IN RE: PETITION FOR SPECIAL HEARING
N/S of Mt. Carmel Road,
W/S of Brandy Springs Road
7th Election District
3rd Councilmanic District
(1314 "B" Mt. Carmel Road)
(1406 Mt. Carmel Road)

BEFORE THE

* DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 04-027-SPH

Barbara P. & Glenn L. Durst, Legal Owners *
and
Shirley M. & Maurice E. Fitez, Jr.,
*
Grantor Petitioners
Petitioners
*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by Barbara P. and Glenn L. Durst requesting special hearing relief for property located at 1314 "B" Mt. Carmel Road/1406 Mt. Carmel Road. The subject property is zoned R.C.2. The special hearing request is to approve the transfer of one density unit, along with one acre of land, from Maurice E. Fitez, Jr. to Mr. and Mrs. Durst, as shown on the attached zoning plans.

This matter (Case No. 03-453) had previously been heard by Timothy M. Kotroco, Deputy County Attorney, on May 28, 2003. At that time, a decision on the merits was not made, the case was dismissed and the Petitioners were granted leave to amend their special hearing request. This action was taken due to the fact that Maurice Fitez is the legal owner of the one-acre being transferred but his name did not appear on the petition.

The property was posted with Notice of this Hearing on August 25, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 26, 2003 to notify any interested persons of the scheduled hearing date.

Le partes

Applicable Law

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.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: (1) ZAC comment dated August 19, 2003 from the Department of Environmental Protection & Resource Management (DEPRM), a copy of which is attached hereto and made a part hereof.

Interested Persons

, 1

Appearing at the hearing on behalf of the requested special hearing and variance relief were Glenn and Barbara Durst, their son and daughter-in-law, Barry and Taunia Durst, and Joseph Larson appearing on behalf of Spellman Larson & Associates, the engineers who prepared the site plan of the property. On the second day of the hearing the Petitioners were represented by Edward Covahey, Esq. Also appearing in support of the petition were Maurice Fitez, Shawne Imler, Patricia Timlin and Craig Timlin.

Appearing in opposition to the Petitioners' request were Michael McComas, an adjacent property owner, who was represented by Francis Borgerding, Esq. Melody Baker and her father, Radford Baker, also adjacent property owners, appeared in opposition. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

3.

The Petitioners' case was presented by Joseph Larson, civil engineer. Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of land zoned R.C.2 located on the north side of Mt. Carmel Road. Petitioners Durst and Fitez requested permission to allow Mr. Fitez to convey one density unit (plus one acre of land) to the Durst family. Petitioner Durst presently owns 44.71 acres of RC 2 land adjacent to the Fitez property. The purpose of the transfer of the one density unit (along with the one-acre) is to permit Barry and Taunia Durst, to construct a new single-family home on the Durst family property for themselves and their children. Petitioners Glen and Barbara Durst already have a home on the property and after the transfer there would still be enough density units to build the new home after completing a minor subdivision. Mr. Larson opined that building a new home on this large tract would not adversely impact the surrounding community as the site chosen for the new home was nearly invisible to adjacent property owners through a buffer of woods and ridge line.

The Plan to accompany Zoning Petition (Petitioners' Exhibit 1) states that the existing use on the property is one dwelling and kennel operation. On cross-examination, Mr. Larson admitted that the kennel operation requires a special exception in a RC 2 zone and that no special exception has been requested. Mr. Larson raised the possibility that the kennel likely is non-conforming. However, neither a special exception nor special hearing to confirm the non-conforming kennel was requested with this hearing although either could have been heard at the same time as this request.

Mr. Larson admitted that there were several mobile homes on the property which were occupied. In addition to the kennel, someone occupies a kennel keepers' home, which is also situated on the property above the kennel. Notice again is taken of the information on Petitioner's Exhibit 1, which shows that Barry and Taunia Durst own a lot adjacent to the Glen and Barbara Durst property. It is unknown what will become of this property, if the petition is granted allowing Barry and Taunia Durst to build on the larger Durst tract. Mr. Durst also testified that at his advanced age he needed to be near his son and daughter-in-law who would occupy the new home.

A great deal of the hearing concerned whether or not adjoining property owners such as the Bakers and McComas could see the location of the new home from their respective properties. Testimony from both Baker and McComas indicated the site was visible, while testimony from Mr. Larson and Mr. Durst indicated that the site was not visible. Both sides submitted extensive photographs to illustrate their respective positions.

Ms. Baker testified that in addition to the senior Durst home, the two trailers, and the kennel keeper's apartment as noted above, there exists another apartment above a garage next to the Durst home which is also occupied. Finally, she indicated that there were actually two separate kennels operating on the premises, a boarding kennel and separate breeding kennel. According to Ms. Baker, there were six known dwellings on the property, five of which were occupied along with two kennels. She objected to yet another dwelling being proposed. She also testified that Barry Durst admitted that the Durst families' intent was to subdivide the property so as to sell one of the kennels, implying that this request was not about building a new home for the Durst children, but rather to prepare the way for selling off a large portion of the Durst tract.

120

Mr. McComas testified that he objected to the location of the proposed home. He stated that extensive woods on the Durst property had been cleared and that the noise from the kennel would occasionally wake him. Again he submitted extensive photographs to support his position.

Mr. Durst, called on rebuttal, testified that while there was an apartment over the garage near his home, it was simply used by family members who smoked or when the main home was full. He testified that he had permits for the mobile homes that only one would be occupied in the future, and that one mobile home was an accessory use to the kennel. He indicated that the primary use of the property was forest or raising Christmas trees. Again he asserted that the location of the proposed home is not visible from either the Baker or McComas homes.

Findings of Fact and Conclusions of Law

The protestants raise as an initial issue as to whether or not the Zoning Commissioner has the power to transfer density units regardless of the facts of a specific case. They cite the decision by Judge Howell in her February 6, 1990 decision in the <u>Gudeman</u> case (Case No. 89-CG-911). While the primary issue before Judge Howell was whether a road which divided the Gudeman property acted to subdivide the property, Judge Howell opined that the Zoning Commissioner does not have the authority to transfer density units as there is no specific grant of such authority from the County Council to do so. Judge Howell's opinion recognized that the Zoning Commissioner's Office had an unwritten policy allowing such transfers for several years prior to the <u>Gudeman</u> case. The <u>Gudeman</u> case was appealed to the Court of Special Appeals and in an unreported decision filed January 22, 1991, the court decision focused again on the road subdivision issue for the holding in the case. The Court of Special Appeals recognized the power to transfer issue specifically and then declared it to be a "non issue" since the underlying issue of the road had been decided leaving one lot which could be subdivided into two. The

transfer issue became most and the court declined to rule on the issue. Whether the Court was indicating to Judge Howell that having found as she did on the road issue that she should not have ruled on the transfer issue, I will leave to the legal historians to argue.

Eventually, the County Council adopted a bill clarifying the road subdivision issue but took no action to define or clarify the transfer issue. Clearly, the Council was aware of the transfer issue. In 1992 the Director of Permits and Development Management adopted administratively a written policy (1A01.3.B.1 a) clarifying subdivision of lots in RC 2 zones and also providing: "If the intent is to reconfigure the existing lots, the main purpose must be for the protection and preservation of farm land and not to create "more uniform lots for home sites". This obliquely recognized the long held policy of the Zoning Office that the office had the power to approve transfer of density units between lots. Finally, in the *McGee* case (Case No. 94-42-SPH), Commissioner Schmidt reviewed the above history and concluded that this office has the authority under Section 500.7 to transfer density units in RC 2 zones notwithstanding Judge Howell's 1998 decision. Since that time, this office has regularly approved transfer of density units in RC 2 zones and that issue has not risen again to the appellate level for further clarification.

Finally, I note that the administrative agencies of the County not only acknowledge the Zoning Office's authority in this matter but welcome it. As an example, the agricultural arm of the Department of Environmental Protection and Resource Management (DEPRM) has the charter to preserve agricultural land in RC 2 zones. The ability of this office to transfer density units to preserve agriculture gives DEPRM a valuable tool to guide new home sites away from prime and productive soils. Losing this authority would severely limit this ability.

A typical example of how this authority is typically applied is as follow. An owner may own four parcels of land recorded separately prior to the imposition of RC 2 zoning in November 1979 and each lot of record would be between 2 and 100 acres. The Zoning Regulations would allow the owner to subdivide these four lots into eight lots. On these eight lots the owner could build eight houses. These houses often would be located regardless of the affect on agriculture. Most likely they would be located along road frontage. This can breakup a farming operation making it difficult or impossible to continue agricultural pursuits. However, it is perfectly within the owner's legal right to do so under the law.

However, to preserve agricultural uses among the parcels, it is most prudent to transfer density units away from parcels with prime and productive soils in favor of locating new lots and home sites on less valuable farm land. Better yet, would be to cluster these lots wherever rocky soils or ridgelines occur. It makes enormous sense to save the use of prime agricultural soils in this manner.

However, in application and for practical reasons, this authority to transfer density units has been limited by a succession of Deputy Zoning Commissioners and Zoning Commissioners. Above all else, the transfer must promote the goals preserving agriculture in the County as stated above. In other words, the goal of the transfer should not be to promote the development of home sites on the property. See Zoning Commissioner's Policy Manual, Section 1A01.3.B.1 d.

In addition, during my research of the issue within the office, I find a very consistent policy of approving density transfers only when adjusting density units among parcels in the same ownership. The reason is quite practical. First, the Petitioner must be legally bound by the decision. If a stranger is supposedly giving up density units and is not a petitioner, the stranger surely can further subdivide his property frustrating the intent of the RC 2 zone. As important,

the receiving property typically goes on to the subdivision process having had the zoning issues resolved. This subdivision process then documents in a very formal manner with record plats recorded, public works agreements, etc. The whole world knows that the receiving property will be developed under the rules of the County. However, the donating property is not subdivided. There are no plats recorded, public works agreements entered into, etc. Consequently, in the future, a purchaser of the donating property may innocently believe that since the property has not been subdivided, he may have full legal right to do so when in fact that right may be extinguished or severely restricted.

Findings of Fact and Conclusions of Law

I conclude that given the legal history of the transfer issue as above, and given the broad authority of this office under Section 500.7 of the Baltimore County Zoning Regulations, I find that this office has the authority to approve density transfers in RC 2 zones. However, in this case I decline to exercise that authority.

I find that based upon the testimony and evidence presented at the hearing that the primary purpose of the proposal is not to enhance agriculture, but rather to provide another home site on the premises. This is clearly the only purpose of the proposal. There is no evidence that this transfer would improve agriculture. There is only the fleeting mention by Mr. Durst that in addition to the many residential and commercial uses on the property that somehow and in some location they raise Christmas trees. There was no testimony or evidence regarding the Fitez property, which supposedly is being preserved for agriculture by the transfer.

In addition, I find that transfer of density units from Mr. Fitez to the Durst property violates the longstanding rule in this office prohibiting density transfers from strangers. The Fitez property will not be subdivided with plats recorded, public works agreements entered into,

etc. The world will not know that he has given up his right to further subdivide his property but for an obscure note on an adjacent property zoning petition. I acknowledge that I may require notation on the deed transferring the 1 acre parcel to the Durst family to the effect that such development rights are extinguished. However, I do not have confidence that future title search at the time of the sale of the remaining Fitez property would ever find such a limitation from an out parcel transfer.

Finally, I find that the Durst property already has at least six dwelling units existing upon it, which in my view would absorb any density transfers before any new dwelling could be allowed under the regulations. It may well be that the apartment over the garage could perhaps be an in-law-apartment under the Zoning Regulations. I do not know because the Petitioner did not ask to resolve this issue in conjunction with the request before me. It may well be that the kennel manager's dwelling could be accessory to the kennel. I do not know because the Petitioner did not ask to resolve this issue in conjunction with the request before me. It may well be that the kennel is non-conforming or that it deserves a special exception. I do not know this either because the Petitioner did not ask to resolve this issue in conjunction with the request before me. I will stop with these few examples. All such outstanding issues must be resolved based on petition and evidence before me in order to fairly judge whether the receiving property can apply any density transfer units available to it to new home sites. Instead of disclosing these many uses on the property, the Petitioner presents a plan, which, in my view, falsely shows only an existing home and kennel on the property. There is a great deal of trust this office places on presentations made to it. I cannot inspect properties to confirm the veracity of such presentations. I depend upon the petitioner and the petitioner's experts to tell the whole story. But for the protestants testimony and evidence, I would not know of these other uses in this case.

THE STATE OF THE S

Petitioner's Exhibit 1 states "existing uses" and "1 dwelling and kennel operation." Mr. Covahey had nothing whatsoever to do with presenting this matter, but only entered the case after the Petitioners' case in chief had been presented.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this _____ day of December, 2003, that the Petitioners' request to transfer one density unit along with one acre of land from Fitez to Durst as shown on Petitioner's Exhibit 1, be and is hereby DENIED.

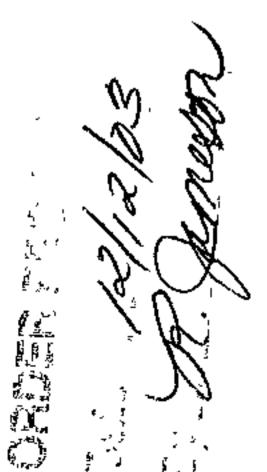
IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj



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

December 15, 2003

Joseph L. Larson, P.E. Spellman & Larson 105 W. Chesapeake Avenue Towson, Maryland 21204

Re: Petition for Special Hearing Case No. 04-027-SPH

Property: 1406 Mt. Carmel Road, 1314 "B" Mt. Carmel Road

Dear Mr. Larson:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has been denied 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 and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure



Copies to:

Ed Covahey, Esquire Covahey & Boozer 614 Bosley Avenue Towson, MD 21204

Glenn & Barbara Durst 1314 B Mt. Carmel Road Parkton, MD 21120-9762

Barry & Taunia Durst 1314 A Mt. Carmel Road Parkton, MD 21120-9762

Maurice Fitez 1406 Mt. Carmel Road Parkton, MD 21120

Shawne Imler 1201 Brandy Springs Road Parkton, MD 21120

Patricia & Craig Timlin 1416 Rayville Road Parkton, MD 21120

Francis X. Borgerding, Jr., Esquire 409 Washington Avenue, Suite 600 Towson, MD 21204

Michael C. McComas 1300 Mt. Carmel Road Parkton, MD 21120

Melody Baker 1308 Mt. Carmel Road Parkton, MD 21120

A. Radford Baker 504 Linwood Avenue Bel Air, MD 21014



Petition for Spetial Hearing

to the Zoning Commissioner of Baltimore County

1406 Mt. Carmel Road

for the property located at 1314 "B" Mt. Carmel Road

which is presently zoned <u>RC-2</u>

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

SEE ATTACHED SHEET

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

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. **Legal Owner(s):** *Refer to Supplemental Sheet Contract Purchaser/Lessee: Glenn L. Durst Name - Type of Print Name - Type or Print *Signature Signature Barbara P. Durst Name - Type or Print Telephone No. Address Zip Code Signature State City 1314 B Mt. Carmel Road 410) 343-0616 Attorney For Petitioner: Telephone No. Address Parkton 21120-9762 Zip Code City State Name - Type or Print Representative to be Contacted: Signature Joseph L. Larson Name Company 105 W. Chesapeake Ave (410) 823-3535 Telephone No. Address Telephone No. Address MD 21204 Towson, Zip Code Zlp Code State City State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING ____

UNAVAILABLE FOR HEARING _

Reviewed By ____ Date _

SUPPLEMENTAL SIGNATURE SHEET

This Sheet is to serve as a supplement to the Owners Certification for the Special Hearing Case No. 03-453-SPH to enjoin the property owners identified as the Grantor Petitioners on this Petition.

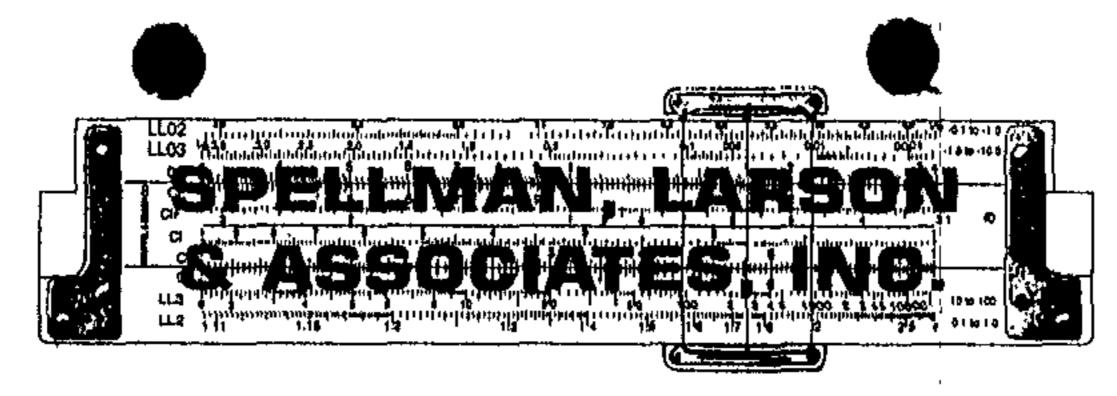
Maurice E. Fitez, Jr.

Owner: Shirley M. Fitez

Property Address: 1406 Mt. Carmel Road

Parkton, MD 21120-9778 Tax I.D. No. 0706020126 A TRANSFER OF 1 DENSITY UNIT ALONG WITH 1 ACRE OF LAND FROM FITEZ TO DURST AS SHOWN ON THE ATTACHED ZONING PLATS.





ROBERT E. SPELLMAN, P.L.S JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS

105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215

DESCRIPTION FOR ZONING, 1314 B MOUNT CARMEL ROAD, DURST PROPERTY, 7TH DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point on the south side of Brandy Springs Road, 50 feet wide, at the distance of 20.5 feet more or less measured northwesterly along the south side of Brandy Springs Road from the west side of Masemore Road, 60 feet wide, and running thence and binding on the south side of Brandy Springs Road by a curve to the left with a radius of 300.00 feet the distance of 148.89 feet thence leaving the south side of Brandy Springs Road and running south 11 degrees 27 minutes 21 seconds east 43.98 feet south 55 degrees 03 minutes west 113.79 feet south 54 degrees 35 minutes 45 seconds west 235.51 feet north 75 degrees 12 minutes 35 seconds west 486.53 feet north 35 degrees 24 minutes 15 seconds west 776.52 feet south 54 degrees 35 minutes 45 seconds west 741.35 feet north 63 degrees 52 minutes 53 seconds west 895.76 feet south 49 degrees 06 minutes 09 seconds west 300.00 feet south 08 degrees 54 minutes 06 seconds east 156.30 feet south 04 degrees 26 minutes 52 seconds west 452.77 feet south 82 degrees 14 minutes 06 seconds east 1,179.34 feet south 34 degrees 35 minutes 15 seconds east 655.89 feet north 55 degrees 13 minutes 33 seconds east 784.08 feet north 54 degrees 35 minutes 45 seconds east 739.38 feet and north 55 degrees 03 minutes east 247.52 feet to the place of beginning.

CONTAINING 44.71 acres of land, more or less.

THE RESIDENCE OF SAME PARTY OF

D01060301





DOBERT E. SPELLMAN, P.L.S. JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS

105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215

DESCRIPTION FOR ZONING, PART OF FITEZ PROPERTY, MT. CARMEL ROAD, SEVENTH DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point measured northwesterly radially from the center line of Mt. Carmel Road and the center line of Flickerwood Road 830 feet, more or less, and running thence from said beginning north 04 degrees 26 minutes 52 seconds east 452.77 feet south 60 degrees 44 minutes 10 seconds west 125 feet, more or less, south 04 degrees 26 minutes 52 seconds west 410 feet, more or less, north 86 degrees 55 minutes 30 seconds east 100.00 feet to the place of beginning.

CONTAINING 1.0 acres of land more or less.

April 1, 2003

File#D04010301



BALTIMORE COUNTY, MARYLAND OFFICE OF BUDGET & FINANCE No. 25064 MISCELLANEOUS RECEIPT 集川湖 RW 7/16/2015 17/16/2015 18:17:34 16/03 ACCOUNT R-001-006-6150 將關 **增加,加加,加加** 和肛門 # 14659 7/16/2003 MIN AMOUNT \$ 130.00 5 574 ZOHING PERFEICHTUM 国机。 代别 keept for \$130.00 D.O C 1406 Mt. Cornel Roed & Williams County, Haryland FOR: 1314-B. My Cornel Road DISTRIBUTION YELLOW - CUSTOMER **CASHIER'S VALIDATION**

N. A.

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: #04-027-SPH
1406 Mt. Carmel Road

1314 "B" Mt. Carmel Road

1314 "B" Mt. Carmel Road
N/side of Mt. Carmel Road, 230 feet southwest of Filckwood Road
7th Election District - 3rd Councilmanic District
Legal Owner(s): Glenn and Barbara Durst (1314),
Maurice and Shirley Fitez (1408)
Special Hearing: to permit a transfer of 1 density unit
along with 1 acre of land from Fitez to Durst as shown on
the attached zoning plats.
Hearing: Wednesday, September 10, 2003 at 11:00 a.m.
in Roam 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

nue.

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

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

JT/8/762 Aug. 26

C622992

CERTIFICATE OF PUBLICATION

<u>8/28/,2003</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 36 $,2003.
The Jeffersonian
🖵 Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

CERPICATE OF POSTING

Date: August 25, 2003.

R	•	

Case Number 04-027-5PH

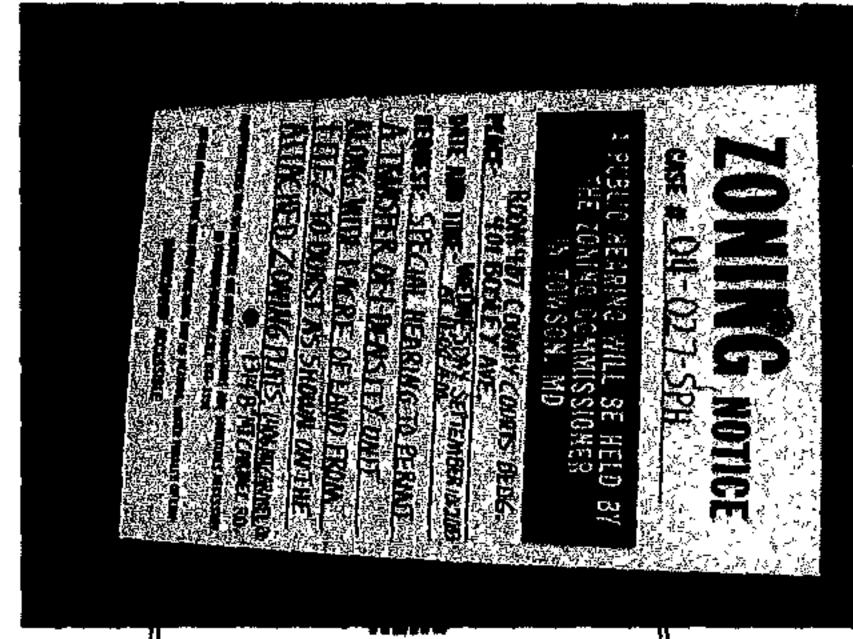
Petitioner/Developer: <u>PURST/FITEZ/JOSEPHLARSON</u> ETAL.

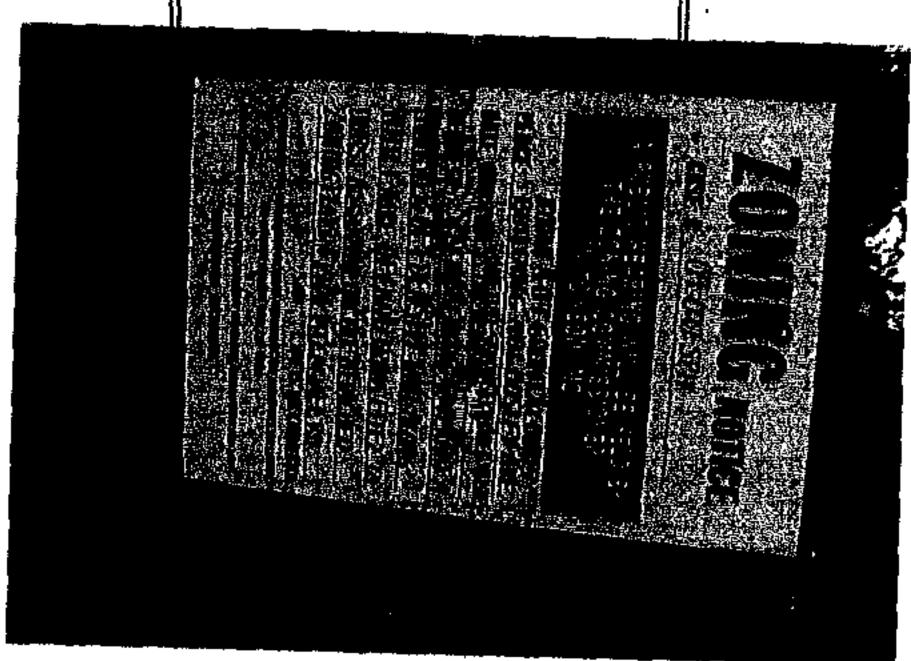
Date of Hearing/Glosing: Septem ber 10, 2003

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1406 MT. CARMEL RD AND 1314 "B" MT CARMEL ROAD (ONSITE)

The sign(s) were posted on

August, 25, 2003 (Month, Day, Year)





(Signature of Sign Poster)

LINDA O'KEFE
(Printed Name of Sign Poster)

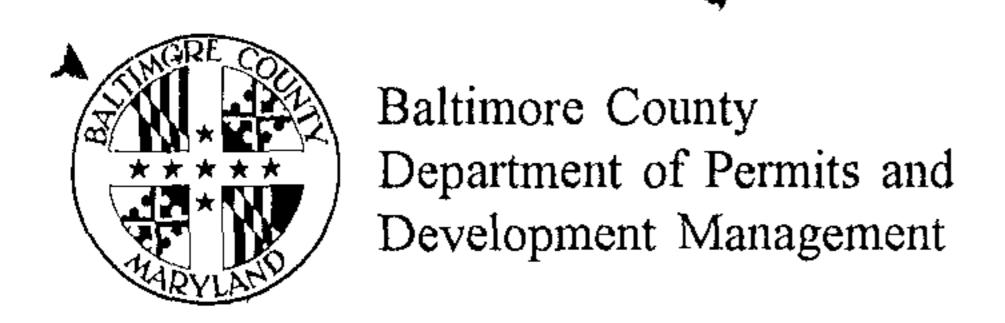
523 PENNY LANE

(Street Address of Sign Poster)

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

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

Revised 3/1/01 - SCJ



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

July 31, 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: 04-027-SPH

1406 Mt. Carmel Road 1314 "B" Mt. Carmel Road

N/side of Mt. Carmel Road, 230 feet southwest of Flickwood Road

7th Election District – 3rd Councilmanic District

Legal Owners: Glenn and Barbara Durst (1314), Maurice and Shirley Fitez (1406)

Special Hearing to permit a transfer of 1 density unit along with 1 acre of land from Fitez to Durst as shown on the attached zoning plats.

Hearings:

Wednesday, September 10, 2003, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Glenn and Barbara Durst, 1314 B Mt. Carmel Rd., Parkton 21120-9762 Maurice and Shirley Fitez, 1406 Mt. Carmel Rd., Parkton 21120-9778 Joseph Larson, 105 W. Chesapeake Ave., Towson 21204

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, AUGUST 26, 2003.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

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

TO: PATUXENT PUBLISHING COMPANY

Tuesday, August 26, 2003 Issue - Jeffersonian

Please forward billing to:

Mr. Barry Durst

1314 "B" Mt. Carmel Rd. Parkton, MD 21120

410-343-0616

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: 04-027-SPH

1406 Mt. Carmel Road 1314 "B" Mt. Carmel Road

N/side of Mt. Carmel Road, 230 feet southwest of Flickwood Road

7th Election District – 3rd Councilmanic District

Legal Owners: Glenn and Barbara Durst (1314), Maurice and Shirley Fitez (1406)

Special Hearing to permit a transfer of 1 density unit along with 1 acre of land from Fitez to Durst as shown on the attached zoning plats.

Hearings:

Wednesday, September 10, 2003, at 11:00 a.m. in Room 407, County

Courts Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

Lawrence B. 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

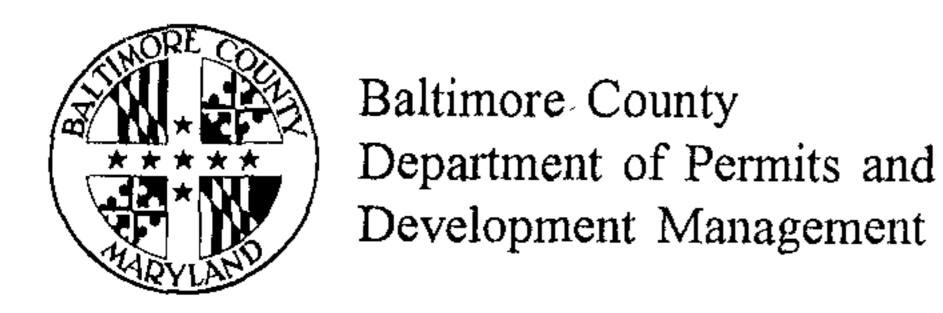
ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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: 04-027-5PH
Petitioner: DUBST/FITEZ
Address or Location: 1314 B" Mf. Carmel Ecl.
1406 Mt. Carmel Rd.
PLEASE FORWARD ADVERTISING BILL TO:
Name: Mr. Barry Durst
Address: 1314 B" Mt. Carmel Ed.
Parkton, Md. 21120
Telephone Number: 410-343-0616



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

September 5, 2003

Glen Durst Barbara Durst 1314 B Mt. Carmel Road Parkton, MD 21120-9762

Dear Mr. and Mrs. Durst:

RE: Case Number: 04-027-SPH, 1406 & 1314 B. Mt. Carmel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 16, 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. Callabal)

WCR:klm

Enclosures

People's Counsel Joseph Larson, 105 W. Chesapeake Ave., Towson 21204

Jalio

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 04-027

DATE: August 4, 2003

RECEIVED

AUG - 4 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:

Section Chief:

AFK/LL:MAC

Challo

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits &

Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For August 4, 2003

Item No. 027

SEP 2 2 2003 ZONING COMMISSIONER

DATE: September 12, 2003

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

In conformance with Federal Flood Insurance requirements, the first floor or basement floor must be at least 1 foot above the floodplain elevation in all construction.

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

Environmental Protection & Resource Management Inter-Office Correspondence

August 19, 2003

To:

Zoning Commissioner

From:

Wally Lippincott, Jr.

D.E.P.R.M.

Re:

Case No. 04-27-SpH, 1314 "B" Mt Carmel Road

Comments:

1. The adjacent landowners have indicated that the submitted plan does not appear to accurately reflect the existing uses and structures on the property. Prior to proceeding, the applicant should indicate whether the two house trailers on the property are being used for residential purposes and whether there are apartments associated with the kennel operations.

2. Transfer of density between properties under separate ownership is not permitted. Transfer of density between two lots of record is also not specifically provided for in the RC 2 zone. See Circuit Court in the case of Gudeman v. People's Counsel – 88-490-sph.

Recommendation:

This request to move density from the Fitez property to the Durst property would appear to be a density transfer and not permitted. If on the other hand the purpose is to create a new one acre lot with one density and transfer this to Durst, it would appear that this should be a minor subdivision. In either event, this request does not appear to advance any agricultural or other purpose of the RC 2 and should not be approved.

Regulas Junes

Trot of

RE: PETITION FOR SPECIAL HEARING BEFORE THE

1406 Mt Carmel Rd, 1314 "B" Mt Carmel Rd;

N/side Mt Carmel Rd, 230' SW Flickwood Rd*

7th Election & 3rd Councilmanic Districts

Legal Owner: Glenn L & Barbara Durst,

Grantor: Maurice E, Jr. & Shirley M. Fitez

Petitioner(s)

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

04-027-SPH

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of August, 2003, a copy of the foregoing Entry of Appearance was mailed to Joseph Larson, 105 W Chesapeake Avenue, Towson, MD 21204, Representative for Petitioner(s).

RECEIVED

AUG 0 5 2003

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Personne

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 8, 2003

Edward C. Covahey, Jr., Esquire Covahey & Boozer, P.A. 614 Bosley Avenue Towson, Maryland 21204

Francis X. Borgerding, Jr., Esquire 409 Washington Ave., Suite 600 Towson, MD 21204

Re: Petition for Special Hearing
Case No. 04-027-SPH
Property: 1314-B Mt. Carmel Road

Dear Messrs. Covahey & Borgerding:

This letter is to confirm that the above-captioned matter previously scheduled for hearing on September 24, 2003 has been continued to Monday, November 10, 2003 at 2:00 p.m. in Room 407 of the County Courts Building in Towson. It will not be necessary to have the property re-posted or re-advertised.

Should anyone have any questions concerning the rescheduling of this matter, please do not hesitate to call me. Thank you for your consideration in this matter.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj



Visit the County's Website at www.baltimorecountyonline.info

Copies to:

Mr. & Mrs. Glenn L. Durst 1314 B Mt. Carmel Road Parkton, MD 21120-9762

Joseph L. Larson 105 W. Chesapeake Ave. Towson, MD 21204

Maurice & Shirley Fitez 1406 Mt. Carmel Road Parkton, MD 21120-9778

A. Radford Baker 504 Linwood Ave. Bel Air, MD 21014

Melody Baker 1308 Mt. Carmel Road Parkton, MD 21120

Michael C. McComas 1300 Mt. Carmel Road Parkton, MD 21120

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

September 10, 2003

Mr. & Mrs. Glenn L. Durst 1314 B Mt. Carmel Road Parkton, Maryland 21120-9762

> Re: Petition for Special Hearing Case No. 04-027-SPH Property: 1314-B Mt. Carmel Road

Dear Mr. & Mrs. Durst:

This letter is to confirm that the above-captioned matter, which was continued in open hearing this date, has been rescheduled, at the convenience of all parties present, for Wednesday, September 24, 2003 at 2:00 p.m. in Room 407 of the County Courts Building in Towson. It will not be necessary to have the property re-posted or re-advertised.

Should anyone have any questions concerning the rescheduling of this matter, please do not hesitate to call me. Thank you for your consideration in this matter.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

John V. Meuphy

JVM:raj Enclosure

c: Joseph L. Larson 105 W. Chesapeake Ave. Towson, MD 21204

Francis X. Borgerding, Jr., Esquire
409 Washington Ave., Suite 600
Towson, MD 21204

Melody Baker 1308 Mt. Carmel Road Parkton, MD 21120 Maurice & Shirley Fitez 1406 Mt. Carmel Road Parkton, MD 21120-9778

A. Radford Baker 504 Linwood Ave. Bel Air, MD 21014

Michael C. McComas 1300 Mt. Carmel Road Parkton, MD 21120



Visit the County's Website at www.baltimorecountyonline.info





ROBERT E. SPELLMAN, P.L.S. JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS

105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215

LETTER OF TRANSMITTAL

TO: Mr. Radford Baker 504 Linwood Avenue Belair, MD 21014

DATE: August 26, 2003 **JOB NO.** 202092 **RE:** 1314-B Mt. Carmel Road

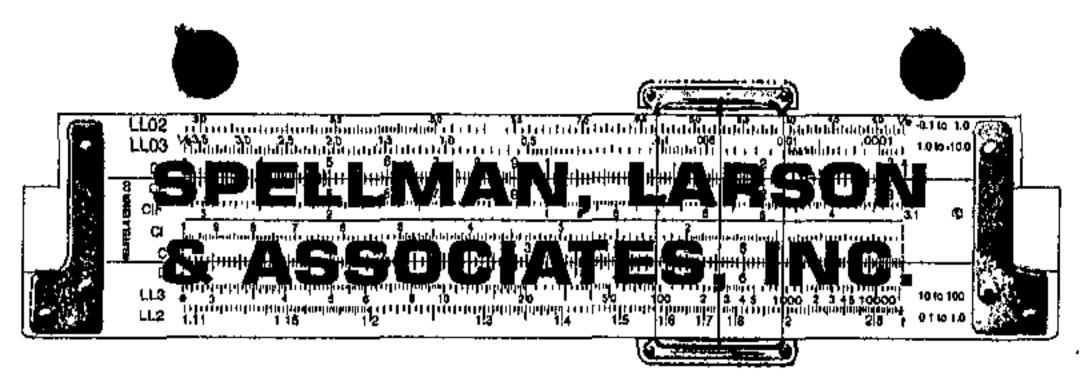
Durst Property

WE ARE SEN	DING YOU	Attached Under separate cover the following items:				
Copy of letter Prints Documents Other						
No. of Copies	Date	Description				
1	9/31/03	Notice of Zoning Hearing (235 #04-027 5P4/				
TRANSMITTALS are as checked below: For approval For your use As requested For review & comment Other						
REMARKS: N	Notification being ser	nt per Zoning Order.				
		SIGNED: JOSEPH L. LARSON, PRESIDENT				
oor Carl Dichar	da					

cc: Carl Richards

File #T08260303





Beekly, about BH Beekly, about BH See His MK

JOSEPH L. LARSON

ROBERT E. SPELLMAN, P.L.S.

CIVIL ENGINEERS AND LAND SURVEYORS

105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215 Tolog-Per Se Lanson,
this letter no longer
this letter no longer
relevant. He will file
relevant to for this
new perty, Jup
property, Jup
303

June 11, 2003

Ms. Becky Hart, Scheduling Supervisor Office of Zoning Dept. of Permits and Development Management **Baltimore County**

"HAND DELIVERED"

Re:

Petition for Special Hearing

Case No. 03-453-SPH 1314B Mt. Carmel Road

Dear Becky,

Pursuant to our conversation this date, I am herein requesting to reset the Special Hearing for the Case that is referenced above in accordance with the Order from then Deputy Commissioner, Timothy Kotroco. A copy of the Order is herewith attached.

I would appreciate your earliest attention to re-scheduling this Special Hearing and notifying this office as soon as possible.

Very truly yours,

Joseph-L. Larson, President

SPELLMAN, LARSON & ASSOC., INC.

File#L06110301

cc: Barry Durst



ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

410-828-9441

FAX 410-823-7530

ANNEX OFFICE SUITE 302 606 BALTIMORE AVE, TOWSON, MD 21204

EDWARD C. COVAHEY, JR.

F. VERNON BOOZER *

MARK S. DEVAN

THOMAS P. DORE

MICHAEL T. PATE

STACIE D. TRAGESER

BRUCE EDWARD COVAHEY

JENNIFER MATTHEWS HERRING

*ALSO ADMITTED TO D.C. BAR

September 16, 2003

SEP 2 2 2003

ZONING COMMISSIONER

RECEIVED

John V. Murphy, Deputy Zoning Commissioner for Baltimore County 400 Washington Ave., Suite 112 Towson, Maryland 21204

Re: Case No. 04-027-SPH

1406 and 1314 B Mt. Carmel Road

Dear Mr. Murphy:

I have been engaged to represent Glenn Durst and Barbara Durst, the Petitioners in the above-captioned. The case presently is scheduled to resume on Wednesday, September 24, 2003 at 2:00 p.m. Unfortunately, I have a previous commitment that date that precludes me from representing the applicants at that time. I understand that the case commenced and was then continued to this date and will not be subject to further advertising. I have, by separate copy of this letter, apprised the protestant's counsel, Frank Borgerding, of this request.

The Commissioner's indulgence in granting this postponement would be appreciated. Perhaps if you are inclined to continue same, we could schedule a hearing by conference call with protestant's counsel. In the event this continuance is not granted, I regret I will be unable to take this representation.

Very truly yours,

Edward C. Covahey, Jr.

ECC,Jr./ldr 0915ldr10

cc: Francis X. Borgerding, Jr., Esq.

Mr. & Mrs. Glenn Durst

The Principle Voice of the Hereford Community

November 19, 2004

Timothy M. Kotroco, Esquire, Director Permits and Development Management Baltimore County 111 W. Chesapeake Avenue Towson, MD 21204

Re: Durst Property
Petition for Zoning Exception

Dear Mr. Kotroco,

Hereford Community

Association, Inc.

Monkton, MD 21111

pcummins@verizon.net

P.O. Box 180

t. 410-357-0252

f. 410-357-0252

(Call first)

At the regularly scheduled bi-monthly meeting of the Hereford Community Association on October 24, 2004, representatives of Glenn and Barbara Durst and family presented a proposal for the future development of their property.

Their proposal consists of dividing the property that is to the west of Masemore Road and to the north of Mount Carmel Road into three parcels. The Hereford Country Club for Pets would be one parcel and the remaining property would be divided to provide for an additional home-site. Since the Hereford Country Club for Pets was established in the early 70's before the current zoning regulations, approval of a non-conforming use by a current tenant must be granted.

The Glenn and Barbara Durst and family asked for support in the approval for their petition. A motion was made and unanimously passed to support the approval of their proposal.

It is requested that the Zoning Commissioner of Baltimore County be advised of the support of the Hereford Community Association and this letter of support be placed in the files of the petition.

Sincerely,

Paul Z. Cummins, II

President

RECEIVED

NOV 2 2 2004

DEVILOPMENT MANY (" FORY

Robert L. Ehrlich, Jr.



Audrey E. Scott Secretary

Florence E. Burtan Deputy Secretary

Michael S. Steele

July 29, 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 re: case numbers 4-19-A, 4-27-SPH, 4-28-A, 4-29-SPH, 4-30-A, 4-31-A, & 4-32-XA

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 07/29/03. 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

Case Number 04-627-SPH

PLEASE <u>PRINT</u> LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
AIRASFORD BAKER	504 Linwood AVE	BEL sin ne	21014
Melorly & Bites	1308 MT. (A/me/Rd.	Part ton, MW	21120
Michael C. Mc Comas	1300 Ht- Canmel Rd.	Pankton Md.	21120
Francis X. Boyerling A	404 washing ton ave	Towson, nd	21204
<u> </u>			
	· · · · · · · · · · · · · · · · · · ·		
<u></u>		· · · · · · · · · · · · · · · · · · ·	
<u> </u>			
<u> </u>			
		 	
	· · · · · · · · · · · · · · · · · · ·		
·		Revised 4	1/47/00

CASE NAME	
CASE NUMBER	04-027-591
DATE	,

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
JOSEPH LARSON	105 W. Chesapeala Ave	Towson Md 21204	
BARRY DURST	1314A MT. CARMEL RD	PARKTON MD 21120	······································
GLEN DURSI	13:4 13 MJ. (GRACEL SZA)	PARKTON MD 21120	
Taunia Durst	1314A M. Carne 1Rd	Parkton Mod 1120	
Barbara Dyrst	1314A Pop Carnel Rd	Par Kton 100 91120	
			
		 	
			
,		······································	
· · · · · · · · · · · · · · · · · · ·			· · · · · · · · · · · · · · · · · · ·
. 	 		
			······································
	<u></u>		
	·	<u></u>	
	<u> </u>		

Case Number 04-027-SPH

1406 Mt. Carmel Rd.

(9/10, 9/24 \$ 11/10/03)

PLEASE <u>PRINT</u> LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
lichael C. Mc Comas	1300 WH-+- Carmel Road	PARK-tow, Ma	21120
Nelsdyr Baker	1308 MT, Camel Rd.	Parton, MD	21120
A. RAdford BAKER	504 Livisoner AUF	BELAIR, Md	21014
Francis X. Borgerding, V.	409 washington are 54th	Towson, ml	21204
		· · · · · · · · · · · · · · · · · · ·	
	Melly 11. 27		
Date	TIME / 100	_ 🗖 PM 🖳	<u></u>
M	WALL TOUVERS OF		<u> </u>
of	many round		
Office	Please call		<u> </u>
Voicemail.			
Pager Mobile	7/0/ク リ タイククラ □ Wants to s	ee you	
e-mail	Will call ag	ain ———————	
	Message	·	
-/d)-	MIN, 9/24/03 M	<u> 3-</u>	
	-# 14-027-5PH		
AN EFF		eorder 23-000	
		Revised	4/17/00

CASE NAME 1406 Mt Carmel Rd CASE NUMBER 04-027-SPH DATE 9/10, 9/248 1/18/03

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
JOSEPH LARSON	105 W. Chesapeala Sve	lowson, Mc - Zizot	
Jan Coursey	614 BOSLIY MI 31704		
BLEDN DURST	1314B M. (*mel Rd)	(ARKton MD 21120	
BARRY DURST	1314A MJ. CARNER RD	PARNO NO 21/20	
Taunia Durst	1314 A Mt. Carmel Rd	Parkton MD 21120	
BARBARA P. DURST	1314 B MT CARMOLES	PARKION, MI ZI(20	
MAURICE FITEZ	1406 MT CARMEL RO	PACKTON MAD 21120	
House I-Mer	1201 Brandy Springs Rd	Parkton Md 21/20	
Patricia Timini	1201 Brande Springs Rd 1416 RAYVIVLE RD	Parkton Md 21120 Parkton MD 21120	
Jacq TIMLIN	1416 RAYULLE RD	PARKTON MD 21120	
	_ • · _ · _ · _ · _ · _ · _ · _ · _		·····
<u></u>			
······································	<u></u>		···-
			4
· · · · · · · · · · · · · · · · · · ·			
<u> </u>			
	<u> </u>	· · · · · · · · · · · · · · · · · · ·	
<u></u>	<u> </u>	<u> </u>	

1AU1.3.8.1 SUBDIVIDING EXISTING LOTS

- a. Subdivision or further subdividing of legally existing R.C.-2 zoned lots of record prior to Bill 178-79 (effective 11/25/79) is permitted provided that:
 - (1) only the most recent deed shall be used to determine the number of lots of record and that;
 - (2) the lots recorded met the existing zoning regulations at that time.
- b. If the property is recorded by multiple deeds or the deed contains multiple parcels, or the subdivision needs further clarification, the following information must be provided:
 - (1) A scaled site plan showing the boundaries of the parcel as they were on November 25, 1979 with the zone line plotted upon it.
 - (2) Drawings showing any changes in boundary and/or ownership since that time.
 - (3) All deeds recorded that show change in boundaries or ownership.
 - (4) A letter stating the devolution of title and what is being requested.
 - (5) Drawings should be color-coded to match accompanying deed.
 - (6) All of the above should be signed and sealed by a surveyor, engineer or title attorney and must be submitted for review at least 15 working days prior to zoning approval or the C.R.G. meeting.
- c. When legally existing parcels or deeds qualify to be subdivided, each separate parcel must be subdivided individually.
- d. If the intent is to reconfigure the existing lots, the main purpose must be for the protection and preservation of farm land and not to create "more uniform" lots for homesites.
- e. Persons shall be advised to read both the Circuit Court and the Court of Special Appeals Cases for Steven H. Gudeman, et 2 UX, All Parties v. People's Counsel for Baltimore County.

3 all same

1A01.3.B.3 See 103.3.A, ECPM, Method of Measuring Setbacks, Page 1-43.1

IN THE MATTER OF THE APPLICATION OF STEVEN H. GUDEMAN, ET UX IN THE FOR A PETITION FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE SOUTH CIRCUIT COURT OF STOCKTON ROAD STEVEN H. GUDEMAN FOR AND BETTY J. GUDEMAN BALTIMORE COUNTY APPELLANTS AND 太 89 CG 911 THE PEOPLE'S COUNSEL FOR BALTIMORE * COUNTY *

OPINION AND ORDER

This matter came before the court from a decision of the Board of Appeals of Baltimore County dated February 16, 1989 which reversed the Deputy Zoning Commissioner and found that the existence of a public road did not create two parcels on the land in question and that these land areas must be considered as one R.C. 2 parcel.

RC-2 INTERSECTED

BY ROAD; DENSITY.

UNREPORTED

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

No. 396

Saptember Term, 1990

88-490-511

Albania a Albania

Staven H. Gudeman et ux.

٧.

People's Counselfor Baltimore County

Bell, R.B. Fischer, Thayer, (specially assigned)

JJ.

Per Curiam

Filed: January 22, 1991

Mark Street Street Street

POF!

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

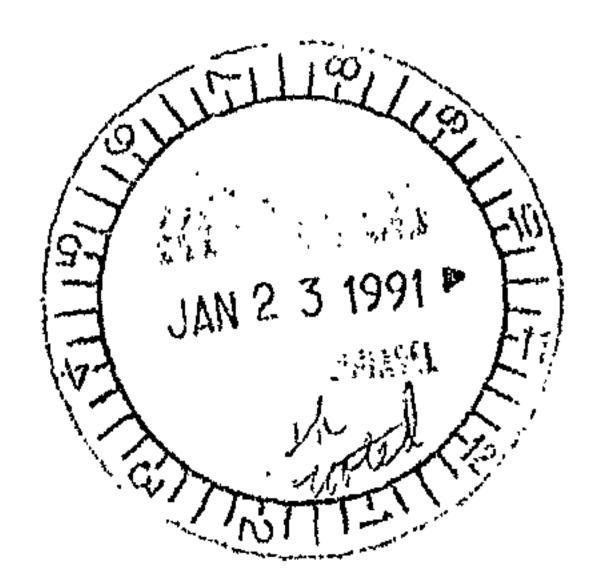
No. 396

September Term, 1990

Steven H. Gudeman et ux.

V,

People's Counselfor Baltimore County



Bell, R.B.
Fischer,
Thayer, (specially assigned)

JJ.

Per Curiam

Filed: January 22, 1991

ļ

"When the insured then owns more than a single vehicle, almost always it is with the contemplation that the second, or third, vehicles will be operated by others. And those others may, also, if injured by an uninsured motorist, expose the insurer to loss under that aspect of the contract."

In our opinion, the *Howell* decision controls the present case. Although the language establishing the policy limits in USAA's underinsured motorist endorsement is not identical to that used by Harleysville in *Howell*, it is equally clear in setting limits of coverage. The declarations page provides limits of \$300,000 for each person and \$500,000 for each occurrence. The endorsement further states that these limits "shall be the total limit of the company's liability for all damages because of bodily injury." Notwithstanding Hoffman's contention that USAA should have plainly stated that aggregation of benefits under this coverage is not allowed, we perceive no ambiguity in the limits of liability clause to which the parties agreed.

We also reject Hoffman's contention that, when an insured has paid multiple premiums under the circumstances here, public policy and the economics of the transaction require aggregating coverage limits. The Hoffmans' underinsured motorist endorsement covered the named insureds (Kenneth and Sandra Hoffman), and any other persons while occupying one of the Hoffmans' two vehicles. With two cars and two drivers, the total miles driven and the number of passengers riding with the Hoffmans was likely to be greater than if the Hoffmans owned only one

car. Thus USAA, by insuring two vehicles, had greater passenger and mileage exposure than if it had insured only one. The premium on the second vehicle, therefore, was not illusory but paid for the increased risk of added passengers and miles.⁵

In sum, the principles established in Howell v. Harleys-ville Mut. Ins. Co., supra, preclude stacking the underinsured motorist coverage in this case. This resolves the remaining certified questions.

CERTIFIED QUESTIONS OF LAW ANSWERED AS HEREIN SET FORTH. COSTS TO BE EQUALLY DIVIDED BETWEEN THE PARTIES.

522 A.2d 1328 WEST MONTGOMERY COUNTY CITIZENS ASSOCIATION et al.

٧,

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION et al.

No. 124, Sept. Term, 1985.

Court of Appeals of Maryland.

April 1, 1987.

Motion for Reconsideration Denied June 2, 1987.

Invalidation was sought of county zoning decision concerning density of residential development because decision

309 Md.--8

^{5.} See, e.g., Grimes v. Concord Gen. Mut. Ins. Co., 120 N.H. 718, 422 A.2d 1312, 1315 (1980) ("When an insured owns two vehicles that are constantly available for use, not only by him, but by members of his family and others, the risk that someone operating one of those vehicles will be involved in an accident with an uninsured motorist is obviously greater than if only one vehicle were available for use"); Cunningham v. Western Cas. & Sur. Co., 90 S.D. 530, 243 N.W.2d 172, 173-174 (1976). But see Sturdy v. Allied Mutual Insurance Company, 203 Kan. 783, 457 P.2d 34, 42 (1969) ("When we pay a double premium we expect double coverage").

700

IN RE: PETITION FOR SPECIAL HEARING

NW/S Butler Road, 1,000' N of

Worthington Avenue (Montanye Property) 4th Election District 3rd Councilmanic District

Carlyle N. Montanye, Jr. Petitioner

BEFORE THE

ZONING COMMISSIONER

* OF BALTIMORE COUNTY

Case No. 96-80-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

for Special Hearing for that property owned by the Montanye family, located on the northwest side of Butler Road near its intersection with Worthington Avenue in the vicinity of Glyndon. The Petition was filed by the owner of the property, Carlyle N. Montanye, Jr., pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). The Petitioner seeks approval of density transfers within an overall tract consisting of four contiguous parcels and to confirm that the total number of lots being proposed for development at this time does not exceed the total number permitted. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 5.

Appearing at the hearing on behalf of the Petition were Carlyle N. Montanye, Jr., property owner, Bruce E. Doak, Registered Property Line Surveyor who prepared the site plans for this property, and Howard L. Alderman, Esquire, attorney for the Petitioner. Appearing as an interested party was John Bernstein, Executive Director of the Valleys Planning Council (VPC). There were no Protestants at the hearing.

This case presents a number of complex issues for consideration. These include an evaluation of the purposes of the R.C. zoning classifica-

IN THE MATTER OF
THE APPLICATION OF
STEVEN H. GUDEMAN, ET UX
FOR A PETITION FOR SPECIAL
HEARING ON THE PROPERTY LOCATED
ON THE SOUTH SIDE OF STOCKTON
ROAD, SOUTH WEST CORNER CARROLL
MILL ROAD, 2200 STOCKTON ROAD
10th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT

BEFORE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

CASE NO.: 88-490-SPH

OPINION

This case comes before the Board on appeal from an Order of the Deputy Zoning Commissioner granting the Petition for a Special Hearing to approve the transfer of density on the subject site. The case was heard this day in its entirety.

The Petitioner presented as his first witness David Ransome, a land surveyor. He testified that he prepared the plat for the original Hearing and the plat with the most recent revisions entered as Petitioner's Exhibit No. 1 in this Hearing. He testified that the property is classified RC 2 and RC 4. He further described the development that has occurred in the general area i.e. Stockton Woods, Hickory Hill, Brookfield and Coopersfield. On cross-examination, he testified that as far as the deed indicates this is just one parcel. It was his contention that the creation of Stockton Road bisecting the property separated this as two parcels each with a permitted density of two residential units. The Petitioner next presented Steven Piper, a local farmer, who testified that he farms a total of 2,160 acres in this area and that he has leased this site to farm in 1988. It was his testimony that the density transfer proposed will keep the farm area in one parcel and would be proper. Robert E. Carney, an attorney who works as a Title Framiner, testified as to the deed searches he had conducted. He especially noted the August 15, 1899 deed which conveyed to the County

IN RE: PETITION FOR SPECIAL HEARING

S/S Beckleysville Road, 1,855' E of the c l

Falls Road

(4305 Beckleysville Road)

5th Election District

3rd Council District

James F. Knittle, Jr., et ux Petitioners BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 03-548-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

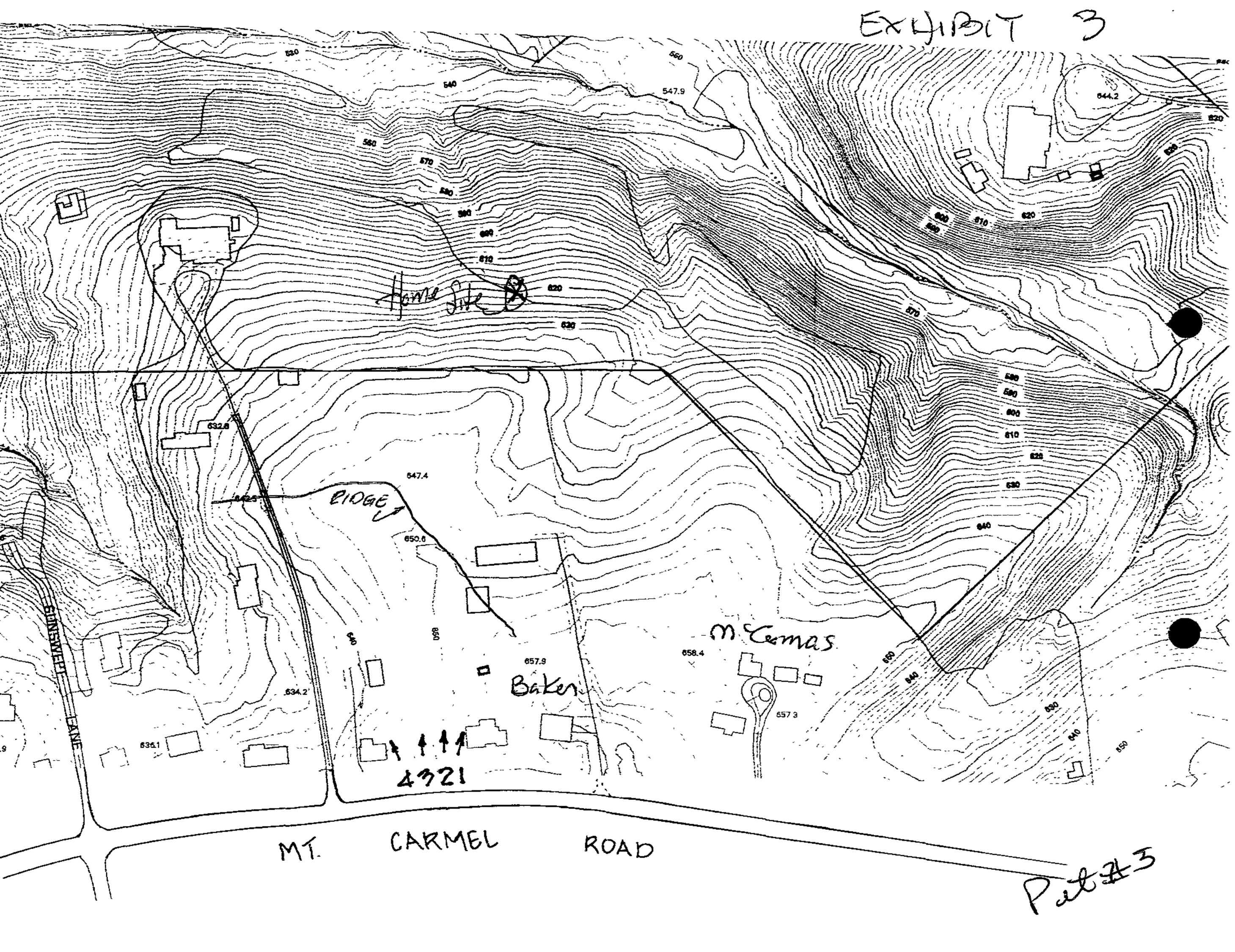
×

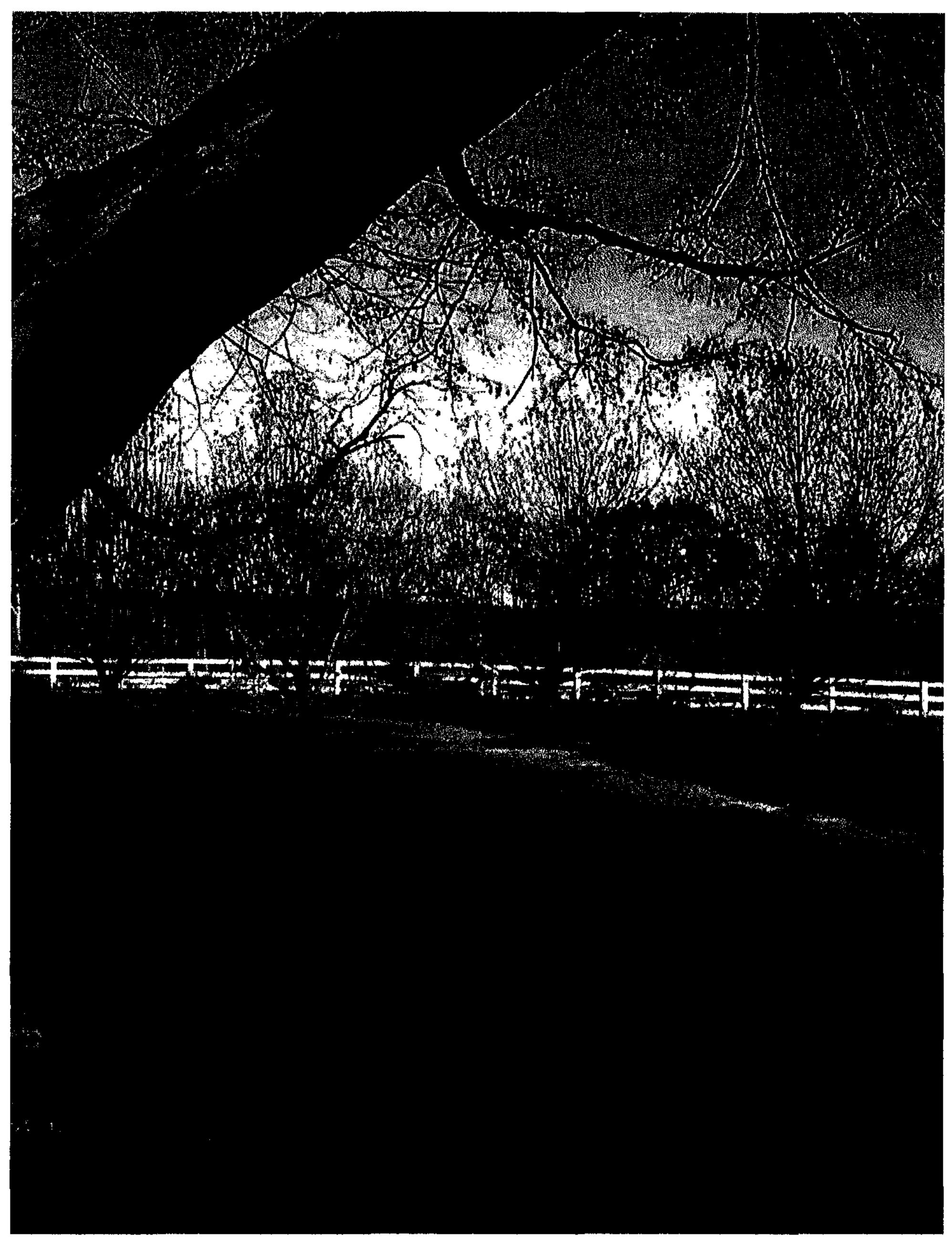
This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property. James F. Knittle, Jr., and his wife, Gloria G. Knittle, through their attorney, Douglas L. Burgess, Esquire. The Petitioners request a special hearing to approve "the transfer of one density unit between two parcels which make up the overall tract, said transfer will not result in any increases in the number of lots permitted." The subject property and requested relief are more particularly shown on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

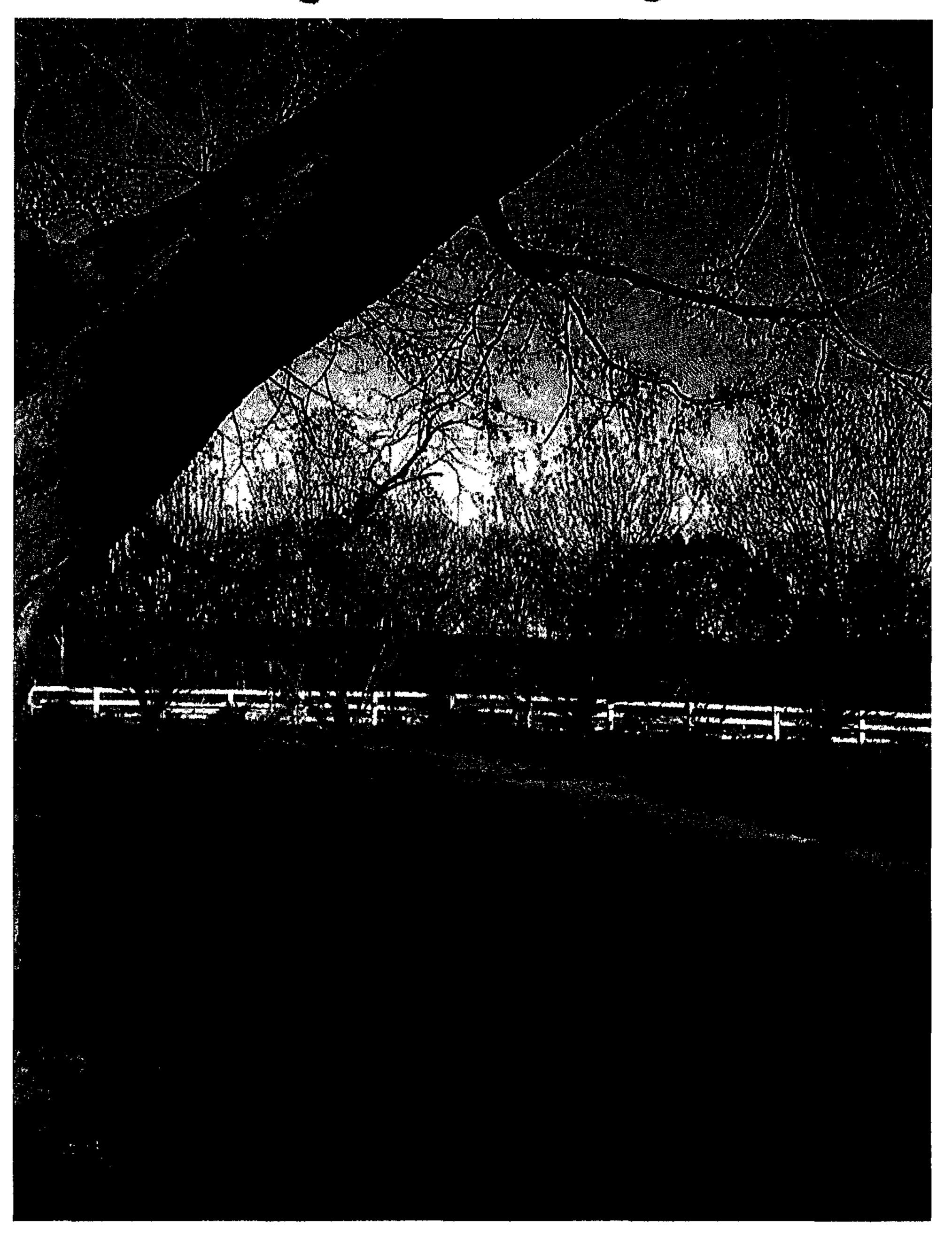
Appearing at the requisite public hearing were James F. Knittle, Jr., property owner: Bruce E. Doak, the Surveyor who prepared the site plan for this property; and C. William Clark, Esquire and Cornelia Koetter, Esquire. Appearing as interested persons were Robert Handzo, Esquire, Barbara Barrett, adjacent property owner, and Beth Hendrickson. There were no Protestants or other interested persons present.

Counsel for the Petitioners proffered the evidence that was presented. A series of documents were presented which established the following. The subject property is an irregularly shaped tract with frontage on the south side of Beckleysville Road, east of Falls Road in northern Baltimore County. The property contains a gross area of 63.27 acres more or less, zoned R.C.2 (61.23 acres) with a small portion of the site zoned R.C.4 (2.04 acres). Copies of deeds and plats submitted indicate that the Knittles originally acquired approximately 111 acres of land; however.

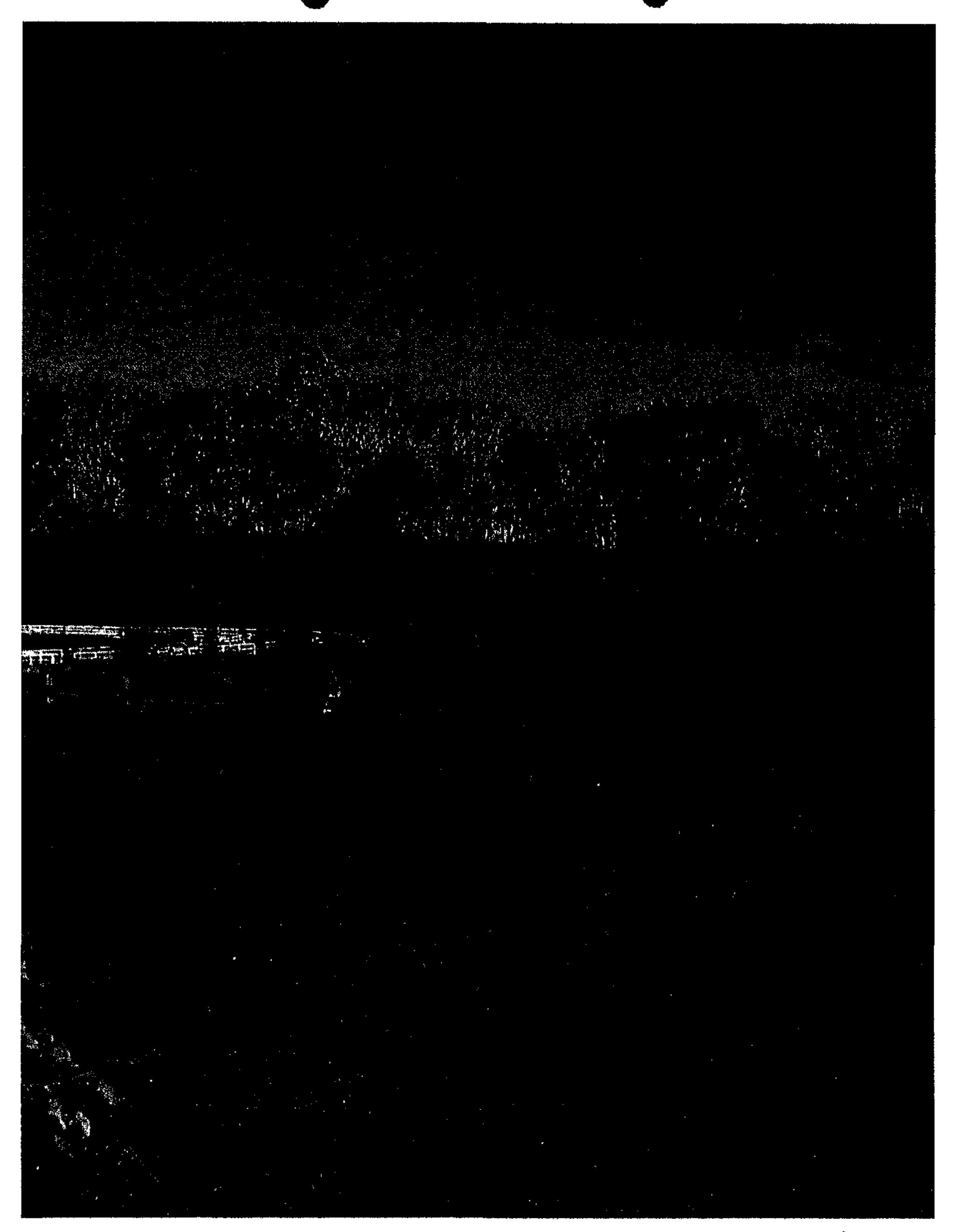
(-2/1 (c.)

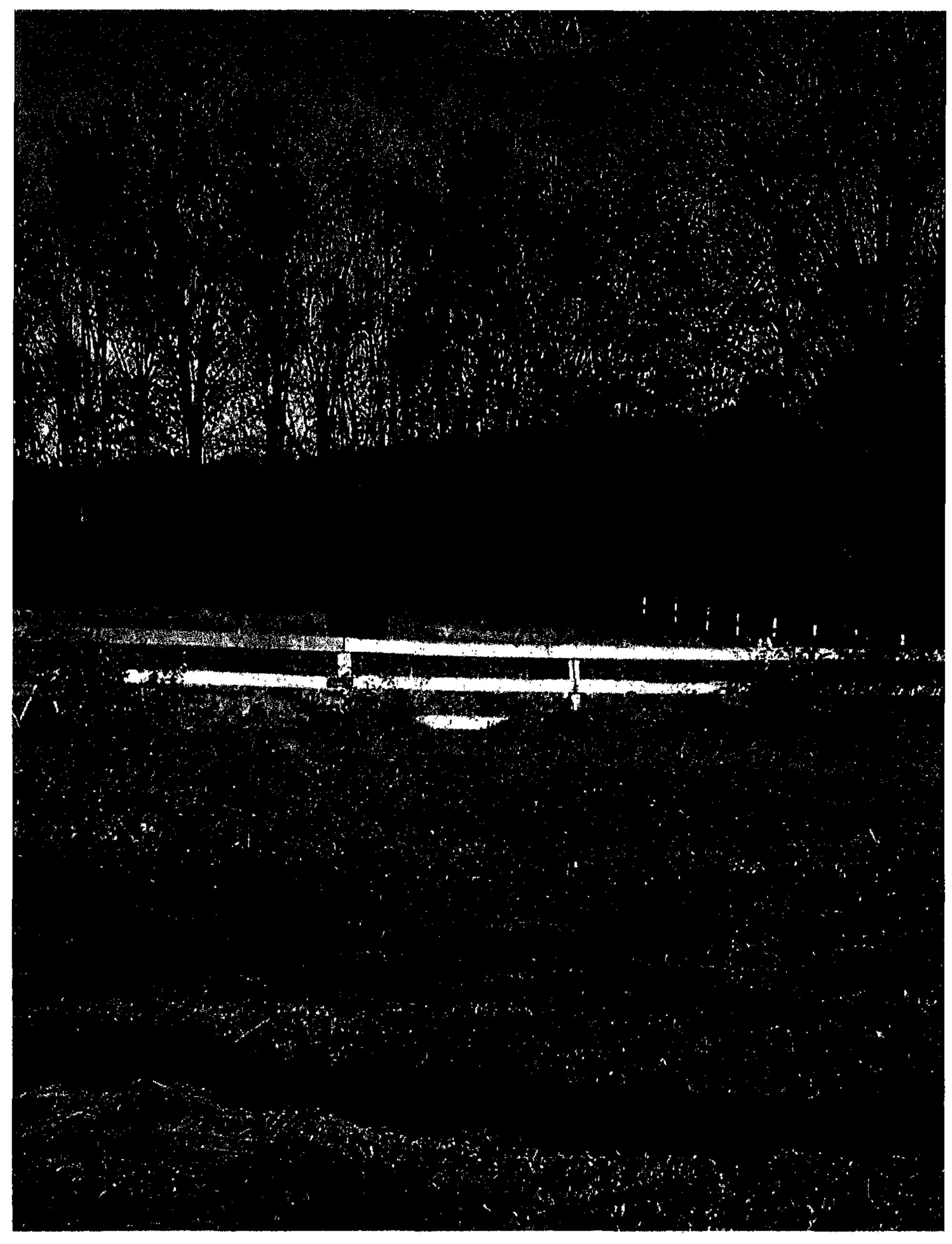






PNOB

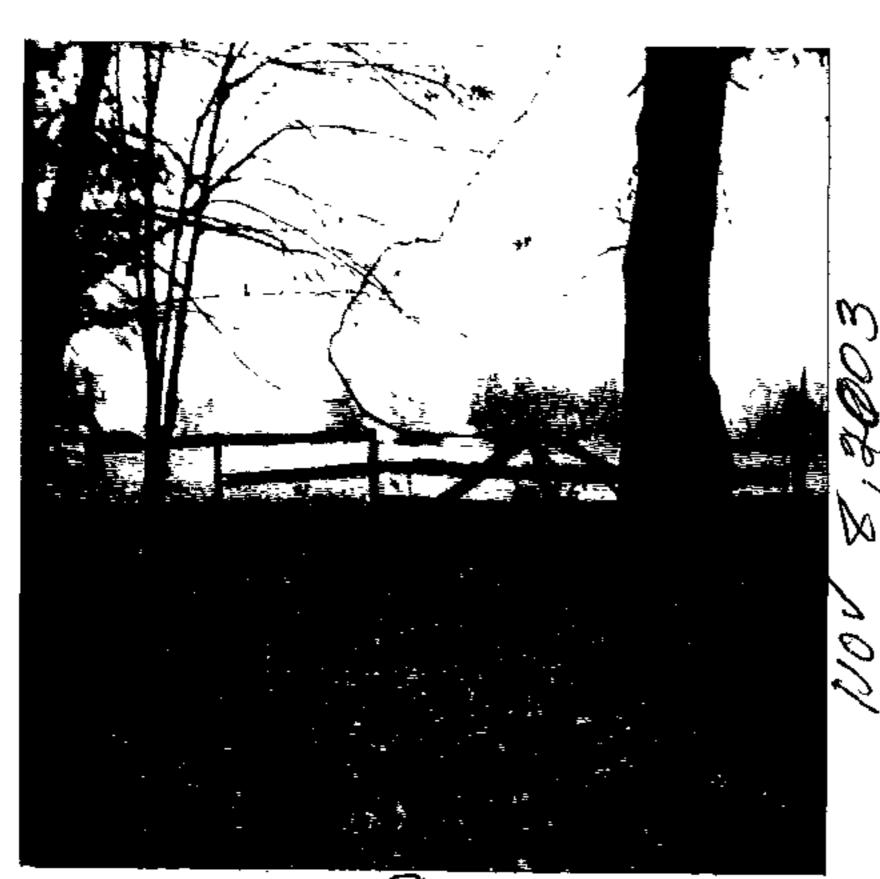




Pro 4)

Baltimore County Zoning Commissioner Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

of oat-spt whesterna 16 Het JA 1A



Manuals FENCE 10 House/outBuildings 600+ff



Looking North towners Dupst Property form Mcourms 7D 9/10/03



House on 9/10/03A



Hereise 15th 9/10/03





Looking North From Mcomps Property





View toumps Durs's Property Fron Meannas 9/10/03 Pets

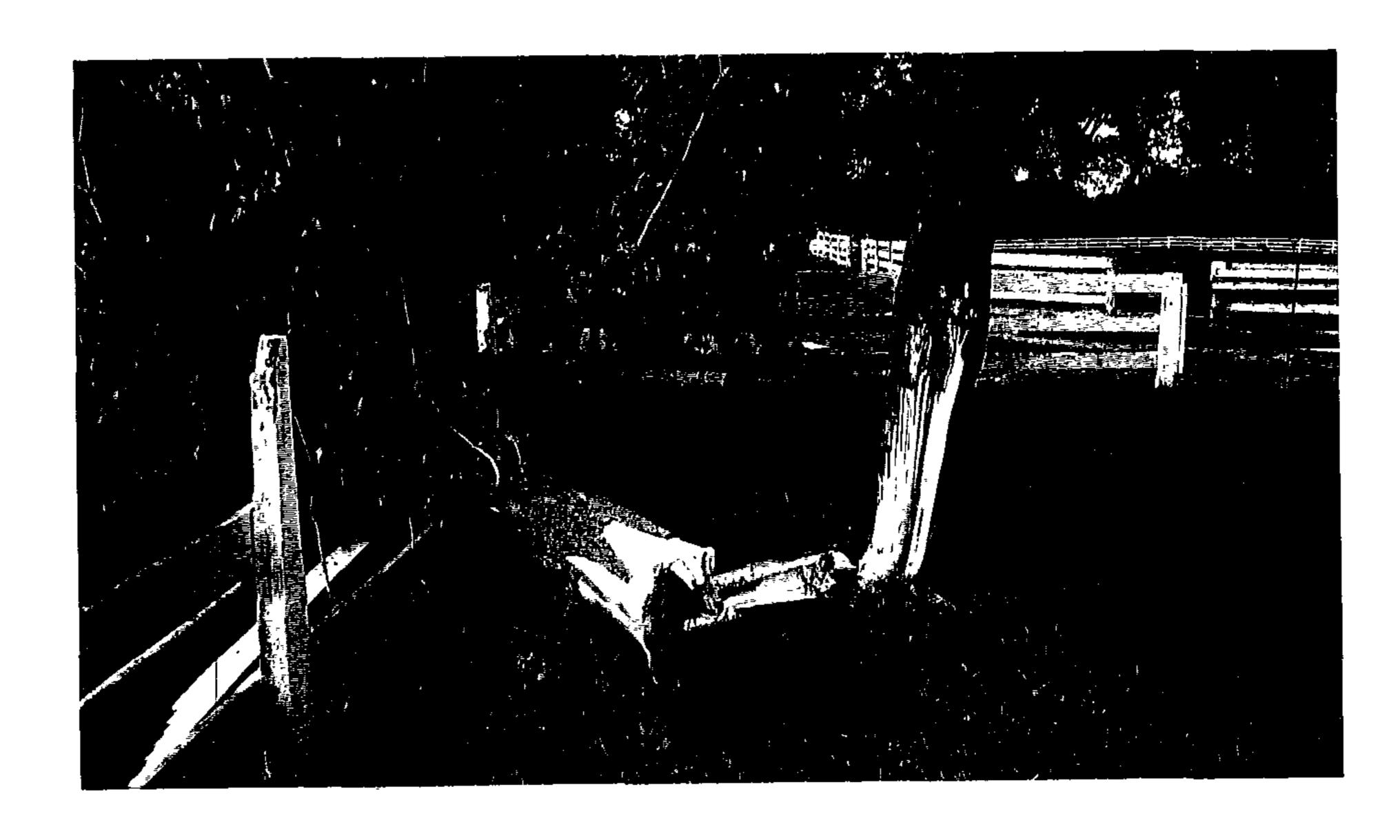





















•

