

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: April 15, 2004

TO: Timothy Kotroco, Director
Permits & Development Management
Attn.: W. Carl Richards, Jr.

FROM: Theresa R. Shelton
Board of Appeals

trs

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

<u>BOARD OF APPEALS CASE NUMBER</u>	<u>PDM FILE NUMBER</u>	<u>NAME</u>	<u>LOCATION</u>
M.C. 04-1	<i>MAP CORRECTION</i>	BERGER PROPERTY	HOLLY NECK ROAD AND BROWNS COVE ROAD

Attachment: SUBJECT FILE(S) / EXHIBIT(S) ATTACHED;

IN THE MATTER OF
THE APPLICATION OF
HOLLY NECK LTD PARTNERSHIP:
(BERGER PROPERTY) FOR A ZONING
MAP CORRECTION ON PROPERTY
LOCATED AT THE CORNER OF HOLLY
NECK RD AND BROWNS COVE RD
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. M.C. 04-1

* * * * *

OPINION

This case to the Baltimore County Board of Appeals based on a Petition filed by Baltimore County, Maryland, by Edward J. Gilliss, County Attorney, and Nancy C. West, Assistant County Attorney; and Holly Neck Limited Partnership by Robert W. Cannon, Esquire, and Saul Ewing, LLP, pursuant to § 26-134 of the *Baltimore County Code*.

The Petition alleges that the Holly Neck Limited Partnership is the owner of an approximate 152.7-acre parcel of land located at the corner of Holly Neck Road and Browns Cove Road in Baltimore County, Maryland, 21221, Map 98, Grid 22, Parcels 143, 424, and 165 (property tax nos. 15-1700005908, 15-1700005907, and 15-1520000460). At the present time, the property is split-zoned R.C. 5 and R.C. 20. In the year 2000, as part of and pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process (the "CZMP"), Holly Neck Limited Partnership initiated an issue to rezone the subject property from R.C. 5 and R.C. 20 to D.R. 2 as set forth in Issue No. 5-029. The property was rezoned to R.C. 5 in its entirety.

In a letter certified by the Baltimore County Office of Planning pursuant to a letter dated January 20, 2004, a technical drafting error on the part of the original petitioner resulted in portions of the property remaining in the R.C. 20 classification during the 2000 CZMP. The Office of Planning alleges that the County Council intended to rezone the subject property R.C. 5 in its entirety. In accordance with the provisions of the Code, the Office of Planning has notified the County Council of its intention to reclassify the property in accordance with the legislative intent. The Board of Appeals is specifically being requested to (1) enter an Order reclassifying the property from R.C. 20 to R.C. 5 in accordance with the legislative

intent of the Baltimore County Council; and (2) for such other and further relief as the Board of Appeals may deem just and appropriate.

The *Baltimore County Code* provides that the subject property be posted and that a public hearing be afforded relative to the merits of the case. In accordance therewith, and notice being given to all interested parties, this Board scheduled a public hearing on February 19, 2004 at 11 a.m. at which time Robert W. Cannon, Esquire, with the law firm of Saul Ewing, LLP, and Robert Romadka, Esquire, appeared on behalf of Holly Neck Limited Partnership; Nancy C. West, Assistant County Attorney, appeared on behalf of Baltimore County, Maryland; and Carole S. Demilio, Deputy People's Counsel for Baltimore County, also entered her appearance on behalf of the Office of People's Counsel.

The Board heard testimony from Mr. Jeff Long, who is the Deputy Director of the Baltimore County Office of Planning, and he indicated his involvement in this case as previously being Chief of Community Planning for the Office of Planning; his extensive involvement in the Comprehensive Map Process; and as a County Planner quite familiar with the property. Mr. Long indicated that on December 29, 2003 Arnold "Pat" Keller, Director of the Office of Planning, received a letter from Robert W. Cannon, Esquire, in which it was stated that the zoning map enacted by the Baltimore County Council during the 2000 CZMP did not accurately reflect the final zoning classification that the County imposed upon Holly Neck's property which was issue #5-029. Mr. Cannon alleged that the discrepancy was due to a technical drafting error made by the petitioner, with such error not actually impacting the intent of the County Council to place a particular zoning classification on the this particular property; and that the error resulted from the fact that the CZMP submission was based upon the tax map, and that a subsequent survey of the property reflected that the tax map did not accurately reflect the true boundaries of the property.

Mr. Long explained that, after considerable investigation, the Planning Office had determined that the Petitioner had made an error in using a State tax map which is not often very precise and that a subsequent survey plat submitted to his department did indicate that it was clear that the areas designated

were to have been a part of Issue #5-029 and that, after further investigation, a technical drafting error had been made. Mr. Long also testified concerning a letter which had been sent by Mr. Cannon to Mr. Keller under date of January 8, 2004 (County Exhibit #2) in which the property in question was more specifically identified. Mr. Long also opined concerning the contents of his letter under date of January 29, 2004 (County Exhibit #3) in which the Director of Planning certified his findings as follows:

Based upon a review of (1) the 2000 Baltimore County 200-scale zoning map, and (2) the 2000 Baltimore County Zoning Map Final Log of Issues, this office concludes an error on the part of the original petitioner resulted in several small portions of the subject property remaining in the RC 20 zone classification. Therefore, the Office of Planning will initiate a Petition for Zoning Map Correction to reflect the County Council's intent to rezone the property to RC 5 in its entirety.

A copy of that letter was sent to several administrative officers within Baltimore County government, including the Honorable Vincent J. Gardina, the Councilman for the 5th District and the Honorable Joseph Bartenfelder, the Councilman for the 6th District. Under the recently revised Baltimore County Councilmanic Districts, the subject property was formerly located within the boundaries of the 5th Councilmanic District but now lies within the boundaries of the 6th District.

County Exhibit #4 substantiated the fact from Councilman Vincent Gardina that he had supported Issue #5-029 when the County Council rezoned the property owned by the Holly Neck Limited Partnership from R.C. 20 to R.C. 5 and that, having investigated the situation, he also agreed with a correction of the zoning map to conform to the survey.

The County also submitted as Exhibit #5 a "Request for Change / 2000 Baltimore County Comprehensive Zoning Map Process" relative parcels 143, 424, and 165 prepared by D.S. Thaler & Associates, Inc., which consisted of a letter from Mr. Cannon to the Baltimore County Office of Planning under date of October 21, 1999 in which the Holly Neck Limited Partnership had requested a reclassification of approximately 517 acres of land off Back River Neck Road and Holly Neck Road in Baltimore County from the present classifications.

Ms. Demilio raised several questions that were posed to Mr. Long which were satisfactorily

answered, and that the only issue involved in this process was the rezoning of small slivers of property which, again, were in error due to the fact that the petitioner had used the tax maps rather than the actual survey of the property which was subsequent to the CZMP.

Mr. Cannon called Dr. Leonard P. Berger who testified as the General Partner of the Holly Neck Limited Partnership who indicated that he had been associated with the Partnership for 32 years and has owned the property since approximately 1976, and that the property had been redistributed with a large portion going to a permanent environmental conservation, some part to the Baltimore Gas and Electric for mitigation, a parcel to the State, a large portion to Baltimore County for permanent conservation, which left approximately 152.7 acres for development, and that the three parcels in question were owned by the Partnership on which the Partnership had paid taxes since the time they owned same. The current issue relative to rezoning consisted of only approximately .3 acre.

Mr. David S. Thaler, D.S. Thaler & Associates, Inc., a recognized expert in the field of civil engineering and surveying, was accepted as an expert by the Board. He discussed his participation in the Comprehensive Zoning Map Process and also explained that frequently, when the tax maps are utilized, they very often contain mistakes which was the case in this situation. Again, only a minute portion of the property was involved; there was no density change; and that obviously an error had been made when the property had been surveyed after approval of the 2000 Comprehensive Zoning Maps.

There were a substantial number of individuals present in the hearing room who had come to the hearing because they had seen the sign posted. A sign-in sheet was presented to the Board and accepted. Mr. Cannon made a proffer that those in attendance would stand and register their approval of the request being made for this map correction. The Chairman indicated that, if anyone in the room objected to the map correction, they would be given an opportunity to speak. None signified that they were in opposition.

The Board took a brief recess after which time it reconvened and publicly deliberated the matter, and unanimously agreed that the zoning map correction should be granted in accordance with the Petition

filed with this Board by Edward J. Gilliss, County Attorney, under the signature of Nancy C. West, Assistant County Attorney, as reflected in the Board's file.

ORDER

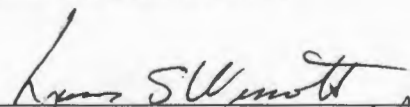
IT IS THEREFORE, this 26th day of February 2004 by the County Board of Appeals of Baltimore County

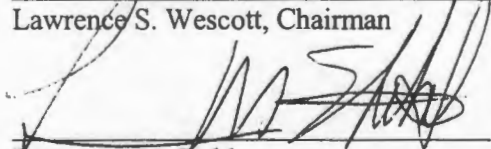
ORDERED that the zoning designation of the subject property be changed from R.C. 20 to R.C. 5 in its entirety, in accordance with the legislative intent of the Baltimore County Council; and it is further

ORDERED that the Office of Permits and Development Management make the necessary change and correction as set out herein on the latest Comprehensive Zoning Map for Baltimore County with regard to the subject property.

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 et seq of the *Maryland Rules*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Chairman


Lawrence M. Stahl


Charles L. Marks



County Board of Appeals of Baltimore County

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

David D.
6/7/09
w

x 3480

Jeff Mayhew

February 26, 2004

Robert W. Cannon, Esquire
SAUL EWING, LLP
100 South Charles Street
Baltimore, MD 21201-2773

Edward J. Gilliss, County Attorney
Nancy C. West, Assistant County Attorney
Second Floor, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of:* Petition for Zoning Map Correction –
Holly Neck Limited Partnership – Legal Owner;
Baltimore County, Maryland – Petitioners (Berger Property)
Holly Neck Road and Browns Cove Road
Case No. M.C. 04-1

Dear Counsel:

Enclosed please find a copy of the final Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same Circuit Court Civil Action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco /hw
Kathleen C. Bianco
Administrator

Enclosure

c: Holly Neck Limited Partnership
Office of People's Counsel
The Honorable Vincent J. Gardina
Councilman, Fifth District
The Honorable Joseph Bartenfelder
Councilman, Sixth District
Anthony G. Marchione, Administrative Officer
Pat Keller, Planning Director
Jeffrey Long, Deputy Planning Director
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards /PDM
Timothy M. Kotroco, Director /PDM



Case No. M.C. 04-1

Holly Neck Limited Partnership – Legal Owner; Petitioner and
Baltimore County, MD –Petitioner
Holly Neck and Browns Cove Roads 6th C District

Map Correction: to correct technical drafting error – to
rezone portions of property remaining in RC 20 to RC 5 as intended by
the County Council in the 2000 CZMP

1/30/04 –Petition for Zoning Map Correction filed by Baltimore
County, Maryland and Holly Neck Limited Partnership

2/02/04 – Confirmed councilmanic district with D. Patchak /Planning (Sixth – Bartenfelder); also confirmed this
date with Jeff Long to include both councilman as indicated on certification letter.

-- Notice of Assignment for hearing scheduled for Thursday, February 19, 2004 at 11 a.m. sent to the
following:

Edward J. Gilliss, County Attorney
Nancy C. West, Assistant County Attorney
Robert W. Cannon, Esquire
Holly Neck Limited Partnership
Office of People's Counsel
The Honorable Vincent J. Gardina
Councilman, Fifth District
The Honorable Joseph Bartenfelder
Councilman, Sixth District
Anthony G. Marchione, Administrative Officer
Pat Keller, Planning Director
Jeffrey Long, Deputy Planning Director
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards /PDM
Timothy M. Kotroco, Director /PDM

2/19/04 – Board convened for hearing (Wescott, Stahl, Marks); concluded hearing this date; publicly deliberated at
conclusion of hearing; unanimous decision that map correction request should be granted; order to be
issued within 10 days of this date; appellate period to run from date of written Order.



City #5

5-029

REQUEST FOR CHANGE

2000 BALTIMORE COUNTY COMPREHENSIVE ZONING MAP PROCESS

HOLLY NECK PROPERTIES

HOLLY NECK ROAD @ BROWNS COVE ROAD

PARCELS 143, 424 & 165

D. S. THALER & ASSOCIATES, INC.

CIVIL ENGINEERS - LAND PLANNERS - LANDSCAPE ARCHITECTS - SURVEYORS

7115 Ambassador Road, P.O. Box 47428, Baltimore, MD 21244-7428

(410) 944-3647 FAX (410) 944-3684

DATE: September, 1999

JOB NUMBER: 02307

Ref #1

PROFESSIONAL QUALIFICATIONS

David S. Thaler, P.E., L.S., F., ASCE

7115 Ambassador Road

P.O. Box 47428

Baltimore, Maryland 21244-7428

EDUCATION

Baltimore Polytechnic Institute	1966
Lehigh University - BS, Civil Engineering	1970
Lehigh University - MBA, Management	1971
Lehigh University - MA, Economics	1978
Lehigh University - Ph.D., Business & Economics (completed all but dissertation)	

PROFESSIONAL ENGINEER

• Maryland • Virginia • Pennsylvania • District of Columbia • Delaware

REGISTERED LAND SURVEYOR - Maryland

LICENSED REAL ESTATE BROKER - Maryland

MEMBERSHIP IN PROFESSIONAL OR TECHNICAL SOCIETIES

American Society of Civil Engineers, since 1970 - **Fellow**

National Society of Professional Engineers, **Member** since 1971

Professional Engineers in Construction Division - **Charter Member**, since 1972

Maryland Society of Professional Engineers - **Director**, 1985-1989

Baltimore Chapter - **President**, 1985/86

Engineering Society of Baltimore - 1977-1995

Editorial Board - Baltimore Engineer - 1992

Society of American Military Engineers - 1972 - 1990

Beta Gamma Sigma (National Business Honorary) 1975

Maryland Society of Surveyors 1979-1992

Home Builders Association of Maryland, Inc., Baltimore County Chapter

Board of Directors, 1978 - 1989, 1994-1995

Secretary/Treasurer, 1979, second Vice President, 1980, 1981 - Vice President, 1982

Home Builders Association of Maryland, Inc.

Board of Directors 1988 - 1992

Chairman, Editorial Advisory Board Maryland Builder - 1988 - 1993

Chairman, Land Use Committee - 1987 - 1990

Founding President 1990 - *Land Development Council*, Vice President 1991-1996

Lamda Alpha International - (Honorary Land Economics Society) since 1994

LECTURER Continued ...

- "Rethinking the Rules - Unintended Consequences of Land Use Regulation" *Alliance for the Chesapeake Bay* - May, 1999.
- "Everything You Ever Wanted to Know About ALTA/ACSM Surveys, Boundary Surveys, Certifications and Global Positioning" - *The Mid-Atlantic Real Estate Corporate Counsel Discussion Group* - December, 1999.
- "Community Conservation & Historic Preservation" - *Keynote Speaker, Baltimore County Landmarks Preservation Commission, Preservation Breakfast* - June, 2000.
- "Trigonometry" - *St. Paul's School for Girls* - February, 2001.
- "Cadastral Land Surveying, Documentation and Registration - Rule of Law Project, United States State Department" - *Northwest Cadastral Land Institute, and the Land Committees of the Leningrad Oblast, St. Petersburg, Russia* - November 2000.
- "Entrepreneurship" - *Towson University, College of Business & Economics* - October, 2001

EXPERT TESTIMONY

- Qualified as an Expert Witness before the Courts of Baltimore County, Baltimore City, and Carroll County.
- Qualified as an Expert Witness in Civil Engineering and Land Planning before the Boards of Appeal of Baltimore and Anne Arundel Counties.
- Expert testimony before the Maryland General Assembly, Environmental Matters Committee, Subcommittee on Sediment Control and Storm Water Management, July 1981.
- Expert testimony before the Congress of the United States, Joint Economic Committee, Subcommittee on Investment, Jobs and Prices, August 1981.

EMPLOYMENT HISTORY

President & Managing Principal D.S. Thaler & Associates, Inc.
- since 1976 (Civil Engineers, Landscape Architects and Surveyors)

PUBLICATIONS

Over 200 articles published in various professional journals and a text on land development.

Alexander B. Page III
 Charles L. Justice
 Richard Bruzdziński
 Ron Przywara
 Helen Bryant
 Carole L. Leblond
 Raymond W. Fuchuk
 Nicholas A. Fehrholz
 Mary Jacqueline (Jackie) Nickel

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
5-029	Holly Neck Limited Partnership	Holly Neck Rd at Browns Cove Rd					Growth Allocation Required See Issues 5-028, 5-030, 5-031, 5-032, 5-033 <i>PC#1</i>
			RC 20 148.7	DR 2 152.4	RC 20 148.7	RC 5 152.4	
			RC 5 3.7	Total 152.4	RC 5 3.7	Total 152.4	
			Total 152.4		Total 152.4		
5-030	Holly Neck Limited Partnership	Holly Neck Rd at Back River Neck Rd					Growth Allocation Required See Issues 5-028, 5-029, 5-031, 5-032, 5-033
			RC 20 213.6	DR 2 213.7	RC 20 213.6	RC 20 213.6	
			RC 5 0.1	Total 213.7	RC 5 0.1	RC 5 0.1	
			Total 213.7		Total 213.7	Total 213.7	
5-031	Holly Neck Limited Partnership	South side of Holly Neck Rd at Fontat Rd					Growth Allocation Required See Issues 5-028, 5-029, 5-030, 5-032, 5-033, 5-052
			RC 5 0.4	DR 2 62.7	RC 20 62.3	RC 20 62.3	
			RC 20 62.3	Total 62.7	RC 5 0.4	RC 5 0.4	
			Total 62.7		Total 62.7	Total 62.7	
5-032	Holly Neck Limited Partnership	Shaffers Rd, 1600' southwest of intersection of Shaffers Rd and Holly Neck Rd					Growth Allocation Required See Issues 5-028, 5-029, 5-030, 5-031, 5-033
			RC 20 69.9	DR 2 69.9	RC 20 69.9	RC 20 69.9	
			Total 69.9	Total 69.9	Total 69.9	Total 69.9	
5-033	Spellman, Larson & Associates	Back River Neck Rd, 400' to Holly Neck Rd					Growth Allocation Required See Issues 5-028, 5-029, 5-030, 5-031, 5-032, 5-090
			RC 20 4.0	RC 5 4.0	RC 20 4.0	RC 20 4.0	
			Total 4.0	Total 4.0	Total 4.0	Total 4.0	
5-034	S. Patrick Kennedy	9414 Belair Rd, northside Pinedale Dr and Belair Rd					See Issues 5-003, 5-037 Covenant Agreement
			DR 5.5 0.7	BLR or 0.7	ROA 0.7	RO 0.7	
			Total 0.7	RO	Total 0.7	Total 0.7	
				CB			
				Total 0.7			

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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 15 Account Number - 1700005908

Owner Information

Owner Name: HOLLY NECK LIMITED PARTNERSHIP Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: C/O ALLIED HLTH & MGT
7501 OAKLEIGH RD Deed Reference: 1) / 5619/ 337
BALTIMORE MD 21234-7002 2)

Location & Structure Information

Premises Address: HOLLY NECK RD Zoning: RC5 Legal Description: 34.84 AC N & SS
HOLLY NECK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No: Plat Ref:
98	22	143						82	

Special Tax Areas: Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		34.84 AC	04
Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	120,860	120,860		
Improvements:	0	0		
Total:	120,860	120,860	120,860	120,860
Preferential Land:	0	0	0	0

Transfer Information

Seller: WEHNER GEORGE C	Date: 03/30/1976	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 5619/ 337	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

PC-20

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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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Account Identifier: District - 15 Account Number - 1700005907

Owner Information

Owner Name: HOLLY NECK LIMITED PARTNERSHIP Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: C/O ALLIED HLTH & MGT
7501 OAKLEIGH RD Deed Reference: 1) / 5619/ 322
BALTIMORE MD 21234-7002 2)

Location & Structure Information

Premises Address Zoning Legal Description
HOLLY NECK RD RC5 91.05 AC SS
HOLLY NECK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
98	22	424						82	Plat Ref:

Special Tax Areas	Town Ad Valorem Tax Class
Primary Structure Built 0000	Enclosed Area
	Property Land Area 91.05 AC
Stories	County Use 04
Basement	Type
	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	318,100	318,100		
Improvements:	34,920	34,920		
Total:	353,020	353,020	353,020	353,020
Preferential Land:	0	0	0	0

Transfer Information

Seller: HOMBERG WILLIAM E 83-84	Date: 03/30/1976	Price: \$600,000
Type: IMPROVED ARMS-LENGTH	Deed1: / 5619/ 322	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *



City #1
maps in
1/18

ROBERT W. CANNON
Phone: (410) 332-8816
Fax: (410) 332-8817
rcannon@saui.com
www.saul.com

December 29, 2003

VIA MESSENGER

The Honorable Arnold "Pat" Keller
Baltimore County Office of Planning
Courts Building
401 Bosley Avenue
Towson, Maryland 21204

**Re: Correction of Zoning Map Enacted During the 2000
Comprehensive Zoning Map Process (the "2000 CZMP")**

Dear Pat:

On behalf of Holly Neck Limited Partnership ("Holly Neck") and its general partner Leonard P. Berger, M.D., and pursuant to Baltimore County Code § 26-134(a)(3), I am hereby giving notice that the zoning map enacted by the Baltimore County Council during the 2000 CZMP does not accurately reflect the final zoning classification that the Council imposed upon Holly Neck's property (Issue No 5-029). The discrepancy was due to a technical drafting error made by the petitioner, such error not impacting on the intent of the Council to place a particular zoning classification on the particular property. Specifically, the error resulted from the fact that the CZMP submission was based on the tax map. A survey of the property subsequent to the 2000 CZMP showed that the tax map did not accurately reflect the true boundaries of the property.

Enclosed is a map showing the discrepancy.

Please call me with any questions. Thank you for your cooperation.

Very truly yours,

Robert W. Cannon

RWC/djh
Enclosures

cc: Leonard P. Berger, M.D.
Robert J. Romadka, Esquire
David S. Thaler



City #2

ROBERT W. CANNON

Phone: (410) 332-8816

Fax: (410) 332-8817

rcannon@saul.com

www.saul.com

January 8, 2004

VIA MESSENGER

The Honorable Arnold "Pat" Keller
Baltimore County Office of Planning
Courts Building
401 Bosley Avenue
Towson, Maryland 21204

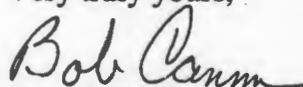
**Re: Correction of Zoning Map Enacted During the 2000
Comprehensive Zoning Map Process (the "2000 CZMP")**

Dear Pat:

In a letter I sent to you dated December 29, 2003, I gave notice that the zoning map enacted by the Baltimore County Council during the 2000 CZMP does not accurately reflect the final zoning classification that the Council imposed upon certain property owned by Holly Neck Limited Partnership (Issue 5-029). The property in question is at Holly Neck Road and Browns Cove Road, Map 98, Grid 22, Parcels 143, 424, and 165 (property tax nos. 15-1700005908, 15-1700005907, and 15-1520000460).

Please call me with any questions. Thank you for your cooperation.

Very truly yours,


Robert W. Cannon

RWC/djh
Enclosures

cc: Leonard P. Berger, M.D.
Robert J. Romadka, Esquire
David S. Thaler

city 43 Exhibit A



Baltimore County
Office of Planning

401 Bosley Avenue - Ste 406
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862
E-mail: planning@co.ba.md.us

January 29, 2004

Mr. Robert W. Cannon
Saul Ewing, LLP
100 South Charles Street
Baltimore, Maryland 21201-2773

RE: Zoning Map Correction Holly Neck Road and Browns Cove Road, Map 98, Grid 22, Parcels 143, 424, and 165 (property tax nos. 15-1700005907, 15-1700005908, and 15-1520000460) Berger Property Certification of the findings of the Director of the Office of Planning

Dear Mr. Cannon:

Based upon your client's notice of an error on the 200-scale zoning map and pursuant to Section 26-134 of the Baltimore County Code, the Director of Planning certifies his findings as follows:

Based upon a review of (1) the 2000 Baltimore County 200-scale zoning map, and (2) the 2000 Baltimore County Zoning Map Final Log of Issues, this office concludes an error on the part of the original petitioner resulted in several small portions of the subject property remaining in the RC 20 zone classification. Therefore, the Office of Planning will initiate a Petition for Zoning Map Correction to reflect the County Council's intent to rezone the property to RC 5 in its entirety.

If you have any questions, please contact me at 410-887-3213.

Sincerely,

Jeffrey Long
Deputy Director

JL:lsn

c: Hon. Vincent J. Gardina, Councilman, Fifth District
Hon. Joseph Bartenfelder, Councilman, Sixth District
Kathleen C. Bianco, Administrator, Board of Appeals
Edward J. Gilliss, County Attorney, Law Office
Anthony G. Marchione, Administrative Officer
Nancy West, Assistant County Attorney, Law Office
Peter Max Zimmerman, People's Counsel



cty #4

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

VINCENT J. GARDINA
COUNCILMAN, FIFTH DISTRICT

COUNCIL OFFICE: 410-887-3384
FACSIMILE: 410-887-5791

December 30, 2003

Pat Keller, Director
Office Of Planning
401 Bosley Avenue, Rm 406
Towson, MD 21204

Dear Mr. Keller,

While I was the Fifth District Councilman during the 2000 CZMP, I supported issue 5-029, pursuant to which the Baltimore County Council re-zoned property owned by Holly Neck Limited Partnership from RC-20 to RC-5.

I have been advised that a survey of the property performed subsequent to the 2000 CZMP shows that the CZMP map does not accurately reflect the property's boundaries. Please understand that it was my intention during the 2000 CZMP that all of the property that was the subject of that issue (as shown on the subsequent survey of the property) be re-zoned to RC-5. Accordingly, I support the correction of the zoning map to conform to the survey.

Sincerely,

Vincent J. Gardina

Vince Gardina
5th District Councilman
Baltimore County

cc: Leonard Berger
Bob Romadka
David Thaler & Assoc.

**BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION**

IN THE MATTER OF: Holly Neck Limited Partnership – Legal Owner
(Berger Property – Holly Neck and Browns Cove Roads)
Case No. M.C. 04-1

DATE : Thursday, February 19, 2004

BOARD /PANEL : Lawrence S. Wescott (LSW)
Lawrence M. Stahl (LMS)
Charles L. Marks (CLM)

RECORDED BY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Case No. M.C. 04-1 (Holly Neck and Browns Cove Roads) /Holly Neck Limited Partnership /Berger Property – map correction

Deliberation included discussion of:

LSW:

- ◆ Reviewed evidence presented by County, witnesses, and People's Counsel
- ◆ Reviewed basis for map correction: if alleged error exists, correction may be done – technical drafting error by Planning /Zoning transferring approved County Council zoning to map; change in property's zoning classification when no request was before the Council; or technical drafting error made by the original Petitioner with no impact on decision of the Council
- ◆ LSW finding: Technical drafting error by original Petitioner based upon the use of the tax maps and the fact that the maps do not accurately reflect the metes and bounds description of the property; with recent survey defining the actual acreage to be rezoned, finds that there was a technical drafting error made by the Petitioner through no fault
- ◆ Recognized by Baltimore County
- ◆ Would correct the maps to so reflect the change and actual acreage and zoning of R.C. 5 for the entire acreage

LMS:

- ◆ Agrees with LSW
- ◆ Also – finding that it was properly posted – so indicated by testimony; agrees that error exists.

CLM:

- ◆ Nothing in file to indicate discrepancies or error in posting
- ◆ Based upon evidence and testimony, agrees with the Chairman; map correction should be granted in accordance with Petition.



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

February 2, 2004

NOTICE OF ASSIGNMENT

CASE #: M.C. 04-1

IN THE MATTER OF: Holly Neck and Browns Cove Roads
(Berger Property) Holly Neck Ltd Paratnership –Owner /
Petitioner; Baltimore County, MD -Petitioner
6th Councilmanic District

1/30/04 - Petition for Map Correction to correct technical drafting error –to
rezone portions of property remaining in RC 20 to RC 5 as intended by
the County Council in the 2000 CZMP.

ASSIGNED FOR: THURSDAY, FEBRUARY 19, 2004 at 11:00 a.m.

NOTICE: This matter has been assigned for hearing in accordance with Section 26-134(f) of the
Baltimore County Code (BCC).

Please refer to the Board's Rules of Practice & Procedure are found in *BCC, Appendix 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:	Counsel for Petitioner	: Edward J. Gilliss, County Attorney
	Petitioner	: Nancy C. West, Assistant County Attorney
	Counsel for Legal Owner /Petitioner	: Baltimore County, Maryland
	Legal Owner /Petitioner	: Robert W. Cannon, Esquire
		: Holly Neck Limited Partnership

Office of People's Counsel
The Honorable Vincent J. Gardina
Councilman, Fifth District
The Honorable Joseph Bartenfelder
Councilman, Sixth District
Anthony G. Marchione, Administrative Officer
Pat Keller, Planning Director
Jeffrey Long, Deputy Planning Director
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards /PDM
Timothy M. Kotroco, Director /PDM



TRANSMISSION VERIFICATION REPORT

TIME: 02/05/2004 10:38
NAME: BOARD OF APPEALS
FAX : 4108873182
TEL : 4108873180

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

02/05 10:37
94107800830
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02
OK
STANDARD
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**IN RE: ZONING MAP CORRECTION
HOLLY NECK AND BROWNS COVE
ROADS**

* **BEFORE THE**
* **COUNTY**

BALTIMORE COUNTY, MARYLAND
a body corporate and politic

* **BOARD OF APPEALS**
* **OF**

and

* **BALTIMORE COUNTY**

HOLLY NECK LIMITED PARTNERSHIP *

Case No.: *mc 04-1*

PETITIONERS *

* * * * *

PETITION FOR CORRECTION OF ZONING MAP

Petitioners, Baltimore County, Maryland, by Edward J. Gilliss, County Attorney, and Nancy C. West, Assistant County Attorney, and Holly Neck Limited Partnership by Robert W. Cannon and Saul Ewing, LLP file this Petition, pursuant to Section 26-134 of the Baltimore County Code, and state as follows:

1. The Holly Neck Limited Partnership is the owner of an approximately 152.7 acre parcel of land located at the corner of Holly Neck Road and Browns Cove Road in Baltimore County, Maryland 21221, Map 98, Grid 22, Parcels 143, 424 and 165 (property tax nos. 15-1700005908, 15-1700005907, and 15-1520000460).

2. The property is presently split-zoned RC-5 and RC-20. In 2000, as part of and pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process (the "CZMP"), the Holly Neck Limited Partnership initiated an issue to rezone the subject property from RC-5 and RC-20 to DR-2 as set forth in Issue No. 5-029. The property was rezoned to RC-5 in its entirety.

3. As certified by the Office of Planning pursuant to a letter dated January

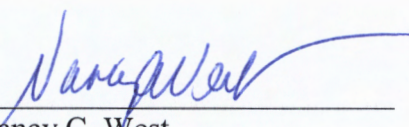
20, 2004, a copy which is attached as **Exhibit A** and incorporated herein by reference, a technical drafting error on the part of the original petitioner resulted in portions of the property remaining in the RC-20 classification during the 2000 CZMP. The County Council intended to rezone the subject property to RC-5 in its entirety.

4. As a condition precedent to the filing of this Petition, the Office of Planning has notified the County Council of its intention to reclassify the property in accordance with the legislative intent.

WHEREFORE, Petitioners respectfully pray that the Board of Appeals:

- a. Enter an Order reclassifying the property from RC-20 to RC-5 in accordance with the legislative intent of the Baltimore County Council.
- b. And for such other and further relief as the Board of Appeals may deem just and appropriate.

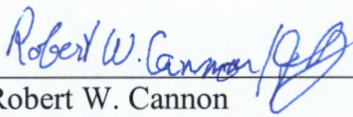
Edward J. Gilliss
County Attorney



Nancy C. West
Assistant County Attorney
Office of Law
Courthouse, 2nd Floor
400 Washington Avenue
Towson, Maryland 21204
410.887.4420

Attorneys for Baltimore County, Maryland

(ADDITIONAL SIGNATURE ON FOLLOWING PAGE)



Robert W. Cannon
Saul Ewing, LLP
100 South Charles Street
Baltimore, MD 21201-2773
410.332.8816

Attorneys for Holly Neck Limited
Partnership

"Exhibit A"



Baltimore County
Office of Planning

401 Bosley Avenue - Ste 406
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862
E-mail: planning@co.ba.md.us

January 29, 2004

Mr. Robert W. Cannon
Saul Ewing, LLP
100 South Charles Street
Baltimore, Maryland 21201-2773

RE: Zoning Map Correction Holly Neck Road and Browns Cove Road, Map 98, Grid 22, Parcels 143, 424, and 165 (property tax nos. 15-1700005907, 15-1700005908, and 15-1520000460) Berger Property Certification of the findings of the Director of the Office of Planning

Dear Mr. Cannon:

Based upon your client's notice of an error on the 200-scale zoning map and pursuant to Section 26-134 of the Baltimore County Code, the Director of Planning certifies his findings as follows:

Based upon a review of (1) the 2000 Baltimore County 200-scale zoning map, and (2) the 2000 Baltimore County Zoning Map Final Log of Issues, this office concludes an error on the part of the original petitioner resulted in several small portions of the subject property remaining in the RC 20 zone classification. Therefore, the Office of Planning will initiate a Petition for Zoning Map Correction to reflect the County Council's intent to rezone the property to RC 5 in its entirety.

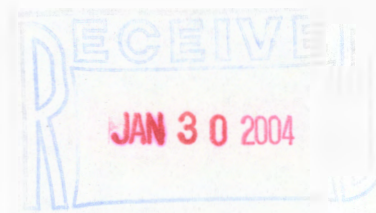
If you have any questions, please contact me at 410-887-3213.

Sincerely,

Jeffrey Long
Deputy Director

JL:lsn

- c: Hon. Vincent J. Gardina, Councilman, Fifth District
Hon. Joseph Bartenfelder, Councilman, Sixth District
Kathleen C. Bianco, Administrator, Board of Appeals
Edward J. Gilliss, County Attorney, Law Office
Anthony G. Marchione, Administrative Officer
Nancy West, Assistant County Attorney, Law Office
Peter Max Zimmerman, People's Counsel



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DURATION
PAGE(S)
RESULT
MODE

02/05 10:28
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04
OK
STANDARD
ECM

*Copy of Petition
will fax to
Jim Mitchell*



Baltimore County
Office of Planning

Map
Correction
Berger
Prop.

Revised

avenue - Ste 406
yland 21204

410-887-3211

Fax: 410-887-5862

E-mail: planning@co.ba.md.us

January 29, 2004

Mr. Robert W. Cannon
Saul Ewing, LLP
100 South Charles Street
Baltimore, Maryland 21201-2773

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Kathleen C. Bianco, Administrator, Board of Appeals
Edward J. Gilliss, County Attorney, Law Office
Anthony G. Marchione, Administrative Officer
Nancy West, Assistant County Attorney, Law Office
Peter Max Zimmerman, People's Counsel

RECEIVED
JAN 30 2004
BALTIMORE COUNTY
BOARD OF APPEALS



Hold 2-19-2004



**Baltimore County
Office of Planning**

401 Bosley Avenue - Ste 406
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862
E-mail: planning@co.ba.md.us

January 20, 2004

Mr. Robert W. Cannon
Saul Ewing, LLP
100 South Charles Street
Baltimore, Maryland 21201-2773

RE: Zoning Map Correction Holly Neck Road and Browns Cove Road, Map 98, Grid 22, Parcels 143, 424, and 165 (property tax nos. 15-1700005908, 15-1700005908, and 15-1520000460) Berger
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Sincerely,

Jeffrey Long
Deputy Director

JL:lsn

- c: Hon. Vincent J. Gardina, Councilman, Fifth District
Hon. Joseph Bartenfelder, Councilman, Sixth District
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Edward J. Gilliss, County Attorney, Law Office
Anthony G. Marchione, Administrative Officer
Nancy West, Assistant County Attorney, Law Office
Peter Max Zimmerman, People's Counsel
Kathleen Bianco, Administrator, Board of Appeals

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JAN 21 2004

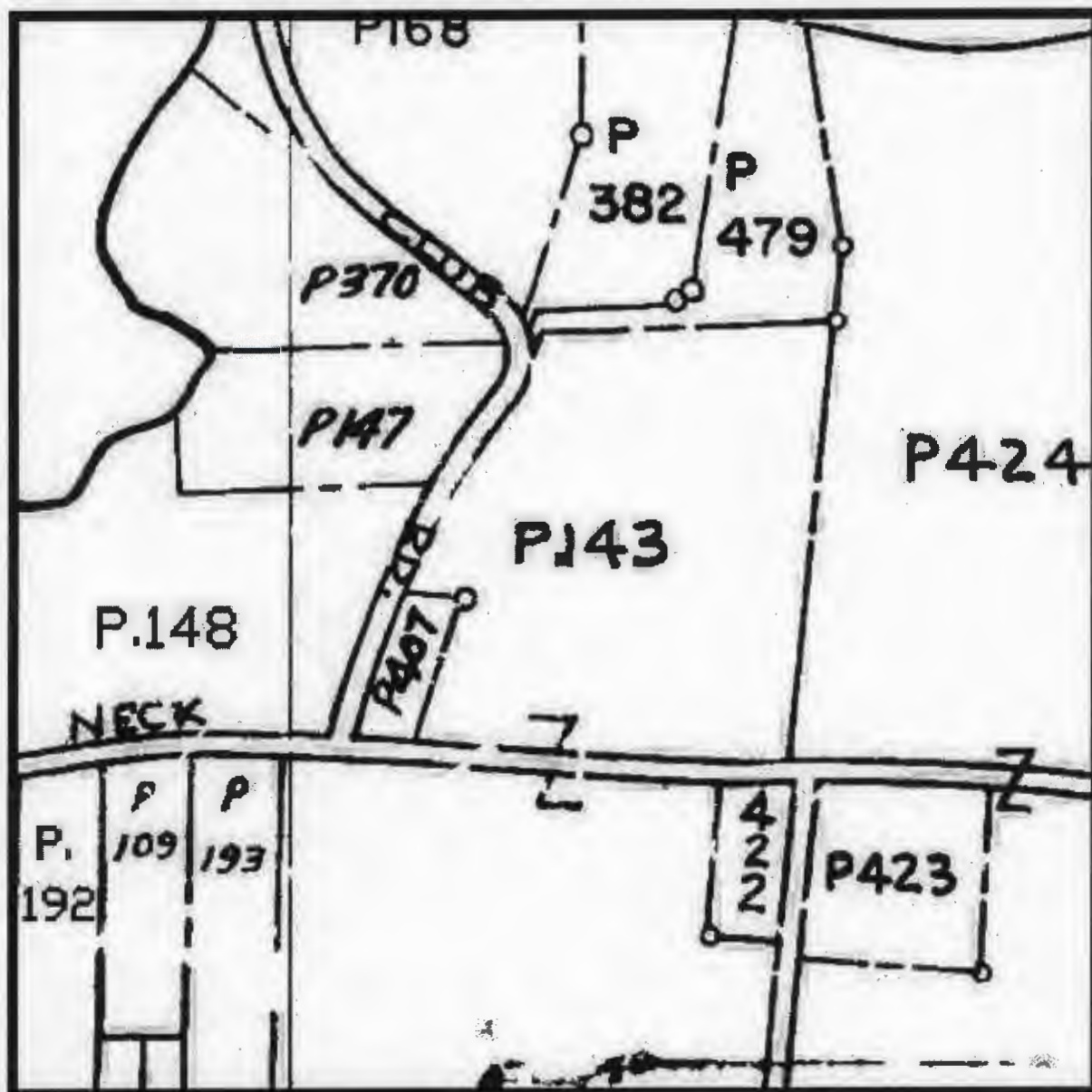
**BALTIMORE COUNTY
BOARD OF APPEALS**



**Maryland Department of Assessments and
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BALTIMORE COUNTY
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District - 15 Account Number - 1700005908



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Account Identifier: District - 15 **Account Number -** 1700005908

Owner Information

Owner Name: HOLLY NECK LIMITED PARTNERSHIP **Use:** RESIDENTIAL
Principal Residence: NO
Deed Reference: 1) / 5619/ 337
Mailing Address: C/O ALLIED HLTH & MGT
 7501 OAKLEIGH RD 2)
 BALTIMORE MD 21234-7002

Location & Structure Information

Premises Address **Zoning** **Legal Description**
 HOLLY NECK RD RC5 34.84 AC N & SS
 HOLLY NECK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
98	22	143						82	Plat Ref:
Special Tax Areas			Town Ad Valorem Tax Class						
Primary Structure Built			Enclosed Area		Property Land Area			County Use	
0000					34.84 AC			04	
Stories		Basement			Type			Exterior	

Value Information

	Base Value	Phase-in Assessments		
		Value As Of	As Of	As Of
		01/01/2003	07/01/2003	07/01/2004
Land:	120,860	120,860		
Improvements:	0	0		
Total:	120,860	120,860	120,860	120,860
Preferential Land:	0	0	0	0

Transfer Information

Seller: WEHNER GEORGE C **Date:** 03/30/1976 **Price:** \$0
Type: NOT ARMS-LENGTH **Deed1:** / 5619/ 337 **Deed2:**

Seller:**Type:****Seller:****Type:****Date:****Deed1:****Date:****Deed1:****Price:****Deed2:****Price:****Deed2:****Exemption Information****Partial Exempt
Assessments****Class**

07/01/2003

07/01/2004

County

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State

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Municipal

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0

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Tax Exempt: NO**Exempt Class:****Special Tax Recapture:**

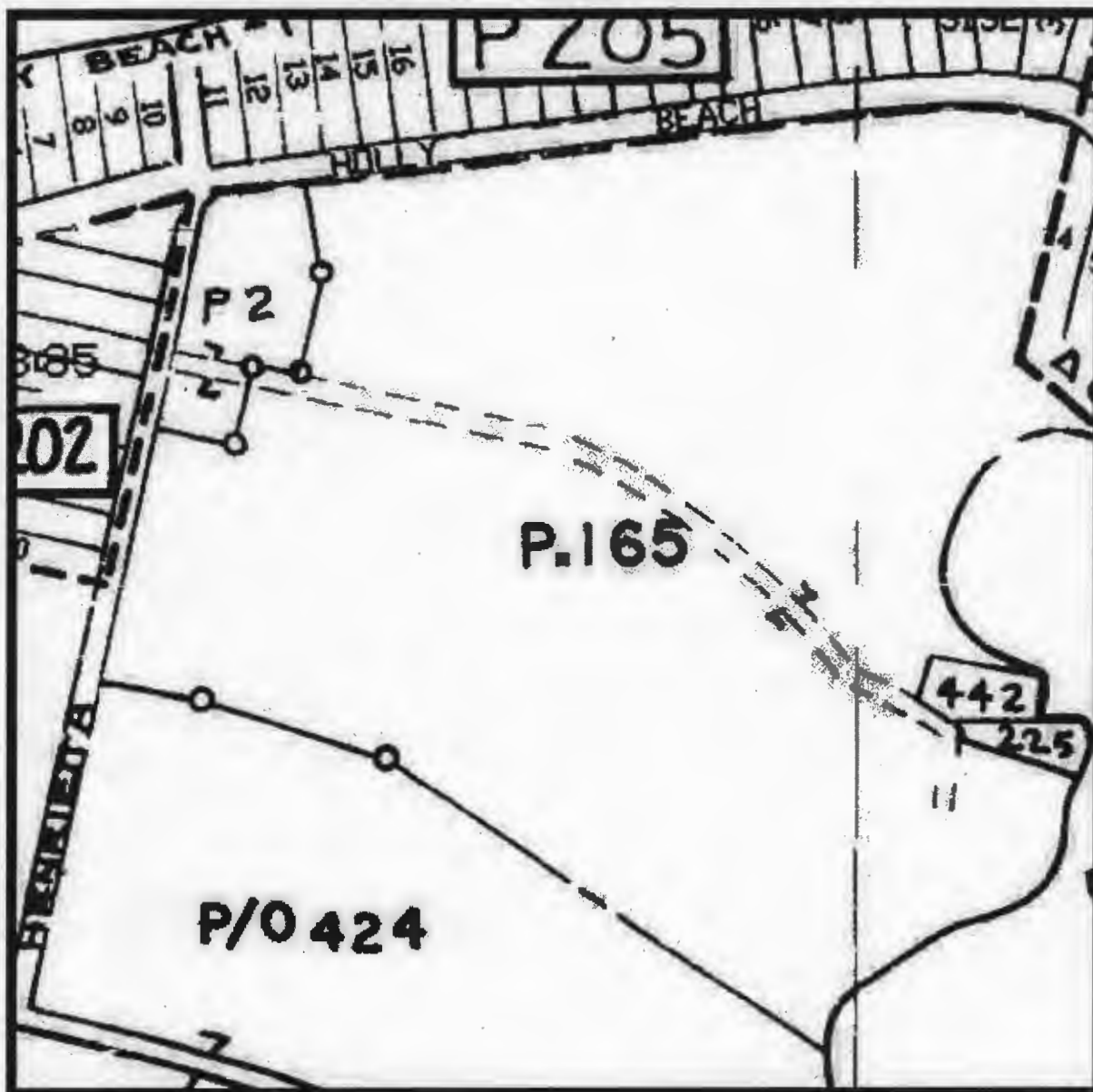
* NONE *



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BALTIMORE COUNTY
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District - 15 Account Number - 1520000460



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BALTIMORE COUNTY
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[Rent](#)

Account Identifier: District - 15 **Account Number -** 1520000460

Owner Information

Owner Name: HOLLY NECK LIMITED PARTNERSHIP **Use:** RESIDENTIAL
Principal Residence: NO
Deed Reference: 1) / 5491/ 311
Mailing Address: C/O ALLIED HLTH & MGT
 7501 OAKLEIGH RD 2)
 BALTIMORE MD 21234-7002

Location & Structure Information

Premises Address **Zoning** **Legal Description**
 HOLLY BEACH RD RC5 26.56 AC SS
 HOLLY BEACH RD
 150 E HENRIETTA AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
98	22	165						82	Plat Ref:

Special Tax Areas **Town Ad Valorem Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		26.56 AC	04
Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of	Phase-in Assessments As Of	
			01/01/2003	07/01/2004
Land:	92,960	92,960		
Improvements:	0	0		
Total:	92,960	92,960	92,960	92,960
Preferential Land:	0	0	0	0

Transfer Information

Seller: TAUROZA JEROME G USE 83-84 **Date:** 11/18/1974 **Price:** \$105,000
Type: IMPROVED ARMS-LENGTH **Deed1:** / 5491/ 311 **Deed2:**

Seller:**Type:****Seller:****Type:****Date:****Deed1:****Date:****Deed1:****Price:****Deed2:****Price:****Deed2:****Exemption Information****Partial Exempt****Assessments****County****State****Municipal****Class**

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07/01/2003

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07/01/2004

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Tax Exempt: NO**Exempt Class:****Special Tax Recapture:**

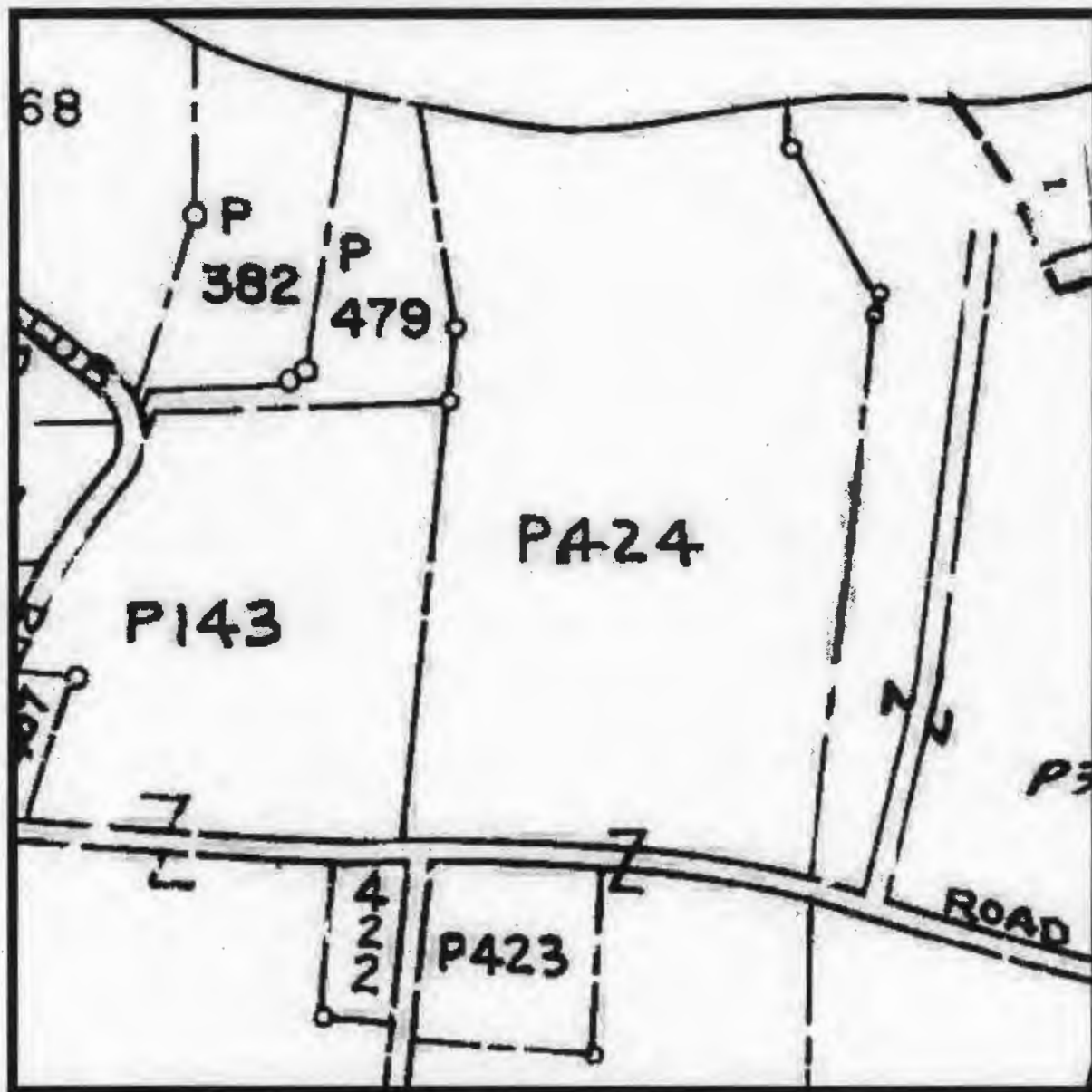
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District - 15 Account Number - 1700005907



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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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Account Identifier: District - 15 **Account Number -** 1700005907

Owner Information

Owner Name: HOLLY NECK LIMITED PARTNERSHIP **Use:** RESIDENTIAL
Principal Residence: NO
Deed Reference: 1) / 5619/ 322
Mailing Address: C/O ALLIED HLTH & MGT
 7501 OAKLEIGH RD 2)
 BALTIMORE MD 21234-7002

Location & Structure Information

Premises Address **Zoning** **Legal Description**
 HOLLY NECK RD RC5 91.05 AC SS
 HOLLY NECK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
98	22	424						82	Plat Ref:

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		91.05 AC	04
Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of	Phase-in Assessments	
			As Of	As Of
			01/01/2003	07/01/2004
Land:	318,100	318,100		
Improvements:	34,920	34,920		
Total:	353,020	353,020	353,020	353,020
Preferential Land:	0	0	0	0

Transfer Information

Seller: HOMBERG WILLIAM E 83-84 **Date:** 03/30/1976 **Price:** \$600,000
Type: IMPROVED ARMS-LENGTH **Deed1:** / 5619/ 322 **Deed2:**

Seller:**Type:****Date:****Deed1:****Price:****Deed2:****Seller:****Type:****Date:****Deed1:****Price:****Deed2:****Exemption Information****Partial Exempt****Assessments****Class**

07/01/2003

07/01/2004

County

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0

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State

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0

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Municipal

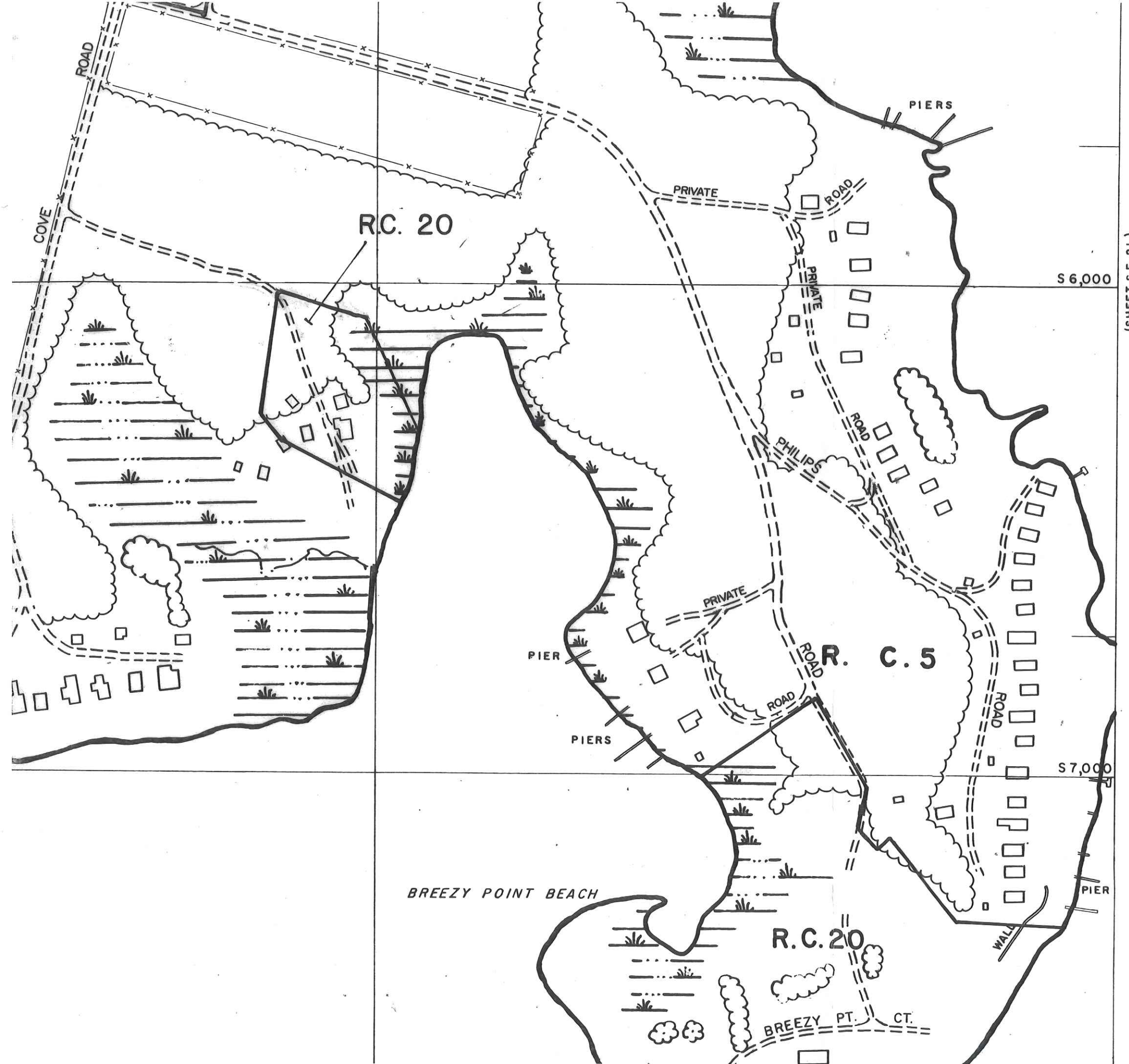
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Tax Exempt: NO**Exempt Class:****Special Tax Recapture:**

* NONE *

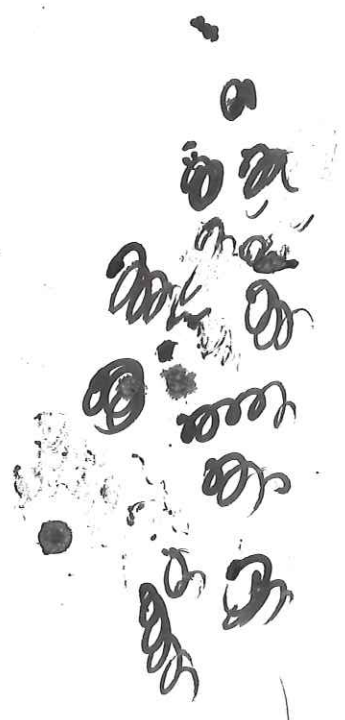


(SHEET S.E. 2L)

RC 5

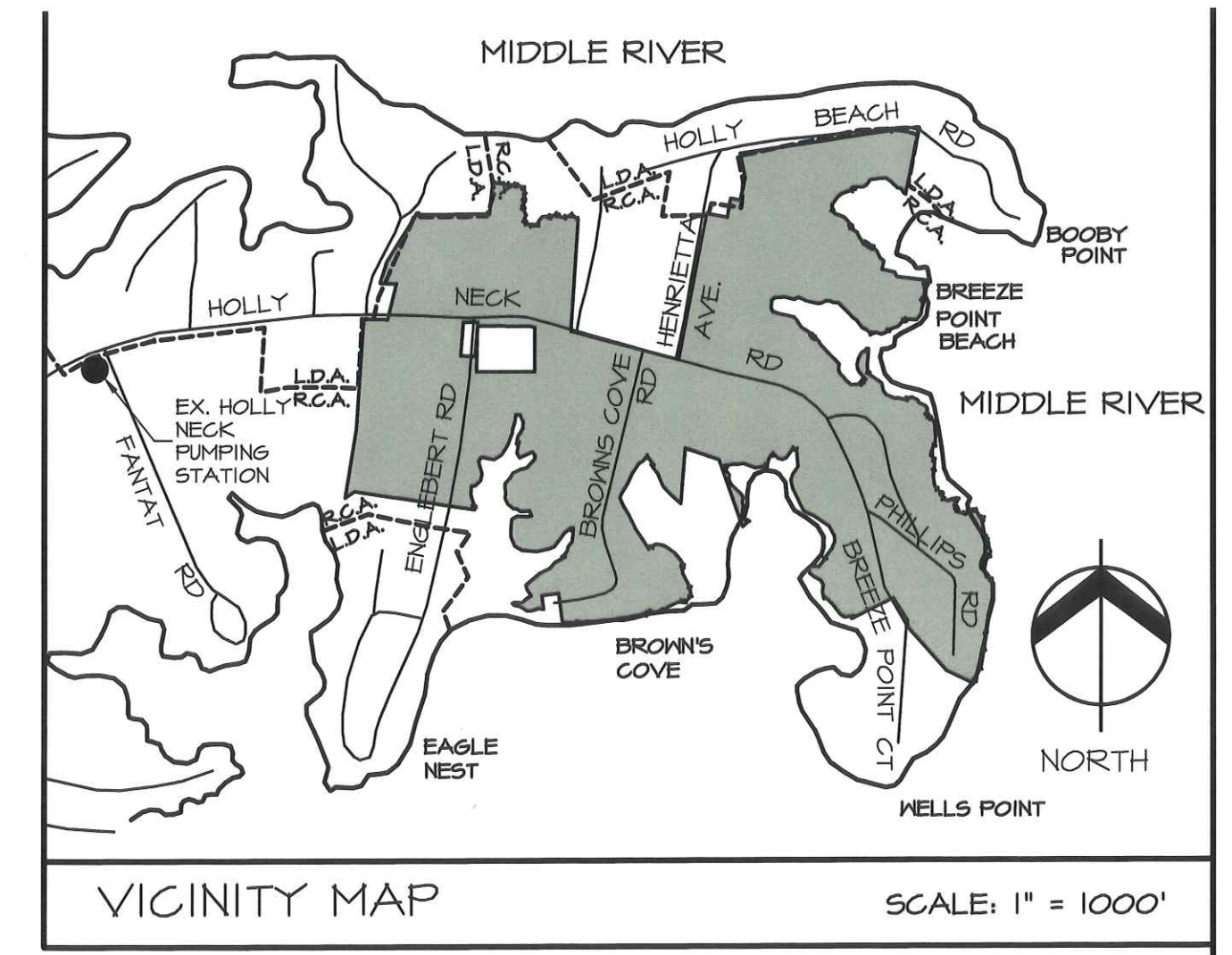
RC 5

SE-2K



CORRECTION OF THE
2000 ZONING MAP EXHIBIT

HOLLY NECK PROPERTY

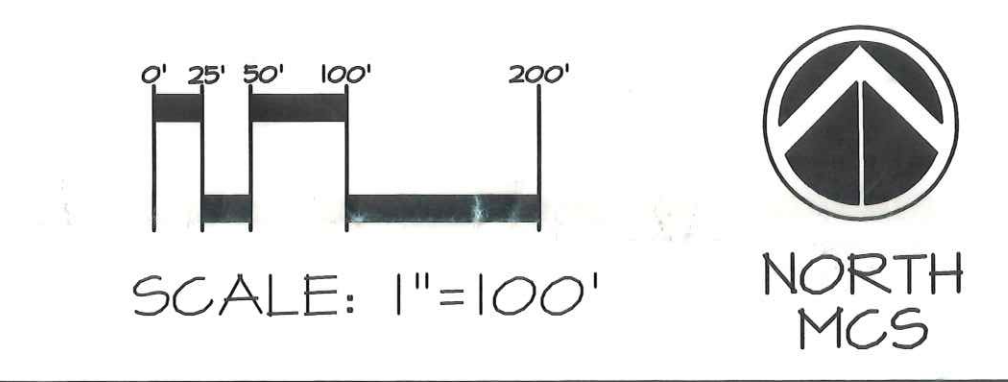


LEGEND:

- STREAM OR TRIBUTARY
- PRELIMINARY 100-YR FLOODPLAIN
- TREES SHRUBS
- WETLANDS- SURVEYED
 - Non-Tidal
 - Tidal
- WETLANDS- PER MD D.N.R. PHOTO NO. BAI-25RL-01, PAGE 21
- SOIL LINE
- 15% SLOPES
- SAV Spring (June 2001) (Per Bayland Consultants & Designers, Inc.)
- SAV Summer (August 2001) (Per Bayland Consultants & Designers, Inc.)
- 300' CRITICAL AREA BUFFER
- STEEP SLOPES & ERODIBLE SOILS CALCULATED BUFFER
- STEEP SLOPES & ERODIBLE SOILS ALTERNATE BUFFER
- MINIMUM BUFFER
 - 100' FROM TIDAL WETLANDS
 - 25' FROM NON TIDAL WETLANDS
- ZONING
 - LDA = LIMITED DEVELOPMENT AREA
 - RCA = RESOURCE CONSERVATION AREA
- C = CISTERN
- OH = OUTHOUSE
- SOP = SPOT-O-POT

SITE DATA

Existing Zoning	Zone	Acres (gross per survey)
R.C.-20	2.6	Ac1
BL	0.04	Ac1
BMB	0.06	Ac1
Total	152.7	Ac1



PROJECT NAME:
HOLLY NECK PROPERTY

PLAN TITLE: CORRECTION OF THE 2000
ZONING MAP EXHIBIT

PROJECT MANAGER:
COUNCILMANIC DIST. 5

ELECTION DIST. 15

PDN NUMBER:

APPLICANT:
HOLLY NECK LIMITED PARTNERSHIP
10100 COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842

DST&A D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS
LANDSCAPE ARCHITECTS

SURVEYORS
LAND PLANNERS

7115 AMBASSADOR ROAD
P.O. BOX 47428
BALTIMORE, MARYLAND 21244-1428
(410) 544-ENGR, (410) 544-3641

DATE: 12/14/03
SCALE: 1"= 100'
C.L.: 2"
PROJ. NO.: 02307A
SHEET 1 OF 1