IN RE: DEVELOPMENT PLAN HEARING
& PETITION FOR SPECIAL HEARING
N/S of Windsor Mill Road
E of Old Court Road
2nd Election District
4th Councilmanic District
(EITEMILLER PROPERTY)

NG

BEFORE THE

* HEARING OFFICER

* OF BALTIMORE COUNTY

Case Nos. II-652 & 04-005-SPH

Ferdinand C. Eitemiller

Petitioner/Developer

* * * * * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer for Baltimore County as a requested approval of a Development Plan and Petition for Special Hearing prepared by George W. Stephens, Jr. & Associates, Inc., the engineers who prepared the Development plan proposing the development of the subject property with 13 single-family dwellings. The property, which is the subject of this request, comprises 19.1173 acres and is zoned D.R.3.5 and R.C.5. The subject property is located on the north side of Windsor Mill Road and the east side of Old Court Road.

In addition to seeking approval of the Development Plan, the Petitioner is also requesting special hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to determine whether the Zoning Commissioner should approve those portions of Lots 8 and 9 shown on the Eitemiller Property Development Plan as non-density parcels and to approve proposed septic systems to be located in a different zone.

Appearing at the hearing on behalf of the Development Plan approval request and special hearing relief were Craig Rodgers, Craig Carlson, and Rick Chadsey of George W. Stephens, Jr. & Associates, Inc., representing the engineering firm who prepared the Development Plan. Benjamin Bronstein, Esquire, represented the Developer/Petitioner. Appearing as an interested citizen in the matter was Dan Mattison. As is usual and customary, representatives of the various Baltimore County reviewing agencies also attended the hearing; namely, Lloyd Moxley (Zoning Review), Ron Goodwin (Land Acquisition), Rahee Famili (Development Plans Review) and Don Rascoe (Development Project Manager), all from the Office of Permits & Development

Signature of the Sound of the second of the

Management; Todd Taylor from the Department of Environmental Protection & Resource Management (DEPRM); Mark Cunningham from the Office of Planning; and Jan Cook from the Department of Recreation & Parks.

As to the history of the project, a Concept Plan Conference was scheduled on April 7, 2002, followed by a Community Input Meeting held on May 1, 2003 at the Scotts Branch Elementary School. Thereafter, a Development Plan Conference was held on August 20, 2003 and the Hearing Officer's Hearing was scheduled on September 12, 2003.

Developer Issues

The Developer presented no issues for resolution and urged approval of the plan without modification. However, the Developer noted several conflicts in interpretation with the County as shown below.

County Issues

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The County representatives raised multiple issues at the onset of the hearing most of which were resolved that day and noted as changes on the redline plan. Having resolved many issues, each of the County agency representatives stated that the plan, as now defined by the modified redline development plan, Developer's Exhibit 1, meets all County codes regulations and rules except as noted below.

Recreation and Parks Local Open Space Issue

The Department of Recreation and Parks representative stated that his Department believes the Developer should provide 0.621 Acres of local open space, which acreage was noted on the Developer's predecessor's plat, shown on Developer' Exhibit No. 3. This one lot subdivision was recorded in 1979 and provides in a note that 0.621 acres of open space is to be donveyed to the County if and when the land outside of Lot 1 is developed. It is this land that the Developer now seeks to develop. Mr. Cook was granted five days to consult with the County Attorney before the record was closed.

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Referring to Petitioner's Exhibit No. 3, the Developer contends that the land outside the one lot has not been developed until this time. As such, the plat has expired and the present zoning is R.C.5 and the proper amount of open space is currently .25 acres. All agreed that whatever the resolution of this issue, the Development Plan would not change as the intention of the County and Developer is to allow the Developer to pay a fee in lieu of actually providing open space. (See *Note Well* attached after last page of Order). The question is how much should the Developer pay?

Sidewalk Issue

The representatives of the Department of Public Works and Office of Planning insisted that the Developer build sidewalks on at least one side of the public roads bordering the property. Presumably, the representatives based their request on the fact that the property contains both D.R.3.5 as well as R.C.5 zoning. The representative from Public Works also opined that the Director of Public Works had authority to require sidewalks for this development, and has in fact determined they are required.

The Developer disagrees. He notes that that subdivision is basically a R.C.5 rural subdivision where sidewalks are not required or desired, and that if sidewalks were installed, they would lead from and to nowhere as no other adjacent subdivision has sidewalks and the Director of the Department of Public Works has no such authority to determine sidewalks should be constructed in these circumstances.

Widening of Windsor Mill Road at Lot 1 of the Carrie Eitemiller Property

The representative of the Bureau of Land Acquisition requested that the Developer widen Windsor Mill Road at Lot 1, Carrie Eitemiller Property, as part of the general road widening and improvement of the public roads involving this development.

The Developer disagrees and notes that this lot is part of the old 1979 one lot subdivision and not part of this subdivision. They state that they neither own nor control this lot and have no means of forcing the owners of the lot (Monroe and Janice Bradford) to convey property to the County.

Citizens Issues

Mr. Mattison, a nearby resident was concerned with the efficacy of the Storm Water Management system. However, after a discussion with the Developer's Engineer, Mr. Mattison indicated his concerns were alleviated as it turns out the Developer plans to put a second storm water culvert in parallel with the existing inadequate culvert under Windsor Mill Road thus improving the situation.

Special Hearing

The Petitioner requests that he be allowed to designate the R.C.5 portion of Lots 8, 9 and 10 (as amended at the zoning hearing) as non density parcels and also to permit septic systems for Lots 8 an 9 in two different zones, that is R.C.5 and D.R.3.5. Mr. Bronstein proffered that such requests would not have any adverse impact on the surrounding neighborhood enumerating the criteria found in Section 502.1 of the Baltimore County Zoning Regulations. There were no County comments opposing these requests and no citizens concerns expressed in relation to either. It is apparent that these are internal adjustments to the Development Plan which cannot conceivably have any impact on the surrounding communities. Consequently, I will approve these requests.

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

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(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.
- (o) In approving a plan, the hearing officer may impose such conditions, as may be deemed necessary or advisable based upon such factual findings as may be supported by evidence for the protection of surrounding and neighboring properties. Such conditions may only be imposed if:
 - (1) The condition is based upon a comment which was raised or a condition which was proposed or requested by a part;
 - (2) Without the condition there will be an adverse impact on the health, safety or welfare of the community;
 - (3) The condition will alleviate the adverse impact; and
 - (4) The condition does not reduce by more than twenty (20) percent the number of dwelling units proposed by a residential Development Plan in a D.R.5.5, DR 10.5, or DR 16 zone, and no more than twenty (20) percent of the square footage proposed by a non-residential Development Plan. This subsection is not applicable to a PUD Development Plan.

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Finds of Fact and Conclusions of Law

Local Open Space Issue

The Developer cites Section 26-216 of the County Code to point out that the plat of 1979 (Exhibit 3) expired five years after recordation and any condition on the land outside of Lot 1 was never developed nor was the plat's life extended under Section 26-217. The Developer contends that once the plat expired, both the owners and County's rights and obligations expired with it. Therefore, the present subdivision should be processed under the new regulations. There is no dispute that if this were true this would substantially reduce the area for which a fee in lieu of would be required.

The County says, however, that the 1979 plat did not expire because, as a minor subdivision, it was exempt from the lapse provisions of Section 26-216 (a) 1. See Section 26-216 (d). As such, the County contends the rights and obligations of the parties remain and this Developer is bound by its predecessor in title's pledge to provide the full open space area.

However, looking more closely at Section 26-216 (d), it would also be important to determine if the two lots of the 1979 plat were in the same ownership when the plat was recorded. If true, this would exempt the plat and presumably entitle the County to the larger open space. The County assumes this to be true, but I have no evidence that it is or isn't true. I see in Developer's Exhibit No. 1 that Lot 1 was eventually sold to Mr. and Mrs. Bradford, but I am not sure when that took place. The Developer has the burden, however, of showing the property was not a minor subdivision, but has not shown this to be so.

There is also an important principle which underlies this dispute. In 1979, the owner ecceived permission from the County to record a one lot plat. At the time, the owner agreed to

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There is also an important principle which underlies this dispute. In 1979, the owner received permission from the County to record a one lot plat. At the time, the owner agreed to

place 0.621 acres in open space should the remaining property be developed. Now, it is being developed. So it seems to me, a bargain was struck in 1979 whose terms would be binding on the owner purely from a contractual standpoint. The owner got something and in return pledged something. For this, and the reasons above, I will approve the Development Plan with the open space requirement of 0.621 acres.

Sidewalk Issue

The Developer argues that the development is essentially a R.C.5 rural subdivision in which sidewalks are neither required nor desirable. In support of this position, the Developer submitted Exhibit No. 2 which shows that according to the Department of Public Works Standards for Road and Street Design, no sidewalks are required for developments with lots of 1 acre or more which are in RC zones. Yet, portions of Lots 8 and 9 are in the DR zoned land which presumably would trigger sidewalks. However, these lots are also 1 acre each for no better reason than they are not to be served by public water and sewer. Thus, these lots will be 1 acre just to accommodate the well and septic systems. It seems to me that pursuant to Exhibit No. 2, these lots should also be exempt from the sidewalk requirement. I find the spirit and intent of the regulations indicates that no sidewalks are intended to be built in these rural settings and I will not require same.

Having decided this issue, I wish to make it clear that I am not addressing, much less finding, just what power the Director of Public Works has or does not have in these circumstances. Nothing was submitted in the record on this latter point and I make no finding whatever.

Widening of Windsor Mill road at Lot 1of the Carrie Eitemiller Property

The Developer proffered that it had no ownership in or control of the Bradford property which is Lot 1 in the 1979 plat and thus could not convey property for road widening along the

frontage of that lot on Windsor Mill Road. There was no evidence to the contrary and I will find that no property needs to be conveyed by this Developer. However, the Developed kindly volunteered to assist the County to the extent possible to have the Bradford's convey the needed land to widen Windsor Mill Road as requested by the County.

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 Redline Exhibit No. 1 shall be approved with the provision above.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this Age day of September, 2003, that the Development Plan submitted into evidence as Developer's Exhibit No. 1, for the project known as the "Eitemiller Property" be and is hereby APPROVED with the provision that the Developer shall convey to the County or pay fee in lieu of local open space of 0.621 acres.

IT IS FURTHER ORDERED, that the special hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) that the RC portions of Lots 8, 9 and 10, shown on the Developer's Redline Exhibit 1, be considered as non-density parcels and to approve proposed septic systems to be located in different zones, are hereby APPROVED.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER/

HEARING OFFICER

FOR BALTIMORE COUNTY

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NOTE WELL

The Developer proposed, and County agencies have agreed, that whatever the local open space acreage, the Developer has requested to pay a fee in lieu of conveying the open space area to the County. That request is before the Department of Recreation and Parks. The representative of that Department, by written note, indicated that the plan should be approved conditionally.

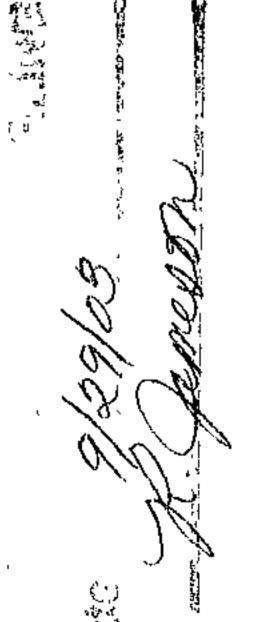
Notice is given that the Baltimore County Circuit Court, in the matter of <u>Oella Mill</u>, Civil Action No. 03- C-03-0016, has ruled that such conditional approval is prohibited. This case is on appeal to the Court of Special Appeals and as such presents no precedent herein.

Finally attention is called to Section 26-206 (o)

- "In approving a plan, the <u>hearing officer may impose such conditions</u>, as may be deemed necessary or advisable based upon such factual findings as may be supported by evidence <u>for the protection of surrounding and neighboring properties</u>. Such <u>conditions may only be imposed if:</u>
- (1) The condition is based upon a comment which was raised or a condition which was proposed or requested by a party;
- (2) Without the condition there will be an adverse impact on the health, safety or welfare of the community;
 - (3) The condition will alleviate the adverse impact;(emphasis supplied)

Under a plain reading of the Code, there may be no basis for conditional approval by the Hearing Officer of a plan which does not have final approvals and thus meet all County regulations on the day of the Hearing Officer's Hearing. The Code seems to indicate only conditions for the benefit of the surrounding community may be applied.

There was no evidence in this case that the waiver to pay fee in lieu of was an issue or would not be approved. This plan is approved without conditions.



Zoning Commissioner

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



Baltimore County

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

October 29, 2003

Benjamin Bronstein, Esquire 29 W. Susquehanna Avenue Towson, Maryland 21204

> Re: Hearing Officer's Hearing Case Nos. II-652 & 04-005-SPH Property: N/S of Windsor Mill Road, E of Old Court Road 2nd Election District, 4th Councilmanic District (Eitemiller Property)

Dear Mr. Bronstein:

I note that you have filed an appeal of the Open Space issue in the above-captioned case to the Board of Appeals on October 27, 2003. You had also filed motions for reconsideration on this issue by means of your letters dated September 30, 2003 and October 2, 2003 which were being reviewed by this office when you filed your appeal. Although I have now completed my Order in response to your motions for reconsideration, I believe that once an appeal is filed this office no longer has jurisdiction of this matter and, therefore, the Order in response to the motions for reconsideration is moot. Consequently, I will not issue my Order.

Please let me know if you disagree with this approach and would like me to issue my Order in response to your motions for reconsideration.

Very truly yours,

John murphy John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure

Copies to:

Rick Chadsey George W. Stephens, Jr. & Associates, Inc. 1020 Cromwell Bridge Road Towson, MD 21286

Craig Rodgers 2 Tisbury Court Baltimore, MD 21236 Craig Carlson 10045 Red Run Boulevard, #150 Owings Mills, MD 21117

Dan Mattison 7607 Inwood Avenue Baltimore, MD 21228

Peter Zimmerman





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

I/We do solemnly declare and affirm, under the penalties of

for the property located at	Summit Avenue
which is	presently zoned DR 3.5 & RC 5

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

\$ 10 am & 100

those portions of Lots 8 and 9 shown on the Development Plan Eitemiller Property as non-density parcels and to approve proposed septic systems to be located in a different zone.

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

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

	•		perjury, that I/we are the subject of this Po	ne legal owner(s) of the etition.	property which
Contract Purchaser/L	_essee:		Legal Owner(s):		
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		····	- Out	Preside	nt/Member
Signature			Signature		
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City	State	Zip Code	Signature	······································	**************************************
Attorney For Petition	er:		10045 Red Run Boulev	ard	410-356-9229
	<u></u>		Address	······································	Telephone No.
Benjamin Bronstein			Owings Millse	Maryland	d 21117
Name - Type or Frint)77/		City	State	Zip Code
Jen- ~	T/1		Representative to	be Contacted:	
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	/		Rick Chadsey, P.E.	G.W. Stephens, Jr. &	Associates, Inc.
Company			Name	- D - J	410 005 0100
29 West Susquehanna Aven	ue, Suite 205 410-	296-0200	1020 Cromwell Bridge	e Road	410-825-8120
Address		Telephone No.	Address		Telephone No.
Towson	Maryland	21204	Towson	Maryland	
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REV 9115198					

Zoning Description 04-005-SPH

Beginning on the E/side of proposed Summit Avenue, proposed 50 ft. wide, at the distance of approximately 550 ft. north of the centerline of Windsor Mill Road. Being proposed lots #8 and #9 on the Development Plan "The Preserve at Brice Run." Being also only the RC-5 zoned portions of these lots containing approximately 0.10 acres and 0.37 acres respectively. Located in District 2C4.

Description to Accompany Special Hearing for The Preserve At Brice Run

June 25, 2003

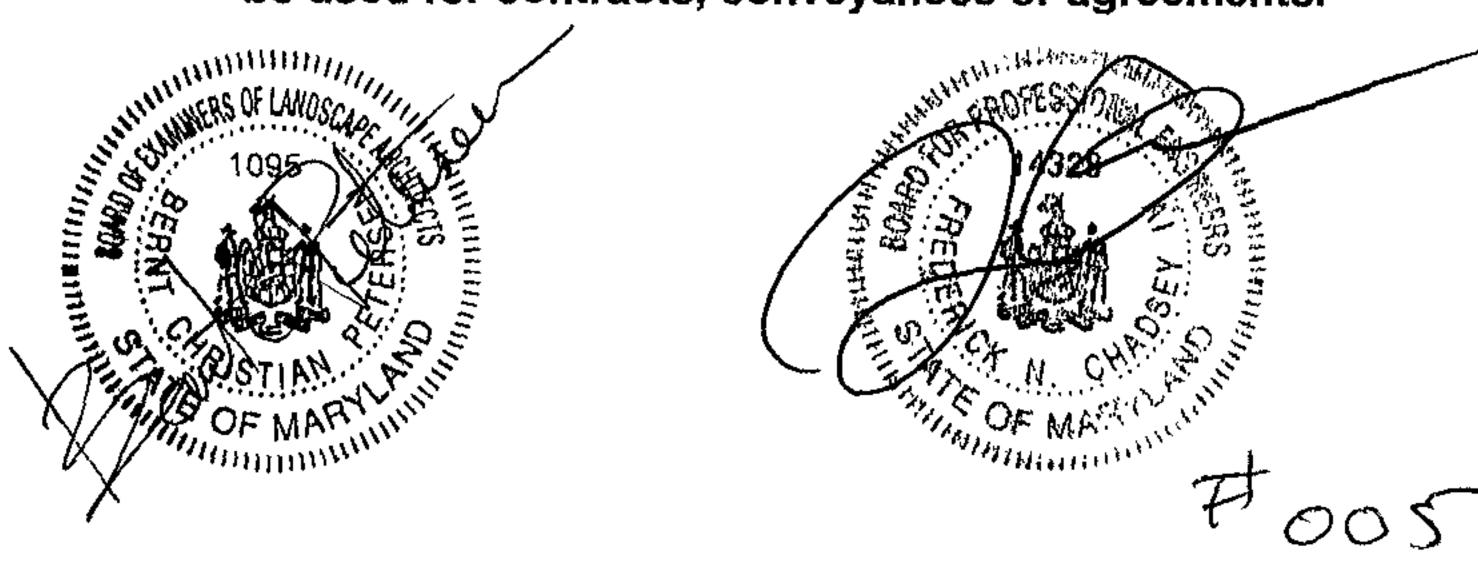
Page -1-

Beginning at the centerline intersection of Windsor Mill Road, 60 feet wide, and Old Court Road, 50 feet wide, thence North 64 degrees 52 minutes 52 seconds East 29.35 feet more or less to a point of beginning at the southwest corner of the subject property, thence along the following courses:

- 1. North 13 degrees 02 minutes 17 seconds East 153.47 feet, thence
- 2. South 61 degrees 54 minutes 24 seconds East 187.00 feet, thence
- 3. North 13 degrees 02 minutes 17 seconds East 411.02 feet, thence
- 4. North 59 degrees 55 minutes 40 seconds East 345.68 feet to a point on the easterly right-of-way of Summit Avenue, thence binding along said right-ofway the following courses
- 5. South 47 degrees 32 minutes 32 seconds East 450.13 feet, thence
- 6. North 59 degrees 52 minutes 57 seconds East 139.66 feet, thence
- 7. South 47 degrees 44 minutes 28 seconds East 257.16 feet, thence
- 8. North 03 degrees 02 minutes 49 seconds East 918.76 feet, thence
- 9. North 76 degrees 05 minutes 47 seconds West 217.00 feet, thence
- 10. South 20 degrees 35 minutes 50 seconds West 189.98 feet, thence
- 11. South 61 degrees 41 minutes 02 seconds East 15.00 feet to a point on the northerly right-of-way of Windsor Mill Road, thence binding along said rightof-way of the following course
- North 61 degrees 02 minutes 36 seconds West 1063.50 feet back to the point of beginning.

Containing 18.7 Acres /814,413.21 Square feet of land more or less

NOTE: The above description is for zoning purposes only and is not to be used for contracts, conveyances or agreements.



BALTIMORE COUNTY, MARYLAND OFFICE OF BUDGET, & FINANCE MISCELLANEOUS RECEIPT

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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: #04-005-SPH

Summit Avenue, The Preserve at Brice Run (AKA)

Eitemiller Property
Neast side of Windsor Mill Road, corner southeast side of Old Court Road

2nd Election District - 4th Councilmanic District
Legal Owner(s): Eitemiller, LLC, Craig Carlson, Managing Member
Special Hearing: to permit those portions of Lots 8 & 9
shown on the Development Plan Eltemiller Property as
non-density parcels to approve proposed septic systems
to be located in a different zone.
Hearing: Friday, September 12, 2003 at 9:00 a.m. in
Room 106, County Office Building, 111 W. Chesapeake

Avenue.

LAWRENCE E. SCHMIDT

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

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

8/283 Aug. 28

C623110

CERTIFICATE OF PUBLICATION

<u>8/28</u> ,20 <u>03</u>
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on $8/28/.2003$.
☐ The Jeffersonian ☐ Arbutus Times ☐ Catonsville Times ☐ Towson Times ☐ Owings Mills Times ☐ NE Booster/Reporter ☐ North County News
Philippia

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 04-005-5PH

Petitioner/Developer: Eitemiller

LLC, CRAIG CARLSON, MANAGING

Date of Hearing/Closing: 9/12/03

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

ATTN: Becky Hart {(410) 887-3394}

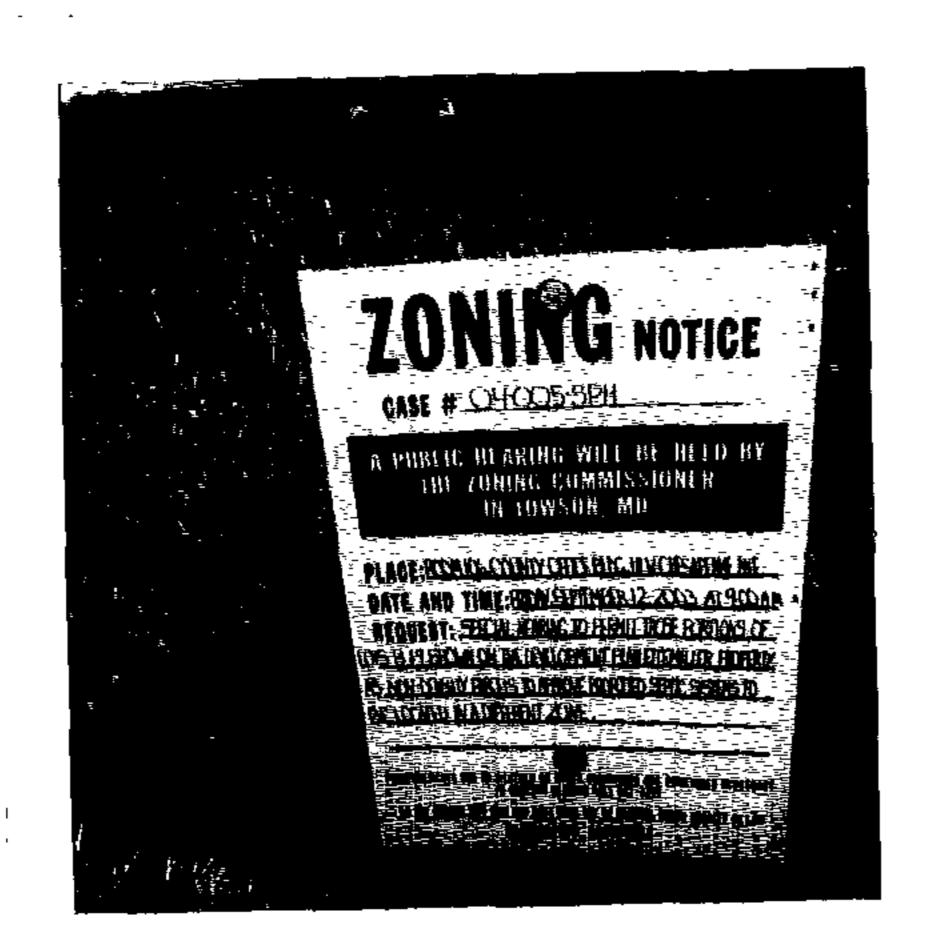
Ladies and Gentlemen:

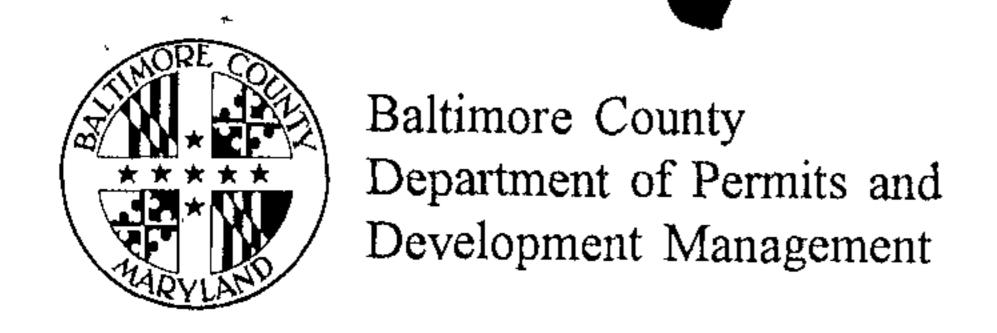
This letter is to certify under the perposted conspicuously on the proper	nalties of perjury that the necessary sign(s) required by law werety located at:
	F PRESERVE AT BRICE RUN
AKA) EHEMILLER	PROPERTY
The sign(s) were posted on	8/14/03
	(Month, Day, Year)

Sincerely,

ZONING NOTICE CASE # O'LOOS SPEL
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MO
PLACE; KCLYMICS COMY CATCURED. IN UTISATION OF REQUEST: STACIM HANDING TO HEAVE THE PRINCE OF REQUEST: STACIM HANDING HAN ENTRINED HANDING THE PRINCE OF AS A MONTH HAND HAND TO HEAVE TO HEAVE PRINCED STORE STATES TO HEAVE AND IN A DATIONAL ZOME.
MYNOSCOZAND WORLDS TO BEST CONTINUE THE SAME THE

8/14/2
(Signature of Sign Poster) (Dato)
SSG Robert Black
(Print Name)
1508 Leslie Road
(Address)
Dundalk, Maryland 21222
(City, State, Zip Code)
(410) 282-7940
(Telephone Number)





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

Fax: 410-887-5708

July 15, 2003

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-005-SPH

Summit Avenue, The Preserve at Brice Run (AKA) Eitemiller Property N/east side of Windsor Mill Road, corner southeast side of Old Court Road 2nd Election District – 4th Councilmanic District Legal Owner: Eitemiller, LLC, Craig Carlson, Managing Member

<u>Special Hearing</u> to permit those portions of Lots 8 & 9 shown on the Development Plan Eitemiller Property as non-density parcels to approve proposed septic systems to be located in a different zone.

Hearings:

Friday, September 12, 2003 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco

Director

TK:klm

C: Benjamin Bronstein, 29 West Susquehanna Ave., Ste. 205, Towson 21204 Eitemiller, LLC, Craig Carlson, Managing Member, 10045 Red Run Blvd., Owings Mills 21117 Rick Chadsey, P.E., GW Stephens, Jr. & Associates, 1020 Cromwell Bridge Rd., Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, AUGUST 28, 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 28, 2003 Issue - Jeffersonian

Please forward billing to:

Benjamin Bronstein, Esq. 29 W. Susquehanna Ave., Ste. 205

Towson, MD 21204

410-296-0200

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:

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Building, 111 W. Chesapeake Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT 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.

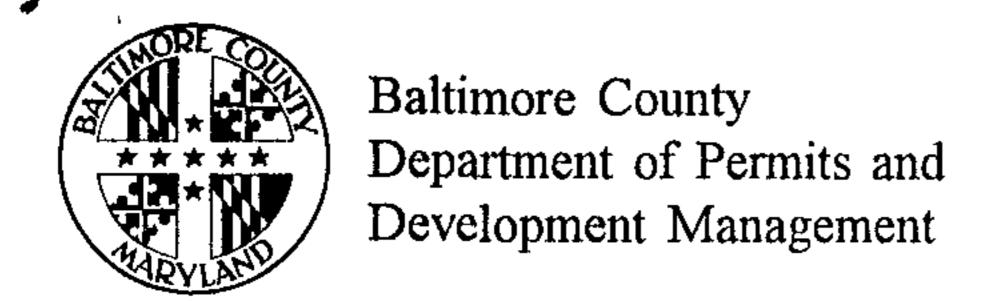
For Newspaper Advertising:
Item Number or Case Number:04-005-5PH
Petitioner: EITEMILLER LLC
Address or Location: HE/S WIHDSOR MILL RD CORSE/S
PLEASE FORWARD ADVERTISING BILL TO:
Name: BEHJAMIN BROWSTEIN, ESQ.
Address: 29 W. SUSQUEHANMAAUE STEZOS
Towson MD 21204
Telephone Number: 410 296 0200

Real aregis + aren y ND Portrom.

7/10/03 1:16 CALLED R CHADSEY LEFT V. M. THAT

AREAS BEING X-FERRED Must BE DOSC.

CTM



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

September 5, 2003

Benjamin Bronstein 29 W. Susquehanna Ave., Ste. 205 Towson, MD 21204

Dear Mr. Bronstein:

RE: Case Number: 04-005-SPH, Summit Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 2, 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

u. Callahal D

WCR:klm

Enclosures

c: People's Counsel Eitemiller, LLC, Craig Carlson, 10045 Red Run Blvd., Owings Mills 21117 Rick Chadsey, GW Stephens, 1020 Cromwell Bridge Rd., Towson 21286



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

County Office Building, Room 111 Mail Stop #1105

July 16, 2002

111 West Chesapeake Avenue Towson, Maryland 21204

ATTENTION: Rebecca Hart

Distribution Meeting of: July 14, 2003

Item No.:

002-014

Dear Ms. Hart:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Marshal's Office has no comments at this time.

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

cc: File





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

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 7.16.03

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

RE: Baltimore County

Item No. 005 LTM

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,

f. f. Arth

for

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

2012

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

Zoning Advisory Petition(s): Case 04-005

DATE: July 28, 2003

RECEIVED

JUL 2 9 2003

ZONING COMMISSIONER

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

Prepared by: Mark A Cump

Section Chief: Keany Gerlabnet

AFK/LL:MAC

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: September 9, 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 21, 2003 Item Nos. 001, 002, 003, 005, 006, 007, 008, 009, 010, 011, 013, and 014

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

RWB:CEN:jrb

cc: File

INTEROFFICE MEMO

TO:

Hearing Officer

FROM:

W. Carl Richards, Jr.

SUBJECT: Zoning Case 04-005-SPH

These comments address the zoning relief only portion of the combined Zoning/Development hearing. Notwithstanding the fact that development plan approval portion of the hearing involves the entire subdivision, the zoning relief portion only involves the RC-5 portions of proposed Lots #8 and #9. The scaled zoning description submitted with the application describes 18.7 acres, the entire subdivision. This description is unacceptable because it does not agree with the zoning only relief portion of the hearing. The engineer was contacted and asked to amend the description and he refused, therefore this office will insert the following proper description to be included in all zoning records, subject to the hearing officer approval.

C: Benjamin Bronstein, 29 Susquehanna Ave., Ste. 205, Towson MD 21204 Lloyd Moxley RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Summit Ave The Preserve @ Brice Run
NE/side Windsor Mill Rd cor. SE Old Ct Rd*

2nd Election & 4th Councilmanic Districts
Legal Owner(s): Eitemiller, LLC, Craig * FOR
Carlson, Managing Member
Petitioner(s) * BALTIMORE COUNTY

* * * * * * * *

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

04-005-SPH

People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of July, 2003, a copy of the foregoing Entry of Appearance was mailed to Rick Chadsey, PE, G.W Stevens, Jr. & Associates, Inc, 1020 Cromwell Bridge Road, Towson, MD 21286, & to Benjamin Bronstein, Esquire, 29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

JUL 2 2 2003

Per.....

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

BENJAMIN BRONSTEIN

ATTORNEY AT LAW SUSQUEHANNA BUILDING, SUITE 205 29 WEST SUSQUEHANNA AVENUE TOWSON, MARYLAND 21204 (410) 296-0200 FAX: (410) 296-3719 Benbronstein@aol.com

July 1, 2003

Timothy Kotroco, Director Dept of Permits & Development Mgt County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

RE: Summit Avenue

Dear Mr. Kotroco:

In reference to the above entitled property I am hereby enclosing the following:

- 1. Petition for Special Hearing in triplicate;
- 2. Twelve (12) copies of the Plat to Accompany Petition for Special Hearing;
- 3. Three copies of the description under seal;
- 4. Copy of the 200 Scale Zoning Map; and
- 5. My check to cover costs.

There are no violations.

Please enter my appearance on behalf of the Petitioner and advise me as to the hearing date.

Very truly yours?

Benjamin Bronstein

RECEIVED

JUL 0 1 2003

BB/mlh **Enclosures**

cc: Mr. Craig Carlson

P.S. Please combine the hearing on the flow opment plans
relief with the hearing on the development plans

CIM	
Intake Planner	

7/1/03
Date Assigned

DROP-OFF PETITIONS PROCESSING CHECK-OFF

Two Questions Answered on Cover Sheet: Any previous reviews in the zoning office? Any current building or zoning violations on site?
Petition Form Matches Plat in these areas: Address Zoning Legal Owner(s) Contract Purchaser(s) Request (if listed on plat)
Petition Form (must be current PDM form) is Complete: Request: Section Numbers Correct Wording (must relate to the code, especially floodplain and historical standard wording. Variances must include the request in lieu of the required code quantities. Hardship/Practical Difficulty Reasons Legal Owner/Contract Purchaser: Signatures (originals) Printed/Typed Name and Title (if company) Attorney (if incorporated) Signature/Address/Telephone Number of Attorney
Correct Number of Petition Forms, Descriptions and Plats
200 Scale Zoning Map
Check: Amount Correct? Signed?
Zoning: Acreage: Previous Hearing Listed With Decision Election District Councilmanic District Case # Check to See if the Subject Site or Request is: CBCA Floodplain Elderly Historical Pawn Shop Helicopter *If Yes, Print Special Handling Category Here *If No, Print No
 24-005-SPM 7/2/03

Item Number Assigned

Date Accepted for Filing

Robert L. Ehrlich, Jr. Governor

Michael S. Steele

Lt. Governor



Audreg E. Scott Secretary

Florence E. Burlan
Deputy Secretary

July 15, 2003

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

Re: Zoning Advisory Committee Agenda,07/21/03 re: case numbers 04-1-SPH, 04-2-A, 04-3-SPHA, 4-4-SPH, 4-5-SPH, 4-6-SPHA, 4-7-SPHA, 4-8-A, 4-9-A, 4-10-SPHX, 4-11-SPHX, 4-12-SPH, 4-13-A, 4-14-SPHA

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 07/14/03. 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

005



FILENAME.