ORDER RE(

IN RE: DEVELOPMENT PLAN HEARING and

PETITION FOR SPECIAL HEARING

AND VARIANCE – N/S Tollgate Road,

@ W/S Old Tollgate Road

(Lee R. Jones Property)

4<sup>th</sup> Election District

3<sup>rd</sup> Council District

\* BEFORE THE

\* ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case Nos. IV-587 & 03-344-SPH

Lee R. Jones & Maud D. Jones, Owners;

John F. Owings Enterprises, Contract Purchaser/Developer

## HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a single public hearing, pursuant to Section 26-206.1 of the Baltimore County Code (Code) for consideration of a development plan and Petition for Special Hearing for the proposed residential development of the subject property with 96 condominium dwelling units. Pursuant to the development review regulations codified in Title 26 thereof, the Owners/Developers seek approval of a development plan, prepared by W. Duvall & Associates, Inc., on behalf of Lee R. Jones (now deceased) and Maud D. Jones, Property Owners, and the Contract Purchaser/Developer, John F. Owings Enterprises. In addition, special hearing relief is requested to approve a waiver/amendment of the requirements of Section III.6A & 7A of the Local Open Space Manual with respect to the areas designated as active and passive local open space. An amendment to the "Amended Documented Site Plan" approved by the County Board of Appeals in Case No. CR-02-070 to reflect the proposed improvements and waiver/amendment is also requested. The subject property consists of a gross area of 14.7 acres, more or less, split zoned D.R.3.5 and D.R.10.5, and is located on the northwest corner of Tollgate Road and Old Tollgate Road in Owings Mills. The proposed subdivision is more particularly described on the redlined development plan submitted and marked into evidence as Developer's Exhibit 2.

As to the history of this project through the development review process codified in Title 26 of the Baltimore County Code, a concept plan of the proposed development was prepared and a conference held thereon on April 15, 2002. As the name suggests, the concept

 plan is a schematic representation of the proposed subdivision and is reviewed by and between representatives of the Developer and the reviewing County agencies at the Concept Plan Conference (CPC). Thereafter, as required, a Community Input Meeting (CIM) is scheduled during evening hours at a location near the property to provide residents of the area an opportunity to review and comment on the plan. In this case, the CIM was held on May 21, 2002 at the Owings Mills High School. Subsequently, a development plan is prepared, based upon the comments received at the CPC and CIM, and submitted for further review at a Development Plan Conference (DPC) which is again held between the Developer's consultants and reviewing County agencies. In this case, the DPC was held on February 12, 2003. Following the DPC, comments are submitted by the appropriate County reviewing agencies and a revised development plan incorporating these comments is submitted at the Hearing Officer's Hearing, which in this case was held on March 6, 2003.

Appearing at the public hearing required for this project were John Owings, Principal in John Owings Enterprises, Contract Purchaser/Developer; Will Duvall and Kevin Wight, on behalf of W. Duvall & Associates, Inc., the consultants who prepared the development plan; and Lawrence M. Hammond, Esquire, attorney for the Owners/Developers. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Donald Rascoe, Project Manager; Bob Bowling and Terry Curtis, Development Plans Review; Ron Goodwin, Land Acquisition; and, John Sullivan, Zoning Review. Also appearing on behalf of the County were Anne Roane, Office of Planning (OP); R. Bruce Seeley, Department of Environmental Protection and Resource Management (DEPRM); and Jan Cook, Department of Recreation and Parks (R&P). Appearing from the surrounding community were Bryan Thaler and Marjorie Bridgham. Additionally, Phil Filner and Art Coppersmith appeared on behalf of the Tollgate Action Group, a local community association.

As noted above, the subject property is an irregularly shaped parcel with frontage on the northwest side of the intersection of Tollgate Road and Old Tollgate Road in Owings Mills.

ORDER RECEIVED FOR FILING By The property is bounded on the west side by the Owings Mills High School property and to the south and east is the single-family residential community of Tollgate. The property consists of approximately 14.7 acres, split zoned D.R.3.5 and D.R.10.5, and is presently improved with one single family dwelling known as 24 Old Tollgate Road. The property features a large wooded area, as well as wetlands and a stream in the northern portion of the site.

Testimony indicated that Lee R. Jones (now deceased) and his widow, Maud D. Jones, as surviving owner, have owned and resided on the property for many years. She has entered into a contract with John Owings Enterprises for purchase and development of the site. Apparently, the development potential of the subject property has long been an issue in the community. At one time, the Owings Mills High School considered acquiring a portion of the site for ball fields. Plans were also discussed for the development of the site as a community park. Developers other than Mr. Owings were also interested in developing the property as a single-family dwelling community; however, residents from the surrounding locale were particularly opposed to this option. These residents mobilized to monitor the various proposals and formed the Tollgate Action Group. Messrs. Filner and Coppersmith are leaders of that group and appeared at the hearing.

The community apparently endorses Mr. Owings' proposal. As more particularly shown on the plan, the Developer proposes the construction of four, 3-story condominium buildings on the property. Collectively, these buildings will house 96 living units, which will be occupied only by individuals 55 years of age and older. Proposed vehicular access to the site will be by way of a private road/driveway that extends into the property from Old Tollgate Road. Apparently, the residents of the surrounding locale believe that the impacts associated with the proposed elderly housing development will be less than those impacts associated with a more traditional single-family housing community.

In order for the proposed development scheme to move forward, a rezoning of a portion of the property was necessary following the quadrennial rezoning process in 2000. In this regard, a letter was introduced at the hearing from Councilman Bryan McIntire in whose

district the subject property is located. His letter (Developer's Exhibit 3) indicates that it was the Council's intention during the comprehensive rezoning process in 2000 to rezone a portion of the property to D.R.10.5; however, the project "slipped through the cracks" and remained zoned D.R.3.5. Thus, the Developer sought relief through the County's Board of Appeals. Under the law, the Board of Appeals may approve the zoning reclassification of property during the intervening time between the cyclical process. In this regard, the Board of Appeals granted a Petition for Reclassification in Case No. CR-02-070 to rezone a portion of the subject property from D.R.3.5 to D.R.10.5, by its Order dated April 15, 2002. The "documented site plan" approved by the Board of Appeals was submitted into evidence as Developer's Exhibit 1.

The Developer and the Tollgate Action Group have been in active negotiations regarding the proposed development of this site. Those negotiations culminated with the parties entering into a Declaration of Restrictive Covenants (Developer's Exhibit 5). Generally, that agreement indicates that the Developer will make best efforts to develop the subject property as an elderly condominium facility, which will consist of four buildings with maximum 96 density units. Other obligations by and between the parties are set forth therein. Thus, the community supports the project as shown on Developer's Exhibit 2.

At the hearing, a number of open issues and unresolved agency comments were identified, of which most can be resolved by simple amendment or notation to the plan. The Developer was in agreement regarding the resolution of those items identified as "housekeeping items" by the County representatives. However, there remained a single major unresolved issue that will be discussed hereinafter.

As to the minor issues, Messrs. Goodwin and Seeley indicated that all areas of the storm water management facility need be shown within the storm water management easement area. Apparently, storm water management is to be provided by an underground facility beneath the proposed parking lot. Mr. Seeley identified certain trenches as part of that system. Although it will be a private system not maintained by the County, all areas of the system need be within

 the easement area for County inspection. On behalf of the Developer, Mr. Hammond indicated that the plan could be amended accordingly.

Secondly, Mr. Seeley indicated that the plan was acceptable to his agency and that preliminary storm water management approval had been granted. A suitable outfall has been determined and identified. Mr. Seeley stated however, that during Phase 2 of the review process, the Developer need pay particular attention to the proposed outfall and its impact on certain mulched walking trails. This was identified as an advisory comment for Phase 2 of the proceedings.

Third, Mr. Goodwin indicated that right-of-way numbers for Tollgate Road need be placed on the plan. Additionally, Parcel A need be clearly identified. In this regard, it was indicated that the northern portion of the subject site (identified as Parcel A) will be conveyed from the Developer to Tollgate Action Group. Previously, Mr. Owings has conveyed several small adjacent properties to that organization. The conveyance of Parcel A (5.0 plus acres) when added to the other parcels previously conveyed will result in the creation of a new tract, approximately 7 acres in area. It is anticipated that this land will remain an undeveloped tract in perpetuity as a nature conservancy.

Although the above issues were identified and easily resolved, a major unresolved issue was raised by Mr. Cook on behalf of the Department of Recreation and Parks. This issue results from the requirement that the plan provide areas of passive and active open space, pursuant to Section 26-498 of the Baltimore County Code. That Section was enacted into law as part of Bill #110-99, which is known as the Adequate Public Facilities Act. Section 26-498 requires that residential developments provide areas of open space. These areas are delineated into two categories; "active" and "passive" open space. Quite obviously, areas of active open space are intended to be those areas such as ball fields, and might include swimming pools, tennis courts, and playgrounds. Areas of active open space must maintain a grade of less than 4% and must be "open, dry and unencumbered." Passive areas of open space are generally

walking trails, picnic areas, etc. Passive open space may be generally sloped and/or sparsely wooded. Areas of passive open space must have a grade less than 10%.

As more particularly shown on the redlined development plan, the proposal provides for adequately sized areas of both active and passive open space. Active open space is shown within that area of the project surrounded on three sides by the condominium buildings. The four condominium buildings collectively form a "U" shape and the area of active open space is located within that area surrounded by the "U." The active open space measures 62,461 sq.ft. in area (1.43 acres) and is presently made up of existing lawn area as well as mature woods; however, it will be improved with a pavilion and a greenhouse building, as well as a walking path. The passive open space proposed under this project is located on the southern part of the tract. Specifically, it is situated between the parking areas and buildings and Tollgate Road. The area of passive open space shown is 37,020 sq.ft. (.85 acres). Within this area, the Developer proposes the construction of a tot lot that will be built into and around mature trees. It is anticipated that residents of the community will take visiting grandchildren to this tot lot.

At the Hearing Officer's Hearing, Mr. Cook indicated that the areas of open space as shown on the plan were not acceptable to the Department of Recreation and Parks. Although the size of the areas of open space is sufficient, a small portion within each area has a grade greater than the allowed 4% for active open space and 10% for passive open space. He believes that the plan should be amended to bring the open space areas into compliance with the grading requirements set forth in the Local Open Space Manual.

The Developer avers that the areas of open space as proposed meet the spirit and intent of the ordinance. The Developer believes that the elderly residents who will reside on this site do not need ball fields and other areas where rigorous physical activity or sporting games would be conducted. The Developer urges that the areas of active open space and the gazebo, greenhouse and walking trails provided therein are more appropriate for this community. Additionally, the Developer believes that the areas of passive open space are appropriate. In this regard, the plan does feature a series of walking trails that will provide amenities to the

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OKOER RECEIVED 703 FILING By residents. Finally, it is noted that the property immediately abuts Owings Mills High School and the athletic fields located on that property. Should potential residents of the subject site need an area for sports or active recreation, the Owings Mills High School fields are immediately available.

The residents who appeared from the surrounding community agreed with the Developer's position. As importantly, they believe that the grading necessary to obtain the required 4% and 10% grades would result in the loss of a significant area of woods and mature trees. The residents are particularly concerned about the preservation of as much of the tree cover on this property as possible. That cover will buffer the condominium buildings, parking lot, and uses from the adjacent homes on Tollgate Road and Old Tollgate Road. The residents are vehemently opposed to the cutting and clearing of those areas, and believe that the intent of the open space manual is achieved under the plan.

For his part, Mr. Cook explained the rationale of the Department of Recreation and Parks. Although at odds with both the Developer and surrounding community, he believes that the Adequate Public Facilities Act mandates strict adherence. He also opined that some of the trees that are shown as preserved might be lost because of grading and construction activities for the parking lot and proposed buildings. He believes that the plan need be amended to provide adequately sized areas of active and passive open space in strict compliance with the grading requirements contained within the Local Open Space Manual.

Upon due consideration of the testimony and evidence offered on this issue, I am persuaded that the plan as submitted should be approved. It is clear that the circumstances surrounding this issue are unique in this case. The fact that the proposal is targeted for residents over 55 years of age is a factor that cannot be ignored. The recreational amenities for that segment of the population are significantly different from those which might be appropriate for a single family dwelling community composed of young families. These residents do not need ball fields and large open areas for sporting events. The active open space provided will fit the needs of these prospective residents. The walking trails, gazebo/pavilion, and greenhouse all

provide reasonable amenities. Additionally, the tot lot for visiting grandchildren and areas of passive open space are acceptable. As noted above, the neighboring school grounds of the Owings Mills High School are available to the public. Finally, I am persuaded by the arguments of both the residents and the Developer that the preservation of trees and wooded areas is an appropriate goal. In my judgment, the plan meets the spirit and intent of the Adequate Public Facilities Act, particularly given the unique circumstances as they exist here.

Section 26-206 of the Baltimore County Code sets out the Hearing Officer's responsibilities in considering any plan. Section 26-206(o) authorizes the Hearing Officer to impose conditions upon the approval of any plan. Those conditions may be imposed based upon such factual findings as may be supported by evidence for the protection of surrounding and neighboring properties. The conditions may only be imposed if, 1) the condition is based upon a comment that was raised by a party; 2) that without the imposition of the condition there would be an adverse impact on the health, safety or general welfare of the community; and 3) that the condition will alleviate the adverse impact. In this case, a condition was requested by two parties; namely, the Developer and Tollgate Action Group. That condition was that the areas of active and passive open space as proposed be permitted to remain without clearing and grading to meet the 4%/10% requirement. Sufficient testimony and evidence was offered to support a finding that without the imposition of the condition, there would be an adverse impact on the community. The imposition of the condition (i.e., the retention of trees) will alleviate the adverse impact.

I hereby find that the criteria established by Section 26-206 for the imposition of a condition has been met. In my judgment, a condition should be imposed on this plan upon its approval. That condition is that the areas of active and passive open space as proposed be required to remain as shown on the plan. Grading and cutting as necessary to achieve 4% and 10% grades should not be allowed.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> It is also to be noted that a portion of the area of passive open space is within a Residential Transition Area (RTA). RTAs are established in D.R. zones to provide buffers between dissimilar housing types. In this case, the RTA buffers are appropriate to separate the proposed condominium buildings from the single-family dwellings in the

ORDER RECEIVED FOR FILING By In considering this issue, I am mindful of the various provisions of the Code which regulate and require recreational open space. In considering those Sections, the Hearing Officer is bound by the cardinal rule of statutory construction; to wit, to ascertain the intent of the legislature. (See e.g., Oaks v. Connors, 339 Md. 24 (1995). Legislative intent must be sought first in the actual language of the statute. State v. Bell, 351, Md. 701 (1998). Additionally, when interpreting a statute, the Hearing Officer must read all parts of the statute together in order to harmonize the various parts and avoid inconsistencies and senseless results that could not have reasonably been intended by the Council. (See e.g., Veney v. State, 130 Md. App. 135 (2000).

As noted above, the requirements for open space, both active and passive, are found in the Adequate Public Facilities Act, Bill #110-99. This Bill has been codified in the Baltimore County Code as Section 26-498; however, this is not the only Section of the Code where open space requirements are set out.

Many of the general design standards and requirements for development in Baltimore County are contained within Division IV of the Development Review Regulations (Sections 26-261 through 26-284 of the Baltimore County Code). Section 26-271 is entitled "Open Space" and provides that open space shall be located and designed in any development to be attractive and conveniently accessible to occupants or users of the proposed development. Section 26-272 is entitled "Purposes of Open Space." The purposes identified therein are to offer recreational opportunities, to enhance the appearance of neighborhoods through the preservation of natural green spaces, and to counteract the effects of urban congestion and monotony. That Section further provides that recreation areas in a planned neighborhood should "conserve local spots of natural beauty" and protect the surrounding locale. Clearly, in this case, the retention of trees and areas of woodlands meets this purpose as identified in Section 26-272. Finally, Section 26-273 states that no plan for proposed residential development shall be approved unless the plan

Tollgate community. Section 1B01.1.B.1.e(3) of the B.C.Z.R. requires that RTA buffers not be graded or cleared. Thus, clearing and grading of the area would violate this RTA requirement and is not appropriate here.

provides for appropriate open space parcels. Additionally, Section 26-273 specifically references and incorporates the local open space manual. Obviously, the Adequate Public Facilities Act (Section 26-498) must be read in conjunction with these Sections of the Code.

It is to be noted that the requirements of these Sections (26-271 through 26-273) may be waived/modified by the Hearing Officer. The waiver process is set out in Section 26-172 of the Code. That Section states that waivers can be granted from Division IV of the Code, which includes Section 26-273. Therefore, it is apparent that the Hearing Officer can waive, in certain circumstances, the design standards set out in the open space manual. To the extent that those standards require a waiver in this case, a waiver of same shall be granted. A waiver from the specific grade requirements (4% and 10%) is warranted in this case.

For all of these reasons, I decline to amend the plan to bring same into compliance with the grade requirements contained in the Local Open Space Manual. In sum, I believe that such a requirement will directly contradict Sections 26-271 and 26-272 of the Code. Moreover, adherence would adversely impact surrounding properties and warrants relief pursuant to Section 26-206(o). For these reasons, the plan shall be approved as submitted.

The relief requested in the Petition for Special Hearing shall also be granted. Part of the relief requested seeks a waiver of the grading requirements for open space as discussed above in connection with the development plan. The other requested relief is to approve minor amendments to the "documented site plan" that was previously approved by the Board of Appeals when they granted the Petition for Reclassification. The amendments are minor in nature (slightly longer buildings) and are necessary to reflect the current proposal.

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

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this day of March 2003, that the redlined development plan for the

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Lee R. Jones Property, identified herein as Developer's Exhibit 1, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve a waiver/amendment of the requirements of Section III.6A & 7A of the Local Open Space Manual with respect to the areas designated as active and passive local open space, and to approve an amendment to the "Amended Documented Site Plan" approved by the County Board of Appeals in Case No. CR-02-070 to reflect the proposed improvements and waiver/amendment, in accordance with Developer's Exhibit 1 be and is hereby GRANTED, subject to the following restrictions:

- 1) Consistent with the comments contained above, the open space areas as shown on Developer's Exhibit 2 shall remain as proposed.
- 2) All areas of the storm water management facility should be shown within the easement area and prior to the record plat, Developer shall verify that the proposed outfall will not interfere with any of he walking paths.
- 3) The right-of-way numbers for Tollgate Road shall be added onto the plan.
- 4) Parcel A shall be specifically identified on the plan.

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

LAWRENCE E. SCHMIDT

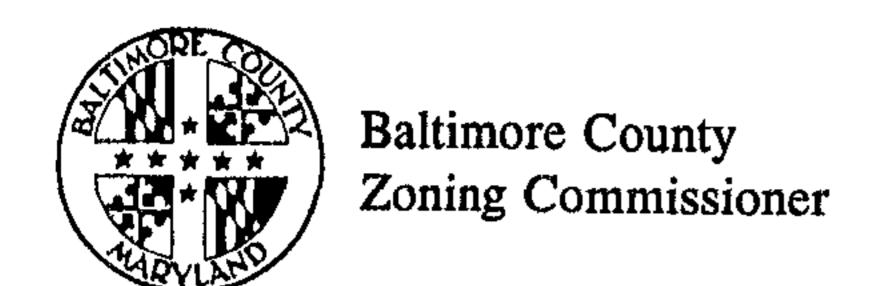
Zoning Commissioner/Hearing Officer

for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING Date

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

March 11, 2003

Fax: 410-887-3468

Lawrence M. Hammond, Esquire 465 Main Street Reisterstown, Maryland 21136

RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING

N/S Tollgate Road, W/S Old Tollgate Road

(Lee R. Jones Property)

4<sup>th</sup> Election District – 3<sup>rd</sup> Council District

Lee R. Jones & Maud D. Jones, Owners; John F. Owings Enterprises, Developer

Case Nos. IV-587 & 03-344-SPH

Dear Mr. Hammond:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The development plan has been approved and the Petition for Special Hearing granted, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. John Owings, P.O. Box 295, Owings Mills, Md. 21117

Messrs. Will Duvall & Kevin Wight, W. Duvall & Assoc.

530 E. Joppa Road, Towson, Md. 21286

Mr. Bryan Thaler, 142 Disney Court, Owings Mills, Md. 21117

Mr. Phil Filner, 13 Old Tollgate Road, Owings Mills, Md. 21117

Ms. Marjorie Bridgham, 38 Tollgate Road, Owings Mills, Md. 21117

Mr. Art Coppersmith, 36 Tollgate Road, Owings Mills, Md. 21117

Don Rascoe, DPDM; DEPRM; DPW; OP; R&P; People's Counsel; Case/File



## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County
Jones Property - NW Corner

for the property located at Tollgate Rd. and Old Tollgate '

which is presently zoned \_\_\_\_ 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

See attached

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S. C.

ate

Case No.

**BEV 9/15/98** 

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.

and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of

Baltimore County, to determine whether or not the Zoning Commissioner should approve

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: Legal Owner(s): . · · · John F. Owings, Jr. Maud D. Jones Name - Type or Print Name Type or Print Signature Signature 10-833-1187 O. Box 295 Dulany H. Noble, P.R. for Est. Lee Jones Address Telephone No. Name-Type or Print Noble Owings Mills, MD 21117 ON. City Zip Code State Signature Attorney For Petitioner: clo Michael Brennan, Esquire Address Telephone No. Lawrence M. Hammond P.O. Box 5517, 21285 Towson Name - Type or Print State Zip Code Representative to be Contacted: Monature Hammond and Hammond, LLC Lawrence M. Hammond, Esq. Company. Box 569 Name 410-833-7576 465 Main St. 410-833-7576 465 Main St. Telephone No. Address Address Telephone No. Reisterstown, 21136 MD Reisterstown, MD 21136 City Zip Code State City State Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING

Reviewed By

UNAVAILABLE FOR HEARING

The second secon

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

A waiver from the requirements of Section III.6.a with respect to the area designated as Active Local Openspace on the Development Plan and Special Hearing Plan for the Jones Property, and a waiver for the requirements of Section III.7.a with respect to the area designated as Passive Local Openspace on the Development Plan and Special Hearing Plan for the Jones Property; and

Additional amendments to the "Amended Documented Site Plan" as submitted in Case No. CR-02-070 and as approved by Order of the County Board of Appeals as detailed in General Note 7 of the Development Plan and Special Hearing Plan for the Jones Property, having been designated as PDM No. IV-587, attached hereto and made a part hereof.

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### **ZONING DESCRIPTION**

Beginning at a point on the north side of South Tollgate Road, which is a 62 foot wide right of way at a distance of 1,730 feet from the centerline of South Ritters Lane Thence the following courses and distances: N 10°12'44" E 625.33', N 45°36'44" E 247.52', S 45°11'27" E 540.41', S 65°38'38" E 136.90', S 12°06'39" W 117.71', S 15°46'14" W 236.18', S 26°06'11" W 153.56', S 32°46'24" W 308.90', S 89°14'58" W 491.53', N 85°50'53" W 23.44' To the place of beginning, Containing 14.7674 acres of land, more or less.

As recorded in Deed Liber 8412, Folio 450

Being known as 24 Old Tollgate Road, located in the 4<sup>th</sup> Election District of Baltimore County, Maryland.

Also being known as "Jones Property" (proposed development project having been assigned P.D.M. No. IV-587).



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# NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by at the Zoning Act and Regulations of Baltimore County will told a public hearing in Towson. Maryland on the property identified increin as follows:

Case: #03-344-SPH
Jones Property-NW corner Tollgate Road and Old Toll-Jones Property-NW corner of Tollgate and Old Tollgate gate Road N/west corner of Tollgate and Old Tollgate Road Owner(s): Maud D. Jones and Dulany H. Noble Legal Owner(s): Maud D. Jones and Dulany H. Noble P.R. for the Estate of Lee Jones
Contract Purchaser: John F. Owings, Jr.
Contract Plan and Special Hearing Plan for the Jones Properpy Plan for the Jones Properpy Plan for the Jones Properpy; and additional amendments Plan for the Jones Property; and additional amendments Plan and Special Hearing Plan.
Thursday, March 6, 2003 at 9:90 a.m. in Room 106, County Office Building, 111 W. Chesapeake 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.

Contact the Zoning Review Office at (410) 887-3391.

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| THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of successive weeks, the first publication appearing on 20_3  Mathematical Times Catonsville Times Owings Mills Times Owings Mills Times North County News   | THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md. on successive weeks, the first publication appearing on s |
| in the following weekly newspaper published in Baltimore County, Md.  once in each ofsuccessive weeks, the first publication appearing on  | in the following weekly newspaper published in Baltimore County, Md. on successive weeks, the first publication appearing on successive we |
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## CERTIFICATE OF POSTING

P.D.M # IV 587

IHEARING OFFICER ITEARING

RE: Case No.: ## 03-344-SPIH

Petitioner/Developer: JOHN F. OWINGS JR.

Jowes Lee ETAL.

Date of Hearing/Closing: MARAIT 6, 2003

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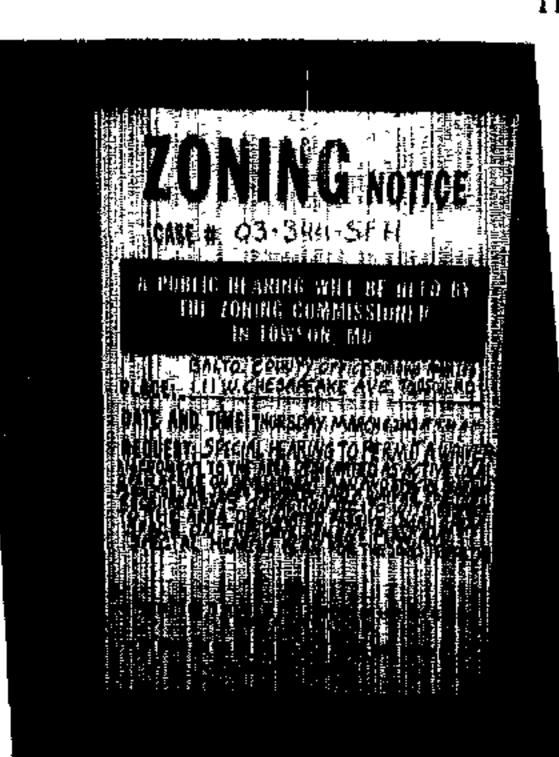
Baltimore County Department of Permits and Development Management County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

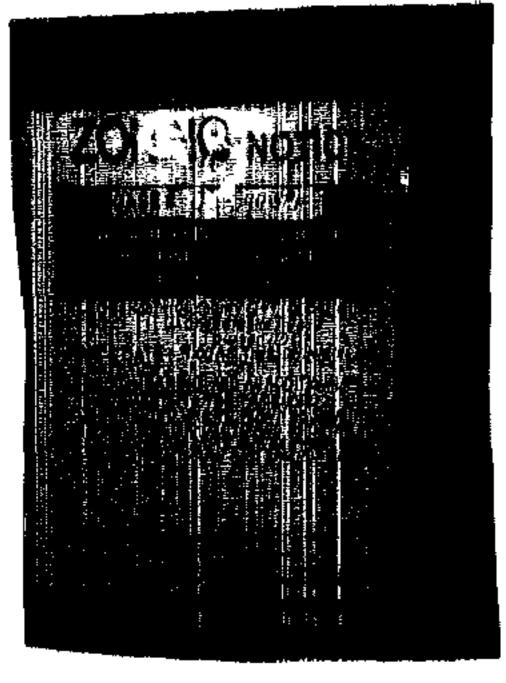
H.O.H + SPECIAL HEARING TENTION! BECKY HART GIVETO: DAN RASCOE

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 TOLL GATE ROAD ON SITE

The sign(s) were posted on FERRUARY 3, 2003.





Sincerely,

(Signature of Sign Poster and Date)

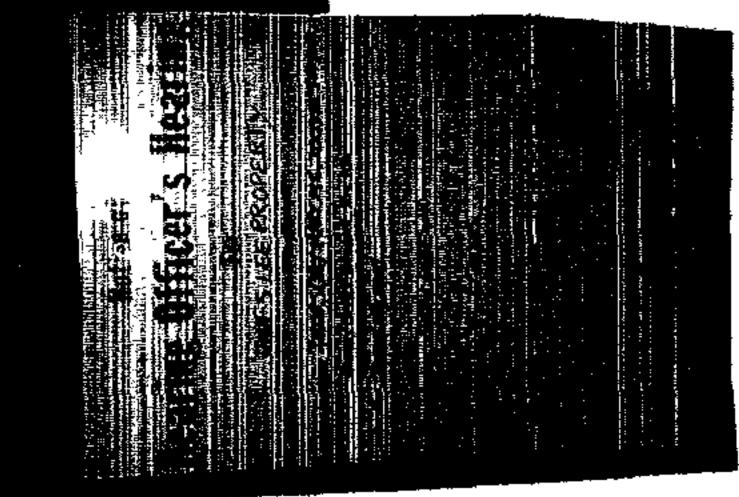
PATRICK M. O'KEEFE
(Printed Name)

523 PENNY LANE

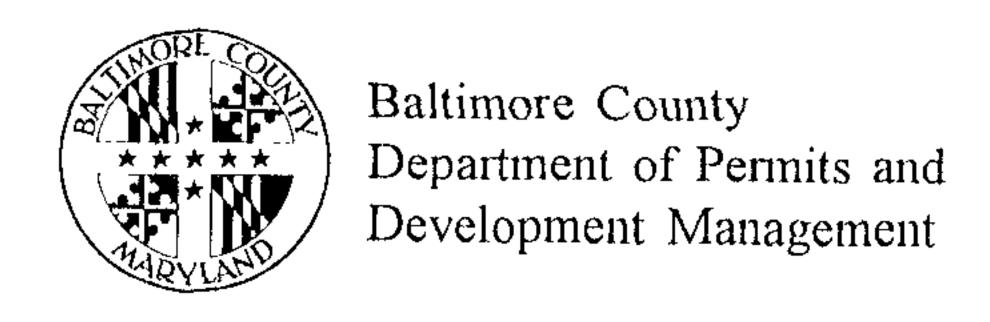
(Address)
HUNT VALLEY, MD. 21030
(City, State, Zip Code)

410-666:5366 ; CELL-410-905-8571

(Telephone Number)



JONES LEE PROPERTY JOHN OWINGS TOLL GATE RD. ON SITE



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

Fax: 410-887-5708

February 3, 2003

## 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: 03-344-SPH

Jones Property-NW corner Tollgate Road and Old Tollgate Road N/west corner of Tollgate and Old Tollgate Roads

4<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owners. Maud D. Jones and Dulany H. Noble P.R for the Estate of Lee Jones Contract Purchaser: John F. Owings, Jr.

Special Hearing to permit a waiver/amendment to the area designated as Active Local Openspace on the Development Plan and Special Hearing Plan for the Jones Property, and a waiver for the requirements of Section III.7.a with respect to the area designated Passive Local Openspace on the Development Plan and Special Hearing Plan for the Jones Property; and additional amendments to the "Amended Documented Site Plan" as submitted in Case No. CR-02-070 and as detailed in General Note 7 of the Development Plan and Special Hearing Plan.

Hearings:

Thursday, March 6, 2003 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesaneake Avenue

W. Chesapeake Avenue

Arnold Jablon Director

AJ:rlh

C: Lawrence H. Hammond, LLC, Hammond and Hammond, LLC, 465 Main Street, Reisterstown 21136

Maud D. Jones, Dulany H. Noble, P.R. for the Estate of Lee Jones, c/o Michael Brennan, Esquire, P.O. Box 5517, Towson 21285

John F. Owings, Jr., P.O. Box 295, Owings Mills 21117

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, FEBRUARY 19, 2003.

- (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.

TO:

PATUXENT PUBLISHING COMPANY

Tuesday, February 18, 2003 Issue - Jeffersonian

Please forward billing to:

John F. Owings, Jr.

410-833-1187

P.O. Box 295

Owings Mills, MD 21117

### **NOTICE OF ZONING HEARING**

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Hearings:

Thursday, March 6, 2003 at 9:00 a.m. in Room 106, County Office Building, 111

W. Chesapeake Avenue

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.

## DEPARTMENT COPPERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

## ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

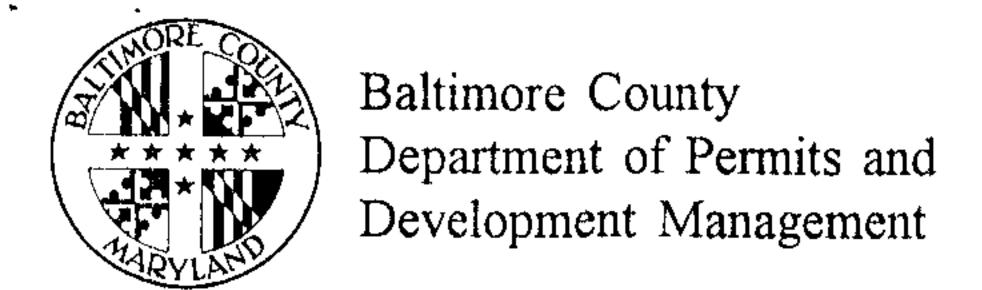
The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign 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:  |
|---|
| 7/1/  |
| Item Number or Case Number  |
| Petitioner John F.O Wings, Jr. Contract Purchaser  Address or Location. 24 old Tollgate Road, Owings Mills, Mil |
| Address or Location. 24 Old Tollgate Road, Owings Mills, Mil  |
| 21117   |
| PLEASE FORWARD ADVERTISING BILL TO:   |
| Name: John F. Oucing J.   |
| Address: P.O.130X 295   |
| Owings Mills, MD 2117   |
| Teiephone Number: 410 - 933-1197  |

Revised 2/20/98 - SCJ



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

February 28, 2003

Lawrence M. Hammond Hammond and Hammond, LLC P.O. Box 569 465 Main Street Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Case Number:03-344-SPH, Jones Property-NW Corner Tollgate Rd. and Old Tollgate

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 24, 2003.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

1. Calledon Da

WCR:klm

**Enclosures** 

c: People's Counsel John F. Owings, Jr., P.O. Box 295, Owings Mills, MD 21117 Maud D. Jones, Dulany H. Noble, P.R. for Est. Lee Jones, P.O. Box 5517 Towson, MD 21285

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





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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

February 29, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: February 3, 2003

Item No.:

339 - 347 349

Dear Ms. Hart:

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.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office

PHONE 887-4881, MS-1102F

cc: File



## Maryland Dipartment of Transportation Robert L. Ehrlich, Jr., Governor · Michael S. Steele, Lt. Governor · Trent M. Kittleman, Acting Secretary

Date: 2.4.03

Baltimore County

Item No. 344

JCM

RE:

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

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,

1-

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division

## BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

| TO:         | Arnold Jablon   |  |  |  |  |
|-------------|---|--|--|--|--|
| FROM:       | R. Bruce Seeley RBS /TLT  |  |  |  |  |
| DATE:       | March 12, 2003  |  |  |  |  |
| SUBJECT:    | Zoning Item 344 Address Tollgate Road   |  |  |  |  |
| Zoning      | g Advisory Committee Meeting of February 3, 2003  |  |  |  |  |
|             | The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.   |  |  |  |  |
| an exte     | epartment of Environmental Protection and Resource Management requests ension for the review of the above-referenced zoning item to determine the to which environmental regulations apply to the site. |  |  |  |  |
|             | Department of Environmental Protection and Resource Management offers following comments on the above-referenced zoning item:   |  |  |  |  |
| <u>X</u>    | Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).      |  |  |  |  |
| X           | Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).   |  |  |  |  |
| <del></del> | Development of this property must comply with the Chesapeake Bay<br>Critical Area Regulations (Sections 26-436 through 26-461, and other<br>Sections, of the Baltimore County Code).                    |  |  |  |  |
| <u>X</u>    | Additional Comments:  |  |  |  |  |
| Once r      | ecordation has occurred for the Forrest Buffer Easement/ Forest   |  |  |  |  |

Reviewer: Brian Lindley Date: March 4, 2003

Conservation Easement and the declaration of protective covenants is signed and the

above requirements have been completed.

13/6

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 03-344

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:

Section Chief:

AFK/LL:MAC

RECEIVED

DATE: February 21, 2003

FEB 2 1 2003

ZONING COMMISSIONER

## BALTIMORE COUNTY, MARYLAND

## INTEROFFICE CORRESPONDENCE

**DATE:** February 26, 2003

TO:

Arnold Jablon, Director

Department of Permits & Development Management

Robert W. Bowling, Supervisor Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For February 10, 2003 Item Nos. 339, 340, 341, 342, 344, 345, 347, 348, 349, and 350

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

RWB:CEN:jrb

cc. File

Robert L. Ehrlich, Jr.



Audrey E. Scott Secretary

Florence E. Burian
Deputy Secretary

Michael S. Steele

February 4, 2003

Ms. Rebecca Hart
Baltimore County Department of Permits and Development Management
111 W. Chesapeake Avenue
Room 111, Mail Stop # 1105
Towson MD 21204

Re: Zoning Advisory Committee Agenda 02/10/03 re: case numbers 03-339-A, 03-340-A, 03-341-A, 03-342-SPHA, 03-343-A, 03-344-SPH, 03-345-A, 03-346-SPH. 03-347-A, 03-348-SPH, 03-349-A, 03-350-XA

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 02/04/03. 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,

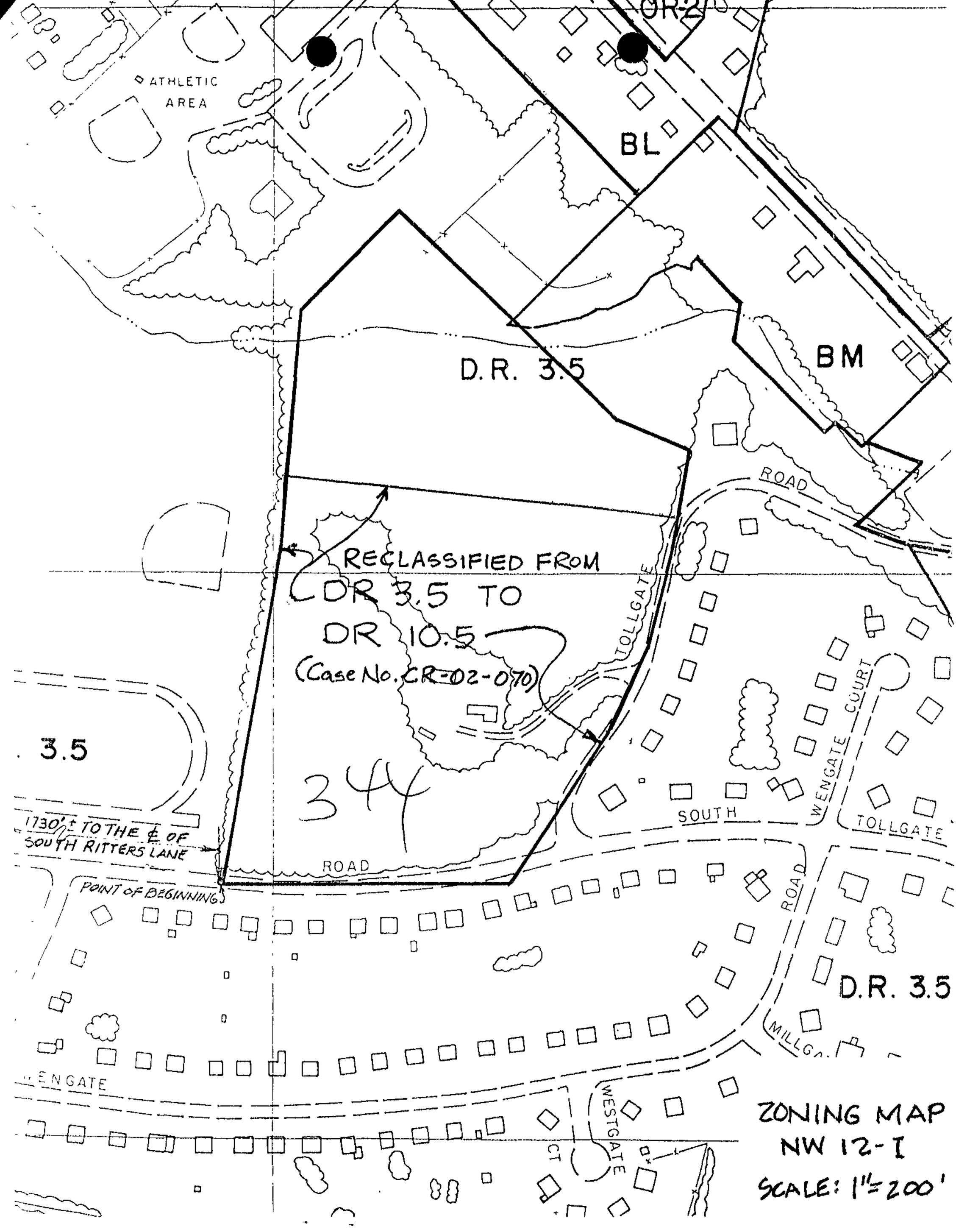
James R. Gatto

Manager

Metropolitan Planning

Local Planning Assistance Unit

cc: Mike Nortrup





RE: PETITION FOR SPECIAL HEARING \* BEFORE THE NW/corner Tollgate Rd & Old Tollgate Rd; 4<sup>th</sup> Election District \* ZONING COMMISSIONER

3<sup>rd</sup> Councilmanic District Legal Owner(s): Maud D. Jones, Dulany H. \* FOR

Noble, P.R. for Estate Lee Jones c/o

Michael Brennan, Esquire \* BALTIMORE COUNTY

Contract Purchaser(s): John F. Owings, Jr.

Petitioner(s) \* 03-344-SPH

## ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of February, 2003, a copy of the foregoing Entry of Appearance was mailed to, Lawrence M Hammond, Esquire, Hammond and Hammond, LLC, P.O. Box 569, 465 Main Street, Reisterstown, MD 21136, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County