10/12/05

MANDATE

Court of Special Appeals

Maryland Relay Service
1-800-735-2258
TT/VOICE

No. 00431, September Term, 2005

Stephanie Meittinis et vir
vs.
Board of Appeals of Baltimore County

JUDGMENT: October 12, 2005: Notice of Dismissal of Appeal filed by counsel for the appellants. Appeal dismissed.

October 13, 2005: Mandate issued.

From the Circuit Court: for **BALTIMORE COUNTY**
00003C047316

OCT 14 2005

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this **thirteenth** *day of* **October** **2005**

Leslie D. Gradet
Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

4/25/05

PETITION OF PROTESTANTS FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY IN THE MATTER OF THE APPLICATION OF STEPHANIE & NICHOLAS MEITTINIS FOR A SPECIAL EXCEPTION Case No. 01-530-X before the Board of Appeals of Baltimore County	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 03-C-04-7316

NOTICE OF APPEAL

Petitioners, Stephanie and Nicholas Meittinis (together, "Meittinis"), by their undersigned counsel, John B. Gontrum and Whiteford, Taylor and Preston L.L.P., pursuant to Maryland Rules 8-201 and 8-202, appeal the above referenced action to the Court of Special Appeals of Maryland. A final judgment in favor of Protestants and People's Counsel for Baltimore County was entered on March 30, 2005. Pursuant to Rule 8-202(c) of the Maryland Rules of Civil Procedure, this matter is now ripe for appeal.

Respectfully submitted,

John B. Gontrum
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2000

Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April, 2005, a copy of the foregoing Notice of Appeal was mailed first class, postage prepaid to:

Mr. Joseph Evans
2224 Tracey's Road
Sparks, Maryland 21152

Mr. George Harold
2206 Tracey's Road
Sparks, Maryland 21152

Ms. Carolyn Harold
2224 Tracey's Road
Sparks, Maryland 21152

Mr. Rustin Price
2315 Tracey's Road
Sparks, Maryland 21152

Ms. Deborah A. Price
2315 Tracey's Road
Sparks, Maryland 21152

Ms. Sherry Kees Rudolph
2324 Tracey's Road
Sparks, Maryland 21152

Ms. Barbara Kees
2323 Tracey's Road
Sparks, Maryland 21152

Ms. Cheryl H. Schweizer
2212 Tracey's Road
Sparks, Maryland 21152

Mr. Vernon W. Wirtz, Jr.
2100 Tracey's Road
Sparks, Maryland 21152

Ms. Susan E. Twigg-Wirtz
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Peter Max Zimmerman, Esq.
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Carole S. Demilio, Esq.
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April 25, 2005

Via Hand Delivery
Suzanne Mensh, Clerk
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: In the Matter of the Application of Stephanie & Nicholas Meittinis for a Special Exception

Case No.: 03-C-04-7316

Dear Ms. Mensh:

Enclosed please find a Notice of Appeal for filing in the above-captioned matter, together with our firm's check in the amount of $110.00.

Thank you for your attention to this matter.

Sincerely,

John B. Gontrum

JBG:ac
Cc: Joseph Evans
George Harold
Carolyn Harold
Rustin Price
Deborah Price

Sherry Kees Rudolph
Barbara Kees
Cheryl Schweizer
Vernon Wirtz, Jr.
Susan Twigg-Wirtz
Peter Max Zimmerman, Esq.
Carole S. Demilio, Esq.

332561

3/30/05

PETITION OF PROTESTANTS FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
IN THE MATTER OF THE APPLICATION OF STEPHANIE & NICHOLAS MEITTINIS FOR A SPECIAL EXCEPTION	:	
Case No. 01-530-X before the Board of Appeals of Baltimore County	:	Case No. 03-C-04-7316

RECEIVED
APR 0 - 2005
BALTIMORE COUNTY
BOARD OF APPEALS

OPINION AND ORDER OF COURT

This matter has come to the Court through appeal and cross-appeal of the opinion of the County Board of Appeals of Baltimore County (hereinafter, "CBA") in a *de novo* appeal from a decision of the Deputy Zoning Commissioner of Baltimore County, who on March 22, 2002, granted one special exception, for a veterinarium, and denied another, for a riding stable, on the property of Petitioners/Applicants, Dr. and Mrs. Meittinis. Arguments were heard by the Court on March 4, 2005.

The CBA heard testimony over the course of some seven days, beginning on March 25, 2003 and concluding on February 12, 2004. The Court has had an opportunity to review the transcripts of that testimony and finds that it is fairly summarized in the CBA's Opinion of June 18, 2004.

Petitioners' property has a somewhat torturous history of review by various zoning officials. It consists of a parcel of some 40.34 acres zoned R.C., located on the south side of Tracey's Road, approximately 1500 feet west of its intersection with Yeoho Road, Fifth Election District, and was purchased its present owners in 1997. Its use as a farm property attracted no unusual attention until Petitioners began horseback riding instruction upon it, and neighboring property owners filed a zoning complaint, giving

FILED MAR 31 2005

rise to a civil citation from the County zoning office. The County's Enforcement Hearing Officer, Stanley J. Schapiro, conducted a hearing on January 24, 2001. Petitioners argued that teaching riding was a legitimate part of their farm use, and therefore permitted by right. Mr. Schapiro, however, found that it was not, but that it constituted use as a riding stable, and therefore required the obtaining of a special exception. Petitioners appealed this ruling to the CBA, which remanded the matter to Mr. Schapiro for clarification on May 22, 2001. Three days later, Mr. Schapiro issued another opinion, reiterating that the use in question is a "riding stable", requiring a special exception.

This ruling was again appealed to the CBA, which affirmed. Petitioners appealed to the Circuit Court, but ultimately abandoned the effort, resulting in the dismissal of the appeal.

In lieu of pursuing the appeal of the CBA's affirmance of the Schapiro ruling, Petitioners filed the present application for special exceptions for two existing uses on their property, for both a riding stable and for a veterinarium in connection with Dr. Meittinis' practice as a large-animal veterinarian. As noted previously, then Deputy Zoning Commissioner Timothy Kotroco granted the one requested for the veterinarium, but denied the one for the riding stable, and the appeal of this case to the CBA ensued.

ISSUES PRESENTED

The various parties have submitted to this Court the following issues:

By Petitioners: 1. Did the CBA apply the appropriate legal standard when it denied the special exception for a riding stable, and within the context of the appropriate legal standard, did the CBA find sufficient facts to support the denial?

By Protestant Evans: 1. Did the doctrine of collateral estoppel preclude [Petitioners] from arguing that they did not need a special exception since the issue in question had already been decided against them in a final judicial ruling in a related matter?

2. Is a special exception required in order to give riding lessons for compensation in an R.C.2 zone?

By Peoples Counsel: 1. Whether Petitioners' claim that its use is permitted by right is barred, on grounds of *res judicata,* by the CBA's final decision in the earlier violation case?

2.a. Whether the CBA also erred, as a matter of law, in ruling that the proposed use of the barn and outdoor area for riding lessons and boarding of "layups" is not a "riding stable"?

2.b. Whether the CBA's reasoning was defective in subsuming the riding stable activities under the umbrella of farm use and, as a practical matter, rendering superfluous and nugatory the riding stable special exception in agricultural areas?

2.c. Whether the CBA's ruling conflicts with the relevant case law?

3. Whether the CBA's alternative ruling that it was not persuaded of the merits of the special exception should be sustained because based on substantial evidence?

It appears that there is no challenge by anyone to the CBA's determination that the special exception requested for the veterinarium should be granted. Accordingly, the Court will not view this decision as one requiring judicial review.

STANDARD OF REVIEW

The scope of judicial review is narrow. The Court must affirm the decision of the administrative agency where it is fairly debatable with respect to the agency's findings of fact and inferences drawn therefrom. See *Board of Physicians Quality Assurance v. Banks,* 354 Md. 59 (1999); *Board of County Commissioners v. Holbrook,* 314 Md. 210 (1988); *Eger v. Stone,* 253 Md. 533 (1969); *Snowden v. City of Baltimore,* 224 Md. 443 (1961).

The scope of review is likewise narrow with respect to the application of law to the facts and/or to mixed questions of law and fact. *Stover v. Prince Georges County,*

132 Md. App. 373 (2000); *Caucus Distributors v. Maryland Sec. Comm'r,* 105 Md. App. 25 (1995); *Maryland State Police v. Lindsey,* 318 Md. 325 (1990); *Baltimore Lutheran H. S. v. Employment Security Admin.*, 302 Md 649 (1985); *Ramsay, Scarlett & Co. v. Comptroller,* 302 Md. 825 (1985). Even with regard to matters of legal interpretation, the scope of review remains narrow. In *Banks, supra,* the Court focused on matters of legal interpretation. Judge Eldridge wrote:

> "Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts... Furthermore, the expertise of the agency in its own field should be respected...(legislative delegations of authority to administrative agencies will often include the authority to make 'significant discretionary policy determinations.')...." 354 Md. at 69. (Citations omitted).

Accordingly, where there is room for interpretation, the courts "ordinarily give some weight" to agency construction of the statute. *Magan v. Medical Mutual Liab. Ins. Co.,* 331 Md. 535 (1993). In *Magan,* Judge McAuliffe wrote:

> "The degree of weight to be given an administrative interpretation varies according to a number of factors, including whether the interpretation has resulted in a contested adversary proceeding or rule-making process, whether the interpretation has been publicly established, and the consistency and length of the administrative interpretation or practice. *Comptroller v. John C. Louis Co.,* 285 Md. 527, 544-45 (1979)."

In administrative proceedings in Maryland concerning the grant of a variance or special exception, the "substantial evidence" and "fairly debatable" standard is applicable. e.g., *Schultz v. Pritts,* 291 Md. 1 (1981); *Turner v. Hammond,* 270 Md. 41 (1973). The "fairly debatable" standard was defined in *Eger, supra*:

> "If the issue before an administrative body is 'fairly debatable,' that is, that its determination involved testimony from which a reasonable man could come to different conclusions, the Court will not substitute its judgment for that of the

administrative body,... even if the administrative body came to a conclusion which [the Court] probably would not have reached on the evidence."

See also *Germenko v. County Board of Appeals of Baltimore County,* 257 Md. 706 (1970). Accord, *Ginn v. Farley,* 43 Md. App. 229 (1979); *Board of County Comm'rs for Prince Georges County v. Meltzer,* 239 Md. 144 (1965).

In *Prince Georges County v. Meininger,* 264 Md. 148, 152 (1972), it was held that the "substantial evidence" requirement in a case of denial was satisfied by little more than a "scintilla of evidence" because the burden of proof is on the appellant. The zoning agency's decision should be affirmed unless there is "no evidence at all" to support the decision. *Rockville Fuel & Feed Co. v. Board of Appeals,* 257 Md. 183,193 (1970). These and other cases indicate that an administrative appellant has a very heavy burden to demonstrate as arbitrary an agency finding that the applicant did, or, especially, did not, sufficiently prove his case. In *Pollard's Towing v. Berman's Towing,* 137 Md. App. 277 (2001), Judge Moylan discussed the function of the reviewing court when an agency is simply not persuaded by the petitioner. He wrote:

"In this case, all that was required was that the Board be not persuaded that there was a need for additional towing service. To the extent that its finding was weightier than that, the incremental weight was surplusage. Far less is required to support a merely negative instance of non-persuasion than is required to support an affirmative instance of actually being persuaded of something." 137 Md. App. at 289.

Judge Moylan also quoted *Starke v. Starke,* 134 Md. App. 663 (2000), at 137 Md. App. 290:

"[I]t is far easier to sustain as not clearly erroneous the decisional phenomenon of not being persuaded than it is to sustain the very different decisional phenomenon of being persuaded... Mere non-persuasions... require nothing but a state of honest doubt. It is virtually, albeit perhaps not totally, impossible to find reversible error in that regard."

DISCUSSION AND ANALYSIS

For its purposes in analyzing this case, the Court will restate the issues presented in a more simplified fashion than presented by the parties, as follows:

1. Did either collateral estoppel or *res judicata* preclude CBA from reconsidering whether or not a special exception for the proposed riding instruction use, was necessary?
2. Did the CBA err in ruling that the proposed use is one secondary or ancillary to the farming operation, and is not a "riding stable"?
3. Was the CBA correct in concluding that, if the proposed use is not a permitted one, the necessary special exception should be denied?

In the Court's view, the short answers to these issues are:

Issue One: Possibly, but probably not. However, a definitive answer is unnecessary to analysis of the other issues.

Issue Two: Yes.

Issue Three: Yes.

As to Issue Two, the Court finds that the CBA, while probably not bound by the ruling of its predecessor Board affirming Enforcement Hearing Officer Stanley J. Schapiro's March 13, 2001 finding that Petitioners were operating a riding stable without having the required special exception to do so, should not have disregarded that ruling. Rather, it should have considered the ruling as persuasive, at the very least. The fact that the current panel did not do so negates, in the Court's view, any presumption of validity of the later decision, and removes the duty of the Court to defer to this Board's interpretations of the applicable zoning law. Thus, this Court can feel unconstrained in applying its own independent interpretations, having before it two seemingly

contradictory findings based upon strikingly similar evidence concerning the activities which are the focus of the need, *vel non,* for a "riding stable" special exception.

What the Court finds particularly suspect in the current panel's Opinion is its view that the use of a site as a riding stable is "referable to the building or structure utilized and is not land-based", however that language may be analyzed.

There is nothing inconsistent with a farm's operation about the presence of a stable among its outbuildings. Proper animal husbandry includes protecting the stock from time to time from inclement or severe weather. It is not the **existence** of the building that triggers the need for the special exception; rather, it is the nature of the **activities** carried on about the structure and its environs that does so. Raising, training and even selling one's own horses and the "laying up"of other's appear consistent with permitted commercial agricultural uses, particularly in view of Dr. Meittinis' professional activities as an equine veterinarian.

However, when the boarding of riding horses, the keeping of them for hire and the provision of riding instruction and training to the public are added to the mix, in whole or in part, a line is crossed that is impermissible and inconsistent with the apparent legislative intent of the County Council, which specifically excluded riding stables from those uses permitted by definition upon farm properties.

"Riding Stable" is defined in the Baltimore County Zoning Regulations as: "A building where riding horses are boarded or kept for hire". A more apt description might well be "riding academy". Regardless, however, the activities sought to be conducted at this site are really not dependent upon a particular structure, and, the Court finds, would require the obtaining of a special exception.

In addition to the foregoing discussion, the Court wishes to adopt as its own reasoning that portion of the contents of People's Counsel For Baltimore County's Memorandum, docketed herein as Paper No. 25,000, sub-headed "II. The CBA Erred in its Legal Interpretation of the Character of the Use" beginning on page 10 and

concluding on page 17 of the Memorandum.

As to Issue Three, the Court will affirm the CBA in its alternative ruling that, should the Court reverse on Issue Two, the panel felt unanimously that Petitioners had failed to meet their burden to establish their entitlement to a special exception. Simply stated, the CBA was not persuaded of the existence of the necessary criteria. This Court cannot, and will not, substitute its judgment for that of the panel in this regard, even if the evidence caused the Court to feel otherwise (which it does not). In this scenario, Petitioners' burden is nearly, if not totally insurmountable, as discussed by Judge Moylan in *Pollard's Towing, supra.* The CBA cannot be found to have erred because it rejected, did not believe, or was unpersuaded by the evidence before it.

Accordingly, for the reasons hereinbefore set forth, this Court will AFFIRM IN PART AND REVERSE IN PART, the Opinion of the CBA dated June 18, 2004 in this matter. More specifically, the Court finds that the uses of the subject property requested by Petitioners relating to the boarding of riding horses, the hiring of them by the public, and the provision of horseback riding instruction, are not permitted as of right in the R.C.2 (Resource Conservation) Zone, but may only be carried on where a special exception has been granted for the property. Moreover, the Court finds that the criteria set forth in Section 502.1 of the Baltimore County Zoning Regulations for the granting of a special exception for a "Riding Stable" have not been established and the said special exception for that purpose will be, and it is hereby, DENIED, and it is SO ORDERED by this Court, this 30th day of March, 2005.

Please docket order. Copies have been sent

Christian M. Kahl, Judge

8/4/04

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	FOR
	*	
IN THE MATTER OF THE APPLICATION OF **STEPHANIE & NICHOLAS MEITTINIS** FOR A SPECIAL EXCEPTION for property located on the SE/S Tracey's Road, 1,500' SE c/line of Yeoho Road (2311 Traceys Road) 5th Election District, 3rd Councilmanic District	*	BALTIMORE COUNTY
	*	Civil No. 03-C-04-7316
Case No. 01-530-X before the County Board of Appeals of Baltimore County	*	

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

RESPONSE TO CROSS-PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, in accordance with Maryland Rule 7-204, submits this response to the Cross-Petition for Judicial Review filed by NICHOLAS AND STEPHANIE MEITTINIS, and states that it intends to participate in this action for Judicial Review. The undersigned participated in the proceeding before the County Board of Appeals.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th of August, 2004, a copy of the foregoing Response to Cross-Petition for Judicial Review was mailed to John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP, 210 W Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioners and to Joseph Evans, 2224 Traceys Road, Sparks, MD 21152.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 4, 2004

RECEIVED
AUG 04 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Hand-delivered
Chief Clerk, Civil Division
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Petition for Judicial Review of the Decision
of the County Board of Appeals
In the Matter of Stephanie & Nicholas Meittinis
Case Number: 03-C-04-7316

Dear Sir or Madam:

Please file the enclosed please find the Response to Cross-Petition for Judicial Review. If you have any questions or concerns, please contact my office.

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: John B. Gontrum, Esquire
Joseph Evans
County Board of Appeals

6/18/04

IN THE MATTER OF THE APPLICATION OF	*	BEFORE THE
STEPHANIE S & NICHOLAS MEITTINIS – LEGAL OWNERS /PETITIONERS FOR	*	COUNTY BOARD OF APPEALS
SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE SE/S TRACEY'S ROAD,	*	OF
1,500' SE OF CENTERLINE YEOHO ROAD (2311 TRACEY'S ROAD)	*	BALTIMORE COUNTY
5TH ELECTION DISTRICT	*	Case No. 01-530-X
3RD COUNCILMANIC DISTRICT		

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals on a *de novo* appeal from a decision by the Deputy Zoning Commissioner of Baltimore County dated March 22, 2002. In that decision concerning two requested special exceptions, one was granted for a veterinarium and one, for a riding facility, was denied.

The case was presented to the Board over 7 days of extensive testimony beginning on March 5, 2003 and concluding on February 2, 2004. Petitioners were represented by John B. Gontrum, Esquire, and Protestants, Joseph and Nedda Evans, both licensed members of the Maryland Bar, appeared *pro se* as did a number of other residents of the affected area. The Office of the People's Counsel for Baltimore County was represented by Peter Max Zimmerman, Esquire.

Background and Testimony

In testimony, it was established by Petitioners that they had purchased the subject site of 40.34 acres of land zoned R.C. 2 in 1997. The property is on the south side of Tracey's Road, a narrow dead-end country lane, approximately 1,500 feet to the west of its intersection with Yeoho Road in Sparks, Maryland. It was further established that the subject property is taxed for

agricultural use. It includes 25 acres of woods and a residence for the Petitioners and their children, with the remaining acreage utilized for a barn, outside ring, and pastures.

Over the course of the hearing, each witness was subjected to direct and extensive cross-examination. The Board sees no purpose served in recreating in substantial form the sum and substance of all that was said. Rather, we would note that the Petitioners' case included testimony by Mr. Meittinis, the Petitioner, who described for the Board his view of the subject site, and his proposed uses. Specifically, he described his veterinary practice among thoroughbred horses and related that most of his activities took place at the racetracks around the region. He did note that horses were accepted at their farm for "lay up," which was described as a form of rest and rehabilitation for thoroughbred horses.

Mrs. Meittinis also testified. She described the day-to-day workings of the farm, including how the horses were cared for, maintained, trained, worked, and exercised. She stated that training included not only three times a week of exercise, but also teaching the horses to be responsive to riders' commands and directions. She further described the teaching methods and the inter-relationship between horses, horse farms, and the training of riders and rider /horse. She related to the Board that all of these activities were directed at the ultimate sale of horses, and noted that at least eight animals had been sold from their facility. She noted that hay had been, in the past, harvested from the pasture areas, mostly to be used by the horses on the premises. She concluded by opining that it was many times difficult, if not counterproductive, to separate the training of riders and the training of horses. She believes that the activities carried on, as described by her, constitute commercial agricultural uses and that their facility is, in fact, a "farm" as defined by Maryland law.

Bruce Doak, a land surveyor and planner who prepared the plats which accompanied the Petitioners' request, testified and discussed not only the description of the premises and its uses, but commented on what he believed to be agricultural uses which were "of right" carried out on the property.

Jack Dillon and Paul Solomon, both former County planners and accepted by the Board as experts in rural planning and zoning, testified as to the nature of the activities and operations of the subject site as applied to the issues in this case. They both clearly determined that the activities of the Petitioners were consistent with permitted commercial agricultural activity at the subject site, that the barn was in fact an accessory structure to the farm and not a "riding stable," and that the use "by right" should be allowed.

Thomas Reynolds, Vice President of the Baltimore County Farm Bureau, testified that, based upon the testimony of the Meittinises, it was not uncommon for farmers to pasture, rest, or have horse-related activities on their farms. He felt that the subject site was clearly a farm carrying out agricultural activities and should be recognized as such.

Ann Merryman, a resident of Baltimore County and an individual experienced in the raising and training of horses, also opined that the activities carried on on the property by the Petitioners was appropriate to its use as a horse farm. It should be noted in passing that Protestants called another member of the Baltimore County Farm Bureau who testified that their support for the "concept" of the agricultural horse-related use did not necessarily indicate the Farm Bureau's approval or endorsement of this particular request.

Wes Guckert of The Traffic Group was the primary witness for Protestants regarding the use and viability of Tracey's Road in supporting the special exception request. Accepted as an expert in traffic matters, he testified as to the extensive traffic study carried out by him in this

matter and his utilization of what he described as comparable road and site use situations. As a result, he opined that only a small increase in traffic volume would result from the uses and activities requested by the Petitioners. He was cross-examined extensively, not only as to the methodology of his study, but, more importantly, as to the choice and characteristics of the supposedly "comparable sites."

The Protestants' testimony included that of Nedda Evans, who described her property's proximity to the subject site and her various concerns as to the Petitioners' request. These included questions as to the dangerous and narrow nature of Tracey's Road and the volume which Petitioners' request would conceivably add to the already overburdened road. She was also concerned about increased business traffic as the result of the Petitioners' use of the facility, as well as the possibilities of deleterious effects on the lifestyles of all neighboring residents. She described the somewhat lengthy history of controversy between the Meittinises and the neighbors, and expressed her concern as to the enforcement of any conditions which the Board could conceivably attach to the granting of any special exceptions.

Joseph Evans, her husband, also testified. He described their residence's proximity to Petitioners' site and particularly voiced his concern regarding storm runoff on to his property. As did Mrs. Evans, he testified at length as to his traffic concerns and the effect he believed would be visited upon all the residents of the area by the granting of the Petitioners' requests.

A number of neighbors voiced their opinions as to the Petitioners' proposed uses. Barbara and Sherry Kees, long-time residents and horse farm owners, described their concerns as to the Petitioners' use of the property, and especially the traffic problems on Tracey's Road. Likewise, Cheryl Sweizer, another neighbor, described the "blind spots" on Tracey's Road located near her driveway. She described her recollection of a prior accident at that location and

stated her opposition to the site, not only for the difficulties on Tracey's Road but also based upon her concern about the proposed uses' effect on the local water supply.

Debra and Ruston Price, residents of Tracey's Road next to the subject site, described their property and its interrelationship with the subject site. They testified as to the difficulties caused by that proximity, including dust, noise, odors, and other descriptions as to the negative effects on their lifestyles which they relate directly to the activities of the Petitioners. They too had questions as to enforcement, and described how they had previously kept logs and videotapes of the activities at the Meittinis' property. They were also clearly concerned and opined that, in their opinion, the property value of their home would suffer if the Petitioners' request were granted.

Wendy McIver, recording secretary and member of the Board of Directors of the Greater Sparks-Glencoe Community Council, testified for the Board after the presentation of appropriate Rule 8 documents. The organization was in support of the special exception for the veterinarium but, due primarily to the traffic concerns regarding Tracey's Road, were opposed to the granting of any other special exception at the site.

George Harold, a 36-year resident of Tracey's Road who lives across from the subject site, concurred with the testimony of the other Protestants regarding the traffic situation on Tracey's Road and added that he is not desirous of the County doing anything to change the road's structure or size.

A written statement by Vernon W. Wirtz, Jr., and Susan Twigg-Wirtz, residents of Tracey's Road, was accepted by the Board. The communication reiterated the traffic and other safety concerns already presented and was also in opposition to the requests of the Petitioners.

Steven Weber, Chief of the Division of Traffic Engineering for Baltimore County, provided his own detailed evaluation of the traffic situation on Tracey's Road, describing at as among the narrowest and most difficulty roads (as to width) in the County. He outlined the difficulties experienced by traffic utilizing Tracey's Road and was clearly not in favor of any additional traffic burden on it.

Discussion

The first question to be addressed is whether or not the Meittinis property is indeed a "farm"; and if so, are the Petitioners engaged in commercial agricultural activities at that location. Presuming an affirmative answer to both, are the activities of the Petitioners consistent with and permitted under that commercial agricultural use.

Section 101 of the General Provisions of the *Baltimore County Zoning Regulations* (BCZR) defines a "**farm**" as:

> Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses.

It defines "**commercial agriculture**" as

> The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax –Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.

This Board is unanimously and clearly convinced by the testimony presented by the Petitioners and their expert witnesses that, even if taken in the light of Protestants' testimony, the

subject site is in fact a farm carrying on commercial agricultural activities. It is uncontroverted that the property is in excess of 3 acres, is located in an agricultural zone, and is taxed for agricultural use. Moreover, individual horses are kept for sale for shows and riding by the Petitioners, "lay up facilities," including pasturage, produce income for the farm, hay is grown on site and has been used for the animals on the farm; training and related activities for both horses and riders have resulted in at least eight sales of individual animals.

All parties have referred to, and the Board has reviewed, in connection with this matter, the case of *Marzullo v. Kahl*, 366 Md. 158, 783 A.2d 169 (2001). In that matter, both the Board of Appeals and the Court of Appeals of Maryland had agreed that the raising of snakes and reptiles did not qualify as commercial agriculture based on the determination that the subject animals were neither domestic animals nor was the site use for them land-based. Utilizing the same criteria in this matter, as pointed out by our own review and Petitioners' experts, the animals concerned here are certainly domestic in nature and the use related to them is definitely land-based.

Having determined that the subject site is indeed a farm carrying out commercial agricultural purposes, this Board also finds that, based upon the testimony presented by the Petitioners and their experts, that there is in fact an interrelationship of training and exercising of horses and riders and the responsiveness of the animals to a rider's use, commands and instructions. Moreover, we agree with Petitioners' experts that the focus of the land use in this instance is the keeping, raising, training, servicing and, in many cases, the selling of individual horses. We agree with the Petitioners and their experts that the training of the rider and the horse may be often virtually indistinguishable and that any lessons or other instruction given, for pay

or otherwise, by Petitioners is only an accessory activity and is tangential to the main purposes of the subject site as set forth above.

We also find that the "lay up" and utilizing by horses of the pastureland on the subject site are clearly examples of "pasturage agriculture" which is included in the zoning regulation definition of "commercial agriculture."

Finally, we reject the suggestion that the site is a "riding stable." This use is referable to the building or structure utilized and is not land-based. We are unconvinced by any substantive testimony to support this view of the property's use.

In sum, this Board finds that the subject property is in fact a "farm" under the BCZR and is in fact carrying out "commercial agriculture" as defined in the regulations. Additionally, the boarding, "lay up" of horses, as well as the training of riders, whether or not for compensation, are ancillary and secondary uses to the agricultural activities permitted "of right" as the result of our findings herein. The Board will therefore impose no conditions to these primary or ancillary and secondary uses.

Special Exceptions

Petitioners have requested special exceptions both as to the use of the property as a veterinarium and to be allowed to give horse-riding lessons.

This Board will address the requested special exceptions, first as it relates to the veterinarium. We do so as we do not find that the carrying out of the veterinarium activities falls within "of right" activities set forth above. The Board realizes that its findings as to the existence of a farm and the carrying out of commercial agriculture discussed above renders unnecessary any finding as to the granting or denial of a special exception for the horse raising, horse and horse /rider training, and related activities permitted "as right" as previously noted.

However, in an effort to provide a full and complete determination of all issues presented to us in the instant matter, the Board will, nevertheless, address itself to both original special exception requests.

Special exceptions are governed by § 502.1 of the BCZR. That section states:

> Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:
>
> A. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> B. Tend to create congestion in roads, streets or alleys therein;
>
> C. Create a potential hazard from fire, panic or other dangers;
>
> D. Tend to overcrowd land and cause undue concentration of population;
>
> E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
>
> F. Interfere with adequate light and air; **[Bill No. 45-1982]**
>
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; **[Bill No. 45-1982]**
>
> H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor **[Bill No. 45-1982]**
>
> I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone. **[Bill No. 74-2000]**

As to the veterinarium, we find that, based upon the testimony of Dr. Meittinis, which was uncontroverted in any substantive way by Protestants, the requirements for the special exception have been met. We find that the requested activity will not be detrimental to health, safety or the general welfare of the locality; will not tend to create congestion in roads or related streets; will not create a potential hazard from fire or panic; will certainly not overcrowd land and cause undue concentration of population; will not interfere with adequate provisions for school, parks, water, sewerage, transportation or other public requirements; will not interfere with adequate light and air; will not be inconsistent with the purpose of the property's zoning classification or in any other way

be inconsistent with the spirit and intent of these regulations; will not be inconsistent with the impermeable surface and vegetative retention provisions of these regulations; and will not be detrimental to the environment and natural resources of the site and vicinity.

This Board finds the granting of a special exception for the training and other horse and rider activities to be more problematical. Based upon the testimony of Petitioners, their experts, and those testifying on behalf of the Protestants, we believe that there are very real issues connected with the use and overuse possibilities as they relate to Tracey's Road. This Board has no illusions as to the physical limitations of Tracey's Road. The testimony of the neighbors in the area, along with the very specific testimony of Steven Weber, clearly outlines the traffic related difficulties, which concern the Protestants. Additionally, we have a number of doubts and questions as to the comparisons and procedures utilized by Mr. Guckert in his traffic study. As such, we are not convinced that the special exception would not be detrimental to the health, safety and general welfare as the result of its tendency to create congestion in roads, streets, and alleys.

We would have, therefore, declined, had we been called upon to do so, to grant the special exception.

Conclusion

Therefore, this Board finds unanimously that the Meittinis property is indeed a farm carrying out commercial agricultural purposes. We further find that the boarding, "lay up" activities, pasturage, horse training, rider training, and other related activities are, in fact, permitted as set forth above. A special exception is granted to Dr. Meittinis for the purpose of operation of a veterinarium, but that for reasons stated above, a special exception request for a riding stable is denied, but is rendered moot by our determination of the existence of a farm and related commercial agricultural activities on site.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 18th day of June, 2004, that this Board finds unanimously that the Meittinis property is indeed a farm carrying out commercial agricultural purposes; and we further find that the boarding, "lay up" activities, pasturage, horse training, rider training, and other related activities are, in fact, permitted as set forth above; and it is further

ORDERED that the Petition for Special Exception for the purpose of operation of a veterinarium be and is hereby **GRANTED;** and it is further

ORDERED that the special exception request for a riding stable is denied, but rendered **moot** by the determination of the existence of a farm and related commercial agricultural activities on site.

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 M. Stahl

Lawrence S. Wescott

Charles L. Marks

County Board of Appeals of Baltimore County

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

6/18/04

June 18, 2004

John B. Gontrum, Esquire
WHITEFORD TAYLOR & PRESTON LLP
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: *In the Matter of: Stephanie and Nicholas Meittinis - Legal Owners /Petitioners*
Case No. 01-530-X

Dear Mr. Gontrum:

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*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** 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/tns

Kathleen C. Bianco
Administrator

Enclosure

c: Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group
Bruce Doak /Gerhold, Cross & Etzel Ltd
Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price
Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.
Barbara M. Kees → Could not locate address 6/18/04 tns
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

4/19/04

IN THE MATTER OF:	*	BEFORE THE
NICHOLAS AND STEPHANIE MEITTINIS	*	COUNTY BOARD OF APPEALS
PETITIONERS FOR SPECIAL EXCEPTION	*	OF
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District; 3rd Council District	*	CASE NO. 01 - 530 - X

****

PETITIONERS' RESPONSE TO MOTION TO DISMISS
AND/OR FOR A STAY OF PROCEEDINGS

Now Come Nicolas and Stephanie Meittinis by and through their counsel John B. Gontrum and Whiteford, Taylor & Preston and in response to Protestants' Motion to Dismiss and/or For A Stay of Proceedings say as follows:

1. That Protestants have presented no argument why a decision in this case in not now due and capable of being rendered.
2. That Protestants have presented no argument that Petitioners no longer have an interest in a determination of their Petition.
3. That the record in this case is closed, and Petitioners are entitled to a determination on their Petition.
4. That the Petitioners deny that they are abandoning their Petition and affirmatively aver that they wish a speedy resolution to the issues presented.
5. That the Petitioners deny that the Petition is moot or incapable of decision.

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BALTIMORE COUNTY
BOARD OF APPEALS

6. That the Petitioners deny that any decision has been reached to sell the property and affirmatively aver that the decision one way or the other has no bearing on the issues presented in this case.

7. Affirmatively, Petitioners aver that Protestants appear to be either reopening the record or are improperly presenting evidence under the guise of a Motion, which in any event has no probative value on the issues before the Board, in an attempt to influence the ultimate decision of the Board.

8. Petitioners aver that zoning in any event pertains to a use of the land and not with the user despite the Board's authority to impose conditions relevant to the particular user. *See e.g.*, County Commissioners of Queen Anne's County v. Days Cove Reclamation Co., 122 Md. App. 505, 713 A. 2d 351 (1998).

Wherefore, having answered the Protestants' Motion to Dismiss And/Or for a Stay of Proceedings, Petitioners hereby request the Board to deny the Motion and to grant such other and further relief as may be appropriate.

Respectfully Submitted,

John B. Gontrum

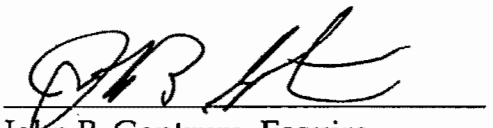
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 2004, a copy of the foregoing Memorandum of Petitioners was mailed, first class, postage pre-paid to:

Dr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Mr. Joseph L. Evans, Esq.
2224 Tracey's Road
Sparks, Maryland 21152

Peter M. Zimmerman, Esquire
People's Counsel
Room 47
400 Washington Avenue
Towson, Maryland 21204



John B. Gontrum, Esquire

IN THE MATTER OF NICHOLAS AND STEPHANIE MEITTINIS	:	**BEFORE THE**
	:	**BALTIMORE COUNTY**
2311 TRACEY'S ROAD **5TH ELECTION DISTRICT** **3rd COUNCIL DISTRICT**	:	**BOARD OF APPEALS**
	:	**Case No. 01-530-X**

...000...

PROTESTANTS' MOTION TO DISMISS
AND/OR FOR A STAY OF PROCEEDINGS

Protestants, by Joseph L. Evans, pro se, hereby submit the following Motion to Dismiss and/or For A Stay of Proceedings, and for good cause state as follows:

The petitioners have requested a special exception for a riding stable and a veteranarium. The protestants have learned that the petitioners are now offering their property at 2311 Tracey's Road for sale. A copy of the listing is attached hereto. Given that the special exception request is tailored to the Meittinises' own particular plans and specialized needs and given that it now appears that they will not themselves be utilizing the property, it is appropriate for their special exception request to be dismissed as moot. In the alternative and at a minimum, it is appropriate to stay the proceedings pending disposition of the property.

Respectfully Submitted,

Joseph L. Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

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BALTIMORE COUNTY
BOARD OF APPEALS

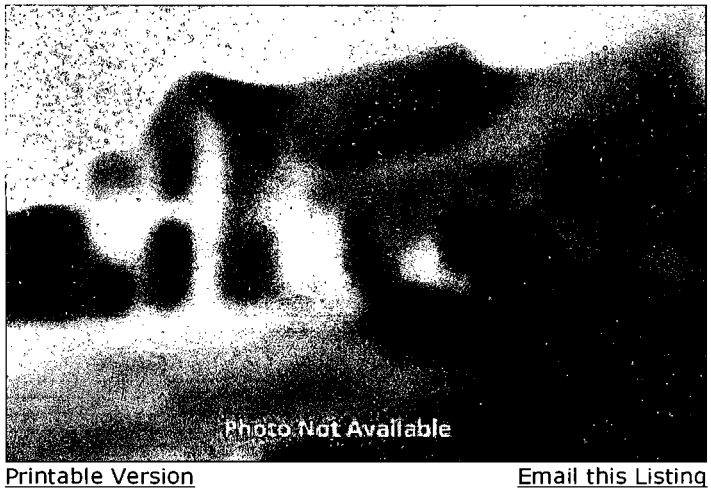
CERTIFICATE OF SERVICE

This is to certify that on this 14th day of April, 2004, a copy of the Protestants' Motion to Dismiss and/or For a Stay of Proceedings, was mailed by first class mail to John Gontrum, Esquire, Whiteford, Taylor, and Preston, L.L.P., 210 West Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioners and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

Joseph L. Evans

Property Details - Listing# BC4800269

Nev
Add to Fa



Schedule a Show
Financial Calculat
Map it!
Add To Route Pla

Printable Version Email this Listing

Sale Price $2,65[illegible] - 2311 TRACEYS RD, SPARKS GLENCOE M 21152

Estimated Payment $12,471 per month.* Online Mortgage Pre-Approval

Remarks:
CAREFULLY PLANNED, BEAUTIFULLY APPOINTED THIS CUSTOM BUILT HOME IS SITUATE 41+ACRES IN SOUGHT AFTER AREA. FEATURES A STATE OF THE ART 15 STALL HORSE I PADDOCKS AND OVER 10,000 FEET OF KENTUCY HORSE FENCE. TRULY THE PERFECT COMBINATION OF AN ATTRACTIVE HOME, A PERFECT HORSE FACILITY AND A CONVENII LOCATION.

Property Information:

Listing #:	BC4800269	List Price:	$2,(
Status:	**ACTIVE**	Bedrooms:	4
Full Baths:	4	Half Baths:	1
Subdivision:	NONE	Year Built:	199
Sale/Rental:	Sale	Property Type:	Det
Total Taxes:	$6,083	Tax Year:	200
County:	BALTIMORE	Style:	Colc
	Additional Information		

Listing information:

Pikesville Sales Office
Office Numbers

Local	(410) 653-1700
Fax	(410) 653-8719
Toll Free	(888) 831-4548

Contact Us

Additional Information:

Ownership:	Fee Simple	HOA Fee:	0
Lot Acreage:	41.81	Cooling:	Central A/C

My Route Planner

No Driving Tours Currently Saved

What is this

Heating:	Forced Air	Levels:	2
Fireplaces:	1	Garage Spaces:	6
Carport Spaces:	0	Basement:	Yes
Basement Type:	Improved,Partially Finished,Space For Rooms,Walkout Stairs	Sewer/Septic:	Septic
Water:	Conditioner,Well	Hot Water:	Oil
Exterior:	Vinyl Siding	Roofing:	Shingle-Asphalt
Water Access:	No	Waterfront:	No
Water View:	No	Appliances:	Cktp-Dwn Drft, Dishwas Disposal, Dryer, Exhaus Icemaker, Microwave, C Double, Oven-SCC, Ove Range hood, Refrigerate Washer

The information contained in this listing is deemed reliable but not guaranteed. Listing data provided by Metropolitan Regional Information as of Monday, April 12, 2004.

Mortgage calculation based on a 30 year loan at 6% with 20% down.

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3/22/04

IN THE MATTER OF NICHOLAS AND STEPHANIE MEITTINIS	:	**BEFORE THE**
	:	**BALTIMORE COUNTY**
2311 TRACEY'S ROAD 5TH ELECTION DISTRICT 3rd COUNCIL DISTRICT	:	**BOARD OF APPEALS**
	:	**Case No. 01-530-X**

...000...

PROTESTANTS' MEMORANDUM IN OPPOSITION TO PETITION FOR SPECIAL EXCEPTIONS

Protestants, by Joseph L. Evans, pro se, hereby submit the following Memorandum requesting that the Petition for Special Exceptions submitted by Nicholas and Stephanie Meittinis be denied.

I. STATEMENT OF FACTS

By way of background, the Meittinises moved to Tracey's Road in the summer of 1998. They purchased approximately 40 acres of woods and corn and soybean field. After the Meittinises built their home, the neighbors on Tracey's Road learned that the Meittinises intended to operate a riding stable and veterinarium. The Meittinises were contacted by letter[1] and informed that those activities were not permitted under the current zoning and that any such uses would be opposed. That letter was sent well before their barn and riding ring were built so that the Meittinises would not incur development costs with the misperception that the neighbors would acquiesce in the business activities. Notwithstanding this notice, the Meittinises built a fifteen stall, 6,600 square foot barn and riding ring. Given

[1]All of the documents referred to herein were introduced as exhibits in the hearing before the Board.

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BOARD OF APPEALS

the placement of the house, the barn, and other buildings, they only have about 10 acres of pasture remaining.[2]

Prior to these events, Mrs. Meittinis had been providing riding lessons for a fee in Hunt Valley to approximately nineteen students. After completion of the barn and riding ring (and hence, after the notice of opposition), Mrs. Meittinis moved her riding stable activities to Tracey's Road and began giving riding lessons from her property. That action generated the enforcement activity by the County which has been ongoing for years. Following the enforcement action, Mrs. Meittinis shifted some of her riding lessons from Tracy's Road to Renaissance Farms on the corner of Belfast and Priceville Roads, only a couple of miles from her home.

Because Mrs. Meittinis gave riding lessons without the benefit of a special exception, the neighbors experienced firsthand how such activity impacts the neighborhood. The students are chauffeured to and from their riding lessons by parents. Typically, the parent makes

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[2] See Report of Wallace Lippincott attached hereto as Appendix A. The Lippincott report relates, in part, to the question of pasturage. The Meittinises initially asserted through Bruce Doak that they had approximately 15 acres of pasture, a number which, curiously, dovetailed perfectly with their barn capacity. Of course, this claim was called into question by Doak's stunning admission that his 15 acre figure included the barn, the ring, the driveway, the garage, and the landscaping between the driveway and the fenced pasture areas. The fact that the Meittinisis did not have Doak engage in the simple task of actually measuring the available pasture instead of resorting to such chicanery speaks compellingly to the conclusion that they actually have closer to the 10 acres of pasture that Mr. Lippincott found.

one trip down the road to deliver the student, leaves and then returns later to pick up the student. Thus, each student can potentially generate four trips up and down Tracey's Road. As a result of the lesson activity alone, Tracey's Road underwent a transformation, and residents who once used the road freely -- either for driving or for walking, bicycling, and jogging -- could no longer do so without fearing for the safety of themselves or their children.

In addition, the stable and outdoor ring are closer to the home of Rustin and Deborah Price than they are to the Meittinises' home. Consequently, the constant activity, noise, and commotion are sources of chronic irritation to the Prices and deprive them of the quiet use and enjoyment of their property. Of course, the Prices' outside time -- primarily summer afternoons and weekends -- coincides perfectly with the time when the riding lessons are given.[3] There is an obvious negative impact on the Prices' property values.

Tracey's Road is a narrow, dead-end, quiet country lane which runs west off Yeoho Road, which itself is only a two lane road.

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[3]Up to now, the Meittinises have been confined to operating in good weather and in daylight hours. However, as acknowledged by the Meittinises at the hearing, they have contemplated constructing an indoor arena which would then enable lessons and related activity to occur 365 days a year, day and night, rain or shine. The Petitioners have brushed aside concerns from the Protestants about the potential geometric increase in activity associated with an indoor arena. Protestants' concerns were in no way alleviated by the Meittinises' testimony before this Board that they are not willing to limit the special exception request by agreeing not to construct an indoor arena.

Tracey's Road is only 10 to 12.3 feet wide and .7 miles long. It is about .5 miles from Yeoho to the Meittinises' driveway. The road is home to two working farms and about twelve residences, all of which pre-existed the Meittinises. The Wirtz family owns a farm on Tracey's Road where corn and soybeans are grown. At the end of Tracey's Road, there is a horse farm which has been owned and operated by Barbara Kees for over 50 years. Mrs. Kees trains and breeds horses, and her property -- which abuts a portion of the Meittinis' property -- is in the agricultural preservation program. The Wirtzes, the Kees and all of the neighbors have co-existed peacefully for years.

Almost all of the Tracey's Road residents, including the farm families, oppose the granting of the special exception, and a letter to that effect signed by all of those individuals was submitted. There is also opposition by the Hoffmans who live on Yeoho Road but face Tracey's Road. In addition, there was a letter of opposition submitted by a host of residents on Abel Lane, which abuts the rear of the Meittinis property. The Greater Sparks Glencoe Community Council (GSGCC) considered the matter and issued a statement opposing the riding stable.[4] The Baltimore County Department of Environmental

[4]Before deciding the question, the GSGCC engaged in the quaint practice of actually soliciting information from both sides so as to have a balanced view. This stands in stark contrast to both Valleys Planning Council and the Baltimore County Farm Bureau which made their decisions without notice to or input from anyone who opposed the project. The impetus behind the Valleys Planning approval was from one of its Board members who rides his horse on

Protection and Resource Management (DEPREM) has recommended against the riding stable aspect of the special exception request. Finally, the County Department of Traffic Engineering also opposes the special exception, and Stephen Weber testified extensively as to why the request should be denied. The fundamental concerns of this unified opposition relate to safe usage of the road and preservation of the rural, serene, and protected character of the community.

In short, the factual presentation leads to the conclusion that the Meittinises' request is not suitable for the road, will exacerbate the traffic problems already created by the Meittinises, will directly and negatively impact the Prices' use of their own property, will potentially cause environmental problems, and cannot be practically monitored and enforced.

II. THE SPECIAL EXCEPTION REQUESTS SHOULD BE DENIED BECAUSE THE PROPOSED USES ADVERSELY IMPACT UPON THE SURROUNDING PROPERTIES.

A. The Legal Standards

Tracey's Road is zoned RC-2, and the Meittinises have requested a special exception for a riding stable and a veterinarium.

Section 502.1 of the BCZR provides in pertinent part that:

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

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the Meittinis property. The Farm Bureau "endorsement," such as it is, was engineered by a Meittinis' vendor, does not actually represent the views of the Farm Bureau as an organization, and was admitted in gross violation of Rule 8.

A. Be detrimental to the health, safety or general welfare of the locality involved;

B. Tend to create congestion in roads, streets or alleys therein; ...

I. Be detrimental to the environmental and natural resources of the site and vicinity ...

Section 1A01.2(B) of the BCZR enumerates a list of eleven uses indicating that only those eleven uses are permitted as a matter of right in an RC-2 zone. Section 1A01.2(C) provides a list of twenty-nine uses indicating that only those twenty-nine uses are permitted by special exception in an RC-2 zone. Therefore, if the use requested is not in either of those two lists, it is not permitted either as a matter of right or by special exception. The Meittinises have requested the riding stable and the veterinarium, and these uses are among the twenty-nine for which a special exception is explicitly required.[5]

The case law governing special exceptions is well-established. The correct standard for determining whether a special exception use is appropriate is "the particular adverse impact standard" articulated in Schultz v. Pritts, 291 Md. 1, 15 (1981):

> ... [A] special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding

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[5]As discussed below at p. 27-31, the Meittinises have argued that no special exception is required. That position is without basis in law or practice, and the fact that they need to resort to such an unprecedented and radical position attests to the weakness of their special exception case on its merits.

properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone.

See also People's Counsel v. Mangione, 85 Md. App. 738, 748-50 (1991); Alviani v. Dixon, 365 Md. 95, 112-15 (2001). This means that the adverse impact must be measured within the same zoning classification in which the subject property is located. See Futoryan v. Mayor and City Council of Baltimore, 150 Md. App. 157 (2003).

The special exception uses are only conditionally compatible, and the Petitioners must still establish that the proposed uses will not have a particular adverse impact on the adjoining and surrounding properties. Schultz v. Pritts, 291 Md. at 11-12. Further, even if the adverse impact is on only one adjoining property, that provides a sound basis for denial of the special exception. See Board of Commissioners v. Holbrook, 314 Md. 210, 219-20 (1988)(special exception properly denied even where adverse impact was limited to one adjoining property).

Additionally, the Court of Appeals has also specifically held that in determining whether there is an adverse impact, the Petitioners are precluded from asserting that because a permitted use by right would have a similar adverse impact, the special exception should be granted. See Schultz v. Pritts, 291 Md. at 22, in which the Court stated:

It is precisely because a permitted use may be developed even

though it may have an adverse effect on traffic at the particular location proposed, whereas a special exception use may not, that to grant a requested special exception use on the grounds that it generates traffic volume no greater than that generated by a permitted use is logically inconsistent and in conflict with previously established standards. (emphasis supplied)

As demonstrated below, Petitioners have not met their burden of proof to establish that the special exception request does not adversely affect the Tracey's Road community in any number of ways.

B. Tracy's Road Cannot Accommodate the Proposed Uses

Protestants know that the Meittinis' business traffic overwhelms the road because the Petitioners ran the riding stable, veterinarium and boarding facility before applying for the necessary special exceptions. As a result, the Protestants have had the first-hand opportunity to see just how the Meittinis' business traffic impacts the community. As a consequence of this, all of the Tracey's Road neighbors, both farm neighbors and residential neighbors alike, who have experienced the full effect of this traffic, are galvanized in opposition to the special exception requests.

Petitioners' primary road witness was Wesley Guckert. While Guckert's report was riddled with errors which he attempted to laugh off - from mispagination to measuring traffic at defunct sites - his largest vice is the utilization of the incorrect legal standard. Guckert's opinion as written in his report, recites that the special exception ". . . will create no greater impact than that which would

be expected for this use in this zone at this location, than if it were located elsewhere in a similar zone in Baltimore County." (emphasis supplied) Of course, Guckert's test is the wrong test. Schultz v. Pritts, supra, requires that the particular adverse impact standard be tested within the very zone in which the subject property is located, and not some other "similar" zone. See Futoryan v. Mayor and City Council, supra. Even Petitioners' witness, Jack Dillon, testified that the subject property can only be compared to other properties within the RC-2 zoning classification.[6] See Appendix B at p. 139-40. To the extent that Guckert's opinion is based on a misapplication of the law, it has no value. Beyond using the wrong standard, Guckert largely retreated into conclusory and glib assertions which he could not defend and which cannot support a finding of no adverse impact. See People's Counsel v. Beachwood Ltd., 107 Md. App 627, 650-51 (1996).

As the Board heard, Tracey's Road is a narrow, one lane, dead-end road with two horizontal and one vertical blind spots. County Traffic Engineer, Stephen Weber, testified that Tracey's Road is approximately 12' wide, and is one of the narrowest roads in the County. Appendix E at p. 31-33. Weber's measurements comported with

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[6]Mr. Dillon was asked: "Isn't it a fact under the particular adverse impact test that you are required to assess the impact of the proposal that's at the site as against other sites in the same zoning classification?" Mr. Dillon answered: "They would all be in the RC-2 zone." (See Appendix B at p. 139-40)

those done by Protestant George Harold, who also measured Tracey's Road at one hundred foot intervals, finding that Tracey's Road has an average width of 11' 9".

Exacerbating the narrowness is the fact that there is no shoulder on the road. There is an embankment on the south side of the road continuing from the top of Tracey's Road all the way down to the Meittinis' property. At the Meittinis' property line, pine trees abut the roadside. The Meittinises have also placed rocks along the edge of their property, thus prohibiting any vehicles, including their own business traffic, from pulling over onto their property. Any vehicle that meets another vehicle must pull off onto the property of one of the residents on the north side of the road because of the embankment and the Meittinis' trees and rocks. In point of fact, when Weber was re-examining the road the day before his testimony, he became stuck in mud on someone's property when he was forced to pull off the roadway because of an oncoming vehicle.

The road is also a dead-end road. Longtime residents and horse farm owners, Barbara and Sherry Kees, indicate that because of the dead-end, the business traffic cannot exit Tracey's Road at the end. It is required to turn around and go back up the road where it meets incoming traffic head-on. See Appendix C.

Cheryl Schweizer also testified that her driveway is located at one of the blind spots on Tracey's Road, and when she is coming out

of her driveway, the westbound Tracey's Road traffic is unable to see her due to the blind spot at the junction of her driveway with Tracey's Road. Mrs. Schweizer also testified that a number of years ago she was struck by a vehicle at this blind spot. She indicated that significant increases in the traffic pose a real threat to her safety when she exits her driveway and even when she mows that area of the lawn that fronts on the roadway. Mrs. Schweizer, and other Protestants as well, indicated that many of the parents picking up their children from riding lessons on the Meittinis' property appeared to be in a hurry and were not routinely cognizant of others on the roadway and of the dangerous conditions created by the blind spots, speed, and inattention.

Finally, the Meittinis special exception will generate additional traffic. Guckert testified that there were approximately 100 car trips per day up and down Tracey's Road. Of course, while it was clear to everyone on Tracey's Road that the lion's share of traffic was already generated by the Meittinises with their service personnel, business invitees, and visitors, Mr. Guckert had made no effort whatsoever to determine how many of those 100 vehicles were Meittinis-related. This he could have easily done by simply laying a traffic counter across their driveway, and his failure to do so supports the conclusion that the information, if obtained, would undermine the Meittinises' position. The simple truth of the matter

is that the Meittinises, with all their constant bustle of activity unassociated with the activity sought by the special exception request, have completely stressed the capacity of Tracey's Road.

Under the most conservative formulation from Guckert, there will be a significant vehicle increase of approximately 112 extra car trips per week. That vehicle traffic, of course, is not spread evenly throughout a day. It is concentrated at riding lesson times - afternoons and weekends - the very times that the neighborhood also uses the road. This traffic at these times is in addition to the other activities in which the Meittinises say that they want to engage as a matter of right — such as breeding, training, and buying and selling of horses.

The combination of the narrowness, the blind spots, the dead-end, the increase in traffic volume within certain "rush hour" times, and the lack of a shoulder, creates a hazardous situation. A number of Protestants testified, in person, that virtually every family on Tracey's Road from Yeoho to the Meittinises has small children using the front yards or playing on their own property but near the road. In addition, the Wirtz family, a longtime Tracey's Road farm family, submitted a written statement. See Appendix D. The Wirtzes reside at the top of Tracey's Road on the north side of the road, across from the embankment, and their statement indicates that there has been a significant increase in the traffic on Tracey's Road since the

Meittinises moved in and began operating their businesses from their property. They indicated that the vehicles coming onto their front lawn endanger the safety of their two children, ages seven and nine, who play in their front yard. The Wirtzes echo the other Tracey's Road residents by noting that the vehicle traffic also endangers the safety of their children when they ride their bicycles or take walks on Tracey's Road. In this regard, see e.g. People's Counsel for Baltimore County v. Mangione, 85 Md. App. 738, 752 (1991), upholding the denial of a special exception request because of "small arterial streets whose only access to York Road from the community was by way of Greenridge Road, and the narrow winding nature of those streets, with the increased traffic, would jeopardize the safety of the children playing in the streets." (emphasis added).

Weber testified specifically that these special exception uses have a particular adverse impact in this particular location because of the unique conditions on Tracey's Road -- it is one of the narrowest roads in northern Baltimore County, with blind spots and no shoulder. See Appendix E at p. 33. Yet, in the face of overwhelming evidence of adverse impact on Tracey's Road, the Meittinises respond with two equally unsatisfying arguments. First, through their questioning of witnesses, Petitioners suggest that Tracey's Road be widened. It must be noted that the costs of road widening are assessed against the residents proportionate to their frontage on the

road. **Not one person on Tracey's Road wants his or her property taken to accommodate the business interests of the Meittinises,** and then incur the added insult of being forced to pay for it. Road widening would also have a particular adverse impact on those properties which are already close to the road. See Lippincott Report at 2, Appendix A. If, for example, Tracey's Road were to be widened as Petitioners suggest, the road and the traffic would be only a few feet from the Harolds' living room window.

Secondly, Petitioners suggest that their special exception request has no adverse impact because, so they claim, the additional traffic on the road would be no greater than that which may be generated if two other houses are built on the road. They seem to argue that, therefore, the increased traffic of the Meittinis' business uses should be tolerated by the community and approved by this Board. Of course, Protestants vigorously dispute the notion that any residential uses would generate as much traffic as the Meittinises do, and there are presently no firm plans for any additional residences to be built on Tracey's Road. Moreover, as indicated above, a special exception use cannot be granted merely because a use permitted by right would have the same adverse effect, and the law prohibits this argument as a rationale for granting the special exception uses. Schultz v. Pritts, 291 Md. at 22.

To illustrate how the adverse impact test operates, it is

useful to examine the adverse impact that these same uses would have on a different road in the same zone. For example, the special exception requests would not have an adverse impact on a larger, two lane through road with no blind spots, such as Priceville Road where Mrs. Meittinis had been giving some of her riding lessons. Priceville Road, which is in an RC-2 zone, is 33 feet wide at the top of the Road and has wide shoulders with guard rails on both sides of the road. The farm property is also located close to the intersection of Priceville and Belfast Road, a major country thoroughfare. Because of the nature and character of Tracey's Road, however, these same special exception uses have an extreme adverse impact here that are not present on Priceville Road.

Though the Meittinises have the burden of proof to demonstrate that their requested activity would not have an adverse impact on Tracey's Road greater than it would elsewhere in the RC-2 zone, the overwhelming weight of the evidence demonstrates affirmatively that their uses will have a greater adverse impact here. Beyond the expert testimony of Weber, the Protestants have certainly established through their testimony and written statements that the Meittinis' business traffic creates significant problems in the use of the road and jeopardizes the safety of children and other residents. These adverse effects alone are sufficient to warrant the denial of the special exception requests.

C. The Proximity to the Price Residence.

Protestants Deborah and Rustin Price testified, and Petitioners acknowledged, that the barn which is the locus of the business activities, is closer to the Prices' home than to the Meittinis' home. The Meittinis' barn and riding ring are in close proximity to the Prices' kitchen, sunroom, and backyard where the Prices spend much of their leisure time.[7] The Prices have a dining table in the sunroom and a swimming pool and barbeque grill in their backyard. Prior to the construction of the barn, ring and consequent business activities, the Prices used to spend many hours, particularly on weekends, enjoying their sunroom and backyard. Since the Meittinises began operating the riding stable, boarding facility, and veterinarium, the Prices have been deprived of the enjoyment of their own home and outdoor facilities. When the riding lessons are being given, the Prices are plagued by the noise, dust, and commotion, all of which are in addition to the innumerable workmen and other personnel servicing the businesses on a regular basis. The Prices,

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[7]Petitioners indicate that the Price property is closer to the Kees' barn than to the Meittinis' barn. This is not true. The Kees' barn is not closer to the Price residence than is the Meittinises' barn. Moreover, and more importantly, the Kees' activities cannot be seen or heard from the Price residence. The only view that the Prices have of the Kees' property from their residence is the bucolic view of a pasture where a couple of horses graze peacefully. Finally, the Prices built their house knowing where the Kees' barn was located; the Meittinises built their barn knowing where the Prices' house was located.

while they are enjoying their backyard or using their swimming pool, are now close to both the service personnel and business clients. Mrs. Price has attempted to raise these issues with the Meittinises, but her attempts have been rudely dismissed. The fence that the Meittinises built does nothing to alleviate the situation. That fence – which can only be reasonably viewed as a "spite" fence – has the effect of walling in the Prices. In addition, Mrs. Kees, who has farmed on Tracey's Road for over 53 years, once had a view of fields and trees, but now looks out upon a stockade fence. It is particularly aggravating to live in the country only to have the wide-open vista obliterated by a stockade fence. Of course, the stockade fence also has the effect of thwarting any future enforcement efforts.

Mr. and Mrs. Price are concerned not only about the deprivation of the use and enjoyment of their property, but also the negative impact that those uses will have on their property values. If the special exception uses are granted, any prospective buyers will observe that the adjoining property owners operate several businesses adjacent to the backyard and main living areas of the house. It is safe to say that no one else would want to move out to the country in order to have their privacy disrupted. The resulting financial impact on the Prices' privacy, their property and their single most valuable investment is devastating.

The Court of Appeals has recognized on numerous occasions that when particular special exception uses will have an adverse impact at a particular location, these special exception uses should be denied. In Holbrook, 314 Md. at 220, the Court of Appeals denied a special exception because of the debilitating effect it would have on one closely proximate property alone. See also Schultz v. Pritts, 291 Md. at 1115; People's Counsel v. Mangione, 584 Md. App. at 750-52.

In this case, the particular uses -- the riding stable, boarding facility, and veterinarium -- would have an adverse impact on the Prices' use, enjoyment, and value of their property, though, it must be said, those same uses would not necessarily have an adverse impact if they were located elsewhere in the RC-2 zone. For example, if the Petitioners were to operate a riding stable, boarding facility, and veterinarium on a similarly sized parcel where there were no houses close by, or on a larger parcel where their neighbors were necessarily further away, this particular adverse impact would not exist. In fact, had the Meittinises put the barn and ring on the opposite side of their home, next to the corn and soybean field, there would be no adverse impact of this nature in this case. Dr. Meittinis, however, testified that he wanted privacy, and he, therefore, chose to place the house and barn in their present locations. He must live with the consequences of his own decisions.

Petitioners are allowed to train horses on their property as

a matter of right if they choose.[8] The additional business activities of the riding lessons, the boarding facility, and the veterinarium, however, cannot be conducted without a special exception. If these activities were to be allowed over and above the activities which are already allowed as a matter of right, the excessive use of the property will greatly exacerbate the problems which the Prices will experience. In that regard, all of the other Protestants join Mr. and Mrs. Price in urging the denial of the special exception uses requested because of the resulting impact on the quality of the Prices' lives and the integrity of their largest financial investment.

D. <u>The Special Exception Uses Contemplated By The Meittinises Will Be Detrimental To The Environmental And Natural Resources Of The Site And Vicinity</u>.

The special exception requests also create environmental problems associated with soil conservation, water pollution, and run-off. These problems are addressed in detail in the Lippincott Report, attached as Appendix A, and do not require repetition here. In addition, the Meittinis development has created storm water run-off onto the Evans' property which may be aggravated by over-grazing if the Meittinises are permitted to have 17 horses on the property. Because the Meittinis operation is not commercial

[8] Protestants, of course, dispute the claim that Mrs. Meittinis is a horse trainer.

agriculture, and the Petitioners only have about 10 acres of pasture remaining, the request to have 17 horses on site cannot be accommodated.

Moreover, as indicated by both Dillon and Lippincott, the Meittinises are required to have a nutrient management plan. Their failure to have one is reason alone to deny the special exception. See Appendix B at p. 127 and Appendix A at p. 1. These additional adverse impacts, together with the adverse impacts described above, mandate the denial of the special exception requests.

E. The Meittinis' Special Exception Is Impossible To Monitor And Enforce.

One of the most vexing aspects of the Meittinis' special exception request is its complete invulnerability to monitoring and enforcement. The Division of Code Enforcement has no personnel for monitoring compliance with a special exception, and future monitoring would require the neighbors on Tracey's Road to act as policemen. It is unreasonable to impose such a burden on the Tracey's Road residents because it consigns the neighborhood to warfare for the foreseeable future.

The enforcement activity in this case has been ongoing for over four years. The first violation case, in which Petitioners were found guilty of giving riding lessons and operating a riding stable without a special exception, was appealed twice to the Board of Appeals and was then appealed to the Circuit Court for Baltimore

County. Although the County ultimately prevailed and the Meittinises were fined, that litigation took three years. At the present time, there is a second violation case pending. It is simply unreasonable to expect the Division of Code Enforcement to repeat these Herculean efforts in order to attempt to enforce a special exception. The granting of any special exception with restrictions necessarily presumes an element of voluntary compliance that is absent here.

Even Jack Dillon conceded that it would be extremely difficult to enforce any restrictions imposed on the number of lessons permitted pursuant to the special exception. See Appendix B at p.187-89. Lippincott, in recommending against the special exception for a riding stable, said that "any attempts to limit the number of riding lessons or who would be riding would be difficult to monitor and enforce, particularly in light of the limited County resources for monitoring and enforcement." See Appendix A at p. 2. The problems associated with enforcement totally undermine the principle that special exception activities, by their very nature, may need and require regulation and restriction.

The Meittinises have suggested a self monitoring system in which they would keep a log of all riders on the property, but this does little to insure compliance. First, because the Meittinises would be the "log keepers" there is an inherent and obvious flaw. Secondly, it is not clear who would have access to that log for inspection, and it

is not reasonable to expect the County enforcement personnel to keep running to and from Tracey's Road to examine Mrs. Meittinis' log book. Thirdly, the records that she previously kept show that she is not an able record keeper, even if there was an inspection process. Finally, during the course of this dispute, the Meittinises have given serial and conflicting explanations regarding the nature of their activities, and that lack of candor bears on the question of enforceability under the special exception. It would be one thing if the Meittinises had engaged in the unpermitted activity, been caught, and then accepted responsibility for those acts. To this day -- even after the finding of the Code Enforcement hearing examiner was affirmed by this Board and the Circuit Court -- the Meittinises deny any responsibility. Under these circumstances, how can it be reasonable for special exception monitoring to be left to the Meittinises themselves? The unique problem associated with enforcement is yet one more particular circumstance which makes these special exception uses inappropriate in this particular case.

F. <u>This Special Exception Request Is Unlike Any Others Previously Granted In An RC-2 Zone</u>.

Petitioners, through Guckert and Doak, have cited other properties which they claim have special exceptions for "similar uses." They also assert that these other properties are "comparable" and, therefore, support the granting of a special exception for a riding stable in this case. Most of the properties cited do not

offer lessons which is, of course, the core activity at issue here, and none of the properties are comparable. These unsupported allegations of similarities do not stand up to even minimal scrutiny, and to the extent that they stand for anything, these properties support the Protestants' position.

The "comparable" properties arose from a list that Doak obtained from the County. The County employee who prepared that list could not say whether the properties on that list were riding stables, boarding facilities or both. Moreover, there was no way to tell whether any lessons were being given. The list was not up-to-date, and included defunct operations. For some reason, it also included a dog kennel.

The problem was compounded when Guckert then used that list to compile his list of properties which he claimed were "similar." He then proceeded to render his opinion, albeit based on an incorrect legal standard, as discussed above. The properties that Guckert included which are not located in RC-2 zones and which cannot, as a matter of law, be considered, are:

> Dunroman Stables on Hart Road (defunct), DR-2
> Paradise Farms on Old Bosley Road (defunct) RC-4
> Ponies For Children on Beckleysville Road, RC-4
> Manorvale Farm on Foxhall Farm Road, DR-2
> Airy Hills Farm on Rices Lane, RC-6
> The Stable on Ridge Road, RC-6

See Appendix F.

Additionally, none of the properties which are located on private lanes, not owned by the County, can be considered. The

County does not have jurisdiction and control over privately owned roads, and cannot regulate how the property owners use their own roads. If the Meittinises owned Tracey's Road, which they do not, then they too would be in a position to determine how and for what purpose the road could be used. Private roads present different situations which cannot reasonably be compared to the publically owned road in the instant case. See also the Weber testimony, Appendix E at p. 36.

Once the properties in non-RC-2 zones and the properties on private roads are eliminated, there are only nine properties remaining to be compared with the Meittinis property. Of those nine remaining properties, one can only consider the properties offering riding lessons. The following properties do not offer lessons and, hence, these property uses are not comparable to the usage sought in the instant case:

Hidden Springs Farm on Evna Road
Nor Mar Farms on N. Ruhl Road
Exotic Spins Farm on Bird River Beach Road

There then remain only six properties which are located in RC-2 zones, on public roads, and are used for riding lessons, and none of these properties combine the unique features of problematic road, scope of operation, environmental impact, neighborhood opposition, and difficulty of regulation:

(1) Tranquility Manor Farm - Stansbury Road

- 275 acres
- located on a two lane road
- farm is on its own one mile long lane far from any other properties
- lessons given pursuant to a conditional non-conforming use received in 1977
- Stansbury Mill Road is not a dead-end

(2) Camelot Farms -- Sheppard Road

- road is Maryland Route 138, a two lane rural highway with a double yellow line and shoulder
- special exception granted in 1977, pursuant to a signed, written agreement with the neighbors
- farm is far away from any neighbors
- road is not a dead-end.

(3) Rendezvous Farms -- Miller Lane

- road is only .5 miles from Mount Carmel Road and is within sight of I-83
- though narrow, it is wider than Tracey's Road and two cars can pass each other safely in all but one spot.
- only four houses before the farm property is reached and cars can pull over on either side of the road
- barn and stable are small and the stable is located next to the home of the property owners and not next to the home of any other neighbors
- special exception is limited to only 10 lessons, approximately one-third of the request in this case.

(4) Renaissance Farm -- Priceville Road

- wide, two lane striped through street, with shoulders on both sides of the road
- farm property is the first house on the right-hand side of the road, just past the intersection of Priceville and Belfast Roads
- surrounding neighbors all supported the special exception request
- road is not a dead-end road

- limited to only 20 lessons per week

(5) Good To Go Farms -- Dark Hollow Road

- road is two lanes, twenty feet wide, with wide shoulders
- farm property is first property from intersection with Trenton Road and no other properties affected
- nineteen neighbors signed letters of support
- road is not a dead-end
- special exception for lessons was limited to 10 lessons per week

(6) Green Farm -- Green Road

- Located right at the intersection of Green Road and Mantua Mill Road, which is a major thoroughfare with double yellow stripe
- traffic entering farm property enters at intersection of Green and Mantua Mill Road and does not have to travel down Green Road
- special exception granted with restriction that lessons be given only four days per week
- surrounding neighbors supported the special exception

See Appendix G.

It cannot reasonably be argued that any of these properties justify the special exception at issue in this case even with the limited information that Protestants have been able to assemble. And, there are other obvious questions about these properties for which this record provides no answers: what was the level of pre-existing traffic on the road; what was the level of activity for which permission was being sought; how many different types of uses were being sought (e.g., riding stable, boarding, and/or other); what type of pre-existing activity level was there; and having been granted,

how have the special exception activities affected the neighborhood?

All of these questions illustrate the real and potential differences in the situations which the Petitioners blithely present as being "the same." Their conclusory assertions sweep away real and meaningful distinctions. When one examines the actual properties that they posit, it is immediately apparent that there is no other special exception for riding lessons in an RC-2 zone that utilizes a road as problematic as Tracey's Road, with the level of activity sought by the Meittinises, and which is closely proximate to a neighbor's home.

III. RIDING LESSONS CANNOT BE GIVEN WITHOUT A SPECIAL EXCEPTION

A. A Special Exception For A Riding Stable Is Required

Petitioners have introduced a novel and radical position that no special exception for a riding stable is required in order for them to be able to give lessons to the public. This position, of course, contradicts 30 years of Baltimore County zoning practice in which riding lessons have been permitted in an RC-2 zone only if a special exception is granted under the riding stable provision at § 1A01.2(C)(23). That the County zoning authority views riding lessons as a special exception use under § 1A01.2(C)(23) is best illustrated by this very case. Code Enforcement cited the Meittinises for giving riding lessons; the zoning hearing examiner determined that they were, in fact, guilty of that offense; the County Law Department pressed that same position to the Board of Appeals; and the Board of

Appeals affirmed the finding. Moreover, each so-called comparable property discussed above went through the zoning process.

As indicated above, that Petitioners are forced to resort to this position is a stunning admission as to the tenuous nature of their claim for a special exception on the merits. In any case, Petitioners called Paul Solomon and Jack Dillon, both former Baltimore County planners, to support the argument. Interestingly, these witnesses each provided different rationales for the notion that no special exception is required.[9]

Solomon testified that offering riding lessons to the public is permissible by right as part of commercial agriculture. Commercial agriculture is defined in the BCZR as follows:

> Agriculture, Commercial - The use of land including ancillary structures and buildings to cultivate plants or raise and keep animals for income, provided that the land also qualifies for farm or agriculture use assessment pursuant to Section 8-209 of the Tax Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.
>
> BCZR § 101. (Emphasis added)

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[9] Both of these rationales were specifically rejected by the zoning code enforcement hearing officer in the Meittinis enforcement action. His ruling was affirmed by the Board of Appeals and by the Circuit Court. See infra at p. 33-34.

As can be seen from the definition above, commercial agricultural activities, at least with regard to horses, are equestrian centers, horse breeding, and horse training.[10] There is no language in this section which indicates that riding lessons are part of commercial agriculture. Mr. Solomon, in conceding that riding lessons are not specifically included in the commercial agriculture definition, argued that many things were encompassed by that definition even though those things were not specifically enumerated. Mr. Solomon was questioned about this on cross examination:

> Q. Let me ask you this. If the definition of commercial agriculture includes a lot of other things which aren't listed, how does the public know what is included and what is not? In other words, how does the public know, other than by looking at the thing, the code, how does the public know what commercial agriculture is?
>
> A. Well, the public, the zoning office, whatever, it's well established by people with knowledge about horse farms, the limit of what can reasonably be included there. And a reasonable and prudent man would have no trouble determining, for example, giving reading {sic} lessons has long been a tradition of horse farms in Baltimore County, so there's that test, it's reasonable, there's a relationship and, of course, you can always appeal a decision

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[10]The equestrian center language was only recently added by the County Council, thereby undermining any claim that the word "includes" in the definition of "commercial agriculture" is to be read broadly. If it were to be read in such a way, there would be no reason to add "equestrian center;" it would be embraced in all of the unspoken uses implied by the word "includes." The additional fact that the County zoning apparatus has required special exceptions for riding lesson for over thirty years also illuminates the meaning of the word "includes." It is axiomatic that great deference is to be afforded to an agency's interpretation of the very provisions it is intended to enforce.

which you feel is contrary to what should be in the mix and come back before this Board, or go beyond.

Q. And the reasonable people in the zoning office and the reasonable people in the Office of Law for Baltimore County have determined that you need a special exception to give riding lessons, correct or not?

A. They were, I am sure they were reasonable people, but they have to do their homework, too. And, as I indicated before, in my opinion, they did not look into this with the proper authorities and the people that had the knowledge as to what constitutes a horse farm and the limits thereof and what constitutes a riding stable.

Q. And those people that didn't make that assessment, those people would include you from 1975 to 1992?

A. Well -

See Appendix H at p. 145-47.

Under Solomon's theory, the tail wags the dog: in order for the regulators to determine what is permitted under the regulation, they must consult those whom are regulated, and thirty years of established practice stands for nothing. The argument utterly fails.

An operation can be a farm without being engaged in commercial agriculture, and Petitioners' other witness, Jack Dillon, charted his argument in that direction, away from that of Solomon. Although there was no statutory authority for his position, Dillon testified that Petitioners' do not need a special exception to give riding lessons because riding lessons are "accessory" to the farm use. Under his view, if the number of riding lessons increased to the point where they were no longer accessory, but a principal use, a special

exception would then be necessary. Mr. Dillon testified as follows:

> Q. Mr. Dillon, if you are correct that no special exception is needed for Mrs. Meittinis to give riding lessons, then the fact that there is a representation that it would be limited to twenty-eight lesson hours is quite irrelevant, isn't it?
>
> A. Yes.
>
> Q. And, in fact, if you're correct, then what Mrs. Meittinis can do is give riding lessons eight hours a day, seven days a week, can't she?
>
> A. Well, then you have crossed the line. You become—that if that becomes the primary use, the principal use, then you might fall into the riding stable category. . . .
>
> Q. How many hours a week do you need to give lessons before it becomes a riding stable?
>
> A. I don't know. I can't answer that. . . .
>
> Q. Basically, there are no codified standards anywhere in the code anywhere that can assist one in distinguishing between what is a riding stable that requires a special exception and, in your view, what doesn't require a special exception, is that true?
>
> A. That's true.

See Appendix B at p. 189-93. In the final analysis, Mr. Dillon's testimony collapses.[11]

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[11]It was precisely because Protestants understood that Petitioners were going to be making this argument that the Protestants issued subpoenas to the Meittinises for some limited financial records to see how the riding lesson income compared to the income from other claimed farm activity. Of course, it has always been Protestants' view that the riding lessons are the primary commercial activity taking place on the property, and hence, fall squarely within the part of the Dillon analysis where a special exception is required. The Meittinises objected and the Board refused to enforce the subpoena for the data which would have demonstrated that to be the case. The Meittinises were then

B. The Doctrine Of Collateral Estoppel Precludes Re-Litigation Of This Issue.

Beyond the fact that the Solomon/Dillon positions have no merit, the very argument that no special exception is required should be precluded from this forum because it was dispositively decided against Petitioners in the enforcement action and affirmed by the Board of Appeals and the Circuit Court.

Batson v. Shiftlett, 325 Md. 684, 701 (1992), clearly delineates when the decision of an administrative agency operates as collateral estoppel:

> "Whether an administrative agency's decision should be given preclusive effect hinges on three factors: '(1) Whether the [agency] was acting in a judicial capacity (2)whether the issue presented to the district court was actually litigated before the [agency]; and (3) whether its resolution was actually necessary to the [agency's] decision.'" (citations omitted)

See also Petitioners's Response to People's Counsel's Motion To Limit Issues ("Petitioners' Memorandum") at p.7.[12]

Petitioners concede in their Memorandum that the code enforcement hearing officer acted in a judicial capacity because a hearing was conducted, the parties were allowed to present evidence and the hearing officer ruled on a dispute of law. Petitioners

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permitted to make uncorroborated assertions about the nature and scope of the uses on the property.

[12]Protestants hereby adopt the arguments and positions articulated in People's Counsel's Motion to Limit Issues and attachments submitted as part of that Motion.

Memorandum at p. 8.

As to the second requirement, the issue in this case – whether a special exception for a riding stable is necessary in order to give riding lessons – was decided by the code enforcement hearing officer in the violation case. The Meittinises were charged with operating a riding stable without a special exception. The code enforcement hearing officer made a factual finding that the Meittinises were giving riding lessons and boarding horses. He further found that a riding stable was neither "commercial agriculture" nor an accessory farm use, and in order to offer riding lessons or board horses, a special exception for a riding stable was necessary. See Hearing Examiner's Opinion, dated 2/14/01, at p. 1-5, and Hearing Examiner's Opinion, dated 5/25/01, at p. 1-2, both of which are attached to People's Counsel's Motion To Limit Issues. Because this issue was specifically addressed in testimony and ruled upon by the hearing officer, the second requirement for the application of the doctrine of collateral estoppel has been met.

Thirdly, the resolution of the issue was necessary to the resolution of the case. Petitioners were charged with operating a riding stable without a special exception. The hearing officer had to decide as a threshold matter that the Meittinises' activities fell within the ambit of the term "riding stable" before he could enter a finding that a violation had occurred. It is absolutely clear that he

addressed this issue from his opinion at p. 4-5. Had the hearing officer concluded otherwise, he would have been required to find that the Meittinises were not guilty of operating a riding stable without a special exception.

Finally, it is well established that the decision of an administrative agency which has been reviewed by a court has preclusive effect:

> Although, the extent to which the principles of res judicata and collateral estoppel apply to unreviewed administrative decisions may be "unclear under Maryland law" [citations omitted], it is crystal clear that a final judgment of a Circuit Court affirming a decision of an administrative agency, like the 1987 judgment here, is entitled to full preclusive effect. (citations omitted)

Essinger v. Baltimore City, 95 Md. App. 607, 620, cert. denied, 331 Md. 479 (1993).

In short, the issue of whether a special exception is needed for the Meittinises to do what they have requested permission to do has already been decided by the code enforcement hearing officer; that decision was affirmed by this Board; and that decision was appealed to the Circuit Court. Following the dismissal of Petitioners' appeal by the Circuit Court on May 7, 2003, the decision in the code enforcement case became a final order entitled to preclusive effect.

CONCLUSION

This Board should deny the request for special exceptions -- especially for the riding stable -- for any number of the following

reasons. There are multiple particular adverse impacts which individually and collectively mandate rejection of the special exception: traffic congestion and dangerous conditions on Tracey's Road; disruption of the use and enjoyment of the Prices' residence and diminution of its value; environmental and natural resource problems, including over-grazing, storm water run-off, and lack of a nutrient management plan; and unusual and particular monitoring and enforcement problems. These problems are dramatized by the fact that there is no similar set of circumstances in all of the County in which such a special exception was granted. Moreover, there is no particular difficulty in Mrs. Meittinis continuing to give lessons at the Priceville Road site as she has in the past. The site is already approved for such activity and is only a few miles from her home.

Finally, it is simply unfair to grant this special exception over the objections of the County Department of Traffic Engineering, DEPREM, and virtually all of the residents of Tracey's Road for the sole purpose of saving Mrs. Meittinis the minor inconvenience of driving to work like everyone else does. The special exception requests should be denied.

Respectfully Submitted,

Joseph L. Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

CERTIFICATE OF SERVICE

This is to certify that on this 22nd day of March, 2004, a copy of the Protestants' Memorandum in Opposition to Petitioners' Petition for Special Exception, was mailed by first class mail to John Gontrum, Esquire, Whiteford, Taylor, and Preston, L.L.P., 210 West Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioners and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

Joseph J. Evans

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Development Coordination DATE: 9-9-01

FROM: Wallace S. Lippincott, Jr.

SUBJECT: Comments on Meittinis Sph, 2311 Tracey Road

Existing Conditions

This 40.31 acre farm property is located in a Master Plan designated Agricultural Preservation Area and is zoned RC 2 (Agricultural Protection). Both the Master Plan and the zoning provide that farming and agriculture are the preferred uses in this zone. As further indication of the extent of the County's interest to preserve and promote agriculture in this area, the property is located in the midst of a several farms on which the County has purchased development rights for the protection of farmland and open space.

While other agriculturally related uses are also necessary to support farm income, the approval of these uses must be made within a context of the appropriateness and level of impact on the existing community- agricultural and residential. While Baltimore County lacks any additional tests in its zoning code relating specifically to equine activities, the Code does provide for consideration of congestion of the road system(502.1 B) and overcrowding of the land (502.1 I).

With respect to the overcrowding issue, from an agricultural perspective having only 10 acres of pastureland is limiting. For small acreage, the County livestock ratio table permits one acre of pasture per horse. Many landowners and other experts often suggest two acres of pasture per horse. However, these are general rules and the impact is more often dependent upon the type of horses and the management of the grazing. For this reason it is not recommended that a limitation be put on the number of horses or ponies permitted on the farm, but rather that compliance with a nutrient management plan and a Soil Conservation and Water Quality Plan (SCWQ Plan) be required. The nutrient management plan has specific standards. The SCWQ Plan does not and thus conditions should be attached to this plan. The SCWQ Plan should include best management practices based upon the number and types of animals and the specific management of the land for those animals by present and future operators of the farm so as not to cause soil erosion, water quality problems onsite or running off the land, or depletion of the productive capability of the land.

The other relevant standard relating to the proposed uses is the road access to the property. As provided, the property is approximately 0.3 miles off Yeoho Road on Tracey Road. Tracey Road is an approximately 8-foot wide single lane road along which

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there are residential and other farm properties. The road is paved and several of the homes are close to road. Intensive use of any property along this road would have an impact on these properties as well as on the usage by the other property owners.

Potential impacts

Reviewing these two factors for the veterinarian, as indicated above the limits on the number of animals that would be pastured or kept up should be limited by facilities, management, and limitations of the land. The limitations of the land should be based upon the management and facilities and on recommendations and regulations from a nutrient management and a SCWQ plan. While Tracey Road is limiting, the road is currently used for the transporting of large animals the number of trips anticipated for this activity would not appear to create significant conflict or congestion. For these reasons, an equine or large farm animal veterinarian use is supported.

The request for a riding stable and a public horse show in addition to the farm uses and veterinarian use is not supported. The additional traffic that could be produced by a riding stable and public horse show could be significant. While the zoning of the property is agriculture and it is appropriate to support additional commercial agricultural uses that will support the retention of agriculture in the county, this can not be done at the expense of creating neighborhood nuisance problems that will ultimately lead to agricultural nuisance conflicts. As indicated earlier, from an agricultural perspective limiting the number of horses or ponies or other livestock on a 40 acre farm should be based upon the landowner's production capability rather than for purposes of limiting the use of riding or public shows. Furthermore, any attempts to limit the number of riding lessons or who would be riding would be difficult to monitor and enforce, particularly in light of the limited County resources for monitoring and enforcement.

Recommendations

In conclusion, the continued use of the property for agricultural uses such as breeding and sale of horses and production of timber or other agricultural products is recommended. Additionally, the use of the property for an equine or large farm animal veterinarian is strongly supported subject to having a nutrient management plan and SCQW Plan subject to the conditions indicated earlier. If the property had direct access to Yeoho Road or any other two-lane road, support for the riding use would also be supported, however, because of the potential for agricultural nuisance conflict over the use of Tracey Road, the riding stable is not supported.

C. Gontrum
Evans

Wsl/develop/meittinis property

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MR. EVANS: Protestants' Exhibit 4? A letter dated January 31, 2002, from the Valleys Planning Council, Inc., signed by Mr. Dillon.

Q. Is that correct?

A. Yes, it is.

Q. Regarding Case No. 02-221-XA, Brenda and Michael Herzog, Dark Hollow Road. A letter to Mr. Schmidt?

A. Yes.

Q. Although I think Mr. Kotroco is the one who was involved.

A. Well, we generally send them to Mr. Schmidt, yes. This was a new property that had been purchased by the Herzogs. They put in a new home. It's a property that sits high on -- I don't know if you're familiar with Dark Hollow Road. It drops down very dramatically to Trenton Road, and the property sits high and drops down to a valley.

They bought the property. They put up a house and a barn, and there apparently was a neighbor, couple of neighbors nearby, concerned about the horses there and a proposed sign they put up.

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We took the position of opposing the sign, and we were -- I had a conversation with Mr. Herzog at some point and I explained to him our concerns about we weren't necessarily opposed to the special exception on the property for the riding stable, because she teaches riding as well, that it was -- because of the topography on that property, we felt very strongly the nutrient management plan and best management practice needed to be employed there.

Q. You said if the business generates more $2500 annual income or has more than eight animals, a nutrient plan is inquired?

A. Yes.

Q. Are the Meittinises required to have one?

A. I believe they are.

Q. But they don't?

A. At far as I know, they have not applied for one.

Q. They have been in operation how long?

A. At least three or four years.

Q. You also raised issues about the number of horses proposed to be kept on the property?

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A. Yes. Again, this was because of the topography of this property, the pasturing, and how that's managed was a concern. It was a concern by some of the neighbors there.

Q. But if this is a commercial agricultural operation, the Herzog property, then it doesn't really matter, does it?

A. Technically, it's a horse farm, and they're allowed to have horses there.

Q. And sound animal husbandry practices would suggest that they wouldn't abuse the land?

A. That's true.

Q. And, actually, these people had a prior farm in a different part of the county before they moved?

A. I believe they were leasing other property off Gist Road.

Q. Did you raise a concern about the number of horses to be boarded, the number of paddock areas, there will be riding lessons, will people who board horses be allowed to ride? These are all the issues you raised for this project?

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A. Yes, and they were as a result of a number of questions that were raised by members of the community, and I just transferred those into those questions.

Q. Do you realize they had nineteen letters of support from the community for that special exception?

A. Yes. I don't know if it was nineteen, but I know they had letters of support.

Q. Do you know whether the Green Spring Hunt rides through their property?

A. I don't know that they do. It's kind of off on that edge there. They ride all over, but I don't know if they ride through there or not.

Q. But is it fair to say all of those issues that are associated with the Dark Hollow farm are not the sort of issues discussed when the Valleys Planning Counsel executive board chose to take a position with regard to the Meittinis property?

A. Again, there was -- that farm when they took it over, it was in pretty rough shape, the land was. The activities that started in there, it looked like it was going to be causing some problems.

App B

The Kees family has operated a horse breeding and training farm, where race horses are trained personally by members of the Kees family. The farm has been operating for 53 years at the end of Tracey's Road. Our farm adjoins the Meittinis property, and is in the Agricultural Preservation Program. All of the years we have lived here we have always been good neighbors to our other farm neighbor, the Wirtz family and all of the residential neighbors and all of them have been good neighbors to us. We have always respected the property rights of our neighbors and their right to use Tracey's Road. We have never given riding lessons which would require the public to be constantly coming in and out of Tracey's Road. When we have a horse arriving in a large commercial horse trailer, we meet the commercial vehicle elsewhere and then bring the horse down the road ourselves because Tracey's Road is such a small, dead-end lane. If Tracey's Road were a through street and traffic could drive through and go out the other way, the traffic from the Meittinis property wouldn't be such a big problem. As it is, all of the Meittinis traffic has to turn around and go back out Tracey's Road where it meets the incoming traffic head on.

The Kees family is opposed to the granting of a special exception for a riding stable. The granting of a special exception for a riding stable would interfere with our use of the road and access to our property and it would interfere with usage of the road by other neighbors as well.

We also oppose the riding stable because the stable is located too close to the home of Rusty and Debbie Price. We know that all of the maintenance activity and the activity generated by the public coming in and out for lessons necessarily occurs in the stable area and this activity is disruptive for Mr. and Mrs. Price when they are trying to enjoy the

App C

main living areas of their own property. If the stable had been built near the corn and soybean fields, the Price's privacy would not have been invaded, but it has already been built there and it is too late to change that now.

Barbara M. Kees

Barbara M. Kees

Sherry Kees Rudolph

Sherry Kees Rudolph

Opp X 23

Case No. 01-530-X

The Wirtz family has been farming on Tracey's Road for generations. Our family still plants corn and soybeans on the land adjacent to the Meittinis property.

Tracey's Road is a one lane road with blind spots and two cars cannot pass each other on the roadway. Tracey's Road does not have a shoulder on either side. When two cars meet on Tracey's Road, one car must leave the paved portion of the roadway.

We reside with our two children, ages 7 and 9, in the first house on Tracey's Road. We see the traffic as it turns onto Tracey's Road from Yeoho Road. Before the Meittinises moved here there was not a lot of traffic on Tracey's Road. The traffic has increased substantially since the Meittinises moved here and opened their riding stable and veterinarian practice. The vehicles coming up and down the road from the Meittinis property often speed. This is a problem for us because we have young children. Due to the increased traffic levels and speed of the vehicles, we no longer allow our children to ride their bicycles on Tracey's Road.

We are also afraid to let our children play on their own front lawn. Across from our property there is an embankment. When a car must pull off of the paved roadway in front of our property, it is forced onto our front lawn. With the increased traffic, more vehicles are pulling off the roadway and on to our front lawn. We do not believe that our front lawn should be used as a road just so that the Meittineses can operate their businesses from their home.

The Meittinises activities, the riding stable and the veterinarian practice, have not only interfered with the normal residential use of our property but have interfered with our farming use as well. The Meittinises fenced in part of the Wirtz farm property which adjoined their property and used it as grazing space for their horses. We hired a surveyor and had the Wirtz farm property re-surveyed . The Meittinises were notified about their encroachment on the Wirtz farm property but did not want to move the fence. It took the Meittinises approximately a year to remove the fence from the Wirtz farm property.

We are opposed to both the riding stable and the veterinarian uses. We hope you will take our concerns into consideration when you make your decision.

Vernon W. Wirtz, Jr.
2100 Tracey Road
Sparks, MD 21152

Susan E. Twigg-Wirtz
2100 Tracey Road
Sparks, MD 21152

App D

IN THE MATTER OF:	* BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	* COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	* OF
2311 Traceys Road	* BALTIMORE COUNTY
5th Election District	* CASE NO. 01-530-X
3rd Councilmanic District	* February 12, 2004

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., February 12, 2004.

* * * * *

Reported by:

C.E. Peatt

App E

NON-RC-2 PROPERTIES

FARM/ROAD	ZONING	COMMENTS
Dunroman Stables Hart Road	DR-2	Defunct (and has been so for over 2 years); Towson area
Paradise Farms Old Bosley Road	RC-4	Defunct (farmhouse and barn are gone; construction site; across from housing development); Towson area
Ponies for Children Beckleysville Road	RC-4	At major intersection; across the street from a tavern
Manorvale Farm Fox Hall Farm Road	DR-2	Western Baltimore County, off Rolling Road; Fox Hall Farm Road is a private road with a homemade sign; no lessons given
Airy Hill Farms Rice's Lane	RC-6	Western Baltimore County, off Windsor Mill and Old Court Roads; no lessons given
The Stable Ridge Road	RC-6	Western Baltimore County, off Windsor Mill and Old Court Roads; no lessons given

App F

RC-2 ZONED PROPERTIES

Farm/Road	Sponsor	Boarding /Lessons	Number of Lessons	Dead-end or Through Road	Width of Road	Location of Site to Intersection	Special Circumstances
Manor Hill Farm Breidenbaugh Lane	Guckert	Boarding	No Lessons	Dead-end	15'; unpaved	Farm is at end of road	**This is not a county road; it is a private lane owned by the farm.**
Tranquility Manor Farms Stansbury Mill Road	Guckert	Boarding and Lessons	Lessons	Through	18' at farm - farm's driveway is 21'/striped	Farm is not close to intersection	275 acre farm; lessons since 1953; received a conditional non-conforming use in 1977; farm is down one mile driveway off Stansbury Mill Road and removed from any neighbors
Camelot Farms Sheppard Road	Guckert	Boarding and lessons	Lessons	Through - **it is a State Road - Route 138**	21'; it is marked with a double yellow line and shoulder	Farm is not close to intersection	Special exception granted in 1977 by signed written agreement with neighbors

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his own child to ride on their own property?
A. I am suggesting that if riding lessons are determined by this Board, or any other board, or official, that riding lessons have to be given exclusively at a riding stable, that that's going to impose a real hardship on those many, many farms of Baltimore County that have horses, and where riding is part of the mix, and riding lessons are part of the mix.
Q. But, certainly, it is not the indication that there's anything about this case that will in any fashion limit what a parent can do with a child on their own property?
A. Well, if it's --
Q. You don't need to answer.
A. You asked the question. I'm going to answer. If it's a commercial farm, as this is in this case, I believe that what you're saying is that riding lessons cannot be given on this property, it can only be given in a riding stable.
I don't hear a distinction between parents who do riding lessons to their children or parents giving riding

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lessons to the next door neighbor compared to parents giving riding lessons for a fee. It seems like it's all one situation.
Q. Well, you never spoke to anyone other than the Meittinises, did you?
A. Regarding what?
Q. Regarding the entire project.
A. I have spent hours and hours reviewing shreds and shreds of documents that are part of this case.
Q. But you didn't talk to anyone else in the neighborhood?
A. No, I have not.
Q. Now, you said that buying and selling of horses is part of the farm mix?
A. That's an important component of a horse farm.
Q. But you are aware, are you not, the marketing of horses, the buying and selling of horses, is an activity which is secondary to any principal agricultural use, is that correct?
A. It's called ancillary use, if we use the term in the ordinance.

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Q. I'm using the word "secondary."
A. Well, it's basically the same thing. I am aware in the definition of commercial agricultural, that that's the way it's specified, yes, that's correct.
Q. So buying and selling of horses is permitted only if it's secondary to a principal commercial agricultural use?
A. Yes, that's correct, but it is permitted as part of the overall use of the farm. And, obviously, most of the time is involved with breeding or training, and this is kind of a final step. So, obviously, it's not the major component as far as time.
Q. If the commercial agricultural -- before I ask you that question, you testified that the sale of one horse in one year, one twelve-month period, could be enough in and of itself to make an operation commercial agriculture?
A. No, I didn't say that.
Q. You didn't?
A. No. Well, what I did say was that the sale of one horse could bring in enough net return to equal a

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grain farmer who was farming many hundreds of acres. That's what I said.
Q. So that the money generated by the various activities -- again, we are back to that point -- are relevant in determining the nature of the commercial activity and the level of the commercial activity?
MR. GONTRUM: Objection.
Q. Is that fair to say?
A. No.
MR. GONTRUM: Now we've exceeded the scope of the redirect, and we're exceeding any scope of Mr. Zimmerman on his recross.
MR. EVANS: I'll move on.
THE CHAIRMAN: I think it was sort of asked and answered.
THE WITNESS: I answered "no."
Q. Let me ask you this. If the definition of commercial agriculture includes a lot of other things which aren't listed anywhere in the Baltimore County zoning regulations, like, for example, riding lessons, which are never mentioned at all anywhere in any of the

3/22/04

RE:	PETITION FOR SPECIAL EXCEPTION SE/S Traceys Road, 1500' SE c/line of Yeoho Road 5th Election District, 3rd Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS
	Stephanie S. & Nicholas Meittinis, Legal Owners	*	FOR BALTIMORE COUNTY
	Petitioners	*	Case No. 01-530-X

RECEIVED
MAR 2 2 2004
BALTIMORE COUNTY
BOARD OF APPEALS

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

People's Counsel for Baltimore County's Memorandum

Introduction; Nature of the Use; Special Exception

This classic special exception case comes before the County Board of Appeals (CBA) for *de novo* review. The County Council has identified "riding stables" as a distinct use and allocated it to the special exception category in the R.C. 2 (Agricultural) Zone. BCZR 1A01.2.C.21. It is also subject to special exception review in the R.C. 3, R.C. 4, R.C. 5. and R.C. 6 Zones. So that there would be no misunderstanding, the BCZR 101 definition of "**Farm**" ends with this statement:

> The term does not include the following uses as defined in these regulations: limited acreage wholesale flower-farms, **riding stables,** landscape service, firewood operations and horticultural nursery business. Emphasis supplied.

The BCZR 101 definition of **"Riding Stable"** is simply **"A building where riding horses are boarded or kept for hire."**

It appears to this office, notwithstanding the testimony of Messrs. Dillon and Solomon, that the building where Petitioners house horses for the purpose of giving riding lessons to children is a Riding Stable as defined in the law. The County Board of Appeals has previously so found in an appeal of an enforcement decision. The Petitioners

thereupon filed a petition for special exception. It is far too late for Petitioners to claim that they do not need a special exception. (Indeed, even Mr. Dillon admitted that if Petitioners' use were large enough, it would be a stable. But the definition does not differentiate between large and small stables).

It is also helpful to consider why the County Council made "Riding stables" a special exception use. Together with other uses excluded by the BCZR 101 **"Farm"** definition, it shares the characteristic of a tangential commercial use separate from the main farm operation. A **"Riding stable"** tends to attract patrons who are not directly involved in the farm community. It is more of a suburban use. Indeed, it is this characteristic of the proposed use, compounded by the particularity of the location near the dead end of a one-land rural road, which is at the heart of the present controversy.

Special Exception Law and Issues

The primary issue in this case involves traffic. The concern is that the proposed use disrupts a quiet rural neighborhood, alters its character, and poses safety hazards. A secondary issue is that the plan does not provide sufficient pasturage under the BCZR 100.6 one acre per horse standard. A tertiary issue is the placement of the stable so close to the Price property.

The Court of Appeals' decision in Schultz v. Pritts 291 Md. 1 (1981) is well-known to the CBA. It calls for a determination of whether the "particular use proposed at the particular location proposed would have **any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone."** 291 Md. at 15. Emphasis supplied. Judge Rita Davidson, the author of

the opinion, did not place any geographic limit on the territorial extent of the "zone." In rural areas especially, it is reasonable to give it wide scope.

In this context, the record shows that the R.C. 2 zone covers a vast area in northern and western Baltimore County. All of the parties have attempted to compare existing or potential locations both near and far from the proposed Traceys Road location and neighborhood. For each comparison, the relevance and validity is for the Board to decide.

It is to be remembered that Petitioners have the burden of proof. The Court also said in Turner v. Hammond 270 Md. 41, 55 (1973):

> While the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements he does not have the burden of showing affirmatively that his proposed use accords with the general welfare. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden.

There are various types of adverse effects to be considered. Traffic access, congestion, and safety are fundamental issues which may be addressed both by expert and citizen testimony. Eger v. Stone 253 Md. 533 (1969). The Schultz case involved traffic access for a funeral home. People's Counsel v. Mangione 85 Md. App. 718 (1991) involved, among other issues, access to an interior residential street, albeit in a suburban setting. The aesthetic and qualitative impacts on the character of the neighborhood are also legitimate considerations. Board of County Comm'rs v. Holbrook 314 Md. 210 (1988) recognized such an impact of a single mobile home on an adjacent single-family residence. Mangione addressed a variety of impacts.

Special Exception Standards Applied

Let us turn to the present case. The relevant neighborhood is on Traceys Road from its access point at Yeoho Road to its dead end. Traceys Road is a narrow single-lane road running about a half-mile in from Yeoho Road and terminating at the Kees horse farm. The road also has blind spots. About a dozen families have homes here, mainly on the north side. The south side has a large farm, then the Meittinis property, the Price property, and the Kees farm at the end.

Stephen Weber, Chief of the Division of Traffic Engineering, testified on February 12, 2004. He described the problems on Traceys Road in detail. Crucially, he placed Traceys Road among the narrowest and problematic local roads in view of its width, geometry, and dead-end. With the Meittinis property close to the end, the location poses problems above and beyond that inherently associated with the use if placed elsewhere in the R.C. 2 zone. A location on a two-lane rural collector road such as Yeoho Road, Mount Carmel Road, or Belfast Road would obviously be superior. So would a location on one of the many wider local roads. This excerpt is telling:

> Q. In terms of access for a use such as the riding stable, generally speaking, is access better on collector roads than local roads or better on local roads?
>
> A. Well, it would be better on collector roads, certainly. It can also be adequately accommodated on local roads, dependent on the width of the roadway.
>
> Rural roadways in the county, new roadways that are developed, are put in with residential developments, generally an eighteen-foot minimum width, so if the road were eighteen foot wide, it probably could be safely accommodated on a local street as well, but, preferably, it would be best off of collector roadways.
>
> Page 28, lines 4-15

* * *

Q. Put it in your own words, Mr. Weber. How would you describe, in terms of traffic safety or other qualities relevant to traffic engineering, the degree of the adverse effect, if any, and the degree of adverse effect in the context of the overall road system?

A. Well, as I indicated, the road is only twelve foot wide because it has the bank on the south side which doesn't allow the eastbound driver, vehicle, to have any area that they can safely get off the edge of the road or avoid any collision.

The eastbound driver is basically stuck on the road, and they have no maneuvering area to get out of the way of oncoming traffic.

Because of the horizontal curve which does create sight distance limitation, the one vertical curve which is west of that horizontal curve also creates a vision obstruction because of the fact where their particular farm or use is proposed.

Because it takes almost a minute to get from Yeoho Road to that access point on basically what basically a one-lane road, and being familiar at least with the northern roads in Baltimore County from the standpoint that road width and those types of issues, I'm at least familiar enough with them to know that road is one of the narrowest local streets of – I shouldn't say just local, because, obviously, the collector and arterial roads are not anywhere near close to twelve foot wide – the local streets are the only ones that would be of that kind of width.

Again, one of the narrowest, and it may even be close to like the lowest five or six percent of the local streets in the rural area as far as road width.

From that standpoint, because it is one of the narrowest local streets in the northern rural areas and because of the sight distance involved between the beginning and ending points, and the fact that westbound traffic does have to pull off the roadway in order to get around oncoming traffic, it is definitely not a good situation or desirable situation to place any type of use that generates any traffic volume.

Q. Considering that [this] is a special exception case and considering what you have just said, do you have any observation as to whether the adverse impact of a propose[d] riding stable at this location is greater than at other locations ordinarily to be found within the agricultural zone?

A. The impact would be more adverse because most of the local roads – most of the local roads, rural roads in that area, in the rural areas of northern Baltimore County, are much wider than Traceys Road, and because of the fact that Traceys Road cannot adequately handle any significant volume of two-way traffic, that additional traffic generated by any use on that particular road would create a greater adverse impact than would be seen on most of the local rural roads in Baltimore County.

Page 30, line 19 to Page 33, line 13.

Later, Mr. Weber pointed out that residents on Traceys Road are familiar with the road's difficulties and are in position to exercise courtesy. Page 48. Such knowledge or courtesy may not be forthcoming from newcomers.

Petitioners attempted to defuse the issue by presenting evidence of other stables or similar operations in the County. They gave to Bruce Doak and Wes Guckert a list of other sites to compare. But a careful review of these sites showed they were not comparable. The great majority were on two-lane roads. Some were in different zones. Some were in suburban areas such as Catonsville or Woodlawn. Of the few on single-lane roads, it turned out that they were on private roads (with few residents) or, in the case of Miller Lane, at a location near just a few residents. None of these other sites involved special exceptions reviewed by the County Board of Appeals. Mr. Weber's testimony included a discussion of the differences between the Traceys Road location and the locations identified in Mr. Guckert's report at pages 35-46.

Because Mr. Guckert's Traffic Study (Pet. Exh. 7) relied on comparisons which turned out not to be germane, his opinion (at page 2 of the study) has no probative value. It is not based on adequate facts and reasons. Therefore, it is not a proper basis to approve the special exception. See People's Counsel v. Beachwood, L.P. 107 Md.App. 627, 650-51 (1995). cert. denied 342 Md. 472 (1996). Indeed, the totality of the circumstances surrounding the other sites presented for comparison ended up proving or corroborating Weber's observation that Traceys Road is an unusual narrow dead-end road. In sum, the proposed location is singular and much worse than typical location in the R.C. 2 zone.

Petitioners' Proposed Condition or Limitation

Despite their attempt to downplay the problems with their location, the Petitioners did recognize some degree of difficulty. They attempted further to defuse the issue by placing a self-imposed limit on the number of lesson-hours per week, to 28.

The Board might be tempted to say that a modest number of trips is a fair compromise. The Chairman pursued this inquiry, following up some cross-examination as to the potential for a minor subdivision that might generate twenty trips a day:

> Q. Mr. Weber, if the farm, if the special exception use were restricted in terms to provide for no more than twenty trips per day at this location, would that create an unsafe condition?
>
> Mr. EVANS: I'm going to object to that.
>
> THE CHAIRMAN: Overruled. We want to hear it.
>
> MR. EVANS: But that's not the proposal.
>
> THE CHAIRMAN: well, it may be that that's what happens. Who knows? Let's hear it. You can come back with your question.
>
> A. (MR. WEBER): I don't think that one can actually say that, you know, a definitive statement that does it create an unsafe condition.
>
> It creates a worse condition than exists today. As I testified before, I spoke to the capacity [sic?] of the road. I never actually testified to the capacity of the road.
>
> I testified to the fact that, regardless, any additional traffic placed on the road creates an additional potential for conflict.
>
> The road is only twelve foot wide, so it doesn't allow for two-way traffic to occur. It physically doesn't.
>
> The twenty additional trips I was speaking of, yes, a minor subdivision, the county would – public works would allow to move ahead, even though the road is only twelve foot wide.
>
> That is not a statement necessarily that public works agrees that that should be the standard under which roads should be built, or that that's a desirable situation, that the county allows a number of things to be done under the minor subdivision process as to not create undue hardship for property owners who are doing small subdivisions, and people who do minor subdivisions are relieved of a number of responsibilities in meeting a number of standards that the county has, because that's what the minor subdivision process allows.
>
> So the relief is because of the county's feeling that it creates undue hardships under those particular situations.

That's not saying the county finds that not having those improvements done is still not a desirable thing.

From that standpoint, I would say, again, public works standards are that roads should be minimum sixteen foot wide.

So, therefore, adding the additional twenty trips per day gives an adverse impact on the road. Even if it were done through a minor subdivision process, it would still be an versus [adverse] impact.

In this particular case, if the Meittinis property were restricted to only ten trips in and ten trips out per day, yes, it would be an adverse impact to the same degree that the county would allow the minor subdivision process.

But that doesn't indicate that our office would find that to be a desirable situation, because the road is incapable of handling adequate two-way traffic, even today, even with the number of homes that are on there today.

Page 55, line 18 to line 58, line 14. Emphasis supplied.

In sum, even the addition of twenty trips is problematic and involves a real detriment. The magnitude, of course, increases with each additional trip. Another factor is that the trips will occur in bunches, with group riding lessons, as opposed to trips spread over the course of the day and evening.

It would have been easy for Mr. Weber to answer that another twenty trips is insignificant. That would have supported a kind of split decision. But the gist of Mr. Weber's answer to the Chairman, together with his direct examination, is that Traceys Road is so substandard that the adverse impacts are far greater here than at the average or ordinary location within the zone. There may be worse locations for a riding stable in the R.C. 2 zone, but none of them came to light on this record.

Separately, as to the suggested comparisons with a minor subdivision, Judge Davidson admonished in Schultz that special exceptions come under closer scrutiny than uses permitted by right. Adverse impacts which zoning law tolerates for uses by right

may be, and often are, unacceptable in the special exception setting. Here, in any event, Petitioners' counsel acknowledged [because of earlier subdivision]: "We can't subdivide. I'm not proposing a subdivision." Page 53, lines 7-8. Ultimately, the proposed riding stable must be judged on its own merits based on special exception standards, and not by reference to any theoretical subdivision.

In this context, the neighbors maintain that the proposal, as limited, is still an unreasonable and unsafe suburban intrusion into the quiet rural setting. They also fear that if the Petitioners get their feet in the door, it will be a prelude to expansion in the number of lessons and in due course the facilities. This could happen with a future petition to amend any approved special exception.

There is, for example, the reasonable possibility that Petitioners would use this special exception as the first step toward the addition of an indoor riding arena, a major use which clearly would not fit at this location. Having gone through years of litigation in an enforcement proceeding and this case, the neighbors understandably do not wish to experience a repetition of this arduous and stressful process.

In addition, while the law allows the Board to grant a special exception with conditions, the neighbors question whether, as a practical matter, a limitation on the number of riding lessons is enforceable. Wallace Lippincott's comment also expresses this concern. The neighbors have another reasonable apprehension. Based on experience, enforcement proceedings, and Petitioners' scant records and resistance to record production, they believe it is delusive to think that Petitioners are capable of compliance.

Impact on the Price Property

The Prices testified in detail to their particular concern that the Meittinises chose to locate the stable so close to their property (much closer than from the Meittinis house). They consider it offensive and a nuisance. An analogous impact on a single home led to the denial of the special exception for a mobile home in the Holbrook case.

Wallace Lippincott's Comment (P.C. Exh. 11)

Mr. Lippincott's detailed comment dated September 9, 2001 raised the issue that "... having only ten acres of pasture land is limiting." This brings into play the issue of compliance with the BCZR 100.6 standard of one acre per horse. He also discussed the access issue. In the end, he wrote this of the riding stable:

> The request for a riding stable and a public horse show in addition to the farm uses and veterinarian use is not supported. The additional traffic that could be produced by a riding stable and public horse show could be significant. While the zoning of the property is agriculture and it is appropriate to support additional commercial agricultural uses that will support the retention of agriculture in the county, this can not be done at the expense of creating neighborhood nuisance problems that will ultimately lead to agricultural nuisance conflicts. As indicated earlier from an agricultural perspective limiting the number of horses or ponies or other livestock on a 40-acre farm should be based upon the landowner's production capability rather than for purposes of limiting the use of riding or public shows. Furthermore, any attempts to limit the number of riding lessons or who would be riding would difficult to monitor and enforce, particularly in light of limited County resources for monitoring and enforcement.
>
> * * *
>
> ...If the property had direct access to Yeoho Road or any other two-lane road, support for the riding use would also be supported, however, because of the potential for agricultural nuisance conflict over the use of Tracey Road, the riding stable is not supported.

All Things Considered; Where Is the Proof?

Does a riding stable belong or fit near the dead-end of Traceys Road? If it doesn't belong there, can or should the Board attempt to impose peace by an approval with a limitation? Is there any legal justification to support the psychological tendency to look for a middle ground? Moreover, would a compromise lead to more conflict, whether as to enforcement, expansion, or future requests to amend the special exception?

Petitioners' site selection for a riding stable clearly causes, per Schultz, adverse effects above and beyond those inherently associated with the use irrespective of the location within the R.C. 2 Zone. The question then becomes whether Petitioners have proved affirmatively that their proposed operational limitations are practical and would result in a use that "... would be conducted without real detriment to the neighborhood." Turner, *supra*. Alternatively, is there any proof that any other limitations, such as those of which the Chairman inquired, would satisfy the law?

Where have the Petitioners met their affirmative burden of proof? Put another way, is there any affirmative proof to support any level of approval at this badly chosen location? Petitioners have taken the tack, especially with Messrs. Dillon and Solomon, that their use is good for the general welfare of agriculture in the north county. As stated in our earlier memorandum, this case is a not a lodestar or surrogate for the survival of agriculture in Baltimore County. Rather, it is a special exception case to be decided by application of law and facts to a particular location. The Turner case stressed that a special exception must be decided based on special exception standards, not on some universal or moral judgment about a project's contribution to the general welfare.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2004, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to John B. Gontrum, Esquire, 210 W Pennsylvania Avenue, St 400, Towson, MD 21204, Attorney for Petitioners and to Joseph And Nedda Evans, 2224 Traceys Road, Sparks, MD 21152.

Peter Max Zimmerman
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People's Counsel

CAROLE S. DEMILIO
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March 22, 2004

Kathleen Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of: Stephanie S. & Nicholas Meittinis
Case No.: 01-530-X

Dear Ms. Bianco:

Enclosed please find the original People's Counsel for Baltimore County's Memorandum along with three copies of such for filing with regard the above-referenced case.

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ\rmw

cc: John Gontrum, Esquire
Joseph Evans, Esquire

RECEIVED
MAR 2 2 2004
BALTIMORE COUNTY
BOARD OF APPEALS

3/23/04

IN THE MATTER OF:	*	BEFORE THE
NICHOLAS AND STEPHANIE MEITTINIS	*	COUNTY BOARD OF APPEALS
PETITIONERS FOR SPECIAL EXCEPTION	*	OF
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District; 3rd Council District	*	CASE NO. 01 - 530 - X

****

RECEIVED
MAR 2 2 2004
BALTIMORE COUNTY
BOARD OF APPEALS

MEMORANDUM OF PETITIONERS

SUMMARY OF ISSUES

1. DO NICHOLAS AND STEPHANIE MEITTINIS HAVE A FARM USE LOCATED AT 2311 TRACEY'S ROAD?

Nicholas and Stephanie Meittinis do operate a "farm" as defined in the Baltimore County Zoning Regulations on 40.34 acres of land at 2311 Tracey's road.

2. ARE NICHOLAS AND STEPHANIE MEITTINIS ENGAGED IN COMMERCIAL AGRICULTURE AT 2311 TRACEY'S ROAD?

Nicholas and Stephanie Meittinis are engaged in commercial agriculture at 2311 Tracey's road in that they use their land to raise and keep animals for income, and their property qualifies for the agricultural use assessment. They are now and have been engaged in the production of crops, pasturage agriculture and animal husbandry as well as horse training.

3. ARE THE RIDING LESSONS WITH THE PROPOSED LIMITATIONS PART OF THE COMMERCIAL AGRICULTURE AND FARMING USE OF THE PROPERTY?

The proposed 28 hours of riding lessons represent a miniscule portion of the time commitment and use of the property in the context of the agricultural activities and

overall use of the property, and the riding lessons are intertwined with the training and exercising of the horses owned by the Meittinis family.[1]

4. IS THE BOARDING OF HORSES FOR USE OF THE PASTURE PART OF THE COMMERCIAL AGRICULTURE USE OF THE PROPERTY?

The boarding of horses for use of the pasture fits within the definition of pasturage agriculture contained in Webster's Third New International Dictionary of the English Language, Unabridged, and is consistent with the acknowledged treatment of such use under the Baltimore County Zoning Regulations.

4. DOES THE BOARDING OF HORSES CONSTITUTE A RIDING STABLE IN THIS CASE?

If all or a substantial portion of the horses kept on the Meittinis farm were owned by others and ridden by others without training by Mrs. Meittinis then such use might constitute a riding stable requiring a special exception. In this case the occasional boarding of a riding horse is an accessory use to the farming operation.

5. IN THE EVENT THAT A SPECIAL EXCEPTION IS DEEMED NECESSARY BY THE BOARD, DO THE PROPOSED USES MEET THE CRITERIA IN SECTION 502.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS?

---

[1] People's Counsel throughout the hearing and in its Motion To Limit Issues has argued that Petitioners can not argue that a special exception is not necessary because 1) Petitioners have asked for one; and 2) because a violation was determined in a code enforcement case for the giving of riding lessons in the past and that the determination of the violation works as either *res judicata* or collateral estoppel against the proposal now before the Board. The second issue was briefed fully in Petitioners' Response to People's Counsel's Motion to Limit Issues. Clearly, in addition to the other points made in the Petitioners' Memorandum there is neither identity of parties, nor identity of issues, nor identity of standards. The first issue clearly is not pertinent, for the Board is always charged with the interpretation of the zoning regulations it administers. The request for a special exception does not obligate the Board to a finding that one is necessary, and Petitioners should be afforded the opportunity of alternative arguments based on the Board's interpretation of the regulations.

The proposed, limited uses meet the special exception criteria and would not be more injurious to the health, safety or general welfare of the community than if located at similarly zoned locations in the county.

STATEMENT OF THE CASE

Nicholas and Stephanie Meittinis filed a Petition for Special Exception for an equine veterinarium and for a riding stable on property they own at 2311 Tracey's Road in the 5th election district of Baltimore County. In an Order dated March 22, 2002, the Deputy Zoning Commissioner granted the special exception for the veterinarium and denied a special exception for a riding stable. From the Order denying the riding stable special exception request the Petitioners appealed.[2] The hearing before the County Board of Appeals of Baltimore County (hereinafter cited as "the Board") took place over seven days in March and April of 2003 and in February of 2004.

STATEMENT OF FACTS

Nicholas and Stephanie Meittinis bought their property in 1997. At the time their property was unimproved and was the remainder of a subdivision tract[3] (T. 4/06/03 at 140). The site is located within an R.C. 2 zone. After purchasing the property the petitioners performed percolation tests and located a dwelling and a barn on the property as well as accessory structures. The property has always been taxed for agricultural use (Pet. Ex. 10; T. 4/06/03 at 142). Income is derived from sale of horses

[2] The Protestants throughout the hearing indicated that there was no objection to the use of the property for a veterinarium as limited in the Deputy Zoning Commissioner's Order. This part of the Deputy Zoning Commissioner's Order is requested to be affirmed.

[3] The other portion of the subdivision was the acre lot now owned by the Price family.

and from the use of pastures to accommodate "lay-ups" (T. 4/06/03 at 143-144; T. 2/12/04 at 108). Hay has been harvested from the fields in the past, but it is solely used for feeding of the horses on the property.

The farm contains about 25 acres of woods and the residence. The remaining 15 acres contain the barn, outside ring and pastures as depicted on the site plan to accompany the Special Exception, Petitioners' Exhibit 3A (T. 3/25/03 at 89, 142-143). The barn is used primarily to stable the horses. The barn has room for 17 stalls, but at this time contains 16 stalls (T. 4/08/03 at 19). The actual number of horses kept on the property over the course of the hearing varied from 10 to 13 with 16 horses being the maximum that have been kept on the property at any one time (T. 4/08/03 at 23).

Dr. Meittinis is a full time veterinarian, who maintains offices at the thoroughbred race tracks in Maryland and Virginia. His primary practice is with race horses. Mrs. Meittinis maintains the household with two small children. In addition, she runs the day to day activities of the horse farm.

The horses have to be fed, watered and maintained. The barn has to be swept and cleaned on a regular basis. Manure is removed by commercial carrier from the premises. There are people hired to help the Meittinis family maintain the farm and the horses. Although breeding does not occur on the premises at this time, horses have been sent out to be bred.

The horses are kept and trained for horse shows including jumping and have to be exercised at least 3 times a week. In order to perform well the animals have to be fit and have to be schooled over jumps. Mrs. Meittinis does some of the exercising, and

she currently hires people to ride the horses for her. The primary purpose of the training is to bring the horses up to show quality for sale. Several horses were sold in 2002 (T. 4/08/03 at 23), and several were sold in 2003 (T. 2/12/04 at 108).

In addition to the horses owned by the Meittinis family other horses are brought onto the farm for varying lengths of time for rest. They are called "lay-ups", are not ridden, and are primarily kept in the pastures. Testimony was presented by Thomas Reynolds, vice-president of the Baltimore County Farm Bureau and by Ann Merryman, who has been involved in the horse business for her entire life, that it is common for farmers in Baltimore County to board horses for rest and pasturage (T. 4/16/03 at 29, 95-97,156-157; 4/29/03 at 27, 56-63). There was expert testimony by both Jack Dillon and by Paul Solomon, both former county planners who were instrumental in drafting and administering the current zoning regulations, that the use of property for lay-ups constitutes a common and permitted commercial agriculture activity.

It is also possible that horses belonging to others would be brought onto the property to be trained and sold. Mrs. Meittinis would like to train and sell horses as part of the farm activities. She has a college degree in equine science and has spent over 15 years in the training of horses (T. 4/08/03 at 6). It is very common for owners of farms to train the horses of others. Not all of the horses at thoroughbred farms are owned by the farm, and trainers frequently have the horses of others to prepare for racing, shows and eventing, which involve elements of dressage, show ring jumping and cross-country jumping. In the course of shows and eventing it also is difficult to separate the training of the rider from the training of the horse. Matching horse and

rider is often important. It is common sense that a rider and a horse have to get used to each other in order to respond to signals and directions, which in shows and eventing are minimized (T. 4/08/03 at 9).

In the hearing before the Deputy Zoning Commissioner a limitation of 20 riding lessons per week was proposed by Petitioners. The lessons usually would be given to 3-5 students per lesson so that, as Protestants noted in the hearing, potentially over 100 children could attend lessons over the course of a week. This was never the Petitioners' intent. Accordingly, this limitation was further modified to 28 lesson/coaching sessions per week so that 5 students in a one hour session would count for 5 of the lesson/coaching hours permitted. This is much more in line with the schedule of Mrs. Meittinis, who at most can devote 2 hours in a given day to lessons with a maximum of perhaps 8-9 hours in a week (T. 4/08/03 at 38). The riding lessons proposed would at a maximum, therefore, comprise about 8-9 hours per week with an average of 3 students.

As Mrs. Meittinis testified, the lessons also serve as exercise for the ponies and horses. Students would take the place of the exercise riders now coming to the property. Some of the children already receive lessons from Mrs. Meittinis at other locations (T. 4/06/03 at 49), and this would lessen the projected number of new trips to the farm.

Finally, Mrs. Meittinis testified that she would like the ability for a person to occasionally bring or board an animal to the farm for board, which would be ridden by that person on the property or on the fox hunting trail that runs through the property.

No limitation was raised on this use because it has not been done except very occasionally on the property.

Petitioners called two experts in the field of rural planning and zoning, Mr. Jack Dillon and Mr. Paul Solomon. Both testified that the uses proposed by the Petitioners and as limited by them constituted acceptable uses of commercial agriculture. Mr. Solomon examined the history of the regulations for a horse stable and likened it to the old-time livery stable (T. 4/29/03 at 50). He pointed out that the definition of a "riding stable" refers not to a use of land but to a building, and the issue becomes one of the primary activities in the building. In this case where the boarding of horses and the giving of lessons are relatively minor elements of the agricultural activities the building is more of a barn than a livery stable.

Jack Dillon also testified that the proposed uses on the Meittinis property constitute commercial agriculture. He opined that for a barn to be considered a riding stable it had to be predominantly or exclusively used for the boarding of riding horses for hire (T. 4/16/03 at 86, 91,95).

Ann Merryman and Thomas Reynolds also testified that the proposed uses commonly were thought of in the agricultural and farming community in Baltimore County as uses permitted of right and not as uses requiring special exceptions when limited as proposed by Petitioners.

Bruce Doak, who prepared the site plan, and who lives on a farm in northern Baltimore County, also testified both with respect to the common and historic usage of farms in northern Baltimore County giving riding lessons and boarding horses for

pasture (T. 3/25/03 at 104). He also testified as an expert with respect to Tracey's Road and the fact that the one lane road was not unique in northern Baltimore County (T. 3/25/03 at 104). Under direct and cross-examination he testified that as limited the use would not tend to create "congestion" in Tracey's Road (T. 3/25/03 at 115-118, 155).

Mr. Wes Guckert of the Traffic Group also testified as an expert in the Petitioners' case with respect to the traffic issues pertaining to Tracey's Road. Mr. Guckert also has personal knowledge of Tracey's Road and of similar roads in northern Baltimore County. He believed that the small amount of traffic generated by the activities on the Meittinis farm would have virtually no impact on Tracey's Road and would not cause congestion (T. 3/26/03 at 16-20, 92, 94). Mr. Guckert was cross-examined at length, but he never wavered in how he approached Tracey's Road or in his opinion that the uses as proposed would not cause congestion in the roadway.

Protestants and People's Counsel put on only one expert witness Stephen Weber, the Chief of the Division of Traffic Engineering. He testified that Tracey's Road was very narrow and essentially a one lane road, which was consistent with all of the other testimony as to Tracey's Road. He also testified that for two vehicles to pass, one vehicle has to pull off on the side of the road, usually in someone's driveway (T. 2/12/04 at 19). Because of the narrow width of the road he opposed any use that would potentially put more traffic on it (T. 2/12/04 at 32-33, 56, 58).

Mr. Weber also assumed that the proposed special exception was comparable to the construction of twenty new houses (T. 2/12/04 at 49-50). Since a house generates an average of 10 trips per day, his opinion obviously was based in part on an

assumption that if the special exception were granted that it would generate 200 trips per day. On the other hand he also testified that the county perceived a minor subdivision generating two additional houses not to be a generator of significant traffic so that the extra 20 trips per day were not significant (T. 2/12/04 at 50-51). He also testified that the conditions of Tracey's Road were neither so unusual nor so dangerous as to require any widening of the road. (T. 2/13/04 at 62-64). The Board also recognized from his testimony that there were numerous roads in Baltimore County which were one lane roads (T. 2/12/04 at 72).

The relevant testimony of the Protestants basically pertained to traffic issues on Tracey's Road. Tracey's Road is a dead end road with approximately 12 houses located on it and with a potential of a couple more based on existing zoning. The Keys family has a horse farm and training operation located at the end of the road. Along the southern side of Tracey's Road there is an embankment that precludes cars pulling off on that side, which means that vehicles generally pull off onto the driveway entrances on the north side of the road. Testimony from the Protestants only indicated one accident on the road over the course of three decades (T. 2/11/04 at 113-114).

Some Protestants also have personal issues with the Petitioners that go beyond any of the zoning issues before the Board. Mrs. Schweizer was "a little distressed" over the fact that Mrs. Meittinis would be allowed to work from home while others had to commute to work (T. 2/11/04 at 122).

The Prices have an issue with the noise of the children and the location of the barn located 244 feet from their property line (T. 2/11/04 at 148-150). Mrs. Price stated:

"...so it is not the dust that I'm concerned with. It's more of the noise and the commotion and the activity that's close to my house." (T. 2/11/04 at 151) Mrs. Price felt that it was her duty, therefore, to document the activities of the Meittinis family and their visitors to the taking of hundreds of still photos and numerous video tapes of the happenings on the site. She also recorded the tag numbers of every car she saw entering the property (T. 2/11/04 at 97-98; 147-148). Although this work was done to document the giving of riding lessons at the Meittinis property, it is, without doubt, the most extensive documentation of another's site in the history of code enforcement.

The Price's objections did not apply, however, to the use of the Keys property and similar uses in greater proximity than the uses of the Meittinis family, and in any event the objections of the Price family were to existing structures and existing issues that are unaffected in use by the requested special exception.

Protestant Joseph Evans also testified as to the condition of Tracey's Road and as to the present impact of storm water runoff from the subject site onto his property and the placement of pipes under the county road onto his site. No new construction, however, is proposed under the site plan for the special exception uses of the veterinarium and riding stable. The existing structures sit almost 300 feet from the roadway, and the run off that occurs will not be impacted by the proposed uses. Mr. Evans also was unaware of the storm water management easement that already exists in a 50 foot swath across his lot (T. 2/11/04 at 25-27). Mr. Evans also spoke of his concerns over an indoor riding ring, which also is not proposed on the current site plan.

DISCUSSION

1. DO NICHOLAS AND STEPHANIE MEITTINIS HAVE A FARM USE LOCATED AT 2311 TRACEY'S ROAD?

Nicholas and Stephanie Meittinis do operate a "farm" as defined in the Baltimore County Zoning Regulations on 40.34 acres of land at 2311 Tracey's road. Protestants and People's Counsel questioned whether the Meittinis family had a farm or whether it was merely a residence with an accessory use. Presumably, this was done because a farm is not a riding stable; furthermore, a farm indicates the general presence of commercial agriculture, which also was an issue raised by Protestants and People's Counsel. If there is commercial agriculture, then Section 100.6 of the Baltimore County Zoning Regulations (hereinafter cited as the "BCZR") does not apply to this property[4].

A "farm" is defined in Section 101 of the regulations as:

> "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses.

None of the testimony or evidence submitted from any of the Protestants, however, questioned the existence of a farm. The Petitioners' expert witnesses testified extensively as to the use of the Petitioners' property as a "farm".

[4] Section 100.6 was adopted in Bill No. 51-1993, which also eliminated similar restrictive language in Section 101 under the definition of "farmette." The definition of "farmette" had been adopted in Bill No. 98-75, and had applied to properties containing more than three (3) acres but less than (10) acres.

2. ARE NICHOLAS AND STEPHANIE MEITTINIS ENGAGED IN COMMERCIAL AGRICULTURE AT 2311 TRACEY'S ROAD?

Nicholas and Stephanie Meittinis are engaged in commercial agriculture at 2311 Tracey's road in that they use their land to raise and keep animals for income, and their property qualifies for the agricultural use assessment. The Petitioners are now and have been engaged in the production of crops, pasturage agriculture and animal husbandry as well as horse training.[5]

Evidence of the agricultural use assessment was presented as Petitioners' Exhibit 10, and there was no evidence presented to contradict the assessment. There was, however, extensive cross-examination of Petitioners' Experts and of Petitioners on the economic activities on the premises and their relation to whether there were commercial agricultural activities on the Meittinis property (T. 4/16/03 at 142-157; 4/29/03 at 71-108).

Both Dr. and Mrs. Meittinis testified as to the sale of individual horses and the need for additional income from the activities on the farm. Mrs. Meittinis wants to sell her animals for shows and riding, and over the course of the past two years eight (8) animals have been sold. In addition, through the use of pasturage for lay-ups additional income has been derived. This is a far different case from people raising

[5] Jack Dillon noted throughout his testimony that farming and commercial agriculture is often a very complex business. It also must be a flexible business. It may not be profitable some years to harvest certain crops so other crops are planted or fields are used for pastures. Some years more horses may be kept than others, more may be sold than others and more may be brought to be rested than others. There is no "status quo" in farming or commercial agriculture.

pets. No one has considered the animals being raised as pure family pets from which no income is to be derived.

Mr. Solomon and Mr. Dillon testified extensively as to the fact that the subject property is not only a farm but also is used for commercial agricultural use (T. 4/16/03 at 87-103;142-157; 4/29/03 at 48-61, 71-108). Despite the intense cross-examination of the Protestants and People's Counsel both experts were unshaken in their belief that the land based activities on the Meittinis property, both existing and proposed, constitute both a farm and commercial agriculture.

The determination as to commercial agriculture is really pretty simple. There is no question about the acreage of the premises, or about the agricultural use assessment. There also is no question but that there is animal husbandry occurring on the property as horses are being raised and kept. No one is questioning the care that the animals are receiving. Unlike snakes and reptiles horses are accepted as domestic animals, whose care and maintenance is considered to be animal husbandry. *Cf.* Marzullo v. Kahl, 366 Md. 158, 783 A. 2d 169 (2001).

In Marzullo v. Kahl, 366 Md. 158, 783 A. 2d 169 (2001), both the Board and the Court of Appeals had occasion to review extensively the definitions of "farm" and "agriculture, commercial" in the BCZR. The Board was quoted with approval in the Court's opinion for its analysis of commercial agriculture and of animal husbandry. *Id.* at 167-168, 783 A. 2d 169 at 174-175. Mr. Paul Solomon, who testified in that case for the community and People's Counsel, related commercial agriculture to the use of the land as he did in this case. The key points in the determination in that case were that

the animals being raised were not domestic animals and that the use was not land based.

In this case the animals being raised and kept are very definitely domestic animals, and as Mr. Solomon testified, the use is very definitely land based. The horses are not being kept solely in a building or in cages. The exercise and training of the animals, apart from its separate category within the definition of "agriculture, commercial", is very much a part of raising a large animal that would have commercial value. The use of pastures is fundamental to the farm use on the site, and the testimony was consistent that it is the land that is being used and is producing income.

3. ARE THE RIDING LESSONS WITH THE PROPOSED LIMITATIONS PART OF THE COMMERCIAL AGRICULTURE AND FARMING USE OF THE PROPERTY?

The proposed 28 hours of riding lessons represent a miniscule portion of the time commitment and use of the property in the context of the agricultural activities and overall use of the property, and the riding lessons are intertwined with the training and exercising of the horses owned by the Meittinis family. There was more than ample testimony that the raising and keeping the horses is a full time job. It is sufficient labor that Mrs. Meittinis alone can not handle all of the requirements, and she must hire individuals to assist her in the farm chores.

Both Mr. Dillon and Mr. Solomon agreed that the riding lessons as proposed would not constitute a "riding stable" but were part and parcel of the farm operation as it exists. It is important to note that the proposed constraint on the riding lessons as part of the overall operation and as it exists at this site is what leads to this

determination. Riding lessons may in some other context not constitute a farming activity.

If this case had presented a true riding stable, where the focus was the stable, and horses were hired from the stable for riding or riding lessons, then the experts were agreed that it could constitute a riding stable. Stables such as this exist at several schools, where the primary activity is not agriculture related, and the purpose of the building is to house riding animals for hire (Pet. Ex. 8). In this case, however, the focus of the activity is on the land in the keeping, raising and training of horses. All of these activities are commercial, recreational activities.

Both the experts and Mrs. Meittinis agreed that the training of the horses and the training of the rider may be virtually indistinguishable. The rider may be trained on how to handle the animal, and the animal is trained through the discipline of being ridden in certain patterns to respond to certain commands. This is what makes horse training so tightly connected with riding lessons. The issue of the duality of the riding lessons and the horse training also addresses the enforcement argument.

Protestants argued throughout the proceedings that one of the problems with the special exception request would be the ability of the county to enforce the limitations because one can not tell when the horses are being trained and when lessons are being given. One of the responses, however, has to be that if enforcement is difficult, because the use is indistinguishable from an agreed legitimate use, perhaps there is nothing to enforce. In this case with the limitation on lessons to be practically the same as exercise for the horses the uses are in fact merged, and both uses are legitimate.

The fact that the lessons are limited also makes sure that the farm use is not a subordinate use. If people are riding horses twelve (12) hours a day to the exclusion of other activities, one could say that conditions in the operation have significantly changed. At 8 or 9 hours a week with 3 children exercising animals or being given lessons it can not be legitimately argued that such use is not directly related to the care, maintenance and training of the animals.

The historical and widespread nature of the giving of riding lessons in conjunction with other farming activities gives weight to the interpretations of Mr. Solomon and Mr. Dillon. It was never intended that people riding horses on farms show proof of whether there is compensation involved or not. Historically, farms with riding horses have given lessons to neighbors and have either charged money or have received help from the riders in the maintenance of the facility. It would indeed be a new interpretation having far-reaching consequences to require a special exception of every farm that gives lessons. To require it in this case given the minor nature of the use would indeed have far-reaching consequences.

There is no real reason why the Mrs. Meittinis should not receive compensation from riders, if they are willing to pay it. It makes no sense for her paying riders to ride her horses to be within the regulations and to have her receive money from riders to ride her horses to be outside the regulations. Zoning is legal because it imposes restriction upon use for the benefit of neighboring properties. The impact on neighbors is essentially the same under either scenario based on the restrictions imposed.

In this case there was testimony from 2 independent witnesses, Mr. Reynolds and Ms. Merriman, both actively engaged in commercial agriculture, who both saw the proposed uses as fitting within the commonly accepted meaning of farming activity and from two (2) expert witnesses, who were the primary drafters of the legislation, who also believed that the existing and proposed activity on the Meittinis farm fit within the meaning and intent of the BCZR definitions of commercial agriculture and farming. There was neither expert testimony nor testimony from anyone in the agriculture business denying the fact that the lessons as proposed would fit within the approved definitions.

4. IS THE BOARDING OF HORSES FOR USE OF THE PASTURE PART OF THE COMMERCIAL AGRICULTURE USE OF THE PROPERTY?

The boarding of horses for use of the pasture fits within the definition of pasturage agriculture contained in Webster's Third New International Dictionary of the English Language, Unabridged, (*See*, BCZR, Sec. 101) and is consistent with the acknowledged treatment of such use under the Baltimore County Zoning Regulations.

"Pasturage agriculture" is a permitted use in the definition of commercial agriculture contained in the BCZR. Webster's defines "pasturage" as "grazing land". Webster's also gives the Scots law definition of: "the right of pasturing cattle or sheep on a common or another's land." Under the definition of "pasture" reference again is made to pasturing cattle on open land. The common practice in the farming industry for decades has been to allow horses and cattle to be kept on someone else's farm for pasture.

It makes no sense to even include the term "pasturage agriculture" as a permitted activity of commercial agriculture if it simply means the raising and keeping of one's own animals on pasture. That use already is included in animal husbandry. To give the term significance it must include the pasturing of someone else's animals on one's land. This is in accord with the intent of the drafters of the legislation as explained by Jack Dillon and Paul Solomon. It is an inherently farming activity.

Pasturage is not the same as a "boarding stable". Although there is money involved, and horses that have been ridden may be in the pasture, the other elements that one reasonably associates with a "riding stable" are not present. The horses are not being ridden, but rested. The use of pasture is contrary to the use of a riding stable building[6]. The horses may spend a portion of the day in the barn, or longer if ill, but their primary purpose at the farm is to be fed and rested. Putting horses on pasture could not have been the intent behind the definition of "riding stable."

Paul Solomon described the original meaning of "riding stable" as being akin to a "livery stable" (T. 4/29/03 at 49-50), and that meaning is consistent with its use over the years in the zoning regulations. A "riding stable" has always been defined as a building. In the 1945 zoning regulations there was a definition for "stable, private", which was an accessory building used for the stabling or keeping of up to three (3) horses for private use only. There also was a definition of "stable, public", which was

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[6] The logical conclusion of People's Counsel's argument is that the use of pastures to keep horses is permissible if there is no barn, but requires a special exception if there is one, for it becomes a stable. This is absurd, for in either event it is the pasture land that is being used.

any building, accessory or not, other than a private stable where animals were kept for livery or hire." The term "barn" was not defined, but no one could seriously argue that a farm, which had a barn stabling horses, was a private stable limited to three (3) horses or a public stable. If so, then there would be few horse farms indeed in Baltimore County. The 1945 BCZR did not limit private stables as accessory uses in residential zones.

Public stables as a principal use were not permitted in residential zones because they were not listed. Public stables, however, were permitted in the commercial zones and in the industrial zones because they were not excluded. They did, however, require a special permit and lot restrictions (1945 BCZR, Article XIII J). The use of "riding academy" was separate from a "riding stable" because it was permitted under Article XIII B. 15 along with the use of race tracks by special exception in the residential zones. In summary, therefore, riding stables were not considered the same use as a place where riding lessons were given, nor were commercial riding stables considered residential uses but only were considered appropriate in commercial or industrial zones. Consequently, "commercial riding stables" did not include in its meaning horse barns or farm uses that were explicitly permitted in residential and rural areas.

In the 1955 zoning regulations the current definition of "riding stable" was added to Section 101 eliminating a distinction between public and private stables. The definition of "farm", however, included the following uses: "horse breeding, training and stabling.... The term "commercial riding stable", however, still existed in addition to "farm" in certain zoning sections and was only permitted by special exception in the

R. 20, R. 40, B.R. and M.L.R. zones (*See* BCZR, Section 270). It was prohibited in other zones. "Farming", however, was permitted in virtually all of the zones in Baltimore County.

Historically, therefore, there has always been in the zoning regulations a distinction between the "commercial riding stable", where riding horses are boarded and kept for hire, and the stabling of horses in connection with farming uses. The riding stable obviously is akin to a livery stable due to its placement in the commercial and industrial zones. To this day a "riding stable, commercial" use is permitted by special exception in the M.L.R. and B.R. zones by special exception. The use proposed by Petitioners herein can not possibly be deemed to be a use that was intended for an industrial or intense commercial zone. As Mr. Dillon and Mr. Solomon opined, the proposed use is an agricultural use that is wholly compatible with the farming community.

Finally, in Marzullo v. Kahl, 366 Md. 158, 783 A. 2d 169 (2001), the Court extensively reviewed the legislative history of the definitions of "farm" and "commercial agriculture" in the BCZR and found that there was no intent on the part of the county council in the evolution of the definitions to change the meaning of the preceding definitions or to modify the definitions, but only to clarify them. *Id.* at 190, 783 A. 2d 169, 187 (2001). The Court quoted extensively from the testimony of Mr. Solomon in that case as well as reviewed the notes from the planning board in adopting the definition. Mr. Solomon's testimony in this case is completely in harmony with his testimony in that case. The definition of commercial agriculture was intended to relate

to land based uses. The definition of "riding stable" relates to the use of a building and is not fundamentally a land-based use. The use of the Meittinis property in the husbandry and pasturage of horses is contained within the very heart of the definition of commercial agriculture and is a use permitted as of right in the R.C. 2 zone.

5. DOES THE BOARDING OF HORSES CONSTITUTE A RIDING STABLE IN THIS CASE?

If all or a substantial portion of the horses kept on the Meittinis farm were owned by others and ridden by others without training by Mrs. Meittinis then such use may constitute a riding stable requiring a special exception. In this case the occasional boarding of a riding horse is an accessory use to the faming operation. Both Mr. Dillon and Mr. Solomon agreed that the boarding of horses for riding on the farm could, if that was the sole use, be deemed to be a riding stable (T. 4/16/0 at 190-191); 4/29/03 at 103-104). Both of the experts also agreed that at no time has this been contemplated under the current proposal or historical operation. The boarding of horses has not been a primary component of the farming operation. The boarding of one or two horses to have them trained and exercised is not a commercial riding stable. The boarding of one or two horses for the owner to visit and ride is merely an accessory to the other activities on the farm. The boarding of all of the horses for riders to visit, however, could then be deemed to be the activity of the stables and could trigger a special exception requirement.

It is true that Petitioners did not apportion the boarding component. Petitioners would be willing, however, to accept an approval of a special exception or of their

operation limiting the number of horses that can be boarded for riding purposes due to the recognition that such use in sufficient quantity does trigger certain special exception issues.

6. IN THE EVENT THAT A SPECIAL EXCEPTION IS DEEMED NECESSARY BY THE BOARD, DO THE PROPOSED USES MEET THE CRITERIA IN SECTION 502.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS?

The proposed, limited uses meet the special exception criteria and would not be more injurious to the health, safety or general welfare of the community than if located at similarly zoned locations in the county. *See* Mossburg v. Montgomery County, 107 Md. App. 1, 666 A. 2d 1253 (1995).

The Petitioners contend that the Board has the full authority to interpret the zoning regulations. In Marzullo v. Kahl, 366 Md. 158, 783 A. 2d 169 (2001), the Court stated that it is up to the administrative agency to interpret and apply the statutes before it. *Id.* at 172, 783 A. 2d 169, 177 (2001). It is entirely within mandate given the Board to determine if a special exception is necessary and, if so, with respect to which activities. Just as the Board has the power to condition a special exception, the Board has the power to determine the necessity of one. The request of Petitioner for a special exception always provokes the initial issue of whether one is needed. It would be a poor exercise in interpretation to grant a special exception if the law indicated that, based on the facts presented, one is not needed. In this case the issue has been presented squarely before the Board whether the proposed uses of the property constitute a need for the special exceptions requested.

If the Board deems that a special exception is needed for the animal boarding or the riding lessons as proposed by the Petitioners, then the requirements of Section 502.1 of the BCZR have been met. Petitioners offered evidence on all of the criteria including the compatibility of the use with agricultural uses. Only one criterion, however, was contested, and that was the issue of traffic congestion.

The issue of whether the proposed uses of the property will "tend to create congestion in roads, streets, or alleys therein" was hotly debated. The physical nature of the road is not in basic dispute. Tracey's road is a narrow one lane road that for most of its length offers opportunities to pull over only on its northern side. Cars and trucks have accommodated each other on this road for the better part of three decades despite new construction and the regular use of the inhabitants, guests and business invitees over the years. Horse vans regularly use the road to access the Keys farm as well as normal delivery vans and trailers and vans accessing the Meittinis property.

Taken in a light most favorable to the Protestants the 28 lesson hours per week could result over the course of the week in five (5) student vehicles coming out when five student (5) vehicles come in assuming back to back lessons and pick up and delivery occurring at the same time. Even this additional traffic, however, does not meet any acceptable definition of "congestion" (T. 3/26/03 at 19-20). The traffic on Tracey's Road as projected for the uses is simply too light to even merit the consideration.

Protestants put on Mr. Weber, who stated that one more vehicle is not a desirable occurrence on this road (T. 2/12/04 at 58). Mr. Weber, however, conceded that the

county would not consider the traffic from two additional houses added to the road to add a significant amount of traffic to the road (T. 2/12/04 at 51).

If the additional uses are permitted, there may be some minimal additional traffic even though some of it would be the same people coming to the farm as now. The condition of the road, however, is not so unsafe that either improvement of the roadway is mandated, which could occur within the county's right of way, or that building permits would be denied because of a deficiency or hazardous condition. The additional traffic proposed by the Petitioners' uses, however, does not rise to the level of that generated by two (2) houses on a day to day basis. Consequently, it cannot be presumed to create an unsafe condition.

In this case there was no expert testimony that there would be congestion in the roadways, and even Mr. Weber stayed away from stating that Tracey's Road was inherently more dangerous than other rural roads. Like numerous other rural roads Tracey's road has peculiar characteristics that have to be recognized, and for 30 years the record of the road has been exemplary. There is nothing in Petitioners' proposal which would mar that record.

Mr. Guckert's testimony with respect to the road has to be given considerable weight. He has been recognized by the Board on numerous occasions as an expert in traffic engineering. In addition to his expertise he brings to this case a personal knowledge of the road and of similar roads in northern Baltimore County. If this case involved a special exception with 200 trips per day as assumed by Mr. Weber (T. 2/12/04 at 49-50) then there might be an issue of congestion as residents would have to

weight several minutes for cars to pass at any given time. In this case with the proposed limitations it can not be argued that waiting a matter of a half minute at most constitutes congestion. Most traffic lights are timed at longer periods of waiting. As Mr. Guckert testified in response to a question from the Board, the road will still be an "A" rated road with the use in place meaning that at peak traffic times under a worse case scenario with five cars coming and five cars going there will be no "congestion" (T. 3/26/03 at 91-94).

The fact that there is not now and will not be either "congestion" or a safety issue on Tracey's Road outweighs the similarities or differences in comparing Tracey's Road to other roads. The fact that there are licensed boarding facilities on other narrow roads, public or private, can not be disputed. Their relative safety is a factual determination. The Board also knows from its own personal knowledge the character of roads throughout Baltimore County and can make a determination as to whether this use in this location creates an adverse impact that is more of an adverse impact than normally associated with this use. The Petitioners maintain that the proposed use is so constrained and is so minimal in its application as to not create any demonstrable adverse impact as such impacts can be reasonably measured at this location. The recognition that such uses do exist throughout the rural area of the county, often without objection, gives credence to the fact that this use at this location will not be injurious to the health, safety or general welfare.

The balance of the testimony of the Protestants pertained to the basically undisputed physical nature of the road, conjecture, and issues not relevant the zoning

requests. As the Court in Entzian v. Prince George's County, 32 Md. App. 256, 262, 360 A. 2d 10 (1976) stated: "Zoning is not a plebescite and therefore testimony in opposition restricted solely to lay witnesses, petitions of objection to the proposal by residents, and testimony amounting to unsupported dislike and fear of a project... amounted to no evidence at all."

Given the articulated concerns of the neighbors their opposition to the special exception is not logical. With the special exception in place the Petitioners would be restrained by the site plan from any significant changes to the property including new buildings such as the indoor riding ring. Without the special exception there is nothing prohibiting the Petitioners from constructing any new barns on the property for any authorized purpose including an indoor riding ring. Similarly, there are no limits placed on the number of horses which may be kept on the premises under a commercial, agricultural operation. The pastures used by the horses create less runoff than row crops, which previously existed prior to the Petitioners' purchase of the property. The Petitioners also agreed not to use amplified sound equipment and lights. None of these restrictions normally apply against otherwise permitted uses. If these articulated issues truly were the primary concerns of the immediate neighbors, restrictions such as those proposed by Petitioners should be welcomed. Such was not the case.

Joseph Evans stated: "I mean, if there's anyone in this room that thinks this is all about a couple of crummy riding lessons, then they are sadly mistaken. This is a project which threatens to overwhelm a small country road where everyone who's moved

there first moved there because it was a small country road" (T. 4/29/03 at 190-191). Mr. Evans was absolutely candid in the reasons for the opposition but absolutely wrong in what this case is about.

This case from a zoning standpoint really is about a few, relatively insignificant riding lessons, about horses being allowed to graze in well-kept pastures, and about people raising and training horses and learning how to do it. It is all about a very small scale addition to Maryland's horse industry.

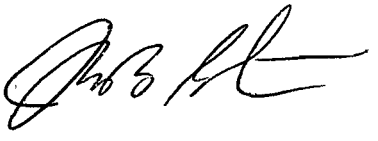
Protestants' opposition is all about their fears that what is being sought in this hearing is not what is going to happen. They visualize indoor riding rings, hundreds of cars coming to and from the facility, lights and loudspeakers, constant noise and mayhem; none of which is proposed by the Petitioners. It is also about the fact that people who were in the community first want a say over what happens next, and the Meittinis family did not consult with the neighbors prior to building their farm.

Paul Solomon noted the zoning regulations state that in an R. C. 2 zone agricultural uses are preferred uses over residential uses (T. 4/26/03 at 66-67), and the latter have to yield to the former. The farming and residential uses are not always compatible, but the subdivisions in which the Evans family and most of the other Protestants reside is the intrusion on the agriculture of the community and not vice versa. Mr. Solomon also noted that the farm and the proposed uses are and will be an asset to the agricultural community, and consequently, the proposals should be granted.

CONCLUSION

In conclusion, Petitioners believe that the uses as proposed and as limited do not require a special exception. Such uses as limited have both historical and legal bases for being considered as normal, commercial agricultural, farming uses. In the event that the Board determines that the horse riding lessons proposed, or the horse boarding as proposed requires a special exception in addition to the special exception for the veterinarium, the Petitioners believe that the evidence supports the granting of the special exceptions.

Respectfully Submitted,



John B. Gontrum

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2004, a copy of the foregoing Memorandum of Petitioners was mailed, first class, postage pre-paid to:

Dr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Ms. Neta Evans
2224 Tracey's Road
Sparks, Maryland 21152

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John B. Gontrum, Esquire

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March 22, 2004

RECEIVED
MAR 2 2 2004
BALTIMORE COUNTY
BOARD OF APPEALS

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

Re: Nicholas and Stephanie Meittinis
Zoning Matters
Case No.: 01-530X
Our File No.: 078747/00001

Dear Sir or Madam:

Enclosed for filing please find the Memorandum of Petitioners in the above referenced matter.

Thank you for your attention to this matter.

Most sincerely,

John B. Gontrum

JBG/kml
Enclosure
cc: Dr. and Mrs. Nicholas Meittinis
Ms. Neta Evans
Mr. Peter M. Zimmerman, People's Counsel

301803v2

8/14/03

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
SE/S Traceys Road, 1500' SE c/line of Yeoho Road	*	FOR BALTIMORE COUNTY
5th Election District, 3rd Councilmanic District	*	Case #: 01-530-X
Stephanie and Nicholas Meittinis, Legal Owners and Petitioners	*	

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AUG 14 2003
BALTIMORE COUNTY
BOARD OF APPEALS

RESPONSE TO PEOPLE'S COUNSEL'S MOTION TO LIMIT ISSUES

Petitioners, Stephanie and Nicholas Meittinis, by and through their attorneys, John B. Gontrum, Jennifer R. Busse and Whiteford, Taylor & Preston, L.L.P., hereby submit this Response to People's Counsel's Motion To Limit Issues with the County Board of Appeals for Baltimore County ("the Board"), and in support thereof states as follows:

I. The Issues People's Counsel Seeks To Limit

A. The Issues As Presented By People's Counsel

The Memorandum filed by People's Counsel seems premature. At the April 29 hearing People's Counsel made its motion to limit issues in the case. At that time the Chairman stated that the motion would be held sub curia and would ask People's Counsel "to brief the issue when the time comes." (Tr. 4/29/03 at 149-150). Apparently, People's Counsel has decided unilaterally that the time has come.

People's Counsel, however, fails to identify which issues they seek to limit. Furthermore, People's Counsel fails to explain whether it is the Board's consideration of issues and/or the taking of testimony that they seek to limit. It is notable that People's Counsel's Motion simultaneously seeks a) restrictions on the argument and testimony that Petitioners may submit and b) blessing for what will in all likelihood be repetitious testimony from neighbors.

See, People's Counsel's Motion at p. 6 ("the testimony of ... various residents ... should not be chilled or cramped ... .").

For the purposes of this Response, Petitioners are forced to presume that People's Counsel seeks to limit both the consideration of and the taking of testimony on the following issues:

1) Whether Petitioners proposed use(s) qualify as a "riding stable".

2) Whether Petitioner's proposed use(s) qualify as "commercial agriculture".

3) The impact on the horse industry of any decision by this Board denying Petitioners' request for a Special Exception which will run contrary to current administrative practice and interpretations.

B. Issues Restated

The issues as presented in People's Counsel's Motion are confusing and do not accurately state the true issues in this case. A clearer and more accurate description of the relevant issues which form the heart of this controversy follows:

1) Petitioners acknowledge that they are in need of a Special Exception for a "riding stable" to allow for a building in which riding horses can be boarded. There is no intent expressed in any of the evidence taken so far to have a livery stable where horses are rented out for hire.

2) Petitioners contest the allegation that they are in need of a Special Exception to allow for either:

a) "lay-ups" - the boarding of horses which are not being ridden, trained or used for the giving of riding lessons;

b) free or for fee riding lessons on horses whether boarded or not at the property.

Petitioners submit that both "lay-ups" and the giving of riding lessons as so described above fall within the definition of "commercial agriculture". Nevertheless, if this Board finds that these riding lessons as described above fall within the definition of "riding stable", Petitioners have applied for the then necessary Special Exception relief.

The use of a horse for riding lessons or the use of pasture for layups within the definitions of "commercial agriculture", "farm" , and "riding stable" have never been considered by the Board in the context of a zoning hearing. The relationships are complex. For example, the definition of a riding stable refers to a structure whereas the definition of a farm refers to acreage and a site.

Thus, the crucial determination will be what exact uses qualify within the definitions of "riding stable" and "commercial agriculture". The hearings before the Board have not yet concluded, and any argument as to the merit of these issues is premature. These issues will be fully briefed by the parties in their respective Closing Memorandums. Therefore, Petitioners reserve the right to fully argue these issues and any other issues not germane to this instant Motion at that time.

II. The Effect Of The Doctrines Of Res Judicata And Collateral Estoppel

The only issue raised in People's Counsel's Motion to Limit Issues which requires addressing at this time is People's Counsel's assertions regarding the doctrines of res judicata and collateral estoppel. People's Counsel argues that 1) both doctrines apply to zoning cases, and 2) this Board is barred from considering the issues at the heart of this matter due to collateral estoppel.

A. The Application Of Res Judicata And Collateral Estoppel In Zoning Cases

People's Counsel's argument that these doctrines apply in zoning cases is just that - an argument. Their Motion does not provide a full and accurate account of the relevant effect of

these doctrines. In fact, Maryland case law explains that it is unclear to what extent these doctrines apply to administrative decisions at all. While zoning cases fall within the general category of administrative decisions, certainly not every principle of law that holds to workers compensation cases, for example, applies to zoning cases.

The age of the case law cited by People's Counsel in support of their contention that these doctrines apply in zoning matters is notable - the most recent case they cite was decided over 34 years ago. Furthermore, People's Counsel failed to identify the most recent and relevant case on this issue, *Esslinger v. Baltimore City*, 95 Md.App. 607 (1993). In that case, the Court of Special Appeals noted:

> Although, the extent to which the principles of res judicata and Collateral estoppel apply to unreviewed administrative decisions may be unclear under Maryland law, it is crystal clear that a final judgment of a circuit court affirming a decision of an administrative agency, ... is entitled to full preclusive effect.

Id. at 621, *citing*, *Sugarloaf v. Waste Disposal*, 323 Md. 641, 659, n. 13 (1991), *Fertitta v. Brown*, 252 Md. 594, 599 (1969)(other internal citations omitted).

The *Sugarloaf v. Waste Disposal* case, *supra*, more fully explained:

> It is unclear under Maryland law to what extent principles of res judicata and collateral estoppel apply to administrative decisions. Nevertheless, it is well settled that the doctrine is *only* applicable to agency decisions in which:
>
> > "[the] agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate. ... The threshold inquiry is whether the earlier proceeding is the essential equivalent of a judicial proceeding."

Sugarloaf v. Waste Disposal, 323 Md. at 659, n. 13 (internal citations omitted)(emphasis added).

This holding by the Court of Appeals in *Sugarloaf* was then both quoted and relief on by the Court of Appeals in *Batson v. Shiflett*, 325 Md. 684, 704 (1992).[1]

Therefore, both the Maryland Court of Appeals and the Maryland Court of Special Appeals have made it clear that : a) these doctrines do not unequivocally apply to zoning matters, and b) the *Fertitta v. Brown* case only clarified that these doctrines do apply to a final decision of a circuit court.

In their Motion to Limit Issues, People's Counsel's only asserts that the doctrine of collateral estoppel acts to bar the Board from considering issues in this matter. Below, Petitioners first more fully explain the principles of both res judicata and collateral estoppel. Second, Petitioners provide the necessary specific analysis to demonstrate that the requirements of collateral estoppel are not met in this instant matter. As a result, this Board is not barred from making a full and final determination on all of the issues raised.

1. The Distinction Between Res Judicata and Collateral Estoppel

Res judicata is known as "claim preclusion". Collateral estoppel is known as "issue preclusion". The Supreme Court, in *Parklane Hosiery Co. v. Shore*, 439 U.S. 322 (1979), discussed the distinction between these two doctrines.

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[1] People's Counsel's bald statement that "[t]he doctrines of res judicata and collateral estoppel apply to administrative decisions." is, therefore, misleading since in support of this statement People's Counsel cites to the *Batson v. Shifflett* case. *See*, People's Counsel's Motion at p. 2. Similarly, People's Counsel's statement that "[t]he Court of Appeals has consistently applied these doctrines in zoning cases." is similarly misleading. *Id.* In support of this latter statement, People's Counsel cites to the *Fertitta v. Brown* case. Petitioners provide a comprehensive explanation not only of the *Fertitta* case but of other, more recent case law which address this issue. As explained herein, Maryland case law does *not* support People's Counsel's assertion that these doctrines have "consistently applied ... in zoning cases." *See*, People's Counsel's Motion at p. 2.

> Under the doctrine of res judicata, a judgment on the merits in a prior suit bars a second suit involving the same parties or their privies based on the same cause of action. Under the doctrine of collateral estoppel, on the other hand, the second action is upon a different cause of action and the judgment in the prior suit precludes relitigation of issues actually litigated and necessary to the outcome of the first action.

Parklane Hosiery, 439 U.S. at 326, n. 5.

For either res judicata or collateral estoppel to apply in a matter, specific analysis must be conducted and each of the doctrines respective elements must be satisfied.

2. ***The Elements of Res Judicata***

As to the application of res judicata, if all of the doctrine's elements are met, "then the final judgment in the first claim bars the entire subsequent claim." *Esslinger v. Baltimore City*, 95 Md.App. 607, 616 (1993). The requirements of res judicata, which must *all* be met before a preclusive effect will result, are:

1) That the parties in the present litigation are the same or in privity with the parties to the earlier dispute,

2) That the claim presented in the current action is identical to the one determined in the prior adjudication, and

3) That there was a valid final judgment on the merits.

See, e.g., Esslinger, 95 Md.App. at 616.

People's Counsel has not asserted that res judicata is applicable to the Meittinis' instant petition for special exception.

3. *The Elements of Collateral Estoppel*

Where the doctrine of collateral estoppel properly applies, "judgment in the prior suit will preclude relitigation of issues *actually decided and necessary to the outcome* of the first action." Batson, 325 Md. at 703 (emphasis in the original), citing, Parklane Hosiery, 439 U.S. at 326, n. 5. The elements of collateral estoppel must *all* be met before a preclusive effect will result. The Maryland Court of Appeals has utilized a three prong test when analyzing the application of collateral estoppel:

1) Whether the agency was acting in a judicial capacity;

2) Whether the issue presented to the appellate body was actually litigated before the agency; and

3) Whether the issue's resolution was necessary to the agency's decision.

See, Batson v. Shiflett, 325 Md. at 701.

As explained below, the doctrine of collateral estoppel is not applicable to this matter. An example of where collateral estoppel would apply to a zoning matter would be where a property owner filed a petition for special hearing seeking to confirm a non-conforming use and the petition was denied by the Zoning Commissioner. If the property owner later filed a second petition again seeking approval for a non-conforming use, and no relevant facts had changed, the property owner would be barred from relitigating the issue - whether or not the property qualified for non-conforming use status.

4. *The Collateral Estoppel Analysis Applied To The Meittinis' Case*

a. Prong #1

Prong #1 is whether the Code Enforcement Hearing Officer (and/or the Board of Appeals on appeal of that case) acted in a judicial capacity. This first prong is arguably satisfied in this instant matter. Since the Code Enforcement Hearing Officer in the Meittinis' zoning violation case conducted a hearing, allowed the parties to present evidence, and ruled on a dispute of law, the agency arguable acted in a judicial capacity.

b. Prong #2

Prong #2 is whether the issue(s) presented to this Board of Appeals was actually litigated by the Code Enforcement Hearing Officer (and/or the Board on appeal of that case). This second prong cannot be satisfied.

> Under both federal and Maryland law, the principle of collateral estoppel should only be applied where the identical issue sought to be relitigated was actually determined in the earlier proceeding. *If anything is left to conjecture as to what was necessarily decided there can be no collateral estoppel."*

Batson, 325 Md. at 706 (emphasis added).

Two completely different administrative agencies have played part in the history of the Meittinis matter. The Code Enforcement Hearing Officer decided the zoning violation case. In arriving at his decision as to whether or not the Meittinis' had violated the zoning regulations, Mr. Schapiro simply found that the Meittinis' were operating a veterinarium and a riding stable at the property. Mr. Schapiro did not decide whether the term "riding stable" encompasses the giving of riding lessons for compensation. In fact, such a determination was not necessary.

The administrative process in Baltimore County requires the Code Enforcement Hearing Officer hear zoning violation cases, and the Zoning Commissioner decide petitions for special exception. *See*, Baltimore County Zoning Regulations ("BCZR") § 500.5 and Baltimore County

Code ("BCC") § 26-127. Further, pursuant to BCZR § 500.6, it is the Zoning Commissioner who has authority to "conduct hearings involving ... the proper interpretation [of the zoning regulations]." As to appeals from decisions of the Zoning Commissioner, the Baltimore County Board of Appeals has been charged with "all the functions and duties relating to zoning [appeals] described in Article 25A of the Annotated Code of Maryland." *Marzullo v. Kahl*, 366 Md. 158 , 178, n. 11 (2001), *citing*, Baltimore County Charter, § 602 (a).

Thus, in the Meittinis' zoning violation case, the Code Enforcement Hearing Officer deferred the zoning interpretation issues to the Zoning Commissioner. The Meittinis' special exception case was decided by the Zoning Commissioner and is now before this Board *de novo* on appeal. Therefore, the clear answer to Prong #2 is no - there are issues now before this Board that were not before the Code Enforcement Hearing Officer (or the Board on appeal from that decision). It is this Board who will now be providing the Meittinis' with a fair opportunity to be heard on the issues raised by the filing of the petition for special exception.

c. Prong #3

Prong #3 is whether resolution of the issue was necessary to the Code Enforcement Hearing Officer's decision. This prong also cannot be satisfied. "A factual issue is necessary to the determination only if its resolution is required to support the judgment entered in the prior proceeding." *Batson*, 325 Md. at 707-08. A determination as to whether or not the term "riding stable" encompasses the giving of riding lessons for compensation was not necessary in order for Mr. Schapiro to decide that the Meittinis' were operating a riding stable. Mr. Schapiro only had to make a finding that a violation of the zoning code had occurred. Once he found that the property was being used for a veterinarium, there was no need for any further findings.

Mr. Schapiro found that the Meittinis' were in need of a special exception to allow for "uses not permitted [by right]". *See*, Schapiro's Order dated 2/14/01 at p. 5. Mr. Schapiro did

not specify, nor did he need to, which exact special exception use would allow for each of the uses Petitioners seek to operate at their Property. Mr. Schapiro simply found that the Meittinis' were boarding horses, operating a business by instructing young people how to ride, and operating a veterinarium. He explained that "[w]hether as a riding stable, a veterinarium, or a boarding stable, these uses are not permitted as of right... ." *Id.* In sum, whether a special exception is necessary for the giving of riding lessons was not an issue which either needed to be decided or was decided by Mr. Schapiro.

The scope of review of the Hearing Officer's decision also is very narrow. Was there any substantial basis to find that a violation had occurred? The Board's determination that such basis for a violation had occurred ended the inquiry. The Board did not find, or need to find, that the giving of riding lessons as suggested by the Petitioners in this case required a special exception.

In sum, only one prong of the three prong test to determine whether collateral estoppel properly applies to bar litigation of an issue is arguably satisfied. Since all three prongs cannot be answered in the affirmative, the doctrine of collateral estoppel cannot be applied in this matter.

B. The *Fertitta v. Brown* Case Does Not Support The Argument That Either Res Judicata Or Collateral Estoppel Apply In This Matter.

In their Motion, People's Counsel relies heavily on the *Fertitta v. Brown*, 252 Md. 594, 251 A.2d 212 (1969) case. Yet, as explained below, this case fails to support their claim. It is the doctrine of collateral estoppel that People's Counsel asserts should be applied to the Meittinis' case, yet the *Fertitta v. Brown* case does not address collateral estoppel at all. Rather, the *Fertitta v. Brown* case addresses the doctrine of res judicata. The two doctrines address different

principles and have different requisite elements. Thus, clearly the *Fertitta v. Brown* case cannot support People's Counsel's Motion.

People's Counsel attempts to "combine *Fertitta v. Brown* , highlighting Judge Proctor's decision, with the *Batson* decision ... , it is inescapable that the hearing officer's decisions in the Meittinis violation case ... preclude the litigation of the essential issues resolved in that proceeding." *See*, P.C.'s Motion at pp. 3-4. The reasons why this Board cannot so "combine" are numerous.

First, as explained herein, neither Mr. Schapiro nor this Board on appeal of Mr. Schapiro's decision in the violation case decided the "essential issues". These subject issues were not litigated nor was there even a forum for such. The first time these subject issues were litigated, and properly so, was during the Zoning Commissioner's hearing, which is currently on appeal before this Board.

Second, it would be a clear error of law for this Board to "combine *Fertitta v. Brown*, highlighting Judge Proctor's decision, with the *Batson* decision" - Maryland case law in no way supports the attempt to combine the principles of res judicata with their application to administrative decisions in order to allow a finding that collateral estoppel applies to a matter. Furthermore, it would also be erroneous as a matter of law for this Board to focus on the decision of Judge Proctor in the *Fertitta v. Brown* case as requested by People's Counsel since Judge Proctor's decision was not part of the appeal before the Court of Appeals and thus was not reviewed. (The *Fertitta v. Brown* procedural history is set forth below.) Importantly, the Court of Appeals explained that "whether or not the reasons relied on by Judge Proctor to deny Fertitta relief from the orders of 1962 and 1963 were sound ... it is apparent that the doctrine of res judicata controls the case." *Id.* 251 A.2d at 214-215.

In further explanation of how the *Fertitta v. Brown* case does not support People's Counsel's argument, the relevant facts and procedural history of *Fertitta v. Brown* are as follows:

Round 1:

- 8/28/62 - The Baltimore County Zoning Commissioner held a hearing at the request of Fertitta's neighbors and found that Fertitta was illegally conducting a marina on his property.
- Fertitta never appealed that Order.

Round 2:

- 7/31/63 – The Zoning Commissioner held another hearing at Fertitta's request and held that Fertitta had lost his non-conforming right to use the property as a marina.
- Fertitta appealed and the Board of Appeals affirmed the 7/31/63 Order and also held that the previous 8/28/62 Order was final.
- Fertitta failed to properly appeal the Board of Appeals' decision to the Circuit Court.

Round 3:

- Fertitta filed a Petition for Special Hearing to determine the existence *vel non* of a non-conforming use.
- 1/15/65 – The Deputy Zoning Commissioner held in Fertitta's favor and found that a relevant non-conforming use did in fact exist.
- 7/23/65 – The Board of Appeals affirmed.
- 10/7/65 – The Circuit Court (Judge Proctor) reversed, holding that:

a) It was Fertitta's failure to appeal the previous Zoning Commissioner cases which brought about "the end of the road";
b) The Board's decision approving the existence *vel non* of a non-conforming use was arbitrary because the evidence adduced was not legally sufficient; and
c) The facts relating to the non-conforming use case could have been presented at the first Zoning Commissioner hearing and thus by analogy to the doctrine of res judicata, the previous, unappealed decisions were binding.

- Fertitta failed to properly appeal the Circuit Court's 10/17/65 decision to the Court of Appeals.

Round 4:

- Fertitta filed for a declaratory decree in an effort to overturn the Zoning Commissioner's 7/31/63 Order, and in support claimed that the Zoning Commissioner's 7/31/63 Order was the law of the case, was confusing, and deprived him of all use of his property.
- Brown filed a demurrer.
- The Circuit Court (Judge Menchine) ruled against Fertitta by sustaining the demurrer but provided no reasons on the record for doing so.
- Fertitta appealed to the Court of Appeals.
- The Court of Appeals affirmed the decision to sustain the demurrer, and stated that as a result Fertitta was barred from resuming the marina operation.
    - Importantly, the Court specifically stated that it was not analyzing Judge Proctor's application of the doctrine of res judicata. Judge Proctor's decision was

not properly before the Court of Appeals and in any event such an analysis was unnecessary.

- The Court of Appeals explained that the doctrine of res judicata did apply in the matter before them since the bill seeking a declaratory decree was based on the same facts and law decided by Judge Proctor.
- Additionally, the Court of Appeals explained that petitioner's request for declaratory relief was inappropriate since Fertitta had never properly appealed Judge Proctor's Order. "Declaratory proceedings were not intended to and should not serve as a substitute for appellate review or as a belated appeal." Id. at 251 A.2d 215.

Therefore, while People's Counsel attempts to argue that Fertitta v. Brown, is instructive in this case, in reality the facts in this case are very different. In Fertitta, the Court of Appeals was faced with an appeal from a declaratory judgment action. The petitioner, Fertitta, had sought declaratory judgment relief in a last ditch attempt since he had failed to perfect his appeal of the underlying suit.

Specifically, Fertitta had failed to property appeal the Circuit Court's decision denying his request for non-conforming use status to the Court of Special Appeals. The Court of Appeals explained that since the Circuit Court's decision had not been appealed, it was final and binding. Thus, the filing for declaratory relief was inappropriate due to the doctrine of res judicata.[2]

In contrast to the facts in the Fertitta v. Brown case, the Meittinis' were forced to file this instant Petition for Special Exception in order to raise the issues at the heart of this matter. When the Fertitta case was decided, the Zoning Commissioner had original jurisdiction over zoning violation cases, petitions for special hearing regarding non-conforming use status. Now, zoning violation cases are heard by the Code Enforcement Hearing Officer. Nevertheless, when

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[2] Subsequent to the Court of Appeals' decision in Fertitta v. Brown, 252 Md. 594(1969), the underlying zoning of Fertitta's property was changed from commercial to residential. Fertitta then filed a petition for special exception for a boatyard in a residential zone. His request was approved by the Zoning Commissioner, the Board of Appeals, the Circuit Court, and finally, the Court of Appeals. Brown v. Fertitta, 263 Md. 701 (1971).

questions as to non-conforming use status arise (or as was the case in the Meittinis' zoning enforcement matter - when questions arise as to which uses are allowed on a property by right and which are allowed via special exception), those are heard by the Zoning Commissioner.

As is customary in such situations, the Code Enforcement Hearing Officer instructs alleged violators to file the necessary zoning relief in order to have such issues resolved by the Zoning Commissioner. As a result, in the Meittinis' zoning violation case, the Hearing Officer requested the Zoning Commissioner "confirm and define the legal uses permitted on the subject property by right or by special exception." *See*, Schapiro's original Order at p. 2. In fact, interpreting the BCZR is solely the role of the Zoning Commissioner.

III. Relevance of County-wide Use and Impact.

The fact that dozens of other farms pasture the horses of others or that riding lessons are given by other farms without special exception is relevant to show the long-standing history of interpretation of the zoning regulations. Never has there been a Board of Appeals or appellate level decision determining that the giving of riding lessons requires a special exception. Never has there been a determination that "layups" or putting horses on pasture whether owned by the property owner or not constitutes a "riding stable". In fact, in all the years of the zoning regulations not one instance of a violation for boarding horses in order to eat has ever been cited. This is relevant and important information.

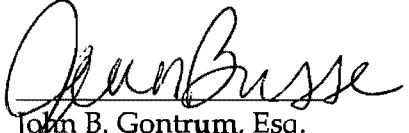
There has already been expert testimony about the intent of the legislation pertaining to commercial agriculture, and at the very least it calls into question whether the giving of riding lessons fits within the definition of a riding stable. Are horses being "hired" or is it the instruction that is being compensated? Can not commercial agriculture also exist with a riding stable? In this context it is important to know of longstanding interpretations and history, and this is yielded in part by the way in which the farming community and the regulators have

viewed the definitions. The definitions have existed for many decades, yet this is the first time this issue has been presented at this level. It deserves full discussion and review.

IV. Conclusion

Setting a procedural precedent - for that is in essence what People's Counsel is requesting - is not a proper role for this Board at this time. The analysis proposed by People's Counsel in support of their Motion is erroneous as a matter of law. As explained herein, the doctrine of collateral estoppel does not apply in this matter. Petitioners respectfully request People's Counsel Motion to Limit Issues be denied.

Respectfully submitted,



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Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue, Suite 400
Towson, Maryland 21204
Attorneys for Petitioner/Developer
410-832-2077

Certificate of Service

I hereby certify, under penalties of perjury, that on this 14th day of August, 2003, a copy of Petitioner's Response to People's Counsel's Motion to Limit Issues was sent, via first class mail, to the following:

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

Joseph and Nedda Evans
2224 Traceys Road
Sparks, Maryland 21152

Respectfully submitted,

John B. Gontrum, Esq.
Jennifer R. Busse, Esq.

286715

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JENNIFER R. BUSSE
DIRECT NUMBER
410 832-2077
jbusse@wtplaw.com

August 14, 2003

DELIVERY BY HAND

RECEIVED
AUG 14 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Stephanie and Nicholas Meittinis - Traceys Road
Case No. 01-530-X

Dear Ms. Bianco:

Enclosed please find Petitioners' Response to People's Counsel's Motion to Limit Issues for filing in the above-referenced matter.

Should you have any questions, please feel free to contact me.

Sincerely,

Jennifer R. Busse

JRB:sll
Enclosure
cc: Peter M. Zimmerman, Esquire
Mr. and Mrs. Joseph Evans

7/1/03

RE:	PETITION FOR SPECIAL EXCEPTION SE/S Traceys Road, 1500' SE c/line of Yeoho Road 5th Election District, 3rd Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS
		*	FOR
	Stephanie S. & Nicholas Meittinis, Legal Owners	*	BALTIMORE COUNTY
	Petitioners	*	Case No. 01-[illegible]-SPX

* * * * * * * * * * *

RECEIVED
JUL 01 2003
BALTIMORE COUNTY
BOARD OF APPEALS

MEMORANDUM IN SUPPORT OF MOTION TO LIMIT ISSUES

People's Counsel for Baltimore County files this memorandum to identify and limit the issues in this case:

Introduction

Petitioners have infused a special exception case with shadow issues. If Petitioners claim their use is permitted by right, and not subject to special exception review, this claim is nevertheless barred by the findings in their violation case. Petitioners' other apparent claim that this is a test case for the survival of the Baltimore County horse industry is irrelevant and wrong. Meanwhile, Petitioners' comparison of their use to uses at other locations identified in their testimony is unsubstantiated and misleading.

The Special Exception

Petitioners have filed a petition for special exception. It is inconsistent for a party who files such a petition to claim it is not necessary. This amounts to saying Petitioners should be granted a special exception because they don't need a special exception. See Futoryan v. Mayor & City Council 150 Md. App. 157, 162-163 (2003). Here the problem is deeper. Petitioners have filed the petition as a result of a hearing officer's findings in a

violation case. The County Board of Appeals affirmed these findings, in decisions dated May 22, 2001, and July 25, 2001. Petitioners filed for judicial review of the latter decision, but the Circuit Court dismissed on May 7, 2003 for lack of prosecution, Docket Entries attached. The dismissal is final. The Hearing Officer and CBA exhibits are in evidence from Case No.: 00-7156. The Hearing Officer found that Petitioners were operating a riding stable without the required special exception. He also determined the use is not commercial agriculture. These findings are conclusive here.

The doctrines of res judicata and collateral estoppel apply to administrative decisions. Batson v. Shifflett 325 Md. 684, 704-705 (1992); see Century I Condominium Ass'n v. Plaza Condominium Joint Venture 64 Md.App. 107, 113-114 (1985). The Court of Appeals has consistently applied these doctrines in zoning cases. Fertitta v. Brown 252 Md. 594 (1969); Chatham Corp. v. Beltram 243 Md. 138 (1966); Woodlawn Area Citizens Ass'n v. Board of County Comm'rs 241 Md. 187 (1966); Whittle v. Board of Zoning Appeals 211 Md. 36 (1956).

The doctrine of collateral estoppel is also known as "issue preclusion." It stands for the proposition that matters actually litigated and resolved against a party in a proceeding are considered to have been finally adjudicated for the purpose of a subsequent proceeding even where the subsequent proceeding differs in form. See Jones v. State 350 Md. 284, 295 (1998); MPC, Inc. v. Kenny 279 Md. 29, 34-36 (1977); Pat Perusse Realty v. Lingo 249 Md. 33, 43-45 (1968); Prescott v. Coppage 266 Md. 562, 570-573 (1972). Here, the special exception requirement was essential to the violation

decision. Indeed, it led to the present case. The determination that the riding stable use is not commercial agriculture was the fundamental issue on remand. Petitioners are barred or precluded from relitigation of these issues in the present proceeding.

To illustrate the point, we attach Chief Judge Hall Hammond's opinion in Fertitta v. Brown, *supra*. It chronicles Fertitta's persistent and repeated attempts to legitimize his marina use on the Baltimore County waterfront. After an August 28, 1962 finding by the zoning commissioner of a violation, Fertitta filed a petition to establish a non-conforming use. The Commissioner denied this petition on July 31, 1963 and ordered Fertitta to cease operations. Upon appeal, the Board of Appeals affirmed. Fertitta's appeal to the Circuit Court was dismissed for technical reasons.

Upon yet another petition, and another round of hearings from the commissioner to the Board to the Circuit Court, Judge Proctor found that the July 31, 1963 commissioner order, having survived appeals to the CBA and Circuit Court, was conclusive and "the end of the road." Fertitta appealed to the Court of Appeals but failed to perfect it. He then filed a declaratory judgment action to avoid or overturn the July 31, 1963 order. The Circuit Court sustained Brown's demurrer. The Court of Appeals affirmed because Judge Proctor's decision had preclusive effect.

If we combine Fertitta v. Brown, highlighting Judge Proctor's decision, with the Batson decision that res judicata and collateral estoppel apply to administrative decisions, it is inescapable that the hearing officer's decisions in the Meittinis violation case, having

been sustained on appeal, preclude the litigation of the essential issues resolved in that proceeding. As to the issues, the present case is in a position equivalent to Fertitta when it came before Judge Proctor. Collateral estoppel applies despite the difference in the form of the proceeding.

The Baltimore County Horse Industry

It is irrelevant whether this use benefits the countywide horse industry. A special exception case focuses on the specific use at the specific locality or neighborhood, and does not involve an evaluation of general social welfare. Turner v. Hammond 270 Md. 41, 55 (1973); Schultz v. Pritts 291 Md. 1 (1991); Futoryan, *supra*.

Whether or not it is good for the horse industry to have riding stables in the special exception category is a policy decision of the County Council. We should add that the definition in BCZR 101 is broad: "**A building where riding horses are boarded or kept for hire.**" Whatever the planners may have had in mind, the language covers the giving of riding lessons and, in our view, "layups."

Since the law was passed in 1975, the zoning office has required owners of facilities providing lessons to obtain special exceptions. Moreover, recent examples in evidence - - Greens Farm, Renaissance Farm, and the Farm on Trenton Road - - show that special exception review does not damage the horse industry. In each of those cases, the Zoning Commissioner or Deputy approved the special exception, but with significant

conditions. P.C. Exhs. 3-5. In contrast, the Deputy Zoning Commissioner found the location here to be inappropriate.

All of this reinforces the point that the County Board of Appeals must approach this case as it always approaches special exception cases, to evaluate the adverse impacts at the particular location in accordance with BCZR 502.1 and case law. It is not a question of whether horse farming will survive. Denial of this special exception would not destroy any element of north county civilization or culture.

Comparisons

Petitioners have attempted to buttress their regional approach to this case with evidence of other locations said to be comparable and to involve similar uses. We agree that Schultz contemplates evidence of comparable uses. Here, however, the alleged comparisons prove to be wide of the mark.

As shown in detailed cross-examination and in the chart provided by Joseph Evans and other neighbors, some of the other locations are not in RC-2 zones; some are in Catonsville or Woodlawn in entirely different settings; the majority are on two-lane roads; of the ones on one-lane roads, several are private roads and, in general, the locations are such as to have minimal impact on the neighbors. They are not comparable to the dead end location on Traceys Road.

Conclusion

It is always important in a zoning case to identify the relevant issues. It is especially important here. The longer a case goes on, the more difficult it is to focus correctly. There is also a tendency to want to conclude the case as quickly as possible. This sometimes brings about an effort to shorten the testimony of neighbors by suggesting proffers. We have been informed that various residents will make distinctive contributions of relevant evidence. This should not be chilled or cramped especially where Petitioners have stretched their presentation beyond reasonable bounds.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of July 2003, a copy of the foregoing Memorandum in Support of Motion to Limit Issues was mailed to John B. Gontrum, Esquire, 814 Eastern Boulevard, Baltimore, MD 21221, Attorney for Petitioners and to Joseph And Nedda Evans, 2224 Traceys Road, Sparks, MD 21152.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
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Towson, MD 21285-6754
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Maryland Toll Free Number (800) 938-5802

05/08/03

Case Number: 03-C-01-009843 AE
Date Filed: 09/24/2001
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :

In The Matter of: Nicholas L Meittinis, et al

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Originating Court	C007156
Case Folder ID	C01009843V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
PET	001	Meittinis, Nicholas L	Party ID: 0453296	BT LP 05/07/03	09/24/01
		Mail: 2311 Traceys Road Sparks, MD 21152	09/24/01		
		Attorney: 0007519 Kaplow, Stuart Stuart D Kaplow, P. A. 15 East Chespeake Avenue Towson, MD 21286-5306 (410)339-3910			09/24/01
PET	002	Meittinis, Stephanie S	Party ID: 0453299	BT LP 05/07/03	09/24/01

Mail: 2311 Traceys Road 09/24/01
Sparks, MD 21152

Attorney: 0007519 Kaplow, Stuart 09/24/01
Stuart D Kaplow, P. A.
15 East Chespeake Avenue
Towson, MD 21286-5306
(410)339-3910

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
ITP	001	County Board Of Appeals For Baltimore County The	Party ID: 0453300	BT LP 05/07/03	09/24/01

Mail: 400 Washington Ave 09/24/01
Rm 49
Baltimore, MD 21204

Attorney: 0018064 Loskot, C. Robert 10/04/01
Assistant County Attorney
400 Washington Avenue
2nd Floor, Room 219
Towson, MD 21204
(410)887-4420

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Atty	Jdg	Day Of	Rslt	By	ResultDt	Jdg T	Notice	Rec	User ID
03/08/02	09:30A	01H	yes	CIVI	S		KGC	01 /01	VAC	C	03/07/02		P		KLS LLH

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	09/24/01	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	09/21/01	09/24/01	PET001	TBA		05/07/03	JM PA
0001001	Response to Petition for Judicial Review	10/03/01	10/04/01	ITP001	TBA		05/07/03	AR PA

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0002000	Transcript of Record from Adm Agency *	11/19/01	12/03/01	ITP001	TBA	05/07/03	DFF PA
0003000	Notice of Transcript of Record Sent	12/03/01	12/03/01	ITP001	TBA	12/03/01	DFF DFF
0004000	Notice of Transcript of Record Sent	12/03/01	12/03/01	PET001	TBA	12/03/01	DFF DFF
0005000	Scheduling Order	12/04/01	12/04/01	000	TBA	12/04/01	KLS KLS
0006000	Motion to Extend Time Filed by PET001-Meittinis, Nicholas L, PET002-Meittinis, Stephanie S	01/04/02	01/04/02	PET001	CMK Granted	01/22/02	MI CKC
0006001	*Opposition to Motion	01/04/02	01/08/02	ITP001	TBA	05/07/03	MI PA
0007000	Notice of Cont. Dismissal Lack of Pros.	03/31/03	03/31/03	000	TBA	03/31/03	PA PA
0008000	Dismissed - Lack of Pros. w/o Prejudice	05/07/03	05/07/03	000	TBA	05/07/03	PA PA

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	10/03/01	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	09/21/02	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	07/06/03	30	no	no			000	000
SLMR	Set List For Motions	CANCEL	01/26/02	22	no	no	MOPP	D	006	000
SLTR	Set List For Trial	DONE	10/03/01	0	yes	yes	1ANS	T	001	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ITP 001 County Board Of Appeals For B								
000		B	BOX 293/ZOANING TR		B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 12/04/01 Order Date : 12/04/01
Start Date : 12/04/01 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		12/19/01	05/07/03	CLOSED
All Motions (excluding Motions in Limine		01/23/02	05/07/03	CLOSED
TRIAL DATE is		03/04/02	05/07/03	CLOSED

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

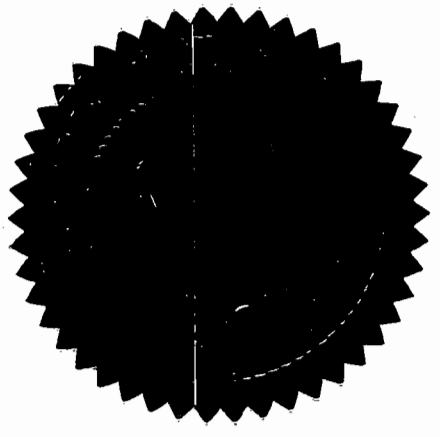
I HEREBY CERTIFY that the aforegoing is a true photocopy of the original:

docket entries

taken from the records of the Circuit Court for Baltimore County as recorded in Case Number: 03 c 01009843.

Signed and Seal affixed this 8th Day of April, 2003.

Suzanne Mensh
Clerk of the Circuit Court
for Baltimore County



252 Md. 594

Albert J. FERTITTA

v.

Lambert A. BROWN et al.

No. 386.

Court of Appeals of Maryland.

March 7, 1969.

Proceeding on bill for declaratory decree for relief from order of zoning commissioner that property owner cease using his waterfront property for boatyard and marina. The Circuit Court, Baltimore County, W. Albert Menchine, J., sustained protestors' demurrer without leave to amend and plaintiff appealed. The Court of Appeals, Hammond C. J., held that the circuit court's final judgment, which denied relief from zoning commissioner's orders that property owner cease using his waterfront property as marina in violation of zoning ordinance, was binding adjudication on property owner, who had failed to appeal from such orders and circuit court judgment, that on same state of fact and law property owner did not have right, legal or constitutional, to operate marina or to carry on marina-type activity.

Affirmed.

1. Judgment ⇐650

The circuit court's final judgment, which denied relief from zoning commissioner's orders that property owner cease using his waterfront property as marina in violation of zoning ordinance, was binding adjudication on property owner, who had failed to appeal from such orders and circuit court judgment, that on same state of fact and law property owner did not have right, legal or constitutional, to operate marina or to carry on marina-type activity.

2. Zoning ⇐40

No constitutional right is impinged by legal necessity of landowner to use his property as others similarly situated must use theirs under valid zoning ordinance unless landowner is deprived of all reasonable use of his property.

3. Declaratory Judgment ⇐47

Once a controversy has been finally adjudicated by a court with jurisdiction of subject matter and parties, the controversy is no longer alive and, therefore, is not the proper subject for declaratory judgment action.

4. Declaratory Judgment ⇐41

Declaratory proceedings were not intended to and should not serve as substitute for appellate review or as a belated appeal.

5. Declaratory Judgment ⇐47

Where special mechanics for review of orders of zoning commissioner had already been utilized by property owner to binding finality, declaratory relief on same question was not available to him.

William E. Chamberlain, Baltimore (Ginsberg & Ginsberg and Hyman Ginsberg, Baltimore, on the brief), for appellant.

Ernest C. Trimble, Towson, for appellees.

Before HAMMOND, C. J., and MARBURY, BARNES, FINAN, SINGLEY and SMITH, JJ.

HAMMOND, Chief Judge.

The flowers that bloom in the spring have something to do with this case and their coming this year will not inspire Albert J. Fertitta, the appellant, to sing tra la as he has done figuratively for the past six springs. The zoning commissioner of Baltimore County after a hearing brought about by protesting neighbors, the appellees, herein referred to as Brown, found on August 28, 1962, that Mr. Fertitta was illegally conducting a marina on his riverfront lot, 208 Corsica Road, in the 15th Election District, and in an order never

appealed directed such activity to cease permanently within thirty days. Nevertheless, Mr. Fertitta each spring and summer since; by skillful and persistent use of the administrative and judicial processes, has been able to conduct his usual marina operations. On July 31, 1963, over the objection of Brown, the zoning commissioner held another hearing and as a result found on somewhat circuitous and, it would appear, unsound reasoning that Fertitta had lost his non-conforming right to use his waterfront lot for a marina and ordered on July 31, 1963, that: "The use of the subject property for a boatyard and marina, either for commercial purposes or for use as a storage place for the boats of friends and neighbors shall cease immediately." (It appears that when he was called to account after the 1962 order Fertitta claimed that he was not using the lot commercially and that the numerous boats stored at its slips were all those of his many friends and neighbors, to whom he had refunded their slip rentals.) The board of appeals held that the zoning commissioner's first order of August 28, 1962, was final and also affirmed his order of July 31, 1963. Fertitta's appeal to the Circuit Court was dismissed for technical reasons.

Again over the objection of Brown, Fertitta gained another hearing on July 20, 1964, before the deputy zoning commissioner under an alleged right claimed to be given him by a provision of the County zoning regulations providing for a special hearing to determine the existence *vel non* of a non-conforming use. The hearing was continued to November 9, 1964, and finally on January 15, 1965, the deputy zoning commissioner decided that a boatyard had existed on lot 208 Corsica Road prior to 1945, the year zoning first came to Baltimore County, and continuously up to 1958, the year Fertitta bought the property, but that boats are no longer sold, built or repaired there, and held that lot 208 Corsica Road "may be used for the rental of slips and the sale of marine supplies and sundry items."

Brown appealed to the board of appeals, which on July 23, 1965, ordered that Fertitta was authorized to continue his marina. On appeal to the Circuit Court, Judge Proctor held on October 7, 1965, that admittedly there had been no change in conditions or circumstances between the date of the first order of August 28, 1962, and the time of the hearing before him, that the evidence as to the long-continued non-conforming use produced before the deputy zoning commissioner in 1964 was available and could have been produced by Fertitta before the zoning commissioner in 1962 and 1963, and was not because, according to Fertitta, he was too busy defending eleven separate charges of zoning violations before trial magistrates. Judge Proctor said that by analogy to the doctrine of res judicata when the evidence which is presented to an administrative agency could have been presented at an earlier hearing, and there is no change in circumstances between the times of the hearings, the final decision in the earlier case is unalterably binding under Whittle v. Board of Zoning Appeals, 211 Md. 36, 125 A.2d 41, 71 A.L.R.2d 1353; Bensel v. Mayor and City Council of Baltimore, 203 Md. 506, 101 A.2d 826; and Mayor and City Council of Baltimore v. Linthicum, 170 Md. 245, 183 A. 531, and held:

"Accordingly, the Court concludes that even if the failure to prosecute an appeal from the decision of Commissioner Rose, dated August 28th, 1962, did not bring an end to the matter, (and the Court believes it did), the failure to go forward with the appeal to the Circuit Court for Baltimore County from the order of Commissioner Rose, dated July 31st, 1963, was the end of the road.

"Although the grounds of this decision are those which have been set forth above, the Court is of the further opinion that the evidence adduced before the County Board of Appeals at the last hearing was not legally sufficient to support the Board's finding, and that the Board's decision was, therefore, arbi-

Baltimore County, Maryland

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

July 1, 2003

RECEIVED
JUL 01 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Kathleen Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of: Stephanie S. & Nicholas Meittinis
Case No.: 01-530-X

Dear Ms. Bianco:

Enclosed please find the Memorandum in support of Motion to Limit Issues along with three additional copies of such for filing with regard the above-referenced case.

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel

PMZ\rmw

cc: John B. Gontrum, Esquire
Joseph & Nedda Evans

2-5-4

3/21/03

IN RE: STEPHANIE S. and NICHOLAS MEITTINIS, PETITIONERS	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
PETITION FOR SPECIAL EXCEPTION 2311 TRACEY'S ROAD 5th Election District 3rd Councilmanic District	* *	 CASE NO. 01-530-X

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MAR 21 2003
BALTIMORE COUNTY
BOARD OF APPEALS

MOTION TO QUASH SUBPOENAS

Now comes Stephanie S. and Nicholas Meittinis by and through their counsel John B. Gontrum and move the County Board of Appeals to quash subpoenas issued on March 10, 2003, requested by Joseph Evans, Esq. for records and documents in the above- referenced case, and in support thereof, say as follows:

1. That Rule 5.a. of the Rules of Practice and Procedure of the County Board of Appeals has the power "to require the production of records and documentary or other tangible evidence."
2. That the case before the County Board of Appeals brought by Petitioners pertains to a prospective use of their property for a special exception for a riding stable;
3. That the information requested by the subpoenas has no probative value and is not material to the prospective use of a riding stable and is not necessary for the purpose of justice as indicated in Maryland Rule 2-514.
4. That the stated purpose of the subpoenas is to determine whether commercial agriculture was a use at the site.

5. That the definition of commercial agriculture only pertains to three issues: (i) what is being physically done to use the site; (ii) whether there is income or the purpose to have from the activities on the site; and (iii) whether the site enjoys a qualification for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. *See* Marzullo v. Kahl, 366 Md. 158, 783 A.2d 169 (2001).

6. That the information requested does not pertain to the current use of the property nor the prospective use but to generalized information that may or may not have anything to do with the site itself and nothing to do with the proposed use.

7. That the Petitioner has the burden of production of evidence and the burden of proof, and must produce evidence that persuades the Board that a special exception is warranted pursuant to Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981); Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995). *See* Angelini v. Harford County, 144 Md. App. 369, 798 A.2d 26 (2002).

8. In reference specifically to items 1, 5, 8, 11 and 12, the names, addresses and telephone numbers of individuals other than the Petitioners, and of witnesses testifying, are not relevant to the proposed uses and serve no probative value.

9. In reference specifically to items 2, 4, and 7, the records of payments of individuals receiving riding lessons from the Petitioner, or income from lessons received by Petitioner over the past fifty (50) months has nothing to

do with the proposed use of the site. The information sought is not even site specific. If Petitioner had never made a cent from ever giving lessons, it would have no more or less probative value than if Petitioner had made a fortune.

10. In reference to item 3, Petitioners have no such records.

11. In reference to Item 6, 8, 10, 11 and 13, such information has no probative value to prospective use.

12. Petitioners only have to produce some evidence that income is earned from agricultural activities and evidence that the property qualifies for the agricultural assessment in order to prove that there is commercial agriculture on the site. The quantity of the income is not relevant, nor is the source of the income relevant. The zoning regulations speak to neither issue, yet it is the quantity and the specific sources of income that are being sought by Joseph Evans.

13. The use of a riding stable is specifically exempted from the definition of a farm pursuant to Section 101 of the Baltimore County Zoning Regulations. The definition of a riding stable has no income provisions.

14. That the existence or non-existence of records more than four years old are not probative of current or proposed use.

15. That the information requested in the form requested does not serve the purposes of justice, will create an undue burden, and will not as requested produce information necessary or useful to the determination of the Board in this case.

Wherefore, Petitioners pray this Board quash the subpoenas requested by Joseph Evans, Esq. with respect to the documentation sought as being unduly burdensome and not relevant to the issues before the County Board of Appeals.

ROMADKA & GONTRUM, LLC

JOHN B. GONTRUM
814 Eastern Boulevard
Baltimore, MD 21221
(410) 686-8274

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21 day of March, 2003, a copy of the foregoing Motion to Quash Subpoenas was mailed, first class postage prepaid, to Joseph Evans, 2224 Tracey's Road, Sparks, Maryland 21152.

John B. Gontrum

IN RE: STEPHANIE & NICHOLAS MEITTINIS PETITIONERS PETITION FOR SPECIAL EXCEPTION 2311 TRACEY'S ROAD 5TH Election District 3rd Councilmanic District	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 01-530-X

ORDER

Upon consideration of the foregoing Motion to Quash Subpoenas, it is this _____ day of _____, 2003,

ORDERED, by the Board of Appeals for Baltimore County, Maryland, that Petitioner's Motion to Quash Subpoenas be and is hereby granted in the above-referenced case.

BOARD OF APPEALS FOR BALTIMORE COUNTY

By: _____(SEAL)

By: _____(SEAL)

E. A.

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
SE/S Traceys Road, 1500' SE centerline of Yeoho Road	*	DEPUTY ZONING COMMISSIONER
5th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District		
(2311 Traceys Road)	*	CASE NO. 01-530-X
Stephanie S. & Nicholas Meittinis	*	
Petitioners		

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Nicholas and Stephanie Meittinis. The Petitioners are requesting a special exception for property they own at 2311 Traceys Road, located in the Sparks area of Baltimore County. The special exception is to approve a riding stable and equine veterinarium.

Appearing at the hearing on behalf of the special exception request were Nicholas and Stephanie Meittinis, owners of the property, as well as several others who appeared on their behalf. Those individuals appearing on behalf of the Petitioners have registered their names on the Petitioners' sign-in sheet. The Petitioners were represented by John B. Gontrum, attorney at law. Appearing in opposition to the Petitioners' request were many residents of the surrounding community, all of whom signed in on the protestant's sign-sheet. The protestants were unrepresented as a group. However, Joseph and Annetta Evans, adjacent property owners and both attorneys at law, did appear as protestants in the case, and assisted their neighbors in the presentation of the testimony in opposition to this request.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 40.34 acres of land, zoned R.C.2. The subject property is located

IN THE MATTER OF PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
SE/S Traceys Road, 1500' SE centerline of Yeoho Road	*	DEPUTY ZONING COMMISSIONER
5th Election District 3rd Councilmanic District	*	OF
(2311 Traceys Road)	*	BALTIMORE COUNTY
Stephanie S. and Nicholas Meittinis Petitioners	*	CASE NO. 01-530-X

****

NOTICE OF APPEAL

Now Comes Nicholas and Stephanie Meittinis, Petitioners and Appellants, and note an appeal from the Findings of Fact and Conclusions of Law denying the special exception for a riding stable issued by the Deputy Zoning Commissioner on March 22, 2002, in the above-referenced matter. A copy of the Findings of Fact and Conclusions of Law is attached hereto and made a part hereof as Exhibit A. Petitioners believe that the denial of the Special Exception for the Riding Stable was in error.

Filed concurrently with this Appeal from the denial of the Petition for Special Exception for a Riding Stable is a check made payable to Baltimore County to cover the cost of the appeal.

John B. Gontrum
814 Eastern Boulevard
Baltimore, Maryland 21221
410-686-8274
Attorney for Petitioners/Appellants Nicholas and Stephanie Meittinis

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APR 19 2002
By GDZ

3/22/02

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
SE/S Traceys Road, 1500' SE centerline of Yeoho Road	*	DEPUTY ZONING COMMISSIONER
5th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District		
(2311 Traceys Road)	*	CASE NO. 01-530-X
Stephanie S. & Nicholas Meittinis	*	
Petitioners		

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

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Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 40.34 acres of land, zoned R.C.2. The subject property is located

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on the south side of Traceys Road, approximately 1500 ft. to the west of the intersection of Traceys Road and Yeoho Road, in Sparks, Maryland. The subject property is improved with a two-story, single-family residential dwelling wherein Mr. & Mrs. Meittinis reside with their children. To the rear of the subject dwelling exists a one-story residential garage. There is also a 95.5 ft. x 174.2 ft. fenced riding area, as well as a two-story frame barn and storage building. All of these improvements are more particularly shown on the plat to accompany this petition for special exception entered into evidence as Petitioners' Exhibit No. 1. The plat was prepared by Gerhold, Cross & Etzel, registered professional land surveyors who were represented at the hearing by Bruce Doak.

The subject property is serviced by Traceys Road, which is a dead-end country lane, only wide enough to accommodate the width of one vehicle. It is absolutely necessary for one vehicle to have to leave the traveled portion of Tracey's Road when encountering another vehicle traveling in the opposite direction. The actual paved width of Tracey's Road varies over the length of this travel way. It was estimated to be 11 ft. to 14 ft. by the various witnesses who testified at the hearing. This type of road width is not uncommon in these rural areas of Baltimore County.

Testimony and evidence offered at the hearing demonstrated that Mr. & Mrs. Meittinis purchased the subject property in 1997. At the time of their purchase, the subject property was farmed and crops were grown thereon. The front portion of the subject property along Tracey's Road was always cultivated with crops, while the rear portion of the property, which consists of woodlands and steep slopes, remained in its natural state. Shortly after their purchase, the Petitioners constructed their house, garage and other improvements.

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The two-story barn, as shown on the site plan, contains 16 stalls and has enough parking to accommodate 12 automobiles. The barn is situated approximately 213 ft. from the western property line of the subject property. The barn is served by a separate well and septic system other than those associated with the house that is situated on the property.

Mrs. Meittinis has an extensive background in horse training and providing instructional lessons to riders. She has been actively involved in giving lessons to students off-site to the subject property and is requesting permission, at this time, by way of this special exception to give lessons from the subject property. She foresees having up to 14 students at any one time and proposes to give no more than 2 lessons in any given day. It is possible for her to accommodate up to 5 students attending any one particular session. These sessions generally take 45 minutes to 1 hour.

In addition to giving lessons on the property, the Petitioner also trains, breeds and sells horses. At the present time, she has approximately 9 horses on the property. Mrs. Meittinis would be willing to limit her operation to containing no more than 16 horses on the subject property at any one time. She also agreed to other restrictions on her operation, in the event the special exception is approved.

In addition to the Petitioners' request for a riding stable, a separate request is made to allow an equine veterinarium. Testimony indicated that Mr. Meittinis is a licensed Doctor of Veterinary Medicine, having obtained a degree from Cornell University. He is currently involved in a partnership providing veterinary services to the various Maryland thoroughbred racetracks. The purpose of the special exception request for the equine veterinarium is to allow Mr. Meittinis to perform services on the horses which are kept on their property. This request is

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By L. Jamison

limited only to performing services on the horses that are kept on this property, belonging to the Petitioners, as well as horses that are laying up or boarded on site.

The testimony offered by the Petitioners also demonstrated that they currently board horses on their property in addition to the horses they own. At the time of the public hearing before me, the Petitioners were boarding 2 horses on the property which, of course, were not owned by them.

As stated previously, many residents of the surrounding neighborhood appeared in strong opposition to the Petitioners' requested special exception relief. The opposition testimony was led by Mr. & Mrs. Evans who reside on property situated directly across Tracey's Road from the subject property. Mr. & Mrs. Price, who reside on adjacent property immediately to the west of the subject property, also strongly opposed this request. Others in the neighborhood appeared and testified in opposition to the Petitioners' request. The testimony offered by the protestants demonstrated that Tracey's Road is not of sufficient width to accommodate the number of daily trips that are generated by the special exception relief requested by the Petitioners. These neighbors feel that the amount of students coming and going to the Meittinis farm for the purpose of taking riding lessons would cause congestion on Tracey's Road, given that two cars are unable to pass on this narrow lane. The passing of vehicles requires one driver to pull off into one of the property owner's front yard. In addition, neighbors complained of blind spots along Tracey's Road where it is difficult for one vehicle to see oncoming traffic. The increase in traffic on this narrow lane was also a concern of those residents who walk, ride bikes, or jog along this roadway. The narrowness of Tracey's Road coupled with the fact that it is a dead-end street, having only one access point to Yeoho Road, was of great concern to the surrounding neighbors. This was their main reason for opposing the special exception request.

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The issue regarding the narrowness of Tracey's Road was not the only cause of concern raised by these neighbors. Mr. & Mrs. Ruston Price, the adjacent property owners, also testified that the special exception relief, if granted, would have a tremendous detrimental impact on their use of their property. Their home is situated in close proximity to the Meittinis farm. The two property owners share a common property line. The riding of horses and the giving of lessons have a greater impact on Mr. & Mrs. Price's property, given the close proximity of their dwelling to where the horses are ridden and kept. They, therefore, ask that the special exception request be denied and that the Petitioners be prohibited from providing horseback riding lessons on their farm.

Also particularly affected by the Petitioners' special exception request were adjacent property owners, Joseph and Annetta Evans. These protestants live on the north side of Tracey's Road, opposite the entrance driveway to the Meittinis farm. Mr. & Mrs. Evans strongly objected to the Petitioners' trespassing on the front portion of their property. This occurs when large farm vehicles and horse trailers negotiate the turn into the Meittinis farm. The 90° angle access coupled with the landscaping rocks located at the entrance, cause these large vehicles to travel into the front yard owned by Mr. & Mrs. Evans while turning left. That grassy area has been reduced to dirt by virtue of this left-turning traffic. Mr. & Mrs. Evans are also concerned over storm water runoff that is generated onto their property by virtue of the additional construction that has taken place on the Meittinis farm. The Evans' property sits lower in elevation than the Petitioners' farm and is, therefore, the drainage area for surface water running off the Petitioners' land.

The testimony and evidence offered both in support and in opposition to the Petitioners' request was voluminous. The hearing comprised three days of testimony. It is not possible to

recount all of the testimony and evidence offered at the hearing in the body of this Order. The record of the case was recorded and reference is made to that transcription for a more detailed account of the testimony and evidence offered at the hearing. In addition, the Petitioners, as well as the Protestants, submitted Memoranda of Law regarding their positions.

Before ruling on the Petitioners' specific request for special exception, it is first necessary to determine what is permitted on the Petitioners' property as a matter of right. The Petitioners' property is zoned R.C.2. Section 1A01.2 of the Baltimore County Zoning Regulations designates those uses that are permitted as of right within such a zone. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted used in the R..C.2. zones. Specifically listed as a use permitted as of right are farms. The Baltimore County Zoning Regulations defines "Farm" as follows:

> "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

The Petitioners' property comprising 40.34 acres of land, zoned R.C.2, satisfies the definition of farm as that term in defined within Section 101 of the Baltimore County Zoning Regulations, so long as the activities occurring thereon are consistent with the definition of the term "Commercial Agriculture" or "Associated Agricultural Uses".

The term "Commercial Agriculture" is defined within Section 101 of the Baltimore County Zoning Regulations. The relevant portion of that definition provides that,

> "commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse

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By Kamoni

training and also includes ancillary activities such as processing, packing, storing financing, managing, marketing, or distributing provided that any such activity shall be secondary to the principal agricultural operations."

This definition clearly indicates that "horse breeding and horse training" are uses that are permitted as of right on the Meittinis farm.

Therefore, the keeping of horses on the Petitioners' property either owned by them or belonging to others, for the purpose of breeding or training, is a use permitted as of right, and does not require the granting of a special exception. This horse training and horse breeding clearly allows the Petitioners to keep horses belonging to others on their farm for this purpose. The language of the definition does not limit the breeding and training of horses to those of the property owner only. Furthermore, it shall also be permissible for someone other than the property owner to actually perform the training of a horse on the Petitioners' property. That is, it may be necessary for this property owner to bring other individuals of skill and expertise in the field of training horses onto this property, in order to train a particular horse in a specific exercise or regimen. Therefore, the breeding and training of horses, which shall include the keeping of horses not belonging to this property owner on the property, and allowing other trainers to come to this property to ride and train a particular horse is a permitted use for which a special exception is not necessary.

The question arose at the hearing, whether the Petitioner, by virtue of keeping other persons horses on her property was operating an animal boarding place. The term "animal boarding" place is defined within Section 101 of the Baltimore County Zoning Regulations as,

"any building, other structure or land or any portion thereof which is used, intended to be used or arranged for the board, breeding or other care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarium."

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Date 3/22/02
By R Jamison

The definition itself specifically excludes a farm from being considered an animal boarding place. Therefore, in conjunction with the operation of a farm on the Petitioners' property, Mr. & Mrs. Meittinis shall be permitted to board other people's horses thereon. This, therefore, would not be considered an animal boarding place and would not require the granting of a special exception for same.

While it has been determined that the Petitioners shall be permitted to board, train, breed and sell horses from their property as a matter of right, all in accordance with the definitions as contained within the Baltimore County Zoning Regulations and the uses permitted as of right in the R.C. zone, it must now be determined whether the special exception requests should be granted. The property owners have requested two particular uses by way of their special exception petition. The less controversial of the two requested uses was the equine veterinarian and shall be the first such use addressed by this Order.

As stated previously in the body of this Order, Mr. Meittinis is a licensed Doctor of Veterinary Medicine who maintains a successful veterinary practice. Dr. Meittinis limits his practice of veterinary medicine to horses. The majority of his practice is associated with the Maryland thoroughbred racetracks. Dr. Meittinis would like the ability to provide services to the horses which are kept on this property, either those belonging to him or the horses belonging to others.

Dr. Meittinis testified that his practice of veterinary medicine is specialized in that he works completely out of his Toyota Land Cruiser SUV. He does not maintain a clinic. He testified that he travels from race track to race track caring for and maintaining the thoroughbred horses that are involved in the racing industry. He does have an office trailer at each race track wherein he performs paperwork and maintains his records. All of his equipment and medicines

FOR FILING

are kept within his vehicle which allows him to readily perform site visits in order to provide care to a particular horse.

Dr. Meittinis is requesting, by way of this special exception, to be able to perform similar such services on his own property. He does not intend to construct a building on this property wherein a clinic will be housed. He intends to utilize the existing barn or a stall located therein in order to administer medicine and provide care to a particular horse. He will not perform any surgeries on site. He simply wishes to provide veterinary services to the horses kept on his property and be permitted to charge a fee for his services. He does not intend to erect any sign on the property and he does not contemplate any advertising for his business.

After considering this portion of the Petitioners' special exception request, I find that Dr. Meittinis should be permitted to perform veterinary services on the horses which are kept on his property and accordingly, that portion of the special exception request shall be granted. The operation of an equine veterinarian on this property will have little or no impact on the surrounding property owners, given that the horses which are to receive care are already kept on the property and the doctor performing such services already lives on site. Since he is the resident veterinarian, no additional amount of traffic will be generated by this use. Accordingly, the special exception shall be granted subject to the conditions and restrictions imposed at the end of this Order.

The second and more controversial of the two special exception requests involved the use of the property as a riding stable. As stated previously within the body of this Order, providing instruction and lessons to a horse falls within the category of horse training and is a use permitted as of right on the property. However, providing instructions and lessons to riders falls outside of that permitted use and within the special exception category of a riding stable.

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By

Therefore, in order to give riding lessons on the subject property, the Petitioners must satisfy those requirements as specified within Section 502.1 of the Baltimore County Zoning Regulations and all applicable case law relating thereto.

After considering the testimony and evidence offered in support of the Petitioners' riding stable and that offered in opposition thereto, as well as the memoranda of law submitted by each side, I find that the special exception request for a riding stable should be denied. A riding stable operating on this property would have a greater detrimental impact at this location than it would on a similarly zoned parcel of property located elsewhere within this locality. Perhaps the greatest factor relative to this finding is the access to the subject property, particularly the narrow width of Tracey's Road. In addition to my concern over the narrowness of Tracey's Road was the inability of the residents living along Tracey's Road to exist harmoniously. The testimony offered at the hearing revealed that vehicles entering the Petitioners' property have had to trespass onto property owned by Mr. & Mrs. Evans when attempting to turn left into the entrance driveway to the Petitioners' farm. Furthermore, residents testified that at times motorists have refused to yield the right-of-way to oncoming traffic causing vehicles to have to leave the traveled portion of Tracey's Road. This apparently has also occurred to pedestrians, joggers, bike riders, persons walking dogs and/or pushing baby carriages. In addition, landscaping rocks, pine trees and wooden sticks and posts have been placed along the sides of this narrow right-of-way, thereby interfering with and hampering the passage of traffic along Tracey's Road. The behavior and actions of these residents have created a tremendous amount of frustration to exist within this neighborhood. This was clearly evident at the hearing before me, as evidenced by the temperament of the witnesses who testified and the tone of the voice of those participants asking

ORDER RECEIVED FOR FILING
Date 5/26/02
By R. Jameson

questions. The problems with the access to this property, as stated previously, persuade me that the special exception request should be denied.

THEREFORE, IT IS ORDERED this 22nd day of March, 2002, by this Deputy Zoning Commissioner, that the Petitioners' special exception request to approve an equine veterinarian, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the special exception request to approve a riding stable on the subject property, be and is hereby DENIED.

The granting of the special exception for the equine veterinarian shall be subject to the following conditions and restrictions:

1. There shall be no signage associated with the equine veterinarian.

2. The Petitioner shall be prohibited from advertising the business of equine veterinarian on the property and shall only service those horses which are kept or boarded on site. Naturally, the Petitioner shall be permitted to travel to off site locations in order to practice his profession.

3. The Petitioner shall be prohibited from performing major operations to any animal on the subject property.

4. No additional structures shall be erected in order to house or accommodate a veterinary clinic. The Petitioner shall utilize the existing barn for the purpose of administering care and performing services on the horses kept on the property.

5. There shall be no additional employees of the equine veterinarian, other than Dr. Meittinis.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

ORDERED FOR FILING
Date 3/22/02
By

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

9/30

Call Police
Tel. Stop
(11-16-88)

PETITIONS

SUBPOENAS

(SUBPOENAE?)

(2)

(2010530)

supplemental

VIOLATION.

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 2311 TRACEY'S ROAD

which is presently zoned RC 2

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

a riding stable and equine veterinarian

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

Legal Owner(s):

NICHOLAS MEITTINIS

Name - Type or Print

Signature

STEPHANIE SULLIVAN MEITTINIS

Name - Type or Print

Signature

2311 TRACEY'S ROAD 410-365-4255

Address Telephone No.

SPARKS, MARYLAND 21152

City State Zip Code

Attorney For Petitioner:

JOHN B. GONTRUM, ESQ.

Name - Type or Print

Signature

ROMADKA, GONTRUM & MCLAUGHLIN

Company

814 EASTERN BOULEVARD 410-686-8274

Address Telephone No.

BALTIMORE, MARYLAND 21221

City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By JCM Date 6.18.01

Case No. 01-530X

REV 09/15/98

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

March 22, 2001

ZONING DESCRIPTION
TO ACCOMPANY A PETITION FOR A
SPECIAL HEARING ON THE MEITTINIS PROPERTY
FIFTH ELECTION DISTRICT AND THE
THIRD COUNCILMANIC DISTRICT OF
BALTIMORE COUNTY, MARYLAND
NO. 2311 TRACEYS ROAD

Beginning for the same on the southeast side of Traceys Road at the distance of 1,500.00 feet, more or less, measured southwesterly along Traceys Road from the center of Yeoho Road, thence leaving Traceys Road and binding on the land of the herein petitioners, the eight following courses and distances, viz: (1) South 18 degrees 27 minutes 14 seconds East 946.95 feet, (2) South 60 degrees 47 minutes 46 seconds West 84.10 feet, (3) South 30 degrees 20 minutes 44 seconds East 568.38 feet, (4) South 45 degrees 50 minutes 34 seconds West 1,039.26 feet, (5) South 78 degrees 50 minutes 34 seconds West 152.34 feet, (6) North 17 degrees 25 minutes 34 seconds West 1,641.96 feet, (7) North 66 degrees 34 minutes 26 seconds East 175.20 feet, and (8) North 17 degrees 25 minutes 34 seconds West 250.00 feet to the southeast side of Traceys Road, thence running and binding on the southeast side of Traceys Road, the six following lines, viz: (9) North 66 degrees 34 minutes 26 seconds East 250.00 feet, (10) northeasterly by a line curving to the right with a radius of 500.00 feet, an arc length of 114.61 feet, and (a chord bearing North 62 degrees 59 minutes 27 seconds East 114.36 feet), (11) North 84 degrees 46 minutes 32 seconds East 21.27 feet, (12) northeasterly by a line curving to the left with a radius of 360.00 feet, an arc length of 74.99 feet, and (a chord bearing North 63 degrees 21 minutes 11 seconds East 74.85 feet), (13) North 67 degrees 32 minutes 07 second East 211.36 feet, and (14) North 66 degrees 34 minutes 26 seconds East 175.45 feet to the place of beginning.

Containing 40.34 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purpose of conveyance.

530

C:\My Documents\meittiniszoning.doc

NOTICE OF ZONING HEARING

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

Case: #01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District
3rd Councilmanic District
Legal Owner(s):Stephanie S. & Nicholas Meittinis
Special Exception: to allow a riding stable and equine veterinarian.
Hearing: Monday, September 10, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
8/235 Aug. 23 C488999

CERTIFICATE OF PUBLICATION

8/23/, 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 8/23/,2001.

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

S. Wilkinson

LEGAL ADVERTISING

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

CERTIFICATE OF POSTING

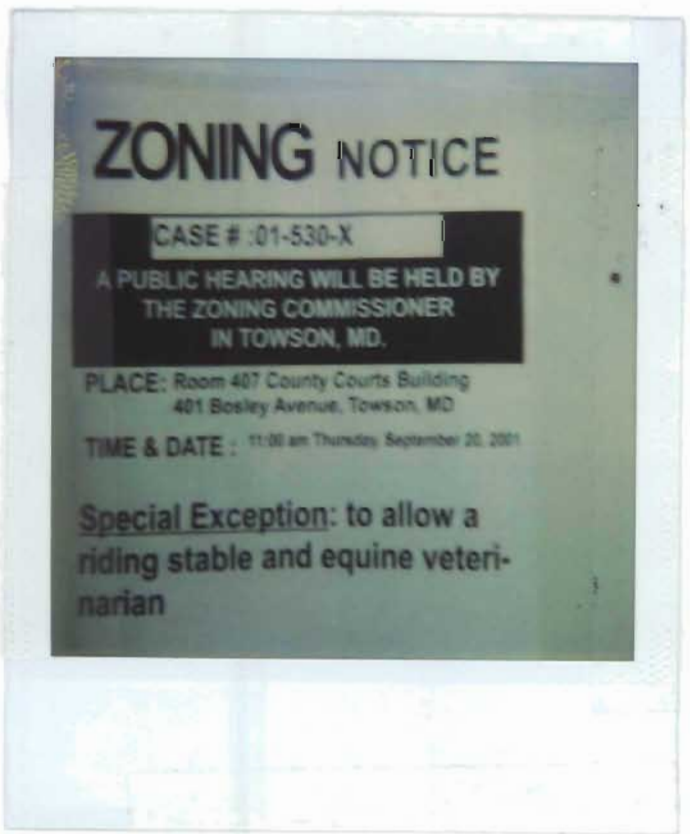
RE: CASE # 01-530-X
PETITIONER/DEVELOPER:
Stephanie & Nicholas Meittinis
DATE OF HEARING:
September 20, 2001

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: GEORGE ZAHNER

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT



POSTED ON: September 4, 2001

LOCATION:
Southeast side of Tracey's Road, 1500' Southeast of the centerline of Yeoho Road on the left side of the driveway

DATE: September 6, 2001

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

APPEAL SIGN POSTING REQUEST

CASE NO.: 01-530-X

STEPHANIE S. AND NICHOLAS MEITTINIS - LEGAL OWNERS

2311 TRACEY'S ROAD – SPARKS, MD

5TH ELECTION DISTRICT APPEALED: 4/19/02

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

********COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

RE: Case No.: 01-530-X

Petitioner/Developer:

NICHOLAS MEITTINIS

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

The sign was posted on 6/25, 2002

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

July 30, 2001

NOTICE OF ZONING HEARING

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

CASE NUMBER: 01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District – 3rd Councilmanic District
Legal Owners: Stephanie S & Nicholas Meittinis

Special Exception to allow a riding stable and equine veterinarian.

HEARING: Monday, September 10, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ
Director

C: Stephanie S & Nicholas Meittinis, 2311 Tracey's Road, Sparks 21152
John B Gontrum, Esquire, Romadka Gontrum & McLaughlin, 814 Eastern Blvd, Baltimore 21221
Nedda Evans, 2224 Tracey's Road, Sparks 21152

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 25, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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ROMADKA & GONTRUM, LLC
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-6206 (fax)

ROBERT J. ROMADKA
rromadka@rgmlaw.net

JOHN B. GONTRUM
jgontrum@rgmlaw.net

October 30, 2002

RECEIVED
NOV 0 4 2002
BALTIMORE COUNTY
BOARD OF APPEALS

Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Old Courthouse
Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Case No.: 01-530-X
Property: 2311 Tracey's Road

Dear Ms. Bianco:

I am writing to request a postponement of the above-referenced matter which has been scheduled for Tuesday, December 3, 2002 at 10:00 a.m., copy enclosed, regarding the above captioned matter.

The reason for this requested postponement is that the Petitioner will be out of state on business and will be unable to attend.

Once a new hearing date has been reassigned, I would appreciate your letting me know of the new hearing date.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh
Enclosure

cc: Dr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Wes Guckert
The Traffic Group
Suite H
9900 Franklin Square Drive
Baltimore, Maryland 21236

Bruce Doak
Gerhold, Cross & Etzel, LTD
320 East Towsontown Blvd
Suite 100
Towson, Maryland 21286

Jack Dillon
Valley Planning Council Inc.
P.O. Box 5402
Towson, Maryland 21285

Edward A. Halle, Jr.
Fowley & Beckley, P.A.
Executive Plaza 1
Suite 502
11350 McCormick Road
Hunt Valley, Maryland 21031

Mr. and Mrs. Joseph Evans
2224 Tracey's Road
Sparks, Maryland 21152

County Board of Appeals of Baltimore County

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

PP'd & reassigned to 3/25/03 @ 10 am

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 23, 2002

AMENDED NTICE OF ASSIGNMENT To reflect correct Election /Counsel Districts **

CASE #01-530-X **IN THE MATTER OF:** ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road **5th Election; 3rd Councilmanic Districts ****

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

ASSIGNED FOR: **TUESDAY, DECEMBER 3, 2002 at 10:00 a.m.**

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

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

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

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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis

Protestants : Nedda Evans

Cheryl H. Schweizer

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Arnold Jablon, Director /PDM

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ROMADKA & GONTRUM, LLC
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-6206 (fax)

ROBERT J. ROMADKA
rromadka@rgmlaw.net

JOHN B. GONTRUM
jgontrum@rgmlaw.net

November 15, 2002

Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
Towson, Maryland 21204

RE: RE: RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Case No.: 01-530-X

Dear Ms. Bianco:

Please be advised that I am in receipt of the Notice of Postponement and Reassignment with regard to the above captioned matter, copy enclosed.

Unfortunately, one day is not sufficient enough, and we will need an additional two days. I would appreciate your advising me of same.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh
Enclosure

RECEIVED
NOV 19 2002
BALTIMORE COUNTY
BOARD OF APPEALS

cc: Dr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Wes Guckert
The Traffic Group
Suite H
9900 Franklin Square Drive
Baltimore, Maryland 21236

Bruce Doak
Gerhold, Cross & Etzel, LTD
320 East Towsontown Blvd
Suite 100
Towson, Maryland 21286

Jack Dillon
Valley Planning Council Inc.
P.O. Box 5402
Towson, Maryland 21285

Edward A. Halle, Jr.
Fowley & Beckley, P.A.
Executive Plaza 1
Suite 502
11350 McCormick Road
Hunt Valley, Maryland 21031

County Board of Appeals of Baltimore County

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

11-21-02 additional dates of 3/26 & 4/08/03 assigned.

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

November 4, 2002

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #01-530-X **IN THE MATTER OF:** ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

which was assigned to be heard on 12/03/02 has been **POSTPONED** at the request of Counsel for Petitioner due to schedule conflict (Petitioner out of town on assigned date); and has been

REASSIGNED FOR: **TUESDAY, MARCH 25, 2003 at 10:00 a.m.**

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

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

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

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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis

Protestants : Nedda Evans
Cheryl H. Schweizer [added 9/05/02]

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

March 27, 2003

NOTICE OF ASSIGNMENT /Additional Days

CASE #01-530-X **IN THE MATTER OF:** ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days 1 (3/25/03) and 2 (3/26/03) before the Board, the following dates and times have been assigned for hearing days 3, 4 and 5; and this matter has been

ASSIGNED FOR:	**TUESDAY, APRIL 8, 2003 at 10:00 a.m.**	**/Day #3;**
	****WEDNESDAY, APRIL 16, 2003 at 9:00 a.m.**	**/Day #4; and**
	TUESDAY, APRIL 29, 2003 at 10:00 a.m.	**/ Day #5**

**** PLEASE NOTE THAT, ON APRIL 16, 2003, THE BOARD WILL CONCLUDE NO LATER THAN 3:00 P.M.**

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

Please refer to 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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price [added 11/26/02]

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Arnold Jablon, Director /PDM

FYI COPY: L.C.S.

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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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 16, 2003

NOTICE OF ASSIGNMENT /Days #5 and #6
(Added additional day for Day #6)

CASE #01-530-X

IN THE MATTER OF: ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

Day #5 from 4/16/03; added additional day (#6)

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days **1** (3/25/03), **2** (3/26/03), **3** (4/08/03), and **4** (4/16/03) before the Board, the following dates and times are assigned for hearing days 5 and 6 (original date still held for day #5; day #6 added with confirmation of parties); and this matter has been

ASSIGNED FOR: **TUESDAY, APRIL 29, 2003 at 10:00 a.m. /Day #5; and**
THURSDAY, JULY 3, 2003 at 10:00 a.m. / Day #6

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

Please refer to 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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Arnold Jablon, Director /PDM

FYI COPY: L.C.S.

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ROMADKA & GONTRUM, LLC
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-6206 (fax)

ROBERT J. ROMADKA
rromadka@rgmlaw.net

JOHN B. GONTRUM
jgontrum@rgmlaw.net

June 4, 2003

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Case No.: 01-530-X

Dear Ms. Bianco:

I am writing to request a postponement of the above-referenced matter, which has been rescheduled for Wednesday, August 20, 2003 at 10:00 a.m. in Room 48.

Please reschedule this hearing for after August 20, 2003 and notify me of same.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

6/11/03 Per Janet 6/11/03 4:23 pm
T/C Janet (John G)
— NO
PP June 8/20 (?) 8/20 OK for #6
is 7/03 OK (?) NO
move from 7/03
9/18 for next day
9/18 = #7

ittinis

RECEIVED
JUN 11 2003
BALTIMORE COUNTY
BOARD OF APPEALS

ROMADKA & GONTRUM, LLC
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274 (phone)
(410) 686-6206 (fax)

JOHN B. GONTRUM
jgontrum@rgmlaw.net

ROBERT J. ROMADKA
rromadka@rgmlaw.net

JANET RUDOLPH, Paralegal
jrudolph@rgmlaw.net

June 12, 2003

FACSIMILE (410-887-3182)

Kathleen C. Bianco, Administrator
Board of Appeals for Baltimore County
Old Courthouse
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of Nicholas and Stephanie Meittinis
Petition for Special Exception
County Board of Appeals Case No. 01-530-X

Dear Ms. Bianco:

We are hereby requesting a postponement/re-scheduling of the July 3, 2003 hearing date in the above-entitled matter, said hearing date to be re-assigned some time after the August 20, 2003 hearing date currently scheduled in this matter.

Thank you for your kind assistance in this regard.

Sincerely yours,

Janet Rudolph
Paralegal to John B. Gontrum

cc: Peter Max Zimmerman, People's Counsel
(via facsimile 410-823-4236)

ROMADKA & GONTRUM, LLC
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274 (phone)
(410) 686-6206 (fax)

JOHN B. GONTRUM
jgontrum@rgmlaw.net

ROBERT J. ROMADKA
rromadka@rgmlaw.net

JANET RUDOLPH, Paralegal
jrudolph@rgmlaw.net

June 16, 2003

RECEIVED
JUN 16 2003
BALTIMORE COUNTY
BOARD OF APPEALS

HAND DELIVERY

Kathleen C. Bianco, Administrator
Board of Appeals for Baltimore County
Old Courthouse - 400 Washington Avenue
Towson, MD 21204

Re: Nicholas and Stephanie Meittinis - Petition for Special Exception
County Board of Appeals Case No. 01-530-X

Dear Ms. Bianco:

Please be advised that Dr. Nicholas Meittinis, one of the Petitioners in the above-entitled matter, is currently and will remain out of state for a period of 6 to 8 weeks due to professional obligations, and as a result will not be available for the July 3, 2003 hearing date presently scheduled in this matter.

We are, therefore, requesting a postponement of the July 3, 2003 hearing date until some time after the August 20, 2003 hearing date presently scheduled in this matter.

By copy of this request for hearing date postponement, we are providing notice to the People's Counsel for Baltimore County, and to Joseph L. and Nedda P. Evans, participants to this action.

Kathy,
Nedda & Joe Evans have no objection to PP of Meittinis. & 9/18 would probably work well
Rebecca

ince and consideration in this regard.

Sincerely yours,

Janet Rudolph
Paralegal to John B. Gontrum

ounsel (via Hand Delivery)
First Class Mail)

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

8/19/03

June 17, 2003

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #01-530-X

IN THE MATTER OF: ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

Day #6 from 4/29/03 and
Day #7 from 8/20/03

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days **1** (3/25/03), **2** (3/26/03), **3** (4/08/03), **4** (4/16/03) and **5** (4/29/03) before the Board, Counsel for Petitioner has requested a postponement for 7/03/03 date (Client out of town); utilizing 8/20/03 and adding additional date upon confirmation with parties; and this matter has been

PP'd

REASSIGNED FOR: ~~**WEDNESDAY, AUGUST 20, 2003 at 10:00 a.m. / Day #6 and**~~
THURDAY, SEPTEMBER 18, 2003 at 10:00 a.m. / Day #7

#6

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

Please refer to 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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

pp'd to 1/15/04 & 1/20/04 - L. Stahl - scheduling conflict w/ N.Y. Fed. Ct.

August 19, 2003

NOTICE OF POSTPONEMENT /Day #6

CASE #01-530-X

Day #6 from 4/29/03

IN THE MATTER OF: ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days **1** (3/25/03), **2** (3/26/03), **3** (4/08/03), **4** (4/16/03) and **5** (4/29/03) before the Board, day #6 (8/20/03) has been POSTPONED, without objection, at the request of Counsel for Petitioner (hospitalization of Petitioner /work-related injury); will utilize **9/18/03** as day **#6** with additional date to be assigned if needed; and this matter has been

ASSIGNED FOR: **THURDAY, SEPTEMBER 18, 2003 at 10:00 a.m. / Day #6**

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

Please refer to 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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group
Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Timothy M. Kotroco, Director /PDM

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TRANSMISSION VERIFICATION REPORT

TIME: 08/19/2003 08:46
NAME: BOARD OF APPEALS
FAX : 4109873182
TEL : 4109873180

DATE,TIME	08/19 08:45
FAX NO./NAME	94108322015
DURATION	00:00:52
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

Fax to J. Gontrum -
pp of 8/20/03
Hand-delivered
copy to P. Zimmerman
Also copies via
USPS

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

DATE: August 19, 2003

TO:	John B. Gontrum, Esquire	***FAX***	: 410-832-2015
		TELEPHONE	: 410-832-2000
FROM:	Kathleen Bianco	***TELEPHONE:***	410-887-3180
		FAX	: 410-887-3182
RE:	Postponement Notice – *Meittinis* /Case No. 01-530-X		

SECOND ATTEMPT – Problem with first FAX

Copy of Notice of Postponement /Day #6 attached FYI. Copies have been mailed this date to all parties.

Number of pages including this page: Two (2)

Original copy to follow : Yes __X__ No ____

December 17, 2003

RECEIVED
DEC 2 3 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence Stahl, Esquire
Chairman
Board of Appeals
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 01-530-X
2311 Tracey's Road
Sparks, Md. 21152

Dear Mr. Stahl:

This letter is to request that the hearing dates now scheduled for January 15 and 20, 2004, in the above-referenced matter be postponed.

I am presently scheduled to be in trial for the month of January in the case of United States v. Reinhardt, et al, Crim. No. L-02-0307. That case is currently scheduled to begin on Tuesday, January 6, 2004 and conclude on or about January 26, 2004. At the time that the Meittinis matter was set in for January 15 and 20, it appeared that my involvement in the Reinhardt matter would be resolved prior to its trial date. Circumstances beyond my control now require that the matter be tried.

I am sorry to have to request this postponement because I know that the matter has been rescheduled several times. It is important to note, however, that the petitioners have requested and received three postponements. None of the protestants has ever requested a postponement.

Thank you for your consideration in this matter.

Very truly yours,

Joseph L. Evans
2324 Tracey's Road
Sparks, Maryland 21152
410-771-4754

cc: Peter M. Zimmerman, Esquire
John B. Gontrum, Esquire

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

pp'd to 2/11/04 and 2/12/04 - Request of J. Evans

September 11, 2003

NOTICE OF POSTPONEMENT and
REASSIGNMENT /Day #6 and Add Day #7

CASE #01-530-X

Day #6 from 4/29/03

IN THE MATTER OF: ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days **1** (3/25/03), **2** (3/26/03), **3** (4/08/03), **4** (4/16/03) and **5** (4/29/03) before the Board, day #6 (9/18/03) has been administratively POSTPONED by the Board due to Federal Court schedule conflict; and has been reassigned for day #6 with an additional date added for day #7; and has been

RESSIGNED FOR: **THURSDAY, JANUARY 15, 2004 at 10:00 a.m. /Day #6 and TUESDAY, JANUARY 20, 2004 at 10:00 a.m. / Day #7**

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

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

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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group
Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Timothy M. Kotroco, 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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 24, 2003

FOURTH NOTICE OF POSTPONEMENT and REASSIGNMENT

CASE #01-530-X

Day #6 from 4/29/03

IN THE MATTER OF: ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days **1** (3/25/03), **2** (3/26/03), **3** (4/08/03), **4** (4/16/03) and **5** (4/29/03) before the Board, days #6 and #7 (1/15 and 1/20/04) have been **POSTPONED** at the request of Protestant Joseph Evans due to trial schedule conflict (*United States v Reinhardt, et al*, Crim. No. L-02-0307); and have been

RESSIGNED FOR: **WEDNESDAY, FEBRUARY 11, 2004 at 10:00 a.m. /Day #6 and THURSDAY, FEBRUARY 12, 2004 at 10:00 a.m. / Day #7**

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

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

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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.
Barbara M. Kees

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Timothy M. Kotroco, 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 12, 2004

NOTICE OF DELIBERATION

IN THE MATTER OF:
STEPHANIE AND NICHOLAS MEITTINIS –Legal Owners /Petitioners
Case No. 01-530-X

Having heard this matter over 7 days of hearing (3/25; 3/26; 4/08; 4/16; and 4/29/03 and 2/11 and 2/12/04), public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, APRIL 20, 2004 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on Monday, March ~~15~~ 22, 2004
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES..

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group
Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.
Barbara M. Kees

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Timothy M. Kotroco, Director /PDM

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WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

JOHN B. GONTRUM
DIRECT NUMBER
410-832-2055
JGontrum@wtplaw.com

March 10, 2004

VIA FACSIMILE TRANSMISSION
(410) 887-3182
AND FIRST CLASS MAIL
Baltimore County Board of Appeals
Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Nicholas and Stephanie Meittinis
Zoning Matters
Case No.: 01-530X
Our File No.: 078747/00001

Dear Sir or Madam:

This letter will formally serve as a request to extend the deadline to file the Memorandum of the parties in the above referenced matter. The original deadline was originally scheduled for March 15, 2004. **All parties have agreed to the filing extension deadline of March 22, 2004.**

Most sincerely,

John B. Gontrum

JBG/kml
cc: Dr. and Mrs. Nicholas Meittinis
Ms. Neta Evans (via facsimile (410) 771-4136)
Mr. Peter M. Zimmerman, People's Counsel (via facsimile (410) 823-4236)
301803

County Board of Appeals of Baltimore County

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

March 10, 2004

VIA FACSIMILE /410-832-2015
AND U.S. MAIL
John B. Gontrum, Esquire
WHITEFORD TAYLOR & PRESTON LLP
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: *In the Matter of: Nicholas and Stephanie Meittinis*
- Petitioners /Case No. 01-530-X

Dear Mr. Gontrum:

In response to your letter dated March 10, 2004, the joint request of parties to this matter for a one-week extension for filing of briefs has been granted. Briefs are now due from all parties on Monday, March 22, 2004.

Should you have any questions, please call me.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Dr. and Mrs. Nicholas Meittinis
Ms. Neta Evans **[via facsimile (410-771-4136) and US Mail]**
Office of People's Counsel

FILE

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BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:	Stephanie and Nicholas Meittinis Case No.: 01-530-X	
DATE:	April 20, 2004	
BOARD/PANEL:	Lawrence S. Wescott	LSW
	Lawrence M. Stahl	LMS
	Charles L. Marks	CLM
RECORDED BY:	Theresa R. Shelton / Legal Secretary	

PURPOSE: To deliberate Petition for Special Exception filed by STEPHANIE S. AND NICHOLAS MEITTINIS to use the property for a riding stable and equine veterinarian.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- **Motion to Dismiss – No Merit – Not Granted**
- Is there a Farm? Fits the definition of a farm.
- Commercial Agriculture – testimony given on both sides
- Snake case was different – not land based
- Definition of commercial agriculture
- Dangerous animals / domestic animals
- Definition of equestrian center / need 200 acres of land
- Raising and selling of horses
- Section 101
- Training is going on – need to train by riding
- Building where horses stay at night
- Does giving lessons and training constitute different actions
- Lesson – use their horse
- Training – use your horse
- Commercial activity relate to financial gain
- Horse and relationship to rider
- Horses available for people to come in and learn to ride is different than training
- Accessory use
- Very limited number of horses sold
- Use of land to keep animals

- Produce hay to feed animals
- Horse training – all items met
- Rotation of pasture
- Permitted as a 'right' / horse training
- Is it horse training or riding lessons?
- Horse training with lessons ancillary
- Enough evidence presented that lessons are ancillary / secondary use
- Basic focus of farm is services, training and selling horses
- Ms. Meittinis is a horse trainer
- County Council chose not to restrict riding lessons
- Lessons are ancillary
- Training is main focus
- No advertising for lessons
- Paul Solomon – expert testimony
- Jack Dillion – expert testimony
- Deputy Zoning Commissioner (Kotroco) found commercial agriculture but restricted lessons
- Lessons are given to young peole and also to exercise the horses
- If lessons need to be separate then County Counsel should have been specific – the County Counsel left open to interpretation – Left it Broad
- Lessons come within the scope of training
- Deputy Zoning Commissioner's Order was read
- Allowed commercial activity is absolute right – if you allow- then no conditions
- Once you ad conditions, then it is not a right
- Violation – under 1A01.9.c – riding lessons – however, Code Enforcement saw the area as a neighborhood not as a farm as it is zones.

SPECIAL EXPCETION

- Use as Veterinary – satisfies Schultz – no problem with this use

TRAFFIC ISSUE

- Expert testimony and civil testimony – all testimony conveyed that traffic is a problem
- The road can only accommodate people that live on the road and deliveries
- Any traffic increase is unacceptable

- Because of structure and size of road, it would be a hazard to increase any traffic on the road
- Already too much traffic – has to support what is there – can not take any more
- Schultz vs, Pritz
- Weber's expert testimony confirmed photographs of road
- Special Exceptions revolves around the traffic issue

DECISIONS BY BOARD MEMBERS: Unanimous decision by the Board that the riding lessons are considered secondary/ancillary to the training that is allowed on the property and that the property is zoned and fits the description as commercial agriculture and as such the property owner's have a 'right' to conduct training and lessons; further the Board determined that if the upper courts do not accept that definition and determine that a Special Exception is needed, then the Board would Grant the Special Exception for the equine veterinarian but would deny the Special Exception for riding lessons based on the traffic situation.

FINAL DECISION: Unanimous decision by the Board that the riding lessons are considered secondary/ancillary to the training that is allowed on the property and that the property is zoned and fits the description as commercial agriculture and as such the property owner's have a 'right' to conduct training and lessons; further the Board determined that if the upper courts do not accept that definition and determine that a Special Exception is needed, then the Board would Grant the Special Exception for the equine veterinarian but would deny the Special Exception for riding lessons based on the traffic situation.

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

Respectfully submitted,

Theresa R. Shelton

Theresa R. Shelton
County Board of Appeals

Baltimore County
Department of Permits and
Development Management

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

September 14, 2001

John B Gontrum, Esquire
Romadka Gontrum & McClaughlin
814 Eastern Boulevard
Baltimore MD 21221

Dear Mr. Gontrum:

RE: Case Number: 01-530-X, 2311 Tracey's Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 18, 2001.

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

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Stephanie S & Nicholas Meittinis, 2311 Traceys Road, Sparks 21152
Nedda Evans, 2224 Traceys Road, Sparks 21152
People's Counsel

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 23, 2001

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

JUL 23 2001
ZONING COMMISSIONER

SUBJECT: Zoning Advisory Petition(s): **Case(s) 01-527, 01- 530, 01-536, 01-537, 01-540, 01-541, and 01- 543**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A Cunningham

Section Chief: Jeffrey W Long

AFK/JL:MAC

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

July 24, 2001

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

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF July 16, 2001

Item No.: 485, 526, 530, 532, 537, 544, 546, 547, 549

Dear Ms. Stephens:

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

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

cc: File

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on Recycled Paper

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 7.23.01

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

RE: Baltimore County
Item No. 530 JCM

Dear. Ms. Jackson:

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

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

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley /RBS

DATE: September 12, 2001

SUBJECT: Zoning Item 530
Address 2311 Tracey Road

Zoning Advisory Committee Meeting of July 23, 2001

_____ 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.

_____ 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__ Additional Comments:

See the Agricultural Preservation comments on the following page.

Reviewer: Wally Lippincott Date: 9/12/01

RE: PETITION FOR SPECIAL EXCEPTION 2311 Tracey's Road, SE/S Tracey's Rd, 1500' S/E of c/l Yeoho Rd 5th Election District, 3rd Councilmanic Legal Owner: Nicholas & Stephanie Meittinis Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY Case No. 01-530-X

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

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esq., Romadka, Gontrum & McLaughlin, 814 Eastern Blvd., Baltimore, MD 21221, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

May 9, 2002

Mr. & Mrs. Joseph Evans
2224 Tracey's Road
Sparks MD 21152

Dear Mr. & Mrs. Evans:

RE: Case No. 01-530-X, 2311 Tracey's Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 19, 2002 by John B Gontrum, Attorney on behalf Nicholas & Stephanie Meittinis. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: John B Gontrum, 814 Eastern Boulevard, Baltimore 21221
People's Counsel

RECEIVED
COUNTY BOARD OF APPEALS
2002 MAY 16 AM 10: 28

APPEAL

Petition For Special Exception
2311 Tracey's Road
SE/S Tracey's Road, 1500' SE centerline of Yeoho Road
5th Election District – 3rd Councilmanic District
Stephanie S & Nicholas Meittinis- Legal Owner
Case No.: 01-530-X

✓ Petition for Special Exception (dated 06/18/01)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (dated 07/30/01)

✓ Certification of Publication (The Jeffersonian issue dated 08/23/01)

✓ Certificate of Posting (dated 09/06/01 posted Bruce Doak)

✓ Entry of Appearance by People's Counsel (dated 08/07/01)

✓ Petitioner(s) Sign-In Sheet Original Hearing (1 sheet)
Continued Hearing 10/18 (1 sheet)
Continued Hearing 10/23 (1 sheet)

✓ Protestant(s) Sign-In Sheet Original Hearing (1 sheets)
Continued Hearing 10/18 (1 sheet)
Continued Hearing 10/23 (1 sheet)

✓ Citizen(s) Sign-In Sheet (none)

✓ Zoning Advisory Committee Comments

Petitioners' Exhibits:

✓ 1. Plat to Accompany a Petition for a Special Exception (dated 3/21/01)
✓ 2. Meittinis Property, Scale 1 inch = 200 feet (dated 9/14/01)
✓ 3. Photographs (7 pictures)
✓ 4. Baltimore County Office of Planning & Zoning Official Zoning Map (dated 01/86)
✓ 5. Letter to To Whom It May Concern from Les Richardson, President, Baltimore County Farm Bureau (dated 09/19/01)
✓ 6. Resume Jack Dillon

Protestants' Exhibits:

✓ 1. Letter to Mr. & Mrs. Nicholas Metinas from Joseph L Evans (dated 06/14/99)
✓ 2. Memo to Deputy Commissioner Timothy Kotroco from residents of neighboring properties (dated 10/15/01)
✓ 3. Memo to Deputy Commissioner Timothy Kotroco from residents of Tracey's Road (dated 09/16/01)
✓ 4. The Traffic Group (dated 09/12/01)
✓ 5. Letter to Mr. & Mrs. Meittinis from Joseph L & Nedda P Evans (dated 11/16/99)
✓ 6. Letter to Mr. & Mrs. Nicholas Metinas from Joseph L & Nedda P Evans (dated 06/14/99)
✓ 7. Letter to Mr. & Mrs. Nicholas Meittinis from Joseph L & Nedda P Evans (dated 05/13/00)
✓ 8. Letter to Mr. & Mrs. Nicholas Meittinis from Joseph L & Nedda P Evans (dated 09/13/99)
✓ 9. Memo to Development Coordination from Wallace S Lippincott Jr Subject Comments on Meittinis Sph, 2311 Tracey Road (dated 09/09/01)
✓ 10. Photographs (21 pictures)

✓E

Miscellaneous (Not Marked as Exhibits):

- ❖ Division of Code Inspections and Enforcement – Violation Case Documents – Case 00-7156 and 00-5193

Deputy Zoning Commissioner's Order (03/22/02 –Special Exception to approve an equine veterinarian is GRANTED with conditions and restrictions Special Exception to approve a riding stable DENIED)

Notice of Appeal received on 04/19/02 from John B Gontrum, Lawyer on behalf of Nicholas and Stephanie Meittinis

c: [redacted]
James H. Thompson, Code Enforcement (Enforcement Case No. 00-7156 and 00-5193)
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

JOHN B GONTRUM ESQUIRE – Counsel for Appellants
~~814 EASTERN BOULEVARD~~ Whiteford Taylor & Preston
~~BALTIMORE MD 21221~~ 210 W. Pennsylvania Ave 21204

MR AND MRS MEITTINIS - Appellants
2311 TRACEY'S ROAD
SPARKS MD 21152

NEDDA EVANS - Joseph Evans
2224 TRACEY'S ROAD
SPARKS MD 21152

CHERYL H SCHWEIZER
2212 TRACEYS ROAD
SPARKS MD 21152

DEBBIE AND RUSTIN PRICE
2315 TRACEY ROAD
SPARKS MD 21152

Case No. 01-530-X

SE –To approve a riding stable and equine veterinarium.

3/22/02 –D.Z.C.'s Order in which Petition for Special Exception to approve equine veterinarium was GRANTED with restrictions; Special Exception for riding stable was DENIED.

8/23/02 -Notice of Assignment sent to following; assigned for hearing on Tuesday, December 3, 2002 at 10:00 a.m.:

John B. Gontrum, Esquire
Stephanie and Nicholas Meittinis
Nedda Evans
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Arnold Jablon, Director /PDM

8/27/02 – Amended Notice sent to parties; **to reflect correct Election /Councilmanic Districts** only (correct districts = **5th Election District; 3rd Councilmanic** District). No other changes.

9/05/02 – Letter from Cheryl H. Schweizer – requesting that she be added to file and receive all notices. File noted; copy of above Amended Notice sent to Ms. Schweizer this date.

11/01/01 – Letter via FAX from J. Gontrum, Esquire – counsel for Petitioners; requesting postponement of 12/03/02; Petitioner will be out of town on day of hearing and therefore unable to attend. (Original signed letter received 11/04/02)

11/04/02 -- Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, March 25, 2003 at 10 a.m.

11/19/02 – Letter from John Gontrum – requesting two additional days for this hearing; "one day is not sufficient...."

11/21/02 – Revised Notice of Assignment /Additional Days sent to parties; added W. Guckert, B. Doak, J. Dillon, and E. Halle, Jr., to notice; hearing assigned for Tuesday, March 25, 2003 at 10:00 a.m. /Day #1; Wednesday, March 26, 2003 at 10:00 a.m. /Day #2; and Tuesday, April 8, 2003 at 10:00 a.m. /Day #3.

11/26/02 – T/C from Debbie Price (Debbie and Rustin Price 2315 Tracey Road Sparks 21152) – inquiring if this office received her letter sent one month ago requesting information /notice of hearing in this matter; she had telephoned and was told her request had to be in writing; she wrote the letter and mailed it; never received by this office. Mr. and Mrs. Price were added to the file this date and a copy of the Notice sent to them.

3/17/03 – Letter from Joseph L. Evans – requested that record reflect that he will be participating in hearing in this matter; file so noted. (NOTE: Copy of notice consistently sent to Mr. Evans address; addressed to "Nedda Evans"; notice also noted with Mr. Evans' name.)

3/21/03 – Motion to Quash Subpoenas filed by John Gontrum, Esquire on behalf of Petitioners; requesting Board to quash subpoenas issued on 3/10/03 requested by Joseph Evans, Esquire for records and documents as noted in Motion and on said Subpoena for reasons as stated.

3/25/03 – Board convened for Day #1 (Stahl, Marks, Wescott); concluded day #1; to reconvene on Wednesday, 3/26/03 for day #2, as assigned. Also added additional date of 4/29/03; revised notice to be sent.

3/26/03 – Board convened for day #2 (L.C.S.); concluded day #2; also added additional date of 4/16/03 to begin at 9 a.m. and conclude at 3 p.m. (Total of 5 days; Days 1 and 2 concluded; notice to be sent.

Case No. 01-530-X

SE –To approve a riding stable and equine veterinarium.

3/22/02 –D.Z.C.'s Order in which Petition for Special Exception to approve equine veterinarium was GRANTED with restrictions; Special Exception for riding stable was DENIED.

3/27/03 – Notice of Assignment /Additional Dates sent to parties; Board to convene on Tuesday, April 8, 2003 at 10:00 a.m. for day #3 (as originally assigned); on Wednesday, April 16, 2003 at 9:00 a.m. (concluding by 3 p.m.) for day #4; and on Tuesday, April 29, 2003 at 10:00 a.m. for day #5. FYI copy to L.C.S.

4/08/03 – Board convened for day #3 (L.S.C.); concluded day #3; to reconvene on 4/16/03 at 9 a.m. for day #4.

4/16/03 – Board convened for day#4 (L.S.C.); concluded day #4 at 3 p.m.; to reconvene on 4/29/03 at 9 a.m. for hearing day #5.

-- Notice of Assignment /Days #5 and #6 sent to parties; added additional day for Day #6 (7/03/03) to schedule upon confirmation this date as to availability of parties. Notice to all parties and FYI copy to L.S.C. for Tuesday, April 29, 2003 at 10:00 a.m. (Day #5) and Thursday, July 3, 2003 at 10:00 a.m. (Day #6).

4/29/03 – Concluded Day #5 (L.S.C.); Board to reconvene for day #6 on 7/03/03 as assigned; also added additional day for Day #7 (8/20/03). Notice to be sent.

5/07/03 – Notice of Assignment /Days 6 and 7 sent to parties; assigned for day #6 on Thursday, July 3, 2003 at 10:00 a.m. (previously assigned); and for day #7 on Wednesday, August 20, 2003 at 10:00 a.m. (additional day 7).

6/04/03 – Letter from J. Gontrum requesting postponement in this matter; confirmation of earlier telephone conversation in this regard. T/C to Janet Rudolph in Gontrum's office; to clarify date to be postponed.

6/12/03 – Letter from J. Rudolph via FAX – confirming that7/03/03 is the date to be postponed and reassigned for an additional day some time after 8/20/03.

6/16/03 – Letter from Janet Rudolph; advising that postponement is being requested because Dr. Meittinis will be out of Maryland for "6 to 8 weeks due to professional obligations"; 8/20/03 to remain; additional date requested after 8/20/03.

6/17/03 – Confirmation from Nedda and Joe Evans received 6/16/03; no objection to 7/03/03 postponement; 9/18/03 is okay for day #7 (8/20/03 will now be day #6). Also confirmed with Peter Zimmerman.

-- Notice of PP and Reassignment sent to parties; confirming that 8/20/03 is now day #6; and Thursday, September 18, 2003 at 10:00 a.m. has been assigned for day #7.

7/01/03 – Memorandum in Support of Motion to Limit Issues filed by People's Counsel this date; holding pending response from J. Gontrum.

8/11/03 – No response to date from Mr. Gontrum; t/c placed to Mr. Gontrum this date (voice mail message) (Day #6 – 8/20/03). Will hold Zimmerman copies one additional day for response to T/C.

8/12/03 – Mr. Gontrum has indicated that he will be filing his response in the next day or so. Copies to be sent prior to end of this week to Stahl, Marks and Wescott.

8/14/03 – Received Response to People's Counsel's Motion to Limit Issues filed this date by John Gontrum and Jennifer Busse on behalf of Petitoners. Copies sent to 2-4-5 this date.

8/18/03 – T/C and FAX from J. Gontrum – Dr. Meittinis has been hospitalized with work-related injury (injured by horse); will not be available for 8/20/03 hearing for day #6; no objection by People's Counsel nor Ms. Evans; Ms. Evans will notify her people; Mr. Gontrum will notify his. Notice will go out via FAX to counsel prior to 8/20/03.

8/19/03 – FAX from Mr. Gontrum confirming request for postponement. T/C to his office to confirm receipt of same. Notice of Postponement /Day #6 sent out this date; **will utilize Thursday, September 18, 2003 at 10:00 a.m.** (previously assigned for day #7) **for day #6,** with additional date to be assigned as necessary. Copy of Notice sent via FAX this date to Mr. Gontrum and via USPS to all parties. Copy hand-delivered to People's Counsel.

9/10/03 – Telephone conversation with Counsel for Petitioner and People's Counsel regarding necessary postponement of this matter from 9/18/03; L. Stahl scheduled to be in Southern District New York Federal Court on 9/18/03; attempting to reassign to a Friday in October (10/10 or 10/17/03) or 1/15/04; okay with Mr. Gontrum; awaiting confirmation; also notified panel members of this schedule change.

-- Mr. Zimmerman will be in Canada on 10/10/03; Ms. Evans will be in New York on 10/17/03; therefore hearing will be reassigned to 1/15/04 and 1/20/04.

9/11/03 – Notice of PP and Reassignment sent to parties; case reassigned to Thursday, January 15, 2004 and Tuesday, January 20, 2004 at 10:00 a.m. FYI copy to 2-4-5

12/22/03 – Letter from Barbara M. Kees requesting that her name and address be added to file for notification. No address given in letter; will attempt to reach her via telephone to obtain address.

12/23/03 – Request for postponement of days 6 and 7 filed by Joseph Evans, Protestant; scheduled to be in trial for month of January 2004 (US v Reinhardt); to be postponed and reassigned to next two dates on Board's schedule.

12/24/03 – T/C to Ms. Kees (obtained telephone number via Verizon white pages web site). Ms. Kees confirmed that her property does adjoin the Meittinis property. HOWEVER, she also indicated that she did not send the letter but would not object to her name and address being added to the file for notification. Added this date.

- Upon confirmation of availability of appropriate panel members on 2/11 and 2/12/04, Fourth Notice of Postponement and Reassignment sent to parties this date; case reassigned to Wednesday, February 11, 2004 (#6) and Thursday, February 12, 2004 (#7), both days beginning at 10:00 a.m. FYI copy to 2-4-5.

2/11/04 – Board convened for day #6 (2-4-5); concluded same; to reconvene for day #7 on 2/12/04 at 9:30 a.m. in lieu of

previously assigned time (1/2 hour earlier as agreed at conclusion of today's hearing).

2/12/04 – Board convened for day #7 (2-4-5); concluded hearing this date; memos due 3/15/04; public deliberation assigned for Tuesday, April 20, 2004 at 9:00 a.m. Notice of Deliberation sent to parties this date; FYI to 2-4-5.

3/10/04 – Letter from J Gontrum via FAX; joint request of parties for one-week extension for filing of briefs (from 3/15 extended to 3/22/04). Same is granted. Letter to Mr. Gontrum and Ms. Evans this date via FAX and USPS; copy hand-delivered to People's Counsel; via USPS to Dr and Mrs. Meittinis.

3/22/04 – Protestants' Memorandum in Opposition to Petition for Special Exception filed by Joseph Evans, pro se.
People's Counsel for Baltimore County's Memorandum filed by Peter Zimmerman, Esquire.
Memorandum of Petitioners filed by John Gontrum, Esquire.
Copies of memos to Wescott and Marks in office on 3/24/04; and copy to Stahl in office on 3/30/04.

4/14/04 – Protestants' Motion to Dismiss and/or for a Stay of Proceedings filed by Joseph Evans, Protestant.
Copy to 2 and 4 on 4/15/04; Copy to be transmitted to 5. Will be deliberated prior to deliberation on merits of this case when Board convenes on 4/20/04.

Case No. 01-530-X

SE –To approve a riding stable and equine veterinarium.

3/22/02 –D.Z.C.'s Order in which Petition for Special Exception to approve equine veterinarium was GRANTED with restrictions; Special Exception for riding stable was DENIED.

4/20/04 – Board convened for deliberation (both on merits and on Protestants' Motion to Dismiss or Stay Proceedings) (Stahl, Wescott, Marks).

-- Board denied Motion to Dismiss or Stay Proceedings; proceeded to deliberation on merits. Unanimous decision of the Board that this is not a "riding stable"; that the riding lessons are ancillary to the horse farm; however, the Board further ruled that, in the event the upper courts did not agree with the definition as determined by the Board, then the special exception for equine veterinarian was GRANTED; and special exception for riding stable is DENIED. Written Opinion and Order to be issued by the Board; appellate period to run 30 days from date of written Order. (L)

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

04/07/05

Case Number: 03-C-04-007316 AE
Date Filed: 07/13/2004
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :

In The Matter Of: Application Of Stephanie S Meittinis Et Al The

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	01 530 X
Case Folder ID	C04007316V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	001	Evans, Joseph	Party ID: 0686039	CT DO 03/31/05	07/13/04
Mail:		2224 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	002	Harold, George	Party ID: 0686041	CT DO 03/31/05	07/13/04
Mail:		2206 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	003	Harold, Carolyn	Party ID: 0686044	CT DO 03/31/05	07/13/04
Mail:		2206 Traceys Road	07/13/04	07/13/04 EMH	07/13/04 EMH

Sparks, MD 21152

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	004	Price, Rustin E	Party ID: 0686048	CT DO 03/31/05	07/13/04
Mail:		22315 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	005	Price, Deborah A	Party ID: 0686053	CT DO 03/31/05	07/13/04
Mail:		2315 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	006	Rudolph, Sherry Kees	Party ID: 0686056	CT DO 03/31/05	07/13/04
Mail:		2324 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	007	Kees, Barbara	Party ID: 0686059	CT DO 03/31/05	07/13/04
Mail:		2323 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	008	Schweizer, Cheryl H	Party ID: 0686061	CT DO 03/31/05	07/13/04
Mail:		2212 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	009	Wirtz, Vernon W, Jr	Party ID: 0686065	CT DO 03/31/05	07/13/04
Mail:		2100 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	010	Twigg Wirtz, Susan E	Party ID: 0686066	CT DO 03/31/05	07/13/04
Mail:		2100 Traceys Road Sparks, MD 21152	07/13/04	07/13/04 EMH	07/13/04 EMH
PET	011	Peoples Counsel For Baltimore County	Party ID: 0687801	CT DO 03/31/05	07/21/04
Mail:		Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204	07/21/04	07/21/04 LG	07/21/04 LG

Attorney: 0029075 Zimmerman, Peter M — Appear: 07/21/2004 — 07/21/04
People's Counsel For Baltimore County
Room 47 Courthouse
400 Washington Ave
Towson, MD 21204
(410)887-2188

0804268 Demilio, Carole S — Appear: 07/21/2004 — 07/21/04
Deputy Peoples Counsel
Old Courthouse Room 47
400 Washington Ave
Towson, MD. 21204
(410)887-2188

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
RES	001	Meittinis, Stephanie S	Party ID: 0686028	CT DO 03/31/05	07/13/04
		Attorney: 0012404 Gontrum, John B Whiteford, Taylor & Preston L.L.P. 210 W. Pennsylvania Ave. Towson, MD 21204-4515 (410)832-2055	Appear: 08/07/2004		08/07/04
RES	002	Meittinis, Nicholas	Party ID: 0686030	CT DO 03/31/05	07/13/04
		Attorney: 0012404 Gontrum, John B Whiteford, Taylor & Preston L.L.P. 210 W. Pennsylvania Ave. Towson, MD 21204-4515 (410)832-2055	Appear: 08/07/2004		08/07/04
ITP	001	County Board Of Appeals Of Baltimore County	Party ID: 0686034	CT DO 03/31/05	07/13/04
		Mail: 400 Washington Avenue Room 47 Old Courthouse Baltimore, MD 21204	07/13/04	07/13/04 EMH	07/13/04 EMH

CALENDAR EVENTS

Date	Time	Dur	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
11/19/04	09:30A	02Q	Civil Non-Jury Trial	Y	CMK 01 /01		KLS LLH
Reset			11/15/04 C				
02/16/05	09:30A	01H	Civil Non-Jury Trial	Y	CMK 01 /01		LLH KGR
Reset			01/18/05 C C.Kahl				
03/04/05	09:30A	02H	Civil Non-Jury Trial	Y	CMK 01 /01		KGR LLM
Conclude			03/04/05 G C.Kahl	N			

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	User	Activity Date
03/31/05	DO	Decree or Order	CT	AFTER TRIAL/HEARING	PH	03/31/05

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	07/13/04	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000	Petition for Judicial Review	07/13/04	07/13/04	PET001	TBA	03/31/05	EMH PH
0002000	Petition for Judicial Review	07/14/04	07/21/04	PET011	TBA	03/31/05	LG PH
0002001	Answer Filed by RES001-Meittinis, RES002-Meittinis	07/30/04	08/07/04	RES001	TBA	03/31/05	PH PH
0003000	Certificate of Notice	07/26/04	07/30/04	000	TBA	03/31/05	MJ PH
0004000	*Certificate of notice	08/02/04	08/07/04	000	TBA	03/31/05	PH PH
0005000	*Second Notice of Appeal and Certification	08/02/04	08/07/04	000	TBA	03/31/05	PH PH
0006000	Petition for Judicial Review Filed by RES002-Meittinis, RES001-Meittinis	07/30/04	08/07/04	RES002	TBA	03/31/05	PH PH
0006001	Response to Cross Petition for Judicial Review	08/04/04	08/09/04	PET011	TBA	03/31/05	CMS PH

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0006002	Answer Filed by PET001-Evans, PET002-Harold, PET003-Harold, PET004-Price, PET005-Price, PET006-Rudolph, PET007-Kees, PET008-Schweizer, PET009-Wirtz	08/09/04	08/12/04	PET001	TBA		03/31/05	PH PH
0006003	Memorandum in Opposition to Motion Filed by PET001-Evans, PET002-Harold, PET003-Harold, etal	12/03/04	12/07/04	PET001	TBA		03/31/05	PH PH
0007000	*Transcript of Record from Adm Agency	08/11/04	08/18/04	000	TBA		03/31/05	MJ PH
0008000	Notice of Transcript of Record Sent	08/18/04	08/18/04	ITP001	TBA		08/18/04	MJ MJ
0009000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET001	TBA		08/18/04	MJ MJ
0010000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET002	TBA		08/18/04	MJ MJ
0011000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET003	TBA		08/18/04	MJ MJ
0012000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET004	TBA		08/18/04	MJ MJ
0013000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET005	TBA		08/18/04	MJ MJ
0014000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET006	TBA		08/18/04	MJ MJ
0015000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET007	TBA		08/18/04	MJ MJ
0016000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET008	TBA		08/18/04	MJ MJ
0017000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET009	TBA		08/18/04	MJ MJ
0018000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET010	TBA		08/18/04	MJ MJ
0019000	Notice of Transcript of Record Sent	08/18/04	08/18/04	PET011	TBA		08/18/04	MJ MJ
0020000	Notice of Transcript of Record Sent	08/18/04	08/18/04	RES001	TBA		08/18/04	MJ MJ
0021000	Scheduling Order	09/13/04	09/13/04	000	TBA		09/13/04	KLS KLS
0022000	Stipulation for Extention of Time	09/21/04	09/21/04	PET011	JNB	Granted	09/21/04	MI MI
0023000	Memorandum Filed by RES001-Meittinis, RES002-Meittinis	10/20/04	10/22/04	RES001	TBA		10/22/04	PH PH
0024000	Memorandum	10/20/04	10/22/04	PET001	TBA		10/22/04	PH PH
0025000	Memorandum	10/20/04	10/22/04	PET011	TBA		10/22/04	PH PH
0025001	Memorandum in response Filed by RES001-Meittinis, RES002-Meittinis	12/07/04	12/08/04	RES001	TBA		03/31/05	PH PH

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0026000	Memorandum in support of appeal Filed by RES001-Meittinis, RES002-Meittinis	10/22/04	10/25/04	RES001	TBA		10/25/04	PH PH
0026001	Memorandum in response	12/01/04	12/03/04	PET011	TBA		03/31/05	PH PH
0027000	Reply Memorandum in support of appeal Filed by RES001-Meittinis, RES002-Meittinis	12/20/04	12/22/04	RES001	TBA		12/22/04	PH PH
0028000	Opinion and Order affirming decision in part, denying in part and denying the request for special exception for a "Riding Stable"	03/31/05	03/31/05	000	CMK	Ruled	03/30/05	PH PH
0029000	Docket entries sent to Board of Appeals for Baltimore County	04/07/05	04/07/05	000	TBA			CVM CVM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	08/02/04	0	no	no	DANS	D	002	001
1ANS	1st Answer Tickle	CLOSED	08/04/04	0	no	no	DANS	D	006	001
1YRT	One Year Tickle (Jud	CLOSED	07/13/05	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	05/30/05	30	no	no			000	000
SLMR	Set List For Motions	CANCEL	12/25/04	22	no	no	MDPP	D	006	003
SLTR	Set List For Trial	Done	08/02/04	0	yes	yes	1ANS	T	002	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ITP 001 County Board Of Appeals Of Ba								
000		B	BOX 419/CBA TRANSC		B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 09/13/04 Order Date : 09/13/04
Start Date : 09/13/04 Remove Date:

Milestone	Scheduled Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		09/28/04 03/31/05	CLOSED
All Motions (excluding Motions in Limine		10/10/04 03/31/05	CLOSED
TRIAL DATE is	03/04/05	12/12/04 03/04/05	REACHED

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

RECEIVED
SEP 15 2004
BALTIMORE COUNTY
BOARD OF APPEALS

County Board Of Appeals Of Baltimore County
400 Washington Avenue
Room 47 Old Courthouse
Baltimore MD 21204

Assignment Date: 09/13/04

Case Title: In The Matter Of: Application Of Stephanie Merrinis Et Al The
Case No: 03-C-04-007316 AE

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Joy M Keller at (410) 887-3233.
You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 09/28/04
2. All Motions (excluding Motions in Limine) are due by..... 10/10/04
3. TRIAL DATE is..... 11/19/04
   Civil Non-Jury Trial; Start Time: 09:30AM; To Be Assigned: 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

cc: Joseph Evans

cc: George Harold
cc: Carolyn Harold
cc: Rustin E Price
cc: Deborah A Price
cc: Sherry Kees Rudolph
cc: Barbara Kees
cc: Cheryl H Schweizer
cc: Vernon W Wirtz Jr
cc: Susan E Twigg Wirtz
cc: John B Gontrum Esq
cc: Peter M Zimmerman Esq
cc: Carole S Demilio Esq
Issue Date 09/13/04

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-04-007316

RECEIVED
AUG 20 2004
BALTIMORE COUNTY
BOARD OF APPEALS

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
400 Washington Avenue
Room 47 Old Courthouse
Baltimore, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F R E C O R D

Case Number: 03-C-04-007316 AE
Administrative Agency : 01 530 X
C I V I L

In The Matter Of: Application Of Stephanie S Meittinis Et Al The

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 11th day of August, 2004.

Suzanne Mensh
Clerk of the Circuit Court, per

Date issued: 08/18/04

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
400 Washington Avenue
Room 47 Old Courthouse
Baltimore, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-04-007316

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
400 Washington Avenue
Room 47 Old Courthouse
Baltimore, MD 21204

PETITION OF:

JOSEPH EVANS, ET AL

CIVIL ACTION NO.: 3-C-04-7316

MATTER OF: STEPHANIE AND NICHOLAS MEITTINIS

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS AND THE BOARD'S RECORD EXTRACT AND TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS.

CLERK'S OFFICE

DATE: August 11, 2004

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
JOSEPH EVANS, ET AL *
2224 Tracey's Road
Sparks, MD 21152 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-04-7316**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
STEPHANIE S. AND NICHOLAS MEITTINIS *
Legal Owners
2311 Tracey's Road *
Sparks, MD 21152

5th ELECTION DISTRICT *
3rd COUNCILMANIC DISTRICT

*

CBA CASE NO.: 01-530-X
* * * * * * * * * * * *

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

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

RECEIVED AND FILED
2004 AUG 11 P 1:52
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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

01-530-X

June 18, 2001	Petition for Special Exception filed by John B. Gontrum, Esquire, on behalf of Nicholas and Stephanie Meittinis, to allow a riding stable and equine veterinarian.
July 30	Notice of Zoning Hearing
August 7	Entry of Appearance filed by People's Counsel for Baltimore County
August 23	Publication in newspaper
September 6	Certificate of Posting
September 14	ZAC Summary of Comments
September 20	Hearing Held before the Zoning Commissioner
March 22, 2002	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. Petition for Special Exception request to approve an equine veterinarian is GRANTED, with restrictions; and FURTHER ORDERED, that the Petition for Special Exception request to approve a riding stable be DENIED.
April 19	Notice of Appeal filed by John B. Gontrum, Esquire, on behalf of Nicholas and Stephanie Meittinis, denying the special exception for a riding stable.
March 25, 2003	Hearing by Board of Appeals /Day #1
March 26	Hearing by Board of Appeals /Day #2
April 8	Hearing by Board of Appeals /Day #3
April 16	Hearing by Board of Appeals /Day #4
April 25	Hearing by Board of Appeals /Day #5
February 11, 2004	Hearing by Board of Appeals /Day #6
February 12	Hearing by Board of Appeals /Day #7/Hearing concluded

People's Counsel Exhibits

1	Aerial Photograph
2	Sign In Sheet dated 3/25/03 – 1 page
3	Zoning Commissioner's Order dated June 10, 2002 re: Green, et ux – Case No.: 02-356-X
4	Zoning Commissioner's Order dated August 13, 2001 re: Renaissance Farm, LLC – Case No.: 01-499-X
5	Zoning Commissioner's Order dated February 8, 2002 re: Herzog – Case No.: 02-221-XA
6	Sign In Sheet dated 3/26/03 – 1 page
7	Sign In Sheet dated 4/8/03 – 1 page
8A	Finding of Fact and Conclusion of Law Final Order of the Code Enforcement Hearing Officer dated February 14, 2001 re: Meittinis – Civil Citation No.: 00-7156
8B	Amended Final Order of the Code Enforcement Hearing Officer dated March 13, 2001 re: Meittinis – Civil Citation No.: 00-7156
8C	Opinion Issued By The Board Of Appeals dated May 22, 2001 re: Meittinis – Civil Citation No.: 00-7156
8D	Opinion of the Code Enforcement Hearing Officer dated 5/25/01 re: Meittinis – Civil Citation No.: 00-7156
8E	Opinion Issued By The Board Of Appeals dated July 25, 2001 re: Meittinis – Civil Citation No.: 00-7156
9	Baltimore County Council Bill No.: 51-93
10	Sign In Sheet dated 4/16/03 – 1 page
11	Inter-Office Correspondence dated 9-9-01 from Wallace S. Lippincott, Jr., to Development Coordination re: Comments on Meittinis Sph, 23 11 Tracey Road

12	Sign In Sheet dated 4/29/03 – 1 page

Petitioner's/ Appellant's Exhibits

1	Aerial Photograph of Meittinis Property
2	2000 Comprehensive Zoning Map
3A	New Site Plan
3B	Site Plan before Zoning Commissioner
4A – 4G	Photographs
5	C.V. - Wes Guckert
6	Eight pages of color photographs (16 pictures) of Traceys Road
7	Traffic Study for Meittinis Horse Farm and Stables dated March 24, 2003
8	Five pages of photographs (5 pictures) of Green Road
9	One page True Test Copy from Permits and Licenses dated 3/20/03 with various facility names and addresses
10	Maryland Department of Assessments and Taxation – Baltimore County – for 2311 Traceys Road – one page
11A – 11H	Photographs consisting of barn and residence
12	Affidavit of Jack Dillon, The Valleys Planning Council, dated 4/9/03 – 3 pages
13	Maryland Equine Bulletin dated December 06, 2002
14	Webster's Third New International Dictionary - page 177 – barn – page unknown – stable –consisting of 5 pages
15	Webster's Third New International Dictionary - page unknown – include – 4 pages
16	Equine Industry letter – 1 page

17	Highmeadow subdivision – 1 page
18	Letter dated February 8, 2004 from Baltimore County Farm Bureau, Inc. to Sir/Madame re: Meittinis support

Protestant's Exhibits

1	Transcript testimony of Wes Guckert before the Deputy Zoning Commissioner consisting of 3 pages
2	Letter dated September 19, 2001 from Baltimore County Farm Bureau, Inc. To whom it may concern re: support of horse industry
3	Board of Appeals case file Case No.: 01-530-X
4	Letter dated January 31, 2002 from The Valleys Planning Council, Inc. to Mr. Lawrence E. Schmidt, Zoning Commissioner re: Herzog Case No.: 02-221-XA
5	BCZR General Provisions §101 – page 1-5; §100 – page 1-4; page numbered 1-26A; and §101 – no page number – General Provisions (consisting of 4 pages)
6	Photograph dated 10/22/01 marked 'Wheeler Lane'
7	One page list of Non-RC-2 Properties
8A – 8C	Photographs
9A- 9C	Photographs
10	Three pages of RC-2 Zoned Properties and 12 pages of photographs consisting of 27 pictures of various locations
11	Hand Delivered letter dated June 14, 1999 from Joseph Evans and Nedda Evans to Mr. and Mrs. Nicholas Metinas re: commercial use of property
12A – 12D	Photographs
13A – 13F	Photographs

14	Photograph
15	Photograph
16	Photograph
17	Photograph
18	Photograph
19A	Activity Log – beginning date February 6, 2001 consisting of 6 pages
19B	Activity Log – beginning date July 31, 2000 consisting of 12 pages
20	Photograph
21	Photograph
22	Signature Sheet dated 2/10/04
23	Letter signed by Vernon W. Wirtz, Jr. and Susan E. Twigg-Wirtz; undated; no addressee re: Meittinis concerns
24	Letter signed by Barbara M. Kees and Sherry Kees Rudolph; undated; no addressee re: Meittinis concerns
25	Affidavit of Wendy McIver – (Rule 8 papers) Greater Sparks Glencoe Community Council, dated April 9, 2003, consisting of 4 pages
26	Photograph
27	Photograph
28	Sign In Log dated 2/12/04

Bd of Appeals Exhibits

1	Two Red Books – marked 2001 Standard Diary (1 of 2) and 2002 Standard Diary (2 of 2)

March 22, 2004	People's Counsel For Baltimore County's Memorandum filed by Mr. Zimmerman; Petitioner's Memorandum filed by John Gontrum, Esquire; and Protestant's Memorandum in Opposition to Petition for Special Exception filed by Joseph Evans.
April 20	Board convened for Public Deliberation
June 18	Opinion and Order issued by the Board of Appeals GRANTING Petition for Special Exception for the operation of a veterinarium and DENIED the special exception request for a riding stable, but rendered MOOT by the determination of the existence of a farm and related commercial agricultural activities on site.
July 13	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Protestants as follows: Joseph Evans, 2224 Tracey's Road, Sparks, MD 21152; George Harold, 2206 Tracey's Road, Sparks, MD 21152; Carolyn Harold, 2224 Tracey's Road, Sparks, MD 21152; Rustin Price, 2315 Tracey's Road, Sparks, MD 21152; Deborah A. Price, 2315 Tracey's Road, Sparks, MD 21152; Sherry Kees Rudolph, 2324 Tracey's Road, Sparks, MD 21152; Barbara Kees, 2323 Tracey's Road, Sparks, MD 21152; Cheryl H. Schweizer, 2212 Tracey's Road, Sparks, MD 21152; Vernon W. Wirtz, Jr., 2100 Tracey's Road, Sparks, MD 21152; and Susan E. Twigg-Wirtz, 2100 Tracey's Road, Sparks, MD 21152; **Civil Action No.: 3-C-04-7316**
July 14	Petition for Judicial Review filed by the Office of People's Counsel. Civil Action No.: 3-C-04-7316
July 26	Certificate of Notice sent to interested parties.
July 27	Cross-Petition for Judicial Review filed by John B. Gontrum, Esquire, Attorney for Nicholas and Stephanie Meittinis Civil Action No.: 3-C-04-7316
August 2	Second Certificate of Notice sent to interested parties.
August 2	Certificate of Notice of Cross-Petition for Judicial Review sent to interested parties.

August 10	Transcript of Proceedings filed.
August 11	Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Respectfully submitted,

Theresa R. Shelton

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

c: Peter Max Zimmerman
People's Counsel For Baltimore County
John B. Gontrum, Esquire
Joseph Evans
George Harold
Carolyn Harold
Rustin E. Price
Deborah A. Price
Sherry Kees Rudolph
Barbara Kees
Cheryl H. Schweizer
Vernon W. Wirtz, Jr.
Susan E. Twigg-Wirtz

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
PEOPLE'S COUNSEL FOR *
BALTIMORE COUNTY
Old Courthouse, Room 47 *
400 Washington Avenue
Towson, MD 21204 *

Sparks, MD 21152 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-04-7316**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204
*
IN THE MATTER OF
STEPHANIE S. AND NICHOLAS MEITTINIS *
Legal Owners
2311 Tracey's Road *
Sparks, MD 21152

5th ELECTION DISTRICT *
3rd COUNCILMANIC DISTRICT
*
CBA CASE NO.: 01-530-X
* * * * * * * * * * * *

RECEIVED AND FILED
2004 JUL 33 A 8:43
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

SECOND CERTIFICATE OF NOTICE

Madam Clerk:

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

Joseph Evans
2224 Tracey's Road, Sparks, MD 21152

George Harold
2206 Tracey's Road, Sparks, MD 21152

Carolyn Harold
2224 Tracey's Road, Sparks, MD 21152

Rustin Price
2315 Tracey's Road, Sparks, MD 21152

Deborah A. Price
2315 Tracey's Road, Sparks, MD 21152

Sherry Kees Rudolph
2324 Tracey's Road, Sparks, MD 21152

Barbara Kees
2323 Tracey's Road, Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road, Sparks, MD 21152

Vernon W. Wirtz, Jr.
2100 Tracey's Road, Sparks, MD 21152

Susan E. Twigg-Wirtz
2100 Tracey's Road, Sparks, MD 21152

John B. Gontrum, Esquire
Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515

Mr. and Mrs. Meittinis
2311 Tracey's Road, Sparks, MD 21152

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

Carole S. Demilio
Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

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

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

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Joseph Evans, 2224 Tracey's Road, Sparks, MD 21152; George Harold, 2206 Tracey's Road, Sparks, MD 21152; Carolyn Harold, 2224 Tracey's Road, Sparks, MD 21152; Rustin Price, 2315 Tracey's Road, Sparks, MD 21152; Deborah A. Price, 2315 Tracey's Road, Sparks, MD 21152; Sherry Kees Rudolph, 2324 Tracey's Road, Sparks, MD 21152; Barbara Kees, 2323 Tracey's Road, Sparks, MD 21152; Cheryl H. Schweizer, 2212 Tracey's Road, Sparks, MD 21152; Vernon W. Wirtz, Jr., 2100 Tracey's Road, Sparks, MD 21152; Susan E. Twigg-Wirtz, 2100 Tracey's Road, Sparks, MD 21152; John B. Gontrum, Esquire, Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515; Mr. and Mrs. Meittinis, 2311 Tracey's Road, Sparks, MD 21152; Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; and Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 2nd day of August, 2004.

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

County Board of Appeals of Baltimore County

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

August 3, 2004

John B. Gontrum, Esquire
Suite 400
210 W. Pennsylvania Avenue
Towson, MD 21204

Office of People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

RE: **Circuit Court Civil Action No. 3-C-04-7314**
Petition for Judicial Review by People's Counsel and Cross- Petition for Judicial Review
Stephanie S. and Nicholas Meittinis
2311 Tracey's Road
Board of Appeals Case No.: 03-049-A

Dear Messrs. Gontrum

Notice is hereby given, in accordance with the Maryland Rules, that a Second Petition for Judicial Review was filed on July 14, 2004, by Office of People's Counsel and notice is also given that a Cross- Petition for Judicial Review was filed on July 27, 2004, by John B. Gontrum, Esquire, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 3-C-04-7314.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Legal Secretary

/trs
Enclosure
c: Joseph Evans
George Harold
Carolyn Harold
Rustin E. Price
Deborah A. Price
Deborah A. Price
Sherry Kees Rudolph
Barbara Kees
Cheryl H. Schweizer
Vernon W. Wirtz, Jr.
Susan E. Twigg-Wirtz

Printed with Soybean Ink on Recycled Paper

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
NICHOLAS AND STEPHANIE MEITTINIS *
2311 Tracey's Road
Sparks, MD 21152 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-04-7316**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
STEPHANIE S. AND NICHOLAS MEITTINIS *
Legal Owners
2311 Tracey's Road *
Sparks, MD 21152

5th ELECTION DISTRICT *
3rd COUNCILMANIC DISTRICT

*

CBA CASE NO.: 01-530-X

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

CERTIFICATE OF NOTICE OF CROSS-PETITION FOR JUDICIAL REVIEW

Madam Clerk:

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

Joseph Evans
2224 Tracey's Road, Sparks, MD 21152

George Harold
2206 Tracey's Road, Sparks, MD 21152

Carolyn Harold
2224 Tracey's Road, Sparks, MD 21152

RECEIVED AND FILED
2004 JUN 22 A 8:43
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Rustin Price
2315 Tracey's Road, Sparks, MD 21152

Deborah A. Price
2315 Tracey's Road, Sparks, MD 21152

Sherry Kees Rudolph
2324 Tracey's Road, Sparks, MD 21152

Barbara Kees
2323 Tracey's Road, Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road, Sparks, MD 21152

Vernon W. Wirtz, Jr.
2100 Tracey's Road, Sparks, MD 21152

Susan E. Twigg-Wirtz
2100 Tracey's Road, Sparks, MD 21152

John B. Gontrum, Esquire
Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515

Mr. and Mrs. Meittinis
2311 Tracey's Road, Sparks, MD 21152

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

Carole S. Demilio
Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

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

Theresa R. Shelton

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

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Joseph Evans, 2224 Tracey's Road, Sparks, MD 21152; George Harold, 2206 Tracey's Road, Sparks, MD 21152; Carolyn Harold, 2224 Tracey's Road, Sparks, MD 21152; Rustin Price, 2315 Tracey's Road, Sparks, MD 21152; Deborah A. Price, 2315 Tracey's Road, Sparks, MD 21152; Sherry Kees Rudolph, 2324 Tracey's Road, Sparks, MD 21152; Barbara Kees, 2323 Tracey's Road, Sparks, MD 21152; Cheryl H. Schweizer, 2212 Tracey's Road, Sparks, MD 21152; Vernon W. Wirtz, Jr., 2100 Tracey's Road, Sparks, MD 21152; Susan E. Twigg-Wirtz, 2100 Tracey's Road, Sparks, MD 21152; John B. Gontrum, Esquire, Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515; Mr. and Mrs. Meittinis, 2311 Tracey's Road, Sparks, MD 21152; Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; and Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 2nd day of August, 2004.

Theresa R. Shelton

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

County Board of Appeals of Baltimore County

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

August 3, 2004

John B. Gontrum, Esquire
Suite 400
210 W. Pennsylvania Avenue
Towson, MD 21204

Office of People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-04-7314
Petition for Judicial Review by People's Counsel and Cross- Petition for Judicial Review
Stephanie S. and Nicholas Meittinis
2311 Tracey's Road
Board of Appeals Case No.: 03-049-A

Dear Messrs. Gontrum

Notice is hereby given, in accordance with the Maryland Rules, that a Second Petition for Judicial Review was filed on July 14, 2004, by Office of People's Counsel and notice is also given that a Cross- Petition for Judicial Review was filed on July 27, 2004, by John B. Gontrum, Esquire, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 3-C-04-7314.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Legal Secretary

/trs
Enclosure
c: Joseph Evans
George Harold
Carolyn Harold
Rustin E. Price
Deborah A. Price
Deborah A. Price
Sherry Kees Rudolph
Barbara Kees
Cheryl H. Schweizer
Vernon W. Wirtz, Jr.
Susan E. Twigg-Wirtz

Printed with Soybean Ink on Recycled Paper

PETITION FOR JUDICIAL REVIEW Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD, 21204	*	IN THE
	*	CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204	*	BALTIMORE COUNTY
	*	
	*	
	*	Case No.: 03-C-04-7316
IN THE MATTER OF THE APPLICATION OF **STEPHANIE & NICHOLAS MEITTINIS**	*	
FOR A SPECIAL EXCEPTION for property Located on the SE/S Tracey's Road, 1,500 SE	*	
c/line of Yeoho Road (2311 Tracey's Road) 5th Election District, 3rd Councilmanic District	*	
Case No.: 01-530-X Before the County Board Of Appeals of Baltimore County	*	

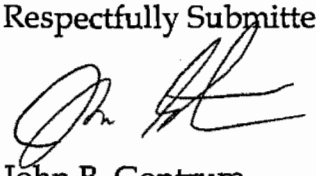
* * * * * * * * * * * * *

CROSS-PETITION FOR JUDICIAL REVIEW

Now Come Nicolas and Stephanie Meittinis, his wife, and hereby cross-petition for judicial review the decision of the County Board of Appeals for Baltimore County in Case No.: 01-530-X and its denial of the requested special exception dated June 18, 2004.

This Petition is filed pursuant to Rule 7-203(b) of the Maryland Rules of Procedure.

Respectfully Submitted,



John B. Gontrum
Attorney for
Nichols and Stephanie Meittinis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 2004, a copy of the foregoing Cross Petition for Judicial Review was mailed, first class, postage pre-paid to:

Dr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Mr. Joseph L. Evans, Esq.
2224 Tracey's Road
Sparks, Maryland 21152

Peter M. Zimmerman, Esquire
People's Counsel
Room 47
400 Washington Avenue
Towson, Maryland 21204

Mr. George Harold
Mrs. Carolyn Harold
2206 Tracey's Road
Sparks, Maryland 21152

Mr. Rustin E. Price
Mrs. Deborah A. Price
2315 Tracey's Road
Sparks, Maryland 21152

Ms. Sherry Kees Rudolph
2324 Tracey's Road
Sparks, Maryland 21152

Ms. Barbara Kees
2323 Tracey's Road
Sparks, Maryland 21152

Ms. Cheryl H. Schweizer
2212 Tracey's Road
Sparks, Maryland 21152

Mr. Vernon W. Wirtz, Jr.
Mrs. Susan E. Twigg-Wirtz
2100 Tracey's Road
Sparks, Maryland 21152

John B. Gontrum, Esquire

311545

PETITION FOR JUDICIAL REVIEW Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD, 21204	*	IN THE
	*	CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204	*	BALTIMORE COUNTY
	*	
	*	
	*	Case No.: 03-C-04-7316
IN THE MATTER OF THE APPLICATION OF **STEPHANIE & NICHOLAS MEITTINIS** * FOR A SPECIAL EXCEPTION for property Located on the SE/S Tracey's Road, 1,500 SE * c/line of Yeoho Road (2311 Tracey's Road) 5th Election District, 3rd Councilmanic District *		
Case No.: 01-530-X Before the County Board * Of Appeals of Baltimore County		

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

PETITIONERS' RESPONSE TO
PETITION FOR JUDICIAL REVIEW

Now Come Nicolas and Stephanie Meittinis, his wife, and in response to the Petition for Judicial Review state that they wish to participate as a party in the action for judicial review.

This response is filed pursuant to Rule 7-204 of the Maryland Rules.

Respectfully Submitted,

John B. Gontrum
Attorney for
Nichols and Stephanie Meittinis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 2004, a copy of the foregoing Response to Petition for Judicial Review was mailed, first class, postage pre-paid to:

Dr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Mr. Joseph L. Evans, Esq.
2224 Tracey's Road
Sparks, Maryland 21152

Peter M. Zimmerman, Esquire
People's Counsel
Room 47
400 Washington Avenue
Towson, Maryland 21204

Mr. George Harold
Mrs. Carolyn Harold
2206 Tracey's Road
Sparks, Maryland 21152

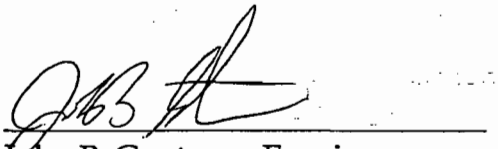
Mr. Rustin E. Price
Mrs. Deborah A. Price
2315 Tracey's Road
Sparks, Maryland 21152

Ms. Sherry Kees Rudolph
2324 Tracey's Road
Sparks, Maryland 21152

Ms. Barbara Kees
2323 Tracey's Road
Sparks, Maryland 21152

Ms. Cheryl H. Schweizer
2212 Tracey's Road
Sparks, Maryland 21152

Mr. Vernon W. Wirtz, Jr.
Mrs. Susan E. Twigg-Wirtz
2100 Tracey's Road
Sparks, Maryland 21152



John B. Gontrum, Esquire

311543

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

JOHN B. GONTRUM
DIRECT NUMBER
410-832-2055
JGontrum@wtplaw.com

July 27, 2004

Clerk/Civil Division
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Judicial Review of the Decision of the County Board of Appeals in the matter of Nicholas and Stephanie Meittinis
Case No.: 03-C-04-7316
Our File No.: 078747/00001

Dear Sir or Madam:

Enclosed for filing please find the Petitioners' Response to Petition for Judicial Review and Cross-Petition for Judicial Review in the above referenced matter.

Thank you for your attention to this matter.

Most sincerely,

John B. Gontrum

JBG/kml
Enclosure
cc: Dr. and Mrs. Nicholas Meittinis
301803v4

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
JOSEPH EVANS, ET AL *
2224 Tracey's Road
Sparks, MD 21152 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-04-7316**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
STEPHANIE S. AND NICHOLAS MEITTINIS *
Legal Owners
2311 Tracey's Road *
Sparks, MD 21152

5th ELECTION DISTRICT *
3rd COUNCILMANIC DISTRICT

*

CBA CASE NO.: 01-530-X

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

CERTIFICATE OF NOTICE

Madam Clerk:

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

Joseph Evans
2224 Tracey's Road, Sparks, MD 21152

George Harold
2206 Tracey's Road, Sparks, MD 21152

Carolyn Harold
2224 Tracey's Road, Sparks, MD 21152

RECEIVED AND FILED
2004 JUL 26 I A 10: 22
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Rustin Price
2315 Tracey's Road, Sparks, MD 21152

Deborah A. Price
2315 Tracey's Road, Sparks, MD 21152

Sherry Kees Rudolph
2324 Tracey's Road, Sparks, MD 21152

Barbara Kees
2323 Tracey's Road, Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road, Sparks, MD 21152

Vernon W. Wirtz, Jr.
2100 Tracey's Road, Sparks, MD 21152

Susan E. Twigg-Wirtz
2100 Tracey's Road, Sparks, MD 21152

John B. Gontrum, Esquire
Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515

Mr. and Mrs. Meittinis
2311 Tracey's Road, Sparks, MD 21152

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

Carole S. Demilio
Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

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

Theresa R. Shelton

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

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Joseph Evans, 2224 Tracey's Road, Sparks, MD 21152; George Harold, 2206 Tracey's Road, Sparks, MD 21152; Carolyn Harold, 2224 Tracey's Road, Sparks, MD 21152; Rustin Price, 2315 Tracey's Road, Sparks, MD 21152; Deborah A. Price, 2315 Tracey's Road, Sparks, MD 21152; Sherry Kees Rudolph, 2324 Tracey's Road, Sparks, MD 21152; Barbara Kees, 2323 Tracey's Road, Sparks, MD 21152; Cheryl H. Schweizer, 2212 Tracey's Road, Sparks, MD 21152; Vernon W. Wirtz, Jr., 2100 Tracey's Road, Sparks, MD 21152; Susan E. Twigg-Wirtz, 2100 Tracey's Road, Sparks, MD 21152; John B. Gontrum, Esquire, Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515; Mr. and Mrs. Meittinis, 2311 Tracey's Road, Sparks, MD 21152; Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; and Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 26th day of July, 2004.

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

County Board of Appeals of Baltimore County

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

July 23, 2004

Joseph Evans, et al
2224 Tracey's Road
Sparks, MD 21152

RE: Circuit Court Civil Action No. 3-C-04-7314
Petition for Judicial Review
Stephanie S. and Nicholas Meittinis
2311 Tracey's Road
Board of Appeals Case No.: 03-049-A

Dear Mr. Evans:

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

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with the Maryland Rules.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Legal Secretary

/trs
Enclosure
c: John B. Gontrum, Esquire
Peter Max Zimmerman / People's Counsel for Baltimore County

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

July 23, 2004

John B. Gontrum, Esquire
Suite 400
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-04-7314
Petition for Judicial Review
Stephanie S. and Nicholas Meittinis
2311 Tracey's Road
Board of Appeals Case No.: 03-049-A

Dear Mr. Gontrum:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on July 13, 2004, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 3-C-04-7314.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Legal Secretary

/trs
Enclosure
c: Joseph Evans
George Harold
Carolyn Harold
Rustin E. Price
Deborah A. Price
Deborah A. Price
Sherry Kees Rudolph
Barbara Kees
Cheryl H. Schweizer
Vernon W. Wirtz, Jr.
Susan E. Twigg-Wirtz
Office of People's Counsel

Printed with Soybean Ink
on Recycled Paper

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

July 14, 2004

Chief Clerk, Civil Division
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Hand-delivered

Re: Petition for Judicial Review of the Decision
of the County Board of Appeals
In the Matter of Stephanie S. & Nicholas Meittinis
Case Number: 03-C-04-7316

Dear Sir or Madam:

Enclosed please find a Petition for Judicial Review to be filed with regard to this case. If you have any questions or concerns, please contact my office.

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: John B. Gontrum, Esquire
Joseph Evans, Esquire
Kathleen C. Bianco, Administrator

RECEIVED
JUL 14 2004
BALTIMORE COUNTY
BOARD OF APPEALS

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	FOR
IN THE MATTER OF THE APPLICATION OF **STEPHANIE & NICHOLAS MEITTINIS** FOR A SPECIAL EXCEPTION for property located on the SE/S Tracey's Road, 1,500' SE c/line of Yeoho Road (2311 Traceys Road) 5th Election District, 3rd Councilmanic District	*	BALTIMORE COUNTY
	*	Civil No. 03-C-04-7316
Case No. 01-530-X before the County Board of Appeals of Baltimore County	*	

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

PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY hereby requests judicial review of Opinion and Order of the County Board of Appeals dated June 18, 2004. People's Counsel for Baltimore County was a party to the proceeding before the County Board of Appeals of Baltimore County in this matter.

This Petition is filed pursuant to Rule 7-202 of the Maryland Rules of Procedure.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th of July, 2004, a copy of the foregoing Petition for Judicial Review was mailed to John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP, 210 W Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioners and to Joseph Evans, 2224 Traceys Road, Sparks, MD 21152.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

PETITION OF PROTESTANTS FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	**IN THE**
	*	**CIRCUIT COURT**
Room 47 Old Courthouse, 400 Washington Avenue Towson, MD 21204	*	**FOR**
	*	**BALTIMORE COUNTY**
IN THE MATTER OF THE APPLICATION OF STEPHANIE S. & NICHOLAS MEITTINIS FOR A SPECIAL EXCEPTION for the property Located on the SE/S of Tracey's Road, 1500' SE c/line of Yeoho Road, 5th Election District, 3rd Councilmanic District	*	Civil No. 04-7316
Case No. 01-530-X before the County Board Of Appeals of Baltimore County	*	

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

PETITION FOR JUDICIAL REVIEW

PROTESTANTS hereby request judicial review of the decision of the County Board of Appeals dated June 18, 2004, in the above case. Protestants were parties to the proceeding before the County Board of Appeals in Baltimore County in this matter.

This Petition is filed pursuant to Rule 7-202 of the Maryland Rules of Procedure.

Joseph Evans
2224 Tracey's Road
Sparks, MD 21152
Telephone: 410-771-4754

George Harold
2206 Tracey's Road
Sparks, MD 21152

Carolyn Harold
2206 Tracey's Road
Sparks, MD 21152

RECEIVED
JUL 16 2004
BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED AND FILED
2004 JUL 13 A 10:36
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Rustin E. Price
2315 Tracey's Road
Sparks, MD 21152

Deborah A. Price
2315 Tracey's Road
Sparks, MD 21152

Sherry Kees Rudolph
2324 Tracey's Road
Sparks, MD 21152

Barbara Kees
2323 Traceys Road
Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road
Sparks, MD 21152

Vernon W. Wirtz, Jr.
2100 Tracey's Road
Sparks, MD 21152

Susan E. Twigg-Wirtz
2100 Tracey's Road
Sparks, MD 21152

PROTESTANTS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of July, 2004, a copy of the foregoing Petition for Judicial Review was mailed, first-class postage prepaid, to John B. Gontrum, Esquire,

Suite 400, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515, Attorney for Stephanie S. and Nicholas Meittinis.

Joseph L. Evans
Protestant

RE: PETITION FOR SPECI

EXCEPTION FOR RIDING

STABLE AT 2311 TRACEYS ROAD

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

DEBORAH KENDELL
Supervisor, Misc. Permits & Licenses
Room 101 - County Office Bldg.
111 W. Chesapeake Ave., Towson, MD 21204

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on February 11 and 12, 2004 **at** 10:00 **a.m.** ~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):** List of all licensed riding stables in Baltimore County.

All license applications, notes, comments, reports, memoranda or any other written material for Dunroman Stables, 1102 Hart Road, Towson, MD and Paradise Farm, 2415 Old Bosley Road, Timonium, MD.

This document request is for the purpose of clarifying Petitioner's Exhibit 9.

RECEIVED
JAN 21 2004
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2224 Tracey's Road, Sparks, MD 21152
(Address /Telephone #)

Ph: 410-771-4754

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

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

RE: PETITION FOR SPECI

EXCEPTION FOR RIDING

STABLE AT 2311 TRACEYS ROAD

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) James Thompson ~~Raymond Wisnom, Jr.~~

~~111 W. Chesapeake Avenue~~
Towson, MD 21204

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on February 11 and 12, 2004 **at** 10:00 **a.m.** ~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):** All Code enforcement files for the property located at 2311 Tracey's Road, Sparks, MD 21152 (#00-7156, 00-7156-3).

This document request is for the purpose of establishing nature and scope of necessary enforcement activity.

RECEIVED
JAN 21 2004
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2224 Tracey's Road, Sparks, MD 21152
(Address /Telephone #)

Ph: 410-771-4754

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

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

RE: PETITION FOR SPECI

EXCEPTION FOR RIDING

STABLE AT 2311 TRACEYS ROAD

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) Stan Stull
1813 Jordon Sawmill Road
Parkton, MD 21120

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on February 11 and 12, 2004 **at** 10:00 **a.m.** ~~p.m.~~

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

RECEIVED
JAN 2 1 2004
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2224 Tracey's Road, Sparks, MD 21152
(Address /Telephone #)

Ph: 410-771-4754

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

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

RE: PETITION FOR SPECI

EXCEPTION FOR RIDING

STABLE AT 2311 TRACEYS ROAD

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) Wesley Guckert

9900 Franklin Square Drive - Ste. H
Baltimore, MD 21236

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on February 11 and 12, 2004 **at** 10:00 **a.m.** ~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):** The document entitled "Traffic Study" dated March 24, 2003, prepared by The Traffic Group for MEITTINIS HORSE FARM AND STABLES.

RECEIVED
JAN 21 2004
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2224 Tracey's Road, Sparks, MD 21152
(Address /Telephone #)

Ph: 410-771-4754

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

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S ROAD	*	CASE NO.: 01-530-X

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

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: JOSEPH EVANS, ESQUIRE
2224 Tracey's Road
Sparks, Maryland 21152

SERVE ON: JOSEPH EVANS, ESQUIRE
2224 Tracey's Road
Sparks, Maryland 21152

RECEIVED
JAN 20 2004
BALTIMORE COUNTY
BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(X) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, on **Wednesday, February 11, 2004 and Thursday, February 12, 2004 at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating your level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored date, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311

Tracey's Road during the time period beginning January 1, 1998 to the present.

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff; construction workers; service repairman; county/state employees; during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esquire
Whiteford, Taylor & Preston L.L.P.
Suite 400
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2055

The witness named above is hereby ORDERED to so appear before the Board of Appeals. The Board Requests (_____) the Sheriff (____) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esquire, 2224 Tracey's Road, Sparks, Maryland 21152 has consented to acceptance of service on behalf of himself.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

286462v2

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S ROAD	*	CASE NO.: 01-530-X

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

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: JOSEPH EVANS, ESQUIRE
2224 Tracey's Road
Sparks, Maryland 21152

SERVE ON: JOSEPH EVANS, ESQUIRE
2224 Tracey's Road
Sparks, Maryland 21152

RECEIVED
AUG 1 1 2003
BALTIMORE COUNTY
BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(X) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, on **Wednesday, August 20, 2003 and Thursday, September 18, 2003 at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating your level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored date, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311

Tracey's Road during the time period beginning January 1, 1998 to the present.

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff; construction workers; service repairman; county/state employees; during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esquire
Whiteford, Taylor & Preston L.L.P.
Suite 400
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2055

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (_____) the Sheriff (____) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esquire, 2224 Tracey's Road, Sparks, Maryland 21152 has consented to acceptance of service on behalf of himself.

Theresa R. Shelton

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

286462

RE: PETITION FOR SPECIAL EXCEPTION FOR RIDING STABLE AT 2311 TRACEYS ROAD

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) DEBORAH KENDELL
Supervisor, Misc. Permits & Licenses
Room 101 - County Office Bldg.
111 W. Chesapeake Ave., Towson, MD 21204

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on July 3 and/or August 20, 2003 **at** 10:00 **a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):** List of all licenses riding stables in Baltimore County. All license applications, notes, comments, reports, memoranda or any other written material for Dunroman Stables, 1102 Hart Road, Towson, MD and Paradise Farm, 2415 Old Bosley Road, Timonium, MD. This document request is for the purpose of clarifying Petitioner's Exhibit 9.

RECEIVED
JUN 06 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)
2224 Tracey's Rd., Sparks, MD 21152
(Address /Telephone #)
Ph: 410-771-4754

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

RECEIVED
JUN 05 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Kathleen R. Shelton
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION FOR RIDING STABLE AT 2311 TRACEYS ROAD

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) CARL RICHARDS
~~111 W. Chesapeake Avenue~~
Towson, MD 21204

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on July 3 and/or August 20, 2003 **at** 10:00 **a.m.** ~~p.m.~~.

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

RECEIVED
JUN 05 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)
2224 Tracey's Rd., Sparks, MD 21152
(Address /Telephone #)
Ph: 410-771-4754

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

Lawrence R. Shelton
County Board of Appeals of Baltimore County

RE: Petition for Special Exception for Riding Stable at 2311 Tracey's Road

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

CARL RICHARDS
111 W. Chesapeake Avenue
Towson, MD 21204

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on April 16 and/or April 29, 2003 **at** 10:00 **a.m./pxmx**

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

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2224 Tracey's Road, Sparks, MD 21152
(Address /Telephone #)

Ph: 410-771-4754

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

RECEIVED
APR 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Theresa R. Shelton
County Board of Appeals of
Baltimore County

RE: Petition for Special Exception for Riding Stable at 2311 Tracey's Road

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) DEBORAH KENDELL

Serve On by Consent: Supervisor, Misc. Permits and Licenses
Room 101 County Office Building
~~111 W. Chesapeake Avenue~~
Towson, MD 21204

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on
April 16 and/or April 29, 2003 **at** 10:00 **a.m./~~p.m.~~**

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

List of all licensed Riding Stables, applications for all licenses for Riding Stables, and any and all notes, comments, reports, memoranda or any other written material from Baltimore County Office of Zoning regarding said applications for licenses for Riding Stables. This document request is for the purpose of establishing nature and scope of licensing process.

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2224 Tracey's Road, Sparks, MD 21152
(Address /Telephone #)

Ph: 410-771-4754

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

RECEIVED
APR 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Theresa R. Shelton
County Board of Appeals of
Baltimore County

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S RD.	*	CASE NO.: 01-530-X

****

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Joseph Evans
2224 Tracey's Road
Sparks, MD 21152

RECEIVED
APR 0 2 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SERVE ON: Joseph Evans, Esq.
2224 Tracey's Road
Sparks, MD 21152

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(x) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on Tuesday, April 8, 2003 at 10:00 a.m., Wednesday, April 16, 2003 at 9:00 a.m., and Tuesday, April 29, 2003 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating the level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time

period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents, records, summaries, diaries, notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff, construction workers, service repairmen, county/state employees, during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esq.
Romadka & Gontrum, LLC
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (___) the Sheriff, (__) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esq., 2224 Tracey's Rd., Sparks, MD 21152 has consented to acceptance of service on behalf of the above-named witness.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S RD.	*	CASE NO.: 01-530-X

****

AMENDED SUBPOENA

(in order to state general purpose)

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Rustin Price
2315 Tracey's Road
Sparks, MD 21152

SERVE ON: Joseph Evans, Esq.
2224 Tracey's Road
Sparks, MD 21152

RECEIVED
MAR 2 1 2003
BALTIMORE COUNTY
BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(x) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on Tuesday, March 25, Wednesday, March 26, and Tuesday, April 8, 2003, at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating the level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time

period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents, records, summaries, diaries, notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff, construction workers, service repairmen, county/state employees, during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esq.
Romadka & Gontrum, LLC
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (___) the Sheriff, (__) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esq., 2224 Tracey's Rd., Sparks, MD 21152 has consented to acceptance of service on behalf of the above-named witness.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S RD.	*	CASE NO.: 01-530-X

****

AMENDED SUBPOENA

(in order to state general purpose)

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Debbie Price
2315 Tracey's Road
Sparks, MD 21152

SERVE ON: Joseph Evans, Esq.
2224 Tracey's Road
Sparks, MD 21152

RECEIVED
MAR 2 1 2003
BALTIMORE COUNTY
BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(x) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on Tuesday, March 25, Wednesday, March 26, and Tuesday, April 8, 2003, at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating the level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time

period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents, records, summaries, diaries, notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff, construction workers, service repairmen, county/state employees, during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esq.
Romadka & Gontrum, LLC
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (___) the Sheriff, (__) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esq., 2224 Tracey's Rd., Sparks, MD 21152 has consented to acceptance of service on behalf of the above-named witness.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S RD.	*	CASE NO.: 01-530-X

****

AMENDED SUBPOENA

(in order to state general purpose)

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Joseph Evans
2224 Tracey's Road
Sparks, MD 21152

SERVE ON: Joseph Evans, Esq.
2224 Tracey's Road
Sparks, MD 21152

RECEIVED
MAR 2 1 2003
BALTIMORE COUNTY
BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(x) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on Tuesday, March 25, Wednesday, March 26, and Tuesday, April 8, 2003, at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating the level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time

period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents, records, summaries, diaries, notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff, construction workers, service repairmen, county/state employees, during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esq.
Romadka & Gontrum, LLC
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (___) the Sheriff, (__) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esq., 2224 Tracey's Rd., Sparks, MD 21152 has consented to acceptance of service on behalf of the above-named witness.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S RD.	*	CASE NO.: 01-530-X

****

AMENDED SUBPOENA

(in order to state general purpose)

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Nedda Evans
2224 Tracey's Road
Sparks, MD 21152

SERVE ON: Joseph Evans, Esq.
2224 Tracey's Road
Sparks, MD 21152

RECEIVED
MAR 2 1 2003
BALTIMORE COUNTY
BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(x) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on Tuesday, March 25, Wednesday, March 26, and Tuesday, April 8, 2003, at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects for the purpose of indicating the level of usage of the property over time. This is intended to reflect the impact on the surrounding community. From this information the proposed impact of usage of the property on the agricultural community may be determined.

1. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time

period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents, records, summaries, diaries, notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff, construction workers, service repairmen, county/state employees, during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esq.
Romadka & Gontrum, LLC
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (___) the Sheriff, (__) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esq., 2224 Tracey's Rd., Sparks, MD 21152 has consented to acceptance of service on behalf of the above-named witness.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

RE: PETITION FOR SPECIAL EXCEPTION FOR RIDING STABLE AT 2311 TRACEYS ROAD

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) Joseph Evans, Esq.
2224 Traceys Road
Sparks, Md 21152
(Baltimore County)

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on March 25, March 26, and April 8, 2003 **at** 10:00 **a.m./~~p.m.~~**

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

RECEIVED
MAR 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Cheryl H. Schweizer
(Name of Party /Attorney)
Protestant
2212 Traceys Road, Sparks, MD 21152
(Address /Telephone #)
Ph: 410-771-8273

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

Lawrence R. Schelton

County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION FOR RIDING STABLE AT 2311 TRACEYS ROAD

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) CHERYL H. SCHWEIZER
2212 Traceys Road
Sparks, MD 21152
(Baltimore County)

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on March 25, March 26, and April 8, 2003 **at** 10:00 **a.m./p.m.**

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

RECEIVED
MAR 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)

2220 Traceys Road
(Address /Telephone #)

Sparks, Md 21152

Ph: 410-771-4754

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

Lawrence R. Schultz
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION FOR RIDING STABLE AT 2311 TRACEYS ROAD

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Stephanie Meittinis
2311 Traceys Road
Sparks, MD 21152
SERVE ON: John B. Gontrum, Esq.
814 Eastern Blvd.
Baltimore, Md 21221
Attorney for Appellants

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on March 25, March 26, and April 8, 2003 **at** 10:00 **a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):** All records and documents as listed in Attachment A attached hereto; for the purpose of generating accurate data regarding the issue of whether Petitioners/Appellants are engaged in commercial agriculture.

RECEIVED
MAR 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)
2224 Traceys Road
Sparks, MD 21152
(Address /Telephone #)
Ph: 410-771-4754

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

Theresa R. Shelton

County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION FOR RIDING STABLE AT 2311 TRACEYS ROAD

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 01-530-X

* * * * * * * * *

S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Nicholas Meittinis
2311 Traceys Road
~~Sparks, Md 21152~~
SERVE ON: John B. Gontrum, Esq.
814 Eastern Blvd.
~~Baltimore, MD 21221~~
Attorney for Appellants

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

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on March 25, March 26, and April 8, 2003 **at** 10:00 **a.m.** ~~p.m.~~.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):** All records and documents as listed in Attachment A attached hereto; for the purpose of generating accurate data regarding the issue of whether Petitioners/Appellants are engaged in commercial agriculture.

RECEIVED
MAR 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:

Joseph Evans, Esq.
(Name of Party /Attorney)
2224 Traceys Road
Sparks, MD 21152
(Address /Telephone #)
Ph: 410-771-4754

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

Lawrence R. Skelton

County Board of Appeals of Baltimore County

ATTACHMENT A

For the time period of January 1, 1998 to the present, all of the following documents and records whether maintained electronically or manually. If maintained electronically, please provide a printed copy of said documents.

1. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals receiving horseback riding lessons from Stephanie Meittinis;

2. Any and all records of payments – whether said payments are by case, check, or in kind services – made by or on behalf of individuals receiving horseback riding lessons from Stephanie Meittinis;

3. Any and all advertisements relating to horseback riding lessons offered by Stephanie Meittinis;

4. Any and all records of receipts and payments made in connection with horseback riding lessons provided by Stephanie Meittinis;

5. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals boarding horses at 2311 Tracey's Road, Sparks, MD 21152;

6. Any and all records of payments – whether said payments are by cash, check, or in kind services – made by or on behalf of individuals boarding horse(s) at 2311 Tracey's Road, Sparks, MD 21152;

7. Any and all copies of Federal income tax returns, including but not limited to the Schedule C form, and State income tax returns reflecting receipts and expenses associated with horseback riding lessons by Stephanie Meittinis;

8. Red book which is signed by all persons riding horses on the property at 2311 Traceys Road, which was referenced in the testimony of Stephanie Meittinis on September 20, 2001;

9. Any and all retained copies of Federal and State income tax returns reflecting receipts and expenses associated with horse boarding at 2311 Tracey's Road, Sparks, MD 21152;

10. Any and all retained copies of Federal and State income tax returns reflecting receipts and expenses associated with the breeding and training of horses at 2311 Tracey's Road, Sparks, MD 21152;

11. Any and all records of veterinary services provided at 2311 Tracey's Road, Sparks, MD 21152;

12. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals whose horses have received veterinary services at 2311 Tracey's Road, Sparks, MD 21152;

13. Any and all records of payments – whether said payments are by cash, check, or in kind services – made by or on behalf of individuals whose horses have received veterinary services at 2311 Tracey's Road, Sparks, MD 21152.

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL	*	COUNTY BOARD OF APPEALS
EXCEPTION FOR A RIDING	*	OF BALTIMORE COUNTY
STABLE AT 2311 TRACEY'S RD.	*	CASE NO.: 01-530-X

****

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Nedda Evans
2224 Tracey's Road
Sparks, MD 21152

SERVE ON: Joseph Evans, Esq.
2224 Tracey's Road
Sparks, MD 21152

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear;
( ) Produce documents and/or objects only;
(x) Personally appear and produce documents or objects;

at the Board of Appeals, in Room 48 (Basement), Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on Tuesday, March 25, Wednesday, March 26, and Tuesday, April 8, 2003, at 10:00 a.m.

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

1. Any and all written or electronically stored data, including but not limited to documents; records; summaries; diaries; notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, vehicle license tag numbers, of any and all visitors that you have monitored entering and/or leaving the Meittinis residence at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

2. Any and all photographs, pictures, videotapes, audiotapes, cds, taken by you of, including but not limited to, all individuals, vehicles, construction, de-construction, paving, building structures, surroundings, scenery, activities upon the Meittinis' property located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

3. Any and all photographs or videotaped recordings taken by you of any and all vehicles, tractors, trailers, construction vehicles, property maintenance vehicles entering and/or leaving the Meittinis residence located at 2311 Tracey's Road during the time period beginning January 1, 1998 to the present;

4. Any and all written or electronically stored data, including but not limited to documents, records, summaries, diaries, notes; journals; or logs containing the names, addresses, telephone numbers, time of day and dates, of conversations between you and any and all residents of or visitors to the Meittinis property, including but not limited to Mr. & Mrs. Meittinis; farm staff, construction workers, service repairmen, county/state employees, during the time period beginning January 1, 1998 to the present.

SUBPOENA REQUESTED BY:
John B. Gontrum, Esq.
Romadka & Gontrum, LLC
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274

The witness named above is hereby ORDERED to so appear before the Hearing Officer. The Board Requests (___) the Sheriff, (__) Private Process Server, to issue the summons set forth herein. Joseph Evans, Esq., 2224 Tracey's Rd., Sparks, MD 21152 has consented to acceptance of service on behalf of the above-named witness.

Lawrence R. Shilton
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

RECEIVED
MAR 17 2003
BALTIMORE COUNTY
BOARD OF APPEALS

December 18, 2003

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

Re: Nicholas and Stephanie Meittinis
Case # 01530-X

Dear Ms. Bianco:

Because my property adjoins the Meittinis property, I am significantly impacted by any decision made in this case. I would appreciate it if you would include my name on the list of protestants who receive notices regarding this matter.

Very truly yours,

B. M. Kees

Barbara M. Kees

RECEIVED
DEC 22 2003
BALTIMORE COUNTY
BOARD OF APPEALS

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White Pages

Site Search

Looking for the phone number of a friend or relative? Enter their information below to search our directory.

First Name: Barbara

Last Name: (required) Kees

City: Sparks

State: Maryland

Search Results

Barbara Kees (More Info)
Sparks Glencoe MD 21152
410-771-4567

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NOTE 12/24/03

Since there was no address shown on letter dated 12/18/03 from "Barbara M. Kees" (attached), T/C to Ms. Kees this date to obtain address.

Ms. Kees confirmed that her property does adjoin the Meittinis property. HOWEVER, she also indicated that she did not send the letter but would not object to her name and address being added to the file for notification.

Added this date.

March 17, 2003

Baltimore County Board Of Appeals
Room 49
Old Courthouse
Towson, Maryland 21204

Attn: Kathleen Bianco

Re: In the Matter of Nicholas and Stephanie Meittinis
Petition For Special Exceptions
Zoning Commissioner No. 01-530-X
Appeal Noted to the Board of Appeals

Dear Ms. Bianco:

I am one of the protestants in the above-referenced matter. In prior correspondence to the Board, I identified myself as one of the protestants though I have not been listed as a protestant in the notices issued by the Board. In any case and simply to avoid any confusion, I want the record to reflect that I intend to participate as a protestant in this matter just as I did in the original hearing before the Zoning Commissioner.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me at the United States Attorney's Office during normal business hours. My direct line is (410) 209-4884. You may also contact me at my home in the evenings at (410) 771-4754. In the meantime, thank you for your consideration.

Very truly yours,

Joseph L. Evans
2224 Tracey's Road
Sparks, Maryland 21152

cc: John B. Gontrum, Esquire

RECEIVED
MAR 17 2003
BALTIMORE COUNTY
BOARD OF APPEALS

2212 Traceys Road
Sparks, MD 21152

September 4, 2002

02 SEP -5 PM 2:05

County Board of Appeals
49 Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case No. 01530-X
Property Owner: Meittinis

Dear Sir/Madam:

I am a protestant in the above case, and I would request that I be notified of any proceedings and hearings scheduled in this case. Thank you.

Very truly yours,

Cheri Schweizer

Cheryl H. Schweizer

cs

TRANSCRIPT REQUEST

Filed: 7/13/2004

Received 7/16/2004

Case: *MEITTINIS*

01-530-X

Hearing date(s): Testimony Heard on:

3/25/03 CAROLYN PEATT
3/26/03
4/08/03
4/16/03
4/29/03
2/11/04
2/12/04

APPEALED BY: JOSEPH EVENS, ET AL
410-771-4754

AND

OFFICE OF PEOPLE'S COUNSEL

Due Date **SEPTEMBER 7, 2004**

THANK YOU

FILE COPY
BULLETIN BOARD COPY
CAROLYN'S TAKE HOME COPY

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

01-530-X

NAME	ADDRESS
Julie Hessler	34 Chesterfield Ct 21111
Stephanie Matthias	2311 Traceys Rd
Nicholas L Matthias	2311 Traceys Rd Sparks 21152
Ann Merryman	Cheeler L. Sparks
John Alecci	13210 Beaver Dam Rd.
Lisa deZarger	13047 Beaver Dam Rd Hunt Valley 21030
Barrie Lega Evga	30 Blondell Ct 210[illegible]
Tina Walters	5210 Buttermilk Rd. Pylesville, Md. 21132

Printed with Soybean Ink on Recycled Paper

01-530-X

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
JACK Dillon	PO Box 3402 Towson MD 21285
Thomas C Reynolds	427 Cockeys Mill Reisterstown
Stephanie Mettinis	2311 Traceys RD Sparks MD 21152
Cindy Ruocco	9 Pebble Lane 21023
Julie Hessler	34 Chesterfield Ct 21111
Tina Walters	5210 Buttermilk Rd. Pylesville, md, 21132

Printed with Soybean Ink on Recycled Paper

Case Number #01-530-X

PLEASE *PRINT* LEGIBLY

PETITIONER'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
[illegible]	[illegible]	[illegible]	21093
BARRIE EUGA	30 BLONDELL COURT	TIMONIUM MD	21093.
BRUCE E. DOAK, GERHOLD CROSS & ETZEL	320 E. TOWSONTOWN BLVD TOWSON, MD 21286		
STUART D. KAPLOW	15 EAST CHESAPEAKE AVE	TOWSON	21286
STEPHANIE MEITTINIS	2311 TRACEY'S RD	SPARKS MD	21152
Nicholas L. Meittinis DVM	2311 Tracey's Road	Sparks, MD	21152
Lisa deBargon	13047 Beaver Dam Rd Hunt Valley MD	Hunt Valley MD	21030
Kathy Hanna	2110 Corbett Rd	Monkton, MD	21111
Gail Goering	1300 Upper Glencoe Rd.	Sparks, Md.	21111
JILLIE HESSLER	34 Chesterfield Ct	MONKTON	21111
WES GUCKERT	9900 FRANKLIN SQ DR. SUITE #H	SPARKS	21152
JACK DILLON	207 Courtland Ave. P.O. Box 5402	TOWSON	21285
PAUL KNOTT	14396 YEOHO RD SPARKS MD 21152	SPARKS	21152

Revised 4/17/00

Case Number 01-530-X

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JOSEPH L. EVANS	2224 TRACEY'S RD	SPARKS MD	21152
[illegible] Evans	2224 Traceys Rd	Sparks Md	21152
George E Harold	2206 Traceys Rd	Sparks MD	21152
Barbara Reed	2323 Tracey Rd	Sparks MD	21152
CHERI SCHWEIZER	2212 TRACEYS RD	SPARKS MD	21152
Debbie Price	2315 Traceys Rd	Sparks Md	21152
ROSTINE. PRICE	2315 TRACEY RD	SPARKS, MD	21152
Sherry Rudolph	2324 Tracey Rd	Sparks, Md	21152
Susan E. Twigg-Wirtz	2100 Tracey Road	Sparks MD	21152
Vernon Wirtz Jr	2100 Tracey Rd	Sparks Md	21152
Anne Lochhaas	2220 Traceys Rd	Sparks Md.	21152
Herb Lochhaas	2220 TRACEYS RD	SPARKS MD	21152
Monica Bowden	2210 Tracey Rd	Sparks MD	21152
Timothy Bowden	2210 Tracey Rd	Sparks MD	21152

Revised 4/17/00

Case Number 01-530-X

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JOSEPH EVANS	2224 TRACEY'S RD	SPARKS, MD	21152
George E Harold	2206 Tracey's Rd	Sparks, MD	21152
RUSTIN E. PRICE	2315 TRACEY Rd.	SPARKS, MD	21152
Monica Bowden	2210 Tracey Rd	Sparks MD	21152
Debbie Price	2315 Tracey Rd	Sparks, Md	21152
Sherry Rudolph	2324 Tracey Rd	Sparks, Md	21152
Barbara Ikes	2323 Tracey Rd	Sparks, Md	21152
CHERYL H. SCHWEIZER	2212 TRACEYS RD	SPARKS MD	21152
Ulrike Mary Guarino	2224 Traceys RD	SPARKS MD	21152
HERB HOCHHALTER	2220 TRACEYS RD	SPARKS MD	21152
ANNE HOCHHALTER	2220 TRACEYS RD	SPARKS MD	21152
Carolyn F Harold	2206 Traceys Rd.	Sparks, MD	21152

Revised 4/17/00

01-530-X

Case Number 10/18/01

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
ROBT. N E. PARCE	2315 TRACEY Rd.	SPARKS MD	21152
Debbie Price	2315 Traceys Rd	Sparks, Md	21152
George E Harold	2206 Traceys Rd	Sparks, MD	21152
WILLIAM L. HOFFMAN	16301 YEOHO RD	SPARKS, MD	21152
ARLENE M. Hoffman	16301 YEOHO Rd.	SPARKS, MD	21152
THOMAS LANE	5908 PLUMER AVE	BALTO, MD	21206
JOE MILLER	8706 YVONNE AVE	Balto md	21234
JOSEPH EVANS	2224 TRACEY'S Rd	Sparks	21152
Linda P. Evans	2224 Traceys	Sparks MD	21152
Anthony Rudolph	2324 Traceys	Sparks,	21152
Barbara Rees	2323 Tracy Rd	Sparks	21152
Susan E. Twigg-Wirtz	2100 Tracey Road	Sparks	21152
Vernon N. Wirtz	2100 Tracey Rd	Sparks	21152
Anne Hochhalter	2220 Traceys Rd	Sparks	21152
Les Hochhalter	" " "	"	"
Timothy Bowden	2210 Tracy Rd	Sparks MD	21152
Monica Bowden	2210 Tracey Rd	Sparks MD	21152
CHERI SCHWEIZER	2212 TRACEYS RD	SPARKS MD	21152

Prot Ex 1

HAND DELIVERED

June 14, 1999

Mr. and Mrs. Nicholas Metinas
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Metinas:

It has come to our attention that you are planning to engage in commercial activity from your property at 2311 Tracey's Road. It is our understanding that such activity is not permitted under the present land use laws and regulations. We are writing to you now, before you develop your property for commercial use, to inform you that we oppose and will resist any effort to engage in such commercial activity or to modify the existing laws to permit that commercial activity. We are bringing these concerns to your attention at this point so that you will not incur needless expenses associated with developing your property for commercial activity.

Sincerely,

Joseph L. Evans

Nedda Pray Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

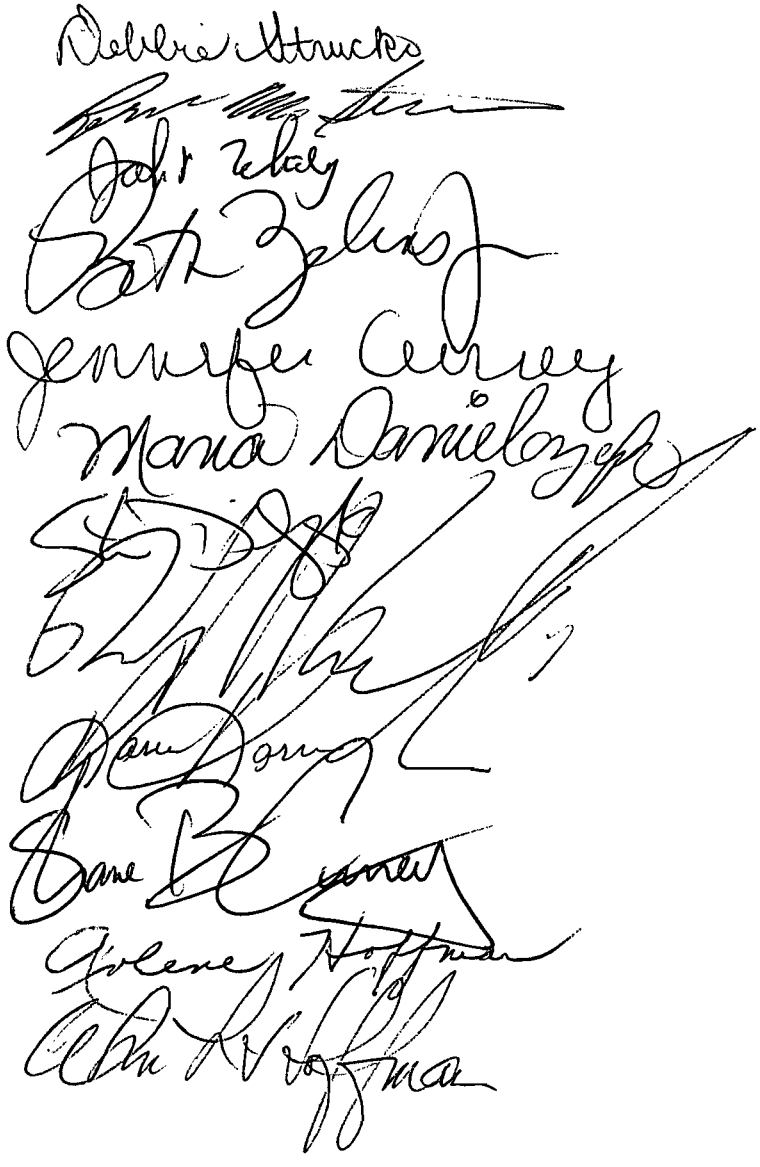
Prot Ex 2

October 15, 2001

Deputy Commissioner Timothy Kotroco
County Courts Building
Towson, Maryland 21204

Dear Deputy Commissioner Kotroco:

We, the undersigned residents of neighboring properties are opposed to the proposed special exception request for 2311 Tracey's Road, Sparks, Maryland, 21152.



Protex 3

September 16, 2001

Deputy Commissioner Timothy Kotroco
County Courts Building
Towson, Maryland 21204

Dear Deputy Commissioner Kotroco:

We, the undersigned residents and/or property owners on Tracey's Road, Sparks, Maryland, are opposed to the proposed special exception request for 2311 Tracey's Road.

Barbara Kees

Joseph Evans

Sherry Rudolph

Nedda Evans

Deborah Price

Monica Bowden

Rustin Price

Timothy Bowden

Lieven Cassenaer

Anne Hochalter

Mary Coverdale

Herb Hochalter

Carolyn Harold

Susan Twigg-Wirtz

George Harold

Vernon Wirtz

Cheryl Schweizer

Mary Wirtz

Prof Ex 5

2224 Tracey's Road
Sparks, MD 21152

November 16, 1999

Dear Mr. and Mrs. Meittinis:

Recently we repaired the damage to our lawn caused by large vehicles attempting to access your driveway. We placed stakes on the edge of the newly planted grass so that your trucks would not drive over it. Yesterday we noticed that the stakes had been removed from our property. Thereafter, large vehicles delivered equipment to your property. Neither you nor your workmen are entitled to remove the stakes from the ground or to remove personal property belonging to us from our premises. Further, you are not entitled to encroach on our premises or to permit any of the vehicles accessing your property to do so.

On September 13, 1999, we sent you a letter advising you that your trucks were not authorized to drive over our lawn to access your driveway. We found that letter on the road in front of our mailbox. We placed it in your mailbox again, thinking it had been accidentally dropped, and once more, we found it on the road in front of our mailbox. When this happened a third time we were certain that this was no mistake.

We have now replaced the stakes on the edge of our lawn. You are not to drive your vehicles over our property. Please instruct the operators of the various construction and service vehicles which come to your property daily, that they are not to drive over our lawn.

Thank you for your attention to this matter.

Very truly yours,

Joseph E. Evans

Nedda P. Evans

Prot Ex 6

HAND DELIVERED

June 14, 1999

Mr. and Mrs. Nicholas Metinas
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Metinas:

It has come to our attention that you are planning to engage in commercial activity from your property at 2311 Tracey's Road. It is our understanding that such activity is not permitted under the present land use laws and regulations. We are writing to you now, before you develop your property for commercial use, to inform you that we oppose and will resist any effort to engage in such commercial activity or to modify the existing laws to permit that commercial activity. We are bringing these concerns to your attention at this point so that you will not incur needless expenses associated with developing your property for commercial activity.

Sincerely,

Joseph L. Evans

Nedda Pray Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

Prot Ex 7

2224 Tracey's Road
Sparks, Maryland 21152

May 13, 2000

Mr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, MD 21152

Dear Mr. and Mrs. Meittinis::

You have recently placed some rocks by the side of Tracey's Road in an apparent effort to prevent vehicles from encroaching on your property. Given the placement of those rocks, we can only conclude that your actions are specifically directed at us. This is fairly amusing conduct on your part given that you have consistently ignored our previous polite written requests that you instruct individuals driving trucks and doing work on your property to avoid digging up our yard; that you have physically removed - and actually appropriated for yourself - the metal stakes that we were forced to plant because of your refusal to acknowledge or repair damage which you and your agents caused; and that you have exhibited a generally imperious attitude that the preexisting character of the neighborhood must change in order to accommodate your personal commercial desires.

Obviously, an occasional automobile tire on some grass hardly represents the same type of problem as the routine truck traffic that has required the purchase of a hundred pounds of top soil and the associated labor necessary to repair the affected area on our property. Nonetheless, we can only assume that your recent actions ultimately reflect a conclusion on your part that even a minor encroachment is unacceptable, and to that extent, we further assume that you can now understand why we were, and have been, dismayed by your actions in not respecting our property. We do not believe that we have damaged your property, but because we respect the property rights of others, we will take particular care to avoid any such possibility in the future.

You should also understand that Baltimore County requires that the rocks that you have placed by the road must be twenty-four inches from the pavement. The present placement - nestled right up to the edge of the pavement - represents a safety hazard and could cause personal injury and/or property damage.

Presumably you were unaware of the twenty-four inch requirement, but now that you are, we would appreciate your voluntary compliance with the law.

Sincerely,

Joseph L. Evans

Nedda P. Evans

Prot Ex 8

HAND DELIVERED AND BY MAIL

September 13, 1999

Mr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Meittinis:

On July 19, 1999, we wrote to you to request that you instruct all operators of large vehicles to refrain from driving over and onto our property in order to access your driveway. This request was the result of past encroachments upon our property that had gone unrepaired by you.

As a result of those past encroachments, we were required to replant a portion of our front lawn. To deter future encroachments and to protect the newly seeded grass, we posted large metal stakes. On September 6, 1999, the workmen building your barn knocked over the stakes and again encroached on our property. As with prior such instances, neither you nor your work crew made any effort to acknowledge the action, apologize, or repair it.

Please insure that this does not happen again.

Sincerely,

Joseph L. Evans

Nedda Pray Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

Prot Ex 9

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Development Coordination DATE: 9-9-01

FROM: Wallace S. Lippincott, Jr.

SUBJECT: Comments on Meittinis Sph, 2311 Tracey Road

Existing Conditions

This 40.31 acre farm property is located in a Master Plan designated Agricultural Preservation Area and is zoned RC 2 (Agricultural Protection). Both the Master Plan and the zoning provide that farming and agriculture are the preferred uses in this zone. As further indication of the extent of the County's interest to preserve and promote agriculture in this area, the property is located in the midst of a several farms on which the County has purchased development rights for the protection of farmland and open space.

While other agriculturally related uses are also necessary to support farm income, the approval of these uses must be made within a context of the appropriateness and level of impact on the existing community- agricultural and residential. While Baltimore County lacks any additional tests in its zoning code relating specifically to equine activities, the Code does provide for consideration of congestion of the road system(502.1 B) and overcrowding of the land (502.1 I).

With respect to the overcrowding issue, from an agricultural perspective having only 10 acres of pastureland is limiting. For small acreage, the County livestock ratio table permits one acre of pasture per horse. Many landowners and other experts often suggest two acres of pasture per horse. However, these are general rules and the impact is more often dependent upon the type of horses and the management of the grazing. For this reason it is not recommended that a limitation be put on the number of horses or ponies permitted on the farm, but rather that compliance with a nutrient management plan and a Soil Conservation and Water Quality Plan (SCWQ Plan) be required. The nutrient management plan has specific standards. The SCWQ Plan does not and thus conditions should be attached to this plan. The SCWQ Plan should include best management practices based upon the number and types of animals and the specific management of the land for those animals by present and future operators of the farm so as not to cause soil erosion, water quality problems onsite or running off the land, or depletion of the productive capability of the land.

The other relevant standard relating to the proposed uses is the road access to the property. As provided, the property is approximately 0.3 miles off Yeoho Road on Tracey Road. Tracey Road is an approximately 8-foot wide single lane road along which

there are residential and other farm properties. The road is paved and several of the homes are close to road. Intensive use of any property along this road would have an impact on these properties as well as on the usage by the other property owners.

Potential impacts

Reviewing these two factors for the veterinarian, as indicated above the limits on the number of animals that would be pastured or kept up should be limited by facilities, management, and limitations of the land. The limitations of the land should be based upon the management and facilities and on recommendations and regulations from a nutrient management and a SCWQ plan. While Tracey Road is limiting, the road is currently used for the transporting of large animals the number of trips anticipated for this activity would not appear to create significant conflict or congestion. For these reasons, an equine or large farm animal veterinarian use is supported.

The request for a riding stable and a public horse show in addition to the farm uses and veterinarian use is not supported. The additional traffic that could be produced by a riding stable and public horse show could be significant. While the zoning of the property is agriculture and it is appropriate to support additional commercial agricultural uses that will support the retention of agriculture in the county, this can not be done at the expense of creating neighborhood nuisance problems that will ultimately lead to agricultural nuisance conflicts. As indicated earlier, from an agricultural perspective limiting the number of horses or ponies or other livestock on a 40 acre farm should be based upon the landowner's production capability rather than for purposes of limiting the use of riding or public shows. Furthermore, any attempts to limit the number of riding lessons or who would be riding would be difficult to monitor and enforce, particularly in light of the limited County resources for monitoring and enforcement.

Recommendations

In conclusion, the continued use of the property for agricultural uses such as breeding and sale of horses and production of timber or other agricultural products is recommended. Additionally, the use of the property for an equine or large farm animal veterinarian is strongly supported subject to having a nutrient management plan and SCQW Plan subject to the conditions indicated earlier. If the property had direct access to Yeoho Road or any other two-lane road, support for the riding use would also be supported, however, because of the potential for agricultural nuisance conflict over the use of Tracey Road, the riding stable is not supported.

Baltimore County Farm Bureau, Inc.

Baltimore County Agriculture Building
9811 Van Buren Lane
Cockeysville, Maryland 21030
410-666-1033

September 19, 2001

To whom it may concern;

The Baltimore County Farm Bureau strongly supports activities and endeavors on the part of the farming community in their attempt to promote agriculture Education. This activity leads directly to over 7,000 jobs in the Baltimore County.

The many farms and farmers who donate land use and guidance to the youth interested in agricultural activities such as the raising and handling of pigs, goats, sheep, cows, and horses for 4H represent a large demand from the community for agricultural education. The showing of these animals, vegetables, crafts, and riding competition at the always growing Baltimore County 4H fair is a learning experience and camaraderie that will last a lifetime.

The Farm Bureau is very supportive of the horse industry as an important and growing part of the agricultural community. It is one of the top three industries in the state generating $1.6 billion annually. Baltimore County has the most horse enthusiast, one who owners or leases a horse, in the seven county area at 24,630.

We are in strong support of any instructional programs and competitions that draw young and old to one of our leading industries. Riding horses is a pleasure enjoyed by all. The daily care and handling of animals teaches responsibility and discipline. It is difficult in this day and age to find an activity for our youth that is more wholesome.

The Baltimore County Farm Bureau urges you to continue to assist us in our promotion of Agriculture Education in the many forms it takes.

Thank You,

Les Richardson, President
Baltimore County Farm Bureau

Pet Ex #5

JACK DILLON

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

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, COMMUNITY PLANNING DIVISION,
PLANNER II
JUNE 1981 - AUGUST 1987

OFFICE OF PLANNING, COMPREHENSIVE PLANNING DIVISION, ENVIRONMENTAL STUDIES SECTION
PLANNER II
OCTOBER 1974 - JUNE 1981

PRIOR TO OCTOBER 1974 I WAS WITH THE BALTIMORE COUNTY ZONING OFFICE FROM JUNE 1967 - SEPTEMBER 1974 AND FROM 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

Ex #6

9|01

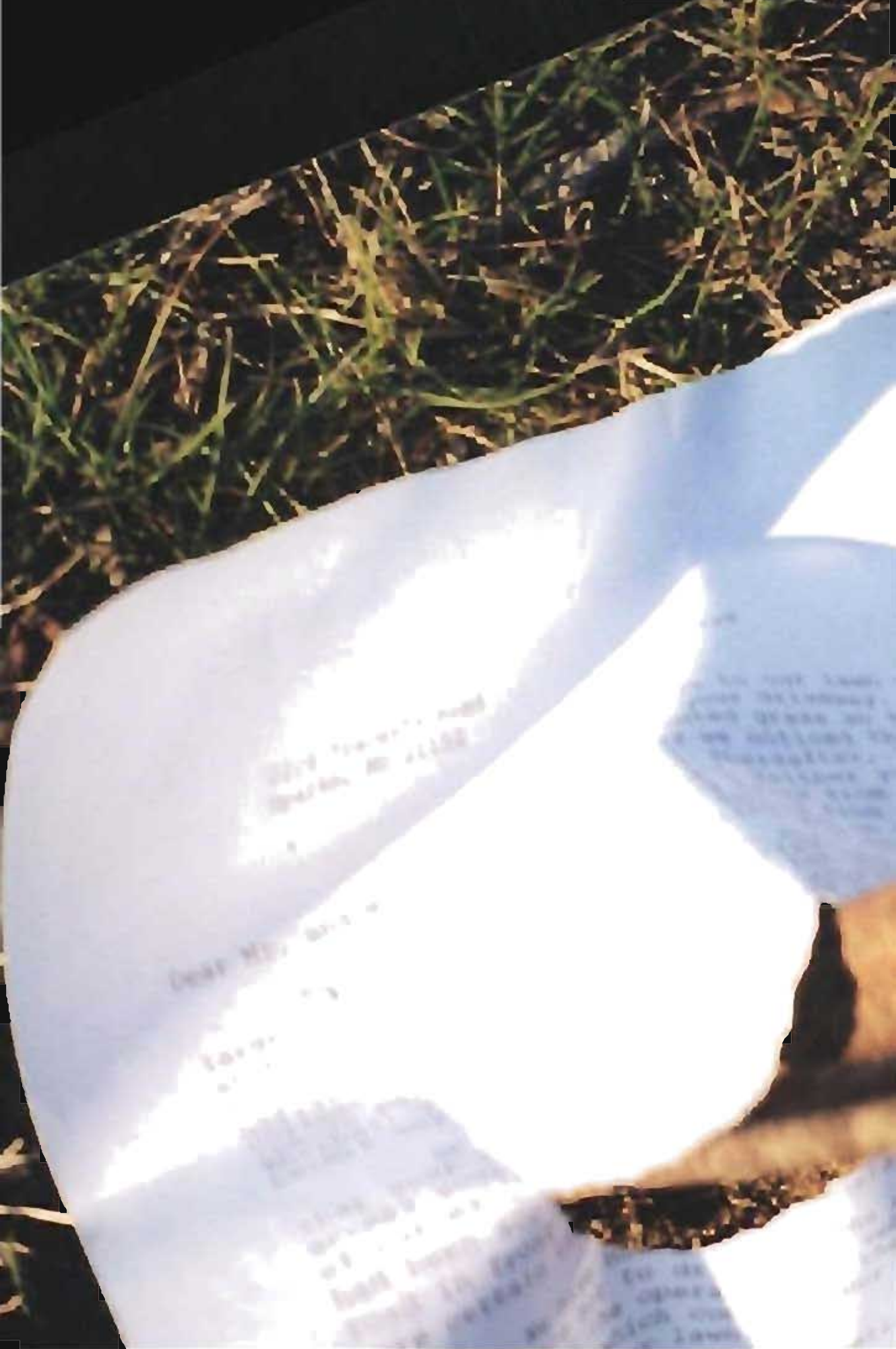
4F

44

10/22/01

Priceville north of Rowlands driveway between Belfast 1 house

Pot Ex 9



ber 18, 1999

Rot Ex 9

Jan 2001

Sept 22

Mowers leaving

Oct 3 lumber truck leaving

4E

Wed Oct 18

Saw dust truck leaving

~~Comes every 2 weeks~~

4D

4C

9/01

4B

July 2000

my backyard

24

July 2000

Backyard

2F

October 1999
Cleared part of woods
my back yard

LE

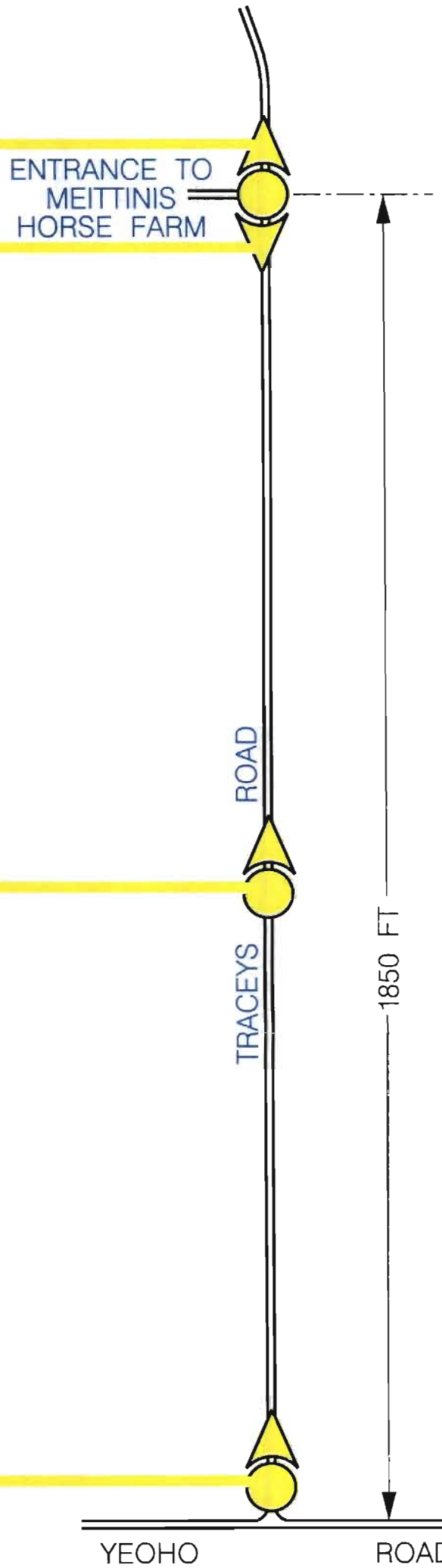
21

~~Jan~~ Feb 6 ~~2002~~ 2001

2C

Feb 6 2001

Prof Ex # 2A



Elevated Images

Pet Ex #4

Meittinis Horse Farm
Traceys Road
Baltimore County, Maryland

Job Number: 2001–0426
Date: September 12, 2001
Drawn By: PRD

The Traffic Group

PETITIONER'S EXHIBITS

(20105.30) S

(3)

6620 374 SW MC

Verified 8/01/03 (Petitioners) Mei Ahlo 01-530-X Verified 4-16-03 Verified 3/27/03 Verified 4/08/03

Appellants ✓ #1 ✓✓ Aerial Photo of Property
✓✓ #2 ✓✓ Comprehensive Zoning Maps 2000
✓✓ #3 ✓✓ New Site Plan
✓✓ #3B ✓✓ Site Plan Before 2/C
✓✓ #4 ✓ Various site photos
X4A – looking SE from Pet. Property
X4B – looking toward Pet Home & garage
X4C – driveway & path to home
X4D – looking Easterly, Rear of Barn
X4E – Pasture & trails
X4F – Dark Pasture & Property line
X4G – Looking in Westerly direction
✓✓ Appellants # 5 ✓✓ Wm Bucheit C.V.
✓✓ Appellants #6 ✓✓ 16 photos Tracy & Jacobs Pl
✓✓ Appellants #7 ✓✓ Traffic Surveys Study
✓✓ Appellants #8 (5) ✓✓ Photos of Green Roof
✓✓ Appellants #9 ✓✓ Copy Farm Permits & Licenses
✓✓ Appellants #10 ✓✓ Med Depth of TX Assessments 3/24/03
✓ Appellants #11 ✓
taken 2,000 A1 – front of Barn, bay for trailer
" 2,000 B1 – out door area
2 whgo 2003 C1 – elevated picture of field/pasture area
2 whgo 2003 D1 – out door area, fields & Barn
2 whgo 2003 E1 – same spot, configuration of Barn
2003 F1 – same spot looking N-NW from Pet Prop
2003 G1 – from rear Bedroom looking at Evans home
2001 H1 Pet home fall of 2000.
Appellants # 12 ✓ Rules & Papers - Valley P. Council
#13 ✓ Maryland Equine Bulletin
#14 ✓✓ Webster 3rd New Int Dictionary
#15 ✓✓ Webster 3rd N. Int Dictionary
✓ #16 Equine Industry letter
✓ #17 Highmeadow subdivision
#18 Photos (D2B)
#19 Farm Bureau Letter

Petitioner's Exhibit #2
B.A. Pet Ex #1

(SHEET NW 26-F)

N100,000 W36,000 E871,000 N633,000 DUBBS RD. STA. R648 (U.S.C.&G.S.) BEREAN P.L. MILL RD. BENSON Tower B.G.&E. R.C. 2 W34,500 W33,000 W31,500 N100,000 W30,000 E876,000 TECHNO RD. PVT. RD. N633,000 N99,000 RD. TRACEY'S SITE N98,000 (SHEET NW 25-G) (SHEET NW 25-E) BLACKROCK RUN N97,000 POND N630,000 PRIVATE RD. N96,000 E871,000 E876,000 W30,000

(SHEET NW 24-F)

CC-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 16, 2000
Bills Nos. 85-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00.

Chairman, County Council

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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BEREAN	N. W. 25-F
DATE OF PHOTOGRAPHY JANUARY 1986		

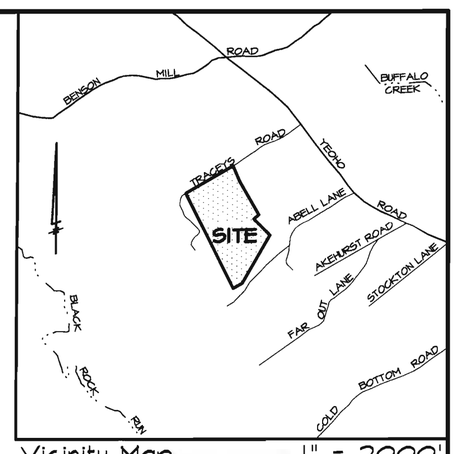
S30

NW 25 F

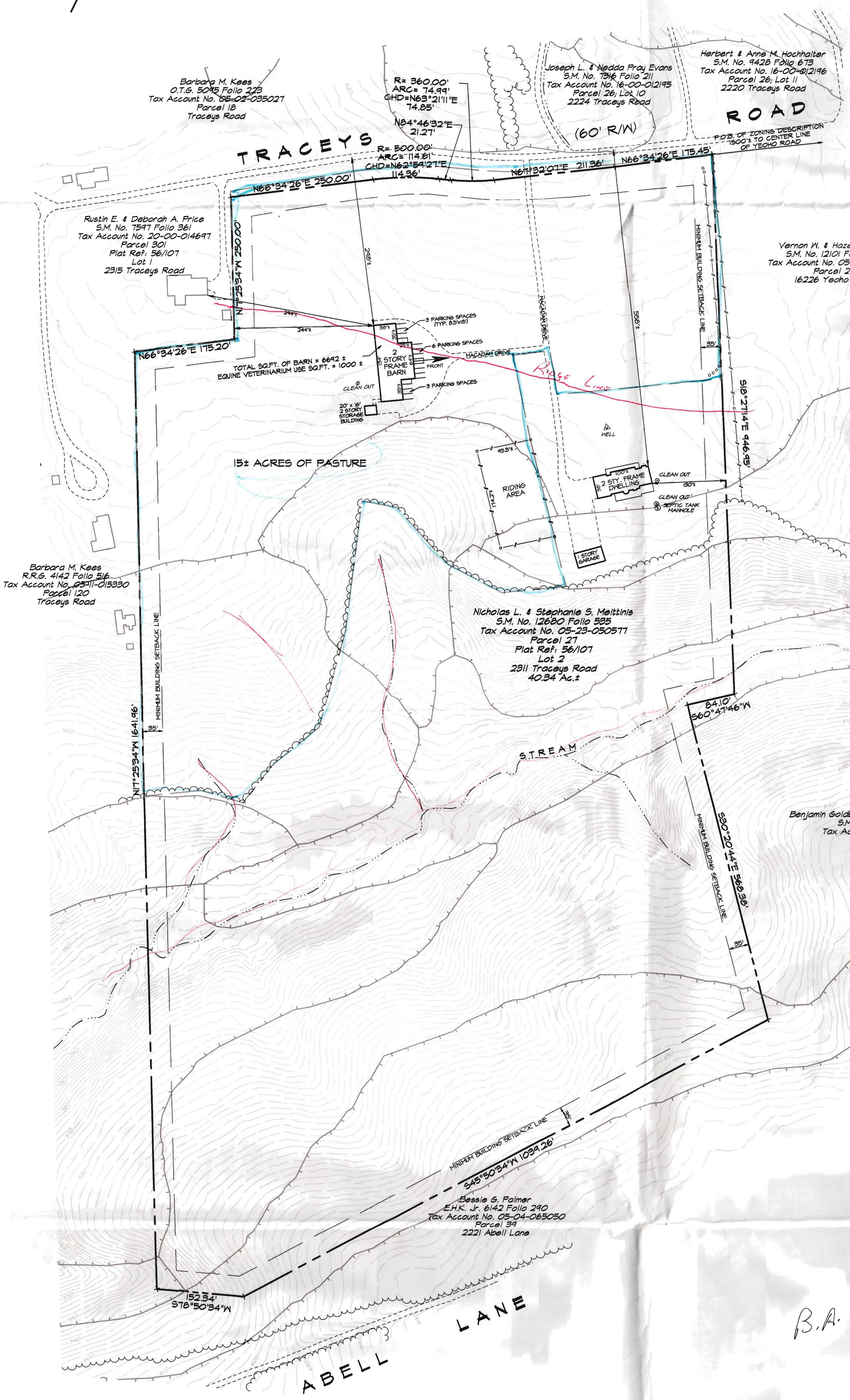
PET EX #4
B.A. PET Ex #2

PARKING CALCULATIONS

PARKING REQUIRED FOR VETERINARIUM= 3.3 SPACES PER 1,000 sq.ft. OF VETERINARUM SPACE.
1,000 sq.ft. OF VETERINARUM SPACE IS IN THE BARN = 3.3 PARKING SPACES REQUIRED
12 PARKING SPACES PROVIDED.



Vicinity Map 1" = 2000'



GENERAL NOTES

1. OWNER: NICHOLAS L. & STEPHANIE S. MEITTINIS
   2311 TRACEY'S ROAD
   SPARKS, MD 21152-9549
2. TAX ACCOUNT No. 05-23-050577
3. TITLE DEED LIBER S.M. No.12680 folio 535
   TOTAL AREA = 40.34 Ac. ±
4. THE PROPERTY IS ZONED R.C. 2.
5. 200' SCALE ZONING MAP No. NW 25F.
6. THE BOUNDARY SHOWN HEREON IS FROM THE "BOUNDARY SURVEY THE LANDS OF NICK MEITTINIS" BY SPOTTS, STEVENS & McCOY, DATED JUNE 24, 1998. A BOUNDARY WAS NOT PERFORMED BY GERHOLD, CROSS & ETZEL, LTD.
7. CENSUS TRACT 4050 A.D.C. MAP & GRID 11 F-2
   WATERSHED 12 SUBSEWERSHED 81
   SCHOOL DISTRICT 54 REGIONAL PLANNING DISTRICT 302
8. THIS SITE IS SERVICED BY PRIVATE WELL AND SEPTIC SYSTEM.
9. THE SUBJECT IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10. THERE ARE NO PRIOR ZONING CASES REGARDING THE SUBJECT PROPERTY.
11. THERE IS 10,000 +\- LINEAR FEET OF FENCE USED FOR PADDOCKS ON THE PROPERTY NOT SHOWN HEREON
12. THIS SITE IS NOT IN THE 100 YEAR FLOOD PLAIN AS SHOWN ON FIRM MAP 240010 0125 B, DATED MARCH 2, 1981.
13. THE SUBJECT PROPERTY IS USED FOR TRAIL AND CLUB RIDING.
14. THERE ARE NO PASTURES OR PADDOCKS IN THE EXISTING WOODS.
15. LIMITED TO 17 HORSES PASTURED ON SITE.
16. NO OFF SITE PARKING.
17. NO LIGHTING AROUND THE "RIDING AREA". SECURITY LIGHTING AROUND THE STABLE ONLY.
18. LIMIT ONE HORSE SHOW PER YEAR.
19. LIMIT 28 LESSON HOURS/COACHING SESSIONS PER SEVEN DAYS.
20. MODIFICATIONS OF RESTRICTIONS WILL REQUIRE A SPECIAL HEARING.
21. THE BARN IS USED JOINTLY FOR FARM USE, EQUINE VETERINARIUM AND HORSE STABLING .
22. THE AGRICULTUAL USE AND FARM USE ARE TO CONTINUE IN COMBINATION WITH SPECIAL EXCEPTION.

SPECIAL EXCEPTION

TO ALLOW A RIDING STABLE AND EQUINE VETERINARIUM.

SYMBOLS LEGEND

- WOODS LINE
- EXISTING PAVING
- PROPERTY LINE
- EXISTING DWELLING
- CONTOURS
- WELL
- SEPTIC
- CLEAN OUT

B.A. Pet. Ex 3 BA

PLAT TO ACCOMPANY A PETITION FOR A SPECIAL EXCEPTION OF THE MEITTINIS PROPERTY

2311 TRACEYS ROAD
Deed Ref: S.M. No. 12680 folio 535
Tax Account No.: 05-23-050577
Tax Map 27; Grid 08; Parcel 27

5th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

GRAPHIC SCALE 1"=100'

0 100 200 300

SCALE: 1" = 100' DATE: MARCH 21, 2001

REVISION	DATE
PASTURE AREA ADDED	3-21-03
REVISE NOTES PER SUBMITAL MEETING	6-15-01
REVISE NOTES	6-12-01
ADDITIONAL FIELD LOCATIONS	4-30-01

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

TECHNICIANS: DSD FILE: X:\Meittinis\MeitZone.pro

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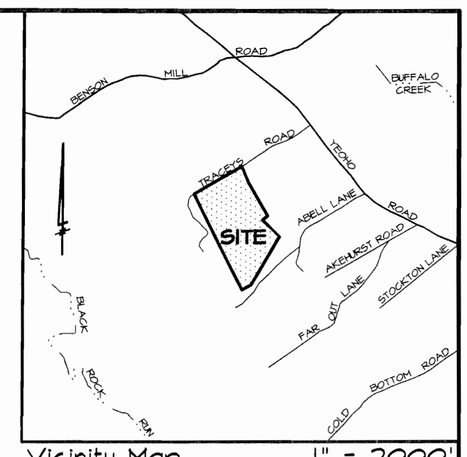

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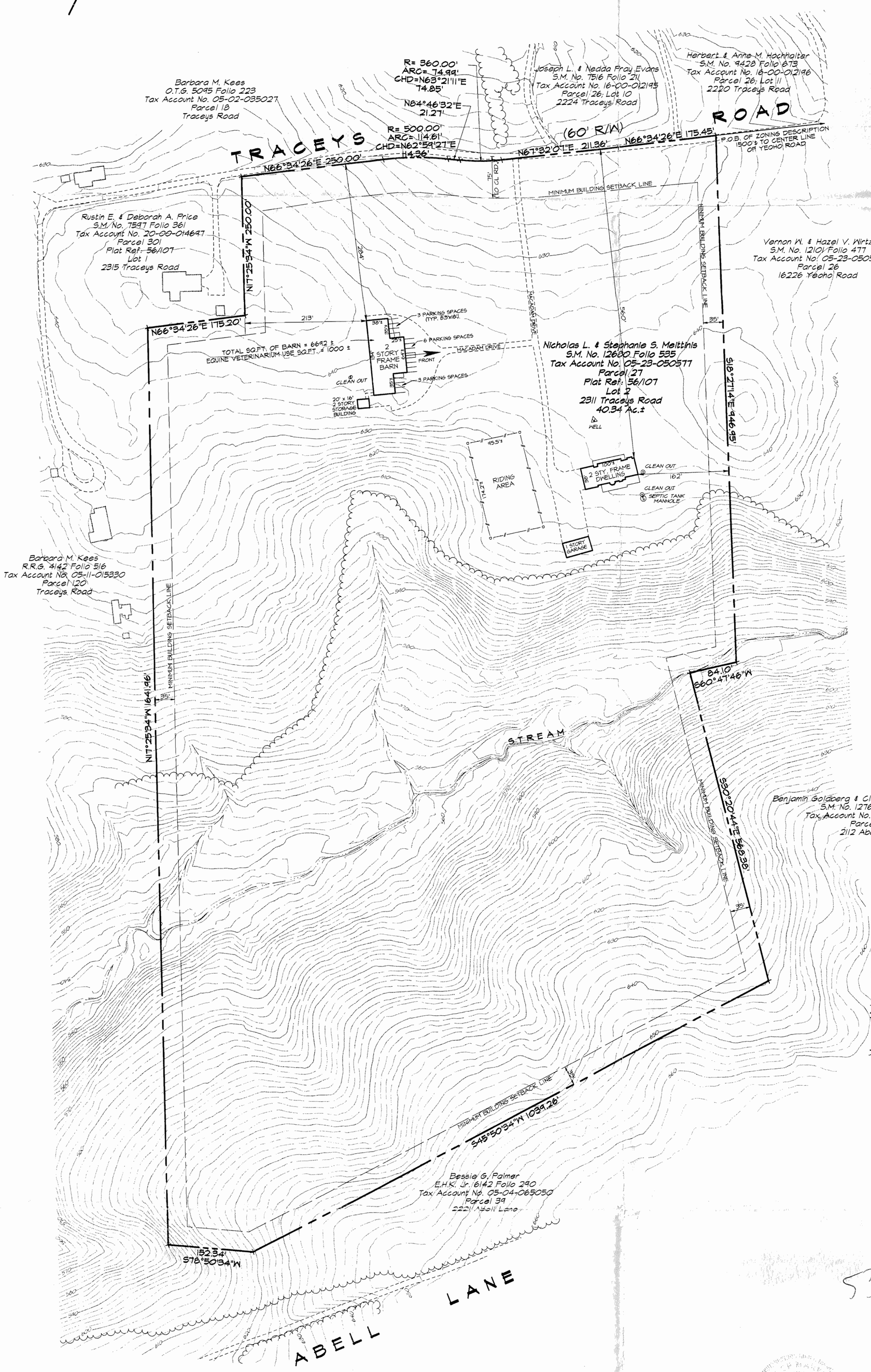

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- WOODS LINE
- EXISTING PAVING
- PROPERTY LINE
- EXISTING DWELLING
- CONTOURS
- WELL
- SEPTIC
- CLEAN OUT

SPECIAL EXCEPTION

TO ALLOW A RIDING STABLE AND EQUINE VETERINARIUM.

Pet Ex #1
BA Pet Ex 3B

530

PLAT TO ACCOMPANY
A PETITION FOR A SPECIAL EXCEPTION
OF THE

MEITTINIS PROPERTY

2311 TRACEYS ROAD
Deed Ref: S.M. No. 12680 folio 535
Tax Account No.: 05-23-050577
Tax Map 27; Grid 08; Parcel 27

5th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

6/15/01
Brian Deitz

GRAPHIC SCALE 1" = 100'
0 100 200 300

SCALE: 1" = 100' DATE: MARCH 21, 2001

REVISION	DATE
REVISE NOTES PER SUBMITAL MEETING	6-15-01
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TECHNICIANS: DSD FILE: X:\Meittinis\MeitZone.pro

B.M. 48

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3

Pg 3

Z.A. 4.23

3 F

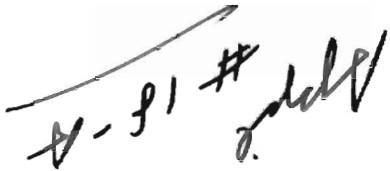
P5T.

B.A. 4/F

3 C

PST.

B. A. 4G



(1996) Pt # 5

WES GUCKERT
President

Wes Guckert is a recognized and well respected expert in the field of traffic engineering and transportation planning. Serving as a technical advisor in the areas of traffic impact analysis, traffic signal design, traffic circulation, access studies and transportation planning, Mr. Guckert has played a major role in over 3,000 projects spanning both urban and suburban areas primarily in the Mid-Atlantic area. Mr. Guckert has also provided consultation on projects throughout the United States, as well as internationally. Early in his career, Mr. Guckert served for five years with the Maryland State Highway Administration Traffic Division. Prior to founding The Traffic Group, Inc., Mr. Guckert served as a traffic engineering consultant for eight years.

Since founding The Traffic Group, Inc., Mr. Guckert has been responsible for providing a variety of traffic engineering services to both the public and private sector. He has directed the design and implementation of traffic access systems for numerous regional projects such as the National Business Park, Cole Field House at UMCP, Largo Town Center, Wheaton Plaza, Salisbury Centre, Bowie New Town Center, Maple Lawn Farms, Montgomery Mall, Annapolis Mall, National Harbor, Greenbelt Metro Park, Traville, Fallsgrove, and King Farm. Mr. Guckert has undertaken Traffic and Transportation Studies for "Big Box" Stores including, Wal-Mart, Sam's Club, Target, Lowe's, Best Buy, Costco, and Home Depot, as well as numerous studies of Value-Oriented Centers and Regional Malls throughout the United States.

In addition to Mr. Guckert's technical expertise, as a renowned expert in the field, he is often asked to serve as an expert witness, testifying before County and Municipal Boards, District Courts, and Planning Commissions on traffic engineering and transportation planning issues.

Job History

1985 - Present
President, The Traffic Group, Inc.

1977-1985
Traffic and Transportation Planning Consultant

1972-1977
Assistant Regional Traffic Engineer
Maryland State Highway Administration-Traffic Division

Educational Background

- *Bachelor of Science*
  University of the State of New York
- *Civil Engineering Preparation*
  Johns Hopkins University
  Towson State University
  Essex Community College
- *Traffic Engineering Courses*
  Northwestern University Traffic Institute
  University of Tennessee Transportation Center
  University of Maryland

Affiliations

- American Planning Association (A.P.A.)
- Essex Community College Foundation
  Board of Directors
- Horsehead Wetlands Center – Board of Trustees
  (Grasonville, MD)
- Institute of Transportation Engineers (I.T.E.) - Fellow
- International Council of Shopping Centers (ICSC)
- Subcommittee on Planning of the Smart Growth Commission
  appointed by Governor Parris N. Glendening
- The M.U.S.E. Foundation – Board Member
- Transportation Research Board (T.R.B.)
- Urban Land Institute (U.L.I.)

I.T.E. Professional Committees

- Committee No. 5P-5 - Capacities of Multiple
  Left-Turn Lanes
- Committee No. 5P-07 - Traffic Counting Practices
- Committee No. 5S-1 - Capacities of Triple
  Left-Turn Lanes
- Internal Transportation Systems for Majority
  Activity Centers
- Parking Facilities for Industrial Plants
- Traffic Considerations for Special Events

Publications

- *The Evolution of Adequate Public Facilities and Their Effectiveness as Growth Management Tools in Maryland* (Co-Author) - I.T.E. Annual Meeting

The Traffic Group, Inc. ◆ *9900 Franklin Square Drive* ◆ *Suite H* ◆ *Baltimore, Maryland 21236*
410-931-6600 ◆ *Fax: 410-931-6601* ◆ *www.trafficgroup.com*

WES GUCKERT
President

Publications (Cont'd.)

- *Trip Generation Comparisons of Club Warehouse Stores* – I.T.E.
- *Value-Oriented Retail Centers - A Follow-Up Report* – I.T.E.

Examples of places where Mr. Guckert has testified as an expert witness

CALIFORNIA
City of Milpitas - City Council

MARYLAND
Allegany County - Planning Board, Board of Appeals
Anne Arundel County - Board of Appeals, Circuit Court, Zoning Hearing Examiner
City of Annapolis - City Council, Planning Commission, Board of Appeals
Baltimore City - Board of Zoning Appeals, City Council, Federal District Court, Planning Commission
Baltimore County - Board of Appeals, Circuit Court, County Council, Planning Board, Zoning Commissioner
Town of Bel Air - Board of Appeals, Planning Board, Town Commissioners
Calvert County - Board of Appeals
Carroll County - Board of Appeals, County Commissioners, Planning Board
Charles County Town of Indian Head - Mayor and City Council
Charles County - Board of Appeals, County Commissioners, Planning Board
City of Frederick - Board of Appeals, City Council, Planning Commission
Frederick County - Board of Appeals, County Commissioners, Planning Board
Harford County - Planning Commission, Zoning Hearing Examiner
Howard County - Board of Appeals Planning Board, Zoning Board
Montgomery County - Board of Appeals, County Council, Zoning Hearing Examiner, M-NCPPC (Planning Board)
Ocean City - Planning Commission, Board of Appeals
Prince George's County - Council, Zoning Hearing Examiner, M-NCPPC (Planning Board)
St. Mary's County - Planning Board
Washington County - Board of Appeals
Wicomico County - Planning Commission, Board of Appeals
Worcester County - Planning Commission, County Commissioners

MINNESOTA
City of Brooklyn Center - Planning Commission

NEW JERSEY
Holmdel Township - Planning Board

PENNSYLVANIA
City of Scranton - Board of Appeals, Planning Board
West Whiteland Township-Planning Board, Town Council

VIRGINIA
Arlington County - Board of Supervisors
Loudoun County - Planning Board
Prince William County - Planning Board and Board of Supervisors

Mr. Guckert's Representative List of Projects

RETAIL AND MIXED-USE PROJECTS
Annapolis Mall – Anne Arundel County, Maryland
Avenue at White Marsh – Baltimore County, Maryland
Bowie New Town Center – Prince George's County, Maryland
Briarcliffe Mall – Myrtle Beach, South Carolina
Center at Charlestown – South Carolina
Centre @ Hagerstown – Washington County, Maryland
Center at Lynchburg – Virginia
Centre Pointe – Charleston, South Carolina
Fallsgrove – Montgomery County, Maryland
Festival at Waldorf – Charles County, Maryland
Great Mall of Arizona – Tempe, Arizona
Great Mall of the Bay Area – Milpitas, California
Greenbelt Metro Park – Prince George's County, Maryland
Home Depot Stores – Various Locations
King Farm – Montgomery County, Maryland
Largo Town Center – Prince George's County, Maryland
Lebanon Valley Mall – Lebanon, Pennsylvania
Mall at Steamtown – Scranton, Pennsylvania
Maple Lawn Farms – Howard County, Maryland
Menlyn Park Shopping Center – South Africa
Montgomery Mall – Montgomery County, Maryland
Pantai Kapuknaga – Indonesia
Potomac Mills – Prince William County, Virginia
Waccamaw Factory Shoppes – South Carolina
Wal-Mart Stores – Various Locations
Wheaton Plaza – Montgomery County, Maryland
Zonk 'Izizwe – South Africa

(Appd) PA XC

3/26/03

(1)

2200 TRACEY
ROAD

MGITTINIS

MGITTINIS

MGITTINS

MEETING IS
ENT.

TRACEY IS E.B. FROM END.

The Traffic Group

Traffic Study

for

MEITTINIS HORSE FARM AND STABLES

Baltimore County, Maryland

Prepared for

Dr. Nicholas Meittinis

March 24, 2003

14001- 14111 Green Road Case # 02-356-X

16321 Dark Hollow Road Case # 02-221-XA

03/21/2003

03/21/2003

03/21/2003

03/26/2003

Facility Name	Street N	Street Address	Dir	City	State	ZipCode	Telephone Numb	Type of Facility
AIRY HILLS FARM	3000	RICES LN		BALTO	MD	21244	(410) 922-7086	Riding/Boarding
ARMSTRONG GROOM & BOARD INC	1030	YORK RD		TOWSON	MD	21204	(410) 296-0484	Riding/Boarding
CAMELOT FARMS	2808	SHEPPERD RD		MONKTON	MD	21111	(410) 472-2256	Riding/Boarding
DAYSPRING	13629	JARRETTSVILLE PIKE		PHOENIX	MD	21131	(410) 666-3247	Riding/Boarding
DUNROMAN STABLE	1102	HART RD		TOWSON	MD	21286	(410) 296-5945	Riding/Boarding
EXOTIC SPINS FARM		BIRD RIVER BEACH RD		BALTO	MD	21220	(410) 391-3152	Riding/Boarding
GARRISON FOREST SCHOOL	300	GARRISON FOREST RD		OWINGS MILLS	MD	21117	(410) 559-3450	Riding/Boarding
GOUCHER COLLEGE	1021	DULANEY VALLEY RD		BALTO	MD	21286	(410) 337-6247	Riding/Boarding
GUNPOWDER STABLES	12025	PHILADELPHIA RD		BRADSHAW	MD	21021		Riding/Boarding
HIDDEN SPRINGS	17027	EVNA RD		PARKTON	MD	21120	(410) 343-1492	Riding/Boarding
LOBLOLLY FARM	5025	BLACK ROCK RD		HAMPSTEAD	MD	21074	(410) 239-0900	Riding/Boarding
MANOR HILL FARM	4600	BREIDENBAUGH LN		GLEN ARM	MD	21057	(410) 592-7422	Riding/Boarding
MANOR VALE	5731	FOXHALL FARM RD		CATONSVILLE	MD	21228	(410) 747-1388	Riding/Boarding
MCDONOGH SCHOOL	8600	MCDONOGH RD		OWINGS MILLS	MD	21117	(410) 581-4707	Riding/Boarding
NOR MAR FARM	21416	RUHL RD	N	FREELAND	MD	21053	(410) 357-4926	Riding/Boarding
PARADISE FARM	2415	OLD BOSLEY RD		TIMONIUM	MD	21093	(410) 666-1680	Riding/Boarding
PHOENIX FARM	14309	PHOENIX RD		PHOENIX	RD	21131	(410) 472-2572	Riding/Boarding
PONIES FOR CHILDREN	4615	BECKLEYSVILLE RD		HAMPSTEAD	MD	21074	(410) 239-7305	Riding/Boarding
RENDEZVOUS FARM	16724	MILLER LN		PARKTON	MD	21120	(410) 343-2142	Riding/Boarding
ROCKLAND BARN	10212	FALLS RD		BROOKLANDVIL	MD	21022-0816	(410) 825-1910	Riding/Boarding
SEVEN OAKS HORSE FARM	15208	JARRETTSVILLE PIKE		MONKTON	MD	21111	(410) 836-0853	Riding/Boarding
ST TIMOTHY'S SCHOOL	8400	GREENSPRING AVE		STEVENSON	MD	21153	(410) 486-5483	Riding/Boarding
THE STABLE	2426	RIDGE RD		WOODLAND	MD	21207	(410) 944-0310	Riding/Boarding
TRANQUILLITY MANOR FARMS	4101	STANSBURY MILL RD		MONKTON	MD	21111	(410) 666-2518	Riding/Boarding

TRUE COPY-TEST

DIRECTOR OF PERMITS AND LICENSES

3/26/03

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

STR

Account Identifier: **District** - 05 **Account Number** - 0523050577

Owner Information

Owner Name:	MEITTINIS NICHOLAS L MEITTINIS STEPHANIE S	**Use:**	AGRICULTURAL
		Principal Residence:	YES
Mailing Address:	2311 TRACEYS RD SPARKS MD 21152-9549	**Deed Reference:**	1) /12680/ 535 2)

Location & Structure Information

Premises Address
2311 TRACEYS RD

Zoning

Legal Description
2221-2313 TRACEY RD
1500 FT W OF YEOHO RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
27	8	27						81	Plat Ref:

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1998	4,524 SF	41.81 AC	05

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2002	Phase-in Assessments As Of 07/01/2002	Phase-in Assessments As Of 07/01/2003
Land:	58,920	58,920		
Improvements:	392,390	469,980		
Total:	451,310	528,900	477,173	503,036
Preferential Land:	8,920	8,920	8,920	8,920

PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE

Transfer Information

Seller:	MEITTINIS NICHOLAS L	**Date:**	02/24/1998	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/12680/ 535	**Deed2:**	
Seller:	WIRTZ DONALD WILBERT	**Date:**	06/26/1997	**Price:**	$112,500
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/12254/ 710	**Deed2:**	
Seller:	WIRTZ DONALD WILBERT	**Date:**	06/30/1987	**Price:**	$0
Type:	UNKNOWN	**Deed1:**	/ 7597/ 364	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
AGRICULTURAL TRANSFER TAX

Appt #12

Affidavit

State of Maryland
Baltimore County, SS:

TO WIT:

I hereby swear, upon penalty of perjury, that I, Jack Dillon, am currently the Executive Director of The Valleys Planning Council, Inc.

Jack Dillon

The Valleys Planning Council, Inc.

Attest:

Secretary

By
John L. Secretary V., President

Date: 4/9/03

MARYLAND EQUINE

Results of the 2002 Maryland Equine Census

MASS

Maryland HORSE INDUSTRY BOARD

Special Report made possible by the Cooperative efforts of the Maryland Department of Agriculture, the Maryland Horse Industry Board, and the Maryland Agricultural Statistics Service

EQ-01-02 December 06, 2002

According to the 2002 Maryland Equine Census, there were a total of 87,100 horses, mules, donkeys, and burros in the State of Maryland. Light Horse Breeds accounted for about 48 percent of the total, followed by Thoroughbreds with 33 percent of the total. Ponies and Standardbreds each accounted for about 7 percent, followed by draft breeds and mules, donkeys and burros. The value of the equine inventory at the time of the census was a little over $680 million, putting the average value per animal at about $7,810. There were a total of 20,200 equine places in the State during the Census. This includes racing, breeding, and all sizes of boarding facilities as well as private residences where horses are being kept for recreational purposes. On these places, there are 38,000 people actively involved with the equine. These equine operations account for a total of 685,000 acres, of which, 206,000 acres were used primarily for equine related purposes. The value of all equine related assets totaled $5.2 billion, including the value of the inventory. The value of land, fencing, and buildings made up about 76 percent of the total assets. The value of the inventory accounts for 13 percent and equipment and supplies made up about 11 percent of total reported assets. Equine related expenditures amounted to nearly $766 million, of which 62 percent were operating expenditures and 38 percent were capital expenditures. There were 8,400 horses sold during the past year with an average value of sales of $14,196. Less than 100 mules, donkeys, and burros were sold.

INVENTORY	***Number***
Equine associated with the racing industry:	
Standardbreds	5,800
Thoroughbreds	28,800
Other Race Breeds	200
Equine not associated with the racing industry:	
Light horses Breeds	42,000
Draft horses Breeds	2,200
Ponies All Breeds	5,900
Donkeys, Mules & Burros	2,200
Total Equine Inventory	87,100

EQUINE PLACES ACREAGE & PEOPLE	
Number of Places Having Equine	20,200
Number of People Involved	38,000
Total Acreage Reported	685,000
Acreage used for equine purposes	206,000

EQUINE RELATED ASSETS	***Thousand Dollars***
Value of equine inventory	680,240
Value of land, fencing, facilities	3,956,780
Value of equipment and supplies	552,850
Value of other Assets	22,500
Value of all Assets	5,212,370

EQUINE RELATED EXPENDITURES	
Total Operating Expenditures	475,670
Total Capital Expenditures	290,110
Total Expenses	765,780

EQUINE SALES	
Horses	
Number sold *(Hd)*	8,400
Total Value of Sales *(000)*	119,250
Donkeys, Mules & Burros	
Number sold *(Hd)*	50
Total Value of Sales *(000)*	25

COUNTY DATA

Maryland equine are concentrated in central and northern counties. The 5 largest counties, in terms of inventory numbers are, Baltimore (12%), Montgomery (10%), Frederick (10%), Prince George's (9%), and Harford 8%. The top ten counties, all in northern and central Maryland, account for 79% of the total inventory. The average inventory value by county is influenced greatly by the racing and breeding operations located in each county. In addition, the counties with large concentrations of show horses tended to have higher average values. The 5 largest counties in terms of the number of equine places and their respective percentages of the total number of places are: Montgomery (13%), Frederick (11%), Baltimore (10%), Washington (8%), and Harford (7%). The average number of people in each county (excluding hired labor) involved in equine activities varied from 2.6 people per place in Washington county to 1.5 people per place in Dorchester county. The acreage devoted to equine by county is concentrated in Baltimore, Frederick, Harford, Montgomery, and Cecil counties where 51% of the total acreage devoted to equine was reported.

Equine Inventory, Value, Places Acreage and Number of People Involved by County

Counties	*Total Equine Inventory*	*Total Value of Equine Inventory*	*Number of Equine Places*	*Total Equine Related Acres*	*Total Number of People Involved*[1]
	(number)	*(thousand dollars)*	*(number)*	*(acres)*	*(number)*
Allegany	270	685	120	1,300	240
Garrett	1,410	2,900	370	3,400	820
Baltimore	10,630	121,800	2,100	31,200	4,200
Carroll	5,730	31,735	1,290	14,700	2,430
Frederick	8,290	47,310	2,180	22,000	3,570
Harford	7,390	73,115	1,360	18,400	2,160
Howard	5,190	61,265	1,200	11,200	2,280
Montgomery	8,470	60,555	2,590	17,700	4,070
Washington	4,460	12,295	1,560	10,200	4,090
Anne Arundel	4,590	27,035	1,330	8,900	2,320
Calvert	1,510	9,980	420	3,500	750
Charles	1,640	7,375	490	4,300	1,110
Prince George's	7,420	63,610	1,170	11,700	1,860
Saint Mary's	2,710	7,540	620	8,600	1,510
Caroline	1,310	7,290	260	3,300	530
Cecil	6,580	68,345	900	15,300	1,580
Kent	1,610	29,025	170	4,000	410
Queen Anne's	2,000	18,070	300	3,800	550
Talbot	1,930	8,375	700	4,200	1,600
Dorchester	460	5,280	160	1,200	240
Somerset	280	800	80	500	130
Wicomico	2,260	9,860	650	4,400	1,220
Worcester	960	5,995	180	2,200	330
Maryland Total	87,100	680,240	20,200	206,000	38,000

[1] Excludes hired labor.

BREED DATA

Light Breeds and Racing Breeds dominated the breed categories across the State, accounting for 48 and 40 percent of the total inventory, respectively. The top 5 individual Breeds in terms of inventory numbers and the respective percents of total were, Thoroughbreds (33%), Quarter Horses (14%), Standardbreds (7%), Arabian and Anglo Arabian (5%), and Other Warmbloods (4%). This breed ranking excludes the Unknown Light Breed category which accounted for 8% of the inventory and All Breeds of Ponies which accounted for 7% of the total. The inventory numbers were reported by land owners who kept equine on their operations. This table provides a breakout of the animals owned by the land holder and the animals boarded for others. Of the total 87,100 equine on Maryland horse places, 61,900 or 71% were owned by the land owners and family. There were 25,200 equine or 29% boarded for other owners. For the major breed categories, 34% of the racing breeds are boarded out and 28% of the Light Breeds are boarded out. The value of the equine inventory at the time of the census was estimated to total more than $680 million or an average of $7,810 per animal. The most valuable breeds were Other Warmbloods with an average value of $16,883. This category groups several warmblood breeds or cross breeds together and includes a large concentration of show horses. The racing breeds ranked next in average value with standardbreds at $13,653 and thoroughbreds at $13,446. There was a wide range of values reported for most breeds with retired animals at the low end of the scale and show or racing animals at the top end of the value scale.

Equine Inventory and Value by Breed

Equine Breeds	Total Inventory (number)	Total Inventory Owned[1] (number)	Total Inventory Boarded for Others[2] (number)	Total Inventory Value (thousand dollars)	Average Inventory Value (dollars)
American Saddle	680	520	160	1,185	1,743
Appaloosa	2,790	2,120	670	8,540	3,061
Arabian and Anglo Arabian	4,040	2,870	1,170	16,005	3,962
Miniature Horses	720	670	50	1,085	1,507
Morgan	1,660	980	680	5,520	3,325
Paint/Pinto	2,660	2,110	550	10,890	4,094
Quarter Horses	12,060	9,170	2,890	39,180	3,249
Tennessee Walker	1,700	1,180	520	5,120	3,012
Other Crossbreds	3,280	2,320	960	17,435	5,316
Other Warmbloods	3,600	2,170	1,430	60,780	16,883
Other Light Breeds	1,880	1,390	490	10,290	5,473
Unknown	6,930	4,800	2,130	11,320	1,633
Total Light Breeds	42,000	30,300	11,700	187,350	4,461
Standardbreds	5,800	4,640	1,160	79,190	13,653
Thoroughbreds	28,800	18,250	10,550	387,235	13,446
Other Race Breeds	200	110	90	715	3,575
Total Race Breeds	34,800	23,000	11,800	467,140	13,424
Belgian	690	650	40	1,580	2,290
Percheron	420	330	90	1,985	4,726
Clydesdale	110	70	40	520	4,727
Other Draft Breeds	980	850	130	3,775	3,852
Total Draft Breeds	2,200	1,900	300	7,860	3,573
Ponies, All Breeds	5,900	4,700	1,200	16,480	2,793
Mules, Donkeys, & Burros	2,200	2,000	200	1,410	641
Total All Equine	87,100	61,900	25,200	680,240	7,810

[1] Total inventory owned by the land owner and /or family.

[2] This inventory is owned by someone other than the land owner.

OTHER DATA

Most of the Light Breeds, 45%, were kept at private residences, while 31% were kept at Boarding, Training, Riding, or Show Facilities. As would be expected, most of the race breeds (39%) were kept at Race related facilities while 27% were kept at Breeding facilities. The largest percent of Draft Breeds, 41%, were kept on crop or livestock farms. Ponies are mainly kept at private residences and Boarding, Training, Riding, or Show facilities. Mules, donkeys, and burros were mainly kept at private residences.

Number of Equine by Breed and Primary Function of the Operation

	Number of Equine By Breed Category					
Type of Equine Operation	***Light Breeds***	***Race Breeds***	***Draft Breeds***	***Ponies***	***Donkey Mules or Burros***	***Total Equine***
Boarding, Training, Riding or Show Facility	13,000	5,990	500	2,110	100	21,700
Commercial or Private Breeding Facility	3,870	9,560	150	710	80	14,370
Racing or Race Related Facility	430	13,660	30	170	140	14,430
Private residence with Equine	18,850	3,630	550	2,160	1,420	26,610
Crop/Livestock Farm	4,310	1,270	910	500	410	7,400
All Other Facilities	1,540	690	60	250	50	2,590
Total	42,000	34,800	2,200	5,900	2,200	87,100

Trail Riding Preferences	
Total Number of Places Reporting Trail Riding [1]	11,800
Percent Using State, National, or Region Parks	60%
Percent Using State, or National Forest Land	26%
Percent Using Wildlife Management Areas	24%
Percent Using Private Land	94%
Percent Using Other Locations	8%

[1] Respondents could indicate multiple trail riding locations.

Of the total number of equine places at, 20,200, approximately 11,800, or 58%, indicated that they had rode trails some time during the past year. Respondents were then asked to indicate where they rode, given the categories listed in the table to the left. An overwhelming majority indicated they rode on private land, 94%, while 60% indicated they rode on State, National, or Regional Parks. Respondents could choose multiple entries if they rode in multiple areas.

Maryland Agricultural Statistics Service
50 Harry S Truman Parkway
Suite 202
Annapolis, MD 21401

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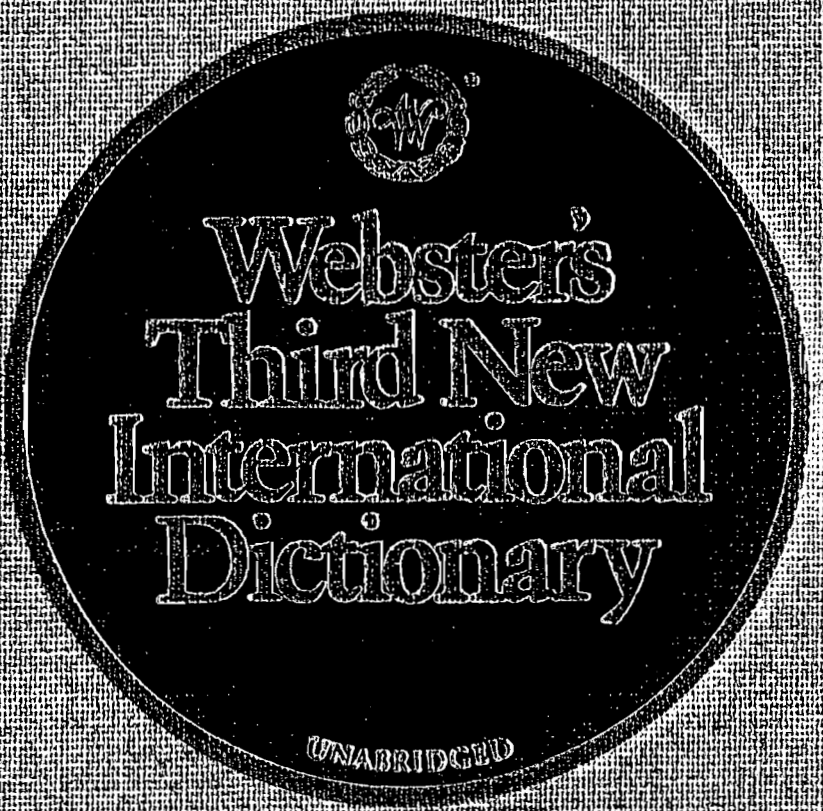
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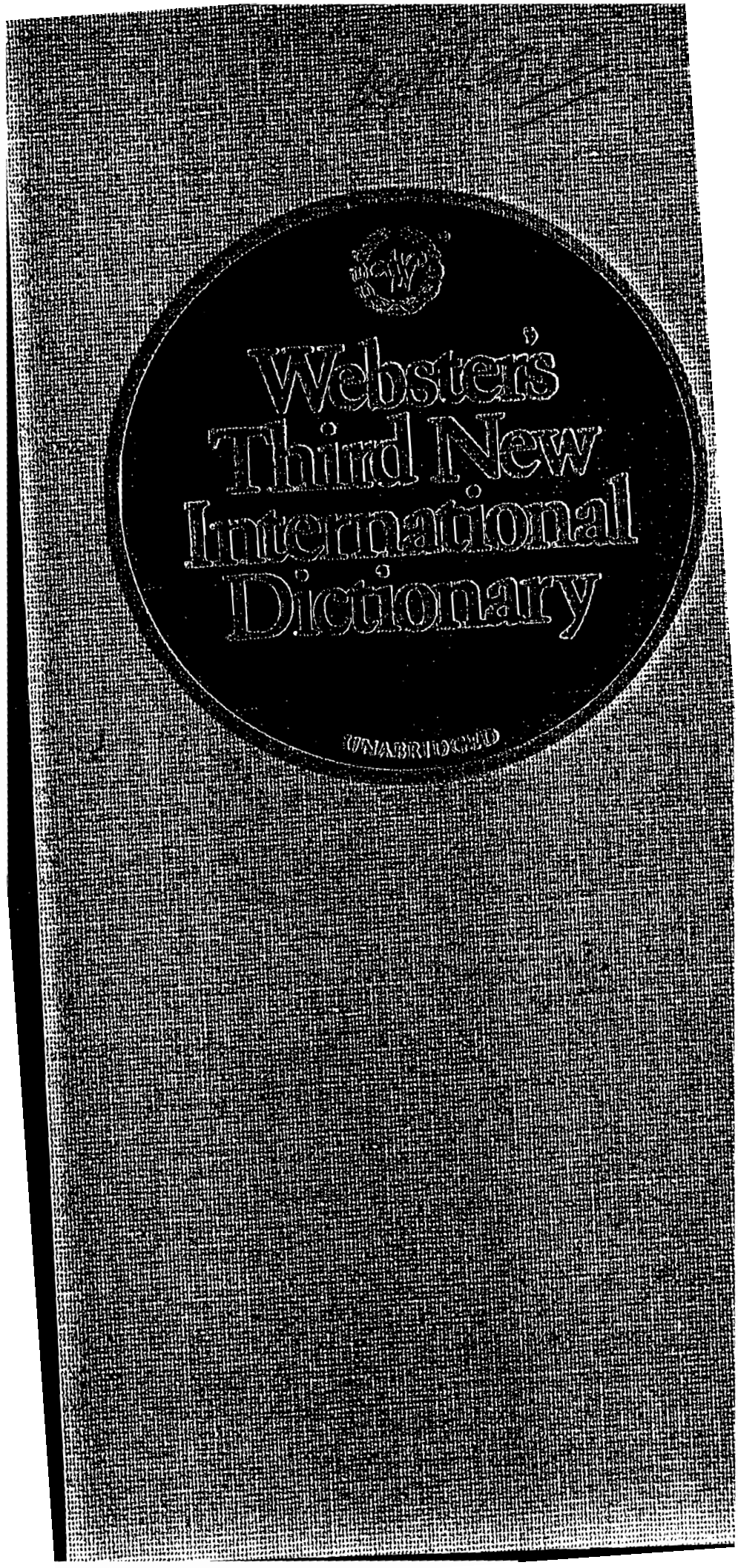

Webster's
Third New
International
Dictionary
UNABRIDGED

Applicant's #16

EQUINE INDUSTRY

We support the inclusion of inventories of the various classes of equine in the state in future MDA and NASS agriculture statistical surveys. #00

We support the recognition of equine as part of the agricultural industry and not as companion animals. Riding lessons given on a farm should be considered a part of the normal agriculture practices. We support measures to improve the Maryland Bred Program within the Thoroughbred and Standardbred Industry. #03

Baltimore County Farm Bureau, Inc.

Baltimore County Agriculture Building
9811 Van Buren Lane
Cockeysville, Maryland 21030
410-666-1033

Appeal #19

February 8, 2004

Dear Sir/Madam

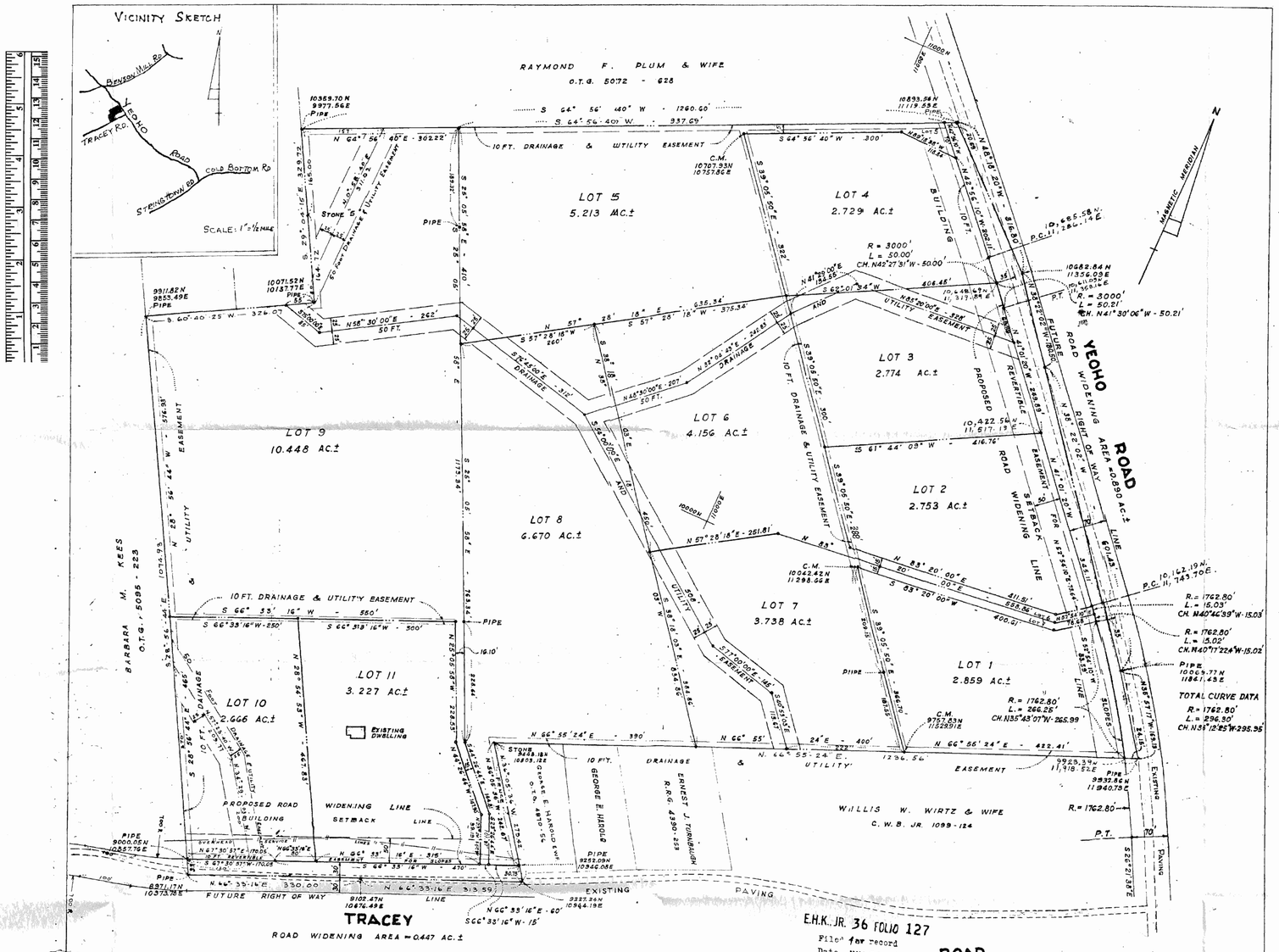
The 2004 Maryland Farm Bureau Sate Policy states with regard to the Equine Industry, "We support the inclusion of inventories of the various classes of equine in the state in future MDA and NASS agriculture statistical surveys. We support the recognition of equine as a part of the agriculture industry and not as companion animals. Riding lessons given on a farm should be considered a part of the normal agricultural practices. We support measures to improve the Maryland Bred Program within the Thoroughbred and Standardbred industry."

With that stated the Baltimore County Farm Bureau supports the Meittinis' endeavor to pursue the ability to teach riding lessons at their farm in Sparks, Maryland. We do not, however, seek to impose our opinion in such a fashion that would be contrary to the decision of Baltimore County Board of Appeals in the Meittinis' case.

Sincerely yours,

Lee Richardson
President

Tom Reynolds
Vice President



E.H.K. JR. 36 FOLIO 127

Filed for record
Date JUN 26 1973
Test:
Clerk

P. W. A. Completed
Final Plat Checked:
Planning:
Engineering:
Street Names:
House Nos.

THE STREETS AND / OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEED ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE, THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

THE COORDINATES SHOWN HEREON ARE BASED ON AN ASSUMED SYSTEM.

I CERTIFY THAT THE REQUIREMENTS OF SECTIONS 59 TO 62 OF ARTICLE 17, 1957 EDITION OF THE ANNOTATED CODE OF MARYLAND (TITLE CLERKS OF COURTS, SUBTITLE CLERKS OF CIRCUIT COURT) AS FAR AS THEY CONCERN THE MAKING OF THIS PLAT, HAVE BEEN COMPLIED WITH.

SIGNED: William H. Pugsley, General Partner
GUNPOWDER LAND ASSOCIATES — OWNERS

ADDRESS: PAPER MILL ROAD
PHOENIX — CITY OR TOWN
MD. — STATE
21131 — ZIP CODE

DATE: 4-12-73

DEED RECORDED IN LIBER 5331 FOLIO 181

ALL LOT CORNERS MARKED WITH PIPE OR CONCRETE MONUMENT

FOR PANHANDLE LOTS: REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO JUNCTION OF PANHANDLE AND ROAD RIGHT OF WAY LINE ONLY AND NOT ONTO THE PANHANDLE LOT DRIVEWAY.

No. OF LOTS - 11
DENSITY - .22
ZONED - R.D.P.

John F. Etzel 2,882 April 11, 1973
JOHN F. ETZEL — REGISTERED LAND SURVEYOR — DATE

HIGHWAY DEPARTMENT OF BALTIMORE COUNTY	BALTIMORE COUNTY PLANNING BOARD	BALTIMORE COUNTY HEALTH DEPARTMENT
APPROVED: Charles D. Deering 6/6/73	APPROVED: William D. Frome 6/1/73	APPROVED: Donald T. Rauschmeier 5/29/73
ROAD ENGINEER — DATE	DIRECTOR — DATE	DEPUTY STATE & COUNTY HEALTH OFFICER — DATE

(4 lots 22 Ac.)

SCALE: 1" = 100' MAY 8, 1973

DOLLENBERG BROTHERS
SURVEYORS AND CIVIL ENGINEERS
709 WASHINGTON AVENUE
TOWSON MARYLAND

MSA CSU 2136-6927

PROTESTANT'S EXHIBITS

(4)

(20010530)

27 Feb 2003

Verified 4-16-03

MCTINIS # 01-530-X

Protestants #1 "Transcript from DZC
pg 8 lines 1-9

#2 Farm Bureau Letter 5-15-2001
#3 Board File + Zoning Comm info
#4 Valley Planning Council - 1-31-02
#5 General Provisions - Section 10.1
#6 Photo of W Butler Lane
#7 Non RC 2 Properties
#8 A, B, C Photos of Hart Rd
#9 A B C Photos of Bailey Rd
#10 RC 2 General Properties
& photos (14 pages)
#11 letter of 6/14/99 & Memo
#12 (A-D)
#13 Photos (A-F)
#14 Photo
#15 Photo
#16 Photo
#17 Photo
#18 Photo
#19 A & B Activity Logs
#20 Photo
#21 Photo
#22 Sign in Sheet
#23 Wirtz Letter
#24 Keen Letter
#25 Rules & Papers (Mark Board)
#26 Photo (church)
#27 Photo

IN RE: MEITTINIS 01-530-X

Prot #1

The following is the testimony of WES GUCKERT taken in the above-entitled zoning matter before Timothy Kotrocko, Deputy Zoning Commissioner.

TRANSCRIBED BY: Paula J. Eliopoulos

Baltimore County Farm Bureau, Inc.

Baltimore County Agriculture Building
9811 Van Buren Lane
Cockeysville, Maryland 21030
410-666-1033

September 19, 2001

To whom it may concern;

The Baltimore County Farm Bureau strongly supports activities and endeavors on the part of the farming community in their attempt to promote agriculture Education. This activity leads directly to over 7,000 jobs in the Baltimore County.

The many farms and farmers who donate land use and guidance to the youth interested in agricultural activities such as the raising and handling of pigs, goats, sheep, cows, and horses for 4H represent a large demand from the community for agricultural education. The showing of these animals, vegetables, crafts, and riding competition at the always growing Baltimore County 4H fair is a learning experience and camaraderie that will last a lifetime.

The Farm Bureau is very supportive of the horse industry as an important and growing part of the agricultural community. It is one of the top three industries in the state generating $1.6 billion annually. Baltimore County has the most horse enthusiast, one who owners or leases a horse, in the seven county area at 24,630.

We are in strong support of any instructional programs and competitions that draw young and old to one of our leading industries. Riding horses is a pleasure enjoyed by all. The daily care and handling of animals teaches responsibility and discipline. It is difficult in this day and age to find an activity for our youth that is more wholesome.

The Baltimore County Farm Bureau urges you to continue to assist us in our promotion of Agriculture Education in the many forms it takes.

Thank You,

Les Richardson, President
Baltimore County Farm Bureau

Pet Ex #5
(12c)

The Valleys Planning Council, Inc.

207 Courtland Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, *Fax:* 410 296-5409

Sept 2/4

PROTEST

January 31, 2002

Mr. Lawrence E. Schmidt, Zoning Commissioner
County Courts Building
401 Bosley Ave.
Towson, MD 21204

Re: Case No.: 02-221 XA
Brenda & Michael Herzog
16321 Dark Hollow Road

Dear Mr. Schmidt:

The Valleys Planning Council, Inc. is opposed to the granting of a variance for a twelve square foot sign at this location. This property is located within the Piney Run Rural Legacy Area and the Baltimore County Agricultural Priority Area. This property is also adjacent to the Historic Trenton Mill. The property has excellent visibility and there are no hardship or practical difficulty factors present that might warrant a sign twelve times the permitted size.

While we are not necessarily opposed to the granting of special exception for a riding stable and/or horse boarding at this location, there are several issues that need to be addressed.

- How many horses are proposed to be kept on the property?
- How many of these will be boarded?
- Where are the paddock areas for the horses?
- Will there be riding lessons and if so where is the riding ring proposed to be located?
- Where will people who board horses be allowed to ride?
- If riding off site is proposed have the nearby property owners granted written permission?
- Has a nutrient management plan been prepared for this use as required by state law? (See COMAR 15.20.07.05 (3)(c)? If the business generates more than $2,500.00 annual income or has 8 or more animal units a nutrient management plan is required.

Section 101
Definitions
[BCZR 1955]

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below. **[Bill No. 149-1987]**

Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. **[Bill No. 149-1987]**

ACCESSORY BUILDING — One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building.

ACCESSORY USE OR STRUCTURE — A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. **[Bill Nos. 100-1970; 26-1988]**[1]

AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations. **[Bill Nos. 51-1993; 24-2002]**

AIRPORT — Any area of land or water designed and set aside for landing or taking off of aircraft.

ALLEY — A right-of-way 20 feet or less in width, designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed, which provides service access for vehicles to the side or rear of abutting property.

---

[1] **Editor's Note: The definition of "acreage, gross residential" which originally followed this definition was repealed by Bill No. 100-1970. The definition of "after-hours club," which followed thereafter, was repealed by Bill No. 36-2000.**

NON-RC-2 PROPERTIES

FARM/ROAD	ZONING	COMMENTS
Dunroman Stables Hart Road	DR-2	Defunct (and has been so for over 2 years); Towson area
Paradise Farms Old Bosley Road	RC-4	Defunct (farmhouse and barn are gone; construction site; across from housing development); Towson area
Ponies for Children Beckleysville Road	RC-4	At major intersection; across the street from a tavern
Manorvale Farm Fox Hall Farm Road	DR-2	Western Baltimore County, off Rolling Road; Fox Hall Farm Road is a private road with a homemade sign; no lessons given
Airy Hill Farms Rice's Lane	RC-6	Western Baltimore County, off Windsor Mill and Old Court Roads; no lessons given
The Stable Ridge Road	RC-6	Western Baltimore County, off Windsor Mill and Old Court Roads; no lessons given

pmb #10

RC-2 ZONED PROPERTIES

Farm/Road	Sponsor	Boarding /Lessons	Number of Lessons	Dead-end or Through Road	Width of Road	Location of Site to Intersection	Special Circumstances
Manor Hill Farm Breidenbaugh Lane	Guckert	Boarding	No Lessons	Dead-end	15'; unpaved	Farm is at end of road	**This is not a county road; it is a private lane owned by the farm.**
Tranquility Manor Farms Stansbury Mill Road	Guckert	Boarding and Lessons	Lessons	Through	18' at farm - farm's driveway is 21'/striped	Farm is not close to intersection	275 acre farm; lessons since 1953; received a conditional non-conforming use in 1977; farm is down one mile driveway off Stansbury Mill Road and removed from any neighbors
Camelot Farms Sheppard Road	Guckert	Boarding and lessons	Lessons	Through - **it is a State Road - Route 138**	21'; it is marked with a double yellow line and shoulder	Farm is not close to intersection	Special exception granted in 1977 by signed written agreement with neighbors

Pet. 11

HAND DELIVERED

June 14, 1999

Mr. and Mrs. Nicholas Metinas
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Metinas:

It has come to our attention that you are planning to engage in commercial activity from your property at 2311 Tracey's Road. It is our understanding that such activity is not permitted under the present land use laws and regulations. We are writing to you now, before you develop your property for commercial use, to inform you that we oppose and will resist any effort to engage in such commercial activity or to modify the existing laws to permit that commercial activity. We are bringing these concerns to your attention at this point so that you will not incur needless expenses associated with developing your property for commercial activity.

Sincerely,

Joseph L. Evans

Nedda Pray Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

HART RD DUNROMAN STABLE

HART RD DUROMAN STABLE

BARN AT [illegible] LN ROMAN HART RD

PARADISE FARM BOSLEY RD 4/5/03

(No. 22)

DIAMOND ANNA

PARADISE FARM OLD BOSLEY RD 4/5/03

Dwt 9-03

(No. 18) 350

PARADISE FARM BOSELY Rd

Sat Dec 1 10:30 AM

RA

2002
Jan 6 Sunday

13B

Dec 23 1200 2001 Tag ERH 934

RC

2801

32

Summer '03

(No. 19)

1046

Summer '03

<No. 2>

1063

CW1

Summer '03

13D

Summer '03

13E

Summer '02

13f

Tracey's ROAD at meithnic entrance 2/16/01

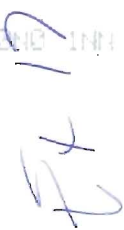
Simmoft Damage

E+14

$$\frac{1}{\sqrt{x}}$$

EX 16

003 HA DANABO INN 0 2707



TRACEYS RD AT MEITTINIS & EVANS DRIVE

HART RD DUROMAN STABLE

Page 26

Chuck w/ Red Heels

DTC 10 DOWNGRADE WHEN 1 251

(No. 9)

FOX HALL FARM RD PRIVATE DRIVE WAY 3/03

No. 20

10/22/01

Wheeler Lane

Protestants

Ex 6

20 A

9/01

Prof Ex 4A

Hw # 1

3/14/11

Test #1

Activity LOG / 2ND VIOLATION CASE

Pg 1 of 8

ACTIVITY LOG

Wednesday February 6, 2001 - 2 lessons (5:00p.m.)

1 gray pony - client wearing light blue top

1 spotted pony - client wearing pink and purple jacket

lesson was from 4:00 - 5:03. (Black BMW or Saab and Goring blue/gray van)

February 16, 2001

6 horse trailer came in. Trailer said Andrew Simmoff on the side and was f rom Delaware Park. The van unloaded a new boarder. The horse was bay with a white face. Horse had bandages on legs. Simmoff vehicle to large to access property from Tracey's Road. Drove over Evans' lawn to access Meittinis driveway.

As of this date there are also three other boarders on the property: plain bay horse owned by Henry Walters, brown horse owned by Jenny Tuttle (Charlie) and another boarder whose owner is unknown.

Saturday February 24, 2001 - 3 lessons (3:50p.m.)

1 gray pony - client wearing pink top

1 bay horse - client wearing gray top (Tuttle's horse)

1 chestnut pony - client wearing purple top

gray pony and chestnut pony changed riders. Man in ring wearing red coat helping children. Lesson began at 3:00 and ended at 4:02.

Monday February 26, 2001- 1 lesson (9:30a.m.)

1 bay horse - client wearing blue hat

Saturday March 3, 2001 1 lesson (11:30)

1 gray pony -client wearing red coat

lesson over at 12:30

Pg 1 of 3

ACTIVITY LOG

Monday July 31, 2000

11:30 a.m. - 3 lessons

1 gray pony
1 bay pony
1 spotted pony (no picture)

Tuesday August 1. 2000

4:30 p.m. - 1 lesson

chestnut pony

Wednesday August 2, 2000

4:06 p.m. - 1 lesson

gray pony (client wearing bright purple helmet)

At 10:06 a.m. a white expedition (M119681) with horse trailer attached came in. A gray jaguar came out of driveway, tag number BPP 764.

Thursday August 3, 2000

3:45 p.m. - 3 lessons

1 bay horse (client wearing green helmut)
1 brown spotted pony
1 bay pony (client wearing green helmet)
Tag Numbers: GRL 568 VOLVO
BPP764 Jaguar
394 AGC red American car

8 lessons

Meithnis

2/10/04

Pet 22

Debbie Price	2315 Traceys Rd	Sparks	21152
Kustin Price	2315 Traceys Rd	Sparks	21152
Bud Wirtz	Traceys Rd		
Bill Hoffman	16301 Yeho Rd	Sparks	21152
George E Harold	2206 Traceys Rd	Sparks	21152
Herb Hochhalter	2218 Traceys Rd	Sparks	21152
Anne Hochhalter	2218 Traceys Rd	Sparks	21152
Wendy P Gang	2224 Traceys Rd	Sparks	21152
Joseph L Evans	2224 Traceys Rd	Sparks, md	21152
Cheryl A Schweyer	2212 Traceys Rd	Sparks	21152
Carolyn E Harold	2206 Traceys Rd,	Sparks, MD	21152

pmt X 23

Case No. 01-530-X

The Wirtz family has been farming on Tracey's Road for generations. Our family still plants corn and soybeans on the land adjacent to the Meittinis property.

Tracey's Road is a one lane road with blind spots and two cars cannot pass each other on the roadway. Tracey's Road does not have a shoulder on either side. When two cars meet on Tracey's Road, one car must leave the paved portion of the roadway.

We reside with our two children, ages 7 and 9, in the first house on Tracey's Road. We see the traffic as it turns onto Tracey's Road from Yeoho Road. Before the Meittinises moved here there was not a lot of traffic on Tracey's Road. The traffic has increased substantially since the Meittinises moved here and opened their riding stable and veterinarian practice. The vehicles coming up and down the road from the Meittinis property often speed. This is a problem for us because we have young children. Due to the increased traffic levels and speed of the vehicles, we no longer allow our children to ride their bicycles on Tracey's Road.

We are also afraid to let our children play on their own front lawn. Across from our property there is an embankment. When a car must pull off of the paved roadway in front of our property, it is forced onto our front lawn. With the increased traffic, more vehicles are pulling off the roadway and on to our front lawn. We do not believe that our front lawn should be used as a road just so that the Meittineses can operate their businesses from their home.

The Meittinises activities, the riding stable and the veterinarian practice, have not only interfered with the normal residential use of our property but have interfered with our farming use as well. The Meittinises fenced in part of the Wirtz farm property which adjoined their property and used it as grazing space for their horses. We hired a surveyor and had the Wirtz farm property re-surveyed . The Meittinises were notified about their encroachment on the Wirtz farm property but did not want to move the fence. It took the Meittinises approximately a year to remove the fence from the Wirtz farm property.

We are opposed to both the riding stable and the veterinarian uses. We hope you will take our concerns into consideration when you make your decision.

Vernon W. Wirtz, Jr.
2100 Tracey Road
Sparks, MD 21152

Susan E. Twigg-Wirtz
2100 Tracey Road
Sparks, MD 21152

Prot 24

The Kees family has operated a horse breeding and training farm, where race horses are trained personally by members of the Kees family. The farm has been operating for 53 years at the end of Tracey's Road. Our farm adjoins the Meittinis property, and is in the Agricultural Preservation Program. All of the years we have lived here we have always been good neighbors to our other farm neighbor, the Wirtz family and all of the residential neighbors and all of them have been good neighbors to us. We have always respected the property rights of our neighbors and their right to use Tracey's Road. We have never given riding lessons which would require the public to be constantly coming in and out of Tracey's Road. When we have a horse arriving in a large commercial horse trailer, we meet the commercial vehicle elsewhere and then bring the horse down the road ourselves because Tracey's Road is such a small, dead-end lane. If Tracey's Road were a through street and traffic could drive through and go out the other way, the traffic from the Meittinis property wouldn't be such a big problem. As it is, all of the Meittinis traffic has to turn around and go back out Tracey's Road where it meets the incoming traffic head on.

The Kees family is opposed to the granting of a special exception for a riding stable. The granting of a special exception for a riding stable would interfere with our use of the road and access to our property and it would interfere with usage of the road by other neighbors as well.

We also oppose the riding stable because the stable is located too close to the home of Rusty and Debbie Price. We know that all of the maintenance activity and the activity generated by the public coming in and out for lessons necessarily occurs in the stable area and this activity is disruptive for Mr. and Mrs. Price when they are trying to enjoy the

Prot #25

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 Greater Sparks Glencoe Community Council.

Wendy McIver, Recording Secretary

Wendy McIver

AS WITNESS OUR HANDS AND SEAL THIS 9th DAY OF April, 2003.

ATTEST: The Greater Sparks Glencoe Community Council

Kristin C. Bowyer
Secretary

President

THE GREATER SPARKS GLENCOE COMMUNITY COUNCIL

RESOLVED: That the position of the The Greater Sparks Glencoe Community Council as adopted by the Board of Directors on the zoning matter known as:

In the matter of Stephanie S. and Nicholas Meittinis petition for Special Exception for a riding stable and veterinarium at 2311 Tracey's Road, Sparks, Maryland 21152.

Is that: Recommendation of the Greater Sparks Glencoe Community Council

Case No. 01-530-X

"In the Matter of Nicholas and Stephanie Meittinis Petition for Special Exception

This case came to the attention of the Greater Sparks Glencoe Community Council (GSGCC) when a resident of Tracey's Road, Mrs. Evans, approached our Board and requested the support of the GSGCC. Mrs. Evans, her husband, and their neighbors are protesting a Special Exception being requested by other neighbors, Dr. and Mrs. Meittinis. The Mettinis' were seeking the special exception to allow a veterinarium and riding stable on their property at 2311 Tracey's Road. The Evans and other neighbors opposed the request for the riding stable on the grounds that Tracey's Road is a very narrow road; the business property is very close to other residences on the road; and the property on which the businesses would be located is too small to sustain all the uses the owners planned.

In order to come to a fair decision on this matter, the GSGCC Board invited both parties to address the Board at separate meetings. Mrs. Evans addressed the Board on January 30, 2002. Mr. John Gontram, attorney for the Meittinis,' addressed the Board on February 13, 2002. On March 12, 2002, the Board met to discuss the case. We have taken into consideration the positions of each side as well as the written recommendation of the Baltimore County Department of Environmental Protection and Resource Management.

The GSGCC is an organization that is dedicated to maintaining the rural character of northern Baltimore County. We believe that agriculture plays a vital role in our economy and is an important part of rural life in Baltimore County. We support agricultural zoning as well as programs that preserve property for agricultural use. Our organization attempts

Rule 28

SIGN-IN-LOG

2/12/04

1) Rudy Price - 2315 TRACEY Rd.
2) Debbie Price 2315 Tracey Rd
3 Sherry Rudolph 2324 Tracey Rd
4 Cheryl Schweyer 2212 Traceys Rd Sparks
5 George E Harold Hazel Hall 2206 Traceys Rd
6 Vernon W Hunt Jr 2100 Tracey Rd
7. Wendy McIver 23 Manor Brook Rd, 21111 - GSGCC
8. Madelin L Lang
9. Joseph Evans 2224 TRACEYS Rd 21152
10. HERB HOCHHALTER 2218 TRACEYS RD
11. ANNE HOCHHALTER 2218 TRACEYS RD

PEOPLES COUNCIL'S EXHIBITS

(20010530)

B 706/04

(51)

Meittinis
G1-530-X

Verified 8/01/03 Verified 4/16/03 Verified 3/27/03 4/08/03

Purple Council #1 ✓ ✓ Aerial Photo

✓ ✓ #2 ✓ ✓ 3/25/03 sign in sheet
✓ ✓ #3 ✓ ✓ 2/c Green Rd
✓ ✓ #4 ✓ ✓ 2/c Renaissance Farm
✓ ✓ #5 ✓ ✓ 2/c Trenton mill Rd
✓ ✓ #6 ✓ ✓ 3/26/03 sign in sheet
✓ #7 ✓ ✓ 4-8-03 sign in sheet
✓ & A ✓ Code Enforcement 00-715C
✓ B ✓ Amended Fund Order Code Enf Office
✓ C ✓ B. of A. dismiss - Case # CC-00 715C
✓ D ✓ Code Enf Hearing Officer CC-00-715C
✓ E ✓ CBA - CC 00 715C
✓ #9 ✓ County Council Bill #51-93
✓ #10 ✓ Sign In Sheet 4-16-03
✓ #11 Zoning Ordinance 5-5-01
✓ #12 P.C. sign in sheet 4/29/03

P.C. Exh. 1

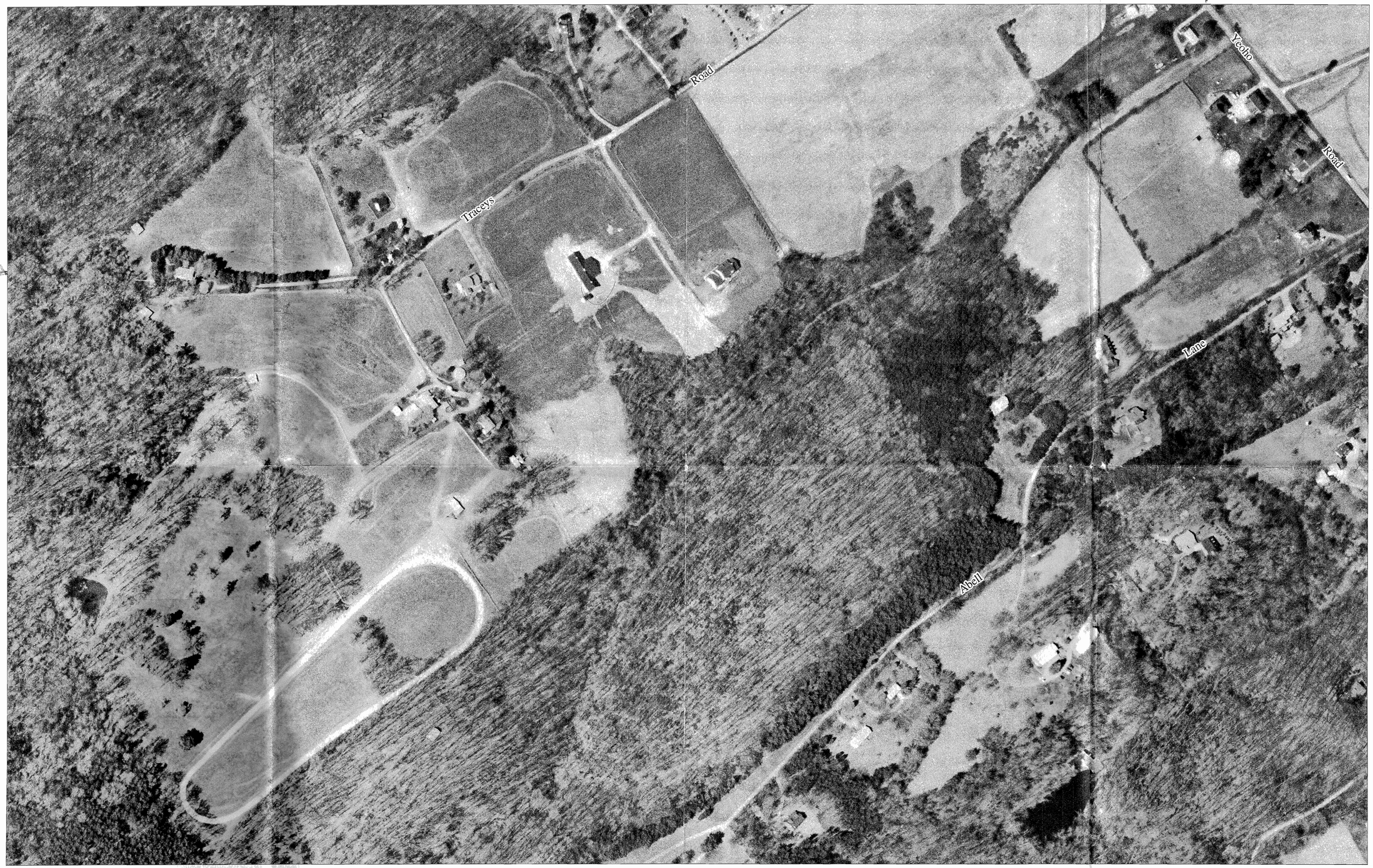
E

Traceys Road

T

Y

K



Produced by Baltimore County GIS Services Unit
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All Rights Reserved
Date of Map Production: March 6, 2003

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N
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S

BALTIMORE COUNTY MARYLAND

01-530-X

DATE: 3/25/03

pc #2

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: MEITJINS

CASE NO.: 01-530-X

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number (410)	Community Group You Represent / Basis of Your Concerns
✓	RUSTIN E. PRICE 771-4660 2315 TRACEY Rd. 21152	
✓	DEBORAH PRICE 410-771-4660 2315 TRACEY Rd. 21152	
	Barbara Rees 410-771-4567 2323 Tracy Rd	
✓	George E Harold 410-472-2718 2206 Traceys Rd 21152	
	Sherry Rudolph 2324 Tracey Rd Sparks, MD 21152	
✓	CHERYL H. SCHWEIZER 2212 TRACEYS RD 771-8273	
	HERBE ANNE HOCHHALTER 410-871-2096 21157 3218 TRACEYS RD, 15 SWAMPFIELD, WESTMINSTER	
	Vernon Wirtz Jr 2100 Tracey Rd	
	Carolyn Harold 410-472-2718 2206 Traceys Rd.	
	Joseph L. Evans 2224 TRACEYS Rd	
	Michele Mary EVANS	

P.C #3

IN RE: PETITION FOR SPECIAL EXCEPTION NE/Cor. Green Road and Mantua Mill Road (14001-14111 Green Road) 8th Election District 3rd Council District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Harold C. Green, et ux Petitioners	*	Case No. 02-356-X

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owners of the subject property, Harold C. and Ann M. Green, through their attorney, Robert A. Hoffman, Esquire. The Petitioners request a special exception for a riding stable and an office for agricultural-related uses, pursuant to Sections 1A01.2.C.15 and 1.A01.2.C.21 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, a special exception for a shooting range, pursuant to Section 1A01.2.C.24 of the B.C.Z.R. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Harold Green and his wife, Ann Green, property owners; Mitchell Kellman, on behalf of Daft-McCune-Walker, Inc., the consultants who prepared the site plan for this property; and, Robert A. Hoffman, Esquire, attorney for the Petitioners. Also appearing in support of the requests were Deborah Supik-Jones, a horseback riding and training instructor who utilizes the property; and Michael J. Binosky, a Registered Professional Engineer who has served as a consultant to the National Rifle Association of America. Neighbors, Frances Milton and Anne Baetjer Jenkins appeared as interested persons. Howard L. Alderman, Jr., Esquire appeared on behalf of Mr. and Mrs. Victor DiVivo, adjacent property owners/Protestants.

PC #4

IN RE: PETITION FOR SPECIAL EXCEPTION
SW/S Priceville Road, 200' S of the c/l
Belfast Road
(15314 Priceville Road)
8th Election District
3rd Council District

Renaissance Farm, LLC
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 01-499-X
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owner of the subject property, Renaissance Farm, LLC, by Katharine O. Rowland, Member, through their attorney, Robert A. Hoffman, Esquire. The Petitioner seeks approval of a special exception for a riding stable on the subject property, pursuant to Section 1A01.2.C.21 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Katharine Rowland and Peter Achinstein, representatives of the Renaissance Farm, LLC, owner of the subject property; Edward Jendrek, adjacent property owner; Bruce E. Doak, Registered Property Line Surveyor who assisted in the preparation of the site plan; and, Robert A. Hoffman, Esquire, attorney for the Petitioner. Appearing as Protestants in the matter were Donald E. and Vera M. McKeldin, nearby property owners.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the west side of Priceville Road, just south of Belfast Road in Sparks. The property consists of a gross area of 21.394 acres, more or less, zoned R.C.2 and is improved with a two-story stone dwelling and several outbuildings, including a frame and stone barn, which is occupied by a tenant farmer, pursuant to the approval obtained from the Baltimore County

PC #5 Jmk 2/4/02

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE S/S Trenton Road, 1250' W centerline of Trenton Mill Road 5th Election District 3rd Councilmanic District (16321 Dark Hollow Road) Brenda & Michael Herzog Petitioners	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-221-XA

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance filed by the legal owners of the subject property, Brenda and Michael Herzog. The Petitioners are requesting a special exception for a riding stable and for horse boarding and a variance to allow a sign of 12 sq. ft. in lieu of the required 1 sq. ft.

Appearing at the hearing on behalf of the variance and special exception request were Brenda and Michael Herzog, owners of the subject property and Roy Snyder, the property line surveyor who prepared the site plan of the property. Appearing as interested citizens in the matter were G. C. & Donna Smith, adjacent property owners, Gene & Jean Sessa, nearby property owners and Jack Dillon, Director of the Valleys Planning Council. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this request, comprises 14.3 acres, more or less, zoned R.C.2. The subject property is located on the south side of Trenton Road, east of its intersection with Dark Hollow Road. The property is currently being developed with a single-family residential home wherein the Herzog's intend to reside. In addition, a horse barn and shed are also being constructed on site. The locations and size of

DATE: 3/26/03

PROT #6

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: MEITTINIS

CASE NO.: 01-530-X

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
X	JOSEPH L. EVANS 2224 TRACEYS Rd 410 771-4754	Protestant
✓	RUSTIN E. PRICE 2315 TRACEY Rd 410-771-4660	"
✓	DEBORAH A. PRICE 2315 TRACEY Rd 410-771-4660	"
	ARLENE M HOFFMAN 16301 YEOHO RD SPARKS MD 21152	"
	WM. L. HOFFMAN 16301 YEOHO RD SPARKS, MD. 21152	"
	Vernon Wirtz Jr 2100 Tracey Rd Sparks Md 21152	"
✓	George E Harold 2206 Tracey Rd Sparks MD 21152 410-472-2718	"
✓	CHERYL SCHWEIZER 2212 Traceys Rd 771-8273	"
✓	NEDDA EVANS	"
	2224 Traceys RD SPARKS MD 21152	"
✓	HERB & ANNE HOCHARACTER 2218 TRACEYS RD 5154 YANKEE CT. WESTMINSTER, MD.	"
	Carolyn Harold 2206 Traceys Rd. 410-472-2718	

DATE: 4/8/03

PC#7

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: MEITTINIS

CASE NO.: 01-530-X

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
X	Joseph L. Evans 2224 Traceys Rd (410) 771-4754	Protestant
X	Claudia P. Evans 2323 Tracy Rd Barbara Keen	Protestant
✓	Debbie Price (410) 771-4660 2315 Traceys Rd	- PROTESTANT
✓	Rustin E. Price 410-771-4660 2315 TRACEYS RD. 21152	- PROTESTANT
	Natalie De Wachter 2318 Traceys Road Sparks MD 21152 410-4770262	"
✓	George E Harold 2206 Traceys Rd Sparks MD 21152 410-472-2718	Protestant
	Vernon Wirtz 5-410 472-4680 2200 Tracey RD Sparks Md 21152	"
✓	CHERYL H. SCHWEIZER 771-8273 2212 TRACEYS RD 21152	Protestant
	Sherry Rudolph 2324 Tracy Rd Sparks md 21152	"
	HERB & ANNE HOCHHALTER 2218 TRACEYS RD 21152	"
	Carolyn F. Harold 410-472-2718 2206 Traceys Rd. Sparks, MD 21152	Protestant

2/14/01

PC# 8A

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

In the Matter of

Civil Citation No. 00-7156

Nicholas L. Meittinis
Stephanie S. Meittinis

2311 Tracey's Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

Leonard Wasilewski, code enforcement inspector, stated that the County received a complaint concerning the use of the property. The property was inspected on 11 July and 25 July 2000 and the inspectors met with the Respondents concerning a complaint of giving riding lessons. The inspectors instructed the complainants to keep a log of activities on the subject property. The log was delivered to Mr. Wasilewski.

On 19 September 2000, the inspector issued a written correction notice pursuant to §1-7(c), Baltimore County Code, which described with particularity the nature of the violation and the manner of correction. The correction notice was marked in evidence as PEx3 and was served on the Respondents. The correction notice recited the following violations under the Baltimore County Zoning Regulations:

(1) Cease the operation of a business from a residence that goes beyond the zoning definition of a home occupation. Sect. 1A01.2.B.9.c: 101

(2) Cease the operation of a riding stable without a special exception. Sect. 1A0.1.2.c.21; 101

3/13/01 PC #803

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

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Respondents

Civil Citation No. 00-7156

2311 Tracey's Road

AMENDED FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations, for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

After said hearing an Order was issued on the 14 of February 2001 imposing a civil penalty in the amount of $3000 and denying the Respondents' motion to dismiss the citation.

Thereafter, counsel for the Respondents has requested in a timely fashion a clarification of the Order in order to allow the Respondents to continue to operate their horse farm in a legal manner.

The hearing officer agrees that the original Order needs to be clarified.

THEREFORE IT IS ORDERED by the Code Enforcement Hearing Officer, this 13 day of March 2001 that the Order dated 14 February 2001 be amended as follows:

IT IS ORDERED that the Respondents' motion to dismiss is denied.

IT IS FURTHER ORDERED that the Respondents shall cease and desist the operation of a riding stable immediately. This injunction is not intended to limit the operation of a horse farm otherwise legally operating from the subject property.

FC 8-C 5/22/01

IN THE MATTER OF	*	BEFORE
NICHOLAS L. AND STEPHANIE S. MEITTINIS –LEGAL OWNERS 2311 TRACEY'S ROAD 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	COUNTY BOARD OF APPEALS OF
	*	BALTIMORE COUNTY
RE: CODE INSPECTIONS AND ENFORCEMENT VIOLATION / CIVIL CITATION	*	CASE NO.: CC-00-7156

* * * * * * * * * * *

OPINION

This case comes to the Board of Appeals on appeal of the Hearing Officer's Amended Order of March 13, 2001 in which he determined that "the Respondents shall cease and desist the operation of a riding stable immediately"; that the Order "is not intended to limit the operation of a horse farm otherwise legally operating from the subject property"; that a "civil penalty be imposed in the amount of $3,000"; and that the civil penalty "shall be reduced to $1,500" should the Respondents "file a petition for special hearing within 60 days" of the Hearing Officer's Amended Order.

Argument was heard by the Board of Appeals on May 10, 2001. Stuart D. Kaplow, Esquire, represented the Respondents /Appellants, Nicholas and Stephanie Meittinis. C. Robert Loskot, Assistant County Attorney, appeared on behalf of Baltimore County. The matter was publicly deliberated on May 15, 2001.

In his argument, Mr. Kaplow raised five errors of procedure:

1. § 1-7(e)1 – The hearing did not take place in the time designated; i.e., 30 days from the date of the citation.

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

5/25/0
PC-8D

In the Matter of

Case No. CC-00-7156

Nicholas L. Meittinis
Stephanie S. Meittinis

2311 Tracey's Road

Property Owners

OPINION OF THE CODE ENFORCEMENT HEARING OFFICER

The Board of Appeals has remanded this case to the Hearing Officer for clarification and any applicable finding of fact made by the Hearing Officer regarding §404.12 of the Baltimore County Zoning Regulations. §404.12 BCZR reads as follows:

"All zoning violation cases concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review. The Director of Permits and Development Management shall allow the Board a maximum of 30 days, before taking action, to comment on an alleged violation." The issue before the Hearing Officer did not include commercial agricultural operations as defined in the BCZR.

Commercial agricultural is defined in §101, BCZR as follows: "The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to §8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations. " The definition does not include a riding stable, which is excluded in the definition of "farm" in §101, BCZR.

FILE COPY

pc-8/22/01

IN THE MATTER OF	*	BEFORE
NICHOLAS L. AND STEPHANIE S. MEITTINIS –LEGAL OWNERS 2311 TRACEY'S ROAD 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
RE: CODE INSPECTIONS AND ENFORCEMENT VIOLATION / CIVIL CITATION	*	CASE NO.: CC-00-7156

* * * * * * * * * * *

OPINION

This case comes to the Board of Appeals on appeal of the Hearing Officer's Amended Order dated March 13, 2001 in which he determined that "the Respondents shall cease and desist the operation of a riding stable on residential property, zoned RC-2, immediately"; that the Order "is not intended to limit the operation of a horse farm otherwise legally operating from the subject property"; that a "civil penalty be imposed in the amount of $3,000"; and that the civil penalty "shall be reduced to $1,500" should the Respondents "file a petition for special hearing within 60 days" of the Hearing Officer's Amended Order.

The Board of Appeals heard argument on May 10, 2001. Stuart D. Kaplow, Esquire, represented the Respondents/Appellants, Nicholas and Stephanie Meittinis. C. Robert Loskot, Assistant County Attorney, appeared on behalf of Baltimore County. The Board of Appeals publicly deliberated the matter on May 15, 2001.

In that deliberation the Board found issue with one of five errors of procedure raised in Mr. Kaplow's argument. The first four items were addressed and found to be without substance, as set forth in this Board's remand order dated May 22, 2001. As to the fifth and final item raised on appeal, it is the Appellants' contention that, under § 404.12 of the *Baltimore County Zoning Regulations,* "All zoning violation cases concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review. The Director of Permits and Development Management shall allow the Board a

FILE COPY

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1993, LEGISLATIVE DAY NO. 8

BILL NO. 51-93

Passed 5/17/93
Effective 7/10/93

MR. C. A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, APRIL 19, 1993

93 AUG 17 PM 3:13
RECEIVED
COUNTY BOARD OF APPEALS

A BILL ENTITLED

AN ACT concerning

Agriculture

FOR the purpose of amending the Zoning Regulations in order to define terms relating to agricultural uses; placing limitations on the stabling and pasturing of animals; providing certain height exceptions; providing requirements for farms in D.R. and R.C. 5 zones; repealing provisions dealing with satellite farms and farmettes; permitting a winery or bottled water plant by Special Exception in certain zones; and generally relating to farm and commercial agriculture activities in Baltimore County.

BY repealing

Section 101 - Definitions, the definitions of "farm", as that definition appears twice, "farm, satellite" and "farmette" and Sections 1A02.2.A.4 and 1A04.2.A.4

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, the definitions, alphabetically, of "Agriculture, Commercial" and "Farm" and Sections 100.6, 1A03.3.B.15 and 404.9 and 404.10

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

DATE: 4/16/03

PC #10

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: MEITTINIS

CASE NO.: 01-530-X

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
✓	Rustin E. Price 410-771-4660 2315 Tracey Rd. Sparks, MD	Protest
✓	Debbie Peile 410 771-4660 2315 Tracey Rd Sparks, Md 21152	"
✓	George E Harold 410-472-2718 2206 Traceys Rd, Sparks MD 21152	Protestor
	Natalie De Wachter 2318 Traceys Rd, Sparks MD 21152	"
	Barbara Ray 2223 Tracy Rd Sparks	"
	Bill Hoffman 16301 Yeoho Rd. Sparks	"
✓	Joseph Evans 2224 Tracey's Rd Sparks	Protestant
✓	Nedda Evans 2224 Tracey's Rd Sparks	"
	Herbert Anne Hochhalter	"

P C #11

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Development Coordination DATE: 9-9-01

FROM: Wallace S. Lippincott, Jr.

SUBJECT: Comments on Meittinis Sph, 2311 Tracey Road

Existing Conditions

This 40.31 acre farm property is located in a Master Plan designated Agricultural Preservation Area and is zoned RC 2 (Agricultural Protection). Both the Master Plan and the zoning provide that farming and agriculture are the preferred uses in this zone. As further indication of the extent of the County's interest to preserve and promote agriculture in this area, the property is located in the midst of a several farms on which the County has purchased development rights for the protection of farmland and open space.

While other agriculturally related uses are also necessary to support farm income, the approval of these uses must be made within a context of the appropriateness and level of impact on the existing community- agricultural and residential. While Baltimore County lacks any additional tests in its zoning code relating specifically to equine activities, the Code does provide for consideration of congestion of the road system(502.1 B) and overcrowding of the land (502.1 I).

With respect to the overcrowding issue, from an agricultural perspective having only 10 acres of pastureland is limiting. For small acreage, the County livestock ratio table permits one acre of pasture per horse. Many landowners and other experts often suggest two acres of pasture per horse. However, these are general rules and the impact is more often dependent upon the type of horses and the management of the grazing. For this reason it is not recommended that a limitation be put on the number of horses or ponies permitted on the farm, but rather that compliance with a nutrient management plan and a Soil Conservation and Water Quality Plan (SCWQ Plan) be required. The nutrient management plan has specific standards. The SCWQ Plan does not and thus conditions should be attached to this plan. The SCWQ Plan should include best management practices based upon the number and types of animals and the specific management of the land for those animals by present and future operators of the farm so as not to cause soil erosion, water quality problems onsite or running off the land, or depletion of the productive capability of the land.

The other relevant standard relating to the proposed uses is the road access to the property. As provided, the property is approximately 0.3 miles off Yeoho Road on Tracey Road. Tracey Road is an approximately 8-foot wide single lane road along which

DATE: 4/29/03

People's Counsel #12

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: MEITTINIS

CASE NO.: 01-356-X

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
X	Joseph Evans 2224 Traceys Rd Sparks	Protestant
X	Nelda Evans "	"
X	Justine E. Price 2315 Traceys Rd. Sparks, MD 21152	"
X	Debbie Price 2315 Tracey's Rd Sparks 21152	"
	Sherry Rudolph 2324 Tracey Rd Sparks MD 21152	"
	Barbara Keys 2329 Tracy Rd Sparks MD 21152	"
	Vernon Wintz 2100 Tracey Rd Sparks Md 21152	"
✓	George E Harold 2206 Traceys Rd Sparks MD 21152	"
	Carolyn F. Harold 2206 Traceys Rd. Sparks, MD 21152	"
✓	Cheryl H. Schweizer 2212 Traceys Rd 21152	"

2001

STANDARD DIARY

Board Exhibit 1

Book 1 of 2

01-530-X

Daily Reminder

2002

STANDARD DIARY

Board Exhibit 1

Book 2 of 2

01-530-X

Daily Reminder

Multi-Page™

IN THE MATTER OF:	*	BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	*	COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	*	OF
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District	*	CASE NO. 01-530-X
3rd Councilmanic District	*	March 25, 2003

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., March 25, 2003.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF:	*	BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	*	COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	*	OF
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District	*	CASE NO. 01-530-X
3rd Councilmanic District	*	March 26, 2003

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., March 26, 2003.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF:	* BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	* COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	* OF
2311 Traceys Road	* BALTIMORE COUNTY
5th Election District	* CASE NO. 01-530-X
3rd Councilmanic District	* February 11, 2004

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., February 11, 2004.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF:	*	BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	*	COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	*	OF
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District	*	CASE NO. 01-530-X
3rd Councilmanic District	*	April 29, 2003

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., April 29, 2003.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF:	*	BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	*	COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	*	OF
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District	*	CASE NO. 01-530-X
3rd Councilmanic District	*	April 16, 2003

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 9 a.m., April 16, 2003.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

Multi-Page™

IN THE MATTER OF:	* BEFORE THE
STEPHANIE & NICHOLAS MEITTINIS	* COUNTY BOARD OF APPEALS
Legal Owner /Petitioner	* OF
2311 Tracey's Road	* BALTIMORE COUNTY
5th Election District	* CASE NO. 01-530-X
3rd Councilmanic District	* April 8, 2003

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., April 8, 2003.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF: * BEFORE THE

STEPHANIE & NICHOLAS MEITTINIS * COUNTY BOARD OF APPEALS

Legal Owner /Petitioner * OF

2311 Traceys Road * BALTIMORE COUNTY

5th Election District * CASE NO. 01-530-X

3rd Councilmanic District * February 12, 2004

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., February 12, 2004.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

3/22/02

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE
SE/S Traceys Road, 1500' SE * DEPUTY ZONING COMMISSIONER
centerline of Yeoho Road
5th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District
(2311 Traceys Road) * CASE NO. 01-530-X

Stephanie S. & Nicholas Meittinis *
Petitioners

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Nicholas and Stephanie Meittinis. The Petitioners are requesting a special exception for property they own at 2311 Traceys Road, located in the Sparks area of Baltimore County. The special exception is to approve a riding stable and equine veterinarium.

Appearing at the hearing on behalf of the special exception request were Nicholas and Stephanie Meittinis, owners of the property, as well as several others who appeared on their behalf. Those individuals appearing on behalf of the Petitioners have registered their names on the Petitioners' sign-in sheet. The Petitioners were represented by John B. Gontrum, attorney at law. Appearing in opposition to the Petitioners' request were many residents of the surrounding community, all of whom signed in on the protestant's sign-sheet. The protestants were unrepresented as a group. However, Joseph and Annetta Evans, adjacent property owners and both attorneys at law, did appear as protestants in the case, and assisted their neighbors in the presentation of the testimony in opposition to this request.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 40.34 acres of land, zoned R.C.2. The subject property is located

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on the south side of Traceys Road, approximately 1500 ft. to the west of the intersection of Traceys Road and Yeoho Road, in Sparks, Maryland. The subject property is improved with a two-story, single-family residential dwelling wherein Mr. & Mrs. Meittinis reside with their children. To the rear of the subject dwelling exists a one-story residential garage. There is also a 95.5 ft. x 174.2 ft. fenced riding area, as well as a two-story frame barn and storage building. All of these improvements are more particularly shown on the plat to accompany this petition for special exception entered into evidence as Petitioners' Exhibit No. 1. The plat was prepared by Gerhold, Cross & Etzel, registered professional land surveyors who were represented at the hearing by Bruce Doak.

The subject property is serviced by Traceys Road, which is a dead-end country lane, only wide enough to accommodate the width of one vehicle. It is absolutely necessary for one vehicle to have to leave the traveled portion of Tracey's Road when encountering another vehicle traveling in the opposite direction. The actual paved width of Tracey's Road varies over the length of this travel way. It was estimated to be 11 ft. to 14 ft. by the various witnesses who testified at the hearing. This type of road width is not uncommon in these rural areas of Baltimore County.

Testimony and evidence offered at the hearing demonstrated that Mr. & Mrs. Meittinis purchased the subject property in 1997. At the time of their purchase, the subject property was farmed and crops were grown thereon. The front portion of the subject property along Tracey's Road was always cultivated with crops, while the rear portion of the property, which consists of woodlands and steep slopes, remained in its natural state. Shortly after their purchase, the Petitioners constructed their house, garage and other improvements.

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D. Grundner

The two-story barn, as shown on the site plan, contains 16 stalls and has enough parking to accommodate 12 automobiles. The barn is situated approximately 213 ft. from the western property line of the subject property. The barn is served by a separate well and septic system other than those associated with the house that is situated on the property.

Mrs. Meittinis has an extensive background in horse training and providing instructional lessons to riders. She has been actively involved in giving lessons to students off-site to the subject property and is requesting permission, at this time, by way of this special exception to give lessons from the subject property. She foresees having up to 14 students at any one time and proposes to give no more than 2 lessons in any given day. It is possible for her to accommodate up to 5 students attending any one particular session. These sessions generally take 45 minutes to 1 hour.

In addition to giving lessons on the property, the Petitioner also trains, breeds and sells horses. At the present time, she has approximately 9 horses on the property. Mrs. Meittinis would be willing to limit her operation to containing no more than 16 horses on the subject property at any one time. She also agreed to other restrictions on her operation, in the event the special exception is approved.

In addition to the Petitioners' request for a riding stable, a separate request is made to allow an equine veterinarium. Testimony indicated that Mr. Meittinis is a licensed Doctor of Veterinary Medicine, having obtained a degree from Cornell University. He is currently involved in a partnership providing veterinary services to the various Maryland thoroughbred racetracks. The purpose of the special exception request for the equine veterinarium is to allow Mr. Meittinis to perform services on the horses which are kept on their property. This request is

limited only to performing services on the horses that are kept on this property, belonging to the Petitioners, as well as horses that are laying up or boarded on site.

The testimony offered by the Petitioners also demonstrated that they currently board horses on their property in addition to the horses they own. At the time of the public hearing before me, the Petitioners were boarding 2 horses on the property which, of course, were not owned by them.

As stated previously, many residents of the surrounding neighborhood appeared in strong opposition to the Petitioners' requested special exception relief. The opposition testimony was led by Mr. & Mrs. Evans who reside on property situated directly across Tracey's Road from the subject property. Mr. & Mrs. Price, who reside on adjacent property immediately to the west of the subject property, also strongly opposed this request. Others in the neighborhood appeared and testified in opposition to the Petitioners' request. The testimony offered by the protestants demonstrated that Tracey's Road is not of sufficient width to accommodate the number of daily trips that are generated by the special exception relief requested by the Petitioners. These neighbors feel that the amount of students coming and going to the Meittinis farm for the purpose of taking riding lessons would cause congestion on Tracey's Road, given that two cars are unable to pass on this narrow lane. The passing of vehicles requires one driver to pull off into one of the property owner's front yard. In addition, neighbors complained of blind spots along Tracey's Road where it is difficult for one vehicle to see oncoming traffic. The increase in traffic on this narrow lane was also a concern of those residents who walk, ride bikes, or jog along this roadway. The narrowness of Tracey's Road coupled with the fact that it is a dead-end street, having only one access point to Yeoho Road, was of great concern to the surrounding neighbors. This was their main reason for opposing the special exception request.

3/22/02

The issue regarding the narrowness of Tracey's Road was not the only cause of concern raised by these neighbors. Mr. & Mrs. Ruston Price, the adjacent property owners, also testified that the special exception relief, if granted, would have a tremendous detrimental impact on their use of their property. Their home is situated in close proximity to the Meittinis farm. The two property owners share a common property line. The riding of horses and the giving of lessons have a greater impact on Mr. & Mrs. Price's property, given the close proximity of their dwelling to where the horses are ridden and kept. They, therefore, ask that the special exception request be denied and that the Petitioners be prohibited from providing horseback riding lessons on their farm.

Also particularly affected by the Petitioners' special exception request were adjacent property owners, Joseph and Annetta Evans. These protestants live on the north side of Tracey's Road, opposite the entrance driveway to the Meittinis farm. Mr. & Mrs. Evans strongly objected to the Petitioners' trespassing on the front portion of their property. This occurs when large farm vehicles and horse trailers negotiate the turn into the Meittinis farm. The 90° angle access coupled with the landscaping rocks located at the entrance, cause these large vehicles to travel into the front yard owned by Mr. & Mrs. Evans while turning left. That grassy area has been reduced to dirt by virtue of this left-turning traffic. Mr. & Mrs. Evans are also concerned over storm water runoff that is generated onto their property by virtue of the additional construction that has taken place on the Meittinis farm. The Evans' property sits lower in elevation than the Petitioners' farm and is, therefore, the drainage area for surface water running off the Petitioners' land.

The testimony and evidence offered both in support and in opposition to the Petitioners' request was voluminous. The hearing comprised three days of testimony. It is not possible to

3/22/02 J.C. Jamison

recount all of the testimony and evidence offered at the hearing in the body of this Order. The record of the case was recorded and reference is made to that transcription for a more detailed account of the testimony and evidence offered at the hearing. In addition, the Petitioners, as well as the Protestants, submitted Memoranda of Law regarding their positions.

Before ruling on the Petitioners' specific request for special exception, it is first necessary to determine what is permitted on the Petitioners' property as a matter of right. The Petitioners' property is zoned R.C.2. Section 1A01.2 of the Baltimore County Zoning Regulations designates those uses that are permitted as of right within such a zone. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted used in the R..C.2. zones. Specifically listed as a use permitted as of right are farms. The Baltimore County Zoning Regulations defines "Farm" as follows:

> "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

The Petitioners' property comprising 40.34 acres of land, zoned R.C.2, satisfies the definition of farm as that term in defined within Section 101 of the Baltimore County Zoning Regulations, so long as the activities occurring thereon are consistent with the definition of the term "Commercial Agriculture" or "Associated Agricultural Uses".

The term "Commercial Agriculture" is defined within Section 101 of the Baltimore County Zoning Regulations. The relevant portion of that definition provides that,

> "commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse

> training and also includes ancillary activities such as processing, packing, storing financing, managing, marketing, or distributing provided that any such activity shall be secondary to the principal agricultural operations."

This definition clearly indicates that "horse breeding and horse training" are uses that are permitted as of right on the Meittinis farm.

Therefore, the keeping of horses on the Petitioners' property either owned by them or belonging to others, for the purpose of breeding or training, is a use permitted as of right, and does not require the granting of a special exception. This horse training and horse breeding clearly allows the Petitioners to keep horses belonging to others on their farm for this purpose. The language of the definition does not limit the breeding and training of horses to those of the property owner only. Furthermore, it shall also be permissible for someone other than the property owner to actually perform the training of a horse on the Petitioners' property. That is, it may be necessary for this property owner to bring other individuals of skill and expertise in the field of training horses onto this property, in order to train a particular horse in a specific exercise or regimen. Therefore, the breeding and training of horses, which shall include the keeping of horses not belonging to this property owner on the property, and allowing other trainers to come to this property to ride and train a particular horse is a permitted use for which a special exception is not necessary.

The question arose at the hearing, whether the Petitioner, by virtue of keeping other persons horses on her property was operating an animal boarding place. The term "animal boarding" place is defined within Section 101 of the Baltimore County Zoning Regulations as,

> "any building, other structure or land or any portion thereof which is used, intended to be used or arranged for the board, breeding or other care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarium."

The definition itself specifically excludes a farm from being considered an animal boarding place. Therefore, in conjunction with the operation of a farm on the Petitioners' property, Mr. & Mrs. Meittinis shall be permitted to board other people's horses thereon. This, therefore, would not be considered an animal boarding place and would not require the granting of a special exception for same.

While it has been determined that the Petitioners shall be permitted to board, train, breed and sell horses from their property as a matter of right, all in accordance with the definitions as contained within the Baltimore County Zoning Regulations and the uses permitted as of right in the R.C. zone, it must now be determined whether the special exception requests should be granted. The property owners have requested two particular uses by way of their special exception petition. The less controversial of the two requested uses was the equine veterinarian and shall be the first such use addressed by this Order.

As stated previously in the body of this Order, Mr. Meittinis is a licensed Doctor of Veterinary Medicine who maintains a successful veterinary practice. Dr. Meittinis limits his practice of veterinary medicine to horses. The majority of his practice is associated with the Maryland thoroughbred racetracks. Dr. Meittinis would like the ability to provide services to the horses which are kept on this property, either those belonging to him or the horses belonging to others.

Dr. Meittinis testified that his practice of veterinary medicine is specialized in that he works completely out of his Toyota Land Cruiser SUV. He does not maintain a clinic. He testified that he travels from race track to race track caring for and maintaining the thoroughbred horses that are involved in the racing industry. He does have an office trailer at each race track wherein he performs paperwork and maintains his records. All of his equipment and medicines

are kept within his vehicle which allows him to readily perform site visits in order to provide care to a particular horse.

Dr. Meittinis is requesting, by way of this special exception, to be able to perform similar such services on his own property. He does not intend to construct a building on this property wherein a clinic will be housed. He intends to utilize the existing barn or a stall located therein in order to administer medicine and provide care to a particular horse. He will not perform any surgeries on site. He simply wishes to provide veterinary services to the horses kept on his property and be permitted to charge a fee for his services. He does not intend to erect any sign on the property and he does not contemplate any advertising for his business.

After considering this portion of the Petitioners' special exception request, I find that Dr. Meittinis should be permitted to perform veterinary services on the horses which are kept on his property and accordingly, that portion of the special exception request shall be granted. The operation of an equine veterinarian on this property will have little or no impact on the surrounding property owners, given that the horses which are to receive care are already kept on the property and the doctor performing such services already lives on site. Since he is the resident veterinarian, no additional amount of traffic will be generated by this use. Accordingly, the special exception shall be granted subject to the conditions and restrictions imposed at the end of this Order.

The second and more controversial of the two special exception requests involved the use of the property as a riding stable. As stated previously within the body of this Order, providing instruction and lessons to a horse falls within the category of horse training and is a use permitted as of right on the property. However, providing instructions and lessons to riders falls outside of that permitted use and within the special exception category of a riding stable.

Therefore, in order to give riding lessons on the subject property, the Petitioners must satisfy those requirements as specified within Section 502.1 of the Baltimore County Zoning Regulations and all applicable case law relating thereto.

After considering the testimony and evidence offered in support of the Petitioners' riding stable and that offered in opposition thereto, as well as the memoranda of law submitted by each side, I find that the special exception request for a riding stable should be denied. A riding stable operating on this property would have a greater detrimental impact at this location than it would on a similarly zoned parcel of property located elsewhere within this locality. Perhaps the greatest factor relative to this finding is the access to the subject property, particularly the narrow width of Tracey's Road. In addition to my concern over the narrowness of Tracey's Road was the inability of the residents living along Tracey's Road to exist harmoniously. The testimony offered at the hearing revealed that vehicles entering the Petitioners' property have had to trespass onto property owned by Mr. & Mrs. Evans when attempting to turn left into the entrance driveway to the Petitioners' farm. Furthermore, residents testified that at times motorists have refused to yield the right-of-way to oncoming traffic causing vehicles to have to leave the traveled portion of Tracey's Road. This apparently has also occurred to pedestrians, joggers, bike riders, persons walking dogs and/or pushing baby carriages. In addition, landscaping rocks, pine trees and wooden sticks and posts have been placed along the sides of this narrow right-of-way, thereby interfering with and hampering the passage of traffic along Tracey's Road. The behavior and actions of these residents have created a tremendous amount of frustration to exist within this neighborhood. This was clearly evident at the hearing before me, as evidenced by the temperament of the witnesses who testified and the tone of the voice of those participants asking

questions. The problems with the access to this property, as stated previously, persuade me that the special exception request should be denied.

THEREFORE, IT IS ORDERED this 22nd day of March, 2002, by this Deputy Zoning Commissioner, that the Petitioners' special exception request to approve an equine veterinarian, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the special exception request to approve a riding stable on the subject property, be and is hereby DENIED.

The granting of the special exception for the equine veterinarian shall be subject to the following conditions and restrictions:

1. There shall be no signage associated with the equine veterinarian.

2. The Petitioner shall be prohibited from advertising the business of equine veterinarian on the property and shall only service those horses which are kept or boarded on site. Naturally, the Petitioner shall be permitted to travel to off site locations in order to practice his profession.

3. The Petitioner shall be prohibited from performing major operations to any animal on the subject property.

4. No additional structures shall be erected in order to house or accommodate a veterinary clinic. The Petitioner shall utilize the existing barn for the purpose of administering care and performing services on the horses kept on the property.

5. There shall be no additional employees of the equine veterinarian, other than Dr. Meittinis.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

4/19/02

IN THE MATTER OF PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
SE/S Traceys Road, 1500' SE centerline of Yeoho Road	*	DEPUTY ZONING COMMISSIONER
5th Election District	*	OF
3rd Councilmanic District (2311 Traceys Road)	*	BALTIMORE COUNTY
Stephanie S. and Nicholas Meittinis Petitioners	*	CASE NO. 01-530-X

****

NOTICE OF APPEAL

Now Comes Nicholas and Stephanie Meittinis, Petitioners and Appellants, and note an appeal from the Findings of Fact and Conclusions of Law denying the special exception for a riding stable issued by the Deputy Zoning Commissioner on March 22, 2002, in the above-referenced matter. A copy of the Findings of Fact and Conclusions of Law is attached hereto and made a part hereof as Exhibit A. Petitioners believe that the denial of the Special Exception for the Riding Stable was in error.

Filed concurrently with this Appeal from the denial of the Petition for Special Exception for a Riding Stable is a check made payable to Baltimore County to cover the cost of the appeal.

John B. Gontrum
814 Eastern Boulevard
Baltimore, Maryland 21221
410-686-8274
Attorney for Petitioners/Appellants Nicholas and
Stephanie Meittinis

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By GDZ

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IN THE MATTER OF NICHOLAS	:	**BEFORE THE**
AND STEPHANIE MEITTINIS	:	**DEPUTY ZONING COMMISSIONER**
PETITION FOR SPECIAL EXCEPTIONS	:	**FOR BALTIMORE COUNTY**
2311 TRACEY'S ROAD	:	**Case No. 01-530-X**
5TH ELECTION DISTRICT	:	
3RD COUNCIL DISTRICT	:	

...oOo...

PROTESTANTS' MEMORANDUM IN OPPOSITION TO PETITION FOR SPECIAL EXCEPTIONS

Protestants, by and through Nedda and Joseph Evans, pro se, hereby submit the following Memorandum requesting that the Petition for Special Exceptions submitted by Nicholas and Stephanie Meittinis be denied, and for good cause state as follows:

I. STATEMENT OF FACTS[1]

By way of background, the Meittinises moved to Tracey's Road in the summer of 1998. They purchased approximately 40 acres of woods and corn and soybean field. After the Meittinises built their home, the neighbors on Tracey's Road learned that the Meittinises intended to operate a riding academy and veterinarium. The Meittinises were contacted by letter and informed that those activities were not permitted under the current zoning and that any such uses would be opposed. That letter was sent well before their

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[1] This Statement of Facts is only a general outline of the circumstances at issue and is intended primarily as background. As needed, specific testimony and factual references are made throughout the Memorandum in the course of the legal arguments.

barn and riding ring were built so that the Meittinises would not incur such development costs with the misperception that the neighbors would acquiesce in the business activities. Notwithstanding this notice, the Meittinises built a fifteen stall,[2] 6,600 square foot barn and riding ring. Given the placement of the house, the barn, and other buildings, they only have about 10 acres of pasture remaining.[3]

Prior to these events, Mrs. Meittinis had been providing riding lessons for a fee in Hunt Valley to approximately nineteen students. After completion of the barn and riding ring (and hence, after the notice of opposition), Mrs. Meittinis moved her riding academy activities to Tracey's Road and began giving riding lessons from her property. That action generated the enforcement activity by the County which has been ongoing for approximately seventeen months. Following the enforcement action, Mrs. Meittinis has shifted some of her riding lessons from Tracy's Road to Renaissance Farms on the corner of Belfast and Priceville Roads, only a couple of miles from her home. She testified that she presently has nine students, five of whom she teaches at the student's own premises and four whom are taught at Renaissance Farms. Accordingly, there is no real impediment to her continuing her business activities and

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[2] The Meittinis barn presently has fourteen stalls, but one of those stalls is a double that can be easily converted to two stalls.

[3] For a detailed discussion about the amount of available pasturage, <u>see</u> <u>infra</u> at p. 35-37.

still preserving the quiet, rural character of the neighborhood.

Because Mrs. Meittinis gave riding lessons without the benefit of a special exception, the neighbors experienced first hand how such activity impacts the neighborhood. For example, as testified to by the protestants, the traffic generated by the riding stable alone - over and above the other Meittinis-related traffic - is significant.[4] While a few of these students ship in their own horses in horse trailers, most ride the Meittinises' horses. The students are chauffeured to and from their riding lessons by parents. Typically, the parent makes one trip down the road to deliver the student, leaves and then returns later to pick up the student. Thus, each student can potentially generate four trips up and down Tracey's Road.[5] As a result of the lesson activity alone, Tracey's Road became congested, and residents who once used the road freely -- either for driving or for walking, bicycling, and jogging -- could no longer do so without fearing for the safety of themselves or their children.

In addition, the stable and outdoor ring are closer to the home of Rustin and Deborah Price than they are to the Meittinises' home. Consequently, the constant activity, noise, commotion, and dust are sources of chronic irritation to the Prices and deprive

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[4] For a detailed discussion regarding the traffic study, see infra at p. 9-16.

[5] For a detailed discussion of the impact of car trips, see infra at p. 13.

them of the quiet use and enjoyment of their property. Of course, the Prices outside time - afternoons and weekends, primarily in the summer - coincides perfectly with the time when the riding lessons are given.[6] There is an obvious negative impact on the Prices' property values.

Tracey's Road is a narrow, dead-end, quiet country lane which runs west off Yeoho Road, which itself is only a two lane road. Tracey's Road is only 10 to 12.3 feet wide and .5 miles long. It is about .4 miles from Yeoho to the Meittinises' driveway. Tracey's Road is home to two working farms and about twelve residences, all of which pre-existed the Meittinises. The Wirtz family owns a farm on Tracey's Road where corn and soybeans are grown. At the end of Tracey's Road, there is a horse farm which has been owned and operated by Barbara Kees for over 50 years. Mrs. Kees trains and breeds horses, and her property - which abuts a portion of the Meittinis' property - was recently put into the agricultural preservation program. The Wirtzes, the Kees and all of the neighbors have co-existed peacefully for years.

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[6] Up to now, the Meittinises have been confined to operating in good weather and in daylight hours. Early on, however, as acknowledged by Mrs. Meittinis at the hearing, she contemplated constructing an indoor arena which would then enable lessons and related activity to occur 365 days a year, day and night, rain or shine. The petitioners have brushed aside concerns from the protestants about the potential geometric increase in activity associated with an indoor arena. Protestants' concerns were in no way alleviated by Mrs. Meittinis' testimony that she was not willing to limit the special exception request by agreeing not to construct an indoor arena.

All of the Tracey's Road residents, with the exception of one family who has only moved there after this controversy arose, oppose the granting of the special exception, and a letter to that effect signed by all of those individuals was submitted. There was also opposition by the Hoffmans who live on Yeoho Road but face Tracey's Road. In addition, there was a letter of opposition submitted by a host of residents on Abell Lane, which abuts the rear of the Meittinis property. Finally, the Baltimore County Department of Environmental Protection and Resource Management (DEPREM) has recommended against the riding stable aspect of the special exception request. The fundamental concerns of this unified opposition relate to preserving the rural, serene, and protected character of the community. In fact, as indicated above, the County has placed the Kees' farm that abuts the Meittinises in the agricultural preservation program. The Palmer property, which is not on Tracey's Road but which abuts the rear of the Meittinis' property, is also in the agricultural preservation program. It would be inconsistent for the County to attempt to preserve the rural character of the area on the one hand and permit excessive, disruptive and unnecessary activities and development of the Meittinis' property on the other hand.

In short, the factual presentation leads to the conclusion that the Meittinises' request will exacerbate the traffic problems already created by the Meittinises, will directly and negatively impact the Prices' use of their own property, will potentially

cause environmental problems, cannot be practically monitored and enforced, and at least as the riding stable component is concerned, can be accomplished at preexisting facilities only a short distance away.[7]

II. THE SPECIAL EXCEPTION REQUESTS SHOULD BE DENIED BECAUSE THE PROPOSED USES ADVERSELY IMPACT UPON THE SURROUNDING PROPERTIES.

A. <u>The Legal Standards</u>

The Meittinises have requested a special exception for a riding stable and a veterinarium.

Section 502.1 of the BCZR provides in pertinent part that:

> Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> A. Be detrimental to the health, safety or general welfare of the locality involved;
>
> B. Tend to create congestion in roads, streets or alleys therein;...
>
> I. Be detrimental to the environmental and natural resources of the site and vicinity ...

Section 1A01.2(B) of the BCZR enumerates a list of eleven uses indicating that only those eleven uses are permitted as a matter of right in an RC-2 zone. Section 1AO1.2(C) provides a list of

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[7] As to the veterinarium, Dr. Meittinis has established offices at Pimlico and Laurel, and given the amount of time he devotes to his practice, seems perfectly capable of handling those responsibilities at the established offices. At the same time, given his willingness to restrict the activity to four horses per month and not to install an operatory, the veterinarium, in and of itself, does not appear to be particularly bothersome. The veterinarium in conjunction with all of the other activity, however, is a problem.

twenty-nine uses indicating that only those twenty-nine uses are permitted by special exception in an RC-2 zone. Therefore, if the use requested is not in either of those two lists, it is not permitted either as a matter of right or by special exception. The Meittinises have requested the riding stable and the veterinarium, and these uses are among the twenty-nine for which a special exception is explicitly required.[8]

The case law governing special exceptions is well-established. The correct standard for determining whether a special exception use is appropriate is "the particular adverse impact standard" articulated in Schultz v. Pritts, 291 Md. 1, 15 (1981):

> ...[A] special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone.

See also People's Counsel v. Mangione, 85 Md. App. 738, 748-50 (1991); Alviani v. Dixon, 365 Md. 95, 112-15 (2001). Further, even if the adverse impact is on only one adjoining property, that

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[8] The Meittinises argue in their Memorandum that, in reality, no special exception is required for lessons because the lessons involve paying for instruction, not "renting" the horse. Traditionally, the Zoning Commissioner has been granting special exceptions for lessons under the riding stable category, and this seems to be a reasonable approach. However, if the Meittinises are correct and riding lessons are not embraced by "riding stable," then, in reality and contrary to the Meittinises' position, there would be a flat ban on lessons because riding lessons are not included in the lists of enumerated uses in either 1A01.2(B) or (C).

provides a sound basis for denial of the special exception. See Board of Commissioners v. Holbrook, 314 Md. 210, 219-20 (1988)(special exception properly denied where adverse impact was solely on one adjoining property).

While the special exception uses have been legislatively determined to be conditionally compatible, the petitioners must still meet their burden of proof and establish that the proposed uses will not have a particular adverse impact on the adjoining and surrounding properties. Schultz v. Pritts, 291 Md. at 11-12. In this regard, the Court of Appeals has also specifically held that in determining whether there is an adverse impact, the petitioners are precluded from asserting that because a permitted use would have a similar adverse impact, the special exception should be granted. See Schultz v. Pritts, 291 Md. at 22, in which the Court stated:

> It is precisely because a permitted use may be developed even though it may have an adverse effect on traffic at the particular location proposed, whereas a special exception use may not, that to grant a requested special exception use on the ground that it generates traffic volume no greater than that generated by a permitted use is logically inconsistent and in conflict with previously established standards.

(emphasis supplied).

Petitioners have not met their burden of proof in that they have not established that the special exception uses of a riding stable and veterinarium do not adversely affect the Tracey's Road community in any number of ways.

B. <u>Tracy's Road Cannot Accommodate the Proposed Uses</u>

Protestant George Harold, who measured Tracey's Road, testified that Tracey's Road is 10' 11", 11', or 12' 3", depending upon precisely where it is measured. There is no paved portion of the roadway which measures 14 feet wide as petitioners' witness, Wesley Guckert, testified. Although Mr. Guckert testified that the road measured 14', he indicated that he did not measure the road himself and was unable to say where the road measured 14'. Most of the protestants testified that the road is a narrow, one lane, dead-end road with two blind spots. Not only is there no shoulder, there is an embankment on the south side of the road continuing from the top of Tracey's Road all the way down to the Meittinis' property. At the Meittinis' property line, pine trees abut the roadside. The Meittinises have also placed rocks along the edge of their property, thus prohibiting any vehicles, including their own business traffic, from pulling over onto their property.

Petitioners claim that navigating the roadway is not problematic because one can simply pull over on the side of the road when one encounters an oncoming vehicle. (Petitioners' Memorandum at p. 2.) Petitioners conveniently ignore the fact that there is no "side of the road." When one is forced off of the roadway by an oncoming vehicle, the vehicle must exit the roadway on the property of one of the residents on the north side of the road because of the embankment and the Meittinis' trees and rocks.

Susan Twigg Wirtz resides with her family at the top of Tracey's Road on the north side of the road, across from the embankment. Mrs. Wirtz testified that there has been a significant increase in the traffic on Tracey's Road since the Meittinises moved in and began operating their businesses from their property. She indicated that the vehicles coming onto her front lawn endanger the safety of her two children, ages five and seven, who play in their front yard. She stated that the vehicle traffic also endangers the safety of her children when they ride their bicycles or take walks on Tracey's Road. It should be noted that the Wirtz family has been farming the land abutting the Meittinis' property for three generations. It is still planted regularly with corn and soybeans.

Monica Bowden also testified that she is at home during the day and thus has had an opportunity to observe the significant and substantial increase in traffic on Tracey's Road since the arrival of the Meittinises in the neighborhood. Mrs. Bowden has made a point to observe where the traffic is coming from and going to and she indicated that, in her opinion, 90% of the traffic on Tracey's Road is generated by the Meittinises. She testified that she used to walk her dog on Tracey's Road but now is reluctant to do so due to the danger posed by the numerous vehicles.

Protestant Cheryl Schweizer also testified that her driveway is located at one of the blind spots on Tracey's Road. Mrs. Schweizer testified that when she is coming out of her driveway,

the traffic coming from the Meittinis' property is unable to see her due to the blind spot at that junction in the roadway. She indicated that significant increases in the traffic pose a real threat to her safety when she exits her driveway and even when she mows that area of the lawn that fronts on the roadway. Mrs. Schweizer, and other protestants as well, indicated that many of the parents picking up their children from riding lessons on the Meittinis' property appeared to be in a hurry and were not always cognizant of others on the roadway and of the dangerous conditions created by the blind spots, speed, and inattention.

The Meittinises called Wesley Guckert as a traffic expert who testified that there were approximately 100 car trips per day up and down Tracey's Road. Of course, while it was clear to everyone on Tracey's Road that the lion's share of traffic was already generated by the Meittinises with their service personnel, friends, and visitors, Mr. Guckert had made no effort whatsoever to determine how many of those 100 vehicles were Meittinis-related. This he could have easily done by simply laying a traffic counter across their driveway. The simple truth of the matter is that the Meittinises, with all their constant bustle of activity unassociated with the activity sought by the special exception request, have completely stressed the capacity of Tracey's Road. And the failure of the Meittinises to provide the very data under their sole control that would clarify the issue at hand supports the conclusion that the information, if obtained, would undermine

the Meittinises' position.

Given the already over-burdened conditions, the Meittinis' special exception uses will clearly exacerbate congestion on Tracey's Road. The Meittinises are requesting to operate a riding stable with 28 lesson hours/ coaching sessions per week, to create a veterinarium, and to board lay-ups from various racetracks and other horses as well. The traffic from those activities would be in addition to the traffic generated by the people coming in and out on a regular basis to assist Mrs. Meittinis with the "training" of horses (Petitioners' Memorandum at p. 2, 13), friends coming to the property to ride without compensation,(Petitioners' Memorandum at p. 23, 26), and the constant stream of service personnel. With all of the traffic combined – lesson vehicles, boarders' vehicles, trainers' vehicle, veterinarium vehicles, vehicles of friends, and vehicles servicing the property – it is clear that the Meittinis' traffic will overwhelm the neighborhood. In short, the Meittinises are proposing to increase the traffic on a street that is already suffering from being over-burdened by the activity not subject to regulation.[9]

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[9] It is galling for petitioners to chide protestants about not wanting the road widened. See Petitioners' Memorandum at p. 18. Protestants all moved to a quiet country lane precisely because it was a quiet country lane. Moreover, the costs of road widening are assessed against the residents. Not one person on Tracey's Road wants his or her property taken to accommodate the business interests of the Meittinises, and then incur the added insult of being forced to pay for it. Road widening would also have an adverse impact on those properties which are close to the road.

The vehicle traffic, of course, is not spread evenly throughout a day. It is concentrated at riding lesson times - afternoons and weekends, the very times that the neighborhood also uses the road. The re-constituted plan as contained in their Memorandum, calls for "only" 28 "ring" hours per week. Utilizing the four trip analysis, this leads to a scenario in which there are 112 extra car trips per week. This, of course, is a significant increase - about 15% per week over the Guckert count and is still collapsed into the rush hour times of late afternoons and weekends. Even more significantly, given that the Meittinises still want to carve out significant activity that they deem as "training" or as "friends riding," it is reasonable to believe (and fear) that the reality after the granting of the special exception will be something far greater, though in a context where the special exception activity is so enmeshed with other Meittinis activity that no person could ever hope to parse out one from the other. See infra at p. 31-32; supra at p. 26-27. Even the riding stable at Miller Lane, which has only ten hours per week of lessons, has become a significant nuisance in that neighborhood. See infra at p. 26-27.

Petitioners raise the issue that additional traffic on the road may be generated if two other houses are built on the road, and seem to argue that, therefore, the increased traffic of the Meittinis' business uses should be tolerated by the community and approved by the Zoning Commissioner. First, protestants vigorously

dispute the notion that any residential uses would generate as much traffic as the Meittinises do, and it must also be noted that there are presently no firm plans for any additional residences to be built on Tracey's Road. Even more significantly, as indicated above, the Court of Appeals ruled in Schultz, that a special exception use cannot be granted merely because a use permitted by right would have the same adverse effect, and the law prohibits this argument from being used as a rationale for granting the special exception uses. Schultz v. Pritts, 291 Md. at 22.

These special exception uses have a particular adverse impact in this particular location because Tracey's Road is a narrow, dead-end road, with no shoulder, which has two blind spots. Because of the congestion caused by the intensive use of the Meittinis' property in combination with the unique set of conditions on Tracey's Road, the special uses will have an extreme, adverse impact on all of the adjoining and surrounding properties on Tracey's Road. These same special exception uses may be completely appropriate elsewhere in an RC2 zone. For example, the special exception requests would be appropriate on a larger, two lane through road with no blind spots, such as Priceville Road where, according to Mrs. Meittinis, she has been giving some of her riding lessons. Priceville Road is thirty three feet wide at the top of the Road and has a wide shoulder with guard rails on both sides of the Road. It is also located off of Belfast Road, a major country thoroughfare. Because of the nature and character of

Tracey's Road, however, these special exception uses would have the extreme, adverse effect of endangering the safety of the children and other residents of Tracey's Road. See e.g. People's Counsel for Baltimore County v. Mangione, 85 Md. App. 738, 752 (1991), in which the denial of a special exception request was upheld because there was testimony in the record about "small arterial streets whose only access to York Road from the community was by way of Greenridge Road, and the narrow winding nature of those streets, with the increased traffic, would jeopardize the safety of the children playing in the streets." (emphasis added).

It is petitioners' burden to show that the proposed special exception uses will not have these particular adverse impacts. Although the Petitioners called numerous witnesses – Mr. Doak, Mr. Guckert, Mr. Dillon, Mr. Reynolds, and friends of Petitioners – those witnesses merely stated in a conclusory fashion that the proposed special exception uses would not endanger the health, safety and welfare of the community. Protestants know that the Meittinis' business traffic overwhelms the road because the Petitioners ran the riding stable, veterinarium and boarding facility before applying for the necessary special exceptions. As a result, the protestants have had the opportunity to see just how the Meittinis' business traffic impacts the community. As a consequence of this, all of the Tracey's Road neighbors, both farm neighbors and residential neighbors alike, who have experienced the full effect of this traffic, are galvanized in opposition to the

special exception requests. Protestants have certainly established through their testimony that the Meittinis' business traffic creates congestion in the road and jeopardizes the safety of children and other residents. These adverse effects alone would be sufficient to warrant the denial of the special exception requests.

C. <u>The Proximity to the Price Residence</u>.

Protestants Deborah and Rustin Price testified and Petitioners acknowledged, that the barn which is the locus of the business activities, is closer to the Prices' home than to the Meittinis' home. The Meittinis' barn and riding ring are in plain view of the Prices' kitchen, sunroom, and backyard where the Prices spend much of their leisure time.[10] The Prices have a dining table in the sunroom and a swimming pool and barbeque grill in their backyard. Prior to the construction of the barn, ring and consequent business activities, the Prices used to spend many hours, particularly on weekends, enjoying their sunroom and backyard. Since the Meittinises began operating the boarding facility, veterinarium,

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[10] Petitioners, in their Memorandum at p. 6, indicate that the Price property is closer to the Kees' barn than to the Meittinis' barn. This is not true. The Kees' barn is not closer to the Price residence than the Meittinises' barn. Moreover, and more importantly, the Kees' activities cannot be seen or heard from the Price residence. The only view that the Prices have of the Kees' property from their residence is the bucolic view of a pasture where a couple of horses graze peacefully. It is also important to note that Barbara Kees limits her activity to horse breeding and horse training – something which she can do as a matter of right. Finally, the Prices built their house knowing where the Kees' barn was located; the Meittinises built their barn knowing where the Prices' house was located.

riding academy, and summer camp,[11] the Prices have been deprived of the peace and enjoyment of their own home and outdoor facilities. When the riding lessons are being given, the Prices are plagued by the noise, dust, and commotion. In addition, to being impacted by the noise, dust and commotion attendant upon the lesson activity, Petitioners have workmen and other personnel servicing the businesses on a regular basis. The Prices, while they are enjoying their backyard or lying by their swimming pool, are now in plain view of both the service personnel and the clients of the businesses. Mrs. Price has attempted to raise these issues with the Meittinises but her attempts have been dismissed. When Mrs. Price told Dr. Meittinis that she saw the business activity every time she looked outside her kitchen window, Dr Meittinis replied "Don't look." Prior to the construction of the riding ring, Mrs. Price expressed concern about the proximity of the proposed riding ring to her backyard. Mrs. Meittinis said, "She can have my ring or she can have my s_ _t pit."[12] Now both the barn and the riding ring have already been built and center of the business activities are in plain view of the Price residence. Because the Prices have been

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[11] Petitioners did not request a special exception for a day camp. Although Petitioners deny running a day camp, Mrs. Meittinis did operate a day camp for her riding students from the property in the summer of 2000. Protestants are concerned that if a special exception were to be granted for a riding stable, Mrs. Meittinis would once again operate the day camp.

[12] At this hearing, Mrs. Meittinis refused to admit making this statement. However, at the enforcement hearing in January, 2001, she did so acknowledge it.

unable to address the problem with the Meittinises themselves, they have no recourse but to address their concerns in this forum.

Mr. and Mrs. Price are concerned not only about the deprivation of the use and enjoyment of their property, but also they are concerned about the negative impact that those uses will have on their property values. If the special exception uses are granted, any prospective buyers will observe that the adjoining property owners operate several businesses adjacent to the backyard and main living areas of the house. It is safe to say that no one else would want to move out to the country in order to have their privacy invaded. The resulting financial impact on the Prices' property and their single most valuable investment is devastating.

The Court of Appeals has recognized on numerous occasions that when particular special exception uses will have an adverse impact at a particular location, these special exception uses should be denied. In Holbrook, supra, 314 Md. at 220, the Court of Appeals applied the "particular adverse impact standard" articulated in Schultz, and denied a special exception for a trailer on a piece of property because it was located in the "direct and proximate view...of the Peters' home." In that case the Court upheld the Board of Appeals finding that the special exception use be denied because of the debilitating effect it would have on the value of the Peters' property. See also Schultz v. Pritts, 291 Md. at 11-15; People's Counsel v. Mangione, 584 Md. App. at 750-52.

In this case, the particular uses -- the boarding facility,

veterinarium and the riding stable -- would have an adverse impact on the Prices' quiet use and enjoyment of their property and on their property values though those same uses would not necessarily have an adverse impact if they were located elsewhere in the RC-2 zone. For example, if the Petitioners were to operate a boarding facility, veterinarium and riding stable on a similarly sized parcel where there were no houses close by, or on a larger parcel where the neighbors were necessarily further away, this particular adverse impact would not exist. In fact, had the Meittinises put the barn and ring on the opposite side of their home, next to the corn and soybean field, there would be no adverse impact of this nature in this case.

Petitioners attempt to suggest that they had no choice but to locate the barn next to the Price residence when they claim it was "located based on percolation tests." (Petitioners' Memorandum at p. 2) While it is true that the property percolated at that spot, the fact that they conveniently omit is that no percolation tests were ever performed on the opposite side of the dwelling near the corn and soybean field.

Petitioners are allowed to train horses on their property as a matter of right and would, therefore, be able to train horses on their property if they chose.[13] The additional business activities of the boarding facility, veterinarium and riding stable, however,

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[13] Protestants, of course, dispute the claim that Mrs. Meittinis is a horse trainer.

cannot be conducted without a special exception If these activities were to be allowed over and above the activities which are already allowed as a matter of right, the excessive use of the property will greatly exacerbate the problems which the Prices will experience.

Mr. and Mrs. Price, are joined by all of the other protestants in urging the denial of the special exception uses requested because of the resulting impact on the quality of the Prices' lives and the integrity of their largest financial investment.

D. <u>The Special Exception Uses Contemplated By The Meittinises Will Be Detrimental To The Environmental And Natural Resources Of The Site And Vicinity</u>.

The special exception requests also could create environmental problems associated with soil conservation, water pollution, and run-off. These problems are described in the Lippincott letter, attached as Appendix 1. In addition, the Meittinis development has created storm run-off onto the Evans property which can be aggravated by over-grazing. These are additional adverse impacts, and are addressed in more detail below at p. 36-37.

E. <u>The Meittinis' Special Exception Is Impossible To Monitor And Enforce</u>.

One of the most vexing aspects of the Meittinis' special exception request is its complete invulnerability to monitoring and enforcement. If accepted as true, the Meittinises present a scenario in which Mrs. Meittinis' personal and social activities merge into the very activities that are contemplated under the

special exception. Consequently, it would be impossible to parse out the restricted activity from the social activity. This dilemma imposes an impossible burden on the individuals who would be required to monitor the activities; it would frustrate any rational enforcement proceeding; and it would lead, as a practical matter, to the unchecked takeover of Tracey's Road by the Meittinises.

Even the Meittinises recognize the inherent unenforceability associated with this peculiar commingling of the personal and commercial. For example, they request a ruling that it is permissible for their friends to ride on their property without compensation in addition to any activities permitted by the special exception. (Petitioners' Memorandum at p. 23, 26) Also, their self-serving definition of "training" in which any rider is training the horse, completely confounds any distinction between activities permitted as of right and by special exception. (Id. at p. 3) This results in a situation which reduces to allowing the Meittinises to do whatever they please, whenever they please, and coyly hide behind the notions of "friendship" and "training." Even their own witness, Jack Dillon, conceded that there was nothing to prohibit Mrs. Meittinis from giving five permitted lessons, and then allowing any number of her friends to ride "free." This totally undermines the principle that special exception activities, by their very nature, may need and require regulation and restriction.

The Meittinises have proposed a self monitoring system in

which they will keep a log of all riders on the property. Given the vague nature of Mrs. Meittinis' testimony regarding the various activities that occur on the property, lax record keeping habits, the unique melange of personal and business activities, and the Meittinis definitional haven concerning the meaning of "training", any records kept under these circumstances - even if kept in good faith - are inherently suspect. Moreover, the past enforcement problems suggest future enforcement problems.[14]

The burden of enforcing the special exception falls to the Baltimore County Code Enforcement personnel. It is an impossible task for Code Enforcement personnel to unscramble lessons, training, and social interaction. The boundaries between these activities are ill defined at best, and at worst, are a gelatinous and amorphous mass in a constant state of flux. This is an impossible and unfair burden not only to place on the enforcement personnel charged with the prosecution of any prospective violation, but also on the hearing examiner who will never be able

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[14] At the special exception hearing, the protestants were not permitted to revisit the central issues associated with the past enforcement action. From the protestants' point of view, the enforcement action bears on the question of enforcability under the special exception. It would be one thing had the Meittinises engaged in the unpermitted activity, been caught and accepted responsibility for those acts. In this case, however, the Meittinises cling to their position that they have never given a single lesson on their property for compensation. Under these circumstances how can it be reasonable for special exception monitoring to be left to the Meittineses themselves?

to make any kind of meaningful finding of fact.[15] Indeed, this was the very conclusion of Wallace Lippincott who reviewed the matter on behalf of DEPREM. In recommending against the riding stable, Mr. Lippincott noted the problems:

> ...[A]ny attempts to limit the number of riding lessons or who would be riding would be difficult to monitor and enforce, particularly in light of the limited County resources for monitoring and enforcement.

See Lippincott Report at p.2.[16] Ironically, by alleging that their personal and business activities are virtually one and the same, and by choosing to describe riding as "training," the Meittinises have convoluted the monitoring and enforcement issues to such an extent that denial of the riding stable is mandated. Indeed, the unique problem associated with enforcement is yet one more particular circumstance which makes these special exception uses inappropriate in this particular case.

F. <u>This Special Exception Request Is Unlike Any Others Previously Granted</u>.

Throughout the hearing the Meittinises have made references

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[15] In addition to the burden on the County personnel, there is unwanted pressure on the neighborhood as well. As in the prior enforcement proceeding, any future enforcement action undoubtedly will require that the neighbors be the "investigators." Consequently, granting the special exception consigns the neighborhood to wrenching and agonizing warfare into the foreseeable future.

[16] Unlike the Meittinis' witnesses - including Dillon and Reynolds, Mr. Lippincott actually solicited input and considered the positions of <u>both</u> sides of this dispute before reaching any conclusions.

to other situations in which special exceptions were granted. In their Memorandum, they supplement the record[17] by again alluding to other properties which they assert are "similar." Not only are these vague and untested references woefully inadequate, to the extent they stand for anything, they support the protestants' position.

The Meittinises seek refuge in these other situations which they posit are "the same." As to each such situation, however, the following questions must be asked:

- how wide is the road?
- does the road have a shoulder?
- is it a dead-end road or is it a through road?
- does the road have blind spots?
- what is the location of the property on the road?
- were there protestants?
- what was the level of preexisting traffic on the road?
- what was the level of activity for which permission was being sought?
- how many different types of uses were being sought (e.g. riding stable, boarding, and/or other)?
- what type and level of preexisting activity was there?
- is the site of the business activity close to a

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[17] That the Meittinises viewed it as necessary to supplement the record in their Memorandum is tacit recognition that their showing at the hearing failed to meet the standard of the particular adverse impact test.

residence?

- how do the special exception activities affect the neighborhood?

All of these questions, and many more, illustrate the real and potential differences in the situations which the petitioners blithely present as being "the same." Their conclusory assertions sweep away real and meaningful distinctions and do not withstand even minimal scrutiny. As an attempt to graphically depict just some of these distinctions, the protestants have prepared a chart, attached as Appendix 2, which depicts just some of these concerns for the properties identified by the Meittinises.

Even a cursory glance at these so-called similar roads illustrates their actual difference. The only "road" which is narrower than Tracey's Road was Fox Hall Farm Road, but Fox Hall Farm Road, which can be identified only by a handmade sign, is a privately owned driveway, leading to the farm property itself (Manor Vale Farm) and one other residence. Hence, the only "road" that petitioners identify as narrower than Tracey's Road is not a road - it is a driveway. Moreover, the owner of the other property off the driveway did not object to the special exception use.

Of all of the other cases cited as being "similar," there were only three in which there were protestants - Renaissance Farms on Priceville Road, Rendezvous Farm on Miller's Lane and a farm property on Breidenbaugh Lane. Renaissance Farm is located on the corner of Priceville and Belfast Roads. Priceville Road is a

through street with wide shoulders on both sides. It measures 33 feet at the top of the road and 19 feet in front of the Renaissance Farms property. The closest neighbor appeared at the hearing and testified in support of the special exception. Many other neighbors submitted letters in support of the Petition. There were only two protestants, a married couple who lived on Priceville Road, though not as close to the property as the neighbors who supported the special exception use. The couple expressed concern about traffic and also indicated that an unrelated, neighboring property was not well maintained. Renaissance Farms, zoned RC-2, presents a perfect example of the kind of property which can reasonably accommodate these types of special exception uses because the uses at that location do not adversely effect the surrounding properties. It appears that this special exception was appropriately granted.

A special exception was granted on Miller's Lane for a riding stable. There were numerous protestants. The petitioners were limited to boarding seven horses and giving ten lessons per week. Even given that limited activity, the other property owners on Miller's Lane continue to object to the special exception uses. One couple who lives directly across the street from Rendevous Farm, indicated that they counted fifty cars coming in and out of the property in one weekend alone. In any event, Miller's Lane is wider than Tracey's Road and the barn and location of the business activity is not next to a neighbor's residence.

They present Breidenbaugh Lane as yet another example. Again, however, Breidenbaugh Lane is a non-County, privately owned lane accessing the farm property and several other residences which appear to have been built <u>after</u> the farm was built. Issues associated with private roads are vastly and obviously different.

In any event, none of the so-called similar properties presented by the Meittinises involve the level of activity requested by the Meittinises (even as modified); none involve public roads as narrow as Tracey's Road; few, if any, had the level of unified neighborhood opposition; and none of the business operations are located next to a preexisting residence, so that the adjoining neighbor is required to suffer through all of the business activity. Suffice it to say that none of these "similar" situations are at all similar.[18]

III. <u>THE MEITTINISES ARE NOT ENGAGED IN COMMERCIAL AGRICULTURE</u>.

After offering no proof on the issue other than repeated, uncorroborated assertions during the three day hearing, the Meittinises have now made a specific request for a ruling that their operation be deemed a "farm." The question of whether it is a farm is, in one sense, completely unnecessary to the resolution of the special exception, and ironically, has, in another sense, potentially great implications for the entire dispute. And,

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[18] Protestants suspect, as well, that no County department recommended against those special exceptions as DEPREM has done with regard to the riding stable in this matter.

interestingly, the question of whether their activities constitute commercial agriculture is yet one more example, if not the most striking example, of the applicants seeking a significant ruling from this tribunal while fighting mightily to prevent the tribunal from obtaining access to the very facts that would be necessary upon which to base such a finding.

It appears that is has been the practice of the Zoning Commissioner's Office to limit the horses in riding stable special exception requests even in the context of recognized farms. Nonetheless, before the hearings actually occurred, the protestants learned that the applicants' counsel held the view that the BCZR regulation that requires one horse per acre does not apply to commercial agriculture. Therefore, so the applicants' argument would go, if the applicants are farmers, there is no lawful restriction on the number of horses they can house, and so the fifteen stall barn - built as it was before applicants gave any meaningful thought to the question of what activities were actually permitted - could be utilized to its full capacity even if such capacity outstripped the available pasture, caused soil erosion, water quality problems and otherwise resulted in deleterious environmental consequences. Stripped to its barest terms, the designation of the operation as a farm simply permits the Meittinises to fill all stall vacancies and thereby fully utilize a barn overly large for the site. Because of the possibility of over-grazing and associated run-off, the protestants viewed the farm

designation question as relevant.

Protestants learned that one of the primary ways in which it is determined whether a particular operation constitutes commercial agriculture is with reference to the financial records of the operation that is seeking such a designation. It is certainly no surprise that protestants do not believe that the Meittinises operate a farm, and because of the indications that the Meittinises were intending to press a commercial agricultural designation in order to fill the barn, the protestants sought and received a pre-hearing subpoena designed to show whether there was actual horse farm activity - breeding and training - occurring at the Meittinises' property. The applicants resisted the subpoena on relevance grounds, and the Zoning Commissioner - undoubtedly believing that the subpoena was solely for harassing purposes - refused to enforce it. In fact, the subpoena request was not intended to harass; it was intended to expose, if need be, the fiction that the Meittinises are engaged in commercial agriculture. Of course, to the extent that there is an inadequate record upon which to base that finding, the applicants must suffer the consequences, both because they have the burden of persuasion on the issue and because they are exclusively in control of, and have withheld, the very information that is needed in order to make such a decision. The only reasonable inference that can be drawn from the failure to provide this evidence is that it would not have supported their position. Thus, in the absence of proof, the

protestants prevail as to this issue.

The commercial agriculture definition reads as follows:

> Agriculture, Commercial - The use of land including ancillary structures and buildings to cultivate plants or raise and keep animals for income, provided that the land also qualifies for farm or agriculture use assessment pursuant to Section 8-209 of the Tax Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.

See BCZR section 101. (Emphasis added) As to horses, the only farm uses are "breeding and training."

Taking the record as it is and even without drawing any adverse inference from the applicants' refusal to provide the objectively measurable financial records, the evidence in support of the question of farm designation is scanty. Of course throughout the hearings, the Meittinises and their witnesses referred to the property as a "farm." At the same time, simply using the word does not make it so, and the routine resort to loose language cannot be a substitute for evidence. As to the evidence, Mrs. Meittinis testified that there had been no breeding associated with their operation. Consequently, it is a farm only if it is involved in training of horses.

As to training, Mrs. Meittinis testified at the special

exception hearing that she had previously earned about $300[19] from the training of one horse - Kylie Wright's horse - which was boarded on her property. Mrs. Meittinis insisted however, that the $300 fee was not paid to her for boarding the horse, but instead, as compensation for training. At the first enforcement hearing, however, Mrs. Meittinis testified that she was boarding the horse belonging to Kylie Wright. See Findings of Fact and Conclusions of Law of Hearing Officer, attached as Appendix 3, at p. 3). No mention was made of training that horse or of her even being a horse trainer at that time. It is only since the first violation hearing that Mrs. Meittinis has become a horse trainer, and one cannot help but think that this is a convenient revision of history in order to fall within the purview of the commercial agricultural definition.

Beyond that one fee that she claimed she received for training the Wright horse, she could point to no authentic training activity. Because there is no on-going activity that comports with everyday notions of training, the Meittinises are forced to resort to such a broad definition of "training" that virtually every equine-related activity becomes a component of training. For example, simply because her horses need to be exercised does not mean that any rider, no matter how young, is engaged in "training."

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[19] Following Mrs. Meittinises' testimony and given the nature of her testimony, it was no longer necessary for protestants to amass evidence on the farm designation issue - her testimony conclusively established that it is not a farm.

Though the Meittinises make that argument, it is akin to saying that a student coming to a teacher's home for piano lessons is helping keep the piano tuned and hence is a piano tuner.

The Meittinises also say that the mere pasturing of their animals also causes them to fall within the scope of the definition of commercial agriculture. Again, such an interpretation defines away the issue: every person who houses a horse is required to have pasture. Therefore, based on the logic of this argument, every person who houses a horse is a farmer (assuming he qualifies for the requisite tax assessment, see BCZR section 101), which then sweeps away any limitation on "farming" as it applies to horses.

Further, boarding horses, giving lessons, and providing veterinary care to horses are not commercial agricultural uses because if they were, there would be no need to obtain a special exception for each one of those activities, since commercial agricultural uses are allowed as a matter of right in an RC2 zone.[20] See BCZR Sections 1A01.2(B) and (C).

It is also fair to question who does the training and when the training occurs. Dr. Meittinis never claimed that he was involved in training. Mrs. Meittinis is a riding instructor with nine

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[20] Petitioners' expert witness in land use planning, Jack Dillon readily acknowledged that, the riding stable and veterinarium uses are not commercial agricultural uses. On further cross-examination Mr. Dillon indicated that if the records were to show that no revenues were generated from breeding and training on the property, he would not know whether the Meittinis operation constituted commercial agriculture.

students who, by her own testimony, barely has time to ride herself because she is occupied with her two small children. At the hearing Mrs. Meittinis offered the uncorroborated assertion that she trains horses. In Petitioners' memorandum at page 2 it is asserted that Mrs. Meittinis has an extensive background in training horses, including a college degree in a related field. No details were provided regarding what the "extensive background" was, either at the hearing or in the memorandum. The Meittinis argument in support of the proposition that they are training horses and thus are engaged in commercial agriculture reduces, at the end, to a mere assertion: they say loudly and stridently that theirs is a horse farm when, in reality, no appreciable farming activity occurs.

In apparent recognition of the fact that they fail to fall within the definition of commercial agriculture by virtue of any training activity, Petitioners also argue that they are raising and keeping animals for income and, therefore, they qualify as a commercial agricultural operation on that basis. The first line of the definition in Section 101 on which Petitioners attempt to rely, merely describes in general terms what is being defined. In its definition, the County Council clearly enumerated and specifically addressed which equine activities it deemed to be commercial agricultural activities and limited those activities to horse breeding and horse training. Had it wanted to include the pasturing and boarding of horses it would have said "horse

breeding, horse training, horse boarding, and horse pasturing" but it did not.[21] See also Marzullo v. Kahl, - Md.-, 783 A.2d 169 (2001) in which the Court's ruling reflected that only raising and keeping animals for income and qualifying for an agricultural tax assessment are not sufficient conditions to cause an operation to be deemed a commercial agricultural operation.

Finally, Petitioners seem to argue that their operation constitutes commercial agriculture because they sell horses. While the Meittinises may decide to sell one of their horses from time to time, it must be noted that the commercial agriculture definition requires that "ancillary activities such as processing, packing, storing, financing, managing, marketing, or distributing" must be secondary to the principle agricultural operations. Section 101. (Emphasis added) In this case, that means that the marketing of a horse must be secondary to a horse training operation. To the extent that this ancillary activity exists at all, it is not secondary to any principle agricultural operation.

The Meittinises have failed to prove that they are engaged in the training of horses on the property, even though the evidence which would have conclusively established this issue, one way or another, is exclusively within their control. The Petitioners,

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[21] It is true that Petitioners have obtained an agricultural tax assessment. Qualification for an agricultural tax assessment is a necessary condition in order to fall within the scope of the definition of commercial agriculture. By the terms of definition itself, however, it is not sufficient to render any property a commercial agricultural operation.

therefore, have failed to meet their burden of proving that they are engaged in commercial agriculture and thus the BCZR, Section 101, requiring a minimum of one acre of pasture land per horse, applies in the instant case.

The applicability of the requirement of one acre per horse is of particular importance, and the question of how much pasturage is available represents a particularly interesting aspect of this litigation and sheds light on the Meittinis' request in a way that far surpasses its apparent significance. At face value, the available acreage relates simply to the number of horses that the land can reasonably support. On the other hand, the way this issue has been addressed by the Meittinises speaks mightily about their approach to the special exception request. Their first witness, Bruce Doak, submitted a site plan of the Meittinis' property that he had prepared. He was cross-examined thoroughly on the question of the available pasture, and though such a measurement was easy enough to accomplish, he acknowledged that he had made no such effort. As the hearing progressed over several days, the issue emerged as a significant area of disagreement - the Meittinises asserting that they had approximately sixteen acres of pasture (a number that usefully dovetails with their barn capacity) and the protestants inferring, based on evidence in the record, that there were only about ten acres. In any case, the one step that the Meittinises have not taken (or have not disclosed having taken) is the one step which is both dispositive and within their sole

control: actually measuring the pasture. Given that they are the ones uniquely able to resolve the question, any ambiguity on the point should surely be resolved in the protestants' favor. This is similar to the position that they have taken on the vehicle counts and on the disclosure of their financial records. Ultimately, their failure to provide what is clearly useful and salient information reflects poorly on the equities of their overall request, and it is for that reason that the issue attains an importance beyond the limited question of how much pasture actually exists.

If petitioners are allowed to have sixteen horses on only ten acres of grazing space, this would result in over-grazing of the land and cause soil erosion, water quality problems on site, water quality problems with the storm water running off of the land and depletion of the productive capability of the land. These problems are of particular concern to the Evanses. The Evans' residence is directly across from the Meittinis' property and the storm water runoff from the Meittinis' property, including the pasture area, runs over their property, flooding, and thereby eroding their land. The problem is particularly acute in winter when the ground is less absorbent. The Evans family is concerned that over-grazing at the Meittinis property will exacerbate the erosion which is already taking place on their property. The prospect that the storm water runoff might be contaminated and pollute the ground water on the Evans' property is frightening.

It is for all of these reasons that Mr. Lippincott, after

visiting the petitioners' property, reviewing the special exception requests, speaking with petitioners' counsel, and speaking with some of the Tracey's Road neighbors, recommended that the petitioners be required to comply with a nutrient management plan and a soil conservation and water quality plan as a condition for receiving the special exception for the veterinarium. As indicated above, he recommended against the riding stable. See Lippincott report at p. 1.

The question of whether the Meittinis' operation is commercial agriculture is ultimately not necessary to the resolution of the limited questions associated with the special exceptions if the numbers of horses are limited or the Lippincott conservation plan is imposed. In the absence of either of those conditions, it is necessary to reach the farm question. In that event, protestants strongly urge that this tribunal rule that this is not a commercial agriculture operation.

CONCLUSION

While the protestants are opposed to a special exception for a veterinarium because monitoring and enforcement would pose similar problems in that context as it does in the riding stable context. At the same time, limited as it was in Dr. Meittinis' testimony, protestants recognize that the traffic generated by this operation would not overburden Tracey's Road. If that special exception is granted, it is requested that it be limited to four horses per

month coming to the property for treatment, no operating room in the barn or elsewhere on the premises, widening of the mouth of the driveway so that ingress and egress can be achieved on the Meittinis property, adequate provisions be made for the disposal of medical waste, and the number of horses on the property at any one time be limited to ten or the Lippincott conservation plan be imposed.

As to the riding stable, the protestants are opposed for the following reasons. First, there are a number of particular adverse impacts which individually and collectively mandate rejection of the special exception: traffic congestion and dangerous conditions on Tracey's Road; disruption of the use and enjoyment of the Prices' residence and diminution of its value; environmental and natural resource problems, including run-off from over-grazing; and unusual and particular monitoring and enforcement problems. Second, there appears to be no similar set of circumstances in which such a special exception was granted. Third, virtually all of the Tracey's Road residents oppose the special exception as do impacted residents nearby. Fourth, DEPREM has recommended against it. Fifth, Mrs. Meittinis testified that she only has four students that she teaches at Renaissance Farms, and there is no particular difficulty in continuing to give those lessons at that alternative site which is already approved for such activity and is only a few miles from her home. Sixth, Mrs. Meittinis contends that she is a trainer and indicated that she intends to engage in horse breeding in the

future. Rejection of the special exception for a riding stable will not prevent her from engaging in legitimate training or breeding activity. Accordingly, there is no significant negative financial consequence to Mrs. Meittinis in denying this aspect of the special exception request. For those reasons, the protestants request that the special exception request for a riding stable be denied.

Respectfully Submitted,

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Pro se protestants and on behalf of all pro se protestants

CERTIFICATE OF SERVICE

This is to certify that on this 3rd day of December, 2001, a copy of the foregoing Protestants Memorandum In opposition to Petition for Special Exception was mailed by first class mail, postage prepaid, to John B. Gontrum, Esquire, Romadka, Gontrum, and McLaughlin, P.A., 814 Eastern Boulevard, Essex, Maryland 21221, attorney for petitioners.

Nedda P. Evans

Nedda P. Evans

1/16/01

IN THE MATTER OF	*	BEFORE THE
NICHOLAS AND STEPHANIE MEITTINIS	*	DEPUTY ZONING
PETITION FOR SPECIAL EXCEPTION	*	COMMISSIONER FOR
2311 Tracey's Road	*	BALTIMORE COUNTY
5th Election District; 3RD Council District	*	Case No. 01-530-X

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MEMORANDUM OF PETITIONERS

Nicholas Meittinis and Stephanie Meittinis, his wife, filed a Petition for Special Exception for an equine veterinarium and for a riding stable on property they own at 2311 Tracey's Road in the 5th election district of Baltimore County. The property was posted with the hearing date and duly advertised. At the hearing the Petitioners appeared and were represented by counsel John B. Gontrum. Protestants also appeared including Joseph Evans, Esquire and his wife Nedda Evans, Esquire, who live across Tracey's Road from the Petitioners' property. Testimony and evidence was presented over a three day period by the Petitioners and Protestants.

STATEMENT OF FACTS

The site plan was prepared by Bruce Doak, a registered land surveyor, who was qualifed as an expert in land surveying and is very familiar with the Baltimore County Zoning Regulations (hereinafter cited as the "BCZR"). The property is zoned R.C. 2, and the uses of a veterinarium and riding stable are permitted under the Baltimore County Zoning Regulations as of right in that zone subject to meeting the special exception criteria. BCZR 1A01.2C.2, 1A01.2C.21.

The property contains 40.34 acres, most of which is wooded. Although the precise amount of pasture land was not given, it was proffered that about 22 acres of the property is

wooded. The property is improved by a dwelling, a barn, a two story storage building and a garage on top of which a playroom is being built. In addition, the site contains a riding ring and parking areas serving both the house and the barn. The barn contains 16 stalls and has paved parking, which although it is not striped would accommodate 12 vehicles.

The Meittinis property is located 1500 feet from the intersection of Tracey's Road and Yeoho Road. At the hearing various measurements were given as to the width of Tracey's Road, which appears to vary between 11' to 14' in width. It is considered a single lane road and is not striped for two lanes. In order for vehiclses to pass one vehicle must yield by pulling off onto the side of the road. Mr. Doak, who lives in northern Baltimore County on a similarly sized road, testified that to his own personal knowledge there were numerous roads of such width in northern Baltimore County which served horse farms. He did not believe that the granting of the special exception as requested would be detrimental to the health, safety or general welfare of the community. He personally has been involved in several riding stable special exception cases on small roads and did not believe that the granting of the special exception would create congestion on the roadways.

Dr. and Mrs. Meittinis bought the property as a subdivided lot in 1997. At the time the open fields were planted in row crops. After their purchase of the property the Petitioners commenced construction of their house and subsequently the barn. The barn is served by its own well and septic system and was located based on percolation tests. It is located over 200 feet from the nearest property line. The farm has an agricultural tax assessment.

Mrs. Meittinis has an extensive background in training horses and riders including a college degree in a related field. It is not contested that she has given lessons in the past and

continues to give lessons today, but not at the subject site. It was always her intention to give lessons from this property. Currently, Mrs. Meittinis has 9 students but has been limited in the lessons she has given because of her small children. She foresees having up to 14 pupils. She generally coaches her students once a week for about 45 minutes to an hour. She does not give more than 2 lessons in any given day, but usually has several pupils per lesson. She does not have more than 5 pupils per lesson.

In addition to giving lessons Mrs. Meittinis also trains and sells horses. She currently has about 9 horses on her premises, which she uses either for lessons or is training for sale. These animals are being trained as hunter show horses and can bring tens of thousands of dollars at sale. They must be ridden regularly, however, to keep fit for sale. On a regular basis people, including former students, come to the Meittinis farm to assist Mrs. Meittinis in training the horses.

Mrs. Meittinis also would like the ability to board for riding a couple of horses. These horses would belong to others but would be either under her training or would belong to students for their training as riders[1].

In response to cross-examination Mrs. Meittinis testified that she does not intend to build an indoor horse ring either in conjunction with the special exception or otherwise.

Dr. Meittinis testified as to the proposed veterinarium. He has veterinarian offices at both the Pimlico and Laurel race courses, and his practice is confined to horse medicine. He does not

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[1]At the hearing it was suggested that the proposed riding lessons and boarding of animals constituted a hobby and was not being suggested as a serious agricultural activity. To the contrary the Petitioners have expended tremendous sums and great resources to obtain approval of these activities as part of the farm income base. The income derived from these activities, if approved, is important in sustaining the maintenance of the farm operation. The Petitioners could not be more serious about their desire to implement their proposal for income purposes.

have an office at the property, and does not wish one. He does not intend to have a formal surgery, but would like to see and occasionally keep horses overnight or for periods at the farm. He keeps his equipment in the back of his car, and would like to perform the same procedures at his farm as he is capable of performing at any other horse farm. He is willing to restrict the proposed special exception use to an equine veterinarium only.

At the present time the Meittinis have 2 horses which they are keeping on pasture and are not being ridden. It is their opinion, as it was the opinion of Mr. Jack Dillon, Executive Director of the Valleys Planning Council, who testified for Petitioners, that keeping such horses as "layovers" do not constitute a riding stable or an animal boarding place.

Several friends of the Petitioners testified that they visit the farm on a regular basis and have had no difficulty in navigating Tracey's Road. When other vehicles are encountered on the road, one simply gives way. The Kees family, which owns a horse farm at the end of Tracey's Road also is engaged in horse training and regularly uses Tracey's Road as their sole means of access and in shipping their horses to and from the tracks. There was no testimony that their regular usage of the road for horse trailers and vans creates any difficulty.

Mr. Dillon testified both as Executive Director of the Valleys' Planning Council, in whose area this property is located, and as an individual expert in the zoning and planning laws of Baltimore County. Mr. Dillon was aware of many roads in northern Baltimore County similar in width to Tracey's Road which accommodate without problem similar uses. He did not believe that the special exception, if granted, would in any way be injurious to the health, safety or general welfare of the community or be inconsistent with the property's zoning classification.

Mr. Thomas Reynolds, of the Baltimore County Farm Bureau, also testified that his

organization is in favor of the subject petition. His organization believes that the education of youth in agricultural activities including horsemanship is an integral part of the preservation of the agricultural community, and consequently it supports the special exception for a riding stable. He too saw no issue with congestion on Tracey's Road based on the limited operation he foresaw on the premises.

Finally, Mr. Wes Guckert of the Traffic Group testified as an expert in traffic engineering on behalf of the Petitioners. He introduced maps showing various road widths and the layout of Tracey's Road. He had conducted traffic studies of Tracey's Road and on other roads of similar one lane width where riding stable permission had been given. He found that Tracey's Road was similar to the other roads, and based on the traffic counts he observed, the road could easily handle the trips proposed under the requested special exception without congestion.

On cross-examination it was indicated that his traffic counter perhaps failed to pick up the traffic from two houses located on Tracey's Road near its intersection with Yeoho Road. His count showed an average trip count of 100 trips per day, which is consistent with the 10 houses included in his trip count. These trips were primarily concentrated in the morning and evening rush hours. The most trips in any hour was about 16 trips on a mid day Saturday. He believed that this would average about 1 trip every 4 minutes. This was an easily maintained loading, and the additional trips per week spread out as proposed by the Meittinis special exception request could easily be accommodated and would not create congestion in the roadways. Other roads handled significantly more volume, and he did not believe the fact that the road dead ended at the Kees property in any way was detrimental.

Protest to the proposed special exceptions essentially came from those concerned over the

potential congestion on Tracey's Road and from those who simply did not want the riding stables. The Price family, who owns the 1 acre lot closest to the barn, simply does not want the special exception under any terms. Mr. Price was offended when the barn was built in its current location. Despite the fact that the barn could have been built within 35 feet of the property line, he felt that the barn should have been located on the property away from his property line.

The Price house is situated on the highest point in the area and has a clear view of the riding ring, the barn area and the pastures. It was their opinion that the children using the Petitioner's property disturb their quiet enjoyment of their residential property. The children have upset their dogs and make noise, particularly on weekends when Mr. Price is off work. Mr. Price also is concerned over how the special exception, if granted with restrictions, could be monitored for compliance with the restrictions. Mrs. Price has kept an extensive photographic and video record of each person riding on the Meittinis farm, and while they know who many of the people are who come to the Meittinis property, they do not know which people are getting lessons, which are riding as friends or members of the Meittinis family and which are training the horses or trying them out for purchase. It appeared to be their opinion that anyone coming to the farm to ride a horse on the property was being coached.

Interestingly, the Price property is located closer to the Kees barn and farm than to the Meittinis operation. It is the Price garage and sunroom which face the Meittinis site. The living portion of their house also fronts on the Kees property, but they had no problem either with the riders and farm tenants at the Kees horse farm nor with the traffic generated by it. They do not object to the horse training but only to the rider training.

Although the Evans family had specific and legitimate concerns with the run off from the

driveway of the Meittinis property, this issue is really not pertinent to the special exception. It is, however, an issue that should be addressed for the good of the community. In addition, the Evans family had an issue with the size of the entrance into the Meittinis property, which the Petitioners have agreed to review. The Petitioners already have enlarged the entrance and testified that this could be further examined.

The other issues raised by the Protestants all came down to traffic and monitoring the conditions, which would be placed on a special exception, if granted. Protestants did not deny, however, that numerous roads of similar width exist in northern Baltimore County and that such roads accommodate traffic similar or greater than Tracey's Road.

DISCUSSION

1. LEGAL CONTEXT AND STANDARD OF REVIEW.

Riding stables are permitted by special exception in an R.C. 2 zone as are veterinariums. The legal test for whether a special exception should be granted was set forth in *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981). The court set forth the standard as follows: "whether there are facts and circumstances that show that the particular use proposed at that particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone..." *Schultz v. Pritts*, 291 Md. at 21-22, 432 A.2d 1319 (1981). In *Mossberg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995), Judge Cathell then on the Court of Special Appeals expanded on *Schultz* and stated:

> "...[I]t is not whether a special exception/conditional use is compatible with permitted uses that is relevant in the administrative proceedings. The legislative body, by designating the special exception, has deemed it to be generally compatible with other uses. In special

> exception cases, therefore, general compatibility is not normally a proper issue for the agency to consider. That issue has already been addressed and legislatively resolved. Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency. *Id.* at 8-9, 666 A.2d 1253 (1995).

The court in *Mossberg* was considering the denial of a special exception for a solid waste transfer station in an industrial zone. The court reversed the agency. Its reasoning is apt in this case. The court stated:

> The question in the case *sub judice*, therefore, is not whether a solid waste transfer station has adverse effect. It inherently has them. The question is also not whether the solid waste transfer station at issue here will have adverse effects at the proposed location. Certainly, it will, and those adverse effects are contemplated by the statute. The proper question is whether those adverse effects are above and beyond, *i.e.*, *greater here* than they would generally be elsewhere within the areas of the County where they may be established, *i.e.*, the other few I-2 Industrial Zones. In other words, if it must be shown, as it must be, that the adverse effects at the particular site are greater or "above and beyond," then it must be asked, greater than what? Above and beyond what? Once an applicant presents sufficient evidence establishing that his proposed use meets the requirements of the statute, even including that it has attached to it some inherent adverse impact, an otherwise silent record does not establish that that impact, however severe at a given location, is greater at that location than elsewhere... *Id.* at 8-9, 666 A.2d 1253 (1995).

This reasoning also was applied by the Court of Special Appeals in *Eastern Outdoor Advertising v. Mayor and City Council of Baltimore*, 128 Md. App. 494, 524-528, 739 A.2d 854, 870-872 (1999).

A "riding stable" is defined in Section 101 of the BCZR as follows: "A building where riding horses are boarded or kept for hire." The Baltimore County Zoning Commissioner's Policy Manual, adopted by the County Council as part of the regulations of Baltimore County states:

"A: Commercial riding stables are those that primarily rent horses for riding purposes.

This type of use shall not be subject to Section 421, but shall be permitted only in accordance with the appropriate use regulations.
B: Riding stables that primarily board horses but may provide riding trails shall be considered animal boarding places and must therefore comply with the requirements of Section 421." Zoning Commissioner's Zoning Policy 1-25.

Veterinariums are subject to the setback regulations of BCZR Section 421 and are defined as follows:

"Any building or portion thereof which is used, intended to be used or arranged primarily for treatment of animals by a veterinarian, where overnight care is allowed, and where all areas used for treatment or housing of animals are odorproofed and soundproofed." BCZR, Section 101.

The setback criteria of BCZR Section 421 are not at issue in this case.

Farms are permitted as of right in an R.C. 2 zone, and indeed, in Section 1A01.1B of the BCZR it is stated that the zone is established "in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." In Section 1A01.2A agricultural operations are to be afforded "preferential treatment over and above all other permitted uses in R.C. 2 zones."

The term "agricultural operations" is not defined in the BCZR. The term "Agriculture, Commercial", however, is defined in Section 101 in pertinent part as follows:

"The use of land, including ancillary structures and buildings, to cultivate plants or to raise and keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops...pasturage agriculture,...animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as ....storing,... managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations."[emphasis added]

A "farm" is defined as "three or more acres of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated

agricultural uses. The term does not include the following uses as defined in these regulations:....riding stables...." BCZR, Section 101.

The definition of "Agriculture, Commercial" came about in Bill No. 51-1993. The Staff Report of the Office of Planning proposing the definition tried to distinguish between larger scale commercial operations and the small non-commercial agricultural operation. The Report stated:

> "Instead of providing separate definitions for commercial and noncommercial farms, or large and small scale farms, Baltimore County's Zoning Regulations would rely on only one farm definition. The primary determinant which would decide whether an operation is a farm would be the criteria used by the State for assessment purposes. Residential properties with accessory farm uses, which fall below the above income test, would be subject to the livestock ratio table..." Staff Report at 6 (App. 1)[2]

2. FARM AND ACCESSORY USE.

The Meittinis property first and foremost qualifies as a "farm". It contains over 40 acres and is assesed for commercial agriculture under the Tax-Property Article of the Annotated Code of Maryland. There is no dispute that animals are kept and raised for income and that horses are trained on the Meittinis property. There also was no dispute of the testimony that horses are being trained and for sale on the Meittinis property. All of these activities make the property a

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[2]The Staff Report also reviewed the livestock table, which previously had been applied to "Farmettes" which ranged in acreage from 3-10 acres. Although there was testimony in the hearing about the acreage used for livestock, the Report is clear where the numbers in the table came from:

> "The livestock ratio table which is part of the Farmette definition, serves to regulate livestock and should be retained for all lots with accessory agricultural activities. The animal per acre ratio was designed by the Department of Agriculture at the University of Maryland and staff recommends only minor changes in its provisions. Among all animal groups sucklings and weanlings under 12 months of age should be permitted to stay with the mother without being counted." Staff Report at 6 (App. 1).

commercial agricultural operation and consequently a farm. [3]

The farm use would continue if the special exceptions were granted or even if they were denied. The first issue, however, is whether the proposed special exception uses as limited by Petitioners really qualify as primary uses or as accessory uses to the commercial agricultural operation. The law is clear that horse training and the pasturing of horses is permitted as of right as part of a commercial agricultural operation. Indeed, much of the farm land in Baltimore County is devoted to the horse industry, which includes the training and riding of horses as well as their pasturage, breeding, raising and keeping. Traditionally, these activities have occurred ~~without the need for special exception~~. ~~The definition of commercial agriculture now permits~~ these activities by right.

Unfortunately, the distinctions among horse training and raising, horse boarding, and riding stable are not easily made. A horse training operation also boards the horses of others. By its very nature there is a mixture of elements. People come and go from most horse training operations bringing their animals or coming to the farm to ride. Some farms have riders living as tenants on the farm in addition to bringing others to the farm. These farms are not, however, open to the general public, and people can not simply come to the farm and pay money to ride the horses.

The recent DeVoe case on Manor Road (Case No. 99-389-SPHX), however, illustrates that the distinction between riding stable and horse training is easily blurred. In the DeVoe case

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[3]As a farm there really is no limit as to the number of animals that can be raised on the acreage. Not only was there testimony on issue this by Mr. Jack Dillon, who helped drafted the R.C. zones, but the language of the BCZR is clear on this matter. Section 100.6 of the BCZR which sets forth the acreage limitations restricts the application of the limits to a tract of land "which is not a commercial agricultural operation".

the Petitioner was a nationally recognized event rider and trained horses to a sophisticated level of dressage and jumping. She was building an indoor riding ring and wished to have an annual show. She boarded some horses, and the owners of the horses came to her farm to ride and train their animals. The Zoning Commissioner found that it was the animals being trained, not the riders, and, therefore, the use was permitted as of right: but necessarily, the training of the animals also trained the riders. Was this not also a riding stable where riding horses were boarded? The point is that the boarding of horses was ancillary to the training of the horses. The horses were not being "hired out". Training sessions may have been given, but the fee charged was for the lesson, not the stabling of the animal.

In this case there is stabling for 16 horses, most of which are intended to be owned by the Petitioners. A couple of horses may be kept as "layovers" which would not be ridden but simply kept on pasture and feed. These horses may also include a horse or two under Dr. Meittinis' supervision. These, however, are not "riding horses", for their purpose on the farm is not to be ridden but rather rested. Consequently, these horses do not fall within the definition of a "riding stable". In addition, they do not fall within the definition of an animal boarding place as explained in the Policy Manual, for they are not "riding horses". These horses are covered under the definition of commercial agriculture which provides for "pasturage agriculture". The phrase "being put out to pasture" is apt.

At the Meittinis farm a couple of horses may belong to riders who are boarding their horses with the expectation that Mrs. Meittinis and the riders will train the horse to a show quality level. Some horses may simply be boarded for Mrs. Meittinis to train. The training of the horse whether boarded or owned by the Petitioners is permitted as of right. This is consistent with the

DeVoe Findings of Fact and Conclusions of Law on page 3 (Zoning Comm. Case 99-389-SPHX).

Left for discussion are the lessons being given riders. A riding stable is defined as a structure. BCZR, Section 101. It is a "building". In that building riding horses are boarded or kept for hire. Lessons being given to riders who bring their own horses are not governed by a special exception, for the horses are neither being stabled or boarded. Arguably, if Mrs. Meittinis is using her horses to give lessons, and if the lessons are being charged as given, then the question becomes one of whether the riding horse is being "hired", or if the charge is for the lesson. Is the billing for her time or for the use of the horse? Mrs. Meittinis testified that she intends to give supervised lessons, lessons only supervised by herself. No one is charged to ride her horses unsupervised. A person may not walk in off the street as at Gunpowder Stables, a permitted facility on Route 7, rent a horse and go on a trail ride. She may have riders ride her horses, but does not intend to charge for that, for it is training for the horses. Since they are her horses, there is no boarding of the animal, and since she is not charging the rider, and indeed may compensate the rider, the horses are not being kept "for hire".

Consequently, the term "riding stable" really only applies if it is interpreted that by giving a lesson and charging for it either in money or in kind service that a horse is "being hired". Mrs. Meittinis testified that at most if the special exception were granted she would devote maybe 14 hours a week to lessons. This represents a very small percentage of the daylight hours within a week.

If Mrs. Meittinis is boarding a horse belonging to a student for the student to ride then the issue becomes who is being trained, the horse or the student? If it is the former being trained, then it is a farm based on the BCZR definition and based on the DeVoe ruling (Case No. 99-389-

SPHX). If it is the student that is being trained on a boarded horse, then a special exception is required unless the use is so slight as to be accessory to the agricultural uses. Mrs. Meittinis testified that she might keep two horses belonging to students for the students to ride. This is two out of a total of 16 for which she has stabling. Is this a primary use or an accessory use? The zoning code permits a primary use to become an accessory use if limited as such.

It is important not just to the Meittinis family but also to agriculture in Baltimore County that the proper distinctions be applied. If every farm that boards a horse for pasture is "an animal boarding place" or a "riding stable" then the regulations as interpreted for years and as clearly intended to permit agricultural operations as a preferred use will be stood on their head. If every farm that trains the horse of another is considered a "riding stable" where riding horses "are boarded ... for hire", then almost every horse training operation in the county will be required to get a special exception or be subject to a violation citation. Again, this is contrary to interpretation and to the clear legislative intent of the regulations.

Both Mr. Reynolds and Mr. Dillon believed that the giving of lessons was part of the fabric of animal husbandry and agricultural activity. Mr. Reynolds believed that teaching students how to behave around animals was essential to the future welfare of the county agricultural community. He felt that it was an agricultural operation. It is important, therefore, to note that nowhere in the BCZR is the giving of riding lessons considered to be a special exception use. Clearly, it is a permitted use, for it has been encouraged and has occurred unfettered for generations, but it is not encompassed either within the definition of an "animal boarding place" or within the definition of a "riding stable".

If Mrs. Meittinis gives riding lessons to students on her horses and charges for the lessons

is this not an accessory activity for the farming activity? What is the distinction if she gives lessons to students coming to ride on her horses or trains her horses with people coming to ride them? If it is the acceptance of remuneration then the distinction could never be objectively determined. In both cases the impact on the general public is the same. People are coming and going from the farm to ride horses. In both cases it is the farming operation, the raising and keeping of the animals that is being assisted.

This is distinguished from what a "riding stable" was intended to be. The 1945 zoning regulations had definitions for public and private stables. A private stable was limited to no more than 3 horses belonging to the owner. A public stable was defined as "An accessory building and/or other building, other than a private stable where horses an/or other animals are kept for livery or hire." Such a use required a special permit in any zone, but the lot size was only required to be 7,500 square feet with side yard setbacks of 15 feet. This was then truly an urban type use. BCZR, App. K, Section XIIIJ. The 1945 zoning code also permitted by special permit a "riding academy" in any residential zone. The term "riding academy" was not defined, but its ordinary meaning would be the teaching and giving of lessons as a primary use. We know of such academies at Goucher College and McDonough school. They were permitted as of right in commercial and industrial zones. The "riding academy" disappeared from the zoning code in the 1955 version, but the riding stable definition now in use was adopted. It is essentially the same as existed in the 1945 zoning regulations for public riding stables. It does not make sense that all of a sudden a use that was permitted by special exception in only a few of the residential zones and in the B.R. and M.L.R. zone by special exception would include the giving of lessons. It can be surmised that the riding academy was felt to be a part of the 1955 definition of "farm", for there

was no definition of commercial agriculture. In 1955 Section 101 defined a farm as being used for commercial agriculture, which included, but was not limited to, "... horse breeding, training and stabling..." . The current definitions of "animal boarding place" also existed.

Based on the history of the zoning definitions, therefore, the giving of riding lessons on one's own horses is indistinguishable from horse training and stabling. The scope of the Petitioners' proposed activities is so limited and so restricted in the overall context of the operations that it can hardly be considered a primary activity as the definition of "riding academy" or even the definition of "riding stable" clearly intended. This is not a place where riding horses are hired out.

Mrs. Meittinis, however, also indicated that she would like to board a student's horse for training of the horse and the rider. This would amount to no more than two horses. In this context a riding horse is being boarded for compensation. It is not, however, the principal activity of the farm. The issue, therefore, would be that on such a limited basis where up to two horses are being boarded is this a "riding stable" such as would require a special exception or is it a farm with an accessory use of boarding a riding horse? Given the limited number of horses involved in being boarded a legitimate argument is presented that it is an accessory use[4].

3. SPECIAL EXCEPTION FOR RIDING STABLE.

If the Meittinis operation as proposed is considered to be a use permitted by special

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[4]In DeVoe (Zoning Comm. Case No. 99-389-SPHX) 20 stalls were proposed initially with up to 17 stalls for horses owned by others than the property owner. More stalls were projected for stabling on a 37 acre parcel. The boarding of the horses, however, even for the "working students" was obviously perceived as accessory to the commercial agricultural activity involved in the training of the horses. It was not suggested that this boarding in any way constituted an "animal boarding place", and the Zoning Commissioner found it was not a riding stable.(Findings of Fact and Conclusions of Law, page 3).

exception, then the testimony is that as limited by the testimony of Mrs. Meittinis, it truly is indistinguishable from ordinary residential and farming use of the property. By the inclusion of riding stable as a special exception the county council indicated that such use by its nature is compatible with the R.C. 2 requirements. *Mossberg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995). It is not a special exception because it is an "urban" type use. It is a special exception because it can under certain circumstances have deleterious impacts on a neighborhood in excess of that normally associated with the use. Certainly, if 100 horses were being boarded and riding lessons were offered at all hours of the day and night, indoor rings existed with lighted show rings and shows occurred on a regular basis, the impact on the community would be different than if a couple of horses were being boarded and a dozen children were coming for lessons in a given week. There is no definition in the regulations that goes to size or scope of operation. Consequently, what is being proposed becomes important in judging the relative impact of the operation on the community. Under the regulations as stated and existing case law presumably even the largest riding stable operation is deemed compatible with the community and has the presumption of being allowed anywhere in the R.C. 2 zone.

Mrs. Meittinis testified that she would like to have between 12-14 pupils, whom she would assist once a week for about an hour. She likes group lessons and does not believe in having her horses ridden more than 2 hours per day. Based on these facts the maximum usage would be two hours per day on any given day with no more than 14 hours of lessons per week; that is, if each child had an individual lesson. More likely is the scenario where three or four children are given lessons at a time, encompassing 3 to 5 hours in a given week. This would hardly create a traffic problem on any road.

The neighbors testified in recent years that the traffic on Tracey's Road had grown and the potential for accidents had increased. That is probably true in that more cars increase the risk of accidents.[5] Protestants, however, are selective in their approach to automobiles. There is no problem with the horse vans that currently use the road. The neighbors have no problem with increased traffic from the additional homes that are to be built on Tracey's Road. Presumably, these homes and the additional traffic can be accommodated. On the average these homes would represent another 20 trips per day, and their traffic would add to the peak generation.[6] The neighbors also have no desire despite the existing traffic and proposed additional houses to widen the road within the current county easement to two lanes.

Mrs. Meittinis is proposing through her testimony an additional 28-56 trips per week.[7] This is less than half the average traffic load one additional house would add. Given the fact that at peak time there are only 12-16 cars per hour using Tracey's Road, the after school and summertime day use of the facility would easily be accommodated. Tracey's Road has shown that it can handle this amount of cars at peak with no inconvenience. Adding 4-6 cars per hour at off peak times or even at peak is a marginal exercise, and would not congest the roadway.

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[5]Supposedly, shortly after the automobile had been invented the only two automobiles in the entire state of Ohio collided. Tracey's road has a better record, but presumably to the drivers of the Ohio cars there was too much congestion.

[6]Mr. Guckert's point when confronted with the conclusion that his counters had missed two homes was that the road safely accommodated the additional traffic. The issue is one of congestion and at these levels whether there are 100 trips per day or 120 trips per day or 200 trips per day congestion on the road as it is commonly known is not really an issue. Congestion should take into account peak traffic loading, and 12-16 or even 20 cars an hour does not create congestion.

[7]Based on 14 children coming for lessons per week with one trip in and one trip out to two trips in to two trips out.

In addition, Petitioner proposed to board two horses for riding purposes. These may be horses she is training for others or horses which may belong to her pupils. Even if the pupil came every day to be with the horse this would occasion only a couple trips per day. If two horses were being boarded, and they were being ridden every day by their owners and 14 lessons were being given each week then in any given week the most traffic that would be generated by the special exception would be 28 people or 4 people per day visiting the Meittinis household. As Mr. Guckert testified, this would have minimum impact on the roadway congestion.

There was no testimony that there was anything worse about Tracey's single lane than the dozens of other single lane roads that exist throughout the northern part of Baltimore County in what is overwhelmingly zoned R.C. 2 land. Special exceptions have routinely been granted in the past for animal boarding establishments, riding stables, and farm machinery sales establishments on roads as narrow or narrower than Tracey's Road.

In Case 92-366X a special exception was given for a riding stable at 16724 Millers Lane. This road is only 11 feet wide. Rendezvous Farm was allowed a riding stable and 10 lessons a week. Manor Hill Farm on Breidenbaugh Lane, 10 feet wide, has both boarding of horses and a special exception for farm machinery sales including delivery by tractor trailer granted in Case No. 91-381-XA. Permits have been issued by Baltimore County for horse boarding at Manor Vale farm on Fox Hall Farm Road, (10 feet wide), Airy Hills Farm on Rices Lane (12 feet wide), Dunroman Stable on Hart Road (16 feet wide), and The Stable at 2426 Ridge Road (16 feet wide). None of these roads are striped for two lane traffic. Some are dead end roads.

In Cases 01-499-X (Renaissance Farm), 00-285 (Black Rock Road), 99-248X (Mt. Zion Road), 95-404-X (Evna Road), 95-287-X (Schroeder Avenue) and Case No. 97-311-X (Sharon

Drive) traffic was an issue. Special exceptions limited by restrictions were granted in all these cases. In almost every case but for Evna Road the properties were far smaller in size than Petitioners' property. In almost every case including the DeVoe case more horses were sought to be boarded for riding than is proposed in this case. Based on the decisions in those cases and the testimony provided by Mr. Doak, Mr. Dillon and Mr. Guckert there is no feature peculiar to Tracey's Road from the myriad of similarly sized roads in the R.C. 2 zone that would preclude an operation as limited as proposed by Mrs. Meittinis.

There simply was no evidence produced that the use would have any other more deleterious impacts at this location than at any other similarly zoned location. Mr. Price testified as to the sound of children disturbing his peaceful enjoyment of his property, but this is not an atypical characteristic of the use. It is in a way preferred over the residential usage of the zone. The Meittinis' have located their riding ring almost 200 yards from the Price house. The barn itself is 300 feet from their living area. This is over 8 times the zoning requirement for setbacks. No outdoor lighting is proposed. No amplified sound system is proposed. The use is indistinguishable from the Meittinis' own enjoyment of their property.

4. VETERINARIUM SPECIAL EXCEPTION.

This use would essentially operate out of the back of Dr. Meittinis' vehicle. No surgery room is proposed. For simple procedures a stall could be used. This would allow Dr. Meittinis the opportunity to do at his farm the same procedures that he would do on any client's farm. There would be no advertising of the service and no sign. There would be no employees on the property employed in the veterinarium practice.

The practice would be strictly limited to equine veterinary medicine. There is no proposal

to have a small animal practice or even to extend the practice to cattle or other large farm animals.

The special exception would allow Dr. Meittinis to change bandages on horses that he is keeping on pasture or in a stall overnight or during rest. The number of horses being boarded or kept for this purpose would be included in the overall number of horses being proposed on the site.

There really was no testimony that the use as proposed would add to congestion on the roadway or would in any other way be injurious to the health, safety or general welfare of the community. His practice by all the expert testimony would provide a needed supplementary service to the horse industry in northern Baltimore County.

5. RESTRICTIONS.

Petitioners are willing to abide by restrictions both offered on the site plan and as proposed throughout the hearing. As the Commissioner knows, there was no requirement to place any restrictions on the site plan. This was done simply to try to put a limiting scope on the size of the operation. The special exception uses described by Dr. and Mrs. Meittinis, however, will be smaller than that contained on the site plan. In the event the special exceptions are granted the following restrictions for the following reasons seem appropriate:

a. NO MORE THAN 16 HORSES TOTAL WILL BE KEPT OVERNIGHT ON THE PROPERTY AT ANY ONE TIME. It is clear that under an agricultural use, there is no limit on the number of horses that can be kept on the farm. Indeed, it sets a precedent to so limit the number of horses on what is primarily a farm operation. The issue being addressed by this limitation is that of knowing the size and scope of the special exception

uses. It is easier to count horses than to identify people and their comings and goings. 16 horses could be accommodated in the stalls, and although more horses could be handled by the acreage as supplemented by feed, this is a reasonable number and is consistent with the number of horses allowed in boarding operations on smaller acreage.

b. NO INDOOR RIDING RING. The neighbors do not want one. The Petitioners have no intention of building one. Although the DeVoe case (Case No. 99-389-SPHX) makes clear that an indoor ring can be built as a matter of right on a farm, this would be an assurance for the community as long as the special exceptions exist.

c. NO OUTSIDE LIGHTING. This could be an urban intrusion into a rural community.

d. NO LESSONS TO BE GIVEN AFTER DARK.

e. STUDENT COACHING LESSONS WOULD BE GIVEN ONLY BY THE PROPERTY OWNER. By restricting the giving of lessons to the property owner it is easier to monitor the actual giving of lessons and places responsibility for lessons solely on the Petitioner.

f. NO AMPLIFIED OUTDOOR SPEAKERS. There is no need on a proposed lesson schedule such as this for amplified speakers to give commands.

g. NO MORE THAN 28 VISITS PER WEEK FOR LESSONS OR BOARDERS TO RIDE THEIR ANIMALS. This would allow the usage proposed by Stephanie Meittinis but also addresses the usage issue raised by the limitation on the site plan. Under the proposal on the site plan there would be 20 lessons per week. Each lesson could include up to 5 children for a possible 100 visits per week just for lessons. Such was never the intent, but it was felt that maybe in the future Mrs. Meittinis would increase her schedule to up to 20 lessons per week. Her testimony, however, was that she foresaw expanding to 14

students and that the students normally rode no more than one hour per week. Again, she testified that she did not believe in giving more than 2 lessons per day with her horses. This comes to 14 lesson hours per week. Perhaps, however, there would be preparation for a show and some additional lessons would be given to particular students so that in a given week maybe there would be 18 or so student hours taught with 10 students getting one hour and 4 students getting 2 hours. If a couple of horses are being boarded then those owners might visit their animals several times a week, and these visits would be included in the 28 hours. So it is intended by this restriction that the combination of hours of teaching and pupils taught and boarder visits would not exceed 28 in any given week. This gives the Petitioners some flexibility but also ensures a restriction on the usage of the property.[8]

h. RECORDS WOULD BE KEPT OF ALL STUDENTS AND BOARDERS COMING TO

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[8]One of the real issues in this case has been how to segregate the private, residential use of the horses from the special exception uses and also from the permitted agricultural horse training and sale uses. Most of the trips to the farm by people to ride the horses in training would occur when Mrs. Meittinis is not present or able to ride or when the horses are not otherwise being exercised or trained through lessons. Consequently, these visits would not coincide with heavy lesson periods but rather would substitute for them. Similarly, the when horses are being ridden for demonstration tapes for sale or in trial for sale, these visits would not tend to be at peak lesson time. Such visits are not frequent and with several horses for sale at the present time have not occurred more than once or twice per week. The most problematic visits are the friends of the Meittinis' who are invited over to ride the horses and socialize with them. This is probably the only such case where such an issue has arisen. There are very fundamental reasons why this activity can not be regulated. It would be like regulating the size of a family in a house or on a piece of property or the number of cars used by a family. By limiting the number of horses, however, and in realizing that the horses being kept are in some cases very valuable animals that should not be casually ridden such activities can be restrained. These activities have been on-going, and while traffic has increased, there is no showing that the daily traffic volumes on Tracey's Road are significantly different than shown by average daily usage for residential dwellings.

THE PROPERTY TO RIDE, WHICH RECORDS WOULD BE SUBJECT TO REVIEW UPON REQUEST BY THE CODE ENFORCEMENT OFFICERS OF BALTIMORE COUNTY. This requirement was placed in the Rendezvous Farm Case No. 92-366-X as a means of showing enforcement. That case permitted 7 horses to be boarded and limited the number of horses for lessons to 7 with 10 lessons per week. All other horses on the property were for breeding. That was the request of Petitioners. This proposal by limiting the number of student hours rather than simply the number of lessons and by limiting the total number of horses kept is actually more limiting than the proposal in Rendezvous Farm.

i. ONE SHOW PER YEAR LIMITED TO THE STUDENTS AND BOARDERS WOULD BE PERMITTED.

j. NO FORMAL VETERINARY SURGERY SHALL BE ESTABLISHED ON THE PREMISES. By forbidding a formal surgery on the premises the restricted use as proposed by Dr. Meittinis can easily be enforced. This requirement can easily be discerned by a code enforcement inspector.

k. THE VETERINARIUM AND VETERINARY PRACTICE SHALL BE LIMITED TO HORSES ONLY.

l. THERE SHALL BE NO SIGNS ADVERTISING THE SPECIAL EXCEPTION USES.

m. *THE SPECIAL EXCEPTIONS MAY BE FORFEITED BY THE ZONING* COMMISSIONER AFTER A HEARING BASED ON A SHOWING OF BAD FAITH LACK OF COMPLIANCE AND VIOLATION OF THE RESTRICTIONS AND SITE PLAN IN ADDITION TO ANY OTHER ACTIONS BROUGHT TO ENFORCE THE

ZONING REGULATIONS.

The Petitioners are willing to accept reasonable hours for the giving of lessons. It is hard to contemplate lessons being given before 9 A.M. or after 5 P.M. unless it is in mid-summer after work hours when it is still daylight. These hours would also be off-peak hours for traffic during the weekdays, for most people have left for work by 9 and have not arrived home from work by 5. Petitioners also are willing to determine that their entrance is sufficiently sized to accommodate larger vehicles. The testimony indicated that until the recent paving was placed there was an issue with vehicles crossing the road to make a left turn. Since the paving was placed, the testimony indicated that the problem was not as great. Additional work would be considered to alleviate the problem further.[9]

CONCLUSION

In conclusion, Petitioners request the veterinarium special exception and that the riding stable special exception, if felt to be necessary, be granted as restricted. The Petitioners also request clarification on what determines a riding stable use apart from a farm use. In addition, a determination should be made based on questions raised by Protestants that the boarding of layover horses (non-riding horses) on pasturage be declared a usage permitted as of right. The training of horses as a permitted use whether the horses are owned by the property owners or not should be affirmed based on the questions raised by Protestants. Animals that are boarded in order to be trained do not create an animal boarding place but fall within a farm classification.

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[9]Although the issue of storm water run off from the driveway is an issue, it is clear from the topography and the location of the barn that almost all of the drainage is from the driveway itself and the concentration of flow through the storm drain and pipe. This is an issue that should be addressed by the parties independent of the special exception issue.

Finally, Petitioners request a determination that the riding horses by guests on their property without monetary compensation is permissible without a special exception.

Respectfully submitted,

John B. Gontrum
Attorney for Petitioners
814 Eastern Boulevard
Baltimore, Maryland 21221
410-686-8274

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of November, 2001, a copy of the foregoing Memorandum of Petitioners was mailed, first class postage prepaid, to Mr. and Mrs. Rustin Price 2315 Tracey's Road, Sparks, Maryland 21152 and Mr. and Mrs. Joseph Evans 2224 Tracey's Road, Sparks, Maryland 21152.

John B. Gontrum

Baltimore County
Zoning Commissioner

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

March 22, 2002

John Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Exception
Case No. 01-530-X
Property: 2311 Tracey's Road

Dear Mr. Gontrum:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Special Exception has been granted in part and denied in part in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Office of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Printed with Soybean Ink
on Recycled Paper

Copies to:

Mr. & Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, MD 21152

Joseph & Medda Evans
2224 Tracey's Road
Sparks, MD 21152

Rustin & Debbie Price
2315 Tracey's Road
Sparks, MD 21152

George & Carolyn Harold
2206 Tracey's Road
Sparks, MD 21152

Monica Bowden
2210 Tracey's Road
Sparks, MD 21152

Sherry Rudolph
2324 Tracey's Road
Sparks, MD 21152

Barbara Kees
2323 Tracey's Road
Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road
Sparks, MD 21152

Herb & Anne Hochhalter
2220 Tracey's Road
Sparks, MD 21152

VLOCATION

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 2311 TRACEY'S ROAD

which is presently zoned RC 2

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

a riding stable and equine veterinarian

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:

JOHN B. GONTRUM, ESQ.
Name - Type or Print

Signature

ROMADKA, GONTRUM & MCLAUGHLIN
Company

814 EASTERN BOULEVARD 410-686-8274
Address Telephone No.

BALTIMORE, MARYLAND 21221
City State Zip Code

Legal Owner(s):

NICHOLAS METTINIS
Name - Type or Print

Signature

STEPHANIE SULLIVAN METTINIS
Name - Type or Print

Signature

2311 TRACEY'S ROAD 410-365-4255
Address Telephone No.

SPARKS, MARYLAND 21152
City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By _____ **Date** 6-18-01

Case No. 01-530X

3/22/02 Per Dennis

REV 09/15/98

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

March 22, 2001

ZONING DESCRIPTION
TO ACCOMPANY A PETITION FOR A
SPECIAL HEARING ON THE MEITTINIS PROPERTY
FIFTH ELECTION DISTRICT AND THE
THIRD COUNCILMANIC DISTRICT OF
BALTIMORE COUNTY, MARYLAND
NO. 2311 TRACEYS ROAD

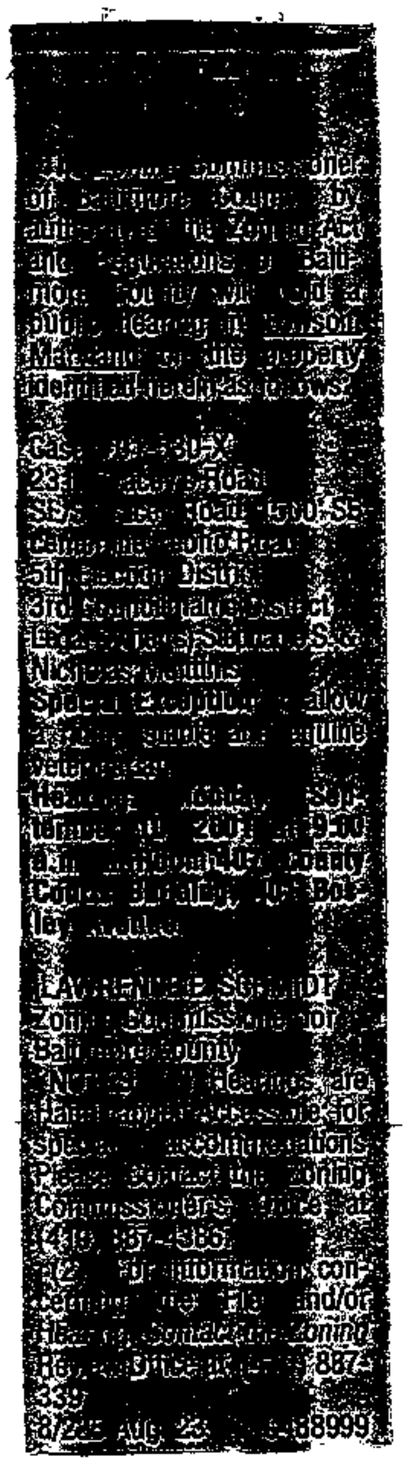
Beginning for the same on the southeast side of Traceys Road at the distance of 1,500.00 feet, more or less, measured southwesterly along Traceys Road from the center of Yeoho Road, thence leaving Traceys Road and binding on the land of the herein petitioners, the eight following courses and distances, viz: (1) South 18 degrees 27 minutes 14 seconds East 946.95 feet, (2) South 60 degrees 47 minutes 46 seconds West 84.10 feet, (3) South 30 degrees 20 minutes 44 seconds East 568.38 feet, (4) South 45 degrees 50 minutes 34 seconds West 1,039.26 feet, (5) South 78 degrees 50 minutes 34 seconds West 152.34 feet, (6) North 17 degrees 25 minutes 34 seconds West 1,641.96 feet, (7) North 66 degrees 34 minutes 26 seconds East 175.20 feet, and (8) North 17 degrees 25 minutes 34 seconds West 250.00 feet to the southeast side of Traceys Road, thence running and binding on the southeast side of Traceys Road, the six following lines, viz: (9) North 66 degrees 34 minutes 26 seconds East 250.00 feet, (10) northeasterly by a line curving to the right with a radius of 500.00 feet, an arc length of 114.61 feet, and (a chord bearing North 62 degrees 59 minutes 27 seconds East 114.36 feet), (11) North 84 degrees 46 minutes 32 seconds East 21.27 feet, (12) northeasterly by a line curving to the left with a radius of 360.00 feet, an arc length of 74.99 feet, and (a chord bearing North 63 degrees 21 minutes 11 seconds East 74.85 feet), (13) North 67 degrees 32 minutes 07 second East 211.36 feet, and (14) North 66 degrees 34 minutes 26 seconds East 175.45 feet to the place of beginning.

Containing 40.34 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purpose of conveyance.

530

C:\My Documents\meittiniszoning.doc



CERTIFICATE OF PUBLICATION

8/23/, 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 8/23/,2001.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 3309

DATE 6-18-01 ACCOUNT 01-662-610

AMOUNT $ 300.00

RECEIVED FROM: N. McCLINTIS 2311 Tyrone Rd.

FOR:

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

JCM

PAID RECEIPT
PAYMENT ACTUAL TIME
6/18/2001 6/18/2001 09:11:55
KIM WS05 CASHIER MISC. REC DRAWER 5
RECEIPT # 216322 OFLN
Dept 5 528 ZONING VERIFICATION
DR NO. 003309
Recpt Tot 300.00
250.00 CK 50.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 12726

DATE 4-19-02 ACCOUNT 001006 6150

AMOUNT $ 285.00

RECEIVED FROM: JOHN B GONTRUM

FOR: NOTICE OF APPEAL
01-530-X
2311 TRACEYS RD STEPHANIE + NICK MEITTINIS

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME
4/22/2002 4/19/2002 15:25:54
REG WS03 WALKIN DOOL DAD DRAWER 2
>>RECEIPT # 240471 4/19/2002 OFLH
Dept 5 528 ZONING VERIFICATION
CR NO. 012726
Recpt Tot $285.00
285.00 CK .00 CR
Baltimore County, Maryland

CASHIER'S VALIDATION

Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

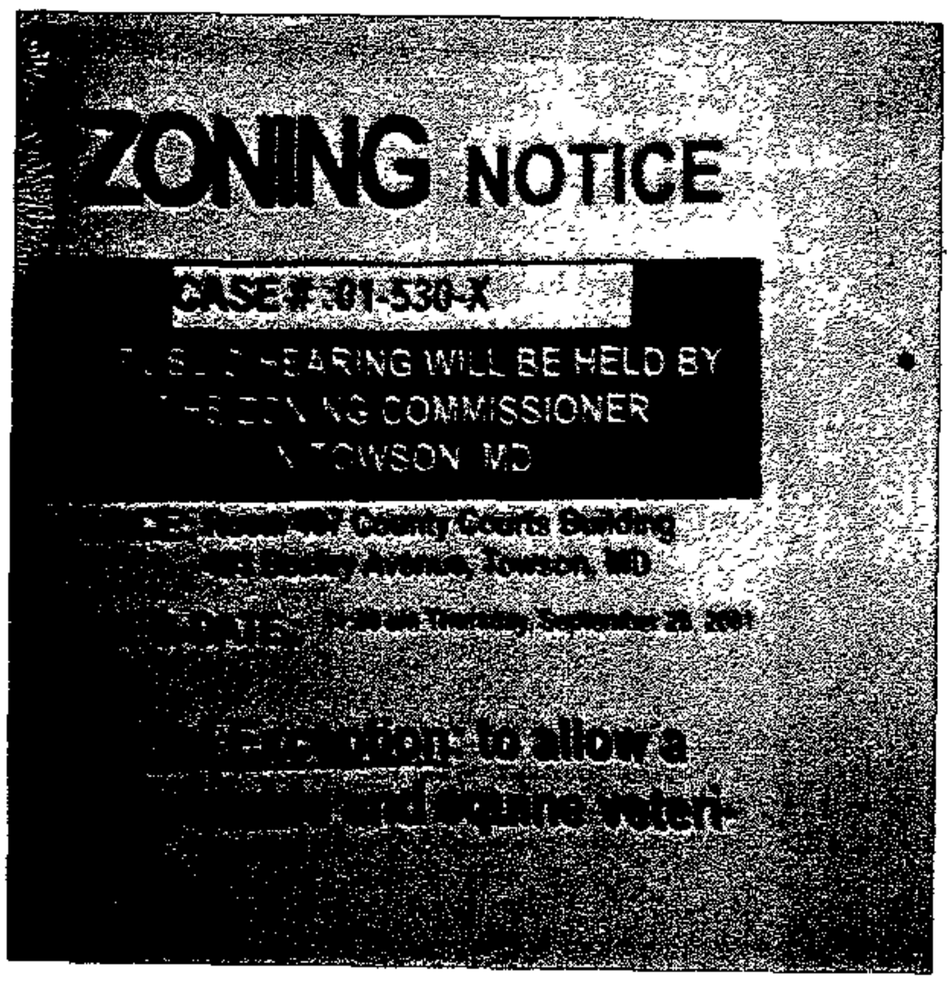
RE: CASE # 01-530-X
PETITIONER/DEVELOPER:
Stephanie & Nicholas Meittinis
DATE OF HEARING:
September 20, 2001

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: GEORGE ZAHNER

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT



POSTED ON: September 4, 2001

LOCATION:

Southeast side of Tracey's Road, 1500' Southeast of the centerline of Yeoho Road on the left side of the driveway

DATE: September 6, 2001

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited com

CERTIFICATE OF POSTING

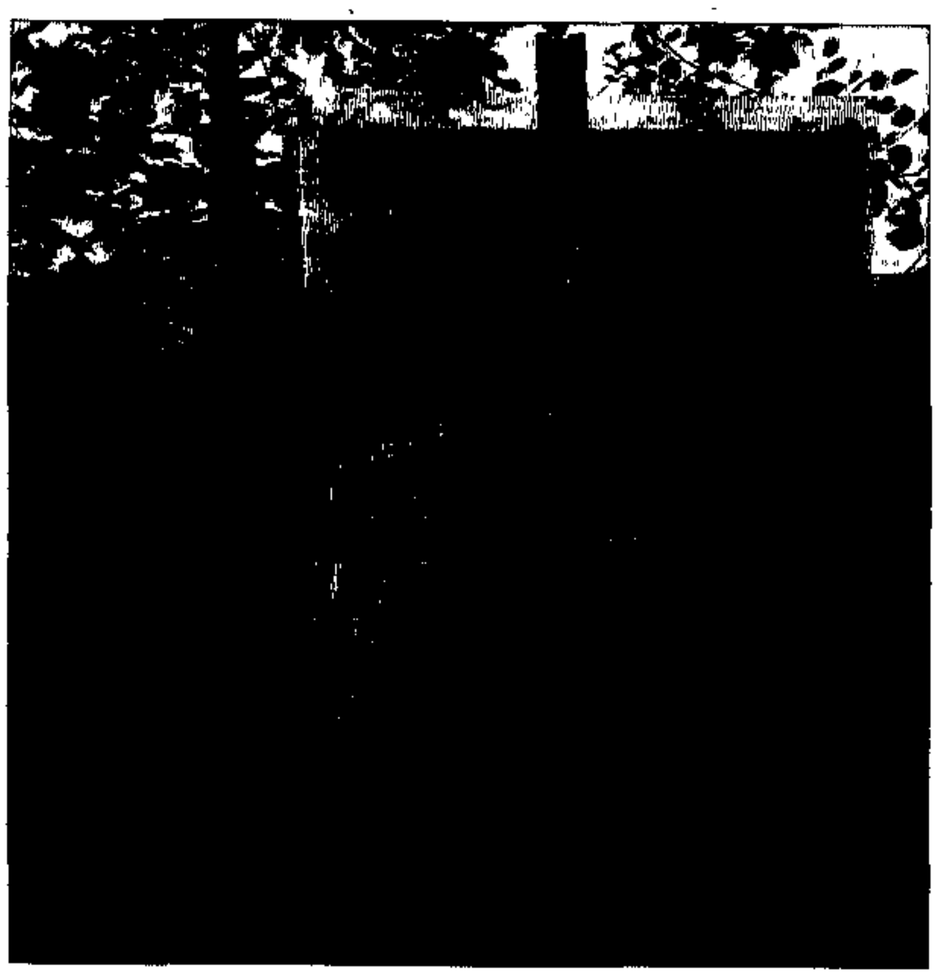
RE: CASE #01-530-X
PETITIONER/DEVELOPER:
Nicholas & Stephanie Meittinis
DATE OF HEARING:
October 18 , 2001
October 23 , 2001

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: GEORGE ZAHNER

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT



POSTED ON: October 2, 2001

LOCATION:
2311 Tracey's Road, Northwest side of road, left side of driveway

DATE: October 3, 2001

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

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: 530

Petitioner: NICHOLAS MELTTINIS

Address or Location: 2311 TRACEYS RD., SPARKS, MD. 21152

PLEASE FORWARD ADVERTISING BILL TO:

Name: SAME.

Address: _____

_____

Telephone Number: 410-365-4255

Revised 2/20/98 - SCJ

6/18/01

Note to File: Attorney for applicant advised that he was going to let the 409 (BCZR) parking requirments be addressed at the hearing (number of spaces, paving, access lanes, etc.).

530

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 21, 2001 Issue – Jeffersonian

Please forward billing to:
Nicholas Meittinis
2311 Traceys Road
Sparks MD 21152

410 365-4255

NOTICE OF ZONING HEARING

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

CASE NUMBER: 01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District – 3rd Councilmanic District
Legal Owners: Stephanie S & Nicholas Meittinis

Special Exception to allow a riding stable and equine veterinarian.

HEARING: Thursday, September 6, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, August 23, 2001 Issue – Jeffersonian

Please forward billing to:
Nicholas Meittinis
2311 Traceys Road
Sparks MD 21152

410 365-4255

NOTICE OF ZONING HEARING

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

CASE NUMBER: 01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District – 3rd Councilmanic District
Legal Owners: Stephanie S & Nicholas Meittinis

Special Exception to allow a riding stable and equine veterinarian.

HEARING: Monday, September 10, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GJZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

July 19, 2001

NOTICE OF ZONING HEARING

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

CASE NUMBER: 01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District – 3rd Councilmanic District
Legal Owners: Stephanie S & Nicholas Meittinis

Special Exception to allow a riding stable and equine veterinarian.

HEARING: Thursday, September 6, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon 6DZ
Director

C: Stephanie S & Nicholas Meittinis, 2311 Tracey's Road, Sparks 21152
John B Gontrum, Esquire, Romadka Gontrum & McLaughlin, 814 Eastern Blvd, Baltimore 21221
Nedda Evans, 2224 Tracey's Road, Sparks 21152

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, AUGUST 22, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

July 30, 2001

NOTICE OF ZONING HEARING

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

CASE NUMBER: 01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District – 3rd Councilmanic District
Legal Owners: Stephanie S & Nicholas Meittinis

Special Exception to allow a riding stable and equine veterinarian.

HEARING: Monday, September 10, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ
Director

C: Stephanie S & Nicholas Meittinis, 2311 Tracey's Road, Sparks 21152
John B Gontrum, Esquire, Romadka Gontrum & McLaughlin, 814 Eastern Blvd, Baltimore 21221
Nedda Evans, 2224 Tracey's Road, Sparks 21152

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 25, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

AUGUST 30, 2001

NOTICE OF ZONING HEARING

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

CASE NUMBER: 01-530-X
2311 Tracey's Road
SE/S Tracey Road, 1500' SE centerline Yeoho Road
5th Election District – 3rd Councilmanic District
Legal Owners: Stephanie S & Nicholas Meittinis

Special Exception to allow a riding stable and equine veterinarian.

HEARING: Thursday, September 20, 2001 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ
Director

C: Stephanie S & Nicholas Meittinis, 2311 Tracey's Road, Sparks 21152
John B Gontrum, Esquire, Romadka Gontrum & McLaughlin, 814 Eastern Blvd, Baltimore 21221
Nedda Evans, 2224 Tracey's Road, Sparks 21152

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, SEPTEMBER 5, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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on Recycled Paper

NOTE TO FILE:

RE: #01-530-X

THIS CASE HAS BEEN CONTINUED. THE ATTORNEYS ARE TO AGREE ON THE SCHEDULING OF A NEW HEARING DATE FOR THIS MATTER AND CONTACT GEORGE.

JOHN GONTRUM WILL NOTIFY THE PROTESTANTS LISTED IN THE FILE CONCERNING THE NEW HEARING DATE. HE WILL ALSO MARK THE NEW HEARING DATE ON THE SIGN ALREADY POSTED ON THE PROPERTY.

ROBIN JAMESON
9/25/01

John Gontrum called 9/26/01 – Cox & date are 10/18 & 10/23 – will send ltr. of confirmation to all parties. RJ

P.S. These dates were confirmed w/ George!

[redacted] [redacted]

NOTE TO FILE:

RE: #01-530-X Meeting 2311 Tracey's Road

THIS CASE HAS BEEN CONTINUED. THE ATTORNEYS ARE TO AGREE ON THE SCHEDULING OF A NEW HEARING DATE FOR THIS MATTER AND CONTACT GEORGE.

JOHN GONTRUM WILL NOTIFY THE PROTESTANTS LISTED IN THE FILE CONCERNING THE NEW HEARING DATE. HE WILL ALSO MARK THE NEW HEARING DATE ON THE SIGN ALREADY POSTED ON THE PROPERTY.

ROBIN JAMESON
9/25/01

John Gontrum called 9/26/01 – Cont'd dates are 10/18 & 10/23 – will send ltr. of confirmation to all parties. bp

P.S. These dates were confirmed w/ Kearns!

New Hearing Dates:
10/18/01 @ 9:00 A.M., #407 &
10/23/01 @ 9:00 A.M., #407

To File

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 19, 2003

NOTICE OF POSTPONEMENT /Day #6

CASE #01-530-X

Day #6 from 4/29/03

IN THE MATTER OF: ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road 5th Election; 3rd Councilmanic District

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

Having concluded days **1** (3/25/03), **2** (3/26/03), **3** (4/08/03), **4** (4/16/03) and **5** (4/29/03) before the Board, day #6 (8/20/03) has been POSTPONED, without objection, at the request of Counsel for Petitioner (hospitalization of Petitioner /work-related injury); will utilize **9/18/03** as day **#6** with additional date to be assigned if needed; and this matter has been

ASSIGNED FOR: **THURDAY, SEPTEMBER 18, 2003 at 10:00 a.m. / Day #6**

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

Please refer to 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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis
Wes Guckert /The Traffic Group Bruce Doak /Gerhold, Cross & Etzel Ltd

Protestants : Nedda Evans /Joseph Evans
Cheryl H. Schweizer
Debbie & Rustin Price

Jack Dillon /Valleys Planning Council
Edward A. Halle, Jr. /Fowley & Beckley, P.A.

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Timothy M. Kotroco, Director /PDM

FYI COPY: 2-5-4

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on Recycled Paper

RECEIVED
AUG 20 2003
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

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

August 23, 2002

AMENDED NTICE OF ASSIGNMENT /To reflect correct Election /Counsel Districts **

CASE #01-530-X **IN THE MATTER OF:** ***Stephanie S. & Nicholas Meittinis*** **–Legal Owner / Petitioner** 2311 Tracey's Road **5th Election; 3rd Councilmanic Districts ****

3/22/02 – D.Z.C.'s Order: Petition for Special Exception to approve equine veterinarian with conditions and restrictions GRANTED; Special Exception to approve riding stable is DENIED.

ASSIGNED FOR: **TUESDAY, DECEMBER 3, 2002 at 10:00 a.m.**

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

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

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

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 Appellant /Petitioner : John B. Gontrum, Esquire
Appellant /Petitioner : Stephanie and Nicholas Meittinis

Protestants : Nedda Evans

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement /PDM **[CC-00-7156]**
Arnold Jablon, Director /PDM

Printed with Soybean Ink on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

September 14, 2001

John B Gontrum, Esquire
Romadka Gontrum & McClaughlin
814 Eastern Boulevard
Baltimore MD 21221

Dear Mr. Gontrum:

RE: Case Number: 01-530-X, 2311 Tracey's Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 18, 2001.

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

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Stephanie S & Nicholas Meittinis, 2311 Traceys Road, Sparks 21152
Nedda Evans, 2224 Traceys Road, Sparks 21152
People's Counsel

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 23, 2001

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

JUL 23

SUBJECT: Zoning Advisory Petition(s): **Case(s) 01-527, 01- 530, 01-536, 01-537, 01-540, 01-541, and 01- 543**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A Cunningham

Section Chief: Jeffrey W Long

AFK/JL:MAC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 23, 2001

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 01-527, 01- 530, 01-536, 01-537, 01-540, 01-541, and 01- 543**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A Cunningham

Section Chief: Jeffrey M Long

AFK/JL.MAC

W:\DEVREV\ZAC\recommend.doc

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

July 24, 2001

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

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

~~Location: DISTRIBUTION MEETING OF~~ July 16, 2001

Item No.: 485, 526, 530, 532, 537, 544, 546, 547, 549

Dear Ms. Stephens:

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

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

cc: File

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 7.23.01

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

RE: Baltimore County
Item No. 530 JCM

Dear. Ms. Jackson:

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

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

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

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

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley

DATE: September 12, 2001

SUBJECT: Zoning Item 530
Address 2311 Tracey Road

Zoning Advisory Committee Meeting of July 23, 2001

_____ 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.

_____ 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__ Additional Comments:

See the Agricultural Preservation comments on the following page.

Reviewer: Wally Lippincott Date: 9/12/01

RE: PETITION FOR SPECIAL EXCEPTION 2311 Tracey's Road, SE/S Tracey's Rd, 1500' S/E of c/l Yeoho Rd 5th Election District, 3rd Councilmanic Legal Owner: Nicholas & Stephanie Meittinis Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY Case No. 01-530-X

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

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esq., Romadka, Gontrum & McLaughlin, 814 Eastern Blvd., Baltimore, MD 21221, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

May 9, 2002

Mr. & Mrs. Joseph Evans
2224 Tracey's Road
Sparks MD 21152

Dear Mr. & Mrs. Evans:

RE: Case No. 01-530-X, 2311 Tracey's Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 19, 2002 by John B Gontrum, Attorney on behalf Nicholas & Stephanie Meittinis. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: John B Gontrum, 814 Eastern Boulevard, Baltimore 21221
People's Counsel

COPY

MAY 17 2002

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition For Special Exception
2311 Tracey's Road
SE/S Tracey's Road, 1500' SE centerline of Yeoho Road
5th Election District – 3rd Councilmanic District
Stephanie S & Nicholas Meittinis- Legal Owner
Case No.: 01-530-X

Petition for Special Exception (dated 06/18/01)

Zoning Description of Property

Notice of Zoning Hearing (dated 07/30/01)

Certification of Publication (The Jeffersonian issue dated 08/23/02)

Certificate of Posting (dated 09/06/01 posted Bruce Doak)

Entry of Appearance by People's Counsel (dated 08/07/01)

Petitioner(s) Sign-In Sheet Original Hearing (1 sheet)
Continued Hearing 10/18 (1 sheet)
Continued Hearing 10/23 (1 sheet)

Protestant(s) Sign-In Sheet Original Hearing (1 sheets)
Continued Hearing 10/18 (1 sheet)
Continued Hearing 10/23 (1 sheet)

Citizen(s) Sign-In Sheet (none)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plat to Accompany a Petition for a Special Exception (dated 3/21/01)
2. Meittinis Property, Scale 1 inch = 200 feet (dated 9/14/01)
3. Photographs (7 pictures)
4. Baltimore County Office of Planning & Zoning Official Zoning Map (dated 01/86)
5. Letter to To Whom It May Concern from Les Richardson, President, Baltimore County Farm Bureau (dated 09/19/01)
6. Resume Jack Dillon

Protestants' Exhibits:

1. Letter to Mr. & Mrs. Nicholas Metinas from Joseph L Evans (dated 06/14/99)
2. Memo to Deputy Commissioner Timothy Kotroco from residents of neighboring properties (dated 10/15/01)
3. Memo to Deputy Commissioner Timothy Kotroco from residents of Tracey's Road (dated 09/16/01)
4. The Traffic Group (dated 09/12/01)
5. Letter to Mr. & Mrs. Meittinis from Joseph L & Nedda P Evans (dated 11/16/99)
6. Letter to Mr. & Mrs. Nicholas Metinas from Joseph L & Nedda P Evans (dated 06/14/99)
7. Letter to Mr. & Mrs. Nicholas Meittinis from Joseph L & Nedda P Evans (dated 05/13/00)
8. Letter to Mr. & Mrs. Nicholas Meittinis from Joseph L & Nedda P Evans (dated 09/13/99)
9. Memo to Development Coordination from Wallace S Lippincott Jr Subject Comments on Meittinis Sph, 2311 Tracey Road (dated 09/09/01)
10. Photographs (21 pictures)

Miscellaneous (Not Marked as Exhibits):

- Division of Code Inspections and Enforcement – Violation Case Documents – Case 00-7156 and 00-5193

Deputy Zoning Commissioner's Order (03/22/02 –Special Exception to approve an equine veterinarian is GRANTED with conditions and restrictions Special Exception to approve a riding stable DENIED)

Notice of Appeal received on 04/19/02 from John B Gontrum, Lawyer on behalf of Nicholas and Stephanie Melttinis

c: John B Gontrum, 814 Eastern Boulevard, Baltimore 21221
James H. Thompson, Code Enforcement (Enforcement Case No. 00-7156 and 00-5193)
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

May 9, 2002

Mr. & Mrs. Joseph Evans
2224 Tracey's Road
Sparks MD 21152

Dear Mr. & Mrs. Evans:

RE: Case No. 01-530-X, 2311 Tracey's Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 19, 2002 by John B Gontrum, Attorney on behalf Nicholas & Stephanie Meittinis. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: John B Gontrum, 814 Eastern Boulevard, Baltimore 21221
People's Counsel

duplicate to 62

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

RECEIVED
JUL 30 2001
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

July 27, 2001

Mr. Arnold Jablon, Director
Baltimore County Dept. of Permits and Development Management
Director's Office
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case Number: 01-530-X
2311 Tracey's Road
RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Special Hearing / Special Exception

Dear Mr. Jablon:

I am writing to request a postponement of the above-referenced matter, which was recently scheduled for Thursday, September 6, 2001, at 9:00 a.m., copy enclosed. The reason for this requested postponement is that one of my client's expert witnesses will be unable to attend that day.

If you have any questions in relation to this request, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh
Enclosure

cc: Dr. and Mrs. Nicholas Meittinis
Bruce Doak, Gerhold, Cross & Etzel, LTD

9/4/01

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

August 29, 2001

Mr. Arnold Jablon, Director
Baltimore County Dept. of Permits and Development Management
~~111 West Chesapeake Avenue~~
Towson, Maryland 21204

RE: Case Number : 01-530-X
2311 Tracey's Road
RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Special Hearing / Special Exception

Dear Mr. Jablon:

The above captioned case, which was originally scheduled for September 10, 2001 was postponed due to a scheduled appearance before the Court of Appeals.

The parties have agreed to reschedule the hearing for September 20, 2001 at 11:00 a.m.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh

cc: Dr. and Mrs. Nicholas Meittinis

RECEIVED
01-3073
SEP - 4 2001

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

20

December 20, 2001

Timothy Kotroco, Esquire
Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 01-530-X
Meittinis Petitions
2311 Tracey's Road

Dear Mr. Kotroco:

Per your instructions at the hearing I will not be filing a response to the Protestants' Memorandum filed in the above referenced case. My failure to file a response in no way, however, is premised on an acceptance of the factual representations of Protestants or of their legal reasoning. We have serious issues both with their representations as to fact as well as their legal conclusions.

I did, however, feel it appropriate and important since they discussed the enforcement proceedings and attached a copy of the initial order of the Hearing Officer also to put in the record the amended orders the Hearing Officer filed in this matter. He did not preclude or limit the operation of a horse farm on the premises and encouraged a special hearing or special exception be filed for the proposed riding stable and veterinarium uses to determine the requirements by lowering the assessed penalty.

Very truly yours,

John B. Gontrum

enc
cc. Joseph and Nedda Evans

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

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Respondents

Civil Citation No 00-7156

2311 Tracey's Road

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

Leonard Wasilewski, code enforcement inspector, stated that the County received a complaint concerning the use of the property The property was inspected on 11 July and 25 July 2000 and the inspectors met with the Respondents concerning a complaint of giving riding lessons. The inspectors instructed the complainants to keep a log of activities on the subject property. The log was delivered to Mr Wasilewski

On 19 September 2000, the inspector issued a written correction notice pursuant to §1-7(c), Baltimore County Code, which described with particularity the nature of the violation and the manner of correction The correction notice was marked in evidence as PEx3 and was served on the Respondents The correction notice recited the following violations under the Baltimore County Zoning Regulations

(1) Cease the operation of a business from a residence that goes beyond the zoning definition of a home occupation. Sect. 1A01 2 B 9 c 101

(2) Cease the operation of a riding stable without a special exception Sect 1A0.1.2.c.21; 101

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

IT IS FURTHER ORDERED that a civil penalty be imposed in the amount of **$3600**.

However, nothing in this order prohibits the operation of a horse farm at the subject property.

IT IS FURTHER ORDERED that should the Respondents file a petition for a **special hearing within 60 days** of the date of this order, the civil penalty shall be reduced to **$1500**. The **special hearing should** request the Zoning Commissioner to confirm and **define the legal uses permitted** on the subject property by right or by special exception.

Signed: Stanley J. Schapiro
Stanley J. Schapiro
Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

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

In the Matter of

Nicholas L. Meiklinis
Stephanie S. Meiklinis

Respondents

Civil Citation No. OC-7156

2311 Tracey's Road

AMENDED FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations, for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

After said hearing an Order was issued on the 14 of February 2001 imposing a civil penalty in the amount of $3000 and denying the Respondents' motion to dismiss the citation.

Thereafter, counsel for the Respondents has requested in a timely fashion a clarification of the Order in order to allow the Respondents to continue to operate their horse farm in a legal manner.

The hearing officer agrees that the original Order needs to be clarified

THEREFORE IT IS ORDERED by the Code Enforcement Hearing Officer, this 13 day of March 2001 that the Order dated 14 February 2001 be amended as follows:

IT IS ORDERED that the Respondents' motion to dismiss is denied

IT IS FURTHER ORDERED that the Respondents shall cease and desist the operation of a riding stable immediately. This injunction is not intended to limit the operation of a horse farm otherwise legally operating from the subject property

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

On 8 November 2000, pursuant to §1-7(d), Baltimore County Code, a code enforcement citation was issued. The citation was marked as PEx4 and was legally served on the Respondents through their attorney

The citation described the violations as follows. Baltimore County Zoning Regulations, operating a business from a residence, §1A01 1 2.B.9.C. 101 (home occupation), operating a riding stable without a special exception, §1A01.2 C 21; §101. (riding stable). Further, the citation proposed a civil penalty of $20,000 to be assessed A code enforcement hearing date was scheduled for 24 January 2001

Nicholas L. Meittinis and Stephanie Meittinis, Respondents, appeared for the hearing and testified.

Stuart D. Kaplow, Esquire, appeared on behalf of the Respondents.

The following Complainants appeared and testified: Rustin and Debbie Price, 2315 Tracey's Road, Sparks, Maryland, and Joseph and Nedda Evans, 2224 Tracey's Road, Sparks, Maryland.

Bruce E. Doak, a land surveyor with Gerhold, Cross and Etzel, appeared and testified.

Leonard Wasilewski, code enforcement inspector, also testified

Testimony and evidence presented shows that the Respondents own a 41+ acre parcel of land with improvements zoned RC2, as shown on a plat of land dated 23 January 2001, and marked in evidence as Resp.Ex 1 The Respondents built a pole barn for horses containing 6200 sq. ft on their property In addition they built a riding ring.

The Meittinis' land is entered from Tracey's Road, a country road that is access to the Complainants' property also. The Complainants complain about the traffic created by the parents bringing their children to and from Respondents property Nedda Evans and Debbie Price related the activity of the vehicles bringing the young children to ride the ponies. The women kept a log of the pony riding activity on the Meittinis property and the vehicles that came to the subject property

The log was marked into evidence as PEx6 and a list of the names of the owners of the vehicles were marked into evidence as PEx7.

The women described how the children were dropped off and subsequently they saw the children riding the ponies under the watchful eye of Mrs Meittinis Mrs Price described the actions of Mrs. Meittinis during these riding sessions as someone who is instructing the children. Mrs. Price took photographs of the horseback riding activity dating from July 2000 through the end of August 2000, marked PEx5 She also recorded on video the horseback riding activity on the Meittinis property, which was marked in evidence as PEx8. The photographs and the video show Mrs. Meittinis supervising the young people riding the ponies and gesturing to them in an instructive manner. Mrs. Evans said she spoke to one of the young children riding in the front meadow and the young girl said they were taking riding lessons.

It was shown that Mrs. Meittinis was giving horseback riding instruction for a fee at one time prior to her living at the Tracey's Road property. Mrs Meittinis said some of the same children are now riding at the subject property but she testified they are not paying now. She said that some of the children are providing services such as baby sitting, maintaining the barn area, and riding the ponies Mrs. Meittinis said that the children were riding the ponies to exercise the ponies and to get them ready for horse shows.

Mrs. Meittinis testified that she did not board horses, but later qualified that to say that she was boarding a pony belonging to Kiley Wright Mrs Evans said that the Wright child is the only one that rides that pony She also said that another child rides a black pony. She said that no other child rides that pony. Mr Meittinis, a veterinarian, testified that he is boarding some racehorses as part of a program to rest the horses The Respondents denied that they were operating a business from their residence Mrs. Meittinis stated that she receives no money from the young people who ride her ponies.

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

Mr. Doak, who said he is qualified to speak on zoning issues as a land surveyor and who has testified in numerous land use cases, testified that his examination of the property did not reveal any zoning violations.

From the testimony and evidence presented I believe the Respondents are operating a business from the subject property by instructing young people how to ride. That this instruction goes beyond the definition of Home Occupation, which requires the home occupation to occur in the dwelling. The Respondents are also boarding horses on the property. Mr. Meltinis is a veterinarian and by his own statement he is operating a veterinarium as defined in the zoning regulations. All of these activities require special zoning approvals after public hearing before the Zoning Commissioner. None of these activities are permitted as of right.

The Respondents' activities as they described them do not fall within the definition of "Home Occupation" as contained in §101, BCZR. These activities go well beyond that which could reasonably be considered "incidental" to the main use of the dwelling. The testimony and evidence presented clearly exhibit in their totality that the training and teaching horse riding skills to children are not customarily considered to be domestic functions. See Zoning Commissioner Policy Manual, p.1-18. The Respondents' activities are neither similar to or related to domestic function contemplated by the Baltimore County zoning regulations or the Zoning Commissioner's policy manual, such as sewing or cooking.

While there was no direct testimony presented that money changed hands, certainly the quid pro quo as described by the Respondents themselves at the very least constitutes remuneration as that term is contemplated in the definition of "riding stable", i.e., "A building where riding horses are boarded or kept for hire." §101, BCZR. The Respondents' own testimony belies their argument that their self-described activities do not constitute a "business".

The Respondents' have been utilizing their property for uses not permitted by the zoning regulations of Baltimore County. Whether as a riding stable, a veterinarium, or a boarding stable, these uses are not permitted as of right nor do any satisfy the permitted use of a home occupation Certainly, none as defined and described by testimony and evidence presented constitute accessory uses permitted in this zone as of right.

Pursuant to the correction notice and subsequent code enforcement citation issued, and hearing held, and for the reasons set forth above, it is found as a matter of law that code violations existed from 19 September 2000

THEREFORE IT IS ORDERED by the Code Enforcement Hearing Officer, that the Respondents' motion to dismiss is denied.

IT IS FURTHER ORDERED this 14 day of February 2001 that a civil penalty is imposed in the amount of $3000.

Signed: Stanley J Schapiro
Stanley J Schapiro
Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition Security in the amount of the civil penalty must be posted with the Director

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

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Property Owners

Case No. CC-00-7156

2311 Tracey's Road

OPINION OF THE CODE ENFORCEMENT HEARING OFFICER

The Board of Appeals has remanded this case to the Hearing Officer for clarification and any applicable finding of fact made by the Hearing Officer regarding §404.12 of the Baltimore County Zoning Regulations. §404.12 BCZR reads as follows:

"All zoning violation cases concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review. The Director of Permits and Development Management shall allow the Board a maximum of 30 days, before taking action, to comment on an alleged violation." The issue before the Hearing Officer did not include commercial agricultural operations as defined in the BCZR.

Commercial agricultural is defined in §101. BCZR as follows: "The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to §8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations. " The definition does not include a riding stable, which is excluded in the definition of "farm" in §101, BCZR.

Farm is defined as "three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

Riding stable is specifically addressed in the Zoning Regulations and is not a term of art. Riding stable is defined in §101, BCZR as "A building where riding horses are boarded or kept for hire." In the RC2 zone, a riding stable requires a special exception.

At no time during the hearing was the issue a zoning violation case concerning commercial agricultural operations as defined in the BCZR. The issue at the hearing was whether the Mettinises were operating a riding stable, which requires a special exception in an RC2 zone. The testimony and evidence in the case showed that they were operating a riding stable in an RC2 zone without the benefit of a special exception.

Signed: Stanley J. Schapiro 5/25/01

Stanley J. Schapiro
Code Enforcement Hearing Officer

BY FACSIMILE AND BY MAIL

November 14, 2001

Timothy Kotroco, Esquire
Zoning Commissioner's Office
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition of Nicholas and Stephanie Meittinis
2311 Tracey's Road
Case No. 01-530-Z

Dear Mr. Kotroco:

As you know, the memorandum from the protestants is presently due on Tuesday, November 20, 2001. At the petitioners' request, the protestants submitted to Mr. Gontrum a written proposal to resolve all outstanding issues. This proposal was sent over a week ago, but to date, we have received no response. Meanwhile, we have deferred preparation of our memorandum, first because of the time associated with the preparation of the proposal, and then secondly, because of the notion that such a memorandum might well be unnecessary. In any case, given the lack of any response from petitioners, it now appears that we will have to prepare the memorandum after all. In that regard, and given these circumstances, we respectfully request a brief extension, through and including December 3, 2001, in order to submit that memorandum.

As always, thank you for your patience and consideration in this matter.

Very truly yours,

Joseph L. Evans
2224 Tracey's Road
Sparks, Maryland 21152
(o) (410) 208-4884
(o)(fax) (410) 962-3124
(h) (410) 771-4754
(h))fax) (410) 771-4136

cc: John B. Gontrum, Esquire

BY FACSIMILE AND BY MAIL

November 14, 2001

Timothy Kotroco, Esquire
Zoning Commissioner's Office
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition of Nicholas and Stephanie Meittinis
2311 Tracey's Road
Case No. 01-530-X

Dear Mr. Kotroco:

As you know, the memorandum from the protestants is presently due on Tuesday, November 20, 2001. At the petitioners' request, the protestants submitted to Mr. Gontrum a written proposal to resolve all outstanding issues. This proposal was sent over a week ago, but to date, we have received no response. Meanwhile, we have deferred preparation of our memorandum, first because of the time associated with the preparation of the proposal, and then secondly, because of the notion that such a memorandum might well be unnecessary. In any case, given the lack of any response from petitioners, it now appears that we will have to prepare the memorandum after all. In that regard, and given these circumstances, we respectfully request a brief extension, through and including December 3, 2001, in order to submit that memorandum.

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Very truly yours,

Joseph L. Evans
2224 Tracey's Road
Sparks, Maryland 21152
(o) (410) 208-4884
(o)(fax) (410) 962-3124
(h) (410) 771-4754
(h))fax) (410) 771-4136

Joel
Your extension is granted. I will notify John Gontrum.
Tim K.
11/15/01

cc: John B. Gontrum, Esquire

Post-it® Fax Note 7671	Date 11/15/01	# of pages ▶ 1
To JOE EVANS	From TIM KOTROCO	
Co./Dept.	Co. ZONING COMM.	
Phone #	Phone # 410-887-3868	
Fax # 410-962-3124	Fax #	

RE: 01-530-X (2311 Tracey's Rd.)

Post-it® Fax Note 7671	Date 11/15/01	# of pages ▶ 1
To JOHN GONTRUM	From TIM KOTROCO	
Co./Dept.	Co. ZONING COMM.	
Phone #	Phone # 410-887-3868	
Fax # 410-686-0118	Fax #	

Re: #02-530-X

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
Inter-Office Correspondence

DATE: November 1, 2001

TO: Tim Kotrocco

FROM: *Wally Lippincott, Jr.*

RE: Additional Standards for Riding Instruction Facilities

In response to our discussion, I have enclosed a copy of the Fauquier County zoning regulations governing equestrian use facilities and zoning standards. As I indicated I think they are more progressive in addressing the constraints in a more specific way then our reliance on Sec. 502.1 – specifically Sec. 502.1.B. which I referred to in my comments. The reason linking these new operations to suitable road access is appropriate is to not overburden existing facilities or to in effect require the County to invest in upgrading existing roads and streets. The main point of "Smart Growth" and we have been preaching it here in Baltimore County for many years is that the funds for improvement should go into existing areas and not to keep building up the rural areas.

Hope this is helpful

FACSIMILE TRANSMITTAL COVER SHEET

Fauquier County Department of Community Development
40 Culpeper Street, Warrenton, Virginia 20186
(540) 347-8660, fax (540) 341-3444

DATE: 9-5-01

SENT TO: Wally Lippincott

TITLE:

LOCATION: Baltimore Co. Planning

FAX NUMBER: 410 887-3510

NUMBER OF PAGES INCLUDING COVER SHEET: 4

SENT BY: Brian Davis

TITLE: Senior Planner

COMMENTS:

Pertinent provisions from Zoning Ordinance for equestrian uses.

See Page III-4 for Key

	SITE PLAN	RC	RA	RR-2	V	R-1	R-2	R-3	R-4	TH	GA	MDP	C-1	C-2	C-3	CV	I-1	I-2
3-306 INSTITUTIONAL USES CATEGORY																		
1. Place of Worship	X	SP	SP	SP	SP	SP	SP	SP	SP				SP	SP	SP	SP		
Monastery, retreat or similar religious residential facility	X	SP	SP	SP														
Residential Care Facility	X		SP	SP	SP	SP	SP	SP	SP	SP								
4. Medical Care Facility, Minor, limited to facilities which have a capacity of less than 20 beds	X		SE	SP		SP	SP	SP					SP					
5. Medical Care Facility, Major	X		SE			SE	SE	SE					SE	SP				
6. Residential Care Facility greater than 25 persons	X		SE	SE	SE	SE	SE	SE	SE	SE								
7. Continuing Care Facility	X		SE	SE	SE	SE												
3-307 ADAPTIVE USES CATEGORY																		
1. Adaptive uses (see Section 3-701)	X	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE							
3-308 TEMPORARY USES CATEGORY																		
1. Mobile home while constructing a dwelling (maximum one year)		A	A	A	A	A	A	A	A									
2. Mobile Home, Farm		A	A		A													
3. Carnival, circus, festival, fair, tractor pull, horse show, dog show, steeplechase, pony ride, turkey shoot, sale of Christmas trees and other seasonal commodities and other similar activities		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP			SP	SP
4. Construction office for not more than 2 years		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
5. Construction office for longer than 2 years		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
6. Subdivision/apartment sales rental office for a period of less than 2 years		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
7. Subdivision/apartment sales retail office for a period longer than 2 years		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
3-309 RECREATIONAL USES CATEGORY																		
1. Country Club/Golf Course, public or private	X	SP	SP	SP		SP												
2. Swimming/Tennis (Racquet) facility, public or private	X		SP	SP	SP	SP	SP	SP	SP				SP	P	P	SP	P	
3. Firing Range, skeet or trapshooting facility (indoor or out)	X	SP	SP											SP			SP	
4. Baseball batting range and archery range	X	SP	SP											SP				
5. Camps, recreation grounds, lodges and resorts	X	SE	SE															
6. Tent campground	X	SE	SE															
7. Travel trailer park	X													SE				
X 8. Equestrian facilities (boarding and instruction) (non-spectator)		SP	P	SP	SP	SP												
X 9. Equestrian facilities (boarding and instruction) (spectator facilities)	X		SE															SE

Zoning use Chart, Article 3

2. Each park shall provide electrical outlets at each individual site, one or more central travel trailer sanitary stations, and toilet and shower facilities.

3. The road frontage requirement shall be 200 feet on a road with a minimum designation of major collector (or higher) in the Comprehensive Plan unless the Board of Supervisors finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.

4. Accessory commercial uses are permitted, exclusively for the use of residents of the park (e.g., coin-operated laundry, convenience store, entertainment).

5. Density shall not exceed ten (10) camping sites per acre.

6. Each campsite shall contain a minimum of 3,000 square feet.

7. No structure, campsite or athletic facility shall be located closer than 100 feet to any lot line.

8. No permit shall be issued for such a use until the applicant has furnished evidence that the proposed development meets all applicable State and local health requirements.

9. The one permanent residential occupancy allowed shall be for the resident owner or manager; no other may reside in the park for a period exceeding one (1) week.

10. The minimum lot size requirement shall be five (5) acres.

5-909

Additional Standards for Equestrian Facilities, Including Boarding and Instruction (Non-Spectator)

1. No facilities or activities intended for spectators are allowed.

2. The minimum lot size requirement shall be five (5) acres.

3. No structure associated with a riding or boarding stable or indoor riding facility shall be located closer than 100 feet to any lot line

5-910

Additional Standards for Equestrian Facilities, Including Boarding and Instruction (Spectator Uses)

1. The minimum lot size requirement shall be ten (10) acres.

2. The road frontage requirement shall be 300 feet on a State maintained road with a minimum designation of major collector in the Comprehensive Plan unless the Board of Supervisors finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety or road usage.

3. No structure, riding ring, or course, spectator facility or parking area shall be located closer than 100 feet to any lot line.

5-911 **Additional Standards for Drive-In or Outdoor Theater**

1. The minimum lot size requirement shall be five (5) acres.

2. The road frontage requirement shall be 300 feet on a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Zoning Appeals find that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety or road usage.

3. No structure used for or in conjunction with the use shall be located within 200 feet of any adjoining property which is in a Residential District

5-912 **Additional Standards for Golf Driving Ranges**

1. No structure used in connection with the use shall be located closer than 100 feet to any lot line.

2. The minimum lot size requirement shall be five (5) acres.

5-913 **Additional Standards for Commercial Hunting or Fishing Preserves**

1. Appropriate noise and safety buffers shall be provided depending on the nature and intensity of the use.

2. For bird shooting activities steel pellets shall be required when circumstances warrant.

5-914 **Additional Standards for Class A Spectator and Non-Spectator Field Events and Activities**

1. No Class A event or activity shall have more than fifty thousand (50,000) cumulative attendees per event. No Class A event or activity shall exceed three (3) days in length. No special exception shall be granted allowing more than nine (9) Class A events or

****
***** ACTIVITY REPORT *****
****

TRANSMISSION OK

TX/RX NO.	1061
CONNECTION TEL	94107714136
CONNECTION ID	
START TIME	09/18 14:51
USAGE TIME	02'11
PAGES	2
RESULT	OK

Post-it® Fax Note 7671	Date 9/18	# of pages ▶ 2
To N. Evans	From Boring Comm	
Co./Dept.	Co.	
Phone #	Phone #	
Fax # 410-771-4136	Fax #	

RE: 01-530-X

Sally Lippincott's comments concerning DEPRM's position on this case faxed to Miss Evans 9/18/01.

TK
9/20

IN RE: PETITION FOR
SPECIAL EXCEPTION FOR RIDING
STABLE AND EQUINE VETERINARIUM
AT 2311 TRACEYS ROAD

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 01-530-X

* * * * * * * * * * *

SUBPOENA

TO: Nicholas Meittinis
2311 Traceys Road
Sparks, MD 21152
Serve On: John B. Gontrum, Esq.
814 Eastern Blvd.
Baltimore, MD 21221

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 407, County Courts Building, 401 Bosley Avenue, Towson, MD 21204, at 11:00 A.M.

and to bring All records and documents as listed on Attachment A attached hereto,

on the 20 day of September, 2001 ~~1998~~, regarding the above captioned case, for the purpose of testifying at the request of Nedda Pray Evans,

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: _____

ATTACHMENT A

For the time period of January 1, 1999, to the present, all of the following documents and records whether maintained electronically or manually. If maintained electronically, please provide a printed copy of said documents.

1. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals receiving horseback riding lessons from Stephanie Meittinis;

2. Any and all records of payments — whether said payments are by cash, check, or in kind services -- made by or on behalf of individuals receiving horseback riding lessons from Stephanie Meittinis;

3. Any and all advertisements relating to horseback riding lessons offered by Stephanie Meittinis;

4. Any and all records of receipts and payments made in connection with horseback riding lessons provided by Stephanie Meittinis;

5. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals boarding horses at 2311 Tracey's Road, Sparks, Maryland 21152;

6. Any and all records of payments — whether said payments are by cash, check, or in kind services -- made by or on behalf of individuals boarding horse at 2311 Tracey's Road, Sparks, Maryland 21152;

7. Any and all retained copies of federal and state income tax returns reflecting receipts and expenses associated with horseback riding lessons by Stephanie Meittinis;.

8. Any and all retained copies of federal and state income tax returns reflecting receipts and expenses associated with horse boarding at 2311 Tracey's Road, Sparks, Maryland 21152;

9. Any and all retained copies of federal and state income tax returns reflecting receipts and expenses associated with the breeding and training of horses at 2311 Tracey's Road, Sparks, Maryland 21152;

10. Any and all records of veterinary services provided at 2311 Tracey's Road, Sparks, Maryland 21152;

11. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals whose horses have received veterinary services at 2311 Tracey's Road, Sparks, Maryland 21152.

12. Any and all records of payments — whether said payments are by cash, check, or in kind services -- made by or on behalf of individuals whose horses have received veterinary services at 2311 Tracey's Road, Sparks, Maryland 21152.

TK
9/20

IN RE PETITION FOR * BEFORE THE

SPECIAL EXCEPTION FOR RIDING * ZONING COMMISSIONER

STABLE AND EQUINE VETERINARIUM * OF BALTIMORE COUNTY

AT 2311 TRACEYS ROAD * Case No. 01-530-X

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

SUBPOENA

TO: Stephanie Meittinis
2311 Traceys Road
Sparks, MD 21152
Serve On: John B. Gontrum, Esq.
814 Eastern Blvd.
Baltimore, MD 21221

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 407, County Courts Building, 401 Bosley Avenue, Towson, MD 21204, at 11:00 A.M.

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Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: _____

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2. Any and all records of payments — whether said payments are by cash, check, or in kind services -- made by or on behalf of individuals receiving horseback riding lessons from Stephanie Meittinis;

3. Any and all advertisements relating to horseback riding lessons offered by Stephanie Meittinis;

4. Any and all records of receipts and payments made in connection with horseback riding lessons provided by Stephanie Meittinis;

5. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals boarding horses at 2311 Tracey's Road, Sparks, Maryland 21152;

6. Any and all records of payments — whether said payments are by cash, check, or in kind services -- made by or on behalf of individuals boarding horse at 2311 Tracey's Road, Sparks, Maryland 21152;

7. Any and all retained copies of federal and state income tax returns reflecting receipts and expenses associated with horseback riding lessons by Stephanie Meittinis;.

8. Any and all retained copies of federal and state income tax returns reflecting receipts and expenses associated with horse boarding at 2311 Tracey's Road, Sparks, Maryland 21152;

9. Any and all retained copies of federal and state income tax returns reflecting receipts and expenses associated with the breeding and training of horses at 2311 Tracey's Road, Sparks, Maryland 21152;

10. Any and all records of veterinary services provided at 2311 Tracey's Road, Sparks, Maryland 21152;

11. Any and all documents containing the names and/or addresses and/or telephone numbers of individuals whose horses have received veterinary services at 2311 Tracey's Road, Sparks, Maryland 21152.

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Sent 9/20

IN RE PETITION FOR
SPECIAL EXCEPTION FOR RIDING
STABLE AND EQUINE VETERINARIUM
AT 2311 TRACEYS ROAD

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No.01- 530-X

* * * * * * * * * * *

SUBPOENA

TO: Rustin Price
2315 Traceys Road
Sparks, MD 21152

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 407, County Courts Building, 401 Bosley Avenue, Towson, MD 21204, at 11:00 A.M.

and to bring _____

on the 20 day of September, 2001 ~~1999~~, regarding the above captioned case, for the purpose of testifying at the request of Joseph Evans.

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: 9/14/01

Sent 9/20

IN RE PETITION FOR * BEFORE THE

SPECIAL EXCEPTION FOR RIDING * ZONING COMMISSIONER

STABLE AND EQUINE VETERINARIUM * OF BALTIMORE COUNTY

AT 2311 TRACEYS ROAD * Case No.01- 530-X

* * * * * * * * * * *

SUBPOENA

TO: Joseph Evans
2220 Traceys Road
Sparks, MD 21152

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 407, County Courts Building, 401 Bosley Avenue, Towson, MD 21204, at 11:00 A.M.

and to bring _____

on the 20 day of September, 2001 ~~19~~X, regarding the above captioned case, for the purpose of testifying at the request of Debbie Price.

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Timothy Kotroco
Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: 9/14/01

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

September 27, 2001

Mr. and Mrs. Rustin Price
2315 Tracey's Road
Sparks, Maryland 21152

Mr. and Mrs. Herb Hochhalter
2220 Tracey's Road
Sparks, Maryland 21152

Ms. Monica Bowden
2210 Tracey's Road
Sparks, Maryland 21152

Ms. Barbara Kees
2323 Tracey's Road
Sparks, Maryland 21152

Mr. and Mrs. Joseph Evans
2224 Tracey's Road
Sparks, Maryland 21152

Mr. and Mrs. George Harold
2206 Tracey's Road
Sparks, Maryland 21152

Ms. Sherry Rudolph
2324 Tracey's Road
Sparks, Maryland 21152

Ms. Nedda Evans
2204 Tracey's Road
Sparks, Maryland 21152

RE: Case No.: 01-530-X
2311 Tracey's Road
RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Special Hearing / Special Exception

Please be advised that the two agreed upon dates to continue the hearing referenced above are as follows:

Thursday, October 18, 2001
9:30 A.M. to 2:00 P.M.
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Tuesday, October 23, 2001
9:30 A.M. to 5:00 P.M.
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM *
J. MICHAEL McLAUGHLIN, JR. *

* Also Admitted in the District of Columbia

September 27, 2001

Mr. and Mrs. Rustin Price
2315 Tracey's Road
Sparks, Maryland 21152

Mr. and Mrs. Herb Hochhalter
2220 Tracey's Road
Sparks, Maryland 21152

Ms. Monica Bowden
2210 Tracey's Road
Sparks, Maryland 21152

Ms. Barbara Kees
2323 Tracey's Road
Sparks, Maryland 21152

Mr. and Mrs. Joseph Evans
2224 Tracey's Road
Sparks, Maryland 21152

Mr. and Mrs. George Harold
2206 Tracey's Road
Sparks, Maryland 21152

Ms. Sherry Rudolph
2324 Tracey's Road
Sparks, Maryland 21152

Ms. Nedda Evans
2204 Tracey's Road
Sparks, Maryland 21152

RE: Case No.: 01-530-X
2311 Tracey's Road
RG&M File Name: Nicholas and Stephanie Meintinis
RG&M File No.: 21.3008
Special Hearing / Special Exception

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Thursday, October 18, 2001
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Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Tuesday, October 23, 2001
9:30 A.M. to 5:00 P.M.
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

10/2/01
George
8

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

September 26, 2001

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

RE: Case Number : 01-530-X
2311 Tracey's Road
RG&M File Name: Nicholas and Stephanie Meittinis
RG&M File No.: 21.3008
Special Hearing / Special Exception

Dear Mr. Jablon:

The parties have agreed to the following two dates to continue the hearing which was originally held on September 20, 2001 regarding the above captioned matter:

Thursday, October 18, 2001
Tuesday, October 23, 2001

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh

cc: Dr. and Mrs. Nicholas Meittinis

01-3360
OCT 1 2001

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

01-530-X

NAME	ADDRESS
Julie Hessler	34 Chesterfield Ct 21111
Stephanie Meithnis	2311 Traceys Rd
Nicholas L Meithnis	2311 Traceys Rd Sparks 21152
Ann Mercuri	Cheeler Ct Sparks
John Alecci	13210 Beaver Dam Rd
Lisa deZarger	13047 Beaver Dam Rd Hunt Valley 21030
Barrie Lega Evga	30 Blondell Ct 210
Tina Walters	5210 Buttermilk Rd. Pylesville, Md. 21132

Printed with Soybean Ink
on Recycled Paper

01-530-X

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
JACK Dillon	PO Box 5402 Towson MD 21285
Thomas C Reynolds	427 Cockeys Mill Reisterstown
Stephanie Mentionis	2311 Tracers RD Sparks MD 21152
Cindy Rueocco	9 Pebble Lane 21023
Julie Hessler	34 Chesterfield Ct 21111
Tina Walters	5210 Buttermilk Rd. Pylesville, md. 21132

Printed with Soybean Ink
on Recycled Paper

Case Number #01-530-X

PLEASE *PRINT* LEGIBLY

PETITIONER'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
[illegible]	[illegible] Pebble Lane	Timonium MD	21093
BARRIE EUGA	30 BLONDELL COURT	TIMONIUM MD	21093.
BRUCE E. DOAK, GORHOLO CROSS & STEEL	320 E. TOWSONTOWN BLVD TOWSON, MD 21286		
STUART D. KAPLOW	15 EAST CHESAPEAKE AVE STE	TOWSON	21286
STEPHANIE MEITTINIS	2311 TRACEYS RD	SPARKS MD	21152
Nicholas L. Meittinis DVM	2311 Tracey's Road	Sparks, MD	21152
Lisa deBaugn	13047 BeaverDam Rd Hunt Valley MD	Hunt Valley MD	21030
Kathy Hanna	2110 Corbett Rd	Monkton, MD	21111
Gail Goering	1300 Upper Glencoe Rd.	Sparks, Md.	21111
JILLIE HESSLER	34 Chesterfield Ct	Markham	21111
WES GUCKERT	9900 FRANKLIN SQ DR. SUITE #H	SPARKS	21152
JACK Dillon	207 Courtland Ave. P.O. Box 5402	Towson	21285
PAUL KNOTT	14396 YEOHO RD SPARKS MD 21152	SPARKS	21152

Revised 4/17/00

Case Number 01-530-X

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JOSEPH L. EVANS	2224 TRACEY'S RD	SPARKS MD	21152
Mildred R Evans	2224 Traceys Rd	Sparks Md	21152
George E Harold	2206 Traceys Rd	Sparks MD	21152
Barbara Reed	2323 Tracey Rd	Sparks Md	21152
CHERI SCHWEIZER	2212 TRACEYS RD	SPARKS MD	21152
Debbie Price	2315 Tracey Rd	Sparks Md	21152
ROSTINE. PRICE	2315 TRACEY RD	SPARKS, MD	21152
Sherry Rudesch	2324 Tracey Rd	Sparks, Md	21152
Susan E. Twigg-Wirtz	2100 Tracey Road	Sparks MD	21152
Vernon W. Sr. Ph	2100 Tracey Rd	Sparks, Md	21152
Anne Hochhalter	2220 Traceys Rd	Sparks Md.	21152
Herb Hochhalter	2220 TRACEYS RD	SPARKS MD	21152
Monica Bowden	2210 Tracey Rd	Sparks MD	21152
Timothy Bowden	2210 Tracey Rd	Sparks MD	21152

Revised 4/17/00

Case Number 01-530-X

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JOSEPH EVANS	2224 TRACEY'S RD	SPARKS, MD	21152
George E Harold	2206 Tracey's Rd	Sparks, MD	21152
RUSTIN E. PRICE	2315 TRACEY Rd.	SPARKS, MD	21152
Monica Bowden	2210 Tracey Rd	Sparks MD	21152
Debbie Price	2315 Teacey Rd	Sparks, Md	21152
Sherry Rudolph	2324 Tracey Rd	Sparks, MD	21152
Barbara Keen	2323 Tracey Rd	Sparks, Md	21152
CHERYL H. SCHWEIZER	2212 TRACEYS RD	SPARKS MD	21152
Ulrike Mary Guerra	2204 Traceys RD	SPARKS MD	21152
HERB HOCHHALTER	2220 TRACEYS RD	SPARKS MD	21152
ANNE HOCHHALTER	2220 TRACEYS RD	SPARKS MD	21152
Carolyn F Harold	2206 Traceys Rd.	Sparks, MD	21152

01-530-X.

Case Number 10/18/01

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
RUSTIN E. PRICE	2315 TRACEY'S Rd.	SPARKS MD	21152
Debbie Price	2315 Traceys Rd	Sparks, Md	21152
George E Harold	2206 Traceys Rd	Sparks, MD	21152
WILLIAM L. HOFFMAN	16301 YEOHO RD	SPARKS, MD	21152
ARLENE M. HOFFMAN	16301 YEOHO RD.	SPARKS, MD	21152
THOMAS LANE	5908 PLUMER AVE	BALTO, MD	21206
JOE MILLER	8706 YVONNE AVE	Balto md	21234
JOSEPH EVANS	2224 TRACEY'S Rd	Sparks	21152
Linda P. Evans	2224 Traceys	Sparks	21152
Nancy Rudolph	2324 Traceys	Sparks,	21152
Barbara Rees	2323 Tracy Rd	Sparks	21152
Susan E. Twigg-Wirtz	2100 Tracey Road	Sparks	21152
Vernon N. Wirtz	2100 Tracey Rd	Sparks	21152
Elaine Hochkalter	2220 Traceys Rd	Sparks	21152
Fred Hochkalter	" " "	"	"
Timothy Bowden	2210 Tracey rd	Sparks MD	21152
Monica Bowden	2210 Tracey Rd	Sparks MD	21152
CHERI SCHWEIZER	2212 TRACEYS RD	SPARKS MD	21152

Baltimore County Farm Bureau, Inc.

Baltimore County Agriculture Building

9811 Van Buren Lane

Cockeysville, Maryland 21030

410-666-1033

BCFB

September 19, 2001

To whom it may concern;

The Baltimore County Farm Bureau strongly supports activities and endeavors on the part of the farming community in their attempt to promote agriculture Education. This activity leads directly to over 7,000 jobs in the Baltimore County.

The many farms and farmers who donate land use and guidance to the youth interested in agricultural activities such as the raising and handling of pigs, goats, sheep, cows, and horses for 4H represent a large demand from the community for agricultural education. The showing of these animals, vegetables, crafts, and riding competition at the always growing Baltimore County 4H fair is a learning experience and camaraderie that will last a lifetime.

The Farm Bureau is very supportive of the horse industry as an important and growing part of the agricultural community. It is one of the top three industries in the state generating $1.6 billion annually. Baltimore County has the most horse enthusiast, one who owners or leases a horse, in the seven county area at 24,630.

We are in strong support of any instructional programs and competitions that draw young and old to one of our leading industries. Riding horses is a pleasure enjoyed by all. The daily care and handling of animals teaches responsibility and discipline. It is difficult in this day and age to find an activity for our youth that is more wholesome.

The Baltimore County Farm Bureau urges you to continue to assist us in our promotion of Agriculture Education in the many forms it takes.

Thank You,

Les Richardson, President
Baltimore County Farm Bureau

Pet Ex #5

JACK DILLON

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

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, COMMUNITY PLANNING DIVISION,
PLANNER II
JUNE 1981 - AUGUST 1987

OFFICE OF PLANNING, COMPREHENSIVE PLANNING DIVISION, ENVIRONMENTAL STUDIES SECTION
PLANNER II
OCTOBER 1974 - JUNE 1981

PRIOR TO OCTOBER 1974 I WAS WITH THE BALTIMORE COUNTY ZONING OFFICE FROM JUNE 1967 - SEPTEMBER 1974 AND FROM 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

Pet Ex #6

ADDITIONAL EDUCATION

DUNDALK COMMUNITY COLLEGE,
MEDIA / TV PRODUCTION,
1984 - 1986

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

CATIONSVILLE 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;
HERFORD - 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 AMENDMENTTO 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 AGRICULTURAL LAND PRESERVATION PROGRAM FOR BALTIMORE COUNTY, 1979.
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 ADMINISTRATION 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 COMMISSIONER, THE BALTIMORE COUNTY BOARD OF APPEALS, THE PLANNING COMMISION FOR THE TOWN OF OCEAN CITY MARYLAND, THE DISTRICT COURT OF MARYLAND AND THE CIRCUIT COURT OF MARYLAND.

Prot Ex 1

HAND DELIVERED

June 14, 1999

Mr. and Mrs. Nicholas Metinas
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Metinas:

It has come to our attention that you are planning to engage in commercial activity from your property at 2311 Tracey's Road. It is our understanding that such activity is not permitted under the present land use laws and regulations. We are writing to you now, before you develop your property for commercial use, to inform you that we oppose and will resist any effort to engage in such commercial activity or to modify the existing laws to permit that commercial activity. We are bringing these concerns to your attention at this point so that you will not incur needless expenses associated with developing your property for commercial activity.

Sincerely,

Joseph L. Evans

Nedda Pray Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

Prot Ex 2

October 15, 2001

Deputy Commissioner Timothy Kotroco
County Courts Building
Towson, Maryland 21204

Dear Deputy Commissioner Kotroco:

We, the undersigned residents of neighboring properties are opposed to the proposed special exception request for 2311 Tracey's Road, Sparks, Maryland, 21152.

Debra Hrucks
John Healy
Jennifer Carney
Maria Daniels
Dan Dorsey
Sara Bennett
Helene Hoffman

Prot Ex 3

September 16, 2001

Deputy Commissioner Timothy Kotroco
County Courts Building
Towson, Maryland 21204

Dear Deputy Commissioner Kotroco:

We, the undersigned residents and/or property owners on Tracey's Road, Sparks, Maryland, are opposed to the proposed special exception request for 2311 Tracey's Road.

Barbara Kees
Barbara Kees

Joseph Evans
Joseph Evans

Sherry Rudolph
Sherry Rudolph

Nedda Evans
Nedda Evans

Deborah Price
Deborah Price

Monica Bowden
Monica Bowden

Rustin Price
Rustin Price

Timothy Bowden
Timothy Bowden

Lievin Cassenaer
Lievin Cassenaer

Anne Hochalter
Anne Hochalter

Mary Coverdale
Mary Coverdale

Herb Hochalter
Herb Hochalter

Carolyn Harold
Carolyn Harold

Susan Twigg-Wirtz
Susan Twigg-Wirtz

George Harold
George Harold

Vernon Wirtz
Vernon Wirtz

Cheryl Schweizer
Cheryl Schweizer

Mary Wirtz
Mary Wirtz

Prot Ex 5

2224 Tracey's Road
Sparks, MD 21152

November 16, 1999

Dear Mr. and Mrs. Meittinis:

Recently we repaired the damage to our lawn caused by large vehicles attempting to access your driveway. We placed stakes on the edge of the newly planted grass so that your trucks would not drive over it. Yesterday we noticed that the stakes had been removed from our property. Thereafter, large vehicles delivered equipment to your property. Neither you nor your workmen are entitled to remove the stakes from the ground or to remove personal property belonging to us from our premises. Further, you are not entitled to encroach on our premises or to permit any of the vehicles accessing your property to do so.

On September 13, 1999, we sent you a letter advising you that your trucks were not authorized to drive over our lawn to access your driveway. We found that letter on the road in front of our mailbox. We placed it in your mailbox again, thinking it had been accidentally dropped, and once more, we found it on the road in front of our mailbox. When this happened a third time we were certain that this was no mistake.

We have now replaced the stakes on the edge of our lawn. You are not to drive your vehicles over our property. Please instruct the operators of the various construction and service vehicles which come to your property daily, that they are not to drive over our lawn.

Thank you for your attention to this matter.

Very truly yours,

Joseph L. Evans

Nedda P. Evans

Prot Ex 6

HAND DELIVERED

June 14, 1999

Mr. and Mrs. Nicholas Metinas
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Metinas:

It has come to our attention that you are planning to engage in commercial activity from your property at 2311 Tracey's Road. It is our understanding that such activity is not permitted under the present land use laws and regulations. We are writing to you now, before you develop your property for commercial use, to inform you that we oppose and will resist any effort to engage in such commercial activity or to modify the existing laws to permit that commercial activity. We are bringing these concerns to your attention at this point so that you will not incur needless expenses associated with developing your property for commercial activity.

Sincerely,

Joseph L. Evans

Nedda Pray Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

Plot Ex 7

2224 Tracey's Road
Sparks, Maryland 21152

May 13, 2000

Mr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, MD 21152

Dear Mr. and Mrs. Meittinis::

You have recently placed some rocks by the side of Tracey's Road in an apparent effort to prevent vehicles from encroaching on your property. Given the placement of those rocks, we can only conclude that your actions are specifically directed at us. This is fairly amusing conduct on your part given that you have consistently ignored our previous polite written requests that you instruct individuals driving trucks and doing work on your property to avoid digging up our yard; that you have physically removed - and actually appropriated for yourself - the metal stakes that we were forced to plant because of your refusal to acknowledge or repair damage which you and your agents caused; and that you have exhibited a generally imperious attitude that the preexisting character of the neighborhood must change in order to accommodate your personal commercial desires.

Obviously, an occasional automobile tire on some grass hardly represents the same type of problem as the routine truck traffic that has required the purchase of a hundred pounds of top soil and the associated labor necessary to repair the affected area on our property. Nonetheless, we can only assume that your recent actions ultimately reflect a conclusion on your part that even a minor encroachment is unacceptable, and to that extent, we further assume that you can now understand why we were, and have been, dismayed by your actions in not respecting our property. We do not believe that we have damaged your property, but because we respect the property rights of others, we will take particular care to avoid any such possibility in the future.

You should also understand that Baltimore County requires that the rocks that you have placed by the road must be twenty-four inches from the pavement. The present placement - nestled right up to the edge of the pavement - represents a safety hazard and could cause personal injury and/or property damage.

Presumably you were unaware of the twenty-four inch requirement, but now that you are, we would appreciate your voluntary compliance with the law.

Sincerely,

Joseph L. Evans

Nedda P. Evans

Prot Ex 8

HAND DELIVERED AND BY MAIL

September 13, 1999

Mr. and Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Meittinis:

On July 19, 1999, we wrote to you to request that you instruct all operators of large vehicles to refrain from driving over and onto our property in order to access your driveway. This request was the result of past encroachments upon our property that had gone unrepaired by you.

As a result of those past encroachments, we were required to replant a portion of our front lawn. To deter future encroachments and to protect the newly seeded grass, we posted large metal stakes. On September 6, 1999, the workmen building your barn knocked over the stakes and again encroached on our property. As with prior such instances, neither you nor your work crew made any effort to acknowledge the action, apologize, or repair it.

Please insure that this does not happen again.

Sincerely,

Joseph L. Evans

Nedda Pray Evans
2224 Tracey's Road
Sparks, Maryland 21152
(410) 771-4754

Prot Ex 9

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Development Coordination DATE: 9-9-01

FROM: Wallace S. Lippincott, Jr.

SUBJECT: Comments on Meittinis Sph, 2311 Tracey Road

Existing Conditions

This 40.31 acre farm property is located in a Master Plan designated Agricultural Preservation Area and is zoned RC 2 (Agricultural Protection). Both the Master Plan and the zoning provide that farming and agriculture are the preferred uses in this zone. As further indication of the extent of the County's interest to preserve and promote agriculture in this area, the property is located in the midst of a several farms on which the County has purchased development rights for the protection of farmland and open space.

While other agriculturally related uses are also necessary to support farm income, the approval of these uses must be made within a context of the appropriateness and level of impact on the existing community- agricultural and residential. While Baltimore County lacks any additional tests in its zoning code relating specifically to equine activities, the Code does provide for consideration of congestion of the road system(502.1 B) and overcrowding of the land (502.1 I).

With respect to the overcrowding issue, from an agricultural perspective having only 10 acres of pastureland is limiting. For small acreage, the County livestock ratio table permits one acre of pasture per horse. Many landowners and other experts often suggest two acres of pasture per horse. However, these are general rules and the impact is more often dependent upon the type of horses and the management of the grazing. For this reason it is not recommended that a limitation be put on the number of horses or ponies permitted on the farm, but rather that compliance with a nutrient management plan and a Soil Conservation and Water Quality Plan (SCWQ Plan) be required. The nutrient management plan has specific standards. The SCWQ Plan does not and thus conditions should be attached to this plan. The SCWQ Plan should include best management practices based upon the number and types of animals and the specific management of the land for those animals by present and future operators of the farm so as not to cause soil erosion, water quality problems onsite or running off the land, or depletion of the productive capability of the land.

The other relevant standard relating to the proposed uses is the road access to the property. As provided, the property is approximately 0.3 miles off Yeoho Road on Tracey Road. Tracey Road is an approximately 8-foot wide single lane road along which

there are residential and other farm properties. The road is paved and several of the homes are close to road. Intensive use of any property along this road would have an impact on these properties as well as on the usage by the other property owners.

Potential impacts

Reviewing these two factors for the veterinarian, as indicated above the limits on the number of animals that would be pastured or kept up should be limited by facilities, management, and limitations of the land. The limitations of the land should be based upon the management and facilities and on recommendations and regulations from a nutrient management and a SCWQ plan. While Tracey Road is limiting, the road is currently used for the transporting of large animals the number of trips anticipated for this activity would not appear to create significant conflict or congestion. For these reasons, an equine or large farm animal veterinarian use is supported.

The request for a riding stable and a public horse show in addition to the farm uses and veterinarian use is not supported. The additional traffic that could be produced by a riding stable and public horse show could be significant. While the zoning of the property is agriculture and it is appropriate to support additional commercial agricultural uses that will support the retention of agriculture in the county, this can not be done at the expense of creating neighborhood nuisance problems that will ultimately lead to agricultural nuisance conflicts. As indicated earlier, from an agricultural perspective limiting the number of horses or ponies or other livestock on a 40 acre farm should be based upon the landowner's production capability rather than for purposes of limiting the use of riding or public shows. Furthermore, any attempts to limit the number of riding lessons or who would be riding would be difficult to monitor and enforce, particularly in light of the limited County resources for monitoring and enforcement.

Recommendations

In conclusion, the continued use of the property for agricultural uses such as breeding and sale of horses and production of timber or other agricultural products is recommended. Additionally, the use of the property for an equine or large farm animal veterinarian is strongly supported subject to having a nutrient management plan and SCQW Plan subject to the conditions indicated earlier. If the property had direct access to Yeoho Road or any other two-lane road, support for the riding use would also be supported, however, because of the potential for agricultural nuisance conflict over the use of Tracey Road, the riding stable is not supported.

Ex A.

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
SE/S Traceys Road, 1500' SE centerline of Yeoho Road	*	DEPUTY ZONING COMMISSIONER
5th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District (2311 Traceys Road)	*	CASE NO. 01-530-X
Stephanie S. & Nicholas Meittinis Petitioners	*	

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Nicholas and Stephanie Meittinis. The Petitioners are requesting a special exception for property they own at 2311 Traceys Road, located in the Sparks area of Baltimore County. The special exception is to approve a riding stable and equine veterinarium.

Appearing at the hearing on behalf of the special exception request were Nicholas and Stephanie Meittinis, owners of the property, as well as several others who appeared on their behalf. Those individuals appearing on behalf of the Petitioners have registered their names on the Petitioners' sign-in sheet. The Petitioners were represented by John B. Gontrum, attorney at law. Appearing in opposition to the Petitioners' request were many residents of the surrounding community, all of whom signed in on the protestant's sign-sheet. The protestants were unrepresented as a group. However, Joseph and Annetta Evans, adjacent property owners and both attorneys at law, did appear as protestants in the case, and assisted their neighbors in the presentation of the testimony in opposition to this request.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 40.34 acres of land, zoned R.C.2. The subject property is located

on the south side of Traceys Road, approximately 1500 ft. to the west of the intersection of Traceys Road and Yeoho Road, in Sparks, Maryland. The subject property is improved with a two-story, single-family residential dwelling wherein Mr. & Mrs. Meittinis reside with their children. To the rear of the subject dwelling exists a one-story residential garage. There is also a 95.5 ft. x 174.2 ft. fenced riding area, as well as a two-story frame barn and storage building. All of these improvements are more particularly shown on the plat to accompany this petition for special exception entered into evidence as Petitioners' Exhibit No. 1. The plat was prepared by Gerhold, Cross & Etzel, registered professional land surveyors who were represented at the hearing by Bruce Doak.

The subject property is serviced by Traceys Road, which is a dead-end country lane, only wide enough to accommodate the width of one vehicle. It is absolutely necessary for one vehicle to have to leave the traveled portion of Tracey's Road when encountering another vehicle traveling in the opposite direction. The actual paved width of Tracey's Road varies over the length of this travel way. It was estimated to be 11 ft. to 14 ft. by the various witnesses who testified at the hearing. This type of road width is not uncommon in these rural areas of Baltimore County.

Testimony and evidence offered at the hearing demonstrated that Mr. & Mrs. Meittinis purchased the subject property in 1997. At the time of their purchase, the subject property was farmed and crops were grown thereon. The front portion of the subject property along Tracey's Road was always cultivated with crops, while the rear portion of the property, which consists of woodlands and steep slopes, remained in its natural state. Shortly after their purchase, the Petitioners constructed their house, garage and other improvements.

The two-story barn, as shown on the site plan, contains 16 stalls and has enough parking to accommodate 12 automobiles. The barn is situated approximately 213 ft. from the western property line of the subject property. The barn is served by a separate well and septic system other than those associated with the house that is situated on the property.

Mrs. Meittinis has an extensive background in horse training and providing instructional lessons to riders. She has been actively involved in giving lessons to students off-site to the subject property and is requesting permission, at this time, by way of this special exception to give lessons from the subject property. She foresees having up to 14 students at any one time and proposes to give no more than 2 lessons in any given day. It is possible for her to accommodate up to 5 students attending any one particular session. These sessions generally take 45 minutes to 1 hour.

In addition to giving lessons on the property, the Petitioner also trains, breeds and sells horses. At the present time, she has approximately 9 horses on the property. Mrs. Meittinis would be willing to limit her operation to containing no more than 16 horses on the subject property at any one time. She also agreed to other restrictions on her operation, in the event the special exception is approved.

In addition to the Petitioners' request for a riding stable, a separate request is made to allow an equine veterinarium. Testimony indicated that Mr. Meittinis is a licensed Doctor of Veterinary Medicine, having obtained a degree from Cornell University. He is currently involved in a partnership providing veterinary services to the various Maryland thoroughbred racetracks. The purpose of the special exception request for the equine veterinarium is to allow Mr. Meittinis to perform services on the horses which are kept on their property. This request is

limited only to performing services on the horses that are kept on this property, belonging to the Petitioners, as well as horses that are laying up or boarded on site.

The testimony offered by the Petitioners also demonstrated that they currently board horses on their property in addition to the horses they own. At the time of the public hearing before me, the Petitioners were boarding 2 horses on the property which, of course, were not owned by them.

As stated previously, many residents of the surrounding neighborhood appeared in strong opposition to the Petitioners' requested special exception relief. The opposition testimony was led by Mr. & Mrs. Evans who reside on property situated directly across Tracey's Road from the subject property. Mr. & Mrs. Price, who reside on adjacent property immediately to the west of the subject property, also strongly opposed this request. Others in the neighborhood appeared and testified in opposition to the Petitioners' request. The testimony offered by the protestants demonstrated that Tracey's Road is not of sufficient width to accommodate the number of daily trips that are generated by the special exception relief requested by the Petitioners. These neighbors feel that the amount of students coming and going to the Meittinis farm for the purpose of taking riding lessons would cause congestion on Tracey's Road, given that two cars are unable to pass on this narrow lane. The passing of vehicles requires one driver to pull off into one of the property owner's front yard. In addition, neighbors complained of blind spots along Tracey's Road where it is difficult for one vehicle to see oncoming traffic. The increase in traffic on this narrow lane was also a concern of those residents who walk, ride bikes, or jog along this roadway. The narrowness of Tracey's Road coupled with the fact that it is a dead-end street, having only one access point to Yeoho Road, was of great concern to the surrounding neighbors. This was their main reason for opposing the special exception request.

The issue regarding the narrowness of Tracey's Road was not the only cause of concern raised by these neighbors. Mr. & Mrs. Ruston Price, the adjacent property owners, also testified that the special exception relief, if granted, would have a tremendous detrimental impact on their use of their property. Their home is situated in close proximity to the Meittinis farm. The two property owners share a common property line. The riding of horses and the giving of lessons have a greater impact on Mr. & Mrs. Price's property, given the close proximity of their dwelling to where the horses are ridden and kept. They, therefore, ask that the special exception request be denied and that the Petitioners be prohibited from providing horseback riding lessons on their farm.

Also particularly affected by the Petitioners' special exception request were adjacent property owners, Joseph and Annetta Evans. These protestants live on the north side of Tracey's Road, opposite the entrance driveway to the Meittinis farm. Mr. & Mrs. Evans strongly objected to the Petitioners' trespassing on the front portion of their property. This occurs when large farm vehicles and horse trailers negotiate the turn into the Meittinis farm. The 90° angle access coupled with the landscaping rocks located at the entrance, cause these large vehicles to travel into the front yard owned by Mr. & Mrs. Evans while turning left. That grassy area has been reduced to dirt by virtue of this left-turning traffic. Mr. & Mrs. Evans are also concerned over storm water runoff that is generated onto their property by virtue of the additional construction that has taken place on the Meittinis farm. The Evans' property sits lower in elevation than the Petitioners' farm and is, therefore, the drainage area for surface water running off the Petitioners' land.

The testimony and evidence offered both in support and in opposition to the Petitioners' request was voluminous. The hearing comprised three days of testimony. It is not possible to

recount all of the testimony and evidence offered at the hearing in the body of this Order. The record of the case was recorded and reference is made to that transcription for a more detailed account of the testimony and evidence offered at the hearing. In addition, the Petitioners, as well as the Protestants, submitted Memoranda of Law regarding their positions.

Before ruling on the Petitioners' specific request for special exception, it is first necessary to determine what is permitted on the Petitioners' property as a matter of right. The Petitioners' property is zoned R.C.2. Section 1A01.2 of the Baltimore County Zoning Regulations designates those uses that are permitted as of right within such a zone. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted used in the R..C.2. zones. Specifically listed as a use permitted as of right are farms. The Baltimore County Zoning Regulations defines "Farm" as follows:

> "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

The Petitioners' property comprising 40.34 acres of land, zoned R.C.2, satisfies the definition of farm as that term in defined within Section 101 of the Baltimore County Zoning Regulations, so long as the activities occurring thereon are consistent with the definition of the term "Commercial Agriculture" or "Associated Agricultural Uses".

The term "Commercial Agriculture" is defined within Section 101 of the Baltimore County Zoning Regulations. The relevant portion of that definition provides that,

> "commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse

> training and also includes ancillary activities such as processing, packing, storing financing, managing, marketing, or distributing provided that any such activity shall be secondary to the principal agricultural operations."

This definition clearly indicates that "horse breeding and horse training" are uses that are permitted as of right on the Meittinis farm.

Therefore, the keeping of horses on the Petitioners' property either owned by them or belonging to others, for the purpose of breeding or training, is a use permitted as of right, and does not require the granting of a special exception. This horse training and horse breeding clearly allows the Petitioners to keep horses belonging to others on their farm for this purpose. The language of the definition does not limit the breeding and training of horses to those of the property owner only. Furthermore, it shall also be permissible for someone other than the property owner to actually perform the training of a horse on the Petitioners' property. That is, it may be necessary for this property owner to bring other individuals of skill and expertise in the field of training horses onto this property, in order to train a particular horse in a specific exercise or regimen. Therefore, the breeding and training of horses, which shall include the keeping of horses not belonging to this property owner on the property, and allowing other trainers to come to this property to ride and train a particular horse is a permitted use for which a special exception is not necessary.

The question arose at the hearing, whether the Petitioner, by virtue of keeping other persons horses on her property was operating an animal boarding place. The term "animal boarding" place is defined within Section 101 of the Baltimore County Zoning Regulations as,

> "any building, other structure or land or any portion thereof which is used, intended to be used or arranged for the board, breeding or other care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarium."

The definition itself specifically excludes a farm from being considered an animal boarding place. Therefore, in conjunction with the operation of a farm on the Petitioners' property, Mr. & Mrs. Meittinis shall be permitted to board other people's horses thereon. This, therefore, would not be considered an animal boarding place and would not require the granting of a special exception for same.

While it has been determined that the Petitioners shall be permitted to board, train, breed and sell horses from their property as a matter of right, all in accordance with the definitions as contained within the Baltimore County Zoning Regulations and the uses permitted as of right in the R.C. zone, it must now be determined whether the special exception requests should be granted. The property owners have requested two particular uses by way of their special exception petition. The less controversial of the two requested uses was the equine veterinarian and shall be the first such use addressed by this Order.

As stated previously in the body of this Order, Mr. Meittinis is a licensed Doctor of Veterinary Medicine who maintains a successful veterinary practice. Dr. Meittinis limits his practice of veterinary medicine to horses. The majority of his practice is associated with the Maryland thoroughbred racetracks. Dr. Meittinis would like the ability to provide services to the horses which are kept on this property, either those belonging to him or the horses belonging to others.

Dr. Meittinis testified that his practice of veterinary medicine is specialized in that he works completely out of his Toyota Land Cruiser SUV. He does not maintain a clinic. He testified that he travels from race track to race track caring for and maintaining the thoroughbred horses that are involved in the racing industry. He does have an office trailer at each race track wherein he performs paperwork and maintains his records. All of his equipment and medicines

are kept within his vehicle which allows him to readily perform site visits in order to provide care to a particular horse.

Dr. Meittinis is requesting, by way of this special exception, to be able to perform similar such services on his own property. He does not intend to construct a building on this property wherein a clinic will be housed. He intends to utilize the existing barn or a stall located therein in order to administer medicine and provide care to a particular horse. He will not perform any surgeries on site. He simply wishes to provide veterinary services to the horses kept on his property and be permitted to charge a fee for his services. He does not intend to erect any sign on the property and he does not contemplate any advertising for his business.

After considering this portion of the Petitioners' special exception request, I find that Dr. Meittinis should be permitted to perform veterinary services on the horses which are kept on his property and accordingly, that portion of the special exception request shall be granted. The operation of an equine veterinarian on this property will have little or no impact on the surrounding property owners, given that the horses which are to receive care are already kept on the property and the doctor performing such services already lives on site. Since he is the resident veterinarian, no additional amount of traffic will be generated by this use. Accordingly, the special exception shall be granted subject to the conditions and restrictions imposed at the end of this Order.

The second and more controversial of the two special exception requests involved the use of the property as a riding stable. As stated previously within the body of this Order, providing instruction and lessons to a horse falls within the category of horse training and is a use permitted as of right on the property. However, providing instructions and lessons to riders falls outside of that permitted use and within the special exception category of a riding stable.

Therefore, in order to give riding lessons on the subject property, the Petitioners must satisfy those requirements as specified within Section 502.1 of the Baltimore County Zoning Regulations and all applicable case law relating thereto.

After considering the testimony and evidence offered in support of the Petitioners' riding stable and that offered in opposition thereto, as well as the memoranda of law submitted by each side, I find that the special exception request for a riding stable should be denied. A riding stable operating on this property would have a greater detrimental impact at this location than it would on a similarly zoned parcel of property located elsewhere within this locality. Perhaps the greatest factor relative to this finding is the access to the subject property, particularly the narrow width of Tracey's Road. In addition to my concern over the narrowness of Tracey's Road was the inability of the residents living along Tracey's Road to exist harmoniously. The testimony offered at the hearing revealed that vehicles entering the Petitioners' property have had to trespass onto property owned by Mr. & Mrs. Evans when attempting to turn left into the entrance driveway to the Petitioners' farm. Furthermore, residents testified that at times motorists have refused to yield the right-of-way to oncoming traffic causing vehicles to have to leave the traveled portion of Tracey's Road. This apparently has also occurred to pedestrians, joggers, bike riders, persons walking dogs and/or pushing baby carriages. In addition, landscaping rocks, pine trees and wooden sticks and posts have been placed along the sides of this narrow right-of-way, thereby interfering with and hampering the passage of traffic along Tracey's Road. The behavior and actions of these residents have created a tremendous amount of frustration to exist within this neighborhood. This was clearly evident at the hearing before me, as evidenced by the temperament of the witnesses who testified and the tone of the voice of those participants asking

questions. The problems with the access to this property, as stated previously, persuade me that the special exception request should be denied.

THEREFORE, IT IS ORDERED this 22nd day of March, 2002, by this Deputy Zoning Commissioner, that the Petitioners' special exception request to approve an equine veterinarian, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the special exception request to approve a riding stable on the subject property, be and is hereby DENIED.

The granting of the special exception for the equine veterinarian shall be subject to the following conditions and restrictions:

1. There shall be no signage associated with the equine veterinarian.

2. The Petitioner shall be prohibited from advertising the business of equine veterinarian on the property and shall only service those horses which are kept or boarded on site. Naturally, the Petitioner shall be permitted to travel to off site locations in order to practice his profession.

3. The Petitioner shall be prohibited from performing major operations to any animal on the subject property.

4. No additional structures shall be erected in order to house or accommodate a veterinary clinic. The Petitioner shall utilize the existing barn for the purpose of administering care and performing services on the horses kept on the property.

5. There shall be no additional employees of the equine veterinarian, other than Dr. Meittinis.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

Copies to:

Mr. & Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, MD 21152

Joseph & Nedda Evans
2224 Tracey's Road
Sparks, MD 21152

Rustin & Debbie Price
2315 Tracey's Road
Sparks, MD 21152

George & Carolyn Harold
2206 Tracey's Road
Sparks, MD 21152

Monica Bowden
2210 Tracey's Road
Sparks, MD 21152

Sherry Rudolph
2324 Tracey's Road
Sparks, MD 21152

Barbara Kees
2323 Tracey's Road
Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road
Sparks, MD 21152

Herb & Anne Hochhalter
2220 Tracey's Road
Sparks, MD 21152

January 25, 2001

Stanley Schapiro, Esquire
Office of Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Code Enforcement Hearing concerning 2311 Tracey's Road
Citation Number 00-7156

Dear Mr. Schapiro:

With regard to the hearing held on January 24, 2001, on the issues of whether the property owners at 2311 Tracey's Road are operating a riding stable in violation of Baltimore County Code, Sections 1A01.2(C)(2) and (21), we would like to submit the following.

First, the evidence was uncontroverted that Mrs. Mettinis was providing riding lessons while her horses were stabled at Beaver Dam Road in Hunt Valley. In that context, she was charging fees and receiving direct monetary compensation. She and her husband then developed the Tracey's Road property and constructed a 6200 square foot barn and associated riding ring. Mrs. Price's log and videotape depict the very type of activity at Tracey's Road that one would expect to see in the operation of a riding stable. The same children that paid a fee to Mrs. Mettinis in Hunt Valley are, by her admission, now riding at Tracey's Road. Interestingly, these same children who were receiving instruction in Hunt Valley and now are riding at Tracey's Road, are, according to Mrs. Mettinis, not receiving any instruction anywhere. It is simply not credible as a matter of common sense that Mr. and Mrs. Mettinis would expend the considerable sums necessary to construct the barn and ring in order to transform a fee generating operation into a non-fee generating operation. It is also not credible as a matter of common sense that the parents of these children would alter the children's activity from lessons in Hunt Valley to non-instructed but supervised riding on Tracey's Road without any formalized training. Finally, it is not credible as a matter of common sense that the same riding students now come to her property on a regular basis, without charge, for supervised riding for which they once paid a fee.

Second, without needing to draw any adverse conclusion regarding credibility and even assuming that Mrs. Mettinis does not receive direct monetary compensation for permitting the children to ride her horses, her testimony, fairly understood, demonstrated that she received in-kind services in exchange for the riding. She testified that the children provided various functions such as baby sitting, barn and stable upkeep, and general horse-related maintenance services. Of course, any such bartering arrangement constitutes compensation for riding the same way that a check or cash would constitute compensation, and the Internal Revenue Service views bartering arrangements as taxable events. The bartering is further evidenced by Mrs. Mettinis' candid concession that the cutting back on the students because of the onset of the school year has forced her to hire individuals to do the chores that were previously done by the children.

require evidence of horses kept for hire, the bartering arrangement, at a minimum, establishes that "hire."

Thirdly, while the question of lessons is relevant to the issue of a home occupation, it is not a necessary ingredient in the definition of "riding stable." We certainly believe that the giving of lessons for a fee (whether direct or indirect) is occurring, and to that extent, provides a complete explanation as to why the overall activity is occurring. At the same time, there is no requirement that the proprietor of a riding stable offer lessons over and above making the horses available for riding. Consequently, whether one concludes that Mrs. Mettinis is receiving a monetary fee or whether one concludes that she is receiving in-kind services, the bottom line is the same: she is operating a riding stable. At the same time, there is no requirement that fees be shown in the context of a "home" occupation" violation; all that is necessary is to show that lessons, tutoring, or similar activity is occurring. In this regard, the forthright statement of one of the children that the children were "of course" receiving lessons is overwhelming and uncontested corroboration for the instruction demonstrated in the videotape.

Fourthly, Mr. and Mrs. Mettinis are also in violation of the code provision which prohibits the boarding of horses in an RC2 zone without a special exception. At the outset, Mrs. Mettinis indicated that she did not board horses. As her testimony developed, however, she did acknowledge that she had been boarding a pony belonging to the Wrights, and further indicated that the pony was scheduled to depart shortly.

As to the same issue, Mr. Mettinis also initially testified that they did not board "riding" horses belonging to others, but in response to a question from Mr. Wasilesky, he did acknowledge boarding two thoroughbreds belonging to others. The apparent justification for the earlier failure to reveal that fact is the implicit suggestion that those horses were not "riding" horses. That distinction, of course, is not relevant, but more importantly, appears to show a certain coyness that is not conducive to a complete and candid explanation of all of the circumstances.

It is for these reasons that we believe that Mr. and Mrs Mettinis are in violation of the code provisions as charged and should not be able to engage in this activity unless and until they apply for and receive a special exception.

Very truly yours,

Joseph L. Evans

Nedda P. Evans

cc: Leonard Wasilesky
Stuart Kaplow, Esquire

BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Development Coordination DATE: 9-9-01

FROM: Wallace S. Lippincott, Jr.

SUBJECT: Comments on Meittinis Sph, 2311 Tracey Road

Existing Conditions

This 40.31 acre farm property is located in a Master Plan designated Agricultural Preservation Area and is zoned RC 2 (Agricultural Protection). Both the Master Plan and the zoning provide that farming and agriculture are the preferred uses in this zone. As further indication of the extent of the County's interest to preserve and promote agriculture in this area, the property is located in the midst of a several farms on which the County has purchased development rights for the protection of farmland and open space.

While other agriculturally related uses are also necessary to support farm income, the approval of these uses must be made within a context of the appropriateness and level of impact on the existing community- agricultural and residential. While Baltimore County lacks any additional tests in its zoning code relating specifically to equine activities, the Code does provide for consideration of congestion of the road system(502.1 B) and overcrowding of the land (502.1 I).

With respect to the overcrowding issue, from an agricultural perspective having only 10 acres of pastureland is limiting. For small acreage, the County livestock ratio table permits one acre of pasture per horse. Many landowners and other experts often suggest two acres of pasture per horse. However, these are general rules and the impact is more often dependent upon the type of horses and the management of the grazing. For this reason it is not recommended that a limitation be put on the number of horses or ponies permitted on the farm, but rather that compliance with a nutrient management plan and a Soil Conservation and Water Quality Plan (SCWQ Plan) be required. The nutrient management plan has specific standards. The SCWQ Plan does not and thus conditions should be attached to this plan. The SCWQ Plan should include best management practices based upon the number and types of animals and the specific management of the land for those animals by present and future operators of the farm so as not to cause soil erosion, water quality problems onsite or running off the land, or depletion of the productive capability of the land.

The other relevant standard relating to the proposed uses is the road access to the property. As provided, the property is approximately 0.3 miles off Yeoho Road on Tracey Road. Tracey Road is an approximately 8-foot wide single lane road along which

there are residential and other farm properties. The road is paved and several of the homes are close to road. Intensive use of any property along this road would have an impact on these properties as well as on the usage by the other property owners.

Potential impacts

Reviewing these two factors for the veterinarian, as indicated above the limits on the number of animals that would be pastured or kept up should be limited by facilities, management, and limitations of the land. The limitations of the land should be based upon the management and facilities and on recommendations and regulations from a nutrient management and a SCWQ plan. While Tracey Road is limiting, the road is currently used for the transporting of large animals the number of trips anticipated for this activity would not appear to create significant conflict or congestion. For these reasons, an equine or large farm animal veterinarian use is supported.

The request for a riding stable and a public horse show in addition to the farm uses and veterinarian use is not supported. The additional traffic that could be produced by a riding stable and public horse show could be significant. While the zoning of the property is agriculture and it is appropriate to support additional commercial agricultural uses that will support the retention of agriculture in the county, this can not be done at the expense of creating neighborhood nuisance problems that will ultimately lead to agricultural nuisance conflicts. As indicated earlier, from an agricultural perspective limiting the number of horses or ponies or other livestock on a 40 acre farm should be based upon the landowner's production capability rather than for purposes of limiting the use of riding or public shows. Furthermore, any attempts to limit the number of riding lessons or who would be riding would be difficult to monitor and enforce, particularly in light of the limited County resources for monitoring and enforcement.

Recommendations

In conclusion, the continued use of the property for agricultural uses such as breeding and sale of horses and production of timber or other agricultural products is recommended. Additionally, the use of the property for an equine or large farm animal veterinarian is strongly supported subject to having a nutrient management plan and SCQW Plan subject to the conditions indicated earlier. If the property had direct access to Yeoho Road or any other two-lane road, support for the riding use would also be supported, however, because of the potential for agricultural nuisance conflict over the use of Tracey Road, the riding stable is not supported.

C. Gostrom
Evans

Wsl/develop/meittinis property

Address	**Deadend/ through road**	**Road width**	**Boarding**	**Riding stable and number of lessons**	**Vet**	**Protest-ants?**	**Other**
Manorvale Farm, Foxhall Farm Road	Deadend	10', but the "road" is a private drive off Rolling Road; the driveway accesses the farm and one other residence	yes	no	no	no	"Foxhall Farm Road" is identified by a handmade sign. Not a County road.
Airy Hills Farm, Rices Lane	Deadend	19'3" narrowing to 13' at end; also private lane to farm and one other property	yes	no	no	no	

Address	**Deadend/ through road**	**Road width**	**Boarding**	**Riding stable and number of lessons**	**Vet**	**Protest-ants**	**Other**
The Stable, Ridge Road	Through	16'9" with double yellow line	yes	no	no	no	
Dunroman Stables, Hart Road	Deadend	16'	yes	no	no	no	Activity appears to have ceased
Black Rock Road	Through	28'					No infor-mation available - matter on appeal
Mt. Zion Road	Through	23' with double yellow line	yes	no	no	no	
Evna Road	Through	22'	yes	Cannot determine from file	no	no	

Address	**Deadend/ through road**	**Road Width**	**Boarding**	**Riding stable and number of lessons**	**Vet**	**Protest-ants**	**Other**
Sharon Road	Deadend	16'3 to 28'	no	yes	no	no	Only five horses; thera-peutic riding
Renais-sance Farm, Price-ville Road	Through	33" at top of road, 19' at property; wide shoulder on both	yes	20	no	2	Subject is first house off Belfast; abutting neighbors and others in area supported exception

Address	**Deadend/ through road**	**Road Width**	**Boarding**	**Riding Stable and number of lessons**	**Vet**	**Protest-ants**	**Other**
Schroeder Avenue	Deadend	19' widening to 25' after subject property	yes	cannot determine from file	no	no	Right off Belair Road
Miller's Lane, Rendez-vous Farm	Deadend	13'3" to 16"6"	yes	10	no	numerous (file did not reflect exact number)	Sole income; continued neighbor-hood con-flict re special exception uses
Brieden-baugh Lane	Deadend	12'6" (narrower at spots); unpaved private drive; not owned by County	yes	no	no	yes (3)	Private drive off Manor Road; special exception also for farm machinery sales.

Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Respondents

Civil Citation No. 00-7156

2311 Tracey's Road

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

Leonard Wasilewski, code enforcement inspector, stated that the County received a complaint concerning the use of the property The property was inspected on 11 July and 25 July 2000 and the inspectors met with the Respondents concerning a complaint of giving riding lessons. The inspectors instructed the complainants to keep a log of activities on the subject property. The log was delivered to Mr. Wasilewski.

On 19 September 2000, the inspector issued a written correction notice pursuant to §1-7(c), Baltimore County Code, which described with particularity the nature of the violation and the manner of correction. The correction notice was marked in evidence as PEx3 and was served on the Respondents The correction notice recited the following violations under the Baltimore County Zoning Regulations:

(1) Cease the operation of a business from a residence that goes beyond the zoning definition of a home occupation. Sect. 1A01.2.B.9.c: 101

(2) Cease the operation of a riding stable without a special exception. Sect. 1A0 1 2.c.21; 101

On 8 November 2000, pursuant to §1-7(d), Baltimore County Code, a code enforcement citation was issued. The citation was marked as PEx4 and was legally served on the Respondents through their attorney

The citation described the violations as follows. Baltimore County Zoning Regulations, operating a business from a residence, §1A01 1.2.B.9.C; 101 (home occupation), operating a riding stable without a special exception, §1A01.2.C.21; §101, (riding stable). Further, the citation proposed a civil penalty of $20,000 to be assessed. A code enforcement hearing date was scheduled for 24 January 2001.

Nicholas L. Meittinis and Stephanie Meittinis, Respondents, appeared for the hearing and testified.

Stuart D. Kaplow, Esquire, appeared on behalf of the Respondents

The following Complainants appeared and testified. Rustin and Debbie Price, 2315 Tracey's Road, Sparks, Maryland, and Joseph and Nedda Evans, 2224 Tracey's Road, Sparks, Maryland.

Bruce E. Doak, a land surveyor with Gerhold, Cross and Etzel, appeared and testified.

Leonard Wasilewski, code enforcement inspector, also testified

Testimony and evidence presented shows that the Respondents own a 41+ acre parcel of land with improvements zoned RC2, as shown on a plat of land dated 23 January 2001, and marked in evidence as Resp.Ex 1 The Respondents built a pole barn for horses containing 6200 sq. ft on their property. In addition they built a riding ring.

The Meittinis' land is entered from Tracey's Road, a country road that is access to the Complainants' property also. The Complainants complain about the traffic created by the parents bringing their children to and from Respondents' property. Nedda Evans and Debbie Price related the activity of the vehicles bringing the young children to ride the ponies. The women kept a log of the pony riding activity on the Meittinis property and the vehicles that came to the subject property

The log was marked into evidence as PEx6 and a list of the names of the owners of the vehicles were marked into evidence as PEx7.

The women described how the children were dropped off and subsequently they saw the children riding the ponies under the watchful eye of Mrs. Meittinis Mrs Price described the actions of Mrs. Meittinis during these riding sessions as someone who is instructing the children. Mrs. Price took photographs of the horseback riding activity dating from July 2000 through the end of August 2000, marked PEx5. She also recorded on video the horseback riding activity on the Meittinis property, which was marked in evidence as PEx8. The photographs and the video show Mrs. Meittinis supervising the young people riding the ponies and gesturing to them in an instructive manner. Mrs. Evans said she spoke to one of the young children riding in the front meadow and the young girl said they were taking riding lessons.

It was shown that Mrs. Meittinis was giving horseback riding instruction for a fee at one time prior to her living at the Tracey's Road property. Mrs Meittinis said some of the same children are now riding at the subject property but she testified they are not paying now She said that some of the children are providing services such as baby sitting, maintaining the barn area, and riding the ponies Mrs. Meittinis said that the children were riding the ponies to exercise the ponies and to get them ready for horse shows

Mrs. Meittinis testified that she did not board horses, but later qualified that to say that she was boarding a pony belonging to Kiley Wright Mrs. Evans said that the Wright child is the only one that rides that pony. She also said that another child rides a black pony. She said that no other child rides that pony Mr Meittinis, a veterinarian, testified that he is boarding some racehorses as part of a program to rest the horses The Respondents denied that they were operating a business from their residence. Mrs. Meittinis stated that she receives no money from the young people who ride her ponies.

Mr. Doak, who said he is qualified to speak on zoning issues as a land surveyor and who has testified in numerous land use cases, testified that his examination of the property did not reveal any zoning violations.

From the testimony and evidence presented I believe the Respondents are operating a business from the subject property by instructing young people how to ride That this instruction goes beyond the definition of Home Occupation, which requires the home occupation to occur in the dwelling. The Respondents are also boarding horses on the property. Mr. Meittinis is a veterinarian and by his own statement he is operating a veterinarium as defined in the zoning regulations. All of these activities require special zoning approvals after public hearing before the Zoning Commissioner. None of these activities are permitted as of right.

The Respondents' activities as they described them do not fall within the definition of "Home Occupation" as contained in §101, BCZR. These activities go well beyond that which could reasonably be considered "incidental" to the main use of the dwelling. The testimony and evidence presented clearly exhibit in their totality that the training and teaching horse riding skills to children are not customarily considered to be domestic functions. See Zoning Commissioner Policy Manual, p.1-18. The Respondents' activities are neither similar to or related to domestic function contemplated by the Baltimore County zoning regulations or the Zoning Commissioner's policy manual, such as sewing or cooking.

While there was no direct testimony presented that money changed hands, certainly the quid pro quo as described by the Respondents themselves at the very least constitutes remuneration as that term is contemplated in the definition of "riding stable", i.e., "A building where riding horses are boarded or kept for hire." §101, BCZR. The Respondents' own testimony belies their argument that their self-described activities do not constitute a "business".

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: August 6, 2001

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 553 (01-530-X)
Legal Owner/Petitioner: Stephanie S. & Nicholas Meittinis
Property Address: 2311 Tracey's Road
Location Description: SE/S Tracey's, SE centerline Yeoho Road

VIOLATION INFORMATION: **Case No.: 00-5193 and ~~00-4156~~**
Defendants: Stephanie S. & Nicholas Meittinis

Please be advised that the aforementioned petition is the subject of an active violation case. **When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:**

NAME	ADDRESS
Joe and Nedda Evans	**2224 Tracey's Road** **Sparks, Maryland 21152**
Debbie Price	**2315 Tracey's Road** **Sparks, Maryland 21152**

In addition, please find attached a duplicate copy of the pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office.

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/hek

c: Code Enforcement Officer Leonard Wasilewski

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: August 10, 2001

TO: Larry Schmidt
Zoning Commissioner

FROM: Helene Kehring
Division of Code Inspections & Enforcement
X8092

SUBJECT: Item No.: 01-530X
Special Exception to allow a riding stable and equine veterinarian

Property Address: 2311 Tracey's Road

VIOLATION INFORMATION: **Case No.: 00-7156**
Defendants: Stephanie S. and Nicholas Meittinis

Please let me know if you will need the entire package on the appeal sent to the Board of Appeals, the newspaper clippings, and the video tape (without sound) of the operation of the riding stable and equine veterinarian.

Thank you.

Case Entry/Update
Format . . . . : CASREC

Mode . . . . : CHANGE
File . . . . : PDLV0001

Dt Rec: 9182000 Intake: RSW Act: Case #: 00-7156
Insp: WASILEWSKI, L Insp Grp: ENF Insp Area: 11 Tax Acct: 523050577
Address: 2311 TRACEY'S RD Apt #: Zip: 21152
Problem Descript.: BFR (RIDING LESSONS), BOARDING OF AT LEASE 1 HORSE, OPERATIO
N OF RIDING STABLE(PEOPLE COME FOR LESSONS & RIDE THE HORSES), SEE RICK FOR INFO
OWNERS - NICHOLAS & STEPHANIE MEITTINIS, SPARKS MD 21152, RC2

Complainant Name (Last): PRICE (First): DEBBIE
Complainant Addr: NEDDA & JOE EVANS
Complainant City: 2315 TRACEY'S RD State: Zip:
Complainant Phone (H): 4107714660 (W): 4107714754
Date of Reinspection: 7262001 Date Closed: Delete Code (P):

F3=Exit F5=Refresh F6=Select format
F9=Insert F10=Entry F11=Change

Case Entry/Update
Format . . . . : CASREC

Mode . . . . : CHANGE
File . . . . : PDLV0001

Notes: 9/19/00ISSUED CORRECTION NOTICE FOR 1. BUSINESS FROM A RESIDENCE THAT GO ES BEYOND THE DEFINITION OF "HOME OCCUPATION" AND FOR 2. OPERATING ON RIDING STA BLE W/O A SPECIAL EXCEPTION. NO INSPECTION MADE, SEE COMM. ACT. LOG.. P/U 10/30(L.W)*** ***10/31/00 CALLED COMPL. TO MADE AN APPT. TO MEET HER @ 2PM 11/1 TO PICK UP HER LOG.P/U 11/15(L.W)** *** 11/16/00 SERVIED CITAT ION TO STUART KATLOW-ATTORNEY FOR THE MEITTINIS'S # 339-3910. CITATION ISSUED - HEARING 1/24/00 9:00 AM, COMPL WILL RECIEVE COPY OF CITATION P/U 1/21/01(L.W)*** ***1/23/01, MET W/COMPL'S ON 1/22/01 TO DISCUSS CASE ON 1/24/01, P/U 1/2 7/01 FOR ORDER, (L.W)*** *** 1/29/01, NO ORDERYET, WILL RECHECK FOR ORDER ON 2/3/01, (L.W) ***2/5/01, RECHECK FOR ORDER, P/U 2/8/01(L.W)*** *** 2/9/01 CHECK FOR ORDER. P/U 2/15/01(L.W)*** **2/14/01 ORDER ISSUED, DEF. FOUND GUILTY, $3000. FINE. P/U ON 3/14 TO CHECK FO R APPEAL(L.W)*** ***/14/01-NEW ORDER ISSUED/AMENDED. FINE REDUCED TO $1500. 00 AND DEFENDANT HAS 60 DAYS TO FILE FOR SPECIAL EXCEPTION. CALLED COMP. P/U 5/1 4/01. (LW)**** ***3/28/01- APPEAL FILED BY STUART D KAPLOW, ESQUIRE, ON BEHALF OF STEPHANIE AND NICHOLAS ME ITTINIS. (SCJ)****

F3=Exit
F5=Refresh
F6=Select format
F9=Insert
F10=Entry
F11=Change

Case Entry/Update
Format . . . . : CASREC

Mode . . . . : CHANGE
File . . . . : PDLV0001

Notes 2: **4/5/01-APPEAL COMPLETED AND TAKEN TO THE BOARD OF APPEALS. (SCJ)***
4/5/01-NOTICE OF ASSIGNMENT RECEIVED FROM THE BOARD OF APPEALS. HEARING IS SCHEDULED FOR 5/10/01 AT 1 PM. (SCJ)*
*********LEN-AFTER BOA HEARING, P/U NEEDS TO BE CHANGED BACK TO 5/14/01 TO FILE FOR SPECIAL EXCEPTION HEARING (SCJ)***
5/10/01-NOTICE FROM COUNTY BOARD OF APPEALS. DELIBERATION HAS BEEN SCHEDULED FOR 5/15/01 AT 9:30 AM. (SCJ)
05/11/01 CHECK FOR APPEAL ORDER. LW/JF*
5/22/01-OPINION FROM COUNTY BOARD OF APPEALS-"ORDERED THAT THIS MATTER BE REMANDED TO THE HEARING OFFICER..." (SCJ)*
06/12/01 STILL ON APPEAL. LW/JF.
7/16/01 BOARD AFFERMED HEARING OFFICER. WRITTEN OPINION WILL GO OUT . 7/26/01 OR BEFORE. P/U ON 7/26/01 (J.R/SS)**

F3=Exit
F5=Refresh
F6=Select format
F9=Insert
F10=Entry
F11=Change

Code Enforcement - Daily Worksheet

Inspector - _____

Area	Case #	Location	Apt	Zip	Date Rec	Reinsp Dt
011	00-7156	2311 TRACEY'S RD		21152	9/18/2000	5/09/2001

Tax Acct #: 0523050577

Complainant Name: (Last) PRICE (First) DEBBIE
Addr: NEDDA & JOE EVANS
Str # Dir Street Name Type Apt
2315 TRACEY'S RD
City ST Zip
Phone: (Home) 410/771-4660 (Work) 410/771-4754

Problem: BFR (RIDING LESSONS), BOARDING OF AT LEASE 1 HORSE, OPERATIO N OF RIDING STABLE(PEOPLE COME FOR LESSONS & RIDE THE HORSES), SEE RICK FOR INFOOWNERS - NICHOLAS & STEPHANIE MEITTINIS, SPARKS MD 21152, RC2

Notes:

00-7156 2311 TRACEY'S RD
9/19 ISSUED CORRECTION NOTICE FOR 1. BUSINESS FR OM A RESIDENCE THAT GOES BEYOND THE DEFINITION OF "HOME OCCU PATION" AND FOR 2. OPERATING ON RIDING STABLE W/O A SPECIAL EXCEPTION. NO INSPECTION MADE, SEE COMM. ACT. LOG.. P/U 10/3 0(L.W).10/31CALLED COMPL. TO MADE AN APPT. TO MEET HER @ 2PM 11/1 TO PICK UP HER LOG. P/U 11/15(L.W)** 11/16 SERVIED C ITATION TO STUART KATLOW-ATTORNEY FOR THE MEITTINIS'S PHONE# 339-3910. CITATION ISSUED - HEARING 1/24/00 9:00 AM, COMPL WILL RECIEVECOPY OF CITATION P/U 1/21/01(L.W). ***1/23/01, MET W/COMPL'S ON 1/22/01 TO DISCUSS CASE ON 1/24/01, P/U 1/ 27/01 FOR ORDER, L WASILEWSKI. ***1/29/01, NO ORDERYET, WIL L RECHECK FOR ORDER ON 2/3/01, L WASILEWSKI. ***2/5/01, RE CHECK FOR ORDER, P/U 2/8/01, L WASILEWSKI. *** 2/9/01 CHEC K FOR ORDER. P/U 2/15/01(L.W) **2/14/01 ORDER ISSUED, DEFEND ANTS FOUND GUILTY, $3000. FINE. P/U ON 3/14 TO CHECK FOR APP EAL(L.W) **3/14/01-NEW ORDER ISSUED/AMENDED. FINE REDUCED TO $1500.00 AND DEFENDANT HAS 60 DAYS TO FILE FOR SPECIAL EX CEPTION. CALLED COMP. P/U 5/14/01. (LW)

***3/28/ 01-APPEAL FILED BY STUART D KAPLOW, ESQUIRE, ON BEHALF OF ST EPHANIE AND NICHOLAS MEITTINIS. (SCJ)

se # 00-7156 CONTINUED

**4/5/01-APPEAL COMPLETED AND TAKEN TO THE BOARD OF APPEALS. (SCJ) **4/5/01-NOTICE OF ASSIGNMENT RECEIVED FROM THE BOARD OF APPEALS. HEARING IS SCHEDULED FOR 5/10/01 AT 1 PM. (SCJ)
*********L
EN-AFTER BOA HEARING, P/U NEEDS TO BE CHANGED BACK TO 5/14/01 TO FILE FOR SPECIAL EXCEPTION HEARING (SCJ)

01-530-X
P.
9/10
Sem
9/2

June 14, 2001

JUN | 9

Commissioner Of Zoning
Baltimore County, Maryland

Dear Commissioner,

Recently, we were asked by our new neighbors at 5315 Hydes Road to write to you in support of their plans to aquire a zoning exemption in order to allow them to operate a riding stable for handicap children. Attached you will find a copy of the information that was provided to us. Our property is directly adjacent to the area that the riding ring would be located.

While we support their opportunity to serve the community while utilizing their property, we are concerned that we may be overwhelmed by a sudden increase of activity and traffic. Therefor, we would be more receptive to a limit of three morning students and three afternoon students during the weekday hours of 9AM to 4PM instead of the six students per session that they are requesting. We have no problem with the boarding of up to twelve horses.

We are not very familiar with the meaning of different zoning variences, so we are counting on your prudent judgement in this matter. Thank you for your considerations.

Sincerely,

Doug Widner

Sharon Widner

Doug Widner
Sharon Widner
5309 Hydes Road
Hydes, Maryland 21082

Charlotte Pine, President
Long Green Valley Association
May 20, 2001

Dear Charlotte:

We are soliciting the support of the Long Green Valley Association for the granting of a special zoning exception for riding instruction to Dream's End, L.L.C. located at 5315 Hydes Road. The mission, purposes, and objectives for Dream's End are listed below followed by our intentions for instituting our riding program.

Mission:

To enable people with special needs to experience freedom of movement, empowerment, and joy through riding.

Purposes:

- To engage in the business of providing specialized therapy to a broad base of the disabled community.

- To promote the rehabilitation of individuals with physical, emotional and learning disabilities through equine-facilitated activities including therapeutic exercises on horseback, riding instruction, and recreational and occupational therapies.

Objectives:

- To encourage clients to continue hobbies and outside activities and to lead full and active lives within their communities.

- To be familiar with and observe sound health and safety policies.

- To provide individual care for each client making sure they retain as much dignity and individuality as possible.

Intentions:

- Six horses for our riding program with no more than 12 horses total. This complies with zoning which allows one horse per acre of grazing.

- 120' x 80' riding ring located in the field behind the house and protected from view by multiple trees. This ring will have a 4-4 ½' board fence and will **not** have floodlights.

- Ramp inside the back area for wheelchair access to horses.

- Limited hours of operation and number of students. We expect to offer instruction Monday through Friday in the mornings from 9:00 a.m. to 12:00 p.m. and in the afternoons from 1:00 p.m. to 4:00 p.m. to no more than six students with special needs per session. These are the **maximum** days and hours projected for our riding program.

- Maximum number of vehicles transporting students coinciding with the above number of students per session.

There are few, if any, riding programs in Baltimore County for people with special needs. Such a program not only provides a needed service to the community, but also continues a long tradition in Long Green Valley for excellence in equestrian activities. It is our intention to provide a very private facility and program to a small number of students to ensure their focus, success, and personal growth. We hope your association will support us in this endeavor.

Sincerely,

County Board of Appeals of Baltimore County

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

July 25, 2001

Stuart D. Kaplow, Esquire
STUART D. KAPLOW, P.A.
15 East Chesapeake Avenue
Towson, MD 21286-5306

RE: *In the Matter of: Nicholas L and Stephanie S. Meittinis,*
- Property Owners /Case No. CC-00-7156 /Final Order

Dear Mr. Kaplow:

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,

Charlotte E. Radcliffe for

Kathleen C. Bianco
Administrator

Enclosure

c: Nicholas and Stephanie Meittinis
Debbie & Rustin Price
Nadda & Josph Evans
Alfred W. Bary
Bruce E. Doak /Gerhold Cross & Etzel
Baltimore County Council /3rd District
Lawrence E. Schmidt /Zoning Commissioner
Stanley J. Schapiro, Code Official /Hearing Officer
Leonard Wasliewski, Inspector /PDM
Arnold Jablon, Director /PDM
C. Robert Loskot, Assistant County Attorney

bc: Helene Kehring

IN THE MATTER OF	*	BEFORE
NICHOLAS L. AND STEPHANIE S. MEITTINIS –LEGAL OWNERS	*	COUNTY BOARD OF APPEALS
2311 TRACEY'S ROAD		
5TH ELECTION DISTRICT	*	OF
3RD COUNCILMANIC DISTRICT		
	*	BALTIMORE COUNTY
RE: CODE INSPECTIONS AND ENFORCEMENT VIOLATION / CIVIL CITATION	*	CASE NO.: CC-00-7156

* * * * * * * * * *

FEB – 7

OPINION

This case comes to the Board of Appeals on appeal of the Hearing Officer's Amended Order dated March 13, 2001 in which he determined that "the Respondents shall cease and desist the operation of a riding stable on residential property, zoned RC-2, immediately"; that the Order "is not intended to limit the operation of a horse farm otherwise legally operating from the subject property"; that a "civil penalty be imposed in the amount of $3,000"; and that the civil penalty "shall be reduced to $1,500" should the Respondents "file a petition for special hearing within 60 days" of the Hearing Officer's Amended Order.

The Board of Appeals heard argument on May 10, 2001. Stuart D. Kaplow, Esquire, represented the Respondents/Appellants, Nicholas and Stephanie Meittinis. C. Robert Loskot, Assistant County Attorney, appeared on behalf of Baltimore County. The Board of Appeals publicly deliberated the matter on May 15, 2001.

In that deliberation the Board found issue with one of five errors of procedure raised in Mr. Kaplow's argument. The first four items were addressed and found to be without substance, as set forth in this Board's remand order dated May 22, 2001. As to the fifth and final item raised on appeal, it is the Appellants' contention that, under § 404.12 of the *Baltimore County Zoning Regulations,* "All zoning violation cases concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review. The Director of Permits and Development Management shall allow the Board a

maximum of 30 days, before taken action, to comment on an alleged violation. [Bill Nos. 51-1993; 74-1999]" The Board found no evidence to indicate compliance with § 404.12. The Board then applied the standard of review as set out in *Baltimore County Code* Section 1-7(g)(6), which states in pertinent part:

> In a proceeding under this section, the board may:
>
> (a) Remand the case to the code official;
>
> (b) Affirm the final order of the code official; or
>
> (c) Reverse or modify the final order if a finding, conclusion, or decision of the code official:
>
> (i) Exceeds the statutory authority or jurisdiction of the code official;
>
> (ii) Results from an unlawful procedure;
>
> (iii) Is affected by any other error of law;
>
> (iv) Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
>
> (v) Is arbitrary or capricious.

On May 22, 2001, the Board remanded this case to the Hearing Officer, pursuant to Section 1-7(g)(6)(a.), for clarification regarding § 404.12 of the *Baltimore County Zoning Regulations*.

On May 25, 2001, the Hearing Officer issued a supplemental opinion responding to the remand from the Board of Appeals. In that opinion Stanley J. Schapiro, as the Code Enforcement Hearing Officer, stated that § 404.12 of the BCZR requires that all "zoning violations cases concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review." Further, he found that the "issue before the Hearing Officer did not include commercial agricultural

operations as defined in the BCZR." The definition of "commercial agricultural," as defined in § 101 of the BCZR, "does not include a riding stable, which is excluded in the definition of 'farm' in § 101, BCZR. The Hearing Officer also stated in his Opinion that the issue before him at hearing "was whether the Meittinises were operating a riding stable, which requires a special exception in an RC2 zone. The testimony and evidence in the case showed that they were operating a riding stable in an RC2 zone without the benefit of a special exception."

The Board reopened the case on July 11, 2001 at which time additional argument was received from counsel. In brief, Mr. Kaplow and Mr. Loskot reiterated their prior arguments of May 10, 2001. At the conclusion of argument and after a brief recess, the Board reconvened for public deliberation.

From Mr. Schapiro's Opinion on remand, it is the Board's understanding that Mr. Schapiro's interpretation of the regulations is that the zoning violation must be a violation concerning commercial agricultural operations as defined in the BCZR in order for § 404.12 to be applicable. While this Board may have interpreted this regulation differently in a *de novo* proceeding, the Board cannot substitute its judgement for the expertise of those persons who constitute the administrative agency, pursuant to the standard of review set forth in § 1-7(g)(6) of the BCC. Further, this standard of review was defined by Judge Paul Hammond, later Chief Judge, in *Snowden v. the City of Baltimore*, 224 Md. 443, 448 (1961):

> Judicial function in appeals from an administrative agency is well established and defined. The court will correct illegal actions and those which are arbitrary and unreasonable because they are not based on substantial evidence, but it will not substitute its own independent judgement or its own judgement on the facts for those of the agency by which the carrying out of state policy has been delegated.
>
> ***the heart of the fact finding process is often the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences are reasonably to be drawn from the factual

> evidence. "The Court may not substitute its judgement on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness." ***It may be (although we do not so say) that we would have drawn different inferences or conclusions from the evidence, or that we think the Board's action to have been unfortunate or erroneous, but it is the judgement of the Board, not ours, which controls if reasonable men could have done as the Board did, or as has been said, the test is reasonableness, not rightness."

Therefore, based upon a complete review of the record as submitted, the argument received at hearing, and the orders issued by Mr. Schapiro, this Board has no alternative but to affirm the decision of the Code Enforcement Hearing Officer dated March 13, 2001 and will so order.

O R D E R

IT IS THEREFORE, this 25th day of July, 2001 by the County Board of Appeals of Baltimore County

ORDERED that the decision of the Hearing Officer dated March 13, 2001.is hereby **AFFIRMED.**

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

C. Lynn Barranger, Panel Chairman

Margaret Worrall

Richard K. Irish

IN THE MATTER OF	*	BEFORE
NICHOLAS L. AND STEPHANIE S. MEITTINIS –LEGAL OWNERS	*	COUNTY BOARD OF APPEALS
2311 TRACEY'S ROAD		
5TH ELECTION DISTRICT	*	OF
3RD COUNCILMANIC DISTRICT		
	*	BALTIMORE COUNTY
RE: CODE INSPECTIONS AND ENFORCEMENT VIOLATION / CIVIL CITATION	*	CASE NO.: CC-00-7156

* * * * * * * * * * *

AMENDED ORDER

UPON REVIEW of the July 25, 2001 Order of this Board in Case No. CC-00-7156, the following amendment is herewith issued to clarify the intent of the Board in its July 25th, 2001 final Order; and therefore

IT IS, this 22nd day of August, 2001, by the County Board of Appeals of Baltimore County,

ORDERED that the July 25, 2001 Order of the Board is hereby amended to such extent as to clarify the intent of this Board in said final Order and so that the Decision of the Hearing Officer be and is hereby **AFFIRMED**; and it is further

ORDERED that the amount of the civil penalty shall be and is reduced to $1,500.00.

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

C. Lynn Barranger

C. Lynn Barranger, Panel Chairman

Margaret Worrall

Margaret Worrall

Richard K. Irish

Richard K. Irish

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

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Respondents

Civil Citation No. 00-7156

2311 Tracey's Road

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

Leonard Wasilewski, code enforcement inspector, stated that the County received a complaint concerning the use of the property. The property was inspected on 11 July and 25 July 2000 and the inspectors met with the Respondents concerning a complaint of giving riding lessons. The inspectors instructed the complainants to keep a log of activities on the subject property. The log was delivered to Mr. Wasilewski.

On 19 September 2000, the inspector issued a written correction notice pursuant to §1-7(c), Baltimore County Code, which described with particularity the nature of the violation and the manner of correction. The correction notice was marked in evidence as PEx3 and was served on the Respondents. The correction notice recited the following violations under the Baltimore County Zoning Regulations:

(1) Cease the operation of a business from a residence that goes beyond the zoning definition of a home occupation. Sect. 1A01.2.B.9.c: 101

(2) Cease the operation of a riding stable without a special exception. Sect. 1A0.1.2.c.21; 101

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

On 8 November 2000, pursuant to §1-7(d), Baltimore County Code, a code enforcement citation was issued. The citation was marked as PEx4 and was legally served on the Respondents through their attorney.

The citation described the violations as follows: Baltimore County Zoning Regulations, operating a business from a residence, §1A01.1.2.B.9.C; 101 (home occupation), operating a riding stable without a special exception, §1A01.2.C.21; §101, (riding stable). Further, the citation proposed a civil penalty of $20,000 to be assessed. A code enforcement hearing date was scheduled for 24 January 2001.

Nicholas L. Meittinis and Stephanie Meittinis, Respondents, appeared for the hearing and testified.

Stuart D. Kaplow, Esquire, appeared on behalf of the Respondents.

The following Complainants appeared and testified: Rustin and Debbie Price, 2315 Tracey's Road, Sparks, Maryland, and Joseph and Nedda Evans, 2224 Tracey's Road, Sparks, Maryland.

Bruce E. Doak, a land surveyor with Gerhold, Cross and Etzel, appeared and testified.

Leonard Wasilewski, code enforcement inspector, also testified.

Testimony and evidence presented shows that the Respondents own a 41+ acre parcel of land with improvements zoned RC2, as shown on a plat of land dated 23 January 2001, and marked in evidence as Resp.Ex 1. The Respondents built a pole barn for horses containing 6200 sq. ft on their property. In addition they built a riding ring.

The Meittinis' land is entered from Tracey's Road, a country road that is access to the Complainants' property also. The Complainants complain about the traffic created by the parents bringing their children to and from Respondents' property. Nedda Evans and Debbie Price related the activity of the vehicles bringing the young children to ride the ponies. The women kept a log of the pony riding activity on the Meittinis property and the vehicles that came to the subject property.

The log was marked into evidence as PEx6 and a list of the names of the owners of the vehicles were marked into evidence as PEx7.

The women described how the children were dropped off and subsequently they saw the children riding the ponies under the watchful eye of Mrs. Meittinis. Mrs. Price described the actions of Mrs. Meittinis during these riding sessions as someone who is instructing the children. Mrs. Price took photographs of the horseback riding activity dating from July 2000 through the end of August 2000, marked PEx5. She also recorded on video the horseback riding activity on the Meittinis property, which was marked in evidence as PEx8. The photographs and the video show Mrs. Meittinis supervising the young people riding the ponies and gesturing to them in an instructive manner. Mrs. Evans said she spoke to one of the young children riding in the front meadow and the young girl said they were taking riding lessons.

It was shown that Mrs. Meittinis was giving horseback riding instruction for a fee at one time prior to her living at the Tracey's Road property. Mrs. Meittinis said some of the same children are now riding at the subject property but she testified they are not paying now. She said that some of the children are providing services such as baby sitting, maintaining the barn area, and riding the ponies. Mrs. Meittinis said that the children were riding the ponies to exercise the ponies and to get them ready for horse shows.

Mrs. Meittinis testified that she did not board horses, but later qualified that to say that she was boarding a pony belonging to Kiley Wright. Mrs. Evans said that the Wright child is the only one that rides that pony. She also said that another child rides a black pony. She said that no other child rides that pony. Mr. Meittinis, a veterinarian, testified that he is boarding some racehorses as part of a program to rest the horses. The Respondents denied that they were operating a business from their residence. Mrs. Meittinis stated that she receives no money from the young people who ride her ponies.

Mr. Doak, who said he is qualified to speak on zoning issues as a land surveyor and who has testified in numerous land use cases, testified that his examination of the property did not reveal any zoning violations.

From the testimony and evidence presented I believe the Respondents are operating a business from the subject property by instructing young people how to ride. That this instruction goes beyond the definition of Home Occupation, which requires the home occupation to occur in the dwelling. The Respondents are also boarding horses on the property. Mr. Meittinis is a veterinarian and by his own statement he is operating a veterinarium as defined in the zoning regulations. All of these activities require special zoning approvals after public hearing before the Zoning Commissioner. None of these activities are permitted as of right.

The Respondents' activities as they described them do not fall within the definition of "Home Occupation" as contained in §101, BCZR. These activities go well beyond that which could reasonably be considered "incidental" to the main use of the dwelling. The testimony and evidence presented clearly exhibit in their totality that the training and teaching horse riding skills to children are not customarily considered to be domestic functions. See Zoning Commissioner Policy Manual, p.1-18. The Respondents' activities are neither similar to or related to domestic function contemplated by the Baltimore County zoning regulations or the Zoning Commissioner's policy manual, such as sewing or cooking.

While there was no direct testimony presented that money changed hands, certainly the quid pro quo as described by the Respondents themselves at the very least constitutes remuneration as that term is contemplated in the definition of "riding stable", i.e., "A building where riding horses are boarded or kept for hire." §101, BCZR. The Respondents' own testimony belies their argument that their self-described activities do not constitute a "business".

The Respondents' have been utilizing their property for uses not permitted by the zoning regulations of Baltimore County. Whether as a riding stable, a veterinarium, or a boarding stable, these uses are not permitted as of right nor do any satisfy the permitted use of a home occupation. Certainly, none as defined and described by testimony and evidence presented constitute accessory uses permitted in this zone as of right.

Pursuant to the correction notice and subsequent code enforcement citation issued, and hearing held, and for the reasons set forth above, it is found as a matter of law that code violations existed from 19 September 2000.

THEREFORE IT IS ORDERED by the Code Enforcement Hearing Officer, that the Respondents' motion to dismiss is denied.

IT IS FURTHER ORDERED this 14 day of February 2001 that a civil penalty is imposed in the amount of $3000.

Signed: Stanley J. Schapiro
Stanley J. Schapiro
Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director

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

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Property Owners

Case No. CC-00-7156

2311 Tracey's Road

OPINION OF THE CODE ENFORCEMENT HEARING OFFICER

The Board of Appeals has remanded this case to the Hearing Officer for clarification and any applicable finding of fact made by the Hearing Officer regarding §404.12 of the Baltimore County Zoning Regulations. §404.12 BCZR reads as follows:

"*All zoning violation cases* concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review. The Director of Permits and Development Management shall allow the Board a maximum of 30 days, before taking action, to comment on an alleged violation." The issue before the Hearing Officer did not include commercial agricultural operations as defined in the BCZR.

Commercial agricultural is defined in §101, BCZR as follows. "The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to §8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations. " The definition does not include a riding stable, which is excluded in the definition of "farm" in §101, BCZR.

Farm is defined as "three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

Riding stable is specifically addressed in the Zoning Regulations and is not a term of art. Riding stable is defined in §101, BCZR as "A building where riding horses are boarded or kept for hire." In the RC2 zone, a riding stable requires a special exception.

At no time during the hearing was the issue a zoning violation case concerning commercial agricultural operations as defined in the BCZR. The issue at the hearing was whether the Mettinises were operating a riding stable, which requires a special exception in an RC2 zone. The testimony and evidence in the case showed that they were operating a riding stable in an RC2 zone without the benefit of a special exception.

Signed: Stanley J. Schapiro 5/25/01
Stanley J Schapiro
Code Enforcement Hearing Officer

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

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Respondents

Civil Citation No. 00-7156

2311 Tracey's Road

AMENDED FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 24 January 2001, for a hearing on a citation for violations under the Baltimore County Zoning Regulations, for operating a business and a riding stable on residential property, zoned RC-2, located at 2311 Tracey's Road.

After said hearing an Order was issued on the 14 of February 2001 imposing a civil penalty in the amount of $3000 and denying the Respondents' motion to dismiss the citation.

Thereafter, counsel for the Respondents has requested in a timely fashion a clarification of the Order in order to allow the Respondents to continue to operate their horse farm in a legal manner.

The hearing officer agrees that the original Order needs to be clarified.

THEREFORE IT IS ORDERED by the Code Enforcement Hearing Officer, this 13 day of March 2001 that the Order dated 14 February 2001 be amended as follows:

IT IS ORDERED that the Respondents' motion to dismiss is denied.

IT IS FURTHER ORDERED that the Respondents shall cease and desist the operation of a riding stable immediately. This injunction is not intended to limit the operation of a horse farm otherwise legally operating from the subject property.

IT IS FURTHER ORDERED that a civil penalty be imposed in the amount of $3000.

However, nothing in this order prohibits the operation of a horse farm at the subject property.

IT IS FURTHER ORDERED that should the Respondents file a petition for a special hearing within 60 days of the date of this order, the civil penalty shall be reduced to $1500. The special hearing should request the Zoning Commissioner to confirm and define the legal uses permitted on the subject property by right or by special exception.

Signed: Stanley J. Schapiro

Stanley J. Schapiro
Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

DE ENFORCEMENT REPOF

DATE: 9/15/00 INTAKE BY: KW CASE #: 07156 INSPEC: 11

COMPLAINT LOCATION: 2311 TRACEY'S Rd ASSIGN CASE TO KEN WASIELEWSKI

ZIP CODE: 21152 WRA DIST: 11

NEDDA + JOE EVANS 410-771-4754

COMPLAINANT NAME: Debbie Price 771-4660 PHONE #: (H) (W)

ADDRESS: ZIP CODE:

PROBLEM: Business from Residence (Riding Lessons) * Board, up to at least 4 horses. * Operation of Riding STABLE (People come for lessons and ride the horses) See Rick for information -

OWNER/TENANT INFORMATION: Nicholas and Stephanie Meiffilis <771-4620>

2311 TRACEYS Road Sparks, Md 21152

TAX ACCOUNT #: 05-23-050577 ZONING: RC2

INSPECTION: 9/19/00 Per Rick - Issued a correction notice based upon the complaint log without an inspection. They Need to file for a Special Exception for a Riding Stable. 6 10/30/00

REINSPECTION:

Ms. Nedda Evans came in to view file 10/25/00 CO

REINSPECTION:

11/1/00 Met w/ Complainant to pick up their log.

REINSPECTION: 11/6/00 Talked w/ Complainant to set a date for a trial. Called Stewart Kaplow to see if he will accept service.

DATE: 9/15/00 INTAKE BY: RGW CASE #: 00-7156 INSPEC: 13

COMPLAINT LOCATION: 2311 TRACEY'S Rd ASSIGN CASE TO LEN WASILEWSKI

ZIP CODE: 21152 AREA DIST: 11

NEDDA + JOE EVANS 410-771-4754

COMPLAINANT NAME: Debbie Price 771-4660 PHONE #: (H) (W)

ADDRESS: ZIP CODE:

PROBLEM: Business from Residence (Riding Lessons); Boarding of at least 1 horse; Operation of Riding Stable (people come for lessons and ride the horses) See Rick for information -

OWNER/TENANT INFORMATION: Nicholas and Stephanie Meittinis
2311 TRACEYS Road Sparks, Md 21152

TAX ACCOUNT #: 05-23-050577 ZONING: RC2

INSPECTION: 12/28 Stuart D. Kaplow Atty at law came in to view case file today and copied afew documents (SS.)

REINSPECTION:

REINSPECTION:

REINSPECTION:

Inspector - H.J.

rea Case #	Location	Apt	Zip	Date Rec	Reinsp Dt
11 00-7156	2311 TRACEY'S RD		21152	9/18/2000	10/30/2000

ax Acct #: 0523050577

Complainant Name: (Last) PRICE (First) DEBBIE
Addr: NEDDA & JOE EVANS
Str # Dir Street Name Type Apt
City ST Zip
Phone: (Home) 410/771-4660 (Work) 410/771-4754

AD 11-F2

Problem: BFR (RIDING LESSONS), BOARDING OF AT LEASE 1 HORSE, OPERATIO N OF RIDING STABLE(PEOPLE COME FOR LESSONS & RIDE THE HORSES), SEE RICK FOR INFOOWNERS - NICHOLAS & STEPHANIE MELTINIS SPARKS MD 21152, RC2

(Give to Lenny J.)

Notes: 00-7156 2311 TRACEY'S RD
9/19 ISSUED CORRECTION NOTICE FOR 1. BUSINESS FROM A RESIDEN CE THAT GOES BEYOND THE DEFINITION OF "HOME OCCUPATION" AND FOR 2. OPERATING ON RIDING STABLE W/O A SPECIAL EXCEPTION. N O INSPECTION MADE, SEE COMM. ACT. LOG.. P/U 10/30(L.W.)

2315 Tracey's Rd.

Called Complainant to make an appointment to Meet her @ 2pm 11/1/00. to pick up his log

f/u 11/5/00.

3

Ba. . County
Department of Permits and
Development Management

Code Inspectio- ..d Enforcement
County Office ling
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER,TENANT, AS APPLICABLE

	Property No.	Zoning:
00-7156	0523050577	RC-2

Name(s): Nicholas L. And Stephanie S Mettings

Address: 2311 Tracey's Rd
Sparks, Md 21152-9549

Violation Location: 2311 Tracey's Rd. 21152

Violation Dates: 9/19/00 thru 11/7/00

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

Baltimore County Zoning Regulations
1) Operating a business from a Residence Sec. 1A01.F.2.B.9.C; 101 (Home Occupation)
2) Operating a Riding Stable without a Special Exception. Sec 1A01.2.C.21; 101 (Riding Stable)

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 20,000.00 ex

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 1/24/00 Time: 9 AM.

Citation must be served by: Date: 11/23/00

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Wasilewski

11/8/00 Wasilewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:

Citation/Case No.: 00 7156 CO

Address:

Plaintiff's Exhibit 4

Date Defendant's Signature

ABE OY

PDLV0102F Permits & Development - Livability System

View Cases

Case No: 00-7156

Address: 02311 TRACEYS RD 21152
Cmd No: 011 District: 000 Date Rcv: 9/18/2000 Grp: ENF Intk: RSW
Inspec: WASILEWSKI, L Inspec2: Date Inspec: 4/20/2004
Close: 0/00/0000 Activity: Delete:

Problem: BFR (RIDING LESSONS), BOARDING AT LEASE 1 HORSE, OPERATION OF RIDING STABLE(PEOPLE COME FOR LESSONS & RIDE THE HORSES), SEE RICK FOR INFO OWNERS - NICHOLAS & STEPHANIE MEITTINIS, SPARKS MD 21152, RC2 MAP 11F2

CL Name: PRICE DEBBIE
CL Address: 00000 NEDDA & JOE EVANS
2315 TRACEY'S RD
CL Home Phone: 410-771-4660 CL Work Phone: 410-771-4754 Tax Acct. 0523050577

Enter=Continue F12=Cancel

PDLV0103F Permits & Development - Livability System

View Cases

Case No: 00-7156

Notes: 00-7156 PAGE 5****
*****03/25/02 RECEIVED FINDINGS OF FACT AND CONCLUSION OF LAW DATED 03/22/02 ORDERED BY ZONING COMMISSIONER, SPECIAL EXCEPTION TO APPROVE AN EQUINE VETERINARIAN IS GRANTED WITH CONDITIONS AND RESTRICTIONS (SEE FILE). SPECIAL EXCEPTION TO APPROVE RIDING STABLE IS DENIED. ANY APPEAL MUST BE MADE WITHIN 30 DAYS. GAVE TO LW.P/U FOR 04/25/02. LRS*****
****3/28/02, CHECK FOR APPROVAL, P/U 4/29/02, UPDATE NOT NECESSARY, P/U 4/25/02 ,LW/CO****
****4/26/02, PER TIM KOTROCO, BOTH PARTIES APPEALED HIS ORDER, P/U 7/26/02 TO CHECK FOR NEW ORDER, COMPL UPDATED BY VOICE MESSAGE, GIVE TO LENNY, LW/CO****
****05/15/02 RECEIVED NOTICE OF APPEAL FROM GZAHNER. GAVE TO JHT. LRS***
****7/29/02, CASE STILL IN APPEALS, ZONING CASE # 01-530-X, RECHECK FOR ORDER 8/29/02, UPDATE NOT NECESSARY, LW/CO****
8/26/02 REC'D NOTICE OF ASSIGNMENT FROM BOA. CASE#01-530-X SET FOR TUESDAY, DECEMBER 3, 2002 AT 10 A.M. GAVE TO JHT. /HEK
8/30/02 P/U ON 12/3/02 TO CHECK IF FINAL APPEALS WENT FORWARD. UPDATE NOT NECESSARY. (L.W/SS)**

Enter=Continue F12=Cancel

PDLV0104F Permits & Development - Livability System

View Cases

Case No: 00-7156

Notes: ***11/04/02 REC'D NOTICE OF POSTPONEMENT REASSIGNED FOR 03/25/03 AT 10 AM. GAVE TO JHT. P/U 04/25/03 FOR DECISION. LRS***
****11/22/02 REC'D REVISED NOTICE OF ASSIGNMENT. ASSIGNED FOR 03-25-03 10AM DAY# 1, 03-26-03 10AM DAY 2, 04/08/03 10AM DAY 3. GAVE TO JHT. P/U 05/08/03 FOR D ECISION. LRS***
03/28/03 REC'D NOTICE OF ASSIGNMENT. SCHEDULED 04/08/03 10 AM, 04/16/03 AT 9 AM, 04/29/03 AT 10AM. GAVE TO JHT. LRS
05/09/03 P/U 09/20/03 TO SEE IF BOARD OF APPEALS HAS MADE RULING. HEARING D ATE #6 IS SET FOR 07/03/03 & #7 IS SET FOR 08/20/03. JHT/LRS*
07/08/03 REC'D NOTICE OF POSTPONEMENT. DAY # 6 08/20/03 AT 10AM, DAY #7 0 9/18/03 AT 10AM. GAVE TO LW. LRS*
09/22/03 REC'D NPTOCE OF POSTPONEMENT DAY # 6 SCHEDULED FOR 01/15/04 AT 1 0AM, DAY #7 01/20/04 AT 10 AM. GAVE TO LW. LRS
9/23/03 NOT A HURRICANE PRIORITY. P/U ON 9/30/03. (J.S/SS)**
*10/01/03 P/U 02/15/04 FOR APPEAL ORDER. LW/LRS***
3/8/04, P/U 4/20/04 TO CHECK FOR PUBLIC DECISION FROM COURT OF APPEALS, C OMPL UPDATED, LW/CO*

Enter=Continue F12=Cancel

DATE: 01/09/2001 GENERAL PERMIT APPLICATION DATA FDM 12:30:43

PERMIT #: B385782
RECEIPT #: A389522
CONTROL #: MR
XREF #: B385782

FEE: 65.00
PAID: 65.00
PAID BY: APPL

DATES
APPLIED: 07/23/1999
ISSUED: 08/16/1999
OCCPNCY:

INSPECTOR: 05B
NOTES: JB/TLM

PROPERTY ADDRESS
2311 TRACEYS RD
SUBDIV: 1500 FT W OF YEOHO RD
TAX ACCOUNT #: 0523050577 DISTRICT/PRECINCT 05 01

OWNERS INFORMATION (LAST, FIRST)
NAME: MEITTINIS, NICHOLAS & STEPHANIE
ADDR: 2311 TRACEYS ROAD

APPLICANT INFORMATION
NAME: JOHN ALECCI-AGENT
COMPANY:
ADDR1: 2311 TRACEYS ROAD
ADDR2: SPARKS MD 21152
PHONE #: 410-365-4258 LICENSE #:

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M
TIME: 11:27:33 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 07/23/1999
DATE: 01/09/2001 BUILDING DETAIL 1 PLR 15:33:47

PERMIT # B385782
BUILDING CODE: 1
IMPRV 1
USE 07 POLE BARN

FOUNDATION BASE
CONSTRUC FUEL SEWAGE WATER
2 2E 2E
CENTRAL AIR
ESTIMATED COST
60,000.00
OWNERSHIP: 1
RESIDENTIAL CAT. 1
#EFF: #1BED: #2BED: #3BED: 101 BED: 101 APTS.
1 FAMILY BEDROOMS:

DRC#
PLANS: CONST 00 PLOT 1 PLAT 0 DATA 0 EL 1 PL 1

TENANT
CONTR: OWNER
ENGNR:
SELLR:

WORK: CONSTRUCT POLE BARN FOR HORSES W/POWDER ROOM
ON FRONT OF PROPERTY.60'X134'X22'6"=6264SF.
OK TO WAIVE PLANS PER PH.
BARN FOR FARM USE ONLY.

PROPOSED USE: SFD/FARM & POLE BARN
EXISTING USE. SFD/FARM

PASSWORD.

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1005M
TIME: 11:27:38 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 07/23/1999
DATE: 01/09/2001 BUILDING DETAIL 2 PLR 15:33:47

PERMIT #: B385782

GARBAGE DISP:
POWDER ROOMS:
BATHROOMS:
KITCHENS:

ZONING INFORMATION
DISTRICT:
PETITION:
DATE.

BUILDING SIZE
FLOOR: 6264
WIDTH: 60'
DEPTH: 134'
HEIGHT: 22'6"
STORIES: 1

LOT NOS:
CORNER LOT:

BLOCK:
SECTION:
LIBER. 000

LOT SIZE AND SETBACKS
SIZE: 41.810AC
FRONT STREET
SIDE STREET:
FRONT SETB. 378'
SIDE SETB: 500/500
SIDE STR SETB:
REAR SETB: 500+

ASSESSMENTS
LAND: 005/140.00
IMPROVEMENTS 035/790.00
TOTAL ASS.

TOWSON, MARYLAND 21204

3385787
C-31522

PROPERTY ADDRESS 231 Towers Rd
SUBDIV
TAX ACCOUNT #: 0626005 77
OWNER'S INFORMATION (LAST, FIRST)
NAME: Mathews Nicholas + Theodora
ADDR: 231 Towers Rd

APPLICANT INFORMATION
NAME: [redacted] Tech Alterations
COMPANY:
STREET 221 Towers Rd
CITY,ST,ZIP Sp 21152
PHONE #: 410 [redacted]
APPLICANT SIGNATURE:
PLANS: CONST 2 TI EA MCA
TENANT
CONTR: [redacted]
ENGNR:
SELLR:

DESCRIBE PROPOSED WORK:
Four Tier Deck [redacted] w/Privacy Screen
6'6" x 13'4" x 22'6" = 624 SF.
Environtr Zoning has copy of Site Plan
OK to waive Plan

NON-RESIDENTIAL
08. ___AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09 ___CHURCH, OTHER RELIGIOUS BLDG (CONST.
10 ___FENCE (LENGTH ___HEIGHT ___)
11 ___INDUSTRIAL, STORAGE BUILDING
12. ___PARKING GARAGE
13. ___SERVICE STATION, REPAIR GARAGE
14. ___HOSPITAL, INSTITUTIONAL, NURSING
15. ___OFFICE, BANK, PROFESSIONAL
16. ___PUBLIC UTILITY
17. ___SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. ___SIGN
19. ___STORE ___MERCANTILE ___SPECIFY TYPE
20. ___SWIMMING POOL ___SPECIFY TYPE
21. ___TANK, TOWER
22. ___TRANSIENT HOTEL, MOTEL (NO. OF UNITS)
24 ___OTHER

RESIDENTIAL
___APT (___ UNITS)
___ONE FAMILY
___TWO FAMILY
___THREE AND FOUR FAMILY
___FIVE OR MORE FAMILY (___ UNITS)
___POOL

BASEMENT
1. ___FULL
2. ___PARTIAL
3. ___NONE

CONSTRUCTION
___FRAME
___STEEL
___CONCRETE

1. ___ 2. ___
___$ (COST)
___MAT. AND LABOR

TYPE OF HEATING FUEL
1. ___GAS 3. ___ELECTRICITY
2. ___OIL 4. ___COAL

TYPE OF WATER SUPPLY
1. ___PUBLIC SYSTEM ___EXISTS ___PROPOSED
2. ___PRIVATE SYSTEM ___EXISTS ___PROPOSED

TYPE OF SEWAGE DISPOSAL
1. ___PUBLIC SEWER
2. ___PRIVATE SYSTEM
___SEPTIC
___TYPE

PROPOSED USE: SFD/Deck w/ Privacy Screen
EXISTING USE: SFD/Deck

___PRIVATELY OWNED 2. ___PUBLICLY OWNED 3. ___SALE 4. ___RENTAL

CATEGORY: 1. ___DETACHED 2. ___SEMI-DET 3. ___GROUP 4. ___TOWN
___# ROOMS ___#BED: ___#BED: ___TOT BED: ___TOT APTS/CONDOS
___LEGAL 1. ___ 2. ___NC ___BATHROOMS
___ ___KITCHENS
___CLASS
___LIBER ___FOLIO

LOT SIZE AND SETBACKS
6264 SIZE ± 3,126 SF
66 FRONT STREET
134 SIDE STREET
22'6" FRONT SETBK 21.0
1 SIDE SETBK Sect 301.1
___ SIDE STR SETBK
___ REAR SETBK 25.0
___ ZONING

APPROVAL SIGNATURES ___DATE
BLD INSP : [illegible] Final 7/28/94
BLD PLAN 2126
FIRE :
SEDI CTL :
ZONING : Cleared to file 7-23-94
PUB SERV :
ENVRNMT : NCAR OK to file Dawson 7/23/94
PERMITS :

CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REQ'D

Leave Plans → FARM? SEND INVOICE

Case # 00-7156

Address of Violation: 2311 Tracey's Road

Property Owners: Nicholas L. and Stephanie S. Meittinis

Property Zoned: RC 2

Alleged Violation: Operation of a Riding Stable without a Special Exception in a property zoned RC2.

Background:

Subject: Letter 6/14/99 fm Joseph & Nedda Evans
Commercial Use

Violation Inquiry Notice Dated 6/18/99
Case # 99-3615 Building Inspection Case

Subject: Letter 7/19/99 fm Joseph & Nedda Evans
Construction damage to private property.

7/23/99 applied for pole Barn permit B385782

8/16/99 permit issued after site visit by Joe Merrey

Subject: Letter 9/13/99 fm Joseph & Nedda Evans
2nd notice of construction encroachments.

Subject: **Letter 9/14/99 fm Deborah Price to County Executive**
Addressing problems to date at the Meittinises property

Subject: **Letter 9/18/99 fm Arnold Jablon to Deborah Price**
Response to letter addressed to County Executive describing the permit process and restrictions for RC 2 horse farms

Subject: Letter 11/16/99 fm Joseph & Nedda Evans
3rd notice with No Trespass Warning

Subject: Letter 11/30/99 fm Joseph Evans to DEPRM
Grading for Pole Barn

Subject:	Letter 5/13/00 fm Joseph & Nedda Evans Placement of large rocks less than 24" fm roadbed
	7/10/00 **Case # 00-5193** opened by BC Code Enforcement as a result of a complaint fm Joseph Evans BFR (Home Occupation) @ 2311 Tracey's Rd
1st Inspection:	7/11/00 Hope Jacobson spoke with Mr. Mettinis who said he has a Farm and teaches lessons to friends.
2nd Inspection:	7/25/00 Hope & Rick Wisnom met with Mr. Mettinis to discuss riding lessons. Mr. Mettinis told a story about some girls that were riding his trails and were stopped and asked if they were receiving lessons. They're answer was no. Mr. Mettinis said, " From time to time they have friends and their daughters use their trails and also they practice for shows. Again he stated that he had no intention To have a Riding Academy and/or an animal hospital." He also stated that he would try to reassure his neighbors that he was not going to do the things for which he was accused. CASE CLOSED

9/15/00	**Nedda & Joseph Evans & Debbie Price met with Rick Wisnom to open CASE # 00-7156**
9/19/00	**Case is assigned to Len Wasilewski and Per Rick I was instructed to issue a correction notice without an inspection based on the community log. Defendants need a Special Exception for a Riding Stable in a RC 2 zone**
9/19/00	**Correction Notice Issued with compliance date of 10/30/00**
9/28/00	**Notice of alleged Harassment fm Joseph & Nedda Evans to Mr. & Mrs. Meittinis**

11/1/00	Met with complainants to do inspection from neighboring property 2315 Tracey's Road and pick up an up to date log.
11/6/00	Talked with complainants and Stuart Kaplow about setting the date for the trial and asked Mr. Kaplow if he could accept service.
11/8. ~~11/6/00~~	Wrote Citation with a Trial date of 1/24/01
11/16/00	Served Citation on Stewart Kaplow
11/27/00	Ltr fm Kaplow requesting hearing date
01/03/01	Motion fm Stuart Kaplow P.A. for pre trial Dismissal
01/11/01	Order on Motion to Dismiss Citation Denied
01/22/01	Met with Complainants at 2315 Tracey's Road to view property and get update on log.

1/25/01

Note:

Leonard Wasilewski

Has Pictures for October November Sept.

+ January

Also Film store at his desk.

STUART D. KAPLOW, P.A.

ATTORNEYS AT LAW
15 EAST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21286-5306
TELEPHONE 410-339-3910
FACSIMILE 410-339-3912
E-MAIL SKAPLOW@STUARTKAPLOW.COM

STUART D. KAPLOW

WWW.STUARTKAPLOW.COM

COPY

February 6, 2001

Stanley J. Schapiro, Assistant to the Director
Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: **Citation No.: 00-7156**
Hearing of January 24, 2001

Dear Mr. Schapiro:

In response to your request of January 24, 20001, enclosed please find a copy of a Memorandum Of Law with respect to the above-noted Code Enforcement Hearing. The original is filed with Mr. Jablon.

Thanking you for your continued courtesies, I will await your response.

Sincerely,

Stuart D. Kaplow

SDK:mo
Enclosure

cc: Arnold Jablon, Director, w/ enclosure

CODE ENFORCEMENT HEARING	*	BEFORE THE
NICHOLAS L. and STEPHANIE S. MEITTINIS 2311 Tracey's Road Sparks, Maryland	*	DIRECTOR OF THE
	*	PERMITS AND
	*	DEVELOPMENT MANAGEMENT
	*	Citation No.: 00-7156

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

MEMORANDUM OF LAW

Nicholas L. Meittinis and Stephanie S. Meittinis, by and through their attorneys, Stuart D. Kaplow and Stuart D. Kaplow, P.A. submit this post hearing Memorandum Of Law and for cause say:

Background

Nicholas L. Meittinis and Stephanie S. Meittinis (Meittinis) were served, through and by their counsel with the certain Baltimore County Uniform Code Enforcement Citation, dated November 8, 2000 with service effected on November 16, 2000. That citation charged that Meittinis violated certain provisions of the Baltimore County Zoning Regulations, namely,

> 1.) Operating a business from a Residence Sec. 1A01.1.2.B.9.C; 101 (Home Occupation)
>
> 2.) Operating a Riding Stable without a Special Exception. Sec 1A01.2.C.21; 101 (Riding Stable)

The citation is Exhibit 4.

Motion To Dismiss Renewed

A Motion To Dismiss Citation having been denied before the hearing on the merits, that Motion was renewed by counsel at the commencement of the hearing. Any ruling on that

Renewed Motion was held *sub curia* and the hearing proceeded as scheduled. The arguments of law supporting the Motion are contained within that paper and are not repeated here.

Baltimore County's Burden

This action before the Director of the Baltimore County Department of Permits and Development Management, is brought by that Department Director as a civil action and, as such, it is well established that Baltimore County has the obligation of establishing by evidence a requisite degree of belief concerning the facts in the mind of the trier of fact. That is, Baltimore County has the burden of going forward and the burden of persuasion.

The legal standard that is the burden of proof, requires in this civil action, is proof by a preponderance of the evidence.

Baltimore County Zoning Regulations

Local jurisdictions in Maryland derive their power to enact zoning regulations through the Annotated Code of Maryland. Specifically, Baltimore County is enabled by Annotated Code of Maryland, Article 25A, to enact zoning regulations, zoning maps, and other related land use laws. Pursuant to that authority and as provided by the Baltimore County Charter, the County has adopted zoning regulations, being the Baltimore County Zoning Regulations, 1998 edition, as amended (BCZR). [1]

The Citation alleges violation of two specific sections of the BCZR. See above.

Applicable Rules Of Statutory Construction

"Long-standing canons of statutory interpretation mandate that we interpret a statute's words using their plain meaning." *Mary Pat Marzullo, et al v. Peter A. Kahl*, (the snake case) No. 2301, Sept. Term 1999, decided December 26, 2000, citing, *Condon v. State*, 332 Md. 481,

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[1] All sections and section numbers contained in this memorandum are sections of the BCZR, except as otherwise expressly noted.

491 (1993). And "where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts do not normally look beyond the words of the statute itself." *Kahl* quoting *Degren v. State*, 352 Md. 400, 417 (1999).

Discussion – The Farm

Meittinis operates a farm at the land and improvements known as 2311 Tracey's Road and Meittinis maintains that a farm is a permitted use, as of right, under Sec. 1A01.2.B.2.

Farm is defined in BCZR, Sec. 101,

> FARM - - Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses. [Bill Nos. 85-1967]

It is unrefuted that the subject land, known as 2311 Tracey's Road is more than three acres in size. Such is evidenced by the records of the State Department Of Assessments and Taxation as contained within the PADM file, [2] and by the boundary survey of the property offered by the Meittinis expert land surveyor, Bruce Doak, that described the property as 40.340 acres.

The definition of Farm is then that "land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations."

Section 101, defines commercial agriculture:

> AGRICULTURE, COMMERCIAL - - The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of

---

[2] It is significant that no employee of Baltimore County offered testimony evidencing the violations alleged. Despite the fact that two PADM staffers had inspected the Meittinis horse farm and had interviewed Mr. Meittinis, they having concluded no violation of the BCZR existed, were not called as witnesses. The only County staffer to testify, Leonard Wasilewsky, had actually made an entry in the PADM file, "[p]er Rick I issued a correction notice based upon community log without an inspection." and he could only offer the PADM file into evidence as he testified that he had no knowledge of any violation.

> the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations. [Bill No. 51-1993] [3]

The Meittinis more than 40 acres and improvements thereon are "used primarily" for those uses described immediately above, and "for residential and associated agricultural uses."

There was testimony by both Mr. and Mrs. Meittinis and Mr. Doak about the improvements being a horse barn, two out buildings (i.e., a chip shed and garage for horse trailers), fencing comprising paddocks and a ring, associated driveways and a residence. [4] That Meittinis does "raise or keep animals" is self evident given not only all of the testimony and photographic evidence of horses, but such is the crux of the alleged violation. [5] Further, with respect to "animals for income" Mr. and Mrs. Meittinis both testified about their horse farm and how the business was operated (including the purchase and sale of ponies and other horses), describing the full time and part time employees, and income and expenses reported on Schedule C of their Federal tax returns. And continuing, with the definition of commercial agriculture, not

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[3] While not necessarily relevant to the trier of fact's consideration, it should not be lost that commercial agriculture is exactly what the two husbands and wives that testified, claim they are opposed to. Recall Mr. Evans testified he sent Meittinis a letter saying that he did not want a "commercial operation in the neighborhood." Mrs. Evans and Mrs. Price also testified about not wanting another "commercial operation" on Tracey's Road. The crux of the disputes and differences that have given rise to the complaints of the neighbors is the status of agriculture as afforded preferential treatment over and above all other permitted uses in RC2 zoning districts, including residential use by the witnesses. The Meittinis horse farm is located in an RC2 zoning district, located in an area of County where horse farms are prevalent, adjacent to another horse farm, and bisected by the trails used by more than one hunt club for horse and hounds. That the two households who testified choose to live in horse country is their choice, but the RC2 provisions of the BCZR protect farms from their nonagricultural neighbors.

[4] In consideration of the neighbors, the closest structure to a property line is the barn that is 210 feet from the side property line (setback significantly more than the required 35 feet).

[5] Mr. Meitinnis also testified about the growing of hay.

only does the land qualify for "farm or agricultural use assessment," but the land is actually so assessed for farm or agriculture as evidenced by the SDAT records attached to the Motion To Dismiss and as described in Mr. Meittinis' testimony.

Moreover, that definition continues, "[c]ommercial agriculture includes" "... animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities ... provided that such [ancillary] activity shall be secondary to the principal agricultural operations." Mrs. Meittinis' testimony described just such a horse farm, that includes horse husbandry, horse breeding and horse training. [6]

Not A Riding Stable

When applying the undisputed facts to the plain language of the regulations and statutory context, it can only be concluded that the Meittinis operation is a farm as a matter of law. There is no need to address the definition of riding stable or riding horses or whether the Meittinis horse farm use falls within the definition of other uses, however, given the charge on the face of the Citation is operating a Riding Stable without a special exception, it is of import that BCZR Sec. 101 defines Riding Stable:

> RIDING STABLE - - A building where riding horses are boarded or kept for hire. [7]

---

[6] The vocal minority of Tracey's Road witnesses complained of "lessons, instruction, and children who are students." That is all well and good, but giving riding instruction at a farm to a child on a horse does not constitute a riding stable or a home occupation. The horses are not hired and there is no fee for instruction. Mrs. Meittinis testified when the riding was not by employees exercising horses. it was often by many of the young girls who were daughters of family friends who were preparing horses for horse shows (all as part of training the horses to enhance their value for sale, as part of the horse farm operation). The testimony that at another location, at another time, Mrs. Meittinis had given horse riding lessons is in no way relevant to this case. There are no organized lessons given but Mrs. Meittinis described that she does from time to time provide instructions to the daughters of family friends. Recall her testimony in response to a question from the trier of fact, about each of the car license plates and what young lady was attached to what family friend (i.e., old college roommate, maid of honor, child's school friend, etc).

[7] In the Evans husband and wife lawyers post hearing letter, certainly inappropriate in its timing, the pair attack the credibility of Mrs. Meittinis for among other reasons that she segregated 'riding horses' from other horses in her testimony. The missive ignores the plain language of the BCZR section that refers to "riding horses" when the County Council could have chosen a definition including all horses, but instead choose "riding horses." Mrs. Meittinis was correct in her word choice.

Further guidance as to that definition is found in the Zoning Commissioner's Policy Manual, 1991, as amended:

RIDING STABLE:

A. Commercial riding stables are those that primarily rent horses for riding purposes. This type of use shall not be subject to Section 421, but shall be permitted only in accordance with the appropriate use regulations.

B. Riding stables that primarily board horses but may provide riding trails shall be considered animal boarding places and must therefore comply with the requirements of Section 421 B.C.Z.R., Page 4-85.

The definition of Riding Stable does not include "animal … husbandry, horse breeding and horse training", but the farm definition does. There is no dispute about the fact that Meittinis operation includes animal … husbandry, horse breeding and horse training. The BCZR's definition of Riding Stable indicates that it is a more limited facility than a farm. See, *Kahl*, where the Court at 21, used the identical analysis to conclude the snake operation was not an animal boarding place, but a farm. That analysis in *Kahl* is dispositive in the case at bar, Meittinis does not operate a riding stable, but rather operates a farm.

Moreover, there is not a riding stable 'use' at the Meittinis horse farm because a plain reading of the definition of the offensive use, requires "riding horses" that are "boarded or kept for hire." Mr. and Mrs. Meittinis both testified that there are not riding horses boarded or kept for hire. The testimony could not have been more clear. [8] But. be certain, this is a horse farm and the

[8] When confronted with the fact that no one hires or otherwise pays to ride horses at the alleged riding stable, the two couples of complaining witnesses revert to an argument that because the children of family friends, who exercise the ponies, prepare the ponies for shows, and otherwise ride the ponies, do so while providing animal husbandry assistance (i.e., recall the video showing the young girl with a wheel barrel), learning about the responsibilities of keeping horses. that such somehow rises to the level of bartering that is the same as hiring horses, is simply a distortion of what it is to be responsible for the husbandry of a horse. Moreover, the fallacious argument ignores the plain testimony of Mrs. Meittinis. She described when, after harassment by Price and Evans family members that included accosting and interrogating the young girls as they rode horses and stopping the cars driven

horses are ridden. Mrs. Meittinis further described a Black pony that she was training ("horse training" is expressly delineated as permitted within the definition of commercial agriculture) that would soon be returned to its owner because with the recent birth of her second child she has not had the time to adequately work the pony. That pony is certainly not boarded or kept for hire. It is being trained. And the other horses that come and go from the horse farm, including the thoroughbred race horses Mr. Meittinis described are not "riding horses" within the context of a riding stable.

The failing of the Citation is made even more clear in light of the guidance of the Policy Manual, "[c]ommercial riding stables are those that primarily rent horses for riding purposes." The activity at the Meittinis farm is by no one's allegation one that "primarily" rents horses for riding purposes and both Mr. and Mrs. Meittinis made crystalline that no one rents a horse, at any time, for riding or for any other purpose. (While not directly relevant to the issue of the Citation because there is no renting of horses, it is useful to characterize the nature of the Meittinis horse farm to observe that despite the many photographs displayed at the hearing, the riding of horses by the girls is by no means an every day or all day activity. The log records horses ridden by the at least one of the eight girls on only nine days in August, twelve days in September and October and four days in November. Such is hardly a level of activity that could rise to the level of a horse farm that primarily rents horses.) [9]

---

by family friends on the public road to question the drivers (recall the complaining witnesses own testimony admitting to interrogating the Hannah girls and the conversation with Mrs. Gehring about whether of not they had a gun when they pursued her car) several of the girls parents would not permit their daughters to come to the Meittinis farm, that she had to hire people to exercise the horses, prepare the horses for shows, etc., activities that the girls had been doing.

[9] And note on page 3 above, the farm must be and is in fact "used primarily for commercial agriculture" or it would not be a farm for the purposes of the BCZR. It can not be both "used primarily ..." for commercial agriculture and to "primarily rent horses" or "primarily board horses" at the same time? The only statutory analysis that allows all of the provisions of the BCZR to be read in harmony, is to conclude that the property is a farm.

The Policy Manual goes on to provide, "[r]iding stables that primarily board horses … shall be considered animal boarding places." The only riding horse Meittinis did not own was the Black pony that was being trained. Again the only conclusion can be that the horse farm is not a riding stable but a farm.

No Business Operates From The Farm Dwelling

The other violation alleged in the Citation is "operating a business from a residence" and while there was no testimony offered at all by any witness as to this offense, PADM staff had prior to the hearing said that violation was operating the riding stable from the dwelling. The only testimony was that there is no business conducted from the dwelling, there is no office in the dwelling, and that the employees of the farm do not report to the dwelling. Assuming *arguendo* there is some nefarious riding stable about the farm, there is no business operated from the dwelling.

But to appreciate the context of the regulations that have given rise to the Citation it is important to consider the relevant sections of the BCZR that relate to a property located within the R.C.2 zoning district:

> Section 1A01, R.C.2 (Agricultural) Zone
>
> 1A01.2 Use regulations.
>
> A. Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones.
>
> B. Uses permitted as of right. The following uses only are permitted as of right in all R.C.2 Zones: [Bill No. 178-1979]
>
> 1. Dwellings, one-family detached. [Bill No. 178-1979]
>
> 2. Farms and limited acreage wholesale flower farms (Section 404). [Bill Nos. 178-1979

...

Uses permitted by special exception. The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: [Bill No. 178-1979]

...

21. Riding stables. [Bill No. 178-1979]

Dwellings are permitted as of right and farms are permitted as of right. The Meittinis use of their R.C.2 zoned land is as a dwelling and a farm. For the purposes of the Citation, the legal analysis must begin and conclude with that certainty.

Conclusion

In a County long steeped with a tradition of horse farms, Nicholas and Stephanie Meittinis have built and operate a horse farm. and as such. they must "be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones." But significantly, for the purposes of the pending Citation, Baltimore County has simply failed to offer proof, by a preponderance of the evidence. that Meittinis operates either a riding stable or a business from a residence. A ruling in favor of Meittinis is required.

Respectfully Submitted,

Stuart D. Kaplow
Stuart D. Kaplow, P.A.
15 E. Chesapeake Avenue
Towson, Maryland 21286
410-339-3910

Attorney for Nicholas L. Meittinis and Stephanie S. Meittinis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6 day of February, 2001, a copy of the foregoing Memorandum of Law was mailed first-class, postage prepaid to: The Director of Permits and Development Management, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

Stuart D. Kaplow

E:\Stuart\Misc Clients\Meittinis Memo
2-06-01

Baltimore County, Maryland
Department of Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Nicholas L. Meittinis
Stephanie S. Meittinis

Respondents

Civil Citation No. 00-7156

2311 Tracey's Road

ORDER

This matter having come before the Code Enforcement Hearing Officer on 5 January 2001, on a Motion to Dismiss Citation filed by the Respondents and argument by counsel, it is this 11 day of January 2001, Denied.

Signed: Stanley J. Schapiro

Stanley J. Schapiro
Code Enforcement Hearing Officer

imore County
- partment of Permits and
Development Management

Code Inspections and Enforcement
County Offic ding
111 West Che. ke Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No.	Property No.	Zoning:
00-7156	052305057 7	RC-2

Name(s): Nicholas L & Stephanie S. Mettinis

Address: 2311 Traceys Rd
Sparks Md 21152-9549

Violation Location: 2311 Tracey's Rd 21152

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:
Baltimore County Zoning Regulations.

1.) Cease the operation of a business from a residence that goes beyond the zoning definition of a home occupation. Sec. 1A0.1.2.B.9.c (101)

2.) Cease the operation of A Riding Stable without a Special Exception. Sec 1A0.1.2.C.21 (101)

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:
10/30/00	9/19/00

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name

INSPECTOR: Wasilewski

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:

Plaintiff's Exhibit 3

INSPECTOR:

Code Enforcement - Closing Report

Inspector - JACOBSON, H Activity Date Closed 7/25/2000

Area	Case #	Location	Apt	Zip	Date Rec	Reinsp Dt
011	[redacted]	2311 TRACEY RD		21152	7/10/2000	7/24/2000

Tax Acct #: 0000000000

Complainant Name: (Last) (First)
Addr:
Str # Dir Street Name Type Apt
City ST Zip
Phone: (Home) (Work)

Problem: BUSINESS FROM RESIDENCE

Notes:

SPOKE W/MEITTINIS' PROP OWNERS, WANT LAWYER PRESENT WHEN I MAKE INSPECTION, WILL CALL WHEN LAWYER IS AVAILABLE, H JACOB SON. ***7/25/00, INSPECTION MADE ALONG WITH RSW - CHIEF OF INSPECTIONS, MET W/OWNER - SAID HE DIDN'T HAVE A RIDING S TABLE, SOME FRIENDS COME TO RIDE ON THE TRAILS, THAT'S IT, N EIGHBOR DISPUTE, COMPL CONTACTED, H JACOBSON.

cont.

CODE ENFORCEMENT REPORT 00-5193

RE-INSPECTION SHEET CONTINUED

Date: 7/25/00 - ~~meeting with~~ C. Hope Jacobson and Lieb Musson - Chief of Inspections and Enforcement met w/ Mr Mettikas to discuss the issue of running a riding academy. Mr Mettikas paid that his wife was not giving riding lessons. That one day they had

Date: a couple of girls riding on their trail and they were stopped by someone asked them if the were having lessons they answered No. He said that from time to time they have friends and their daughters use their trails and sometimes the girls come over

Date: and practice for shows. We also asked him about starting an animal hospital and he paid he worked (12) hours a day and had no spare time for running a vet business and had no plans to. He paid that he would try to assure his

Date: neighbors that he would not be doing any of the things he was accused of. Closed. HJ

Date:

CODE ENFORCEMENT REPORT 99-245 CLOSED

DATE: 7/10/00 **INTAKE BY:** M&C **CASE #:** 00-5193 **INSPEC:** 11

COMPLAINT LOCATION: 2211 TRACEY RD

ZIP CODE: 21152 **DIST:**

COMPLAINANT NAME: Joe EVANS **PHONE #: (H)** 410-771-7754 **(W)** 410-209-4864

ADDRESS: 2229 TRACEY RD **ZIP CODE:**

PROBLEM: Riding Lessons

OWNER/TENANT INFORMATION:

DE. Left voicemail at work.

410-771-4620

TAX ACCOUNT #: Stephanie Nicholas Meitinis **ZONING:**

Teaching Riding lessons - giving lessons - for 2 weeks

INSPECTION: 7/12 - Spoke w/ Mrs Evans gave me info → moved 2 years ago - gave lessons yesterday.

spoke w/ students Prices saw her.

paid lessons paid yes.

Annie Martin - Becky Martin remarried -

REINSPECTION: Rusty Price. Debbie Price - 410-771-4660

7/11/00 - Spoke w/ mother - meeting Have a farm - teaches lessons to friends

Riding

10 horses - 30 acres - grazing land - 40 acres total.

REINSPECTION: Told him if they had to have a special exception if they were teaching riding lessons.

7/13/00 - left mess on Prices ans mach.

7/13/00 - left mess on Evans ans mach that I needed to talk

REINSPECTION: to them and gather more info. called Mr Evans at work. left mess on voicemail. Hg lawyer (Bud Clark) 410-823-2800 intends to writes meeting a letter 7/25/00 - 10 AM - to meet Tues night - Spoke - w/ Property owners + Owner

RA1001B

DATE: 07/11/2000 STANDARD ASSESSMENT INQUIRY (1)
TIME: 10:19:48

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 23 050577	05	2-2	05-00	D	NO		04/25/00

MEITTINIS NICHOLAS L
MEITTINIS STEPHANIE S
2311 TRACEYS RD

DESC-1.. IMPS
DESC-2.. 1500 FT W OF YEOHO RD
PREMISE. 00000 TRACEYS RD
00000-0000

SPARKS MD 21152-9549 FORMER OWNER: MEITTINIS NICHOLAS L

FCV	PRIOR	PROPOSED		PHASED IN CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	47,140	57,140				
IMPV:	316,850	334,790	TOTAL..	382,616	153,760	150,030
TOTL:	363,990	391,930	PREF...	7,140	3,570	3,570
PREF:	7,140	7,140	CURT...	375,476	150,190	146,460
CURT:	356,850	384,790	EXEMPT.		0	0
DATE:	01/99	05/99				

TAXABLE BASIS		FM DATE
00/01 ASSESS:	153,760	03/16/00
99/00 ASSESS:	150,030	06/04/99
98/99 ASSESS:	3,650	06/05/98

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF

I want to try to work it out. Nettie —

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: August 6, 2001

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 553 (01-530-X)
Legal Owner/Petitioner: Stephanie S. & Nicholas Meittinis
Property Address: 2311 Tracey's Road
Location Description: SE/S Tracey's, SE centerline Yeoho Road

VIOLATION INFORMATION: **Case No.: [redacted] and 00-7156**
Defendants: Stephanie S. & Nicholas Meittinis

Please be advised that the aforementioned petition is the subject of an active violation case. **When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:**

NAME	ADDRESS
Joe and Nedda Evans	**2224 Tracey's Road** **Sparks, Maryland 21152**
Debbie Price	**2315 Tracey's Road** **Sparks, Maryland 21152**

In addition, please find attached a duplicate copy of the pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office.

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/hek

c: Code Enforcement Officer Leonard Wasilewski

Baltimore County
Zoning Commissioner

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

April 12, 2002

John Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Exception
Case No. 01-530-X
Property: 2311 Tracey's Road

Dear Mr. Gontrum:

Thank you for your letter dated April 1, 2002. I have read the contents of your letter and am offering this correspondence in the hope of clarifying the concerns raised by you. I was reluctant in my order to specify each and every activity that may or may not take place on the petitioners' property. There is a great deal of gray area regarding this use as to what is permitted to occur on this farm and what would run afoul of my order and the Baltimore County Zoning Regulations. The activities that your client may wish to engage in that come within these gray areas would be subject to the prosecutorial discretion of the Office of Code Enforcement for Baltimore County. Therefore, I believe it is appropriate to defer to the discretion of Code Enforcement as to whether a particular activity occurring on this property violates my order or other provisions of the Baltimore County Zoning Regulations.

In my opinion, it is obvious to me that your client should be permitted to provide riding lessons and instructions to her own children on this farm. I doubt that anyone would take issue with that activity, including the neighbors residing along Tracey's Road. This is so obvious that it did not warrant mentioning in my order.

The other matters mentioned in your order are not as clear and must be reviewed in the context in which they occur. For example, allowing friends and acquaintances of the petitioners' family to ride horses at a birthday party for one of the petitioners' children should be permitted. This would occur but once a year and there are certainly no lessons involved in that activity. I myself have attended birthday parties with my own children where pony rides were provided to the guests who attended that gathering.

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on Recycled Paper

However, on the other hand, regularly scheduled and reoccurring sessions, where friends or acquaintances of the petitioners' family appear at the property and ride horses under the supervision of the petitioner, would cross that fine line and become a violation, in my opinion. Accordingly, the ultimate decision as to whether a violation case should be brought against your client would fall under the jurisdiction of Code Enforcement. Since many of the riders who were paying for lessons from your client are also personal friends, it would be nearly impossible for Code Enforcement to distinguish between a social ride or one where a lesson is being provided.

I hope that this letter has served to clarify some of the questions raised in your correspondence. As stated previously, the ultimate decision as to whether your clients have crossed the boundaries established by my decision and the regulations applicable to this use, fall within the jurisdiction of Code Enforcement for Baltimore County. I hope that your client would interpret my order in a conservative fashion, so as to prevent any Code Enforcement action in the future.

Very truly yours,

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj

c: See attached list

Copies to:

Mr. & Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, MD 21152

Joseph & Nedda Evans
2224 Tracey's Road
Sparks, MD 21152

Rustin & Debbie Price
2315 Tracey's Road
Sparks, MD 21152

George & Carolyn Harold
2206 Tracey's Road
Sparks, MD 21152

Monica Bowden
2210 Tracey's Road
Sparks, MD 21152

Sherry Rudolph
2324 Tracey's Road
Sparks, MD 21152

Barbara Kees
2323 Tracey's Road
Sparks, MD 21152

Cheryl H. Schweizer
2212 Tracey's Road
Sparks, MD 21152

Herb & Anne Hochhalter
2220 Tracey's Road
Sparks, MD 21152

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

APR 1 2002

April 1, 2002

Timothy M. Kotroco, Esq.
Deputy Zoning Commissioner
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Special Exception
Case No. 01-530-X
Property: 2311 Tracey's Road

Dear Mr. Kotroco:

I am in receipt of your Findings of Fact and Conclusions of Law dated March 22, 2002. I was hoping that given the history of litigation among the parties you might clarify one point in your decision. At the bottom of page 9 and continuing to the top of page 10 of the decision you state:

> "...However, providing instructions and lessons to riders falls outside of that permitted use and within the special exception category of a riding stable. Therefore, in order to give riding lessons on the subject property, the Petitioners must satisfy those requirements as specified within Section 502.1 of the Baltimore County Zoning Regulations and all applicable case law relating thereto."

A "riding stable" is defined in Section 101 of the BCZR as follows: "A building where riding horses are boarded or kept for hire." Accordingly, may the petitioners give riding lessons and instruction to their own children? May the petitioners allow their friends or the friends of their children to ride horses belonging to the petitioners under petitioner's supervision but without typical lesson instruction? It would appear to me that the former activity was never intended to be a regulated activity and that the latter would not involve lesson giving or be construed as a business related activity, but these activities were addressed at the hearing. My clients are concerned that any social riding on the premises would be construed to be lesson giving.

Finally, your decision stated that other trainers would be allowed to come to the property and train a particular horse as a permitted use. Does this include the owners of the horse? As in the Devoe case the owners of these horses often are the ones who should be training the horse along with Mrs. Meittinis so that the horse responds to that person's signals etc. Is this permitted?

Very truly yours,

John B. Gontrum

cc. See Attached list

Copies to:

Mr. & Mrs. Nicholas Meittinis
2311 Tracey's Road
Sparks, MD 21152

Joseph & ~~Medda~~ Hedda Evans
2224 Tracey's Road
Sparks, MD 21152

Rustin & Debbie Price
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2220 Tracey's Road
Sparks, MD 21152

ATTACHMENT A

Legislative Project #90-14
Part 3 of a 4 Part Report

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS REGARDING FARMING, FORESTRY ACTIVITIES AND AGRICULTURAL RELATED BUSINESSES

PART 3: DEFINITION OF COMMERCIAL AGRICULTURE AND FARM

JULY 25, 1991

A D D E N D U M

The attached Report was approved by the ad hoc Committee on Regulations and Standards on March 7. Following the meeting, staff identified several issues related to the Part IV Report, Firewood Operations, which could affect the definitions of Commercial Agriculture and Farm. Staff has submitted the Part IV Report to the ad hoc Committee on Regulations and Standards on July 11, 1991. Staff recommends several minor changes to the Part III Report.

The proposed definition of commercial agriculture lists a spectrum of uses which qualify as agricultural functions. One of them is "silviculture." Staff recommends changing the term silviculture to forestry. Subsequent to the March 7th ad hoc Meeting on Regulations and Standards a Planning Board member commented that forestry is a more familiar word than silviculture and thus more appropriate in a defining function. The terms silviculture and forestry are almost synonymous -- Webster defines the former as: "the establishment, development and care of trees;" and the latter as: "the science of developing, caring for or cultivating forests. Changing the terms would not alter the intent of the definition.

Another change stems from an amendment proposed in the fourth agricultural report titled Firewood Operations and Sawmills. That report proposes a separate definition for firewood operations. The definition for "farm" which is proposed in this report lists several uses which do not qualify as a farm, one of them is limited-acreage firewood operations. Staff recommends changing that term to firewood operations.

Two of the changes concern items which were overlooked in the initial report. That report recommended deleting the definitions for satellite farm and farmette, but omitted removing the terms from the land use table for R.C.20 and R.C.50 zones. Paragraph 16 recommends changing the special exception status of aquaculture in R.C.20 zones to a permitted use. The amendment is suggested on page four of this report, but no recommendation to that effect had been added.

Specific Recommended Changes

The Baltimore County Zoning Regulations, 1955, as amended should be further amended as shown below. {Brackets} indicate text to be deleted and **bold** indicates text to be added. **Bold** indicates changes from the March 19 report.

1. In Section 101 (Definitions) add the following definition:

Agriculture, Commercial--The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of article Tax Property of the Annotated Code of Maryland 1985, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, [silviculture] forestry, animal and poultry husbandry, horsebreeding and horsetraining and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing provided that any such activity shall be secondary to the principal agricultural operations.

2. In Section 1A05.2A.4.--Land Use Table (Uses permitted by right in R.C.20 and R.C.50 zones) delete:

4. Agriculture and agricultural uses including farms, {satellite farms, farmettes,} and limited acreage wholesale flower farms, farmers' roadside stands, subject to the provisions of Section 38-23 of the Baltimore County Code.

In Section 1A04.2.A.7.--Land Use Table (Uses permitted by right and by special exception in R.C.20 and R.C.50 zones amend:

7.	Aquaculture, including the construction and maintenance of necessary equipment, buildings and growing areas for the hatching, cultivating planting, feeding, raising and harvesting of finfish, shellfish and other aquatic plants and animals. [Bill No. 32, 1988.]	{SE} P	P P

3. In the proposed farm definition delete:

Farm--Three acres or more of land and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, [limited-acreage] firewood operations and horticultural nursery businesses.

Legislative Project #90-14
Part 3 of a 4 Part Report

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS REGARDING FARMING, FORESTRY ACTIVITIES AND AGRICULTURAL RELATED BUSINESSES

PART 3: DEFINITION OF COMMERCIAL AGRICULTURE AND FARM

A Staff Report of the Baltimore County
Office of Planning and Zoning
and the
Department of Environmental Protection
and Resource Management

May 10, 1991

PROJECT DESCRIPTION

Council Resolution 29-90 (Attachment 1) requests the Planning Board to consider amendments to the Zoning Regulations to clarify regulations dealing with farming, forestry activities and agricultural related operations. Because of the wide range of issues associated with this Resolution, staff is responding with four reports. Part 1 provides an introduction for the entire project and recommends amendments regarding farmer's roadside businesses. Part 2 deals with limited acreage flower farms, horticultural nurseries and landscape services. This, the third report considers traditional agricultural operations including definitions of agriculture, farm and the activities permissible at these operations.

BACKGROUND

The agricultural industry is changing dramatically. Consumer preferences and economic necessity are transforming the manner in which agricultural businesses are operated. More and more farmers are engaged in retail distribution in addition to production activities. For example, The Pennsylvania Farmer, a magazine geared towards the farming community, reports innovative business practices which have greatly increased farm revenues. One farmer raised his income by selling some of his fruits in fruit baskets and delivering them to nearby offices and homes, as well as shipping them via mail order. Another farmer began to process his crops into cider after a hailstorm downgraded his apples. Today he is blending his ciders with cranberries, cherries, grapes and fruits purchased from other farms and is producing 10,000 gallons per day. Different products are being tried out. An apiarian, who initially restricted his production to honey only developed a carob/cranberry bar utilizing honey and by-products from honey processing. Ocean Spray, the cranberry operative, became one of his major buyers (The Pennsylvania Farmer, May 1988, p.10).

New types of crops are becoming commonplace. Farmers experiment with raising ornamental and edible fish, shellfish and aquatic plants for the wholesale and retail trade. Hardier varieties of plants allow the cultivating of grapes in local climates and more County farmers are trying their hand in wine production. Today the uses are frequently included when agriculture is defined in zoning regulations.

All of the business practices listed above are far removed from traditional agricultural operations. Smaller parcels of land are used to produce higher yields with the aid of intensive application of pesticides. Agricultural crops are processed, packaged and stored on site and many producers adopt the same marketing and distribution principles as commercial and industrial operations. Other aspects indicative of the changes in the agricultural industry are reflected in the type of equipment used and the modes of chemical application. Often involved in processing and distribution, todays farmers are more likely to use heavy equipment. Some farmers own a fleet of trucks. Other farmers use airplanes to apply pesticides.

The industrialization of agriculture has enormous implications on land use and it is essential to acknowledge that reality in the proposed definition. Recognizing the transformation of agriculture, this report provides recommendations for updating the Zoning Regulations. These changes include the following major provisions:

- Formulation of a separate definition for commercial agriculture.

- Description of contemporary agricultural practices in the definition of agriculture and farm.

- Elimination of outdated or unnecessary definitions.

A Separate Definition for Agriculture

Formulation of a separate definition for agriculture is essential to complete the proposed set of farm definitions. "Agriculture" has a broader meaning than "farm". Comparable in concept to words like "commercial", "residential" and "industrial", "agriculture" represents a class of land uses and thus accommodates operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition. For example, riding stables, limited acreage firewood operations, landscape operations do not qualify as farms yet they are related to agriculture.

A separate definition has the additional advantage of generating a framework whereupon the farm definition can be hinged. The Maryland Department of Assessment and Taxation uses a list of standards which define commercial agriculture for the purpose of preferential assessment. The purpose of the preferential tax assessment program is to foster and encourage agricultural activities by maintaining

taxation at levels compatible with the use of the land for agriculture. The State evaluates a number of factors to determine whether land which appears to be in farming or agricultural use actually qualifies as such a use (Annotated Code of Maryland, Tax-Property, Sec. 8-209). Staff recommends that the proposed definition (see page 7) for commercial agriculture refer to the State's criteria to aid in determining whether a land use can be considered as a commercial agriculture use.

The principal standard that sets agricultural uses apart is that land or structures and buildings are used to produce plants or raise animals for income. The proposed definition acknowledges that agriculture is an industrial use which involves such activities as storage, processing, marketing, distributing and financing, but qualifies that all of the above activities must be ancillary to the principal agricultural operation.

Listing a spectrum of uses which qualify as commercial agriculture demonstrates the diversification of agriculture and clarifies the permitted uses on a Farm. Four of the uses , aquaculture, apiculture, silviculture and viticulture are not mentioned in the existing farm definition. Apiculture, the art and science of beekeeping; forestry, the science of developing, caring for, or cultivating forests; and viticulture, the cultivation of grapes for wine and market, are established agricultural activities in Baltimore County. Aquaculture, on the other hand, is a relative newcomer to this jurisdiction.

Inclusion of Aquaculture in the Farm Definition

The Maryland State Department of Agriculture defines "aquaculture" as:

> The controlled production of finfish, shellfish, and aquatic plants in marine and fresh water environments.

The Chesapeake Bay Critical Area Commission regulations also provide a definition for aquaculture. It reads similar to the Department of Agriculture's description, but elaborates more on the practices associated with aquaculture (14.15.01 General Provisions of the Chesapeake Bay Critical Area Commission).

It is expected that by the end of this century fresh fish will be the preferred choice of protein in America, which means that aquacultural output has the potential of becoming a significant economic resource in Maryland. Currently aquacultural production in Maryland is estimated to value $10 million. Experts conjecture that fish- farming in Maryland could become a $100 to $200 million industry in a fairly short amount of time, provided that institutional constraints are removed. (Maryland Aquaculture, prepared by the Maryland Department of Agriculture, Aquacultural Office, 1988, p. 9)

All of the zoning ordinances examined for the completion of this report include aquaculture in the agriculture or farm definition. None of those jurisdictions provide special performance standards for aquacultural operations. An administrator in the State Department of Agriculture suggested that there was no need to stipulate performance standards for aquacultural operations, since the use is regulated through rigorous State permit processes.

Baltimore County Zoning Regulations presently do not contain a separate definition for aquaculture, nor is the use part of the existing farm definition. Aquaculture is included as a separate land use in Section 1 A05.2.A.7. (land use regulations for R.C 20 and R.C. 50 zones). Under these provisions the use is permitted by special exception in R.C.20 zones and by right in R.C.50 zones. Staff recommends including aquaculture in the proposed definition of commercial agriculture and to permit the use by right in R.C. 2, 3, 4 and 5 zones. Within the Critical Area the intent and purpose of R.C.20 zones are roughly equivalent to those of R.C.5 zones. To be consistent with the proposed regulations, staff recommends changing the special exception status of aquaculture in R.C.20 zones and to permit the use as a matter of right in that zone.

Farm Definitions

The Baltimore County Zoning Regulations presently offer two definitions for farm and two additional definitions, which describe different types of farms:

> **Farm**: Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, including but not limited to: crop, dairy, stock and poultry farming; greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm. {Bill No. 85, 1967.}
>
> **Farm**: A single tract of land more than three acres, primarily devoted to agriculture, including but not limited to raising of crops, dairy, forestry, livestock and poultry farming; horse breeding, training and stabling, grazing, commercial greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm and commercial or noncommercial riding stables. {Bill No. 98, 1975.}
>
> **Farm, Satellite**: A tract of land owned by the farmer or another individual or individuals which is more than 5 acres, and is primarily devoted to productive agriculture, including but not limited to the raising of crops, forestry, dairy, or livestock grazing: provided that the products from these areas are processed on the site or are brought to and processed on the principal farm, as defined, or are processed in other appropriate areas. {Bill No. 98, 1975}

The existing farm definitions are repetitive and obsolete and staff recommends replacing them with a version which more accurately addresses the special needs of today's farming industry. Discussions with farm representatives revealed that Baltimore County has a continuum of different farm types, all of which can be grouped under the catchall of "metrofarm". They range from large scale field crop producers to small, intensively farmed operations. Farmers may conduct their business on a full-time or on a part-time basis and in addition to production, they may be involved in an array of industrial type activities.

The "Farm, Satellite" definition has limited application. Its primary purpose is to accommodate individual farmers or farm cooperatives who own or lease non-contiguous parcels of land and who use the principal farm building or other appropriate areas for processing purposes. Staff believes that that form of land use is accommodated in the proposed farm definition and recommends deleting the Farm, Satellite definition.

Section 100 of the Baltimore County Zoning Regulations includes a fourth definition for small farms between three and ten acres which are either commercial or noncommercial operations. The definition of "farmette" includes a livestock ratio table which is intended to control animal waste pollution and overgrazing on small lots.

Farmette: A parcel of land more than 3 acres and less than 10 acres, devoted primarily to a single-family residence with associated agricultural uses such as commercial or noncommercial raising of farm produce, flowers, nursery stock, greenhousing and limited livestock, not to exceed the following table:

Large-Livestock:	Limitation:
horses, burros and cattle	1 animal for each acre of grazing or pasture land
Small livestock sheep, goats and pigs (see subsection 404.4)	2 animals for each acre of grazing or pasture land
ponies and miniature horses	1 1/2 animals for each acre of grazing or pasture land
Fowl or Poultry: chickens, ducks, geese, pigeons, pheasant and quail	1 acre of land; however the number shall not be directly limited.

The initial approach proposed was to redefine the Farmette definition as a residential use with accessory noncommercial agricultural activities and label it "Hobby Farm." When this issue was discussed with representatives from different farm industries, it became apparent that many small scale operators consider themselves farmers, including some who only farm on a part-time basis. Several of the farmers objected to the "Hobby Farm" definition, arguing that it was too ambivalent and that it denigrated their efforts in operating "legitimate" farm businesses. That viewpoint was not always shared by the large scale farmers who resented that some rural residents abuse the agricultural tax assessment program by claiming to operate farms. After taking into consideration that the 1988 Agricultural Committee recommended deletion of the Farmette definition in its report to County Council, staff decided to follow this advice and attempts at replacing Farmette with a "Hobby Farm" definition were abandoned. Instead of providing separate definitions for commercial and noncommercial farms, or large and small scale farms, Baltimore County's Zoning Regulations would rely on only one farm definition. The primary determinant which would decide whether an operation is a farm would be the criteria used by the State for assessment purposes. Residential properties with accessory farm uses, which fall below the above income test, would be subject to the livestock ratio table (see page 8).

The livestock ratio table which is part of the Farmette definition, serves to regulate livestock and should be retained for all lots with accessory agricultural activities. The animal per acre ratio was designed by the Department of Agriculture at the University of Maryland and staff recommends only minor changes to its provisions. Among all animal groups sucklings and weanlings under 12 months of age should be permitted to stay with the mother without being counted.

Other Proposed Amendments

The need to eliminate height requirements for grain elevators was stressed by farmers affected. Existing regulations stipulate that in Resource Conservation zones no building may be higher than 35 feet. Section 300 (exceptions to height and area requirements) already exempt barns and silos from height requirements. Staff recommends adding grain elevators to the list of uses exempted from such stipulations.

Section 404 in the B.C.Z.R. presently entails several performance standards dealing with agricultural land uses. Sections 404.3 through 404.5 concern agricultural uses which may be especially offensive to neighbors. Section 404.3 prohibits the commercial reduction of inedible animal or vegetable matter as well as commercial slaughtering. Section 404.4 lists performance standards for

commercial piggeries and Section 404.5 pertains to the manner in which manure must be stored. Staff recommends retaining all of the above performance standards.

Section 1A01.2.C. names the uses permitted by special exception in R.C.2 zones. Under Paragraph 24 (a-f) the following agricultural support uses are listed:

a. Farm-machinery sales, storage, or service; blacksmithing.

b. Feed or grain mills or driers

c. Fertilizer sales or storage

d. Sawmills

e. Slaughter houses or manufacturing, processing, or packing of fruit, vegetables, animal, or meat products, or by-products

f. Wine or spirits manufacturing, including the manufacturing of alcohol to be used in gasoline-alcohol mixtures, but excluding the production of these mixtures (as a principal use)

Earlier it was discussed that processing and packing sometimes are part of commercial agricultural operations. The two activities are included in the proposed definition of commercial agriculture. Also, some vintners may choose to make wine from the grapes they grow.

Section 1A01.2.C.24(e) above requires a special exception hearing for processing, packing and wine manufacturing in R.C. 2 zones. To clarify that such activities only require a special exception if they are performed as a principal commercial use, a clause to that effect will be added to the heading of Section 1A01.2.C.24.

Specific Recommended Changes

The Baltimore County Zoning Regulations, 1955, as amended should be further amended as shown below. {Brackets} indicate text to be deleted and **bold** indicates text to be added.

1. In Section 101 (Definitions) add the following definition:

Agriculture, Commercial--The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of article Tax Property of the Annotated Code of Maryland 1985, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry,

horsebreeding and horsetraining and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing provided that any such activity shall be secondary to the principal agricultural operations.

2. In Section 101 (Definitions) delete the two existing farm definitions and replace them with the following text.

Farm--Three acres or more of land and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses; The term does not include the following uses as defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, limited-acreage firewood operations and horticultural nursery businesses.

3. In Section 101 (Definitions) delete:

{Farmette} (retain the animal unit table and place under Section 100.6, as shown in change #6, below) and delete

{Farm Satellite}

4. Add a new Section 100.6 (General Provisions)

100.6 A tract of land 3 acres or more used for the accessory stabling and pasturing of animals and which is not a commercial agricultural operation is subject to the following provisions:

Large-Livestock:	Limitation:
horses, burros and cattle	1 animal for each acre of grazing or pasture land*
Small livestock sheep, goats and pigs, except Asian Pot Bellied Pig (see Section 400)	2 animals for each acre of grazing or pasture land*
ponies and miniature horses	1 1/2 animals for each acre of grazing or pasture land*.
Fowl or Poultry: chickens, ducks, geese, pigeons, peasant and quail	1 acre of land; however the number shall not be directly limited

*** Suckling and weanlings under 12 months of age will not be counted.**

5. Add to Section 300 (height exceptions)

300.1.a.--The height limitations of these regulations shall not apply to barns and silos, **Grain elevators or other accessory agricultural buildings,** nor to church spires, belfries, cupolas, domes, radio or television aerials, drive-in theatre screens, observation, transmission or radio towers, elevator shafts, penthouses and similar structures provided that any such structures shall not have a horizontal area greater than 25 per cent of the roof area of the building. A satellite receiving dish is subject to the height limitations of the zone in which the dish is located. However, in residential zones, the height of an accessory satellite dish may not exceed 15 feet, unless it is located on the roof of a building.

6. In Section 404 add a new paragraph 404.4 and renumber the remaining paragraphs in accordance.

404.4-- Farms located in R.C.5 and D.R. zones are subject to the following requirements:

A. Internal permanent roadways which provide access to and from farm structures shall be located at least 25 feet from any property line other than a street right-of-way line;

B. Environmentally controlled structures such as greenhouses, potting sheds and accessory agricultural structures shall be located at least 50 feet from any neighboring property line, including any right-of-way line;

C. The loading or unloading of vehicles for the purpose of shipping and receiving goods shall take place at least 100 feet from any property line of an adjacent residentially zoned or used property.

7. In Section 404 add a new Paragraph 404.5 and re-number the remaining paragraphs accordingly.

All zoning violation cases concerning commercial agricultural operations shall be forwarded to the Baltimore County Agricultural Land Preservation Advisory Board for review. The Zoning Commissioner shall allow the Board a maximum of 30 days, before taking action, to comment on the alleged violation.

8. In Section 1A01.2.B.2. (Uses permitted by right in R.C.2 zones) delete:

Farms, {satellite farms, farmettes} and limited-acreage wholesale flower farms (see Section 404)

9. In Section 1A01.2.C. 24 (Uses permitted by special exception in R.C.2) amend the heading as follows:

The following "agricultural-support" uses **as principal commercial uses**:

10. In Section 1A02.2.A.3. (Uses permitted by right in R.C.3 zones) delete: ,

Farms, or, limited-acreage wholesale flower farms, {satellite farms} (see Section 404)

11. In Section 1A02.2.A.4. (Uses permitted by right in R.C.3 zones) delete:

{Farmettes}

12. In Section 1A03.3.A.2. (Uses permitted by right in R.C.4 zones) delete:

Farms, limited-acreage wholesale flower farms {satellite farms, and farmettes} (see Section 404)

13. In Section 1A04.2.A.3. (Uses permitted by right in R.C.5 zones) delete:

Farms, limited-acreage wholesale flower farms {satellite farms}.

14. In Section 1A04.2.A.4. (Uses permitted by right in R.C.5 zones) delete:

{farmettes}

15. In Section 1A05.2.A.4.--Land Use Table (Uses permitted by right in R.C.20 and R.C. 50 zones) delete:

4. Agriculture and agricultural uses including farms, {satellite farms, farmettes,} and limited acreage wholesale flower farms, farmers' roadside stands, subject to the provisions of Section 38-23 of the Baltimore County Code.

16. In Section 1A05.2.A.7.--Land Use Table (Uses permitted by right and by special exception in R.C.20 and R.C.50 zones amend:

7. The SE classification of aquaculture in R.C.20 zones to P.

ATTACHMENT 1

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1990, LEGISLATIVE DAY NO. 9

RESOLUTION NO. 29-90

COUNCILMEMBERS RUPPERSBERGER & EVANS

BY THE COUNTY COUNCIL, MAY 7, 1990

A Resolution of the Baltimore County Council to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to clarify the various zoning regulations dealing with farming, forestry activities, and agricultural related operations.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations currently regulate the location of farms and the permitted activities thereon; and

WHEREAS, the Zoning Regulations also regulate the location of a variety of agricultural related businesses and the permitted activities thereon; and

WHEREAS, the number and complexity of these regulations has grown over the years so that certain conflicts sometimes arise in the application of the regulations or the policies derived therefrom; and

WHEREAS, the Baltimore County Council, in response to concerns raised regarding these regulations and policies, and in recognition of the key role which the agriculture industry plays in Baltimore County, had requested that a committee be formed to evaluate these issues; and

WHEREAS, such a zoning committee was formed and did conduct a number of meetings in order to study this issue; and

WHEREAS, the zoning committee has made certain recommendations to the Baltimore County Council relating to agricultural operations in Baltimore County; and

WHEREAS, these recommendations, if implemented, require a number of amendments to be made to the Baltimore County Zoning Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to clarify the various zoning regulations dealing with farming and agricultural related operations; and

BE IT FURTHER RESOLVED that the Planning Board be and it is hereby requested to separate its consideration and its recommendations into three general areas:

1) Regulations dealing with traditional agricultural operations including the definitions of farm and specific types of farms and the activities permissible in these traditional operations;

2) Forestry resources, including a definition of forestry and specific regulations defining the types of forestry activities allowed; and

3) Retail agricultural businesses, including roadside stands, nurseries, retail greenhouses, landscape services, etc., including definitions of these businesses and the regulations governing the types of activities permissible in connection with these businesses.

RES2990/TXTPRH

Mary Pat Marzullo/Kahl Proj
CSA reversed; remanded to
CSA to REVERSE CCt
CBA AFFIRMED (Cathell, J.)

Circuit Court for Baltimore County
Case # C98-12834

IN THE COURT OF APPEALS OF MARYLAND

No. 10

September Term, 2001

Case # 97-494-SPH

MARY PAT MARZULLO *et al.*

v.

PETER A. KAHL

Bell, C. J.
Eldridge
Raker
Wilner
Cathell
Harrell
Battaglia,

JJ.

Opinion by Cathell, J.

Filed: October 12, 2001

Peter A. Kahl, respondent, used a parcel of land that was zoned R.C.4 for his residence and to operate Peter Kahl Reptiles, Inc. Mary Pat Marzullo and the People's Counsel for Baltimore County, petitioners, filed a Petition for a Special Hearing before the Zoning Commissioner of Baltimore County for the determination of whether an R.C.4 zone permits respondent to conduct his business – the breeding, raising, and selling of reptiles. The Zoning Commissioner determined that respondent's use was permitted in an R.C.4 zone.

Petitioners appealed to the Baltimore County Board of Appeals (hereinafter Board of Appeals). The Board of Appeals determined that respondent was not permitted to operate Peter Kahl Reptiles, Inc. in an R.C.4 zone. Respondent filed a Petition for Judicial Review in the Circuit Court for Baltimore County. The Circuit Court reversed the decision of the Board of Appeals, finding that respondent's business was a farming activity that was permitted by right in an R.C.4 zone.

Petitioners appealed to the Court of Special Appeals. The Court of Special Appeals affirmed the decision of the Circuit Court for Baltimore County (*Marzullo v. Kahl*, 135 Md. App. 663, 763 A.2d 1217 (2000)). Petitioners filed a Petition for Writ of Certiorari and respondent filed an Answer and Conditional Cross Petition for Writ of Certiorari. We granted both petitions. Petitioners presented two questions for our review:

> 1. Whether the Court of Special Appeals erred in construing the BCZR [Baltimore County Zoning Regulations] to permit breeding of snakes under an expanded definition of "farm" as opposed to the specific definition of "animal boarding place[?]"
>
> 2. Whether the Court of Special Appeals erred in failing to give deference to the expertise of the County Board of Appeals in applying the BCZR pursuant to *Board of Physicians v. Banks*, 354 Md. 59 (1999) as

suggested by Judge Karwacki in his Dissenting Opinion[?]

Respondent presented two questions in his Conditional Cross Petition for our review:

> 1. Has the landowner acquired a vested right, pursuant to either the common law or local ordinance, to use the property to raise, breed and keep reptiles or snakes?
>
> 2. Is the County estopped from preventing the use of the property to raise, breed and keep snakes or reptiles?

We hold that the Circuit Court and the Court of Special Appeals failed to afford the findings of the Board of Appeals the proper deference when those courts held that the raising, breeding, and keeping of snakes and reptiles was a "farm" under the Baltimore County Zoning Regulations. Respondent's business was a use which is prohibited in an R.C.4 zone. We also hold that respondent has not acquired a vested right to conduct his business on the property and that the County is not estopped from preventing the use of the property to raise, breed, and keep snakes and reptiles.

I. Facts

In 1991 respondent purchased a parcel of land to use as his residence. When respondent moved into the residence he used part of the residence to engage in his hobby of herpetology.[1] Specifically, respondent was engaged in the raising and breeding of pythons

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[1] Herpetology is defined as "the branch of zoology dealing with reptiles and amphibians." *The Random House Dictionary of the English Language* 666 (Jess Stein ed., The Unabridged Edition, Random House 1983).

and boas.[2] Respondent's hobby eventually grew into a business and to accommodate its growth and to provide a proper facility for the care of the snakes, respondent started to examine the feasability of constructing a separate building on the same parcel of land for the purpose of breeding, raising, and selling snakes.

In July of 1994, respondent applied to the Baltimore County Department of Permits and Licenses for a "Holding Facility/Kennel/Wild Life" animal license for the purpose of breeding and research of boas and pythons in his residence. The Department of Permits and Licenses issued this license to respondent.

In 1994 respondent presented to the Department of Zoning and Development Management (hereinafter Department of Zoning)[3] a building plan and a site plan which included the proposed use and site for the new building. The parcel of land upon which respondent's residence was located and upon which respondent wanted to construct the building to use as a facility for the breeding and raising of the snakes was zoned R.C.4. An R.C.4 zone limits development to protect critical watersheds[4] and permits as of right, among

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[2] Both boas and pythons are members of the family *Boidae* and are large non-venomous snakes that kill their prey by constriction.

[3] In 1995, the Department of Zoning and Development Management became the Department of Permits and Development Management.

[4] Section 1A03.1 of the Baltimore County Zoning Regulations (hereinafter BCZR) provides that:

> "The County Council finds that major, high-quality sources of water supply for the entire Baltimore Metropolitan Area and for other neighboring jurisdictions

(continued...)

other uses, a one-family detached dwelling and farms.[5] The Department of Zoning requested that the Baltimore County Agricultural Land Preservation Advisory Board (hereinafter Advisory Board) review respondent's intended use and advise the Department of Zoning as to whether respondent's intended use qualified as a farm which was allowed by right in an R.C.4 zone.[6] At an April 12, 1995 meeting, the Advisory Board found that the building used

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[4](...continued)
lie within Baltimore County and that continuing development in the critical watersheds of those water supply sources is causing increased pollution and sedimentation in the impoundments, resulting in increasing water treatment costs and decreasing water storage capacity. The R.C.4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds."

[5] Section 1A03.3 of the BCZR provides that:

> "A. Uses permitted as of right. The following uses, only are permitted as of right in R.C.4 Zones:
>
> 1. Dwellings, one-family detached.
>
> 2. Farms and limited-acreage wholesale flower farms .
> . . ."

[6] In the inter-office correspondence from the Department of Zoning to the Advisory Board, the Director of the Department of Zoning stated that:

> "This office is officially requesting verification of the legitimacy of a farm use on the referenced property. In the judgement of the Director and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the Zoning Commissioner prior to any zoning approvals."

for the breeding, raising, and sale of snakes qualified as a farm.[7]

The Department of Zoning then submitted respondent's request to construct a building to the Development Review Committee. The Development Review Committee granted respondent a limited exception under section 26-171(a)(7) of the Baltimore County Code, which provides for a limited exception to the public hearing process for "[t]he construction of residential accessory structures or minor commercial structures." In a November 25, 1996 letter from the Department of Zoning, respondent was told of the limited exception and that he could proceed with his building permit application.

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[7] The Baltimore County Agricultural Land Preservation Advisory Board's opinion was advisory; the opinion did not have any authority. Section 14-451 of the Baltimore County Code states that:

> "**Sec. 14-451. Agricultural land preservation advisory board; created; duties and responsibilities; membership; terms of office.**
>
> . . .
>
> (c) *Duties and responsibilities.* The agricultural preservation advisory board shall be vested with and shall possess all the powers and duties in this article specified and also all powers necessary to properly carry out fully and factually, the provisions of this article. In addition to those duties prescribed by state law, the board shall:
>
> . . .
>
> (5) Review and make recommendations to the office of zoning administration and development management on zoning regulation proposals that relate to agricultural uses such as tenant buildings, farmer's roadside stands and other agricultural issues as the need arises."

In January of 1997, respondent requested a building permit from the Department of Zoning for a 5,000 square foot reptile barn. This permit was approved on February 14, 1997. A second permit was issued on March 27, 1997 which allowed respondent to double the square footage of the barn by adding a basement level instead of a crawl space.[8] Respondent contracted in January of 1997 with Advanced Building Structures for the construction of the outer shell[9] of the reptile barn. Advanced Building Structures started construction on the outer shell on February 26, 1997 and finished the construction on April 29, 1997. At this point, the barn did not have a roof, windows, or siding. The barn was just a shell, with only a concrete floor and no interior walls. William Yost, a project manager for Advanced Building Structures, stated at the hearing before the Board of Appeals that the barn was 45% completed when the outer shell was finished at the end of April, 1997.

At the beginning of April of 1997, petitioner, Mrs. Marzullo, an adjoining property owner to respondent's property, and other neighbors contacted Mr. Carl Richards, a Supervisor in Zoning Review for the Department of Zoning, regarding the construction activities they observed on respondent's property. On April 16, 1997, Mr. Richards sent a letter to respondent that advised respondent as to the complaints from the neighbors about the permit that was issued for his reptile barn. The letter also stated that a petition for a special hearing for an interpretation as to whether a particular parcel is being used

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[8] In this particular case, the basement, it can be argued, was nevertheless a crawl space.

[9] The outer shell of the reptile barn was from the footings up to the roofline.

appropriately can be filed by any citizen. While such a petition had not actually been filed, Mr. Richards was advising respondent of the possibility.

On April 25, 1997, petitioners filed an appeal from the issuance of the second permit, which allowed for the construction of the basement in the reptile barn. This appeal was dismissed by the Board of Appeals because, at the time, the Baltimore County Code only provided for an appeal by the applicant after a denial of a building permit.

On April 29, 1997, petitioners filed a Petition for Special Hearing under section 500.7 of the BCZR. Section 500.7 states that:

> "The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. *The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises* or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." [Emphasis added.]

The petition stated that it was filed to determine "whether or not the Zoning Commissioner should approve in an RC 4 Zone, the use of the site for the breeding, raising and selling of reptiles."

On September 22, 1997, a hearing was held before the Zoning Commissioner of Baltimore County (hereinafter Zoning Commissioner) on the Petition for Special Hearing. In his Findings of Fact and Conclusions of Law, the Zoning Commissioner stated that the issue was whether respondent's use of the property qualified as a farm under the BCZR. If

the use qualified as a farm, then it is a use by right and if the use was not as a farm, then it was not permitted, even by special exception. Section 101 of the BCZR defines a "Farm" as:

> "**FARM** – Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture,[10] as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

Respondent's property was more than three acres, so the Zoning Commissioner stated that the issue as to whether this was a farm was whether the property was being used for commercial agriculture. Section 101 of the BCZR defines "Commercial Agriculture" as:

> "**AGRICULTURE, COMMERCIAL** – The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations."

The Zoning Commissioner determined that respondent was engaging in commercial agriculture by raising and keeping snakes for income. Therefore, he also determined that

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[10] *The Random House Dictionary of the English Language* 29 (Jess Stein ed., The Unabridged Edition, Random House 1983) provides that agriculture is: "**1**. the science or art of cultivating land in the raising of crops; tillage; husbandry; farming. **2**. the production of crops, livestock, or poultry. **3**. agronomy."

respondent's property was being used as a farm and he could continue with the use as it was a use permitted by right. Petitioners filed an appeal of the Zoning Commissioner's findings to the Board of Appeals.

Over the course of two days, a hearing was held before the Board of Appeals. The Board of Appeals issued an Opinion on November 30, 1998, which stated that "the use of the subject site for the breeding, raising, and selling of reptiles is not permissible in the R.C. 4 zone." The Board of Appeals found that respondent had not satisfied the definition of "Commercial Agriculture." The Board of Appeals stated that:

> "Terms such as 'animal,' 'animal husbandry,' and 'domestic animal' need to rest interpretively on an *ordinarily accepted* definition as stated above. The Board does not disagree with the Zoning Commissioner or the Petitioner's analysis that a snake is an 'animal.' Testimony is uncontradicted that Kahl 'raises, breeds, keeps and markets' these animals (snakes). Is this practice, however, 'commercial agriculture'; and, further, is it the practice of 'animal husbandry'? 'Commercial agriculture' is defined under Section 101 [of the BCZR]. *Webster's* defines 'animal husbandry' as: '. . . A branch of agriculture concerned with the production and care of domestic animals . . . the scientific study of the problems of animal production.' A 'domestic animal' may include '. . . any of the various animals . . . which have been domesticated by man so as to live and breed in a tame condition.' *Webster* defines 'domestic' as '. . . relating to the household or family . . . connected with the supply, service, activities of the household and private residences . . . suited to the physical livability of a private dwelling.' And 'domestic' means to 'bring into a degree of conformity and comfortable accommodation . . . to subject to control and service of man.'
>
> Having heard the testimony and a review of the various exhibits and evidence, this Board has concluded that the Property Owner's use of the R.C. zoned land is an improper use, and hence illegal under present statutory law.
>
> . . .

. . .

In reaching its decision, the Board has also given weight to the definitions assigned to significant terms which have been the subject of the various briefs submitted by Counsel. The first defect in the Property Owner's case is one involving 'the use of land' as it appears in the BCZR 'Farm' definition. . . . There was more than sufficient testimony and evidence produced at the hearing that Mr. Kahl's reptile activities are not land-based or oriented. He does not employ the use of land (fields, forest, streams), nor is there any other crop, growth, production or animal raised primarily for food or fiber that even stretching [the] interpretation is for the benefit or extension of agriculture. The facts of the case clearly demonstrate that the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense. The subject snakes are only outside of the subject building when 'sunning.' They are not dependent on the land or otherwise use the land, agriculturally, on which the building is situated. They exist almost exclusively within the constructed building and are not land dependent." [Emphasis added.]

The Board of Appeals then found that respondent also had not satisfied the definition of "Commercial Agriculture" because the land must qualify for farm or agriculture assessment use and respondent's property was zoned residential by the Department of Assessment and Taxation.

The Board of Appeals also found that respondent's activities did not satisfy the requirement of "animal husbandry." The Board of Appeals stated that:

"Exploring the matter further as to whether or not Mr. Kahl's activities include 'animal husbandry,' the Board also concludes that snakes are 'animals.' The Board also acknowledges that Mr. Kahl raises, breeds and sells animals (snakes). Animal husbandry, however, deals with the production and care of *domestic animals*. The question is one of whether or not Boas and Pythons are to be considered as 'domestic animals.' The term 'domestic' has previously been expounded in this opinion. Significantly, back in July 1994, Mr. Kahl applied for and received a permit for a 'holding facility/kennel/wild life animal license' naming the Peter Kahl Reptiles, Inc., as the facility (his residence) for the purpose of 'research and breeding' valid from July 1, 1994 through June 30, 1995. Article I, Section 6-1 'Definitions' defines 'Wild

Animal' as:

> 'Any animal of a species that in its natural life is wild, dangerous, or ferocious and, though it may be trained and domesticated by the owner, will remain dangerous to the public at large.'

A 'farm animal' is defined as:

> 'Any animal being maintained for the production of food, food products, and fiber.'

Clearly, the Property Owner back in 1994 did not believe his operation fit the definition of a 'farm animal' facility, but rather one of a 'holding facility . . . requiring the use of a wild animal license.' Mr. Kahl vividly described his attempts to demonstrate how Boas and Pythons could be domesticated. Yet, if left unattended and not fed on a regular and systematic basis, they are aggressive and will seek out food and prey by scent. What contemplates food or prey is anyone's guess, but one must conclude that they must [be] consider[ed] dangerous by nature of their size and capacity of constriction and causing death to prey. By definition, domestic animals cannot include any wild animal. While opinions may vary, the Board concludes that in ordinary parlance as well as by the dictionary the word 'domestic' means relating to the home or household and the word 'domesticated' means made domestic or converted to domestic use.

This Board, while recognizing Mr. Kahl's efforts to breed snakes as domesticated, does not agree that they fit the definition as viewed by the members of this Board *or the general public*. While the Board has concluded that Mr. Kahl's activities are an improper use in R.C.4 zone, it is the conclusion of the Board that present zoning classifications do permit such usage as a pet shop defined under Section 101 as 'a person or establishment that sells and/or offers to sell animals, whether as an owner, agent or on consignment, to the general public,' which permits the marketing of pets; and BCZR Section 270 provides appropriate zones where animal boarding places (Class A and Class B) are permitted. While not a use permitted by right or special exception in an R.C.4 zone, they are permitted by special exception in R.C.2 zone by way of Bill 178-79, and 'animal boarding place' (Class B) is allowed by special exception, additionally, in D.R.1, D.R.2, D.R.3.5 and B.M. zones, as well as by right in B.R., M.L. and M.H. zones – but specifically

> prohibited in R.C.4, R.C.5, R.C.20, R.C.50, R.A., R.A.E.1 and 2, B.L. and M.L.R. zones. There are, therefore, ample locations for this type of commercial activity which is engaged in by Mr. Kahl. The present location, however, is not one of them." [Emphasis added.]

The Board of Appeals then addressed the last issue raised by respondent which was equitable estoppel. The Board of Appeals found that it lacked jurisdiction to resolve the issue; nevertheless, the Board of Appeals opined that based on the facts of the case and the relevant case law, respondent would not be entitled to equitable estoppel. Respondent filed a petition for judicial review of the decision of the Board of Appeals in the Circuit Court for Baltimore County.

After a hearing was held on November 10, 1999, the Circuit Court issued an Opinion and Order on November 16, 1999. The Circuit Court reversed the decision of the Board of Appeals. The Board of Appeals had determined that respondent could conduct his business in a zone that allows animal boarding places or pet shops. The Circuit Court determined that these were not appropriate zones for respondent's business and that respondent was engaged in commercial agriculture on a farm, so he could conduct his business in an R.C.4 zone as a matter of right. The Circuit Court then determined that petitioners should be estopped from challenging respondent's use of the land. The Circuit Court stated that, "[s]omewhere in the three years between initially contacting the Department of Permits and Development Management and prior to receiving notice of the special hearing, Kahl was justified in relying upon the approvals he had received from Baltimore County."

Petitioners filed an appeal to the Court of Special Appeals. The Court of Special

Appeals held that respondent's facility is a farm as a matter of law. The Court of Special Appeals also held that respondent is not required to have his land assessed agricultural, respondent's property must merely qualify for the agricultural use assessment. In conclusion, the Court of Special Appeals, remanding the action to the Board of Appeals, stated that:

> "In conclusion, we hold that appellee's [respondent] snake facility is a place that uses the land to breed and raise animals for income, pursuant to the plain language of BCZR section 101. On remand, the Board must decide if appellee would qualify for the agricultural use assessment pursuant to section 8-209 of the Tax-Property Article, if appellee were to apply."

Petitioners then filed a Petition for Writ of Certiorari to this Court and respondent filed a Conditional Cross Petition for Writ of Certiorari. We granted both petitions.

II. Discussion

A. Standard of Review

In *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 729 A.2d 376 (1999), we examined an appellate court's role in reviewing an administrative agency. Judge Eldridge, writing for the Court, stated that:

> "A court's role in reviewing an administrative agency adjudicatory decision is narrow, *United Parcel v. People's Counsel*, 336 Md. 569, 576, 650 A.2d 226, 230 (1994); it 'is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.' *United Parcel*, 336 Md. at 577, 650 A.2d at 230. *See also* Code (1984, 1995 Repl. Vol.), § 10-222(h) of the State Government Article; *District Council v. Brandywine*, 350 Md. 339, 349, 711 A.2d 1346, 1350-1351 (1998); *Catonsville Nursing v. Loveman*, 349 Md. 560, 568-569, 709 A.2d 749, 753 (1998).

In applying the substantial evidence test, a reviewing court decides

> ""'whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.'"" *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119, 1123 (1978). See *Anderson v. Dep't of Public Safety*, 330 Md. 187, 213, 623 A.2d 198, 210 (1993). A reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record. *CBS v. Comptroller*, 319 Md. 687, 698, 575 A.2d 324, 329 (1990). A reviewing court '"must review the agency's decision in the light most favorable to it; . . . the agency's decision is prima facie correct and presumed valid, and . . . it is the agency's province to resolve conflicting evidence" and to draw inferences from that evidence.' *CBS v. Comptroller*, *supra*, 319 Md. at 698, 575 A.2d at 329, quoting *Ramsay, Scarlett & Co. v. Comptroller*, 302 Md. 825, 834-835, 490 A.2d 1296, 1301 (1985). *See Catonsville Nursing v. Loveman*, *supra*, 349 Md. at 569, 709 A.2d at 753 (final agency decisions 'are *prima facie* correct and carry with them the presumption of validity').
>
> Despite some unfortunate language that has crept into a few of our opinions, a 'court's task on review is *not* to ""'substitute its judgment for the expertise of those persons who constitute the administrative agency,'"" *United Parcel v. People's Counsel*, *supra*, 336 Md. at 576-577, 650 A.2d at 230, quoting *Bulluck v. Pelham Woods Apts.*, *supra*, 283 Md. at 513, 390 A.2d at 1124. Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts. *Lussier v. Md. Racing Commission*, 343 Md. 681, 696-697, 684 A.2d 804, 811-812 (1996), and cases there cited; *McCullough v. Wittner*, 314 Md. 602, 612, 552 A.2d 881, 886 (1989) ('The interpretation of a statute by those officials charged with administering the statute is . . . entitled to weight'). Furthermore, the expertise of the agency in its own field should be respected. *Fogle v. H & G Restaurant*, 337 Md. 441, 455, 654 A.2d 449, 456 (1995); *Christ v. Department of Natural Resources*, 335 Md. 427, 445, 644 A.2d 34, 42 (1994) (legislative delegations of authority to administrative agencies will often include the authority to make 'significant discretionary policy determinations'); *Bd. of Ed. For Dorchester Co. v. Hubbard*, 305 Md. 774, 792, 506 A.2d 625, 634 (1986) ('application of the State Board of Education's expertise would clearly be desirable before a court attempts to resolve the' legal issues)."

Id. at 67-69, 729 A.2d at 380-81 (footnotes omitted). In the case *sub judice*, the facts of the

case are not in dispute; however, the Board of Appeals' interpretation and application of the BCZR is in dispute. As stated in *Banks*, even though the decision of the Board of Appeals was based on the law, its expertise should be taken into consideration and its decision should be afforded appropriate deference in our analysis of whether it was "premised upon an erroneous conclusion of law."[11] *Banks*, 354 Md. at 68, 729 A.2d at 380, quoting from *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 577, 650 A.2d 226, 230 (1994).

Respondent contends that the appropriate standard of review is the substituted judgment standard. Respondent states that the decision of the Board of Appeals is not due any deference. Among other cases, respondent cites *Montgomery County v. Buckman*, 333 Md. 516, 636 A.2d 448 (1994) for the proposition that "[t]he agency's resolution of the legal question is not due deference . . . ." We do not find the language in *Buckman* to support the proposition that the decision of an administrative agency is not due any deference.

B. Commercial Agriculture

Petitioners contend that the Court of Special Appeals erred by failing to give the proper deference to the decision of the Board of Appeals and by substituting its judgment for that of the Board of Appeals in construing the BCZR. We agree with petitioners that the

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[11] In Baltimore County, since at least 1978, the Board of Appeals has been charged with "all the functions and duties relating to zoning [appeals] described in Article 25A of the Annotated Code of Maryland." Baltimore County Charter, § 602 (a). As such, its presumed expertise in interpreting the BCZR, developed over the ensuing years, is what gives weight to appropriate deference in our analysis of its legal reasoning in this matter.

Court of Special Appeals did not properly defer to the presumed expertise of the Board of Appeals in interpreting the BCZR. Moreover, there was substantial evidence to support its findings and its conclusions.

The question before the Board of Appeals was whether respondent's business qualified as commercial agriculture under the definition of farm. If his business qualified as commercial agriculture then he would be able to conduct his business because a farm is a use permitted as of right in an R.C.4 zone. The Board of Appeals determined that respondent had not satisfied the definition of commercial agriculture,[12] because respondent was not using the land for the raising of animals. The Board of Appeals stated that "the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense." The Board of Appeals also determined that respondent had not satisfied the definition of commercial agriculture because respondent's business was not animal husbandry as it was intended in the definition of commercial agriculture. The Board of

commercial agriculture

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[12] As stated, *supra*, commercial agriculture is defined in section 101 of the BCZR as:

"**AGRICULTURE, COMMERCIAL** – The *use of land*, including ancillary structures and buildings, to cultivate plants or *raise or keep animals* for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, *animal and poultry husbandry*, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations." [Emphasis added.]

Appeals found that respondent's snakes were wild animals as supported by respondent's application for the holding facility/kennel/wild life animal license in 1994 for his residence and as supported by the definitions of wild animal and domestic animal. The Board of Appeals determined that animal husbandry concerned domestic animals and that the snakes bred by respondent do not fit the definition of domestic animals.

We commence our analysis of the relevant aspects of the BCZR by attempting to ascertain the intent of the legislative body, in this case the County Council of Baltimore County. In *State v. Bell*, 351 Md. 709, 720 A.2d 311 (1998), we stated that:

> "We have said that '[t]he cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature.' *Oaks v. Connors*, 339 Md. 24, 35, 660 A.2d 423, 429 (1995). Legislative intent must be sought first in the actual language of the statute. *Marriott Employees Fed. Credit Union v. Motor Vehicle Admin.*, 346 Md. 437, 444-45, 697 A.2d 455, 458 (1997); *Stanford v. Maryland Police Training & Correctional Comm'n*, 346 Md. 374, 380, 697 A.2d 424, 427 (1997) (quoting *Tidewater v. Mayor of Havre de Grace*, 337 Md. 338, 344, 653 A.2d 468, 472 (1995)); *Coburn v. Coburn*, 342 Md. 244, 256, 674 A.2d 951, 957 (1996); *Romm v. Flax*, 340 Md. 690, 693, 668 A.2d 1, 2 (1995); *Oaks*, 339 Md. at 35, 660 A.2d at 429; *Mauzy v. Hornbeck*, 285 Md. 84, 92, 400 A.2d 1091, 1096 (1979); *Board of Supervisors v. Weiss*, 217 Md. 133, 136, 141 A.2d 734, 736 (1958). Where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts normally do not look beyond the words of the statute to determine legislative intent. *Marriott Employees*, 346 Md. at 445, 697 A.2d at 458; *Kaczorowski v. Mayor of Baltimore*, 309 Md. 505, 515, 525 A.2d 628, 633 (1987); *Hunt v. Montgomery County*, 248 Md. 403, 414, 237 A.2d 35, 41 (1968).
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> . . .
>
> This Court recently stated that 'statutory language is not read in isolation, but "in light of the full context in which [it] appear[s], and in light of external manifestations of intent or general purpose available through other

evidence.'" *Stanford v. Maryland Police Training & Correctional Comm'n*, 346 Md. 374, 380, 697 A.2d 424, 427 (1997) (alterations in original) (quoting *Cunningham v. State*, 318 Md. 182, 185, 567 A.2d 126, 127 (1989)). To this end,

> [w]hen we pursue the context of statutory language, we are not limited to the words of the statute as they are printed. . . . We may and often must consider other 'external manifestations' or 'persuasive evidence,' including a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal, which becomes the context within which we read the particular language before us in a given case.
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> . . . [I]n *State v. One 1983 Chevrolet Van*, 309 Md. 327, 524 A.2d 51 (1987), . . . [a]lthough we did not describe any of the statutes involved in that case as ambiguous or uncertain, we did search for legislative purpose or meaning – what Judge Orth, writing for the Court, described as 'the legislative scheme.' [*Id.* at] 344-45, 524 A.2d at 59. We identified that scheme or purpose after an extensive review of the context of Ch. 549, Acts of 1984, which had effected major changes in Art. 27, § 297. That context included, among other things, a bill request form, prior legislation, a legislative committee report, a bill title, related statutes and amendments to the bill. *See also Ogrinz v. James*, 309 Md. 381, 524 A.2d 77 (1987), in which we considered legislative history (a committee report) to assist in construing legislation that we did not identify as ambiguous or of uncertain meaning.
>
> *Kaczorowski*, 309 Md. at 514-15, 525 A.2d at 632-33 (some citations omitted)."

Id. at 717-19, 720 A.2d at 315-16 (some alterations in original); *see Williams v. Mayor & City Council of Baltimore*, 359 Md. 101, 115-17, 753 A.2d 41, 48-49 (2000); *Riemer v. Columbia Medical Plan, Inc.*, 358 Md. 222, 235-36, 747 A.2d 677, 684-85 (2000); *Laznovsky v. Laznovsky*, 357 Md. 586, 606-07, 745 A.2d 1054, 1065 (2000).

The Baltimore County Planning Board (hereinafter Planning Board) was charged by the Baltimore County Council, in response to the number and the complexity of zoning regulations for farms and agriculture-related businesses, to study the situation. The County Council requested that the Planning Board propose amendments to the BCZR in order to clarify the various zoning regulations dealing with farming and agriculture related operations. A Final Report of the Planning Board was presented on October 17, 1991. The report was titled "Proposed Amendments to the Baltimore County Zoning Regulations Regarding Definition of Commercial Agriculture and Farm."

The Planning Board started the report by providing background as to why amendments were needed to the definition for a farm. The Planning Board stated that:

Planning Board Comments

> "The agricultural industry is changing dramatically. Consumer preferences and economic necessity are transforming the manner in which agricultural businesses are operated. More and more farmers are engaged in retail distribution in addition to production activities. For example, *The Pennsylvania Farmer*, a magazine geared towards the farming community, reports innovative business practices which have greatly increased farm revenues. One farmer raised his income by selling some of his fruits in fruit baskets and delivering them to nearby offices and homes, as well as shipping them via mail order. Another farmer began to process his crops into cider after a hailstorm downgraded his apples. Today he is blending his ciders with cranberries, cherries, grapes and fruits purchased from other farms and is producing 10,000 gallons per day. Different products are being tried out. An apiarian, who initially restricted his production to honey only developed a carob/cranberry bar utilizing honey and by-products from honey processing. Ocean Spray, the cranberry operative, became one of his major buyers . . . .
>
> New types of crops are becoming commonplace. Farmers experiment with raising ornamental and edible fish, shellfish and aquatic plants for the wholesale and retail trade. Hardier varieties of plants allow the cultivating of grapes in local climates and more County farmers are trying their hand in wine

production. Today the uses are frequently included when agriculture is defined in zoning regulations.

All of the business practices listed above are far removed from traditional agricultural operations. Smaller parcels of land are used to produce higher yields with the aid of intensive application of pesticides. Agricultural crops are processed, packaged and stored on site and many producers adopt the same marketing and distribution principles as commercial and industrial operations. Other aspects indicative of the changes in the agricultural industry are reflected in the type of equipment used and the modes of chemical application. Often involved in processing and distribution, today[']s farmers are more likely to use heavy equipment. Some farmers own a fleet of trucks. Other farmers use airplanes to apply pesticides.

The industrialization of agriculture has enormous implications on land use and it is essential to acknowledge that reality in the proposed definition. Recognizing the transformation of agriculture, this report provides recommendations for updating the Zoning Regulations."

The Planning Board then went on to discuss the new definition of agriculture. The Planning Board stated that:

"Formulation of a separate definition for agriculture is essential to complete the proposed set of farm definitions. 'Agriculture' has a broader meaning than 'farm'. Comparable in concept to words like 'commercial', 'residential' and 'industrial', *'agriculture' represents a class of land uses* and thus accommodates operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition. For example, riding stables, firewood operations, landscape operations do not qualify as farms yet they are related to agriculture.

agriculture includes more than farm

The principal standard that sets agricultural uses apart is that land or structures and buildings are utilized to produce plants or raise animals for income. The proposed definition acknowledges that agriculture is an industrial use which involves such activities as storage, processing, marketing, distributing and financing, but qualifies that all of the above activities must be ancillary to the principal agricultural operation." [Emphasis added.]

The Planning Board then examined the old definitions of "farm" and discussed why a new definition for farm and commercial agriculture was needed. The Planning Board stated that:

> "The Baltimore County Zoning Regulations presently offer two definitions for farm and two additional definitions, which describe different types of farms:
>
> > **Farm:** Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, including but not limited to: crop, dairy, stock and poultry farming; greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm. {Bill No. 85, 1967.}
>
> **Farm:** A single tract of land more than three acres, primarily devoted to agriculture, including but not limited to raising of crops, dairy, forestry, livestock and poultry farming; horse breeding, training and stabling, grazing, commercial greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm and commercial or noncommercial riding stables. {Bill No. 98, 1975.}
>
> **Farm, Satellite:** A tract of land owned by the farmer or another individual or individuals which is more than 5 acres, and is primarily devoted to productive agriculture, including but not limited to the raising of crops, forestry, dairy, or livestock grazing: provided that the products from these areas are processed on the site or are brought to and processed on the principal farm, as defined, or are processed in other appropriate areas. {Bill No. 98, 1975.}

The existing farm definitions are repetitive and obsolete and Planning Board recommends replacing them with a version which more accurately addresses the special needs of today's farming industry. Discussions with farm representatives revealed that Baltimore County has a continuum of different farm types, all of which can be grouped under the catchall of 'metrofarm'.

They range from large scale field crop producers to small, intensively farmed operations. Farmers may conduct their business on a full-time or on a part-time basis and in addition to production, they may be involved in an array of industrial type activities.

The 'Farm, Satellite' definition has limited application. Its primary purpose is to accommodate individual farmers or farm cooperatives who own or lease non-contiguous parcels of land and who use the principal farm building or other appropriate areas for processing purposes. Planning Board believes that that form of land use is accommodated in the proposed farm definition and recommends deleting the Farm, Satellite definition.

Section 100 of the Baltimore County Zoning Regulations includes a fourth definition for small farms between three and ten acres which are either commercial or noncommercial operations. The definition of 'farmette' includes a livestock ratio table which is intended to control animal waste pollution and overgrazing on small lots.

> **Farmette:** A parcel of land more than 3 acres and less than 10 acres, devoted primarily to a single-family residence with associated agricultural uses such as commercial or noncommercial raising of farm produce, flowers, nursery stock, greenhousing and limited livestock[13] . . . ."

The Planning Board then proposed a definition for "Commercial Agriculture" that was eventually enacted, without change, by the County Council by Bill No. 51-93 on April 19, 1993. This proposed and enacted definition is the same as the definition used by the Board of Appeals in the case at bar.

At the hearing before the Board of Appeals, petitioners presented testimony from two

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[13] The livestock, fowl, and poultry listed in the livestock ratio table were horses, burros, cattle, sheep, goats, pigs, ponies, miniature horses, chickens, ducks, geese, pigeons, pheasant, and quail. Snakes were not listed as an animal that would be on a farmette and would need to be included in a ratio table to help control animal waste pollution.

experts in the area of land planning. The first to testify was Paul Solomon, who, among other credentials, had worked for the Baltimore County Office of Planning and Zoning and the Baltimore County Department of Environmental Protection and Resource Management. Specifically, Mr. Solomon was the planner in charge of the implementation of the resource conservation zoning classifications, which included the R.C.4 zone. In his testimony, Mr. Solomon stated that:

> "Q. Do you remember the question? Do you agree with the Zoning Commissioner's approach to the issues?
>
> A. Yes, I recall the question. No, I do not agree with the Zoning Commissioner's opinion, nor the basis for it in this case.
>
> Q. Why not, Mr. Solomon?
>
> . . . .
>
> A. Well, there are several reasons that I base my answer on.
>
> First, there's no apparent – it's not apparent he considered the evolution of the R.C. zones that took place and then the need for them, so forth, I think clearly sheds light on this issue of what is a farm.
>
> Secondly, in the definition itself, the definition is now in the zoning regulations which was put in in '91.
>
> Incidently, he didn't consider all the aspects of the definition which have to be taken together, and pulls out one word, basically, animals, and he does not consider the various types of agricultural described in that definition and how they relate to this exotic use.
>
> He does not understand or consider the fact that land is the key component of the definition.
>
> He does not consider the ancillary structures are just that. They are

ancillary to the total agricultural use of the land.

He apparently did not consider the assessment requirement of that definition, since it's my understanding that this property is zoned residential and not agricultural.

He did not consider the report that was done in 1991 by the planning board which updated the definition as described here and provides a lot of insight into the meaning of this definition and the types of agriculture which the planning board and the County Council were alluding to.

That's a quick review. That's why I find fault with the Zoning Commissioner's decision in this case.

. . .

Q. Now, during the time the R.C. zones were under study, under your direction heading the committee you have just discussed, did you or your colleagues have a concept as to what animals would be considered as part of an agricultural operation?

A. Yes.

. . .

Q. Mr. Solomon, what did you have in mind when that terminology 'raise or keep animals for income' was included in the commercial agriculture definition?

A. Well, I must say, in all honesty, this definition is totally consistent with and actually reinforces the earlier definition.

But this definition is somewhat different, but with that footnote, the basis which we utilized consistent throughout the process was this activity involving these animals, farm animals, basically, was that it was land-based.

In other words, did it need land as a raw resource to function, or was it production of food and fiber?

So, basically, if either one of those conditions had been met, then the

likelihood was that that particular use for that livestock would qualify, and I think we were pretty steadfast in that regard.

Q. Now, for example, would breeding of dogs be included in this concept you just described?

A. No, it would not.

Q. Why not?

A. In the first place, it is not land-based. It doesn't require land for feed or even towards disposal of waste materials, anything of that type.

It is more of a suburban-urban type use involving kennels, so forth. Dogs are not food or fiber, so it passed neither aspects of the tests.

It is not land based, and it was not production of food or fiber.

. . .

Q. Now, you mentioned earlier in your testimony when you were discussing the agricultural – commercial agriculture definition in the Baltimore County zoning regulations, that – strike that.

There was a prior definition before the one that's currently in the zoning regulations, is that correct?

A. That is correct.

Q. And, in your opinion, does the current definition differ materially from the original definition of commercial agriculture?

. . .

A. It differs only in one regard, a very specific regard, that is, the newer definition requires that in order . . . to accommodate commercial agriculture, the land must qualify for the agricultural use assessment.

With that one difference, the definition is precisely, or is the same. And, in fact, reinforces the intent and meaning of the earlier definition by

adding other agricultural uses such as aquaculture.

It's conspicuous here it does not add uses such as exotic pets, or other non-agricultural uses.

. . .

Q. In your opinion – I will rephrase the question. Does the planning board report [the October 17, 1991 report of the Planning Board discussed *supra*] suggest any change in the understanding of the term 'commercial agriculture' from a previous definition in the 1970s to the current definition in 1993, other than the change about the agricultural use assessment?

A. No, it does not.

. . .

Q. What are the changes that are contained in the planning board report of 1991?

A. Well, the impetus of this report was that agriculture was evolving in the sense that there was some – involving some farming enterprises which were not covered under traditional agricultural.

They wanted to clarify. They mentioned four agricultural uses of the land in particular which included the raising of grapes, called viticulture; the production of fish, which is aquaculture; forestry, which is simply reiterated from the earlier definition, and then the raising of bees.

And they felt that these should be added to the more traditional accepted uses because of the state of transition of agriculture. . . .

. . .

A. Well, there's no indication in the report that they considered – there's no indication in the report in considering all of the various types of agricultural uses that they were aware of, including the ones they added, of course, in that review, they did not apparently entertain any notion of kennel or animal boarding place or exotic snake farms as being within the definition of agricultural use.

. . .

Q. Are you familiar with the phrase 'animal and poultry husbandry'?

A. Yes, I am.

Q. Based on your experiences in developing the agricultural zones in Baltimore County, what is your understanding of the term 'animal husbandry'?

. . .

A. Animal husbandry consists of production of livestock or the raising of livestock primarily for food, although in the case of the horse industry, for other uses as well, but it's also land-based.

Q. And in your opinion, does the operat[ion] conducted by Mr. Kahl consist of animal husbandry, or is it consistent with that definition?

. . .

A. No, it is not land-based. It is not land-based in any sense of the word.

. . .

Q. In preparing for the zoning case, is it appropriate to sometimes consult the Baltimore County Code for reference?

A. Yes, it is.

Q. And did you consult the Code in this case?

A. Yes, I did.

Q. What, if anything, did you find that may be relevant to the issues that we are discussing today?

A. In looking or in reviewing the County Code, I reviewed the Title VI, Article 9.

Title VI is entitled animals, and Article 9 refers to wild animals.

But in the definition section, it breaks down animals into various groupings. It breaks them down into domestic animals, cats and dogs, basically, or as an example. It distinguishes very clearly farm animals.

And then it includes a third category called wild or exotic animals. . .

. . .

Q. Was the County Code helpful to you in forming your opinion in this case?

A. It was helpful, yes.

Q. In forming your opinion, did you make, and based on the testimony you heard, and in your review of the matters in this case, did you make a determination as to what category Mr. Kahl's raising and breeding and selling snakes would fit into?

A. Yes. It would fall under the wild or exotic animals. Not, obviously, farm animals.

. . .

Q. Why would it not fall into the definition of a farm animal under the Baltimore County code?

A. It states – the definition states farm animals means any animal being maintained for production of food, food product, and fiber, period.

That's the entire definition, and that's consistent with the definition or the expressed understanding we had when we developed the R.C. zones.

Q. Have you heard anything today concerning Mr. Kahl's operation though that would lead you to believe it is an agricultural operation?

A. No.

Q. Now, based on these experiences that you discussed with Baltimore County zoning laws, and based on your investigation in this case and the matters that you heard today, do you have an opinion whether the use requested by the petitioner qualifies as commercial agriculture?

A. I do have an opinion.

Q. What is that opinion?

A. It is that his operation does not qualify under the definition in the Baltimore County zoning regulations for commercial agriculture.

Q. What do you base that opinion on? If you could tell the Board.

A. I base it first on the definition itself, which in its entirety makes it very clear what animals are.

In the first instance, the definition starts out by saying 'the use of land,' so the livestock operation, the animal operation has to be land-based, which it is not in this case.

Then there's a comment after land. It goes on to say 'including ancillary structures and buildings,' which makes it very clear that any structures are ancillary or secondary to the actual use of the land.

Then it goes on to say 'to cultivate plants or raise or keep animals for income, providing that the land also qualifies for farm or agriculture or agricultural land use assessment.'

In this case, there is clear, clear evidence that it is presently not assessed for agricultural use . . . .

A. So I am now discussing the actual definition of commercial agriculture in trying to show where the use that's before this Board is not consistent with this definition.

Coming to the end of that definition, it lists, and it is updated, it lists based on the '90 changes to the definition which includes all types of agriculture, they list nine or ten forms of agriculture.

They take commercial agriculture. It includes production of field crops, dairying, pasturage, agriculture, horticulture, aquaculture, apiculture, viticulture, forestry and animal and poultry husbandry, horse breeding and horse training.

And then it includes ancillary activities such as processing packages, so forth.

But if the Zoning Commissioner would have taken a look at those uses, there is not a hint there it involves pets or exotic animals or anything of the kind.

. . .

Q. Mr. Solomon, my original question was, on what did you base your opinion? Is there anything else?

A. Yes.

Q. Other than what you have discussed?

A. In addition to the definition itself, the Zoning Commissioner, in my opinion, should have looked at the County Code as far as looking at the definitions of animal, which very clearly distinguishes farm animals and other animals.

He should have considered the evolution and the process involving the construction of the R.C. zones, determined what, if any, meaning could be gleaned from that research.

He could have looked, should have looked at the Maryland assessment law to see how that was consistent with the definition.

So in concluding my answer to you question, he should have looked both within the definition in its entirety for enlightenment and consistency, and should have looked at the external office I alluded to, and the whole process

of the R.C. zone.

Q. Finally, Mr. Solomon, based on your position in Baltimore County in doing the R.C. 4 zones and based upon your experience, was there ever any thought given to including raising, breeding reptiles, snakes, as a farming activity?

A. No, never."

Mr. Solomon also stated in his testimony that it was his opinion that respondent's business could be located in a zone that allowed an animal boarding place.

After the testimony of Mr. Solomon, petitioners presented Mr. Norman Gerber, who also was accepted as an expert in land planning. Mr. Gerber worked in the planning office in Baltimore County for thirty years and he was the Director of Planning for eight years. As the Director of Planning, Mr. Gerber had been involved with the R.C. zones legislation and the application of the legislation to the land. Mr. Gerber stated that in his opinion respondent's business could not be conducted in an R.C.4 zone, but Mr. Gerber stated that in his opinion respondent's business could be located in a zone that allowed an animal boarding place class B. Mr. Gerber stated that he disagreed with the Zoning Commissioner's decision and that he thought that the Zoning Commissioner overlooked the fact that there is a broad zone (animal boarding place class B) in which this use is permitted. Mr. Gerber stated that this use does not meet the definition of a farm and that this use is not related to the land.

Respondent alleges that he is using the land in the same manner as poultry husbandry

and aquaculture, two forms of commercial agriculture.[14] At the hearing, the distinction was drawn between the two recognized forms of commercial agriculture in that they both provide food. Respondent also alleges that he practices animal husbandry within the definition of commercial agriculture. The Board of Appeals distinguished respondent's business because it involves wild animals, not domestic animals, and the definition of animal husbandry is the production and care of domestic animals.

After an examination of the record, we determine that there is substantial evidence in the record to support the Board of Appeals' decision to find that the breeding, raising, and selling of snakes is not a permissible use in an R.C.4 zone. There is no dispute as to the facts. Moreover, the legislative intent, as evidenced by the County Council's adoption of the Planning Board's proposed amendments and the testimony as to the intent of the Planning Board, provided the Board of Appeals with substantial evidence to interpret and apply the statutes in the manner in which it did. Examining the Board of Appeals' decision and giving the appropriate deference to the expertise of the Board of Appeals in interpreting the BCZR, we hold that the Board of Appeals' decision was not premised on an erroneous conclusion of law.

Furthermore, we have held that a change in a statute as part of a recodification will not modify the law unless the intent of the legislative body to change the law is clear. In

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[14] The definition of commercial agriculture, stated *supra*, explicitly states that aquaculture and poultry husbandry are included as commercial agriculture. The definition does not state that the raising, breeding, and selling of snakes – snake husbandry – is included as commercial agriculture.

Blevins & Wills v. Baltimore County, 352 Md. 620, 642, 724 A.2d 22, 32-33 (1999), we stated that:

> "We have long recognized and applied the principle that 'a change in a statute as part of a general recodification will ordinarily not be deemed to modify the law *unless the change is such that the intention of the Legislature to modify the law is unmistakable*.' *Duffy v. Conaway*, 295 Md. 242, 257, 455 A.2d 955 (1983) (emphasis added); *In re Special Investigation No. 236*, 295 Md. 573, 458 A.2d 75 (1983). That is because the principal function of code revision 'is to reorganize the statutes and state them in simpler form,' and thus 'changes are presumed to be for the purpose of clarity rather than for a change in meaning.' *Bureau of Mines v. George's Creek*, 272 Md. 143, 155, 321 A.2d 748, 754 (1974), quoting from *Welsh v. Kuntz*, 196 Md. 86, 97, 75 A.2d 343, 347 (1950)."

Resolution number 29-90 of the County Council requested that the Planning Board propose "amendments to the Baltimore County Zoning Regulations in order to clarify the various zoning regulations dealing with farming, forestry activities, and agriculture related operations." There was not an intent on the part of the County Council to modify the law; the County Council was looking to clarify the law. Examining the previous definitions of farm in the BCZR that were clarified by the definition of farm and commercial agriculture, we cannot detect any intent of the County Council to change the meaning of the preceding definitions. The preceding definitions clearly do not include respondent's business as an activity that occurs on a farm. Moreover, there was no discussion before the Planning Board of extending any of the relevant definitions to include any new animals involved in new types of commercial agriculture that were not explicitly stated in the new definition. Clearly, snakes were not an animal that the Planning Board or the County Council considered as

falling within the province of the definition of farm or commercial agriculture.

Furthermore, there are certain instances where it is appropriate to consider other factors when interpreting a statute, some of which were alluded to by the petitioners' expert witness. They include the fact that we do not set aside common experience and common sense when construing statutes. Absurd constructions are to be avoided. Simply stated, in the absence of proof that the legislative body expressly intended otherwise, the terms "farm" or "farm animals" would not normally include pythons and boa constrictors. Pythons, boa constrictors, and, for that matter, snakes in general, are not "farm animals." One can breed, raise, and sell snakes, but you cannot farm them. A snake is no more the equivalent of chickens, pigs, cows, goats, and sheep, than are lions, tigers, and elephants. In arriving at this assumption, we do not rely on treatises, scientific documentation, or other published works; we rely on common sense. A snake, however loveable it may be to some, is not a farm animal unless legislatively declared to be such. A boa constrictor can be an animal on a farm, but that does not make it a "farm animal," any more than a fox on the way to raiding the hen house is a "farm animal."

We hold that the Court of Special Appeals failed to give the proper deference to the decision of the Board of Appeals. The decision of the Board of Appeals was supported by substantial evidence in the record and was not premised on an erroneous conclusion of law. The Court of Special Appeals erred in finding that respondent's business was a permitted use in an R.C.4 zone. The Court of Special Appeals should have affirmed the decision of the

Board of Appeals.

C. Vested right

Respondent contends that he has obtained a vested right to use his property to raise, breed, and keep reptiles or snakes. In his brief, respondent states that in order for him to have a vested right he must satisfy two prongs. The first prong is that there has to be a valid permit. The second prong is that substantial work has to be performed under the permit so that it would be discernable to a member of the general public that work under the permit was occurring. Respondent states that he has satisfied both of the prongs and has a vested right to use the property for his business. Respondent fails to properly apply the prongs and to understand the circumstances of when a vested right occurs.

We examined the law of vested rights in *Prince George's County v. Sunrise Development Limited Partnership*, 330 Md. 297, 623 A.2d 1296 (1993). In *Sunrise*, we stated that:

> "The third stream of cases involves the issue of vested rights, per se. By a per se vested rights case we mean one invoking '[t]hat doctrine, which has a constitutional foundation [and which] rests upon the legal theory that when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his right to complete and use that structure cannot be affected by any subsequent change of the applicable building or zoning regulations.' *Prince George's County v. Equitable Trust Co.*, 44 Md. App. 272, 278, 408 A.2d 737, 741 (1979).
>
> The first case in this Court squarely raising that doctrine is *Richmond Corp. v. Board of County Comm'rs for Prince George's County*, 254 Md. 244, 255 A.2d 398 (1969). There the developer owned commercially zoned land abutting residentially zoned land. The developer had expended large sums of money in acquisition of the property and in preparing plans, leases and

specifications for a shopping center on the commercially zoned tract that would utilize the residentially zoned tract for parking. Before there was any construction on the ground, the zoning ordinance was amended to require a special exception for parking on residentially zoned property as auxiliary to a commercial use. In rejecting a contention that the developer had vested rights under the earlier zoning, we borrowed from the law of nonconforming uses the concept of public knowledge in the neighborhood of the use, saying:

> 'In Maryland it is established that in order to obtain a "vested right" in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use, the owner must (1) obtain a permit or occupancy certificate where required by the applicable ordinance and (2) must proceed under that permit or certificate to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use. *See Feldstein v. LaVale Zoning Board*, 246 Md. 204, 210, 227 A.2d 731, 734 (1967), indicating that [*Mayor & City Council v.*] *Shapiro*[, 187 Md. 623, 51 A.2d 273 (1947)] as well as *Chayt v. Board of Zoning Appeals*, 177 Md. 426, 9 A.2d 747 (1939), established as one of the tests for determining the existence of a nonconforming use "is whether such use was known in the neighborhood."'

254 Md. at 255-56, 255 A.2d at 404.

In *Rockville Fuel & Feed Co. v. Gaithersburg*, 266 Md. 117, 291 A.2d 672 (1972), we said that '[s]uch a "vested right" could only result when a lawful permit was obtained and the owner, in good faith, has proceeded with such construction under it as will advise the public that the owner has made a substantial beginning to construct the building and commit the use of the land to the permission granted.' *Id.* at 127, 291 A.2d at 677; *see also County Council for Montgomery County v. District Land Corp.*, 274 Md. 691, 337 A.2d 712 (1975)."

Id. at 312-13, 623 A.2d at 1303-04 (alteration in original); *see Sycamore Realty Co., Inc. v. People's Counsel of Baltimore County*, 344 Md. 57, 67, 684 A.2d 1331, 1336 (1996).

In the case *sub judice*, respondent obtained a permit and completed substantial

construction; however, he is not entitled to have a vested right because there has been no change, applicable to his case, in the zoning law itself and the permit was improperly issued. When respondent obtained his permit and started construction, the BCZR was the same as when petitioners filed for a hearing before the Zoning Commissioner. The Zoning Commissioner and later the Board of Appeals were not making a subsequent change to the BCZR, they were just interpreting the BCZR as it was already enacted. Based on the decision of the Board of Appeals that we are affirming, respondent's permit was not a lawful permit because he could not lawfully conduct his business in an R.C.4 zone.

Respondent did not satisfy the first prong because his permit was not proper. Additionally, he was not being subjected to a subsequent change in the zoning regulations. Generally, in the absence of bad faith on the part of the remitting official, applicants for permits involving interpretation accept the afforded interpretation at their risk. Therefore, respondent has not obtained a vested right to conduct his business on the property.

D. Equitable estoppel

We examined the doctrine of equitable estoppel and its application against a municipality in *Inlet Associates v. Assateague House Condominium Association*, 313 Md. 413, 545 A.2d 1296 (1988), when we stated that:

> "There is no settled rule in this country as to when, and under what circumstances, equitable estoppel is available against a municipal corporation. *Permanent Fin. Corp. v. Montgomery Cty.*, 308 Md. 239, 518 A.2d 123 (1986). Our cases have continually applied the definition of equitable estoppel set forth in 3 J. Pomeroy, *Equity Jurisprudence* § 804 (5th ed. 1941) as follows:

> 'Equitable estoppel is the effect of the voluntary conduct of a party whereby he is absolutely precluded, both at law and in equity, from asserting rights which might have otherwise existed, either of property, or contract or of remedy, as against another person who has in good faith relied upon such conduct, and has been led thereby to change his position for the worse and who on his part acquires some corresponding right, either of property, of contract, or of remedy.'

Unlike *Permanent Fin.*, the present case does not turn on the ambiguity vel non of a county ordinance which was subject to two reasonable interpretations. Rather, we are now considering whether a municipality may be estopped when its city council, in clear violation of a fundamental charter requirement that it act by ordinance, with all the deliberate safeguards attendant upon the legislative process, purports to bind the municipality through passage of a simple resolution which is neither subject to executive approval nor veto nor the public right of referendum. Of course, no principle is better settled than that persons dealing with a municipality are bound to take notice of limitations upon its charter powers. *See City of Hagerstown*, *supra*, 264 Md. at 493, 287 A.2d 242; *Hanna v. Bd. of Ed. of Wicomico Co.*, 200 Md. 49, 57, 87 A.2d 846 (1952); *Gontrum v. City of Baltimore*, 182 Md. 370, 375, 35 A.2d 128 (1944). Consequently, '[e]veryone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.' *Lipsitz v. Parr*, *supra*, 164 Md. at 228, 164 A. 743. *See also Berwyn Heights*, *supra*, 228 Md. at 279, 179 A.2d 712. Therefore, the doctrine of equitable estoppel 'cannot be . . . invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment.' *Lipsitz*, 164 Md. at 228, 164 A. 743. In the same vein, McQuillin, *supra*, § 29-104c states that estoppel cannot make lawful a municipal action which is beyond the scope of its power to act or is not executed in compliance with mandatory conditions prescribed in the charter. In other words, the doctrine of equitable estoppel cannot be invoked to defeat a municipality's required adherence to the provisions of its charter simply because of reliance upon erroneous advice given by an official in excess of his authority. *See City of Baltimore v. Crane*, *supra*, 277 Md. at 206, 352 A.2d 786. When, as here,

> it is a patent violation of one of the most fundamental provisions of a municipal charter – that its legislative body, when required to act in a legislative capacity, do so only by ordinance – it cannot matter that a party relies upon erroneous official advice to its detriment."

Id. at 434-37, 545 A.2d at 1307-08 (alteration in original).

Respondent contends that Baltimore County should be estopped from preventing him from using his property to raise, breed, and keep reptiles and snakes. Respondent states that it would be "fundamentally unfair" to not allow him to use the property for his business after he obtained permit approval and had substantially constructed the reptile barn before he knew the petitioners might file for a special hearing. Respondent contends that he relied on the permit approval to order materials and enter into a contract for construction.

In *Lipsitz v. Parr*, 164 Md. 222, 164 A. 743 (1933), Mr. Lipsitz brought a proceeding against Mr. Parr, the buildings engineer of the Mayor and City Council of Baltimore City, and the named members of the board of zoning appeals. Mr. Lipsitz had obtained a permit to construct a building to manufacture ice. The permit granted Mr. Lipsitz permission to construct the building and the permit carried an indorsement that the use of the land was in conformity with the provisions of the zoning ordinance. The land upon which the ice factory was to be constructed was actually in a zone where an ice factory was prohibited. Mr. Lipsitz was notified by letter that the permit was revoked and annulled as being in violation of the law and as having been issued by a mistake of a clerk. Mr. Lipsitz had already leased the premises to a tenant for a term of five years and had started construction on the building. Mr. Lipsitz alleged that the municipality was barred from denying his right to use the premises

as an ice factory by estoppel.

The Court held that the doctrine of estoppel did not apply because a municipality is not estopped from enforcing its zoning regulations when a permit had been issued by mistake by its officer or agent. The Court held that:

> "A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law. Paragraph 31 of the ordinance forbade the officials of the municipality to grant the permit which the plaintiff asked and obtained; and paragraph 41 made it a misdemeanor for the plaintiff to use his premises as a factory to make ice as the invalid permit purported to empower.
>
> If the provision of the ordinance be constitutional, it was therefore unlawful for the officers and agents of the municipality to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued without the official power to grant does not, under any principle of estoppel, prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality. In the issuance of permits pursuant to the ordinance at bar, the municipality was not acting in any proprietary capacity nor in the exercise of its contractual powers, but in the discharge of a governmental function through its public officers of limited authority, and *the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of this ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment*. Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.

So, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act of its officer or agent, it is not estopped by the unauthorized or wrongful act of its officer or agent in issuing a permit that is forbidden by the explicit terms of an ordinance.

It follows that, because the ordinance prohibited the use of the premises

> in question for the making of ice by artificial methods, any permit issued would be void, and the person who received the permit would derive no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss, unless the prohibition itself were void."

Id. at 227-28, 164 A. at 745-46 (citations omitted) (emphasis added).

In *Town of Berwyn Heights v. Rogers*, 228 Md. 271, 179 A.2d 712 (1962), Phillip Rogers, a home builder, began construction of a residence in Berwyn Heights. Mr. Rogers had not started construction until he had received building permits from both the county's building inspectors and the Town of Berwyn Heights'[15] inspectors. The construction was in compliance with the permits; however, the Town of Berwyn Heights concluded that a mistake had been made in the issuance of the permits so that the residence was being built in violation of a zoning ordinance. The Town of Berwyn Heights filed suit to enjoin the construction of Mr. Rogers.

Mr. Rogers alleged that the Town of Berwyn Heights was estopped from filing suit because it and the county had issued Mr. Rogers building permits, and Mr. Rogers had expended substantial amounts of money in partially constructing the residence. The Court held that:

> "Some authorities hold that the principle of estoppel does not apply against a city, but the majority rule is to the effect that the doctrine of estoppel in pais is applied to municipal, as well as to private, corporations and individuals, at least where the acts of its officers are within the scope of their authority and justice and right requires that the public be estopped. And it has been held that municipalities may be estopped by reason of the issuance of permits. However, the cases and text-writers very generally state that a municipality is

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[15] The Town of Berwyn Heights was, and remains, a municipal corporation.

> not estopped to set up the illegality of a permit. And the issuance of an illegal permit creates no 'vested rights' in the permittee. *We have held above that the permits issued to the appellee were in violation of the zoning ordinance; consequently they were unlawful and did not estop the appellant [the Town of Berwyn Heights] from prosecuting this suit."*

Id. at 279-80, 179 A.2d at 716 (citations omitted) (emphasis added).[16]

While we are sympathetic to the plight in which respondent has found himself, we hold that the county is not estopped from enforcing the BCZR as it was applied by the Board of Appeals. We have held, generally, that permits that have been issued that are in violation of the zoning ordinances are unlawful and cannot be grounds for estopping a municipality from the enforcement of the ordinance. We stated in *Lipsitz* that "the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment." *Lipsitz*, 164 Md. at 227, 164 A. at 746.

III. Conclusion

We hold that the Court of Special Appeals failed to give appropriate deference to the

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[16] There have been cases where we have granted equitable estoppel against a municipality; however, they are distinguishable from the case at bar. In *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239, 518 A.2d 123 (1986), a builder sought to estop the county from asserting that the top floor of a building exceeded a height control imposed by local zoning ordinances. We held that the county was estopped because the builder had designed and constructed the building in reliance on the building permits and the counties long-standing and reasonable interpretation as to how a building's height should be calculated. The record in the case at bar does not indicate any long-standing practice in Baltimore County to include snakes as farm animals or the raising and breeding of snakes as commercial agriculture. To the extent there is any such evidence, it is to the contrary.

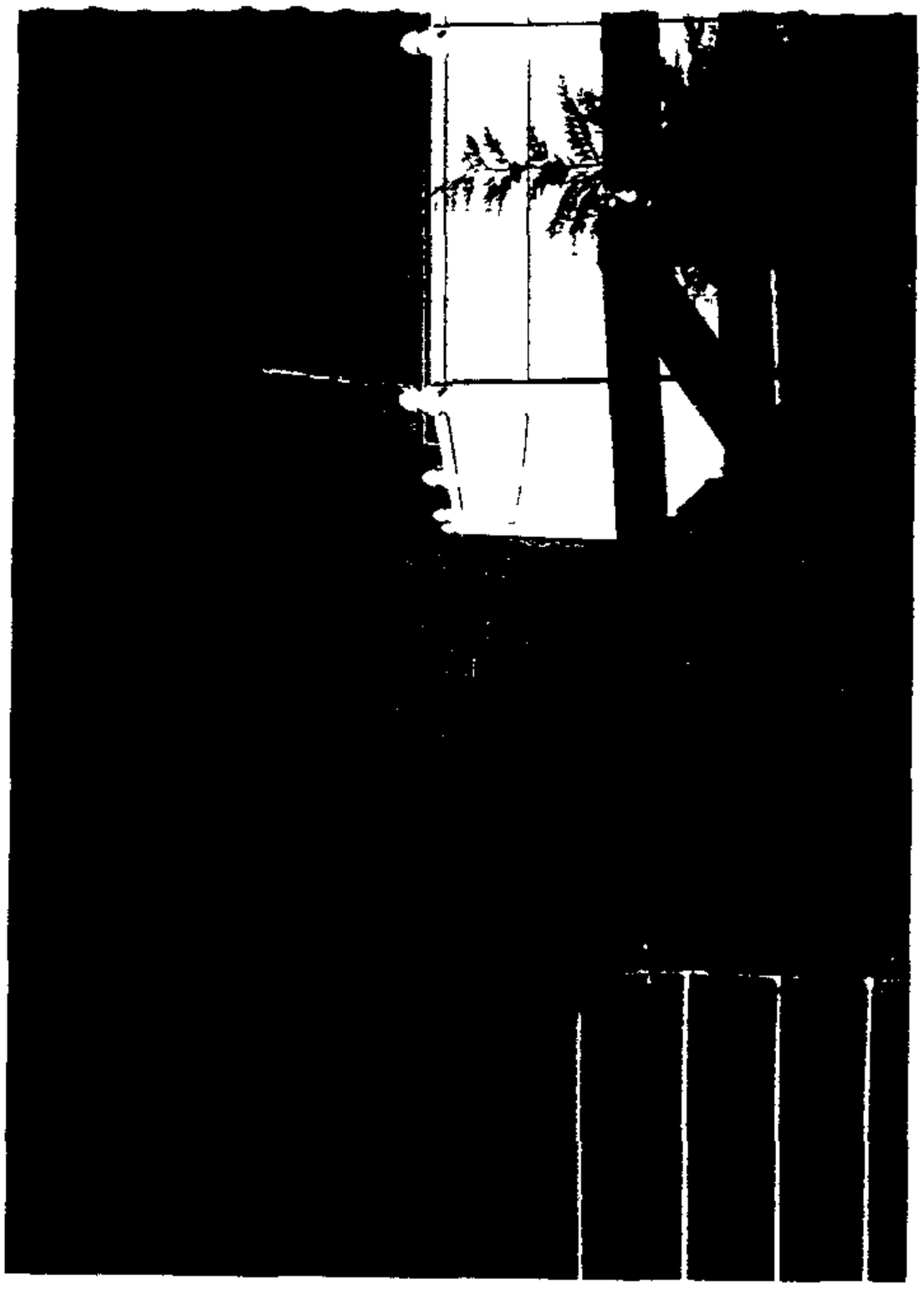
expertise of the Board of Appeals in interpreting the BCZR. Furthermore, there was substantial evidence in the record to support the findings made by the Board of Appeals and the decision made by the Board of Appeals was not based on an erroneous conclusion of law. The Board of Appeals properly found that respondent's business does not satisfy the definition of "commercial agriculture," because respondent was not involved in the use of the land or in animal husbandry. Also, it was not the intent of the County Council when enacting the definition of "commercial agriculture" to include activities like the breeding, raising, and selling of reptiles. Therefore, respondent's business does not satisfy the definition of "farm" and respondent is unable to conduct his business in an R.C.4 zone.

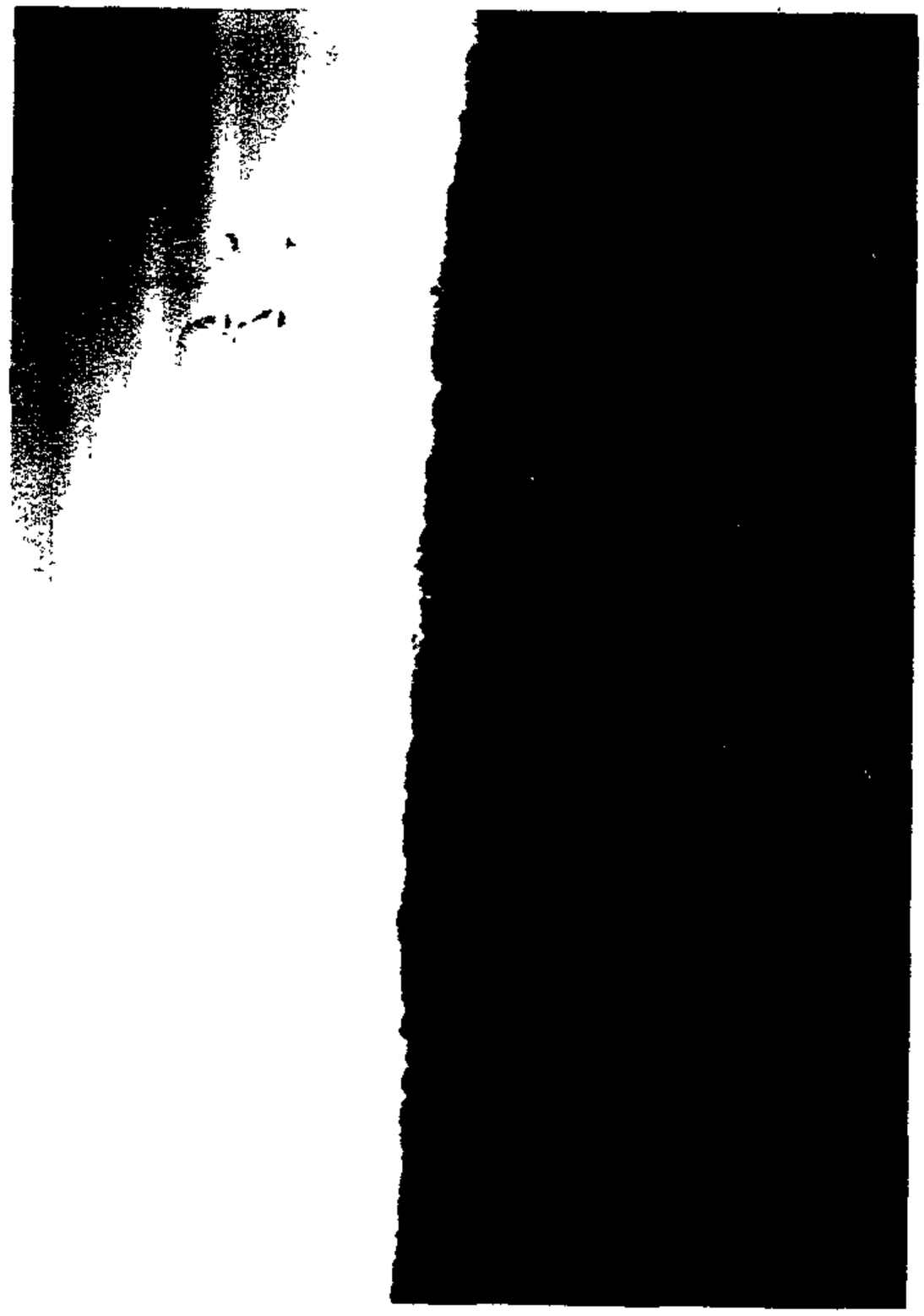
Respondent is not entitled to a vested right to use his property to raise, breed, and keep reptiles and snakes. Because we have held that respondent's business is not a use allowed in an R.C.4 zone, respondent cannot satisfy the first prong of vested rights jurisprudence because his permit was never properly issued. The permit was in violation of the BCZR. Respondent also is not entitled to a vested right because the concept of vested rights generally protects a party from a subsequent change to a zoning ordinance after construction under a valid permit has commenced. In the case at bar, there was not a subsequent change in the BCZR, there was only an interpretation of a statutory provision that existed at the time the alleged right vested, which interpretation was not contrary to any prior interpretation by the BCZR of that provision or local common practice and usage regarding the provision.

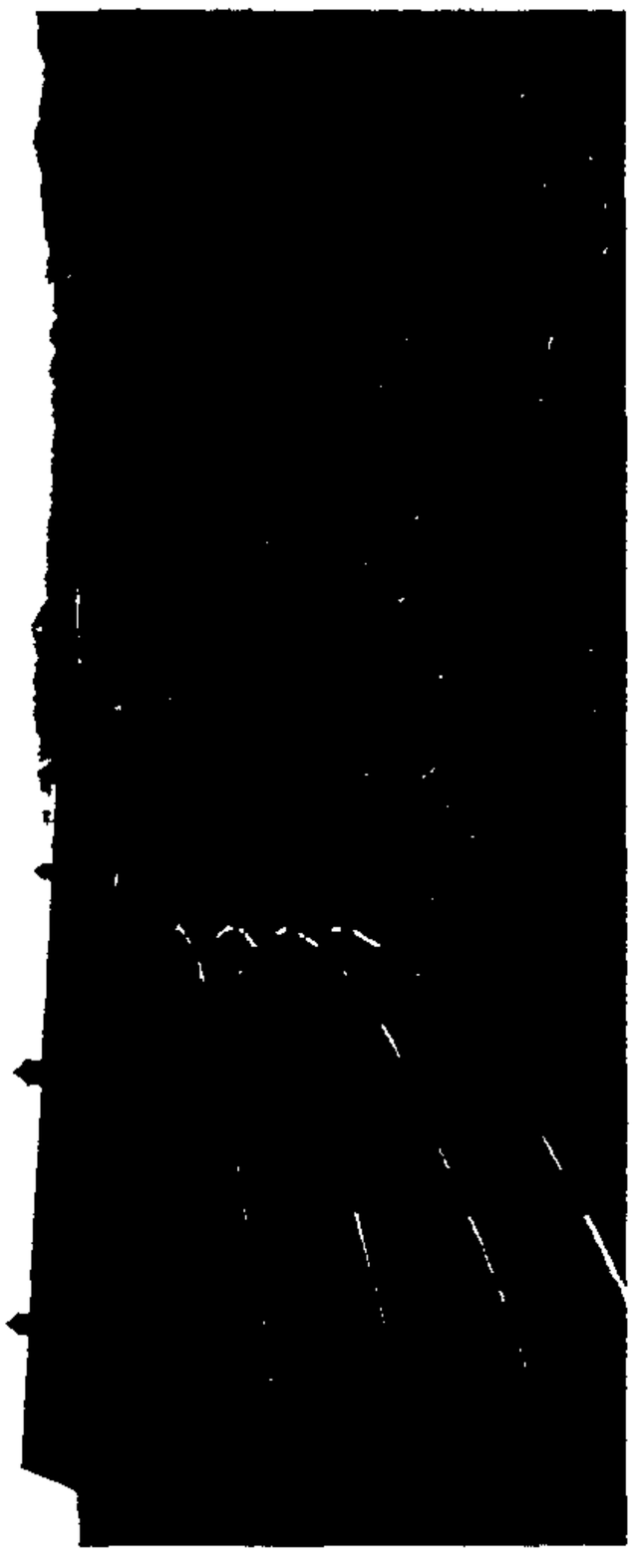
We also hold that Baltimore County is not estopped from preventing respondent from

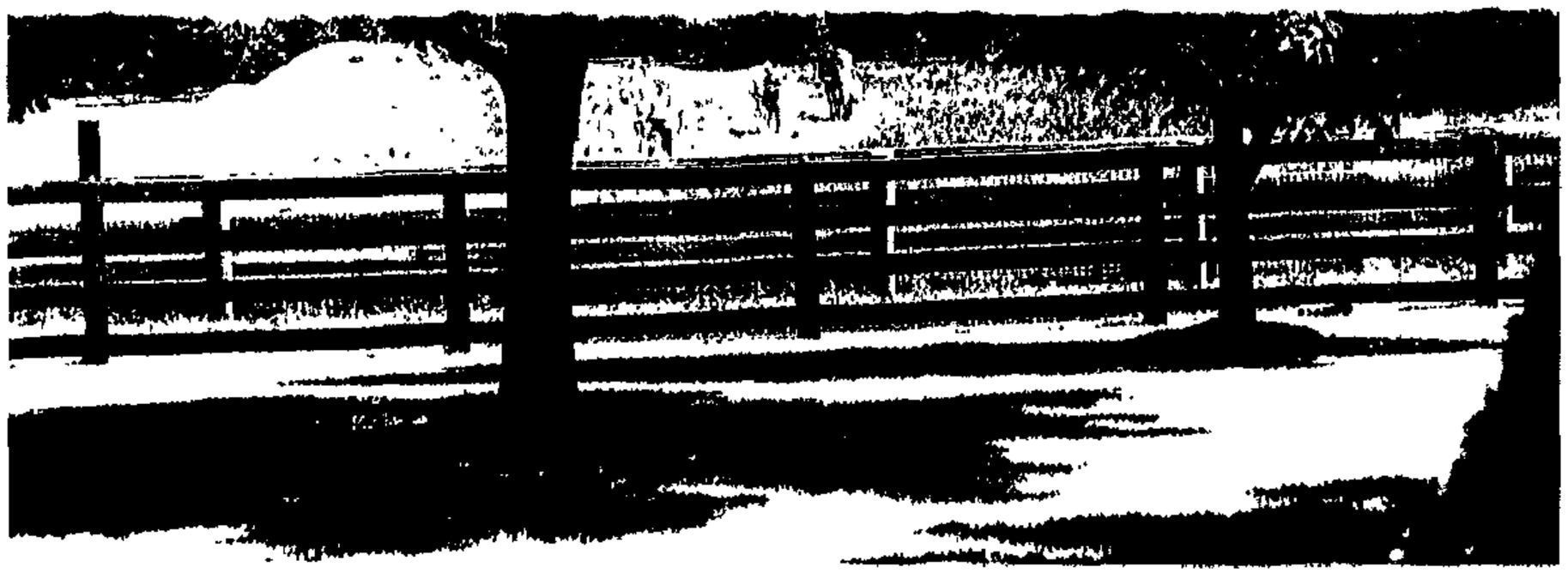
using his property to conduct his business by enforcing the BCZR as it was interpreted by the Board of Appeals. Respondent knew, or should have known, that the permit obtained was not proper when it was issued; it cannot be grounds for estopping Baltimore County from enforcing the BCZR.

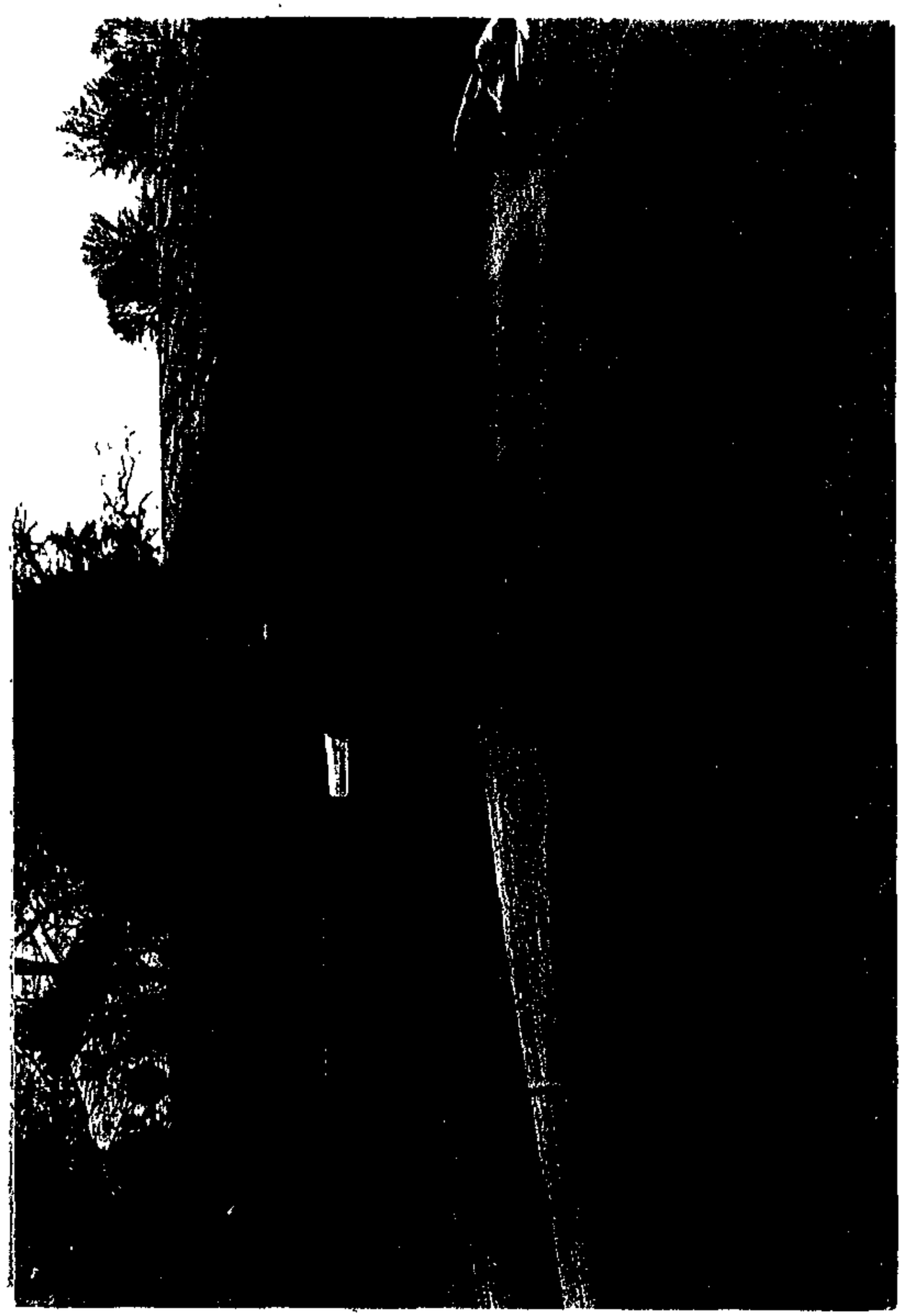
JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AND TO REMAND THE CASE TO THE CIRCUIT COURT FOR BALTIMORE COUNTY WITH DIRECTIONS TO AFFIRM THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY; COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS TO BE PAID BY RESPONDENT.

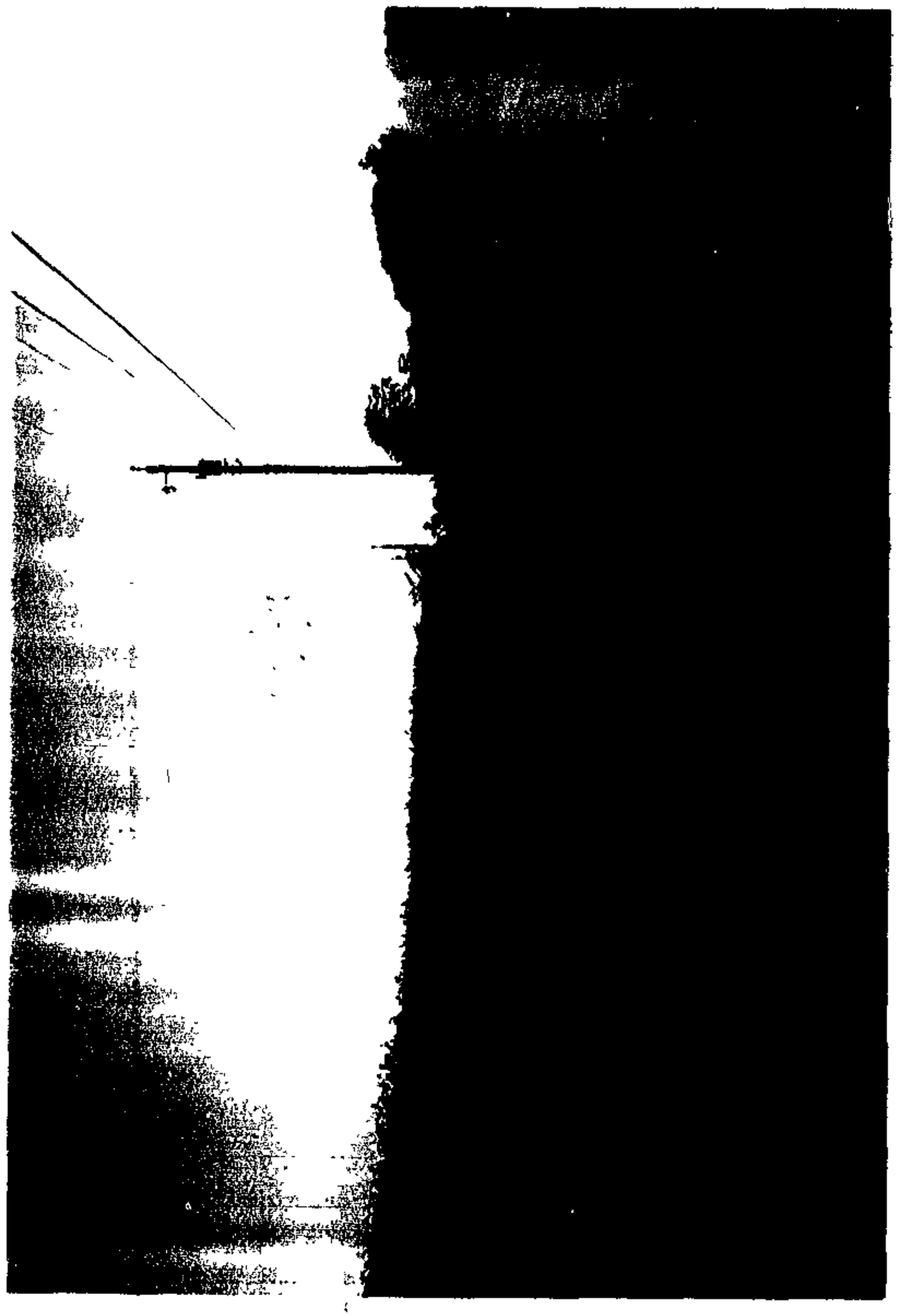


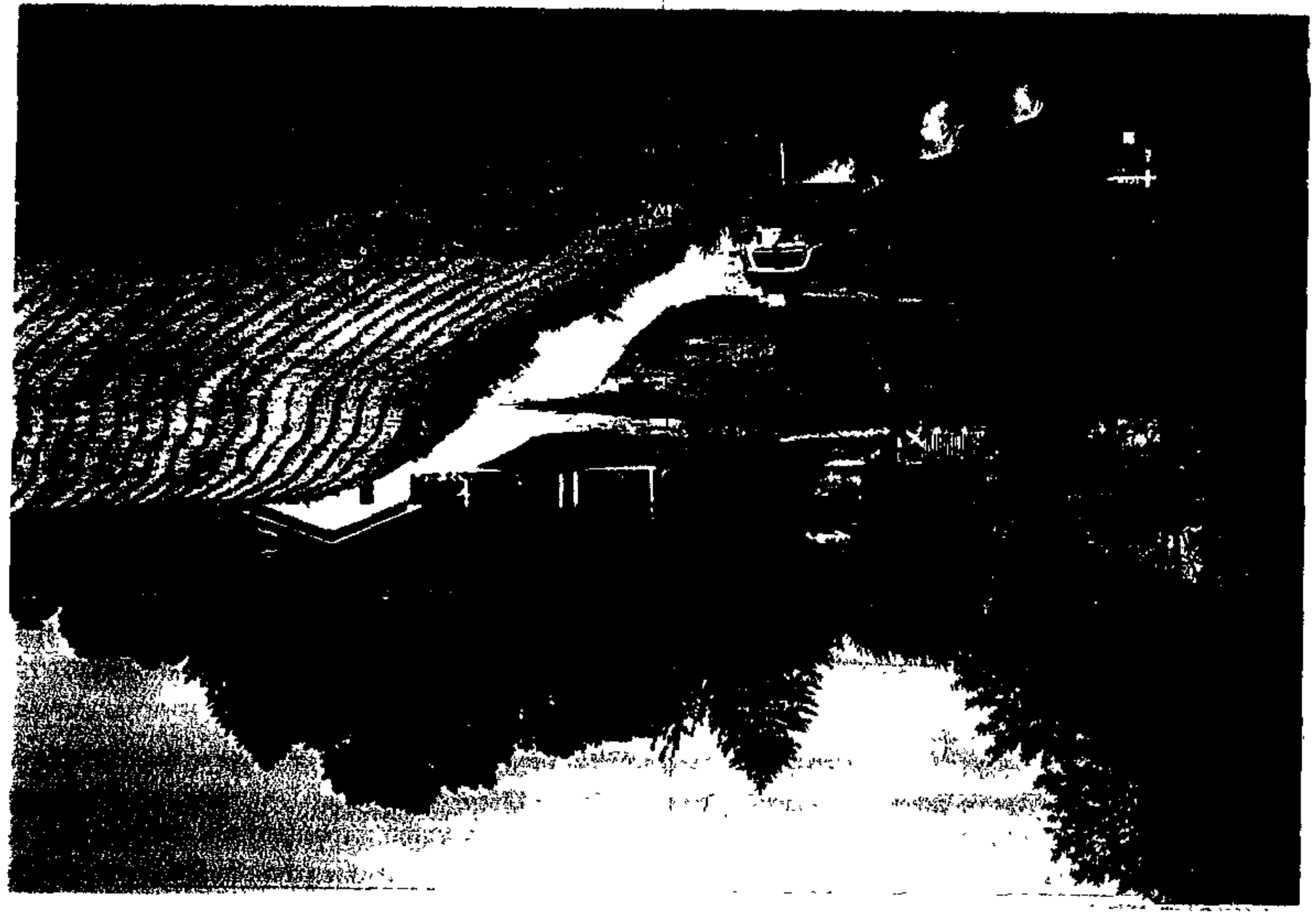


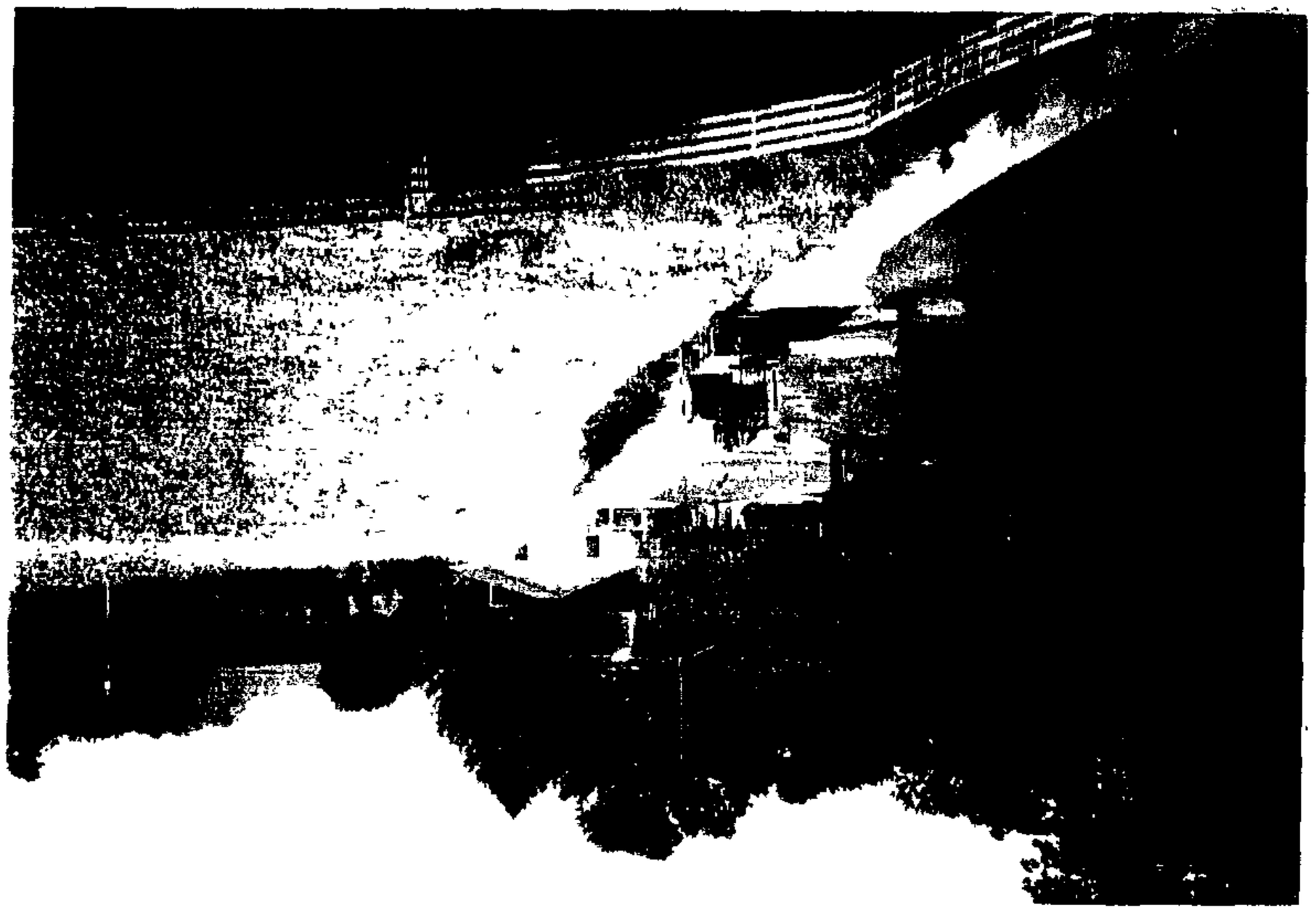


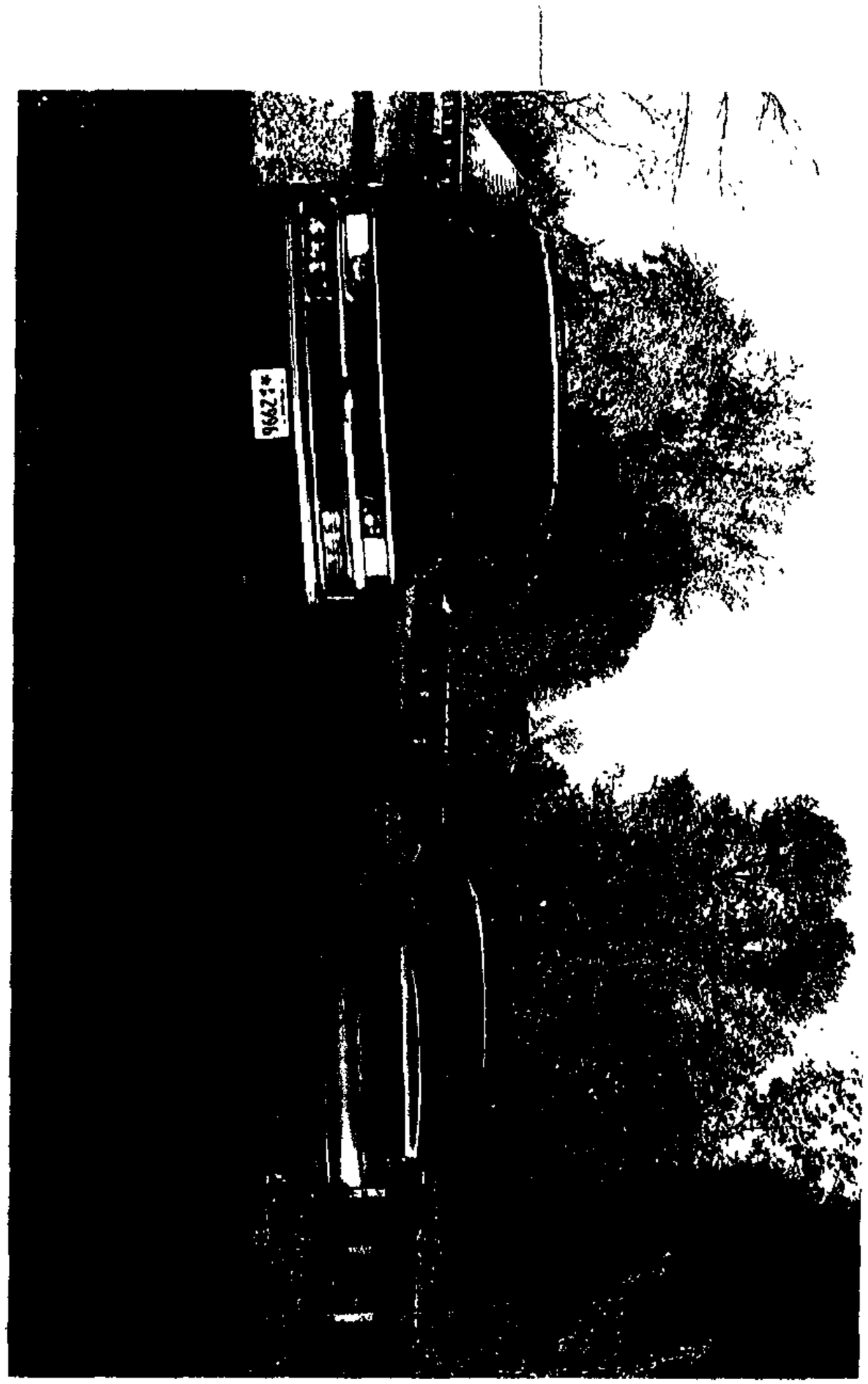


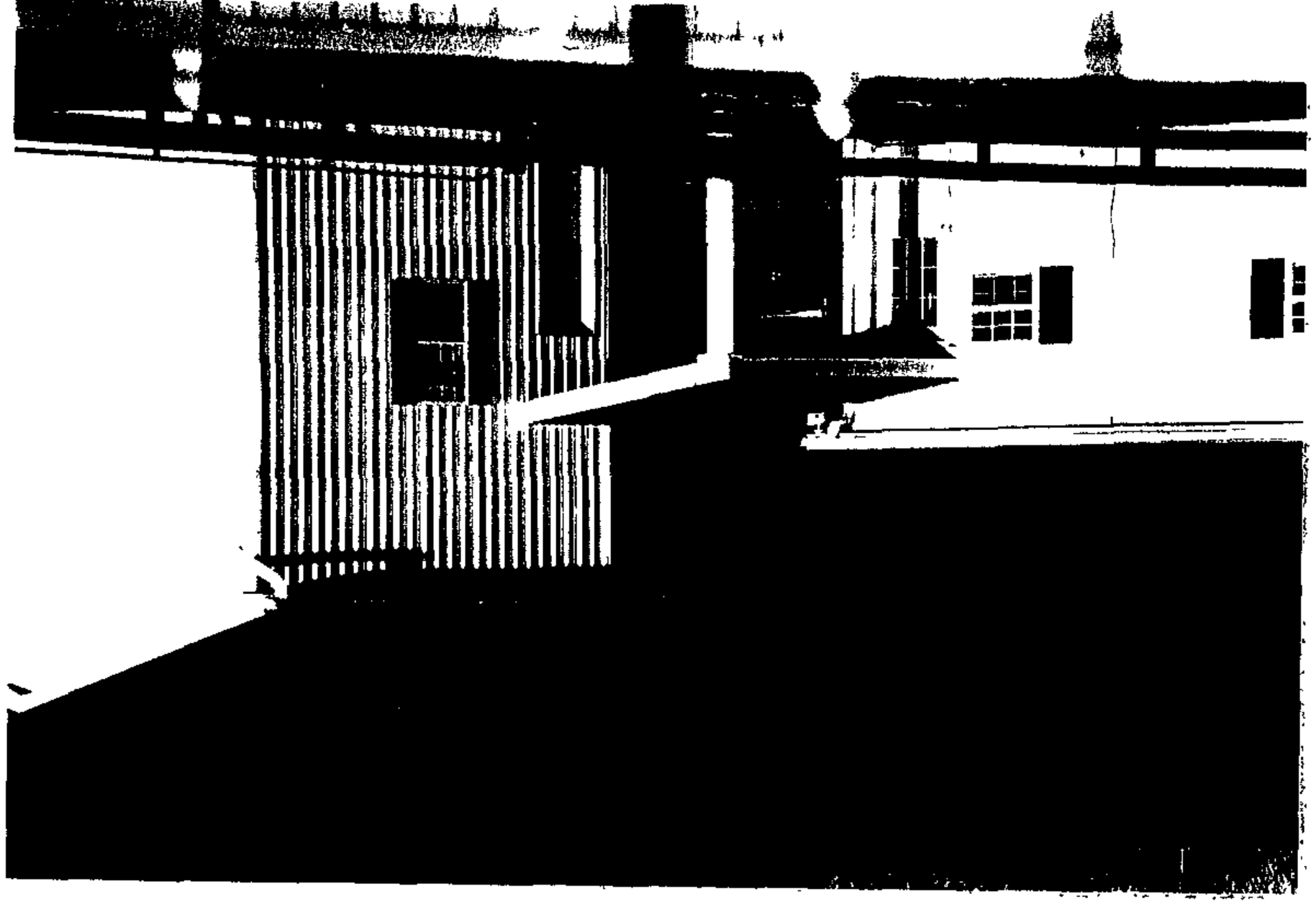


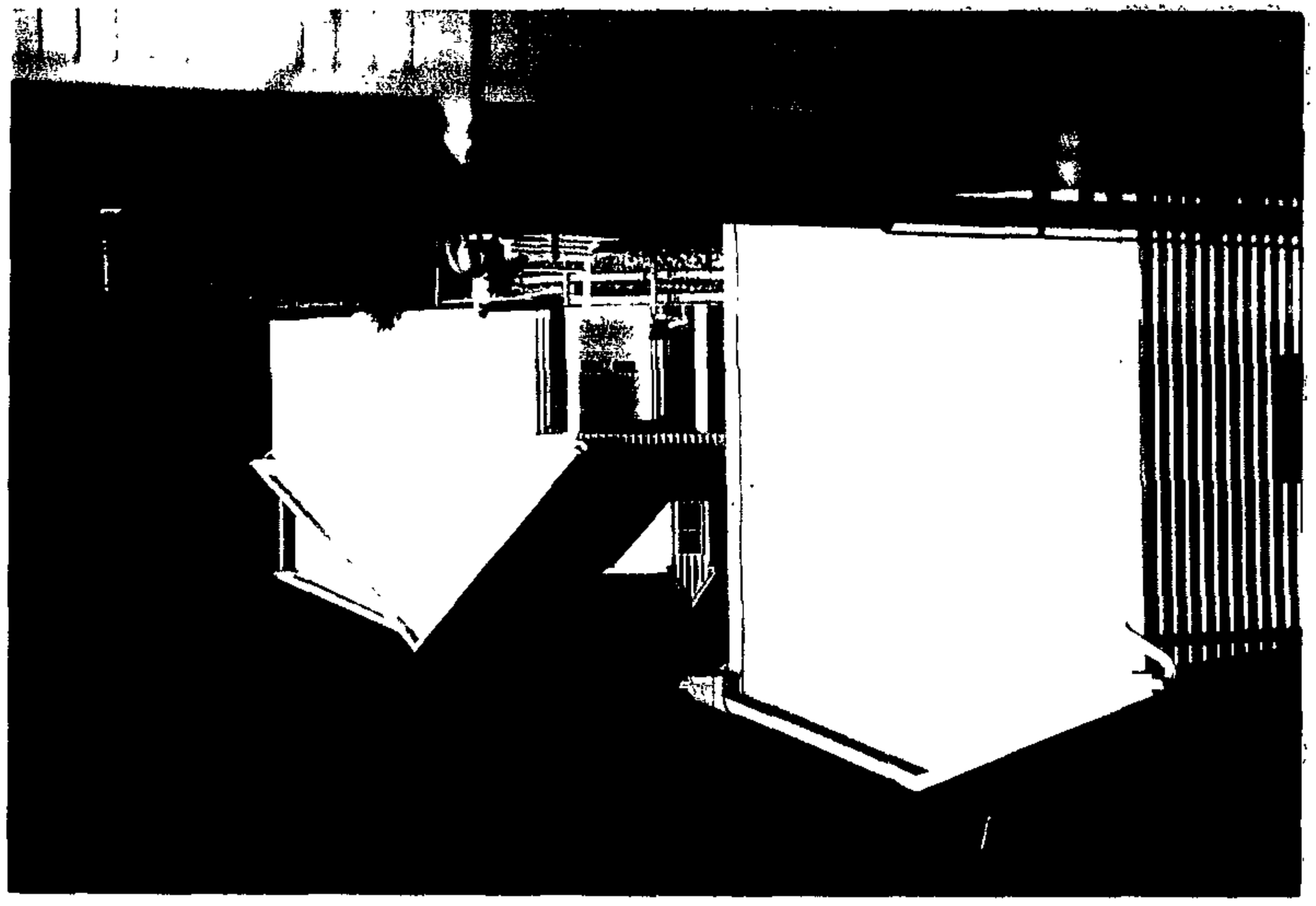


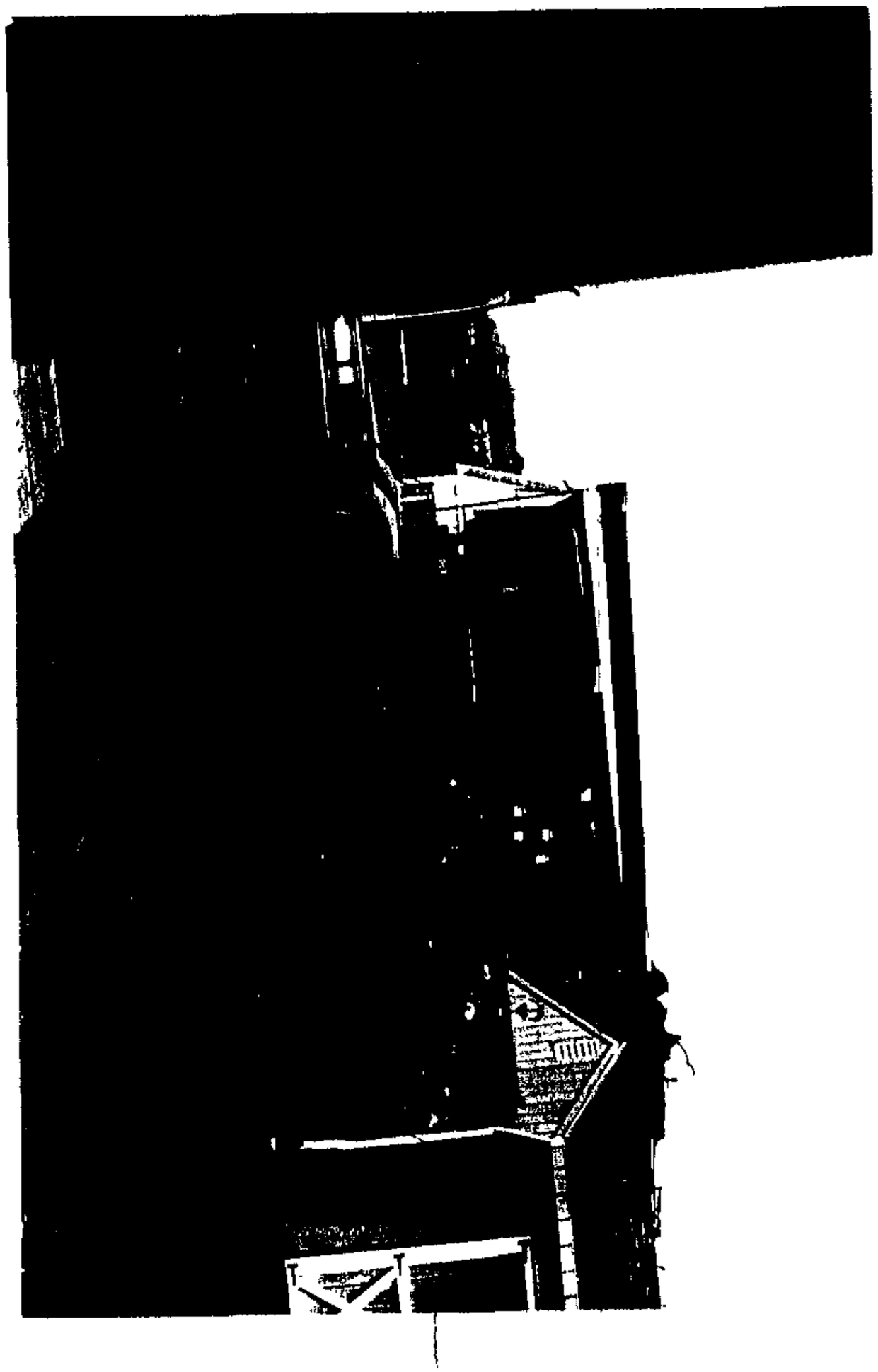


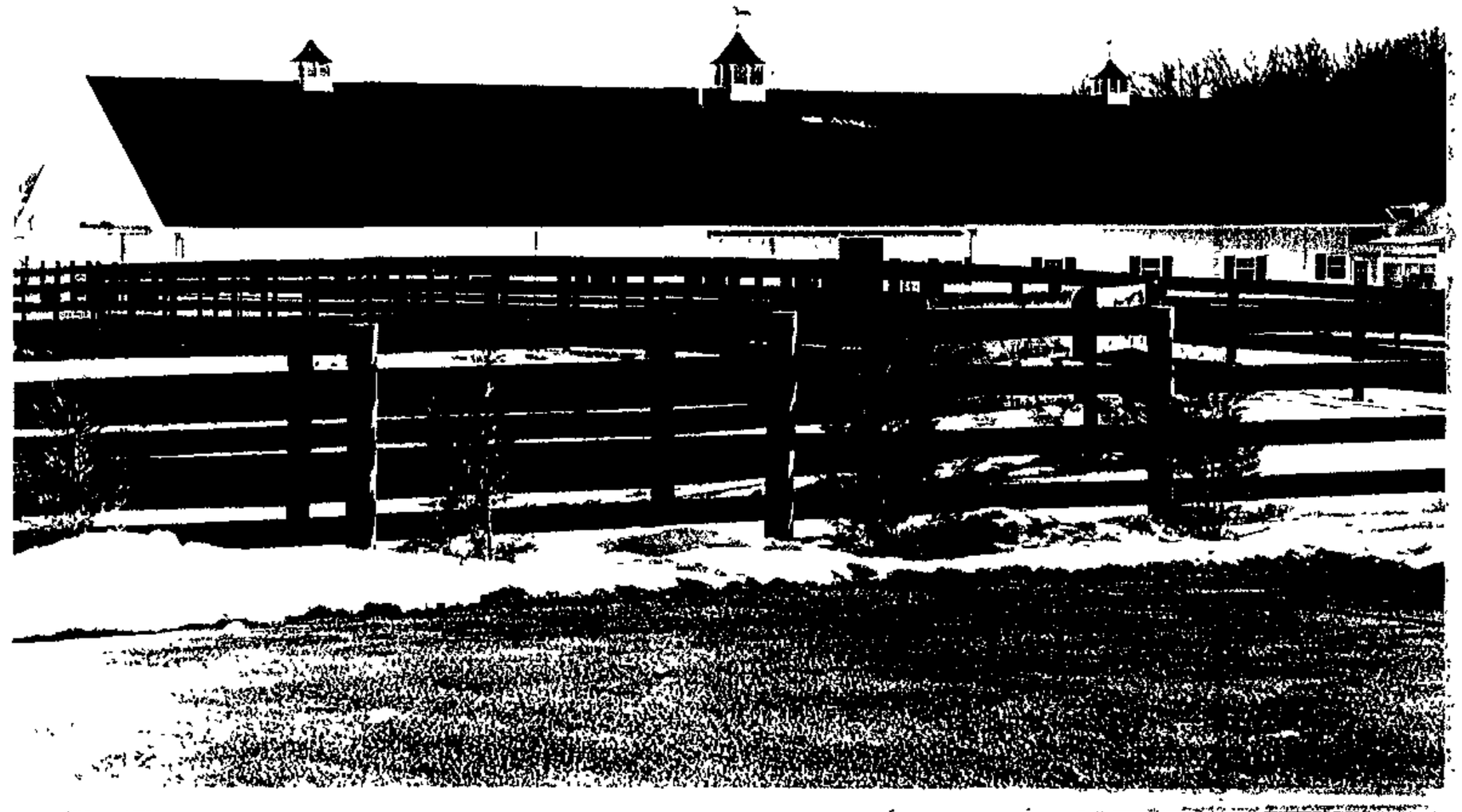


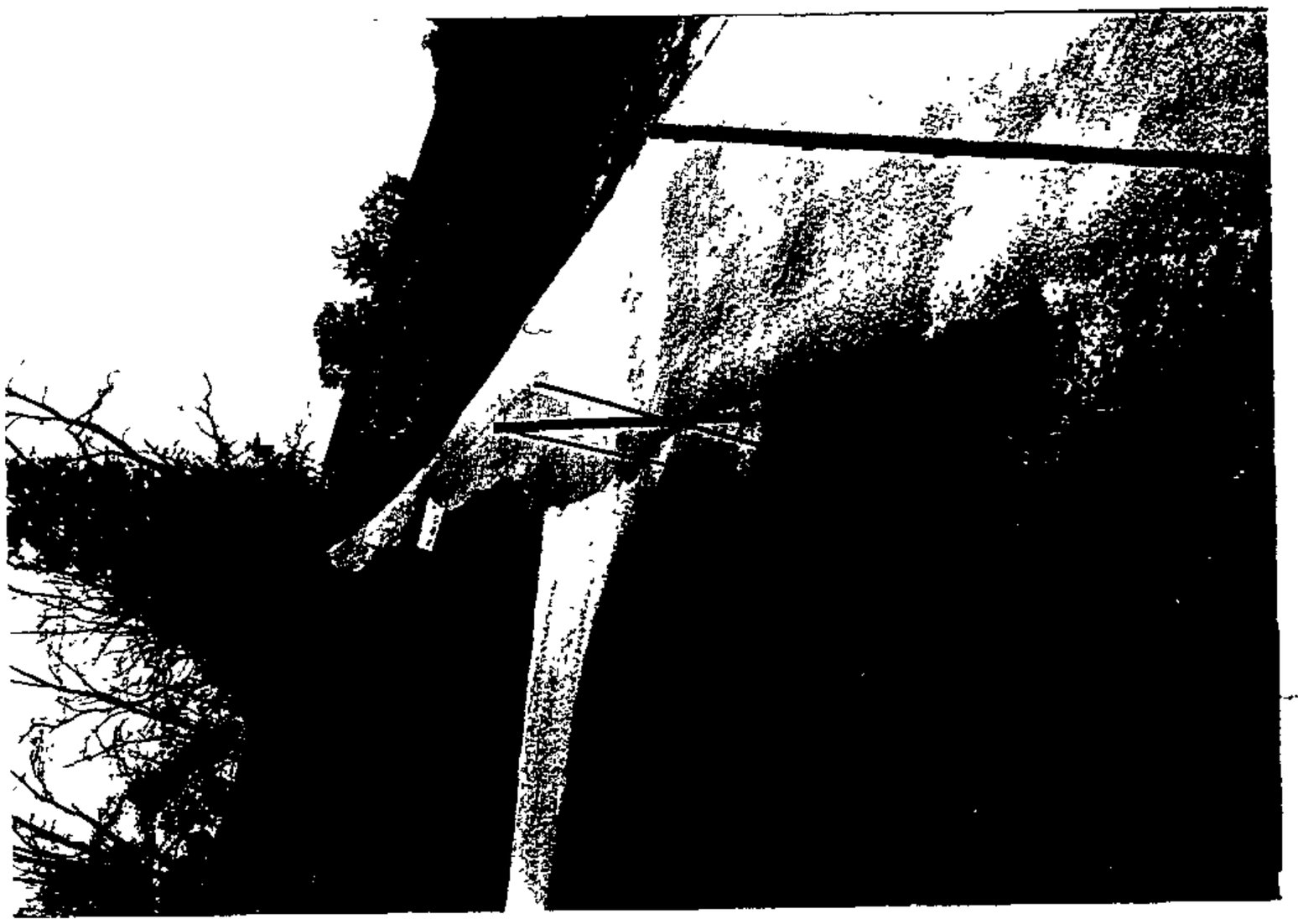






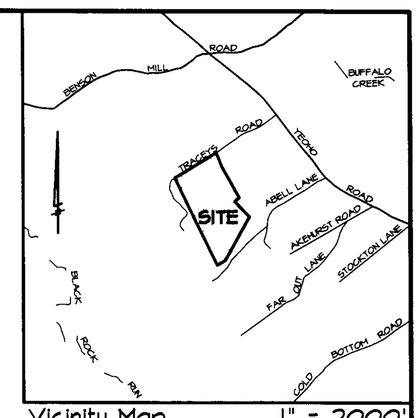




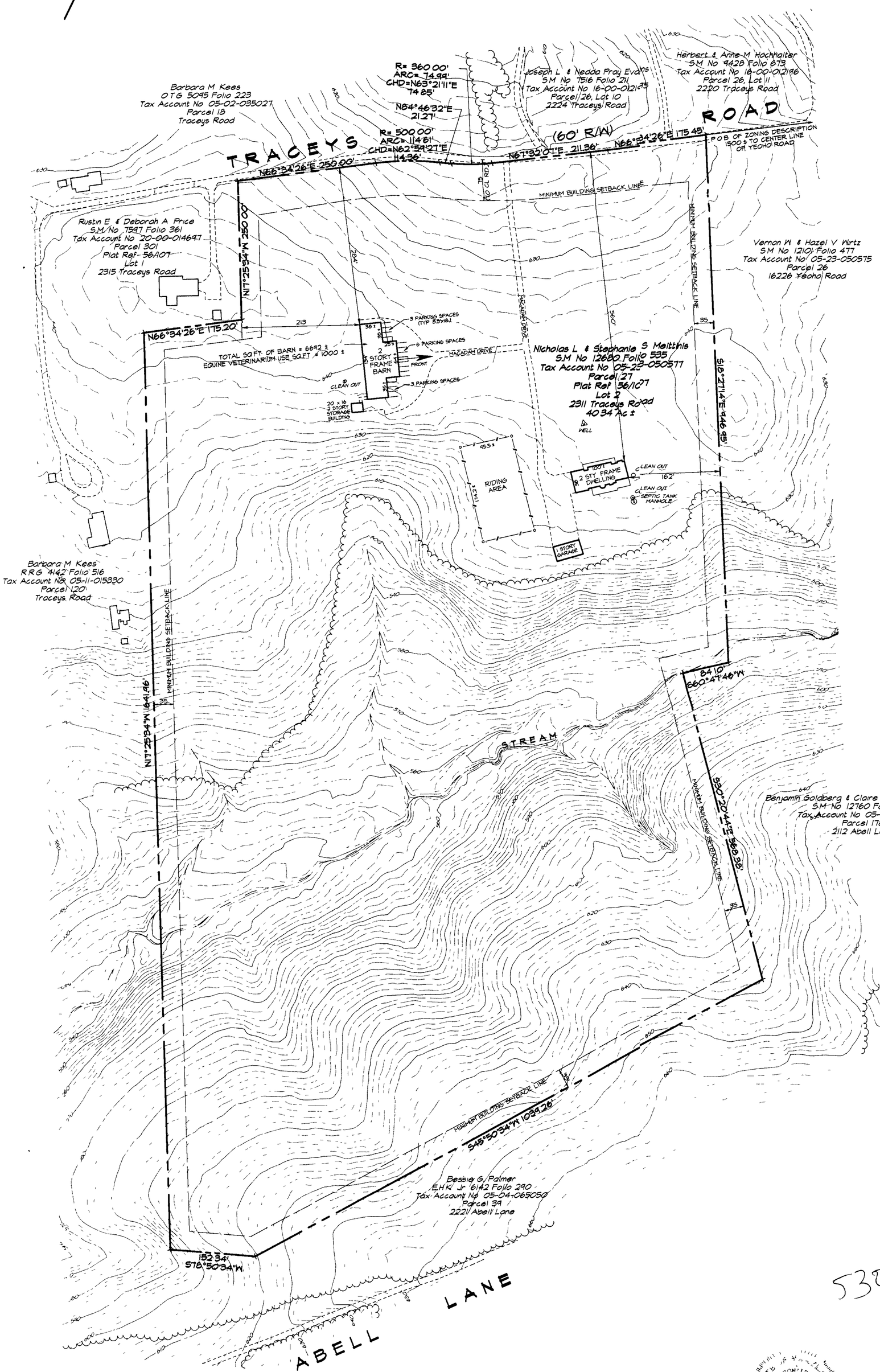


PARKING CALCULATIONS

PARKING REQUIRED FOR VETERINARIUM= 33 SPACES PER 1,000 sq ft OF VETERINARUM SPACE
1,000 sq ft OF VETERINARUM SPACE IS IN THE BARN = 33 PARKING SPACES REQUIRED
12 PARKING SPACES PROVIDED



Vicinity Map 1" = 2000'



GENERAL NOTES

1 OWNER: NICHOLAS L & STEPHANIE S MEITTINIS
2311 TRACEYS ROAD
SPARKS, MD 21152-9549

2 TAX ACCOUNT No 05-23-050577

3 TITLE DEED LIBER S M No 12680 folio 535
TOTAL AREA = 40 34 Ac ±

4 THE PROPERTY IS ZONED R C 2

5 200' SCALE ZONING MAP No NW 25F

6 THE BOUNDARY SHOWN HEREON IS FROM THE "BOUNDARY SURVEY THE LANDS OF NICK MEITTINIS" BY SPOTTS STEVENS & McCOY DATED JUNE 2nd 1998. A BOUNDARY WAS NOT PERFORMED BY GERHOLD CROSS & ETZEL LTD

7

CENSUS TRACT	4050	A D C MAP & GRID	11 F-2
WATERSHED	12	SUBSEWERSHED	81
SCHOOL DISTRICT	54	REGIONAL PLANNING DISTRICT	302

8 THIS SITE IS SERVICED BY PRIVATE WELL AND SEPTIC SYSTEM

9 THE SUBJECT IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA

10 THERE ARE NO PRIOR ZONING CASES REGARDING THE SUBJECT PROPERTY

11 THERE IS 10,000 +\- LINEAR FEET OF FENCE USED FOR PADDOCKS ON THE PROPERTY NOT SHOWN HEREON

12 THIS SITE IS NOT IN THE 100 YEAR FLOOD PLAIN AS SHOWN ON FIRM MAP 240010 0125 B, DATED MARCH 2, 1981

13 THE SUBJECT PROPERTY IS USED FOR TRAIL AND CLUB RIDING

14 THERE ARE NO PASTURES OR PADDOCKS IN THE EXISTING WOODS

15 LIMITED TO 17 HORSES PASTURED ON SITE

16 NO OFF SITE PARKING

17 NO LIGHTING AROUND THE 'RIDING AREA" SECURITY LIGHTING AROUND THE STABLE ONLY

18 LIMIT ONE HORSE SHOW PER YEAR

19 LIMIT 20 LESSON HOURS/COACHING SESSIONS PER SEVEN DAYS

20 MODIFICATIONS OF RESTRICTIONS WILL REQUIRE A SPECIAL HEARING

21 THE BARN IS USED JOINTLY FOR FARM USE EQUINE VETERINARIUM AND HORSE STABLING

22 THE AGRICULTUAL USE AND FARM USE ARE TO CONTINUE IN COMBINATION WITH SPECIAL EXCEPTION

SPECIAL EXCEPTION

TO ALLOW A RIDING STABLE AND EQUINE VETERINARIUM

SYMBOLS LEGEND

- WOODS LINE
- EXISTING PAVING
- PROPERTY LINE
- EXISTING DWELLING
- CONTOURS
- WELL
- SEPTIC
- CLEAN OUT

530

PLAT TO ACCOMPANY A PETITION FOR A SPECIAL EXCEPTION OF THE MEITTINIS PROPERTY

2311 TRACEYS ROAD
Deed Ref: S M. No. 12680 folio 535
Tax Account No : 05-23-050577
Tax Map 27, Grid 08, Parcel 27

5th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

GRAPHIC SCALE 1" = 100'
0 100 200 300

SCALE 1" = 100' DATE MARCH 21, 2001

REVISION	DATE
REVISE NOTES PER SUBMITAL MEETING	6-15-01
REVISE NOTES	6-12-01
ADDITIONAL FIELD LOCATIONS	4-30-01

TECHNICIANS: DSD

FILE X \Meittinis\MeitZone.pro

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
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Towson, Maryland 21286
(410) 823-4470