

IN RE: PETITION FOR SPECIAL HEARING

E/S of Offutt Road, 2,824 ft. S
centerline of Liberty Road
4th Election District
2nd Councilmanic District
(3229 Offutt Road)

Julia & Richard Flowers
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-079-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, Julia and Richard Flowers. The Petitioners are requesting special hearing relief for property owned at 3229 Offutt Road in the Randallstown area of Baltimore County. The special hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine the applicability of Bill No. 55-04 to the concept plan in PDM File II-675.

The property was posted with Notice of Hearing on September 20, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 21, 2004, to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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

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Date

10/12/04

By

Ray

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were Craig Rogers and Michael Ertel, professional engineers, for the Petitioner. Benjamin Bronstein, Esquire represented the Petitioners. Walt Smith, project manager and Joseph Chmura, from PDM appeared at the hearing. No Protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The Petitioner is requesting that under the circumstances, Bill No. 55-04 does not apply to this property. Mr. Bronstein explained that Bill No. 55-04 changed the regulations in regard to density of development in RC 5 zones. If the new law applies, the property, which is in the process of County review, would yield up to 12 lots. On the other hand, if the prior law applied, the property would yield up to 16 lots, a 25% change in density. The question of which law applies turns on when the Developer filed the concept plan.

Bill No. 55-04 provides "that this Act shall not apply to any concept plan or application for limited exemption or waiver accepted for filing prior to June 7, 2004."

Mr. Bronstein proffered that the engineer for the project presented two copies of a concept plan and checklist for this project on May 28, 2004 in the Department of Permits and Development Management. The engineer received a response from the County on June 7, 2004, which required a certified check for \$500 for the filing fee, multiple copies of the plan and other information as shown on Petitioners' Exhibit No. 2. The engineer presented the check, copies of

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BY [Signature]

the plan and other information the County required in Exhibit No. 2 on June 8, 2004. The question then becomes, was the May 28, 2004 presentation of the two concept plans and checklist a "concept plan accepted for filing"?

Mr. Bronstein called Joseph Chmura who processes these plans for the County. He testified that he stamped the plans and the checklist received from the engineer on May 28, 2004. Sometime after stamping the concept plans, he assigned PDM file # II-675 to the file which he opened for this project, reviewed the checklist and plans, prepared Exhibit No. 2 and placed that document in the engineer's mail box in the PDM office on June 7, 2004. He testified that he reviews the concept plans generally in the order that they are received and that there were many plans presented in the week before June 7, 2004.

Walt Smith, a project manager from PDM, testified that it is the administrative policy of his Department to "accept" plans for filing after the Developer presents the filing fee and all the information shown on Exhibit No. 2. He admitted that there is no written policy on this matter. He explained that the procedure of reviewing the concept plan and checklist prior to receiving the filing fee was introduced as a courtesy in order to reduce errors which otherwise would occur in the actual filing. He noted, however, that this step does not constitute acceptance by the County. He noted that once the plan was "accepted" for filing, the County was obligated to hold a formal concept plan review in the meeting known as the Concept Plan Conference followed by a Community Input Meeting, all within time specified in the statute.

He also testified that under normal circumstances, concept plans and checklists presented would be reviewed, Exhibit No. 2 prepared, and notice given to the engineer the next day. He noted that there were a large number of such presentations made that week by many applicants who were likely trying to avoid the consequences of the new RC 5 law. As it happened, because

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of the great number of presentations, the County was not able to respond until ten days later in this case. He noted that after the concept plans were presented on May 28, one holiday and two weekends occurred before the County responded on June 7, 2004. He also said that but for this crush of applications, holiday and weekends, which slowed the County's response, this Petitioner would have met the deadline.

Mr Bronstein filed a memorandum of law in support of the Petition which argues that the Council intended the words "accept for filing" to mean "received for filing" which he argues was accomplished on May 28, 2004.

Findings of Fact and Conclusions of Law

I understand Mr. Bronstein' argument that a file was created by the County when the two concept plans were presented on May 28. However, I accept Mr. Smith's explanation that this procedure was instituted as a courtesy to applicants to minimize the errors in the actual filing. In my view the law is clear. A concept plan is "accepted for filing " only after the filing fee and the information shown on Exhibit No. 2 are presented to PDM. To hold otherwise is to void the longstanding policy of the Department. As important, to hold otherwise would mean that presenting the two concept plans for a preliminary review would trigger County responsibilities and actions when the applicant might never proceed with the plan, pay the filing fee, or provide required information. I note that this is the same policy that the Circuit Court uses by which they accept documents for filing only when the filing fee is paid and other requirements met.

That said, the question becomes is it fair, is it right to penalize this particular applicant in a very significant way because the County found itself inundated with applications? Is it fair that ten days went by before the engineer received the County's response to his presenting the two concept plans and checklist? Most importantly, I am struck by Mr. Smith's observation that but

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Ray

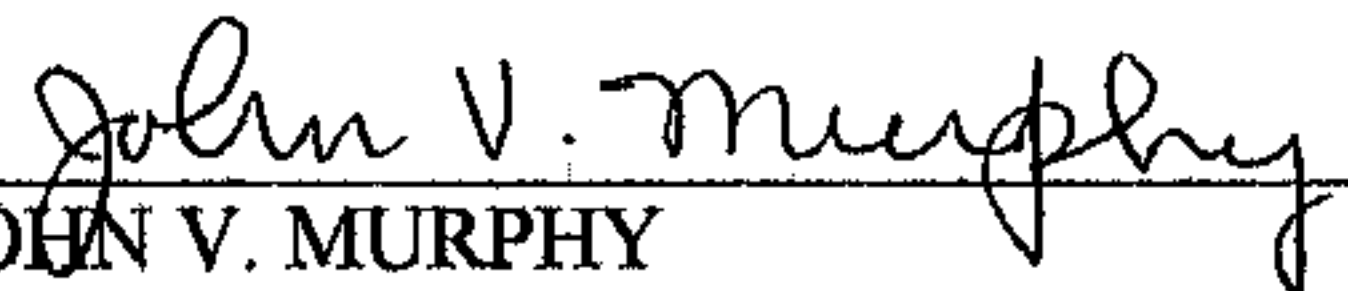
for this crush of applications, holiday and weekends, which slowed the County's response, this Petitioner would have met the deadline.

As mentioned at the hearing, this would be a perfect time for equity to override law. I think that under these very peculiar, limited, one of a kind, never to be repeated circumstances, this Petitioner's presentation on May 28, 2004 should be considered a filing and accepted by the County. However, under every ordinary circumstance, I fully support PDM's policy of considering payment of the filing fee and providing other information to be the time when a concept plan is accepted for filing.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' special hearing request should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioners' request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R), to determine the applicability of Bill No. 55-04 to the concept plan in PDM File II-675, be and is hereby GRANTED,

Any appeal of this decision must be made within thirty (30) days of the date of this Order.


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

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By Raj

Zoning Commissioner

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



Baltimore County

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

October 12, 2004

Benjamin Bronstein, Esquire
Suite 205, Susquehanna Building
29 W. Susquehanna Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
Case No. 05-079-SPH
Property: 3229 Offutt Road

Dear Mr. Bronstein:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has been granted in accordance with the enclosed Order.

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

Very truly yours,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Craig Rodgers, 2 Tisbury Ct., Baltimore, MD 21236
Michael J. Ertel, 208 Washington Ave., 2nd Flr., Towson, MD 21204
Joseph Chmura & Walt Smith, Permits & Development Management

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



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OCT - 7 2004

RE: 3229 Offutt Road
East side of Offutt Road
2,824 ft. South of Liberty Road

2nd Election District
4th Councilmanic District

Legal Owners: Richard and Julia Flowers

* BEFORE THE
* ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO.: 05-079-SPH

ZONING COMMISSIONER

* * * * *

**MEMORANDUM OF LAW IN SUPPORT
OF PETITION FOR SPECIAL HEARING**

Flowers Property, LLC, by Benjamin Bronstein, its attorney, files this Memorandum of Law in support of the Petition for Special Hearing filed in the above-captioned proceeding, and says:

Statement of Facts

On May 28, 2004, Flowers Property, LLC ("Flowers"), submitted a Concept Plan (the "Plan") to the Baltimore County Department of Permits and Development Management ("PDM") in accordance with the Baltimore County Code ("BCC") Section 26-202. The Plan was thereafter assigned a number by PDM and reviewed for its compliance with the requirements of Section 26-202. The Plan was found to be acceptable by PDM on June 7, 2004, which notified Flowers to submit thirty-six (36) copies of the Plan with the required fee on that date.

On May 3, 2004, the Baltimore County Council passed Bill No. 55-04 (the "Bill"), which, among other matters, decreasing radically the ability of the property owners of RC-5 property to develop the property. By its express terms, Section 7 of the Bill did not take effect until June 11, 2004. Section 4 of the Bill, however, stated that it would not apply to concept plans "accepted for filing" prior to June 7, 2004.

Promptly after receiving notice the Plan had been determined to meet the statutory requirements, Flowers retrieved the copy of the Plan as approved by PDM, made the required number of copies and returned the copies and fee to PDM. PDM, however, has required the applicant to submit a request for Special Hearing.

The basis of PDM's refusal to accept the copies of the approved Plan and fee, as articulated to Flowers, was that PDM did not consider the Plan "accepted for filing" until the copies and fee had been submitted. The phrase "accepted for filing" does not appear in either the Baltimore County Code or the regulations adopted by PDM.

Because PDM did not notify Flowers the Plan had been accepted until the afternoon, Flowers was unable to return the copies of the approved Plan and fee until first thing in the morning on the following day -- June 8, 2004. Despite having submitted the Plan over a week prior to the date referenced in the Bill, and thereafter done everything within its power to complete all acts required by PDM, Flowers finds itself barred by PDM from developing its property in accordance with RC-5 regulations which existed at the time the Plan was initially filed with PDM (and, it must be noted, prior to the effective date of the Bill itself).

Understandably aggrieved, Flowers filed the present Petition for Special Hearing.

Discussion of Authority

BCC, Section 26-202 governs the submission of concept plans. Subsection (a) provides for an optional informational conference. Such a conference must be requested by the applicant. Subsection (b) provides for a preconcept plan conference, again at the request of an applicant (with the sole exception of development in the RC-6 zone). Subsections (c) and (d) contain detailed requirements for the concept plan. The Plan submitted by Flowers met all the detailed requirements, as evidenced by PDM's approval.

Subsection (f) is relevant to the instant Petition for Special Hearing and the aggrievement of Flowers. BCC Section 26-202(f) requires that within 10 working days after the "filing" (not "received for filing") of a concept plan, PDM shall hold a concept plan conference.

There is simply no reference in the Baltimore County Code or development regulations to the "receipt for filing" of a concept plan. Flowers' Plan was filed on May 28, 2004, it was approved by PDM -- including the assigning of a PDM file number no later than June 7, 2004. (Testimony of Joseph Chumura of PDM).

The actual language of a statute is the primary tool in first ascertaining legislative intent. *Podgurski v. OneBeacon Insurance Co.*, 374 Md. 133, 821 A.2d 400 (2003). Courts begin their inquiry with the words of the statute, and, when the words of the statute are clear and unambiguous according to their commonly understood meaning, they ordinarily end the inquiry there also. *Comptroller of the Treasury v. Kolzig*, 375 Md. 562, 826 A.2d 562 (2003). The Court of Appeals (or any reviewing body) will neither add nor delete words to give a statute a meaning not otherwise communicated by the language used. *Harris v. Board of Education of Howard County*, 375 Md. 21, 825 A.2d 365 (2003).

The Baltimore County Council used the phrase "accepted for filing" in the Bill. This language must be given commonly understood meaning. *Comptroller of the Treasury v. Kolzig*, supra. The term "file" is defined as "to place among official records and prescribed by law" and "to perform the first act of" a legal proceeding. *Webster's Third International Dictionary of the English Language, Unabridged*, the term "receive" is defined as "to come into possession of". *Id.*

The plain meaning of these words, taken together, is that to "receive for filing" is not an event separate from the filing, but the reception of the papers submitted to be placed among

official records, the "first act" of the development process -- that is, submission of the concept plan. The Plan submitted by Flowers was "filed" when it was placed into the possession of PDM on May 28, 2004 (prior to June 8, 2004); this conclusion is buttressed by the fact PDM notified Flowers the Plan was accepted and assigned it a PDM number on June 7, 2004.

In construing statutes, discerning the real legislative intent is the cardinal goal. *Kline v. Fuller*, 56 Md. App. 294, 467 A.2d 786, appeal after remand, 64 Md. App. 375, 496 A.2d 325 (1983). In order to so do, statutes are to be read in such a way as to avoid unjust, illogical, absurd or unreasonable consequences. *Id.* Courts (and other reviewing bodies) should shun a construction of a statute which will lead to absurd consequences. *Coerper v. Comptroller of the Treasury*, 265 Md. 3, 288 A.2d 187 (1972). It is proper for the courts, in construing a statute of doubtful meaning and application, to consider the consequences of a proposed construction so that results that are unreasonable or inconsistent with common sense will be avoided whenever possible. *Clark v. State*, 2 Md. App. 756, 237 A.2d 768, certiorari denied, 394 U.S. 1001, 89 S.Ct. 1597, 22 L.Ed.2d. 779 (1968).

PDM's interpretation of the Bill reaches a conclusion that is unjust, unreasonable, illogical, absurd and inequitable. The Bill refers to plans "accepted for filing". If the Baltimore County Council intended this language to mean "approved by PDM", then the Council could have easily so stated in the Bill. But the Council did not. Rather, the Council provided that all plans "accepted [received] for filing" by PDM prior to June 8 would be exempt from the effects of the Bill. The use of the term "accepted" by the Council is significant. Under the Bill, a plan is to be "accepted" (i.e., "received") PRIOR to its actual filing -- otherwise the Council would simply have said all plans "filed" prior to June 8 should be exempt.

The Council did not make it a condition precedent to the grandfathering provision of the Bill that PDM must have approved the plan prior to June 8. Yet, the interpretative gloss PDM seeks to apply creates that very result. Not only is the position of PDM at odds with the language of the Bill itself, the logical consequence of PDM's position is that PDM becomes the sole and final determiner of which applicant's plan becomes exempt. Two applicants might file their plans with PDM on the same day, yet if PDM only approves one plan by June 8 and delays its approval of the second plan until June 9, only one of the plans would be exempt under PDM's interpretation of the Bill.

It is inconceivable the County Council intended for two similarly applicants to be treated differently. Not only is such a result unjust, unreasonable and against common sense, it is a violation of basic principles of fundamental fairness and due process.

What PDM attempts to do is write into the Bill language which the County Council did not include -- and to add three conditions that are nowhere present in the Bill: (1) that PDM approve the concept plan AND (2) that the applicant retrieve the approved Plan, make copies AND (3) resubmit the Plan with copies and fee. There is no basis from the face of the Bill -- the plain language utilized by the County Council -- to infer an intent on the part of the Council to impliedly impose these additional and onerous requirements on landowners.

The interpretation urged by PDM is unfounded in the Baltimore County Code, goes far beyond the plain language of the Bill, and reaches what is an illogical unreasonable and unjust result. Under the governing principles of law it cannot be sustained.

It is one matter for the County Council to provide that concept plans which were delivered to PDM prior to June 8, 2004 would be exempt from the Bill. It is quite another, however, for PDM to maintain that only those timely filed concept plans which PDM had

approved, returned to the applicant, and then resubmitted fell within the filing "safe harbor" set out in Section 4 of the Bill. In essence, PDM maintains that the Bill applies retroactively to concept plans submitted prior to the Bill's effective date. This interpretation is fallacious and cannot be upheld.

As an applicant, Flowers did all it could do. It submitted its plan on May 28, more than a week and one-half prior to the June 8 date in the Bill. When notified by PDM the plan had been approved (late in the afternoon of June 7), Flowers promptly retrieved the approved plan, made the thirty-six (36) copies mandated by PDM, and resubmitted the plan, copies and fee near the opening of business on the succeeding business day. Flowers should not be penalized when it was precluded from submitting. If the Bill required applicants to submit plans by a certain date, Flowers would have done so. The absence of any clear direction from either the Bill or PDM as to when a plan needed to be filed in order to meet the June 8 exemption date, however, left Flowers with the impossible task of divining how much time PDM would require to review, approve and return the plan. A week and one-half is more than adequate time for review of a concept plan.

BCC Section 26-202(e) provides only that "... an applicant shall file copies of the concept plan with the department of permits and development management which shall transmit them to the appropriate reviewing agencies for comment." By its plain terms, then, the statute requires only that an applicant submit copies of the concept plan – no further action on the part of the applicant is required. Flowers complied with the requirements of the statute.

This situation is qualitatively different from a filing with the clerk of court. The clerk will only accept a paper for filing upon payment of the fee. There will be no situation in the office of the clerk where a paper has been filed or accepted without payment of the requisite fee.

In the Flowers case, however, the 'paper' (the concept plan) had been received by PDM, reviewed for compliance and given a PDM number. The paper was 'in the clerk's office,' and consequently was 'accepted for filing within the scope of the Bill. Flowers did all it could do to effect the filing of the concept plan.

Acknowledging that Flowers met the time limit of the Bill works no difficulty on PDM. To the extent the agency perceives the need to more precisely define when a plan is 'filed' or 'accepted for filing,' the agency can proceed to enact a regulation which clarifies for potential applicants, and the world, what acts must be performed by an applicant. This would clarify for both the agency and the universe of potential applicants what acts must be performed by whom and by what specific time limit.

The evidence before the Commissioner is that Flowers is the only applicant caught in this dilemma. There is no risk, then, of setting a precedent. Inequitable circumstances such as those in which Flowers now finds itself mandate the wise exercise of the power granted to the Zoning Administrator to conduct a Special Hearing in BCZR Section 500.6 to interpret the Zoning Ordinance to reach a fair and equitable result. The fair and equitable result here -- where Flowers did all that it could do to meet the time limits of the Bill -- is to acknowledge that the concept had been 'accepted for filing' when it had been received by PDM and given a PDM number. The concept plan (the 'paper') was 'in the clerk's office' and should be determined to have been accepted for filing prior to June 7, thereby bringing it within the grandfathering provisions of the Bill.

As a general rule, legislative enactments are presumed to operate prospectively only, and are to be construed accordingly. *Granahan v. Prince George's County*, 326 Md. 346, 605 A.2d 91 (1992). This presumption against retrospectivity of a legislative enactment is rebutted only

where there are clear expressions in the statute to the contrary. *Id.* Even where permissible, retrospective application will not be found except upon the plainest mandate in the legislation. *Id.*

Applying the presumption of prospectivity, a statute will be found to operate retrospectively only when the legislature clearly expresses and intent the statute apply retroactively. *Allstate Insurance Co. v. Kim*, 376 Md. 276, 829 A.2d 611 (2003). The presumption against retrospectivity is rebutted only where there are clear expressions in the statute to the contrary. *Informed Physician Services, Inc. v. Blue Cross and Blue Shield of Maryland, Inc.*, 350 Md. 308, 711 A.2d 1330, reconsideration denied (1998).

The rule against retrospective application of a statute is particularly applicable where the statute adversely affects vested or substantive rights, rather than only altering procedural machinery. *Langston v. Riffe*, 359 Md. 396, 754 A.2d 389 (2000). Even a remedial or procedural statute may not be retrospectively if it will interfere with vested or substantive rights. *Dua v. Comcast Cable of Maryland, Inc.*, 370 Md. 604, 805 A.2d 1061 (2002).

It is both reasonable and appropriate the Baltimore County Council would provide an exemption to the performance standards contained in the Bill by allowing landowners to submit a concept plan by the specified date in order to protect the substantive rights they possessed in their property under its existing RC-5 zoning. Flowers fully complied with this "safe harbor" by timely filing its Plan with PDM -- a plan which was APPROVED by PDM prior to June 8, 2004.

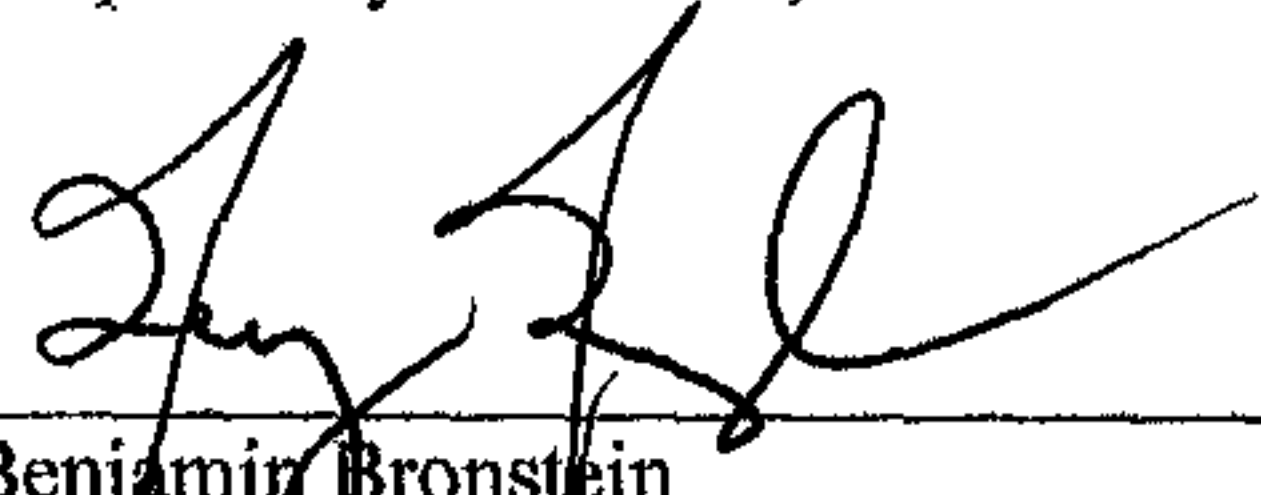
What is unreasonable, illogical and unjust is maintaining that Flowers, in order to gain the protection of the "safe harbor" must have -- PRIOR TO JUNE 8, 2004 -- (1) filed a concept plan; (2) received approval of the plan from PDM; (3) retrieved the plan from PDM; AND (4) resubmitted the plan with copies and fee to PDM.

In fact, Flowers failed to meet these additional requirements of PDM by a matter of hours, which highlights one of the most troubling aspects of PDM's position in this matter. In short, the ability of Flowers to avail itself of the legislative exemption set out in Section 4 of the Bill was not within Flowers' control, it was in the control of PDM.

Flowers filed the Plan on May 28, 2004, more than a week prior to the deadline. Flowers was advised in the afternoon of June 7, 2004 that the Plan was approved. Flowers promptly picked up the approved Plan, made the copies that night and returned the Plan, the copies and the fee to PDM at the opening of business on June 8, 2004, only to be told by PDM that (obviously through no fault on the part of Flowers) it would be denied the protection of Section 4 of the Bill.

The Baltimore County Council did not provide in the Bill that only those concept plans that had been filed with PDM, approved by PDM, returned to the applicant and then resubmitted with copies and fees fell within the protection of Section 4 of the Bill. All the County Council required was the concept plan be "accepted" by PDM "for filing". The Plan submitted by Flowers on May 28, 2004 had been far more than merely "accepted" by PDM prior to June 8 -- it had been approved and given a PDM file number. Under these circumstances, the Flowers' Plan should be given the protection of Section 4 of the Bill.

Respectfully submitted,



Benjamin Bronstein
Susquehanna Building - Suite 205
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 3229 Offutt Road

which is presently zoned RC 5

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

determine the applicability of Bill 55-04 to the concept plan in PDM file II-675.

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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Benjamin Bronstein

Name - Type or Print

Signature

Company

29 West Susquehanna Avenue, Suite 205 410-296-0200

Address Telephone No.

Towson Maryland 21204
City State Zip Code

Legal Owner(s):

Richard Flowers

Name - Type or Print

Signature

Julia Flowers

Name - Type or Print

Julia FLOWERS

Signature

P.O. Box 147

410-296-5288

Address

Telephone No.

Randallstown

Maryland

21133

City

State

Zip Code

Representative to be Contacted:

Michael J. Ertel, P.E.

M J Consulting, Inc.

Name

208 Washington Avenue

410-296-5288

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By JNP per WCR Date 8/10/04

Case No. 05-079-SPH

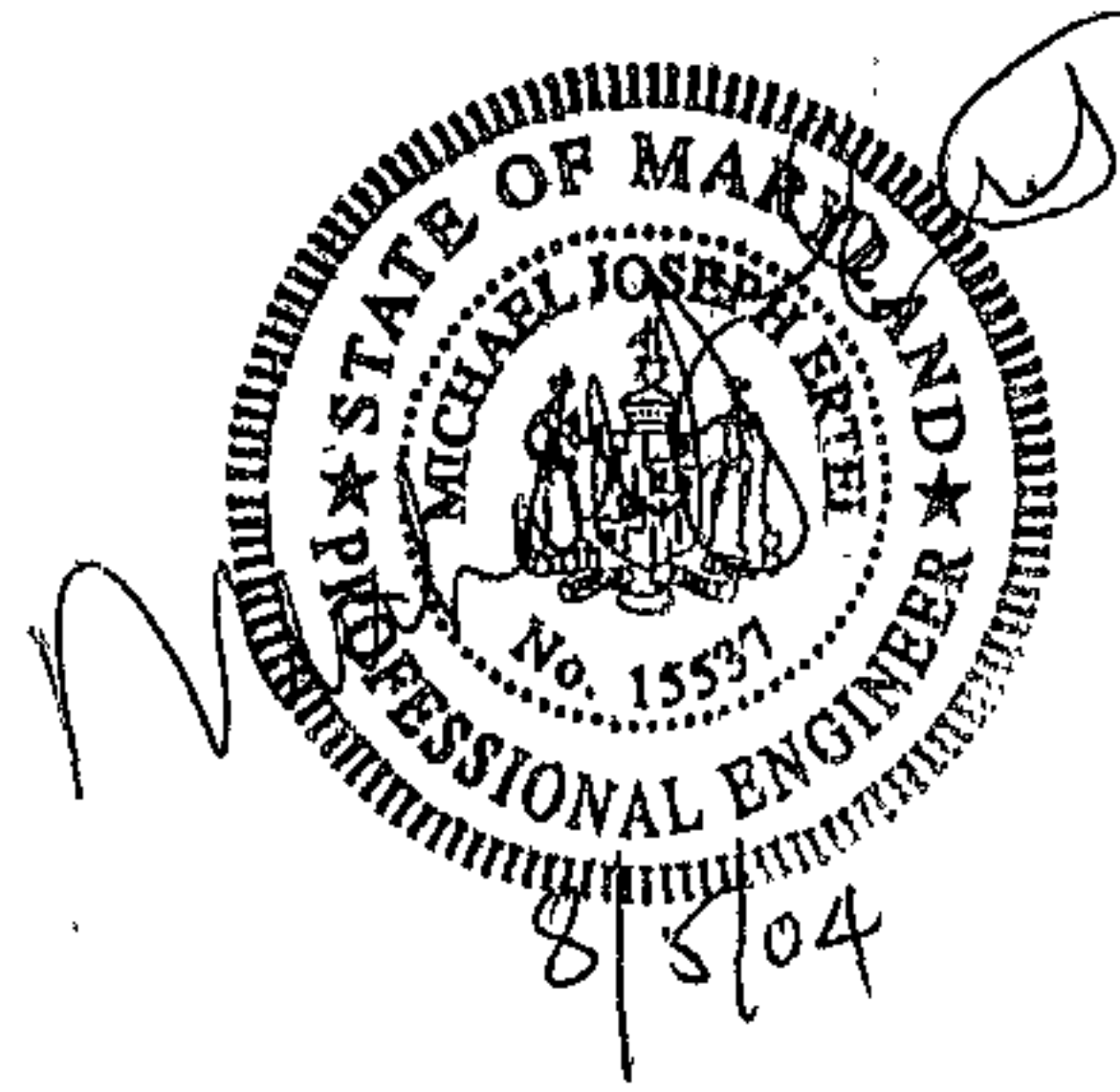
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JNP

DESCRIPTION OF PROPERTY KNOWN AS TAX MAP 77, PARCEL 207

BEGINNING AT A POINT 2824' SOUTH OF THE INTERSECTION OF THE CENTERLINES OF LIBERTY AND OF OFFUTT ROADS AND AT THE SAME BEGINNING POINT AS DESCRIBED IN DEED 6224/163 AS RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY AND FROM THAT POINT THE FOLLOWING COURSES AND DISTANCES

(1) S 58°15'18"E, 1471.84' (2) S 8°27'04"W, 781.67' (3) N 81°46'05"W, 413.78' (2) (4) N 64°13'58"W, 569.25', (5) S 77°01'02"W, 226.88' (6) N00°16'02"E, 1291.13'

TO THE PLACE OF BEGINNING, CONTAINING 28.59 ACRES MORE OR LESS. BEING THE SAME PROPERTY AS DESCRIBED IN THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER 6224/163.



05-079-SPM

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 39704

DATE 8/12/04 ACCOUNT R-001-006-6150

AMOUNT \$200.00 65.00

RECEIVED FROM: Benjamin Bronstein

FOR: Special Meeting - 3009 OFFICE ROAD

DF-079-SP4 (FLOWERS)

DISTRIBUTION Charge Per Carl & Jim
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

200.00
8/20/04

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DATE
8/20/2004	8/20/2004	11:15:43	
REG 4503	MAIL	LPET IMP	
RECEIPT # 28044	8/20/2004	0614	
Dept	5	328 ZONING VERIFICATION	
EX NO.	007709		
Recpt Tot		145.00	
145.00	CH	4.00	CA
Baltimore County, Maryland			

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

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

Case: # 05-079-SPH
3229 Offutt Road
E/side of Offutt Road, 2,824 feet south of Liberty Road
2nd Election District - 4th Councilmanic District
Legal Owner(s): Richard and Julia Flowers
Special Hearing: to determine the applicability of Bill 55-04 to the concept plan in PDM file II-675.
Hearing: Tuesday, October 6, 2004 at 11:00 a.m. in Room 407, County Courts Building, 401 Bayley 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 9/7/96 Sept. 21

CERTIFICATE OF PUBLICATION

9/23/2004

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 9/21/2004.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

Sincerely,

Martin Ogle 9/22/04
(Signature of Sign Poster and Date)

Martin Ogle

(Printed Name)

5016 Castlestone Drive

(Address)

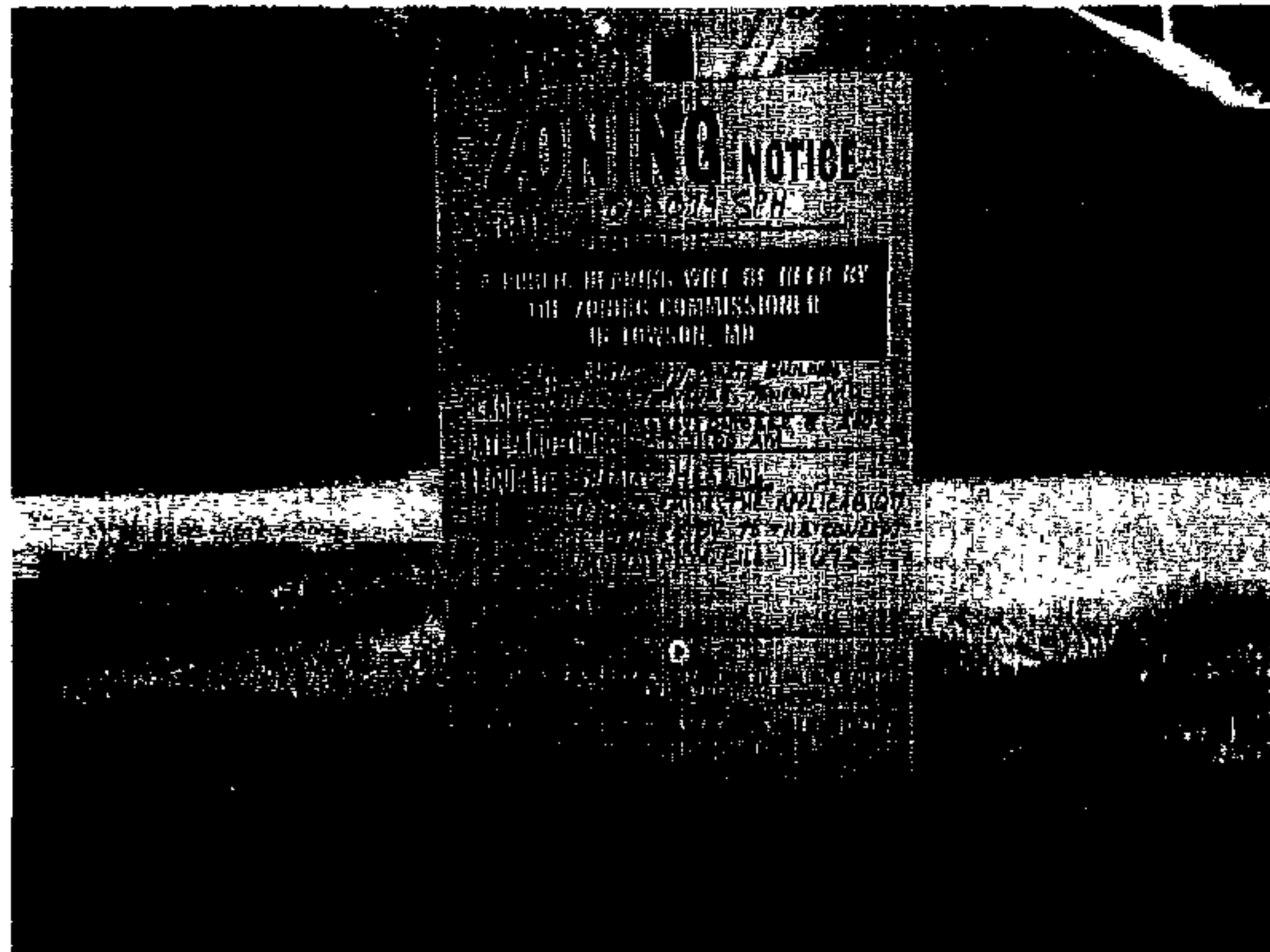
Balto, MD 21237

(City, State, Zip Code)

(410)-933-9470

(Phone Number)

lm000078 (1152x864x24b jpeg)



Master Ofc 9/20/04

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 21, 2004 Issue - Jeffersonian

Please forward billing to:

Benjamin Bronstein
29 West Susquehanna Avenue, Ste. 205
Towson, MD 21204

410-296-0200

NOTICE OF ZONING HEARING

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

CASE NUMBER: 05-079-SPH

3229 Offutt Road

E/side of Offutt Road, 2,824 feet south of Liberty Road

2nd Election District – 4th Councilmanic District

Legal Owners: Richard and Julia Flowers

Special Hearing to determine the applicability of Bill 55-04 to the concept plan in PDM file II-675.

Hearing: Tuesday, October 5, 2004 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**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

August 12, 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: 05-079-SPH

3229 Offutt Road
E/side of Offutt Road, 2,824 feet south of Liberty Road
2nd Election District – 4th Councilmanic District
Legal Owners: Richard and Julia Flowers

Special Hearing to determine the applicability of Bill 55-04 to the concept plan in PDM file II-675.

Hearing: Tuesday, October 5, 2004 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Benjamin Bronstein, 29 W. Susquehanna Ave., Ste. 205, Towson 21204
Richard & Julia Flowers, P.O. Box 147, Randallstown 21133
Michael Ertel, 208 Washington Ave., Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 20, 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 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 05-079-SPH
Petitioner FLOWERS
Address or Location 3229 OFFUTT ROAD (FLOWERS PROPERTY)

PLEASE FORWARD ADVERTISING BILL TO

Name Benjamin Bronstein
Address 29 West Susquehanna Avenue, Suite 205
Towson, MD 21204
Telephone Number 410-296-0200

**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*

September 28, 2004

Benjamin Bronstein
29 W. Susquehanna Avenue, Ste. 205
Towson, Maryland 21204

Dear Mr. Bronstein:

RE: Case Number:05-079-SPH, 3229 Offutt Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 10, 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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Richard and Julia Flowers P.O. Box 147 Randallstown 21133
Michael J. Ertel, P.E. 208 Washington Avenue Towson 21204

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



Fire Department

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



Baltimore County

James T. Smith, Jr., County Executive
John J. Holman, Chief

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

August 24, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: August 16, 2004

279

Item No.: 061-069, 071, 072, 074, 076-080

Pursuant to your request, the referenced plan(s) have been reviewed 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

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



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: September 1, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For August 23, 2004
Item Nos. 061, 062, 063, 064, 065,
066, 067, 068, 069, 070, 072, 074, 075,
076, 077, 079, 080, and 081

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

RWB:CEN:jrb

cc: File

10/5

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
FROM: John D. Oltman, Jr
DATE: September 3, 2004
SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of August 16, 2004

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-061 ✓ AV
04-062 ✓ AV
04-063 ✓ (10/11)
04-065 ✓ (10/5)
04-067 ✓ AV
04-068 ✓ (10/11)
04-069 ✓ AV
04-071 ✓ LS
04-072 ✓ AV
04-077 ✓ (10/5)
04-079 ✓ (10/5)
04-080 ✓ (10/5)
04-081 ✓ (10/12)

Reviewers: Sue Farinetti, Dave Lykens

gm
10/5

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 13, 2004

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 5-079, 5-084 and 5-096**
Administrative Variance

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

Prepared By:

Mark A. Cunningham

RECEIVED

SEP 13 2004

Division Chief:

John J. Ferbase

ZONING COMMISSIONER

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: 8.27.04

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

RE: Baltimore County
Item No. 05-079 - SPH
Revised

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,

Steven D. Foster, Acting 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: 8.13.09

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

RE: Baltimore County
Item No. 0779 JNP

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,

Steven D. Foster, Acting Chief
Engineering Access Permits Division

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
3229 Offutt Road; E/side of Offutt Road, *
2824' S of Liberty Road * ZONING COMMISSIONER
2nd Election & 4th Councilmanic Districts *
Legal Owner(s): Richard & Julia L Flowers * FOR
Petitioner(s) * BALTIMORE COUNTY
* 05-079-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 19th day of August, 2004, a copy of the foregoing Entry of Appearance was mailed to Michael J Ertel, PE, 208 Washington Avenue, Towson, MD 21204 and Benjamin Bronstein, 29 W Susquehanna Avenue, Suite 205, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

AUG 19 2004

Per.....



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

RE: 3229 Offutt Road
East Side of Offutt Road
2,824 Ft. South of Liberty Road

2nd Election District
4th Councilmanic District

Legal Owners: Richard and Julia Flowers

* BEFORE THE
* ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO.: 05-079-SPH

* * * * *

SUBPOENA DUCES TECUM

Please issue a Subpoena to the following named witness to appear before the Zoning Commissioner for Baltimore County at the hearing for the matter captioned above **on Tuesday, October 5, 2004, at 11:00 a.m.** in Room 407, County Courts Building, 402 Bosley Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Zoning Commissioner.

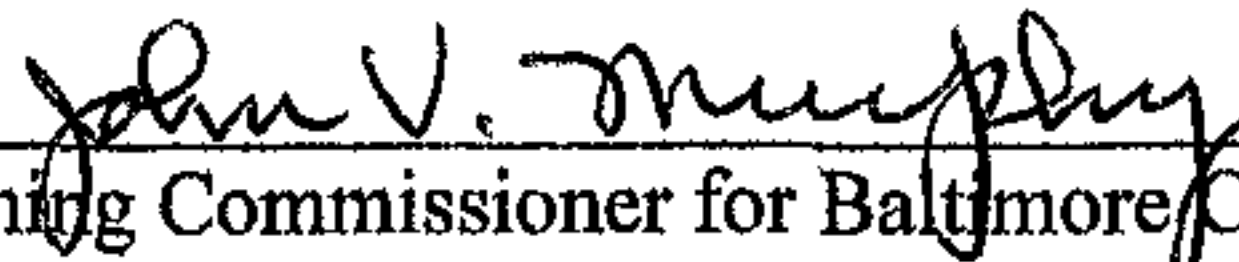
WITNESS: Joseph R. Chmura (and bring with him PDM file II-675)

ADDRESS: Balto. Co. Department of Permits & Development Management
County Office Building - Mail Stop 1105
111 West Chesapeake Avenue
Towson, Maryland 21204

REQUESTED BY:

NAME: Benjamin Bronstein, Esquire
ADDRESS: 205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204

The witness named above is hereby ordered to so appear before the Zoning Commissioner for Baltimore County.


Zoning Commissioner for Baltimore County

BENJAMIN BRONSTEIN

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

August 9, 2004

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

RE: 3229 Offutt Road

Dear Mr. Kotroco:

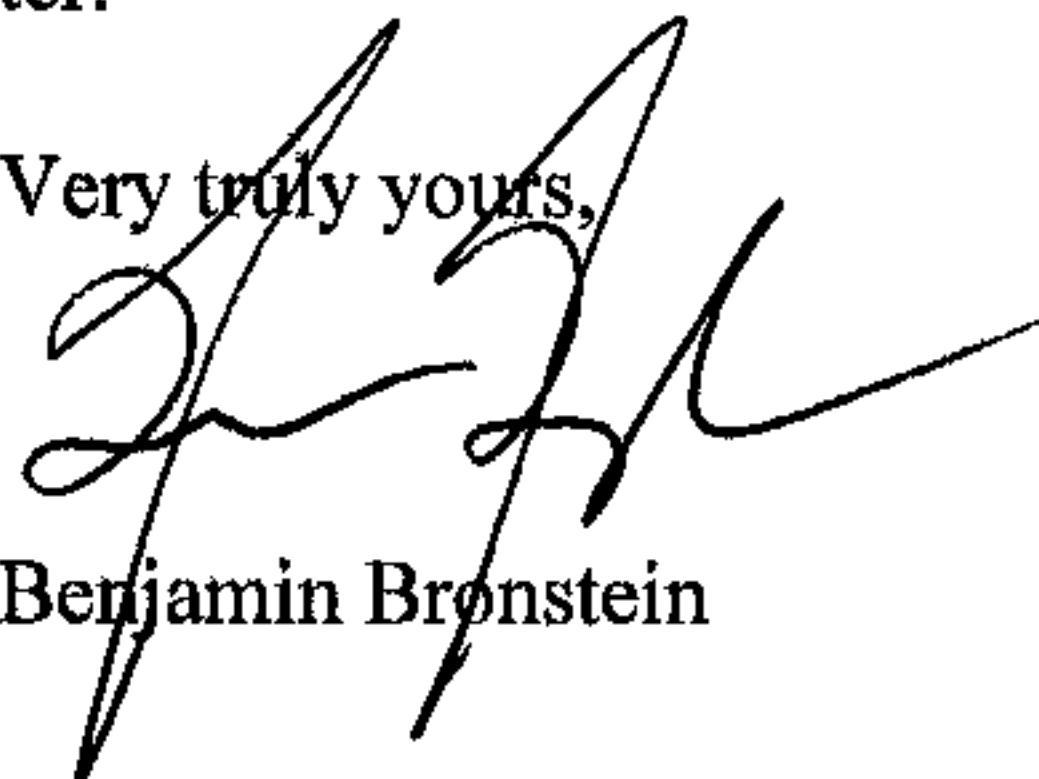
In reference to the above-entitled property, I am hereby enclosing the following:

1. Petition for Special Hearing in triplicate;
2. Thirteen (13) copies of the Plat to Accompany Petition for Special Hearing;
3. Three copies of the description under seal;
4. Copy of the 200 Scale Zoning Map; and
5. Check payable to Baltimore County, Maryland for costs.

There are no violations. Please enter my appearance and advise me of the date of hearing.

Thank you for your kind attention to this matter.

Very truly yours,



Benjamin Bronstein

BB/mlh
Enclosures

05-079-SPH

BENJAMIN BRONSTEIN

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

RECEIVED

OCT - 7 2004

ZONING COMMISSIONER

October 6, 2004

The Honorable John V. Murphy
Deputy Zoning Commissioner for Baltimore County
County Courts Building - Suite 405
401 Bosley Avenue
Towson, Maryland 21204

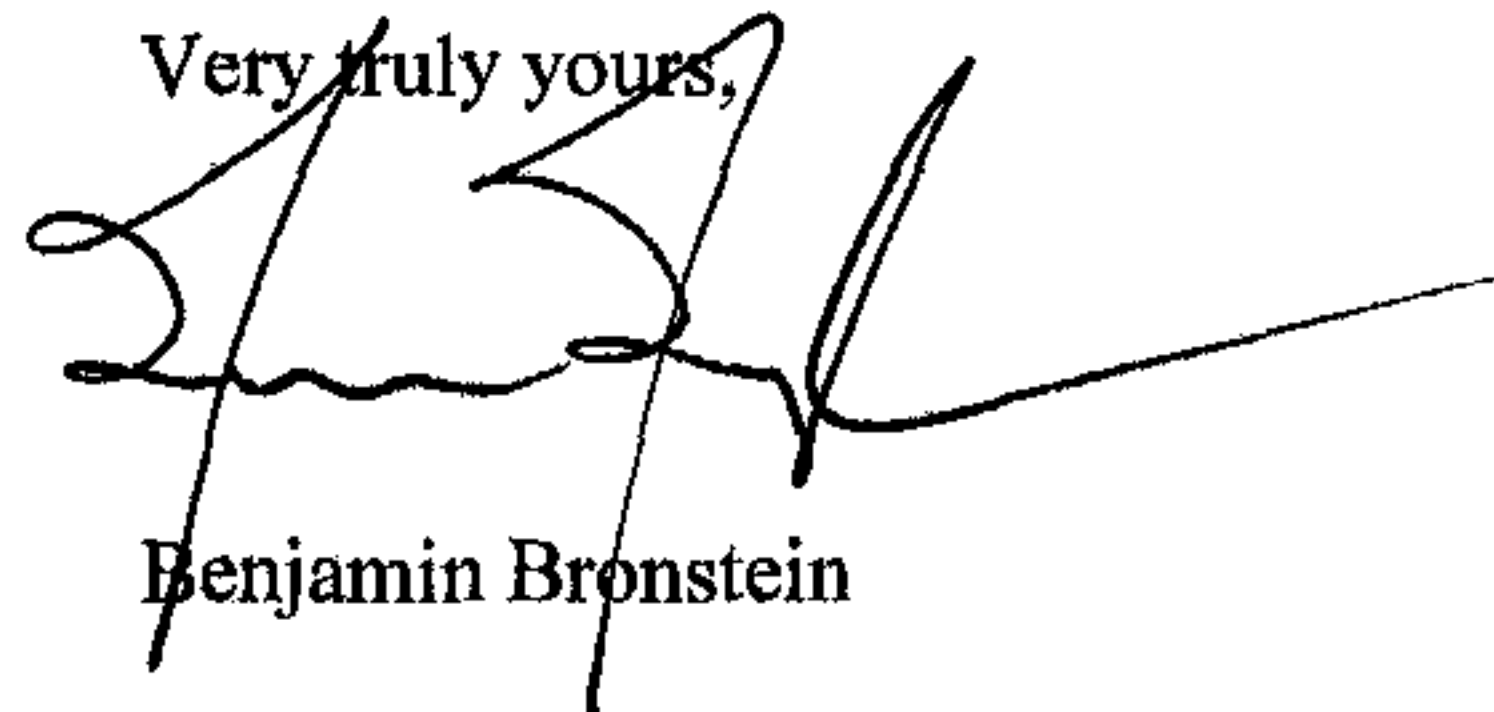
RE: 3229 Offutt Road
East side of Offutt Road, 2824 feet South of Liberty Road
2nd Election District
4th Councilmanic District
Legal Owners: Richard and Julia Flowers
Before the Zoning Commissioner - Case No.: 05-079-SPH

Dear Deputy Commissioner Murphy:

On behalf of the Petition in the above-entitled case, I am herewith submitting a Memorandum of Law.

Thank you for your review and kind consideration.

Very truly yours,



Benjamin Bronstein

BB/mlh
Enclosure

cc: Mr. Walter T. Smith
Dept. of Permits & Development Management

Mr. Craig Rodgers

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2004, Legislative Day No. 2

Bill No. 55-04

Mr. Kevin Kamenetz, Councilman

By the County Council, May 3, 2004

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - R.C. 5 Zone

FOR the purpose of amending the minimum lot requirement in the R.C. 5 Zone; providing exceptions; repealing obsolete references; altering the building setback requirement of the R.C. 5 Zone; providing performance standards for residential development in the R.C. 5 Zone; providing for the application of the Act; and generally relating to residential development in R.C. 5 Zones.

BY repealing

Sections 1A04.2.A.12 and 1A04.4
Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments

Sections 1A04.3.B.1. and 2.
Baltimore County Zoning Regulations, as amended

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY adding

Sections 1A04.4
Baltimore County Zoning Regulations, as amended

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Sections 1A04.2.A.12 and 1A04.4 of the Baltimore County
3 Zoning Regulations, as amended, be and they are hereby repealed.

4 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 1A04.3.B.1. and 2. of
5 the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and re-
6 enacted, with amendments, to read as follows:

7 Section 1A04

8 R.C. 5 (Rural - Residential) Zone

9 1A04.3 Height and area regulations.

10 B. Area regulations.

11 1. Lot area; density control. A lot having an area of less than [one acre] ~~TWO~~
12 ONE AND ONE-HALF ACRES may not be created in an R.C. 5 Zone. The maximum gross
13 residential density of a lot of record is 0.667 dwelling per acre.

14 THE OWNER OF A SINGLE LOT OF RECORD THAT IS NOT A
15 SUBDIVISION AND THAT IS IN EXISTENCE PRIOR TO SEPTEMBER 2, 2003 BUT DOES
16 NOT MEET THE MINIMUM ~~TWO-ACRE-REQUIREMENT~~ ACREAGE REQUIREMENT,
17 OR DOES NOT MEET THE SETBACK REQUIREMENT OF PARAGRAPH 2., MAY APPLY
18 FOR A SPECIAL HEARING UNDER ARTICLE 5 TO ALTER THE MINIMUM LOT SIZE

1 REQUIREMENT. HOWEVER, THE PROVISIONS OF SECTION 1A04.4 MAY NOT BE
2 VARIED.

3 ~~2. Building setbacks. Any principal building hereafter constructed in an R.C. 5~~
4 ~~Zone shall be situated at least 200 FEET FROM THE CENTER LINE OF ANY PUBLIC ROAD~~
5 ~~IN EXISTENCE AND MAINTAINED BY THE COUNTY PRIOR TO 1990, AND AT LEAST~~
6 ~~75 feet from the center line of any OTHER street, and at least 50 feet from any lot line other than~~
7 ~~a street line, except as otherwise provided in Paragraph 5 below.~~

8 2. BUILDING SETBACKS.

9 (A) AS USED IN THIS SECTION, COLLECTOR ROAD MEANS A
10 STREET OR ROAD THAT IS DESIGNED FOR SPEEDS OF AT LEAST 35 MILES PER
11 HOUR, AND IS INTENDED FOR TRAVEL, INCLUDING COMMUTER TRAVEL,
12 BETWEEN RESIDENTIAL NEIGHBORHOODS, BUT NOT FOR TRAVEL WITHIN
13 NEIGHBORHOODS, AND IS NOT DESIGNATED AS A PRINCIPAL ARTERIAL.

14 (B) ANY PRINCIPAL BUILDING HEREAFTER CONSTRUCTED IN
15 AN R.C. 5 ZONE SHALL BE SITUATED AT LEAST 150 FEET FROM THE CENTER LINE
16 OF ANY COLLECTOR ROAD, AND 100 FEET FROM THE CENTER LINE OF ANY ROAD
17 THAT LEADS TO OR CONNECTS WITH A COLLECTOR ROAD, AND AT LEAST 75
18 FEET FROM THE CENTER LINE OF ANY OTHER STREET OR ROAD, AND AT LEAST
19 50 FEET FROM ANY LOT LINE OTHER THAN A STREET LINE, EXCEPT AS
20 OTHERWISE PROVIDED IN PARAGRAPH 5 BELOW.

21 (C) ANY PRINCIPAL BUILDING CONSTRUCTED IN AN R.C. 5
22 ZONE THAT IS CONTIGUOUS TO AN R.C. 2 OR R.C. 7 ZONE SHALL BE SITUATED AT
23 LEAST 150 FEET FROM THE ZONE LINE.

1 SECTION 3. AND BE IT FURTHER ENACTED, that Section 1A04.4 be and it is
2 hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

3 1A04.4 PERFORMANCE STANDARDS.

4 A. THE STANDARDS IN THIS SECTION APPLY TO ALL RESIDENTIAL
5 DEVELOPMENT IN THE R.C. 5 ZONE INCLUDING SINGLE LOTS OF RECORD AND
6 MINOR SUBDIVISIONS.

7 B. INTENT; EVALUATION OF COMPLIANCE.

8 1. THESE STANDARDS ARE INTENDED TO ENSURE THAT RURAL
9 RESIDENTIAL DEVELOPMENT CONFORMS WITH A HIGHER QUALITY OF DESIGN
10 THAT MAINTAINS AND REFLECTS THE RURAL CHARACTER OF THE COUNTY.

11 2. THE EVALUATION OF COMPLIANCE SHALL OCCUR AS PART OF
12 THE REVIEW OF DEVELOPMENT PROPOSALS. IN ADDITION TO ALL OTHER TIMES
13 REQUIRED BY LAW, THE OFFICE OF PLANNING SHALL REVIEW A PLAN AND
14 SUBMIT FINDINGS TO ENSURE COMPLIANCE, INCLUDING SITE LAYOUT OF
15 PRINCIPAL BUILDINGS AND PROPOSED ROADS, AT THE TIME OF PERC TEST
16 APPLICATION AND AT THE TIME OF CONSTRUCTION DOCUMENT SUBMISSION.

17 3. THE OFFICE OF PLANNING MAY REQUIRE THE SUBMITTAL OF
18 SUFFICIENT INFORMATION, SUCH AS A WRITTEN NARRATIVE OF THE SALIENT
19 FEATURES OF THE SITE, THE DESIGN CONCEPT OF THE SITE PLAN, A PHOTO
20 MONTAGE AND BUILDING ELEVATIONS AND GRADING PLANS, FROM WHICH A
21 FINDING CAN BE MADE ON COMPLIANCE OF THE PROJECT WITH THE
22 STANDARDS.

1 4. DEVIATION FROM THE STANDARDS MAY BE ALLOWED ONLY IF
2 CLEARLY NECESSARY TO:

3 (I) COMPLY WITH ANOTHER STANDARD; OR
4 (II) COMPLY WITH ENVIRONMENTAL REGULATIONS OR
5 OTHERWISE PROTECT RESOURCES.

6 5. DEVIATION FROM THE STANDARDS IS NOT PERMITTED FOR THE
7 PURPOSE OF ALLOWING ADDITIONAL LOTS.

8 C. CONSIDERATION OF FINDINGS; DEVIATION FROM STANDARDS.

9 ~~1. THE OFFICE OF PLANNING'S FINDINGS SHALL BE MADE BY THE~~
10 ~~DIRECTOR OF PLANNING AND SUBMITTED TO THE HEARING OFFICER OR TO THE~~

11 1. THE FINDINGS OF THE OFFICE OF PLANNING SHALL BE
12 SUBMITTED TO THE HEARING OFFICER OR TO THE DIRECTOR OF PERMITS AND
13 DEVELOPMENT MANAGEMENT, AS APPLICABLE.

14 2. THE HEARING OFFICER OR THE DIRECTOR OF PERMITS AND
15 DEVELOPMENT MANAGEMENT, AS APPLICABLE, SHALL ~~CONSIDER~~ ADOPT THE
16 FINDINGS PRESENTED BY THE ~~DIRECTOR OF PLANNING OR THE DIRECTOR'S~~
17 ~~DESIGNEE~~ OFFICE OF PLANNING BEFORE A DEVELOPMENT PLAN IS APPROVED,
18 UNLESS THE HEARING OFFICER OR DIRECTOR DETERMINES THAT THE FINDINGS
19 CONSTITUTE AN ABUSE OF DISCRETION OR ARE UNSUPPORTED BY THE
20 DOCUMENTATION AND EVIDENCE PRESENTED TO THE OFFICE. THE OFFICE OF
21 PLANNING MAY RECOMMEND RELAXATION OF PUBLIC WORKS STANDARDS IF
22 NECESSARY TO ENHANCE OR MAINTAIN THE RURAL CHARACTER OF THE

1 PROPOSED DEVELOPMENT PROVIDED THAT PUBLIC SAFETY IS NOT
2 JEOPARDIZED.

3 ~~3. AFTER CONSIDERING THE FINDINGS, THE HEARING OFFICER OR~~
4 ~~THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT MAY DEVIATE~~
5 ~~FROM THE STANDARDS ONLY IN ACCORDANCE WITH THE REQUIREMENTS IN~~
6 ~~PARAGRAPH B.4 OF THIS SUBSECTION.~~

7 ~~4. DEVIATION FROM THE STANDARDS IS NOT PERMITTED FOR THE~~
8 ~~PURPOSE OF ALLOWING ADDITIONAL LOTS.~~

9 D. SITE PLANNING.

10 1. A DEVELOPMENT PROPOSAL SHALL:

11 (I) REFLECT THE TRADITIONAL RURAL CHARACTER OF THE
12 AREA IN ARCHITECTURAL FORM, SCALE, MATERIALS, DETAILING AND
13 LANDSCAPING CONTEXT.

14 (II) RETAIN THE EXISTING QUALITY VEGETATION OF THE SITE
15 TO THE FULLEST EXTENT POSSIBLE AND PROTECT THE ROOT SYSTEMS OF THE
16 REMAINING VEGETATION DURING CONSTRUCTION.

17 (III) INTEGRATE, ~~AS POSSIBLE, LOCALLY~~ WHERE POSSIBLE,
18 SIGNIFICANT FEATURES OF THE SITE, SUCH AS DISTINCTIVE BUILDINGS, VISTAS,
19 TOPOGRAPHIC FEATURES, SPECIMEN TREES, TREE STANDS, HEDGEROWS,
20 MONUMENTS, LANDMARKS AND GARDENS, INTO THE SITE DESIGN, AND RETAIN
21 THE EXISTING CHARACTER OF THE FEATURES AND THEIR SETTINGS.

22 (IV) COORDINATE BUILDING DESIGN, SITE LAYOUT, AND
23 GRADING SO THAT GRADE TRANSITIONS ARE GRADUAL AND RESPECT THE

1 EXISTING TOPOGRAPHY.

2 (V) PROVIDE FOR SMOOTH TRANSITIONS BETWEEN
3 ~~NEIGHBORHOODS~~ THE PROPOSED DEVELOPMENT AND THE SURROUNDING
4 RURAL AREA BY ARRANGING AND ORIENTING THE PROPOSED BUILDINGS AND
5 SITE IMPROVEMENTS TO COMPLEMENT THOSE IN THE SURROUNDING
6 ~~NEIGHBORHOOD~~ VICINITY.

7 (VI) PROVIDE ~~TRANSITIONS~~ VARIETAL TRANSITIONS BETWEEN
8 PROPOSED BUILDINGS AND SITE IMPROVEMENTS WITH RESPECT TO SETBACKS,
9 STREET PATTERNS, AND BUILDING-TO-STREET GRADE RELATIONSHIPS.

10 2. REVERSE-FRONTAGE LOTS ARE PERMITTED ONLY IF THE
11 APPLICANT CAN DEMONSTRATE THAT ADEQUATE SETBACKS, TOPOGRAPHY,
12 BERMING, LANDSCAPING OR BUILDING DESIGN WILL EFFECTIVELY SCREEN
13 PRIVATE YARD SPACE AND DECKS FROM THE PUBLIC VIEW.

14 3. FENCES MAY NOT BE LOCATED CLOSER THAN 50 FEET TO A
15 PUBLIC RIGHT-OF-WAY.

16 3.4. PANHANDLE LOTS MUST CONFORM TO SECTION 32-4-409 OF THE
17 BALTIMORE COUNTY CODE AND TO THE STANDARDS IN THE COMPREHENSIVE
18 MANUAL OF DEVELOPMENT POLICIES.

19 5. STREETS SHALL INCORPORATE CURVILINEAR OR CIRCULAR
20 FEATURES.

21 E. OPEN SPACE. A DEVELOPMENT PROPOSAL SHALL:

22 1. INTEGRATE OPEN SPACE AREAS INTO THE PROPOSED
23 DEVELOPMENT BY:

1 (I) CREATING FOCAL POINTS ALONG STREETS;
2 (II) LOCATING LANDSCAPED OPEN GREEN SPACES ~~IN VIEW OF~~
3 THAT MAY BE VIEWABLE FROM THE DEVELOPMENT ENTRANCE OR ADJOINING
4 PUBLIC STREET; AND

5 ~~(III) PLANNING A LINKED NETWORK OF NATURAL AND~~
6 ~~LANDSCAPED OPEN AREAS CONNECTED BY PEDESTRIAN/BIKE TRAILS; AND~~

7 (IV) (III) ORIENTING DWELLING UNITS AROUND OPEN AREAS
8 OR SQUARES.

9 2. INCORPORATE SIGNIFICANT FEATURES, SUCH AS STANDS OF
10 TREES, INTO OPEN AREAS.

11 ~~3. LINK THE DEVELOPMENT'S OPEN AREAS TO ANY SURROUNDING~~
12 ~~NEIGHBORHOOD OPEN AREAS, INCLUDING PUBLIC PARKS, WALKS, AND BIKE~~
13 ~~TRAILS AND CREATE BOTH FUNCTIONAL AND VISUAL CONTINUITY.~~

14 ~~F. STREETS AND PARKING.~~

15 ~~1. A DEVELOPMENT PROPOSAL SHALL:~~

16 ~~(I) DESIGN STREETS TO SLOW TRAFFIC, INCLUDING THE USE,~~
17 ~~AS APPROPRIATE, OF REDUCED STREET WIDTH AND BLOCK LENGTH AND THE~~
18 ~~USE OF TRAFFIC MANAGEMENT DEVICES, SUCH AS ROUNDABOUTS, ETC.~~

19 ~~(II) ALLOW ON-STREET PARKING.~~

20 ~~2. STREET WIDTHS AND FRONT YARD SETBACKS, OTHER THAN TO~~
21 ~~PUBLIC ROADS IN EXISTENCE AND MAINTAINED BY THE COUNTY PRIOR TO 1990,~~
22 ~~MAY BE REDUCED IN ACCORDANCE WITH TRADITIONAL NEIGHBORHOOD~~
23 ~~DESIGN STANDARDS.~~

1 3. IN ADDITION TO PLANT MATERIAL, USE FENCES, WALLS OR
2 EARTH FORMS TO PROVIDE EFFECTIVE AND ATTRACTIVE SCREENS AND
3 BUFFERS WHERE NECESSARY. BUFFER QUANTITIES ARE NOT LIMITED BY THE
4 BALTIMORE COUNTY LANDSCAPE MANUAL.

5 ~~G. LANDSCAPE DESIGN.~~

6 ~~1. A DEVELOPMENT PROPOSAL SHALL:~~

7 ~~(I) LANDSCAPE PUBLIC OPEN SPACES TO INVITE USERS,~~
8 ~~EMPHASIZING, PARTICULARLY, THE INTENDED ENTRANCE TO THE OPEN SPACE.~~

9 ~~(II) IN ADDITION TO PLANT MATERIAL, USE FENCES, WALLS OR~~
10 ~~EARTH FORMS TO PROVIDE EFFECTIVE AND ATTRACTIVE SCREENS AND~~
11 ~~BUFFERS WHERE NECESSARY.~~

12 ~~(III) PROVIDE FOR, OR REINFORCE AND MAINTAIN, A~~
13 ~~CONTINUOUS TREE GROWTH BY PRESERVING HEALTHY TREES OR, IF THEY ARE~~
14 ~~NOT PRESENT, PLANTING NEW TREES. THE GROWTH SHALL BE COMPRISED OF~~
15 ~~TREES OF THE SAME SPECIES OR TREES WITH DESIGN CHARACTERISTICS AND~~
16 ~~GROWTH HABITS THAT ARE SIMILAR TO THOSE OF THE EXISTING TREES.~~

17 ~~(IV) COMMUNITY SIGNAGE SHALL BE DESIGNED TO~~
18 ~~INCORPORATE NATURAL MATERIALS. THE DESIGN FOR COMMUNITY SIGNAGE~~

19 F. LANDSCAPE DESIGN.

20 1. A DEVELOPMENT PROPOSAL SHALL BE LANDSCAPED TO
21 MAINTAIN AND ENHANCE A RURAL CHARACTER, ESPECIALLY AS VISIBLE FROM
22 AN ARTERIAL OR CONNECTOR ROAD. THIS MAY INCLUDE A PROVISION FOR
23 CONTIGUOUS TREE GROWTH OF THE SAME SPECIES OR TREES WITH DESIGN

1 CHARACTERISTICS AND GROWTH HABITS THAT ARE SIMILAR TO THOSE OF THE
2 SURROUNDING RURAL AREA.

3 2. COMMUNITY SIGNAGE SHALL BE DESIGNED WITH NATURAL
4 MATERIALS THAT REFLECT A RURAL CHARACTER. THE DESIGN FOR
5 COMMUNITY SIGNAGE, INCLUDING THE SIZE OF LETTERING, SHALL BE SHOWN
6 ON THE SCHEMATIC LANDSCAPE PLAN OR INCLUDED IN THE FINAL
7 DEVELOPMENT PLAN AND SHALL BE APPROVED PART OF THE APPROVAL
8 PROCESS BEFORE ISSUANCE OF ANY BUILDING PERMITS.

9 H G. BUILDINGS.

10 1. A DEVELOPMENT PROPOSAL SHALL:

11 (I) ~~PROVIDE~~ ALLOW VARIETY IN HOUSING TYPE OR DESIGN,
12 WHILE MAINTAINING CONTINUITY IN SCALE, RHYTHM, PROPORTION AND
13 DETAIL.

14 (II) ORIENT THE FRONT OF THE DWELLING TOWARD THE
15 STREET AND INCORPORATE PROMINENT ENTRIES AND PORCHES OR STOOPS IN
16 FRONT BUILDING FACADES.

17 ~~(III) DESIGN DECKS, BALCONIES, AND PORCHES AS~~
18 (III) PROVIDE FOR THE COORDINATED ARCHITECTURAL
19 DESIGN OF DECKS, BALCONIES, WINDOWS, DORMERS, CHIMNEYS AND PORCHES
20 AS COMPONENTS OF THE BUILDING FOLLOWING DOMINANT BUILDING LINES,
21 PROPORTIONS, AND STYLE, AND IN A SCALE APPROPRIATE TO THE AVAILABLE
22 PROPORTIONS, STYLE AND SCALE. SPACE ON THE SITE. DECKS SHALL BE
23 SCREENED TO MINIMIZE VISIBILITY FROM A PUBLIC STREET.

1 (IV) DESIGN ACCESSORY STRUCTURES AT A SCALE

2 APPROPRIATE TO THE DWELLING AND DESIGN GARAGES WITH THE SAME
3 ARCHITECTURAL THEME AS THE PRINCIPAL BUILDING ON THE SITE, PROVIDING
4 CONSISTENCY IN MATERIALS, COLORS, ROOF PITCH, AND STYLE.

5 ~~(V) EXTERIORS OF ALL BUILDINGS SHALL USE THE SAME~~
6 ~~FINISH MATERIALS ON ALL FRONT AND SIDE ELEVATIONS. IN THE CASE OF~~
7 ~~REVERSE FRONTAGE LOTS, EXTERIORS SHALL USE THE SAME FINISH MATERIALS~~
8 ~~ON ALL ELEVATIONS.~~

9 ~~(VI) EXTEND THE FINISH MATERIAL OF THE EXTERIORS OF~~
10 ~~BUILDINGS TO GRADE, OR, IF THIS IS NOT POSSIBLE, TO WITHIN 12 INCHES OF~~
11 ~~GRADE, ON ALL SIDES OF THE BUILDING EXCLUDING FOUNDATION WALLS~~
12 ~~WHICH SHALL USE A FINISHED QUALITY MATERIAL SUCH AS BRICK, STONE,~~
13 ~~DECORATIVE CONCRETE BLOCK, POURED CONCRETE WITH A BRICK PATTERN,~~
14 ~~OR STUCCO, AND PROVIDE LANDSCAPING ALONG THE FOUNDATION.~~

15 ~~(VII) USE SIMILAR MATERIALS AND DESIGN ELEMENTS ON ALL~~
16 ~~BUILDING FACADES AND ARTICULATE ALL BUILDING FACADES USING~~
17 ~~COORDINATED ARCHITECTURAL FEATURES SUCH AS PORCHES, WINDOWS,~~
18 ~~DOORS, CHIMNEYS, GABLES, AND DORMERS.~~

19 (V) ENSURE THAT EXTERIORS OF ALL BUILDINGS USE THE
20 SAME FINISH MATERIALS AND ARCHITECTURAL DETAILS ON ALL FRONT, SIDE
21 AND REAR ELEVATIONS. USE OF QUALITY MATERIAL SUCH AS BRICK, STONE OR
22 CEDAR IS ENCOURAGED.

23 2. GARAGES MAY NOT BECOME THE DOMINANT STREET FEATURE.

1 GARAGE DOORS SHALL USE ITEMS SUCH AS WINDOWS, DECORATIVE PATTERNS,
2 AND COLOR TO RELIEVE THE VISUAL IMPACT OF THE HOUSE FROM THE STREET.

3 SECTION 4. AND BE IT FURTHER ENACTED, that this Act shall not apply to any
4 concept plan or application for limited exemption or waiver accepted for filing prior to
5 ~~September 2, 2003~~ June 7, 2004.

6 SECTION 5. AND BE IT FURTHER ENACTED, that this Act shall not apply to the
7 Back River Neck District as defined in Section 4A03.13 of the Baltimore County Zoning
8 Regulations.

9 SECTION 5 6. AND BE IT FURTHER ENACTED, that any structure, building or use in
10 existence prior to the effective date of this Act that is damaged or destroyed by fire or other
11 casualty after the effective date of this Act is subject to the provisions of Section 104 of the
12 Baltimore County Zoning Regulations regarding nonconforming uses.

13 SECTION 6 7. AND BE IT FURTHER ENACTED, that this Act, having been passed by
14 the affirmative vote of five members of the County Council, shall take effect June 11, 2004.

b05504.AMENDED3.BIL

CASE NAME 3229 Offutt Rd
CASE NUMBER 05-079-SPH
DATE 10/5/04

NAME _____

E-MAIL

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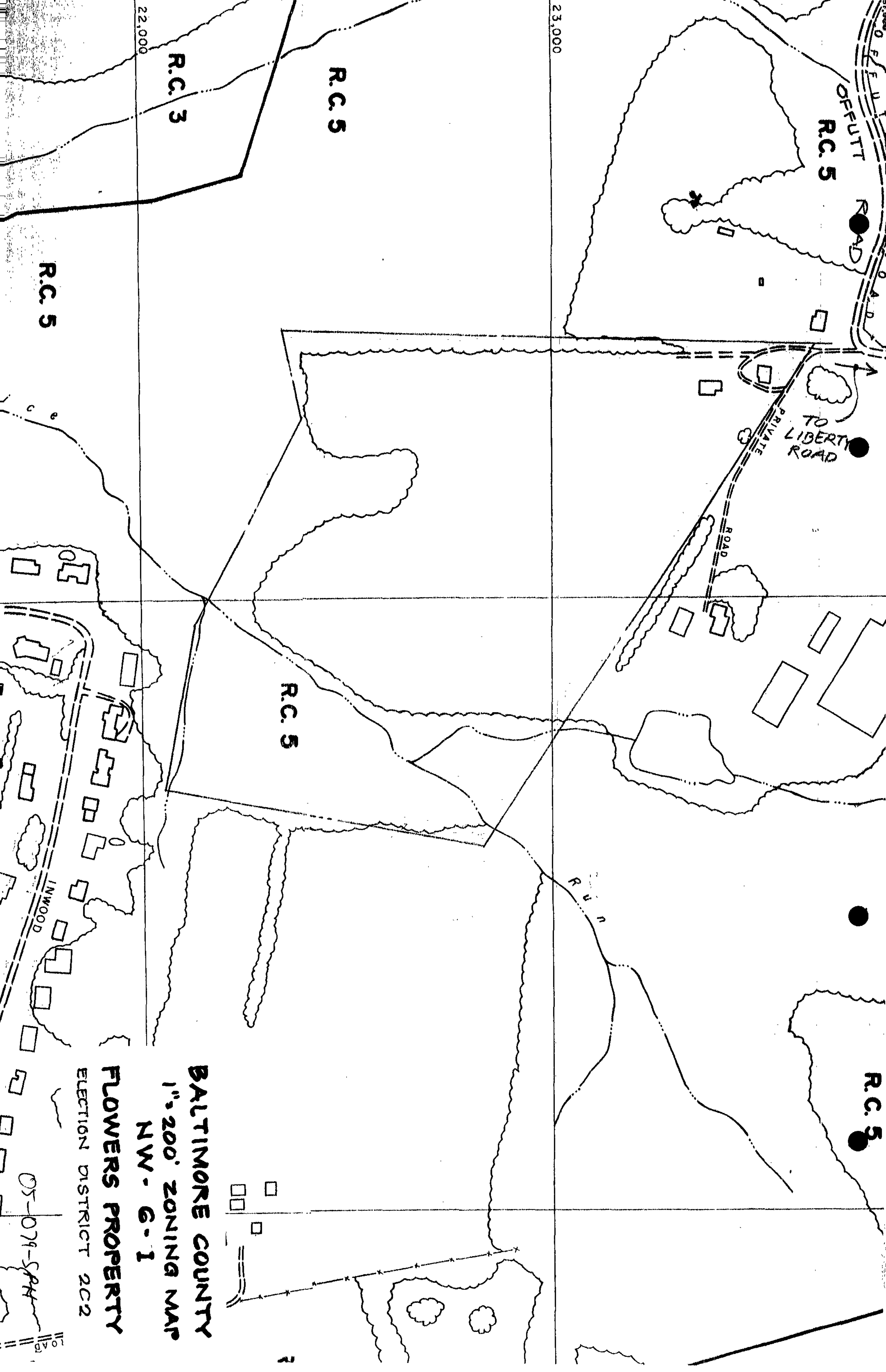
barbara.rockers@verizon.net

Seznamuška, ml. v. kom.

2000

McCONSIL INC.

CONCAST.NET



BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT



TO: MJ CONSULTING, INC.
FROM: JOE CHMURA
SUBJECT: CONCEPT PLAN CHECKPRINT
PROJECT: FLOWERS, RICHARD PROPERTY

JUNE 7, 2004

The check print for the above-mentioned project has been reviewed for conformance with general filing requirements and may be further processed in accordance with the following:

Please make all additions/changes/deletions per the attached red-line drawing; and

Submit the following marked items to THE ATTENTION OF KRISTIN WEIS in room 123 of the County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204:

- ☒ Certified or cashier's check in the amount of \$500.00 made payable to Baltimore County for concept plan review.
- ☒ 36 copies of the plan, folded to 8 1/2 X 11, for agency review (the red-line checkprint must also accompany the submittal).
- ☒ 1 copy (each): Forest Stand Delineation
Forest Conservation Worksheet
- ☒ 2 copies of conceptual landscape plan (except R.C.-2 & R.C.-4 zones)
- ☒ Please include the PDM file #II(2)-675 on all subsequent plans.
- ☒ Provide space 4"w x 2.5"h in lower right hand corner of drawing for county stamp.
- ☒ All plans must be signed & sealed.

NOTE: 3 copies of a noise assessment report must be submitted along with the concept plans for all residential projects with lots adjacent to and within 500 feet of the edge of paving of any interstate highway.

Should you have any questions regarding this matter, please do not hesitate to call this office at (410) 887-3335.

Det # 2

views, hedgerows, fences or stone walls, existing structures, roads, tracks, and trails. In addition, the plan or an attachment shall show land uses adjoining all tract boundaries at a scale and extent to allow for consideration of natural and built elements that may affect the development proposal.

- (iv) Within 10 working days of the filing of the site analysis plan, the office of planning shall schedule on a mutually convenient date a walk of the site by the applicant and representatives of the office of planning, and of meeting with the applicant and representatives of the office of planning and the department of environmental protection and resource management to discuss the secondary conservancy area. The walk shall precede the meeting. The purpose of the walk is to familiarize planners with the property and to give them an informal opportunity to comment on the proposed secondary conservancy area.
- (v) Following the meeting to discuss the secondary conservancy area, the department of environmental protection and resource management and the office of planning jointly shall either approve the site analysis plan or specify the revisions or additional information necessary for obtaining approval of the site analysis plan.
- (vi) If the department of environmental protection and resource management and the office of planning disapprove the site analysis plan, or if the applicant is unwilling to make any revisions required by the county, the applicant may, within 30 days of receiving notification from the county, appeal the decision to the board of appeals.

(d) The concept plan must contain a chart showing a comparison of what is proposed versus what is otherwise permitted in the underlying zoning classification.

(e) Prior to the community input meeting and the filing of a development plan, an applicant shall file copies of the concept plan with the department of permits and development management which shall transmit them to the appropriate reviewing agencies for comment.

(f) *Concept plan conference.* Within ten (10) working days following the filing of the concept plan, the department of permits and development management shall hold a concept plan conference with the applicant and representatives from the departments of public works and environmental protection and resource management, the office of planning, the department of permits and development management, and other agencies, as appropriate, to receive the comments of such agencies. At this time, the office of planning shall identify the parties to be invited to the community input meeting. The county shall also identify any conflict between the proposed development and the master plan.

(g) If the county identifies a conflict between the master plan and the concept plan, the concept plan shall be immediately transmitted to the planning board in accordance with section 26-207(b). Notwithstanding the provisions of this section, a plan may continue to be reviewed and processed under these development regulations.

(h) *Community input meeting.* Within ten (10) working days of the concept plan conference, the subject property shall be posted under the direction of the county with the date, time and location of a community input meeting (CIM). The CIM shall occur no sooner than twenty-one (21) days and no later than thirty (30) days after posting and shall occur in the vicinity of the proposed development or in Towson, if no other meeting site can be scheduled. At the time of the posting, the concept plan shall be available for inspection, and copies of the plan and agency comments shall be transmitted to the parties. A party may request that a representative of a reviewing agency attend the CIM in order to respond to comments which may be raised or conditions which may be proposed or requested by a party to the concept plan. Such request shall be made at least ten (10) days prior to the CIM and the party shall identify the possible comment or condition.