IN RE: PETITION FOR SPECIAL HEARING

SE/Corner Barrison Point Road and

Rocky Point Road (Porter Property) 15th Election District 6th Council District

Norbert Porter Petitioner

- BEFORE THE
- ZONING COMMISSIONER
- OF BALTIMORE COUNTY
- Case No. 04-486-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owner of the subject property, Norbert Porter, through his attorney, John B. Gontrum, Esquire. The Petitioner requests a special hearing to approve the accrual of permitted density from Parcel 300 to Parcel 217, which are adjacent to one another and both owned by the Petitioner. The subject property and requested relief are more particularly described on the amended site plan submitted into evidence and marked as Petitioner's Exhibit 2.

Appearing at the requisite public hearing in support of the request were Norbert J. Porter, property owner, J. Scott Dallas, the Registered Property Line Surveyor who prepared the site plan for this property, and John B. Gontrum, Esquire, attorney for the Petitioner. Also appearing were the Petitioner's grandson, Norbert M. Porter, and his wife, Sandy Porter. There were no Protestants or other interested persons present.

The subject property is comprised of two adjacent parcels, identified as Parcels 217 and 300 of the Porter Property, located at the southeast corner of the intersection of Barrison Point Road and Rocky Point Road in eastern Baltimore County. The property is located across from Rocky Point Park, not far from the waters of the Chesapeake Bay and contains a combined gross area of 25.036 acres, more or less, predominantly zoned R.C20 with a narrow strip of R.C.5 zoned land along the southern property line. Parcel 300 is the larger of the two parcels and contains 17.522 acres in area and occupies the northern portion of the site. Parcel 217 is the smaller parcel

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and it occupies the southern portion of the site and contains 7.514 acres in area. Owing to its close proximity to the water, the property has significant environmental constraints and is subject to the Chesapeake Bay Critical Areas regulations.

The Petitioner indicated that he has long sought to develop the property in an environmentally sensitive manner. In this regard, the proposal comes before me pursuant to Section 1A05.5 of the Baltimore County Zoning Regulations (B.C.Z.R.). This Section allows the intra-family transfer of land zoned Resource Conservation (R.C.20) within the Chesapeake Bay Critical Area and was apparently enacted largely to address this specific property. As shown on the site plan, the Petitioner proposes to subdivide the property into five single-family dwelling lots, which will be conveyed to family members. Four of the lots will be located on Parcel 217, the smaller parcel, and each will be slightly over 1.0 acre in area. Vehicular access thereto will be by way of a private driveway extending into the property from Rocky Point Road. The fifth lot will encompass the remainder of Parcel 217 and all of Parcel 300 and contain a gross area of 20.360 acres. Additionally, the amended site plan shows the proposed location of the dwelling on Lot 5, which is located on the other side of the panhandle drive. The plan was designed in such a manner so as to retain and respect the environmentally sensitive areas on this property, including a Chesapeake Bay Critical Area easement of 10.656 acres in the northwestern portion of the site, with a second easement along the eastern property line of 2.53 acres.

As noted above, there were no Protestants or other interested persons present. Moreover, a favorable comment was received from the Department of Environmental Protection and Resource Management (DEPRM): That comment indicates that the applicant's proposal to transfer density as shown on the plan is consistent with the intention of Section 1A05.5 of the B.C.Z.R. to preserve large contiguous areas of forest. The retention of this large area will serve to protect and preserve the extensive forested wetlands and forest interior dwelling bird habitat.

After due consideration of the testimony and evidence offered, I am persuaded to grant the special hearing relief. I find that the relief requested is appropriate and that the proposal is consistent with the spirit and intent of Section 1A05.5 of the B.C.Z.R. Moreover, there were no

FILING ORDER RECEIVE

adverse comments from any County reviewing agency and no one appeared in opposition to the However, in addition to Chesapeake Bay Critical Areas regulations, the proposed development must be in compliance with Federal Flood Insurance requirements and Baltimore County Building Code provisions regarding development in a floodplain. Thus, the relief granted herein is contingent upon the Petitioner's compliance with all of these comments.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 33 day of June 2004 that the Petition for Special Hearing to approve the accrual of permitted density from Parcel 300 to Parcel 217 so as to allow the subdivision of the property to create five single-family dwelling lots, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED, subject to the following restrictions:

- The Petitioner may apply for his building permit(s) and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments have been attached hereto and are made a part hereof.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order

LAWRENCE E. SCHMIDT

Zoning Commissioner

for Baltimore County

LES: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

June 22, 2004

John B. Gontrum, Esquire Whiteford, Taylor & Preston 210 W. Pennsylvania Avenue, 4th Floor Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
SE/Corner Barrison Point Road and Rocky Point Road
(Parcels 300 & 217, Porter Property)
15th Election District – 5th Council District
Norbert Porter - Petitioner
Case No. 04-486-SPH

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted, 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: Mr. Norbert Porter

2007 Rocky Point Road, Baltimore, Md. 21221

Chesapeake Bay Critical Areas Commission

1804 West Street, Suite 100, Annapolis, Md. 21401

DEPRM; Development Plans Review, DPDM

People's Counsel; Case File



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



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

S.E. Corner Rocky Point Rd. for the property located at and Barrison Point Rd. which is presently zoned R.C. 20

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

> a Special Hearing to accrue permitted density from Parcel 300 to Parcel 217.

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.

Legal Owner(s):

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:

Œ

Norbert Porter Name - Type or Print/ Name - Type or Print Signature Signature Telephone No. Name - Type or Print Address Zip Code Signature City State 20007 Rocky Point Road 410-686 -5506 Attorney For Petitioner: Telephone No. Address 21221 Baltimore, MD John B. Gowtrum, Esquire Zip Code Name - Type or Print State City Representative to be Contacted: Signature John B. Gontrum, Esquire Whiteford, Taylor & Preston, LLP Name Company 210 W. Pennsylvania Avenue, 4th Floor Pennsylvania Avenue, 4th Fl. 210 W. Scity Son MD Telephone No. Telephone No. Address 410)832-2055 410) 832-2055 21204 21204 MD Towson, Zip Code Zip Code State State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING ese No. 04-486-5PH UNAVAILABLE FOR HEARING Date 4-26-04 JRF Reviewed By

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NOTICE OF ZONING

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: #04-486-SPH
S/east corner of Rocky
Point Road and Barrison
Point Road
S/east corner of Rocky
Point Road and Barrison
Point Road
15th Election District
6th Councilmanic District
Legal Owner(s): Norbert
Porter
Special Hearing: to accrue
permitted density from Parcel 300 to Parcel 217.

cel 300 to Parcel 217.
Hearing: Friday, June 11,
2004 at 10:00 a.m. in
Room, 106, County Office
Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

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.

5/296 May 27 6439

CERTIFICATE OF PUBLICATION

5 7 , 2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 527,20 <u>04.</u>
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News
S. Wilkings

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 04-486-9PH

	Petitioner/Developer: NORBENT
	PORTER
	Date of Hearing/Closing: JUNE リ,
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:	<u>*</u>
This letter is to certify under the penalties of perjury the posted conspicuously on the property located at:	
SEAST CORNER OF ROCKY PROPER	T. RD AND BARRISON POINT
The sign(s) were posted on Mont	22/04 h, Bay, Year)
Sincer	
	Robert Rlach 5/23/64 (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)

RE: PETITION FOR SPECIAL HEARING
SE corner Rocky Pt Rd and Barrison Pt Rd
15th Election & 6th Councilmanic Districts
Legal Owner(s): Norbert Porter
Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

* 04-486-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

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 30th day of April, 2004, a copy of the foregoing Entry of Appearance was mailed to John Gontrum, Esquire, Whiteford, Taylor & Preston, LLP. 210 W Pennsylvania Avenue, 4th Floor, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

APR 3 0 2004

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per....

TO: PATUXENT PUBLISHING COMPANY

Thursday, May 27, 2004 Issue - Jeffersonian

Please forward billing to:

Norbert Porter 20007 Rocky Point Road Baltimore, MD 21221

410-686-9506

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: 04-486-SPH

S/east corner of Rocky Point Road and Barrison Point Road S/east corner of Rocky Point Road and Barrison Point Road 15th Election District – 6th Councilmanic District

Legal Owner: Norbert Porter

Special Hearing to accrue permitted density from Parcel 300 to Parcel 217.

Hearing: Friday, June 11, 2004, at 10:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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

Department of Permits and Development Management

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

April 29, 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: 04-486-SPH

S/east corner of Rocky Point Road and Barrison Point Road S/east corner of Rocky Point Road and Barrison Point Road 15th Election District – 6th Councilmanic District Legal Owner: Norbert Porter

Special Hearing to accrue permitted density from Parcel 300 to Parcel 217.

Hearing: Friday, June 11, 2004, at 10:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco

Director

TK:klm

C: John Gontrum, Whiteford, Taylor, Preston, 210 W. Pennsylvania Ave., 4th Fl., Towson 21204 Norbert Porter, 20007 Rocky Point Road, Baltimore 21221

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, MAY 27, 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.



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

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

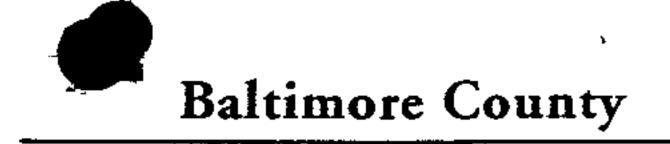
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 04-486-5PH
Petitioner: Norbert Porter
Address or Location: 2000 Rocket Point Ad. 5/8 Commen Rockey Point & BORRISM POINT prods
PLEASE FORWARD ADVERTISING BILL TO: Name: Nonbert Ponten
Address: 2000 Rocky Point nd.
Butimone, and 21221

Department of Permits a Development Management

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





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

June 1, 2004

John B. Gontrum, Esquire Whiteford, Taylor, & Preston, LLP 210 W. Pennsylvania Avenue, 4th Floor Towson, Maryland 21204

Dear Mr. Gontrum:

RE: Case Number:04-486-SPH

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 26, 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,

u. Callibal)

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Norbert Porter 20007 Rocky Point Road Baltimore 21221



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



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 May 10, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of May 3, 2004

Item No.:

479.482 - 487

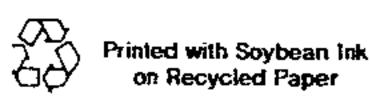
Dear Ms. Hart:

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

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

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

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: May 18, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For May 10, 2004 Item No. 486

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

The flood protection elevation for this site is 10.4 feet.

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.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with B.O.C.A. International Building Code Adopted by the county.

RWB:CEN:jrb

cc: File

ZAC-05-10-2004-ITEM NO 486-05182004

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Date: May 20, 2004

TO:

Timothy M. Kotroco

FROM:

R. Bruce Seeley

SUBJECT:

Zoning Item #04-486-SPH

Porter Properties, Rocky Point Road

Zoning Advisory Committee Meeting of May 3, 2004

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

- X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
 - Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code and Baltimore County Zoning Regulations).

It is our understanding that subdivision on these properties involves bona fide intrafamily transfers of Resource Conservation Area (RC-20) properties in the Chesapeake Bay Critical Area. Thus, Section 1A05.5 of the BCZR is applicable. A literal interpretation of Section 1A05.5 would allow more density to occur on the larger parcel, which contains extensive forested wetlands and forest interior dwelling bird habitat. The State-mandated Critical Area law requires minimization of impacts to this habitat type. Most importantly, clustering lots on one portion of the overall site would result in protection of a single large, contiguous forest block and meet this requirement. The applicant's proposal to transfer density to provide clustering is consistent with this requirement. However, we ask that any approval by the Zoning Commissioner include a condition requiring the applicant show a building envelope on Lot 5 that maximizes retention of contiguous forest, as determined by DEPRM.

Pmf/Porter Property zoning petition.doc

1011

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and

Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

DATE: May 13, 2004

RECEIVED

MAY 1 4 2004

SUBJECT: Zoning Advisory Petition(s): Case 4-486

ZONING COMMISSIONER

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

Prepared By:

Division Chief:

MAC/LL



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date:

4.30.04

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

RE:

Baltimore County

Item No.

486

JRF

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,

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

1. J. Heedh

My telephone number/toll-free number is

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER
DATE
DATE

PETITIONER'S SIGN-IN SHEET

E- MAIL													
CITY, STATE, ZIP	Baltinore Md 21221	more Md 21221	mark Mal										
ADDRESS	S ROCKI FT	1 Kb	7			-						-	
NAME	Sond Porter	Norbert J. Parter	Norbert M Lovier	Tolan Continu	Jan Maller								

