IN RE: DEVELOPMENT PLAN HEARING W/S Falls Road, N Broadway Road 8th Election District 2nd Councilmanic District **(Becker Property)**		*	BEFORE THE HEARING OFFICER OF BALTIMORE COUNTY
D. R. Horton *Developer/Petitioner*		*	Case Nos. VIII-791 & 04-262-SPH

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

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as a Motion for Reconsideration filed on March 16, 2004 by the Developer represented by Scott Barhight, Esquire. In their Motion, the Developer noted that the Development Plan was a single development plan, that no final decision had been made by the Hearing Officer, and that the Development Plan was, therefore, approved pursuant to Section 26-206 (i) of the Baltimore County Code. In the alternative, the Developer requests an opportunity to present additional evidence with a modified plan subject to approval by the Hearing Officer.

The Protestants represented by Macy Nelson, Esquire and Carroll Holzer Esquire filed an Opposition to the Developer's Motion for Reconsideration on March 29, 2004 because the Courts Building was closed on March 26, 2004 due to a water main break in the Towson area. The Protestants argue that the Motion for Reconsideration fails to ask this Hearing Officer to reconsider any particular ruling and that the entire plan be denied to eliminate any concern about a final decision.

After considering the arguments of counsel, I will deny that portion of the Developer's Motion for Reconsideration regarding final decision by the Hearing Officer, but I will grant the Developer's Motion for Reconsideration regarding a modified plan. Therefore, I will strike my Order of March 12, 2004 and will reconvene a hearing to be scheduled by the parties for the purpose of taking further testimony pursuant to a modified Development Plan consistent with my

ORDER RECEIVED FOR FILING
Date 4/2/04
By [illegible]

March 12, 2004 Order. It is my intention, unless persuaded otherwise at the hearing, that, if the plan is submitted with the northern pod substantially redesigned (as I assume it will be) and/or a new storm water management design suggested for the southern pod, that I will remand the plan to the Development Plan Conference so that each of the County agencies can review the modified plan prior to the Development Plan hearing before me.

THEREFORE, IT IS ORDERED, this 2 day of April, by this Deputy Zoning Commissioner, that the Motion for Reconsideration is hereby GRANTED, that my Order dated March 12, 2004 is hereby stricken, and the case will be set for further hearing/proceedings consistent with this Order.

Any appeal of this decision shall be made within thirty days of the date of this Order and not of the original Order dated March 12, 2004.

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

April 2, 2004

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

G. Macy Nelson, Esquire
401 Washington Avenue, Suite 803
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Re: Order on Motion for Reconsideration
Case Nos. VIII-791 & 04-262-SPH
W/S Falls Road, N Broadway Road
Property: Becker Property

Dear Messrs. Barhight, Nelson & Holzer:

Enclosed please find the decision rendered in the above-captioned case. The Petitioner/ Developer's Motion for Reconsideration has been approved in accordance with the enclosed Order.

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

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Copies to:

David Taylor, 1220-C, Suite 505, E. Joppa Rd., Towson, MD 21286
Arthur H. Becker, Sr. 12170 Falls Rd., Cockeysville, MD 21030
Wes Guckert, Traffic Group, 9900 Franklin Sq. Dr., #H, Baltimore, MD 21236
Ernest Sheppe & William Kopajtic, 3445-A, Box Hill Corp. Dr., Abingdon, MD 21009
Arthur & Darlene Becker, 31 Wally Ct., Timonium, MD 21093
Nancy & Charles Miller, 33 Wally Ct., Timonium, MD 21093
Randy McMenamin, 11810 Ridgemont Rd., Lutherville, MD 21093
Mary Jo Keller, 12168 Falls Rd., Cockeysville, MD 21030
Arthur D. Casey, Jr. 11812 Ridgemont Rd., Lutherville, MD 21093
Kirvah H. Pierson, Jr., 1406 Chippendale Road, Lutherville, MD 21093
Lee Von Paris, 12132 Falls Rd., Cockeysville, MD 21030
Mary Lapides, 12132 Falls Rd., Cockeysville, MD 21030
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Maryann Jones, 12164 Falls Rd., Cockeysville, MD 21030
Jim Drayton, 1505 Applecroft La., Cockeysville, MD 21030
Anne Shelton (Preston), 11918 Meylston Dr., Lutherville, MD 21093
Barri Klein, 11806 Ridgemont Rd., Lutherville, MD 21093

Don Rascoe, Project Manager
Jim Mezick, Fire Department
Jan Cook, Recreation & Parks
Mark Cunningham, Office of Planning
R. Bruce Seeley, Dept. of Environmental Protection & Resource Mgmt.
Robert Bowling, Development Plans Review
Stephanie Wright, Bureau of Land Acquisition
Donna Thompson, Zoning Review

IN RE:	* BEFORE THE HEARING OFFICER /
BECKER PROPERTY	* ZONING COMMISSIONER
W/S FALLS ROAD N OF BROADWAY ROAD	* OF
DEVELOPMENT PLAN HEARING	* BALTIMORE COUNTY
	* PDM Case No: VIII-791 Zoning Case No. 04-262-SPHA

* * * * * * * * * * *

PETITIONER'S MOTION FOR RECONSIDERATION

D.R Horton, Inc., ("Petitioner") by and through its attorneys, G. Scott Barlight, Dino C. LaFiandra, and Whiteford, Taylor & Preston, LLP, pursuant to Zoning Commissioner's Rule 4(K), moves for reconsideration of the Order of the Zoning Commissioner/Hearing Officer in the above-referenced matter dated March 12, 2004 (the "Order"), and as grounds therefore, states:

1. Developer's Exhibits 3A through 3E represent a single redlined development plan for 20 single family dwellings on approximately 90 acres (more or less). Despite the manner in which the Hearing Officer analyzed and crafted the Order by discussing the northern pod, the southern pod, and Lot 20 as separate development plans, Developer's Exhibits 3A through 3E are but a single development plan. The Order is not a final action on a plan. The time in which the Hearing Officer must issue a decision has passed. Therefore, pursuant to Baltimore County Code, § 26-206(i), Developer's Exhibit 3A through 3E are approved as a matter of law pursuant to Baltimore County Code, § 26-206(i).

2. The Petitioner reserves all rights under Baltimore County Code, § 26-206(i). If the Order is a nullity, this Motion for Reconsideration is moot. If the Order is not a nullity, then this Motion for Reconsideration is being plead in the alternative in order to preserve and exercise the Petitioner's rights pursuant to the Order.

3. This Motion for Reconsideration is for the purpose of offering to the Hearing Officer for his acceptance and review additional evidence in accordance with the Order. Petitioner intends to comply with the directives of the Order, particularly as specified in enumerated paragraphs 3 and 4 on page 33 of the Order.

4. In accordance with the terms of enumerated paragraph 3, the Petitioner will submit revised stormwater management plans for the southern pod to DEPRM which do not cross the forest buffer. Petitioner will seek approval of these revised stormwater management plans by the Hearing Officer and DEPRM in accordance with enumerated paragraph 3.

5. In accordance with enumerated paragraph 4, the Petitioner will submit revised plans for the northern pod of the type which the Hearing Officer indicated in the text of his Order might be approvable.

6. The Petitioner's engineers and landscape architects are moving swiftly to produce a plan or plans to accompany this Motion for Reconsideration. The Petitioner will use all efforts to file said plan(s) at the earliest possible time.

7. If the Order is not a nullity in accordance with Baltimore County Code, § 26-206(i), pursuant to Zoning Commissioner's Rule 4(K) governing this Motion for Reconsideration, the filing of this motion effects a stay of all proceedings regarding

this Order. Further pursuant to Rule 4(K), the Hearing Officer shall rule on the Motion for Reconsideration within 30 days of the date the motion is accepted for filing.

8. The Petitioner respectfully requests a hearing on this Motion for Reconsideration.

WHEREFORE, the Petitioner respectfully requests that the Zoning Commissioner / Hearing Officer grant this Motion for Reconsideration and approve the Plan to Accompany the Motion for Reconsideration to be filed at the earliest possible time.

G. Scott Barhight
Dino C. La Fiandra
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2000

Attorney for D.R. Horton, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of March, 2004, a copy of the foregoing Motion for Reconsideration was mailed to:

Timothy M. Kotroco, Director
Office of Permits & Development Management
Room 111
111 W. Chesapeake Avenue
Towson, Maryland 21204

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G. Macy Nelson, Esquire
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David L. Taylor, Jr., ASLA
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Mr. Arthur H. Becker, Sr.
12170 Falls Road
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Mr. John W. Guckert
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Mr. Ernest Sheepe
Mr. William Kopajtic
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Baltimore County Fire Department
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Mr. Robert W. Bowling
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Ms. Stephanie Wright
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Mr. Donna Thompson
Permits & Development Management
Zoning Review
111 W. Chesapeake Ave
Towson, Maryland 21204

G. Scott Barhight

302129

IN RE: DEVELOPMENT PLAN HEARING W/S Falls Road, N Broadway Road 8th Election District 2nd Councilmanic District **(Becker Property)**	*	BEFORE THE HEARING OFFICER OF BALTIMORE COUNTY
D. R. Horton *Developer/Petitioner*	*	Case Nos. VIII-791 & 04-262-SPH

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

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, as a requested approval of a Development Plan known as the "Becker Property", prepared by Morris & Ritchie Associates, Inc. The Developer is proposing to develop the subject property into 20 single-family dwellings. The subject property is located on the west side of Falls Road, north of Broadway Road. The particulars of the manner in which the property is proposed to be developed are more specifically shown on Developer's Exhibit No. 1, the Development Plan entered into evidence at the hearing.

In addition to seeking approval of the Development Plan, the Petitioner also requested special hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for: (1) approval of undersized R.C.4/R.C.5 areas associated with Lots 2 through 6, 15-18 and 20; (2) approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure; (3) approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure; and (4) a special hearing to amend the order and approved site plan in Case No. 94-256-SPH.

The property was posted with Notice of the hearing for the Special Hearing and Development Plan on January 12, 2004 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 January 13, 2004, to notify any interested persons of the scheduled hearing date.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated January 7, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the Development Plan approval request were David Taylor, appearing on behalf of Morris & Ritchie Associates, Inc., the engineering firm who prepared the Development Plan, Wes Guckert, traffic engineer with The Traffic Group, Arthur H. Becker, Sr., the Petitioner, as well as Arthur & Darlene Becker, Nancy & Charles Miller, Ernest Sheppe and William Kopajtic. G. Scott Barhight, Esquire represented the Petitioners at the hearing.

Appearing as interested citizens in the matter were Randy McMenamin, Mary Jo Keller, Arthur D. Casey, Jr., Kirvah H. Pierson, Jr., Lee Von Paris, Mary Lapides, Marcia Goldberg, Maryann Jones, Jim Drayton, Anne Shelton (Preston) and Barri Klein.

Also in attendance were representatives of the various Baltimore County reviewing agencies; namely, Donna Thompson (Zoning Review), Robert Bowling (Development Plans Review), Stephanie Wright, (Bureau of Land Acquisition) and Don Rascoe (Development Management), all from the Office of Permits & Development Management; R. Bruce Seeley from the Department of Environmental Protection and Resource Management ("DEPRM"); Mark Cunningham from the Office of Planning; Jan Cook from the Department of Recreation & Parks; and Jim Mezick from the Baltimore County Fire Department.

As to the history of the project, the original Concept Plan Conference was held on March 17, 2003 and a Community Input Meeting followed on April 10, 2003 at Pinewood Elementary School. A Development Plan Conference was held on January 7, 2004 and a Hearing Officer's Hearing was held on January 29, 2004.

Developer Issues

The Developer had no issues to raise on its behalf but recognized that DEPRM had raised the issue of adjusting the lot lines of Lots 17 and 18 to better match the RC 4/ RC 5 zoning line.

County Issues

Each of the representatives of the County agencies that reviewed the Development Plan indicated that the Redline Development Plan met all regulations subject to approval of the Special Hearing and DEPRM's issue of reconfiguring the lot lines of Lots 17 and 18. DEPRM requested that the lot boundaries between these lots follow the RC 4/ RC 5 zoning lines so that the regulations of each zoning designation would clearly apply to each lot. For example, Lot 18 would then be located solely in the RC 5 zone and would be regulated accordingly. The parties agreed to hold the record open on this latter issue to allow the Developer and DEPRM to resolve this matter. None of the parties waived their right to have this matter litigated before the undersigned Deputy Zoning Commissioner if they failed to reach agreement. Finally, the Department of Recreation & Parks representative indicated that the Petitioner's request for paying a fee in lieu of providing local open space would be, but was not yet approved by his department.

Community Issues

Mr. Nelson who represents the Falls Road Community Association indicated that he had the following issues:

- Traffic safety on the entrance to the northern section and acceleration lane on Falls Road;
- Well and septic systems in different zones;
- Suitable outfall for the southern area storm water management system and variance granted by DEPRM allowing payment of fee in lieu of providing forest buffers; and
- Special Hearing for smaller lots

Mr. Holzer who represents Mr. and Mrs. Keller, adjacent property owners, raised the following issues:

- Location of the northern storm water management facilities;
- Common driveway; and
- Undersized lots

Applicable Law

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

(a) (1) A public quasi-judicial hearing before the hearing officer is required prior to final action on a plan. The hearing may be informal in nature. The hearing officer shall regulate the course of the hearing, as he may deem proper, including the scope and nature of the testimony and evidence presented.

(2) The hearing officer shall take testimony and receive evidence regarding any unresolved comment or condition that is relevant to the proposed plan, including testimony or evidence regarding any potential impact of any approved development upon the proposed plan.

(3) The hearing officer shall make findings for the record and shall render a decision pursuant to the requirements of this section

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

(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.

Section 307 of the B.C.Z.R. – ***Variances***.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Testimony and Evidence

General Background

The property on which the development is proposed consists of 90 +/- acres of land zoned RC 4 and RC 5 in a very complex manner. As shown on the Developer's Redline Plan, Developer's Exhibit Nos. 3A, 3B and 3C, the RC 4/RC 5 zoning line weaves back and forth across the property. This complex design occurs because the County Council intended to protect the metropolitan drinking water supply, which is held primarily in Loch Raven Reservoir but to some extent in the tributaries feeding Loch Raven. Beaver Dam Run is one such tributary. This stream bisects the property separating the section located off Falls Road (henceforth referred to as the northern section) from the section located around the extension of Ridgemont Road (henceforth referred to as the southern section). In addition, there is one lot located inside a previously granted minor subdivision (Lot 20) which again is separated from the northern and southern section by Beaver Dam Run.

In order to protect the Metropolitan water supply, the County Council imposed the RC 4 zone on either side of Beaver Dam Run approximately 500 ft. on either side of the stream bank for the main stream and 300 ft. on either side of the stream for lesser upstream tributaries. Thus, the RC 4 zone follows the stream and tributaries as each flow though the property. The RC 5 zoning essentially fills in around the meandering RC 4 zoning line.

The Developer seeks to develop the property into twenty lots with nineteen new homes and one existing home. This latter is located on Lot 7 and is occupied by the property owners, Mr. and Mrs Becker. Lot 7, which would be approximately 57 acres, contains nearly all the stream and tributaries of Beaver Dam Run, the 100 year floodplain and wetlands on the site. Lot 7 also separates the northern section from the southern section and in turn from the minor subdivision (Lot 20).

Essentially, there are three very different and very separate plans presented in the HOH case, as well as a variance and special hearing. Remarkably, there are no common elements among the three areas of proposed development other than that each is described on the plan. The area southwest of Falls Road contains eleven lots and is served by a public road connecting to Falls Road. There is a second area containing eight lots that is served by an extension of Ridgemont Road. Finally, there is Lot 20 which has access to Wally Court. These areas (or sections) are not interconnected by roads, have no common storm water systems, nor have they similar issues, which were raised by the Protestants.

These issues were fully litigated over five days of hearings. Because of the schedule of counsel, final memoranda were submitted simultaneously on February 27, 2004. Considering the great likelihood of this case being appealed, I will try to determine facts and conclusion of law in the issues raised by the parties and those which arise of necessity.

Variance Case

The Developer submitted Exhibit No. 8, the plat to accompany the Petitions for Special Hearing and Variance, which became the basis of its special hearing and variance cases. However, the exhibit did not reflect the realignment of the boundaries between Lots 17 and 18 to better follow the RC 4 /RC 5 zoning line. All agreed that the update would be a routine drafting matter and the Developer agreed to revise the exhibit with all redline changes including those to the boundaries to Lots 17 and 18. This revised plat dated February 9, 2004 was attached to the Developer's memorandum, in lieu of closing argument as Exhibit A and by agreement of counsel I will mark and accept it as Developer's Exhibit No. 9.

The focus of the variance case is Lot 7 which contains the existing Becker home and out buildings. Mr. Taylor, the Developer's Landscape Architect, proffered that the home and out buildings have existed for at least thirty years supporting the agricultural uses on the property. The home is intended to remain as a residence and the out buildings for storage. The problem arises that the out buildings are physically located in the front yard of the residence while the regulations require they be in the rear yard. As a farm this was not a problem, but as part of a residential development these buildings will require a variance in order to remain.. Mr. Taylor opined that it would be a hardship and practical difficulty for the owner of Lot 7 to remove the existing structures and relocate the buildings or to the rear yard.

There was no opposition to the proposed variance.

Findings of Fact and Conclusions of Law

I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Surely, Lot 7 is physically unique in its streams, wetlands, steep slopes and configuration. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. It truly would be a practical difficulty and hardship to attempt to move existing outbuildings to the rear yard of Lot 7. No increase in residential density beyond that otherwise allowable by the

Zoning Regulations would be permitted as a result of this variance. Furthermore, I find that this variance can be granted in strict harmony with the spirit and intent of regulations, and in a manner so as to grant relief without injury to the public health, safety and general welfare

Special Hearing Case

Testimony and Evidence

Lot No. 7

Mr. Taylor, the Developer's Landscape Architect, proffered that water for the existing home on Lot 7 is produced by an existing well located approximately 120 ft. to the east of the home. However, that well and a proposed backup well for lot 7 lie in RC 4 zoned land whereas the home is located in RC 5 zoned land. Thus, the request for special hearing to approve this arrangement. Mr. Taylor opined that there would be no adverse impact on the community as these facilities already exist.

Lot 20 Septic Reserve area and Amendment of Order of case no. 94-256-SPH

In the above case, the Board of Appeals approved a minor subdivision of the Becker property, which allowed two new homes to be built adjacent to where the Petitioner proposes to locate Lot 20. In the earlier case, the two homes straddle the RC 4/RC 5 zoning line and have septic reserve areas in the RC 4 zone among other relief granted. The Petitioners are asking for similar relief for Lot 20 in that the home would be built in the RC 5 zone with its septic reserve area in the RC 4 zone.

Having the septic reserve area in the RC 4 zone triggers the need to increase area of the forest buffer/conservancy area easements which the Petitioner proposes as shown on sheet 4 of Exhibit No. 11. Mr. Taylor opined that granting this relief would have no adverse impact on the surrounding community and was in keeping with similar relief granter earlier by the Board of Appeals.

ORDER RECEIVED FOR FILING
Date 2/12/21
By

The Protestants object to allowing the septic reserve area for Lot 20 to be located in the RC 4 zone on the basis that the RC 4 zone is intended to protect the metropolitan water supply and consequently sanitary facilities for new homes should not be located in that zone. Stated another way, the Protestants argue that RC 4 land should not be used to support RC 5 development.

Undersized RC 4 and RC 5 areas associated with lots 2 through 6 and 15 through 18 and Lot 20

The Petitioner requests Special Hearing approval of undersized portions of five lots in the northern area, four lots in the southern area and Lot 20. This request caused considerable confusion and consternation in the minds of several Protestants' as they understood this request to mean the Petitioner was requesting undersized lots for the development. This implied that the Developer was seeking approval of more lots of lesser size than the regulations allowed and perhaps getting more dwelling units because of it. Several lay witnesses complained of this understanding.

The Petitioner's landscape architect pointed out that this was not the case. Table "Lot Size" shown on sheet 2 of Petitioner's Exhibit No. 9, shows that every lot is at least one acre. Excluding Lot 7, the new homes would be on lots that range from 1.06 to 2.06 acres. He opined that one acre is a minimum size dictated by the Zoning Regulations and the Health Regulations regarding well and septic areas and spacing.

However, because the RC 4 zoning line follows Beaver Dam Run it meanders through the property. This means that these one acre + lots sometimes are divided by the RC 4/ RC 5 zoning line. This in turn means that there often are small "undersized areas" in these lots. A good example is Lot 3 in the northern section. As shown on sheet 2 of Exhibit No. 9, this is a 1.9 acre lot made up of a 1.2 acre portion in the RC 4 zone and a 0.7 acre portion in the RC 5 zone. This table also shows the requested realignment of Lots 17 and 18 as discussed. Lot 18 is

now wholly within RC 5 while almost all of lot 17 is in RC 4. The Special Hearing relief requested then is to approve these lots which have these undersized areas located in a different zone than where the home is to be built on that lot.

He also noted that the undersized areas were never to become the basis in years to come of requests to approve undersized lots pursuant to Section 304 or other provisions of the B.C.Z.R. These areas are noted as " unbuildable" in Note 17 of Developer's Exhibit No. 9.

Findings of Fact and Conclusions of Law

Undersized Areas

Mr. Nelson and Mr. Holzer advance the proposition in their Memorandum that the Developer is requesting approval of these areas as variances under Section 307 of the B.C.Z.R. and/or request for undersized lots under Section 304 of the B.C.Z.R. I know that both of these august attorneys know that the Developer's request for approval of undersized areas was filed neither as a request for variance nor a request for approval of undersized lots pursuant to Section 304. Rather, this request was filed under the Special Hearing provisions, Section 500.7, of the B.C.Z.R. These regulations state:

> "**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**. (Emphasis supplied)

What I understand these gentlemen to be saying is that since Section 500.7 provides no criteria or guidance for determining what is intended by this Section, I should adopt the criteria of Section 304 (undersized lot) and Section 307 (variance) as the criteria to decide this case. For example, one cannot obtain approval of an undersized lot under Section 304 if one owns adjacent land that would, when combined with the undersized lot, meet the area regulations. Similarly,

the criteria for a variance is uniqueness, hardship or practical difficulty, no density increase, spirit and intent of the regulations, and no injury to the health, safety and welfare of the community. In each instance counsel finds the proposal lacking.

While I have no difficulty looking to other sections of the regulations for guidance in applying Section 500.7, I find both references inappropriate. For example, Section 304 is intended to short cut a full variance case for an isolated undersized lot. This situation occurs often in the Baltimore County where perhaps a lot laid out much before the zoning regulations went into effect suddenly has a later and more restrictive zone imposed upon it. Section 304.2 then describes an administrative process triggered by application for a building permit. In that event the property must be posed and if objections are received, a hearing is scheduled before the Commissioner to make a determination as to whether the proposed dwelling is "appropriate". See Section 304.4.

It is obvious to me that this section does not apply here even as guidance criteria. Section 304 is intended to be a short cut administrative remedy where a single isolated lot does not meet area or width requirements. The lot that is built upon or sold after Section 304 relief has been granted has meets and bounds descriptions on which there will be a house with amenities normal to such dwellings. The undersized areas which are the subject of this request under Special Hearing Section do not have meets and bounds descriptions. They are not "lots" but unbuildable portions of lots that will have houses erected upon them. For example, Lot 17 which was redrawn to accommodate DEPRM's request is 1.61 acres in size. All of this lot as redrawn is in the RC 4 zone except 0.08 acres left in the RC 5 zone. It is this 0.08 acre non buildable portion of lot 17 that is the subject of this request not Lot 17. Lot 17 meets all size regulations and so do all the lots proposed. These lots, however, are sometimes split by the meandering RC 4 zone line, which leaves a small nonbuildable area to be approved as undersized.

Similarly I do not see the variance criteria of Section 307 as relevant guides for this problem. Again, the Developer is not asking to waive the area regulations for any lot. All lots meet the one acre minimum found in the regulations. If, however, the Developer had asked to vary the acreage of a lot, all the criteria listed in Sections 307 would come into play. This would trigger the classic *Cromwell v Ward* examination. However, here each lot is larger than the minimum specified in the regulations. Each lot will be sold in its entirety and not as RC 4 and RC 5 pieces to the public. Again, the small areas of each lot which are the subject of this request are nonbuildable portions of lots which are properly the subject of relief under Section 500.7.

I also note that Case No. 94- 256-SPH referred to in the Revised Plan to accompany this matter involved a request granted by the Deputy Zoning Commissioner and Board of Appeals for exactly this kind of relief. This resulted apparently in two homes being built on the RC 4 /RC 5 zoning line adjacent to Lot 20. See sheet 4 of the Redline Plan, Developer's Exhibit No. 3.

After considering the evidence and testimony in this portion of the case and argument of counsel, pursuant to the Special Hearing provisions of Section 500.7, I will approve the Developer's request for approval of the undersized R C 4 and RC 5 areas associated with Lots 2 through 6, 15 through 17 and Lot 20. Such relief is no longer needed for Lot 18. I find that the mere fact the portions of the lots, which meet the minimum size, are in different zones should not by itself mean that these size lots cannot be developed. The new homeowner will receive title to full size lots and likely never know that the zoning line bisects their property. These full size lots will attract full size homes, which hopefully will be compatible with and an asset to the existing homes in the area. I find no adverse impact on the surrounding community, many of which lots have been approved in prior cases. However, as noted, these undersized areas are never to become the basis in years to come of requests to approve undersized lots per Section 304 or other provisions of the B.C.Z.R. These areas are noted as " unbuildable" in Note 17 of Developer's Exhibit No. 9 and it is upon this basis that I approve the requests.

Date 5/12/04
By

Lot 20 Septic Reserve Area

The Developer asks for approval of septic reserve area in a different zone than the proposed structure. In fact, the home is in the RC 5 zone and the septic reserve area in RC 4 zone. R C 4 is intended to protect the Metropolitan water supply by "preventing contamination through types or levels of development in the watersheds". In application, this has meant the County Council severely restricted development along streams leading to the Loch Raven Reservoir, as in this case, in which typically 70% of the land is nonbuildable. Some development, of course, is allowed.

However, as stated above, this is not new territory for these requests. The septic reserve areas in the RC 4 zone were granted in Case No. 94-256-SPH. This reserve area is within 10 ft. of the lot line of lot 20 and 30 ft. of the proposed septic reserve area for Lot 20. There is simply nothing on the record of this case of which I am aware to distinguish between this and Case No. 94-256-SPH. If equal treatment under the law is to mean anything, it would appear that I must approve this arrangement. While I must follow the precedent established by the Board of Appeals in the 1994 case, the Board may want to revisit this matter.

Lot 7 Wells

The Developer requests relief under Section 500.7 for an existing well and future backup well in a different zone than the existing structure. This matter was uncontested. Again, the meandering RC 4 zoning line causes these kinds of anomalies, there is no detriment to the community and so I will approve the request.

Amend Order of Case No. 94-256-SPH

In addition to the location of the septic reserve area for Lot 20 in the RC 4 area, the Developer requests approval of enlarged forest buffer/conservancy area easements to reflect the use of the RC 4 zoned land. This matter was uncontested. There is no detriment to the community and so I will approve the request.

Development Plan

Southern Pod

Testimony and evidence

The southern pod is proposed to contain eight homes located on a bluff around an extension of Ridgemont Road. On three sides of the pod are steep slopes and forest buffers which lead down to the stream valley of Beaver Dam Run. Storm water management was the primary issue raised by the Protestants. The Developers' design for storm water management is to collect storm water from the impervious surfaces in the pod, conduct same to a filter system and discharge the water from the filter into a pipe. That pipe would then pass through the forest buffer, go down a steep slope and discharge its contents into a special device to reduce the velocity of the water called a stilling well. The water from the stilling well would be discharged onto the flood plain above the Beaver Dam Run stream. See Developer's Exhibit No. 3C.

The Protestants object to the fact that the storm water discharge pipe "violates" the forest buffer and its construction down the slope will result in erosion and damage to the trout stream below. The Developer contends that the design meets all County regulations. DEPRM 's representative indicated that DEPRM had granted a waiver for crossing the forest buffer and that the storm water management plan met all County regulations.

The Developer's landscape architect, David Taylor, admitted on cross-examination that the slopes down which the discharge pipe would be constructed were greater than 25% and that a swath 20 ft. wide would be cleared of "necessary trees" to provide room for a trench to bury the discharge pipe. The cleared area would be 220 ft. long through forest buffer with 140 ft. down the steep slopes.

Ernst Sheppe, the Developer's civil engineer who designed the storm water management system for the southern pod, testified that initially he considered two options regarding how storm water generated by the southern pod could be handled. The first was to simply spread the

water coming from the sand filter at the top of the bluff. However, he was concerned that even with best efforts, because of the steep slopes, erosion would occur. The second option was to pipe the water coming out of the sand filter down the slope to the flood plain below. However, this had two major problems. The first was that the pipe would have to traverse the forest buffer. This would require a waiver from DEPRM. The second was that a special device would have to be installed on the end of the pipe at the bottom of the hill to slow the water coming down the hill to virtually zero velocity. Otherwise the discharge from the pipe would cause erosion in the floodplain before it reaches the stream.

Mr. Sheppe determined that the second option of piping the discharge to the flood plain was the better option and proceeded to perform the alternative analysis required by Section 14-342.(b)(1). See Developer's Exhibit No. 5. In response, DEPRM approved the alternatives analysis and added seven restrictions and conditions on the approval. See Developer's Exhibit No. 6. Mr. Sheppe testified that this design met the requirements of the Maryland Department of the Environment 2000 Storm Water Design Manual which has been adopted by Baltimore County as the guide for its approval of storm water management systems.

On cross-examination Mr. Sheppe admitted that in digging the trench to lay the pipe through the forest buffer, it would be necessary to take down good size trees as the trench went down the hill. However, he indicated that there was no place to run such a pipe from the sand filter on top of the bluff that did not cross the forest buffer somewhere and that it was better to pipe the water down the slope than to allow water to erode the hill by discharging same on the top of the bluff. He admitted that construction of the trench and laying of the pipe itself would cause erosion but he felt this would be very brief. Finally, he noted that of the eight lots in the southern pod, only the public road and Lots 15 through 19 would generate storm water runoff that would be handled by the sand filter and piping as above. Lots 12 through 14 will have their storm water run off spread on each lots and discharge into the bluff.

The Protestants called Mr. Al Wirth, Manager of DEPRM's Storm Water Management Section, who testified that the County had approved the Developer's design after considering the alternatives analysis submitted by Mr. Sheppe. He admitted that the County did not and ordinarily does not do separate alternatives analysis independently of the Developer. He opined that the County's job is not to design but rather to determine if the design submitted meets the County regulations. Moreover, the County had not analyzed the velocity of the water discharged from the stilling well.

Similarly, the Protestants called Paul Dennis, Natural Resources Specialist with DEPRM, who reviewed the alternatives analysis submitted by Mr. Sheppe. He testified that the Developer's alternative analysis was the only alternatives analysis reviewed. He further testified that the intent of the environmental legislation was to avoid disturbing the forest buffer if possible. However, he did not consider reducing the density of the southern pod to avoid the problem of having the piping transverse the forest buffer. Finally, he testified that it was preferable to discharge the water into the floodplain as the Developer suggested in its design rather than discharge it into the stream channel.

The Protestants called Jeffrey Wolinski, a consulting ecologist, who testified that forest buffer legislation was intended to protect natural resources such as streams and wetlands, that the forest through which the piping would occur would be through stands of mature trees, and that Beaver Dam Run is a Trout Stream which requires special care and protection. He was concerned that construction of the trench to hold the pipe as it went down the hill would cause short and long term erosion which is particularly dangerous to trout which need clear gravel beds to reproduce. He testified that clearing the 20 ft. swath through the forest buffer, and installing the pipe in the trench could trigger a catastrophic failure of erosion control systems if a hard rainstorm occurred. He testified that disturbing the soil was the greatest long term problem as

the cut down the hill could easily turn into a gully with silt continuously invading the stream below. He reported the soils in the forest buffer were highly erodable.

He admitted on cross-examination that he did not design storm water management systems but he felt that reducing the number of lots in the southern pod or disbursing the water through more storm water facilities on top of the bluff was much preferable to cutting through the forest buffer with a pipe as proposed. He could not say how many lots would have to be deleted in order to eliminate the need for the over the hill piping system, but he felt that rain gardens or bioretention facilities would likely do the job.

Again on cross-examination, he admitted he had not visited the site and so did not know just how dense the existing forest at the point of piping was, nor did he know how many or what type of trees would be removed. When asked his suggested conditions assuming the plan was to be approved, he suggested redundant sediment control measures far beyond the standard now required by the County, strict inspection schedules for as long as three years, limitation of trees to be removed and avoiding mature tree roots as a the trench was dug down the hillside. He had not designed an alternative system.

He also expressed concern about the adequacy of the stilling well especially because the floodplain is subject to organic debris and the discharge velocity of water coming out of the stilling well as the floodplain in that area still had a 10 % slope to get to the stream itself. Finally, he admitted that if the extra protection was in place as above, discharging the water at the bottom of the hill is preferable to trying to spread the water at the top of the hill.

The Protestants called Daniel O'Leary, civil engineer, who has extensive experience in designing and reviewing storm water management systems. Mr. O'Leary testified that there was a third option as to how to handle storm water on the southern pod. He suggested that, if Lot 15 were eliminated, there would be enough room for an infiltration type system which would capture the runoff from most storms and that water from extreme storms could be disbursed on

top of the bluff. This meant that there would be no need to pipe water down the hill, cut through the forest buffer or have a stilling well at the bottom of the hill. However, because the location of such facilities is restricted from being too close to wells, septic reserve area or buildings, there would be no room on Lot 15 for a home. Lot 15 is the natural low point on the bluff for water from Lots 15 through Lot 19 and the road. Water runoff from Lots 12, 13 and 14 would still be spread as proposed by the Developer.

On cross-examination, Mr. O'Leary explained that by infiltration he meant that facilities could be built on Lot 15 to allow the water to drain into the ground. He felt certain that Lot 15 had enough area to accommodate the infiltration system. He was encouraged by the perc tests already successfully performed on Lot 15 and the type of soil found there which is generally accepting of infiltration techniques. He admitted that he had not done any calculation of the size of the infiltration trench or basin which would hold the water while it was infiltrating into the ground. He also admitted that DEPRM had not reviewed such a system, but felt that such a system was approved by DEPRM 15 years ago and should be again. He also admitted that there could be a need to ask DEPRM for a waiver for increased runoff with this system but then noted this was already granted by DEPRM.

The Developer called Mr. Sheppe in rebuttal. With remarkable candor, Mr. Sheppe indicated that the infiltration system proposed by Mr. O'Leary might well be workable but that he had not had time to do the design calculations to confirm such. In addition, he indicated that DEPRM would take many months to review the proposed design. He suggested that this idea wait for Phase II.

This testimony occurred on February 5, 2004 and the Hearing Officer and Protestants made every effort to encourage review of the infiltration system for the southern pod by the close of the record, which ultimately turned out to be February 27, 2004. However, by this latter date neither the Developer nor the Protestants submitted further testimony regarding the feasibility of

the infiltration approach. In its memorandum, the Developer suggested a condition to approval of the plan which essentially looks to Phase II to determine which system to incorporate. The Developer stipulated that the infiltration system would be preferred if the resulting plan retains all lots in the southern pod except for Lot 15. Otherwise, the Developer requests approval to build according to the original sand filter/piping over the hill design.

Findings of Fact and Conclusions of Law (Southern Pod)

Alternatives Analysis

The Developer submitted an alternatives analysis as required by Section 14-342 (b) (1) of the Development Regulations to DEPRM, to allow crossing the forest buffer with storm water management facilities. See Developer's Exhibit No. 5. DEPRM reviewed and approved the analysis allowing the storm water management facilities to cross the forest buffer as proposed in the Development Plan. See Developer's Exhibit No. 6. The Protestants complain that they had no chance to participate in the process, had no notice of any decision by DEPRM and want the DEPRM approval reviewed by this Hearing Officer as a variance. The Developer contends that Section 14-342 (b)(1) does not provide for any such review by the Hearing Officer who must accept the decision of DEPRM as final. The Developer also contends that the decision of DEPRM in this matter could have been appealed as a final decision of an agency directly to the Board of Appeals within 30 days of that final decision. That was not done in this case because the Protestants contend that they had no notice of DEPRM's decision in this matter and the Hearing Officer can review the matter as part of the development plan review.

I hold as a matter of law that the statute provides no such review of DEPRM's approval of the alternatives analysis by the Hearing Officer. It is simply not there. However, that does not mean that I must accept the Developer and DEPRM's contention that the Development Plan meets all County storm water regulations or that the storm water management system proposed has a suitable outfall. I recognize that DEPRM did not do any further alternative analysis than

that presented by the Developer. I would not expect them to do so. DEPRM's job, in my view, is not to design storm water management facilities, nor is it to seek out the best alternative, nor find the least costly or most efficient design. They have neither the charter nor the personnel and/or facilities to do so. They merely determine if the plan as presented meets the County regulations. That does not mean that I can not accept a plan which better satisfies the mandate in the Section 14-342 (a)(1) of the code that "existing vegetation within the forest buffer shall not be disturbed".

Phase II

The Developer contends that the infiltration system, although having some attractive features, is not far enough along in the design process to know whether it would work or not. They contend the sand filter/over the hill system proposed by the Developer meets all County regulations and should be approved along with the infiltration system which should be fully evaluated in Phase II. If the infiltration system works out in Phase II then it would be implemented as long as no more than Lot 15 is lost.

I understand and respect the Developer's position. In the middle of a long hearing, the Protestant's engineer makes what sounds like a reasonable suggestion for a far simpler perhaps even less costly means of handling the storm water runoff from the southern pod. But this is not shown as yet to be workable nor has DEPRM approved it. Consequently, they request the decision between the two systems to be put off to Phase II.

Unfortunately, I cannot agree even though it would make this case much easier for me to decide. There is no reference to the words "Phase I or Phase II" in the development regulations of Title 26 of the County Code. Phase II is mentioned in the Department of Permits & Development Management, Development Management Policy Manual, at page 34, but only in regard to how the plan is to be scaled and certified. The second set of approvals involves approval of the Final Development Plan It is a time when the Hearing Officer review is

complete, the public is no longer involved, and when the development process is simply negotiations between the Developer and the agencies. In the Final Development Plan review, the process is identical to that in place before these 1992 regulations provided for a Hearing Officer or independent review of agency approvals.

The Development Regulations describe the development plan in great detail in Section 26-203. These regulations then provide in Section 26-206 subsection (l) that,

> All subsequent detailed development plans such as the final grading and sediment control plan, storm water management plan, landscape plan and record plat shall be sealed and certified as being in accordance with the approved development plan.

This is the legal basis for subsequent review by the agencies. However, these are simply detailed plans amplifying and defining the development plan. They are not in any way a Phase II development plan approval process to which I may somehow delegate my duty for an independent review of the basic plan. I am aware of the Court of Special Appeals decision in *Gaylord Brooks Realty v Monkton Preservation Association*, 107 Md. App. 573 (1996) in which the Court briefly reviewed the Baltimore County development process which is the subject of this hearing. The Court describes the "ongoing process" of review. However, I see nothing in that decision inconsistent with my holding in this matter. The statute speaks of detailed plans and not alternative designs. Once a design is approved, the detailed plans implementing that design follow for final review by the agencies. In this case I must decide whether the development plan presented is approved or not.

Decision

I find that the testimony of Mr. O'Leary highly creditable. Not only does he have extensive experience in the design and review of storm water management facilities, it is obvious Mr. Sheppe recognized him as a peer whose suggested infiltration system was worthy of serious consideration. I further find Mr. O'Leary's infiltration design is at the same stage that the sand filter over the hill method was when submitted to DEPRM in the alternatives analysis. My

review of Developer's Exhibit No. 5 shows no more depth of design for the sand filter over the hill method as compared to Mr. O'Leary's and Mr. Sheppe's testimony regarding the infiltration system. Consequently, I find that the infiltration system is a viable alternative which does not require going through the forest buffer with storm water management facilities. Section 14-342 (b)(1) provides the exception to (a)(1) requirement not to disturb vegetation in forest buffers only in those cases where there is no feasible alternative. I am bound to independently apply this section as is DEPRM. I find that the infiltration system is a feasible alternative and consequently that the sand filter over the hill system described in the Development Plan is not approved.

I will approve a Modified Development Plan which incorporates a storm water system (using infiltration or otherwise) which does not violate the forest buffer. I do not agree to put this matter off to a later stage of development approval. I hold that I am not bound as the Developer suggests to approve both the sand filter and infiltration system. In fact, I approve neither. I do not approve the sand filter over the hill system as there is a feasible alternative using the infiltration system. I do not approve the infiltration system because it has not been reviewed and approved by DEPRM. I had hoped this review of the infiltration system would have been able to have been accomplished by the time the record closed in this case, as I expressed to the parties many times during the hearing. However, while I am sure best efforts were made to do so, apparently there was just not time for all submittals and reviews. To receive DEPRM approval, the Developer must provide the next level of design information for this system to be incorporated in the Development Plan. Upon review and approval by DEPRM of a storm water system which does not violate the forest buffer, I will approve the southern pod.

It is important to also say what this decision is not. It is not a review and overturning of the original DEPRM approval of the alternatives analysis. Neither Mr. Sheppe nor DEPRM had the infiltration system to consider when Mr. Sheppe submitted comments and in turn DEPRM reviewed Developer's Exhibit No. 5. This is not a matter of my choosing infiltration over sand

filter. This is new material to consider and shows exactly why there is an independent review of agency approvals. Moreover, this is not a criticism of either Mr. Sheppe or DEPRM on my part. They did not have the information that I have in this matter, which to the Protestant's credit, was recently brought to our collective attention.

Northern Pod

Testimony and Evidence (Traffic)

The source of problems with traffic generated by this pod is that Mr. Becker owns only approximately 100 ft. of road frontage on the west side of Falls Road. This means that any road from the pod is severely limited where it can be located. The Becker and Keller families have used a private driveway at this location to access Falls Road. The Development Plan shows a new public road (Rose Court) replacing the driveway which will handle the Keller and Becker traffic, plus the traffic from 10 new homes. Applecroft Lane, which is on the same side of Falls Road, is approximately 170 ft. centerline to centerline north of the intersection of Rose Court. Across Falls Road is Hickory Hill Road but, the centerlines of these roads are offset. Finally, the Jones property driveway is on the same side as and immediately adjacent to Rose Court to the south.

We were fortunate to have two fully qualified traffic engineers testify at the hearing. Both agreed that Baltimore County uses the American Association of State Highway and Transportation Officials (AASHTO) publication, A Policy on Geometric Design of Highways and Streets, 4th Edition, 2001 as the standard for highway and street design in the County. All agreed that the posted speed limit for vehicles on this portion of Falls Road is 40 mph.

The Protestants called John Seitz, a traffic engineer, who testified concerning the dangers he saw to drivers entering Falls Road from Rose Court from traffic coming from the south. The measure of safety in such situations is sight distance or the distance someone can see approaching traffic. He explained that there are two commonly held definitions of sight distance

in use by traffic engineers. The first is stopping sight distance which he explained is the safe stopping distance for drivers on a roadway when something unexpected happens in front of them. As examples, he cited a child wandering out into the roadway or a disabled vehicle in the road over a crest of a hill. On the other hand, intersection sight distance is the distance a driver needs who pulls out on a major road from a minor road. This includes the time it takes the vehicle pulling out to accelerate to safe speed. A comparison of the difference between stopping sight distance and intersection sight distance is shown by Table 9-55 of Protestant's Exhibit No. 13. This is a chart form the AASHTO publication mentioned above. As can be seen, both distances vary with speed. For example, the Table shows that at 40 mph the stopping sight distance is 305 ft. while the intersection sight distance is 445 ft.

Mr. Seitz testified that he measured the distance one can see an object from the perspective of a driver coming out from Rose Court onto Falls Road. He noted no problem with sight distance to the north but found the sight distance to the south problematic. Both he and the Developer's traffic engineer agreed on the standard technique used by AASHTO and traffic engineers to measure such distances. First he measured the distance one can see a standard object to the south from the existing Keller/Becker driveway which is below Falls Road. He measured 294 ft. Next he assumed that Rose Court will be elevated to the same elevation as Falls Road and this time measured 376 ft. He then testified that he reviewed the Developer's traffic study given to Baltimore County and found the study indicates the average speed on Falls Road to be 39.2 mph (85 percentile). The posted speed is 40 mph. Consequently, he chose the closest speed in the AASHTO table of 40 mph which table indicates that at 40 mph the stopping sight distance is 305 ft. while the intersection sight distance is 445 ft. He pointed out that neither the measurement of sight distance at driveway level or at the higher elevation of Falls Road met the AASHTO intersection sight distance. He testified that the intersection sight distance was the proper standard for this situation.

The Developer called Wesley Guckert, traffic engineer, to testify as a rebuttal witness. He testified that the stopping sight distance was used by all jurisdictions as the proper measure of safety for situations like the proposed road (Rose Court). He referred to sections of the AASHTO policy at page 655 which states that,

> " If the available sight distance for an entering or crossing vehicle is at least equal to the appropriate stopping sight distance for the major road, then drivers have sufficient sight distance to anticipate and avoid collisions. However, in some case, this may require a major-road vehicle to stop or slow to accommodate the maneuver by a minor-road vehicle. To enhance traffic operations intersection sight distances that exceed stopping sight distances are desirable along a major road."

He agreed with Mr. Seitz, that intersection stopping distances are greater than stopping sight distances and provide an extra measure of visibility for driver pulling out onto a major road to get up to speed. However, he insisted that stopping sight distance is the proper safety standard for major roads. (Emphasis supplied).

He agreed with Mr. Seitz that the stopping sight distance specified by AASHTO for a 40 mph road is 305 ft. However, he pointed out that vehicles going north on Falls Road climb a hill to get to the subject intersection. He then testified that the incline was 6 % which reduced the stopping sight distance from 305 ft. to an average of 278 ft. Finally, he also studied the sight distance by computer program (as opposed to field tests made by Mr. Seitz) and found that there was 371 ft. available sight distance to the south. Consequently, he testified that there was more than adequate stopping site distance available when only 278 ft. were needed.

On cross-examination, Mr. Guckert admitted that the his office concluded the average speed was 39.6 mph on Falls Road by taking 72 hour averages into account. The Protestants introduced portions of the Developer's traffic study (Protestant's Exhibit No. 12) which showed that between 9 AM and 10 AM on August 29, 2003, 61 of 140 vehicles had measured speeds over 40 mph. Likewise, on August 28, 2003 at the same hour, 68 of 152 vehicles were traveling over 40 mph. Finally, on August 27, 2003 the study shows that between 4 PM and 5 PM, 54 of 484 vehicles were traveling faster than 40 mph. Using these figures (and not 72 average figures)

the 85 percentile speed is 44 mph. The nearest AASHTO design speed is 45 mph and so the stopping sight distance would be 360 ft. while the intersection stopping distance would be 495 feet. See Table 9-55 of Protestant's Exhibit No. 13. When asked what effect the 6 per cent upgrade on Falls Road would have on the intersection stopping distance, he opined that this would reduce the 495 ft. by about 50 ft. to 395. Finally, Mr. Guckert admitted that if one adopts the intersection stopping distance as the standard the proposed intersection would not be safe.

However, Mr. Guckert maintained that the proper standard in this case is the lesser stopping sight distance. He testified that AASHTO allows either standard but that with only 11 units using Rose Court, he felt this was the proper choice. He said that had this development been a 300 dwelling proposal, he may have chosen the higher standard.

Jones Sight Obstructions

The Protestants raised the issue of a fence being erected by the neighbors to the south. These owners are listed as "Kaufman" on the Development Plan, but it is uncontroverted that the property has been bought by Peter and Mary Ann Jones. Mrs Jones testified as a Protestant. As shown on all exhibits, the Jones driveway is within feet of the Becker property boundary where it connects to Falls Road. Within this small area, Mrs. Jones expressed a desire to build a privacy fence perhaps 6 ft. tall to the edge of Falls Road. When asked about such a fence, Mr. Guckert admitted that it would obstruct a driver's view south, reducing the sight distance to perhaps 110 ft. but that the State Highway Administration would regulate any fencing that would obstruct driver's view.

He was asked about a situation without a fence where Mrs. Jones was waiting in her vehicle to enter Falls Road from her driveway and another driver wished to enter Falls Road simultaneously from Rose Court. He indicated that if Mrs. Jones' vehicle was blocking the view from vehicles in Rose Court, Mrs. Jones has the right of way as the vehicle on the right. The

driver of the vehicle on Rose Court must exercise caution and let Mrs. Jones enter before attempting the same.

Offset Intersections

Hickory Hill Road does not directly face the new intersection of Rose Court. Mr. Seitz and Mr. Guckert agreed that the best design is align the new road with Hickory Hill Road from a safety standpoint. Mr. Becker does not have enough frontage on Falls Road to align the new road with Hickory Hill Road. Mr. Seitz and Mr. Guckert also agreed that, if one cannot align the roads, the next best design is have the new and existing roadways 100 ft. apart. They disagreed as to whether this 100 ft. was a requirement or simply a guideline, but Mr. Becker does not have enough frontage on Falls Road to move the new road 100 ft. from Hickory Hill Road. So we are faced with determining the safety of the new intersection which falls in between the goals above.

Mr. Seitz testified that he determined that the offset distance of Rose Court to Hickory Hill Road was 60 ft. centerline to centerline and 38 ft. edge to edge. See Protestant's Exhibit No. 8. He was concerned that drivers using intersections expect certain designs such as aligning intersections or having them far enough apart so that they are clearly separate. He worried that this design goes against those normal expectations and will cause confusion for drivers as they come to gain access to Falls Road from both Rose Court and Hickory Hill Road. Particularly, he was concerned that drivers trying to get onto Falls Road from either Rose Court or Hickory Hill Road will not pay attention to other drivers from those roads doing the same thing. Lay witnesses testified that Hickory Hill Road served approximately 44 homes.

The County Bureau of Development Plans Review Policy Manual at page 22, General Guidelines, provides in part:

> Sec. 5 "Intersection Spacing - Where possible, the distance between public or private intersections shall be at least 100 feet, measured edge of road to edge of road. However sight distance or traffic operation considerations may take precedence. The Department

of Public Works may increase this distance requirement for arterial and major collector roads ….."

Mr. Guckert testified that he was not concerned about the offset issue. He was aware that Hickory Hill serves approximately 40 homes. He did not regard the 100 ft. separation as a "regulation" but rather as a guide. In addition, as Mr. Becker did not own enough property on Falls Road, it clearly was not possible to comply with the Manual. Again, he felt that Rose Court would not be serving a large subdivision. Consequently, the alignment was acceptable and Baltimore County had approved the arrangement.

Finding of Fact and Conclusions of Law (Traffic)

Two qualified traffic experts came to opposite conclusions in regard to the safety of proposed intersection of Rose Court and Falls Road looking south from Rose Court. However, they did not disagree about the facts of the situation. I find that both were credible witnesses from each person's viewpoint. I take into account the fact that vehicles can stop quicker going uphill as pointed out by Mr. Guckert and that significant traffic on Falls Road regularly exceeds the 40 mph speed limit as pointed out by the Protestants. These factors seem to cancel one another. Both experts agree that the intersection does not meet the AASHTO intersection stopping distance criteria. Conversely, both would agree that that the intersection meets the AASHTO stopping sight distance criteria. AASHTO clearly gives the option to chose either depending on circumstances

I find the likelihood of Mrs. Jones building a 6 ft. high privacy fence onto the edge of Falls Road most unlikely as this would cut off her view of traffic from the north making her entrance onto Falls Road most hazardous. The Protestants point, however, is that Mr. Becker owns so little frontage on Falls Road that he cannot himself guarantee clear sight distance to the south, no matter what standard is used. In addition, he cannot align the proposed road with Hickory Hill Road, nor can he separate the new intersection from Hickory Hill Road the prescribed 100 ft.

There is no fault here. His engineers have done all they could to mitigate the safety problem under the circumstances.

In my view, a large part of the problem is that Rose Court will be a public road. I am persuaded by Mr. Seitz's testimony, that driver expectation plays a large role in determining whether in practice an intersection will be safe. No one assures perfection. No on expects perfect safety under all possible circumstances. But I am convinced that drivers using Rose Court would expect a "normal" intersection by the physical amenities of a public road with a public road. I also find that they will be disappointed and unduly endangered by the proposed intersection.

Considering both the AASHTO intersection sight distance and stopping sight distances, the sight distance looking south from Rose Court is at best marginal. Standing alone and considering the low number of homes to be served by Rose Court, I could approve the plan. However, when I combine this with the fact that Rose Court is neither aligned with nor far enough away from Hickory Hill Road, I find the situation passes from marginal to unsafe.

Perhaps a simple illustration will show my concerns. On a workday morning, drivers are coming out of Applecroft Lane, Rose Court, Hickory Hill Road and the Jones driveway to get onto Falls Road to go to work or school. Traffic is flowing both ways on Falls Road and as shown by the traffic data a significant portion of this traffic exceeds the 40 mph speed limit. The vehicle coming from Applecroft wants to turn right to go toward Rose Court. The vehicle on Rose Court wants to turn left to go north on Falls Road. The vehicle on Hickory Hill wants to go north on Falls Road. And last, but certainly not least, Mrs. Jones wants to go north on Falls Road. All traffic from these side roads stops waiting for a break in Falls Road traffic. Their attention is riveted on Falls Road traffic. When a break comes in the flow of traffic, who goes first?

Adding to the "Who Knew" category, Mr. Guckert tells us that vehicles must yield to those on the right even if the vehicles are parallel to one another. I am sure he is correct in the law. But, I did not know that and I doubt many drivers have heard of such a rule. Is a driver across Falls Road on one's right? What I foresee are drivers frustrated by having to wait for Falls Road traffic coming out of Applecroft, Rose Court, Hickory Hill and the Jones driveway in a mad and dangerous scramble to accelerate onto Falls Road. They are not going to be looking for traffic coming from the other side roads.

This problem of acceleration leads me to adopt the AASHTO intersection stopping distance as the proper standard for this intersection. I find it more persuasive in this situation to take into account that vehicles must get up to speed to safely enter Falls Road. Drivers from the side roads will be challenged to weave their way onto Falls Road. I am not satisfied, given the scramble in front of them, that vehicles on Falls Road should not have the additional distance to avoid accidents with vehicles coming form the side roads. I am persuaded by the cumulative weight of evidence that the proposed intersection is not safe and I will not approve the northern pod under the present situation.

That said, a more challenging problem is what to do about it? The Keller and Becker families use this same place to enter Falls Road everyday. By not approving the proposed intersection shall I say that Mr. Becker can not sell any lots in the northern pod? If two homes now use the entrance, would three homes be a danger? My resolution of this dilemma is again to look at driver's expectations as articulated so well by Mr. Seitz. In my view a large part of the problem arises with the fact that Rose Court is to be a public road. Certain amenities come with this that do not arise in my view if the entrance to Falls Road is merely a driveway.

Testimony and Evidence (Keller Issues)

Keller Driveway

Mrs. Keller, an adjacent property owner, shares the present 1,400 ft. long driveway from Falls Road with Mr. Becker. If the Development Plan is approved, she would have access to Falls Road via Rose Court using a shared driveway with Lot 8 of the new development. She complained about this arrangement wanting an in fee driveway from Rose Court. The Developer agreed and this change is shown on Developer's Exhibit No. 3D. I certainly approve the change.

Storm Water Management (Northern Pod)

Mrs. Keller, also complains of the visual impact of the storm water management system proposed. Most particularly she objects to the two sand filter facilities proposed just below her home. She indicates that she has lived in her home for many years and enjoyed the unimpeded view of the Becker lawn and pond just to the southwest of her property. The Developer proposed to build two sand filter facilities close to the Keller property boundary, which the Keller's would undoubtedly see from their home.

Mr. Sheppe, the developer's engineer testified that the storm water management system on the northern pod meets the County and Maryland Department of the Environment criteria for such facilities. The system handles storm water generated by the impervious portions of Lots 8, 9 10, 11 and the public road. The focus with this system is to improve water quality under the new regulations. He testified that he located the sand filter facilities, which are essential to achieving the water quality goals, at the lowest place on the northern pod where facilities must be located. The location was further constrained by the topography of the site and having to avoid the forest buffer areas (as he had an alternative location near the Keller's). Mr. Sheppe admitted on cross-examination that the sand filter could be reduced in sized and moved back from the Keller property line. However, he indicated these devices could not go away.

Mr. O'Leary, the protestant's civil engineer, testified that an alternative to the sand filter design shown in the Development Plan, would be a serpentine swale as shown on Protestant's Exhibit No. 6. This would accomplish the water quality goal without the unsightly sand filter pits in the proposed design. As above, Mr. Sheppe testified that the suggestion had merit from an engineering standpoint but that it would require crossing the forest buffers on the northern pod. An alternative analysis would have to be submitted to DEPRM who may not approve it because there is a feasible alternative with the sand filter system over by the Keller's property.

Separate Approvals

As indicated at the beginning of this Order, the northern pod is completely separate from the southern pod which is separate from Lot 20. No roads directly connect these areas. Storm water management facilities are not in any way tied to one another. Without laboring the point, I see these as three distinct developments albeit they are described on one development plan.

I hold that just as I may impose conditions on any portion of the plan, I may approve any portion of the plan separately. Said another way, because I do not approve one portion of the plan does not in this limited case mean that I disapprove the whole plan. Consequently, I will approve or disapprove sections of this plan.

Conclusion (Northern Pod)

Having found the proposed intersection unsafe, I cannot provide some exact criteria under which I will approve the northern pod. However, I can provide some general concepts. First, Rose Court should not be a public road, which may mislead travelers at the intersection with Falls Road. The number of lots should be reduced to that number allowed to be developed using a private driveway. Not having a public road and having fewer lots, the storm water management system requirement will be reduced perhaps enough to allow new design (whether serpentine swale or not) to satisfy Mrs. Keller's concern about the sand filters close to her property.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 12 day of March, 2004, that the request for Special Hearing requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for: (1) approval of undersized R.C.4/R.C.5 areas associated with Lots 2 through 6, 15-17 and 20; (2) approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure; (3) approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure; and (4) a special hearing to amend the order and approved site plan in Case No. 94-256-SPH, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Development Plan known as the "Becker Property", submitted into evidence as "Developer's Exhibit Nos. 3A, 3 B, 3C, 3D and 3E ", is hereby approved in part and not approved in part as below:

1. The in fee access to the Keller property as shown on Developer's Exhibit No. 3D is **APPROVED**;

2. Lot 20 is **APPROVED**;

3. I will **APPROVE** the southern pod which incorporates a storm water management system that does not cross the forest buffers and is approved by DEPRM and all other affected agencies;

4. I **DO NOT APPROVE** the northern pod but will allow the developer to submit revised designs, which provide a safe intersection of any driveway, which serves the pod and Falls Road and revised storm water management system.

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

ORDER RECEIVED FOR FILING
Date 3/12/04
By B

JVM:raj

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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

March 12, 2004

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

G. Macy Nelson, Esquire
401 Washington Avenue, Suite 803
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Re: Hearing Officer's Hearing & Special Hearing Request
Case Nos. VIII-791 & 04-262-SPH
W/S Falls Road, N Broadway Road
Property: Becker Property

Dear Messrs. Barhight, Nelson & Holzer:

Enclosed please find the decision rendered in the above-captioned case. The Development Plan for the "Becker Property" has been approved in accordance with the enclosed Order.

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

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Copies to:

David Taylor, 1220-C, E. Joppa Rd., Towson, MD 21286
Arthur H. Becker, Sr. 12170 Falls Rd., Cockeysville, MD 21030
Wes Guckert, Traffic Group, 9900 Franklin Sq. Dr., #H, Baltimore, MD 21236
Ernest Sheppe & William Kopajtic, 3445-A, Box Hill Corp. Dr., Abingdon, MD 21009
Arthur & Darlene Becker, 31 Wally Ct., Timonium, MD 21093
Nancy & Charles Miller, 33 Wally Ct., Timonium, MD 21093
Randy McMenamin, 11810 Ridgemont Rd., Lutherville, MD 21093
Mary Jo Keller, 12168 Falls Rd., Cockeysville, MD 21030
Arthur D. Casey, Jr. 11812 Ridgemont Rd., Lutherville, MD 21093
Kirvah H. Pierson, Jr., 1406 Chippendale Road, Lutherville, MD 21093
Lee Von Paris, 12132 Falls Rd., Cockeysville, MD 21030
Mary Lapides, 12132 Falls Rd., Cockeysville, MD 21030
Marcia Goldberg, 12165 Falls Road, Cockeysville, MD 21030
Maryann Jones, 12164 Falls Rd., Cockeysville, MD 21030
Jim Drayton, 1505 Applecroft La., Cockeysville, MD 21030
Anne Shelton (Preston), 11918 Meylston Dr., Lutherville, MD 21093
Barri Klein, 11806 Ridgemont Rd., Lutherville, MD 21093

Don Rascoe, Project Manager
Jim Mezick, Fire Department
Jan Cook, Recreation & Parks
Mark Cunningham, Office of Planning
R. Bruce Seeley, Dept. of Environmental Protection & Resource Mgmt.
Robert Bowling, Development Plans Review
Stephanie Wright, Bureau of Land Acquisition
Donna Thompson, Zoning Review

Zoning Commissioner

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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

March 12, 2004

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

G. Macy Nelson, Esquire
401 Washington Avenue, Suite 803
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Re: Hearing Officer's Hearing & Special Hearing Request
Case Nos. VIII-791 & 04-262-SPH
W/S Falls Road, N Broadway Road
Property: Becker Property

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R. Bruce Seeley, Dept. of Environmental Protection & Resource Mgmt.
Robert Bowling, Development Plans Review
Stephanie Wright, Bureau of Land Acquisition
Donna Thompson, Zoning Review

CASE NO. 04-262-SPH
AMENDED

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 12170 Falls Road
which is presently zoned RC4/RC5

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

PLEASE SEE ATTACHED

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

D. R. Horton
Name - Type or Print

James Proakis
Signature by James Proakis

1370 Piccard Drive 301-670-6144
Address Telephone No.

Rockville MD 21850
City State Zip Code

Attorney For Petitioner:

G. Scott Barhight
Dino C. La Fiandra
Name - Type or Print

Dino C. La Fiandra
Signature

Whiteford, Taylor & Preston, LLP
Company

210 W. Pennsylvania Avenue 410-832-2000
Address #400 Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

Arthur H. Becker
Name - Type or Print

X Arthur H. Becker
Signature

Dorothy E. Becker
Name - Type or Print

Signature

12170 Falls Road
Address Telephone No.

Cockeysville MD 21030
City State Zip Code

Representative to be Contacted:

Dino C. La Fiandra
Name

210 W. Pennsylvania Avenue 410-832-2000
Address #400 Telephone No.

Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By JRF Date 1/9/04

3/12/04 KQ Amended

Case No. 04-262-SPHA

Revised

REV 9/15/98

Petition for Special Hearing

Continuation Sheet
12170 Falls Road
Arthur H. & Dorothy E. Becker, Owners
D.R. Horton, Applicant

Relief Requested:

1. Approval of undersized R.C. 4 / R.C. 5 areas associated with Lots 2 through 6, 15 through 18 and 20.
2. Approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure.
3. Approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure.
4. A Special Hearing to Amend the Order and approved site plan in case no. 94-256-SPH

CASE NO. 04-262-SPH

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 12170 Falls Road

which is presently zoned RC4/RC5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

Please see attached.

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

To be shown at hearing.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

D. R. Horton
Name - Type or Print

James Proakis
Signature by James Proakis

1370 Piccard Drive 301-670-6144
Address Telephone No.

Rockville MD 21850
City State Zip Code

Attorney For Petitioner:

G. Scott Barhight

Dino C. La Fiandra
Name - Type or Print

Signature

Whiteford, Taylor & Preston, LLP
Company

210 W. Pennsylvania Ave. 410-832-2000
Address #400 Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

Arthur H. Becker
Name - Type or Print

Arthur H. Becker
Signature

Dorothy E. Becker
Name - Type or Print

Signature

12170 Falls Road
Address Telephone No.

Cockeysville MD 21030
City State Zip Code

Representative to be Contacted:

Dino C. La Fiandra
Name

210 W. Pennsylvania Ave 410-832-2000
Address Telephone No.

Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 04-262-SPHA

Reviewed By JRP Date 11/9/04

REV 9/15/98

ORDER RECEIVED FOR FILING
Date 3/12/04
By KE

Petition for Variance

Continuation Sheet
12170 Falls Road
Arthur H. & Dorothy E. Becker, Owners
D.R. Horton, Applicant

Relief Requested:

Variance from BCZR § 400.1 to permit the continuation of existing accessory buildings on proposed lot 7, in a residential zone, in the front yard in lieu of in the rear yard.

MORRIS & RITCHIE ASSOCIATES, INC.

ARCHITECTS, ENGINEERS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS

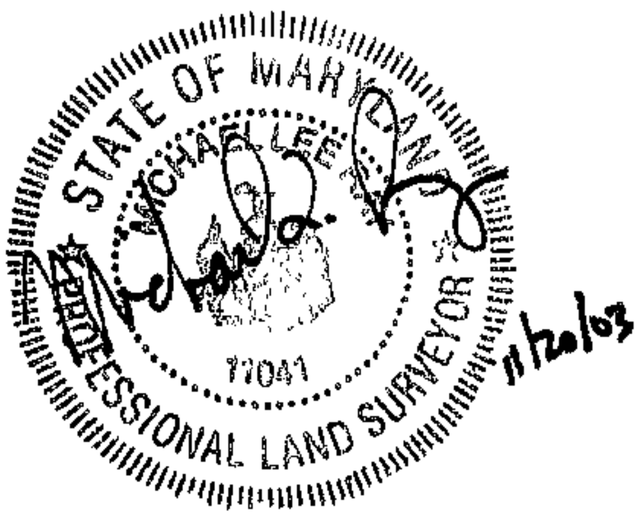
Zoning Description

Beginning at a point located in the centerline of Falls Road (Maryland Route 25) which has a variable width, at the distance of 7.0 feet northwesterly of the centerline of the nearest intersecting street, Hickory Hills Lane which has a variable width. **Thence** the following courses and distances, referred to the Maryland Coordinate System (NAD '83/91):

South 61 degrees 46 minutes 59 seconds West, 78.40 feet to a point; South 10 degrees 56 minutes 27 seconds East, 68.44 feet to a point; South 05 degrees 33 minutes 04 seconds West, 163.84 feet to a point; South 06 degrees 08 minutes 41 seconds West, 782.45 feet to a point; South 61 degrees 10 minutes 39 seconds East, 254.82 feet to a point; South 00 degrees 14 minutes 33 seconds East, 265.25 feet to a point; South 43 degrees 57 minutes 47 seconds East, 483.08 feet to a point; North 65 degrees 09 minutes 55 seconds East, 52.69 feet to a point; North 67 degrees 28 minutes 27 seconds East, 55.03 feet to a point; North 73 degrees 05 minutes 58 seconds East, 56.54 feet to a point; North 63 degrees 36 minutes 22 seconds East, 44.56 feet to a point; North 65 degrees 37 minutes 10 seconds East, 82.80 feet to a point; North 86 degrees 40 minutes 17 seconds East, 55.00 feet to a point; North 63 degrees 26 minutes 46 seconds East, 54.12 feet to a point; North 02 degrees 28 minutes 59 seconds East, 39.22 feet to a point; North 29 degrees 04 minutes 28 seconds East, 37.06 feet to a point; South 61 degrees 23 minutes 43 seconds East, 91.97 feet to a point; South 07 degrees 09 minutes 25 seconds East, 1580.38 feet to a point; South 79 degrees 52 minutes 32 seconds West, 702.16 feet to a point; North 46 degrees 53 minutes 57 seconds West, 826.13 feet to a point; North 71 degrees 22 minutes 53 seconds West, 493.27 feet to a point; North 48 degrees 06 minutes 54 seconds East, 97.59 feet to a point; North 34 degrees 26 minutes 58 seconds East, 190.74 feet to a point; North 11 degrees 16 minutes 23 seconds West, 70.01 feet to a point; North 56 degrees 16 minutes 23 seconds West, 420.90 feet to a point; North 46 degrees 16 minutes 23 seconds West, 82.00 feet to a point; South 66 degrees 43 minutes 37 seconds West, 67.23 feet to a point; South 18 degrees 00 minutes 54 seconds East, 215.02 feet to a point; South 42 degrees 14 minutes 18 seconds West, 279.63 feet to a point; North 71 degrees 22 minutes 53 seconds West, 28.66 feet to a point; North 12 degrees 50 minutes 47 seconds West, 1116.43 feet to a point; North 41 degrees 59 minutes 06 seconds East, 527.25 feet to a point; South 48 degrees 00 minutes 54 seconds East, 60.00 feet to a point; North 41 degrees 59 minutes 06 seconds East, 100.85 feet to a point; North 40 degrees 24 minutes 42 seconds East, 1263.62 feet to a point; North 43 degrees 47 minutes 52 seconds East, 51.52 feet to a point; South 27 degrees 08 minutes 52 seconds East, 68.60 feet to a point; North 07 degrees 06

minutes 00 seconds East, 38.99 feet to a point; South 28 degrees 48 minutes 05 seconds East, 71.52 feet to the point and place of beginning and being known as #12170 Falls Road.

Containing 3,872,773 square feet or 88.9066 acres of land, more or less, and being located in the Eighth Election District of Baltimore County, Maryland.



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 32691

DATE 1/9/04 ACCOUNT 001-0006-6150

AMOUNT $ 200.00

RECEIVED FROM: Morris & Ritchie Associates, Inc.
1220 Eells Rd. ITEM # 262

FOR: SMHA
Revision Fee

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

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: #04-262-SPH
12170 Falls Road
W/side of Falls Road at a distance of 7 feet south from the centerline of Hickory Hill Road.
8th Election District - 2nd Councilmanic District
Legal Owner(s): Arthur Becker
Contract Purchaser: D.R. Horton by James Proakis

Special Hearing: for approval of undersized RC 4/RC 5 areas associated with Lots 2 through 6, 15 through 18, 20. To permit the approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure. To permit the approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure. A Special Hearing to amend the order and approved site in case no.94-256-SPH. **Variance:** to permit the continuation of existing accessory buildings on proposed lot 7 in a residential zone, in the front yard in lieu of the rear yard.

Hearing: Thursday, January 29, 2004 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.

JT/1/674 Jan 13 C644570

CERTIFICATE OF PUBLICATION

1/14/, 2004

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/13/, 2004.

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

P. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 04-262-SPH

Petitioner/Developer: DR. HORTON
BY JAMES PROAKIS
✓ ARTHOR BECKER

Date of Hearing/Closing: 1/29/04

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:

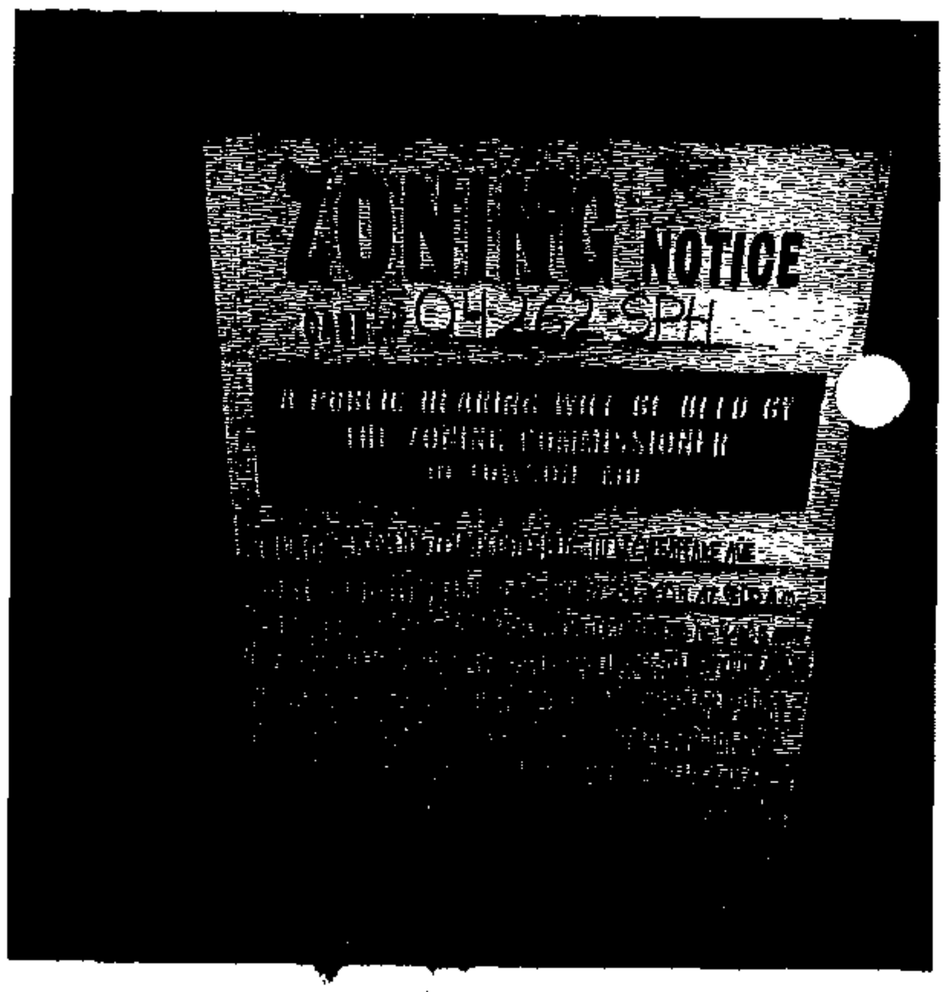
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

12170 FALLS RD

(2) SIGNS POSTED (1) ON FALLS Rd (1) ON RIDGEMONT

The sign(s) were posted on 1/12/04
(Month, Day, Year)

Sincerely,



(Signature of Sign Poster) 1/12/04 (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

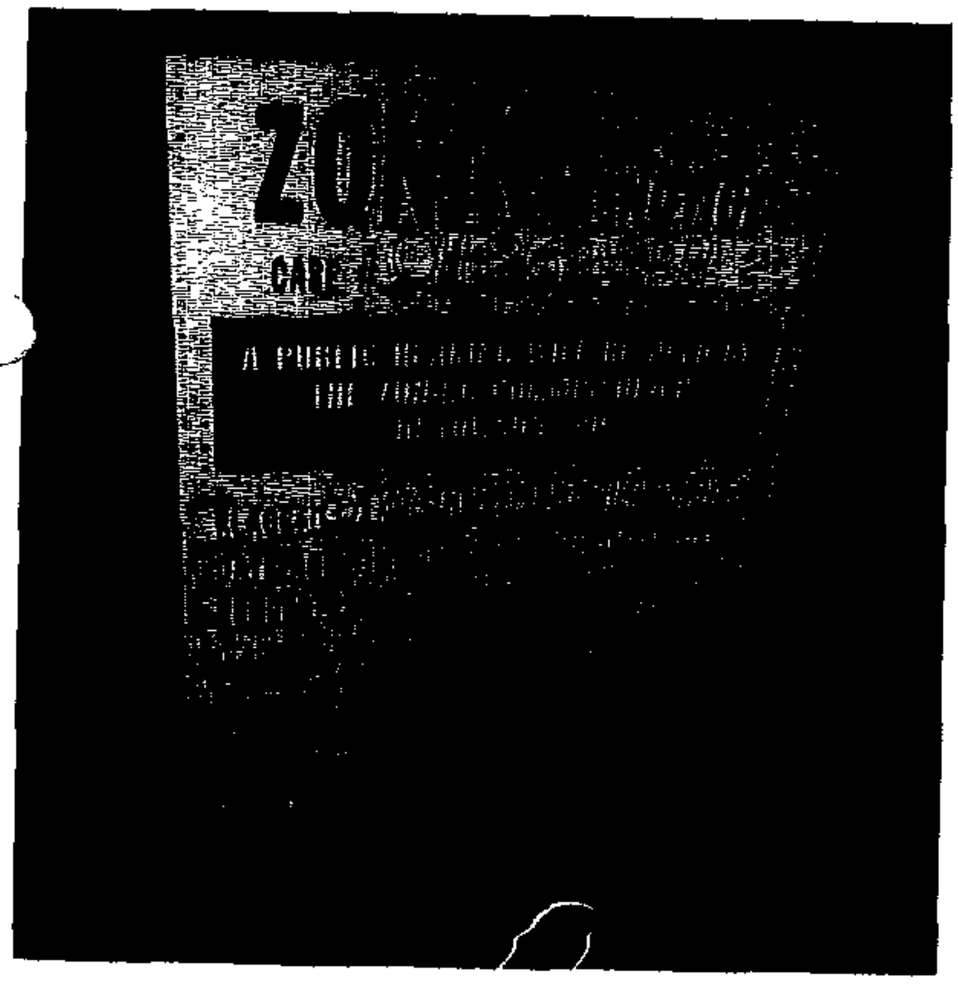
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



Department of Permits and Development Management

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

Baltimore County

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

January 9, 2004

CORRECTED NOTICE OF ZONING HEARING

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

CASE NUMBER: 04-262-SPH
12170 Falls Road
W/side of Falls Road at a distance of 7 feet south from the centerline of Hickory Hill Road
8th Election District – 2nd Councilmanic District
Legal Owner: Arthur Becker
Contract Purchaser: D.R. Horton by James Proakis

Special Hearing for approval of undersized RC 4/RC 5 areas associated with Lots 2 through 6, 15 through 18, 20. To permit the approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure. To permit the approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure. A Special Hearing to amend the order and approved site in case no. 94-256-SPH. A Variance to permit the continuation of existing accessory buildings on proposed lot 7 in a residential zone, in the front yard in lieu of the rear yard.

Hearing: Thursday, January 29, 2004, at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue

Timothy Kotroco
Director

TK:klm

C: G. Scott Barhight, 210 W. Pennsylvania Avenue, Ste. 400, Towson 21204
Arthur Becker, 12170 Falls Road, Cockeysville 21030
D.R. Horton, 1370 Piccard Drive, Rockville 21850
Dino LaFiandra, 210 W. Pennsylvania Ave., Ste. 400, Towson 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JANUARY 14 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 13, 2004 Issue - Jeffersonian

Please forward billing to:
Dino LaFiandra 410-832-2000
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

CORRECTED NOTICE OF ZONING HEARING

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

CASE NUMBER: 04-262-SPH
12170 Falls Road
W/side of Falls Road at a distance of 7 feet south from the centerline of Hickory Hill Road
8th Election District – 2nd Councilmanic District
Legal Owner: Arthur Becker
Contract Purchaser: D.R. Horton by James Proakis

Special Hearing for approval of undersized RC 4/RC 5 areas associated with Lots 2 through 6, 15 through 18, 20. To permit the approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure. To permit the approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure. A Special Hearing to amend the order and approved site in case no. 94-256-SPH. A Variance to permit the continuation of existing accessory buildings on proposed lot 7 in a residential zone, in the front yard in lieu of the rear yard.

Hearing: Thursday, January 29, 2004, at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue

Lawrence E. Schmidt

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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 13, 2004 Issue - Jeffersonian

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Dino LaFiandra 410-832-2000
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

Corrected

NOTICE OF ZONING HEARING

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

CASE NUMBER: 04-262-SPH
12170 Falls Road
W/side of Falls Road at a distance of 7 feet south from the centerline of Hickory Hill Road
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Legal Owner: Arthur Becker
Contract Purchaser: D.R. Horton by James Proakis

Special Hearing for approval of undersized RC 4/RC 5 areas associated with Lots 2 through 6, 15 through 18, 20. To permit the approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure. To permit the approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure.

Hearing: Thursday, January 29, 2004, 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Department of Permits and Development Management

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

Baltimore County

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

December 24, 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: 04-262-SPH
12170 Falls Road
W/side of Falls Road at a distance of 7 feet south from the centerline of Hickory Hill Road
8th Election District – 2nd Councilmanic District
Legal Owner: Arthur Becker
Contract Purchaser: D.R. Horton by James Proakis

Special Hearing for approval of undersized RC 4/RC 5 areas associated with Lots 2 through 6, 15 through 18, 20. To permit the approval of septic reserve area on Lot 20 which is in a different zoning area than the proposed structure. To permit the approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure.

Hearing: Tuesday, February 10, 2004, at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco
Director

TK:klm

C: G. Scott Barhight, 210 W. Pennsylvania Avenue, Ste. 400, Towson 21204
Arthur Becker, 12170 Falls Road, Cockeysville 21030
D.R. Horton, 1370 Piccard Drive, Rockville 21850
Dino LaFiandra, 210 W. Pennsylvania Ave., Ste. 400, Towson 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JANUARY 26, 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 27, 2004 Issue - Jeffersonian

Please forward billing to:
Dino LaFiandra
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

410-832-2000

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: 04-261-A
2222 Silver Lane
N/side of Silver Lane at the distance of 460 feet +/- from the centerline of River Road
15th Election District – 6th Councilmanic District
Legal Owners: Francis Kreamer and Madeline Kreamer (Deceased)

Variance to permit a front yard setback of 60 feet from the center of the road in lieu of the required 75 feet and side yard setbacks of 15 feet and a rear yard setback of 28 feet in lieu of the required 50 feet respectively, and a lot area of 8,204.06 square feet in lieu of the required 43,560 square feet. To approve an undersize lot an any other variances as deemed necessary by the zoning commissioner.

Hearing: Thursday, February 5, 2004, at 10:00 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: ~~04-01~~ 04-262-SPH

Petitioner: Arthur Becker

Address or Location: 12170 Falls Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Dino LaFiandra

Address: 210 W. Pennsylvania Ave #400
Towson, MD 21204

Telephone Number: 410-832-2000

Revised 2/20/98 - SCJ

Department of Permits and Development Management

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

Baltimore County

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

January 23, 2004

Dino LaFiandra
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

Dear Mr. LaFiandra:

RE: Case Number: 04-262-SPHA, 12170 Falls Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 9, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:klm

Enclosures

c: People's Counsel
Arthur & Dorothy Becker, 12170 Falls Rd., Cockeysville 21030
D.R. Horton, James Proakis, 1370 Piccard Dr., Rockville 21850

Baltimore County
Fire Department

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

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

December 9, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: December 8, 2003

Item No: 249, 256-266 ~~262~~

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*

State Highway Administration
Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: December 10, 2003

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

RE: Baltimore County
Item No. 262 (JRF)
12170 Falls RD
MD 25
Mile Post 7.08

Dear Ms. Hart:

We have reviewed the referenced item and have no objection to approval of the Special Hearing. However, we will require the owner to obtain an access permit through our office for the roadway improvements within the Maryland State Highway Administrations' right of way.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: December 24, 2003

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

SUBJECT: Zoning Advisory Committee Meeting
For December 15, 2003
Item Nos. 249, 256, 257, 258, 260,
261, 262, 264, 265, and 266

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

RWB:CEN:jrb

cc: File

ZAC-12-15-2003-ITEM NOS 249 AND 256-266-12242003

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEVELOPMENT PLAN CONFERENCE

TO: Timothy Kotroco, Director - Department of Permits & Development Management

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

DATE: January 7, 2004

PROJECT NAME: Becker Property

PROJECT NUMBER: VIII-791

PROJECT PLANNER: Mark A. Cunningham

GENERAL INFORMATION:

Applicant Name: D. R. Horton
1370 Piccard Drive Ste. 230
Rockville, MD 20850

Location: W/S Falls Road; N Broadway Road

Councilmanic District: 2nd

Growth Management Area: Rural Residential

Zoning: RC 4, RC 5

Acres: 88.91± acres

Surrounding Zoning and Land Use:

North:	RC 5	Rural Residential
South:	RC 5, RC 4	Rural Residential and Beaver Dam Run
East:	RC 5, RC 4	Rural Residential and Beaver Dam Run
West:	RC 5, RC 4	Rural Residential and Beaver Dam Run

Project Proposal:

The applicant proposes 20 single family detached dwelling units on 88.91± acres zoned RC 4 (63.35± acres) and RC 5 (25.56± acres). Beaver Dam Run divides the site into three separate development tracts. Access to lots 12-19 is from existing Ridgemont Road, lots 1-11 are accessed from proposed Road A and lot 20 is accessed from existing Wally Court.

PROJECT NAME: Becker Property **PROJECT NUMBER:** VIII-791

Other Anticipated Actions and Additional Review Items:

☐ Special Exception	☑ Special Hearing	☐ PUD
☐ Variance	☐ Compatibility	☐ Design Review Panel
☐ Waiver	☑ Scenic Route – **Falls Road**	☐ Other
☐ RTA Modification	☐ Referral to Planning Board	

MEETINGS:

Concept Plan Conference	03/17/03	Community Input Meeting	
Development Plan Conference		Hearing Officer's Hearing	
Planning Board			

SCHOOL IMPACT:
The Office of Planning has reviewed the School Impact Analysis submitted by the applicant and has determined that the proposed development is in compliance with Title 26, Article IX of the Baltimore County Code.

COMPREHENSIVE ZONING MAP PROCESS:
The subject property is a part of Staff Issue 02-060 and 02-062 of the CZMP to rezone the RC 5 portions of the subject property to RC 6.

SPECIAL HEARING – Case 04-262:
The Office of Planning does not oppose the petitioner's request to permit the following:

1. Approval of undersized RC 4/RC 5 areas associated with Lots 2-6, 15-18 and 20.
2. Approval of septic reserve area on Lot 20 which is in a different zone than the proposed structure provided that a density unit is also allocated from the RC 4 to this lot.
3. Approval of an existing well and a backup well area on Lot 7 within a different zoning area than the existing structure.
4. Note A-02 specifies that portions of the RC 5 area of certain lots are non-density parcel/non-buildable areas, however, building envelopes project into these areas. Please clarify.

RECOMMENDATION
The Office of Planning has reviewed the Development Plan for conformance with Concept Plan comments of March 17, 2003 and recommends the Development Plan be **APPROVED** subject to the listing below.

1. Indicate the width of the in-feet strip to be dedicated to parcel 269.

2. Correct the number of proposed lots in the RC 4 Rural Cluster Information block. The information indicates that only 7 lots are proposed.

Prepared By: _____

Section Chief: _____

MAC:kma

RE:	PETITION FOR SPECIAL HEARING 12170 Falls Road; W/side of Falls Rd, 7' S c/line of Hickory Hill Rd 8th Election & 2nd Councilmanic Districts Legal Owner(s): Arthur H Becker Contract Purchaser(s): D.R. Horton by James Proakis Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 04-262-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 and documentation filed in the case.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 2003, a copy of the foregoing Entry of Appearance was mailed to Dino C LaFiandra, Esquire & G Scott Barhight, Esquire, Whitefore, Taylor & Preston, LLP,, 210 W Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

DINO C. LA FIANDRA
DIRECT NUMBER
410 832-2084
DLafiandra@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

December 29, 2003

Ms. Becky Hart
Baltimore County Bureau of Zoning Review
111 W. Chesapeake Avenue, Room 111
Towson, MD 21204

Re: Zoning Case No. 04-262-SPH

Dear Ms. Hart:

I am in receipt of your Notice of Zoning Hearing scheduling the above-referenced matter for February 10, 2004. By letter dated December 3, 2004, copy enclosed, I had requested a combined zoning hearing and hearing officer's hearing under Baltimore County Code, § 26-206.1. Please note that Mr. Rascoe has scheduled the hearing officer's hearing for January 29, 30, and February 5, 2004. Accordingly, I would appreciate your rescheduling the zoning hearing for January 29, 2004. As discussed by phone today, when you make this change, please send me an amended Notice of Zoning Hearing.

Should you have any questions, please contact me.

Sincerely,

Dino C. La Fiandra

Enclosure

C: Mr. Arthur Becker, 12170 Falls Road, Cockeysville, MD 21030
Mr. James Proakis, 1370 Piccard Drive, Rockville, MD 21850

296671

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

DINO C. LA FIANDRA
DIRECT NUMBER
410 832-2084
DLafiandra@wtplaw.com

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FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

December 3, 2003

Via Hand Delivery
Mr. Donald Rascoe, Development Manager
Baltimore County Bureau of Development Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Ms. Becky Hart
Baltimore County Bureau of Zoning Review
111 W. Chesapeake Avenue, Room 111
Towson, Maryland 21204

Re: Becker Property
PDM Case No. VIII-791, Zoning Case No. 04-262-SPH

Dear Mr. Rascoe and Ms. Hart:

This firm represents the applicant in the above-referenced development and zoning matters. Pursuant to Baltimore County Code § 26-206.1, please note that the applicant hereby requests a combined hearing on the development plan and the Petition for Special Hearing before the Hearing Officer / Zoning Commissioner.

Should you have any questions, please contact me. Thank you for your assistance in this matter.

Sincerely,

Dino C. La Fiandra

295152

IN RE: DEVELOPMENT PLAN HEARING W/S Falls Road, N Broadway Road 8th Election District 2nd Councilmanic District (**BECKER PROPERTY**)	*	BEFORE THE HEARING OFFICER OF BALTIMORE COUNTY
Arthur H. and Dorothy E. Becker *Property Owner* D.H. Horton *Contract Purchaser* Gaylord Brooks Realty Company, Inc. *Developer/Petitioner*	* * *	**Case No. VIII-791, 04-262-SPHA and 07-091 SPH**

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

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter originally came before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County for approval of a Development Plan known as "Becker Property", prepared by Morris & Ritchie, Associates, Inc., with 20 single family dwellings on 88.91 +/- acres zoned RC 4 and RC 5. The property is located with Falls Road to the north at Hickory Hill Road and Ridgemont Road and Wally Court to the south. Beaver Dam Run divides the site into 3 separate development tracts. A Hearing Officer's Hearing was held on January 29, 2004, an Order issued on March 12, 2004 and struck by Order on Motion for Reconsideration of April 2, 2004 continuing the case to allow the Developer to present a revised development plan according to the Order of March 12, 2004.

The Developer now proposes 10 single family detached dwellings units. Access to lots 1 through 8 is from extended Ridgemont Road. Lot 9 is accessed from Wally Court. Lot 10 contains an existing home on 76.26 +/- acres, has access to Falls Road and is indicated as "future development".

In addition, the Petitioner requested originally zoning relief in Case No. 04-262-SPHA. This case was withdrawn and a new zoning Case 07-091-SPH was filed. The revised

12-11-06

1. PROPERTY OWNER:
ARTHUR H. & DOROTHY E. BECKER
12170 FALLS ROAD
COCKEYSVILLE, MD 21030

2. DEVELOPER / APPLICANT:
GAYLORD BROOKS REALTY CO., INC.
14346 JARRETTSVILLE PIKE
PO BOX 400
PHOENIX, MD 21131
ATTN.: STEVE SMITH

3. PLAN PREPARED BY:
MORRIS & RITCHIE ASSOCIATES, INC. (MRA)
1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
ATTN.: JAMES V. HERMANN, RLA

SITE DATA / GENERAL NOTES:

1. GROSS ACREAGE THIS SITE: 78.93 ACRES ± (3,438,108 S.F.±) (P. 157)
10.00 AC± (MINOR SUBDIVISION MP 92/305) (435,718 S.F.±)
88.93 AC±, (3,873,826 S.F.±) TOTAL

2. EXISTING ZONING: R.C.4 (P. 157 + TRACT 1 OF MP 92/305) = 63.36 AC± (2,759,997 S.F.±)
R.C.5 (P. 157 NORTH SECTION) = 13.65 AC± (594,594 S.F.±)
R.C.5 (P. 157 SOUTH SECTION) = 10.65 AC± (463,914S.F.±)
R.C.5 (TRACT 1 OF SM 8043-030) = 1.27 AC± (55,321S.F.±)

3. EXISTING LAND USE: RESIDENTIAL
4. PROPERTY INFORMATION
a. TAX ACCOUNT NUMBER: 0802024100 (P. 157) 1600014891 (P. 157) 2200028636 (TRACT 1)
b. DEED REFERENCE: 5069/151, 5475/136, 12071/461
c. COUNCILMANIC DISTRICT: 2
d. ELECTION DISTRICT: 8
e. CENSUS TRACT: 4083
f. ADC MAP LOCATION: MAP 17, GRID J9, K8-10
g. BALTO. COUNTY ZONING MAP REFERENCES: NW15D AND NW15E
h. TAX MAP: 50
i. PARCEL: 157 & 433, TRACT 1
j. WATERSHED: GUNPOWDER
k. SUBSEWERSHED: 36N
l. REGIONAL PLANNING DISTRICT: 307A

5. OVERALL DENSITY CALCULATIONS, INCLUDING MINOR SUBDIVISION (MP 92/305):
GROSS ACREAGE (P. 157 (78.93 AC ±) + MINOR SUB (14.13 AC ±))= 93.1 AC ±
OVERALL R.C.4 (63.36 AC ± X 0.2)= 12 DU PERMITTED
OVERALL R.C.5 (25.57 AC ± X 0.667)= 17 DU PERMITTED
TOTAL DWELLING UNITS PERMITTED (INCLUDES P.157 & MINOR SUB MP 92/305)= 29 DU
6. DENSITY USED IN MINOR SUBDIVISION (MP 92/305)= 2 DU
7. PROPOSED DENSITY:
R.C.4 = 1 EXISTING DWELLING UNIT TO REMAIN (PARCEL A)
R.C.4 = 3 PROPOSED DWELLING UNITS
R.C.5 = 5 PROPOSED DWELLING UNITS
R.C.5 (TRACT 1 FROM MINOR SUB MP 92/305) = 1 PROPOSED DWELLING UNIT
TOTAL DWELLING UNITS PROPOSED = 10 DU
8. DENSITY REMAINING = 19 DWELLING UNITS
9. OPEN SPACE:
OPEN SPACE REQUIRED - 7,000 SF ACTIVE AND 3,000 SF PASSIVE OR A COMBINATION THERE OF AS SPECIFIED IN SECTION III.D.3; OPEN SPACE PROVIDED - 0 SF; WAIVER REQUESTED AND FEE IN LIEU OF TO BE PAID.
10. FOREST CONSERVATION IS FOR THE ENTIRE PROPERTY.
11. PRIOR TO THE FINAL APPROVAL OF ANY RECORD PLAT, A PERMANENT PRESERVATION EASEMENT ON THE CONSERVANCY AREA FOR LOTS 1-8 SHALL BE RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY TO RUN WITH THE LAND AND CONTINUE IN PERPETUITY. THE CONSERVANCY AREA EASEMENT SHALL BE GRANTED TO THE COUNTY OR OTHER SUCH AGENCY OR ENTITY WHICH THE COUNTY APPROVES, AND SHALL PERMANENTLY RESTRICT FURTHER SUBDIVISION OF THE CONSERVANCY AREA. THE CONSERVANCY AREA AGREEMENT SHALL ALSO BE IN A FORM APPROVED BY THE COUNTY ATTORNEY WHO SHALL CONSULT WITH THE DIRECTOR OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
12. AVERAGE DAILY TRIPS (10/DWELLING UNIT)
(LOT 1-9) 90 + 10 FOR EXISTING DWELLING = 100 ADT'S
13. PARKING:
PARKING REQUIRED (2 PS/DWELLING UNIT) = 20 PS
PARKING PROVIDED = 20 PS
14. THE EXISTING HOUSE SHALL REMAIN ON LOT PARCEL 'A'.
15. THERE IS ONE UNDERGROUND FUEL TANK ON SITE WHICH IS LOCATED ON PARCEL 'A' AND IS NOT PROPOSED TO BE REMOVED AS PART OF THIS DEVELOPMENT AT THIS TIME.
16. EXISTING SRA LOCATIONS ARE APPROXIMATE BASED ON DOCUMENTS AT DEPRM AND FIELD OBSERVATION.
17. ONE (1) EXISTING SEPTIC SYSTEM IS ON SITE AT PARCEL 'A'. AND SHALL REMAIN IN USE AS A PART OF PARCEL 'A'.
18. THERE ARE NO FIRE HYDRANTS LOCATED NEAR THE SITE.
LOT 8 SHALL HAVE AN UNDERGROUND FIRE SUPPRESSION TANK.
A BALTIMORE COUNTY EASEMENT SHALL BE GRANTED ON LOT #8 FOR THE ACCESS AND INSTALLATION OF A 12,000 GALLON WATER STORAGE/FIRE SUPPRESSION TANK.
19. ACTION NEEDED BY THE ZONING COMMISSIONER/HEARING OFFICER OR DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT (DEPRM).
A. A VARIANCE HAS BEEN REQUESTED FROM DEPRM FOR CONTINUED USE OF A WELL AND SEPTIC FOR PARCEL 'A' IN A FOREST BUFFER/CONSERVANCY AREA.
B. A VARIANCE HAS BEEN REQUESTED FOR CONTINUED USE OF AN EXISTING DWELLING WITHIN A FOREST BUFFER ON PARCEL 'A'.
C. A SPECIAL HEARING IS REQUESTED TO APPROVE NON-DENSITY PARCELS IN R.C.4/R.C.5 AREAS ASSOCIATED WITH LOTS 4-7 AND 9.
D. A SPECIAL HEARING IS REQUESTED TO APPROVE SEPTIC RESERVE AREA (SRA) ON LOT 9, WHICH IS IN A DIFFERENT ZONING AREA THAN THE PROPOSED STRUCTURE.
E. A SPECIAL HEARING IS REQUESTED TO AMEND THE ORDER AND APPROVE SITE PLAN IN CASE #94-256-SPH.
20. PRELIMINARY FOREST CONSERVATION
A. A PRELIMINARY FOREST CONSERVATION PLAN, FOREST BUFFER ANALYSIS,FOREST CONSERVATION WORKSHEET, FOREST STAND DELINEATION AND FOREST RETENTION INVESTIGATION REPORT WAS PREVIOUSLY SUBMITTED AND APPROVED BY DEPRM, AS PART OF THE PREVIOUS DEVELOPMENT PLAN SUBMISSION.
A. A REVISED PRELIMINARY FOREST CONSERVATION PLAN AND REVISED FOREST CONSERVATION WORKSHEET SHALL BE SUBMITTED TO DEPRM TO REFLECT THE PROPOSED SITE PLAN CHANGES.
21. A 100 YEAR FLOOD PLAIN STUDY HAS BEEN SUBMITTED AND APPROVED, AUGUST 22, 2002.
22. WETLANDS HAVE BEEN FIELD DELINEATED, SURVEY LOCATED AND APPROVED BY DEPRM.
23. ACCORDING TO LORI A. BYRNE OF THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, THE WILDLIFE AND HERITAGE SERVICE HAS NO RECORDS OF FEDERAL OR STATE, RARE, THREATENED, OR ENDANGERED PLANTS OR ANIMALS WITHIN THIS PROJECT SITE (OCTOBER 28, 2002).
24. A FOREST RETENTION INVESTIGATION REPORT (FRIR) HAS BEEN APPROVED BY DEPRM, JANUARY 16, 2003.
25. AN ALTERNATIVES ANALYSIS HAS BEEN APPROVED BY DEPRM TO ALLOW A STORMWATER MANAGEMENT OUTFALL WITHIN A FOREST BUFFER, JANUARY 22, 2003.
26. PER BALTIMORE COUNTY PLANNING DEPARTMENT AND MARYLAND HISTORICAL TRUST THERE ARE NO BUILDINGS, PROPERTY OR SITE WITHIN OR CONTIGUOUS TO THE PROPOSED DEVELOPMENT INCLUDED ON THE MARYLAND HISTORICAL TRUST INVENTORY OF HISTORICAL PROPERTIES, THE BALTIMORE COUNTY PRELIMINARY OR FINAL LANDMARKS LIST, THE NATIONAL REGISTER OF HISTORICAL PLACES, THE MARYLAND ARCHAEOLOGICAL SURVEY OR IDENTIFICATION OF ANY BALTIMORE COUNTY HISTORIC DISTRICT OR NATIONAL REGISTER DISTRICT OR NATIONAL REGISTER DISTRICT COVERING THE PROPOSED DEVELOPMENT.
27. THERE ARE NO AREAS OF DESIGNATED CRITICAL STATE CONCERN ON THIS SITE.
28. LOTS 1-9 AND PARCEL 'A' HAVE BEEN PERKED AND APPROVED BY BALTIMORE COUNTY DEPRM WITH CORRESPONDING SEPTIC RESERVE AREAS AS SHOWN. EACH LOT SHALL BE SERVICED BY AN INDIVIDUAL CONVENTIONAL SEPTIC.
29. LOTS 1-9 AND PARCEL 'A' SHALL BE SERVICED BY AN INDIVIDUAL WATER SUPPLY (WELL) AND SHALL COMPLY WITH ARTICLE II OF TITLE 35 OF THE BALTIMORE COUNTY CODE.
30. FALLS ROAD (ROUTE 25) IS A STATE ROAD.
RIDGEMONT ROAD IS A BALTIMORE COUNTY ROAD.
WALLY COURT IS A BALTIMORE COUNTY ROAD.
31. SOILS:
SOILS AS MAPPED IN THE BALTIMORE COUNTY MARYLAND SOIL SURVEY MAPS 22 & 28 ARE SHOWN ON THIS DEVELOPMENT PLAN. SEE PLAN AND SOILS CHART.
32. SIGNAGE:
ALL SIGNAGE PROPOSED SHALL BE IN COMPLIANCE WITH B.C.Z.R. SECTION 450
33. SITE ACCESS:
ACCESS FOR LOT 1-8 SHALL ACCESS FROM RIDGEMONT ROAD.
LOT 9 ACCESS SHALL BE FROM WALLY COURT.
PARCEL 'A' WILL CONTINUE TO ACCESS FROM FALLS ROAD.
34. FOREST BUFFER NOTES:
A. STANDARD NON-DISTURBANCE NOTE:
THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
B. PROTECTIVE CONVENANTS NOTE:
ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE CONVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
35. FOREST CONSERVATION SPECIMEN TREES:
A. STANDARD NON-DISTURBANCE NOTE:
THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION, SOIL COMPACTION OR EXCAVATION, INTRODUCTION OF TOXIC CHEMICALS OR OTHER DISTURBANCES DETRIMENTAL TO THE LIVE SPECIMEN TREES OR OPTIMAL ROOT ZONES FOR THESE TREES EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE
36. THERE ARE NO RESIDENTIAL TRANSITION AREAS (RTA'S).
37. THIS PLAN IS ACCURATE AND IN COMPLIANCE WITH THE BALTIMORE COUNTY DEVELOPMENT REGULATIONS.
38. THERE ARE NO OUTFALLS FROM STORMWATER MANAGEMENT FACILITIES AND THEREFORE, NO OUTFALLS ARE REQUIRED.
39. THIS PROJECT IS OUTSIDE OF THE URBAN RURAL DEMARCATION LINE.
40. THE CONCEPT PLAN AND MINUTES FROM THE CIM WHICH IDENTIFY ALL COMMENTS CAN BE FOUND IN PDM FILE NUMBER VIII-791, ON FILE IN ROOM 123 OF THE BALTIMORE COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVE., TOWSON, MARYLAND 21204.
41. MAXIMUM BUILDING HEIGHT FOR NON-AGRICULTURAL PRINCIPAL BUILDINGS IS 35 FEET.

41. THIS DEVELOPMENT PLAN APPROVAL, AND ULTIMATE FINAL DEVELOPMENT PLAN AND SUBDIVISION PLAT, GOVERN THE ENTIRE PROPERTY. THE DEVELOPMENT IS BEING APPROVED IN PHASES. THE CURRENT PHASE SEEKS APPROVAL FOR 9 LOTS ON 12.67± ACRES. THE REMAINING 76.24 ± ACRES, IDENTIFIED AS PARCEL A RETAIN THE RIGHTS TO CREATE 19 SINGLE FAMILY LOTS. THE OWNER OF THE PROPERTY INTENDS TO FILE AN AMENDED DEVELOPMENT PLAN FOR THE 76.24± ACRE PORTION OF THE PROPERTY (PARCEL A) WHICH DOES NOT SHOW A LOT LAYOUT ON THIS DEVELOPMENT PLAN. THE AMENDED DEVELOPMENT PLAN WILL BE THE SUBJECT OF A FUTURE DEVELOPMENT PLAN CONFERENCE AND HEARING OFFICER'S HEARING. THE FINAL DEVELOPMENT PLAN AND THE SUBDIVISION PLAT FOR THIS CURRENT PHASE FOR 9 LOTS DELINEATED ON THIS DEVELOPMENT PLAN WILL NOT NEED TO BE AMENDED IN THE EVENT THAT THE OWNER OF PARCEL A PROCEEDS WITH AN AMENDED DEVELOPMENT PLAN FOR PARCEL A. IT IS ANTICIPATED THAT THE DEVELOPMENT OF PARCEL A BY THE OWNER IN THE FUTURE WILL RESULT IN A FINAL DEVELOPMENT PLAN FOR THAT PORTION OF THE PROPERTY ONLY AND AN AMENDED SUBDIVISION PLAT FOR THAT PORTION OF THE PROPERTY ONLY. THE DEVELOPMENT OF PARCEL A, SHALL BE GOVERNED BY THE DEVELOPMENT REGULATIONS AND ZONING REGULATIONS IN EFFECT AT THE TIME OF THE FILING OF THE ORIGINAL DEVELOPMENT PLAN IN CASE NO. PDM VIII-791, BEING NOVEMBER 26, 2003. THE FOREST BUFFER AND FOREST CONSERVATION AREA EASEMENTS IDENTIFIED ON THE DEVELOPMENT PLAN RELATE TO THE ENTIRE PROPERTY. IN THE EVENT THAT THE OWNER OF PARCEL A PROCEEDS WITH FURTHER SUBDIVISION, FUTURE LOTS MAY EXTEND INTO THE FOREST CONSERVATION AND FOREST BUFFER AREAS.

42. BEAVER DAM RUN IS DESIGNATED IN MASTER PLAN 2010 AS AN ENVIRONMENTAL GREENWAY. THE LIMITS OF THE ENVIRONMENTAL GREENWAY SHALL BE THE LIMIT OF THE 100 YEAR FLOOD PLAIN OR THE WETLAND, OR THE FOREST BUFFER, WHICHEVER IS GREATER, AND LABELED AS BALTIMORE COUNTY ENVIRONMENTAL GREENWAY EASEMENT.

A. WITHIN THE AREA SHOWN AS BALTIMORE COUNTY ENVIRONMENTAL GREENWAY EASEMENT" ACCESS BY BALTIMORE COUNTY, OR ITS ASSIGNS, FOR PUBLIC SAFETY OR MAINTENANCE IS ALLOWED, SUBJECT TO APPROVAL BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

43. ZONING HISTORY

CASE NO: 94-256-SPH BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

PETITION: (1) TO CREATE TWO (2) NON-DENSITY PARCELS IN THE R.C.4 AND R.C.5 ZONES; (2) THE CONSTRUCTION OF TWO DWELLINGS THAT STRADDLE THE R.C.4 AND R.C.5 ZONE LINES; (3) THAT THE SEPTIC AREAS FOR THE TWO DWELLINGS MAY BE LOCATED IN A ZONE OTHER THAN THAT WHICH THE PRINCIPLE DWELLING IS LOCATED; AND (4) TWO UNDERSIZED LOTS IN AN R.C.5 ZONE.

ORDER: IT IS THEREFORE THIS 9TH DAY OF JANUARY, 1995 BY THE COUNTY BOARD: OF APPEALS OF BALTIMORE COUNTY ORDERED THAT THE PETITION FOR SPECIAL HEARING TO APPROVE THE CREATION OF ONE (1) NON-DENSITY PARCEL (PARCEL B) IN THE R.C. 5 ZONE, THE CONSTRUCTION OF TWO DWELLINGS THAT WILL STRADDLE THE R.C. 4 AND R.C. 5 ZONE LINES, THE LOCATION THE SEPTIC AREAS FOR THE TWO DWELLINGS TO BE IN A ZONE OTHER THAN THAT IN WHICH THE PRINCIPLE DWELLING IS LOCATED, AND TWO UNDERSIZED LOTS IN AN R.C. 5 ZONE, IN ACCORDANCE WITH PETITIONER'S EXHIBIT 4, BE AND IS HEREBY GRANTED, SUBJECT TO THE FOLLOWING RESTRICTIONS:

1) THE PETITIONERS MAY APPLY FOR THEIR BUILDING PERMIT AND BE GRANTED SAME UPON RECEIPT OF THIS ORDER; HOWEVER, PETITIONERS ARE HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT THEIR OWN RISK UNTIL SUCH TIME AS THE 30-DAY APPELLATE PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR WHATEVER REASON, THIS ORDER IS REVERSED, THE RELIEF GRANTED HEREIN SHALL BE RESCINDED.

2) IN THE EVENT THE PETITIONERS ARE ABLE TO CREATE A THIRD BUILDING LOT ADJACENT TO THE TRADER PROPERTY, THE PETITIONERS SHALL BE REQUIRED TO PROVIDE APPROPRIATE SCREENING AT THAT TIME BETWEEN THAT DEVELOPMENT AND THE TRADER PROPERTY.

3) WHEN APPLYING FOR ANY PERMITS, THE SITE AND/OR LANDSCAPING PLAN FILED MUST REFERENCE THIS CASE AND SET FORTH AND ADDRESS THE RESTRICTIONS OF THIS ORDER.

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING TO APPROVE A NON-DENSITY PARCEL (PARCEL A) IN THE R.C. 4 ZONED PORTION OF THE SITE IN ACCORDANCE WITH PETITIONERS' EXHIBIT 4, BE AND IS HEREBY DISMISSED AS MOOT.

ANY PETITION FOR JUDICIAL REVIEW FROM THIS DECISION MUST BE MADE IN ACCORDANCE WITH RULE 7-201 THROUGH RULE 7-210 OF THE MARYLAND RULES OF PROCEDURE.

CASE NO: 94-256-SPH BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

PETITION: (1) TO CREATE TWO (2) NON-DENSITY PARCELS IN THE R.C.4 AND R.C.5 ZONES; (2) THE CONSTRUCTION OF TWO DWELLINGS THAT STRADDLE THE R.C.4 AND R.C.5 ZONE LINES; (3) THAT THE SEPTIC AREAS FOR THE TWO DWELLINGS MAY BE LOCATED IN A ZONE OTHER THAN THAT WHICH THE PRINCIPLE DWELLING IS LOCATED; AND (4) TWO UNDERSIZED LOTS IN AN R.C.5 ZONE.

ORDER: THEREFORE IT IS ORDERED BY THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY THIS 18TH DAY OF FEBRUARY, 1994 THAT THE PETITION FOR SPECIAL HEARING TO APPROVE THE CREATION OF ONE (1) NON-DENSITY PARCEL (PARCEL B) IN THE R.C. 5 ZONE, THE CONSTRUCTION OF TWO DWELLINGS THAT WILL STRADDLE THE R.C. 4 AND R.C. 5 ZONE LINES. THE LOCATION OF THE SEPTIC AREAS FOR THE TWO DWELLINGS TO BE IN A ZONE OTHER THAN THAT IN WHICH THE PRINCIPLE DWELLING IS LOCATED, AND TWO UNDERSIZED LOTS IN AN R.C. 5 ZONE, IN ACCORDANCE WITH PETITIONERS EXHIBIT 4, BE AND IS HEREBY GRANTED, SUBJECT TO THE FOLLOWING RESTRICTIONS:

1) THE PETITIONERS MAY APPLY FOR THEIR BUILDING PERMIT AND BE GRANTED SAME UPON RECEIPT OF THIS ORDER; HOWEVER, PETITIONERS ARE HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT THEIR OWN RISK UNTIL SUCH TIME AS THE 30-DAY APPELATE PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR WHATEVER THIS ORDER IS REVERSED, THE RELIEF GRANTED HEREIN SHALL BE RESCINDED.

2) THE PETITIONERS AND MR. BEARMAN, SHALL MEET TO DISCUSS THE APPROPRIATE AMOUNT AND SUFFIECIENCY OF SCREENING TO BE PLACED BETWEEN THE PROPERTY LINES OF PROPOSED LOTS 1 AND 2 AND MR. BEARMAN'S PROPERTY. IN THE EVENT THAT NO AGREEMENT CAN BE REACHED CONCERNING THIS SCREENING, EITHER PARTY SHALL HAVE THE RIGHT TO PETITION THIS DEPUTY ZONING COMMISSIONER FOR A RESOLUTIOIN OF THIS DISPUTE.

3) IN THE EVENT THE PETITIONERS ARE ABLE TO CREATE A THIRD BUILDING LOT ADJACENT TO THE TRADER PROPERTY THE PETITIONERS SHALL BE REQUIRED TO PROVIDE APPROPRIATE SCREENING AT THAT TIME BETWEEN THAT DEVELOPMENT AND THE TRADER PROPERTY.

4) WHEN APPLYING FOR ANY PERMITS, THE SITE AND/OR LANDSCAPING PLAN FILED MUST REFERENCE THIS CASE AND SET FORTH AND ADDRESS THE RESTRICTIONS OF THIS ORDER.

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING TO APPROVE A NON-DENSITY PARCEL (PARCEL A) IN THE R.C. 4 ZONED PORTION OF THE SITE, IN ACCORDANCE WITH PETITIONER'S EXHIBIT 4, BE AND IS HEREBY DISMISSED AS MOOT.

CASE NO'S: VIII-791 AND 04-262-SPH BEFORE HEARING OFFICERS HEARING & SPECIAL HEARING (MARCH 12, 2004)

ORDER: DENYING IN PART AND GRANTING IN PART THE DEVELOPMENT PLAN APPROVAL.

CASE NO'S: VIII-791 AND 04-262-SPH BEFORE HEARING OFFICERS HEARING & SPECIAL HEARING (APRIL 2, 2004)

ORDER: THEREFORE, IT IS ORDERED, this 2 day of April, by this Deputy Zoning Commissioner, that the Motion for Reconsideration is hereby GRANTED, that my Order dated March 12, 2004 is hereby stricken, and the case will be set for further hearing/proceedings consistent with this Order.

Any appeal of this decision shall be made within thirty days of the date of this Order and not of the original Order dated March 12, 2004.

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

44. INCONVENIENCES ARISING FROM AGRICULTURAL OPERATIONS
ANY DWELLING IN AN R.C.4 ZONE MAY BE SUBJECT TO INCONVENIENCES OR DISCOMFORTS ARISING FROM AGRICULTURAL OPERATIONS, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, FUMES, DUST, THE OPERATIOINS OF MACHINERY OF ANY KIND DURING 24-HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF MANURE, AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES, AND PESTICIDES. THE COUNTY SHALL NOT CONSIDER AN AGRICULTURAL OPERATION TO BE A PUBLIC OR PRIVATE NUISANCE, IF THE OPERATION COMPLIES WITH THESE REGULATIONS AND ALL FEDERAL, STATE, OR COUNTY HEALTH OR ENVIRONMENTAL REQUIREMENTS.

45. PER BALTIMORE REGION TRANSIT MAPS, THE PROPOSED DEVELOPMENT AREA IS NOT SERVED BY MARYLAND TRANSIT AUTHORITY BUSES.

BECKER PROPERTY

12170 FALLS ROAD
COCKEYSVILLE, MD 21030
BALTIMORE COUNTY

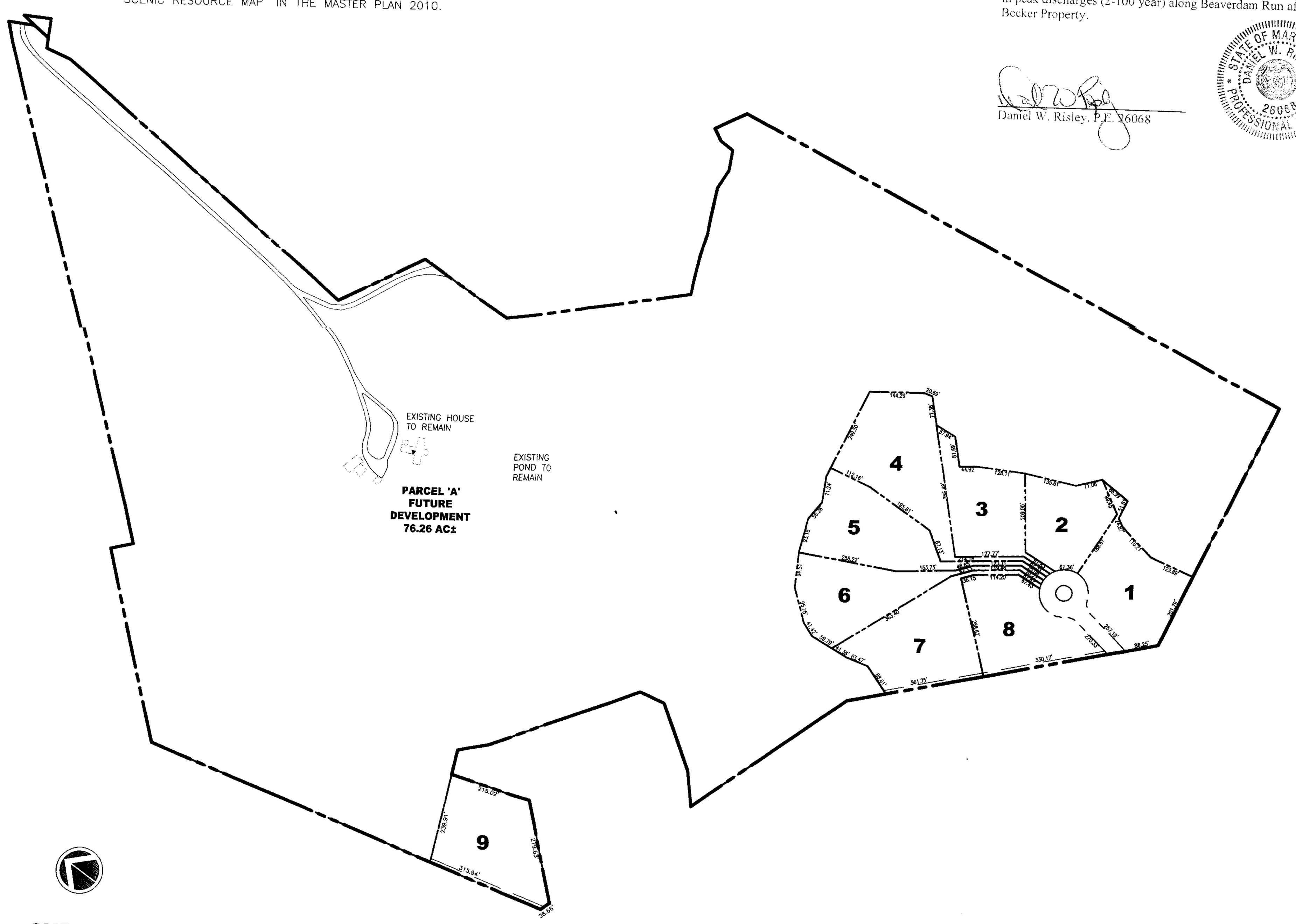
46. THIS SITE IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
47. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE MAY 30, 1996. THE DEVELOPER'S LANDSCAPE ARCHITECT HAS CONFIRMED THAT TWO (2) LOTS HAVE BEEN RECORDED OR REPRESENTED AS DENSITY TO SUPPORT OFF-SITE DWELLINGS AS SHOWN ON PLAT MP 92-305.
48. ON NOVEMBER 26, 2003, A VARIANCE WAS GRANTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT FROM REGULATIONS FOR THE PROTECTION OF WATER QUALITY, STREAMS, WETLANDS AND FLOODPLAINS. THE VARIANCE ALLOWS FOR THE CONTINUED USE OF 0.3± ACRES OF BACKYARD/SEPTIC AREA FOR THE EXISTING HOME, AND THE MAINTENANCE OF 0.3± ACRES OF THE EXISTING POND BERM AREA, AND AN ACCESS WITHIN THE REQUIRED FOREST BUFFER EASEMENT. THE CONTINUED USE OF THE EXISTING WELL IS ALSO APPROVED. ANY WORK PROPOSED WITHIN THE FOREST BUFFER CONCERNING THE WELL MUST BE APPROVED BY THIS OFFICE, AND ANY NEW WELL LOCATION, IF REQUIRED, MUST BE LOCATED OUTSIDE THE FOREST BUFFER. OTHER CONDITIONS INCLUDING MITIGATION PLANTING OF NATIVE TREES AND SHRUBS WERE PLACED ON THIS VARIANCE TO REDUCE WATER QUALITY IMPACTS" (APPROVED IN A LETTER FROM DEPRM, DATED NOVEMBER 26, 2003).
49. THERE ARE NO PROPOSED PEDESTRIAN WALKWAYS AS PART OF THIS DEVELOPMENT.
50. AFFIRMATIVELY ASSERTING THAT IN ACCORDANCE WITH SECTION 2. OF BILL 128-05, DATED OCTOBER 17, 2005, THE R.C. 5 ZONING REGULATIONS FOR THIS DEVELOPMENT PLAN SHALL NOT APPLY TO ANY CONCEPT PLAN OR APPLICATION FOR LIMITED EXEMPTION OR WAIVER ACCEPTED FOR FILING ON OR BEFORE DECEMBER 5, 2005. (CONCEPT PLAN WAS FILED ON FEBRUARY 17, 2003)
51. THERE ARE NO AMENITY OPEN SPACE REQUIREMENTS.
52. THERE ARE NO EXISTING OR KNOWN IMPENDING FAILURES OF BASIC SERVICES FOR THIS SITE.
53. FOREST CONSERVATION PROTECTION NOTES:
A. STANDARD NON-DISTURBANCE NOTE: THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
B. PROTECTIVE COVENANTS NOTE: ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

FIRE SUPPRESSION UNDERGROUND STORAGE TANK:

THIS DEVELOPMENT IS SUBJECT TO THE RURAL WATER REQUIREMENTS OF THE BALTIMORE COUNTY FIRE PREVENTION CODE; SECTION 7-5.6. THIS DEVELOPMENT SHALL UTILIZE ONE (1) UNDERGROUND WATER STORAGE TANKS TO MEET THIS REQUIREMENT. ALL PROPOSED LOTS SHALL BE WITHIN 2,000 FEET OR LESS OF THE PROPOSED UNDERGROUND WATER STORAGE TANKS.

SCENIC ROUTE:

FALLS ROAD IS DESIGNATED AS A "SCENIC CORRIDOR" ON THE "SCENIC RESOURCE MAP" IN THE MASTER PLAN 2010.



SUBDIVISION LOT LAYOUT
SCALE: 1" = 200'

CONSERVANCY AREA REQUIREMENTS

ITEM	R.C.4 AREA	REQUIRED CONSERVANCY AREA EASEMENT	EXISTING CONSERVANCY AREA EASEMENT	PROPOSED CONSERVANCY AREA EASEMENT IN R.C.4 ZONE	PROPOSED CONSERVANCY AREA EASEMENT IN R.C.5 ZONE
1. MINOR SUBDIVISION MP 92/305 AREA	10.99 AC±*	7.69 AC±*	7.73 AC±**	-	-
2. PARCEL 157	4.67 AC±	10.90 AC±	-	11.41 AC±	2.99 AC±
TOTALS		18.59 AC±	7.73 AC±	11.41 AC±	2.99 AC±

* DENOTES AREAS AS SHOWN ON FIRST AMENDED MINOR SUBDIVISION PLAT 92-305 MP
** AREA ESTABLISHED BY BOUNDARY SURVEY PERFORMED BY MORRIS & RITCHIE ASSOCIATES, INC. 2002

SCHOOL IMPACT ANALYSIS - (PARCEL 'A')

School District	State Rated Capacity (SRC)	Actual September 30th Enrollment (2002)	Projected # of Pupils for This Development	Projected # of Pupils for Other Developments*	Total Projected Enrollment	# of Students Above or (Below) Capacity	Projected # of Pupils as a % of SRC
PINEWOOD ELEMENTARY SCHOOL	566	412	1	21	434	(132)	76.68%
RIDGELY MIDDLE SCHOOL	1,092	1,040	1	14	1,055	(37)	96.61%
DULANEY HIGH SCHOOL	1,984	1,994	1	42	2,037	53	102.67%

* PUPILS PROJECTED BASED ON BALTIMORE COUNTY OFFICE OF PLANNING SCHOOL REPORT DATED JULY 11, 2006. PROJECTED NUMBERS FOR OTHER DEVELOPMENTS BASED ON FILING DATE OF AUGUST 25, 2002 TO AUGUST 25, 2006.

SCHOOL IMPACT ANALYSIS - (LOTS 1 THRU 9)

School District	State Rated Capacity (SRC)	Actual September 30th Enrollment (2002)	Projected # of Pupils for This Development	Projected # of Pupils for Other Developments*	Total Projected Enrollment	# of Students Above or (Below) Capacity	Projected # of Pupils as a % of SRC
FORT GARRISON ELEMENTARY SCHOOL	466	379	2	39	402	(64)	86.27%
PIKESVILLE MIDDLE SCHOOL	1,070	1,039	1	102	1,142	72	106.73%
PIKESVILLE HIGH SCHOOL	1,028	1,064	1	87	1,152	124	112.06%

* PUPILS PROJECTED BASED ON BALTIMORE COUNTY OFFICE OF PLANNING SCHOOL REPORT DATED JULY 11, 2006. PROJECTED NUMBERS FOR OTHER DEVELOPMENTS BASED ON FILING DATE OF AUGUST 25, 2002 TO AUGUST 25, 2006.

SOILS CHART

MAP SYMBOL	SOIL SERIES	HOME SITES LIMITATION	SEPTIC SYSTEM LIMITATIONS	HYDRIC	'K' VALUE	CAPABILITY UNIT
EhC2 *	Elioak	Moderate: Slope	Moderate: Slope	N	0.32	IIIe-4
GcB2 *	Glenelg	Slight	Slight	N	0.32	IIe-4
GnB *	Glenville	Severe: Water	Severe: Water	N	0.32	IIe-16
MbC2 *	Manor	Moderate: Slope	Moderate: Slope	N	0.37	III-25
MbD3	Manor	Severe: Slope	Severe: Slope	N	0.37	VIe-3
McC2 *	Manor	Moderate: Slope	Moderate: Slope	N	0.37	IIIe-25
McC3	Manor	Moderate: Slope	Moderate: Slope	N	0.37	IVe-25
McD2	Manor	Severe: Slope	Severe: Slope	N	0.37	IVe-25
McD3	Manor	Severe: Slope	Severe: Slope	N	0.37	VIe-3
MdE	Manor	Severe: Slope	Severe: Slope	N	0.37	VIe-3

* DENOTES SOILS WHICH ARE PRIME AND PRODUCTIVE

R.C.4. RURAL CLUSTER INFORMATION

R.C.4 RURAL CLUSTER INFORMATION	EXISTING MINOR SUBDIVISION MP 92/305	PROPOSED DEVELOPMENT	EXISTING AND PROPOSED DEVELOPMENT TOTAL
R.C.4 ACREAGE	10.991 AC±	15.57 AC±	26.56 AC±
LOTS ALLOWED IN R.C.4 (ACRES x .20)	2	3	5
EXISTING LOTS	2	0	3
PROPOSED LOTS	0	3	3
REMAINING DENSITY	0	0	10
MAXIMUM R.C.4 BUILDING AREA (30% x ACREAGE)	3.297 AC±	4.16 AC±	7.457 AC±
PROPOSED R.C.4 BUILDING AREA	0.41 AC±	4.16 AC±	4.57 AC±
MINIMUM R.C.4 CONSERVANCY AREA (70% X ACREAGE)	7.694 AC±	10.66 AC±	18.35 AC±
PROPOSED R.C.4 CONSERVANCY AREA	7.73 AC±	11.41 AC±	19.13 AC±

* INCLUDES 0.41 AC± (TRACT 1) TO BE INCLUDED IN LOT #9

SUITABLE OUTFALL STATEMENT

There are no outfalls from stormwater management facilities and therefore no outfall study is required. It should be noted that each of the level spreaders was sized to minimize any potential erosive forces on the downhill slopes. Each of the level spreaders was sized to maintain velocities less than 2 fps for the 10-year event onto the downhill slopes which have slopes up to 19%. Also, in a previous downstream analysis the Falls Road Culvert was found to have more than adequate capacity per SHA requirements and that no other potential flooding problems were discovered within 2,000 feet +/- of the project and that the computations that accompanied the SWM variance found no change in peak discharges (2-100 year) along Beaverdam Run after "full development" at the Becker Property.

Daniel W. Risley, P.E. 26068

STATE OF MARYLAND DANIEL W. RISLEY 26068 PROFESSIONAL ENGINEER

Seal

OPEN SPACE / PARKING/ DWELLING UNITS

DESCRIPTION	REQUIRED	PERMITTED	PROPOSED
1. OPEN SPACE	10,000 S.F.		FEE IN LIEU OF
2. PARKING	20 P.S.		20 P.S.
3. R.C.4. DWELLING UNITS		13	(3) 5*
3. R.C.5. DWELLING UNITS		17	5

* TWO (2) RC 4 LOTS WERE CREATED AS A PART OF MINOR SUBDIVISION MP 92/305 AND ARE NOT INCLUDED AS A PART OF THESE PROPOSED DWELLING UNIT CALCULATIONS.

LOT SIZE

LOT NUMBER	TOTAL LOT ACREAGE	R.C.4. ACREAGE	R.C.5. ACREAGE
1	1.21 AC±	-	1.21 AC±
2	1.06 AC±	-	1.06 AC±
3	1.10 AC±	-	1.10 AC±
4*	1.82 AC±	1.33 AC±	
5*	1.48 AC±	1.29 AC±	
6*	1.48 AC±	1.33 AC±	
7**	1.51 AC±		1.31 AC±
8	1.41 AC±	-	1.41 AC±
9**	1.60 AC±		1.08 AC±
SUB-TOTAL	12.67 AC±	4.67 AC±	8.00 AC±
PARCEL 'A'	76.26 AC±	58.69 AC±	17.57 AC±
TOTAL	88.93 AC±	63.36 AC±	25.57 AC±

* MAJORITY OF LOT LIES WITHIN RC4 ZONE.
** MAJORITY OF LOT LIES WITHIN RC5 ZONE.

CERTIFICATION AS TO DELINQUENT ACCOUNTS

THIS CERTIFICATION IS SUBMITTED IN CONNECTION WITH THE DEVELOPMENT KNOWN AS the Becker Property AND IS GIVEN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 32-4-113 OF THE BALTIMORE COUNTY CODE, 2003, AS AMENDED

I, Stephen R. Smith CERTIFY UNDER OATH THAT THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, A PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT, OR A PERSON WHO SHALL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.

AFFIANT

I HEREBY CERTIFY, THAT ON THIS 9th DAY OF August, 2006, BEFORE ME, THE SUBSCRIBER, A NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, PERSONALLY APPEARED Stephen R. Smith AND MADE OATH IN TRUE FORM OF LAW THAT THE MATTERS AND FACTS HEREIN ABOVE SET FORTH ARE TRUE.

NOTARY PUBLIC

January 1, 2008
MY COMMISSION EXPIRES

REATHA L. BURK NOTARY PUBLIC BALTIMORE COUNTY, MD.

ZONING CERTIFICATION

THIS IS TO CERTIFY THAT THERE ARE NO KNOWN ZONING VIOLATIONS ON MY PROPERTIES WITHIN BALTIMORE COUNTY OWNED OR CONTROLLED BY THE UNDERSIGNED PROPERTY OWNER(S) AND OR DEVELOPER(S) OF THE DEVELOPMENT KNOWN AS the Becker Property

THE UNDERSIGNED ACKNOWLEDGE(S) THAT ANY ZONING VIOLATIONS BE DISCOVERED DURING PROCESSING OF THIS DEVELOPMENT, THE PROVISIONS OF TITLE 22, BILL 18-90, MAY PEREVENT THE COUNTY FROM GRANTING APPROVALS AT ANY STAGE OF THE PROCESS.

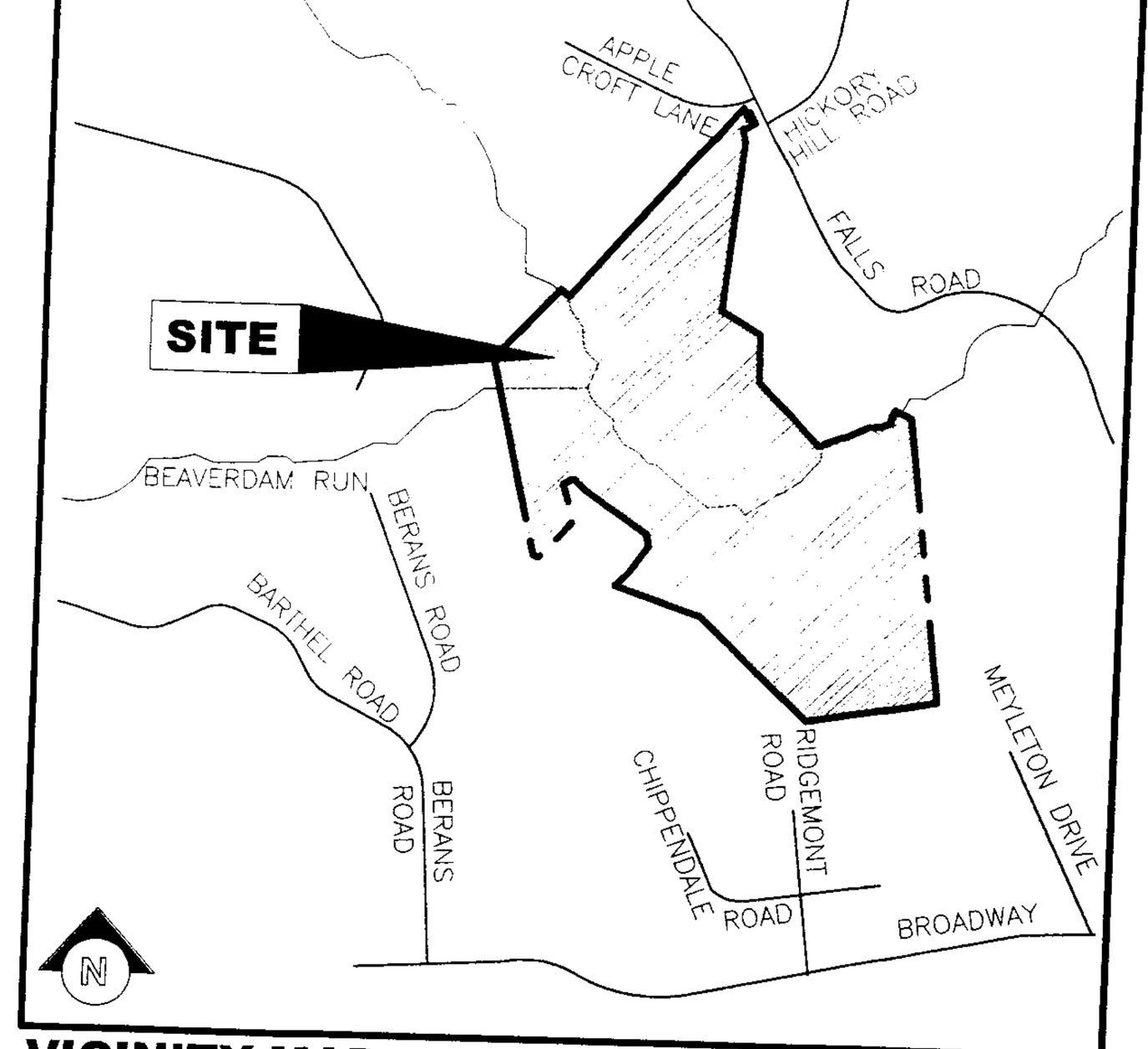
Mr. / Mrs. Arthur H. Becker, OWNER

NOTE: IF APPLICANT IS A CORPORATION, THIS CERTIFICATION MUST BE COMPLETED BY AN AUTHORIZED OFFICER AND IF APPLICANT IS A PARTNERSHIP OR JOINT VENTURE, IT MUST BE COMPLETED BY A GENERAL PARTNER OR VENTURE OR AN OFFICER THEREOF, IF THE PARTNER OR VENTURER IS A CORPORATION.

MARYLAND COORDINATE SYSTEM (MCS)

SHEET INDEX:

PDM NO: VIII - 791



VICINITY MAP
SCALE: 1"=1000'

ENVIRONMENTAL INFORMATION

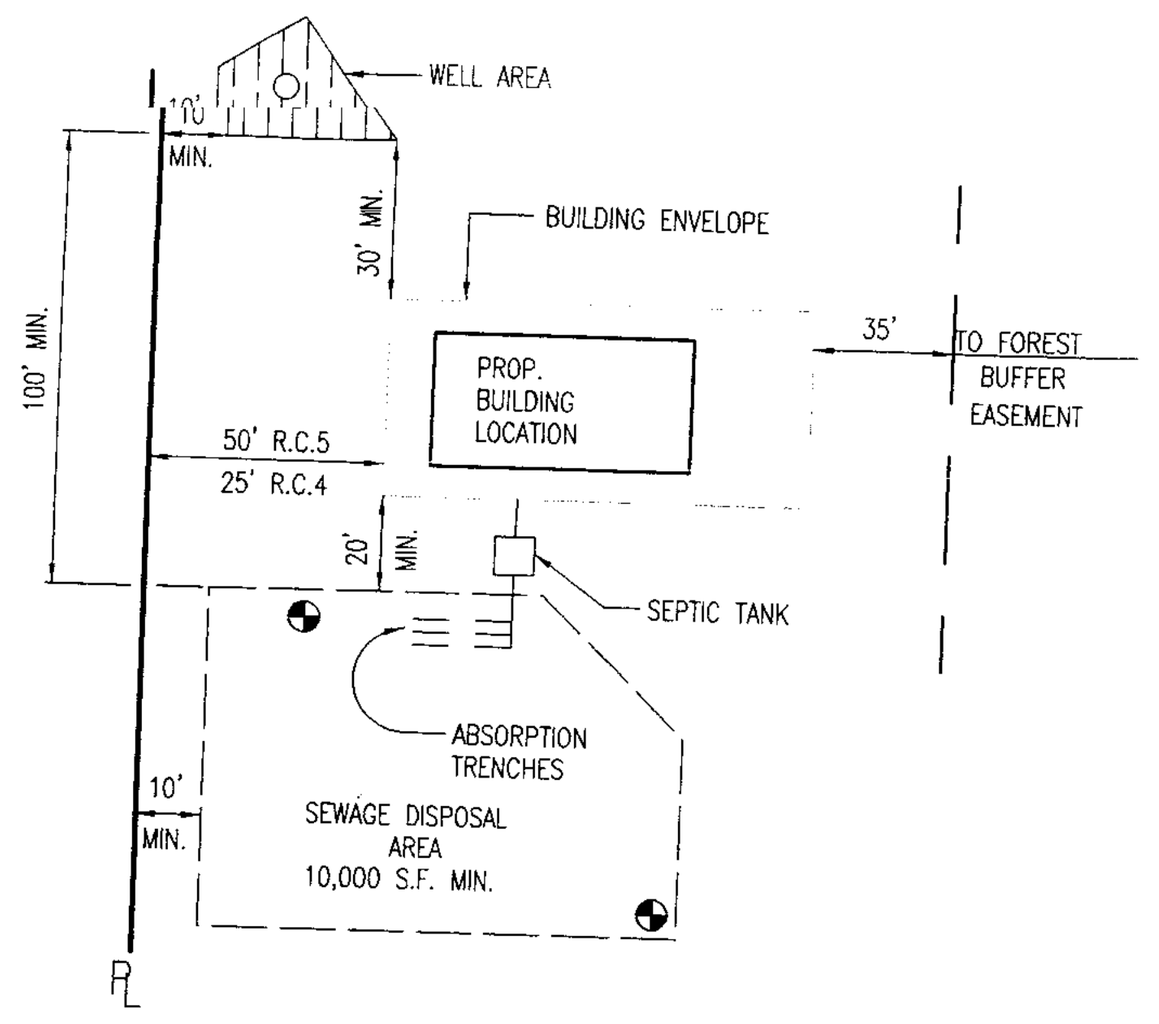
EXIST.	NOT EXIST.	
X		TOPOGRAPHY AND STREET GRADES (MIN. 5 FT. CONTOUR APPROPRIATELY LABELED)
X		SLOPES GREATER THAN 25%
X		100 YEAR FLOOD PLAIN
X		SOILS MAPPED ACCORDING TO SOIL SURVEY, BALTIMORE COUNTY, MARYLAND
X		STREAMS, SEEPS, PONDS OR OTHER WATER BODIES SHOWN ON SITE AND WITHIN 200 FT. OF THE SITE
X		WETLANDS
X		FOREST BUFFER LIMITS INCLUDING ADJUSTMENTS FOR STEEP SLOPES AND/OR ERODIBLE SOILS
X		LAND COVER ON OR WITHIN 200 FT. OF SITE.
	X	SIGNIFICANT REGULATED PLANT / WILDLIFE COMM.
X		WELLS ON SITE OR WITHIN 100 FT. OF SITE
X		SEPTIC ON SITE OR WITHIN 100 FT. OF SITE
X		SOIL EVALUATION TESTS (PERC TESTS)

EXISTING CONDITIONS

EXIST.	NOT EXIST.	
X		LOCATIONS OF EXISTING BUILDINGS WITHIN 200 FT. OF SITE BOUNDARIES
X		LOCATION OF EXISTING ROADS WITHIN 200 FT. OF SITE BOUNDARIES
	X	DESIGNATED HISTORIC SITES AS PER LANDMARKS PRESERVATION COMMISSION OR THE MD HISTORIC TRUST INVENTORY
	X	DESIGNATED SITES AS PER THE MARYLAND ARCHEOLOGICAL SURVEY
	X	SIGNIFICANT VIEWS
X		SIGNIFICANT FEATURES (SPECIMEN TREES, BUILDINGS, STREETSCAPES, ETC.)
X		LAND USES ON AND WITHIN 200 FT. OF SITE
X		ROADS RIGHT-OF-WAY AND EASEMENTS

COUNTY ADOPTED PLANS

OK		BALTIMORE COUNTY MASTER PLAN 2010
N/A		COMMUNITY OR REVITALIZATION PLANS
N/A		RECREATION AND PARKS PLAN
N/A		STREETSCAPE PLAN
OK		GREENWAYS PLAN
		OTHER



TYPICAL DIMENSIONS
NOT TO SCALE

BUILDING SETBACK/LOT COVERAGE	ZONING R.C.4	ZONING R.C.5
FROM CENTERLINE OF STREET		75'
LOT OTHER THAN STREET LINE		50'
FROM PUBLIC STREET ROW OR PROPERTY LINE	25'	
FROM EDGE OF PAVING OF PRIVATE ROAD	35'	
FROM ADJACENT R.C.2 ZONE LINE	100'	
FROM CONSERVANCY AREA USED FOR AGRICULTURAL PURPOSES	50'	

A COMBINED ZONING AND PLAN APPROVAL HEARING HAS BEEN REQUESTED.

THIS DEVELOPMENT PLAN CONSISTS OF FOUR (4) SHEETS. TOGETHER THESE SHEETS FORM THE DEVELOPMENT PLAN.

D-1

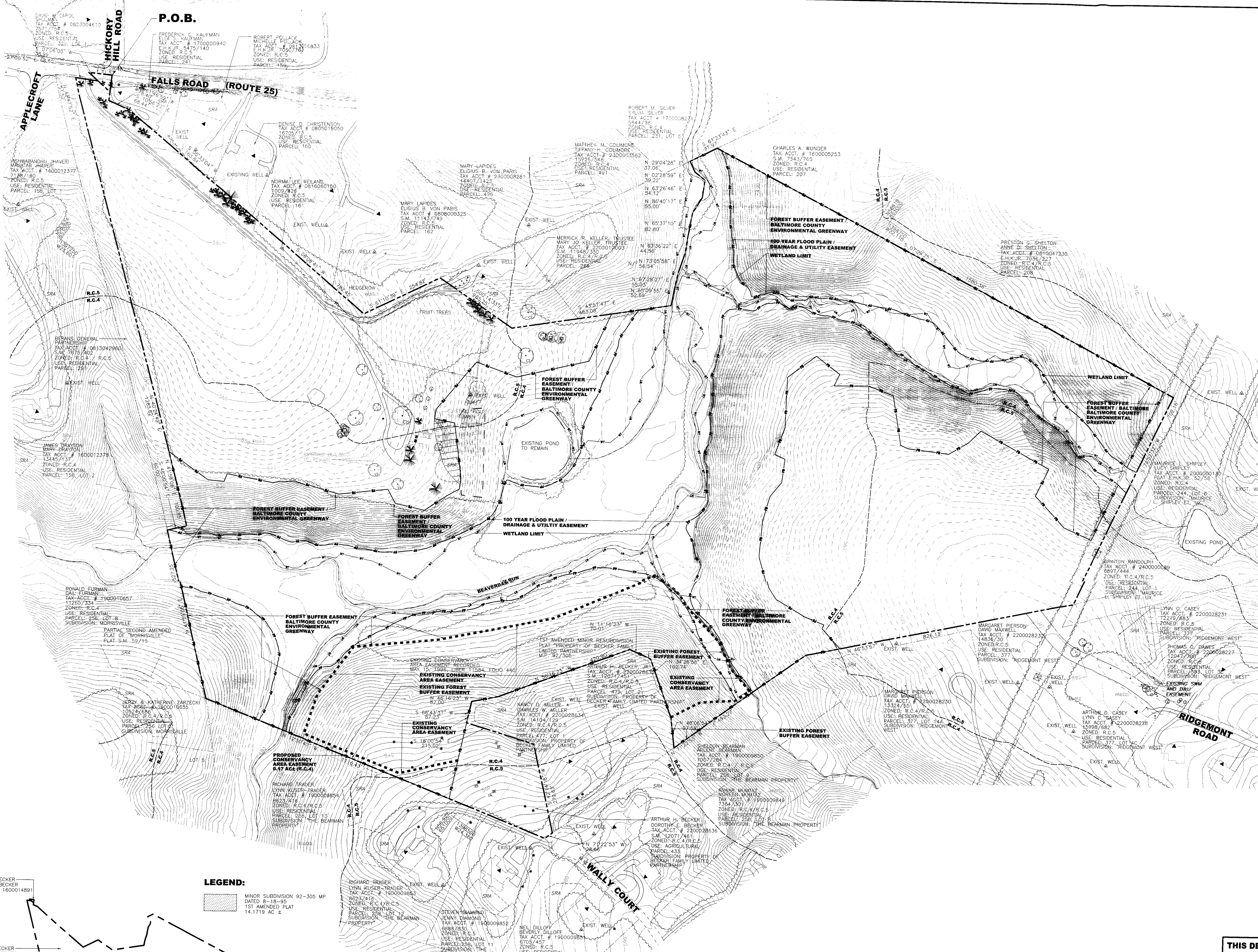
MRA
MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
(410) 821-1690
FAX (410) 821-1748

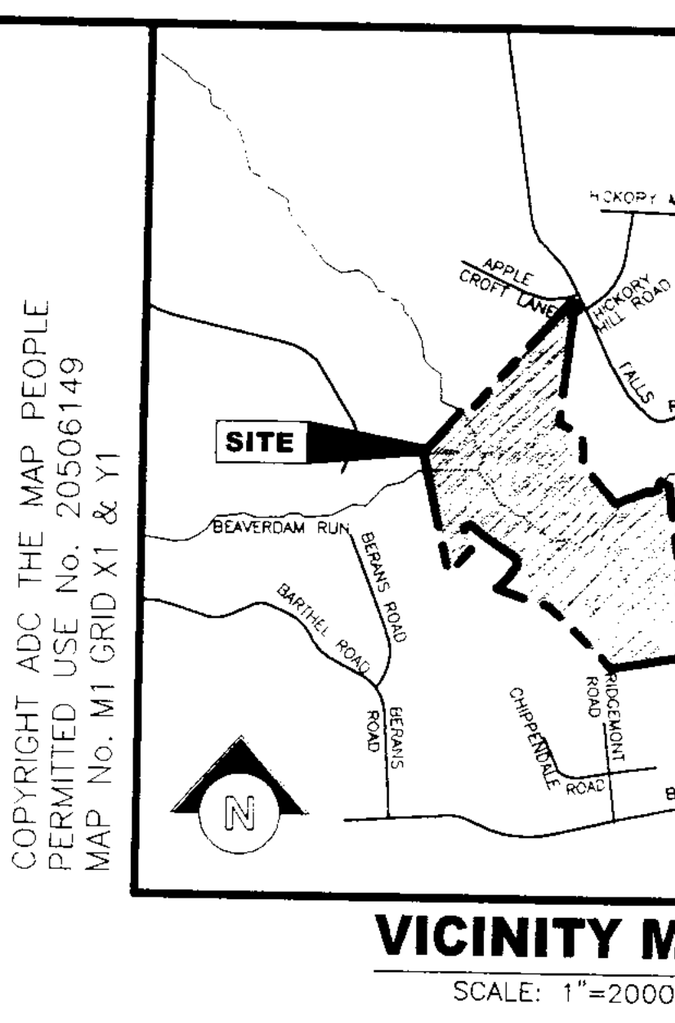
STATE OF MARYLAND JAMES VINCENT HERMANN No. 1044 LICENSED LANDSCAPE ARCHITECT

DEVELOPMENT PLAN COVER SHEET

BECKER PROPERTY
12170 FALLS ROAD
COCKEYSVILLE, MARYLAND 21030
8TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS	
		JOB NO.: 14746
		SCALE: AS SHOWN
		DATE: 08/24/06
		DRAWN BY: KC
		DESIGN BY: KC
		REVIEW BY: JH/DR
		SHEET: 1 OF 4

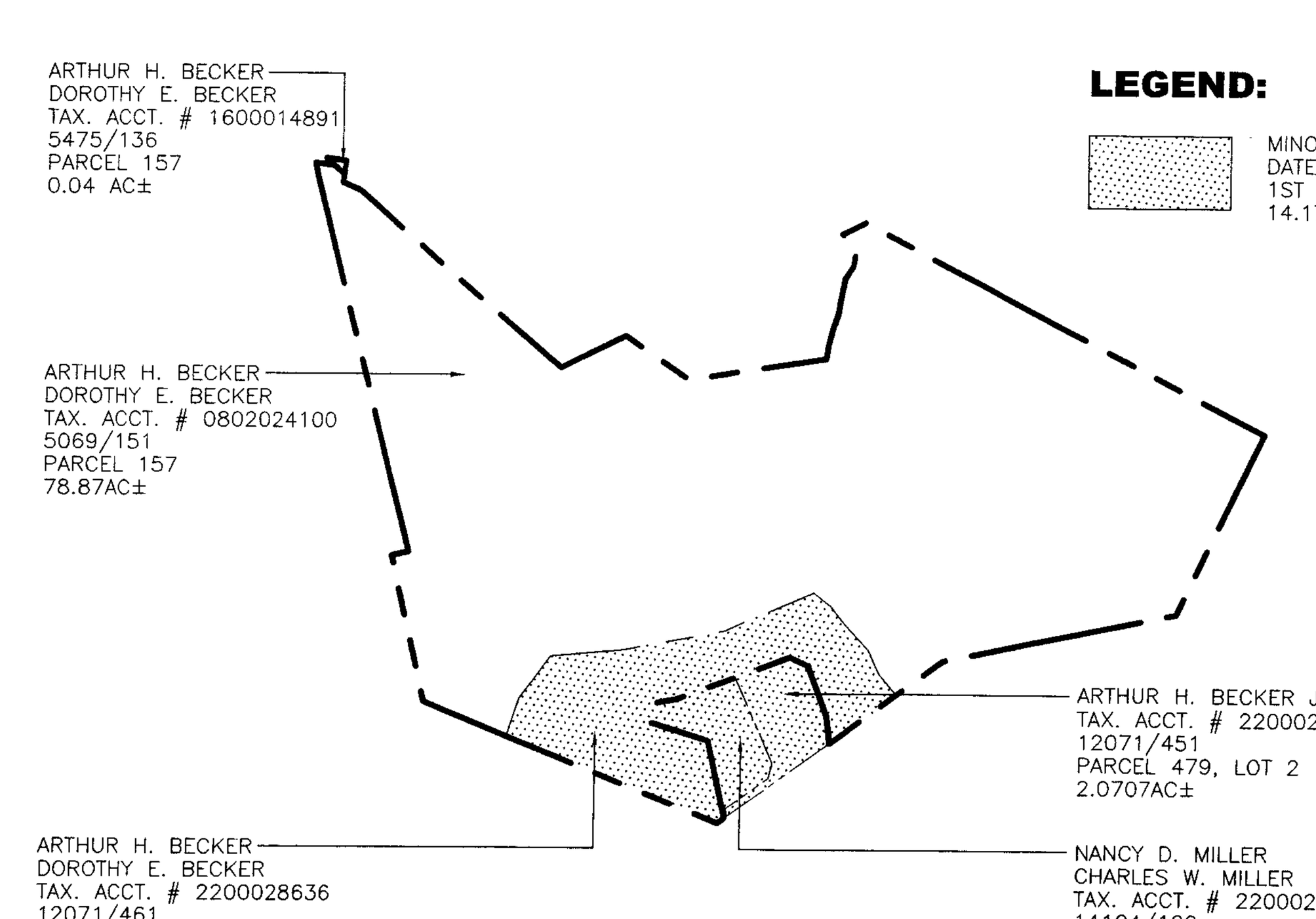




VICINITY MAP

SITE LEGEND:

- EXISTING TREES / VEGETATIO
- PROPOSED TREES / VEGETAT
- PROPERTY LINE
- RIGHT-OF-WAY
- EXISTING 2' CONTOUR
- EXISTING 10' CONTOUR
- LIMIT OF SOILS / SOIL TYPE
- EASEMENT
- BUILDING SETBACK LINE
- EXISTING STRUCTURE
- EXIST. WELL — EXISTING WELL LOCATION
- EXIST. SRA — EXISTING SEPTIC RESERVE ARE
- PROPOSED BUILDING ENVELOPE
- PROPOSED WELL LOCATION
- 1A 1B 1C — PROPOSED SEPTIC RESERVE AR 10,000 S.F. MINIMUM WITH PAS PERC TEST LOCATIONS
- DRY WELL LOCATION
- FAILED PERC TEST LOCATION
- WT — EXISTING WETLAND
- RC2 — EXISTING ZONING
- FB — PROPOSED FOREST BUFFER
- FP — PROPOSED 100 YEAR FLOODPL
- EXISTING STREAM / POND
- PROPOSED CONSERVANCY AREA/T
- SLOPES >25%
- PROPOSED FOREST CONSERVATIO EASEMENT / FOREST RETENTION
- PROPOSED FOREST CONSERVATIO EASEMENT / REFORESTATION AR
- PROPOSED LIGHT POLE



PROPERTY MOSAIC

SCALE: 1": 500'-0"

LEGEND:

MINOR SUBDIVISION 92-305 MP
DATED 8-18-95
1ST AMENDED PLAT
14.1719 AC ±

MARYLAND COORDINATE SYSTEM (MCS)

PDM NO: VIII - 791

THIS DEVELOPMENT PLAN CONSISTS OF FOUR (4) SHEETS. TOGETHER THESE SHEETS FORM THE DEVELOPMENT PLAN.

MORRIS & RITCHIE ASSOCIATES, I

ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECT

1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
(410) 821-1690
FAX (410) 821-1748

STATE OF MARYLAND — JAMES VINCENT HERMANN — No. 1044 — REGISTERED LANDSCAPE ARCHITECT

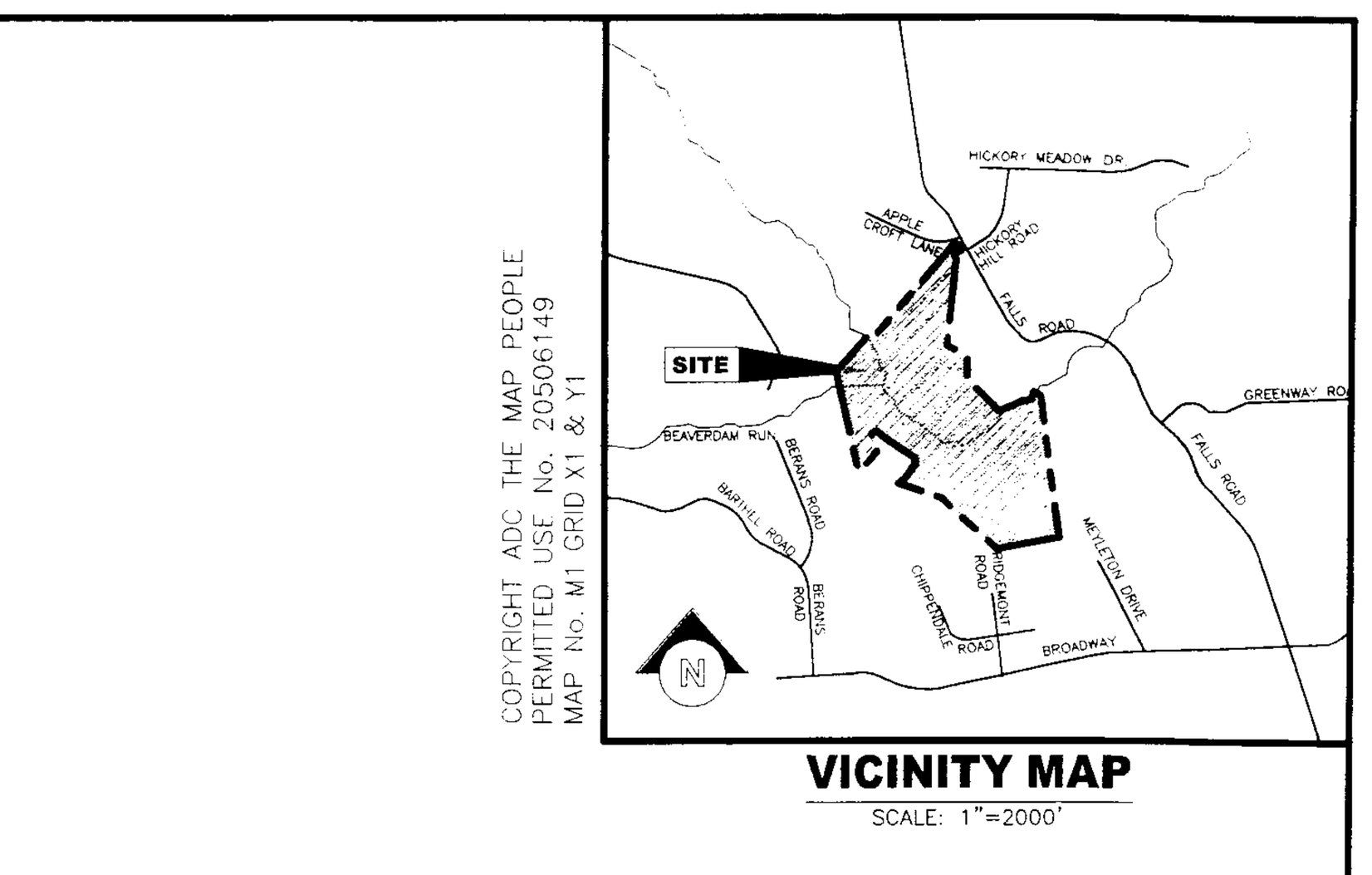
DEVELOPMENT PLAN
SITE CONSTRAINTS MAP

BECKER PROPERTY

12170 FALLS ROAD
COCKEYSVILLE, MARYLAND 21030
8TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

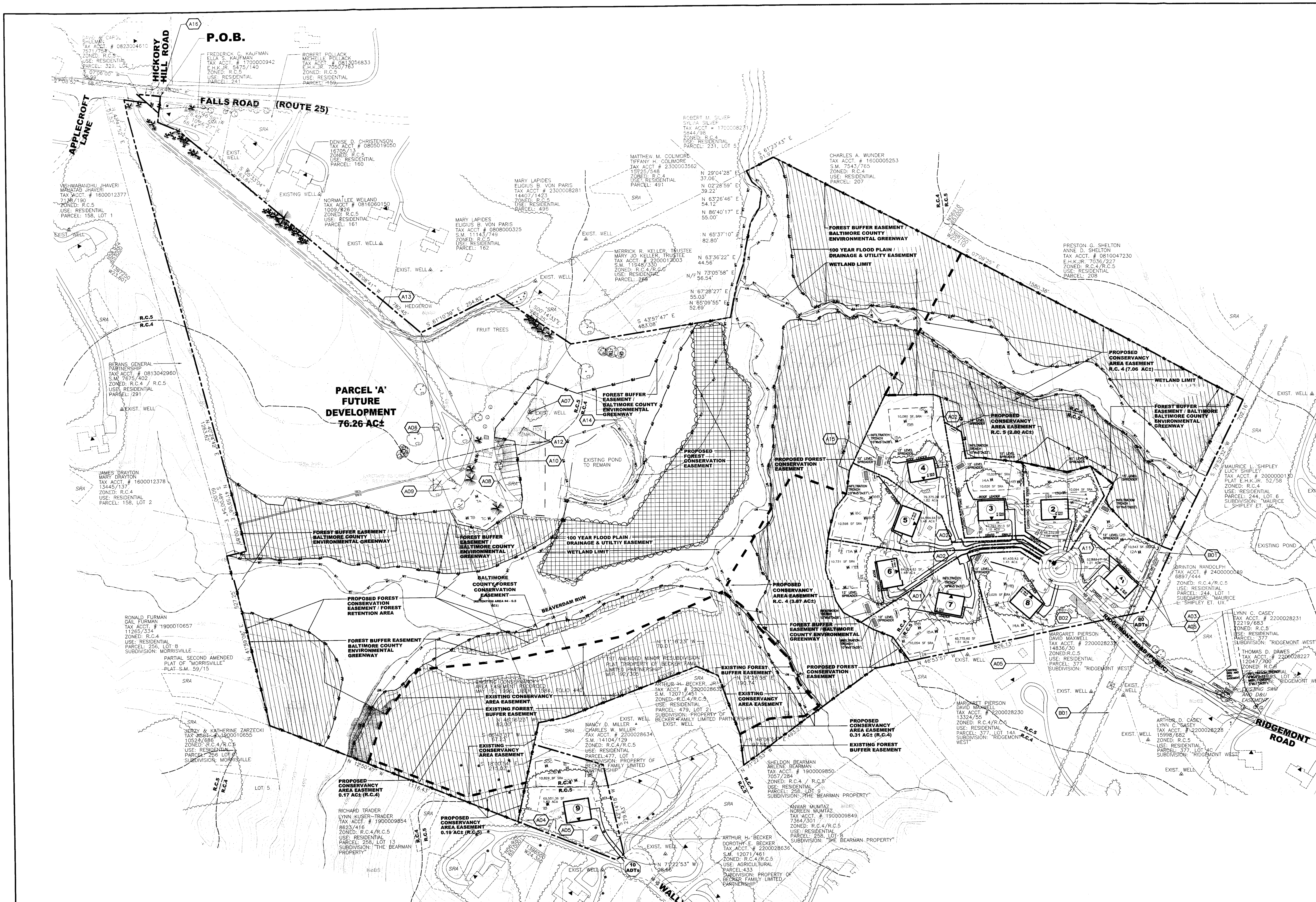
DATE	REVISIONS

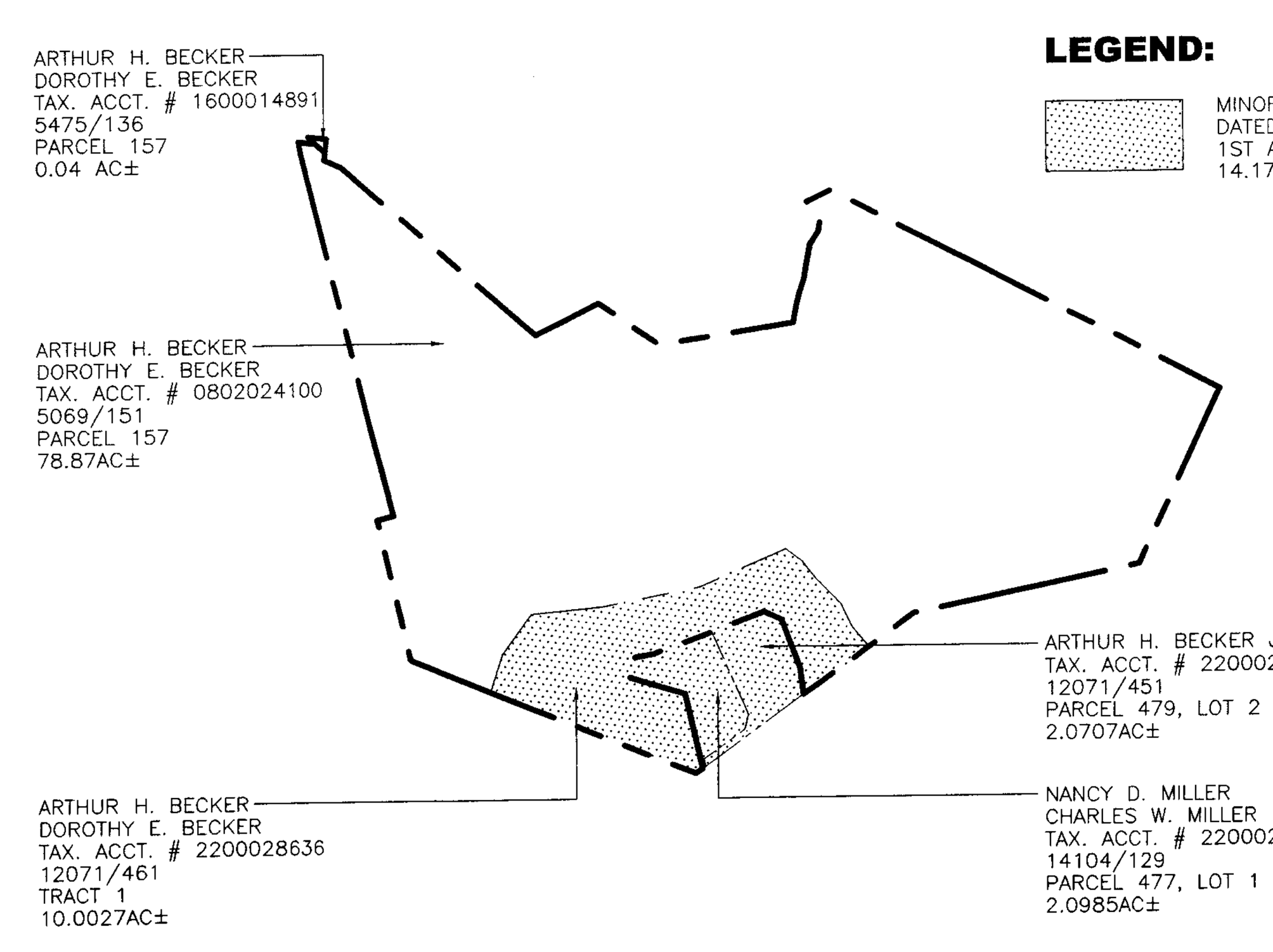
JOB NO.:	1474
SCALE:	1"=1
DATE:	08/2
DRAWN BY:	KC
DESIGN BY:	KC
REVIEW BY:	JH/D
SHEET:	2 OF



VICINITY MAP

SCALE: 1"=2000'



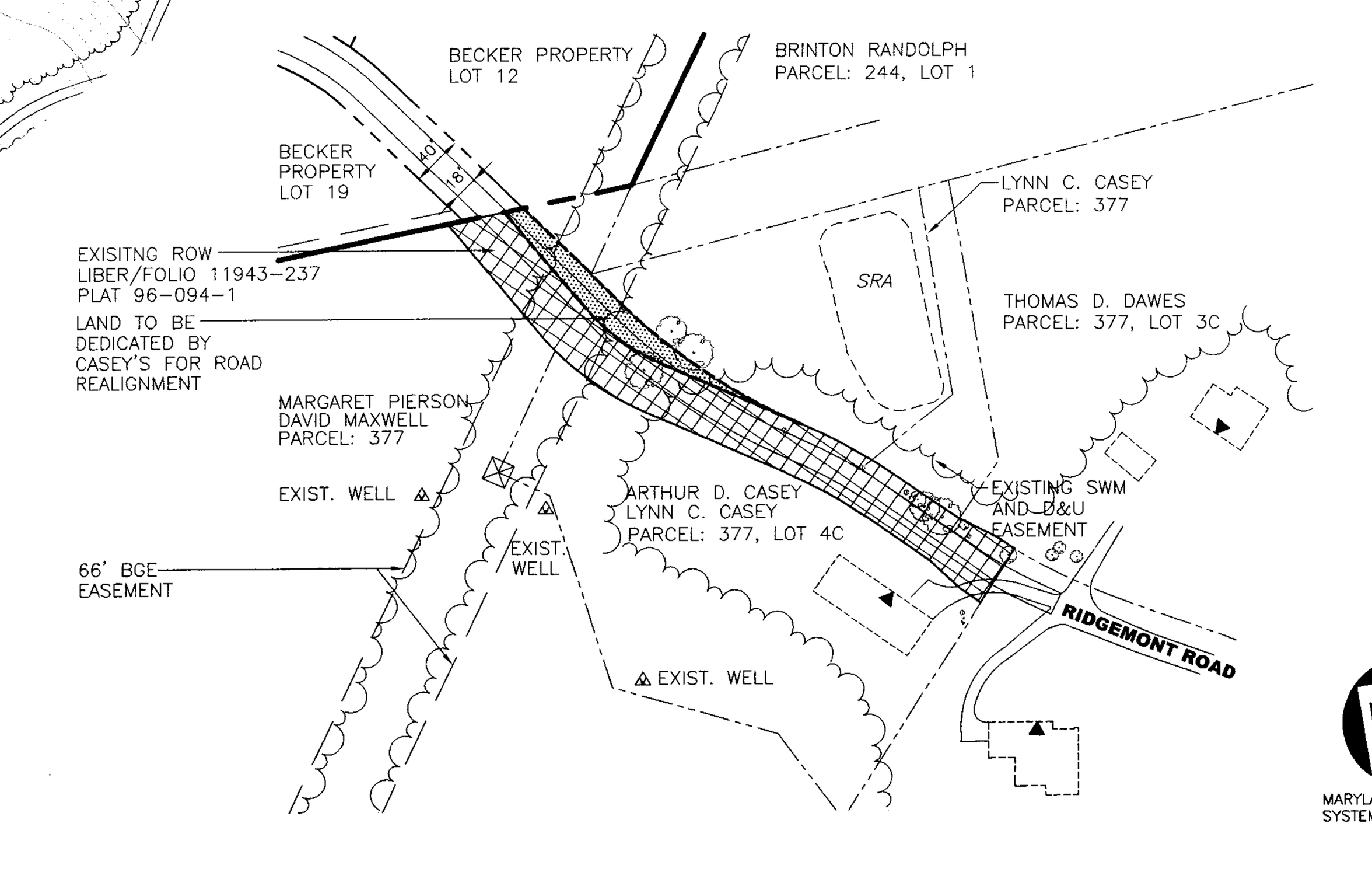


PROPERTY MOSAIC

SCALE: 1": 500'-0"

LEGEND:

MINOR SUBDIVISION 92-305 MP
DATED 8-18-95
1ST AMENDED PLAT
14.1719 AC ±



RIDGEMONT ROAD RIGHT-OF-WAY WIDENING

SCALE: 1": 100'-0"

SITE LEGEND:

- EXISTING TREES / VEGETATION
- PROPOSED TREES / VEGETATION
- PROPERTY LINE
- RIGHT-OF-WAY
- EXISTING 2' CONTOUR
- EXISTING 10' CONTOUR
- LIMIT OF SOILS / SOIL TYPE
- EASEMENT
- BUILDING SETBACK LINE
- EXISTING STRUCTURE
- EXIST. WELL — EXISTING WELL LOCATION
- EXIST. SRA — EXISTING SEPTIC RESERVE AREA
- PROPOSED BUILDING ENVELOPE
- PROPOSED WELL LOCATION
- 1A 1B 1C — PROPOSED SEPTIC RESERVE AREA 10,000 S.F. MINIMUM WITH PASSED PERC TEST LOCATIONS
- DRY WELL LOCATION
- FAILED PERC TEST LOCATION
- WT — EXISTING WETLAND
- RC2 — EXISTING ZONING
- FB — PROPOSED FOREST BUFFER
- FP — PROPOSED 100 YEAR FLOODPLAIN
- EXISTING STREAM / POND
- PROPOSED CONSERVANCY AREA EASEMENT
- SLOPES >25%
- PROPOSED FOREST CONSERVATION EASEMENT / FOREST RETENTION AREA
- PROPOSED FOREST CONSERVATION EASEMENT / REFORESTATION AREA
- PROPOSED LIGHT POLE
- 10 ADTs — AVERAGE DAILY TRIPS

CODED NOTES:

A: GENERAL

A01. R.C.4 PORTION OF LOT IS A NON DENSITY PARCEL / NON-BUILDABLE AREA. NO WELL, SEPTIC SYSTEM OR ACCESSORY STRUCTURES WILL BE ALLOWED ON THE NON-BUILDABLE PORTION OF THE LOT WITHOUT A SPECIAL HEARING.

A02. R.C.5 PORTION OF LOT IS A NON-DENSITY PARCEL / NON-BUILDABLE AREA. NO WELL, SEPTIC SYSTEM OR ACCESSORY STRUCTURES WILL BE ALLOWED ON THE NON-BUILDABLE PORTION OF THE LOT WITHOUT A SPECIAL HEARING.

A03. PROPOSED 20' BALTIMORE COUNTY ACCESS EASEMENT. ACCESS EASEMENTS SHALL BE DEDICATED TO BALTIMORE COUNTY.

A04. LANDSCAPE SCREENING BETWEEN LOT 9 AND THE ADJACENT TRADER PROPERTY SHALL BE PROVIDED AS IDENTIFIED IN THE RESTRICTIONS OF SPECIAL HEARING CASE NO. 94-256SPH. SEE SHEET D-4 FOR SCHEMATIC LANDSCAPING.

A05. PROPOSED BALTIMORE COUNTY DRAINAGE AND UTILITY EASEMENT. DRAINAGE AND UTILITY EASEMENTS SHALL BE DEDICATED TO BALTIMORE COUNTY.

A06. EXISTING GAS PUMP AND UNDERGROUND STORAGE TANK SHALL REMAIN ON PARCEL 'A'.

A07. EXISTING WELL SHALL REMAIN AS A PART OF PARCEL 'A'.

A08. EXISTING SEPTIC SYSTEM SHALL REMAIN AS A PART OF PARCEL 'A'.

A09. EXISTING STRUCTURES SHALL REMAIN AS A PART OF PARCEL 'A'. APPROXIMATE HEIGHT 12'±.

A10. EXISTING HOUSE SHALL REMAIN. APPROXIMATE HEIGHT 24'±.

A11. PROPOSED LIGHT POLE

A12. A LIVING FENCE SHALL BE PLANTED ALONG THE LIMITS OF THIS VARIANCE AREA, AS OUTLINED IN BECKER PROPERTY SUBDIVISION FOREST BUFFER VARIANCE (APPROVED 10-15-03).

A13. EXISTING PRIVATE BALTIMORE GAS AND ELECTRIC COMPANY RIGHT-OF-WAY; LIBER 5188, FOLIO 063.

A14. ACCESS TO POND FOR CONTINUOUS MAINTENANCE OF POND BERM AND ACCESS AS REQUIRED. THE ACCESS SHALL BE A MAXIMUM OF 10 FEET WIDE AND SHOULD BE MAINTAINED BY MOWING NO MORE THAN THREE TIMES A YEAR BETWEEN APRIL AND OCTOBER, AS OUTLINED IN BECKER PROPERTY SUBDIVISION FOREST BUFFER VARIANCE (APPROVED 10-15-03).

A15. BALTIMORE COUNTY ACCESS EASEMENTS FOR ALL STORMWATER MANAGEMENT LEVEL SPREADERS AND INFILTRATION (TYP.)

A16. DISTANCE TO THE NEAREST INTERSECTING PUBLIC STREET (HICKORY HILL ROAD) CENTERLINE IS SEVEN (7').

B: UTILITIES

B01. EXISITNG SIXTY SIX (66') FOOT BALTIMORE GAS AND ELECTRIC UTILITY EASEMENT.

B02. FIRE SUPPRESSION EASEMENT WITH 12,000 GALLON UNDERGROUND WATER TANK FOR FIRE SUPPRESSION.

MARYLAND COORDINATE SYSTEM (MCS)

PDM NO: VIII - 791

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D-3

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STATE OF MARYLAND — JAMES VINCENT HERMANN — No. 1044 — REGISTERED LANDSCAPE ARCHITECT

DEVELOPMENT PLAN
SITE MAP

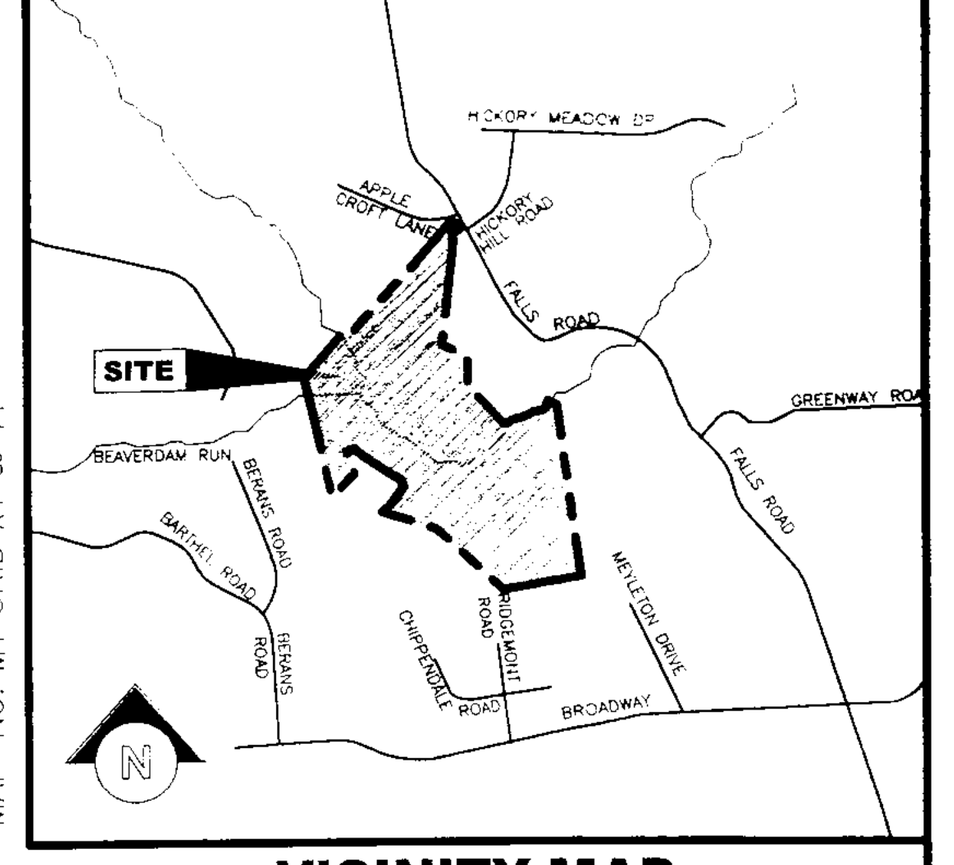
BECKER PROPERTY
12170 FALLS ROAD
COCKEYSVILLE, MARYLAND 21030
8TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS	
		JOB NO.: 14746
		SCALE: 1"=100'
		DATE: 08/24/06
		DRAWN BY: KC
		DESIGN BY: DR/KC
		REVIEW BY: JH/DR
		SHEET: 3 OF 4

LANDSCAPE CALCULATIONS:

REQUIRED LANDSCAPING:

NO.	DESCRIPTION	RATE	QUANTITY	PLANTING UNITS (PU)
1.	INTERIOR ROAD	1 PU/20 LF	1,281 LF	64.1 PU
2.	REAR AND SIDE YARD SCREENING	1 PU/15 LF	3,652 LF	243.5 PU
3.	CREDIT FOR EXISTING WOODS	1 PU/15 LF	3,132 LF	−208.8 PU
	TOTAL REQUIRED LANDSCAPING			98.8 PU
	TOTAL PROVIDED			100.0 PU



VICINITY MAP
SCALE: 1"=2000'

MARYLAND COORDINATE SYSTEM (MCS)

PDM NO: VIII - 791

SCHEMATIC LANDSCAPE PLAN CERTIFICATION FORM

THIS SCHEMATIC LANDSCAPE PLAN IS SEALED BY A LANDSCAPE ARCHITECT AND CERTIFIED BY MY SIGNITURE BELOW AS BEING IN ACCORDANCE WITH ALL COUNTY LANDSCAPE ARCHITECTURAL COMMENTS.

8/28/06 James V. Hermann

APPLICANT SIGNATURE DATE PRINT NAME

MAILING ADDRESS (IF NOT ALREADY ON PLAN)

THIS DEVELOPMENT PLAN CONSISTS OF FOUR (4) SHEETS. TOGETHER THESE SHEETS FORM THE DEVELOPMENT PLAN.

D-4

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STATE OF MARYLAND JAMES VINCENT HERMANN REGISTERED LANDSCAPE ARCHITECT No. 1044

DEVELOPMENT PLAN
SCHEMATIC LANDSCAPE PLAN

BECKER PROPERTY
12170 FALLS ROAD
COCKEYSVILLE, MARYLAND 21030
8TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS	
		JOB NO.: 14746
		SCALE: 1"=100'
		DATE: 08/24/06
		DRAWN BY: KC
		DESIGN BY: DR/KC
		REVIEW BY: JH
		SHEET: 4 OF 4