IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE – N/S Forge Road, 250' W of the c/l Forge View Road **(The Enclave @ Perry Hall)** 11th Election District 5th Council District Kelkerry Development, LLC Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 03-402-SPHA

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for further proceedings on a Petition for Special Variance filed by the owners of the subject property, Kelkerry Development, LLC. Specifically, by Order of Remand dated January 22, 2004, the County Board of Appeals ordered that the Zoning Commissioner conduct a public hearing on the issues involved in the Petition for Special Hearing, with particular attention to the Petition for Special Variance. The Board further directed that all parties should have the opportunity to be heard and to present evidence.

The history of this property from a zoning/development perspective is significant. On June 13, 2002, the matter came before the undersigned Hearing Officer/Zoning Commissioner for consideration of a development plan for the proposed residential development of the subject property with 14 single family dwelling lots, to be known as the Enclave at Perry Hall (Case No. XI-856). In accordance with County law, all outstanding issues and unresolved agency comments were identified and considered at that public hearing and following the receipt of testimony and evidence on those issues, the undersigned Zoning Commissioner approved the plan, by Order dated June 18, 2002. Thus, the project moved forward through the County's development review process in accordance with that approval.

Next, the Owner/Developer filed the instant Petitions before the Office of the Zoning Commissioner. The Petition for Special Hearing sought relief to approve certain waivers and

modifications of public works' standards. In addition, a Petition for Special Variance was filed, pursuant to Sections 259.8 and 4A02.4.F of the Baltimore County Zoning Regulations (B.C.Z.R.) (Threshold Limits – Honeygo Area). That Petition sought special variance relief to permit the issuance of residential building permits for the construction of single family homes as shown on the development plan for The Enclave @ Perry Hall. Those Petitions came in before then Deputy Zoning Commissioner Timothy M. Kotroco on May 7, 2003. Deputy Commissioner Kotroco approved the special hearing relief relative to the modification of public works' standards; however, denied the special variance requests by his Order dated June 2, 2003.

In his written opinion and Order, Deputy Commissioner Kotroco stated that his denial of the special variance requests was based upon his agreement with the position expressed at the hearing by the Perry Hall Improvement Association. That organization objected to the special variance ***process***, arguing that same was inappropriate. Deputy Commissioner Kotroco resigned from office shortly after issuing his Opinion and Order in this case and pursuant to the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County (Appendix G of the B.C.Z.R.), the Developer filed a Motion for Reconsideration in the case. That matter was scheduled before the undersigned Zoning Commissioner since Deputy Commissioner Kotroco was no longer in office.

By my Order of July 25, 2003, I granted the Motion for Limited Reconsideration filed by the Petitioner. I noted therein the reason that Deputy Commissioner Kotroco had cited for his denial of the special variance requests. He stated in part that a denial was warranted because "In my opinion, the proper method to address this situation is to request a legislative change to the language of the sub-area threshold limits pertaining to the Bean Run Sub-area as contained within Section 259.7.E.1 of the B.C.Z.R.... This (the filing of the Petition for Special Variance) in my opinion is not an appropriate way to proceed." I found that Deputy Commissioner Kotroco's analysis of the issues presented under the Petition for Special Variance was incorrect and that his conclusions could not be sustained at law. I noted that the Office of the Zoning Commissioner was a quasi-judicial position created by County Charter. Deputy Commissioner Kotroco's opinion,

like that position advanced by the Perry Hall Improvement Association, sought a change in County law that could only be accomplished through the legislative process.

In this regard, the County Council subsequently amended the B.C.Z.R. and the special variance statute for the Honeygo District, pursuant to Bill No. 55-03. Under the current law, the Zoning Commissioner's authority to grant special variance relief has been largely eliminated. Nonetheless, this matter comes before this Zoning Commissioner under the prior law. The Opinion and Order issued by me on the Motion for Limited Reconsideration was timely appealed to the County Board of Appeals by the Protestants. As noted above, the Board has remanded the matter to the undersigned to consider the case again, based upon its merits.

Appearing at the reconvened hearing were Paul Amirault and Gary Houston, on behalf of Kelkerry Development, LLC, owners; Richard Matz, the engineer who prepared the site plan; Mickey Cornelius, traffic engineer; Thomas George and Brian J. Murphy of First Horizon; and Howard L. Alderman, Jr., Esquire, attorney for the Petitioners. Ed and Jackie Watts appeared as Protestants as did William Libercci, who appeared on behalf of the Perry Hall Improvement Association,

This will apparently be the last in a series of cases that have been brought before the Office of the Zoning Commissioner seeking a special variance from the Honeygo standards. Those standards are set out in Sections 259.4 through 259.9 of the B.C.Z.R. As noted in a Statement of the Legislative Intent for the Honeygo District, as set out in Section 259.4, the intent of the standards is to insure that development of infrastructure in the area will coincide with the approval of building permits and subsequent construction.

The regulations govern both the rate and density of development in the Honeygo District. As to density, the regulations establish a maximum number of authorizations for the entire District. A single authorization corresponds to the issuance of a single building permit. In addition to establishing a set number of authorizations for the entire District, the regulations provide for additional authorizations within four established sub-areas of the District, i.e., Bean Run, Honeygo Run, Bird Run, and Belair Road. Thus, the density for the Honeygo District is

regulated by both the number of authorizations that can be issued for the District at large, as well as the number of authorizations available for the respective sub-areas.

It is to be emphasized that the rate of growth is also regulated by the Honeygo District standards. Specifically, the regulations provide that authorizations become available only upon a triggering event, such as a Capital Improvement Project (CIP), i.e., road construction, sewer construction, etc. As infrastructure is built out, more authorizations become available and may be issued.

As noted above, the Zoning Commissioner was formerly authorized to grant special variances from the rate at which authorizations were issued, pursuant to Section 259.8 of the B.C.Z.R.[1] The Zoning Commissioner was to apply the requirements set out in Section 4A02.4.G of the B.C.Z.R. when considering variance requests. That Section establishes two criteria under which special variances may be granted. The first is "That the demand or impact of the development proposed will be less than that assumed by the District standard that would otherwise restrict or prohibit the development, or that the standard is not relevant to the development proposal. Second, "That the granting of the Petition will not adversely affect the person whose application was filed prior to the Petitioner's application in accordance with Section 4A02.3.G.2.b."

In this case, the infrastructure at issue relates to certain road improvements. Specifically, as identified in Section 259.7.E.1.a.1, Forge Road Capital Project from Cross Road to Forge View Road, and in Section 259.7.E.1.a.2, the Cross Road Capital Project from Honeygo Boulevard to Forge Road. In this regard, the Petitioners presented the testimony of Mickey Cornelius, a traffic engineer. It is to be noted that Mr. Cornelius testified at the prior hearings in this case and his testimony has been incorporated herein. He also testified relating to an adjacent property, now known as Lauren Woods, formerly known as Black Iron Knoll, Case No. XI-798.

[1] As stated in prior opinions of this Office, the special variance process was as to the rate, but not the density of development in Honeygo.

This property is immediately adjacent to the subject tract and special variance relief was granted in that case.

A review of the testimony and evidence offered in this case at the most recent hearing, as well as the record of the entire matter (including all prior testimony and exhibits) is compelling to the conclusion that existing utilities are available to serve the subject property and that the proposed development will not impact the Capital Improvement Projects that have not yet begun. That is, the testimony and evidence is sufficient to support a finding that special variance relief should be granted, pursuant to Section 4A02.4.G of the B.C.Z.R. I am somewhat troubled by the lack of specificity of the testimony offered in the reconvened hearing before me on March 19, 2004. However, it is incumbent upon the Zoning Commissioner to consider the entire record of the case, including the exhibits and information contained within the case file. Cumulatively, the evidence submitted supports the grant of the special variance and it shall be so ordered.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of June 2004 that the Petition for Variance seeking relief, pursuant to Sections 259.8 and 4A02.4.F of the Baltimore County Zoning Regulations (B.C.Z.R.) (Threshold Limits – Honeygo Area), to permit the issuance of residential building permits for the construction of single family homes as shown on the development plan for The Enclave @ Perry Hall, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Any appeal of this decision must be entered within thirty (30) days of the date hereof.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 6/10/04
By bjs

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468

Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

June 9, 2004

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

RE: REMAND HEARING - PETITIONS FOR SPECIAL HEARING AND VARIANCE
N/S Forge Road, 250' W of the c/l Forge View Road
(The Enclave @ Perry Hall – Forge Road)
11th Election District – 5th Council District
Kelkerry Development, LLC - Petitioners
Case No. 03-402-SPHA

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance (on Remand) has been granted, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Messrs. Paul Amirault and Gary Houston, Kelkerry Development, LLC
P.O. Box 215, Kingsville, Maryland 21087-0215
Mr. Richard Matz, Colbert Matz Rosenfelt,
2835 Smith Avenue, Suite G, Baltimore, Md. 21209
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Sq.Dr., #H, Baltimore, Md. 21236
Messrs. Thomas George and Brian Murphy, First Horizon
9515 Deereco Road, #400, Timonium, Md. 21204
Mr. William Libercci (PHIA), 19 Shawn Court, Baltimore, Md. 21236
Mr. & Mrs. Ed Watts, 4916 Forge Road, Perry Hall, Md. 21128
People's Counsel; Case File

RE: PETITION FOR SPECIAL HEARING & VARIANCE	*	**BEFORE THE**
	*	**COUNTY BOARD OF APPEALS**
N/S Forge Road, W of Forge View Road (The Enclave at Perry Hall) 11th Election & 5th Councilmanic Districts	*	**FOR**
	*	**BALTIMORE COUNTY**
Kelkerry Development, LLC		
Petitioners	*	**Case No. 03-402-SPHA**

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

REMAND ORDER

Upon consideration of the Motion for Remand filed with this Board by the Owner/Respondent, it is this 22nd day of January, 2004, by the County Board of Appeals for Baltimore County,

ORDERED that this case is hereby remanded to the Zoning Commissioner for Baltimore County for further proceedings; and it is

FURTHER ORDERED that the Zoning Commissioner shall conduct a public hearing on the issues involved in the Petition for Special Hearing, with particular attention to the Special Variance. All parties should have the opportunity to be heard and to present evidence.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence M. Stahl

Melissa Moyer Adams

Margaret Worrall

County Board of Appeals of Baltimore County

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

January 22, 2004

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

Howard L. Alderman, Jr., Esquire
502 Washington Avenue
Nottingham Center, 8th Floor
Towson, MD 21204

RE: *In the Matter of: Kelkerry Development, LLC*
Case No. 03-402-SPHA

Dear Counsel:

Enclosed please find a copy of the Board's Remand Order issued this date in the subject matter.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Paul Amirault /Kelkerry Dev, LLC
Richard Matz /Colbert Matz Rosenfelt, Inc.
Mickey Cornelius /The Traffic Group
William Libercci, Chairman, Board of Directors
Perry Hall Improvement Association
Jacqueline and Ed Watts
Pat Keller, Director, Office of Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

Case No. 03-402-SPHA

In the Matter of: Kelkerry Development, LLC
Forge Road (The Enclave @ Perry Hall)
11th Election District; 5th Councilmanic District

SPH – For a waiver of Public Works standards requesting elimination of 580' of sidewalk along the east side of Kerrie's Court, a cul-de-sac roadway located within The Enclave @ Perry Hall, and to amend the FDP to approve the location of Lots 15 and 16;
VAR – Special Variance requesting issuance of building permits for the construction of single-family homes within the Development known as "The Enclave at Perry Hall."

6/02/03– Order of D.Z.C. (Kotroco) - Petition for Special Hearing APPROVED; Petition for Special Variance DENIED.
7/25/03 – Z.C.'s Ruling on Petitioner's Motion for Reconsideration – Motion for Reconsideration GRANTED; that portion of D.Z.C.'s 6/02/03 Order is stricken; further proceedings before the ZC to be scheduled "consistent with this opinion."

10/06/03 - Notice of Assignment sent to following; assigned for hearing on Wednesday, March 3, 2004 at 10 a.m.:

Office of People's Counsel
Howard L. Alderman, Jr., Esquire
Paul Amirault /Kelkerry Dev, LLC
Richard Matz /Colbert Matz Rosenfelt, Inc.
Mickey Cornelius /The Traffic Group
William Libercci, Chairman, Board of Directors
Perry Hall Improvement Association
Jacqueline and Ed Watts
Pat Keller, Director, Office of Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

12/04/03 – Motion for Remand filed by Howard L. Alderman, Jr., Esquire – with indication that PC is not opposed. To be reassigned earlier hearing date for brief early am. hearing upon confirmation of agreement of parties.

12/19/03 – Notice of Reassignment /Brief Hearing by agreement sent to parties; case reassigned to Thursday, January 22, 2004 at 9:00 a.m.

1/22/04 – Board convened for hearing as specially assigned (Stahl, Adams, Worrall); case remanded to Zoning Commissioner for further proceedings pursuant to Order to be issued by the Board and as agreed by the parties to this matter.

Kelkenny 1/22/04

03-402-SBHA

H. Aldeman - Petit
Peter Zimmerman Resp C.

Aldeman
π has dev. plan approved -
seeking changes & 2 new lots

CBA-03-402-SPHA Jan. 22, 2004

Howard Alderman - atty. for Pet.
Peter Zimmerman - P.C.

Alderman
Motion for remand
- approved develop. plan
- compl. modification
  - permit 2 add. lots
  - ap. variance undergo Honeygo Regs
  - public works standards
Kot, opposed
- elim. of sidewalk
denied
- Honeygo Regs
Ald. filed motion for consid.
- Kot, writ to PDM
- Schmidt heard reconsid.
- granted
Now? of interpretation
- P.C. appealed
Ask ZC to have evid. hearing on issues involved
- CBA can remand to ZC

Zimmerman
Discussions w/ Alderman
Motion grew from that
P.C. not opposed to remand
- all parties will have opportunity to be heard
Liberati still interested, was NOTified
- no need to be here today

All agree to grant motion for remand

HOWARD ALDERMAN, JR.
502 WASHINGTON AVENUE
NOTTINGHAM CENTER, 8TH FLOOR
TOWSON, MD 21204
Attorney for Petitioner

PAUL AMIRAULT - Petitioner
KELKERRY DEVELOPMENT LLC
PO BOX 216
KINGSVILLE MD 21087

COLBERT MATZ ROSENFELT INC
2835 SMITH AVENUE
SUITE G
BALTIMORE MD 21209

returned mail 1/5/04 no new address checked sign in sheet remanded hrs

MICKEY CORNELIUS
~~THE TRAFFIC GROUP~~
~~6449 SUNDOWN TRAIL~~
~~COLUMBIA, MD 21044~~

9900 Franklin Sq. Dr. Ste H 21236

WILLIAM LIBERCCI
CHAIRMAN, BOARD OF DIRECTORS
PERRY HALL IMROVEMENT ASSOCIATION
19 SHAWN COURT
BALTIMORE MD 21236

JACQUELINE WATTS
ED WATTS
4916 FORGE ROAD
PERRY HALL, MD 21236

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 19, 2003

NOTICE OF REASSIGNMENT

CASE #: 03-402-SPHA

IN THE MATTER OF: ***KELKERRY DEVELOPMENT LLC*** - Legal Owner
Forge Road (The Enclave @ Perry Hall)
11th Election District; 5th Councilmanic District

6/02/03– Order of D.Z.C. (Kotroco) - Petition for Special Hearing APPROVED; Petition for Special Variance DENIED.
7/25/03 – Z.C.'s Ruling on Petitioner's Motion for Reconsideration – Motion for Reconsideration GRANTED; that portion of D.Z.C.'s 6/02/03 Order is stricken; further proceedings before the ZC to be scheduled "consistent with this opinion."

which was assigned to be heard on 3/03/04 has been **REASSIGNED** to an earlier date for a brief hearing on Motion for Remand; and has been

REASSIGNED FOR: **THURSDAY, JANUARY 22, 2004 at 9:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Appellant ("from the Order on Motion for Limited Reconsideration") : Office of People's Counsel

Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Paul Amirault /Kelkerry Dev, LLC
Richard Matz /Colbert Matz Rosenfelt, Inc.
Mickey Cornelius /The Traffic Group

William Libercci, Chairman, Board of Directors
Perry Hall Improvement Association

Jacqueline and Ed Watts

Pat Keller, Director, Office of Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

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

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

December 3, 2003

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

RE: Keklerry Development, LLC
Case No. 03-402-SPHA
Unopposed Motion For Postponement

Dear Ms. Bianco:

Please accept the enclosed original of a Motion for Postponement and proposed Order in the above-referenced case. This Motion has been signed by counsel for the Petitioner. Please note the stated basis of non-opposition to this Motion by the Office of People's Counsel in enumerated paragraph 8. Should you need or any member of the Board need additional information from me to dispose of this matter promptly, as always, please do not hesitate to call me. Thank you for your attention to this matter.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosure
c (w/encl.): Kelkerry Development, LLC
Peter Max Zimmerman, Esquire
Carole S Demilio, Attorney at Law
Mr. William Libercci

1/22/04 @ 9 am

RE: PETITION FOR SPECIAL HEARING & VARIANCE	*	**BEFORE THE**
	*	**COUNTY BOARD OF APPEALS**
N/S Forge Road, W of Forge View Road (The Enclave at Perry Hall) 11th Election & 5th Councilmanic Districts	*	**FOR**
	*	**BALTIMORE COUNTY**
Kelkerry Development, LLC		
Petitioners	*	**Case No. 03-402-SPHA**

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

MOTION FOR REMAND

Kelkerry Development, LLC, a Maryland limited liability company, Owner/Respondent of the above-referenced property (referred to as "Owner" or "Respondent") and a party in the above-captioned appeal, filed by the Office of the Baltimore County People's Counsel ("Appellant"), by and through its attorneys, Howard L. Alderman, Jr., and Levin & Gann, P.A., hereby moves that the County Board of Appeals for Baltimore County (the "Board") remand this matter to the Baltimore County Zoning Commissioner for further proceedings as outlined in this Motion. People's Counsel concurs in the Motion.

1. The Respondent owns approximately 16.72 acres on the north side of Forge Road in the Honeygo/White Marsh/Perry Hall growth center of the County ("the Property").

2. The Owner filed a Petition for Special Hearing seeking a waiver from a public works requirement for the installation of 580 feet of sidewalk adjacent to land not proposed for subdivision and an affirmation of the DRC approval of refinement of the Enclave Development Plan, together with a Petition for Honeygo Special Variance for relief from BCZR

Section 259.7 for sixteen (16) authorizations for building permits for the then-refined Enclave Development Plan (the "Petitions").

3. As a result of the hearing held on the Petitions, then Deputy Zoning Commissioner Kotroco issued, on June 2, 2003, *Findings of Fact and Conclusions of Law* (the "Order").

4. On June 26, 2003, the Owner filed a *Motion for Limited Reconsideration,* seeking a reconsideration of only that portion of the Order denying the special variance relief (the "Owner's Motion").

5. On July 25, 2003, the Zoning Commissioner for Baltimore County granted the Owner's Motion for Limited Reconsideration (the "Reconsideration Decision") and struck the denial of the Special Variance.

6. Within fourteen (14) days of the issuance of the Reconsideration Decision, the Office of People's Counsel noted an appeal thereof to this Board and sent a copy of that appeal to the undersigned (the "Appeal").

7. Petitioner interpreted the Zoning Commissioner's Order on motion for Limited Reconsideration as ordering another hearing. People's Counsel interpreted it as a grant of the special variance.

8. In the interest of time and judicial economy, the Owner hereby moves that this matter be remanded to the Zoning Commissioner for Baltimore County so that a new evidentiary hearing can be scheduled. People's Counsel is not opposed to a remand for the purposes of a new evidentiary hearing at the Zoning Commissioner level. However, People's Counsel

reserves the right to assert its position on the merits of the special variance and special hearing.

WHEREFORE, for all of the above-stated reasons, the Owner hereby requests that this Board:

A. REMAND this matter to the Zoning Commissioner for Baltimore County and for the purpose a public hearing be held on the issues involved in the Petition for Special Hearing, particularly the Special Variance request, with the opportunity for all parties to present evidence, and

B. For such further relief as the nature of this case may require.

RESPECTFULLY SUBMITTED

HOWARD L ALDERMAN, JR.
Levin & Gann, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600
410-296-2801(Fax)
Attorney for Owner/Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of December, 2003, a copy of the foregoing Joint Motion for Remand and proposed Order attached thereto was mailed, postage prepaid, First Class United States Mail, collectively, to Peter Max Zimmerman & Carole S Demilio, Baltimore County Office of People's Counsel, 400 Washington Avenue, Old Courthouse, Room 47, Towson, Maryland 21204 and to William Libercci, Perry Hall Improvement Association, 19 Shawn Road, Baltimore, MD 21236 .

Howard L. Alderman, Jr.

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-402-SPHA

KELKERRY DEVELOPMENT - LEGAL OWNERS

FORGE (THE ENCLAVE @ PERRY HALL

11TH ELECTION DISTRICT APPEALED: 8/6/2003

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

RE: Case No.:03-402-SPHA

Petitioner/Developer: KELKERRY DEVELOPMENT - LEGAL OWNERS

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

FORGE RD

The sign was posted on 10/22, 2003

By: _____
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

County Board of Appeals of Baltimore County

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

1/22/04 @ 9 am

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 6, 2003

NOTICE OF ASSIGNMENT

CASE #: 03-402-SPHA

IN THE MATTER OF: ***KELKERRY DEVELOPMENT LLC*** - Legal Owner Forge Road (The Enclave @ Perry Hall)
11th Election District; 5th Councilmanic District

6/02/03– Order of D.Z.C. (Kotroco) - Petition for Special Hearing APPROVED; Petition for Special Variance DENIED.
7/25/03 – Z.C.'s Ruling on Petitioner's Motion for Reconsideration – Motion for Reconsideration GRANTED; that portion of D.Z.C.'s 6/02/03 Order is stricken; further proceedings before the ZC to be scheduled "consistent with this opinion."

ASSIGNED FOR: **WEDNESDAY, MARCH 3, 2004 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Appellant ("from the Order on Motion for Limited Reconsideration") : Office of People's Counsel

Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Paul Amirault /Kelkerry Dev, LLC
Richard Matz /Colbert Matz Rosenfelt, Inc.
Mickey Cornelius /The Traffic Group

William Libercci, Chairman, Board of Directors
Perry Hall Improvement Association

Jacqueline and Ed Watts

Pat Keller, Director, Office of Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

BALTIMORE COUNTY, CORRESPONDENCE

INTER-OFFICE CORRESPONDENCE

DATE: September 8, 2003

TO: File/KELKERRY
03-402-SPHA

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: MOTION FOR LIMITED RECONSIDERATION

ON 9/5/2003, SPOKE TO BECKY (PDM) WITH REGARDS TO MISSING ZONING DESCRIPTION, ZONING ORDER DATED 6/2/03, ADVISORY COMMENTS AND MOTION FOR LIMITED RECONSIDERATION THAT WERE ISSING FROM THE FILE. SHE LOCATED EVERYTHING BUT THE MOTION FOR RECONSIDERATION.

9/8/2003 – RECEIVED ZONING DESCRIPTION, ZONING ORDER DATED 6/2/03, ADVISORY COMMENTS. THE MOTION FOR RECONSIDERATION WAS NOT RECEIVED.

SET UP FILE WITHOUT MOTION FOR LIMITED RECONSIDERATION.

Baltimore County
Department of Permits and
Development Management

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

August 27, 2003

Mr. Howard Alderman
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, MD 21204

Dear Mr. Alderman:

RE: Case No.03-402-SPHA

Please be advised that an appeal of the above-referenced case was filed in this office on August 27, 2003. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

KT:rlh

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Kelkerry Development LLC

APPEAL

Petition for Honeygo Special Variance and
Petition for Special Hearing
Forge Road (the Enclave @ Perry Hall
250' W of the c/l Forge View Road
11th ED-5TH CD
Kelkerry Development LLC

ENCLAVE @ Perry Hall

Case No.: 03-402-~~SPHA~~

✓ Petition for Special Hearing and Special Variance (3/4/03) Honeygo

✓ Zoning Description of Property

✓ Notice of Zoning Hearing () (2) Corrected

✓ Certification of Publication (4/22/~~3~~03 by the Jeffersonian)

✓ Certificate of Posting (April 19, 2003) by Charles Merritt

✓ Entry of Appearance by People's Counsel (March 25, 2003)

✓ Petitioner(s) Sign-In Sheet
One sheet

✓ Protestant(s) Sign-In Sheet
One sheet

✓ Citizen(s) Sign-In Sheet
One sheet

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibit

✓ 1. 1a Plat for The Enclave at Perry Hall
✓ 2. Hear Officer's Opinion and Development Plan Order
✓ 3. DRC Application
✓ 4. Letter from Arnold Jablon to Mr. Matz

✓ Protestants' Exhibits:
✓ 1. Honeygo Area Information
✓ 2. Honeygo Study Map

✓ 6/2/03 in Zoning Commission add
PDM
* can not locate the Motion
→ on Motion for Limited Recon.
August from office of People's Counsel

✓ Miscellaneous (Not Marked as Exhibit)
None

✓ Zoning Commissioner's Order (7/25/03)

✓ Notice of Appeal received on ~~May~~ 6, 2003

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM

date sent 8/27/03 rlh

✓E ✓ NOTIFICATIONS

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 6, 2003

Timothy Kotroco, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING & VARIANCE
N/S Forge Road, 250' W of c/l Forge View Road
(The Enclave @ Perry Hall – Forge Road)
11th Election District; 5th Council District
Kelkerry Development, LLC- Petitioners
Case No.: 03-402-SPHA

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Order on Motion for Limited Reconsideration dated July 25, 2003 by the Baltimore County Zoning Commissioner in the above-entitled case

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

RECEIVED
AUG 06 2003
Per.....

PMZ/CSD/rmw

cc: Howard L Alderman, Esquire
Richard Matz, PE

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE – N/S Forge Road, 250' W of the c/l Forge View Road **(The Enclave @ Perry Hall – Forge Road)** 11th Election District 5th Council District	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	Case No. 03-402-SPHA
Kelkerry Development, LLC Petitioners	*	

* * * * * * * * * * *

ORDER ON MOTION FOR LIMITED RECONSIDERATION

This matter comes before the undersigned Zoning Commissioner for consideration of a Motion for Limited Reconsideration filed by the Owner/Developer of the subject property, Kelkerry Development, LLC, through its attorneys, Howard L. Alderman, Jr., Esquire and Levin and Gann, P.A. Specifically, the Petitioner seeks a reconsideration of that portion of the Order issued in the above-captioned matter on June 2, 2003 by Timothy M. Kotroco, then Deputy Zoning Commissioner for Baltimore County, relative to the Petition for Special Variance.

By way of background, the Petitioner sought a waiver of Public Works Standards through a Petition for Special Hearing to permit the elimination of 580 feet of sidewalk along the east side of Kerrie's Court, a cul-de-sac roadway as originally shown on the previously approved development plan, and a modification of the final development plan for The Enclave at Perry Hall for the addition of two building lots that will gain access through the adjoining, recently approved subdivision known as Lauren Woods. In addition, special variance relief was sought through the Petition for Variance, pursuant to Sections 259.8 and 4A02.4.F(G) of the Baltimore County Zoning Regulations (B.C.Z.R.), Threshold Limits – Honeygo Area, established by Section 259.7 of the B.C.Z.R., to permit the issuance of residential building permits for the construction of single family homes as shown on the development plan for The Enclave @ Perry Hall.

As noted above, the matter came in for a public hearing on May 7, 2003 before then Deputy Zoning Commissioner Timothy M. Kotroco. Thereafter, Deputy Commissioner Kotroco

Date 7/25/03
By

granted the special hearing relief, however, denied the special variance requests, pursuant to his Findings of Fact and Conclusions of Law and Order issued on June 2, 2003.

Pursuant to the Rules of Practice and Procedure before the Zoning Commissioner/ Hearing Officer of Baltimore County (Appendix G of the B.C.Z.R.), a Motion for Limited Reconsideration has been filed. Those Rules allow a party to file a Motion for Reconsideration of an Order issued by the Office of the Zoning Commissioner within thirty (30) days of the date thereof. It is to be noted that at the time of the filing of the Motion, Deputy Commissioner Kotroco had resigned from the position of Deputy Zoning Commissioner for Baltimore County and a replacement had not yet been approved.

The undersigned Zoning Commissioner has reviewed Deputy Commissioner Kotroco's Order, as well as the Motion for Limited Reconsideration. It is to be noted that a copy of the Motion was forwarded to the Protestants who appeared at the hearing (Perry Hall Improvement Association, Inc.); however, to date, there has been no response filed by that organization. In any event, the Motion for Limited Reconsideration requests only relief from Deputy Commissioner Kotroco's denial of the special variance requests within the Petition for Variance.

The Office of the Zoning Commissioner is authorized to variance the standards set out in Section 259.7 of the B.C.Z.R., pursuant to Section 259.8 thereof. These standards regulate development in the Honeygo District of Baltimore County. Moreover, the B.C.Z.R. require that the Zoning Commissioner apply the requirements/standards set out in Section 4A02.4.G.of the B.C.Z.R. when considering such special variance requests.

Within his Order of June 2, 2003, Deputy Commissioner Kotroco recites his reasons for the denial of the special variance. He states, in part, that a denial is warranted because "In my opinion, the proper method to address this situation is to request a legislative change to the language of the sub-area threshold limits pertaining to the Bean Run sub-area as contained within Section 259.7.e.1... This, (the filing of a Petition for Special Variance) in my opinion, is not an appropriate way to proceed." A further reading of Deputy Commissioner Kotroco's Order shows no discussion or consideration by him of the standards for consideration of special variances as set

out in Section 4A02.4.G of the B.C.Z.R. It need be emphasized that nowhere within his Opinion and Order is there any mention of that Section or analysis of whether the testimony and evidence presented in open hearing met the standards set forth therein.

With all due respect to former Deputy Zoning Commissioner Kotroco, his analysis of the issue presented by the Petition for Variance is wrong and his conclusions cannot be sustained at law. The Office of the Zoning Commissioner is an independent, quasi-judicial office created by the County Charter. The function of the Zoning Commissioner's Office is, in part, to apply and interpret the provisions of the B.C.Z.R. to the Petitions brought before that office. It is not within the purview of this Office to enact or propose legislation. Clearly, that function is reserved exclusively to the purview of the legislative branch of County government, i.e., the County Council.[1]

Inasmuch as former Deputy Zoning Commissioner Kotroco's decision failed to properly apply the appropriate standards or analysis to the Petition for Special Variance, it is clear that his decision is contrary to law and must therefore be set aside. Thus, the Motion for Reconsideration shall be granted and further proceedings before the Office of the Zoning Commissioner will be scheduled consistent with this opinion.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of July 2003 that the Motion for Limited Reconsideration filed by Counsel for the Petitioner be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Variance portion of the Order issued on June 2, 2003 by Deputy Commissioner Timothy M. Kotroco, be and is hereby STRICKEN. The relief granted with respect to the Petition for Special Hearing shall remain in full force and effect.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Date 7/25/03
By bjs

[1] Indeed, the County Council is currently considering amendments to the special variance statute for the Honeygo District under pending Bill No. 55-03.

Baltimore County
Zoning Commissioner

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

July 26, 2003

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

RE: MOTION FOR LIMITED RECONSIDERATION
PETITIONS FOR SPECIAL HEARING AND VARIANCE
N/S Forge Road, 250' W of the c/l Forge View Road
(The Enclave @ Perry Hall – Forge Road)
11th Election District – 5th Council District
Kelkerry Development, LLC - Petitioners
Case No. 03-402-SPHA

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Motion for Limited Reconsideration has been granted, in accordance with the attached Order.

Please be advised that I have assigned this matter for further proceedings before Deputy Zoning Commissioner John C. Murphy. Mr. Murphy will be contacting you in the near future regarding scheduling of these further proceedings. In the meantime, should any party find the decision rendered in this matter is unfavorable, an appeal may be filed to the County Board of Appeals within thirty (30) days of the date hereof. For further information in that regard, 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. Paul Amirault, Kelkerry Development, LLC
P.O. Box 215, Kingsville, Maryland 21087-0215
Mr. Dennis Eckard (PHIA), 39 Bangert Avenue, Perry Hall, Md. 21128
Mr. William Libercci (PHIA), 19 Shawn Court, Baltimore, Md. 21236
Mr. Richard Matz, Colbert Matz Rosenfelt,
2835 Smith Avenue, Suite G, Baltimore, Md. 21209
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Sq.Dr., #H, Baltimore, Md. 21236
Mr. Don Rascoe, Development Management Division
Case File

IN RE:	**PETITIONS FOR SPECIAL HEARING AND VARIANCE** **N/S Forge Road, 250' W from centerline of Forge View Road** **11th Election District** **5th Councilmanic District** **(Forge Road - The Enclave @ Perry Hall)** **Kelkerry Development, LLC,** ***Petitioner***	**BEFORE THE** **DEPUTY ZONING** **COMMISSIONER OF** **BALTIMORE COUNTY** **Case No. 03-402-SPHA**

MOTION FOR LIMITED RECONSIDERATION

Kelkerry Development LLC, a Maryland limited liability company, Developer ("Kelkerry"), by and through its attorneys, Howard L. Alderman, Jr., and Levin and Gann, P.A., hereby moves that the below-described portions of the June 2, 2003 *Findings of Fact and Conclusions of Law* (the "*Order*") of the Deputy Zoning Commissioner for Baltimore County (the "Deputy Commissioner") in the above-captioned case be reconsidered. In support of its motion, Kelkerry offers the following:

1. Kelkerry requested, by way of properly filed zoning Petitions, the following zoning relief/waivers: i) a special variance pursuant to *Baltimore County Zoning Regulations* Sections 259.8 & 4A02.4.F[G], the Threshold Limits - Honeygo Area established by § 259.7, to permit the issuance of residential building permits for construction of single-family homes as shown on the development plan entitled *The Enclave @ Perry Hall*; and ii) by way of special hearing, a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court, a cul-de-sac roadway as originally shown on the previously approved development plan and a modification of the final development plan for *The Enclave at Perry Hall* for the addition of two (2) building lots that will gain access through the adjoining, recently approved subdivision

of Lauren Woods, consistent with the relief requested.

2. There was no objection from any person present at the hearing held with respect to the granting of the waiver relief requested by way of the Petition for Special Hearing. That requested relief was granted and should not be disturbed by the limited reconsideration requested by this Motion.

3. Kelkerry presented in support of the special variance relief the expert testimony of Mickey Cornelius, PE, PTOE, with The Traffic Group, Inc., regarding the factors as established by the County Council justifying the granting of the special variance.

4. There was absolutely no testimony, either lay or expert, to contradict the expert opinion of Mr. Cornelius regarding the legal tests for the granting of the requested special variance.

5. Mr. Cornelius' testimony was consistent with the testimony that he offered during the hearing for approval of the special variance relief from the Honeygo Threshold Limits applicable to the adjoining Lauren Woods development. The special variance relief was granted in that case and a copy of the decision in Case No. 03-127-SPVAH is attached hereto and incorporated herein.

6. In opposition to the special variance relief requested by Kelkerry, representatives of the Perry Hall Improvement Association ("PHIA") cited their concerns about the "cumulative effects that the granting of these special variances has had on the overall surrounding community of Honeygo."

7. In denying Kelkerry's requested special variance relief, the Deputy Commissioner agreed with the stated position of the PHIA and found that "[t]his practice [granting of special variances from the Honeygo Threshold limits as authorized by the BCZR] should not continue to occur." *Order* at 4.

8. Rather than applying the law enacted by the Baltimore County Council, the Deputy Commissioner stated that in his opinion ". . . the proper method to address this situation [issuance of authorizations for building permits via special variance] is to request a legislative change to the language of the subarea threshold limits pertaining to the Bean Run Subarea as contained within [BCZR] Section 259.7.E.1."

9. The basis purportedly relied upon by the Deputy Commissioner is contrary to the legal standards enacted for consideration of granting of special variances from the Honeygo Threshold Limits.

10. The overwhelming evidence before the Deputy Commissioner, which remains uncontradicted, supports the granting of the special variance relief.

11. The decision of the Deputy Commissioner for the reasons stated by him is contrary to law and exceeds his authority in the evaluation of special variance requests.

12. The decision of the Deputy Commissioner regarding the special variance relief is arbitrary and capricious, based on his personal view of what legislation should be adopted versus that which has been adopted and by which he was bound as a matter of law.

13. There was and remains no legal authority, justification or reason for the Deputy Commissioner to deny the special variance relief as prayed for the reasons stated in the Order.

WHEREFORE, for all of the above-stated reasons, Kelkerry hereby requests that:

A. The June 2, 2003 Order of the Deputy Zoning Commissioner for Baltimore County be reconsidered only as to the denial of the special variance relief requested and that the law as adopted by the County Council be applied to the evidence in the record; and

B. Upon reconsideration and the application of the law as enacted, the Special Variance

relief from the Honeygo Threshold Limits be GRANTED; and

C. For such further relief as the nature of this case may require.

RESPECTFULLY SUBMITTED

HOWARD L. ALDERMAN, JR.
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204
410-321-0600
410-296-2801 (Fax)
Attorneys for Kelkerry Development LLC

DATED: June 26, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of June, 2003, a copy of the foregoing *Motion for Limited Reconsideration* and the attachments hereto were mailed via First-Class, United States Mail to: Perry Hall Improvement Association, Inc., c/o Mr. William Libercci, 19 Shawn Court, Baltimore, Maryland 21236.

Howard L. Alderman, Jr.

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE N/S Forge Road, 250' W from centerline of Forge View Road 11th Election District 5th Councilmanic District (Forge Road - The Enclave @ Perry Hall)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 03-402-SPHA
Kelkerry Development, LLC *Petitioners*	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Variance from the Honeygo Regulations requesting the issuance of residential building permits for the construction of single-family homes within the Development known as "The Enclave at Perry Hall". In addition, special hearing relief is also requested for a waiver of Public Works standards requesting the elimination of 580 ft. of sidewalk along the east side of Kerrie's Court, a cul-de-sac roadway located within The Enclave at Perry Hall, and to amend the Final Development Plan to approve the location of Lots 15 and 16.

Appearing at the hearing on behalf of the requested relief were Paul Amirault, a member of Kelkerry Development, LLC, the owner of the property, Richard Matz, the professional engineer who prepared the site plan of the property, Mickey Cornelius, an expert traffic planner with The Traffic Group, and Howard L. Alderman, Jr., attorney at law, representing the Petitioner. Appearing in opposition to the Petitioner's request was William Libercci, representing the Perry Hall Improvement Association. Ed and Jacqueline Watts were also in attendance.

Testimony and evidence indicated that the property, which is the subject of this special hearing and variance request, is the residential subdivision known as "The Enclave at Perry Hall". The subject property was approved for development by Hearing Officer Lawrence E. Schmidt. The Development Plan approved in that case permitted the construction of 14 single-family residential

Date 9/2/03
By

homes as are depicted on Petitioner's Exhibit No. 1B, the Red Lined Site Plan submitted into evidence.

The request before me at this time is two fold. First, the Developer is requesting special hearing relief to approve a waiver which, if approved, would forego the installation of 480 ft. of sidewalk along the east side of Kerrie's Court. Kerrie's Court is the entrance road to this subdivision that services the approved 14 lots. The Developer indicated at the hearing that sidewalks are already proposed to be installed on the west side of the entrance road and around the cul-de-sac, as represented on the site plan submitted into evidence. The Developer has requested a waiver to forego the installation of sidewalks on the east side of the entrance roadway.

The citizens in attendance at the hearing, which included Mr. Libercci, Chairman of the Board of Directors of the Perry Hall Improvement Association, agreed that it was not necessary to mandate the installation of sidewalks on the east side of Kerrie's Court and accordingly had no objection to the granting of the waiver.

The second part of the special hearing request involved an amendment to the Development Plan to approve the location of two lots and houses situated in the northwest corner of the site. Those lots are shown as Lots 15 and 16 on the site plan submitted. Those two lots and houses are to be developed in conjunction with the adjacent residential subdivision known as "Lauren Woods". As the site plan reflects, there is a stream that traverses the center of this property and, therefore, it is not feasible to access Lots 15 and 16 across that existing stream. The Developer requests a modification to their site plan showing the location of those lots. No one had any opposition to the granting of the special hearing request to approve the location of Lots 15 and 16 as represented on the plan.

The special variance portion of the hearing before me is for relief from the Honeygo Regulations as contained within Section 259.7 of the Baltimore County Zoning Regulations as that

Date 6/2/03
By [illegible]

section regulates threshold limits within the Honeygo area. Specifically, the Petitioner is requesting a special variance to permit the issuance of residential building permits for the 16 single-family residential lots located within this subdivision. The testimony and evidence offered at the hearing demonstrated that the subject property is located within the Bean Run Subarea of the Honeygo District. The regulations applicable to the Bean Run Subarea allow the Director of Permits & Development Management to issue 400 initial building permit authorizations. The regulations further state that an additional 650 authorizations may be granted after the commencement of certain capital projects, specifically the Forge Road Capital Project from Cross Road to Forge View Road and the Cross Road Capital Project from Honeygo Boulevard to Forge Road.

The testimony and evidence offered at the hearing demonstrated without contradiction that neither of these capital projects has been commenced as that term is defined within these regulations. In fact, Mr. Matz, who testified on behalf of the Developer, indicated that his investigation into the matter revealed that there is no timeline established within the Department of Public Works as to when these projects may commence in the future, if at all. Therefore the Developer not finding any timeframe in the future within which these projects will be commenced is asking for a special variance for authorizations to be granted at this time.

This special variance request was opposed by Mr. Libercci and the Perry Hall Improvement Association. The Perry Hall Improvement Association objects to additional authorizations being granted by way of the special variance procedure. The association is concerned about the cumulative effects that the granting of these special variances has had on the overall surrounding community of Honeygo. While from the face of the petition, the special variance request for 16 residential homes appears to not have a large impact on the overall Honeygo community, this particular request, coupled with the many others that have already been approved, will in the opinion of Mr. Libercci have a tremendous impact on the surrounding Honeygo District.

Date 9/24/03
By

Mr. Libercci further stated that his association has been attempting to meet with representatives of the Department of Permits & Development Management to ascertain the amount of authorizations that have already been issued pursuant to this particular special variance procedure. They have not, as of the date of the hearing before me, been advised of the exact number of authorizations previously granted and question whether anyone in the Department of Permits & Development Management is keeping track of these numbers. Therefore, they are adamantly opposed to any further granting of special variances until such time as the overall effect of these special variances can be determined and fully studied.

I agree with the position of the Perry Hall Improvement Association regarding this special variance request. It appears from my cursory investigation into this matter that approximately one-third of the 650 authorizations that would be permitted to be issued once the aforementioned capital projects are commenced have already been given out to developers in previous special variance hearings. This practice should not continue to occur.

Developers in the Bean Run Subarea of the Honeygo District are obtaining authorizations to construct homes via the special variance process through the Zoning Commissioner's Office. In my opinion, the proper method to address this situation is to request a legislative change to the language of the subarea threshold limits pertaining to the Bean Run Subarea as contained within Section 259.7.E.1. Continuing to grant special variances would at some point cause the entire 650 additional authorizations to be distributed. This would completely circumvent the legislative intent of the County Council as stated within Section 259.7.E.1 of the Baltimore County Zoning Regulations. This, in my opinion, is not an appropriate way to proceed. Accordingly, the special variance request to permit the issuance of 16 residential building permits for the construction of single-family homes within the development known as "The Enclave at Perry Hall" shall be denied.

Date 6/2/03
By J. Ameen

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner and Hearing Officer for Baltimore County, this 2nd day of June, 2003, that the Special Variance request filed pursuant to Sections 259.8 and 4A02.4.F of the Baltimore County Zoning Regulations, to permit the issuance of residential building permits for the construction of single-family homes within the development known as "The Enclave at Perry Hall", be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Special Hearing relief requested to approve the waiver of Public Works Standards, to allow the elimination of 480 ft. of sidewalk along the east side of Kerrie's Court, be and is hereby APPROVED.

IT IS FURTHER ORDERED, that the Special Hearing relief to modify the Development Plan for "The Enclave at Perry Hall", to permit the approval of the homes and lots as shown on the plan as Lots 15 and 16, be and is hereby APPROVED.

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

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

Date 6/2/03
By B. Anderson

IN RE: DEVELOPMENT PLAN HEARING and PETITION FOR SPECIAL VARIANCE - N/S Forge Road, W of Forge View Road **(Lauren Woods – fka Black Iron Knoll)**

11th Election District – 6th Council District

Harford Joint Venture, Owner;
The Rachuba Group, Developer

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Cases Nos. XI-798 & 03-127-SPVAH

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a single combined public hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). Pursuant to the development review regulations codified in Title 26 thereof, the Owners/Developers seek approval of a red-lined development plan prepared by Matis Warfield, consulting engineers, for the proposed residential development of the subject property to be known as Lauren Woods, formerly known as Black Iron Knoll. In addition, certain zoning relief is requested from the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, special variance and variance relief is requested from Section 259.7 of the B.C.Z.R. for 12 authorizations (12 building permits) in the Bean Run Sub-area of the Honeygo District, pursuant to Section 4A02.4G of the B.C.Z.R. In addition, special hearing relief is requested, if necessary, to approve certain waivers from the Department of Public Works standards for certain public improvements. Specifically, the Owner/Developer requests the following: 1) a waiver of sidewalk construction along a proposed interior road (Anvil Court); 2) to allow a 24-foot closed paving section on a 50-foot right-of-way in lieu of the required 30-foot closed paving section on a 50-foot right-of-way for a proposed interior road (Anvil Court); and, 3) to allow the project to have mountable curb and gutter in lieu of the standard concrete curb and gutter along the proposed interior road.

The subject property consists of a gross area of 15.1124 acres, more or less, zoned D.R.-1H, and is located on the north side of Forge Road, just west of that road's intersection with Forge View Road in the Honeygo District of Perry Hall. The subject property and requested relief

are more particularly described on the red-lined development plan(s) submitted into evidence and marked as Developer's/Petitioner's Exhibits 1 and 5.

As to the history of this project through the development review process codified in Title 26 of the Baltimore County Code (B.C.C.), a concept plan of the proposed development was prepared and a conference held thereon on December 17, 2001. As required, a Community Input Meeting (CIM) was held on January 24, 2002 at the Rosedale Library. Subsequently, a development plan was submitted and a conference held thereon on October 30, 2002. Following the submission of that plan, development plan comments were submitted by the appropriate reviewing agencies of Baltimore County and a revised development plan incorporating these comments was submitted at the combined hearing held before me on November 22, 2002.

Appearing at the Hearing Officer's Hearing required for this project were Larry Rachuba and Chris Rachuba, representatives of The Rachuba Group, Developer; Steve Warfield, on behalf of Matis Warfield, the consultants who prepared the development plan/site plan for this project; Salvatore Crupi; Joe Caloggero, a traffic engineer with The Traffic Group; and Alan Betten, 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): Chris Rorke, Project Manager; Dennis Kennedy, Development Plans Review; Colleen Kelly, Land Acquisition; and, John Alexander, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); R. Bruce Seeley and Todd Taylor, Department of Environmental Protection and Resource Management (DEPRM); and Jan Cook, Department of Recreation and Parks (R&P). Numerous citizens from the surrounding locale appeared as interested persons, including Dennis Eckard and William Libercci, Sr., representatives of the Perry Hall Improvement Association, and Howard Wille, a nearby resident. Also appearing were Paul Amirault, owner/developer of an adjacent tract, known as the Enclave at Perry Hall; Richard Matz, the engineer who developed the plan for that project; and, Howard L. Alderman, Jr., Esquire, attorney for Mr. Amirault.

As noted above, the subject property is an irregularly shaped parcel with frontage on the north side of Forge Road near I-95 in the Perry Hall/Honeygo area of northeastern Baltimore County. The property contains approximately 15.1124 acres, zoned D.R.-1H. The D.R.1 zoning classification is a residential zone that permits development at the density of one (1) house per acre. The "H" overlay district represents properties in the Honeygo District of the White Marsh area of Baltimore County. White Marsh is a designated growth area, and the Honeygo District regulations impose heightened standards to assure a high quality development in this area.

The development plan that has been submitted for approval in this case actually features two alternative proposals. (See Developer's Exhibits 1 and 5). The first alternative is shown as Option 1 and proposes 12 single-family dwelling lots. As more particularly shown on Developer's Exhibit 1, Option 1 proposes the construction of a public road leading into the interior of the site from the property's frontage on Forge Road. That public road will be known as Anvil Court. The road will terminate as a cul-de-sac within the interior of the property. Option 1 shows five houses with frontage on Anvil Court will be located on the south side of the property near Forge Road. A storm water management facility and areas of forest conservation and forest buffer then bisect the interior of the property. In the northern portion of the site, Anvil Court terminates as a cul-de-sac and there are seven additional houses clustered therein.

The second option is identified as Option 3.[1] Option 3, which is more particularly shown on Developer's Exhibit 5, proposes development of the tract with 11 single-family dwelling lots. That plan shows a substantially similar layout on the south side of the property along Forge Road. That is, there are five lots clustered in that part of the overall tract; however, on the north side of the property abutting the cul-de-sac in Anvil Court, there are six single family dwelling lots shown as opposed to the seven in Option 1. But for the change in the number of lots proposed, the details of the plans for both Options 1 and 3 are largely the same.

---

[1] Apparently, the Developer originally proposed multiple options. Ultimately, all were disregarded but for Options 1 and 3. There is no longer an Option 2. For simplicity, the numbers of the Options were preserved as Options 1 and 3.

In addition to the alternative development plans, the Owner/Developer also seeks variance relief under the Petition for Variance (Honeygo Special Variance) and Petition for Special Hearing. Under the Petition for Special Variance, relief is requested from Section 259.7 of the B.C.Z.R. to allow up to 12 authorizations in the Bean Run Sub-area of the Honeygo District, pursuant to Section 4A02.4G of the B.C.Z.R. Special hearing relief is requested to obtain approval from certain Department of Public Works' standards. These are: 1) to allow a waiver of sidewalk construction along a proposed interior road (Anvil Court); 2) to allow a 24-foot closed paving section on a 50-foot right-of-way in lieu of the required 30-foot closed paving section on a 50-foot right-of-way for a proposed interior road (Anvil Court); and, 3) to allow the project to have mountable curb and gutter in lieu of the standard concrete curb and gutter along the proposed interior road.

The public hearing held in this matter was bifurcated to consider the development plan and zoning relief separately. As to the requirements for development plan approval, the Developer contended that, pursuant to Section 26-206 of the B.C.C., there were no open issues or unresolved comments that needed to be addressed. But for the relief requested in the underlying zoning Petitions, representatives for the Developer proffered that the proposed plans were in compliance with all County standards and regulations for land development. It is to be particularly noted that both plans show the required public works improvements. That is, both plans show the requisite road width for Anvil Court to be 30 feet, sidewalks on both sides of that street, and standard concrete curb and gutter. If the requested waivers are approved, the Developer proposes to amend the plans accordingly.

Representatives of the reviewing agencies of Baltimore County confirmed that there were no outstanding issues or unresolved comments. In this regard, Ms. Kelly indicated that there were no outstanding issues from the Bureau of Land Acquisition, and Mr. Alexander indicated that there were no outstanding issues from the Zoning Review division of DPDM. Mr. Seeley identified a small revision that might be required as to the areas of forest conservation and storm water management. He indicated that the plan could be conditionally approved, subject to final

approval by DEPRM, regarding these minor issues. Mr. Kennedy indicated that the plan complied with the Department of Public Works' requirements. As noted above, the plan shows all public works' standards, notwithstanding the Developer's request that certain of those requirements be waived or modified. In this regard, Mr. Kennedy indicated that the Department of Public Works does not object to mountable curb and gutter; however, that agency does not support the waiver of sidewalks adjacent to the proposed interior road and also objects to a 24-foot road width in lieu of the required 30 feet.

It is also to be noted that Ms. Rorke, Project Manager, indicated that the plan has been revised significantly during the development review process. As has frequently been stated in describing the County's review process, same is evolutionary in nature. (See Monkton Preservation Association v. Gaylord Brooks Realty Corp., 107 Md. App. 573 (1996)). That is, the development review regulations encourage the ongoing refinement of a plan so as to resolve issues and bring the plan into compliance with County standards. The fact that two options of this plan have been submitted for consideration and that prior plans contain significant differences is not problematic in this case. Rather, it is indicative of the intent of the review process to encourage ongoing amendment and revision of a plan in an attempt to satisfy the concerns of all parties.

Finally, the participation of Mr. Amirault through his counsel is of interest. As noted above, Mr. Amirault owns the adjacent tract located just south of the subject property, known as the Kelkerry, LLC property, which was previously approved for development as the "Enclave at Perry Hall." Due to site constraints associated with that tract, the Developer of that parcel is unable to provide direct access and utilities to two lots in that subdivision. To remedy that problem, the Developer of the subject property has agreed to convey a 24-foot wide, fee simple strip located at the end of the cul-de-sac between proposed Lots 8 and 9. This strip will provide a means of vehicular access and allow the extension of public utilities to two lots within the Enclave at Perry Hall subdivision. Both of those lots are over 30,000 sq.ft. in area, and were shown on the approved development plan for that subdivision. In exchange for this conveyance, it was agreed that if additional acreage for forest buffer or storm water management are required for the Lauren

Woods project, the Owner/ Developer of the Enclave at Perry Hall will provide same from their tract for such purposes.

The agreement by and between these adjacent Developers was described as set out above during the course of the hearing. Following that description, Mr. Alexander from the Zoning Review Division of DPDM noted that relief should be granted to incorporate the conveyance of this 24-foot wide strip as a non-density transfer. To the extent required, the undersigned will approve the non-density conveyance of the 24-foot strip area to the Kelkerry, LLC property.

As to the development plans, Mr. Eckard and Mr. Libercci from the Perry Hall Improvement Association, as well as Mr. Wille, voiced no concern or objections; however, they are opposed to the requested zoning relief.

Based upon the testimony and evidence offered, it is clear that the development plans as proposed meet all regulations requirements and standards contained within Title 26 of the B.C.C. Thus, both plans shall be approved subject, of course, to the grant of the zoning relief, which is required.

Turning first to the Petition for Special Hearing, attention is given to the requested waiver of public works' standards. Those standards may be waived, pursuant to the provisions of Section 26-172(a) of the Baltimore County Code (B.C.C.) As noted above, Mr. Kennedy on behalf of the Department of Public Works, indicated his agency's agreement that mountable curb and gutter could be installed in lieu of the standard concrete curb and gutter. Thus, a waiver of that requirement shall be granted in that there is agreement on this issue and the waiver request meets the requirements of Section 26-172(a). Given the nature of this development, mountable curb and gutter is appropriate.

The second waiver request relates to the width of Anvil Court. As noted above, the Developer seeks a reduced width of 24 feet in lieu of the required 30 feet. The Department of Public Works does not support this waiver. In my view, several factors support the grant of that waiver. First, the road will bear limited traffic. Under either Option, there will be no more than

12 houses in this subdivision, in addition to the two houses in the Enclave at Perry Hall development that will be provided access via a 24-foot wide strip at the end of this road. Thus, there will be no more than 14 individual dwellings utilizing this road, which suggests that there will be minimal traffic volumes. Secondly, it is clear from the plan that the site contains environmental constraints, including areas of forest, steep slopes, etc. A reduction in the area of impervious surface brought about by the reduction in the paving width of the road would reduce these environmental impacts. Third, off-street parking will be provided to the proposed dwellings by lengthy driveways and garages. In opposition to the waiver, the Department of Public Works expressed concerns that a reduction in the road width could cause inappropriate traffic congestion in that the road would be 6 feet narrower than required. Obviously, this could present an issue for vehicles passing in opposite directions, as well as an issue for construction traffic and larger vehicles that might utilize the road. Most importantly, a reduction in width could cause a problem insofar as access by emergency vehicles (fire trucks) and maintenance vehicles (trash trucks). After due consideration of this issue, I am persuaded that, from a practical standpoint, those factors that support a waiver override the concerns against; however, what might be viewed as the practical solution is not the test/standard required under Section 26-172. Rather, that Section imposes upon the Developer a significant burden before a waiver can be granted. In this case, there is no indication that compliance with the full standard would cause undue hardship upon the Developer. Indeed, the plan shows full road width improvements. Therefore, although I encourage the Department of Public Works to revisit this issue, I will not require that the road width be reduced to 24 feet. It shall remain at a width of 30 feet; however, if upon further review the Department of Public Works concurs that a reduction is appropriate, same shall meet the spirit and intent of this Order and the plan can be modified accordingly.

The final issue relates to a waiver of sidewalks. As noted above, sidewalks are shown on the plan to be located on both sides of the street. Due to the limited number of lots in this subdivision and character of the area, I believe that sidewalks on both sides of the road would serve no real purpose and thus, are not necessary. In this regard, I will require sidewalks only on

the north side of Anvil Court, where the greater number of houses will be served. In my view, a single sidewalk will be sufficient to provide pedestrians an area off the road on which to walk.

The final issue for consideration arises from the variance relief requested. As noted above, relief is requested from Section 259.7 of the B.C.Z.R. to permit 12 authorizations in the Bean Run Sub-area of the Honeygo District, pursuant to Section 4A02.4G of the B.C.Z.R. This issue raised opposition by Mr. Libercci and Mr. Eckard and also resulted in an adverse Zoning Advisory Committee (ZAC) comment from the Office of Planning. A review of the Honeygo standards in this regard is appropriate. The Honeygo standards are set out within Sections 259.4 through 259.9 of the B.C.Z.R. As noted in the statement of the legislative intent for the Honeygo District, as set out in Section 259.4, the intent of the standards is to insure that development of infrastructure in the area will coincide with the approval of building permits and subsequent construction.

The regulations govern both the rate and density of development in the Honeygo District. As to density, the regulations establish a maximum number of authorizations for the entire Honey District. A single authorization corresponds to the issuance of a single building permit. In addition to establishing a set number of authorizations for the entire Honeygo District, the regulations provide for additional authorizations within four established sub-areas of the District (i.e., Bean Run, Honeygo Run, Bird Run, and Belair Road). Thus, the density for the Honeygo District is regulated by both the number of authorizations which can be issued for the District at large, as well as the number of authorizations available for the respective sub-areas.

The rate of growth is also regulated by the Honeygo District standards. Specifically, the regulations provide that authorizations become available only upon a triggering event, such as a capital improvement project (i.e., road construction, sewer construction, etc.). As infrastructure is built out, more authorizations become available and may be issued.

The Zoning Commissioner is authorized to variance the standards set out in Section 259.7 of the B.C.Z.R., pursuant to Section 259.8 thereof. Moreover, the Zoning Commissioner shall apply the requirements set out in Section 4A02.4G of the B.C.Z.R. when considering such

variance requests. It is well settled that the zoning authority shall determine the legislative intent in considering any regulation. (See State v. Fabritz, 76 Md. 416 (1975)). Moreover, regulations should be read in harmony so as to fulfill the purposes and goals of the legislation. (See Maryland Industrial Development Financing Authority v. Meadow-Croft, 243 Md. 515 (1966)). Thus, under these principles, it is clear that variances granted by the Zoning Commissioner do not impact the **density** permitted by the Honeygo regulations; rather, the grant of the variance accelerates the **rate** at which authorization/building permits are issued. The representatives of the Perry Hall Improvement Association argued at the hearing that by a grant of the variance, the overall allowable density of the Honeygo district would be increased. This is clearly not the case. It is incumbent upon the Zoning Review Division of DPDM to keep accurate records of the number of authorizations issued within the Honeygo District, either by right, or through the special variance process. Those total authorizations cannot exceed the total permitted for a given sub-area or the Honeygo area at large. Moreover, authorizations can be approved by the grant of a special variance that will accelerate the timing of the release of those authorizations before the completion of certain capital improvement projects. Indeed, that is what is requested in this case.

Further support for this interpretation is found in prior decisions of the Zoning Commissioner's Office. In the matters of Ermanno Florio (Case No. 99-331-SPH and 01-205-A), Moore's Orchard (Case No. XI-837 and 00-421-SPHA) and Baltimore Air Park (Case No. XI-829 and 00-252-A), special variance relief was requested, pursuant to Section 259.8 of the B.C.Z.R. Testimony and evidence offered therein was that existing utilities were available to serve the respective properties, and that the proposed development would not impact the capital improvement projects that had not begun. In those cases, relief was granted to provide authorizations that were not yet available. However, no additional authorizations were created.

In support of its request, the Developer offered the expert testimony of Messrs. Matis and Calogerro. Mr. Matis, a civil engineer, testified that water/sewer facilities were available to serve this site. Mr. Calogerro, a traffic engineer, testified that the anticipated traffic that will be generated by this project will be minimal and will not adversely impact the surrounding road

system. He further opined that capital improvements to roads in the area need not be completed before this subdivision is built out. Mr. Eckard disagreed. He contended capital improvements in the area need be completed before authorizations are issued.

Upon due consideration of the testimony and evidence offered, I am persuaded to grant the Petition for Special Variance. I find that the Developer/Petitioner has met the requirements of Section 4A02.4G of the B.C.Z.R., particularly given the modest number of homes proposed.

It is to be noted that there is no indication that I need approve either development plan Option 1 or Option 3. The testimony and evidence offered demonstrated that both plans comply with the standards, regulations, and requirements and thus both shall be approved. Additionally, I will grant the non-density transfer of the 24-foot wide strip shown on the plans at the end of Anvil Court to the Enclave at Perry Hall, and approve the waiver of public works standards to allow a mountable curb and gutter in lieu of the required concrete. However, I will deny the waiver request to allow a 24-foot paved road width and will require sidewalks only on one side of Anvil Court. Moreover, the Petition for Special Variance shall be granted, consistent with my direction to the Department of Public Works.

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 3rd day of December, 2002 that the red-lined development plans for Lauren Woods, identified herein as Developer's/Petitioner's Exhibits 1 and 5, be and are hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Special Variance seeking relief from Section 259.7 of the B.C.Z.R. for 12 authorizations (12 building permits) in the Bean Run Sub-area of the Honeygo District, pursuant to Section 4A02.4G of the B.C.Z.R., be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that a non-density transfer of the 24-foot strip shown on the plan to the Enclave at Perry Hall, pursuant to the agreement reached by and between the Developer of the subject property and Kelkerry, LLC, Owner/Developer of the Enclave at Perry Hall, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a waiver to allow sidewalk construction on only the north side of Anvil Court, and to permit mountable curb and gutter in lieu of the required standard concrete curb and gutter, be and is hereby approved, and as such, the Petition for Special Hearing is GRANTED, in part; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to allow a 24-foot closed paving section in lieu of the required 30 feet, be and is hereby DENIED.

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

Baltimore County
Zoning Commissioner

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

June 2, 2003

Howard Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No. 03-402-SPHA
Property: Forge Road (The Enclave at Perry Hall)

Dear Mr. Alderman:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the 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

PLEASE PRINT CLEARLY

CASE NAME Kelkeray Development
CASE NUMBER 03-402-SPHA
DATE 07 May 03

PETITIONER'S SIGN-IN SHEET

(Enclave @ Perry Hall) Zoning SPH & SP Var

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Howard L. Alderman, Jr.	LEVIN & GANN, PA, Nottingham Centre 8th Floor, 502 Washington Avenue	TOWSON, MD 21204	halderman@LevinGann.com
MICKEY CORNELIUS	9900 FRANKLIN SQ DR STE H	BALTIMORE, MD 21236	mcornelius@trafficgroup.com
RICHARD MATE	2835 SMITH AVE, SUITE G 21209	BALTO. MD 21209	
PAUL AMIRAULT	POBOX 216 KINGSVILLE MD 21087	P KINGSVILLE MD 21087	mdlandmark@earthlink.net

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 03-402
DATE _____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
JACQUELINE WATTS	4916 FORGE RD	PERRY HALL, MD	
ED WATTS	4916 FORGE RD	PERRY HALL MD	

Case Number 03-042

PLEASE ***PRINT*** LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
William Liberco	19 Shawn ct	Baltimd	21236

Revised 4/17/00

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: #03-402-SPHA
Forge Road (The Enclave @ Perry Hall)
N/side Forge Road 250 feet west of Forge Road
11th Election District-5th Councilmanic District
Legal Owner(s): KelKerry Development, LLC.
Paul Amirault, Managing Member

Special Hearing: to approve a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court. To approve the modification of the development plan for The Enclave at Perry Hall. **Honeygo Special Variance:** to permit the issuance of 16 residential building permits for construction of single-family homes.

Hearing: Wednesday, May 7, 2003 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing Contact the Zoning Review Office at (410) 887-3391.

JT/4/747 April 22 C599521

CERTIFICATE OF PUBLICATION

4/24/, 2003

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 4/22/, 2003.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

Date: 4/19/03

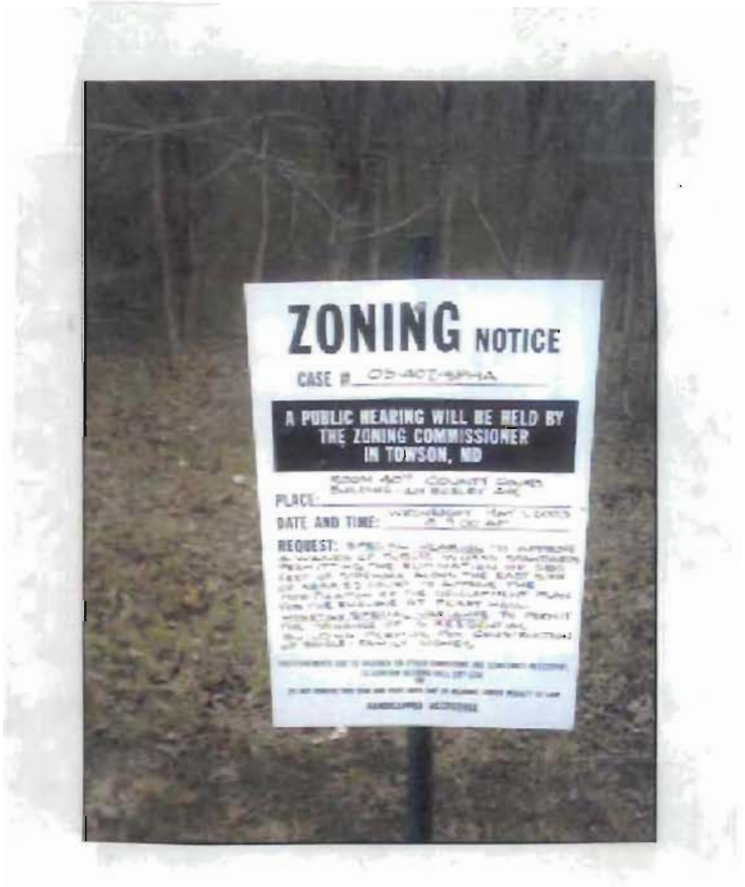
RE: Case Number 03-402-SPHA

Petitioner/Developer: KELKERRY DEVELOPMENT, LLC

Date of Hearing/Closing: MAY 7, 2003

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at FORGE ROAD. N/S 250' WEST of FORGE VIEW ROAD

The sign(s) were posted on APRIL 19, 2003
(Month, Day, Year)



Charles E. Merritt
(Signature of Sign Poster)

CHARLES MERRITT
(Printed Name of Sign Poster)

9831 MAGLEDT ROAD
(Street Address of Sign Poster)

BALTO. MD 21234
(City, State, Zip Code of Sign Poster)

410 665-5562
(Telephone Number of Sign Poster)

Revised 3/1/01 - SCJ

99076

2

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

March 3, 2003

PETITIONER'S EXHIBIT 4
ALL-STATE LEGAL®

Colbert Matz Rosenfelt, Inc.
Richard Matz
2835-G Smith Avenue
Baltimore, MD 21209

RE: Enclave @ Perry Hall
PDM Number XI-856
DRC Number 021003L, Dist. 11C5

Dear Mr. Matz:

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

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

The DRC has, in fact, met in an open meeting on February 10, 2003, and made the following recommendations:

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

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

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 3rd day of March 2003, ordered and decided that the recommendations of the DRC are hereby adopted.

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

Sincerely,

Arnold Jablon
Director

AJ:DTR:dak

c: Kristin Weis
File

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC#_____
County Use Only

Filing Date: 1/22/03
Stamp in w/PDM date stamp here

This application must be accompanied by the following:

1. One copy of the completed DRC application form checklist.
2. Three copies of this DRC application, completed in full.
3. Three copies of a letter of request (attach one to each DRC application).
4. Nine copies of the plan folded to 8 ½ x 11 inches.
5. $50 fee (check made payable to Baltimore County and non-refundable; do not staple check to request form)

Project Name: Enclave at Perry Hall PDM File #: XI-856

Project Address: Forge Road opp. Forge View Rd. Zip Code: 21128 ADC Map #: 29-4 H K

Councilmanic District: 5 Election District: 11 Project Acreage: 16.48 AC.

Tax Account No(s): 1600011990, 1600011991 Zoning: DR-1H

Engineer: Colbert Matz Rosenfelt, Inc Engineer's Phone No.: 410-653-3838

Applicant: Richard E. Matz, P.E.
Colbert Matz Rosenfelt, Inc Applicant's Phone No.: 410-653-3838

Address: 2835 G Smith Avenue

Baltimore, Md. Zip 21209 Email: dmatz@cmrengineers.com

Is this an antenna? ___Yes X No If "Yes" check one of the following: Cellular ____ (CAC) Water Tower ____ (WTC) MonoPole _____ (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

( ) Limited Exemption under Section 26-171 (____) (____)
( ) Material Amendment to the plan
(X) Plan Refinement
(X) Waiver of public works standards
( ) Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 3

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request.

Please note that a DRC application form checklist is available in room 123 of the Baltimore County Office Building and on the Baltimore County web site at www.co.ba.md.us. A copy of that checklist must be completed and included along with this DRC application.

Please see the DRC application form checklist for complete submittal requirements.

c: Council, Planning, DEPRM

1/02/2003

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

January 21, 2003

Mr. Donald T. Rascoe, Chairman
Baltimore County Development
Review Committee
111 W. Chesapeake Avenue
Towson, Md. 21204

Re: Enclave at Perry Hall
CMR No. 99076

Dear Mr. Rascoe,

On behalf of the owner, we hereby request a Waiver of Public Works Standards to eliminate 580 feet of sidewalk along the east side of the proposed cul-de-sac road on this project (Kerrie's Court), and to request a Refinement to the Development Plan based on our future development Parcel 'A' and the recently approved Lauren Woods development. The development will now be a 16-lot single-family residential subdivision, as envisioned in the original development plan approval The property is a 16-acre site off Forge Road, in the Perry Hall area.

The cul-de-sac road runs along our property boundary, with proposed subdivision lots only on the west side of the road. No houses currently face the road on the east side, which is mostly wooded, with one single-family house located near Forge Road.

We look forward to your approval of this request.

Yours truly,

Richard E. Matz, P.E.
COLBERT MATZ ROSENFELT, INC.

cc: Paul Amirault
Howard Alderman, Esq.

2835 Smith Avenue, Suite G Baltimore, Maryland 21209
Telephone: (410) 653-3838 / Facsimile: (410) 653-7953

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Development Review Committee (DRC) Application Form Checklist

All applications to the DRC must include the following:

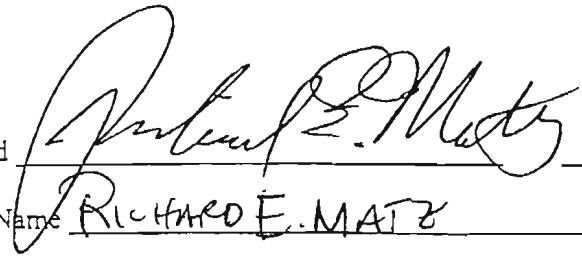
✓ 1. Three copies of the DRC Application.
✓ 2. Three copies (one attached to each DRC Application) of a letter of request to the DRC containing the following:
- ✓ a. Name, address and phone number of the applicant
- ✓ b. Explanation of the request to the DRC.
- ✓ c. Signature of the applicant.

✓ 3. Nine copies of a plan*** showing the following:
- ___ a. A plan title box noting "Plan to accompany DRC request."
- ✓ b. North arrow.
- ✓ c. Vicinity map.
- ✓ d. Election district.
- ✓ e. Councilmatic district.
- ✓ f. Property tax account numbers.
- ✓ g. Site property owner's name and address.
- ✓ h. Scale of the drawing.
- ✓ i. Boundaries of the property lines shown in heavy bold lines.
- ✓ j. Lengths of property lines
- ✓ k. Area of project site in square feet and acreage.
- ✓ l. Proposed structures, heights and dimensions.
- ✓ m. Setbacks.
- N/A n. Location of existing wells and septic systems.
- ✓ o. Zoning information:
  - ✓ 1. Current zoning on the property.
  - ? 2. Case numbers of any zoning hearings.
  - N/A 3. Dates of zoning orders.
  - ? 4. Indication of what was granted or denied by the zoning commissioner.
  - ? 5. Copies of zoning orders attached to the DRC Application.

***Note: For refinements and material changes to previously approved plans you must use copies of the last approved plan to show items 3a-o listed above. Please show all changes in red.

✓ 4. One copy of this checklist completed and signed by the applicant or the consultant.
✓ 5. Check for $50 payable to Baltimore County, MD (do not staple to forms).

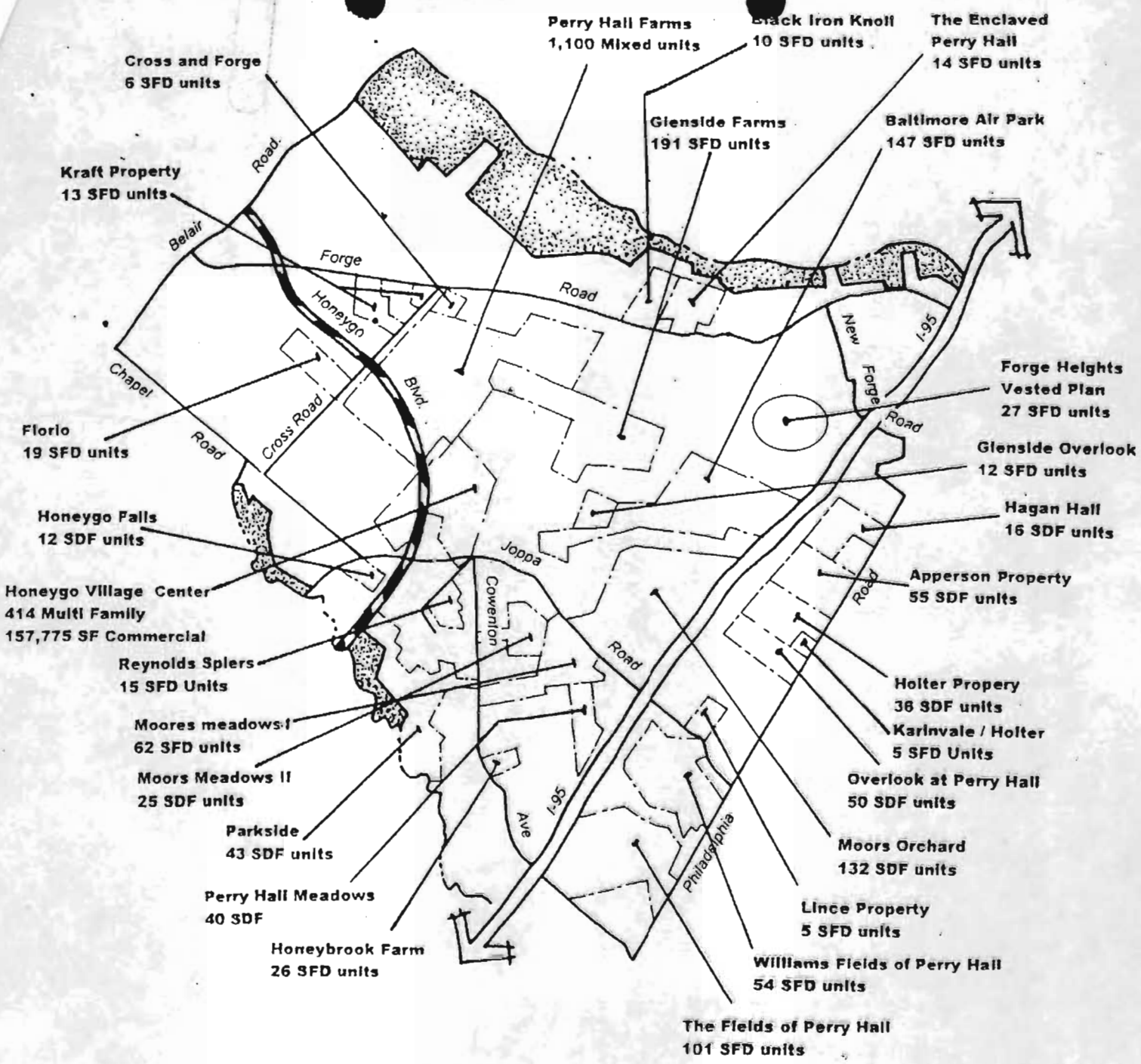
I have reviewed the DRC application and plan using this checklist to insure that the application and plan are complete. I understand that an incomplete application or plan may cause the DRC to delay its action on this request.

Signed  1/21/03
Date

Print Name RICHARD E. MATZ

1/02/2003

The Honeygo Area



Honeygo Area Information

Prot Ex #1

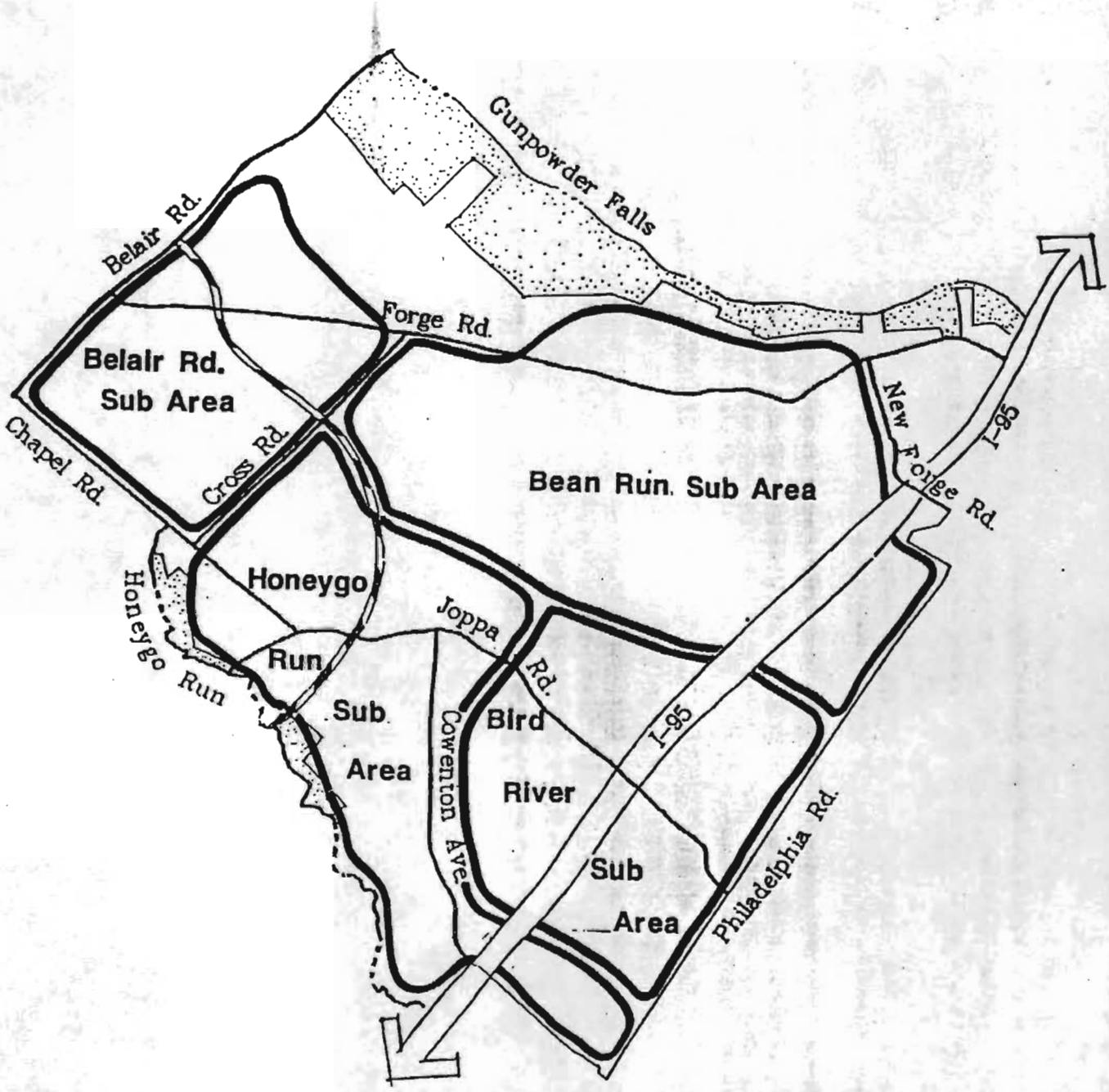
The Honeygo Plan, *adopted by the County Council, July 5, 1994*
- *Includes land use, design, zoning, transportation, and public infrastructure recommendations*
- *Ammendment to the 1989-2000 Baltimore County Master Plan*
- *Available in the Office of Planning*

Honeygo Overlay District Zoning Regulations *(H and HI Overlay Districts)*
- *Sections 259.4-259.9 of the Baltimore County Zoning Regulations (BCZR)*
- *Adopted by the Baltimore County Council, November 1994*

The Honeygo Overlay District Design Guidelines
- *Submited to the Planning Board for review*
- *Adopted by the County Council on March 17, 1997*
- *Available in the Office of Planning*

Prepared: 4-4-03

Permit Phasing Map



Honeygo Study Area
Development Sub Areas

The sub areas boundaries generally follow watershed / sewershed lines. Natural drainage courses may adjust boundaries.

Prot Ex #2

Flood

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Forge Road (The Enclave @ Perry Hall)
which is presently zoned DR 1H

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

SEE ATTACHED

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:

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

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

Howard L. Alderman, Jr.
Signature

Levin & Gann, PA
Company

502 Washington Avenue, Suite 800 410-321-0600
Address Telephone No.

Towson Maryland 21204
City State Zip Code

Legal Owner(s):

KelKerry Development, LLC
Name - Type or Print

By: Paul Amirault, Margi Amirault
Signature MANAGING MEMBER

PAUL AMIRAULT
Name - Type or Print

Signature

PO BOX 216 410-593-9881
Address Telephone No.

Kingsville MD 21087
City State Zip Code

Representative to be Contacted:

Colbert, Matz & Rosenfelt, Inc. RICHARD MATZ
Name

2835 Smith Avenue, Suite G 410-653-3838
Address Telephone No.

Baltimore MD 21209
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1HR

UNAVAILABLE FOR HEARING —

Reviewed By JL Date 3/04/03

Case No. 03-402-SPHA

6/2/03

REV 9/15/98

Attachment 1
PETITION FOR SPECIAL HEARING

CASE NO: 03– SPH

Address: Forge Road (The Enclave @ Perry Hall)
Legal Owners: KelKerry Development, LLC

REQUESTED RELIEF:

to approve: i) a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court, a cul-de-sac roadway as originally shown on the previously approved development plan; ii) a modification of the development plan for *The Enclave at Perry Hall* consistent with the relief requested herein; and iii) for such further relief as the nature of this case may require..

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

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

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

F Lodd

Honeygo Special Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at Forge Road (The Enclave @ Perry Hall

which is presently zoned DR 1 H

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 Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

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

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

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

Howard L. Alderman Jr.
Signature

Levin & Gann, PA Nottingham Centre, 8th Floor
Company

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

Towson, MD 21204
City State Zip Code

Legal Owner(s):

KelKerry Development, LLC
Name - Type or Print

By: Paul Amirault, Manager Member
Signature Paul Amirault, Authorized Member
PAUL AMIRAULT, MANAGING MEMBER
Name - Type or Print

Signature

PO BOX 216 410-593-9881
Address Telephone No.

Kingsville MD 21087
City State Zip Code

Representative to be Contacted:

Colbert, Matz & Rosenfelt, Inc. – RICHARD MATZ
Name

2835 Smith Avenue, Suite G 410-653-3838
Address Telephone No.

Baltimore MD 21209
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1HR

UNAVAILABLE FOR HEARING

Case No. 03 402 SPHA

Reviewed By JC Date 3/04/03

REV 9/15/98

Attachment 1
PETITION FOR SPECIAL HONEYGO VARIANCE

CASE NO: 03– SPVA-H

Address: Forge Road (The Enclave @ Perry Hall)
Legal Owners: KelKerry Development, LLC

REQUESTED RELIEF:

Variances from *Baltimore County Zoning Regulations* (BCZR) Sections 259.8 & 4A02.4.F, the Threshold Limits - Honeygo Area established by § 259.7, to permit the issuance of residential building permits for construction of single-family homes as shown on the development plan entitled *Enclave @ Perry Hall* and any and all amendments thereto approved or proposed, and for such further relief as the nature of this case and development may require.

JUSTIFICATION:

A. Capital Projects relative to Authorizations are not affected by the development; and
B. For such further reasons that will be presented at the hearing on this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

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

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

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

ZONING DESCRIPTION
ENCLAVE AT PERRY HALL

Beginning at a point on the north side of Forge Road, which is of varying width, at a point 250 feet distant from the centerline of Forge View Road, which is of varying width. Thence the following courses and distances:

N 42°38'26" E, 350.00 feet;
N 81°54'42" W, 300.26 feet;
N 42°38'26" E, 935.21 feet;
S 74°00'39" E, 685.82 feet;
S 17°48'10" W, 423.70 feet;
N 72°11'50" W, 289.54 feet;
S 17°48'10" W, 482.20 feet;
S 79°24'15" W, 357.87 feet, thence,
N 81°59'07" W, 308.30 feet, to the Point of Beginning.

As recorded in Deed Liber 14246, folio 425, containing 16.481 acres and located in the 11th Election District.

3/3/03

402

2835 Smith Avenue, Suite G Baltimore, Maryland 21209
Telephone: (410) 653-3838 / Facsimile: (410) 653-7953

NOTICE OF REMAND 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: #03-402-SPHA
Enclave @ Perry Hall
N/side of Forge Road, 250 feet west of Forge View Road
11th Election District - 5th Councilmanic District
Legal Owner(s): Kelkerry Development, LLC, Paul Amirault, Managing Member

Special Hearing: to approve a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court. To approve the modification of the development plan for The Enclave at Perry Hall. **Honeygo Special Variance:** to permit the issuance of 16 residential building permits for construction of single-family homes.

Hearing: Friday, March 19, 2004 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.

3/016 Mar. 4

C652220

CERTIFICATE OF PUBLICATION

3/4/, 2004

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 3/4/, 2004.

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

P. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

402 No. 22327

DATE 3/04/03 JV ACCOUNT 001 006 6150

AMOUNT $ 325.00

RECEIVED FROM: CLANCY DIAZ

FOR: SPH + VAR
~~VAR~~ SPH FEE PD. AT DRC.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
3/05/2003	3/04/2003	14:47:25	4

REG W806 WALKIN KNOX KXH
>>RECEIPT # 138359 3/05/2003 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 022527
Recpt Tot $325.00
325.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

...IMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 18005

DATE 1-22-03 ACCOUNT R-006-6150

AMOUNT $250.00 (2 checks)

RECEIVED FROM: Colbert Matz Rosenfelt Inc.

FOR: Emissaries @ Perry Hall

DRC # 021003L XI-856 DK

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

#402

CERTIFICATE OF POSTING

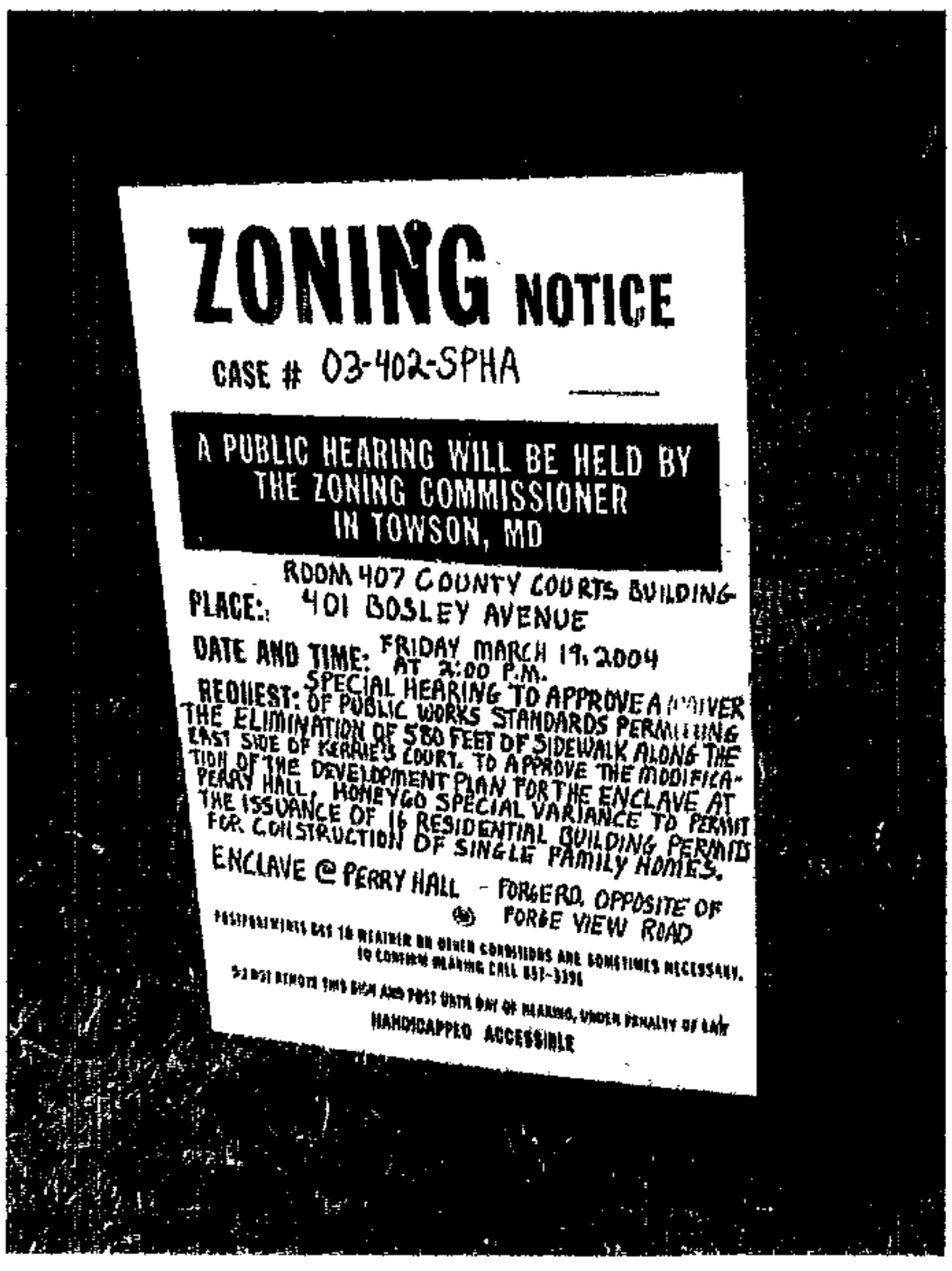
Attention: Becky Hart

Date: March 5, 2004

RE: Case Number 03-402-SPHA
Petitioner/Developer: KELKERRY DEVELOPMENT/ETAL
Date of Hearing/Closing: March 19, 2004

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at FORGE ROAD OPPOSITE OF FORGE VIEW ROAD (ON-SITE)

The sign(s) were posted on February 28, 2004
(Month, Day, Year)



Linda O'Keefe
(Signature of Sign Poster)

LINDA O'KEEFE
(Printed Name of Sign Poster)

523 PENNY LANE
(Street Address of Sign Poster)

HUNT VALLEY MD 21030
(City, State, Zip Code of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)

Revised 3/1/01 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Thursday, March 4, 2004 Issue - Jeffersonian

Please forward billing to:
Paul Amirault
P.O. Box 216
Kingsville, MD 21087

410-593-9881

NOTICE OF REMAND 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: 03-402-SPHA
Enclave @ Perry Hall
N/side of Forge Road, 250 feet west of Forge View Road
11th Election District – 5th Councilmanic District
Legal Owner: Kelkerry Development, LLC, Paul Amirault, Managing Member

Special Hearing to approve a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court. To approve the modification of the development plan for The Enclave at Perry Hall. Honeygo Special Variance to permit the issuance of 16 residential building permits for construction of single-family homes.

Hearing: Friday, March 19, 2004 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 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 of Permits and Development Management

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

Baltimore County

James T Smith, Jr., County Executive
Timothy M Kotroco, Director

February 17, 2004

NOTICE OF REMAND 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: 03-402-SPHA
Enclave @ Perry Hall
N/side of Forge Road, 250 feet west of Forge View Road
11th Election District – 5th Councilmanic District
Legal Owner: Kelkerry Development, LLC, Paul Amirault, Managing Member

Special Hearing to approve a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court. To approve the modification of the development plan for The Enclave at Perry Hall. Honeygo Special Variance to permit the issuance of 16 residential building permits for construction of single-family homes.

Hearing: Friday, March 19, 2004 at 2:00 p.m. in Room 407, County Courts Building,
401 Bosley Avenue

Timothy Kotroco
Director

TK:klm

C: Howard Alderman, Levin & Gann, 502 Washington Ave., 8th Fl., Towson 21204
KelKerry Development, P.O. Box 216, Kingsville, 21087
Richard Matz, 2835 Smith Avenue, Ste. G, Baltimore 21209

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, MARCH 4, 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Baltimore County
Department of Permits and
Development Management

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

March 27, 2003

CORRECTED 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: 03-402-SPHA
Forge Road (The Enclave @ Perry Hall)
N/side Forge Road 250 feet west of Forge View Road
11th Election District – 5th Councilmanic District
Legal Owner: KelKerry Development, LLC, Paul Amirault, Managing Member

Special Hearing to approve a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court. To approve the modification of the development plan for the The Enclave at Perry Hall. Honeygo Special Variance to permit the issuance of 16 residential building permits for construction of single-family homes.

Hearings: Wednesday, May 7, 2003 at 9:00 a.m. in Room 407, County Courts Bldg., 401 Bosley Avenue

Arnold Jablon
Director

AJ:klm

C: Howard L. Alderman, Jr. Esquire, Levin & Gann, PA, Nottingham Centre, 8th Floor, 502 Washington Avenue, Towson MD 21204
KelKerry Development, LLC, Paul Amirault, Managing Member, P.O. Box 216, Kingsville MD 21087
Colbert, Matz, & Rosenfelt, Inc., Richard Matz, 2835 Smith Avenue, Suite G, Baltimore MD 21209

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 22, 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, April 22, 2003 Issue - Jeffersonian

Please forward billing to:
Paul Amirault
P.O. Box 216
Kingsville, MD 21087

410-593-9881

CORRECTED 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: 03-402-SPHA
Forge Road (The Enclave @ Perry Hall)
N/side Forge Road 250 feet west of Forge View Road
11th Election District – 5th Councilmanic District
Legal Owner: KelKerry Development, LLC, Paul Amirault, Managing Member

Special Hearing to approve a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the east side of Kerrie's Court. To approve the modification of the development plan for the The Enclave at Perry Hall. Honeygo Special Variance to permit the issuance of 16 residential building permits for construction of single-family homes.

Hearings: Wednesday, May 7, 2003 at 9:00 a.m. in Room 407, County Courts Bldg., 401 Bosley 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 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: 03-402 SPHA.

Item Number or Case Number: ~~402~~

Petitioner: KELKERRY DEVELOPMENT, LLC

Address or Location: FORGE & ~~NEW FORGE ROADS~~ FORGE VIEW ROADS

PLEASE FORWARD ADVERTISING BILL TO: 325.00

Name: PAUL AMIRAULT

Address: P.O. BOX 216
KINGSVILLE, MD 21087.

Telephone Number: 410-593-9881

Revised 2/20/98 - SCJ

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 2, 2003

Howard Alderman, Esq.
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 03-402-SPHA, Forge Road (the Enclave @ Perry Hall)

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

WCR:klm

Enclosures

c: People's Counsel
KelKerry Development, LLC, Paul Amirault, PO Box 216, Kingsville 21087
Colbert Matz Rosenfelt, Richard Matz, 2835 Smith Ave., Ste. G, Baltimore 21209

Baltimore County
Fire Department

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

March 20, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: March 17, 2003

Item No.: 396 - 406

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.

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

cc: File

MARYLAND DEPARTMENT OF TRANSPORTATION
Robert L. Ehrlich, Jr., *Governor* · Michael S. Steele, *Lt. Governor* · Trent M. Kittleman, *Acting Secretary*

Date: 3.18.03

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

RE: Baltimore County
Item No. 902 JL

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 21, 2003

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

SUBJECT: The Enclave @ Perry Hall

INFORMATION:

Item Number: 03-402

Petitioner: KelKerry Development

Zoning: DR 1H

Requested Action: Special Hearing/Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not support the request for a waiver of Public Works Standards permitting the elimination of 580 feet of sidewalk along the eastside of Kerrie's Court. This office also opposes the petitioner's request for a variance germane to Sections 259.8 and 4A02.4.F of the Baltimore County Zoning Regulations. The subject site is located within the Perry Hall-White Marsh Growth Area which is intended to be a pedestrian friendly community.

The purpose of the threshold limitations is to allow infrastructure improvements to coincide with the granting of building permits in the Honeygo growth area. Issuing building permits prior to the commencement of infrastructure improvements thwarts the legislative intent of the Honeygo regulations. As such, this office recommends that the petitioner's request be **DENIED**.

Prepared by: Martha Cunningham

Section Chief:
AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 24, 2003

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For March 24, 2003
Item No. 402

The Bureau of Development Plans Review has reviewed the subject-zoning item.

The proposed sidewalk shall be extended along the entire frontage of lot 14. We recommend granting the waiver of sidewalk along the east side of Kerries Court 482 feet north of Forge Road.

RWB:CEN:jrb

cc: File

ZAC-03-24-2003-ITEM 402-03242003

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Planning

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

March 18, 2003

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

Re: **Zoning Advisory Committee Agenda, 03/24/03 re: case numbers 03-396-SPHXA, 03-397-SPHXA, 03-398-A, 03-400-A, 03-401-A, 03-402-SPHA, 03-403-A, 03-404-A, 03-405-A, 03-406-SPHA**

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 03/17/03. 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 AND VARIANCE	*	BEFORE THE
	Forge Road; (The Enclave @ Perry Hall); N/side Forge Rd, 250' W Forge View Road	*	ZONING COMMISSIONER
	11th Election & 5th Councilmanic Districts	*	FOR
	Legal Owner(s): KelKerry Development, LLC Paul Amirault, Managing Partner Petitioner(s)	*	BALTIMORE COUNTY
		*	03-402-SPHA

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

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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2003, a copy of the foregoing Entry of Appearance was mailed to Richard Matz, Colbert, Matz & Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209, and to Howard L Alderman, Jr., Esquire, Levin & Gann, P.A., 502 Washington Avenue, Suite 800, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

June 26, 2003

HAND DELIVERED

Lawrence E. Schmidt, Hearing Officer
for Baltimore County
401 Bosley Avenue, Room 405
Towson, Maryland 21204

Re: Petition for Special Hearing and Variance
Case No.: 03-402-SPHA
Motion for Limited Reconsideration

Dear Mr. Schmidt:

I am enclosing for filing a Motion for Limited Reconsideration in the above-referenced case. I have also included a copy of former Deputy Commissioner Kotroco's decision, as well as the decision rendered in the Lauren Woods case referenced in the Motion. It is my understanding that the filing of this Motion pursuant to the Rules adopted by your Office (originally as well as the re-adoption) stays any appeal period and all further actions until you rule on the enclosed Motion.

Upon your receipt and review of this letter and its enclosures, should you have any questions, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/pal
Enclosure
c/enc: Kelkerry Development, LLC
Richard Matz, PE
Mickey Cornelius, PE, PTOE
Perry Hall Improvement Association
G:\Clients\Kelkerry Development LLC (14120)\schmidt-L.ltr.wpd

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
MICKEY CORNELIUS	9900 FRANKLIN SQ DR. STE. H BALTO, MD 21236		mcornelius@trafficgroup.com
RICHARD E. MATZ	2835 SMITH AVE, SUITE G. B	BALTO. MD 21209	dmatz@CMRENGINEERS.com
PAUL AMIRAULT	PO BOX 216 KINGSVILLE, MD 21087	KINGSVILLE MD 21087	mdlandmark@comcast.net
GARY HOUSTON	" " " " " "	" " "	" "
HOWARD ANDERMAN JR	LEVIN & GANN, PA SUITE 500 502 WASHINGTON AVE	TOWSON MD 21204	
THOMAS GEORGE	FIRST HORIZON 9515 DEERECO RD #400 TIMONIUM, MD.	21204	tgeorge@fhhlc.com
Brian J Murphy	" " " "		BMurphy@FHHLC.com

PLEASE PRINT CLEARLY

CASE NAME______________
CASE NUMBER____________
DATE___________________

CITIZEN'S SIGN-IN SHEET

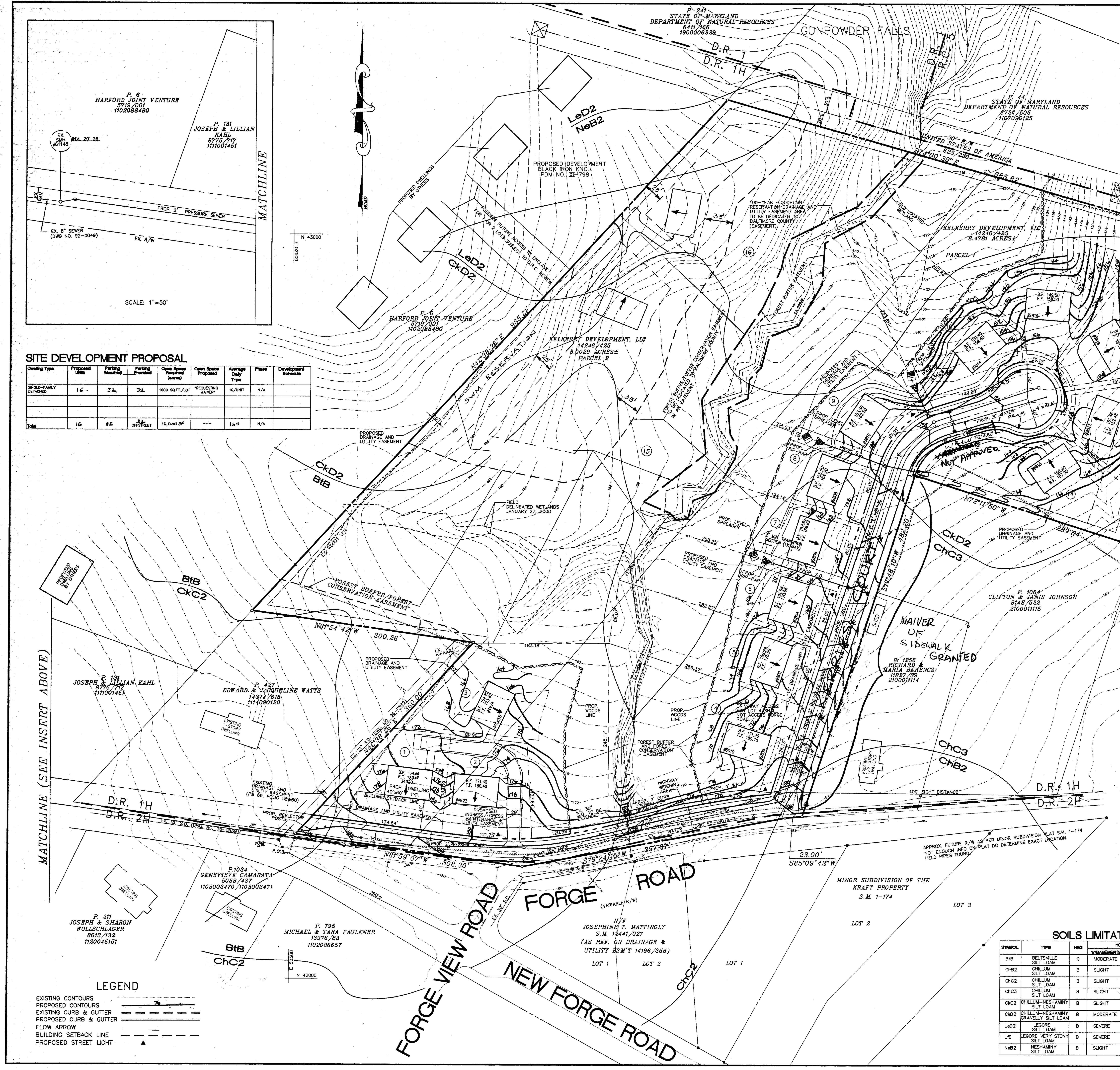
NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Ed + Jackie Watts	4916 FORGE RD	PERRY HALL, MD 21128	
WILLIAM LIBERCCI	19 SHAWN ST	BALTO Md. 21236	

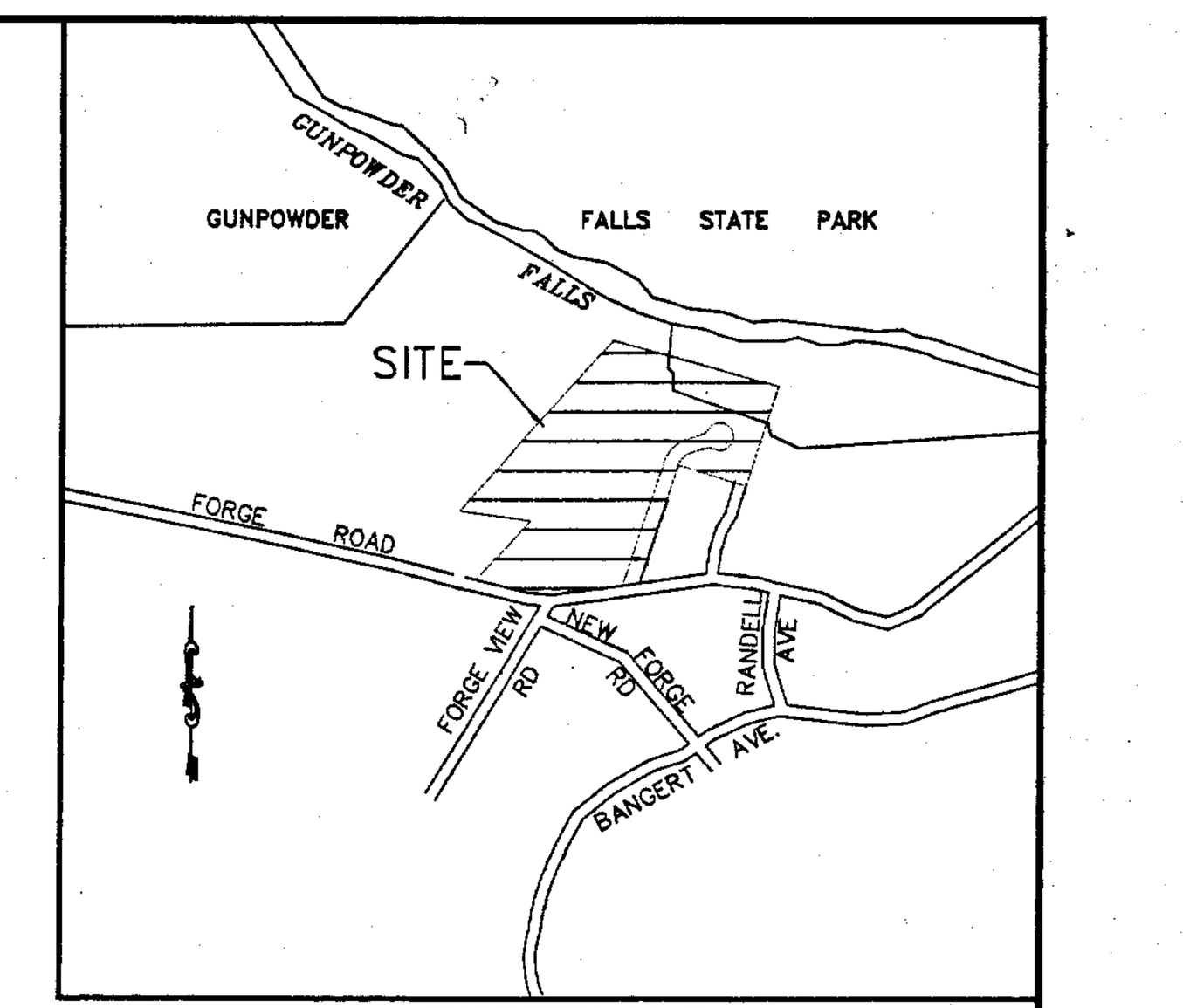
Case Number 03-042

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
William Libercci	19 Shawn Ct	Balto Md	21236





VICINITY MAP
SCALE: 1"=1000'

NOTES:

1. OWNER/DEVELOPER: KELKERRY DEVELOPMENT, LLC
P.O. BOX 216
KINGSVILLE, MARYLAND 21087-0215
2. TAX ACCOUNT No.: 1600011990, 1600011991
TAX MAP NO. 63, GRID 24, PARCEL 513
DEED REFERENCE: 14246/425
NET AREA: 16.48 ACRES
GROSS AREA: 16.72 ACRES
3. ZONED: D.R./1H
ZONING MAP: NE 11-I
LOTS ALLOWED: 16
LOTS PROPOSED: 16
EX. USE: VACANT
PROP. USE: SINGLE-FAMILY RESIDENTIAL
4. CENSUS TRACT: 4113.04
WATERSHED: 31
SUBSEWERSHED: 20
ELECTION DISTRICT: 11
COUNCILMANIC DISTRICT: 5
5. EXISTING TOPOGRAPHY SHOWN HEREON IS FIELD RUN BY COLBERT MATZ ROSENFELT, INC DATED APRIL, 2000 AND FROM BALTIMORE COUNTY GIS TILES 63c3, 64a3, 72c1, AND 73d1.
6. THERE ARE NO BUILDINGS, PROPERTIES, OR SITES WITHIN OR CONTIGUOUS TO THE PROPOSED DEVELOPMENT INCLUDED ON THE MARYLAND HISTORICAL TRUST INVENTORY OF HISTORIC PROPERTIES, THE BALTIMORE COUNTY PRELIMINARY OR FINAL LANDMARKS LIST, THE NATIONAL REGISTER OF HISTORIC PLACES, THE MARYLAND ARCHAEOLOGICAL SURVEY, OR IDENTIFICATION OF ANY BALTIMORE COUNTY HISTORIC DISTRICT, OR NATIONAL REGISTER DISTRICT COVERING THE PROPOSED DEVELOPMENT.
7. THERE ARE NO HAZARDOUS MATERIALS ON THIS PROPERTY.
8. NO LOTS ARE WITHIN THE 100-YEAR FLOODPLAIN.
9. THIS SITE LIES WITHIN THE BEAN RUN SUBAREA OF THE HONEYGO AREA.
10. THERE ARE NO KNOWN WELLS, SEPTIC SYSTEMS OR UNDERGROUND STORAGE TANKS OF ANY KIND ON THIS SITE.
11. I, PAUL AMIRAULT, HEREBY CERTIFY 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.

Paul Amirault
SIGNATURE DATE

12. THIS PROPERTY IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA.
13. THE BUREAU OF TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING HAS CONFIRMED THAT THE SUBJECT SITE IS NOT WITHIN A TRAFFIC DEFICIENT AREA.
14. FOREST CONSERVATION/FOREST BUFFER EASEMENT NON-DISTURBANCE NOTE: THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION AND FOREST BUFFER EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
FOREST CONSERVATION/FOREST BUFFER PROTECTIVE COVENANTS NOTE: ANY FOREST CONSERVATION AND FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
15. DENSITY CALCULATION: THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
16. THERE HAVE BEEN NO ZONING HEARINGS FOR THIS SITE.
17. OPEN SPACE REQUIRED:
ACTIVE: 10,400 SF
PASSIVE: 5,600 SF
TOTAL: 16,000 SF
OPEN SPACE PROVIDED:
WAIVER REQUESTED AND FEE IN LIEU TO BE PAID.
18. TOTAL DISTURBED AREA: 8.06 Ac±
19. NO SIGNS ARE PROPOSED FOR THIS SITE.
20. A DISCHARGE EASEMENT FOR INCREASED PEAK FLOWS FROM THE PROPOSED DEVELOPMENT WILL BE OBTAINED FROM THE MARYLAND DEPARTMENT OF NATURAL RESOURCES. A WAIVER OF STORMWATER MANAGEMENT QUANTITY CONTROL REQUIREMENTS WAS GRANTED ON NOV. 28, 2001. WATER QUALITY PLANS WILL BE APPROVED PRIOR TO BUILDING AND GRADING PERMITS.
21. ALL FENCING SHALL BE IN CONFORMANCE WITH THE HONEYGO OVERLAY DISTRICT DESIGN GUIDELINES, AND ANY FENCE MORE THAN THREE FEET HIGH SHALL ALSO SETBACK AT LEAST FIVE FEET FROM ANY PUBLIC RIGHT-OF-WAY OTHER THAN AN ALLEY.
22. HIGHWAY WIDENING AREA TO BE DEDICATED AT NO COST TO BALTIMORE COUNTY.
23. THERE ARE NO AREAS OF CRITICAL STATE CONCERN ON THIS SITE.

EXHIBIT
Petitioner Remand 1

DRC NOTE

On February 5, 2003, the Development Review Committee approved a Refinement to the approved Development Plan. A Waiver of Public Works Standards request has been submitted to the Development Review Committee.

HEARING REQUESTS

Special Hearing to approve:
1. A waiver of Public Works Standards permitting the elimination of 522 feet of sidewalk along the east side of Kerrie's Court, a cul-de-sac roadway, as originally shown on the previously approved development plan;
2. A modification of the development plan for The Enclave at Perry Hall consistent with the relief requested herein; and
3. For such further relief as the nature of this case may require.

Honeygo Special Variance:
From Baltimore County Zoning Regulations (BCZR), Sections 259.8 and 4A02.4.F, the Threshold Limits – Honeygo Area established by Sec. 259.7, to permit the issuance of residential building permits for construction of single-family homes as shown on the development plan entitled The Enclave at Perry Hall and any and all amendments thereto approved or proposed, and for such further relief as the nature of this case and development may require.

SITE DEVELOPMENT PROPOSAL

Dwelling Type	Proposed Units	Parking Required	Parking Provided	Open Space Required (acres)	Open Space Proposed	Average Daily Trips	Phase	Development Schedule
SINGLE-FAMILY DETACHED	16	32	32	1000 SQ.FT./LOT	*REQUESTING WAIVER*	10/UNIT	N/A	
Total	16	82	32 OFFSTREET	16,000 SF	---	160	N/A	

SOILS LIMITATIONS

SYMBOL	TYPE	HSG	HOMESITES W/BASEMENTS	HOMESITES W/O BASEMENTS	STREETS AND PARKING LOTS
BtB	BELTSVILLE SILT LOAM	C	MODERATE	SLIGHT	MODERATE
ChB2	CHILLUM SILT LOAM	B	SLIGHT	SLIGHT	MODERATE
ChC2	CHILLUM SILT LOAM	B	SLIGHT	SLIGHT	SEVERE
ChC3	CHILLUM SILT LOAM	B	SLIGHT	SLIGHT	SEVERE
CkC2	CHILLUM-NESHAMINY SILT LOAM	B	SLIGHT	SLIGHT	SEVERE
CkD2	CHILLUM-NESHAMINY GRAVELLY SILT LOAM	B	MODERATE	MODERATE	SEVERE
LeD2	LEGORE SILT LOAM	B	SEVERE	SEVERE	SEVERE
LfE	LEGORE VERY STONY SILT LOAM	B	SEVERE	SEVERE	SEVERE
NeB2	NESHAMINY SILT LOAM	B	SLIGHT	SLIGHT	MODERATE

LEGEND

EXISTING CONTOURS
PROPOSED CONTOURS
EXISTING CURB & GUTTER
PROPOSED CURB & GUTTER
FLOW ARROW
BUILDING SETBACK LINE
PROPOSED STREET LIGHT

PDM FILE # XI-856
PLAN TO ACCOMPANY SPECIAL HEARING & HONEYGO SPECIAL VARIANCE

THE ENCLAVE AT PERRY HALL
(FORGE ROAD)

ELECTION DISTRICT: 11, C5
BALTIMORE COUNTY, MARYLAND

402
3/3/03

Colbert Matz Rosenfelt, Inc.
Engineers * Surveyors * Planners
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

SCALE:	1" = 50'
DATE:	5-3-03
JOB NO.:	99078
DESIGNED:	DRT
DRAWN:	DRT\EVT
CHECKED:	REM
FILE:	99078DEV
DRAWING NUMBER:	

NO.	DATE	REVISIONS:	BY

SHEET 1 OF 1

7-2-2002 DRT

NOTES:

1. OWNER/DEVELOPER: KELKERRY DEVELOPMENT, LLC
   P.O. BOX 216
   KINGSVILLE, MARYLAND 21087-0215
2. TAX ACCOUNT No.: 1600011990, 1600011991
   TAX MAP NO. 63, GRID 24, PARCEL 513
   DEED REFERENCE: 14246/425
   NET AREA: 16.4810 ACRES
   GROSS AREA: 16.4810 ACRES
3. ZONED: D.R. 1H
   ZONING MAP: NE 11-I
   LOTS ALLOWED: 16
   LOTS PROPOSED: 14
   EX. USE: VACANT
   PROP. USE: SINGLE-FAMILY RESIDENTIAL
4. CENSUS TRACT: 4113.04
   WATERSHED: 3
   SUBSEWERSHED: 20
   ELECTION DISTRICT: 11
   COUNCILMANIC DISTRICT: 5
5. ON SITE TOPOGRAPHY SHOWN HEREON IS BASED ON A FIELD RUN TOPOGRAPHIC SURVEY PROVIDED BY COLBERT MATZ ROSEFELT, INC. ON APRIL 25, 2000. OFFSITE TOPOGRAPHIC INFORMATION SHOWN HEREON HAS BEEN COMPILED FROM BALTIMORE CO. GIS TILES 63c3, 64a3, 72c1, AND 73a1.
6. THERE ARE NO BUILDINGS, PROPERTIES, OR SITES WITHIN OR CONTIGUOUS TO THE PROPOSED DEVELOPMENT INCLUDED ON THE MARYLAND HISTORICAL TRUST INVENTORY OF HISTORIC PROPERTIES, THE BALTIMORE COUNTY PRELIMINARY OR FINAL LANDMARKS LIST, THE NATIONAL REGISTER OF HISTORIC PLACES, THE MARYLAND ARCHAEOLOGICAL SURVEY, OR IDENTIFICATION OF ANY BALTIMORE COUNTY HISTORIC DISTRICT, OR NATIONAL REGISTER DISTRICT COVERING THE PROPOSED DEVELOPMENT.
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10. THERE ARE NO KNOWN WELLS, SEPTIC SYSTEMS OR UNDERGROUND STORAGE TANKS OF ANY KIND ON THIS SITE.
11. THIS PROPERTY IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA.
12. THE BUREAU OF TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING HAS CONFIRMED THAT THE SUBJECT SITE IS NOT WITHIN A TRAFFIC DEFICIENT AREA.
13. FOREST BUFFER EASEMENT AND FOREST CONSERVATION EASEMENT NON-DISTURBANCE NOTE:
    THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENT AND FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

    FOREST BUFFER EASEMENT AND FOREST CONSERVATION EASEMENT PROTECTIVE COVENANTS NOTE:
    ANY FOREST BUFFER EASEMENT AND FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
14. DENSITY CALCULATION: THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
15. OPEN SPACE REQUIRED:
    ACTIVE: 10,400 S.F.
    PASSIVE: 5,600 S.F.
    TOTAL: 16,000

    OPEN SPACE PROVIDED:
    WAIVER REQUESTED AND FEE IN LIEU TO BE PAID.
16. TOTAL DISTURBED AREA: 7.09 Ac±
17. NO SIGNS ARE PROPOSED FOR THIS SITE.
18. A DISCHARGE EASEMENT FOR INCREASED PEAK FLOWS FROM THE PROPOSED DEVELOPMENT WILL BE OBTAINED FROM THE MARYLAND DEPARTMENT OF NATURAL RESOURCES. A WAIVER OF STORMWATER MANAGEMENT QUANTITY CONTROL REQUIREMENTS WAS GRANTED ON NOV. 28, 2001. WATER QUALITY PLANS WILL BE APPROVED PRIOR TO BUILDING AND GRADING PERMITS.
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20. HIGHWAY WIDENING AREA TO BE DEDICATED AT NO COST TO BALTIMORE COUNTY.
21. THERE ARE NO AREAS OF CRITICAL STATE CONCERN ON THIS SITE.

SEE SHEET 2 FOR ADDITIONAL NOTES.

LEGEND

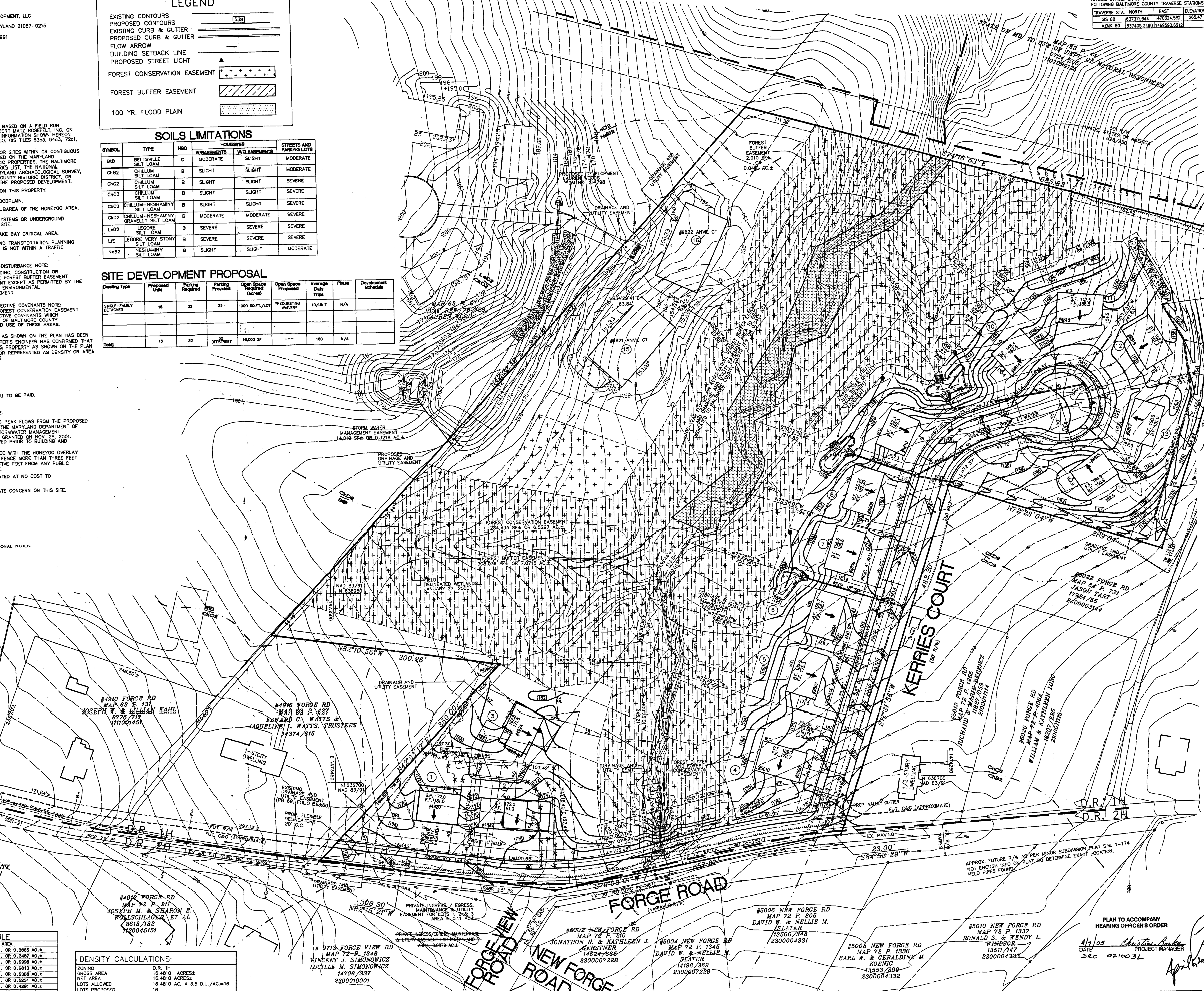
EXISTING CONTOURS	538
PROPOSED CONTOURS	
EXISTING CURB & GUTTER	
PROPOSED CURB & GUTTER	
FLOW ARROW	
BUILDING SETBACK LINE	
PROPOSED STREET LIGHT	▲
FOREST CONSERVATION EASEMENT	
FOREST BUFFER EASEMENT	
100 YR. FLOOD PLAIN	

SOILS LIMITATIONS

SYMBOL	TYPE	HSG	HOMESITES W/BASEMENTS	HOMESITES W/O BASEMENTS	STREETS AND PARKING LOTS
BtB	BELTSVILLE SILT LOAM	C	MODERATE	SLIGHT	MODERATE
ChB2	CHILLUM SILT LOAM	B	SLIGHT	SLIGHT	MODERATE
ChC2	CHILLUM SILT LOAM	B	SLIGHT	SLIGHT	SEVERE
ChC3	CHILLUM SILT LOAM	B	SLIGHT	SLIGHT	SEVERE
CkC2	CHILLUM-NESHAMINY SILT LOAM	B	SLIGHT	SLIGHT	SEVERE
CkD2	CHILLUM-NESHAMINY GRAVELLY SILT LOAM	B	MODERATE	MODERATE	SEVERE
LeD2	LEGORE SILT LOAM	B	SEVERE	SEVERE	SEVERE
LfE	LEGORE VERY STONY SILT LOAM	B	SEVERE	SEVERE	SEVERE
NeB2	NESHAMINY SILT LOAM	B	SLIGHT	SLIGHT	MODERATE

SITE DEVELOPMENT PROPOSAL

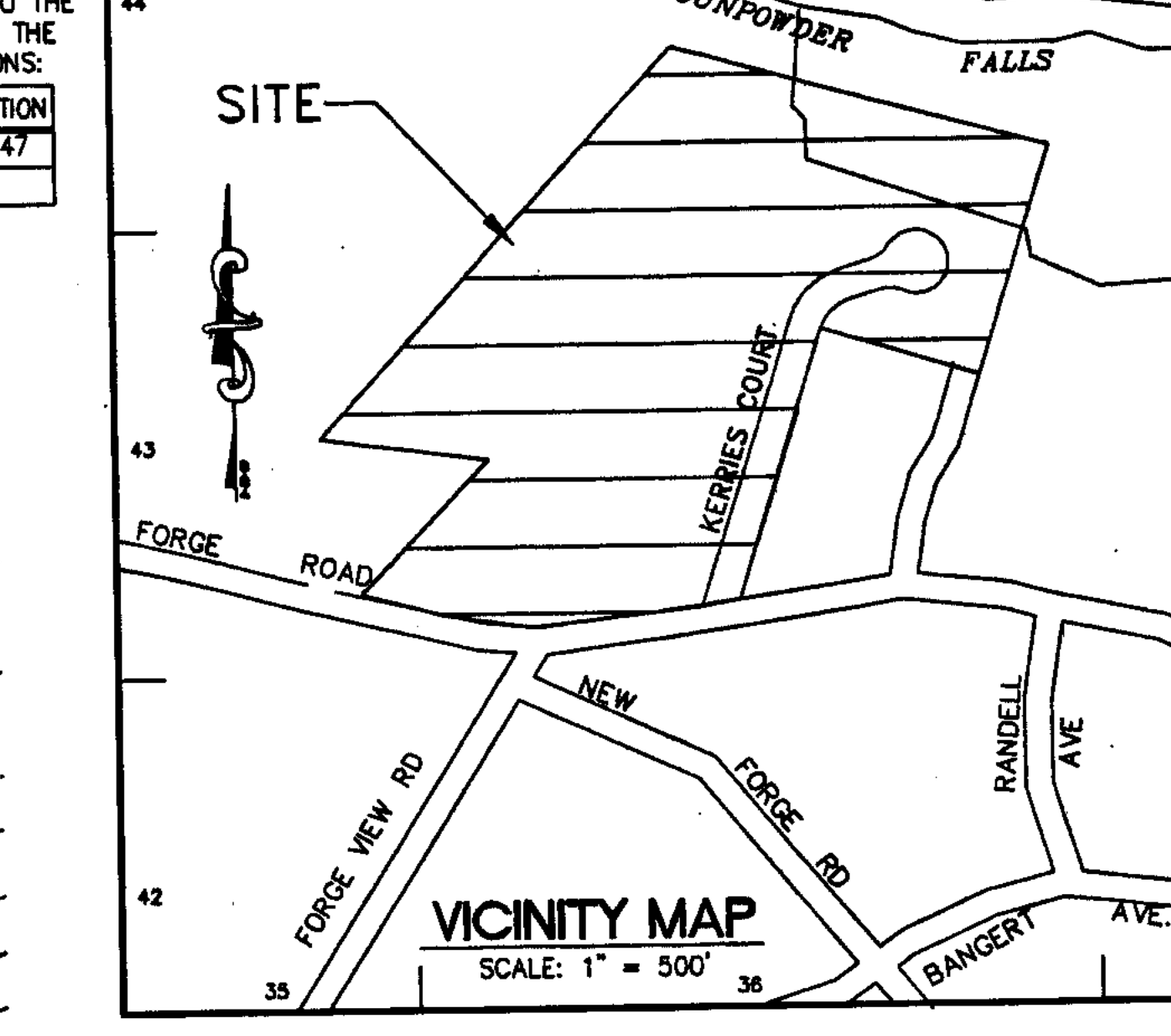
Dwelling Type	Proposed Units	Parking Required	Parking Provided	Open Space Required (acres)	Open Space Proposed	Average Daily Trips	Phase	Development Schedule
SINGLE-FAMILY DETACHED	16	32	32	1000 SQ.FT./LOT	*REQUESTING WAIVER*	10/UNIT	N/A	
Total	16	32	32 OFFSTREET	16,000 SF	---	160	N/A	



BENCHMARK

COORDINATES SHOWN HEREON REFER TO THE NAD 83/91 DATUM. ELEVATIONS SHOWN HEREON REFER TO THE NAVD88 DATUM. BOTH OF WHICH ARE BASED ON THE FOLLOWING BALTIMORE COUNTY TRAVERSE STATIONS:

TRAVERSE STA.	NORTH	EAST	ELEVATION
GIS 60	637311.944	1470324.582	265.47
AZMK 60	637405.3460	1469590.6212	



VICINITY MAP
SCALE: 1" = 500'

This Spirit and Intent 'Red-Lined' Plan is revised per the following:

1. Adjust driveway location for Lots 1, 2 and 3.
2. Adjust lot line between Lots 1 & 2.
3. The Final Development Plan will be amended to reflect these changes.
4. Reasoning for this amendment shall be added to all amended plans.

LOT AREA TABLE

LOT NO.	AREA
LOT 1	16,051 SQ. FT. OR 0.3685 AC.±
LOT 2	15,188 SQ. FT. OR 0.3487 AC.±
LOT 3	43,542 SQ. FT. OR 0.9996 AC.±
LOT 4	42,747 SQ. FT. OR 0.9813 AC.±
LOT 5	23,470 SQ. FT. OR 0.5388 AC.±
LOT 6	22,785 SQ. FT. OR 0.5231 AC.±
LOT 7	18,691 SQ. FT. OR 0.4291 AC.±
LOT 8	17,725 SQ. FT. OR 0.4069 AC.±
LOT 9	38,646 SQ. FT. OR 0.8872 AC.±
LOT 10	29,333 SQ. FT. OR 0.6734 AC.±
LOT 11	52,022 SQ. FT. OR 1.1943 AC.±
LOT 12	26,969 SQ. FT. OR 0.6191 AC.±
LOT 13	15,428 SQ. FT. OR 0.3542 AC.±
LOT 14	24,752 SQ. FT. OR 0.5682 AC.±
LOT 15	163,921 SQ. FT. OR 3.7631 AC.±
LOT 16	67,369 SQ. FT. OR 1.5466 AC.±
KERRIES COURT	38,773 SQ. FT. OR 0.8901 AC.±
HWY WIDENING AREA "A"	22,828 SQ. FT. OR 0.5241 AC.±

DENSITY CALCULATIONS:

ZONING	D.R. 1H
GROSS AREA	16.4810 ACRES±
NET AREA	16.4810 ACRES±
LOTS ALLOWED	16.4810 AC. X 3.5 D.U./AC.=16
LOTS PROPOSED	16
TOTAL LOT AREA	618,638 SQ.FT. OR 14.2021 AC.±
HIGHWAY WIDENING	61,602 SQ.FT. OR 1.4142 AC.±
FOREST CONSERVATION AREA	284,435 SQ.FT. OR 6.5297 AC.±
FOREST BUFFER AREA	310,046 SQ.FT. OR 7.1176 AC.±
100 YR FLOOD PLAIN AREA	23,579 SQ.FT. OR 0.5413 AC.±
TOTAL PLAT AREA	717,912 SQ.FT. OR 16.4810 AC.±
OPEN SPACE REQUIRED	16 D.U. @ 1000 SQ. FT./ D.U. = 16000 SQ. FT. (0.37 AC.)
OPEN SPACE PROVIDED	NONE; WAIVER REQUESTED

PLAN TO ACCOMPANY SPIRIT & INTENT REQUEST

CASE HISTORY
6/18/02 (Case #XI-856)
Development Plan (Approved)
6/2/03 (Case #03-402-SPHA)
Special Variance Honeygo Threshold Limits (Denied)
Special Hearing; Sidewalks and add Lots 15 & 16 (Approved)
7/25/03 (Case #03-402-SPHA)
Limited Reconsideration (Granted)
6/9/04 (Case #03-402-SPHA)
Variance Honeygo Threshold Limits (Approved)

D.S. THALER & ASSOC., LLC
CIVIL ENGINEERS · LANDSCAPE ARCHITECTS · SURVEYORS · LAND PLANNERS
7115 AMBASSADOR ROAD, SUITE 101
P.O. BOX 47428
BALTIMORE, MARYLAND 21244-7428
(410) 944-3670

DEVELOPER/CONTRACT PURCHASER:
TIMOTHY C. NAUGHTON
NVR, INC.
6085 MARSHALEE DRIVE
SUITE 150
ELKRIDGE, MD 21075
410.379.5956

SEPTEMBER 12, 2006

PDM FILE # XI-856

PLAN TO ACCOMPANY HEARING OFFICER'S ORDER
4/7/05 [signature] PROJECT MANAGER
DATE
DRC 021003L

REASON FOR FIRST AMENDMENT

TO INCORPORATE LOTS 15 AND 16 AND THE AMENDED ORDER.

FIRST AMENDED DEVELOPMENT PLAN

THE ENCLAVE AT PERRY HALL

(FORGE ROAD)
ELECTION DISTRICT:11, C5
BALTIMORE COUNTY, MARYLAND

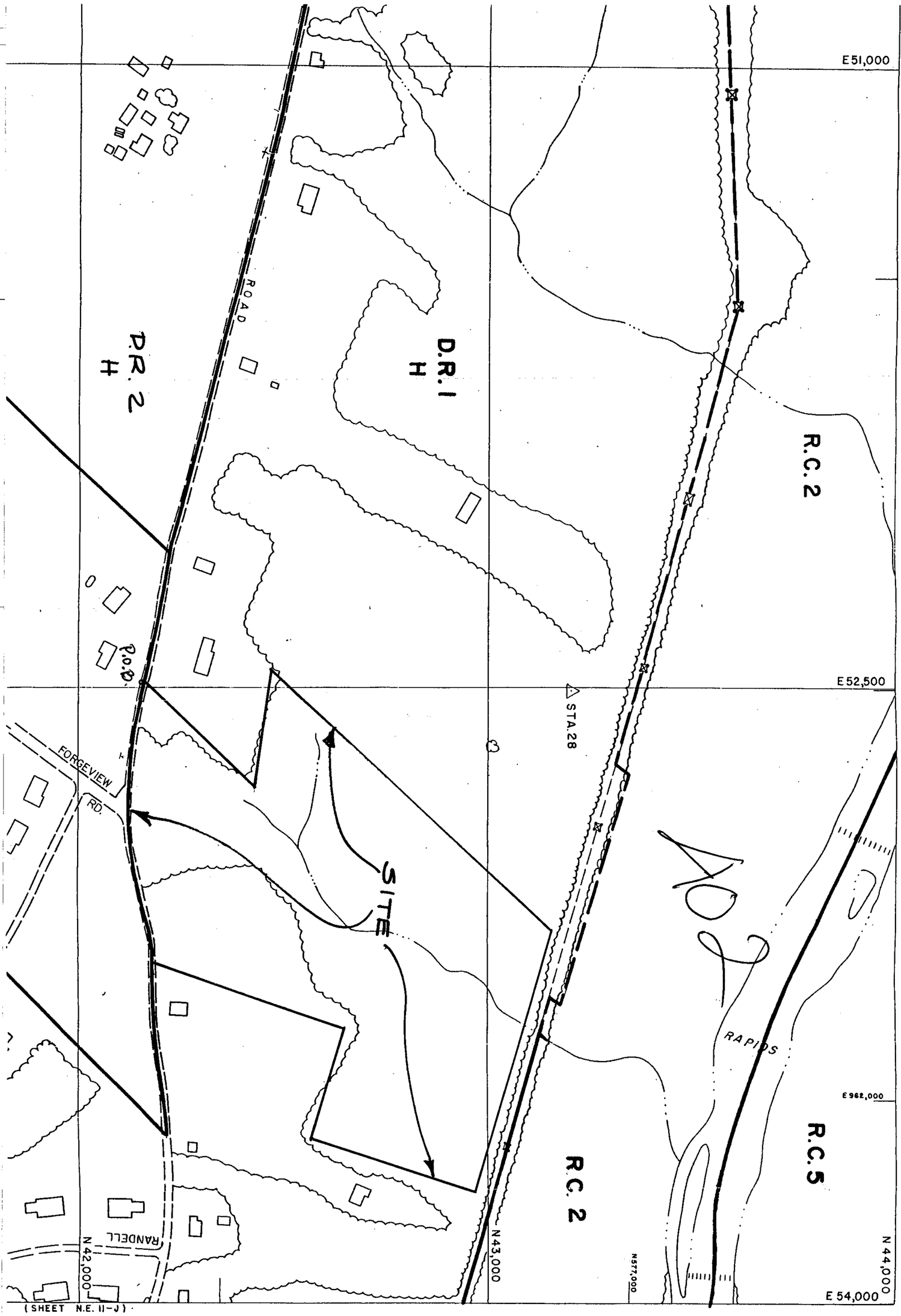
THIS PLAN IS CERTIFIED TO BE IN ACCORDANCE WITH THE HEARING OFFICER'S ORDER AND ALL AGENCY COMMENTS.

Colbert Matz Rosenfelt, Inc.
Engineers * Surveyors * Planners
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY
2	4/06/05	REV. PER EIR COMMENTS	DRT
1	3/24/05	REV. PER EIR COMMENTS	DRT

SCALE:	1" = 50'
DATE:	10/21/2004
JOB NO.:	99076
DESIGNED:	DRT
DRAWN:	DRT
CHECKED:	REM
FILE:	99076AMDEVFDP
DRAWING NUMBER:	
SHEET 1 OF 2	

File name: T:\Enclave\dwg\Planning\Exhibits\Spirit & Intent.dwg Layout:Layout1 Sep 27, 2006-9:13am KKR



1" = 200'

N.E.-11-I ENCLAVE AT PERRY HALL