THE CLUSTERS
DEVELOPMENT PLAN
CBA-04-126

CBA-04-126

~~7/22/04 @ 10 a.m.~~
~~7/13/04 @ 11 am.~~ 2/9/05
~~8/19/04 and 8/26/04~~ pp'd & hold
04-382-SPH
~~12/16/04 @ 9:00 am - by agreement~~ pp'd; pet on request
~~2/02/05 @ 9:00 am by agreement~~
(20040382) "A"
sup

ORDERS

(this file runs with SPECIAL HEARING – SEE 04-382-SPH

CBA-04-126

TIMEFRAME / COUNTY BOARD OF APPEALS – DEVELOPMENT PLAN APPEALS

Case # CBA-04-126 / PDM I-509
"THE CLUSTERS"
SKIRVEN ENTERPRISES– DEVELOPER
HILTOP ROAD/BRANSTON ROAD

Date of Final Action by ZC / DZC 4/30/2004

Window for * Hearing by CBA 6/14 - 6/29/04

CBA Hearing Date ~~7/22~~ 7/13/04 2004 11 AM

Continued Date for ** Conclusion of Hearing ~~8/19 and 8/26 - 04-382-SPH~~ pp'd and held

Date by which CBA * Order to be Issued**

Order Issued by CBA

Statistical only: 1

Date Appeal filed from ZC / DZC Decision 5/28/2004

Section 26-209(f):

* No less than 45 days and no more than 60 days after final action

** Any continuation shall be concluded within 30 days of first hearing date

*** Order of the Board shall be issued within 15 days following the conclusion of the Hearing

2/9/05

IN THE MATTER OF THE CLUSTERS DEVELOPMENT PLAN APPROVAL AND SPECIAL HEARING	*	BEFORE THE COUNTY BOARD OF APPEALS OF
PDM No. I-509 Zoning No. 04-382-SPH	*	BALTIMORE COUNTY CBA-04-126 and 04-382-SPH

* * * * * * *

ORDER

This matter comes to the Board of Appeals from the decision of the Zoning Commissioner / Hearing Officer (referred to herein as the "Hearing Officer") of Baltimore County approving a development plan and granting certain zoning relief. The property at issue in this case (the "Property") consists of three separately owned parcels on the east side of Hilltop Road, south of Frederick Road in Catonsville. The Property consists of 18.1041 acres. Skirven Enterprises, Inc. is the contract purchaser and developer (the "Developer") of the Property.

At the time of the Hearing Officer's Hearing, the Property was spilt-zoned D.R. 2 (16.7346 acres) and D.R. 5.5 (1.3651) acres. The Development Plan originally presented to the Hearing Officer proposed a development to be known as "The Clusters" and to consist of 40 single family dwellings, one of which is an existing single family detached dwelling, one of which was a proposed single family detached dwelling, and 38 of which were proposed single family semi-detached dwellings (two units joined by a party-wall, side-by-side). In addition to the approval of the Development Plan, the Developer had also sought the zoning approval to create certain split-zoned lots and to annex unused land from an adjoining subdivision known as "Cainewood" into the development proposal for The Clusters, as more particularly described in the Petition for Special Hearing.

The Hearing Officer approved the Development Plan for the Property and granted the zoning relief which had been requested. Nonetheless, in doing so, the Hearing Officer found a conflict between the Baltimore County Master Plan 2010, which he found proposed single-family detached dwellings for this Property, and the Development Plan, which as stated proposed a mix of single family detached (2) and single family semi-detached dwellings (38) for this Property. Accordingly, pursuant to Baltimore County Code ("BCC") 32-4-231 (formerly §26-206 and §26-207), the Hearing Officer referred the approved Development Plan to the Planning Board for resolution of the perceived Master Plan conflict. Subsequently, the Planning Board entered a resolution requiring that the development consist solely of single family detached dwellings.

The Hilltop Maple Community Association and Joseph Gochar, Jr. (collectively referred to herein as the "Protestants") participated in the proceedings before the Hearing Officer and before this Board. The Protestants noted an appeal from the Hearing Officer's approval of the Development Plan and grant of the relief requested in the Petition for Special Hearing.[1] People's Counsel participated in the hearings before this Board.

This matter was set in for hearing of the issues presented by the appeals on July 13, August 19 and August 26, 2004. The Board convened and held a full day of hearing on July 13, 2004, upon conclusion of which the matter was continued as scheduled to August 19, 2004. Nonetheless, prior to August 19, 2004, the parties contacted the Board and requested that the matter be pulled from the docket until further notice and request by the parties. Thereafter, the

[1] It should be noted that the Developer had appealed the action of the Planning Board relative to the resolution requiring solely single family detached dwellings. The Developer voluntarily dismissed that appeal prior to consideration by this Board.

parties contacted the Board in January, 2005 and asked that the matter be set in for a short hearing. The hearing was scheduled for February 2, 2005.

At the hearing on February 2, 2005, counsel for the Developer and counsel for the Protestants apprised the Board that they had reached an agreement on the resolution of the various appeals. The Board was informed that the agreed plan differed from the development plan under appeal. The main difference was a reduction in the number of dwellings proposed, among other differences. Because appeals from decisions of the Hearing Officer are usually heard by the Board on the record developed by the Hearing Officer, BCC § 32-4-281, counsel for the Developer noted that in order to effectuate the settlement, the Board should have before it evidence which supports the approval of the agreed plan. Accordingly, counsel for the Developer suggested that the Board exercise its discretion in BCC § 32-4-281 to accept new testimony to substantiate the facts from which the Board may find that the agreed development plan meets the requirements of the Baltimore County Code. After a brief discussion, there was no objection to proceeding in the manner suggested, given the somewhat unusual circumstances attending to this case and the settlement.

As a preliminary matter, the Developer offered a copy of the recorded Declaration embodying the agreement between the Developer and the Protestants. This was accepted as Skirven Exhibit 1.

Frederick Chadsey was accepted without objection as an expert in real estate development and civil engineering. Mr. Chadsey testified that the Developer and the Protestants have reached an agreement as to the development of the Property. In that regard, he testified that he prepared a revised Development Plan dated January 11, 2005 which reflects the agreed plan. This agreed plan was accepted as Skirven Exhibit 3 (the "Agreed Plan"). Mr. Chadsey testified

that, as agreed, the Agreed Plan proposed only 26 single family detached dwellings and kept a large area vacant which previously had been proposed for residential lots with dwellings. Mr. Chadsey testified that as agreed, the Agreed Plan proposed the installation of three speed humps to calm traffic along Hilltop Road. With regard to sewerage, Mr. Chadsey testified that despite numerous efforts by the Developer to obtain approval for what is known as a "private pumping station", Baltimore County was unwilling to issue such an approval for a development of only 26 dwellings. Accordingly, Mr. Chadsey testified that the Agreed Plan shows the use of "grinder pumps" to manage sewerage.

Mr. Chadsey noted that the Property is within the W3/S3 designation on the Baltimore County Master Water and Sewer Plan. The development of the Property relies upon the ability to connect to public water and sewer lines. These connections are possible in the W3/S3 designation. Despite Baltimore County's efforts to amend the water and sewer master plan to reflect a designation of W6/S6, Maryland Department of the Environment on August 24, 2004 rejected the County's request to do so. Accordingly, pursuant to this rejection, the designation on the property remains W3/S3, which is appropriate for the development proposed on the Agreed Plan.

Mr. Chadsey also testified that the zoning of the Property was unified as D.R. 2 as a result of the 2004 CZMP. Ms. Lynn Lanham from the Office of Planning confirmed the reclassification of the Property to D.R. 2. Accordingly, the zoning relief requested for the split-zoned lots is no longer necessary. Mr. Chadsey testified that the D.R. 2 zoning of the Property would support the development of 26 units as proposed on the Agreed Plan.

With regard to county review of the Agreed Plan, Mr. Chadsey testified that the Agreed Plan was initially submitted to the Baltimore County Development Review Committee for

comments. Mr. Chadsey testified that the Agreed Plan was considered by the DRC and that the only objection voiced by any agency at that DRC meeting was that of Mr. Robert Bowling of Development Plans Review, who objected to the use of a private pumping station instead of grinder pumps. Thereafter, Mr. Chadsey circulated the Agreed Plan for more detailed review by the various county agencies. The Bureau of Zoning Review, the Department of Recreation and Parks and the Department of Environmental Protection and Resource Management voiced no objection to approval of the Agreed Plan. The Bureau of Development Plans Review again objected to the use of a private pumping station, but had no objection to the approval of the Agreed Plan if grinder pumps were used to manage sewerage. The Office of Planning initially had several comments regarding the Agreed Plan. Mr. Chadsey discussed each comment in detail and explained how each was addressed to the satisfaction of the Office of Planning. Ms. Lanham of the Office of Planning corroborated that the Office of Planning was satisfied with Skirven Exhibit 3, the Agreed Plan, and that the Developer had adequately addressed all the comments the Office of Planning had previously made. The Board notes the testimony of Mr. Chadsey on cross-examination by People's Counsel, during which Mr. Chadsey explained that due to the decrease in the number of units proposed, the open space provided and the stormwater management provided, which have been not been reduced, exceed the requirements of the Baltimore County Code. Furthermore, Mr. Chadsey indicated that the Agreed Plan addresses all county environmental regulations without the need for any variances, and that the Agreed Plan meets the requirements of the Residential Performance Standards of BCZR §260.

A complete package of the comments issued by the various county agencies was accepted as Skirven Exhibit 2. This package included both sets of comments issued by the Office of

Planning, and the August 24, 2004 letter from MDE rejecting the water and sewer plan amendment.

Mr. Chadsey concluded by stating that, in his opinion, the Agreed Plan conforms in all respects to all Baltimore County requirements and that he has no reason to believe that it does not.

The Board is persuaded by the testimony of Mr. Chadsey, Ms. Lanham, and the comments of the various county agencies (Skirven Exhibit 2), that the Agreed Plan (Skirven Exhibit 3) meets all requirements of Baltimore County and should be approved. Two Bureaus within the Departments of Permits and Development Management, the Department of Recreation and Parks, the Department of Environmental Protection and Resource Management, and the Office of Planning have written comments suggesting approval of the Agreed Plan. As discussed by counsel for the Protestants, the issues initially raised by the Protestants on appeal have all been resolved to their satisfaction. Indeed, the Protestants joined the Developer in the request for approval of the Agreed Plan.

The Board notes that the Protestants have withdrawn their appeal of the Special Hearing in Case No. 04-382-SPH.

THEREFORE, IT IS THIS 9th DAY OF FEBRUARY, 2005 BY THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

ORDERED that Skirven Exhibit 3 is hereby approved as the Development Plan for the Property; and it is further

ORDERED that Skirven Exhibit 1, the recorded Declaration containing the agreement between the Developer and the Protestants is hereby incorporated into this Order; and it is further

ORDERED that upon the request of the Protestants, the appeal of the Petition for Special Hearing in Case No. 04-382-SPH is withdrawn and dismissed.

Lawrence S. Wescott

Edward W. Crizer, Jr.

Margaret Brassil, Ph. D.

326329

County Board of Appeals of Baltimore County

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

February 9, 2005

Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: *In the Matter of: The Clusters; Skirven Enterprises –Developer*
Case No. CBA-04-126 and Case No. 04-382-SPH

Dear Mr. Tanczyn:

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

Very truly yours,

Kathleen C. Bianco/tds

Kathleen C. Bianco
Administrator

Enclosure

c: Joe Gochar, Jr., individually and
Hilltop Maple Community Association
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire
Charles Skirven /Skirven Enterprises
Francis & Mary Farley
Sonja & William Vogel c/o Mr. La Fiandra
Leo and Susan Hull
Eugene and Jennye Osborne
Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
William J. Wiseman III /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink

8/6/04

RE: PETITION FOR SPECIAL HEARING Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development; W/side Hilltop Road, 150' S c/line Branston Road 1st Election & 1st Councilmanic Districts Legal Owners(s): Jenny & Eugene Osbourne Parcel A, Leo & Susan Hull, Parcels-Hilltop, Mary & Francis Farley & Sonja & William Vogel (Parcel 992) Contractor Purchaser(s) Skirven Enterprises, Charles Skirven	*	BEFORE THE HEARING OFFICER FOR BALTIMORE COUNTY Case No. I-509 Hearing Officer Case

* * * * * * * * * * *

PETITION TO ACCOMPANY APPEAL

Now comes Hilltop Maple Community Association and Joseph Gochar, Jr., Protestants/Appellants, by their attorney, Michael P. Tanczyn, and after noting that they have previously appealed the original decision of the Hearing Officer/Zoning Commissioner in the above-noted case, in addition to zoning case 04-382-SPH; and have, on August 6, 2004, filed a further appeal of the actions taken by the Petitioner and Zoning Commissioner/Hearing Officer in approving a revised Plan, with material amendments, without notice, hearing, or County review, as required by County Code in the same case, do hereby submit the within Petition to Accompany Appeal of August 6, 2004, as required by §26-209, now §32-4-281(b), and say:

1. That Appellants timely appealed the decision of the Zoning Commissioner/Hearing Officer from the original Order in this case, of April 30, 2004, as well as the Zoning Commissioner's decision in the zoning case to the Board of Appeals of Baltimore County. The Board set these

matters for hearing, and the hearing began July 13, 2004, with continuation dates of August 19, 2004 and August 26, 2004.

2. That Petitioners took no appeal from the Hearing Officer's decision or the Zoning Commissioner's original decision to the Board of Appeals.

3. That as required by the original Hearing Officer's decision, the Development Plan for the Clusters was submitted to the Baltimore County Planning Board, on a Master Plan conflict, created by the proposed construction of single family attached dwellings in an area designated for single family detached dwellings on the Master Plan, pursuant to §26-207, now §32-4-231 of the Code. The Hearing Officer's Order further stated, "The Plan shall be amended to incorporate any findings/amendments offered by the Planning Board."

4. That after the appeal time had run, the Planning Board took up the Clusters' Plan, and after review and discussion by a 7 to 5 vote, found a Master Plan conflict.

5. That the decision of the Planning Board binding upon the Hearing Officer shall be incorporated as a part of the Hearing Officer's final action on a Plan, pursuant to Baltimore County Code §26-208, now §32-4-232.

6. That after the Planning Board decision of June 3, 2004, and after the time had run for filing appeals from the original decision by the Hearing Officer and Zoning Commissioner, Petitioners filed an appeal of the Planning Board decision to the Board of Appeals and moved to have that appeal heard with the pending appeals on the Hearing Officer and Zoning Commissioner Order, which was opposed by Appellants.

7. That on July 9, 2004, after exparte consultation with Petitioners and/or Petitioners' counsel, the Zoning Commissioner/Hearing Officer for Baltimore County signed a Development Plan, dated June 22, 2004 for the Clusters, marked as revised June 22, 2004 for PDM file 1-509,

which was materially and substantially different from any Plan submitted to the Hearing Officer, or to Baltimore County for review, or any Plan considered by the Hearing Officer prior to his decision of April 30, 2004.

8. That the aforesaid revised June 22, 2004 Plan contained material amendments when compared to the approved Plan of April 30, 2004 and any Plan showing material amendments, under Baltimore County Code, §26-211, now §32-4-262, is required to be reviewed and approved in the same manner as the original Plan. That section further provides that any other material change shall be in accordance with the comprehensive manual of administrative policy.

9. That the material amendments were numerous and included the following, at a minimum, by illustrative example:

(a) Where the original request was to approve two single-family detached dwellings and 38 semi-attached units and the original Hearing Officer's decision amended the Developer's Plan to incorporate Developer's Exhibit 5(b), providing more single family detached dwellings along Hilltop Road, ordered 4 single-family detaching dwelling units adjacent to Hilltop Road, and 34 semi-attached dwelling units, reducing the requested density by 2 units, to 38 units; the revised Plan proposed 34 single-family detached dwellings, consisting of one existing single-family dwelling and 33 single-family dwelling units to be constructed;

(b) Eliminated a large area of open space, shown on the previous plan;

(c) Changed the configuration of dwellings on the lots;

(d) Changed the road system;

(e) Changed the lots and the building envelopes on each lot, in the orientation of the proposed dwellings to each other, as contrasted with the previously approved Plan;

(f) Despite changing the lots and location of the dwellings, made no changes to

the storm water management easements ordered by the County for the original Plan, based on the original configuration and proposed location of the semi-attached units.

10. That there may be more material amendments shown on the revised Plan, in addition to those mentioned herein, but Appellants' point is that those enumerated should have triggered the provisions of Code §26-211, now §32-4-262, Amendments to Plan, since the Planning Board's decision of June 3, 2004 essentially gutted Petitioners' Plan, as approved by the Hearing Officer/Zoning Commissioner, April 30, 2004.

11. That the Zoning Commissioner therefore erred in signing a materially amended Plan, without adhering to the provisions of Code §26-211, now §32-4-262, as did the PDM Project Manager, Donald Rascoe, in counter-signing the Plan on July 12, 2004.

12. That Baltimore County Code §26-206, now §32-4-229, Development Plan Approval, requires public quasi judicial hearing for the Hearing Officer, prior to final action on a Plan. Such hearing was not scheduled or held by the Hearing Officer on the revised Plan, prior to signing it July 9, 2004, or by the time of the PDM Project Manager's signature on July 12, 2004.

13. That Baltimore County Code, §26-206(a)(2), now 32-4-229, requires the Hearing Officer to take testimony and receive evidence regarding any unresolved comment or condition relevant to the proposed Plan, including testimony or evidence regarding any potential impact of any approved development upon the proposed Plan, which was not done because no hearing was scheduled or held by the Hearing Officer prior to his affixing his signature on the revised Plan on July 9, 2004, or by the PDM Project Manager's signature on July 12, 2004.

14. That Baltimore County Code, §26-206, now 32-4-229, Development Plan Approval (a)(3), requires the Hearing Officer to make findings for the record and render a decision, pursuant to the requirements of this Section. Further, that 26-206 (c) requires a hearing to be scheduled, as

required by §26-204(c) above, which was not done by the Hearing Officer before taking final action on this Plan.

15. That Baltimore County Code §26-206 (b) requires, for a period of at least 15 days prior to the time of such hearing, notice of the date, time, and place shall be conspicuously posted at the County's direction on the lot, parcel, or tract, which is the subject of the Plan, which was not done on the revised Plan, because no hearing was scheduled, and therefore, no notice was given, as required by law.

16. That Baltimore County Code, §26-206, now 32-4-229, requires that the Hearing Officer, upon any final decision on a Plan, to file an opinion and include therein the basis of his decision. This was not done in this case, as there was no opinion or written decision of the Hearing Officer filed contemporaneously with his affixing his signature to a revised Plan for the Clusters, on July 9, 2004.

17. That Baltimore County Code §26-206(h) requires the Department of PDM and the Hearing Officer to maintain complete files, with respect to all hearing proceedings over which the Hearing Officer presides, to include at least:

(a) The Plan;

(b) Reports or comments or proposed or requested conditions from County agencies, County input meetings, community groups, or any party or private person relating to the plan;

(c) Exhibits introduced in evidence at the hearing;

(d) The final decision rendered by the Hearing Officer; none of the foregoing occurred in this case.

18. That Baltimore County Code §26-206(j) requires if no decision is rendered, the

appeal period begins from the 15th day after the final hearing is held. However, the Hearing Officer shall immediately notify the parties that the Plan is deemed approved, and that the appeal period has begun. No notice or revised plan was sent by the Hearing Officer to the Protestants indicating that he had signed a revised Plan, July 9, 2004, and that revised Plan was approved and that the appeal period of that had begun, as required by Code.

19. That Baltimore County Code §26-206(n) requires, "The proceedings of any hearings shall be recorded. Any person may have access to the recorded proceedings, upon request, and upon payment of any fees or costs involved." Upon information and belief, there was no recording made of any exparte contact between the Hearing Officer and the Petitioner or the Petitioner's legal representatives, wherein they presented the materially amended revised Plan, dated June 22, 2004 to the Hearing Officer, and therefore the Hearing Officer did not adhere to the requirements of the Baltimore County Code in that regard.

20. That a material amendment to an approved Plan, which requires review by the County agencies' approval, with a public hearing, as the original Plan, under Baltimore County Code §26-211, now 32-4-262, would trigger all of the requirements, none of which were complied with in this case, under §26-202, for community input meetings, County and County agency comments, to see if the revised materially amended Plan comports with the Development Plan requirements of §26-203 of the Baltimore County Code, which are numerous and substantial, and incorporated in this Petition by reference, without repetition; the requirements of Baltimore County Code, §26-204 for preliminary review are similarly incorporated by reference in this Petition, and Baltimore County Code, §26-205 for County review by all of the County agencies listed therein, none of which occurred in this case. Similarly, no hearing was held, as required for Development Plan approval of a materially amended Plan, pursuant to Baltimore County Code §26-206.

21. That the Baltimore County Planning Board, in addressing the referral from the Hearing Officer, never had before it, the revised Plan of June 22, 2004, and had no authority to approve any Plan in any event. Further, in the Planning Board decision, it did not have before it the Petitioners' revised Plan, and therefore could not have passed on whether that Plan resolved the Planning Board issue of Master Plan conflict.

22. That Petitioners subsequently dismissed their appeal from the Planning Board decision before the Board of Appeals, as case 04-127, by a Line dated July 12, 2004, which was accepted on the day of hearing, as a dismissal with prejudice by the Chairman of the Board of Appeals.

23. That the above action taken by the Hearing Officer in approving a revised Plan, June 22, 2004, for the reasons stated above, violate the Federal and State constitutional protections to be afforded the Protestants, as to both procedural due process and substantive due process, as called for under the provisions mentioned of the Baltimore County Code.

CONCLUSION

For the aforesaid reasons, Appellants respectfully request that the Board of Appeals, in consideration of the within grounds for appeal to:

A. Reverse or modify the decision of the Hearing Officer, in approving the revised development plan of June 22, 2004 on July 9, 2004;

B. Remand the case to the Hearing Officer;

C. Require the Developer to go back to the Community Input Meeting phase, or an earlier phase, as the Board of Appeals may deem appropriate, because of the Planning Board's decision on the Master Plan conflict, which preceded the Zoning Commissioner's approval of the revised Development Plan, dated June 22, 2004 on July 9, 2004;

D. Deny the plan, based on its violation of the Baltimore County approved proposed plan for Master Water Sewer Amendment, designating this property to be S6W6, with no available water or sewer service at this time.

Respectfully submitted

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204
(410) 296-8823
Attorney for the Appellants, Hilltop Maple Community Association and Joseph Gochar, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August, 2004, the above appeal and Petition to Accompany Appeal was mailed to Dino C. LaFiandra, Esquire, G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for the Petitioner(s) and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

MICHAEL P. TANCZYN, Esquire

8/06/04

Theresa:

Regarding attached appeal filed by Michael Tanczyn (our FYI copy attached):

As you know, we are in the midst of hearing "The Clusters" – both the development plan and the zoning case (CBA-04-126 and 04-382-SPH).

Larry, in his decision, indicated that the plan was to be amended to incorporate certain comments of the Planning Board.

That Amended Plan was submitted and signed off by Larry and Don Rascoe. That Plan was the plan which came into play during the July 13th hearing.

To be on the safe side, Michael has appealed that amended plan which Larry and Don signed in early July.

Bottom line – you may be getting a call from Kristen (Rascoe's office) regarding this – all we need is a copy of the Plan as originally approved by Larry 4/30/04; a copy of the Plan referenced in Michael's appeal; and the new appeal, plus anything they send to the parties regarding the appeal being filed.

My first reaction is to simply consider it an additional appeal filed in the current case pending – I hate giving this a new number and creating all kinds of confusion with scheduling. HOWEVER – that still raises some problems.

When you actually get something from PDM (Rascoe's section), we'll talk about it.

kasi

CBA-04-126

7/8/04

RECEIVED
JUL 08 2004
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE:	*	BEFORE THE COUNTY
THE CLUSTERS	*	BOARD OF APPEALS
SKIRVEN ENTERPRISES, DEVELOPER	*	OF
	*	BALTIMORE COUNTY
APPEAL FROM HEARING OFFICER'S APPROVAL OF DEVELOPMENT PLAN, ZONING COMMISSIONER'S GRANT OF PETITION FOR SPECIAL HEARING AND PLANNING BOARD'S RESOLUTION REQUIRING SINGLE FAMILY DETACHED DWELLINGS	*	PDM Case No: I-509 Zoning Case No. 04-382-SPH Planning Board Res. dated June 3, 2004 BOA Case No. 04-126

* * * * * * * * * * *

DEVELOPER'S (APPELLEE'S) RESPONSE TO APPELLANT'S PETITION ON APPEAL

I. INTRODUCTION AND PROCEDURAL POSTURE

Skirven Enterprises, Inc., the Developer ("Developer"), by its attorneys, G. Scott Barhight, Dino C. La Fiandra, and Whiteford, Taylor & Preston, L.L.P., submits this pre-hearing memorandum in response to Appellants' Petition on Appeal. Pursuant to Baltimore County Code, § 26-206, the Hearing Officer conducted an evidentiary hearing on the Development Plan and the Petition for Special Hearing on March 25, 29, April 2 and 6, 2004. The Hearing Officer approved the Development Plan and granted the Petition for Special Hearing by order dated April 30, 2004. The Hilltop Maple Community Association and Joseph Gochar, ("the Protestants"), appealed the approval of the Development Plan and the Petition for Special Hearing to this Board.

In his order, the Hearing Officer found that the Development Plan, which proposed single family semi-detached dwellings, conflicted with the Baltimore County Master Plan

2010. The Proposed Land Use Map (Map 39) of the Master Plan proposes single family detached dwellings for this area of the County. Therefore, in conjunction with approving the Development Plan, the Hearing Officer also referred the Development Plan to the Planning Board in accordance with Baltimore County Code, § 26-207(a)(1). That section of code requires the Hearing Officer to refer the matter to the Planning Board if he finds that the Development Plan conflicts with the Master Plan. The Hearing Officer's approval of the Development Plan was explicitly made subject to any amendments or findings of the Planning Board. The Planning Board considered the matter on May 18 and June 3, 2004. On June 3 the Planning Board passed a resolution requiring that the Development Plan consist of single family detached dwellings only. The Developer appealed that decision of the Planning Board to the Board of Appeals.

II. FACTS

The property at issue in the Development Plan (the "Property") consists of three existing lots, each in separate ownership. The gross acreage is 18.1 acres and the Property is split zoned D.R. 2 (16.73 acres) and D.R. 5.5 (1.36 acres). The Property is located on the east side of Hilltop Road, 150 feet south of Branston Road in the First Councilmanic District. The Property will support a total of 40 single family dwellings. Forty single family dwellings were proposed. There is one single family detached dwelling existing on-site. The Development Plan as originally filed proposed one additional single family detached dwelling and 38 single family semi-detached dwellings. Ultimately, the Hearing Officer approved 37 single family dwellings consisting of 5 detached and 32 semi-detached.

The split zoning of the Property results in a number of split zoned lots (Lots 1, 2, 3, 4, 5, and 7). In addition to approval of its Development Plan, the Developer submitted a Petition for Special Hearing to approve the split zoned lots. The Developer also submitted its Petition for Special Hearing to approve an amendment to the Final Development Plan (the "FDP") for the adjoining Cainewood development. This Special Hearing sought to amend the Cainewood FDP to annex portions of Cainewood into the Clusters development. The portion of Cainewood to be annexed was previously identified as approved for "Future Development".

At the hearing, the Developer presented a redlined Development Plan which addressed the issues raised by the county agencies. This redlined Development Plan was admitted into evidence as Developer's Exhibit ("DX") 1C and 1D. It is this redlined Development Plan for which approval was sought. Throughout this brief, references to the "Development Plan" shall mean the redlined Development Plan, DX 1C and 1D. The Hearing Officer approved the Development Plan and the Petition for Special Hearing.

III. STANDARD OF REVIEW

A) Legal Standard for Approval of a Development Plan by the Hearing Officer

Baltimore County Code, § 26-206 provides the standard by which the Hearing Officer must measure the Development Plan. Pursuant to that section of law, the task of the Hearing Officer is to take testimony and resolve any unresolved comments of the county agencies. § 26-206(a).

BCC §26-206(b) provides that where a Development Plan meets all of the County requirements set forth in the Baltimore County Code, the Development Plan must be

approved. The Hearing Officer "shall" grant approval of a Development Plan which complies with the development regulations, policies, rules and regulations of Baltimore County. §26-206(b). Approval of a plan which conforms to the law is not discretionary, it is mandatory. The evidence presented at the hearing demonstrated that there will be no adverse effect generated by the proposed development. However, it should be noted that if all of the Baltimore County Code requirements are met, the plan must be approved even if the proposed development would generate adverse impacts on neighboring properties. In that case, the Hearing Officer also has the authority to impose conditions on the approval of the Development Plan, proposed or requested by a party and designed to protect surrounding and neighboring properties. § 26-206(o).

B) Standard of Review to be Applied by the Board of Appeals in Reviewing Approval of a Development Plan by the Hearing Officer.

Baltimore County Code, § 26-209 establishes the standard of review to be applied by the Board of Appeals in reviewing the action of the Hearing Officer. The standard is identical to that applied by courts on judicial review of administrative decisions. Basically, the Board reviews the decision of the Hearing Officer to determine 1) if the Hearing Officer acted within his lawful authority, 2) if there was an unlawful procedure, 3) if the Hearing Officer committed an error of law, 4) if the decision is based on "competent, material, and substantial evidence", in light of the record, and 5) if the decision is arbitrary or capricious.

In appeals from the decision of the Hearing Officer in development plan cases such as this one, the Board sits as a truly appellate body in that it is required to accept the

factual findings of the Hearing Officer unless it is shown that they are not supported by substantial evidence in the record. Mr. Rick Chadsey, Developer's professional engineer, was accepted as an expert witness in the areas of civil engineering, land use, and real estate development. He testified that the Development Plan was prepared by him or under his supervision and he described the proposed development. He stated unequivocally that the Development Plan complies with all development regulations, policies, rules and regulations of Baltimore County. The Hearing Officer concluded similarly, and therefore he approved the Development Plan.

V. DEVELOPER'S REQUEST FOR RULING ON DEVELOPMENT PLAN APPEAL

The Hearing Officer issued his decision approving the Development Plan on April 30, 2004. Pursuant to Baltimore County Code, § 26-209, the Developer was statutorily entitled to have the hearing in this matter before the Board commence on or before June 29 (60 days from date of Hearing Officer's decision). Under the same section of law, the Developer is statutorily entitled to have the hearing conclude no later than July 29 (30 days from the commencement of the hearing), and the Board is then required to issue its decision no later than August 13 (15 days following conclusion of the hearing). These dates follow from the required statutory timeline for accomplishing these tasks which is set forth in § 26-209.

Despite the Board administrator's diligent and unquestionably good faith efforts to schedule the appeal within the required timeline, she was unable to do so. The first day of hearing on the Development Plan appeal is scheduled for July 13, 2004, which is 74 days from the date of the Hearing Officer's decision, or two weeks late. The next two dates of

hearing are August 19 and 26, which are both after the last day on which the Board is required to have issued a decision on the Development Plan appeal under § 26-209. August 19 is 111 days from the date of the Hearing Officer's decision and 37 days from date of the first day of hearing. August 26 is 118 days from the date of the Hearing Officer's decision and 44 days from the first day of hearing.

The Board's hearing on the Development Plan appeal is scheduled to commence at 11 a.m. on July 13. The Developer respectfully requests that the Board not adjourn on that day of hearing until the Development Plan appeal has been completed. This would require complete argument by both sides on all issues raised in the Petition on Appeal. Furthermore, in light of the delay in scheduling the appeal and the Board's inability to meet the required statutory timeline, the Developer respectfully requests that the Board decide the Development Plan appeal within 15 days following July 13, or by August 13 at the absolute latest. August 13 is the date by which the Board would have been required to issue its decision if the matter had been scheduled as provided in the code. While it may have been impossible to meet the letter of the law, the Board can still meet the spirit of the law by issuing a decision on the Development Plan appeal in a relatively timely fashion. Waiting until well after August 26 to do so is a harsh result particularly when the Board has within its discretion the ability to avoid the delay. For example, the Board may approve the Development Plan on condition of a successful outcome of the remaining issues to be presented in the Special Hearing appeal and the appeal of the resolution of the Planning Board. The Developer is entitled to a prompt resolution of the Development

Plan appeal. Justice requires that if the Board is unable to meet the statutory mandate, that it take steps to mitigate the delay.

VI. PROTESTANT'S ISSUES ON APPEAL

A. Effect of Resolution 32-04

The Protestants raised County Council Resolution 32-04 as an issue in this Development Plan case. The Hearing Officer correctly concluded that Resolution 32-04 has no operative effect on the availability of public water and sewer to the Property.

Resolution 32-04, copy attached as Exhibit A, recites that the Property is presently within the **W3 and S3** designation on the County's Water and Sewer Master Plan as a result of Council Resolution 88-92. Resolution 32-04 then purports to place the Property within the **W6 and S6** designations on the County's Water and Sewer Master Plan. The distinction is that according to the Water and Sewer Plan, public water and sewer is accessible in the W3 and S3 designations, while they are not accessible from the W6 and S6 designations. The Development Plan relies on public water and sewer and the W3 and S3 designations.

Resolution 32-04 passed the County Council on April 5, 2004 and called for further processing as required by state law at the Planning Board, the office of the County Executive, and MDE. The County Executive signed Resolution 32-04 on April 14, 2004. Under state law, this leaves two distinct actions which must occur before the proposed amendment to the water and sewer master plan is final. Pursuant to Maryland Code, Environment Article, § 9-506(a)(1),

> before a county governing body may adopt a[n] amendment to the county [water and sewer] plan, the county planning agency shall certify that the . . . amendment is consistent with the [master land use] plan.

Furthermore, pursuant to § 9-507, the Maryland Department of the Environment must approve the amendment to the water and sewer plan before it is final.

On March 15, 2004 the County Council introduced Resolution 32-04. Thereafter, on March 18 and again on April 1, in accordance with the provisions of the Resolution, the Planning Board considered the appropriateness of applying the W6 and S6 designations to the Property, but determined instead that the W3 and S3 designations are appropriate for this Property. Indeed, quite importantly, in addition to determining that the W3 and S3 designations are appropriate, on April 1, the Planning Board also determined the W6 and S6 designations are not consistent with the Master Plan's land use map. Copies of the minutes of the March 18 and April 1 meetings of the Planning Board are attached as Exhibit B. Correspondence dated April 14, 2004 from the Director of Planning to Legislative Counsel advising the County Council of the Planning Board's various resolutions is attached as Exhibit C.

The Planning Board has repeatedly concluded that the W3 and S3 designations are appropriate for this site. On April 1, 2004 the Planning Board determined that W6 and S6 were inconsistent with the Master Plan's land use map. Pursuant to Maryland Code, Environment Article, § 9-506(a)(1), and as acknowledged by Resolution 32-04 itself, without the affirmative endorsement of the Planning Board, the County may not change the designation of the Property on the water and sewer plan to W6 and S6. Both within

the context of Resolution 32-04 and in general, it is clear that Planning Board approval has not been and will not be forthcoming.

This fact was not overlooked by the Maryland Department of Planning (MDP), which is charged under state law with reviewing Water & Sewer Plan amendments which have been passed by county governing bodies. Md. Code, Env. Art., § 9-507(b). MDP reviewed Resolution 32-04 in accordance with its mandate, and has issued a letter to MDE dated June 10, 2004 concurring with the Baltimore County Planning Board's determination that water and sewer should be available to the Property as a matter of law. See, Exhibit D, attached. The Hearing Officer correctly seized upon these facts in determining that Resolution 32-04 is without operative effect, even in light of Md. Code, Environment Art., § 9-507(a)(2), which is cited by the Protestants.

Lastly, one cannot overlook the required – but lacking – action of the Maryland Department of the Environment. Pursuant to 9-507, even if the County effectively changes the designation on the Property, which absolutely requires the action of the Planning Board, Maryland Department of the Environment must approve the change before it is final. This has not occurred. Accordingly, Resolution 32-04 has no effect on the availability of public water and sewer at the Property. Therefore, the Board must concur with the legal analysis of the Hearing Officer and affirm the approval of the Development Plan.

B. Master Plan Conflict

The Protestants claimed to the Hearing Officer that the Development Plan conflicts with Master Plan 2010 (the "Master Plan"), Baltimore County's land use plan. The basis of

the objection involved Master Plan Map 39, entitled "Proposed Land Use", which proposes "single family detached dwellings" as the land use for the Property. The Development Plan proposes mostly single family semi-detached dwellings, although 2 detached dwellings are proposed. The Hearing Officer erred in concluding that this discrepancy constitutes an *actionable* master plan conflict and requires referral of the Development Plan to the Planning Board under Baltimore County Code, § 26-207(a). Procedurally, the Hearing Officer approved the Development Plan, but made the approval subject to any amendment required by the Planning Board as a result of the referral.

The Master Plan is self-described as being a "reference document which the County Council may use when exercising its authority to establish land use policy through the adoption of zoning maps and zoning ordinances". Master Plan, p. 3. It serves as a "guide for the physical development of the county". Baltimore County Code, § 26-81.

> The major land use control in Baltimore County is zoning. Many of the land use policies of the master plan will be implemented through the application of zoning. Map 39, "Proposed Land Use", proved general recommendations for future land use in the county based on these policies. The map is conceptual and general; it is intended to reflect land use patterns rather than identify the land use of individual properties or parcels.
>
> Master Plan, p 258.

As a threshold issue, one may not escape the conclusion that in exercising its authority to set land use policy within Baltimore County, the Council created and applied the D.R. zones *to this Property* in such a manner as to permit not only single family detached, but also single family semi-detached dwellings and duplexes. Planning is implemented through zoning. In implementing the plan, the Council has determined that,

even where single family detached dwellings are the proposed land use, allowing a variety of housing types (within a specified range) is necessary and beneficial. Even in light of the "single family detached" designation on Map 39 for this Property, the D.R. zoning regulations has as its first statement of purpose, "Foster a greater variety in housing types within future residential developments". BCZR §1B00.2.A. The Master Plan notably does not go as far as to suggest that only detached dwellings be permitted. Even if it did, as noted above, the Master Plan is merely a "reference document which the County Council *may* use when exercising its authority to establish land use policy through the adoption of zoning maps and zoning ordinances."

The Hearing Officer erred in determining that the perceived master plan conflict rose to the level of an actionable conflict. The Hearing Officer is required to refer a Development Plan to the Planning Board if he determines that the proposed plan conflicts with the Master Plan. Baltimore County Code, § 26-207(a)(1). Once referred, the Planning Board is limited to considering only those issues which have been referred to it, and is directed to act in accordance with Baltimore County Code, § 26-66. See, Baltimore County Code, § 26-207(b).

Baltimore County Code, § 26-66 provides a mechanism whereby the county may reserve certain property for certain specific public uses, which must appear within the Master Plan for the area for reservation. The specific public uses which may generate a Master Plan conflict are listed within §26-66: streets, drainage rights of way, open space, flood area, school, park, playground or other public improvement. If the proposed land use does not conflict with one of the enumerated *public uses* for which the Planning Board

may recommend that the County Council impose the public reservation under § 26-66, then neither the Planning Board nor the County Council would have any authority over the property in question or the Development Plan for it. In order to be an actionable conflict with the Master Plan, the Development Plan must propose a use which would conflict with, interfere with, impede or delay one of the legitimate public uses listed in the section. Otherwise, nothing can come from the referral to the Planning Board.

The Hearing Officer found that the semi-detached dwellings proposed on the Development Plan conflict with the Master Plan Proposed Land Use Map which indicates single family detached dwellings. Even if this were a conflict of a measurable degree, because the Master Plan conflict does not involve one of the public improvements noted in § 26-66 (a), *as a matter of law* there is no action that the Planning Board could take in response to the discrepancy. It would be different if the Developer was proposing the residential or commercial use of land proposed in Map 39 for "open space" or "park". In either of those cases, under § 26-66, the Planning Board would have authority to take action. As presented, however, § 26-66 authorizes no action, and therefore a referral to the Planning Board would be meaningless and is not authorized.

Having opened the door on the "Master Plan Conflict" issue, the Protestants take issue with the *procedure* employed by the Hearing Officer in referring the matter to the Planning Board. Baltimore County Code, § 26-207(a)(1) requires a referral to the Planning Board when a Development Plan presents a master plan conflict. In the event of a referral, Baltimore County Code, § 26-207(d) and § 26-208(c) require that any final action on a Development Plan must be subject to the action of the Planning Board, and provide that

any such action by the Planning Board is binding upon the Hearing Officer. By operation of these provisions of law, the Planning Board action on referral by the Hearing Officer becomes incorporated into the Development Plan approval.

Indeed, this is precisely the manner in which the Hearing Officer handled the Development Plan approval and referral in this case. Finding that the Development Plan met all applicable requirements and should be approved, the Hearing Officer approved the development. Nonetheless, the Hearing Officer perceived a master plan conflict, and referred the matter to the Planning Board. Appreciating the code provisions that bind the Hearing Officer to the decision of the Planning Board on the conflict issue, the Hearing Officer rightfully approved the plan "*subject to*" (See § 26-207(d), and the Hearing Officer's Order) the action of the Planning Board.

The Protestants assert that the Hearing Officer should not have approved the plan until after the Planning Board returned its decision after the referral. This, they assert, denied the Hearing Officer with the input from the Planning Board in rendering his decision to approve the Development Plan. The Appellants' assertion ignores the two sections of law which render the action of the Planning Board as binding upon the Hearing Officer's decision.

There is no section of law that mandates the order of the proceedings in the event of a referral to the Planning Board. Nothing mandates that the Planning Board referral precede the Hearing Officer's Hearing. The Hearing Officer approved the Development Plan subject to any revision required by the Planning Board. Regardless of the decision of the Planning Board, the Hearing Officer had no authority but to require compliance with

the decision. Therefore, reconvening the Hearing Officer's Hearing after the Planning Board action would serve no purpose, and was not required under the law. The Board must affirm the decision of the Hearing Officer.

C. Grinder Pumps

The Protestants have repeatedly attempted to raise the utilization of grinder pumps as an issue to defeat the Development Plan. Grinder pumps as a sewer technology come within the purview of the Department of Public Works. It is, of course, notable, that the Department of Public Works reported no unresolved issues. Indeed, the County was quick to point out that the use of grinder pumps is authorized generally by the Code of Baltimore County Regulations.

County Exhibit 2 is the portion of the regulations which permit the use of the grinder pumps. The regulations permit the use of grinder pumps as a supplemental method of wastewater collection and not as a replacement for conventional gravity collection systems. Under the regulations, the developer makes an application to the Department of Public Works and must show that the area to be served by the pumps has environmental, topographic and subsurface conditions which make service by conventional gravity collection systems very difficult or impractical. The Department reviews each application on a case by case basis to determine whether the use of grinder pumps is necessary and warranted.

Within the context of these regulations, the Developer made the necessary application to the Department of Public Works. By letter dated March 10, 2004, the Department of Public Works approved the request. See, Protestants Exhibit 8. The

Developer and the Development Plan have complied with all regulations and policies governing the use of grinder pumps. Indeed, during the course of the hearing, the Hearing Officer ruled that the hearing would not be a forum to challenge the appropriateness of the use of grinder pumps.

Furthermore, there was absolutely no evidence presented which indicate that the Property is in someway unique in a manner which would preclude the use of grinder pumps. There was no evidence presented that the use of grinder pumps within the Clusters is a threat to the health, safety or general welfare of anyone in the vicinity of the proposed development because of any peculiar aspects of the Property, the use, or otherwise.

Grinder pumps are an approved sewer technology which has been accepted by Baltimore County and the Department of Public Works. The Developer and its Development Plan have complied with all county requirements in this regard. The Hearing Officer found this to be the case. There was no evidence presented that the Property is somehow uniquely situated so that the use of the technology is inappropriate or dangerous. Accordingly, the Hearing Officer resolved this issue in favor of the Developer. As a matter of law, and based upon substantial evidence in the record, the Board of Appeals should affirm the Hearing Officer's decision in this regard.

D. Traffic

The Hearing Officer found that the Development Plan complied with all requirements relating to traffic. On page 9 of his opinion, he states:

> In this case, the development plan comments submitted by the relevant County agencies indicate that the site has been reviewed and approved for appropriate sight distance. There is no failing traffic intersection that impacts this site and the property is not subject to any existing County law that might impose a moratorium on development when traffic congestion reaches inappropriate levels. Although there are increased traffic volumes and speeds in the area, I find no peculiar circumstance related to traffic which justifies a denial of this plan. Thus, I decline to deny the plan or impose conditions based upon this issue, other than to require clearing of any vegetation what might limit sight distance.

The Protestants presented lay witnesses who testified that traffic is problematic along Hilltop Road in the vicinity of the proposed development. There were complaints that there is too much congestion and that people drive too fast. There was, however, no expert testimony presented by the Protestants to the effect that the intersection was unsafe or that the Property is within a traffic deficient area. There was no testimony that any of the traffic related issues are unique to this area or otherwise peculiar to this proposed development.

It is notable that the Development Plan Review Bureau of the Department of Permits and Development Management reviewed the Development Plan and returned no adverse comments or unresolved issues. The only expert testimony presented on the issue of traffic was by Developer's engineer, Mr. Chadsey. Mr. Chadsey testified that the proposed intersection was designed in accordance with all county requirements and that it would be safe. Mr. Chadsey further testified that the Property was not within a traffic deficient area. There was no contradictory evidence from the Protestants. As the Development Plan complies with the applicable development regulations regarding traffic, as a matter of law, the Hearing Officer rightfully declined to deny the plan on this

basis. His decision is properly based both in law and on substantial evidence in the record. Therefore, this board should not disturb the plan approval on this basis.

There was a discussion during the Hearing Officer's Hearing that all vegetation which might obstruct sight lines along Hilltop Road would be removed from within the right of way in the vicinity of the Development. The Developer supported the condition of the approval which required such vegetation within the right of way near the entrance be removed.

E. Protestants Objections to the Zoning Relief Afforded by the Special Hearing

A Petition for Special Hearing is a request for an interpretation of the zoning regulations by the Zoning Commissioner. The Zoning Commissioner is empowered to render such interpretations by Baltimore County Zoning Regulations ("BCZR") § 500.7. The first Special Hearing at issue involves an interpretation of BCZR § 1B01.2, which prohibits clustering density in the D.R. zones, except in the D.R. 10.5 and D.R. 16 zones.

Citing this section of law, a portion of the Zoning Commissioner's Policy Manual entitled "Density Anomalies" requires a special hearing when a developer proposes to create split zoned lots where there is adequate density to support the portion of the lot within one area but not the other area. The following example from the policy illustrates the point:

> The following anomalies of the zone specific standards have been encountered: 2 D.R. zones (D.R. 3.5 and 5.5) exist on a development tract and density has been fully utilized within the 3.5 zone. In addition to the permitted and proposed complete lots in the D.R. 3.5 zone, the plan proposes a portion of a proposed lot or dwelling within the D.R. 3.5 zone.

The Zoning Commissioner's Policy Manual ("ZCPM") suggests that a Special Hearing is necessary to approve such a configuration. In accordance with this provision of the ZCPM, the Special Hearing requests an interpretation of the zoning regulations which will permit the configuration of Lots 1, 2, 3, 4, 5 and 7 as split zoned lots as proposed on the Development Plan.

The ZCPM and the Bureau of Zoning Review interprets the BCZR extremely broadly to mean that if a proposed subdivision results in a split zoned lot where a portion of the lot is within a zone but there is not density to allocate one dwelling unit to each zoned portion of the lot, then this portion is considered an "undersized" area, for which a Special Hearing is required for approval. Given the Bureau of Zoning Review's position, a special hearing is advisable to resolve the issue.

The Development Plan proposes creation of a number of split zoned lots. Of these split zoned lots, Lot 1 contains an existing dwelling to remain and other existing improvements on both sides of the zone line. Lots 2, 3, 4, 5, and 7 propose dwellings within the D.R. 5.5 zoned portion, but include small portions within the D.R. 2 zone to establish minimum lot size, setbacks, etc. In accordance with the directive of the Bureau of Zoning Review, the Special Hearing requested, and the Hearing Officer granted, approval of the undersized portions of each of these lots as non-density areas. The Petition also requested approval to permit the future construction of accessory structures which otherwise comply with BCZR § 400 on the non-density areas of Lots 2, 3, 4, 5, and 7. The Hearing Officer likewise granted this aspect of the Petition for Special Hearing.

The final item for Special Hearing consideration is the amendment to the tract boundary for the Cainewood Final Development Plan. Cainewood is an adjoining subdivision which includes a parcel of land with 5 unused density units reserved unto it. The Clusters Development Plan proposes an amendment to the Cainewood FDP in order to remove therefrom the parcel of land with the unused density, and to use that parcel within the Clusters development. The Developer proved to the Hearing Officer that the amendment to the tract boundary could be granted without harm or detriment to the surrounding community, in satisfaction of the required proof under BCZR § 1B01.3.A7.b. DX 2 is the proposed 5th Amended FDP for Cainewood, which amends the tract boundary to exclude the 2.55 acres which are used to support The Clusters.

The Protestants testified that, despite the notes on the Cainewood FDP which indicated that the parcel in question would be the site of future development, they expected that this 2.55 acre area would remain undeveloped. Nonetheless, in light of the notes on the previous FDPs for Cainewood, each of which is a notice document under the BCZR, any such expectation was unreasonable. The remaining density within Cainewood has always been reserved for future development.

The Petition for Special Hearing seeks a legal interpretation of the zoning regulations which would permit the proposed configuration of the Lots as shown on the Development Plan. The question to the Board is merely, do the Zoning Regulations prohibit the proposed configuration? Any reasonable interpretation of the regulations will permit the proposed layout. Nothing in the text of the BCZR could be interpreted any

other way. All of the bulk regulations of the BCZR are met in each case. Further, there is no harm to any party should the relief be granted.

The Board should note the testimony of Mr. Chadsey who testified at the hearing with respect to the Petition for Special Hearing that the relief may be granted without adverse impact on the surrounding community. Likewise, the Office of Planning supported the requested interpretation in its Development Plan Comments.[1]

For these reasons, the Hearing Officer rightfully granted the Petition for Special Hearing.

VII. CONCLUSION

The Hearing Officer found that the Development Plan meets all applicable county regulations and he rightfully approved the Development Plan. Protestant's issues are non-issues, and should be resolved in favor of the Developer. Since the Development Plan meets all Baltimore County development laws and regulations, it was approved by the Hearing Officer, and must be affirmed by this Board. The Petition for Special Hearing was rightfully granted by the Hearing Officer and upon evidence to be presented to the Board should likewise be granted by the Board.

[1] The Development Plan Comments of the Office of Planning seem to refer to the application for zoning relief as a "Variance Request". This is a misstatement, as there are no zoning variances sought for this proposed development. The Office of Planning is referring to the Petition for Special Hearing.

WHEREFORE, Skirven Enterprises, Inc., Developer, respectfully requests that the Board of Appeals affirm the Hearing Officer's approval of its Development Plan and grant the Petition for Special Hearing in accordance herewith.

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 Developer

Certificate of Service

This Response to Petition on Appeal was mailed this 8th day of July, 2004 to Michael Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204-4026.

for G. Scott Barhight

304625

Exhibit A
Council Resolution 32-04

Exhibit B
Baltimore County Planning Board
Minutes from March 18 2004 and April 1, 2004 Meetings

Exhibit C
Correspondence from Director of Planning to Legislative Counsel
Date: April 14, 2004

Exhibit D
Correspondence dated June 10, 2004 between Maryland Department of Planning and Maryland Department of the Environment regarding Propriety of Resolution 32-04.

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

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

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

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

July 8, 2004

RECEIVED
JUL 08 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Delivery
Ms. Kathleen Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Re: The Clusters CBA 04-126, etc.
Developer's Response to Petition on Appeal
Transmittal of Transcript

Dear Ms. Bianco:

Enclosed please find Developer's Response to the Protestants' Petition on Appeal as well as a complete transcript of the proceedings before the Hearing Officer. I have also enclosed 3 additional copies of each for distribution to the panel.

Should you have any questions, please contact me.

Sincerely,

Dino C. La Fiandra

Enclosures, as stated.

C: Michael P. Tanczyn, Esquire (w/o transcript)
310890

Transcript filed in "FILE 3"

6/17/04

DEVELOPMENT PLAN HEARING and PETITION FOR SPECIAL HEARING	*	BEFORE THE BOARD OF
Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development; W/side Hilltop Road, 150' S c/line Branston Road	*	APPEALS
1st Election & 1st Councilmanic Districts	*	FOR
Legal Owners(s): Jenny & Eugene Osbourne, Parcel A, Leo & Susan Hull, Parcels 442, Mary & Francis Farley & Sonja & William Vogel (Parcel 992)	*	BALTIMORE COUNTY
Contractor Purchaser(s) Skirven Enterprises, Charles Skirven	*	Cases Nos. I-509 Hearing Officer Case & 04-382-SPH Zoning Case

* * * * * * * * * * *

OPPOSITION TO SKIRVEN ENTERPRISES, INC.'S MOTION TO CONSOLIDATE

Now comes Hilltop Maple Community Association and Joseph Gochar, Jr., by their attorney, Michael P. Tanczyn, Esquire, and files the within opposition to the Skirven Enterprises, Inc.'s Motion to Consolidate and for reasons says:

1. That they are opposed to the Motion to Consolidate.

2. That the Motion asserts the development plan and zoning requests were granted April 28, 2004, which is in error. The Order of the Zoning Commissioner/Hearing Officer is dated April 30, 2004. Appeals from that Order are regulated by Baltimore County Code, §26-209, which requires that an appeal be filed within thirty (30) days after the date of the final decision of the Hearing Officer. The only appeal filed in a timely way from both decisions was filed by Hilltop Maple Community Association and Joseph Gochar, Jr. No appeal was filed to either decision of the Hearing Officer or Zoning Commissioner by the Movants. If the Movants wanted to appeal the Hearing Officer's decision that the matter should be referred to the Planning Board, pursuant to

Baltimore County Code §26.207, or that any Planning Board decision would become part of the Hearing Officer's final decision and that his final decision was subject to any Planning Board decision, the Movant could have taken an appeal in a timely way, which it failed to do.

This situation illustrates the problem which can arise with approving development plans piecemeal and before all County laws and development regulations, including referral to the Planning Board, have been taken complied with, as required by Baltimore County Code §26-206(b).

3. That the requested consolidation is not called for or allowed under Baltimore County Code §26-206.1, which provides for combined zoning and plan approval hearings only, and does not include appeals from any other entities to be heard together. This is particularly critical to a timely determination of the pending appeal for the following reasons. The Board of Appeals is mandated to conduct the development plan appeal hearing no less than forty-five (45) days and no more than sixty (60) days after final action on a development plan, pursuant to Baltimore County Code §26-209 (f). In conducting that hearing, the portion of the hearing on the zoning appeal is de novo, as far as testimony, while the appeal from the development plan is constricted, according to Baltimore County Code §26-209, to the issues raised as grounds for appeal, which the Board examines to see if it finds error committed by the Hearing Officer in taking the final action. There is no provision in the record conducted before the Hearing Officer, containing any of the proceedings conducted May 20, 2004 or June 3,2004 before the Planning Board of Baltimore County. Fundamental issues of due process and fairness are implicated by contrasting the hearing conducted before the Hearing Officer, at which the parties were represented by counsel and able to cross-examine witnesses and adduce evidence to the proceedings conducted by the Planning Board, which considered the referral from the Hearing Officer and rendered its decision on June 3, 2004, after the time for taking a development plan appeal had expired.

It appears to Appellants that the developer is attempting to take a belated appeal from the Zoning Commissioner's referral to the Planning Board, by attempting to consolidate the decision of the Planning Board, which rendered its decision after the time in which an appeal had to be filed in the Zoning Commissioner/Hearing Officer case. Further, neither Appellants nor People's Counsel were given notice of the Planning Board appeal nor was People's Counsel sent the Motion to Consolidate.

4. Noteworthy in the Motion to Consolidate, is the summary statements of Petitioner, which do not include any decisions of the Planning Board, or the reasons for its decisions, to allow the Appellants an opportunity to review same. Also, contrary to developer's assertions, the referenced appeals do not involve common questions of law and the legal standard, to be invoked in the Board of Appeals consideration of the Planning Board action of June 3, 2004, is markedly different from the standards set forth for consideration of a Hearing Officer's decision on a development plan, under §26-209(b). The developer is hoisted on its own petards, by urging the Hearing Officer to render a decision on development plan before hearing back from the Planning Board, and by failing to take a timely appeal of the Hearing Officer's decision.

5. That a considerable time period will be required for consideration of the numerous development plan and zoning issues raised by the Appellants. Those issues are separate and distinct from those contained in the developer's appeal of the Planning Board decision of their development plan, and required amendments which would essentially gut the plan or require material amendments to it, and thus mandate remand back to an earlier stage in the development process. The Appellants did not disagree with the Hearing Officer's decision to refer this matter to the Planning Board for an apparent Planning Board conflict, as mandated by Baltimore County Code §26-207. To the contrary, Appellants urged that there was a conflict and that the referral should be made and that the

hearing should be suspended until the Planning Board acted. The Hearing Officer carefully considered what was said, and then acted in the manner described in the Hearing Officer's decision. As of the time the appeal was taken by Appellants on May 28, 2004, or when the appeal time expired on May 30, 2004, the Planning Board had not acted or come to a decision concerning the referral from the Hearing Officer. It was not required to do so, under the County Code, since the Code provides forty-five (45) days from the time of referral, which was only made April 30, 2004, when the Hearing Officer's decision was announced. That was the point in time that the Hearing Officer first referred the matter to the Planning Board.

6. That the Appellants will be prejudiced if additional extraneous matter, not part of the Hearing Officer's record for the zoning case record is considered, which was certainly part of the developer's appeal on the Planning Board action. Since the developers are appealing an action and decision which followed the Hearing Officer's closing of the case and rendering of his decision, their angst contained in their appeal may include that they are unhappy with the decision of the Planning Board. None of that could have been argued, nor was it argued before the Hearing Officer, since it did not occur until thirty-four (34) days after the Hearing Officer rendered his decision.

The issue of whether the Planning Board was right or wrong in rendering its decision is the subject of the appeal by developers, but is not part of the record and not to be considered by the Board of Appeals as an issue in its consideration of this appeal by Hilltop Maple Community Association and Joseph Gochar, Jr. To do otherwise, would be to give de facto right to developers or Protestants to file appeals of Planning Board actions after the appeal time had expired within which to file a timely development plan appeal, which would be contrary to the purposes of the Baltimore County Code in attempting to provide an orderly and expeditious resolution of

development plans, which are supposed to be presented in final form at the time of the Hearing Officer's consideration.

Wherefore, Hilltop Maple Community Association and Joseph Gochar, Jr. respectfully request the Honorable Board of Appeals to deny the Motion to Consolidate the appeal of the development plan and the zoning decision with the Planning Board's June 3, 2004 decision.

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204
410-296-8823
Attorney for the Appellants,
Hilltop Maple Community Association and
Joseph Gochar, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June, 2004, that a copy of the foregoing Opposition to Motion to Consolidate and proposed Order was mailed first-class mail, postage prepaid to G. Scott Barhight, Esquire and Dino C. LaFiandra, Esquire, Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515, Attorneys for Skirven Enterprises, Inc., Movent, and to Peter Max Zimmerman, Esquire, Peoples' Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204

MICHAEL P. TANCZYN, Esquire

DEVELOPMENT PLAN HEARING and PETITION FOR SPECIAL HEARING	*	BEFORE THE BOARD OF
Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development; W/side Hilltop Road, 150' S c/line Branston Road	*	APPEALS
1st Election & 1st Councilmanic Districts	*	FOR
Legal Owners(s): Jenny & Eugene Osbourne, Parcel A, Leo & Susan Hull, Parcels 442, Mary & Francis Farley & Sonja & William Vogel (Parcel 992)	*	BALTIMORE COUNTY
Contractor Purchaser(s) Skirven Enterprises, Charles Skirven	*	Cases Nos. I-509 Hearing Officer Case & 04-382-SPH Zoning Case

* * * * * * * * * * *

ORDER

Upon consideration of the Skirven Enterprises, Inc.'s Motion to Consolidate, and the Opposition of the Appellants, Hilltop Maple Community Association and Joseph Gochar, Jr. and any other response, it is this _____ day of _____, 2004, by the Board of Appeals

ORDERED that the motion to consolidate the appeal of the Planning Board resolution, dated June 3, 2004, with the above cases, be and the same, is hereby DENIED.

BOARD OF APPEALS

_____

_____

_____

Copies Furnished:

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Ste. 106
Towson, Maryland 21204
Attorney for the Appellants
Hilltop Maple Community Association and
Joseph Gochar, Jr.

G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue
Towson, Maryland 21204-4515
Attorneys for Skirven Enterprises,
Inc., Movants

Peter Max Zimmerman, Esquire
Peoples' Counsel for Baltimore County
Room 47
400 Washington Avenue
Towson, Maryland 21204

6/14/04

IN THE MATTER OF:	*	IN THE
THE CLUSTERS Skirven Enterprises, Inc. Developer / Contract Purchaser	*	COUNTY BOARD OF APPEALS FOR
BOA Case 1: PDM Case No. I-509 Zoning Case No. 04-382-SPH	*	BALTIMORE COUNTY Case Nos:
BOA Case 2: Planning Board Resolution Dated 6/3/04	*	

* * * * * * * *

RECEIVED
JUN 14 2004
BALTIMORE COUNTY
BOARD OF APPEALS

SKIRVEN ENTERPRISES, INC.'s MOTION TO CONSOLIDATE

Skirven Enterprises, Inc., ("Skirven"), by and through its attorneys, G. Scott Barhight, Dino C. La Fiandra, and Whiteford, Taylor & Preston, LLP, moves to consolidate the above-captioned appeals[1], and as grounds therefor, states:

1. Skirven is the contract purchaser and developer of a development project known as The Clusters, PDM Case No. I-509 and Zoning Case No. 04-382-SPH.

2. On April 28, 2004 the Hearing Officer APPROVED a development plan and granted a Petition for Special Hearing for The Clusters in PDM Case No. I-509 and Zoning Case No. 04-382-SPH. Hilltop Maple Community Association and Joseph Gochar, Jr. ("the Community") filed a Notice of Appeal from the Hearing Officer's decision. ("Development Plan Appeal"). Skirven is the Appellee in the Development Plan Appeal.

3. As part of his approval of The Clusters, the Hearing Officer referred the development plan to the Planning Board for consideration of a Master Plan conflict under Baltimore County Code, § 26-207. The Planning Board considered the approved development

[1] As of the date of filing of this Motion, the appeals have yet to be assigned a case number at the Board of Appeals.

plan in its meetings of May 20, 2004 and June 3, 2004. On June 3, 2004 the Planning Board voted 7 to 5 to require an amendment to the development plan. On June 10 and June 11, 2004, Skirven noted an appeal of this decision of the Planning Board ("Planning Board Appeal"). Skirven is the Appellant in the Planning Board Appeal.

4. The Development Plan Appeal and the Planning Board Appeal involve precisely the same property and the same plan for development thereof. In addition to involving a common subject matter (the property known as "Hilltop"), the Development Plan Appeal and the Planning Board Appeal also involve common questions of both fact and law. Indeed, in their Petition on Appeal in the Development Plan Appeal, the Community raises the issue of "Master Plan Conflict", which is precisely the same issue which the Planning Board considered on referral of the development plan from the Hearing Officer.

5. Consolidation of the Development Plan Appeal and the Planning Board Appeal serves the interests of judicial economy. Instead of convening two separate panels of Board members on separate hearing dates and requiring separate deliberations, the Board should seize upon the opportunity to consider all of the issues presented by both appeals by the same panel, in the same hearing, and at the same deliberation. It will also facilitate final resolution of all issues presented by the development of the property. Furthermore, in the event there is a further appeal to the Circuit Court, consolidation of the cases will simplify that Court's consideration of the issues as well.

6. Consolidation of the Development Plan Appeal and the Planning Board Appeal serves to ensure consistency of findings of fact and conclusions of law between the two cases. The existence and ramifications of a Master Plan conflict will be central to the resolution

of both cases. It is conceivable that different panels of the Board would find common questions of material fact differently as well as conclude differently on important common questions of law. Consolidation of the appeals virtually eliminates that possibility.

7. Consolidation of the Development Plan Appeal and the Planning Board Appeal is not detrimental to the interests of any party. Neither party would be prejudiced by the consolidation of the two cases.

Wherefore, Skirven Enterprises, Inc., respectfully requests this honorable Board of Appeals to consolidate the appeals of PDM I-509 / Zoning 04-382-SPH with that of the Planning Board's June 3, 2004 decision, all regarding the development project known as The Clusters.

June 14, 2004

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

ATTORNEYS FOR SKIRVEN ENTERPRISES, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2004, a copy of the foregoing Motion to Consolidate was delivered by first class mail, postage prepaid, to Michael P. Tanczyn, Esquire, 606 Baltimore Street, Suit 106, Towson, MD 21204.

Dino C. La Fiandra

IN THE MATTER OF:	*	IN THE
THE CLUSTERS Skirven Enterprises, Inc. Developer / Contract Purchaser	*	COUNTY BOARD OF APPEALS FOR
BOA Case 1: PDM Case No. I-509 Zoning Case No. 04-382-SPH	*	BALTIMORE COUNTY Case Nos:
BOA Case 2: Planning Board Resolution Dated 6/3/04	*	

* * * * * * * * * * *

RECEIVED
JUN 14 2004
BALTIMORE COUNTY
BOARD OF APPEALS

ENTRY OF APPEARANCE

Please enter the appearance of Skirven Enterprises, Inc., as Appellee in the above-referenced matter. Skirven Enterprises, Inc. is the contract purchaser and developer of The Clusters development project, and the applicant in the Development Plan in PDM #I-509 and the Petition for Special Hearing in Zoning 04-382-SPH. The Hearing Officer/Zoning Commissioner's approval of each of these matters is the focus of the appeal by Hilltop Maple Community Association.

Please enter the appearance of the undersigned as counsel for Skirven Enterprises, Inc.

June 14, 2004

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

ATTORNEYS FOR SKIRVEN ENTERPRISES, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2004, a copy of the foregoing Entry of Appearance was delivered by first class mail, postage prepaid, to Michael P. Tanczyn, Esquire, 606 Baltimore Street, Suit 106, Towson, MD 21204.

Dino C. La Fiandra

6/4/04

RE:	*	BEFORE THE ZONING
PETITION FOR SPECIAL HEARING		
Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood	*	COMMISSIONER AND
Development; W/side Hilltop Road, 150' S c/line Branston Road	*	HEARING OFFICER
1st Election & 1st Councilmanic Districts	*	FOR
Legal Owners(s): Jenny & Eugene Osbourne	*	BALTIMORE COUNTY
Parcel A, Leo & Susan Hull, Parcels-	*	
Hilltop, Mary & Francis Farley & Sonja		Cases Nos. I-509
& William Vogel (Parcel 992)	*	Hearing Officer Case
Contractor Purchaser(s) Skirven		& 04-382-SPH
Enterprises, Charles Skirven	*	Zoning Case

* * * * * * * * * * *

APPELLANTS, HILLTOP MAPLE COMMUNITY ASSOCIATION AND JOSEPH GOCHAR, JR. PETITION ON APPEAL

Appellants, Hilltop Maple Community Association and Joseph Gochar, Jr. by Michael P. Tanczyn, their counsel submit the following grounds for the appeal, including the error committed by the Hearing Officer in taking the final action, the relief sought, and the reasons why the final action appealed from should be reversed or remanded.

STATEMENT OF FACTS

Petitioners Skirven Enterprises, Developer/Contract Purchaser and legal owners, Leo and Susan Hull, Eugene F. Osbourne, et al., Francis W. Farley, et al., and William Vogel, et al. have requested approval of a development plan, entitled "The Clusters", for an 18.1041 acre site, located south of Frederick Road and east of South Hilltop Road in Catonsville, Maryland. The Hearing Officer's Decision, the Hearing Officer's Opinion, and Development Plan Order, Zoning Commissioner's Decision, dated April 30, 2004 approved a four sheet redline development plan for

the Clusters, identified as Developer's Exhibit 1A through 1D, and the Alternative Housing Design Plan, marked as Developer's Exhibit 5B, granted the Zoning Petitioner for Special Hearing. With regard to the hearing plan approval, the Hearing Officer's development plan approval was subject to the following restrictions.

1. The development plan shall be amended consistent with Developer's Exhibit 5B so that single-family detached dwellings occupy the lost adjacent to Hilltop Road

2. This matter is referred to the Baltimore County Planning Board pursuant to Section 26-207, due to the conflict created by the proposed construction of single-family attached dwellings in an area designated for single-family detached dwellings. The plan shall be amended to incorporate any findings/amendments offered by the Planning Board.

3. The Developer shall clear, as is necessary, vegetation along Hilltop Road to insure proper sight distance.

A timely appeal was filed by Joseph Gochar, Jr. and Hilltop Maple Community Association to the Board of Appeals of Baltimore County, of both the development plan approval and the Commissioner's Order on May 28, 2004. This Petition is submitted by Appellants, as required, pursuant to Baltimore County Code §26-209(A1), within ten days following the Notice of Appeal. It was undisputed below that Hilltop Maple Community Association met the test of being a person aggrieved or feeling aggrieved, because the property, which was subject to development plan, i.e., the Clusters, was located within the geographic limits of the association, and was within the association's discernable and assessable tax base and is of such a nature as to personally and specifically affect, damage, or impact the members of the association, which are adjacent to the Clusters property, on both sides of Hilltop Road, as set forth in Baltimore County Code §26-209(2)(A1) and (A2). The proffer is that the association will comply with the rules of procedure of

the Board of Appeals at the time of hearing of any appeal, as is required by Baltimore County Code, §26-209(B).

THE APPELLANTS RAISE THE FOLLOWING GROUNDS FOR THE APPEAL

ISSUE ONE - WATER SEWER MAP AMENDMENT

THIS DEVELOPMENT PLAN WHICH PROPOSES THAT THE SUBDIVISION WOULD BE SERVED BY PUBLIC WATER AND PUBLIC SEWERAGE SYSTEM, WITH PRIVATE MAINTENANCE OF THE GRINDER PUMPS IS NOW DESIGNATED S6W6 ON THE COUNTY APPROVED "PROPOSED" WATER/SEWER PLAN.

The Hearing Officer, in dealing with that issue, traced the history of prior development proposals for this site which were not approved. The Hearing Officer next correctly states that it is not within his purview and jurisdiction to amend the Master Water And Sewer Plan, and determine which classification is applicable to this property. (Opinion, page 4) Appellants contend he then errs in the next sentence, in which he concludes that the S3W3 classification is appropriate and self-evident, given the residential communities that literally surround this property, and which are served by public water and sewer. (Opinion, page 4 and 5) After setting forth the process required by law to amend the water and sewer plan, he then recited that the chronological path by which Resolution 32-04, affecting this property, was approved by the Baltimore County Council, and Baltimore County Executive and transmitted to the Maryland Department of the Environment for further action by that agency, as required by law. (Opinion, page 5) After considering the legal memoranda submitted by Petitioner and Protestants on that issue, the Hearing Officer then decided that because what he perceived to be a missing step in the approval process of Resolution 32-04, namely, what he alleged to be the failure to obtain Planning Board certification that the amendment is consistent with the County Comprehensive Plan, and that the official planning agency, as stated in the State statute in the Environmental Article, is the Baltimore County Planning Board. He therefore

concluded that connection to public facilities is possible, in view of the current classification of this property under the Master Water And Sewer Plan, as W3/S3.

In so ruling, for the reasons stated earlier in Protestants' Memorandum, they believed he committed error, since the right of approval of a Master Water and Sewer Amendment is for the County governing body, defined as the County Council and the Executive, which occurred in this case. Further, once that has occurred, the State law, Maryland Annotated Code Environment Article 9-507(e)(2) clearly instructs that the approved amendment, as enacted by the governing body, is in effect, and is to be obeyed by and followed by any person. To be clear, Protestants/Appellants acknowledge that as a proposed plan approved by the Baltimore County governing bodies would remain in effect until such time as the Maryland State Department of the Environment took action, which it has a right to do within 90 days after submission of the proposed plan amendment for water and sewer, which occurred April 14, 2004. Within 90 days, as is stated, the Maryland State Department of the Environment can do one of the following. If the Maryland State Department of the Environment does not respond within 90 days of submission of the revised amendment, it is deemed to be approved, unless the Department extends the 90 day review period for an additional 90 days, pursuant to Environmental Article 9-507(d)(c)(2), or it may affirm, reverse or modify the amended plan. Baltimore County Code §26-267 charges the county with providing water supply and under §26-268, to provide adequate sewerage within the county. Other sections of the Baltimore County Code prohibit the issuance of building permits, unless requirements of Baltimore County Code §26-268 are met as to sewer, and under Baltimore County Code §26-495 are met as to availability of water resources. Protestants/Appellants maintain that upon approval by the governing body of Baltimore County, that Resolution 32-04 became an approved proposed plan by Baltimore County, and was effective as to any existing projects, because the governing body is the

same entity which is charged with providing, by policy, for the areas of the county, for basic services, including water and sewer, and regulating development where those resources are not presently available. As the vicinity map will show, this property is located very close to a tributary of the Patapsco River, called the Sawmill Branch, and is very close to the edge of the Patapsco State Park, which is located just beyond the unimproved Baker property, to the south of the Petitioner's site. It is, therefore, a sensitive environmental area. As will be discussed in another issue, there have been, in an intervening built out subdivision adjacent to Petitioner's site called Cainewood, numerous instances of grinder pump failures, causing sewage back-ups within the homes in that subdivision, in an alarmingly short period of time of three years of build out of the subdivision. As was set forth in the exhibits admitted before the Hearing Officer on this development plan, Baltimore County adopted, following a grinder pump moratorium, a new policy, as of November, 2003, by which, under the current policy, the property owners will be responsible for maintenance and repairs to grinder pumps between the grinder pump and their home, which is a dramatic shift from the county policy, which originally provided for previously approved systems, that Baltimore County assumed the maintenance responsibility and replacement responsibility, should grinder pump systems fail.

The State Environmental Article, 9-511 further provides that unless they conform to the approved county plan or a revision or amendment of the county plan, the following systems and facilities may not be installed or extended: a water supply system; a sewerage system; solid waste disposal system; and a solid waste acceptance facility. As was mentioned earlier, the Court of Appeals of Maryland has previously construed the governing body of the county to mean the County Executive and the Council, in considering whether an action unilaterally taken by the County Council to adopt or amend a solid waste management plan was in keeping with the law. The Court concluded that the proper party was the corporate entity or the County Council and the County

Executive together, quoting in the decision Environmental Article 9-501 to 9-521, in the case of County Council of Harford County v. Maryland Reclamation Associates, Inc., 328 Md. 229, 614 A.2d 78 (1992).

At the time this Petition is written, the status of the consideration by the Maryland Department of the Environment is that they are working within the original 90 days and have not, as of the time this Petition is being written, to the knowledge of the undersigned, issued any decision, either affirming, modifying, or reversing the decision of the Baltimore County governing body. Therefore, it is the position of the Protestants/Appellants, that the Zoning Commissioner erred, when he failed to follow the clear dictates of the State law, that the Baltimore County approved amendment is a proposed plan under Environmental Article 9-507(e)(2), and is to obeyed upon adoption by the county governing body, unless reversed or modified by the Maryland State Department of the Environment. In the event the Maryland State Department of the Environment affirms it, then the amendment would be finally approved, subject to challenge by any interested person in the Courts, seeking a determination that the act of the governing body was invalid for any purpose. That determination lies, as is noted correctly by the Hearing Officer, with the Courts, and not with the Hearing Officer. Appellants, in conclusion, further urge the Board of Appeals to find that the Hearing Officer may have erred in his critical conclusion that a necessary portion of the process was missing, when he concluded that the S3W3 designation prior to the amendment to S6W6, under Resolution 32-04, was still in effect. In so doing, he has acted as if he was a Circuit Court Judge, passing on the sufficiency of the legislation and the legislative process followed, after stating that his jurisdiction did not extend to making such a finding.

ISSUE TWO - MASTER PLAN CONFLICT

THE HEARING OFFICER AGREED THAT THE PROJECT VIOLATES THE

MASTER PLAN DESIGNATION FOR THIS AREA, BECAUSE THE MASTER PLAN 2010 FOR BALTIMORE COUNTY CALLS FOR SINGLE FAMILY DETACHED HOUSING ON BOTH SIDES OF HILLTOP ROAD, BETWEEN FREDERICK ROAD AND THE PATAPSCO STATE PARK, INCLUDING THE PETITIONER'S PROPERTY

In his decision, the Hearing Officer agreed that the 38 units proposed by the Petitioner for the Clusters were not single-family detached dwellings, as defined in BCZR §101, which defines such a building as "a dwelling which is designed for an occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means." The Hearing Officer then correctly noted that that finding triggered the provisions of two different Baltimore County Code sections applicable to this proposed development.

First, he found, Appellants believe correctly, that BCZR §260, entitled "Residential Performance Standards", were applicable, and that under those standards, the Office of Planning was required to make recommendations to the Hearing Officer, when considering any development plan, such as the Clusters. He then correctly noted that the Office of Planning recognized the predominant single family detached theme in the immediate neighborhood, and recommended that the lots abutting Hilltop Road, Lots 1 - 7 on the plan, should be single family detached dwellings, as opposed to semi-attached units. Developer's Exhibits 5A and 5B, submitted at the hearing, depict that alternative design. (Opinion, page 11) The Hearing Officer then correctly concluded that §26-206 of the Code required him to approve a plan that complies with development regulations and all other policy rules and regulations regarding land use and development in Baltimore County, which would include the BCZR, and that the residential performance standards needed to be applied in this instance. In his conclusion, he required the plan to be amended to incorporate Developer's Exhibit 5B, which proposed 4 single family dwelling units adjacent to Hilltop Avenue, rather than the 6 semi-detached units proposed, thereby reducing the project by 2 units and providing all lots adjacent to Hilltop Road would feature dwellings consistent with the existing neighborhood. (Opinion, page

11) He then erred, in the opinion of the Appellants, by declining to order further amendment of the plan to replace all the semi-attached units with single family detached dwellings. (Opinion, page 11)

That error occurred, in the opinion of Appellants, because of how the Hearing Officer dealt with an issue raised by the Protestants, that the proposed plan presented a Master Plan conflict with the Baltimore County Master Plan 2010, which had to be dealt with, pursuant to Baltimore County Code, §26-207, rather than BCZR, as noted in the Hearing Officer's Opinion. (Opinion, page 12) While the Hearing Officer, considering all the arguments of the parties and the evidence before him, including testimony from the Zoning Office by John Alexander, that the proposed houses were not single family detached, defined under the BCZR, the Hearing Officer correctly found a conflict with the Master Plan and further correctly found a referral to the Planning Board was mandated when such a conflict is found. (Opinion, page 12 - 13) He did refer the plan to the Planning Board for its consideration. However, he did not make the referral until the time of his decision, and in so doing, in the opinion of Appellants, erred as a matter of law.

Baltimore County Zoning Regulation definitions define dwelling, single family detached as:

> "A dwelling which is designed for an occupied by not more than one family, surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwelling."

What the Petitioners propose is that 38 of the 40 dwellings in the Clusters be made semi-detached dwellings, having a party wall. Semi-detached dwellings do not meet the definition of single family detached dwellings because the dwellings are not surrounded by open space or yards and not attached to any other dwelling by any means. The master plan, at page 259, defines the proposed uses for this area as single family detached houses. Testimony from all of the Protestants' witnesses confirmed, as well as the pictorial evidence shown in Protestants' Exhibits 3, 5, 12, 13,

19(a), and 23, that the community is developed as single family detached dwellings with few exceptions. The same was corroborated as true through Mr. Chadsey, the engineer for the Developer, and extends to Maple Avenue, the next street east of the Petitioners' property, as well as into the residential community, located west of Hilltop Road, and for most of the older Catonsville community. Indeed, this was identified as an issue at the time of the CPC, October of 2003, by Ann Roane, within the comments from the Office of Planning.

The significance of this is that the Protestants have requested the Hearing Officer, pursuant to Baltimore County Code §26-207 to refer the Developer's plan to the Planning Board, because of the indicated conflict with the master plan designation of housing for the area.

The Petitioners' stipulated that the plan had not been submitted to the Planning Board heretofore for resolution of any such conflict. The Petitioners claimed that there was no master plan conflict, because the underlying zoning for the property permitted a use, as a right, of semi-detached single family dwellings. That point is not disputed. However, it does not resolve the conflict presented with the master plan for the development as proposed by the Petitioners. All the Petitioners have to do is comply with the law and submit the plan to the Planning Board. Further, what the Hearing Officer may do, since they have not, is to continue the Hearing Officer's Hearing until such a referral and review of the Planning Board shall occur. If not the Hearing Officer's final decision must be subject to the Planning Board and where applicable County Council action. Baltimore County Code §26-207(d). The Hearing Officer may recall that the testimony of John Alexander of the Department of Zoning confirmed the zoning office position that the housing proposed by the Petitioners, except for the single family detached dwellings proposed, would not meet the definition found in the zoning regulations of single family detached dwelling. Therefore, it remains the request of the Protestants that this plan is not in approvable final form, and should

not be approved until the master plan conflict is resolved, which cannot be resolved, under the Code, by the Hearing Officer, but is within the jurisdiction only of the Planning Board to resolve. In Baltimore County Code §26-207(c), a plan referred to the Planning Board is to be reviewed by the Planning Board at its next scheduled meeting. Baltimore County Code §26-207(d) then requires that the Hearing Officer either continue with the hearing, notwithstanding the referral, at his option, but requires that any final action taken by the Hearing Officer must be subject to the Planning Board and where applicable, County Council action. The Hearing Officer, in approving the development plan, having found the conflict, imposed the condition in his Order, that the Planning Board considered the plan, with the Master Plan conflict, that "the plan shall be amended to incorporate any findings/amendments offered by the Planning Board." The problem with proceeding in the manner that the Hearing Officer did, is that by so proceeding, he had taken final action on the plan before receiving the decision of the Planning Board on the referral to the Planning Board, which was first made by him in his decision April; 30, 2004, approving the plan. Baltimore County Code §26-206(b) states that "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. All final decisions of the Hearing Officer with respect to such matters shall be subject to appeal to the County Board of Appeals, as provided in §26-209 below. By making the referral with his approval, the Hearing Officer had approved a plan for which he had not received input from the Planning Board, as to how they viewed the apparent Master Plan conflict. Any final action on the plan should have been done after that process was concluded and the Zoning Commissioner/Hearing Officer had the benefit of the Planning Board approval. In its present posture, the appeal time has

run, and the parties had no idea what the Planning Board would do with the referral, nor did they before the appeal was filed May 28, 2004. In fact, the Planning Board did take up the referral at its regularly scheduled meeting on June 3, 2004. Upon information and belief, the Planning Board, in consideration of the Master Plan conflict, found a Master Plan conflict by a vote of 7 - 5. The effect of their decision and coupled with the Zoning Commissioner's condition 2 in his Order, essentially terminates this plan for the Clusters, because the Planning Board voted not to approve the plan because of the Master Plan conflict. Because the Hearing Officer's condition in his Order required that the plan be amended to incorporate any finding/amendments offered by the Planning Board, the only way the Developer could comply with the Planning Board finding of the Master Plan conflict, would be to drastically amend the plan to provide single family detached dwellings, where the single family attached units are presently proposed, which is the vast majority of the structures proposed under this development plan. To do so would represent unmistakably a material amendment to the plan and would force the Developer to go back to the earliest level of approval for this plan in the development process, namely the Community Input Meeting, and essentially start all over again.

When as here, the appeal of the Hearing Officer's approval of the development plan Order results in the present situation, it points up that the Hearing Officer's imposition of the condition which requires a subsequent action by the Planning Board after the time of appeal of the Hearing Officer's original Order, puts all parties in a difficult situation, as is the case here. Under Baltimore County Code §26-208, described as "procedure before planning board", regarding any referrals, Baltimore County Code §26-208(c) requires that any decision of the Planning Board, unless overruled by action of the County Council, refer to it, pursuant to §26-207(a), which includes Master Plan conflicts, will be binding upon the Hearing Officer and "shall be incorporated as part of the Hearing Officer's final action on a plan." The Hearing Officer's attempt to follow the letter

and spirit of that law, by imposing condition 2, has the effect of making a final decision without final input from a very important agency, the Baltimore County Planning Board, on a key issue. In this case, the Hearing Officer correctly found a Master Plan conflict and followed the law, referring it to the Planning Board. Appellants believe he erred in not making the referral sooner or continuing the development plan hearing until he received a decision from the Planning Board on the matter referred to it. Having failed to follow that course, his condition, in light of the Planning Board agreement that the Master Plan conflict exists and that single family detached housing should be required for this project, essentially guts the project, as far as Protestants are concerned. The Appellants, of course, had no advance knowledge as to what the Planning Board was going to do with the issue. The reason for raising this as an issue on appeal, is to request that the Board of Appeals find error in rendering a decision by the Hearing Officer prior to receiving the report from the Planning Board on any referral made to the Planning Board, pursuant to Baltimore County Code §26-207.

THIRD ISSUE - THAT THE HEARING OFFICER'S DECISION APPROVING GRINDER PUMPS FOR THIS SUBDIVISION IS INCONSISTENT IN HIS DECISION ON THIS ISSUE IN CONTRAST TO THE WATER SEWER AMENDMENT.

The Appellants adopt, without repetition, what was stated regarding the Hearing Officer's decision on that issue in this argument, by reference only. The Hearing Officer's decision to approve grinder pumps (Opinion, page 7 and 8), was that because the County regulations allowed grinder pumps, that he had no power and authority not to approve grinder pumps as proposed for this project. However, he did not follow that same line of reasoning in his consideration of the Baltimore County Master Water And Sewer Plan. In that instance, he failed to follow the provisions of Environmental Article 9-507 (e)(2), and follow, as an approved plan, the provisions of the amendment, which would apply S6W6 to the Petitioner's property, and thus prevent approval of the

plan. The Board's role in development plan appeals as set forth in Baltimore County Code §26-209(d) in a proceeding under that Section, the Board may:

1. Remand the case to the hearing officer;
2. Affirm the decision of the hearing officer; or
3. Reverse or modify the decision if a finding, conclusion, or decision of the hearing officer:
    a. Exceeds the statutory authority or jurisdiction of the hearing officer;
    b. Results from an unlawful procedure;
    c. Is affected by any other error of law;
    d. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
    e. Is arbitrary or capricious.
4. Notwithstanding any provisions to the contrary, if the hearing officer fails to comply with the requirements of section 26-206(i) and an appeal is filed pursuant to section 26-206(j), the board may impose original conditions as is otherwise set out in section 26-206(o) of these regulations.

Because the Hearing Officer failed to recognize and follow the Master Water Sewer Amendment as an approved plan for Baltimore County, he was inconsistent and in the view of the Appellants, acted in violation of §26-209(a), (d), and (e) in so ruling. Under the provisions of that section, the Board may impose original conditions, under Baltimore County Code §26-206(o) of these regulations. Should the Board end up approving the development plan on appeal, the Appellants renew their request that the condition be imposed that the Developer give notice to prospective purchasers, that the grinder pump systems are to be privately maintained by the

homeowners, as a caution or warning to any prospective purchaser, should the Clusters plan be approved for development. Appellants further request that the Board find the inconsistent approach of the Hearing Officer to be violative of Baltimore County Code §26-209(d)(3), (a), (b), and (e), for the reasons stated.

FOURTH ISSUE - TRAFFIC

The Protestants, at the invitation of the Hearing Officer in requested post-hearing Memos, made several suggestions as to conditions to be imposed on the development, if approved, to improve traffic safety on what was shown to be a very busy, winding and dangerous traffic area. The Hearing Officer heard extensive testimony from the Protestants concerning traffic on South Hilltop Avenue from the Patapsco State Park to Frederick Road. The Hearing Officer also heard extensive testimony concerning the topography of the Petitioners' site entrance and the effect on sight distance and pictures of the available sight distance, more particularly shown in Protestants' Exhibit 4, 5, 12, 13, and 23. Mr. Gochar is President of Hilltop Maple Association, and testified as to a head-on collision in front of his house fifteen years ago, and a New Years' Eve crash, where a car heading northbound on South Hilltop hit the fireplug on the west side of Hilltop, near his house. The testimony was extensive from neighbors up and down the street as to excessive speeding and fast-moving cars, all of which was offered to show the limited reaction time afforded people exiting their driveways in cars or in this case, from the Petitioners' proposed entrance. Harry Schwab, who resided across from the Petitioners' proposed entrance, at 103 South Hilltop, talked of the concern he feels whenever he tries to pull out of his driveway, because of the curve and hill of South Hilltop, in the vicinity of the Petitioners' entrance. Meg Levickas, Officer Brian Attwood, who resided at 137 South Hilltop, as well as Steve Pedrick, who resided at 1822 Cainewood Court, as well as Mrs. Traino, who resided on the corner of Tadcaster and South Hilltop, in the vicinity of the entrance,

and who works from her home, had frequent observations of the traffic and talked particularly about the danger to school children exiting the school bus stop, which is located at Tadcaster and South Hilltop. This was a particular concern of hers because of the failure of cars to stop for the school buses when discharging young children. Her concern was for the safety of the children. The one suggestion from Mr. Gochar, which is proffered to the Hearing Officer for his consideration, would be the provision of a traffic calming device or the construction of a traffic circle in the vicinity of Tadcaster and South Hilltop, utilizing part of the existing county right-of-way, which would not only clear up the sight distance, but also cause traffic to have to slow down, because of entering and leaving the circle for other traffic that might be present. This concern of the citizens is principally for the ultimate purchasers of homes within the subdivision, called the Clusters, if built. This is so because, as the Hearing Officer will recall, there is a single point of ingress and egress to the subdivision which is from South Hilltop Road and no others are proposed.

However, one other possible improvement to the site for traffic safety, in light of the existing traffic conditions, would be to locate the entrance to the subdivision further down South Hilltop, at the location shown for Lot 1, the single family dwelling. That lot is wide enough to provide an access entrance to the Clusters from a point which is not on a curve and which enjoys better sight distances both north and south on South Hilltop than the Petitioners' proposed entrance. That suggested point of entry would also move the entrance point to the Clusters away from other streets, such as Tadcaster Road, a short distance from Petitioners' proposed entrance, as well as Branston Road, located just to the north of Tadcaster. That is a very busy area, and moving the entrance way down to Lot 1 would place it at a point away from any other access crossroads and on an area with infinitely better sight distance for those leaving the site.

The conditions requested by the Appellants, in summary, of the Hearing Officer, which he declined to do in his decision, were the following:

A Provision of a traffic calming device or construction of a traffic circle in the vicinity of Tadcaster and South Hilltop, utilizing part of the existing county right-of-way, to clear up sight distance issues and cause traffic to slow down.

B. To relocate the entrance to the subdivision further down South Hilltop, at the location shown for Lot 1, single family dwelling.

C. To remove the access entrance from a point which would not be on a curve, and which would enjoy better sight distance, north and south, on South Hilltop Road, then the Petitioner's proposed entrance.

Appellants incorporate by reference their arguments as to the earlier lack of imposition of a condition by the Hearing Officer in approving the plan, and requests that the Board exercise its authority to impose traffic safety conditions, based on the entire record, as will be transcribed and submitted to the Board from the Hearing Officer's Hearing on the traffic issue. It is noteworthy that the condition 3 of the Hearing Officer's Opinion attempted to deal with clearing up sight distance problems adjacent to the Petitioner's entrance, but did nothing to deal with the serious issues of the winding conditions and topography changes at the top of the hill, close to where the Petitioner's entrance was proposed.

FIFTH ISSUE - THE HEARING OFFICER'S DECISION TO APPROVE THE PROPOSED ANNEXATION VIOLATES THE LETTER AND SPIRT OF BALTIMORE COUNTY CODE

This issue, while incorporated in the zoning relief is incorporated in this Memo because the development plan, as approved for the Clusters, of necessity, assumed that the annexation would occur and to carefully preserve Appellant's rights, as incorporated in the grounds of appeal and

allegations of error made by the Appellants regarding the decision of the Hearing Officer on this issue. The Hearing Officer's decision as to items 1, 2, and 3 on the Petition For Special Hearing having to do with zoning anomalies are objectionable and represent error on the part of the Hearing Officer, in Appellant's view, as violative of the Master Plan Conflict previously discussed in another issue, and that argument is incorporated by reference, without repetition herein. The Hearing Officer/Zoning Commissioner's conclusion that the grant of the relief as to those issues would not cause detrimental impacts to the health, safety, and general welfare of the locale, where the Planning Board has subsequently found a Master Plan conflict, as previously discussed, violates the strictures of Section 26-209(d)(3), (d), and (e). Because it is unsupported by substantial evidence, in light of the entire record as submitted, and is arbitrary or capricious, for the following reason. The Zoning Commissioner/Hearing Officer's decision on that point should be consistent with his decision, where he found a Master Plan conflict, to get input from the Planning Board before approving the zoning relief. Because the nature of the zoning relief is joined at the hip with the Petitioner's request for semi-attached housing, the resolution of the Master Plan conflict impacts the zoning relief requested in Sections 1 through 3, as listed on the Petition. Violation of the Master Plan 2010 for Baltimore County, which is enacted in a comprehensive way by the Baltimore County Planning Board, can not be seen as anything other than an exception to the plan, which would have, if allowed, detrimental impacts to the health, safety, and general welfare of the locale, and to the county as a whole, because of the precedental effect of such a ruling, that semi-attached housing is the same as single family detached housing for approval of this plan. Appellants submitted the following testimony on the proposed annexation of 2.554 acres from Cainewood. Testimony from Meg Levickas, who with her husband, purchased Lot 25 in phase two of Cainewood, was that the drawing introduced as Protestants' Exhibit 17 was all that was shown to her, prior to her purchase of her lot. She

testified that she paid a premium for her lot, of $13,000.00 and that she and her husband were the first lot purchasers shortly after the lots were put up for sale. She believed that they were the first purchasers in the development. She testified that she and her husband paid a total of $270,000.00 for their property. She testified that she was never shown the plat, reserving any property for future development to the north of her lot and within the Cainewood phase two plat. The deed by which she and her husband purchased the property February 16, 2000 was admitted as Protestants Exhibit 23 and indicates that they paid $269,141.00 for the property, which they purchased from Kimberly Homes Catonsville, LLC. It was recorded in the Land Records of Baltimore County in Liber 14378, folio 380; and in the description of her property contained in the deed, it refers to Lot 25, as shown on the partial amended plat of Cainewood phase one and phase two, recorded in the plat book SM71, folio 97.

The Hearing Officer should have recalled that her neighbor, Steven Pedrick, also testified that he and his wife had come to purchase a lot shortly after the Levickas' and had paid a $10,000.00 premium for their lot, which is Lot 24, as shown on phase two of Cainewood. The original developer of Cainewood, Eugene Osbourne, Sr. and Jenny A. Osbourne, conveyed phase one and phase two of Cainewood, to Kimberly Homes Catonsville, LLC, by deed dated October 1, 1998 and recorded in the Land Records of Baltimore County in Liber 13191, folio 9, admitted as Protestants' Exhibit 22. Testimony from both Ms. Levickas and Mr. Pedrick expressed their objections to the annexation, because it would place structures such as the storm water management facility, as well as lots north of them, on land which they understood would remain undeveloped. Based on that understanding, both the Levickas' and the Pedricks had paid a premium for lots they did purchase.

The Hearing Officer was urged next to refer to Protestants' Exhibit 7, Covenants of Easement, executed May 18, 1998 and recorded in the Land Records of Baltimore County in Liber 12953 from the Osbournes to Baltimore County, establishing a forest buffer easement for the area shown on the Cainewood plan. That was proposed to remain undisturbed.

If the Hearing Officer looked at the plat of David Thaler and Associates, dated September 7, 1998, labeled "the 4th amended plat phase one and second amended overall parcel development plan, Cainewood phase one and two", that plat is significant for several items contained thereon. Not only is it signed by the Osbournes as owners, but it contains a designated floodplain reservation of 1.89 acres and shows, in the area reserved for future development, a cul de sac extending from the stub end of Cainewood Court, up to the area where the storm water management facility is now proposed to be located for the Clusters. The plat also indicated panhandles coming off that road and cul de sac, which extended through undisputed wetlands to service lots 26, 27, and 28, at some time in the future. The next significant aspect of that plat is the provisory section note, as to the 5.104 acres, which includes part of the area proposed to be annexed to the Clusters. On that same plat, the provisory note states that it is intended to indicate how the Developer will improve all vacant land which lies 300 feet of any houses, and further cautions that it requires the Developer to show that any future development complies with §1.B.01.3 of the Baltimore County Zoning Regulations. By the testimony of Ms. Levickas and Mr. Pedrick, that they could clearly see this area was added the testimony of Mr. Chadsey, who confirmed that the owners of Lots 23, 24, and 25 in Cainewood phase two were all located within 300 feet of any lot lines proposed on the aforesaid Thaler plat. Protestants Exhibit 18.

The Hearing Officer was asked to consider the note on Petitioners' Exhibit 2, admitted as evidence, and noted as Developers' fifth amended of phase one and third amended overall partial

development plan, Cainewood phase one and two. That plat contains a utilization note as and when approved originally in 1998 as a plat of Kimberly Homes Catonsville, Inc., listing that entity as owner and developer. That utilization note cautioned that the area shown on the plat could not be further divided, subdivided or used for any other purpose other than as shown on that plat. Therefore, under the Petitioners'/Developers' own exhibit, it is beyond question that phase one and two of Cainewood which had been conveyed to Kimberly Homes by the Osbournes October 1, 1998, and to the Levickas', who settled February of 2000, well before this proposed annexation came to light in 2004.

Even if the Levickas's and the Pedricks had been given access to Protestants' Exhibit 18, that would only have shown them what we described earlier in terms of an extension of Cainewood Court through the wetlands to a cul de sac and a provision for three lots. They could have made their judgment as to whether or not that would affect them in such a way that they wanted to avoid the contract, but they did not. However, the point is, what they expected or could have expected to see there is a far cry from what is being proposed by the annexation of this parcel to the Clusters. At least parts of four building lots, for Lots 31 - 34, as well as a large capacity storm water management facility is proposed to be located, in whole or in part, on this annexed area.

When questioned at the hearing, Mr. Chadsey admitted that without the annexed area, the Clusters would lack the land to produce the density of dwelling units proposed for that development. The proposed annexation is against both the letter and the spirit of the law, because it violates the utilization note, as shown on Developers' Exhibit 2, because it indeed proposes a further division, subdivision, or other use of the property other than what was shown on the original plat. Ms. Levickas, Mr. Pedrick, as well as the owners of Lot 24 are affected, under the utilization note and

under the provisory note because their lots, according to Mr. Chadsey were located within 300 feet of that property.

An even more troubling aspect of the proposed annexation is the fact that the Osbournes, in reserving 5.104 acres, apparently included 2.55 acres needed to support the density for what had already been approved for Cainewood phase one and two. That was corroborated by Mr. Chadsey, as well, in his testimony, and was the rationale for leaving 2.55 acres, now for the first time, to be dedicated to Cainewood, as "proposed Cainewood parcel A 2.55 acres." The troubling aspect of that is that the Osbournes were obviously attempting, in reserving 5.104 acres for future development to double-dip on land for which they had already claimed density in Cainewood as built out and as sold by the Osbournes to Kimberly Homes for substantial funds, namely $543,000.00. Protestants Exhibit 22. In further support of the Protestants' position, a review of the provisory section regarding the 5.104 acres in Protestants' Exhibit 18, refers to the requirement of compliance by the Developer, with the Baltimore County Zoning Regulations §1.B.01.3. A review of §1.B.01.3 entitled "Plans and Plats" provides that construing development plans, this paragraph is intended (a) to provide for the disclosure of development plans to prospective residents and to protect those who have made decisions, based on such plans from inappropriate changes therein; and (b) to provide for review of residential development plans to determine whether they comply with these regulations and with standards and policies adopted, pursuant to the authority of §504. Further, partial development plan is therein defined in as:

> "For the purposes of this Article, a 'partial development plan' is a portion of a final development plan, and a partial or final development plan is 'applicable' to a given lot if it covers all property in the subdivision within 300 feet of the given lot, in addition to the lot itself."

Section 1B.01.3(a)(3) further requires in subdivision lot sales that no use established and no construction may take place on any lot so created, except in accordance with such a plan. In §1B.01.3(a)(4), that section requires that anyone who sells an interest in real property within an area covered by a partial or a final development plan, to attach a notice directing the buyer's attention to the plan, to apprise the buyer of the rights, requirements and remedies provided under the development plan, as well as those provided under §1B.01.3 of the zoning regulations and §5.04. Since the Levickas' settled February 1, 2000, the utilization requirement was then met, vesting rights in them or any other affected property owners, such as the owners of Lots 23 or 24, as well, to the limitations and restrictions placed by the Osbournes on Protestants' Exhibit 18, as well as by Kimberly Homes Catonsville, Inc. on Developers' Exhibit 2. Any fair comparison of what was proposed on those earlier plats with what is being proposed under the annexation reveals violations of those provisions in the contrast between the cul de sac road through the wetlands, with panhandles, to Lots 26, 27, and 28, as shown on the earlier plats, with a large storm water management facility and Lots 31 - 34, as shown on the Clusters zoning relief plan. The regulations, in §1B.01.3, were passed for the protection of purchasers, to avoid situations exactly of the type proposed by the Developer in the Clusters case, by way of this annexation. There can not be a more clear cut example than that presented as to how this violates not only the letter, but the spirit of the law.

In ruling on the approval of the plan, as well as approval of the zoning relief, the Zoning Commissioner's Opinion and read on that point, fails to address the evidence submitted before him, and as described immediately above in this Petition. It is troubling to Appellants, and part of their allegation of error on the part of the Zoning Commissioner that, in his decision he rested his grant of the annexation on two factors:

A. Neither Cainewood subdivision nor the subject property would exceed the permitted residential density allowed under the zoning classification and acreage.

B. That in examining the plats of the Cainewood subdivision adduced at hearing, they showed potential single family dwelling units proposed within parcel A for Cainewood, closer to the Cainewood houses than those proposed under Petitioner's present plan. (Opinion, page 14)

Further, in his Opinion that the fifth amended final development plan for Cainewood should be granted, the Commissioner said, "I easily find that the Developer is entitled to this annexation and that same is not violative of any legal standard within the BCZR." However, there is no mention that on the plat submitted for the Cainewood developer, some of whom, the Osbournes, were the original developers of Cainewood, that they had on their plats, representations by the builder, in keeping with county law and development regulations at the time, in summary fashion, stated to any prospective purchasers, that the future development for Cainewood would be as proposed. As proposed on that plat, it called for an extension of Cainewood Court through wetlands, to a cul de sac, from which there were 3 panhandle lots located on the northern border of Cainewood. Further, of the 5.104 acres reserved for future development on those lots, part of those reserved acres were already spoken for, in terms of required density for Cainewood, as built out and sold by the Osbournes to Kimberly Homes, for $543,000.00. (Protestants' Exhibit 22) The Osbournes were indisputably attempting to double-dip as to the 5.104 acres reserved for future development, which is composed in substantial part with forest buffer easements, stream easements, and environmental sensitive areas and can not be expected to be developed for those reasons. Therefore, to allow the annexation of this 2.554 acres is not only against the letter and spirit of the stated regulation, it is against all of the prior comments noted on the plats for Cainewood, which propose a certain method of development, which was not sought or followed in this case, by the Osbournes. While the

Osbournes are certainly entitled to seek to maximize their profit from their investment, they should be bound and held to representations they have made on prior plats, to the limitations described earlier in this issue of the Memo. It is, for the Appellants, patently unfair for the homeowners in Cainewood, which is also included in the Hilltop Maple Community Association, some of whom paid premium prices for their lots at the end of Cainewood Court, as built, and part, because of their belief that the land behind them was wetlands or environmentally constrained, and not likely to be developed because of the cost of development, compared to the relative return for 3 panhandle lots, if the environmental issues could be overcome. The Hearing Officer/Zoning Commissioner makes no attempt to discuss those points raised on the plats or the prior representations of the Developers, the Osbournes, as to Cainewood, in making those representations on the plats. The regulations in the BCZR 1B.01.3 were passed for the protection of purchasers to avoid situations exactly of the type proposed by the Developer in the Clusters case, by way of this annexation.

CONCLUSION

For the aforesaid reasons, the Appellants respectfully request the Board of Appeals, in consideration of the within grounds for appeal to

A. Reverse or modify the decision of the Hearing Officer, in approving the development plan;

B. Remand the case to the Hearing Officer;

C. Propose conditions on the plan, should the Board approve the Hearing Officer's development plan, as requested in this Petition, as to traffic safety and grinder pumps, pursuant Baltimore County Code §26-206 (o);

D. Require the Developer to go back to the Community Input Meeting phase, because of the Planning Board's decision on the Master Plan conflict; and

E. Deny the plan, based on its violation of the Baltimore County approved proposed plan for Master Water Sewer Amendment, designating this property to be S6W6, with no available water or sewer service at this time.

Respectfully submitted

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204
(410) 296-8823
Attorney for the Appellants, Hilltop Maple Community Association and Joseph Gochar, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2004, the above Memorandum was mailed to Dino C. LaFiandra, Esquire, G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for the Petitioner(s) and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

MICHAEL P. TANCZYN, Esquire

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

June 4, 2004

VIA HAND-DELIVERY
The Honorable Timothy Kotroco, Esquire
Director, Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Zoning Commissioner/Hearing Officer
Lawrence E. Schmidt
Room 405
401 Bosley Avenue
Towson, MD 21204

Re: Project No. I-509
04-382-SPH
The Clusters

Gentleman:

Enclosed herewith for filing is a Petition on Appeal, which I am filing on behalf of my clients, Hilltop/Maple Community Association and Joseph Gochar, Jr., from the decision of the Hearing Officer and the Zoning Commissioner, dated April 30, 2004 in the Clusters development case.

Please feel free to contact me should you have any questions.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: Hilltop/Maple Community Association
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Peter Max Zimmerman, Esquire

RECEIVED
JUN 04 2004
Per.....

5/28/04

DEVELOPMENT PLAN HEARING and PETITION FOR SPECIAL HEARING	*	BEFORE THE ZONING
Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development; W/side Hilltop Road,	*	COMMISSIONER AND
150' S c/line Branston Road	*	FOR
1st Election & 1st Councilmanic Districts	*	BALTIMORE COUNTY
Legal Owners(s): Jenny & Eugene Osbourne, Parcel A, Leo & Susan Hull,	*	
Parcels 442, Mary & Francis Farley &		Cases Nos. I-509
Sonja & William Vogel (Parcel 992)	*	Hearing Officer Case
Contractor Purchaser(s) Skirven		& 04-382-SPH
Enterprises, Charles Skirven	*	Zoning Case

* * * * * * * * * * *

NOTICE OF APPEAL

Now comes Hilltop Maple Community Association and Joseph Gochar, Jr., as aggrieved persons, whose addresses for both are 112 S. Hilltop Road, Catonsville, Maryland 21228, who appeal the Hearing Officer's Development Plan Order and Zoning Commissioner's Order in the above cases, dated April 30, 2004 to the Board of Appeals of Baltimore County, pursuant to Baltimore County Code, §26-209(a) and §500.10 of the Baltimore County Zoning Regulations for the zoning hearing decision.

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204
410-296-8823
Attorney for the Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 2004, that a copy of the foregoing combined Appeal of the Development Plan Order and the Zoning Special Hearing Decision was mailed first-class mail, postage prepaid to G. Scott Barhight, Esquire and Dino C. LaFiandra, Esquire, Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515, Attorney for the Developer and to Peter Max Zimmerman, Esquire, Peoples' Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204

MICHAEL P. TANCZYN, Esquire

Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2877 (fax)

June 11, 2004

RECEIVED
JUN 14 2004
BALTIMORE COUNTY
BOARD OF APPEALS

G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: Appeal of Hearing Officer's Opinion
and Development Plan Order
E/S S Hilltop Road, S Branston Road
The Clusters
District: 1 c 1
Skirven Enterprises-Developer
PDM # I-509

Dear Mr. Barhight and Mr. LaFiandra:

Please be advised that an appeal of the above-referenced case was filed in this office on June 4, 2004 by Michael P. Tanczyn, Esq., on behalf of Hilltop/Maple Community Association and Joseph Gochar, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to contact the Board at (410) 887-3180.

Sincerely,

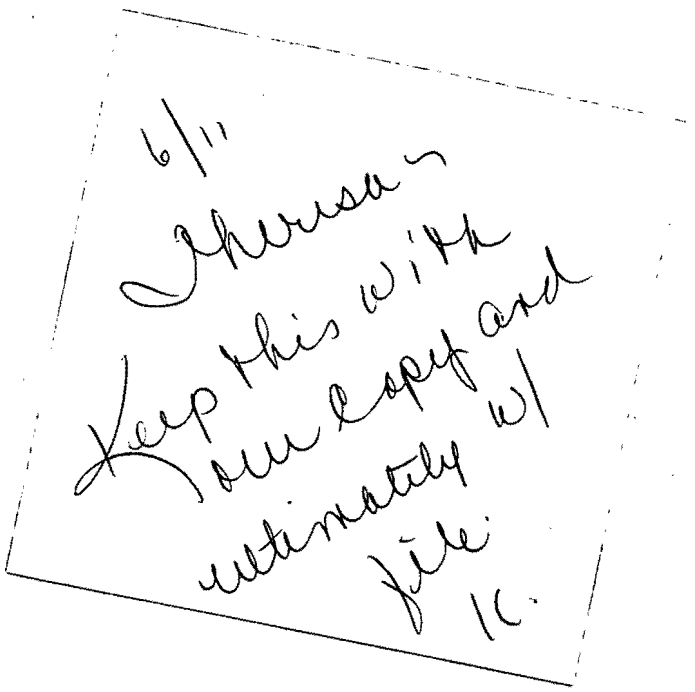
Timothy Kotroco
Director

TK:kw
Enc.
c: Michael P. Tanczyn, Esq.
G.W. Stephens, Jr. and Associates, Inc.
See Continuation Sheet
People's Counsel
Baltimore County Board of Appeals
File

CONTINUATION SHEET

The following people will receive written notification regarding the Notice of Appeal filed on June 4, 2004 for the Clusters Property:

Hilltop/Maple Community Association
Joseph Gochar, Jr.
Mr. Charles Skirven
Francis and Mary Farley
Mr. and Mrs. Harry Schwab
Mr. Charles Trainor
Mr. Terry MacHawer
Ms. Meg Levickas
Mr. Russ Sterner
Mr. Eugene L. Shaver



LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

May 28, 2004

VIA HAND-DELIVERY
The Honorable Timothy Kotroco, Esquire
Director, Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Zoning Commissioner/Hearing Officer
Lawrence E. Schmidt
Room 405
401 Bosley Avenue
Towson, MD 21204

Re: Project No. I-509
04-382-SPH
The Clusters

Gentlemen:

Enclosed herewith for filing is a Notice of Appeal, which I am filing on behalf of my clients, Hilltop/Maple Community Association and Joseph Gochar, Jr., from the decision of the Hearing Officer and the Zoning Commissioner, dated April 30, 2004 in the Clusters development case. I also enclose my check for the appeal filings, in the total amount of $625.00, to cover the Zoning Special Hearing, as well as the Development Plan Order Appeal. Please forward notice of this to the Board of Appeals for Baltimore County, and I request that we be notified of any hearing dates. The required Petition will be filed in the time period called for under Baltimore County Code 26-209.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: Hilltop/Maple Community Association
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Peter Max Zimmerman, Esquire

RECEIVED
MAY 28 2004
Per...

4/30/04

IN RE: DEVELOPMENT PLAN HEARING and PETITION FOR SPECIAL HEARING - Unencumbered Parcels, W/S Hilltop Road, 150' S of the c/l Branston Road and Parcel A of Cainewood *(The Clusters)* 1st Election District 1st Council District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Cases Nos. I-509 & 04-382-SPH

*

Jenny & Eugene Osborne, Owners, Parcel A; Leo T. Hull & Susan M. Hull, Owners, Parcel 442 Mary V. Farley, Francis W. Farley, Sonja O. Vogel and William A. Vogel, Owners, Parcel 992/ Skirven Enterprises, Inc., Contract Purchaser/Developer

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a combined public hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). That Section permits an applicant to request development plan approval and zoning relief through a single public hearing. Pursuant to the development review regulations codified in Title 26 thereof, the Owners/Developers seek approval of a four-page red-lined development plan, prepared by G. W. Stephens, Jr. & Associates, Inc., for the proposed residential development of the subject contiguous tracts. The proposed subdivision is to be known as The Clusters and will feature two single family detached dwellings, one of which is existing, and 38 semi-attached dwelling units. In addition to development plan approval, special hearing relief is requested as follows: 1) to approve the density anomaly on proposed Lot 1 created by the existing single family dwelling to remain; 2) to approve the creation of undersized D.R.2 portions of Lots 2, 3, 4, 5 and 7 as non-density areas; 3) to permit the future construction of accessory structures which comply with Section 400 of the B.C.Z.R. on the D.R.2 (non-density) portions of proposed Lots 2, 3, 4, 5 and 7; and 4) to approve a Fifth Amended Final Development Plan for Cainewood to amend the tract boundary of same and permit annexation of a portion thereof (Parcel A) into the subject property. The proposed subdivision and requested zoning relief are more particularly described on the four-page plan submitted into evidence as Developer's Exhibit 1A through 1D.

This proposal has been reviewed in accordance with the development review regulations codified in Title 26 of the Baltimore County Code. The process described therein is

ORDER RECEIVED FOR FILING
Date 4/30/04
By

initiated by the filing of a concept plan, which is a schematic representation of the proposed development. The concept plan is submitted for review at a conference held by and between representatives of the Developer and the County at a Concept Plan Conference (CPC), which in this case was conducted on October 7, 2003. Thereafter, as required, a Community Input Meeting (CIM) is conducted during evening hours at a public facility in the vicinity of the proposed development. The CIM provides an opportunity for residents of the locale to review and offer comment on the proposal. The CIM for this project was held on November 12, 2003 at the Catonsville Library. Subsequently, a development plan is submitted for review and comment at a conference held again between the Developer and County agency representatives. Often the development plan has been revised to incorporate changes suggested at the CPC and/or CIM. The Development Plan Conference (DPC) in this case was held on March 3, 2004. Following the DPC, a public hearing on the proposal is conducted before the Zoning Commissioner/Deputy Zoning Commissioner. In this case, the Hearing Officer's Hearing was held over the course of several days including March 25, 26, 29, April 2 and 6, 2004. In lieu of closing oral arguments and by agreement of the parties, the record of the case was held open for receipt of written memoranda through April 16, 2004. The Hearing Officer's decision that follows is rendered in accordance with Section 26-206 of the B.C.Z.R., which requires a decision within 15 days of that date, or in this instance, May 3, 2004.

Appearing at the public hearing required for this project were Frederick Chadsey, a representative of G. W. Stephens, Jr. & Associates, Inc., the consultants who prepared the development plan, and G. Scott Barhight, Esquire, attorney for the Owners/Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Walt Smith, Project Manager; Bob Bowling, Development Plans Review; Ron Goodwin, Land Acquisition; and, John Alexander, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); R. Bruce Seeley, John Russo, Bill Korpman and Bob Wood, Department of Environmental

initiated by the filing of a concept plan, which is a schematic representation of the proposed development. The concept plan is submitted for review at a conference held by and between representatives of the Developer and the County at a Concept Plan Conference (CPC), which in this case was conducted on October 7, 2003. Thereafter, as required, a Community Input Meeting (CIM) is conducted during evening hours at a public facility in the vicinity of the proposed development. The CIM provides an opportunity for residents of the locale to review and offer comment on the proposal. The CIM for this project was held on November 12, 2003 at the Catonsville Library. Subsequently, a development plan is submitted for review and comment at a conference held again between the Developer and County agency representatives. Often the development plan has been revised to incorporate changes suggested at the CPC and/or CIM. The Development Plan Conference (DPC) in this case was held on March 3, 2004. Following the DPC, a public hearing on the proposal is conducted before the Zoning Commissioner/Deputy Zoning Commissioner. In this case, the Hearing Officer's Hearing was held over the course of several days including March 25, 26, 29, April 2 and 6, 2004. In lieu of closing oral arguments and by agreement of the parties, the record of the case was held open for receipt of written memoranda through April 16, 2004. The Hearing Officer's decision that follows is rendered in accordance with Section 26-206 of the B.C.Z.R., which requires a decision within 15 days of that date, or in this instance, May 3, 2004.

Appearing at the public hearing required for this project were Frederick Chadsey, a representative of G. W. Stephens, Jr. & Associates, Inc., the consultants who prepared the development plan, and G. Scott Barhight, Esquire, attorney for the Owners/Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Walt Smith, Project Manager; Bob Bowling, Development Plans Review; Ron Goodwin, Land Acquisition; and, John Alexander, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); R. Bruce Seeley, John Russo, Bill Korpman and Bob Wood, Department of Environmental

RECEIVED FOR FILING
Date 4/30/04
By

Protection and Resource Management (DEPRM); and Jan Cook, Department of Recreation and Parks (R&P). Several residents from the surrounding locale appeared and testified, a number of who were represented by Michael P. Tanczyn, Esquire. Their attendance is reflected on the sign in sheets that were circulated at the hearing and have been included in the case file.

The subject property is comprised of three separately owned parcels as captioned above and is located on the east side of Hilltop Road, south of Frederick Road in Catonsville. The property contains a gross area of 18.1041 acres, split zoned D.R.2 (16.7346 acres) and D.R.5.5 (1.3651 acres). Based upon the acreage and zoning described above, the density associated with this property would allow 40 single-family dwellings, and in fact, a total of 40 single-family homes are proposed. One existing single family detached dwelling shall remain on the property on proposed Lot 1, and 39 new units are proposed. One of the 39 new units will be a single family detached structure, which will not share a common wall with any other unit. That dwelling will be located on proposed Lot 8. The remaining 38 units will be side by side, attached single family units.[1]

In addition to the houses described above, the proposal also provides for the construction of a public access road from South Hilltop Road. That road will lead into the interior of the property, split to a loop road to provide access to the southern portion of the site, and terminate in a cul-de-sac providing road frontage to other lots on the northeast side of the property. Additionally, areas of open space and forest conservation reservation are provided. The plan also shows a storm water management reservation area of approximately 1.11 acres. All of the details of the proposal are more particularly described on the four-page red-lined development plan submitted at the hearing and marked into evidence as Developer's Exhibit 1A through 1D.

As noted above, the Hearing Officer's Hearing was conducted over five separate hearing dates and generated significant public interest. Pursuant to Section 26-206 of the

[1] The semi-detached units proposed were commonly referred to at the hearing as "duplexes." However, the Office of Planning correctly notes that under the Comprehensive Manual of Development Policies, a duplex is a dwelling with one living unit atop another. The proposed dwellings are side by side units that share one common wall.

ORDER RECEIVED FOR FILING
Date 7/31/14
By

Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, I am required to first identify any unresolved agency comments or issues raised by any interested party. A discussion of each issue raised is set out below.

ISSUE 1 – Potential Water/Sewer County Master Plan Map Amendment/ County Council Resolution No. 32-04.

Baltimore County maintains a water supply and sewerage plan pursuant to State law. (See MD CODE ANN., Environment Article, Section 9-501, et seq.) This Master Plan classifies properties in Baltimore County into any one of a series of different categories dependant upon whether the said property has existing access to public utilities (i.e., sewer and/or water), planned access or no planned service. Relevant to the issue presented in this case are the W-3/S-3 and W-6/S-6 classifications. Pursuant to the Water and Sewerage Plan, public water and sewer is accessible to any property designated W-3/S-3. At the other end of the spectrum, public utilities are not permitted on any property designated with the W-6/S-6 classification.

Apparently, by Resolution No. 88-92 in 1992, the W-3/S-3 designation was affixed to the subject property; however, due to a bureaucratic error, the Master Plan was never amended to reflect that designation for this property. Subsequent to that time, a different Developer proposed to develop the subject property. That plan was not approved, largely because it was erroneously believed that the property was classified W-6/S-6 and that public water and sewer were not available to the site. Ultimately, this error was discovered and it is undisputed that at the time of the filing of the Concept and Development Plans in this case, the W-3 and S-3 designations are applicable to this property.

It need first be noted and emphasized that it is not within the purview and jurisdiction of the Hearing Officer/Zoning Commissioner to amend the Master Water and Sewer Plan and determine which classification is applicable to this property. That process is specifically set out in State law as referenced above. However, the appropriateness of the S-

Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, I am required to first identify any unresolved agency comments or issues raised by any interested party. A discussion of each issue raised is set out below.

ISSUE 1 – Potential Water/Sewer County Master Plan Map Amendment/ County Council Resolution No. 32-04.

Baltimore County maintains a water supply and sewerage plan pursuant to State law. (See MD CODE ANN., Environment Article, Section 9-501, et seq.) This Master Plan classifies properties in Baltimore County into any one of a series of different categories dependant upon whether the said property has existing access to public utilities (i.e., sewer and/or water), planned access or no planned service. Relevant to the issue presented in this case are the W-3/S-3 and W-6/S-6 classifications. Pursuant to the Water and Sewerage Plan, public water and sewer is accessible to any property designated W-3/S-3. At the other end of the spectrum, public utilities are not permitted on any property designated with the W-6/S-6 classification.

Apparently, by Resolution No. 88-92 in 1992, the W-3/S-3 designation was affixed to the subject property; however, due to a bureaucratic error, the Master Plan was never amended to reflect that designation for this property. Subsequent to that time, a different Developer proposed to develop the subject property. That plan was not approved, largely because it was erroneously believed that the property was classified W-6/S-6 and that public water and sewer were not available to the site. Ultimately, this error was discovered and it is undisputed that at the time of the filing of the Concept and Development Plans in this case, the W-3 and S-3 designations are applicable to this property.

It need first be noted and emphasized that it is not within the purview and jurisdiction of the Hearing Officer/Zoning Commissioner to amend the Master Water and Sewer Plan and determine which classification is applicable to this property. That process is specifically set out in State law as referenced above. However, the appropriateness of the S-

Date 7/29/04 By

3/W-3 classification in this case is arguably self-evident, given the residential communities that literally surround this property and which are served by public water and sewer.

Amendment to the Water and Sewer Plan is pursuant to a process set out under law. An amendment may be instituted by resolution of the Baltimore County Council. In this regard, it is to be noted that the County Council introduced Resolution No. 32-04 on March 15, 2004 and approved same at its meeting on April 5, 2004. That resolution states, in part, "The Council believes that the W-6/S-6 designation is the appropriate designation in the County water supply and sewage plan for [the subject] property." Subsequent to the Council's passage of Resolution No. 32-04, the Baltimore County Executive signed the resolution on April 14, 2004. Moreover, by law, notice of this action by the County Council and Executive was transmitted to the Maryland Department of the Environment (MDE) for further action as required by law. Essentially, the MDE is allowed a period of 90 days to approve, disapprove, or modify the proposal. (See MD Code Ann., Environmental Article, Section 9-507.) The MDE's action on this amendment is apparently pending.

The positions of the respective parties are summarized in their Memoranda which were submitted and addressed this issue. The Protestants essentially argue that the action of the County Council and County Executive in passing/signing Resolution 32-04 constitutes an amendment to the Master Water and Sewer Plan which attaches the W-6/S-6 classification to this property. The Protestants aver that these actions constitute the adoption of an amendment by the "County governing body" as that term is defined by law.[2] Further, relying upon the provisions of Section 9-507(e)2, the Protestants aver that the amendment is binding on any person, including in this instance, the Developer and property owners, except to the extent that the MDE modifies or disapproves the plan. In summary, the Protestants argue that the action by the County Council and County Executive has effectively amended the Master Water/Sewer Plan, subject to review by MDE. Further, that the development plan before me cannot be

[2] In Baltimore County, a Charter County under Maryland law, the "County governing body" is deemed to be the County Executive and County Council. See County Council v. Maryland Reclamation Assoc., 307 MD 229, 614 A.2d 78 (1994) and Section 9-901 of the Environmental Article.

ORDER RECEIVED/FOR FILING
Date 4/21/04
By RBP

approved as the W-6/S-6 classification has effectively been attached to the Master Water and Sewer Plan for this property. That classification prohibits the connection of public water and sewer to this site, an integral part of the plan.

The applicants disagree. Essentially, they urge that the Protestants have ignored a necessary and vital step in the amendment process. Indeed, Section 9-506 imposes an additional requirement upon the "County governing body" before the plan can be amended. To paraphrase, Section 9-506 provides that before a County governing body may adopt a County plan or a revision/amendment to the County plan, that amendment need be submitted to the official planning agency that has jurisdiction in the County for review and comment, and that planning agency shall certify that the plan, revision or amendment is consistent with the County comprehensive plan. In this case, the "official planning agency" is the Baltimore County Planning Board.

Pursuant to this charge, the Planning Board took up this issue at their meetings on March 18, 2004 and April 1, 2004. The minutes of those meetings have been submitted and reviewed by the undersigned. At its March 18, 2004 meeting, the minutes reflect that the Planning Board recommended retention of the S-3/W-3 designation for this property and that the Planning Board found that designation was consistent with the land use plan and growth management policies established in the Baltimore County Master Plan 2010.

At its meeting on April 1, 2004, the Planning Board was more emphatic and clarified its earlier vote. The minutes recorded at that meeting note that the Planning Board found that the proposed S-6/W-6 designations "are not consistent with the Master Plan" and that the S-3/W-3 designations were appropriate and consistent with the Master Plan.

Although the tug of war between the Council/Executive and Planning Board will no doubt ultimately be resolved in another forum, *for the purposes of the review of this development plan*, I find that a key and necessary step is lacking to effect an amendment of the Baltimore County Master Water and Sewer Plan changing the classification attached to this property from S-3/W-3 to S-6/W-6. The language set out in Section 9-506 is clear and

approved as the W-6/S-6 classification has effectively been attached to the Master Water and Sewer Plan for this property. That classification prohibits the connection of public water and sewer to this site, an integral part of the plan.

The applicants disagree. Essentially, they urge that the Protestants have ignored a necessary and vital step in the amendment process. Indeed, Section 9-506 imposes an additional requirement upon the "County governing body" before the plan can be amended. To paraphrase, Section 9-506 provides that before a County governing body may adopt a County plan or a revision/amendment to the County plan, that amendment need be submitted to the official planning agency that has jurisdiction in the County for review and comment, and that planning agency shall certify that the plan, revision or amendment is consistent with the County comprehensive plan. In this case, the "official planning agency" is the Baltimore County Planning Board.

Pursuant to this charge, the Planning Board took up this issue at their meetings on March 18, 2004 and April 1, 2004. The minutes of those meetings have been submitted and reviewed by the undersigned. At its March 18, 2004 meeting, the minutes reflect that the Planning Board recommended retention of the S-3/W-3 designation for this property and that the Planning Board found that designation was consistent with the land use plan and growth management policies established in the Baltimore County Master Plan 2010.

At its meeting on April 1, 2004, the Planning Board was more emphatic and clarified its earlier vote. The minutes recorded at that meeting note that the Planning Board found that the proposed S-6/W-6 designations "are not consistent with the Master Plan" and that the S-3/W-3 designations were appropriate and consistent with the Master Plan.

Although the tug of war between the Council/Executive and Planning Board will no doubt ultimately be resolved in another forum, *for the purposes of the review of this development plan,* I find that a key and necessary step is lacking to effect an amendment of the Baltimore County Master Water and Sewer Plan changing the classification attached to this property from S-3/W-3 to S-6/W-6. The language set out in Section 9-506 is clear and

FILING

unambiguous. It states that before any County governing body may adopt a Master Plan amendment, that the proposed amendment must be certified by the Planning Board as being consistent with the County's comprehensive plan. This step was simply not done in this case. To the contrary, the Planning Board has made it clear that they consider the amendment inconsistent with the County's comprehensive plan. Thus, having failed to secure the requisite Planning Board support for its action, the proponents of the amendment failed to secure a necessary step in the process, which is clearly mandated by law. It bears repeating that I draw this conclusion entirely within the context of the Hearing Officer's jurisdiction to determine whether the development plan before me can be approved pursuant to the development review regulations codified in Title 26 of the Baltimore County Code. I recognize and acknowledge the limitations of the undersigned authority and concede that this conclusion does not bind the MDE, the County Executive, the County Council and/or the Planning Board. However, in considering any development plan, the Hearing Officer is obliged to determine whether the plan complies with the applicable provisions of law. (See Section 26-206, Baltimore County Code.) It is my judgment that this plan cannot be denied for reasons advanced by the Protestants that public water and sewer are not available. The connection to those public facilities is possible in view of the *current* classification of this property under the Master Water and Sewer Plan as W-3/S-3.

ISSUE 2: Grinder Pumps

Although not addressed specifically in their memoranda, several individual Protestants testified about the use of grinder pumps in the proposed subdivision.[3] In this regard, grinder pumps serve the residences in the adjacent Cainewood subdivision. Testimony was offered that these pumps can be unreliable and are an inappropriate means of providing sewage disposal when gravity systems are unavailable.

[3] Grinder pumps are used when the preferable gravity sewer is not possible. Sewage is pumped "up hill" to the sewer main from individual lots.

ORDER RECEIVED FOR FILING
Date 4/26/04
By

In response, the Applicants submitted a copy of the County's current regulations regarding the use of grinder pumps. (See County Exhibit 2) Testimony was also offered on this issue by Bob Bowling as a representative of the Department of Public Works.

It is clear that grinder pumps are a recognized and approved means of sewage disposal in Baltimore County. There was no testimony or evidence offered that the use of pumps at this subdivision would cause any deleterious effect above and beyond those inherent impacts of grinder pump usage. For so long as the development plan complies with the requirements of the County regulation, the use of grinder pumps is appropriate and is not a basis upon which this plan can be denied.

By analogy, some people may believe that all dwellings should be served by public utilities and that there should be no private well and septic systems. I respect those individuals' own preferences; however, just as private wells and septic systems are allowed, so are grinder pumps.

ISSUE 3: Traffic

There was a substantial volume of testimony from a number of individual residents of the area expressing concern regarding potential traffic impacts of the proposed development. A number of witnesses testified about the high speeds of vehicles on Hilltop Road along the property's frontage. There were also concerns about sight distance for vehicles exiting the property. In this regard, the Applicants agreed to the imposition of a restriction that would require the removal of any vegetation that might obstruct sight lines along Hilltop Road. In fact, Baltimore County Department of Public Works will require such clearing.

Traffic is a concern frequently raised at Hearing Officer Hearings. There can be no dispute that the volumes of traffic in all parts of Baltimore County are substantially higher today than in years past. Ours is a society that values the freedom afforded by individual use of the automobile.

Although I find most of the Protestants' testimony on this issue credible and well meaning, I note that much of it is founded upon the premise that motorists in the vicinity

In response, the Applicants submitted a copy of the County's current regulations regarding the use of grinder pumps. (See County Exhibit 2) Testimony was also offered on this issue by Bob Bowling as a representative of the Department of Public Works.

It is clear that grinder pumps are a recognized and approved means of sewage disposal in Baltimore County. There was no testimony or evidence offered that the use of pumps at this subdivision would cause any deleterious effect above and beyond those inherent impacts of grinder pump usage. For so long as the development plan complies with the requirements of the County regulation, the use of grinder pumps is appropriate and is not a basis upon which this plan can be denied.

By analogy, some people may believe that all dwellings should be served by public utilities and that there should be no private well and septic systems. I respect those individuals' own preferences; however, just as private wells and septic systems are allowed, so are grinder pumps.

ISSUE 3: Traffic

There was a substantial volume of testimony from a number of individual residents of the area expressing concern regarding potential traffic impacts of the proposed development. A number of witnesses testified about the high speeds of vehicles on Hilltop Road along the property's frontage. There were also concerns about sight distance for vehicles exiting the property. In this regard, the Applicants agreed to the imposition of a restriction that would require the removal of any vegetation that might obstruct sight lines along Hilltop Road. In fact, Baltimore County Department of Public Works will require such clearing.

Traffic is a concern frequently raised at Hearing Officer Hearings. There can be no dispute that the volumes of traffic in all parts of Baltimore County are substantially higher today than in years past. Ours is a society that values the freedom afforded by individual use of the automobile.

Although I find most of the Protestants' testimony on this issue credible and well meaning, I note that much of it is founded upon the premise that motorists in the vicinity

RECEIVED FOR FILING
Date 4/30/07
By

routinely disobey the speed limit on Hilltop Road. Indeed, it is hard for any government or society to protect itself against those individuals who do not obey the laws and regulations that are designed to promote and provide public safety.

In this case, the development plan comments submitted by the relevant County agencies indicate that the site has been reviewed and approved for appropriate sight distance. There is no failing traffic intersection that impacts this site and the property is not subject to any existing County law that might impose a moratorium on development when traffic congestion reaches inappropriate levels. Although there are increased traffic volumes and speeds in the area, I find no peculiar circumstance related to traffic which justifies a denial of this plan. Thus, I decline to deny the plan or impose conditions based upon this issue, other than to require clearing of any vegetation that might limit sight distance.

ISSUE 4: Semi-detached Houses/Conflict with the Master Plan/Compliance with the Residential Performance Standards

As noted above, there are 40 single family dwellings proposed for this subdivision. Of those, 38 are semi-detached; that is, two units share a common wall. One existing single family dwelling on Lot 1 will remain, while a second single family detached dwelling is proposed on Lot 8. The Protestants who appeared object to this housing style. They note that virtually all of the surrounding residential communities feature detached single family dwellings. Thus, they aver that the proposal is inconsistent with the theme of this residential neighborhood.

It is clear that the 38 units proposed are not single family detached dwellings as defined in Section 101 of the B.C.Z.R. That Section defines such a building as "A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means."

This issue brings into play a number of regulations contained within the B.C.Z.R. and Title 26 (development regulations) within the Baltimore County Code ("Code"). An analysis of each of these Sections is appropriate.

ORDER RECEIVED FOR FILING
Date 4/21/14
By

It is first to be noted that Section 26-282 of the Code requires a finding of compatibility in certain instances. Those regulations require, among other objectives, that the proposed buildings reinforce existing building patterns in the neighborhood. (See Section 26-282(b)(2). In this case it is clear that the compatibility requirements are not applicable to this subdivision. That is, Section 26-282 applies only to certain development and the subject project does not fall within any of those categories that require a finding of compatibility. I note this Section only to emphasize that Baltimore County has enacted standards which require compatibility of a proposed development with an existing neighborhood; however, that legislative mandate has been limited to certain circumstances. None of the types of development that would trigger compatibility requirements are present here.

Although Section 26-282 of the Code is not applicable, Section 260 of the B.C.Z.R. does apply. That Section is entitled "Residential Performance Standards." Section 260.1.B thereof states that the performance standards are designed to insure that residential development in Baltimore County conforms to a higher quality of design. Further, the Office of Planning is required to make recommendations regarding those standards to the Hearing Officer when considering any development plan.

The residential performance standards establish certain general goals and objectives, while not requiring specific details. Some of the individual standards listed might be characterized as vague and some might even argue that they are contradictory. For example, Section 260.6.A.1 discusses the theme for buildings proposed within a development plan. That Section states that buildings within a development proposal shall "Provide *variety* in housing type or design, while maintaining *continuity* in scale, rhythm, proportion and detail." (Emphasis added) One might conclude that the concepts of "variety" versus "continuity" are inconsistent with one another at best.

In this case, the Office of Planning recognized the predominant single family detached residential theme in the neighborhood. It recommended that at least for the lots that abut Hilltop Road (i.e., Lots 1 through 7) that single family detached dwellings should be

It is first to be noted that Section 26-282 of the Code requires a finding of compatibility in certain instances. Those regulations require, among other objectives, that the proposed buildings reinforce existing building patterns in the neighborhood. (See Section 26-282(b)(2). In this case it is clear that the compatibility requirements are not applicable to this subdivision. That is, Section 26-282 applies only to certain development and the subject project does not fall within any of those categories that require a finding of compatibility. I note this Section only to emphasize that Baltimore County has enacted standards which require compatibility of a proposed development with an existing neighborhood; however, that legislative mandate has been limited to certain circumstances. None of the types of development that would trigger compatibility requirements are present here.

Although Section 26-282 of the Code is not applicable, Section 260 of the B.C.Z.R. does apply. That Section is entitled "Residential Performance Standards." Section 260.1.B thereof states that the performance standards are designed to insure that residential development in Baltimore County conforms to a higher quality of design. Further, the Office of Planning is required to make recommendations regarding those standards to the Hearing Officer when considering any development plan.

The residential performance standards establish certain general goals and objectives, while not requiring specific details. Some of the individual standards listed might be characterized as vague and some might even argue that they are contradictory. For example, Section 260.6.A.1 discusses the theme for buildings proposed within a development plan. That Section states that buildings within a development proposal shall "Provide *variety* in housing type or design, while maintaining *continuity* in scale, rhythm, proportion and detail." (Emphasis added) One might conclude that the concepts of "variety" versus "continuity" are inconsistent with one another at best.

In this case, the Office of Planning recognized the predominant single family detached residential theme in the neighborhood. It recommended that at least for the lots that abut Hilltop Road (i.e., Lots 1 through 7) that single family detached dwellings should be

Date 1/30/14
By

constructed thereon, as opposed to semi-attached units. Indeed, the Developer submitted at the hearing two exhibits (Developer's Exhibits 5A and 5B), which depict that alternative design.

Section 26-206 of the Code requires that the Hearing Officer approve a plan that complies with the development regulations and all applicable policies, rules and regulations promulgated for land use and development in Baltimore County. Clearly, the B.C.Z.R. are regulations which fall within that Section and need be applied in this instance. That is, any development plan must comply not only with the development regulations, but with the relevant portions of the B.C.Z.R. It is my judgment that the plan as submitted does not comply with the residential performance standards set out in Section 260 of the B.C.Z.R. Specifically, I concur with the Office of Planning that the units abutting Hilltop Road should be single-family detached dwellings to reflect the character of the existing residential community along that street. Thus, the plan shall be amended to incorporate Developer's Exhibit 5B for those lots. That alternative shows that there will be four single-family dwelling units adjacent to Hilltop Avenue, rather than the six semi-detached units proposed. This amendment will reduce the overall density of the project by two units and will provide that all lots adjacent to Hilltop Road will feature dwellings consistent with the existing neighborhood.

Although I will require this amendment to that part of the subdivision abutting Hilltop Road, I decline to order further amendment of the plan to replace all of the semi-attached units with single family detached dwellings. I recognize that a compelling argument could be made that this entire development should be a single family detached community. The present proposal is not compatible with the existing neighborhood; however, as discussed above, compatibility per se, is not a requirement. Moreover, the vagueness of the residential performance standards is such that detached single family dwellings cannot be required in this case, pursuant to Section 260 of the B.C.Z.R. Although I concur with the Protestants that a single-family detached community is preferable, I do not conclude that the proposal as submitted is violative of any law or regulation, except for the lots which abut Hilltop Avenue, which in my judgment should be of a single family detached character. As to the lots located

ORDER RECEIVED FOR FILING
Date 4/30/14
By

within the interior of the property, I find no law, regulation and/or standard that mandates that they be single family detached buildings. I simply cannot substitute my preference (and that of the neighbors) without an adequate basis in the law.[4]

Another Section that needs be considered in addressing this issue is Section 26-207 of the B.C.Z.R. That Section mandates that the Hearing Officer refer the plan to the Planning Board in certain circumstances. One such circumstance listed is if the proposed plan conflicts with the Master Plan.

The Developer, within its Post Hearing Memorandum, argues that there is no conflict with the Master Plan. Essentially, the Developer notes that semi-detached single family dwellings such as proposed here are specifically permitted in the D.R. zone by the B.C.Z.R. The Developer also argues that the general principles of planning are applied and interpreted through the zoning regulations. Additionally, the Developer correctly notes that Section 26-266 of the Code does not contain language that is applicable to the circumstances present in this case.

I am appreciative of the Developer's arguments as set forth in their memorandum. I have considered them carefully. Nonetheless, I cannot ignore the simple directive and plain meaning of the words used in the statute. Section 26-207 clearly provides that a referral is mandated when a proposed plan conflicts with the Master Plan. As I read the statute, a conflict is not limited to those issues set out in Section 26-266. Moreover, the development regulations and zoning regulations effectively impose two separate standards that must both be applied to any development plan. That is, a plan must comply with all of the applicable development plan regulations as well as all applicable zoning regulations. A plan cannot be approved because it complies with one or the other. The mere fact that a project complies with the zoning regulations does not excuse compliance with the development regulations and vice versa.

The Baltimore County Master Plan contains a map (No. 39) which depicts existing and proposed land uses. That map shows the subject property as designated for single-family

[4] In this regard, I do not believe that a requirement that all dwellings be detached is justifiable as a condition to approval, pursuant to Section 26-206(o).

within the interior of the property, I find no law, regulation and/or standard that mandates that they be single family detached buildings. I simply cannot substitute my preference (and that of the neighbors) without an adequate basis in the law.[4]

Another Section that needs be considered in addressing this issue is Section 26-207 of the B.C.Z.R. That Section mandates that the Hearing Officer refer the plan to the Planning Board in certain circumstances. One such circumstance listed is if the proposed plan conflicts with the Master Plan.

The Developer, within its Post Hearing Memorandum, argues that there is no conflict with the Master Plan. Essentially, the Developer notes that semi-detached single-family dwellings such as proposed here are specifically permitted in the D.R. zone by the B.C.Z.R. The Developer also argues that the general principles of planning are applied and interpreted through the zoning regulations. Additionally, the Developer correctly notes that Section 26-266 of the Code does not contain language that is applicable to the circumstances present in this case.

I am appreciative of the Developer's arguments as set forth in their memorandum. I have considered them carefully. Nonetheless, I cannot ignore the simple directive and plain meaning of the words used in the statute. Section 26-207 clearly provides that a referral is mandated when a proposed plan conflicts with the Master Plan. As I read the statute, a conflict is not limited to those issues set out in Section 26-266. Moreover, the development regulations and zoning regulations effectively impose two separate standards that must both be applied to any development plan. That is, a plan must comply with all of the applicable development plan regulations as well as all applicable zoning regulations. A plan cannot be approved because it complies with one or the other. The mere fact that a project complies with the zoning regulations does not excuse compliance with the development regulations and vice versa.

The Baltimore County Master Plan contains a map (No. 39) which depicts existing and proposed land uses. That map shows the subject property as designated for single-family

[4] In this regard, I do not believe that a requirement that all dwellings be detached is justifiable as a condition to approval, pursuant to Section 26-206(o).

ITION FILING
Date 4/30/04
By

detached dwellings. It is to be noted that the map further describes numerous other potential uses of land. Among those other uses are single family attached housing. Thus, it is clear that the drafters of the Master Plan distinguished between single family detached housing as opposed to single-family attached housing.

It is my judgment that the proposed development of the subject site with single family attached houses represents a conflict with the Master Plan. Thus, I will require a referral of the plan to the Planning Board for its consideration. Section 26-207 does not mandate that the Hearing Officer suspend proceedings in the event of a referral. However, the undersigned is bound by any such recommendations by the Planning Board. Thus, as a condition of the approval of this plan, the plan shall be amended as might be necessary to comply with any future actions taken by the Planning Board, pursuant to this referral.

ISSUE 5: Petition for Special Hearing Issues

As noted above, there were a series of issues raised through the Petition for Special Hearing. Three of these issues were not controversial and are easily addressed. Items 1, 2 and 3 as listed within the Petition relate to the split zoning of certain lots that abut Hilltop Road. Due to their split zoning, an anomaly is created whereby proposed houses will be situated on a portion of the lot with one zoning classification and rear yards and possible accessory structures will be located in that portion of the lot with a different zoning classification.

The zoning anomaly created by the split zoning is exactly that. I easily find that the Petition for Special Hearing should be granted to address these issues. I find that the grant of the relief will not cause any detrimental impacts to the health, safety and general welfare of the locale. This circumstance does not cause an increase in density.

Item 4 of the Petition for Special Hearing relates to the approval of a Fifth Amended Final Development Plan for the adjacent Cainewood subdivision. As more particularly shown on the plan, the Developer proposes annexing a portion of Parcel A of that subdivision into the subject property. That area to be annexed is approximately 2.55 acres in area.

ORDER RECEIVED FOR FILING
Date 4/24/14
By

This issue was the subject of testimony and evidence during the hearing. Many of the Protestants who reside in Cainewood object to the annexation. They testified that they paid premium prices for their lots and that the annexation of the subject property should not be permitted.

Nonetheless, there are two compelling factors, which in my judgment support the grant of the special hearing. First of all, neither the Cainewood subdivision nor the subject property will exceed the permitted residential density allowed under the zoning classification and acreage. That is, this is not a case where the Developer is proposing more houses than permitted under the B.C.Z.R. The number of houses proposed and existing, both in Cainewood and The Clusters development, does not exceed what is allowed.

More importantly, an examination of plans for the Cainewood subdivision showed that potential single family dwelling units were proposed within Parcel A. The proposed development in the subject case will be located further from the Protestants' residences than the houses originally proposed. That is, although some of the neighboring protestants object to construction within eyesight of their properties, the fact of the matter is that development previously contemplated under the Cainewood subdivision plan would have resulted in houses being located closer to their homes than under the current proposal. Parcel A is not a public park. It was not reserved as community open space and is not for the private use/enjoyment of adjacent property owners. Rather, it is a parcel that has development potential, which was recognized even when Cainewood was proposed. In my judgment, the Petition for Special Hearing to amend the Fifth Amended Final Development Plan for Cainewood should be granted. I easily find that the Developer is entitled to this annexation and that same is not violative of any legal standard within the B.C.Z.R.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter.

This issue was the subject of testimony and evidence during the hearing. Many of the Protestants who reside in Cainewood object to the annexation. They testified that they paid premium prices for their lots and that the annexation of the subject property should not be permitted.

Nonetheless, there are two compelling factors, which in my judgment support the grant of the special hearing. First of all, neither the Cainewood subdivision nor the subject property will exceed the permitted residential density allowed under the zoning classification and acreage. That is, this is not a case where the Developer is proposing more houses than permitted under the B.C.Z.R. The number of houses proposed and existing, both in Cainewood and The Clusters development, does not exceed what is allowed.

More importantly, an examination of plans for the Cainewood subdivision showed that potential single family dwelling units were proposed within Parcel A. The proposed development in the subject case will be located further from the Protestants' residences than the houses originally proposed. That is, although some of the neighboring protestants object to construction within eyesight of their properties, the fact of the matter is that development previously contemplated under the Cainewood subdivision plan would have resulted in houses being located closer to their homes than under the current proposal. Parcel A is not a public park. It was not reserved as community open space and is not for the private use/enjoyment of adjacent property owners. Rather, it is a parcel that has development potential, which was recognized even when Cainewood was proposed. In my judgment, the Petition for Special Hearing to amend the Fifth Amended Final Development Plan for Cainewood should be granted. I easily find that the Developer is entitled to this annexation and that same is not violative of any legal standard within the B.C.Z.R.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter.

Date 4/30/07 By

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 30th day of April 2004 that the four-page, redlined development plan for The Clusters, identified herein as Developer's Exhibits 1A through 1D, and the alternative housing design plan marked as Developer's Exhibit 5B, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval as follows: 1) to approve the density anomaly on proposed Lot 1 created by the existing single family dwelling to remain; 2) to approve the creation of undersized D.R.2 portions of Lots 2, 3, 4, 5 and 7 as non-density areas; 3) to permit the future construction of accessory structures which comply with Section 400 of the B.C.Z.R. on the D.R.2 (non-density) portions of proposed Lots 2, 3, 4, 5 and 7; and 4) to approve a Fifth Amended Final Development Plan for Cainewood to amend the tract boundary of same and permit annexation of a portion thereof (Parcel A) into the subject property, in accordance with Developer's Exhibits 1A through1D and Developer's Exhibit 5B, be and is hereby GRANTED, subject to the following restrictions:

1) The development plan shall be amended consistent with Developer's Exhibit 5B so that single-family detached dwellings occupy the lots adjacent to Hilltop Road.

2) This matter is referred to the Baltimore County Planning Board pursuant to Section 26-207, due to the conflict created by the proposed construction of single-family attached dwellings in an area designated for single-family detached dwellings. The plan shall be amended to incorporate any findings/ amendments offered by the Planning Board.

3) The Developer shall clear, as is necessary, vegetation along Hilltop Road to insure proper sight distance.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 4/30/04
By BJS

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 30, 2004

G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: DEVELOPMENT PLAN & PETITION FOR SPECIAL HEARING **(The Clusters)**
Unencumbered Parcels, W/S Hilltop Road, 150' S of the c/l Branston Road and Parcel A, Cainewood
1st Election District – 1st Council District
Jenny & Eugene Osborne, Owners, Parcel A; Leo T. Hull & Susan M. Hull, Owners, Parcel 442
Mary V. Farley, Francis W. Farley, Sonja O. Vogel and William A. Vogel, Owners, Parcel 992/
Skirven Enterprises, Inc., Contract Purchaser/Developer
Case Nos. I-509 & 04-382-SPH

Dear Messrs. Barhight and LaFiandra & Ms. Busse:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The development plan has been approved, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Francis & Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring, Md. 20904
Mr. Charles Skirven, 5405 Twin Knolls Road, Columbia, Md. 21045
Mr. Rick Chadsey, GWStephens, Jr. & Assoc., 1020 Cromwell Bridge Road, Towson, Md. 21286
Michael Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Md. 21204
Mr. Joe Gochar, 112 S. Hilltop Road, Catonsville, Md. 21228
Mr. & Mrs. Harry Schwab, 102 S. Hilltop Road, Catonsville, Md. 21228
Mr. Charles Trainor, 103 Woodwind Road, Catonsville, Md. 21228
Mr. Terry MacHawer, 7018 Channel Village Court, Annapolis, Md. 21403
Ms. Meg Levickas, 1820 Cainewood Court, Catonsville, Md. 21228
Mr. Russ Sterner, 322 Concert Way, Catonsville, Md. 21228
Mr. Eugene L. Shaver, 116 S. Hilltop Road, Catonsville, Md. 21228
Mr. Don Rascoe, DPDM; DEPRM; DPW; OP; R&P; People's Counsel; Case Files

Printed on Recycled Paper

4/16/04

IN RE:	*	BEFORE THE HEARING OFFICER /
THE CLUSTERS	*	ZONING COMMISSIONER
SKIRVEN ENTERPRISES, DEVELOPER	*	OF
	*	BALTIMORE COUNTY
DEVELOPMENT PLAN HEARING ZONING HEARING	*	PDM Case No: I-509 Zoning Case No. 04-382-SPH

RECEIVED
APR 16 2004
ZONING COMMISSIONER

* * * * * * * * * * *

DEVELOPER'S POST HEARING MEMORANDUM

I. INTRODUCTION AND PROCEDURAL POSTURE

Skirven Enterprises, Inc., the Developer ("Developer"), by its attorneys, G. Scott Barhight, Dino C. La Fiandra, and Whiteford, Taylor & Preston, L.L.P., submits this memorandum in lieu of a closing argument. Pursuant to Baltimore County Code, § 26-206, the Hearing Officer conducted an evidentiary hearing on the Development Plan on March 25, 26, 29, April 2 and 6.

The property at issue in the Development Plan (the "Property") consists of three existing lots, each in separate ownership. The gross acreage is 18.1 acres and the Property is split zoned D.R. 2 (16.73 acres) and D.R. 5.5 (1.36 acres). The Property is located on the east side of Hilltop Road, 150 feet south of Branston Road in the First Councilmanic District. The Property will support a total of 40 single family dwellings; a total of 40 single family dwellings are proposed. There is one single family detached dwelling existing on-site. There is one additional single family detached dwelling and 38 single family semi-detached dwellings proposed.

The split zoning of the property results in a number of split zoned lots (Lots 1, 2, 3, 4, 5, and 7). In addition to approval of its Development Plan, the Developer has submitted a Petition for Special Hearing to approve the split zoned lots. The Developer also submitted its Petition for Special Hearing to approve an amendment to the FDP for the adjoining Cainewood development, for the purpose of removing therefrom 2.55 acres to support the proposed density of The Clusters. In accordance with Baltimore County Code, § 26-206.1, the Developer combined the development plan hearing and the zoning hearing. This memorandum addresses the Developer's proof under its development plan case (HOH) and its zoning case (Petition for Special Hearing).

Several members of the nearby community appeared in opposition to the Development Plan. These parties are largely nearby property owners, and are referred to herein collectively as "Protestants".

This brief first discusses the appropriate legal standard for the approval of a development plan. Next, there is a discussion of the unresolved issues of the county agencies. Following that, there is a discussion of the unresolved issues raised by the Protestants. Lastly, the Developer makes its case for approval of the relief sought in the Petition for Special Hearing.

At the hearing, the Developer presented a redlined Development Plan which addressed the issues raised by the county agencies. This redlined Development Plan was admitted into evidence as Developer's Exhibit ("DX") 1C and 1D. It is this redlined Development Plan for which approval is sought. Throughout this brief, references to the "Development Plan" shall mean the redlined Development Plan, DX 1C and 1D.

II. LEGAL STANDARD FOR APPROVAL OF DEVELOPMENT PLANS

Baltimore County Code, § 26-206 governs the Hearing Officer's Hearing and provides the standard by which the Hearing Officer must measure the plan. Pursuant to that section of law, the task of the Hearing Officer is to take testimony and resolve any unresolved comments of the county agencies. § 26-206(a).

Baltimore County Code §26-206(b) provides that where a Development Plan meets all of the County requirements set forth in the Baltimore County Code, the Development Plan must be approved. The Hearing Officer "shall" grant approval of a Development Plan which complies with the development regulations, policies, rules and regulations of Baltimore County. §26-206(b). Approval of a plan which conforms to the law is not discretionary, it is mandatory.

The evidence presented at the hearing demonstrated that there will be no adverse impact generated by the proposed development. However, it should be noted that if all of the Baltimore County Code requirements are met, the plan must be approved even if the proposed development would generate adverse impacts on neighboring properties. In that case, the Hearing Officer also has the authority to impose conditions on the approval of the Development Plan, proposed or requested by a party and designed to protect surrounding and neighboring properties. § 26-206(o).

Mr. Rick Chadsey, Developer's professional engineer, was accepted as an expert witness in the areas of civil engineering, land use, and real estate development. He testified that the Development Plan was prepared by him or under his supervision and he described the proposed development. He stated unequivocally that the Development

Plan complies with all development regulations, policies, rules and regulations of Baltimore County. The Development Plan must be approved.

III. UNRESOLVED COUNTY ISSUES

A. Office of Planning: Elimination of Semi-detached Dwellings in the D.R. 5.5 zone.

With all but one exception, the county agencies reported no unresolved issues presented by the Development Plan. The lingering issues were reported by the Office of Planning. As noted, the Property contains 1.36 acres within the D.R. 5.5 zone, which area is located along the Hilltop Road frontage of the property. The Development Plan proposes 6 new semi-detached single family dwellings for this area. Pointing to the fact that there are no other semi-detached dwellings along Hilltop Road, the Office of Planning has submitted its comment number 4 requesting reconfiguration of lots 2 through 7 to provide for single family detached dwellings instead of semi-detached dwellings.

As a matter of law, semi-detached dwellings are permitted in all D.R. zones. BCZR §1B01.1.A.1.a (uses permitted by right in the D.R. zones). Furthermore, unlike when some other dwelling types are proposed in the D.R. 5.5 zone and the other zones, there is *no compatibility finding* necessary for semi-detached single family dwellings in the D.R. 5.5 zone or any other D.R. zone. For example, BCZR § 1A01.1.A.1.b clearly indicates that, despite being permitted by right, alternative site design dwellings proposed for any D.R. zone require compatibility findings under Baltimore County Code, § 26-206 and § 26-282. Likewise, townhouses are permitted in the D.R. 5.5 zone with a finding of compatibility under Baltimore County Code, § 26-282. Nonetheless, there is no required compatibility

finding for semi-detached dwellings in any D.R. zone. The Office of Planning's comment, which is unquestionably based on factors which are part of the compatibility analysis under §26-282, is without basis in law. As such, the Hearing Officer should disregard it because the plan complies with the zoning regulations and should be approved.

In rebuttal to the comment of the Office of Planning, the Developer prepared DX 5A and 5B. DX 5A and 5B are responsive to the Office of Planning comment and show the reconfiguration of the lots as requested. These exhibits show that the lots in question can be reconfigured only if the proposed number of dwellings is reduced. DX 5 shows that the reconfiguration of Lots 2, 3, 4, and 5 as requested would yield only three dwelling units where four had been proposed and would require the elimination of one dwelling unit. If Lots 6 and 7 are reconfigured as requested, as shown on DX 5B, these two lots essentially must be combined to yield only one dwelling unit instead of two.[1]

In light of the fact that semi-detached dwellings are permitted by right without further qualification in the D.R. zones, the Developer finds the Office of Planning's request and the resulting configuration of the Lots objectionable and unwarranted. The Hearing Officer should reject the comment and approve the plan without regard for DX 5A or 5B.

B. Office of Planning: Note Regarding Opposition to Future Variance Requests.

In its Development Plan Comment number 9, the Office of Planning has also requested a note on the plan stating that it will oppose any future request for a variance in this development. The statement of future opposition is entirely too broad and there is

---

[1] Lots 6 and 7 are not even oriented toward Hilltop Road. This is even more reason to resist the suggestion that a compatibility finding be required for this housing type in this zone.

absolutely *no authority* for requiring its inclusion on the development plan. This comment should be rejected as well.

IV. ISSUES GENERATED BY THE COMMUNITY

A. Effect of Resolution 32-04

The Protestants raised County Council Resolution 32-04 as an issue in this development plan case. Resolution 32-04 has no operative effect on the availability of public water and sewer to the Property.

Resolution 32-04 recites that the Property is within the W3 S3 designation on the County's Water and Sewer Master Plan as a result of Council Resolution 88-92. Resolution 32-04 purports to place the Property within the W6 and S6 designations on the County's Water and Sewer Master Plan. According to the Water and Sewer Plan, public water and sewer is accessible in the W3 and S3 designations, while they are not accessible from the W6 and S6 designations. The development plan relies on public water and sewer and the W3 and S3 designations.

Resolution 32-04 passed the County Council on April 5, 2004 and calls for further processing as required by state law at the planning board, the office of the County Executive, and MDE. The County Executive signed Resolution 32-04 on April 14, 2004. Under state law, this leaves two distinct actions which must occur before the proposed amendment to the water and sewer master plan is final. Pursuant to Maryland Code, Environment Article, § 9-506(a)(1),

> before a county governing body may adopt a[n] amendment to the county [water and sewer] plan, the county planning agency shall certify that the . . . amendment is consistent with the [master land use] plan.

Furthermore, pursuant to § 9-507, the Maryland Department of the Environment must approve the amendment to the water and sewer plan before it is final.

A brief bit of history is in order. Resolution 88-92 was passed in 1992 and placed the Property in the W3 and S3 designations. A copy of Resolution 88-92 is attached as Exhibit A. Nonetheless, for whatever reason, the water and sewer master plan was never updated to reflect the availability of public water and sewer which resulted from Resolution 88-92. In 2002, a different developer (someone other than Skirven Enterprises) sought development approval for the Property. Because Resolution 88-92 was never included on the water and sewer plan map, the actual (legal) availability of public water and sewer was unknown. The development plan was dismissed as a result of community opposition to the project based on the unavailability of public water and sewer. Thereafter, without knowledge that the Property was already within the W3 and S3 designations, in 2002 the developer sought the application of the W3 and S3 designations to the Property. As a result of that application, the Office of Planning and the Planning Board both recommended the W3 and S3 designations during the review of that application. See, the reference within Resolution 32-04 to the July 18, 2002 public hearing and September 19, 2002 resolution of the Planning Board. The County Council never took action on the 2002 application.

On March 15, 2004 the County Council introduced Resolution 32-04. Thereafter, on March 18 and again on April 1, the planning board again determined that the W3 and S3 designations are appropriate for this Property. Indeed, quite importantly, in addition to

determining that the W3 and S3 designations are appropriate, on April 1, the Planning Board also determined the W6 and S6 designations are not consistent with the Master Plan's land use map. Copies of the minutes of the March 18 and April 1 meetings of the Planning Board are attached as Exhibit B. Correspondence dated April 14, 2004 from the Director of Planning to Legislative Counsel advising the County Council of the Planning Board's various resolutions is attached as Exhibit C.

Therefore, on four occasions, without deviation, the Planning Board has concluded that the W3 and S3 designations are appropriate for this site. On April 1, 2004 the Planning Board determined that W6 and S6 were inconsistent with the Master Plan's land use map. It is unquestionable that for the past 12 years, each time this issue as it regards this Property has been reviewed by the Planning Board, including specifically with regard to Resolution 32-04, it has determined that W3 and S3 designations are appropriate and most recently, it determined that W6 and S6 are "not consistent with the Master Plan". Pursuant to Maryland Code, Environment Article, § 9-506(a)(1), and as acknowledged by Resolution 32-04 itself, without the affirmative endorsement of the Planning Board, the County may not change the designation of the Property on the water and sewer plan to W6 and S6. Both within the context of Resolution 32-04 and in general, it is clear that this cannot and is not going to happen.

Lastly, one cannot overlook the required – but lacking – action of the Maryland Department of the Environment. Pursuant to 9-507, even if the County effectively changes the designation on the Property, which absolutely requires the action of the Planning

Board, Maryland Department of the Environment must approve the change before it is final. This has not occurred.

Accordingly, Resolution 32-04 has no effect on the availability of public water and sewer at the Property. As a development plan issue, it should be dismissed.

B. Grinder Pumps

The Protestants have repeatedly attempted to raise the utilization of grinder pumps as an issue to defeat the development plan. Grinder pumps as a sewer technology come within the purview of the Department of Public Works. It is, of course, notable, that the Department of Public Works reported no unresolved issues. Indeed, the County was quick to point out that the use of grinder pumps is authorized generally by the Code of Baltimore County Regulations.

County Exhibit 2 is the portion of the regulations which permit the use of the grinder pumps. The regulations permit the use of grinder pumps as a supplemental method of wastewater collection and not as a replacement for conventional gravity collection systems. Under the regulations, the developer makes an application to the Department of Public Works and must show that the area to be served by the pumps has environmental, topographic and subsurface conditions which make service by conventional gravity collection systems very difficult or impractical. The Department reviews each application on a case by case basis to determine whether the use of grinder pumps is necessary and warranted.

Within the context of these regulations, the Developer made the necessary application to the Department of Public Works. By letter dated March 10, 2004, the

Department of Public Works approved the request. See, Protestants Exhibit 8. The Developer and the Development Plan have complied with all regulations and policies governing the use of grinder pumps. Indeed, during the course of the hearing, the Hearing Officer ruled that the hearing would not be a forum to challenge the appropriateness of the use of grinder pumps.

Furthermore, there was absolutely no evidence presented which indicate that the Property is in someway unique in a manner which would preclude the use of grinder pumps. There was no evidence presented that the use of grinder pumps within the Clusters is a threat to the health, safety or general welfare of anyone in the vicinity of the proposed development because of any peculiar aspects of the Property, the use, or otherwise.

Grinder pumps are an approved sewer technology which has been accepted by Baltimore County and the Department of Public Works. The Developer and its Development Plan have complied with all county requirements in this regard. There has been no evidence presented that the Property is somehow uniquely situated so that the use of the technology is inappropriate or dangerous. Accordingly, the Hearing Officer should resolve this issue in favor of the Developer.

C. Master Plan Conflict

The Protestants claim that the Development Plan conflicts with Master Plan 2010 (the "Master Plan"), Baltimore County's land use plan. The basis of the objection seems to involve Master Plan Map 39, entitled "Proposed Land Use".

The Protestants contend that Map 39 indicates that the Property is proposed on Map 39 for "Single Family Detached" dwellings. The Development Plan proposes mostly single family semi-detached dwellings, although 2 detached dwellings are proposed. The Protestants claim that this discrepancy constitutes a master plan conflict and requires referral of the Development Plan to the Planning Board under Baltimore County Code, § 26-207(a).

The Hearing Officer's decision whether to refer a matter to the Planning Board for a master plan conflict under § 26-207(a) is one which will be sustained on appellate review if it is supported by evidence in the record to substantiate his opinion. *Monkton Preservation Association v. Gaylord Brooks Realty Corp.*, 107 Md. 573, 584 (1996). It is notable that the Office of Planning did not raise the issue of master plan conflict in this development plan matter.

The Master Plan is self-described as being a "reference document which the County Council may use when exercising its authority to establish land use policy through the adoption of zoning maps and zoning ordinances". Master Plan, p. 3. It serves as a "guide for the physical development of the county". Baltimore County Code, § 26-81.

> The major land use control in Baltimore County is zoning. Many of the land use policies of the master plan will be implemented through the application of zoning. Map 39, "Proposed Land Use", proved general recommendations for future land use in the county based on these policies. The map is conceptual and general; it is intended to reflect land use patterns rather than identify the land use of individual properties or parcels.
>
> Master Plan, p 258.

As a threshold issue, one may not escape the conclusion that in exercising its authority to set land use policy within Baltimore County, the Council created and applied the D.R. zones *to this Property* in such a manner as to permit not only single family detached, but also single family semi-detached dwellings and duplexes. Planning is implemented through zoning. In implementing the plan, the Council has determined that, even where single family detached dwellings are the proposed land use, allowing a variety of housing types (within a specified range) is necessary and beneficial. Even in light of the "single family detached" designation on Map 39 for this Property, the D.R. zoning regulations has as its first statement of purpose, "Foster a greater variety in housing types within future residential developments". BCZR §1B00.2.A. The Master Plan notably does not go as far as to suggest that only detached dwellings be permitted. Even if it did, as noted above, the Master Plan is merely a "reference document which the County Council *may* use when exercising its authority to establish land use policy through the adoption of zoning maps and zoning ordinances."

What constitutes an actionable conflict with the Master Plan? The Hearing Officer is required to refer a development plan to the planning board if he determines that the proposed plan conflicts with the Master Plan. Baltimore County Code, § 26-207(a)(1). Once referred, the Planning Board is limited to considering only those issues which have been referred to it, and is directed to act in accordance with Baltimore County Code, § 26-66.

Baltimore County Code, § 26-66 provides a mechanism whereby the county may reserve certain property for certain specific public uses, which must appear within the

Master Plan for the area for reservation. The specific public uses which may generate a Master Plan conflict are listed within §26-66: streets, drainage rights of way, open space, flood area, school, park, playground or other public improvement. If the proposed land use does not conflict with one of the enumerated public uses for which the Planning Board may recommend that the County Council impose the public reservation under § 26-66, then neither the Planning Board nor the County Council would have any authority over the property in question or the development plan for it. In order to be an actionable conflict with the Master Plan, the development plan must propose a use which would conflict with, interfere with, impede or delay one of the legitimate public uses listed in the section. Otherwise, nothing can come from the referral to the Planning Board.

The Protestants suggest that the semi-detached dwellings proposed on the Development Plan conflict with the Master Plan Proposed Land Use Map which indicates single family detached dwellings. Even if this were a conflict of a measurable degree, because the Protestant's suggested Master Plan conflict does not involve one of the public improvements noted in § 26-66 (a), *as a matter of law* there is no action that the Planning Board could take in response to the discrepancy. It would be different if the Developer was proposing the residential or commercial use of land proposed in Map 39 for "open space" or "park". In either of those cases, under § 26-66, the Planning Board would have authority to take action. As presented, however, § 26-66 authorizes no action, and therefore a referral to the Planning Board would be meaningless and is not authorized. The Hearing Officer should resolve this issue in favor of the Developer.

D. <u>Density</u>

The Development Plan includes within its tract boundary 2.55 acres which are proposed to be removed from the Final Development Plan (FDP) for Cainewood, and used for density purposes within The Clusters. This transfer might call into question the adequacy of the permitted density to support the number of dwellings proposed for The Clusters, and existing within Cainewood. As the density tabulations on DX 1D show, density is not an issue which may preclude approval of the Development Plan.

Cainewood contains 25 existing dwelling units, 20 within the D.R. 2 zone, and 5 within the D.R. 5.5 zone. There are no new dwelling units proposed for Cainewood. Cainewood's tract area is 13.651 acres, of which 12.638 acres are within the D.R. 2 zone and 1.013 acres are within the D.R. 5.5 zone. Accordingly, the D.R. 2 zoned area would support 25 dwelling units, while the D.R. 5.5 zoned area would support 5 dwelling units, for a total of 30 units. As the D.R. 5.5 area contains 5 existing dwelling units, this area has no surplus density. Nonetheless, as the D.R. 2 area contains only 20 existing dwellings, there is surplus density in this area of 5 units. The FDP for Cainewood included a note that these five remaining density units were available for development at some time in the future. They were reserved unto Cainewood Parcel A, owned by Mr. Osbourne. Mr. Osbourne is one of the Developer's sellers.

Cainewood Parcel A presently contains 5.10 acres, with 5 density units reserved unto it. With Mr. Osbourne's consent (note his signature on the Petition for Special Hearing), the Developer proposes to alter the tract boundary of the FDP for Cainewood to make available 2.55 acres from Mr. Osbourne's Parcel A, for use within The Clusters. The alteration of the tract boundary and the land that becomes available for The Clusters is

entirely within the D.R. 2 zone. All five remaining density units will pass with the 2.55 acres (D.R. 2 zone x 2.55 acres yields 5 density units), and there will be no unused remaining density within the Cainewood subdivision once Parcel A is parsed.

Under this arrangement, with Mr. Osbourne's surplus density, The Clusters will have sufficient density to support the proposed development. As proposed, The Clusters contains 18.10 acres, of which 16.734 acres are within the D.R. 2 zone and 1.365 acres are within the D.R. 5.5 zone. Accordingly, the D.R. 2 zone will support 33 dwelling units, while the D.R. 5.5 zone will support 7 dwelling units. This is precisely the number of units proposed for each zoned area within The Clusters.

So long as the Petition for Special Hearing is granted as it relates to the amendment to the FDP for Cainewood, the is adequate density to support the 40 dwelling units proposed for this Property. Density is not an issue which may preclude development plan approval.

E. Traffic

The Protestants presented lay witnesses who testified that traffic is problematic along Hilltop Road in the vicinity of the proposed development. There were complaints that there is too much congestion and that people drive too fast. There was, however, no expert testimony presented by the Protestants to the effect that the intersection was unsafe or that the Property is within a traffic deficient area.

It is notable that the Development Plan Review Bureau of the Department of Permits and Development Management reviewed the Development Plan and returned no adverse comments or unresolved issues. The only expert testimony presented on the issue

of traffic was by Developer's engineer, Mr. Chadsey. Mr. Chadsey testified that the proposed intersection was designed in accordance with all county requirements and that it would be safe. Mr. Chadsey further testified that the Property was not within a traffic deficient area. There was no contradictory evidence from the Protestants. As the development plan complies with the applicable development regulations regarding traffic, as a matter of law, traffic may not be a basis upon which the plan may be denied.

There was a discussion during the hearing that all vegetation which might obstruct sight lines along Hilltop Road would be removed from within the right of way in the vicinity of the Development. The Developer would support a condition or order from the Hearing Officer that such vegetation within the right of way be removed.

V. PETITION FOR SPECIAL HEARING

A Petition for Special Hearing is a request for an interpretation of the zoning regulations by the Zoning Commissioner. The Zoning Commissioner is empowered to render such interpretations by Baltimore County Zoning Regulations ("BCZR") § 500.7. The first Special Hearing at issue in this case involves an interpretation of BCZR § 1B01.2, which prohibits clustering density in the D.R. zones, except in the D.R. 10.5 and D.R. 16 zones.

Citing this section of law, a portion of the Zoning Commissioner's Policy Manual, entitled "Density Anomalies", requires a special hearing when a developer proposes to create split zoned lots where there is adequate density to support the portion of the lot within one area but not the other area. The following example from the policy illustrates the point:

The following anomalies of the zone specific standards have been encountered: 2 D.R. zones (D.R. 3.5 and 5.5) exist on a development tract and density has been fully utilized within the 3.5 zone. In addition to the permitted and proposed complete lots in the D.R. 3.5 zone, the plan proposes a portion of a proposed lot or dwelling within the D.R. 3.5 zone.

The Zoning Commissioner's Policy Manual ("ZCPM") suggests that a Special Hearing is necessary to approve such a configuration. Proposed Lots 1, 2, 3, 4, 5, and 7 are all split zoned lots and the Special Hearing requests an interpretation of the zoning regulations which will permit their configuration as proposed on the Development Plan, notwithstanding the fact that two (2) density units cannot be allocated to each of these split zoned lots.

The ZCPM and the Bureau of Zoning Review interprets the BCZR extremely broadly to mean that if a proposed subdivision results in a split zoned lot where a portion of the lot is within a zone but there is not density to allocate one dwelling unit to each zoned portion of the lot, then this portion is considered an "undersized" area, for which a Special Hearing is required for approval. Although there is no basis for such an interpretation in the BCZR or the ZCPM, given the Bureau of Zoning Review's position, a special hearing is advisable to resolve the issue.

The Development Plan proposes creation of a number of split zoned lots. Of these split zoned lots, Lot 1 contains an existing dwelling to remain and other existing improvements on both sides of the zone line. Lots 2, 3, 4, 5, and 7 propose dwellings within the D.R. 5.5 zoned portion, but include small portions within the D.R. 2 zone to establish minimum lot size, setbacks, etc. In accordance with the directive of the Bureau of Zoning Review, the Special Hearing requests approval of the undersized portions of each

of these lots as non-density areas. The Petition also requests approval to permit the future construction of accessory structures which otherwise comply with BCZR § 400 on the non-density areas of Lots 2, 3, 4, 5, and 7. This request is an accommodation to future owners of these proposed homesites and should be granted at this time so that there is no confusion when and if these future owners seek permits for decks, sheds or the like which may extend over the zone line.

The final item for Special Hearing consideration is the amendment to the tract boundary for the Cainewood FDP. As a preliminary matter it should be noted that Protestants had raised the issue of the adequacy of the posting of the property prior to the hearing. Specifically, Protestants asserted that because the zoning case dealt with two development tracts, both tracts must be posted with notice of the hearing. As only The Clusters tract had been posted, in a letter dated March 16, 2004 Protestants asserted that the posting was insufficient because Cainewood should have been posted as well. The hearing had been scheduled for March 25, 26 and April 2.

There are multiple issues presented in the Petition for Special Hearing, but it is unquestionable that they all form the basis of this one - single - zoning case. Developer strongly disagrees that Notice was ever inadequate, as the requirements of the notice provisions of the BCZR were met with the Notice which was provided. Nonetheless, in an abundance of caution Developer took the extraordinary step of posting two additional notices of zoning hearing on the Cainewood tract on March 18, 2004. March 18 is fifteen (15) days prior to April 2 which was a hearing date in this case. Thus, to the extent that Protestant's argument has merit, the additional posting of the Property cures whatever

inadequacy may have existed. Furthermore, one may not ignore the overwhelming public notice that was provided of the Hearing Officers Hearing and the Zoning Hearing. Notices were mailed to all adjoining property owners. The Property was posted with one Hearing Officer's Hearing notice for 30 days prior to the hearing. There were a total of three zoning hearing signs posted, and the hearing was advertised in a newspaper of general circulation as required by the BCZR. The public could not escape notice of these hearings.

Turning to the merits, the Developer proved that the FDP could be granted without harm or detriment to the surrounding community, in satisfaction of the required proof under BCZR § 1B01.3.A7.b. DX 2 is the proposed 5th Amended FDP for Cainewood, which amends the tract boundary to exclude the 2.55 acres which are used to support The Clusters. There may have been an unilateral expectation that those 2.55 acres would remain forever undeveloped by some of the Protestants, but in light of the notes on the previous FDPs for Cainewood, each of which is a notice document under the BCZR, any such expectation was unreasonable. The remaining density within Cainewood has always been reserved for future development.

The Petition for Special Hearing seeks a legal interpretation of the zoning regulations which would permit the proposed configuration of the Lots as shown on the Development Plan. The question to the Zoning Commissioner is merely, do the Zoning Regulations prohibit the proposed configuration? Any reasonable interpretation of the regulations will permit the proposed layout. Nothing in the text of the BCZR could be

interpreted any other way. All of the bulk regulations of the BCZR are met in each case. Further, there is no harm to any party should the relief be granted.

The Protestants may argue that the Petition for Special Hearing invokes the variance standard of uniqueness and practical difficulty. This position would be patently false. BCZR § 307.1 governs variances, wherein the proof required for a variance is listed. Petitions for Special Hearing are clearly, by their terms, governed by BCZR § 500.7, which merely authorizes the Zoning Commissioner to render an interpretation of the Zoning Regulations.

The Zoning Commissioner should note the testimony of Mr. Chadsey who testified at the hearing with respect to the Petition for Special Hearing that the relief may be granted without adverse impact on the surrounding community. Likewise, the Office of Planning supported the requested interpretation in its Development Plan Comments.[2]

For these reasons, the Petition for Special Hearing should be granted.

VI. CONCLUSION

The Petitioner's Development Plan comes to the Hearing Officer with few unresolved county issues. As noted above, there is no basis in law for the issues generated by the Office of Planning in this regard, and they should be dismissed. Furthermore, Protestant's issues should be resolved in favor of the Developer. Since the Development Plan meets all Baltimore County development laws and regulations, it must be approved. The Petition for Special Hearing should be granted.

---

[2] The Development Plan Comments of the Office of Planning seem to refer to the application for zoning relief as a "Variance Request". This is a misstatement, as there are no zoning variances sought for this proposed development. The Office of Planning is referring to the Petition for Special Hearing.

WHEREFORE, Skirven Enterprises, Inc., Developer, respectfully requests that the Hearing Officer approve its Development Plan and its Petitions for Special Hearing in accordance herewith.

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 Developer

Certificate of Service

This Post Hearing Memorandum was mailed this 16th day of April, 2004 to Michael Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204-4026.

G. Scott Barhight

Exhibit A
Council Resolution 88-92

Exhibit B
Baltimore County Planning Board
Minutes from March 18 2004 and April 1, 2004 Meetings

Exhibit C

Correspondence from Director of Planning to Legislative Counsel

Date: April 14, 2004

4/16/04

RE: PETITION FOR SPECIAL HEARING Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development; W/side Hilltop Road, 150' S c/line Branston Road 1st Election & 1st Councilmanic Districts Legal Owners(s): Jenny & Eugene Osbourne Parcel A, Leo & Susan Hull, Parcels-Hilltop, Mary & Francis Farley & Sonja & William Vogel (Parcel 992) Contractor Purchaser(s) Skirven Enterprises, Charles Skirven	*	BEFORE THE ZONING COMMISSIONER AND HEARING OFFICER FOR BALTIMORE COUNTY Project No. I-509 04-382-SPH

RECEIVED
APR 16 2004
ZONING COMMISSIONER

* * * * * * * * * * *

MEMORANDUM PRESENTED ON BEHALF OF HILLTOP MAPLE COMMUNITY ASSOCIATION AND JOSEPH GOCHAR, JR.

STATEMENT OF FACTS

Petitioners Skirven Enterprises, Developer/Contract Purchaser and legal owners, Leo and Susan Hull, Eugene F. Osbourne, et al., Francis W. Farley, et al., and William Vogel, et al. have requested approval of a development plan, entitled "The Clusters", for an 18.1041 acre site, located south of Frederick Road and east of South Hilltop Road in Catonsville, Maryland. The project proposes placing, within the DR.2 zoned 16.73468 acres, one single family dwelling and thirty-two duplex dwellings, and within the DR.55 zoned 1.651 acres, one single family dwelling and six duplex dwellings, for a total of forty dwelling units. The property is located in the 1st election and councilmanic district, and includes, from tax map 100, parcels 992, 442, and a portion of parcel 443. Parcel 443 has been previously developed as Cainewood, located immediately to the south of the Petitioners' property. The Petitioners' request, includes in its Special Hearing relief, the annexation

of a 2.554 acre parcel from the Cainewood Parcel A. That annexed parcel is needed by the Developer, in order to provide enough land for the dwelling densities requested for the Clusters and to build a storm water management reservation facility, predominantly within the annexed area, as well as parts of four lots for the Clusters, namely lots 31 through 34. Petitioners' witness, Frederick Chadsey, IV, who was admitted as an expert witness, testified that if the annexation were not allowed under the zoning Special Hearing relief, it would impact the four enumerated lots, the storm water management facility, as well as Lot 35, and any lots which would have to be displaced to provide for a storm water management facility, totally within the remaining land, which was subject to the Petition and not part of the annexed parcel.

STATEMENT OF THE CASE

The Hearing Officer's hearing began on March 25, 2004 and continued on March 29, 2004, April 2, 2004, and concluded on April 6, 2004. Protestants, Joseph Gochar, Jr. and Hilltop Maple Community Association raise the following comments in response to the questions raised by the Hearing Officer.

ISSUE ONE - WATER SEWER MAP AMENDMENT

THIS DEVELOPMENT PLAN WHICH PROPOSES THAT THE SUBDIVISION WOULD BE SERVED BY PUBLIC WATER AND PUBLIC SEWERAGE SYSTEM, WITH PRIVATE MAINTENANCE OF THE GRINDER PUMPS IS NOW DESIGNATED S6W6 ON THE COUNTY PROPOSED WATER/SEWER PLAN.

The representation of the Petitioners to the Hearing Officer was that the master water sewer plan for the area in which the property is located was designated S3W3. While that was true at the beginning of the hearing, it is not presently the case. The County Council, by Resolution 32-04, introduced, before the Council, March 15, 2004. (Protestants' Exhibit 9) proposed a revision to the Baltimore County master water and sewer plan, by amendment, to designate the area within which the Petitioners' property is located S6W6. Exhibit 9 also contained the notice of the public hearing

on the proposed county plan, as well as the map designation, which showed that the Petitioners' parcel was included in the proposed amendment. Testimony from Petitioners' engineer, as well as from Robert Bowling, the professing engineer employed by Baltimore County in the Department of Public Works, corroborated that a S6W6 designation would preclude development of this property, as proposed with a public water and sewer system. The County Council approved the resolution at its meeting held April 5, 2004. The Hearing Officer had invited the parties to update him, as part of this Memorandum, of any further developments concerning that resolution. Attached to this Memorandum is the copy of Resolution 32-04, signed by the Secretary of the County Council, confirming its passage April 5, 2004, as well as the signature of the Baltimore County Executive, dated April 14, 2004, enacting this amendment by the governing bodies in Baltimore County, as well as the transmittal letter from the Baltimore County attorney, to the Maryland Department of the Environment, dated April 14, 2004, confirming the foregoing and forwarding the amendment for action by the Maryland State Department of the Environment.

Protestants believe, under applicable State law, Maryland Annotated Code Environment §9-507(e)(2), that the approved amendment, as enacted by the governing body, is in effect as to this project, which cannot be approved as proposed, as designated S6W6 for the following reasons. In the County Master Water/Sewer plan, S6 is a sewer zone in which public sewer is not planned or allowed and W6 is a water zone in which connection to the public water system is prohibited. The aforesaid Code section states, Environment 9-507 Approval Process (e)(2):

> "After the county governing body adopts the proposed county plan, a person shall follow the provisions of that plan except to the extent that the Department modifies or disapproves that plan."

(An extract of Maryland Annotated Environment Article §9-501 through §9-512 is attached for the convenience of the Hearing Officer.) As defined in the aforesaid law, a county plan means a

comprehensive plan for adequately providing, throughout the county, water supply systems and sewerage systems that includes a revised or amended county plan 9-501(d)(1). A proposed county plan which includes any proposed amendment or revision to the county plan is defined as a county plan that: (i) Has been adopted by the county governing body; or (ii) Has not been approved by the Department 9-501(k)(1). Each county shall have a county plan or a plan with adjoining counties that is approved by the Department; covers at least the 10-year period next following adoption by the county governing body; and deals with water supply systems, sewerage systems and other systems 9-503(a). That same section empowers the county governing body to adopt and submit to the Department a revision or amendment to its county plan if:

> "(1) The governing body considers a revision or amendment necessary; or (2) The department requires a revision or amendment 9-503(c).

The procedure to be following by the county governing body is set forth in 9-503(d)(1) and requires, before adopting a revision or amendment, that a public hearing be conducted on the revision or amendment and to give the principal elected official of each municipal corporation that is affected, notice of the county plan, revision, or amendment, at least 14 days before the hearing 9-503(d)(1). Publication of the time and place of the public hearing is required, under 9-503(d)(2), as well as notice of the public hearing as a general notice listing. All of those State code provisions were complied with in this case. The provision of notifying any other elected official of each affected municipal corporation refers to the plans which cover multi-county areas, which is not the case with the Baltimore County plan. In this case, all of the Petitioners' property lies within Baltimore County and the area covered by the amendment lies entirely within Baltimore County, as described in the Resolution.

In reviewing any proposed revision or amendment to the county plan, the county governing body must submit the county plan revision or amendment to each office planning agency that has jurisdiction in the county, for review and comment within a thirty-day period for consistency with the planning programs for the area, and the county planning agencies shall certify that the plan revision or amendment is consistent with the county comprehensive plan prepared under Article 66(b) of the Code 9-506(a)(1). Once the county governing body has approved the revision or amendment of its county plan and submitted it to the Department, the State Department of the Environment may either approve or disapprove the proposal in whole or in part or modify or take other appropriate action on the proposal. That is the present status of this matter.

However, since the enactment of a county plan is a lawful exercise of its police power to provide for the health, safety, and welfare of the residents of Baltimore County, the provisions in 9-507 expressly provide that once a governing body has adopted the proposed county plan, as has occurred with regard to Resolution 32-04, the State law then provides that a person shall follow the provisions of the plan, except to the extent that the Department modifies or disapproves that plan. The Petitioners, including the legal owners and Developer fall within definition of person who must follow the plan as any citizen must. Also, Environmental §9-512(b)(2) states:

> "A water supply system, sewerage system or solid waste acceptance facility referenced in a subdivision plat shall conform to the applicable county plan."

Since the Department has ninety days within which to review the amendment before it gets back to the county, its decision, under 9-507(c), the requirement of following the enacted provision comes into play in the time period between when the approved amendment is submitted to the Department and when the State Department of the Environment renders its decision, under 9-507(e)(2). In the event the State Department of the Environment does not respond within ninety days of submission

of the revised amendment, it is deemed to be approved, unless, for good cause and after notice to the county, the Department extends the ninety day review period for an additional 90 days. 9-507(d)(c)(2) Applying that law to the facts present in Petitioners' request, the law would seem to be in effect, pending any disapproval or modification which may come back to the county from the State Department of the Environment. The county is charged, under Baltimore County Code §26-267, to provide a water supply and under §26-268, to provide sewerage within the county.

The Baltimore County Code prohibits the issuance of building permits for sewer, unless the requirements of §26-268 are met. Then the same is true under §26-495 of the Code as to water. The authority of the Hearing Officer to approve a development plan is found in Baltimore County Code §26-206(b) and empowers the Hearing Officer to approve a development plan which complies with the development regulations, including the sections cited earlier, as well as applicable policies, rules and regulations propagated pursuant to §2-416 of the Code. If the Hearing Officer concurs with the Protestants that Resolution 32-04 has been enacted by the governing body for Baltimore County and agrees that the Maryland Annotated Code Environmental Article §9-507(e)(2) applies, then this plan cannot be approved, because the Baltimore County Council and Executive, by enacting the resolution, have enacted the proposed county plan designated this area as S6W6 for public water and sewer, which does not provide for access to the existing public water and sewer system for land so designated. The same environment article provides that unless they conform to the county plan, or a revision or amendment of the county plan, the following systems and facilities may not be installed or extended: (1) a water supply system; (2) sewerage system; (3) solid waste disposal system; and (4) solid waste acceptance facility. Environmental Article 9-511, Northwest Land Corp v. Maryland Department of the Environment 104 Md. App. 471, 656 A.2d 804 (1995).

The Court of Appeals of Maryland has construed a governing body of the county to mean County Executive and Council in considering whether an action unilaterally taken by the County Council to adopt or amend a solid waste management plan was in keeping with the law. The Court concluded that the proper party was the corporate entity or the County Council and County Executive together. (Quoting Environmental Article §9-501 to 9-521) County Council of Harford County v. Maryland Reclamation Associates, Inc. 328 Md. 229, 614 A.2d 78 (1992).

ISSUE TWO - MASTER PLAN CONFLICT

PROTESTANTS NEXT BELIEVE THAT THE PROJECT VIOLATES THE MASTER PLAN DESIGNATION FOR THIS AREA, BECAUSE THE MASTER PLAN 2010 FOR BALTIMORE COUNTY CALLS FOR SINGLE FAMILY DETACHED HOUSING ON BOTH SIDES OF HILLTOP ROAD, BETWEEN FREDERICK ROAD AND THE PATAPSCO STATE PARK, INCLUDING THE PETITIONERS' PROPERTY

Baltimore County Zoning Regulation definitions define dwelling, single family detached as:

> "A dwelling which is designed for an occupied by not more than one family, surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwelling."

What the Petitioners propose is that 38 of the 40 dwellings in the Clusters be made semi-detached dwellings, having a party wall. Semi-detached dwellings do not meet the definition of single family detached dwellings because the dwellings are not surrounded by open space or yards and not attached to any other dwelling by any means. The master plan, at page 259, defines the proposed uses for this area as single family detached houses. Testimony from all of the Protestants' witnesses confirmed, as well as the pictorial evidence shown in Protestants' Exhibits 3, 5, 12, 13, 19(a), and 23, that the community is developed as single family detached dwellings with few exceptions. The same was corroborated as true through Mr. Chadsey, the engineer for the Developer, and extends to Maple Avenue, the next street east of the Petitioners' property, as well

as into the residential community, located west of Hilltop Road, and for most of the older Catonsville community. Indeed, this was identified as an issue at the time of the CPC, October of 2003, by Ann Roane, within the comments from the Office of Planning.

The significance of this is that the Protestants have requested the Hearing Officer, pursuant to Baltimore County Code §26-207 to refer the Developer's plan to the Planning Board, because of the indicated conflict with the master plan designation of housing for the area.

The Petitioners' stipulated that the plan had not been submitted to the Planning Board heretofore for resolution of any such conflict. The Petitioners claimed that there was no master plan conflict, because the underlying zoning for the property permitted a use, as a right, of semi-detached single family dwellings. That point is not disputed. However, it does not resolve the conflict presented with the master plan for the development as proposed by the Petitioners. All the Petitioners have to do is comply with the law and submit the plan to the Planning Board. Further, what the Hearing Officer may do, since they have not, is to continue the Hearing Officer's Hearing until such a referral and review of the Planning Board shall occur. If not the Hearing Officer's final decision must be subject to the Planning Board and where applicable County Council action. Baltimore County Code §26-207(d). The Hearing Officer may recall that the testimony of John Alexander of the Department of Zoning confirmed the zoning office position that the housing proposed by the Petitioners, except for the single family detached dwellings proposed, would not meet the definition found in the zoning regulations of single family detached dwelling. Therefore, it remains the request of the Protestants that this plan is not in approvable final form, and should not be approved until the master plan conflict is resolved, which cannot be resolved, under the Code, by the Hearing Officer, but is within the jurisdiction only of the Planning Board to resolve.

THIRD ISSUE - THE PROPOSED ANNEXATION OF 2.554 ACRES VIOLATES THE LETTER AND SPIRIT OF THE BALTIMORE COUNTY CODE

THE PROPOSED ANNEXATION OF 2.554 ACRES IS TODAY PART OF THE CAINEWOOD APPROVED DEVELOPMENT PLAN AND SHOWN THEREON TO BE JOINED TO THE CLUSTERS PROPERTY DOES NOT MEET EITHER THE SPIRIT OR THE INTENT OF THE ZONING REGULATIONS.

Testimony from Meg Levickas, who with her husband, purchased Lot 25 in phase two of Cainewood, was that the drawing introduced as Protestants' Exhibit 17 was all that was shown to her, prior to her purchase of her lot. She testified that she paid a premium for her lot, of $13,000.00 and that she and her husband were the first lot purchasers shortly after the lots were put up for sale. She believed that they were the first purchasers in the development. She testified that she and her husband paid a total of $270,000.00 for their property. She testified that she was never shown the plat, reserving any property for future development to the north of her lot and within the Cainewood phase two plat. The deed by which she and her husband purchased the property February 16, 2000 was admitted as Protestants Exhibit 23 and indicates that they paid $269,141.00 for the property, which they purchased from Kimberly Homes Catonsville, LLC. It was recorded in the Land Records of Baltimore County in Liber 14378, folio 380; and in the description of her property contained in the deed, it refers to Lot 25, as shown on the partial amended plat of Cainewood phase one and phase two, recorded in the plat book SM71, folio 97.

The Hearing Officer may recall that her neighbor, Steven Pedrick, also testified that he and his wife had come to purchase a lot shortly after the Levickas' and had paid a $10,000.00 premium for their lot, which is Lot 24, as shown on phase two of Cainewood. The original developer of Cainewood, Eugene Osbourne, Sr. and Jenny A. Osbourne, conveyed phase one and phase two of Cainewood, to Kimberly Homes Catonsville, LLC, by deed dated October 1, 1998 and recorded in the Land Records of Baltimore County in Liber 13191, folio 9, admitted as Protestants' Exhibit 22. Testimony from both Ms. Levickas and Mr. Pedrick expressed their objections to the annexation, because it would place structures such as the storm water management facility, as well as lots north

of them, on land which they understood would remain undeveloped. Based on that understanding, both the Levickas' and the Pedricks had paid a premium for lots they did purchase.

The Hearing Officer is urged next to refer to Protestants' Exhibit 7, Covenants of Easement, executed May 18, 1998 and recorded in the Land Records of Baltimore County in Liber 12953 from the Osbournes to Baltimore County, establishing a forest buffer easement for the area shown on the Cainewood plan. That was proposed to remain undisturbed.

If the Hearing Officer next looks at the plat of David Thaler and Associates, dated September 7, 1998, labeled "the 4th amended plat phase one and second amended overall parcel development plan, Cainewood phase one and two", that plat is significant for several items contained thereon. Not only is it signed by the Osbournes as owners, but it contains a designated floodplain reservation of 1.89 acres and shows, in the area reserved for future development, a cul de sac extending from the stub end of Cainewood Court, up to the area where the storm water management facility is now proposed to be located for the Clusters. The plat also indicated panhandles coming off that road and cul de sac, which extended through undisputed wetlands to service lots 26, 27, and 28, at some time in the future. The next significant aspect of that plat is the provisory section note, as to the 5.104 acres, which includes part of the area proposed to be annexed to the Clusters. On that same plat, the provisory note states that it is intended to indicate how the Developer will improve all vacant land which lies 300 feet of any houses, and further cautions that it requires the Developer to show that any future development complies with §1.B.01.3 of the Baltimore County Zoning Regulations. By the testimony of Ms. Levickas and Mr. Pedrick, that they could clearly see this area was added the testimony of Mr. Chadsey, who confirmed that the owners of Lots 23, 24, and 25 in Cainewood phase two were all located within 300 feet of any lot lines proposed on the aforesaid Thaler plat. Protestants Exhibit 18.

The Hearing Officer is asked to consider the note on Petitioners' Exhibit 2, admitted as evidence, and noted as Developers' fifth amended of phase one and third amended overall partial development plan, Cainewood phase one and two. That plat contains a utilization note as and when approved originally in 1998 as a plat of Kimberly Homes Catonsville, Inc., listing that entity as owner and developer. That utilization note cautioned that the area shown on the plat could not be further divided, subdivided or used for any other purpose other than as shown on that plat. Therefore, under the Petitioners'/Developers' own exhibit, it is beyond question that phase one and two of Cainewood which had been conveyed to Kimberly Homes by the Osbournes October 1, 1998, and to the Levickas', who settled February of 2000, well before this proposed annexation came to light in 2004.

Even if the Levickas's and the Pedricks had been given access to Protestants' Exhibit 18, that would only have shown them what we described earlier in terms of an extension of Cainewood Court through the wetlands to a cul de sac and a provision for three lots. They could have made their judgment as to whether or not that would affect them in such a way that they wanted to avoid the contract, but they did not. However, the point is, what they expected or could have expected to see there is a far cry from what is being proposed by the annexation of this parcel to the Clusters. At least parts of four building lots, for Lots 31 - 34, as well as a large capacity storm water management facility is proposed to be located, in whole or in part, on this annexed area.

When questioned at the hearing, Mr. Chadsey admitted that without the annexed area, the Clusters would lack the land to produce the density of dwelling units proposed for that development. The proposed annexation is against both the letter and the spirit of the law, because it violates the utilization note, as shown on Developers' Exhibit 2, because it indeed proposes a further division, subdivision, or other use of the property other than what was shown on the original plat. Ms.

Levickas, Mr. Pedrick, as well as the owners of Lot 24 are affected, under the utilization note and under the provisory note because their lots, according to Mr. Chadsey were located within 300 feet of that property.

An even more troubling aspect of the proposed annexation is the fact that the Osbournes, in reserving 5.104 acres, apparently included 2.55 acres needed to support the density for what had already been approved for Cainewood phase one and two. That was corroborated by Mr. Chadsey, as well, in his testimony, and was the rationale for leaving 2.55 acres, now for the first time, to be dedicated to Cainewood, as "proposed Cainewood parcel A 2.55 acres." The troubling aspect of that is that the Osbournes were obviously attempting, in reserving 5.104 acres for future development to double-dip on land for which they had already claimed density in Cainewood as built out and as sold by the Osbournes to Kimberly Homes for substantial funds, namely $543,000.00. Protestants Exhibit 22. In further support of the Protestants' position, a review of the provisory section regarding the 5.104 acres in Protestants' Exhibit 18, refers to the requirement of compliance by the Developer, with the Baltimore County Zoning Regulations §1.B.01.3. A review of §1.B.01.3 entitled "Plans and Plats" provides that construing development plans, this paragraph is intended (a) to provide for the disclosure of development plans to prospective residents and to protect those who have made decisions, based on such plans from inappropriate changes therein; and (b) to provide for review of residential development plans to determine whether they comply with these regulations and with standards and policies adopted, pursuant to the authority of §504. Further, partial development plan is therein defined in as:

> "For the purposes of this Article, a 'partial development plan' is a portion of a final development plan, and a partial or final development plan is 'applicable' to a given lot if it covers all property in the subdivision within 300 feet of the given lot, in addition to the lot itself."

Section 1B.01.3(a)(3) further requires in subdivision lot sales that no use established and no construction may take place on any lot so created, except in accordance with such a plan. In §1B.01.3(a)(4), that section requires that anyone who sells an interest in real property within an area covered by a partial or a final development plan, to attach a notice directing the buyer's attention to the plan, to apprise the buyer of the rights, requirements and remedies provided under the development plan, as well as those provided under §1B.01.3 of the zoning regulations and §5.04. Since the Levickas' settled February 1, 2000, the utilization requirement was then met, vesting rights in them or any other affected property owners, such as the owners of Lots 23 or 24, as well, to the limitations and restrictions placed by the Osbournes on Protestants' Exhibit 18, as well as by Kimberly Homes Catonsville, Inc. on Developers' Exhibit 2. Any fair comparison of what was proposed on those earlier plats with what is being proposed under the annexation reveals violations of those provisions in the contrast between the cul de sac road through the wetlands, with panhandles, to Lots 26, 27, and 28, as shown on the earlier plats, with a large storm water management facility and Lots 31 - 34, as shown on the Clusters zoning relief plan. The regulations, in §1B.01.3, were passed for the protection of purchasers, to avoid situations exactly of the type proposed by the Developer in the Clusters case, by way of this annexation. There can not be a more clear cut example than that presented as to how this violates not only the letter, but the spirit of the law.

ISSUE FOUR - GRINDER PUMPS

The Hearing Officer heard extensive testimony from the various Protestants as to failures of the grinder pumps located within Canad. after less than three years of occupancy at three different locations. That testimony indicated problems with sewage backup with the Smith house, as well as problems with grinding of gears at the Levickas' house, as identified by Mr. Pedrick. The Hearing

Officer also heard extensive informative testimony from Joseph Gochar concerning Protestants' Exhibit 16, the large grinder pump drawing indicating the function and capacity of the reservoir, the baffel, and the holding tank, as well as they system of check valves and discharge items. After that testimony, the Hearing Officer made clear his position that he believed that the county's grinder pump policy adopting November 26, 2003 controlled, and as the count allowed grinder pump sewer systems, as long as the water sewer plan designated approval for such a plan, that he was duty bound to approve it, as allowed by Baltimore County. The point of the testimony, at the request of the Protestants is that should the Hearing Officer choose to approve this development plan, they would request, that as a condition, the Developer be required to notify the purchasers that the grinder pump systems are to be privately maintained by the homeowners as a caution or warning to any prospective purchasers should the Clusters plan be approved for development.

ISSUE FIVE - TRAFFIC

The Hearing Officer heard extensive testimony from the Protestants concerning traffic on South Hilltop Avenue from the Patapsco State Park to Frederick Road. The Hearing Officer also heard extensive testimony concerning the topography of the Petitioners' site entrance and the effect on site distance and pictures of the available site distance, more particularly shown in Protestants' Exhibit 4, 5, 12, 13, and 23. Mr. Gochar is President of Hilltop Maple Association, and testified as to a head-on collision in front of his house fifteen years ago, and a New Years' Eve crash, where a car heading northbound on South Hilltop hit the fireplug on the west side of Hilltop, near his house. The testimony was extensive from neighbors up and down the street as to excessive speeding and fast-moving cars, all of which was offered to show the limited reaction time afforded people exiting their driveways in cars or in this case, from the Petitioners' proposed entrance. Harry Schwab, who resided across from the Petitioners' proposed entrance, at 103 South Hilltop, talked of the concern

he feels whenever he tries to pull out of his driveway, because of the curve and hill of South Hilltop, in the vicinity of the Petitioners' entrance. Meg Levickas, Officer Brian Attwood, who resided at 137 South Hilltop, as well as Steve Pedrick, who resided at 1822 Cainewood Court, as well as Mrs. Traino, who resided on the corner of Tadcaster and South Hilltop, in the vicinity of the entrance, and who works from her home, had frequent observations of the traffic and talked particularily about the danger to school children exiting the school bus stop, which is located at Tadcaster and South Hilltop. This was a particular concern of hers because of the failure of cars to stop for the school buses when discharging young children. Her concern was for the safety of the children. The one suggestion from Mr. Gochar, which is proffered to the Hearing Officer for his consideration, would be the provision of a traffic calming device or the construction of a traffic circle in the vicinity of Tadcaster and South Hilltop, utilizing part of the existing county right-of-way, which would not only clear up the site distance, but also cause traffic to have to slow down, because of entering and leaving the circle for other traffic that might be present. This concern of the citizens is principally for the ultimate purchasers of homes within the subdivision, called the Clusters, if built. This is so because, as the Hearing Officer will recall, there is a single point of ingress and egress to the subdivision which is from South Hilltop Road and no others are proposed.

However, one other possible improvement to the site for traffic safety, in light of the existing traffic conditions, would be to locate the entrance to the subdivision further down South Hilltop, at the location shown for Lot 1, the single family dwelling. That lot is wide enough to provide an access entrance to the Clusters from a point which is not on a curve and which enjoys better sight distances both north and south on South Hilltop than the Petitioners' proposed entrance. That suggested point of entry would also move the entrance point to the Clusters away from other streets, such as Tadcaster Road, a short distance from Petitioners' proposed entrance, as well as Branston

Road, located just to the north of Tadcaster. That is a very busy area, and moving the entrance way down to Lot 1 would place it at a point away from any other access crossroads and on an area with infinitely better sight distance for those leaving the site.

CONCLUSION

For the aforesaid reasons, the Protestants respectfully request that the Hearing Officer:

A. Deny the development plan for being located within an area designated S6W6 on the enacted proposed county plan;

B. Deny the annexation with the Special Hearing relief, as violative of development controls and regulations contained on earlier plats and in regulation 1B.01.3 and §504 of the zoning regulations;

C. Refer this plan to the Planning Board for resolution of an apparant master plan conflict raised, pursuant to §26-207;

D. Oppose the conditions requested by the Office of Planning for single family dwellings along South Hilltop Road an on the interior lots at the entrance, as requested by Planning;

E. Impose a condition requiring traffic calming devices or a traffic circle at or near Tadcaster Road or in the alternative, require the plan be revised for traffic safety concerns to show access through Lot 1, proposed on South Hilltop Road.

Respectfully submitted

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204
Attorney for the Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April, 2004, the above Memorandum was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for the Petitioner(s) and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

MICHAEL P. TANCZYN, Esquire

Office of Law

400 Washington Avenue
Towson, Maryland 21204
Tel. 410-887-4420 • Fax. 410-296-0931

James T. Smith, Jr., County Executive
Edward J. Gilliss, County Attorney

Baltimore County

One of the Best Managed Counties in America

April 14, 2004

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Amendment to Baltimore County Water and Sewer Plan

Dear Sirs:

I write regarding Baltimore County Council Resolution 32-04 which seeks to change the designation of the Hilltop and Baker properties from W3/S3 to W6/S6.

Pursuant to §9-506 of the Environment Article of the Annotated Code of Maryland, it is now appropriate for the Department of Environment to effect the desired change in status. The County governing body has adopted the amendment as reflected by the action of the County Council on April 5, 2004 and now contains the signature of the County Executive.

The Director of the Office Planning for Baltimore County, the agency assigned the planning duties for the County, has certified to me that the S6/W6 designation for the Baker/Hilltop properties is consistent with Baltimore County's Master Plan 2010. The Planning Board disagreed at its April 1, 2004 meeting and offered its opinion that the property should retain its S3/W3 designation.

It is the Office of Law's opinion that any property may have several designations that are consistent with the Baltimore County Master Plan. In this instance the Planning Office advises that not only could the Baker/Hilltop properties retain the S3/W3 designation, but those properties could also receive the following designations and also be consistent with the Master Plan: S1/W1, S5/W5 and S6/W6.

I thank you for your attention to this letter and look forward to receiving confirmation from the Department of the Environment that the Hilltop/Baker properties water and sewer designation is changed from S3/W3 to S6/W6.

Very truly yours,

Edward J. Gilliss
County Attorney

EJG:dlf

cc: The Honorable S. G. Samuel Moxley
Thomas J. Peddicord, Jr., Legislative Counsel/Secretary
Damian O'Doherty
Dave Thomas

Printed on Recycled Paper

Citation/Title
MD ENVIR Sec. 9-501, Definitions

27727 MD Code, Environment, § 9-501

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

9-501. Definitions

(a) In this subtitle the following words have the meanings indicated.

(b) "Community sewerage system" means a publicly or privately owned sewerage system that serves at least 2 lots.

(c) "Community water supply system" means a water supply system that serves at least 2 lots.

(d)(1) "County plan" means a comprehensive plan for adequately providing throughout the county, including all towns, nicipal corporations, and sanitary districts in the county, the following facilities and services by public or private ownership:

(i) Water supply systems;
(ii) Sewerage systems;
(iii) Solid waste disposal systems;
(iv) Solid waste acceptance facilities; and
(v) Systematic collection and disposal of solid waste, including litter.

(2) "County plan" includes a revised or amended county plan.

(e) "Individual sewerage system" means a sewerage system that serves only 1 lot.

(f) "Individual water supply system" means a water supply system that supplies water to only 1 lot.

(g) "Litter" means any:

(1) Waste material;
(2) Refuse;
(3) Garbage;
(4) Trash;
(5) Debris;
(6) Dead animal; or
(7) Other discarded material.

(h) "Lot" means a parcel of land, including a part of a subdivision, that:

(1) Is used or is intended to be used as a building site; and
(2) Is not intended to be further subdivided.

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

.tation/Title
) ENVIR Sec. 9-502, Exemptions and preemption

7731 MD Code, Environment, § 9-502

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

-502. Exemptions and preemption

(a) Unless the operation of a water supply system would interfere with a cleanup or remediation action of the Department, this itle does not prohibit the installation or operation of a water supply system that is used only to supply water for purposes other i human or animal consumption.

(b) If a county is exempt from the provisions of this subtitle, the county may not receive funds from the sanitary facilities fund.

(c) Any rule or regulation adopted under this subtitle does not limit or supersede any other county, municipal, or State law, or regulation that provides greater protection to the public health, safety, or welfare.

CREDIT(S)

'983, c. 542, § 2; Acts 1989, c. 25.

REFERENCES

LIBRARY REFERENCES

Health and Environment ⚭25.5(5).
Waters and Water Courses ⚭196.
Westlaw Key Number Searches: 199k25.5(5); 405k196.
C.J.S. Waters §§ 232, 269.

ANNOTATIONS

NOTES OF DECISIONS

eral 1
ption of local law 2

. In general

ections of the Environment Article do not authorize county council by itself to adopt or amend county's solid waste management plan, as opposed to ing body" of the county, meaning the "county executive and the council"; thus, county council alone was not appropriate party to seek appellate review of court decision invalidating amendment to county plan; proper party was the corporate entity or the county council and county executive together. Code, ment, §§ 9-501 to 9-521. County Council of Harford Co. v. Maryland Reclamation Associates, Inc., 1992, 614 A.2d 78, 328 Md. 229. Environmental ⚭657; Environmental Law ⚭355

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-503, County plans

27733 MD Code, Environment, § 9-503

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

9-503. County plans

(a) Each county shall have a county plan or a plan with adjoining counties that:

(1) Is approved by the Department;
(2) Covers at least the 10-year period next following adoption by the county governing body; and
(3) Deals with:
(i) Water supply systems;
(ii) Sewerage systems;
(iii) Solid waste disposal systems;
(iv) Solid waste acceptance facilities; and
(v) The systematic collection and disposal of solid waste, including litter.

(b) Except as provided in § 9-515 of this subtitle, each county governing body shall review its county plan at least once every 3 ars in accordance with a schedule set by the Department.

(c) Each county governing body shall adopt and submit to the Department a revision or amendment to its county plan if:

(1) The governing body considers a revision or amendment necessary; or
(2) The Department requires a revision or amendment.

(d)(1) Before a county governing body adopts any revision or amendment to its county plan or adopts a new county plan, the erning body shall:

(i) Conduct a public hearing on the county plan, revision, or amendment that may be conducted jointly with other public hearings or meetings; and
(ii) Give the principal elected official of each municipal corporation that is affected notice of the county plan, revision, or amendment at least 14 days before the hearing.
(2)(i) Notice of the time and place of the public hearing, together with a summary of the plan, revision, or amendment, shall be published in at least 1 newspaper of general circulation in the county once each week for 2 successive weeks, with the first publication of notice appearing at least 14 days before the hearing.
***27734** (ii) Notice of the public hearing may be a part of the general notice listing all other items to be considered during the public hearing or meeting.

CREDIT(S)

1983, c. 542, § 2; Acts 1985, c. 224; Acts 1988, c. 101; Acts 1989, c. 820; Acts 1990, c. 6, § 2; Acts 1994, c. 661, § 2, eff. Oct. 1, 1994.

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-504, Subsidiary plans

*27738 MD Code, Environment, § 9-504

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

§ 9-504. Subsidiary plans

(a) To the extent that the incorporation will promote the public health, safety, and welfare, each county plan shall incorporate ll or part of the subsidiary plans of each town, municipal corporation, sanitary district, privately owned facility, or local, State, or ederal agency that has existing or planned development in that county.

(b) If the governing body of each county that is affected adopts a subsidiary plan for a multicounty area, the county may ıcorporate in its county plan all or part of the subsidiary plan.

CREDIT(S)

cts 1983, c. 542, § 2.

ANNOTATIONS

NOTES OF DECISIONS

general 1

1. In general

Sections of the Environment Article do not authorize county council by itself to adopt or amend county's solid waste management plan, as opposed to overning body" of the county, meaning the "county executive and the council"; thus, county council alone was not appropriate party to seek appellate review of cuit court decision invalidating amendment to county plan; proper party was the corporate entity or the county council and county executive together. Code, vironment, §§ 9-501 to 9-521. County Council of Harford Co. v. Maryland Reclamation Associates, Inc., 1992, 614 A.2d 78, 328 Md. 229. Environmental w ⊂657; Environmental Law ⊂355

County council's resolution deleting proposed landfill site from county's solid waste management plan because of feared threat to groundwater resources in a and considerations relating to land use compatibility was impermissible invasion on state's permit review prerogative; state had legislatively preempted, at nimum, segment of solid waste management regulatory scheme pertaining to issuance of permits, reserving that power to state Department of Environment. de, Environment, §§ 9-201(c), 9-204, 9-210, 9-210(a), 9-213, 9-501(k), 9-503, 9-503(b-d), 9-504, 9-505, 9-505(a)(1), 9-506(b, c), 9-507(a, b), (e)(1, 2), 9-510 onst. Art. 11-A, §§ 2, 4; Code 1957, Art. 25A, § 5(T). Holmes v. Maryland Reclamation Associates, Inc., 1992, 600 A.2d 864, 90 Md.App. 120, certiorari nted 607 A.2d 564, 327 Md. 55, certiorari dismissed 614 A.2d 78, 328 Md. 229. Environmental Law ⊂352; Municipal Corporations ⊂592(1)

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-505, Contents of plan; regional plans

*27739 MD Code, Environment, § 9-505

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

9-505. Contents of plan; regional plans

(a) In addition to the other requirements of this subtitle, each county plan shall:

(1) Provide for the orderly expansion and extension of the following systems in a manner consistent with all county and local comprehensive plans prepared under § 3.05 of Article 66B, § 5(X) of Article 25A, § 13 of Article 25B, and § 7-108 of Article 28 of the Code:

(i) Community water supply systems and multiuse water supply systems;

(ii) Community sewerage systems and multiuse sewerage systems; and

(iii) Solid waste disposal systems and solid waste acceptance facilities;

(2) Provide for the sizing and staging of facilities construction that is consistent with the county plan;

(3) Show compliance with paragraphs (1) and (2) of this subsection by using graphic and tabular information;

(4) Provide:

(i) For sewage treatment facilities that are adequate to prevent the discharge of any inadequately treated sewage or other liquid waste into any waters; or

(ii) Otherwise for safe and sanitary treatment of sewage and other liquid waste;

(5) Provide for facilities that are adequate to treat, recover, or dispose of solid waste in a manner that is consistent with the laws of this State that relate to air pollution, water pollution, and land use;

(6) Contain adequate information about:

(i) The existing sewage treatment capacity in each drainage basin or sewage treatment plant service area in the county;

(ii) The present level of use of sewage treatment plants in each drainage basin; and

*27740 (iii) Projections for use of sewage treatment plant capacity based on:

1. Outstanding building permits and subdivision plats if the county has subdivision authority; or

2. Zoning commitments if the county does not have subdivision authority;

(7) Taking into account all relevant planning, zoning, population, engineering, and economic information and all State, regional, municipal, and local plans, describe, with all practical precision, those parts of the county that reasonably may be expected to be served in the next 10 years by any:

(i) Community water supply system;

(ii) Multiuse water supply system;

(iii) Community sewerage system;

(iv) Multiuse sewerage system;

(v) Solid waste disposal system; and

(vi) Solid waste acceptance facility;

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-506, Review and reporting requirements

*27746 MD Code, Environment, § 9-506

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

9-506. Review and reporting requirements

(a)(1) Except as provided in paragraphs (2) and (3) of this subsection, before a county governing body may adopt a county plan or a revision or amendment to the county plan:

(i) The county governing body shall submit the county plan, revision, or amendment to each official planning agency that has jurisdiction in the county, including any comprehensive planning agency with areawide jurisdiction, for review and comment within a 30-day period for consistency with planning programs for the area; and

(ii) The county planning agency shall certify that the plan, revision, or amendment is consistent with the county comprehensive plan prepared under Article 66B, § 3.05; Article 25A, § 5(X); or Article 25B, § 13 of the Code.

(2) In Montgomery County and Prince George's County, the review and comments of the Maryland-National Capital Park and Planning Commission in accordance with § 9-516 of this subtitle constitute full compliance with the requirement for review by an official planning agency under this subsection.

(3)(i) This paragraph applies only in St. Mary's County.

(ii) A new public sewerage system or an expansion of an existing public sewerage system may not be allowed in St. Mary's County unless the adoption, revision, or amendment to the county plan containing the public sewerage system:

1. Is reviewed by the St. Mary's County Planning Commission in conformity with the provisions of this paragraph; and
2. Is approved by the Board of County Commissioners.

(iii) The County Commissioners may not approve the adoption, revision, or amendment of the county plan that contains a new public sewerage system or an expansion of an existing public sewerage system until the Planning Commission:

1. Conducts a complete review of the county plan; and
2. Holds at least one public hearing on the county plan.

*27747 (iv) In its review and recommendation to the County Commissioners, the St. Mary's County Planning Commission shall consider and make specific findings of fact with respect to the following objectives and policies of the county plan that contains a new public sewerage system or an expansion of an existing public sewerage system:

1. Compatibility with the Comprehensive Land Use Plan;
2. Planning and zoning issues;
3. Population estimates;
4. Engineering;
5. Economics;

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

tation/Title
ENVIR Sec. 9-507, Approval process

7750 MD Code, Environment, § 9-507

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

-507. Approval process

(a) When a county governing body submits its proposed county plan or a proposed revision or amendment of its county plan he Department, the Department may:

(1) Approve the proposal;
(2) Disapprove the proposal;
(3) If the part approved includes all of the required elements of a county plan, approve the proposal in part and disapprove it in part; or
(4) Modify or take other appropriate action on the proposal.

(b) Before the Department approves or disapproves, in whole or in part, a proposed county plan or a proposed revision or dment of a county plan, the Department shall submit the proposal:

(1) To the Department of Natural Resources for advice on natural resources matters;
(2) To the Department of Planning for advice on the consistency of the proposal with the local master plan and other appropriate matters; and
(3) To the Department of Agriculture for advice on the impact of water and sewerage service and solid waste facilities on productive or potentially productive agricultural land.

c)(1) Except as otherwise provided in this subsection, the Department shall approve, disapprove, or partially approve and y disapprove each proposed county plan or proposed revision or amendment to a county plan within 90 days after the proposal itted to the Department.

(2) For good cause and after notice to the county involved, the Department may extend the 90-day review eriod of paragraph (1) of this subsection for an additional 90 days.

) If the Department does not disapprove, in whole or in part, a proposed county plan or a proposed revision or amendment of plan within the review period provided in subsection (c) of this section, the proposal is approved.

(1) Before the Department takes any action under subsection (a) of this section, a county may use its proposed county plan or revision or amendment of its county plan at the county's own risk, if the county governing body has adopted the proposed an, revision, or amendment.

***27751** (2) After the county governing body adopts the proposed county plan, a person shall follow the visions of that plan except to the extent that the Department modifies or disapproves that plan.

2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-508, Disapproval and reconsideration rights

27753 MD Code, Environment, § 9-508

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

9-508. Disapproval and reconsideration rights

(a) If the Department disapproves, in whole or in part, a proposed county plan or a proposed revision or amendment of a county plan, the Department shall give the county a written notice of disapproval that states the reasons for disapproval.

(b) At any time up to 6 months after a county receives the notice of disapproval, the county governing body may ask the secretary to reconsider the disapproval in accordance with the rules and regulations of the Department.

CREDIT(S)

s 1983, c. 542, § 2.

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-509, Preparation costs

***27754 MD Code, Environment, § 9-509**

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

§ 9-509. Preparation costs

As provided in § 9-218 of this title, a county may finance in part the cost of preparing its county plan or any revision or mendment of its county plan.

CREDIT(S)

cts 1983, c. 542, § 2; Acts 1986, c. 5, § 1; Acts 1987, c. 612, § 2.

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-511, Required conformity with county plans

***27759 MD Code, Environment, § 9-511**

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

§ 9-511. Required conformity with county plans

Unless they conform to the county plan or revision or amendment of the county plan, the following systems and facilities may ot be installed or extended:

(1) A water supply system;
(2) A sewerage system;
(3) A solid waste disposal system; and
(4) A solid waste acceptance facility.

CREDIT(S)

s 1983, c. 542, § 2.

REFERENCES

LAW REVIEW AND JOURNAL COMMENTARIES

Planning for County Solid Waste. Warren K. Rich, 27 Md. B.J. 20 (Jan./Feb. 1994).

ANNOTATIONS

NOTES OF DECISIONS

neral 1

1. In general

Statute, which provides that sewerage system cannot be installed or extended unless it conforms to county plan, did not apply to request by private college mit to install its wastewater treatment plant; rather, installation permit process for wastewater treatment plant was governed by another specific provision le. Code, Environment, §§ 9-204, 9-511. Northwest Land Corp. v. Maryland Dept. of Environment, 1995, 656 A.2d 804, 104 Md.App. 471.
nmental Law ⇐195

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

Citation/Title
MD ENVIR Sec. 9-512, Building permits and subdivision plats

*27760 MD Code, Environment, § 9-512

WEST'S ANNOTATED CODE OF MARYLAND
ENVIRONMENT
TITLE 9. WATER, ICE, AND SANITARY FACILITIES
SUBTITLE 5--COUNTY WATER AND SEWERAGE PLANS

Current through end of 2003 Regular Session

9-512. Building permits and subdivision plats

(a) In this section, "building permit" means any permit that allows any building construction and is issued by any State or local authority.

(b)(1) A State or local authority may not issue a building permit unless:

(i) The water supply system, sewerage system, or solid waste acceptance facility is adequate to serve the proposed construction, taking into account all existing and approved developments in the service area;

(ii) Any water supply system, sewerage system, or solid waste acceptance facility described in the application will not overload any present facility for conveying, pumping, storing, or treating water, sewage, or solid waste;

(iii) Except for essential public services, after January 1, 1992, the county in which the proposed construction is located has an approved recycling plan under § 9-505 of this subtitle and § 9-1703 of this title; and

(iv) Except for essential public services, after January 1, 1994, the county in which the proposed construction is located has met the recycling reductions submitted in an approved recycling plan under § 9-505 of this subtitle and 9-1703 of this title.

(2) A water supply system, sewerage system, or solid waste acceptance facility referenced in a subdivision plat shall conform to the applicable county plan.

(3) If an allocation of water or wastewater is needed, and before a State or local authority may issue a building permit, the State shall:

(i) Have an allocation of water and wastewater from the county whose facilities are affected by the proposed building construction; or

(ii) Show evidence of being able to provide an acceptable on-site sewage disposal system or well system until an allocation becomes available, or on a permanent basis if the State elects.

***27761** (4) The county shall timely review any State request for an allocation of water or wastewater, and report its findings to the State within 45 days from the date of such request.

(5) The Department may grant a waiver from the sanctions of subsection (b)(1)(iii) and (iv) of this section if the county demonstrates to the satisfaction of the Secretary that it cannot achieve the recycling goal due to unforseen or emergency circumstances beyond the county's control.

(6)(i) In the event that sanctions are imposed under this subsection, and the county submits an application for removing the sanctions, the Secretary shall promptly approve or deny the application.

(ii) In the event that the Secretary has neither approved nor denied the application within 30 days of its submission, the application shall be deemed approved and the sanctions shall be removed.

© 2004 West, a Thomson business. No claim to original U.S. Govt. works.

CLUSTER'S SECOND APPEAL
CBA-04-126

(20040382) "A"

supplemental

PETITION

(2)

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Please see attached.
which is presently zoned DR 5.5/DR 2

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:

Please see attached
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

G. Scott Barhight
Dino C. LaFiandra
Name - Type or Print

Dino C. LaFiandra
Signature

Whiteford, Taylor & Preston, L.L.P.
Company

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

Towson, MD 21204
City State Zip Code

Legal Owner(s):

Please see attached
Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

State Zip Code

Representative to be Contacted:

Dino C. LaFiandra
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 _____

Reviewed By BK Date 2/19/04

ORDER RECEIVED FOR FILING
Date 4/30/04
By [illegible]

Case No. 04-382-SPH

REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Please see attached.
which is presently zoned DR 5.5/DR 2

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:

Please see attached
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

G. Scott Barhight
Dino C. LaFiandra
Name - Type or Print

Dino LaFiandra/ls
Signature

Whiteford, Taylor & Preston, L.L.P.
Company

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

Towson, MD 21204
City State Zip Code

Legal Owner(s):

Please see attached
Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Representative to be Contacted:

Dino C. LaFiandra
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. 04-382-SPH

Reviewed By BM Date 2/19/04

REV 9/15/98

Petition for Special Hearing

Unnumbered Parcels on Hilltop Road
E/S Hilltop Road at Tadcaster Road
Tax Map 100, Parcels 992 and 442
Continuation Sheet

Relief Requested:

1. Special hearing to approve the density anomaly on proposed lot 1 created by the existing single family dwelling to remain.

2. Special hearing to approve the creation of undersized D.R. 2 portions of lots 2, 3, 4, 5, and 7 as non-density areas.

3. Special hearing to permit the future construction of accessory structures which comply with BCZR § 400 on the D.R. 2 (non-density) portion of proposed lots 2, 3, 4, 5, and 7.

ORDER RECEIVED FOR FILING
Date 4/30/14
By KBG

#382

Petition for Special Hearing

Signature Sheet
Continuation Sheet

Legal Owners: (Cainewood "Parcel A")
As to Tax Map 100, Parcel 443:

Jennye A. Osborne

Jennye A. Osborne

Eugene F. Osborne

Eugene F. Osborne
3000 Old Taneytowne Road
Westminster, MD 21158

As to Tax Map 100, Parcel 442 (Unnumbered Parcels on Hilltop Rd)

Leo T. Hull

Leo T. Hull

Susan M. Hull

Susan M. Hull
109 S. Hilltop Road
Baltimore, MD 21228

As to Tax Map 100, Parcel 992

Mary V. Farley

Mary V. Farley

Francis W. Farley

Francis W. Farley

Sonja O. Vogel

Sonja O. Vogel

William A. Vogel

William A. Vogel
c/o D.J. Realty Inc
P.O. Box 143
Highland, MD 20777

Contract Purchaser:
Skirven Enterprises, Inc.

Charles Skirven
5405 Twin Knolls Road
Columbia, Maryland 21045
299246

ORDER RECEIVED FOR FILING
Date 1/31/14
By

#382

Petition for Special Hearing

Signature Sheet
Continuation Sheet

Legal Owners: (Cainewood "Parcel A")
As to Tax Map 100, Parcel 443:

Jennye A. Osborne
Jennye A. Osborne

Eugene F. Osborne
Eugene F. Osborne
3000 Old Taneytowne Road
Westminster, MD 21158

As to Tax Map 100, Parcel 442 (unnumbered Parcels on Hilltop Rd.)

Leo T. Hull
Leo T. Hull

Susan M. Hull
Susan M. Hull
109 S. Hilltop Road
Baltimore, MD 21228

As to Tax Map 100, Parcel 992

Mary V. Farley
Mary V. Farley

Francis W. Farley
Francis W. Farley

Sonja O. Vogel
Sonja O. Vogel

William A. Vogel
William A. Vogel
c/o D.J. Realty Inc
P.O. Box 143
Highland, MD 20777

Contract Purchaser:
Skirven Enterprises, Inc.

Charles Skirven
5405 Twin Knolls Road
Columbia, Maryland 21045
299246

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

Description to Accompany Petition
For Special Hearing for the Clusters Property

DATE: December 18,2003

Beginning at a point on the easterly right-of-way of South Hilltop Road, said point being North 53 degrees 23 minutes 30 seconds East 145.35 feet more or less, from a point formed by the intersection of the centerlines of South Hilltop Road and Tadcaster Road running thence leaving said point of beginning, along the following courses.

1. Leaving said right-of-way South 88 degrees 50 minutes 24 seconds East. 984.61 feet, thence
2. South 09 degrees 46 minutes 48 seconds West 631.20 feet, thence
3. South 17 degrees 33 minutes 49 seconds West 67.99 feet, thence
4. South 17 degrees 28 minutes 41 seconds West 154.50 feet, thence
5. North 72 degrees 42 minutes 56 seconds West 21.65 feet, thence
6. South 18 degrees 04 minutes 01 seconds West 31.30 feet, thence
7. South 30 degrees 13 minutes 17 seconds West 25.53 feet, thence
8. South 40 degrees 53 minutes 50 seconds West 74.93 feet, thence
9. South 18 degrees 02 minutes 42 seconds West 31.24 feet, thence
10. South 44 degrees 33 minutes 16 seconds West 67.85 feet, thence
11. North 63 degrees 25 minutes 44 seconds West 504.22 feet, thence
12. North 81 degrees 05 minutes 52 seconds West 104.16 feet, thence
13. North 14 degrees 16 minutes 37 seconds East 149.68 feet, thence
14. North 81 degrees 04 minutes 06 seconds West 282.95 feet to a point on the easterly right-of-way of Hilltop Road, thence binding on said right-of-way the following course
15. North 15 degrees 48 minutes 05 seconds East 109.43 feet, thence leaving Hilltop Road right-of-way the following three courses
16. South 73 degrees 54 minutes 06 seconds East 230.00 feet, thence
17. North 15 degrees 59 minutes 17 seconds East 160.00 feet, thence
18. North 73 degrees 54 minutes 6 seconds West 230.52 feet to a point on the easterly right-of-way of Hilltop Road, thence binding on said right-of-way the following two courses
19. North 15 degrees 48 minutes 5 seconds East 229.41 feet, thence
20. North 00 degree 10 minutes 55 seconds West 122.93 feet to the point of beginning.

Containing 17.8032 acres of land more or less.

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

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS 1095 BERT CLAUDE CHRISTIAN PETERSEN STATE OF MARYLAND

410-825-8120 • FAX 410-583-0288
www.gwstephens.com

#382

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

Description to Accompany Petitions
For Special Hearing For Cainewood

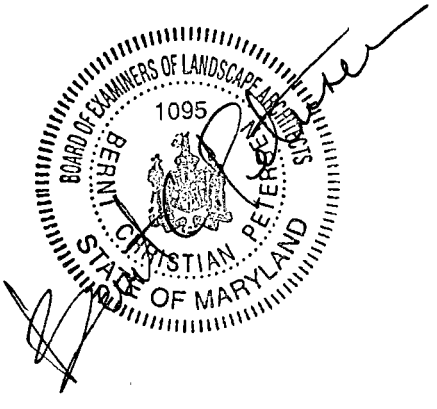
DATE: February 17, 2004

Beginning at a point on the easterly right-of-way of South Hilltop Road, said point being North 03 degrees 39 minutes 15 seconds West 171.00 feet more or less, from a point formed by the intersection of the centerlines of South Hilltop Road and Woodwind Road running thence leaving said point of beginning, along the following courses.

1. North 77 degrees 28 minutes 25 seconds East 378.64 feet, thence
2. North 12 degrees 31 minutes 35 seconds West 348.90 feet, thence
3. South 63 degrees 25 minutes 44 seconds East 504.22 feet, thence
4. North 44 degrees 33 minutes 16 seconds East 67.85 feet, thence
5. North 18 degrees 02 minutes 42 seconds East 31.24 feet, thence
6. North 40 degrees 53 minutes 50 seconds East 74.93 feet, thence
7. North 30 degrees 13 minutes 17 seconds East 25.53 feet, thence
8. North 18 degrees 04 minutes 01 seconds East 31.30 feet, thence
9. South 72 degrees 42 minutes 56 seconds East 21.65 feet, thence
10. South 17 degrees 41 minutes 51 seconds West 827.42 feet, thence
11. South 85 degrees 33 minutes 21 seconds West 264.98 feet, thence
12. South 12 degrees 32 minutes 9 seconds East 100.00 feet, thence
13. South 85 degrees 33 minutes 21 seconds West 277.58 feet to a point on the easterly right-of-way line of South Hilltop Road, thence binding on said right-of-way line the following course
14. North 12 degrees 31 minutes 35 seconds West 567.14 feet to the point of beginning.

Containing 10.776 acres of land more or less.

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



410-825-8120 • FAX 410-583-0288
www.gwstephens.com

#382

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: # 04-382-SPH
Unnumbered Parcels on Hilltop Road and Parcel A for Calnewood Development
W/side of Hilltop Road, 150 feet south of centerline of Branston Road
1st Election District – 1st Councilmanic District
Legal Owner(s): Jennye & Eugene Osborne, Leo & Susan Hull, Francis & Mary Farley, and William & Sonja Vogel
Contract Purchaser: Skirven Enterprises, Inc., Charles Skirven

Special Hearing: to approve the density anomaly on proposed Lot 1 created by the existing single family dwelling to remain, to approve the creation of undersized DR-2 portions of lots 2,3,4,5, and 7 as non-density areas, and to permit the future construction of accessory structures on the DR-2 (non-density) portion of proposed lots 2,3,4,5, and 7 (Parcels on Hilltop Road). To approve a fifth amended FDP for the Calnewood Development, with an amended tract boundary.

Hearing: Thursday, March 25, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley 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 3/685 Mar. 9 C653812

CERTIFICATE OF PUBLICATION

3/10/, 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 3/9/, 2004.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 35782

DATE 6/1/04 ACCOUNT 001-000-6150

AMOUNT $ 625.00

RECEIVED FROM: Michael Tarczyn

FOR: 04-382-SPH

Appeal

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS DATE	ACTUAL TIME	DRW
6/02/2004	6/01/2004 10:48:04	2

REG W804 WALKIN DOOL DMD
>>RECEIPT # 267219 6/01/2004 -OFLN
Dept: 5 528 ZONING VERIFICATION
CK NO. 035782
Recpt Tot $625.00
$625.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23061

DATE 2/19/04 ACCOUNT 1000-000-6150

AMOUNT $ 585.00

RECEIVED FROM: White, Carl / Venable, Baetjer & Howard, LLP

FOR: Special Hearing

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item # 382

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
2/20/2004 2/19/2004 15:10:39 1
REG USER1 WALKIN WALK IN
RECEIPT # 125146 2/19/2004 OFLN
5 5B ZONING VERIFICATION
CR ID: 023061
Recpt Tot $585.00
$585.00 CK $.00 CA
Baltimore County, Maryland

CK # 25268 $195.00
CK # 25267 $390.00

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 04-382-SPH

Petitioner/Developer: SKIRVEN ENT.
CHARLES SKIRVEN

Date of Hearing/Closing: 3/25/04

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

ATTN: Kristen Matthews {(410) 887-3394}

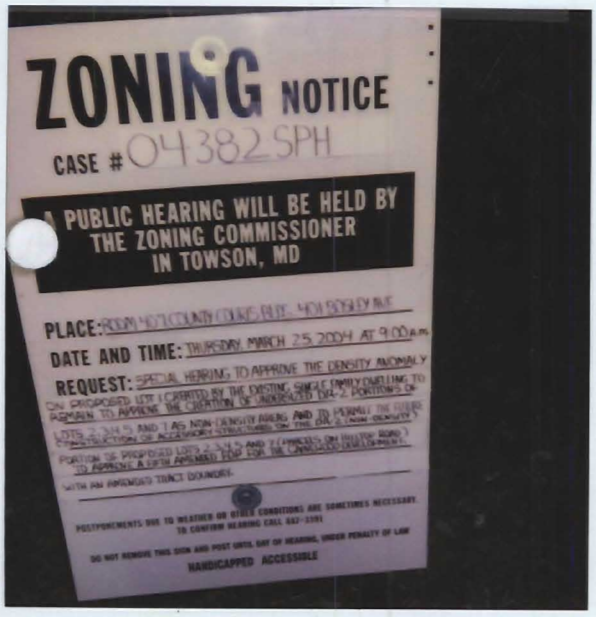
Ladies and Gentlemen:

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: _____

W/SIDE OF HILLTOP ROAD, 150 FEET SOUTH OF CENTERLINE OF BRANSTON ROAD

The sign(s) were posted on 3/7/04
(Month, Day, Year)

Sincerely,



Robert R Black 3/7/04
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 9, 2004 Issue - Jeffersonian

Please forward billing to:
Dino LaFiandra
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

410-832-2084

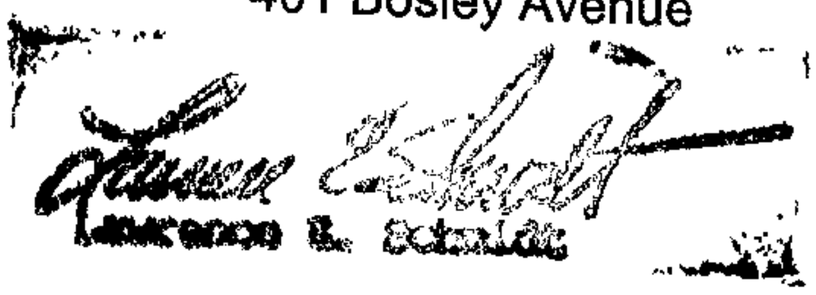
NOTICE OF ZONING HEARING

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: 04-382-SPH
Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development
W/side of Hilltop Road, 150 feet south of centerline of Branston Road
1st Election District – 1st Councilmanic District
Legal Owners: Jennye & Eugene Osborne, Leo & Susan Hull, Francis & Mary Farley, and William & Sonja Vogel
Contract Purchaser: Skirven Enterprises, Inc., Charles Skirven

Special Hearing to approve the density anomaly on proposed Lot 1 created by the existing single family dwelling to remain, to approve the creation of undersized DR-2 portions of lots 2,3,4,5, and 7 as non-density areas, and to permit the future construction of accessory structures on the DR-2 (non-density) portion of proposed lots 2,3,4,5, and 7 {Parcels on Hilltop Road}. To approve a fifth amended FDP for the Cainewood Development, with an amended tract boundary.

Hearing: Thursday, March 25, 2004, at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley 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

March 2, 2004

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: 04-382-SPH
Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development
W/side of Hilltop Road, 150 feet south of centerline of Branston Road
1st Election District – 1st Councilmanic District
Legal Owners: Jennye & Eugene Osborne, Leo & Susan Hull, Francis & Mary Farley, and William & Sonja Vogel
Contract Purchaser: Skirven Enterprises, Inc., Charles Skirven

Special Hearing to approve the density anomaly on proposed Lot 1 created by the existing single family dwelling to remain, to approve the creation of undersized DR-2 portions of lots 2,3,4,5, and 7 as non-density areas, and to permit the future construction of accessory structures on the DR-2 (non-density) portion of proposed lots 2,3,4,5, and 7 {Parcels on Hilltop Road}. To approve a fifth amended FDP for the Cainewood Development, with an amended tract boundary.

Hearing: Thursday, March 25, 2004, at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco
Director

TK:klm

C: Dino LaFiandra, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson 21204
Eugene & Jennye Osborne, 3000 Old Taneytowne Rd., Westminster 21158
Leo & Susan Hull, 109 S. Hilltop Road, Baltimore 21228
Francis & Mary Farley, D.J. Realty, P.O. Box 143, Highland 20777
William & Sonja Vogel, D.J. Realty, P.O. Box 143, Highland 20777
Charles Skirven, 5405 Twin Knolls Road, Columbia 21045

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 10, 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.

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: 04-382-SPH

Petitioner: Stirven Enterprises, Inc.

Address or Location: The Clusters at 109 S. Hilltop Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Dino C. LaFiandra

Address: Whiteford, Taylor & Preston LLP
210 W. Pennsylvania Ave., Suite 400
Towson, MD 21204

Telephone Number: 410-832-2084

Revised 2/20/98 - SCJ

CERTIFICATE OF POSTING

RE: Case No.: C.I.M.

Petitioner/Developer: SKIRVEN ENT

Date of Hearing/Closing: NOV. 12, 2003

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}

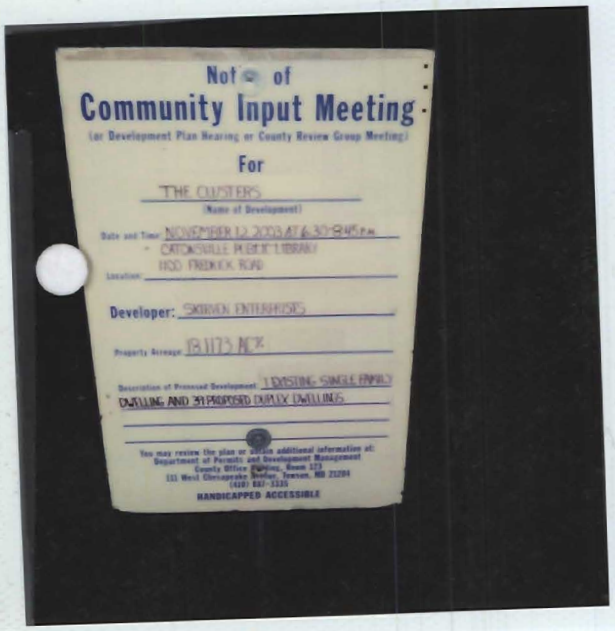
Ladies and Gentlemen:

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:

101 HILLTOP RD

The sign(s) were posted on 10/18/03
(Month, Day, Year)

Sincerely,



10/18/03
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

CERTIFICATE OF POSTING

RE: Case No.: H.O.H.

Petitioner/Developer: SKIRVEN ENTERPRISES

Date of Hearing/Closing: 3/25, 3/26 4/2/04

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

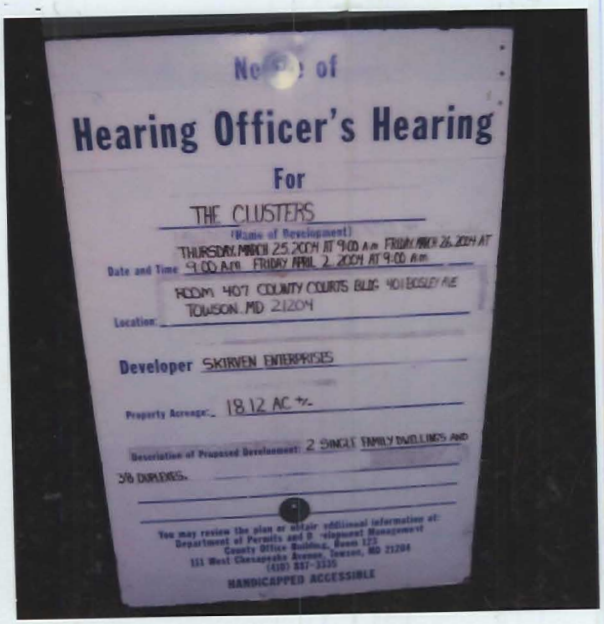
ATTN: Don Rosco {(410) 887-3394}

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: 101 S. HILLTOP RD

The sign(s) were posted on 2/26/04
(Month, Day, Year)

Sincerely,



Robert Black 2/26/04
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-382-SPH

FARLEY, HULL, OSBIURNE AND VOGEL– LEGAL OWNER

PARCELS ON HILLTOP ROAD
150' S OFNTHE C/L OF BRANSTON ROAD

1ST ELECTION DISTRICT APPEALED: 5/28/2004

ATTACHMENT – (Plan to accompany Petition)

**********COMPLETE AND RETURN BELOW INFORMATION*****

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

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

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

February 20, 2004

Via Hand Delivery
Mr. Timothy Kotroco, Director
Baltimore County Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 111
Towson, MD 21204

Re: PDM No. 03-462 / Zoning No. 04-382-SPH
Request for Combined Hearing

Dear Mr. Kotroco:

This law firm represents Skirven Enterprises, Inc., the contract purchaser and developer in the above-referenced zoning and development cases. Pursuant to Baltimore County Code, § 26-206.1, we respectfully request a combined development and zoning hearing. I note that the Hearing Officer's Hearing on the development plan is scheduled for March 25 and March 26, and accordingly your office should likewise schedule the zoning case for the same date and time.

Should you have any questions, please contact me.

Sincerely,

Dino C. La Fiandra

DCL:

300407

RECEIVED
04-429
FEB 23 2004
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

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 31, 2004

G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: DEVELOPMENT PLAN & PETITION FOR SPECIAL HEARING **(The Clusters)**
Unencumbered Parcels, W/S Hilltop Road, 150' S of the c/l Branston Road and Parcel A of Cainewood
1st Election District – 1st Council District
Jenny & Eugene Osborne, Legal Owners of Parcel A; Leo T. Hull & Susan M. Hull, Owners, Parcel 442
Mary V. Farley, Francis W. Farley, Sonja O. Vogel and William A. Vogel, Owners, Parcel 992/
Skirven Enterprises, Inc., Contract Purchaser/Developer
Case Nos. I-509 & 04-382-SPH

Dear Messrs. Barhight & LaFiandra and Ms. Busse:

This letter is to confirm that the continued hearing in the above-captioned matter, which was scheduled for Friday, March 26, 2004, was postponed as a result of the water main break in Towson and will reconvene on Friday, April 2, 2004 as previously scheduled. In addition, by agreement of all parties, the matter has been scheduled for an additional hearing date on Tuesday, April 6, 2004 commencing at 1:00 PM in Room 407 of the Circuit Court Building.

Should anyone have any questions on the subject, please do not hesitate to call Donald Rascoe, Project Manager, at 410-887-3335, or me.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Francis & Mary Farley, 3126 Gracefield Raod, Apt. BG306, Silver Spring, Md. 20904
Mr. Charles Skirven, 5405 Twin Knolls Road, Columbia, Md. 21045
Mr. Rick Chadsey, GWStephens, Jr. & Assoc., 1020 Cromwell Bridge Road, Towson, Md. 21286
Michael Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Md. 21204
Mr. Joe Gochar, 112 S. Hilltop Road, Catonsville, Md. 21228
Mr. & Mrs. Harry Schwab, 102 S. Hilltop Road, Catonsville, Md. 21228
Mr. Charles Trainor, 103 Woodwind Road, Catonsville, Md. 21228
Mr. Terry MacHawer, 7018 Channel Village Court, Annapolis, Md. 21403
Ms. Meg Levickas, 1820 Cainewood Court, Catonsville, Md. 21228
Mr. Russ Sterner, 322 Concert Way, Catonsville, Md. 21228
Mr. Eugene L. Shaver, 116 S. Hilltop Road, Catonsville, Md. 21228
Mr. Don Rascoe, DPDM; DEPRM; DPW; OP; R&P; People's Counsel; Case Files

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

Amended notice sent 8/13/04 to include Joe Gochar and Janet appeal

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue

June 15, 2004

NOTICE OF ASSIGNMENT

CASE #: 04-382-SPH

IN THE MATTER OF: THE CLUSTERS
Skirven Enterprises – Contract Purchaser; Farley, Hull, Osborne, and Vogel – Legal Owners S/s S. Hilltop Rd, S Branston Rd 1st E; 1st C
4/30/04 – Decision of Hearing Officer /Zoning Commissioner – Plan approved; SPH granted with restrictions

and

~~CASE #: CBA-04-127~~ ~~6/03/04 Decision of Planning Board PDM I-509/04 382 SPH~~ W/D 7/12/04

7-13-04

{This matter begins with CBA-04-126 /Development Plan assigned for ~~7/22/04~~.}

ASSIGNED FOR: **THURSDAY, AUGUST 19, 2004 at 10 a.m., and THURSDAY, AUGUST 26, 2004 at 11 a.m.**

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco /Administrator

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and Hilltop Maple Community Association

Counsel for Developer /Appellant (CBA-04-127) : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley, Sonja & William Vogel, Eugene & Jennye Osborne, Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab
Mr. Terry MacHawer
Russ Sterner
Charles Trainor
Meg Levickas
Eugene L. Shaver

Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

June 15, 2004

G. Scott Barhight, Esquire
Dino LaFiandra, Esquire
Jennifer Busse, Esquire
WHITEFORD, TAYLOR & PRESTON
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: In the Matter of: The Clusters /PDM I-509
Case No. CBA-04-126; 04-382-SPH; and CBA-04-127

Dear Counsel:

Enclosed please find the appropriate Notices of Assignment for the subject matter that has been scheduled for hearing before the Board of Appeals.

Inasmuch as the files for Case No. CBA-04-126 and 04-382-SPH were received by this office on June 14, 2004, the scheduled dates, as reflected on the attached notices, were the earliest possible for hearing. This matter will start on July 22, 2004 with the development plan portion of the case and then proceed to the two August dates for conclusion of this matter as indicated, after which time the Board's decision will be issued after appropriate public deliberation.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosures

c: Joe Gochar, Jr. and Hilltop Maple Community Association
Charles Skirven /Skirven Enterprises
Francis & Mary Farley
Sonja & William Vogel
Eugene & Jennye Osborne
Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates
Mr. and Mrs. Harry Schwab
Charles Trainor
Mr. Terry MacHawer
Meg Levickas
Russ Sterner
Eugene L. Shaver
Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

FILE

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
DINO LAFIANDRA (1) MICHAEL TANCZYN (2)	KATHLEEN C. BIANCO
FAX NUMBER: 410-832-2015 (1) 410-296-8827 (2)	**DATE:** JULY 1, 2004
COMPANY: DisplayText cannot span more than one line!	**TOTAL NO. OF PAGES INCLUDING COVER:** TWO (2)
PHONE NUMBER: DisplayText cannot span more than one line!	**SENDER'S REFERENCE NUMBER:** DisplayText cannot span more than one line!
RE: THE CLUSTERS	**YOUR REFERENCE NUMBER:** DisplayText cannot span more than one line!

URGENT FOR REVIEW X FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PERSONAL AND CONFIDENTIAL

Attached for your records is a copy of the Notice of Reassignment sent out this date regarding the subject matter, which has been reassigned FROM 7/22/04 **TO 7/13/04** at 11 a.m.

Should you have any questions, please call me at 410-887-3180. A copy has been sent to all parties this date via USPS.

kathi

Attachment

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

County Board of Appeals of Baltimore County

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

Rescheduled 7/13/04 - confirmed date w/ Governor before notice

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue

June 15, 2004

NOTICE OF ASSIGNMENT

CASE #: CBA-04-126
(PDM # I-509)

IN THE MATTER OF: THE CLUSTERS
Development Plan Appeal
Skirven Enterprises - Developer
S/s S. Hilltop Rd, S Branston Rd
1st Election District; 1st Councilmanic District

{Continues with 04-382-SPH AND CBA-04-127 (Planning Board appeal) assigned for 8/19/04 & 8/26/04.}

ASSIGNED FOR: **THURSDAY, JULY 22, 2004 at 10 a.m.**

This matter has been assigned for hearing in accordance with Section 26-209 of the *Baltimore County Code.*
NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix C.*

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco / Administrator

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and
Hilltop Maple Community Association

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley
Eugene & Jennye Osborne
Sonja & William Vogel
Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab
Mr. Terry MacHawer
Russ Sterner
Charles Trainor
Meg Levickas
Eugene L. Shaver

Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

June 21, 2004

Board of Appeals of Baltimore County
Attn: Ms. Kathy Bianco
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
JUN 2 2 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Re: PDM Case No.:I-509
Zoning Case: 04-382 SPH
The Clusters

Dear Kathy:

I just received the notice on the Clusters, dated June 15, 2004 on June 18, 2004. I enclose notice that I have been previously scheduled to appear in the Circuit Court for Baltimore County in the contempt matter of McDaniel v. Kinkel, set for 9:30 a.m. on July 22, 2004. I do not have a conflict with August 19 or August 26, 2004, as scheduled.

I am also writing about the scheduling of the Planning Board appeal with the development plan appeal and the zoning appeal. To my knowledge, that Motion to Consolidate was only filed by Mr. LaFiandra on June 14, 2004, and we first received it June 15, 2004. On June 17, 2004, my secretary hand-delivered our response to the Board, objecting to the consolidation. Can you kindly check with the Board, and advise if our objection has been received and considered by the Board? I note, from the date of the assignment of these cases, of June 15, 2004, that that would have been before you could have received your objection to the consolidation.

Thank you very much for your anticipated assistance in this regard.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.
cc: Hilltop Maple Community Association
Joseph Gochar, Jr.
DICTATED, NOT READ

7/20 @ 2 pm

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F H E A R I N G / T R I A L

Case Number: 03-C-02-009710
C I V I L

McDaniel, et al vs Kinkel

STATE OF MARYLAND, BALTIMORE COUNTY COUNTY, TO WIT:

TO: Michael P. Tanczyn
Michael P. Tanczyn, P.A.
606 Baltimore Avenue
Suite 106
Baltimore, MD 21204

You are hereby NOTIFIED TO APPEAR before a Judge of the:

CIRCUIT COURT FOR BALTIMORE COUNTY
County Courts Building
401 Bosley Avenue
Towson, MD 21285-6754

Court date:
July 22, 2004
At: 09:30 AM
Contempt Hearing
1/2 HOUR CONTEMPT AGREED DATE

PLEASE NOTE: All counsel are expected to confer with each other with regard to the assigned trial date and to advise the court and other parties of any pre-existing conflict promptly.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Application for postponement must be made in writing with copies to all attorneys.

Please refer to Information Desk for Court Room Designation.

Assignment Clerk: Rushton Kathy
Assignment Office Phone: (410)-887-2660

Date Issued: 04/27/04

County Board of Appeals of Baltimore County

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

July 1, 2004

Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: In the Matter of: The Clusters
Your reference: PDM Case No. I-509
Zoning Case: 04-382-SPH

Dear Mr. Tanczyn:

In response to your letter dated June 21, 2004 and regarding your request for postponement of the subject matter, enclosed is a copy of the Notice of Reassignment issued this date pursuant to my various discussions with counsel over the last several days.

As to the matter of Mr. LaFiandra's Motion to Consolidate and any objections thereto, that issue may be addressed before the Board when that panel convenes on Tuesday, July 13, 2004 at 11 a.m. The scheduling of appeals relating to The Clusters for hearing before the Board was handled in a procedural manner and not in response to any request. Again, this matter may be raised preliminarily before the Board on July 13th.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Dino C. LaFiandra, Esquire /with enclosures
G. Scott Barhight, Esquire /with enclosures

FILE

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue July 1, 2004

NOTICE OF REASSIGNMENT /Day #1 ONLY

CASE #: CBA-04-126
(PDM # I-509)

IN THE MATTER OF: THE CLUSTERS
Development Plan Appeal
Skirven Enterprises - Developer
S/s S. Hilltop Rd, S Branston Rd
1st Election District; 1st Councilmanic District

Day #1; continues on 8/19/04 with Case #04-382-SPH and CBA-04-127 (Planning Board appeal).

This matter was scheduled to begin on 7/22/04; due to Circuit Court schedule conflict; and upon conversations with all counsel, this matter has been

REASSIGNED FOR: **TUESDAY, JULY 13, 2004 at 11:00 a.m.**

This matter has been assigned for hearing in accordance with Section 26-209 of the *Baltimore County Code.*
NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix C.*

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco / Administrator

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and
Hilltop Maple Community Association

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley
Eugene & Jennye Osborne
Sonja & William Vogel
Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab
Mr. Terry MacHawer
Russ Sterner
Charles Trainor
Meg Levickas
Eugene L. Shaver

Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

pp'd. Joint request - Settlement

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue August 13, 2004

***AMENDED NOTICE OF ASSIGNMENT**

CASE #: 04-382-SPH
and Case No. CBA-04-126
PDM I-509

IN THE MATTER OF: THE CLUSTERS
Skirven Enterprises – Contract Purchaser; Farley, Hull, Osborne, and Vogel – Legal Owners S/s S. Hilltop Rd, S Branston Rd 1st E; 1st C
4/30/04 – Decision of Hearing Officer /Zoning Commissioner – Plan approved; SPH granted with restrictions

This matter began on 7/13/04 with argument in Case No. CBA-04-126.)

[CBA-04-127 withdrawn by Appellant 7/12/04 and dismissed]

*** Amended to include a second appeal filed by Michael P. Tanczyn, Esquire, from the Hearing Officer's signature on Development Plan, Revised 6/22/04, entered as an exhibit before this Board on 7/13/04. No changes to assigned hearing dates; all dates remain as originally scheduled;**

ASSIGNED FOR: **THURSDAY, AUGUST 19, 2004 at 10 a.m., and THURSDAY, AUGUST 26, 2004 at 11 a.m.**

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco /Administrator

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and Hilltop Maple Community Association

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley, Sonja & William Vogel
Eugene & Jennye Osborne, Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab, Charles Trainor
Mr. Terry MacHawer, Meg Levickas
Russ Sterner, Eugene L. Shaver

Office of People's Counsel, Robert J. Barrett, Director /Rec & Parks
Pat Keller, Director /Planning, Lawrence E. Schmidt /Zoning Commissioner
David Carroll, Director /DPM, Don Rascoe /PDM
Edward Adams, Jr., Director /DPW, Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
MICHAEL TANCZYN, ESQUIRE (1)	**KATHLEEN BIANCO**
G SCOTT BARHIGHT, ESQUIRE (2)	
FAX NUMBER:	**DATE:**
410-296-8827 (1)	**AUGUST 13, 2004**
410-832-2015 (2)	
COMPANY:	**TOTAL NO. OF PAGES INCLUDING COVER:**
	TWO (2)
PHONE NUMBER:	**SENDER'S REFERENCE NUMBER:**
	CBA-04-126; 04-382-SPH
RE:	**YOUR REFERENCE NUMBER:**
THE CLUSTERS – AMENDED NOTICE	

URGENT FOR REVIEW **X FOR YOUR RECORDS** PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PERSONAL AND CONFIDENTIAL

Attached for your records is a copy of the Amended Notice of Assignment in the subject matter to include the second appeal filed in this matter by Mr. Tanczyn on August 11, 2004. As stated on the attached notice, no other changes have been made; dates remain as assigned.

Please call me if you have any questions.

kathi

Attachment

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

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue August 17, 2004

NOTICE OF POSTPONEMENT

CASE #: 04-382-SPH
and Case No. CBA-04-126
PDM I-509

IN THE MATTER OF: THE CLUSTERS
Skirven Enterprises – Contract Purchaser; Farley, Hull, Osborne, and Vogel – Legal Owners S/s S. Hilltop Rd, S Branston Rd 1st E; 1st C
4/30/04 – Decision of Hearing Officer /Zoning Commissioner – Plan approved; SPH granted with restrictions

This matter began on 7/13/04 with argument in Case No. CBA-04-126.)
[CBA-04-127 withdrawn by Appellant 7/12/04 and dismissed]

In response to postponement request filed August 17, 2004, the subject matter has been POSTPONED and pulled from the Board's calendar for all assigned dates, as agreed by counsel; additional action to be taken by this office only upon request of either party.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and Hilltop Maple Community Association

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley
Eugene & Jennye Osborne
Sonja & William Vogel
Leo & Susan Hull

Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab
Mr. Terry MacHawer
Russ Sterner
Charles Trainor
Meg Levickas
Eugene L. Shaver

Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

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

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

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

August 16, 2004

TRANSMISSION BY FAX

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: The Clusters - Skirven Enterprises
Case No. 04-382-SPH and CBA-07-126

Dear Ms. Bianco:

Please be advised that the parties are attempting to reach a settlement in this matter. As a result, the parties respectfully request that the Board postpone the hearings currently set for Thursday, August 19, 2004 and Thursday, August 26, 2004. I have spoken with Mr. Tanczyn, and he gave me his authority to inform you that he is in agreement with this postponement request.

Thank you for your attention to this matter.

Sincerely,

G. Scott Barhight /jb

G. Scott Barhight

GSB:sll
cc: Michael P. Tanczyn, Esquire *(transmission by fax)*
Mr. Charles A. Skirven, Jr.

314022

WHITEFORD, TAYLOR & PRESTON L.L.P.
400 Court Towers
210 W. Pennsylvania Ave
Towson, Maryland 21204
(410) 832-2000
Fax - (410) 832-2015

FACSIMILE TRANSMITTAL COVER SHEET

TOTAL PAGES (including cover sheet): 2	Date: 08/16/04
	File No.: 81032/104

SENT TO: Kathy Biancc *Mike Tanczyn*	*FAX #: 410-887-3182* *410- 296-8827*

FROM: Jennifer R. Busse (410) 832- 2077

RE: The Clusters - Request for Postponement

SPECIAL INSTRUCTIONS: Thank you for your attention to this matter.

PRIVILEGED AND CONFIDENTIAL: All information transmitted hereby is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via the U.S. mail.

COUNTY BOARD OF APPEALS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
MICHAEL TANCZYN, ESQUIRE (1)	KATHLEEN BIANCO
G SCOTT BARHIGHT, ESQUIRE (2)	
FAX NUMBER:	DATE:
410-296-8827 (1)	AUGUST 17, 2004
410-832-2015 (2)	
COMPANY:	TOTAL NO. OF PAGES INCLUDING COVER:
	TWO (2)
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	CBA-04-126; 04-382-SPH
RE:	YOUR REFERENCE NUMBER:
THE CLUSTERS – POSTPONEMENT	

URGENT FOR REVIEW X FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PERSONAL AND CONFIDENTIAL

Attached for your records is a copy of the Notice of Postponement in the subject matter. As requested, both dates (8/19 and 8/26/04) have been pulled from the Board's schedule. A copy of the attached Notice was sent this date to all identified persons.

Any further action by this office will be taken only upon request.

Please call me if you have any questions.

kathi

Attachment

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

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue

December 15, 2004

NOTICE OF POSTPONEMENT

CASE #: CBA-04-126
(PDM # I-509)
04-382-SPH

IN THE MATTER OF: THE CLUSTERS
Development Plan Appeal and special hearing request
Skirven Enterprises - Developer
S/s S. Hilltop Rd, S Branston Rd
1st Election District; 1st Councilmanic District

which had been specially assigned by agreement for 12/16/04 has been POSTPONED at the request of Counsel for Developer; to be reassigned upon request. Counsel notified this date via facsimile of this postponement.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix B.*

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and
Hilltop Maple Community Association
c/o Michael P. Tanczyn, Esquire
via Facsimile 410-296-8827

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises
c/o Dino C. La Fiandra, Esquire
via Facsimile 410-832-2015

Legal Owners: Francis & Mary Farley, et al
c/o Dino C. La Fiandra, Esquire
via Facsimile 410-832-2015

Office of People's Counsel **[Hand-delivered]**

via interoffice mail:
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
William J. Wiseman III /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

pp'd 12/15/04 - mailed and emailed

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue

December 15, 2004

NOTICE OF SPECIAL ASSIGNMENT

CASE #: CBA-04-126
(PDM # I-509)
04-382-SPH

IN THE MATTER OF: THE CLUSTERS
Development Plan Appeal and special hearing request
Skirven Enterprises - Developer
S/s S. Hilltop Rd, S Branston Rd
1st Election District; 1st Councilmanic District

This matter has been scheduled for the following date at the request of and by agreement of counsel for Developer and Appellants, without objection by People's Counsel to the scheduling timeframe: and has been

ASSIGNED FOR: **THURSDAY, DECEMBER 16, 2004 at 9:00 a.m.**

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix B.*

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and
Hilltop Maple Community Association
c/o Michael P. Tanczyn, Esquire
via Facsimile 410-296-8827

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises
c/o Dino C. La Fiandra, Esquire
via Facsimile 410-832-2015

Legal Owners: Francis & Mary Farley, et al
c/o Dino C. La Fiandra, Esquire
via Facsimile 410-832-2015

Office of People's Counsel **[Hand-delivered]**

via interoffice mail:
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
William J. Wiseman III /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue January 21, 2005

NOTICE OF ASSIGNMENT

BY REQUEST AND WITH AGREEMENT OF COUNSEL

CASE #: 04-382-SPH
and Case No. CBA-04-126
PDM I-509

IN THE MATTER OF: THE CLUSTERS
Skirven Enterprises – Contract Purchaser; Farley, Hull, Osborne, and Vogel – Legal Owners S/s S. Hilltop Rd, S Branston Rd 1st E; 1st C
4/30/04 – Decision of Hearing Officer /Zoning Commissioner – Plan approved; SPH granted with restrictions

The following date and time has been assigned in the subject matter at the request of, and by agreement of, counsel; and has been

ASSIGNED FOR: WEDNESDAY, FEBRUARY 2, 2005 at 9:00 a.m.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix B.*

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and Hilltop Maple Community Association

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley
Eugene & Jennye Osborne
Sonja & William Vogel
Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab
Mr. Terry MacHawer
Russ Sterner
Charles Trainor
Meg Levickas
Eugene L. Shaver

Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
William J. Wiseman III /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
MICHAEL TANCZYN, ESQUIRE (1) G SCOTT BARHIGHT, ESQUIRE (2) DINO La FIANDRA, ESQUIRE (2)	KATHLEEN BIANCO
FAX NUMBER: 410-296-8827 (1) 410-832-2015 (2)	DATE: JANUARY 21, 2005
COMPANY:	TOTAL NO. OF PAGES INCLUDING COVER: TWO (2)
PHONE NUMBER:	SENDER'S REFERENCE NUMBER: CBA-04-126; 04-382-SPH
RE: CORRECTED DATE OF NOTICE - THE CLUSTERS – ASSIGNMENT	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PERSONAL AND CONFIDENTIAL

ATTACHED IS A COPY OF THE CORRECTED NOTICE WHICH WAS SENT OUT TODAY (**the previous copy was dated with an August date** – which is obviously not correct).

The previous notice never made it to the mailroom. Therefore, I would ask that you destroy the first copy so we're all working from the same Notice.

Sorry for any confusion. This notice correctly indicates today's date as January 21, 2005.

Please call me if you have any questions.

kathi

Attachment

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

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue January 21, 2005

NOTICE OF ASSIGNMENT

BY REQUEST AND WITH AGREEMENT OF COUNSEL (cancel on final notice) mailed out 1-21-05

CASE #: 04-382-SPH
and Case No. CBA-04-126
PDM I-509

IN THE MATTER OF: THE CLUSTERS
Skirven Enterprises – Contract Purchaser; Farley, Hull, Osborne, and Vogel – Legal Owners S/s S. Hilltop Rd, S Branston Rd 1st E; 1st C
4/30/04 – Decision of Hearing Officer /Zoning Commissioner – Plan approved; SPH granted with restrictions

The following date and time has been assigned in the subject matter at the request of, and by agreement of, counsel; and has been

ASSIGNED FOR: WEDNESDAY, FEBRUARY 2, 2005 at 9:00 a.m.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix B.*

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellants /Protestants : Michael P. Tanczyn, Esquire
Appellants /Protestants : Joe Gochar, Jr., individually and Hilltop Maple Community Association

Counsel for Developer : G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire

Developer : Charles Skirven /Skirven Enterprises

Legal Owners: Francis & Mary Farley, Eugene & Jennye Osborne, Sonja & William Vogel, Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates

Mr. and Mrs. Harry Schwab, Charles Trainor
Mr. Terry MacHawer, Meg Levickas
Russ Sterner, Eugene L. Shaver

Office of People's Counsel, Robert J. Barrett, Director /Rec & Parks
Pat Keller, Director /Planning, William J. Wiseman III /Zoning Commissioner
David Carroll, Director /DPM, Don Rascoe /PDM
Edward Adams, Jr., Director /DPW, Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

THE CLUSTERS 04-382-SPH
SKIRVEN ENTERPRISE – DEVELOPER

04-382-SPH

8/19/04 @ 10 am } PP'd and
8/26/04 @ 11 am } held

12/16/04 @ 9^00 am by agreement PP'd; set on request

2/02/05 @ 9^00 am by agreement

February 9, 2004

(20040382) "A"
supplemental

04-382-SPH

(this file runs with CBA-04-126 – the Development Plan)

COMMENTS

(3)

THE CLUSTERS 04-382-SPH

SKIRVEN ENTERPRISES – DEVELOPER

WITH CBA-04-126 ~~AND 127~~ w/d

FILE 1OF ~~4~~ 3

THIS FILE CONTAINS ZONING APPEAL

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

March 17, 2004

Scott Barhight
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Dear Mr. Barhight :

RE: Case Number: 04-382-SPH

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 19, 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: clb

Enclosures

c: People's Counsel
Dino LaFiandra 210 W. Pennsylvania Avenue Towson 21204
Susan M. Hull 109 S. Hilltop Road Baltimore 21228
Jennye and Eugene Osborne 3000 Old Taneytowne Road Westminster 21158

Printed on Recycled Paper

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

SHA State Highway Administration *Driven to Excel*

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 2.27.04

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

RE: Baltimore County
Item No. 382 BPR

Dear. Ms.Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

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

Very truly yours,

K. A. McDonald

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

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

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

Maryland Department of Transportation

Date: 2.16.04

Mr. Donald Rascoe
Development Manager
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
DEVELOPMENT PLAN
THE CLUSTERS
#01.509

Dear. Mr. Rascoe:

This office has reviewed the referenced plan and we have no objection to approval, as the development does not access a State roadway and is not affected by any State Highway Administration projects.

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

Very truly yours,

K. A. McDonald

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: March 25, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For March 8, 2004
Item Nos. 349, 376, 377, 378, 379, 380,
381, 382, 384, 385, 388, and 389

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

RWB:CEN:jrb

cc: File

ZAC-03-08-2004-NO COMMENT ITEMS 349 – 376-389-03252004

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: R. Bruce Seeley

DATE: March 25, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of March 1, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-376
04-377
04-378
04-379
04-380
04-382
04-384
04-386
04-388

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

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

File

RECEIVED
JUN 14 2004
ZONING COMMISSIONER

June 11, 2004

Via Hand Delivery
Mr. Pat Keller, Director
Baltimore County Office of Planning
401 Bosley Avenue, Room 1406
Towson, MD 21204

Re: SECOND NOTICE OF APPEAL
Appeal of Planning Board's Decision in "The Clusters", PDM # I-509,
Zoning No. 04-382-SPH

Dear Mr. Keller:

This firm represents Skirven Enterprises, Inc., the contract purchaser and developer of "The Clusters" in the above-referenced cases. Please note an appeal from the decision of the Planning Board dated June 3, 2004 as conveyed in your Memorandum to the Hearing Officer dated June 4, 2004. A copy of the decision appealed from is enclosed.

Also enclosed is a copy of my letter to you of yesterday which served as my client's first notice of appeal in this matter. Ms. Katzenberger of your office returned the letter and the check for the appeal fee to me because she believed that the Office of Planning was not supposed to receive the check for the appeal fee. In light of Ms. Katzenberger's concern, I have arranged with the Board of Appeals that the Board's administrator would accept the fee, which is enclosed in the copy of this letter to the Board. Because Ms. Katzenberger returned all copies of the letter to me, I have enclosed a copy so that your file will be complete.

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

Sincerely,

Dino C. La Fiandra

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 25, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For March 8, 2004
Item Nos. 349, 376, 377, 378, 379, 380,
381, 382, 384, 385, 388, and 389

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

RWB:CEN:jrb

cc: File

ZAC-03-08-2004-NO COMMENT ITEMS 349 – 376-389-03252004

PDM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DATE: February 18, 2004

TO: Donald T. Rascoe
Development Manager

FROM: Janice M. Kemp
House Numbers
and Road Names Section

SUBJECT: The Clusters Development Plan Conference
PDM No. I-509

1. Assigned house numbers were given to the engineer.

P1DR

Fire Department

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

Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

To: Don Rascoe, Mail Stop-1105 February 24, 2004

From: Lieutenant Jimmie D. Mezick
Baltimore County Fire Marshal's Office
Mail Stop-1102F, Phone (410) 887-4880

Subject: DPC Review Comments

Project Name: The Clusters

PDM Number: 01-509

Location: Hilltop Rd

Comments:

1. The fire marshal's office has no comments at this time.

Printed on Recycled Paper

PDM

Baltimore County
Fire Department

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

To: Don Rascoe, PDM, Mail Stop-1105 October 2, 2003

From: Lieutenant Jimmie D. Mezick
Baltimore County Fire Marshal's Office
Mail Stop-1102F, Phone (410) 887-4880

Subject: Subdivision Review Comments

Project Name: Clusters

PDM Number: 01-509

LOCATION: Hilltop Rd.

Comments:

16. A crusher run road for **access to buildings and required water supplies** shall be available for the use by emergency fire apparatus and capable of handling emergency apparatus weighing 65,000 lbs. when construction of any buildings is under roof in accordance with the Baltimore County Fire Prevention Code, section 29-2.3.1.

20. All **fire hydrant spacing** shall be in accordance with the Baltimore County Standard Design Manual, sec 2.4.4, fire hydrants.

21. **Fire mains** shall be a minimum of 8 inches diameter.

Printed with Soybean Ink
on Recycled Paper

Pon

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DATE: September 29, 2003

TO: Donald T. Rascoe
Development Manager

FROM: Janice M. Kemp
House Numbers
and Road Names Section

SUBJECT: The Clusters Concept Plan Conference
PDM No. I-509

1. Please submit two road name to this office for approval and reservation with the USPS.

2. Addresses will be assigned when development plan is submitted.

Pdm

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy Kotroco, Director
Department of Permits and
Development Management
Attn: Donald Rascoe

DATE: October 7, 2003

FROM: Ronald Goodwin RG
PDM: Bureau of Land Acquisition

SUBJECT: The Clusters (f.n.a. Hilltop Property)
PDM 01-509

A review of the concept plan for the above referenced project results in the following comments. These comments are advisory in nature.

1. Offsite rights of way must be acquired prior to record plat approval.

2. Access easements, approved by DEPRM, should be shown for storm water management facilities, forest buffers, etc.

3. If offsite sight line easements are necessary per Development Plan Review's comments, the developer will be required to obtain these easements prior to record plat approval.

4. Please identify and label all existing and proposed drainage and utility easements, highway widenings and slope easements, stormwater management facilities, forest buffers, flood plains, greenways and open space areas. Please clearly indicate whether or not the above are to be dedicated to Baltimore County. Please delineate and label required dedications to Baltimore County. Please delineate and label required dedications for highway purposes as "Highway Widening Area", "Not Future", "Proposed" or "Ultimate" regardless of whether or not highway improvements will actually be required as part of the development

Timothy Kotroco, Director
Department of Permits and
Development Management

5. Site-specific comments:

a. Label and delineate in fee points of access that are acceptable to D.E.P.R.M. for the proposed Forest Conservation and 100 year Floodplain Reservations.

b. Show the outfalls for the proposed Stormwater Management Easements and verify with D.E.P.R.M. that they are acceptable to them. Also, verify whether or not the "100 year Flood Plain Reservation 1.869 ac." as shown on the Cainewood subdivision plat has been conveyed to Baltimore County. If not, it will need to be conveyed prior to record plat.

c. Label and delineate a "Drainage and Utility Easement" 10' wide around the perimeter of the property.

d. Label and delineate **all** existing Baltimore County rights of way on the Cainewood subdivision.

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

June 11, 2004

G. Scott Barhight, Esquire
Dino LaFiandra, Esquire
Jennifer Busse, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204

Dear Messrs. Barhight and LaFiandra and Mrs. Busse:

RE: Case: 04-382-SPH, Unencumbered Parcels, **The Clusters**

Please be advised that an appeal of the above-referenced case, was filed in this office on May 29, 2004 by Michael Tanczyn on behalf of the Hilltop/Maple Community Association and Joseph Gochar, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Francis & Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring 20904
Charles Skirven, 5405 Twin Knolls Road, Columbia 21045
Rick Chadsey, GW Stephens & Assoc., 1020 Cromwell Bridge Rd., Towson 21286
Michael Tanczyn, 606 Baltimore Ave., Ste. 106, Towson 21204
Joe Gochar, 112 S. Hilltop Rd., Catonsville 21228
Mr. & Mrs. Harry Schwab, 102 S. Hilltop Rd., Catonsville 21228
Charles Trainor, 103 Woodwind Rd., Catonsville 21228
Terry MacHawer, 7018 Channel Village Court, Annapolis 21403
Meg Levikas, 1820 Cainewood Ct., Catonsville 21228
Russ Sterner, 322 Concert Way, Catonsville 21228
Eugene L. Shaver, 116 S. Hilltop Road, Catonsville 21228
Don Rascoe

Printed on Recycled Paper

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

June 11, 2004

G. Scott Barhight, Esquire
Dino LaFiandra, Esquire
Jennifer Busse, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204

RECEIVED
JUN 14 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Dear Messrs. Barhight and LaFiandra and Mrs. Busse:

RE: Case: 04-382-SPH, Unencumbered Parcels, **The Clusters**

Please be advised that an appeal of the above-referenced case, was filed in this office on May 29, 2004 by Michael Tanczyn on behalf of the Hilltop/Maple Community Association and Joseph Gochar, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Francis & Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring 20904
Charles Skirven, 5405 Twin Knolls Road, Columbia 21045
Rick Chadsey, GW Stephens & Assoc., 1020 Cromwell Bridge Rd., Towson 21286
Michael Tanczyn, 606 Baltimore Ave., Ste. 106, Towson 21204
Joe Gochar, 112 S. Hilltop Rd., Catonsville 21228
Mr. & Mrs. Harry Schwab, 102 S. Hilltop Rd., Catonsville 21228
Charles Trainor, 103 Woodwind Rd., Catonsville 21228
Terry MacHawer, 7018 Channel Village Court, Annapolis 21403
Meg Levikas, 1820 Cainewood Ct., Catonsville 21228
Russ Sterner, 322 Concert Way, Catonsville 21228
Eugene L. Shaver, 116 S. Hilltop Road, Catonsville 21228
Don Rascoe

Printed on Recycled Paper

APPEAL CBA-04-126

Hearing Officer's Hearing Decision
E/S S Hilltop RD, S Branston RD
The Clusters
George W. Stephens, Jr. & Assocs., Inc. – Engineer
Skirven Enterprises –Developer
1st Election District – 1st Councilmanic District
PDM No. I-509

✓ Concept Plan
- ✓ Concept Plan (date stamped September 17, 2003) (2 of 2)
- ✓ Concept Plan Requirements Checklist (3 of 3)
- ✓ County agency comments
- ✓ Tax Clearance (2 of 2)

✓ Community Input Meeting (CIM) dated November 12, 2003
- ✓ Notification to the Community from Engineer (None)
- ✓ CIM Minutes dated November 20, 2003 (7 of 7)
- ✓ Cim Attendance Record for November 12, 2003 (3 of 3)

✓ Certificate of Posting for CIM Meeting dated October 18, 2003 (1 of 1)

✓ Waiver Request (None)

✓ Development Plan
- ✓ Redlined Development Plan (2 of 2) Revised 3-22-04
- ✓ Development Plan Requirement checklist (4 of 4)
- ✓ School Impact Analysis dated January 14, 2004 (3 of 3)
- ✓ Notice of Development Plan Conference and Hearing Officer's Hearing dated February 13, 2004 (2 of 2)
- ✓ Notice of Development Plan Conference and Hearing Officer's Hearing dated February 20, 2004 (1 of 1)
- ✓ County Agency Comments

Hearing Officer Hearing for March 25, 2004, March 26, 2004, March 29 & April 4, 2004
- ✓ Certificate of Posting for HOH Meeting dated February 26, 2004 (1 of 1)
- ✓ Hearing Officer's Hearing Sign-In Sheets dated March 25, 2004 (3 of 3)
- ✓ Hearing Officer's Hearing Sign-In Sheets dated March 29, 2004 (2 of 2)
- ✓ Hearing Officer's Hearing Sign-In Sheets dated April 2, 2004 (3 of 3)
- ✓ Hearing Officer's Hearing Sign-In Sheets dated April 6, 2004 (2 of 2)
- ✓ Correspondence from Lawrence Schmidt to G. Scott Barhight, Dino LaFiandra, and Jennifer Busse dated March 31, 2004 (1 of 1)

✓ Miscellaneous Correspondence
- ✓ Correpondence from Dino LaFiandra to Timothy Kotroco dated February 20, 2004 (1 of 1)
- ✓ Inter-Office Correspondence from Linda Leake to Don Rascoe dated March 2, 2004 (1 of 1)
- ✓ Notice of Zoning Hearing from Timothy Kotroco dated March 2, 2004 (1 of 1)
- ✓ Development Plan Comments dated March 3, 2004 (2 of 2)
- ✓ Letter from Kenneth McDonald, Jr. to Don Rascoe dated March 16, 2004 (1 of 1)
- ✓ Correspondence from Dino LaFiandra to Larry Schmidt date stamped March 18, 2004 (4 of 4)
- ✓ General Provisions Sec. 101 (2 of 2)
- ✓ Subpoena from Lawrence Schmidt to John Russo and Robert Wood issued March 19, 2004 (1 of 1)
- ✓ Entry of Appearance dated March 24, 2004 (1 of 1)

Correspondence from Dino LaFiandra to Lawrence Schmidt dated April 26, 2004 (3 of 3)
Correspondence from Michael P. Tanczyn to Lawrence Schmidt dated April 29, 2004 (1 of 1)

Developer's Exhibits
- Exhibit 1a – Redlined Development Plan Revised March 11, 2004 (1 of 1)
- Exhibit 1b – Redlined Development Plan Page 2 Revised March 11, 2004 (2 of 2)
- Exhibit 1c – Redlined Development Plan Revised March 22, 2004 (1 of 1)
- Exhibit 1d – Redlined Development Plan Revised March 22, 2004 (1 of 1)
- Exhibit 2 - 5th Amended of Phase 1 and 3rd Amended Overall Partial Development Plan of Cainewood Phase I & II (1 of 1)
- Exhibit 3 – Phase II – A Resubdivision of Parcel "A" Cainewood (1 of 1)
- Exhibit 4 - Cainewood 4th Revised CRG Plan Phase I & II (1 of 1)
- Exhibit 5a – The Clusters dated April 6, 2004 (1 of 1)
- Exhibit 5b – The Clusters dated April 5, 2004 (1of 1)

Protestant's Exhibits
- Exhibit 1 – Motion (1 of 1)
- Exhibit 2a – Real Property Search – Individual Report (3 of 3)
- Exhibit 2b – Real Property Search – Individual Report (1 of 1)
- Exhibit 2c – Real Property Search – Individual Report (1 of 1)
- Exhibit 2d – Real Property Search – Individual Report (1 of 1)
- Exhibit 2e – Real Property Search – Individual Report (3 of 3)
- Exhibit 2f – Real Property Search – Individual Report (1 of 1)
- Exhibit 3 - Photos (5) dated March 25, 2004 (1 of 1)
- Exhibit 4 – Photos (4) (1 of 1)
- Exhibit 5 - Photos (5) (1 of 1)
- Exhibit 6 - Search Results dated March 25, 2004 (1 of 1)
- Exhibit 7 - Declaration of Protective Covenants, Conditions and Restrictions (3 of 3)
- Exhibit 8 - Letter from Edward Adams to Rick Chadsey dated March 10, 2004 (1 of 1)
- Exhibit 9 - Letter from Thomas Peddicord to Helen Baker, et.al. dated March 11, 2004 (6 of 6)
- Exhibit 10 - Photos dated March 29, 2004(5) (1 of 1)
- Exhibit 11 - Photos dated March 29, 2004 (5) (1 of 1)
- Exhibit 12 – Photos dated March 29, 2004 (3) (1 of 1)
- Exhibit 13 - Photos dated March 29, 2004 (3) (1 of 1)
- Exhibit 14 - Resume of Joseph P. Gochar, Jr. (1 of 1)
- Exhibit 15 – Correspondence from S.G. Samuel Moxley to Joe Gochar dated August 5, 2003 (3 of 3)
- Exhibit 16 – Sewer Systems Plan (1 of 1)
- Exhibit 17 – Cainewood Phase I & II (1 of 1)
- Exhibit 18 – 4th Amended of Phase I, and 2nd Amended Overall Partial Development Plan Cainewood Phase I & II
- Exhibit 19a - Photo of Home (1 of 1)
- Exhibit 19b – Road/Driveway (1 of 1)
- Exhibit 19c – Photo of Land (1 of 1)
- Exhibit 20 - Resolution No. 32-04 (4 of 4)
- Exhibit 21 - Real Property Data Search (3 of 3)
- Exhibit 22 - Deed and Easement Agreement (11 of 11)
- Exhibit 23 - Deed dated February 16, 2000 (6 of 6)
- Exhibit 23a – Photos (5 of 5) on 1 page
- Exhibit 24 - Photos (4 of 4) on 1 page

County Exhibits
- Exhibit 1 – Off Record Plat (1 of 1)
- Exhibit 2 – Title 4 Department of Public Works (4 of 4)

✓ Developer's Post Hearing Memorandum dated April 16, 2004 (21 of 21)
Exhibit A – Council Resolution 88-92 (4 of 4)
Exhibit B – Baltimore County Planning Board
Minutes from March 18, 2004 and April 1, 2004 Meeetings (9 of 9)
Exhibit C – Correspondence from Director of Planning to Legislative Counsel
Date: April 14, 2004 (2 of 2)

✓ Memorandum Presented on Behalf of Hilltop Maple Community Association and Joseph Gochar, Jr.
Dated April 16, 2004 (50 of 50)

✓ Hearing Officer's Opinion & Development Plan Order dated April 30, 2004 (15 of 15)

✓ Appeal & Petition
Appeal Letter from Michael P. Tanczyn, Esq. to Lawrence E. Schmidt (1 of 1)
Notice of Appeal dated May 28, 2004 (2 of 2)
Appeal Letter from Michael P. Tanczyn, Esq. To Timothy Kotroco and Lawrence E.
Schmidt dated June 4, 2004 (1 of 1)
Petition on Appeal (25 of 25)
Hearing Officer's Opinion and Development Plan Order dated January 14, 2003 (7 of 7)

✓ Notification List

NOTIFICATION LIST

Mr. Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Ste. 106, Towson, MD 21204 -Attorney for Appellants
Hilltop/Maple Community Association, c/o Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Ste. 106, Towson, MD 21204 -Appellant
Mr. Joe Gochar, Jr., 112 S. Hilltop Road, Catonsville, MD 21228 -Appellant
G. Scott Barhight, Esq. And Dino C. LaFiandra, Esq., Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515 – Attorneys for Developer
Mr. Rick Chadsey, G.W. Stephens, Jr. & Associates, Inc., 1020 Cromwell Bridge Road, Towson, MD 21286 -Engineer
Mr. Charles Skirven, Skirven Enterprises, 5405 Twin Knolls Road, Columbia, MD 21045 -Developer
Francis and Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring, MD 20904
Mr. & Mrs. Harry Schwab, 102 W. Hilltop Road, Catonsville, MD 21228
Mr. Charles Trainor, 103 Woodwind Road, Catonsville, MD 21228
Mr. Terry MacHawer, 7018 Channel Village Court, Annapolis, MD 21403
Ms. Meg Levickas, 1820 Cainewood Court, Catonsville, MD 21228
Mr. Russ Sterner, 322 Concept Way, Catonsville, MD 21228
Mr. Eugene L. Shaver, 116 S. Hilltop Road, Catonsville, MD 21228

Arnold F. Keller, III, Director, Office of Planning
David Carroll, Director, DEPRM
Edward Adams, Jr., Director, Department of Public Works
Robert J. Barrett, Director, Department of Recreation and Parks
Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director, Department of Permits and Development Management
Don Rascoe, Development Manager

APPEAL

Petition for Special Hearing
Unencumbered Parcels on Hilltop Road
150' S/of the c/l of Branston Rd. and Parcel A of Cainewood
1st Election District – 1st Councilmanic District
Farley, Hull, Osborne, & Vogel - Owners
Skirven Enterprises – Contract Purchasers

Case No.: 04-382-SPH

✓ Petition for Special Hearing (February 19, 2004)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (March 2, 2004)

✓ Certification of Publication (March 9, 2004 – The Jeffersonian)

✓ Certificate of Posting (March 7, 2004) by SSG Robert Black

✓ Entry of Appearance by People's Counsel (March 8, 2004)

✓ Petitioner(s) Sign-In Sheet
None

✓ Protestant(s) Sign-In Sheet
None

✓ Citizen(s) Sign-In Sheet
None

✓ Zoning Advisory Committee Comments (3-17-04)

RECEIVED
JUN 14 2004
BALTIMORE COUNTY
BOARD OF APPEALS

✓ Petitioners' Exhibit
None

✓ Protestants' Exhibits:
None

✓ Miscellaneous (Not Marked as Exhibit)
1. Plat to accompany petition for Special Hearing

✓ Zoning Commissioner's Order (April 30, 2004 - GRANTED)

✳ Notice of Appeal received on May 28, 2004 from Michael Tanczyn on behalf of Hilltop/Maple Community Association.

Additional letter received on June 4, 2004 from Michael Tanczyn.

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Francis & Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring 20904
Charles Skirven, 5405 Twin Knolls Road, Columbia 21045
Rick Chadsey, GW Stephens & Assoc., 1020 Cromwell Bridge Rd., Towson 21286
Michael Tanczyn, 606 Baltimore Ave., Ste. 106, Towson 21204
Joe Gochar, 112 S. Hilltop Rd., Catonsville 21228
Mr. & Mrs. Harry Schwab, 102 S. Hilltop Rd., Catonsville 21228
Charles Trainor, 103 Woodwind Rd., Catonsville 21228
Terry MacHawer, 7018 Channel Village Court, Annapolis 21403
Meg Levikas, 1820 Cainewood Ct., Catonsville 21228
Russ Sterner, 322 Concert Way, Catonsville 21228
Eugene L. Shaver, 116 S. Hilltop Road, Catonsville 21228
Don Rascoe

date sent 6/14/04, klm

G. SCOTT BARHIGHT ESQUIRE
WHITEFORD TAYLOR & PRESTON, LLP
210 W. PENNSYLVANIA AVENUE
TOWSON, MD 21204
Attorney for Petitioner

DINO C. LAFIANDRA ESQUIRE
WHITEFORD TAYLOR & PRESTON, LLP
210 W. PENNSYLVANIA AVENUE
TOWSON, MD 21204
Attorney for Petitioner

JENNIFER BUSSE ESQUIRE
WHITEFORD TAYLOR & PRESTON, LLP
210 W. PENNSYLVANIA AVENUE
TOWSON, MD 21204
Attorney for Petitioner

CHARLES SKIRVEN
SKIRVEN ENTERPRISES
5405 TWIN KNOLLS ROAD
COLUMBIA, MD 21045
Contract Purchaser

FRANCIS FARLEY
MARY FARLEY
3126 GRACEFIELD ROAD
APT. BG 306
SILVER SPRING, MD 20904
Legal Owner Parcel 992

SONJA O VOGEL
WILLIAM A VOGEL
C/O DJ REALTY INC
~~PO BOX 143~~
~~HIGHLAND MD 20777~~
~~*Legal Owner Parcel 992*~~

6/24 attempted not known

LEO T. HULL
SUSAN M HULL
109 S HILLTOP ROAD
BALTIMORE, MD 21228
Legal Owner Parcel 442

EUGENE F OSBORNE
JENNYE A OSBORNE
3000 OLD TANEYTOWNE ROAD
WESTMINSTER MD 21158
Legal Owner Parcel 443

RICK CHADSEY
G.W. STEPHENS, JR. & ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MD 21286

JOE GOCHAR, JR.
112 S. HILLTOP ROAD
CATONSVILLE, MD 21228

MR AND MRS HARRY SCHWAB
102 W HILLTOP ROAD
CATONSVILLE MD 21228

CHARLES TRAINOR
103 WOODWIND ROAD
CATONSVILLE MD 21228

MR TERRY MACHAWER
7018 CHANNEL VILLAGE COURT
ANNAPOLIS MD 21403

MEG LEVICKAS
1820 CAINWOOD COURT
CATONSVILLE MD 21228

RUSS STERNER
322 CONCEPT WAY
CATONSVILLE MD 21228

EUGENE L SHAVER
116 S HILLTOP ROAD
CATONSVILLE MD 21228

* MICHAEL P. TANCZYN ESQUIRE
606 BALTIMORE AVENUE
SUITE 106
TOWSON, MD 21204
Attorney for Appellants

* HILLTOP/MAPLE COMMUNITY ASSOCIATION
C/O MICHAEL P. TANCZYN ESQUIRE
606 BALTIMORE AVENUE
SUITE 106
TOWSON, MD 21204
Appellants

Case No. CBA-04-126

Development Plan – The Clusters /PDM I-509
Skirven Enterprises - Developer

4/30/04–Hearing Officer's Decision (ZC) in which Plan was approved; special hearing approved subject to restrictions.

{hearing to continued with 04-382-SPH assigned for 8/19/04 and 8/26/04.}

8/11/04 – Appeal filed by Michael P. Tanczyn, Esquire, on behalf of Hilltop Maple Community (Protestants) from the July 9 signature of the Hearing Officer on the Revised Development Plan, 6/22/04, which was entered at hearing before this Board on July 13, 2004 as Protestants' Exhibit #3.

8/13/04 – Amended Notice of Assignment issued this date; amended only to reflect the second appeal filed by Mr. Tanczyn on the 6/22/04 revised Development Plan which was entered as an exhibit before the Board on 7/13/04. No other changes to notice; scheduled dates of 8/19 and 8/26/04 remain as originally assigned. Notice to counsel this date via FAX.

8/16/04 – T/C from Jennifer Busse; she will be sending a letter requesting postponement.

8/17/04 – FAX from G. Scott Barhight, Esquire – requesting postponement of this matter as agreed by Mr. Tanczyn; working on settlement.

- Notice of PP sent to parties (to Messres. Barhight and Tanczyn via FAX and USPS) – matter pulled from both dates on schedule; will hold with no further action taken by this Board except upon request of either or both parties. Panel members (4-5-6) notified this date.

12/08/04 – T/C from Dino La Fiandra inquiring about early a.m. hearing for purpose of putting settlement on the record; Mr. Tanczyn would agree to short notice. Possible date of 12/16/04 at 9 a.m. for this purpose. He will call back if this can be worked out with Mr. Tanczyn.

12/15/04 – T/C from Mr. La Fiandra; agreement with Mr. Tanczyn regarding 12/16/04 at 9 a.m. for this matter; also advised Mr. Zimmerman who indicated no objection to scheduling; will raise additional issues at hearing on 12/16/04. Notice of Special Assignment sent via FAX to counsel in this matter; interoffice to County agencies; hand-delivered to Office of People's Counsel.

12/15/04 – T/C at 5:10 p.m. this date from Mr. La Fiandra requesting postponement of this matter; t/c from M. Tanczyn confirming that the case has been pulled; panel members notified; court reporter notified this date. Notice of Postponement sent to Messrs. La Fiandra and Tanczyn via FAX this date; copy hand-delivered to Mr. Zimmerman (will attempt to reach him by telephone this evening).

1/14/05 – Copy of Inter-office correspondence from Pat Keller, Planning Director, to T. Kotroco – Development Plan Conference; Planning Office recommendation – approval of Development Plan revised January 11, 2005.

1/21/05 – Notice of Assignment, By Agreement of Counsel – specially assigned to Wednesday, February 2, 2005 at 9 a.m.; notice this date to counsel via FAX and USPS; to all parties via USPS; to PC – hand delivered. (T/C from Lynn for Dino La Fiandra – she had obtained agreement of all involved counsel for 2/02/05 at 9 a.m.)

2/02/05 – Board convened for specially assigned hearing (Wescott, Brassil, Crizer); settlement /agreement /proffer to the Board. Concluded this date. Approved Plan and special hearing per agreement of parties; Mr. La Fiandra will prepare Order for review by Mr. Tanczyn; to be submitted to Board.

2/04/05 – Letter from Mr. La Fiandra with attached proposed Order (reviewed by counsel, including People's Counsel, who agreed as to format); to be reviewed by Board for signature.

Case No. 04-382-SPH The Clusters /PDM I-509 Skirven Enterprises - Developer

4/30/04–Hearing Officer's Decision (ZC) in which Plan was approved; special hearing approved subject to restrictions.

~~and CBA-04-127 6/04/04 – Memo to Hearing Officer /Planning Board Decision 6/03/04~~

[CBA-04-127 withdrawn by Appellant 7/12/04 and dismissed.]

{CBA-04-126 Development Plan portion of appeal assigned for 7/22/04} (NOTE: Reassigned FDP portion of appeal to 7/13/04 by notice 7/01/04.)

6/15/04 --Notice of Assignment sent to following parties; matter scheduled for hearing on Thursday, August 19, at 10:00 a.m. and Thursday, August 26, 2004 at 11:00 a.m.:

Michael P. Tanczyn, Esquire
Joe Gochar, Jr., individually and
Hilltop Maple Community Association
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire
Charles Skirven /Skirven Enterprises
Francis & Mary Farley
Eugene & Jennye Osborne
Rick Chadsey /G W Stephens, Jr. & Associates
Mr. and Mrs. Harry Schwab
Mr. Terry MacHawer
Russ Sterner
Sonja & William Vogel
Leo & Susan Hull
Charles Trainor
Meg Levickas
Eugene L. Shaver
Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

6/24/04 – Entry of Appearance filed by Office of People's Counsel – Case No. I-509 (CBA-04-126) and 04-382-SPH.

7/08/04 – Developer's Response to Petition on Appeal filed by Dino C. LaFiandra, Esquire, with copy of transcript – filed in Case No. CBA-04-126 /development plan portion of this matter.

7/12/04 – Notice of Voluntary Dismissal of Appeal filed by D. La Fiandra, Esquire – withdrawing appeal filed from decision of Planning Board. Order of Dismissal to be issued.

7/13/04 – Board convened for hearing (Wescott, Quinn, Brassil); concluded argument this date on development plan; to continue on 8/19/04 for zoning portion of "The Clusters." Notice for 8/19/04 and 8/26/04 sent 6/15/04.

8/11/04 – Appeal filed by Michael P. Tanczyn, Esquire, on behalf of Hilltop Maple Community (Protestants) from the July 9 signature of the Hearing Officer on the Revised Development Plan, 6/22/04, which was entered at hearing before this Board on July 13, 2004 as Protestants' Exhibit #3.

8/13/04 – Amended Notice of Assignment issued this date; amended only to reflect the second appeal filed by Mr. Tanczyn on the 6/22/04 revised Development Plan which was entered as an exhibit before the Board on 7/13/04. No other changes to notice; scheduled dates of 8/19 and 8/26/04 remain as originally assigned. Notice to counsel this date via FAX.

8/13/04 – FYI T/C from Scott Barhight, Esquire; working toward settlement in this matter; will be formally requesting a postponement of the case pending final settlement. Will be requesting that both dates be pulled and the case held until such time as settlement is complete.

8/16/04 – T/C from Jennifer Busse; she will be sending a letter requesting postponement.

Case No. CBA-04-126

Development Plan – The Clusters /PDM I-509
Skirven Enterprises - Developer

4/30/04–Hearing Officer's Decision (ZC) in which Plan was approved; special hearing approved subject to restrictions.

{04-382-SPH AND CBA-04-127 (~~Planning Board~~ appeal) assigned for 8/19/04 and 8/26/04.}
W/D by Appellant.

6/15/04 --Notice of Assignment sent to following parties; matter scheduled for hearing on Thursday, July 22, 2004 at 10:00 a.m.:

Michael P. Tanczyn, Esquire
Joe Gochar, Jr., individually and
Hilltop Maple Community Association
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Jennifer Busse, Esquire
Charles Skirven /Skirven Enterprises
Francis & Mary Farley — Sonja & William Vogel
Eugene & Jennye Osborne — Leo & Susan Hull
Rick Chadsey /G W Stephens, Jr. & Associates
Mr. and Mrs. Harry Schwab — Charles Trainor
Mr. Terry MacHawer — Meg Levickas
Russ Sterner — Eugene L. Shaver
Office of People's Counsel
Pat Keller, Director /Planning
David Carroll, Director /DPM
Edward Adams, Jr., Director /DPW
Robert J. Barrett, Director /Rec & Parks
Lawrence E. Schmidt /Zoning Commissioner
Don Rascoe /PDM
Timothy M. Kotroco, Director /PDM

6/17/04 – Response filed by Mike Tanczyn, Esquire on behalf of Hilltop Maple Community Assn and Joseph Gochar, Jr.

6/22/04 – Letter from M. Tanczyn – requesting PP /reassignment of 7/22/04 – will be in CCt – attached notice assignment from circuit court. Also requesting if response to Motion to Consolidate had been received.

6/24/04 – Entry of Appearance of People's Counsel in this matter.

6/25/04 – T/C to D. LaFiandra re PP request; T/C to Connie in M. Tanczyn – possible reassignment date. She will confirm dates and get back to me on Monday or Tuesday. (Possible 7/20/04 at 2:00 p.m.; 8/04 did not work for D. LaFiandra; after PP of case currently assigned for7/20/04 – day will be available; Mr. Tanczyn showing block through 1:45 on 7/20 per Connie; will confirm afternoon and then work on reassignment early next week.)

6/29/04 – Mr. Tanczyn will be in court on Tuesday 7/20 at least until 2 p.m. and possibly later; therefore 7/20/04 will not work. However, the case assigned for 11 a.m. on 7/13/04 is a possible out from the schedule; contacting all counsel regarding this date and time.

6/30/04 – With the exception that Mr. Gochar may not be available on 7/13/04 (if this is argument only on Development Plan portion of case, won't be a problem), received confirmation for 7/13/04 at 11 a.m.; pulled previously assigned case for that date. Notice will be sent.

7/01/04 – Notice of Reassignment /Day #1 ONLY sent this date to counsel; assigned for Tuesday, July 13, 2004 at 11 a.m.

7/08/04 – Developer's Response to Petition on Appeal filed by Dino C. LaFiandra, Esquire, with copy of transcript.

7/13/04 – Board convened for hearing (Wescott, Quinn, Brassil); concluded argument this date on development plan; to continue on 8/19/04 for zoning portion of "The Clusters." Notice for 8/19/04 and 8/26/04 sent 6/15/04.

Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2877 (fax)

August 10, 2004

RECEIVED
AUG 11 2004
BALTIMORE COUNTY
BOARD OF APPEALS

G. Scott Barhight
Dino C. LaFiandra, Esq.
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: Appeal of Approved Development Plan
E/S Hilltop Road, S Branston Road
The Clusters
District: 1 c 1
Skirven Enterprises.-Developer
PDM # I-509

Dear Mr. Barhight and Mr. LaFiandra:

Please be advised that an appeal of the above-referenced case was filed in this office on August 6, 2004 by Michael P. Tanczyn, P.A. on behalf of the Hilltop Maple Community Association and Mr. Joseph Gochar, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to contact the Board at (410) 887-3180.

Sincerely,

Timothy Kotroco
Director

TK:kw
Enc.
c: Michael P. Tanczyn, Esq.
GWS
See Notification List
People's Counsel
Baltimore County Board of Appeals
File

NOTIFICATION LIST

Mr. Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Ste. 106, Towson, MD 21204
-Attorney for Appellants
Hilltop/Maple Community Association, c/o Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Ste. 106, Towson, MD 21204 -Appellant
Mr. Joe Gochar, Jr., 112 S. Hilltop Road, Catonsville, MD 21228 -Appellant
G. Scott Barhight, Esq. And Dino C. LaFiandra, Esq., Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515 – Attorneys for Developer
Mr. Rick Chadsey, G.W. Stephens, Jr. & Associates, Inc., 1020 Cromwell Bridge Road, Towson, MD 21286 -Engineer
Mr. Charles Skirven, Skirven Enterprises, 5405 Twin Knolls Road, Columbia, MD 21045
-Developer
Francis and Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring, MD 20904
Mr. & Mrs. Harry Schwab, 102 W. Hilltop Road, Catonsville, MD 21228
Mr. Charles Trainor, 103 Woodwind Road, Catonsville, MD 21228
Mr. Terry MacHawer, 7018 Channel Village Court, Annapolis, MD 21403
Ms. Meg Levickas, 1820 Cainewood Court, Catonsville, MD 21228
Mr. Russ Sterner, 322 Concept Way, Catonsville, MD 21228
Mr. Eugene L. Shaver, 116 S. Hilltop Road, Catonsville, MD 21228

Arnold F. Keller, III, Director, Office of Planning
David Carroll, Director, DEPRM
Edward Adams, Jr., Director, Department of Public Works
Robert J. Barrett, Director, Department of Recreation and Parks
Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director, Department of Permits and Development Management
Don Rascoe, Development Manager

RECEIVED
AUG 1 1 2004
BALTIMORE COUNTY
BOARD OF APPEALS

APPEAL

Development Plan
E/S S Hilltop RD, S Branston RD
The Clusters
George W. Stephens, Jr. & Assocs., Inc. – Engineer
Skirven Enterprises –Developer
1st Election District – 1st Councilmanic District
PDM No. I-509

Development Plan
Redlined Development Plan date stamped June 29, 2004 (2 of 2)

Appeal & Petition
Letter from Michael P. Tanczyn, Esq. to Timothy Kotroco, Esq. dated August 6, 2004(2 of 2)
Petition to Accompany Appeal (8 of 8)

Notification List

NOTIFICATION LIST

Mr. Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Ste. 106, Towson, MD 21204 -Attorney for Appellants
Hilltop/Maple Community Association, c/o Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Ste. 106, Towson, MD 21204 -Appellant
Mr. Joe Gochar, Jr., 112 S. Hilltop Road, Catonsville, MD 21228 -Appellant
G. Scott Barhight, Esq. And Dino C. LaFiandra, Esq., Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515 – Attorneys for Developer
Mr. Rick Chadsey, G.W. Stephens, Jr. & Associates, Inc., 1020 Cromwell Bridge Road, Towson, MD 21286 -Engineer
Mr. Charles Skirven, Skirven Enterprises, 5405 Twin Knolls Road, Columbia, MD 21045 -Developer
Francis and Mary Farley, 3126 Gracefield Road, Apt. BG306, Silver Spring, MD 20904
Mr. & Mrs. Harry Schwab, 102 W. Hilltop Road, Catonsville, MD 21228
Mr. Charles Trainor, 103 Woodwind Road, Catonsville, MD 21228
Mr. Terry MacHawer, 7018 Channel Village Court, Annapolis, MD 21403
Ms. Meg Levickas, 1820 Cainewood Court, Catonsville, MD 21228
Mr. Russ Sterner, 322 Concept Way, Catonsville, MD 21228
Mr. Eugene L. Shaver, 116 S. Hilltop Road, Catonsville, MD 21228

Arnold F. Keller, III, Director, Office of Planning
David Carroll, Director, DEPRM
Edward Adams, Jr., Director, Department of Public Works
Robert J. Barrett, Director, Department of Recreation and Parks
Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director, Department of Permits and Development Management
Don Rascoe, Development Manager

CBA-04-126	Hilltop Road Branston Road	Farley, Hull, Osborne and Vogal – LO Skirven Enterprises – CP

(this file runs with SPECIAL HEARING – SEE 04-382-SPH)

March 22, 2004 — Development Plan submitted – The Clusters – Petitioner Skirven Enterprises – Developer and Legal Owners as follows:

Copy of docket sheet

Francis Farley, Mary Farley
Legal Owner Parcel 992

Sonja O Vogel
William A Vogel
Legal Owner Parcel 992

Leo T. Hull
Susan M Hull
Legal Owner Parcel 442

Eugene F Osborne
Jennye A Osborne
Legal Owner Parcel 443

for 18.1 acres ; proposed for 40 homes; 2 single detached and 38 single semi-detached

March 25,26,29 and April 4, 2004 — Hearing Officer's Hearing

April 16, 2004 — Developer Memorandum and Memorandum from Hilltop Maple Community (Protestants)

April 30, 2004 — Hearing Officer's Opinion and Development Plan Order – GRANTED

May 28, 2004 — Notice of Appeal filed by Michael Tanczyn, Esquire on behalf of the Hilltop/Maple Community Association.

June 14, 2004 — Appeal received BOA.

August 6 — Second Appeal filed Michael Tanczyn, Esquire on behalf of the Hilltop/Maple Community Association. and Mr. Joseph Gochar, Jr. , with regards to the July 9th signing of a new plan for 'Clusters' by the Hearing Officer.

August 11` — Second Appeal received BOA – to be placed with the original Appeal under this number. No new case number issued.

RE: DEVELOPMENT PLAN & PETITION FOR SPECIAL HEARING **(The Clusters)** Unencumbered Parcels, W/S Hilltop Road, 150' S of c/line Branston Rd & Parcel A, Cainewood 1st Election & 1st Councilmanic Districts Legal Owner: Jenny & Eugene Osborne, Parcel A: Leo & Susan Hull; Parcel 442: Mary & Francis Farley; Parcel 992: Sonja & William Vogel Contract Purchaser(s): Skirven Enterprises Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. I-509 & 04-382-SPH

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on August 19, 2004, at 10 a.m. in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness testimony and as scheduled by the Board.

Witness: Donald T. Rascoe, Development Manager
Address: Permits and Development Management
111 W Chesapeake Avenue
Towson, Maryland 21204

Requested by:

NAME: Peter Max Zimmerman, Esquire
FIRM: People's Counsel for Baltimore County

ADDRESS: 400 Washington Avenue, Room 47
Towson, Maryland 21204

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (___) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Kathleen C. Bianco

County Board of Appeals for Baltimore County

RECEIVED
JUL 15 2004
BALTIMORE COUNTY
BOARD OF APPEALS

File

IN RE: PETITION FOR SPECIAL HEARING and DEVELOPMENT PLAN - E/S Hilltop Road and S of Branston Road (THE CLUSTERS) 1st Election District 1st Council District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. I-509 & 04-382-SPH

* * * * * * * * * * *

SUBPOENA

TO: Mr. John Russo and
Mr. Robert Wood
Baltimore County Department of Environmental Protection & Resource Mgmt.
401 Bosley Avenue, Room 404
Towson, Maryland 21204

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 407 of the Circuit Courts Building in Towson, on Friday, April 2, 2004

and to bring _____

_____

~~xxxx

RE: DEVELOPMENT PLAN & PETITION FOR SPECIAL HEARING **(The Clusters)** Unencumbered Parcels, W/S Hilltop Road, 150' S of c/line Branston Rd & Parcel A, Cainewood 1st Election & 1st Councilmanic Districts Legal Owner: Jenny & Eugene Osborne, Parcel A: Leo & Susan Hull; Parcel 442: Mary & Francis Farley; Parcel 992: Sonja & William Vogel Contract Purchaser(s): Skirven Enterprises Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. I-509 & 04-382-SPH

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

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on July 15, 2004, I effected service of process by personally serving a Subpoena upon Donald T. Rascoe, Development Manager at Permits and Development Management, 111 W Chesapeake Avenue, Towson, Maryland 21204, to appear before the County Board of Appeals for Baltimore County.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under penalty of perjury that the contents of this Affidavit are true and correct to my knowledge.

Rebecca M. Meile
(Signature)

Name: **Rebecca M. Meile, Legal Secretary**
Firm: **People's Counsel for Baltimore County**
Address: **400 Washington Avenue**
Old Courthouse, Room 47
Towson, Maryland 21204

RECEIVED
JUL 15 2004
BALTIMORE COUNTY
BOARD OF APPEALS

RE:	PETITION FOR SPECIAL HEARING Unnumbered Parcels on Hilltop Rd and Parcel A for Cainewood Development; W/side Hilltop Rd, 150' S c/line Branston Rd 1st Election & 1st Councilmanic Districts Legal Owner(s): Jenny & Eugene Osbourne Parcel A, Leo & Susan Hull, Parcels-Hilltop, Mary & Francis Farley & Sonja & William Vogel (Parcel 992) Contractor Purchaser(s) Skirven Enterprises, Charles Skirven	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 04-382-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 8th day of March, 2004, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, and Dino LaFiandra, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED
MAR 0 8 2004
Per...

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

RE: DEVELOPMENT PLAN & PETITION FOR SPECIAL HEARING **(The Clusters)** Unencumbered Parcels, W/S Hilltop Road, 150' S of c/line Branston Rd & Parcel A, Cainewood 1st Election & 1st Councilmanic Districts Legal Owner: Jenny & Eugene Osborne, Parcel A: Leo & Susan Hull; Parcel 442: Mary & Francis Farley; Parcel 992: Sonja & William Vogel Contract Purchaser(s): Skirven Enterprises Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. I-509 & 04-382-SPH

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

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

RECEIVED
JUN 24 2004
BALTIMORE COUNTY
BOARD OF APPEALS

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of June, 2004 a copy of the foregoing Entry of Appearance was mailed to Michael Tancyzn, Esquire 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204 and to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204 Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

RE: PETITION FOR SPECIAL HEARING Unnumbered Parcels on Hilltop Road and Parcel A for Cainewood Development; W/side Hilltop Road, 150' S c/line Branston Road 1st Election & 1st Councilmanic Districts Legal Owners(s): Jenny & Eugene Osbourne Parcel A, Leo & Susan Hull, Parcels-Hilltop, Mary & Francis Farley & Sonja & William Vogel (Parcel 992) Contractor Purchaser(s) Skirven Enterprises, Charles Skirven	*	BEFORE THE ZONING COMMISSIONER AND HEARING OFFICER FOR BALTIMORE COUNTY Project No. I-509 04-382-SPH

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

ENTRY OF APPEARANCE

Please enter the appearance of Michael P. Tanczyn, on behalf of Joseph P. Gochar, Jr. and the Hilltop/Maple Community Association 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 of final Order.

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204
Attorney for the Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of March, 2004, the above Entry of Appearance was mailed to G. Scott Barhight, Esquire and Dino LaFiandra, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for the Petitioner(s) and Peter Max Zimmerman, Esquire, Peoples' Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204

MICHAEL P. TANCZYN, Esquire

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 14, 2005

PROJECT NAME: The Clusters – **Board of Appeals Comments Amended**

PROJECT NUMBER: I-509

PROJECT PLANNER: Mark A. Cunningham

RECEIVED
JAN 14 2005
BALTIMORE COUNTY
BOARD OF APPEALS

GENERAL INFORMATION:

Applicant Name: Skirven Enterprises
5401 Twin Knolls Road Ste. 10
Columbia, MD 21045

Location: E/S S Hilltop Road; S Branston Road

Councilmanic District: 1st

Land Management Area: Community Conservation Area

Zoning: DR 2, DR 5.5

Acres: 18.1173± acres

Surrounding Zoning and Land Use:

North:	DR 2	Single Family Detached
South:	DR 2	Single Family Detached
East:	DR 2	Single Family Detached and Open Space
West:	DR 5.5	Single Family Detached

Project Proposal:
The applicant proposes 26 single family detached dwelling units on 16.73 acres of DR 2 and 1.36 acres of DR 5.5 land. There are wetlands and steep slopes on the property.

Post-it® Fax Note 7671	Date 1/18/05	# of pages ▶ 2
To Bd of Appeals	From [illegible]	
Co./Dept.	Co. [illegible]	
Phone #	Phone # [illegible]	
Fax # X 3182	Fax #	

PROJECT NAME: The Clusters **PROJECT NUMBER:** I-509

Project History:
The project was submitted under the name of Hilltop Project as a Concept Plan proposing 36 single family detached dwelling units on December 19, 2001. Parcel 443 was approved for 21 single family detached homes on 6/1/1995. On March 3, 2004, the County reviewed a development plan for the subject property that proposed 2 single family detached dwelling units and 38 single-family semi-detached dwelling units. On May 20, 2004, the development plan was reviewed by the Planning Board and was determined to be a Master Plan Conflict due to the proposed semi-detached units.

Other Anticipated Actions and Additional Review Items:

☐ Special Exception ☑ Special Hearing ☐ PUD

☐ RTA Modification ☑ Referral to Planning Board

MEETINGS:

Concept Plan Conference	10/07/03	Community Input Meeting	11/12/03
Development Plan Conference	03/03/04	Hearing Officer's Hearing	03/25/04
Planning Board	05/20/04	Board of Appeals	12/16/04

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.

SPECIAL HEARING REQUEST:
The Office of Planning does not oppose the petitioner's request listed under "Special Hearing Request" on the subject Development Plan.

RECOMMENDATION
The Office of Planning has reviewed the revised Development Plan revised January 11, 2005 and recommends approval.

Section Chief: Lynn Lanham

LL:kma

c: People's Counsel
Dino LaFiandra

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESONDENCE

TO: Don Rascoe MS# 1105 DATE: March 2, 2004
PDM Development Management

FROM: Linda Leake
Department of Public Works
Metropolitan District Financing & Petitions

SUBJECT: Extinguishment of Front-Foot Assessments
Project: The Clusters
PDM No: 1-509

The property accounts of the project above have no existing water or sewer benefits assessments. It is assumed that all new lots will be served by new water and sewer mains. If any of the lots take service from the existing mains, there may be additional assessents that will have to be extinguished.

If you have any questions, please call me on ext. 2432.

LGL/lgl
c: file

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3321

February 13, 2004

Skirven Enterprises
5405 Twim Knolls Road, Suite 6
Columbia, MD 21045

Re: The Clusters
PDM Number I-509

Dear Sir or Madam:

The Development Plan Conference, and the Hearing Officer's Hearing, have been scheduled on the above referenced project. Please arrange to attend these meetings with appropriate representation.

DEVELOPMENT PLAN CONFERENCE:
Date: Wednesday, March 3, 2004 Time: 9:00 AM
Location: Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204

HEARING OFFICER'S HEARING:
Thursday March 25, 2004 Time: 9:00 AM
Room 407, Courts Building
401 Bosley Avenue;
Towson, MD 21204

Continued date if needed:
Friday March 26, 2004 9:00 AM, Room 407, Courts Building

A copy of a public notification letter of the Development Plan Conference and Hearing Officer's Hearing, is attached for your convenience. Please note that it is the developer's responsibility to send a copy of the development plan, and notify all interested parties of the conference and hearing. Also, it is the developer's responsibility to post the property. Please note the property must be posted by **February 26, 2004**. A county authorized sign posting company must post the sign(s). A list of authorized sign posters is available in Room 123 of the County Office Building. A certificate of posting and photograph of the sign must be forwarded to his office prior to the Hearing Officer's Hearing.

Sincerely,

Donald T. Rascoe/dak

Donald T. Rascoe
Project Manager

TR:dak
G. W. Stephens, Jr. & Associates, Inc.

DEVELOPMENT PLAN CONFERENCE AND HEARING OFFICER'S HEARING
NOTIFICATION

Name of Development:
Location:

Dear Sir or Madam:

In anticipation of a public hearing on the above referenced project, I am enclosing a copy of the development plan we have filed with Baltimore County. The Hearing Officer's Hearing (and combined Zoning Hearing, if required), scheduled by the Department of Permits and Development Management of Baltimore County, is as follows:

Hearing Date: _____ Time: _____

Hearing Location: Room _____ of the _____
Towson, MD 21204

As you are probably aware, the attached plan will receive a thorough review by appropriate agencies for compliance with applicable State and County regulations. Agency comments will be presented to the developer's representative at the Development Plan Conference to be held on (date_____) at (time_____) in Room 123 of the County Office Building (COB), 111 West Chesapeake Avenue, Towson, MD 21204. The purpose of this conference is to ensure a coordinated review among agencies for the development plan proposal. You are invited to observe this exchange between county staff and the developer, however, the public hearing will provide the proper format for citizen comment.

Please accept this letter as written notification that agency comments, responses and recommendations as required by the County Code will be available in the official file in Room 123 of the COB until five (5) days preceding the public hearing. At that time the file will be forwarded to the Hearing Officer/Zoning Commissioner in preparation of the hearing.

Should you have any questions or concerns regarding this matter, you are encouraged to attend the public hearing. For further information, you may also contact the Department of Permits and Development Management at 410-887-3335.

Respectfully yours,

Enclosure: Development Plan
PDM/Development Management; 111 W. Chesapeake Avenue; Towson. MD 21204.

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3321

February 20, 2004

Skirven Enterprises
5405 Twim Knolls Road, Suite 6
Columbia, MD 21045

Re: The Clusters
PDM Number I-509

Dear Sir or Madam:

The Development Plan Conference, and the Hearing Officer's Hearing, have been scheduled on the above referenced project. Please arrange to attend these meetings with appropriate representation.

DEVELOPMENT PLAN CONFERENCE:
Date: Wednesday, March 3, 2004 Time: 9:00 AM
Location: Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204

HEARING OFFICER'S HEARING:
Thursday March 25, 2004 Time: 9:00 AM
Room 407, Courts Building
401 Bosley Avenue;
Towson, MD 21204

Continued dates if needed:
Friday March 26, 2004 9:00 AM, Room 407, Courts Building
Friday April 2, 2004 9:00 AM, Room 407, Courts Building

A copy of a public notification letter of the Development Plan Conference and Hearing Officer's Hearing, is attached for your convenience. Please note that it is the developer's responsibility to send a copy of he development plan, and notify all interested parties of the conference and hearing. Also, it is the developer's esponsibility to post the property. Please note the property must be posted by **February 26, 2004**. A county uthorized sign posting company must post the sign(s). A list of authorized sign posters is available in Room 23 of the County Office Building. A certificate of posting and photograph of the sign must be forwarded to his office prior to the Hearing Officer's Hearing.

Sincerely,

Donald T. Rascoe

Donald T. Rascoe
Project Manager

TR:dak
G. W. Stephens, Jr. & Associates, Inc.

SCHOOL IMPACT ANALYSIS

Form 1

Current Enrollment

Office of Planning

Project Name THE CLUSTERS

PDM Project Number I-500

Filing Date 1 | 14 | 04

School District	State Rated Capacity (SRC)	Actual September 30th Enrollment*	# of Pupils Above or (Below) SRC	Actual Enrollment as a Percentage of SRC
HILLCREST	646	588	-58	91
Elementary School				
CATONSVILLE	503	657	+64	110.8
Middle School				
CATONSVILLE	1760	1455	+305	82.7
High School				

*Enrollment is defined by the full time equivalent enrollment.

SCHOOL IMPACT ANALYSIS

Form 2

Projected Pupil Yield by Development Type

Office of Planning

Project Name THE CLUSTERS

PDM Project Number I-500

Filing Date 1/14/04

Election District

Dwelling Type	Number of Units	Projected Number of Pupils: Elementary School	Middle School	High School
Single Family Detached	2		1	1
Townhouse (sale)				
Townhouse (rent)				
Semi-Detached	38	8	0	4
Condominium				
Apartments				
1 Bedroom				
2 Bedroom				
3 Bedroom				
	Totals*	0	1	5

*If the calculation of the number of pupils results in a number containing a fraction, the number of pupils shall be rounded to the next highest whole number

SCHOOL IMPACT ANALYSIS

Form 3
Determination Table
Office of Planning

Project Name: THE CLUSTERS

PDM Project Number: I-509

Filing Date: 1/14/04

School District	State Rated Capacity (SRC)	Actual September 30th Enrollment	Projected # of Pupils for Proposed Development	Total Projected Enrollment	# of Students Above or (Below) Capacity	Projected* # of Pupils as a Percentage of SRC
HILLCREST	646	588	9	597	-49	1.4 %
Elementary School						
CATONSVILLE	593	657	1	658	+65	0.2 %
Middle School						
CATONSVILLE	1760	1455	5	1460	-300	0.3 %
High School						

*Projected Number of Pupils as a Percentage of State Rated Capacity must be shown as a number carried out to at least one decimal place.

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

DEVELOPMENT PLAN COMMENTS

Project Name: The Clusters

Project Location: Hilltop Road

Date of Meeting: March 3, 2004

Reviewer(s): John Russo, Bruce Seeley JR/BS

ENVIRONMENTAL IMPACT REVIEW

X The following corrections must be made to the Development Plan prior to approval:

- X The Forest Buffer and/or Forest Conservation area must be labeled as an Easement or Reservation.
- X Add the standard Forest Buffer and/or Forest Conservation Easement or Reservation notes.

X The Forest Buffer and/or Forest Conservation area must be recorded as an Easement or a Reservation.

X An Environmental Agreement (EA) must be submitted prior to building or grading permits.

X EIR needs to review the following plans during Phase II:

- X Grading and Sediment Control Plans.
- X Storm Water Management and Water Quality Plans for:
  - X Suitable outfall.
- X Final Forest Conservation Plan.

DEVELOPMENT PLAN COMMENTS

Project Name: The Clusters

Date of Meeting: March 3, 2004

X Additional Comments:

1. Label the Forest Conservation Easement on the plan with leader lines.
2. Revise the standard non-disturbance note to read: "There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement and Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management."
3. Revise the protective covenants note to read "Any Forest Buffer Easement and Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which may restrict disturbance and use of these areas."

BALTIMORE COUNTY, GOVERNMENT

SUBJECT: DEVELOPMENT PLAN COMMENTS DPC DATE: 03-03-04

FROM: PDM-ZONING REVIEW

PROJECT NAME: THE CLUSTERS PLAN DATE: 12-24-03

LOCATION: EAST SIDE OF HILLTOP ROAD, SOUTH OF BRANSTON ROAD

PROPOSAL: ONE SINGLE FAMILY DWELLING AND 32 SEMI-DETACHED DWELLINGS

ZONING: DR-2, AND DR5.5

The outstanding zoning issues shown on the Concept Plan, have addressed, subject to Section 260 of the Baltimore County Zoning Regulations. Please note that any changes to the Development Plan must be forwarded to this office 5 days or more before the Hearing Officer's Hearing to insure adequate review, for approval by this office.

THIS COMMENT IS
PER JOHN ALEXANDER
WHO STANDS FOR DTR

PDM

BALTIMORE COUNTY, MARYLAND

SUBJECT: Development Plan Review Comments
For March 3, 2004

DATE: March 2, 2004

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: The Clusters

P.D.M. NO.: I-509

LOCATION: South Hilltop Road

DISTRICT: 1C1

We have reviewed the subject plan dated December 24, 2003 and have the following comments.

GENERAL COMMENTS:

The *State Department of the Environment* construction permits for water and sewer mains that are larger than 15-inches in diameter and for pumped sewer systems (including grinder pumps) will be obtained through the *Baltimore County Department of Public Works* after approval of the construction drawings.

All construction will be accomplished in accordance with Baltimore County Standard Specifications and Details for Construction *(February, 2000, as amended)* and Baltimore City Standard Details.

A *Public Works Agreement* must be executed by the owner and Baltimore County for the required public improvements.

A property re-subdivision will require full payment of pre-existing construction loan charges before recordation.

In accordance with *Bill No. 18-90, Section 26-276,* dredging, filling or construction in any wetland is prohibited.

Any manmade embankment over 10-feet vertically shall be designed and/or approved by a soils engineer. The following note is to be placed on the sediment control plans and grading plans before approval will be given:

- *"All manmade embankments have been designed and/or certified for stability by a soils engineer".*

The developer shall be responsible for damages to the county's facilities, such as water meters, manholes, curbs and gutters and inlets within his subdivision and for any damages caused by his construction equipment outside of his subdivision. Occupancy permits will be withheld until such damages have been corrected.

The contours on the plan reveal rather excessive grading. The developer's engineer is cautioned not to exceed the maximum set by Baltimore County standards. Retaining walls that are proposed along road rights-of-way shall be located away from the right-of-way a distance that is at least equal to the height of the wall.

The developer and his engineer shall be responsible for investigating the need for and obtaining the necessary permits for the facilities serving this site that may require a "*Corps of Engineer's Permit*", a "*Water Resources Permit*", a "*Water Quality Certification*", and any other federal or state permits.

The developer shall not allow any cable television cables to be installed in this subdivision without the required county permits being obtained. Baltimore County will not assume any rights-of-way, easements, or maintenance of any public improvements, where such cables have been installed without a permit until the cables are satisfactorily located.

When an *Irrevocable Letter of Credit* is posted as security and the County's ability to draw on or otherwise call the *Letter of Credit* is negatively impacted for any reason (*bank default, receivership, etc.*), it shall be the sole responsibility of the developer to obtain a replacement *Letter of Credit* under the same terms and conditions.

The developer shall be responsible for having all proposed street names in any new development approved by the *Street Name and Address Section* of the *Department of Permits and Development Management* prior to his engineer placing these names on the final record plat and/or construction drawings. All street name changes made after plat recordation must be approved by the *Street Name and Address Section* and the record plat and construction drawings revised accordingly. The method for changing street names after a plat has been recorded will vary by project, and guidance will be provided by the *Street Name and Address Section*.

Test pits within county roads require a utility cut permit obtained from the *Bureau of Highways and Equipment Maintenance*.

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

HIGHWAY COMMENTS:

South Hilltop Road has been improved to the ultimate section across this frontage.

The interior roads of the site shall be public curb and gutter roads and shall be the developer's full responsibility. The paving thickness for the traveled way shall conform to Baltimore County standards and requirements.

It shall be the responsibility of the developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

The developer is responsible for the grading of the widening to the proposed cross section based on the grade of the existing road. Where adjacent properties are adversely affected by the improvements, the developer shall be financially responsible for the necessary repairs to these properties.

The sharp curves must conform to Baltimore County standards for minimum length of curve, minimum radii and widening.

Driveways shall be constructed in accordance with Baltimore County standards with depressed curb and 7-inch concrete aprons within the right-of-way.

In accordance with *Bill No. 32-72*, street lights are required along all road frontages of subdivisions. The developer will be responsible for the full cost of installation of the cable, poles and fixtures. Along new roads, the county will assume the cost of the power when the roads have been accepted for county maintenance. Along existing roads, the county will assume the cost of power after installation.

Ramps shall be provided for physically handicapped persons at all street intersections.

Except as stated below, sidewalks are required on both sides of the streets within this subdivision and/or along the frontage of all existing streets including state roads. The walks shall be four feet wide and shall be installed to conform to Baltimore County standards.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The developer is responsible for the total actual cost of drainage facilities required to carry the storm water runoff through the property to be developed to a suitable outfall. The developer's cost responsibilities include the acquiring of easements and right-of-way both onsite and offsite and the deeding in-fee of said right-of-way at no cost to the county. Preparation of all construction, right-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the county overhead both within and outside the development are also the responsibilities of the developer.

The developer must provide necessary drainage facilities (*temporary or permanent*) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result due to improper grading or improper installation of drainage facilities will be the full responsibility of the developer.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of topsoil.

In accordance with *Baltimore County Council Grading, Sediment Control and Forest Management Ordinance (Bill No. 33-88)*, a grading plan shall be approved and a *Performance Bond* posted prior to issuance of a grading permit. A sediment control plan is required. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

The developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road right-of-way following completion of the initial grading of the boxed-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the *Baltimore County Sediment Control Manual*. Minimum acceptable stabilization measures will be as specified in the *Baltimore County Sediment Control Manual* under "*Critical Area Stabilization (With Semi-Permanent - Seedings)*". Failure by the developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

Flood plain studies will be necessary to be reviewed and approved prior to the recording of any record plat or issuance of any grading or building permits.

The developer must furnish the *Bureau of Development Plans Review* with a *flood plain study* prepared by and sealed by a Professional Engineer. The study will be done in accordance with the latest version of the "Recommendations for Watershed Studies, Flood Plain Studies and Waterway Crossing Studies".

The 100-year flood plain shall be dedicated to Baltimore County in-fee at no cost to the county.

The rear of buildings may not be constructed within 20 feet of the flood plain as established for a 100-year flood level with a 1-foot freeboard. *See Plate D19 in the Baltimore County Design Manual.*

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

In accordance with *Bill No. 18-90, Section 26-276*, filling within a flood plain is prohibited.

The developer shall provide a minimum 10-foot drainage and utility easement along all bordering property lines which are not adjacent to road right-of-way or storm drain reservations.

WATER AND SANITARY SEWER COMMENTS:

A preliminary print of this property has been referred to the *Baltimore City Water Division* for review and comment in regard to adequacy of water pressure in this development. If Baltimore City has any comment, it will be forwarded.

The developer is responsible for any public water main extension and/or public sanitary sewer required to serve this property. He is responsible for the preparation and the cost of construction drawings and right-of-way plats required. He is further responsible for conveying any required right-of-way to Baltimore County at no cost to the county.

The developer is responsible for the entire cost of any relocation of the existing public water main and/or sanitary sewer, including the preparation and the cost of construction drawings and right-of-way plats required, all right-of-way acquisition and/or release costs and recordation charges.

The developer is responsible for the cost of capping or plugging any existing house connections not used to serve the proposed site.

The developer will be given credit for one system connection charge for each existing house that is now connected into the public services.

Water and sanitary sewer service connections shall be installed by a utility contractor prior to the road improvements and shall be included in the *Public Works Agreement*.

The total water and/or sanitary sewer system connection charge is determined, and payable, upon application for the plumbing permit, or prior to the execution of a utility or right-of-way agreement.

The determination of the water system connection charges will be predicated on the established relationship using a 5/8-inch water meter at a cost of $575.00 per living unit. The sewer system connection charge, likewise, is based on a 5/8-inch water meter at a cost of $875.00 per living unit.

Public sanitary sewers serving the individual lots/properties within the subdivision shall be located within the public roads serving those lots/properties, where practicable.

TRAFFIC ENGINEERING COMMENTS:

Confirm and then add this note to the development plan:

- *"Bureau of Traffic Engineering and Transportation Planning" has confirmed that the subject site **is/is not** within a traffic deficient area.*

SITE-SPECIFIC COMMENTS:

To accommodate trash trucks and parking, the proposed dead-end loop on Road 'A' must be made larger. The minimum outside curb radius is 52 feet and the minimum inside curb radius is 24 feet with a traveled way that is 28-feet wide. The minimum right-of-way width is 40 feet and any island must be owned and maintained by the HOA.

Through a note on the plan, the developer is asking for a waiver of building sidewalk on the open-space side of Road 'B'. We are recommending approval of this waiver; however, sidewalk must be shown as proposed on the open-space frontage of Road 'A'. We also will support a waiver of building sidewalk along the island of the dead-end loop.

Before approval, the plan must include hydrants spaced per standard.

Before approval, the plan must include street lights spaced per standard.

Show the proposed sewer house connection for lot #1.

Avoid creation of the swale along the rear property line of lot # 10 to let the runoff go into the forest conservation reservation.

A swale should be created across the HOA open space between lot #2 and lot #39 to carry the flow from lots #2 through #5.

Unless it cannot be avoided, water mains, sewers and storm drains may not be built under curbs and they should be within the road pavement and should be at least five feet away from curbs.

Provide a letter of permission from the Director of Public Works that allows the use of grinder pumps. Otherwise, a public pumping station and force main system must be shown, or this plan may not be approved.

* * * * *

RWB:DAK
cc:file

PDM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy Kotroco, Director DATE: March 3, 2004
Department of Permits and
Development Management
Attn: Donald Rascoe

FROM: Ronald Goodwin
PDM. Bureau of Land Acquisition

SUBJECT: The Clusters (f.n.a. Hilltop Property)
PDM 01-509

A review of the development plan for the above referenced project results in the following comments. These comments are advisory in nature.

1. Offsite rights of way must be acquired prior to record plat approval.

2. Access easements, approved by DEPRM, should be shown for storm water management facilities, forest buffers, etc.

3. If offsite sight line easements are necessary per Development Plan Review's comments, the developer will be required to obtain these easements prior to record plat approval.

4. Please identify and label all existing and proposed drainage and utility easements, highway widenings and slope easements, stormwater management facilities, forest buffers, flood plains, greenways and open space areas. Please clearly indicate whether or not the above are to be dedicated to Baltimore County. Please delineate and label required dedications to Baltimore County. Please delineate and label required dedications for highway purposes as "Highway Widening Area", "Not Future", "Proposed" or "Ultimate" regardless of whether or not highway improvements will actually be required as part of the development

Timothy Kotroco, Director
Department of Permits and
Development Management

5. Site-specific comments:

a. Label and delineate **all** existing Baltimore County rights of way on the Cainewood subdivision. Verify whether or not the "100 year Flood Plain Reservation 1.869 ac." as shown on the Cainewood subdivision plat has been conveyed to Baltimore County. If not, it will need to be conveyed to Baltimore County **prior** to record plat for this subdivision.

b. Label and delineate a 10' wide "Drainage and Utility Easement" around the perimeter of the property. Including an easement along lots 1, 2,6, 36,37,38,39,40 and the area labeled as the #2 H.O.A. Open Space & Common Area.

c. Label and delineate a 20' wide "Drainage and Utility Easement" over all utilities including the proposed storm drain pipe between lots 14 and 15.

Please be advised, I am requesting a copy of the final redline plan to review at least 7 days prior to the Hearing Officer's Hearing.

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

DEVELOPMENT PLAN COMMENTS

Project Name: The Clusters

Project Location: Hilltop Road

Date of Meeting: March 3, 2004

Reviewer(s): John Russo, Bruce Seeley BMS

ENVIRONMENTAL IMPACT REVIEW

X The following corrections must be made to the Development Plan prior to approval:

- X The Forest Buffer and/or Forest Conservation area must be labeled as an Easement or Reservation.
- X Add the standard Forest Buffer and/or Forest Conservation Easement or Reservation notes.

X The Forest Buffer and/or Forest Conservation area must be recorded as an Easement or a Reservation.

X An Environmental Agreement (EA) must be submitted prior to building or grading permits.

X EIR needs to review the following plans during Phase II:

- X Grading and Sediment Control Plans.
- X Storm Water Management and Water Quality Plans for:
  - X Suitable outfall.
- X Final Forest Conservation Plan.

DEVELOPMENT PLAN COMMENTS

Project Name: The Clusters

Date of Meeting: March 3, 2004

__X__ Additional Comments:

1. Label the Forest Conservation Easement on the plan with leader lines.
2. Revise the standard non-disturbance note to read: "There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement and Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management."
3. Revise the protective covenants note to read "Any Forest Buffer Easement and Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which may restrict disturbance and use of these areas."

THE CLUSTERS

DEVELOPMENT PLAN CHECKLIST
(See Section 26-203, Baltimore County Code)

The plan shall be filed within 12 months after the final Community Input Meeting is concluded. It shall be drawn to an appropriate scale in a clear and legible manner and shall be filed with the Department of Permits and Development Management.

1. The plan shall contain the following background information:

- ✓ Vicinity map showing site location and a note identifying election and councilmanic districts
- ✓ Census tract, watershed and subsewershed
- ✓ Subdivision name and applicant's name and address
- ✓ Name and address of person who prepared the plan
- ✓ Current zoning of the subject property and surrounding properties, including the location of any residential transition areas
- ✓ Ownership of the subject property and adjacent properties, including deed reference (s) and tax account number(s), as shown on the most recent tax maps as published by the Department of Assessments and Taxation, or on the basis of more current information if the same is available to the applicant
- ✓ Existing buildings and access points on property adjacent to the subject property
- ✓ Petitions for variances, special exceptions, special hearings, Chesapeake Bay Critical Area variations, or requests for waivers from county regulations or standards
- N/A Limitations established by the courts, County Board of Appeals, Planning Board and/or Zoning Commissioner or restrictive covenants recorded with individuals or groups which would limit proposed development on the site
- ✓ The plan shall contain a certification 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 will perform contractual services on behalf of the proposed development
- ✓ The plan shall be signed and sealed by the surveyor, engineer, architect, or landscape architect as appropriate indicating that the plan is accurate and has been prepared in compliance with these regulations.

2. The plan shall identify the following existing site conditions information:

- ✓ Existing topography, and existing topography for adjacent properties as shown on Baltimore County photogrammetric plats or more recent information where available
- ✓ Existing streams, bodies of water and springs

DEC 8 2003

✓ Soil types in accordance with the Soil Survey, Baltimore County, Maryland, including identification of prime and productive soils

✓ Existing wooded areas

✓ Existing buildings on the property

✓ One hundred-year floodplains or flood areas for both riverine and tidal areas

✓ Wetlands

N/A Identification of any building, property or site within or contiguous to the proposed development included on the Maryland Historical Trust Inventory of Historic Properties, the Baltimore County Preliminary or Final Landmarks List, the National Register of Historic Places, the Maryland Archaeological Survey, or identification of any Baltimore County Historic District, or National Register District covering the proposed development

N/A Designated areas of critical state concern identified as such under the procedures of Section 5-611 of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, and as mapped and a available for inspection in the Office of Planning

N/A As known to the applicant, location and description of hazardous material as defined by Section 7-101 of the Environmental Article of the Annotated Code of Maryland, as from time to time amended.

3. The plan shall contain the following development proposal information:

✓ Proposed lot or building layout with parking and loading area

✓ Proposed street layout with existing and future paving and right-of-way widths indicated included pedestrian walkways

✓ Location of existing and proposed easements or rights-of-way, public and private

✓ Existing and proposed county, state and private streets, along with estimated proposed average daily trips attributable to the development in the plan

N/A Transit services when appropriate as per the Maryland Mass Transit Administration's Access by Design publication

✓ Proposed and existing water and sewer lines

✓ Proposed and existing well and septic areas

✓ Proposed and existing utility systems and fire hydrants

✓ General schematic proposals for grading and retaining walls, including the anticipated alteration or removal of vegetation or other natural features or a designated limit of disturbance line

✓ Storm water management areas supported by preliminary hydrology computation, and proposed and existing storm drainage systems and verification of suitable outfall

✓ A hydrogeological study and an environmental effects report if required by the Department of Environmental Protection and Resource Management

N/A For developments with lots to be served by individual water supplies, evidence of compliance with Article II of Title 35 of the Baltimore County Code (BCC)

✓ Proposed location and use of open space and acreage in accordance with the open space manual

✓ A chart indicating required and proposed area of open space and parking spaces and indicating the number of units permitted and proposed

In the case of a plan involving a use in a residential transition area, the following:

N/A The residential transition area and existing and proposed uses therein

N/A The proposed buildings

N/A Proposed building setbacks and the distance between principal buildings

N/A Existing and proposed vegetation and buffer areas

N/A Existing and proposed lighting

N/A When required by the Baltimore County Zoning Regulations (BCZR), the plan shall indicate the expected levels of potential emanations, including but not limited to smoke, noise, dust, odors, vibrations, glare, and heat, and the means to continuously control such emanations

✓ A schematic landscape plan showing existing vegetation and proposed planting, including street trees (location and quantity) shall be submitted for all development, except in RC-2 and RC-4 zones

✓ The plan may show the location of a precise building envelope in lieu of the precise location of a building; may show precise maximums and minimums in lieu of fixed values; may set forth reasonable lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for fexibility or alternative, provided that appropriate precise limits are set forth

N/A All additional information contained on the critical area findings plan as specified in Section 26-442(b), BCC

When required by the BCZR or the Comprehensive Manual of Development Policies, the Director of Planning may require the Following additional items:

N/A Layout of the site as it relates to the surrounding roads, and public transit systems, buildings, open space, and environmental features

N/A Architectural features such as scale, height, bulk, and general massing of buildings, major façade divisions, size and placement of openings, roof treatment, stylistic features and themes and materials

N/A Design and placement of signage, lighting and fencing

N/A Safety, aspects of site design for retail commercial developments and hours of opertion for nonresidential development adjacent to residential areas

N/A Specific design information shall be in the form of building elevations, perspective drawings, building and site cross-sections and large scale drawings of specific site development details as required by the Director of Planning

N/A The plan shall clearly identify any comment raised or condition requested or proposed to the concept plan by a party if such comment or condition is unresolved at the time of filing the development plan

✓ At the time of filing the plan, the applicant shall file any request for combined hearing under Section 26-206.1. The plan shall contain a notation that such a request has been filed

***A check mark ( ) indicates pertinent information that has been shown or noted on the plan. N/A denotes information not applicable to this development project.**

Signature of Engineer

12/8/05
Date

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS
1095
BERNT CHRISTIAN PETERSEN
STATE OF MARYLAND

SEAL

Project Name: THE CLUSTERS
Date Filed: SEPT. 3, 2003

CONCEPT PLAN REQUIREMENTS – CHECKLIST

Generally, the Concept Plan consists of two separate maps, a site constraints map and a site proposal map. Depending upon a site's size, features or configuration, the two maps may be combined, but only if this is requested at a pre-concept plan conference and approved by all reviewing agencies.

SITE CONSTRAINTS MAP

GENERAL

- ✓ Name and address of the developer
- ✓ Name and address of the prepare of the plan
- ✓ Tax Account numbers
- ✓ Location or vicinity map, preferably at 1" = 1000' scale
- ✓ Property boundaries from deed or tax map information
- ✓ Zone lines

NATURAL ENVIRONMENT ASSESSMENT*
Approximate location of the following:

- ✓ Existing topography as shown on County photogrammetric maps, highlighting slopes greater than 25%
- ✓ 100-year flood plain limits as shown on FEMA maps, County studies or computed using approximate methods
- ✓ Soils mapped and labeled in accordance with the **Soil Survey, Baltimore County, Maryland**
- ✓ Streams, seeps, ponds or other water bodies on and within 200-feet of the development site
- ✓ Wetlands
- ✓ Forest buffer limits, including adjustments for steep slopes and/or erodible soils in accordance with DEPRM's **Policies, Rules and Regulations Manual**. It is not necessary to prepare the formal evaluation as set forth in Section III and IV of the Manual unless DEPRM field verification is requested
- ✓ Existing land cover (e.g., forest, meadow, agriculture, etc.) on and within 200-feet of the development site
- N/A Significant regulated plant or wildlife communities using DEPRM or Maryland Department of Natural Resources data
- ✓ Existing well and sewage disposal systems on and within 100-feet of the development site
- N/A Soil evaluation tests (perc tests)
- N/A Existing underground fuel and chemical storage tanks on and within 100-feet of the development site

BUILT ENVIRONMENT ASSESSMENT
Approximate location of the following:

✓ Existing buildings and roads on and within 200-feet of the development site
N/A Designated historic structures or sites as per the Landmarks Preservation Commission or the Maryland Historical Trust Inventory
N/A Designated sites as per the Maryland Archeological Survey
N/A Significant views that may affect the development proposal
N/A Significant features (e.g., specimen trees, buildings, streetscaping, etc.) that may affect the development proposal
✓ Existing land uses (e.g., commercial, single-family residential, townhouse residential, etc.) on and within 200-feet of the development site
✓ Road rights-of-way and easements

CONSISTENCY WITH COUNCIL ADOPTED PLANS

✓ Baltimore County Master Plan 1989-2000
N/A Community or Revitalization Plans
✓ Recreation and Parks Plan
N/A Streetscape Plan
N/A Greenways Plan

*Although not required, it is strongly recommended that the location of these features be field delineated by the applicant for the Concept Plan. Field delineations will be required for the development plan and, if the delineations are significantly different from those on the Concept Plan, the development plan **will not** be accepted for filing and another Community Input Meeting may be required.

SITE PROPOSAL MAP

✓ Zoning, with maximum permitted dwelling units or square footage
✓ Proposed number, type and locations of dwelling units
N/A Proposed square footage and location and use of nonresidential structures
✓ Proposed road network and sidewalks or pathways
✓ Proposed open space network and calculations
✓ Proposed parking areas and calculations
✓ Proposed storm water management facilities
✓ Proposed landscape concept and planting unit calculations
✓ Average daily trips
N/A Identification of significant changes to topography
✓ Location of permanent project identification signs

ADDITIONAL INFORMATION

✓ Other anticipated actions needed by the Zoning Commissioner or Hearing Officer such as variances, waivers as part of the development plan or special exceptions or hearings

✓ Consistency with design manuals such as the Comprehensive Manual of Development Policies

N/A Preliminary phasing and development schedule

The required information and the key should be organized and formatted as indicated on the attachment.

If you have any questions about Concept Plan requirements, please contact the Office of Planning, Development Review Section at 887-3211 or the Department of Permits and Development Management at 887-3335.

A checkmark (√) indicates pertinent information that has been shown or noted on the plan. N/A denotes information not applicable to this development project.

Brent C. Petersen 9/3/03

Signature of Engineer Date

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS
1095
BRENT CHRISTIAN PETERSEN
STATE OF MARYLAND

SEAL

PDM

BALTIMORE COUNTY, MARYLAND

SUBJECT: CONCEPT PLAN COMMENTS CPC DATE: 10-07-03

FROM: PDM - ZONING REVIEW

PROJECT NAME: THE CLUSTERS PLAN DATE: 09-12-03

LOCATION: EAST SIDE OF HILLTOP ROAD, SOUTH OF BRANSTON ROAD

PROPOSAL: 1 SINGLE FAMILY DWELLINGS AND 39 DUPLEXES ZONING: DR-2 AND DR5.5

1. Based on the plan submitted, this office offers no comments regarding the concept of creating 1 single family dwelling and 39 duplexes on 18.117 gross acres of DR-2 and DR-5.5 zoned land. The plan has been reviewed by the staff at this level of detail for general compliance with the Baltimore County Zoning Regulations (BCZR). To avoid any possible delays in the development review and zoning approval process, when details and technical information is identified or changed, this office should be contacted and it should be the responsibility of the owner, developer or developer's engineer to rectify any zoning conflicts well in advance of any expected final approvals. The intent of the developer must be clear on the plan, including any previous and proposed zoning hearings. Only if necessary, will the following comments be up-dated and/or supplemented during review of the zoning final development plan.

2. The proposed dwellings and development must comply with the standards listed in the residential Performance Standards section of the BCZR (section 260). Be aware that compliance with these standards must be demonstrated on the FINAL DEVELOPMENT PLAN (FDP). Contact the Office of Planning for more information in regards to the above. If the Office of Planning determines that a variance is required, list that variance under an "ANTICIPATED ACTIONS" note on the plan.

3. Relative to the above, add a Site Data/General Note to the FINAL DEVELOPMENT PLAN (FDP) stating: "This development is subject to the residential performance standards, the Comprehensive Manual of Development Policies (CMDP) and the County Landscape Manual, pursuant to Sections 409.8.A.1 and 504.2, BCZR and is subject to other applicable zoning regulations and policies. This development will comply and be consistent with all of the aforementioned regulations, standards and policies."

4. Note on the plan: "The DR-2 portion of lots 2 through 5 are density anomalies and may never have structures constructed on them" or apply for a special hearing to determine that the differently zoned portions of both lots may be built.

5. Note on the plan that lot #1 will require a special hearing to establish that the house is in a density anomaly. Alternatively 2 density units must be shown for this lot.

6. Show 35-foot setback from the front building face to the paving of a private road.

7. Note on the plan that lots 2 through 5 are the maximum setback for that zone as required by section 303.1 of the Baltimore County Zoning Regulations.

8. Note on the plan whether there is any prior zoning history, or outstanding zoning violation.

John R. Alexander
Planner II
Zoning Review

Pom

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

CONCEPT PLAN COMMENTS

Project Name: The Clusters (Formerly known as Hilltop Property)

Project Location: South Hilltop Road

Date of Meeting: October 7, 2003

Watershed: Patapsco

Reviewer(s): John Russo, Bruce Seeley

ENVIRONMENTAL IMPACT REVIEW

X This project must conform to the requirements of Article IX, Section 14-331 through Section 14-350 of the Baltimore County Code: Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. The following must be approved by this Department prior to submitting the Development Plan:

X Add the standard Forest Buffer and/or Forest Conservation Easement notes to the plan.

X Storm Water Management pond embankments must be at least 15 feet from Forest Buffer and/or Forest Conservation areas.

X This site is subject to the Baltimore County Forest Conservation Regulations. The following must be submitted to, and be approved by EIR prior to Development Plan submittal:

X A Forest Stand Delineation report. (Not Approved)

X A Forest Conservation Worksheet. (Not Approved)

X A Preliminary Forest Conservation Plan. (Not Approved)

X A Forest Retention/Afforestation Investigation Report. (Not Submitted)

X A special Variance may be required if the Forest Conservation requirements cannot be met onsite.

CONCEPT PLAN COMMENTS

Project Name: The Clusters (Formerly known as Hilltop Property)

Date of Meeting: October 7, 2003

X The Forest Buffer and/or Forest Conservation areas must be recorded as Easements or Reservations.

X An Environmental Agreement (EA) must be submitted prior to building or grading permits.

X An Environmental Effects Report and a Hydrogeological Study must be submitted with the Development Plan.

X Any existing wells, septic systems, and underground storage tanks on-site must be shown on the Development Plan; if there are none, a note must be added to the plan.

X Additional Comments:

1. Label the Forest Buffer Easement on Parcel 992 and Parcel 442.
2. Revise the standard non-disturbance note and protective covenants note to read:

Standard non-disturbance note:

There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement and Forest Conservation Reservation except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Protective Covenants note:

Any Forest Buffer Easement and Forest Conservation Reservation 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.

3. Explain why the gross site area (18.1 ac.) shown on the plan is not consistent with the sum total of parcels listed (17.8 ac.).
4. The portion of Parcel A that remains for density with Cainewood is not part of the proposed Clusters Property and can not be used to satisfy onsite Forest Conservation requirements. Remove the proposed Forest Conservation Reservation labeling from this Parcel and revise the FSD, FCW and FCP accordingly.

CONCEPT PLAN COMMENTS

Project Name: The Clusters (Formerly known as Hilltop Property)

Date of Meeting: October 7, 2003

5. If the proposed plan cannot retain the existing priority forest onsite to the satisfaction of this Department, the subdivision layout may need to be revised to retain priority forest.

CONCEPT PLAN CONFERENCE
Project I.D. #A010820
THE CLUSTERS
E/S South Hill Top Road S Branston Road
October 7, 2003 @ 9:00 AM

STORM WATER MANAGEMENT COMMENTS:

Note: Comments are advisory in nature and may or may not be applicable to this project. More specific comments will be provided with review of the Development Plan.

1. The Storm Water Management Act:

   A. The Developer is responsible to address the requirements of the Baltimore County Code, Title 14, Article V.

   B. Provisions for exemptions, waivers and variances for Storm Water Management (SWM) are described in this document. Exemptions, waivers and variances should be applied for and granted (or denied) by the County before Development Plan approval is given.

   C. Conditions for recording plats and granting grading and building permits as related to SWM are also described in this document. The developer is advised to be aware of these conditions and include them in planning the project to avoid unnecessary delays to construction.

2. General Engineering Requirements:

   A. Water quality storage volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are normally required. If the development is in certain designated inter-jurisdictional watersheds or, if deemed necessary by Baltimore County, extreme flood protection (Qf) or 100 year peak management may also be required.

   B. Please refer to the 2000 Maryland Stormwater Design Manual, Volumes I & II for general design criteria. Hydrology shall be in accordance with the June 1986 version of TR-55.

   C. The developer is responsible for addressing all applicable requirements of agencies whether within or outside of Baltimore County having jurisdiction over water quality, streams or wetlands.

   D. Storm water management facilities are also subject to review and approval by the Baltimore County Soil Conservation District.

   E. Storm water management facilities which either outfall to a Baltimore County storm drain system or for which a public road will serves as a pond embankment will be reviewed and approved concurrently by the Department of Public Works and the Department of Environmental Protection and Resource Management.

   F. Site design must maintain, to the extent possible, predevelopment drainage patterns and characteristics. Diversion of drainage is discouraged and DEPRM reserves the right to prohibit drainage diversions it finds detrimental.

G. Refer to Chapter 5.0 Stormwater Credits for environmentally sensitive designs. Use of these credits shall be documented at the initial (concept) design stage, documented with submission of final grading and verified with As-Built Certification for grading

3. Maintenance Requirements:

A. Storm water management facilities may be maintained by Baltimore County if the following conditions are met, subject to approval of the Department of Environmental Protection and Resource Management:

(1) Residential subdivision in which all lots are for sale in fee.

(2) Requirements for public facilities given in the Baltimore County Department of Public Works Design Manual are all met.

(3) Storm water management facility is enclosed in a reservation shown on the record plat to allow the facility to be deeded in-fee to Baltimore County.

B. Private maintenance of SWM facilities is acceptable. A Deed of Declaration and Easement must be executed by the developer guaranteeing maintenance of and County access to SWM facilities before SWM permit security may be released. Storm water management facilities in residential subdivisions to be maintained privately by a Homeowners Association shall be designed according to the requirements for public facilities.

4. Guidelines for Development Plan Approval:

A. Show type, size and location of all Best Management Practices (BMP) on the Development Plan. Preliminary unified stormwater sizing criteria should be provided to verify that the SWM area(s) on the plan are adequate.

B. Show that all outfalls from BMP facilities and bypass areas are "suitable" as defined by the Baltimore County Department of Public Works and the Department of Environmental Protection and Resource Management.

C. Show that the BMP facilities do not create a hazard. An example of a hazard would be an embankment dam located so that in the event of a breach failure, down stream life or property is endangered.

D. List on development Plan any waiver or variance and give date of approval by Baltimore County.

5. Site - Specific Comments:

In addition to the above, each project will be given a brief review by the DEPRM's Stormwater Management, and a set of specific comments will be provided. The developer is responsible for address these site specific comments, which are enumerated as follows:

A. Refer to the preceding pages for general requirements.
B. Water quality volume (WQ_v), Recharge storage volume (Re_v), Channel protection volume (Cp_v) are required.
C. All site runoff must be conveyed to a suitable outfall without adversely affecting the receiving wetland, watercourse, waterbody, storm drain or adjacent property.
D. Provide BMP volume computations, stormwater credits and drainage maps indicating any by-pass areas at least four weeks prior to the Development Plan Conference.
E. BMP sizing and stormwater credit computations must be referenced to the 2000 Maryland Stormwater Design Manual by page and section.
F. This project is subject to the new stormwater management requirements that Baltimore County adopted on July 1, 2001.

Robert T. Wood, Jr.

09/30/03

c: R. Alexander Wirth, PE

concept swm
cluster swm

CONCEPT PLAN CONFERENCE
Project I.D. #A010820
THE CLUSTERS
E/S South Hill Top Road S Branston Road
October 7, 2003 @ 9:00 AM

GRADING, EROSION & SEDIMENT CONTROL COMMENTS:

NOTE: Comments are advisory in nature and may not be applicable to this project. More specific comments will be provided with review of the Development Plan.

1. Grading Requirements & Sediment Control Guidelines

   A. The developer is responsible to address the grading requirements of Baltimore County Code 14, Article VI and Baltimore County Department of Environmental Protection and Resource Management.

   B. A grading permit is required for any site having greater than 5,000 square feet of disturbed area. A security is required for sites having more than 20,000 square feet of disturbed area.

   C. An erosion and sediment control plan must be approved by the Soil Conservation District and a separate approved final grading plan is required for any site having greater than 20,000 square feet of disturbed area. These plans must be approved by DEPRM prior to obtaining a grading permit.

   D. Sites having less than 20,000 square feet of disturbed area may be exempt from the approved erosion and sediment control plan requirement and may qualify to use standard sediment control plan measures. Contact Inspection and Enforcement at (410) 887-3226 for additional information

2. General Engineering Requirements

   A. Erosion and sediment control plans for sites having greater than 20,000 square feet of disturbed area must be reviewed and approved by the Baltimore County Soil Conservation District (SCD). Upon such approval, plans are then returned to the Department of Environmental Protection and Resource Management for microfilming. Grading plans will not be approved prior to SCD signature on erosion and sediment control plans.

   B. Final grading plans for sites having greater than 20,000 square feet of disturbed area must be submitted for approval to Stormwater Management along with the site erosion and sediment control plans. Final grading plans must show all proposed grading, storm drain inlets and their connections to main storm drain system up to outfall, building locations, first floor elevations, septic reserve areas, sidewalks and driveways. Proposed sanitary and water lines and their connections

to existing systems must be shown on final grading plan. Sediment control devices should not be shown on the final grading plan. Mass grading plans are not acceptable unless a waiver to this standard is granted by Stormwater Management. Final grading must reflect the proposed condition of storm water management hydrology. Refer to Baltimore County Code Title 14, Article VI.

C. Erosion and sediment control devices should be perimeter type devices and must be located sufficiently outside of proposed grading, therefore, proposed grading should not be shown to the limits of property lines, wetlands, floodplains or buffers. Erosion and sediment control plans must be designed for all work shown on the final grading plan.

D. Proposed storm water management ponds should be used as temporary sediment basins unless prohibited as such by the Stormwater Management's project engineer.

E. Grading plan must be in compliance with Development Plan.

F. Erosion and sediment control devices may not outfall concentrated flow onto adjacent properties without the property owner's written permission or acquisition of Easements.

G. All floodplains, wetlands, and buffers must be shown on final grading plans and should be shown on the sediment control plans. Erosion and sediment control devices may not be located within such areas except as allowed by DEPRM. Sediment traps outfalling into such areas must provide two times the normally required storage.

H. Sediment trapping device must be located outside the septic reserve areas. Show location of septic reserve area on grading plan in absence of sanitary sewer line.

I. Stormwater credits shall be documented with submission of final grading plans and verified with As-Built certification

3. Outlines for Development Plan Approval:

A. Proposed grading, especially filling, should not be shown up to limits of property lines, floodplains, wetlands, or buffers. There should be adequate room for perimeter sediment and erosion control devices and for movement of construction equipment.

B. Proposed grading must not exceed slope requirements of 2:1 maximum on commercial properties and 3:1 maximum on residential lot areas and 4:1 within 25 feet down slope of septic reserve areas.

C. All swales shall be designed to Department of Public Works Design Standards.

D. Proposed grading must not adversely impact the adjacent properties. Runoff must be discharged at locations of suitable outfalls. Diversion of natural runoff pattern from ultimate outfall for more than 1,000 feet by proposed grading is not acceptable unless approved by Department of Environmental Protection & Resource Management

4. Site Specific Comments:

A. Refer to the preceding pages for general requirements.

Robert T. Wood, Jr.

09/30/03

c: R. Alexander Wirth, PE

cluster grd
CONCEPT GRD

PDM

BALTIMORE COUNTY, MARYLAND

Subject: Concept Plan Conference Comments Date: October 7, 2003

From: Department of Recreation and Parks

Project Name: The Clusters

Project Number: 01-509 Zoning: DR-2 & DR-5.5

Location: E/S S of Hilltop Road S of Branston Road

Districts: Elec. 1 Counc. 1

Comments:

This project is subject to the Adequate Public Facilities Act, Bill No. 110-99. The comments generated herein reflect the requirements of Bill No. 110-99 and the Baltimore County Local Open Space Manual, as adopted by the Baltimore County Council on February 22, 2000.

Local Open Space is required for this development.

The following are site/plan specific comments:

1. The Local Open Space required for 40 units is 40,000sf, 26,000sf Active and 14,000sf Passive or 0.92 acres +/-.

2. Insufficient information is provided on the site plan regarding the proposed grading of the Active and Passive Open Space parcels to determine compliance with the Baltimore County Local Open Space Manual. More information **is** required on the Concept Plan for proper review. Refer to Section V.A.3.

3. A note shall be added to the Concept Plan that reads "Open Space Required – 26,000sf Active and 14,000sf Passive or a combination thereof as specified in Section III.D.3; Open Space Provided – 43,400sf Active and 12,600sf Passive."

4. The Open Space calculations in Open Space Note #5 do not match the Open Space provided in the plan view.

5. Do not include any HOA Common Area calculations in the Open Space Notes.

6. Do not include the HOA Open Space, Active and HOA Open Space, Passive with the HOA Common Area. Clearly delineate and label the three types of parcels (HOA Open Space, Active; HOA Open Space, Passive and HOA Common Area).

7. The area labeled "Active Open Space, 20,000sf" does not have the required 20-foot road frontage and vehicular access. The grading of this parcel shall be designed to provide a 20-foot road frontage with vehicular access and a gentle slope for pedestrian access.

8. The open space shall meet the requirements and standards as described in Section III of the Baltimore County Local Open Space Manual.

9. Retaining walls shall not be located within any Open Space parcel.

10. The open space shall have finished grades less than 4% for the active and 10% or less for the passive and labeled "HOA Open Space, Active" and "HOA Open Space, Passive" with square footage and proposed grades shown for each parcel. Final grades shall meet these requirements and also be shown on the grading plan for the Department of Recreation and Parks approval.

11. The Open Space shall be unencumbered by easements, clearly delineated with leaders or shading, and a minimum of 75' in width (with the exception of passive open space as described in Section III.C.3). For any lots adjacent to the open space, screening and/or fencing shall be provided along the property lines to deter encroachment and to define the open space limits.

12. Details shall be shown on the development plan for all proposed amenities and pathways.

13. The open space shall be owned and maintained privately or by a Homeowners/Condominium Association. A declaration of covenants and restrictions assuring the existence and maintenance of the open space in perpetuity must be submitted to and approved by this office prior to the recordation of the plats, see Section V.E.2.a.

Drafting/CAD Note:

1. The Open Space Notes and the notes preceding those notes are in a rather small size font, while the Landscaping Calculations and Site Data notes are in a much larger size font. It would be appropriate to have **all** of the notes in the same size font that is easily read.

Baltimore County Department of
Recreation and Parks
301 Washington Avenue
Towson, Maryland 21204

PDM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

CONCEPT PLAN CONFERENCE

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

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

DATE: October 7, 2003

PROJECT NAME: The Clusters

PROJECT NUMBER: I-509

PROJECT PLANNER: Anne Roane

GENERAL INFORMATION:

Applicant Name: Skirven Enterprises
5401 Twin Knolls Road Ste. 10
Columbia, MD 21045

Location: E/S S Hilltop Road; S Branston Road

Councilmanic District: 1st

Land Management Area: Community Conservation Area

Zoning: DR 2, DR 5.5

Acres: 18.1173± acres

Surrounding Zoning and Land Use:

North:	DR 2	Single Family Detached
South:	DR 2	Single Family Detached
East:	DR 2	Single Family Detached and Open Space
West:	DR 5.5	Single Family Detached

Project Proposal:
The applicant proposes 2 single family detached dwelling units and 38 single family semi-detached dwelling units on 18.1173 acres zoned as DR 2 (16.6413acres) and DR 5.5 (1.476 acres). There are wetlands and steep slopes on the property.

Project History:

The project was submitted under the name of Hilltop Project as a Concept Plan proposing 36 single family detached dwelling units on December 19, 2001. Parcel 443 was approved for 21 single family detached homes on 6/1/1995.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE MEMORANDUM

TO: Taxpayer Service

FROM: Sue Hafner, Supervisor
Customer Service Division

SUBJECT: **Lien Clearance/Development Projects**

DATE:

Please complete the following information on the attached developer and return to PDM:

Routing Order	Account/Invoice Number	Amount Due	Comments	Account Clerk Initials & Date
Supervisor, TPS	19-00-010541 22-00-026318	1571.89 0	2nd S.A. due 12/03 paid	9/23/03
Personal Property	D5217021	~~0~~	located in Howard co.	MM 9/29/03
Central Billing	N/A	N/A	N/A	PB 9/23/03
Construction Loan **These charges are currently outstanding not delinquent. Outstanding charges must be paid in full prior to subdivision of property.**	19-00-010541 22-00-026318	N/A N/A	N/A N/A	9/23/03

Last person on above routing should interoffice mail completed form to PDM, ATTN Kristin Weis, Room 123 – County Office Building, Mail Stop 1105 – before the need response by date on the request memo.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Sue Hafner, Supervisor DATE: September 22, 2003
Customer Service Division
Office of Budget and Finance - M.S. 2113

FROM: Donald T. Rascoe, Manager
Development Management
Dept. of Permits & Development Management

SUBJECT: **TAX CLEARANCE**

Name of Project: NAME» The Clusters

Project Number: PDM NO.: I-509

Location of Project: ADDRESS» E/S S Hilltop Road
S Branston Road

Owner's Name(s): Developer» Skirven Enterprises

Address: Developer_Address» 5401 Twin Knolls Road, Ste. 10
Columbia, MD 21045

Engineer's Name: Dev_Engineer». George William Stephens, Jr. & Associates, Inc.

ENGR; PHONE NUMBER: 410-825-8120

TAX ACCOUNT NUMBER(S): «Tax_Number» 19-00-010541, 22-00-026318

/ / CHARGE DUE - SEE COMMENTS BELOW

/ / NO CHARGES DUE

Comments: _____

_____

_____

PLEASE FORWARD RESPONSE TO KRISTIN WEIS - Room 123
NEED RESPONSE BY: October 3, 2003

DEVELOPMENT PLAN CONFERENCE
Project I.D. #A010820
THE CLUSTERS
E/S Hilltop Road S of Branston Road
March 3, 2004 @ 9:00 AM

STORM WATER MANAGEMENT COMMENTS:

1. The Storm Water Management Act:

   A. The Developer is responsible to address the requirements of the Baltimore County Code, Title 14, Article V.

   B. Provisions for exemptions, waivers and variances for Storm Water Management (SWM) are described in this document. Exemptions, waivers and variances should be applied for and granted (or denied) by the County before Development Plan approval is given.

   C. Conditions for recording plats and granting grading and building permits as related to SWM are also described in this document. The developer is advised to be aware of these conditions and include them in planning the project to avoid unnecessary delays to construction.

2. General Engineering Requirements:

   A. Water quality storage volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are normally required. If the development is in certain designated inter-jurisdictional watersheds or, if deemed necessary by Baltimore County, extreme flood protection (Qf) or 100 year peak management may also be required.

   B. Please refer to the 2000 Maryland Stormwater Design Manual, Volumes I & II for general design criteria. Hydrology shall be in accordance with the June 1986 version of TR-55.

   C. The developer is responsible for addressing all applicable requirements of agencies whether within or outside of Baltimore County having jurisdiction over water quality, streams or wetlands

   D. Storm water management facilities are also subject to review and approval by the Baltimore County Soil Conservation District.

   E. Storm water management facilities which either outfall to a Baltimore County storm drain system or for which a public road will serves as a pond embankment will be reviewed and approved concurrently by the Department of Public Works and the Department of Environmental Protection and Resource Management.

   F. Site design must maintain, to the extent possible, predevelopment drainage patterns and characteristics. Diversion of drainage is discouraged and DEPRM reserves the right to prohibit drainage diversions it finds detrimental.

G. Refer to Chapter 5.0 Stormwater Credits for environmentally sensitive designs. Use of these credits shall be documented at the initial (concept) design stage, documented with submission of final grading and verified with As-Built Certification for grading.

3. Maintenance Requirements:

A. Storm water management facilities may be maintained by Baltimore County if the following conditions are met, subject to approval of the Department of Environmental Protection and Resource Management:

(1) Residential subdivision in which all lots are for sale in fee.

(2) Requirements for public facilities given in the Baltimore County Department of Public Works Design Manual are all met.

(3) Storm water management facility is enclosed in a reservation shown on the record plat to allow the facility to be deeded in-fee to Baltimore County.

B. Private maintenance of SWM facilities is acceptable. A Deed of Declaration and Easement must be executed by the developer guaranteeing maintenance of and County access to SWM facilities before SWM permit security may be released. Storm water management facilities in residential subdivisions to be maintained privately by a Homeowners Association shall be designed according to the requirements for public facilities.

4. Guidelines for Development Plan Approval:

A. Show type, size and location of all Best Management Practices (BMP) on the Development Plan. Preliminary unified stormwater sizing criteria should be provided to verify that the SWM area(s) on the plan are adequate.

B. Show that all outfalls from BMP facilities and bypass areas are "suitable" as defined by the Baltimore County Department of Public Works and the Department of Environmental Protection and Resource Management.

C. Show that the BMP facilities do not create a hazard. An example of a hazard would be an embankment dam located so that in the event of a breach failure, down stream life or property is endangered.

D. List on development Plan any waiver or variance and give date of approval by Baltimore County.

5. Site - Specific Comments:

In addition to the above, each project will be given a brief review by the DEPRM's Stormwater Management, and a set of specific comments will be provided. The developer is responsible for address these site specific comments, which are enumerated as follows:

A. Refer to the preceding pages for general requirements.
B. Water quality volume (WQ_v), Recharge storage volume (Re_v), Channel protection volume (Cp_v) are required.
C. All site runoff must be conveyed to a suitable outfall without adversely affecting the receiving wetland, watercourse, waterbody, storm drain or adjacent property.
D. Building and grading permits will not be issued until BMP plans are approved.
E. BMP sizing and stormwater credit computations must be referenced to the 2000 Maryland Stormwater Design Manual by page and section.
F. This project is subject to the new stormwater management requirements that Baltimore County adopted on July 1, 2001.
G. Specify the manhole above the northwest corner of the water quality BMP on the Development Plan to be a flow splitter diversion structure. Show a pipe from the diversion structure to the pond.
H. Show an underdrain/draw down system for the proposed water quality BMP which discharges into the pond.
I. Revise the Development Plan to address the above comments.

Robert T. Wood, Jr.

02/20/04

c: R. Alexander Wirth, PE

concept.swm
clusters swm

DEVELOPMENT PLAN CONFERENCE
Project I.D. #A010820
THE CLUSTERS
E/S Hilltop Road S of Branston Road
March 3, 2004 @ 9:00 AM

GRADING, EROSION & SEDIMENT CONTROL COMMENTS:

1. Grading Requirements & Sediment Control Guidelines

   A. The developer is responsible to address the grading requirements of Baltimore County Code 14, Article VI and Baltimore County Department of Environmental Protection and Resource Management.

   B. A grading permit is required for any site having greater than 5,000 square feet of disturbed area. A security is required for sites having more than 20,000 square feet of disturbed area.

   C. An erosion and sediment control plan must be approved by the Soil Conservation District and a separate approved final grading plan is required for any site having greater than 20,000 square feet of disturbed area. These plans must be approved by DEPRM prior to obtaining a grading permit.

   D. Sites having less than 20,000 square feet of disturbed area may be exempt from the approved erosion and sediment control plan requirement and may qualify to use standard sediment control plan measures. Contact Inspection and Enforcement at (410) 887-3226 for additional information

2. General Engineering Requirements

   A. Erosion and sediment control plans for sites having greater than 20,000 square feet of disturbed area must be reviewed and approved by the Baltimore County Soil Conservation District (SCD). Upon such approval, plans are then returned to the Department of Environmental Protection and Resource Management for microfilming. Grading plans will not be approved prior to SCD signature on erosion and sediment control plans.

   B. Final grading plans for sites having greater than 20,000 square feet of disturbed area must be submitted for approval to Stormwater Management along with the site erosion and sediment control plans. Final grading plans must show all proposed grading, storm drain inlets and their connections to main storm drain system up to outfall, building locations, first floor elevations, septic reserve areas, sidewalks and driveways. Proposed sanitary and water lines and their connections

to existing systems must be shown on final grading plan. Sediment control devices should not be shown on the final grading plan. Mass grading plans are not acceptable unless a waiver to this standard is granted by Stormwater Management. Final grading must reflect the proposed condition of storm water management hydrology. Refer to Baltimore County Code Title 14, Article VI.

C. Erosion and sediment control devices should be perimeter type devices and must be located sufficiently outside of proposed grading, therefore, proposed grading should not be shown to the limits of property lines, wetlands, floodplains or buffers. Erosion and sediment control plans must be designed for all work shown on the final grading plan.

D. Proposed storm water management ponds should be used as temporary sediment basins unless prohibited as such by the Stormwater Management's project engineer.

E. Grading plan must be in compliance with Development Plan.

F. Erosion and sediment control devices may not outfall concentrated flow onto adjacent properties without the property owner's written permission or acquisition of Easements.

G. All floodplains, wetlands, and buffers must be shown on final grading plans and should be shown on the sediment control plans. Erosion and sediment control devices may not be located within such areas except as allowed by DEPRM. Sediment traps outfalling into such areas must provide two times the normally required storage.

H. Sediment trapping device must be located outside the septic reserve areas. Show location of septic reserve area on grading plan in absence of sanitary sewer line.

I. Stormwater credits shall be documented with submission of final grading plans and verified with As-Built certification

3. <u>Outlines for Development Plan Approval:</u>

A. Proposed grading, especially filling, should not be shown up to limits of property lines, floodplains, wetlands, or buffers. There should be adequate room for perimeter sediment and erosion control devices and for movement of construction equipment.

B. Proposed grading must not exceed slope requirements of 2:1 maximum on commercial properties and 3:1 maximum on residential lot areas and 4:1 within 25 feet down slope of septic reserve areas.

C. All swales shall be designed to Department of Public Works Design Standards.

D. Proposed grading must not adversely impact the adjacent properties. Runoff must be discharged at locations of suitable outfalls. Diversion of natural runoff pattern from ultimate outfall for more than 1,000 feet by proposed grading is not acceptable unless approved by Department of Environmental Protection & Resource Management

4. Site Specific Comments:

A. Refer to the preceding pages for general requirements.

Robert T. Wood, Jr.

02/20/04

c: R. Alexander Wirth, PE

clusters grd
CONCEPT GRD

PDM

BALTIMORE COUNTY, MARYLAND

Subject: Development Plan Conference Comments Date: March 3, 2004

From: Department of Recreation and Parks

Project Name: The Clusters

Project Number: 01-509 Zoning: DR-2 & DR-5.5

Location: E/S S of Hilltop Road S of Branston Road

Districts: Elec. 1 Counc. 1

Drafting/CAD Note:

1. The Open Space Notes and the notes preceding those notes are in an extremely small font size, while the Landscaping Calculations, Site Data notes and Plan Title are in a much larger font size. It would be appropriate to have **all** of the notes in the same size font, preferably 10-point minimum, which is easily read.

Site Plan Comments:

This project is subject to the Adequate Public Facilities Act, Bill No. 110-99. The comments generated herein reflect the requirements of Bill No. 110-99 and the Baltimore County Local Open Space Manual, as adopted by the Baltimore County Council on February 22, 2000.

Local Open Space is required for this development.

The following are site/plan specific comments:

1. The Local Open Space required for 40 units is 40,000sf, 26,000sf Active and 14,000sf Passive or 0.92 acres +/-.

2. Although in is an extremely small font, the Open Space notes are correctly shown.

3. Add a note #8 to the Open Space notes, which reads: "The open space shall be owned and maintained privately or by a Homeowners Association."

4. Do not include the HOA Open Space, Active with the HOA Common Area. Clearly delineate and label the two types of parcels (HOA Open Space, Active and HOA Common Area). See attached drawing.

5. Include and shade the 20-foot road frontage and vehicular accesses associated with each of the Active Open Space parcels. These 20-foot access areas shall remain free of plantings. See attached drawing, circled areas.

6. Label the existing dwelling and associated driveway "To be removed by the developer."

7. The open space shall meet the requirements and standards as described in Section III of the Baltimore County Local Open Space Manual.

8. Retaining walls shall not be located within any Open Space parcel.

9. The open space shall have finished grades less than 4% for the active and 10% or less for the passive and labeled "HOA Open Space, Active" and "HOA Open Space, Passive" with square footage and proposed grades shown for each parcel. Final grades shall meet these requirements and also be shown on the grading plan for the Department of Recreation and Parks approval.

10. The Open Space shall be unencumbered by easements, clearly delineated with leaders or shading, and a minimum of 75' in width (with the exception of passive open space as described in Section III.C.3). For any lots adjacent to the open space, screening and/or fencing shall be provided along the property lines to deter encroachment and to define the open space limits.

11. Details shall be shown on the development plan for all proposed amenities and pathways.

12. The open space shall be owned and maintained privately or by a Homeowners/Condominium Association. A declaration of covenants and restrictions assuring the existence and maintenance of the open space in perpetuity must be submitted to and approved by this office prior to the recordation of the plats, see Section V.E.2.a.

Baltimore County Master Plan Designated Greenway Comments:

1. No Master Plan designated Greenways are affected by this development.

Baltimore County Department of
Recreation and Parks
301 Washington Avenue
Towson, Maryland 21204

PDM

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: March 3, 2004

PROJECT NAME: The Clusters

PROJECT NUMBER: I-509

PROJECT PLANNER: Mark A. Cunningham

GENERAL INFORMATION:

Applicant Name: Skirven Enterprises
5401 Twin Knolls Road Ste. 10
Columbia, MD 21045

Location: E/S S Hilltop Road; S Branston Road

Councilmanic District: 1st

Land Management Area: Community Conservation Area

Zoning: DR 2, DR 5.5

Acres: 18.1173± acres

Surrounding Zoning and Land Use:

North:	DR 2	Single Family Detached
South:	DR 2	Single Family Detached
East:	DR 2	Single Family Detached and Open Space
West:	DR 5.5	Single Family Detached

Project Proposal:
The applicant proposes 2 single family detached dwelling units and 38 single family semi-detached dwelling units on 18.1173 acres zoned as DR 2 (16.6413acres) and DR 5.5 (1.476

PROJECT NAME: The Clusters **PROJECT NUMBER:** I-509

Project History:
The project was submitted under the name of Hilltop Project as a Concept Plan proposing 36 single family detached dwelling units on December 19, 2001. Parcel 443 was approved for 21 single family detached homes on 6/1/1995.

Other Anticipated Actions and Additional Review Items:

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

MEETINGS:

Concept Plan Conference	10/07/03	Community Input Meeting	11/12/03
Development Plan Conference	03/03/04	Hearing Officer's Hearing	03/25/04
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.

VARIANCE REQUEST:

The Office of Planning does not oppose the petitioner's request listed under "Variance Request" on the subject Development Plan, providing all of the recommendations stated herein are fully met.

RECOMMENDATION
The Office of Planning has reviewed the Development Plan for conformance with Concept Plan comments of October 7, 2003 and recommends the following:

1. The pattern book that was submitted to this office does not address the requirements outlined in the Concept Plan comments, nor does it addresses all requirements of Section 260 of the BCZR. As such, the Office of Planning finds the pattern book to be unacceptable.

PROJECT NAME: The Clusters **PROJECT NUMBER:** I-509

2. Dimension all property lines shown on the plan.
3. Provide building elevations (all sides) for the proposed single family dwelling.
4. Reconfigure lots 2 through 7 to provide for single family detached dwellings, all existing lots along South Hilltop Road are single family detached.
5. The sides of the proposed dwellings on lots 5, 16 and 24 that front on the public right-of-way shall include articulations such as door, double windows, etc., and shall not be left as blank walls. Provide building elevation for these facades in the pattern book and add a note to the plan addressing this issue.
6. Provide and show amenities for the Active Open Space areas.
7. Provide additional screening along the rears of lots 23 and 24.
8. Provide details and elevations of proposed signage.
9. Place the following note on the plan: "The Office of Planning will oppose any future variance request associated with any lots within this subdivision."
10. Submit a redlined Development Plan and a revised Pattern Book to this office for review at least 10 days prior to the HOH. Failure to fully address all of the above referenced comments may result in a recommendation of denial of the Development Plan at the HOH.

Prepared By: _____

Section Chief: _____

MAC:kma

Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Ave.
Towson, Md. 21204

410-887-3321
410-887-2877 (fax)

Community Input Meeting Minutes

November 20, 2003

Project Name: The Clusters
PDM No. I-509
Meeting Date and Time: November, 12, 2003 7:00 PM Catonsville Public Library
Attendees: Walter T. Smith, Jr., Project Manager, Dept. of Permits and Development Management
Rick Chadsey, G.W. Stevens and Associates
Charles Skirven, Skirven Enterprises
Scott Barhight, Whiteford Taylor & Preston, LLP
Forty-three citizens from the community who signed the attendance record

As the Baltimore County project manager, I opened the community input meeting (CIM) for the proposed subdivision known as The Clusters. I described the purpose of tonight's meeting and presented an overview of the development process in Baltimore County. At this point I introduced Mr. Rick Chadsey, the engineer for the development.

Mr. Chadsey began by showing the existing conditions of the property on the site constraints map. He described the location of the property as north of the Cainwood development and showed the location of stream, floodplain, and wetlands. He then showed the proposal plan and described the project as an active adult community. Mr. Chadsey went on to say that they are proposing 40 homes off of Hilltop Way. He described the layout of the subdivision and the network of roads and the open space that is proposed.

Mr. Chadsey said that the zoning is a combination of DR5.5 and DR2 on about 18 acres. About 1.5 acres is DR5.5 and the rest is DR2. The DR2 allows two houses per acres and that is about what the site balances out to. He said that this would be an active adult community of semi-detached units. The units will be larger than typical units. He also said that there is a large open space in the center and they will have storm water management (SWM). They are, he said, setting aside flood plain and forest conservation areas and that the site will be served by public water and sewer. Mr. Chadsey then introduced the developer, Mr. Charles Skirven, to speak about the project.

Mr. Skirven said that he had met last year with the head to the community association and discussed the building of an active adult community in Catonsville. He said they talked about a lot of issues but mostly schools and traffic. He noted that while they can't restrict sales by age they can target the older population. One of the things this means, as an active adult community, is that traffic generated by the community is not as great. Mr. Skirven provided a study prepared by the National Homebuilders Association showing that these types of communities generate only 25 % of the traffic generated by standard single family dwellings.

Mr. Skirven went on to say that active adult communities are the hottest real estate product in the country right now. The census tells us that this is the fastest growing segment of the population and that they want first floor

living. He said that a couple of hundred units have been built in Howard County and that they only marginally tax the traffic and schools. The units, he said, will sell for between $325,000 and $425,000 and will appeal to wealthier adults. This community will elevate surrounding property values, bring in millions of dollars to the local community and provide hundreds of jobs. We are, Mr. Skirven concluded, trying to meet the demand for housing and the community's concerns.

The following is a list of questions and statements from the community (shown in italics) and the answers that were provided. All answers were provided by the developer or his representatives unless otherwise indicated by my initials.

What are the black dots on the plan?
Those represent landscaping and trees.
Can people park on the roads?
There will parking for two cars on each lot and the roads can handle overflow parking.
How wide is the road?
Twenty-four feet. You can park on one side.
Is this going to be assisted living?
No. It will be age targeted for empty nesters who want to live on a single floor. Fifty year olds, plus.
Isn't that discrimination?
No, this is only marketing. We can't cut off sales do to age.
What is the difference between this and Charlestown? Also, are you building against park property?
This is an entirely different concept from Charlestown, which is a retirement community. If you look at the subdivision of Hidden Bluff, you'll see something similar to what I'm proposing. And I don't think this property is adjacent to the park. The park is down here (shows on plan.)
Will there be a boundary bordering the park?
No. But we are providing a forest conservation area and a stream buffer. The park is well below this property. Several hundred, maybe a thousand feet away.
Will you be asking for any zoning variances?
None.
I have something here from the county saying that the roads do not meet standards.
We may be able to work that out with public works. It has to do with road width. But that is not a zoning variance. That is a waiver to public works standards.
What about the sewer moratorium?
That was lifted about two weeks ago.
How many bedrooms?
Three maybe four.
The term empty nester may be confusing. After the kids are gone, my house may be too big and I may move to something smaller or all on one level.
So what keeps me and my family from buying one of these homes?
Nothing, but you are not our target market.
Will you have the same kind of sewer as Cainwood?
Yes, grinder pumps.
Will they be public?
Yes.
There are a lot of problems with grinder pumps.
Grinder pumps have evolved tremendously. New ones even have storage capacity.
We had to invite our neighbors over to use the bathrooms in past storms.
There were a lot of major problems in that last storm. But there have been major advancements in the last few years.
What kind of storage capacity do they have?
Not capacity for six days. Maybe a couple of days max.
What is the size of the storage tank?

I don't have that information with me.
Grinders are notoriously unreliable. They have to be replaced on the average, every eight years. How much do they cost? We have to pay for them.
They cost $2,000 to $3,000.
That's a bill that the taxpayers have to eat.
In the latest regulations, I think that in new subdivisions the homeowners association must maintain the grinder pumps. The county will only maintain them on in-fill lots.
That's what they said would happen with Cainwood and then they came along and didn't do that.
I understand that the moratorium was not lifted. There is a bill in the executive's office now for signature.
You are mixing up two different issues. There was a moratorium that has been lifted. The other issue is a resolution passed by the County Council regarding master water and sewer plans. That resolution was regarding our application which was withdrawn. We believe that this is not proper.
For the record, it is Resolution Number 115-03.
Where did you get those figures on the amount of money that will be brought into the community?
From the National Homebuilders Association report. Here is a copy.
How will the community benefit from this income?
It creates jobs. Property taxes go to the county. Also, people will spend money in the community. People like to work within five miles of where they live. People may open businesses.
What keeps young families from spending $400,000 for one of these homes?
Nothing we can do to stop that. But we will direct our marketing. The second floor of the house is set up for visitors.
Won't our property taxes go up?
Taxes are based on computations and comparisons. They are based on what your house's value is.
This subdivision will be like Foxhall Farms and College Hills. We need this type of housing in our community. If we don't these wonderful families will go elsewhere because we don't have this type of project.
But the schools are overcrowded.
No they are not. You can't stop progress.
How many homes are you building?
Forty.
This National Association of Homebuilders report is based on building 100 new homes.
I have a mother who is looking for a rancher. I have a problem with duplexes in this area. People won't want stairs.
I don't understand. I see professional families in these kinds of homes. I think you should consider a different type of house.
We looked at several different concepts. But we are looking at an active adult who can climb stairs.
Give me an idea of how much area is between the existing community and yours.
I scale about 130 feet from along the center of your lot between the rear property line and the HOA open space.
Will that remain forest?
Yes, it will be undisturbed.
Will the roads be private?
Yes, at this point in time. We've been told because of previous developments, unless you have a certain number of homes, the roads can't be private.
What is so special about your advertising that it will target your buyers? Houses in our area sell by word of mouth.
If a younger crowd finds out about these homes, they'll spend the money.
I really don't have an answer. You advertise to that group. You provide amenities to them. It's working over at Hidden Bluff.
Aren't realtors required to show all houses in a price range?
Yes, we can't stop them from showing these houses. But this is going to be a community for active adults.
The same thing happened with the Lincoln Navigator. But a population totally different took off with it. Why not single family houses and normal size roads?
Originally, we thought we could make this a private community with a pumping station. Then the county said no more. We went with active adult because it cuts down on traffic and school use.
Why not single family homes?
There are only four more units using duplexes. It's more an issue of product. It's not a density issue.
Since it's only four more, are you prepared to give them up?

We are not here to negotiate this evening.
How effective has marketing been in similar situations?
I've done single-family homes. I'll see if I can research that question.
Can you put that in the minutes?
(W.S. - Mr. Skirven contacted me after the CIM and said that "while it is difficult to gauge the effectiveness of marketing, the strategy is to design a product that appeals to active adults and then advertise in the media that target market.")
What are those forest conservation areas?
The state passed regulations a few years ago. We have to save a certain percentage of the forest. They you have to look at what forest will be lost to the development. You work towards what is called a break-even point.
Will these homes have garages?
Yes.
How do you determine how many homes can be built in the DR-2 zoning?
Take the number of gross acres and multiply it times two.
Is there only the one entrance?
Yes.
There are two sets of duplexes on Hilltop Road. Can't they be singles?
They could, but that is the developer's decision.
Are there any wetlands?
They are associated with the stream system and won't be disturbed.
I've been here forty years and I think this is a step backwards. I prefer single-family dwellings. I grew up in a row house and moved here to get away.
I deal with these types of developments out in Columbia. I install mailboxes for the Post Office. Columbia runs at least three houses together. I think this is better.
Are there any endangered species on the property?
Not that we are aware of.
Does the project meet greenway standards?
Those are not applicable. There is no greenway.
Why not?
It's not on the Master Plan as a greenway.
Can you access the forest conservation area?
Yes, through the development. Possibly through the storm water management area. This is only a concept plan at this point.
If you make the road public and wider, how many houses do you loose?
Probably none.
What about this parcel?
That is under contract. It shows on the plan. This area supports density that will come from Cainwood. The plan shows the area that is being transferred. The area will go to forest conservation.
What part is still under negotiation?
You wouldn't notice the difference if you lived there. The trees will remain in Cainwood as they are today.
How can some piece of property be used for two developments?
Cainwood has a certain amount of property for their density. They reserved this area on the plat with density.
Does that leave Cainwood with enough land to support its density?
Yes. Developments don't share density. They each stand alone. Where you see the dark green, we can't disturb.
Go back to traffic. You said that empty nesters don't generate as much traffic. I'm retired and I'm up and down the street three time every morning.
I have to calculate the average daily trips (ADT's) that a subdivision generates. The ADT's for a single-family dwelling are 12.5. Townhouses generate 10.5 ADT's. Mr. Skirven is saying that the study shows 25% less than that.
Even if that is true, you can target whomever, but it won't make a difference. This is a wolf in sheep's clothing. It's a housing development.
We opposed the last project. Now this one is twice as many homes.
The previous plan showed 36 homes. This plan shows 40 homes.

What is the width of Hilltop Road?
It is 30 feet of paving on a 50-foot right of way.
Does that meet federal and state regulations?
Yes.
When we were looking to buy a house we were looking in Catonsville for ranchers. I can't see targeting in the marketing sense. We have issues with grinder pumps. The county fixed ours and two days later it failed again. They said that we're too far down the road. Maybe I should have gone after the county. Are these duplexes sharing grinder pumps?
There may be duplex grinder units but they would have two pumps.
What about trash pick up on private roads?
These will have to be public roads now.
There is too much traffic now. What will you do?
We'll have to meet the regulations.
How do you get your forty lots? Can you put the density tabs in the minutes?
(W.S.- The breakdown is as follows:
16.641 acres x 2 = 33 units from the DR-2.
1.476 acres x 5.5 = 8 units from the DR-5.5 Combined total is 41 units allowed.)
Are the yards going to be individually maintained?
I believe they will all be taken care of.
Will there be a similar floor plan as in this handout?
Yes.
Will the homes have basements?
Yes, if there is not too much rock.
That doesn't make sense for seniors.
We're saying active adults. This is not a senior housing project.
My concern is that the master bedroom is on the first floor along with other bedrooms. Bedrooms upstairs and maybe in the basement.
Where will everyone park?
There will be parking in the driveways and in the street. Just like you have.
Will there be amenities for the active adults? A community center?
No centers.
Who will the builder be?
We haven't chosen a builder yet.
What other projects has Mr. Skirven done?
I've done the subdivision called Hollifield Farm in Ellicott City.
So if the road is 24 feet wide and kids park on the street, how do fire trucks and ambulances get through?
There is only parking allowed on one side of the street. Also, we are being told to make the road 30 feet wide.
Where would a private pump system have gone?
Here (shows location on plan.)
How long will it be between the commencement of constrution noise and when it all ends?
It will take about six months for utilities. Then the house construction and that depends on what the market does.
If you hit rock will you be dynamiting?
Yes, probably.
People are calling the office asking for information.
Are they serious?
The traffic study in this report you gave us is dated 1987. Isn't there a possibility that these figures are not correct? This is a national survey. I live on Maple Avenue. Try to get out onto Frederick Road. You can't. You are adding 80 more vehicles. Active adults still commute. These statistics don't add up. If you want to satisfy us we need something more local.
Is there a traffic study required?
We have to campare the basic services map against the development. Each year, they map the traffic sheds and grade the signaled intersections. The county studies this.

Is there a plan for a traffic light?

No.

Are the basic services maps done?

Yes. They must be adopted by the County Council.

What are the ratings for Rolling and Frederick Roads intersections?

(W.S. – I have checked the Baltimore County 2003 Basic Services Transportation Area Map. This is the map that is adopted by the County Council and shows all signaled intersections that are given a level of service equal to D, E or F. The intersections of N. Rolling Road and Frederick Road as well as the intersection of S. Rolling Road and Frederick Road are both rated as D level intersections. Level D is considered deficient but not failing.)

I live by a failing intersection that can't be repaired or fixed.

How did your intersection get to be failing?

Houses, churches, businesses.

W.S. – The county does a study each year of intersections with traffic signals. They map these out and then the County Council approves the maps. Each signal has an area around it called its traffic shed. If the intersection gets a failing grade, the law provides that a plan can still be approved but that building permits cannot be issued. It is very complicated.

The only way I get out of Maple Avenue is when there is a break in traffic. People are getting more aggressive.

Is it fair to say that if the light at Rolling and Frederick were failing that it would impact this project?

Yes.

Once you destroy these woods you can never get them back.

How big is a traffic shed?

That depends on many factors.

How do we find out?

You'd have to look at the maps.

Have you don't a study to determine if the water and sewer capacity are adequate?

We have to do a pressure study for the water. But again, we're subject to the maps.

Don't you study the impact?

No, the county has maps we must use. Generally, sewer is overcapacity. They'll tell us if there is a problem.

What is the price range of the homes?

Between $325,000 and $425,000.

We moved into this area 10 years ago. Sales were slow so the builder changed the types of homes he was building. Can things be changed on this plan along the way?

Typically, we will have a builder with a product that will fit. We have to do a pattern book for the county that shows our products. If someone wants to change that they have to change the plan.

What is the timeline from tonight?

Maybe less than a year.

How about once everything is approved.

First you go to the HOH. He issues an order. That can be appealed. In the interim we may be working on drawings. We'll send out a notice of the date of the development plan conference and the HOH. The HOH will be about 30 days after the DPC.

PROJECT NAME: The Clusters **PROJECT NUMBER:** I-509

Other Anticipated Actions and Additional Review Items:

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

PARTIES TO BE NOTIFIED BY APPLICANT:

1. All adjacent property owners.
2. The Community Associations listed below:

Catonsville Community Conservation Association
Attn: Mr. Jim Himel
20 N Beaumont Avenue
Catonsville, MD 21228

Greater Catonsville Junction Association
Attn: Mr. William Harmon
2 Dutton Avenue
Baltimore, MD 21228

North Rolling Road Community Association Inc.
Attn: Mr. John Schneidre
100 N Rolling Road
Baltimore, MD 21228

South Rolling Road Community Association
Attn: Mr. Norman Scmuff
9 Forest Drive
Baltimore, MD 21228

Southwest Coalition, Inc.
Attn: Mr. Charles MacGill
319 Gun Road
Baltimore, MD 21227

Stonewall Park Community Association
Attn: Ms. Emily Reiter
2113 Devere Lane
Catonsville, MD 21228

West Catonsville Community Association, Inc.
Attn: Mr. Steven McCleary
2015 Windys Run Road
Catonsville, MD 21228

MEETINGS:

Concept Plan Conference	10/07/03	Community Input Meeting	
Development Plan Conference		Hearing Officer's Hearing	
Planning Board			

RESIDENTIAL PERFORMANCE STANDARDS:

Be advised that this development is subject to Bill 58-01 titled "Residential Performance Standards." Section 260 of the Baltimore County Zoning Regulations requires the Director of the Office of Planning to make a finding to the Hearing Officer for all residential development of four lots or more in Baltimore County that is located within the Urban/Rural Demarcation Line.

PROJECT NAME: The Clusters **PROJECT NUMBER:** I-509

The Hearing Officer or the Director of Permits and Development Management, as applicable, shall consider the findings presented by the Director of the Office of Planning or the Director's designee before a development plan is approved.

RESIDENTIAL PERFORMANCE STANDARDS FINDING:

Before a finding can be made on compliance of the subject project with the Residential Performance Standards, all of the following must be submitted:

1. A pattern book (11" x 14" bound and in color) to include the following:
   a. Architectural elevations **of all facades** including any proposed garage that shall include general massing of the buildings, major facade divisions, porches, gables, dormers, chimneys, size and placement of openings, roof treatment, materials, and colors. Elevations shall be provided of all unit types to be offered for sale;
   b. Floor plans of the building types;
   c. If dwellings with front entry garages are to be constructed, provide a typical plan or detail showing the garage setback;
   d. Typical lot layouts showing house, garage, and driveway configurations;
   e. Elevations and details of all proposed fencing;
   f. Elevations and details of the proposed rear decks, indicating materials and finishes;
   g. Elevations and details of proposed screening treatments of HVAC and metering systems;
   h. Elevations, details and locations of proposed mail boxes;
   i. Elevations and details of all proposed signage and entrance treatments;
   j. Details of all proposed landscaping; and,
   k. A copy of all covenants associated with the project.
2. A grading plan.
3. The design and location of the open space area.

MASTER PLAN:

The *Master Plan 2010* Land Management Area Plan designation for the subject area is "Community Conservation Area." The proposed use as indicated on the Proposed Land Use Map of Baltimore County is "Single Family Detached."

SCHOOL IMPACT ANALYSIS:

This development is subject to the requirements of Bill 110-99, Adequate Public Facilities. A school impact analysis is required with development plan submittal. Information is available on the Baltimore County Office of Planning's Web Page:
http://www.baltimorecountyonline.info/Agencies/planning/index.html

PROJECT NAME: The Clusters **PROJECT NUMBER:** I-509

COMMENTS:

The receipt of additional information from the Community Input Meeting or other sources may generate further comments at the Development Plan Conference.

GENERAL:

Provide the following information on the Development Plan:

1. Tax map, block and parcel;
2. Front orientations and building envelopes;
3. Bearings and distances of the property lines;
4. Schematic grading;
5. Typical lot layout that shows house, garage and parking pad;
6. Building elevations; and
7. Section 260.6, Buildings, Residential Performance Standards, (Baltimore County Zoning Regulations).

DESIGN:

1. Although the regulations do not prohibit semi-detached dwelling units, single family detached dwellings are the predominant pattern in the neighborhood.
2. Reconfigure lots 2 through 7 to provide for single family detached dwellings; all existing lots along South Hilltop Road are single family detached.
3. Show the proposed off-street parking spaces on the Typical Lot Layout. Front yard "double-lane" parking pads are not appropriate. Design the parking pads as "single-lane" driveways leading to a garage/carport, locate in the side or rear yard.
4. Garage doors shall not adjoin.
5. Provide and show the location of sidewalks along the South Hilltop Road frontages and along both sides of the proposed new roads.
6. Show the limits of trees to be retained outside of the Forest Conservation and Forest Buffer Areas.
7. Provide and show amenities for the Active Open Space areas.
8. Provide additional screening along the rears of lots 23 and 24.
9. Clearly label the structure located adjacent to the entrance on lot 5. Provide details and elevations of this structure.
10. Provide details and elevations of proposed signage.

11. Place the following note on the plan: "The Office of Planning will oppose any future variance request associated with any lots within this subdivision."

12. Total number of dwelling units proposed in the Site Data should reflect that lots 1 and 8 are single family detached dwelling units.

Prepared By: Anne Roark

Section Chief: Tyler Lanham

AR:kma

PDM

BALTIMORE COUNTY, MARYLAND

SUBJECT: Concept Plan Comments
For October 7, 2003

DATE: October 3, 2003

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: The Clusters

P.D.M. NO.: I-485

LOCATION: South Hilltop Road

DISTRICT: 1C1

We have reviewed the subject plan dated September 12, 2003 and have the following comments:

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

A flood plain study is required.

Confirm and then add this note to the development plan:

- *"Bureau of Traffic Engineering and Transportation Planning" has confirmed that the subject site **is/is not** within a traffic deficient area.*

Sidewalks and street lights will be required.

At this time the County has a moratorium on the use of grinder pumps. If the developer wishes to have plan approval before the moratorium is lifted, the plan must show a public pumping station and force main. The only sewer that has capacity for flow from this site is in Hilltop Road north of Logwind Road.

The proposed streets may not be private and must be standard 30-foot-wide curb and gutter sections on 50-foot-wide rights-of-way.

* * * * *

RWB:DAK
cc:file

At this point, there were no additional questions and the meeting was concluded.

Copies of these minutes are being provided to all who signed in at the community input meeting as well as the county reviewing agencies. If anyone has any questions please do not hesitate to call me at 410-887-3321 or contact me at wsmith@co.ba.md.us by e-mail.

Sincerely,

Walter T. Smith, Jr.
Project Manager

WS:ws
c: Hon. S. G. Samuel Moxley, County Council, District 1
Rick Chadsey, G.W. Stevens and Associates
Charles Skirven, Skirven Enterprises
Scott Barhight, Whiteford Taylor & Preston, LLP
Reviewing Agencies: OP, PDM, R&P, DEPRM, EDC, CDC, Bd. of Ed., Fire, SHA
Please distribute as necessary within your agency or company.

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

April 29, 2004

RECEIVED
APR 29 2004
ZONING COMMISSIONER

VIA HAND-DELIVERY
The Honorable Lawrence E. Schmidt
Zoning Commissioner
Suite 405
401 Bosley Avenue
Towson, MD 21204

Re: Project No. I-509
04-382-SPH
The Clusters

Dear Mr. Schmidt:

I just received in today's mail, the April 26, 2004 letter from Mr. La Fiandra. I am writing, specifically, to take issue with two aspects of the Petitioner's reply. First, Council Resolution 5-04 was not an exhibit before you in either the Hearing Officer case or the zoning case. Protestants' Exhibit 9 was the Council Resolution 32-04, introduced before the Council, March 15, 2004. Whatever action was indeed taken by the Maryland Department of the Environment, in rejecting Resolution 5-04 is not germaine to the decision in the case, under any legal theory, because it was not before you as an exhibit, and in fact, was superceded by Resolution 32-04, which is the more recent enactment of the governing body, the Baltimore County Council and the County Executive for Baltimore County.

The second aspect of the letter, which is particularly offensive, are Mr. La Fiandra's comments in his third paragraph, that Resolution 32-04 "contains the same errors". To my knowledge, Mr. La Fiandra was not present for any hearing in this matter, before you. While he is entitled to an opinion and to make conclusions, to do so on matters not in evidence, and without having participated in the hearings before you, exceeds the latitude given the parties by you in forwarding memoranda and further information. To attempt to drag a red herring form of the prior resolution and to make the unfounded statement that Resolution 32-04 possesses the same errors, is improper and patently false. If you only look at Protestants' Exhibit 9, you will see attached to it, the notice required to the public, as well as the provisions in the advertisement which accompanied it, calling for the public hearing, which the Department of the Environment complained of in the rejection letter for Resolution 5-04.

Respectfully submitted,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: Hilltop Maple Community Association
Attn: Joe Gochar
Meg Levickas
Dino C. LaFiandra, Esquire

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

June 4, 2004

VIA HAND-DELIVERY
The Honorable Timothy Kotroco, Esquire
Director, Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Zoning Commissioner/Hearing Officer
Lawrence E. Schmidt
Room 405
401 Bosley Avenue
Towson, MD 21204

Re: Project No. I-509
04-382-SPH
The Clusters

Gentleman:

Enclosed herewith for filing is a Petition on Appeal, which I am filing on behalf of my clients, Hilltop/Maple Community Association and Joseph Gochar, Jr., from the decision of the Hearing Officer and the Zoning Commissioner, dated April 30, 2004 in the Clusters development case.

Please feel free to contact me should you have any questions.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: Hilltop/Maple Community Association
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Peter Max Zimmerman, Esquire

RECEIVED
JUN 04 2004
Per.....

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

June 17, 2004

VIA HAND-DELIVERY
G. Scott Barhight, Esquire
Whiteford Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204-5332

Dear Mr. Barhight:

Re: PDM Case No.:I-509
Zoning Case: 04-382 SPH
The Clusters

Dear Scott:

As you know, an appeal was filed to the development plan and zoning decision in the above cases. Pursuant to your representation made to the Zoning Commissioner, I would appreciate receiving a copy of the transcript of the hearings conducted before the Hearing Officer/Zoning Commissioner, for purposes of preparing for the appeal before the Board of Appeals.

Please forward that directly to me as soon as possible.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl

cc: Hilltop/Maple Community Association
Peter Max Zimmerman, Esquire

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

June 17, 2004

VIA HAND-DELIVERY
Board of Appeals of Baltimore County
Attn: Ms. Kathy Bianco
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
JUN 17 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Re: PDM Case No.:I-509
Zoning Case: 04-382 SPH
The Clusters

Dear Ms. Bianco:

Enclosed herewith please find the response of Hilltop Maple Community Association and Joseph Gochar, Jr., my clients, in opposition to the Skirven Enterprises's Motion to Consolidate, with proposed Order, which we ask you to file in this matter.

If you have any questions, please don't hesitate to contact me. Thank you very much for your assistance in this regard.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.
cc: Hilltop Maple community Association
Joseph Gochar, Jr.
G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Peter Max Zimmerman, Esquire

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

June 30, 2004

G. Scott Barhight, Esquire
Whiteford Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204-5332

Dear Mr. Barhight:

Re: PDM Case No.:I-509
Zoning Case: 04-382 SPH
The Clusters

Dear Scott:

I previously wrote to you on June 17, 2004, copy attached, requesting a copy of the transcript of the hearings conducted before the Hearing Officer/Zoning Commissioner, for purposes of preparing for the appeal before the Board of Appeals. To this time, I have not received the transcript, and have had no response from you.

In light of your office's attempts to expedite the appeal, I would appreciate having a transcript delivered to my office as soon as possible.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.
cc: Hilltop/Maple Community Association
Peter Max Zimmerman, Esquire
Board of Appeals of Baltimore County
Attn: Ms. Kathy Bianco

RECEIVED
JUL 01 2004
BALTIMORE COUNTY
BOARD OF APPEALS

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

July 6, 2004

G. Scott Barhight, Esquire
Dino C. LaFiandra, Esquire
Whiteford Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204-5332

Re: PDM Case No.:I-509
Zoning Case: 04-382 SPH
The Clusters

Dear Mr. Barhight and Mr. LaFiandra:

It is now July 6, 2004 and I still have not received the transcript which you promised. Please advise this office at once when we will be receiving the transcript.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl

cc: Hilltop/Maple Community Association
Peter Max Zimmerman, Esquire
Board of Appeals of Baltimore County
Attn: Ms. Kathy Bianco

RECEIVED
JUL 07 2004
BALTIMORE COUNTY
BOARD OF APPEALS

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

August 6, 2004

The Honorable Timothy Kotroco, Esquire
Director, Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Appeal of Hearing Officer's signing a revised Development Plan
E/S S. Hilltop Road, S. Branston Road
The Clusters
District: 1 c 1
Skirven Enterprises - Developer
Project No. I-509
The Clusters

Dear Mr. Kotroco:

On behalf of Hilltop Maple Community Association and Mr. Joseph Gochar, Jr., my clients in the above case, please accept the within appeal and Petition to Accompany Appeal from the action of the Hearing Officer, July 9, 2004, when he signed a new plan for the Clusters, which was also counter-signed by Donald Rascoe, Project Manager, PDM, on July 12, 2004, to the Board of Appeals for Baltimore County, pursuant to Baltimore County Code §32-4-281(b).

As you are aware, a timely appeal had been filed by my clients from the Hearing Officers/Zoning Commissioner's original Order, in both the Hearing Officer and zoning case, which is presently being heard at the Board of Appeals for Baltimore County. Since the actions of July 9, 2004 and July 12, 2004, above noted, which occurred after the time of the original appeal, and were accomplished without notice or hearing or review by Baltimore County or the general public, particularly those, including my client, who had participated in the hearing process, we note this appeal. Neither my clients, myself, nor People's Counsel were given a copy of the plan which was submitted to the Hearing Officer by the Petitioner's representatives ex parte, prior to the Hearing Officer's signature on the plan.

As there was no further opinion or Order of the Hearing Officer entered, we have been advised by Mr. Walt Smith that the appeal fee will be $100.00 for this appeal, which is enclosed.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.
cc: Hilltop/Maple Community Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August, 2004, a certified copy of this appeal was mailed, first-class, postage prepaid to Dino C. LaFiandra, Esquire, and G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorneys for the Petitioner(s) and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

MICHAEL P. TANCZYN, Esquire

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

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

February 4, 2005

Via Hand Delivery
Ms. Kathleen Bianco, Administrator
Baltimore County Board of Appeals
401 Washington Avenue, Room 49
Towson, Maryland 21204

Re: The Clusters (CBA 04-126 & 04-382-SPH)

Dear Ms. Bianco:

At the conclusion of the hearing in the above-referenced matter on February 2, I offered to present the Board with a proposed Order in accordance with the settlement agreement and the proceedings in hopes of facilitating the processing of this matter. The panel agreed that this would be appropriate. The proposed Order is enclosed. It has been reviewed and ratified by all counsel.

Accordingly, I would greatly appreciate your most prompt processing of the proposed Order. It would be most helpful to know at the earliest possible time that the order has been signed.

Thank you for your continued assistance with this matter.

Sincerely,

Dino

Dino C. La Fiandra

C: Michael P. Tanczyn, Esquire (by fax)
Peter M. Zimmerman, Esquire (by fax)
Skirven Enterprises, Inc. (by fax)
Enclosure
326527

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

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

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

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

RECEIVED
MAR 18 2004
ZONING COMMISSIONER

March 18, 2004

VIA HAND DELIVERY
Hon. Lawrence E. Schmidt
Baltimore County Zoning Commissioner
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Re: The Clusters PDM #1-509
Zoning Case No. 04-382-SPH
Hearing Dates – March 25, March 26 and April 2

Dear Mr. Zoning Commissioner:

This firm represents Skirven Enterprises, the Developer in the above-referenced cases. Michael P. Tanczyn has notified us that he represents some of the neighbors in the area of the proposed development.

As noted above, this matter will be before you on March 25, 26 and April 2 in a combined Hearing Officers Hearing and Zoning Hearing. By letter dated March 16 (copy enclosed), Mr. Tanczyn has alerted this office to an issue regarding the adequacy of the posting for the zoning hearing. The Special Hearing relates to two adjoining properties: the proposed development to be known as "The Clusters" and an existing development known as "Cainewood". The Petition for Special Hearing relates mostly to issues within the Clusters tract, however, it does request approval of a 5th Amended FDP for the Cainewood development. The Notice of Zoning Hearing was posted on the Clusters property on March 10, 2004, 15 days in advance of March 25, 2004, the first hearing date.

Because a portion of the Special Hearing seeks approval of a 5th Amended FDP for the Cainewood Development, Mr. Tanczyn asserts that the Cainewood development should have been posted in addition to the Clusters property. While we may disagree with Mr. Tanczyn as to whether the posting on the Clusters tract was inadequate as it relates to the approval of a 5th Amended FDP for the Cainewood development, please

be advised that on March 18 we posted the Cainewood property with the Notice of Zoning Hearing. Fifteen days following March 18 is April 2, which is scheduled as a hearing day in this case. Accordingly, to the extent you find that Mr. Tanczyn's concerns have merit, the second posting cures whatever deficiency might have existed, so long as the issues related to the Special Hearing for approval of the 5th Amended FDP are heard April 2, the last day scheduled for hearing in this case.

Should you have any questions, please contact me.

Sincerely,

Dino C. La Fiandra

DCL/las
Enclosure

cc: Michael P. Tanczyn, Esq.
Mr. Charles Skirven

302331

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

March 16, 2004

VIA FACSIMILE
NO.: 410-832-2015
G. Scott Barhight, Esquire
Whiteford Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204-5332

Dear Mr. Barhight:

Re: Project No. I-509
The Clusters
First Hearing Date: 3/25/04
Second Hearing Date: 3/26/04
Third Hearing Date: 4/2/04

Dear Scott:

I have been asked by some of the affected neighbors to this proposed site to represent them at the Hearing Officer's Hearing and Zoning Hearing. I am writing to alert you to what we consider to be deficiencies in the posting of the property by the agents for your client. The Cainewood subdivision was never posted, as required by the Code, even though one of the major issues in the case is that of modifying the Cainewood Subdivision Plan, to allow 2.55 acres to be transferred to Hilltop. I am certain that you and your client would want to notify the people who bought property in Cainewood of the proposed transfer, so they would have a chance to see the impact that this proposed transfer and subsequent development may have on them. If the case were to be called for hearing on March 25, 2004, I would request that the case be postponed or dismissed for lack of meeting the public posting requirements of Cainewood. However, it has occurred to me that both my client and your client would both be expending substantial client monies for experts to appear, perhaps only to find the case dismissed or postponed. Consequently, I thought I would see if you and I could resolve this matter to save us both time and our clients money.

There are other deficiencies so far as the notice, which has come to our attention. If, in fact, the addresses and property owners listed on your Hearing Officer's Plan are those to whom the notice would have been sent more than one instance, they do not reflect the current owners of the property, some of whom have owned their homes for more than two years.

I look forward to hearing back from you at your earliest convenience.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: Hilltop Neighborhood Association
Joseph P. Gochar, Jr.

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

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

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

RECEIVED
APR 26 2004
ZONING COMMISSIONER

April 26, 2004

Via Hand Delivery
Hon. Lawrence E. Schmidt, Zoning Commissioner
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Re: The Clusters
PDM Case No: I-509
Zoning Case No. 04-382-SPH

Dear Mr. Schmidt:

During the course of the hearing in the above-referenced matter, the Protestants raised the issue of the Water & Sewer Plan designation applicable to the Property. Specifically, the Protestants raised the issue of whether and to what extent Council Resolution 32-04 affects the Water & Sewer Plan designation and the development plan for the Property. This issue was briefed in the parties' post-hearing memoranda.

The issue which the Protestants did not raise is the effect of Council Resolution 05-04. The Council passed Resolution 05-04 in January, 2004. Like Resolution 32-04, Resolution 05-04 purported to downshift the Property from the W3/S3 designation to the W6/S6 designation. Resolution 05-04 was wrought with factual and legal errors. On April 22, 2004, the Maryland Department of the Environment rejected Resolution 05-04 as it pertains to the Clusters (aka "Hilltop") property.

To the extent that Resolution 32-04 contains the same errors, and it does, it will certainly meet the same fate upon review by MDE as Resolution 05-04 did. I have enclosed a copy of the letter from the Secretary of MDE to the County Executive rejecting the Hilltop redesignation for your review. Should you have any questions, please contact me.

Sincerely,

Dino C. La Fiandra

cc: Michael P. Tanczyn, Esq.
Mr. Charles Skirven

305306

MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Kendl P. Philbrick
Secretary

APR 2 2 2004

The Honorable James T. Smith, Jr.
Baltimore County Executive
400 Washington Avenue
Old Courthouse Mezzanine
Towson MD 21204

Dear Mr. Smith:

We have completed our review of the Cycle 21 amendments to the 2000 Baltimore County Water and Sewerage Plan. These map amendments were adopted by the Baltimore County Council on January 5, 2004 by Resolution 3-04.

Map amendments are approved for the BCPS Windsor Mill School Site, Exhibit 1, (03-01); Norbert Porter Property, Exhibit 2, (03-02); Citro/Jachelski Property, Exhibit 4, (03-05); and, the Loreley Road Community, Exhibit 5, (ESA-2003-01). Map amendments are not approved for Hilltop, Exhibit 3, (02-07) and Baker Property, Exhibit 3, (02-08). The latter two amendments are disapproved because the County did not follow proper procedure when, several months ago, the County Council, without public notice, changed the designation on these properties from W3/S3 to W6/S6.

It is our understanding that the County has gone back through the process with these amendments, and MDE awaits receipt of the two amendments for reconsideration. As stated in an earlier letter from MDE, if the amendments are consistent with the County Comprehensive Land Use Plan, and proper procedures were followed, MDE will approve amendments for the Hilltop and Baker properties.

This action completes our review, as required by Section 9-507 of the Environment Article of State law. Thank you for giving us this review opportunity. If you have any questions, please call me at (410) 537-3567 or have a member of your staff call Ms. Virginia F. Kearney, Deputy Director, Water Management Administration, at (410) 537-3512.

Sincerely,

Kendl P. Philbrick

Kendl P. Philbrick
Secretary

cc: **The Honorable Paula Hollinger**
The Honorable Edward J. Kasemeyer
Mr. Edward C. Adams, Jr.
Mr. Arnold F. "Pat" Keller, III
Ms. Rosewin Sweeney, Esq.

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

COMMUNITY INPUT MEETING

ATTENDANCE RECORD

PROJECT NAME — ***The Clusters*** — ***PDM No. I-509***
MEETING LOCATION — ***Catonsville Public Library***
DATE — ***November 12, 2003***

PLEASE PRINT

NAME	ADDRESS	ZIP CODE	PHONE
David + Linda Heinmuller	141 S. Hilltop Rd. Catonsville, MD	2228	418 86 9-7990
Milton & Patricia LANG	202 S. HILLTOP RD CATONSVILLE MD	21228	(410) 747-7162
Ingrid Schoeler	111 Woodwind Rd " "	212 28	410-747-3335
Elise Lundy Linder	1902 Tadcaster Rd, Catonsville	21228	410-744-4557
GERRY & DOTTI FIELDER	1905 TADCASTER ROAD	21228	410 788-4857
RUTH & HARRY SCHWAB	102 S. HILLTOP ROAD	21228	410-744-4455
Denise & Jerry Phillips	105 S. Hilltop Road	2122 8	410 788-6146
Charles Macgill	319 Gun Rd (SWC CHPA)	21227	410-242-3027
John & Brenda Paton	102 Woodwind RD.	21228	410-744-6813
Dick & Sandee Zabela	1900 Logwind Rd.	21228	410 747-9694
EDWIN KIRSTUKAS	8 PHILBAR CT	21228	410 744 4098
EUGENE L. SHAVER	1165 S. HILLTOP RD.	21228	410 744-2605
KATHLEEN SPINNATO	1918 TADCASTER RD	21228	410-719-9626
Kendall Skirven	201 Rollingdale Rd	21228	410-747-8852
M-AM ed	10161 Carroll Ann Dr	21046	410-884-7787
	Trotter Road Clarksville	21029	410-531-2317

KIRVEN ENTERPRISES

CHARLES A. SKIRVEN, JR.
President

...sters at Twin Knolls
...vin Knolls Road Suite 10
...ia, Maryland 21045

410-995-0080
410-995-1288 Fax
Skirvenjr@...

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

COMMUNITY INPUT MEETING

ATTENDANCE RECORD

PROJECT NAME **The Clusters** **PDM No. I-509**
MEETING LOCATION **Catonsville Public Library**
DATE **November 12, 2003**

PLEASE PRINT

NAME	ADDRESS	ZIP CODE	PHONE
FRANCIS W FARLEY	3126 GRACEFIELD ROAD APT BG 306 SILVERSPRING MD 20904	20904	301 572 2488
William A. Vogel	10730 CLEO'S COURT COLUMBIA, MD 21044-4202	21044	301-854-0238
DAN Figallo	2403 Kirby ct	21228	40 747 8796
Francis+Florence Smith	9 Alquin Court ~~21228~~ Catonsville	21228	410-869-9221
Marcia AMES	Catonsville Twp 754 Frederick Rd	21228	410-788-4500
David Bellis	2005 Helmsley Rd Catonsville MD	21228	410-747-1174
Robert G Hewitt	7 ALQUIN court Balt MD	21228	410-788-4868
Paul Donohue	508 Gun Rd Balt Md	21227	(410) 242-3789
Joe Gollar	112 S Hilltop Rd	21228	744-1086
William Young	204 S. Hilltop Rd	21228	747-6222
Ken + John Smith	1800 Narberth RD	21228	455-9889
Bernard Haske	320 Concert Way	21228	747-1991
Ann Butterworth	109 Woodwind Rd	21228	410-744-6369
Russ + Julie Sterner	322 Concert Way	21228	410-788-0522
MEG LEVICKAS	1820 Cainewood Ct	21228	4107882262
MIKE GARDNER	125 MAPLE AVE	21228	410-788-9547

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

COMMUNITY INPUT MEETING

ATTENDANCE RECORD

PROJECT NAME ***The Clusters*** ***PDM No. I-509***
MEETING LOCATION ***Catonsville Public Library***
DATE ***November 12, 2003***

PLEASE PRINT

NAME	ADDRESS	ZIP CODE	PHONE
Elizabeth Britton	1914 Tadcaster Rd	21228	410-747-0128

PLEASE PRINT CLEARLY

CASE NAME The Cloisters
CASE NUMBER PDM # I 509 - 04-382-51
DATE 3/25/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
G. Scott Barbight	210 W. Penn. Ave	Towson MD 21204	
RICK CHADSEY	1020		
CHARLES SKIRVEM	5405 TWIN KNOLLS RD	COL. MD 21045	

PLEASE PRINT CLEARLY

CASE NAME The Clusters
CASE NUMBER I-509
DATE 3-25-04

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Mark A Cunningham	Planning		
Ron Goodwin	PDM - LAND ACQUISITION		
JOHN R HICKMAN	P.D.M. ZONING		
Bruce Seeley	DEPRM		
Jan Cook	Rec & Parks		
Robert Bowling	PDM/Dev Plans Review		

PLEASE PRINT CLEARLY

CASE NAME The Clusters
CASE NUMBER I-509 & 04-382 SP
DATE 3-25-09

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Ruth Schwab	102 S. Hilltop Rd.	Catonsville, Md. 21228	
HARRY SCHWAB	102 S. HILLTOP ROAD	CATONSVILLE, MD. 21228	NONE
EUGENE L. SHAVER	116 S HILLTOP RD.	CATONSVILLE, MD 21228	NONE
JOSEPH GOCHAR	112 S. HILLTOP RD	" "	JGOCHAR@LSI OF MD.COM
Michael Tanczyn	STE 106, 606 BALTIMORE AVE	TOWSON MD 21204	MPTLAW @ VERIZON.NET
Charles Trainor	103 Woodwind Rd.	Catonsville, MD 21228	
William A. Vogel	10730 Cleo's Court	Columbia, MD 21044	bsvogel@juno.com
Mary V. Farley	3126 GRACEFIELD RD APT BG306 SILVER SPRING MD 20904	SILVER SPRING 20904	—
FRANCIS W FARLEY	"	"	—
Terry MacHamer	7018 Channel-Village Ct.	Annapolis, 21403	—
MEG LEVICKAS	1820 Rainewood Ct	Catonsville, 21228	MLEVICKAS@comcast.net
RUSS STERNER	322 CONCRETE WAY	CATONSVILLE 21228	RUSSSTERNER @ MASTERCAREFLOORS.C

PLEASE PRINT CLEARLY

CASE NAME Clusters
CASE NUMBER 04-382-SPH, PDM-I-509
DATE 3/29/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Jennifer Busse	c/o WTP 210 W. Pennsylvania Ave., Ste 400	Towson, MD 21204	jbusse@wtplaw.com
CHAS. SKIRVEN	5405 TWIN KNOLLS RD	COL. MD 21045	
RICK CHRISTEN	1020 Cromwell Bridge Rd	Towson 21286	rchristen@gwstephens.com

PLEASE PRINT CLEARLY

CASE NAME THE CLUSTERS
CASE NUMBER I-509 04382 SPH
DATE 3/29/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
JOE GOCHAR	112 S. HILLTOP RD	CATONSVILLE, MD 21228	JGOCHAR@CSIOFMD.COM
Michael Tanczyn	STE 102, 606 BALTIMORE AVE	Towson MD 21204	MPTLAW@VERIZON.NET

PLEASE PRINT CLEARLY

CASE NAME The Clusters
CASE NUMBER I-509
DATE 4/2/04

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

HOH

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Walt Smith	PDM		
John Russo	DEPRM		
Robert Wood	DEPRM		
Bill Korpman	DPW		

PLEASE PRINT CLEARLY

CASE NAME The Clusters
CASE NUMBER I-509
DATE 4/2/04

PROTESTANT'S ~~PETITIONER~~'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
STEPHEN H. PEDRICK	1822 CAINEWOOD CT	CATONSVILLE MD 21228	
MEG CEVICKAS	1820 Cainewood Ct	"	MCEVICKAS@comcast.net
HARRY SCHWAB	102 S. HILLTOP ROAD	"	NONE
Ruth Schwab	102 S. Hilltop Rd.	"	"
P/O BRIAN ATWOOD	137 S HILLTOP RD	"	N/A
Charlotte Trainor	103 Woodwind Rd	"	N/A

PLEASE PRINT CLEARLY

CASE NAME THE CLUSTERS
CASE NUMBER I-509
DATE 4/2/04

PETITIONER'S SIGN-IN SHEET

1 of 1

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
G. Scott Barhight	210 W. Pennsylvania Ave	Towson, MD 21204	
Rick Chadsey	1020 Cromwell Bridge Rd	Towson, MD 21204	rchadsey@gwstephens.com

PLEASE PRINT CLEARLY

CASE NAME The Clusters
CASE NUMBER I-509
DATE 4/20/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Fran Traino	100 South Hilltop Rd	Catonsville md 21228	
Ruth Schwab	102 S. Hilltop Rd.	" " "	NONE
EUGENE L. SHAVER	116 S. HILLTOP RD.	" " "	
HARRY SCHWAB	102 S. HILLTOP ROAD	" " "	NONE

PLEASE PRINT CLEARLY

CASE NAME 1-509
CASE NUMBER 04-382-SPH
DATE April 6, 2004

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
G. Scott Barhight	210 W. Penn. Ave	Towson, MD 21204	
Rick Chadsey	1000 Cromwell Bridge Rd	" " 21286	rchadsey@gwstephens.com

DEVELOPER'S EXHIBITS

(4)

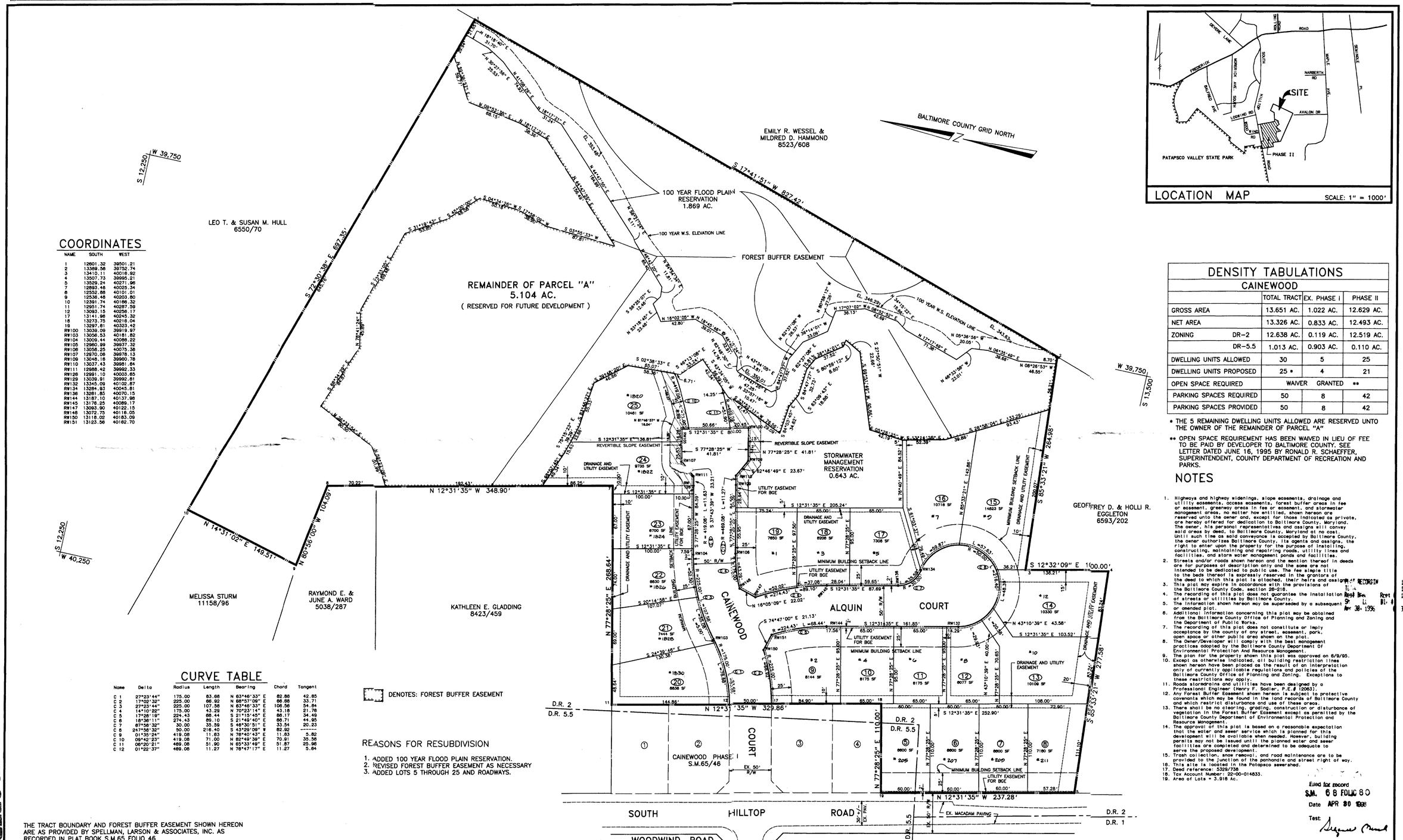
(040002)

(382) "A"

Supplemental

Developer's Exhibits

Exhibit 1a – Redlined Development Plan Revised March 11, 2004 (1 of 1)
Exhibit 1b – Redlined Development Plan Page 2 Revised March 11, 2004 (1 of 1)
Exhibit 1c – Redlined Development Plan Revised March 22, 2004 (1 of 1)
Exhibit 1d – Redlined Development Plan Revised March 22, 2004 (1 of 1)
Exhibit 2 - 5th Amended of Phase 1 and 3rd Amended Overall Partial Development Plan of Cainewood Phase I & II (1 of 1)
Exhibit 3 – Phase II – A Resubdivision of Parcel "A" Cainewood (1 of 1)
Exhibit 4 - Cainewood 4th Revised CRG Plan Phase I & II (1 of 1)
Exhibit 5a – The Clusters dated April 6, 2004 (1 of 1)
Exhibit 5b – The Clusters dated April 5, 2004 (1of 1)



LOCATION MAP SCALE: 1" = 1000'

COORDINATES

NAME	SOUTH	WEST
1	12601.32	39501.21
2	13389.58	39752.74
3	13410.11	40016.92
4	13507.73	39985.21
5	13529.24	40271.98
7	12693.46	40025.34
8	12552.88	40101.01
9	12536.46	40203.80
10	12391.74	40166.32
11	12951.74	40287.59
12	13093.15	40256.17
17	13141.96	40245.32
18	13273.75	40218.04
19	13297.81	40323.42
RW100	13039.09	39919.97
RW103	13056.53	40181.82
RW104	13009.44	40088.22
RW105	12960.89	39937.32
RW106	13056.25	40075.36
RW107	12970.06	39978.13
RW109	13046.16	39960.78
RW110	13037.43	39981.64
RW111	12888.42	39992.33
RW128	12991.10	40003.65
RW129	13039.81	39992.81
RW132	13345.09	40102.87
RW134	13284.83	40045.81
RW136	13281.85	40070.15
RW144	13187.10	40137.98
RW145	13176.25	40089.17
RW147	13083.90	40122.15
RW148	13072.75	40116.05
RW150	13116.02	40183.09
RW151	13123.56	40162.70

CURVE TABLE

Name	Delta	Radius	Length	Bearing	Chord	Tangent
C 1	27°23'44"	175.00	83.68	N 63°46'33" E	82.88	42.65
C 2	17°02'32"	225.00	66.92	N 68°57'09" E	66.66	33.71
C 3	27°23'44"	225.00	107.58	N 63°46'33" E	106.56	54.84
C 4	14°10'22"	175.00	43.29	N 70°23'14" E	43.18	21.78
C 5	17°28'17"	269.43	86.44	S 21°15'45" E	86.17	34.49
C 6	18°38'11"	274.43	89.10	S 21°49'40" E	88.71	44.95
C 7	90°58'32"	30.00	35.59	S 48°30'51" E	33.54	20.23
C 8	247°58'32"	50.00	216.40	S 43°29'09" W	82.92	------
C 9	01°35'24"	419.08	11.63	N 78°40'43" E	11.63	5.82
C 10	09°42'23"	419.08	71.00	N 82°49'39" E	70.91	35.56
C 11	06°20'21"	489.08	51.90	N 85°33'49" E	51.87	25.98
C 12	01°22'37"	489.08	11.27	N 78°47'17" E	11.27	5.64

DENOTES: FOREST BUFFER EASEMENT

REASONS FOR RESUBDIVISION

1. ADDED 100 YEAR FLOOD PLAIN RESERVATION.
2. REVISED FOREST BUFFER EASEMENT AS NECESSARY
3. ADDED LOTS 5 THROUGH 25 AND ROADWAYS.

THE TRACT BOUNDARY AND FOREST BUFFER EASEMENT SHOWN HEREON ARE AS PROVIDED BY SPELLMAN, LARSON & ASSOCIATES, INC. AS RECORDED IN PLAT BOOK S.M.65 FOLIO 46

DENSITY TABULATIONS

CAINEWOOD

		TOTAL TRACT	EX. PHASE I	PHASE II
GROSS AREA		13.651 AC.	1.022 AC.	12.629 AC.
NET AREA		13.326 AC.	0.833 AC.	12.493 AC.
ZONING	DR-2	12.638 AC.	0.119 AC.	12.519 AC.
	DR-5.5	1.013 AC.	0.903 AC.	0.110 AC.
DWELLING UNITS ALLOWED		30	5	25
DWELLING UNITS PROPOSED		25 *	4	21
OPEN SPACE REQUIRED		WAIVER GRANTED **		
PARKING SPACES REQUIRED		50	8	42
PARKING SPACES PROVIDED		50	8	42

* THE 5 REMAINING DWELLING UNITS ALLOWED ARE RESERVED UNTO THE OWNER OF THE REMAINDER OF PARCEL "A"

** OPEN SPACE REQUIREMENT HAS BEEN WAIVED IN LIEU OF FEE TO BE PAID BY DEVELOPER TO BALTIMORE COUNTY. SEE LETTER DATED JUNE 16, 1995 BY RONALD R. SCHAEFFER, SUPERINTENDENT, COUNTY DEPARTMENT OF RECREATION AND PARKS.

NOTES

1. Highways and highway widenings, slope easements, drainage and utility easements, access easements, forest buffer areas in fee or easement, greenway areas in fee or easement, and stormwater management areas, no matter how entitled, shown hereon are reserved unto the owner and, except for those indicated as private, are hereby offered for dedication to Baltimore County, Maryland. The owner, his personal representatives and assigns will convey said areas by deed, to Baltimore County, Maryland at no cost. Until such time as said conveyance is accepted by Baltimore County, the owner authorizes Baltimore County, its agents and assigns, the right to enter upon the property for the purpose of installing, constructing, maintaining and repairing roads, utility lines and facilities, and storm water management ponds and facilities.
2. Streets and/or roads shown hereon and the mention thereof in deeds are for purposes of description only and the same are not intended to be dedicated to public use. The fee simple title to the beds thereof is expressly reserved in the grantors of the deed to which this plat is attached, their heirs and assigns.
3. This plat may expire in accordance with the provisions of the Baltimore County Code, section 26-216.
4. The recording of this plat does not guarantee the installation of streets or utilities by Baltimore County.
5. The information shown hereon may be superseded by a subsequent or amended plat.
6. Additional information concerning this plat may be obtained from the Baltimore County Office of Planning and Zoning and the Department of Public Works.
7. The recording of this plat does not constitute or imply acceptance by the county of any street, easement, park, open space or other public area shown on the plat.
8. The Owner/Developer will comply with the best management practices adopted by the Baltimore County Department Of Environmental Protection And Resource Management.
9. The plan for the property shown this plat was approved on 6/8/95.
10. Except as otherwise indicated, all building restriction lines shown hereon have been placed as the result of an interpretation only of currently applicable regulations and policies of the Baltimore County Office of Planning and Zoning. Exceptions to these restrictions may apply.
11. Roads storm drains and utilities have been designed by a Professional Engineer (Henry F. Sadler, P.E.# 12063).
12. Any Forest Buffer 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.
13. 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.
14. The approval of this plat is based on a reasonable expectation that the water and sewer service which is planned for this development will be available when needed. However, building permits may not be issued until the planned water and sewer facilities are completed and determined to be adequate to serve the proposed development.
15. Trash collection, snow removal, and road maintenance are to be provided to the junction of the panhandle and street right of way.
16. This site is located in the Patapsco sewershed.
17. Deed reference: 5329/738
18. Tax Account Number: 22-00-014833.
19. Area of Lots = 3.918 Ac.

Filed for record
S.M. 68 FOLIO 80
Date APR 30 1996
Test:
Clerk

P.W.A. COMPLETED: 19503 TEG 4.8.96
FINAL PLAT: DPM-mpc 4/2/96
~~BUREAU OF ENGINEERING AND CONSTRUCTION:~~ REC (PACKS NO) 3/21/96
DEV. DESIGN: RWB 4/18/96
DEV. ENGINEER: DAH
STREETS, NUMBERING: LLL 3/26/96
PLANNING:
REAL ESTATE: TEG 4.18.96

OWNERS CERTIFICATE:

The undersigned, owners of the land shown on this plat, hereby certifies that, to the best of its knowledge, and belief, a requirement of Subsection (C) of Section 3-108 of the Real Property Article of The Annotated Code of Maryland, has been complied with, insofar as same concerns the making of the plat and setting of the markers.

Jennye A. Osborne 3/19/96
JENNYE A. OSBORNE DATE

Eugene F. Osborne, Sr. 3/19/96
EUGENE F. OSBORNE, SR. DATE

SURVEYORS CERTIFICATE:

The undersigned, a registered property line surveyor of The State of Maryland, does hereby certify that he is the surveyor who prepared this plat and that the land shown on this plat has been laid out and the plat thereof has been prepared, in compliance with Subsection (C) of Section 3-108 of The Real Property Article of The Annotated Code of Maryland particularly insofar as same concerns the making of plat and setting of markers.

Bernard F. Linsenmeyer III 2/27/96
BERNARD F. LINSENMEYER III DATE

DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

DIRECTOR 4-17-96 DATE

APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 26-215(c) BALTIMORE, COUNTY CODE

DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT 12/4/96 DATE

OWNER/DEVELOPER
EUGENE F. OSBORNE, SR.
JENNYE A. OSBORNE
3000 OLD TANEYTOWN ROAD
WESTMINSTER, MARYLAND 21158
(410) 756 – 1262

COMPUTED BY: D.R.S.
CHECKED BY: P.J.C./B.F.L.
DRAWN BY: D.R.S.
P.N.: 1722

PHASE II – A RESUBDIVISION OF PARCEL "A"

CAINEWOOD

PREVIOUSLY RECORDED IN PLAT BOOK S.M. 65, FOLIO 46
1ST ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 50' DATE: SEPTEMBER 12, 1995

CIVIL ENGINEERS – SITE PLANNERS – LANDSCAPE ARCHITECTS – SURVEYORS

D. S. THALER & ASSOCIATES, INC.
7115 AMBASSADOR ROAD
BALTIMORE, MD 21244
(410) 944-3647

DEVELOPERS EXHIBIT NO. 4

MSASSW 1236-9867

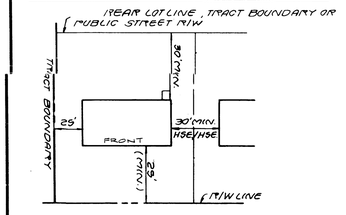
cd /data/data2/cainewd/record/1722CW/3_PLOT

68 80

(PHASE II), LOTS 5-25

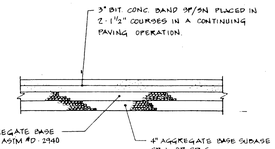
Summary of Setback and Height Requirements

	DR 1, 2, Zones	DR 3.5, 5.5, 10.5, 16 Zones
From Front Building Face To:		
Public Street Right-of-Way, or property line: arterial or collector	25' --	25' --
From Side Building Face To:		
Side building face	30'	16'< 20' high 20'> 20' high
Public street right-of-way	25'	15'
Paving of a private road	30'	25'
Tract boundary	25'	15'
From Rear Building Face To:		
Rear property line	30'	30'
Public street right-of-way,	30'	30'
Additional Setbacks: Setbacks for buildings located adjacent to arterial roadways shall be increased by an additional 20 feet.		
Maximum Building Height:	50'	50'
Maximum Building Height DR 16 Zone:	60'	60'

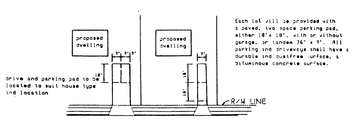


TYPICAL LOT & SETBACK SCHEMATIC (PHASE II) N.T.S.

SOILS / LIMITATIONS					
SYMBOL	NAME	SLOPE	CLASS	STREETS & PARKING	HOMESITES
LfD	LEGORE	15-25%	G	SEVERE - SLOPE	SEVERE - SLOPE
MeC2	MELLY	8-15%	D	SEVERE	SEVERE
Cu	CODORUS	--	C	SEVERE - FLOOD HAZARD	SEVERE - FLOOD HAZARD
LeC2	LEGORE	8-15%	C	SEVERE - SLOPE	MODERATE - SLOPE
NeC2	NESHAMINY	8-15%	B	SEVERE - SLOPE	MODERATE - SLOPE
LeB2	LEGORE	3-8%	C	MODERATE - SLOPE	SLIGHT
LhB	LEGORE	0-8%	C	MODERATE - SLOPE	SLIGHT
LfC	LEGORE	3-15%	C	SEVERE - SLOPE	SLIGHT TO MODERATE SLOPE



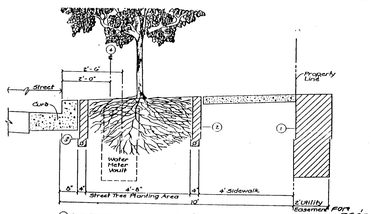
TYPICAL PAVING SECTION
NOT TO SCALE

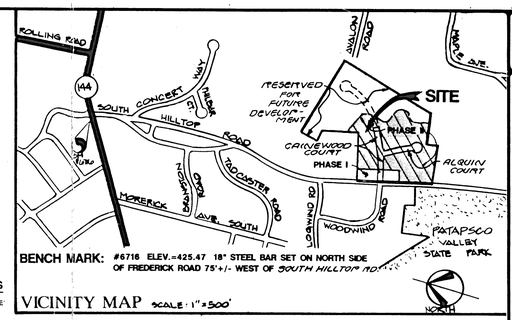


TYPICAL PARKING DETAIL
(not to scale)

BALTO. CO. GRID NORTH

PUBLIC ROAD UTILITY & STREET TREE LOCATIONS
NOT TO SCALE





BENCH MARK: #6716 ELEV.=425.47 18" STEEL BAR SET ON NORTH SIDE OF FREDERICK ROAD 75'+/- WEST OF SOUTH HILLTOP RD.

VICINITY MAP SCALE: 1" = 500'

The provisory section of this partial development plan is not intended nor should it be utilized as a final development plan from which building applications may be approved or issued. Its purpose is to provide those who purchase homes within 300 feet thereof with a reasonable understanding as to how the developer will improve all adjoining vacant land that lies within 300 feet of their home.

The dimensioned boundaries of the "Provisory Section" as indicated hereon are not intended to separate it from the overall approval of this partial development plan including the "Provisory Section" must be approved in accordance with Section 1B01.3.A.7, Baltimore County Zoning Regulations.

Approval of the "Provisory Section" is not based on final engineering plans however, it is intended to establish: the final location, height, use and density of buildings or their envelopes to within 25 feet of their engineered location; the location and type of existing major vegetation that is to be retained; screening; parking areas and drive to the extent possible so as to coincide with their final or permanent improvements, and other pertinent amenities.

At the time of building permit applications the "Provisory Section" of this development plan must be up-dated to comply in all respects to the form and content required by Section 1B01.3 of the Zoning Regulations.

GENERAL NOTES

1. DEVELOPMENT NAME: Cainewood Phase I & II
2. APPLICANT/DEVELOPER: Kimberly Homes Catonsville, Inc. P.O. Box 5194 Baltimore, Md. 21231
3. PLAN PREPARED BY: D.S. Thaler & Associates, Inc. 7115 Ambassador Road Baltimore, Maryland 21244 (410) 944-3647
4. PROPERTY REFERENCES:
   DEED REFERENCE: 5227/321 PLAT: S.M. #56 Book 7
   TAX ACCOUNT NUMBER: 2200014833
   TAX MAP: 100
   GRID: 17
   PARCEL: 443
   ADC MAP: 41-A5
   Boundary: Spellman, Larson & Associates, Inc.
   Topography: D.S. Thaler & Associates, Inc.
   Zoning: Baltimore County 200 Scale Zoning Map (1992) (1982)
   Wetlands: Spellman, Larson & Associates, Inc.
   Floodplain: N/A
   Soils: U.S.D.A.-Baltimore County Soil Survey Manual (Map 48)
5. GENERAL DATA:
   Election District: 1 Watershed: 30
   Census Tract: 4005 Subwatershed: 76
   Councilmanic District: 1
   SCHOOL INFORMATION ESTIMATED PUPIL YIELD
   School District: Hillcrest Hillcrest Elementary: (7)
   School Capacity: 724 Catonsville Middle School: (3)
   1994-1995 Enrollment: 932 Catonsville High School: (3)
6. SITE INFORMATION:

	TOTAL TRACT	EX. PHASE I	PHASE II
A. Gross acreage =	11.072	1.122 AC.	10.074 AC. +/-
Net acreage =	10.772	0.831 AC.	9.972 AC. +/-
B. Existing zoning: DR-2	10.054	9.119 AC.	9.269 AC. +/-
DR-5.5	1.013 AC.	0.993 AC.	0.118 AC. +/-

C. Density Calculations:

Allowable = DR-2	10.054 @3.17 = 31.868 AC. +/-		9.94 = 19.71 AC. +/-	9.269 AC. +/-
DR-5.5	81.013 AC. +5.52 = 7.303 AC.	+4.37	= 0.118 AC. +0.41	
TOTAL	+10.45 = 27.74	TOTAL +5.21	TOTAL	+16.45 = 20.95
Proposed =	25*	+	21	

D. Parking:

Required =	25 Units x 2/Unit = 50	4 Units x 2/Unit = 8	21 Units x 2/Unit = 42
Proposed =	50	8	42

* The 5 remaining Dwelling units allowed are reserved unto the owner of the remainder of Parcel "A."

E. Open space requirement has been waived in lieu of fee to be paid by Developer to Baltimore County. See letter dated June 16, 1995 by Ronald R. Schaffer, Superintendent, County Department of Recreation and Parks.

F. Landscape planting as specified in the Baltimore County Landscape Manual, adopted October 1, 1990.

	REQUIRED:	PROPOSED:
1 P.U. =	1 major deciduous tree or 2 minor deciduous tree or 2 evergreen trees or 5 shrubs or 100 S.F. of ground cover	
ADJACENT ROAD: Min. 75% major deciduous	1 P.U./40 L.F. 570/40 = 14.2 P.U.	
INTERIOR ROAD: Min. 75% major deciduous	1 P.U./25 L.F. 810/25 = 40.5 P.U.	
SCREEN OF SIDE & REAR:	Class 'A' screen 1 P.U./15 L.F. Min. 6'-0" Ht. at maturity. Min. 30" Ht. at installation.	440/15 = (29.) P.U.
STORMWATER MANAGEMENT:	If side slopes are > 4:1, Class 'A' screen 1 P.U./15 L.F. Min. 6'-0" Ht. at maturity. Min. 30" Ht. at installation.	340/15 = 22.6 P.U.
TOTAL:		106.4 P.U.

7. All units shown hereon are for sale.
8. UTILITIES: Public water and sewer will be provided.
9. USE: The existing use is vacant The proposed use is residential
10. EXISTING: There are no known historic buildings, critical areas, archaeological sites, endangered species, or hazardous materials on the site.
11. ROADS: All roads are to be public.
12. AVERAGE DAILY TRIPS (ADTS): Average daily trips are calculated from the Baltimore County Comprehensive Manual of the Development Policy.
    Single Family
    Average Daily Trips = 25 units x 10/unit = 250 ADTS
13. STORMWATER MANAGEMENT: Stormwater management will conform to Baltimore County Standards.
14. GRADING: Grading shown is schematic only.
15. VEGETATION: Existing vegetation will be retained in areas not needed for construction or grading. Existing vegetation consists of woods, meadows and lawn.
16. SIGHT LINES: Proposed sight lines are shown on the plan and will be cleared and graded and kept permanently clear to ensure unobstructed sight at all times.
17. STORAGE TANKS: There are no known underground storage tanks on site.
18. LIGHTING: Proposed lighting is shown thusly ▲ Mounting height to be a minimum of 14'.
19. Soil and Slope Mitigation Measures:
    The developer shall do the following in those areas where severe or moderate soil limitations are indicated and/or steep slopes occur:
    a. Insure that grading plans consider protection of these areas from increase in run-off, and include planting and sod where and drives need storm drains.
    b. Stabilization of disturbed areas in accordance with approved sediment control practices.
    c. Provide for geotechnical assistance with on-site inspectors as required.
20. Sidewalks shall be provided on all public roads.
21. This property as shown on the Plan has been held intact since 1-7-75 (according to non-merger deed). No more part of the gross area of this property as shown on the plan has been used or is being represented as density or area to support any off-site dwellings.
22. Any Forest Buffer 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.
23. There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement except as permitted by Baltimore County Department of Environmental Protection and Resource Management.
24. ACCESSORY STRUCTURE NOTES:
    * a. Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with Section 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)
    b. Accessory structures, fences and projections into yards cannot be located in in floodplain areas or hydric soils.
25. A Landscape Plan is required and will be submitted and approved in accordance with the Baltimore County Landscape Manual prior to issuance of any building or grading permits. Plan will clearly identify all trees that will be preserved along with the method of protection during construction.

JOB NUMBER:
DRAWN BY: E.A.S.
DESIGNED BY: V.E.P.
CHECKED BY: M.J.C.

D. S. THALER & ASSOC., INC.
SURVEYORS
LAND PLANNERS
CIVIL ENGINEERS
LANDSCAPE ARCHITECTS
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21244
(410) 944-ENGR (410) 944-3647

15 4TH AMENDED OF PHASE I, AND 3RD & 2ND AMENDED OVERALL
PARTIAL DEVELOPMENT PLAN
CAINEWOOD PHASE I & II
1ST ELECTION DISTRICT
BALTIMORE CO., MARYLAND

REVISIONS
Date: Description

OWNER/DEVELOPER
KIMBERLY HOMES CATONSVILLE, INC.
P.O. BOX 6194
BALTIMORE, MD. 21231

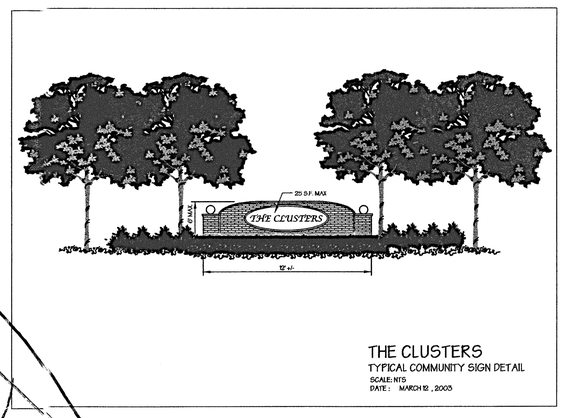
SCALE: 1"=50'
DATE: SEPT. 7, 1938
SHEET 1 OF 1
FILE NO.

5PARK

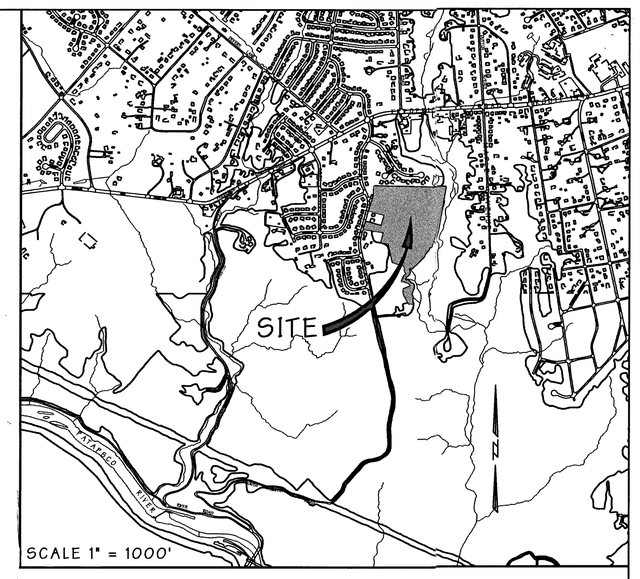
LEGEND

PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2 / GnB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE

100 YEAR FLOOD PLAIN — FP FP FP
FOREST BUFFER EASEMENT — FBE FBE
FOREST CONSERVATION RESERVATION — FCR



THE CLUSTERS
TYPICAL COMMUNITY SIGN DETAIL
SCALE: NTS
DATE: MARCH 12, 2003



VICINITY MAP



PLAN
SCALE: 1' = 100'

SITE DATA

1. SITE AREA - GROSS - 18.1041 AC.+/-
2. EXISTING ZONING - DR-5.5 - 1.3651 AC.+/-
   DR-2 - 16.7346 AC.+/-
3. DWELLING UNITS (SEE DENSITY TABULATIONS)
   ALLOWED - DR-2 - 16.7346 AC. X 2 = 33
   DR-5.5 - 1.3651 AC. X 5.5 = 7
   EXISTING - 1 SINGLE FAMILY DWELLING, 1 APT. BUILDING
   PROPOSED - DR-2 - 1 SINGLE FAMILY DWELLING & 32 DUPLEX DWELLINGS
   SEE SPECIAL HEAR. REQUEST
   DR-5.5 - 1 SINGLE FAMILY DWELLING, 6 DUPLEX DWELLINGS
   SEE SPECIAL HEAR. REQUEST
   NOTE: THE TOTAL NUMBER OF DWELLING UNITS PROPOSED FOR THE CLUSTERS PROPERTY IS 40, CONSISTING OF (1) EXISTING SINGLE FAMILY DWELLING, (1) PROPOSED SINGLE FAMILY DWELLING AND 38 DUPLEX DWELLINGS TO BE CONSTRUCTED.
4. ELECTION DISTRICT - 1
5. COUNCILMANIC DISTRICT - 1
6. CENSUS TRACT - 4005
7. REGIONAL PLANNING DISTRICT - 324 B
8. TAX MAP 100, GRID 17 & 18, PARCELS 992, 442 & 443
9. TAX ACCOUNT NO: 0401-1900010541, 0401-2200026318, 0401-0113142580
10. ADC MAP NO. - 41 (A-4, A-5)
11. SCHOOL DISTRICT - HILLCREST ELEMENTARY, CATONSVILLE MIDDLE SCHOOL, CATONSVILLE HIGH SCHOOL
12. WATERSHED - 30
13. SUBSEWERSHED - 76
14. 200 SCALE ZONING MAP - SW 4-G & SW 3-G
15. PARKING
    REQUIRED - 2 SPACES / UNIT
    40 X 2 = 80 PARKING SPACES
    PROVIDED - 80 PARKING SPACES (ON LOT DRIVEWAYS & GARAGES)

DENSITY TABULATIONS - THE CLUSTERS PROPERTY

	PARCEL 992	PARCEL 442	* PARCEL 'B' (CAINE WOOD-PARCEL 443)	TOTAL
GROSS AREA	~~10.9205~~ ~~10.9260~~ AC.	~~4.7252~~ ~~4.7261~~ AC.	2.554 AC.	~~18.0997~~ ~~18.1041~~ AC.
NET AREA	~~10~~ 10.5869 AC.	4.6623 AC.	2.554 AC.	~~17.2092~~ ~~17.2052~~ AC.
ZONING DR-2	9.7573 AC.	4.4233 AC.	2.554 AC.	16.7346 AC.
DR-5.5	1.0632 AC.	0.3019 AC.	0 AC.	1.3651 AC.
DWELLING UNITS ALLOWED -DR-2	~~19~~ 15.146	8.8466	5.108	33
-DR-5.5	5.8476	1.6604	0	7
TOTAL DWELLING UNITS ALLOWED - DR-2 = 33 UNITS, DR-5.5 = 7 UNITS, TOTAL = 40 UNITS				
TOTAL DWELLING UNITS PROPOSED - DR-2 = 33 UNITS, DR-5.5 = 7 UNITS, TOTAL = 40 UNITS				

* THE TOTAL AREA OF CAINEWOOD EXIST. PARCEL "A" IS 5.1045 AC. OF WHICH 2.55 AC. - (PROP. PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80). THEREFORE 2.554 AC. (PROP. PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY. SEE SPECIAL HEARING REQUEST.

DENSITY TABULATIONS - CAINEWOOD (PARCEL 443)

	TOTAL TRACT PAIRCEL 443	* EXISTING PARCEL 'A'	* PROPOSED PARCEL 'A'	* PROPOSED PARCEL 'B'	REMAINING PARCEL 443
GROSS AREA	13.651 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	~~11.097~~ ~~11.156~~ AC.
NET AREA	13.326 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	~~10.777~~ ~~10.776~~ AC.
ZONING DR-2	12.638 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	10.084 AC.
DR-5.5	1.013 AC.	0.0 AC.	0.0 AC.	0.0 AC.	1.013 AC.
DWELLING UNITS ALLOWED -DR-2	2.5.276	10.209	5.1	5.108	20
-DR-5.5	5	0	0	0	5
TOTAL DWELLING UNITS ALLOWED - DR-2 = 25 UNITS, DR-5.5 = 5 UNITS, TOTAL = 30 UNITS					
TOTAL DWELLING UNITS EXISITNG - DR-2 = 20 UNITS, DR-5.5 = 5 UNITS, TOTAL = 25 UNITS					
NOTE: THERE WILL BE NO UNUSED DENSITY REMAINING IN THE CAINEWOOD SUBDIVISION AFTER PARCEL 'B' IS REMOVED.					

*THE TOTAL AREA OF CAINEWOOD EXIST. PARCEL "A" IS 5.1045 AC. OF WHICH 2.55 AC. - (PROP. PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80). THEREFORE 2.554 AC. (PROP. PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY. SEE SPECIAL HEARING REQUEST.

ZONING NOTES:

1. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971. THE DEVELOPERS ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
2. TYPICAL BUILDINGS SHOWN ON THE SE DUPLEX LOTS DICTATE A SPECIFIC ORIENTATION THAT COMPLIES WITH THE B.C.Z.R. SHOULD THE ORIENTATION CHANGE, THE SETBACKS REQUIRED BY SECTION 1B02.2.C.1.b. SHALL GOVERN AS FOLLOWS:

	DR-5.5	DR-2
FROM FRONT BLDG. FACE TO PUBLIC RIGHT OF WAY OR PROPERTY LINE -	25 FEET	25 FEET
FROM SIDE BLDG. FACE TO SIDE BLDG. FACE -	20 FEET	30 FEET
FROM SIDE BLDG. FACE TO PUBLIC RIGHT OF WAY -	15 FEET	25 FEET
FROM SIDE BLDG. FACE TO PRIVATE ROAD PAVING -	25 FEET	30 FEET
FROM SIDE BLDG. FACE TO TRACT BOUNDARY -	15 FEET	25 FEET
FROM REAR BLDG. FACE TO REAR PROPERTY LINE -	30 FEET	30 FEET
FROM REAR BLDG. FACE TO PUBLIC STREET RIGHT OF WAY -	30 FEET	30 FEET

3. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50 FEET IN ACCORDANCE WITH SECTION 1B02.2.A OF THE B.C.Z.R.
4. THIS SITE IS NOT SUBJECT TO ANY RTA
5. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL EXISTING STRUCTURES PAVEMENTS, TRASH AND DEBRIS, IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS.
6. DWELLINGS SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPLE BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS. (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.)
7. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS, ENVIRONMENTAL EASEMENTS OR UTILITY EASEMENTS.
8. NO PRIVATE FENCES SHALL BE PLACED CLOSER THAN 10' FROM RIGHTS OF WAYS.
9. THERE ARE NO KNOWN ZONING HISTORIES ON THE SE PARCELS.
10. ALL PROPOSED SIGNS WILL MEET THE REQUIREMENTS OF SECTION 1D2.3 AND SECTION 450 OF THE B.C.Z.R. AND ANY OTHER APPLICABLE SECTIONS OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES.
11. A WAIVER OF SIDEWALKS IS REQUESTED FOR THE SIDE OF PROPOSED PUBLIC ROAD 'B' ADJACENT TO THE NOA AREA.
12. MAXIMUM BUILDING HEIGHT LIMITED TO 50'.
13. ALL DRIVEWAYS WILL COMPLY WITH SECTION 409.4 OF THE B.C.Z.R.
14. THE SITE IS NOT LOCATED IN ANY DEFICIENT AREAS ON THE BASIC SERVICES MAPS PURSUANT TO SECTION 4A02 OF THE BCZR.

PERMITS & DEVELOPMENT MANAGEMENT:

1. DIRECTOR OF P&M NOTE - THIS DEVELOPMENT PLAN IS APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT BASED ON HIS INTERPRETATION OF THE ZONING REGULATIONS, THAT IT COMPLIES WITH PRESENT FLOOD, DENSITY AND BULK CONTROLS AS THEY ARE DELINEATED IN THE REGULATIONS. ANY PART OR PARCEL OF THIS TRACT THAT HAS BEEN UTILIZED FOR DENSITY TO SUPPORT DWELLINGS SHOWN THEREON SHALL NOT BE FURTHER SUBDIVIDED OR DEVELOPED FOR ADDITIONAL DWELLINGS OR ANY PURPOSE OTHER THAN THAT INDICATED PRESENTLY ON SAID PLAN. UTILIZATION WILL HAVE OCCURRED WHEN A DWELLING IS CONSTRUCTED AND TRANSFERRED FOR THE PURPOSE OF OCCUPANCY.
2. ALL SUBSEQUENT PLANS, INCLUDING RECORD PLATS, MUST NOTE THAT THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED, AND KEPT FREE OF ANY OBSTRUCTIONS.
3. FIELD VERIFICATION OF THE SITE LINES SHOWN HEREON HAVE BEEN CONDUCTED WITH A REPRESENTATIVE OF THE BUREAU OF DEVELOPERS PLANS REVIEW.
4. THIS DEVELOPER SHALL PROVIDE & DEDICATE AT NO COST TO BALTIMORE COUNTY THE HIGHWAY WIDENINGS AND THE RIGHTS OF WAYS SHOWN HEREON.
5. SURVEY DATA SHOWN HEREON IS BASED ON THE MSC AND NAD'83 STANDARD HORIZONTAL & VERTICAL DATUM.
6. AVERAGE DAILY TRIPS - 40 UNITS X 10 ADT = 400 ADTs
7. A COMBINED HEARING IS REQUESTED PER B.C.Z.R. SECTION 26-206.1

ZONING REQUESTS:

1. SPECIAL HEARING TO APPROVE A FIFTH AMENDED FINAL DEVELOPMENT PLAN FOR THE CAINEWOOD DEVELOPMENT, WITH AN AMENDED TRACT BOUNDARY.
2. SPECIAL HEARING TO APPROVE THE DENSITY ANOMALY ON PROPOSED LOT 1 CREATED BY THE EXISTING SINGLE FAMILY DWELLING TO REMAIN.
3. SPECIAL HEARING TO APPROVE THE CREATION OF UNDERSIZED D.R. 2 PORTIONS OF LOTS 2, 3, 4, 5 AND 7 AS NON-DENSITY AEAS.
4. SPECIAL HEARING TO PERMIT THE FUTURE CONSTRUCTION OF ACCESSORY STRUCTURES WHICH COMPLY WITH BCZR SECTION 400 ON THE D.R. 2 (NON-DENSITY) PORTION OF PROPOSED LOTS 2, 3, 4, 5 AND 7.

OWNERS

PARCEL 442 - 4.6717 ACRES+/-
LEO T. & SUSAN M. HULL
109 S. HILLTOP ROAD
BALTIMORE, MARYLAND 21228
DEED REFERENCE - 6550 / 70

PART OF PARCEL 443 - 2.554 AC.+/-
PROPOSED PARCEL 'B' TO BE REMOVED FROM THE EXISTING CAINEWOOD SUBDIVISION PARCEL 'A'
EUGENE F. OSBORNE ET AL
3000 OLD TANEYOWNE ROAD
WESTMINSTER, MARYLAND 21158
DEED REFERENCE - 13191 / 09

PARCEL 992 - 10.594 ACRES +/-
FRANCIS W. FARLEY ET AL
P.O. BOX 40
HIGHLAND, MARYLAND 20777
DEED REFERENCE - 12424 / 641

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

REGISTERED PROFESSIONAL ENGINEER — 10951 — STATE OF MARYLAND

REDLINED
DEVELOPMENT PLAN
PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
THE CLUSTERS
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 100'
DATE: DECEMBER 24, 2003
REVISED: MARCH 11, 2004
REVISED: MARCH 22, 2004

PDM FILE NO. I-509

DEVELOPER/ CONTRACT PURCHASER
NAME: SKIRVEN ENTERPRISES
ADDRESS: 5405 TWIN KNOLLS ROAD SUITE 6
ADDRESS: COLUMBIA, MARYLAND 21045
PH. NO.: 410-730-8945

PREPARER OF PLAN
GEORGE WILLIAM STEPHENS JR. AND ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286

SHEET 2 OF 2

PETITIONER'S EXHIBIT 1D

...\1015\Redline\redline.dwg 3/9/2004 1:22:31 PM NAD 83/91 SCALE

LEGEND

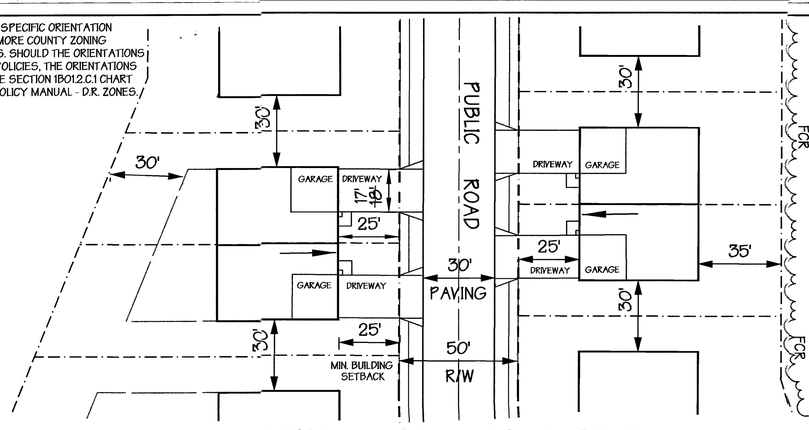
PROPOSED STREET LIGHT
PROPOSED FIRE HYDRANT
PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
EXISTING PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2 GnB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE

100 YEAR FLOOD PLAIN — FP FP FP
FOREST BUFFER EASEMENT — FBE FBE
FOREST CONSERVATION RESERVATION — FCR

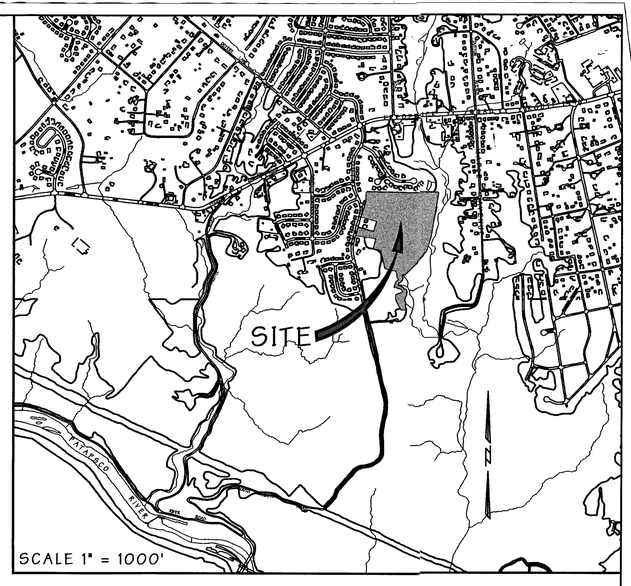
SLOPE > 25%

MAJOR DECIDUOUS TREE
MINOR DECIDUOUS TREE
EVERGREEN TREE
SHRUB

ENVELOPES OR TYPICAL DWELLINGS AS SHOWN DICTATE A SPECIFIC ORIENTATION WHICH IS INTENDED TO ALLOW COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS (BCZR) AND POLICES RELATIVE TO SETBACKS. SHOULD THE ORIENTATIONS CHANGE OR CREATE CONFLICTS WITH THE RUGULATION OR POLICIES, THE ORIENTATIONS MUST BE CHANGED TO ALLEVIATE THE CONFLICT. REFERENCE SECTION 1B01.2.C.1 CHART IN BCZR. REFERENCE SECTION 1B02.3.C.2.c (1B-26.1) IN PDM POLICY MANUAL - D.R. ZONES.



TYPICAL LOT LAYOUT DR-2 SCALE 1" = 30'



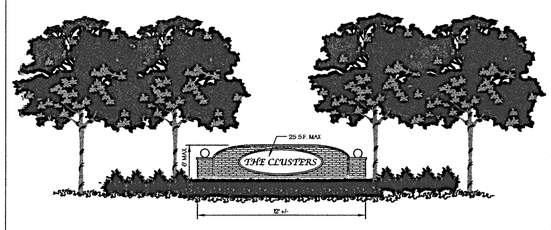
VICINITY MAP

BRANSTON ROAD
TADCASTER ROAD
SOUTH HILLTOP ROAD
PHILBAR COURT
HILLTOP WAY 63/59
CONCERT WAY
CAINEWOOD COURT
ALQUIN COURT
PUBLIC ROAD 'A'
PUBLIC ROAD 'B'
50' R/W
TOTAL CONCRETE AREA = 23,442 S.F.
TOTAL CONSISTS OF 20,000 S.F. ACTIVE & 23,442 S.F. COMMON AREA
#1 HOA OPEN SPACE & COMMON AREA 43,442 S.F.
#2 HOA OPEN SPACE & COMMON AREA 30,401 S.F.
HOA ACTIVE OPEN SPACE 20,000 S.F.
HOA COMMON AREA 23,442 S.F.
HOA COMMON AREA 7,040 S.F.
EXISTING CAINEWOOD TRACT BOUNDARY
THE CLUSTERS' PROPOSED TRACT BOUNDARY
PROPOSED PARCEL 'B' REMOVE FROM CAINEWOOD 2.554 AC.+/-
EXISTING CAINEWOOD PARCEL 'A' 5.1045 AC.
EXISTING FOREST BUFFER EASEMENT
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RW 95-360 S.M.68/80 & 7/645
PROPOSED CAINEWOOD PARCEL 'A' 2.55 AC.
FOREST CONSERVATION RESERVATION 5.5 AC.+/-
FOREST CONSERVATION RESERVATION 104.16'
STORMWATER MANAGEMENT RESERVATION 1.11 AC.+/-
STORMWATER MANAGEMENT EASEMENT 0.0643 AC.+/- S.M. 7/97 S.M. 131/98
WATER QUALITY POND
FOREBAY
ACCESS RAMP
PROP. SAN MH
PROP. 8" W
PROP. 8" SAN
PROP. 6" W
PROP. 6" SAN
PROP. STORM MH
PROP. STORM FM
PROP. 12" STORM
PROP. 15" STORM
PROP. 18" STORM
PROP. 24" STORM
PROP. 30" STORM
PROP. 36" STORM
PROP. 42" STORM
PROP. 48" STORM
PROP. 54" STORM
PROP. 60" STORM
PROP. 66" STORM
PROP. 72" STORM
PROP. 78" STORM
PROP. 84" STORM
PROP. 90" STORM
PROP.

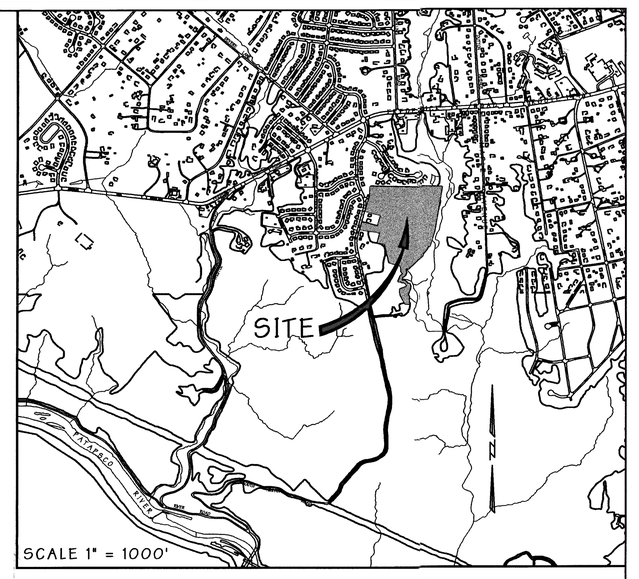
LEGEND

PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2 / GnB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE — W W W W

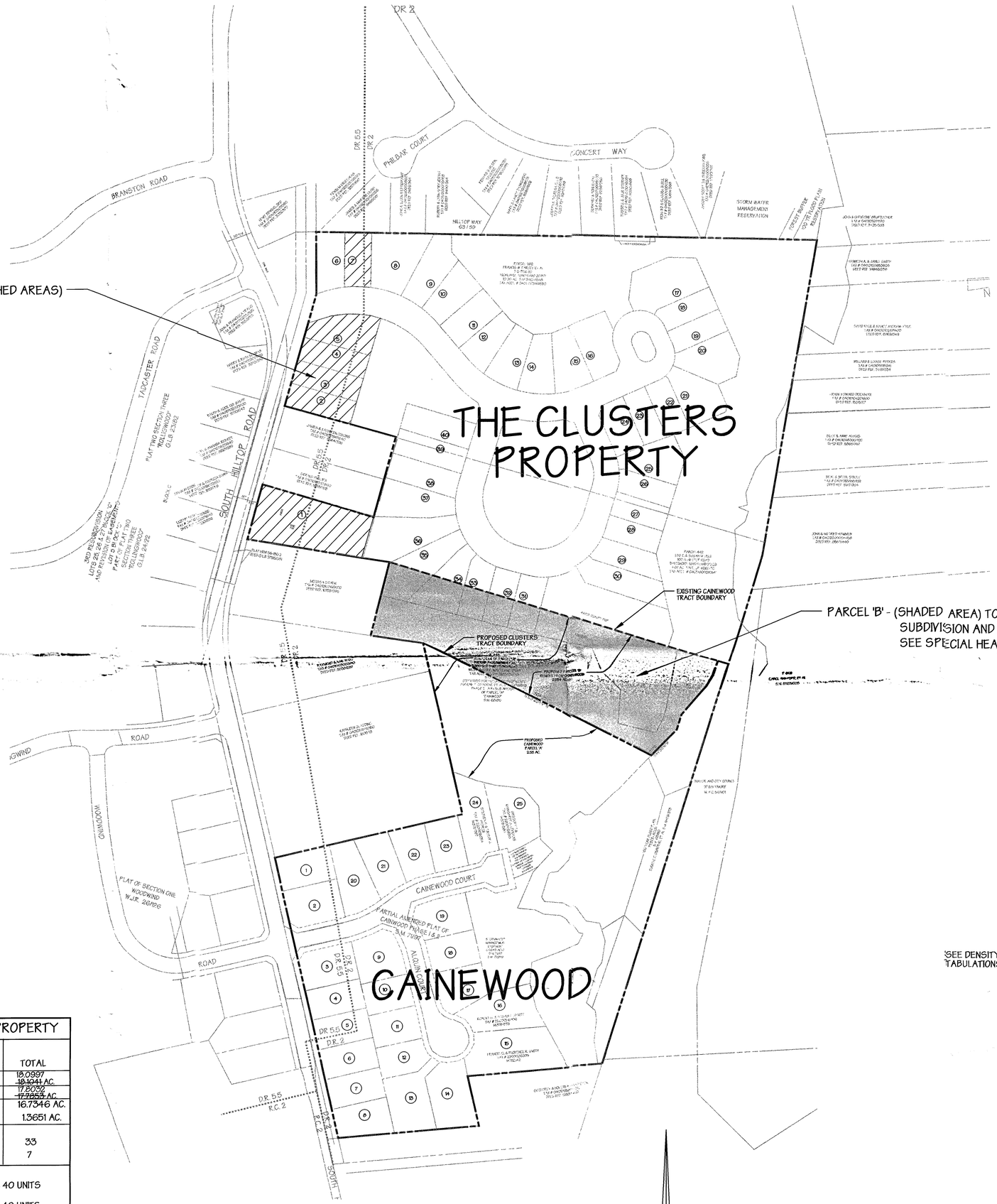
100 YEAR FLOOD PLAIN — FP FP FP
FOREST BUFFER EASEMENT — FBE FBE
FOREST CONSERVATION RESERVATION — FCR



THE CLUSTERS
TYPICAL COMMUNITY SIGN DETAIL
SCALE: NTS
DATE: MARCH 13, 2003



VICINITY MAP



PLAN
SCALE: 1' = 100'

DENSITY TABULATIONS - THE CLUSTERS PROPERTY

	PARCEL 992	PARCEL 442	* PARCEL 'B' (CAINE WOOD-PARCEL 443)	TOTAL
GROSS AREA	~~10.8205~~ ~~10.9260~~ AC.	~~4.7252~~ ~~4.7261~~ AC.	2.554 AC.	~~18.0997~~ ~~18.1041~~ AC.
NET AREA	10.5869 AC.	4.6623 AC.	2.554 AC.	~~17.8092~~ ~~17.7853~~ AC.
ZONING DR-2	9.7573 AC.	4.4233 AC.	2.554 AC.	16.7346 AC.
DR-5.5	1.0632 AC.	0.3019 AC.	0 AC.	1.3651 AC.
DWELLING UNITS ALLOWED -DR-2	19.5146	8.8466	5.108	33
-DR-5.5	5.8476	1.6604	0	7

TOTAL DWELLING UNITS ALLOWED
- DR-2 = 33 UNITS, DR-5.5 = 7 UNITS, TOTAL = 40 UNITS
TOTAL DWELLING UNITS PROPOSED
- DR-2 = 33 UNITS, DR-5.5 = 7 UNITS, TOTAL = 40 UNITS

* THE TOTAL AREA OF CAINEWOOD EXIST. PARCEL "A" IS 5.1045 AC. OF WHICH 2.55 AC. - (PROP. PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80), THEREFORE 2.554 AC. (PROP. PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY. SEE SPECIAL HEARING REQUEST.

DENSITY TABULATIONS - CAINEWOOD (PARCEL 443)

	TOTAL TRACT PARCEL 443	* EXISTING PARCEL 'A'	* PROPOSED PARCEL 'A'	* PROPOSED PARCEL 'B'	REMAINING PARCEL 443
GROSS AREA	13.651 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	~~11.097~~ ~~11.156~~ AC.
NET AREA	13.326 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	~~10.772~~ ~~10.776~~ AC.
ZONING DR-2	12.638 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	10.084 AC.
DR-5.5	1.013 AC.	0.0 AC.	0.0 AC.	0.0 AC.	1.013 AC.
DWELLING UNITS ALLOWED -DR-2	25.276	10.209	5.1	5.108	20
-DR-5.5	5	0	0	0	5

TOTAL DWELLING UNITS ALLOWED
- DR-2 = 25 UNITS, DR-5.5 = 5 UNITS, TOTAL = 30 UNITS
TOTAL DWELLING UNITS EXISTING
- DR-2 = 20 UNITS, DR-5.5 = 5 UNITS, TOTAL = 25 UNITS
NOTE: THERE WILL BE NO UNUSED DENSITY REMAINING IN THE CAINEWOOD SUBDIVISION AFTER PARCEL 'B' IS REMOVED.

*THE TOTAL AREA OF CAINEWOOD EXIST. PARCEL "A" IS 5.1045 AC. OF WHICH 2.55 AC. - (PROP. PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80), THEREFORE 2.554 AC. (PROP. PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY. SEE SPECIAL HEARING REQUEST.

ZONING NOTES:

1. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
2. TYPICAL BUILDINGS SHOWN ON THESE DUPLEX LOTS DICTATE A SPECIFIC ORIENTATION THAT COMPLIES WITH THE B.C.Z.R. SHOULD THE ORIENTATION CHANGE, THE SETBACKS REQUIRED BY SECTION 1B02.2.C.1.b. SHALL GOVERN AS FOLLOWS:

	DR-5.5	DR-2
FROM FRONT BLDG. FACE TO PUBLIC RIGHT OF WAY OR PROPERTY LINE -	25 FEET	25 FEET
FROM SIDE BLDG. FACE TO SIDE BLDG. FACE -	20 FEET	30 FEET
FROM SIDE BLDG. FACE TO PUBLIC RIGHT OF WAY -	15 FEET	25 FEET
FROM SIDE BLDG. FACE TO PRIVATE ROAD PAVING -	25 FEET	30 FEET
FROM SIDE BLDG. FACE TO TRACT BOUNDARY -	15 FEET	25 FEET
FROM REAR BLDG. FACE TO REAR PROPERTY LINE -	30 FEET	30 FEET
FROM REAR BLDG. FACE TO PUBLIC STREET RIGHT OF WAY -	30 FEET	30 FEET

3. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50 FEET IN ACCORDANCE WITH SECTION 1B02.2.A OF THE B.C.Z.R.
4. THIS SITE IS NOT SUBJECT TO ANY RTA.
5. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL EXISTING STRUCTURES PAVEMENTS, TRASH AND DEBRIS, IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS.
6. ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPLE BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS. (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS)
7. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS, ENVIRONMENTAL EASEMENTS OR UTILITY EASEMENTS.
8. NO PRIVATE FENCES SHALL BE PLACED CLOSER THAN 10' FROM RIGHTS OF WAYS.
9. THERE ARE NO KNOWN ZONING HISTORIES ON THESE PARCELS.
10. ALL PROPOSED SIGNS WILL MEET THE REQUIREMENTS OF SECTION 1D2.5 AND SECTION 450 OF THE B.C.Z.R. AND ANY OTHER APPLICABLE SECTIONS OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES.
11. A WAIVER OF SIDEWALKS IS REQUESTED FOR THE SIDE OF PROPOSED PUBLIC ROAD 'B' ADJACENT TO THE HOA AREA.
12. MAXIMUM BUILDING HEIGHT LIMITED TO 50'.
13. ALL DRIVEWAYS WILL COMPLY WITH SECTION 409.4 OF THE B.C.Z.R.
14. THE SITE IS NOT LOCATED IN ANY DEFICIENT AREAS ON THE BASIC SERVICES MAPS PURSUANT TO SECTION 4A02 OF THE BCZR.

ZONING REQUESTS:

1. SPECIAL HEARING TO APPROVE A FIFTH AMENDED FINAL DEVELOPMENT PLAN FOR THE CAINEWOOD DEVELOPMENT, WITH AN AMENDED TRACT BOUNDARY.
2. SPECIAL HEARING TO APPROVE THE DENSITY ANOMALY ON PROPOSED LOT 1 CREATED BY THE EXISTING SINGLE FAMILY DWELLING TO REMAIN.
3. SPECIAL HEARING TO APPROVE THE CREATION OF UNDERSIZED D.R. 2 PORTIONS OF LOTS 2, 3, 4, 5 AND 7 AS NON-DENSITY AEAS.
4. SPECIAL HEARING TO PERMIT THE FUTURE CONSTRUCTION OF ACCESSORY STRUCTURES WHICH COMPLY WITH BCZR SECTION 400 ON THE D.R. 2 (NON-DENSITY) PORTION OF PROPOSED LOTS 2, 3, 4, 5 AND 7.

PERMITS & DEVELOPMENT MANAGEMENT:

1. DIRECTOR OF PDM NOTE: - THIS DEVELOPMENT PLAN IS APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT BASED ON HIS INTERPRETATION OF THE ZONING REGULATIONS, THAT IT COMPLIES WITH PRESENT POLICY, DENSITY AND BULK CONTROLS AS THEY ARE DELINEATED IN THE REGULATIONS. ANY PART OR PARCEL OF THIS TRACT THAT HAS BEEN UTILIZED FOR DENSITY TO SUPPORT DWELLINGS SHOWN THEREON SHALL NOT BE FURTHER SUBDIVIDED OR DEVELOPED FOR ADDITIONAL DWELLINGS OR ANY PURPOSE OTHER THAN THAT INDICATED PRESENTLY ON SAID PLAN. UTILIZATION WILL HAVE OCCURRED WHEN A DWELLING IS CONSTRUCTED AND TRANSFERRED FOR THE PURPOSE OF OCCUPANCY.
2. ALL SUBSEQUENT PLANS, INCLUDING RECORD PLATS, MUST NOTE THAT THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED, AND KEPT FREE OF ANY OBSTRUCTIONS.
3. FIELD VERIFICATION OF THE SITE LINES SHOWN HEREON HAVE BEEN CONDUCTED WITH A REPRESENTATIVE OF THE BUREAU OF DEVELOPERS PLANS REVIEW.
4. THIS DEVELOPER SHALL PROVIDE & DEDICATE AT NO COST TO BALTIMORE COUNTY THE HIGHWAY WIDENINGS AND THE RIGHTS OF WAYS SHOWN HEREON.
5. SURVEY DATA SHOWN HEREON IS BASED ON THE NAD AND NAVD88 STANDARD HORIZONTAL & VERTICAL DATUM.
6. AVERAGE DAILY TRIPS - 40 UNITS X 10 ADT = 400 ADTs
7. A COMBINED HEARING IS REQUESTED PER B.C.Z.R. SECTION 26-206.1

SITE DATA

1. SITE AREA - GROSS - 18.1041 AC.+/-
2. EXISTING ZONING - DR-5.5 - 1.3651 AC.+/-
   DR-2 - 16.7346 AC.+/-
3. DWELLING UNITS (SEE DENSITY TABULATIONS)
   ALLOWED - DR-2 - 16.7346 AC. X 2 = 33
   DR-5.5 - 1.3651 AC. X 5.5 = 7
   EXISTING - 1 SINGLE FAMILY DWELLING, 1 APT. BUILDING
   PROPOSED - DR-2 - 1 SINGLE FAMILY DWELLING & 32 DUPLEX DWELLINGS
   SEE SPECIAL HEAR. REQUEST
   DR-5.5 - 1 SINGLE FAMILY DWELLING, 6 DUPLEX DWELLINGS
   SEE SPECIAL HEAR. REQUEST
   NOTE: THE TOTAL NUMBER OF DWELLING UNITS PROPOSED FOR THE CLUSTERS PROPERTY IS 40, CONSISTING OF (1) EXISTING SINGLE FAMILY DWELLING, (1) PROPOSED SINGLE FAMILY DWELLING AND 38 DUPLEX DWELLINGS TO BE CONSTRUCTED.
4. ELECTION DISTRICT - 1
5. COUNCILMANIC DISTRICT - 1
6. CENSUS TRACT - 4005
7. REGIONAL PLANNING DISTRICT - 324 B
8. TAX MAP 100, GRID 17 & 18, PARCELS 992, 442 & 443
9. TAX ACCOUNT NO: 0401-1900010541, 0401-2200026318, 0401-0113142580
10. ADC MAP NO. - 41 (A-4, A-5)
11. SCHOOL DISTRICT - HILLCREST ELEMENTARY, CATONSVILLE MIDDLE SCHOOL, CATONSVILLE HIGH SCHOOL
12. WATERSHED - 30
13. SUBSEWERSHED - 76
14. 200 SCALE ZONING MAP - SW 4-G & SW 3-G
15. PARKING
    REQUIRED - 2 SPACES / UNIT
    40 X 2 = 80 PARKING SPACES
    PROVIDED - 80 PARKING SPACES
    (ON LOT DRIVEWAYS & GARAGES)

OWNERS

PARCEL 442 - 4.6717 ACRES +/-
LEO T. & SUSAN M. HULL
109 S. HILLTOP ROAD
BALTIMORE, MARYLAND 21228
DEED REFERENCE - 6550 / 76

PART OF PARCEL 443 - 2.554 AC.+/-
PROPOSED PARCEL 'B' TO BE REMOVED FROM THE EXISTING CAINEWOOD SUBDIVISION PARCEL 'A'
EUGENE F. OSBORNE ET AL
3000 OLD TANEYTOWNE ROAD
WESTMINSTER, MARYLAND 21158
DEED REFERENCE - 13191 / 05

PARCEL 992 - 10.594 ACRES +/-
FRANCIS W. FARLEY ET AL
P.O. BOX 40
HIGHLAND, MARYLAND 20777
DEED REFERENCE - 12424 / 648

REDLINED

DEVELOPMENT PLAN

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

THE CLUSTERS

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 100'
DATE: DECEMBER 24, 2003
REVISED: MARCH 11, 2004
REVISED: MARCH 22, 2004

PDM FILE NO. I-509

DEVELOPER/ CONTRACT PURCHASER
NAME: SKIRVEN ENTERPRISES
ADDRESS: 9405 TWIN KNOLLS ROAD SUITE 6
ADDRESS: COLUMBIA, MARYLAND 21045
PH. NO.: 410-730-8945

PREPARER OF PLAN
GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286

SHEET 2 OF 2

DEVELOPER'S EXHIBIT NO. 1B

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

I:\Drawings\Clusters\redline 8x22 3/24/2004 4:26:01 PM ROD SCALE

LEGEND

- PROPOSED STREET LIGHT
- PROPOSED FIRE HYDRANT
- PROPOSED RIGHT-OF-WAY LINE
- LOT LINE
- TRACT BOUNDARY
- EXISTING PARCEL LINES
- EXISTING RIGHT-OF-WAY LINE
- EASEMENT
- EXISTING TREELINES
- PROPOSED TREELINES
- ZONING LINE
- EXISTING SOIL CLASSIFICATIONS (HaC2, GrB)
- EXISTING 2' CONTOUR
- EXISTING 10' CONTOUR
- WETLAND LIMIT LINE

100 YEAR FLOOD PLAIN — FP
FOREST BUFFER EASEMENT — FBE
FOREST CONSERVATION RESERVATION — FCR

SLOPE > 25%

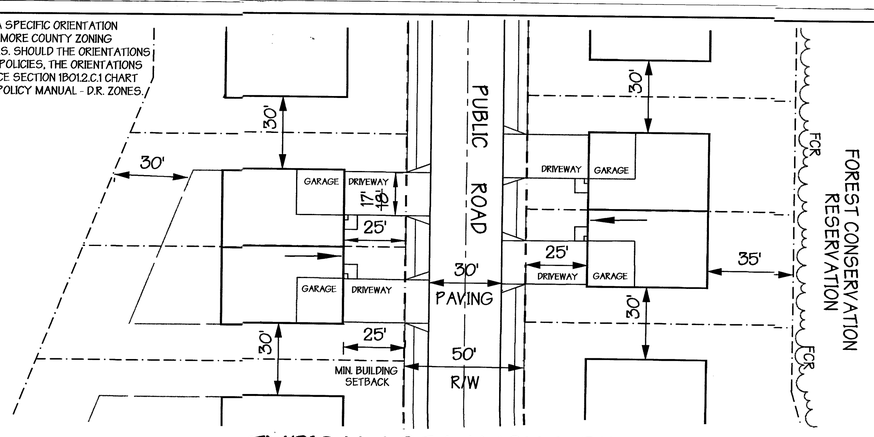
MAJOR DECIDUOUS TREE

MINOR DECIDUOUS TREE

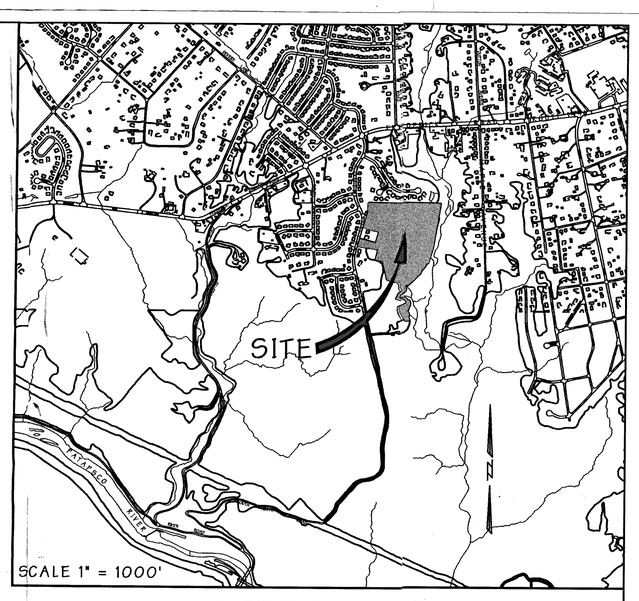
EVERGREEN TREE

SHRUB

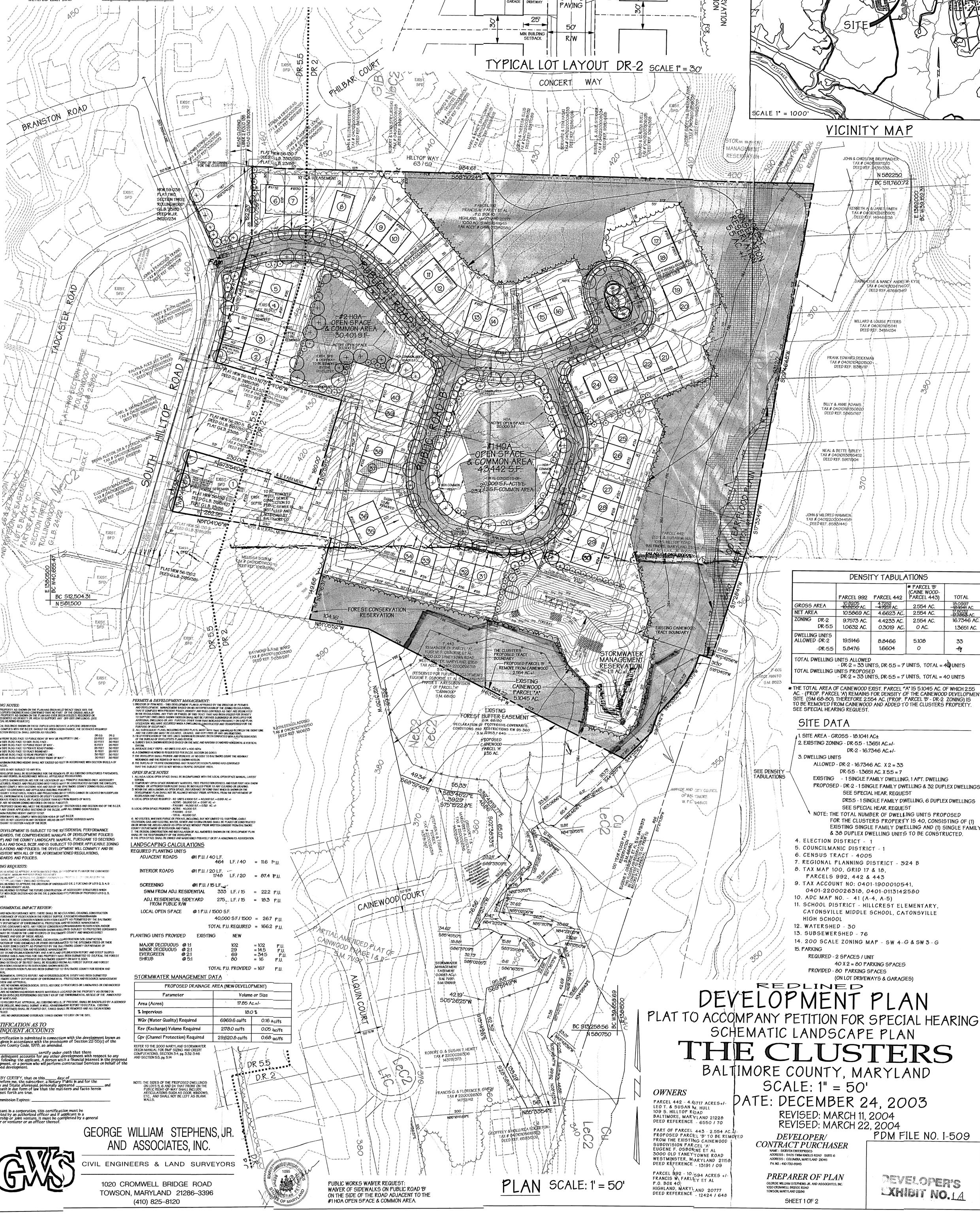
ENVELOPES OR TYPICAL DWELLINGS AS SHOWN DICTATE A SPECIFIC ORIENTATION WHICH IS INTENDED TO ALLOW COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS (BCZR) AND POLICES RELATIVE TO SETBACKS. SHOULD THE ORIENTATIONS CHANGE OR CREATE CONFLICTS WITH THE RUGULATION OR POLICIES, THE ORIENTATIONS MUST BE CHANGED TO ALLEVIATE THE CONFLICT. REFERENCE SECTION 1B02.2.C.1 CHART IN BCZR. REFERENCE SECTION 1B02.3.C.2.c (1B-26.1) IN PDM POLICY MANUAL - D.R. ZONES.

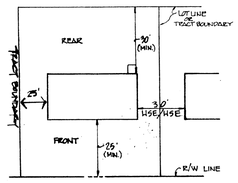


TYPICAL LOT LAYOUT DR-2 SCALE 1" = 30'



VICINITY MAP


BRANSTON ROAD
TADCASTER ROAD
SOUTH HILLTOP ROAD
PHILBAR COURT
CONCERT WAY
HILLTOP WAY
63/59
RUBY ROAD 'B'
FOREST CONSERVATION RESERVATION
#1 HOA OPEN SPACE & COMMON AREA- 43442 S.F.
TOTAL CONSISTS OF- 20,000 S.F. ACTIVE- 23,442 S.F. COMMON AREA
#2 HOA OPEN SPACE & COMMON AREA- 30,401 S.F.
ACTIVE OPEN SPACE 20,000 S.F.
HOA ACTIVE OPEN SPACE 20,000 S.F.
HOA COMMON AREA
HOA COMMON AREA 23,442 S.F.
HOA COMMON AREA 7,401 S.F.
EXIST. SFD
TO BE REMOVED
EXIST. SEPTIC TO BE REMOVED
EXIST. SFD & DRIVEWAY TO BE REMOVED BY/THE DEVELOPER
EXIST. SFD TO REMAIN
TO BE REMOVED AFTER CONNECTION TO PUBLIC SEWER IS INSTALLED AND ACCEPTED BY BALTIMORE CO.
BARN TO BE REMOVED
PROP. SWM FM
PROP. 8" W
PROP. 8" SEWER
PROP. SALEM
PROP. DWN
PROP. 5' WALK
PROP. 6' WALK
PROP. 4' WALK



TYPICAL LOT & SETBACK SCHEMATIC (PHASE II)

N.T.S.

"Typical building envelopes or buildings shown on these single family lots dictate a specific orientation which allows compliance with the Baltimore County Zoning Regulations - Should the orientation change the setbacks required by Section 1B01.2.C.1.b must be met" above it.

NOTE

LOD 26, 27 & 28 ARE SHOWN AS POSSIBLE FUTURE DEVELOPMENT NOT PART OF THIS CRG PLAN.

PHASE II

Summary of Setback and Height Requirements

	DR 1, 2, Zones	DR 3.5, 5.5, 10.5, 16 Zones
From Front Building Face To:		
Public Street Right-of-Way, or property line arterial or collector	25' / --	25' / --
From Side Building Face To:		
Side building face	30'	10' / 20' Min.
Public street right-of-way	25'	25' Min.
Pavers of a private road	25'	25' Min.
Tract boundary	25'	25' Min.
From Rear Building Face To:		
Rear property line	30'	30'
Public street right-of-way,	30'	30'
Additional Setbacks: Setbacks for buildings located adjacent to arterial roadways shall be increased by an additional 20 feet.		
Maximum Building Height:	35'	35'
Maximum Building Height DR 16 Zone:	60'	60'

BUILDING SETBACKS (PHASE I)

N.T.S.

NOTE: Phase I was approved under the height-to-height, window-to-window regulations (N/A to Phase II).

LEGEND

EXISTING: TRACT BOUNDARY; BLAZES + DATE; ROAD; FIRE HYDRANT; HOUSE LINE; ZONING LINE; BOILS; SANITARY SEWER; LIGHT; EASEMENT; TREES; STORM DRAIN; UTILITY POLE; CONTOUR; WETLANDS; WATER; YARD

PROPOSED: FOREST BUFFER EASEMENT; FIRE HYDRANT; CONTOURS; WATER; LIGHT; STORM DRAIN; MAP; SANITARY

ORDER - CASE #93-84-A

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this [illegible] day of November, 1992 that the Petition for Zoning Variance requesting relief from Section 1001.2.B of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section V.B.5.a of the Comprehensive Manual of Development Policies (C.H.D.P.)) to permit a windowed building face to tract boundary setback of 19.86 feet in lieu of the minimum required 35 feet for a proposed dwelling, in accordance with the revised site plan to be submitted, 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 Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) Prior to the issuance of any building permits, Petitioner shall submit a revised site plan incorporating the relief granted herein and the adjusted layout of the building envelope for Lot 1 of Calnewood.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner

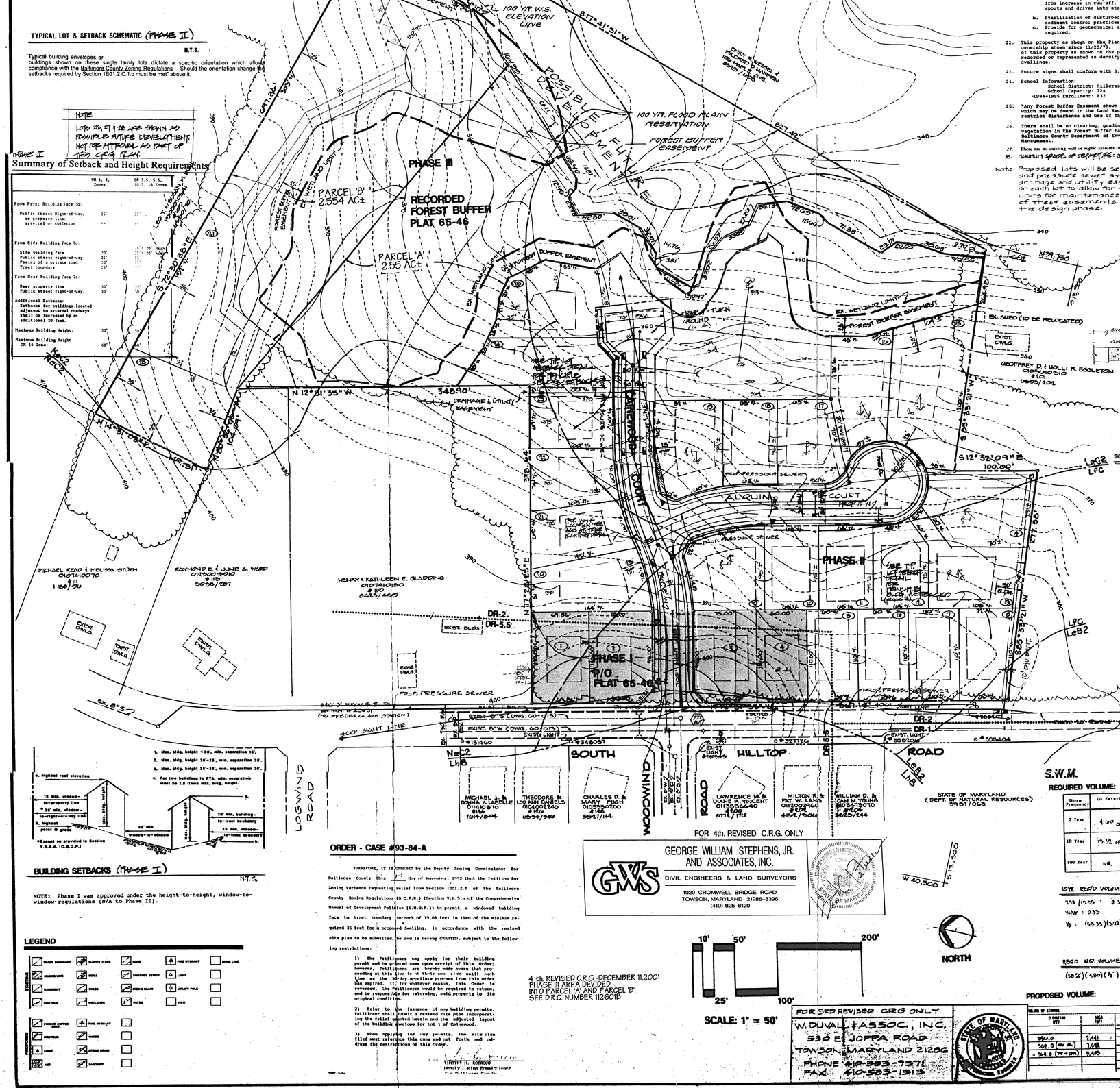
4th REVISED C.R.G. - DECEMBER 11, 2001
PHASE III AREA DEVIDED INTO PARCEL 'A' AND PARCEL 'B'.
SEE D.R.C. NUMBER 112601B

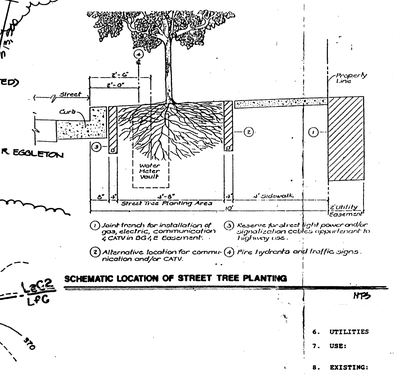
FOR 4th. REVISED C.R.G. ONLY

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

FOR 3RD REVISED CRG ONLY

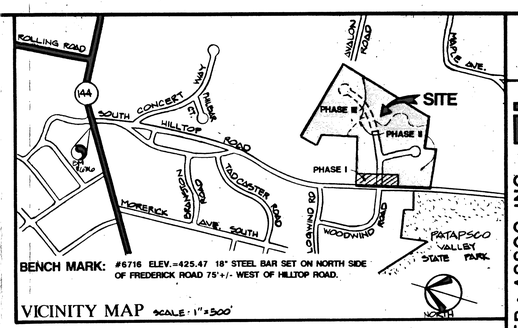
W. DUVALL FASSOC., INC.
539 E. JOPPA ROAD
TOWSON, MARYLAND 21286
PHONE 410-823-7571
FAX 410-823-1913





SCHEMATIC LOCATION OF STREET TREE PLANTING

N.T.S.



VICINITY MAP SCALE: 1"=500'

1. DEVELOPMENT NAME: Calnewood (PHASES I & II)
2. APPLICANT/DEVELOPER: Eugene Osborne, Sr.

PROPERTY REFERENCES
PLAT: 65/46 (Calnewood)
TAX ACCOUNT NUMBER: 2200014832
TAX MAP: 100 GRID: 17 PARCEL: 443
ADC MAP: A3-A5

3. CRG PLAN PREPARED BY: D. S. Thaler & Associates, Inc. Attn: Alan Scoll
4. GENERAL DATA: Election District: 1 Census Tract: 4005 Councilmanic District: 1 Watershed: 30 Subwatershed: 76
5. SITE INFORMATION: A. Gross acreage: 13.7½ AC± (including 25' x 567.14' South Hilltop Road) Net acreage: 13.½ AC± (per RECORD PLAT)

B. Zoning
Existing Zoning DR-1 @ 12. AC±
DR-5.5 @ 1.19 AC±

C. Density Calculations:
Allowable: 1 x 12.½ AC± = 12.5 D.U.
5.5 x 0.78 AC± = 4.29 D.U.
11.79 D.U.

Proposed: 21 lots + 4 existing = 25 lots density remaining = 6 units

D. Parking
Required: 2 spaces/unit
Proposed: 2 spaces/unit

E. Open Space
Required: 650 S.F./Dwelling (25 x 650 S.F. = 0.37 AC±)
Proposed: A waiver has been approved by letter dated June 16, 1998 and fees paid in September 1998.

F. Landscape planting as specified in the Baltimore County Landscape Manual, adopted October 1, 1990.

P.U. = 1 planting unit
1 P.U. = 1 major deciduous tree or
2 minor deciduous trees or
2 evergreen trees or
5 shrubs or
500 S.F. of ground cover

	REQUIRED:	PROPOSED:
ADJACENT ROAD:	1 P.U./40 L.F. (Min. 75% major deciduous)	570/40 = 14.2 P.U.
INTERIOR ROAD:	1 P.U./20 L.F. (Min. 75% major deciduous)	810/20 = 40.5 P.U.
SCREEN OF SIDE & REAR	Class 'A' screen 1 P.U./15 L.F. (Min. 5' Ht. at maturity. Min. 30" Ht. at installation)	440/15 = 29.3 P.U.
STORMWATER MANAGEMENT:	If side slopes are >4:1, Class 'A' screen 1 P.U./15 L.F. (Min. 5' Ht. at maturity.) (Min. 30" Ht. at installation)	340/15 = 22.6 P.U.
TOTAL:		106.6 P.U.

6. UTILITIES: Public water and sewer will be provided.
7. USE: The existing use is vacant. The proposed use is residential
8. EXISTING: There are no known historic buildings, critical areas, archaeological sites, endangered species, or hazardous materials on the site.
9. ROADS: All roads are to be public.
10. AVERAGE DAILY TRIPS (ADTS): Average daily trips as calculated from the Baltimore County Comprehensive Manual of the Development Policy.

Single Family
Average Daily Trips: 25 units x 10 /unit = 250 ADTS

11. STORMWATER MANAGEMENT: Stormwater management will conform to Baltimore County Standards for phases I & II. Phase III may require additional stormwater management.
12. GRADING: Grading shown is schematic only.
13. VEGETATION: Existing vegetation will be retained in areas not needed for construction or grading. Existing vegetation consists of woods and lawn.
14. SIGHT LINES: Proposed sight lines are shown on the plan and will be cleared and graded and kept permanently clear to ensure unobstructed sight at all times.
15. STORAGE TANKS: There are no known underground storage tanks on site.
16. REFERENCES: Floodplain: D.S. Thaler & Associates, Inc.
Topography: Spellman, Larson & Associates, Inc.
Wetlands: Spellman, Larson & Associates, Inc.
Boundary: Spellman, Larson & Associates, Inc.
Zoning: Baltimore County, 1992 200 Scale Zoning Map (SW4G)

17. Soils/ Limitations

SYM.	SERIOUS	SEVERE LIMITATIONS	OTHERS LIMITATIONS	DISABLED & PARKING LOTS	TYPE
LcD	Lopers	Severe; Slope	Severe; Slope	Severe; Slope	C
ReC2	Sandy	Severe	Severe	Severe	B
Gp	Codorus	Severe; Flood Hazard	Severe; Flood Hazard	Severe; Flood Hazard	C
LaC2	Lopers	Moderate; Slope	Moderate; Slope	Severe; Slope	C
ReC2	Neshaminy	Moderate; Slope	Moderate; Slope	Severe; Slope	B
LaB2	Lopers	Slight	Slight	Moderate; Slope	C
LaB	Lopers	Slight	Slight	Moderate; Slope	C
LsC	Lopers	Moderate	Slight to moderate; Slope	Severe; Slope	C

18. Sidewalks shall be provided on all public roads.
19. Building envelopes shown restrict location of principal building only.
20. Stormwater management facility shall be screened from adjacent residential properties.
21. Soil and Slope Mitigation Measures:

The developer shall do the following in those areas where severe or moderate soil limitations are indicated and/or steep slopes occur:

a. Insure that grading plans consider protection of these areas from increase in run-off. This will include draining roof down spouts and drives into storm drains.
b. Stabilization of disturbed areas in accordance with approved sediment control practices.
c. Provide for geotechnical assistance with on-site inspectors as required.

22. This property as shown on the Plan has been held intact by the ownership shown since 11/25/79. No known part of the gross area of this property as shown on the plan has ever been utilized, recorded or represented as density or area to support any off-site dwellings.
23. Future signs shall conform with S.413 B.C.Z.R. and all zoning policies.
24. School Information:
School District: Hillcrest Elementary: Hillcrest Elementary (7)
School Capacity: 724 Middle: Catonsville (3)
1994-1995 Enrollment: 832 High School: Catonsville (3)
25. "Any Forest Buffer 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."
26. There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement except as permitted by Baltimore County Department of Environmental Protection and Resource Management.
27. There are no existing well or septic systems on site.
28. MAXIMUM SPACE OF PERIMETER: 8%

Note: Proposed lots will be served by a public grinder pump and pressure sewer system. This means that a drainage and utility easement will be established on each lot to allow for access to the grinder pump units for maintenance. The location and configuration of these easements will be determined during the design phase.

S.W.M.

REQUIRED VOLUME:

Storm Frequency	Qo- Existing	Uncontrolled	Qa- Allowable	Qi- Proposed
2 Year	1.60 cfs	7.92 cfs	2.08 cfs	2.01 cfs
10 Year	13.92 cfs	24.74 cfs	7.58 cfs	13.99 cfs
100 Year	NR	NR	NR	NR

10YR. REQD VOLUME:
758 (13.99 : 8.58
Y&N: 0.33
½ : (53.33)(572)(0.0015)(0.33) : 0.435 AC/FT.
0.10 AC/FT. W.Q.
TOTAL : 0.535 AC/FT.

REQD W.Q. VOLUME:
(50%)(100)(½) 0.076 AC/FT.
USE: 0.10 AC/FT.

PROPOSED VOLUME:

VOLUME OF STORAGE: ELEVATION (FT)	AREA (SF)	AVERAGE AREA (SF)	INC. VOLUME (1 of 3)	CUM. VOLUME (1 of 3)	CUM. VOLUME (1 of 3)
350.0	7,441			0	0
351.0 (80 ac)	7,158	7,300	7,300	80,189	0.01 MG
364.0 (80 ac)	9,485	8,321	17,022	91,214	1.08 MG

STATE OF MARYLAND
GEORGE WILLIAM STEPHENS, JR.
No. 7571
REGISTERED PROFESSIONAL ENGINEER

SCALE: 1" = 50'

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS
LANDSCAPE ARCHITECTS
SURVEYORS
LAND PLANNERS
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21244
(410) 944-ENGR (410) 944-3647

4TH. REVISED CRG PLAN

CALNEWOOD

PHASE I & II

DEVELOPER'S EXHIBIT NO. 2

REVISED 12/28/01
RECEIVED JAN 2 2002
OFFICE OF PLANNING

6/98 Approved See #112601B

REVISED 12/28/01
RECEIVED JAN 2 2002
OFFICE OF PLANNING

3rd REVISED CRG PLAN
PHASE II
PROJ. NAME: CALNEWOOD
PHASE II
PLAN TITLE: CRG
PUBLIC SERVICE: #90629
PLANNER: #9-384
COUNCIL DIST.: 1
ELECTION DIST.:
REC'D CRG: 11/12/98
CRG: 12/11/98
APPROVAL:

OWNER / DEVELOPER:
EUGENE OSBORNE, SR.
CAMARGO POND FARM
3000 OLD TANEYTOWN ROAD
WESTMINSTER, MD. 21157
(410)848-0861

COUNTY MD. BALTIMORE COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On 12/11/98 And Is Hereby Approved Subject To The Following Action Taken
PLAN APPROVED
Approved DPW
Approved OPZ
Approval Expiration: 12/11/00
Plan Approved Contingent Upon Mtg. Required
Plan Approved As Noted In Mtg. Minutes
Plan Approved As Amended In Mtg. Minutes
Plan Approved As Noted Above
Plan Approved As Amended Above
Plan Approved As Noted Above And In Mtg. Minutes
Plan Approved As Amended Above And In Mtg. Minutes
Plan Approved As Noted Above And Referred To Plan. Bd.

RECEIVED SEP 21 1998 OFFICE OF PLANNING

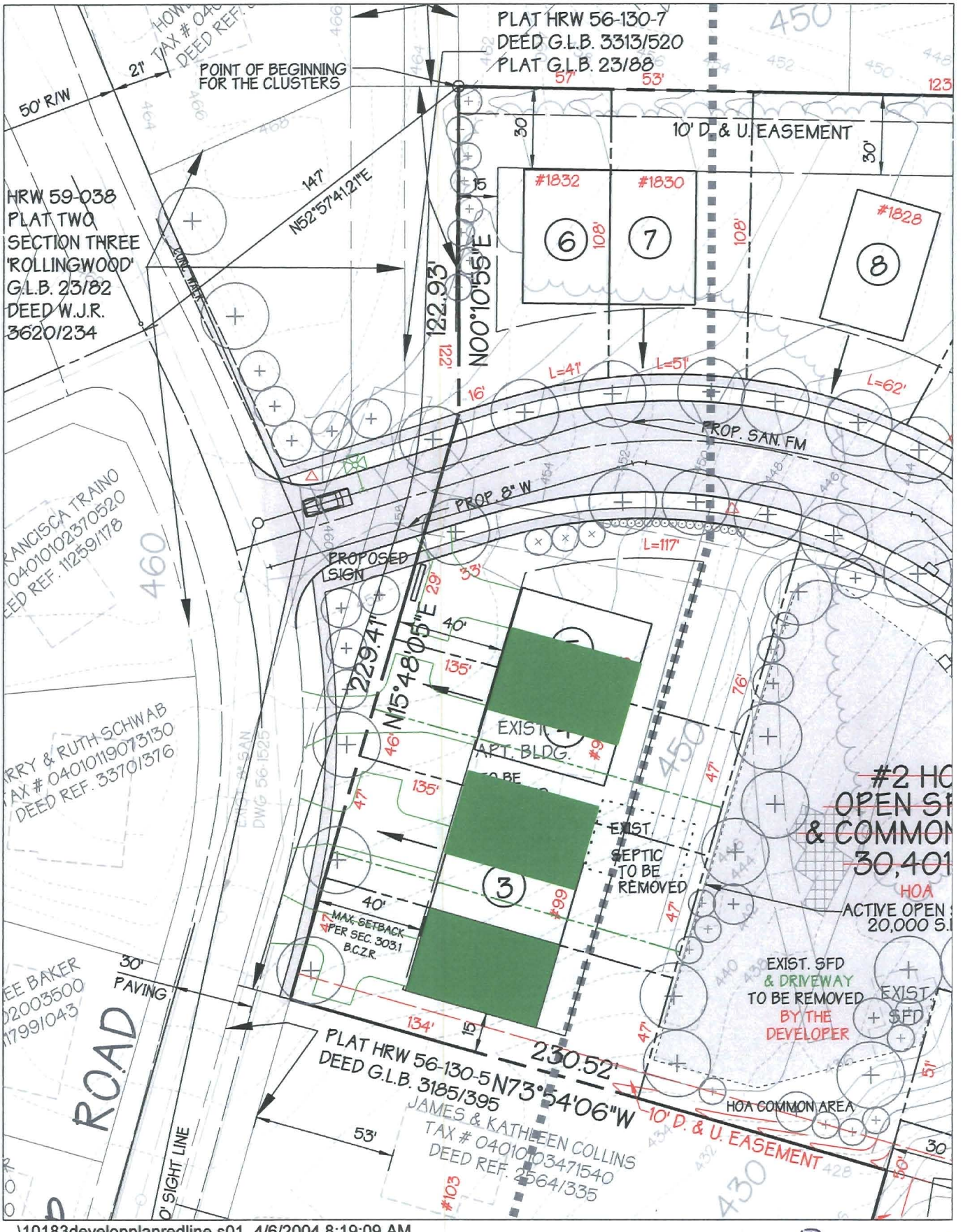
RECEIVED SEP 3 1998 BALTIMORE COUNTY ZONING OFFICE

REVISIONS:
6-23-98: INTRO'S #1-28, NO ANSWER, HAS REVISED PUBLIC SYS. REVISE #29-#40; EXTEND MORERICK & GALLANT ROAD; ADD ST. LIGHTING DETAIL; SETBACK DETAILS PHASE I & II; ADD P.M. NOTES
7/10/98 TOWSON RM. FM.; ADD DPW NOTES, DELINEATE TOPOGRAPHY, REVISE OF SAN. P.M. SYSTEM.
8-27-98 REV. FOREST BUFFER EASEMENT ADDED 100 YR. FLOODPLAIN RESERVATION & ADDED 100 YR. W.S. ELEV. LINE. REVISED NOTE #11
8-4-99 - 3RD REVISED CRG:
REVISE NOTE #8, 16; REMOVE PUBLIC WORKS NOTE & ADD NEW NOTE
REVISE LOCATION OF PUBLIC LOW PRESSURE SEWER PER APP'D. F.D.P. (2ND AMENDED)

D.S. THALER & ASSOCIATES, INC.
CIVIL ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS LAND PLANNERS
7115 AMBASSADOR ROAD BALTIMORE, MARYLAND 21244
(410) 944-ENGR (410) 944-3647 FAX (410) 944-3684

STATE OF MARYLAND ROBERT L. BOUCHARD No. 701 REGISTERED LANDSCAPE ARCHITECT

DATE: 1-12-99
SCALE: 1"=50'
C.I.:
PROJ. NO.: 112601A
SHEET: 1 OF 1

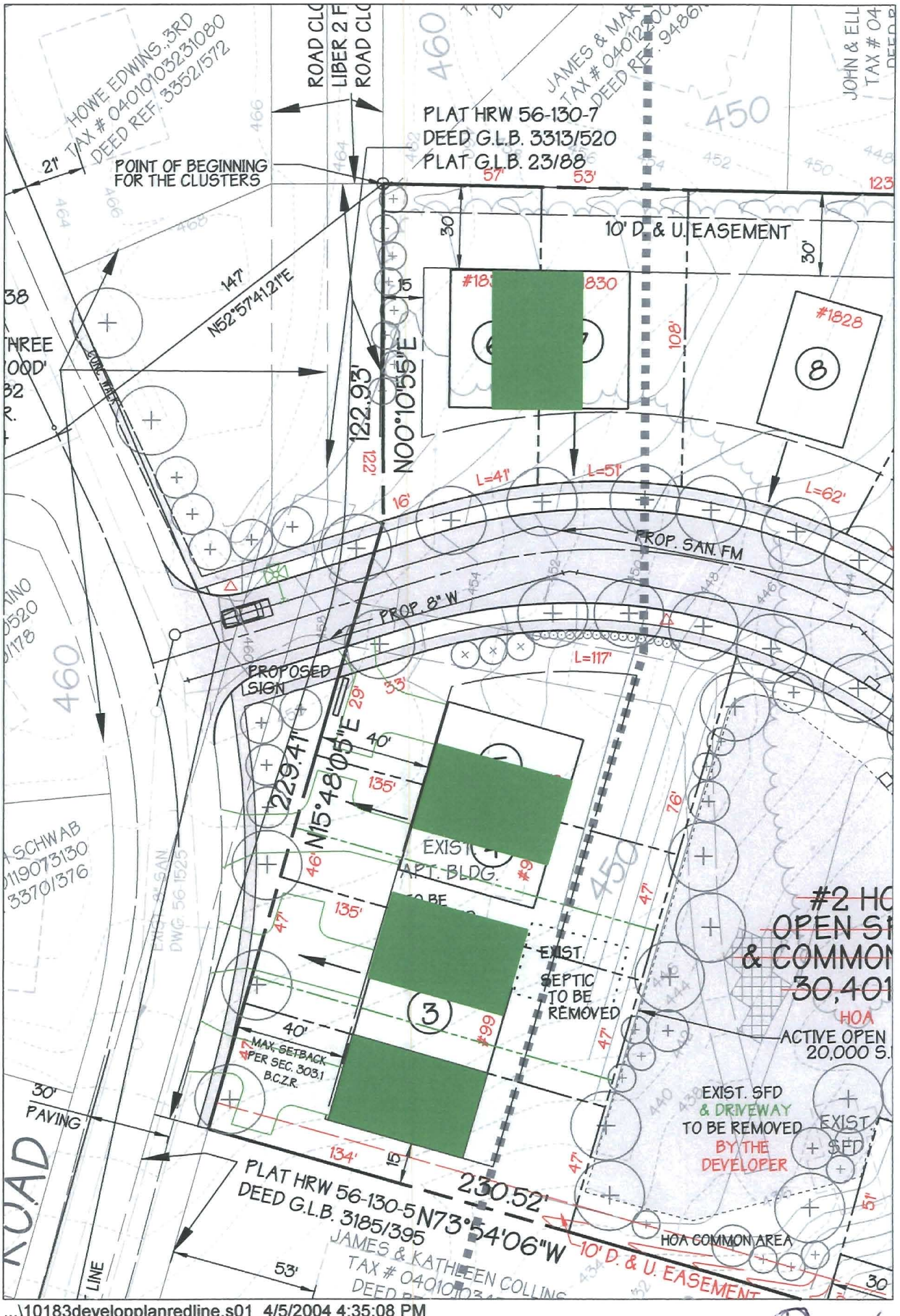


...\10183developplanredline.s01 4/6/2004 8:19:09 AM

Devel. 5A

SCALE: 1"=50'
DATE: 4.6.04

THE CLUSTERS



...\10183developplanredline.s01 4/5/2004 4:35:08 PM

Devel. SB

SCALE: 1"=50'

DATE: 4.5.04

THE CLUSTERS

SHOWING SINGLE FAMILY LOTS IN DR-5.5 ZONE

PROTESTANT'S

EXHIBITS

COUNTY

EXHIBITS

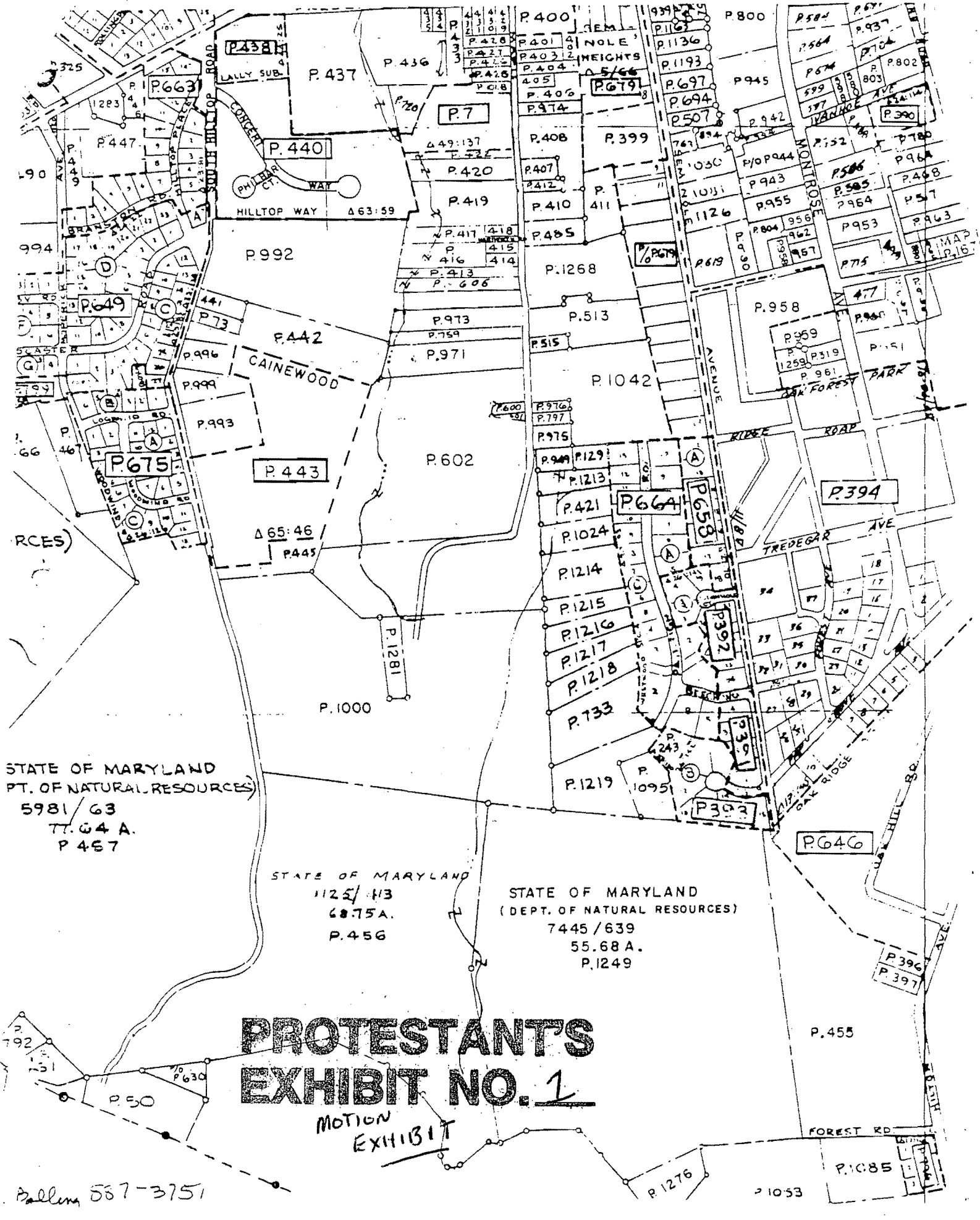
5

(040382) "A"

Supplemental

Protestant's Exhibits

Exhibit 1 – Motion (1 of 1)
Exhibit 2a – Real Property Search – Individual Report (3 of 3)
Exhibit 2b – Real Property Search – Individual Report (1 of 1)
Exhibit 2c – Real Property Search – Individual Report (1 of 1)
Exhibit 2d – Real Property Search – Individual Report (1 of 1)
Exhibit 2e – Real Property Search – Individual Report (3 of 3)
Exhibit 2f – Real Property Search – Individual Report (1 of 1)
Exhibit 3 - Photos (5) dated March 25, 2004 (1 of 1)
Exhibit 4 – Photos (4) (1 of 1)
Exhibit 5 - Photos (5) (1 of 1)
Exhibit 6 - Search Results dated March 25, 2004 (1 of 1)
Exhibit 7 - Declaration of Protective Covenants, Conditions and Restrictions (3 of 3)
Exhibit 8 - Letter from Edward Adams to Rick Chadsey dated March 10, 2004 (1 of 1)
Exhibit 9 - Letter from Thomas Peddicord to Helen Baker, et.al. dated March 11, 2004 (6 of 6)
Exhibit 10 - Photos dated March 29, 2004(5) (1 of 1)
Exhibit 11 - Photos dated March 29, 2004 (5) (1 of 1)
Exhibit 12 – Photos dated March 29, 2004 (3) (1 of 1)
Exhibit 13 - Photos dated March 29, 2004 (3) (1 of 1)
Exhibit 14 - Resume of Joseph P. Gochar, Jr. (1 of 1)
Exhibit 15 – Correspondence from S.G. Samuel Moxley to Joe Gochar dated August 5, 2003 (3 of 3)
Exhibit 16 – Sewer Systems Plan (1 of 1)
Exhibit 17 – Cainewood Phase I & II (1 of 1)
Exhibit 18 – 4th Amended of Phase I, and 2nd Amended Overall Partial Development Plan of Cainewood Phase I & II (1of 1)
Exhibit 19a - Photo of Home (1 of 1)
Exhibit 19b – Road/Driveway (1 of 1) (Photo)
Exhibit 19c – Photo of Land (1 of 1)
Exhibit 20 - Resolution No. 32-04 (4 of 4)
Exhibit 21 - Real Property Data Search (3 of 3)
Exhibit 22 - Deed and Easement Agreement (11 of 11)
Exhibit 23 - Deed dated February 16, 2000 (6 of 6)
Exhibit 23a – Photos (5 of 5) on 1 page
Exhibit 24 - Photos (4 of 4) on 1 page


P.438
LILLY SUB
P.437
P.436
P.400
P.663
P.7
P.440
P.420
P.419
HILLTOP WAY
Δ63:59
P.992
P.649
P.73
P.442
CAINEWOOD
P.996
P.999
P.993
P.675
P.443
Δ65:46
P.445
P.602
P.973
P.759
P.971
P.1268
P.513
P.515
P.1042
P.958
P.959
P.961
OAK FOREST PARK
RIDGE ROAD
P.394
P.679
P.664
P.658
P.421
P.1024
P.1214
P.1215
P.1216
P.1217
P.1218
P.733
P.1219
P.1281
P.1000
P.392
P.393
P.646
P.396
P.397
P.455
P.1085
P.1276
P.1053
P.50
P.630
P.792
P.231
STATE OF MARYLAND
PT. OF NATURAL RESOURCES)
5981/63
77.64 A.
P.467
STATE OF MARYLAND
1125/113
68.75A.
P.456
STATE OF MARYLAND
(DEPT. OF NATURAL RESOURCES)
7445/639
55.68 A.
P.1249
PROTESTANTS
EXHIBIT NO. 1
MOTION
EXHIBIT
Ballew 587-3751

Click here for a plain text ADA compliant screen

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

Account Identifier: **District** - 01 **Account Number** - 0104201500

Owner Information

Owner Name:	DEICKMAN FRANK EDWARD	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	100 MAPLE AVE BALTIMORE MD 21228-5524	**Deed Reference:**	1) /15315/ 117 2)

Location & Structure Information

Premises Address
100 MAPLE AVE

Legal Description
LT WS MAPLE AV
100 MAPLE AVE
1380 S OF FREDERICK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
100	18	606						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1925	1,692 SF	40,560.00 SF	04

Stories	Basement	Type	Exterior
1 1/2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2004	Phase-In Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	58,140	94,140		
Improvements:	75,660	88,190		
Total:	133,800	182,330	133,800	149,976
Preferential Land:	0	0	0	0

Transfer Information

Seller:	DEICKMAN EARL N	**Date:**	06/20/2001	**Price:**	$125,000
Type:	NOT ARMS-LENGTH	**Deed1:**	/15315/ 117	**Deed2:**	
Seller:	DEICKMAN CHAS B	**Date:**	08/22/1960	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 3742/ 185	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

PROTESTANTS EXHIBIT NO. 2A

8B

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 01 **Account Number** - 0104201500

Owner Information

Owner Name:	DEICKMAN FRANK EDWARD	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	100 MAPLE AVE BALTIMORE MD 21228-5524	**Deed Reference:**	1) /15315/ 117 2)

Location & Structure Information

Premises Address
100 MAPLE AVE

Legal Description
LT WS MAPLE AV
100 MAPLE AVE
1380 S OF FREDERICK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
100	18	606						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1925	1,692 SF	40,560.00 SF	04

Stories	Basement	Type	Exterior
1 1/2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	58,140	94,140		
Improvements:	75,660	88,190		
Total:	133,800	182,330	133,800	149,976
Preferential Land:	0	0	0	0

Transfer Information

Seller:	DEICKMAN EARL N	**Date:**	06/20/2001	**Price:**	$125,000
Type:	NOT ARMS-LENGTH	**Deed1:**	/15315/ 117	**Deed2:**	
Seller:	DEICKMAN CHAS B	**Date:**	08/22/1960	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 3742/ 185	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

PETITIONER'S EXHIBIT NO. 12

Click here for a plain text ADA compliant screen

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 01 **Account Number** - 0113142580

Owner Information

Owner Name:	FARLEY FRANCIS W FARLEY MARY V VOGEL WILLIAM A/ SONJA O	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	C/O D J REALTY INC PO BOX 143 HIGHLAND MD 20777-0143	**Deed Reference:**	1) /12424/ 648 2)

Location & Structure Information

Premises Address
101 HILLTOP RD

Legal Description
10 AC ES HILLTOP RD
1000 S OF FREDERICK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
100	17	992						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1910	3,245 SF	10.00 AC	04

Stories	Basement	Type	Exterior
2 1/2	YES	STANDARD UNIT	WOOD SHINGLE

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	Phase-in Assessments As Of 07/01/2004
Land:	156,000	156,000		
Improvements:	167,460	183,440		
Total:	323,460	339,440	323,460	328,786
Preferential Land:	0	0	0	0

Transfer Information

Seller:	FARLEY FRANCIS W FARLEY MA	**Date:**	10/07/1997	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/12424/ 648	**Deed2:**	
Seller:	MCNANEY EDWARD T	**Date:**	06/30/1983	**Price:**	$115,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 6555/ 324	**Deed2:**	
Seller:		**Date:**		**Price:**	

PROTESTANT'S EXHIBIT NO. 26

Part 2 of 2

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 01 **Account Number** - 0113142580

Owner Information

Owner Name: FARLEY FRANCIS W FARLEY MARY V
VOGEL WILLIAM A/ SONJA O

Use: RESIDENTIAL

Principal Residence: NO

Mailing Address: C/O D J REALTY INC
PO BOX 143
HIGHLAND MD 20777-0143

Deed Reference: 1) /12424/ 648
2)

Location & Structure Information

Premises Address
101 HILLTOP RD

Legal Description
10 AC ES HILLTOP RD
1000 S OF FREDERICK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
100	17	992						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1910	3,245 SF	10.00 AC	04

Stories	Basement	Type	Exterior
2 1/2	YES	STANDARD UNIT	WOOD SHINGLE

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	156,000	156,000		
Improvements:	167,460	183,440		
Total:	323,460	339,440	323,460	328,786
Preferential Land:	0	0	0	0

Transfer Information

Seller:	FARLEY FRANCIS W FARLEY MARY V	**Date:**	10/07/1997	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/12424/ 648	**Deed2:**	
Seller:	MCNANEY EDWARD T	**Date:**	06/30/1983	**Price:**	$115,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 6555/ 324	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

PROTESTANT'S EXHIBIT NO. 9

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

Click here for a plain text ADA compliant screen

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District -** 01 **Account Number -** 0118350820

Owner Information

Owner Name: ADAMS BILLY R
ADAMS ANNE C

Mailing Address: 102 MAPLE AV
BALTIMORE MD 21228

Use: RESIDENTIAL

Principal Residence: YES

Deed Reference: 1) / 5865/ 767
2)

Location & Structure Information

Premises Address
102 MAPLE AVE

Legal Description
LT WS MAPLE AV
1440 SW FREDERICK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
100	12	973						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1951	860 SF	1.62 AC	04

Stories	Basement	Type	Exterior
1	NO	STANDARD UNIT	FRAME

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	63,720	100,890		
Improvements:	42,200	45,910		
Total:	105,920	146,800	105,920	119,546
Preferential Land:	0	0	0	0

Transfer Information

Seller:	FRIDY ROBERT L,JR	Date:	03/21/1978	Price:	$44,500
Type:	IMPROVED ARMS-LENGTH	Deed1:	/ 5865/ 767	Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	

PROTESTANTS EXHIBIT NO. 12

Print 25

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 01 **Account Number** - 0118350820

Owner Information

Owner Name:	ADAMS BILLY R ADAMS ANNE C	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	102 MAPLE AV BALTIMORE MD 21228	**Deed Reference:**	1) / 5865/ 767 2)

Location & Structure Information

Premises Address
102 MAPLE AVE

Legal Description
LT WS MAPLE AV
1440 SW FREDERICK RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
100	12	973						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1951	860 SF	1.62 AC	04

Stories	Basement	Type	Exterior
1	NO	STANDARD UNIT	FRAME

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	63,720	100,890		
Improvements:	42,200	45,910		
Total:	105,920	146,800	105,920	119,546
Preferential Land:	0	0	0	0

Transfer Information

Seller:	FRIDY ROBERT L,JR	**Date:**	03/21/1978	**Price:**	$44,500
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 5865/ 767	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

PROTESTANT'S EXHIBIT NO. 2

Exemption Information

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

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

Part 3
3/25/04











Pool 7









Part 5
of 5











Increase your market

Post 6
10

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

Go Back
View Map
New
Search

Page 1 of 1

Name	Account	Street	OWN OCC	Map	Parcel
CRATEN JOHN G	09 0918470660	21 HILLTOP RD	H	70	917
NIGRO SUSAN	01 0103231080	21 HILLTOP PL	H	100	649

PROTESTANT'S EXHIBIT NO. 6

RW 95-360 (SUBDIVISION PLAT)
J.O. 1,3,4-1-8027
Item 1 (FB)
Election Dist.: 1

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 18th day of MAY, 1998, by EUGENE F. OSBORNE and JENNYE A. OSBORNE, Trustees, and EUGENE F. OSBORNE and JENNYE A. OSBORNE, his wife, of Carroll County, Maryland (the "Declarants"), and BALTIMORE COUNTY, MARYLAND, a body corporate and politic (the "County").

WHEREAS, the Declarants are the owners in fee simple of all that property situate and lying in the First Election District of Baltimore County, Maryland, and more particularly described in the following Deeds recorded among the Land Records of Baltimore County, viz.: (1) Deed dated August 6, 1992, and recorded in Liber S.M. No. 9479, folio 373, from Eugene F. Osborne to Eugene F. Osborne and Jennye A. Osborne, Trustees; (2) Deed dated December 28, 1972, and recorded in Liber E.H.K., Jr. No. 5329, folio 738, from Eugene F. Osborne and Jennye A. Osborne to Eugene F. Osborne; and (3) Deed dated August 15, 1969, and recorded in Liber O.T.G. No. 5027, folio 378, from Quincy A. Gladding to Eugene F. Osborne and Jennye A. Osborne, his wife; (the "Property"). Said property is shown on a Subdivision Plat entitled "CAINEWOOD", which is recorded among the Plat Records of Baltimore County in Plat Book S.M. No. 68, folio 80, (the "Plat"); and

WHEREAS, in order to protect the environmental quality of the area of the Property, said area containing 5.255 acres (228,920.93 sq. ft.), more or less, as designated on the Plat as "FOREST BUFFER EASEMENT" (the "Forest Buffer") the Declarants desire to protect said Forest Buffer by impcsing covenants, conditions and restrictions which will bind the lots and the present and future owners thereof. The County shall have the legal right to enforce the covenants, conditions and restrictions as set forth herein together with the enforcement rights referenced in Section 4.

NOW, THEREFORE, in consideration of the benefits derived by the Declarants and their successors in interest, the said Declarants, for themselves, their successors and assigns, do hereby agree as follows:

1. a. Existing vegetation within the Forest Buffer shall not be disturbed, except as provided pursuant to Baltimore County Code, 1988, as amended (hereafter referred to as "the Code"), Section 14-342;

b. Soil disturbance shall not take place within the Forest Buffer by grading, stripping of topsoil, plowing, cultivating, or other practices;

c. Filling or dumping shall not occur within the Forest Buffer;

d. Except as permitted by the Baltimore County Department of Environmental Protection and Resource Management ("DEPRM"), the Forest Buffer shall not be drained by ditching, underdrains, or other drainage systems;

e. Pesticides shall not be stored, used, or applied within the Forest Buffer(s), except for the spot spraying of noxious weeds consistent with the recommendations of the University of Maryland Cooperative Extension Service;

f. Animals shall not be housed, grazed, or otherwise maintained within the Forest Buffer;

g. Motorized vehicles shall not be stored or operated within the Forest Buffer, except for maintenance and emergency use approved by DEPRM;

h. Materials shall not be stored within the Forest Buffer.

95360.1FB/PWLAND/TXTLTE2
Rev. 7/97

PROTESTANTS EXHIBIT NO. 2

3-139 A

Distribution: White - Clerk's Office
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (6/95)

partment of Public Works

Office of the Director
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3300 • Fax: 410-887-3406

Baltimore County

James T. Smith, Jr., County Executive
Edward C Adams, Jr., Director

March 10, 2004

Mr. Rick Chadsey, P.E.
Vice President
George William Stephens, Jr & Associates, Inc.
1020 Cromwell Bridge Road
Towson, Maryland 21286-3396

Re: The Clusters, PDM No. I-509, Tax Map 100 Parcel 992

Dear Mr. Chadsey:

We have evaluated your request dated 11/10/03 for permission to serve the proposed subdivision by grinder pumps. We reviewed this project previously and had granted permission to use grinder pumps. Our opinion remains the same and we again approve this request. Current County policy requires that these pumps be privately maintained.

We are currently in the process of evaluating the Woodwind pumping station. If it is determined that there is sufficient capacity, you may be required to serve part of this development by gravity. We will contact you when we have the results of this evaluation.

This approval is subject to the S-3 Capital Facilities area designation for the subject property under the Baltimore County Water Supply and Sewerage Plan. Please be advised that County Council Resolution 5-04, passed on January 5, 2004, would change the designation to W-6/S-6 Area of Future Consideration. The change in designation is effective as of the date of its enactment, but is subject to the concurrence of the County Executive and the approval of the Maryland Department of the Environment (DOE). The County Executive has signed the resolution, but as of the writing of this letter, it has not been approved by the DOE.

Sincerely

Edward C Adams/WK

Edward C. Adams, Jr
Director

ECA/WWK/mdo

cc: Robert Berner
Robert Bowling
Don Rascoe
Ed Gillis
Amanda Conn

PROTESTANT'S EXHIBIT NO. 8

Printed on Recycled Paper

Prot 9
Ld

County Council
of
Baltimore County

Court House
Towson, Maryland 21204

410-887-3196
Fax: 410-887-5791

S.G. Samuel Moxley
FIRST DISTRICT

Kevin Kamenetz
SECOND DISTRICT

T. Bryan McIntire
THIRD DISTRICT

Kenneth N. Oliver
FOURTH DISTRICT

Vincent J. Gardina
FIFTH DISTRICT

Joseph Bartenfelder
SIXTH DISTRICT

John Olszewski, Sr.
SEVENTH DISTRICT

Thomas J. Peddicord, Jr.
LEGISLATIVE COUNSEL
SECRETARY

March 11, 2004

Helen H. Baker
200 Maple Avenue
Catonsville, Maryland 21228

Susan Hull
109 S. Hilltop Road
Catonsville, Maryland 21228

Francis W. Farley, Et Al
P. O. Box 40
Highland, Maryland 20777

Eugene Osborne, Jr.
3000 Old Taneytown Road
Westminster, Maryland 21158

Joseph Gochar, President
Hilltop/Maple Community Assn.
112 S. Hilltop Road
Catonsville, Maryland 21228

Charles Skirven
Skirven Enterprises
5405 Twin Knolls Road, Suite 6
Columbia, Maryland 21045

Ladies and Gentlemen:

The Baltimore County Council will hold a public hearing on March 30, 2004 on Resolution 32-04, a copy of which is enclosed. I also enclose a copy of the public advertisement of the hearing.

This office does not have a record of all of the lawyers and other representatives of the parties, but I trust that this notification will reach them.

If you have any questions, please do not hesitate to contact the Council office.

Sincerely,

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

TJP:ml
Encls.
cc: Douglas N. Silber
Edward J. Gilliss
watersupply.ltr.wpd

PROTESTANT'S EXHIBIT NO. 9





3/29/04
Post 10

















Prset 11
3/29/04

Prot 12
3/29/04











Photo 13

3/29/04



Post 14

PERSONAL INFORMATION

NAME & ADDRESS	SOCIAL SECURITY	CONTACT INFORMATION
Joseph P. Gochar, Jr. *112 South Hilltop Road* *Catonsville, Maryland 21228*	*219-38-5111*	*410-744-1086 home* *410-247-6640 work* *Jgochar@lsiofmd.com E-mail*

EMPLOYMENT HISTORY

PROGRAM MANAGER OF EQUIPMENT DEVELOPMENT — AUGUST 1965 - SEPTEMBER 1981
General Electric Company — *Columbia, Maryland*

My job responsibilities included machine designer, manufacturing engineer, maintenance manager, program manager of equipment design & development at two different divisions within GE: the Insulator Products Department in Baltimore and the Major Appliance Laboratories in Columbia. Arranged and taught classes on programmable logic controllers to other engineers and maintenance personnel. Contributed a paper to the book titled PROGRAMMABLE CONTROLLERS SELECTED APPLICATIONS by Bryan & Bryan.

CHIEF ENGINEER — OCTOBER 1981 - DECEMBER 1984
Automation Industrial Control — *Baltimore, Maryland*

Started a new division of an existing sales oriented company. Designed and built complete industrial control systems based on programmable controllers. My responsibilities were to quote, design and manage the production of equipment for a variety of industrial customers.

PRESIDENT — DECEMBER 1984 - PRESENT
Logical Systems, Inc. — *Baltimore, Maryland*

Formed a company to design and manufacture to UL standards many kinds of industrial control systems. Responsibilities include all aspects of running a small business. Contracts have covered many industries such as food packaging, steel processing, sewage processing plant, plastic manufacturing, and amusement park rides, especially roller coasters. Our company has produced controls for both steel and wooden roller coasters in Japan, England, Spain, and the USA. Some of the types of equipment used in our designs are PLC's, servo motor controls, AC & DC motor control systems up to 500 HP, industrial vision systems, and various kinds of process monitoring equipment.
Recently issued a patent relating to industrial vision systems.

AMUSEMENT RIDE SAFETY BOARD — JULY 2001 - PRESENT
State of Maryland

Appointed by the Governor as the mechanical engineer on the Amusement Ride Safety Board. This board reviews information from various sources and makes recommendations to the Maryland Department of Labor about changes relating to the operation of amusement rides.

EDUCATION

ACADEMIC — 1957 - 1959
Dundalk High School — *Dundalk, Maryland*

METALLURGY — 1959 - 1961
Drexel University — *Philadelphia, Pennsylvania*

CO-OP student with industrial experience as a metallurgist for AMP Inc.

MECHANICAL ENGINEERING BSME — 1961 - 1968
Johns Hopkins University (evening college) — *Baltimore, Maryland*

Prot 15

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

S.G. SAMUEL MOXLEY
COUNCILMAN, FIRST DISTRICT

DISTRICT OFFICE:
754 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
410-887-0896
FAX: 410-887-1012
COUNCIL OFFICE: 410-887-3196

August 5, 2003

Joe Gochar
112 South Hilltop Road
Baltimore, Maryland 21228

Dear Joe:

Please find enclosed Baltimore County Council Resolution 79-03. This resolution requests the Department of Public Works and Department of Environmental Protection and Resource Management to temporarily discontinue the policy of approving the use of certain types of septic systems for residential development. Though the Resolution includes a moratorium, this moratorium on grinder pumps is not mandatory. The County departments have 90 days to respond back to the County Council.

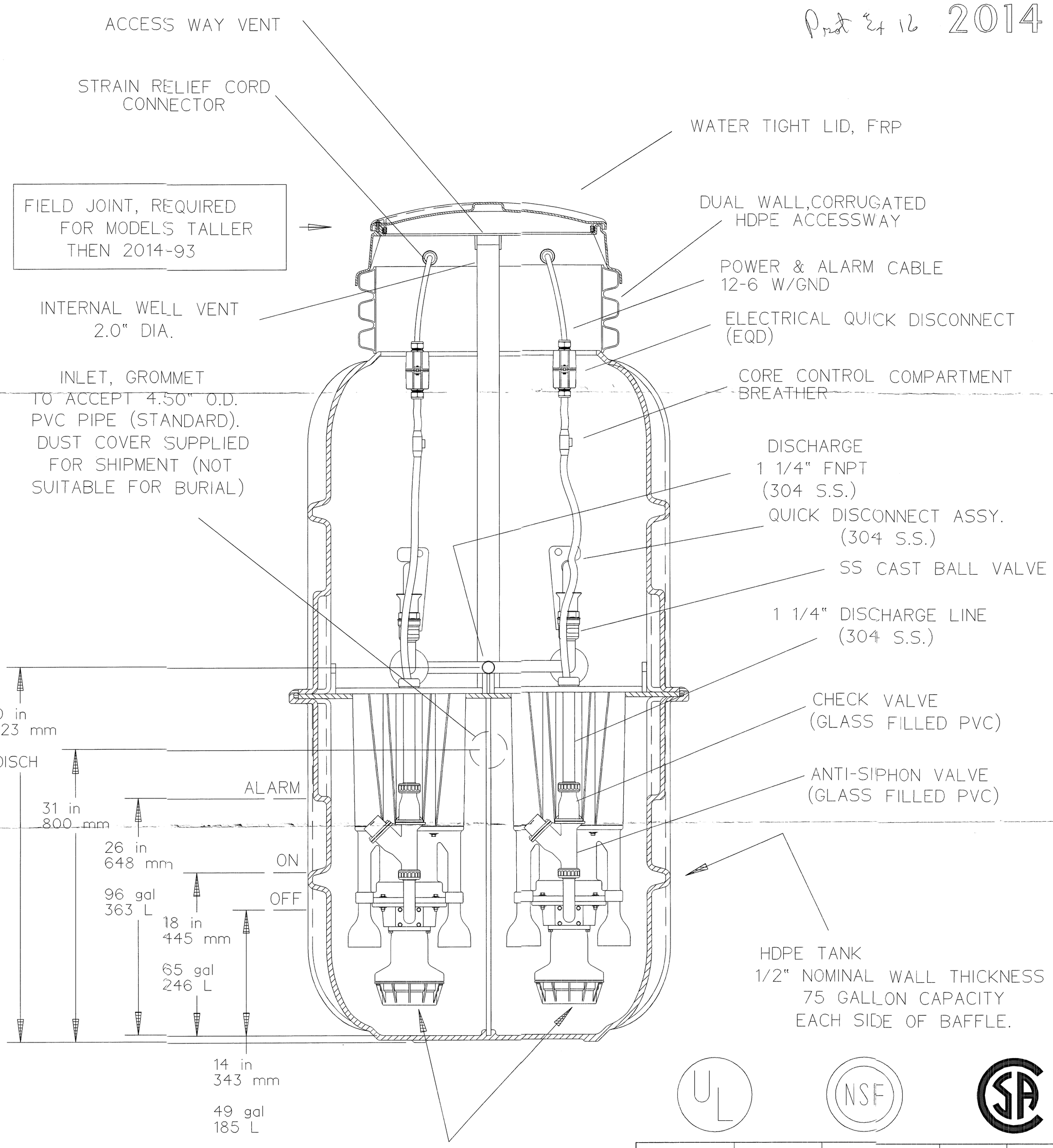
I will keep you advised of future developments and thank you for your attention to this matter.

Sincerely,

S. G. Samuel Moxley
Councilman, First District

SGM:tmb
FORMAT.LTR

Prot Ef 16 2014



SEMI-POSITIVE DISPLACEMENT TYPE PUMP
DIRECTLY DRIVEN BY A 1 HP MOTOR
CAPABLE OF DELIVERING 9 gpm AT 138' T.D.H.
(34 lpm AT 42m T.D.H.)

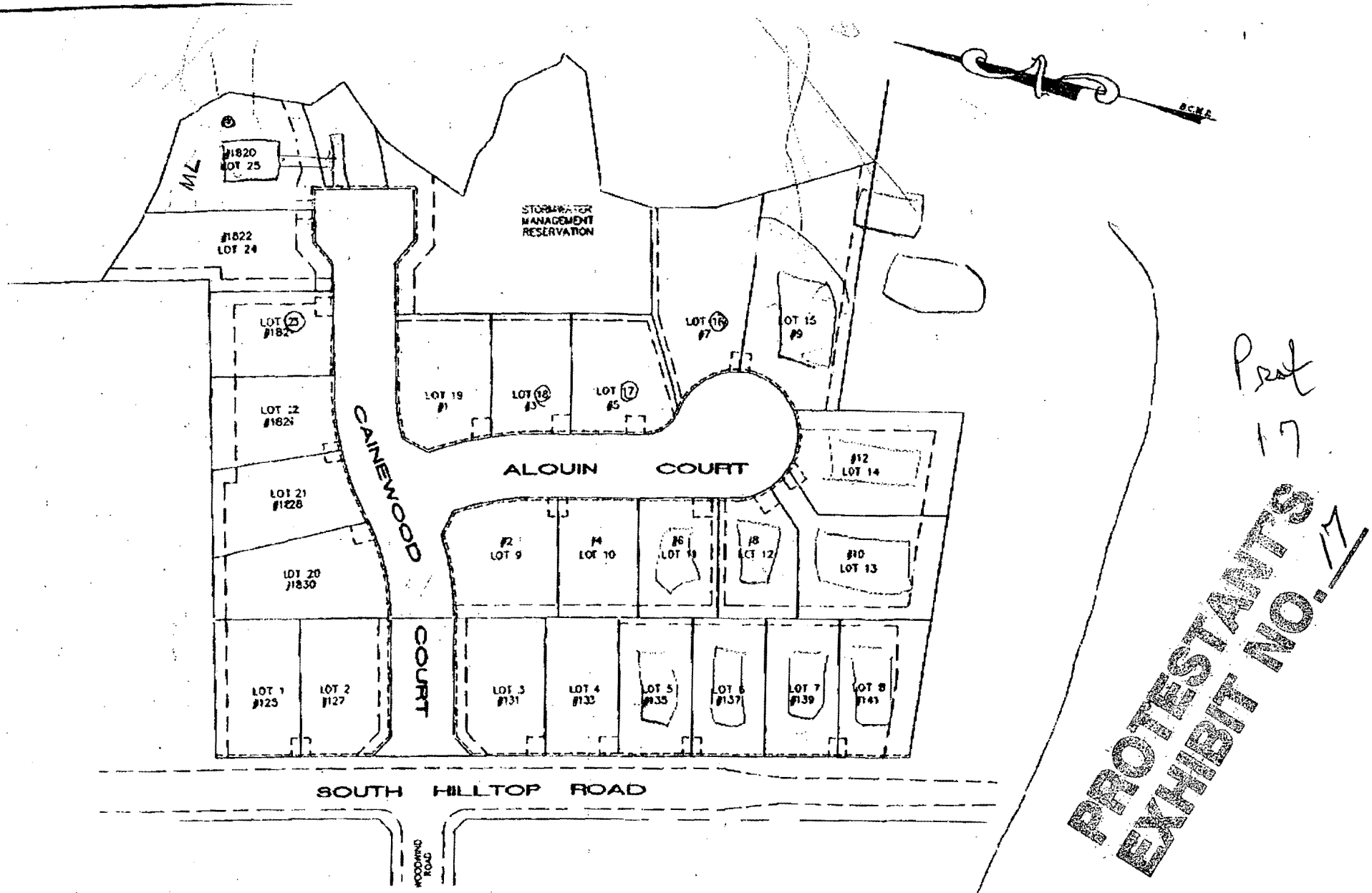
NOTE: A CONCRETE ANCHOR
IS REQUIRED TO PREVENT THE TANK FROM FLOATING.
SEE INSTALLATION INSTRUCTIONS
OR
SPECIFIC CUT SHEET
FOR SIZE AND WEIGHT OF ANCHOR

SGS	CAH	08/13/01	H	1/16
DR BY	CHK'D	DATE	ISSUE	SCALE

SEWER SYSTEMS

MODEL 2014, DETAIL SHEET

PA 0910 P01



Pratt
17

PROTESTANT'S
EXHIBIT NO. 17

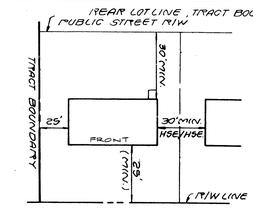
CAINEWOOD PHASE I & II

1ST ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

(PHASE II), LOTS 5-25

Summary of Setback and Height Requirements

	DR 1, 2, Zones	DR 3.5, 5.5, 10.5, 16 Zones
From Front Building Face To:		
Public Street Right-of-Way, or property line: arterial or collector	25' / --	25' / --
From Side Building Face To:		
Side building face	30'	16' < 20' high; 20' > 20' high
Public street right-of-way	25'	15'
Paving of a private road	30'	25'
Tract boundary	25'	15'
From Rear Building Face To:		
Rear property line	30'	30'
Public street right-of-way,	30'	30'
Additional Setbacks: Setbacks for buildings located adjacent to arterial roadways shall be increased by an additional 20 feet.		
Maximum Building Height:	50'	50'
Maximum Building Height DR 16 Zone:	60'	60'



TYPICAL LOT & SETBACK SCHEMATIC (PHASE II) N.T.S.

TYPICAL BUILDING ENVELOPES OR BUILDINGS SHOWN ON THESE SINGLE FAMILY LOTS DICTATE A SPECIFIC ORIENTATION WHICH ALLOWS COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS -- SHOULD THE ORIENTATION CHANGE THE SETBACKS REQUIRED BY SECTION 1B01.2.C.1.B MUST BE MET ABOVE IT.

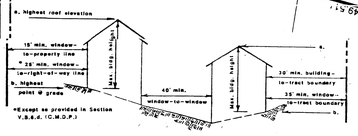
LOTS 26,27,28 ARE SHOWN AS POSSIBLE FUTURE DEVELOPMENT. NOT FOR APPROVAL AS PART OF THIS PARTIAL DEVELOPMENT PLAN.

LEGEND

EXISTING: TRACT BOUNDARY; HOUSING LINE; EASEMENT; CONTOUR; SLOPES > 25%; MOLE; TREES; WETLANDS; ROAD; SANITARY SEWER; STORM DRAIN; WATER; FIRE HYDRANT; ELIGHT; UTILITY POLE; VIEW; RIDGE LINE

PROPOSED: FOREST BUFFER EASEMENT; CONTOUR; LIGHT; HYDRANT; WATER; STORM DRAIN; SANITARY; NO WOODY VEGETATION BUFFER; 4' CONCRETE SIDEWALK

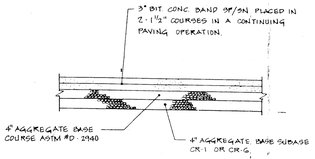
1. Max. bldg. height < 20', min. separation 16'.
2. Max. bldg. height 20'-25', min. separation 20'.
3. Max. bldg. height 25'-30', min. separation 30'.
4. For two buildings in RTA, min. separation must be 1.5 times max. bldg. height.



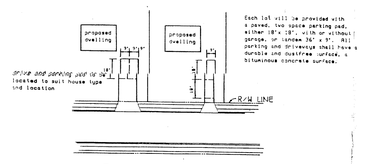
BUILDING SETBACKS (PHASE I), LOTS 1-4 N.T.S.

NOTE: Phase I was approved under the height-to-height, window-to-window regulations (N/A to Phase II).

SOILS / LIMITATIONS					
SYMBOL	NAME	SLOPE	CLASS	STREETS & PARKING	HOMESITES
LfD	LEGORE	15-25%	C	SEVERE-SLOPE	SEVERE-SLOPE
MeC2	MELLY	8-15%	D	SEVERE	SEVERE
Cu	CODORUS	--	C	SEVERE-FLOOD HAZARD	SEVERE-FLOOD HAZARD
LeC2	LEGORE	8-15%	C	SEVERE-SLOPE	MODERATE-SLOPE
NeC2	NESHAMINY	8-15%	B	SEVERE-SLOPE	MODERATE-SLOPE
LeB2	LEGORE	3-8%	C	MODERATE-SLOPE	SLIGHT
LhB	LEGORE	0-5%	C	MODERATE-SLOPE	SLIGHT
LfC	LEGORE	3-15%	C	SEVERE-SLOPE	SLIGHT TO MODERATE SLOPE



TYPICAL PAVING SECTION
NOT TO SCALE



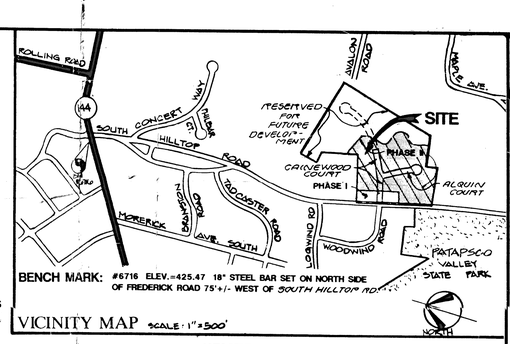
TYPICAL PARKING DETAIL
(not to scale)

The provisory section of this partial development plan is not intended nor should it be utilized as a final development plan from which building applications may be approved or issued. Its purpose is to provide those who purchase homes within 300 feet thereof with a reasonable understanding as to how the developer will improve all adjoining vacant land that lies within 300 feet of their home.

The dimensioned boundaries of the "Provisory Section" as indicated hereon are not intended to separate it from the overall approval of this partial development plan including the "Provisory Section" must be approved in accordance with Section 1B01.3.A.7, Baltimore County Zoning Regulations.

Approval of the "Provisory Section" is not based on final engineering plans however, it is intended to establish: the final location, height, use and density of buildings or their envelopes to within 25 feet of their engineered location; the location and type of existing major vegetation that is to be retained; screening; parking areas and drive to the extent possible so as to coincide with their final or permanent improvements, and other pertinent amenities.

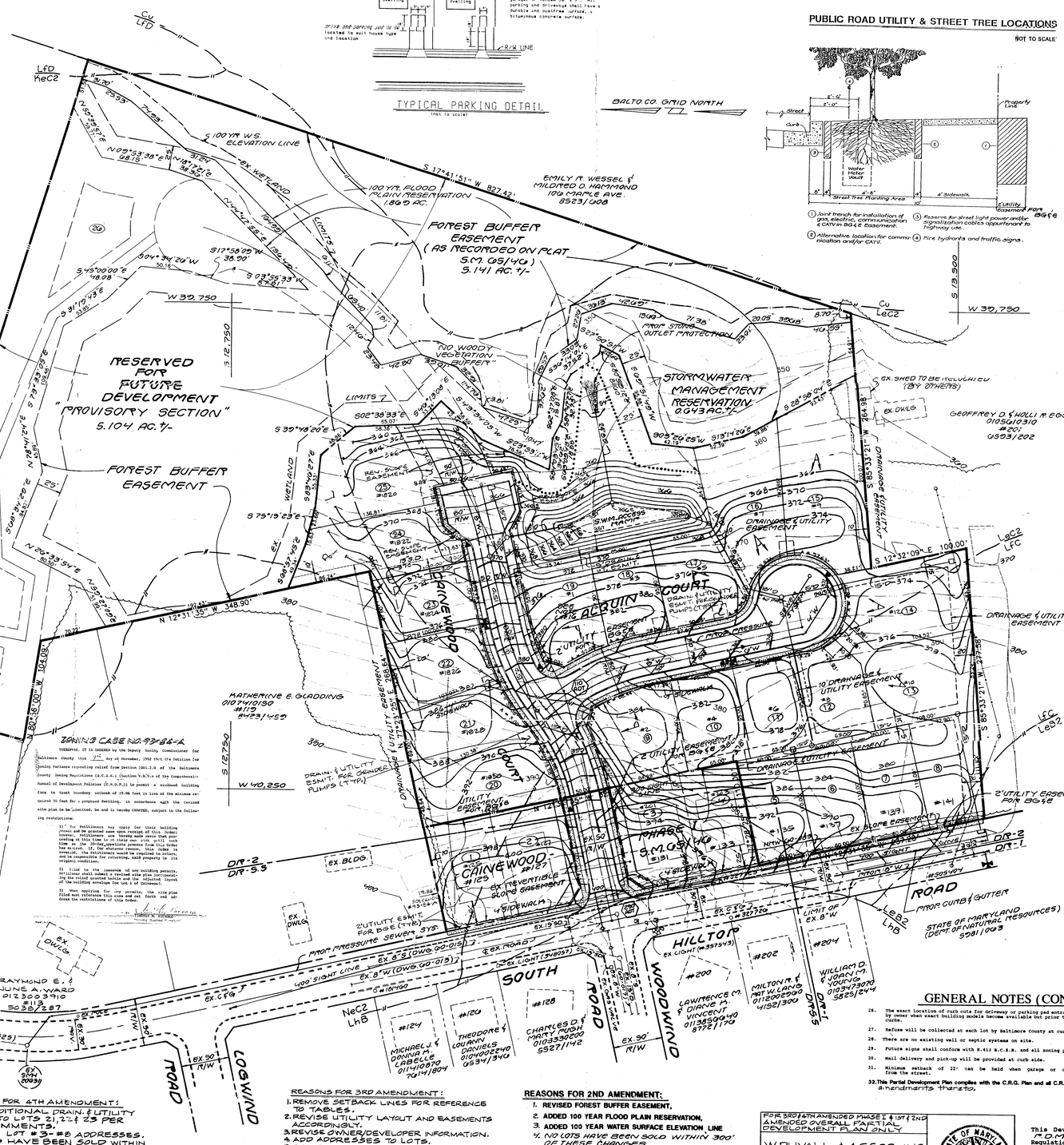
At the time of building permit applications the "Provisory Section" of this development plan must be up-dated to comply in all respects to the form and content required by Section 1B01.3 of the Zoning Regulations.



BENCH MARK: #6716 ELEV.=425.47 18" STEEL BAR SET ON NORTH SIDE OF FREDERICK ROAD 75'+/- WEST OF SOUTH HILLTOP RD.

VICINITY MAP SCALE: 1"=500'

PUBLIC ROAD UTILITY & STREET TREE LOCATIONS
NOT TO SCALE


BALTO. CO. GRID NORTH
Cu
LfD
LfD
NeC2
S 17°41'51" W 827.42'
EMILY R. WESSEL & MILDRED D. HAMMOND 100 MAPLE AVE. 8523/008
100 YR. FLOOD PLAIN RESERVATION 8.89 AC.
S 100 YR. W.S. ELEVATION LINE
EX. WETLAND
FOREST BUFFER EASEMENT (AS RECORDED ON PLAT S.M. 05/44) 5.141 AC. +/-
NO WOODY VEGETATION BUFFER
STORMWATER MANAGEMENT RESERVATION 0.643 AC.+/-
RESERVED FOR FUTURE DEVELOPMENT "PROVISORY SECTION" 5.104 AC. +/-
FOREST BUFFER EASEMENT
LIMITS
EX. WETLAND
EX. 8" W (DWG. 50-1525)
EX. 8" S
EX. 6" W
EX. 30" CMP
EX. 90' R/W
ROAD
LOGWIND
WOODWIND
SOUTH
ROAD
HILLTOP
ROAD
CAINEWOOD COURT
ALQUIN COURT
PHASE I
S.M. 65/46
CAINEWOOD
#129
EX. INVENTIBLE STORE EASEMENT
EX. SIDEWALK
EX. BLDG.
EX. DWLG.
EX. 2" UTILITY ESMT. FOR BGE & C&P TEL. CO.
EX. 8" S (DWG. 50-015)
EX. 8" W (DWG. 50-015)
EX. 8" W
EX. 8" S
EX. 6" W
EX. 8" S
EX. 8" W
EX. 8" S
EX. 8" W
EX. 8" S
EX. 8

Department of Permits, Approvals and Inspections
Zoning
111 West Chesapeake Avenue, Room 111
Towson, Maryland, 21204

Prot Ex #19

Photos

Return Service Requested


109

NA 4ANA0N0 AN1 0 0067

〈No. 1 ☐〉

1040



NA 4ANA0N0 1NN- 1 0067

〈No. 1 1〉 1039





NA 4ANA0N0 NNN- 1 0066

〈No. 17〉 1008

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2004, Legislative Day No. 6

Pmt 20

Resolution No. 32-04

Mr. S. G. Samuel Moxley, Councilman

By the County Council, March 15, 2004

A RESOLUTION to amend the Baltimore County Water Supply and Sewerage Plan.

WHEREAS, the Baltimore County Planning Board on July 18, 2002, held an advertised public hearing on several requests for amendments to the Baltimore County Water Supply and Sewerage Plan; and

WHEREAS, the Planning Board, by resolution adopted September 19, 2002, recommended that the Plan be amended (designated as Amendment Cycle 20); and

WHEREAS, two of the recommended amendments, known, respectively, as the "Hilltop Property" and the "Baker Property," were erroneously noted therein as existing W-6, S-6 Water and Sewer Plan designations; and

WHEREAS, the County Council was advised that the W-6, S-6 Water and Sewer Plan designations for the Hilltop and Baker properties was erroneous because these properties were previously addressed in 1992 when the Council acted to designate them as W-3, S-3 (the properties were then described as the "Oak Forest Branch Revision to the Master Water Supply and Sewerage Plan") (Resolution 88-92); and

WHEREAS, the Council believes that the W-6, S-6 designation is the appropriate designation in the County Water Supply and Sewerage Plan for both the Hilltop and Baker properties; and

Root 21 MD



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

Go Back
View Map
New
Search

Page 1 of 1

Name	Account	Street	OWN OCC	Town	Parcel	Lot
BALTIMORE COUNTY M	01 2200026316	ALQUIN CT	N	000	443	
OSBORNE EUGENE F	01 2200026317	CAINEWOOD CT	N	000	443	
OSBORNE EUGENE F	01 2200026318	CAINEWOOD CT	N	000	443	
DONCHEZ BRIAN R	01 2200014829	125 S HILLTOP RD	H	000	443	1
MORGANMORRIS VANES	01 2200014830	127 S HILLTOP RD	H	000	443	2
ELLIOTT EARL W	01 2200014831	131 S HILLTOP RD	H	000	443	3
MILLER JAMES GJR	01 2200014832	133 S HILLTOP RD	H	000	443	4
THOMEY MARK	01 2200026295	135 S HILLTOP RD	H	000	443	5
ATWOOD BRIAN	01 2200026296	137 S HILLTOP RD	H	000	443	6
DAVIS JOHN E	01 2200026297	139 S HILLTOP RD	H	000	443	7
HEINMULLER DAVID	01 2200026298	141 S HILLTOP RD	H	000	443	8
STEVENS KEVIN M	01 2200026299	2 ALQUIN CT	H	000	443	9
ALBERT JOHN D	01 2200026300	4 ALQUIN CT	H	000	443	10
MUKHUTDINOV AYDAR	01 2200026301	6 ALQUIN CT	H	000	443	11
MCHUGH FRED MJR	01 2200026302	8 ALQUIN CT	H	000	443	12
MARSZAL JAMES A	01 2200026303	10 ALQUIN CT	H	000	443	13
HAMELIN RAYMOND A	01 2200026304	12 ALQUIN CT	H	000	443	14
SMITH FRANCIS G	01 2200026305	9 ALQUIN CT	H	000	443	15
HEWITT ROBERT G	01 2200026306	7 ALQUIN CT	H	000	443	16
GIOVANAZZI GREGORY	01 2200026307	5 ALQUIN CT	H	000	443	17
PAYER ROSE M	01 2200026308	3 ALQUIN CT	H	000	443	18
DAYBALL CHARLES F	01 2200026309	1 ALQUIN CT	H	000	443	19
HAJEK GARY C	01 2200026310	1830 CAINEWOOD CT	H	000	443	20
CLAYTON DELBERT HJ	01 2200026311	1828 CAINEWOOD CT	H	000	443	21
STAMPER LU ANN	01 2200026312	1826 CAINEWOOD CT	H	000	443	22
NEWKIRK BRUCE A VA	01 2200026313	1824 CAINEWOOD CT	H	000	443	23
PEDRICK STEPHEN H	01 2200026314	1822 CAINEWOOD CT	H	000	443	24
LEVICKAS GREGORY T	01 2200026315	1820 CAINEWOOD CT	H	000	443	25

Prot 22

DEED AND EASEMENT AGREEMENT

THIS DEED AND EASEMENT AGREEMENT, made this 1st day of October, 1998, by and between **EUGENE OSBORNE SR.** and **JENNYE A. OSBORNE, TRUSTEES** (collectively, "**GRANTORS**"), and **KIMBERLY HOMES CATONSVILLE LLC**, a Maryland limited liability company ("**GRANTEE**").

Background

A. Grantors are the owners of the parcels of land ("**Grantors' Land**") located in Baltimore County, Maryland, in the 1st Election District of Maryland, containing approximately 13.326 acres of land and as shown on the Plat entitled (i) "Cainewood Phase I" and recorded among the Land Records of Baltimore County ("**Land Records**") in Plat Book S.M. 65, folio 46 ("**Plat No. 1**"); and (ii) "Phase II-A Resubdivision of Parcel 'A' Cainewood" and recorded among the Land Records in plat Book S.M. 68, folio 80 ("**Plat No. 2**").

B. Grantors desire to grant and convey to Grantee a portion of the Grantors' Land, which land is more particularly described on **Exhibit A** attached hereto (the "**Property**").

C. Grantors also desire to grant to Grantee, its successors and assigns, an Access Easement (as hereinafter defined) and a Construction and Grading Easement (as hereinafter defined) on and over that portion of the Grantors' Land containing approximately .087 acres of land and more particularly described on **Exhibit B** attached hereto and shown hatched on **Exhibits C and C-1** attached hereto ("**Easement Area**"). The Easement Area is located adjacent to the southernmost boundary of that portion of the Property consisting of approximately 10,481 square feet and shown as Lot 25 on Plat No. 2 ("**Lot 25**"). The Access Easement and the Construction and Grading Easement are sometimes collectively referred to herein as the "**Easement**".

Agreements

NOW, THEREFORE, in consideration of the sum of Five Hundred and Forty Three Thousand and 00/100 Dollars ($543,000.00), the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **DEED**. Grantors do hereby grant and convey unto the Grantee, its successors and assigns, in fee simple, the Property.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD all of the Property unto the Grantee, its successors and assigns, in fee simple.

AND the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the Property hereby conveyed; that they will

① Return: Blackhawk Title Co. LLC
3600 Roland Ave
Balt. Md. 21211

0014378 380 0014323 095

Prot
23

Being re-recorded to correct seller's acknowledgement

THIS DEED, made this 16th day of February, 2000, by and between Kimberly Homes Catonsville LLC, "Grantor", and Gregory T. Levickas and Margaret A. Levickas, (husband and wife), "Grantees".

WITNESSETH, that in consideration of the sum of Two hundred sixty nine thousand one hundred forty one Dollars and no cents ($269,141.00) the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant and convey unto the Grantees, as tenants by the entireties, their assigns and to the survivor of them, his or her personal representatives and assigns in fee simple, all that certain property situated and being in BALTIMORE COUNTY, State of Maryland and described as follows, (the "Property"):

SEE EXHIBIT A ATTACHED

BEING part of the property which by Deed And Easement Agreement dated October 1, 1998 was granted and conveyed by Eugene Osborne Sr. and Jennye A. Osborne, Trustees unto Kimberly Homes Catonsville LLC and recorded among the Land Records of Baltimore County, Maryland at Liber No: SM 13191, folio 9.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD all of the Property unto the Grantees, as tenants by the entireties, their assigns and to the survivor of them, his or her personal representatives and assigns, in fee simple. (Subject to all conditions, covenants, and restrictions of record including but not limited to Declaration of Covenants, Conditions and Restrictions for the Cainewood Property dated May 14, 1999 by Kimberly Homes Catonsville and recorded among the land records of Baltimore County, Maryland at Liber No. SM 13827, folio 176 and Declaration and Agreement dated May 14, 1999 by and between Kimberly Homes Catonsville LLC and Clearwater Utility Company LLC and recorded among the Land Records of Baltimore County, Maryland at Liber No. SM 13827, folio 196. Subject to Supplemental and Amended Declaration and Agreement and Partial Release dated February 4,2000 by and between Kimberly Homes Catonsville,LLC and Clearwater Utility Company,LLC. Subject also to Access Easement and construction and Grading Easement described in Deed and Easement Agreement by and between Eugene Osborne Sr. and Jennye a. Osborne,trustees and Kimberly Homes Catonsville,LLC dated October 1,1998 and recorded among the land records of Baltimore County, Maryland at Liber no.SM 13191, folio 009.

Prot 23
2
4/6/04







Print 27

4/6/04

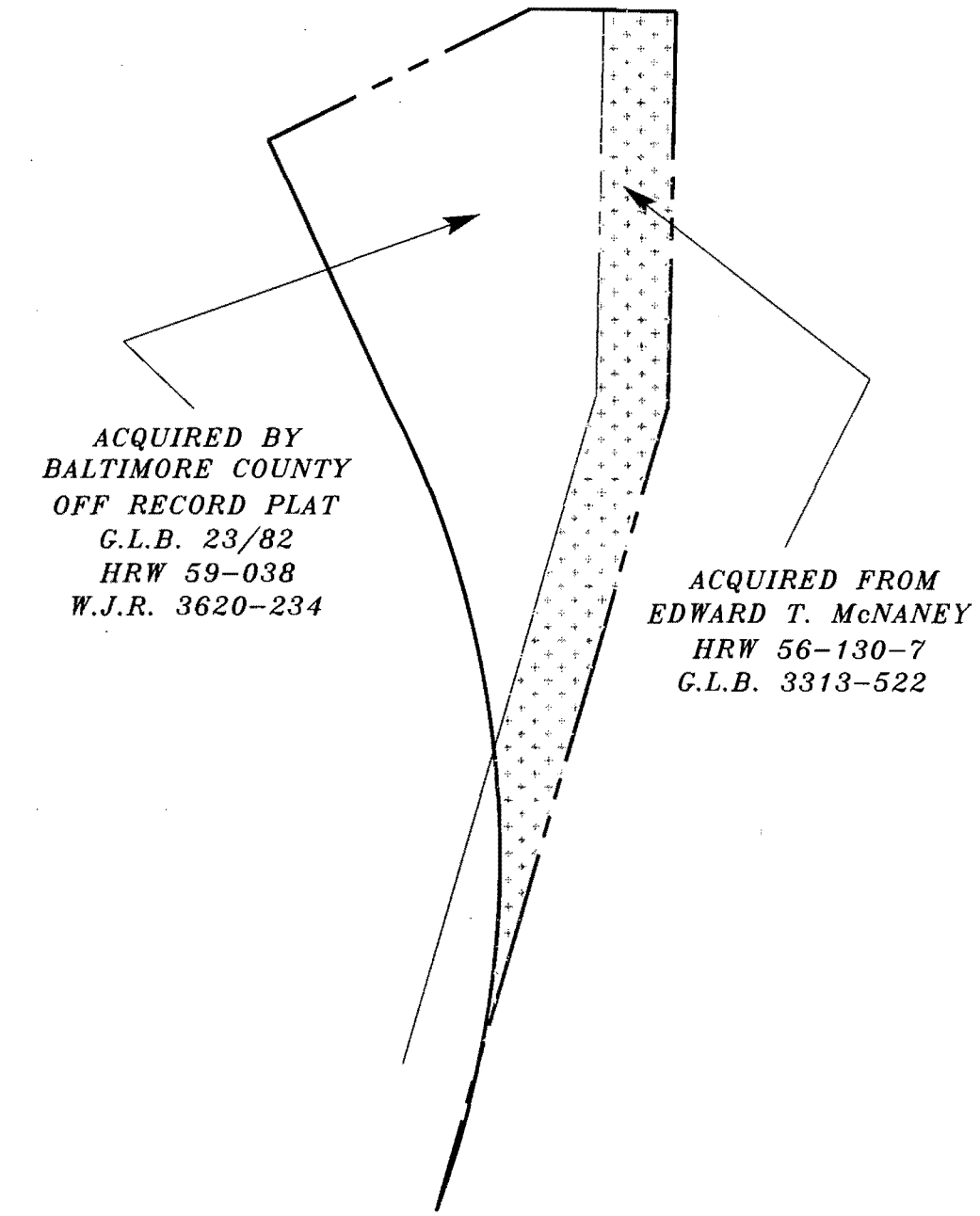






County Exhibits

Exhibit 1 – Off Record Plat (1 of 1)
Exhibit 2 – Title 4 Department of Public Works (4 of 4)



County Ex No 1

Bottle 42

Code of Baltimore County Regulations:

Title 4
DEPARTMENT OF PUBLIC WORKS

Subtitle 1 - Sewer Systems

Chapter 01 - Grinder Pumps/Low Pressure Sewer Systems

.01 Purpose.

To establish a policy on permissible uses and responsibility for maintenance of grinder pump/low pressure sewer systems to serve existing or proposed development.

.02 Definitions.

A. "Department" means the Department of Public Works.

B. "Director" means the Director of the Department of Public Works or the Director's designee.

C. "Grinder Pump/Low Pressure Sewer System" means a system that receives wastewater, grinds any solids it contains and pumps it into a small diameter pipeline which conveys the wastewater under low pressure to a point where it can flow by gravity in a gravity sewer or into a pumping station.

.03 Allowable use.

A. Grinder pump/low pressure sewer systems will not be considered as an acceptable method of providing sewer service when conventional gravity systems are feasible.

B. The grinder pump/low pressure sewer system shall be considered as a supplemental method for wastewater collection and not as a replacement for the conventional gravity collection systems.

C. Where the design of the low pressure sewer system requires the use of pumping stations, the number of pumping stations and linear feet of force mains should be minimized.

D. Grinder pumps on private property and connecting to County maintained gravity service connections to gravity sewers are privately owned and maintained and are subject to review and approval under the plumbing permit process

.04. Approval Required.

A. Submission to the Department.

County Ex. No 2

EXHIBITS

TRANSCRIPTS

(6)

(2004382)

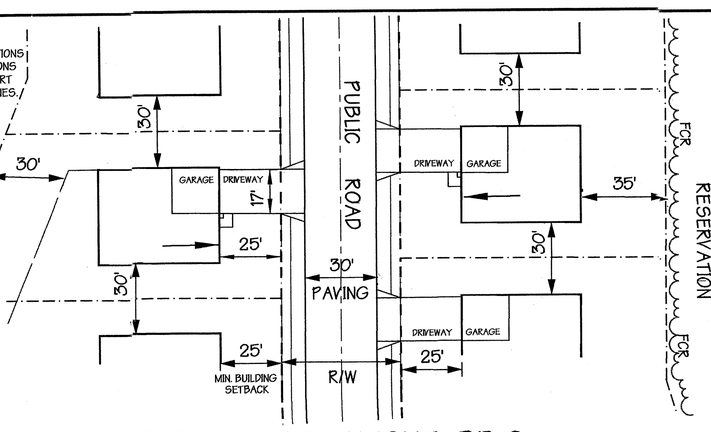
supplemental

LEGEND

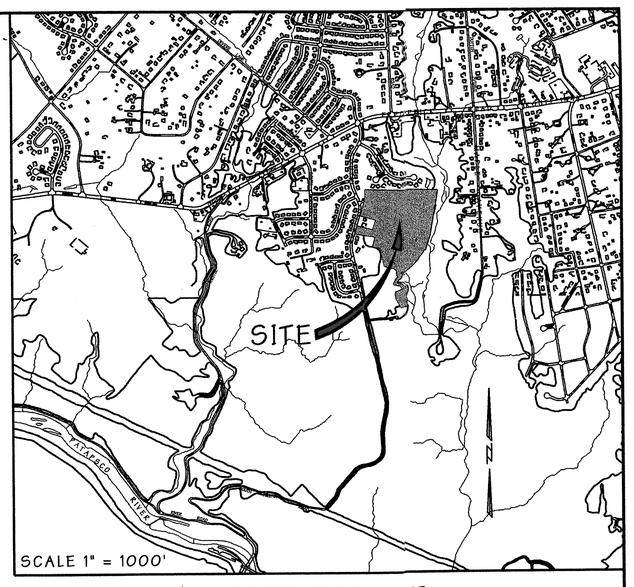
PROPOSED STREET LIGHT
PROPOSED FIRE HYDRANT
PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
EXISTING PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2, GhB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE

100 YEAR FLOOD PLAIN — FP FP FP
FOREST BUFFER EASEMENT — FBE FBE FBE
FOREST CONSERVATION RESERVATION — FCR
SLOPE > 25%
MAJOR DECIDUOUS TREE
MINOR DECIDUOUS TREE
EVERGREEN TREE
SHRUB

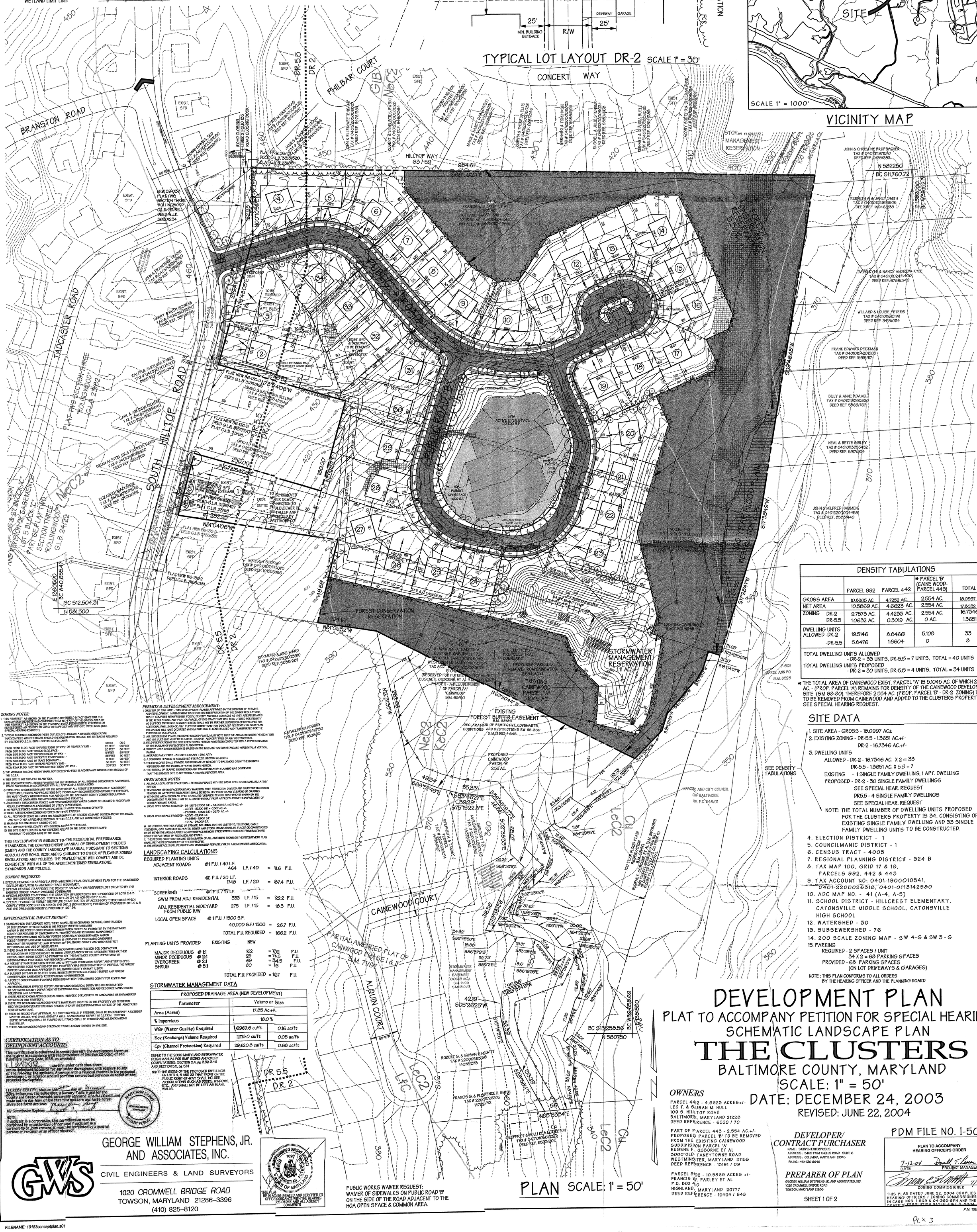
ENVELOPES OR TYPICAL DWELLINGS AS SHOWN DICTATE A SPECIFIC ORIENTATION WHICH IS INTENDED TO ALLOW COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS (BCZR) AND POLICES RELATIVE TO SETBACKS. SHOULD THE ORIENTATIONS CHANGE OR CREATE CONFLICTS WITH THE RUGULATION OR POLICIES, THE ORIENTATIONS MUST BE CHANGED TO ALLEVIATE THE CONFLICT. REFERENCE SECTION 1B01.2.C.1 CHART IN BCZR. REFERENCE SECTION 1B02.3.C.2c (1B-26.1) IN PDM POLICY MANUAL - D.R. ZONES.



TYPICAL LOT LAYOUT DR-2 SCALE 1" = 30'



VICINITY MAP

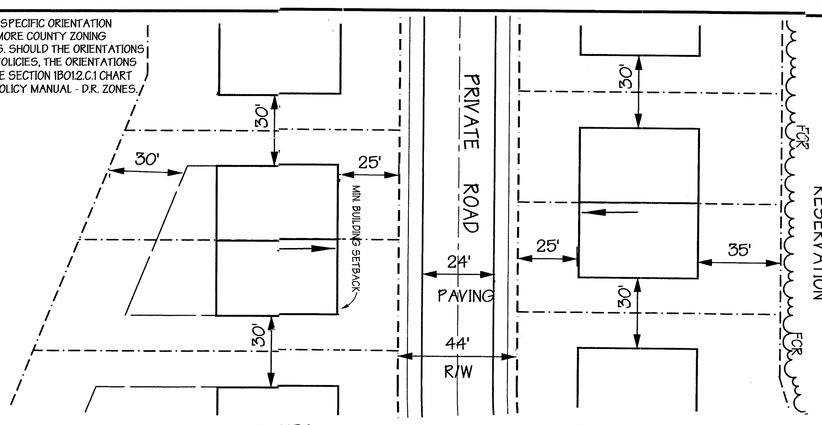

BRANSTON ROAD
PHILBAR COURT
CONCERT WAY
HILLTOP WAY
63 / 59
984.61'
S88°50'24"E
TADCASTER ROAD
SOUTH HILLTOP ROAD
PUBLIC ROAD 'A'
PUBLIC ROAD 'B'
CAINEWOOD COURT
ALQUIN COURT
PARTIAL AMENDED PLAT OF CAINEWOOD PHASE I & II S.M. 71/97
HOA ACTIVE OPEN SPACE 22,100 S.F.
HOA PASSIVE OPEN SPACE 1600 S.F.
HOA COMMON AREA
ADA ACCESSIBLE CURB CUTS
FOREST CONSERVATION RESERVATION
STORMWATER MANAGEMENT RESERVATION 1.11 AC.+/-
EXISTING CAINEWOOD TRACT BOUNDARY
PROPOSED CAINEWOOD PARCEL 'A' 2.55 AC.
EXISTING CAINEWOOD PARCEL 'A' 5.1045 AC.
EXISTNG FOREST BUFFER EASEMENT S.M. 68/80
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RW 95-560 S.M. 12953 / 645
PROPOSED TRACT BOUNDARY
PROPOSED PARCEL 'B' REMOVE FROM CAINEWOOD 2.554 AC.+/-
THE CLUSTERS PROPOSED TRACT BOUNDARY
REMAINDER OF PARCEL 'A' EUGENE F. OSBORNE ET AL 3000 OLD TANEYTOWNE ROAD WESTMINSTER, MD. 21158 TAX ACCT. # 0401012600026318 DEED REF. 13191/09
(RESERVED FOR FUTURE) EUGENE F. OSBORNE, ET AL SUBDIVISION PHASE II - AREA SUBDIVISION OF PARCEL 'A' "CAINWOOD" S.M. 68/80
STORMWATER MANAGEMENT EASEMENT 0.0685 AC.+/- S.M. 71/97\ S.M. 113/199
EXISTING SFD & DRIVEWAY TO BE REMOVED BY THE DEVELOPER
EXIST. SFD TO BE REMOVED
EXIST. APT. BLDG. TO BE REMOVED
EXIST. SEPTIC TO BE REMOVED
BARN TO BE REMOVED
PROPOSED SIGN
POSSIBLE RETAINING WALL REQUIRED BY ARCHITECTURE
TO BE SEWERED - CONNECTION TO PUBLIC SEWER IS INSTALLED AND INSPECTED BY BALTIMORE CO.
WATER QUALITY BMP
FOREBAY
UNDERDRAIN SYSTEM
ACCESS RAMP
100 YEAR FLOOD PLAIN RESERVATION S.M. 64/80 CONVEYED TO BALTIMORE COUNTY BY EUGENE F. OSBORNE, ET AL S.M. 9479/373 RECORDED AS PARCEL 'A' ON PLAT RECORDED AS PLAT 'C' BY PLAT RW 95-560
PARCEL 'A' 5.1045 AC.+/-
PARCEL 'B' 2.554 AC.+/-
PROP. 50' R/W
PROP. 60' R/W
PROP. 20' D.E. & U.E. EASEMENT
PROP. 30' D.E. & U.E. EASEMENT
PROP. 10' D.E. & U.E. EASEMENT
20' WATER & SEWER EASEMENT
10' WATER & SEWER EASEMENT
25' BUILDING SETBACK
30' BUILDING SETBACK
40' radius
50' radius
1904
1905
1906
1907
1908
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1930
1931
1932
1933
1934
1935
1936
1937
1938
1939
1940
1941
1942
1943

LEGEND

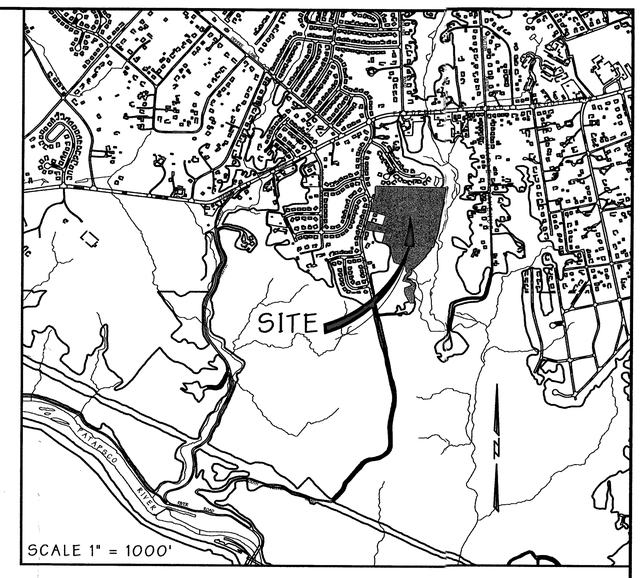
PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
EXISTING PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — GHB2 / HgmB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE

100 YEAR FLOOD PLAIN — FP
FOREST BUFFER EASEMENT — FBE
FOREST CONSERVATION RESERVATION — FCR
SLOPE > 25%
MAJOR DECIDUOUS TREE
MINOR DECIDUOUS TREE
EVERGREEN TREE
SHRUB

ENVELOPES OR TYPICAL DWELLINGS AS SHOWN DICTATE A SPECIFIC ORIENTATION WHICH IS INTENDED TO ALLOW COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS (BCZR) AND POLICES RELATIVE TO SETBACKS. SHOULD THE ORIENTATIONS CHANGE OR CREATE CONFLICTS WITH THE RUGULATION OR POLICIES, THE ORIENTATIONS MUST BE CHANGED TO ALLEVIATE THE CONFLICT. REFERENCE SECTION 1B01.2.C.1 CHART IN BCZR. REFERENCE SECTION 1B02.3.C.2.c (1B-26.1) IN PDM POLICY MANUAL - D.R. ZONES.



TYPICAL LOT LAYOUT DR-2 SCALE 1" = 30'

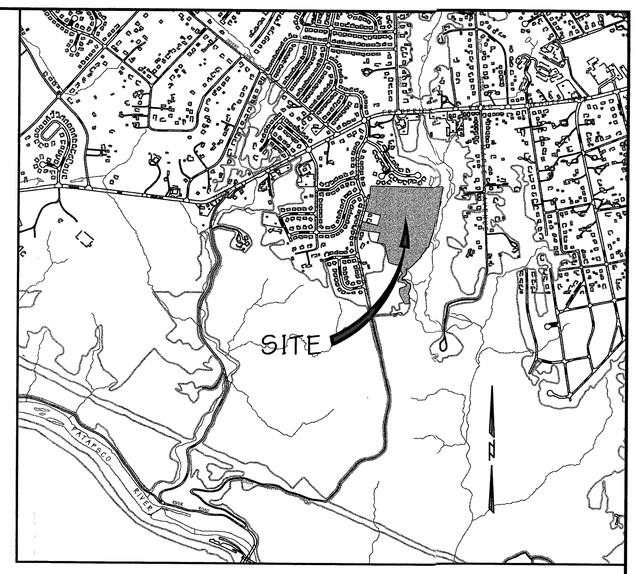


VICINITY MAP

BRANSTON ROAD
TADCASTER ROAD
SOUTH HILLTOP ROAD
PHILBAR CC WAY
HILLTOP WAY
63 / 59
PROPOSED SIGN
PROPOSED ENTRANCE
EXIST. SFD TO BE REMOVED
EXIST. SFD TO REMAIN
EXIST. SEPTIC TO BE REMOVED AFTER SEWER CONNECTION TO PUBLIC SEWER IS INSTALLED AND ACCEPTED BY BALTIMORE CO.
EXIST. BFD TO BE REMOVED
Private Road "A"
Private Road "B"
#1 HOA OPEN SPACE & COMMON AREA 1 51,446 S.F.
TOTAL CONSISTS OF 23,400 S.F. ACTIVE 12,600 S.F. PASSIVE 15,446 S.F. COMMON AREA
ACTIVE OPEN SPACE 23,400 S.F.
PASSIVE OPEN SPACE 12,600 S.F.
#2 HOA OPEN SPACE & COMMON AREA 32,667 S.F.
ACTIVE OPEN SPACE 20,000 S.F.
#3 HOA COMMON AREA 8,475 S.F.
HOA COMMON AREA 15,446 S.F.
ADA ACCESSIBLE CURB CUTS
STORMWATER MANAGEMENT EASEMENT 1.11 AC.+/- 61,523 C.F.
EXISTING CAINEWOOD TRACT BOUNDARY
PROPOSED CONSERVATION RESERVATION
FOREST CONSERVATION RESERVATION 9.10 AC.+/-
100 YEAR FLOOD PLAIN RESERVATION 1.869 AC.
CAINEWOOD COURT
ALQUIN COURT
SWM
SEE DENSITY TABULATIONS
ROAD CLOSING LIBER 2 FOLIO 135
ROAD CLOSING BOOK
PLAT HRW 56-130 DEED O.L.B. 3313/520
PLAT HRW 56-130-5 DEED G.L.B. 3185/395
PLAT HRW 56-130-1 DEED G.L.B. 3188/427
PLAT HRW 56-130-2 DEED G.L.B. 3187/376
PLAT HRW 56-130-3 DEED G.L.B. 3185/395
PLAT HRW 56-130-2 DEED G.L.B. 3187/376
PLAT HRW 59-039 PLAT TWO SECTION THREE ROLLINGWOOD G.L.B. 4218/62 DEED W.J.R. 3620/234
PLAT HRW 56-130-2 DEED G.L.B. 3188/427
PLAT HRW 56-130-2 DEED G.L.B. 3187/376
PLAT HRW 56-130-2 DEED G.L.B. 3188/427
PLAT HRW 56-130-2 DEED G.L.B. 3185/395

LEGEND

TRACT BOUNDARY
PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — GnB / HaC2
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE
100 YEAR FLOOD PLAIN
FOREST BUFFER EASEMENT — FBE
SLOPE > 25%



VICINITY MAP
SCALE 1" = 1000'

BRANSTON ROAD
TADCASTER ROAD
SOUTH HILLTOP ROAD
PHILBAR COURT
CONCERT WAY
HILLTOP WAY
CAINEWOOD COURT
ALQUIN COURT
ROAD
EXISTING WOODED AREA
EXISTING MEADOW
EXISTING CAINEWOOD PARCEL "A" 5.104 AC.
EXISTNG FOREST BUFFER EASEMENT
EXISTING WOODED AREA
EXISTING FOREST BUFFER EASEMENT
SWM
100 YEAR FLOOD PLAIN RESERVATION 1.869 AC.
EXIST. SFD
EXIST. APT. BLDG.
DR 5.5
DR 2
NeC2
KeC2
LeC2
LfC
CH
Cu

PARCEL 992
FRANCIS W. FARLEY ET AL
P.O. BOX 40
HIGHLAND, MARYLAND 20777
10.00 AC.
TAX ACCT. # 0401-0113142580

PARCEL 442
LEO T. & SUSAN M. HULL
109 S. HILLTOP ROAD
BALTIMORE, MARYLAND 21228
4.67 AC.
TAX ACCT. # 0401-1900010541

P. 443 / PARCEL "A"
EUGENE F. OSBORNE ET AL
3000 OLD TANEYTOWN ROAD
WESTMINSTER, MARYLAND 21158
5.104 AC.
TAX ACCT. # 0401-2200026318

JOHN & CHRISTINE BRUPBACHER
TAX # 0401011971570
DEED REF. 7436/333

NANCY ANDREW KYLE & DAVID KYLE
TAX # 0401012662905
DEED REF. 12247/378

DAVID KYLE & NANCY ANDREW KYLE
TAX # 0401012471400
DEED REF. 6768/549

WILLARD & LOUISE PETERS
TAX # 0401011615141
DEED REF. 3419/024

EARL & LILLIAN DEICKMAN
TAX # 0401010420150
DEED REF. 3742/183

BILLY & ANNE ADAMS
TAX # 0401011635282
DEED REF. 5865/767

NEAL & BETTE SIBLEY
TAX # 0401011635452
DEED REF. 5917/304

JOHN & MILDRED HAMMEN
TAX # 0401220004458
DEED REF. 8583/440

MILDRED HAMMEN & EMILY RUTH WASSEL
TAX # 0401010400120
DEED REF. 8523/608

BENJAMIN & TAMARA LEONET
TAX # 0401012662905
DEED REF. 11402/205

RICHARD & LAURA BUELL
TAX # 0401220004395
DEED REF. 10641/388

RUSSELL & JULIA STERNER
TAX # 0401220004334
DEED REF. 9381/185

BERNARD & TONI HASKI
TAX # 0401220004333
DEED REF. 9268/698

JOSEPH & PIERCE ELLIS
TAX # 0401220004332
DEED REF. 8477/089

MARK & NANCY DABKOWSKI
TAX # 0401220004331
DEED REF. 9268/692

BERNARD BUELLEN TRUSTEE
TAX # 0401220004330
DEED REF. 8276/055

ROBERT & JANET STRYJEWSKI
TAX # 0401220004328
DEED REF. 9470/064

JOHN & ELLEN WEETEN-KAMP
TAX # 0401220004327
DEED REF. 9476/064

JAMES & MARTINE LEE
TAX # 0401220004326
DEED REF. 9465/381

EDWIN MURSTYLIKAS
TAX # 0401220004325
DEED REF. 12517/697

FRANK & ELIZABETH CHESNO
TAX # 0401010531040
DEED REF. 3352/372

JOHN & FRANCES TRAINO
TAX # 0401010247500
DEED REF. 1858/178

HARRY & RUTH SCHWALB
TAX # 0401010370400
DEED REF. 3378/516

EXIST. 8" S.S. DWG 66-1625

RALPH & MICE DES-BAKER
TAX # 0401010300500
DEED REF. 11739/043

CARL & LINDA KOHLER
TAX # 0401010335940
DEED REF. 3927/360

JOSEPH & JOAN SCHREIER
TAX # 0401010372620
DEED REF. 5456/234

ELIZABETH MAKENZIE
TAX # 0401010257690
DEED REF. 10530/282

WELISSA STURM
TAX # 0401010741007O
DEED REF. 10158/096

RAYMOND & JUNE WARD
TAX # 0401012500310
DEED REF. 5058/287

KATHLEEN GLADDING
TAX # 0401010741050
DEED REF. 8423/459

JAMES & KATHLEEN COLLINS
TAX # 0401010341540
DEED REF. 5

GERALD PHILLIPS
TAX # 0401010471590
DEED REF. 9383/703

GEOFFREY & HOLLI REA EGGLETON
TAX # 0401010561O310
DEED REF. 16593/202

S88°35'46"E 979.23'
N01°21'05"E 119.28'
N16°05'24"E 235.08'
N74°19'47"W 244.4'
S75°12'06"E 227.62'
N16°06'07"E 101.3'
N16°12'29"E 156.97'
N81°27'52"W 282.48'
N14°43'52"E 14.95'
N80°56'00"W 104.09'
S72°30'38"E 697.35'
N28°25'35"W 282.66'
S68°57'45"E 49.34'
S80°46'27"E 55.33'
S75°15'22.8"E 39.29'
S36°49'19"E 46.86'
S02°38'35"E 65.07'
S03°33'08"E 3.24'
S10°05'38"W 69.53'
S17°41'51"W 32.22'
S09°58'23"W 66.26'
S09°02'43"W 3.24'
S40°33'05"W 330.10'
N72°45'16"W 38.53'
S44°33'17"W 95.79'
N65°06'46"E 6.11'
N46°46'16"E 23.18'
N84°39'55"E 65.4'
N65°06'46"E 11.81'
S65°53'14"E 10.46'
N63°26'43"W 4.25'
N18°31'08"E 32.91'
N48°18'46"E 3.51'
N62°33'52"E 37.62'
N83°02'06"W 28.57'
N85°11'01"W 33.89'
N84°22'05"W 2.26'
N83°13'50"W 15.81'
S83°25'08"E 35.50'
S07°36'05"W 22.88'
S86°16'35"E 18.6'
S09°51'49"W 95.88'
N08°39'49"E 42.69'
N19°49'43"E 15.88'
N17°43'17"E 7.38'
N68°39'46"W 43.01'
N25°34'20"W 39.88'
N18°39'09"W 21.39'
S28°58'41"E 180.28'
N65°33'54"E 56'
S23°58'41"W 16.56'
S85°45'50"E 18.88'
S86°37'09"E 32.73'
S85°02'05"E 34.62'
S20°38'51"W 16.56'
N84°23'22"W 10.47'
S03°25'08"E 15.81'
S86°16'35"E 18.6'
N84°22'05"W 2.26'
N83°13'50"W 15.81'
S83°25'08"E 35.50'
S07°36'05"W 22.88'
S86°16'35"E 18.6'
S09°51'49"W 95.88'
N08°39'49"E 42.69'
N19°49'43"E 15.88'
N17°43'17"E 7.38'
N68°39'46"W 43.01'
N25°34'20"W 39.88'
N18°39'09"W 21.39'
S28°58'41"E 180.28'
N65°33'54"E 56'

GENERAL NOTES

1. ELECTION DISTRICT - 1
2. COUNCILMANIC DISTRICT - 1
3. CENSUS TRACT - 4005
4. REGIONAL PLANNING DISTRICT - 324 B
5. TAX MAP 100, GRID 17 & 18, PARCELS 992, 442 & 443
6. TAX ACCOUNT NO: 0401-1900010541, 0401-2200026318, 0401-0113142580
7. ADC MAP NO. - 41 (A-4, A-5)
8. SCHOOL DISTRICT - HILLCREST ELEMENTARY, CATONSVILLE MIDDLE SCHOOL, CATONSVILLE HIGH SCHOOL

OWNERS

PARCEL 442 - 4.6717 ACRES+/-
LEO T. & SUSAN M. HULL
109 S. HILLTOP ROAD
BALTIMORE, MARYLAND 21228
DEED REFERENCE - 6550 / 70

PART OF PARCEL 443 - 2.554 AC.+/-
PROPOSED PARCEL 'B' TO BE REMOVED
FROM THE EXISTING CAINEWOOD
SUBDIVISION PARCEL 'A'
EUGENE F. OSBORNE ET AL
3000 OLD TANEYTOWNE ROAD
WESTMINSTER, MARYLAND 21158
DEED REFERENCE - 13191 / 09

PARCEL 992 - 10.594 ACRES +/-
FRANCIS W. FARLEY ET AL
P.O. BOX 40
HIGHLAND, MARYLAND 20777
DEED REFERENCE - 12424 / 648

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD DELINEATED	FIELD VERIFIED
●			
●			
●			
●			
●			
●			
●			
●			
	●		
	●		
	●		
	●		
	●		

Topography and street grades (minimum 5 ft. contour appropriately labeled)
Slopes greater than 25%
100 year floodplain
Soils mapped according to Soil Survey, Baltimore County, Maryland.
Streams, seeps, ponds or other water bodies shown on site and within 200 ft. of site boundaries
Wetlands
Forest buffer limits including adjustments for steep slopes and/or erodible soils
Land cover on and within 200 ft. of site.
Significant regulated plant or wildlife communities
Wells on site and within 100 ft. of site
Septic on site and within 100 ft. of site
Underground fuel tanks on site and within 100 ft. of site
Soil evaluation tests (perc tests) performed

EXISTING BUILT CONDITIONS

EXISTING	NOT EXISTING	
●		Locations of existing buildings within 200 ft. of site boundaries
●		Location of existing roads within 200 ft. of site boundaries
	●	Designated historic sites
	●	Designated archeological sites
	●	Significant views
●		Significant features (specimen trees, buildings, streetscape, etc.)
●		Land uses on and within 200 ft. of site
●		Roads rights-of-way and easements

COUNTY ADOPTED PLANS

EXISTING	NOT EXISTING	IN CONFORMANCE	
●		●	Balto. Co. Master Plan 1989-2000
	●		Community or Revitalization Plan(s)
●		●	Recreation and Parks Plan
	●		Streetscape Plan
	●		Greenways Plan
	●		Other

CONCEPT PLAN
SITE CONSTRAINTS MAP
THE CLUSTERS

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 50'
DATE: SEPTEMBER 12, 2003

PLAN
SCALE: 1' = 50'

PDM FILE NO. I-509

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

PREPARER OF PLAN
GEORGE WILLIAM STEPHENS JR. AND ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286

DEVELOPER/ CONTRACT PURCHASER
NAME: SKIRVIN ENTERPRISES
ADDRESS: 5401 TWIN KNOLLS ROAD, SUITE 10
ADDRESS: COLUMBIA, MARYLAND 21045

P.N. 10183

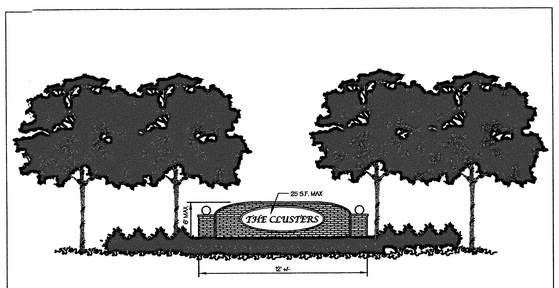
FILENAME: 10183conceptplan.s01

I:\10183\conceptplan\10183constraints.dgn 9/12/2003 4:36:09 PM

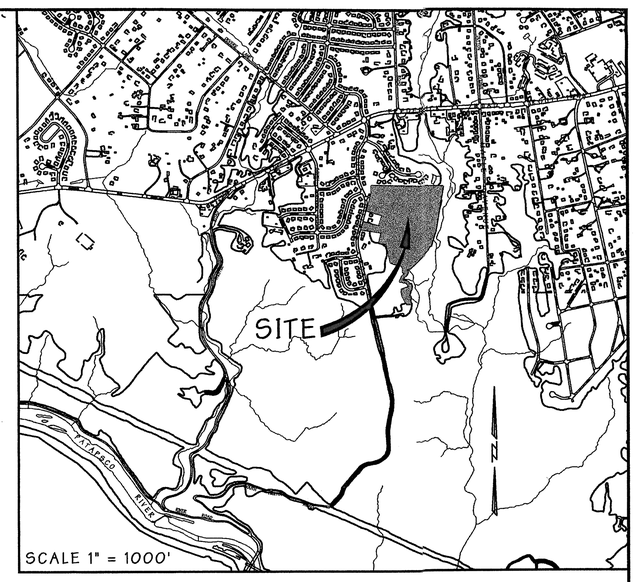
LEGEND

PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2 / GnB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE — W — W — W — W

100 YEAR FLOOD PLAIN — FP — FP — FP
FOREST BUFFER EASEMENT — FBE — FBE
FOREST CONSERVATION RESERVATION — FCR



THE CLUSTERS
TYPICAL COMMUNITY SIGN DETAIL
SCALE: NTS
DATE: MARCH 12 , 2003



VICINITY MAP

PLANNING BOARD DECISION

BALTIMORE COUNTY, MARYLAND

MEMORANDUM

TO: Lawrence E. Schmidt, Hearing Officer — **DATE:** June 4, 2004

FROM: Arnold F. 'Pat' Keller, III, Secretary, Baltimore County Planning Board

SUBJECT: Referral by the Hearing Officer for possible "conflict" with the Master Plan because of the proposed semi-detached dwellings in "The Clusters"
Case Number: 04-382-SPHA

In accordance with Section 26-208 (b)(1) of the Baltimore County Code, this referral was reviewed by the Planning Board during its meetings on May 20, 2004 and June 3, 2004.

The Board's decision to the Hearing Officer is that, because the 38 units proposed are not single-family detached dwellings as defined in Section 101 of the B.C.Z.R. (defining such a building as "a dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means"), the proposed development of semi-detached dwellings in "The Clusters" (FDM No. I-509) does constitute a "conflict" with the Master Plan. Therefore, the development shall consist of single-family detached dwellings only.

AFK:CBH

c: Timothy M. Kotroco, Director, PDM
Dino La Flandra, Developer's Representative

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

CASES NOS. I-509 & 04-382-SPH

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 20th day of April 2004 that the four-page, redlined development plan for The Clusters, identified herein as Developer's Exhibits 1A through 1D, and the alternative housing design plan marked as Developer's Exhibit 5B, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval as follows: 1) to approve the density anomaly on proposed Lot 1 created by the existing single family dwelling to remain; 2) to approve the creation of undersized D.R.2 portions of Lots 2, 3, 4, 5 and 7 as non-density areas; 3) to permit the future construction of accessory structures which comply with Section 400 of the B.C.Z.R. on the D.R.2 (non-density) portions of proposed Lots 2, 3, 4, 5 and 7; and 4) to approve a Fifth Amended Final Development Plan for Cainewood to amend the tract boundary of same and permit annexation of a portion thereof (Parcel A) into the subject property, in accordance with Developer's Exhibits 1A through 1D and Developer's Exhibit 5B, be and is hereby GRANTED, subject to the following restrictions:

1) The development plan shall be amended consistent with Developer's Exhibit 5B so that single-family detached dwellings occupy the lots adjacent to Hilltop Road.

2) This matter is referred to the Baltimore County Planning Board pursuant to Section 26-207, due to the conflict created by the proposed construction of single-family attached dwellings in an area designated for single-family detached dwellings. The plan shall be amended to incorporate any findings/ amendments offered by the Planning Board.

3) The Developer shall clear, as is necessary, vegetation along Hilltop Road to insure proper sight distance.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer for Baltimore County

LES:bjs

15



PLAN

SCALE: 1" = 100'

SITE DATA

SEE DENSITY TABULATIONS

1. SITE AREA - GROSS - 18.0997 AC.+/-
2. EXISTING ZONING - DR-5.5 - 1.3651 AC.+/-
   DR-2 - 16.7346 AC.+/-
3. DWELLING UNITS
   ALLOWED - DR-2 - 16.7346 AC. X 2 = 33
   DR-5.5 - 1.3651 AC. X 5.5 = 7
   EXISTING - 1 SINGLE FAMILY DWELLING, 1 APT. BUILDING
   PROPOSED - DR-2 - 30 SINGLE FAMILY DWELLINGS
   SEE SPECIAL HEAR. REQUEST
   DR-5.5 - 4 SINGLE FAMILY DWELLINGS
   SEE SPECIAL HEAR. REQUEST
   NOTE: THE TOTAL NUMBER OF DWELLING UNITS PROPOSED FOR THE CLUSTERS PROPERTY IS 34, CONSISTING OF (1) EXISTING SINGLE FAMILY DWELLING, (33) PROPOSED SINGLE FAMILY DWELLINGS TO BE CONSTRUCTED.
4. ELECTION DISTRICT - 1
5. COUNCILMANIC DISTRICT - 1
6. CENSUS TRACT - 4005
7. REGIONAL PLANNING DISTRICT - 324 B
8. TAX MAP 100, GRID 17 & 18, PARCELS 992, 442 & 443
9. TAX ACCOUNT NO: 0401-1900010541, 0401-2200026318, 0401-0113142580
10. ADC MAP NO. - 41 (A-4, A-5)
11. SCHOOL DISTRICT - HILLCREST ELEMENTARY, CATONSVILLE MIDDLE SCHOOL, CATONSVILLE HIGH SCHOOL
12. WATERSHED - 30
13. SUBSEWERSHED - 76
14. 200 SCALE ZONING MAP - SW 4-G & SW 3-G
15. PARKING
    REQUIRED - 2 SPACES / UNIT
    34 X 2 = 68 PARKING SPACES
    PROVIDED - 68 PARKING SPACES
    (ON LOT DRIVEWAYS & GARAGES)

DENSITY TABULATIONS - THE CLUSTERS PROPERTY				
	P/ARCEL 992	PARCEL 442	* PARCEL 'B' (CAINE WOOD-PARCEL 443)	TOTAL
GROSS AREA	10.8205 AC.	4.7252 AC.	2.554 AC.	18.0997 AC.
NET AREA	10.5869 AC.	4.6623 AC.	2.554 AC.	17.8032 AC.
ZONING DR-2	9.7573 AC.	4.4233 AC.	2.554 AC.	16.7346 AC.
DR-5.5	1.0632 AC.	0.3019 AC.	0 AC.	1.3651 AC.
DWELLING UNITS ALLOWED -DR-2	19.5146	8.8466	5.108	33
-DR-5.5	5.8476	1.6604	0	7
TOTAL DWELLING UNITS ALLOWED - IDR-2 = 33 UNITS, DR-5.5 = 7 UNITS, TOTAL = 40 UNITS				
TOTAL DWELLING UNITS PROPOSED - IDR-2 = 30 UNITS, DR-5.5 = 4 UNITS, TOTAL = 34 UNITS				

* THE TOTAL AREA OF CAINEWOOD EXIST. PARCEL "A" IS 5.1045 AC. OF WHICH 2.55 AC. - (PROP. PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80). THEREFORE 2.554 AC. (PROP. PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY. SEE SPECIAL HEARING REQUEST.

DENISITY TABULATIONS - CAINEWOOD (PARCEL 443)					
	TOTAL TRACT (PARCEL 443	* EXISTING PARCEL 'A'	*PROPOSED PARCEL 'A'	*PROPOSED PARCEL 'B'	REMAINING PARCEL 443
GROSS AREA	13.651 AC.	5.1045 AC.	2.55 AC.	2.554AC.	11.097 AC.
NET AREA	13.326 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	10.776 AC.
ZONING DR-2	12.638 AC.	5.1045 AC.	2.55 AC.	2.554 AC.	10.084 AC.
DR-5.5	1.013 AC.	0.0 AC.	0.0 AC.	0.0 AC.	1.013 AC.
DWELLING UNITS ALLOWED DR-2	25.276	10.209	5.1	5.108	20
DR-5.5	5	0	0	0	5
TOTAL DWELLING UNITS ALLOWED - DR-2 = 25 UNITS, DR-5.5 = 5 UNITS, TOTAL = 30 UNITS					
TOTAL DWELLING UNITS EXISITNG - DR-2 = 20 UNITS, DR-5.5 = 5 UNITS, TOTAL = 25 UNITS					
NOTE: THERE WILL BE NO UNUSED DENSITY REMAINING IN THE CAINEWOOD SUBDIVISION AFTER PARCEL 'B' IS REMOVED.					

*THE TOTAL AREA OF CAINEWOOD EXIST. PARCEL "A" IS 5.1045 AC. OF WHICH 2.55 AC. - (PROP. PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80). THEREFORE 2.554 AC. (PROP. PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY. SEE SPECIAL HEARING REQUEST.

ZONING NOTES:

1. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971, THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
2. TYPICAL BUILDINGS SHOWN ON THESE DUPLEX LOTS DICTATE A SPECIFIC ORIENTATION THAT COMPLIES WITH THE B.C.Z.R. SHOULD THE ORIENTATION CHANGE, THE SETBACKS REQUIRED BY SECTION 1B02.C.1.b. SHALL GOVERN AS FOLLOWS:

	DR-5.5	DR-2
FROM FRONT BLDG. FACE TO PUBLIC RIGHT OF WAY OR PROPERTY LINE -	25 FEET	25 FEET
FROM SIDE BLDG. FACE TO SIDE BLDG. FACE -	20 FEET	30 FEET
FROM SIDE BLDG. FACE TO PUBLIC RIGHT OF WAY -	15 FEET	25 FEET
FROM SIDE BLDG. FACE TO PRIVATE ROAD PAVING -	23 FEET	30 FEET
FROM SIDE BLDG. FACE TO TRACT BOUNDARY -	15 FEET	25 FEET
FROM REAR BLDG. FACE TO REAR PROPERTY LINE -	30 FEET	30 FEET
FROM REAR BLDG. FACE TO PUBLIC STREET RIGHT OF WAY -	30 FEET	30 FEET

3. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50 FEET IN ACCORDANCE WITH SECTION 1B02.2.A OF THE B.C.Z.R.
4. THIS SITE IS NOT SUBJECT TO ANY RTA.
5. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL EXISTING STRUCTURES PAVEMENTS, TRASH AND DEBRIS, IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS.
6. ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPLE BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTIONS 400 AND 309 OF THE BALTIMORE COUNTY ZONING REGULATIONS. (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS)
7. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS, ENVIRONMENTAL EASEMENTS OR UTILITY EASEMENTS.
8. NO PRIVATE FENCES SHALL BE PLACED CLOSER THAN 10' FROM RIGHTS OF WAYS.
9. THERE ARE NO KNOWN ZONING HISTORIES ON THESE PARCELS.
10. ALL PROPOSED SIGNS WILL MEET THE REQUIREMENTS OF SECTION 1D2.5 AND SECTION 450 OF THE B.C.Z.R. AND ANY OTHER APPLICABLE SECTIONS OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES.
11. A WAIVER OF SIDEWALKS IS REQUESTED FOR THE SIDE OF PROPOSED PUBLIC ROAD 'B' ADJACENT TO THE HOA AREA.
12. MAXIMUM BUILDING HEIGHT LIMITED TO 50'.
13. ALL DRIVEWAYS WILL COMPLY WITH SECTION 409.4 OF THE B.C.Z.R.
14. THE SITE IS NOT LOCATED IN ANY DEFICIENT AREAS ON THE BASIC SERVICES MAPS PURSUANT TO SECTION 4A02 OF THE BCZR.

PERMITS & DEVELOPMENT MANAGEMENT:

1. DIRECTOR OF PDM NOTE: - THIS DEVELOPMENT PLAN IS APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT BASED ON HIS INTERPRETATION OF THE ZONING REGULATIONS, THAT IT COMPLIES WITH PRESENT POLICY, DENSITY AND RULE CONTROLS AS THEY ARE DELINEATED IN THE REGULATIONS. ANY PART OR PARCEL OF THIS TRACT THAT HAS BEEN UTILIZED FOR DENSITY TO SUPPORT DWELLINGS SHOWN THEREON SHALL NOT BE FURTHER SUBDIVIDED OR DEVELOPED FOR ADDITIONAL DWELLINGS OR ANY PURPOSE OTHER THAN THAT INDICATED PRESENTLY ON SAID PLAN. UTILIZATION WILL HAVE OCCURRED WHEN A DWELLING IS CONSTRUCTED AND TRANSFERRED FOR THE PURPOSE OF OCCUPANCY.
2. ALL SUBSEQUENT PLANS, INCLUDING RECORD PLATS, MUST NOTE THAT THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED, AND KEPT FREE OF ANY OBSTRUCTIONS.
3. FIELD VERIFICATION OF THE SITE LINES SHOWN HEREON HAVE BEEN CONDUCTED WITH A REPRESENTATIVE OF THE BUREAU OF DEVELOPER'S PLANS REVIEW.
4. THIS DEVELOPER SHALL PROVIDE & DEDICATE AT NO COST TO BALTIMORE COUNTY THE HIGHWAY WIDENINGS AND TYPE RIGHTS OF WAYS SHOWN HEREON.
5. SURVEY DATA SHOWN HEREON IS BASED ON THE MSC AND NAVD88 STANDARD HORIZONTAL & VERTICAL DATUM.
6. AVERAGE DAILY TRIPS - 34 UNITS X 10 ADT = 340 ADTs
7. A COMBINED HEARING IS REQUESTED PER B.C.Z.R. SECTION 26-206.1

ZONING REQUESTS:

1. SPECIAL HEARING TO APPROVE A FIFTH AMENDED FINAL DEVELOPMENT PLAN FOR THE CAINEWOOD DEVELOPMENT, WITH AN AMENDED TRACT BOUNDARY.
2. SPECIAL HEARING TO APPROVE THE DENSITY ANOMALY ON PROPOSED LOT 1 CREATED BY THE EXISTING SINGLE FAMILY DWELLING TO REMAIN.
3. SPECIAL HEARING TO APPROVE THE CREATION OF UNDERSIZED D.R. 2 PORTIONS OF LOTS 2 & 3 AND THE UNDERSIZED DR-5.5 PORTION OF LOT 34 AS NON-DENSITY AREAS.
4. SPECIAL HEARING TO PERMIT THE FUTURE CONSTRUCTION OF ACCESSORY STRUCTURES WHICH COMPLY WITH BCZR SECTION 400 ON THE D.R. 2 (NON-DENSITY) PORTION OF PROPOSED LOTS 2 & 3 AND DR-5.5 (NON-DENSITY) PORTION OF LOT 34.

NOTE :THIS PLAN CONFORMS TO ALL ORDERS BY THE HEARING OFFICER AND THE PLANNING BOARD

DEVELOPMENT PLAN

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

THE CLUSTERS

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 100'
DATE: DECEMBER 24, 2003
REVISED: JUNE 22, 2004

OWNERS

PARCEL 442 - 4.6623 ACRES+/-
LEO T. & SUSAN M. HULL
109 S. HILLTOP ROAD
BALTIMORE, MARYLAND 21228
DEED REFERENCE - 6550 / 70

PART OF PARCEL 443 - 2.5154 AC.+/-
PROPOSED PARCEL 'B' TO BE REMOVED FROM THE EXISTING CAINEWOOD SUBDIVISION PARCEL 'A'
EUGENE F. OSBORNE ET AL
3000 OLD TANEYTOWNE ROAD
WESTMINSTER, MARYLAND 21158
DEED REFERENCE - 13191 / 109

PARCEL 992 - 10.5869 ACRES +/-
FRANCIS W. FARLEY ET AL
P.O. BOX 40
HIGHLAND, MARYLAND 20777
DEED REFERENCE - 12424 / 648

DEVELOPER/ CONTRACT PURCHASER
NAME: SKRIVEN ENTERPRISES
ADDRESS: 5405 TWIN KNOLLS ROAD SUITE 6
ADDRESS: COLUMBIA, MARYLAND 21045
PH. NO.: 410-730-8945

PREPARER OF PLAN
GEORGE WILLIAM STEPHENS JR. AND ASSOCIATES, INC.
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286

SHEET 2 OF 2

PDM FILE NO. I-509

PLAN TO ACCOMPANY HEARING OFFICER'S ORDER

DATE — PROJECT MANAGER

ZONING COMMISSIONER

THIS PLAN DATED JUNE 22, 2004 COMPLIES WITH THE HEARING OFFICER'S / ZONING COMMISSIONER'S ORDER IN CASE NOS. 1-509 & 04-382-SPH AND THE PLANNING BOARD'S RESOLUTION DATED JUNE 3, 2004

P.N. 10183

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

FILENAME: 9608conceptplan.s01

POINT OF BEGINNING
E 1,380,846.15
N 582,174.56

D.R.2

THE CLUSTERS

D.R.2

SITE

CAINEWOOD

D.R. 5.5

D.R. 3.5

D.R. 3.5

SEMINOLE HEIGHTS

SEMINOLE HEIGHTS

BRANSTON

MORERICK

HILLTOP RD.

W 40,500 RD.

FORECASTER ROAD

MORERICK RD.

MORERICK AVE.

LOGWIND ROAD

WOODWIND

WOODWIND ROAD

HILLTOP

W 39,000

AVENUE

MAPLE AVE.

PRIVATE

PARTS OF BALTIMORE COUNTY
ZONING MAPS SW-3G & SW-4G
SHOWING
CAINEWOOD AND THE CLUSTERS

SCALE: 1"=200' DATE: DECEMBER 19, 200

PREPARED BY:
G.W. STEPHENS JR. & ASSOCIATES, INC

#381

LEGEND

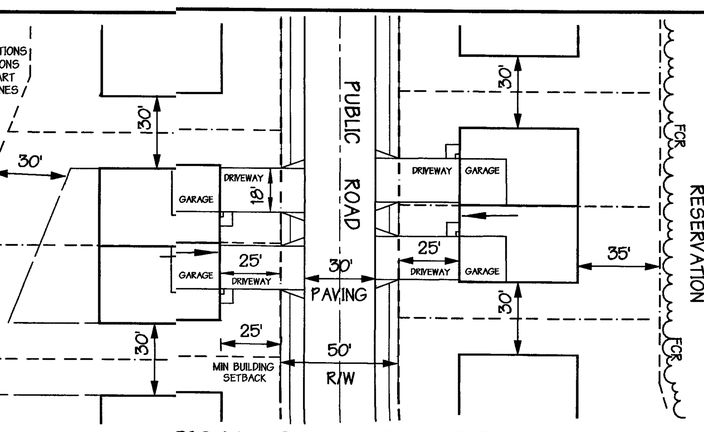
PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
EXISTING PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2 / GtB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE

100 YEAR FLOOD PLAIN — FP FP FP
FOREST BUFFER EASEMENT — FBE FBE
FOREST CONSERVATION RESERVATION — FCR

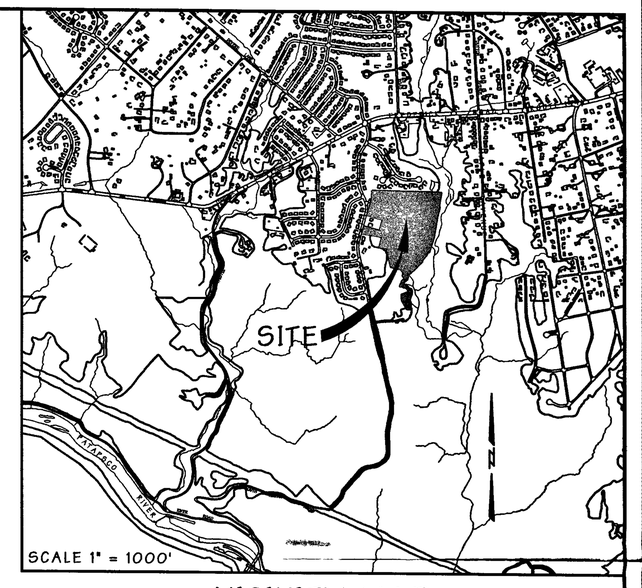
SLOPE > 25%

MAJOR DECIDUOUS TREE
MINOR DECIDUOUS TREE
EVERGREEN TREE
SHRUB

ENVELOPES OR TYPICAL DWELLINGS AS SHOWN DICTATE A SPECIFIC ORIENTATION WHICH IS INTENDED TO ALLOW COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS (BCZR) AND POLICES RELATIVE TO SETBACKS. SHOULD THE ORIENTATIONS CHANGE OR CREATE CONFLICTS WITH THE RUGULATION OR POLICIES, THE ORIENTATIONS MUST BE CHANGED TO ALLEVIATE THE CONFLICT. REFERENCE SECTION 1B01.2.C.1 CHART IN BCZR REFERENCE SECTION 1B02.3.C.2.c (1B-26 f) IN PDM POLICY MANUAL - DR ZONES



TYPICAL LOT LAYOUT DR-2 SCALE 1" = 30'



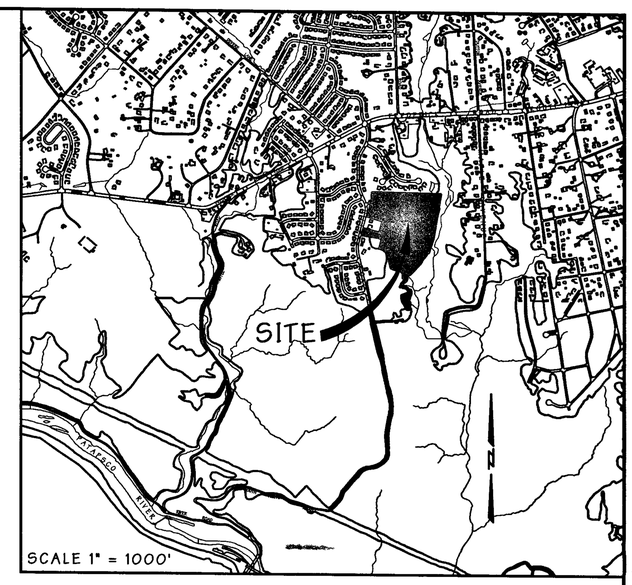
VICINITY MAP


BRANSTON ROAD
PHILBAR COURT
CONCERT WAY
HILLTOP WAY
SOUTH HILLTOP ROAD
TADCASTER ROAD
CAINEWOOD COURT
ALQUIN COURT
#1 HOA OPEN SPACE & COMMON AREA 43,442 S.F.
TOTAL CONSISTS OF 20,000 S.F. ACTIVE 23,442 S.F. COMMON AREA
#2 HOA OPEN SPACE & COMMON AREA 30,401 S.F.
FOREST CONSERVATION RESERVATION
STORMWATER MANAGEMENT RESERVATION 1.11 AC.±
EXISTING CAINEWOOD TRACE BOUNDARY
THE CLUSTERS PROPOSED TRACT BOUNDARY
PROPOSED PARCEL 'B' REMOVE FROM CAINEWOOD 2.554 AC.+/-
EXISTING CAINEWOOD PARCEL "A" 5.1045 AC
PROPOSED CAINEWOOD PARCEL 'A' 2.55 AC
EXISTING FOREST BUFFER EASEMENT
PARTIAL AMENDED PLAT OF CAINWOOD PHASE I & II
S.M. 71/99
100 YEAR FLOOD PLAIN ELEVATION 61.28'
ACTIVE OPEN SPACE
HOA COMMON AREA
PROP. SWM
PROP. 8" W
PROP. SAN.MH
EXIST SFD
EXIST SEPTIC TO BE REMOVED
BARN TO BE REMOVED
PROPOSED SIGN
MIN SETBACK FROM HOUSE TO HOA
MIN SETBACK FROM HOUSE TO FCR
ROAD CLOSING LIBER 2 FOLIO 135 ROAD CLOSING BOOK
POINT OF BEGINNING FOR THE CLUSTERS
PLAT HRW 56-130-2 DEED G.L.B. 3313/520 PLAT G.L.B. 23/88
HRW 59-038 PLAT TWO SECTION THREE "ROLLINGWOOD" G.L.B. 23/82 DEED W.J.R. 3620/234
PLAT TWO SECTION THREE "ROLLINGWOOD" G.L.B. 23/82
PLAT THREE SECTION THREE "ROLLINGWOOD" G.L.B. 24/22
PART OF PLAT TWO - LOT 5 BLOCK C SECTION THREE "ROLLINGWOOD" G.L.B. 24/22
BLOCK C
LOT 5
E 1380500 N 580,655.47
BC 512,504.31 N 581,500
BC 511,760.72 N 582,250
E 1382000
S 82°50'24" E 984.61'
N 82°50'24" W 1182.25'
N 00°10'36" E 182.25'
S 82°50'24" E 1182.25'
S 00°10'36" W 182.25'
N 81°04'06" W 282.95'
S 73°54'06" E 230.00'
N 16°05'54" E 160.00'
S 81°04'06" E 230.52'
S 75°54'06" E 230.00'
N 14°05'54" E 160.00'
N 81°04'06" W 230.52'
S 68°57'45" E 49.34'
S 83°46'27" E 55.33'
S 75°15'22" E 39.29'
S 02°39'35" E 65.07'
S 88°39'09" E 332.4'
S 85°50'21" E 332.4'
S 85°50'21" E 282.95'
S 05°26'25" W 421.9'
S 63°25'47" W 564.22'
S 27°39'13" W 42.69'
S 62°20'47" E 15.66

LEGEND

PROPOSED RIGHT-OF-WAY LINE
LOT LINE
TRACT BOUNDARY
PARCEL LINES
EXISTING RIGHT-OF-WAY LINE
EASEMENT
EXISTING TREELINES
PROPOSED TREELINES
ZONING LINE
EXISTING SOIL CLASSIFICATIONS — HaC2 / GnB
EXISTING 2' CONTOUR
EXISTING 10' CONTOUR
WETLAND LIMIT LINE — W W W W

100 YEAR FLOOD PLAIN — FP FP FP
FOREST BUFFER EASEMENT — FBE FBE
FOREST CONSERVATION RESERVATION — FCR



VICINITY MAP

LOTS AFFECTED BY ZONING ANOMOLY (HATCHED AREAS)
SEE SPECIAL HEARING REQUEST



PARCEL 'B' - (SHADED AREA) TO BE REMOVED FROM THE EXISTING CAINEWOOD SUBDIVISION AND ADDED TO THE PROPOSED CLUSTERS PROPERTY
SEE SPECIAL HEARING REQUEST

PLAN

SCALE: 1' = 100'

DENSITY TABULATIONS - THE CLUSTERS PROPERTY				
	PARCEL 992	PARCEL 442	* PARCEL 'B' (CAINE WOOD-PARCEL 443)	TOTAL
GROSS AREA	10 8250 AC	4 7251 AC	2 554 AC	18 1041 AC
NET AREA	10 5869 AC	4 6623 AC	2 554 AC	17 7853 AC
ZONING DR-2	9 7573 AC	4 4233 AC	2 554 AC	16 7346 AC
DR-5 5	1 0632 AC	0 3019 AC	0 AC	1 3651 AC
DWELLING UNITS ALLOWED -DR-2	19 5146	8 8466	5 108	33
-DR-5 5	5 8476	1 6604	0	7
TOTAL DWELLING UNITS ALLOWED - DR-2 = 33 UNITS, DR-5 5 = 7 UNITS, TOTAL = 40 UNITS				
TOTAL DWELLING UNITS PROPOSED - DR-2 = 33 UNITS, DR-5 5 = 7 UNITS, TOTAL = 40 UNITS				

* THE TOTAL AREA OF CAINEWOOD EXIST PARCEL "A" IS 5 1045 AC OF WHICH 2 55 AC (PROP PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80) THEREFORE 2 554 AC (PROP PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY SEE SPECIAL HEARING REQUEST

DENSITY TABULATIONS - CAINEWOOD (PARCEL 443)					
	TOTAL TRACT PARCEL 443	* EXISTING PARCEL 'A'	* PROPOSED PARCEL 'A'	* PROPOSED PARCEL 'B'	REMAINING PARCEL 443
GROSS AREA	13 651 AC	5 1045 AC	2 55 AC	2 554AC	11 156 AC
NET AREA	13 326 AC	5 1045 AC	2 55 AC	2 554 AC	10 776 AC
ZONING DR-2	12 638 AC	5 1045 AC	2 55 AC	2 554 AC	10 084 AC
DR-5 5	1 013 AC	0 0 AC	0 0 AC	0 0 AC	1 013 AC
DWELLING UNITS ALLOWED -DR-2	25 276	10 209	51	5 108	20
-DR-5 5	5	0	0	0	5
TOTAL DWELLING UNITS ALLOWED - DR-2 = 25 UNITS, DR-5 5 = 5 UNITS, TOTAL = 30 UNITS					
TOTAL DWELLING UNITS EXISITNG - DR-2 = 20 UNITS, DR-5 5 = 5 UNITS, TOTAL = 25 UNITS					
NOTE THERE WILL BE NO UNUSED DENSITY REMAINING IN THE CAINEWOOD SUBDIVISION AFTER PARCEL 'B' IS REMOVED					

*THE TOTAL AREA OF CAINEWOOD EXIST PARCEL "A" IS 5 1045 AC OF WHICH 2 55 AC - (PROP PARCEL 'A') REMAINS FOR DENSITY OF THE CAINEWOOD DEVELOPMENT SITE (SM 68-80) THEREFORE 2 554 AC (PROP PARCEL 'B' - DR-2 ZONING) IS TO BE REMOVED FROM CAINEWOOD AND ADDED TO THE CLUSTERS PROPERTY SEE SPECIAL HEARING REQUEST

SITE DATA

1 SITE AREA - GROSS - 18 1041 AC +/-
2 EXISTING ZONING - DR-5.5 - 1 3651 AC +/-
DR-2 - 16 7346 AC.+/-
3 DWELLING UNITS
ALLOWED - DR-2 - 16 7346 AC X 2 = 33
DR-5 5 - 1 3651 AC X 5 5 = 7
EXISTING - 1 SINGLE FAMILY DWELLING, 1 APT BUILDING
PROPOSED - DR-2 - 1 SINGLE FAMILY DWELLING & 32 DUPLEX DWELLINGS
SEE SPECIAL HEAR REQUEST
DR-5 5 - 1 SINGLE FAMILY DWELLING, 6 DUPLEX DWELLINGS
SEE SPECIAL HEAR REQUEST
NOTE THE TOTAL NUMBER OF DWELLING UNITS PROPOSED FOR THE CLUSTERS PROPERTY IS 40, CONSISTING OF (1) EXISTING SINGLE FAMILY DWELLING, (1) PROPOSED SINGLE FAMILY DWELLING AND 38 DUPLEX DWELLINGS TO BE CONSTRUCTED.
4 ELECTION DISTRICT - 1
5 COUNCILMANIC DISTRICT
6 CENSUS TRACT - 4005
7 REGIONAL PLANNING DISTRICT - 324 B
8 TAX MAP 100, GRID 17 & 18, PARCELS 992, 442 & 443
9 TAX ACCOUNT NO. 0401-1900010541, 0401-2200026318, 0401-0113142580
10 ADC MAP NO - 41 (A-4, A-5)
11 SCHOOL DISTRICT - HILLCREST ELEMENTARY, CATONSVILLE MIDDLE SCHOOL, CATONSVILLE HIGH SCHOOL
12 WATERSHED - 30
13 SUBSEWERSHED - 76
14 200 SCALE ZONING MAP - SW 4-G & SW 3-G
15. PARKING
REQUIRED - 2 SPACES / UNIT
40 X 2 = 80 PARKING SPACES
PROVIDED - 80 PARKING SPACES
(ON LOT DRIVEWAYS & GARAGES)

SEE DENSITY TABULATIONS

ZONING NOTES

1. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS
2. TYPICAL BUILDINGS SHOWN ON THESE DUPLEX LOTS DICTATE A SPECIFIC ORIENTATION THAT COMPLIES WITH THE B.C.Z.R., SHOULD THE ORIENTATION CHANGE, THE SETBACKS REQUIRED BY SECTION 1B02.2.C.1.b SHALL GOVERN AS FOLLOWS

	DR-5.5	DR-2
FROM FRONT BLDG FACE TO PUBLIC RIGHT OF WAY OR PROPERTY LINE -	25 FEET	25 FEET
FROM SIDE BLDG FACE TO SIDE BLDG FACE -	20 FEET	50 FEET
FROM SIDE BLDG FACE TO PUBLIC RIGHT OF WAY -	15 FEET	25 FEET
FROM SIDE BLDG FACE TO PRIVATE ROAD PAVING -	25 FEET	50 FEET
FROM SIDE BLDG FACE TO TRACT BOUNDARY -	15 FEET	25 FEET
FROM REAR BLDG FACE TO REAR PROPERTY LINE -	30 FEET	50 FEET
FROM REAR BLDG FACE TO PUBLIC STREET RIGHT OF WAY -	50 FEET	50 FEET

3. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50 FEET IN ACCORDANCE WITH SECTION 1B02.2.A OF THE B.C.Z.R.
4. THIS SITE IS NOT SUBJECT TO ANY RTA.
5. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL EXISTING STRUCTURES PAVEMENTS TRASH AND DEBRIS IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS
6. ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPLE BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS)
7. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS, ENVIRONMENTAL EASEMENTS OR UTILITY EASEMENTS
8. NO PRIVATE FENCES SHALL BE PLACED CLOSER THAN 10' FROM RIGHTS OF WAYS
9. THERE ARE NO KNOWN ZONING HISTORIES ON THESE PARCELS
10. ALL PROPOSED SIGNS WILL MEET THE REQUIREMENTS OF SECTION 1102.3 AND SECTION 450 OF THE B.C.Z.R. AND ANY OTHER APPLICABLE SECTIONS OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES
11. A WAIVER OF SIDEWALKS IS REQUESTED FOR THE SIDE OF PROPOSED PUBLIC ROAD 'B' ADJACENT TO THE HOA AREA.
12. MAXIMUM BUILDING HEIGHT LIMITED TO 50'
13. ALL DRIVEWAYS WILL COMPLY WITH SECTION 409.4 OF THE B.C.Z.R.
14. THE SITE IS NOT LOCATED IN ANY DEFICIENT AREAS ON THE BASIC SERVICES MAPS PURSUANT TO SECTION 4A02 OF THE BCZR

PERMITS & DEVELOPMENT MANAGEMENT

1. DIRECTOR OF PDM NOTE - THIS DEVELOPMENT PLAN IS APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT POLICY DENSITY AND BULK CONTROLS AS THEY ARE DELINEATED IN THE REGULATIONS ANY PART OR PARCEL OF THIS TRACT THAT HAS BEEN UTILIZED FOR DENSITY TO SUPPORT DWELLINGS SHOWN THEREON SHALL NOT BE FURTHER SUBDIVIDED OR DEVELOPED FOR ADDITIONAL DWELLINGS OR ANY PURPOSE OTHER THAN THAT INDICATED PRESENTLY ON SAID PLAN UTILIZATION WILL HAVE OCCURRED WHEN A DWELLING IS CONSTRUCTED AND TRANSFERRED FOR THE PURPOSE OF OCCUPANCY
2. ALL SUBSEQUENT PLANS INCLUDING RECORD PLATS MUST NOTE THAT THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED GRADED AND KEPT FREE OF ANY OBSTRUCTIONS
3. FIELD VERIFICATION OF THE SITE IS PLANS REVIEW
4. THIS DEVELOPER SHALL PROVIDE & DEDICATE AT NO COST TO BALTIMORE COUNTY THE HIGHWAY WIDENINGS AND THE RIGHTS OF WAYS SHOWN HEREON
5. SURVEY DATA SHOWN HEREON IS BASED ON THE MSC AND NAD83 STANDARD HORIZONTAL & VERTICAL DATUM
6. AVERAGE DAILY TRIPS - 40 UNITS @ 3 TRIPS X 10 ADT = 400 ADTs
7. A COMBINED HEARING IS REQUESTED PER B.C.Z.R. SECTION 26-206.1

ZONING REQUESTS.

1 SPECIAL HEARING TO APPROVE A FIFTH AMENDED FINAL DEVELOPMENT PLAN FOR THE CAINEWOOD DEVELOPMENT, WITH AN AMENDED TRACT BOUNDARY
2 SPECIAL HEARING TO APPROVE THE DENSITY ANOMALY ON PROPOSED LOTS CREATED BY THE EXISTING SINGLE FAMILY DWELLING TO REMAIN
3 SPECIAL HEARING TO APPROVE THE CREATION OF UNDERSIZED DR 2 PORTIONS OF LOTS 2, 3, 4, 5 AND 7 AS NON-DENSITY AEAS
4 SPECIAL HEARING TO PERMIT THE FUTURE CONSTRUCTION OF ACCESSORY STRUCTURES WHICH COMPLY WITH BCZR SECTION 400 ON THE DR 2 (NON-DENSITY) PORTION OF PROPOSED LOTS 2, 3, 4, 5 AND 7

OWNERS

PARCEL 442 - 4 6717 ACRES+/-
LEO T & SUSAN M HULL
109 S HILLTOP ROAD
BALTIMORE, MARYLAND 21228
DEED REFERENCE - 6550 / 70

PART OF PARCEL 443 - 2 554 AC +/-
PROPOSED PARCEL 'B' TO BE REMOVED FROM THE EXISTING CAINEWOOD SUBDIVISION PARCEL 'A'
EUGENE F OSBORNE ET AL
3000 OLD TANEYTOWNE ROAD
WESTMINSTER, MARYLAND 21158
DEED REFERENCE - 13191 / 09

PARCEL 992 - 10 594 ACRES +/-
FRANCIS W FARLEY ET AL
P O BOX 40
HIGHLAND, MARYLAND 20777
DEED REFERENCE - 12424 / 648

DEVELOPMENT PLAN

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

THE CLUSTERS

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 100'
DATE: DECEMBER 24, 2003
REVISED: FEBRUARY 17, 2004

PDM FILE NO. I-509

DEVELOPER/ CONTRACT PURCHASER
NAME SKIRVEN ENTERPRISES
ADDRESS 5405 TWIN KNOLLS ROAD SUITE 6
ADDRESS COLUMBIA, MARYLAND 21045
PH NO 410-730-8945

PREPARER OF PLAN
GEORGE WILLIAM STEPHENS JR. AND ASSOCIATES INC.
1020 CROMWELL BRIDGE ROAD
TOWSON MARYLAND 21286

SHEET 2 OF 2

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

FILENAME 9608conceptplan s01

P N 9608

c:\01\9608zoning\plat 2/18/2004 3:11:52 PM

VOLUME I OF IV

IN RE: * BEFORE HEARING OFFICER/

THE CLUSTERS * ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. PDM-I-509

* March 25, 2004

RECEIVED
JUL 08 2004
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * *

The above-entitled matter came on for hearing before the Zoning Commissioner/Hearing Officer for Baltimore County at the Baltimore County Courts Building, Room 407, Towson, Maryland 21204, at 9:07 a.m., March 25, 2004.

* * * * *

BEFORE:

LAWRENCE E. SCHMIDT, Esquire

APPEARANCES:

MICHAEL P. TANCZYN, Esquire
On behalf of Joseph P. Gochar, Jr.
and Hilltop Maple Community Association

G. SCOTT BARHIGHT, Esquire
On behalf of Developer and
Contract Purchaser

Reported By: Susan E. Smith, RPR

VOLUME II of IV

IN RE: * BEFORE HEARING OFFICER/

THE CLUSTERS * ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. PDM-I-509

* March 29, 2004

* * * * *

The above-entitled matter came on for hearing before the Zoning Commissioner/Hearing Officer for Baltimore County at the Baltimore County Courts Building, Room 407, Towson, Maryland 21204, at 2:03 p.m., March 29, 2004.

* * * * *

BEFORE:

LAWRENCE E. SCHMIDT, Esquire

APPEARANCES:

MICHAEL P. TANCZYN, Esquire
On behalf of Joseph P. Gochar, Jr.
and Hilltop Maple Community Association

JENNIFER R. BUSSE, Esquire
On behalf of Developer and
Contract Purchaser

Reported By: Susan E. Smith, RPR

VOLUME III OF FOUR

IN RE: * BEFORE HEARING OFFICER/

THE CLUSTERS * ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. PDM-I-509

* April 2, 2004

* * * * *

The above-entitled matter came on for hearing before the Zoning Commissioner/Hearing Officer for Baltimore County at the Baltimore County Courts Building, Room 407, Towson, Maryland 21204, at 9:17 a.m., April 2, 2004.

* * * * *

BEFORE: LAWRENCE E. SCHMIDT, Esquire

APPEARANCES:

MICHAEL P. TANCZYN, Esquire
On behalf of Joseph P. Gochar, Jr.
and Hilltop-Maple Community Association

G. SCOTT BARHIGHT, Esquire
On behalf of Developer and
Contract Purchaser

ROBERT LOSKOT, Esquire
Assistant County Attorney

Reported By: Shannon M. Wright

VOLUME IV of IV

IN RE: * BEFORE HEARING OFFICER/

THE CLUSTERS * ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. PDM-I-509

* April 6, 2004

* * * * *

The above-entitled matter came on for hearing before the Zoning Commissioner/Hearing Officer for Baltimore County at the Baltimore County Courts Building, Room 407, Towson, Maryland 21204, at 1:06 p.m., March 29, 2004.

* * * * *

BEFORE:

LAWRENCE E. SCHMIDT, Esquire

APPEARANCES:

MICHAEL P. TANCZYN, Esquire
On behalf of Joseph P. Gochar, Jr.
and Hilltop-Maple Community Association

G. SCOTT BARHIGHT, Esquire
On behalf of Developer and
Contract Purchaser

Reported By: Susan E. Smith, RPR