IN RE: DEVELOPMENT PLAN HEARING
& PETITION FOR VARIANCE
S/End of Good Spring Drive,
E of Glen Vista Road
11th Election District
5th Councilmanic District
(Glenside Overlook)

Albert G. Willick, Legal Owner

and

Paul Amirault
Glenside Overlook, LLC, Contract Purchaser

Petitioner/Developer

BEFORE THE

\* HEARING OFFICER

\* OF BALTIMORE COUNTY

\* Case No. XI-899 & 03-600-HAS

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

\*

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This matter comes before this Hearing Officer for Baltimore County as a requested approval of a Development Plan and Petition for Special Variance prepared by Colbert, Matz, Rosenfelt, Inc. (engineers, land surveyors & site planners) proposing the development of the subject property with 13 single-family dwellings. The property, which is the subject of this request, comprises 5.01 acres and is zoned D.R.3.5. The subject property is located on the south end of Good Spring Drive east of Glen Vista Road.

In addition to seeking approval of the Development Plan, the Petitioner is also requesting a Honeygo Special Variance, (i) to permit the issuance of residential building permits for construction of single-family homes as shown on the Development Plan entitled "Glenside Overlook" and any and all amendments thereto approved or proposed, (ii) the conveyance of sewerage from the Bird River Subarea to the Bean Run subarea for the proposed development.

Interested Persons

Appearing at the hearing on behalf of the Development Plan approval request were Brad Willick, Barbara Willick and Albert Willick, owners of the property. Paul Amirault, the Contract Purchaser/Developer attended the hearing, along with Howard L. Alderman, Jr., Esquire, his attorney. Also attending were Richard Matz, on behalf of Colbert, Matz & Rosenfelt, Inc., the engineering, land surveying and site planning firm who prepared the

Development Plan and Mickey Cornelius, on behalf of The Traffic Group, the firm who prepared the traffic study. Appearing in opposition to the Petitioner's request were several residents of the surrounding community, namely, Rosemary and Bill Singleton, Nicolas Porter, George Burns, Jim Uhrin, Dennis Eckard and William Libercci, representing the Perry Hall Improvement Association, all of who signed in on the Protestant's Sign-In Sheet. Francis X. Borgerding Esquire appeared for himself as an adjacent property owner. As is usual and customary, representatives of the various Baltimore County reviewing agencies also attended the hearing; namely, Jeff Perlow, (Zoning Review), William Miner (Land Acquisition), Robert Bowling (Development Plans Review) and Walt Smith (Development Project Manager), all from the Office of Permits & Development Management; R. Bruce Seeley from the Department of Environmental Protection & Resource Management (DEPRM); and Mark Cunningham from the Office of Planning.

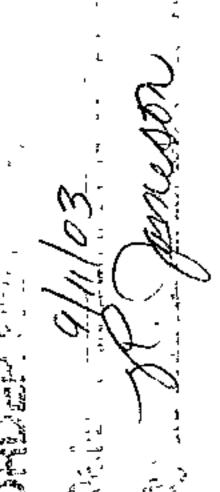
As to the history of the project, the initial Concept Plan Conference was scheduled on May 13, 2002, followed by a second Concept Plan Conference on July 29, 2002. A Community Input Meeting was held on September 4, 2002 at the Perry Hall Elementary School. Thereafter, a third Concept Plan Conference was held on February 24, 2003 at the Perry Hall Elementary School, followed by a Community Input Meeting on April 10, 2003. A Development Plan Conference was held on August 6, 2003 and the Hearing Officer's Hearing was scheduled on August 28, 2003.

#### Applicable Law

Section 26-206 of the B.C.Z.R. Development Plan Approval.

- (a) (1) A public quasi-judicial hearing before the hearing officer is required prior to final action on a plan. The hearing may be informal in nature. The hearing officer shall regulate the course of the hearing as he may deem proper, including the scope and nature of the testimony and evidence presented.
  - (2) The hearing officer shall take testimony and receive evidence regarding any unresolved comment or condition that is relevant to the proposed plan, including testimony or evidence regarding any potential impact of any approved





development upon the proposed plan.

- (3) The hearing officer shall make findings for the record and shall render a decision pursuant to the requirements of this section.
- (b) The hearing officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations promulgated pursuant to section 2-416 et seq. of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein.

#### Findings of Fact and Conclusions of Law

The Developer indicated that he was not aware of any unresolved issues regarding the project. Furthermore, each of the County representatives who attended the hearing, representing their agencies, indicated that the plan was in full compliance with applicable County statutes, rules and regulations and there were no unresolved issues regarding the project. Mr. Borgerding raised several issues including landscaping between his property and the new development, the location and design of a drainage swale on the property and the status of roadway construction leading to the development. Several of the Protestants, including Mr. and Mrs. Singleton, had questions about the status of the roadway, particularly as those issues pertain to the adjoining development.

Mr. Borgerding's issues were resolved at the hearing as the Developer agreed to landscape the area between his home and the new development as shown in blue on Developers' redline Exhibit No. 1. In addition, the County agencies and the Developer reached an agreement as to the location, design and legal status of the drainage swales. These provisions are included in this order as a condition of approval. The neighbors from the adjoining development raised concerns about the roadway connecting to the proposed development; however these did not directly concern this development and will be addressed in a review by the Department of Public Works in a separate forum. With these resolutions, neither Mr. Borgerding nor Mr. Liberrei opposed approval of the plan.

There were no other issues raised at the hearing that warranted that the Development Plan

be denied. Accordingly, the Development Plan as submitted into evidence as Developer's Exhibit No. 1 shall be approved.

#### Special Variance

#### **Traffic**

The Developer presented evidence, by way of expert testimony, of the present status of the roadway infrastructure of the Bean Run and Bird River sub areas of the Honeygo Special District which remarkably this development straddles. There are four homes in one district and nine in the other. Mr. Mickey Cornelius, Professional Traffic Engineer, testified that the only infrastructure deficiencies in the Bean Run sub area were that Cross Road and Forge Road were not presently improved to full capacity as planned. He further testified in support of the special variance that Honeygo Boulevard had been completed ahead of schedule and, contrary to the indication on the vicinity map shown on Developer's Exhibit No. 1A, this road was fully operational. In addition, he testified that residents of this new subdivision would use Joppa Road in combination with Honeygo Boulevard to shop, work or recreate. This meant, in his opinion, that residents of this subdivision would not use either Cross or Forge Roads in any practical manner.

Karin Brown, from the Office of Planning, which agency recommends these variances be denied, testified she agreed with Mr. Cornelius that the neither Cross nor Forge Road would be used in any practical way by residents of the new subdivision. Mr. Libercci, representing Perry Hall Improvement Association Inc, which also opposes the variances, did not indicate that any use would be made of Cross or Forge Roads by residents of the new development. There was no separate review of the traffic issues by Traffic Engineering which indicated any use of Cross or Forge Roads by residents of this development. Consequently, there was nothing on the record of this case which indicated a dispute of fact in this regard.

However, the Planning Office, and the Perry Hall Improvement Association, vehemently oppose granting these variances because "too many authorizations" by way of variances had

been granted in the past essentially dismembering the concept of the Honeygo legislation which intended development only when the infrastructure is fully ready to accommodate them. Since Cross and Forge Roads were not to full capacity, the petition should be denied even though all agree that the new development will create no impact on the deficient roadways. Ms. Brown testified that the final improvements to Cross and Forge Roads are capital County projects scheduled to be completed in 2008. There was some dispute between the Developer's expert and the Planning Office on the issue of whether the County would ever get around to actually funding and completing these road improvements. However, for the sake of argument, and not having found so, I will assume that the improvements will be made by that date. Finally, the Planning Office representatives were reticent to precisely define just what defined "too many" variances and were not sure in their testimony just how many variance were actually denied or approved. They did note that in response to complaints about "too many" variances, Councilman Gardina had introduced legislation eliminating such variances (Bill 79-03) which was pending before the Council. There was no dispute that even if passed, Bill 79-03 would not affect this development or the Petition for Variance.

#### Sewerage Variance

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The Developer introduced, by way of the expert testimony of Richard Matz, that while there were restrictions on sewerage in the Bird River subarea, there were no such restrictions in the Bean Run subarea. Consequently, the developer proposed to "dig a little deeper" for those homes in Bird River subarea so that their sewerage could be sent to the adjacent Bean Run subarea sewage system. By this means, there would be no impact on the inadequate sewerage system of Bird River. Mr. Bowling from Public Works Department testified that this transfer was technically feasible and routinely allowed by the County. The Planning Office opposed this variance for the same "too many " reasons above. Again, there was no dispute of fact, no indication that there were adverse impacts on overloaded infrastructure systems with this approach.

#### Reserve Capacity Use Certificate

The Developer's experts uniformly testified that granting of the requested variances in this case would not affect persons who had previously applied for authorizations. Mr. Libercci noted, however, that the development known as the "Enclave at Honeygo" Case No. 03-402 might be impacted by granting this variance. He testified that a similar variance request in the Enclave case was denied by the Deputy Zoning Commissioner and is presently under appeal to the County Board of Appeals.

#### Applicable Law

1. Section 259.4 Statement of Legislative Intent for Honeygo Area and H and H1 Overlay Districts

The Honeygo Area and the H and H1 Overlay Districts are established to implement the Honeygo Area Plan, an amendment to the Master Plan 1989-2000. The area is created to ensure that the development of infrastructure will coincide with the approval of building permits. The districts are to provide for a unified traditional design, which will create a community instead of isolated subdivisions and commercial uses. It is expected that the Honeygo Area will include a neighborhood center surrounded by residential areas, which are connected to it, to each other, and to open space through a network of interconnected, continuous streets. It is intended that development be designed around public spaces, including the neighborhood center, roads and parks to serve as focal points for the community. The H and H1 Districts provide uniform design standards which feature protection of the environment, housing oriented towards the street, streetscapes which are not dominated by parking lots, signage consistent with building design, and landscaping. Site design, building design and landscaping shall be coordinated within each development and between developments to create a pleasing and harmonious overall effect. The H and H1 Districts are to be read as additions to, modifications of and exceptions from the requirements of the underlying zoning classification on the land.

#### 2. Section 259.8

The Zoning Commissioner shall use the standards established in Section 4A02.4.G of these regulations when considering variances from Section 259.7.

- 3. Subsection G Petitions for special variance from provisions of this subsection.
  - 1. The Zoning Commissioner may, after a public hearing, grant a petition for a special variance from a provisions of this subsection, only to an extent that will not violate that provision's purpose, pursuant to a finding:
    - a. 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; and

- b. That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b.
- 2. The Office of Planning shall give a report on the petition to the Zoning Commissioner prior to his consideration of the petition.
- 3. The Zoning Commissioner may grant or deny the petition, or grant it subject to any conditions or limitations consistent with the criteria set forth in Paragraph 1 above.
- 4. An appeal may be filed with the County Board of Appeals within 30 days of the decision of the Zoning Commissioner.

Section 4A02.4.G of the Baltimore County Zoning Regulations (B.C.Z.R.) provides a three-part standard against which any request for special variance must be measured. First and foremost, the request must not violate "that provisions' purpose". This purpose is set out clearly in Section 259.4, especially in the dictate that "The area is created to ensure that the development of infrastructure will coincide with the approval of building permits". In this case, I will adopt for the sake of argument, and without finding so, that the approval of building permits is equivalent to granting authorizations via variances. So that before any issue of impact on infrastructure or finding of no adverse affect on person holding reserve capacity use certificates is considered, we must hold tightly to the purpose of the legislation.

The fact that such legislation was enacted at all indicates a legislative unhappiness with the County Adequate Public Facilities legislation found in Article IX of Title 26 of the County Code for this growth area. The Adequate Public Facilities legislation applies County wide (including the Honeygo area) and has as its stated purpose that it is "to provide a predictable planning environment for the provision of adequate infrastructure, roads, public school facilities and recreational space.....". Apparently the Council found this legislation and its process itself inadequate for a growth area such as the Honeygo District. Consequently, the Council provided additional restrictions and processes to be sure that infrastructure coincide with development.

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Clearly, this is remedial legislation which should be given broad scope and application.

To all this the Planning Office (and affected communities) complain that "too many' variances have been granted in Honeygo. For them, good intentions aside, development via variances is out of step with infrastructure improvement in the area. Accepting for the sake of argument and without finding so that many variances have been granted in the past, the problem in this case is to determine whether or not the proposed development would violate the purpose of the legislation. Said another way, would the development coincide with improvement to the infrastructure as specified in Section 259.4. It appears the Council intended to link development to adequate facilities to assure that those facilities can handle the loads imposed by the new development.

This is quite different from the suggestion that if any part of the infrastructure is not fully improved than no development can take place in the subarea until all public facilities in the subarea are fully improved. This latter seems to be what the Planning Office is suggesting. They make no attempt to link this development to the facilities which will actually be used by the new residents. They seem to say that if any inadequacy exists, no development can proceed until all inadequacies are remedied in the subarea regardless of whether or not the new community would use the facility in any way. They remind me that the Honeygo legislation is remedial and must be interpreted broadly.

#### Findings of Fact and Conclusions of Law

I am not persuaded that the Council intended to go as far as the Planning Office would take us in this matter. First, the Council could have but did not say this. They could have simply said that no authorizations would be permitted as long as there were any inadequacies in the subarea. They did not, however, say this. They also could have simply left variance provisions out of the legislation. However, the Council simply said they wanted to be sure the development of infrastructure coincides with development. Secondly, if the Planning Office interpretation were correct, there would be no need for the very elaborate and detail allocation

system described in the Honeygo legislation. However, the Council established a step by step set of allocations and improvements indicating to me a clear intent to link improvements of facilities to the uses the new communities would make of them. And, of course, the Council did say that the purpose was to coincide with not precede development.

In my view, there must be some coinciding with, some connecting with, some link to, some nexus with the proposed development and the inadequate public facilities. In this case, I am only aware of two roads, Cross and Forge that are inadequate in the subarea. All testimony and evidence indicates that there is no connection to the proposed development. I cannot say that simply because there may be some inadequate facilities in the subarea, the Council intended all development stop until even unrelated inadequate facilities were corrected.

There was some testimony by Karin Brown that Joppa Road was presently inadequate. All agreed that residents of the new development would surely use Joppa Road. However, Joppa Road is located in the Bird River subarea and the Council specifically allowed 530 authorizations in this subarea prior to improvements to Joppa Road. All testimony indicated that Bird River had enough authorizations available in this initial allocation that Joppa Road was not to be a barrier.

I also find, for the same reasons above, that the impact of the proposed development will be less than the assumed district standard and not violate Section 4A02.4.G.1.a. Having no practical connection between the development and the inadequate facilities means there will be no impact. Finally, I find that there is no evidence that the proposed development will adversely impact the individual who had filed an application for a reserve capacity use certificate per Section 4A02.4.G.1.b. Both of the developer's experts testified as such and although Mr. Libercei raised the issue that this development might impact The Enclave at Honeygo development, I have no information on the record that a reserve capacity use certificate had been applied for or granted in The Enclave case much less any evidence there would be some adverse impact.

Again, there was no evidence of a violation of the purpose of the act, impact on the inadequate facilities or adverse effect on persons with reserve capacity use certificates from diversion of sewerage from the Bird River subarea to Bean Run subarea. Although this is remedial legislation and must be interpreted broadly, there must be some linkage, some connection, some nexus between the proposed community use of facilities and the complained of inadequate facility.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this \_\_\_\_\_\_\_ day of September, 2003, that the Development Plan submitted into evidence as Developer's Exhibit No. 1, for the project known as the "Glenside Overlook" be and is hereby APPROVED.

IT IS FURTHER ORDERED, that the Honeygo Special Variance, (i) to permit the issuance of residential building permits for construction of single-family homes as shown on the Development Plan entitled "Glenside Overlook" and any and all amendments thereto approved or proposed and (ii) the conveyance of sewerage from the Bird River Subarea to the Bean Run subarea for the proposed development, be and it is hereby APPROVED.

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

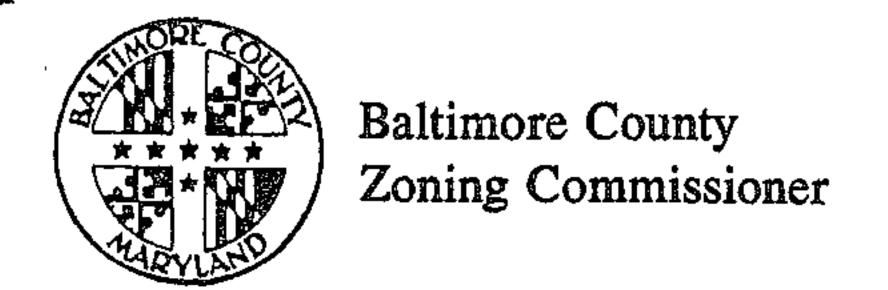
OWN V. MURPHY

DEPUTY ZONING COMMISSIONER/

HEARING OFFICER

FOR BALTIMORE COUNTY

JVM:raj



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

Fax: 410-887-3468

September 11, 2003

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

Re: Hearing Officer's Hearing No. XI-899 & 03-600-HAS
Property: S/End of Good Spring Drive, E of Glen Vista Road
11th Election District, 5th Councilmanic District
(Glenside Overlook)

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned cases. The Development Plan and Honeygo Petition for Special Variance have been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits & Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

John V. Murphy

JVM:raj Enclosure

#### Copies to:

Albert & Barbara Willick 5108 E. Joppa Road Perry Hall, MD 21128

Brad Willick 5138 New Gerst Lane Perry Hall, MD 21128

Richard E. Matz Colbert, Matz & Rosenfelt 2835 Smith Avenue, Suite G Baltimore, MD 21209

Mickey Cornelius 9900 Franklin Square Drive, Suite H Baltimore, MD 21236

Rosemary & Bill Singleton 5134 New Gerst Lane Perry Hal, MD 21128

Nicholas A. Porter 5124 New Gerst Lane Perry Hal, MD 21128

George Burns 5130 New Gerst Lane Perry Hall, MD 21128

Tim Uhrin 5117 New Gerst Lane Perry Hall, MD 21128

William Libercci
19 Shawn Court
Baltimore, MD 21236

Dennis Eckard 39 Bangert Avenue Perry Hall, MD 21128



Case No.

₹**E₩**9/15/98

# Honeygo Special Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at Mas of New Gerst Lane

ESTIMATED LENGTH OF HEARING

Reviewed By D.THOMPSON Date 6

which is presently zoned \_\_DR 3.5H

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)

Property is to be posted and advertised as prescribed by the zoning regulations.

regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

#### SEE ATTACHED

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

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. Developer Contract Purchaser/Kessae: <u>Legal Owner(s):</u> Poul Amirault, Man Member Albert G. Willick Glenside Overlook, LLC Name - Type or Print/1/ Name—Type or Print By: Signature Signature 410-593-9881 PO Box 216 Telephone No. Name - Type or Print Address 21087 MD Kingsville Zip Code State Signature City 410-256-4344 5138 New Gerst Lane Attorney For Petitioner: Telephone No. Address Howard L. Alderman, Jr., Esquire 21128 MD Perry Hall Zip Code State City Name - Type or Print Representative to be Contacted: Signature Richard Matz, PE @ Colbert, Matz & Rosenfelt Levin & Gann, PA Nottingham Centre, 8th Floor Name Company 502 Washington Avenue 410-321-0600 410-653-3838 2835 Smith Avenue, Suite G Telephone No. Address Address Telephone No. 21209 MD MD 21204 Baltimore Towson, Zip Code City State City Zip Code State OFFICE USE ONLY

# Attachment 1 PETITION FOR SPECIAL HONEYGO VARIANCE

CASE NO: 03- 600 - SPVA-H

Address:

N/S of New Gerst Lane

Legal Owners:

Albert G. Willick

Contract Purchaser:

Glenside Overlook, LLC

#### REQUESTED RELIEF:

Variances from *Baltimore County Zoning Regulations* (BCZR) pursuant to Sections 259.8 & 4A02.4.[F]G, the Threshold Limits - Honeygo Area established by § 259.7, to permit: i) the issuance of residential building permits for construction of single-family homes as shown on the development plan entitled *Glenside Overlook* and any and all amendments thereto approved or proposed; ii) the conveyance of sewage from the Bird River subarea to the Bean Run subarea for the proposed development; iii) 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; or
- B. Commencement of Capital Projects relative to Authorizations is anticipated in the near future; and
- C. For such further reasons that will be presented at the hearing on this Petition.

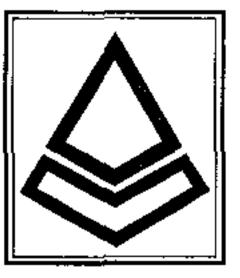
#### FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

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



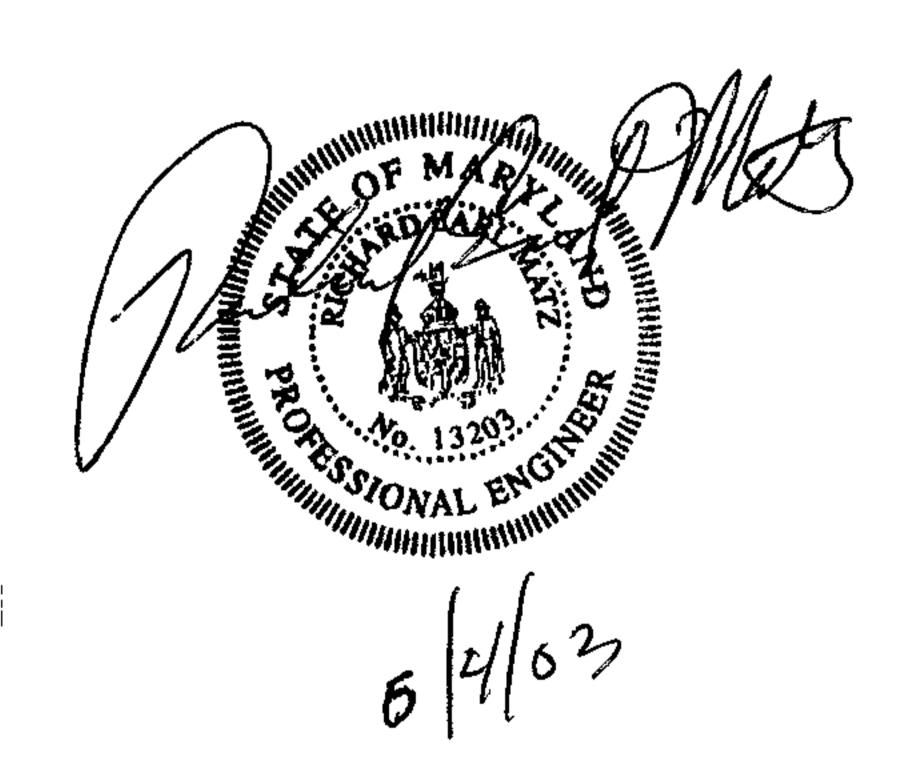
ZONING DESCRIPTION 5138 NEW GERST ROME LANE

Beginning at a point 49.54 feet east of the centerline of Good Spring Drive, which is 50 feet wide, 150 feet, more or less, south of the centerline of Forge Haven Drive, which is 50 feet wide. Thence the following courses and distances:

S 25°13'28" W 396.85 ft.; N 84°58'33" W 450.40 ft.; N 14°28'40" E 200.00 ft.; N 25°13'28" E 359.04 ft., thence S 64°22'52" E 460.00, to the place of beginning.

As recorded in the Baltimore County Land Records in Deed Liber 13153, folio 509 and containing 5.0110 acres, more or less. Also known as 5138 New Gerst and located in the 11<sup>th</sup> Election District.





OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No. 25541
DATE 62003 ACCOUNT	00/006650
AMOUNT \$	325.00
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5138 NEW GERST LN	24 D.THOMPSON

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BALTIMORE COUNTY, MARYLAND

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**CASHIER'S VALIDATION** 

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Requisions of Baltimore County with heid a public heming in Toward, Maryland on the gropesty identified hemin as follows:

Case #408-680-858

5138 New Gerst Lane

Centedine of Good Spring Dine, 150 feet #/- south of

centerline of Fange Maren Doire tilth Election Cistrici — Stir Councilnauce District Engal Corren(s): Attent G. Willick

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Zoning Commissioner for Ballimane County

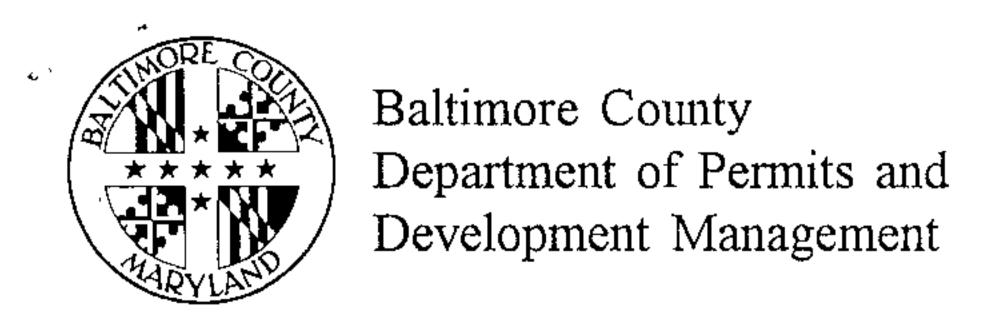
NUMBER ((1)) Elemings are Handicapped Accessible, for special accommodistions Please Contact the Zoning Commissioner's Office at ((410) 887-4336.

(2) For information concerning the like and/or Heming, Contact the Ziming Mexica Office at (410) 867-3391. AMOND Aug 7

# CERTIFICATE OF PUBLICATION

<u>8/7</u> , 20 <u>0</u> 3
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on <u>8/7</u> ,20 <u>03.</u>
The Jeffersonian  Arbutus Times  Catonsville Times  Towson Times  Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING



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

Fax: 410-887-5708

July 2, 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: 03-600-HSA

5138 New Gerst Lane

Centerline of Good Spring Drive, 150 feet +/- south of centerline of Forge Haven Drive 11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owner: Albert G. Willick

Contract Purchaser: Glenside Overlook, LLC, Paul Amirault, Managing Member

Honeygo Special Variance to permit the issuance of residential building permits for construction of single-family homes as shown on the development plan entitled Glenside Overlook and any and all amendments thereto approved or proposed ii) the conveyance of sewage from the Bird River Subarea to the Bean Run Subarea for the proposed development iii) and for such further relief as the nature of this case and development may require.

Hearings:

Thursday, August 28, 2003, at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco

buth Kotroco

Director

TK:klm

C: Howard Alderman, Jr., Levin & Gann, 502 Washington Avenue, 8<sup>th</sup> Floor, Towson 21204 Albert Willick, 5138 New Gerst Lane, Perry Hall 21128 Glenside Overlook, Paul Amirault, P.O. Box 216, Kingsville 21087 Richard Matz, Colbert, Matz & Rosenfelt, 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 SATURDAY, AUGUST 9, 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

Thursday, August 7, 2003 Issue - Jeffersonian

Please forward billing to:

Paul Amirault Maryland Landmark P.O. Box 216 Kingsville, MD 21087

410-593-9881

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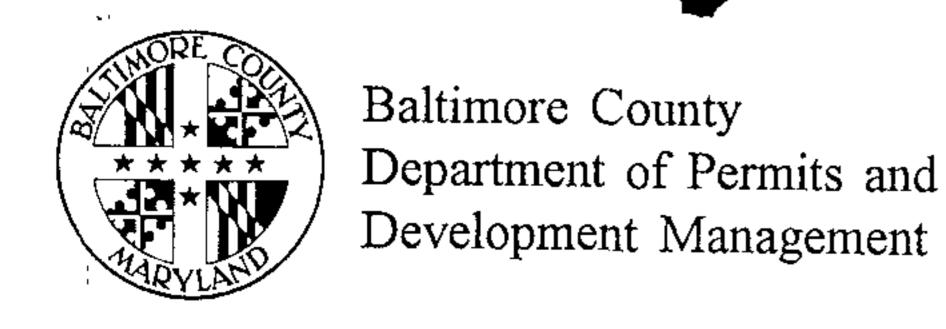
Hearings:

Thursday, August 28, 2003, at 2:00 p.m. in Room 106, County Office Building, 111 W Chesapeake Avenue

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Fax: 410-887-5708

July 2, 2003

# **CORRECTED NOTICE OF ZONING HEARING**

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CASE NUMBER: 03-600-HSA

5138 New Gerst Lane

Centerline of Good Spring Drive, 150 feet +/- south of centerline of Forge Haven Drive 11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owner: Albert G. Willick

Contract Purchaser: Glenside Overlook, LLC, Paul Amirault, Managing Member

Honeygo Special Variance to permit the issuance of residential building permits for construction of single-family homes as shown on the development plan entitled Glenside Overlook and any and all amendments thereto approved or proposed ii) the conveyance of sewage from the Bird River Subarea to the Bean Run Subarea for the proposed development iii) and for such further relief as the nature of this case and development may require.

Hearings:

Thursday, August 28, 2003, at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco

Director

TK:klm

C: Howard Alderman, Jr., Levin & Gann, 502 Washington Avenue, 8<sup>th</sup> Floor, Towson 21204 Albert Willick, 5138 New Gerst Lane, Perry Hall 21128 Glenside Overlook, Paul Amirault, P.O. Box 216, Kingsville 21087 Richard Matz, Colbert, Matz & Rosenfelt, 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 SATURDAY, AUGUST 9, 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

Thursday, August 7, 2003 Issue - Jeffersonian

Please forward billing to:

Paul Amirault Maryland Landmark 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: 03-600-HSA

5138 New Gerst Lane

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Hearings:

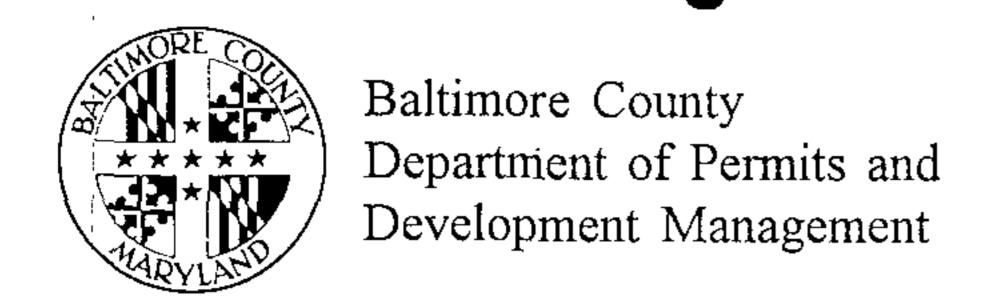
Thursday, August 28, 2003, at 9:00 a.m. in Room 106, County Office

Building, 111 W Chesapeake Avenue

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Fax: 410-887-5708

July 2, 2003

#### **NOTICE OF ZONING HEARING**

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Hearings:

Monday, August 25, 2003, at 2:00 p.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Howard Alderman, Jr., Levin & Gann, 502 Washington Avenue, 8<sup>th</sup> Floor, Towson 21204 Albert Willick, 5138 New Gerst Lane, Perry Hail 21128 Glenside Overlook, Paul Amirault, P.O. Box 216, Kingsville 21087 Richard Matz, Colbert, Matz & Rosenfelt, 2835 Smith Avenue, Ste. G, Baltimore 21209

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TO: PATUXENT PUBLISHING COMPANY

Thursday, August 7, 2003 Issue - Jeffersonian

Please forward billing to:

Paul Amirault Maryland Landmark P.O. Box 216 Kingsville, MD 21087

410-593-9881

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Lawrence 3. Schwidt

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

### **ZONING REVIEW**

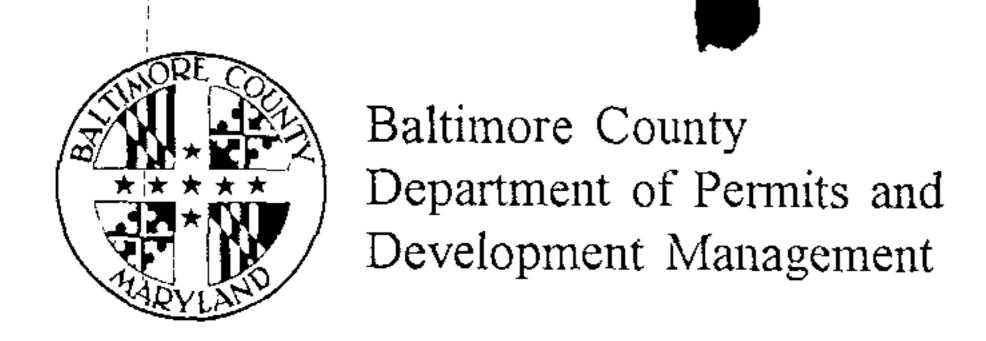
# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing

Zoning Review will ensure that the legal requirements for advertising are satisfied However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 03-600-SPVA-H
Petitioner: Glenside Overlook LLC
Address or Location 5138 New Gerest-Lane
PLEASE FORWARD ADVERTISING BILL TO.  Name: Paul Amerault
Address Maryland Landmark P.O. Box 216 Kingsville, Md. 21087
Telephone Number: 415-593-9881



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

August 21, 2003

Howard Alderman, Jr, Esquire Levin & Gann, P.A. 502 Washington Avenue, 8<sup>th</sup> Floor Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 03-600-HSA, 5138 New Gerst Lane

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 20, 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
Albert Willick, 5138 New Gerst Lane, Perry Hall 21128
Glenside Overlook, Paul Amirault, P.O. Box 216, Kingsville 21087
Richard Matz, Colbert Matz Rosenfelt, 2835 Smith Ave., Ste. G. Baltimore 21209

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



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor



Robert L. Flanagan, Secretary Nell J. Pedersen, Acting Administrator

#### MARYLAND DEPARTMENT OF TRANSPORTATION

Date:

7.1.03

Ms. Rebecca Hart Baltimore County Office of Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204

RE:

Baltimore County

Item No.

600

DT

Dear. Ms. Hart:

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

Chelle

# BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** July 7, 2003

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

5138 New Gerst Lane

INFORMATION:

Item Number:

03-600

Petitioner:

Albert G. Willick

Zoning:

DR 3.5H

Requested Action: Variance

RECEIVED

JUL - 9 2003

ZONING COMMISSIONER

#### SUMMARY OF RECOMMENDATIONS:

The Office of Planning recommends that the petitioner's request for a variance from the threshold limits contained in BCZR 259.7 be **DENIED**. The intent of the threshold limits is to pace development so that it coincides with the required infrastructure improvements.

However, due to the fact that approximately 80% of the proposed development is in the Bean Run subarea, this office supports the request of conveyance of sewage from the Bird River subarea to the Bean Run subarea.

Prepared by:

Section Chief: Kalmy Schlabach

AFK/LL:MAC:

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

**DATE:** September 5, 2003

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For July 7, 2003

Item Nos. 577, 578, 580, 581, 587, 589, 590, 593, 594, 595, 596, 597, 598, 599, and 600

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

RWB:CEN:jrb

cc: File

BEFORE THE RE: PETITION FOR HONEYGO SPECIAL VARIANCE 5138 New Gerst Lane; C/line Good Spring Dr\*

150' +/- S c/line Forge Haven Drive

Legal Owner(s): Albert G Willick

Contract Purchaser(s): Glenside Overlook,

LLC, Paul Amirault, Manager/Member

Petitioner(s)

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

03-600-HSA

#### 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.

People's Counsel for Baltimore County

RECEIVED CAROLE S. DEMILIO

JUL 0 3 2003 Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

PETER MAX ZIMMERMAN

(410) 887-2188

# CERTIFICATE OF SERVICE

day of July, 2003, a copy of the foregoing Entry I HEREBY CERTIFY that on this of Appearance was mailed to, Richard Matz, PE, Colbert, Matz & Rosenfelt, 2835 Smith Avenue, Suite G, Baltimore, MD 21209, and to Howard L Alderman, Levin & Gann, PA, 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioner(s).

> um IRMA/L PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

From Fredows.

Mr. Bowling's request for dedication is most reasonable and responsible. He looks ahead to avoid problems and improve the design of future neighborhoods. He sees the need to connect future developments as noted in the Master Plan and Honeygo Overlay District. He sees the absurdity of having future residents of Myers north travel to Old Joppa Road, pass 15 feet of this developer's property then turn into Myers south to visit someone living there. Yet, as reasonable and rational as this request is, there still must be some connection between the condition requested and the action required. I find that connection too remote in this case. Consequently, I will approve the Plan as presented without the requested condition to dedicate the strip to the public.

similar plan prepared by the Office of Planning or a consultant to the county, but does not include a subdivision plan or other developer's plan.

- f. On-site expansions of existing hospitals; any development of a "continuing care facility" as defined in § 7 of Article 70B of the Annotated Code of Maryland.
- g. Any development in an area for which an official detailed plan has been prepared that contains a recommendation that the area be exempted from basic services restrictions. For purposes of this exception, an "official detailed plan" includes an official "revitalization" plan or similar plan prepared by the Office of Planning or a consultant to the county and approved, subsequent to July 1, 1982, by the Planning Board and the County Council, but does not include a subdivision plan or other developer's plan.
- F. [Bill No. 35-2001<sup>3</sup>] South Perry Hall White Marsh Area. No grading permit or other building permit shall be issued for development pursuant to a development plan approved after February 1, 2001, for any development project that will be accessed from Bucks School House Road or White Marsh Road, until all of the following road projects have been contracted for construction:
  - 1. Replace the box culvert under White Marsh Road that crosses the tributary of White Marsh Run located between Perry Ridge Court and Selwin Court.
  - Widen the paved section of White Marsh Road between Bucks School House Road and Selwin Court to 20 feet.
  - 3. Widen the paved section of Bucks School House Road between Ridge Road and Perry Hall Boulevard to 20 feet.
  - 4. Realign horizontal curves along Bucks School House Road so that the minimum radius of the center line for any horizontal curve is not less than 380 feet.
- G. Petitions for special variance from provisions of this subsection.
  - 1. The Zoning Commissioner may, after a public hearing, grant a petition for a special variance from a provision of this subsection, only to an extent that will not violate that provision's purpose, pursuant to a finding:
    - a. 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; and

4A-10 7-25-2001

Editor's Note: This bill provided for the renumbering of former Subsection F as Subsection G. It also stated that the provisions of this subsection shall expire and be of no further effect when all of the road projects listed have been contracted for construction, or May 25, 2004, whichever shall first occur.

- b. That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b.
- 2. The Office of Planning shall give a report on the petition to the Zoning Commissioner prior to his consideration of the petition.
- 3. The Zoning Commissioner may grant or deny the petition, or grant it subject to any conditions or limitations consistent with the criteria set forth in Paragraph 1 above.
- 4. An appeal may be filed with the County Board of Appeals within 30 days of the decision of the Zoning Commissioner.

4A-11

7 - 25 - 2001

Robert L. Ehrlich, Jr. Governor



Audrey E. Scott
Secretary

Florence E. Burlan
Deputy Secretary

Michael S. Steele Lt. Governor

July 1, 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

e: Zoning Advisory Committee Agenda, 07/07/03 re: case numbers 03-577-A, 03-578-A, 03-579-SPH, 03-580-SPHA, 03-583-A, 03-584-A, 03-585-SPHXA, 03-586-SPH, 03-587-A, 03-588-A, 03-589-SPH, 03-590-A, 03-591-A, 03-592-A, 03-593-A, 03-594-A, 03-595-SPH, 03-596-SPH, 03-597-A, 03-598-SPHA, 03-599-A( 03-600-HAS & 03-601-A

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 07/01/03. 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.

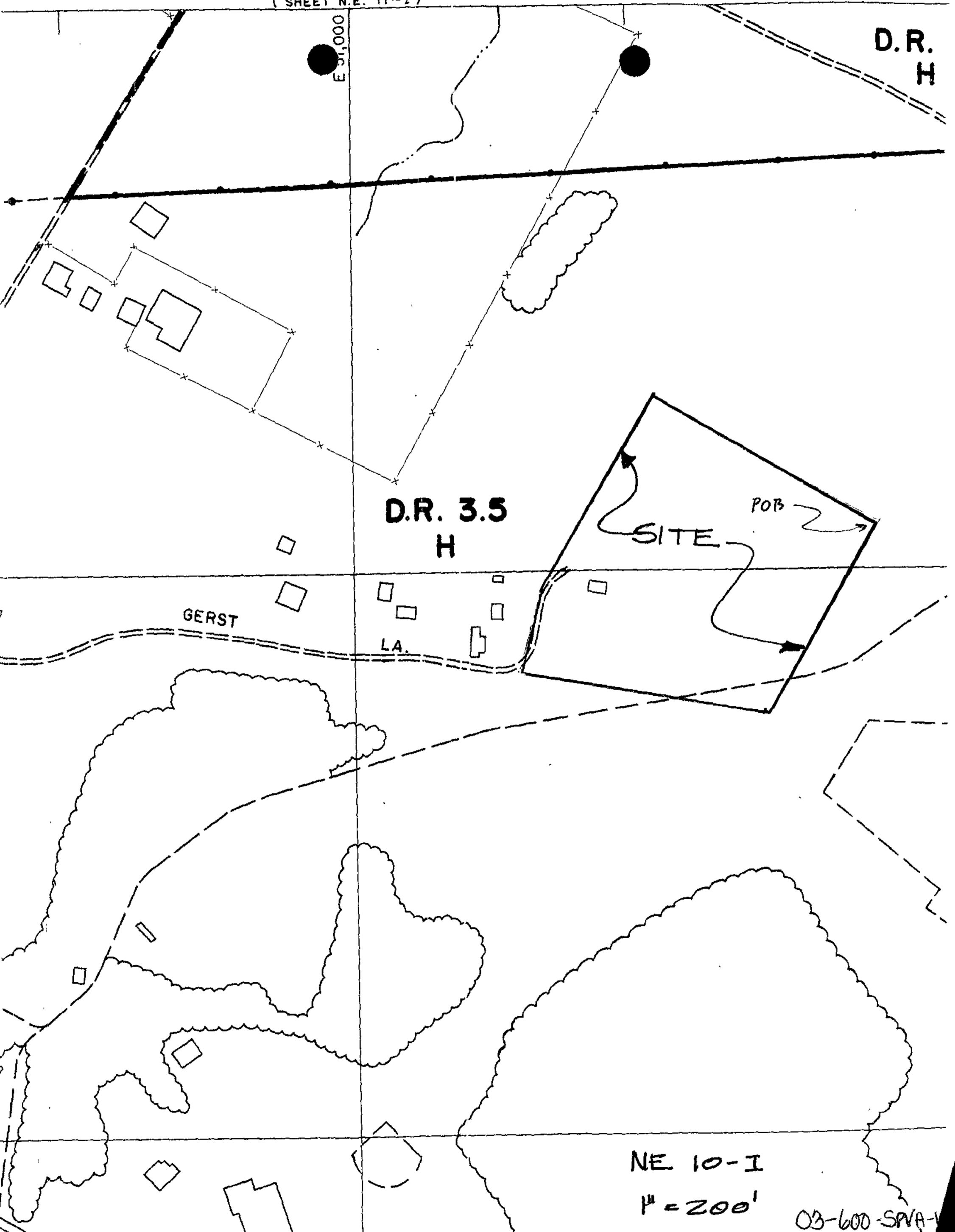
Sincerely,

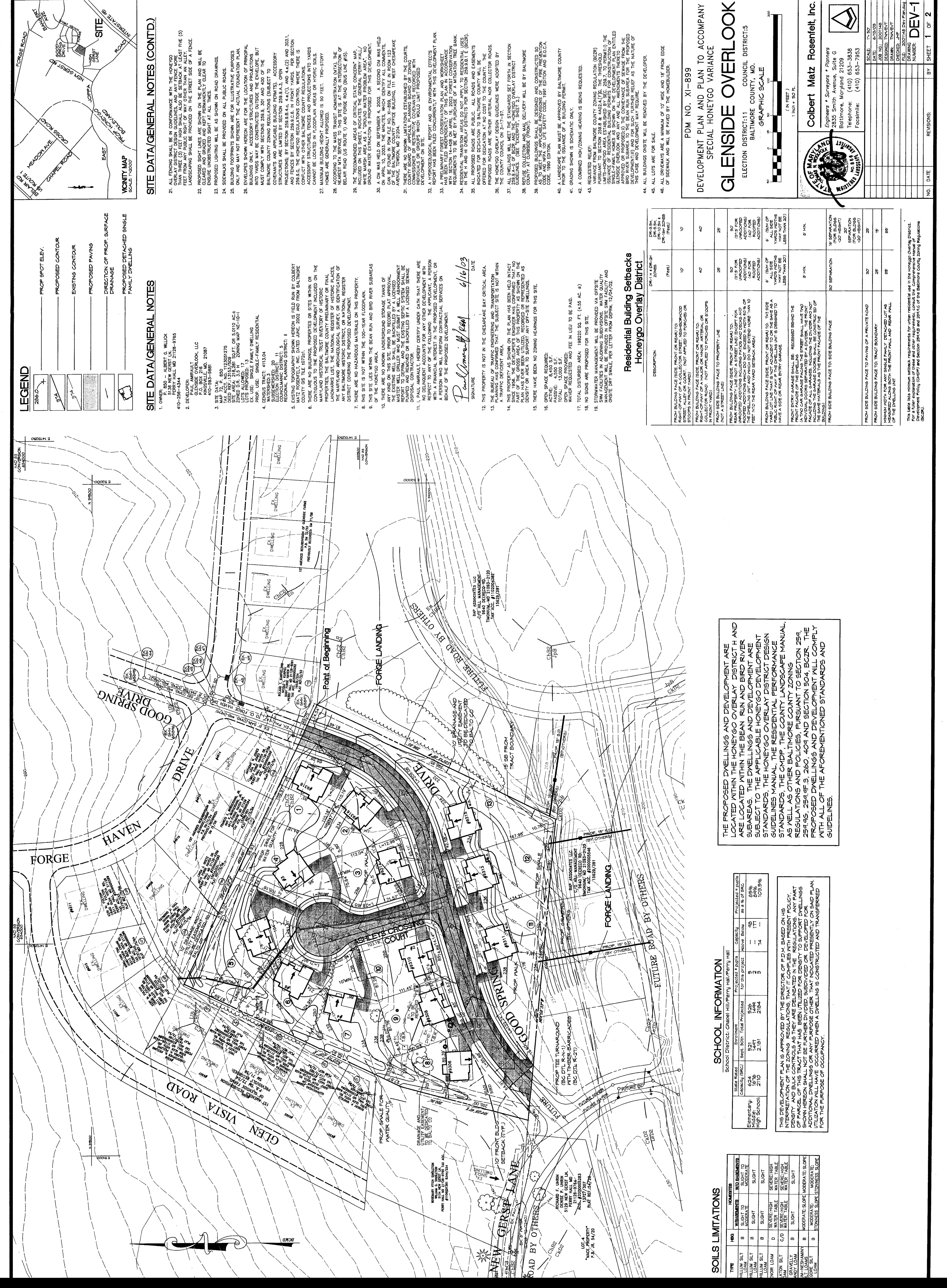
James R. Gatto

Manager

Metropolitan Planning Planning Services

cc: Mike Nortrup





TNW 6/13/03

