IN RE: PETITION FOR SPECIAL HEARING W/S Red Run Boulevard, N of Owings Mills Blvd. and Red Run Blvd. 4th Election District 3rd Councilmanic District (W/S Red Run Blvd., N of Owings Mills Blvd. & Red Run Blvd.)	* * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER/ HEARING OFFICER OF BALTIMORE COUNTY CASE NO. 03-106-SPH
Painters Mill Venture, LLP, *Legal Owner* **and** FF Realty, LLC, *Contract Purchaser* *Petitioners*	* *	

* * * * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Deputy Zoning Commissioner/Hearing Officer as a Special Hearing Request filed by the legal owners of the property, Painters Mill Venture, LLP and the contract purchaser, FF Realty, LLC. After a public hearing held on the matter, the special hearing request was granted by Order dated November 15, 2002. Thereafter and within the thirty (30) day time period required by Rule 2K of the Rules of Practice ad Procedure before the Zoning Commissioner, the Petitioners filed a Motion for Reconsideration for a further clarification of the Order previously issued by this Deputy Zoning Commissioner.

NOW, THEREFORE, in consideration of the motion filed by the Petitioners, I hereby find that a further clarification of the issue of the amount of density applicable to the subject property is appropriate and this Order shall serve to clarify my previous decision.

As stated in my prior Order, the OT zoning classification fails to specify the density at which residential apartments can be constructed. Mr. Betten, in his motion for reconsideration, interpreted this failure to mean that the density to be associated with the OT zone is unlimited. In this respect, Mr. Betten is correct. The amount of density at which residential units can be constructed in the OT zone can be at an unlimited amount so long as the development ultimately satisfies the compatibility requirements of Section 26-282 and the special hearing finding

1/3/03

required by Section 209.2 of the Baltimore County Zoning Regulations. I am reluctant to make a finding that the amount of density to be associated with this OT zone would be that of the neighboring residential D.R.10.5. This could very well limit the potential development of another OT zone located elsewhere in Baltimore County. It may work for this particular project, but might not be applicable across the board. Therefore, a more appropriate finding and a further clarification of my previous decision shall be made to hereby find that the amount of density to be associated with this OT zone shall be unlimited.

THEREFORE, IT IS THIS 3rd day of January, 2003, by the Deputy Zoning Commissioner for Baltimore County,

ORDERED, that the Motion for Reconsideration be granted and my previous Order dated November 15, 2002, be amended as follows:

1. The amount of density to be associated with this OT zone shall be unlimited, so long as the developer satisfies the compatibility requirements as contained within Section 26-282 of the Baltimore County Code and the special hearing requirement as to whether the development of the property would create objectionable conditions adversely affecting nearby areas in accordance with Section 209.2 of the Baltimore County Zoning Regulations.

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

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

1/3/03
R. Ernestine

Baltimore County
Zoning Commissioner

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

January 3, 2003

Alan Betten, Esquire
Kandel, Klitenic, Kotz, Betten
& Chernow, LLP
Suite 200, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204-4513

RE: Order on Motion for Reconsideration
Case No. 03-106-SPH
Property: W/S of Red Run Boulevard,
N of Owings Mills Blvd. & Red Run Blvd.

Dear Mr. Betten:

Enclosed please find the decision rendered in the above-captioned case.

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 Kotroco

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Printed with Soybean ink
on Recycled Paper

Copies to:

Jack L. Baylin
c/o Painters Mill Venture, LLP
106 Old Court Road, #202
Baltimore, MD 21208

FF Realty LLC
2045 N. Highway, 360, Suite 250
Grand Prairie, Texas 75050

Patricia O. Hoffman
8205 Tally Ho Road
Lutherville, MD 21093

Frederick Grant
8 Devlon Court
Owings Mills, MD 21117

Cheryl McLeod
129 Pleasant Hill Road
Owings Mills, MD 21117

Larry Perl
Owings Mills Times
409 Washington Avenue
Towson, MD 21204

Copies to:

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c/o Painters Mill Venture, LLP
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Owings Mills, MD 21117

Cheryl McLeod
129 Pleasant Hill Road
Owings Mills, MD 21117

Larry Perl
Owings Mills Times
409 Washington Avenue
Towson, MD 21204

Sept 10/15

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

In the Matter of:	*	Petition for Special Hearing
FF Realty, LLC	*	Case No. 03-106-SPH

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

MOTION FOR RECONSIDERATION OF FF REALTY, LLC

FF Realty, LLC ("Fairfield"), by Alan Betten, Esquire, its attorney, hereby files this Motion for Reconsideration pursuant to Rule 2K of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County, and states as follows:

1. At the Hearing previously held in this matter to clarify certain issues arising pursuant to Section 209 of the Baltimore County Zoning Regulations ("BCZR"), Fairfield requested that the Zoning Commissioner clarify and confirm that residential apartments qualify as a permitted use in an O.T. Zone ("OT Zone"); and clarify and confirm the underlying development density available for use by a residential use in an OT Zone. In his Findings of Fact and Conclusions of Law (the "Opinion"), the Deputy Zoning Commissioner/Hearing Officer (the "Zoning Commissioner") confirmed that residential apartments qualify as a permitted use in an OT Zone. The Zoning Commissioner, however, did not clarify or confirm the underlying development density available for use by a residential use in an OT Zone; rather, the Zoning Commissioner held that "the amount of density available for apartments to be constructed in an O.T. zone shall be a determination made at a future public hearing before a Hearing Officer for Baltimore County, at which public hearing a finding must be made as to compatibility in accordance with Section 26-282 of the Baltimore County Code, and whether such development proposal would create objectionable conditions adversely affecting nearby areas, as required by Section 209.2 of the B.C.Z.R."

2. Fairfield recognizes that a future public hearing must be held before a Hearing Officer for Baltimore County in order to obtain approval for its Development Plan, pursuant to both

Section 26-282 of the Baltimore County Code (the "Code") and Section 209.2 of the BCZR. Fairfield submits, however, that such requirement is not a necessary precondition for the Zoning Commissioner's issuance of an opinion setting forth the minimum density available, as of right, for apartments to be constructed in an OT Zone; rather, such hearing and preconditions are applicable if Fairfield were to request a density higher than the minimum density permitted as of right for such use pursuant to the BCZR. This Motion for Reconsideration (the "Motion") is, therefore, filed in order to request that the Zoning Commissioner reconsider his refusal to clarify and confirm, at the least, the minimum underlying development density available, as of right, for use by a residential use in an OT Zone.

3. As set forth in its Memorandum of Facts and Law (the "Memorandum"), and at the Hearing before the Zoning Commissioner in this matter, Fairfield believes that the underlying development density available for use by a residential use in an OT Zone is unlimited. Nevertheless, Fairfield believes that, at a minimum, the underlying development density available for residential use in an OT Zone should be not less than 10.5 units per acre, for the reasons set forth below.

A. As previously noted in this matter, the Office of Planning has, in writing, informed Fairfield that it construes the density that is available in an OT Zone, as of right, for a residential use to be the same density as is available in an OR-2 Zone, i.e., DR-10.5 (indeed, in his July 23, 2002 Memo (Exhibit 9), Mr. Arnold Keller, Director of Office of Planning, further stated that it would be possible to increase density to a density higher than DR-10.5 "for a project if a determination was made that the development met superior design standards and was compatible with the built environment and/or anticipated development in the vicinity." Such statement further supports Fairfield's position that the clarification of the minimum density available to it as of right should be clarified by the Zoning Commissioner, as an issue separate and distinct from the appropriateness of any additional density that may

be requested by Fairfield, which latter request would be ruled upon by a Hearing Officer at the hearing to approve the Development Plan.

B. In addition, Fairfield submits that, when determining the underlying density development available for use by a residential use in what is generally considered a non-residential zoning classification, it has been the policy of the Zoning Commissioner to apply the density from an adjoining residential zone. See, e.g., In Re: The Oella Mill Property, Cases Nos. I-498 & 02-412-SPHA. Given the perceived ambiguity concerning the density to be afforded, as of right, to a residential use in a non-residential zone, this policy is obviously intended to ensure that any residential development on a subject parcel is, at least with regard to its density, compatible with the density permitted on an adjoining residential parcel. Because no density has been established for residential uses in an OT Zone, this policy should be applied by the Zoning Commissioner in order to clarify the minimum density available to Fairfield for the residential development of the Property. As shown on the Plat to Accompany Special Hearing Request (Exhibit 1), abutting the subject property to be purchased by Fairfield is a significant parcel of undeveloped land that is zoned DR-10.5.

The use of such adjoining density to compute the minimum density that may be developed "as of right" on the Property is further supported by the relevant provisions of the Comprehensive Manual of Development Policies ("CMDP"), which were enacted pursuant to Section 504 of the BCZR. Page 28 of the CMDP sets out a table regarding residential development in non-residential zones, and provides that, for residential uses in an OT Zone, no density has been established. Thus, the application of the adjoining-parcel density policy is, Fairfield submits, appropriate in this instance, in order to determine the minimum development density permitted as of right in this OT Zone.

For the reasons set forth above, Fairfield requests that the Zoning Commissioner reconsider his Opinion and clarify and confirm that the underlying development density available for use, as of right, by Fairfield on the Property is DR-10.5.

Alan Betten, Esquire
502 Washington Avenue, Suite 610
Towson, MD 21204
(410) 339-7100

Counsel for FF Realty, LLC

71.1.3-motion for reconsideration-12.10.02

IN RE: PETITION FOR SPECIAL HEARING W/S Red Run Boulevard, N of Owings Mills Blvd. and Red Run Blvd. 4th Election District 3rd Councilmanic District (W/S Red Run Blvd., N of Owings Mills Blvd. & Red Run Blvd.)	*	BEFORE THE
	*	DEPUTY ZONING COMMISSIONER/
	*	HEARING OFFICER
	*	OF BALTIMORE COUNTY
	*	CASE NO. 03-106-SPH
Painters Mill Venture, LLP, *Legal Owner* **and** FF Realty, LLC, *Contract Purchaser* *Petitioners*	*	

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner/Hearing Officer as a Petition for Special Hearing filed by the legal owner of the property, Painters Mill Venture, LLP and the contract purchaser, FF Realty, LLC. The special hearing request involves property located on the west side of Red Run Boulevard, north of Owings Mills Boulevard in the Owings Mills area of Baltimore County. The special hearing request is to clarify and confirm that residential apartments are a permitted use in an O.T. zone and for a finding as to the amount of density available for a residential use in the O.T. zone. The special hearing petition was filed by Alan Betten, attorney at law.

Appearing at the hearing on behalf of the special hearing request were Alan Betten, the attorney representing the applicant, as well as others appearing on behalf of the owner and contract purchaser. Appearing as interested citizens in the matter were Patricia Hoffman, Frederick Grant and Cheryl McLeod.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, comprises 54.17 acres of land, of which 43.65 acres are zoned O.T. The testimony and evidence offered at the hearing demonstrated that the contract purchaser is interested in constructing residential apartments on the subject property. However, prior to

proceeding with any plans to develop the site, the purchaser is interested in seeking a ruling as to whether apartments are a permitted use and at what density the property can be developed. Mr. Betten, representing the contract purchaser, submitted several documents in support of his special hearing request. It is his position that the property can be developed with apartments and at an unlimited amount of density.

As stated previously, several citizens appeared out of interest for this proposed development. These residents are concerned about additional apartment units being constructed in the Owings Mills area. However, their opposition was general in nature in that nothing is specifically proposed to occur on this property. The Petitioner is merely seeking an answer to a preliminary issue regarding the future development of this site. Their opposition to any proposed development of this property can be reserved and offered at a future date, if and when the contract purchaser moves forward with the development of this property.

The questions posed in the special hearing petition, require me to review the language as contained within Section 209 of the Baltimore County Zoning Regulations (B.C.Z.R.). This section governs development in an O.T. (Office and Technology) zone. Specifically, Section 209.3.a.14 permits "Residential Uses" as a principal use permitted as a matter of right. Apartment dwellings are considered residential uses and, therefore, residential apartments would be permitted to be constructed on the subject property in accordance with this O.T. zoning classification.

The Petitioner also requested a determination as to how many apartments can be constructed within this O.T. zone. Unfortunately, Section 209 of the B.C.Z.R. fails to establish a specific density at which development may occur. Apparently, the Petitioner in this case has received inconsistent information from the Office of Planning and the Department of Permits & Development Management relative to the amount of density to be associated with this O.T. zone.

11/15/02 S. Gamerson

Therefore, a clarification is necessary in order to allow this developer to move forward with this project.

While the regulations applicable to the O.T. zone fail to specifically state a density to be associated therewith, it does provide some language which would require a proposal to develop the subject property with apartments to be submitted to the Baltimore County Hearing Officer for a public hearing. The relevant language that would require a future public hearing can be found in Section 209.2 of the B.C.Z.R.. That section, identified as the Statement of Legislative Policy, indicates that "no establishment shall be permitted which creates objectionable conditions adversely affecting nearby areas." Therefore, in order for any project to be approved for this property, there must be a finding by the Baltimore County Hearing Officer that the specific proposal for this property would not create objectionable conditions adversely affecting nearby areas.

In addition to the finding as required by Section 209.2 of the B.C.Z.R., any potential developer of this property, given its O.T. zoning, shall be required to submit the proposed project to the Director of Planning who shall then make compatibility recommendations to the Hearing Officer for Baltimore County. That requirement is contained within Section 26-282.A.2 of the Baltimore County Code. Accordingly, and in answer to the Petitioner's second question, as posed within their special hearing request, the subject property may be developed with an amount of density that would meet the compatibility standards as contained within Section 26-282 of the Baltimore County Code and which would not create objectionable conditions adversely affecting nearby areas, which is a finding that must be made pursuant to Section 209.2 of the B.C.Z.R. Unfortunately, this does not provide a specific number in answer to the applicant's second question contained within their special hearing request. The actual number of apartments permitted on this lot is an issue that must be resolved at a future public hearing.

11/15/02
D. Gruber

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 15th day of November, 2002, that the Special Hearing Request for a finding that residential apartments are permitted uses within an O.T. zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the amount of density available for apartments to be constructed in an O.T. zone shall be a determination made at a future public hearing before a Hearing Officer for Baltimore County, at which public hearing a finding must be made as to compatibility in accordance with Section 26-282 of the Baltimore County Code, and whether such development proposal would create objectionable conditions adversely affecting nearby areas, as required by Section 209.2 of the B.C.Z.R.

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

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

11/15/02
K. Jameson

FLOOD PLAIN

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at WEST SIDE OF REISTERSTOWN BLVD. NORTH OF OWINGS MILLS BLVD. & REISTERSTOWN BLVD

which is presently zoned OT.

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Zoning Relief Request: with respect to Section 209 of the Baltimore County Zoning Regulations:

1. To clarify and confirm that residential apartments qualify as a permitted use in an OT Zone;

2. To clarify and confirm the underlying development density available for use by a residential use in an OT Zone

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

FM Realty LLC, a Delaware Limited Liability Co.
Name - Type or Print

David A. Wright
Signature

2845 N. Hwy. 360, Suite 250 817-608-8747
Address Telephone No.

Grand Prairie TX 75050
City State Zip Code

Attorney For Petitioner:

Alan Betten
Name - Type or Print

Signature

Kandel, Klitenic, Kotz, Betten & Chernow, LLP
Company

502 Washington Avenue, Suite 200 410-339-7100
Address Telephone No.

Towson MD 21204
City State Zip Code

PLEASE SIGN--

Legal Owner(s):

Painters Mill Venture, LLP
Name - Type or Print

By:
Signature Jack L. Baylin, Managing Partner

Name - Type or Print

Signature

106 Old Court Road 410-486-3100
Address Telephone No.

Baltimore MD 21208
City State Zip Code

Representative to be Contacted:

Jack L. Baylin
Name

106 Old Court Road, #202 (410) 486-3100
Address Telephone No.

Baltimore, Maryland 21208
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By SDT Date 09-04-02

Case No. 03-106 SPH

REV 9/15/98

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

Description of a 54.17 Acre Area
For Special Hearing Request

Beginning for the description of a 54.17 Acre Area at a point formed by the intersection of the southwesterly side of Red Run Boulevard, Variable Width, shown on Baltimore County, Department of Permits and Development Management, Bureau of Land Acquisition Drawing RW 95-028-60 and the 18th or South 00 degree 52 minute 55 second East 227.71 foot line of that Parcel of Land described in Exhibit 'A', attached to the Deed of Trust and Security Agreement, dated January 11, 1991, between Painter's Mill Venture and the Bank of Baltimore, recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 8692 folio 438, said point of beginning having a Baltimore County Metropolitan District Coordinate of North 38929.65 and West 51583.55 and being measured North 73 degrees 59 minutes 06 seconds West 639.32 feet from the centerline intersection of said Red Run Boulevard, Variable Width, and Owings Mills Boulevard, Variable Width, running thence leaving said point of beginning, binding on part of the southwesterly side of said Red Run Boulevard, Variable Width, shown on said Drawing RW 95-028-60,

1) northwesterly by a curve to the right, having a radius of 616.91 feet for a distance of 130.13 feet, said curve being subtended by a chord bearing North 33 degrees 11 minutes 23 seconds West 129.89 feet to intersect the northernmost outline of Lot 2, shown on a Plat entitled "Lot 2 Red Run Corporate Center", dated March 1, 1999, recorded among the Land Records of Baltimore County, Maryland in Plat Book S.M. 71 folio 87, running thence leaving said southwesterly side of Red Run Boulevard, binding on said northernmost outline of said Lot 2 and binding on part of the westerly outline of said Lot 2, shown on said Plat, the five following courses,
2) by a non-radial line, South 62 degrees 50 minutes 51 seconds West 345.75 feet,
3) South 31 degrees 44 minutes 24 seconds East 11.92 feet,
4) South 23 degrees 52 minutes 36 seconds East 119.32 feet,
5) South 09 degrees 41 minutes 33 seconds East 267.95 feet and
6) South 17 degrees 10 minutes 42 seconds East 46.25 feet to intersect the 86th line of that Parcel of land described in Exhibit 'A' attached to said Deed of Trust and Security Agreement Liber S.M. 8692 folio 438, running thence binding on part of said 86th line, all of the 87th thru 112th lines, all of the 1st thru the 17th lines and part of said 18th line, all described in Exhibit 'A' attached to said Deed of Trust and Security Agreement, the 45 following courses,
7) South 85 degrees 16 minutes 57 seconds West 6.89 feet,
8) North 46 degrees 14 minutes 36 seconds West 355.34 feet,
9) North 30 degrees 53 minutes 54 seconds West 219.46 feet,
10) North 28 degrees 59 minutes 08 seconds West 136.97 feet,
11) North 19 degrees 57 minutes 32 seconds West 126.16 feet,
12) South 76 degrees 48 minutes 26 seconds West 216.51 feet,
13) South 76 degrees 48 minutes 26 seconds West 15.00 feet,
14) North 03 degrees 40 minutes 20 seconds West 31.02 feet,
15) North 08 degrees 28 minutes 57 seconds East 86.00 feet,
16) North 28 degrees 31 minutes 03 seconds West 172.29 feet,
17) North 42 degrees 14 minutes 03 seconds West 169.99 feet,
18) North 25 degrees 00 minutes 03 seconds West 91.00 feet,
19) North 00 degrees 35 minutes 03 seconds West 211.49 feet,
20) North 09 degrees 58 minutes 57 seconds East 100.00 feet,

STATE OF MARYLAND
FRANCIS EISNER
No. 10889
REGISTERED
PROFESSIONAL LAND SURVEYOR

410-825-8120 • FAX 410-583-0288
gwstowson@crols.com

03-106-SPH

21) North 10 degrees 26 minutes 17 seconds East 108.66 feet,
22) North 27 degrees 56 minutes 17 seconds East 49.93 feet,
23) North 52 degrees 10 minutes 57 seconds East 146.99 feet,
24) North 36 degrees 10 minutes 57 seconds East 125.00 feet,
25) North 48 degrees 40 minutes 57 seconds East 125.00 feet,
26) North 86 degrees 50 minutes 57 seconds East 122.00 feet,
27) North 64 degrees 17 minutes 57 seconds East 414.80 feet,
28) North 29 degrees 32 minutes 57 seconds East 80.00 feet,
29) North 20 degrees 05 minutes 03 seconds West 102.90 feet,
30) North 40 degrees 05 minutes 57 seconds East 151.99 feet,
31) North 01 degrees 59 minutes 57 seconds East 196.20 feet,
32) North 57 degrees 21 minutes 07 seconds East 461.73 feet,
33) North 01 degrees 09 minutes 33 seconds West 565.39 feet,
34) North 68 degrees 13 minutes 13 seconds East 613.70 feet,
35) South 21 degrees 46 minutes 47 seconds East 10.99 feet,
36) South 68 degrees 20 minutes 25 seconds West 40.00 feet,
37) South 68 degrees 20 minutes 25 seconds West 75.00 feet,
38) South 35 degrees 11 minutes 52 seconds East 80.72 feet,
39) South 03 degrees 33 minutes 31 seconds East 182.49 feet,
40) South 19 degrees 25 minutes 53 seconds West 136.09 feet,
41) South 27 degrees 11 minutes 33 seconds West 146.51 feet,
42) South 14 degrees 10 minutes 01 seconds West 152.07 feet,
43) South 34 degrees 33 minutes 08 seconds West 476.18 feet,
44) South 46 degrees 03 minutes 39 seconds West 60.95 feet,
45) South 10 degrees 48 minutes 54 seconds East 174.86 feet,
46) South 05 degrees 09 minutes 45 seconds East 214.45 feet,
47) South 17 degrees 59 minutes 08 seconds West 204.19 feet,
48) South 11 degrees 46 minutes 18 seconds West 300.67 feet,
49) South 09 degrees 23 minutes 23 seconds West 800.25 feet,
50) South 08 degrees 44 minutes 30 seconds East 104.40 feet and
51) by a non-radial line, South 00 degrees 53 minutes 04 seconds East 151.99 feet to the point of beginning.

Containing 2,359,690 Square Feet or 54.17 Acres of Land more or less.

The above bearings are based on the Baltimore County Metropolitan District Grid System.

NOTE: THE ABOVE DESCRIPTION IS COMPILED FROM PLATS AND DEEDS AND DOES NOT CONSTITUTE A FIELD SURVEY AND IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.

STATE OF MARYLAND
WALTER FRANCIS EISENHAUER
No. 10899
REGISTERED
PROFESSIONAL LAND SURVEYOR

Walter Francis Eisenhauer
03/08/04

03-106-SPH

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 10003

DATE 09.04.02 ACCOUNT R001 6150

AMOUNT $ 250.00

RECEIVED FROM: FT [illegible] LLC

FOR: Special Hearing

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

5007

DATE RECEIPT
PAID RECEIPT
BUSINESS ACTUAL TIME
9/05/2002 9/04/2002 15:11:43
REG W505 MAIL RBUS LRB DRAWER 5
>>RECEIPT # 291654 8/31/2002 UFLN
Dept 5 528 ZONING VERIFICATION
DR NO. 016863
Recpt Tot $250.00
250.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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: #03-106-SPH
Red Run Boulevard
W/S Red Run Blvd., N. Owings Mills Blvd. & Red Run Blvd.
4th Election District - 3rd Councilmanic District
Legal Owner(s): Painters Mill Venture, LLP
Contract Purchaser: FF Realty, LLC

Special Hearing: to confirm that residential apartments qualify as a permitted use in an OT zone and to approve the underlying development density available for use by a residential use in an OT zone.

Hearing: Tuesday, October 15, 2002 at 10:00 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.

JT/10/622 Oct. 1 C566306

CERTIFICATE OF PUBLICATION

10/3/, 2002

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 10/1/, 2002.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 03-106-SPH

Petitioner/Developer: EE. REALITY LLC

Date of Hearing/Closing: 10/15/02

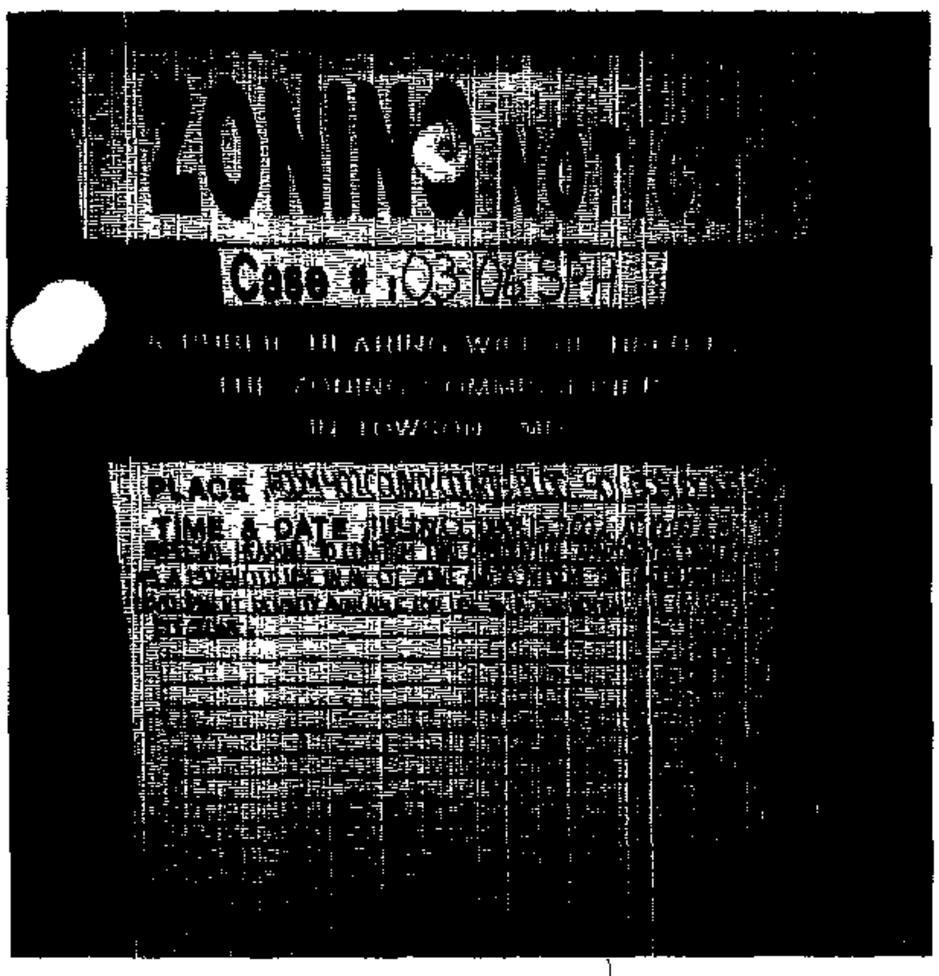
Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

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

The sign(s) were posted on 9/29/02
(Month, Day, Year)



Sincerely,

9/29/02
(Signature of Sign Poster and Date)

SSG ROBERT BLACK
(Printed Name)

1508 Leslie Rd
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

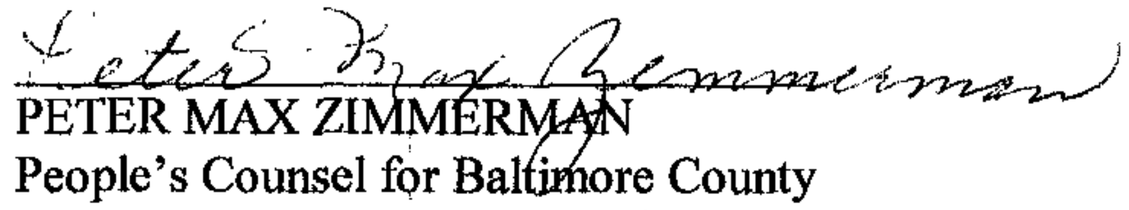
(410) 282-7940
(Telephone Number)

RE:	PETITION FOR SPECIAL HEARING	*	BEFORE THE
	W/side of Red Run Blvd. North of Owings Mills Blvd. & Red Run Blvd.	*	ZONING COMMISSIONER
	4th Election District 3rd Councilmanic District	*	FOR
	Legal Owner: Painters Mill Venture Jack Baylin, Managing Partner	*	BALTIMORE COUNTY
	Contract Pur.: FF Reality LLC Petitioner(s)	*	03-106-SPH

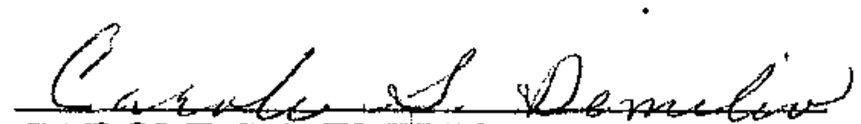
* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.



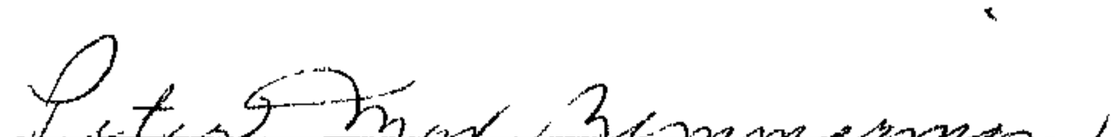
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 25th day of September, 2002, a copy of the foregoing Entry of Appearance was mailed to Jack L. Baylin, 106 Old Court Road, Suite 202, Baltimore, MD 21208, Alan Betten, Esq., 502 Washington Ave. Suite 200, Towson, MD 21204 Attorney for Petitioner(s).



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 1, 2002 Issue – Jeffersonian

Please forward billing to:
G. W. Stephens Jr & Assoc Inc 410 825-8120
1020 Cromwell Bridge Road
Towson MD 21286

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: 03-106-SPH
Red Run Boulevard
W/S Red Run Blvd, N Owings Mills Blvd & Red Run Blvd
4th Election District – 3rd Councilmanic District
Legal Owner: Painters Mill Venture LLP
Contract Purchaser: FF Realty LLC

Special Hearing to confirm that residential apartments qualify as a permitted use in an OT zone and to approve the underlying development density available for use by a residential use in an OT zone.

HEARING: Tuesday, October 15, 2002 at 10:00 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.

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

September 23, 2002

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: 03-106-SPH
Red Run Boulevard
W/S Red Run Blvd, N Owings Mills Blvd & Red Run Blvd
4th Election District – 3rd Councilmanic District
Legal Owner: Painters Mill Venture LLP
Contract Purchaser: FF Realty LLC

Special Hearing to confirm that residential apartments qualify as a permitted use in an OT zone and to approve the underlying development density available for use by a residential use in an OT zone.

HEARING: Tuesday, October 15, 2002 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ
Director

C: Alan Betten, Kandel Klitenic Kotz Betten & Chernow, 502 Washington Ave, Suite 200, Towson 21204
Painters Mill Venture, Jack L Baylin, 106 Old Court Road, Baltimore 21208
FF Realty LLC, David A Wright, 2045 N Highway 360, Suite 250, Grand Prairie TX 75050

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY SEPTEMBER 30, 2002.**
(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

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: 03-106 SPH

Petitioner: FF REALTY LLC

Address or Location: PAINTERS MILL & RED RUN BLVD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: G. W. STEPHENS, JR. & ASSOC. INC.

Address: 1020 CROMWELL BRIDGE RD.
TOWSON, MD 21286

Telephone Number: 410-825-8120

Revised 2/20/98 - SCJ

03-106.SPH - 16 -

Baltimore County
Department of Permits and
Development Management

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

October 10, 2002

Allan Betten
Kandel, Klitenic, Kotz, Betten & Chernow, LLP
502 Washington Avenue Suite 200
Towson, MD 21204

Dear Mr. Betten:

RE: Case Number: 03-106 SPH, west Side of Red Run Blvd., North of Owings Mills Blvd & Red Run Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on, September 4, 2002.

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.
Supervisor, Zoning Review

WCR:rjc
Enclosures

c: Jack L. Baylin, Managing Partner Painters Mill Venture, LLP 106 Old Court Road
Baltimore MD 21208
FF Realty LLC, David A. Wright 2045 N. Highway 360 Suite 250 Grand Prairie TX 75050
People's Counsel

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on Recycled Paper

TELEPHONE (410) 339-7100
abetten@k3bclaw.com
03-106-SPH

FAX (410) 339-7107
eff. 10/31/02

ALAN BETTEN
ATTORNEY AT LAW

KANDEL, KLITENIC, KOTZ, BETTEN & CHERNOW, LLP
#610 SUITE ~~200~~, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4513

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

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

September 24, 2002

ATTENTION: George Zahner

Property Owner: Painters Mill Venture, LLC

Location: Red Run Blvd.

Item No.: 106

Dear Mr. Zahner:

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", 200 Edition prior to occupancy.

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

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS /TGT

DATE: 10/7/02

SUBJECT: Zoning Item 106
Address Fairfield @ Red Run

Zoning Advisory Committee Meeting of September 23, 2002

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

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

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

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

__X__ 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).

Reviewer: Betty Kelley Date: 10/1/02

Sim 10/16

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 1, 2002

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

3

SUBJECT: Red Run Blvd.

INFORMATION:

Item Number: 03-106

Petitioner: Painters Mill Venture, LLP

Zoning: O.T.

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

During the preliminary review of the subject property, the Office of Planning received a request to provide an opinion regarding the permitted residential density in the O.T. Zone. In answer to the request, it would appear that the Baltimore County Zoning Regulations place no clear limitation with respect to density in that particular zone. However, it seems apparent a limitation is suggested in the statement of legislative policy (see Section 209.2). The section states, in part, the following: "It is the intent of these regulations that the quality of the environment of the O.T. Zone shall be equal to that of the OR-2 Zone; therefore, no establishment shall be permitted which creates objectionable conditions adversely affecting nearby areas."

The closest reference to density may be found in the legislative intent section of the O.T. Zone, which refers to the OR 2 Zone. The OR 2 Zone has a density of DR 10.5 in order to insure quality development. Since compatibility review is required, in accordance with Baltimore County Code Section 26-282 it would be possible to increase density for a project if a determination was made that the development met superior design standards and was compatible with the built environment and/or anticipated development in the vicinity.

Prepared by: Martha Clough

Section Chief: Lynn Lochner
AFK/LL:MAC:

W:\DEVREV\ZAC\03-106.doc

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 9.24.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 106 JRA

Dear. Mr. Zahner:

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
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

PLEASE PRINT CLEARLY

CASE NAME PAINTER'S MILL VENTURE, LLP (RED RUN BLVD.)
CASE NUMBER 03-106-SPH
DATE 10/15/02

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Patricia O. Hoffman	8205 Ally Ho Rd	Lutherville Md 21093	
Frederick C. Grant	8 Deuton Court	Owings Mills, Md 21117	
Cheryl McLeod	129 Pleasant Hill Rd.	Owings Mills, MD 21117	
Larry Pert - 409 Washington Ave Towson		21204 410 337	2400 X 3483
Owings Mills Times			
Wants Copy - Call him when done			

Parris N. Glendening
Governor
Kathleen Kennedy Townsend
Lt. Governor

MDP
Maryland Department of Planning

Roy W. Kienitz
Secretary
Mary Abrams
Deputy Secretary

September 23, 2002

Mr. George Zahner
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Room 111, Mail Stop #1105
Towson MD 21204

Re: **Zoning Advisory Committee Agenda re: case numbers 03-106-SPH, 03-116-A, 03-117-A, 03-118-A, 03-119-A, 03-120-XA, 03-121-A, 03-122-A, 03-123-XA, 03-124-A, 03-125-A, 03-126-A, 03-127-SAHSPH, 03-128-A, 03-129-A, 03-130-A**

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 09/23/02. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this review process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

James R. Gatto

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup

To: H.O.

From Zoning

Baltimore County
Department of Permits and
Development Management

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

July 24, 2002

Mr.Alan Betten
Kandel, Klitenic, Kotz, Betten & Chernow, LLP
Suite 200, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204-4513

Re: Fairfield Residential LLC
Red Run Boulevard – Density Determination in Office Technology
District 4 Councilmanic District 3
DRC 070102I

Dear Mr. Betten:

Reference is made to your letter of July 10, 2002 to Arnold Jablon, Director Permits and Development Management, on behalf of your client, which has been referred to me for reply. I would also reference a June 11, 2002, verification letter from Joseph C. Merrey in this office to George W. Stephens Jr. & Associates. The issue is simply stated, What is the residential density permitted in the Office Technology (OT) zone where "residential uses" is listed in Section 209.3 without any direct density controls?

The zoning staff has taken the position that the intent of the permitted "residential uses" does not allow unlimited density, and that any density proposed in excess of 5.5 would require confirmation and approval of a hearing officer at a public hearing. This position has not changed after Joe Merrey's letter, our discussions, meetings in this office, and the DRC meeting to which you refer in your letter.

You stated that this office didn't object to the DRC approval of a limited exemption under section 26-171(B)(9) of the development regulations. As we stated at the meeting, this office does not object to the B-9 development review, however, the density issue is not resolved. Zoning issues are resolved separately. Development Review and Zoning Review are separate and distinct.

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on Recycled Paper

As you stated in your letter, the zoning regulations do provide for high density residential uses near to town and community centers. We would agree with your client's proposal if the specific wording of "Dwelling or density units shall not be directly limited" was included in the Office Technology zone, the same as in six other zones and districts in proximity to town and community centers.

We also feel that the scope of our Office Technology zone is closer to business and manufacturing than a residential zone, so that principal residential uses must be specifically regulated as in the commercial zones in the following sections:

232.A.3
232.B.3
235.A.3
235.B.3
238.A.3
238.B.3

Obliviously, this is not the case, and in the absence of the specific construction above, unlimited residential density in the Office Technology zone may only be confirmed and approved by the hearing officer at a public hearing.

If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,

W. Carl Richards, Jr.
Zoning Review Supervisor

c Arnold Jablon, Director, of Permits and Development Management
Arnold F. Keller Director of Planning
John Lewis, Zoning Planner
Joe Merrey, Zoning Planner

WCR/rjc

Part A – Residential Uses

In the Zoning Verification Letter, Mr. Merrey stated that "this Office can provide only tentative approval of 'apartment-units' as a use permitted as of right in this zone" because there is "some questions as to whether" the language of Section 209 of the Baltimore County Zoning Regulations (the "Regulations") "includes a principal-use apartment complex." The Property is currently zoned O.T. (Office and Technology) which lists, in Section 209.3A(14) of the Regulations, "Residential Use" as a use permitted as of right. Section 209 does not contain a definition of what is intended by this term; similarly, the definitional section of the Regulations set forth in Section 101 does not define a residential use. In the absence of any specific definition of "Residential Uses," we believe that such language should be interpreted in its normal fashion, i.e., to encompass all types of residences (subject to other applicable provisions of the Regulations).

As was noted in the meeting with Mr. Richards and Mr. Merrey, to the extent that other sections of the Regulations specifically define the types of residential uses that are permitted in a particular residential zone, such delimiting language was specifically drafted in order to define the nature of the particular residential use that is permitted. For example, in all D.R. Zones, single-family detached, semi-detached, or duplex dwellings are permitted; group houses and multi-family buildings, in contrast, are permitted in D.R. 5 5 Zones, but not necessarily in all D R Zones (Section 1B01.1). We further note that Section 209.1B clearly states that areas in proximity to town centers, as is the Property, are "well-suited for development into centers consisting of .. high density residential development," which would include a principal – use apartment complex

Subsequent to our meeting with Mr. Richards and Mr. Merrey, Fairfield has held several meetings with Pat Keller and other members of the staff of the Department of Planning. At such meetings, Mr. Keller and the members of his staff have informed Fairfield that the Department of Planning takes the position that the term "Residential Uses," as used in Section 209, encompasses a principal – use apartment complex. It is our understanding that Mr. Keller intends to confirm to you separately the Department of Planning's position in this regard.

Part B – Density

The Zoning Verification Letter states that "this Office will approve density only at the DR-5.5 rate, i e., 5 5 density units per acre. Anything exceeding this rate will require approval by Zoning Commissioner via a public hearing." By its language, Section 209, unlike other sections of the Regulations concerning zones in which residential uses are permitted as of right, does not contain any density restrictions. As noted above, Section 209.1.B states that properties

KANDEL, KLEPENIC, KOTZ, BETTEN & CHERNOW, LLP
ATTORNEYS AT LAW

BALTIMORE OFFICE
WOODHOLME PROFESSIONAL BUILDING
1838 GREENE TREE ROAD, SUITE 370
BALTIMORE, MARYLAND 21208
(410) 415-0490

SUITE 200, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4513

(410) 339-7100
FAX: (410) 339-7107

ALAN BETTEN
abetten@k3bclaw.com

July 10, 2002

02-2190

VIA HAND DELIVERY

Mr. Arnold Jablon, Director
Baltimore County Department of
Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Fairfield Residential, LLC – Red Run Boulevard Property – Tax Map 67, Parcel 491 – Zoning Map 2C

Dear Mr Jablon:

This Firm represents Fairfield Residential, LLC ("Fairfield"), the contract purchaser of the above-captioned property (the "Property"), which it desires to develop as a principal – use apartment complex As part of its due diligence, Fairfield recently requested a Zoning Verification Letter from your office. A copy of Fairfield's June 11, 2002 request is attached as Exhibit 1. By letter dated June 24, 2002, Joseph C. Merrey, Planner II, Zoning Review, issued a Zoning Verification Letter (the "Zoning Verification Letter") A copy of Mr. Merrey's letter is attached as Exhibit 2

We believe that several of the conclusions set forth in the Zoning Verification Letter are incorrect. We have met with Carl Richards and Joe Merrey of your office in order to discuss our concerns. At that meeting, Mr. Richards explained the genesis of the conclusions with which we expressed concern. Mr. Richards also stated, however, that you would be willing to review the conclusions if we were to present additional information addressing our concerns. Upon Mr Richards' suggestion, I am writing this letter in order to provide such additional information, in the hope that, after you have reviewed the enclosed additional information, a revised Zoning Verification Letter will be issued.

Part A – Residential Uses

In the Zoning Verification Letter, Mr. Merrey stated that "this Office can provide only tentative approval of 'apartment-units' as a use permitted as of right in this zone" because there is "some questions as to whether" the language of Section 209 of the Baltimore County Zoning Regulations (the "Regulations") "includes a principal-use apartment complex." The Property is currently zoned O.T. (Office and Technology) which lists, in Section 209.3A(14) of the Regulations, "Residential Use" as a use permitted as of right. Section 209 does not contain a definition of what is intended by this term; similarly, the definitional section of the Regulations set forth in Section 101 does not define a residential use. In the absence of any specific definition of "Residential Uses," we believe that such language should be interpreted in its normal fashion, i e., to encompass all types of residences (subject to other applicable provisions of the Regulations).

As was noted in the meeting with Mr. Richards and Mr. Merrey, to the extent that other sections of the Regulations specifically define the types of residential uses that are permitted in a particular residential zone, such delimiting language was specifically drafted in order to define the nature of the particular residential use that is permitted. For example, in all D.R. Zones, single-family detached, semi-detached, or duplex dwellings are permitted; group houses and multi-family buildings, in contrast, are permitted in D.R. 5.5 Zones, but not necessarily in all D R. Zones (Section 1B01.1). We further note that Section 209.1B clearly states that areas in proximity to town centers, as is the Property, are "well-suited for development into centers consisting of ... high density residential development," which would include a principal – use apartment complex.

Subsequent to our meeting with Mr. Richards and Mr. Merrey, Fairfield has held several meetings with Pat Keller and other members of the staff of the Department of Planning. At such meetings, Mr. Keller and the members of his staff have informed Fairfield that the Department of Planning takes the position that the term "Residential Uses," as used in Section 209, encompasses a principal – use apartment complex It is our understanding that Mr. Keller intends to confirm to you separately the Department of Planning's position in this regard.

Part B – Density

The Zoning Verification Letter states that "this Office will approve density only at the DR-5.5 rate, i.e., 5 5 density units per acre Anything exceeding this rate will require approval by Zoning Commissioner via a public hearing." By its language, Section 209, unlike other sections of the Regulations concerning zones in which residential uses are permitted as of right, does not contain any density restrictions. As noted above, Section 209 1.B states that properties

in proximity to town centers (as is the Property) are "well-suited for development into centers consisting of . . high density residential development." Typically, DR 5.5 (unlike DR 10.5, DR 16, or RAE) has not been considered a high density residential zone. Thus, we believe that the statement set forth in the Zoning Verification Letter presents an unreasonably narrow interpretation of Section 209.

In further support of the position that Section 209 permits open density for residential uses, the regulations concerning the DR 5.5 and O.T. Zones are inherently incompatible. Section 1B02.2A of the Zoning Regulations states that the maximum height of buildings in a DR 5.5 Zone is 50 feet; in contrast, Section 209.4F states that the minimum height of residential uses in an O.T Zone is 52 feet. The clear import of this dichotomy is that the maximum density available for uses in an O.T Zone is not intended to be limited to the density permitted in a DR 5.5 Zone.

As you are aware, the Property was granted a limited exemption under Section 26-171(B)(9) of the Baltimore County Code, by letter dated February 25, 2002, in DRC No. 020402H. A copy of the DRC Approval Letter is attached as Exhibit 3. Apparently, the Zoning Office did not make the same objection concerning density, even though the plan submitted by the then contractor purchaser of the Property showed that it was to be developed as a principal-use apartment complex, by the construction of 437 apartment units

Further, the recently-approved Development Plan for the nearby Kentmar Development clearly states that the maximum density permitted in the O T. portion of the development is "open," with no density calculation specified. Although the Hearing Officer's Opinion & Development Plan Order (the "Order") concerning Kentmar (Case No. IV-563) was not required to address the density available for residential uses in an O.T. Zone, the Hearing Officer clearly noted in his Order that the developer proposed to incorporate residential uses in the site's development. A copy of the Order, together with the approved Development Plan, is attached as Exhibit 4. Fairfield suggests that the approval of the Kentmar Development Plan constitutes a binding precedent concerning this issue.

Again, in our conferences with Mr. Keller and members of his staff, Fairfield was informed that the Department of Planning takes the position that the maximum density permitted for residential uses in an O T. Zone is open. It is our understanding that, as with the application of the term "Residential Uses," Mr. Keller intends to confirm to you separately the Department of Planning's position in this regard.

For the reasons stated in this letter, we request that your office revise the Zoning Verification Letter in order to confirm (i) that a principal – use apartment complex is permitted as of right as a "residential use," in an O.T. Zone, and (ii) that the maximum density available (subject to other provisions of the Baltimore County Zoning Regulations) for a residential use in an O.T. Zone is open.

If you have any questions, please feel free to contact me. Thank you for your consideration.

Very truly yours,

Alan Betten

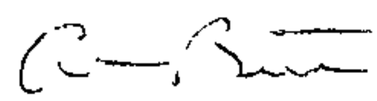
AB/tsh
Enc.

cc: Mr. David Wright (via federal express)
Mr. Tom Hewitt (via federal express)

For the reasons stated in this letter, we request that your office revise the Zoning Verification Letter in order to confirm (i) that a principal – use apartment complex is permitted as of right as a "residential use," in an O.T. Zone, and (ii) that the maximum density available (subject to other provisions of the Baltimore County Zoning Regulations) for a residential use in an O.T. Zone is open.

If you have any questions, please feel free to contact me. Thank you for your consideration.

Very truly yours,



Alan Betten

AB/tsh
Enc.

cc: Mr. David Wright (via federal express)
Mr. Tom Hewitt (via federal express)

Pet Ex 1-9

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

In the Matter of:	*	Petition for Special Hearing
FF Realty, LLC	*	Case No. 03-106-SPH

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

MEMORANDUM OF FACTS AND LAW OF FF REALTY, LLC

FF Realty, LLC ("Fairfield"), by Alan Betten, Esquire, its attorney, hereby files this Memorandum of Facts and Law (the "Memorandum"), and states as follows:

I. ISSUE

Fairfield has requested this Hearing in order to clarify certain issues arising pursuant to Section 209 of the Baltimore County Zoning Regulations ("BCZR"). Specifically, Fairfield requests that the Zoning Commissioner:

A. clarify and confirm that residential apartments qualify as a permitted use in an O.T. Zone ("OT Zone"); and

B. clarify and confirm the underlying development density available for use by a residential use in an OT Zone.

II. BACKGROUND FACTS

On or about April 24, 2002, Fairfield entered into a contract of sale to purchase a parcel of land situated on Red Run Boulevard in Owings Mills, Maryland (the "Property"). Attached hereto and incorporated herein as Exhibit 1 is a copy of a Plan showing the portion of the Property that lies within an OT Zone. In performing its due diligence during the Feasibility Period permitted by the Contract, Fairfield learned that the Property had, on two (2) prior occasions, been granted an exemption by the Baltimore

County Development Review Committee ("DRC") pursuant to Section 26-171(B)(9) of the Baltimore County Code (the "Code"). A copy of the prior (B)(9) Exemption Letters is attached hereto and incorporated herein as Exhibit 2. By letter dated August 2, 2002, Fairfield was similarly granted an exemption under Section 26-171(B)(9) with regard to its proposed development of the Property. A copy of the August 2, 2002 Exemption Letter is attached hereto and incorporated herein as Exhibit 3.

Also, as part of its due diligence during the Feasibility Period, Fairfield requested that the Baltimore County Department of Permits and Development Management ("DEPRM") issue a Zoning Verification Letter. In particular, Fairfield requested that the Zoning Office opine that the proposed use of the Property for the development of 398 residential apartments is permitted as of right in an OT Zone; and that the maximum density that would be permitted on the Property, given the proposed use of the Property, is not less than 437 density units. A copy of the June 11, 2002 Zoning Request Letter is attached hereto and incorporated herein as Exhibit 4.

By letter dated June 24, 2002, the Zoning Office opined that:

> The subject property is currently zoned OT (Office and Technology), which lists "Residential Uses" as a use permitted as a matter of right. However, there remains some question as to whether this general language includes a principal – use apartment complex. In consideration of the fact that the OT regulations (Section 209.8; BCZR) required the Planning Office to approve the Development Plan prior to the issuance of building permits, which arguably includes a review and approval as a proposed mix of uses, this Office can provide only tentative approval of "apartment – units" as a use permitted as of right in this zone. Additionally, as the O.T. regulations make no reference to the calculation of density or reference to a residential zone that would be controlling on this issue, Mr. Richards has advised that this Office will approve density only at the DR-5.5 rate, i.e., 5.5 density units per acre. Anything exceeding this rate will require approval by a zoning commissioner via a public hearing.

A copy of the June 24, 2002 letter from the Zoning Office is attached hereto and incorporated herein as Exhibit 5.

Representatives of Fairfield subsequently met with members of the Baltimore County Office of Planning, and were informed that, according to the Office of Planning, the proposed apartments certainly would qualify as a residential use pursuant to Section 209. In addition, the Office of Planning informed the Fairfield representatives that it had taken and continued to take the position that the density available for a residential use in an OT Zone is unlimited. Fairfield requested that the Office of Planning send a memorandum to that effect to the Zoning Office, because Fairfield intended to request that the Zoning Office revisit and revise the conclusions set forth in its June 24, 2002 letter. The Office of Planning agreed to take such actions. Attached hereto and incorporated herein as Exhibit 6 is a letter dated July 8, 2002 to Gary L. Kerns, Deputy Director of the Office of Planning, which letter memorializes Fairfield's understanding of its meetings and subsequent conversations with members of the Office of Planning in this regard.

By letter dated July 10, 2002, Fairfield formally requested that the Zoning Office revisit and revise the conclusions set forth in its June 24, 2002 letter. A copy of Fairfield's July 10, 2002 letter is attached hereto and incorporated herein as Exhibit 7. By letter dated July 24, 2002, a copy of which is attached hereto and incorporated herein as Exhibit 8, the Zoning Office responded, in part, to Fairfield's July 10, 2002 letter. Without revisiting its opinion regarding whether the proposed principal – use 398-unit apartment complex would constitute a residential use in an OT Zone, the Zoning Office again stated that "any density proposed in excess of 5.5 would require confirmation and approval of a hearing officer at a public hearing." In addition, the Zoning Office stated that, because it believed that "the scope of our Office Technology Zone is closer to business and manufacturing than a residential zone,

[...] principal residential uses must be specifically regulated as in the commercial zones in the following Sections: 232.A.3, 232.B.3, 235.A.3, 235.B.3, 238.A.3, and 238.B.3."

On approximately the same date as it received the July 24, 2002 letter from the Zoning Office, Fairfield received a copy of the correspondence, dated July 23, 2002, from Mr. Arnold Keller, Director of Office of Planning, to Mr. Arnold Jablon, Director of DEPRM. This memo, a copy of which is attached hereto and incorporated herein as Exhibit 9, appears to state that the density available for a residential use in an OT Zone is DR-10.5, although such density might be increased for a project if the development "met superior design standards and was compatible with the built environment and/or anticipated development in the vicinity."

Given the various responses received by Fairfield from various Baltimore County departments with regard to the two issues outlined above, Fairfield thought it prudent to file the instant Petition, in order to obtain a ruling from the Zoning Commissioner.

III. ARGUMENT

A. RESIDENTIAL USES.

In its June 11, 2002 letter, the Zoning Office stated that "this Office can provide only tentative approval of "apartment units" as a use permitted as of right in this Zone" because there are "some questions as to whether" the language of Section 209 of the BCZR "includes a principal – use apartment complex." Fairfield submits that the intended use of the Property to construct 398 three- and four-story high-end apartment buildings constitutes a use permitted as of right pursuant to Section 209. At the outset, Fairfield notes that Section 209.3A(14) of the BCZR lists "residential use" as a use permitted as of right. Section 209 does not provide a definition of what is intended by the term "residential"; similarly, Section 101 of the BCZR does not define a residential use. In the absence of

any specific definition of "Residential Uses", Fairfield submits that such language should be interpreted in its normal fashion, i.e., to encompass all types of residences. For example, one common definition of "residence" is "a place where one resides," with a definition of "reside" as "to have one's home (in a certain place), to dwell." E. Ehrlich, et al., eds., Oxford American Dictionary (1980), at 575.

Fairfield further notes that, to the extent that other Sections of the BCZR specifically define the types of residential uses that are permitted in a particular residential zone, such delimiting language was specifically drafted in order to define the nature of the particular residential use that is permitted, rather than to define the intrinsic nature of a "residential use". For example, in all DR Zones, single-family detached, semi-detached, or duplex dwellings are permitted; group houses and multi-family buildings, in contrast, are permitted in DR-5.5 Zones, but not necessarily in all DR Zones (Section 1B01.1, BCZR). In addition, although Section 209 does not specifically designate the OT Zone as a "Residential Zone" (which is defined in Section 101 of the BCZR as a "zone classified as R.C., D.R., R-O-A or R.A.E. 'zone for residential purposes'), the language of Section 209.1.B clearly states that areas in proximity to town centers, as is the Property with regard to Owings Mills Town Center, are "well-suited for development into centers consisting of ... high-density residential development."

Thus, Fairfield submits that its intended development of the Property as a principal-use apartment complex constitutes a residential use permitted as of right pursuant to Section 209.

B. DENSITY.

Fairfield submits that the density that should be afforded to a residential use in an OT Zone should be unlimited, for various reasons. First, a cursory review of Section 209 demonstrates that there is no specific language delimiting the density to be afforded a residential use. This marked absence of any delimiting language is, interestingly, in contrast to other Sections of the BCZR that permit

residential uses, but in which specific density restrictions are noted. For example, in Section 201, with regard to R.A.E. 2 Zones, the gross residential density is limited to 80 density units per acre. Similarly, the various DR Zones are limited to the specific number embodied in the name of a particular zoning classification, i.e., a DR-5.5 Zone limits residential development, as of right, to 5.5 units per acre.

Second, as noted above, Section 209.1.B states that properties in proximity to town centers (as is the Property) are "well-suited for development into centers consisting of ... high-density residential development." Typically, DR-5.5 (unlike DR-10.5, DR-16 or R.A.E.) Zones have not been considered as high-density residential zones; thus, the Zoning Officer's characterization of the available zoning as 5.5 is incompatible with the policy underlying Section 209. Further, the regulations concerning DR-5.5 and OT Zones may be viewed as inherently incompatible; Section 1B02.2A of the BCZR states that the maximum height of buildings in a DR-5.5 Zone is fifty feet, whereas, in contrast, Section 209.4F states that the minimum height of residential uses in an OT Zone shall be fifty-two feet. The clear import of this dichotomy is that the maximum density available for uses in an OT Zone is not intended to be limited to the density permitted in a DR-5.5 Zone.

Third, Fairfield further notes that, in its July 24, 2002 letter, the Zoning Office stated that it "would agree with your client's proposal if the specific wording of "Dwelling or density unit shall not be directly limited" was included in the Office Technology Zone, the same as in six other zones and districts in proximity to town and center communities...We also feel that the scope of our Office Technology Zone is closer to business and manufacturing than a residential zone, so that principal residential uses must be specifically regulated as in the commercial zones in the following Sections: 232.A.3, 232.B.3, 235.A.3, 235.B.3, 238.A.3, and 238.B.3." In the first sentence, the Zoning Office appears to be stating that it would agree that the density available for development of the Property as an

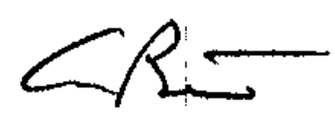
apartment complex would be unlimited if Section 209 included language stating "Dwelling or density units shall not be directly limited," as in the listed six zones and districts that are in proximity to town and community centers. In its next sentence, however, the Zoning Office appears to contradict itself, by stating that an OT Zone is more akin to a business and manufacturing zone than a residential zone and, therefore, principal residential uses in an OT Zone must be specifically regulated as in the commercial zones in the same six cited Sections. Clearly, each of the cited Sections states that "the specific number of dwelling or density units [in such district or zone], as such, shall not be directly limited." Based upon what appears to be the Zoning Office's analogy, that development in an OT Zone should be comparable to development otherwise permitted in the six other cited commercial zones, Fairfield submits that the density available to a residential use in an OT Zone should not be directly limited and, thus, the statements contained in the Zoning Office's letters limiting such density to that which is permitted in a DR-5.5 Zone presents an incorrect or, at best, unreasonably narrow interpretation of Section 209.

Fourth, Fairfield believes that there are several precedents by which the County has previously agreed that the density available for development of a residential use in an OT Zone is unlimited. As stated above, the Property was previously granted a limited exception under Section 26-171(B)(9) of the Code, by letter dated February 5, 2002. When presented with the request for limited exemption in such proceeding, the Zoning Office did not make the same objection concerning density as it has made in the instant matter, although the plan submitted by the then-contract purchaser of the Property showed that it was to be developed as a principal-use apartment complex, with the intended construction of 437 apartment units. A copy of the contract purchaser's plan submitted to the DRC as the basis for the (B)(9) request for limited exemption is attached hereto and incorporated herein as Exhibit 10.

Fairfield further notes that the recently-approved Development Plan for the nearby Kentmar Development clearly states that the maximum density permitted in the OT portion of the Development is "open" with no density calculations specified. Although the Hearing Officer's Opinion and Development Plan Order (the "Order") concerning the Kentmar Development was not required to address the density available for residential uses in an OT Zone, the Hearing Officer clearly noted in his Order that the developer proposed to incorporate residential uses in this site's development. A copy of the Order, together with the approved Development Plan is attached hereto and incorporated herein as Exhibit 11. Fairfield suggests that the approval of the Kentmar Development Plan constitutes a binding precedent concerning the density available for a residential use in an OT Zone.

Fifth, in his memo dated July 23, 2002 (Exhibit 9), Mr. Keller states that Section 209.2 appears to set forth a limitation on density for a residential use in an OT Zone, by virtue of the language that states "it is the intent of these regulations that the quality of the environment of the OT Zone shall be equal to that of the OR-2 Zone; therefore, no establishment shall be permitted which creates objectionable conditions adversely affecting nearby areas." From such statement, the Office of Planning construes the density that should be available in an OT Zone for a residential use to be the same density as is available in an OR-2 Zone, i.e., DR-10.5. Fairfield submits that the quoted language from Section 209 concerns the issue of the compatibility of any proposed development in an OT Zone, and is not intended to permit the wholesale incorporation into Section 209 of all of the requirements for a development located in an OR-2 Zone. Fairfield understands that a compatibility study may be required of it as its development plans proceed; any such review, however, must remain a separate issue from the determination of density available for such development.

For the reasons set forth above, Fairfield submits that Section 209 does not specify the density available to the proposed residential development in an OT Zone. In addition, references to other Sections of the BCZR whether intended to incorporate in part or wholesale the conditions of such other Sections into Section 209, are incorrect. Fairfield submits that a fair reading of Section 209 requires that the density available for use by a residential development in an OT Zone (assuming compliance with all other applicable zoning and land use requirements) be unlimited.



Alan Betten, Esquire
502 Washington Avenue, Suite 200
Towson, MD 21204
(410) 339-7100

Counsel for FF Realty, LLC

71.1.3-memorandum of facts and law-10.14.02

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, Md. 21204

(410) 887-3335

May 19, 1998

Matis Warfield, Inc.
Mr. James Matis
6600 York Road, Suite 209
Baltimore, MD 21212

RE: Red Run Corporate Center-Land Bay A
Red Run Blvd. N of Owings Mills Blvd
DRC Number 05048G, Dist. 4C3
IV-530

Dear Mr. Matis:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management.

The DRC has, in fact, met in an open meeting on May 4, 1998, and made the following recommendations:

The DRC has determined that your project meets the requirements of a limited exemption under Section 26-171 (B) (9), for Land Bay "A". When the new lot 1 comes in, it will be necessary to request a (B) (9), limited exemption for that lot.

EXHIBIT
2

In order to further process your development plan, submit two check prints, of the plan, prepared in accordance with Section 26-203 of the development regulations, and a copy of this letter to this office.

Be advised that in addition to development review fees, Phase 2 review fees may apply, depending on the amount of site disturbance, and/or the requirement of a Public Works Agreement.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 19th day of May 1998, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permit that may be required for this project, your application will be processed subject to the conditions set forth above, and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Arnold Jablon

Arnold Jablon
Director

AJ:DTR:dak

c: Bruce Seeley
Joyce Watson
File

Baltimore County Government
Department of Permits and
Development Management

received
5/30/02 DW

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

February 25, 2002

Morris & Ritchie Associates, Inc.
110 West Road, Suite 245
Towson, MD 21204

RE: PMV 4 12358
PDM Number IV-530
DRC Number 020402H; Dist. 4C3

Dear Sir or Madam:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on February 4, 2002, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the development plan, under Section 26-211. Please submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM Office of Zoning, Department of Public Works, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 25th day of February 2002, ordered and decided that the recommendations of the DRC are hereby adopted.

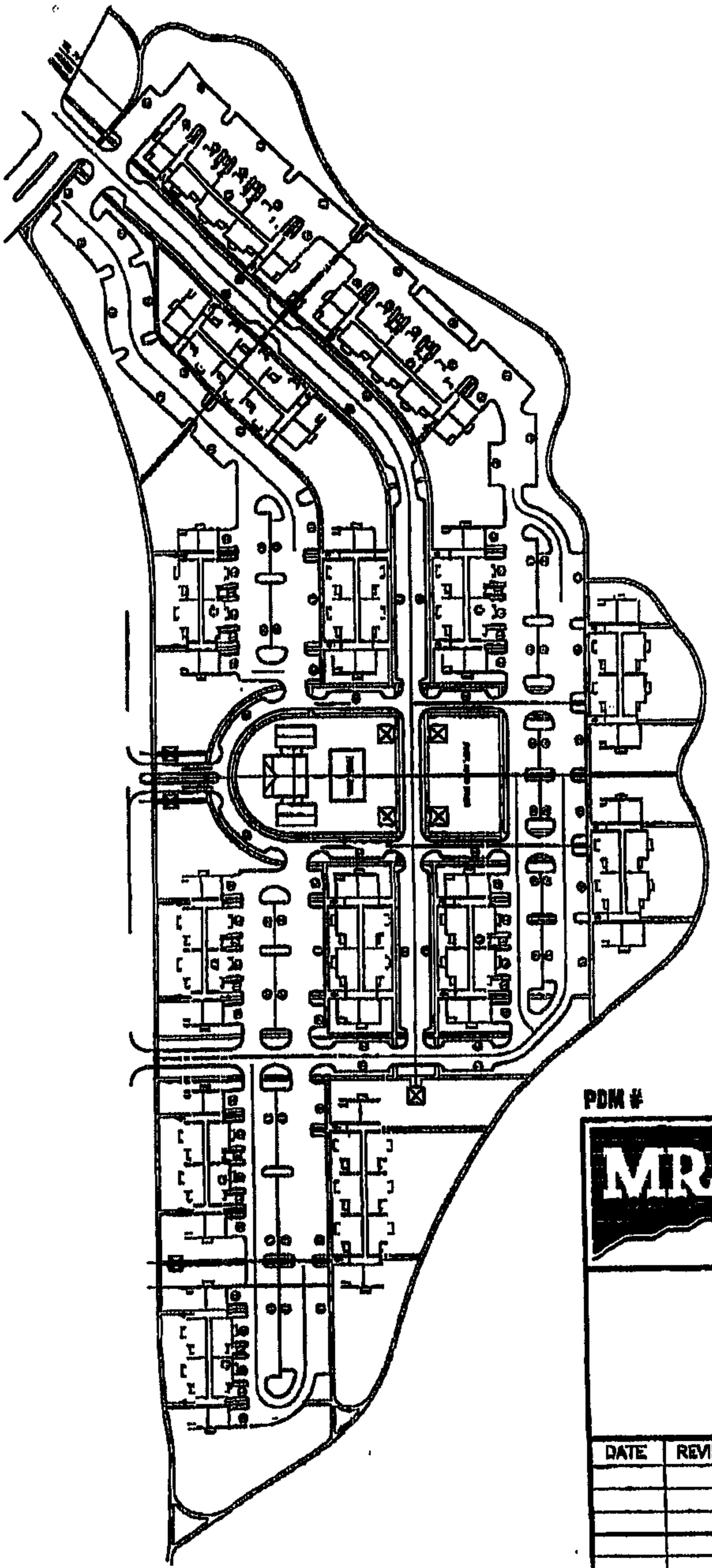
Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Arnold Jablon
Director

AJ:DTR:dak

c: Kristin Weis
File



PDM #

received
5/30/02 [illegible]

MRA

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

DEVELOPMENT PLAN

PAINTERS MILLS VENTURE

BALTIMORE COUNTY, MARYLAND

4TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

DATE	REVISIONS

JOB NO.:	12358
SCALE:	1"= 50'
DATE:	02/04/20
DRAWN BY:	SL
DESIGN BY:	-
REVIEW BY:	DT
SHEET:	1 OF

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

August 2, 2002

G. W. Stephens, Jr. & Assoc.
1020 Cromwell Bridge Road
Towson, MD 21286

RE: Fairfield Residential @ Red Run Blvd.
PDM Number IV-530
DRC Number 070102I; Dist. 4C3

Dear Sir or Madam:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on July 15, 2002, and made the following recommendations:

The DRC has determined that your project meets the requirements of a limited exemption under Section 26-171 (B) (9). It is necessary to submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM's Office of Zoning, Department of Public Works, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

EXHIBIT
3

In order to further process your development plan, submit two check prints, of the plan, prepared in accordance with Section 26-203 of the development regulations, one completed, signed and sealed copy of the **Development Plan Checklist,** and a copy of this letter to this office.

Be advised that in addition to development review fees, Phase 2 review fees may apply, depending on the amount of site disturbance, and/or the requirement of a Public Works Agreement.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 2nd day of August 2002, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Arnold Jablon
Director

AJ:DTR:dak

c: Kristin Weis
File

C2-1718

60th ANNIVERSARY GWS 1940-2000

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

CONSULTING ENGINEERS
LAND PLANNERS
LAND SURVEYORS

GEORGE WILLIAM STEPHENS, JR.
(1888-1983)

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WILLIAM E. HENNING, III, PROF. L.S.
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BERNT C. PETERSEN, L.A.
GEOFFREY R. TOBIAS
MARK B. TRESS, SR.

TOWSON:
1020 CROMWELL BRIDGE RD.
TOWSON, MD 21286-3396
(410) 825-8120
FAX (410) 583-0288

BEL AIR:
203 EAST BROADWAY
BEL AIR, MD 21014
(410) 879-1500
(410) 838-3800
FAX (410) 893-0425

visit our web site at
www.gwstephens.com

June 11, 2002

Mr. Arnold Jablon
Baltimore County Department of
Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: <u>Zoning Verification – Tax Map 67, Parcel 491, Zoning Map 2C</u>

Dear Mr. Jablon:

In connection with the potential acquisition of the above-referenced property (the "Property"), Fairfield Residential LLC (the "Purchaser") desires to obtain a letter from your office certifying the zoning of the Property, the existence of any violations of any applicable zoning requirements, that the intended use of the Property is a permitted use in the applicable zoning district, and the density of the development permitted upon the Property.

In connection therewith, I have attached for your review and signature a form of letter certifying as to the matters described above. We would greatly appreciate your cooperation in reviewing this matter and signing the enclosed letter if it is correct, or otherwise modifying it in accordance with the actual facts reflected in your records.

The Property consists of approximately 21.3 acres, more or less, and currently exists as raw land. The Purchaser intends to construct residential apartment units on the Property. Prior development projects proposed for the Property have been granted a limited exemption under Section 26-171 of the Baltimore County Code (a copy of the Administrative Orders and Decisions, dated May 19, 1998 (DRC Number 05048G), and February 25, 2002 (DRC Number 020402H) are attached), with the most recent proposed development of the Property projected to construct 437 residential apartment units thereon.

EXHIBIT
4

For your convenience, I have enclosed a copy of a new survey of the Property, which survey shows the metes and bounds of the Property. Also enclosed is a check in the amount of $40, covering the fee for the certification letter.

When your letter is ready, please contact me and I will make arrangements to have it picked up or sent to me by messenger. If you have any questions, please feel free to contact either me or Alan Betten, Esq., the Purchaser's counsel (410-3397100).

Thank you in advance for your assistance with this letter.

Very truly yours,

George William Stephens, Jr.
and Associates, Inc.

Thomas W. Hewitt
Project Manager

TWH:pmg

Enclosure

cc: Alan Betten, Esq.
D. Wright

BALTIMORE COUNTY GOVERNMENT
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT

County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

June 11, 2002

Fairfield Residential LLC
c/o George William Stephens, Jr.
and Associates, Inc.
1020 Cromwell Bridge Road
Baltimore, Maryland 21286-3308

Allegiance Title Company
2100 McKinney Avenue
Suite 1200
Dallas, TX 75201

Re: Zoning Verification – Tax Map 67, Parcel 491, Zoning Map 2C

Dear Sir or Madam:

This letter will acknowledge receipt of a letter from Thomas W. Hewitt of George William Stephens, Jr. and Associates, Inc., indicating that, in connection with the purchase of the above-referenced property (the "Property"), Fairfield Residential LLC (the "Purchaser") has requested a letter from our office certifying the zoning of the Property, the existence of any violations of any applicable zoning requirements, that the intended use of the Property is a permitted use in the applicable zoning district, and the density of the development permitted upon the Property.

We have been advised that the Property consists of approximately 21.3 acres, more or less, and currently exists as raw land. We have also been advised that the Purchaser intends to develop the Property with residential apartment units. We have been further advised that prior development projects proposed for the Property have been granted a limited exemption under Section 26-171 of the Baltimore County Code, by Administrative Orders and Decisions dated May 19, 1998 (DRC Number 05048G) and February 25, 2002 (DRC Number 020402H).

A review of our records and the applicable zoning ordinances and regulations of Baltimore County indicates that the Property is presently located in an O.T. Zone. The proposed use of the Property for residential apartment units is permitted as of right in an O.T. Zone. The applicable zoning code that would control the development of the Property is the _ edition of the Baltimore County Zoning Regulations. The maximum density that will be permitted on the Property, given the proposed use of the Property, is not less than 437 density units.

Based upon a review of our records and the applicable zoning ordinances and regulations as of the date hereof, we certify that (a) there is no matter pending that will or could cause the zoning classification of the Property to change, and (b) our records do not reflect any violations of the applicable zoning ordinances and amendments thereto with respect to any matters.

This letter may be relied upon by Fairfield Residential LLC, Allegiance Title Company, and their respective attorneys, successors, and assigns.

Sincerely,

Arnold Jablon
Zoning Administrator for Baltimore County

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

11298

OUR REFERENCE NUMBER	YOUR INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT	NET AMOUNT
	Zoning P.N. 9817-1					

11298

MERCANTILE-SAFE DEPOSIT & TRUST COMPANY
BALTIMORE, MARYLAND 21203-0324
7-61-520

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286

DATE	CONTROL NO.	AMOUNT
June 12, 2002		$ 40.00

Forty + xx/100

PAY TO THE ORDER OF Baltimore County

AUTHORIZED SIGNATURE

⑈00011298⑈ ⑆052000618⑆ 6482444⑈

Details on back

Security Features Included.

081122 / 9-99

Baltimore County
Department of Permits and
Development Management

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

June 24, 2002

Fairfield Residential LLC
C/o George William Stephens, Jr.
And Associates, Inc.
1020 Cromwell Bridge Road
Baltimore, Maryland 21236-3308

Allegiance Title Company
2100 McKinney Avenue
Suite 1200
Dallas, Texas 75201

Dear Sir or Madam:

RE: Zoning Verification, Fairfield @ Red Run,

This Zoning verification is in response to a letter received by this Office dated June 11, 2002, addressed to Mr. Arnold Jablon, Director of Permits and Development Management, regarding the above referenced property. Thomas W. Hewitt of George W. Stephens, Jr. and Associates, Inc., submitted the original request to this Office on June 11, 2002, and subsequently filed an amended request on June 20, 2002, to which this letter responds. After speaking to Mr. Carl Richards, Zoning Supervisor, regarding this issue, I have been instructed to advise you as follows. The subject property is currently zoned OT (Office and Technology), which lists "Residential Uses" as a use permitted as a matter of right. However, there remains some question as to whether this general language includes a principal-use apartment complex. In consideration of the fact that the OT regulations (Section 209.8; BCZR) require the Planning Office to approve the Development Plan prior to the issuance of building permits, which arguably includes a review and approval of the proposed mix of uses, this Office can provide only tentative approval of "apartment-units" as a use permitted as of right in this zone. Additionally, as the OT regulations make no reference to the calculation of density or reference to a residential zone that would be controlling on this issue, Mr. Richards has advised that this Office will approve density only at the DR-5.5 rate, i.e., 5.5 density units per acre. Anything exceeding this rate will require approval by Zoning Commissioner via a public hearing. I would suggest that you contact Jeff Long of the Planning Office for a determination as to whether his Office will be supporting an apartment-unit development at this location. Mr. Long may be reached at 410-887-3480.

Baltimore County Code Enforcement has advised that there are no current or outstanding zoning citations on the subject property. Additionally, based upon our

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5

records and to the best of my knowledge, there are no petitions pending for the zoning reclassification of the subject property.

If you need further information or have any questions, please do not hesitate to contact Mr. Richards or myself at 410-887-3391.

Sincerely,

Joseph C. Merrey
Planner II
Zoning Review

KANDEL, KLITENIC, KOTZ, BETTEN & CHERNOW, LLP
ATTORNEYS AT LAW
SUITE 200, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4513

ALAN BETTEN

PHONE: 410-339-7100
FAX: 410-339-7107
E-MAIL:
ABETTEN@k3bclaw.com

July 8, 2002

VIA E-MAIL

Mr. Gary L. Kerns
Deputy Director
Baltimore County Office of Planning
County Courts Building – Suite 406
401 Bosley Avenue
Towson, Maryland 21204

Re: Fairfield Residential, LLC – Fairfield at Red Run

Dear Mr. Kerns:

As you are aware, this Firm represents Fairfield Residential, LLC ("Fairfield") with regard to the above-captioned project (the "Project"). I again want to thank you and Mr. Cunningham for taking the time to meet with David Wright of Fairfield, Tom Hewitt of G.W. Stephens, Jr. and Associates, Inc., and me in order to discuss our various concerns arising from what we perceived to have been some confusion following a prior meeting that we had attended with Mr. Keller and Ms. Lanham. This letter is intended to confirm my understanding of our follow-up conversation on July 3, 2002.

First, with respect to Fairfield's request before the DRC for a limited exemption pursuant to Section 26-171(B)(9) of the Baltimore County Code (the "Code"), the Department of Planning will support such request and will verbally inform Don Rascoe of its position. Second, the Department of Planning will verbally inform both Mr. Rascoe and Arnold Jablon that it takes the following positions with regard to the interpretation of the requirements of Section 209 of the Baltimore County Zoning Regulations, with regard to an O.T. Zone:

(a) The term "residential" as set forth in Section 209(3)(A)(14) includes a principal – use apartment complex; and

EXHIBIT
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(b) The density for a residential use in an O.T. Zone is not limited to density at the DR-5.5 rate, but is unlimited.

I understand that Mr. Keller will draft a letter to Mr. Jablon with regard to the residential/density issues raised by the Zoning Office, and that you will forward a copy of such correspondence to me.

Finally, notwithstanding the grant of the limited exemption as set forth above, the Department of Planning will require that Fairfield submit a Compatibility Report pursuant to Section 26-282 of the Code. Such Compatibility Report will be required, however, after the Project receives the limited exemption from the DRC.

If my understanding of any of these matters differs materially from yours, please contact me upon receipt of this letter. Again, thank you for your cooperation.

Very truly yours,

Alan Betten

AB/tsh

cc: Mr. David Wright (via e-mail)
Mr.Tom Hewitt (via email)

KANDEL, KLITENIC, KOTZ, BETTEN & CHERNOW, LLP
ATTORNEYS AT LAW

BALTIMORE OFFICE
WOODHOLME PROFESSIONAL BUILDING
1838 GREENE TREE ROAD, SUITE 370
BALTIMORE, MARYLAND 21208
(410) 415-0490

SUITE 200, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4513

(410) 339-7100
FAX: (410) 339-7107

ALAN BETTEN
abetten@k3bclaw.com

July 10, 2002

VIA HAND DELIVERY

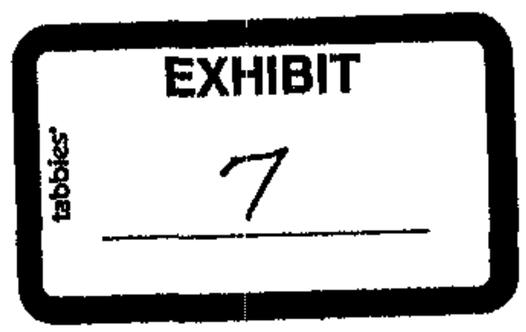
Mr. Arnold Jablon, Director
Baltimore County Department of
Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Fairfield Residential, LLC – Red Run Boulevard Property – Tax Map 67, Parcel 491 – Zoning Map 2C

Dear Mr. Jablon:

This Firm represents Fairfield Residential, LLC ("Fairfield"), the contract purchaser of the above-captioned property (the "Property"), which it desires to develop as a principal – use apartment complex. As part of its due diligence, Fairfield recently requested a Zoning Verification Letter from your office. A copy of Fairfield's June 11, 2002 request is attached as Exhibit 1. By letter dated June 24, 2002, Joseph C. Merrey, Planner II, Zoning Review, issued a Zoning Verification Letter (the "Zoning Verification Letter"). A copy of Mr. Merrey's letter is attached as Exhibit 2.

We believe that several of the conclusions set forth in the Zoning Verification Letter are incorrect. We have met with Carl Richards and Joe Merrey of your office in order to discuss our concerns. At that meeting, Mr. Richards explained the genesis of the conclusions with which we expressed concern. Mr. Richards also stated, however, that you would be willing to review the conclusions if we were to present additional information addressing our concerns. Upon Mr. Richards' suggestion, I am writing this letter in order to provide such additional information, in the hope that, after you have reviewed the enclosed additional information, a revised Zoning Verification Letter will be issued.



Part A – Residential Uses

In the Zoning Verification Letter, Mr. Merrey stated that "this Office can provide only tentative approval of 'apartment-units' as a use permitted as of right in this zone" because there is "some questions as to whether" the language of Section 209 of the Baltimore County Zoning Regulations (the "Regulations") "includes a principal-use apartment complex." The Property is currently zoned O.T. (Office and Technology) which lists, in Section 209.3A(14) of the Regulations, "Residential Use" as a use permitted as of right. Section 209 does not contain a definition of what is intended by this term; similarly, the definitional section of the Regulations set forth in Section 101 does not define a residential use. In the absence of any specific definition of "Residential Uses," we believe that such language should be interpreted in its normal fashion, i.e., to encompass all types of residences (subject to other applicable provisions of the Regulations).

As was noted in the meeting with Mr. Richards and Mr. Merrey, to the extent that other sections of the Regulations specifically define the types of residential uses that are permitted in a particular residential zone, such delimiting language was specifically drafted in order to define the nature of the particular residential use that is permitted. For example, in all D.R. Zones, single-family detached, semi-detached, or duplex dwellings are permitted; group houses and multi-family buildings, in contrast, are permitted in D.R. 5.5 Zones, but not necessarily in all D.R. Zones (Section 1B01.1). We further note that Section 209.1B clearly states that areas in proximity to town centers, as is the Property, are "well-suited for development into centers consisting of ... high density residential development," which would include a principal – use apartment complex.

Subsequent to our meeting with Mr. Richards and Mr. Merrey, Fairfield has held several meetings with Pat Keller and other members of the staff of the Department of Planning. At such meetings, Mr. Keller and the members of his staff have informed Fairfield that the Department of Planning takes the position that the term "Residential Uses," as used in Section 209, encompasses a principal – use apartment complex. It is our understanding that Mr. Keller intends to confirm to you separately the Department of Planning's position in this regard.

Part B – Density

The Zoning Verification Letter states that "this Office will approve density only at the DR-5.5 rate, i.e., 5.5 density units per acre. Anything exceeding this rate will require approval by Zoning Commissioner via a public hearing." By its language, Section 209, unlike other sections of the Regulations concerning zones in which residential uses are permitted as of right, does not contain any density restrictions. As noted above, Section 209.1.B states that properties

in proximity to town centers (as is the Property) are "well-suited for development into centers consisting of ... high density residential development." Typically, DR 5.5 (unlike DR 10.5, DR 16, or RAE) has not been considered a high density residential zone. Thus, we believe that the statement set forth in the Zoning Verification Letter presents an unreasonably narrow interpretation of Section 209.

In further support of the position that Section 209 permits open density for residential uses, the regulations concerning the DR 5.5 and O.T. Zones are inherently incompatible. Section 1B02.2A of the Zoning Regulations states that the maximum height of buildings in a DR 5.5 Zone is 50 feet; in contrast, Section 209.4F states that the minimum height of residential uses in an O.T. Zone is 52 feet. The clear import of this dichotomy is that the maximum density available for uses in an O.T. Zone is not intended to be limited to the density permitted in a DR 5.5 Zone.

As you are aware, the Property was granted a limited exemption under Section 26-171(B)(9) of the Baltimore County Code, by letter dated February 25, 2002, in DRC No. 020402H. A copy of the DRC Approval Letter is attached as Exhibit 3. Apparently, the Zoning Office did not make the same objection concerning density, even though the plan submitted by the then contractor purchaser of the Property showed that it was to be developed as a principal-use apartment complex, by the construction of 437 apartment units.

Further, the recently-approved Development Plan for the nearby Kentmar Development clearly states that the maximum density permitted in the O.T. portion of the development is "open," with no density calculation specified. Although the Hearing Officer's Opinion & Development Plan Order (the "Order") concerning Kentmar (Case No. IV-563) was not required to address the density available for residential uses in an O.T. Zone, the Hearing Officer clearly noted in his Order that the developer proposed to incorporate residential uses in the site's development. A copy of the Order, together with the approved Development Plan, is attached as Exhibit 4. Fairfield suggests that the approval of the Kentmar Development Plan constitutes a binding precedent concerning this issue.

Again, in our conferences with Mr. Keller and members of his staff, Fairfield was informed that the Department of Planning takes the position that the maximum density permitted for residential uses in an O.T. Zone is open. It is our understanding that, as with the application of the term "Residential Uses," Mr. Keller intends to confirm to you separately the Department of Planning's position in this regard.

For the reasons stated in this letter, we request that your office revise the Zoning Verification Letter in order to confirm (i) that a principal – use apartment complex is permitted as of right as a "residential use," in an O.T. Zone, and (ii) that the maximum density available (subject to other provisions of the Baltimore County Zoning Regulations) for a residential use in an O.T. Zone is open.

If you have any questions, please feel free to contact me. Thank you for your consideration.

Very truly yours,

Alan Betten

AB/tsh
Enc.

cc: Mr. David Wright (via federal express)
Mr. Tom Hewitt (via federal express)

60th ANNIVERSARY GWS 1940-2000

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

CONSULTING ENGINEERS
LAND PLANNERS
LAND SURVEYORS

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TOWSON, MD 21286-3396
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FAX (410) 583-0288

BEL AIR:
203 EAST BROADWAY
BEL AIR, MD 21014
(410) 879-1500
(410) 838-3800
FAX (410) 893-0425

visit our web site at
www.gwstephens.com

June 11, 2002

Mr. Arnold Jablon
Baltimore County Department of
Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: <u>Zoning Verification – Tax Map 67, Parcel 491, Zoning Map 2C</u>

Dear Mr. Jablon:

In connection with the potential acquisition of the above-referenced property (the "Property"), Fairfield Residential LLC (the "Purchaser") desires to obtain a letter from your office certifying the zoning of the Property, the existence of any violations of any applicable zoning requirements, that the intended use of the Property is a permitted use in the applicable zoning district, and the density of the development permitted upon the Property.

In connection therewith, I have attached for your review and signature a form of letter certifying as to the matters described above. We would greatly appreciate your cooperation in reviewing this matter and signing the enclosed letter if it is correct, or otherwise modifying it in accordance with the actual facts reflected in your records.

The Property consists of approximately 21.3 acres, more or less, and currently exists as raw land. The Purchaser intends to construct residential apartment units on the Property. Prior development projects proposed for the Property have been granted a limited exemption under Section 26-171 of the Baltimore County Code (a copy of the Administrative Orders and Decisions, dated May 19, 1998 (DRC Number 05048G), and February 25, 2002 (DRC Number 020402H) are attached), with the most recent proposed development of the Property projected to construct 437 residential apartment units thereon.

EXHIBIT
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For your convenience, I have enclosed a copy of a new survey of the Property, which survey shows the metes and bounds of the Property. Also enclosed is a check in the amount of $40, covering the fee for the certification letter.

When your letter is ready, please contact me and I will make arrangements to have it picked up or sent to me by messenger. If you have any questions, please feel free to contact either me or Alan Betten, Esq., the Purchaser's counsel (410-3397100).

Thank you in advance for your assistance with this letter.

Very truly yours,

George William Stephens, Jr.
and Associates, Inc.

Thomas W. Hewitt
Project Manager

TWH:pmg

Enclosure

cc: Alan Betten, Esq.
D. Wright

BALTIMORE COUNTY GOVERNMENT
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT

County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

June 11, 2002

Fairfield Residential LLC
c/o George William Stephens, Jr.
and Associates, Inc.
1020 Cromwell Bridge Road
Baltimore, Maryland 21286-3308

Allegiance Title Company
2100 McKinney Avenue
Suite 1200
Dallas, TX 75201

Re: Zoning Verification – Tax Map 67, Parcel 491, Zoning Map 2C

Dear Sir or Madam:

This letter will acknowledge receipt of a letter from Thomas W. Hewitt of George William Stephens, Jr. and Associates, Inc., indicating that, in connection with the purchase of the above-referenced property (the "Property"), Fairfield Residential LLC (the "Purchaser") has requested a letter from our office certifying the zoning of the Property, the existence of any violations of any applicable zoning requirements, that the intended use of the Property is a permitted use in the applicable zoning district, and the density of the development permitted upon the Property.

We have been advised that the Property consists of approximately 21.3 acres, more or less, and currently exists as raw land. We have also been advised that the Purchaser intends to develop the Property with residential apartment units. We have been further advised that prior development projects proposed for the Property have been granted a limited exemption under Section 26-171 of the Baltimore County Code, by Administrative Orders and Decisions dated May 19, 1998 (DRC Number 05048G) and February 25, 2002 (DRC Number 020402H).

A review of our records and the applicable zoning ordinances and regulations of Baltimore County indicates that the Property is presently located in an O.T. Zone. The proposed use of the Property for residential apartment units is permitted as of right in an O.T. Zone. The applicable zoning code that would control the development of the Property is the _ edition of the Baltimore County Zoning Regulations. The maximum density that will be permitted on the Property, given the proposed use of the Property, is not less than 437 density units.

Based upon a review of our records and the applicable zoning ordinances and regulations as of the date hereof, we certify that (a) there is no matter pending that will or could cause the zoning classification of the Property to change, and (b) our records do not reflect any violations of the applicable zoning ordinances and amendments thereto with respect to any matters.

This letter may be relied upon by Fairfield Residential LLC, Allegiance Title Company, and their respective attorneys, successors, and assigns.

Sincerely,

Arnold Jablon
Zoning Administrator for Baltimore County

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

11298

OUR REFERENCE NUMBER	YOUR INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT	NET AMOUNT
	Loring P.N. 9817-1					

11298

MERCANTILE-SAFE DEPOSIT & TRUST COMPANY
BALTIMORE, MARYLAND 21203-0324
7-61-520

GWS

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286

DATE	CONTROL NO.	AMOUNT
June 12, 2002		$ 40.00

Forty + xx/100

PAY TO THE ORDER OF Baltimore County

AUTHORIZED SIGNATURE

Details on back.

Security Features Included.

081122 / 9-89

⑈00011298⑈ ⑆052000618⑆ 6482414⑈

Baltimore County
Department of Permits and
Development Management

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

June 24, 2002

Fairfield Residential LLC
C/o George William Stephens, Jr.
And Associates, Inc.
1020 Cromwell Bridge Road
Baltimore, Maryland 21236-3308

Allegiance Title Company
2100 McKinney Avenue
Suite 1200
Dallas, Texas 75201

Dear Sir or Madam:

RE: Zoning Verification, Fairfield @ Red Run,

This Zoning verification is in response to a letter received by this Office dated June 11, 2002, addressed to Mr. Arnold Jablon, Director of Permits and Development Management, regarding the above referenced property. Thomas W. Hewitt of George W. Stephens, Jr. and Associates, Inc., submitted the original request to this Office on June 11, 2002, and subsequently filed an amended request on June 20, 2002, to which this letter responds. After speaking to Mr. Carl Richards, Zoning Supervisor, regarding this issue, I have been instructed to advise you as follows. The subject property is currently zoned OT (Office and Technology), which lists "Residential Uses" as a use permitted as a matter of right. However, there remains some question as to whether this general language includes a principal-use apartment complex. In consideration of the fact that the OT regulations (Section 209.8; BCZR) require the Planning Office to approve the Development Plan prior to the issuance of building permits, which arguably includes a review and approval of the proposed mix of uses, this Office can provide only tentative approval of "apartment-units" as a use permitted as of right in this zone. Additionally, as the OT regulations make no reference to the calculation of density or reference to a residential zone that would be controlling on this issue, Mr. Richards has advised that this Office will approve density only at the DR-5.5 rate, i.e., 5.5 density units per acre. Anything exceeding this rate will require approval by Zoning Commissioner via a public hearing. I would suggest that you contact Jeff Long of the Planning Office for a determination as to whether his Office will be supporting an apartment-unit development at this location. Mr. Long may be reached at 410-887-3480.

Baltimore County Code Enforcement has advised that there are no current or outstanding zoning citations on the subject property. Additionally, based upon our

EXHIBIT
2

records and to the best of my knowledge, there are no petitions pending for the zoning reclassification of the subject property.

If you need further information or have any questions, please do not hesitate to contact Mr. Richards or myself at 410-887-3391.

Sincerely,

Joseph C. Merrey
Planner II
Zoning Review

Baltimore County Government
Department of Permits and
Development Management

received
4/30/02 DW

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

February 25, 2002

Morris & Ritchie Associates, Inc.
110 West Road, Suite 245
Towson, MD 21204

RE: PMV 4 12358
PDM Number IV-530
DRC Number 020402H; Dist. 4C3

Dear Sir or Madam:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on February 4, 2002, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the development plan, under Section 26-211. Please submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM Office of Zoning, Department of Public Works, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

EXHIBIT
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After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 25th day of February 2002, ordered and decided that the recommendations of the DRC are hereby adopted.

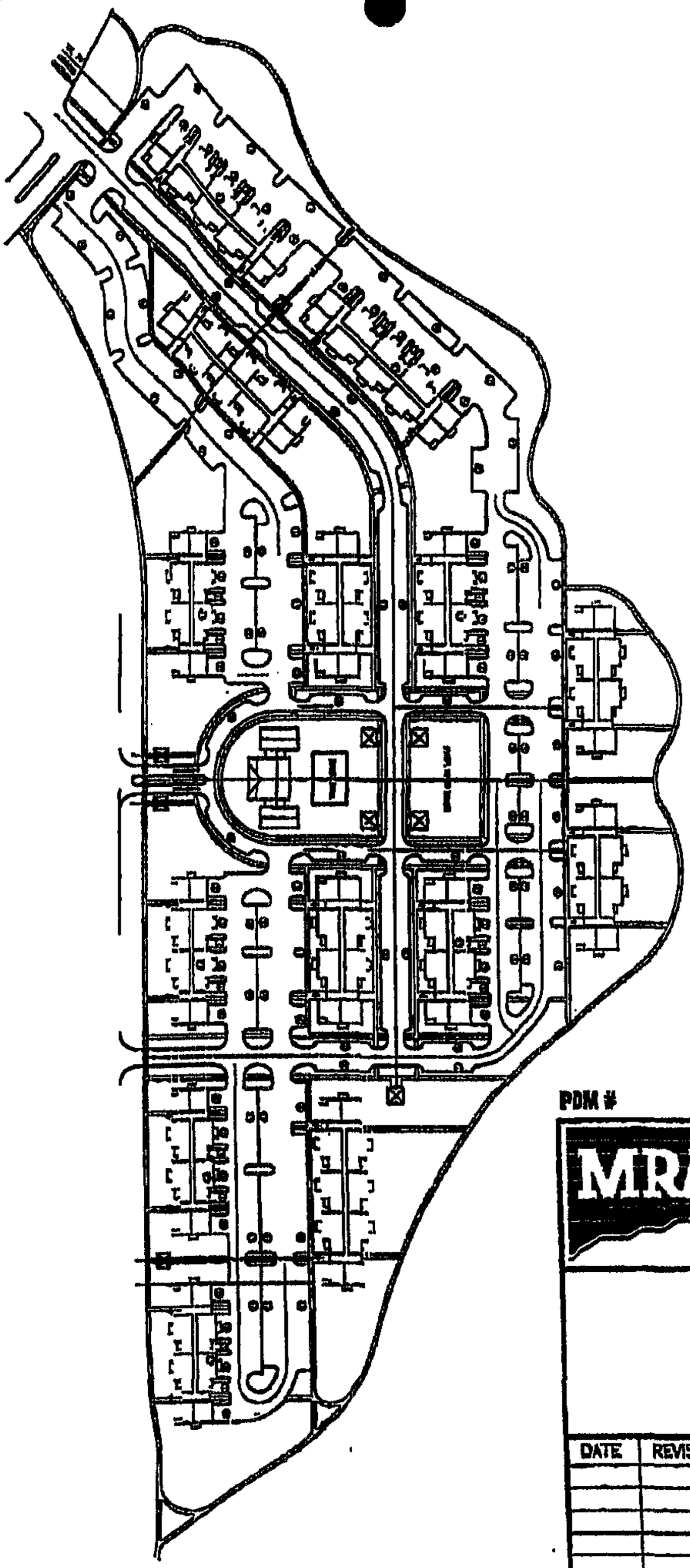
Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Arnold Jablon
Director

AJ:DTR:dak

c: Kristin Weis
File



PDM #

received

MRA

MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS

110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

DEVELOPMENT PLAN

PAINTERS MILLS VENTURE

BALTIMORE COUNTY, MARYLAND

4TH ELECTION DISTRICT — 3RD COUNCILMANIC DISTRICT

DATE	REVISIONS	
		JOB NO.: 1235K
		SCALE: 1"= 50'
		DATE: 02/04/20
		DRAWN BY: SL
		DESIGN BY: -
		REVIEW BY: DT
		SHEET: 1 OF

IN RE: DEVELOPMENT PLAN HEARING W/S Pleasant Hill Road N of Red Run 4th Election District 3rd Councilmanic District (Kentmar) Sidney Emmer Builders Petitioners	* * * * *	BEFORE THE HEARING OFFICER OF BALTIMORE COUNTY Case No. IV-563

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

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County as a requested approval of a Development Plan prepared by Daft, McCune & Walker, showing the development of a 75 acre parcel of property located on the northwest side of Pleasant Hill Road and the south side of Dolefield Boulevard in the Owings Mills area of Baltimore County. The Developer of the property, Sidney Emmer, is proposing to develop the site with a mix of residential and commercial uses. The details of the proposed development are more particularly shown on Developer's Exhibit No. 1, the development plan submitted into evidence at the hearing.

Appearing at the hearing on behalf of the Development Plan approval request were Sidney Emmer, owner of the property, Tom Repsher ad Rick Williams, representatives of Daft, McCune & Walker, the engineering firm who prepared the Development Plan, Charles Nass and Rob Hoffman, attorney at law, representing the Petitioner. As is usual and customary, representatives of the various Baltimore County reviewing agencies also attended the hearing; namely, Jun Fernando (Zoning Review), Ron Goodwin, (Land Acquisition) and Robert Bowling (Development Plans Review), all from the Office of Permits & Development Management; R. Bruce Seeley from the Department of Environmental Protection and Resource Management (DEPRM); Jeff Long from the Office of Planning; and Jan Cook from the Department of Recreation & Parks. Finally, several citizens attended the hearing, specifically Carole Downing, Richard Cobert and Dino C. LaFiandra, attorney at law, representing an adjacent property owner. There were no others in attendance.

EXHIBIT
4

As to the history of the project, a Concept Plan Conference was held on September 14, 2000 and a second Concept Plan Conference was held on October 2, 2000. A Community Input Meeting was held at the Owings Mills High School on November 9, 2000 and a Development Plan Conference followed on January 17, 2001. A Hearing Officer's Hearing for this development was held on February 8, 2001 in Room 106 of the County Office Building.

At the Hearing Officer's hearing held before me, I attempt to determine what, if any, issues or comments remain unresolved as of the time of the hearing before me. There were no issues raised at the hearing that required the taking of testimony and evidence. Several minor points were brought to the attention of this Hearing Officer which were resolved by way of agreement during the informal phase of the Hearing Officer's Hearing. Therefore, as conditions of approval, I shall incorporate those matters at the end of this Order.

Mr. Tom Repsher identified the Development Plan which was submitted into evidence as Developer's Exhibit No. 1. The Developer is proposing to develop this 75 acre parcel of property with a mixed use of multi-family residential units with a commercial and retail use. As stated previously, the subject property is bounded by Dolefield Boulevard to the northwest, Pleasant Hill Road to the southeast and Dolefield Road to the south. The details of the Development are shown on the Development Plan.

Also discussed at the hearing was the desire of the Developer to possibly sell some of these buildings in the future. If this were to occur, the Developer would have to delineate lines of subdivision around each building to be sold. This would not change the design or layout of this project. No County agency objected to future lot lines being drawn on this plan and by way of this approval, that option shall be permitted in the future.

Mr. Jeff Long, appearing on behalf of the Office of Planing, indicated that his office would like to see elevation drawings of the buildings to be constructed on the property. The Developer agreed to provide those elevation drawings for Mr. Long's review and approval. In addition, Mr. Bruce Seeley, representing DEPRM, indicated that the forest buffer variance for this project must be approved prior to the project manager's signature on the Development Plan.

This was also agreed to by the Developer.

As stated previously, there were no issues that required the taking of testimony or evidence. Therefore, the Development Plan submitted into evidence as Developer's Exhibit No. 1 shall be approved.

THEREFORE, IT IS ORDERED by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 21st day of February, 2001, that the Development Plan submitted into evidence as Developer's Exhibit No. 1, be and it is hereby APPROVED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Developer shall be required to submit elevation drawings of the buildings to be constructed on this property to the Office of Planning for review and approval. The Developer has agreed that Mr. Jeffrey Long, a representative of the Office of Planning, shall have the approving authority for said elevation drawings.

2. The Developer shall be required to obtain a forest buffer variance for the project prior to the Development Plan being signed by the project manager.

IT IS FURTHER ORDERED, that the Developer shall be permitted to draw lot lines around any of the buildings shown on this development in the event they choose to sell a particular building or cluster of buildings in the future. This may be done without the need for a future hearing officer's hearing, but may, however, require DRC approval.

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

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

JUL 27 2002

Baltimore County
Department of Permits and
Development Management

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

July 24, 2002

Mr.Alan Betten
Kandel, Klitenic, Kotz, Betten & Chernow, LLP
Suite 200, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204-4513

Re: Fairfield Residential LLC
Red Run Boulevard – Density Determination in Office Technology
District 4 Councilmanic District 3
DRC 070102I

Dear Mr. Betten:

Reference is made to your letter of July 10, 2002 to Arnold Jablon, Director Permits and Development Management, on behalf of your client, which has been referred to me for reply. I would also reference a June 11, 2002, verification letter from Joseph C. Merrey in this office to George W. Stephens Jr. & Associates. The issue is simply stated, What is the residential density permitted in the Office Technology (OT) zone where "residential uses" is listed in Section 209.3 without any direct density controls?

The zoning staff has taken the position that the intent of the permitted "residential uses" does not allow unlimited density, and that any density proposed in excess of 5.5 would require confirmation and approval of a hearing officer at a public hearing. This position has not changed after Joe Merrey's letter, our discussions, meetings in this office, and the DRC meeting to which you refer in your letter.

You stated that this office didn't object to the DRC approval of a limited exemption under section 26-171(B)(9) of the development regulations. As we stated at the meeting, this office does not object to the B-9 development review, however, the density issue is not resolved. Zoning issues are resolved separately. Development Review and Zoning Review are separate and distinct.

EXHIBIT
8

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on Recycled Paper

As you stated in your letter, the zoning regulations do provide for high density residential uses near to town and community centers. We would agree with your client's proposal if the specific wording of "Dwelling or density units shall not be directly limited" was included in the Office Technology zone, the same as in six other zones and districts in proximity to town and community centers.

We also feel that the scope of our Office Technology zone is closer to business and manufacturing than a residential zone, so that principal residential uses must be specifically regulated as in the commercial zones in the following sections:

232.A.3
232.B.3
235.A.3
235.B.3
238.A.3
238.B.3

Obliviously, this is not the case, and in the absence of the specific construction above, unlimited residential density in the Office Technology zone may only be confirmed and approved by the hearing officer at a public hearing.

If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,

W. Carl Richards, Jr.
Zoning Review Supervisor

c Arnold Jablon, Director, of Permits and Development Management
Arnold F. Keller Director of Planning
John Lewis, Zoning Planner
Joe Merrey, Zoning Planner

WCR/rjc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Dept. of Permits & Development Management

DATE: July 23, 2002

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

SUBJECT: Density in O.T. Zone-Fairfield @ Red Run

During the preliminary review of the subject property, the Office of Planning received a request to provide an opinion regarding the permitted residential density in the O.T. Zone. In answer to the request, it would appear that the Baltimore County Zoning Regulations place no clear limitation with respect to density in that particular zone. However, it seems apparent a limitation is suggested in the statement of legislative policy (see Section 209.2). The section states, in part, the following: "It is the intent of these regulations that the quality of the environment of the O.T. Zone shall be equal to that of the OR-2 Zone; therefore, no establishment shall be permitted which creates objectionable conditions adversely affecting nearby areas."

The closest reference to density may be found in the legislative intent section of the O.T. Zone, which refers to the OR 2 Zone. The OR 2 Zone has a density of DR 10.5 in order to insure quality development. Since compatibility review is required, in accordance with Baltimore County Code Section 26-282 it would be possible to increase density for a project if a determination was made that the development met superior design standards and was compatible with the built environment and/or anticipated development in the vicinity.

AFK:JWL:lsn

W:\COMPLAN\JEFF\FairOT doc

EXHIBIT
tabbies
9

Baltimore County
Zoning Commissioner

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

February 21, 2001

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204

RE: Hearing Officer's Hearing No. IV-563
Property: W/S Pleasant Hill Road, N Red Run
4th Election District, 3rd Councilmanic District
Petitioners: Sidney Emmer Builders

Dear Mr. Hoffman:

Enclosed please find the decision rendered in the above-captioned case. The Development Plan has been approved with restrictions, 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 Department of Permits & 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

EXHIBIT
11

Census 2000 For You, For Baltimore County Census 2000

Printed with Soybean Ink on Recycled Paper

Come visit the County's Website at www.co.ba.md.us

Copies to:

Mr. Sidney Emmer
1801 Falls Road
Baltimore, MD 21201

Mr. Charles Nass
639 S. Linwood Avenue
Baltimore, MD 21224

Mr. Tom Repsher
Mr. Rick Williams
Daft, McCune & Walker
200 E. Pennsylvania Avenue
Towson, MD 21286

Dino C. LaFiandra, Esquire
Law Offices of Peter Angelos
210 W. Pennsylvania Avenue, #300
Towson, MD 21204

Ms. Carole Downing
5006 Hollington Drive, #206
Owings Mills, MD 21117

Mr. Richard Cobert
4309 Worthington Avenue
Glyndon, MD 21071

IN RE: DEVELOPMENT PLAN HEARING W/S Pleasant Hill Road N of Red Run 4th Election District 3rd Councilmanic District (Kentmar)	* * * * *	BEFORE THE HEARING OFFICER OF BALTIMORE COUNTY Case No. IV-563
Sidney Emmer Builders Petitioners	* *	

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

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County as a requested approval of a Development Plan prepared by Daft, McCune & Walker, showing the development of a 75 acre parcel of property located on the northwest side of Pleasant Hill Road and the south side of Dolefield Boulevard in the Owings Mills area of Baltimore County. The Developer of the property, Sidney Emmer, is proposing to develop the site with a mix of residential and commercial uses. The details of the proposed development are more particularly shown on Developer's Exhibit No. 1, the development plan submitted into evidence at the hearing.

Appearing at the hearing on behalf of the Development Plan approval request were Sidney Emmer, owner of the property, Tom Repsher ad Rick Williams, representatives of Daft, McCune & Walker, the engineering firm who prepared the Development Plan, Charles Nass and Rob Hoffman, attorney at law, representing the Petitioner. As is usual and customary, representatives of the various Baltimore County reviewing agencies also attended the hearing; namely, Jun Fernando (Zoning Review), Ron Goodwin, (Land Acquisition) and Robert Bowling (Development Plans Review), all from the Office of Permits & Development Management; R. Bruce Seeley from the Department of Environmental Protection and Resource Management (DEPRM); Jeff Long from the Office of Planning; and Jan Cook from the Department of Recreation & Parks. Finally, several citizens attended the hearing, specifically Carole Downing, Richard Cobert and Dino C. LaFiandra, attorney at law, representing an adjacent property owner. There were no others in attendance.

2/21/01

As to the history of the project, a Concept Plan Conference was held on September 14, 2000 and a second Concept Plan Conference was held on October 2, 2000. A Community Input Meeting was held at the Owings Mills High School on November 9, 2000 and a Development Plan Conference followed on January 17, 2001. A Hearing Officer's Hearing for this development was held on February 8, 2001 in Room 106 of the County Office Building.

At the Hearing Officer's hearing held before me, I attempt to determine what, if any, issues or comments remain unresolved as of the time of the hearing before me. There were no issues raised at the hearing that required the taking of testimony and evidence. Several minor points were brought to the attention of this Hearing Officer which were resolved by way of agreement during the informal phase of the Hearing Officer's Hearing. Therefore, as conditions of approval, I shall incorporate those matters at the end of this Order.

Mr. Tom Repsher identified the Development Plan which was submitted into evidence as Developer's Exhibit No. 1. The Developer is proposing to develop this 75 acre parcel of property with a mixed use of multi-family residential units with a commercial and retail use. As stated previously, the subject property is bounded by Dolefield Boulevard to the northwest, Pleasant Hill Road to the southeast and Dolefield Road to the south. The details of the Development are shown on the Development Plan.

Also discussed at the hearing was the desire of the Developer to possibly sell some of these buildings in the future. If this were to occur, the Developer would have to delineate lines of subdivision around each building to be sold. This would not change the design or layout of this project. No County agency objected to future lot lines being drawn on this plan and by way of this approval, that option shall be permitted in the future.

Mr. Jeff Long, appearing on behalf of the Office of Planing, indicated that his office would like to see elevation drawings of the buildings to be constructed on the property. The Developer agreed to provide those elevation drawings for Mr. Long's review and approval. In addition, Mr. Bruce Seeley, representing DEPRM, indicated that the forest buffer variance for this project must be approved prior to the project manager's signature on the Development Plan.

This was also agreed to by the Developer.

As stated previously, there were no issues that required the taking of testimony or evidence. Therefore, the Development Plan submitted into evidence as Developer's Exhibit No. 1 shall be approved.

THEREFORE, IT IS ORDERED by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 27th day of February, 2001, that the Development Plan submitted into evidence as Developer's Exhibit No. 1, be and it is hereby APPROVED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Developer shall be required to submit elevation drawings of the buildings to be constructed on this property to the Office of Planning for review and approval. The Developer has agreed that Mr. Jeffrey Long, a representative of the Office of Planning, shall have the approving authority for said elevation drawings.

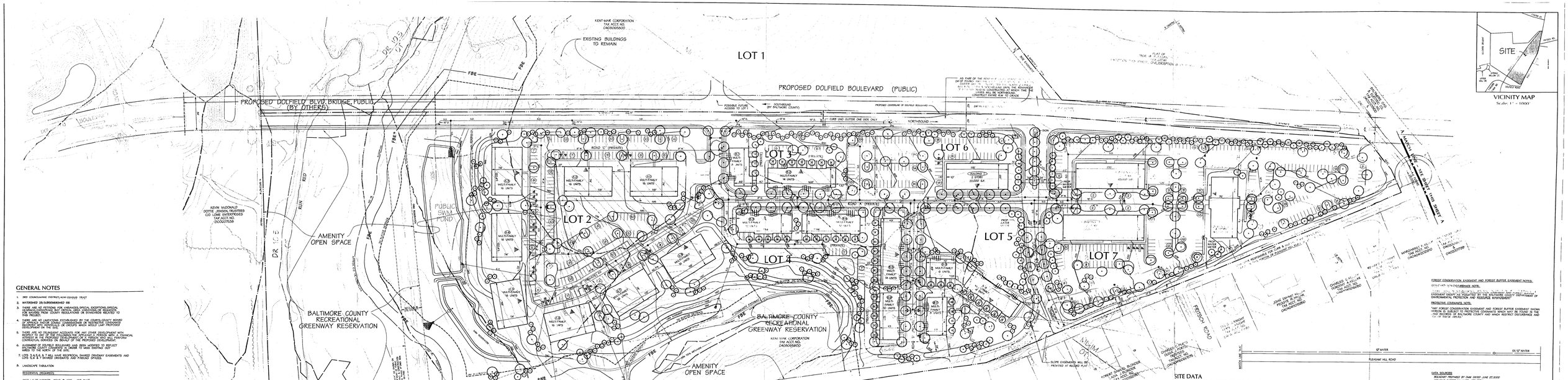
2. The Developer shall be required to obtain a forest buffer variance for the project prior to the Development Plan being signed by the project manager.

IT IS FURTHER ORDERED, that the Developer shall be permitted to draw lot lines around any of the buildings shown on this development in the event they choose to sell a particular building or cluster of buildings in the future. This may be done without the need for a future hearing officer's hearing, but may, however, require DRC approval.

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

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



GENERAL NOTES

1. 3RD COUNCILMANIC DISTRICT; 4CH CENSUS TRACT
2. WATERSHED: 2B; SUBWATERSHED: 66
3. THERE ARE NO PETITIONS FOR VARIANCES, SPECIAL EXCEPTIONS, SPECIAL HEARINGS, CONTINUE BAY BROOK AREA VARIATIONS OR REGISTER ZONING FROM COUNTY REVIEW AGENCIES OR AGENCIES RELATED TO THIS PROJECT.
4. THERE ARE NO LIMITATIONS ESTABLISHED BY THE COUNTS COUNTY BOARD OF APPEALS, ZONING COMMISSIONER, OR ZONING ADVISORY COMMITTEE REGARDING THE PURCHASE OR GROUND RENT LEASE OF THE PROPOSED DEVELOPMENT OR THE SITE.
5. THERE ARE NO PROPRIETARY ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH ANY PERSON WHO HAS A CONTRACTUAL OR EQUITABLE INTEREST WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.
6. ALIGNMENT OF DOLFIELD BOULEVARD HAS BEEN MODIFIED TO REFLECT THE ALIGNMENT SHOWN ON THE BALTIMORE COUNTY BRIDGE PLANS. ALSO MODIFIED TO THE NORTH OF THE SWM.
7. LOTS 3,4,5,6 & 7 WILL HAVE RECIPROCAL SHARED DRIVEWAY EASEMENTS AND LOTS 5,6 & 7 SHARED DRIVEWAYS AND PARKING SPACES.
8. LANDSCAPE TABULATION

RESIDENTIAL (REQUIRED)

2160 L.F. OF INTERIOR ROAD @ 1320 = 108 P.L.S
400 L.F. OF ADJACENT ROAD @ 1340 = 10 P.L.S
479 PARKING UNITS @ 192 = 40 P.L.S

TOTAL RESIDENTIAL REQUIRED = 158 P.L.S

COMMERCIAL (REQUIRED)

2200 L.F. OF INTERIOR ROAD @ 1320 = 114 P.L.S
650 L.F. OF ADJACENT ROAD @ 1340 = 19 P.L.S
468 PARKING SPACES @ 192 = 39 P.L.S
240 L.F. ADJACENT RESIDENTIAL @ 196 = 56 P.L.S
64 L.F. OF SERVICE AREA @ 1320 = 2 P.L.S
120 L.F. OF SERVICE AREA @ 1320 = 7 P.L.S

TOTAL COMMERCIAL REQUIRED = 273 P.L.S

TOTAL REQUIRED = 765 P.L.S

SHOWN

292 MAJOR @ 12 = 292 P.L.S
53 MINOR @ 12 = 76 P.L.S
276 OVERGROWN @ 12 = 138 P.L.S

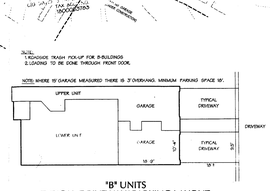
TOTAL PROPOSED = 1505 (YES TO CONFORM TO B.C. LANDSCAPE MANUAL)

9. MINIMUM HEIGHT OF RESIDENTIAL USES MUST BE 52'; MAXIMUM HEIGHT 60'.
10. RETAIL AND WAREHOUSE LIMITED INDUSTRIAL AND OFFICE AREAS AS SHOWN ON THE DEVELOPMENT PLAN MAY BE CONVERTED TO OTHER USES PERMITTED BY ZONING APPROVALS AT THE TIME OF CONVERSION. SUBSEQUENT REVISIONS TO SECTION 200.2(C)(8) MUST BE APPROVED BY THE ZONING OFFICE AND FUTURE REVISIONS TO THE DEVELOPMENT PLAN MUST BE APPROVED BY THE DEPARTMENT OF PERMITS AND INSPECTIONS. INCLUDING BUT NOT LIMITED TO, PARKING, SIGNS AND THE ZONING POLICY MANUAL. ALL SHOPPING CENTER OCCUPANCY PERMITS MUST BE APPROVED BY THE DEPARTMENT OF PERMITS AND INSPECTIONS. A CONFORMING REQUIRED PARKING COUNT MUST BE ACCOMPANIED BY REVISED DEVELOPMENT PLANS AND REVISED OVERALL PARKING CALCULATIONS.
11. PRIOR TO CONSTRUCTION OF DIVERSE BLVD TO BALTIMORE COUNTY THE EXISTING TIMBER AND ASSOCIATED STRUCTURES MUST BE RAZED PRIOR TO ROADWAY CONSTRUCTION. THE RAZING OF THE STRUCTURES MUST BE PERFORMED BY A LICENSED MASTER WELL DRILLER WHO SHALL SUBMIT A WELL MAINTENANCE REPORT TO THE BALTIMORE COUNTY BUREAU OF ENGINEERING. WELLS NOT RAZED MUST BE FILLED, SEALED, PROPERLY MARKED AND MAINTAINED. ALL RAZING OPERATIONS MUST BE COORDINATED WITH THE BUREAU OF ENGINEERING.
12. ALL SIGNS WILL COMPLY WITH SECTION 450 OF THE B.C.Z.R.
13. THE DESIGN, CONSTRUCTION AND INSTALLATION OF ALL AMENITIES SHOWN ON THE DEVELOPMENT PLAN SHALL BE THE RESPONSIBILITY OF THE DEVELOPER.
14. DOLFIELD BLVD. ALIGNMENT AND GRADING IS FROM PRELIMINARY GRADING & ALIGNMENT PREPARED BY GEORGE WILLIAM STERNS JR. & ASSOCIATES DATED MARCH 10,1998 AND APPROVED BY BALTIMORE COUNTY.

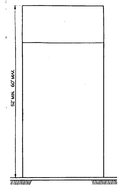
REASONS FOR 1ST REFINEMENT

1. CHANGE DEVELOPMENT PLAN FROM 4 LOTS TO 7 LOTS
2. ADD BUILDING A,B TO LOT 3 WHICH INCREASED TOTAL UNITS BY 16, AND AMEND PARKING LOT

LANDOWNER OWNER OWNER NOTE
THERE ARE NO PROPRIETARY ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH ANY PERSON WHO HAS A CONTRACTUAL OR EQUITABLE INTEREST, OR A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.



"B" UNITS
TYPICAL DRIVEWAY PARKING LAYOUT
FOR 2 OFFSTREET PARKING SPACES
NOT TO SCALE



BUILDING ELEVATION IN OT ZONE
NOT TO SCALE

LEGEND

Existing Contour
Proposed Contour
Existing Storm Drain
Existing Sanitary Sewer
Existing Water Main
Proposed Storm Drain
Proposed Sanitary Sewer
Proposed Water
Tree to Be Removed
Tree to Remain
Tree Protection Fence
Tree Tree Limits For Woods
Existing Parking to Be Removed
Parking Location
Parking Module
Entrance
Forest Buffer
100 Yr. Floodplain
Inlet
Zoning
Prop. Major Deciduous Tree
Prop. Minor Deciduous Tree/Ornamental Tree
Prop. Evergreen Tree
Front Orientation of Buildings

SITE DATA

EXISTING ZONING AND MAXIMUM DENSITY PERMITTED: (LOT 1 & 2 & and 3)

ZONE	ACRES	DENSITY	MAXIMUM UNITS	PROPOSED UNITS
RT	1.5 AC.	12 UNITS	18	0
ML-IM	1.5 AC.	22 UNITS	33	0
OT	7.5 AC.	22 UNITS	165	0

EXISTING ZONING AND MAXIMUM DENSITY PERMITTED: LOT 1 (SEE SHT. 2)

ZONE	ACRES	DENSITY	MAXIMUM UNITS	PROPOSED UNITS
RT	1.5 AC.	12 UNITS	18	0
ML-IM	1.5 AC.	22 UNITS	33	0
OT	7.5 AC.	22 UNITS	165	0
B.L.	0.5 AC.	0 UNITS	0	0
B.M.	0.5 AC.	0 UNITS	0	0
B.R.	0.5 AC.	0 UNITS	0	0
TOTAL	11.0 AC.		216	0

TOTAL KENTMAR SITE AREA = 19.5 AC. (AC.)

LOTS 2, 3 & 4 - SITE DEVELOPMENT PROPOSAL (OT ZONE)

DWELLING TYPE	PROVIDED UNITS	PARKING REQUIRED	PARKING PROVIDED	ACTIVE OPEN SPACE REQ'D (AC)	ACTIVE OPEN SPACE PROVIDED (AC)	PASSIVE OPEN SPACE REQ'D (AC)	PASSIVE OPEN SPACE PROVIDED (AC)	RED-WOOD TREES	AVERAGE TREE DATE
MULTI-FAMILY 16 UNITS	128	192 X 1.5 (LIMIT = 175) = 263.2	263 SP	1.28 AC	0.7 *	TBA/OCD	0 *	TBA/OCD	1/1/96
MULTI-FAMILY 6 UNITS	96	96 X 2.0(LIMIT = 175) = 192	192 SP						
TOTAL	224		455 SP	1.28 AC	0.7 *	TBA/OCD	0 *	TBA/OCD	1/1/96

* PROVIDED AND PLANTED OPEN SPACE.

AMENITY OPEN SPACE CALCULATION

REQUIRED: 27.8 AC X 0.05 = 1.39 AC
PROVIDED: 0.7 AC.

LOTS 5, 6 & 7 - SITE DEVELOPMENT PROPOSAL (ML-IM ZONE)

	DEVELOPMENT TYPE	PROVIDED S.F.	PARKING REQUIRED	PARKING PROVIDED	AVERAGE TREE DATE
LOT 5	TOTAL	0	0	0	0
LOT 6	BUILDING 1 (RESTAURANT)	6,000	3.3 X 6 = 20	20 SP. + 94 SP.	250
	BUILDING 2 (RESTAURANT)	20,000	3.3 X 20 = 66	66 SP. + 79 SP.	250
LOT 7	BUILDING 1 (RESTAURANT)	6,000	3.3 X 6 = 20	20 SP. + 94 SP.	250
	BUILDING 2 (OFFICE/RETAIL)	34,000	4000 SQ. FT. = 16 SP.	16 SP. + 127 SP.	250
	BUILDING 3 (RESTAURANT)	40,000	3.3 X 40 = 132 SP.	132 SP. + 160 SP.	250
	TOTAL	106,000		487 SP. + 554 SP.	1,250

LOT 1 - NO SITE DEVELOPMENT PROPOSAL AT THIS TIME

DEVELOPER/APPLICANT/OWNER:
SIDNEY EMMER BUILDERS
1601 FALLS ROAD
BALTIMORE, MD 21230
ATTN: SIDNEY EMMER
(410) 685-5500

PLAN TO ACCOMPANY
HEARING OFFICER'S ORDER

11-12-01
DATE

PROJECT MANAGER

DATA SOURCES:
BOUNDARY PREPARED BY DMW DATED JUNE 27,2000
100-YEAR FLOODPLAIN LIMITS ARE FROM
FEMA FIRM MAP NUMBER 24005C0331D
DATED 12/18/96 BY SAMUEL CLUTTER & ASS.
TOPOGRAPHIC INFORMATION SHOWN HEREON
FROM BALTIMORE COUNTY GIS TECHNOLOGY OFFICE.

AREA EAST OF PROPOSED DOLFIELD BLVD.
NON-TIDAL WETLANDS LOCATED BY DMW
AND APPROVED BY SWRM JUNE 14,2000
FOREST BUFFER BY DMW

FOREST CONSERVATION EASEMENT AND FOREST BUFFER EASEMENT NOTES:

BUILDING RESTRICTION EASEMENT NOTE:

THE FOREST CONSERVATION EASEMENT AND FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THE AREA.

PROTECTIVE COVENANTS NOTE:

THAT FOREST CONSERVATION EASEMENT AND FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THE AREA.

Daft McCune Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

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

1ST REFINEMENT
DEVELOPMENT PLAN &
SCHEMATIC LANDSCAPE PLAN

Kentmar Site

PHASE 1
PDM File # IV-563
DRC # 050701F

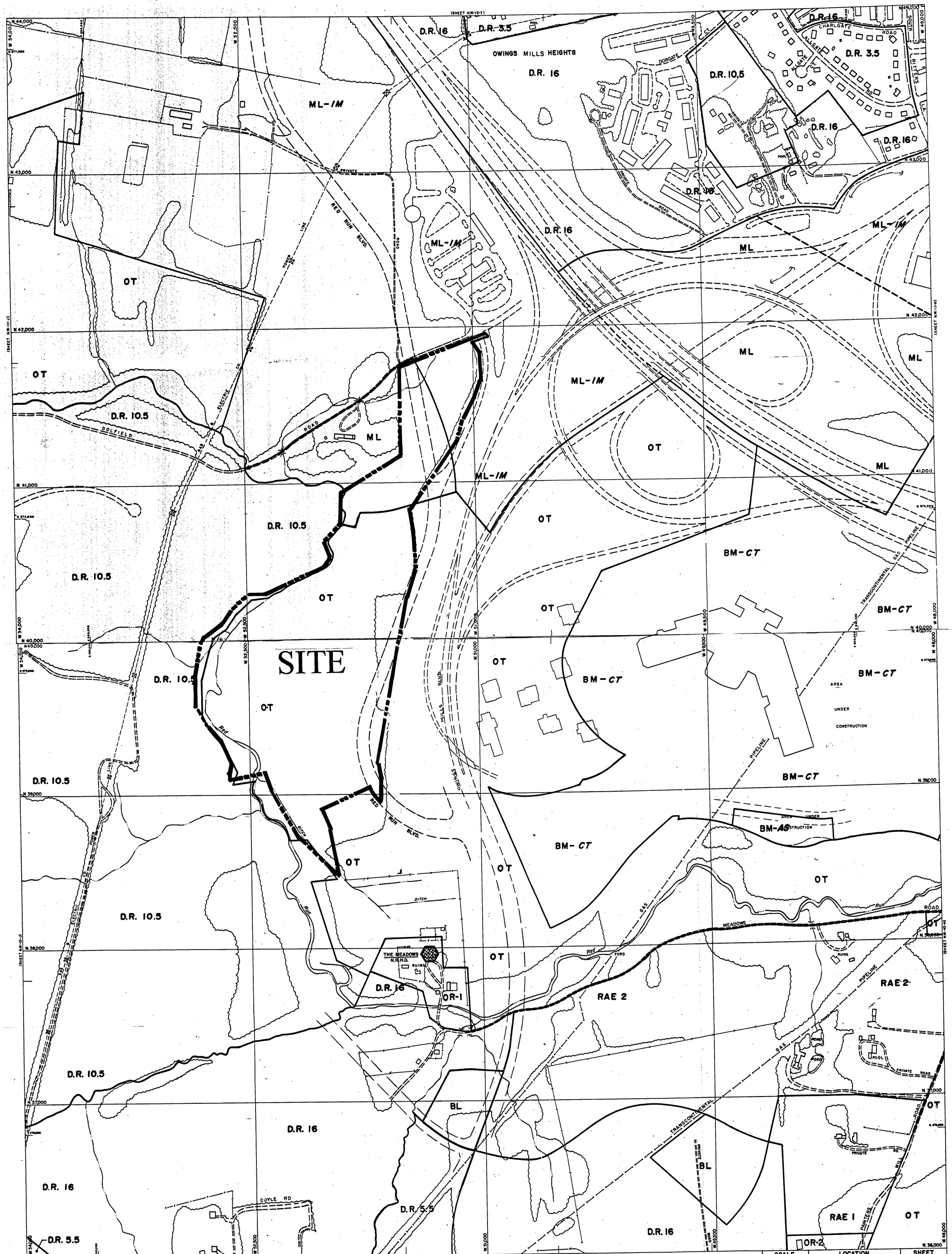
4TH ELECTION DISTRICT — BALTIMORE COUNTY, MARYLAND

DATE	BY	REVISIONS
8/13/01	DRC	REVISED PER DRC

ISSUE DATES:
REVISE: 12-13-00
BID:
PERMIT:
CONSTRUCTION:

BASE: MEC
DRAWN: CMR
DESIGNED: THE
CHECKED BY:
DATE CHECKED:
SCALE: 1"=50'
PROJECT NO.: 00029
DRAWING: 1 of 2

F:\ai for 8 10\DLP 229 H:\00029\00029.DWG



P - NW
T - SW

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

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

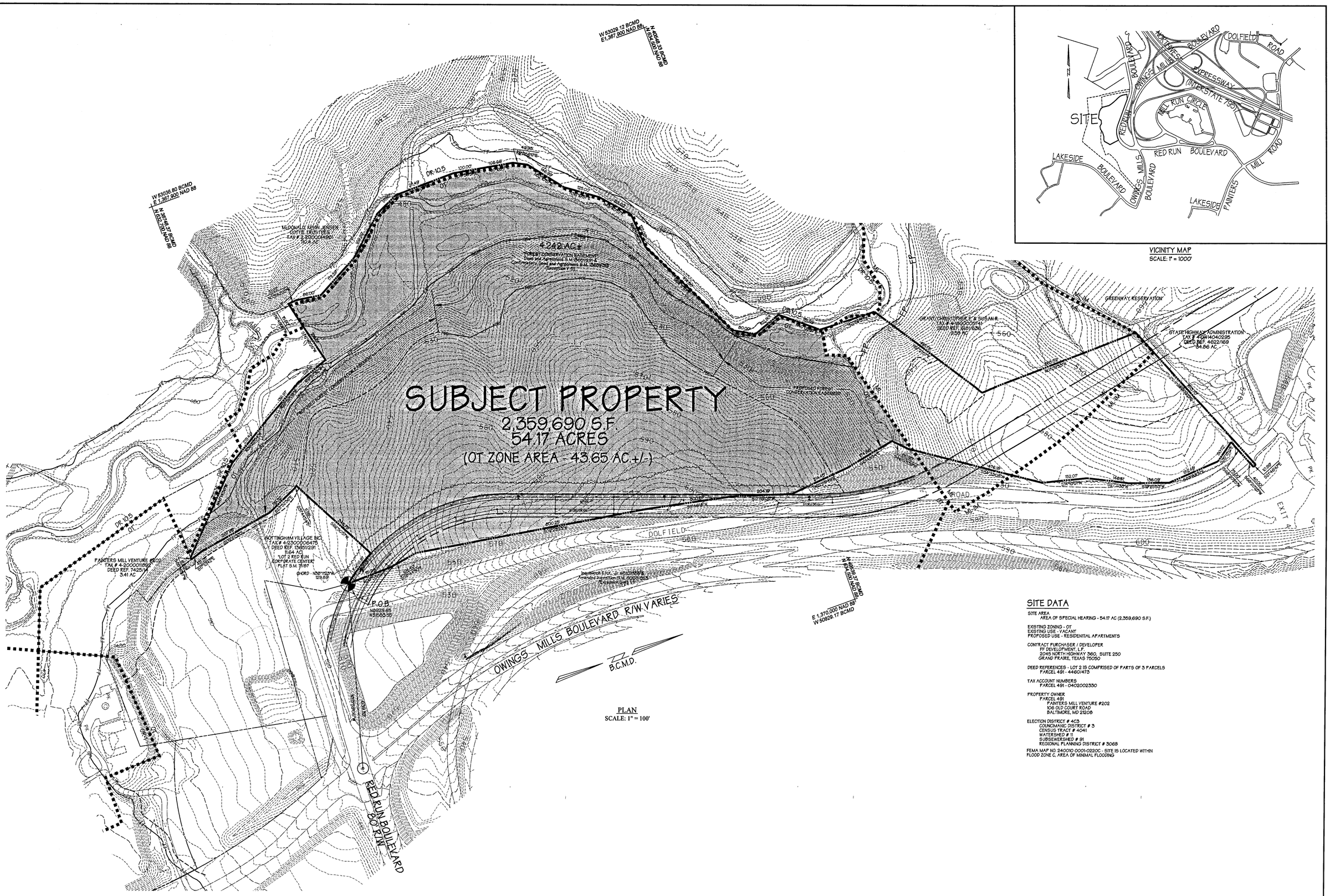
Joseph Bartenfelder
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	OWINGS MILLS	N.W. 10-I and 11-I
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 10 I

03-106 SPH



PLAN
SCALE: 1" = 100'

VICINITY MAP
SCALE: 1" = 1000'

SITE DATA

SITE AREA
AREA OF SPECIAL HEARING - 54.17 AC (2,359,690 S.F.)

EXISTING ZONING - OT
EXISTING USE - VACANT
PROPOSED USE - RESIDENTIAL APARTMENTS

CONTRACT PURCHASER / DEVELOPER
FF DEVELOPMENT, L.P.
2045 NORTH HIGHWAY 360, SUITE 250
GRAND PRAIRIE, TEXAS 75050

DEED REFERENCES - LOT 2 IS COMPRISED OF PARTS OF 3 PARCELS
PARCEL 491 - 4460/473

TAX ACCOUNT NUMBERS
PARCEL 491 - 0402002330

PROPERTY OWNER
PARCEL 491
PAINTERS MILL VENTURE #202
106 OLD COURT ROAD
BALTIMORE, MD 21208

ELECTION DISTRICT # 4C3
COUNCIMANIC DISTRICT # 3
CENSUS TRACT # 4041
WATERSHED # 11
SUBSEWERSHED # 91
REGIONAL PLANNING DISTRICT # 306B

FEMA MAP NO. 240010 0001-0220C - SITE IS LOCATED WITHIN FLOOD ZONE C, AREA OF MINIMAL FLOODING

ZONING RELIEF REQUEST:

WITH RESPECT TO SECTION 209 OF THE B.C.Z.R.:
1.TO CLARIFY AND CONFIRM THAT RESIDENTIAL APARTMENTS QUALIFY AS A PERMITTED USE IN AN OT ZONE.
2.TO CLARIFY AND CONFIRM THE UNDERLYING DEVELOPMENT DENSITY AVAILABLE FOR USE BY A RESIDENTIAL USE IN AN OT ZONE.

EXHIBIT
1

PDM FILE NO. IV - 530

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

CONTRACT PURCHASER/ DEVELOPER
FF DEVELOPMENT, L.P.
2045 NORTH HIGHWAY 360
SUITE 250, GRAND PRAIRIE, TEXAS 75050
TEL. 817-816-9488
ATT. MR. PAUL JOHNSTON

OWNER
JACK R. BAYLIN, ET AL
"PAINTERS MILL VENTURE"
R.R.G. 4460/473
106 OLD COURT ROAD
BALTIMORE, MARYLAND 21208
TEL. 410-486-3100

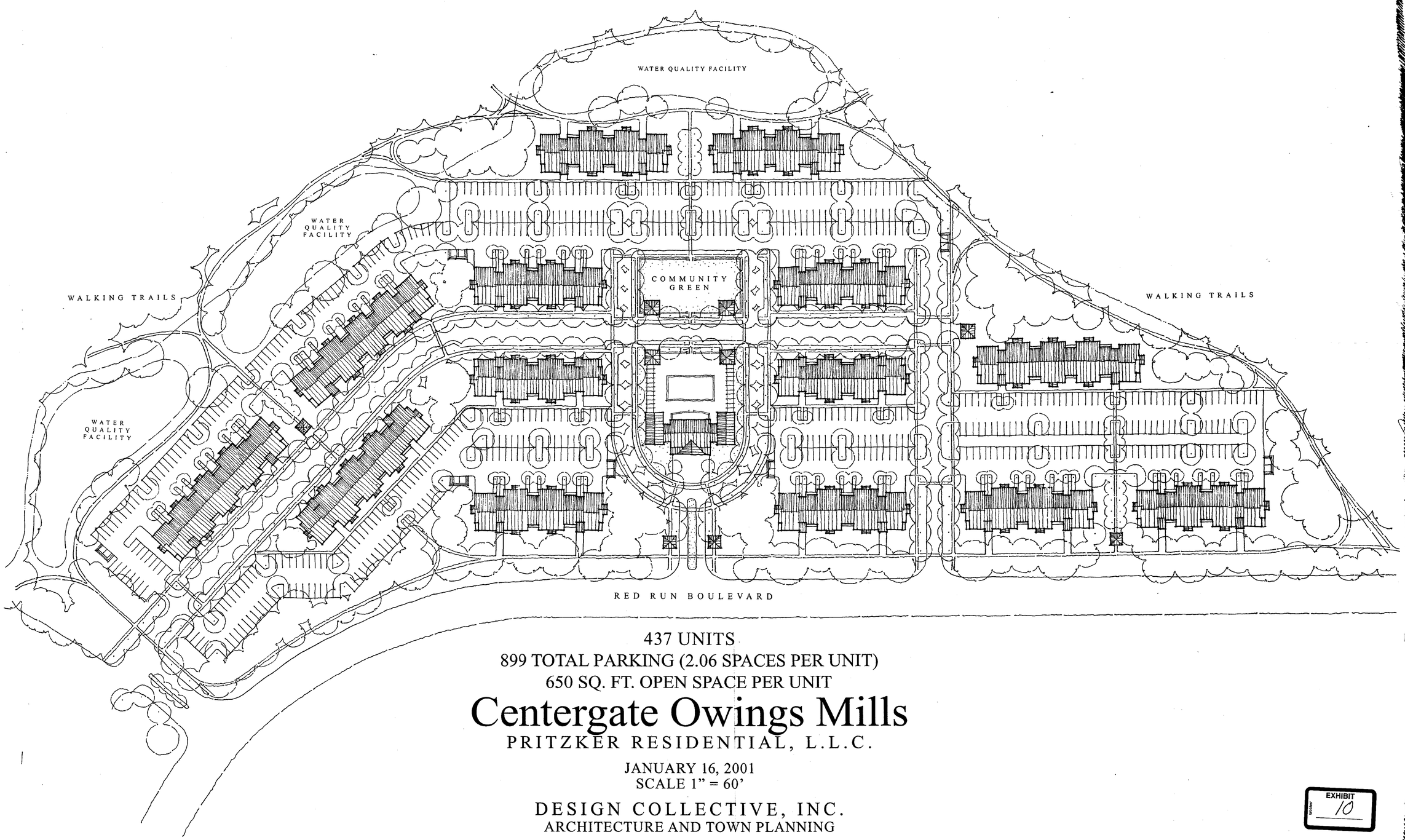
NO.	DATE	REVISIONS:	BY

PLAT TO ACCOMPANY
SPECIAL HEARING REQUEST
FAIRFIELD @ RED RUN
(Part of Painters Mill Venture)
BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT #4C3 — COUNCILMANIC DISTRICT #3
SCALE : 1" = 100' — DATE : JULY 30, 2002

SCALE: 1"=100'
DATE: 7/30/02
JOB # 10881
DES.
DRN. MJK
CHK.
FILE
Z-1
SHEET 1 OF 1

F.N. 10981.

FILENAME: 9817specialhearing.s01



437 UNITS
899 TOTAL PARKING (2.06 SPACES PER UNIT)
650 SQ. FT. OPEN SPACE PER UNIT

Centergate Owings Mills

PRITZKER RESIDENTIAL, L.L.C.

JANUARY 16, 2001
SCALE 1" = 60'

DESIGN COLLECTIVE, INC.
ARCHITECTURE AND TOWN PLANNING

DESIGN

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EXHIBIT
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