5/6/02

IN THE MATTER OF THE APPLICATION OF MICHAEL JAMES LYNCH, DVM, ET AL - PETITIONER FOR A ZONING RECLASSIFICATION FROM R.C. 2 TO R.C. 5 ON PROPERTY LOCATED ON THE NORTH SIDE SWEET AIR ROAD	* * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
10th ELECTION DISTRICT 6th COUNCILMANIC DISTRICT	*	Case No. R-01-455

* * * * * * * * *

OPINION

This case comes to the Baltimore County Board of Appeals based on a reclassification petition filed by the Petitioner. The Baltimore County Planning Board has certified to the Baltimore County Council that "early action on the petition by the owners of the site was manifestly required in the public interest." [BCC § 2-356(i)] Resolution 24-01 was also approved by the Baltimore County Counsel, approving the Planning Board's certification exempting the property from the regular cyclical procedures of § 2-356(c) through (h), *Baltimore County Code*, 1998 Edition as amended. This case was heard in public session over a two-day period. Counsel for the Petitioner was Howard L. Alderman, Jr., Esquire; and counsel representing the Protestants was J. Carroll Holzer, Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, also participated in these proceedings. At the conclusion of the case, the Board requested that counsel submit Briefs to the Board simultaneously to be reviewed by the Board members along with their individual notes and the evidence submitted during the course of the public hearing.

Statement of Facts

The Petitioner is Michael J. Lynch, DVM et al, referenced hereinafter as "the Lynch family"; or "Owner." The Petition for Reclassification requests a change in zoning on property owned to the north side of Sweet Air Road, east of Sunburst Road, and immediately east of a residential subdivision known as "Sweet Air Manor," hereinafter referred to as "the property."

The property is about 2 miles east of the town of Jacksonville and consists of 47 acres (+/-). A portion of the property, roughly 14.5 acres, is situated on the north side of Sweet Air Road. The rest of the property is located on the south side of Sweet Air Road. Approximately 3.4 acres of the aforementioned 14.5 acres on the north of Sweet Air Road are zoned R.C. 2. The remaining 11.1 acres are zoned R.C. 5. To the north and east of the property is the Gunpowder State Park. The western boundary is bordered by the Sweet Air Manor development, and the properties of Mr. Preston and Mr. Elser. The Gunpowder State Park property to the north and to the east is zoned R.C. 2. The Lynch property on the south side of Sweet Air Road is zoned R.C. 2. The Sweet Air Manor development is zoned R.C. 5.

Reasons for the Reclassification

The Petition alleges that two sections of the Lynch property were zoned in error when the County Council adopted the original zoning maps that created the new Baltimore County resource conservation zones in 1976. The Petition further alleges that there were two areas of erroneous classification by the County Council. These were only recently discovered when the owners had the property surveyed in 2001, subsequent to the adoption of the 2000 Comprehensive Zoning Maps. The owner asserts that, if the error had occurred during the Comprehensive Map Process, the owner would have sought the benefits available to him of *Baltimore County Code* § 26-134. That section would have enabled him to seek correction of the maps finally adopted in October 2000 by the Baltimore County Council. Unfortunately, the alleged error in zoning line delineation took place in excess of 25 years ago. A reading of the zoning map correction provision does not take into consideration when the error was initially discovered, but is applicable only to errors that occur on the maps most recently enacted by the Baltimore County Council. In essence, the Petitioner alleges that the boundaries drawn to separate R.C. 2 from R.C. 5 zoning on the northern parcel were drawn in error, and should have

coincided with the properties that separate the Lynch property from the Gunpowder State Park to the east and to the north – so that the entire parcel was zoned R.C. 5.

The Petitioners produced a variety of reasons why the boundaries were set out as they were. All of the Lynch property to the south of Sweet Air Road is zoned R.C. 2; all the property to the north and west is zoned R.C. 2; and the R.C. 2 portion of the subject property is contiguous with the surrounding zoning; and that their request is not unreasonable. Essentially, it is alleged that the scrivener's error was in failing to follow the common boundary line with publicly owned property at the line of demarcation between R.C. 2 and R.C. 5 zones on the north side of Sweet Air Road. To that end, the Petitioner seeks to have reclassified two small portions on the north side of Sweet Air Road, one area comprising 0.2 +/- acre (Petitioner's Exhibit #1 – reclass parcel #1); and a second area consisting of 3.22 acres +/- in Petitioner's Exhibit #1 (reclass parcel #2)-

Witnesses Appearing For the Petitioner

Mr. Mitchell Kellman, a former employee of Baltimore County with extensive experience in zoning matters, testified on behalf of the Petitioner. He is currently employed by Daft, McCune & Walker, Inc., (DMW, Inc.) a Towson firm that is engaged in land planning and engineering. Mr. Kellman holds a Bachelor of Science degree in Geography and Environmental Planning from the Towson University, with a Master of Science degree concentrating in Urban Planning from the same institution. The Board is well aware of the witness's prior duties and responsibilities during his employment with Baltimore County relative to zoning, and the processing of special exception requests, special hearing requests, and Petitions for Reclassification. Mr. Kellman described the ownership and general geographic characteristics of the subject property referencing the various R.C. zones. Mr. Kellman reviewed in depth Petitioner's Exhibit #1 that was prepared under his direction and supervision. This depicts the

parcels for which rezoning has been requested. He opined that he became involved in the case when the Lynch family engaged DMW, Inc., concerning the preparation of a boundary survey for the property. A survey was conducted and, as a result of that survey, the witness opined that, in his opinion, a drafting error in the zoning of the property was uncovered. It was Mr. Kellman's testimony that he was familiar with the official 200'-scale and 1000'-scale zoning maps of the County based on his prior employment and experience as a Baltimore County employee.

Subsequent to the boundary survey, and applying his experience to the results thereof, he could not determine any reasonable, discernible difference between the two areas in question. The discrepancy was not readily apparent because the 1000'-scale maps reflect the R.C. 5/R.C. 2 line of division as coincident with the property line common with the public land that adjoins the subject property, and the public lands are not reflected on the official 200'-scale maps (Petitioner's Exhibit #2). Mr. Kellman stated that, while the shape and configuration of the lines do appear to be identical, the difference in actual location would not be discernible without an official boundary survey. Mr. Kellman indicated that similar problems with discrepancies had also been encountered during his employment with the County.

On cross-examination, Mr. Kellman acknowledged that he had no personal knowledge of any of the events that occurred during the actual zoning of the subject property in 1976, and also that Petitioner's Exhibit #1 did not identify property owners west of the subject property because the County filing procedures require that only property owners which adjoin the area or areas for reclassification be reflected on the exhibit. As to the respective road frontages of the property on the north side of Sweet Air Road, the witness testified that roughly 500 feet of the frontage was zoned R.C. 5 at the present time, with 250 feet, more or less, of frontage zoned R.C. 2, as a part of reclassification parcel 2.

Mr. Jack J. Dillon, Jr., also testified on behalf of the Petitioner. Mr.Dillon has previously appeared before this Board on both sides of the aisle, and was readily accepted as an expert in land planning and zoning (Petitioner's Exhibit #4, C.V.). Mr. Dillon has a wealth of knowledge concerning development of the R.C. zones in the mid-1970s and the desire on the part of the Baltimore County Council for the protection of the many and varied resources that are present in the rural County lands. Mr. Dillon indicated that he was testifying as an uncompensated expert on behalf of the property owner. Mr. Dillon was accepted as an expert in land planning and zoning. He was quite familiar with the property and the R.C. 2 and R.C. 5 regulations. Mr. Dillon opined concerning how the R.C. maps are prepared for the County Council, how they are pulled together, and how the final adoption of the R.C. 2, 3, 4, and 5 zones occurred. Procedures employed were initially County tax maps produced at a scale of 1 inch for every 600 feet on the land. Thereafter, those maps were photo-reduced to an 8 ½-inch by 11-inch size and spliced together to produce one large map. This was called a "strategy map" by Mr. Dillon. The Office of Planning used a combination of information in its mapping efforts. Some of the data and information included physical and cultural data, data concerning soils, slopes, ownership (both public and private), and those subdivisions of existing land of record, just to mention a few. Following the "data," the County Council was consulted, and thereafter the Planning Office would develop certain "mapping rules" as to the delineation of the proposed limits of various R.C. zones. Some of the mapping rules would include the following:

- Consideration of existing roadways and ridge lines to separate different R.C. zoning classifications
- Consideration of streams, and distances from those streams, to property lines to delineate and distinguish separate R.C. zoning classification
- Consideration in the use of property lines of division between private property and publicly-owned property to separate the differing R.C. zoning classifications

- Use of other significant and major features that were evidence when the base maps were also used as division lines to separate the various R.C. zones.

It was Mr. Dillon's testimony that the delineation of the various R.C. zones in the rural areas of the County are reflected on a series of overlays to the strategic maps. These overlays, at a scale 1 inch to 1000 feet, were photo-enlarged to a scale of 1 inch to 200 feet which is the same scale as the County's official zoning maps.

Mr. Dillon stated that, because of the massiveness of the project, it was not unusual, during his tenure in the Office of Planning and Zoning, to uncover many discrepancies in the 200-scale official maps as adopted in conjunction with the new R.C. zones. This was done due to two essential reasons:

- Drafting errors
- Scaling problems which resulted in photo enlarging and reducing the overlay; and
- Delineating the R.C. zone boundaries using the limited technology that was available in the early 1970s.

Mr. Dillon indicated that a review of his historical analysis of the processes that had been employed by the Planning Office and the Baltimore County Council in mapping the rural areas of the County, and his personal familiarity with the subject parcels, accompanied by his knowledge of the mapping process, his review of the zoning maps and his site visit to the property, that the R.C. 5 /R.C. 2 zoning lines reflected on that portion of the property north of Sweet Air Road were in error as originally drawn.

On cross-examination, Mr. Dillon was not aware of any objections by the Lynch family as to the existing zoning, nor was he aware of any request by the Lynch family or the Planning staff to modify the zoning. It was his observation that a casual observation of the 200-scale maps would not reflect the discrepancy because these maps do not indicate property lines or public ownership. In addition, the 1000'-scale maps reflect the R.C. 2 zone limits coincide with the

adjacent, publicly-owned land, which is the Gunpowder State Park. During the 1976 rezoning map process, Mr. Dillon also opined that owners of property were not given any specific notice of sites that were in consideration for reclassification.

On day #2 of the public hearings, Mr. Jeffrey Long of the Baltimore County Office of Planning testified. Mr. Long is a tenured employee of Baltimore County and has testified before this Board on numerous occasions relative to reclassification matters and zoning issues. His current position is that of Chief, Planning Section. Mr. Long testified as to his familiarity with the R.C. 2 and R.C. 5 zones and that the applicable regulations as he understood them. The Board, of course, is the interpreter of the regulations. He opined concerning his knowledge of the property and its relationship with the 200-scale official maps and the 1000-scale maps. Mr. Long acknowledged that he had not participated in the 1976 zoning process. In fact, he was in high school at the time of the maps' adoption. His testimony revolved around the methods he had employed in examining the quadrennial comprehensive zoning files that the Planning Office maintains. He addressed his efforts to ascertain if any of the property had been suggested for a reclassification change during the prior Comprehensive Zoning Map Process. His investigation reflected that no change had ever been requested by any party. His records also produce an impression on his part that the R.C. 2 zoning of the two parcels was a drafting error, and that he believed the technical map correction process was a viable method to correct the situation. However, because of the time factor at which time the alleged incorrect zoning classification was attached to the parcel, it was Mr. Long's position that this could only be corrected by way of a reclassification petition and not by way of *Baltimore County Code* § 26-134 (Map Corrections).

Mr. Long opined that the Planning Office had become aware of the alleged error just before the end of the Comprehensive Zoning Map Process. In such cases, his office would ordinarily raise the classification as an issue, and in turn support the modification. Because the

error had been known as a result of the boundary survey, the Planning Office had no prior knowledge before the close of the deadline for filing in the Comprehensive Zoning Map Process. He reviewed in detail Petitioner's Exhibit #5 which encompassed the existing zones and requested zoning, along with a description of the property and issues involving utilities and traffic. His testimony also encompassed the property in the new 2010 Master Plan for Baltimore County and the basic regulatory framework of the existing and requested zones. The factors for reclassification under *Baltimore County Code* § 2-356 were also discussed in detail by Mr. Long.

On cross-examination by Mr. Holzer, Mr. Long touched upon the goals of the Master Plan. Mr. Long did not concur with Protestants' counsel that, in connection with reclass parcel #2, it may have been the intent of the County Council to maintain the triangular-shaped area as a buffer between the R.C. 5 land and the State Park. He referred to so-called "Dillon" strips as areas recommended by the Planning Office and strategic areas of the County used to provide a zoning buffer between land uses of a different nature. He did not believe that the triangular shape of the R.C. 2 parcel was characteristic of such a "Dillon" strip and consequently was not a reason to suggest that the R.C. 2 zoning was attached to it other than in error.

Mrs. Carol Trella, Secretary of the Long Green Valley Association, testified that her organization supported the existing zoning, and that the existing zoning of R.C. 2 was in accord with the Rural Legacy Program and also the objectives and goals of the Long Green Valley Association. Her remarks were considerably general in nature, and the Board did not take note that the property and requested reclassification for zoning sites were not within the geographic limits of the Long Green Valley Association.

Mr. Gary Elsner, who is an adjacent property owner, submitted a videotape which was observed without sound by the Board members, identifying the subject property and general topography of the subject site, which, in his opinion, supported the existing R.C. 2 zoning. The

Board noted that Counsel for the Petitioner objected to the videotape and photographs that were taken by the witness without permission of the property owner, and while trespassing on the property.

Mr. Wallace S. Lippincott, Jr., who is an employee of the Baltimore County Department of Environmental Protection and Resource Management (DEPRM), also testified. The witness indicated that he had been in the County from 1988 through 1991 during the Comprehensive Zoning Map Process and that, based on his experience, property was frequently split-zoned on geographical features. He indicated that he had been assigned to the Office of Planning for roughly 4 years but actually has been working in DEPRM since 1992. He cited as examples where property had been split-zoned, one of which was the Locksley properties, and others with which he was familiar in northern Baltimore County. He described in a general fashion certain parts of farms in the general area of the subject site that had been placed in an Agricultural District or on which an agricultural easement had been obtained. Mr. Lippincott did state that Sweet Air Road was built on a ridge formed, which in essence provided a dividing line. It was Mr. Lippincott's suggestion that the triangular, reclass parcel 2, did actually function as somewhat of a buffer between the Lynch property and the Gunpowder State Park. It was his observation that the triangular portion did buffer the farming operation of the Lynch property from the farming operation on the Gunpowder State Park for the past 26 years.

Mr. Steven Preston, who resides in the adjoining residential subdivision of Sweet Air Manor, also testified. Protestants' Exhibit #4 was submitted relative to Mr. Preston's credentials. Mr. Preston opined that he had moved to his present home roughly 2 years ago. He also related his work with the United States Geological Survey presently being assigned as an adjunct to the Chesapeake Bay Program. While Mr. Preston indicated he did not hold any State licenses or certifications relative to his educational background or his professional career in ecologically

related fields, he did submit a number of exhibits to which he testified at length. Protestants' Exhibits 5A and 5B were submitted and reviewed in detail. Those exhibits are site locator maps indicating the proximity of the subject site to the Gunpowder State Park. In addition, Exhibit 6A and 6B reflected the U.S.G.S. quad map reflecting elevation contours for this property and indicate that the triangular portion of the subject site, requested for a zoning change, was in fact a ridge line which, based on the testimony of Mr. Dillon and Mr. Lippincott, could possibly have formed the foundation of a buffer to protect the Gunpowder park. It was his observation that the northern parcel that was being requested for rezoning consisted of a steep slope and actual stream, and the intention would have been to protect it by the R.C. 2 zoning. Additionally, he described Protestants' Exhibits 7A and 7B which reflected detailed drainage of the Lynch property, again reflecting the triangular portion which sloped into the Gunpowder park and the northern part which reflects the stream bisecting those areas, as well as being adjacent to a drainage reserve for Sweet Air Manor subdivision.

Additionally, the Protestants submitted exhibits, including 18 photographs which indicated the significant contours and elevations of the subject site. It was Mr. Preston's observations that, based on all these exhibits, if a buffer were being established to protect the environmental aspects adjacent to the park, the line would have been drawn precisely where it presently existed, and additionally that the Sweet Air Manor development, by establishing a drainage reserve, indicated that there was a certain sensitivity on the part of the County to the existing streams in proximity to the time of the 1976 comprehensive rezoning. It was Mr. Preston's conclusions that there was a logical reason for the zoning line being drawn where it was and that no mistake was made in 1976.

During cross-examination, Mr. Alderman brought to the Board's attention that Mr. Preston's testimony did not offer any detailed discussion of the natural infiltration of storm water

or any of the beneficial characteristics of water sheet flowing across pervious land. Cross-examination also reflected that Mr. Preston's testimony did not offer any explanations as to why reclass parcel 2 did not extend across the entire eastern property line and join reclass parcel 1 on the north side of the property.

Opinion

The Board is aware that it is well settled law in Maryland that "there is a strong presumption of correctness of original zoning in comprehensive rezoning and to sustain a piecemeal change in circumstances such as present here, there must be strong evidence of mistake in the original zoning or comprehensive rezoning, or evidence of substantial change in the character of the neighborhood must be produced. (*Rockville v. Henelley*, 268 Md. 469, 302 A.2d 45; *Heller v. Prince George's County*, 264 Md. 410 and 412)

In the instant case, the Board concludes that, as the finder of fact, the issue of whether or not a drafting error was committed in sufficiently debatable so that there is not strong enough evidence to convince the Board members to overcome the presumption in favor of the comprehensive zoning. *(Boyce v. Sembly*, 25 Md.App. 43 [1975]; *Howard County v. Dorsey*, 293 Md. 351 [1992]) Reclassification petitions are filed to correct a comprehensive map zoning in cases where there has been a substantial change in the character of the neighborhood where the property is located, or the prospective reclassification of property is warranted by that change or error, and is also warranted by consideration of other certain factors. It is a matter of fact that the property was zoned during the creation of Baltimore County resource zones in 1976. The alleged error was committed during that process. The map correction process would normally be the appropriate process to correct the error. However, because of the passage of time, and the fact that the alleged error was not discovered until after the boundary survey was performed, the reclassification petition was filed. None of the witnesses provided by the Petitioner or

Protestants had actual knowledge of the previous zoning placed on the property. The testimony generally perceived what the witnesses believed to have occurred. Mr. Kellman expressed conclusions based on his experience as an employee of Baltimore County. Mr. Dillon related his experience during the development of the R.C. zones, and Mr. Long expressed his thoughts after review of historical and current Planning Office documentation. The difficulty is that none of these individuals had any direct knowledge as to why the various zoning decisions were made. It was the general consensus that the boundary survey made what was considered to be an error committed during the drafting of the maps. While the testimony and evidence produced by these witnesses was credible, the Maryland Court of Appeals has stated, on many occasions, that an opinion, and even that of an expert, is not evidence strong or substantial enough to show error in the comprehensive rezoning, unless the reasons given by the expert as the basis for his opinion or other supporting facts relied upon by him are themselves substantial and strong enough to do so. (*Stratakis v. Beauchamp*, 268 Md. 643, 655 [1973]; *Westview Park v. Hayes*, 256 Md. 575, 582 [1970]; *Smith v. County Commissioners of Howard County*, 252 Md. 280, 284) While the testimony that was produced on the part of the witnesses for the Petitioner was significant, equally convincing and causing considerable doubt in the mind of the Board members was the testimony and evidence produced on the part of the Protestants. There is no doubt in the minds of the Board members that geographical features were in fact used by the Planning Office and the County Council in drawing zoning lines. Additionally, there does appear to be a logical geographical feature, the ridge line, which does follow along the correct R.C. 2 zoning line creating the triangle which is in dispute. There was relative testimony that Baltimore County has created buffers in some instances in north Baltimore County, and while Mr. Long indicated that this triangular portion did not confirm to what are known as Dillon strips, nevertheless, when one

examines the map, it is possible that the triangular-shaped portion was put into place to serve as a buffer.

While the Board has examined the testimony of the adjacent property owner, Mr. Preston, and agrees with some of the observations that were made in the Briefs submitted on the part of the Petitioner, nevertheless there is present the possibility that the R.C. 2 /R.C. 5 zoning line in this case, because it follows an geographical feature and is adjacent to the Gunpowder State Park, it was designed to protect certain environmental features which does indeed suggest the need for buffering. In addition, as stated in the Protestants' Brief, in 1976 when the Protestants' subdivision was approved, there were various drainage ditches and environmental protection devices utilized to preserve and save the development impact considering the stream which crosses the northern part of the property.

Unfortunately, with the passage of 26 years, there is no direct evidence available to convince this Board that the present zoning is incorrect. The Board does believe that the property has existed as prime farmland in a significant area. If the zoning is to be changed, it should be subject to the full processes available for all parties to be heard in the next comprehensive zoning map process which begins in August of 2003.

Based on the testimony and evidence that was produced at the two days of public hearing, it is evident to the Board that for this Board to reverse a County Council decision based on conjecture and speculation as to what took place 26 years ago would be wrong without the appropriate public process under the reclassification procedures. The 2004 Comprehensive Zoning Map Process will allow both the Petitioners and the Protestants to express their various opinions along with that of the Planning Office, with the final decision being made by the Councilperson, whoever that may be at that particular point in time.

For the reasons so stated, this Board will deny the reclassification petition.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 6th day of May, 2002, that the Petitioner's request to reclassify the subject property as shown on the Undocumented Plan to Accompany Petition (Petitioner's Exhibit # 1) from R.C. 2 to R.C. 5 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

Charles L. Marks

Richard K. Irish

County Board of Appeals of Baltimore County

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May 6, 2002

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

RE: *In the Matter of: Lynch Property; Michael James Lynch, DVM et al* - Petitioner.
Case No. R-01-455

Dear Mr. Alderman:

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

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

Kathleen C. Bianco
Administrator

Enclosure

c: Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.
J. Carroll Holzer, Esquire
Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

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3/25/02

RE: PETITION FOR RECLASSIFICATION Lynch Family Property, N/S Sweet Air Road, E of Sunburst Rd 10th Election District, 6th Councilmanic	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
	*	FOR
Legal Owner: Michael James Lynch, et al. Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No. R-01-455

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

PEOPLE'S COUNSEL'S MEMORANDUM

Perspective; Mistake; Burden of Production

MAR 25 '02 PM 4:27

It is important to put this rezoning petition in perspective. There is always a heavy burden of proof to show "mistake" in the comprehensive zoning map. Petitions for piecemeal rezoning classification should rarely be granted.

Most petitions focus on the most recent comprehensive zoning map process, which here would be the 2000 CZMP. Some petitions involve properties identified as specific issues by the property owner, area citizens, the planning staff, or the County Council. Others involve properties not raised as a specific issue. Where the focus is on a recent decision or time frame, there is usually the opportunity to review fresh information and engage in some debate.

Even so, the law generally requires the agency to sustain the legislative judgment in the absence of "strong" evidence of mistake. Coppolino v. County Board of Appeals, 23 Md.App. 358 (1974); Boyce v. Sembly, 25 Md.App. 43 (1975); Howard County v. Dorsey, 292 Md. 351 (1992). In this vein, the Baltimore County Board of Appeals (CBA) has recently rejected several claims of

mistake made in the 2000 CZMP. Painters Mill Venture, R-01-435; Pennrose, CR-02-120-A; and Jarvis Steel & Lumber Co., R-01-437. The CBA has also recognized that expert opinions must be based on specific facts and sound reasoning; that conclusory or "quasi-conclusory" planning opinions of "mistake" are unacceptable. People's Counsel v. Beachwood Limited Partnership, 107 Md.App. 627, 650 (1995).

Petitioner's Extraordinary Theory of Mistake in 1976

The Lynch family representatives have presented a bicentennial scenario where it is even more difficult to show mistake:

1. The Lynch family did not testify. Rather, several planning "experts" thought there must have been a mistake in the 1976 CZMP despite a lack of direct proof and despite five succeeding map processes during which no one questioned the zoning.
2. There was no testimony based on personal knowledge of the decision process on this property in 1976.
3. John Dillon, the only witness involved in the development of the resource conservation zones, did not participate in the mapping of the subject property. His testimony in support of the petition was mere conjecture.
4. The other witnesses for the Petitioner, Mitchell Kellman and planner Jeffrey Long, had no knowledge of the 1976 CZMP. Petitioners employed Mr. Kellman to maximize the development of their property.

Mr. Long of OPZ was in sympathy with Petitioners' case, but spoke in generalities and produced no real evidence of mistake.

5. In opposition, neighboring witnesses produced objective topographic evidence of wood and stream consistent with the division of zoning on the property.

6. Wallace Lippincott -- director of the County's Agricultural Preservation Program, on the staff of DEPRM, and formerly a planner for the rural county -- testified to the rationale for agricultural zoning for the 2+ acres as a protected transition area next to a farmed area of Gunpowder Park and nearby farms to the east and south. He provided the context of the entire Lynch property and the surrounding neighborhood.

We cannot remember any zoning case where a petitioner has sought to revisit a comprehensive zoning map process so far in the past, and where the information is so stale. The reality is that there is not a scintilla of proof of mistake in the 1976 CZMP. Were there a legitimate question, it has disappeared in the wake of five succeeding CZMPs which re-enacted the zoning without objection.

The Property

The property is on Sweet Air Road, about a mile east of the center of Jacksonville. It is at the borderline between the residential area around Jacksonville to the west and the agricultural area to the east which runs to the Harford County line.

Petitioners own about 37 acres. About 13 acres are on the north side of Sweet Air Road, next to the Gunpowder State Park. Except for a 2+-acre area immediately next to the park zoned R.C. 2 (agricultural), the north side is zoned R.C. 5 (rural residential). The south side, about 24 acres, is zoned entirely R.C.2. The entire property, on both sides of the road, was in farm use until recently. There are a farm house and accessory buildings on the south side.

Petitioners seek to rezone the 2+ acre area on the north side from R.C. 2 to R.C. 5. They view it as indivisible from the remaining 11 acres. They disregard or downplay the function of this area as a transition to the park. They also ignore the south side farm area.

It is noteworthy that the experts retained by or supporting the Lynch rezoning showed little, if any, knowledge of the topography and natural features of the property. They also had no comment on the neighborhood.

In contrast, the neighboring citizens produced detailed evidence to differentiate the 2+ acres zoned R.C.2 on the north side from the contiguous R.C. 5 acreage. They also summoned Mr. Lippincott, who gave the only helpful overview of the area. He confirmed, in addition, the key point that properties are often split-zoned in the rural areas, with the R.C.2 zone utilized as a transition to discourage development next to prime farmland, parkland, or other sensitive areas.

Existing and Proposed Zoning; Farm Uses; Density

It is important to understand the potential uses under the existing and proposed zoning. There are a number of uses permitted by right and by special

exception in both the R.C.2 and R.C. 5 zones, including farm uses. See BCZR 1A01 and 1A04. A key difference is in subdivision lot density.

The R.C. 2 zone allows a subdivision lot density of two for any lot of record between 2 and 100 acres. BCZR 1A01.3B. This law also makes it clear that a single lot of record may have a road running through it. In other words, a road through an R.C.2 parcel does not cause a multiplication of density.

The R.C. 5 zone has a much higher density. It allows .667 units per acre, or two lots for every three acres.

* * *

The entire Lynch property can be farmed in either zone. That is its historic use.

As to potential residential density, it is necessary to do a more detailed breakdown. The 26+ acres zoned R.C. 2, north and south of Sweet Air Road, have an available density of two houses. It is unlikely that a house would be located in the transition area north of the road, the area of the rezoning petition. Rather, the large south side area would be the obvious choice.

This leaves the 11+ acres of R.C.5 zoning on the north with an available density of seven (eight if the exact acreage exceeds 12 acres).

If the Petitioners obtain the additional 2+ acres of R.C. 5 zoning, they probably obtain the right to place nine houses on the north side, an addition of two. Moreover, those houses may be placed closer to the park. The rezoning

would not affect the subdivision lot density on the south side, which would remain at two.

The Neighborhood

With the Lynch property, there begins a stretch of farmland uninterrupted eastward to the Harford County line. Wallace Lippincott discussed this area in detail. It includes the area of the Gunpowder Park in immediate proximity to the subject property. It also includes farms in the County's preservation program.

To be sure, there is a rural residential area west of the Lynch property, running to Jacksonville. But it stops before the Lynch property.

Argument

In rural areas throughout Baltimore County, there are transitions between residential areas, often close to villages, and agricultural areas. The County Council must make judgments based on a number of factors. Unless that judgment is clearly arbitrary, capricious, and unreasonable, the CBA must not redraw the line. That would usurp the legislative function.

In the present case, the Lynch property has been farmed for many years. There is a fair argument, despite Petitioners' counsel's objections, that the entire Property should be zoned R.C. 2. As it happens, the Council compromised. It split the north side into the 11 acres zoned R.C.5 and the 2+ acre transition R.C. 2 zone next to the park. It also zoned R.C. 2 the 24-acre south side, with its farmhouse and accessory buildings.

After 26 years, there is no longer available direct evidence from the participants in this zoning decision. But it surely was, and continues to be, a reasonable compromise for a property with prime farmland in a significant farm area. If the zoning is to be changed, it should be done after full review and opportunity for all parties to be heard in the CZMP. The 2004 process begins in August, 2003. The Lynches may raise this property as an issue at that time.

This is not a hardship case. For 26 years, successive owners in the Lynch family did not raise any issue as to this zoning. The property was farmed. It can now be developed with seven houses in the R.C. 5 zone and two (one additional) in the R.C. 2 zone. Their petition here would allow them an additional two houses. That is hardly the kind of problem to warrant a request to overturn a Council decision. There is no question of denial of a reasonable use of the property.

At the same time, the request would facilitate development in a sensitive environmental area next to the Gunpowder State Park. It would be bad enough to overturn a legislative decision based on speculation as to what may have occurred 26 years ago. It would compound the wrong to allow damage to this area next to the park. It would also have the potential to upset other council decisions to designate useful transition areas.

This case is about money and the owners' convenience. Having decided to develop the property residentially, the Petitioners want two more lots and the associated profits. They don't want to wait two years to make their request

through the established process. So, their attorney and experts have cobbled together an exercise in speculation.

There is no mistake here. The rezoning is not warranted. The 2004 CZMP awaits. All of the parties may then voice their opinions as to the proper zoning of the Lynch property, all 37 acres. The Council may then make comprehensive decision based on all the current information, and there will be no speculation.

PETER MAX ZIMMERMAN
People's Counsel For Baltimore County

CAROLE S. DEMILIO
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 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 Petitioners, and to J. Carroll Holzer, Esq., 508 Fairmount Avenue, Towson, MD 21286, attorney for Protestants.

PETER MAX ZIMMERMAN

2/25/02

IN THE MATTER OF:	Before the County
Lynch Property; Michael James Lynch, DVM, et al	Board of Appeals
Legal Owners/Petitioners	Case No. R-01-455
N/s Sweet Air Rd, E of Sunburst Rd	(out of cycle, 2001)
10th Election District; 6th Councilmanic District	

PROTESTANT'S MEMORANDUM

Protestants, Stephen D. Preston, Gary M. Elser and the Long Green Valley Association, Inc. by their attorney J. Carroll Holzer and Holzer & Lee, submit this Memorandum in lieu of final arguments as requested by the Board of Appeals.

STATEMENT OF THE CASE

This case arises as a result of a petition for an "Out of Cycle" reclassification of zoning on property owned by the Lynch family as represented by Michael Lynch and attorney Howard Alderman. Petitioners assert that a portion of property owned by Mr. Lynch, located on the North side of Sweet Air Road, was mistakenly assigned a zoning classification of RC-2. Petitioners request that the RC-2 portion of the Lynch property on the North side of Sweet Air Road be converted to RC-5. The case was heard before the Board on August 22, 2001 and continued on February 14, 2002.

STATEMENT OF FACTS

A. General

The Lynch property is located approximately 2 miles east of the town of Jacksonville at 4501 Sweet Air Road. The entire property consists of 47 acres. Approximately 14.5 acres are located on the North side of Sweet Air Road and the remainder of the property is located on the

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South side of Sweet Air Road. Approximately 3.4 of the 14.5 acres of the property on the North side of Sweet Air Road are zoned RC-2. The remaining 11.1 acres are zoned RC-5. The property is bordered to the North and to the East by Gunpowder State Park and to the West by the Sweet Air Manor development and by the properties of Mr. Preston and Mr. Elser. All of the property owned by the Lynch family on the South side of Sweet Air Road is zoned RC-2 as is the State Park property to the North and to the East. The Sweet Air Manor development is zoned RC-5.

The Petitioners contend that the boundaries drawn to separate RC-2 from RC-5 zoning on the Northern parcel were drawn by mistake and should have coincided with the property boundaries separating the Lynch property from State Park property to the East and to the North, so that the entire parcel was zoned RC-5. These boundaries were established in 1976 as part of a comprehensive rezoning for Baltimore County and have been a matter of record since that time. Councilman Eugene Kibbe, who was responsible for establishing the zoning at that time, is unavailable to explain the facts and circumstances from 1976. The Petitioners did not provide any testimony by persons with direct knowledge of the zoning boundaries on the subject parcel. Furthermore, the Lynch family did not attempt to correct any "errors" in zoning on their property in the numerous Comprehensive Rezonings that have occurred since the boundaries were established.

The Protestants contend that there are a number of valid reasons why the boundaries were drawn as they were that support the current zoning. All of the Lynch property to the South of Sweet Air Road is zoned RC-2. Furthermore, all of the property to the North and the West is zoned RC-2. The RC-2 portion of the subject parcel is contiguous with these other surrounding RC-2 zones and on that basis is not out of place.

Furthermore, Protestants contend that the evidence shows that the RC-2 zoning may have been established as a buffer for the adjacent State Park property. The subject property is hydrologically connected to the State Park in that it occurs at the very headwaters of streams that drain into the park and to the Little Gunpowder River. Runoff from the Lynch property enters streams on Park property to the East and to the North. One stream, in fact, traverses part of the Lynch property (which area is part of the alleged zoning mistake) at the Northwest corner prior to entering the Park. (See Protestants' Exhibit #7 A)

Mr. Wally Lippincott, who currently works for Baltimore County DEPRM, testified that buffer zoning for State Parks was practiced by the Department of Planning while establishing the current RC zone boundaries. Mr. Lippincott testified that he worked with Mr. Jack Dillon of the Planning Department in the 1970's and 1980's as part of the effort to establish the current RC zones. While he did not offer any direct testimony regarding the Lynch property, he did provide direct testimony of buffer zones being established for State Parks in other locations. The Protestants assert that this testimony establishes precedent for the practice of defining zoning to buffer park areas and that the zoning on the subject property may have been established for that reason.

Protestants also contend that there is ample evidence to indicate that it is unlikely that the zoning boundaries on the Lynch property were drawn as a "mapping error". One might expect that a "mapping error" might occur as a slight offset due to inaccuracies in the methodology used for mapping. Under such a scenario, an error in a zoning boundary might occur as a line that is parallel and slightly apart from the intended location. The RC-2 zone on the Lynch property does not resemble such a situation and, if it were an error, would have to be a very large error. The RC-2 zone on the Lynch property occurs in two separate pieces, one on the North side of the

property and a separate one on the East side. The RC-2 boundary does not parallel the Park boundary, but occurs at an angle to it forming a triangular shaped piece of land. The RC-2 zone represents a large area (approximately 3.4 acres), which represents a large percentage (20 percent) of the total acreage of the subject parcel. All of these characteristics indicate that it is unlikely that the RC-2 line was drawn as a simple "mapping error". Furthermore, Protestants contend that, if the line were drawn as an error, it is just as likely that it was meant to be coincident with the boundary on the west side of the property, which would make the zoning of the entire parcel RC-2.

Protestants contend that there are many physical features that could have formed the basis for locating the zoning lines where they are currently located. The area on the North side of the property that is zoned RC-2 has the steepest gradient of the entire parcel and is adjacent to the stream that traverses the property and flows into the park. The triangular shaped parcel starts where the forest line intersects the State Park boundary on the East side and extends in a Southerly direction to Sweet Air Road. The triangular area formed by the zoning boundary, Park boundary and Sweet Air Road encompasses a large swale that forms part of the very headwaters of a second stream that is present on the Park property and which drains into the Park. All of these features are documented on maps that were developed at the time the zoning lines were established (See, Protestants Exhibits 5, 6 7). In fact, the zoning line directly parallels elevation contours shown on Maryland Department of Natural Resources and U.S. Geological Survey maps dated from the mid 1970's. Protestants contend that the coincidence of the RC-2 zones on the subject property with these physical features is evidence of deliberate establishment of the current zoning as a buffer area for limiting any deleterious effects of development on Park

property and is a more likely scenario than that proposed by the Petitioners as a "mistake" in drawing the zoning line.

B. Specific

Petitioners Case-

Mitchell Kellman from Daft, McCune & Walker testified he was retained recently by the Lynch family to prepare Petitioners Exhibit Number 1. He acknowledged that he had no personal knowledge of the events surrounding the zoning of the subject property in 1976. He acknowledged that the 200 foot scale zoning map is the officially adopted map. He was retained by Gaylord-Brooks through Steve Smith to prepare the Petition. Next, the Petitioner presented Jack Dillon, currently with the Valleys Planning Council and a former member of the Baltimore County Planning Staff. He acknowledged in his testimony that in 1976 the Planning Staff, in its mapping of properties utilized "roadways, ridgelines, slopes and streams, property lines, and soil maps and woodlines to create the maps" (Note: This testimony certainly supports the Protestants' assertion that the zoning line followed the topography maps in ridgeline and drainage and provided for a rationale why the RC-2's zoning line was where it was placed on the 200' scale map in 1976 and on today's map). Dillon acknowledged that someone else in the Planning Office did the actual "grunt work" in drawing the lines and recommending where the lines should be and that he was not involved in that process. He further testified that he had no personal recollection of this particular property from 1976. His personal testimony about the property consisted of a 10-minute site visit on July 24, 2001.

The Petitioner then presented Jeff Long of the Office of Planning. Long acknowledged he did not participate in the comprehensive zoning conducted in 1976. He testified that to

determine if there were drafting errors, his office would normally confer with the then, Councilman Eugene Kibbe, who is not currently available.

Protestants' Case-

Carol Trella testified on behalf of the Long Green Valley Association as to their objection to the rezoning of this subject portion of the property. She testified that the RC-2 zone was more consistent with the Rural Legacy Program and the purposes and objectives of Long Green Valley Association.

Gary Elser, an adjacent property owner, showed a video identifying the subject property and topography of the subject site, which supported the existing RC-2 zone. Wally Lippincott, from DEPRM, testified that he had been in the County from 1988 through 1991 during the comprehensive zoning process and that frequently property was split zoned based on geographic features. He cited, as an example, the Locksley Property and numerous other properties that he was familiar with in Northern Baltimore County, as being split zoned.

Finally, Steve Preston testified on behalf of the Protestants. Mr. Preston's credentials were contained in Protestants' Exhibit Number 4. Preston introduced Exhibit Number 5 A and B, which was a site locater map indicating the proximity of the subject site to the Gunpowder State Park. Exhibit 6 A and B was the USGS quad map showing elevation contours for this property and indicating that the triangular portion of the subject site, requested for zoning change, was in fact a ridgeline which, according to the testimony of Dillon and Lippincott could have formed the foundation of a buffer to protect the Gunpowder Park. Clearly, the northern parcel requested for rezoning consists of steep slope and the actual stream itself, which intention would have been to protect it by the RC-2 zoning.

Furthermore, Exhibit 7 A and B shows detailed drainage of the Lynch Property, again reflecting the triangular portion sloping into the Gunpowder Park and the northern portion clearly showing the stream bi-secting those areas as well as being adjacent to a drainage reserve area for "Sweet Air Manor" subdivision. Finally, Exhibits 8 A and B show locations of photographs 1 through 18 indicating the significant contours and elevation of the subject site. Preston concluded that based upon those exhibits, if a buffer were being established to protect the environmental aspects adjacent to the park, the line would have been drawn exactly where it currently exists. Furthermore, the Sweet Air Manor development, by establishing a Drainage Reserve indicates there was sensitivity on the part of the County to the streams very close to the time of the 1976 comprehensive rezoning. From all of that evidence, Preston concluded that there is a logical reason for the zoning line being drawn where it is and that no mistake was made in 1976.

LEGAL ARGUMENT

A. General Rules Applicable to Mistake

Many cases of the Maryland Court of Appeals have defined the Change-Mistake Rule over the years. "It is presumed that the original zoning was well planned and designated to be permanent..." Wakefield v Kraft, 202 Mdd 36 (1953). "Strong evidence of mistake in the original zoning or comprehensive rezoning must be produced." Stratakis v Beauchamp, 268 Md. 43 (1973). "There is a strong presumption of correctness of original zoning and comprehensive rezoning so that to sustain a piecemeal change there from, there must be produced strong evidence and mistake in the original zoning..." Anne Arundel County v Maryland National

Bank, 32 Md. App. 437 (1976). The burden on the applicant is "onerous" Agneslane v Lucas, 247 Md. 612 (1967). See also Bartnik v Calvert County Hospital, 262 Md. 434 (1971).

In addition, the finding of a mistake in the comprehensive plan merely permits the legislative body to grant a requested rezoning but does not require it to do so. Hardesty v Dunphy, 259 Md. 718 (1970).

The test of mistake for the Board is "in order for a mistake to be legally justifiable basis for rezoning, there must have been a basic and actual mistake of a legislative body at the time the property was originally zoned" Kracke v Weinberg, 197 Md. 339 (1951).

See also, Coppolino v County Board of Appeals of Baltimore County, 23 Md. App. 358 (1974). There the Court defined the term "error", "as it is used in zoning law does include the failure to take into account projects or trends reasonably foreseeable in the future. But in order to establish error there must be evidence to show that such developments were not, in fact could not have been, taken into account so that the Council's action was premised on a misapprehension."

Finally, People's Counsel for Baltimore County v Beachwood Limited Partnership, 107 Md. App. 627 (1995) in a lengthy opinion, Judge Moylan advised this Board as to its responsibilities. He stated "when it undertakes to grant a zoning reclassification, the Board of Appeals does not enjoy the luxury of writing on a clean slate" (page 639). He further set out the test for the error or mistake involved (at page 645).

B. This Case

Application of the above rules of construction as determined by case law establishes that the Petitioner here has a heavy burden to overcome the presumption of the correctness of the legislative action of the Baltimore County Council in 1976. Their contention is basically that the RC-5/RC-2 zoning line should have been drawn along the property line and that's where it was intended by the Council in 1976. To support this they have no direct testimony to establish this mistake. If Petitioners' theory of the mistake is that the Council intended to draw the line along the property line and it was simply a mistake due to the thickness of a pencil or a transfer of the lines from one map to the other, one would have reasoned that the RC-2/RC-5 line would have been drawn parallel to the eastern property line and that is not the case. The RC2/RC5 zoning line in question was drawn at an unusual angle that follows a geographic feature and it also does not start at the northeast end of the property but at another geographic feature – the wood line.

Here, testimony from Jack Dillon and Wally Lippincott clearly indicated that geographical features were in fact used by the Planning Office and the Council in drawing zoning lines. Furthermore, there is a logical geographic feature, the ridgeline, which follows exactly along the correct RC-2 zoning line which creates the triangle in dispute. Furthermore, it is interesting to note that had this been a simple drafting error, one would have expected the RC-2/RC-5 zoning line to have run the entire length of the eastern boundary line, yet in fact, it starts at a clearly designated physical feature on the ground. Neither Lippincott nor Dillon, or anyone else could testify from first-hand knowledge on behalf of the Petitioner, yet both Dillon and Lippincott acknowledged that the County used geographic features and also created buffers in some instances in Northern Baltimore County. The actual person in the Planning Office who

performed the work of drawing the lines in this case was not called as a witness and did not testify.

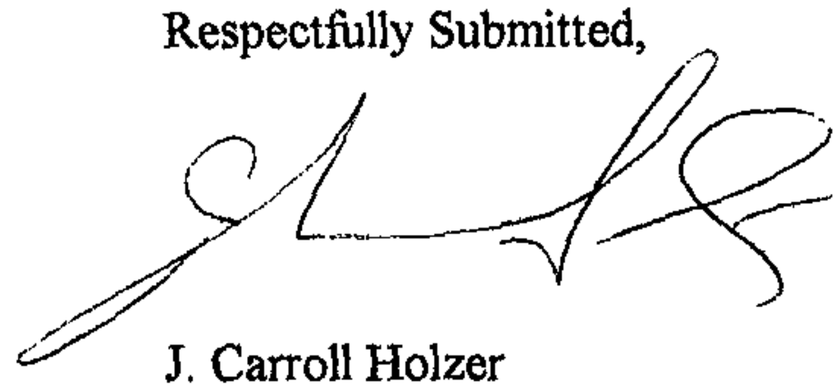
On the other hand, the Protestants presented a cogent and logical argument for the existence of the current RC-2 line by the presentation of Exhibits 5, 6, 7, and 8. Clearly, an equally rational reason existed for the RC-2/RC-5 zoning line in this case in that it follows a geographic feature, it is adjacent to the Gunpowder State Park and its protecting environmental features, which suggest the need for buffering. In 1976, when the Protestants' subdivision was approved, various drainage ditches and environmental protection devices were utilized to preserve and save from development impact the stream which crosses the northern part of the property.

Finally, an error in drafting may produce one zoning line in dispute, but this case presents two different lines: one on the eastern boundary and one on the northern boundary, both of which have environmental and geographic reasons for remaining RC-2.

Finally, even if a mistake were made in 1976, this Board has the authority to find that the RC-2 zone is a reasonable and appropriate zone on this portion of the subject property. Protestants suggest that clearly expressed environmental reasons and the protection of not only the northern stream but the Gunpowder State Park on the east, RC-2 is the appropriate zone for this property.

WHEREFORE, the Protestants respectfully request that this Board deny the Petition for Reclassification for all the aforegoing reasons.

Respectfully Submitted,



J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
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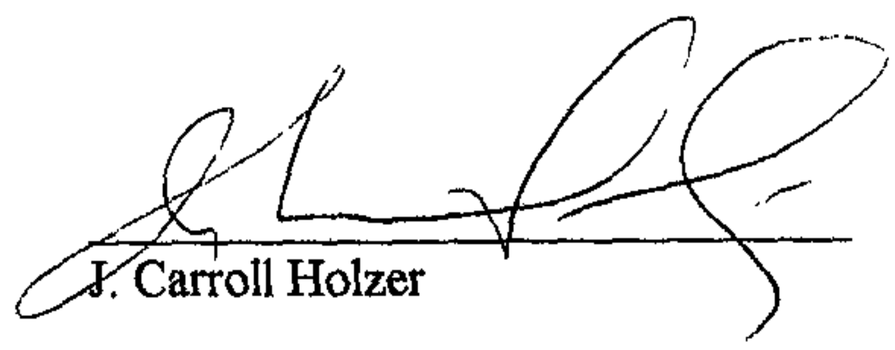
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERIVCE

I HEREBY CERTIFY, that on this 25th day of March, 2002 a copy of the foregoing Memorandum of Respondent/Petitioner was mailed first class, postage pre-paid to Peter Max Zimmerman People's Counsel of Baltimore County, 400 Washington Avenue, Old Courthouse, Towson, Maryland 21204 and to Howard Alderman, Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, Maryland 21204



J. Carroll Holzer

3/25/02

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN RE: PETITION FOR RECLASSIFICATION **N/S Sweet Air Road, E of Sunburst Road** **10th Election District** **6th Councilmanic District** **Michael James Lynch, DVM, *et al*,** ***Petitioners/Owners***	**Case No.: R-01-455**

OWNER'S POST-HEARING MEMORANDUM

The Lynch Family, Michael James Lynch, DVM *et al*, (referred to hereafter as "Owner" or "Lynch Family"), by and through their undersigned legal counsel, in support of their Petition for Reclassification of the property which they own on the north side of Sweet Air Road, East of Sunburst Road and immediately east of the residential subdivision known as Sweet Air Manor (the "Property"), submit this post-hearing memorandum in lieu of closing argument.

STATEMENT OF THE CASE

Two portions of the Property owned by the Lynch Family were zoned in error during the adoption of the original zoning maps creating the Baltimore County Resource Conservation Zones in 1976.[1] The two areas of erroneous classification were only

[1] The property of the Owner exists on both the north and south sides of Sweet Air Road. The land to the south is zoned in its entirety as RC-2 as it adjoins other privately owned agriculturally zoned and used property.

discovered after the Lynch Family had the property surveyed in 2001. Had the original error occurred during the 2000 Baltimore County Comprehensive Zoning Process ("CZMP"), the Owner would have proceeded pursuant to the provisions of Baltimore County Code ("Code") Section 26-134 and sought correction of the maps adopted during the CZMP process. However, since the error in zoning line delineation occurred more than 25 years ago, the provisions of the zoning map correction statue are not available to them. The zoning map correction statute does not consider when the error was first discovered; rather it applies only to errors occurring on the maps most recently enacted by the Baltimore County Council ("Council" or "County Council").

The two areas of proposed reclassification, once reviewed in context of the actual property lines of the Owner's property and the zoning classifications attached to adjoining lands, exist as separate enclaves of agricultural zoning. The scrivener's error in failing to follow the common boundary line with publically owned property as the line of demarcation between RC-2 and RC-5 zones on the north side of Sweet Air Road is obvious.

THE STATUTORY FRAMEWORK

The Lynch Family is without a remedy to correct the historical error of the County Council, other than that afforded by petition to the County Board of Appeals ("Board") pursuant to the Baltimore County Charter. The Board has a broad range of jurisdiction and power over appeals brought before it. However, the Board exercises

exclusive and original jurisdiction only in connection with Petitions for Zoning Reclassification of property. Section 602 of the *Baltimore County Charter* provides in pertinent part:

> The county board of appeals shall have and may exercise the following functions and powers:
>
> > (e) The county board of appeals shall have original and exclusive jurisdiction over all petitions for reclassification. (Bill No. 85, 1978, § 3) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

In exercising that jurisdiction, the Board is constrained by limitations placed upon its power by the County Council. Section 2-356 of the Baltimore County Code ("Code") sets forth certain standards and limitations on the Board's authority as follows:

> (j) Findings prior to reclassification. Before any property is reclassified pursuant to this section, the board of appeals must find:
>
> > (1) That, except as limited by the terms of subsection (j)(3) of this section, 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.
> >
> > (2) 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.

Additionally, in some cases, the reclassification powers of the Board are further constrained by applicable provisions of the *Baltimore County Zoning Regulations* ("BCZR"). BCZR § 1A00.3 sets forth limitations on property proposed for reclassification from an existing Resource Conservation ("RC") zone to some zone other than a RC zone. Likewise, Section 1A03.2 of the BCZR imposes additional standards and requirements for the proposed reclassification of land from an existing RC-4 zone to another zone. Neither of these provisions is applicable here as the Lynch Family is seeking the reclassification of two small portions of its property from RC-2 to RC-5. Therefore, other than the general requirements of Section 2-356 of the Code, there are no additional statutory limits on this Board's authority to approve the requested reclassification.

THE PERTINENT FACTS

The Property is located in the Sixth Councilmanic District, east of the residential subdivision of Sweet Air Manor. While the Property owned by the Lynch Family exists on both sides of Sweet Air Road, only those two small portions on the north side of that roadway are proposed for reclassification. The proposed area of reclassification adjacent to a portion of the northernmost boundary of the Property comprises 0.21 ±

acres as shown on the *Undocumented Plan to Accompany Out-of-Cycle Reclassification Petition*, Petitioner's Exhibit No. 1 ("Reclass Parcel 1"). The second area proposed for reclassification, located along a portion of the eastern boundary of the Property is 3.22 ± acres as shown on Petitioner's Exhibit No. 1 ("Reclass Parcel 2") (Reclass Parcel 1 and Reclass Parcel 2 are referred to collectively herein as the "subject parcels"). As discussed in detail below, the subject parcels are irregular in shape and serve no logical function or purpose which contributes to the intent and goals of the RC2 zone; rather they exist as a result of a drafting error when the RC zones were originally applied throughout the County during the mid-1970's.

Testimony of John J. ("Jack") Dillon, Jr. - Planning Expert

When the Baltimore County Office of Planning and Zoning[2] ("Office") worked with the members of the County Council in the mid-1970's to develop amendments to the BCZR for the protection of the various resources afforded by rural land in the County, Jack Dillon was a planner with that Office. Mr. Dillon (frequently called to testify as an expert planner by the Office of People's Counsel as well as counsel representing the protestants in this case) worked with other staff members of the Office to prepare the proposed regulations, mapping rules to be used in the classification of properties into one of the newly proposed RC zones, and to prepare and/or review the overlay maps presented to the County Council for adoption of the RC zones. Mr.

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[2] This office is now known as the Baltimore County Office of Planning.

Dillon's extensive curriculum vita exists in the record as Petitioner's Exhibit No. 4. Appearing as an uncompensated expert on behalf of the Lynch Family, Mr. Dillon described in detail for the Board the mapping rules that were developed and the general process followed by the Office during the Council's process of adoption of the RC zones and accompanying regulations.

Mr. Dillon testified that the maps prepared for consideration by the County Council started with county tax maps at a scale of 1" for every 600 feet on the land. Those maps were then photo-reduced to a size of 8 ½ x 11 inches and spliced together to form one large map, identified as the "strategy map" by Mr. Dillon. Physical and cultural data, including but not limited to soils, slopes, private/public ownership information and existing subdivisions of record, were then utilized by the Office in its mapping efforts. In its use of the various data, after consultation with the Council, the Office developed "mapping rules" for the delineation of the proposed limits of the various RC zones. Mr. Dillon described those mapping rules as including the following:

- use of roadways and ridge lines (most roadways are located along ridges) to separate different RC zoning classifications
- use of streams, distances from streams and property lines to delineate separate RC zoning classifications
- use of property lines of division between private property and publically owned property to separate different RC zoning classifications
- use of other, major features that were evident on the base maps were also used as division lines to separate different RC zones

Mr. Dillon testified that the delineation of the various RC zones in the rural area of the County were shown on a series of overlays to the strategy map. The overlays, at a scale of 1" to 1000 feet were then photo-enlarged to a scale of 1" to 200 feet, the same scale as the County's official zoning maps. As acknowledged by Mr. Dillon, during his many years in the Office numerous discrepancies were discovered in the 200 scale maps as adopted with the new RC zones due primarily to two factors: i) drafting errors; and 2) scaling problems in photo enlarging/reducing the overlays and RC zone delineation boundaries using the technology available in the 1970's.

After concluding his historical analysis of the process employed by the Office and the Council in mapping the rural area of the County, Mr. Dillon described his familiarity with the subject parcels and that, based upon his knowledge of the mapping process, his review of the zoning maps and his visit to the Property, the RC5/RC2 zoning lines shown currently on that portion of the Property north of Sweet Air Road were in error as originally drawn.

On cross-examination, Mr. Dillon was asked if he was aware of any objection, between 1976 and 2000 by the Lynch family, to the existing zoning or if there had been any request by the Lynch Family, the Planning staff or anyone else to modify the existing zoning of the subject parcels. In complete candor, Mr. Dillon testified that he could find no evidence of such objections or request ever having been made. In Mr. Dillon's opinion, no such objection or request was made because a casual observation

of the official 200 foot scale maps (which do not reflect property lines or public ownership) would not reveal the discrepancy. Moreover, the 1000 foot scale maps show the RC-2 zone limits coincident with the adjacent, publically owned land, the Gunpowder State park.

In response to questions from the Board, Mr. Dillon testified that the Owner was probably not given specific notice of the reclassification of the subject parcels in the 1976 process. Further, in Mr. Dillon's opinion, the reclassification of the subject parcels to comport with what he believes was intended by the Council, i.e. RC-5 zoning on all of the Property north of Sweet Air Road, is the correction of a "small error" in mapping.

Testimony of Mitchell Kellman - DMW, Inc.

Mr. Kellman appeared and testified before this Board in the same manner as he has testified previously, as a current employee of DMW, Inc., a well established land planning and engineering firm in Towson. Mr. Kellman indicated that he holds a B.S. in Geography and Environmental Planning from the Towson University and a M.S. with a concentration in Urban Planning from that same university. In describing his employment with the zoning office of the Baltimore County Department of Permits and Development Management, Mr. Kellman enumerated his duties and responsibilities which included requiring him to be familiar with the official 200 foot scale and 1000 foot scale zoning maps of the County.

Mr. Kellman described Petitioner's Exhibit No. 1 as having been prepared under his direction and control and depicting accurately the subject parcels proposed for a zoning classification of RC5. According to Mr. Kellman, the Lynch Family contacted DMW, Inc. regarding the preparation of a boundary survey of the Property. As a result of the boundary survey, Mr. Kellman indicated that the erroneous zoning on the subject parcels was discovered. Being familiar with both scale maps maintained by the County, Mr. Kellman testified that there was no "readily discernable difference" between the two. That discrepancy is not evident, according to Mr. Kellman, because the 1000 scale map shows the RC5/RC2 division line as coincident with the property line common with the adjoining publically owned land, and public lands are not depicted on the official 200 foot scale map (Petitioner's Exhibit No. 2). Although the shape/configuration of the lines appears identical, the difference in actual location could not be determined without a survey. Mr. Kellman testified as to his encountering similar discrepancies between the maps during his tenure with the County.

On cross-examination, Mr. Kellman testified that the entire Property comprises approximately 47 acres, with approximately 15 acres on the north side of Sweet Air Road, of which 3.43± acres were zoned RC 2 and the balance zoned RC5. When asked why Petitioner's Exhibit No. 1 failed to identify individual property owners west of the Property, Mr. Kellman stated that the County filing procedures require that property owners which adjoin the area or areas proposed for reclassification be shown. Clearly,

neither of the two areas proposed for reclassification are coincident with the northwestern boundary of the Property. With respect to the road frontage of the Property on the north side of Sweet Air Road, Mr. Kellman testified that approximately five hundred (500) foot of the frontage was zoned RC5 at present, with 250 ± feet of frontage zoned RC2, being part of Reclass Parcel 2.

Testimony of Mr. Jeffrey Long - Office of Planning Official

The Petitioners next presented the testimony of an Office of Planning official, Mr. Jeffrey Long, who has testified countless times on reclassification petitions and zoning appeals pending before this Board. Mr. Long, currently a County Office of Planning Section Chief, has been employed by Baltimore County for 22 years; 16 years in the Office and his first six years with the environmental agency now known as the Department of Environmental Protection and Resource Management. In his testimony, Mr. Long described his familiarity with both the RC2 and RC5 zones and zoning regulations as adopted, the subject parcels, the Property and the 200 and 1000 foot scale zoning maps of the County.

Although Mr. Long did not participate in the 1976 process when the RC zones were identified and adopted (he testified that he was still in high school at that time), he did describe how he had examined the quadrennial comprehensive zoning files maintained by the Office in an attempt to determine if any portion of the Property had been proposed for reclassification during a prior comprehensive zoning process.

Acknowledging that no request or proposal had ever been filed, Mr. Long was able to testify that he was recently made aware by a representative of the Lynch Family of a potential zoning error on the Property. Mr. Long testified that the RC2 zoning of the subject parcels was a drafting error and that such error would normally be handled through the technical map correction process.[3] Upon determination of the time at which the erroneous zoning classification was attached to the subject parcels, Mr. Long testified that he advised the Owner that the technical correction process was unavailable to them and that a Petition for Reclassification would have to be filed.

Mr. Long indicated further that had his Office been made aware of the drafting error on the subject parcels prior to the close of the filing period during the CZMP, his Office's standard practice in such a case would be to raise the classification as an issue and support the modification. However, neither the Lynch Family nor the Office had actual knowledge of the erroneous mapping of the zone lines prior to the close of the filing period of the comprehensive zoning process.

Finally, Mr. Long described for the Board, the report prepared by his Office in connection with the instant case. That official report, introduced as Petitioner's Exhibit No. 5, describes the existing and proposed zoning, adjacent properties, and includes a description of the property, as well as issues related to water and sewerage, traffic and roads. Also contained within the Office's official report is a history of the zoning of the

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[3] Code Section 26-134.

Property, the designation of the subject parcels and the Property in the *2010 Baltimore County Master Plan,* and the general, regulatory framework of both the existing and requested zoning classifications. In addition to his analysis of the erroneous zoning classification on the subject parcels, Mr. Long testified affirmatively, consistent with the report of the Office, regarding all other factors necessary for reclassification as outlined in Code Section 2-356.

The last section of the Office's official report is its recommendation to this Board. That recommendation, required by Code Section 2-356, states in pertinent part:

> .... It is the position of the Office of Planning that the RC2/RC5 zone line **should have been coincident with the line of division between the Lynch Property and Gunpowder Falls State Park.** Therefore, the **Office of Planning recommends that the applicant's property be rezoned to the RC5 classification.**

Petitioner's Exhibit No. 5 at page 3. (Emphases added.)

On cross-examination, People's Counsel asked Mr. Long to reiterate the tenets of the County Charter that the Master Plan is advisory or a guide. Mr. Long then opined that the zoning regulations and zoning maps were the tools by which the Master Plan is implemented and that the proposed reclassifications were consistent with the Master Plan. Mr. Long was then examined about the buffering characteristics of Relcass Parcel 2 (3.22± acre parcel). Mr. Long disputed that the County Council intended this triangular shaped area as a buffer between the RC5 zoned land and the publically owned land. Based on his extensive years of experience, Mr. Long described what he

characterized as "Dillon" buffering strips[4]. Those so-called "Dillon" strips are regular in shape and were recommended by the Office in strategic areas of the County to provide a zoning buffer between potentially dissimilar land uses. Mr. Long testified on redirect that the triangular shape of Reclass Parcel 2 was not characteristic of a "Dillon strip" and, therefore, such was not a reason to suggest that the RC2 zoning was attached to it other than in error.

The Protestants' Case

The case of the Protestants was comprised of conjecture and vague attempts to look backward at what might have been in the minds of the County Council when the original RC zones were adopted, without any mention or relation to the known historical sequence used in the delineation of those RC zoning areas. The testimony of the representative of the Long Green Valley Association[5] was that her Association supports the existing zoning, it opposes any increase in zoning and that the RC5 zoning on the Property was placed there in error. There was absolutely no credible evidence offered to support the position that the existing RC5 zone was in error. The Association representative also acknowledged that (apparently irrespective of the alleged error in RC5 classification) the Association had never filed a request during any comprehensive

---

[4] The reference to "Dillon" is tied directly to Jack Dillon, a retired, County senior planner who testified in this case as to the erroneous classification of the subject parcels.

[5] It should be noted that the Property and the subject parcels are located **outside** of the geographical limits of the Long Green Valley Association.

zoning process to have that RC5 zone changed to another classification.

Mr. Gary Elser, who lives in the adjacent recorded, residential subdivision, introduced a video tape taken by him[6] which was shown without any sound. Mr. Elser then identified his concerns about the requested reclassification and, candidly, acknowledged on cross-examination that the portions of the Property which adjoin his lot are already zoned RC5.

The Protestants next called Wallace S. Lippincott, Jr., an employee of the County's Department of Environmental Protection and Resource Management ("DEPRM") whose basic responsibilities include the oversight of the County's agricultural preservation and Rural Legacy programs. While Mr. Lippincott was assigned to the Office of Planning for approximately four years, he has been working in DEPRM since 1992. Mr. Lippincott testified as to his lack of knowledge about how the specific zoning was applied to the Property and the subject parcels, but he was able to describe those farms in the general area of the Property that had been placed in an agricultural district or on which an agricultural easement had been obtained. Mr. Lippincott acknowledged that Sweet Air Road, being built on the ridge formed, in essence, a dividing line. It was Mr. Lippincott's suggestion that the triangular, Reclass Parcel 2 functioned as a buffer between the Lynch Property and the Gunpowder State

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6 Counsel for the Lynch Family objected to any video or photographs taken while the videographer/photographer was trespassing on the Property.

Park. That is, according to Mr. Lippincott, the triangular parcel has "buffered" the farming operation on the Lynch Property from the farming operation on the Gunpowder State Park property for the past 26 years. Irrespective of the fact that the BCZR requires a minimum principal structure setback of 75 feet from the center line of Sweet Air Road, Mr. Lippincott thought it logical that the widest part of the triangular "buffer" was parallel to the center line of that road where nothing could be built in any event.

The next neighbor to testify in opposition to the requested reclassification was Mr. Steven Preston who also lives in the adjoining residential subdivision of Sweet Air Manor. Having moved to his home approximately two (2) years ago, Mr. Preston described his work with the United States Geological Survey, being presently assigned as an adjunct to the Chesapeake Bay Program. Mr. Preston holds no State licences or certifications relative to his educational background or his professional career in ecologically related fields.

Even after acknowledging on cross-examination that the topographic slope across the width of his lot is much greater than either of the two subject parcels, Mr. Preston focused a major portion of his presentation in opposition on the drainage patterns that exist at present on the Lynch Property in relation to the adjoining Gunpowder State Park. Without any detailed discussion of natural infiltration of stormwater or the beneficial characteristics of water sheet flowing across pervious land, Mr. Preston maintained that there was no mistake in the drafting of the zoning lines primarily

because of the shape and configuration of the subject parcels. Mr. Preston's position is that the existing zoning lines were drawn correctly because, based on his analysis, those zone lines are drawn parallel to the topographic lines. Even a casual review of Protestants' Exhibits 6B and 7B depict the zoning lines of the subject parcels as predominantly perpendicular to the lines of topography.

In direct contrast to the observation of Mr. Lippincott, Mr. Preston identified the stand of trees characterized as a "hedgerow" by Mr. Lippincott as a forested strip. Mr. Preston was unable to provide any sound basis for why the so-called buffer triangle (Reclass Parcel 2) did not extend along the entire eastern property line and adjoin the Reclass Parcel 1 on the north side of the Property. Mr. Preston did attempt to bolster his position with some historical perspective through reference to a State Land Acquisition Map for the Gunpowder Falls State Park obtained by him from the Department of Natural Resources. However, Mr. Preston did not even attempt to suggest that the drawings submitted by him were used by the Office or the Council during the mapping and adoption of the RC zones. Likewise, the supposition of why the Council may have decided to adopt the existing configuration of zoning lines and what the Council may have had available to them at the time failed to overcome the evidence of actual, contemporaneous evidence and events as discussed by Messrs. Dillon and Long.

LEGAL ARGUMENT

It is well settled law in Maryland that there is a strong presumption of validity that attaches to the zoning decisions made during a comprehensive zoning process. However, that presumption is not absolute. One means of rebutting that presumption is to prove that the decision of the legislative body was based on erroneous information. This burden can be met by showing that the facts relied upon by the County Council were not readily visible or discernable when the vote on the comprehensive rezoning occurred. *Boyce v. Sembly*, 25 Md. App. 43 (1975); *accord, Bonnie View Country Club, Inc. v. Glass*, 242 Md. 46 (1966). The mere fact that the Property can be developed under the existing zoning classification does not bar reclassification based on error during the comprehensive zoning process. *Rohde v. County Board of Appeals for Baltimore County*, 234 Md. 259 (1964). Once the error of the legislative body has been proven, the Petitioner must then show that the requested reclassification is warranted. *White v. Spring*, 109 Md. App. 692 (1996). The Maryland Court of Special Appeals has held that:

> The finding of a mistake or error is not so much concerned with the logical validity or merit of ultimate conclusion-drawing as it is with the adequacy and accuracy of the factual premises that underlie the conclusion-drawing. A conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.

People's Counsel for Baltimore County v. Beachwood I Lt'd Partnership, 107 Md. App.

627, 645 (1995)

The Council's decision to rezone the Property from its prior RPD classification was neither a mistake nor bad judgment. Rather, the error was in the implementation of the Council's intent and drafting of the maps which constitute the final decision of the Council. Mr. Dillon testified that, as one of the key advisers to the Council during the original adoption of the RC zones, specific and quantifiable mapping rules were developed and applied throughout the rural area. The zoning lines of the subject parcels are contrary to the intent of the Council as testified to by Mr. Dillon.

The facts in the instant case are not dissimilar to those of a case considered by the Board many years ago. Mary Mack sought reclassification of her property, during a comprehensive zoning process employed at the time, from a classification that permitted one and two single family residences to that of Business Local. The Baltimore County Planning Board recommended, in 1959, a classification of Residential Apartments (R-A) rather than the BL zoning requested. The County Council adopted that recommendation and voted to rezone the entire Mack property to a classification of R-A. However, during the drawing of the maps to reflect the decision of the Council, <u>two separate strips of the Mack property</u> were not classified R-A as the Council intended. A drafting error resulted in one of the strips being classified as BL and the other as R-6, with the remaining 85% of the Mack property classified as R-A. Approximately four years later, Ms. Mack attempted to use the drafting error, together with an allegation of

change of neighborhood, to have her entire property rezoned to BL. Although this Board found sufficient evidence to approve the entire rezoning, that decision was overturned on appeal.

The Maryland Court of Appeals, ruling in the case of *Mack v. Crandell, et al*, reasoned that:

> The appellant did not request a correction of the error by a reclassification of the two strips to R-A, as most of the tract is zoned and as the Council obviously intended all of it should be zoned, but seeks to make the technical mistake the basis for rezoning all of the tract to a use which the Council, in its comprehensive zoning, had, after consideration, rejected. The Board's action is an attempted piecemeal rezoning of a comprehensive zoning map, not to correct an error, but to rezone the property for a use inconsistent with the original comprehensive zoning. The proposed use would be in conflict with the original zoning, even had that zoning properly reflected in its drafting the clear legislative intent.
>
> On the undisputed facts, the Board's action in granting a reclassification of a tract of property and a special exception in conflict with the comprehensive zoning, even if that zoning be regarded from the point of view of what the Council intended instead of in the light of the lines the map contained, was arbitrary, capricious and unreasonable. There being no evidence of a change in conditions, that issue was not fairly debatable. The uncontradicted evidence as to the mistake in the original zoning might well have supported an order to correct that mistake, if application to that effect had been made, by zoning the entire tract R-A, as the Council intended.

Mack v. Crandell, et al., 244 Md. 193, 197-98 (1966) (Emphases added.)

Unlike Ms. Mack, the Lynch Family is not seeking to use the drafting error adopted by the County Council as a basis for the rezoning of its entire Property. The largest portion of the Lynch Property, on the south side of Sweet Air Road, will remain

zoned RC2 as the Council intended. Nor has the Lynch family sought approval of a special exception use in conjunction with the requested reclassification.[7] Rather, the Lynch Family is following the course that the Court of Appeals in the *Mack* case said the evidence would support — rezoning of the two parcels to correct a drafting error in the maps adopted by the Council. Just as the evidence in *Mack* would have supported reclassification of the entire tract to a R-A zone as the Council intended, the uncontradicted and substantial evidence of original error, testified to by someone who was there when it happened, supports reclassification of the subject parcels to effect the intent of the Council for that portion of the Lynch Property north of Sweet Air Road. Like the R-A zoning intended on the entire Mack property, it is clear from the testimony and evidence that the Council's intent in mapping the new RC zones was that RC5 zoning attach to the Lynch Property north of Sweet Air Road.

The **RC5 zoning classification was created** for specific purposes in response to the findings of the legislative body as follows:

1. Provide for rural-residential development in suitable areas in which basic services are not anticipated.

2. Eliminate scattered and generally disorderly patterns of future rural-residential development.

3. **Assure that encroachments onto productive or critical natural**

---

[7] In conjunction with the requested reclassification of her entire property, Ms. Mack also requested approval of a special exception for a service station on the site.

resource areas will be minimized.

4. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems.

. BCZR § 1A04.1B. (Emphases added.)

The north side of Sweet Air Road is developed predominantly with rural-residential development, west of the Gunpowder State park. The RC5 area regulations (setbacks and maximum lot coverage) minimize encroachments onto the State park, while permitting an orderly pattern of development. The mapping rules utilized by the planners for the Council, together with the legislative purposes and mandated restrictions of the RC5 zone negate any suggestion that the subject parcels were "intentionally" classified as RC2 for the protection of agriculture or natural resources.

In the instant case, the error of the County Council in adopting maps containing two areas of zoning classification contrary to the standards developed for the delineation of those areas is obvious. The testimony of the witnesses presented by the Petitioner show clearly that: a) the official 200 scale zoning maps were prepared in error; and b) the Council relied on that erroneous information. The requested rezoning is warranted in that it will effect the true intent of the Council to maintain RC5 zoning on privately owned property located on the north side of Sweet Air Road. There is no basis in logic or fact for the zoning of the subject parcels as they now exist. The Office of Planning has acknowledged that the reclassification of the subject parcels will effect that which was intended by the Council and that such reclassification is consistent with the current

Baltimore County Master Plan 2000-2010 and with the pattern of development that the actions of the County Council have permitted in the immediate area.

The requested rezoning is limited to the rectification of the mistake of the County Council. The Petition as filed does not seek to rezone any portion of the Property in a classification different from that defined by the mapping rules which formed the intent of the County Council. Had the County Council known of the errors on the map, it would have corrected the zoning lines to effect its intent relative to public and privately owned land; therefore, the requested reclassification is justified and should be granted.

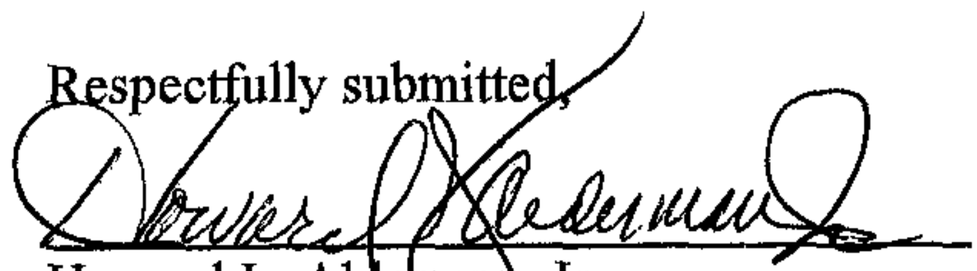
CONCLUSION

Despite the concerns of the neighbors and the Long Green Valley Association regarding limiting density, the drafting error that occurred in the classification of the subject parcels as RC2 cannot be maintained. All of the privately owned land on the north side of Sweet Air Road in the immediate neighborhood is zoned RC5. If the subject parcels were to be "buffers" why is the greatest width where the required front yard setback would prohibit any development? Common sense dictates that buffers are either uniform or are wider in the areas of incompatible land uses for which the buffer is designed. Such is not the case on the Lynch Family Property.

The Petitioners have presented substantial and uncontradicted evidence that the existing zoning of the subject parcels, now that it has been discovered, is in error as it does not reflect the rules underlying the intent of the County Council. For all of the

foregoing reasons, the Petition for Reclassification as filed should be approved.

Respectfully submitted,



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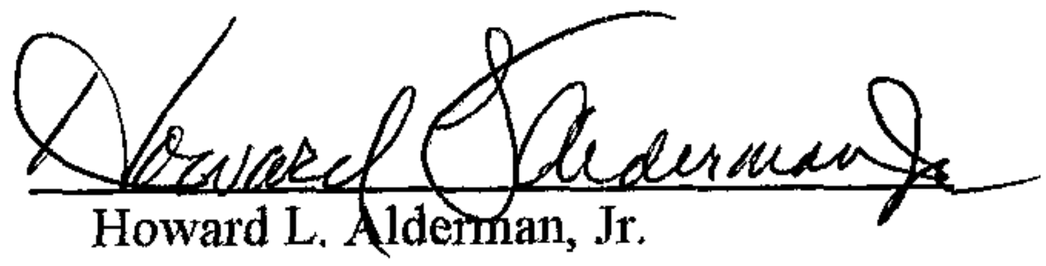
410.296.2801 [fax]
Halderman@LevinGann.com [e-mail]
Attorneys for the Lynch Family

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2002, a copy of the foregoing Owner's Post-Hearing Memorandum was mailed, postage prepaid, First Class United States Mail to:

J. Carroll Holzer, Esquire
Holzer & Lee, PA
508 Fairmount Avenue
Towson, Maryland 21286

Peter M. Zimmerman, Esquire
Office of People's Counsel for Baltimore County
400 Washington Avenue, Room 47
Towson, MD 21204



Howard L. Alderman, Jr.

4/24/01

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN RE: PETITION FOR RECLASSIFICATION **N/S Sweet Air Road, E of Sunburst Road** **10th Election District** **6th Councilmanic District** **Michael James Lynch, DVM, *et al*,** ***Petitioners/Owners***	**Case No.:**

MEMORANDUM IN SUPPORT OF PETITION

Michael James Lynch, DVM, *et al*, (referred to collectively hereafter as "Owner" or "Lynch Family"), by and through their undersigned legal counsel and in support of their Petition for Reclassification of a portion of the property which they own on the north side of Sweet Air Road, east of Sunburst Road and west of the Gunpowder State Park, (the "Property") submit 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 Sixth (6th) Councilmanic District, on the north (and south) sides of Sweet Air Road. The Property comprises approximately 47 acres, is irregular in shape and is bisected by Sweet Air Road. Adjoining the Property to the east (north of Sweet Air Road) is the Gunpowder State Park.

Prior to the inception of the Resource Conservation zones, the Property was

zoned, in its entirety, as Rural Deferred Planning ("RDP"). Subsequent to the enactment and application of the Resource Conservation Zones, all of the Property to the north of Sweet Air Road, except two limited portions, was zoned Resource Conservation 5 - Rural Residential ("RC-5"). In fact, two separate and limited areas adjoining the Gunpowder State Park, approximately 3.43 acres of the Property were zoned Resource Conservation - Agricultural ("RC-2") (the "Subject Property"). The majority of the land west of the Subject Property for over 2000' in a westerly direction is also zoned RC-5, with much of it developed in single family homes.

History

The Lynch Family thought, at all times, that the entire Property north of Sweet Air Road was zoned RC-5, which is how it is shown on the County's 1000' scale zoning maps to this day. A recent survey revealed that this portion of the Property is, in fact, zoned predominantly RC-5 with the two, disconnected areas zoned RC-2. Subsequent inquiry with the Baltimore County Office of Planning has revealed that the RC-2 zoning lines as originally drawn on the State Park property erroneously included the two small portions of the Property. This drafting error, carried forward over the years, has gone unnoticed until a recent survey commissioned by the Owner brought it to light. The Office of Planning has confirmed the drafting error. Due to the fact that the original error was merely carried forward and did not occur (originally) during the last comprehensive zoning

process, the Office of Planning advised that *Baltimore County Code* §26-134 was inapplicable.

Master Plan

The proposed zoning on the Subject Property is consistent with the policies and objectives of the *Baltimore County Master Plan 2010* and with the majority of the zoning which exists on the north side of Sweet Air Road. The Subject Property is identified as appropriate for RC-5 zoning and single-family development and is located within the areas identified in the *Master Plan* as Rural Residential Areas.

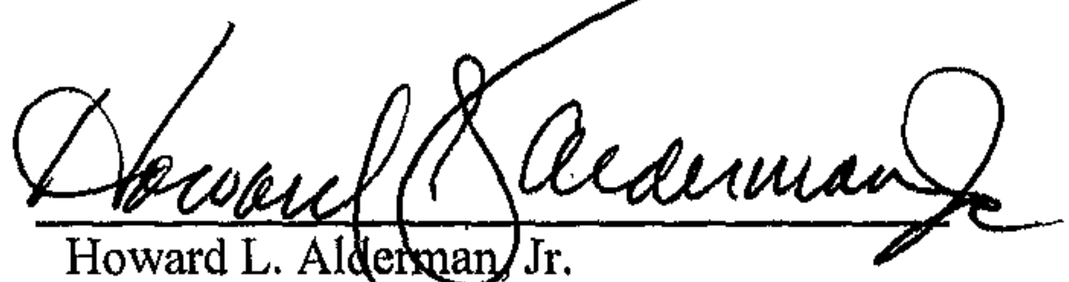
Change/Mistake

The County Council and the Office of Planning have recognized the error in classification of the Subject Property. The County Council has approved the Planning Board's certification that the reclassification of the Subject Property should be exempted from the normal, cyclical rezoning process. The Office of Planning has advised that the zoning line defining the Subject Property was drafted in error and that there was no reason to zone the Subject Property as RC-2 and leave the balance of the Property north of Sweet Air Road as RC-5. However, the only means of correcting the error, in a timely fashion, is the reclassification procedure. The RC 2 zoning classification was to be attached only to the adjoining area of the Gunpowder State Park.

Summary

The facts and circumstances which form the basis for this request are not in dispute. The RC 5/RC 2 zoning lines as drawn, defining the Subject Property were drawn in error. The County Council erred in not correcting this drafting error on its own. This Petition seeks only to correct that drafting error and not to change the zoning classifications on the Property in any other manner.

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, the Lynch Family members respectfully request that their Petition for Reclassification be granted. The Owner and their undersigned legal counsel remain available to answer any questions that the staff of reviewing County agencies may have or any questions of this Board.



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Attorneys for Michael James Lynch, DVM, *et al*

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at N/S Sweet Air Road East of Sunburst Rd
which is presently zoned/districted RC-2 & RC-5

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 RC-2 zone/district to a RC-5 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 (3) for the reasons given in the attached statement, a Variance from the following sections of the zoning regulations of Baltimore County:~~

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):

Michael James Lynch, DVM et al
Name - Type or Print

Signature Individually and as Attorney-in-Fact for Lynch Family Members
Name - Type or Print

Signature

3410 Sweet Air Road — 410-666-1390
Address — Telephone No.

Phoenix — MD — 21131
City — State — Zip Code

Attorney For Petitioner:

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

Signature LEVIN & GANN, P.A., Nottingham Centre, 8th Floor
Company

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

Towson — MD — 21204
City — State — Zip Code

Representative to be Contacted:

Mr. Mitchell Kellman
Name

DMW, Inc.
200 East Pennsylvania Ave — 410-296-3333
Address — Telephone No.

Towson — MD — 21286
City — State — Zip Code

REV 9/18/98

R-01-455

Description to Accompany

Out-of-Cycle Reclassifcation Petition

3.22 Acre Parcel

Northeast side of Sweet Air Road

Southeast of Manor Knoll Court

Tenth Election District, Baltimore County, Maryland

DMW

Daft•McCune•Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
http://www.dmw.com
410 296 3333
Fax 410 296 4705

A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals

Beginning for the same at the end of the following course and distance measured along the centerline of Sweet Air Road from the intersection of the centerline of Sweet Air Road with the centerline of Manor Knoll Court, (1) Southeasterly 1074 feet, more or less, to the point of beginning, thence leaving said point of beginning and binding on the centerline of Sweet Air Road, the two following courses and distances, viz: (1) North 82 degrees 22 minutes 00 seconds West 157.19 feet, and thence (2) North 82 degrees 55 minutes 00 seconds West 91.72 feet, thence leaving the centerline of Sweet Air Road and running for the three following courses and distances, viz: (3) North 19 degrees 35 minutes 16 seconds East 1161.66 feet, thence (4) South 07 degrees 18 minutes 03 seconds West 1125.23 feet, and thence (5) South 02 degrees 00 minutes 30 seconds East 10.52 feet to the point of beginning; containing 3.22 acres of land, more or less.

(Note: Sweet Air Road is not owned in fee by Baltimore County.)

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 17, 2001

Project No. 00097 (L00097)

STATE OF MARYLAND
PATRICK A. HARTNETT
No. 10914
REGISTERED
PROFESSIONAL LAND SURVEYOR

R-01-455

NOTICE OF ZONING RECLASSIFICATION HEARING

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

Ca[redacted]
N/S [redacted] Road, E of Sunburst Road
10th Election District
6th Councilmanic District
Legal Owner(s): Michael James Lynch, DVM, et al
Reclassification: from R.C.2 to R.C.5
Hearing: Thursday, July 26, 2001 at 2:00 p.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, Please call (410) 887-3180.
NCN/7/127 Jly12 C480650

CERTIFICATE OF PUBLICATION

7/12/, 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 7/12/, 2001.

- ☐ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☒ North County News

P. Wilkinson

ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 92851

DATE 4/26/01 ACCOUNT R-001-006-6181

AMOUNT $ 535.00

RECEIVED FROM: DMW + Mary + Michael Lynch

FOR: Out-of-Cycle Reclass - Property + SIGN Lynch
Sweet Air Rd R-01-455

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PAYMENT ACTUAL TIME
4/27/2001 4/26/2001 12:02:20
REC 6805 CASHIER MSTR MLS DRAWER 1
RECEIPT # 210089 OFIN
DEPT 5 532 COMPR/CYCLE ZONING FEE
CR NO. 092851
RECPT TOT 535.00
535.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING RECLASSIFICATION HEARING

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

[redacted]
Sweet Air Road, E of Sunburst Road
10th Election District
6th Councilmanic District
Legal Owner(s): Michael James Lynch, DVM, et al
Reclassification: from R.C.2 to R.C.5
Hearing: Thursday, July 26, 2001 at 2:00 p.m. in Room 46 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, Please call (410) 887-3180.
JT/7/660 July 10 C480390

CERTIFICATE OF PUBLICATION

7/12/, 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 7/10/, 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 RE-POSTING

Date: 5/25/01

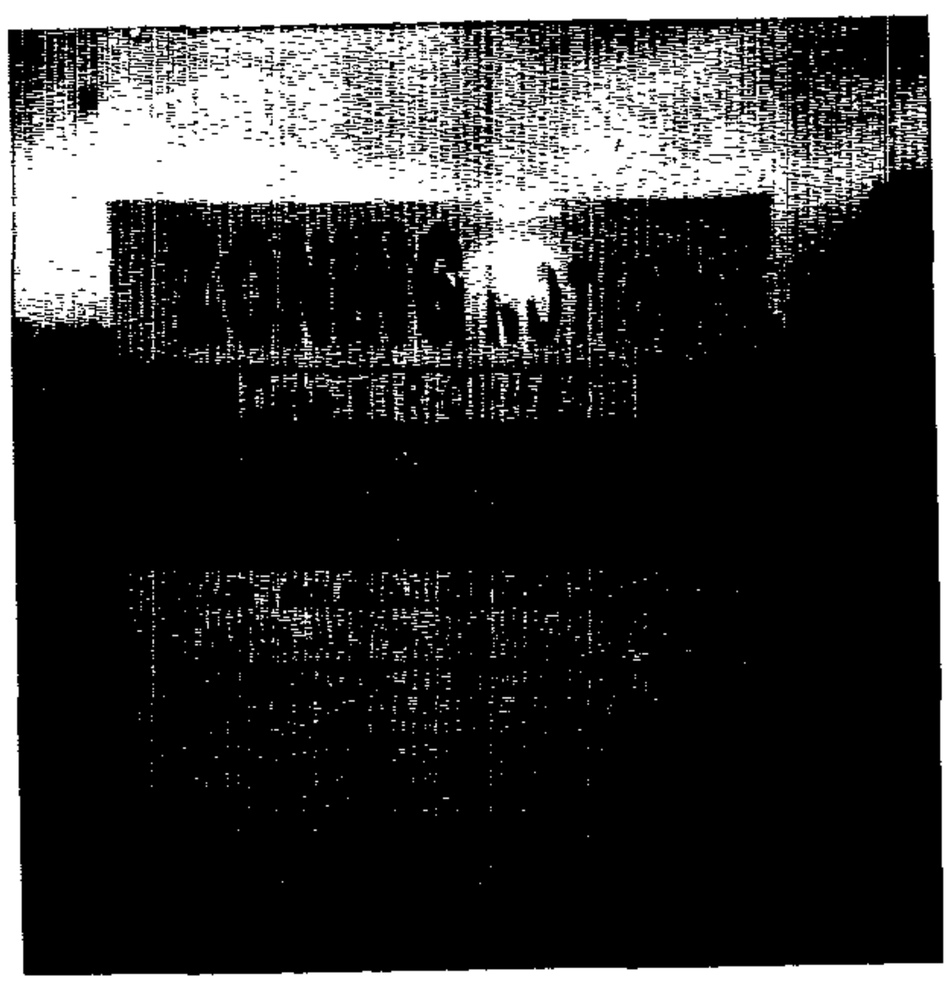
RE: Case Number R-01-455

Petitioner: Michael James Lynch, DMV, et al

Date of Hearing: Thursday, July 26, 2001 – 2:00 p.m.

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 N/S Sweet Air Rd. E of Sunburst Rd.

The sign(s) were posted on 5/25/01 @ 10:30 AM
(Month, Day, Year)



Gary C Freund
(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

CERTIFICATE OF POSTING

Date: 5/21/01

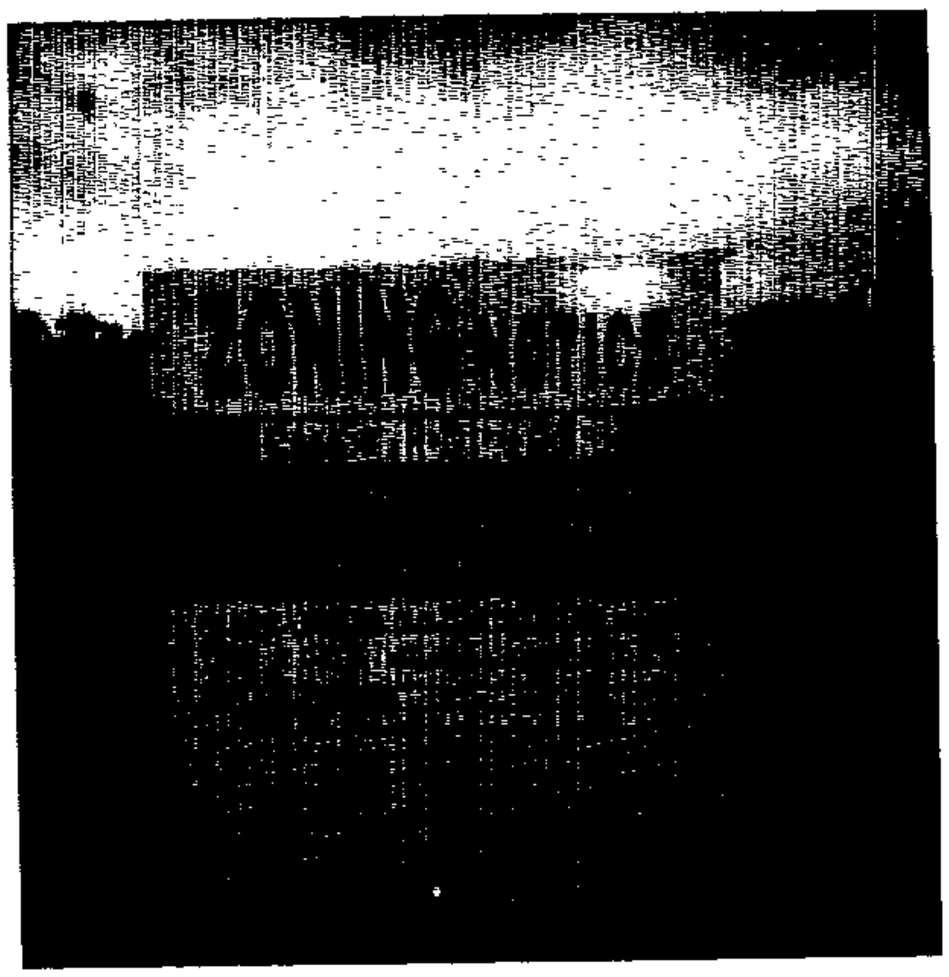
RE: Case Number R-01-455

Petitioner: Michael James Lynch, DMV, et al

Date of Hearing: Wednesday, June 6, 2001 – 10:00 am

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 N/S Sweet Air Rd E of Sunburst Rd.

The sign(s) were posted on 5/21/01 @ 10:45AM
(Month, Day, Year)



Gary C Freund
(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 HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:

Item Number or Case Number: R-01-455

Petitioner: MICHAEL LYNCH et al

Address or Location: Sweet Air Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Michael Lynch et al

Address: 3410 Sweet Air Road
Phoenix MD 21131-1826

Telephone Number: 410-666-1390

Revised 2/20/98 - SCJ

County Board of Appeals of Baltimore County

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

June 8, 2001

NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Sec. 602.(e) and Sec. 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-01-455
N/S Sweet Air Road, E of Sunburst Road
10th Election District – 6th Councilmanic District
Legal Owner: Michael James Lynch, DVM, et al

Reclassification from R.C.2 to R.C.5

HEARING: Thursday, July 26, 2001 at 2:00 p.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S. Wescott/scj

Lawrence S. Wescott
Chairman

LSW:scj

c: Howard L. Alderman, Jr., Esquire, Levin and Gann, P.A., Nottingham Centre, 8th Floor, 502 Washington Avenue, Towson, MD 21204
Michael James Lynch, DMV, et al, 3410 Sweet Air Road, Phoenix, MD 21131
DMW Inc., c/o Mitchell Kellman, 200 East Pennsylvania Avenue, 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.

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on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 10, 2001 Issue - Jeffersonian

Please forward billing to:

Michael Lynch, et al 410-666-1390
3410 Sweet Air Road
Phoenix, MD 21131-1826

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN -7 AM 10: 35

==========

NOTICE OF ZONING RECLASSIFICATION HEARING

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

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Lawrence S. Wescott/scj
Lawrence S. Wescott
Chairman

LSW:scj

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

TO: PATUXENT PUBLISHING COMPANY
Wednesday, July 11, 2001 Issue – North County News

Please forward billing to:

Michael Lynch, et al 410-666-1390
3410 Sweet Air Road
Phoenix, MD 21131-1826

==========

NOTICE OF ZONING RECLASSIFICATION HEARING

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

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Reclassification from R.C.2 to R.C.5

HEARING: Thursday, July 26, 2001 at 2:00 p.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S. Wescott/scj

Lawrence S. Wescott
Chairman

LSW:scj

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

July 10, 2001

NOTICE OF ASSIGNMENT

CASE #: R-01-455
(out of cycle, 2001)

IN THE MATTER OF: *Lynch Property; Michael James Lynch, DVM, et al*
- Legal Owners /Petitioners N/s Sweet Air Rd, E of Sunburst Rd
10th Election District; 6th Councilmanic District

Reclassification: From RC 2 to RC as shown on Plan to Accompany Petition

PP'd 10/17/01
to be re-set

ASSIGNED FOR: **WEDNESDAY, AUGUST 22, 2001 @ 11:00 a.m. (also holding -- ~~THURSDAY, OCTOBER 18, 2001 @ 10:00 a.m.~~ ~~(if necessary)~~**

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 Petitioners : Howard L. Alderman, Jr., Esquire
Petitioners : Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.

Counsel for Steve Preston
and Long Green Valley Association : J. Carroll Holzer, Esquire

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

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on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

8/27/01
WCR

August 23, 2001

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

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

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

RE: *In the Matter of: Lynch Property* /Case No. R-01-455
Petition for Reclassification /Confirmation of Day #2

Dear Counsel:

This letter will confirm that the Board will convene on Thursday, October 18, 2001 at 10:00 a.m. for hearing day #2 in the subject matter. This date had been noted as "on hold" on the original Notice of Assignment.

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

Very truly yours,

Kathleen C. Bianco
Administrator

c: Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.
Steve Preston and Long Green Valley Association
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

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01-2967
AUG 24 2001
DEPT OF PERMITS AND
DEVELOPMENT MANAGEMENT

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County Board of Appeals of Baltimore County

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

Assigned for 2/14/01
Day #2
notice date
11/01/01

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 17, 2001

NOTICE OF POSTPONEMENT – TO BE REASSIGNED

CASE #: R-01-455
(out of cycle, 2001)

IN THE MATTER OF: *Lynch Property; Michael James Lynch, DVM, et al*
- Legal Owners /Petitioners N/s Sweet Air Rd, E of Sunburst Rd
10th Election District; 6th Councilmanic District

Reclassification: From RC 2 to RC as shown on Plan to Accompany Petition

which was scheduled for hearing day #2 on 10/18/01 has been POSTPONED at the request of Counsel for Protestants due to Harford County Circuit Court conflict; TO BE REASSIGNED TO FIRST AVAILABLE DATE with confirmation of parties.

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 Petitioners : Howard L. Alderman, Jr., Esquire
Petitioners : Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.

Counsel for Steve Preston
and Long Green Valley Association : J. Carroll Holzer, Esquire

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

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
FAX COVER SHEET

DATE: October 17, 2001

TO:	Carroll Holzer	410-825-4923 /FAX 410-825-6961 /Telephone
	Howard Alderman	410-296-2801 /FAX 410-321-0600 /Telephone
FROM:	Kathi Bianco	***TELEPHONE:*** 410-887-3180 ***FAX*** : 410-887-3182

RE: Notice of Postponement /Lynch Property /Case No. R-01-455

Attached for your information is a copy of the Notice of Postponement for the subject case which was scheduled to be heard tomorrow (10/18/01 /day #2). Copies were sent to all parties by mail this date.

A date will be reassigned for this hearing as soon as possible and notice sent . (The proposed date of 11/01/01 did **NOT** work out for everyone concerned; therefore another date must be found.)

Please call me if you have any questions.

Kathi

NUMBER OF PAGES : Two (2), including this page.

ORIGINAL TO FOLLOW: __X__ yes ____ no

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

November 1, 2001

NOTICE OF ASSIGNMENT /Day #2

CASE #: R-01-455
(out of cycle, 2001)

Day #2 from 8/22/01

IN THE MATTER OF: *Lynch Property; Michael James Lynch, DVM, et al*
- Legal Owners /Petitioners N/s Sweet Air Rd, E of Sunburst Rd
10th Election District; 6th Councilmanic District

Reclassification: From RC 2 to RC as shown on Plan to Accompany Petition

ASSIGNED FOR: **THURSDAY, FEBRUARY 14, 2002 at 10:00 a.m. /Day #2**

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 Petitioners : Howard L. Alderman, Jr., Esquire
Petitioners : Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.

Counsel for Steve Preston
and Long Green Valley Association : J. Carroll Holzer, Esquire

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

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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 14, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:

Michael James Lynch, et al
-Petitioners /Case No. R-01-455

Having concluded this matter after two days of hearing (8/22/01 and 2/14/02), public deliberation has been assigned as follows:

DATE AND TIME : TUESDAY, APRIL 16, 2002 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Closing memos are due in this office on Monday, March 25, 2002 (ORIGINAL AND THREE [3] COPIES)

Kathleen C. Bianco
Administrator

c: Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioners : Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.

Counsel for Steve Preston
and Long Green Valley Association : J. Carroll Holzer, Esquire

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
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.

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on Recycled Paper

County Board of Appeals of Baltimore County

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

*** **HEARING ROOM** – ***Room 48*** ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF **APRIL 15, 2002**

TUESDAY **4/16** **9:00 am** **Case No.: R-01-455** **/DELIBERATION**

In the Matter of:
Michael James Lynch, et al
N/s Sweet Air Road, E of Sunburst Road
10th Election; 6th Councilmanic

10:00 am **Case No.: R-02 – Out of Cycle 2002**

In the Matter of:
Albert Bierman – Legal Owner – Petitioner
Reclassification: From D.R. 5.5 to M.L.-I.M.

TO BE OPENED AND CONTINUED ON RECORD

11:00 am **Case No.: 02-223 (ZC)** **/HEARING**

In the Matter of:
Nancy Wehr Niermann – Legal Owner
Mr. and Mrs. James Culp – Contract Purchasers
1210 Berwick Road
9th Election; 4th Councilmanic

RE: Petitioner for Building Permit/Undersized Lot

WEDNESDAY **4/17** **9:30 am** **Case No.: 01-096-SPH** **/DELIBERATION**

In the Matter of:
Lorraine E. and Daniel G. Narango
2635 Meredith Road, White Hall, MD 21161

11:30 am **Case No.: CBA-02-110** **/HEARING**

In the Matter of:
Wal-Mart Real Estate c/o Wal-Mart Stores
2399 North Point Boulevard

RE: Code Inspections and Enforcement Violation

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THURSDAY 4/18 CASE POSTPONED

---

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

THURSDAY **2/14** **10:00 am** **Case No: R-01-455** **/HEARING**

In the Matter of:
Michael James Lynch, et al
N/s Sweet Air Road, E of Sunburst Road
10 th Election; 6th Councilmanic

RE: Reclassification: From R.C. 2 to R.C. 5

Out of Cycle
Day #2 from 8/22/ 01

---

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 FEBRUARY 11, 2002

TUESDAY **2/12** **10:00 am** **Case No.: CBA-01-156** **/HEARING**
In the Matter of:
Air Flow Systems, Inc. and Theodore Cavey, Jr.
Numerous addresses (79 locations throughout County)

RE: Civil Citation #01-3570
Code Inspections and Enforcement Violation

11:00 am **Case No.: 01-310-A** **/Deliberation**
01-311-A and 01-312-A
In the Matter of:
Sun Oil Company/Petitioner
11701 Reisterstown Road; 10812 Reisterstown Road; and 6324 Baltimore National Pike

1:00 pm **Case No.: CBA-02-101** **/HEARING**
In the Matter of:
Lois Ann Fearson
1 Broadship Road
Baltimore, MD 21222

RE: AHB Decision/Dangerous animals; civil monetary penalties; to be removed from 1 Broadship and proof provided of person taking possession

---

WEDNESDAY **2/13** **10:00 am** **Case No.: 01-156-A** **/HEARING**
In the Matter of:
Stefanie Malkowski
N/s Armstrong Road, 200' N of Park Road
401 Armstrong Road
15th Election; 7th Councilmanic

RE: VAR – to allow legitimize old pier and new addition

WEEKLY SCHEDULE CONTINUED ON NEXT PAGE

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 20, 2001

01 JUN 21 PM 1:26
COUNTY BOARD OF APPEALS
RECEIVED

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

SUBJECT: Case # R-01-455
Michael James Lynch, DVM, et al
3410 Sweet Air Road
North side of Sweet Air Road, East of Sunburst Road

At its regularly scheduled monthly meeting on February 2, 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 February 23, 2001.

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

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:JWL:kma

W:\DEVREV\R-01-455Lynch.doc

CASE NO:
R-01-455

PETITIONER:
Michael James Lynch, DVM, et al

REQUESTED ACTION:
Reclassification to RC 5

EXISTING ZONING:
RC 2

LOCATION:
North side of Sweet Air Road, 1074 feet southeast of Manor Knoll Court

AREA OF SITE:
3.43 acres

ZONING OF ADJACENT PROPERTY/USE:

North:	RC 2, & RC 5	Gunpowder Falls State Park
South:	RC 2	Agricultural
East:	RC 5	Gunpowder Falls State Park
West:	RC 5	Rural Residential

SITE DESCRIPTION:
The petitioner's property is comprised of two RC 2 zoned parcels totaling 3.43 acres, which are part of a 47 acre parcel located on both the north and south sides of Sweet Air Road. The first parcel, located on the north side of Sweet Air Road, is triangular in shape and totals 3.22 acres. The second parcel is .21 acres in size and abuts the Gunpowder Falls State Park to the north and east.

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 property has direct access to Sweet Air Road, which is designated as a rural local road.

ZONING HISTORY:
In the 1976 Comprehensive Zoning Map Process, the Resource Conservation (RC) zones were mapped to replace the Rural Deferred Planning (RDP) zones on a countywide basis. Unfortunately, no individual issues were raised in order to accomplish this significant change to the zoning maps. The zoning of the subject parcel was RDP on the 1971 Comprehensive Zoning Map, and it is clear that in

1976, the Lynch property was split zoned RC 2 and RC 5 with the adoption of the new maps.

MASTER PLAN/COMMUNITY PLAN:

The proposed land use map, adopted by the County Council on February 22, 2000, indicates the site is designated as single family detached rural standards.

PROPOSED vs. EXISTING ZONING:

Regulations for the RC 2 and RC 5 zones may be found in Sections 1A01 and 1A04, respectively.

The intent of the RC 2 zone is to foster conditions favorable to continued agricultural use of productive areas of Baltimore County by preventing incompatible urban land uses.

The intent of the RC 5 zone is to provide for rural residential development in areas of Baltimore County where the extension of public water and sewer is not anticipated.

OFFICE OF PLANNING RECOMMENDATION:

It appears that a drafting error on the subject property's classification occurred when the RC zones were mapped in 1976. It is the position of the Office of Planning that the RC 2/RC 5 zone line should have been coincident with the line of division between the Lynch Property and Gunpowder Falls State Park. Therefore, the Office of Planning recommends that the applicant's property be rezoned to the RC 5 classification.

BALTIMORE COUNTY BOARD OF APPEALS
GUIDE FOR PREPARATION OF RECLASSIFICATION PETITIONS

Each Petition Request Must Include:

1. Three (3) completed printed or typewritten petition forms, indicating the existing and requested zoning. If applicable, the special exception use, the section number of the Baltimore County Zoning Regulations (BCZR) from which an accompanying variance is requested, as well as the nature and extent of the variance requested. All petition forms must be signed (original signature and title, if applicable; xerox copies are unacceptable) by the petitioner, contract purchaser or his legally authorized representative and the attorney. For persons signing in place of the legal owner or *contract purchaser, an authorization letter or copy of the power of attorney is required* at the time of petition filing.

2. Four (4) copies of the property description (saving and excepting all adjacent areas of public right-of-ways) FOR THE AREA OF RECLASSIFICATION ONLY, prepared and sealed by a surveyor or civil engineer. (See #4 of the reclassification checklist for sites where additional hearings are requested.)

IS OWNERSHIP CONFIRMED TO CL? NOTE SWEET AIR RD NOT OWNED IN FEE BY BALCO CO.

3. Four (4) copies of a brief or an explanation of the reasons why, in the petitioner's opinion, the reclassification sought should be made, set forth in sufficient detail to properly advise the county authorities required to review the petition of the petitioner's case. Any allegation of change in conditions as justification for the action sought shall be supported in the petition by precise description of such change, and any allegation of error shall be so supported in similar detail and as further required by Section 2-356.(j) of the Baltimore County Code (BCC). If the petition filed is not a documented conditional use request, then this brief cannot document a proposed use without filing a complete documented petition, pursuant to Section 2-356.(l), BCC.

Attorney MISSING FROM APPLICATION PACK.

4. Four (4) xerox copies each of that part of the appropriate official 1" = 200' and 1" = 1,000' scale zoning maps, with the scaled outline of the property to be reclassified.

5. The appropriate filing fee and sign posting fee should accompany the petition request. An advertising form must be submitted; advertising costs will be billed by the appropriate newspaper and should be paid as soon as possible. Opinions may not be issued until all such costs are paid.

WHATEVER 2 PARCELS NOT CONTIGUOUS 500 EA ?

6. Fourteen (14) copies of a site plan, the boundaries and location of which have been certified (sealed) by a registered surveyor or professional (civil) engineer. The site plan shall include all applicable items on the attached checklist for reclassification petitions.

plan sheet 1 of 1

R-01-455

Put RC 5 on existing RC 5 lot remainder

RECLASSIFICATION PETITIONS - CHECKLIST FOR SITE PLANS

* 1. North arrow (indicating the direction of north). Scale of drawing (engineer's scale).

* 2. Title plan: "Undocumented Plan to Accompany Reclassification Petition" or "Documented Plan to Accompany Reclassification Petition" (whichever applies). Include name, address, telephone number, and signed certification seal of engineer or surveyor preparing the plan.

* 3. Election district, councilmanic district, and whether or not the property is located in the Chesapeake Bay Critical Area (CBCA). Note on the plan that the site is or is not in a 100 year floodplain. Note on the plan if the site is within a moratorium area or in an area where failure of the basic services maps currently exists per Section 4A02 (BCZR). Identify the nature of the moratorium area or basic service failure. Any zoning variance requests from a failed basic services map is a "special variance" requiring additional fees and information. If this is to be requested, contact Zoning Review (410-887-3391) for additional information before filing the petition.

* 4. Dimensions of the property TO BE RECLASSIFIED (including bearings). Parcel under petition should be in bold outline. If separate areas within the area of reclassification require individual zoning hearings, these must be shown on all separate bearings and distances and individually described as required on guide sheet (#2).

* 5. Relation of tract in question to additional property owned and ownership of all adjacent properties, including the adjacent public roads.

* 6. Area of property to be reclassified (acres or square feet). If separate areas in reclassification require zoning hearings, these areas must be shown also.

* 7. Distance from property line (corner) to nearest intersecting street or county road and a scaled vicinity sketch, clearly outlining the area of the petition request.

* 8. Existing and proposed zoning of the property under petition and adjoining properties.

9. Uses, locations, coverage, floor areas, heights (including engineered scaled and dimensioned elevation drawings), dimensions, character and exterior materials of all proposed and existing structures to be retained. Also, all existing structures to be removed must be indicated.

10. Location, use, and orientation of all principal building(s) within a distance of 200 feet from each joint side property line. Distance from said buildings to centerline of street must be shown in order to determine street setback line of proposed building(s) on the subject site.

11. Hours of operation, maximum number of employees, and maximum levels of emanations (including sound and other vibrations, dust, odors, gases, light, and heat). In cases where method of operation is not obvious, an explanation of same must be provided (i.e., proposed nursery school should include days and hours of operation, maximum number of teachers and students, method of transportation, etc.).

12. Existing and proposed public and quasi-public facilities on, and adjacent to, the site, including storm drain systems, water lines, sewerage, streets and drives, and railroad sidings. In the event public water and/or sewer do not exist, location of the private system must be indicated.

7. DOCUMENTED --- If the petition includes a "documentation" which identifies a proposed use and development of the property, that documentation must include the following information:

   A. Seven (7) copies of an environmental impact statement, as defined in Section 101 of the BCZR, that concerns the proposed use of the property under petition and that has been completely prepared and certified (sealed) by a professional engineer or planner of appropriate qualifications.

   B. All information (items 1-22) on the attached checklist.

   C. If a precise building envelope is used in lieu of the exact positioning of the building(s) on the site plan, the proposed building(s) floor plan and elevation, including character and exterior materials, must be shown elsewhere on the site plan or on attached plans together with other documentation required in the aforementioned checklist. Said envelope may be larger than the actual proposed building, but must be precise enough in size and location to allow for a complete functional site layout, including but not necessarily limited to: entrances, driveways, parking and loading facilities, paved areas, proposed landscaping, screening, and major vegetation to be retained, etc. If an envelope is used, the envelope must meet all bulk and parking requirements or variances must be included in the petition.

   D. No such petition may be accepted for filing unless it complies with these rules of practice and procedure, and all other pertinent zoning laws and regulations. These include the informational requirements of the current zoning public hearing checklists, which are required for determination of zoning compliance.

* 8. OPEN --- The petitioner may choose to submit "open" plans that do not show any proposed use of the property under petition, regardless of any requirement in these rules to the contrary. If an intended use is not indicated, the site plans must indicate only items 1-8 on the attached checklist. (Also, no existing buildings or uses can be shown on this "open" plan.)

ZONING ADVISORY COMMITTEE AGENDA
DISTRIBUTION MEETING OF MAY 14, 1999

* 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 (Sophia Jennings)
\# PDM, Zoning Review Work File (Gwendolyn Stephens)
* PDM, Code Enforcement (Helene Kehring)
* PDM, Building Inspection (Karen Hopkins)
& PDM, Development Plans Review (Robert W. Bowling)
\# Planning Office (Jeffrey Long); *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. Robert Sauerwald); 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: Gwendolyn Stephens. If you have any questions regarding these zoning petitions, please contact either Sophia Jennings or Carl Richards at 410-887-3391 (FAX - 410-887-5708).

Revised 2/11/99

01 MAY 15 PM 2:02
COUNTY BOARD OF APPEALS

ZONING ADVISORY COMMITTEE
MEETING OF MAY 14, 2001

Case Number:	R-01-455
Item Number:	455
Hearing Date/Time:	Wednesday, June 6, 2001 10:00 a.m. Room 48, Old Court House
Legal Owner:	Michael James Lynch, DVM et al
Contract Purchaser:	N/A
Location:	N/S Sweet Air Road E of Sunburst Road
Existing Zoning:	R.C.2
Proposed Zoning:	R.C.5
Area:	3.22 acres
District:	10th Election District 6th Councilmanic District
Attorney:	Howard L Alderman, Jr., Esquire
Miscellaneous:	Previous Zoning Case #99-73-SPHXA * Current Zoning Case #R -01-455

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: May 7, 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-01-455
Legal Owner: Michael James Lynch, DVM et al
Contract Purchaser: N/A
Address: 3410 Sweet Air Road
Description: N/S Sweet Air Road E of Sunburst Road
10th Election District; 6th 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 2/2/01 AND BY RESOLUTION NO. 24-01 OF THE BALTIMORE COUNTY COUNCIL DATED 2/23/01 (ATTACHED). PURSUANT TO SECTION 2-356(I) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE OF 6/6/01. 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:gdz

ZONING ADVISORY COMMITTEE
MEETING OF MAY 14, 2001

Must be rescheduled — Was not advertised — should have been advertised by 5/22/01. scj

Case Number:	R-01-455
Item Number:	455
Hearing Date/Time:	~~Wednesday, June 6, 2001 10:00 a.m. Room 48,~~ Old Court House
Legal Owner:	Michael James Lynch, DVM et al
Contract Purchaser:	N/A
Location:	N/S Sweet Air Road E of Sunburst Road
Existing Zoning:	R.C.2
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Area:	3.22 acres
District:	10th Election District 6th Councilmanic District
Attorney:	Howard L Alderman, Jr., Esquire
Miscellaneous:	Previous Zoning Case #99-73-SPHXA Current Zoning Case #R -01-455

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TO: Baltimore County Zoning Advisory Committee

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Zoning Review Supervisor (410-887-3391)

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WCR:gdz

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

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

DATE: March 5, 2001

FROM : Kathleen C. Bianco
County Board of Appeals

SUBJECT: Out-of-Cycle Exemption / Request for Reclassification –
Property located at 4501 Sweet Air Road, Sixth Councilmanic District
Petition filed by: Lynch Family, Owners
Approval by County Council February 20, 2001
Date for Hearing before the Board – 5/03/2001 at 10:00 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 Thursday, May 3, 2001 at 10:00 a.m. in Room 49, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its February 20, 2001 meeting (a copy of Resolution 24-01 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 your office and notices sent to the appropriate parties reflecting the hearing date of May 3, 2001.

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

Attachment

cc: Carl Richards, Jr. /PDM
Jeffrey Long /Planning
Office of People's Counsel
The Honorable Joseph Bartenfelder
Baltimore County Council /6th District

Carl: As we discussed last Friday, this would normally have gone to Sophie. Please call me with the case number as soon as one has been assigned, and also forward a copy of the Notice of Hearing for our file and information.

Thanks

Kathi

FILE

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

February 23, 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 24-01 approving the Planning Board's certification that the zoning reclassification petition filed by the Lynch family for the property located at 4501 Sweet Air Road and situated in the Sixth 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 February 20, 2001 meeting and is being forwarded to you for appropriate action.

Sincerely,

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

TJP:dp
Enclosure

r02401.trn.wpd

01FEB 23 PM 4:00

RECEIVED
COUNTY BOARD OF APPEALS

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 4

Resolution No. 24-01

Mr. Joseph Bartenfelder, Councilman

By the County Council, February 20, 2001

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by the Lynch family for the property located at 4501 Sweet Air Road and situated in the Sixth 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 February 1, 2001, has certified that early action on the Petition for Zoning Reclassification filed by the Lynch family, 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 the Lynch family, 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.

r02401.bil

READ AND PASSED this 20th day of February, 2001.

BY ORDER

Thomas J. Peddicord, Jr.

Thomas J. Peddicord, Jr.
Secretary

ITEM: Res. 24-01

LYNCH PROPERTY /MICHAEL JAMES LYNCH
DVM et al -- PETITIONER

R-01-455
Out of Cycle, 2001

N/S SWEET AIR ROAD, E OF SUNBURST ROAD

10th Election District
6th Councilmanic District

From: R.C. 2 to R.C. 5 as shown on Undocumented Plan to Accompany Petition
3.22 acres +/-

February 20, 2001 — Petition for Reclassification filed by Howard L. Alderman, Jr. Esquire, on behalf of Jarvis Steel & Lumber Co., Inc. /approved by County Council at its 2/20/01 meeting

---

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

Mitchell J. Kellman — Representative to be Contacted
DMW, Inc.
200 E. Pennsylvania Avenue
Towson, MD 21286

Michael James Lunch, DVM et al — Petitioner
3410 Sweet Air Road
Phoenix, MD 21131

Bob Haines
~~Donald Krempel, Exec. Director~~
~~Division of Physical Facilities~~
Baltimore County Board of Education
Mail Stop #1102-J

Board of Education
-J

For Protestants:
J. Carroll Holzer

People's Counsel for Baltimore County

Pat Keller, Director /Planning
Jeffrey Long /Planning
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Docket Clerk /PDM
Arnold Jablon /PDM
County Attorney

#R-01-455
Out of Cycle 2001

RE: Lynch Property
Michael James Lynch, DVM et al

Reclassification from: R.C. 2 to R.C. 5

Holding Wednesday, June 6, 2001 at 10:00 a.m. – hearing date in this matter. Notice of Assignment to be sent by PDM. CBA to receive copy when sent.

5/24/01 –T/C from S. Jennings, PDM – She learned this date that the advertising had not been done in this matter as required by statute; therefore June 6th could not go forward. Alternative date to be selected (suggested 7/26/01); she will contact counsel for Petitioner; advise of situation and get back to CBA.

-- T/C w/H. Alderman, Counsel for Petitioner; he is aware of situation; 7/26/01 is okay for him; however, it would have to be in the afternoon (court conflict in a.m.)

5/25/01 – T/C to S. Jennings; advised that 7/26/01 would be okay for H. Alderman; case to be assigned for Thursday, July 26, 2001 at 2:00 p.m. (NOTE LATE START); Notice of Assignment to be sent by PDM with FYI copy to CBA.

6/21/01 – Memo from Planning Director forwarding copy of report of the Office of Planning.

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.

7/23/01 – T/C in a.m. from Steven Preston, adjoining property owner, seeking postponement of 7/26/01 hearing to allow time for him to get an attorney; out of cycle reclassification petition – timeframe per BCC for hearing; hearing is 3 days away; postponement requested at this point would be on the record 7/26/01 or by agreement with Petitioner's counsel. Mr. Preston indicated that he will decide what he wants to do. (1-410-267-9875)

-- FAX from J. Carroll Holzer (FAX stamped 2:04 p.m.; CBA stamp 4:22 p.m.)– entering appearance on behalf of Steven Preston and the Long Green Valley Association, Inc.; also requesting postponement of 7/26/01 hearing to prepare for this case.

7/24/01 – FAX from Howard L. Alderman, Jr., Esquire – opposing postponement of 7/26/01 hearing for reasons as stated. (Original letter received 7/26/01.)

7/26/01 – Board convened for hearing (Marks, Irish, Worrall). On the record, Mr. Holzer requested postponement per his written request; ultimately Mr. Alderman withdrew opposition to same. Case was therefore opened and continued on the record. Tuesday, 8/21/01, was discussed as possible date (case scheduled for hearing on 8/21/01 & 8/22/01 – possible settlement). Upon further discussion with counsel, will schedule for Wednesday, August 22, 2001 at 10:00, as soon as definitely notified that scheduled case has been settled. In the event 8/22/01 does not open, alternate date will be held; letter to be sent to counsel regarding these dates. Notice of Assignment to be sent 8/16/01 with final hearing date.

8/02/01 – Letter to Counsel – holding 8/22/01 on Board's docket for hearing this matter; also holding 10/18/01 as backup should 8/22/01 fall; awaiting positive confirmation that 8/22/01 is available and Notice to then be sent.

8/16/01 – Notice of Assignment sent this date to the following: case assigned for hearing on Wednesday, August 22, 2001 at 11:00 a.m.; also holding Thursday, October 18, 2001 for day #2 if needed.

Howard L. Alderman, Jr., Esquire
Michael James Lynch, DVM et al
Mitchell J. Kellman /DMW, Inc.
Steve Preston and Long Green Valley Assn
c/o J. Carroll Holzer, Esquire
J. Carroll Holzer, Esquire
Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

8/22/01 – Board convened for hearing (Wescott, Irish, Marks); completed day #1; continued to 10/18/01 for day #2 (as assigned and noted on original Notice of Assignment).

8/23/01 – Letter to counsel and all listed – confirming that Board will convene on 10/18/01 for day #2 per original notice of assignment.

10/16/01 – Received request for postponement via FAX from C. Holzer – conflict with referendum issue cheduled for 10/18/01 in Harford County Circuit Court (copy of assignment notice provided).

10/17/01 – Postponement to be granted; H. Alderman is aware of request; advised by voice mail that PP would be granted and attempting to reassign to 11/01/01; advised P. Zimmerman of same; T/C to C. Holzer; advised of same. Messrs. Holzer and Zimmerman are available on 11/01/01; L. Wescott also available 11/01/01; attempting to confirm availability of H. Alderman; R. Irish; and C. Marks prior to reassignment.

-- Notice of PP sent to parties with indication that this matter will be reassigned promptly upon confirmation of date and availability of parties. Notice via FAX to counsel and hand-deliver to PC.

11/01/01 – Notice of Assignment /Day #2 sent to parties; earliest date available on the Board's docket at this time is still 2/14/02; no earlier dates have become available. Day #2 to be heard on Thursday, February 14, 2002 at 10:00 a.m. Copy to S.C.R.

2/06/02 – Letter from H. Alderman regarding 2/14/02 hearing – Petitioner's last witness, Jeff Long, is required to attend HO hearing early that morning; may not be here promptly at 10 a.m. but will be available as soon as possible thereafter. – FYI

2/07/02 – T/C to Mr. Alderman; advised that deliberation in another matter has been reassigned to 2/14/02 at 9:30 a.m.; therefore, the Lynch reclassification will most likely start later than 10 a.m. Also advised Mr. Zimmerman of this on 2/06/02. (Both Messrs. Alderman and Zimmerman plan to attend 9:30 deliberation on 2/14/02.)

2/14/02 – Day #2 concluded (S.C.R.); memos due from counsel on 3/25/02 (no reply memos to be filed to same); deliberation assigned for 4/16/02; notice to be sent.
- Notice of Deliberation sent to parties; assigned for Tuesday, April 16, 2002 at 9:00 a.m. (FYI copy to SCR).

3/25/02 – Protestants' Memorandum filed by J. Carroll Holzer, Esquire, on behalf of Stephen D. Preston, et al, Protestants.
-- Owner's Post Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of Petitioner.
-- People's Counsel's Memorandum filed by Office of People's Counsel.

3/27/02 – Copies of above memos to S.C.R.

4/16/02 – Deliberation concluded in this matter (S.C.R.); reclassification request DENIED; written opinion and 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:	Michael James Lynch, et al Case No.: R-01-455	
DATE:	April 15, 2002	
BOARD/PANEL:	Richard K. Irish Lawrence S. Wescott Charles L. Marks	RKI LSW CLM
RECORDED BY:	Theresa R. Shelton / Legal Secretary	

PURPOSE: To deliberate the proposed Reclassification from R.C. 2 to R.C. 5.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- The should be a map correction. Error occurred 26 years ago, if in fact, it was an error.
- The board does not see any emergency in changing the zoning or would the owner be denied any economic or reasonable use.
- Map planning is done every four years and the correct procedure should be followed to give everyone an opportunity for input and then ultimately the Councilman will have the final say with regards to the zoning once all parties are given the opportunity to speak.
- Piecemeal zoning – Courts frown upon this.
- Burden of proof was not met to justify the reclassification.
- Drawing of line (topography – ridge lines – natural features)
- Not enough evidence to conclude a mistake in the drawing – perhaps it was intentional to protect buffer
- the zoning is not totally inconsistent with what's there
- the property owners have had 6 opportunities to have the zoning changed in map corrections
- strong presumption that original zoning was correct

DECISIONS BY BOARD MEMBERS:

RKI- Burden of proof not met – Reclassification DENIED
LSW - Burden of proof not met – Reclassification DENIED
CLM- Burden of proof not met – Reclassification DENIED

FINAL DECISION: The Board of Appeals unanimously DENIED the Petition for Reclassification from R.C. 2 to R.C. 5 because the burden of proof was not met and there was not enough evidence presented to support or justify a reclassification.

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

RE: PETITION FOR RECLASSIFICATION Lynch Family Property, N/S Sweet Air Road, E of Sunburst Rd 10th Election District, 6th Councilmanic Legal Owner: Michael James Lynch, et al. Petitioners	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. R-01-455

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

RECEIVED
COUNTY BOARD OF APPEALS
01 JUL 26

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 26th day of July, 2001 a copy of the foregoing Entry of Appearance was hand-delivered to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

4/16

IN THE MATTER OF	*	BEFORE THE
Lynch Property, Michael J. Lynch, Owner	*	COUNTY BOARD OF APPEALS
N/s Sweet Air Rd., E of Sunburst Rd.	*	BALTIMORE COUNTY
6th Councilmanic District	*	CASE NO. R-01-455 (out of cycle, 2001)

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Thursday, February 14, 2002 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave., Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Wally Lippincott, Jr.
DEPRM

Address: County Courts Bldg
4th Floor
Towson, MD

02 FEB -8 AM 11:44

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 508 Washington Ave. Towson, 21286
410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals and bring any and all files and documents referenced in above cases. The Board requests the Sheriff to issue the summons set forth herein.

Lawrence S. Wilson
County Board of Appeals of
Baltimore County

Cost: $

Summoned: _____, 19

Not Served: _____, 19

Sheriff of Baltimore County
C:\Subpoenas\cba.sub

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
POST-HEARING MEMORANDUM

DATE: March 26, 2002

TO: L. Wescott
C. Marks
R. Irish

FROM: Kathi

SUBJECT: Case No. R-01-455 */Lynch Family Property; Michael James Lynch et al – Legal Owners/Petitioners* -- Memos
Deliberation Scheduled for Tuesday, April 16, 2002 at 9:00 a.m.

Attached for your review are the following:

1. Protestants' Memorandum filed by J. Carroll Holzer, Esquire, on behalf of Stephen D. Preston, Gary M. Elser and the Long Green Valley Association, Inc., Protestants;

2. Owner's Post-Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of Michael J. Lynch, et al, Petitioners; and

3. People's Counsel's Memorandum filed by Office of People's Counsel.

Public **deliberation** is scheduled for **Tuesday, April 16, 2002 at 9:00 a.m.**, to be followed by a 10 a.m. reclassification hearing for Chuck and Larry (to be opened and continued on the record) and an 11 a.m. undersized lot appeal, also for Chuck and Larry (Larry Stahl is the third panel member on the 10 and 11 a.m. cases). Rick is scheduled only for the deliberation.

If you have any questions, please call me.

Kathi

Kathi

Attachments (3)

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 14, 2001
Case No. R-01-455
(Previous Zoning Case No. 99-73-SPHXA)
Item No. 455
N/S Sweet Air Road; E of Sunburst Road

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

RWB:HJO:jrb

cc: File

ZAC-5-14-2001-ITEM 455-CASE R-01-455-6272001.doc

County Board of Appeals of Baltimore County

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

August 2, 2001

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

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

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

FILE

RE: *In the Matter of: Lynch Property* /Case No. R-01-455
Petition or Reclassification

Dear Counsel:

Pursuant to our recent conversations, this letter will confirm that the date of Wednesday, August 22, 2001 is being held on the Board's docket for hearing in the subject matter. As soon as I receive positive notification that August 22nd is available and no longer needed for the case presently scheduled for that date, I will issue a formal Notice of Assignment for Case No. R-01-455.

In the event that August 22nd ultimately is not available, I am also holding the date of Thursday, October 18, 2001, as a backup date.

Accordingly, within the next week or two, the date of hearing will be finalized and a Notice of Assignment sent. Should you have any questions, please call me at 410-887-3180. Thank you for your cooperation and patience in this matter.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

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

February 2, 2001

The Hon. S. G. Samuel Moxley
Chairman, Baltimore County Council
County Courthouse
Towson, MD 21204

Re: Certification on Reclassification Petition -
Property at 4501 Sweet Air Road (Lynch property)

Dear Councilman Moxley:

At a regularly scheduled meeting on February 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 Lynch family for zoning reclassification of the property at 4501 Sweet Air 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

RECEIVED
COUNTY BOARD OF APPEALS
01 FEB -6 AM 11:37

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
Mitchell J. Kellman, Petitioner's Representative

Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862

Date: January 24, 2000

To: Baltimore County Planning Board

From: Arnold F. 'Pat' Keller, III

Re: Exemption from Cyclical Procedure – Lynch Property (4501 Sweet Air 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,

Arnold F. 'Pat' Keller, III
Director

AFK/JL
Attachment

S:\DEVREV\lynchoutofcycle.doc

Printed with Soybean Ink
on Recycled Paper

January 23, 2001

Mr. Arnold F. "Pat" Keller, III
Director, Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD 21204

DMW

Daft•McCune•Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
http://www.dmw.com
410 296 3333
Fax 410 296 4705

A Team of Land Planners, Landscape Architects, Golf Course Architects, Engineers, Surveyors & Environmental Professionals

Re: Lynch Property
Out-of-Cycle Zoning Reclassification
Parcel 68, Map 44, Grid 3
4501 Sweet Air Road
Baldwin, MD
DMW Project No. 00097

Dear Mr. Keller:

Daft-McCune-Walker, Inc. (DMW) respectfully submits this letter for your consideration on behalf of the Lynch Family, owners of the above referenced property. Our intent is to rezone a portion of the property through the "out-of-cycle zoning process".

By background, the Lynch Property is bisected by Sweet Air Road, consists of 47.0 acres, and is currently zoned RC-2 and RC-5. The portion south of Sweet Air Road is zoned RC-2. The portion on the north side of the road is primarily zoned RC-5 with the exception of a narrow triangular shaped area which is zoned RC-2. That triangular area, which adjoins State property, consists of about 1.5 acres.

The property's zoning has been held intact since the enactment of Baltimore County Council Bill No. 98-75, which established the RC zones. It is apparent that when the 1976 Comprehensive Zoning Maps were adopted, the County's intent was to zone the State property RC-2 and the Lynch Property RC-5. This conclusion is based upon the 1-inch equals 1,000 feet zoning maps (1976 and current) which illustrate the RC-2/RC-5 zoning line atop of the common property line between the State and Lynch properties. Unfortunately, the 1-inch equals 200 feet zoning map, which is official, does not reflect the zoning line that is shown on the 1-inch equals 1,000-feet scale map. It is our opinion that because of the inconsistencies between the maps, there was a drafting error in 1976 that was never noticed.

We therefore ask that you consider the 1.5-acre area of the Lynch Property for out-of-cycle rezoning from RC-2 to RC-5. We previously met with Councilman Joseph Bartenfelder regarding this issue and he advised us that he would consult with you on this matter.

Thank you for your time and attention. Should you have any questions or require exhibits or additional information, please do not hesitate to contact me.

Sincerely,

Mitchell J. Kellman
Zoning Specialist

MJK/jm

cc: Mr. Jeff Long, Bureau Chief

HOLZER & LEE

LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

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

July 23, 2001
#7287

01 JUL 23 PM 4:

VIA FAX 410-887-3182
Kathleen Bianco, Administrator
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Ave.
Towson, MD 21204

Re: Case No. R-01-455
Petition for Reclassification, Lynch Property
Thursday, July 26, 2001

Dear Ms. Bianco:

I have just today met and been retained by Steve Preston and the Long Green Valley Association, Inc. in connection with the request for Reclassification for the above referenced property. Because I have not had the opportunity to review the County file and prepare to represent my clients in this case, I respectfully request that the matter be postponed and rescheduled at a time convenient for the parties and the Board. I will certainly cooperate with Mr. Alderman in obtaining a mutual date to hear this case.

Consequently, please enter my appearance on behalf of Steve Preston and the Long Green Valley Association, Inc. If you have any questions, please call me at 410-825-6961. As always, I appreciate your assistance and cooperation.

Very truly yours,

J. Carroll Holzer

JCH:clh
cc: Steve Preston
LGVA
Howard Alderman, Esq.
People's Counsel for Baltimore County

C:\My Documents\Letters\Bianco - Steve Preston.doc

DIARY AND WORK RECORD

HRS | NAME OR PROJ. | DESCRIPTION | TIME

Kathi

Steven Preston

410-267-9875

Rtd call 7/23/01

ADJOINING

Property Owner

seeking P.P. of

7/26 LYNCH

RECLASS HEARING

to give him time

to get an attorney.

Chuck

3/22 - 5/21

Reset to 6/06

then to 7/26/01

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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)

April 24, 2001

John,
If ok to call
Howard to bring in
money - Cal
4/24

VIA HAND DELIVERY
Mr. W. Carl Richards, Jr.
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

RE: *Out-of-Cycle Petition for Reclassification*
Michael James Lynch, DVM, et al, Petitioners/Owners
N/S Sweet Air Road, East of Sunburst Road

Dear Mr. Richards:

On behalf of the Petitioners in the above-referenced matter, I am pleased to provide to you an original and three (3) copies of a *Memorandum in Support of Petition for Reclassification.* It is my understanding that Mitchell Kellman of DMW has delivered to you previously the balance of the materials necessary for filing in this matter.

As to the hearing date on this out-of-cycle request, I should learn late today as to whether or not May 16, 2001 is available for trial before the County Board of Appeals. I will confer with the Board and let you know not later than tomorrow morning. Should you have any questions with respect to the Petition and accompanying materials, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/encl.): Michael J. Lynch, DVM
Mr. Stephen R. Smith
Mr. Mitchell Kellman

R-01-455

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)

July 24, 2001

01 JUL 26 PM 12:02
COUNTY BOARD OF APPEALS

VIA TELEFAX & REGULAR MAIL
Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
Old Courthouse, Suite 49
400 Washington Avenue
Towson, Maryland 21204

RE: Response to Request for Postponement
Case No. R-01-455
The Lynch Family Property, Petitioner

Dear Ms. Bianco:

I arrived at my office this morning and found a telefax copy of J. Carroll Holzer's letter to you of July 23, 2001, entering his appearance in the above-referenced matter and requesting a postponement of the hearing on the merits scheduled for **Thursday, July 26, 2001**. I also had a voice mail message from your office advising me of the written request as filed.

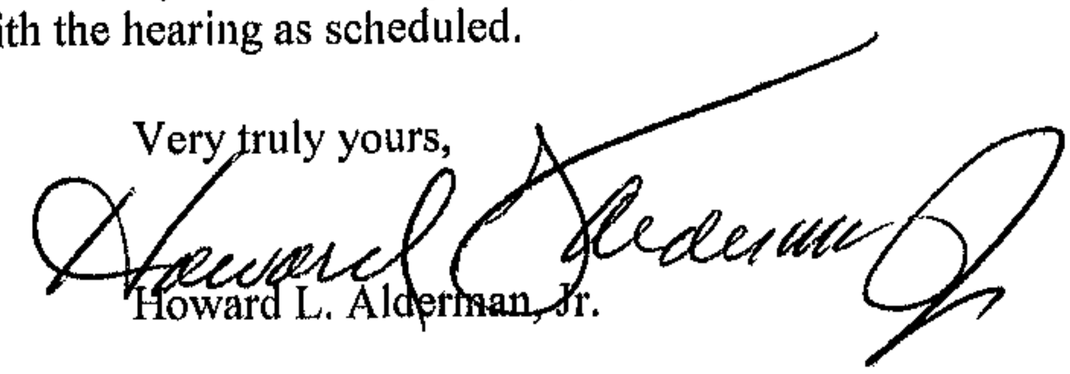
As you are aware, this Petition for Reclassification was exempted from the normal, cyclical reclassification process. Notice of the Petition has been published and the property has been posted for weeks with the required sign.

While I sympathize with Mr. Holzer's late meeting with his clients, I suggest that his clients have waited too long to contact him. My clients, whose hearing has been postponed previously because of a error in the Department of Permits and Development Management, should not be prejudiced as a result of the choice of Mr. Holzer's clients to wait until the last minute to retain counsel.

As I read Board Rules 9 and 2.b, no postponement request "shall be granted" within fifteen (15) days prior to the scheduled hearing except in **extraordinary circumstances** and for a reason satisfactory to the Board. The reasoning must be of an "unusual and extraordinary nature." Mr. Holzer's clients' request and reasoning fails in all respects.

Therefore, on behalf of the Petitioners, my clients, I respectfully request that the Board **deny** the request for postponement and continue with the hearing as scheduled.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
c: The Lynch Family
J. Carroll Holzer, Esquire
People's Counsel for Baltimore County

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE, 8TH FLOOR
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4525
410-321-0600
TELECOPIER 410-296-2801

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

DIRECT DIAL
410-321-4640

ELLIS LEVIN (1893-1960)

02 FEB -5 PM 12:10

February 5, 2002

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

Re: In the Matter of: Lynch Property/Case No.: R-01-455

Dear Mr. Wescott:

You will recall that the second hearing day on the above-referenced case was originally scheduled for October 18, 2001. On or about October 16, 2001, J. Carroll Holzer, Esquire, counsel to certain of the protestants in this case, wrote to the Board advising of a scheduling conflict that had just arisen based on a case that he had in the Circuit Court for Harford County and requesting a continuance in this matter. The Petitioners did not oppose the requested extension.

I have received a Notice of Assignment dated November 1, 2001 from the Board scheduling this matter for Thursday, February 14, 2002 at 10:00 a.m. As the Board may recall, the last witness to be called by the Petitioners in their case in chief is Jeffrey Long, an expert planner with the Baltimore County Office of Planning and Zoning. I have recently learned from Mr. Long that he is required to attend the Hearing Officer's Hearing on February 14, 2002 scheduled at 9:00 a.m. in case PDM 09-583 -- the Baltimore County Detention Center. Mr. Long anticipates that his appearance at that hearing will be concluded rapidly. However, there is a possibility that he may not be able to make it to this Board's hearing on the above-referenced case until approximately 11:00 a.m. on February 14th.

It is important to the Petitioners that this case be concluded on February 14, 2002. Therefore, I am requesting that the Board and all other counsel involved in this case remain flexible with their presentation of witnesses and evidence in this matter. As soon as Mr. Long is able to attend, I will call him promptly and I suspect that his testimony should not take more than one hour or one hour and fifteen minutes assuming a reasonable amount of cross examination.

I am writing to the Board to merely give advance notice of Mr. Long's required attendance at the referenced Hearing Officer's Hearing. Should the Board desire additional information or wish to discuss other alternatives (other than continuance), please do note hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/pal
cc: Michael J. Lynch, D.V.M.
Lawrence E. Schmidt, Zoning Commissioner
J. Carroll Holzer, Esquire
Peter Max Zimmerman, People's Counsel
Mr. Jeffrey Long
Mr. Steven R. Smith
Mr. Mitchell Kellman
G:\Clients\Lynch Family\wescott-l.ltr-13695-1.wpd

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)

March 25, 2002

VIA HAND DELIVERY
Charles R. Marks, Chairman
County Board of Appeals for Baltimore County
Old Courthouse, Suite 49
400 Washington Avenue
Towson, Maryland 21204

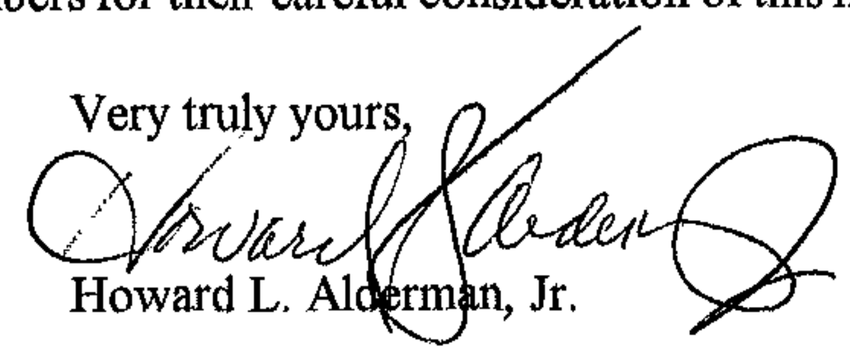
RE: The Lynch Family, Michael J. Lynch, D.V.M, Petitioners
Case No. R-01-455
Owner's-Post Hearing Memorandum

Dear Mr. Marks:

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.): The Lynch Family (2)
J. Carroll Holzer, Esquire
People's Counsel for Baltimore County
Mr. Stephen R. Smith

02 MAR 25 PM 2:22

COPY

ORIG TO BE RECORDED IN LAND RECORDS

LIMITED and DURABLE POWER OF ATTORNEY

MARTHA ANN DENKEVITZ, JEANNE MARIE GOUGH, MARJORIE JUNE GUTKOSKA, CATHERINE COLLEEN HALL, MARY AGNES KISSH, WILLIAM ALTON LYNCH, JR., JOHN LEONARD LYNCH, THERESE DIANE MILLER, DOROTHY ELAINE SURINA, and MICHAEL J. LYNCH, DVM, the undersigned, being all the heirs/owners of the Lynch Family property on Sweet Air Road, do hereby execute this Limited and Durable Power of Attorney with the intention that the attorney-in-fact hereinafter named shall be able to act in our respective places for the purposes set forth herein.

SECTION 1. Designation of Attorney.

1.01. **MICHAEL JAMES LYNCH, DVM** is hereby designated and appointed as the attorney-in-fact to act for the undersigned, in their respective names and in their place as provided and limited herein and by his signature below he accepts such designation and appointment.

SECTION 2. Effective Date of Power of Attorney.

2.01. This Limited Power of Attorney shall be effective as of the date of its execution.

2.02. This Limited Power of Attorney shall not be affected by the disability of any of the undersigned, it being the intention that the designated attorney-in-fact shall continue to act as such even though one or more of the undersigned may not be competent to ratify the actions of said attorney-in-fact in connection with the limited powers granted hereby.

SECTION 3. Limited Powers.

3.01. Each of the undersigned own or are entitled to own a part interest in property located in Baltimore County, Maryland, located and known as 4501 Sweet Air Road (the "Property") which has been proposed for zoning reclassification and/or development. The attorney-in-fact designated herein shall have all of the powers, discretions, elections, and authorities granted by statute, common law, and under any rule of court necessary to comply with any applications, petitions, appeals and the like to be executed in connection with the zoning reclassification and/or development of the Property.

3.02. The attorney-in-fact designated herein may execute, seal, acknowledge, and deliver any documents, applications, petitions and the like as may be necessary, advisable or expedient with respect to the zoning reclassification and/or development of the Property.

R-01-455

SECTION 4. Ratification.

4.01. Each signatory hereto, hereby ratifies, allows, acknowledges, and holds firm and valid all acts heretofore or hereafter taken by the attorney-in-fact designated herein by virtue of these presents in connection with the Property.

SECTION 5. Execution on Separate Pages.

5.01. Each of the parties hereto agrees to execute and confirm this Limited and Durable Power of Attorney by signing their name on a separate page, each of which shall be witnessed and notarized.

5.02. This Limited and Durable Power of Attorney consists of a total of twelve (12) pages.

AS WITNESS our respective hands and seal this 20th day of April 2001, 2001.

[*signatures and notarial affidavits on the following ten (10) pages*]

WITNESS:

Shirley M. Myers

Martha Ann Denkevitz

Martha Ann Denkevitz

STATE OF Maryland, Baltimore COUNTY, TO WIT:

I HEREBY CERTIFY that on this 20 day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Martha Ann Denkevitz, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Notary Public

My Commission expires: 01/01/03

WITNESS:

Rula M. Rowe

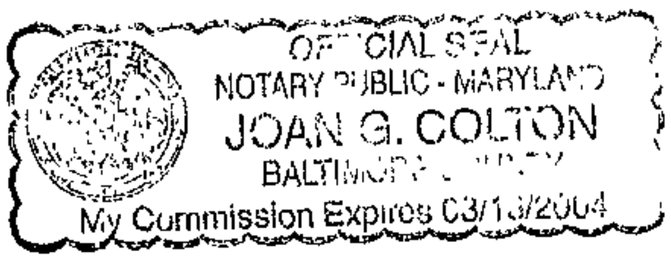
Jeanne Marie Gough

Jeanne Marie Gough

STATE OF Maryland, Baltimore COUNTY, TO WIT:

I HEREBY CERTIFY that on this 20 day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Jeanne Marie Gough, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.



Joan G. Colton

Notary Public

My Commission expires:

WITNESS:

Marjorie June Gutkoska

STATE OF Maryland, Baltimore COUNTY, TO WIT:

I HEREBY CERTIFY that on this 20th day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Marjorie June Gutkoska, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Notary Public

My Commission expires: 10/6/02

WITNESS:

Cindy Street

Catherine Colleen Hall

Catherine Colleen Hall

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY that on this 23 day of APRIL, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Catherine Colleen Hall, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

ERICA L. GRAZIOSI
NOTARY PUBLIC, STATE OF MARYLAND
MY COMMISSION EXPIRES: 8/15/04

Erica L. Graziosi

Notary Public

My Commission expires:

WITNESS:

Shirley M. Myers

Mary Agnes Kissh

Mary Agnes Kissh

STATE OF MD, Baltimore COUNTY, TO WIT:

I HEREBY CERTIFY that on this 20 day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Mary Agnes Kissh, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Notary Public

My Commission expires: 01\01\03

WITNESS:

Grace Z. Campbell

Dorothy Elaine Surina
aka Elaine L. Surina
Dorothy Elaine Surina

STATE OF N.J., Burlington COUNTY, TO WIT:

I HEREBY CERTIFY that on this 24 day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Dorothy Elaine Surina, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Grace Z. Campbell
Notary Public

My Commission expires:

GRACE Z. CAMPBELL
NOTARY PUBLIC OF NEW JERSEY
My Commission Exp. Sept. 23, 2003

WITNESS:

Linda J. Medlar

Therese Diane Miller

Therese Diane Miller

STATE OF Maryland, Carroll COUNTY, TO WIT:

I HEREBY CERTIFY that on this 23 day of april, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Therese Diane Miller, who represented herself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that she affixed her hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Notary Public

My Commission expires: 2-01-03

WITNESS:

Jeanette P. McCorkey

John Leonard Lynch

John Leonard Lynch

STATE OF Maryland, Baltimore COUNTY, TO WIT:

I HEREBY CERTIFY that on this 24 day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared John Leonard Lynch, who represented himself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that he affixed his hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Sherry M. Myers

Notary Public

My Commission expires: March 1, 2003

WITNESS:

Jo Ann Swingler

William Alton Lynch Jr.

William Alton Lynch, Jr.

STATE OF Maryland, Harford COUNTY, TO WIT:

I HEREBY CERTIFY that on this 19 day of April, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared William Alton Lynch, Jr., who represented himself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that he affixed his hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Jo Ann Swingler

Notary Public

My Commission expires:

April 1, 2004

JO ANN SWINGLER
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires April 1, 2004

WITNESS:

Michael James Lynch, DVM

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY that on this 17TH day of APRIL, 2001, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Michael James Lynch, DVM, who represented himself to be one of the signatories to this Limited and Durable Power of Attorney named herein and that he affixed his hand and seal hereto the date and year first above written for the purposes herein contained.

AS WITNESS my Hand and Notarial Seal.

Notary Public

REATHA L. BURK
NOTARY PUBLIC
BALTIMORE CO., MD.

My Commission expires: 1/1/04

ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that the above instrument was prepared by me, an attorney admitted to practice before the Court of Appeals of Maryland, or under my supervision.

Howard L. Alderman, Jr.

AFTER RECORDATION, PLEASE RETURN TO:

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

(410) 321-0600
Fax: (410) 296-2801

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

DATE: July 9, 2002

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

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following cases have been finalized and the Board of Appeals is closing the copy of the appeal case files and returning the file and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
R-01-439	*R-01-439 Cycle I*	7-ELEVEN	BOWLEYS QUARTER
R-01-455	*R-01-455 Cycle I*	MICHAEL JAMES LYNCH	SWEET AIR ROAD
CR-02-154-A	*CR-02-154-A CYCLE II, 2001/2002 ITEM #2*	BETTY KREUZBURG	8919 REISTERSTOWN ROAD
CBA-02-110	*CIVIL CITATION 01-1870*	WAL-MART REAL ESTATE	2399 NORTH POINT BLVD.
02-223	*02-223*	NANCY WEHR NIERMANN	1210 BERWICK ROAD
02-236-SPHXA	*02-236-SPHXA*	1ST PREFERENCE MORTGAGE	9423 BELIAR ROAD
94-227-SPHA 94-228-SPHA	*94-227-SPHA* *94-228-SPHA*	GEORGE SEARS	22 CLYDE AVENUE
01-96-SPH	*01-96-SPH*	LORRAINE AND DANIEL NARANGO	2635 MEREDITH ROAD
CBA-92-204	*WESBURY SECTION 8 CRG DECISION*	WESTBURY SECTION 8	TARRAGON ROAD NW OF CARAWAY ROAD
01-156-A	*01-156-A*	STEFANIA MALKOWSKI	401 ARMSTRONG ROA
01-469-A	*01-469-A*	ANGELA AND THOMAS NEIMILLER	19 WAGON WHEEL COURT

Attachment: SUBJECT FILE(S) ATTACHED

Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

July ~~21~~ 20, 1999

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

RE: PETITIONS FOR SPECIAL HEARING & SPECIAL EXCEPTION
NE/S Sweet Air Road, 525' E of the c/l Jarrettsville Pike
(3422 Sweet Air Road)
10th Election District – 6th Councilmanic District
Lynch Family No. 2, L.L.P. - Petitioners
Case No. 99-372-SPHX

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been granted, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Dr. Michael J. Lynch
3410 Sweet Air Road, Phoenix, Md. 21131-1826

People's Counsel; Case File

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION – NE/S Sweet Air Road, 525' E of the c/l of Jarrettsville Pike (3422 Sweet Air Road) 10th Election District 6th Councilmanic District	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	Case No. 99-372-SPHX
Lynch Family No. 2, LLP Petitioners	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by the owners of the subject property, Lynch Family No. 2, L.L.P., by Michael J. Lynch, D.V.M., through their attorney, Howard L. Alderman, Jr., Esquire. The Petitioners request a special hearing to approve the following: 1) That the proposed uses and improvements can be located as shown on the site plan across the existing zoning division line; 2) that based on the pre-existing development and existing site constraints, the proposed parking layout meets the spirit and intent of Section 259.3.C.4 of the Baltimore County Zoning Regulations (B.C.Z.R.); and, 3) that the proposed principal and accessory improvements meet the minimum requirements of the underlying zones (B.L. and B.M.), and applicable district C.R. In the alternative, the Petitioners request approval of the plan as a modified plan, pursuant to Section 230.12.F of the B.C.Z.R. In addition to the special hearing request, the Petitioners request a special exception to permit an animal boarding place, Class A, in that portion of the subject property zoned B.L.-C.R., pursuant to Sections 230.12 and 259.3.B.1 of the B.C.Z.R. The proposed animal boarding facility (Class A) is permitted by right in that portion of the property zoned B.M.-C.R., pursuant to Section 233.2, in combination with a veterinarian's office, which is also permitted as of right, pursuant to Section 230.9 and 233.1 of the B.C.Z.R. All of the subject property and requested relief are more particularly shown on the site plan submitted with the Petition filed and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite hearing held for this case was Michael J. Lynch, D.V.M., and his wife, Mary Lee Lynch, D.V.M., principals of the Lynch Family No. 2, L.L.P., Petitioners/Property

Owners; Eugene F. Raphel, Professional Land Surveyor; and, Howard L. Alderman, Jr., Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence presented revealed that the subject property is roughly rectangular in shape, approximately 1.76 acres in area, split zoned B.M.-C.R. and B.L.-C.R. The property is located on Sweet Air Road, not far from the landmark intersection in the center of Jacksonville, known as Four Corners, which results from the convergence of Paper Mill Road, Sweet Air Road and Jarrettsville Pike. The split zoning of the property is unusual in that the zoning line does not divide the property into a front and rear section; rather the zone line runs parallel with the side property lines.

The Lynch family has long operated a veterinarian office in Jacksonville. In fact, their operation is currently located just down the street from the subject site on Sweet Air Road and is separated by one parcel which is owned by the Rittenhouse Fuel Company. The Lynch Family Veterinarian's office has been at this location for nearly 30 years. Approximately four (4) Veterinarians are employed at the facility in addition to approximately 20 staff employees. The nature of the practice is to treat primarily pets; mostly dogs, cats, and other domestic animals. In addition to out-patient treatment, some animals are hospitalized and kept overnight as needed.

Drs. Lynch propose acquiring the subject site and improving same so as to accommodate an enlarged operation. As shown on the site plan, a two-story building is proposed which will contain the veterinarians' offices and a place for the boarding of animals. There will also be an outside area to walk/exercise dogs and other animals which are boarded on the property. As the plan indicates, the proposed building will consist of 8,638 sq.ft. and straddle the zoning line. The parking lot will be entirely located in the B.L.-C.R. zoned portion of the site. The proposed building meets all floor area regulations and setback requirements, and the plan generally meets all parking requirements.

Special exception relief is requested to approve the animal boarding facility on that portion of the property zoned B.L.-C.R. As noted above, such use is permitted by right in the B.M.-C.R. portion of the property, as is the veterinarian's office. An Animal Boarding Place is defined in Section 101 of the B.C.Z.R. as "Any building, other structure or land, or any portion thereof, which is used, intended to be used, or arranged for the boarding, breeding, or other care of animals for profit, but

excluding a farm, kennel, pet shop, veterinarian's office or veterinarian." An Animal Boarding Place, Class A is defined as "An animal boarding place exclusively for dogs, cats, birds, and/or other household pets." Obviously, the overnight accommodation of animals proposed here fits in the Animal Boarding Place, Class A definition.

Based upon the testimony and evidence presented, I am persuaded that the Petition for Special Exception should be granted. There were no Protestants present and the Petitioners offered a series of letters and petitions from residents of the area supporting the proposed use. Apparently, the Lynch Family practice has long provided a benefit to the Jacksonville community at large and provides a welcome and needed service to residents of the area. Moreover, based upon the nature of the surrounding locale, it is clear that the proposed use will not be detrimental to the health, safety and general welfare of the neighborhood and should be approved. Thus, the Petition for Special Exception should and will be granted.

The grant of the requested special hearing relief is also appropriate. The unusual zoning of the property and placement of the zone line necessitates a finding that the proposed use and improvements can be located across that line and as more particularly shown on the plan. In my judgment, the location of the proposed building is entirely appropriate. Also, based upon pre-existing development in the area and existing site constraints, I am persuaded that the proposed parking layout meets the spirit and intent of the B.C.Z.R. and should be approved. The plan shows that 31 parking spaces will be provided, more than is required under the parking regulations. Additionally, the nature of the business supports a finding that the number of parking spaces is sufficient for the proposed operation.

Lastly, I am persuaded that the proposed use and improvements meet the minimum requirements of the underlying zone and district. In sum, the use proposed is clearly appropriate and there will be no detrimental impact caused by the development of this property as proposed. Moreover, the use will not be detrimental to surrounding or adjacent properties; to the contrary, it provides a needed and necessary service to the community.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth herein, the special hearing and special exception relief shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of July, 1999 that the Petition for Special Hearing to approve that, 1) the proposed uses and improvements can be located as shown on the site plan across the existing zoning division line; 2) that based on the pre-existing development and existing site constraints, the proposed parking layout meets the spirit and intent of Section 259.3.C.4 of the Baltimore County Zoning Regulations (B.C.Z.R.); and, 3) that the proposed principal and accessory improvements meet the minimum requirements of the underlying zones (B.L. and B.M.) and applicable district (C.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit an Animal Boarding Place, Class A, in that portion of the subject property zoned B.L.-C.R., pursuant to Sections 230.12 and 259.3.B.1 of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

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

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking alternative relief to approve the plan as a modified plan, pursuant to Section 230.12.F of the B.C.Z.R., be and is hereby DISMISSED AS MOOT.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

Date: April 19, 1999

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

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition (s):
Item No (s): 370, 372, and 375

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

Section Chief: Jeffrey W. Long

AFK/JL

C:\JEFF_L\370.doc

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Date: April 14, 1999

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS/gg

SUBJECT: Zoning Item #372

Lynch Property - 3422 Sweet Air Road

Zoning Advisory Committee Meeting of April 5, 1999

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

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

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

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

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

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

_X_ GWM: A water balance assessment will be required. A Water Appropriation Permit will be required. Contact GWM at extension 2762 for more information.

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

April 5, 1999

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

RE: Baltimore County
Item No. 372 (BR)
Special Exception
Jacksonville Veterinary Hospital
MD 145
Mile Post 5.78

Dear Ms. Stephens:

We have reviewed the referenced item and have no objection to approval of the Special Exception.

However, we will require the owner to obtain an access permit and as a minimum require the following:

- Auxiliary lane widening, from property corner to property corner, including standard 8" curb, gutter and sidewalk.

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

Very truly yours,

for Michael M. Lenhart, Acting Chief
Engineering Access Permits Division

LG

Petition for Special Hearing

review cp

to the Zoning Commissioner of Baltimore County

for the property located at 3422 Sweet Air Road

which is presently zoned BL-CR & BM-CR

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 for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

PMZ

SEE ATTACHMENT

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, 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):

Lynch Family No. 2 LLP

Name - Type or Print

Michael J Lynchson

Signature

Name - Type or Print

Signature

3410 Sweet Air Rd. 410-666-1390

Address — Telephone No.

Phoenix, MD 21131-1826

City — State — Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, P.A.

Company

115 W. Chesapeake Ave. Suite 113

Address — Telephone No.

Towson, MD 21204-4421

City — State — Zip Code

Representative to be Contacted:

E.F. Raphel & Associates

Name

205 Courtland Ave. 410-825-3908 day & evening

Address — Telephone No.

Towson, MD 21204

City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By AR Date 3/23/99

Case No. 99-373-SPHX

REV 9/15/98

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 3422 Sweet Air Road

which is presently zoned BL-CR & BM-CR

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 for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHMENT

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, 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

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, P.A.

Company

113 W. Chesapeake Ave. Suite 113

Address Telephone No.

Towson, MD 21204-4421

City State Zip Code

Legal Owner(s):

Lynch Family No. 2 LLP

Name - Type or Print

Michael J. Lynch Ony

Signature

Name - Type or Print

Signature

3410 Sweet Air Rd. 410-666-1390

Address Telephone No.

Phoenix, MD 21131-1826

City State Zip Code

Representative to be Contacted:

E.F. Raphel & Associates

Name

205 Courtland Ave. 410-825-3908 days & evening

Address Telephone No.

Towson, MD 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BK Date 3/29/99

Case No. 99-372-SPHX

REV 09/15/98

SPECIAL EXCEPTIONS $40513 40517B $259 CR OVERLAY

IN THE MATTER OF THE THE APPLICATION OF DONALD E. WARRENER, JR. - LEGAL OWNER /PETITIONER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S OLD YORK ROAD, 70' S OF W. LIBERTY RD (20227 OLD YORK RD) 7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 99-73-SPHXA

* * * * * * * * *

O P I N I O N

This case comes to the Board of Appeals for Baltimore County based on a November 16, 1998 decision of the Zoning Commissioner in which a Petition for Special Exception was denied; Special Hearing was granted; and variance request was dismissed as moot. Francis X. Borgerding, Jr., Esquire, represented the Petitioner /Appellant (hereinafter "Petitioner"); and J. Carroll Holzer, Esquire, represented several Protestants specified in the Notice of Appeal; and Peter Max Zimmerman, People's Counsel for Baltimore County, also appeared in the proceedings.

This case was conducted with public hearings covering three days. Opening statements were tendered by counsel. A considerable portion of that time was expended on precisely what portions of the Zoning Commissioner's Opinion and Order were actually being appealed. The Petitions recite as follows:

> Special Hearing Petition:
>
> ...amend the site plan as approved in zoning case #4483RX and 87-274-SPH and to approve a fuel service station area separate from the service garage and used car sales area and to confirm continuation of existing used car sales in light of overall changes proposed by this hearing request.
>
> Special Exception Petition:
>
> ...a special exception (with special hearing) to enlarge the approved service garage area and to allow the proposed service station and restrooms...; and...a special exception for a fuel service station use (currently abandoned).

Variance Petition:

> ...to allow a 0' landscape transition area (LTA) along the existing used car sales use area, surrounding the service garage area and along Old York Road in lieu of a 10 ft. LTA.

The Board reviewed the Petitions filed by Mr. Warrener. Cases come before this Board under Section 603 of the Baltimore County Charter. Such appeals are conducted on a "de novo" basis in their entirety, unless the petitioner has specifically crafted his/her appeal so that it is limited in nature. The Board reviewed the appeals and came to the conclusion that, since the Petitioners appealed "...to the County Board of Appeals from the decision rendered by the Zoning Commissioner in the above-captioned matter...," in general terms, the Board would hear the case on a de novo basis.

Mr. Paul Lee was accepted as a registered professional engineer, and he described the site plan [Petitioner's Exhibit #2] in considerable detail, along with its history and proposed uses. The requested site amendments and approval of a fuel service station separate from the service garage and used car area were his suggestions based on what he believed to be correct interpretations of the County zoning regulations. The specific property is located at 20227 Old York Road and is split-zoned B.L.-C.R. consisting of 2.24 acres (Business -Local, Commercial -Rural Overlay District); and R.C. 2 (Agricultural) consisting of .67 acre. Mr. Lee generally described the character of the area for northeastern Baltimore County using a 1,000 scale map. The property he described is close to the Maryland/Pennsylvania line in what admittedly is a low population density, rural area of Baltimore County.

The site is on the Old York Road which is a scenic route that

traverses north in Baltimore County. The site is just one property distant from the West Liberty Road intersection, just 5 miles southeast of the Maryland Line Village. From here, it runs into the jurisdiction of Harford County, where the closest commercial use in that County is located. The smaller portion of the site zoned R.C. 2 is in the rear of the property. The property lies adjacent to another lot zoned B.L.-C.R. located at the corner of Old York Road (Md Route 439) and West Liberty Road. These two properties are the only commercially zoned and used properties between the Maryland Line area and Shane in Harford County. The adjacent property incorporates a multi-family residence, carry-out restaurant, and seasonal snowball stand.

Based on testimony, without dispute, the area is essentially agricultural, with homes dotted about and a small church with a child care center a short distance up West Liberty Road. Mr. Lee stated that it was the Petitioner's intention to sell no more than 20 used cars at any one given time. The service station would consist of two pumps installed, one of which would be for diesel fuel. Additional space was being requested for restrooms to accommodate the customers. Mr. Lee explained the need for a variance from the landscape transition area. Mr. Lee also went into considerable detail relative to the zoning history of the site, referencing Petitioner's exhibit #12 (Note 14). In zoning case No. 4483-RX decided in 1958, the property had been reclassified from R.L. (Residential) to B.L. (Business local with a special exception being granted for a gasoline service station and service garage). An additional case arose in 1987 (Case No. 86-274-SPH) in which a service garage expansion and certain division line corrections were approved as well as permission

granted for the sale of used cars and trucks.

Mr. Borgerding had also submitted inquiries to the Department of Permits & Development Management concerning the Petitioner's continued usage of the premises for the sale of used vehicles (Petitioner's Exhibits No. 5A through E) under a method whereby for a $40.00 fee such permission from the Department of Permits & Development Management can be secured. After subsequent meetings with zoning officials, he had a site plan drawn up to comply with what he believed to be the spirit and intent of the Baltimore County Zoning Regulations (BCZR). The statutory requirements of BCZR Section 405 were individually reviewed by Mr. Borgerding with Mr. Lee, and other than for the landscape transition area being requested, Mr. Lee believed that the proposed fuel service station would be compatible within the immediate area of the subject site.

Mr. Lee explained the necessity for the variance request, stating that the property was unique by reason of its use and boundaries. The present configuration does not permit compliance with current County regulations. The property presently is restricted as to use and cannot be fully landscaped. The requested variance would cause no harm to anyone, in Mr. Lee's opinion.

On cross-examination, Mr. Lee acknowledged his involvement in this matter since 1998. He was not involved in the previous zoning cases. He also was not exceptionally familiar with the general area, but not aware of any particular agricultural concerns. He was aware of an Exxon station presently existing at the I-83 /Parkton interchange. He described the rear R.C. 2 area as being vacant, with vegetative growth. He described the adjoining property to the north as a crab house and residence. He acknowledged no curbs or gutters on the property and that no real

landscaping presently existed.

Mr. Donald Warrener also testified. He lives in Sparks, Maryland, and purchased the site from his father in August of 1997. He has lived in the area since 1980, describing the site and general characteristics of the area. The site is approximately 3 miles from I-83. The property consists of a service garage, used car lot, and a former gas station which was located on the site. He presently operates the service garage and used car/truck lot. He acknowledged the rural nature of the area and that Old York Road was a "busy" road. He also acknowledged the presence of some closed service stations, and those that were active in the immediate area. He described the adjoining property about which there is no dispute as to usage. He expressed his opinion as to the need factor for fuel sales and why he wanted to make such sales. Petitioner's Exhibit No. 6 (ID only) was submitted listing approximately 250 signatures of area residents who expressed an interest in purchasing gas at this site.

Mr. Warrener opined as to the cost that would be necessary to improve the property, if gasoline sales were permitted. Tanks currently existing in the ground had been found suitable by the Maryland Department of the Environment (MDE). He described what he considered to be the practical difficulty if variance relief was not granted. He cited the increases in traffic and population in the north County to justify the gasoline sales and what he considered changes in the overall character of the area. Petitioner's Exhibits No. 7, No. 8 and No. 9 were proffered by Mr. Borgerding.

On cross-examination, Mr. Warrener stated that he had lived in Sparks for about 8 years. He had not brought any business records

with him. An environmental study had been conducted as requested by the proposed financing bank as a requirement for the granting of any loan. He stated the tanks had been inspected by the MDE, but had no documentation. He stated he was not an environmental expert. The proposed gas pumps would be of the "gas and go" variety; and if the gas sales were approved, the existing two 8,000-gallon tanks for regular gas and the one 10,000-gallon tank for diesel fuel would be re-inspected by MDE. Additionally, the Federal and State regulations as applicable to fuel service stations would be satisfied.

Based on his understanding of the BCZR, Mr. Warrener did not believe any negative factors were present that would preclude the Board's favorable consideration of his request. He opined that the Southern Maryland Oil Company was very interested in fuel sales at the subject site. Petitioner's Exhibits No. 7 and No. 8 were admitted for purposes of ID only (later admitted into evidence during the testimony of Mr. William Grevey of the Southern Maryland Oil Company). Those documents related to a letter of intent from the Southern Maryland Oil Company and a gasoline feasibility report conducted by that organization.

Mr. Igor Svec also testified. He lives about one mile from the property and has lived in the general area since 1959. He expressed familiarity with the property and used car sales since the early 1960s when his father had purchased a Rambler from Spicer's Garage, who occupied the property at that time. The witness expressed considerable knowledge concerning gasoline and service stations in the north County during his employment with the Carroll Independent Fuel Company from 1984 - 1986. It was his responsibility to cover the area and determine favorable sites for

new gasoline service stations and to service those existing facilities. He opined as to a property known as Pittman's Store located next to the subject property, and of his belief that the gasoline uses were discontinued when new environmental protection standards came into effect on underground storage tanks.

He opined that in the late 1980s he was contacted by a Steve Lycone, who owned and operated a service station, sold used cars/ trucks and a garage from the property. The Carroll Independent Fuel Company had installed the underground tanks, and their gas was being sold on the premises. Mr. Lycone had leased the property from a Mr. Ralph Coxon, who had previously offered such services at the same location. Apparently in 1991, Mr. Lycone had undergone a divorce, and for financial reasons had to dispose of the property by way of a public auction. At that time, Mr. Donald E. Warrener, Sr., had purchased the property. He continued the service garage facility, used car /truck sales, and gas sales. Subsequently, the site was leased to his daughter and son-in-law. They apparently failed to operate the business in a proper manner, and Mr. Warrener took over control of the business. The senior Mr. Warrener was not enthused about gas sales, and his relationship with the Carroll Independent Fuel Company had not been pleasant and he voluntarily stopped the sale of gasoline in 1993. Mr. Svec opined that, to his knowledge, there were two 8,000-gallon tanks and one 10,000-gallon tank that had been installed by Carroll Independent Fuel Company. He believed the tanks complied with the 1980 EPA regulations and also current regulations, and could handle full truckloads of fuel which he considered essential for the successful operation of gasoline sales.

Mr. Svec cited a number of reasons why the Board should

consider the Petitioner's request:

- Area residents felt a need as ascertained from his former Carroll Oil Independent position;
- Area growth since 1990 (as to population and traffic);
- Customer convenience and consideration of existing stations; and
- Tax impact favorable to the State of Maryland.

Mr. John Sherwood was called as an expert witness for the Petitioner. He is President of the Sherwood Consultancy in Annapolis, Maryland. Based on his educational, work experience and professional criteria, he was accepted as an expert in market analysis after appropriate voir dire. He opined as to how he approaches a gas station "needs" assessment and the standard approaches he uses. These consisted of: (1) is there a need; (2) will sufficient business be generated to support the sales; and (3) the market area from which customer support will be forthcoming. He explained the nature of his reasoning, his investigation as to the site, current stations, abandoned stations, personal visual discovery and analysis while in the area, traveling the roadways; and that he had exchanged information with Bill Grevey of the Southern Maryland Oil Company. To that end, his report of August 4, 1999 was accepted as Petitioner's Exhibit No. 10. That report is a detailed and comprehensive "needs analysis for a gas station at the 439 Service Center - White Hall area of Baltimore County." That report recites the methodology employed by Mr. Sherwood as to trade and market delineation areas, traffic analysis, population and household trends, population and general gasoline retailing in the area, along with future potential.

Mr. Steve Smith was also called by the Petitioner. Mr. Smith essentially testified that he was a licensed car inspector and

serviced this portion of northern Baltimore County. All used cars and trucks must be inspected under Maryland law. He opined that he works on cars and light trucks at the location's service garage. During his employment, he stated that the site had always sold used cars/trucks as well as making repairs and issuing inspection certificates.

On day two of the public hearings, Mr. William Grevey, Glen Arm, Maryland, testified. Mr. Grevey is the General Manager for Southern Maryland Oil Company with 25 years in the field of gasoline sales. Over the years, he had functioned as marketing director seeking out locations for possible gasoline stations (Exxon and Citgo). At the present time, Southern Maryland Oil Company employs him to seek out potential new locations for gasoline sales. Mr. Grevey was well aware of the Petitioner's site. He believed that it had potential for fuel sales. In April 1999, Mr. Warrener met with a potential supplier and considerable aspects of fuel sales were explored. To that end, a "Starfires" report was generated to explore the potential for fuel sales at the location. Preparing the report, the President of Company Sales, John Bennett, visited the site, analyzed competition and also believed the site had potential.

Petitioner's Exhibit No. 7 was admitted evidencing a letter of intent Mr. Grevey sent to Mr. Warrener and Exhibit No. 8 was the "Starfires" report reflecting probable future gasoline sales at the site. Mr. Grevey opined that, based on his experience in the fuel business, a new garage service station would be viable in the area.

On cross-examination, Mr. Grevey acknowledged that he did not presently service any service stations in the general area but a territory 15 to 20 miles away. He stated he was not an expert on

reports, and uses same only for general conclusions and that he had not conducted any analysis of any other sites except by personal observation. He also explained that if sufficient volume was not present, the fuel company could evaluate their position after 90 days. The fuel company was prepared to invest $150,000.00 in the project. The dealer was responsible for tank maintenance. He stated that no study had been conducted within a one-mile radius area.

Mr. Borgerding produced a number of area residents who essentially proffered that they were in support of the proposed fuel service station and their belief of the need for such a facility. They also generally proffered that such a use, if granted, would not be adverse or harmful as to the health, safety or general welfare of residents of the immediate area. These residents concluded Petitioner's case-in-chief.

Mr. Zimmerman introduced People's Counsel Exhibit No. 1. Mrs. Barbara Grzinici, 2501 Meredith Road, testified in opposition to the proposal. She resides about 1/2 mile from the service station site and owns approximately 5-1/2 acres with her husband. People's Counsel Exhibit No. 2 represented a series of photographs taken by her husband on August 4, 1999 which were reviewed in detail under questioning by Mr. Zimmerman. In doing so, the neighborhood was described as rural /agricultural. Her concerns were in the areas of traffic and visibility, fire hazards due to the nearest fire station being over 5 miles away, an abundance of fuel service stations within a 5-mile radius, environmental concerns, aesthetic concerns, sight visibility, and an inconsistency with Smart Growth policies, the presence of a child care center in proximity to the site, along with the scenic route aspects of Old York Road, and a

lack of experience on the part of Mr. Warrener in the operation of a fuel service station.

Mr. William Hughey, Baltimore County Office of Planning, testified. He has 14 years of experience in planning and is the planner for the Third Councilmanic District. People's Counsel Exhibit No. 5 was admitted. Mr. Hughey was concerned relative to Section 405.3 and the criteria for new stations. He cited abandoned stations at West Liberty and Old York Roads, and Old York Road, among others. Also he stated that the Old York Road is considered a scenic route. People's Counsel Exhibit No. 6 was admitted. Mr. Hughey related how scenic routes are formulated by the Planning staff with the County Council ultimately adopting same. He stated that there are no strip commercial centers from the Maryland line to the Harford County line and that the two rural centers for the area are considered to be Hereford and Jarrettsville for the north County population. He opined that, while some small commercial villages exist (such as Parkton), it is in such areas that such stations should be planned and not along scenic routes because of what Planning considered to be "adverse impacts." It was his understanding that the County Council wanted to limit commercial development along scenic routes.

On cross-examination, Mr. Hughey acknowledged that the guidelines for scenic routes from the Planning Office are advisory only and acknowledged that several sections of individually and commercially zoned properties currently exist along Old York Road (Maryland 439) between I-83 and Harford County.

Mrs. Martha Hackett, West Liberty Road, White Hall, Maryland, also testified. She has lived in the area for 21 years and resides about one mile away from the subject property. She owns two acres

and has four children, drives considerably, and believes adequate gas service was already present in the immediate area. She had environmental concerns about drum storage in the R.C. 2 area, traffic issues and that the property would be out of character with the immediate neighborhood.

On day three of the hearings, Dr. Richard McQuaid spoke in opposition to the Petitioner's request. Dr. McQuaid has appeared on a number of occasions before the Board as President of the North County Coalition, which is an umbrella group for 22 community organizations in the north County. He reviewed People's Counsel Exhibits 10A and B which were maps of the general area. It was his belief, based on personal observation as a long-time resident of the area, that no used car/truck sales were made at the location during the period from 1985 through 1987. He was familiar with the chain of title and opined that during the Lycone ownership in January 1989, no used car sales had taken place. It was his belief that used car sales had resurfaced during the past two years and these greatly exceeded the 20-car limit imposed by Deputy Zoning Commissioner Jung.

People's Counsel Exhibit No. 13 was introduced to show past and present service stations in northern Baltimore County and the adjacent Pennsylvania section of I-83. Statistical data was submitted as People's Counsel Exhibit No. and No. 15. Dr. McQuaid commented on each as to his personal observations. Dr. McQuaid's opposition to the Petitioner's request mimicked much of that previously offered by the other Protestants:

- Limited number of residences within the 3 to 5 mile radius of the site
- No need due to proximity of other garage service stations

- Agricultural aspect of the north County area
- The nature of the scenic route
- Traffic concerns /sight distances
- Problems with the manner in which Mr. Warrener presently conducts his business
- Environmental concerns.

Based on cross-examination, it was obvious to the Board that Dr. McQuaid is not highly in favor of any such stations in the north County area, even if located within a rural village area and in general was opposed to an extension of commercial zoning in the north County area. Dr. McQuaid did acknowledge residential growth in the north County and Pennsylvania border areas of I-83, much of which was commuter traffic to the Hunt Valley and Baltimore City areas. These commuters, it was acknowledged, do have a need for gasoline sales, much of which would occur closer to their residences. Dr. McQuaid's testimony was not as precise nor as clear as the Board would have preferred relative to the market analysis he had prepared or the reasons why the acknowledged closed gasoline stations had been abandoned. The question of the barrels stored on the R.C. 2 portion of the property was not definitively resolved as to their removal.

Mr. John Sherwood was recalled by Mr. Borgerding in rebuttal to Dr. McQuaid's testimony and reinforced his belief that his market analysis determined that a need existed and related population figures to prove his point.

On cross-examination by Mr. Zimmerman, he was not deterred from his previous findings.

A public deliberation of this case occurred on December 8, 1999. The first question the Board was compelled to address was

one of the application in Sections 405.3 and 405.7B of the BCZR. These recite as follows:

> 405.3 In addition to the findings required under Section 502.1, the Zoning Commissioner, prior to granting any special exception for a fuel service station, shall consider the presence of abandoned fuel service stations in the vicinity of the proposed site. A finding by the Zoning Commissioner of the presence of one abandoned fuel service station, as defined in Section 405.7, within a one-half-mile radius, or two such stations within a one-mile radius of the proposed fuel service station establishes that there is no need for the proposed use, unless rebutted to the Zoning Commissioner's satisfaction by market date.
>
> 405.7B. Notice of presumption of abandonment. Whenever the owner or agent of any fuel service station has ceased or terminated the use of the premises as a fuel service station, the owner or agent shall notify the Director of Permits and Development Management within 30 days after the termination. Notwithstanding the failure of the owner to notify the Director, any fuel service station which has not been in actual and continuous operation as a station for a period of 12 consecutive months shall be presumed to be abandoned and right to resume the use is thereby terminated. For purposes of this section, "continuous operation" shall mean operation as a fuel service station at least eight hours per day, five days per week.

Was there an abandoned fuel service station within a 1/2-mile radius of the subject property; or two such stations within a 1-mile radius of the site? If so, there is a presumption that no present need exists for a fuel service station and the law dictates that the Petition be denied.

In this case, sufficient testimony and evidence was produced that established that there was at least one abandoned fuel service station within 1/2 mile of the subject property. Indeed, the Petitioner did not dispute this condition, and went into considerable detail by employing Mr. John Sherwood of the Sherwood Consultancy to establish a "need" factor (Petitioner's Exhibit No. 10). The question of "need" becomes a focal point for the Board to assess and finally determine based on the testimony and evidence

produced during the three public hearing days.

Mr. Paul Lee, acknowledged as an expert professional engineer, testified concerning the property, proposed changes, and what he concluded to be the compatibility of the proposed fuel service station as related to the surrounding area. He disagreed that the proposed use was not in character with the area suggested by the comments made by the Baltimore County Planning Office (People's Counsel Exhibit No. 3).

Mr. Donald Warrener expressed his thoughts concerning the "need" factor. This was based on his residency in the general area, discussions with auto repair customers, and a petition executed by approximately 248 residents of the north County area. He recited his observations of population increases in the area of the site in recent years and potential gas suppliers coming to him with various proposals for his consideration to sell gasoline fuel at the location (Petitioner's Exhibits No. 7 and No. 8). To bolster his belief, documents from the Southern Oil Company were produced consisting of a Letter of Intent and feasibility report for gas fuel stations conducted by the Southern Maryland Oil Company.

Mr. Igor Svec, a resident located 1-1/2 miles from the site, opined concerning his experience as an employee of the Carroll Independent Fuel Company, his seeking out potential fuel service stations, limited to the years 1984-1986. He provided a history of past gasoline service uses in the area and on the subject site. While Mr. Svec was a very credible witness concerning the history of gasoline sales in the area and the use of the site for a substantial number of years, his analysis of the "need" factor was similar to that of Mr. Warrener; that is, "need" based on (1)

observations made to him by area residents; (2) population increases; (3) traffic development in the area; (4) inconvenience to other existing sites; (5) lack of existing facilities; and (6) increased tax revenues presently flowing from Maryland residents in the area to Pennsylvania across the Maryland /Pennsylvania state line.

Mr. William Grevey also testified as to his "need" observations. His experience in gasoline sales was much broader than that of Mr. Svec with over 25 years of experience as marketing manager of Southern Maryland Fuel Company and gasoline sales. He was also quite familiar with the site, believed it had great potential for fuel service sales and offered documentation he opined was expressive of the market potential for the Warrener site. A Texaco /Starfires report (Petitioner's Exhibit No. 8) was discussed concerning the appropriateness of the property for gasoline fuel service sales. Letters of Intent (Petitioner's No. 7) and the Starfires report were discussed and admitted into evidence. He also concluded a "need" was present based on his analysis of the "Starfires" report.

The Board believes that the most compelling "need" witness for the Petitioner was Mr. John R. Sherwood III, President of Sherwood Consultancy. After voir dire, Mr. Sherwood was accepted as an expert in market analysis which included fuel service station needs analysis. Mr. Sherwood testified at considerable length concerning his detailed analysis and study. The Board acknowledges the scope and breadth of the report as it approaches the demographics, traffic, primary and target areas, the function of the detailed report was to establish the "need" factor.

As it is with any expert testimony and market report analysis,

the Board is required to give it a superior weight factor, but in the final analysis, the Board members bring their own experiences and value judgements in determining the "need" factor, and these may vary depending on the totality of the testimony and evidence produced. The Petitioner produced several residents of the area who all testified, individually, as to their "need" observations. While the Protestants produced several witnesses in opposition to the proposed changes, the "need" issue was more specifically addressed by Mr. William Hughey, County area planner, and Dr. Richard McQuaid. Mr. Hughey offered portions of the Master Plan for 1989-2000 and what he deemed to be inconsistencies with the addition of gas sales at the subject location, the scenic corridor aspect of York Road, and availability of existing gas stations considered more than adequate for the area.

Dr. McQuaid's testimony was at times somewhat rambling and argumentative. However, the Board recognizes the depth of experience the doctor has in his area of residency and tenure as a member and officer of the Maryland Line Community Association. There is no doubt in the Board's overall consensus that the local community associations and umbrella associations are opposed to significant change in the north County caused by population shifts, now considered "bedroom" communities emerging in north Baltimore County and southern Pennsylvania /Maryland line along I-83. For the most part, such housing consists of larger single-family dwellings accompanied by substantially larger lots than are present in the southern portion of the County.

The Board also recognizes that change is inevitable. However, Dr. McQuaid's testimony was of value in the Board's assessment of the "need" issue comparing the ZIP Code demographics, the various

aerial and zoning maps offered into evidence, the number of active gas stations in proximity to the site (nine active within 3 to 7 miles of the Warrener site, and 11 abandoned stations, including the subject location and the adjoining commercial corner). The Board members reviewed the "need" evidence on an individual basis. Two members, Mr. Marks and Mr. Wescott, did not believe that the "need" factor had been established. Ms. Barranger dissented. The majority considered the large number of gas service stations that have existed through the years and had "abandoned" their operations. Testimony clearly reflected a prior service station directly adjacent to the Warrener property that had been discontinued. Such was also the case with several others that had existed in proximity. Even as to the existing site, gas sales had been prevalent on an "on again /off again" basis clearly closing in 1993. While various reasons were cited as to the abandonment issue (notably inability to satisfy environmental legislation), the reason cited by Mr. Svec was a deteriorating relationship between Carroll Independent Fuel Company and Mr. Warrener, Sr.

Based on the totality of testimony taken, the Board finds that such a reason would not, in and of itself, be sufficient enough to let that factor discourage a profitable commodity being offered in the form of gas sales, particularly when Mr. Svec and Mr. Grevey testified that other suppliers were interested in such sales at the site and saw great opportunities. Additionally, based on a number of other cases which have involved the Board concerning the "need" issue for gasoline sales, the Board has observed that such stations thrive and prosper if the gasoline "need" factor is coupled with customer demand for early morning and late afternoon commuter sales, where additional, limited food /necessity items can be

purchased while waiting for the gas to be pumped. The very limited snack service described by Mr. Warrener did not create any positive reaction on the Board in that such limited offerings would create substantial customer patronage at this location rather than travelling on to other stations that were, in essence, mini-marts with gas pump service.

Of key analysis, however, was Mr. Sherwood's report. While the Sherwood Report reflects a need for gasoline sales on Md. Route 439 to serve residents of this section of Northeast Baltimore County, and those who live east of I-83 and north of the White Hall area, as well as other Md 439 motorists between Harford County and I-83, the Board finds, as fact, that the number of current stations available are more than adequate to serve the needs of this rural community. The report provides data relative to Residential Development in the Northern part of Baltimore County. The report recites that, in the 8 years 1991-1998, 618 residential building permits were issued in RPD 301, or an average of 77 a year (page 5). This area encompasses both the East and the West of I-83. Based on the testimony and evidence, the Board has concluded that the actual market for potential gasoline sales lies to the East of I-83, since residents to the West would find stations more convenient traveling south on I-83, and the food type of service available at those locations would be more conducive for such motorists to utilize those facilities.

Likewise, less convincing is the small number of homes being constructed in the 301 area (618, 1991-1998, or an average of 77 a year), hardly, in this Board's opinion, significant enough to support an additional gasoline station in light of those already existing.

Additionally, the Board was not significantly impressed with the population increases in Regional Planning District 301. From 1990 to 1998 there had been an increase of 1,560 people, or 13.8 percent. While this percentage factor appears large, reconciling the figure with the area involved, the Board was not impressed with the potential created for gasoline sales by such numbers commensurate with the rural character of the area.

The Report established a primary market area with a radius of 2-1/2 miles, and a track area of 4 miles centered on the intersection of Old York Road and W. Liberty Road. Based upon testimony and demographics, the Board is not convinced that such an area would support such sales and that existing facilities are not, at the present time, adequate to serve the public needs. (Reference page 12.)

While the conclusions in Section VIII of the Report are interesting and self-supporting, the Board is not sufficiently convinced, based on the weight of the evidence, that such "need" exists as contemplated by the County Council in enacting legislation relative to same.

Having determined that no need exists, the Board was not required to address the special exception requirements of BCZR 502.1. However, from an argumentative position, the Board will do so, and also consider the implication of Maryland Court decisions. Unquestionably, the property, while situated in what is acknowledged as a rural /agricultural territory, has been zoned B.L.-C.R. (1.57 acres) and R.C. 2 (.67 acre) since 1987. In January 1987, Deputy Commissioner Jung approved correction of divisional lines between the service garage and service station, and accessory use for car sales office and display area for 20

vehicles subject to conditions specified in her Order. Efforts to change the zoning during the Comprehensive Zoning Map Process in 1987-1988 for B.R.-C.R. or M.L. zoning for the entire 2.24 acres did not bear fruit. Interestingly enough, the subject site and the next-door property are the only two parcels between the Maryland Line Village and Shane in Harford County approximately one mile away. Gasoline fuel sales are permitted in the B.L.-C.R. zone provided they satisfy the C.R. overlay requirements, Section 502.1 and the "impact" factor is satisfied as specified in Schultz v. Pritts, et al, 291 Md 1 (1981). The question of the C.R. overlay was not addressed by any of the witnesses for the Petitioners (BCZR 259). In assessing the C.R. requirements, the Board has determined that the proposed fuel gas service station must fail since the Petitioner has not met his burden of establishing that the C.R. criteria has been satisfied.

Significantly, the Board also finds that this failure violates the "spirit and intent" of the zoning regulations. As to the impact factor, the Board must be satisfied that the proposed use (sale of gasoline fuel) would be conducted without real detriment to the neighborhood, and would not adversely affect the public interests (Rockville Fuel and Feed Company v. Board of Appeals of the City of Gaithersburg, 257 Md 1983 (1970). The law presumes that every special exception use has some impacting factor that negatively affects the neighborhood. There must be "probative evidence of harm or disturbance in light of the nature of the zone involved, or factors causing disharmony to the operation of the comprehensive plan...." Turner v. Hammond, 270 Md 41, 54-55 (1973).

While the Petitioner is correct in his Brief relative to no

expert testimony being produced by the Protestants concerning the proposed fuel sales, Martha Hackett and Barbara Grzinici testified relative to residential concerns. Many of their concerns are genuine in nature and the Board finds any impact would be associated with such a use regardless of its location within the zone. The gasoline tanks are already in the ground and would be subject to inspection by local, state, or federal agencies to insure compliance with EPA standards. No testimony was offered relative to groundwater impact, and the County Department of Environmental Protection and Resource Management (DEPRM) could correctly assert any environmental impact before gasoline could be pumped into the existing tanks. The Board could find no greater impact relative to additional lighting, and no greater fire hazard exists that is not only felt by the location of existing fire facilities as they relate to present stations.

The scenic route impact is minimal since a service garage and associated used car lot already exist and the scenic corridor routes are advisory only, with the existing facility being in place for a substantial years. Valid points relative to impact, however, were considered by the Board in its analysis of the case. The addition of another fuel service station in an area that is sparsely populated could have an impact on the economic viability of those stations currently servicing the area. The character and rural nature of the area may well accommodate the continuation of the service garage and accessory auto sales usage, but is totally out of character with the nature of the community relative to any additional fuel sales. The impact of such fuel sales is less impacted in nearby villages such as Maryland Line and Parkton, Harford and Jacksonville. While the subject site and adjoining

property have commercial use designations, the Board considers that "strip commercial zoning on rural routes" is to be discouraged as outlined in the Baltimore County Master Plan [1989-2000]. The Board also has considered the new BCZR regulations 259.3.E which sets standards for special exceptions in C.R. zones, and in particular, subsection 5, which states:

> Any contrary provision of these regulations notwithstanding, the provisions of Sections 259.2.A and 259.3 shall not apply to any building, use or structure in existence or for which a CRG plan has been approved as of the date of the enactment of Bill No. 103-1988 or to any M.L. Zone with C.R. District designation.

There is also present the traffic impact that would be caused by the granting of the special exception as exemplified by People's Counsel's Exhibit No. 2-A1, A2, and A-H. Old York Road is a single lane facility, one progresses without stop lights or left turn lanes except at the I-83 intersection. The photographs produced by the Protestants clearly reflect a sharp bend on Old York Road and that the subject property is lower and in what might be described as a hollow. That land with field crops in summer does limit sight distances, which Petitioner, to a great extent, had acknowledged required a waiver of certain landscaping requirements. The addition of gasoline pumps would undoubtedly cause a severe problem to in and out traffic flow, exacerbating what the Board considers to be an already existing traffic hazard.

O R D E R

IT IS THEREFORE this 14th day of April, 2000 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception, approval for a fuel service station, be and is hereby **DENIED**; and it is further

ORDERED that the requested special hearing relief confirming

continuation of the service garage and accessory existing used car sales operation, as shown on the plan, be and is hereby **GRANTED**; and it is further

ORDERED that the requested special hearing relief to approve a fuel service station area separate from the existing service garage and used car sales area be and is hereby **DENIED**; and it is further

ORDERED that the requested variance relief to allow a 0' Landscape Transition Area (LTA) abutting the existing used car sales use area, surrounding the service garage area, and along Old York Road, in lieu of the required LTA, be and is hereby **DISMISSED AS MOOT**.

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

Charles L. Marks, Panel Chairman

Lawrence S. Wescott

IN THE MATTER OF THE THE APPLICATION OF DONALD E. WARRENER, JR. - LEGAL OWNER /PETITIONER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S OLD YORK ROAD, 70' S OF W. LIBERTY RD (20227 OLD YORK RD) 7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 99-73-SPHXA

* * * * * * * * *

CONCURRING /DISSENTING OPINION

This Board member is in concurrence with the majority of the Board in its Opinion and Order in this matter, but will respectfully dissent from their finding as to the "need" issue. While this element would not change the decision, for the record I must state that, with the findings in the Sherwood Consultancy "Needs Analysis for a Gas Station at the 439 Service Center White Hall Area of Baltimore County" (Petitioner's Exhibit No. 10), sufficient evidence was given in support for a gas station at the site.

The Sherwood Needs Analysis presented evidence for a Primary Market area with a two-and-a-half-mile radius of Old York Road and West Liberty Road based on Demographics, Gasoline Needs, and Potential Sales.

The Demographics reflected on page 9:

> Over the span from 1980-1999, the number of people living in the primary market area has increased by 595 or 33.7%.

The Transient market data stated on page 9:

> These data show that traffic on MD 439 had increased over the past ten years and that it has increased at a faster rate than traffic on nearby thoroughfares for which traffic counts are available.

The "Gasoline needs for Market area Residents" as shown in Table 2 on page 10 of the Report Stated:

> Given the 1999 population in the primary market area of 2,363 and gasoline consumption per person of 441 gallons (as of 1998, the year for which the data are available), residents living in the 439 Service Center primary market in 1999 will need 1,042,000 gallons of gasoline to meet their driving requirements and secondary market residents need 1,601,300 gallons. However, these estimates could well be low given the possibility that motorists in this rural part of Baltimore County do more driving than residents of the state as a whole, from which the 441 figure is derived.

Figures were given for the gasoline retailing in the trade area and potential sales on page 13 of the 439 Service Station were based on only a 50% share of the demand generated by primary market residents, 20% of resident demand in the secondary market and the potential transient market. This total would represent a potential of 1,010,300 gallons/year. Based on the research and analysis resulting from the work summarized in the Final Report of the Needs Analysis, Mr. John Sherwood III, Senior Consultant, concluded that:

> The market will support a moderate sized motor fuel sales operation at this location and a gas station facility is needed on MD 439 to serve residents of northeastern Baltimore County who live east of I-83 and north of the White Hall area as well as other motorists who use MD 439 between Harford County and I-83. There are currently no gas stations on MD 439 in this part of Baltimore County to meet the needs of these residents and other motorists.

The Protestants' witness, Dr. McQuaid (who admitted he did not have an educational background in marketing) did acknowledge residential growth with the development of several "bedroom" communities in the area, such as the Shane Valley Development. The demographics he compiled were from material obtained from the Baltimore County Public Library and the Maryland Department of Planning. His lay presentation reflected similar growth patterns

as in the Sherwood Report where, as he opined, a Station was not needed.

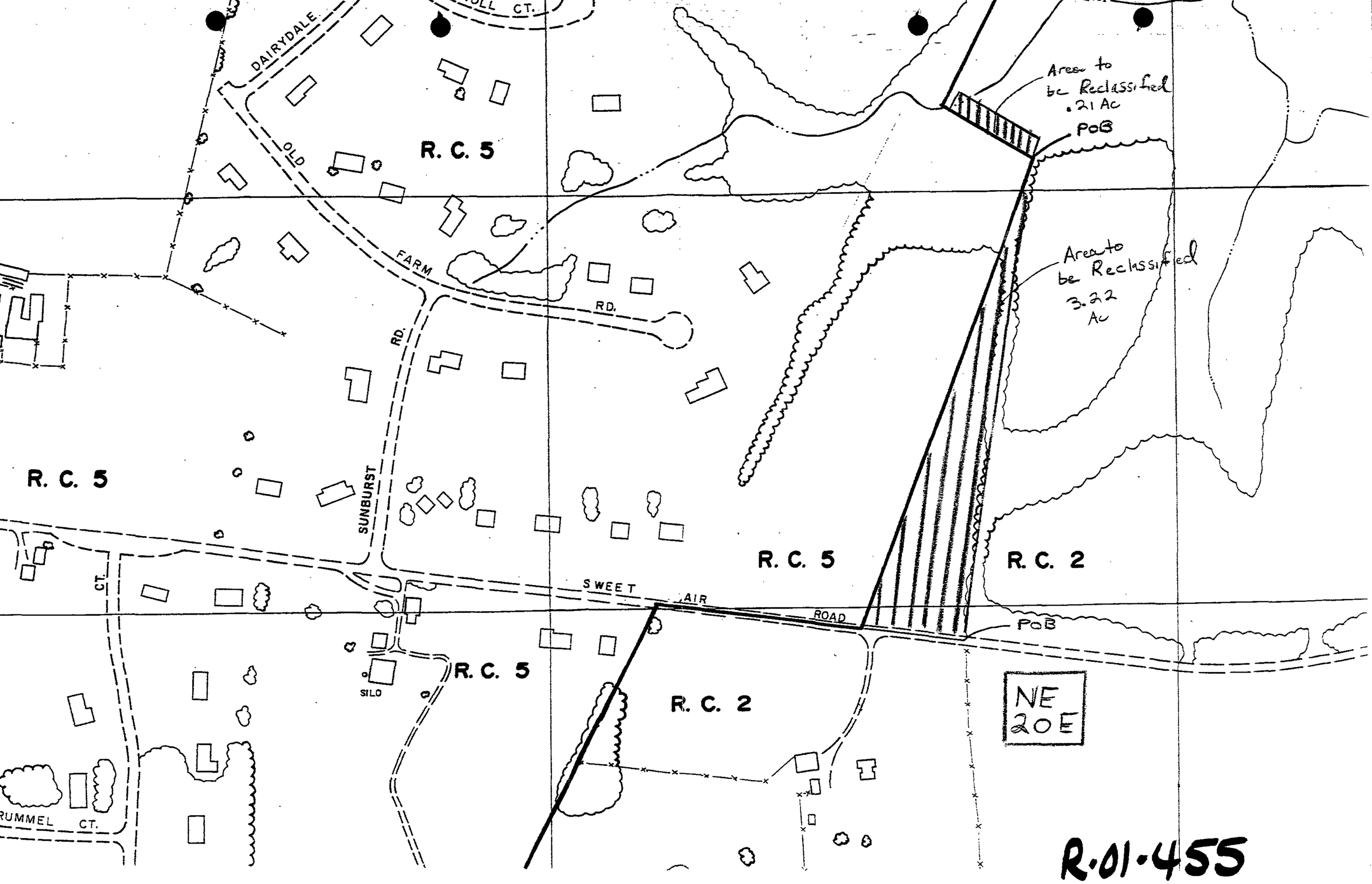
Chief Judge Prescott, speaking for the Maryland Court of Appeals in Miller v. Abrahams, 211 A.2d 309, 314, stated: "[T]he prevailing general rule, almost universally followed, is that an expert's opinion is of no greater probative value than the soundness of his reasons given."

Therefore, this Board member respectfully submits that the experts who compiled the Sherwood Report demonstrated that a "need" does exist as contemplated by the County Council in support of the special exception requirements of BCZR 502.1.

Lynn Barranger

Lynn Barranger

DATE: April 14, 2000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R-01-455

MAP 4D

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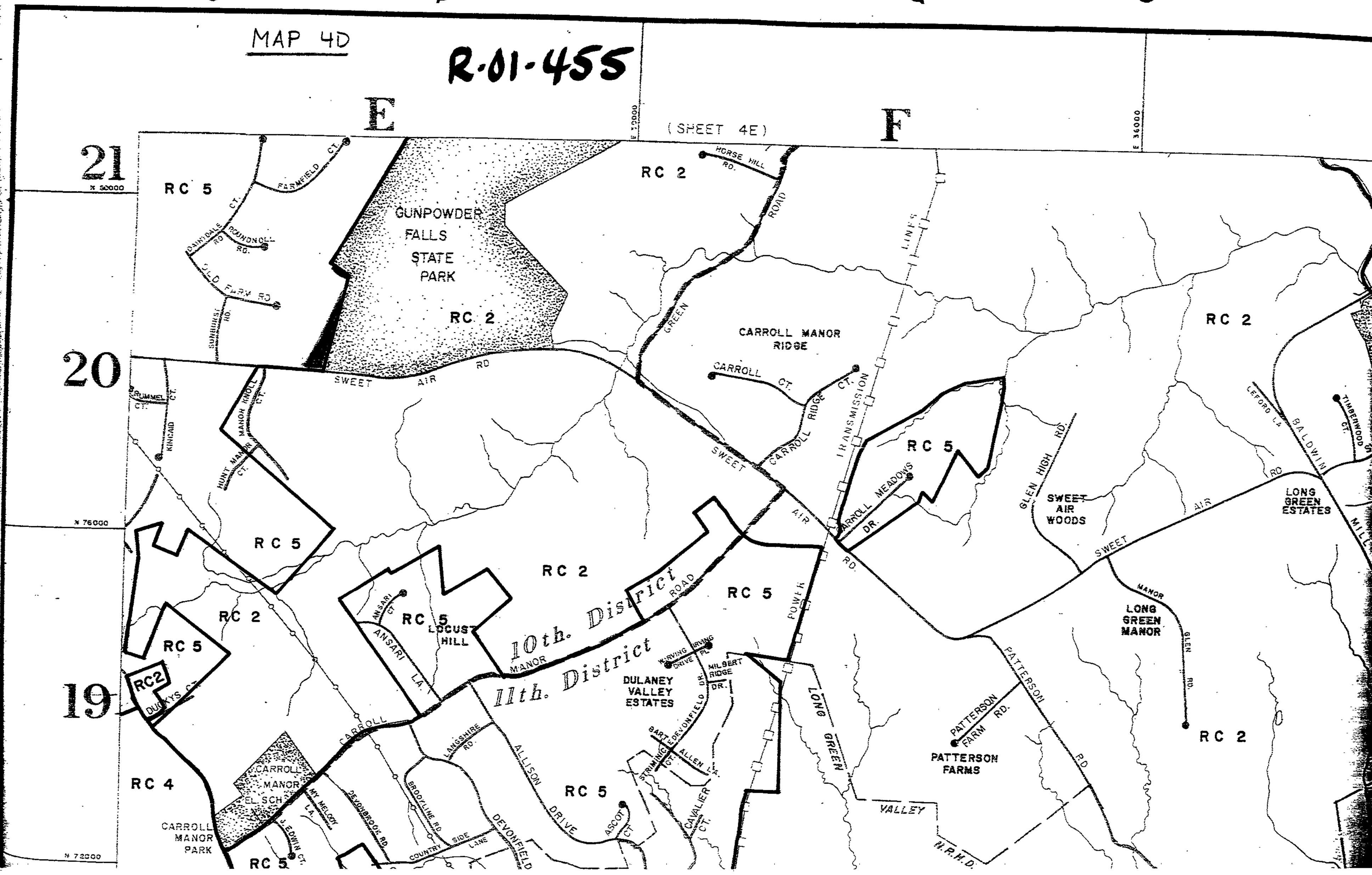

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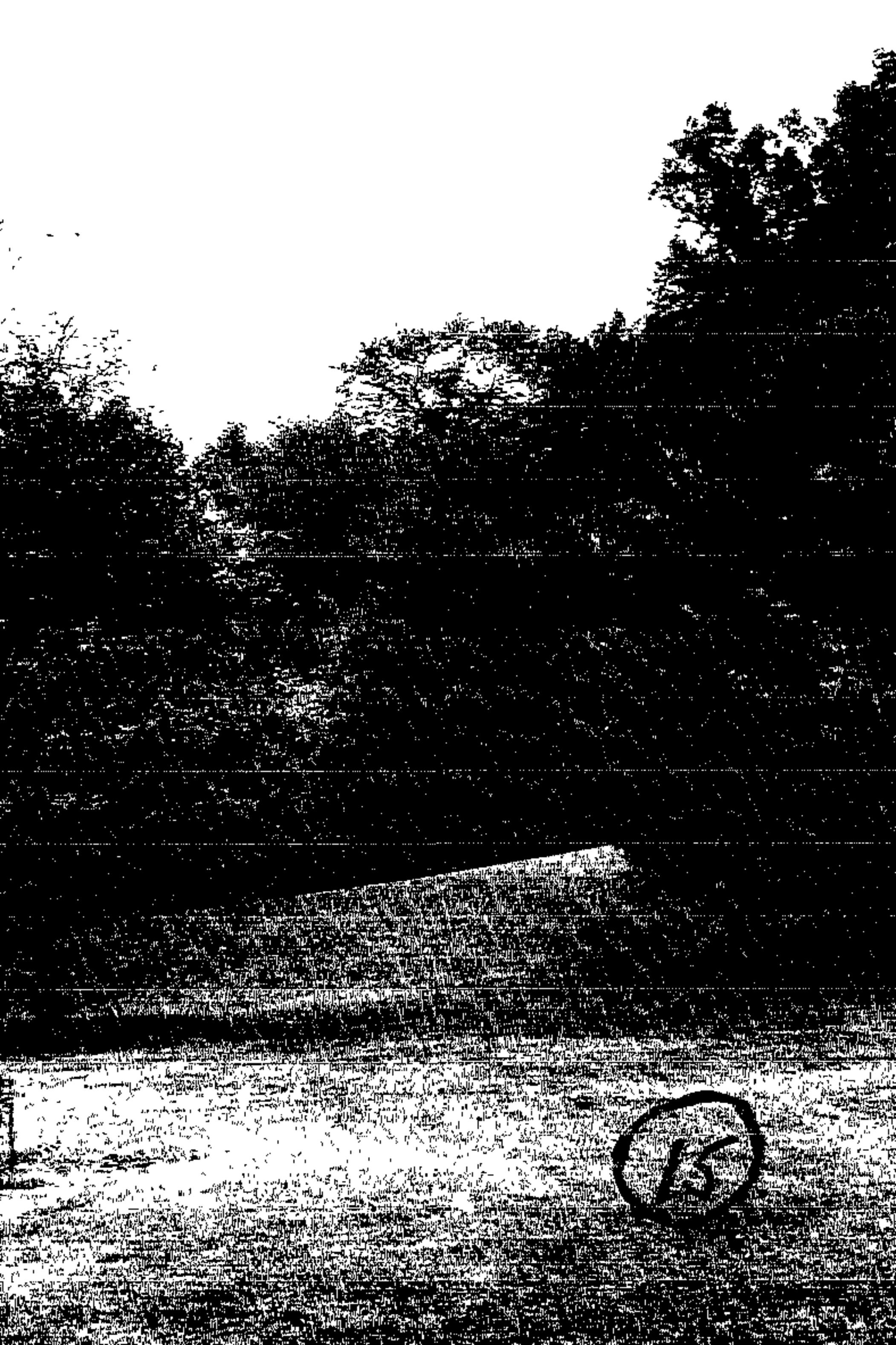

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Verified 8/20/01

CASE #: R-01-455 DAY 1 AUGUST 22, 2001
DAY 2 FEBRUARY 14, 2002

EXHIBITS

Petitioners]
- PET 1 - Lynch Property Undocumented Plan to Accompany Out-of-Cycle Reclassification Petition - Dated 4/18/01
- PET 2 - Portion of 200' Scale BC Zoning map with area cross hatched and notations made - 2000 MAP - NE 20E
- PET 3 - Portion of 1000' scale BC Zoning map with area shaded in - #40 -
- PET 4 - Mr. Jack Dillon's CV.
- PET 5 - Letter from Office of Planning to Board of Appeals (dated 6/20/01)
- PET 6 - Photograph - over view of property taken in @ 2001

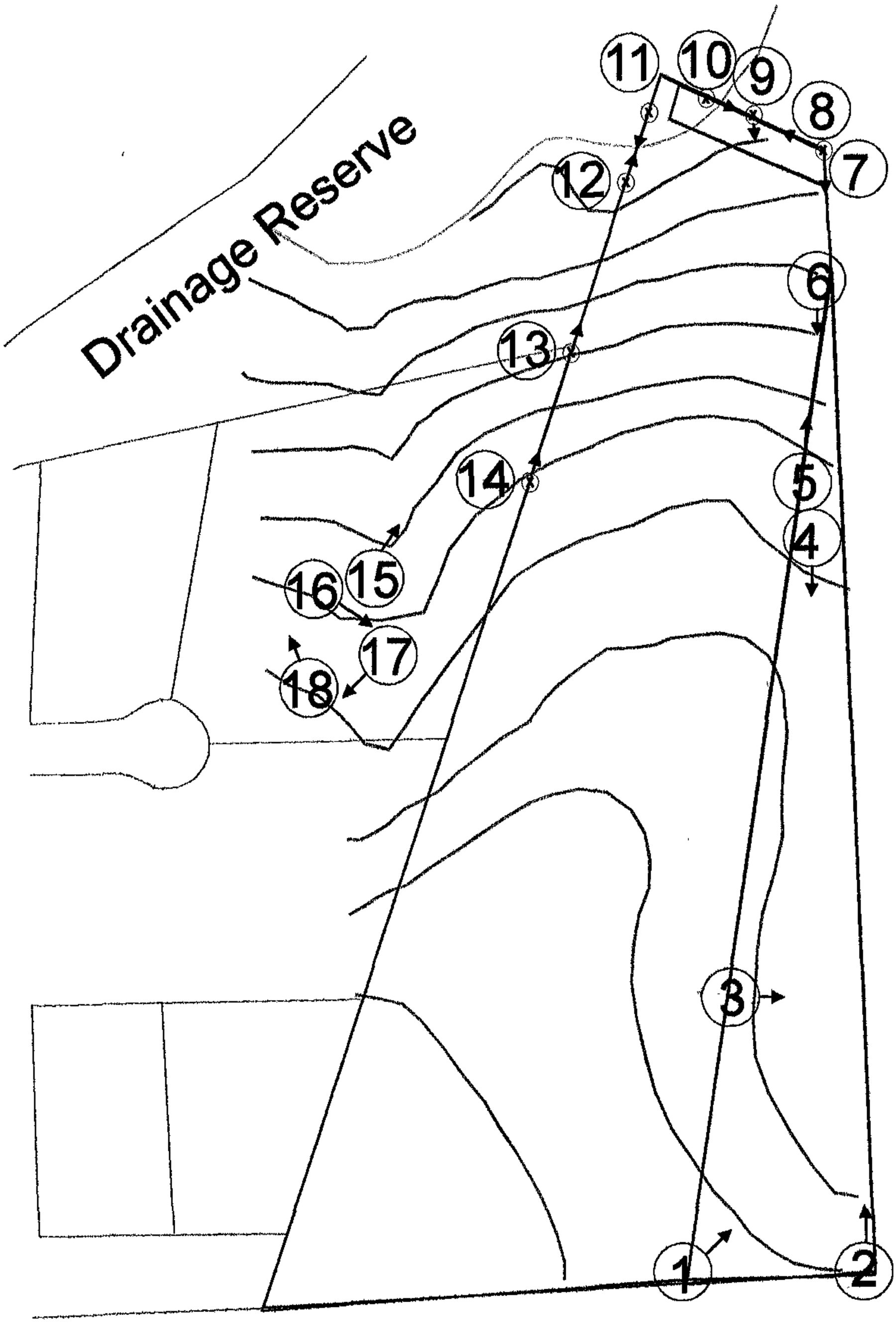
People's Counsel]
- PC 1 - 200' scale BC Zoning Map - NE 20E - 2000 MAP
- PC 2 - 1000' scale BC Zoning Map - 40 Kingsville - 1996 MAP
- PC 3 - GIS MAP - 1" = 300' SCALE
- PC 4 - ADC MAP - yellow mark to show property

Protestants]
- PROT 1A - Long Green Valley Assoc. Resolution to reclassification dated 8/20/01
- PROT 1B - Long Green Valley Assoc. Affidavit
- PROT 1C - Long Green Valley Assoc. Resolution dated 4/25/01.
- PROT 2 - Video locations
- PROT 3 - VIDEO
- PROT 4 - MR. PRESTON'S CV.
- PROT 5A - Scanned MAP (ADC) with property locations added. and 5B - Location of Lynch Property

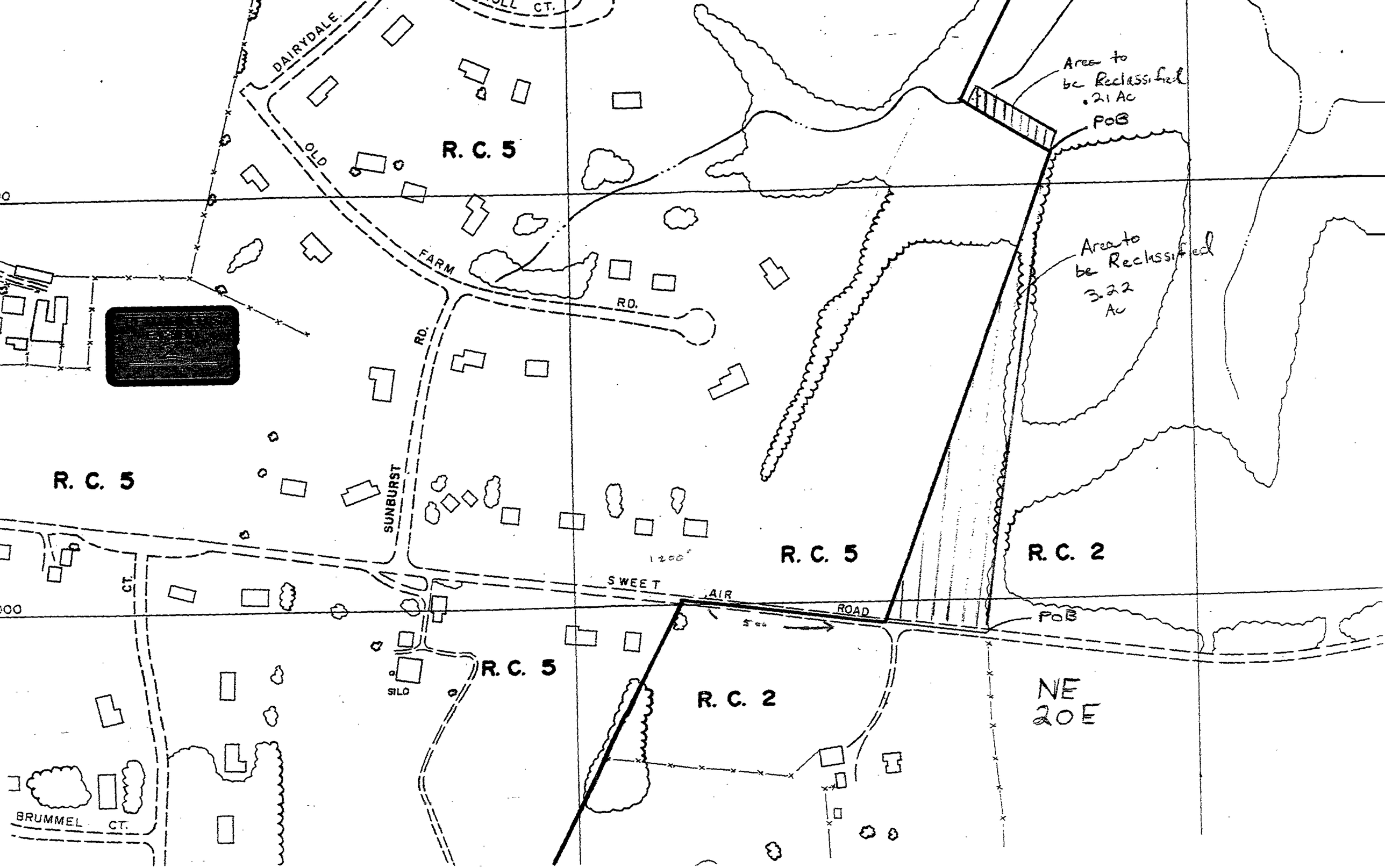
People's Counsel Cont.
- PC 5 - Baltimore County - Real property Data search
- PC 6 - explanation of Comprehensive Zoning Map Process.
- PROT 6A - Drainage of Area and Lynch Property. and 6B
- PROT 7A Detailed drainage of Lynch Property
- PROT 8A - Photograph location map

Continued on other side.

Photograph Locations



PROT 8B 2/14/02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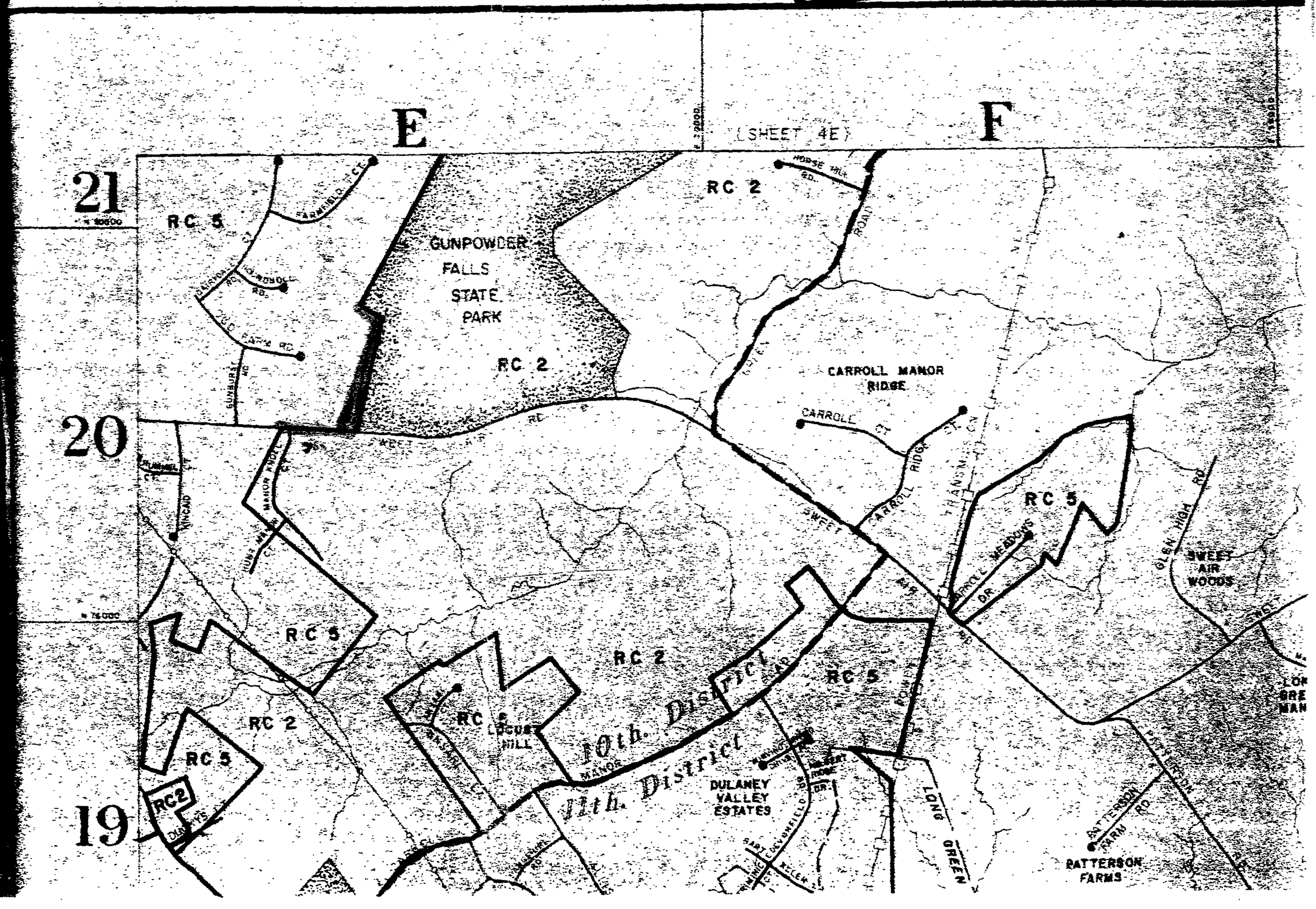
1 = 1000

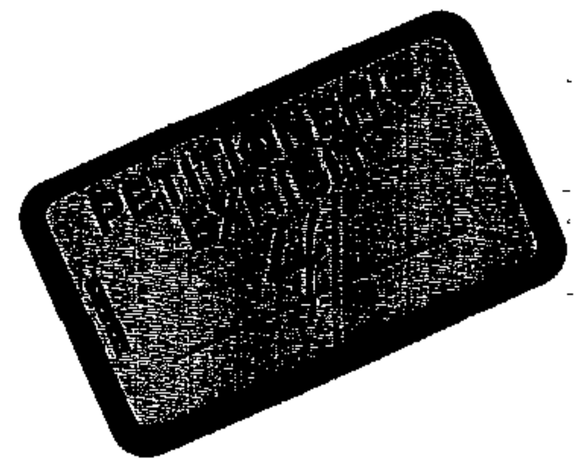
PETITIONER'S EXHIBIT 3



Jack Dillon
543 Park Avenue Towson, Maryland 21204 (410) 321-0021

PROVIDE PROFESSIONAL PLANNING ASSISTANCE IN THE AREAS OF LAND USE, LAND USE ANALYSIS, SITE EVALUATION AND DESIGN.

EMPLOYMENT



THE VALLEYS PLANNING COUNCIL
EXECUTIVE DIRECTOR
MAY 1997 - PRESENT

PRIVATE CONSULTANT
MARCH 1996 - MAY 1997

BALTIMORE COUNTY, MARYLAND
Office of Planning, Community Planning Division,
Senior Planner and Deputy Division Chief
August 1987 - February 1996

Office of Planning, Comprehensive Planning Division, Environmental
Studies Section
Planner II
October 1974 - June 1981

Prior to October 1974 was with the Baltimore County Zoning Office
June 1967 - September 1974 and February 1962 - May 1967
I was with the Department of Public Works assigned to special projects at the Johns Hopkins University and The Baltimore City Analyzer Office.

EDUCATION:

MORGAN STATE UNIVERSITY
Graduate Program in Landscape Architecture
1992 - 1994 (not complete)

UNIVERSITY OF MARYLAND
Graduated Para Legal
1978

UNIVERSITY OF BALTIMORE
Graduated B.S. Degree in Business Management
Planning Courses At Johns Hopkins University
1969

ADDITIONAL EDUCATION

DUNDALK COMMUNITY COLLEGE
Media/TV Production
1984-1986

ADDITIONAL EDUCATION CONTINUE

UNIVERSITY OF BALTIMORE SCHOOL OF LAW
1969 - 1970

GEORGIA INSTITUTE OF TECHNOLOGY
Institute in Urban Planning
1969

JOHNS HOPKINS UNIVERSITY
Appraisal of Real Estate
1975

OTHER PROFESSIONAL EXPERIENCE

CATONSVILLE COMMUNITY COLLEGE
Visiting Lecturer - Zoning and Subdivision Design
Spring 1991

UNIVERSITY OF MARYLAND, SCHOOL OF SOCIAL WORK AND URBAN PLANNING
Visiting Lecturer - Use of Video in the Art of Planning
February 1987

TOWSON STATE UNIVERSITY
Department of Geography and Environmental Planning
Instructor of Two Three Credit Courses Entitled Principals of Zoning
And Planning Implementation
February 1972 - December 1981

Member of The American Planning Association

SIGNIFICANT PROFESSIONAL ACCOMPLISHMENTS

Planner and Author/CO Author of a variety of Reports and Planning Studies, Including:
The Essex/Middle River Community Assessment 1995
The Owings Mills Open Space Concept Plan 1995
Hanover Pike Corridor Plan 1993
Hereford A Preliminary Analysis 1987
The Reisterstown Road Corridor Study 1987
Plan for Owings Mills, Maryland 1984
The Old Court Road Corridor Study 1984
Site Selection for The Northwest Area Multipurpose Center 1982

Proposed Amendment To Baltimore County Zoning Regulations - Sludge Disposal in Baltimore County 1982
Areas of Critical of State Concern in Baltimore County 1979
Planner responsible for The Organization and Administering the Primary Draftsman of The Four Resource Conservation Zones for Baltimore County, which have become the basis for controlling growth In rural Baltimore County 1975
Development and Adminstration of the Video Production unit within The office of Planning. Producer of Video "The Grove" which won a National Association of Counties Award in 1993.

Court and Agency Proceedings:

Since 1965 I have provided testimony as an expert witness before the Baltimore County Planning Board, various Legislative Sub-Committees in Annapolis, The Baltimore County Council, The Baltimore County Zoning Commisioner, The Baltimore County Board of Appeals, The Planning Commission For The Town of Ocean City, Maryland, The District Court of Maryland And The Circuit Court of Maryland

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 20, 2001

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

SUBJECT: Case # R-01-455
Michael James Lynch, DVM, et al
3410 Sweet Air Road
North side of Sweet Air Road, East of Sunburst Road

At its regularly scheduled monthly meeting on February 2, 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 February 23, 2001.

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

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:JWL:kma

Post-it® Fax Note 7671	Date 7/17/01	# of pages ▸ 3
To Howard Aldeman	From JEFF Long	
Co./Dept.	Co. Planning	
Phone # 321-0600	Phone # FF7-3480	
Fax # 296-2801	Fax #	

W:\DEVREV\R-01-455Lynch.doc

PET #5
2/14/02

CASE NO:
R-01-455

PETITIONER:
Michael James Lynch, DVM, et al

REQUESTED ACTION:
Reclassification to RC 5

EXISTING ZONING:
RC 2

LOCATION:
North side of Sweet Air Road, 1074 feet southeast of Manor Knoll Court

AREA OF SITE:
3.43 acres

ZONING OF ADJACENT PROPERTY/USE:

North:	RC 2, & RC 5	Gunpowder Falls State Park
South:	RC 2	Agricultural
East:	RC ~~5~~ 2	Gunpowder Falls State Park
West:	RC 5	Rural Residential

SITE DESCRIPTION:
The petitioner's property is comprised of two RC 2 zoned parcels totaling 3.43 acres, which are part of a 47 acre parcel located on both the north and south sides of Sweet Air Road. The first parcel, located on the north side of Sweet Air Road, is triangular in shape and totals 3.22 acres. The second parcel is .21 acres in size and abuts the Gunpowder Falls State Park to the north and east.

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 property has direct access to Sweet Air Road, which is designated as a rural local road.

ZONING HISTORY:
In the 1976 Comprehensive Zoning Map Process, the Resource Conservation (RC) zones were mapped to replace the Rural Deferred Planning (RDP) zones on a countywide basis. Unfortunately, no individual issues were raised in order to accomplish this significant change to the zoning maps. The zoning of the subject parcel was RDP on the 1971 Comprehensive Zoning Map, and it is clear that in

1976, the Lynch property was split zoned RC 2 and RC 5 with the adoption of the new maps.

MASTER PLAN/COMMUNITY PLAN:

The proposed land use map, adopted by the County Council on February 22, 2000, indicates the site is designated as single family detached rural standards.

PROPOSED vs. EXISTING ZONING:

Regulations for the RC 2 and RC 5 zones may be found in Sections 1A01 and 1A04, respectively.

The intent of the RC 2 zone is to foster conditions favorable to continued agricultural use of productive areas of Baltimore County by preventing incompatible urban land uses.

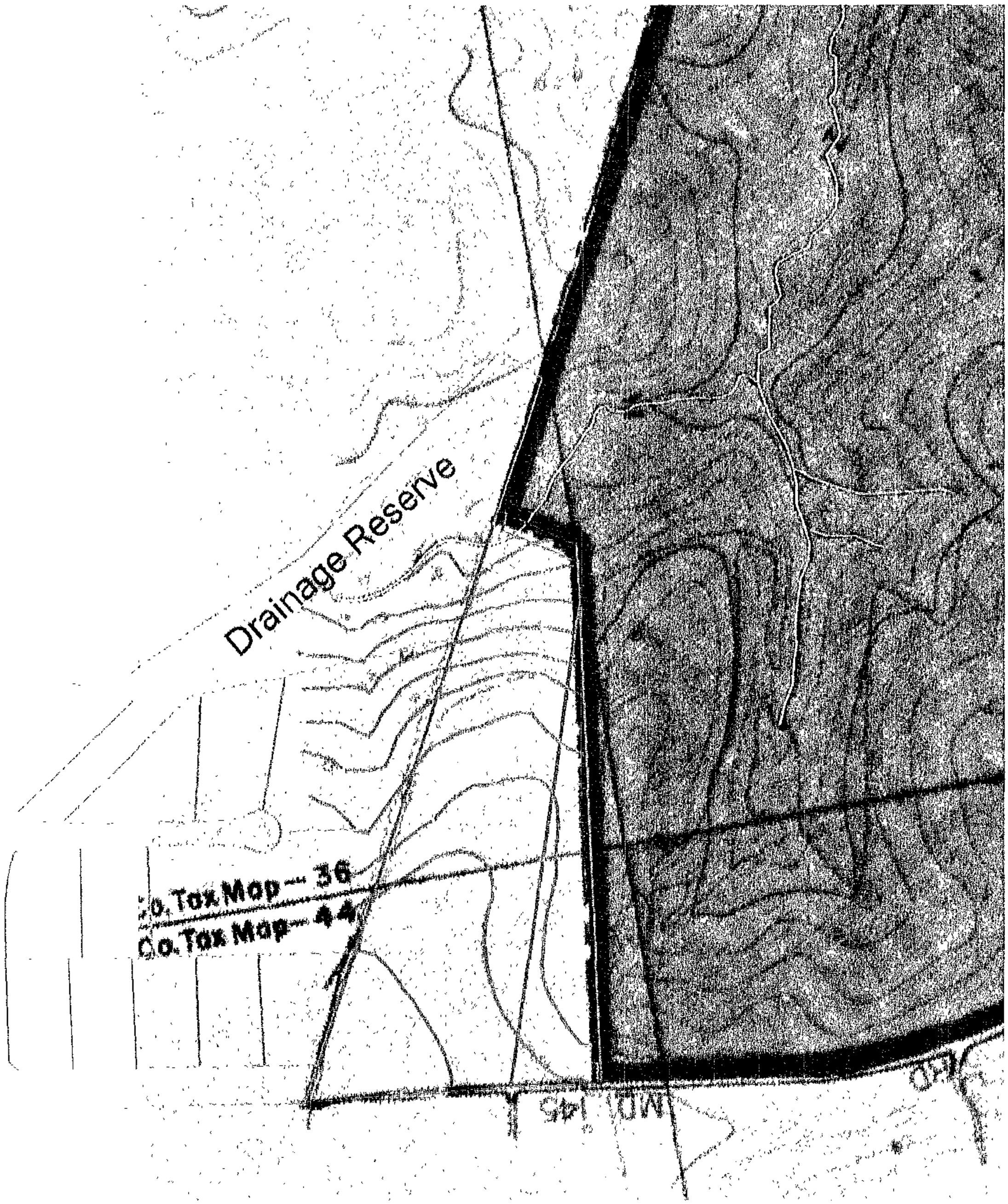
The intent of the RC 5 zone is to provide for rural residential development in areas of Baltimore County where the extension of public water and sewer is not anticipated.

OFFICE OF PLANNING RECOMMENDATION:

It appears that a drafting error on the subject property's classification occurred when the RC zones were mapped in 1976. It is the position of the Office of Planning that the RC 2/RC 5 zone line should have been coincident with the line of division between the Lynch Property and Gunpowder Falls State Park. Therefore, the Office of Planning recommends that the applicant's property be rezoned to the RC 5 classification.

PET 6 2/14/02

Detailed Drainage of Lynch Property



PROT #7B

APPROVED

THE STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

James B. Coulter 6-28-77

JAMES B. COULTER, SECRETARY DATE

PROPERTY LINES AND OWNERSHIP STATUS CURRENT TO:

6-24-76
DATE

ACQUISITION STATUS CURRENT TO:

5-16-77
DATE

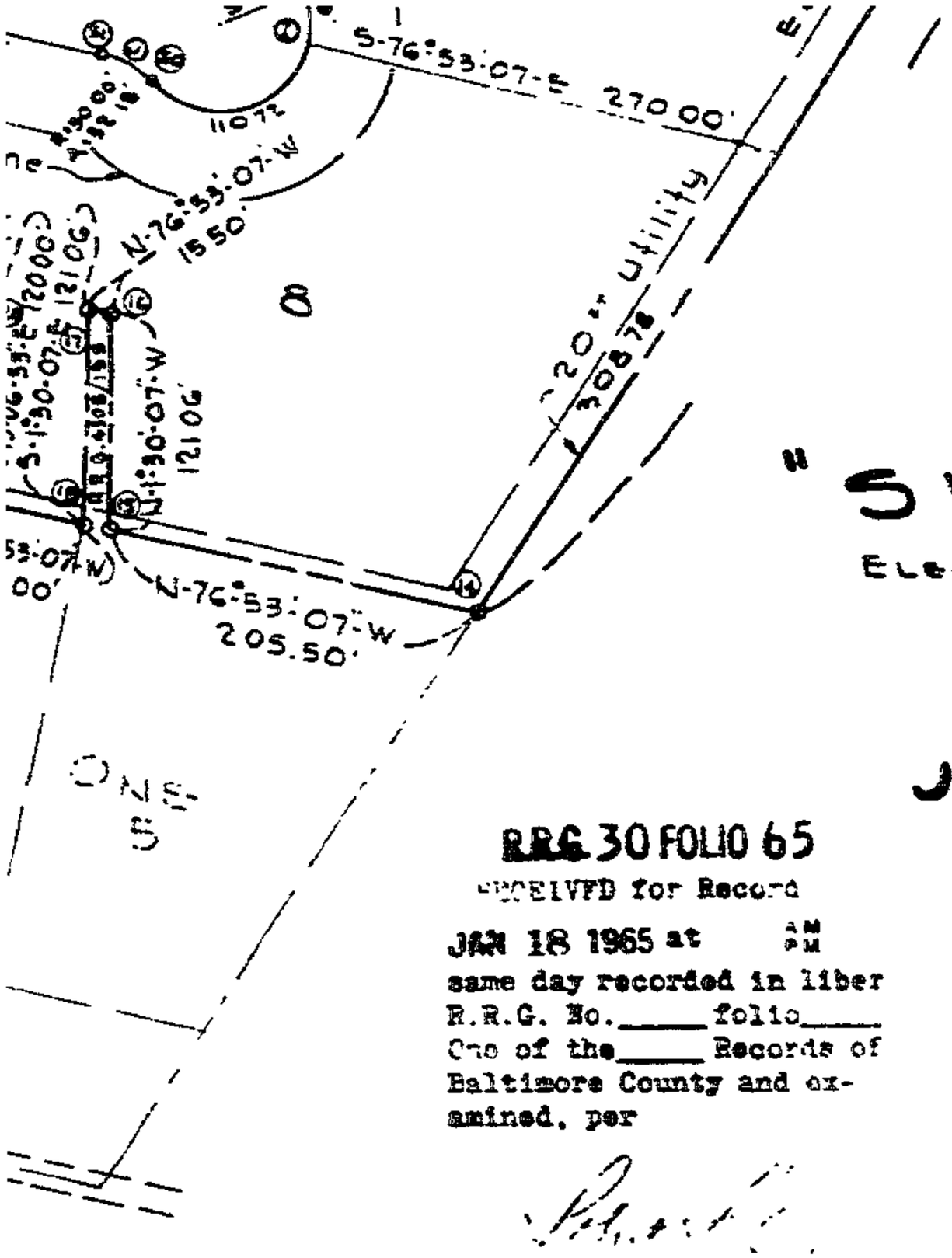
STATE LAND ACQUISITION

GUNPOWDER FALLS
STATE PARK

BASE MAP MAP INC.
DRAFTSMAN Coelle
CHECK
SCALE 1" = 600'
DATE 6-23-76

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CAPITAL PROGRAMS
LAND PLANNING SERVICES

SHEET NO.
4
OF 12 SHEETS



PLAT OF
REVISED - SECTION ONE
"SWEET AIR MANOR"

ELECTION DISTRICT Nº 10 BALTO. COUNTY, MD.

FOR

J. THOMAS REQUARD & CO. INC.

7900 NORTH BOUNDARY RD.
DUNDALK 22, MARYLAND

R.R.G. 30 FOLIO 65
RECEIVED for Record
JAN 18 1965 at AM PM
same day recorded in liber
R.R.G. No._____ folio_____
One of the_____ Records of
Baltimore County and examined, per

OWNERS CERTIFICATE

e requirements of Sections 72A to 72D of Article 17 of the d Code of Maryland, 1939 Edition, Chapter 1016 of the 945, as amended by Chapters 84 and 758 of the Acts of nd subsequent Acts if any, amendatory thereto, so far as ers the making of the plat and setting of the markers, have plied with.

Owner of Land Shown Hereon

SURVEYOR'S CERTIFICATE

I, L. ALAN EVANS a Registered Land Surveyor of the State of Maryland, do hereby certify that the land shown hereon has been laid out and the plat thereof prepared in compliance with Sections 72A to 72E, inclusive, of Article 17 of the Annotated Code of Maryland, 1939 Edition as revised or amended by the Acts of 1945 and 1947 and subsequent Acts, if any, amendatory thereto.

L. Alan Evans

DATE	REVISION	BY

SURVEYED BY	DATE
COMPUTED BY	DATE
L.A.P.	
DRAWN BY	DATE
G.L.W.	8/26
CHECKED BY	DATE
Dwg. No.	

STATE OF MARYLAND — L. ALAN EVANS — No. 2021 — REGISTERED LAND SURVEYOR

L. ALAN EVANS
SURVEYORS & CIVIL ENGINEERS
4200 ELSRODE AVE - PHONE MA 6-2144
BALTIMORE 14 MARYLAND
— branch office —
8 POPLAR STREET - PHONE AC 8-3350
CAMBRIDGE MARYLAND
STATE OF MARYLAND REG No 2021

DATE: DEC. 16, 1964 SCALE: 1" = 100'

L. Alan Evans

MJA JSW 1836-5017

31-25

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.

PC #6 2/14/02

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

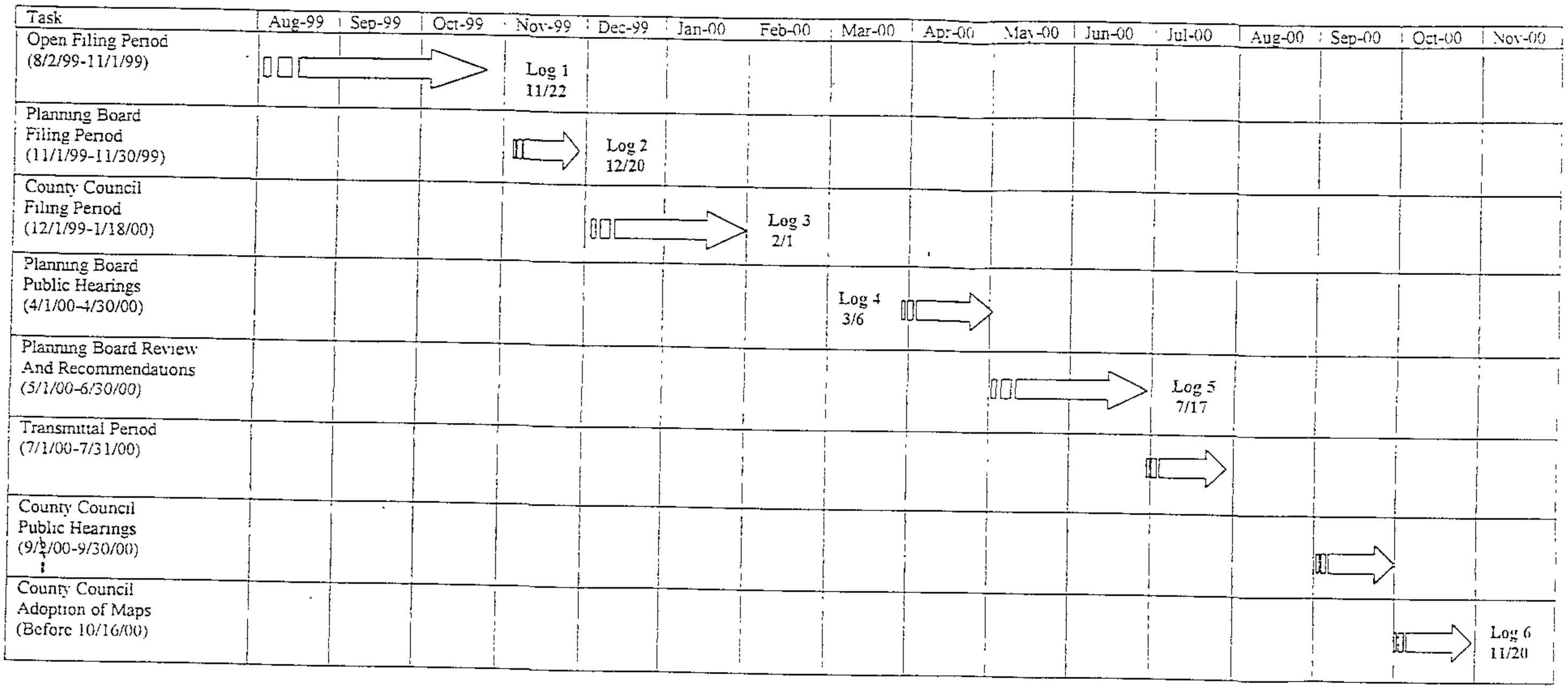
After the Council's vote, the Office of Planning prepares the final official amended Zoning maps and publishes the final edition of the Log of Issues containing all of the decisions of the County Council.

* * * * * * * * * *

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.

Baltimore County
2000 Comprehensive Zoning Map Process



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Baltimore County
Office of Planning

02/04/99

RESOLUTION

THE LONG GREEN VALLEY ASSOCIATION

RESOLVED: That the position of the Long Green Valley Association as adopted by the Board of Directors on the zoning matter known as:

Case # 01 –526SPH

is that:

The Long Green Valley Association is opposed to a reclassification of this property from RC-2 to RC-5. It is the Association's position that the 4-year Comprehensive Re-zoning Cycle Process is the appropriate forum for this issue to be heard since the LGVA does not feel that the existing RC-2 zoning should be considered a mistake. The Association feels that it is as likely, if not more so, that the adjacent RC-5 zoning is a mistake, especially considering that this RC-2 land is 1) adjacent to park land; 2) is across the road from a larger RC-2 parcel of land under the same farm ownership; and 3) that the land is actively farmed. Additionally, the topography of the rear section of this parcel of RC-2 land is wooded; appears to be steeply inclined; and has a stream transecting it.

AS WITNESS our hands and seal this 20th day of August, 2001.

ATTEST:

THE LONG GREEN VALLEY ASSOCIATION

Carol Trela

Charlotte Pine

Carol Trela
SECRETARY

Charlotte Pine
PRESIDENT

8/22/01
PROT 1A

AFFIDAVIT

STATE OF MARYLAND:
BALTIMORE COUNTY, ss:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Long Green Valley Association.

ATTEST:

Carol Trela

Charlotte Pine

Carol Trela
SECRETARY

Charlotte Pine
PRESIDENT

8/22/01

PROT 1B

RESOLUTION

THE LONG GREEN VALLEY ASSOCIATION

RESOLVED: That at the Annual Meeting of the Long Green Valley Association held on April 25, 2001, it was decided by the Association that the responsibility for review and action on all zoning matters for the period of one year be placed in the Board of Directors consisting of the following members:

Charlotte Pine
Michael Baummer
Patricia Garner
Denise McCloskey
James Palmisano
Bartlett Regan
Sharon Rohrbaugh
Carol Shaw
Carol Trela
Mary Ambrose
Anthony Verdecchia

AS WITNESS our hands and seal this 20th day of August, 2001.

ATTEST:

Carol P. Trela

Charlotte Pine

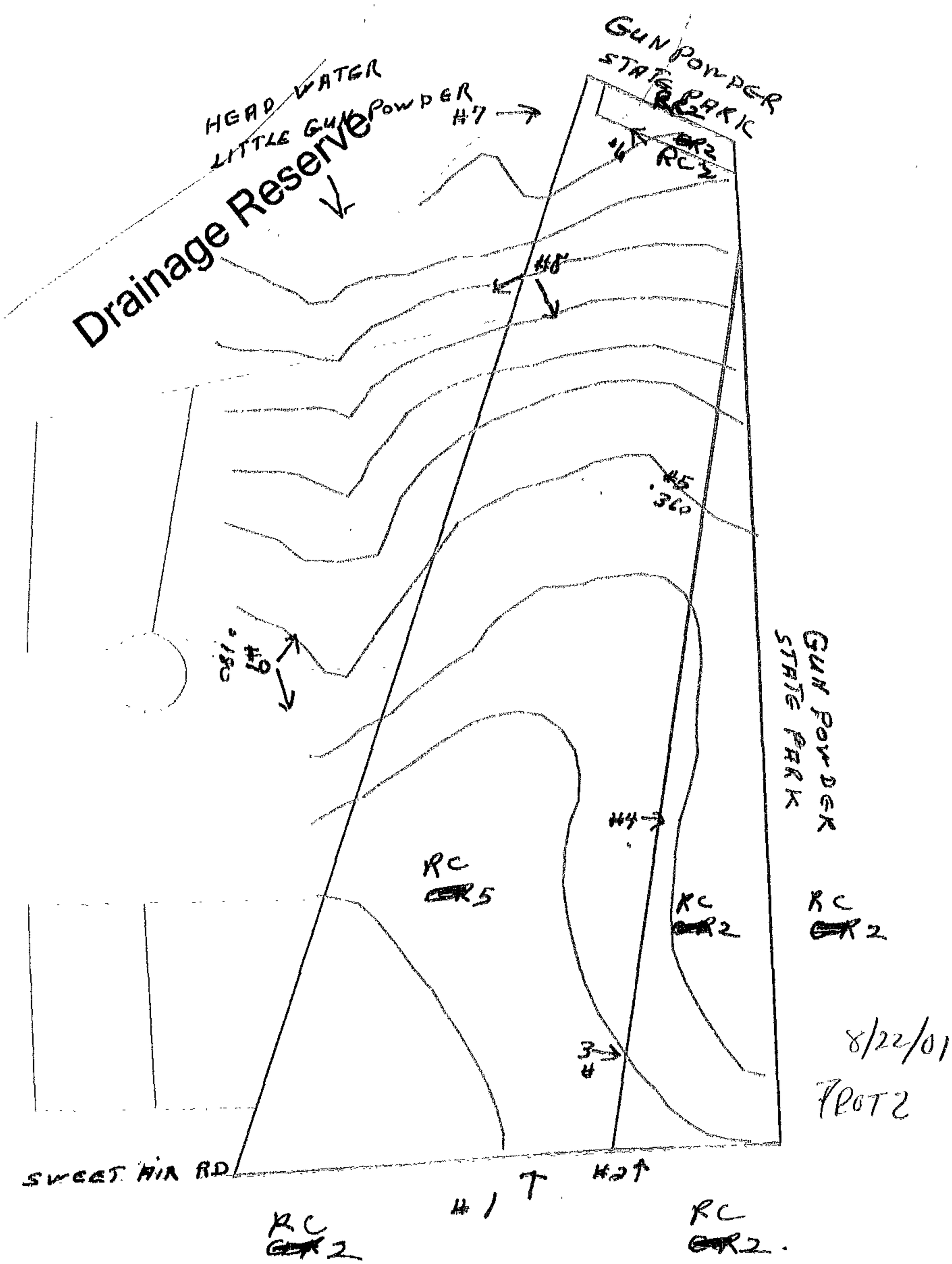
Carol Trela
SECRETARY

Charlotte Pine
PRESIDENT

8/22/01

PROT 1C

Video Locations



November, 1997

STEPHEN D. PRESTON

OFFICE ADDRESS:
United States Geological Survey
8987 Yellow Brick Road
Baltimore, Maryland 21237
410-238-4238

Annapolis

HOME ADDRESS:
1905 Crouse Road
Forest Hill, Maryland 21050
410-557-7698

EDUCATION

PhD Environmental Engineering, 1990
University of Notre Dame, Notre Dame, Indiana
Dissertation Title: "An Evaluation of Methods for the Estimation of Tributary Mass Loads"

MS Environmental Engineering Sciences, 1983
University of Florida, Gainesville, Florida
Thesis Title: "Numerical Analyses of a Eutrophic Lake Chain"

BA Biology, 1977
Shippensburg State University, Shippensburg, Pennsylvania

PROFESSIONAL EXPERIENCE

United States Geological Survey, Towson, Maryland
Hydrologist, May, 1990 - Present

Project leadership role in an array of state and regional studies.

Project Chief of the Patuxent Nonpoint Source Watershed Study. Duties include the management and refinement of a basin-wide data collection effort, and the development of a watershed loading model.

Project Chief of the Ungaged Basin Study. Duties include the development and verification of regional models for estimating the potential for non-point source nutrient loading in the Piedmont area of Maryland.

Project Chief of the Stream-Gage Network Evaluation study in Maryland. Evaluation of the network was based on trends in the number of gages and on the representativeness of geographic conditions in Maryland.

Project Chief of the Maryland Statewide Nonpoint Source Assessment Program. Duties include the design and implementation of a program for collecting water-quality data from representative areas of Maryland in order to provide a basis for evaluating nonpoint source nutrient loading in the State.

Lead role in the development of a spatially referenced regression model for the Chesapeake Bay Ecosystem Initiative. Regression model is designed to establish relationships between nutrient sources and stream nutrient loads in a spatially detailed framework.

Lead role in the development of a spatially referenced regression model for

Pmot 4 2/14/02

PROFESSIONAL EXPERIENCE (continued)

the Mid-Atlantic Integrated Assessment that is being conducted jointly by EPA and USGS. Model is similar to the one being developed for the Chesapeake Bay Ecosystem Initiative, but broader in spatial extent and covers portions of 7 states.

University of Notre Dame, Notre Dame, Indiana
Department of Civil Engineering,
PhD Program, September, 1986 - June, 1990

Participated in teaching responsibilities by performing lectures and grading exams and assignments. Organized and wrote two successful proposals for USGS research funds. Conducted research concerning the evaluation of statistical techniques for the estimation of tributary contaminant loads.

Barr Engineering Company, Minneapolis, Minnesota
Water Chemist/ Environmental Engineer, April, 1986 - September, 1986
Designed and implemented laboratory and in situ experiments to investigate water-quality controls in Minnesota lakes. Evaluated environmental impact statement for a large proposed copper mine. Performed on site inspection of hazardous waste sites.

University of Minnesota, Minneapolis, Minnesota
Department of Civil and Mineral Engineering,
Research Associate/ Assistant, November, 1983 - April, 1986
Organized, managed and carried out research concerning the effect of sediment resuspension on water quality in a fresh water harbor. Collected field samples for detailed characterization of sediment and water chemistry. Performed laboratory analysis of collected samples. Carried out sorption studies to quantify release/ uptake of contaminants by sediments.

Environmental Science and Engineering Inc., Gainesville, Florida
Water Resources Engineering, September, 1982 - October, 1983
Provided interpretation of water quality data for a number of project reports. Performed statistical analysis of well data for development of radium criteria. Employed multivariate and regression techniques to investigate morphometric controls of water quality in Florida lakes.

University of Florida, Gainesville, Florida
Department of Environmental Engineering Sciences,
Graduate Program, March, 1980 - April, 1983
Performed analysis of a large water-quality data base for a eutrophic lake chain in central Florida. Utilized multivariate techniques for choosing water-quality variables for temporal trend analysis. Calculated hydrologic and nutrient budgets and applied loading models to predict the effect of nutrient load reduction.

Water and Air Research Inc., Gainesville, Florida
Engineering Technician, August, 1979 - March, 1980

AWARDS	National Wildlife Federation Fellowship 1988/ 89 Sea Grant Traineeship 1984/ 85	
GRADUATE COURSEWORK	Environmental Engineering	25 Credits
	Water/ Soil Chemistry	16 Credits
	Statistics	16 Credits
	Environmental Science	5 Credits
RESEARCH INTERESTS	Quantitative Assessment of Contaminant Behavior in Natural Systems	
	Application of Statistical Methods for the Design of Sampling Programs, Data Analysis and Simulation of Environmental Processes	
	Contaminant - Sediment Interactions in Aquatic Environments	

BIBLIOGRAPHY

Stephen D. Preston

1. PAPERS AND REPORTS:

Brezonik, P.L., Preston, S.D., and Crisman, T.L., 1981, Limnological studies on Lake Apopka and the Oklawaha Chain of Lakes: 4. Water Quality in 1980 and a summary of the four year data base. Report no. ENV-07-81-02, Department of Environmental Engineering Sciences, University of Florida, Gainesville, Florida. p. 140.

Huber, W.C., Brezonik, P.L., Heaney, J.P., Dickinson, R.E., Preston, S.D., Dwornik, D.S., and DeMaio, M.A., 1983, A classification of Florida Lakes. Report to Florida Department of Environmental Regulation, Tallahassee. Report no. ENV-05-82-1, Department of Environmental Engineering Sciences, University of Florida, Gainesville, Florida, p. 534.

Preston, S.D., and Brezonik, P.L., 1985, Water quality in the Oklawaha Chain of Lakes: A case study on problems and limitations in compiling long-term data bases. Proceedings of the Fourth Annual Conference and International Symposium on Lake and Reservoir Management. North American Lake Management Society. p. 101-107.

Bierman Jr, V.J., Preston, S.D., and Silliman, S.E., 1988, Development of estimation methods for tributary loading rates of toxic chemicals. Report submitted to the U.S. Geological Survey, Reston, VA. Project No. G1421-04. Tech. Report No. 183, p. 158.

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1988, An evaluation of methods for the estimation of tributary mass loads: Water Resources Research, v. 25, no. 6, p. 1379 - 1389.

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1989, Evaluation of methods for the estimation of tributary mass loading rates. Report submitted to the U.S. Geological Survey, Reston, VA. Project No. G1561-04. Tech. Report No. 187, p. 50

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1992, Impact of flow variability on error in the estimation of tributary mass loads: ASCE Journal of Environmental Engineering. v. 118, no. 3, p. 402 - 419.

Preston, S.D., 1996, Study of nonpoint source nutrient loading in the Patuxent River Basin, Maryland: U.S. Geological Survey Water-Resources Investigations Report 96-4273, p. 6.

Preston, S.D., 1997, Evaluation of the Stream-Gaging Network in Maryland, Delaware and Washington, D.C.: U.S. Geological Survey Fact Sheet, FS-97-126, p. 4.

Preston, S.D., and Summers, R.S., 1997, Estimation of nutrient and suspended-sediment loads in the Patuxent River Basin, Maryland, Water Years 1986-90: U.S. Geological Survey Water-Resources Investigations Report 96-4175, p. 69.

2. ABSTRACTS:

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1989, Evaluation of error in the estimation of tributary mass loading rates. International Association for Great Lakes Research, Abstracts with Programs.

(Presented at the International Association for Great Lakes Research 32nd Annual Conference, Madison, Wisconsin.)

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1989, Analysis of error in the estimation of tributary mass loads: EOS Transactions, v. 70, no. 43, p. 1105.

(Presented at the American Geophysical Union 1989 Fall Meeting, San Francisco, California.)

Preston, S.D., and Summers, R.M., 1991, Compilation of a long-term water-quality data base for the assessment of nonpoint source nutrient loading in the Patuxent River basin, Maryland: EOS Transactions, v. 72, no. 17, p. 136.

(Presented at the American Geophysical Union 1991 Spring Meeting, Baltimore, Maryland.)

Preston, S.D., 1994, Nutrient Loading to Estuarine Water from the Patuxent River basin, Maryland: Approved for publication in association with the "Marine and Estuarine Shallow Water Science and Management in the Mid-Atlantic Region" Conference on September 27, 1993.

(Presented at the Marine and Estuarine Shallow Water Science and Management in the Mid-Atlantic Region Conference, March 9, 1994, Atlantic City, New Jersey.)

Preston, S.D., 1994, Land use / nitrogen loading relations in the Patuxent River basin, Maryland: Approved for publication in EOS Transactions on February 28, 1994.

(Presented at the American Geophysical Union 1994 Spring Meeting, Baltimore, Maryland.)

Preston, S.D., 1994, Geographic variations in nitrogen loading within the Patuxent River Basin, Maryland: Approved for publication in conference proceedings in association with the "Chesapeake Research Conference" on April 28, 1994.

(Presented at the Chesapeake Research Consortium Conference, June 2, 1994, Norfolk, VA.)

Preston, S.D., 1994, Use of a ratio estimator to estimate nutrient loads in the Patuxent River Basin, Maryland: Approved for publication in association with the "Second National Nonpoint Source Watershed Monitoring Conference" on September 2, 1994.

(Presented at the "Second National Nonpoint Source Watershed Monitoring Conference", September 29, 1994, Northbrook, IL.)

Preston, S.D., 1994, Relations between land use and nitrogen loading in the Patuxent River Basin and Chesapeake Bay Piedmont area, Maryland: EOS Transactions, v. 75, no. 44, p. 247.

(Presented at the American Geophysical Union 1994 Fall Meeting, San Francisco, California.)

3. UNPUBLISHED ACADEMIC THESES:

Preston, S.D., S.E., 1983, Numerical analyses of a eutrophic lake chain, The University of Florida, Department of Environmental Engineering Sciences, Master's Thesis, 194 p.

Preston, S.D., 1990, An evaluation of methods for the estimation of tributary mass loads. The University of Notre Dame, Department of Civil Engineering, PhD Dissertation 261 p.

ADDITIONAL SCIENTIFIC CONTRIBUTIONS

Stephen D. Preston

1. PAPERS PRESENTED AT SCIENTIFIC MEETINGS:

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1989, Evaluation of error in the estimation of tributary mass loading rates: International Association for Great Lakes Research 32nd Annual Conference, Madison, Wisconsin, May, 1989.

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1989, Analysis of error in the estimation of tributary mass loads: American Geophysical Union Fall Meeting, San Francisco, California, December, 1989.

Preston, S.D., and Summers, R.M., 1991, Compilation of a long-term water-quality data base for the assessment of nonpoint source nutrient loading in the Patuxent River basin, Maryland: American Geophysical Union Spring Meeting, Baltimore, Maryland, May, 1991.

Preston, S.D., 1994, Nutrient Loading to Estuarine Water from the Patuxent River basin, Maryland: Marine and Estuarine Shallow Water Science and Management in the Mid-Atlantic Region Conference, Atlantic City, New Jersey, March 8, 1994.

Preston, S.D., 1994, Land use / nitrogen loading relations in the Patuxent River basin, MD: American Geophysical Union Spring Meeting, Baltimore, Maryland, May, 1994.

Preston, S.D., 1994, Geographic variations in nitrogen loading within the Patuxent River Basin, Maryland: Chesapeake Research Consortium Conference, Norfolk, Virginia June 2, 1994.

Preston, S.D., 1994, Use of a ratio estimator to estimate nutrient loads in the Patuxent River Basin, Maryland: Second National Nonpoint Source Watershed Monitoring Conference, Northbrook, IL, September 29, 1994.)

Preston, S.D., 1994, Relations between land use and nitrogen loading in the Patuxent River Basin and Chesapeake Bay Piedmont area, Maryland: American Geophysical Union Fall Meeting, San Francisco, California, December, 1994

2. TRAINING GIVEN AT USGS NATIONAL TRAINING CENTER:

Water Quality in the Patuxent River Basin, River Basin Water Quality Modeling, February 28 - March 4, 1994.

3. PROFESSIONAL SOCIETY ASSIGNMENTS:

Session Convener at the "Fourth National Nonpoint-Source Watershed Projects Workshop", Harrisburg, PA, September, 1996. Session entitled "Appropriate Levels of Watershed Model Complexity in the Evaluation and Management of Nonpoint-Source Loading."

4. OTHER COMMITTEE ASSIGNMENTS:

USGS alternate representative to the Modeling Subcommittee of the EPA Chesapeake Bay Program, 1993/1994.

USGS representative on the Watershed Modeling Workgroup sponsored by the Maryland Department of Natural Resources (MDNR), 1996/1997.

USGS representative on Technical Advisory Committee of the Washington Suburban Sanitary Commission (WSSC), 1996/1997.

5. OTHER TALKS AND SEMINARS:

Preston, S.D., Bierman Jr, V.J., and Silliman, S.E., 1988, An evaluation of methods for estimating tributary contaminant loads, USGS, Reston, Virginia, May, 1988.

Preston, S.D., 1991, Nonpoint source nutrient loading in the Maryland - Chesapeake Bay Region: Northeast Region Management Meeting, Mishicot, Wisconsin, July, 1991.

Preston, S.D., 1991, Nonpoint source sediment and nutrient loading in the Patuxent River basin, Maryland: Joint Discipline Research Workshop, Hood River, Oregon, September, 1991.

Preston, S.D., 1992, Nonpoint source nutrient loading in the Patuxent River basin: USGS Chesapeake Bay Workshop, Lemoyne, Pennsylvania, January, 1992.

Preston, S.D., 1993, Nonpoint source nutrient and sediment loading in the Patuxent River basin, Maryland: Presentation to the Chief Hydrologist and Associate Chief Hydrologist, Water Resources Division, USGS, Reston, Virginia, July, 1993.

Preston, S.D., 1996, Study of nonpoint source nutrient loading in the Patuxent River Basin and the State of Maryland: Northeast Region Management Meeting, Hunt Valley, Maryland, April, 1996.

Bicknell, R.B., Preston, S.D., Tapley, T., 1996, Generation and comparison of watershed management scenarios in the Patuxent River, Maryland: Software Demonstration at the Watershed '96, Baltimore, Maryland, June, 1996.

6. OTHER ASSIGNMENTS:

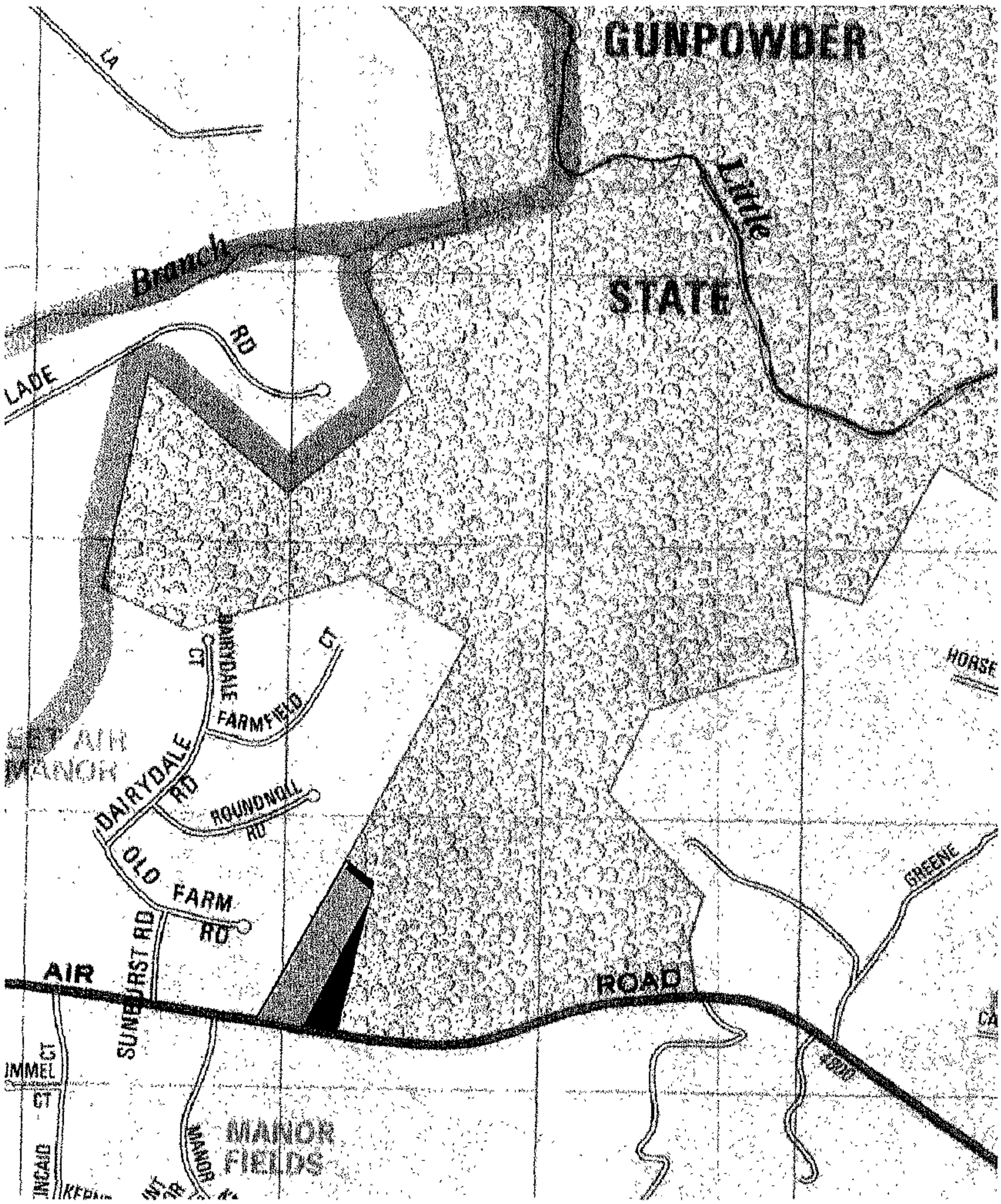
Participation in the filming of a documentary entitled "Chesapeake: Living Off the Land" which aired on Maryland Public Television on November 14 and 15, 1992.

Participation in a Data Analysis Workshop to evaluate data analysis software for the Water Resources Division, Reston, VA, November, 1993.

Poster presentation at the Chesapeake Bay Program Executive Council Meeting (Governors of PA, MD and VA, Mayor of Washington DC and EPA Administrator Carol Browner), "Field Scale Monitoring of Agricultural Runoff at Patterson Park, MD," October 10, 1994.

Participation in a Watershed Model Workshop to evaluate watershed modeling needs for the Water Resources Division, Hunt Valley, Maryland, September, 1995.

Location of Lynch Property and Surrounding Area



PLAT. #5B

Baltimore City & County, MD Map Legend

ROADS AND ROUTE SHIELDS

Interstate 83

Other Controlled Access Highway .....

U.S.; State or County 40 45

Major Through Route; Traffic Direction Flow ..... ←CHARLES STREET →

Highway Proposed or Under Construction .....

Street; Block Number ..... MOUNT VISTA RD 6600

Proposed Street .....

Trail .....

MASS TRANSIT

Railroad; Station ..... S

Metro Rail and Station ..... Old Court

Park & Ride ..... P

BOUNDARIES

State ..... PENNSYLVANIA / MARYLAND

County ..... BALTIMORE CO / HOWARD CO

Incorporated ..... BALTIMORE

Boundary Definition .....

Postal Zone/ZIP Code 21206

ZIP Code for Post Office Boxes 21094

OUTDOOR FEATURES

Park, Forest, Wildlife Areas .....

Community or Recreation Center; Playground .....

Campsite; Picnic Area .....

Golf Course or Country Club .....

Beach .....

Marina; Boat Ramp/Launch .....

Swamp .....

PLACE NAMES

Area Name ..... TIMONIUM

Subdivision ..... HOOT OWL HILLS

GOVERNMENT & PUBLIC FACILITIES

Military, Federal, State or County Property .....

Special Property Limits .....

School; College or University .....

Places of Worship .....

Cemetery .....

Fire Station/EMS; Police Station ..... F P

Library; Post Office ..... L P

Municipal Building ..... City Hall

Hospital ..... Johns Hopkins

Point of Interest; Gate/Barrier .....

Business Park ..... CHESAPEAKE IND PK

Scale 1"= 2000'

1 ½ 0 1 Mile

2000 1000 0 2000 4000 6000 8000 Feet

1 ½ 0 1 Kilometer

BLACK NUMBERS AND BLACK TICKS OUTSIDE THE NEATLINE INDICATE LATITUDE AND LONGITUDE

BLACK NUMBERS AND BLUE TICKS OUTSIDE THE NEATLINE INDICATE THE 10,000 FOOT GRID BASED ON THE MARYLAND COORDINATE SYSTEM

THE HORIZONTAL DATUM REFERENCED IN THIS STREET MAP BOOK IS BASED ON THE NORTH AMERICAN DATUM OF 1927 (NAD 27).

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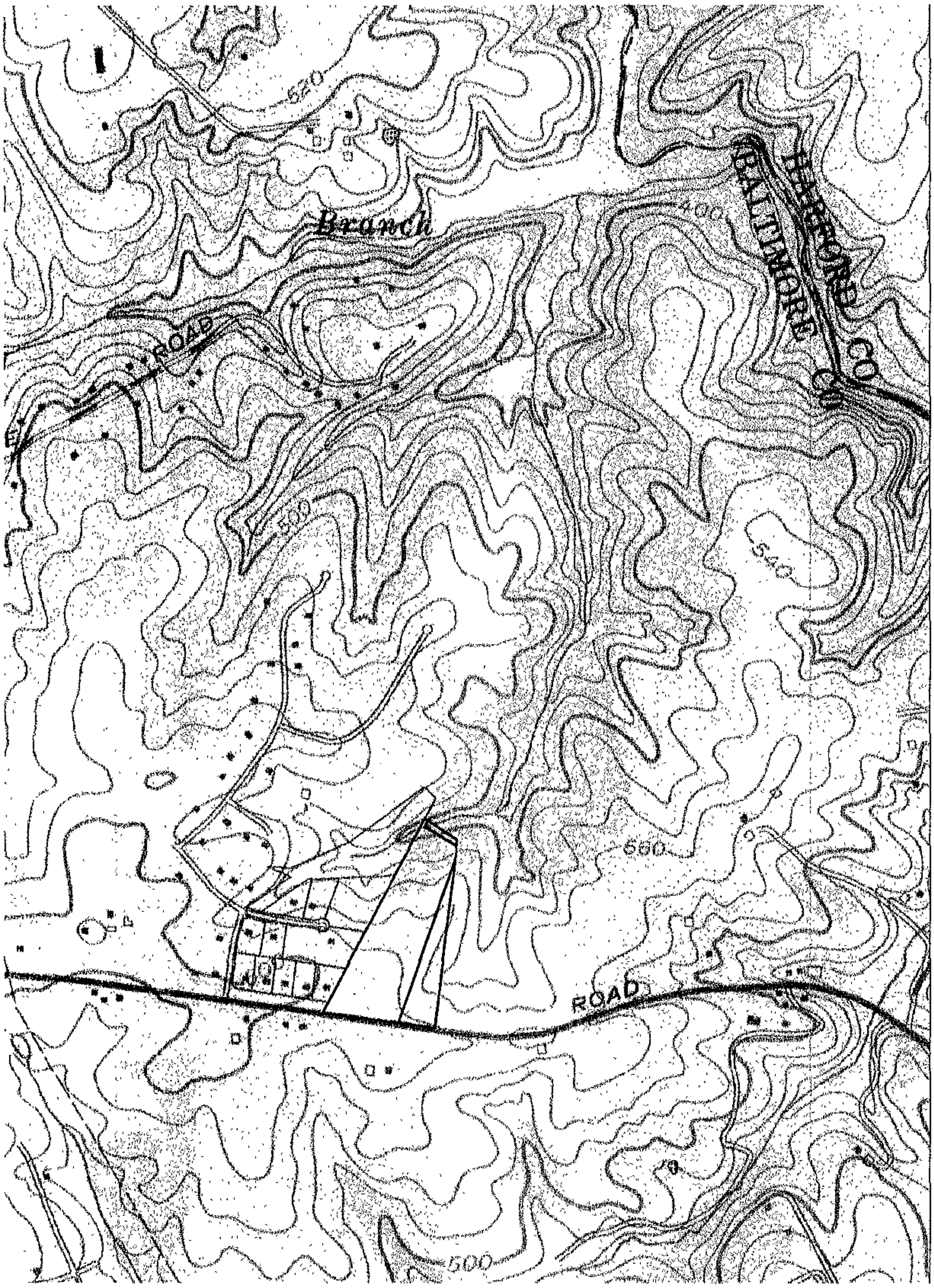
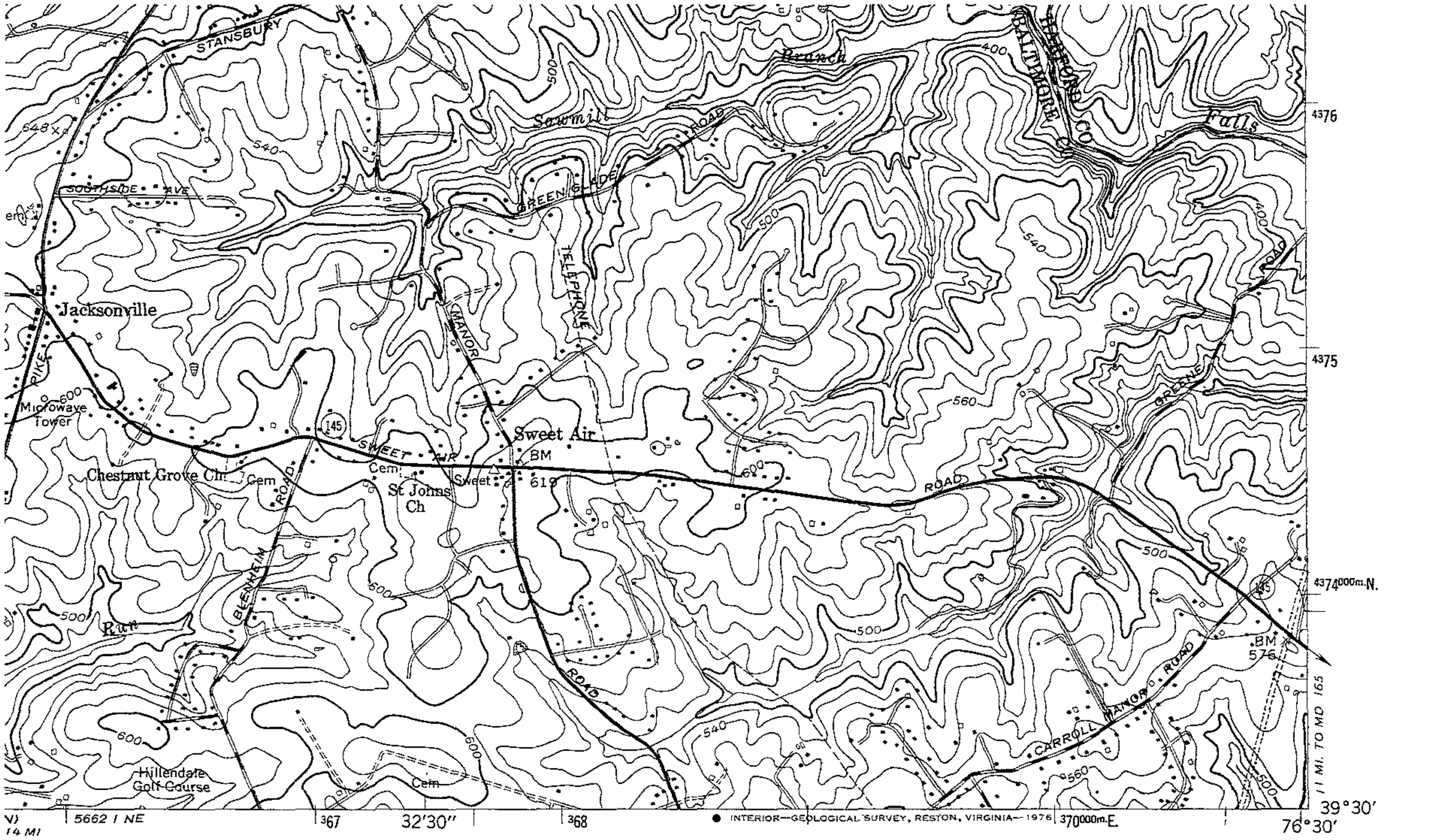
ADC has attempted to verify the information contained in this publication, but no liability is assumed for damages, either direct or consequential, arising from errors or omissions. Users are requested to notify ADC of any errors or omissions observed. Phone (703) 750-0510 or write ADC, 6440 General Green Way, Alexandria, VA 22312-2447.

Drainage of Lynch Property and Surrounding Area



PROT #6.B



4 000

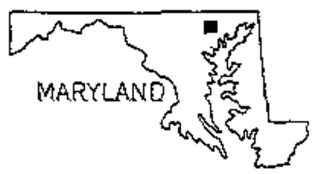
1 MILE

4000 5000 6000 7000 FEET

1 KILOMETRE

AL 20 FEET
CAL DATUM OF 1929

L MAP ACCURACY STANDARDS
RVEY, RESTON, VIRGINIA 22092
ID SYMBOLS IS AVAILABLE ON REQUEST



QUADRANGLE LOCATION

ROAD CLASSIFICATION

Heavy-duty — Light-duty

Medium-duty — Unimproved dirt

State Route

PHOENIX, MD.

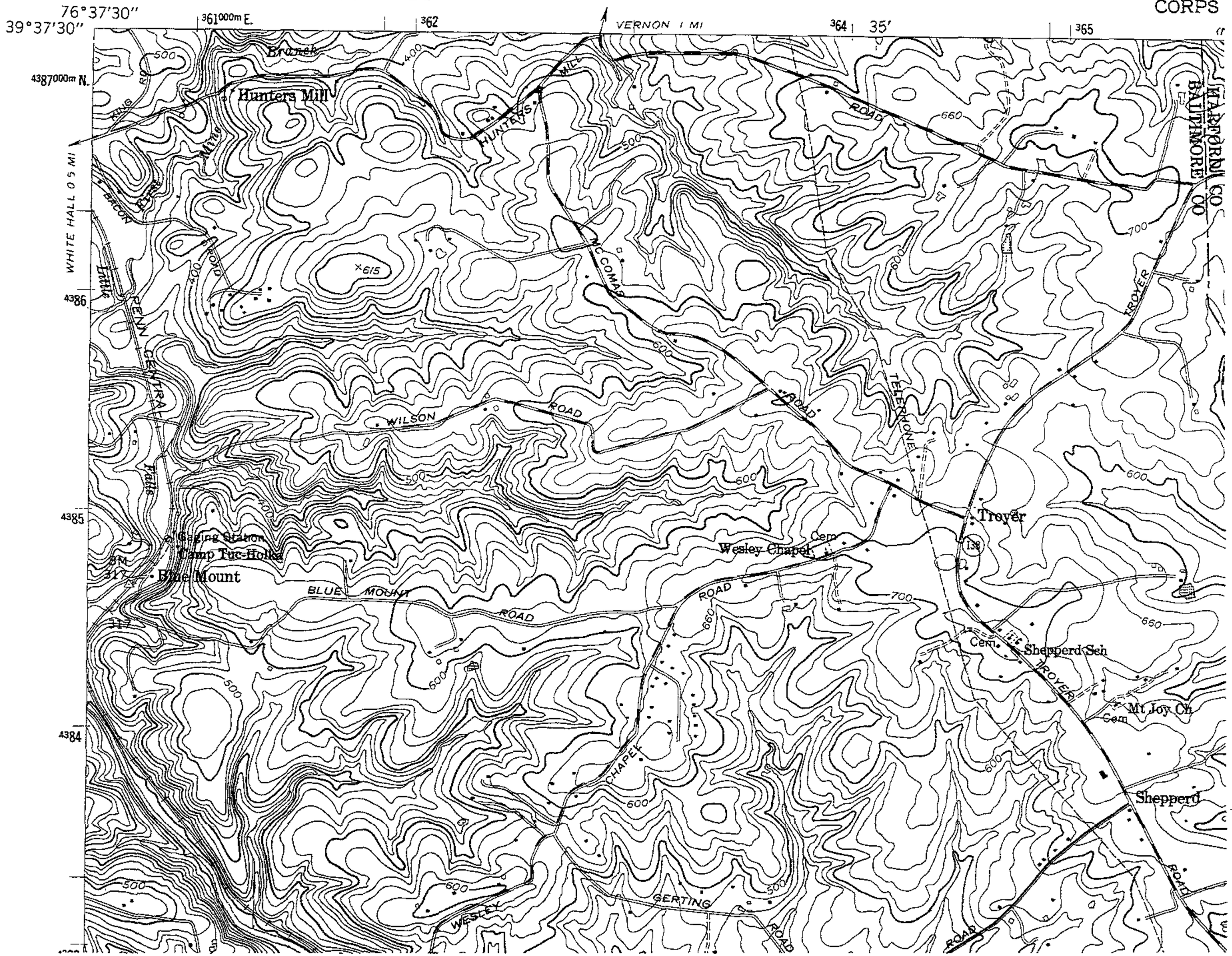
N3930—W7630/7.5

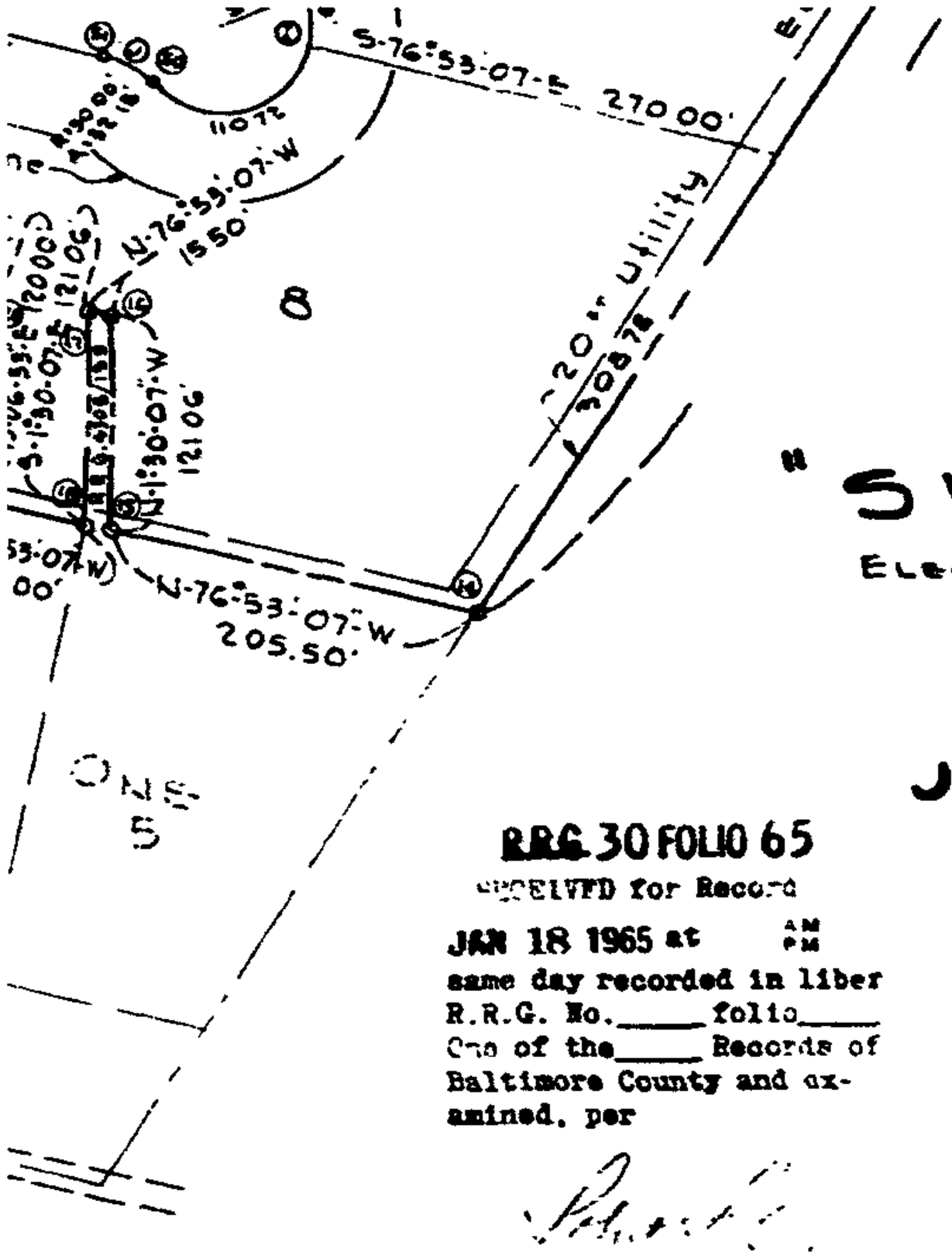
1957
PHOTOREVISED 1974
AMS 5663 II SE—SERIES V833

5663 II NW
(NEW FREEDOM)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

UNIT
DEPARTME
CORPS





PLAT OF
REVISED - SECTION ONE
"SWEET AIR MANOR"

ELECTION DISTRICT Nº 10 BALTO. COUNTY, MD.

FOR

J. THOMAS REQUARD & CO. INC.

7900 NORTH BOUNDARY RD.
DUNDALK 22, MARYLAND

RRG 30 FOLIO 65
RECEIVED for Record
JAN 18 1965 at AM PM
same day recorded in liber
R.R.G. No._____ folio_____
One of the_____ Records of
Baltimore County and ex-
amined, per

OWNERS CERTIFICATE

e requirements of Sections 72A to 72D of Article 17 of the d Code of Maryland, 1939 Edition, Chapter 1016 of the 945, as amended by Chapters 84 and 788 of the Acts of nd subsequent Acts if any, amendatory thereto, so far as ers the making of the plat and setting of the markers, have plied with.

Owner of Land Shown Hereon

SURVEYOR'S CERTIFICATE

I, L. ALAN EVANS a Registered Land Surveyor of the State of Maryland, do hereby certify that the land shown hereon has been laid out and the plat thereof prepared in compliance with Sections 72A to 72E, inclusive, of Article 17 of the Annotated Code of Maryland, 1939 Edition as revised or amended by the Acts of 1945 and 1947 and subsequent Acts, if any, amendatory thereto.

L. Alan Evans

DATE	REVISION	BY

SURVEYED BY	DATE
COMPUTED BY	DATE
L.A.P.	
DRAWN BY	DATE
G.L.W.	6/26
CHECKED BY	DATE
Dwg. No.	

STATE OF MARYLAND
L. ALAN EVANS
No. 2071
REGISTERED
LAND SURVEYOR

L. ALAN EVANS
SURVEYORS & CIVIL ENGINEERS
4200 ELSRODE AVE - PHONE HA 6-2144
BALTIMORE 14 MARYLAND
— Branch office —
8 POPLAR STREET - PHONE AC 8-3350
CAMBRIDGE MARYLAND
STATE OF MARYLAND REG No 2071

DATE Dec. 16, 1964 SCALE 1" = 100'

L. Alan Evans

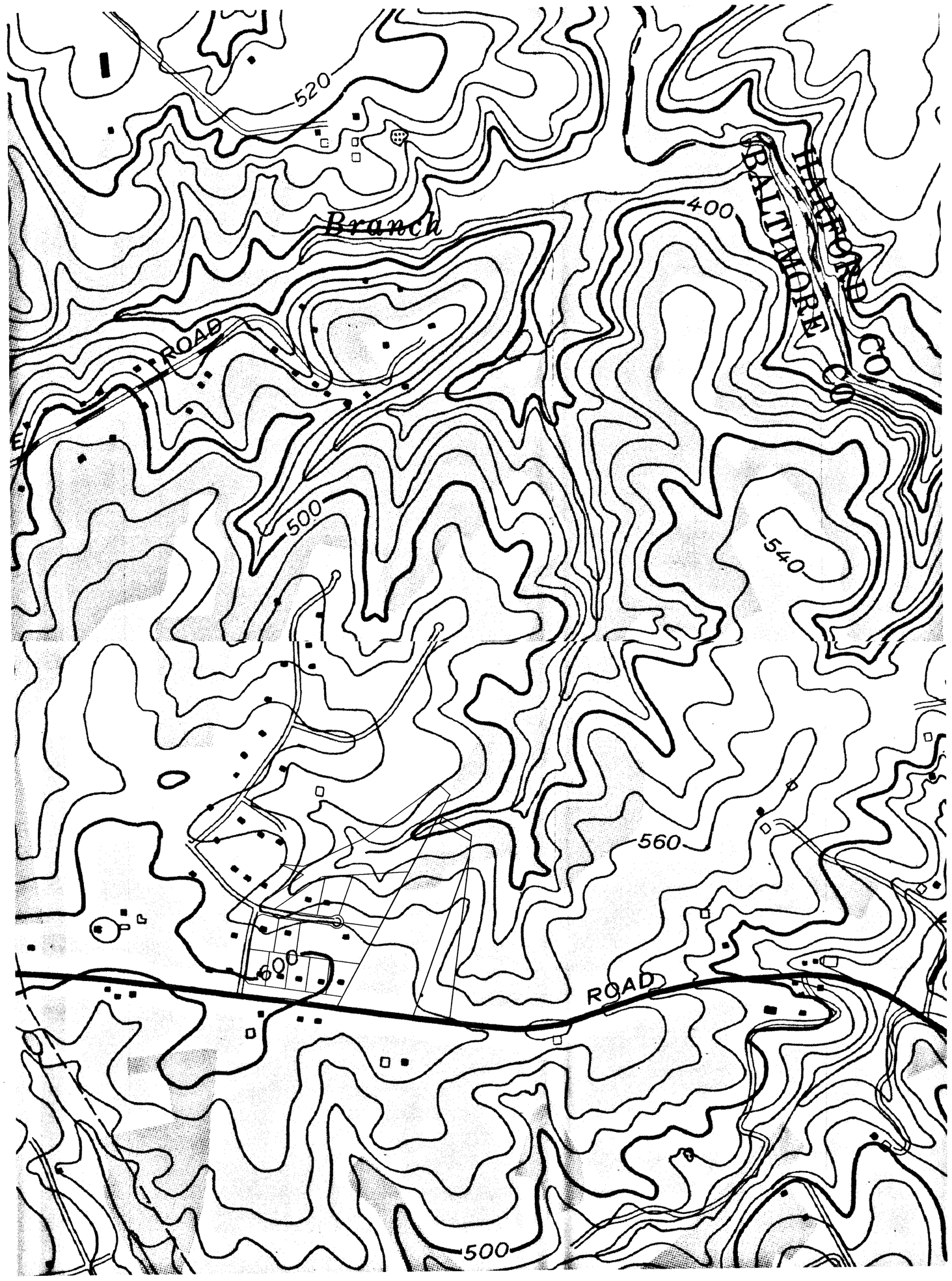
MJA SSU 1836-5017

31-65

Plot 2A

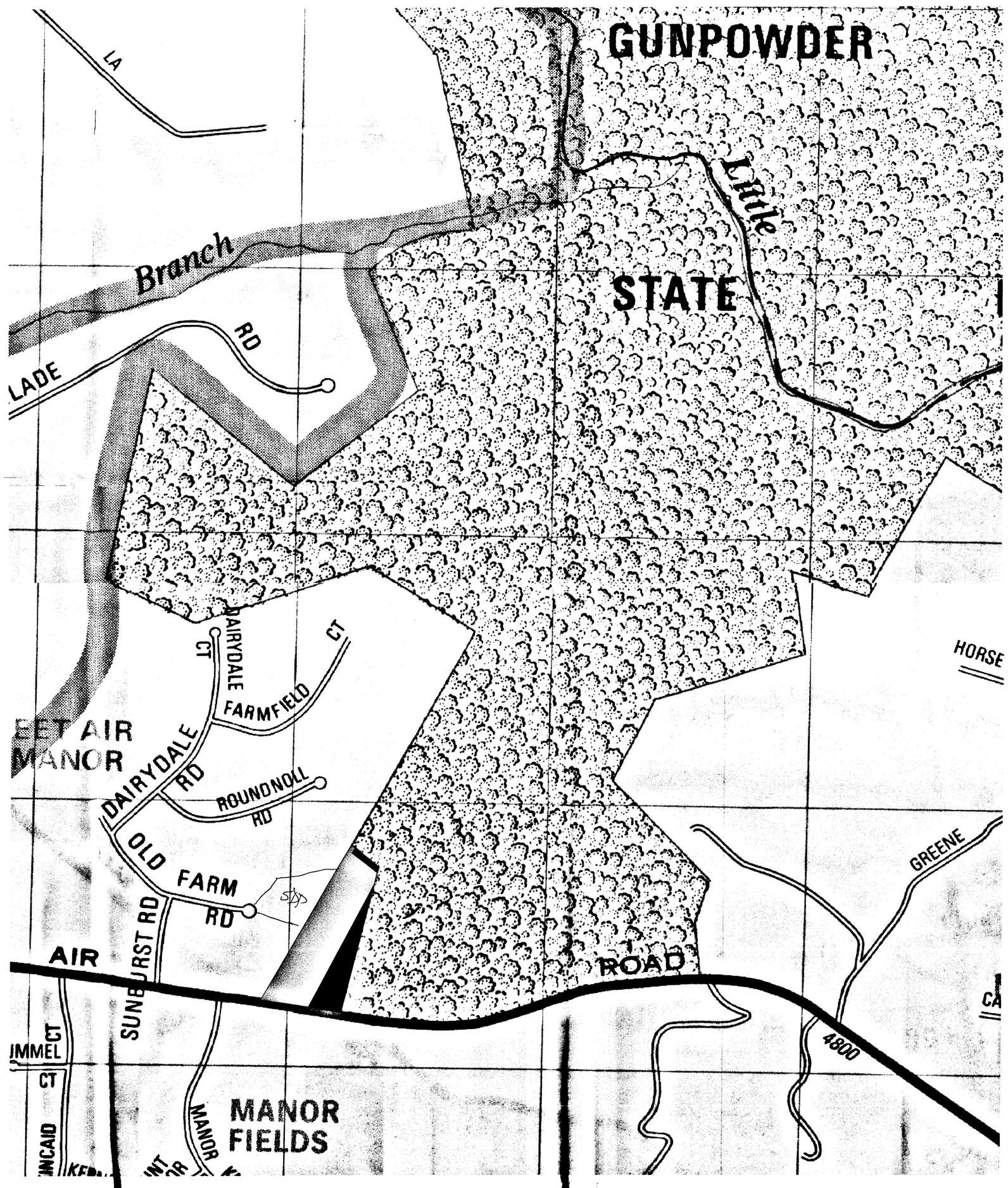
Pet Exh #6

Drainage of Lynch Property and Surrounding Area



Location of Lynch Property and Surrounding Area

Part Ex 5A

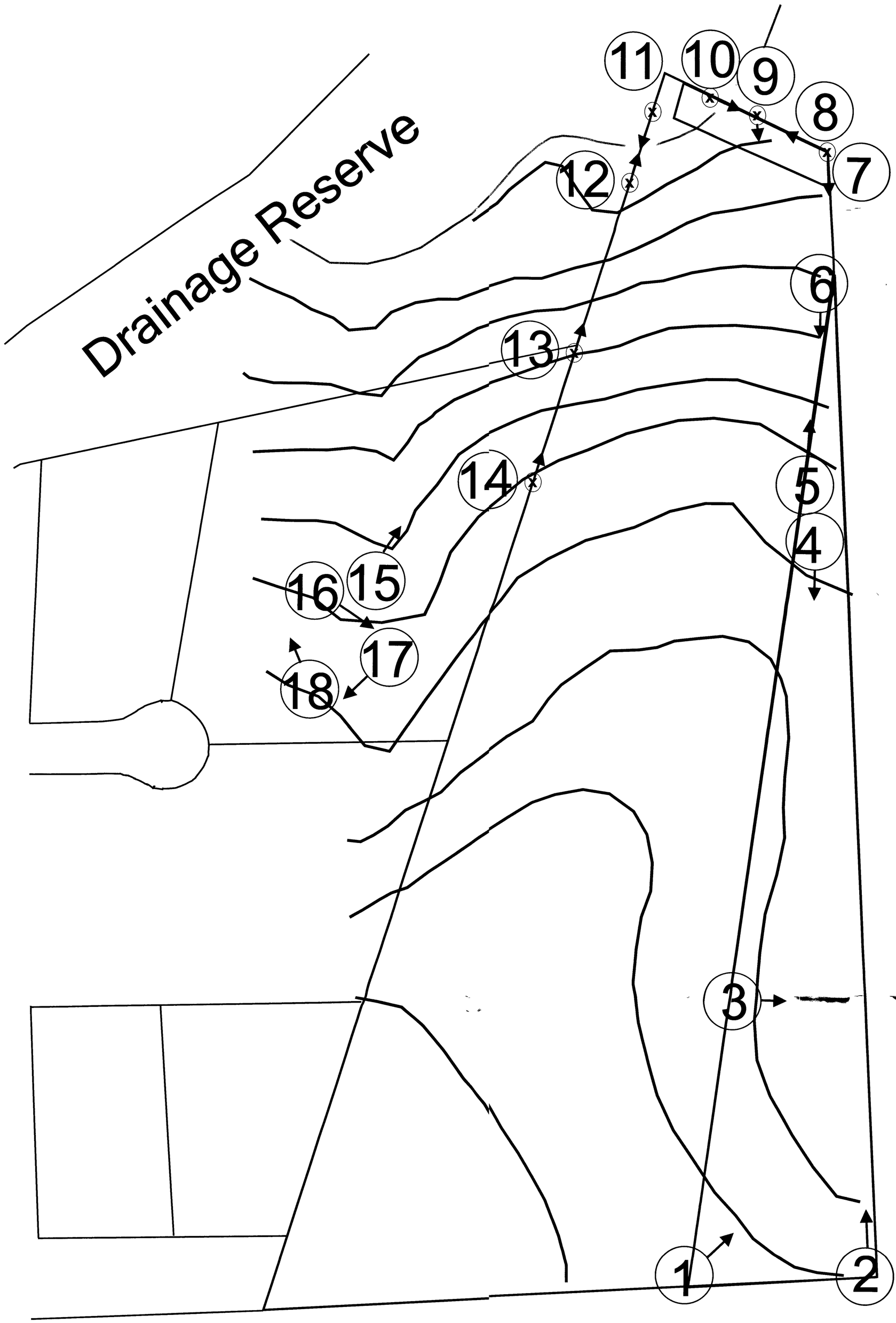


Detailed Drainage of Lynch Property

Prot Exh 7A

Photograph Locations

Prot Exh 8A



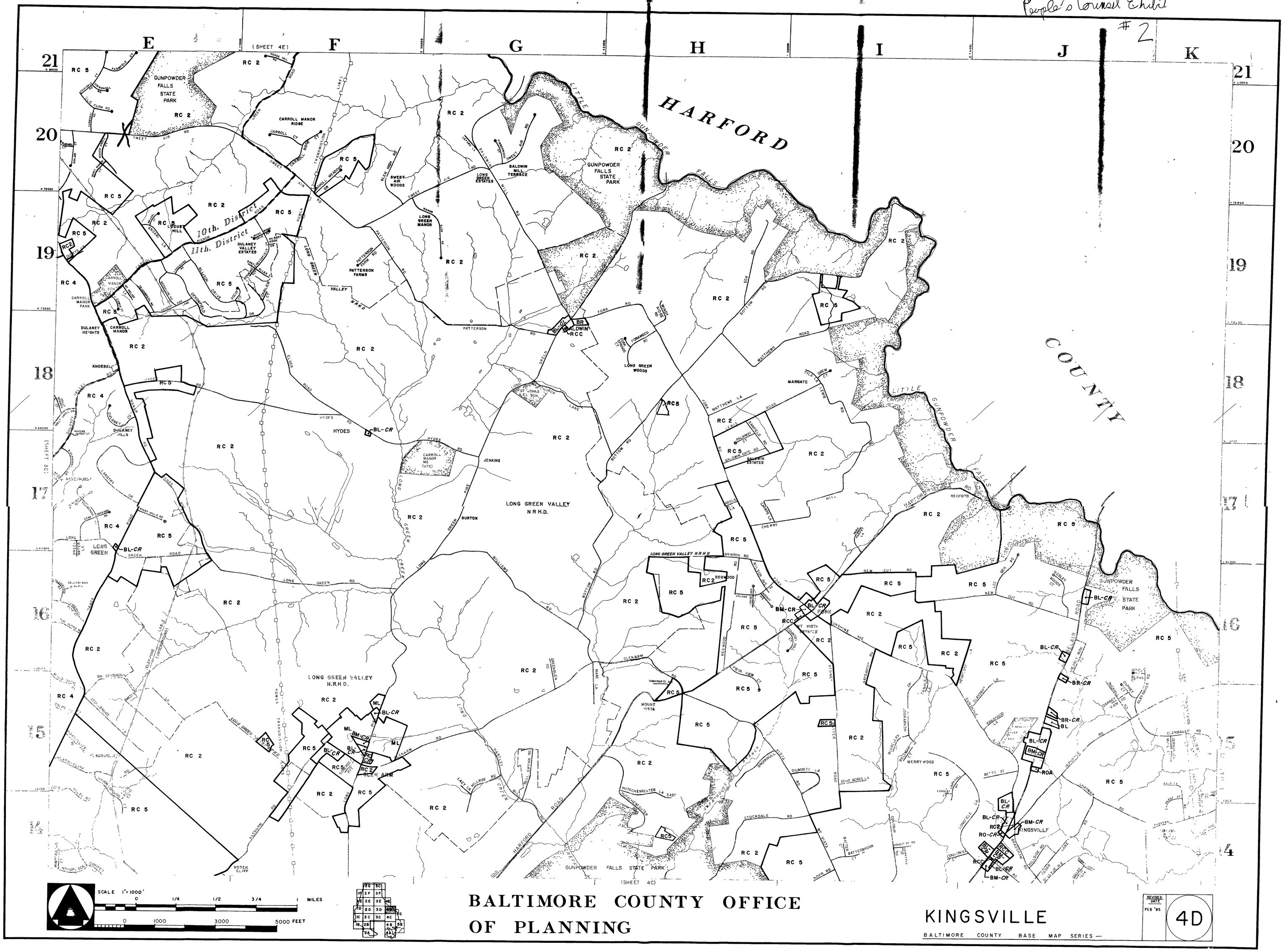
Copyright 2000 VARGIS LLC
All Rights Reserved
Herndon, Virginia
Produced by Baltimore County GIS Services Unit

1" = 300 feet

300 0 300 600 900 1200 Feet

PC #3 2/14/02

People's Counsel Exhibit #2



BALTIMORE COUNTY OFFICE OF PLANNING

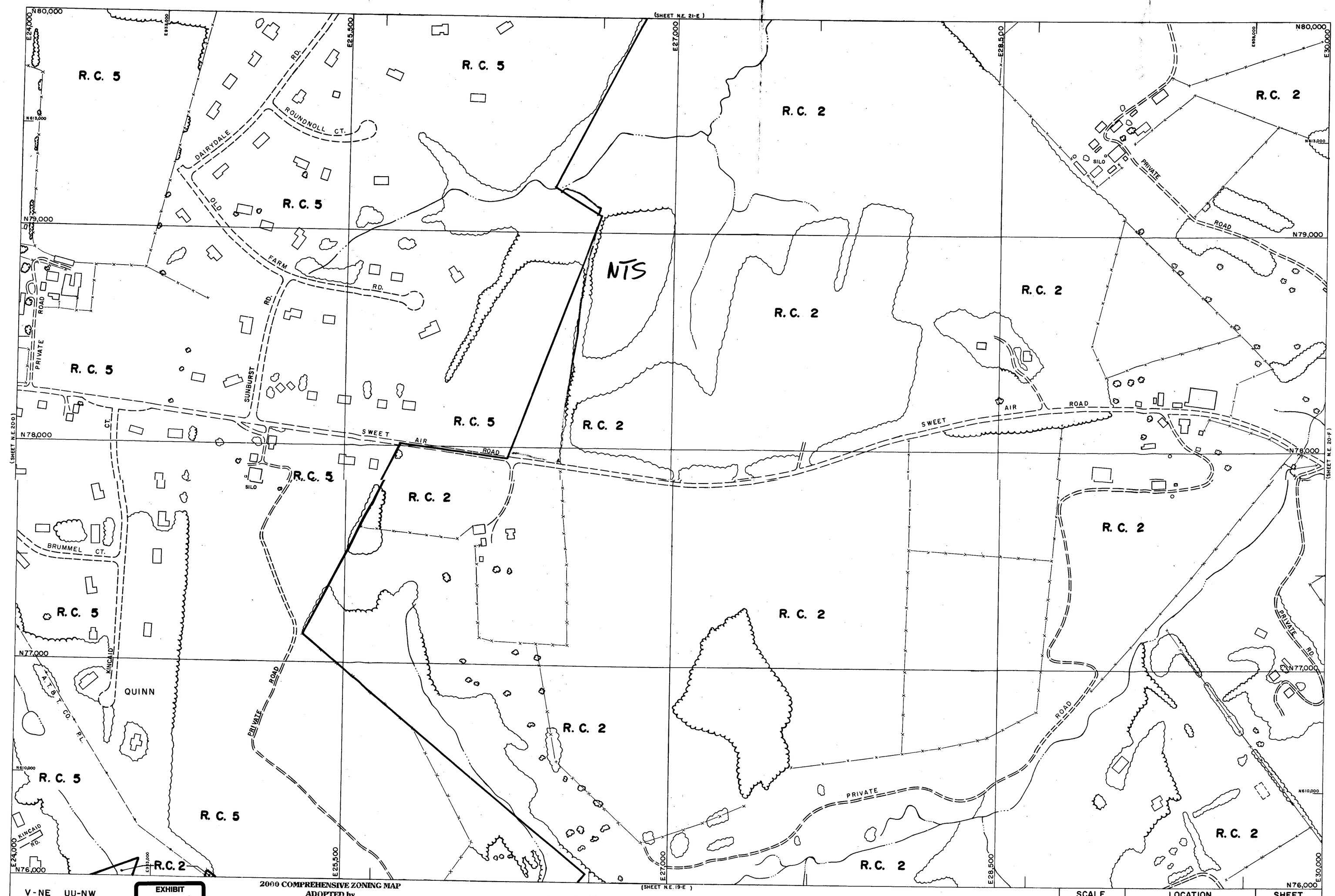
KINGSVILLE

BALTIMORE COUNTY BASE MAP SERIES —

REVISED DATE FEB '95

4D

PC #2
2/14/02



V-NE UU-NW
EE-SE VV-SW

EXHIBIT
Pc 1

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00.

Joseph Bartenfelder
Chairman County Council

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

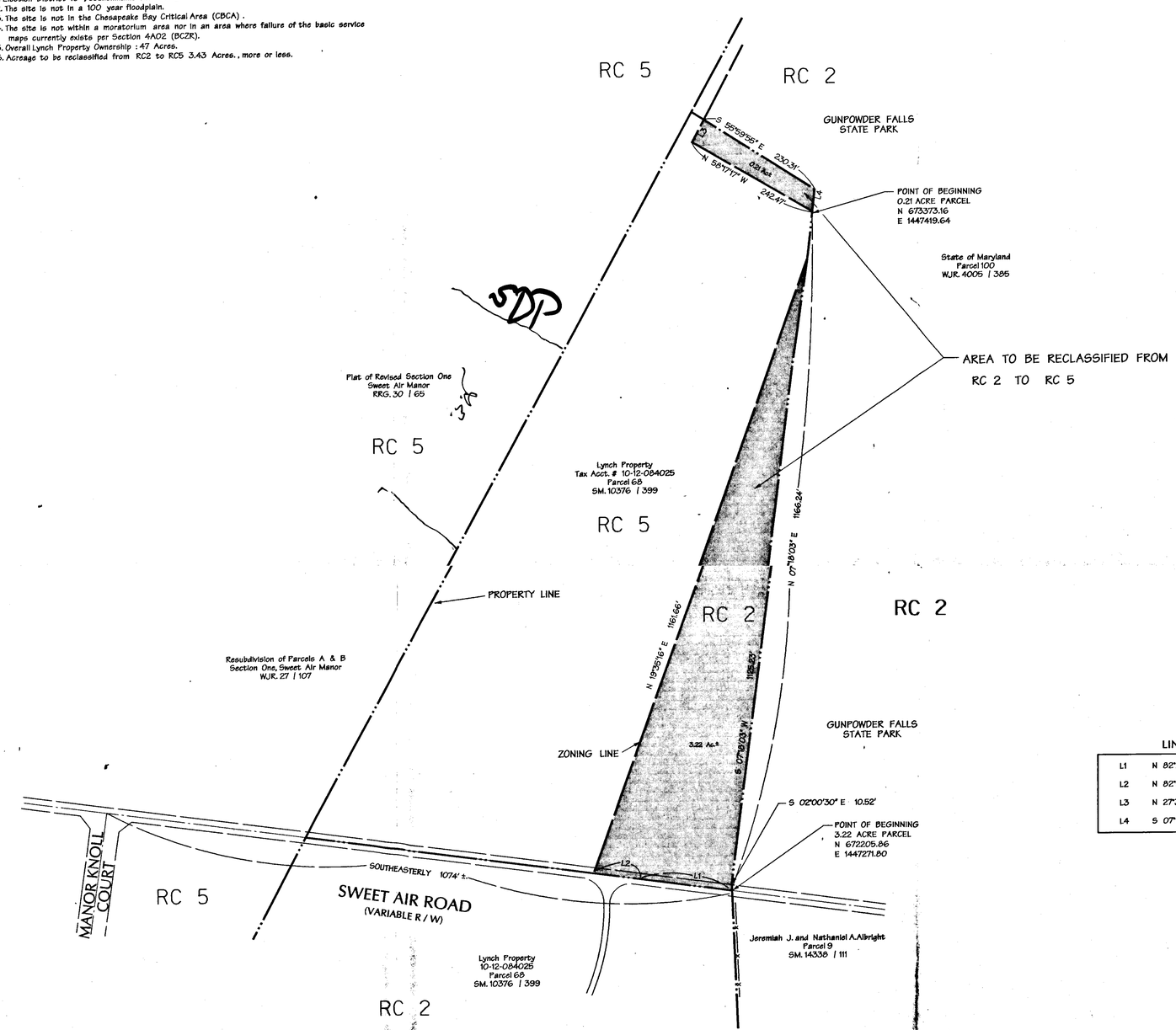
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

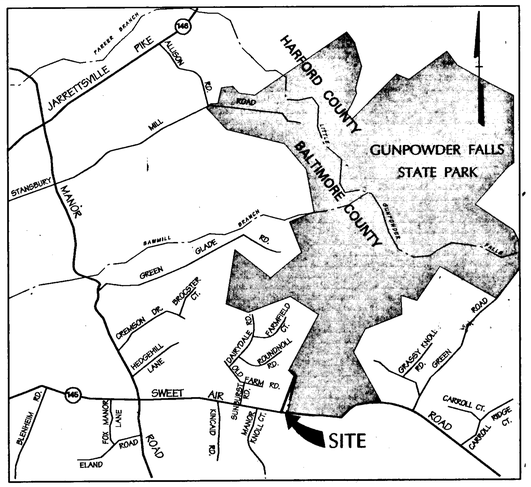
SCALE	LOCATION	SHEET
1" = 200'±	EAST OF SWEET AIR	N.E. 20-E
DATE OF PHOTOGRAPHY JANUARY 1986		

NE 20 E

GENERAL NOTES

1. Election District 10 ; Councilmanic District 6
2. The site is not in a 100 year floodplain.
3. The site is not in the Chesapeake Bay Critical Area (CBCA) .
4. The site is not within a moratorium area nor in an area where failure of the basic service maps currently exists per Section 4A02 (BCZR).
5. Overall Lynch Property Ownership : 47 Acres.
6. Acreage to be reclassified from RC2 to RC5 3.43 Acres., more or less.





VICINITY MAP

SCALE: 1" = 2000'

LINE TABLE

L1	N 82°22'00" W	157.19'
L2	N 82°55'00" W	91.72'
L3	N 27°38'55" E	43.25'
L4	S 07°18'03" W	37.27'

DATA SOURCES:

Property boundary shown heron is based upon the deed plot of Liber S.M. 10376, Folio 399

Zoning lines are based upon the year 2000, 1" = 200'

Baltimore County Zoning Map NE 20E

DMW
Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

A Team of Land Planners, Landscape Architects, Golf Course Architects, Engineers, Surveyors & Environmental Professionals

LYNCH PROPERTY

Undocumented Plan to Accompany Out-of-Cycle Reclassification Petition

ELECTION DISTRICT 10
COUNCILMANIC DISTRICT 6

BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND
PROFESSIONAL LAND SURVEYOR

DATE	BY	REVISIONS

PETITIONER'S EXHIBIT 1

ISSUE DATES			
REVIEW:		BASE:	WHJ
BID:		DRAWN:	
PERMIT:		DESIGNED:	RBW
CONSTRUCTION:		CHECKED BY:	RBW
SCALE:	1" = 100'	DATE CHECKED:	4/18/01
PROJECT NO.:	00097.A	DRAWING:	1 of 1

PRINTED
APR 18 2001
DAFT-McCUNE-WALKER, INC.

Tue Apr 17 15:34:53 2001 n:\00097\00097.dgn

Lynch Property
R-01-455

Protestants 8C - photographs
(18 in total)

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

STR

Account Identifier: **District** - 10 **Account Number** - 1012084025

Owner Information

Owner Name:	SURINA DOROTHY ELAINE GOUGH JEANNE MARIE,ET AL	**Use:**	AGRICULTURAL
		Principal Residence:	NO
Mailing Address:	4501 SWEET AIR RD BALDWIN MD 21013-9645	**Deed Reference:**	1) /10376/ 399 2)

Location & Structure Information

Premises Address
4501 SWEET AIR RD

Zoning

Legal Description
47 AC SS BALDWIN RD
3950 E MANOR RD

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
44	3	68					81	Plat Ref:

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1892	1,596 SF	47.00 AC	05

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value As Of 01/01/2002	Phase-in Assessments As Of 07/01/2001	As Of 07/01/2002	
Land:	79,480	79,480			PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE
Improvements:	83,750	88,480			
Total:	163,230	167,960	163,230	164,806	
Preferential Land:	9,480	9,480	9,480	9,480	

Transfer Information

Seller:	LYNCH AGNES M,ET AL	**Date:**	03/01/1994	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 9088/ 441	**Deed2:**	
Seller:	LYNCH WILLIAM A	**Date:**	02/05/1990	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

PC#5 2/14/02

Partial Exempt Assessments	Code	07/01/2001	07/01/2002
County	000	0	0
State	000	0	0
Municipal	000	0	0

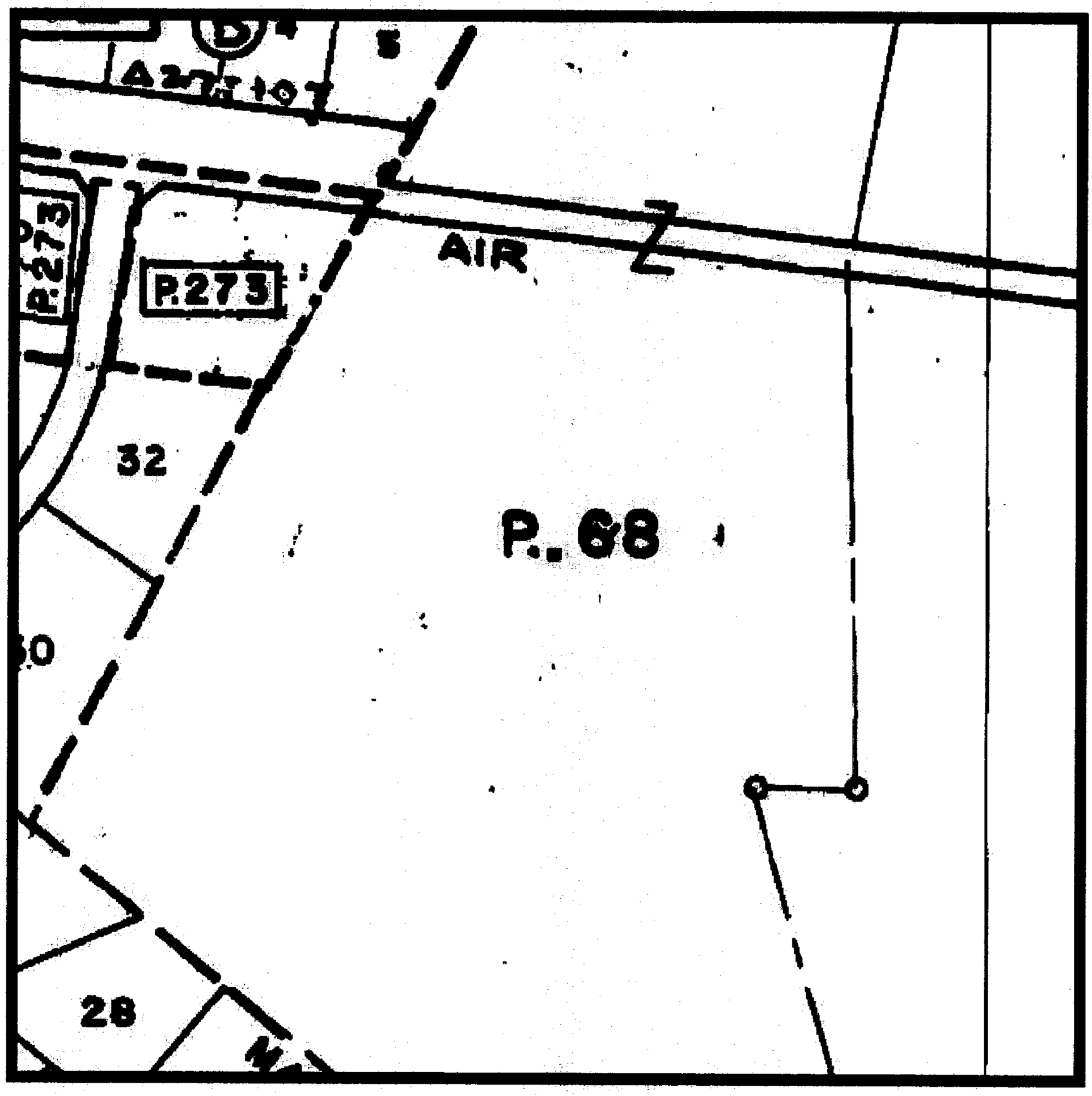
Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
AGRICULTURAL TRANSFER TAX

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 10 **Account Number** - 1012084025



Property maps provided courtesy of the Maryland Department of Planning ©2000.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us

Real Property Information

Maryland Department of Assessments and Taxation
Real Property System

[Go Back] BALTIMORE COUNTY [Start Over]

DISTRICT: 10 ACCT NO: 1012084025

Owner Information

Owner Name: SURINA DOROTHY ELAINE
GOUGH JEANNE MARIE,ET AL

Use: AGRICULTURAL

Mailing Address: 4501 SWEET AIR RD
BALDWIN MD 21013-9645

Principal Residence:NO

Transferred

From: LYNCH AGNES M,ET AL **Date:** 03/01/1994 **Price:** $0

Deed Reference: 1) /10376/ 399
2)

Special Tax Recapture:
AGRICULTURAL TRANSFER TAX

Tax Exempt: NO

Location Information [View Map]

Premises Address:
4501 SWEET AIR RD

Zoning:

Legal Description:
47 AC SS BALDWIN RD
3950 E MANOR RD

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat No:
44	3	68					81	Plat Ref:

Special Tax Areas

Town:
Ad Valorem:
Tax Class:

Primary Structure Data

Year Built:	Enclosed Area:	Property Land Area:	County Use:
1892	1,596 SF	47.00 AC	05

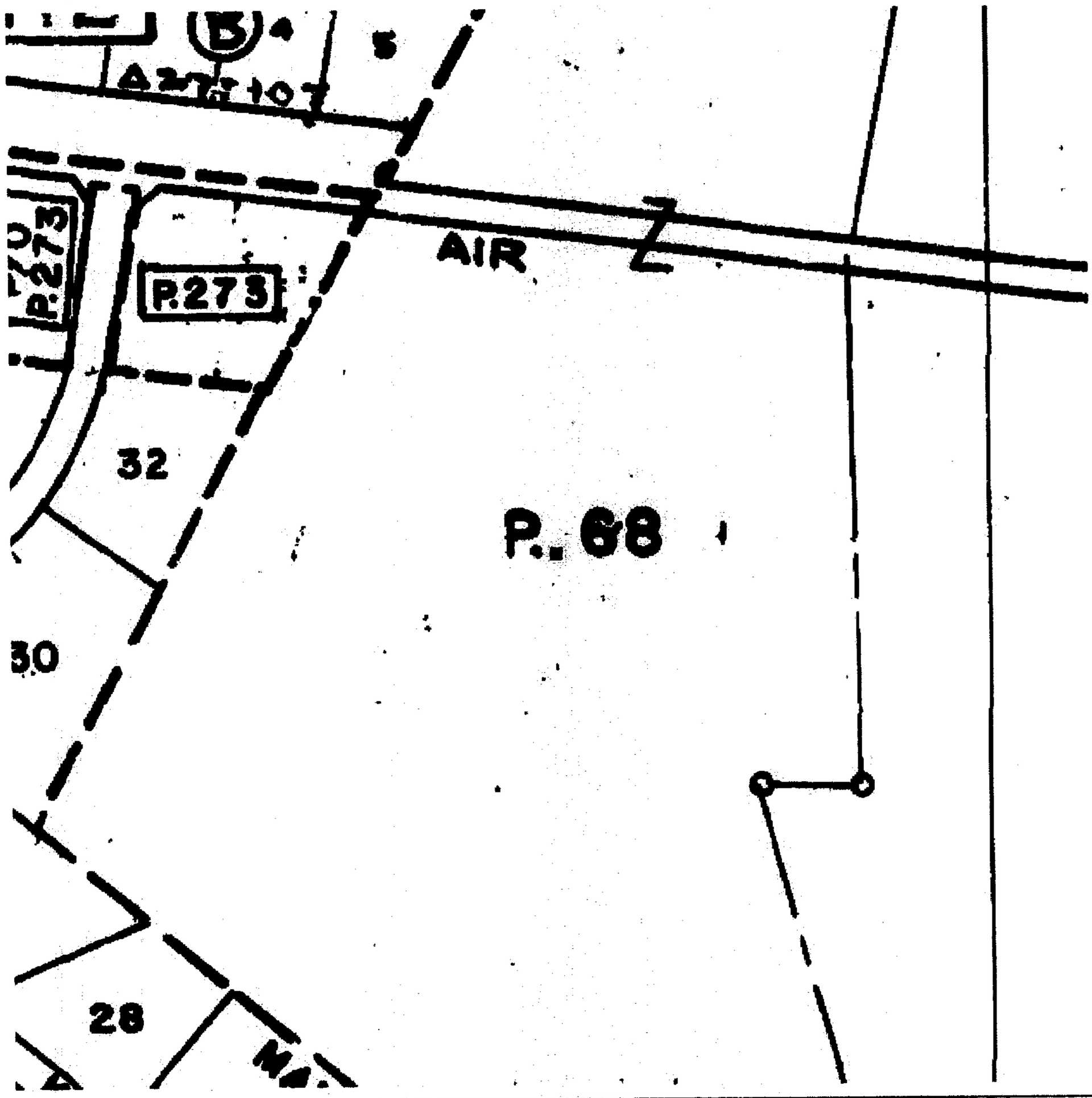
Value Information

	Base Value	Current Value As Of 01/01/1999	Phase-In Value As Of 07/01/2002	Phase-in Assessments As Of 07/01/2001	Phase-in Assessments As Of 07/01/2002
Land:	79,480	79,480			
Impts:	83,750	83,750			
Total:	163,230	163,230	NOT AVAIL	163,230	NOT AVAIL
Pref Land:	9,480	9,480	NOT AVAIL	9,480	NOT AVAIL

Real Property Information

Maryland Department of Assessments and Taxation
Real Property System

[Go Back] **Account ID : 04101012084025** [Zoom In]



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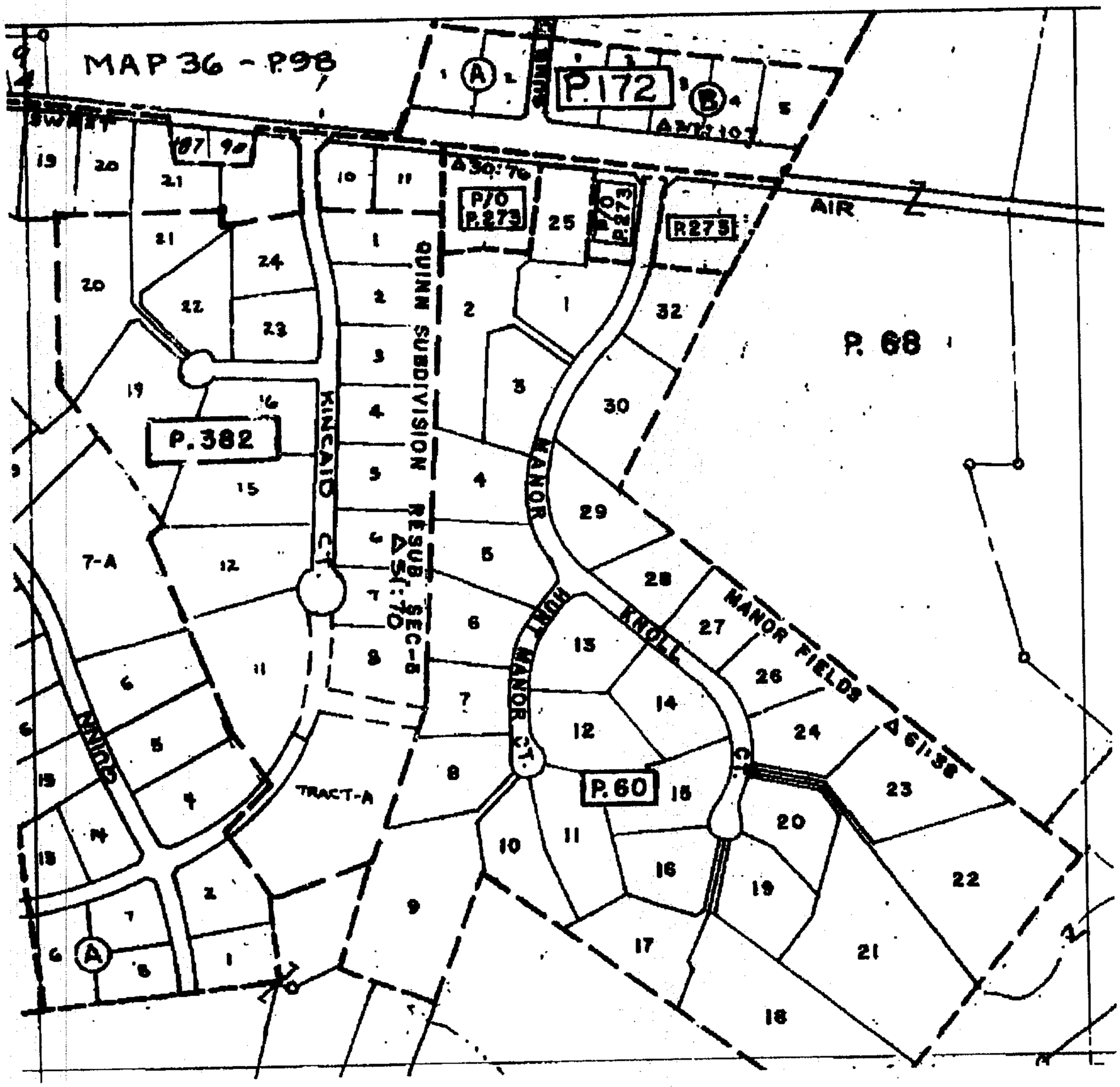
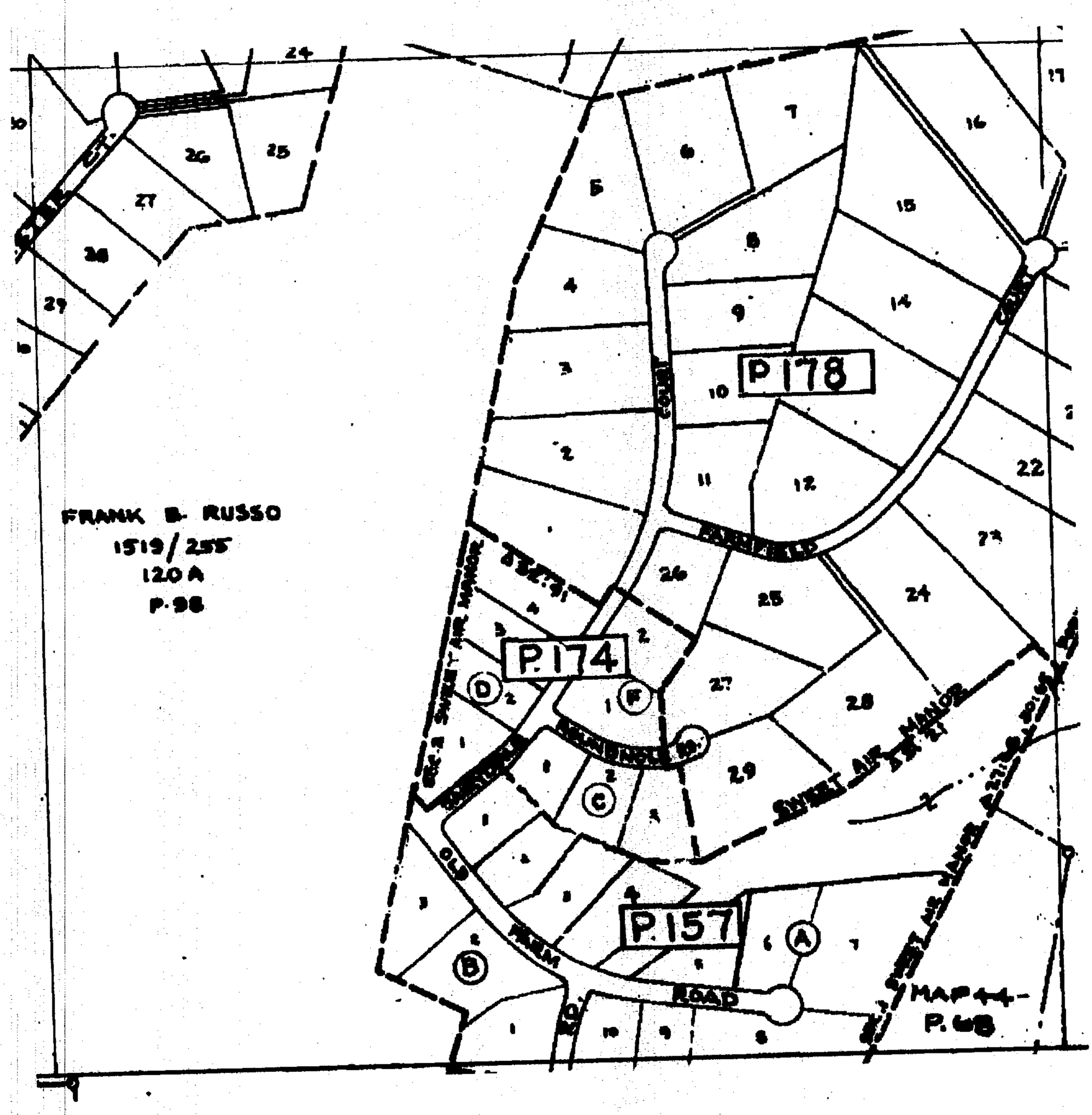
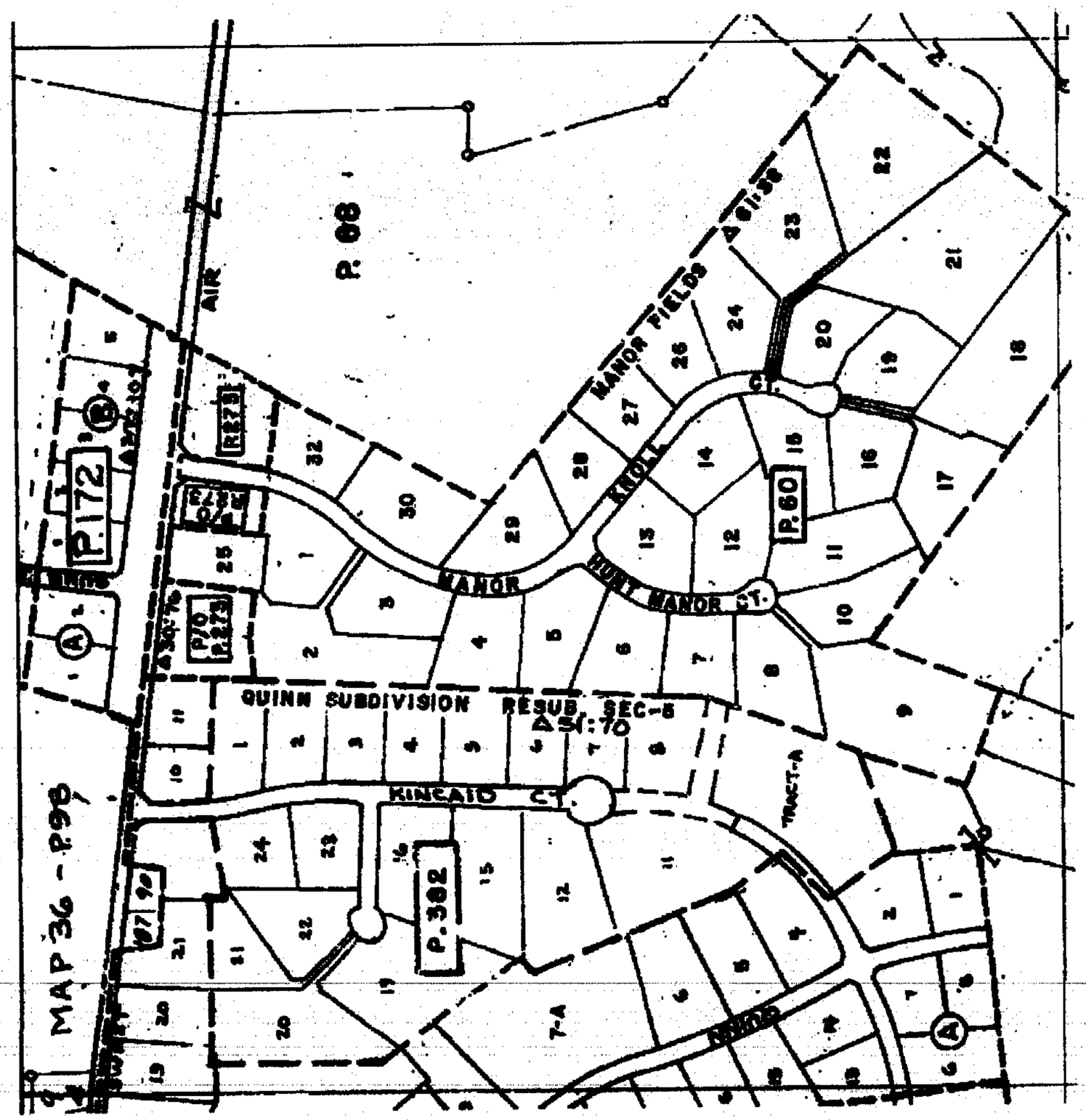
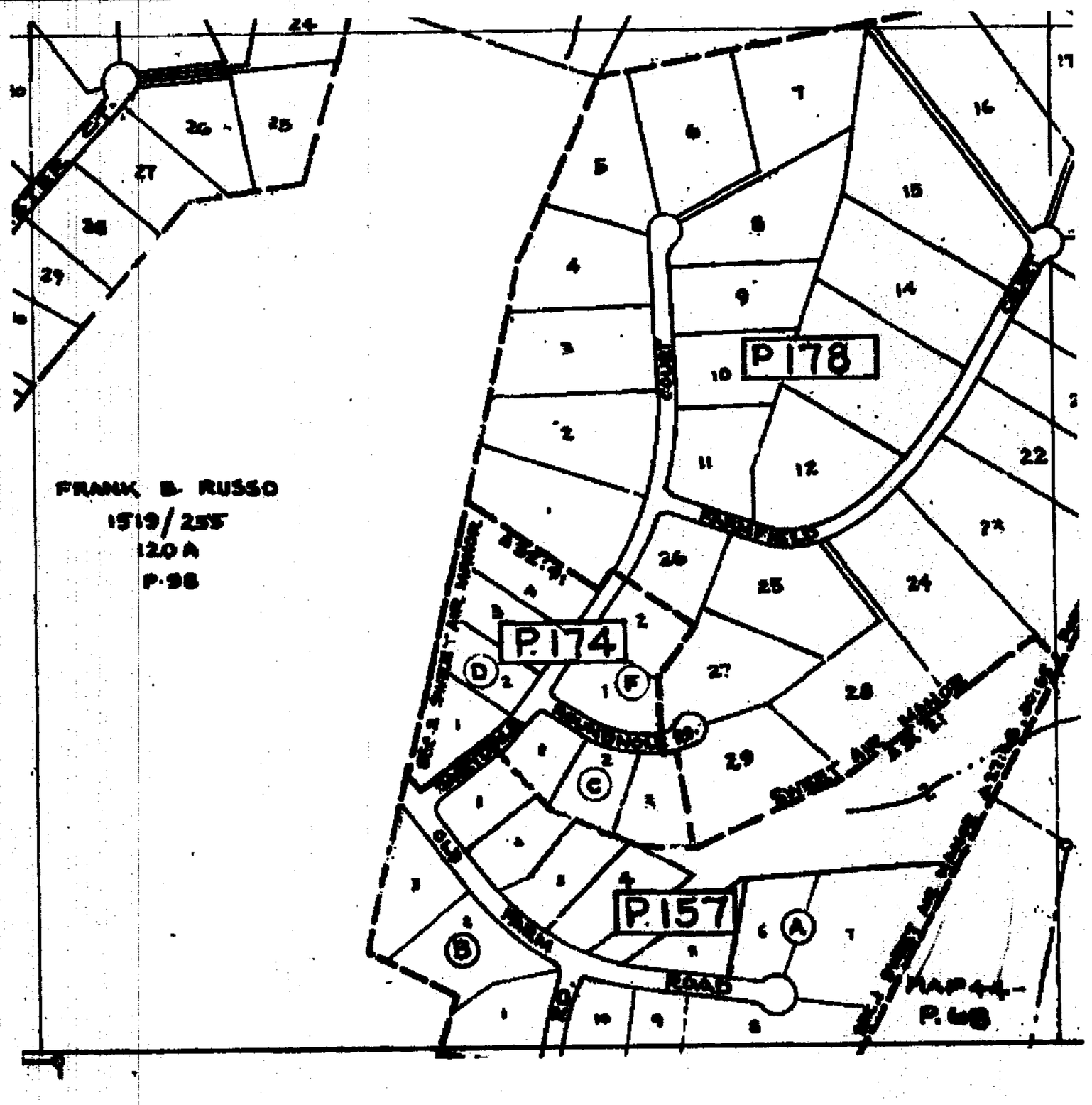

MAP 36 - P.98
P.172
P.273
P.68
P.382
P.60
AIR
KINCAID CT.
QUINN SUBDIVISION RESUB. OF LOT 8 SEC-B
MANOR
HUNT MANOR CT.
KNOLL
MANOR FIELDS
TRACT-A

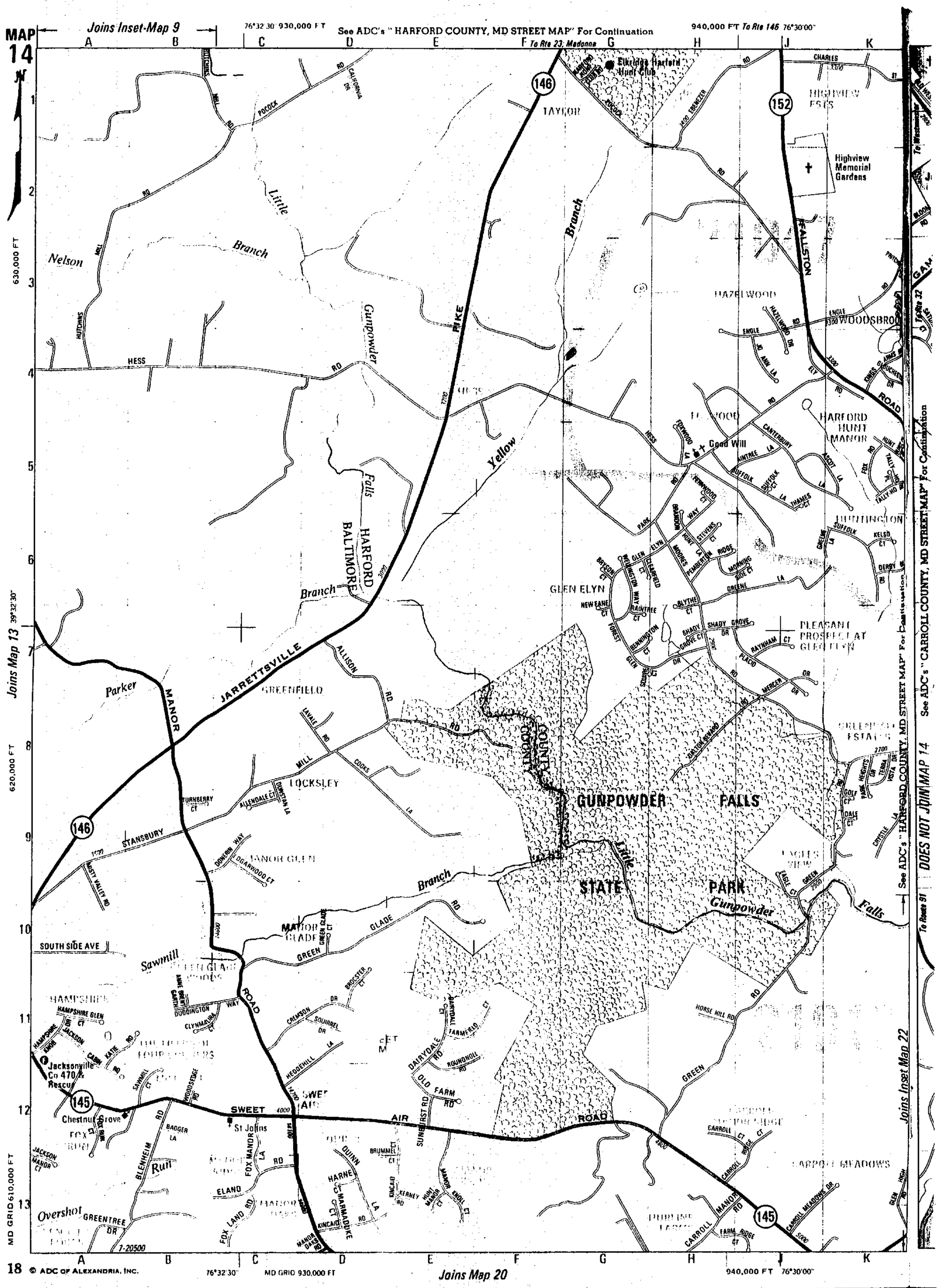
MAP 44


FRANK B. RUSSO
1519/255
120 A
P-98
P 178
P.174
P.157
SUNSET AIR MANOR
MAP 44-
P.68

MAP 36


MAP 36 - P.96
P.172
P.66
AIR
MANOR
HUNT MANOR CT.
MANOR FIELDS
KNOLL
P.60
QUINN SUBDIVISION RESUB. SEC-5
KINCAID CT.
P.382
TRACT-A


FRANK B. RUSSO
1519/255
120 A
P-98
P.178
P.174
P.157
PARK
ROAD
MAP 44-
P.48


MAP 14
Joins Inset-Map 9
See ADC's "HARFORD COUNTY, MD STREET MAP" For Continuation
To Rte 23, Madonna
To Rte 146
Elkridge Harford Hunt Club
Highview Memorial Gardens
HIGHVIEW ESTS
TAYLOR
Little Branch
Nelson Branch
Gunpowder Falls
Yellow Branch
HARFORD BALTIMORE
PIKE
FALLSTON ROAD
HAZELWOOD
WOODSBROOK
HARFORD HUNT MANOR
Good Will
HUNTINGTON
GLEN ELYN
PLEASANT PROSPECT AT GLEN ELYN
Parker Branch
JARRETTSVILLE
MANOR ROAD
GREENFIELD
LOCKSLEY
STANSBURY
MANOR GLEN
GUNPOWDER FALLS STATE PARK
Little Gunpowder Falls
MANOR GLADE
GLADE RD
SOUTH SIDE AVE
Sawmill Branch
HAMPSHIRE GLEN
Jacksonville Co 470 Rescue
Chestnut Grove
SWEET AIR ROAD
St Johns
Ruff
Overshot
CARROLL MEADOWS
Joins Map 13
Joins Inset Map 22
Joins Map 20
DOES NOT JOIN MAP 14
See ADC's "HARFORD COUNTY, MD STREET MAP" For Continuation
To Route 91
To Route 32
To Westminster
MD GRID 610,000 FT
620,000 FT
630,000 FT
39°32'30"
76°32'30" 930,000 FT
940,000 FT To Rte 146 76°30'00"
MD GRID 930,000 FT
940,000 FT 76°30'00"
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2/14/02