IN RE: PETITION FOR ADMINISTRATIVE SPECIAL HEARING	*	BEFORE THE
Intersection of S/S Berwick Road and W/S of Locust Avenue	*	DEPUTY ZONING COMMISSIONER
9th Election District	*	OF BALTIMORE COUNTY
4th Councilmanic District (1401 Berwick Road)	*	CASE NO. 03-138-ASPH
Benhoff Builders *Petitioner*	*	

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Special Hearing filed by the legal owner of the subject property, Benhoff Builders. The special hearing request involves property located at 1401 Berwick Road in the Ruxton area of Baltimore County. The subject property is zoned D.R.3.5. The special hearing request is to raze a dwelling which has been placed on the Maryland Historical Trust (MHT) Inventory as MHT #BA 3009.

Appearing at the hearing on behalf of the special hearing petition were Mel Benhoff, representing Benhoff Builders, J. Elmer Weisheit, previous owner of the property, David Gleason, and G. Scott Barhight, attorney at law, representing the property owner. Appearing in opposition to the Petitioner's request were many residents of the surrounding community who were represented by John C. Murphy, attorney at law.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of 1.159 acres, more or less, zoned D.R.3.5. The property is bounded to the north by Berwick Avenue, to the east by Locust Avenue, and to the south by LaBelle Avenue. It is also known as Lots #205-#213 of the subdivision known as "Ruxton Heights". The property is currently improved with a large single-family residential dwelling which is

12/12/02

situated on Lots #206, #206A and #207. The current owner of the property is interested in tearing down the old single-family dwelling and constructing in its place four (4) new single-family residential dwellings. One of those dwellings is already under construction. The other three are to be built in the future.

Contained within the special hearing file is a site plan of the property showing the existence of the residential dwelling and the areas upon which new homes are to be constructed. Benhoff Builders proposes to construct a single-family residential dwelling on combined Lots #205, #206 and #206A. A second dwelling is proposed to be constructed on combined Lots #207 and #208. The third dwelling is to be constructed on combined Lots #209, #210A, #210 and #211A. Finally, the remaining dwelling is under construction on combined Lots #211, #212 and #213. If permitted, the old residential structure shall be demolished to make way for three (3) new homes.

As stated previously, the Petitioner applied for and obtained a valid Baltimore County building permit (Permit #B495105) to construct a residential dwelling on property four. In addition, the Petitioner applied for and obtained a razing permit to tear down an auxiliary structure located along LaBelle Avenue on Lots #211 and #211A. That structure has been removed from the property. Furthermore, the Petitioner applied for and obtained a razing permit to tear down the single-family dwelling which is the subject of the hearing before me. However, prior to its demolition, the property owner was notified that the permit to raze the dwelling was rescinded. Apparently, Mr. Ken Short, representing the Ruxton/Riderwood/Lake Roland Area Improvement Association, prepared and submitted a Maryland Historical Trust Inventory of Historic Properties Form and submitted that form to the Maryland Historical Trust. By virtue of this filing, the subject dwelling was given inventory number BA-3009. As a consequence of

12/2/02

being inventoried, the dwelling is subject to the provisions of Section 26-540 of the Baltimore County Code. That process is separate and apart from the process before this Deputy Zoning Commissioner and over which this office has no control or input. A hearing has been scheduled for December 12, 2002 before the Landmarks Preservation Commission in order to entertain whether the dwelling is of such historical significance so as to be placed on the preliminary or the final Landmarks List.

The property owner was advised by the Department of Permits & Development Management that as a result of the subject dwelling being inventoried on the Maryland Historical Trust as BA-3009, the property owner should file a petition for Administrative Special Hearing in order to obtain a waiver to allow said structure to be razed. The hearing on the Petitioner's waiver request came before me on October 25, 2002. At that time, I indicated to all those in attendance that it would be premature for me to rule upon the special hearing request until such time as the Landmarks Preservation Commission has had an opportunity to review the historical information regarding this dwelling and as to whether the property is worthy of being placed on the Preliminary Landmarks List. Furthermore, it has been the practice of this office to have the written recommendations from the Landmarks Preservation Commission before ruling upon such special hearing petition to allow the razing of any structure. Consequently, the hearing on this Special Hearing request was postponed until after the meeting of the Landmarks Preservation Commission.

As a preliminary matter, Mr. Barhight, representing the owner of the property, requested a ruling as to whether this property owner is exempt from the Development Regulations and/or that the Development Regulations are not applicable to this situation. Mr. Barhight argued at the hearing before me, and in a motion submitted after the close of the hearing, that the situation

12/2/02 R. Jameson

involving this residential structure is not governed by Section 26-278 of the Baltimore County Code and therefore a waiver from that provision is not necessary. Mr. Barhight as well as Mr. Murphy, who represents the many citizens who attended the hearing, submitted written memoranda of law arguing their respective positions. The oral arguments made at the hearing before me, as well as the written memoranda have been taken into consideration in the rendering of this decision.

At issue in this case is whether the activities proposed by Benhoff Builders on the subject property constitutes "Development" as that term is defined within the Baltimore County Code. Section 26-168(p) of the Baltimore County Code defines "Development" as follows:

> "(1) The improvement of property for any purpose involving building;
>
> (2) A subdivision;
>
> (3) The combination of any 2 or more lots, tracts or parcels of property for any purpose;
>
> (4) Subjecting property to the provisions of the Maryland Condominium Act; and
>
> (5) The preparation of land for any of the purposes listed in subsections (1) through (4) of this subsection."

A determination must be made as to whether the activities proposed by this property owner satisfies this definition so as to cause these activities to be considered "Development". For the reasons that follow, I find that the request to tear down the old single-family dwelling on this property is in fact development as that term is defined.

The definition as stated within the Code is extremely broad. Subsection (1) provides that development constitutes the "improvement of property for any purpose involving building". It is obvious from the site plan contained within this special hearing file that the old single-family dwelling as situated on this property prevents the further development of the site with at least

12/3/02 Jameson

two new single-family residential dwellings. This large old structure occupies Lots #206, 206A and #207. It is an impediment to the further development of this area of the property. Tearing down the structure is an improvement of the property that would promote the further development of the site. It can be likened to clearing trees, removing large rocks, grading uneven slopes, or any other manipulation of the property that would promote the construction of new homes on this property. Accordingly, given the very broad definition provided within the Baltimore County Code, I find that the proposal to tear down this structure in order to further develop the site is in fact development as that term is defined.

In addition, subsection (3) also appears, by its language, to cause this proposal to be considered "Development". While this entire property is under one ownership at this time, the facts show that Benhoff Builders is in fact "combining two or more lots" within this overall tract of land for the purpose of selling four (4) separate residential dwellings. That is, Lots #205, #206 and #206A are proposed to be combined whereupon a single-family residential structure is proposed to be constructed and sold to a purchaser. Similarly, Lots #207 and #208 are to be combined, as are Lots #209, #210A, #210 and #211A. Finally, the fourth dwelling is already under construction on combined Lots #211, #212 and #213. It appears, based upon the language in subsection (3) of the definition of "Development", that this property owner is combining 2 or more lots for the purpose of constructing homes thereon and consequently, these activities do constitute "Development."

Having considered the property owner's activities to be "Development", I must now determine whether the proposal falls under any of the exceptions to the Development regulations. Section 26-169 of the Baltimore County Code provides two situations whereupon the Development Regulations would not apply. After reviewing the language contained within that

12/12/02 R. Jameson

section of the Code, I find that the activities proposed by this property owner do not meet any of the exceptions to these Development Regulations and accordingly, the Petitioner should be required to file the special hearing relief in order to obtain a waiver from Section 26-278 of the Code.

For the reasons stated within the body of this Order, the requests to raze the single-family residential dwelling on the subject property does constitute development as that term is defined within the Baltimore County Code. Furthermore, none of the exceptions as contained within the Baltimore County Code are applicable to this situation so as to exempt this proposal from the Development Regulations. The appropriate procedure for the property owner to follow, in the event they continue to choose to raze this structure, is to proceed on their petition for administrative special hearing for a waiver of the requirements of Section 26-278 of the Baltimore County Code. Finally, the Petitioner's assertion that Section 26-278 of the Baltimore County Code is illegal and of no effect because it deprives this property owner of due process, be and is hereby denied.

As was stated at the public hearing before me, in the event the Petitioner wishes to proceed with the razing of this structure, they should participate and attend the hearing before the Landmarks Preservation Commission, which is to occur on December 12, 2002. Once written recommendations are issued by the Landmarks Preservation Commission then the property owner may schedule a new public hearing on this petition for administrative special hearing for consideration as to whether it is appropriate to grant a waiver from Section 26-278.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9th day of December 2002, that the motion of the property owner asserting that

12/12/02

Section 26-278 of the Baltimore County Code does not apply to the razing of the structure on this property, be and is hereby DENIED.

IT IS FURTHER ORDERED, that a new public hearing shall be scheduled before this Hearing Officer after such time as the Landmarks Preservation Commission shall have considered this matter and have issued their written recommendations.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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12/2/02
R. Jameson

Baltimore County
Zoning Commissioner

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

December 2, 2002

Scott Barhight, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Administrative Special Hearing
Case No. 03-138-SPH
Property: 1401 Berwick Road

Dear Mr. Barhight:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Administrative Special Hearing has been denied 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 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:

Melvin Benhoff
Benhoff Builders
215 Old Padonia Road
Cockeysville, MD 21030

J. Elmer Weisheit
413 Brightwood Club Drive
Lutherville, MD 21093

David Gleason
520A North Eutaw Street
Baltimore, MD 21201

Peggy Squitieri
RRLRAIA
P. O. Box 204
Riderwood, MD 21139

Loni Ingram
Towson Times
409 Washington Avenue
Towson, MD 21204

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Towson, MD 21204

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IN RE PETITION FOR	*	ZONING COMMISSIONER
SPECIAL HEARING	*	OF BALTIMORE COUNTY
NO. 03-138-SPH	*	
1401 BERWICK ROAD	*	

* * * * *

PROTESTANTS' MEMORANDUM OF LAW

George Grose, 1412 Labelle Avenue, Philip Rauch, 1308 Locust Avenue, and the Ruxton, Riderwood, Lake Roland Improvement Association, Inc., by their attorney, John C. Murphy, submit the following Memorandum of Law.

The Zoning Commissioner held a hearing on October 25, 2002, to determine whether a demolition permit for 1401 Berwick Avenue should be issued. The hearing was held at the request of the owner / applicant for the permit. During the course of the hearing, the applicant made a motion for a ruling by the Commissioner:

That section 26-278 of the Baltimore County Code does not apply to this case.

The motion was not made in writing nor were the reasons assigned in support of the motion made in writing. The reasons assigned by the applicant at the hearing were that demolition of the house was not development; and that the demolition of the house was exempt from Section 26-278 by virtue of Section 26-169 of the County Code, which defines the scope of the regulations and contains a number of exceptions.

It is the position of the protestants that demolition of the house at 1401 Berwick Road is subject to Section 26-278 for the following reasons:

The Code contains development policies applicable to all development. These policies state that it is the intention of the regulations to "ensure" the "protection of historical sites and areas". Code 26-166 (b)(6). The property at 1401 Berwick Avenue is listed in the Maryland Inventory of Historic Properties, maintained by the Maryland Historical Trust, a unit of State government, pursuant to Article 83 B, Section 5-615 of the Annotated Code of Maryland. The property has No. BA 3009. The inventory form is attached hereto and prayed to be made a part of these proceedings.

Division 4 of the County Development Regulations contains general design standards and requirement. Section 26-261 states that the standards are intended to provide criteria for the review of proposed development and that "all development must meet the standards and requirements contained in this division". Code 26-261. Among these standards is Section 26-278 which provides in pertinent part:

"Natural features (including watercourses, waterfalls, beaches and significant vegetation) and historic structures or sites identified on any of the lists referred to in section 26-203 (c)(8) must be preserved".

If you turn to Section 26-203 (c)(8), it includes the "Maryland Inventory of Historic Properties".

Therefore, the Code requires in emphatic terms that this structure must be preserved. The only questions are whether demolition is development and whether there is some exception which might make the mandate of 26-278 inapplicable.

Demolition is development by virtue of the definition of development in Section 26-178 (p) which defines development to include the improvement of land by way of building and the preparation of land for such purpose. In this case, it is proposed to tear down 1401 Berwick Avenue in order to construct a replacement dwelling. This certainly fits within the definition of development in Section 26-178 (p). It also fits a common sense understanding of development.

The only remaining question, therefore, is whether there is some exclusion of the proposed demolition in the regulations. Protestants understand that the motion is based on the fact that the lot on which the property sits was established by the plat of Ruxton Heights recorded among the land records of Baltimore County in 1892.

The scope of the regulations is set forth in Section 26-169, which contains a number of exceptions. The first category of exceptions is for prior plans approved by the planning board, valid building permits, or public works agreements. These are not applicable because the planning board was not in existence in 1892 and it couldn't have approved the plan. There was no evidence that prior building permits or public works agreements exist. There is a second

category where development has received a CRG approval, reclamation plan approval, CRG plan filed, or the project is vested by law. Again, there was no evidence that the project meets any of these exceptions.

The project is not vested by law since neither demolition or construction has commenced. See Colwell v. Howard County, 31 Md. App. 8 (1976). It may be the case that the Ruxton Heights subdivision is vested as a matter of law but it does not follow that the erection of a building on a lot in the subdivision is similarly vested. This is an illogical position to take in any event, and in fact it would mean that historic preservation laws could not apply to any previously recorded subdivision.

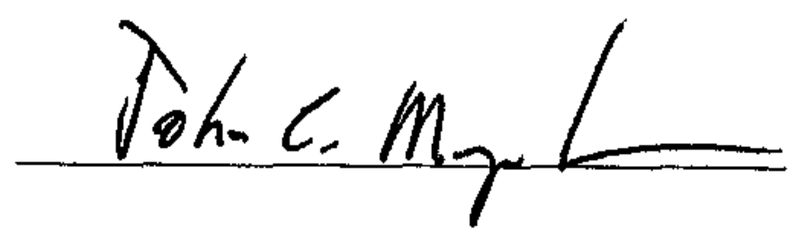
This is essentially the same reason why prior recordation of a subdivision does not vest the right to tear down a building in the subdivision. The recording of lots in a subdivision does not extinguish governmental controls over what is essentially the redevelopment of the lot.

There is another set of exceptions contained in Code 26-171. Even if the project might meet one of these exceptions, nevertheless these exceptions are only for division 2, and development remains subject to division 3 and 4, including therefore, section 26-278, part of division 4. See Code 16-171 (a).

In conclusion, therefore, section 26-278 applies literally to all development; the property is on the list referenced in Section 26-278; and the demolition is not

within the scope of the exceptions contained in Section 26-169. It follows, therefore, that the demolition of 1401 Berwick Avenue is subject to the prohibition contained in Section 26-278 and may not be approved.

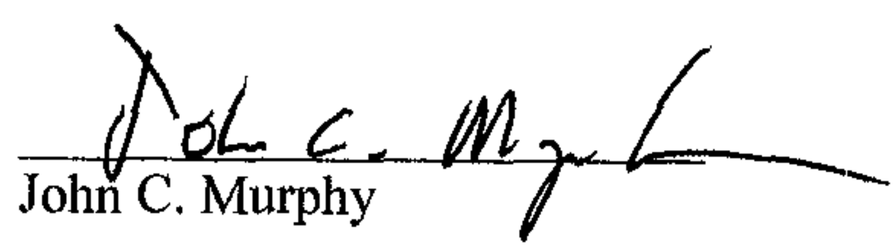
Respectfully submitted,



John C. Murphy
516 N. Charles Street, Suite 206
Baltimore, Md. 21201
410-625-4828
Attorney for the Protestants

CERTIFICATE OF MAILING

I hereby certify that on this 12 day of Nov., 2002, I mailed a copy of the foregoing Memorandum to G. Scott Barhight, Esq., 210 W. Pa. Avenue, Towson, Md. 21204, attorney for the Applicant..



John C. Murphy

IN RE:	*	BEFORE THE BALTIMORE COUNTY
Petition for Special Hearing :		
1401 Berwick Road	*	DEPUTY ZONING COMMISSIONER
Intersection of the S/S Berwick		
Rd and the W/S of Locust Ave	*	
9th Election Dist.,	*	
4th Councilmanic Dist.		**CASE NO. : 03-138-SPH**
	*	
Legal Owner :		
Benhoff Builders, Melvin Benhoff	*	

* * * * * *

Motion For Order Regarding The Applicability Of BCC § 26-278

Petitioner, Benhoff Builders and Melvin Benhoff, by and through its attorneys, G. Scott Barhight, Jennifer R. Busse and Whiteford, Taylor & Preston, L.L.P., respectfully submits this Motion For Order Regarding The Applicability of Baltimore County Code ("BCC") § 26-278 to this instant matter, and in support thereof states as follows :

Procedural History and Relevant Facts[1]

1. On September 17, 2002, Petitioner submitted a Petition for Administrative Special Hearing to Raze a Structure (Dwelling) Placed on the Maryland Historic Trust Inventory (BA# 3009).

2. A public hearing was requested and was held before the Deputy Zoning Commissioner of Baltimore County on October 25, 2002 at 2:00 p.m. in Room 407 of the County Courts Building, 401 Bosley Avenue. At that hearing, Petitioner requested permission to file this instant Motion.

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[1] The Facts as asserted herein are presumed correct for the purpose of this instant Motion.

3. The Plat of Ruxton Heights was recorded in May of 1892 in Plat Book 1, page 64.

4. Ruxton Heights was then re-subdivided and re-recorded in May of 1894 in Plat Book 1, page 185.

5. The existing structure at 1401 Berwick Road ("the Property") was built in the early 1900's.

6. Petitioner entered into a Contract of Sale to purchase the Property from J. Elmer Weisheit and Jacquelin M. Weisheit on 6/13/02.

7. Petitioner and the Weisheits settled on the sale of the Property on August 8, 2002.

8. Prior to settlement, Petitioner met with Carl Richards, the Supervisor of Zoning Review, Development Processing, for the Baltimore County Department of Permits and Development Management. Mr. Richards informed Petitioner that he could construct 4 dwellings on the Property as shown on the attached Exhibit, entitled "Part of Plat of Ruxton Heights, 1401 Berwick Road", and dated 7/1/02. *See*, **Exhibit A**, attached hereto and incorporated herein.

9. As shown on Exhibit A, the Property is currently comprised of 12 lots. Petitioner proposes to construct a total of 4 dwellings on the Property. As labeled on Exhibit A, "Property One" is to be comprised of Lots 205, 206 & 206A; "Property Two" is to be comprised of Lots 207 and 208; "Property Three" is to be comprised of Lots 209, 210, 210A & 211A; and "Property Four" is to be comprised of Lots 211, 212 & 213.

10. Also as shown on Exhibit A, the property is currently improved with a dwelling

situated diagonally on the Property, facing the corner of Berwick Road and Locust Avenue, which lies over portions of Property One, Property Two and Property Three. A smaller structure was located over portions of Lots 211 and 211A. This smaller structure has been razed, as explained below.

11. The following is the relevant permit history for the Property :

Permit # B 497510 : Requesting approval to Raze Existing Single Family Dwelling –

- Applied for on 8/5/02
- Sought for structure facing the corner of Berwick Road and Locust Avenue
- Signed off on by DEPRM on 8/28/02
- Signed off on by Planning (by John McGrain – the County historian) on 8/28/02
- Permit noted "Hold – for Cap Off"
- Petitioner required to meet DEPRM representative on site to ensure there were no existing underground tanks, this meeting took place on 9/13/02 with Paul Boone of DEPRM.

Permit # B 495105 : Requesting approval to Construct a Single Family Dwelling –

- Applied for on 8/5/02
- Issued 9/25/02

Permit # B 498453 : Requesting approval to Raze Existing Auxiliary Structure –

- Applied for on 9/10/02
- Issued 9/25/02

12. The Single Family Dwelling authorized via Permit # B 495105 is currently under construction.

13. The Auxiliary Structure was razed immediately subsequent to the issuance of Permit # B 498453.

14. Without notifying the Petitioner and legal owner, the Ruxton Riderwood Lake Roland Area Improvement Association ("RRLRAIA") retained Ken Short to prepare and submit a Maryland Historical Trust ("MHT") Inventory of Historic Properties Form, which resulted in the existing Single Family Dwelling on the

Property being assigned BA # 3009 on 9/6/02.

15. The MHT Inventory is intended only to be a cataloging of information. Providing a structure with an Inventory number is not intended to create a regulatory effect.

16. On 9/17/02, Doug Swam, with the Baltimore County Department of Permits and Development Management, contacted Petitioner and informed Petitioner of the existence of a 9/17/02 memorandum from the Planning Office addressed to John Reisinger rescinding John McGrain's earlier sign off on Permit # B 497510 (the Permit seeking approval to raze the existing Single Family Dwelling). A copy of the 9/17/02 memo is attached hereto as **Exhibit B**.

17. Petitioner was then instructed by Baltimore County to file the subject Petition for Special Hearing to Raze a Structure (Dwelling) Placed on the MHT Inventory, and immediately did so.

18. The 9/17/02 memo from the Planning Office states that the first available meeting at which the Landmarks Preservation Commission's ("LPC") could review this matter would be on 10/10/02, and states that "Mr. Benhoff [Petitioner] will be notified of his right to present his case to the Commission." Petitioner was not, however, provided with formal notice of the LPC's decision to review the existing dwelling on the Property on 10/10/02.

19. On October 8, 2002, G. Scott Barhight, contacted Tim Dugan, of the Planning Office, and was informed that the Property was on the LPC 10/10/02 meeting agenda.

20. At the 10/10/02 LPC meeting, the LPC decided to hold a public hearing on 12/12/02 as to whether the existing dwelling on the Property should be placed on the Preliminary Landmarks List.

Summary of Argument

Petitioner was instructed to file this Petition for Special Hearing, and ask the Zoning Commissioner for permission to raze the existing dwelling on the Property. Section 26-278 of the Baltimore County Code ("BCC") calls for the preservation of structures identified in Section 26-203(c)(8). Section 26-203(c)(8) includes properties included on the Maryland Historical Trust ("MHT") Inventory of Historic Properties. The existing structure on the Property was provided with Inventory number BA 3009 on 9/6/02, a month after Petitioner applied for the Permit to raze this structure. Yet, as explained below, the existing development regulations do not apply in this case.

In accordance with Section 26-540, the LPC will hold a hearing on 12/12/02 to determine whether the existing dwelling should be placed on the Preliminary Landmarks List. The Deputy Zoning Commissioner has stated that as a result of the LPC's pending hearing, he will not approve Petitioner's request to raze the existing structure at this time. As a result, Petitioner is currently only seeking a determination from the Deputy Zoning Commissioner as to the applicability of Section 26-278 to this matter. Petitioner realizes that the Deputy Zoning Commissioner does not have jurisdiction over Section 26-540, and therefore preserves all its rights to any legal and/or factual arguments thereon.

Finally, and as briefly explained below, Petitioner submits that Section 26-278 is illegal both on its face and as applied. Section 26-278 creates a regulatory process affecting a landowner's property rights without affording the landowner his constitutionally required Due Process rights.

Argument

I. The Property Is Not Governed By The Existing Development Regulations Pursuant To Section 26-169.

BCC Section 26-278 cannot be applied to this matter. The Property is not governed by the existing development regulations, and if subject to any development regulations at all, is only subject to the 1949 regulations. Specifically, the Property is exempted from the existing development regulations pursuant to both subsections (i) and (ii) of Section 26-169.

A. The Property is Exempt per Subsection (i) of Section 26-169.

Subsection (i) exempts from the scope of the development regulations development for which exists a valid, unexpired building permit. The Property is part of the Ruxton Heights subdivision, which was developed and substantially constructed many years ago. As evidenced by the numerous dwellings existing in this neighborhood, numerous building permits have been issued over the past 100 years for this subdivision.

B. The Property is Exempt per Subsection (ii) of Section 26-169.

Subsection (ii) provides that developments which are vested by law are exempt from the scope of the regulations. The Property is part of the Ruxton Heights

subdivision, which is vested by law pursuant to BCC Section 26-216(c). That subsection provides :

> (c) A subdivision, section or parcel thereof is hereby defined as developed and is therefore considered to be vested if any of the following has occurred with respect to such subdivision, section or parcel:
> (1) Building permits have been issued; or
> (2) Substantial construction on required public or private improvements has occurred on such subdivision, section, or parcel pursuant to the applicable regulations and requirements of the department of public works.

Again, the Ruxton Heights subdivision is developed. The subdivision was substantially constructed many years ago.

Therefore, pursuant to Section 26-169(ii), the existing development regulations do not apply to the Property. Specifically, Section 26-169(ii) provides that the existing regulations "shall apply to all development except : (ii) ... any other project vested by law ..., all of which development shall be governed by the subdivision regulations in effect at the time of said approval". Again, the Property is part of the Ruxton Heights subdivision which was platted and recorded in 1892. There were no development regulations in effect until 1949. Therefore, as a vested subdivision, the current development regulations do not apply by operation of law.

II. The Property Is Not Governed By The Existing Development Regulations Pursuant to Section 26-168(aa).

Section 26-168(aa) provides that the Property is a "Lot of Record", and thus subject to the regulations in effect when the Property was originally developed and platted. Section 26-168(aa) defines a "Lot of Record" as :

a parcel of land :
(1) with boundaries as shown on a plat prepared pursuant to an approved plan and recorded in the land records of the county; and
(2) which is governed by the development and zoning regulations in effect on the date of the approval of the plan".

The Property clearly meets this definition. It is a parcel of land with boundaries shown on the Plat of Ruxton Heights which was first recorded in the land records in 1892. Thus, the result is still that the Property is not governed by the existing development regulations, and therefore Section 26-278 cannot be applied.

III. The County Has Already Decided That The Property Is Not Governed By The Existing Development Regulations, As Evidenced By The Failure To Require Petitioner Proceed Through The Development Process Related To The Construction Of The Dwelling On Property Four.

Petitioner obtained Permit # B 495105, and in accordance with that Permit, is currently constructing a single family dwelling on what is identified as Property Four on Exhibit A. Petitioner was not required to proceed through the development process in order to obtain this Permit. If the County had determined that the Property was subject to the existing development regulations, it would have forced Petitioner to proceed with Division 2 of Article V of the Baltimore County Code. Section 26-201 requires a plan and plat be approved for all development, other than that which is exempted via Sections 26-170, 26-171 and 26-172.

By not requiring Petitioner comply with Section 26-201, et. seq., the County made at least one of the following decisions :

1) Petitioner's request does not meet the definition of "development"; and/or

2) The Property is not governed by the existing development regulations pursuant to Section 26-169; and/or

3) The Property is not governed by the existing development regulations pursuant to Section 26-168 (aa).

Petitioner is currently constructing the single family dwelling on Property Four, pursuant to Permit # B 495105. If the Property was governed by the existing development regulations, Petitioner would have had to proceed through the development process as outlined in the Article V of the Baltimore County Code. As explained herein however, the Property is both covered under the exemption provided in Section 26-169(ii) and is a "lot of record" as defined in Section 26-168(aa), and therefore is not governed by the current regulations.

As explained above, Petitioner was not required to file a development plan related to his plans of constructing four dwellings on the Property. In fact, he was instructed to simply obtain a building permit for each dwelling. Permit # B 495105 was issued on 9/25/02, and construction has begun on the dwelling planned for Property Four. Section 26-278 falls within Division 4 of Article V of the Development Regulations. Division 4 provides the design standards and requirements for development which is governed by the development regulations. Since the Property is not subject to the existing development regulations, Section 26-278 cannot be applied in this matter.

IV. Section 26-278 Does Not Apply Because the Action Being Requested For Approval Is "Razing", Which Does Not Qualify As "Development".

Petitioner has sought approval to raze an existing dwelling that has been given an MHT Inventory number. The action of razing such a structure does not qualify as "development". Section 26-278 falls within Division 4 of Article V of the development regulations. Section 26-261 provides that Division 4 of Article V provides the criteria "for the preparation and review of proposed development". The razing of a structure does not qualify as "development".

The word "development" is defined in Section 26-168(p). Razing a structure does not fit within the five definitions provided. Following the order of the five definitions listed therein, the following analysis is provided :

(1) Razing a structure does not fall within the definition of "improvement of property". In fact, razing is the opposite of improvement as the term relates to real property.

(2) Razing a structure is not subdivision.

(3) Razing a structure does not involve combining lots. Additionally, Petitioner's proposal to construct four dwellings on the Property involves merging the individual lots which comprise Property One, Property Two, Property Three and Property Four. The case of *Friends of the Ridge v. BGE*, 352 Md. 645 (1999) confirmed that a landowner may merge several lots into one larger parcel, and further explained that re-subdivision is not necessary "as an element of merger". *Id.* at 658 and 660. Following the *Friends of the Ridge* case, Petitioner was issued Permit # B 495105 for the dwelling on Property Four without being requested to proceed through re-subdivision of the Property.

(4) The Maryland Condominium Act does not apply to this matter.

(5) Petitioner is razing a *structure,* for which no land preparation is necessary.

Since the action for which approval is being requested does not qualify as "development", the development regulations, of which Section 26-278 is a part, cannot be applied in this matter.

V. Section 26-278 Is Illegal Both On Its Face And As Applied Because It Affects Property Rights Without Providing Due Process.

Section 26-278 triggers a process involving regulatory impact on a landowner's property without affording the property owner notice of the impact or an opportunity to be heard. This is a violation of Due Process. Therefore, Section 26-278 is illegal both on its face and as applied.

The MHT Inventory is only a catalogue of information. The MHT's assignment of an Inventory number to a structure is not intended to create a regulatory effect. Nevertheless, the factual creation of an MHT Inventory number for a structure and the legal operation of Section 26-278 function so as to adversely impact a landowner's property rights.

Petitioner was not given notice that the dwelling on the Property was being considered for an MHT Inventory number, and Petitioner never had the opportunity to be heard regarding whether or not the assignment of an MHT Inventory number for the subject structure was appropriate. Therefore, to the extent that Section 26-278 gives substantive effect to the assignment of an MHT Inventory number to a structure, the assignment of an MHT Inventory Number to a structure is illegal.

Section 26-278 provides that structures given an MHT Inventory Number "must be preserved". In this instant matter, Petitioner was denied Permit # B 497510 as a

result of the illegal operation of Section 26-278. Specifically, the Office of Planning revoked its signature on this permit application as a result of the structure being assigned an Inventory number, and the ensuing effect of Section 26-278. *See*, Exhibit B.

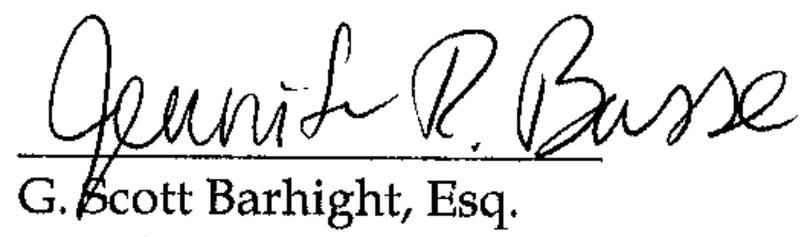
In sum, Section 26-278 creates a regulatory process affecting a landowner's property rights without affording the landowner his constitutionally required Due Process rights. Therefore, Section 26-278 is illegal both on its face and as applied.

Conclusion

For the reasons stated above, Petitioner respectfully requests the Deputy Zoning Commissioner issue an Order finding that BCC Section 26-278 does not apply to this matter. At this moment, Petitioner is not requesting the Deputy Zoning Commissioner approve Petitioner's request to raze the remaining structure on the Property.

The LPC has begun a review of the existing dwelling pursuant to Section 26-540. The Deputy Zoning Commissioner does not have jurisdiction over Section 26-540. Petitioner therefore preserves all its rights to any legal and/or factual arguments relating to Sections 26-540, et. seq.

Respectfully Submitted,

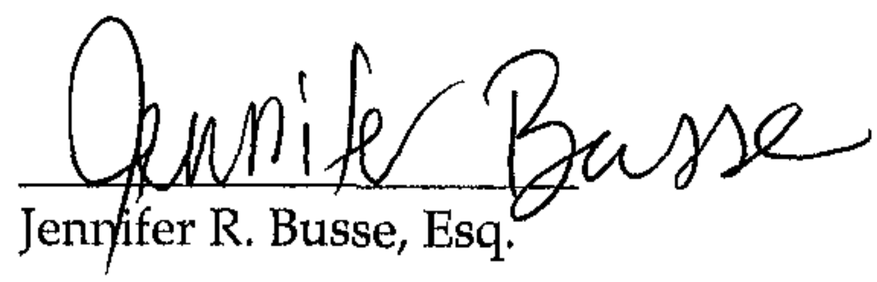


G. Scott Barhight, Esq.
Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, MD 21204
Attorneys for Petitioner
and Legal Owner, Benhoff Builders,
and Melvin Benhoff

Certificate of Service

I hereby certify that a copy of the foregoing Motion For Order Regarding The Applicability Of BCC § 26-278 was mailed, via first class mail, on November 12, 2002 to:

John C. Murphy, Esq.
516 N. Charles Street
Suite 206
Baltimore, MD 21201-5052



Jennifer R. Busse, Esq.

266337

Petition for Administrative Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1401 Berwick Cl
which is presently zoned DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing to approve a waiver pursuant to Sections 26-171, 26-172(b), Baltimore County Code of Sections 26-203(C)(8) and Section 26-278 to raze a structure (dwelling) placed on the Maryland Historic Trust Inventory # BA 3009,

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Elmer Weisheit
Name - Type or Print

Elmer Weisheit
Signature

Self-employed
Company

413 Brightwood Ct Dr 410-296-4343
Address — Telephone No

Towson MD 21093
City — State — Zip Code

Legal Owner(s):

BENHOFF BLDG
Name - Type or Print

Melvin C Benhoff Jr
Signature

MELVIN C BENHOFF JR
Name - Type or Print

Melvin C Benhoff Jr
Signature

215 OLD PADONIA Rd 410-252-0007
Address — Telephone No.

Cockeysville MD 21030
City — State — Zip Code

Representative to be Contacted:

MELVIN C BENHOFF
Name

215 OLD PADONIA Rd 410-252-0007
Address — Telephone No.

Cockeysville MD. 21030
City — State — Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____, _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

Case No. 03-138-SPH

Reviewed By BR **Date** 9/17/02

Estimated Posting Date 9/30/02

9/12/02 Request

Affidavit in Support of Administrative Special Hearing

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 14101 Berwick Rd
Address

Raytown Md 21207
City State Zip Code

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature

Signature

Name - Type or Print

MELVIN C BENHOFF JR
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit.

I HEREBY CERTIFY, this 11th day of September, 2002, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

MELVIN C. BENHOFF, JR.

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

September 11, 2002
Date

Notary Public

My Commission Expires October 4, 2005

REV 9/18/98

W. T. SADLER SURVEYORS

Phone [410] 526-5618
Fax [410] 526-7199

152 Westminster Road
Reisterstown, Maryland 21136

James C. Sadler

Date; September 11, 2002

ZONING DESCRIPTION

1401 BERWICK ROAD
9th Election District Baltimore County, MD.

BEGINNING FOR THE SAME at the intersection of the south side of Berwick Road, 40 feet wide and the west side of Locust Avenue, 40 feet wide; Being lots 205,206,206A, 207,208,209,210,210A, 211,211A, 212 and 213, as shown on a plat of RUXTON HEIGHTS, which plat is recorded in Baltimore County in Plat Book J.W.S. No. 1, folio 185, containing 50488 square feet or 1.159 Acres of land, more or less.
Also known as 1401 Berwick Road, ninth Election District, and fourth Councilmanic District.

This description has been prepared for ***ZONING*** purposes only and is not intended for recordation.

James C. Sadler Reg. 449

STATE OF MARYLAND
JAMES CARROLL SADLER
No. 449
REGISTERED
PROPERTY LINE SURVEYOR

#138

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 17196

DATE 9/30/02 ACCOUNT R001-006-6150

AMOUNT $ 50.00

RECEIVED FROM: Peggy Squitoni

FOR: Request for a Public Hearing
Case # 03-133-SPH

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PAID RECEIPT
BUSINESS ACTUAL TIME
10/01/2002 9/30/2002 14:11:51
REG WSOC MISC JEAN TE PAYEP
RECEIPT # 72897 9/30/2002 OFU
Dept 5 509 ZONING VERIFICATION
CR AD. 9171%
Hearst Int 50.00
.00 CK 50.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 17154

DATE 9/17/02 ACCOUNT 1001-06-6150

AMOUNT $ 50.00

RECEIVED FROM:

FOR:

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item #133

DATE RECEIPT
PAID RECEIPT
BUSINESS ACTUAL TIME
9/18/2002 9/17/2002 15:21:39
REG 4505 WALKIN PROG LPB DRAWER 5
RECEIPT # 25725 9/17/2002 0:00
Dept 1 528 ZONING VERIFICATION
CR NO. 017154
Recvd fr 50.00
For: 0
Baltimore County, Maryland

CASHIER'S VALIDATION

FORMAL DEMAND FOR HEARING

CASE NUMBER: 03-138-SPH

Address: 1401 Berwick Rd.

Petitioner(s): _____

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I/We Ruxton Riderwood Lake Roland Area Improvement Assoc.
Name - Type or Print

( ) Legal Owner OR *(✓) Resident* - Community Assoc. of

P.O. Box 204
Address

Riderwood MD 21139
City State Zip Code

410-494-7757
Telephone Number

which is located approximately _____ *feet from the property, which is the subject of the above petition,* ***do hereby formally demand that a public hearing be set in this matter.***

ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS DEMAND.

Signature 9/30/02
Date

Signature Date

Revised 9/18/98 - wcr/scj

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: #03-138-SPH
1401 Berwick Road
Intersection of the south side of Berwick Road and the west side of Locust Avenue
9th Election District
4th Councilmanic District
Legal Owner(s): Benhoff Builder, Melvin Benhoff
Administrative Special Hearing: to raze a structure (dwelling) placed on the Maryland Historic Trust Inventory # BA 3009.
Hearing: Friday, October 25, 2002 at 2:00 p.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.
10/173 Oct. 10 C567950

CERTIFICATE OF PUBLICATION

10/10/, 2002

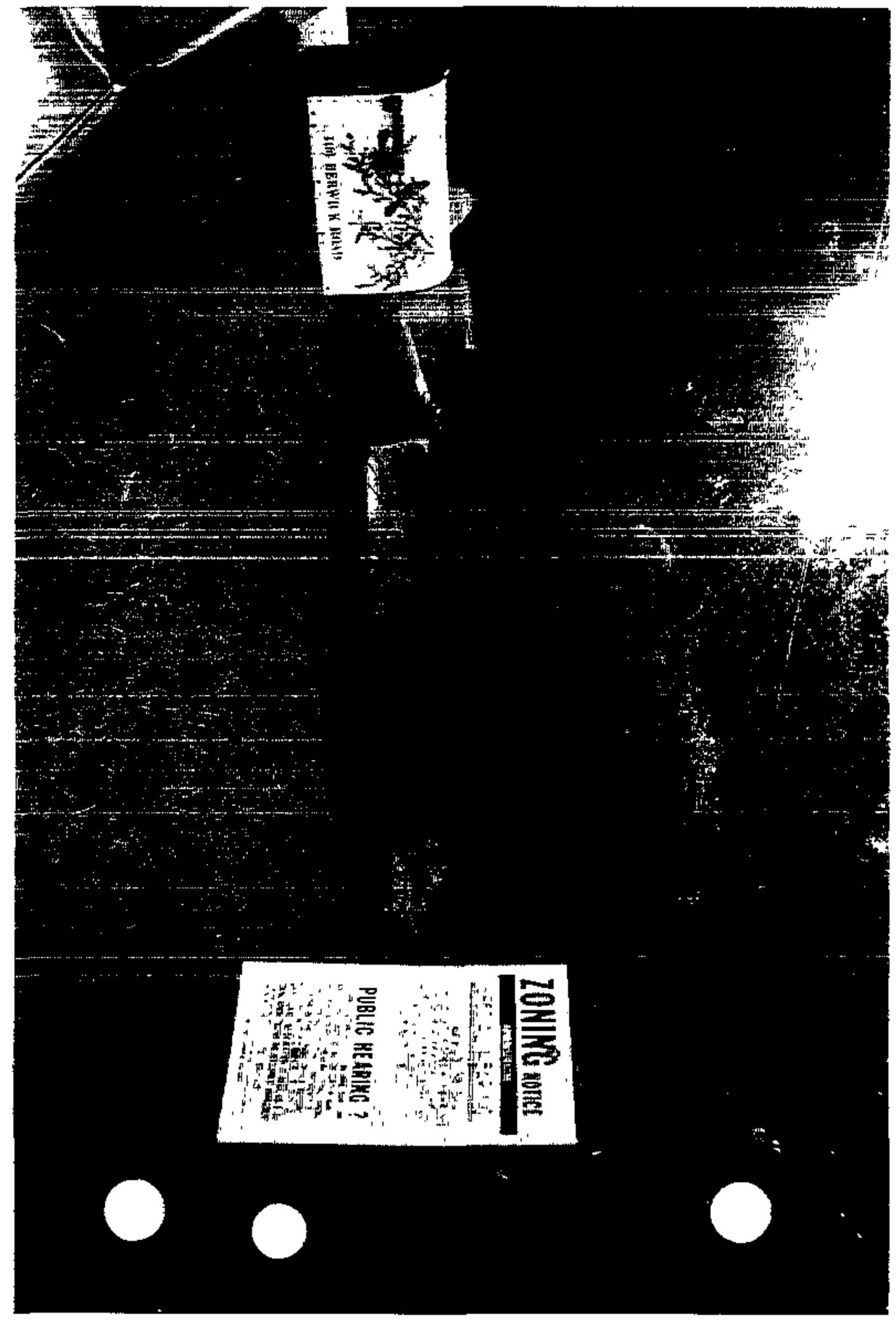
THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/10/, 2002.

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

S. Wilkinson

LEGAL ADVERTISING

SPECIAL HEARING



CERTIFICATE OF POSTING

RE: Case No.: 03-138-SPH

Petitioner/Developer: MELVIN BERNHOFF

Date of Hearing/Closing: OCT. 15, 2002

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

1401 BERWICK ROAD

The sign(s) were posted on SEPT. 28, 2002
(Month, Day, Year)

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)

CERTIFICATE OF POSTING

RE. Case No 03-138 SPH

Petitioner/Developer BENHOFF, ETAL

Date of Hearing/Closing 10/25/02

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

ADMIN. SP. HRG.

Attention.

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 #1401 - BERWICK AVE

The sign(s) were posted on 10/10/02
(Month, Day, Year)

Sincerely,

Patrick M O'Keefe 10/14/02
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE
(Printed Name)

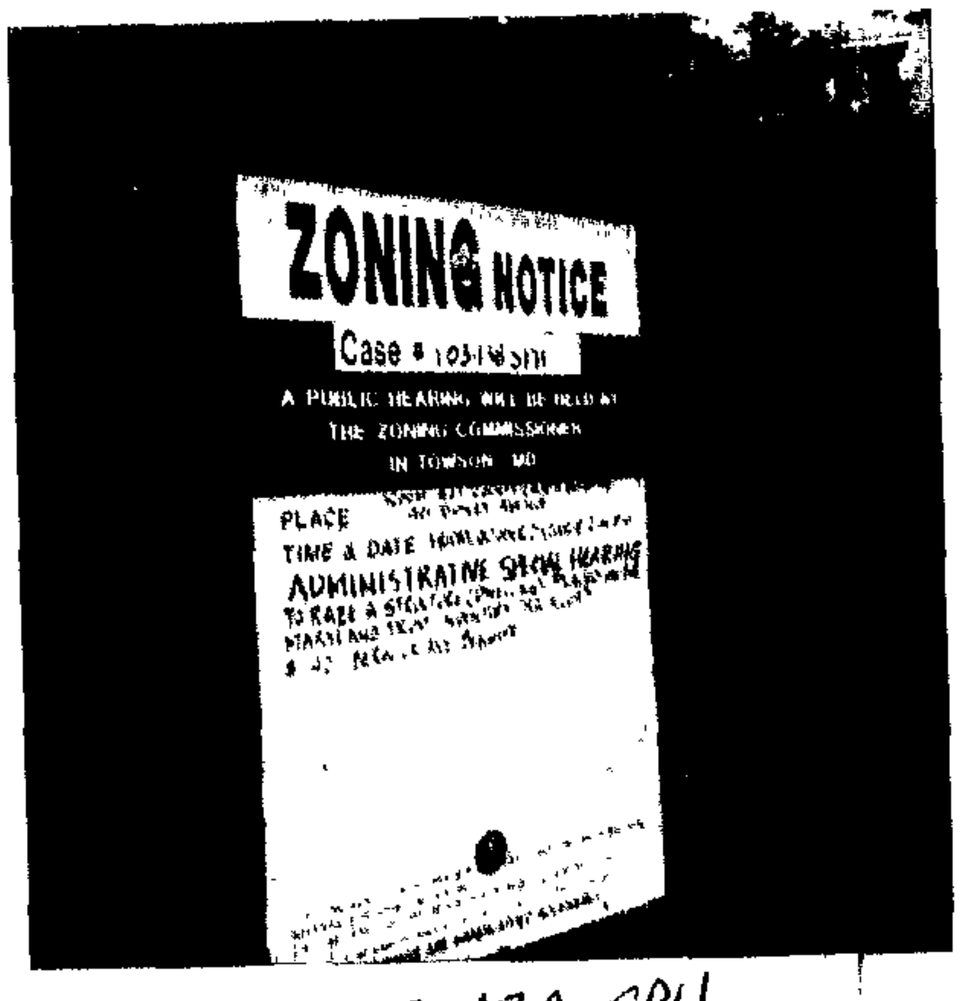
523 PENNY LANE
(Address)

HUNT VALLEY, MD. 21030
(City, State, Zip Code)

410-666-5366 ; CELL-410-905-8571
(Telephone Number)

™ brand fax transmittal memo 7671 | # of pages ▸ 1

To BETTY OR ROBIN | From O'KEEFE
Co. ZONING - COMM | Co.
Dept. | Phone # 512 4621
Fax # 887-3468 | Fax #



03-138-SPH
BERWICK
BENHOFF

TO: PATUXENT PUBLISHING COMPANY
October 10, 2002 Issue – Jeffersonian

Please forward billing to: 410-252-0007
Benhoff Builders, Inc.
215 Old Padonia Road
Cockeysville, MD 21030

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: 03-138-SPH
1401 Berwick Road
Intersection of the south side of Berwick Road and the west side of Locust Avenue
9th Election District – 4th Councilmanic District
Legal Owner: Benhoff Builder, Melvin Benhoff

Administrative Special Hearing to raze a structure (dwelling) placed on the Maryland Historic Trust Inventory # BA 3009.

HEARING: Friday, October 25, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt
Lawrence R. Schmidt

LAWRENCE E. SCHMIDT
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

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

October 1, 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: 03-138-SPH
1401 Berwick Road
Intersection of the south side of Berwick Road and the west side of Locust Avenue
9th Election District – 4th Councilmanic District
Legal Owner: Benhoff Builder, Melvin Benhoff

Administrative Special Hearing to raze a structure (dwelling) placed on the Maryland Historic Trust Inventory # BA 3009.

HEARING: Friday, October 25, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

C: J. Elmer Weisheit, 413 Brightwood Club Drive, Lutherville 21093
Melvin Benhoff, Benhoff Builders, 215 Old Padonia Road, Cockeysville 21030

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY OCTOBER 10, 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.

Printed with Soybean Ink
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: 03-138-SPH

Petitioner: MELVIN C BENHOFF

Address or Location: 1401 BOXWOOD

PLEASE FORWARD ADVERTISING BILL TO:

Name: BENHOFF BLKS INC

Address: 215 OLD PADONIA RD
COCKEYSVILLE MD 21030

Telephone Number: 410-252-0007

Revised 2/20/98 - SCJ

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE SPECIAL HEARING INFORMATION SHEET AND DATES

Case Number 03-138 -SPH Address 1401 Berwick Rd.

Contact Person: Bruno Rudaitis Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 9/17/02 **Posting Date:** 9/30/02 **Closing Date:** 10/15/02

Any contact made with this office regarding the status of the administrative special hearing should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.

2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.

3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.

4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE SPECIAL HEARING SIGN FORMAT

Case Number 03-138 -SPH Address 1401 Berwick Rd.

Petitioner's Name Melvin Benhoff Telephone

Posting Date: 9/30/02 **Closing Date:** 10/15/02

Wording for Sign: *Administrative Special Hearing to approve* raze a structure (dwelling) placed on the Maryland Historic Trust Inventory # BA 3009.

WCR - 6/28/00

Petition for Administrative Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1401 Berwick Rd

which is presently zoned DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing to approve a waiver pursuant to Sections 26-171, 26-172(b), Baltimore County Code of Sections 26-203(C)(8) and Section 26-278 to raze a structure (dwelling) placed on the Maryland Historic Trust Inventory # BA 3009,

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

J. Elmer Weisheit
Name - Type or Print

Signature

Self-employed
Company

413 Brightwood Ct. #410-296-4343
Address — Telephone No.

Towson MD 21093
City — State — Zip Code

Legal Owner(s):

BENHOFF BLDRS INC.
Name - Type or Print

Signature

MELVIN C BENHOFF JR
Name - Type or Print

Signature

215 OLD PADONIA Rd 410-252-0007
Address — Telephone No.

Cockeysville MD 21030
City — State — Zip Code

Representative to be Contacted:

MELVIN C BENHOFF
Name

215 OLD PADONIA Rd 410-252-0007
Address — Telephone No.

Cockeysville MD 21030
City — State — Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____, _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

Case No. 03-138-SPH

Reviewed By BK **Date** 9/17/02

Estimated Posting Date 9/30/02

REV 9/18/98

Affidavit in Support of Administrative Special Hearing

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1401 Berwick Rd
Address

Towson MD 21204
City State Zip Code

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature

Signature: Melvin C Benhoff

Name - Type or Print

Name - Type or Print: MELVIN C BENHOFF JR

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 11TH day of SEPTEMBER, 2002, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

MELVIN C. BENHOFF, JR.

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

SEPTEMBER 11, 2002
Date

Notary Public STORLO RUTH LOWERY

My Commission Expires OCTOBER 1, 2005

REV 9/18/98

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 16, 2002

J. Elmer Weisheit
413 Brightwood Club Drive
Lutherville, MD 21093

Dear :

RE: Case Number: 03-138-SPH, 1401 Berwick Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 17, 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.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:rlh

Enclosures

c: Benhoff Builders, Melvin Benhoff, 215 Old Padonia Road, Cockeysville 21030
People's Counsel

Printed with Soybean Ink
on Recycled Paper

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 27, 2002

ATTENTION: George Zahner

Property Owner:

Location:

Item No.:

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.

7. The Fire Marshal's Office has no comments at this time, in reference to the following items: 138
131-146

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

cc: File

RECEIVED

Printed with Soybean Ink
on Recycled Paper

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 10·1·02

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

RE: Baltimore County
Item No. 138 BR

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

10/25

BALTIMORE COUNTY, MARYLAND

MEMORANDUM

TO: Lawrence E. Schmidt,
Hearing Officer

DATE: October 15, 2002

FROM: Kimberly Abe
Secretary, Landmarks Preservation Commission

SUBJECT: Case Number 03-138-SPH
1401 Berwick Road, Ruxton

An Administrative Special Hearing is scheduled on October 25, 2002 to consider the application for approval to demolish the dwelling at 1401 Berwick Road in Ruxton (to which Maryland Historical Trust Inventory # BA 3009 is assigned).

Please be advised that, on October 10, 2002, the Landmarks Preservation Commission voted to schedule a Public Hearing (on December 12, 2002) for consideration of placing this structure on the Baltimore County Landmarks List. Because the Commission will be receiving relevant testimony in December, the Commission purposely did not yet discuss the merits of preserving or demolishing the structure.

KRA:

C: Melvin Benhoff
G. Scott Barhight
Arnold Jablon
Peggy Squitieri

Parris N. Glendening
Governor
Kathleen Kennedy Townsend
Lt. Governor

MDP
Maryland Department of Planning

Roy W. Kienitz
Secretary
Mary Abrams
Deputy Secretary

September 27, 2002

Mr. George Zahner
Baltimore County Dept. of Permits and Development Management
111 West Chesapeake Avenue
Room 111, Mail Stop #1105
Towson MD 21204

Re: **Zoning Advisory Committee Agenda, 10/7/02 re: case numbers 03-131-A, 03-132-A, 03-133-SPHXA, 03-134-A, 03-135-A, 03-136-SPH, 03-137-SPHA, 03-138-SPH, 03-139-SPH, 03-140-A, 03-141-A, 03-142-SPHA, 03-143-SPHA, 03-144-A, 03-145-A, 03-146-A**

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 9/26/02. 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
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup

Baltimore County
Department of Permits and
Development Management

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

September 30, 2002

J. Elmer Weisheit
413 Brightwood Club Drive
Lutherville, MD 21093

Dear Mr. Weisheit:

RE: Demand for Public Hearing, Administrative Variance, Case Number-03-138-SPH

The purpose of this letter is to officially notify you that the posting of the subject property has resulted in a timely demand on Case No. 03-138-SPH for a public hearing concerning the above proposed administrative procedure.

As soon as the hearing has been scheduled, you will receive a notice of public hearing indicating the date, time and location of the hearing. This notice will also contain the date that the sign must be reposted with the hearing information.

As a result of the above, the property must be reposted with the hearing date, time and location. This notification will be published in the Jeffersonian and you will be billed directly by Patuxent Publishing for this.

If you need any further explanation or additional information, please feel free to contact me at 410-887-3391.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Supervisor
Zoning Review

WCR:rlh

C: Melvin Benhoff, 215 Old Padonia Road, Cockeysville 21030
Peggy Squitieri, Ruxton/Riderwood/Lake Roland Improvement Assn., P.O. Box 204, Riderwood 21139

Printed with Soybean Ink
on Recycled Paper

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

P. O. Box 204
Riderwood, Maryland 21139
Phone / FAX: 410-494-RRLR
office@rrlraia.org

September 30, 2002

Mr. Arnold Jablon, Director
Permits & Development Management
Baltimore County
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case No. 03-138-SPH
1401 Berwick Road

We request that a public hearing be held for the subject property.

Enclosed is the $50 filing fee.

Sincerely,

Peggy Squitieri

Peggy Squitieri
Executive Director

03-138-ASPH

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

February 5, 2003

RECEIVED
FEB 10 2003
ZONING COMMISSIONER

Mr. Robert C. Scott
107 Third Avenue
Reisterstown, Maryland 21136

Re: 1401 Berwick Road

Dear Mr. Scott:

As you are aware, the LPC will consider whether the structure at 1401 Berwick Road should be added to the preliminary landmarks list at its hearing on February 13, 2003. The property owner, my client Mel Benhoff, previously mailed you and each of the other LPC members a letter inviting you to tour the structure. I am sending you and each of your colleagues on the LPC, this letter to ask you to please consider accepting Mr. Benhoff's offer to tour the structure. Once you see the structure, we believe you will agree that it does not have the architectural integrity necessary to achieve landmark status. Please know that Mr. Benhoff will make whatever arrangements necessary to accommodate your schedule.

Thank you for your kind attention to this matter. Please feel free to contact me with any questions or concerns.

Sincerely,

G. Scott Barhight/jb

G. Scott Barhight

GSB:sll

cc: The Honorable James T. Smith
The Honorable Kevin Kamenetz
The Honorable Timothy M. Kotroco
Edward J. Gillis, Esquire, County Attorney
John E. Beverungen, Esquire, Deputy County Attorney
John C. Murphy, Esquire
Mr. Timothy K. Dugan
Benhoff Builders
Jennifer R. Busse, Esquire

272637

BALTIMORE COUNTY, MARYLAND

MEMORANDUM

TO: John Reisinger
Buildings Engineer
Permits and Development Management

DATE: September 17, 2002

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

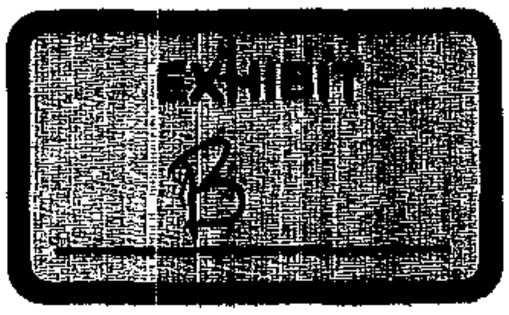
SUBJECT: Application for demolition permit
1401 Berwick Road, Ruxton

The Office of Planning has received numerous visits and telephone calls from Mr. Melvin Benhoff regarding his application for a demolition permit for the home located at 1401 Berwick Road, Towson, Maryland 21204.

The application for demolition of the one existing home had originally been signed "OK to issue" by John McGrain on August 28, 2002, with the understanding (correct at the time) that the property was not then included on any of the lists of historic properties. The application did not have a PDM permit number at the time it was signed by John, but a number that appears to be B 497510 has since been added to Mr. Benhoff's (yellow) copy.

Subsequent to the Office of Planning signing off on the demolition permit for 1401 Berwick Road, the State of Maryland Historical Trust placed the structure on the Maryland Inventory of Historic Properties. Orlando Ridout, V, Chief of MHT's Division of Research, Survey and Registration, the Division that has responsibility for compiling and maintaining the Inventory, confirmed that an Inventory number BA3009 has now, in fact, been assigned to the house at 1401 Berwick Road, and will remain assigned regardless of Baltimore County permit actions pertaining to the property. Thus, the dwelling in question is now subject to County Code 26-278 and the implementation procedures established by PDM. As a result of the structure's placement on this list the Office of Planning revoked its signature on the demolition permit.

Please note, however, that the Inventory listing pertains only to the dwelling sited diagonally on the property, facing the corner of Berwick Road and Locust Avenue. Mr. Benhoff has also applied for a permit to demolish another structure that is on the same property, but it abuts LaBelle Avenue. The Office of Planning reviewed that application on the afternoon of September 10, 2002, and finds that the LaBelle Avenue structure is *not* historic, and therefore signed for approval of the permit (there is no PDM number of the application signed by John McGrain). Planning has no objection to the issuance of that permit provided that it saves as many of the existing mature trees as possible, and does not result in damage to the 1401 Berwick Road dwelling nearby.



In order to receive approval for the demolition of the existing stricture known as 1401 Berwick Road, Mr. Benhoff will have to request, and receive a hearing before the Hearing Officer. The Hearing Officer will make a determination of the appropriateness of issuing a demolition permit. The Hearing Officer may request that the Landmarks Preservation Commission provide advisory comments, however, this referral process is not mandatory on the part of the Hearing officer. The LPC does not have "approval" authority in questions pertaining to Inventory properties, nor is there any requirement for action by the LPC before an application can be submitted, or a hearing be scheduled. The LPC's role is established by the standing request from the Hearing Officer that the Commission be given the opportunity to advise the Hearing Officer on the historic merits of the property before a decision is rendered. Assuming that a hearing before the Hearing Officer is scheduled, the earliest that the matter could be presented to the Landmarks Preservation Commission is October 10, 2002, and Mr. Benhoff will be notified of his right to present his case to the Commission.

AFK:rk

C: Melvin Benhoff, Benhoff Builders, Inc.
Doug Swam, PDM

MARYLAND DEPARTMENT OF HUMAN RESOURCES

Family Investment Administration
Request For Information To Verify Eligibility

1. LOCAL DEPARTMENT	2. DATE 11-8-02
	3. CASE NAME Dana Luke
	4. CATEGORY & AU NUMBER 43 BC/3909
	5. CASE MANAGER
	6. TELEPHONE NUMBER 410-853-3481

Baltimore Local Social Services
Baltimore, Maryland 21298

SHELTER 410-853-3000

DEAR APPLICANT/RECIPIENT:

To get benefits you must give us the proofs **MARKED BELOW** for you and **ALL PERSONS FOR WHOM YOU ARE APPLYING.** If you have any questions or need help to get the proofs, please call me. Thank you.

☐ Bring the proofs to an interview on . . . .

☑ Bring or send them to me no later than . . DATE: 11-18-02

PROOF OF INCOME	PROOF OF IDENTITY	MOST RECENT PROOF OF EXPENSES... BILLED OR PAID BY YOU OR OTHERS FOR YOUR HOUSEHOLD
Paystubs - last _____	Social Security Cards	✓ Heat, Lights, Telephone, Water, Sewerage, Trash Removal, Other Utilities
Statement on Employer's Letterhead	Birth or Baptismal Certificates	✓ * Rent, Mortgage Receipts
Tax Return: 20____	Driver's Licenses	* Amount of Shared Expenses
Unemployment Benefits	Alien Registrations	* Child or Adult Dependent Care
Union/Strike Benefits	Marriage License/Divorce Decree	Property Taxes/Homeowners' Insurance
Child Support or Alimony		Medical Bills
Social Security Benefits		
SSI/SSDI Benefits		
Veteran's Benefits or Other Pensions	**PROOF OF ASSETS**	**OTHER PROOFS**
Education Loans/Grants/Scholarships	Checking and Savings Accounts	School Attendance and Financial Aid Form 604 or 690
Military Allotments	Certificates of Deposit (CD's, IRA's and Keogh Accounts)	Address of Absent Parents
* Payments From Others for Expenses	Stocks, Bonds, Mutual Funds	Pregnancy/Prenatal Care
* Contributions Received	Dividends and Interest	Disability/Incapacitation
* From Roomers or Boarders	Life and Health Insurance	Application for Other Benefits
Rental/Mortgage Income	Cars and Other Vehicle Loans	Proof of Who Lives With You
Self Employment Records	Make, Model and Year: for all Cars, Trucks, & Other Licensed Vehicles	Report Cards
Workman's Compensation	Transferred Assets in Last 3 months	Health Care Forms
Wage Form	Property: House, Land, Other	Type of Housing
	$ 2246 money order Copy	Canceled check

* IMPORTANT: These proofs must include the name, address and telephone number of the person making the statement.

OTHER INSTRUCTIONS with Box Reference Number:

Child Support
Letterhead

Please Cooperate with Subsidized Housing at Lexington Ms. Lamb 410-837-5467

HR/FIA 1052 (Revised 12/01) Previous editions obsolete.

WHITE - Applicant Copy YELLOW - Reminder Copy PINK - FIA Case Record Copy

PLEASE PRINT CLEARLY

CASE NAME BENHOFF
CASE NUMBER 03-138-SPH
DATE 10/25/02

Protestant's
~~CITIZEN~~'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Peggy Squitieri	RRLRAIA P.O. Box 204	Riderwood, MD 21139	ruxrider@bcpl.net
Susan Athey	1505 LaBelle Ave.	Ruxton MD 21204	Seathey@comcast.net
Frances Saybolt	1502 Berwick Rd.	Ruxton MD 21204	saybolt@comcast.net
Maureen Curran	1404 Berwick Rd	Towson MD 21204	Kmckusickfamp@comcast.net
Ed Taylor	1406 Locust Ave	Baltimore 21204	[illegible]
Joseph M. Scale	1317 Beyer Ave	Baltimore 21204	JScale2544@AOL.com
[illegible] Rauch	1365 Locust Ave	Ruxton, 21204	[illegible]
Lynn Jaeger	7700 Rider Hill	Ruxton 21204	
Frances Munsell	1304 Berwick Rd.	Ruxton, 21204	
Alison Wharton	1307 Berwick Rd	Ruxton 21204	
Zoltan Acs	1406 Berwick Rd	Ruxton, 21204	ZJA@comcast.net
Jane Staveley	1406 Berwick Rd	Ruxton, 21204	
Felicia Albright	1214 Berwick Rd.	Ruxton, 21204	dascrivener@msn.com
Barry Truax	1400 Ruxton Rd	"	cbtruax@comcast.net
Betsy Bond	7705 Rider Hill Rd	Ruxton MD 21204	Betsybond@msn.com
James Macfarlane	1318 Berwick Rd	" " "	Jamesdivprint@aol.com
Jack Reilly	1409 Berwick Rd	"	jackreilly@erols.com

PLEASE PRINT CLEARLY

CASE NAME BENHOFF
CASE NUMBER 03-138-SPH
DATE 10/25/02

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
LORI INGRAHAM	TOWSON TIMES 409 WASHINGTON AVE LC 21204	TOWSON 21204	LingrahamC@patuxent.com
ED TAYLOR	1406 LOCUST AVE	BALTIMORE 21204	RETYPE@OMNITHINK.NET
MAUREEN CURRAN	1404 BERWICK RD	TOWSON 21204	Kmckusicktemp@comcast.net
FRANCES SAYBOLT	1502 BERWICK Rd.	TOWSON 21204	SAYBOLT@COMCAST.net

PLEASE PRINT CLEARLY

CASE NAME BENHOFF
CASE NUMBER 03-138-SPH
DATE 10/25/02

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
MEL BENHOFF	215 OLD PADONIA Rd	COCKEYSVILLE 21030	—
J. Elan Weisheit	913 Brightwood Clb Dr	Lutherville 21093	—
DAVID GLEASON	520 A. NORTH EUTAW ST.	BALTIMORE, MD. 21201	

3017-2905

Maryland Historical Trust
Maryland Inventory of Historic Properties Form

Inventory No. BA-3009

1. Name of Property (indicate preferred name)

historic	Ann P. & Alfred Tyler House
other	Weisheit House

2. Location

street and number	1401 Berwick Road	__ not for publication
city, town	Ruxton	__ vicinity
county	Baltimore	

3. Owner of Property (give names and mailing addresses of all owners)

name	Benhoff Builders, Inc.				
street and number	215 Old Padonia Rd.			telephone	410-252-0007
city, town	Cockeysville	state	MD	zip code	21030

4. Location of Legal Description

courthouse, registry of deeds, etc.	Baltimore County Courthouse			liber	16692	folio	293
city, town	Towson	tax map 69	tax parcel	829		tax ID number	0923154890

5. Primary Location of Additional Data

_____ Contributing Resource in National Register District
_____ Contributing Resource in Local Historic District
_____ Determined Eligible for the National Register/Maryland Register
_____ Determined Ineligible for the National Register/Maryland Register
_____ Recorded by HABS/HAER
_____ Historic Structure Report or Research Report at MHT
_____ Other:_____

6. Classification

Category
_____district
__x__building(s)
_____structure
_____site
_____object

Ownership
_____public
__x__private
_____both

Current Function
_____agriculture
_____commerce/trade
_____defense
_____domestic
_____education
_____funerary
_____government
_____health care
_____industry
_____landscape
_____recreation/culture
_____religion
_____social
_____transportation
_____work in progress
_____unknown
__x__vacant/not in use
_____other:

Resource Count

Contributing	Noncontributing	
1	_____	buildings
_____	_____	sites
_____	_____	structures
_____	_____	objects
1	0	Total

Number of Contributing Resources previously listed in the Inventory

_____

7. Description

Inventory No. BA-3009

Condition

x excellent ___ deteriorated
___ good ___ ruins
___ fair ___ altered

Prepare both a one paragraph summary and a comprehensive description of the resource and its various elements as it exists today.

The Ann P. and Alfred Tyler house is located at 1401 Berwick Road in Ruxton, Baltimore County, Maryland. The house faces northeast toward the intersection of Berwick Road and Locust Road. It is a 1 ½-story, four-bay by five-bay frame structure with a rubble stone foundation, aluminum siding, and a hip roof with slate. The northeast elevation has double doors in the east bay, with each door having two lights over one square panel that contains gouge work in a starburst pattern. The three northern bays are cantilevered beyond the foundation wall but do not extend beyond the eve of the hip roof. Each bay contains a six-over-six sash with shutters. The southeast elevation of this bay contains an eight-light casement. Beneath the bay window the foundation has two six-over-six sash and a vertical board door to the north. There is a hip roof dormer in the center of the roof with three casements, each with six lights.

The northwest elevation has a large projecting sun porch in the center bay. This porch has a rubble stone foundation and a hip roof with slate. There is an exterior stone and brick chimney centered on the northeast elevation of the sun porch, and it is flanked by paired twelve-light casements. There is also a four-light fixed sash on either side of both the north and west corner posts. The northwest elevation of the sun porch has four twelve-light casements. The southwest elevation of the porch has two new sliding glass doors in the center, with one twelve-light sash to the west side and two twelve-light sash to the south side of this door. To the north of the sun porch is a cantilevered bay with a six-over-six sash, and a six-over-six sash in the foundation. Between this window and the sun porch is a small window. West of the sun porch is a projecting bay with two six-over-six sash, and between this bay and the sun porch is a small jalousie window.

The southeast elevation has four one-over-one sash in a cantilevered bay to the east, and a six-over-six sash to the south. There is at least one three-light sash in the foundation, but vegetation obscures the house here. There is an interior brick chimney near the south hip ridge. The southwest elevation has three six-over-six sash in a projecting bay to the west, and a projecting bay to the south with a six-over-six sash to the west and a six-light sash to the south. The center bay is recessed and contains paired one-light new casement windows to the west and a door to the south that has one light over two lying panels. There is infill at the west end of this recess creating a closet of vertical boards. There is a dormer in the center of the roof that is identical to that on the northeast elevation.

8. Significance

Inventory No. BA-3009

Period	Areas of Significance	Check and justify below		
__ 1600-1699	__ agriculture	__ economics	__ health/medicine	__ performing arts
__ 1700-1799	__ archeology	__ education	__ industry	__ philosophy
__ 1800-1899	x architecture	__ engineering	__ invention	__ politics/government
x 1900-1999	__ art	__ entertainment/ recreation	__ landscape architecture	__ religion
__ 2000-	__ commerce		__ law	__ science
	__ communications	__ ethnic heritage	__ literature	__ social history
	__ community planning	__ exploration/ settlement	__ maritime history	__ transportation
	__ conservation		__ military	__ other: _____

Specific dates **Architect/Builder**

Construction dates c. 1914-15

Evaluation for:

_____ National Register _____Maryland Register ____x____not evaluated

Prepare a one-paragraph summary statement of significance addressing applicable criteria, followed by a narrative discussion of the history of the resource and its context. (For compliance projects, complete evaluation on a DOE Form – see manual.)

The Ann Poe Tyler and Alfred Tyler House at 1401 Berwick Road in Ruxton is located on lots 205, 206, 207, 208, 209, 210, 211, 212, and 213 of the Ruxton Heights development. This had been part of Edward Rider's Malvern property, which Rider sold in 1894 to become another Baltimore suburb. By 1898 there were six houses in the development, most of them stretched across two of the narrow lots. The pace of improvements seems to have been slow, and Stuart Olivier, the general manager of the *Baltimore News* and a resident of Ruxton, began buying up lots from numerous owners at least by 1908. By 1910 he controlled a significant portion of Ruxton Heights, including the lots that would become the Tyler parcel. Olivier was apparently acting as developer, as in 1911 the Ruxton Heights Water Company applied for a restraining order to prevent him from digging up Locust Avenue and laying water pipes. The water company claimed it held the exclusive right to operate water pipes on Ruxton Heights, but a Baltimore County judge ruled that Olivier owned "the fee in the entire road at the point where the trench was dug" and thus was within his right to lay pipes. This apparently freed Olivier to proceed with his development, and by 1915 there were at least 22 homes on the heights, including the Tyler House. Olivier sold seven lots (205-211) to R. Bennett Darnall in May 1914 (just one month after Olivier's Ruxton house had burned down), and the Tylers purchased them from Darnall in August of that year. Whether Darnall had plans of his own, or was acting on behalf of the Tylers, is not known. At this point, it is not known who was responsible for the construction of the house, but it must have been built in c. 1913-1915. It seems unlikely that Olivier would have built the house, since it would have been more profitable for him to place it on fewer lots. The Tylers sold the house in 1920, at which time they had moved to Panama City, Florida, and they are most likely responsible for the house.[1]

Many of the houses in built in Ruxton Heights c. 1910-20 were designed by Baltimore architects, and it is very likely that the Tyler House was, too, but no information about the building has been uncovered as yet. The house is a bungalow, but is not the stock pattern of bungalow found throughout Baltimore suburbs. The house is a simple cube dominated by an immense hip roof, and within this cube space is manipulated by the creation of numerous cantilevered bays. None of these bays, however, extends beyond the eave line of the roof, so that the dominating roof controls the overall design, and the advancing and receding wall planes are subtle effects. The house also benefits by its unusual placement on the diagonal, which adds to the drama of the building rather than the common, static arrangement facing one street. This orientation must have been considered from the beginning, as it required a larger number of lots than usual. The Tyler House has strong affinities with the Hynson House at 1412 LaBelle Avenue, another cubic bungalow with a large hip roof that controls the planes of the cantilevered bays. The Hynson House is also set diagonally on its lot, but the floor plans of the two houses are apparently different. Nonetheless, it seems very likely that the same architect was responsible for both buildings.

Stansbury and Muriel Brady purchased the house from the Tylers and added lots 212 and 213 in 1920. From this point the house changed hands often until purchased by the most recent occupants, Elmer and Jacquelin Weisheit, in 1954. Other than the addition of aluminum siding and the alteration of several windows, there seems to have been little change to the building from the time it was completed.[2]

[1] Joseph M. Coale, III, *Middling Planters of Ruxton, 1694-1850* (Baltimore: Maryland Historical Society, 1996), p. 52. G. W. Bromley, *Atlas of Baltimore County, Maryland* (Philadelphia, 1898), pl. 20. Baltimore County Land Records, WPC 336-161, WPC 340-472, WPC 366-115, WPC 369-432, WPC 370-333, WPC 371-239, WPC 372-228. *Sun*, 14 November 1911, p. 5. *Sun*, 31 December 1911, p. 4. Baltimore County Land Records, WPC 429-213, WPC 433-196. *Manufacturers Record*, 16 April 1914, p. 66. G. W. Bromley, *Atlas of Baltimore County, Maryland* (Philadelphia, 1915), pl. 21. Baltimore County Land Records, WPC 526-308.
[2] Baltimore County Land Records, WPC 532-59, WPC 532-61, 2455-350.

9. Major Bibliographical References

Inventory No. BA-3009

10. Geographical Data

Acreage of surveyed property 1.12 A
Acreage of historical setting 1.12 A
Quadrangle name _____ Quadrangle scale: _____

Verbal boundary description and justification
Lots 205, 206, 207, 208, 209, 210, 211, 212, 213

11. Form Prepared by

name/title	Kenneth M. Short		
organization		date	September 2002
street & number	610 Regester Ave.	telephone	410-377-4953
city or town	Baltimore	state	MD

The Maryland Inventory of Historic Properties was officially created by an Act of the Maryland Legislature to be found in the Annotated Code of Maryland, Article 41, Section 181 KA, 1974 supplement.

The survey and inventory are being prepared for information and record purposes only and do not constitute any infringement of individual property rights.

return to: Maryland Historical Trust
DHCD/DHCP
100 Community Place
Crownsville, MD 21032-2023
410-514-7600

Title 26

PLANNING, ZONING AND SUBDIVISION CONTROL*

Article I. In General

Sec. 26-1. Definitions.
Sec. 26-2. Office of planning and community conservation.
Sec. 26-3. Director of planning; deputy director of planning; zoning commissioner; deputy zoning commissioner; director of community conservation.
Secs. 26-4—26-30. Reserved.

Article II. Planning Board

Sec. 26-31. Meetings; rules of procedure.
Sec. 26-32. Powers and duties generally; reimbursement of expenses.
Sec. 26-33. Reference of matters to planning board by county executive or county council.
Sec. 26-34. Recommendation of planning board advisory only.
Sec. 26-35. Additional powers.
Sec. 26-36. Authority to contract with consultants; assistance from other departments.
Secs. 26-37—26-65. Reserved.

Article III. Planning

Division 1. Generally

Sec. 26-66. Effect of proposals in master plan on applications for building permits or for approval of preliminary subdivision plans.
Secs. 26-67—26-80. Reserved.

Division 2. Master Plan

Sec. 26-81. Procedure for adoption; general purpose.
Sec. 26-82. Scope.
Sec. 26-83. Matters to be considered in preparation.
Sec. 26-84. Coordination of development of county.
Sec. 26-85. Action on specific projects.
Secs. 26-86—26-115. Reserved.

Article IV. Zoning

Sec. 26-116. Powers of county.
Sec. 26-117. Validation of existing zoning regulations.
Sec. 26-118. Record and copies of rules, regulations, etc.; certified copies of rules, etc., as evidence.
Sec. 26-119. Penalty for violation of regulations, etc.
Sec. 26-120. Injunctive proceedings.
Sec. 26-121. Civil penalty for zoning violations.

***Charter references**—Office of planning and zoning, § 522 et seq.; people's counsel to defend master plan, zoning, etc., § 524.1.

Cross references—Aviation commission to advise planning and zoning authorities, § 2-331; advertising and signs, tit. 3; buildings and building regulations, tit. 7; community development, tit. 9; recording of plats by the clerk of the circuit court, § 11-87; environmental protection and resource management, tit. 14; housing, tit. 18; roads, bridges and sidewalks, tit. 31; solid waste, tit. 32; water and sewers, tit. 35.

State law references—Planning and zoning generally, Ann. Code of Md. arts. 25A, § 5(X); 66B.

Sec. 26-122. Division of county into districts, etc.; uniformity of regulations.
Sec. 26-123. Preparation of zoning regulations, zoning maps and growth allocation procedure.
Sec. 26-123.5. Comprehensive zoning map process fees.
Sec. 26-124. Action by county council on adoption of zoning regulations and zoning maps and Chesapeake Bay Critical Area map procedures.
Sec. 26-125. County council action on regularly revised zoning map.
Sec. 26-126. Planning board reports.
Sec. 26-127. Authority of zoning commissioner to provide for special exceptions and variances.
Sec. 26-128. Files on zoning commissioner's hearing proceedings; basis of zoning commissioner's decision.
Sec. 26-129. Review of zoning commissioner's decisions by board of appeals.
Sec. 26-130. Zoning commissioner's docket.
Sec. 26-131. Books and papers.
Sec. 26-132. Appeals to county board of appeals.
Sec. 26-133. Appeals from the county board of appeals.
Sec. 26-134. Correction of zoning map.
Sec. 26-135. Authority of director of permits and development management.
Secs. 26-136—26-165. Reserved.

Article V. Development Regulations

Division 1. Generally

Sec. 26-166. Development policies.
Sec. 26-167. Purposes.
Sec. 26-168. Definitions.
Sec. 26-169. Scope of regulations.
Sec. 26-170. General exemption.
Sec. 26-171. Limited exemptions.
Sec. 26-172. Waivers.
Sec. 26-173. Transfer of land in unapproved or expired subdivision.
Sec. 26-174. Recording unapproved plat.
Sec. 26-175. Enforcement and remedies.
Sec. 26-176. Failure of county agency to act.
Sec. 26-177. Fees.
Sec. 26-178. Rules of procedure.
Sec. 26-179. Delinquent accounts.
Sec. 26-180. Compliance with other laws and regulations.
Sec. 26-181. Code references.
Sec. 26-182. Public buildings.
Secs. 26-183—26-200. Reserved.

Division 2. Development Review and Approval Process

Sec. 26-201. General provisions.
Sec. 26-202. Preparation of the concept plan.
Sec. 26-203. The development plan.
Sec. 26-204. Preliminary review.
Sec. 26-205. County review.
Sec. 26-206. Development plan approval.
Sec. 26-206.1. Combined zoning and plan approval hearing.
Sec. 26-207. Referral to planning board.
Sec. 26-208. Procedure before planning board.
Sec. 26-209. Appeals from final action on a plan.
Sec. 26-210. Expiration of plan approval.

Sec. 26-211. Amendments to plan.
Sec. 26-212. Public works agreement to conform to plan.
Sec. 26-213. Plat—Required.
Sec. 26-214. Same—Requirements for approval and recordation.
Sec. 26-215. Same—Procedure for approval.
Sec. 26-216. Time limit for validity of subdivision plats.
Sec. 26-217. Extension of time limit for validity of subdivision plats and approved plans.
Sec. 26-218. Development management.
Sec. 26-219. Baltimore County design review panel.
Sec. 26-220. Exchange of fee simple real property and easements.
Secs. 26-221—26-235. Reserved.

Division 3. Public and Private Improvements

Sec. 26-236. Regulations.
Sec. 26-237. Obligations of applicant.
Sec. 26-238. County participation.
Sec. 26-239. Public works agreement required, waiver.
Sec. 26-240. Public works agreement.
Sec. 26-241. Construction of improvements.
Sec. 26-242. Completion of public improvements.
Sec. 26-243. Private improvements; security.
Sec. 26-244. Deferral of public improvements.
Sec. 26-245. Nonperformance.
Sec. 26-246. Fees and assessments for privately financed utilities; notice.
Sec. 26-247. Notice.
Sec. 26-248. Security.
Sec. 26-249. Reduction of security.
Secs. 26-250—26-260. Reserved.

Division 4. General Design Standards and Requirements

Sec. 26-261. Compliance.
Sec. 26-262. Street system.
Sec. 26-263. Street design and construction.
Sec. 26-264. Parking, signs, benches and transit facilities.
Sec. 26-265. Pedestrian and bicycle paths.
Sec. 26-266. Panhandle driveways.
Sec. 26-267. Water supply.
Sec. 26-268. Sewerage.
Sec. 26-269. Drainage.
Sec. 26-270. Other utilities.
Sec. 26-271. Open space.
Sec. 26-272. Purposes of open space.
Sec. 26-273. Plans for open space.
Sec. 26-274. Landscaping.
Sec. 26-275. Grading and sediment control.
Sec. 26-276. Floodplain and wetland protection.
Sec. 26-277. Slope protection and soils.
Sec. 26-278. Preservation of natural or historic features.
Sec. 26-279. Street layout generally.
Sec. 26-280. Names of development and streets.
Sec. 26-281. Designated areas.
Sec. 26-282. Compatibility.
Sec. 26-283. Adoption of development manuals.
Sec. 26-284. Scenic viewsheds elements.
Secs. 26-285—26-300. Reserved.

Division 5. Reclamation of Property

Sec. 26-301. Reclamation development plan.
Sec. 26-302. Prefiling conference.
Sec. 26-303. Planning board action.
Sec. 26-304. Amendments, renewals.
Sec. 26-305. Use and development of reclamation property.

Division 6. Planned Unit Developments

Sec. 26-306. Review.
Sec. 26-307. Annual review of PUD-C map; applicability.
Secs. 26-308—26-365. Reserved.

Article VI. Reserved

Secs. 26-366—26-400. Reserved.

Article VII. Commercial District Management Authorities

Sec. 26-401. Definitions.
Sec. 26-402. Creation.
Sec. 26-403. License fees.
Sec. 26-404. Prohibitions.
Secs. 26-405—26-435. Reserved.

Article VIII. Chesapeake Bay Critical Area Requirements

Sec. 26-436. Legislative findings.
Sec. 26-437. Purposes.
Sec. 26-438. Definitions.
Sec. 26-439. Official critical area map.
Sec. 26-440. Purpose and intent of overlay areas.
Sec. 26-441. Scope of regulations.
Sec. 26-442. Critical area findings and plan requirements or critical area projects.
Sec. 26-443. Plats and protective covenants.
Sec. 26-444. Management requirements and building setbacks for critical area resources.
Sec. 26-445. Scope and applicability of design requirements.
Sec. 26-446. Clustering.
Sec. 26-447. Nontidal and tidal wetlands.
Sec. 26-448. Nontidal wetland protection.
Sec. 26-449. Buffers.
Sec. 26-450. Cutting trees or vegetation in the buffer.
Sec. 26-451. Habitat protection areas.
Sec. 26-452. Development in intensely developed areas.
Sec. 26-453. Development in limited development area, RC-20 and RC-50 zones.
Sec. 26-454. Water-dependent facilities.
Sec. 26-455. Piers, boathouses and nonwater-dependent structures.
Sec. 26-456. Structures on piers.
Sec. 26-457. Shore erosion protection works.
Sec. 26-458. Approval of permits.
Sec. 26-459. Enforcement.
Sec. 26-460. Civil penalties.
Sec. 26-461. Appeals.
Sec. 26-462. Criminal penalties.
Sec. 26-463. Liability for expenses caused by violation.
Sec. 26-464. Additional remedies for violation.

rule or regulation available in the county council pursuant to section 2-420 of the Code, the director shall send a copy of the proposal to the council for its review.

(b) The director shall make any such new policies, rules, or regulations available to the public within the zoning commissioner's policy manual. (Bill No. 88, 1990, § 2(22-34.1); Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-95)

Secs. 26-136—26-165. Reserved.

ARTICLE V. DEVELOPMENT REGULATIONS

DIVISION 1. GENERALLY

Sec. 26-166. Development policies.

(a) All development of land must conform to the master plan including adopted community plans and these regulations. Land to be developed should be of such character that it can be used safely for building purposes without danger to health or peril from flood, fire, erosion or other menace. The area of peril from flood is characterized as the 100-year floodplain defined in section 26-662.

(b) These regulations are intended to protect and promote public health, safety and welfare and to ensure provision for public facilities, services and amenities. To this end, these regulations are designed and intended to ensure the safety, adequacy and convenience of proposed provisions for the following:

(1) Conservation of existing communities and the promotion of the quality of development, site and building design and compatibility;

(2) Promotion and encouragement of economic development to expand the tax base, provide employment, facilitate commercial activity and house the citizens of Baltimore County;

(3) Improve linkage between developments to enhance circulation of motor vehicles, bicycles and pedestrians, including appropriateness of proposed locations and design of streets, foot paths and transit facilities to their anticipated functions and to existing facilities;

(4) Water supply, sewerage, stormwater drainage, street lighting, fire protection and emergency services, including adequacy of water volume, water pressure and emergency access to all parts of the property;

(5) Community services, including but not limited to schools, parks and other open spaces, recreation areas and facilities, and other amenities for users or occupants of the property and for its neighborhood;

(6) Prevention of environmental degradation and promotion of environmental enhancement, including adequacy of landscaping and energy conservation measures, and of protection of floodplains, steep slopes, watersheds, wetlands, vegetation, other natural features and historical sites or areas; and

(7) Preservation of agricultural lands, including adequacy of protection of prime and productive soils from inappropriate development.

(Code 1978, § 22-37; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-93)

Sec. 26-167. Purposes.

(a) These regulations are adopted for the following purposes:

(1) To protect and provide for the public health, safety and general welfare of the county.

(2) To implement the future growth and development of the county in accordance with the master plan.

(3) To provide for adequate light, air and privacy; to secure safety from fire, flood and other danger; and to prevent overcrowding of land.

(4) To protect the viability of the county's existing communities by ensuring that new development and redevelopment is compatible with the neighborhood and minimizes

adverse environmental, traffic and economic impacts on the surrounding community.

(5) To preserve and protect existing business and industry and provide a system of regulatory controls on development that will foster the growth of business, employment and the economic tax base of the county.

(6) To implement public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, drainage, schools, parks, street lights and sidewalks, open space tracts, playgrounds, and other recreation facilities and other public requirements and facilities.

(7) To provide the most beneficial relationships between the uses of land and buildings and the circulation of traffic throughout the county, having particular regard to the avoidance of congestion in the streets and highways, the provisions of access for firefighting and other emergency equipment, and the pedestrian traffic movement appropriate to the various uses; and to provide for the proper location and width of streets and building lines.

(8) To establish reasonable guidelines, standards of design and procedures for development, in order to further the orderly and beneficial layout and use of land and to ensure that the same standards are applied to all applicants and developments; and to ensure proper descriptions of property boundaries.

(9) To encourage the wise use and management of natural resources throughout the county in order to preserve the integrity, stability, and beauty of the community and the value of property.

(10) To preserve the natural beauty and topography of the county and to ensure appropriate development with regard to these natural features.

(11) To provide for open spaces in order to offer recreational opportunities close to home, to enhance the appearance of neighborhoods through the preservation of natural green spaces, to counteract the effects of urban congestion and monotony, and to encourage participation by all age groups in the use and care of local open space tracts.

(12) To ensure an adequate supply of land suitable for development.

(13) To simplify and clarify the development review and approval process.

(b) Compliance with the development regulations hereinafter set forth and the comprehensive manual of development policies shall be deemed the fulfillment of the development policies set forth in section 26-166 and purposes set forth in section 26-167.
(Code 1978, § 22-38; Bill No. 1, 1992, § 2)

Sec. 26-168. Definitions.

(a) In this article, the following words have the meanings indicated:

(b) (1) "Accessory structure" means a building or other improvement to property:

(i) where the use or intended use of which is subordinate and customarily incidental to the use of the principal building; and

(ii) that is located on the same lot, parcel or tract.

(2) "Accessory structure" includes additions or modifications to the principal building.

(c) "Agricultural purposes" means any use of land which directly contributes to the production, processing or storage of agricultural products.

(d) "Alley" means a right-of-way 20 feet or less in width for residential property and 26 feet or less for non-residential property, which provides service access for vehicles to the side or rear of abutting property designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed.

(e) "Applicant" means any person who is an owner, contract purchaser or the legally authorized representative of an owner or contract purchaser requesting approval of development as provided for in this article.

(f) (1) "Arterial street" means a motor way or a portion of a motor way which:

(i) is intended for travel to or from major activity centers, such as town centers; and

(ii) is designed to give priority to traffic movement as opposed to providing direct access to land.

(2) "Arterial street" does not include a freeway or an expressway.

(g) "Building" means a structure enclosed within exterior walls or firewalls for the shelter, support or enclosure of persons, animals or property of any kind.

(h) "Circulation" means the provision for the movement of people, goods, water, sewage or power by means of streets, highways, railways, waterways, airways, pipes, conduit cables or other means and including facilities for transit, transportation and communication.

(i) (1) "Cluster subdivision" means a residential development of land in a DR-5.5 zone involving the building of residential housing.

(2) "Cluster subdivision" does not include a residential development with single-family detached, semi-detached, and two-family dwellings.

(j) "Collector street" means a street which:

(1) functions to conduct traffic between major arterial streets or activity centers;

(2) is a principal traffic artery within residential areas; and

(3) may carry a relatively high volume of traffic.

(k) "Commercial development" means the development of land for any purpose or use permitted as of right or by special exception in commercial zones in accordance with the Baltimore County Zoning Regulations.

(l) "Community input meeting (CIM)" means an open meeting among representatives of the county, the applicant, owners of adjacent property and representatives of local community associations or umbrella groups for the purpose of presenting and discussing concept plans and proposals. The intent of the CIM is to provide a forum for the discussion and if possible, resolution of community concerns and developer constraints within the context of the county's regulations and guidelines.

(m) "Concept plan" means a schematic plan that:

(1) is generally in compliance with county standards and drawn to an appropriate scale.

(2) outlines the major features of a proposed development; and

(3) is to be used as the basis for community input meetings.

(n) "Cul-de-sac" means a local street with only 1 outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

(o) "Delinquent account" means any fees or costs certified by the director of budget and finance as due and owing to the county by a person for any development.

(p) "Development" means:

(1) The improvement of property for any purpose involving building;

(2) A subdivision;

(3) The combination of any 2 or more lots, tracts or parcels of property for any purpose;

(4) Subjecting property to the provisions of the Maryland Condominium Act; and

(5) The preparation of land for any of the purposes listed in subsections (1) through (4) of this subsection.

(q) "Development plan" means a written and graphic representation of a proposed development prepared in compliance with section 26-203 of this article.

(r) (1) "Easement" means any interest in

the property of another created by grant or by an express or implied agreement.

(2) "Easement" includes any interest, vested in the county by dedication, which confers a right to some advantage, benefit or lawful use in or over the property.

(s) "Enhancement" means the improvement or development of resource values resulting in a net increase of resource over existing conditions.

(t) "Environmental agreement" means an agreement concerning an applicant's obligations required by the department of environmental protection and resource management including:

(1) Chesapeake Bay critical area management;

(2) forest buffer protection;

(3) forest conservation;

(4) grading or sediment control;

(5) stormwater management; and

(6) wetland mitigation.

(u) "Final action" on a development plan means:

(1) the approval of a plan as submitted;

(2) the approval of a plan with conditions; or

(3) the disapproval of a plan by the hearing officer in accordance with section 26-206 of this article.

(v) "Front building line" means a line beyond which the front foundation wall of a building may not project into the front yard as defined by the zoning regulations of the county.

(w) "Hearing officer" means the county zoning commissioner or the deputy zoning commissioner.

(x) "Improvements" means:

(1) streets;

(2) drains, bridges, and culverts;

(3) sewers;

(4) water lines;

(5) open space;

(6) curbs and gutters;

(7) sidewalks and paths;

(8) streetlights;

(9) landscaping;

(10) stormwater management facilities;

(11) traffic-control devices;

(12) telecommunications conduits; and

(13) other improvements as determined necessary and appropriate by the county.

(y) "Industrial development" means the development of land for any purpose or use permitted as of right or by special exception in industrial zones in accordance with the Baltimore County Zoning Regulations.

(z) "Local street" means a street which:

(1) carries traffic between collector streets and individual parcels of land; and

(2) primarily carries traffic to and from dwelling units to other streets.

(aa) "Lot of record" means a parcel of land:

(1) with boundaries as shown on a plat prepared pursuant to an approved plan and recorded in the land records of the county; and

(2) which is governed by the development and zoning regulations in effect on the date of the approval of the plan.

(bb) "Master plan" means the master plan adopted pursuant to Section 523 of the Charter.

(cc) "Minor development" means:

(1) a development without a public works agreement;

(2) a residential development with a public works agreement involving only road widenings; or

(3) a development in which the improvements are determined by the director of permits and development management as minimal under § 26-239(b) of this article.

(dd) "Nontidal wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1987 and as may be amended.

(ee) (1) "Open space" means local open space, public parks, or other open space.

(2) "Open space" includes a recreational facility, privately owned, or which is owned by or subject to an easement held by the county, state, or federal government, that is:

(i) customarily found in public parks; and

(ii) reserved for public use and enjoyment.

(ff) "Panhandle driveway" means the paved roadway which serves 1 or more abutting panhandle lots and provides vehicular access to the local street or to a collector street. A "use in common" agreement is established if the panhandle driveway serves 2 or more abutting panhandle lots.

(gg) "Panhandle lot" means a lot so shaped and situated that its only frontage or access to the local or collector street is a narrow strip of land which is held in-fee, except as provided in section 26-266, and which may contain a panhandle driveway, water and sewer lines and other utilities.

(hh) "Party" means:

(1) the applicant;

(2) an owner of a property adjacent to the property which is the subject of the plan;

(3) a local community association or umbrella group which meets the requirements of section 26-209(a)(1) of this article;

(4) a representative of the county; or

(5) any person known to the county whose personal or property rights may be specially and adversely affected by final action on a plan in a manner different than that of the public generally.

(ii) "Performance security" means a letter of credit, cashier's check, or cash delivered to the county to assure performance and completion of the public or private improvements required in this title.

(jj) "Person" means an individual, partnership, all partners in a partnership, corporation, joint venture, all participants in a joint venture, trustee, personal representative or other legal entity.

(kk) "Persons aggrieved" means a person:

(1) who is a party to the community input meeting, the development plan conference, or the proceedings under section 26-206 of this article; and

(2) whose personal or property rights are specially and adversely affected by final action on a plan in a manner different than that of the public generally.

(ll) "Plan" means the development plan except where noted.

(mm) "Planned industrial park" means an industrial development:

(1) for which a plan has been approved; and

(2) which is under common ownership or control.

(nn) "Plat" means the graphic representation of the development prepared pursuant to the approved plan for the purpose of recording in the land records of the county.

(oo) "Prime and productive soils" means soil types defined in the U.S.D.A. Soil Survey of Baltimore County, issued March 1976 and as updated, as agricultural capability:

(1) class I, II, or III; or

(2) woodland class 1 or 2.

No. 8-96, § 3, 3-23-96; Bill No. 49-96, § 15, 7-1-96; Bill No. 38-98, § 4, 6-20-98; Bill No. 121-01, § 3, 1-29-02)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 26-169. Scope of regulations.

These regulations shall apply to all development except: (i) such development which, prior to the effective date of this article (June 11, 1982), has received tentative approval of the preliminary plan by the planning board or for which development a valid, unexpired building permit exists, or for which development a current executed public works agreement exists, all of which development shall be governed by the subdivision regulations in effect at the time of said preliminary plan approval, building permit issuance, or public works agreement execution, as the case may be. Proposed development shall be in compliance with the present zoning classification on the subject property; (ii) such development as has received a CRG approval, reclamation plan approval, any other project vested by law or such development for which a CRG plan has been accepted for filing by the department of public works prior to the date of adoption of Bill 1-92, all of which development shall be governed by the subdivision regulations in effect at the time of said approval or acceptance for filing, as the case may be.

(Code 1978, § 22-40; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2)

Sec. 26-170. General exemption.

The subdivision of land for agricultural purposes is exempt from these regulations if no new streets are involved, subject to compliance with all applicable zoning regulations.

(Code 1978, § 22-41; Bill No. 18, 1990, § 2)

Sec. 26-171. Limited exemptions.

(a) The following development is exempt from division 2 of this article, except that all development in an R.C. 6 zone is subject to section 26-202(c)(3). Compliance with divisions 3, 4 and 5 is required as is compliance with all applicable zoning regulations.

(1) The building or preparation of land for building for a dwelling for one (1) or two (2) families (i) on a single lot or tract which is not part of a recorded plat, or (ii) on a lot or lots exempt from the lapse provisions of section 26-216.

(2) The building or preparation of land for building on a lot of record lawfully in effect at the time of the building or preparation of the land for building if the lot of record did not result from a subdivision of land exempt under section 26-170.

(3) The construction of one (1) tenant house or the location of one (1) trailer on a farm tract.

(4) The subdivision of property pursuant to court order, a will or the laws of interstate succession.

(5) The resubdivision or lot line adjustment of industrially zoned or commercially zoned parcels of land which have been the subject of a previously approved plan and recorded plat.

(6) The subdivision of land into three (3) or fewer lots for residential single-family dwellings, provided that they are not served by a panhandle driveway. If the lots are served by a panhandle driveway, the development is exempt from the requirements of sections 26-202 and 26-205 only.

(7) The construction of residential accessory structures or minor commercial structures.

(8) The construction of a building owned and operated by a county volunteer fire, ambulance or rescue company which is used primarily for storage or training purposes, fund-raising activities, or other purposes related to rescue or fire-suppression activities.

(9) Lot line adjustments in residential zones which are not part of an approved final development plan or zoning plan.

(10) A subdivision of land into three (3) or fewer lots recorded prior to January 26, 1990.

(b) The following development is exempt from the community input meeting and hearing officer's hearing pursuant to sections 26-202 and 26-206, except that all development in an R.C. 6 zone is subject to section 26-202(c)(3):

(1) Lot line adjustments, including the combination of lots or parcels.

(2) The subdivision of property pursuant to court order, a will or the laws of intestate succession.

(3) Amendments to an approved plan or plat which do not materially alter the proposed development.

(4) The subdivision of land in an approved state agricultural land preservation district or county agricultural easement for the purpose of the conveyance of lot(s) to the owner or his children pursuant to title 2, subtitle 5 of the agricultural article of the Annotated Code of Maryland and article XI of the Baltimore County Code. The use or development of land in a county agricultural easement established in accordance with section 14-457 of article XI of the Baltimore County Code, shall be governed by agricultural land preservation provisions enacted by the county council pursuant to section 14-461 of that article in the case of any conflict between those provisions and the Baltimore County zoning regulations.

(5) The subdivision of a farm tract into two (2) lots.

(6) The subdivision of land into three (3) or fewer lots for residential single-family dwellings.

(7) The construction of accessary structures.

(8) The subdivision of land or buildings in a planned office or industrial park for which a development plan has been approved in accordance with these regulations.

(9) A minor development, as defined in section 26-168, not to exceed a total of three (3) lots.

(Code 1978, § 22-42; Bill No. 172, 1989, § 2; Bill No. 18, 1990, §§ 2, 3; Bill No. 106, 1990, §§ 1, 2; Bill No. 1, 1992, § 2; Bill No. 50-93, 1993, § 3; Bill No. 73-00, § 3, 9-15-00)

Sec. 26-172. Waivers.

(a) At the request of a department director, the hearing officer may grant a waiver of any or all requirements of division 3, 4 and 5 of these regulations if the hearing officer finds that:

(1) a. The size, scope and nature of a proposed development does not justify strict compliance with these regulations;

b. A waiver would be within the scope, purpose and intent of these regulations; and

c. All other county laws, ordinances and regulations have been complied with; or

(2) Compliance with these regulations would cause unnecessary hardship.

(3) A waiver shall be in accordance with the floodplain management regulations.

(b) A waiver from the requirements of section 26-203 of this Code and from the hearing officer's hearing may be granted under the following conditions:

(1) After consultation with appropriate county agencies the director finds:

a. That the size, scope, and nature of a proposed development does not justify strict compliance with these regulations; and

b. That a waiver would be within the scope, purpose, and intent of these regulations; and

c. That the proposed development complies with all other county laws, ordinances, and regulations.

(2) Before proposing to grant a waiver for development within the critical area, the director of planning shall obtain recommended findings from the director of the department of environmental protection and resource management which shall be based on the standards specified in section 26-205(b)(2)d.

(Code 1978, § 22-43; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-93; Bill No. 8-96, § 3, 3-23-96)

Sec. 26-173. Transfer of land in unapproved or expired subdivision.

(a) A person may not convey any lot, parcel, or tract of a subdivision unless a plat, if required, has been recorded in accordance with these regulations and the plat is effective at the time of said conveyance.

(b) The transferee of any lot, parcel or tract conveyed in violation of this section may bring an action in the circuit court for recision of the conveyance and return of any deposit or purchase money paid, as well as reimbursement for reasonable expenses, including attorney's fees, incurred in connection with the conveyance.

(Code 1978, § 22-44)

Sec. 26-174. Recording unapproved plat.

A person may not offer and the clerk of the circuit court may not accept any plat for recording in the plat records of the county unless the same has been approved for recording as required by these regulations. If such plat is recorded, it shall be considered a nullity.

(Code 1978, § 22-45; Bill No. 18, 1990, § 2)

Sec. 26-175. Enforcement and remedies.

(a) The county may bring an action for specific performance of these regulations or may move to set aside a conveyance made in violation of these regulations at the cost and expense of the transferor.

(d) The notice shall advise the public of the name, address, and telephone number of the person or agency to be contacted for additional information regarding the development project.
(Bill No. 18-01, § 1, 5-10-01)

Secs. 26-183—26-200. Reserved.

DIVISION 2. DEVELOPMENT REVIEW AND APPROVAL PROCESS

Sec. 26-201. General provisions.

Subject to the provisions of sections 26-170, 26-171, and 26-172, an approved plan is required for all development and a plat is required for any subdivision.
(Code 1978, § 22-53; Bill No. 8-96, § 3, 3-23-96)

Sec. 26-202. Preparation of the concept plan.

(a) *Informational conference (optional).* Prior to the preparation of a concept plan, an applicant is encouraged to meet with county agencies to obtain information about government policies, standards and legislation which could pertain to the applicant's property. This meeting shall be optional, except that for a planned unit development, it shall be mandatory. The provision of such information shall be coordinated through the department of public works. Such information shall include, but not be limited to:

(1) Zoning;

(2) Development regulations and standards;

(3) Plan preparation, review and approval process;

(4) Design policies and guidelines;

(5) Master plan intent and potential conflict;

(6) Growth management policies;

(7) Proximity of sewer, water and storm drainage conveyance system, and roads;

(8) Basic services mapping;

(9) Housing policies;

(10) Microwave pathways;

(11) Environmental constraints, including areas subject to tidal and riverine flooding, tidal and non-tidal wetlands, areas of wet soils, county-designated critical areas, steep slopes, agricultural preservation areas, water courses, rare and significant plant and wildlife habitats and forest conservation;

(12) Recreation and open space requirements;

(13) Historical and archeological sites;

(14) State or federal permits which may be applicable;

(15) Critical area findings (section 26-442) and standards (article VIII); and

(16) Master water and sewerage plan designation.

(17) A statement whether the plan is located within an area subject to review by the design review panel.

(b) *Preconcept plan conference.* Except for development in an R.C. 6 zone, at the request of the applicant, the department of permits and development management shall schedule a preconcept plan conference between the applicant and relevant county departments to discuss the concept plan requirements. For development in an R.C. 6 zone, a preconcept plan conference is mandatory.

(c) (1) The concept plan shall set forth an informative conceptual and schematic representation of the proposed development in a simple, clear and legible manner. It should indicate general site layout, proposed building types and uses, proposed number of units or square footage for nonresidential projects, parking and traffic, proposed open space, general location and size of community identification, enterprise, and joint identification signs, landscape concept and any significant changes to topography and surface drainage. Based on the best available information, the general location of streams, wetlands, steep slopes, major vegetation, erodible soils and proposed buffers and setbacks should be shown. A forest stand delineation shall be submitted and reviewed in accordance with section 14-406. The plan should be in sufficient detail to enable the county, other reviewing agen-

(i) A representative of the office of zoning administration and development management or a representative of the office of planning and zoning shall attend the CIM. The CIM shall be conducted by a representative of the county. At this meeting the applicant shall present the concept plan for comment and discussion by any party. Minutes of the meeting shall be made by a representative of the county and placed in the development plan file. The county representative shall also prepare a list of comments or conditions raised by any party at the meeting and shall sign the list and place it in the development plan file. The director of zoning administration and development management may require that representatives of any county reviewing agency attend the meeting in order to respond to comments which may be raised or conditions which may be proposed or requested by a party.

(j) At the meeting, a party may raise any comment relevant to the plan or propose any condition to be imposed by the hearing officer on the granting of the plan. If any comments or conditions are unresolved, the director of zoning administration and development management may require an additional meeting to be held and may require representatives of any county reviewing agency to attend the meeting in order to address such comments or conditions.

(k) Comments or proposed or requested conditions which are not resolved through the CIM shall be addressed by appropriate county agencies as part of the development plan review and submitted to the hearing officer pursuant to section 26-205(b).

(l) No development plan may be filed for review without the applicant having participated in a community input meeting.

(m) For a planned unit development, the office of planning and zoning, on behalf of the county, shall provide written comments in the form of a report to the planning board and the applicant within thirty (30) working days from the date of the CIM. Copies of the comments shall be made available to the public, residents and community associations in attendance at the CIM. The director of the office of planning and zoning may recommend changes in the site layout, types, intensity of uses, signage, landscaping requirements or other aspects of the plan which the director deems necessary for the plan to meet the intent and purposes of these regulations and the zoning regulations. The planning board shall grant final approval or denial of the director's report and concept plan. Applications denied by the planning board may not be forwarded for development plan review. The planning board may amend or modify the concept plan. Following approval of the concept plan, the plan may be filed for review in accordance with section 26-203.

(Bill No. 1, 1992, § 2; Bill No. 12-93, 1993, § 2, 4-5-93; Bill No. 29-95, §§ 1, 3, 5-21-95; Bill No. 69-95, § 10, 7-1-95; Bill No. 89-97, § 2, 10-19-97; Bill No. 73-00, §§ 3, 4, 9-15-00)

Sec. 26-203. The development plan.

(a) The plan shall be filed within twelve (12) months after the final community input meeting is concluded. It shall be drawn to an appropriate scale in a clear and legible manner and shall be filed with the department of public works. Copies shall be transmitted to the known parties.

(b) The plan shall contain the following background information:

(1) Vicinity map showing site location and a note identifying election and councilmanic districts;

(2) Census tract, watershed and subsewershed;

(3) Subdivision name and applicant's name and address;

(4) Name and address of person who prepared the plan;

(5) Current zoning of the subject property and surrounding properties, including the location of any residential transition areas;

(6) Ownership of the subject property and adjacent properties, including deed references and tax account number, as shown on the most recent tax maps as published by the department of assessments and taxation, on the basis of more current information if the same is available to the applicant;

(7) Existing buildings and access points on property adjacent to the subject property;

(8) Petitions for variances, special exceptions, special hearings, Chesapeake Bay critical area variations, or requests for waivers from county regulations or standards;

(9) Limitations established by the courts, county board of appeals, planning board

and zoning commissioner or restrictive covenants recorded with individuals or groups which would limit proposed development on the site;

(10) The plan shall contain a certification under oath that there are no delinquent accounts for any other development with respect to any of the following: the applicant, a person with a financial interest in the proposed development, or a person who will perform contractual services on behalf of the proposed development;

(11) The plan shall be signed and sealed by the surveyor, engineer, architect, or landscape architect as appropriate indicating that the plan is accurate and has been prepared in compliance with these regulations.

(c) The plan shall identify the following information concerning existing site conditions:

(1) Existing topography, and existing topography for adjacent properties as shown on the county photogrammetric plats or more recent information where available;

(2) Existing streams, springs, seeps, bodies of water and forest buffers;

(3) Soil types in accordance with the soil survey, Baltimore County, Maryland, including identification of prime and productive soils;

(4) Existing wooded areas;

(5) Existing buildings on the property;

(6) One-hundred-year floodplains or flood areas for both riverine and tidal areas;

(7) Wetlands;

(8) Identification of any building, property or site within or contiguous to the proposed development included on the Maryland Historical Trust Inventory of Historic Properties, the county preliminary or final landmarks list, the National Register of Historic Places, the Maryland Archeological Survey or identification of any county historic district, or national register district covering the proposed development;

(9) Designated areas of critical state concern identified as such under the procedures of section 5-611 of the state finance and procurement article of the Annotated Code of Maryland, as from time to time amended, and as mapped and available for inspection in the office of planning and zoning;

(10) As known to the applicant, location and description of hazardous material as defined by section 7-101 of the environmental article of the Annotated Code of Maryland, as from time to time amended.

(11) Any additional information as may be required by the department of environmental protection and resource management to determine compliance with the critical area local protection program, pursuant to section 26-442(a).

(d) The plan shall contain the following development proposal information:

(1) Proposed lot or building layout with parking and loading area;

(2) Proposed street layout with existing and future paving and right-of-way widths indicated including pedestrian walkways;

(3) Location of existing and proposed easements or rights-of-way, public and private;

(4) Existing and proposed county, state and private streets, along with estimated proposed average daily trips attributable to the development in the plan;

(5) Transit services when appropriate as per the Maryland Mass Transit Administration's access by design publication;

(6) Proposed and existing water and sewer lines;

(7) Proposed and existing underground fuel storage tanks, well and septic areas;

(8) Proposed and existing utility systems and fire hydrants;

(9) General schematic proposals for grading and retaining walls, including the antici-

pated alteration or removal of vegetation or other natural features or a designated limit of disturbance line;

(10) Stormwater management areas supported by preliminary hydrology computations, and proposed and existing storm drainage systems and verification of suitable outfall;

(11) A hydrogeological study and an environmental effects report if required by the department of environmental protection and resource management;

(12) A preliminary forest conservation plan in accordance with section 14-408;

(13) For developments with lots to be served by individual water supplies, evidence of compliance with article II of title 35 of this Code;

(14) Proposed location and use of open space and acreage in accordance with the open space manual;

(15) A chart indicating required and proposed area of open space and parking spaces and indicating the number of units permitted and proposed;

(16) In the case of a plan involving a use in a residential transition area, the following:

a. The residential transition area and existing and proposed uses therein;

b. The proposed buildings;

c. Proposed building setbacks and the distance between principal buildings;

d. Existing and proposed vegetation and buffer areas;

e. Existing and proposed lighting.

(17) When required by the zoning regulations, the plan shall indicate the expected levels of potential emanations, including, but not limited to, smoke, noise, dust, odors, vibrations, glare and heat, and the means to continuously control such emanations;

(18) A schematic landscape plan showing existing vegetation and proposed planting, including street trees (location and quantity) shall be submitted for all development;

(19) The plan may show the location of a precise building envelope in lieu of the precise location of a building; may show precise maximums and minimums in lieu of fixed values; may set forth reasonable lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth;

(20) All additional information required for critical area review, pursuant to section 26-442(a);

(21) Design and placement of signage, lighting and fencing.

(22) a. When required by the zoning regulations or the comprehensive manual of zoning policies, the director of planning may require the following additional items:

1. Layout of the site as it relates to the surrounding roads, and public transit systems, buildings, open space and environmental features;

2. Architectural features such as scale, height, bulk and general massing of buildings, major facade divisions, size and placement of openings, roof treatment, stylistic features and themes and materials; and

3. Safety, convenience and amenity features for the neighborhood, including public safety aspects of site design for retail commercial developments and hours of operation for nonresidential development adjacent to residential areas.

b. Specific design information shall be in the form of building elevations, perspective drawings, building and site cross-sections and large scale

drawings of specific site development details as required by the director of planning.

(e) The plan shall clearly identify any comment raised or condition requested or proposed to the concept plan by a party if such comment or condition is unresolved at the time of filing the development plan.

(f) At the time of filing the plan, the applicant shall file any request for combined hearings under section 26-206.1. The plan shall contain a notation that such a request has been filed.
(Code 1978, § 22-55; Bill No. 18, 1990, §§ 2, 3; Bill No. 1, 1992, § 3; Bill No. 29-95, § 1, 5-21-95; Bill No. 8-96, § 2, 3-23-96; Bill No. 89-97, § 2, 10-19-97)

Sec. 26-204. Preliminary review.

(a) Within fifteen (15) days of the receipt of the development plan and the necessary review fee, the department of public works shall review the plan for general conformance to the concept plan presented at the community input meeting and compliance with section 26-203 of this Code. If the plan is in compliance, the plan shall be accepted for filing and copies of the plan shall be forwarded to the appropriate county agencies for their review. An incomplete plan shall be returned to the applicant with an explanation for its return. For development activities outside the critical area, the plan may not be accepted until the forest conservation requirements in sections 14-406 through 14-408 have been met.

(b) If the plan is inconsistent with the concept plan and the revisions are not related to the outcome of the community input meeting, the plan shall not be accepted for filing until a community input meeting has been held on the revised plan.

(c) The department of permits and development management shall schedule a hearing before the hearing officer which shall occur no earlier than twenty-one (21) days and no later than thirty (30) days after the plan has been accepted as filed.
(Code 1978, § 22-56; Bill No. 1, 1992, § 2; Bill No. 29-95, § 1, 5-21-95; Bill No. 69-95, § 10, 7-1-95; Bill No. 8-96, § 3, 3-23-96)

Sec. 26-205. County review.

(a) The development plan shall be reviewed by the following departments:

(1) Public works;

(2) Planning and zoning;

(3) Environmental protection and resource management;

(4) Education;

(5) Recreation and parks;

(6) Fire;

(7) Police;

(8) Community development;

(9) Economic development commission;

(10) Office of zoning administration and development management;

(11) The landmarks preservation commission, if the plan involves any building or site identified on any one (1) of the lists referred to in section 26-203(c)(8);

(12) State highway administration; and

(13) Any other county agency requested to be represented.

(b) (1) At least ten (10) working days prior to the hearing officer's hearing, the director of zoning administration and development management shall schedule a development plan conference to be attended by representatives of the agencies listed above in (a). Notice of the conference, which is open to the public, shall be posted in the county office building. In addition, written notice shall be sent to all known parties. The director shall attempt to resolve any conflict between agency comments and shall attempt to resolve any comments raised or conditions proposed by a party at the CIM. If any agency listed above in (a) does not attend the conference, the agency is presumed to have no comment on the plan.

(2) At least five (5) working days prior to the hearing officer's hearing, the following shall be submitted in writing to the hear-

ing officer and shall be available for public inspection. In addition, written notice of the availability of the following shall be sent to all known parties:

a. Comments on the plan from any agency listed in subsection (a) of this section;

b. Agency responses to the unresolved comments raised or conditions proposed or requested by a party at the community input meeting;

c. Compatibility recommendations from the director of planning pursuant to section 26-282;

d. Findings from the director of the department of environmental protection and resource management that the proposed development and resource protection activities pursuant to section 26-442:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

2. Conserve fish, wildlife, and plant habitat; and

3. Are consistent with established land use policies for development in the Chesapeake Bay critical area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

(c) Comments and conditions pursuant to subsection (b) above shall be considered by the hearing officer and become a permanent part of the plan file. If no comments or conditions are received by the hearing officer, the plan shall be considered to be in compliance with applicable county regulations.

(d) Notice of the date, time and place of the hearing officer's hearing shall be conspicuously posted at the county's direction on the lot, parcel or tract which is the subject of the plan at least twenty (20) working days prior to the hearing. A plan may not be considered by the hearing officer unless the subject property has been posted in accordance with this section.

(e) Prior to the initial review of the development plan, representatives of the department of public works and office of planning and zoning shall visit the site.

(Code 1978, § 22-57; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2)

Sec. 26-206. Development plan approval.

(a) (1) A public quasi-judicial hearing before the hearing officer is required prior to final action on a plan. The hearing may be informal in nature. The hearing officer shall regulate the course of the hearing as he may deem proper, including the scope and nature of the testimony and evidence presented.

(2) The hearing officer shall take testimony and receive evidence regarding any unresolved comment or condition that is relevant to the proposed plan, including testimony or evidence regarding any potential impact of any approved development upon the proposed plan.

(3) The hearing officer shall make findings for the record and shall render a decision pursuant to the requirements of this section.

(b) The hearing officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations promulgated pursuant to section 2-416 et seq. of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. All final decisions of the hearing officer with respect to

such matters shall be subject to appeal to the county board of appeals as provided in section 26-209 below.

(c) The hearing shall be scheduled as required by section 26-204(c) above.

(d) For a period of at least fifteen (15) days prior to the time of such hearing, notice of the date, time, and place shall be conspicuously posted at the county's direction on the lot, parcel, or tract which is the subject of the plan.

(e) The conduct and operation of such hearings shall be in conformance with rule IV of the zoning commissioner's rules which shall be adopted by reference.

(f) The hearing officer shall have the power to administer oaths and may require witnesses to testify under oath.

(g) The hearing officer shall, upon any final decision on a plan, file an opinion and include therein the basis of the decision.

(h) The department of permits and development management and the hearing officer shall cause to be maintained complete files with respect to all hearing proceedings over which the hearing officer presides. The file with respect to said hearing shall include at least the following documents:

(1) The plan;

(2) Reports or comments or proposed or requested conditions from county agencies, the community input meeting, community groups, or any party or private person relating to the plan;

(3) Exhibits introduced in evidence at the hearing;

(4) The final decision rendered by the hearing officer;

(5) Sections 26-130 and 26-131 of this Code shall be applicable.

(i) The final decision of the hearing officer shall be issued within fifteen (15) days after the final hearing held on the plan. If no decision is rendered within this fifteen-day requirement, the plan shall be deemed approved as submitted by the applicant.

(j) If no decision is rendered, the appeal period begins from the fifteenth day after the final hearing is held. However, the hearing officer shall immediately notify the parties that the plan is deemed approved and that the appeal period has begun.

(k) Copies of a plan approved by the hearing officer shall be forwarded to the directors of public works, planning and zoning, and environmental protection and resource management within five (5) working days after the date of the hearing officer's decision granting approval of the plan as submitted or as revised within the five-day period in compliance with the hearing officer's requirements for any condition imposed upon the plan.

(l) All subsequent detailed development plans such as the final grading and sediment control plan, stormwater management plan, landscape plan, and record plat shall be sealed and certified as being in accordance with the approved development plan.

(m) Copies of any portion of the plan file shall be available to any person upon request and payment of any necessary fees.

(n) The proceedings of any hearing shall be recorded. Any person may have access to the recorded proceedings upon request and upon payment of any fees or costs involved.

(o) In approving a plan, the hearing officer may impose such conditions, as may be deemed necessary or advisable based upon such factual findings as may be supported by evidence for the protection of surrounding and neighboring properties. Such conditions may only be imposed if:

(1) The condition is based upon a comment which was raised or a condition which was proposed or requested by a party;

(2) Without the condition there will be an adverse impact on the health, safety or welfare of the community;

(3) The condition will alleviate the adverse impact; and

(4) The condition does not reduce by more than twenty (20) percent the number of dwelling units proposed by a residential development plan in a DR 5.5., DR 10.5, or DR 16 zone, and no more than twenty (20) percent of the square footage proposed by a non-residential development plan. This subsection is not applicable to a PUD development plan.

The owners, lessees or tenants of the property for which a plan is approved, if required by the hearing officer, shall enter into an agreement in writing with the hearing officer stipulating the conditions governing such final plan approval, the same to be recorded among the land records of the county. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such approval. When so recorded, such agreement shall govern the exercise of the development plan as approved, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

(p) No permit may be issued and no plat recorded in connection with the development plan for a period of thirty (30) days after the final decision of the hearing officer under section 26-206 in a case involving an unresolved comment or condition.

(q) In the review of PUDs the hearing officer may:

(1) Approve the authorization plan as submitted by the planning board;

(2) Approve the plan with such additional modifications or conditions deemed necessary to meet the standards of this section; or

(3) Deny the plan.

(r) The hearing officer may approve a PUD development plan only upon a finding that:

(1) In due consideration of the comments or reports submitted by other agencies or officials, the proposed development meets the intent, purpose, conditions and standards of this section;

(2) The proposed development will not create conditions as set forth in paragraphs A, B, C, D, E or F of subsection 502.1 of the county zoning regulations and will constitute a good design, use and layout of the proposed site;

(3) There is a reasonable expectation that the proposed development will be developed to the full extent of and fully in accordance with the PUD development plan (including development schedules contained therein), in light of: evidence as to the applicant's or developer's financial responsibility in general and with respect to the development proposed; pertinent market data submitted by the applicant, by county agencies or officials, or by others; development cost; general economic conditions which may be anticipated at the time the development or any phase thereof is to be financed; and all other factors which may reasonably be ascertained and have a bearing on the findings;

(4) The development, as approved, would comply with all applicable provisions of the zoning regulations, and the resolution of any conflict between other county laws or technical requirements and the plan must be approved by the hearing officer and incorporated within the plan as finally approved;

(5) The plan is in accordance with the planning objectives and requirements of section 430 of the county zoning regulations, the comprehensive manual of development policies, and the zoning regulations in general;

(6) The project is in conformance with the goals, objectives and recommendations of the master plan or area plans; and

(7) The development does not violate the provisions of any deed or covenants attached to the property.

(s) If modifying a PUD development plan, the hearing officer may grant waivers or variances, special exceptions or special hearings as deemed necessary for the plan to meet the intent, purposes and standards of this section.

(t) The hearing officer's order granting approval of a PUD development plan shall include a statement supported in detail by an explanation of each finding, any additional statements or documentation needed to set forth adequately the basis of the decision, and statements and explanations of any requirements or conditions attached to the grant of the plan.
(Bill No. 1, 1992, § 3; Bill No. 29-95, §§ 1, 3, 5-21-95; Bill No. 69-95, § 10, 7-1-95; Bill No. 46-01, § 1, 8-4-01; Bill No. 101-01, § 1, 1-24-02)

Sec. 26-206.1. Combined zoning and plan approval hearing.

(a) If the development plan requires a special exception, variance, special hearing, or interpretation of the zoning regulations, the applicant may combine the public hearing required by section 26-127 and by the county zoning regulations with the public hearing held by the hearing officer on the plan.

(b) The scheduling of the combined hearing shall be subject to section 26-204 (c) and section 26-206.
(Bill No. 1, 1992, § 3)

Sec. 26-207. Referral to planning board.

(a) The hearing officer shall refer the plan to the planning board in the following circumstances:

(1) The proposed plan conflicts with the master plan;

(2) The zoning regulations require planning board consideration;

(3) The plan involves a building, structure or site included on the landmarks preserva-

Sec. 26-213. Plat—Required.

A plat shall be prepared for any subdivision in accordance with the approval plan.
(Code 1978, § 22-65)

Sec. 26-214. Same—Requirements for approval and recordation.

(a) The plat shall be accompanied by formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the county attorney; and the plat shall be marked with a notation indicating such offers of dedication.

(b) If an applicant retains any open space, streets, utilities or recreational facilities, or conveys them to a homeowner's association or similar entity, he shall be required to submit for approval by the office of law a declaration of protective covenants, together with the articles of incorporation and corporate bylaws which will provide for use in common and maintenance of the land.

(c) Acceptance of formal offers of dedication of streets, easements, parks, open space, and other public areas shall be solely by the county executive. The recording of a plat shall not be deemed to constitute or imply the acceptance by the county of any street, easement, park, open space, or other public area shown on said plat.

(d) The plat shall be accompanied by a copy of agreements to be executed in accordance with the respective public services company's procedures for underground telephone and electric services for a subdivision with the public services companies in whose service territory the subdivision is located. These agreements shall provide that the applicant is responsible for all applicable charges and deposits in accordance with the applicable public service commission rules and company service tariffs, even though building lots of the subdivision may be sold, developed, or improved by third parties and that the posting of all required deposits and charges for undergrounding telephone and electric services shall occur prior to the earliest of (1) the conveyance of any lot or lots in the subdivision or (2) the awarding of any contract for the construction of required public or private improvements within the subdivision.

(e) The plat shall contain the following notations:

(1) That recording of the plat does not constitute or imply acceptance by the county of any street, easement, park, open space, or other public area shown on the plat.

(2) That the plat may expire in accordance with section 26-216.

(3) That recording of the plat does not guarantee installation of streets or utilities by the county.

(4) That the information shown may be superseded by a subsequent or amended plat.

(5) That additional information concerning the plat may be obtained from the office of planning and zoning and department of public works.

(f) The record plat shall:

(1) Be drawn clearly and shall conform to the requirements of Ann. Code of Md., Real Property article, § 3-108 relating to the making, filing, and recording of plats.

(2) Contain a notation of any self-imposed restrictions and any building setback lines.

(3) Contain the endorsements by the directors of public works, planning and zoning, and health as required by section 26-215.

(4) Contain the lot numbers, addresses, and street names as approved by the county.

(5) Indicate all corners and other points in their proper places.

(g) The following items pertaining to the title shall be grouped, if possible:

(1) Name of subdivision.

(2) Location by election district, county, and state.

(3) Names, addresses, and signatures of owner and land surveyor with seal affixed.

(4) Date and nature of revision, if applicable.

(h) The following graphic items pertaining to the plat shall be shown on the record plat:

(1) A heavy line indicating the boundary of the subdivision.

(2) Exact locations, widths, and names of all streets within the subdivision and widths of alleys and crosswalkways.

(3) All easement reservations or rights-of-way provided for public services or utilities in the subdivision, and any limitations of such easements.

(4) Accurate outlines of any areas to be reserved for common use by residents of the subdivision or for general public use, with the purposes indicated thereon.

(5) Front building lines, shown graphically, with dimensions.

(6) Block, lot, and improvement numbers and lines, with accurate bearings and dimensions of all block and lot lines, including lengths of arcs and radii.

(7) Northpoint.

(i) All bearings on the record plat shall be referred to a coordinate system approved by the director of the department of public works.
(Code 1978, § 22-66; Bill No. 8-96, §§ 1, 3, 3-23-96; Bill No. 34-98, § 1, 4-10-98)

Sec. 26-215. Same—Procedure for approval.

(a) After plan approval, a plat may be submitted to the department of public works. Such plat may not be approved without approval of the following, if required:

(1) Stormwater management plans;

(2) Public works agreement;

(3) Development plan, if required by the zoning regulations;

(4) Security; and

(5) Necessary fees.

The items specified in subsections (a)(1) through (a)(3) of this section shall be approved or disapproved within thirty (30) days of submission if said action involves only approvals by county agencies, or sixty (60) days if said action involves approvals by state or federal agencies, and any disapproval shall be accompanied by a written statement of the reasons therefor. The time periods specified in this subsection may be extended by written agreement of the applicant.

(b) After receipt and approval of all items required in subsection (a) of this section, the director of public works shall promptly transmit the plat to the department of environmental protection and resource management and office of planning for their review for conformity with the plan, unless said plat was already reviewed by the departments for such conformity.

(c) Within ten (10) days after receipt of the plat, the directors of public works, environmental protection and resource management, and planning or their authorized representatives shall approve, modify with the consent of the applicant, or disapprove the plat. The applicant shall be notified in writing of the reasons for modification or disapproval.

(d) No plat may be recorded unless it has been approved by all three (3) directors above and the approvals have been so noted on the plat.

(e) No appeal shall be allowed from plat approval.
(Code 1978, § 22-67; Bill No. 18, 1990, § 2; Bill No. 8-96, § 3, 3-23-96)

Sec. 26-216. Time limit for validity of subdivision plats.

(a) Unless extended pursuant to the provisions of section 26-217, a subdivision plat shall lapse and be invalid for either the entire subdivision or any section or parcel thereof, if such subdivision, section, or parcel has not been developed, as defined in subsection (c) of this section, in accordance with the following time limits as applicable:

(1) Any plat, except a plat of a planned industrial park, recorded prior to the effective date of these regulations shall expire five (5) years after recordation or on April 16, 1982, whichever is later.

(2) Any plat of a planned industrial park recorded prior to the effective date of these regulations shall expire twelve (12) years after recordation.

(3) Any plat, whether recorded or not, which is approved after the effective date of these regulations shall expire eight (8) years after the date of approval of the plan pursuant to which the plat was prepared, except that a plat which will expire on or before June 30, 1996, shall be extended for a two (2) year period. However, a plat for which there is an approved reclamation plan pursuant to division 5 of this article shall expire eight (8) years after the date of approval by the CRG of the plan pursuant to which the plat was approved but in no event later than twenty (20) years after the date of approval of the reclamation development plan by the planning board.

(b) Except as provided in subsection (d) of this section, upon the lapse of a plat for any undeveloped subdivision, section, or parcel thereof, the development thereafter of such undeveloped subdivision, section, or parcel shall comply with the development regulations in effect at the time of said development.

(c) A subdivision, section, or parcel thereof is hereby defined as developed and is therefore considered to be vested if any of the following has occurred with respect to such subdivision, section, or parcel:

(1) Building permits have been issued; or

(2) Substantial construction on required public or private improvements has occurred on such subdivision, section, or parcel pursuant to the applicable regulations and requirements of the department of public works.

(d) Lots in the same ownership, not to exceed three (3) in number, if used for single-family dwellings, are exempt from the lapse provisions of this section.

(e) "Same ownership" as used in this section means any ownership interest by the same person, corporation, firm, entity, trust, estate, partnership, or unincorporated association.
(Code 1978, § 22-68; Bill No. 18, 1990, § 2; Bill No. 130, 1992, § 1, 9-27-92)

Sec. 26-217. Extension of time limit for validity of subdivision plats and approved plans.

(a) Any subdivision plat for an entire subdivision or any section or parcel thereof or any approved plan which would lapse and become invalid under the provisions of section 26-216 or section 26-210 on or after November 25, 1979, shall be extended and remain valid if:

(1) With respect to an approved plan, the developer was prevented from recording a plat by reason of a deficiency in basic services for water, sewer, or transportation; or with respect to a recorded subdivision plat, the entire subdivision or any section or parcel thereof could not be developed, as defined under section 26-216(c), by reason of the existence of a deficiency in basic services for water, sewer, or transportation.

(2) The deficiency either occurred or was in existence on or after November 25, 1979.

(b) With respect to an approved plan, the length of time of any extension shall be equivalent to the lesser of:

(1) The period of time that the deficiency prevents a plat from being recorded; or

(2) The period of time remaining for plan validity at the time of the deficiency determination.

(c) With respect to a recorded subdivision plat, the length of time of any extension shall be equivalent to the lesser of:

(1) The period of time that the deficiency prohibits or prohibited development of the entire subdivision or any section or parcel thereof;

(2) The period of time remaining for plat validity at the time of deficiency.

Notwithstanding the foregoing, in the event a deficiency occurs in the last eighteen (18) months of the life of a plat, the length of time of the extension allowed shall be eighteen (18) months. In no event shall any subdivision plat for either the entire subdivision or any section or parcel

DIVISION 4. GENERAL DESIGN STANDARDS AND REQUIREMENTS

Sec. 26-261. Compliance.

(a) The general design standards and requirements set forth in this division are intended to provide criteria for the preparation and review of proposed development.

(b) Subject to the provisions of sections 26-170 and 26-172, all development shall meet the standards and requirements contained in this division and shall conform to the policy and intent of these regulations.

(c) Additional standards and requirements, not inconsistent with these regulations, shall be adopted in accordance with the provisions of section 26-283 of these regulations.

(d) Proposed development in the critical area must also comply with the standards and requirements specified in this Code.
(Code 1978, § 22-80)

Sec. 26-262. Street system.

The proposed street system must provide safe and convenient vehicular circulation, both within the tract and between it and neighboring properties or particular traffic generators. To this end, no plan or plat may be approved unless the tract to which it applies is bordered by or would have access to a public street that is or would be made adequate to carry anticipated traffic; and no plan or plat may be approved unless construction pursuant to it would provide adequate access for emergency-service vehicles to each building on the tract. Internal circulation must be predominantly by local streets and through-traffic movement predominantly by collector or arterial streets. Only the minimum necessary number of driveway entrances on collector or arterial streets may be permitted, and the county may require the provision of a single access drive or a frontage road to serve adjacent buildings or lots, where necessary to reduce the number of entrances on an arterial street. Access drives connecting nonresidential developments may be required. The street system may be required to be extended to the boundaries of the tract and connected to adjacent street.
(Code 1978, § 22-81)

Cross reference—Roads, bridges and sidewalks, tit. 31.

Sec. 26-263. Street design and construction.

Proposed streets must conform to adopted county standards for design and construction, except that different standards may be imposed where necessary to:

(1) Preserve trees or other natural features;

(2) Minimize grading or impervious surfacing;

(3) Accommodate utilities, landscaping, benches, sidewalks, or other street-side facilities; or

(4) Increase the suitability of the design or construction to the terrain, soil, surface drainage, groundwater, or anticipated traffic load or speed.

In addition, the county may require the provision of turning lanes and traffic signals as necessary at heavily traveled intersections or impose other special requirements for street design or arrangement as may be necessary to minimize the total number of intersections or to minimize four-way intersections, oblique intersections, intersections on curves, or large corner radii. No proposed street may be designed so as to intersect at grade with any railroad, except sidings.
(Code 1978, § 22-82)

Cross reference—Roads, bridges and sidewalks, tit. 31.

Sec. 26-264. Parking, signs, benches and transit facilities.

(a) Parking required under provisions of the zoning regulations and the state building code for the handicapped must be located and designed so as not to interfere with vehicular or pedestrian traffic and so as to be convenient to the principal entrance of buildings. Parking areas may be required to be dispersed on the site so that each is relatively small.

tions, buildings, structures, pavements, grading, clearing or other disturbances of the soils will be limited or restricted in accordance with policies established by the department of environmental protection and resource management to promote agricultural uses and protect the county's soil resources.
(Code 1978, § 22-99; Bill No. 18, 1990, § 2; Bill No. 113, 1992, § 5)

Sec. 26-278. Preservation of natural or historic features.

Natural features (including watercourses, waterfalls, beaches and significant vegetation) and historic structures or sites identified on any of the lists referred to in section 26-203(c)(8) must be preserved. In particular, the county must find that an adequate method of protecting any known habitat of an endangered species has been proposed.
(Code 1978, § 22-100; Bill No. 29-95, § 1, 5-21-95)

Sec. 26-279. Street layout generally.

The proposed street layout must adequately separate dwelling units from adjacent arterial streets. In addition, the approval authority may require curvilinear, cul-de-sac or U-shaped streets where necessary to meet the purposes of these regulations. Any cul-de-sac or dead-end street (including any permitted temporary dead-end street) must have adequate paved turning space, and the county may limit the length of such a street.
(Code 1978, § 22-101)
Cross reference—Roads, bridges and sidewalks, tit. 31.

Sec. 26-280. Names of development and streets.

The county may require a change in the proposed name of any streets or of a proposed development.
(Code 1978, § 22-102)
Cross reference—Roads, bridges and sidewalks, tit. 31.

Sec. 26-281. Designated areas.

(a) For those improvements described in sections 26-263, 26-264 and 26-265, the county may require specifications for materials and design that further the objectives of revitalization areas, growth areas and rural agricultural areas.

(b) A design review panel shall provide the county with analysis and comments on site design review and architectural design review in accordance with the provisions of section 26-219 and the comprehensive manual of development policies.
(Code 1978, § 22-103; Bill No. 12, 1993, § 2)

Sec. 26-282. Compatibility.

(a) The director of planning shall make compatibility recommendations to the hearing officer for:

(1) Cluster subdivisions;

(2) Development in the RCC, R-0, OR-1, OR-2, O-3, SE or OT zones or the CR districts or a PUD development; or

(3) Alternative site design dwellings as provided in the comprehensive manual of development policies.

(b) Development of property, subject to section 26-282(a) shall be designed to achieve the following compatibility objectives in accordance with the guidelines in the comprehensive manual of development policies:

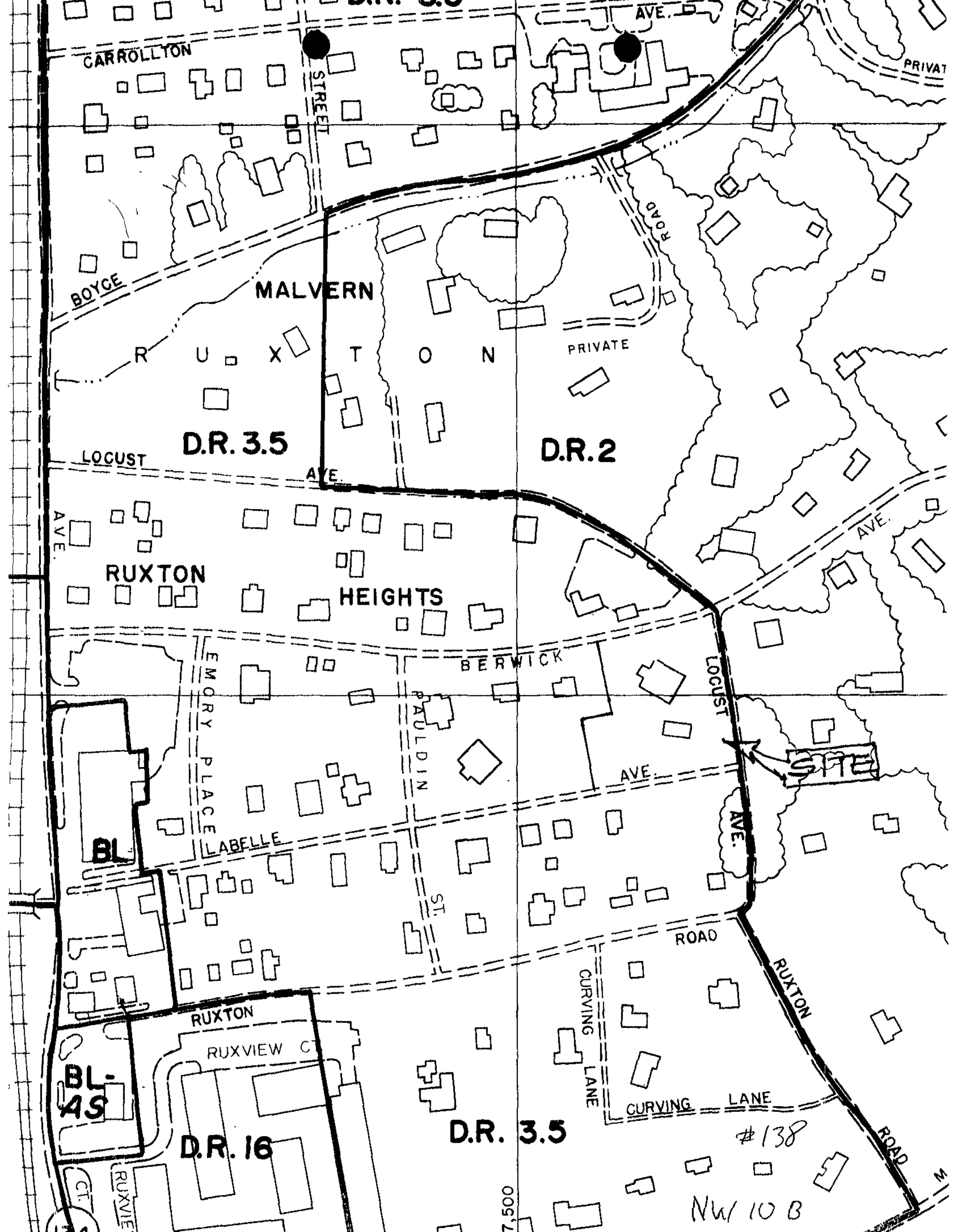
(1) The arrangement and orientation of the proposed buildings and site improvements are patterned in a similar manner to those in the neighborhood;

(2) The building and parking lot layouts reinforce existing building and streetscape patterns and assure that the placement of buildings and parking lots have no adverse impact on the neighborhood;

(3) The proposed streets are connected with the existing neighborhood road network where ever possible and the proposed sidewalks are located to support the functional patterns of the neighborhood;

(4) The open spaces of the proposed development reinforce the open space patterns of the neighborhood in form and siting and complement existing open space systems.

(5) Locally significant features of the site such as distinctive buildings or vistas are integrated into the site design;


CARROLLTON
STREET
AVE.
PRIVAT
BOYCE
MALVERN
ROAD
PRIVATE
R U X T O N
D.R. 3.5
D.R. 2
LOCUST
AVE.
AVE.
RUXTON
HEIGHTS
BERWICK
EMORY PLACE
PAULDIN
LOCUST
AVE.
SITE
AVE.
LABELLE
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ROAD
RUXTON
CURVING
LANE
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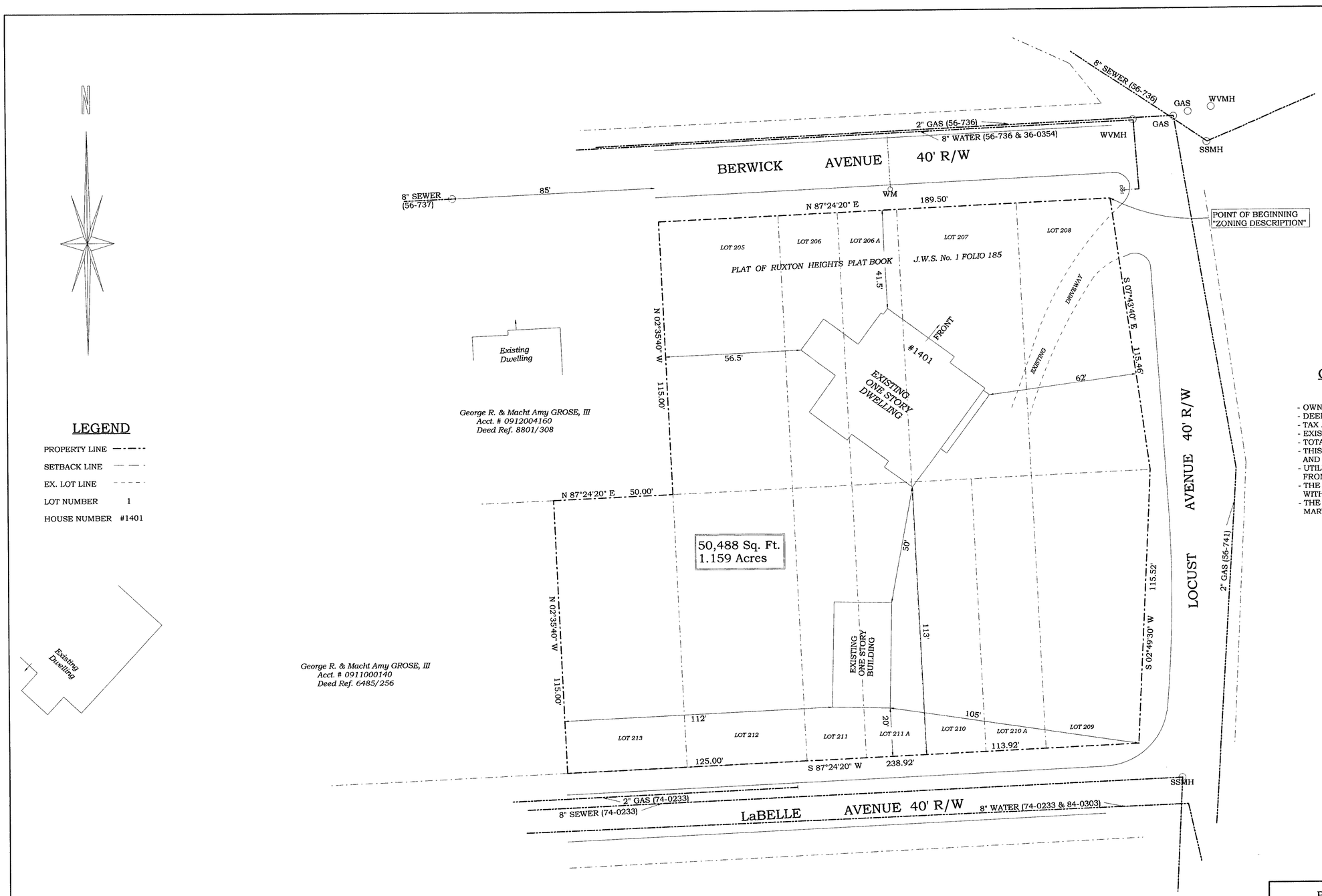
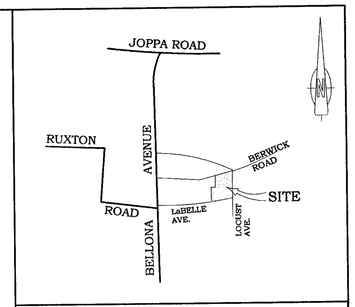




VICINITY MAP 1" = 1000'±

LEGEND

PROPERTY LINE
SETBACK LINE
EX. LOT LINE
LOT NUMBER 1
HOUSE NUMBER #1401

GENERAL NOTES

- OWNER BENHOFF BUILDERS, INC.
- DEED REF. 16692/293
- TAX Acct. # 0923154890
- EXISTING ZONING DR 3.5
- TOTAL GROSS AREA 1.159 Acres
- THIS SITE IS SERVICED WITH PUBLIC WATER AND SEWER
- UTILITY LOCATION SHOWN HEREON WERE TAKEN FROM PLANS PROVIDED BY BALTIMORE COUNTY.
- THE PROPERTY SHOWN HEREON DOES NOT LIE WITHIN THE BOUNDARIES OF ANY FLOOD PLAIN.
- THE STRUCTURE AT 1401 BERWICK ROAD IS ON THE MARYLAND HISTORIC TRUST INVENTORY No. BA3009.

PRIOR ZONING HEARINGS

NONE FOUND

OWNER/DEVELOPER

BENHOFF BUILDERS INC.
Melvin C. Benhoff Jr.
215 Old Padonia Road
Cockeysville, MD. 21030

PLAN TO ACCOMPANY PETITION FOR ADMINISTRATIVE SPECIAL HEARING

1401 BERWICK ROAD

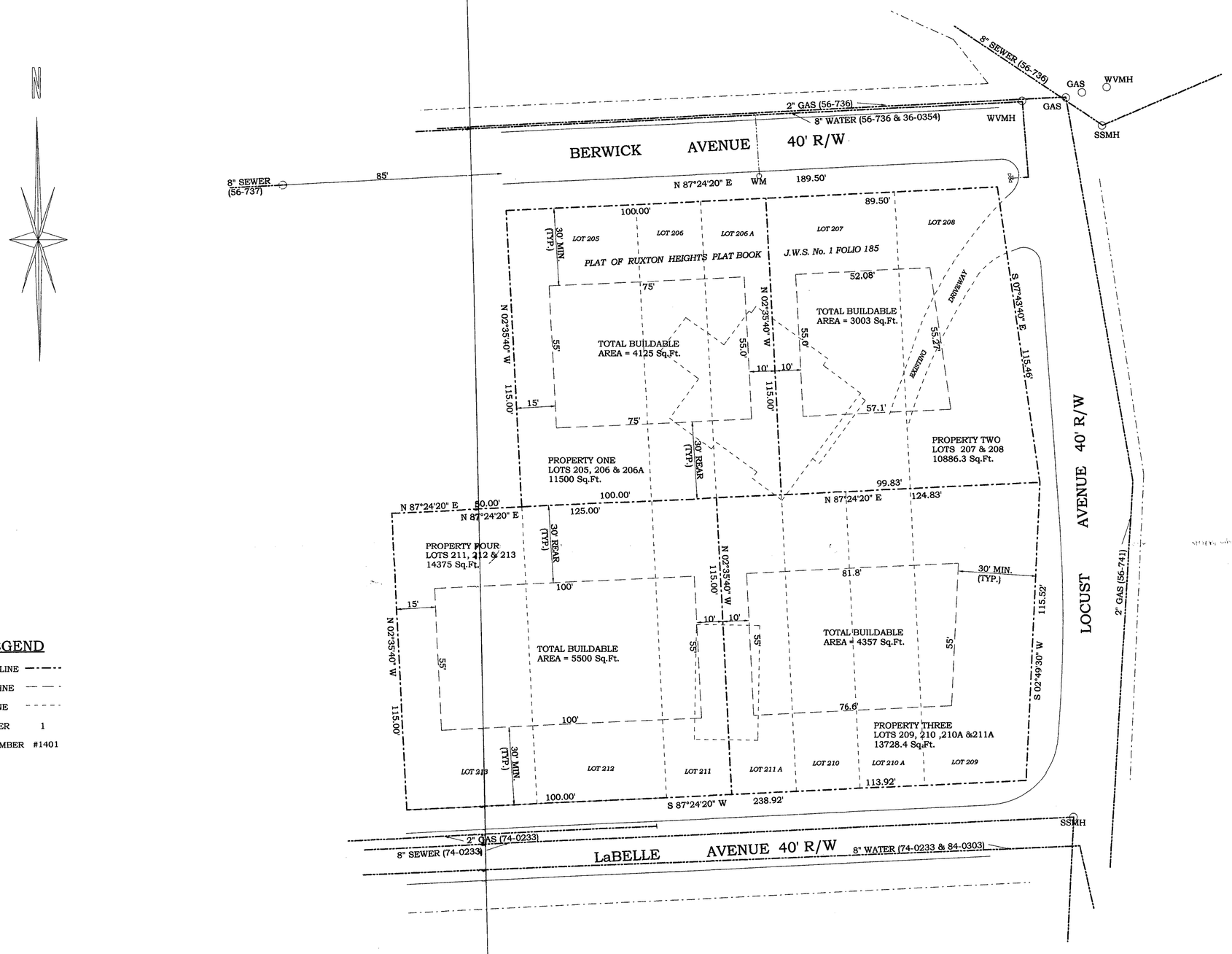
9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD.

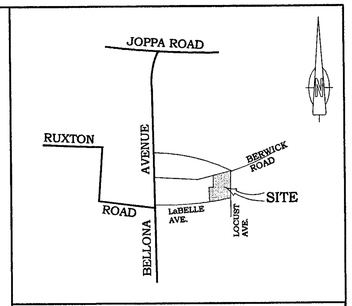
SCALE: 1"=20' DATE: SEPT. 11, 2002

W.T. SADLER SURVEYORS

152 Westminster Pike Reisterstown, MD. 21136
410-526-5618

Pet Ex #1
#133





VICINITY MAP 1" = 1000'±

GENERAL NOTES

- OWNER J. ELMER WEISHEIT, Jr. & JACQUELIN M. WEISHEIT
- DEED REF. 12260/190
- TAX Acct. # 0923154890
- EXISTING ZONING DR 3.5
- TOTAL GROSS AREA 1.159 Acres
- THIS SITE IS SERVICED WITH PUBLIC WATER AND SEWER
- UTILITY LOCATION SHOWN HEREON WERE TAKEN FROM PLANS PROVIDED BY BALTIMORE COUNTY.

SETBACK /LOT REQUIREMENTS

- MIN. LOT SIZE 10,000 Sq.Ft.
- MIN. LOT WIDTH 70'
- SETBACKS
  - FRONT 30'
  - REAR 30'
  - MIN SIDE 10'
  - TOTAL SIDE 25'

LEGEND

PROPERTY LINE
SETBACK LINE
EX. LOT LINE
LOT NUMBER 1
HOUSE NUMBER #1401

OWNER/DEVELOPER

J. ELMER WEISHEIT, Jr.
JACQUELIN M. WEISHEIT
1401 BERWICK ROAD TOWSON, MD. 21204

PART OF PLAT OF RUXTON HEIGHTS

1401 BERWICK ROAD

9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD.

SCALE: 1"=20' DATE: JULY 1, 2002

W.T. SADLER SURVEYORS

152 Westminster Pike Reisterstown, MD. 21136
410-526-5618

EXHIBIT A