baltimore County Council
County Courthouse
Towson, MD 21204

Re: Certification on Reclassification Petition -
Property on Dover Road (Jarvis Steel & Lumber)

Dear Councilman Moxley:

At a regularly scheduled meeting on March 1, 2001, the Baltimore County Planning Board voted, in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the petition by the Jarvis Steel & Lumber Company for zoning reclassification of the property on Dover Road, north of Baublitz Road, is manifestly required in the public interest.

Enclosed is the report on this matter by the Office of Planning. as accepted by the Planning Board. The Planning staff will be pleased to assist the Council in the consideration of this matter.

Sincerely,

Arnold F. 'Pat' Keller, III
Secretary

AFK:TD:rlh

Enclosure

c: Members, Baltimore County Council
Thomas Peddicord, Legislative Counsel/Secretary
Brian Rowe, County Auditor
John Wasilisin, Administrative Officer
Virginia Barnhart, County Attorney
Lawrence S. Wescott, Chairman, Board of Appeals
Peter M. Zimmerman, People's Counsel
Arnold Jablon, Director, Permits & Development Management
Howard L. Alderman, Jr., Petitioner's Representative

PETITIONER'S EXHIBIT 11

Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862

Date: February 20, 2001

To: Baltimore County Planning Board

From: Arnold F. 'Pat' Keller, III

Re: Exemption from Cyclical Procedure – Jarvis Steel & Lumber Company, Inc. (Dover Road Property, North of Baublitz Road)

The attached letter requests certification by the Planning Board for out-of-cycle action on a zoning petition for reclassification of the subject property.

Section 2-356(i) of the Baltimore County Code authorizes the Planning Board to certify to the County Council that expedited scheduling of a reclassification hearing by the Board of Appeals "is manifestly required in the public interest or because of an emergency." Neither the certification by the Planning Board nor a concurrence by the County Council would constitute an opinion on the merits of the petition; the effect is simply to take the petition out of the normal cycle zoning schedule for an earlier hearing.

The subject request for certification has been reviewed by planning staff and without taking a position on the merits of the case, the Office of Planning recommends to the Planning Board that certification for early action upon this zoning reclassification petition is required.

Sincerely,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK/JL
Attachment

C:\My Documents\jarvis.doc

Printed with Soybean Ink
on Recycled Paper

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
FACSIMILE 410-296-2801

COPY

ELLIS LEVIN (1893-1960)

February 19, 2001

VIA HAND DELIVERY
Mr. Arnold F. "Pat" Keller, Director
Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson, Maryland 21204

Re: Jarvis Steel & Lumber Company, Inc.
Dover Road Property, North of Baublitz Road
Third Councilmanic District
Petition for Zoning Reclassification
Request for Baltimore County Planning Board Consideration and Action

Dear Mr. Keller:

As you may be aware, this office represents Jarvis Steel & Lumber Company, Inc. Our client owns approximately forty acres on the west side of Dover Road, north of Baublitz Road (the "Jarvis Property") and adjoining the previously approved residential subdivision known as Chestnut Woods. The Jarvis Property was zoned RC-5 in its entirety prior to December 21, 2000.

The Jarvis Property was included in Issue No. 3-160 raised by Councilman McIntire during the 2000 *Comprehensive Zoning Map Process*. Prior to the final Council vote on all issues on October 10, 2000, the Councilman asked the Office of Planning to prepare an overlay map which depicted a RC-4 zoning classification three hundred (300) feet in all directions from the centerline of actual and verified streams on properties included in this Issue. The zoning classifications outside of this 300 foot buffer were to remain unchanged, unless affected by some other Issue.

Subsequent to the Council's vote on the 3rd District Issues, a portion of the Jarvis Property was zoned RC-4 with a balance retained in its classification of RC-5. As you may also be aware, subsequent to the Council's vote the Baltimore County Hearing Officer approved a development plan (PDM #IV-557) for the Jarvis Property ("Development Plan"). At the Hearing Officer's hearing, a representative from your Office appeared and testified that the RC-4 zoning lines shown on the Jarvis Property, being 300 feet from the DEPRM verified streams, were the lines that would appear on the official 200 foot scale zoning maps which would become effective on December 21, 2000. That Development Plan was given final approval and was appealed to the County Board of Appeals for Baltimore County.

After the hearing on appeal but before the Board could deliberate in public, I received a call from Mr. Kerns of your staff advising that the new zoning lines on the Jarvis Property would be as shown on the on October 10, 2000 overlay (irrespective of the known errors on said map) and not as testified to by representatives of your Office at the Hearing Officer's Hearing. The base map used by the Office of Planning, from which the overlay for Issue No. 3-160 was prepared, was based on dated information especially in the area of the Jarvis Property. Unfortunately, the Councilman did not pick up the fact that the base map used showed stream resources where none exist and failed to show stream resources where they do exist. Thus, the delineation of the new RC-4 buffer area, as approved by the Council, was incorrect because it does not reflect the Councilman's intention for the protection of streams and stream resources and the Council failed to recognize the mistaken information provided.

Therefore, I filed with the Board a motion for limited remand to the Hearing Officer, pending the outcome of a Petition for Reclassification to be filed. That remand was ordered and the Development Plan was ordered to be returned to the Hearing Officer. At the time of preparation of this letter, the plats to accompany the Petition for Reclassification are being prepared. As soon as those plats have been reproduced, I will be filing the Petition (a copy of which is enclosed for your reference) with the Department of Permits and Development Management.

Pursuant to Section 2-356(i) of the Baltimore County Code, our client desires to obtain an exemption from the cyclical procedures because early action on the zoning reclassification petition is manifestly required in the public interest. There is no doubt that the map adopted by the Council in October, 2000 contained a variety of errors and did not effect the intent of the Councilman for the Third District to reclassify land within 300 feet of verifiable streams to a classification of RC-4. I have been advised that the base map used to prepare the overlay map considered by the Council showed streams where none exist and failed to show a stream that has been field verified by the Department of Environmental Protection and Resource Management. The uncontradicted testimony, at the Hearing Officer's Hearing by a representative of your Officer, regarding the extent of the RC-4/RC-5 zoning lines after the 2000 *Comprehensive Zoning Map Process* led my client to move forward with the development approvals on the Jarvis Property, as a result of which substantial expense has been incurred.

No one is disputing that the current RC-4/RC-5 zone lines on the Jarvis Property are not what the Councilman intended. Clearly, had the Council been aware of the fact that the base map used was erroneous, the result would, undoubtedly, have been different. Everyone agrees, unfortunately, that the only way to correct the error of the County Council is through the reclassification process. In order that my client not be further prejudiced for an error not of its own making, it is imperative that the Request for Reclassification be considered outside of the general time frame. Contractual

commitments on the Jarvis Property, made subsequent to the approval of the Development Plan showing the intended RC-4/RC-5 zoning lines, will be jeopardized without the requested exception from the cyclical procedure.

Therefore, on behalf of my client, I am respectfully requesting that you place this item on the agenda of the Baltimore County Planning Board for consideration by the appropriate committee as soon as possible. If you or any member of your staff, the planning board, the County Council or other County agencies desire any additional information, please do not hesitate to contact me.

I will await your favorable reply on this request.

Very truly yours,

Howard L. Alderman, Jr.

HLA/pal
Enclosure
cc: Jarvis Steel & Lumber Company, Inc.
The Honorable T. Bryan McIntire

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 7

Resolution No. 42-01

Mr. T. Bryan McIntire, Councilman

By the County Council, April 2, 2001

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Jarvis Steel & Lumber Company, Inc., for the property located on Dover Road and situated in the Third Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

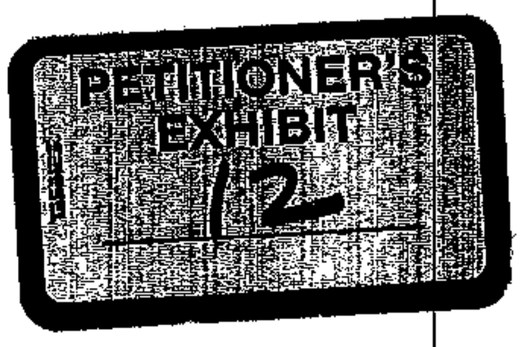
WHEREAS, the Planning Board, by Resolution dated March 1, 2001, has certified that early action on the Petition for Zoning Reclassification filed by Jarvis Steel & Lumber Company, Inc., requesting a reclassification of the above described property is manifestly required in the public interest; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of Section 2-356(i), may approve said certification and exempt the Petition for Zoning Reclassification from the regular procedures of Section 2-356.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the certification by the Planning Board that early action on the zoning reclassification petition filed by Jarvis Steel & Lumber Company, Inc., be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-356(i) of the Baltimore County Code.

r04201.bil



READ AND PASSED this 2nd day of April, 2001.

BY ORDER

Thomas J. Peddicord, Jr.
Secretary

ITEM: Res.42-01

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Lawrence S. Wescott, Chairman
Baltimore County Board of Appeals

DATE: June 15, 2001

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

SUBJECT: Case # R-01-437
Jarvis Steel & Lumber Company, Inc.
Southwest side of Dover Road,
approximately 600 feet north of Baublitz Road

At its regularly scheduled monthly meeting on March 1, 2001, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the Petition for Zoning Reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on April 2, 2001.

Enclosed herewith is a copy of the report of the Office of Planning.

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:JWL:kma

PETITIONER'S EXHIBIT 13

M:\DEVREV\R-01-437JarvisSteel.doc

CASE NO:
R-01-437

PETITIONER:
Jarvis Steel & Lumber Co., Inc.

REQUESTED ACTION:
Reclassification to RC-5 (Resource Conservation, Rural Residential)

EXISTING ZONING:
RC-4 (Resource Conservation, Watershed Protection)

LOCATION:
Southwest side of Dover Road, approximately 600' north of Baublitz Road

AREA OF SITE:
19.21 acres

ZONING OF ADJACENT PROPERTY/USE:

North:	RC 4/RC 5	Rural residential
South:	RC 5	Rural residential
East:	RC 5	Rural residential
West:	RC 4	Undeveloped

SITE DESCRIPTION:
The petitioner's property consists of 19.21 acres of land zoned RC 4. The subject property is currently undeveloped; however, it has recently been in an agricultural use.

WATER AND SEWERAGE:
The site is located within a no planned water and sewer service area, and is designated W-7, S-7 on the Master Water and Sewer Plan.

TRAFFIC AND ROADS:
The site has access to Dover Road, a 2-lane local road. Dover Road is also designated as a scenic route in the Baltimore County Master Plan.

ZONING HISTORY:
The property was the subject of map issue filed as part of the 2000 Comprehensive Zoning Map Process (see Issue No. 3-160). The County Council voted to rezone the property from RC 5 to RC 4.

MASTER PLAN:
The proposed land use map, adopted by the Baltimore County Council on February 22, 2000, indicates the site is designated for single-family detached rural standards development.

PROPOSED vs. EXISTING ZONING:

The RC 4 zoning classification was established to protect the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through undesirable development. The use regulations for the RC 4 zone are found in Section 1A03.3 of the Baltimore County Zoning Regulations. No petitions for reclassification of RC 4 zoned property may be granted unless professional certification is provided to insure that strict environmental criteria can be met.

The use regulations for the RC 5 zone may be found in Section 1A04.2 of the Baltimore County Zoning Regulations. The RC 5 zone was created to provide for orderly residential growth in areas that will not be served by public water and sewer.

OFFICE OF PLANNING RECOMMENDATION:

~~As part of the 2000 Comprehensive Zoning Process, it was understood by the Office of Planning that the Third District Councilman intended to rezone all property located within 300 feet of verified streams to the RC 4 zone classification. The 200 scale base map used to prepare the zone lines covered under Issue No. 3-160 depicted conditions that do not reflect field verified data and conditions, and as a result the final zoning on the 2000 Comprehensive Zoning Map does not, in the opinion of this office, reflect the County Council's intent to only rezone certain property based on strict criteria as part of the zoning process. Therefore, the Office of Planning recommends the subject property be rezoned to the RC 5 zone classification.~~

SOIL SURVEY

Baltimore County Maryland

UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service
In cooperation with
MARYLAND AGRICULTURAL EXPERIMENT STATION

PET #14 10/25/01

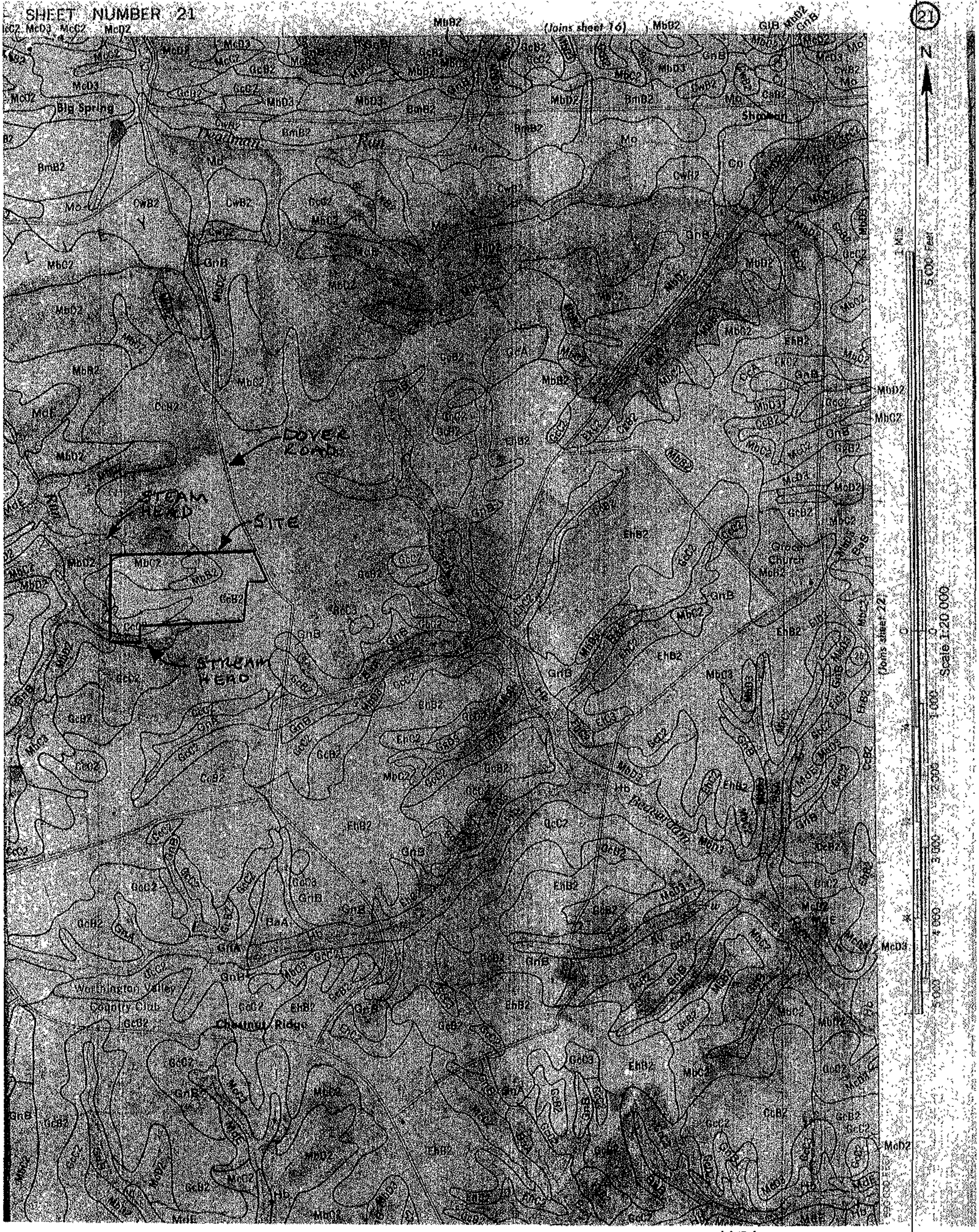

(Joins sheet 16)
(Joins sheet 22)
21
N
Big Spring
Dealman Run
Shipman
DOVER
STEAM HERO
SITE
STREAM HERO
Grace Church
Washington Valley Country Club
Chestnut Ridge
Scale 1:20 000
0
1000
2000
3000
4000
5000 Feet
1954

PHOTO ADDENDUM

Description:

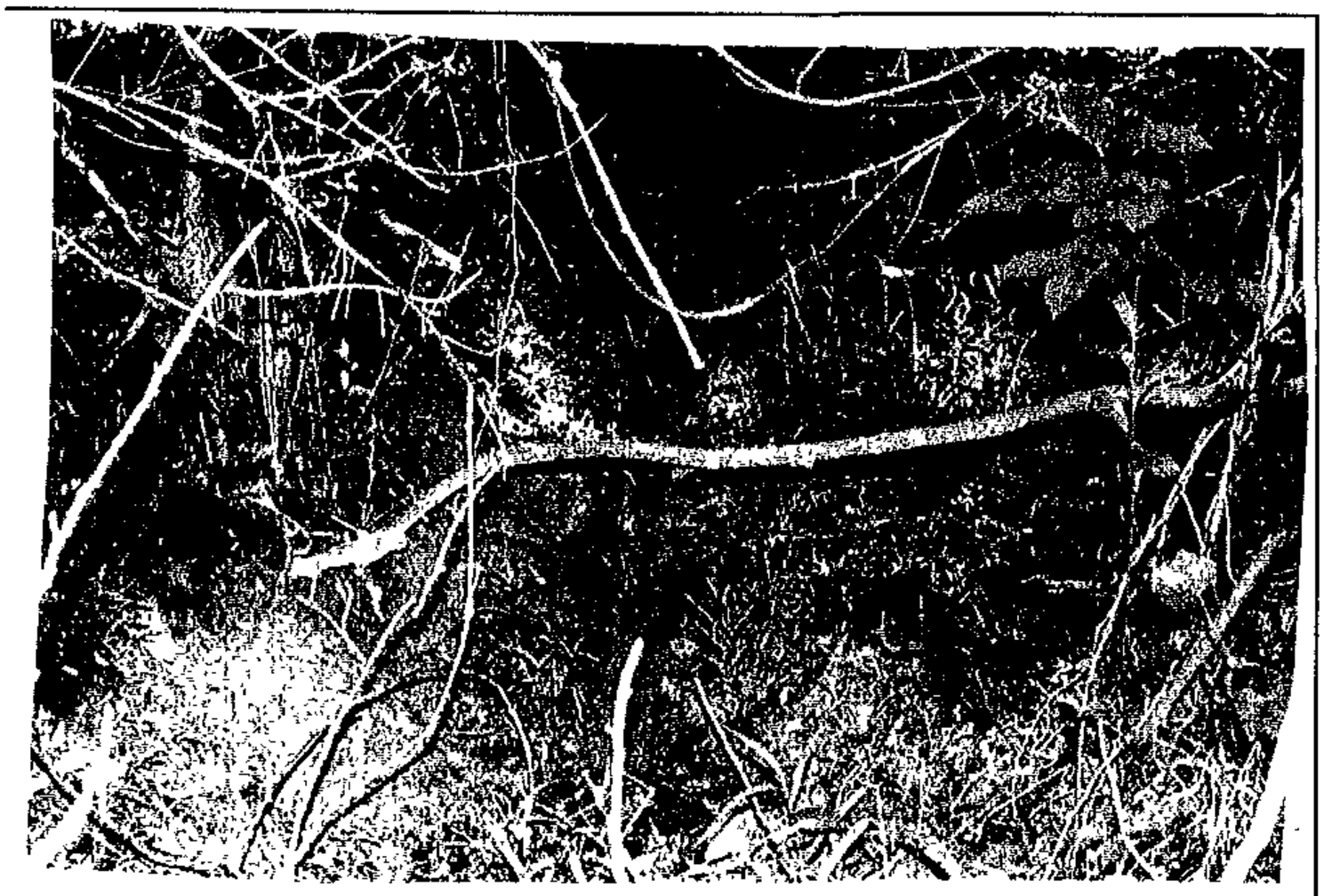
PHOTOGRAPH OF

CHANNEL AND ADJACENT AREA OF

DRAINAGE WAY IN NORTH CENTER

OF PROJECT.

ALONG SWALE 5/01



Description:

PHOTOGRAPH OF

STREAM CHANNEL WHERE STREAM

FLOW BEGINS DOWNSTREAM OF

PROPERTY LINE OF PROJECT.

DISTANCE FROM PROPERTY LINE

FOR PROJECT TO THE CLOSEST

POINT OF ACTUAL STREAM IS

APPROXIMATELY 140 FEET AT LOT

11, AS IDENTIFIED ON THE SITE

PLAN. 5/01

Description:

PHOTOGRAPH OF A

GROUND WATER DISCHARGE AREA

JUST DOWN STREAM OF THE

STREAM HEAD.

5/01

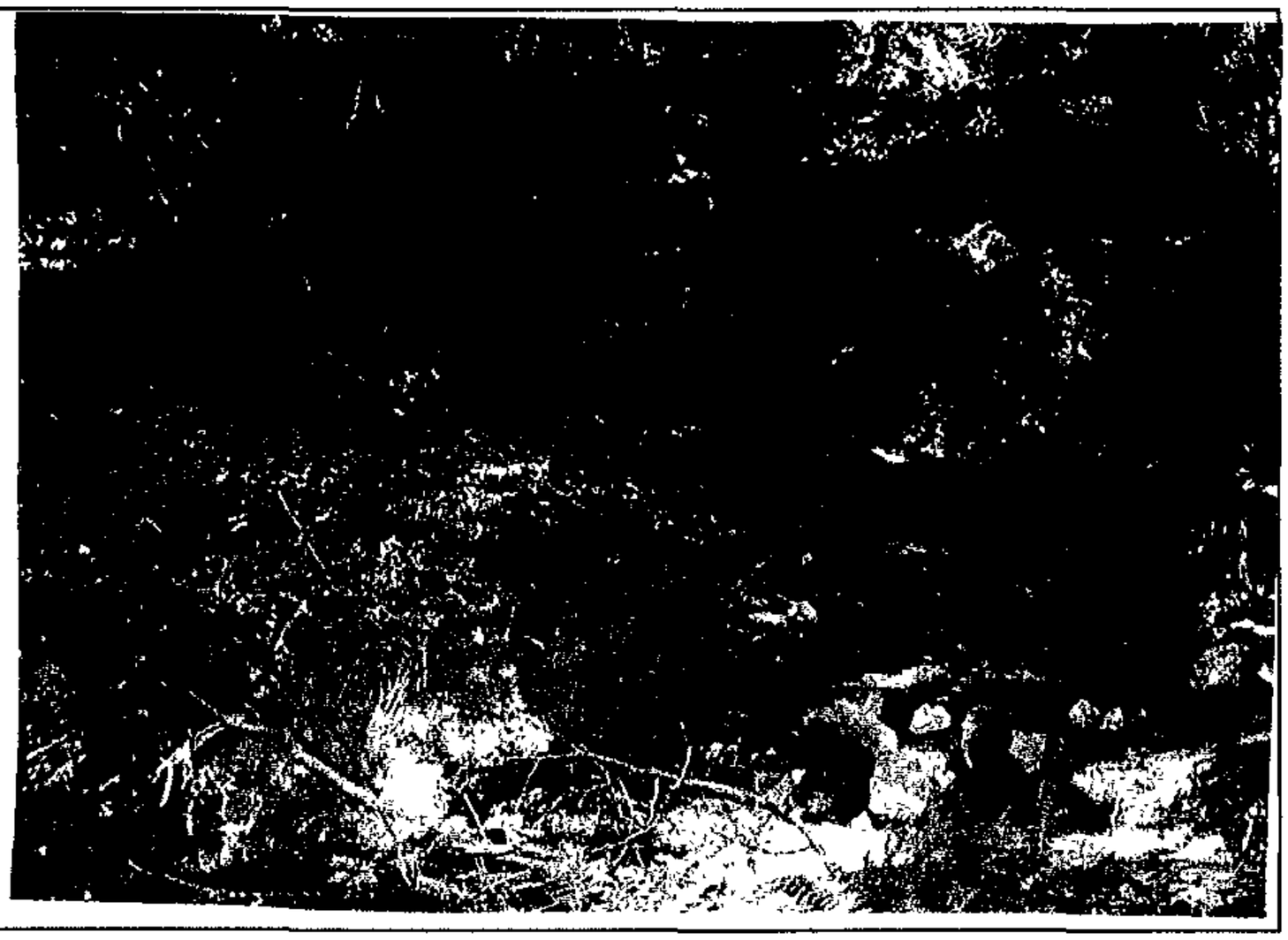
PET #15A 10/25/01

PHOTO ADDENDUM

Description:

PHOTOGRAPH OF WETLAND AREA AT HEAD WATER OF STREAM CHANNEL LOCATED AT SOUTHWEST CORNER OF PROPERTY. SKUNK CABBAGE, A WETLAND PLANT, IS PROMINENT IN CENTER OF PHOTOGRAPH.

5/01



Description:

STREAM CHANNEL AND WATER FLOW IN CHANNEL AT SOUTHWEST CORNER OF PROJECT. (NOTE GRAVEL AND COBBLE STONE IN BED OF CHANNEL).

5/01

Description:

PHOTOGRAPH OF ACTIVE STREAM DOWNGRADE OF WETLAND AREA AT SOUTHWEST CORNER OF PROJECT. (ALSO NOTE GRAVEL AND COBBEL STONE IN BED OF CHANNEL). STREAM FLOW WAS PREVALENT IN THE CHANNEL.

5/01

PET #15B 10/25/01

THE FALLS ROAD COMMUNITY ASSOCIATION, INC.

The undersigned hereby acknowledge and attest that the Board of Directors of The Falls Road Community Association, Inc., a Maryland corporation (the "Corporation"), in accordance with Section 2-408 of the Maryland Corporations and Associations Code, do hereby take the actions below set forth, and to evidence their waiver of any right to dissent from such actions, do hereby consent as follows:

RESOLVED: The Falls Road Community Association, Inc. opposes the Petition of Jarvis Steel & Lumber Company before the Board of Appeals of Baltimore County in case # R-01-437 to reclassify the existing zoning of part of the site of the proposed development of Nancy Lee Farms II, to wit: Map NW 17-F, Tax Map 50, Grid 1, Parcel 5.

RESOLVED: Harold H. Burns, Jr. and John A. Galbreath–who are duly elected members of the Board of Directors of the Falls Road Community Association, Inc.–shall attend the hearing on November 29, 2001 before the Board of Appeals of Baltimore County in case # R-01-437 and testify in opposition to the said Petition to reclassify the existing zoning of part of the site of the proposed development of Nancy Lee Farms II, to wit: Map NW 17-F, Tax Map 50, Grid 1, Parcel 5 because a portion of the headwaters of Waterspout Run arises on said land and the proposed reclassification will permit irreparable damage to Waterspout Run.

AS WITNESS OUR HANDS THIS 19th day of November, 2001.

ATTEST:

Gigi Hampshire

Gigi Hampshire, Secretary

The Falls Road Community Association, Inc.

By: Harold Burns

Harold H. Burns, Jr., President

AFFIDAVIT

I hereby swear upon penalty of perjury that Harold H. Burns, Jr. and John A. Galbreath are currently duly elected members of the Board of Directors of the Falls Road Community Association, Inc.

ATTEST:

Gigi Hampshire

Gigi Hampshire, Secretary

The Falls Road Community Association, Inc.

By: Harold Burns

Harold H. Burns, Jr., President

duplicate

PROT #17A 11/29/01

THE FALLS ROAD COMMUNITY ASSOCIATION, Inc.

The undersigned hereby acknowledge and attest that the Falls Road Community Association, Inc., a Maryland corporation (the "Corporation"), upon a Motion, duly made and seconded at its annual meeting on October 23, 2000, unanimously decided as follows:

RESOLVED: Responsibility for review and action on all zoning matters shall be placed in the board of directors.

AS WITNESS OUR HANDS THIS 19th day of November, 2001.

ATTEST:

Gigi Hampshire

Gigi Hampshire, Secretary

The Falls Road Community Association, Inc.

By: Harold Burns

Harold H. Burns, Jr., President

duplicate

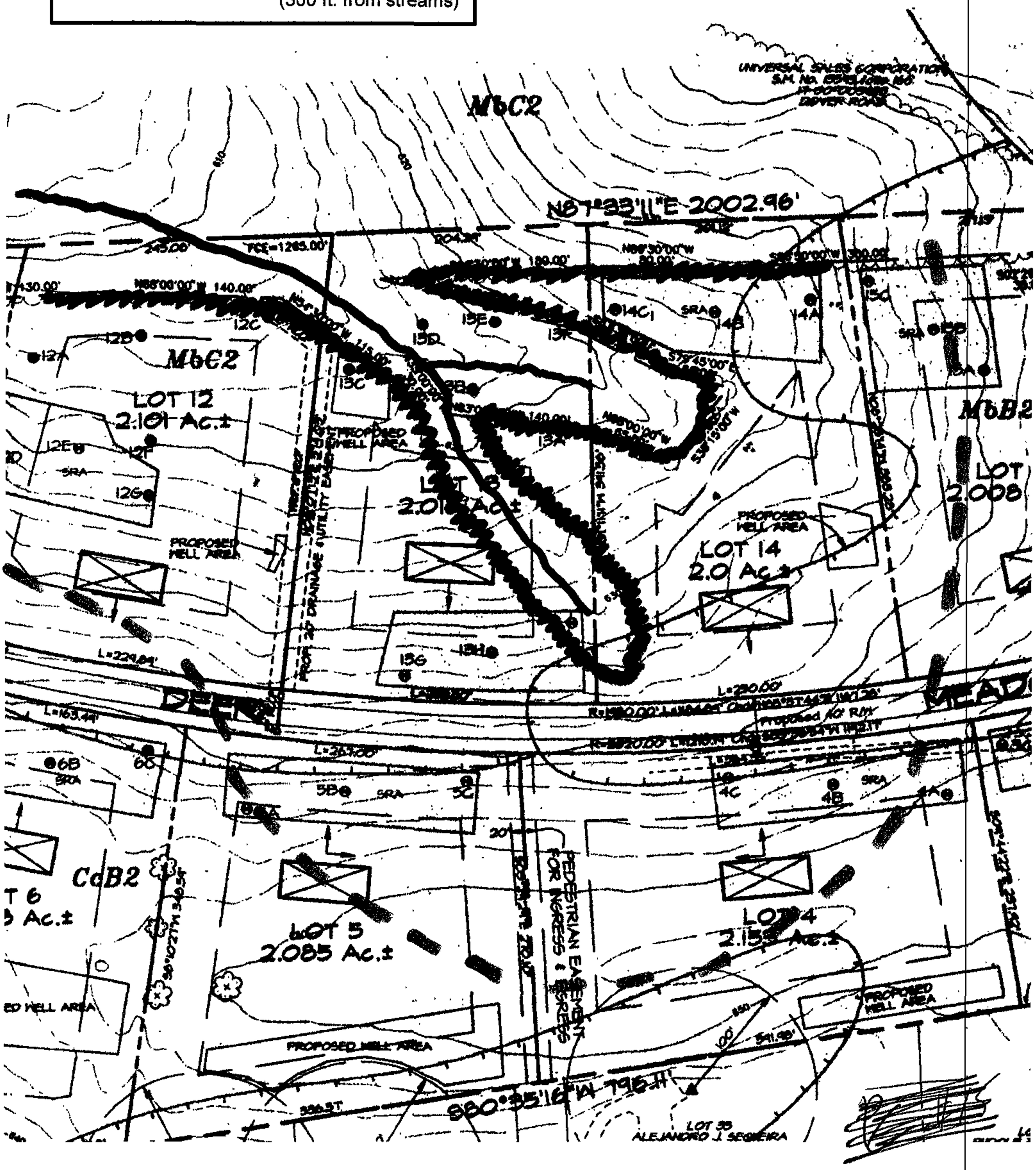
PROT #17B 11/29/01

KEY:

Wooded "fingers"

Streams

RC-4/RC-5 Zone Line
(300 ft. from streams)



DATE: 6/27/01

PC #1
6/27/01

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: JARVIS STEEL & LUMBER

CASE NO.: R-01-437

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
✓	John D. Galbreath, 410-666-7273, Reisterstown, MD 2516 Chestnut Woods Ct. 21136	Resident, Board member, Falls Rd. Community Association.
	CARLOS & DORIS GARCIA 2224B TUFTON RIDGE Rd	RESIDENT, WATER BASIS, INCREASE TRAFIC.
	Russ + Jane Kimmel 2502 Chestnut Woods Ct.	Resident - Falls Rd. Community Assoc.
	Allan Layman 2404 Crestnoll Rd.	Resident - Watershed protection
	Mitchell Keiser 12523 Valley Pines Dr. 21136	Resident Worthington Greens
	MARK NOAR, MD 11 Alterwood LANE 21117	Resident - watershed protection -
	Beth Kallman 7 Alterwood Ln 21117	Resident - Watershed Protection
	Arlynne Brown 560-3151 2523 Bauhlitz Rd 21136	Resident - watershed protection
	CHARLES VANDERPOOL 12526 VALLEY PINES DR. 410-363-8680 21136	RESIDENT - WATERSHED PROTECTION
	Paula Kowalewski 410-667-0044 2614 Chestnut Woods CT 21136	Protection of stream, woods, wildlife ↓ congestion
	Reta Blumberg (Knollcrest Manor) 2403 Crestnoll Rd	Protection of our streams, bay, land, etc.
	STEPHEN ZIMMERMAN 12612 WORTHINGTON RIDGE RD 21136	Resident - Worthington Ridge Rd, WATERSHED PROTECTION
	Marvin Tenberg 12206 Boxer Hill Rd Cockeysville, Md 21030	Falls Road Community Association - Director Protection of stream, Community wants protection
410561-9908 ←	KATHERINE TRUEBLOOD-ASTIN 12700 DOVER ROAD REISTERSTOWN MD 21136	RESIDENT - DOVER RD @ KNOX AVE - watershed, wildlife protection - traffic, groundwater/wells - quality of life
	Steven Nimetz 12923 Dover Rd. Reisterstown MD 21136	Resident - watershed protection
✓	John W. Martin 2706 Tufton Ave Glyndon Md. 21071	Adjoining Landowner watershed protection of Waterspout Run
✓	Timothy F. Roberts 3201 Tufton Ave Glyndon, MD 21071	Watershed protection of Waterspout Run.
(over)	GLENN R. MARTIN 2700 TUFTON AVE. GLYNDON, MD 21071	UNIVERSAL SALES property and watershed protection of WATERSPOUT RUN

6/27/01

People's Counsel's Sign-in Sheet

Case Name: Jarvis Steel + Lumber

Case No: R-01-437

Check if you wish to testify	Name/Address/Phone Number	Community Group you represent/Basis of your Concerns
	JOHN SOPHOCLES ~~2226 TUFTON RIDGE RD~~ 410-771-9468	WATERSHED PROTECTION - OVERDEVELOPMENT - PROTECTION OF WILDLIFE
	RONALD D. RUDICH 12604 WORTHINGTON RIDGE RD 21136 410.356.4441	RESIDENT WATERSHED PROTECTION - CROSSING ONTO CURRENT PROPERTY TO DIVERT FLOW - OVERDEVELOPMENT - PROTECTION OF WILDLIFE
✓	JACK Dillon P.O. Box 5402 Towson, MD 21285 410-337-6877	The Valleys Planning Council.

6/27/01 PC#2

Falls Road Community Association

P.O. Box 555 Brooklandville, Maryland 21022

ESTABLISHED
1947

December 14, 1999

Councilman T. Bryan McIntire
County Council
400 Washington Avenue
Towson, Maryland 21204

Re: 1999-2000 Comprehensive Zoning Map Process

Dear Councilman McIntire:

The Falls Road Community Association has decide unanimously to request that you raise an issue in the 1999-2000 Comprehensive Zoning Map Process before January 18, 2000, to wit:

> within the recognized boundaries of the area of interest of the Association, specifically within the area bounded by Tufton Avenue on the north, Dover Road on the east, Baublitz Road on the south, and Greenspring Avenue on the west, as outlined on the attached map, the zoning of all land within 550 feet of any stream in the watersheds of Waterspout Run and Councilmans Run should be changed from RC 5 either to RC 2--because this land is contiguous with other land zoned RC 2--or to RC 4 if you deem that designation more appropriate, so as to decrease the amount of impervious surface that can be added to the watershed and preserve forest cover and natural vegetation, and thus minimize stream degradation so as to protect the water supplies of metropolitan Baltimore and neighboring jurisdictions.

Additionally, it would be very much appreciated if you would meet with me and a few members of the Association's Board as soon as possible to discuss this request.

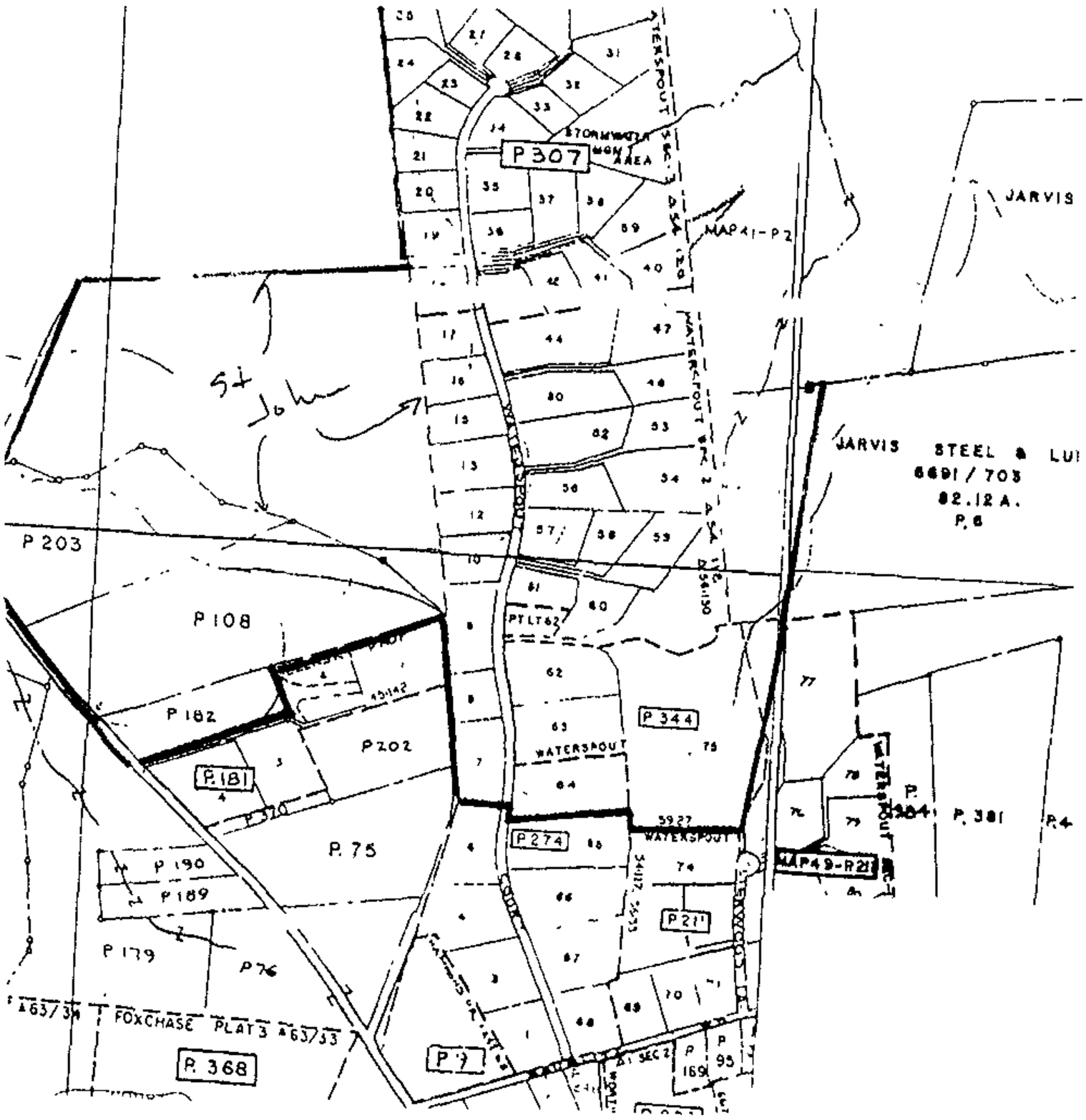
Thank you for your attention in this matter.

Very truly yours,

John F. Meredith

John F. Meredith, President

cc: William Hughey, 3rd District Planner
Robert D. Sellers, Esquire


P 307
WATERSPOUT
JARVIS
JARVIS STEEL & LUI
6691 / 703
82.12 A.
P. 6
P 203
P 108
P 182
P 202
P. 181
P. 75
P 190
P 189
P 179
P 76
FOXCHASE PLAT 3
P. 368
P 344
P 274
P 211
P. 381
P. 95
P 169

2000 COMPREHENSIVE ZONING MAP PROCESS APPLICATION

This form and the required materials must be presented in person

Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson Maryland 21204
410-887-3480
www.co.ba.md.us

OFFICE USE ONLY

Issue No. 3-160
Council District 3rd
Planner Hughey

Received on 1/18/2008
Fee (non-refundable) _____
Receipt No. _____

APPLICANT INFORMATION

1. Name: County Council
2. Organization (if applicable)
3. Mailing Address
4. City, State, Zip Code
5. Home Phone
5a. Business Phone
6. Attorney or Representative
Firm Name (if applicable)
Address
City, State, Zip Code
Business Phone

PROPERTY INFORMATION

7. Property Owner's Name: See attached
8. Property Street Address
9. Total Acreage of Property: 526 ac.±
10. Distance to nearest street/intersection (give name): N/S Baublitz Rd. East of Greenspring Ave
11. Property Tax Number (12 Digits): See
12. Tax Map Number / Parcel Number: Map 40, 41 50
Property Tax Number
Tax Map Number / Parcel Number: Parcels - See attached
Property Tax Number
Tax Map Number / Parcel Number

RECLASSIFICATION INFORMATION

13. Acreage of land requested for rezoning: 526 ac±
14. 1000' scale zoning map no.: 2D
200' scale zoning map no.: NW 16, 17 F+G
15. Existing zoning (acres per zone): 526 ac RC-5
16. Requested zoning (acres per zone): 526 ac. RC-4
17. Existing use of parcel: residential
18. Proposed use of parcel: residential
19. Zoning history (issue/case no., year, type)

THE INFORMATION SHOWN ON THIS FORM IS ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE

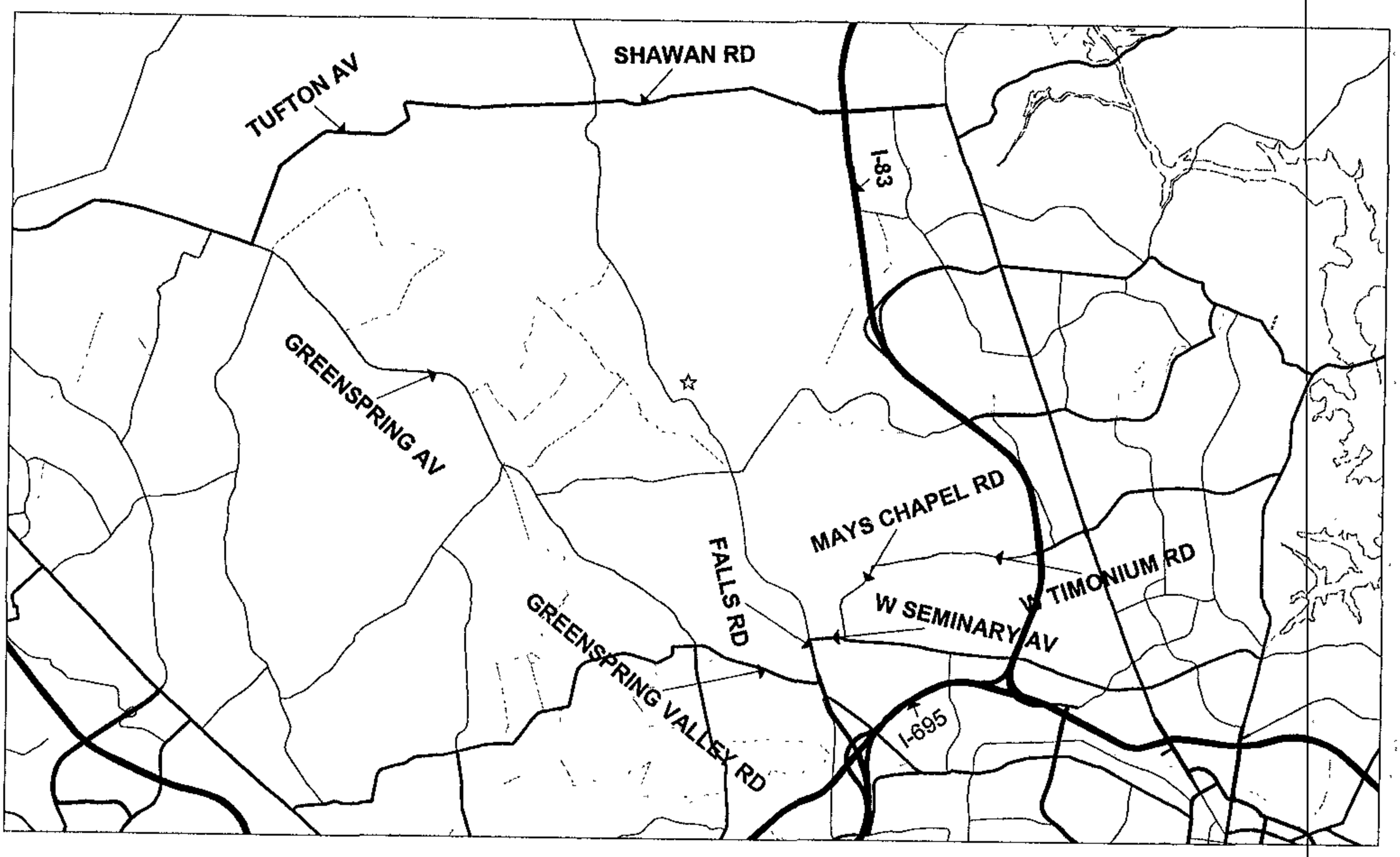
(SIGNATURE) _____ Date _____

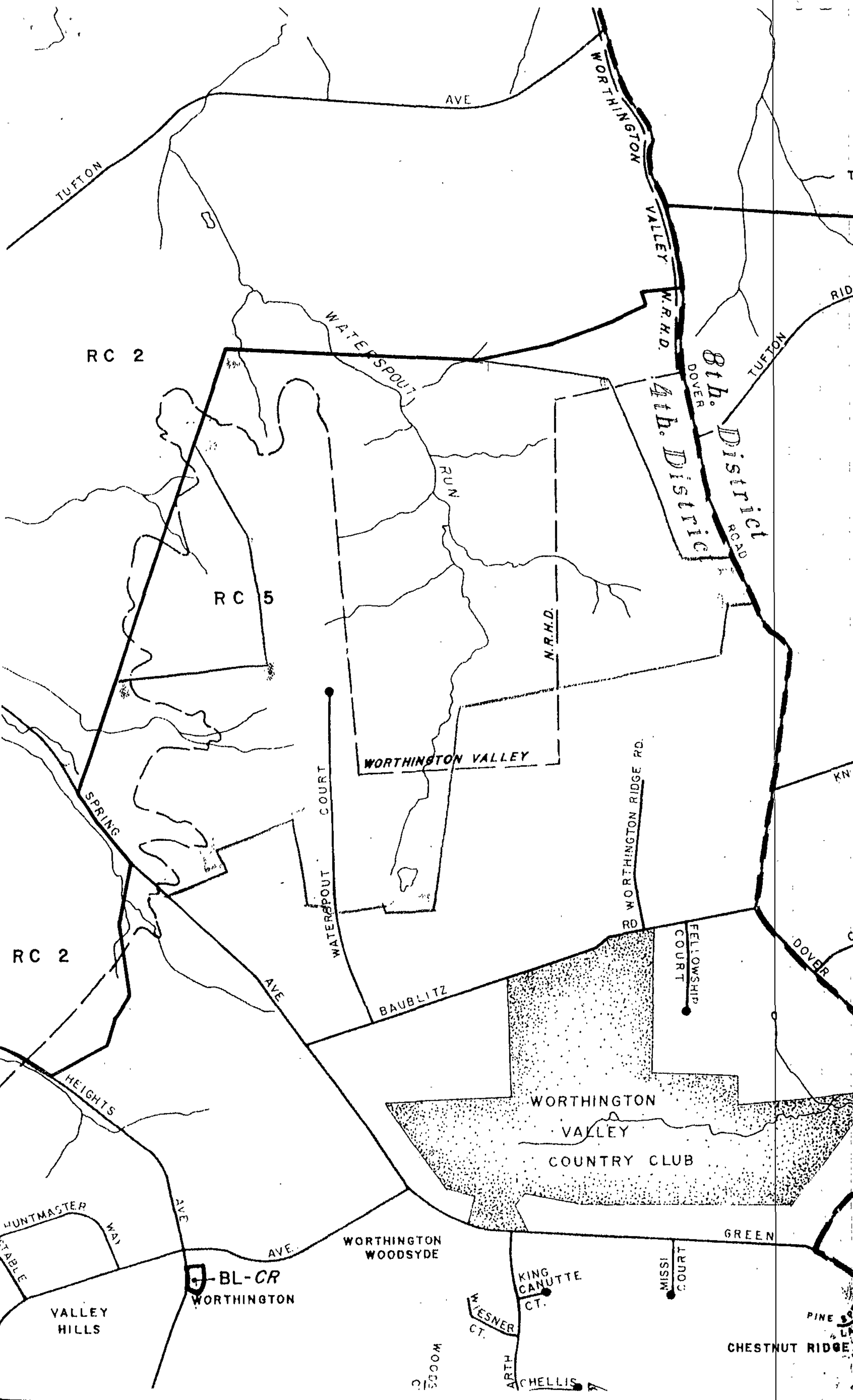
OWNER ACKNOWLEDGEMENT: Are you the owner of the property? No____ Yes____ If you are the owner, review and sign below.

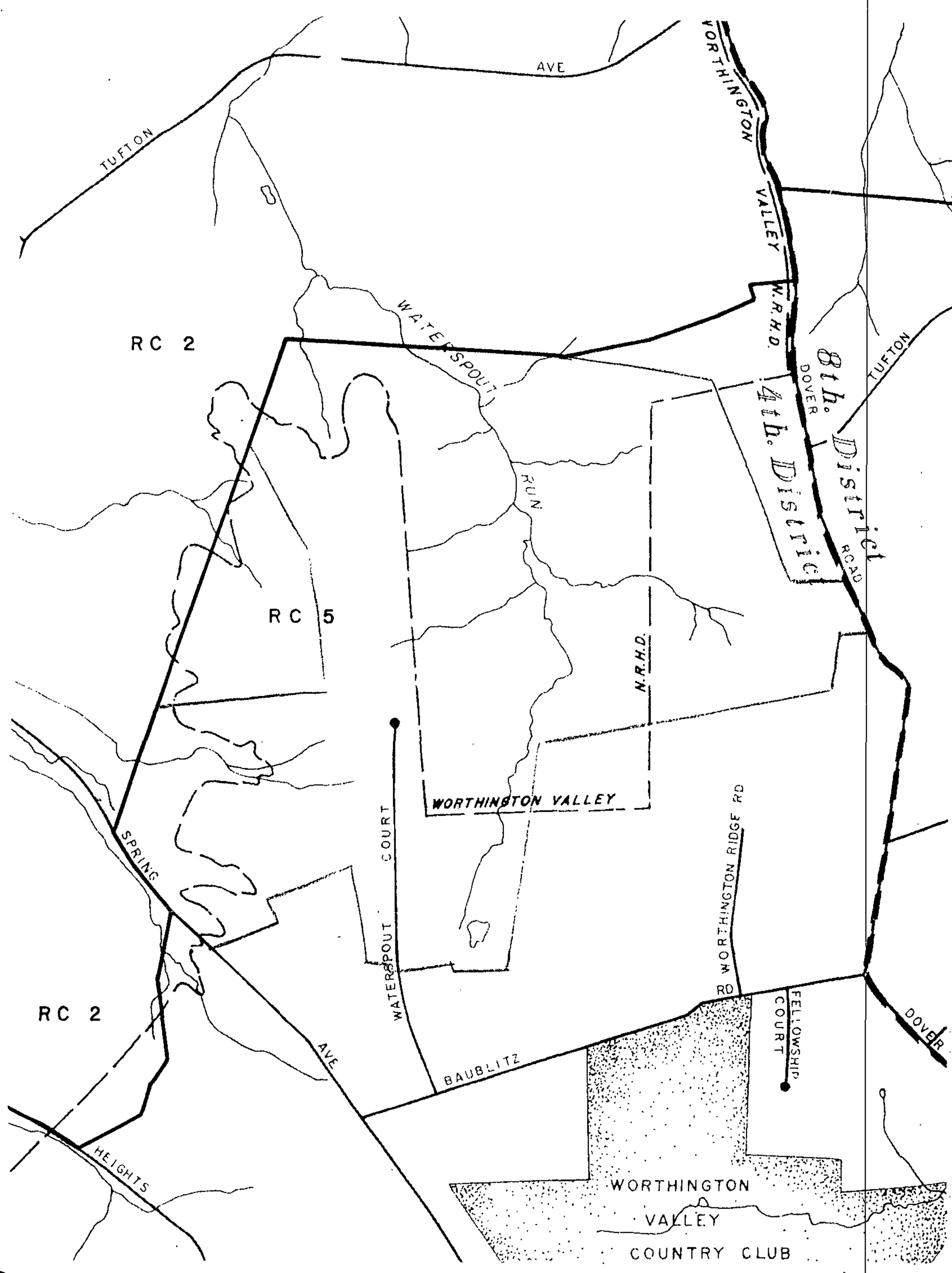
1. I hereby grant permission to Baltimore County for any required inspections of my property in regard to this subject-zoning request.
2. I hereby acknowledge that if any rezoning occurs, a change in the property tax assessment and /or transfer taxes may result for which the property owner would be responsible. Further, I understand that if this zoning request is granted, it does not guarantee the issuance of plan approval or building permit. At the time of development processing, all county, state, and federal requirements in effect at that time must be satisfied.
3. I hereby acknowledge that the County Council may apply any zoning classification on the subject property upon adoption of the comprehensive zoning maps.

Owner's Name (Please Print) _____ Signature _____ Date _____

Bryan issue -
Additional acreage
requested by Falls Rd




TUFTON
AVE
WORTHINGTON
VALLEY
N.R.H.D.
8th. DOVER
4th. District
District ROAD
TUFTON
RID
RC 2
WATERSPOUT
RUN
RC 5
N.R.H.D.
WORTHINGTON VALLEY
SPRING
COURT
WATERSPOUT
WORTHINGTON RIDGE RD.
KN
RC 2
AVE
BAUBLITZ
RD
FELLOWSHIP COURT
DOVER
HEIGHTS
WORTHINGTON
VALLEY
COUNTRY CLUB
HUNTMASTER
WAY
STABLE
AVE
AVE.
WORTHINGTON WOODSYDE
GREEN
BL-CR
WORTHINGTON
KING CANUTTE CT.
MISSI COURT
VALLEY HILLS
WIESNER CT.
PINE
CHESTNUT RIDGE
WOOD
ARTH
CHELLIS


TUFTON
AVE
WORTHINGTON
VALLEY
W.R.H.D.
8th. DOVER
4th. District
TUFTON
RC 2
WATERSPOUT
RUN
RC 5
N.R.H.D.
WORTHINGTON VALLEY
COURT
WATERSPOUT
WORTHINGTON RIDGE RD
SPRING
RC 2
AVE
BAUBLITZ
RD
FELLOWSHIP
COURT
DOVER
HEIGHTS
WORTHINGTON
VALLEY
COUNTRY CLUB

Falls Road Community Association
P.O. Box 555 Brooklandville, Maryland 21022

ESTABLISHED
1947

December 10, 1999

Councilman T. Bryan McIntire
County Council
400 Washington Avenue
Towson, Maryland 21204

Re: 1999-2000 Comprehensive Zoning Map Process

Dear Councilman McIntire:

The Falls Road Community Association has decide unanimously to request that you raise an issue in the 1999-2000 Comprehensive Zoning Map Process before January 18, 2000, to wit:

> within the recognized boundaries of the area of interest of the Association, specifically within the area bounded by Tufton Avenue on the north, Dover Road on the east, Baublitz Road on the south, and Greenspring Avenue on the west, as outlined on the attached map, the zoning of all land within 500 feet of any stream in the watersheds of Waterspout Run and Councilmans Run should be changed from RC 5 to RC 4 so as to decrease the amount of impervious surface that can be added to the watershed and preserve forest cover and natural vegetation, and thus minimize stream degradation so as to protect the water supplies of metropolitan Baltimore and neighboring jurisdictions.

Additionally, it would be very much appreciated if you would meet with me and a few members of the Association's Board as soon as possible to discuss this request.

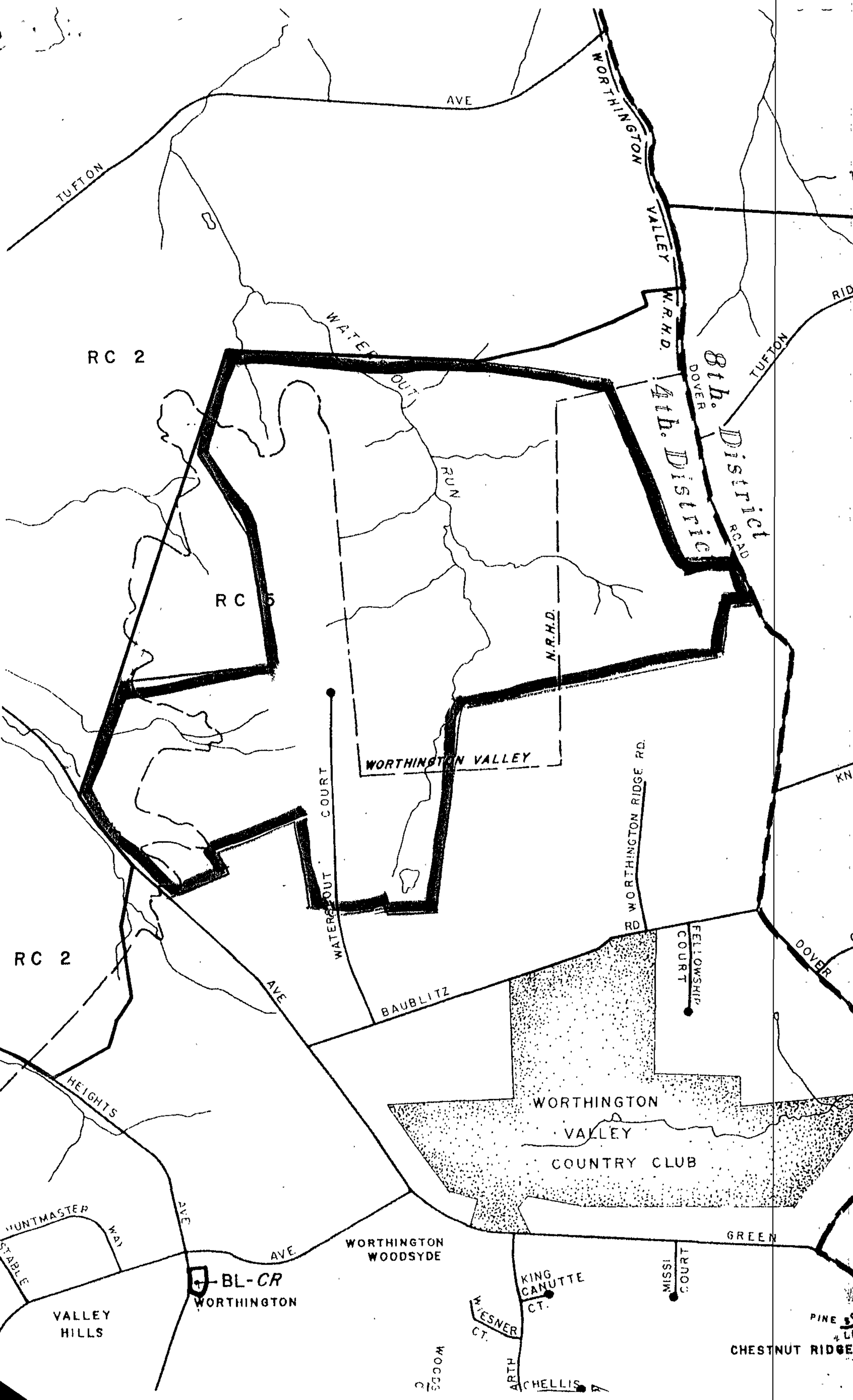
Thank you for your attention in this matter.

Very truly yours,

John F. Meredith, President

Bryan - they would like to meet w/ you for ab/15 min to discuss this - they know you won't be going unpaid
Tues 9:30 Tues 12/21
OK?
667-4183

Let's discuss!
UPC?


TUFTON
AVE
WORTHINGTON
VALLEY
N.R.H.D.
8th. DOVER
4th. District
District
ROAD
TUFTON
RID
RC 2
WATER OUT
RUN
RC 5
N.R.H.D.
WORTHINGTON VALLEY
COURT
WATER OUT
WORTHINGTON RIDGE RD.
KN
RD
FELLOWSHIP COURT
DOVER
RC 2
AVE
BAUBLITZ
HEIGHTS
WORTHINGTON
VALLEY
COUNTRY CLUB
HUNTMASTER
WAY
STABLE
AVE
AVE
WORTHINGTON
WOODSYDE
GREEN
BL-CR
WORTHINGTON
KING CANUTTE
CT.
MISSI COURT
WIESNER
CT.
VALLEY
HILLS
PINE
CHESTNUT RIDGE
WOODS
ARTH
CHELLIS

6/27/01 PC #3

COMPREHENSIVE ZONING MAP PROCESS

EVERY FOUR YEARS, AS REQUIRED BY THE BALTIMORE COUNTY CODE, THE COUNTY COUNCIL REVIEWS AND REVISES THE COUNTY'S COMPREHENSIVE ZONING MAPS

FILING PERIODS **August 2, 1999 through January 18, 2000**

Baltimore County law provides that, during the OPEN FILING PERIOD [August 2, to November 1], any person, association, corporation, County agency or other entity may, upon payment of the specified fee, file a petition for zoning reclassification on any property in the County. Certain information must be filed with the petition, all of which becomes a matter of public record identified by an Issue Number. From November 1 through November 30 additional Issues can be raised, but only by the members of the Baltimore County Planning Board. From December 1, 1999 through January 18, 2000, Issues may be raised only by the members of the County Council.

LOG OF ISSUES --
PRELIMINARY RECOMMENDATIONS **January 18 through March 31, 2000**

Each of the Issues raised during the filing periods is analyzed by County staff. Summary data about each Issue, along with the *preliminary* staff recommendations, are published in the "Log of Issues." The Log and accompanying maps comprise a report by the County Planning Board for the purpose of public hearings in April. Also during this period, notice is mailed to the owners of those properties which are listed in the log but which were not filed by the owner or the owner's agent.

PLANNING BOARD PUBLIC HEARINGS **April 3 through April 28, 2000**

The Baltimore County Planning Board schedules a public hearing in each Councilmanic District during the month of April. Testimony is limited to those Issues within the district for which the hearing is held.

PLANNING BOARD REVIEW AND RECOMMENDATIONS **May 1 through June 30, 2000**

At a series of work sessions, open to the public, the Planning Board reviews and discusses the various Issues. A recommendation on each Issue must be formally adopted by the Planning Board before June 30.

TRANSMITTAL PERIOD

July, 2000

The Planning Board's recommendations on each Issue must be transmitted to the County Council within 20 days after the Board's vote. A revised edition of the Log of Issues is published to serve as the basis for the Council's public hearings in September.

COUNTY COUNCIL REVIEW

August, 2000

The County Council has sole authority to determine the final zoning on each property. The Council may accept, reject, or modify the recommendations of the Planning Board. These options include retaining the existing zoning or applying to a property any zone or combination of zones.

COUNTY COUNCIL PUBLIC HEARINGS

September, 2000

The County Council schedules a public hearing in each Councilmanic District during the month of September. Testimony is limited to those Issues within the district for which the hearing is held.

COUNTY COUNCIL DECISIONS

October, 2000

The County Council vote on each Issue must occur before October 16, 2000. As adopted by legislative action of the County Council, the revised Comprehensive Zoning Map takes effect 45 days after being signed into law by the County Executive.

FINAL LOG AND MAPS

November, 2000

After the Council's vote, the Office of Planning prepares the final official amended Zoning maps and publishes the final edition of the Log of Issues containing all of the decisions of the County Council.

* * * * * * * * * *

For additional information, please contact the Baltimore County Office of Planning, County Courts Building, Room 406, Towson, Maryland 21204

410-887-3480
website:www.co.ba.md.us.

PC #4

6/27/01

Baltimore County
2000 Comprehensive Zoning Map Process

Task	Aug-99	Sep-99	Oct-99	Nov-99	Dec-99	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	Jul-00	Aug-00	Sep-00	Oct-00	Nov-00
Open Filing Period (8/2/99-11/1/99)				Log 1 11/22												
Planning Board Filing Period (11/1/99-11/30/99)					Log 2 12/20											
County Council Filing Period (12/1/99-1/18/00)							Log 3 2/1									
Planning Board Public Hearings (4/1/00-4/30/00)								Log 4 3/6								
Planning Board Review And Recommendations (5/1/00-6/30/00)												Log 5 7/17				
Transmittal Period (7/1/00-7/31/00)																
County Council Public Hearings (9/1/00-9/30/00)																
County Council Adoption of Maps (Before 10/16/00)																Log 6 11/20

Baltimore County
Office of Planning

S admin\al\czmp\czmptimeline doc

02/04/99

Issue Address Report 3-160

Site Road Name

Account #	House #	Owner's Name	Owner's Address	Description	Site Address	Subdivision	Plat	Section	Map	Block	Grid	Lot	Parcel	Occupancy
04041700003919	1900 W	MARTIN J W Y JR		21071 88 AC SS TUFTON A	0		0000	TUFTO	A			0040	0024	N
04040419085250	2500 E	SUCHTING WILLIAM H JR	SUCHTING MARGARET R S 12727 GREENSPRING AV	21117 IMPS14.81 AC NES NES GREENSPRING	12		0000	GREE	A			0049	0011	D
04040402047690	2780 W	MARTIN GLENN R REYNOLDS J MARTIN J W Y	JR 2700 TUFTON AV	21071 IMPS256.839 AC SS TUFTON AV	0		0000	TUFTO	A			0040	0024	N
04041700003920	4700 S	ENSOR CLARK JR	206 RICHARD DR	21620 10 AC WS DOVER R	13		0000	DOVE	R			0050	0001	N
04042000014339	WATE	BLUM KENNETH L JR	12639 WATERSPOUT CT	21117 IMPS2.72 AC 12639 WATERSPOUT	12		0000	WATE	C	44		0049	0012	H
04042100007999	10	BUERGER CHARLES A BUERGER RONNIE L	2800 BAUBLITZ RD	IMPS11.4690 AC WATERSPOUT	0000	ALTERWOOD		LA				0049	0012 75	0344 N
04042000008650	11	SUSSMAN DANIEL LAWRENCE	11 ALTERWOOD LN	IMPS5.97 AC 11 ALTERWOOD LA WATERSPOUT	0000	ALTERWOOD		LA 1				0049	0012 77	0211 H
04040406058333	0	JARVIS STEEL & LUMBER CO IN	1030 E PATAPSCO AV	39.844 AC WS DOVER RD NEAR MANTUA MILL	0000	DOVER		RD				0050	0001	0005 N
04041700003923	0	UNIVERSAL SALES CORPORATI	PO BOX 40 11453 ROCKVILLE RD	128.054 AC WS DOVER RD 3600 S TUFTON AV	0000	DOVER		RD				0041	0019	0004 N

6/27/01 PC #5

Site Road Name *DOVER*

Account #	*House #*	*Owner's Name*	*Owner's Address*	*Description*	*Site Address*			*Map*	*Grid*	*Parcel*
					Subdivision	*Plat*	*Section*	*Block*	*Lot*	*Occupancy*
04040406058332	0	JARVIS STEEL & LUMBER CO IN	1030 E PATAPSCO AV	1.064 AC WSR DOVER RD DOVER ROAD	DOVER	0000	RD	0050	0001	0006 N
04040423002170	12651	WALLENSTEIN ARNOLD B WALLENSTEIN BARBARA J	12651 GREENSPRING AV	IMPS4 AC NES GREE 2000 NW BAUBLITZ	GREENSPRING	0000	AVE	0049	0012	0182 H
04040408056150	12657	HIGBEE RICHARD C HIGBEE WANDA W	12657 GREENSPRING AV	IMPS17.94 AC PAR E GREENSPRING AV GARRISON FORRES	GREENSPRING	0000	AVE	0049	0012	0108 D
04041700003922	0	MARTIN PETER Y	TWO HOPKINS PLAZA P O BX 2257	68.998 AC SS TUFTO SW COR DOVER RD	TUFTON	0000	AVE	0041	0019	0002 N
04041700003921	0	CORRIGAN CAROL M	C/O BROWN ADVISORY & P O BOX 515	76.079 AC SS TUFTO 900 W DOVER RD	TUFTON	0000	AVE	0041	0019	0129 N
04042100008013	0	MALIS IRA H MALIS MICHELLE C	9 LANGLEY PARK	PT LT 6 1.179 AC WATERSPOUT	WATERSPOUT	0000	CT	0049	0012 6	0274 N
04042000014359	0	BALTIMORE COUNTY MARYLAN	04--RW-89-086	S W M 3.31 AC WATERSPOUT	WATERSPOUT	0000	CT	0049	0012	0274 N
04042000014330	12608	TOTH JAY C TOTH KATHLEEN E	12608 WATERSPOUT CT	IMPS2.07 AC WATERSPOUT	WATERSPOUT	0000	CT	0049	0012 7	0274 H
04042000014354	12609	MROZ CHESTER J MROZ LINA A	12609 WATERSPOUT CT	IMPS2.29 AC WATERSPOUT	WATERSPOUT	0000	CT	0049	0012 64	0274 H
04042000014331	12610	KIM CHONG GILL KIM SUN JEONG	12610 WATERSPOUT CT	IMPS1.22 AC WATERSPOUT	WATERSPOUT	0000	CT	0049	0012 8	0274 H

Site Road Name *WATERSPOUT*

Account #	*House #*	*Owner's Name*	*Owner's Address*	*Description*	*Site Address*	*Subdivision*	*Plat*	*Map*	*Grid*	*Section*	*Block*	*Lot*	*Parcel*	*Occupancy*
04042100007998	12611	PIKOUNIS EMMANUEL	12611 WATERSPOUT CT	IMPS2.430 AC		WATERSPOUT		CT		0049	0012	0344		
		PIKOUNIS HELEN			0000						63	H		
				WATERSPOUT										
04042000014332	12612	YUROW SCOTT	12612 WATERSPOUT CT	IMPS1.88 AC		WATERSPOUT		CT		0049	0012	0274		
		YUROW SUSAN			0000						9	H		
				WATERSPOUT										
04042100007997	12613	SNYDER SAMUEL A	12613 WATERSPOUT CT	IMPS2.915 AC		WATERSPOUT		CT		0049	0012	0344		
		SNYDER MARY JANE			0000						62	H		
				WATERSPOUT										
04042000014333	12614	YUROW SCOTT	12612 WATERSPOUT CT	1.49 AC		WATERSPOUT		CT		0049	0012	0274		
		YUROW SUSAN			0000						10	N		
				WATERSPOUT										
04042000014351	12615	ERIKSON CARLTON B	12615 WATERSPOUT CT	IMPS1.16 AC		WATERSPOUT		CT		0049	0012	0274		
				12615 WATERSPOUT	0000						61	H		
				WATERSPOUT										
04042000014334	12616	WHIGHAN CAROLYN M	15 SPEIR DR	IMPS1.60 AC		WATERSPOUT		CT		0049	0012	0274		
		FORT TERRY S			0000			2			12	N		
				WATERSPOUT										
04042000014350	12617	WON JONG HO	12617 WATERSPOUT CT	IMPS1.96 AC		WATERSPOUT		CT		0049	0012	0274		
		WON HYO SUNG			0000						60	H		
				WATERSPOUT										
04042000014335	12618	WHIGHAN CAROLYN M	15 SPEIR DR	IMPS		WATERSPOUT		CT		0049	0012	0274		
		FORT TERRY S		12618 WATERSPOUT	0000			2			13	H		
				WATERSPOUT										
04042000014349	12619	SELLMAN DAVID S	12619 WATERSPOUT CT	IMPS1.81 AC		WATERSPOUT		CT		0049	0012	0274		
		SELLMAN NANCY		12619 WATERSPOUT	0000						59	H		
				WATERSPOUT										
04042000014336	12620	LEE NEAL YOUNG	12620 WATERSPOUT CT	IMPS1.70 AC		WATERSPOUT		CT		0049	0012	0274		
		LEE HWASOON			0000						15	H		
				WATERSPOUT										

Site Road Name *WATERSPOUT*

Account #	House #	Owner's Name	Owner's Address	Description	Site Address	Subdivision	Plat	Section	Map Block	Grid Lot	Parcel Occupancy
04042000014348	12621	STRUMAR ANITA M	12621 WATERSPOUT CT	IMPS1.20 AC		WATERSPOUT		CT	0049	0012	0274
				12621 WATERSPOUT 0000						58	H
				WATERSPOUT							
04042000014337	12622	KELLY THOMAS C	12622 WATERSPOUT CT	IMPS1.22 AC		WATERSPOUT		CT	0049	0012	0274
		KELLY YVONNE MARIE		0000						16	H
				WATERSPOUT							
04042000014347	12623	GECKLE TIMOTHY J	12623 WATERSPOUT CT	IMPS1.17 AC		WATERSPOUT		CT	0049	0012	0274
		GECKLE BERNADETTE R		12623 WATERSPOUT 0000						57	H
				WATERSPOUT							
04042000014338	12624	LEVITSKY HYAM I	12624 WATERSPOUT CT	IMPS1.16 AC		WATERSPOUT		CT	0049	0012	0274
		ZUCKERMAN RHONDA L		0000				2		17	H
				WATERSPOUT							
04042000014346	12625	SCHWARTZ MICHAEL K	12625 WATERSPOUT CT	IMPS1.60 AC		WATERSPOUT		CT	0049	0012	0274
		SCHWARTZ ELISA H		0000						56	H
				WATERSPOUT							
04042000014345	12627	LEVIN EMANUEL M	12627 WATERSPOUT CT	IMPS2.30 AC		WATERSPOUT		CT	0049	0012	0274
		LEVIN SHARON R		0000						54	H
				WATERSPOUT							
04042000014344	12629	BENSKY HOWARD	1015 LESLIE AVE	IMPS2.03 AC		WATERSPOUT		CT	0049	0012	0274
				12629 WATERSPOUT 0000						53	N
				WATERSPOUT							
04042000014343	12631	KLOTZ PHILIP T	12631 WATERSPOUT CT	IMPS2.14 AC		WATERSPOUT		CT	0049	0012	0274
		KLOTZ ARLENE J		12631 WATERSPOUT 0000						52	H
				WATERSPOUT							
04042000014342	12633	MADOW DAVID M	12633 WATERSPOUT CT	IMPS2.01 AC		WATERSPOUT		CT	0049	0012	0274
		MADOW CAROL F		12633 WATERSPOUT 0000						50	H
				WATERSPOUT							
04042000014341	12635	SHAPIRO RONALD	12635 WATERSPOUT CT	IMPS1.88 AC		WATERSPOUT		CT	0049	0012	0274
		SHAPIRO BEATRICE		0000						48	H
				WATERSPOUT							

Site Road Name *WATERSPOUT*

Account #	*House #*	*Owner's Name*	*Owner's Address*	*Description*	*Site Address*	*Map*	*Grid*	*Parcel*
					Subdivision Plat Section	*Block*	*Lot*	*Occupancy*
04042000014340	12637	LEVENTHAL EDWARD K	12637 WATERSPOUT CT	IMPS2.25 AC	WATERSPOUT CT	0049	0012	0274
		BAKER MARY-THERESA L		12637 WATERSPOUT 0000			47	H
				WATERSPOUT				
04042000008710	12720	ROLLING RIDGE RANCHO LLC	C/O EDWARD ST.JOHN	IMPS2.09 AC	WATERSPOUT CT	0049	0006	0307
			5720 EXECUTIVE DR	0000	3		29	N
				WATERSPOUT				

PC#6

6/27/01

BALTIMORE COUNTY
COMPREHENSIVE ZONING MAP

Final Log of Issues

Adopted October 10, 2000

2000 CZMP Map Issues: District 3

Councilmanic District
Secondary Roads
Major Roads
Map Issues

N
W E
S

BALTIMORE COUNTY MARYLAND

3

6

83

795

BALTIMORE CITY

Councilmanic Districts

3
6
4
2
5
1
7

1 inch = 3 miles

3 0 3 6 Miles

1:190080

Prepared by, Baltimore County Office of Planning
OIT/GIS Services Unit, January 2000

Sources. Roads and Councilmanic Districts-Baltimore Metropolitan Council 1999 1 24000
CZMP Issues-Baltimore County Office of Planning, Digitized from 1996 Tax Maps 1 7200
Issues as of January 18, 2000

Baltimore County 2000 Compr. .ensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-106	Summit Capital, LLC	4514 Painters Mill Rd, 700' northeast of Lyons Mill Rd	RAE 1 1.5 Total 1.5	BL 1.5 Total 1.5	OR 2 1.5 Total 1.5	OR 2 1.5 Total 1.5	See Issue 3-105 Covenant Agreement
3-107	Gunpowder Valley Conservancy	16351 Matthews Rd	RC 5 58.5 Total 58.5	RC 4 58.5 Total 58.5	RC 2 or RC 7 58.5 Total 58.5	RC 7 58.5 Total 58.5	See Issue 3-128
3-108	Falls Road Community Association	Beaver Dam Run Watershed Area	RC 5 2,440.0 Total 2,440.0	RC 4 2,440.0 Total 2,440.0	RC 5 2,440.0 Total 2,440.0	RC 4 1,364.0 RC 5 1,076.0 Total 2,440.0	See Issues 3-061, 3-070, 3-083, 3-159 Overlay Adopted
3-109	Garrison Realty Investors, LLC	North side of Reisterstown Rd, 1100' northwest of Greenspring Valley Rd	ML IM 0.1 Total 0.1	BM IM 0.1 Total 0.1	BM 0.1 Total 0.1	BM 0.1 Total 0.1	See Issue 3-074
3-110	James L. Rouse	3012 & 3016 Anderson Rd, 750' to Zelda Ct	RC 2 26.3 Total 26.3	RC 4 26.3 Total 26.3	RC 2 26.3 Total 26.3	RC 2 26.3 Total 26.3	
3-111	Harrison & Grass	15 Gwynnbrook Ave, southeast corner of Walk Ave and Gwynnbrook Ave	DR 3.5 0.3 Total 0.3	BM 0.3 Total 0.3	DR 3.5 0.3 Total 0.3	DR 3.5 0.3 Total 0.3	See Issues 3-017, 3-112, 3-113, 3-114, 3-115, 3-116, 3-151
3-112	Harrison & Grass	12 Walk Ave, west side of Walk Ave 400' south of Gwynnbrook Ave	DR 3.5 0.6 Total 0.6	BM 0.6 Total 0.6	DR 3.5 0.6 Total 0.6	DR 3.5 0.6 Total 0.6	See Issues 3-017, 3-111, 3-113, 3-114, 3-115, 3-116, 3-151
3-113	Harrison & Grass	6 Walk Ave, west side of Walk Ave 200' south of Gwynnbrook Ave	DR 3.5 0.5 Total 0.5	BM 0.5 Total 0.5	DR 3.5 0.5 Total 0.5	DR 3.5 0.5 Total 0.5	See Issues 3-017, 3-111, 3-112, 3-114, 3-115, 3-116, 3-151

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-155	County Council	North side of Church Rd at West Cherry Hill Rd	OR 1 64.0 Total 64.0	O 3 64.0 Total 64.0	OR 1 64.0 Total 64.0	OR 1 64.0 Total 64.0	See Issues 3-063, 3-149
3-156	County Council	East side of I-795 at Berrymans Ln	DR 2 7.8 DR 5.5 9.9 DR 3.5 51.5 Total 69.2	DR 2 7.8 DR 5.5 9 9 DR 3.5 51.5 Total 69.2	DR 2 7.8 DR 5.5 9.9 DR 3.5 51.5 Total 69.2	DR 2 7.8 DR 5.5 9.9 DR 3.5 51.5 Total 69.2	
3-157	County Council	North side of Reisterstown Rd, 1300' west of Greenspring Valley Rd	DR 3.5 6.1 Total 6.1	BM 6.1 Total 6.1	DR 3.5 1.2 BM 4.9 Total 6.1	DR 3.5 1.2 BM 4.9 Total 6.1	Overlay Adopted
3-158	County Council	4 Gwynnbrook Ave. north side Gwynnbrook Ave at Reisterstown Rd	DR 16 0.7 DR 3.5 1.3 Total 2.0	BM 2.0 Total 2.0	DR 16 0.7 DR 3.5 1.3 Total 2.0	DR 16 0.7 DR 3.5 1.3 Total 2.0	
3-159	County Council	13015 Beaver Dam Rd, south side of Beaver Dam Rd, west of I-83	RC 4 22.7 Total 22.7	RC 5 22.7 Total 22.7	RC 4 22.7 Total 22.7	RC 4 22.7 Total 22.7	
3-160	County Council	North side of Baublitz Rd, east of Greenspring Ave	RC 5 526.0 Total 526.0	RC 4 526.0 Total 526.0	RC 5 526.0 Total 526.0	RC 5 245.0 RC 4 281.0 Total 526.0	See Issue 3-108 Overlay Adopted
3-161	County Council	15225 Tanyard Rd, east side of Tanyard Rd at Pearces Ln	RC 2 141.4 Total 141.4	RC 2 141.4 Total 141.4	RC 2 141.4 Total 141.4	RC 2 141.4 Total 141.4	
3-162	County Council	403 Falls Rd. south side of Falls Rd, 350' west of Old Barn Rd	RC 4 2.1 Total 2.1	RC 2 2.1 Total 2.1	RC 2 2.1 Total 2.1	RC 2 2.1 Total 2.1	

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 2000, SPECIAL SESSION
OCTOBER 10, 2000 7:00 P.M.

****

A. The meeting was called to order by Chairman Bartenfelder at 7:00 P.M. The Chairman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 100 persons in attendance and the following Councilmembers were present:

S.G. SAMUEL MOXLEY	FIRST DISTRICT
KEVIN KAMENETZ	SECOND DISTRICT
T. BRYAN MCINTIRE	THIRD DISTRICT
WAYNE M. SKINNER	FOURTH DISTRICT
VINCENT J. GARDINA	FIFTH DISTRICT
JOSEPH BARTENFELDER	SIXTH DISTRICT
JOHN OLSZEWSKI, SR.	SEVENTH DISTRICT

B. CALL OF BILLS FOR FINAL READING AND VOTE

Bill 87-00 - Comprehensive Zoning Maps - First District, was called. Councilman Moxley moved to accept the Planning Board's recommendation on the following issues:

1-001 1-002 1-004 1-006 1-007 1-010 1-012 1-013 1-014 1-016
1-018 1-021 1-023 1-024 1-025 1-026 1-029 1-031 1-032 1-034
1-035 1-037 1-039 1-040 1-041 1-044 1-046 1-054 1-056 1-059
1-060 1-064 1-066 1-068 1-070 1-071

Councilman Kamenetz seconded the motion and these issues were passed unanimously.

Councilman Moxley then moved the following changes in the First District Comprehensive Zoning Map:

Issue 1-003: I move to change the Planning Board's recommendation from DR 2 to DR 1. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 1-005: I move to change the Planning Board's recommendation from DR 16 (4.0 ac.) and DR 5.5 (2.2 ac.) to DR 16 (4.0 ac.) and DR 3.5 (2.2 ac.), as shown on the overlay. Motion was seconded by Councilman Kamenetz and passed unanimously.

Bill 89-00 - Comprehensive Zoning Maps - Third District, was called. Councilman McIntire moved to accept the Planning Board's recommendation on the following issues:

3-001	3-002	3-003	3-004	3-006	3-007	3-008	3-009	3-010	3-011	3-012
3-014	3-015	3-016	3-017	3-019	3-020	3-024	3-025	3-026	3-029	3-030
3-032	3-033	3-035	3-036	3-037	3-038	3-039	3-041	3-043	3-044	3-045
3-046	3-047	3-048	3-050	3-052	3-058	3-060	3-061	3-062	3-065	3-067
3-068	3-069	3-070	3-071	3-072	3-073	3-074	3-075	3-076	3-077	3-078
3-079	3-080	3-083	3-084	3-086	3-087	3-088	3-089	3-090	3-091	3-092
3-093	3-094	3-095	3-096	3-097	3-098	3-099	3-100	3-101	3-102	3-103
3-104	3-105	3-106	3-107	3-109	3-110	3-111	3-112	3-113	3-114	3-115
3-116	3-119	3-120	3-124	3-127	3-130	3-131	3-134	3-135	3-137	3-139
3-140	3-141	3-144	3-148	3-149	3-150	3-151	3-152	3-154	3-155	3-156
3-157	3-158	3-159	3-161	3-162	3-163	3-164				

Councilman Skinner seconded the motion and these issues were passed unanimously.

Councilman McIntire then moved the following changes in the Third District Comprehensive Zoning Map:

Issue 3-005: I move to change the Planning Board's recommendation from RC4 (111.0 ac.) and DR 1 (132.0 ac.) to DR 1 (132.0 ac.) and RC 5 (111 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-013: I move to change the Planning Board's recommendation from BR to MLR IM. Motion was made by Councilman Skinner and passed unanimously.

Issue 3-018: I move to change the Planning Board's recommendation from ROA to RC 4. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-021: I move to change the Planning Board's recommendation from RC 5 (25.9 ac.) and ML (13.7 ac.) to RC 5 (25.9 ac.), DR 10.5 (7 ac.) and ML (6.6 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-022: I move to change the Planning Board's recommendation from RC 5 (52.8 ac.) and RO (1.6 ac.) to DR 3.5. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-023: I move to change the Planning Board's recommendation from DR 2 (9.0 ac.) and RC 4 (10.9 ac.) to RC 5. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-027: I move to change the Planning Board's recommendation from DR 3.5 (0.3 ac.) and BL (1.0 ac.) to O3. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-147: I move to change the Planning Board's recommendation from DR 2 to RC 4. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-153: I move to change the Planning Board's recommendation from RC 4 to RC 2. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-160: I move to change the Planning Board's recommendation from RC 5 to RC 5 (245 ac.) and RC 4 (281 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Councilman McIntire moved to reconsider Issue 3-028. Motion was seconded by Councilman Kamenetz and passed unanimously approved.

Issue 3-028: I move to change the Planning Board's recommendation from CB to RO (0.4 ac.), DR 1 (0.2 ac.) and DR 16 (0.2 ac.). Motion was seconded by Councilman Skinner and passed unanimously.

Motion was then made by Councilman McIntire to reconsider Issue 3-031. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 3-031: I move to change the Planning Board's recommendation from RAE 1 (11.8 ac.) and DR 16 (5.8 ac.) to RAE 1 (12.2 ac.) and DR 16 (5.4 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Motion was then made by Councilman McIntire to reconsider Issue 3-082. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 3-082: I move to change the Planning Board's recommendation from DR 2 (107.4 ac.) and RC 4 (40.3 ac.) to DR 1 (105. 3 ac.), DR 2 (2.1 ac.) and RC 4 (40.3 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Thereafter, upon motion by Councilman McIntire, seconded by Councilman Skinner, Bill 89-00 passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Skinner, Gardina, Bartenfelder, Olszewski
Nay - None

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2000, Legislative Day No. 17

Bill No. 89-00

Mr. Joseph Bartenfelder, Chairman

By the County Council, September 18, 2000

A BILL
ENTITLED

AN ACT concerning

The Comprehensive Zoning Maps - Third District

FOR the purpose of repealing certain existing zoning maps and to adopt an official zoning map for the Third Councilmanic District of Baltimore County, such map to be known as the 2000 Official Comprehensive Third District Councilmanic District Zoning Map for Baltimore County and to supersede any previous zoning maps approved by the County Council of Baltimore County for that particular district.

WHEREAS, under the provisions of Section 26-124, Baltimore County Code, 1988, the County Council has received a final report of the Planning Board on the Board's proposed County-wide Comprehensive Zoning Map for Baltimore County and has held public hearings thereon after giving at least 10 working days' notice thereof in a newspaper of general circulation throughout the County, and during the period of such notice the final report of the Planning Board, with accompanying maps and supporting exhibits, were shown and exhibited in the Office

---

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

SECTION 3. BE IT FURTHER ENACTED, that the dimension of any zone or district boundary shall be determined by use of the map scale, shown on the zoning map, scaled to the nearest foot. The Director of Permits and Development Management and the County Board of Appeals shall conclusively determine the location and dimensions of zone and district boundaries from the official 200 scale zoning map.

SECTION 4. BE IT FURTHER ENACTED, that in case it be judicially determined that any word, phrase, clause, sentence, paragraph or section of this Act, or that the application thereof, or the application of any portion of the Official Comprehensive Third Councilmanic District Zoning Map for Baltimore County, accompanying this Act, to any person, property, or circumstance is invalid, the remaining provisions of this Act and the application of such provisions, and the application of the remaining portions of said Comprehensive Third Councilmanic District Zoning Map for Baltimore County to other persons, properties, or circumstances shall not be affected thereby; the County Council of Baltimore County, Maryland, hereby declares that it would have enacted the remaining provisions of this Act and the remaining portions of said map without the provisions or portion or the application thereof so held invalid.

SECTION 5. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five days after its enactment.

b08900.wpd

READ AND PASSED this 10th day of October, 2000.

BY ORDER

Thomas J. Peddicord, Jr.
Secretary

PRESENTED to the County Executive for his approval this 11th day of October, 2000.

Thomas J. Peddicord, Jr.
Secretary

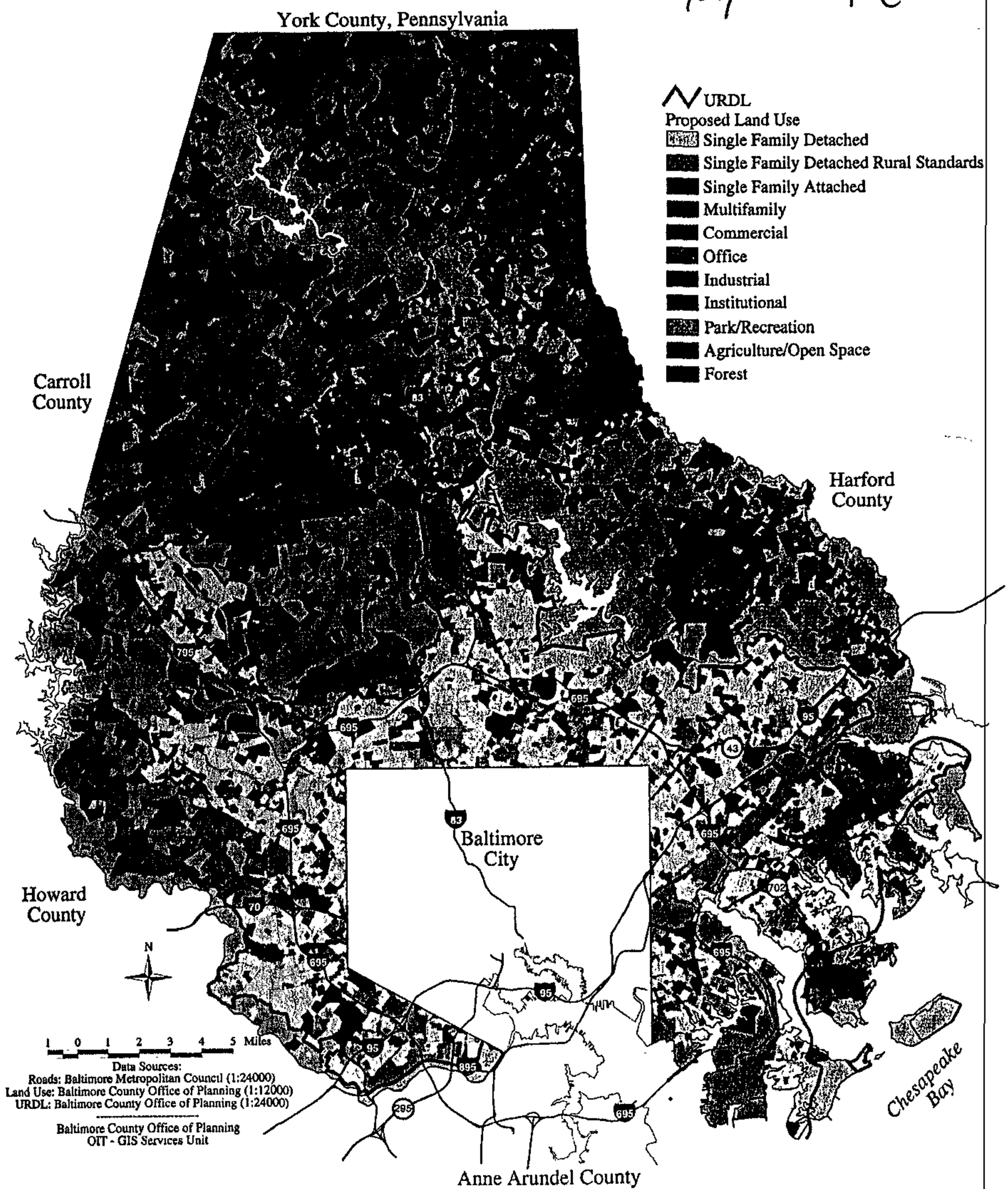
APPROVED AND ENACTED:

C. A. Dutch Ruppersberger
County Executive

I HEREBY CERTIFY THAT BILL NO. 89-00 IS TRUE AND CORRECT AND TOOK EFFECT ON December 21, 2000.

Joseph Bartenfelder
Chairman, County Council

6/27/01 PC. #7

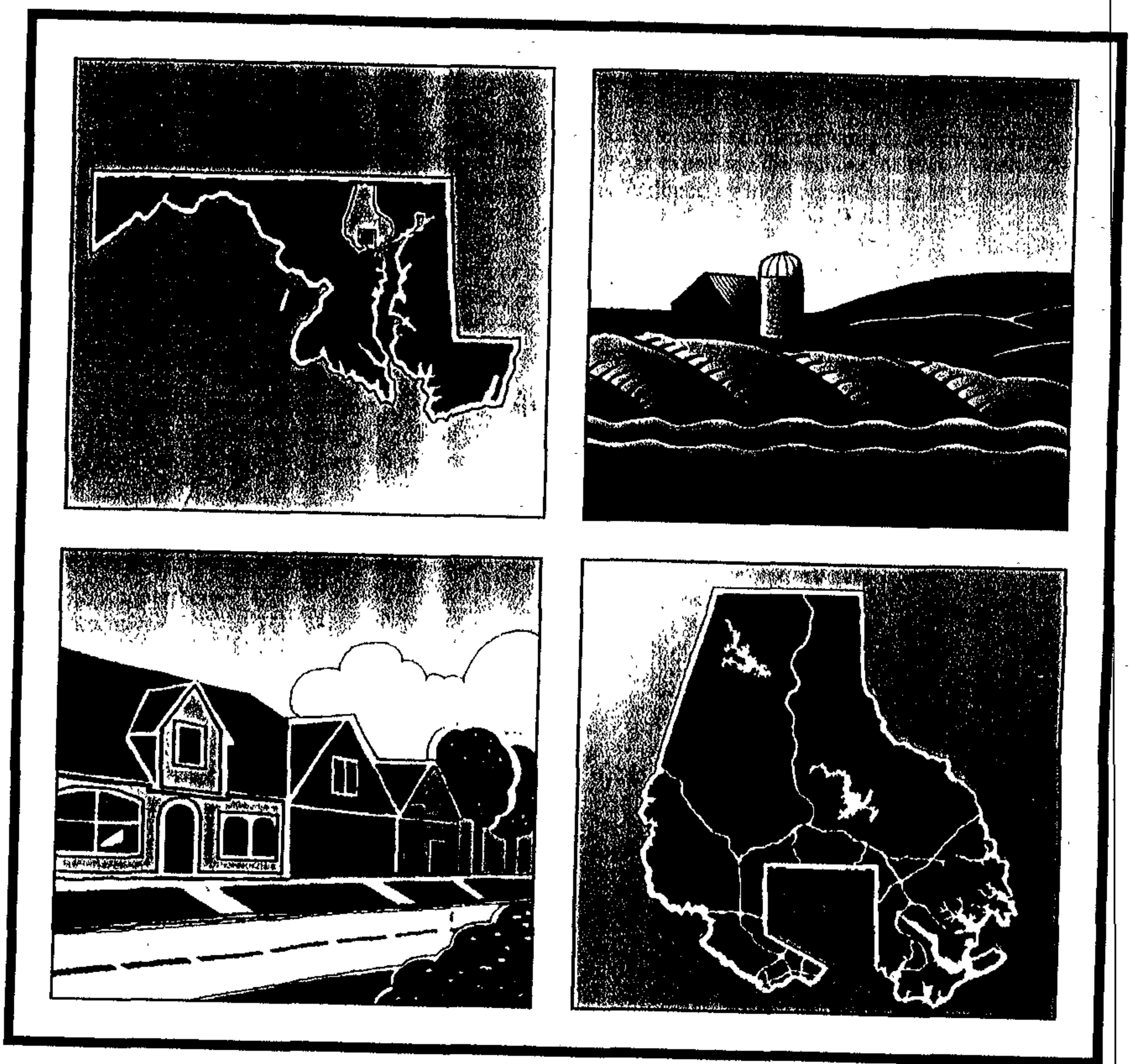


MAP 39
PROPOSED LAND USE

PC #8

MASTERPLAN 2010

BALTIMORE COUNTY, MARYLAND



AS ADOPTED BY BALTIMORE COUNTY COUNCIL

FEBRUARY 22, 2000

A MESSAGE ...

FROM THE BALTIMORE COUNTY EXECUTIVE

AND

THE BALTIMORE COUNTY COUNCIL

Master Plan 2010 is Baltimore County's overall plan for development for the next decade. It is a guide for the protection of our rural areas and the revitalization of our established neighborhoods. It sets forth our collective vision of the goals we must reach to keep our communities safe, attractive and vibrant.

The citizens of Baltimore County played a major role in the development of this document, through advisory groups, town meetings, and public hearings. Their collective voice is expressed throughout the plan. *Master Plan 2010* also includes nearly thirty local community plans that have been developed by local communities and adopted by the County Council during the last ten years.

Master Plan 2010 is a comprehensive vision of our desired future in Baltimore County. With its adoption, Baltimore County has reaffirmed its belief that growth must be balanced and orderly. This Plan continues to express the philosophy that we should preserve rural farmland, landscapes, and open spaces, while reinvesting in urban areas and focusing growth on designated growth areas with planned infrastructure.

We appreciate the tremendous effort by citizens, volunteers, and staff that has been put into creating *Master Plan 2010*. By continuing to work together toward the goals outlined in this Master Plan, we will ensure a bright and prosperous future for Baltimore County and all those who live and work here.

C.A. Dutch Ruppersberger
County Executive

Joseph Bartenfelder
Chairman, County Council
Councilman, 6th District

S.G. Samuel Moxley
Councilman, 1st District

Kevin Kamenetz
Councilman, 2nd District

T. Bryan McIntire
Councilman, 3rd District

Wayne M. Skinner
Councilman, 4th District

Vincent J. Gardina
Councilman, 5th District

John Olszewski, Sr.
Councilman, 7th District

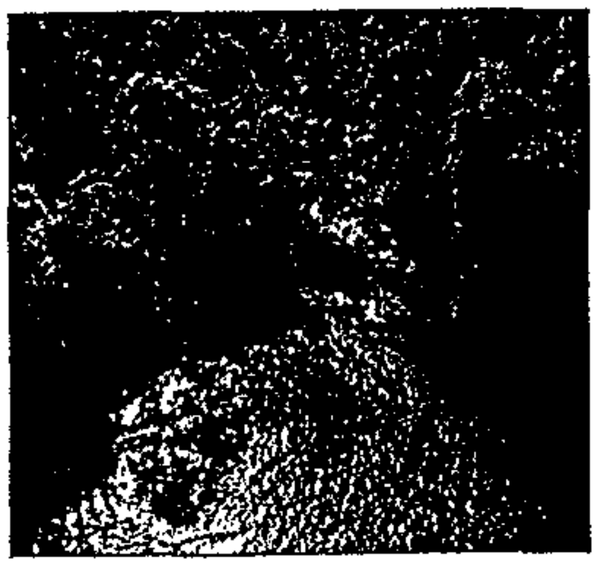
Park, the Group Leadership Gifts and Grants Program, and the Community Assisted Enhancement of Facilities Program have allowed county residents to become actively involved in providing for their community's recreational needs. The resources obtained through these programs are not only an asset to the county, but a tangible source of civic pride.

Actions

1. Seek public/private and public/non-profit partnerships for the acquisition, development, and management of park and recreation sites and facilities. Some possible partnerships include the following:
   - private development of large-scale facilities in exchange for a management lease of the site to the private entity; and
   - "sponsorship" of projects, whereby a private entity donates funds or services for the development of an amenity.
2. Aggressively pursue financial grants available through the federal government and other sources. Optimize county resources through cooperative efforts between county agencies. Work closely with citizen groups and Recreation and Parks Councils to assist in obtaining and administering community grants for recreation projects.
3. Continue to promote and participate in programs that rely on the support and self-sufficiency of the county's neighborhoods and communities.

NATURAL ENVIRONMENT

INTRODUCTION



The county's land management approach is environmentally progressive in that it protects the county's remaining natural resources.

Baltimore County's more than 600 square miles contains significant areas of forests, fertile soils, streams, wetlands, and tidal rivers of the Chesapeake Bay. These environmental features provide habitats for terrestrial and aquatic wildlife and support many human uses and needs, including recreation and life-sustaining drinking water, food, and clean air.

The county's land management approach, which concentrates development into the urban area, is both efficient in that it maximizes public investment, and environmentally progressive in that it protects the county's remaining natural resources. While this approach is environmentally sensitive, specific management and other environmental issues exist. In the undeveloped rural area, the primary issues are the continued protection of the natural resources and conservation of use. In the largely developed urban area, the overriding environmental issues are protection of remaining natural

resources and restoration of lost or degraded ecosystem functions. Stream restoration, for example, not only helps maintain the water quality of the Chesapeake Bay and drinking water reservoirs, but also helps enhance aquatic habitat, reduce erosion, filter nutrients from runoff, and reduce county expenditures for the protection of infrastructure within stream systems such as sewer lines and bridge foundations. Retention of neighborhood environmental resources contributes to a higher quality of life within the county's urban areas. Natural resource features such as wooded areas, unique landforms, open spaces, and natural streams and rivers are vital ingredients of a well-balanced, livable community.

The Department of Environmental Protection and Resource Management (DEPRM) is primarily responsible for the management of Baltimore County's programs for the natural environment. DEPRM uses multiple approaches to accomplish its goals including land preservation, resource protection/regulation, restoration, facility maintenance, monitoring and research, and citizen education and participation. DEPRM's integrated resource management approach utilizes a watershed framework that addresses federal water quality mandates, and federal and state partnership initiatives for the restoration of the Chesapeake Bay and local priorities.

Sensitive Area Protection Compliance

Baltimore County is required under the Economic Growth, Resource Protection, and Planning Act of 1992 to incorporate a sensitive area protection element into its master plan. This element protects sensitive areas from the impacts of land development, including streams and their buffers, 100-year floodplains, habitats of threatened and endangered species, and steep slopes. Although not presented separately, the county has addressed protection of these resources in the detailed management elements that follow. In particular, Baltimore County's stream protection regulations, which have been acclaimed as a model by the Local Government Advisory Committee of the Chesapeake Bay Program, provide effective protection for stream channels and their 100-year floodplains, wetlands, and adjacent erodible and steep slopes. This comprehensive view of the "stream system" affords protection through sediment control, stormwater management, and forest conservation regulations. It further ensures that adverse economic effects of development in unsuitable locations will be avoided and that beneficial ecological functions of stream corridors - for water quality, channel stability, and habitat - will be maintained.

RETENTION OF NEIGHBORHOOD ENVIRONMENTAL RESOURCES CONTRIBUTES TO A HIGHER QUALITY OF LIFE WITHIN THE COUNTY'S URBAN AREAS.

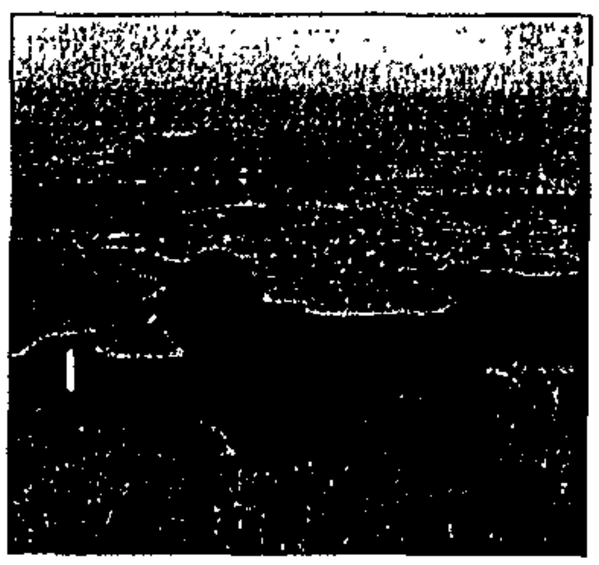
DEPRM has worked with the Maryland Department of Natural Resources to verify the presence of the limited number of threatened or endangered species and their habitats that exist in the county. Many of the habitats for these sensitive species are protected through public ownership of wildlands and other environmental management areas such as Soldiers Delight, and through the public drinking water reservoir reservations and large state-owned lands along the Patapsco River and Gunpowder Falls systems. Any threats to sensitive plant or animal species elsewhere from land development are addressed through regulatory protection of the stream systems and priority forest retention areas.

POLICIES

- Protect the remaining natural resources and promote conservation of biological diversity.
- Restore lost or degraded ecosystem functions, particularly those related to watersheds and reservoirs.
- Foster environmental stewardship among residents, and within the region.

ISSUES AND ACTIONS

Managing the county's natural environment encompasses a wide variety of resources—wetlands, streams, reservoirs, forests, mineral deposits, ground water, the Chesapeake Bay, and the air. Additional issues to be addressed involve various forms of pollution, including radon, global warming, and noise.

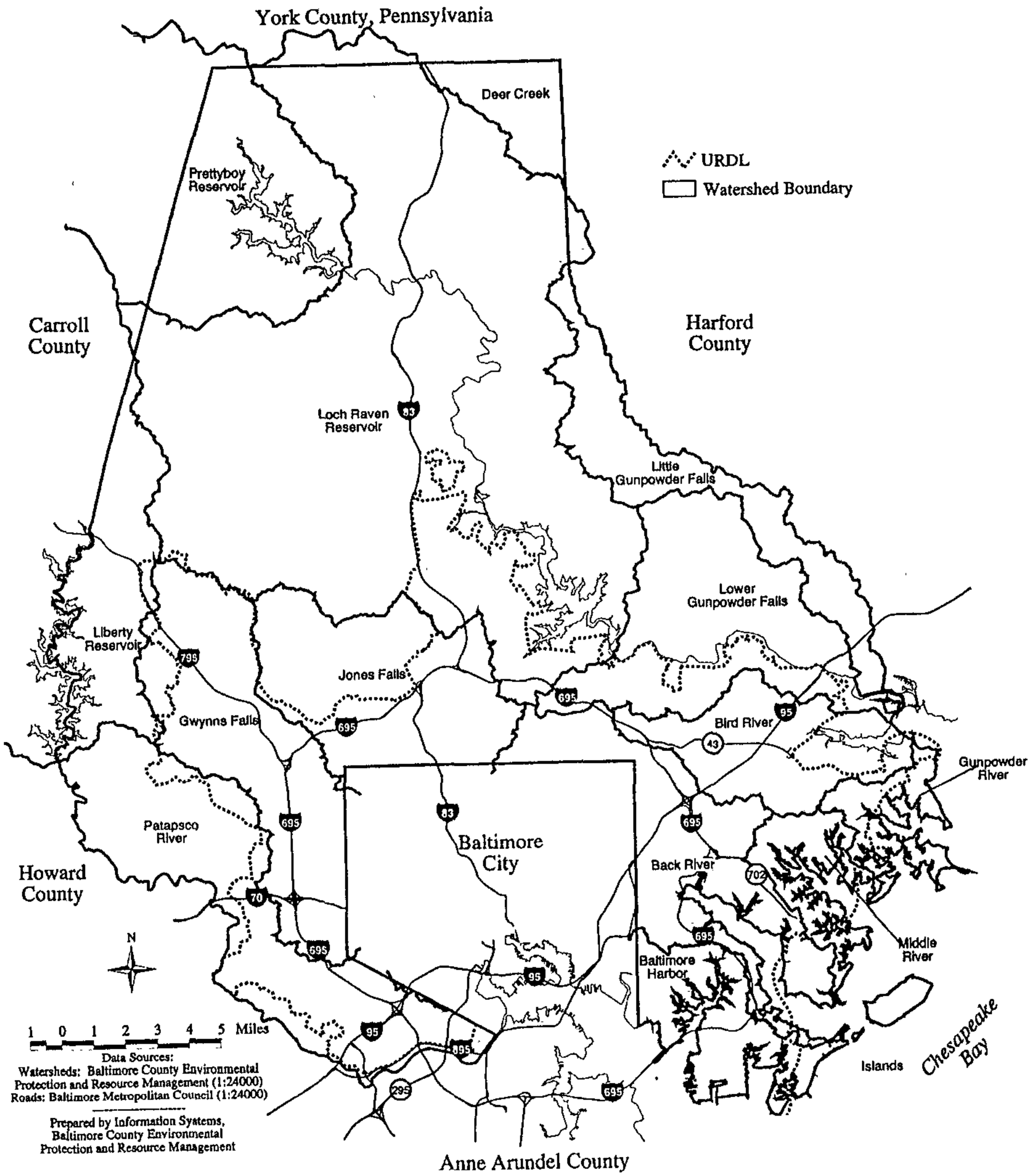


Watershed studies provide the framework for natural resource management.

Issue: Managing Baltimore County's Watersheds

Baltimore County contains 14 major watersheds, which are identified on the basis of local stream systems and drinking water reservoirs. Seven are part of the Gunpowder River basin and six comprise the Patapsco River basin (Map 19). A watershed is an area of land from which water drains to a stream, lake, or other water body. Watersheds are a useful framework for resource management because individual resource elements such as streams and forests are linked through ecosystem processes that operate to maintain the stability of the system.

Land use activities within watersheds impact the water quality of the streams associated with the watershed, and the water bodies downstream. For example, the clearing of forests increases runoff of storm water to streams,



MAP 19
WATERSHEDS

causing an increase in the sediments, nutrients, and toxins carried to the streams, and erosion of stream channels. Changes in sediment and nutrient levels can degrade the habitat quality of the stream for both plants and animals. Land preservation programs that place environmentally sensitive land in permanent easements assist in the protection of watersheds and their interrelated systems.

The county's watershed program consists of characterizing and prioritizing watersheds, preparing management plans, and evaluating resource systems and functions at varying scales from a countywide level to individual properties. Assessments of pollutant loads, stream stability, and forest community structure provide the framework for the preparation of implementation plans for capital projects, maintenance, education, and cooperative citizen actions.

Actions

1. Continue to protect streams, wetlands, floodplains, and woodlands from impacts of new development and redevelopment as required by development regulations.
2. Identify and protect the remaining high value natural resources in watersheds in order to preserve their beneficial functions for clean water, clean air, and habitat.
3. Continue projects to restore wetlands, reestablish forests, and stabilize stream channels in impacted watersheds.
4. Reduce pollution through a reduction in impervious surface area, improved management of urban runoff, and implementation of source-based controls.
5. Coordinate the management of inter-jurisdictional watersheds with surrounding jurisdictions.
6. Include environmental policies and goals in community plans for the preservation and enhancement of functional open spaces such as greenways and wildlife habitat; the reduction of water, air, and toxic pollution and solid wastes; and the promotion of neighborhood environmental stewardship.
7. Encourage and actively participate in partnerships among agencies, organizations, and communities to address environmental issues.

THE COUNTY WILL CONTINUE PROJECTS TO RESTORE WETLANDS, REESTABLISH FORESTS, AND STABILIZE STREAM CHANNELS.

Issue: Protecting the Reservoirs

Most citizens seldom stop to think about the importance of the drinking water reservoirs located in Baltimore County. The regional reservoir system,

development in the rural areas. Included in the rural residential land management areas are:

- Freeland
- Patapsco/Granite
- Kingsville
- Chestnut Ridge
- Hereford
- Jacksonville

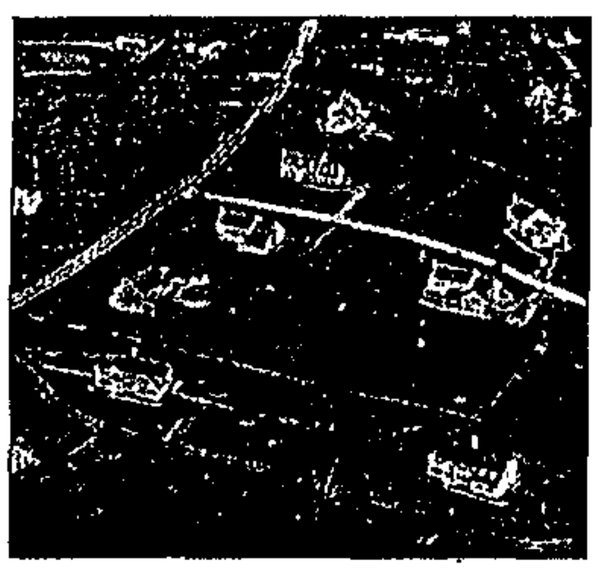
POLICIES

- Limit new residential growth.
- Protect and maintain the area's rural character.

ISSUES AND ACTIONS

Issue: Limiting Suburban Development in Rural Areas

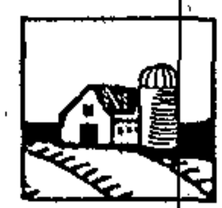
The 1979 growth management program designated rural residential areas as suitable for development. The 1989 master plan recognized some of the issues created by this choice. The majority of the land within these areas is zoned RC 5. The intensity of this development is a suburban residential development pattern with densities equal to one dwelling unit per 1-1/2 acres. Because this rural-suburban residential development is dependent upon well and septic services, the development pattern takes on a haphazard appearance and consumes large quantities of land. This type of development is in great demand, but it comes at a tremendous cost to the county in terms of traffic, increased infrastructure demands, and the disruption of the area's rural character. These demands on county resources directly compete with the needs of the established, urban areas of the county.



Rural residential development is in great demand, but it comes at a tremendous cost to the county.

Actions

1. Conduct thorough and detailed land use studies to determine: 1) buildable areas, 2) agricultural areas, 3) environmentally sensitive areas, and 4) appropriate areas for future rural village type development (see below).
2. Deny rezoning requests for additional office, business or industrial zoning in rural residential areas, unless recommended in an approved plan.
3. While maintaining some residential development density, consider developing a mechanism to allow building within these areas only if development rights are obtained through a TDR from an agricultural preservation area or a resource preservation area. Natural constraints that reduce buildout would not be affected.



4. Develop and adopt county standards appropriate for rural residential areas that include roads, open space, architecture, site layout, lighting, bicycles, and pedestrians.
5. Consider adapting cluster principles to maintain adjacent forests and open space, which help retain rural character.
6. Develop a PUD-RP process that will allow large institutional, educational, religious, and recreational uses only through a planned development process. Create locational criteria and development standards.
7. Provide effective buffers between development projects as required to maintain rural character.

Issue: Investigating a Rural Village Concept

The rural village concept should be investigated as a way to accommodate rural residential development in Baltimore County in a manner that is less intrusive to the rural character than current rural residential development patterns. This concept should be thoroughly studied to ensure that overall density is not increased. The present RC 5 and RC 4 cluster residential development zones were improvements over the pre-1976 (one house per acre) rural zoning; however, even this type of development is not in keeping with the rural character. In fact, most RC 4 and RC 5 development has met with increased opposition.

The rural village concept is a method of accommodating in rural areas residential and commercial development that is strictly limited in area, and compatible with the rural character. It concentrates small pockets of development, with a consistent rural scale and appearance, in specific locations so that larger agricultural or environmentally sensitive areas can be preserved. A mix of housing types and lot sizes is provided. Buffers, preserved in an easement program, surround the villages to prevent conflict with adjacent agricultural uses. The rural village concept should have specific design standards for all elements ranging from site selection and layout to building appearance.

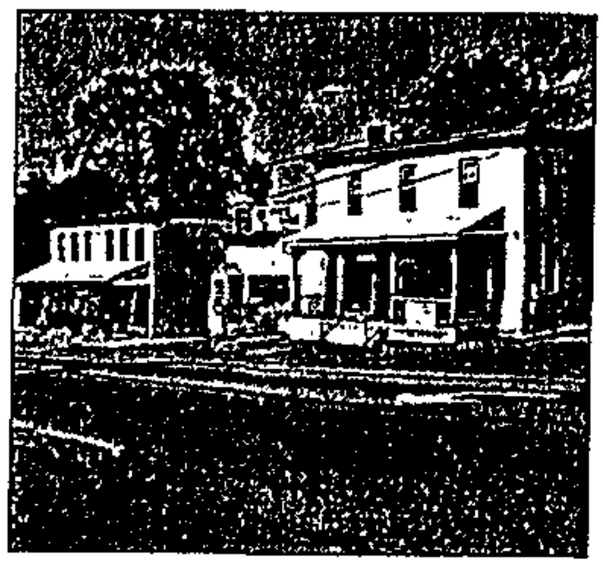
THE RURAL VILLAGE CONCEPT CONCENTRATES RURAL DEVELOPMENT IN SMALL POCKETS, PRESERVING LARGER AGRICULTURAL AND ENVIRONMENTALLY SENSITIVE AREAS.

Two essential elements of the regulating mechanisms that need to be developed for a rural village concept are: 1) a properly drafted code, which spells out rules and procedures to produce desired results; and 2) illustrated examples to enable the reader to "see" the code as it comes to life on the landscape. The design principles must be adapted to the realities of modern

life, primarily the importance of the automobile, but in a way that does not cede total control to the automobile. Locational factors such as proximity to existing schools and roads should be considered. The economic and environmental feasibility of providing water and sewage service on site also must be addressed for any village development.

Actions

1. Investigate the feasibility of a rural village concept based on the following:
   - Map potential locations for rural villages within rural residential areas and rural commercial centers to minimize impact on agriculture and resource preservation areas.
   - Locate villages within proximity of adequate roads.
   - Create appropriate design standards.
   - Provide buffers between rural villages and agricultural uses.
   - Rural villages should not be located close to one another.
   - Set limits on the amount of density, and determine the appropriate mix of land uses for each rural village.
2. Determine the economic and environmental feasibility of providing water and sewage systems required for a rural village.
3. Investigate using the rural village as a receiving area for a TDR program, transferring density from an agricultural or resource preservation area.
4. Apply the program on a limited basis as a test case and evaluate its merits for rural preservation.
5. Allow rural village development as a PUD; however, this would be an optional, not mandated, approach.



Hereford is one of the two designated rural commercial centers.

RURAL COMMERCIAL CENTERS

Only two designated rural commercial centers will continue to provide local services and facilities for the surrounding rural area. They are:

- Hereford
- Jacksonville

POLICY

- The nature, size, and scale of rural commercial centers should remain geographically small, rural in character, and be regulated through a master plan process.

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Arnold F. "Pat" Keller, III
Director, Office of Planning

DATE: February 8, 2000

FROM: George G. Perdikakis

SUBJECT: **Comments on CZMP 2000 Issue No. 3-160**

_____ This Department has no comments on the proposed zoning reclassification.

___XX___ The proposed zoning reclassification is consistent with the goals, policies, and programs of this Department.

_____ The proposed zoning reclassification raises certain environmental concerns but is generally consistent with the goals, policies, and programs of this Department (see comments below).

_____ The proposed zoning reclassification raises substantial environmental concerns which are not consistent with the goals, policies, or programs of this Department (see comments below).

Notice: Please be advised that any land development activity (clearing, grading, or construction) at the above-referenced site must comply with all environmental requirements in effect at the time of such development activity.

Comments:

George G. Perdikakis, Director

PC#9 10/25/01

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 2000, SPECIAL SESSION
OCTOBER 10, 2000 7:00 P.M.

****

A. The meeting was called to order by Chairman Bartenfelder at 7:00 P.M. The Chairman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 100 persons in attendance and the following Councilmembers were present:

S.G. SAMUEL MOXLEY	FIRST DISTRICT
KEVIN KAMENETZ	SECOND DISTRICT
T. BRYAN MCINTIRE	THIRD DISTRICT
WAYNE M. SKINNER	FOURTH DISTRICT
VINCENT J. GARDINA	FIFTH DISTRICT
JOSEPH BARTENFELDER	SIXTH DISTRICT
JOHN OLSZEWSKI, SR.	SEVENTH DISTRICT

B. CALL OF BILLS FOR FINAL READING AND VOTE

Bill 87-00 - Comprehensive Zoning Maps - First District, was called. Councilman Moxley moved to accept the Planning Board's recommendation on the following issues:

1-001 1-002 1-004 1-006 1-007 1-010 1-012 1-013 1-014 1-016
1-018 1-021 1-023 1-024 1-025 1-026 1-029 1-031 1-032 1-034
1-035 1-037 1-039 1-040 1-041 1-044 1-046 1-054 1-056 1-059
1-060 1-064 1-066 1-068 1-070 1-071

Councilman Kamenetz seconded the motion and these issues were passed unanimously.

Councilman Moxley then moved the following changes in the First District Comprehensive Zoning Map:

Issue 1-003: I move to change the Planning Board's recommendation from DR 2 to DR 1. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 1-005: I move to change the Planning Board's recommendation from DR 16 (4.0 ac.) and DR 5.5 (2.2 ac.) to DR 16 (4.0 ac.) and DR 3.5 (2.2 ac.), as shown on the overlay. Motion was seconded by Councilman Kamenetz and passed unanimously.

PC#10 10/25/01

Bill 89-00 - Comprehensive Zoning Maps - Third District, was called. Councilman McIntire moved to accept the Planning Board's recommendation on the following issues:

3-001	3-002	3-003	3-004	3-006	3-007	3-008	3-009	3-010	3-011	3-012
3-014	3-015	3-016	3-017	3-019	3-020	3-024	3-025	3-026	3-029	3-030
3-032	3-033	3-035	3-036	3-037	3-038	3-039	3-041	3-043	3-044	3-045
3-046	3-047	3-048	3-050	3-052	3-058	3-060	3-061	3-062	3-065	3-067
3-068	3-069	3-070	3-071	3-072	3-073	3-074	3-075	3-076	3-077	3-078
3-079	3-080	3-083	3-084	3-086	3-087	3-088	3-089	3-090	3-091	3-092
3-093	3-094	3-095	3-096	3-097	3-098	3-099	3-100	3-101	3-102	3-103
3-104	3-105	3-106	3-107	3-109	3-110	3-111	3-112	3-113	3-114	3-115
3-116	3-119	3-120	3-124	3-127	3-130	3-131	3-134	3-135	3-137	3-139
3-140	3-141	3-144	3-148	3-149	3-150	3-151	3-152	3-154	3-155	3-156
3-157	3-158	3-159	3-161	3-162	3-163	3-164				

Councilman Skinner seconded the motion and these issues were passed unanimously.

Councilman McIntire then moved the following changes in the Third District Comprehensive Zoning Map:

Issue 3-005: I move to change the Planning Board's recommendation from RC4 (111.0 ac.) and DR 1 (132.0 ac.) to DR 1 (132.0 ac.) and RC 5 (111 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-013: I move to change the Planning Board's recommendation from BR to MLR IM. Motion was made by Councilman Skinner and passed unanimously.

Issue 3-018: I move to change the Planning Board's recommendation from ROA to RC 4. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-021: I move to change the Planning Board's recommendation from RC 5 (25.9 ac.) and ML (13.7 ac.) to RC 5 (25.9 ac.), DR 10.5 (7 ac.) and ML (6.6 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-022: I move to change the Planning Board's recommendation from RC 5 (52.8 ac.) and RO (1.6 ac.) to DR 3.5. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-023: I move to change the Planning Board's recommendation from DR 2 (9.0 ac.) and RC 4 (10.9 ac.) to RC 5. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-027: I move to change the Planning Board's recommendation from DR 3.5 (0.3 ac.) and BL (1.0 ac.) to O3. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-147: I move to change the Planning Board's recommendation from DR 2 to RC 4. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-153: I move to change the Planning Board's recommendation from RC 4 to RC 2. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-160: I move to change the Planning Board's recommendation from RC 5 to RC 5 (245 ac.) and RC 4 (281 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Councilman McIntire moved to reconsider Issue 3-028. Motion was seconded by Councilman Kamenetz and passed unanimously approved.

Issue 3-028: I move to change the Planning Board's recommendation from CB to RO (0.4 ac.), DR 1 (0.2 ac.) and DR 16 (0.2 ac.). Motion was seconded by Councilman Skinner and passed unanimously.

Motion was then made by Councilman McIntire to reconsider Issue 3-031. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 3-031: I move to change the Planning Board's recommendation from RAE 1 (11.8 ac.) and DR 16 (5.8 ac.) to RAE 1 (12.2 ac.) and DR 16 (5.4 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Motion was then made by Councilman McIntire to reconsider Issue 3-082. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 3-082: I move to change the Planning Board's recommendation from DR 2 (107.4 ac.) and RC 4 (40.3 ac.) to DR 1 (105. 3 ac.), DR 2 (2.1 ac.) and RC 4 (40.3 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Thereafter. upon motion by Councilman McIntire, seconded by Councilman Skinner, Bill 89-00 passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Skinner, Gardina, Bartenfelder, Olszewski
Nay - None

Affidavit

State of Maryland
Baltimore County, SS:

TO WIT:

I hereby swear upon penalty of perjury that I Jack Dillon am currently the Executive Director of The Valleys Planning Council, Inc.

Jack Dillon

ATTEST: The Valleys Planning Council, Inc.

Secretary

President

Date: 6-26-01

PC #11 10/25/01

THE VALLEYS PLANNING COUNCIL, Inc.

RESOLVED: That the position of the Valleys Planning Council, Inc. as adopted by the Executive Committee of the Board of Directors on June 26, 2001, on the matter known as Case No: R-01-437, Jarvis Steel and Lumber Co. Inc. is that :

The Executive Committee of the Valleys Planning Council, Inc. is opposed to the proposed reclassification of the Jarvis Steel Property on Dover Road for the following reasons:

1. This property does drain to and has an impact upon the stream known as Waterspout and thus an impact upon Western Run and Loch Raven Reservoir.

2. The impact on the water quality of the stream known as Waterspout and its association with the underlying aquifer in the Worthington Valley is unacceptable.

3. One of the underlying findings and legislative policies of the RC 4 Zone is to protect streams from adverse impacts by reducing sedimentation and runoff into the streams and the reservoirs.

4. There was ample time before the 2000 Zoning Maps were adopted for the petitioner to have advised both the County Council and the Office of Planning that they (Petitioner) believe an inconsistency may exist.

AS WITNESS OUR HANDS AND SEAL THIS ___26__day of June, 2001.

ATTEST: **THE VALLEYS PLANNING COUNCIL, Inc.**

Secretary **President**

The Valleys Planning Council, Inc.

RESOLVED: That the Executive Committee of the Board of Directors of The Valleys Planning Council, Inc. has decided that responsibility for the review and action on all zoning matters for the period of one year June 26, 2001 to June 26, 2001 be placed with the Executive Director, Mr. Jack Dillon.

AS WITNESS OUR HANDS AND SEAL THIS 26 day of June, 2001.

ATTEST:

Secretary, Valleys Planning Council

President, Valleys Planning Council

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 20

BILL NO. 178-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, October 15, 1979

A BILL
ENTITLED

AN ACT to implement various elements of the County's ~~Comprehensive~~ Master Plan, and more specifically those objectives, policies and standards relating to the assimilation, location, quantity, quality and timing of growth and development in Baltimore County, the provision of adequate public facilities to support development and the protection of agricultural and environmentally-sensitive land in the resource conservation zoning classifications, ~~and to provide for the establishment of overlay district areas and regulations and requirements pertaining thereto; to provide for a master plan consistency determination;~~ AND TO ADOPT BASIC SERVICES MAPS AND REGULATIONS AND REQUIREMENTS PERTAINING THERETO; and to provide for monitoring of development activity; by adding new Article 4A - GROWTH MANAGEMENT; by repealing Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. of said regulations and enacting new Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. in lieu thereof; by adding Subsections 1A01.4, 1A02.4, ~~259.3~~ and new definitions ~~"Facilities impact use, Class A"; "Facilities impact use, Class B";~~ "Housing for the elderly"; "Industrial, quasi-industrial, or industry-related use"; and "Nonindustrial use" to Section 101, all of the Baltimore County Zoning Regulations; ~~by repealing and re-enacting with amendments Subsections 100.1.B.2, 100.1.G., 100.4., the definition of "Farm" under Section 101, and Subsection 259.2, all of the Baltimore County Zoning Regulations;~~ by repealing Subsection 1A04.3.B.2 of said regulations; and by repealing Council Bill 177-79.

NOTE: NOTICE OF AMENDMENT TO THIS BILL.
At the time of Final Reading, the Council unanimously voted to delete pages 3 through 43 of the bill as introduced and replace them with pages 3 through 21. For purposes of clarity and economy, the deleted pages are not included.

PC#12 10/25/01

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the County Council has adopted the Master Plan by Resolution No. 71 -79 dated ~~October 15~~ NOVEMBER 19, 1979; and

WHEREAS, pursuant to the Baltimore County Charter and Code, the County Council is responsible for the implementation of the Master Plan through the adoption or amendment of zoning maps and regulations, subdivision regulations, capital improvement programs and such other legislation, regulations, policies and programs which may be necessary; and

WHEREAS, said Master Plan divides the County into areas for the purpose of achieving specific plan objectives related to the location, density, timing and quantity of growth and development in such areas and the appropriate distribution of population, housing units and land uses throughout the County; and

WHEREAS, said Master Plan contains objectives, policies and standards designed to assimilate full population growth by the County representing the County's share of regional growth, to insure orderly growth and development of said population in the County; to protect valuable and irreplaceable natural, agricultural and environmental land and resources; to promote economic growth; to meet the housing needs of present and future anticipated residents; to assure that new development is adequately served by public facilities and services; to correct service and facility deficiencies in existing neighborhoods; and to promote the public health, safety and welfare of all residents of the County; now, therefore

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that a new Article 4A - GROWTH MANAGEMENT, be and it is hereby added to the Baltimore County Zoning Regulations, said new article to read as follows:

ARTICLE 4A - GROWTH MANAGEMENT

Section 4A00 - Purpose and Definitions

4A00.1 - Purpose.

The purpose and intent of this Article is to implement the objectives of the County-wide Master Plan and to adopt standards and guidelines relative to new development in all areas of the County which would result in land use patterns, location of new growth and timing of growth and development that is consistent with preservation of the quality of life in existing neighborhoods, with the ability of the County to provide necessary public facilities and services to support new development, with the ability of the County to correct existing service and facility deficiencies, with the preservation of natural, agricultural and environmental resources and with the promotion of new growth and development in appropriate areas.

b. The number of daily peak-hour vehicle trips generated by a building or a part of a building to be devoted principally to uses other than dwellings or retail or office uses shall be determined by the Department of Traffic Engineering.

4. Exception.

This subparagraph does not apply to any development application relating to a residential development of no more than 3 dwelling units on a lot of record as of the effective date of this Article or to any development in a CCC district, CSA district OR RAE zone ~~or~~ IN a town center~~,~~ other than a town center within a new development area so designated in the Master Plan.

~~4A02.5 Basic Services Determination.~~

~~A. Generally.~~

~~Any development application within any basic services mapped area in addition to all other requirements imposed by the zoning regulations, subdivision regulations and other County legislation and regulations, shall be subject to a basic services availability determination.~~

~~B. Scope and Applicability of Basic Services Availability Determination.~~

~~The basic services availability determination shall be made by the Director of the Office of Planning and Zoning, in accordance with the basic services maps and standards set forth in this Article.~~

SECTION 2. Be it further enacted, that Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5, and 1A04.3.B.1 of the Baltimore County Zoning Regulations, by and they are hereby repealed and new Subsections 1A01.2.B., 1A01.2.C, 1A01.3.B., 1A02.1, 1A03.1,

1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5 and 1A04.3.B.1 are hereby enacted in lieu thereof to said regulations, to read as follows:

Section 1A01 - R.C.2 (AGRICULTURAL) ZONES

1A01.2-Use regulations.

B. Uses permitted as of right. The following uses, only, are permitted as of right in all R.C. 2 zones:

1. Dwellings, 1-family detached

2. Farms, satellite farms, farmettes, and limited-acreage wholesale flower farms (see Section 404)

3. Open space, common

4. Streets and ways

5. Telephone, telegraph, electrical-power, or other lines or cables, provided that any such line or cable is underground; underground gas, water, or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines.

6. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of paragraphs b, c, e or f of subsection 415.1 and subparagraph 415.2.a(1) or 415.3.c(1), as applicable.

7. Accessory uses or structures, including, but not limited to, the following:

a. Excavations, uncontrolled

b. Farmers' roadside stands (see Section 404)

c. Home occupations

d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or persons engaged in other, similar occupations, provided that the use is established within the building that serves as the owner's domicile; occupies a floor area no greater than 25% of the floor area used for residential purposes, not including garage floor area or unfinished basement space; and does not involve the employment of more than 2 nonresidents.

e. Parking space, including residential-garage space and space for recreational vehicle (see Section 415A)

f. Piers, wharves, docks and bulkheads (subject to the provisions of Section 417)

g. Radio antennas in conjunction with wireless transmitting or receiving facilities, provided that any such facility is used by a resident who has an amateur radio operator's license issued by the Federal Communications Commission. No such antenna may extend closer than the front building line to any street on which the lot may front; no rigid-structure antenna may be taller above grade level than the horizontal distance to the nearest property line or 100 feet, whichever is less; and no supporting structure may be situated within 50 feet of any property line (see also Section 400).

h. Swimming pools, tennis courts, garages, utility sheds or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400)

I. TENANT HOUSES, INCLUDING TRAILERS USED AS TENANT HOUSES.

C. Uses permitted by special exception. The following uses, only, may be permitted by special exception in any R.C. 2 zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 24, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses:

1. Airports

2. Animal boarding places (regardless of class), kennels, veterinarians' offices, or veterinariums (see Section 421)

3. Antique shops (see Section 402B)

4. Camps, including day camps

5. Community care centers providing care for not more than 15 persons per site

6. Churches or other buildings for religious workship

7. Excavations, controlled

8. Farmers' co-op roadside stands

9. Fishing and shellfishing facilities, Class I or II

10. Golf courses or country clubs

11. Hunting or fishing preserves

12. Offices for agriculture-related uses; physicians' or dentists' offices as principal uses

13. Public-utility uses not permitted as of right

14. Research institutes (see Section 418)

15. Residential art salons (see Section 402C)

16. Restaurants or tea rooms converted from dwellings (see subsection 402.3)

17. Riding stables

18. Sanitary landfills (see Section 412)

19. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories, or colleges

20. Shooting ranges, including archery, pistol, skeet, trap, or small-bore rifle ranges, or turkey shoots

21. Trailers as provided in Paragraph 415.1.d

22. Volunteer-fire-company or ambulance rescue facilities

23. Wireless transmitting or receiving facilities as principal uses

24. The following "agricultural-support" uses:

a. Farm-machinery sales, storage, or service; blacksmithing

b. Feed or grain mills or driers

c. Fertilizer sales or storage

d. Sawmills

e. Slaughter houses or manufacture, processing, or packing of fruit, vegetables, animal, or meat products, or by-products

f. Wine or spirits manufacture, including the manufacture of alcohol to be used in gasoline-alcohol mixtures, but excluding the production of those mixtures (as a principal use)

1A01.3 - Height and area regulations

B. Area regulations

1. Subdivision Lot Density.

No lot of record lying within an R.C.2 zone and having a gross area of LESS THAN 2 acres ~~or less~~ may be subdivided. No such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total), and such a lot having a gross area of MORE THAN 100 acres ~~or more~~ may be subdivided only at the rate of 1

lot for each 50 acres of gross area.

2. Lot size. A lot having an area less than 1 acre may not be created in an R.C. 2 zone.

3. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C. 2 zone may be situated within 75 feet of the centerline of any street or within 35 feet of any lot line other than a street line.

4. Principal dwellings per lot. No more than 1 principal dwelling is permitted on any lot in an R.C. 2 zone.

Section 1A02 - R.C. 3 (DEFERRAL OF PLANNING AND DEVELOPMENT) ZONES

1A02.1 - Findings and Legislative Policy.

A. Declaration of findings. The County Council finds that some presently rural areas which may in the future be suitable for urban development are being preempted by sprawling development that will preclude future development of urban intensity. The Council also foresees a strong possibility that market demand, energy policies, food needs, and numerous other significant conditions may change substantially, or even drastically, with the result that the public interest would be impaired if urban development were to be allowed in some of these areas, despite their physiographic suitability to accommodate urban water-supply and sewerage systems. All of these areas are suitable for agriculture, which is the preferred use of the land in these areas, thus providing a reasonable present and future use for the land. The R.C. 3 zoning classification and its regulations are established, therefore, to prevent inappropriate sprawling development when WHERE urban development may be appropriate in the future and where the detailed planning necessary for that development must be deferred.

B. Location. The R.C. 3 classification may be applied only to land that lies beyond the Urban-Rural Demarcation Line, as established in the ~~1979~~ 1975 Master Sewer and Water Plan, and as amended from time to time.

Section 1A03 - R.C. 4 (WATERSHED PROTECTION) ZONES

1A03.1 - Findings and Legislative Policy. The County Council finds that major, high-quality sources of water supply for the entire Baltimore metropolitan area and for other neighboring jurisdictions lie within Baltimore County and that continuing development in the critical watersheds of those water-supply sources is causing increased pollution and sedimentation in the impoundments, resulting in

increasing water-treatment costs and decreasing water-storage capacity. The R.C. 4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds.

1A03.2 - Rezoning by petition. No petition for reclassification of property in an R.C. 4 zone may be granted unless a registered professional engineer, architect, landscape architect, or land surveyor first certifies:

1. That the parcel of land under petition lies at least 200 feet from the property line of any public water reservoir;

2. That the parcel lies at least 300 feet from any 1st - or 2nd - order or greater stream that flows directly into a public water reservoir;

3. That the parcel lies at least 300 feet from any 3rd - order or greater stream that flows directly or indirectly into a public water reservoir;

4. That no more than 30% of the parcel has a slope of more than 20%;

5. That the parcel does not lie within a 100-year floodplain; and

6. That, as shown by an environmental impact statement, the MANNER IN WHICH proposed reclassification will ~~not impair~~ AFFECT water quality in the watershed or any public water reservoir.

For the purpose of this subsection, streams are classified by order as shown on the map of stream orders adopted by the Planning Board on March 25, 1976.

1A03.4 - Height and Area Regulations.

B. Area regulations.

1. No lot less than three acres in area may be hereafter created from a larger tract in an R.C. 4 zone, and no detached single-family dwelling may be hereafter erected on any lot of smaller area except as otherwise provided in Subsection 103.3 or in Paragraph 6, below.

2. Lot density. A lot of record in an R.C. 4 zone with a gross area of less than 6 acres may not be subdivided, and a lot of record with a gross area of ~~more than~~ 6 ACRES but not more than 10 acres may not be subdivided into more than 2 lots (total). The maximum gross density of a lot of record with a gross area of more than 10 acres is 0.2 lot per acre.

5. Coverage. No more than 10 percent of any lot in an R.C. 4 zone may be covered by impermeable surfaces (such as structures or pavement). No more than

25 per cent of the natural vegetation may be removed from any lot in an R.C. 4 zone.

Section 1A04 - R.C. 5 (RURAL - RESIDENTIAL) ZONE

1A04.3 - Height and area regulations.

B. Area regulations.

1. Lot area; density control. A lot having an area of less than 1 acre may not be created in an R.C. 5 zone. The maximum gross residential density of a lot of record is 0.667 dwellings per acre.

SECTION 3. Be it further enacted, that new Subsections 1A01.4, 1A02.4, and new definitions "Housing for the elderly", "Industrial, quasi-industrial, or industry-related uses" and "Nonindustrial uses" to Section 101, all of the Baltimore County Zoning Regulations, be and they are hereby added to said regulations, to read as follows:

Section 1A02 - R.C. 2 (AGRICULTURAL) ZONES

1A01.4 - Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Section 2-509 of the Agriculture article of the Annotated Code of Maryland, 1974, 1979 Cumulative Supplement, shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to Section 2-513 of that article in the case of any conflict between those provisions and these Zoning Regulations.

Section 1A02 - R.C. 3 (DEFERRAL OF PLANNING AND DEVELOPMENT) ZONES

1A02.4 - Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Section 2-509 of the Agriculture article of the Annotated Code of Maryland, 1974, 1979 Cumulative Supplement, shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to Section 2-513 of that article in the case of any conflict between those provisions and these Zoning Regulations.

Section 101 - DEFINITIONS

Housing for the elderly: Housing that is constructed and designated for occupancy by elderly persons under the applicable provisions of a federal housing act.

Industrial, quasi-industrial, or industry-related use: Any use listed in Paragraph 253.1.A other than Item 33; any use listed in Paragraph 253.1.B, Paragraph 253.2.A, or Subsection 256.2; any manufacturing use not listed in those provisions; or any use accessory to one of those uses.

Nonindustrial use: Any use other than an industrial, quasi-industrial,

or industry-related use.

SECTION 4. Be it further enacted, that Subsection 1A04.3.B.2 of the Baltimore County Zoning Regulations, be and it is hereby repealed.

SECTION 5. Be it further enacted, that Council Bill No. 177-79 be and it is hereby repealed ~~upon the enactment of this bill.~~ EFFECTIVE 12:01 A.M. November 25, 1979.

SECTION 6. Be it further enacted, that every part of every section, subsection, sentence, clause or word of this Act is enacted independently and is therefore, severable; if any section, subsection, sentence, clause, phrase or word hereof is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions shall not be affected thereby, it being the intent of the County Council of Baltimore County, Maryland in adopting this Act that no portion thereof or provision or regulation contained therein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision or regulation.

SECTION 7. And be it further enacted, that this Act is hereby declared to be an emergency measure affecting the public health, safety or welfare, and having been passed by the affirmative vote of five members of the County Council, the same shall take effect ~~from the date of its enactment.~~ 12:01 A.M. November 25, 1979.

FINAL Report of the
Baltimore County Planning Board
Adopted July 26, 1979 and August 2, 1979

GROWTH-MANAGEMENT LEGISLATION: PHASE I

PC #13 10/25/01

Baltimore County Office of Planning and Zoning
Towson, Maryland

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3211

JOHN D. SEYFFERT
DIRECTOR

For Mr. Hessian
People's Counsel Ex. 3

August 14, 1979

Enclosed are the following reports recently adopted by the Baltimore County Planning Board:

1. Final report—growth-management legislation: phase I—7/26/79 and 8/2/79

2. Final report—recommended Baltimore County master plan 1979-1995—7/26/79

Copies of the land-use map that is a part of the recommended plan, and of the proposed deficient-facilities component of the zoning map, are on display in the Office of Planning and Zoning, Room 406 County Courts Building, in Towson.

These reports have been transmitted to the County Council, and the Council will establish the date of the hearing or hearings on them.

Norman E. Gerber
for John D. Seyffert, Director of Planning and Zoning
Secretary to the Planning Board

CWM/ks

RESOLUTION OF THE BALTIMORE COUNTY PLANNING BOARD
TO ADOPT

THE BALTIMORE COUNTY MASTER PLAN 1979-1995 AND
GROWTH-MANAGEMENT LEGISLATION: PHASE 1

JULY 26 AND AUGUST 2, 1979

WHEREAS, A PRELIMINARY REPORT ON A PROPOSED REVISION OF THE BALTIMORE COUNTY COMPREHENSIVE PLAN 1975 (GROWTH-MANAGEMENT PLAN), INCLUDING TEXTUAL AND MAP ELEMENTS, WAS ADOPTED BY THE BALTIMORE COUNTY PLANNING BOARD ON MAY 3, 1979; AND

WHEREAS, A PRELIMINARY REPORT ON PROPOSED GROWTH-MANAGEMENT LEGISLATION WAS ADOPTED BY THE PLANNING BOARD AT THE SAME MEETING; AND

WHEREAS, PRELIMINARY MAPS OF OVERLAY-DISTRICT AREAS AND SUBAREAS (INCLUDING BASIC-SERVICES MAPS) WERE ADOPTED BY THE PLANNING BOARD ON MAY 17, 1979; AND

WHEREAS, THE PRELIMINARY PROPOSED PLAN, LEGISLATION, AND MAPS WERE THE SUBJECTS OF PUBLIC HEARINGS HELD BY THE PLANNING BOARD ON JUNE 7 AND JUNE 21, 1979; AND

WHEREAS, THE PLANNING BOARD HAS REVIEWED THE COMMENTS, CRITICISMS, AND SUGGESTED REVISIONS TO THE PROPOSED PLAN, LEGISLATION, AND MAPS, AND, AS A COMMITTEE OF THE WHOLE, HAS STUDIED THE PROPOSALS IN DEPTH; AND

WHEREAS, THE BALTIMORE COUNTY PLANNING BOARD AT ITS SPECIAL MEETING ON JULY 26, 1979, BY VOICE VOTE, APPROVED A FINAL REPORT ENTITLED "BALTIMORE COUNTY MASTER PLAN 1979-1995," AS AMENDED, FOR TRANSMITTAL TO THE COUNTY COUNCIL OF BALTIMORE COUNTY; AND

WHEREAS, AT THE SAME MEETING, THE PLANNING BOARD ADOPTED, BY A SEPARATE MOTION, THE LAND-USE MAP THAT IS PART OF THAT REPORT, AS AMENDED, FOR TRANSMITTAL TO THE COUNTY COUNCIL; AND

WHEREAS, AT ITS SPECIAL MEETING ON JULY 26, 1979, BY VOICE VOTE, THE PLANNING BOARD ADOPTED ITS FINAL REPORT ENTITLED "GROWTH-MANAGEMENT LEGISLATION: PHASE I," AS AMENDED, EXCEPTING CERTAIN RECOMMENDATIONS RELATING TO MASTER-PLAN CONSISTENCY, INCLUDING THE PROPOSED DEFICIENT-FACILITIES COMPONENT OF THE ZONING MAP, FOR TRANSMITTAL TO THE COUNTY COUNCIL; AND

WHEREAS, THE PLANNING BOARD HAS REVIEWED, AS A COMMITTEE OF THE WHOLE, THE PROPOSED RECOMMENDATIONS TO ESTABLISH LEGISLATIVE PROVISIONS RELATING TO CONSISTENCY WITH THE MASTER PLAN; NOW, THEREFORE, BE IT

RESOLVED, THAT THE BALTIMORE COUNTY PLANNING BOARD RE-ADOPTS ITS FINAL REPORT ENTITLED "GROWTH-MANAGEMENT LEGISLATION: PHASE I," INCLUDING AMENDMENTS RELATING TO MASTER-PLAN CONSISTENCY ADOPTED BY THE BOARD AT ITS SPECIAL MEETING ON AUGUST 2, 1979; AND BE IT FURTHER

RESOLVED, THAT THE CONCEPTS AND PRINCIPLES OF THE DETAILED PLANS FOR OELLA, TOWSON, ESSEX, AND PIKESVILLE ARE INCORPORATED IN THE PROPOSED BALTIMORE COUNTY MASTER PLAN 1979-1995, TO THE EXTENT THAT THEY ARE NOT INCONSISTENT WITH THAT PLAN; AND BE IT FURTHER

RESOLVED, THAT PREVIOUS MASTER PLANS ADOPTED BY THE PLANNING BOARD ARE RESCINDED TO THE EXTENT THAT THEY ARE INCONSISTENT WITH THAT PROPOSED MASTER PLAN; AND BE IT FURTHER

RESOLVED, THAT THE PLANNING STAFF OF THE OFFICE OF PLANNING AND ZONING MAY, IN PREPARING PUBLISHED EDITIONS OF THAT PROPOSED MASTER PLAN AND PHASE I GROWTH-MANAGEMENT LEGISLATION, MAKE MINOR, NONSUBSTANTIVE EDITORIAL CHANGES; CORRECT ANY FACTUAL ERRORS; AND ADD UNOFFICIAL GRAPHIC OR TEXTUAL MATERIAL TO CLARIFY OR EMPHASIZE PORTIONS OF THE PROPOSED PLAN OR LEGISLATION. THE STAFF MAY ALSO PUBLISH CONDENSATIONS OR ABRIDGEMENTS OF THE PROPOSED PLAN IN ORDER TO MAKE POSSIBLE WIDE-SPREAD PUBLIC DISTRIBUTION.

GROWTH-MANAGEMENT LEGISLATION: PHASE I

A Final Report of the Baltimore County Planning Board*

DISCUSSION

For more than three years the Baltimore County government, a large team of consultants, and numbers of County citizens have been engaged in a new planning effort of enormous proportions. It has resulted in the assembly and integration of vast arrays of planning data to serve as the basis for a comprehensive examination and, where appropriate, reformulation of County planning goals. Its ultimate purposes have been to revise the County's 1975 Comprehensive Plan on the basis of those data and goals and to provide for truly effective implementation of the revised plan through legislation and any other legitimate means at the County's disposal. The plan and implementation measures are to constitute what is now called a growth-management system.

For most of this period residential development in the County has been limited by temporary legislation now known as the "Plan in Progress Act" (originally the "Interim Development Control Act," or IDCA)—a law that will expire in mid October.

During the first four months of this year the Planning Board received a number of the consultants' preliminary recommendations for elements of a projected growth-management system, including a proposed map of present and future land use, accompanying text, and proposed growth-management legislation. These documents were given preliminary approval by the Board in May. The Office of Planning and Zoning then held "information meetings" on the proposals at three different high schools in the County. In early June, the Board held a public hearing on the recommendations, and, later in the month, there was a hearing on zoning-district maps drawn up in accordance with the proposed growth-management legislation and land-use map. The Board has also met numerous times in work sessions on the various recommendations.

It has now become clear to the Board that the issues raised by the consultants' recommendations in general, and the proposed legislation in particular, are much too sweeping and complex to be dealt with all at one time in a three- or a four-month period. The Board suspected this as early as last January, when it adopted a report recommending extension of the IDCA.[1] That report suggested that a growth-management system should be implemented in phases, the first phase to be limited to regulation of matters addressed in some fashion by the IDCA, with the intent that those regulations be established before expiration of the interim controls.

The Board now adopts the position that, under present circumstances, the most rational approach to growth management is a phased approach. The first phase, in the Board's view, should consist of master-plan adoption coupled with the recommendations in this report. The master plan itself, which is the subject of a separate report, outlines succeeding phases.

*Adopted July 26, and August 2, 1979. (Preliminary report adopted May 3, 1979. Public hearing held June 7, 1979.)

1. "Proposed Amendment to the Baltimore County Code: Extension of Interim Development Control Act," a preliminary report of the Baltimore County Planning Board, January 18, 1979.

Scope of Proposed Phase I Growth-Management Legislation

The issues that the Board feels must be addressed in this first phase of the growth-manage-ent legislation are protection of agricultural and environmentally sensitive lands, the adequacy basic public services to support additional development in the urban areas of the County, and ecific inclusion of master-plan considerations in the development review procedure.

Another integral part of the growth-management program is the limitation of time during ich subdivision approvals are valid, a matter already covered by Bill No. 61-79, enacted by e County Council on April 16th of this year. That legislation, by requiring that the plan of any odivision which remains undeveloped for an excessive length of time after its recordation be submitted to the Planning Board for review and approval in accordance with current regulations, ll enable the County to improve the quality and appropriateness of development. The Board shes to reiterate its support for that legislation, previously expressed in a resolution adopted by e Board on April 6, 1979, as well as in the Board's November 16, 1978, final report recom-ending the legislation. The additional legislation now being proposed by the Board is equally tal and, in conjunction with the provisions of Bill No. 61-79, will be the initiation of a true owth-management program for Baltimore County.

The three primary aspects of this proposed legislation are described below.

Agricultural and environmental protection. The amendments to regulations of the Resource onservation classifications contained in this report would significantly strengthen those classifi-tions to more fully achieve their intended purposes. The R.C.2 (agricultural) zone regulations ould be revised to allow uses that would enhance the economic viability of agriculture, to pre-nt continued usurpation of productive farmland by residential development or other uses not oportive of agriculture, and generally to encourage the preservation of agricultural land.

The R.C.3 zoning classification was established to reserve land that may be needed for urban velopment in the future. Essentially, the amendments to those regulations being proposed by the ard would merely clarify that purpose.

The R.C.4 (watershed protection) zoning classification would be made more effective der the Board's proposal to extend its application to the critical watershed of any public water-oply source in the County; after enactment of this amendment, the watershed of Deer Creek can zoned R.C.4, thus protecting that source of water for Harford County. In addition, the present ohibition on filing a rezoning petition for R.C.4-zoned land under certain circumstances would changed to a more defensible prohibition on granting any rezoning petition under essentially e same circumstances.

The Board's recommendations for the R.C.5 zone classification would allow a residential odivision to be designed to preserve open space and to reduce its impact on nearby farms.

* * *

"Basic Services" adequacy. This report recommends the establishment of "Deficient-cilities" districts, to be applied to existing urban areas where certain important public facilities ve inadequate capacity to accommodate the full amount of development that would be allowed the basic zoning of the property in the area. Under this proposal, the County Council would opt and annually revise maps restricting the issuance of building permits for residential or

commercial structures in each Deficient-Facilities district, based on the extent of deficiencies in such public services as water supply, sewerage, transportation, schools, fire protection, or open space.

Both the IDCA and the Plan in Progress Act ("PIP") attempted to control development on the basis of the adequacy of some public services. However, these laws created a problem popularly called "cumulative effect," resulting from a discrepancy in the methods of determining facility adequacy. That discrepancy was inherent in the fact that the control point under both the IDCA and the PIP was primarily at the subdivision-plan approval level. The adequacy of facilities was required to be measured in terms of conditions existing at the time the preliminary subdivision plan was considered, without regard to the potential impact of development that could be built pursuant to subdivision plans already approved. By substituting a system of subtracting measures of the impact of development to be authorized by each building permit, in terms of its projected sewage yield, traffic generation, or pupil yield, from the total amount of development impact permitted in a particular Deficient-Facilities district, the Board's proposal would eliminate the "cumulative effect" problem entirely. The effect of previously approved development would of necessity be a factor in determining whether a public facility could accommodate the additional development for which a building permit was requested.

* * *

Master-plan consistency. The third element of the Board's proposal for Phase I growth-management legislation is a requirement that master-plan considerations be included in the development-review process. Such a requirement is needed to clearly enable the Planning Board to take the leading role in reviewing development proposals and ensuring their appropriateness in terms of the County's overall planning concerns. Further, the Board believes that its review of development proposals must take into account the concerns expressed by interested citizens.

ECOMMENDATIONS CORE PROVISIONS—MAJOR AMENDMENTS TO ZONING REGULATIONS. It is recommended that the Baltimore County Zoning Regulations, 1955, as amended, be amended additionally s follows:

[R.C.2 ZONE CLASSIFICATION—AGRICULTURE]

1. Revise Paragraph 1A01.2.B to read as follows:

B. Uses permitted as of right. The following uses, only, are permitted as of right in all R.C.2 zones:

1. Dwellings, 1-family detached
2. Farms, satellite farms, farmettes, and limited-acreage wholesale flower farms (see Section 404)
3. Open space, common
4. Streets and ways
5. Telephone, telegraph, electrical-power, or other lines or cables, provided that any such line or cable is underground; underground gas, water, or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines.
6. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of Paragraphs b, c, e or f of subsection 415.1 and subparagraph 415.2.a(1) or 415.3.c(1), as applicable.
7. Accessory uses or structures, including, but not limited to, the following:
   a. Excavations, uncontrolled
   b. Farmers' roadside stands (see Section 404)
   c. Home occupations
   d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or persons engaged in other, similar occupations, provided that the use is established within the building that serves as the owner's domicile; occupies a floor area no greater than 25% of the floor area used for residential purposes, not including garage floor area or unfinished basement space; and does not involve the employment of more than 2 nonresidents.
   e. Parking space, including residential-garage space and space for recreational vehicles (see Section 415A)
   f. Piers, wharves, docks and bulkheads (subject to the provisions of Section 417)
   g. Radio antennas in conjunction with wireless transmitting or receiving facilities, provided that any such facility is used by a resident who has an amateur radio operator's license issued by the Federal Communications Commission. No such antenna may extend closer than the front building line to any street on which the lot may front; no rigid-structure antenna may be taller above grade level than the horizontal distance to the nearest property line or 100 feet, whichever is less; and no supporting structure may be situated within 50 feet of any property line (see also Section 400)
   h. Swimming pools, tennis courts, or similar recreational facilities.

2. Revise Paragraph 1A01.2.C to read as follows:

C. Uses permitted by special exception. The following uses, only, may be permitted by special exception in any R.C.2 zone:

1. Animal boarding places (regardless of class), kennels, veterinarians' offices, or veterinariums (see Section 421)
2. Antique shops (see Section 402B)
3. Camps, including day camps
4. Community care centers providing care for not more than 15 persons per acre[2]
5. Churches or other buildings for religious worship
6. Excavations, controlled
7. Farmers' co-op roadside stands
8. Fish hatcheries
9. Fishing and shellfishing facilities, shoreline, Class I or Class II
10. Hunting or fishing preserves
11. Offices for agriculture-related uses or for physicians or dentists (as principal uses)
12. Public-utility uses not permitted as of right, including underground interstate or international pipelines and railroads or other transportation lines or ways
13. Research institutes (see Section 418)
14. Residential art salons (see Section 402C)
15. Riding stables
16. Sanitary landfills (see Section 412)
17. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories or colleges
18. Shooting ranges, including archery, pistol, skeet, trap, or small-bore rifle ranges, or turkey shoots
19. Trailers other than trailers used as tenant houses (see Section 415)
20. Volunteer-fire-company or ambulance-rescue facilities
21. Wireless transmitting or receiving facilities as principal uses

3. Revise Paragraph 1A01.3.B ("Area regulations") to read as follows:

B. Area regulations

1. Subdivision

2. This entry presupposes enactment of Bill No. 122-79, presently before the County Council,

a. Lot density. No lot of record lying within an R.C.2 zone and having a gross area of 2 acres or less may be subdivided, and no such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total). Such a lot having a gross area of 100 acres or more may be subdivided only at the rate of 1 lot for each 50 acres of gross area.

b. Lot size. A lot having an area less than 1 acre may not be created in an R.C.2 zone.

c. Road-front development. If a subdivision in an R.C. 2 zone is to comprise more than 3 lots, no more than 1/2 of the total number of lots created from the lot of record may front on a road that is publicly owned or maintained at the time of subdivision.

2. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 zone may be situated within 75 feet of the centerline of any street or within 35 feet of any lot line other than a street line.

3. Principal dwellings per lot. No more than 1 principal dwelling is permitted on any lot in an R.C.2 zone.

4. Revise Section 1A01 ("R.C.2 (Agricultural) Zones") as follows, by adding the following new subsection immediately after Subsection 1A01.3 ("Height and Area Regulations"):

1A01.4—Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Section 2-509 of the Agriculture article of the Annotated Code of Maryland, 1974, 1978 Cumulative Supplement, shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to Section 2-513 of that article in the case of any conflict between those provisions and these Zoning Regulations.

[R.C.3 ZONE CLASSIFICATION—DEFERRAL OF PLANNING AND DEVELOPMENT]

5. Revise Subsection 1A02.1 ("General provisions") to read as follows:

1A02.1—Findings and Legislative Policy

A. Declaration of findings. The County Council finds that some presently rural areas which may in the future be suitable for urban development are being preempted by sprawling development that will preclude future development of urban intensity. The Council also foresees a strong possibility that market demand, energy policies, food needs, and numerous other significant conditions may change substantially, or even drastically, with the result that the public interest would be impaired if urban development were to be allowed in some of these area, despite their physiographic suitability to accommodate urban water-supply and sewerage systems. All of these areas are suitable for agriculture, which is the preferred use of the land in these areas, thus providing a reasonable present and future use for the land.

The R.C.3 zoning classification and its regulations are established, therefore, to prevent inappropriate sprawling development where urban development may be appropriate in the future and where the detailed planning necessary for that development must be deferred.

B. Location. The R.C.3 classification may be applied only to land that lies beyond the Urban-Rural Demarcation Line.

6. Revise Section 1A02 ("R.C.3 (Deferral of Planning and Development) Zones") as follows, by adding the following new subsection immediately after Subsection 1A02.3:

1A02.4—Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Section 2-509 of the Agriculture article of the Annotated Code of Maryland, 1974, 1978 Cumulative Supplement, shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to Section 2-513 of that article in the case of any conflict between those provisions and these Zoning Regulations.

[R.C.4 ZONE CLASSIFICATION—WATERSHED-PROTECTION]

7. Revise Subsection 1A03.1 ("General Provisions") to read as follows:

1A03.1—Findings and Legislative Policy. The County Council finds that major, high-quality sources of water supply for the entire Baltimore metropolitan area and for other neighboring jurisdictions lie within Baltimore County and that continuing development in the critical watersheds of those water-supply sources is causing increased pollution and sedimentation in the impoundments, resulting in increasing water-treatment costs and decreasing water-storage capacity. The R.C.4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds.

8. Revise Subsection 1A03.2 ("Rezoning by petition") to read as follows:

1A03.2—Rezoning by petition. No petition for reclassification of property in an R.C.4 zone may be granted unless a registered professional engineer, architect, landscape architect, or land surveyor first certifies:

1. That the parcel of land under petition lies at least 200 feet from the property line of any public water reservoir;
2. That the parcel lies at least 300 feet from any 1st- or 2nd-order or greater stream that flows directly into a public water reservoir;
3. That the parcel lies at least 300 feet from any 3rd-order or greater stream that flows directly or indirectly into a public water reservoir;
4. That no more than 30% of the parcel has a slope of more than 20%;
5. That the parcel does not lie within a 100-year floodplain; and
6. That, as shown by an environmental impact statement, the proposed reclassification will not impair water quality in the watershed of any public water reservoir.

For the purposes of this subsection, streams are classified by order as shown on the map of stream orders adopted by the Planning Board on March 25, 1976.

9. In Paragraph 1A03.4.B ("Area regulations"), revise Subparagraph 2 ("Density control") to read as follows:

   2. Lot density. A lot of record in an R.C.4 zone with a gross area of 6 acres or less may not be subdivided, and a lot of record with a gross area of more than 6 but not more than 10 acres may not be subdivided into more than 2 lots (total). The maximum gross density of a lot of record with a gross area of more than 10 acres is 0.2 lot per acre.

10. In Paragraph 1A03.4.B ("Area regulations"), revise Subparagraphs 5 ("Coverage") and 6 ("Exceptions for certain record lots") to read as follows:

    5. Coverage. No more than 10 per cent of any lot in an R.C.4 zone may be covered by impermeable surfaces (such as structures or pavement).

[R.C.5 ZONE CLASSIFICATION—RURAL RESIDENTIAL]

11. In Paragraph 1A04.3.B ("Area regulations"), revise Subparagraphs 1 and 2 to read as follows:

    1. Lot area; density control. A lot having an area of less than 1 acre may not be created in an R.C.5 zone. The maximum gross residential density of a lot of record is 0.5 lots per acre.

    2. Open space. Open space resulting from subdivision of a lot of record shall be reserved as common open space in accordance with the provisions of Section 429.[3]

[DEFICIENT-FACILITIES-DISTRICT REGULATIONS]

12. Add the following new subsection to Section 259 ("Districts"), immediately after Subsection 259.2:

    259.3—Deficient-Facilities Districts.

    A. Findings and legislative policy. The County Council finds that important public facilities in certain predominantly urban areas of the County are inadequate to serve all of the development that would be permitted under the regulations of the zones or commercial districts within which those areas lie. Deficient-facilities districts and their regulations are established to restrict further residential and other nonindustrial development in those underserved areas to a degree commensurate with the availability of these

3. The reference to Section 429 presupposes enactment of a bill amending the Zoning Regulations as proposed in the Planning Board's November 16, 1978 final report regarding common open space in D.R. zones.

E-mail jberg@biohabitats.com

Joseph A. Berg, PWS

EMPLOYMENT

June 1998 - Present	*Biohabitats, Inc., Timonium, Maryland, Senior Environmental Scientist*
1984 - 1998	EA Engineering, Science, and Technology, Inc., Hunt Valley, Maryland, Senior Ecologist
1981 - 1984	University of Maryland Center for Estuarine and Environmental Science, College Park, Maryland, Research Fellow

PROFESSIONAL REGISTRATION

U.S. Army Corps of Engineers Certified Wetland Delineator, # WDCP93MD100100B, 1993

Society of Wetland Scientist's Certified Professional Wetland Scientist, PWS # 000520, 1995

State of Maryland Certification in Erosion and Sediment Control, 1989

EDUCATION

M.S., Ecology, University of Maryland, Center for Marine, Environmental, and Estuarine Science, College Park, Maryland 1984

B.S., Environmental Science, California University of Pennsylvania, California, Pennsylvania 1981

EXPERIENCE

Mr. Berg is an ecologist with a strong background in systems ecology. His responsibilities in resource management have included wetlands; terrestrial and aquatic plant resources; rare, threatened, and endangered species; forest resources; wildlife resources; aquatic resources, including fish and benthic invertebrates; and related water-quality issues.

Mr. Berg has experience with a variety of habitat and wildlife evaluation methodologies, wetland mitigation design, and stream channel restoration using principles of fluvial geomorphology. Mr. Berg is also experienced in the application of geographic information systems (GIS) for characterizing resources and as a land-use planning tool.

Mr. Berg is experienced in the design and oversight of resource restoration/creation projects such as wetlands, streambanks, and forests. Mr. Berg has also written operation and maintenance guides for newly installed natural vegetation resources. He also coordinates project-specific regulatory agency consultation.

PROFESSIONAL ASSOCIATIONS

American Water Resources Association

Association of State Wetland Managers

Society of Wetland Scientists

Society for Ecological Restoration

Soil and Water Conservation Society

CONTINUING EDUCATION (WITHIN LAST FIVE YEARS)

40-Hour OSHA Hazardous Waste Operations and Emergency Response Training, a technical training course that included CPR, first aid, and other material relating to safe performance on a variety of field sites. EA Engineering, Baltimore, Maryland, 1996.

Litigation Support Short Course, a week-long training course that addressed the process of providing testimony as a professional technical expert. EA Engineering, Baltimore, Maryland, 1996.

PC #14 10/25/01

RELEVANT PROJECT EXPERIENCE

Wake County Open Space Plan, *Wake County, North Carolina.* As project manager, Mr. Berg coordinated this GIS study of four watersheds in one of the fastest growing counties in the nation. The purpose of the study was to identify land appropriate for preservation based on valuable ecological and cultural resources and to balance future municipal planning and community recreational needs with the preservation of these resources. Specific responsibilities included the development of conservation/restoration matrices and a corresponding ranking system for a multi-tiered analysis. Mr. Berg also coordinated the project with a stakeholder group to balance issues such as agricultural preservation, maintenance of economic growth, and retention of natural heritage values. The project resulted in the development and execution of a successful, practical ranking system using existing available GIS data.

Potomac Subregion Environmental Study, *Montgomery County, Maryland.* Mr. Berg participated in a field survey of the natural resources of the Potomac Subregion for the Maryland-National Capital Parks and Planning Commission (M-NCPPC). The undeveloped habitats of the region, including forests, old fields, and wetlands, were characterized by collecting data at discrete sampling points on items such as habitat type, dominant vegetation, and animals species observed. This data was used with aerial photo interpretation and GIS capabilities to determine the amounts and distribution of the undeveloped natural resources of the region. A report detailing the methods used, the information gathered, an interpretation of the data, and possible future management techniques was written and submitted to the client.

Oconee River Dam Relicensing, *Georgia Power Company.* Mr. Berg served as project manager and task manager to assist in the preparation of a FERC Environmental Assessment supporting the relicensing of a hydroelectric power plant on the Oconee River of Georgia. Used Geographic Information System (GIS) (ArcInfo/ArcCadd) coupled with image processing (ERDOS) of digital satellite images to map land cover, map various forest communities (including wetlands), and evaluate data for evidence of plant stress. Used FORFLO, a forest growth simulation model, to evaluate effects of changing hydrologic regime on forest community composition. Evaluated effects of river regulation, flooding regime, and precipitation on patterns of tree growth observed in tree increment cores. Existing wildlife and wetland resources were documented and characterized within the project boundary. Possible impacts to these resources were evaluated under several alternative river flow scenarios. Issues related to powerline right-of-way maintenance; impacts to rare, threatened, and endangered species; and potential electrocution of raptures were addressed.

Watt's Branch Stream Assessment, *Rockville, Maryland.* Mr. Berg was responsible for performing the environmental assessment of the Watt's Branch to help the City of Rockville determine the best location for a new sewer line. Mr. Berg looked at the potential impacts of several alternatives, identifying the environmental effects of each type of alignment. His responsibilities included stream assessment, using the Montgomery County Rapid Stream Assessment technique, and wetland and forest mapping. Mr. Berg presented the results of these assessments at three community meetings and produced a report documenting the results of the environmental assessment.

Restoration of Delaware Bay Wetlands for Enhancing Fish Production, *Public Service Electric and Gas.* Mr. Berg was a member of a technical consulting team responsible for advising and assisting with the development of a tidal marsh restoration approach to offset fish entrainment impacts associated with once-through cooling at a nuclear power generation facility. The approach was founded on minimizing the need for extensive site modification and revegetation in the 10,000 acres required to be restored as a condition of an NPDES permit. Once this approach was formally accepted by the regulatory community, PSE&G had 5 years to develop baseline monitoring programs, initiate restoration work, and document progress towards the restoration of 10,000 acres of salt marsh previously degraded by modification for use as salt hay farms. Restoration plans focused on the breaching of berms, plugging of drainage ditches, and compensating for marsh surface subsidence. Mr. Berg was instrumental in identifying degraded marsh areas suitable for restoration, including areas currently dominated by *Phragmites*. In addition, Mr. Berg developed the monitoring approach which included a predictive model for the relationship between marsh production and infrared aerial photo spectral

signatures. This facilitated monitoring of this large project and dramatically reduced costs associated with field sampling and laboratory analysis. This monitoring approach was applied at three salt hay farm restoration sites and at two reference sites along the Delaware Bay in Cape May, Cumberland, and Salem Counties, New Jersey.

Lake Maryuit Wetland Waster Water Treatment System Feasibility Study, *U.S. Aid.* Mr. Berg served as the wetland ecologist tasked with evaluating the opportunity for converting a 15,000 acre shallow marsh and lake system on the edge of the City of Alexandria, Egypt to a wetland treatment system for treating wastewater effluent from two sewage treatment plants providing primary treatment for the City of Alexandria. This effort required the evaluation of existing plant community characteristics (e.g., biomass, diversity) in four basins of a large shallow hypereutrophic lake, analyze the results of hydrology and sediment studies, and evaluate the opportunities and approaches for optimizing attainment of sewage treatment and water quality goals. Concepts considered included construction of berms to divide the basin into a series of treatment systems using surface flow treatment, modification of a portion of the basin to construct more efficient subsurface treatment systems, and modification of existing flow paths using existing cultural practices developed to enhance fish harvesting (i.e., reed walls made of living vegetation). Existing dominant vegetation in the main basin of Lake Maryuit, including *Phragmites* and water hyacinth, are excellent candidates for use in wetland treatment systems.

Spring Gardens Comprehensive Critical Area Plan, *Baltimore Gas & Electric.* As project manager, Mr. Berg calculated buffer area and determined type of storm water management system needed to allow continued use of a historic waterfront industrial facility. Once buffer area was identified, a planting and soil amendment plan was developed to establish a wetland and forest buffer site. The planting was designed to provide pollutant-loading capabilities and to improve the quality and quantity of stormwater leaving the site and entering the Middle Branch of the Patapsco River. The buffer design included a storm water management system, including a perimeter swale and berm to collect runoff and convey storm water to the buffer through a series of stone level spreaders designed to work with the buffer planting. Project included the development of bid specifications, construction oversight, follow-up monitoring, and inspection services. Mr. Berg inspected material for true to name nursery stock, and quality, quantity and size as specified in bid documents and the planting plan, and supervised the landscape contractor to insure that plant material was installed correctly and in compliance with the planting plan specifications and specifications provided by BGE. Approximately 1000 trees and shrubs and several hundred pounds of wetland and soil cover seed mix were installed in this buffer area. Sediment removal rates up to 85 percent have been associated with this buffer system.

Oconee River Dam Relicensing, *Georgia Power Company.* Mr. Berg served as project manager and task manager to assist in the preparation of a FERC Environmental Assessment supporting the relicensing of a hydroelectric power plant on the Oconee River of Georgia. Used Geographic Information System (GIS) (ArcInfo/ArcCadd) coupled with image processing (ERDOS) of digital satellite images to map land cover, map various forest communities (including wetlands), and evaluate data for evidence of plant stress. Used FORFLO, a forest growth simulation model, to evaluate effects of changing hydrologic regime on forest community composition. Evaluated effects of river regulation, flooding regime, and precipitation on patterns of tree growth observed in tree increment cores. Existing wildlife and wetland resources were documented and characterized within the project boundary. Possible impacts to these resources were evaluated under several alternative river flow scenarios. Issues related to powerline right-of-way maintenance; impacts to rare, threatened, and endangered species; and potential electrocution of raptures were addressed.

Vector Control Supplemental Environmental Impact Statement, *Tennessee Valley Authority.* Mr. Berg served as project manager to help evaluate and summarize 20 years worth of records on Vector Control Program and comparison to 40 years of prior Vector Control Program operation to identify and describe changes. Identified changes were then described in terms of their environmental impacts to the environment. This project included all of TVA's reservoirs in five states. Mr. Berg presented the project and conclusions at a public meeting, and incorporated agency and public comments in the final document.

Stream Restoration of Fill Impacts for the Parkwood Cemetery Company, *Baltimore County, Maryland.* Mr. Berg served as project manager for an enforcement action that required the removal of 1,500 CY of fill from

a stream and wetland area. Subsequently, the stream (a recreational trout stream) and associated riparian wetlands along the length of the stream were restored. As part of the restoration, Mr. Berg used an innovative sediment control material called fiberschine to stabilize toe-of-slope at stream edge. His responsibilities included negotiating a settlement with the U.S. Army Corps of Engineers, Baltimore City Planning, Maryland Department of Natural Resources, and Maryland Department of the Environment.

WSSC BOA For Alignment Projects, *Washington Suburban Sanitary Commission.* Mr. Berg served as project manager to supervise field activities and prepare reports for a local utility. Reports used for permit submittal for Maryland Critical Area review and required a timely response. Project field work included wetland delineation, forest stand delineations and critical area characterizations.

Baltimore Yacht Club Permitting, *Baltimore, Maryland.* As project manager, Mr. Berg was the lead contact for State and Federal permitting to dredge, bulkhead, and vegetatively stabilize the shoreline the Baltimore Yacht Club. Mr. Berg was responsible for the shoreline stabilization design of an eroding bluff, placement of an offshore breakwater to dissipate wave action on the bluff, and a tidal marsh planting. The design avoided excavation of the eroding bluff and the highest point of the offshore breakwater was designed to be equivalent to mean water level. The narrow existing beach was planted in wetland fringe vegetation to facilitate vegetative stabilization of the accruing beach. Plant material installed included saltmeadow hay (*Spartina patens*) and smooth cordgrass (*Spartina alterniflora*). A goose exclusion fence was placed around the planting to minimize predation by the local waterfowl. The face of the eroding berm was planted with vines to facilitate vegetative stabilization and grow rapidly to cover slumping areas.

Chesapeake Terrace Rubblefill, *National Waste Managers, Inc.* Mr. Berg served as project manager to map wetland resources on a 500-acre strip-mined parcel and took lead in permitting wetland fill for the creation of a proposed rubblefill landfill. This required an alternative analysis (404 b(1) guidelines) and the development of wetland mitigation plan to offset the approximate 5 acres of fill proposed.

Dredged Material Placement Site Selection, *South Carolina State Ports Authority.* Mr. Berg served as Site Selection Task Supervisor. Evaluated a geographic area for the availability of sites suitable for use as a dredged material placement facility. Identified sites were then prioritized on the basis of environmental features (wetlands, endangered species, etc.), economic and engineering considerations, and human environment issues. This prioritization was carried out in consultation with regulatory agencies.

River Downs Golf Course/Residential Community, *Gaylord Brooks Realty Company.* Mr. Berg served as project manager. Environmental planning of a championship quality 18-hole golf course and 140 single family estate homes on a 500-acre site using constraint analysis to minimize the adverse impacts associated with a project of this magnitude. This included an impact analysis on the natural environment as well as an evaluation of the sites hydrogeology. Wetland mitigation, pollutant load mitigating Best Management Practices (BMPs), and BMPs to limit ground water withdrawals were all developed for this project.

Phragmites Eradication Plan, *Cargill Salt, Inc.* Mr. Berg served as project manager to develop and implement a wetland mitigation plan that offset a small wetland disturbance with the eradication of an invasive stand of *Phragmites* (common reed) and reseeding with wetland herbs.

Towson Nursery Development, *Baltimore County, Maryland.* As project manager, Mr. Berg identified and mapped resources and resource buffers on a 220-acre forested parcel under consideration for a planned urban development. In addition to stream, wetlands, and steep slopes, a forest protection plan was developed. Special efforts to cluster development and reduce the disturbance "foot print" were undertaken. Mr. Berg prepared an Environmental Impact Statement in accordance with County rezoning and special exception requirements. Project siting and review complicated by the project proximity to an adjacent drinking water reservoir. Mr. Berg consulted with state agencies to determine the existence of rare, threatened, or endangered species, and coordinated with project team of land planners, designers, and lawyers. State and County regulations addressing forested stream buffers and steep slopes were researched and incorporated into the design plans. Mr. Berg also performed pollution loading calculations and proposed best management practices (BMP) evaluations as a means to demonstrate that this low impact development

design was consistent with the Interagency Agreement on Baltimore's drinking water reservoir protection agreements (no increase in phosphorus or suspended sediment).

Southern Maryland Wood Treatment Site, *U.S. Army Corps of Engineers.* Mr. Berg performed a wetland delineation and characterization of a former wood preserving facility and the associated downgradient stream and floodplain resources in St. Mary's County, Maryland. Also performed a forest assessment of the upland and wetland areas associated with the possible areas of remediation. Created a site restoration plan for the affected wetlands and forests including planting plans and specifications. Developed a stream sediment removal strategy that minimized adverse effects to the morphology of adjacent streams.

Potomac Subregion Environmental Study, *Montgomery County, Maryland.* Mr. Berg participated in a field survey of the natural resources of the Potomac Subregion for the Maryland-National Capital Parks and Planning Commission (M-NCPPC). The undeveloped habitats of the region, including forests, old fields, and wetlands, were characterized by collecting data at discrete sampling points on items such as habitat type, dominant vegetation, and animals species observed. This data was used with aerial photo interpretation and GIS capabilities to determine the amounts and distribution of the undeveloped natural resources of the region. A report detailing the methods used, the information gathered, an interpretation of the data, and possible future management techniques was written and submitted to the client.

A Former Trap Club in Wisconsin. Mr. Berg interacted with various state agencies to gather information concerning pertinent regulations. Mr. Berg conducted a site visit to gather necessary data for Habitat Suitability Indices (HSI) specific to a suite of wildlife species known or suspected to utilize the site. He also collected information necessary for the completion of the Wisconsin DNR's Rapid Assessment Methodology for Evaluating Wetland Functional Values. Mr. Berg collected, identified, and inventoried plant species present and created a plant community distribution map. Observations of wildlife were noted and identified for future reporting and possible modeling efforts. A survey of rare, threatened, and endangered plant and animal species was conducted using lists provided by Wisconsin DNR. Species of concern known to exist in both the state and county in which the site exists were compared with the plant and animal species observed on-site.

Henrico County, Virginia Wetland Delineation, *Camp, Dresser, and McKee, Inc.* Mr. Berg performed a wetland delineation and characterization on two pieces of property in Henrico County, Virginia. One piece of property was proposed for the construction of a new pumphouse facility and the other property was proposed for use as a new water treatment plant facility.

Facility-Wide Freshwater/Terrestrial Ecological Risk Assessment at the former Naval Construction Battalion Center, *Davisville, Rhode Island.* Mr. Berg performed Wetland Functional Assessment (WFA) using Environmental Concern's *Evaluation of Planned Wetlands*. Compared wetlands upstream (reference) and downstream of the naval base to determine the effect on the wetland systems, if any, due to the historic activities of the base. Also participated in the collection of soil and animal and vegetative tissue samples, for various analyses. Developed a coastal restoration program, which included beneficial use of dredged material to build a fringe saltmarsh, a coastal breakwater to dampen wave energy and retain the dredged material, and a bluff stabilizing revetment to minimize erosion of the landfill face.

Shipley to Academy Junction Transmission Line Upgrade, *Anne Arundel County, Maryland.* Mr. Berg assisted in the delineation of wetland areas associated with a proposed upgrade of electric transmission lines along the Sawmill Creek corridor. Mr. Berg identified plants encountered as well as soil characteristics as they related to possible hydrology.

Brown Station Road Sanitary Landfill, *Prince George's County, Maryland.* Mr. Berg created planting plans and planting specifications for the installation of plant material for a constructed wetland (three inter-connected wetland basins) on the coastal plain of Maryland. As a permit requirement to mitigate activities associated with the closure of the Brown Station Road Sanitary Landfill, a wetland area on-site was created by excavating and grading. Soil survey maps were researched and site visits were conducted to observe the hydrology present to determine suitable plant material for site conditions. Inspected the County's wetland plant nursery for the

availability of suitable, quality plant material applicable to this site. Collected soil samples, made recommendations as to soil amendments, and provided sub-contractor oversight of plant installation. Monitored effect of soil amendments on soil fertility, organic matter levels, and pH. Produced a wetland maintenance plan to be used by County personnel, or their designee, to assure the successful long-term management of the created wetland after the expiration of the installation warrantee period.

Diffuser Area Wetland Restoration, *W.R. Grace.* Mr. Berg designed the planting plan for the restoration of a tidal wetland in the Chesapeake Bay Critical Area Zone of an industrial complex. The need for the restoration plan was the construction of a discharge pipe and diffuser designed to reduce discharge concentration through effective mixing of the discharge and ambient water. Construction activities in the wetland produced the permit requirement for the wetland to be restored. Native tree, shrub, and herbaceous species were chosen, procured, and installed to satisfy the replacement requirement of the construction permit.

On the Run Farm Stream Bank Restoration, *Dorsey Brown.* Mr. Berg designed and installed a stream bank buffer planting along Western Run in Baltimore County, Maryland. Western Run, a meandering, deeply incised stream had been identified as needing stabilization to reclaim its status as an important trout stream. Due to development pressures in the watershed, and adjacent on-site management practices, the property owner was losing land to erosion and the stream was being degraded by the input of sediment and nutrients. The previous maintenance scheme on-site involved mowing turf to the edge of the channel. Native woody shrub material was installed along the top of the bluff to create a 25' wide vegetative buffer between the channel and a mowed pasture area. The 25' wide buffer area has been encouraged to revert to a more natural state. Native shrubs and vines were installed in the bluff face and the existing terraced areas to stabilize the bank.

Environmental Assessment for a Proposed Golf Course, *Andrews Air Force Base.* Mr. Berg served as project manager, assisting in the preparation of an Environmental Assessment for a proposed gulf course at Andrews AFB. Site investigations were conducted to determine the location and distribution of wetland areas and the presence of potential rare, threatened, and endangered plant species. Project included an assessment of existing and proposed practices concerning irrigation, pesticide and fertilize use, and plant species selection and maintenance. Consulted with local and international botanic experts on the suspected existence of a federally protected plant species. Within the proposed project area, on-site monitoring throughout the growing season took place in an attempt to locate and identify the presence of the species in question.

Guidance Document entitled "*Environmental Aspects of Construction and Management of Outdoor Shooting Ranges,*" *National Shooting Sports Foundation.* Mr. Berg assisted in the preparation of a document to be used by outdoor shooting range (rifle/pistol, skeet, sporting clays) operators. The document addressed various environmental conditions that may be present at outdoor shooting ranges with a focus on the impacts and prevention of impacts from lead. Topics on lead mobility, soils types, uses of plant material, engineering considerations, etc. were included. Sample management plans were created as guides for range owners to create their own range specific management plans.

Wilmington River Walk, *Wilmington, Delaware.* Mr. Berg managed Biohabitats' portion of this large, complex design project to revitalize the downtown waterfront. Biohabitats was responsible for the stabilization of the Christina River shoreline, an area influenced by a fresh-to-brackish tidal water body. Responsibilities included an assessment of existing conditions and the development of shoreline stabilization design concepts responsive to the competing demands of an urban waterfront redevelopment project. In addition to providing technical assistance with natural resource permitting agency review (DNREC, EPA, NMFS, USACOE, and USFWS), Mr. Berg helped develop construction plans, specifications, and cost estimates sufficient for bidding the project, and provided construction oversight for the shoreline stabilization design implementation. The design consisted of selective debris removal, selective riprap placement below mean high water (MHW), and enlargement of the upper inter-tidal zone landward to create an inter-tidal marsh. Techniques included live branch layering landward of the marsh creation zone to stabilize portions of the riverbank above tidal influence, and native plant revegetation and reseeding to improve the character and aesthetic values of the shoreline.

Chandler Tract Stream Relocation, *Chester County, Pennsylvania.* Mr. Berg managed this stream restoration project in southeastern Pennsylvania. The project was necessitated by *Save Our Streams'* concern for the relocation of an existing high-flow stormwater by-pass channel into its original and existing coldwater baseflow channel as part of the development of a commercial property. The previous landowner had erected a concrete weir to divert all flows above the baseflow into a linear, constructed channel armored with riprap. This effort resulted in the development of two distinct streams, approximately 500 feet apart crossing the property diagonally, with all the land in between mapped as a 100-year floodplain. Mr. Berg evaluated streams and reference reaches above and below the project to identify the appropriate cross-sectional area of the proposed channel. Using principles of fluvial geomorphology, Biohabitats developed a stream restoration plan that included meanders, riffles, rootwad banks, rock banks, vortex rock weirs, and rock cross veins. The design was approved by the Pennsylvania DER and implemented with construction oversight assistance from Biohabitats.

Maryland Route 32 Wetland Delineation, *Anne Arundel County, Maryland.* Mr. Berg served as the project manager for this 2-mile-long wetland delineation project adjacent to the National Security Agency grounds for the Maryland State Highway Administration (MSHA). The delineation was conducted in accordance with the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and in compliance with MSHA policies. Each of the 24 discreet wetland areas were mapped with individually numbered flags and a Corps of Engineers datasheet completed based on soil, vegetative, and hydrological evaluations. As a result of the evaluations, a report was prepared that included the approximate wetland locations, a characterization of the wetlands and their functional values, and a photographic log.

Hawkins Point Monitoring Well Removal, *Montgomery County, Maryland.* Mr. Berg managed this well removal project that consisted of removing up to 12 wells, which ranged from a 4-inch PVC-cased type well to a 12-inch steel case type well grouted to bedrock. Special concerns of the Maryland State Highway Administration (MSHA) project manager were related to the perceptions of potential property damage to adjacent properties and lawns that would result from the equipment needed to remove the larger wells. All wells were successfully removed and the disturbed areas were restored to pre-well conditions. To date, no property owner complaints have been submitted to MSHA.

Winkler Tract Forest Mitigation Bank, *Howard County, Maryland.* Biohabitats was contracted by an entrepreneurial banker to assist with the development of a forest mitigation bank for a 300-acre property in southwestern Howard County. Mr. Berg's responsibilities included identifying existing conditions and developing a concept plan for what portions of the property could be designated as potential "priority reforestation areas" consistent with County and State forest conservation programs and agricultural preservation programs. After the identification of potential reforestation areas, a plan and approach were developed to maximize acreage of reforestation. In addition, Mr. Berg helped develop a template Forest Management Plan that included a requisite Timber Harvesting Plan component. Final planting plans and long-term monitoring plans for the forest mitigation bank areas developed as part of this contract will be implemented and maintained by Biohabitats' sister company Ecological Restoration and Management, Inc. (ER&M).

Bush Valley Landfill Wetland Delineation Review, Harford *County, Maryland.* Mr. Berg and Biohabitats were contracted by EA Engineering, Science, and Technology, Inc. (EA) to review a wetland delineation performed by EA staff based on a Harford County requirement to perform a U.S. Army Corps of Engineers-certified wetland delineation review for all delineations. Mr. Berg conducted a site visit of the Bush Valley Landfill and evaluated the delineation performed by EA staff. Based on his expertise in wetland delineation, Mr. Berg made corrections to EA's delineation, reviewed the wetland maps and report prepared by EA, and provided a letter to EA documenting Biohabitats' review of EA's delineation.

Interstate 564 Warm Season Grass Establishment, *Norfolk, Virginia.* Mr. Berg manages Biohabitats open-ended landscaping contract with the Virginia Department of Transportation (VDOT). Under this contract, Mr.

Berg and Biohabitats developed a "reforestation plan" that converted an existing Bermuda grass meadow into a native, warm-season grass meadow. This project area was situated in a row internal to the "cloverleaf" formed by I-564's exit ramp to Terminal Boulevard in Norfolk, Virginia. Biohabitats conducted an initial site assessment, developed a listing of species present and those that might be unacceptable, evaluated existing soil conditions. Based on these assessments, a soils amendment plan, a planting concept, and a long-term management plan were developed.

MSHA BCS 93-26B, AA453-201-571, Sands Road Wetland Remediation: Mr. Berg finalized this contract which included water level modifications to a mitigation area improvement intensified by a beaver dam, tidal shoreline stabilization with emergent plantings, and secondary modifications to the mitigation areas which included development of interpretative signage and observation decks.

MSHA BCS 93-22A, AW865B23, Aud/Albaugh Wetland Remediation: Mr. Berg is managing this remediation project which involved re-excavation of the mitigation areas to modify wetland hydrology, re-installation of wetland plants, and re-installation and monitoring of piezometers.

MSHA BCS 93-26B, Bridge No. 12006XO, MD Rte. 23 Slope Reforestation Design and Construction: The original slope stabilization conducted by MSHA was determined to be unacceptable by the Corps of Engineers. Mr. Berg managed the selection of suitable plants in cooperation with the Corps. In addition, Mr. Berg and our team member ER&M, installed the plants on the slope and successfully maintained them during a severe drought. Watering and invasive species removal efforts were recommended by Mr. Berg, approved by MSHA, and implemented by ER&M.

MSHA BCS 92-05A-MD 32/NSA Property Wetland Delineation and Functional Assessment-Yr. Begun: 1998-responsibilities including Natural Environmental Inventory and Analyses: wetland delineation, jurisdictional verification, wetland functional assessment and stream channel flagging.

MSHA BCS 92-05A MD 628 Bypass Lane Construction, SHA Project #AA644A21-Yr. Begun: 1999-responsibilities including Natural Environmental Inventory and Analyses: wetland delineation, survey of large & significant trees, functional assessment & report.

Prince George's' County, Maryland, Brown Station Landfill Mitigation Area: Mr. Berg was instrumental in the remedial design and implementation of a 24-acre wetland mitigation project for Prince George's County. Initially, Mr. Berg reviewed planting plans and value-engineered the plans to reduce costs and increase the likelihood of successful plant establishment. In addition, the proposed site hydrology was reviewed and errors in surface water elevations relative to proposed grade and outlets were identified and corrected. The plan to lime the marine shell substrate present in the excavated basin (soil pH in the range of 7.8 to 8.3) and add high pH composed organic material was modified to include acidifying the soil and adding low pH organic material. Mr. Berg was also instrumental in the development of a maintenance manual for the mitigation area and the development and implementation of a monitoring program. Together, the remedial design and construction efforts resulted in a well-vegetated wetland area within two years of construction. Ongoing review and maintenance is conducted by Prince George's County staff in conformance with the maintenance manual.

SELECTED PUBLICATIONS, TECHNICAL REPORTS & PRESENTATIONS

Berg, J.A. and E.W. Morgereth, "Storm Water Treatment in a Constructed Forest Buffer Along an Urban Industrial Waterfront." Society of Environmental Toxicology and Chemistry, 17th Annual Meeting, Washington, DC, 17-21 November 1996.

Berg, J., E.W. Morgereth, A. League, R. Real de Asua, and J. Yost, "An Approach to Evaluating Changes in the Inundation of Bottom Land Hardwood Forests Resulting from River Regulation". June 1996.

Berg, J., "Geographic Information Systems Use in Evaluating Water Resource Impacts to Floodplain Resources". American Water Resources Association, September 1996.

Berg, J and E. Morgereth, "Enhancing Shallow Water Habitat through Bluff Stabilization". EPA Conference on Marine and Estuarine Shallow Water Habitat, 3-7 April 1995. Published by the EPA, Philadelphia, Pennsylvania.

Berg, J. and E. Morgereth, "Habitat Enhancement in an Urban Environment: Water Quality and Wildlife Habitat Improvement". Society of Wetland Scientists, July 1995.

Berg, J., "A Summary of Six Case Studies Related to the Management of Shallow Water Habitats for Conflicting Uses". EPA Conference on Marine and Estuarine Shallow Water Science and Management in the Mid-Atlantic Region, 8-11 March 1994. Published by the EPA, Philadelphia, Pennsylvania.

Berg, J., "Wetland Resource Management: A Responsibility or Opportunity." Federal Planning Division of the American Planning Association, April 1996.

Biohabitats

Incorporated

15 West Aylesbury Road
Timonium, Maryland 21093
410-337-3659
fax/410-583-5678
e-mail/about@biohabitat.com

Ecological Assessments
Ecological Planning
Ecological Restoration

June 12, 2001

John Galbreath
2516 Chestnut Woods Court
Reisterstown, MD 21136

RE: Nancy Lee Farms II
Biohabitats Project No. 01009.01

SUBJ: Potential Water Quantity/Quality Impacts

Dear John:

On April 27, 2001, Biohabitats was retained by the Falls Road Community Association to assess and identify potential water quantity and quality impacts to receiving waters from the proposed residential development called Nancy Lee Farms II located in Zoning Map NW 17-F, Tax Map 50, Grid 1, Parcel 5.

Visual Inspection

A Biohabitats field technician performed a cursory site investigation on the wetlands and streams that will receive runoff from the proposed development. On the northern property boundary a headwater intermittent stream extends into the proposed development, across lots 13 and 14 of the parcel. The intermittent stream and surrounding forested area appear to collect and convey water during runoff events as evidenced by hydrologic indicators including stained leaf litter, tree trunk buttressing, vegetation species, and micro-topography. Further downstream the intermittent stream converges into a non-tidal wetland that drains to Waterspout Run.

100% recycled paper

Analysis

The intermittent stream is one of the headwaters for Waterspout Run. These headwater tributaries and associated wetlands are critical in maintaining good water quality and aquatic biodiversity (Malanson, 1993). They provide valuable functions including reduction of downstream flooding, recharge aquifers, nutrient recycling, heavy metal and hydrocarbon storage, habitat for aquatic and terrestrial life, and corridors for species movement (Malanson, 1993). Because these resources are typically not protected and regulated, they are often cleared and filled for residential and commercial development. As a result, the functions that they provide are lost and downstream aquatic biodiversity and water quality suffer. While the loss of one small headwater intermittent channel or depression may not appreciably effect downstream aquatic habitat, the accumulative effect of losing many of these areas can have a significant impact on downstream resources. Consequently, protection of these headwater channels and depressions will help to prevent deterioration of aquatic habitat, species biodiversity, water quality and channel erosion.

PC #15 10/25/01

June 12, 2001

RE: Nancy Lee Farms II
Biohabitats Project No. 01009.01

SUBJ: Potential Water Quantity/Quality Impacts

If you have any questions please do not hesitate to give us a call (410-337-3659). Thank you for your time and consideration.

Sincerely,

BIOHABITATS, INC.

J. Keith Bowers, President
Restoration Ecologist/Landscape Architect RLA 630

JKB:pc

S:\BIO\Project\01009.01\Nancy Lee Farms II Coresp.doc

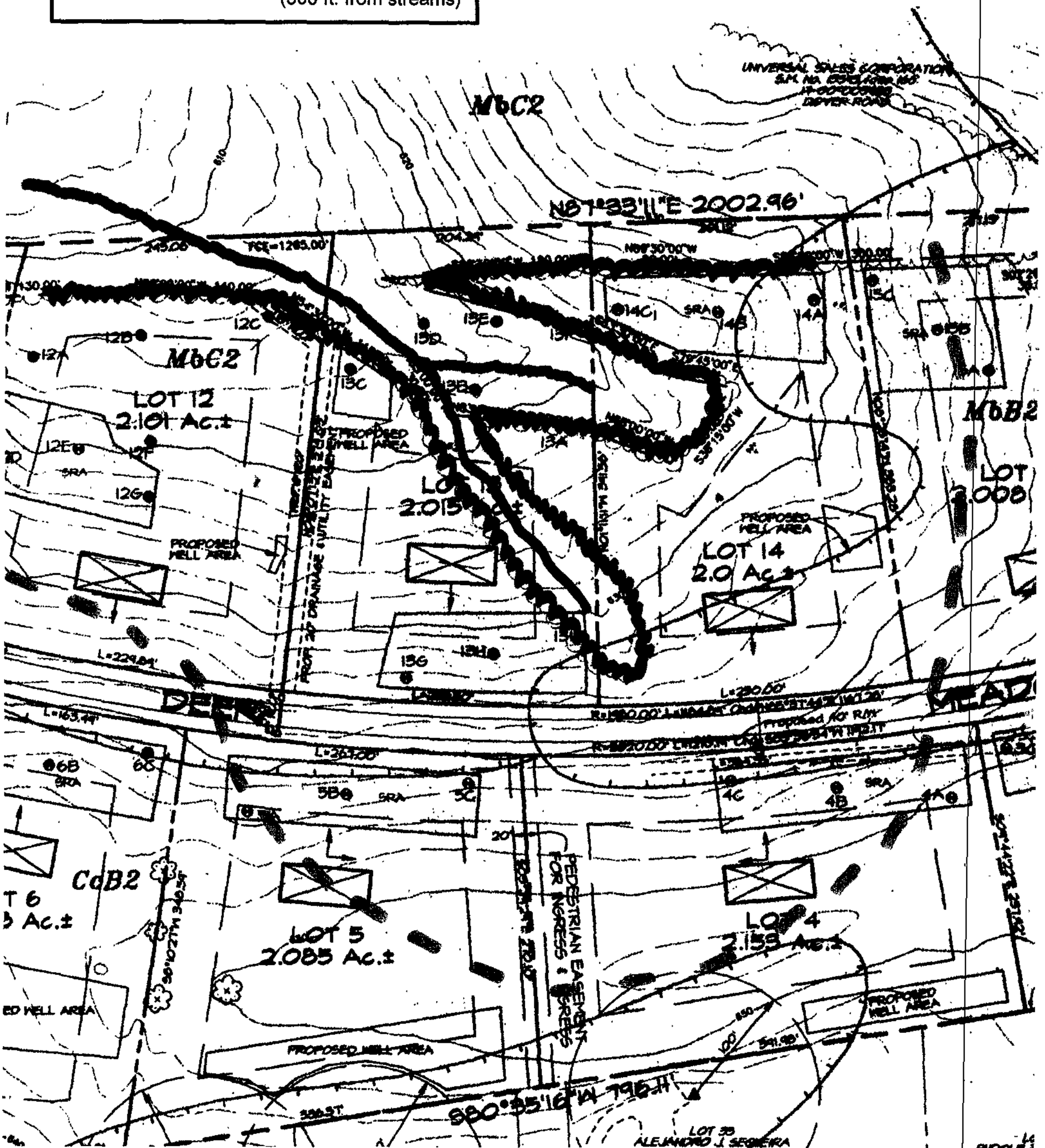
HYPOTHETICAL

KEY:

Wooded "fingers"

Streams

RC-4/RC-5 Zone Line (300 ft. from streams)



PC# 16 10/25/01

THE FALLS ROAD COMMUNITY ASSOCIATION, INC.

The undersigned hereby acknowledge and attest that the Board of Directors of The Falls Road Community Association, Inc., a Maryland corporation (the "Corporation"), in accordance with Section 2-408 of the Maryland Corporations and Associations Code, do hereby take the actions below set forth, and to evidence their waiver of any right to dissent from such actions, do hereby consent as follows:

RESOLVED: The Falls Road Community Association, Inc. opposes the Petition of Jarvis Steel & Lumber Company before the Board of Appeals of Baltimore County in case # R-01-437 to reclassify the existing zoning of part of the site of the proposed development of Nancy Lee Farms II, to wit: Map NW 17-F, Tax Map 50, Grid 1, Parcel 5.

RESOLVED: Harold H. Burns, Jr. and John A. Galbreath–who are duly elected members of the Board of Directors of the Falls Road Community Association, Inc.–shall attend the hearing on November 29, 2001 before the Board of Appeals of Baltimore County in case # R-01-437 and testify in opposition to the said Petition to reclassify the existing zoning of part of the site of the proposed development of Nancy Lee Farms II, to wit: Map NW 17-F, Tax Map 50, Grid 1, Parcel 5 because a portion of the headwaters of Waterspout Run arises on said land and the proposed reclassification will permit irreparable damage to Waterspout Run.

AS WITNESS OUR HANDS THIS 19th day of November, 2001.

ATTEST:

Gigi Hampshire

Gigi Hampshire, Secretary

The Falls Road Community Association, Inc.

By: Harold Burns

Harold H. Burns, Jr., President

AFFIDAVIT

I hereby swear upon penalty of perjury that Harold H. Burns, Jr. and John A. Galbreath are currently duly elected members of the Board of Directors of the Falls Road Community Association, Inc.

ATTEST:

Gigi Hampshire

Gigi Hampshire, Secretary

The Falls Road Community Association, Inc.

By: Harold Burns

Harold H. Burns, Jr., President

PROT # 17A

11/29/01

THE FALLS ROAD COMMUNITY ASSOCIATION, Inc.

The undersigned hereby acknowledge and attest that the Falls Road Community Association, Inc., a Maryland corporation (the "Corporation"), upon a Motion, duly made and seconded at its annual meeting on October 23, 2000, unanimously decided as follows:

RESOLVED: Responsibility for review and action on all zoning matters shall be placed in the board of directors.

AS WITNESS OUR HANDS THIS 19th day of November, 2001.

ATTEST:

Gigi Hampshire

Gigi Hampshire, Secretary

The Falls Road Community Association, Inc.

By: Harold Burns

Harold H. Burns, Jr., President

PROT #17B 11/29/01

THE WEA

Baltimore-Annapolis forecast

An area of high pressure to the north will keep conditions dry under sunny skies today. Highs in the mid-60s, with an east to southeast wind at 6 to 12 mph. Mostly clear skies tonight. Lows in the mid-40s, with a southeasterly wind at 5 to 10 mph. Mostly sunny and pleasant tomorrow. Highs near 70.

TODAY — Sunny, High 66

OVERNIGH — Mostly clear, Low 45

Regional outlook

An area of high pressure over the Northeast Coast will keep skies mostly sunny over Maryland today.

Marine weather

Chesapeake Bay

	Today	Tomorrow
Visibility	5-10 miles	5-10 miles
Water temp.	61°	n/a
Waves	1-2 ft.	1-2 ft.
Winds	SE, 5-10k	SE, 5-10k

Atlantic, off Ocean City

	Today	Tomorrow
Visibility	5-10 miles	5-10 miles
Water temp.	54°	n/a
Waves	2-4 ft.	2-3 ft.
Winds	E, 10-15k	E, 5-10k

Sundial information

410-783-1800 on a Touch-Tone ... four-digit code. In

Traveler's forecast

North to New York: Sunny.
West to Pittsburgh: Partly cloudy.
East to ocean: Sunny.
South to Richmond: Mostly sunny.

Today's tides

	High AM	High PM	Low AM	Low PM
H'vre Grc	10:50	11:05	4:25	5:51
Ft. Mchry	7:39	7:54	12:55	2:21
Sandy Pt.	6:18	6:33	12:56	—
Cove Pt.	3:34	3:49	9:54	9:07
Ocean Cty	8:04	8:27	2:04	2:15
Cape Hnry	9:05	9:25	2:42	2:42

At the resorts

	Today	Tomorrow
[illegible]	60/50 S	70/52 S

Almanac data

BWI precipitation (inches)

Last 24 hours to 8 p.m.:	0.00
Precip. in May:	0.00
Normal for May:	3.72
Least in May:	0.37 in 1981
Most in May:	8.71 in 1989
Precip. this year:	10.90
Normal precip. year to date:	13.31
Days since last measurable precip.:	19

Yesterday's temperatures

Downtown	High: 65°	Low: 54°
BWI	High: 67°	Low: 56°

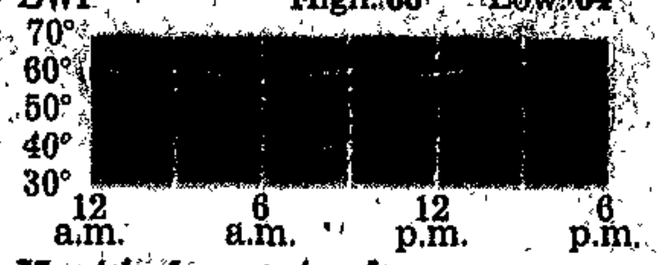
Normal temperatures:

BWI	High: 71°	Low: 49°

City records: High: 96° in 1986
Low: 40° in 1925

Year ago:

BWI	High: 88°	Low: 64°



Heat index yesterday

Relative humidity at 3 p.m.:	45%
Actual air temperature:	66° F
Making it feel like:	63° F

Astronomical data

Sunrise this morning:	6:01 a.m.
Sunset tonight	8:06 p.m.
Moonset today	6:18 a.m.
Moonrise today	8:20 p.m.

Full moon	Last quarter	New moon	First quarter
May 7	May 15	May 22	May 29

○ Today's forecast ● Yesterday

Air Quality Index

0 50 100 150 200+

Good Moderate Poor Unhealthy

Ultraviolet Index

0 1 2 3 4 5 6 7 8 9 10+

Low Moderate High Very high

***Pollen:** not available

0 50 100+

PROT #20 11/29/01

Protestants Ex. 21

Original

TRUE TEST COPY
Cathy J. Burger 10/29/01
Dept. of Permits and Development Management

COMMUNITY INPUT MEETING MINUTES

Development: Nancy Lee Farms II
Location: Glyndon Fire Hall
District: C3

Date: July 6, 2000
PDM File No: IV-557

Donald T. Rascoe, Development Manager for Baltimore County, opened the meeting and described the development process in Baltimore County. Mr. Rascoe then introduced Scott Lindgren of Gerhold, Cross & Etzel, engineers, and land planners for this project.

Mr. Lindgren described the property as 40.5 acres of land zoned RC-5 on the west side of Dover Road between Knox and Tufton Roads. Mr. Lindgren stated that the density of the property would support 24 units, but only 17 were being proposed. He said the property would be accessed off Dover Road and there would be an additional access to the property from Red Tree Lane, a road that was build as part of the Chestnut Woods subdivision and stubbed off at the Nancy Lee Farms II property line.

Mr. Lindgren stated that the property would be served by well and septic since public water and sewer is not available to this property. He said each proposed lot has passed three percolation tests for septic service. He said the project is exempt from storm water management since each proposed lot is a minimum of two acres. Mr. Lindgren also indicated on the plan the areas where forest buffer easements protecting wetlands would be located and areas where forest conservation easements will be located.

Mr. Lindgren opened the floor to questions.

A resident expressed concern for the wells in the area. Mr. Lindgren stated that wells for this project do not have to be drilled until building permit application and must be approved by the state and county.

A resident asked if the property was up for consideration under the Comprehensive Zoning Map Process (CZMP), the County Quadrennial Re-zoning Process. Mr. Howard Alderman, attorney representing the developer, stated the land was being considered for re-zoning. He stated that the developer must get a building permit prior to the new zoning classification becoming effective. The Baltimore County Council will vote on the new maps in October, 2000, with the new maps becoming effective 45 days later, sometime in early December, 2000. Some residents believed the developer should wait until after the new zoning classification becomes effective. This would reduce the

PROT #21 11/29/01

density on the 40.5 acres from .667 units per acre to .2 units per acre. Mr. Alderman called it a "race to the courthouse".

A resident expressed concern for the Red Tree Lane access. He stated that he was opposed to the access point. He stated that he was not opposed for the access point as an emergency access point, but did not want to see it as a primary entrance into the proposed community from Chestnut Woods. Another resident expressed support for the proposed access to the new community from Red Tree Lane.

A resident expressed concern for flooding in the area, particularly along Dover Road. Mr. Alderman stated this project is exempt from the requirement for storm water management retention due to the two acre size of the lots. He said grading will occur during construction of the public road to serve the development which might alleviate some of the water run-off presently coming from the property.

A resident asked about improvements to Dover Road. Mr. Alderman stated acceleration and deceleration lanes will be constructed in the public right of way along the developer's side of Dover Road at the entrance to the new development. He said this construction will be done at the developer's cost.

A citizen asked if a development name sign is being proposed along Dover Road. Mr. Alderman stated that no such sign was being proposed at this time.

A resident asked if one builder would construct all the homes. Mr. Alderman stated he did not know.

A resident asked if the existing old road on the property is to be removed. Mr. Alderman stated it is to be removed.

Another resident stated that he did not like the name of the development, Nancy Lee Farms II, and asked the developer to consider changing the name. Mr. Alderman took the request under advisement.

A resident stated that he had a letter from Councilman T. Bryan McIntire, dated several years ago, stating Dover Road is inadequate for further development. Mr. Rascoe suggested the resident submit a copy of the letter to the development file and to be prepared to enter the letter into testimony at the time of the Hearing Officer's Hearing.

A resident asked if there would be underground tanks for fire prevention or if the proposed homes would be sprinkled in accordance with the Baltimore County regulations. Mr. Alderman stated that the project will be in compliance with the appropriate regulations, but did not know which method would be utilized.

A resident stated his concern for trees on the property not protected by the forest conservation easement. Mr. Rascoe stated that all of the trees on the property are not protected, but most builders are anxious to retain trees on lots so they can be sold as premium lots at a higher price.

With no additional questions, the meeting was adjourned at 8:15 pm after Mr. Rascoe described the development process from this point forward.

Respectfully submitted,

Donald T. Rascoe

Donald T. Rascoe
Project Manager

c: Hon. T. Bryan McIntire, County Council, M.S. 2201
Dev: Jarvis Steel & Lumber Co., Inc., 1030 Patapsco Ave., Baltimore, MD 21225
Eng: Scott Lindgren, Gerhold, Cross & Etzel

Reviewing Agencies: OPZ, PDM, R&P, DPR, DEPRM, EDC, CDC, Bd. of Ed., Fire, SHA- Please distribute as necessary within your agency.

Contact Persons

The following persons will receive a copy of these minutes. and be notified of the time date and place of the Hearing Officer's Hearing.

Dave Truax
22206 Tufton Ridge Road
Glyndon, MD 21136

Todd Pollyea
12913 Dover Road
Reisterstown, MD 21136

Melvin & Helen Gent
12827 Dover Road
Reisterstown, MD 21136

Wendol Williams & Cheryl Jones
5 Red Tree Lane
Reistestown, MD 21136

William B. Payne
2604 Chestnut Woods Court
Reisterstown, MD 21136

Keith Calta
2606 Chestnut Woods Court
Reisterstown, MD 21136

William Clark Ensor, III
14210 Manor Road
Phoenix, MD 21131

Robert Frieman
2602 Chestnut Woods Court
Reisterstown, MD 21136

Water Resources skip navigation

Data Category: Ground Water Geographic Area: United States

Ground-water levels for the Nation

Search Results -- 1 sites found

Search Criteria

Agency code = usgs
site_no list = • 392931076410301

Save file of selected sites to local disk for future upload

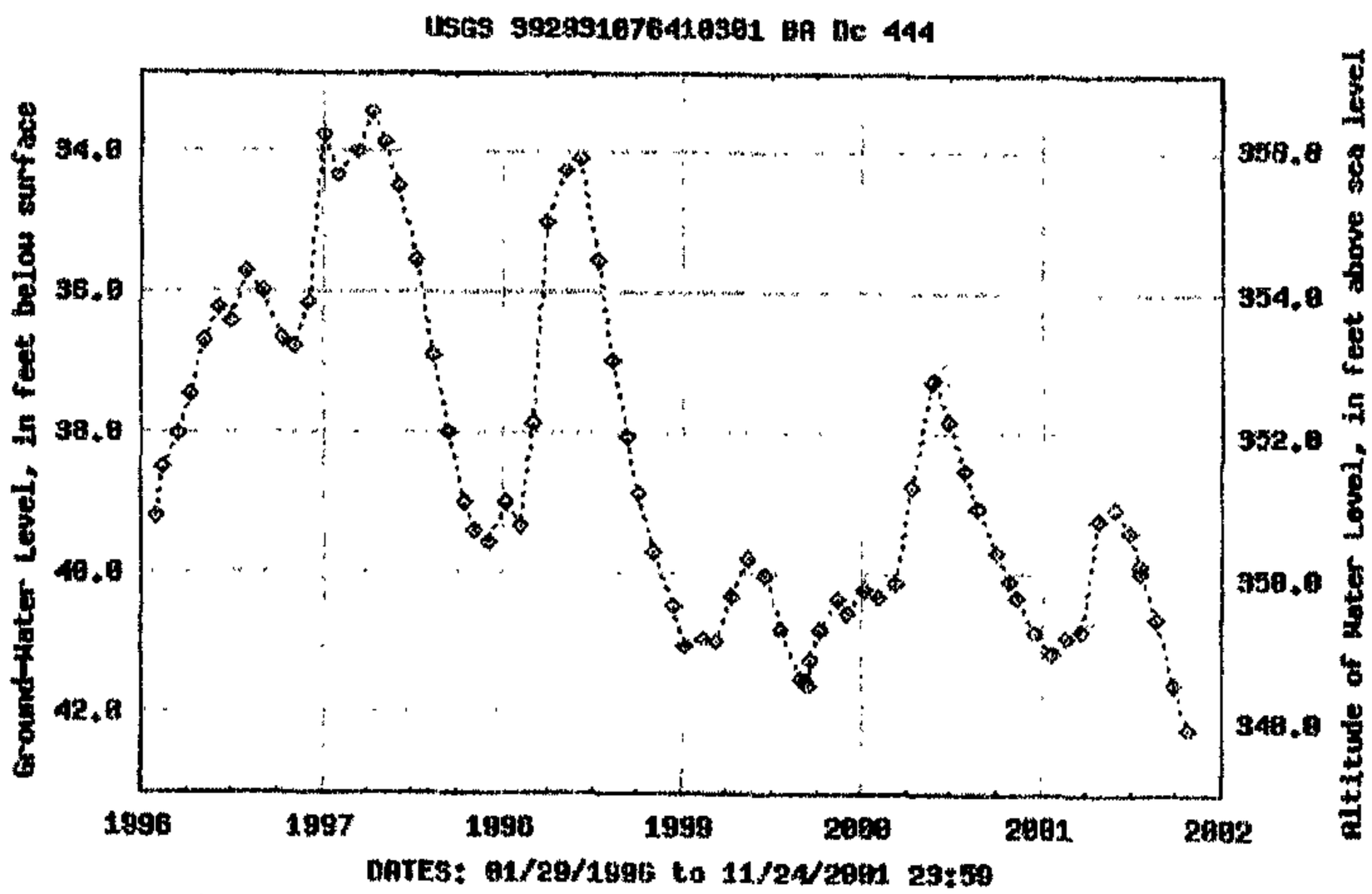
USGS 392931076410301 BA Dc 444

Available data for this site Ground-water: Levels

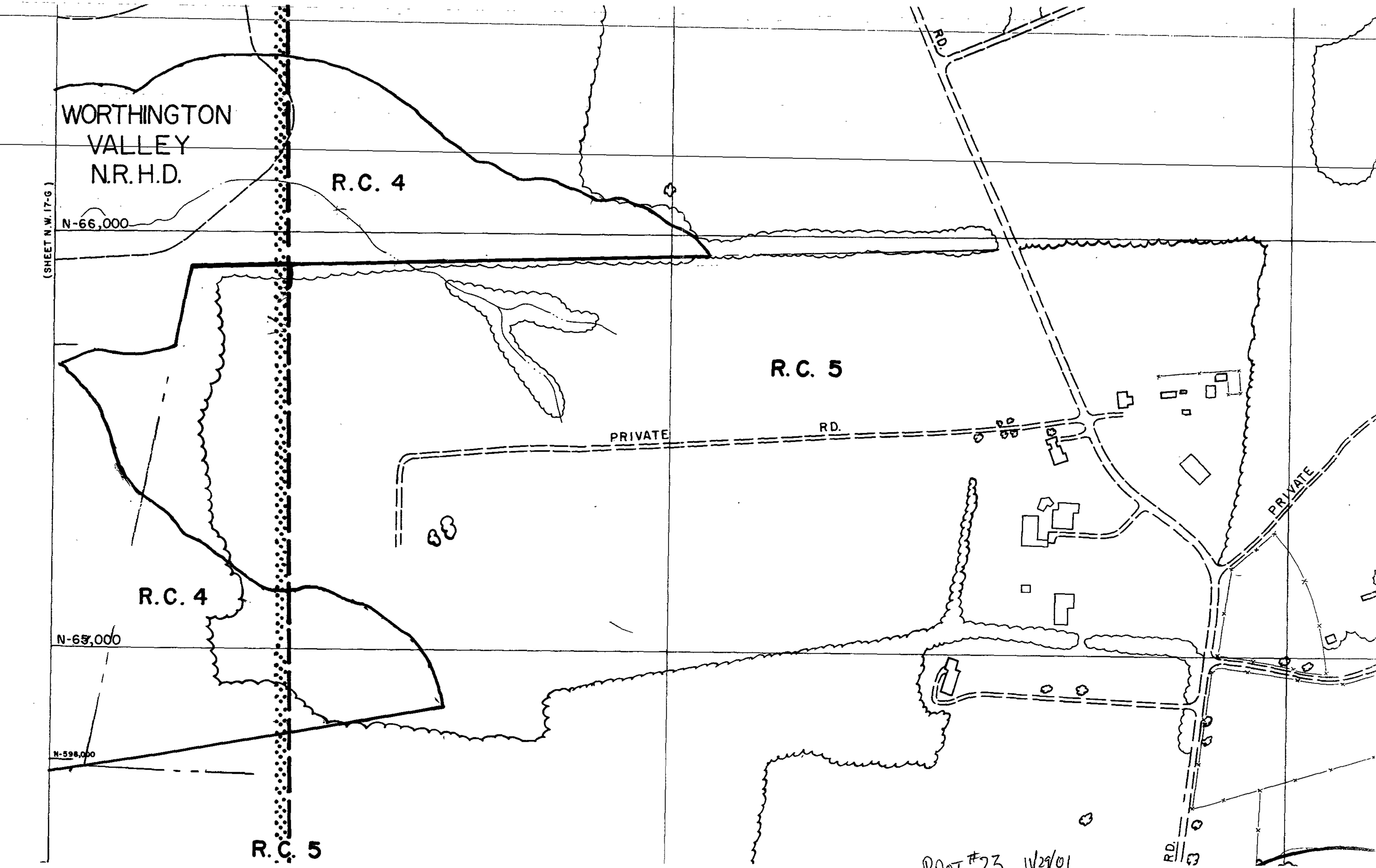
Baltimore County, Maryland
Hydrologic Unit Code 02060003
Latitude 39°29'31", Longitude 76°41'03" NAD27
Gage datum 390 feet above sea level NGVD29
The depth of the well is 300 feet below land surface.
The depth of the hole is 300 feet below land surface.
This well is completed in COCKEYSVILLE MARBLE (300CCKV)

Output formats

Graph of data



PROT #22 11/29/01


WORTHINGTON
VALLEY
N.R.H.D.
R.C. 4
N-66,000
(SHEET N.W. 17-G)
R.C. 5
PRIVATE
RD.
PRIVATE
R.C. 4
N-65,000
N-598,000
R.C. 5
RD.
PROT #23 11/29/01

The Chestnut Woods Architectural Committee
2516 Chestnut Woods Court
Reisterstown, MD 21136
410-666-7273

Sept. 1, 2000

Baltimore County Council
c/o Councilman T. Bryan McIntire
400 Washington Avenue
Towson, MD 21204

Dear Councilman McIntire:

We are the homeowner's association for Chestnut Woods, a community in the 3rd District near the intersection of Knox and Dover Roads, and we're writing to express our emphatic support for the proposed zoning change 3-160 (Waterspout Run), as well as the related proposed zoning change 3-108 (Beaver Dam Run).

We have collected numerous signatures from the residents in our neighborhood supporting these zoning changes, and have attached those signatures along with a cover sheet which further describes our residents' thoughts on land conservation and the problems which will be caused by continued rampant development in Baltimore County. Indeed, we could find no residents who were *opposed* to these two zoning changes.

You have demonstrated a keen awareness of these issues in the past, and a keen appreciation for the value of land and resource conservation. We urge you to communicate the viewpoints of the residents of this area to the rest of the County Council, and approve these two zoning changes.

Sincerely,

John Galbreath

(for)

The Chestnut Woods Architectural Committee

PROT # 24 11/29/01

PETITION FROM THE RESIDENTS OF CHESTNUT WOODS TO BALTIMORE COUNTY COUNCIL SUPPORTING PROPOSED ZONING CHANGE #160 (THIRD DISTRICT)

The Council has before it a request to rezone 526 acres east of Greenspring Ave. and north of Baublitz Ave. from RC-5 (rural residential) to RC-4 (watershed protection). **As residents of Chestnut Woods, we are located directly in the area of the proposed zoning change, and we wish to express our emphatic support for it. We strongly urge that the Council adopt the proposed zoning change – that is, change the zoning to RC-4 (watershed protection).**

The rationale supporting this zoning change is clear and unambiguous:

- The proposed change will preserve valuable natural resources like open space, woods, and wetlands. As such, it is very much in keeping with current (and highly praised) land trust, rural legacy, and other land conservation programs strongly supported by Baltimore County and the state of Maryland.

- The proposed change will prevent the overtaxing of roads and other public infrastructure. The roads in our area were simply not designed nor meant for handling the increased traffic loads that continued development under RC-5 zoning will bring.

- The proposed change will protect precious groundwater supplies – a particularly important issue given the drought conditions we have experienced over the past few years. Many of the wells in Chestnut Woods, for example, yield just 1-2 gallons per minute, which is just above the county minimum. Further development under RC-5 zoning will put those wells at risk.

Again, we urge you to listen to the collective voice of the residents of this area. Overwhelmingly, we do not favor continued development under the current RC-5 zoning, and we ask that you adopt the proposed change to RC-4. We also urge that any development proposals which would be affected by the proposed change be held in abeyance until this important zoning issue is resolved.

Name	Address	Signature

Send to: **Baltimore County Council**
c/o Councilman T. Bryan McIntire
400 Washington Avenue
Towson, MD 21204

PROT #25 11/29/01

PETITION FROM THE RESIDENTS OF CHESTNUT WOODS TO BALTIMORE COUNTY COUNCIL SUPPORTING PROPOSED ZONING CHANGE #160 (THIRD DISTRICT)

Name	Address	Signature
Keith Calta	2606 Chestnut Woods Ct.	Keith Calta
Lindsay Sloane	2501 Chestnut W.C.	Lindsay Sloane
Cheryl Sloane	2501 Chestnut Woods Ct.	Cheryl Sloane
Stephen Sloane	2501 Chestnut Woods Ct.	Stephen Sloane
Denise Payne	2604 Chestnut Woods CT	Denise Payne
Robert Freeman	2602 Chestnut Woods Ct.	[illegible]
Paul K. Gray	2625 Chestnut Woods Ct	[illegible]
Patrice Naggarotte	2507 Chesnut Woods	P. Naggarotte
Brenda Richardson	2500 Chestnut Woods Ct	[illegible]
Thomas Mallon	2500 Chestnut Woods Ct	[illegible]
Rick Bell	2507 Chestnut Woods Ct.	[illegible]
Gary Goldberg	12622 Dover Rd	[illegible]
Christin Bag	2503 Chestnut Woods Ct.	Christin B
Keh Isaacson	2609 Chestnut Woods Ct	[illegible]
Scott Isaacson	2609 Chestnut Woods Ct	[illegible]
Paula Kowalewski	2614 Chestnut Woods CT.	P. Kowalewski
Rex Kowalewski	2614 Chestnut Woods CT	R. Kowalewski

PETITION FROM THE RESIDENTS OF CHESTNUT WOODS TO BALTIMORE COUNTY COUNCIL SUPPORTING PROPOSED ZONING CHANGE #160 (THIRD DISTRICT)

Name	Address	Signature
Andrew Powderly	7 Red Tree Lane	
Diane Powderly	7 Red Tree Lane	
John Galbreath	2516 Chestnut Woods Ct.	
DALE KOWALEWSKI	2505 CHESTNUT WOODS CT.	
Jon Quarthier	2508 chestnut woods ct	
Dennis Jeffreys	2510 Chestnut Woods	
Randall Tognazzini	2522 Chestnut Woods Ct	
CAROL TOGNAZZINI	2522 CHESTNUT WOODS CT	
Jeffrey Blavatt	2603 Chestnut Woods Ct	
JERRY SCHULTZ	2618 CHESTNUT WOODS CT.	
Irma Schultz	2618 Chestnut Woods Ct	
J. Russell Kuimel	2502 CHESTNUT WOODS CT	J. RUSSELL KUIMEL
Yan Shoo	2504 Chestnut Woods Ct	
Sam Barrett	2509 Chestnut Woods Ct	
Jacqueline Lessing	2513 Chestnut Woods Ct	
David Schwartz	6 Red Tree Lane	
Rudolf Zagzanichny	2518 Chestnut Woods Ct	

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

T. BRYAN McINTIRE
COUNCILMAN, THIRD DISTRICT

COUNCIL OFFICE: 887-3196
887-3387

September 8, 2000

John Galbreath
2516 Chestnut Woods Court
Reisterstown, Maryland 21136

Re: CZMP Issues 3-108 and 3-160

Dear Mr. Galbreath:

Thank you for your recent letter concerning the above captioned issues. I appreciate conscientious citizens taking the time to share their thoughts with me. I assure you I will keep your letter in mind when the time comes to vote on these issues.

Very truly yours,

T. Bryan McIntire
Councilman, Third District

TBM:dlm

PROT #26 11/29/01

The Chestnut Woods Architectural Committee
2516 Chestnut Woods Court
Reisterstown, MD 21136
410-666-7273

October 2, 2000

Baltimore County Council
c/o Councilman T. Bryan McIntire
400 Washington Avenue
Towson, MD 21204

Dear Councilman McIntire:

We are the homeowner's association for Chestnut Woods, a community in the 3rd District near the intersection of Knox and Dover Roads, and we recently wrote you to express our strong support for the proposed zoning change 3-160 (Waterspout Run), as well as the related proposed zoning change 3-108 (Beaver Dam Run).

You're probably aware of the study that was recently issued jointly by the Maryland Department of Natural Resources and the EPA, and you may also be aware of the article summarizing this study which recently appeared in the Baltimore Sun. A copy of the article is attached for your convenience.

The findings of this study are alarming, and underscore the importance of watershed protection measures like proposed zoning changes 3-160 and 3-108. Specifically, in the areas covered by the proposed zoning changes, there are *at least* two new developments which are being planned right now – with many more sure to come.

Of note, we attended the Sept. 6 public meeting on various zoning issues, and at that meeting, it became clear to us that one option being considered on 3-160 and 3-108 was "additional study prior to County Council action".

However, not taking action now would be a serious mistake. The D.N.R. / E.P.A. study makes the need for more watershed protection, across Maryland, clearer than ever. And the time for action is now – not later. We again urge you and the rest of the County Council to approve these two zoning changes in your upcoming vote.

Sincerely,

John Dalton (for)

The Chestnut Woods Architectural Committee

cc: Falls Road Community Association

PROT #27 11/29/01

Development, runoff take toll on streams in Md., survey finds

DNR-EPA study discovers 40 percent in poor health

By JOEL McCORD
SUN STAFF

BELTSVILLE — Thousands of miles of Maryland's freshwater streams are a mess, overloaded with nutrients, stripped of wildlife habitat and forest buffers, and crossed with barriers to fish migration.

The state Department of Natural Resources and the U.S. Environmental Protection Agency issued yesterday the first comprehensive study of small and medium-size streams. It found that almost half of the state's nearly 9,000 miles of streams are in poor health and that the rest show serious signs of stress.

The biggest problems are development that has destroyed forests and farm fields, and man-made changes to stream channels that increase storm runoff. The report warned that more Maryland streams "will likely degrade in the years to come" if sprawling development "continues to consume our forests and farmlands as it has in the past."

The survey sampled fish, aquatic invertebrates, reptiles, amphibians and chemicals at 1,000 randomly selected sites from Garrett County to the coastal bays between 1995 and 1997. Ten percent of the streams were considered healthy, while about half were found to be unhealthy.

"These streams are on the pivotal cusp, and what we must do is make sure those that are on the edge don't go over," DNR Secretary Sarah Taylor-Rogers said at a news conference at Little Paint Branch Park.

"We have to make sure the ones that are healthy stay that way and the ones that are unhealthy improve."

The study, one of a series of assessments of forests, streams, estuaries and land-use policies throughout the mid-Atlantic states, is a "call to action for the citizens of Maryland," said Norine E. Noonan, assistant administrator for research and development for EPA.

It provides a "clear indication of what we need to accomplish over the next 10 years," said Taylor-Rogers, who said paved areas and other surfaces impervious to water were the greatest threat to the health of waterways.

Roads, parking lots, driveways and sidewalks create funnels that pump torrents of silt and chemical-laden runoff into creeks and rivers, eroding channels and banks, and destroying food supplies and habitat.

The survey found that brook trout disappear from a stream when as little as 2 percent of the land nearby is paved over, that the health of the stream declines greatly when more than 15 percent of the land in a stream's watershed is developed, and that only the hardiest of reptiles and amphibians can survive in streams where 25 percent of the land is developed.

Researchers also found that almost 1,500 miles of meandering freshwater streams have been straightened or channeled, their banks lined with concrete or riprap in urban areas, or stripped of vegetation as they flowed through crop fields.

The three worst streams for aquatic life are in Anne Arundel County: Marley Creek in the industrial northern part of the county, and Muddy Creek and a tributary to Smith Creek, both in the West River watershed in the rural southern part of the county.

The healthiest streams were Reeder Run in Charles County, Little Laurel Run in Garrett County and a tributary to the Little Conococheague Creek in Washington County.

In most cases, streams with the most vegetation on their banks were in the best shape.

Maryland and the EPA shared the cost of the $2.5 million study.

John A. Galbreath
2516 Chestnut Woods Court
Reisterstown, MD 21136
410-666-7273

February 2, 2001

Councilman T. Bryan McIntire
Baltimore County Council
400 Washington Avenue
Towson, MD 21204

Dear Bryan:

I'd like to thank you generally for the advice and help you've given me recently, and also for the extra efforts you undertook to ensure that the new RC-4 zoning in my area (Issue 3-160) will protect important watershed resources.

As I'm sure you're aware, the official new zoning maps were corrected to show RC-4 zoning fully surrounding the upper reaches of the Waterspout Run watershed, as was originally intended. This correction was due in no small part to your efforts, and I want to let you know how much I appreciate those efforts. And, I'm sure that all the residents who signed the petition supporting this zoning change feel similarly.

Please continue your important work on land and water conservation – as we've discussed, this work will pay dividends not only now, but well into the future.

Sincerely,

John Galbreath

PROT #28 11/29/01

TBM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: The Honorable T. Bryan McIntire
Councilman, Third District

FROM: Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

SUBJECT: Resolution 42-01 - Out-of-Cycle Zoning Reclassification - Jarvis Steel & Lumber Company

DATE: June 14, 2001

I reviewed Mr. Martin's and Mr. Galbreath's letters regarding the reclassification petition filed by Jarvis Steel & Lumber Company (Case No. R-01-437). The Board of Appeals is holding a hearing on the issue later this month.

The property that is the subject of the petition is located in your district on Dover Road. The 40 acre parcel of land is currently zoned RC 5 and RC 4. The petitioner wishes to revise the RC 5/RC 4 zoning line in order to clarify the stream buffer area on the property.

This property was a part of the 526 acre parcel which comprised Comprehensive Zoning Map Issue 3-160. With respect to this issue, the Council voted to change the Planning Board's recommendation of RC 5 to RC 5 for 245 acres and RC 4 for 281 acres. The RC 4 zoning classification was to apply to those portions of the parcel within 300 feet from the center line of any streams on the property, while the RC 5 zoning classification was to be applied to those portions of the parcel outside the 300 foot buffer.

The Jarvis property was zoned RC 5 prior to the Council's vote on Issue 3-160. The Council's action on this zoning issue affects the zoning of Jarvis's 40 acres. Jarvis contends that the delineation of the 300 foot buffer area as shown on the overlay map adopted by the County Council as a part of Issue 3-160 is incorrect because it is based upon faulty data supplied by DEPRM as to the location of streams on the 526 acre parcel. In order to make its case that an error had occurred, Jarvis filed a petition with the County Board of Appeals, under the provisions of Section 2-356 of the Baltimore County Code, requesting that the Board of Appeals reclassify the property on the basis that an

PROT #29 11/29/01

error had occurred. This section authorizes a reclassification of property on the basis of change or error. The County Council is not involved in this interim zoning reclassification process authorized by Title 2.

Pursuant to this procedure, the County Planning Board is authorized to certify to the County Council that the Board of Appeals should consider a particular zoning reclassification petition on an expedited basis if such a request is "in the public interest or because of emergency". The Council is authorized to approve the Planning Board's certification, and if it does so, the petition is exempted from the regular, cyclical procedure of Section 2-356, and the Board of Appeals is required to schedule a public hearing not less 30 days nor more than 90 days after the County Council's approval of the Planning Board's certification. It is important to remember that neither the certification by the Planning Board nor the concurrence by the County Council constitutes an opinion on the merits of the petition. The Council's action simply removes the petition for reclassification from the normal cycle zoning schedule for an earlier hearing before the Board of Appeals.

In this instance, Jarvis made such a request to the Planning Board, and the Planning Board certified to the Council that early action on the Jarvis petition would be in the public interest. Accordingly, the County Council approved Resolution 42-01 which authorizes an earlier hearing on Jarvis's petition. Again, the Council's action takes no position on the merits of the petition. The Council's action is procedural in nature, and I am not aware of any instance in which the Council has refused to authorize a hearing before the Board of Appeals pursuant to a request from the Planning Board.

TJP:ml

tbm.res 42-01.wpd

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

T. BRYAN McINTIRE
COUNCILMAN, THIRD DISTRICT

COUNCIL OFFICE: 887-3196
887-3387

August 6, 2001

Arnold F. "Pat" Keller, III, Director
Office of Planning
401 Bosley Avenue
Room 406
Towson, Maryland 21204

Re: Resolution 42-01

Dear Mr. Keller:

On April 2, 2001, the County Council adopted Resolution 42-01 which approved the Planning Board's certification that the zoning reclassification petition filed by Jarvis Steel & Lumber Company, Inc. should be exempted from the regular cyclical zoning procedure of the Baltimore County Code. The subject of this petition is a 40 acre parcel of land which is located in the Third Councilmanic District.

In approving this Resolution, the Council acted under the provisions of Section 2-356(i) of the Code which authorizes the County Council to approve a Planning Board certification that a zoning reclassification petition should be expedited "in the public interest or because of emergency". Both the certification transmittal letter sent to the County Council by the Planning Board and the County Council's legislative record make it absolutely clear that neither the Board's certification nor the concurrence by the County Council constitutes an opinion on the merits of this petition. In fact, I am advised that every certification ever submitted by the Planning Board has contained this caveat, as has every concurring action of the County Council.

Despite this longstanding tradition and clear legislative history, Jarvis has now alleged in one of its pleadings that "It should not go unnoticed by this court that the Jarvis petition for reclassification was exempted from the normal

PROT #30 11/29/01

cycle zoning process by action of the County Council. This exemption by the Council allows expedited consideration of the petition and was approved due to the recognized error on the base maps used by the Office of Planning before the Council vote". It is outrageous to impute this motivation to the County Council in the face of its clearly-stated neutral position on the merits of the issue.

Under the provisions of the Baltimore County Charter, it would be improper for me or for the County Council to address this erroneous allegation, since the issue is pending in another forum. Accordingly, my only recourse is to refuse to entertain any future Planning Board certification submitted under Section 2-356 for approval of an expedited hearing on a reclassification petition. I intend to urge my colleagues to do the same.

Sincerely,

T. Bryan McIntire
Councilman, Third District

TBM:ml
cc: All Councilmembers
keller.ltr res.42-01.wpd

Section 1A03
R.C.4 (Watershed Protection) Zone

1A03.1 Findings and legislative policy. **[Bill No. 178-1979]**

The County Council finds that major, high-quality sources of water supply for the entire Baltimore Metropolitan Area and for other neighboring jurisdictions lie within Baltimore County and that continuing development in the critical watersheds of those water supply sources is causing increased pollution and sedimentation in the impoundments, resulting in increasing water treatment costs and decreasing water storage capacity. The R.C.4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds.

1A03.2 Rezoning by petition. **[Bill No. 178-1979]**

No petition for reclassification of property in an R.C.4 Zone may be granted unless a registered professional engineer, architect, landscape architect or land surveyor first certifies that:

A. The parcel of land under petition lies at least 200 feet from the property line of any public water reservoir;

B. The parcel lies at least 300 feet from any first or second order or greater stream that flows directly into a public water reservoir;

C. That the parcel lies at least 300 feet from any third order or greater stream that flows directly or indirectly into a public water reservoir;

D. No more than 30% of the parcel has a slope of more than 20%;

E. The parcel does not lie within a one-hundred-year floodplain; and

F. As shown by an environmental impact statement, the manner in which proposed reclassification will affect water quality in the watershed or any public water reservoir.

For the purpose of this section, streams are classified by order as shown on the map of stream orders adopted by the Planning Board on March 25, 1976.

1A03.3 Use regulations.

A. Uses permitted as of right. The following uses, only are permitted as of right in R.C.4 Zones:

1. Dwellings, one-family detached.

2. Farms and limited-acreage wholesale flower farms (Section 404). **[Bill No. 51-1993]**

3. Open space, common.

4. Public schools. **[Bill Nos. 63-1980; 47-1982; Bill No. 47-1985]**

5. Telephone, telegraph, electrical-power or other similar lines or cables, all underground; underground gas, water or sewer mains or storm drains; other

PROT #31 11/29/01

DWELLING, ALTERNATIVE SITE DESIGN — A dwelling sited on a zero lot line or zipper lot, patio house or neo-traditional dwelling as prescribed in the Comprehensive Manual of Development Policies.[11] **[Bill No. 2-1992]**

DWELLING, SINGLE-FAMILY DETACHED — A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. **[Bill No. 2-1992]**

DWELLING, TWO-FAMILY — A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. **[Bill No. 2-1992]**

ELDERLY HOUSING FACILITY — The term "elderly housing facility" includes an assisted living facility, a continuing care facility and Class A or Class B housing for the elderly. **[Bill Nos. 36-1988; 188-1993]**

ENCLOSED MALL — A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). **[Bill No. 29-1982]**

ENVIRONMENTAL IMPACT STATEMENT — A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;

Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;

Any adverse environmental effects that cannot be avoided;

Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and

Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. **[Bill No. 98-1975]**

EXCAVATIONS, CONTROLLED — All types of excavations other than those defined as "excavations, uncontrolled."

---

11 **Editor's Note: Information on the Manual may be obtained from the Department of Permits and Development Management.**

PROT #32 11/29/01

IN THE MATTER OF THE APPLICATION OF SECURITY MANAGEMENT CORPORATION FOR A ZONING RECLASSIFICATION FROM R.C. 4 TO D.R. 10.5 AND B.L. ON PROPERTY LOCATED ON THE SOUTH- EAST SIDE YORK AND PHOENIX ROADS (COLVISTA) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. CR-93-307-SPHXA

* * * * * * * * * *

RULING ON MOTION FOR DISMISSAL

The instant case is brought by Security Management Corporation, Petitioner, as a Petition for Reclassification from zoning designation R.C. 4 to D.R. 10.5 and B.L. Prior to the commencement of the hearing, a Motion for Dismissal was brought by People's Counsel and joined by the Protestants. People's Counsel alleges that, pursuant to Baltimore County Zoning Regulations (hereinafter BCZR) Section 1A00.3A.1.a and BCZR Section 1A03.2, the subject Petition should never have been accepted for filing, and that the Board may not grant the Petition for Reclassification. The Board, on the first day of public hearing, reserved on the Motion, indicating that a finding of fact pursuant to the aforementioned sections would have to be made in order to apply those sections, and that, absent any evidence and testimony in the matter, the Board would be ruling prematurely.

Appearing during the 6 days of testimony and evidence of the Petitioner's case in chief were G. Scott Barhight, Esquire, and James F. Rosner, Esquire, on behalf of Petitioner; J. Carroll Holzer, Esquire, on behalf of the Sparks-Glencoe Community Council; and, James F. Biddison, Esquire, representing the Broadmead Residents Association. People's Counsel for Baltimore County also participated in the proceedings.

PROT #33A 11/29/0

During the 6 days of hearing in this matter, numerous witnesses and a veritable mountain of evidence was provided by Petitioner and People's Counsel. The matter under consideration herein is only the Motion for Dismissal brought by People's Counsel and joined by Protestants. Therefore, discussion herein shall be limited to those areas where facts have been determined relative to the Motion.

The first of the two issues raised by People's Counsel, BCZR Section 1A00.3A.1a, reads:

> "1. No petition to reclassify an R.C. zone or portion thereof as other than an R.C. zone may be accepted for filing by the Zoning Commissioner unless --
>
> > "a. The Capital Program, duly adopted Baltimore County master or comprehensive plans, and the "county plan" required under Subtitle 5 of Title 9 in the Environment Article of the Annotated Code of Maryland 1987, as amended, show that the property under petition is to be serviced by public sewerage and watersupply systems within TWO years after the date the petition is submitted...."

Several witnesses and evidence brought by the Petitioner (specifically Petitioner's Exhibits 64 and 65), coupled with the testimony of Mr. Frederick Chadsey, IV, of G. W. Stephens and Associates, indicate that, although the instant site is in a "no planned service" area for water and sewer service, the instant site is indeed bounded on the north, south and west by existing water and sewer service which is readily accessible to the site. The instant property is literally surrounded by existing development with public utility service, despite the "no planned service" designation.

The area of concern to the Board in this particular Motion is

that which appears in BCZR regulation 1A03.2, which reads:

> "No petition for reclassification of property in an R.C. 4 zone may be granted unless a registered professional engineer, architect, landscape architect, or land surveyor first certifies:
>
> 1. that the parcel of land under petition lies at least 200 feet from the property line of any public water reservoir;
>
> 2. that the parcel lies at least 300 feet from any 1st or 2nd order or greater stream that flows directly into a public water reservoir;
>
> 3. that the parcel lies at least 300 feet from any 3rd order or greater stream that flows directly or indirectly into a public water reservoir;
>
> 4. that no more than 30% of the parcel has a slope of more than 20%;
>
> 5. that the parcel does not lie within a 100-year floodplain; and
>
> 6. that, as shown by an environmental impact statement, the manner in which proposed reclassification will affect water quality in the watershed or any public water reservoir.
>
> For the purpose of this subsection, streams are classified by order as shown on the map of stream orders adopted by the Planning Board on March 25, 1976."

This particular section of the regulations impacts the Petitioner's ability to reclassify R.C. 4 property which lies adjacent to or near the public water reservoir. From Petitioner's Exhibit 1 and several other exhibits, coupled with testimony of several of the witnesses, the Board finds as a fact that the entire lot of record for which a portion is the subject of the reclassification petition directly abuts the Loch Raven Reservoir property. Therefore, Item 1 of BCZR 1A03.2 dictates that the Board consider definitions for the word "parcel" as they may apply in this case, in light of the Petition to reclassify only land more than 200 feet from the

reservoir property line. The word "parcel" does not appear in BCZR Section 101. However, in the absence of a written definition in Section 101, the Board is required to go to the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. In Webster's, numerous definitions for the word "parcel" exist; however, definitions 2a. and b. deal with possible definitions related to real property:

> "2a: a continuous tract or plot of land in one possession no part of which is separated from the rest by intervening land in other possession b: a tract or plot of land whose boundaries are readily ascertainable by natural or artificial monuments or markers...."

According to Black's Law Dictionary, 6th Edition, 1990, Words and Phrases, as well as Words and Phrases Supplements, "parcel" is further defined as:

> - Contiguous quantity of land in possession of, owned by, or recorded as property of the same claimant, person or company.
>
> - A "parcel of land" or "parcel of real property" means a contiguous quantity of land in possession of, or owned by, or recorded as the property of, the same claimant, person or company.
>
> - A contiguous quantity of land in possession of, owned by or recorded as property of the same claimant, person or company. "Parcel of land" is synonymous with tract of land and does not have reference to size but to contiguous quantity of land.

Black's further indicates that "parcel" may be synonymous with the term "lot." The closest definition to the word "lot" in the BCZR is the term-phrase "lot of record" which reads:

> "A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof."

It is this very issue which gives the Board pause. The Board finds

as a fact that the parcel under consideration includes the entire area of the site, as defined by its metes and bounds as the lot of record which existed on the date of the zoning regulation which governs its use, which, in this case, is the date of the last Comprehensive Zoning Map adoption date by the County Council, October 15, 1992. In finding this fact, the Board therefore finds that the zoning line proposed by the Petitioner to separate the proposed developable area as D.R. 10.5 and B.L. from existing and to-remain R.C. 4 property on the instant site is an artificial line not recognized by the BCZR as definable in the context of the word "parcel" and/or "lot of record." For the above reasons and facts, the Board shall grant the Motion for Dismissal of the instant case.

From Petitioner's Exhibit 1, the Documented Site Plan, in light of the Board's finding and definition of the word "parcel" in this case, the Board also finds as a fact, pursuant to BCZR Section 1A03.2, paragraphs 3 and 5, that the parcel lies within 300 feet of a third order or greater stream that flows directly or indirectly into Loch Raven Reservoir, and that the parcel does lie within, and contains an area which is, a 100-year floodplain.

The Baltimore County Zoning Regulations provide a vehicle for a Petitioner to seek reclassification of a property through proof of error or mistake by the County Council, or change in the character of the neighborhood from the date of the last zoning classification designation by the County Council. During the Comprehensive Zoning Map Process, the County Council has full authority to decide the location of a zoning line based on a multitude of possibilities: roads, hills, valleys, streams,

monuments, or many other man-made or natural situations which may or may not coincide with the boundaries described in a given lot of record. However, clearly the zoning regulations do not afford that degree of latitude to the Petitioner in this case, who seeks to choose an alternate location for a zoning line so as to enable himself to attempt to prove error on a remainder portion of his property.

THEREFORE, FOR THE REASONS SO STATED, it is therefore this 29th day of September, 1995 by the County Board of Baltimore County

ORDERED that the Motion for Dismissal brought by People's Counsel for Baltimore County, and joined by the Protestants, be and the same is hereby GRANTED.

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.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert O. Schuetz

Robert O. Schuetz, Chairman

S. Diane Levero

S. Diane Levero

Harry E. Buchheister, Jr.

Harry E. Buchheister, Jr.

(S) 8/26/96

SECURITY MANAGEMENT CORPORATION	*	IN THE
	*	CIRCUIT COURT
V.	*	FOR
BALTIMORE COUNTY BOARD OF APPEALS	*	BALTIMORE COUNTY
* * * *	*	C- 95-9688

OPINION

This matter came before the Court on August 6, 1996, as an appeal by Security Management Corporation (Appellant) from an order dated September 29, 1995, by the Baltimore County Board of Appeals which denied Appellant's zoning reclassification petition.

This case has a long and sorted past. In 1992, during the quadrennial comprehensive zoning process, Appellant submitted a petition to the County Council requesting the reclassification of 215 acres located at York and Phoenix Roads from RC4 (Resource Conservation, watershed protection) to DR-10.5 (Density Residential- 10.5 units per acre) and BL (Business- Local). The proposed plan submitted by Appellant included townhomes, multi-family homes, and elderly housing. The County Council denied Appellant's petition.

Appellant then brought an original action to the Circuit Court for Baltimore County alleging Civil Rights Act and constitutional violations, under the Due Process, Equal Protection, and Takings clauses. Prior to the Circuit Court's decision, Appellant filed a reclassification petition to the County Board of Appeals (Board). In 1993, the Circuit Court for

PROT #33B 11/29/01

Baltimore County dismissed the complaint for failure to state a claim. Subsequent to the Circuit Court's dismissal of the complaint, Appellant appealed to the Court of Special Appeals. As of the date of oral arguments at the Court of Special Appeals, the Board still had not considered the reclassification petition. The Court of Special Appeals affirmed the Circuit Court's decision.

In August, 1995, the hearing before the Board finally began. On the first day of the proceeding, People's Council, joined by the Broadmead Community and the Sparks-Glencoe Community Council, moved for dismissal of the petition for reclassification. The Board reserved ruling on the motion. At the end of Appellant's six days of testimony and evidence, People's Council renewed the motion to dismiss. Following a short recess, the Board granted the motion and dismissed the petition. (In actuality, the proper terminology would have been a granting of a motion for judgment against the Appellant.)

Sections 1A00.3A.1a and 1A03.2 of the Baltimore County Zoning Regulations are the controlling provisions for the Board's decision. Section 1A00.3A.1a reads, in pertinent part:

> "1. No petition to reclassify an R.C. zone or portion thereof as other than an R.C. zone may be accepted for filing by the Zoning Commissioner unless --
>
> > a. The Capital Program, duly adopted Baltimore County master or comprehensive plans, and the "county plan" required under Subtitle 5 of Title 9 in the Environment Article of the Annotated Code of Maryland 1987, as amended, show that the property under petition is to be serviced by public sewerage and water supply systems within two years after the date the petition is submitted . . . ."

Section 1A03.2 reads, in pertinent part:

> "No petition for reclassification of property in an R.C. 4 zone may be granted unless a registered professional engineer, architect, landscape architect, or land surveyor first certifies:
>
> > 1. That the parcel of land under petition lies at least 200 feet from the property line of any public water reservoir; ..."

The Board based its decision on the following findings of fact: (1) the site was within a "no planned service" area for sewer and water, thereby violating § 1A00.3A.1a and (2) the parcel, as defined by the Board, lies within 200 feet of the Loch Raven Reservoir property, thereby violating § 1A03.2. After applying the above mentioned provisions to the following findings of fact, the Board dismissed the petition.

Appellant argues that: (1) Sections 1A00.3 and 1A03.2 of the Baltimore County Zoning Regulations are in conflict with § 602(e) of the Baltimore County Charter, and, therefore, must yield to the exclusive jurisdiction provision the County Charter; (2) the Board of Appeals erroneously defined "parcel of land" as used in § 1A03.2 of the Baltimore County Zoning Regulations, thereby incorrectly determining that the site was within 200 feet of the reservoir property line; and (3) the Board erred when it based its decision upon the advice of the County Attorney.

Turning to the first issue, Appellant relies on Hope v. Baltimore County, 288 Md. 656 (1980), for the proposition that where the Charter and a Code section conflict, the Charter should prevail and sections 1A00.3 and 1A03.2 would not apply.

In UPS v. People's Council, 336 Md. 569 (1994) the Court of Appeals, however, explained that the narrow function of Hope was only to invalidate a law that allowed direct appeals from the Planning Board to the Circuit Court, thus, bypassing the Board of Appeals as required by the Charter. In the case at bar, the Code and Charter provisions do not concern the appeal process from the Planning Board, therefore, Hope does not apply.

In Halle Companies v. Crofton Civic Association, 339 Md. 131 (1995), the Court said, "[t]he Board is purely a statutory creature and may exercise only those powers expressly granted to it by law or those which can be fairly implied." The Court was referring to Anne Arundel County Board of Appeals, however, the Board operates under a charter and statutory framework similar to Baltimore County. This Court's opinion is that even if the Board has jurisdiction over a zoning case, it may be without the authority to grant approval of a reclassification petition because the Petitioners have not met the statutory requirements necessary for a zoning reclassification. In other words, the Code sections setting forth the standards or guidelines by which the Board decides cases do not conflict with its exclusive jurisdiction to hear such cases. Therefore, in order to grant the reclassification petition the Appellant would have to satisfy the statutory provisions. It is clear to this Court that they have not done so. The uncontradicted testimony was that there is no planned public sewer or water service on the property. Accordingly, the provisions of 1A00.3A.1a have not been met.

Next, the Appellant argues that the Board erred in defining

"parcel of land" to include all 215 acres of its property and not just the 156 acres in the petition. Furthermore, the Appellant argues that the reclassification should be granted because the 156 acres petitioned for are not within 200 feet of the Loch Raven reservoir property boundary.

The Board defined "parcel of land" using the Webster's Third New International Dictionary of the English Language, Unabridged, as required when a word is not defined within its section. The Board used definitions 2a. and b., which state that a parcel is:

> "a: contiguous tract or plot of land in one possession no part of which is separated from the rest by intervening land in other possession b: a tract or plot of land whose boundaries are readily ascertainable by natural or artificial monuments or markers . . . ."

The Board also relied upon Black's Law Dictionary, 6th Edition, 1990, Words and Phrases, as well as Words and Phrases Supplements, which similarly define "parcel."

Appellees as well as the Court agree with the Board's definition of "parcel." The site in question is a contiguous tract of property, all owned by the Appellant, therefore it is one parcel. This one parcel is undisputedly within two hundred feet of the reservoir property line. Accordingly, the provisions of 1A03.2 forbid the reclassification.

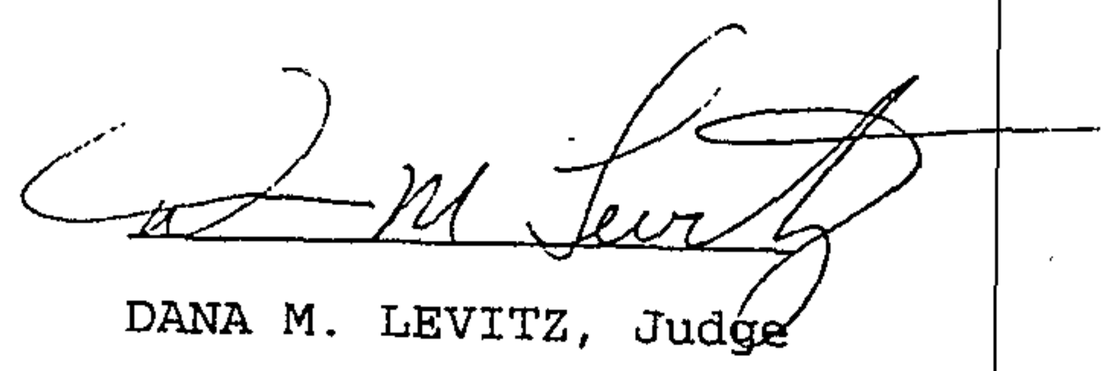
The third issue concerning the reliance of the Board on the County Attorney for guidance is without merit. The County Attorney is, by law, the advisor to all county boards and agencies. Section 508 of the Baltimore County Charter. Since §§ 508 and 605 of the County Charter provide authority for the County Attorney to advise the Board, the County Attorney's

actions in this case were proper.

The standard of review in this case allows the Court to reverse or modify the Board's decision only if specific findings are made by this Court. Md. Code Ann. (State Gov't) §10-222 (h)(3) (1995). This Court is not convinced that the Board's decision was: (1) unconstitutional; (2) outside the statutory authority or jurisdiction of the agency; (3) the result of unlawful procedure; (4) affected by any other error of law; (5) unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or (6) arbitrary or capricious.

Accordingly, the decision of the Board of Appeals is affirmed. Appellants pay costs.

Dated 8/26/96



DANA M. LEVITZ, Judge

Copies sent to:

County Board of Appeals
G. Scott Barhight
David K. Gildea
Peter Zimmerman
Douglas Silber
J. Carroll Holzer
James A. Biddison

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1787

September Term, 1996

SECURITY MANAGEMENT CORP.

v.

BALTIMORE COUNTY, MARYLAND
ET AL.

Murphy, C.J.
Davis,
Bloom, Theodore G.
(Retired, specially
assigned.)
JJ.

PER CURIAM

Filed: August 20, 1997

#95CV9688

PROT. #33C 11/29/01

In this appeal from the Circuit Court for Baltimore County, Security Management Corp. (SMC), appellant, presents the following questions for our review:

> I. Must §§ 1A00.3.A.1.a and 1A03.2.1 of the BCZR yield to the exclusive jurisdiction provision in § 602(e) of the Baltimore County Charter?
>
> II. Did the Board of Appeals and the Circuit Court erroneously interpret the term "parcel of land under petition" as used in BCZR § 1A03.2.1?

We answer "no" to the first question. Based on our resolution of that issue, we affirm the judgment of the circuit court.

FACTUAL BACKGROUND

Appellant claims that it is entitled to piecemeal rezoning of 156.16 acres of a 215 acre tract of land adjacent to the Loch Raven Reservoir from RC-4 (Rural Conservation -watershed protection) to DR-10.5 (Density Residential 10.5) and BL (Business Local). When appellant petitioned the County Board of Appeals of Baltimore County (the Board) for the entry of an order granting such relief, appellees[1] requested that the Board dismiss the petition based upon Sections 1A00.3.A.1.a and 1A03.2.1 of the Baltimore County Zoning Regulations (BCZR). Section 1A00.3.A.1.a prohibits reclassification of RC property that is located in a "no planned service" area for sewer and water, and Section 1A03.2.1 prohibits reclassification of RC property that is less than 200 feet from the property line of any public water

---

[1]The appellees are the People's Counsel for Baltimore County, the Sparks-Glencoe Community Council, and the Broadmead Residents Association. Baltimore County itself is not a party to the instant appeal.

reservoir. The Board granted appellees' motion on the following grounds:

> The area of concern to the Board in this particular Motion is that which appears in BCZR regulation 1A03.2, which reads:
>
> > "No petition for reclassification of property in an R.C. 4 zone may be granted unless a registered professional engineer, architect, landscape architect, or land surveyor first certifies:
> >
> > 1. that the parcel of land under petition lies at least 200 feet from the property line of any public reservoir;
>
> * * *
>
> This particular section of the regulations impacts the Petitioner's ability to reclassify R.C. 4 property which lies adjacent to or near the public water reservoir. From Petitioner's Exhibit 1 and several other exhibits, coupled with the testimony of several of the witnesses, the Board finds as a fact that the entire lot of record for which a portion is the subject of the reclassification petition directly abuts the Loch Raven Reservoir property. Therefore, Item 1 of BCZR 1A03.2 dictates that the Board consider definitions for the word "parcel" as they may apply in this case, in light of the petition to reclassify only land more than 200 feet from the reservoir property line. The word "parcel" does not appear in BCZR Section 101. However, in the absence of a written definition in Section 101, the Board is required to go to the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. In Webster's, numerous definitions for the word "parcel" exist; however, definitions 2a. and b. deal with possible definitions related to real property.
>
> > "2a: a continuous tract or plot of land in one possession no part of which is separated from the rest by intervening land in other possession b: a tract or plat of land whose boundaries are readily ascertainable by natural or artificial monuments or markers...."
>
> * * *

Black's [Law Dictionary, 6th Edition, 1990] further indicates that "parcel" may be synonymous with the term "lot." The closest definition to the word "lot" in the BCZR is the term-phrase "lot of record" which reads:

> "A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof."

It is this very issue which gives the Board pause. The Board finds as a fact that the parcel under consideration includes the entire area of the site, as defined by its metes and bounds as the lot of record which existed on the date of the zoning regulation which governs its use, which, in this case, is the date of the last Comprehensive Zoning Map adoption date by the County Council, October 15, 1992. In finding this fact, the Board therefore finds that the zoning line proposed by the Petitioner to separate the proposed developable area as D.R. 10.5 and B.L. from existing and to-remain R.C.-4 property on the instant site is an artificial line not recognized by the BCZR as definable in the context of the word "parcel" and/or "lot of record." For the above reasons and facts, the Board shall grant the Motion for Dismissal of the instant case.

Appellants sought reversal of that decision in the Circuit Court for Baltimore County, but the court affirmed the Board. According to the circuit court:

> even if the Board has jurisdiction over a zoning case, it may be without the authority to grant approval of a reclassification petition because the Petitioners have not met the statutory requirements necessary for a zoning reclassification. In other words, the Code sections setting forth the standards or guidelines by which the Board decides cases do not conflict with its exclusive jurisdiction to hear such cases. Therefore, in order to grant the reclassification petition the Appellant would have to satisfy the statutory provisions. It is clear to this Court that they have not done so. The uncontradicted testimony was that there is no planned public sewer or water service on the property. Accordingly, the provisions of 1A00.3A.a [sic] have not been met.

* * *

> Appellees as well as the Court agree with the Board's definition of "parcel." The site in question is a contiguous tract of property, all owned by the Appellant, therefore it is one parcel. This one parcel is undisputedly within two hundred feet of the reservoir property line. Accordingly, the provisions of 1A03.2 forbid the reclassification.

This appeal followed.

I

According to appellant, the restrictions on reclassification contained in Sections 1A00.3.A.1.a and 1A03.2.1 of the BCZR impermissibly encroach upon the power granted to the Board of Appeals by the Baltimore County Charter. Appellant argues that Sections 1A00.3.A.1.a and 1A03.2.1 must yield to the exclusive jurisdiction provision in Section 602(e) of the County Charter which provides that "[t]he county board of appeals shall have original and exclusive jurisdiction over all petitions for reclassification." We disagree.

Appellant contends that in Hope v. Baltimore County, 288 Md. 656 (1980), the Court of Appeals held that where the County Charter and a provision of the Baltimore County Code conflict, the provision of the County Charter controls and the offending code section is a nullity. That case involved the question of whether a decision of the Baltimore County zoning board could be appealed directly to the circuit court. The appellant relied on a provision in the County Code that had been enacted prior to the adoption of the County Charter by the people of Baltimore County. Under the provision at issue, "'any person . . . aggrieved by the

action of the planning board on final plats of subdivisions ...' was entitled to file an appeal in the circuit court 'within thirty days after the date of action by the planning board.'" Id. at 658. The circuit court dismissed Hope's appeal and ruled, in pertinent part:

> I have no alternative except to rule that as a matter of law Section 22-38 of the Baltimore County Code is a nullity. It is void because it is in direct conflict with the Baltimore County Charter. It cannot be used as a vehicle to obtain judicial review of Planning Board action, and, therefore, the appeal of the persons who are aggrieved by their decision must be dismissed.
>
> * * *
>
> The Charter provision providing that exclusive right [for appeal from any planning or zoning administrative or ajudicatory order] conflicts with Section 22-38 of the Baltimore County Code, and the latter must yield to the Charter provisions, the Charter being our organic law.

Id., at 658-59.

The Court of Appeals affirmed the circuit court's dismissal, stating:

> Here Baltimore County in its creation of the Board of Appeals has indicated an intent that the Board's powers are to be those set forth in Art. 25A, § 5 (U).... The concluding sentence of the section is, "The review proceedings provided by this subsection shall be exclusive." ... Accordingly, under Constitution Art. XI-A, § 1 providing that enactment of a charter would constitute repeal of all public local laws inconsistent with the charter provisions, the right of appeal provided in the preexisting county code was repealed. Thereafter, if Baltimore County had attempted to enact a statute concerning appeals inconsistent with the exclusive right of appeal provided in Art. 25A, § 5 (U) it would have been acting in a manner not permitted by its own charter.

Id., at 664.

Appellant argues that there is a conflict between the "original and exclusive" jurisdiction of the Board of Appeals over reclassification and the BCZR provisions prohibiting reclassification if (1) the subject property is located in a "no planned service" area for sewer and water or (2) the property is lies within 200 feet from the property line of any public water reservoir. According to appellant, Hope requires that the BCZR sections must be declared invalid. We are persuaded, however, that neither Hope nor any other case supports such an argument.

Halle Companies v. Crofton Civic Association, 339 Md. 131 (1995), presented the issue of whether the Anne Arundel County Board of Appeals had the authority to impose a condition on the grant of a special exception when that condition was not sought during earlier proceedings before the county administrative officer. The Court stated:

> Under the Express Powers Act, Md. Code (1957, 1994 Repl. Vol.), Art. 25A, § 5(U), each county is authorized to create a board of appeals. Anne Arundel County, by its charter, created the Board of Appeals as an independent unit of county government and vested the Board with power to hear all *de novo* appeals authorized by the Express Powers Act.... *The Board is purely a statutory creature and may exercise only those powers expressly granted to it by law or those which can be fairly implied.* Bayliss v. Mayor & City Council of Baltimore, 219 Md. 164, 168, 148 A.2d 429, 432 (1959).

(Emphasis supplied, footnote omitted).[2]

---

[2]Md. Ann Code art 25A, § 5 (1996 Repl.Vol.) provides, in pertinent part:

> (U) *County Board of Appeals*
>
> To enact local laws providing (1) for the establishment of a county board of appeals whose

Halle makes clear that, despite the broad language of the Baltimore County charter granting the Board "original and exclusive jurisdiction over all petitions for reclassification," the authority of the Board to decide a petition for reclassification is limited by the substantive law that the Board must apply. Stated another way, the authority to hear all petitions for reclassification does not carry with it the right to ignore valid restrictions in the law that is applicable to a particular petition. Sections 1A00.3.A.1.a and 1A03.2.1 of the BCZR are two such valid restrictions that the Board has no power to ignore.

In Miller v. Pinto, 305 Md. 396 (1986), the Kent County Board of Appeals determined that use of the subject property as a trucking business was not permitted under its C-1 General Commercial zoning status. Rather, the Board found that the trucking operation was essentially a "truck and transfer

---

members shall be appointed by the county council; (2) for the number, qualifications, terms, and compensation of the members; (3) for the adoption by the board of rules of practice governing its proceedings; and (4) for the decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising (either originally or on review of the action of an administrative office or agency) under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map . . . Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision. . . .

erminal," a use permitted only in an LI-2 Light Industrial District. The Court of Appeals affirmed the Board, explaining that the Board was required to apply the zoning law:

> 'The Board based its determination regarding the legality of TRP's use of the property upon its finding that TRP's use was more analogous to a "truck and transfer terminal," as use specifically permitted in an LI-2 Light Industrial district, than to any of the use specifically permitted in a C-1 district. The substance of the Board's decision was that TRP's use should be classified as permitted only in an LI-2 district. We conclude, therefore, that the Board's issuance of its determination was authorized by paragraph 5 [Article 13, § 3 of the Kent County Zoning Ordinance], which permits the Board '[t]o make a determination, in cases of uncertainty, of the district classification of any use not specifically named" in the Zoning Ordinance.

Id. at 405-06.

There is no merit in the argument that a County Board of Appeals has the authority to ignore the standards set forth in the zoning ordinance. For example, in Umerly v. People's Counsel for Baltimore County, 108 Md. App 497 (1996), the Baltimore County Council passed regulations to minimize the impact of trucking facilities on environmentally sensitive and residential areas, and the owner of a trucking facility in such an area petitioned the Baltimore County Zoning Commissioner for a special exception and certain variances which would allow him to operate his business. The zoning commissioner denied the petition, but the County Board of appeals reversed after a *de novo* hearing. The circuit court, however, reversed the decision of the Board and we affirmed the circuit court. Because the proposed use of the property violated certain provisions of the BCZR, and the

property owner had failed to present substantial evidence to support the granting of his petition, the Board's decision was erroneous. Id., at 509-10. See also Cromwell v. Ward, 102 Md. App. 691 (1995) (landowner's self-created hardship arising from construction of accessory building violating fifteen foot height requirement before variance was sought was not grounds for the Board's grant of his subsequent petition for variance).

In United Parcel Service, Inc. v. People's Counsel for Baltimore County, 336 Md. 569 (1994), the Baltimore County Zoning Board entertained an appeal from a letter written by the zoning commissioner to a local citizen who opposed the issuance of a building permit to UPS. Despite the protesting citizens' reliance on Hope, the Court of Appeals held that the Board had no original jurisdiction to hear the case and explained:

> The protestants argue that, if a charter county establishes a board of appeals, § 5(U) [of the Express Powers Act] and Hope v. Baltimore County, supra, require that such board of appeals have original jurisdiction over all of the matters delineated in § 5(U), including all zoning matters, all licensing, etc. The protestants maintain that to the extent that a county's charter or ordinances limit the board of appeals to appellate jurisdiction over any matters set forth in § 5(U), such charter provisions or ordinances are invalid.
>
> * * *
>
> This Court's opinion in Hope v. Baltimore County, supra, furnishes no support for the protestants' original jurisdiction argument. The Hope opinion was concerned with and discussed only the appellate jurisdiction of the Baltimore County Board of Appeals. Id., at 589. As appellant's argument does not concern the appeal process from the Planning Board, Hope is simply inapplicable.

ıited Parcel Service, Inc., at 588-89.

In the case at hand, it is undisputed that the subject property is located in a "no planned service" area for sewer and water. [3] Section 1A00.3.A.1.a prohibits reclassification of the property. Contrary to appellant's argument, and based upon the foregoing cases, we hold that the regulations at issue do not violate the Baltimore County Charter.

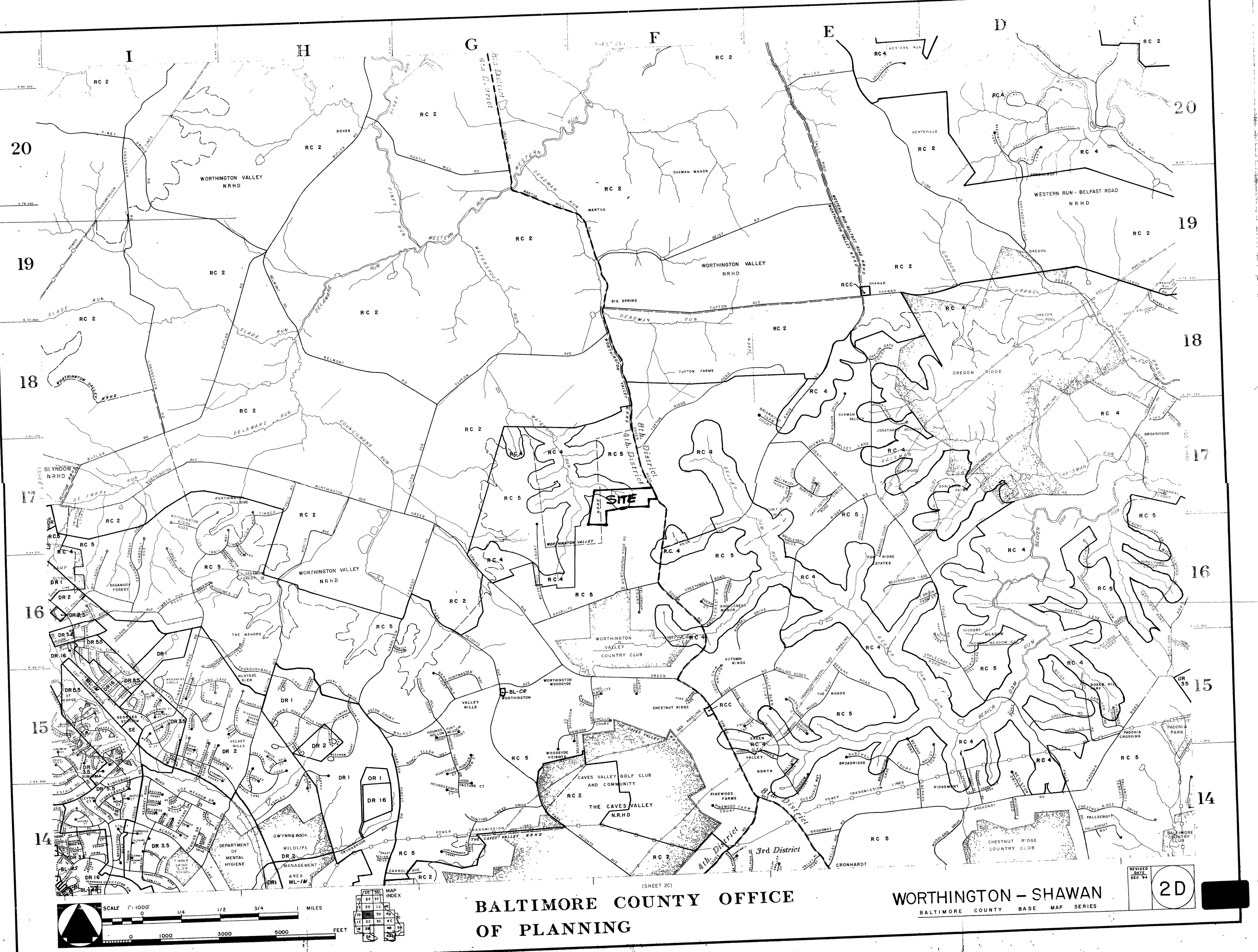
II

Because the Board was required to deny appellant's petition solely on the grounds that piecemeal rezoning of the property would violate Section 1A00.3.A.1.a, it is unnecessary to answer appellant's second question.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.

---

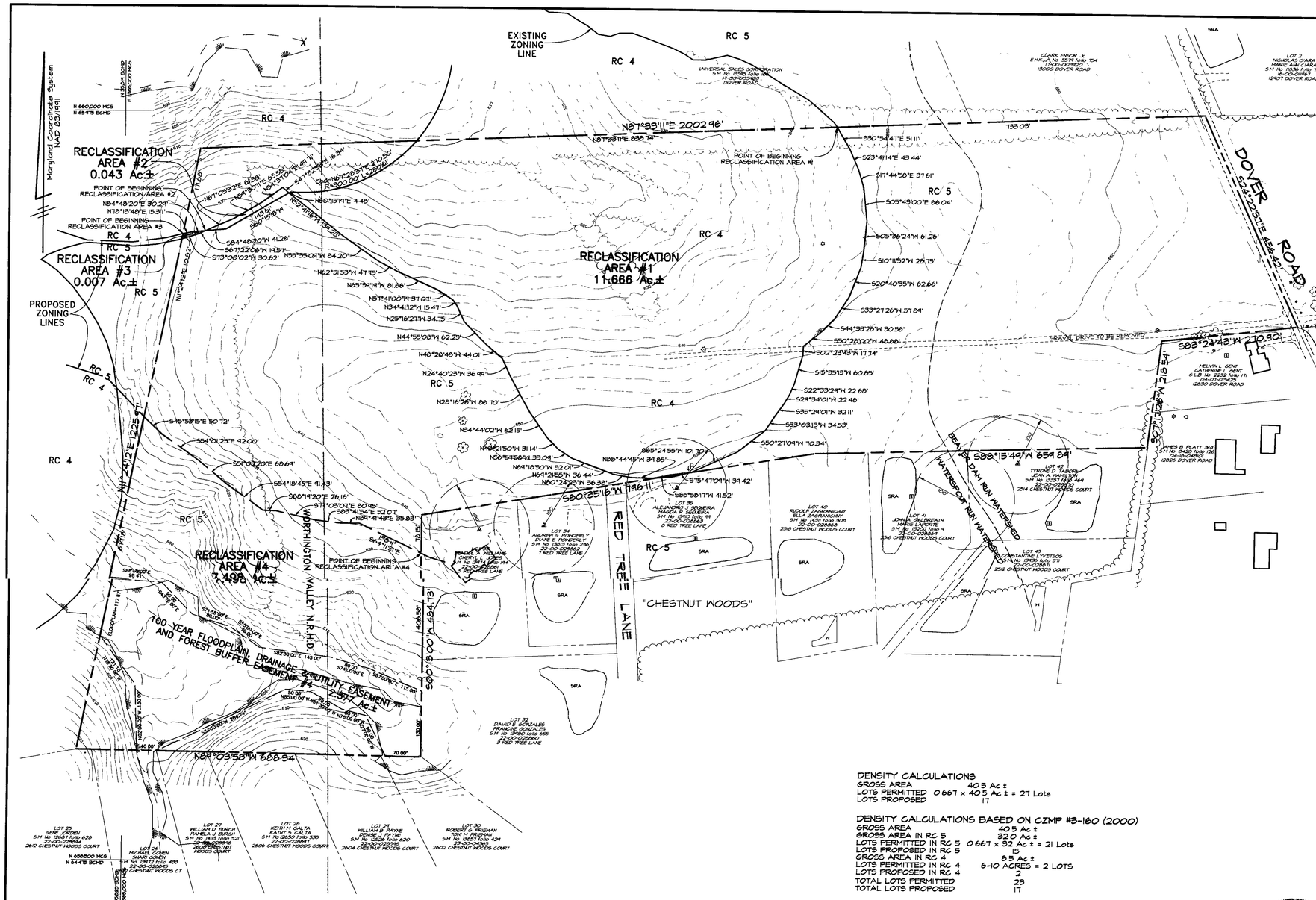
[3]In Security Management Corp., v. Baltimore County, 104 Md. App. 234 (1995), this Court affirmed dismissal of SMC's constitutional challenges to the Baltimore County Council's 1992 omprehensive zoning ordinance which retained watershed protection for the subject property.

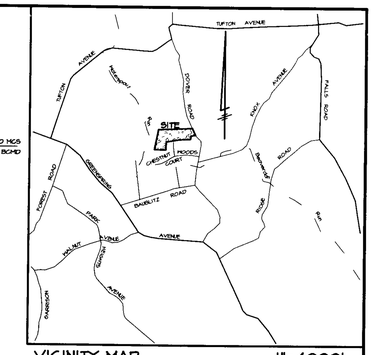


BALTIMORE COUNTY OFFICE OF PLANNING

WORTHINGTON – SHAWAN

BALTIMORE COUNTY BASE MAP SERIES





VICINITY MAP 1"=4000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM THE TITLE DEED
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY 200 SCALE PHOTOGRAMMETRIC MAP NO NW-17F
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No 21
4. CENSUS TRACT 4044 A.D.C. MAP & GRID 17, 5B-CD
   WATERSHED 12 SUSQUEHENNA 36
   SCHOOL DISTRICT 81 REGIONAL PLANNING DISTRICT 301B
5. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY
6. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
7. THE 100 YEAR FLOODPLAIN, DRAINAGE & UTILITY EASEMENT AND FOREST BUFFER EASEMENT SHOWN HEREON WAS TAKEN FROM A FLOOD STUDY PREPARED BY SITE RESOURCES INC

DENSITY CALCULATIONS

GROSS AREA	40.5 Ac ±
LOTS PERMITTED	0.667 x 40.5 Ac ± = 27 Lots
LOTS PROPOSED	17

DENSITY CALCULATIONS BASED ON CZMP #3-160 (2000)

GROSS AREA	40.5 Ac ±
GROSS AREA IN RC 5	32.0 Ac ±
LOTS PERMITTED IN RC 5	0.667 x 32 Ac ± = 21 Lots
LOTS PROPOSED IN RC 5	15
GROSS AREA IN RC 4	8.5 Ac ±
LOTS PERMITTED IN RC 4	6-10 ACRES = 2 LOTS
LOTS PROPOSED IN RC 4	2
TOTAL LOTS PERMITTED	23
TOTAL LOTS PROPOSED	17

OWNER\DEVELOPER
JARVIS STEEL & LUMBER CO INC
1080 PATAPSCO AVENUE
BALTIMORE, MARYLAND 21225
410-355-3000

SYMBOLS LEGEND

- EXISTING WELL
- EXISTING SEPTIC
- FAILED PERC TEST
- PASSED PERC TEST
- EXISTING DWELLING
- WOODS LINE
- LIMIT OF WETLANDS
- SOIL LINE
- EXISTING PAVING
- PROPOSED DWELLING
- 350' SIGHTLINE

STATE OF MARYLAND — BRUCE EDWARD ETZEL — No. 551 — PROFESSIONAL LAND SURVEYOR — 3/1/01

IT IS CERTIFIED THAT THIS PLAN IS IN COMPLIANCE WITH ALL PLANS PREVIOUSLY APPROVED BY THE COUNTY AND BALTIMORE COUNTY COMMENTS ATTENDANT THERETO

UNDOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

NANCY LEE FARMS II

PROPERTY OF
JARVIS STEEL & LUMBER COMPANY
DOVER ROAD
Deed Ref: E.H.K.Jr. No. 6691 folio 703
Tax Account No: 04-06-058333
Zoned R.C.-4 & R.C.-5, Map NW 17-F
Tax Map 50; Grid 1; Parcel 5
4th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

[redacted]

Scale 1" = 100' February 16, 2001

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

REVISION	DATE
REVISED PER SUBMITTAL MEETING COMMENTS	03/01/01

TECHNICIANS S.A.L. FILE X:\JARVIS\Dover\zoning.pro