IN RE: PETITION FOR SPECIAL HEARING SW/S Cowenton Avenue, 220' NW of The c/l I-95 R/W **(8902 Cowenton Avenue)** 11th Election District 5th Councilmanic District Keith Randlett, Legal Owner Petitioner	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY Case No.: 05-205-SPH

FINDINGS OF FACTS 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, Keith Randlett, through his attorney, Howard L. Alderman, Jr., Esquire, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (BCZR). The Petitioner requests approval of two (2) panhandle lots in the D.R.2-H/D.R.3.5-H zone in lieu of the allowed D.R.1 or D.R.1-H. zone, consistent with the relief requested. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Keith Randlett, property owner; Messrs. Charles Merritt and Chris Hanson of Merritt Development Consultants, Inc., the preparers of the site plan, and Howard L. Alderman, Jr., Esquire, attorney for the Petitioner. Appearing in opposition to the requested relief were Daniel Deer'e and Christine Sisk, nearby property owners, and Messrs. William Libercci and Charles Marks on behalf of the Perry Hall Improvement Association.

The subject property is an irregular shaped parcel located on the southwest side of Cowenton Avenue, just north of the overpass of I-95, in Perry Hall. The property contains a gross area of 5.73 acres, more or less, split-zoned D.R.2H (2.43 acres) and D.R.3.5H (3.31 acres), and is improved with

a single family dwelling, known as 8902 Cowenton Avenue. The "H" overlay designation indicates that the subject property is located in the Honeygo Area of Baltimore County and is, therefore, development is subject to Section 259 of the BCZR, as well as other applicable provisions of the zoning regulations. Given the acreage in each zone, the D.R.2H zoned portion of the property would yield a total of 4 dwelling units, and the D.R.3.5H zoned portion would yield 11 dwelling units.

The Petitioner proposes a minor subdivision of the subject property to create two (2) residential lots. As shown on Petitioner's Exhibit 1, proposed Lot 1 will consist of 1.26 acres, more or less, and is proposed to be developed with a single family dwelling. The existing home will be located on what is designated as Lot 2, and will contain 2.06 ± acres. Counsel for the Petitioner indicated that each of the two proposed lots on the subject property is in excess of 20,000 square feet, and thus complies with the minimum lot size requirements set forth in Section 102.4 of the BCZR. The balance of the tract will be dedicated to Baltimore County in fee simple, at no cost, as part of the County's greenway program.

At issue in the instant case is access for the proposed new lot. The subject property has an existing 30-foot wide strip running in an easterly direction and binding directly on Cowenton Avenue, a public roadway. This strip is improved with utilities and a driveway that provides access to the existing home on the subject property as well as the adjacent property to the southeast, which is owned by Ms. Sisk. Although Ms. Sisk's property has its own fee simple strip to Cowenton Avenue, the common driveway on the subject property is shared by both. The Petitioner seeks relief as set forth above to allow the creation of two, 15-foot wide, fee simple strips: one for the existing residence on Lot 2, and the second for the proposed dwelling on new Lot 1, utilizing the existing 30-foot right-of-way. The location and proposed use of this 30-foot access strip is identified on

Petitioner's Exhibit 1 as a "Private Ingress/Egress Maintenance Drainage & Utility Easement." In addition, the site plan shows a "Proposed Trash Pad" area of 48 sq.ft. Baltimore County requires a minimum 16 sq.ft. area be provided adjacent to a public roadway for each panhandle lot.

The proffered testimony and evidence offered revealed that the existing house on Lot 2 is already connected to public and water sewerage facilities and that connections for Lot 1 had been "stubbed in" for use at such time as the Petitioner obtained a building permit to develop that lot. Photographs offered by Ms. Sisk served to confirm that evidence. As noted correctly by Ms. Sisk, the connections that have been stubbed in are for only one additional house and not two.

Several issues were raised by the Protestants, which they asserted as germane to the Petitioner's case. Ms. Sisk suggested that a Mr. Charles Freitag, who is not a party to these proceedings, owns approximately 0.26 acres of the subject property and that, pursuant to a Circuit Court settlement agreement, which she referenced, she is to obtain title to that property. Mr. Deer'e, on behalf of himself and his wife, appeared to advise this Zoning Commissioner of issues they perceive with Mr. Freitag and suggested that projects he starts may be abandoned before completion since the 0.26-acres at issue is subject to attachment. As the Zoning Commissioner for Baltimore County, my jurisdiction is limited to that set forth in statute. For instance, I cannot determine the ownership of real property, that determination is vested solely in the Circuit Court. As to disputes and/or differences that Ms. Sisk or Mr. and Mrs. Deer'e may have with Mr. Freitag, who is not a party to these proceedings, their respective remedies must be obtained elsewhere. Likewise, construction issues that Ms. Sisk has with Mr. Freitag are not properly before me.

In addressing this issue, Counsel for the Petitioner proffered that he was advised by his client that Mr. Freitag had delivered a fee simple deed for the 0.26 acres to the Petitioner and that the same

has been submitted to the Clerk of the Court for recordation. Further testimony indicated that the site plan submitted with the instant Petition and marked into evidence as Petitioner's Exhibit 1 includes all information required by the zoning petition submission checklist and depicts the subject property accurately, including without limitation, the proposed minor subdivision. Counsel for the Petitioner argued that based upon the deed history for the subject property, the Petitioner had no role in the creation of the size, shape or configuration of its current boundaries. Moreover, the shape of the property was described as very irregular, as more particularly shown on the site plan marked as Petitioner's Exhibit 1. It was indicated that if the existing strip could not be utilized, the Petitioner would have to obtain a lot line adjustment through the Davis property to the northeast to obtain fee simple frontage on Cowenton Avenue. However, given the location of the Davis home, known as 8904 Cowenton Avenue, and septic reserve area, any such access would have to be located in the northwest portion of their lot. Even if such access were available through the Davis property, the Petitioner would be prohibited from extending into the forest buffer/conservation/100-year flood plain/drainage and utility easement shown on Petitioner's Exhibit No. 1. Thus, it is clear from the evidence presented that the proposed use of the existing fee simple strip, with the existing driveway would achieve a better use of this irregularly shaped parcel and, at the same time, avoid any development in environmentally sensitive areas.

The undisputed testimony was that the requested relief would permit development of the subject property in a manner that would not be detrimental to any adjacent property and that construction of a public road to serve one additional home would neither be practical nor feasible. Further testimony indicated that there are several homes in the immediate area, including Ms. Sisk's home that are panhandle lots, as defined in statute. As noted above, Ms. Sisk's property has its own

15-foot wide, fee simple strip which binds directly on Cowenton Avenue; however, all but a portion of the driveway used by Ms. Sisk is located within the Petitioner's 30-foot strip.

The Perry Hall Improvement Association, Inc.(PHIA) through Messrs. Marks and Libercci, asserted that granting the requested relief is equivalent to changing the zoning classification on the subject property. On cross-examination, Mr. Marks acknowledged that changes in zoning classifications could only be effected during the quadrennial Comprehensive Zoning Map Process or by the County Board of Appeals in exercise of its exclusive jurisdiction on petitions for reclassification. Another issue raised by the representatives of the PHIA is that the Petitioner obviously bought the subject property and knew of its existing size, shape and configuration, and therefore he is not entitled to later seek relief.

The Petitioner seeks relief from certain of the building and site design standards applicable in the Honeygo District as set forth in Section 259.9 of the BCZR. Pursuant to Section 500.7 of the BCZR, the Zoning Commissioner has the power to conduct such other hearings and pass such orders thereon as shall, in my discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. Thus, I find that the limited request for relief from only certain of the Honeygo building and site design standards is properly before me.

Given that the subject property is located within the Honeygo District of Baltimore County, absent any relief, the building and site design requirements of Section 259.9 of the BCZR are applicable. In this case, the Petitioner seeks relief from Sections 259.9.C.1.a and b thereof to permit a total of two lots (two in the subject property, together with the joint use by Ms. Sisk's lot) to be served by a panhandle drive where the property is not zoned D.R.1H. Mr. Merritt testified that he originally attempted to file for variance relief; however, was advised by personnel in the Zoning

Review Division of the Department of Permits and Development Management that the required relief could only be obtained by the filing of a Petition for Special Hearing. Mr. Merritt then filed the requisite Petition for Special Hearing together with the required number of zoning plans; however, was advised that the title on those plans "Plan to Accompany Zoning Variance" need not be changed.

With the exception of the Office of Planning, none of the public agencies reviewing the Petitioner's request had any comment. The Office of Planning however, recommended a denial of the request. That comment, obviously generated in April 2004 during the review of the minor subdivision of the subject property, recited the provisions of the BCZR from which relief is sought and concluded that the proposal does not comply with the Honeygo Design Standards.

The issue as to whether or not relief can be granted from Section 259.9.C1.a&b of the BCZR for panhandle drives in other than a D.R.1H zone has already been ruled on in at least one case. In Case No. 02-108-A, a copy of which was accepted as Petitioner's Exhibit 2, my predecessor granted relief to Melvin Guy, Petitioner, to permit three, new single-family lots to be created that were to be served by one panhandle drive. In that case, Mr. Guy owned property that was in the Honeygo District and zoned D.R.3.5H and which had a 45-foot wide access strip out to Cross Road. After finding that the Guy property was irregularly shaped, that construction of a public road was not practical or feasible and that the panhandle drive was necessary to avoid development in an environmentally sensitive area, the relief was granted. No appeal was taken from that decision.

Each of the three lots on the Guy property were proposed to have 15 feet of road frontage on Cross Road. In this case, the two lots on the subject property will each have 15 feet of road frontage on Cowenton Avenue. As noted above, the Sisk property to the east already has a separate

panhandle strip of at least 15 feet which binds on Cowenton Avenue. Moreover, Ms. Sisk uses the existing, paved driveway on the subject property thereby minimizing the amount of macadam that would otherwise be necessary for two separate drives.

Section 32-4-409 of the Baltimore County Code sets forth the basic requirements for panhandle drives as follows:

(a) In general.

(1) The County may only allow a panhandle lot:

(i) To achieve better use of irregularly shaped parcels;
(ii) To avoid development in environmentally sensitive areas;
(iii) Where the lot will not be detrimental to adjacent properties; and
(iv) Were the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) In-fee strip; required.

(1) Except as provided in subsection (c) of this section, the County may permit a panhandle lot, if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

(i) 20 feet in width to serve one lot;
(ii) 12 feet in width per lot where two lots are involved;
(iii) 10 feet in width per lot where three or more lots are involved; or
(iv) 12 feet in width per lot where there are two or more lots in a development that is within the metropolitan area where public water and sewer services are available, planned, or considered.

It is clear from the testimony and evidence presented that the proposed panhandle drive will achieve better use of Petitioner's property and that the alternative means of providing access would impact environmentally sensitive areas as well as the adjacent property owned by Mr. and Mrs.

Davis with a driveway on either side of their existing home. Clearly, constructing a public roadway to serve one lot is neither feasible nor desirable.

As shown on Petitioner's Exhibit No. 1, each of the two lots on the subject property will have an in-fee strip to a public roadway, Cowenton Avenue, and each will be 15 feet in width. Proposed Lot 1 as shown on Petitioner's Exhibit 1 will not conflict with the County's efforts to provide for public safety, the development of area infrastructure, and/or the general welfare of the community.

Finally, I am not persuaded by the argument of the PHIA that the Petitioner's hardship is self-created. The fact that Mr. Randlett purchased the subject property in its present configuration and that he may have had knowledge of it has no bearing on whether or not the requested relief should be granted. The Maryland Court of Appeals has addressed in two rather recent cases a similar argument with respect to variance relief sought by the property owner. In *Lewis v. DNR*, 377 Md. 382 (2003) and *Richard Roeser v. Anne Arundel Co.*, 368 Md. 294 (2002), the Court held that a Petitioner's knowledge of zoning relief in the form of a variance before he purchased the property was not germane and had no import relative to seeking an area variance. Rebuffing the Anne Arundel County Board of Appeals, which found as partial support for denial of the requested zoning relief, that Mr. Roeser "apparently elected to purchase the property and now seeks to maximize the investment" (*Roeser* at 297), Judge Cathell writing for the Court noted that "in this country it is not considered inappropriate to 'maximize' investments." (*Id.* at footnote 3.) While both of these cases dealt with area variances in the Chesapeake Bay Critical Area, the applicable analogy is clear. The fact that the Petitioner purchased a large parcel with substantial development potential and now seeks to realize but a small portion of that potential is in no way fatal to the relief requested.

Based on the testimony and evidence produced by the Petitioner, I am persuaded that the requested relief should be granted. The Petitioner is proposing a total of 2 homes, one of which is existing, on a parcel of land that is zoned to permit a maximum of 15 units. The panhandle drive already exists. Requiring a public road or intrusion into environmentally sensitive areas to provide access for one home is simply not practical or feasible.

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 15th day of February 2005, that the Petition for Special Hearing to approve two (2) panhandle lots in the D.R.3.5-H zoned portion of the subject property in lieu of the allowed D.R.1-H zone, be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted herein:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the thirty-day Appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The Petitioner must comply with all requirements of the minor subdivision approval of the subject property, including Honeygo Design Standards.

3) When applying for a building permit, the site plan filed must reference this Case and set forth and address the conditions and restrictions of this Order.

ORDER RECEIVED FOR FILING
Date 2/15/05
By JWP

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

12/1/05

IN THE MATTER OF THE APPLICATION OF KEITH RANDLETT – LEGAL OWNER / PETITIONER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE SW/S COWENTON AVENUE, 220' NW OF THE C/L OF I-95 R/W (8902 COWENTON AVENUE) 11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 05-205-SPH

* * * * * * * * *

OPINION

This matter is before the Board on an appeal by People's Counsel for Baltimore County from a decision of the Zoning Commissioner dated February 15, 2005 in which the Zoning Commissioner granted a Petition for Special Hearing to approve two (2) panhandle lots on a portion of the subject property zoned D.R. 3.5-H. The special hearing was filed by the owner of the property, Keith Randlett, through his attorney, Howard L. Alderman, Jr., Esquire, pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (BCZR). Petitioner requested approval of two panhandle lots in the D.R. 2-H /D.R. 3.5-H zone in lieu of the allowed D.R. 1 or D.R. 1-H zone.

A hearing was held before the Board on August 18, 2005. Briefs were submitted by close of business October 3, 2005. A public deliberation was held on October 20, 2005.

The subject property is an irregularly shaped parcel located on the southwest side of Cowenton Avenue, just north of the overpass of I-95 in Perry Hall. The property contains a gross area of 5.73 acres, more or less, split-zoned D.R. 2-H (2.43 acres) and D.R. 3.5-H (3.31 acres). The property is improved with a single-family dwelling known as 8902 Cowenton Avenue. The "H" overlay designation indicates that the subject property is located in the Honeygo area of Baltimore County, and therefore development is subject to § 259 of the BCZR, as well as other applicable provisions of the zoning regulations. Given the acreage in each zone,

the D.R. 2-H zoned portion of the property would yield a total of four dwelling units, and the D.R. 3.5-H zoned portion would yield 11 dwelling units.

Petitioner presented Charles Merritt, the engineer who prepared the plans for the development. He stated that the Petitioner was proposing a minor subdivision of the property to create two (2) residential lots. Proposed Lot 1 would consist of 1.26 acres, more or less, and is proposed to be developed with a single-family dwelling. The existing home will be located on what is designated as Lot 2 and will contain 2.06 acres, more or less. Counsel for the Petitioner indicated that each of the two proposed lots on the subject property would be in excess of 20,000 sq. ft. He stated that this would comply with the minimum lot size requirements set forth in § 102.4 of the BCZR. The balance of the tract will be dedicated to Baltimore County in fee simple at no cost as part of the County's Greenway Program.

At issue in the present case is the access for the proposed new lots. The subject property has an existing 30-foot wide strip running in an easterly direction and binding directly on Cowenton Avenue, a public roadway. This strip is improved with utilities and a driveway that provides access to the existing home on the subject property, as well as the adjacent property to the southeast. That piece of property is owned by Christine V. Sisk and Linda T. Mabry.

In discussing the title of the plan, Mr. Merritt indicated that originally he prepared and attempted to file a Petition for Variance, seeking approval of two panhandle lots (one existing and one proposed) in the D.R. 3.5-H zone. Baltimore County officials advised Mr. Merritt that, based on current regulation and policy, the requested relief could only be sought and approved by way of a Petition for Special Hearing.

Mr. Merritt stated that at present the subject property consists of two separate parcels conveyed by Charles Freitag, Jr., to the owner. The subject property is split-zoned D.R. 2-H and D.R. 3-5-H. He stated that although the D.R. 2-H portion generated available density of 4 dwelling units and the D.R. 3.5-H zoned portion generated available density of 11 dwelling units,

the owner proposes only two lots, his existing home and one new home. The dwellings will be served by public water and sewerage facilities, which are already in place, including taps previously approved by the Baltimore County Department of Public Works to serve the dwelling intended for the proposed second lot. Mr. Merritt testified that the owner's existing home is actually a panhandle lot and that the continued use of that panhandle for the existing dwelling and the proposed lot was necessary to serve the subject property.

Without the requested approval for access to this irregularly shaped property, the County mandated environmentally sensitive areas would have to be traversed, providing that access to Cowenton Avenue could be obtained through the adjoining property of Mr. Davis at 8904 Cowenton Avenue. Mr. Merritt described the .073 acre of forest buffer /forest conservation, 100-year floodplain and drainage and utility easement areas that would have to be invaded if alternative access were to be required. Mr. Merritt questioned whether Baltimore County would permit intrusion into those environmentally sensitive areas. Mr. Merritt opined that the public road would not be permitted with only 30 feet of right-of-way leading to its intersection with Cowenton Avenue.

People's Counsel presented Ms. Christine Sisk, a Baltimore County Police Officer, who, together with Ms. Mabry, owned her home on the panhandle lot known as 8840 Cowenton Avenue. Ms. Sisk was concerned about drainage problems from the new house to be developed on lot 2. In addition she was concerned about safety for herself and family and citizens coming off the driveway onto Cowenton Avenue. She was also concerned about the parking problems with respect to people parking on the panhandle lot when visiting Mr. Randlett or the occupants of the house on lots 1 and 2. Ms. Sisk did state that she had directed four large landscaping projects which might help in controlling drainage onto her property but she was still concerned with respect to the drainage problem.

William Libercci testified on behalf of the Perry Hall Improvement Association. He stated that his association was concerned that the Honeygo regulations specifically precluded the type of development sought by the Petitioner in the special hearing. He was also concerned with the safety issues of people coming out of the property onto Cowenton Road and with the issue of due process.

Finally, People's Counsel presented Kevin Gambrill, a County planner for the Fifth Councilmanic District. He stated that he had reviewed the initial request for the subdivision and it was the position of the Office of Planning that the Petition for Special Hearing should be denied because it violated the Honeygo regulations set forth in BCZR § 259.1, pertaining to panhandle lots.

Position of Parties

Petitioner contends that the Honeygo District regulations include regulations regarding use (BCZR 259.9A), bulk and area standards (BCZR 259.9B), and, in the present case, building and design standards (BCZR 259.9C). It contends that if the County Council intended that panhandle lots be viewed as uses it would have included them in BCZR 259.9A. It also contends that the building design standards for panhandle lots are no different than the standard applicable to garage offsets.

In support of its position, Petitioner submitted the case of a special hearing filed by Hagen Hall, LLC, legal owners; Brookfield Manor, LLC, contract purchaser, Case No. 05-593-SPH, a decision of the Zoning Commissioner dated July 19, 2005 which was not appealed to the Board. In that case, a Petition for Special Hearing for relief from the building design standards of BCZR 259.9C was filed with the Zoning Commissioner. The special hearing requested approval of a home with a garage recessed 4 feet behind the front façade in lieu of the 8 feet required by the building and design standards of BCZR 259.9C.3(a). The Zoning Commissioner granted that special hearing.

In addition, Petitioner submitted a Petition for Variance filed with the Zoning Commissioner by Melvin Guy in Case No. 02-108-A. The Petition requested a variance to create three single-family dwelling lots, all of which would share a panhandle driveway in the Honeygo area on property zoned D.R. 3.5-H. Allowing the variance, the Zoning Commissioner stated:

> The requirement that the underlying zoning of the property be D.R. 1 as set out in § 259.9C.1(a) of the BCZR is a different type restriction. In examining this issue, it is clear that the relief sought is not a request for the approval of a use that is not permitted in the D.R. 1 zone. Single-family dwellings are permitted uses by right in the D.R. 1 zone and certainly allowed in the Honeygo District. Moreover, § 259.9C of the BCZR is labeled as a "building and site design standard." Based upon these factors, I find that the relief sought may be properly considered by this Zoning Commissioner.

The variance was granted by the Zoning Commissioner, and was not appealed by any party.

People's Counsel contends that the proposed lots violate § 259.9C.1 of the BCZR. Since the underlying zoning of the property in question is not D.R. 1, People's Counsel contends the property is subject to the prohibition of BCZR 259.9C.1(a) which does not allow panhandle lots unless the underlying zoning is D.R. 1. People's Counsel contends that a request for special hearing is in effect a request for declaratory judgment. A declaratory judgment evaluates, interprets, and declares the law based on a given set of material facts. He contends that the special hearing process under County law is a limited function to declare the law. It does not allow the administrative agency to grant waivers or relaxations of the law or to change the law.

People's Counsel cites BCZR 259.4, the statement of legislative intent. He also cites § 259.9, the development standards, which states in pertinent part:

> These standards are intended to be additions to, modifications of and exceptions from the standards required by the underlying zoning classification in the land in the area. All conflicts are to be resolved in accordance with subsection G of this section.
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> * * * * *
>
> G. Application
>
> (1) The provision of this section shall govern in any situation where there is a conflict between this section and other regulations.

People's Counsel contends that the information given to Petitioner by the zoning office, that relief could only be granted by the filing of a Petition for Special Hearing, was in error. People's Counsel also contends that the decision of Zoning Commissioner Wiseman was in error and particularly where it relied on the *Guy* case which was decided in 2001. People's Counsel contends that the language set forth by the Zoning Commissioner in the *Guy* case quoted above was in error and that it was irrelevant to single-family homes permitted in the Honeygo area. Based on the fact that the subsection is titled "Building and Site Design Standard," it does not mitigate the plain language that panhandle lots are permitted only in D.R. 1-H zones.

Finally, People's Counsel contends that the *Guy* case and the other cases cited by Petitioner cannot be the basis for allowing the special hearing in this case. He states that two wrongs do not make a right and the Court of Appeals in *Easter v. Mayor & City Council*, 195 Md. 395, 400 (1950), which stated:

> As was said in *Potts v Board of Adjustment*, 43 A.2d 850, 854, prior exceptions granted by the Adjustment Board are not in themselves controlling. Ill advised or illegal variances do not furnish grounds for a repetition of the wrong. If that was not so, one variation would sustain if it did not compel others, and thus the general regulation eventually would be nullified. The annulment of zoning is a legislative function which is beyond the domain of the zoning board.

Decision

The Board has carefully considered the evidence submitted and the arguments detailed by the parties in their Briefs to the Board.

The *Baltimore County Zoning Regulations* set forth specific regulations with respect to the Honeygo area. Section 259.4 states:

> Statement of Legislative Intent for Honeygo Area and H-H1 Overlay Districts.
> The Honeygo Area and the H and H-1 overlay districts are established to implement the Honeygo Area Plan, an amendment to the Master Plan 1989-2000. This area is created to insure the development of infrastructure will coincide with the approval of building permits....The H and H-1 districts are to be read as additions to, modifications of and exceptions from the requirements of the underlying zoning classification on the land.

Section 259.9C states:

Building and Design Standards.

1. Panhandle lots are not permitted unless:

   a. The underlying zoning of the land is D.R. 1;
   b. No more than two lots share a driveway; and
   c. Lots exceed 30,000 sq. ft. in area.

On the property in question, there is already a panhandle driveway going from Cowenton Avenue to the lot owned by Christine Sisk and Linda Mabry. The driveway also services Lot #1 owned by Mr. Randlett. There was no explanation as to how this driveway was created. It appears that it did not go through the hearing procedures for a special hearing or a variance. However, this does not require the Board to follow suit in this matter.

The Board is persuaded by the argument of People's Counsel that the Petition for Special Hearing does not give the Board the authority to change the law as legislated by the County Council. In addition, the previous decisions of the Zoning Commissioner, which were not appealed to this Board, do not require the Board to follow those precedents. As stated by People's Counsel in its Brief, "two wrongs don't make a right." The Board is not unmindful of the problems that this decision will create for the Petitioner. However, the law is clear. Section 259.9C of the BCZR states that panhandle lots are not permitted unless they meet certain requirements as set forth above. The first requirement is not met in that the underlying zoning of the land is not D.R. 1 but is D.R. 2 and D.R. 3.5. The second requirement is not met in that the driveway in question will service more than three lots, two lots by Mr. Randlett and the third lot owned by Ms. Sisk and Ms. Mabry. Finally, the third requirement is not met in that the lots do not exceed 30,000 square feet in area, the testimony being that they exceeded 20,000 square feet in area.

It is not for the Board to determine whether or not the panhandle lots and therefore the driveway should be allowed to protect environmentally sensitive areas. That is for the County Council to determine. Therefore, the Board will deny the Petition for Special Hearing.

ORDER

THEREFORE, IT IS THIS 7th day of December, 2005 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in this matter is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Mike Mohler

Edward W. Crizer, Jr.

10/3/05

RE: PETITION FOR SPECIAL HEARING	*	**BEFORE THE**
SW/S Cowenton Avenue, 220' NW of the c/line of I-95 R/W	*	**COUNTY BOARD OF APPEALS**
(8902 Cowenton Avenue)		
11th Election & 5th Councilmanic Districts	*	**FOR**
Legal Owner(s): Keith Randlett,		
Petitioner(s)	*	**BALTIMORE COUNTY**
	*	**Case No. 05-205-SPH**

* * * * * * * * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S HEARING MEMORANDUM

People's Counsel for Baltimore County files this Hearing Memorandum in the above-entitled case:

Statement of the Case

This is the first case to come before the County Board of Appeals involving the application and enforcement of the Honeygo area zoning restriction on panhandle lots. It will therefore set an important precedent for the comprehensive zoning plan in this section of Baltimore County. Honeygo is the name given to a substantial area in eastern Baltimore County. It is essentially the last of the areas to be developed within the White Marsh growth area. The County Council has made a particular legislative effort to establish high planning standards for this area. This case arises out of that effort.

Petitioner filed a special hearing to obtain approval of a panhandle lot on property split-zoned D.R. 2H and D.R. 3.5H zone within the Honeygo area boundaries The Petitioner filed the petition after, in the course of the minor subdivision review, Mark Cunningham the Office of Planning on April 1, 2004 alerted the Department of Permits

and Development Management (PDM) to Section 259.9.C.1 of the Baltimore County Zoning Regulations. Pet. Exh. 6. He wrote:

> "Section 259.9.C.1 of the BCZR prohibits panhandle lots in Honeygo on land zoned D.R. 2H or DR 3.5H. The subject property is in the Honeygo Plan area. This office does not recall having reviewed a panhandle submittal on the subject site, and does not support the proposed subdivision."

BCZR Sec. 259.9.C.1 indeed states:

> "C. Building and site design standards:
>
> 1. Panhandle lots are not permitted unless:
>
> a. The underlying zoning of the land is D.R. 1;
>
> b. No more than two lots share a driveway;
>
> c. Lots exceed 30,000 square feet in area."

Since the underlying zoning here is not D.R. 1, the property is subject to the prohibition of BCZR 259.9.C.1.a.

A review of the proposal also reflects, that the proposal realistically runs afoul of the spirit and intent of BCZR 259.9.C.1.b because, as a practical matter, it involves three lots sharing the same driveway in lieu of the maximum two permitted. Lots 1 and 2 of the Randlett property and the separate lot sold to Christine Sisk, all merge at the access driveway to Cowenton Avenue.

Petitioner did not appear at the hearing. His consultant testified that PDM staff advised him nevertheless to file a petition for special hearing. He was also buoyed by his experience in a previous case, Melvin Guy, 02-108-A. where the Zoning Commissioner on November 20, 2001 approved a variance to allow a panhandle lot in a D.R.3.5H Zone.

Pet. Exh. 8. No one appeared in opposition to that request, and there was no appeal. The Office of Planning had, however, raised an objection in the Guy case (P.C. Exh. 14).

In the present case, the Perry Hall Improvement Association (PHIA) and neighboring residents, most prominently Christine Sisk, appeared in opposition. OPZ filed a comment in opposition, consistent with its position both in the Guy case and in the minor subdivision review here.

Despite the law and this opposition, the Zoning Commissioner approved the panhandle lot by opinion and order dated February 15, 2005. Upon careful review, People's Counsel determined that it was in the public interest to appeal the case to the County Board of Appeals. The CBA held a *de novo* hearing on August 18, 2005, and requested each party to file memoranda to summarize the material facts and law.

Argument

I. The Zoning Law and the Special Hearing Process

The zoning law in BCZR 259.9.C plainly prohibits panhandle lots in the Honeygo Area, except in the D.R. 1H Zone. This is effectively a use limitation. Moreover, as Petitioner's consultant conceded, there is no variance available under BCZR 307.1, which allows height, area, parking and sign variances. (In this context, the Guy case was erroneously decided). See also Case No. 97-388-A, Matthew Chacko, where the CBA ruled that BCZR 102.4 is not subject to variance relief. There is no other provision for waiver or relaxation of the prohibition.

In particular, the special hearing process does not allow a waiver or relaxation of the zoning standards. It is available under BCZR 500.7 "for the proper enforcement of all

zoning regulations" and "to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." Typically, special hearings determine disputed issues of law or legal interpretation. For example, People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989) determined the scope and application of county zoning law to uses in navigable waters. Board of Child Care v. Harker 316 Md. 683 (1989) decided whether publicly licensed and supported child care homes were immune from County zoning law. Marzullo v. Kahl 366 Md. 158 (2001) decided whether a snake breeding facility was a farm. As the Court of Special Appeals recently observed in Antwerpen v. People's Counsel 163 Md. App. 194, 209 (2005):

> "A request for special hearing is, in effect, a request for declaratory judgment. The appellants asked the zoning commissioner to declare that they had a right to operate a used-car lot on the property."

A declaratory judgment is a judgment which evaluates, interprets, and declares the law based on a given set of material facts. In Maryland law, it is provided for in Md. Ann. Code, Courts and Judicial Proceedings Article, Secs. 3-401, et seq. Its purpose is to "settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations." Sec. 3-402. In this context, Sec. 3-406 allows a party to have:

> "... determined any question of construction or validity arising under he instrument, statute, ordinance, administrative rule or regulation, land patent, contract or franchise and obtain a declaration of rights, status or other legal relations under it."
> The function of the declaratory judgment process, embodied in special hearing

process under county zoning law, is a limited function to declare the law. It does not allow the administrative agency, whether the Zoning Commissioner or the County Board

of Appeals, to grant waivers or relaxations of the law, or to change the law. It does not constitute an open invitation to depart from the law. As a matter of law, the panhandle lot prohibition is plain and must be declared and enforced according to its terms..

II. Perspective on the Honeygo Law

The Honeygo Law was passed in 1994. Bill 176-94 was introduced as P.C. Exh. 10. Pertinent excerpts are included in P.C. Exh. 9. Here, we highlight certain additional features of the law.

BCZR 259.4, the statement of legislative intent, says, in pertinent part:

> "The H and H1 Districts provide uniform design standards which feature protection of the environment, housing oriented towards the street, streetscapes which are not dominated by parking lots, signage consistent with building design, and landscaping. Site design, building design and landscaping shall be coordinated within each development and between development to crate a pealing and harmonious overall effect. The H and H1 districts are to be read as additions to, modifications of and exceptions from the requirements of the underlying zoning classification of the land."

The panhandle lot limits are integral to and implement this intent.

BCZR 259.9, the development standards, state, in pertinent part,

> "These standards are intended to be additions to, modifications of and exceptions from the standards required by the underlying zoning classification in the land in the area. All conflicts are to be resolved in accordance with subsection G of this section.
>
> * * *
>
> "G. Application
>
> 1) The provision of this section shall govern in any situation where there is a conflict between this section and other regulations."

For emphasis, in Bill 78-2002, the Council added BCZR 259.12, repeating for the entire section this same language contained in BCZR 259.9.G.

The Honeygo law also fits within the general requirement of BCZR 102.1 (P.C. Exh. 12):

> "No land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

Judge Rita Davidson's observation in Kowalski v. Lamar 25 Md. App. 493, 496 (1975) (P.C. Exh. 15) is apt:

> "These sections established that the only uses permitted in the R.D. P. zone are those designated as uses permitted as of right and uses permitted by special exception. Any use other those permitted and being carried on as of right or by special exception is prohibited."

In the present case, it is not merely the absence of enumeration on a list of permitted uses. There is an express prohibition.

The entire thrust of the Honeygo Area law reflects that the County Council intended strong adherence to its standards. The panhandle lot law, a limitation and a prohibition, is an unambiguous and essential part of this statutory structure. The statutory context reinforces the necessity to apply and enforce the panhandle lot prohibition.

III. The Zoning Commissioner Decisions; Legal Analysis

This is a *de* novo hearing. Nevertheless, because the case presents primarily an issue of law, it is helpful and appropriate to evaluate the legal reasoning in Zoning Commissioner William J. Wiseman, Jr.'s opinion. It does not withstand legal scrutiny. We shall also comment on other argument presented by Petitioner.

First of all, on page 6, he noted that the Zoning Office informed Petitioner that "relief could only be obtained by the filing of a Petition for Special Hearing." But the

zoning office's authority is limited. If the advice here implied that a deviation from BCZR 29.9.C.1 were available by special hearing, then its advice was legally in error. An agency may not bypass its governing law. Agencies operate with delegated powers. Vest v. Giant Food Stores 329 Md. 461, 476 (1993) stated:

> "An agency 'cannot override the plain meaning of the statute or extend its provisions beyond the clear import of the language employed."

The Court explained in Board of Liquor License Comm'rs v. Hollywood Productions 344 Md. 2, 10 (1996):

> "Even in cases where we have recognized broad delegations of authority, we have emphasized that agency rules and regulations must conform to the language and spirit of the statue under which it acts. ... As we observed in Sullivan v. Board of License Comm'rs 293 Md. 113, 124 ...(1982), 'the power .. to make rules is not the power to make laws."
> Secondly, he noted that no agency had any adverse comment, except for the

Planning Office, whose position he described as a "recommendation." The Commissioner did not address the point that the law prohibits the panhandle lot.

Thirdly, he wrote (Page 6) that the issue "had already been ruled on in at least one case." He proceeded to describe the Guy case, but did not discuss or analyze the reasoning in the earlier case, or explain why it should it should be followed. Remarkably, Commissioner Schmidt, in his 2001 opinion, at page 3, found that he could grant relief despite the statutory prohibition because, as he wrote:

> "In examining this issue, it is clear that the relief sough is not a request for the approval of a use that is not permitted in the D.R. 1 zone. Single family dwellings are permitted uses by right in the D.R. 1 zone, and certainly allowed in the Honeygo District. Moreover, Section 259.9.C of the B.C.Z.R. is labeled as a 'building and site design standard." Based upon these factors, I find that the relief sought may be properly considered by the Zoning Commissioner."

It is irrelevant that single family homes are permitted. Panhandle lots are prohibited. The fact that the subsection is titled "Building and site design standard" does not mitigate the plain language that panhandle lots are permitted only in D.R. 1H Zones, a core land use restriction that is outside the ambit of area restrictions governed by BCZR 307.1.

Fourthly, on page 7, Commissioner Wiseman found that the lot satisfied the development standards of Code Sec. 32-4-409. In view of the evidence of adverse impact on adjacent properties and inconsistency with the Honeygo standards, this finding is not sustainable. But even if it were arguable that 32-4-409 is satisfied, that would not justify deviation from BCZR 259.9.C.1. It is to be remembered that under BCZR 600, wherever a standard in the zoning regulations is stricter than a standard in the county code or other county law, then the zoning regulations prevail. (Similarly, where the code provisions are more restrictive than the zoning regulations, then the code would prevail). BCZR 600 was introduced as P.C. Exh.2. It states, in pertinent part,

> "Where these regulations impose a greater restriction on the use of buildings or land or on the height of buildings, or require larger yards, courts or other opens spaces, or impose other higher standards than are imposed by the provisions of any law, ordinance, regulation or private agreement, these regulations shall control."

In sum, none of the reasons given by Commissioners Schmidt and Wiseman to justify deviation from the statutory zoning prohibition are legally sustainable.

Another reason offered by the Petitioner is that his proposal involves much less than the maximum density allowed in the D.R.2/D.R.3.5 zone. Like the argument that single family homes are permitted, it is irrelevant. A property owner must comply with all of the zoning laws, and not pick and choose. There is no special credit or bonus for

compliance with density restrictions. It does not justify a waiver of the separate panhandle lot prohibition. That is like saying that because a driver goes well below the speed limit and drives a properly inspected and insured vehicle, he is entitled to go through red lights whenever he (or she) feels comfortable doing it.

IV. Planning Office and Citizen Testimony

Planner Kevin Gambrill maintained the OPZ's consistent opposition to panhandle lots other than in D.R. 1 zones. See P.C. Exh. 13. He explained that the development of a lot on land zoned D.R. 1 typically allowed sufficient depth and buffering to offset the incompatible qualities usually associated with panhandle development. He also distinguished aspects of the Guy proposal which made it less offensive than the present proposal. The property in the Guy case involved a relatively narrow and deep lot, which predated the Honeygo law. It was already effectively functioning as a panhandle. While this did not justify the approval there, it mitigated to some extent the harmful impact.

William Libercci, PHIA Zoning Chairman, presented the authorization to appear on behalf of his association. P.C.Exh.4

He testified that his association has many land use issues to consider and apparently was not aware of the Guy case. He was concerned with the insidious erosion of Honeygo standards, and that the present proposal would compound the wrong and lead to other incremental violations of the law.

Christine Sisk, the neighboring property owner, testified in detail about the harmful impact of the proposed panhandle lot. She described the topography and drainage problems created by the recently developed Randlett lot, and the likelihood that

another lot would worsen the situation. She also testified that was unable to buy the acreage proposed for panhandle access because she was told it would have to be set aside or dedicated to the count

V. The Guy Case Has No Value as a Precedent

Petitioner has noted that People's Counsel did not file an appeal in the Guy case. The short answer to this observation is that two wrongs do not make a right. In hindsight, an appeal probably should have been filed in that case.

The present case, however, involves a different neighborhood within Honeygo. There are different parties. There are also additional factors which indicate that the present proposal is more offensive than the proposal in the Guy case.

The County Board of Appeals must not adopt or follow an errant legal interpretation made by the Zoning Commissioner in this case, an earlier case, or both. That is especially true when the facts are different and the parties are different.

If the CBA agrees with this office's position that the proposed panhandle lot is illegal, then it should deny the proposal. It should not feel constrained or be influenced by the Guy case. It should not compound the wrong done there.

This principle is reflected in a classic opinion in a Baltimore City zoning variance case. Judge Henderson rejected the argument that other exceptions, even on adjoining lots, could justify another exception. He wrote, in Easter v. Mayor & City Council 195 Md. 395, 400 (1950):

> "As was said in Potts v. Board of Adjustment ... 43 A.2d 850, 854: 'Prior exceptions granted by the adjustment board are not in themselves controlling. Ill-advised or illegal variances do not furnish grounds for a repetition of the wrong. If

that were not so, one variation would sustain if it did not compel others, and thus the general regulation eventually would be nullified. The annulment of zoning is a legislative function which is beyond the domain of the zoning board. ....' See also the cases collected in a note 168 A.L.R. 13, 40-44. The same principle was announced and applied in Heath v. Mayor & City *Council of Baltimore, supra, Md., 58 A.2d 896, 898; Mayor & City Council v. Byrd Md.,62 A.2d 588, 591, and Cassel v. Mayor & City Council of Baltimore Md., 73 A.2d 486.*

"The principal fact relied upon to justify an exception to the area and set-back rules adopted in the general interest under the police power, is the existence of an exception on the adjoining lot. Undoubtedly this is detrimental to the applicant, although his case is somewhat weakened by his tacit acceptance of the situation over a period of years. But we think the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan. 'It is by these gradual encroachments, individually of relative insignificance, that the integrity of the general scheme is undermined and ultimately shattered. One departure serves as justification for another * * *."

Subsequently, in Marino v. City of Baltimore 215 Md. 206, 220 (1957), the Court added:

"Certainly a prior exception granted by the Board does not control the granting of a subsequent exception."

In Park Shopping Center v. Lexington Park Theater Co. 216 Md.271 (1958) (P.C. Exh. 16), Chief Judge Brune summarized:

"With respect to the appellants' first contention [regarding the absence of any showing of unwarranted hardship], it is evident from both the opinion of the Board of Zoning Appeals and the opinion of the Circuit Court that the Board used the existence of other violations or variances in the immediate area tolerated or granted by the Planning and Zoning Commission to justify the issuance of the Certificate of Use and Occupancy here in question.

"This Court has held that it is not proper to consider the existence of surrounding ill-advised or illegal variances as grounds for granting additional variances."

He then quoted with approval from the above language in Easter and Marino. The law on this subject has not changed in the last fifty years.

VI. An Inquiry into PDM Approval of other Panhandle Lots

The record reflects that PDM approved panhandle lots for Randlett or his predecessor in title. This is illustrated in part by Petitioner's submission of his Exhibit 4, a resubdivision Plat of Tract A. As a result, there are two existing panhandle lots established within the last few years. Randlett occupied one of the lots, and he now seeks this special hearing to approve a third panhandle lot via minor subdivision. Ms. Sisk owns and occupies the second lot, along with Linda Mabry. The houses on these two lots are already constructed and occupied. So far as the record shows, the existing Randlett and Sisk lots on this tract either did not go through the minor subdivision process, did not come to the attention of the Office of Planning or otherwise slipped through the cracks. There were no variances or special hearings requested with respect to these lots, despite the clear statutory prohibition.

In the present case, it appears that PDM would have approved this third panhandle lot if not alerted to the zoning prohibition by the Planning Office. Indeed, even when confronted with the prohibition, PDM advised Petitioner to seek relief by special hearing. Petitioner did not call anyone from PDM as a witness, so there is no explanation as to why PDM believes it is acceptable to ignore the statutory prohibition. Remarkably, in the recent case of Bryan and Linda Roberts 5-137-SPHA, the CBA found that PDM disregarded another element of the panhandle lot law, that time in the County Code.

It is interesting that the Petitioner, Mr. Randlett, did not appear to explain the background of these transactions and approvals. It might have been informative to question him about the history of these panhandle lots. The record also shows that

Charles Freitag sold the lots to Randlett and Sisk. Pet. Exh. 11, P.C. Exh. 3. Mr. Freitag did not appear at the hearing either. Whatever the explanation, these panhandle lots were approved without regard to the BCZR 259.9.C.1 prohibition.

Conclusion

For all of the above reasons, the County Board of Appeals should deny the special hearing in this case as a matter of law. This case provides the County Board of Appeals with an opportunity to apply and enforce the Honeygo panhandle lot law and to set an important precedent. It is also an opportunity to send another message to PDM and the Zoning Office that they are not at liberty to disregard the law and approve lots which conflict with the law.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October, 2005, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to Howard L. Alderman, Jr., Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioners and to William Libercci, Zoning Chairman, Perry Hall Improvement Association, 19 Shawn Road, Baltimore, MD 21236.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BEFORE THE

COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

Case Nos. 05-205-SPH

Keith Randlett, *Owner*

SW/S Cowenton Avenue, N/W I-95
11th Election District
5th Councilmanic District

OWNER'S POST-HEARING MEMORANDUM

Keith Randlett ("Randlett", "Owner" or "Petitioner"), by and through his undersigned legal counsel, hereby submits this Post-Hearing Memorandum in accordance with the direction of the County Board of Appeals for Baltimore County ("Board") at the conclusion of the hearing held on the above-referenced appeal, in lieu of closing argument.

STATEMENT OF THE CASE

This case involves the appeal, by the Office of People's Counsel for Baltimore County ("People's Counsel" or "Appellant") of the Baltimore County Zoning Commissioner's *Findings of Fact and Conclusions of Law*, dated February 15, 2005 (the "Order") approving the use of a panhandle access to serve two (2) residential lots on the Petitioner's property, which is zoned DR 3.5-H [Honeygo District Overlay].

The Baltimore County Council has adopted a separate zoning overlay district for the Honeygo area of the County. The regulations applicable in that district are to be read in conjunction with the underlying zoning classification, intending that if a conflict arises between the two, the most recently enacted provision is to control. [1] Those special district regulations include Development Standards comprised of permitted uses [BCZR § 259.9A], bulk and area standards [BCZR § 259.9B] and building and site design standards [BCZR § 259.9C].

Included within the building and site design standards is a provision prohibiting panhandle lots except on land with an underlying zoning classification of DR 1. [BCZR §259.9C.1] In prior years, panhandle lots and other modifications to the <u>building and site design standards</u> were authorized in the Honeygo area on land zoned other than DR-1 by way of zoning variance pursuant to BCZR § 307.1. More recently, including the request by the Petitioner, property owners are being advised by the Zoning Office that such modifications to the building and site design standards may only be approved pursuant to the authority vested in the Zoning Commissioner [and this Board] pursuant to BCZR §500.7 - Special Hearing Authority.

The fundamental dispute on appeal appears to be that People's Counsel asserts that the buildings and site design standards of BCZR 259.9C are not to be modified, if at all, except by way of a petition for variance pursuant to BCZR 307.1 and

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[1] *Baltimore County Zoning Regulations* ("BCZR") *§ 259.1*

certainly not by way of a petition for special hearing. As addressed below, the position of People's Counsel on this issue is, at best, selective in its application and not supported by existing law and regulation.

THE EVIDENCE

THE PROPOSED LAYOUT - RANDLETT PROPERTY

Petitioner's Expert Witness:

Charles Merritt, owner of Merritt Development Consultants, who has been in the practice of preparing and processing development and zoning issues for over 18 years, presented the Plan which accompanied the Petition for Special Hearing. Mr. Merritt recited his considerable experience which includes testifying as an expert witness on issues involving variances and special hearings. After discussing his familiarity with the *Baltimore County Zoning Regulations*, the subject property and the area in which is located, Mr. Merritt testified that the plat entitled "Plan to Accompany Zoning Variance - Minor Subdivision Plan - Randlett Property" (the "Plan")[2] delineates accurately the Owner's property, the proposed line of subdivision and the location of existing residential dwellings adjacent to the subject property.

In discussing the title of the Plan, Mr. Merritt indicated that originally he prepared and attempted to file a Petition for Variance, seeking approval of two panhandle lots (one existing and one proposed) in the DR 3.5-H zone. Baltimore

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[2] Petitioner's Exhibit No. 1

County officials advised Mr. Merritt that based on current regulation and policy, the requested relief could only be sought and approved by way of a Petition for Special Hearing. Mr. Randlett signed a Petition for Special Hearing, it was filed, People's Counsel filed its written Entry of Appearance, the hearing on the Petition was held and the Order issued. The Order was then appealed to this Board.

At both the hearing before this Board and the one before the Zoning Commissioner, the Petitioner introduced a prior variance case where an unrelated property owner sought to subdivide his property, also zoned DR 3.5-H, by way of panhandle drives. In that case, Melvin Guy owned property that had a 45 foot wide access strip binding on the public roadway known as Cross Road. Mr. Guy's representatives filed — at that time — a Petition for Variance[3] from BCZR § 259.9C.1, a hearing was held and after the Zoning Commissioner found that: i) the Guy property was irregularly shaped; ii) construction of a public road to serve the three (3), proposed lots was not feasible; and iii) access by way of panhandle driveway was necessary to avoid development in environmentally sensitive areas, and notwithstanding the opposition to variance raised by the Baltimore County Office of Planning, the variance as requested was granted.[4] Each panhandle strip proposed for the Guy property was fifteen (15) feet wide. No appeal was taken of that decision.

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[3] Presumably, People's Counsel entered it appearance in the Guy case in the same manner as it does in all zoning cases filed.

[4] The Melvin Guy case, Case No. 02-108-A, is Petitioner's Exhibit No. 8.

The Owner's property is irregularly shaped, with a 30 foot wide strip binding on the public roadway known as Cowenton Avenue. At present, the subject property consists of two, separate parcels conveyed by Charles Freitag to the Owner.[5] The subject property is split-zoned as DR 2-H and DR 3.5-H. Mr. Merritt testified that although the DR 2-H zoned portion generated available density of 4 dwelling units and the DR 3.5-H zoned portion generated available density of 11 dwelling units (15 units total), the Owner is proposing two lots only, his existing home and one new home. The dwellings will be served by public water and sewerage facilities which are already in place, including taps previously approved by the Baltimore County Department of Public Works to serve the dwelling intended for the proposed, second lot. Mr. Merritt testified that if the requested relief is approved, Lot No. 1 would be comprised of approximately 1.26 acres and Lot No. 2 of approximately 2.06 acres, both in excess of the minimum 20,000 square feet as required by BCZR § 102.4. Each of the two lots would have a fifteen (15) foot wide strip binding on Cowenton Avenue. The balance of the subject property would then be conveyed, in fee simple and at no cost to Baltimore County to become part of the County's Greenway program.

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[5] The first parcel, comprised of approximately 4.6 acres was conveyed by a deed recorded in Liber 17443, folio 383 – Petitioner's Exhibit No. 2. The second parcel, approximately 0.25 acres, was conveyed by a deed recorded in Liber 22184, folio 246 – Petitioner's Exhibit No. 3.

Mr. Merritt acknowledged his familiarity with Section 32-4-409 of the *Baltimore County Code* ("Code") which sets forth the standards for panhandle driveway use. In compliance with those requirements, Mr. Merritt testified that the Owner's existing home is actually a panhandle lot and that the continued use of that panhandle for the existing dwelling and the proposed lot was necessary to serve the subject property. Without the requested approval for access to this irregularly shaped property, County mandated environmentally sensitive areas would have to be traversed, providing that access to Cowenton Avenue could be obtained through the adjoining property of Mr. Davis, at 8904 Cowenton Avenue. Mr. Merritt described for the Board members the 0.73 +/- acres of Forest Buffer/Forest Conservation, 100 year Floodplain and drainage and utility easement areas that would have to be invaded if alternative access were to required. In Mr. Merritt's expert opinion, Baltimore County would not permit intrusion in those environmentally sensitive areas given that the subject property has access that meets the panhandle requirements of Code § 32-4-409.[6] Mr. Merritt opined that a public road would not be permitted with only 30 feet of right of way leading to its intersection with Cowenton Avenue.[7] The continued use of the existing panhandle drive, approved initially when a building permit was issued

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[6] This provision must be read in conjunction with BCZR §259.9C.1 and relief from the zoning regulations granted before the proposed lot can be created.

[7] *See* Code § 18-3-307(b)(1)

for Mr. Randlett's existing home, [8] is wide enough to meet the Code requirements for width and is less than 500 feet in length. Provisions are made at the intersection of the existing panhandle drive and Cowenton Avenue for mail and trash/recycling pick-up.

Finally, being familiar with the BCZR, Mr. Merritt's uncontradicted opinion was that the relief requested did not pertain to height, area/setbacks, off-street parking or signage.[9] In Mr. Merritt's opinion, the relief requested achieves a better use for the irregularly shaped, subject property, results in less impervious area being created, avoids disturbance of environmentally sensitive areas and can be granted without any detrimental impact on adjoining properties – the Randlett panhandle driveway exists.

On cross-examination, Mr. Merritt testified that the shape, size and configuration of the subject property was created prior to the Honeygo regulations and that, based on his deed research, Mr. Randlett had no role in its creation. Although the subject property has density for 15 dwellings, Mr. Merritt acknowledged candidly that it is rare that full density can ever be achieved on a parcel, but the instant relief is proposing less than 1/7 of the allowable density. When inquiry was made of Mr. Merritt as to whether or not the pending minor subdivision of the subject property ever proposed access via a public roadway, Mr. Merritt indicated that the proposal

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[8] As noted below, the home of Ms. Sisk and Ms. Mabry is also a panhandle lot within the DR 3.5-H zone in Honeygo.

[9] *See* BCZR § 307.1

was not made because the existing panhandle was too narrow (30 feet) to meet minimum public road width right of way requirements (40 feet).

Protestants' Case:

People's Counsel opened its case by suggesting that Mr. Randlett's home, on an existing panhandle, may be illegal.[10] People's Counsel called Ms. Christine Sisk, a Baltimore County police officer, who (together with Ms. Mabry) has owned her home on the panhandle lot known as 8840 Cowenton Avenue (the "Sisk-Mabry Property"). Ms. Sisk introduced a variety of photographs in support of her concerns about water drainage eroding soil from bare ground. On cross-examination, Ms. Sisk acknowledged that the referenced photographs do not present a fair and accurate representation of her property as it exists today in its vegetated and stabilized state.

Ms. Sisk acknowledged that the Sisk-Mabry Property has panhandle road frontage binding on Cowenton Avenue. Notwithstanding that existing, (albeit unimproved) fee simple access, Ms. Sisk testified that without any easement, right of entry or common driveway agreement, daily access to the Sisk-Mabry Property is obtained by using the existing, improved, panhandle driveway located on Mr. Randlett's property. As noted by Ms. Sisk and as shown on the Plan, there is a very small, triangularly shaped portion of the improved driveway that was constructed on

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[10] It should not go unnoticed that the adjoining lot, created by subdivision recorded on January 15, 2004 and recorded at Plat Book No. 76 at page 80 and which is owned by People's Counsel's witness, Ms. Sisk, is also a panhandle lot.

the Sisk-Mabry Property. Ms. Sisk failed to advise the Board that, as shown clearly on the Plan, if the requested relief is granted and the Minor Subdivision approved for Mr. Randlett's property, a "*Private Ingress/Egress, Maintenance, Drainage & Utility Easement*" is to be created providing rights of use of the existing driveway to the existing and proposed lot on the Randlett Property and to the Sisk-Mabry Property. The trash pad shown on the Plan has been sized for all three lots at 48 square feet (16 square feet per lot).[11] Ms. Sisk testified about purported safety concerns in using Mr. Randlett's existing panhandle driveway, however, neither she nor Ms. Mabry have taken any steps to construct their own driveway in the panhandle strip which is part of the Sisk-Mabry Property to alleviate those concerns. In essence, Ms. Sisk is concerned about safety associated with her daily trespasses and those of Ms. Mabry and their respective invitees onto Mr. Randlett's property.

People's Counsel then called Kevin Gambrill, Baltimore County's 5th District community planner to testify. Ms. Gambrill visited the subject property on one occasion and, basically, appeared at the hearing to reiterate the comments submitted in writing by the Office of Planning. [12] Mr. Gambrill, whose job it is to review site plans and cases of concern to the community, as well as the 'review' of zoning petitions filed in his district, exhibited a lack of specific knowledge of the *Baltimore*

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11 *See* Code § 32-4-409(h)(1)

12 People's Counsel Exhibit No. 13

County Zoning Regulations, including without limitation minimum lot sizes required in certain of the DR zones. Mr. Gambrill suggested to the Board without any articulated basis that permitting panhandle lots in other than DR 1-H zones would set a "dangerous precedent". Mr. Gambrill was unable to explain the 2004 approval by his Office of the panhandle lot known as the Sisk-Mabry Property (approved subdivision plat) or to justify his prediction of "dangerous precedent" given that full density on a lot is rarely achieved, irrespective of whether or not panhandle access is permitted. Moreover, although Mr. Gambrill suggested that the proposed use of the existing access may create a traffic-safety issue, he was unaware that the sight distance safety factor had been approved by the County's traffic engineering section as part of the review of the minor subdivision proposed for the Owner's property. When asked to discuss the Melvin Guy case,[13] Mr. Gambrill formulated his comments from a 'planning perspective only' and was not able to discuss the specifics presented in that case which justified the relief granted.

William Libercci, Zoning Committee Chairman of the Perry Hall Improvement Association ("PHIA"),[14] testified that the two main concerns of his organization were limiting panhandle access to properties only in DR 1 zones and safety as related to the

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[13] The 2001 comments of the Office of Planning in the Melvin Guy case are part of the record as People's Counsel Exhibit No. 14.

[14] The Petitioner stipulated as to the Rule 8 compliance papers presented by Mr. Libercci; *see* People's Counsel Exhibit No. 4.

access. Mr. Libercci did, on cross-examination, acknowledge that the PHIA did not always oppose all proposed deviation from the building standards in the Honeygo District. Moreover, Mr. Libercci was unaware of the findings of the County's Traffic Engineering section in its review of the proposed minor subdivision. Finally, Mr. Libercci was unaware of the minimum lot size in the DR 1 zone and that the proposed lots exceed that minimum lot size.

ARGUMENT

The Requested Relief by Petition for Special Hearing is Proper

The Zoning Commissioner and this Board (on appeal) are granted only those powers specified by the Baltimore County Council. Generally, as to zoning issues, those powers are codified in two sections of the BCZR.[15] The County Council adopted BCZR § 307.1 authorizing the grant of variances from "height and area regulations, from off-street parking regulations, and from sign regulations . . . [and they] shall have no power to grant any other variances." BCZR § 307.1 As to other, specified authority, the Zoning Commissioner and this Board have been vested with the authority, by BCZR § 500, to:

- grant use permits where no building permit is required; BCZR § 500.4
- grant special exceptions; BCZR §§ 500.5 & 502.1; and

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[15] The Board also has other zoning authority, not germane to the issues presented in this case, including without limitation exclusive jurisdiction on piecemeal zoning reclassification requests.

- conduct such other hearings and pass such orders thereon as necessary for the proper enforcement of all zoning regulations, including the right of any interested person to petition for a public hearing after advertisement and notice to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations; BCZR 500.7 (Emphases added.)

The Petitioner is not seeking relief from height and area regulations, from off-street parking regulations, from sign regulations or the minimum bulk/area requirements specified for the Honeygo District in BCZR § 259.9B, nor does the proposed minor subdivision require a use permit or special exception. If so, the specific, applicable section of the BCZR set out above would have been followed. Rather, the Petitioner seeks relief from the building design standards of BCZR § 259.9C. The only authorization for granting the requested relief is that of BCZR § 500.7 - the special hearing.

This is not the first case to seek relief from those building design standards by way of a Petition for Special Hearing. Nor is it the first time that: i) the People's Counsel has entered its appearance in; and ii) the PHIA has participated in a Petition for Special Hearing for relief from the building design standards of BCZR § 259.9C. Earlier this year, Hagan Hall LLC, owner, and Brookfield Manor LLC, contract purchaser, filed a Petition for Special Hearing on land in the Honeygo District requesting approval of a home with a garage recessed 4 feet behind the front facade, in lieu of the 8 feet required by the building and design standards of BCZR § 259.9C.3(a). The final decision granting the relief requested in that special hearing

case, docketed as Case No. 05-593-SPH, was issued by the Zoning Commissioner on July 19, 2005. Messrs. William Libercci and Dennis Eckard appeared and participated in that case on behalf of the Perry Hall Improvement Association. No appeal of that final decision was taken.[16]

There is no specifically codified authority for an owner to seek relief from the building design standards of BCZR § 259.9C. Therefore, Mr. Randlett was required to petition under the broad authority of BCZR § 500.7 to obtain relief from the effect of a portion of the Honeygo standards. According to the Office of Planning, panhandle access is permissible in the DR 1-H zone, if it meets the requirements of Code § 32-4-409, because of the required, large lot sizes. The theory is, apparently, if panhandle lots are permitted in the more dense zones, a greater amount of available density will be utilized with additional, smaller lots. In this case, although the land is zoned for greater density, the lots proposed exceed the minimum lot size required in the DR-1 zone. Through the adoption of minimum public road standards that cannot be met on the subject property and the required, fee simple dedication to Baltimore County of nearly 40% of the land area, combined with the extensive environmental easements and related setbacks, the density on the subject property has been effectively reduced to <u>something less than</u> even DR-1.

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[16] A copy of People's Counsel's May 20, 2005 Entry of Appearance and the *Findings of Fact and Conclusions of Law* in Case No. 05-593-SPH are attached hereto and incorporated herein, respectively, as Exhibits A and B.

The Sisk-Mabry Property was created as a panhandle lot in 2004 by way of County approved record plat and Baltimore County has approved on the Randlett Property the extension of public utilities to serve the existing home and water and sewerage taps to serve the proposed home. The Code requirements for panhandle lots have been met. The proposed lot configuration, with each lot in excess of 1.0 acre (the minimum lot size in DR-1 zones were panhandle lots are permitted), is less than 1/7 of the available density. If the requested relief is approved, one additional lot will be created, the Sisk-Mabry Property will have legal access through the existing panhandle on the Randlett Property and extensive and sensitive environmental areas will be protected, rather than invaded for purposes of access.

Mr. Randlett's property is affected adversely by the Honeygo District regulations. The County Council has afforded any property owner, including Mr. Randlett, the right to obtain any authorized variance (BCZR § 307.1) or special exception approval (BCZR § 502.1). Where relief from the adverse effect of the BCZR is not covered under the authority of those statutory provisions, the County Council vested authority in this Board under BCZR § 500.7 to grant the relief necessary. The Special Hearing statute of the BCZR is clear and not subject to ambiguity as may be suggested by People's Counsel. The Court of Special Appeals of Maryland has held that:

> When engaged in statutory construction, it is well settled that not only should this Court begin its investigation with the words of the statute,

but we are bound by those words if their import is clear and unambiguous: The statutory language itself provides the clearest indication of the legislative intent and is thus the primary source for all statutory construction. We also adhere to the principle that the court should confine itself to construing the statute according to the ordinary and natural signification of the words used without resorting to subtle or forced interpretations designed to limit or extend the operation of the statute. When the words used convey a clear and plain meaning, there is no need to look beyond the statute to ascertain the legislative intent. Stated differently, when the statute is free from ambiguity, the court may not disregard the natural impact of the words so as to make the statute express an intention which is different from its plain meaning.

UPS v. Comptroller of Treasury, 69 Md. App. 458, 469-70 (1986) (Citations omitted.) (Emphasis added.)

The Maryland Court of Appeals, called upon to determine whether or not a snake is a farm animal under the BCZR, concurred:

> We have said that '[t]he cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature. Legislative intent must be sought first in the actual language of the statute. Where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts normally do not look beyond the words of the statute to determine legislative intent.'

Marzullo et al. v. Peter A. Kahl, 366 Md. 158, 179 (2001) (Citations omitted.)

The Petitioner has presented overwhelming evidence of proposed compliance with the Code's requirements for panhandle lots, including without limitation panhandle access to avoid environmentally sensitive areas. The County Council has vested authority in this Board to conduct a hearing and pass an order on the relief requested to alleviate the inordinate effect of the BZCR on Mr. Randlett's property. The subject property is being proposed for subdivision at less than DR-1 density with

lots that exceed the minimum lot size in the DR-1 zone where panhandle access is permitted. The only challenge that has been mounted by People's Counsel and its witnesses is that the BCZR state that only DR1-H zoned lots can be developed using panhandle access – nothing more – and, therefore the requested relief should be denied. If that is the standard, this Board will never be able to grant any relief from any BCZR provision by way of variance, special hearing or otherwise.

The Requested Relief Does Not Affect Allowable Uses in the Honeygo District

People's Counsel will, apparently, argue that the requested relief seeks approval of an otherwise, un-permitted use. At the conclusion of People's Counsel's case before this Board a copy of the 1975 Court of Special Appeals decision in the case of *Kowalski v. Lamar* was introduced as People's Counsel Exhibit No. 15. That case involved a complaint, filed by Mr. Kowalski alleging that Mr. Lamar was, on residentially zoned land he owned in Baltimore County, permitting the operation of a commercial boat yard and a commercial fishing business. On petition to the Zoning Commissioner, he found that the uses were not permitted. On appeal, the Baltimore County Board of Appeals reversed that decision. The Baltimore County Circuit Court affirmed the Board's decision. The appellate court, however, reversed finding that the principal uses (no home was constructed on Mr. Kowalski's lots where the uses complained of were being conducted) for the R.D.P. (Rural Deferred Planning) zone did not list either boat yards or commercial fishing operations as permitted uses.

Reliance on *Kowalski* and similar cases is misplaced. Mr. Randlett is <u>not</u>

seeking an un-permitted use. Mr. Randlett is seeking to construct a single-family, detached residential dwelling. Such use is permitted by the underlying DR zoning regulations[17] and is expressly permitted by the Honeygo District Regulations when the County Council provided that in the "D.R.3.5-H Zone, the only dwellings permitted are single-family detached dwellings." BCZR § 259.9A.5

The Honeygo District regulations include regulations regarding use [BCZR 259.9A], bulk and area standards [BCZR 259.9B] and, at issue in the present case, building and design standards [BCZR 259.9C]. Had the County Council intended that panhandle lots be viewed as "uses" it would have included them in BCZR § 259.9A. The building design standard for panhandle lots is no different than the standard applicable to garage offsets (*See* the *Hagan-Hall* case attached as Exhibit B).

The requested relief does not seek a use that is not permitted by the Honeygo District or the underlying zoning regulations. In fact, the opposite is the case. The Petitioner seeks to construct a use specifically required in the DR 3-5H.

SUMMARY and CONCLUSION

The Petitioner has met his burden, using the appropriate, statutory scheme adopted by the County Council. The requested relief does not qualify under the BCZR as a variance, special exception use permit or in any other manner other than special hearing relief pursuant to BCZR 500.7. The Owner's property has zoning

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[17] BCZR § 1B01.1A.1.a

density for 15 lots; he is seeking to create only 2. If the requested relief is not granted, the only avenue available to the Petitioner is to attempt to traverse the very sensitive environmental areas that panhandle lots were designed to protect.

The Board should approve the relief as requested to permit one additional single family dwelling on the Randlett Property and continued use of the existing panhandle drive by the two dwellings on the Randlett Property and the dwelling on the Sisk-Mabry Property.

Respectfully submitted,

Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]/410.296.2801 [fax]
Attorneys for Petitioner/Owner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October, 2005, a copy of the foregoing Developer's Post-Hearing Memorandum, was mailed, postage prepaid, First Class United States Mail to the following:

Peter Max Zimmerman, People's Counsel
Baltimore County Office of People's Counsel
400 Washington Avenue, Room 47
Towson, Maryland 21204

Howard L. Alderman, Jr.

RE:	PETITION FOR SPECIAL HEARING 5502–5516 & 5501-5519 Maudes Way; W/side Philadelphia Road, 200' S c/line Lloyd Ave 11th Election & 5th Councilmanic Districts Legal Owner(s): Hagan Hall, LLC by Timothy O'Shea - Sole Member Contract Purchaser(s):Brookfield Manor, LLC Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 05-593-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.

EXHIBIT "A"

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

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of May, 2005, a copy of the foregoing Entry of Appearance was mailed to Chuch Merritt, Merritt Development Consultants, Inc, 9831 Magledt Road, Baltimore, MD 21234 and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204 , Attorney for Petitioner(s).

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

IN RE: PETITION FOR SPECIAL HEARING
W/S Philadelphia Road, 200' S of the c/l
Lloyd Avenue **(Lots 2-17 Hagan/Hall Prop., Aka 5502-5516 & 5501-5519 Maudes Way)**
11th Election District
5th Council District

Hagan Hall, LLC, Legal Owners;
Brookfield Manor, LLC, Contract Purchasers

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-593-SPH

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

EXHIBIT "B"

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Hagan Hall, LLC, by Timothy S. O'Shea, Managing Member, and the Contract Purchasers, Ryan Homes d/b/a Brookfield Manor, LLC, through their attorney, Howard L. Alderman, Jr., Esquire. The Petitioners request a special hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve "The Carroll I, Elevation B" model as a concept home in the Honeygo District, and specifically within the above-referenced property, said concept home having a front entry garage recessed 4 feet behind the front façade of the dwelling in lieu of the required 8 feet, as provided in Section 259.9.C.3(a) of the B.C.Z.R. The subject property and requested relief is more particularly described on the site plan and "The Carroll I, Elevation B" drawings submitted into evidence and marked as Petitioner's Exhibits 1 and 2, respectively.

Appearing at the requisite public hearing in support of the request were Edmund Levendusky and Christopher Canapp on behalf of Ryan Homes, and Howard L. Alderman, Jr., Esquire, attorney for the Petitioners. No individuals appeared in opposition to the request; however, William Libercci and Dennis Eckard, appeared on behalf of the Perry Hall Improvement Association, and adjacent neighbors William Diefenbach, and Mr. & Mrs. Mike Horwath appeared.

As evidenced by Community Exhibit 1, the Hagan Hall property was the subject of prior Cases Nos. XI-901 and 04-150-AHSA, in which development plan approval and variance relief for the proposed development with17 single-family homes was approved on December 18, 2003 by Deputy Zoning Commissioner John V. Murphy. The property consists of 9.2 acres, more or less, split zoned D.R.-2H and R.O., and is located on the northwest side of Philadelphia Road, southwest of New Forge Road in Perry Hall.

At issue in the instant case is whether The Carroll I concept home would be compatible with and comply with the spirit and intent of the Honeygo Design Standards and guidelines set forth in the regulations. It should be noted that the Petitioners are not seeking to modify, change or reconfigure any of the previous development plan approvals.

Testimony and evidence offered revealed that Ryan Homes currently offers three distinct architectural model homes designed for the Honeygo area, ranging in size from 3,279 sq.ft. to 3,600 sq.ft. What is missing is a very marketable 3,000 sq.ft. home with a garage. The Carroll I model, with a front porch across the width of the living area, has been designed as an alternative and meets all the bulk and area standards of Section 259 of the B.C.Z.R. However, it is the required 8-foot recess behind the front façade of the dwelling that is not practical in the design of this concept home. The mandated setback would obligate the homeowner to enter the home from the garage, either through the kitchen or living room. As a result, Ryan Homes representatives met with the Office of Planning and the Perry Hall Improvement Association (PHIA) to see if they would agree to a 4-foot recess for the garage. The area planner encouraged Ryan Homes to file the instant Petition to seek approval of The Carroll I, Elevation B model as a "concept house" for this Honeygo District subdivision. The PHIA wanted a front porch added which gives the appearance that the garage is recessed 8 feet behind the front wall of the dwelling. The PHIA also wanted Elevation B to be amended to show a divider between the two-car garage openings. In view of these proposed modifications, the requested relief is necessary.

There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency; however, the Office of Planning, in its amended comments, has

requested certain conditions be imposed to insure compliance with the spirit and intent of the Honeygo Design Standards. Messrs. Libercci and Eckard agreed with the Office of Planning and had no objections to approval, so long as the relief granted is limited to this subdivision and for no more than seven lots therein. Mr. Diefenbach and Mr. & Mrs. Horwath concurred with these recommendations, but wanted assurances that the conditions and restrictions imposed in the Hearing Officer's Opinion and Order dated December 18, 2003, marked as Community Exhibit 1, and the site plan submitted in the instant case be enforced.

Based on the testimony and evidence presented, I am persuaded that the relief requested should be granted. Everyone agreed that the front porch is a good design and that the proposed concept home would be within the spirit and intent of the Honeygo District design guidelines, provided that the conditions set forth in the amended ZAC comment submitted by the Office of Planning are adhered to. I further find that the relief requested can be granted without detrimental impact to the general welfare of the surrounding locale.

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 19th day of July 2005 that the Petition for Special Hearing seeking approval of "The Carroll I, Elevation B" model as a concept home in the Honeygo District, and specifically within the above-referenced property, said concept home having a front entry garage recessed 4 feet behind the front façade of the dwelling in lieu of the required 8 feet, as provided in Section 259.9.C.3(a) of the B.C.Z.R, in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their 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 recommendations made by the Office of Planning within its amended ZAC comments dated July 6, 2005, a copy of which is attached hereto and made a part hereof. The use of The Carroll I, Elevation B model home is limited to only seven lots within the subject Hagan-Hall Property, only.

3) Prior to the issuance of any permits, Petitioners shall modify the development plan for the Hagan Hall Property approved in prior Case No. XI-901 to incorporate the Office of Planning recommendations set forth above.

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

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued on December 18, 2003 in prior Cases Nos. XI-901 and 04-150-AHSA shall remain in full force and effect.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 6, 2005

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

SUBJECT: 5502-5516 and 5501-5519 Maudes Way

AMENDED COMMENTS

INFORMATION:

Item Number: 5-593

Petitioner: Hagan Hall, LLC

Zoning: DR 2-H

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning reviewed the petitioner's request and does not oppose the petitioner's request subject to the following conditions:

1. The "Carroll I" model house (see attached) may be used on no more than seven lots in the subject subdivision.
2. The "Carroll I" model shall be limited to elevation "B" that includes a mandatory front porch across the entire front façade, not including the garage.
3. The porch shall be at least 6 feet wide to accommodate a useable area for chairs and access.
4. The "Carroll I" model front entry garage shall be recessed at least four feet behind the front facade of the dwelling" and the garage doors shall include a divider.
5. The use of this concept house "Carroll I" will apply only to this specific subdivision and not to the Honeygo District in general.
6. The elevation shall be corrected to show these dimensions and restrictions.
7. All other Honeygo standards shall apply.

8. If approved, the Development Plan shall be modified to show these restrictions (PDM # XI-901.

For further information concerning the matters stated herein, please contact Kevin Gambrill at 410-887-3480.

Prepared by: _____

Section Chief: _____

AFK/LL: CM

\\NCH_NW\VOL3\WORKGRPS\DEVREV\ZAC\5-593amend.doc

ELEVATION B

THE CARROLL I

Divider

Full Brck

Ryan Homes

WELCOMING FAMILIES HOME FOR OVER 50 YEARS

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
William J. Wiseman III , Zoning Commissioner

February 15, 2005

Howard L. Alderman, Jr., Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
SW/S Cowenton Avenue, 220' NW of the c/l I-95 R/W
(8902 Cowenton Avenue)
11th Election District – 5th Council District
Keith Randlett - Petitioner
Case No. 05-205-SPH

Dear Mr. Alderman:

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,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. Keith Randlett
8902 Cowenton Avenue, Baltimore, Md. 21236
Messrs. Charles Merritt & Chris Hanson, 2416 E. Joppa Road, Baltimore, Md. 21234
Mr. Daniel Deer'e, 12 Chatterly Court, Perry Hall, Md. 21128
Ms. Christine Sisk, 8840 Cowenton Avenue, Perry Hall, Md. 21128
Mr. William Libercci, 19 Shawn Court, Baltimore, Md. 21236
Mr. Charles Marks, 4627 E. Joppa Road, Perry Hall, Md. 21128
Office of Planning; People's Counsel; Case File

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8902 COWENTON

which is presently zoned DR 2H & DR 3.5 H

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

~~2 PANHANDLE LOTS WHOSE THE UNDERLYING ZONE IS NOT DR-1.~~ 2 pandle lots in DR-2H and DR-3.5H zones in lieu of the allowed DR-1 and DR-1H zones

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

Legal Owner(s):

KEITH RANDOLETT
Name - Type or Print

Keith Randolett
Signature

Name - Type or Print

Signature

8902 COWENTON AVE 443-465-4646
Address Telephone No.

BALTIMORE MD 21236
City State Zip Code

Attorney For Petitioner:

HOWARD I ALDERMAN JR
Name - Type or Print

Howard I Alderman Jr
Signature

LEVIN & GANN PA
Company

502 WASHINGTON AVE 8TH FL 410 321-0600
Address Telephone No.

TOWSON MD 21204
City State Zip Code

Representative to be Contacted:

CHARLES MERRITT
Name

2916 E. JOPPA RD 410 663-5525
Address Telephone No.

BALTO MD 21234
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 1/2 hrs

UNAVAILABLE FOR HEARING

Reviewed By JNP Date 10-21-04

Case No. 05-205 SPH

REV 9/15/98

August 3, 2004

ZONING DESCRIPTION FOR
#8902 & #8902A COWENTON AVENUE

Beginning at a point on the southwest side of Cowenton Avenue, which is 80 feet wide, at the distance of 220 feet northwesterly of the northwest right of way for Interstate 95. Thence (1) South 60 degrees 13 minutes 38 seconds West 194.70 feet; (2) South 27 degrees 02 minutes 53 seconds East 38.57 feet; (3) South 53 degrees 16 minutes 25 seconds West 922.97 feet; (4) North 38 degrees 46 minutes 16 seconds East 10.46 feet; (5) North 00 degrees 44 minutes 42 seconds East 31.65 feet; (6) North 04 degrees 43 minutes 18 seconds East 43.47 feet; (7) North 39 degrees 49 minutes 47 seconds East 11.16 feet; (8) North 06 degrees 42 minutes 07 seconds West 6.72 feet; (9) North 27 degrees 09 minutes 32 seconds East 689.03 feet; (10) North 60 degrees 33 minutes 42 seconds East 343.77 feet; (11) South 24 degrees 15 minutes 29 seconds East 271.77 feet; (12) North 60 degrees 13 minutes 36 seconds East 157.46 feet; and (13) by a curve to the left having a radius of 612.96 feet, an arc length of 30.35 feet and a chord bearing South 23 degrees 28 minutes 01 seconds East 30.35 feet to the place of beginning. Being Lots 1 and 2 as shown on a Minor Subdivision Plan entitled 'Randlett Property' as filed in Baltimore County under Project No. 03-047-M, containing 5.72 acres. Also known as #8902 and #8902A Cowenton Avenue and located in the 14th Election District, 6th Councilmanic District.

STATE OF MARYLAND
LEONARD THOMAS BOWSER
No. 10859
REGISTERED
PROFESSIONAL LAND SURVEYOR

205

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: #05-205-SPH
8902 Cowenton Avenue
S/west side of Cowenton Avenue, 220 feet n/west of I-95 R/W,
11th Election District
5th Councilmanic District
Legal Owner(s):
Keith Randlett
Special Hearing: to permit 2 (two) panhandle lots in D.R. 2-H and 3.5 in lieu of the allowed D.R. 1 or D.R. 1-H zone.
Hearing: Monday, January 24, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM WISEMAN
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.
1/005 Jan. 6 34708

CERTIFICATE OF PUBLICATION

1/6/, 2005

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/6/,2005.

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

S. Wilkinson

LEGAL ADVERTISING

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: #05-205-SPH
8902 Cowenton Avenue
S/west side of Cowenton Avenue, 220 feet n/west of I-95 R/W.
11th Election District
5th Councilmanic District
Legal Owner(s): Kelth Randlett
Special Hearing: to permit 2 (two) panhandle lots in D.R. 2-H and 3.5 H in lieu of the allowed D.R. 1 or D.R. 1-H zone.
Hearing: Thursday, December 9, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

WILLIAM WISEMAN
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.
JT11/807 Nov.23 30984

CERTIFICATE OF PUBLICATION

11/24/, 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 11/23/,2004.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Case No. 42170
05-205-SPH

DATE 10-21-04 ACCOUNT R-001-006-6150

AMOUNT $ 65.00

RECEIVED FROM Merritt Development Consultants Inc

FOR Residential Special Hearing Filing
8902 Cowenton Ave. fee

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
10/21/2004 10/21/2004 10:09:25 5
REG WS05 WALKIN CONN ED
>>RECEIPT # 376260 10/21/2004 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 042170
Recpt Tot $65.00
$65.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

APPEAL SIGN POSTING REQUEST

CASE NO. 05-205-SPH

KEITH RANDLETT

8902 COWENTON AVENUE

11TH ELECTION DISTRICT APPEALED: 3/04/2005

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

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

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 05-205-SPH

Petitioner/Developer:

KEITH RANDLETT – LEGAL OWNER

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

8902 COWENTON AVENUE

The sign was posted on 4/21, 2005

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Print Name)

CERTIFICATE OF POSTING

Date: 1/6/05

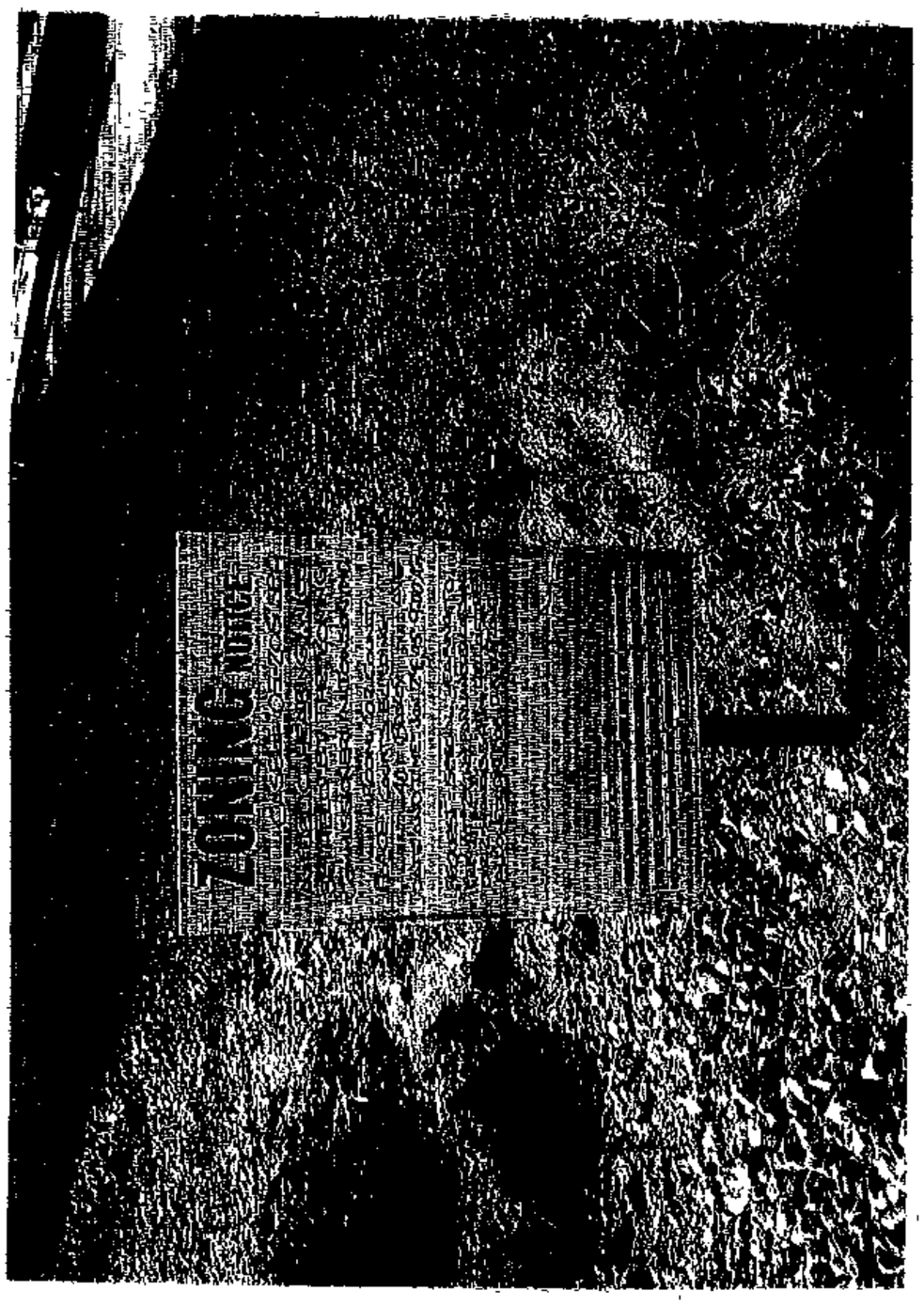
RE: Case Number: 05-205-SPH

Petitioner/Developer: RANDLETT

Date of Hearing/Closing: JAN. 24 2005

This is to certify under the penalties of perjury that the necessary sing(s) required by law were posted conspicuously on the property located at 8902 COWENTON AVE

The sign(s) were posted on 1/6/05
(Month, Day, Year)



Charles E. Merritt
(Signature of Sign Poster)

Charles E. Merritt
9831 Magledt Road
Baltimore, MD 21234
410-665-5562

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 05-205-SPH

Petitioner: KEITH RANDLETT

Address or Location: 8902 COWENTON AVE

PLEASE FORWARD ADVERTISING BILL TO

Name: KEITH RANDLETT

Address 8902 COWENTON AVE

BALTO MD 21236

Telephone Number: 443-465-4646

Department of Permits a
Development Management

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

Baltimore County

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

December 8, 2004

CORRECTED NOTICE OF ZONING HEARING

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

CASE NUMBER: 05-205-SPH
8902 Cowenton Avenue
S/west side of Cowenton Avenue, 220 feet n/west of I-95 R/W
11th Election District – 5th Councilmanic District
Legal Owner: Keith Randlett

Special Hearing to permit 2 (two) panhandle lots in D.R. 2-H and 3.5 H in lieu of the allowed D.R. 1 or D.R. 1-H zone.

Hearing: Monday, January 24, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Howard Alderman, Jr., Levin & Gann, 502 Washington Avenue, 8th Fl, Towson 21204
Keith Randlett, 8902 Cowenton Avenue, Baltimore 21236
Charles Merritt, 2416 E. Joppa Road, Baltimore 21234

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JANUARY 8, 2005.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Department of Permits and Development Management

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

November 16, 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: 05-205-SPH
8902 Cowenton Avenue
S/west side of Cowenton Avenue, 220 feet n/west of I-95 R/W.
11th Election District – 5th Councilmanic District
Legal Owner: Keith Randlett

Special Hearing to permit 2 (two) panhandle lots in D.R. 2-H and 3.5 H in lieu of the allowed D.R. 1 or D.R. 1-H zone.

Hearing: Thursday, December 9, 2004 at 10:00 a.m. in Room 407, County Courts Building, 111 W. Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Howard Alderman, Jr., Levin & Gann, 502 Washington Avenue, 8th Fl, Towson 21204
Keith Randlett, 8902 Cowenton Avenue, Baltimore 21236
Charles Merritt, 2416 E. Joppa Road, Baltimore 21234

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, NOVEMBER 24, 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 23, 2004 Issue - Jeffersonian

Please forward billing to:
Keith Randlett
8902 Cowenton Avenue
Baltimore, MD 21236

443-465-4646

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: 05-205-SPH
8902 Cowenton Avenue
S/west side of Cowenton Avenue, 220 feet n/west of I-95 R/W.
11th Election District – 5th Councilmanic District
Legal Owner: Keith Randlett

Special Hearing to permit 2 (two) panhandle lots in D.R. 2-H and 3.5 H in lieu of the allowed D.R. 1 or D.R. 1-H zone.

Hearing: Thursday, December 9, 2004 at 10:00 a.m. in Room 407, County Courts Building, 111 W. Chesapeake Avenue, Towson 21204

WILLIAM WISEMAN
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

TO: PATUXENT PUBLISHING COMPANY
Thursday, January 6, 2005 Issue - Jeffersonian

Please forward billing to:
Keith Randlett
8902 Cowenton Avenue
Baltimore, MD 21236

443-465-4646

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: 05-205-SPH
8902 Cowenton Avenue
S/west side of Cowenton Avenue, 220 feet n/west of I-95 R/W.
11th Election District – 5th Councilmanic District
Legal Owner: Keith Randlett

Special Hearing to permit 2 (two) panhandle lots in D.R. 2-H and 3.5 H in lieu of the allowed D.R. 1 or D.R. 1-H zone.

Hearing: Monday, January 24, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN
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.

County Board of Appeals of Baltimore County

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

September 30, 2005

NOTICE OF DELIBERATION

IN THE MATTER OF:

KEITH RANDLETT – Legal Owner /Petitioner
Case No. 05-205-SPH

Having heard this matter on 8/18/05, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, OCTOBER 20, 2005 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Closing briefs due Monday, October 3, 2005
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

---

c: Appellant : Office of People's Counsel

Counsel for Petitioner /Legal Owner : Howard Alderman, Jr., Esquire

Petitioner /Legal Owner : Keith Randlett

Charles Merritt and Chris Hanson /Merritt Development Consultants

Protestants : Daniel Deerè
Christine Sisk
William Libercci
Charles Marks

John Walker

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Add:
Evan Moruille

FYI: 3-1-7

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 31, 2005

NOTICE OF ASSIGNMENT

CASE #: 05-205-SPH

IN THE MATTER OF: KEITH RANDLETT - Petitioner
8902 Cowenton Avenue 11th Election District; 5th Councilmanic

2/15/05 – Z.C.'s Decision in which special hearing relief was GRANTED with restrictions.

ASSIGNED FOR: **THURSDAY, AUGUST 18, 2005 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

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

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

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Petitioner /Legal Owner : Howard Alderman, Jr., Esquire
Petitioner /Legal Owner : Keith Randlett

Charles Merritt and Chris Hanson /Merritt Development Consultants

Protestants : Daniel Deerè
Christine Sisk
William Libercci
Charles Marks

John Walker

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Department of Permits and Development Management

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

Baltimore County

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

January 19, 2005

Howard L. Alderman
Levin & Gann, PA.
502 Washington Avenue, 5th Fl.
Towson, Maryland 21204

Dear Mr. Alderman:

RE: Case Number:05-205-SPH , 8902 Cowenton Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 21, 2004.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Keith Randlett 8902 Cowenton Avenue Baltimore 21236
Charles Merritt 2416 E. Joppa Road Baltimore 21234

Baltimore County
Fire Department

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

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

November 16, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: November 15, 2004

Item No.: 205 221-226

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

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA
Driven to Excel
State Highway Administration
Maryland Department of Transportation

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

Date: 11.24.04

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

RE: Baltimore County
Item No. 205 JJS

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,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 22, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For November 22, 2004
Item Nos. 205, 221, 222, 224, and 225

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

RWB:CEN:jrb

cc: File

ZAC-11-22-2004-NO COMMENT ITEMS-NOS 221-226-11222004

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
PDM

FROM: John D. Oltman, Jr JDO
DEPRM

DATE: December 6, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of November 15, 2004.

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

05-205
05-221
05-222
05-224
05-225
05-226

Reviewers: Sue Farinetti, Dave Lykens

12/9
PP
1W
1/24

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 6, 2004

RECEIVED

DEC 8 2004

ZONING COMMISSIONER

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

SUBJECT: 8902 Cowenton Avenue

INFORMATION:

Item Number: 5-205

Petitioner: Keith Randlett

Zoning: DR 2H/DR 3.5H

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

Section 259.9C.1of the BCZR prohibits panhandle lots in Honeygo on land zoned DR 2H or DR 3.5H. As such, this office recommends that the petitioner's request be **DENIED**.

In addition, the proposal does not appear to be in conformance with the Honeygo Design Standards. For example, the garage does not appear to have an 8-foot setback from the front building wall or a side-loaded garage, nor does the proposed front façade appear to be of at least 70% brick or other approved building material, etc.

Prepared by: Martha A Cumpston

Division Chief: Lynn Lanham

AFK/LL:MAC:

\\NCH_NW\VOL3\WORKGRPS\DEVREV\ZAC\5-205.doc

RE:	PETITION FOR SPECIAL HEARING 8902 Cowenton Avenue; SW/side of Cowenton Avenue, 220' NW of I-95 R/W 11th Election & 5th Councilmanic Districts Legal Owner(s): Keith Randlett Petitioner(s)	*	BEFORE THE
		*	ZONING COMMISSIONER
		*	FOR
		*	BALTIMORE COUNTY
		*	05-205-SPH

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED
NOV 1 1 2004
Per.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of November, 2004, a copy of the foregoing Entry of Appearance was mailed to Chuch Merritt, Merritt Development Consultants, Inc. 9831 Magledt Road, Baltimore, MD 21234 and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204 , Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Department of Permits and Development Management

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

Baltimore County

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

March 21, 2005

Howard Alderman, Jr., Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, MD 21204

Dear Mr. Alderman:

RE: Case: 05-205-SPH, 8902 Cowenton Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on March 4, 2005 by People's Counsel of Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Timothy Kotroco
Director

TK:klm

c: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Keith Randlett, 8902 Cowenton Ave., Baltimore 21236
Charles Merritt & Chris Hanson, 2416 E. Joppa Rd., Baltimore 21234
Daniel Deer'e, 12 Chatterly Court, Perry Hall 21128
Christine Sisk, 8840 Cowenton Ave., Perry Hall 21128
William Libercci, 19 Shawn Ct., Baltimore 21236
Charles Marks, 4627 E. Joppa Rd., Perry Hall 21128
Office of Planning, M.S. 3402

Case No. 05-205-SPH

In the Matter of: Keith Randlett – Petitioner
8902 Cowenton Avenue 11th E; 5th C

SPH – To approve two panhandle lots in DR 2-H /D.R. 3.5-H zone ilo allowed D.R. 1 or D.R. 1-H zone.

2/15/05 - Z.C.'s Order in which requested special hearing relief was GRANTED with restrictions.

5/31/05 -Notice of Assignment sent to following; assigned for hearing on Thursday, August 18, 2005 at 10 a.m.:

Office of People's Counsel
Howard Alderman, Jr., Esquire
Keith Randlett
Charles Merritt and Chris Hanson /Merritt Development Consultants
Daniel Deerè
Christine Sisk
William Libercci
Charles Marks
John Walker
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

8/18/05 – Board convened for hearing (Wescott, M Mohler, Crizer); concluded hearing this date; memos requested from parties on 10/03/05; deliberation to be assigned.

9/30/05 – Notice of Deliberation sent to parties; assigned for Thursday, October 20, 2005 at 9:00 a.m. FYI copy to 3-1-7.

10/03/05 – People's Counsel for Baltimore County's Hearing Memorandum filed by P. Zimmerman and C. Demilio.
- Owner-Petitioner's Post-Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of Keith Randlett.

10/12/05 – Copies of above memos sent to Wescott, M. Mohler and Crizer this date. Deliberation assigned for 10/20/05.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: John Alexander
Department of Permits and
Development Management

DATE: April 1, 2004

FROM: Mark A. Cunningham
Development Review Section
Office of Planning

PROJECT NAME: Randlett Property

PROJECT NO.: 03047 M – **SECOND REVIEW**

The Office of Planning has reviewed the above referenced project and offers the following comments:

Section 259.9C.1of the BCZR prohibits panhandle lots in Honeygo on land zoned DR 2H or DR 3.5H. The subject property is in the Honeygo Plan area. This office does not recall having reviewed a panhandle submittal on the subject site, and does not support the proposed subdivision.

Mark A. Cunningham

MAC:kma

#205

W:\DEVREV\MINOR\03047m2.doc

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION

NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
FACSIMILE 410-296-2801

ELLIS LEVIN (1893-1960)

November 29, 2004

Kristen:
OK to postpone please reset when available.
T—

VIA TELEFAX & REGULAR MAIL

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

Possibly 1/24/05 Rm 407

RE: 8902 Cowenton Avenue
Case No. **05-205-SPH**
Request for Postponement and Immediate Rescheduling

Dear Mr. Kotroco:

I have recently received the Notice of Hearing in the above-referenced case indicating that this case is scheduled for hearing on Thursday, December 9, 2004 at 9:00 a.m. Pursuant to a specially set matter, I am before the Hearing Officer for Baltimore County in the Greenfields LLC development plan matter on the same date and time. Therefore, on behalf of my client, Mr. Keith Randlett, I respectfully request that the hearing on the above-referenced case be **postponed** and that it be **rescheduled as soon as possible. If Christen will contact me before rescheduling the hearing I will ensure that the date is clear with all concerned.**

Thank you and please contact me if there is any problem with this request.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
c: Mr. Keith Randlett
Mr. Charles Merritt
Ms. Christen Matthews

RECEIVED
NOV 30 2004
04-3919

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

October 3, 2005

HAND DELIVERED
Ms. Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
400 Washington Avenue, Suite 49
Towson, Maryland 21204

RE: *Randlett Property - Special Hearing*
Case No. CBA 05-205-SPH
Owner/Petitioner's Post-Hearing Memorandum

Dear Ms. Bianco:

In accordance with the direction received from the Board at the conclusion of the hearing on the above-referenced matter, I am pleased to provide to the Board an original and three (3) copies of the *Owner/Petitioner's Post-Hearing Memorandum*. Should you or any member of the Board desire additional information or additional copies, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/one encl.): Peter Max Zimmerman, Esquire, People's Counsel
Mr. Keith Randlett

MARYLAND TRANSPORTATION AUTHORITY

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Robert L. Flanagan
Chairman

Louise P. Hoblitzell
Walter E. Woodford, Jr., P.E.
John B. Norris, Jr., P.E.
Rev. Dr. William C. Calhoun, Sr.
Andrew N. Barrow
Susan M. Affleck Bauer, Esq.

Trent M. Kittleman
Executive Secretary

Engineering Division
300 Authority Drive
Baltimore MD 21222-2200
410-288-8470
410-288-8475 (fax)

410-355-7024 (TTY)
1-888-754-0098

e-mail: mdtaengineer@mdtransportationauthority.com

www.mdtransportationauthority.com

November 19, 2004

Mr. Larry Gredlein
Bureau of Engineering Access Permits
Maryland State Highway Administration
P.O. Box 717
Baltimore, Maryland 21203

RE: Randlett Property
8902 Cowenton Avenue
Minor Subdivision Plat
Case #5-205-SPH
Baltimore County

Dear Mr. Gredlein,

We have reviewed the Minor Subdivision Plat for the Randlett property on Cowenton Avenue and find that it is not impacted by the proposed improvements to I-95. Therefore we have no objections to its approval.

Thank you for the opportunity to comment. Should you have any questions, please feel free to contact Ms. Melissa Williams at 410-288-8400, ext. 383.

Sincerely,

Keith A. Duerling, P.E.
Director, Division of Engineering

C: Mr. Charles Harrison
Mr. Steve Hurt
Ms. Melissa Williams

DH

Case No.: 05-205 SPH

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	Site Plan - accepted over objection. Ms Sisk claims ownership of a portion in dispute & in litigation	Photo's 1 thru 22 1-6 - sewer hook-ups environmental issues
No. 2	Case NO. 02-108A 11/01 Case involving interpretation of Sect 259.9C.1	Photo's 1-5 - debris + errosion at top of common area
No. 3		
No. 4		→ Cont.
No. 5		7-8 driveway damage 9-16 errosion; trash
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PLEASE PRINT CLEARLY

CASE NAME 05-205 SPH
CASE NUMBER
DATE

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
DANIEL DEERE	12 CHATTERLY CT	PERRY HALL 21128	ddeere@bigfoot.com
Christine Sisk	8840 Cowenton Ave	Perry Hall 21128	CSisk@Co.ba.md.us
Wm HIBERCCI	19 SHAWN CT	BALTO Md. 21236	
CHARLES MARKS	4627 E Joppa Rd	Perry hall 21128	MARKS@MRIS.COM

PLEASE PRINT CLEARLY

CASE NAME Rawlett
CASE NUMBER 05-205-SPH
DATE 24 January 05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Howard L Alderman Jr	Levin & Gann PA Suite 800 502 Washington Avenue	Towson MD 21204	
CHARLES MERRITT	MERRITT DEV. CONSULTANTS INC		
[redacted]	2416 E. JOPPA RD	BALTO MD 21234	
[redacted] Hankard	MERRITT DEV. CONS. INC.		
	2416 E. JOPPA RD	BALT MD 21234	

Raudlett 05-205-SPH
8-18-2005

Verified KK

Petitioners Exhibits

1. Plan to Accompany Zoning Variance
2. Deed File # 02-1039
3. Deed File # 4M-7384JOC
4. Resubdivision Plat of Tract A
5. Zone + District Regs.
6. Inter-Office corr. between Alexander + Cunningham
7. Baltimore County Planning, Zoning, + Subdivision Control
8. Zoning Comm. Order Case # 02-108-A
9. Zoning Regs 2599 B
10. Section 307, Variances
11. Sisk, Mabry Deed

Pet. Ex. #2

Kenilworth Title Company, LLC
File No. **02-1039**
Tax ID # **11 1103051440**

This Deed, made this 27th day of December, 2002, by and between Charles P. Freitag, Jr., party of the first part, Grantor; and Kelth A. Randlett, party of the second part, Grantee.

- Witnesseth -

That for and in consideration of the sum of One Hundred Seventy Thousand And 00/100 Dollars ($170,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the said Keith A. Randlett, as sole owner, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

Beginning for the same at an concrete post at the beginning of the ninth line of the land which by deed dated August 10, 1949 and recorded among the Land Records of Baltimore County in Liber TBS No. 1774 folio 13 was conveyed by G. William Parker to Henry Cook and wife, and running thence and binding on said ninth line, as now surveyed, (1) North 63 degrees *00* minutes *05* seconds east *855.00* feet to a stone, thence binding on the 10th, 11th and 12th lines of said land,; (2) North 20 degrees 50 minutes 20 seconds west 165.07 to a stone, (3) north 60 degrees 54 minutes 40 seconds east 45.83 feet to a stone and (4) North 18 degrees 15 minutes 30 seconds west, 154.07 feet to a pipe; thence for lines of division: (5) south 66 degrees 46 minutes 20 seconds west 343.76 feet and (6) south 33 degrees 22 minutes 10 seconds west, 689.03 feet to the place of beginning, containing 4.5988 acres of land.

The Buyer/Grantee hereby swears or affirms under the penalty of perjury that the property herein conveyed is intended to be used as my principal residence by actually occupying the residence for at least 7 of the next 12 months.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Keith A. Randlett, as sole owner, in fee simple.

And the said party of the first part hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

As Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:

{Seal}
Charles P. Freitag, Jr.

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
2

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I hereby certify that on this 27th day of December, 2002, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Charles P. Freitag, Jr., the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

ROY E. GOLDSTEIN NOTARY PUBLIC BALTIMORE

Notary Public
My commission expires: 04-01-06

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Attorney

AFTER RECORDING, PLEASE RETURN TO:
Kenilworth Title Company, LLC
3301 Boston Street
Suite 200
Baltimore, Maryland 21224

0017443 386

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [X] County: Baltimore

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

IMP FD SURE $ 5.00
RECORDING FEE 20.00
TR TAX STATE 850.00
TOTAL 875.00
Res# BA05 Rcpt # 30715
SM LL Blk # 3680
Jan 27, 2003 11:09 am

1 Type(s) of Instruments — [ ] Check Box if Addendum Intake Form is Attached.)

1	Deed		Mortgage		Other		Other
2	Deed of Trust		Lease				

2 Conveyance Check Box

X	Improved Sale Arms-Length *[1]*		Unimproved Sale Arms-Length *[2]*		Multiple Arms Length *[3]*		Not an Arms-Length Sale *[9]*

3 Tax Exemptions (If Applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration	Amount	Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 170,000.00	Transfer Tax Consideration	$
Any New Mortgage	$ 130,000.00	x ( )%	$
Balance of Existing Mortgage	$	Less Exemption Amount	$
Other:	$	Total Transfer Tax	$
Other:	$	Recordation Tax Consideration	$
		x ( ) per $500	$
Full Cash Value	$ 170,000.00	TOTAL DUE	$

5 Fees

5
20
850

Amount of Fees	Doc. 1	Doc. 2	
Recording Charge	$ 25.00	$ 25.00	Agent:
Surcharge	$ 0.00	$ 0.00	Tax Bill:
State Recordation Tax	$ 1,900.00	$ 85 0.00	
State Transfer Tax	$ 850.00	$ 0.00	C.B. Credit:
County Transfer Tax	$ 2,550.00	$ 0.00	
Other	$	$	Ag. Tax/Other:
Other	$	$	

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article *Section 3-104(g)(3)(i).*

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
11	1103051440	16923/323			[ ] (5)

Subdivision Name	Lot(3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)

Location/Address of Property Being Conveyed (2)
8902 Cowenton Avenue, Nottingham, MD 21236

Other Property Identifiers (if applicable) | Water Meter Account No.

Residential [X] or NonResidential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: $N/A
Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: | N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Keith A. Randlett	Charles P. Freitag, Jr.
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	Doc. 2 – Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
Hugh J. Garchinsky	Keith A. Randlett

New Owner's (Grantee) Mailing Address
8902 Cowenton Avenue, Nottingham, MD 21236

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)
	The People's Bank of Oxford

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: tbiniasz
Firm: Kenilworth Title Company, LLC
Address: 3301 Boston Street Suite 200 Baltimore, Maryland 21224
Phone: Telephone: 443-524-4100 Fax: 443-524-5100

[X] Return to Contact Person
[ ] Hold for Pickup
[ ] Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[X] Yes [ ] No Will the property being conveyed be the grantee's principal residence?
[ ] Yes [X] No Does transfer include personal property? If yes, identify: ______
[X] Yes [ ] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

Assessment Use Only – Do Not Write Below This Line

[ ] Terminal Verification [ ] Agricultural Verification [ ] Whole [ ] Part [ ] Tran. Process Verification

Transfer Number | Date Received | Deed Reference | Assigned Property No.

Year	Geo.	Map	Sub	Block
Land	Zoning	Grid	Plat	Lot
Buildings	Use	Parcel	Section	Occ. Cd.
Total	Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

Baltimore County, Maryland
CK .00 CA
$4,450.00
ACCT: NO 1103051440
VOT: RECORDATION TAXES
RECEIPT # 216680 1/08/2003 1/08/2003 OFLN
REG 0802 DDDL DWD DRAWER 2
1/08/2003 1/08/2003 14:16:07
BUSINESS ACTUAL TIME
REVALIDATION
DUPLICATE PAID RECEIPT

0022184 246

Pet. Ex. #3

Mid-Atlantic Title Company
File No. **04-M-7384JOC**
Tax ID # **11-2400005020**

This Deed, made this 20th day of January, 2005, by and between Charles P. Freitag, Jr., party of the first part, Grantor; and, Keith A. Randlett party of the second part, Grantee.

- Witnesseth -

That for and in consideration of the sum of Fourteen Thousand 00/100 Dollars ($ 14,000.00), and other good and valuable consideration, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the said Keith A. Randlett, as sole owner, his personal representatives, heirs and assigns, in fee simple, all that property situate in Baltimore County, Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Parcel A as shown on the Plat entitled "Resubdivision Plat of Tract A, Lands of Alban, Cook & Jednoralski", which plat is recorded among the Land Records of Baltimore County, Maryland in Plat Book S.M. 76, folio 80, containing .0246 acre of land more or less.

The improvements thereon being known as Parcel A, Cowenton Avenue, Baltimore, MD 21128.

BEING part of the property which, by Deed dated August 30, 2002, and recorded among the Land Records of Baltimore County, Maryland, in Liber SM No. 16923, folio 323, was granted and conveyed by Timothy S. O'Shea unto Charles P. Freitag, Jr.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Keith A. Randlett, as sole owner, his personal representatives, heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

The Grantor affirms under the penalties of perjury that the Grantor is a Maryland resident.

As Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:

Keith A. Randlett

Charles P. Freitag, Jr. {Seal}

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 3

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I hereby certify that on this 20th day of January, 2005, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Charles P. Freitag, Jr., the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

KAREN A. NORUNOFF NOTARY PUBLIC BALTIMORE CO., MD.

Karen A. Norunoff
Notary Public
My commission expires: 3/1/06

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

James D. O'Connor, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Mid-Atlantic Title Company
100 West Road
Suite 215
Towson, MD 21204

0022184 | 248

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [X] County: Baltimore

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TR TAX STATE 70.00
TOTAL 110.00
Reg# BA03 Rcpt # 81839
SN TD Blk # 994
Jul 12, 2005 12:22 PM

1 Type(s) of Instruments — ( ) Check Box if Addendum Intake Form is Attached.)

	Deed		Mortgage		Other		Other
1	Deed of Trust		Lease				

2 Conveyance Check Box

	Improved Sale Arms-Length *[1]*		Unimproved Sale Arms-Length *[2]*		Multiple Arms Length *[3]*		Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration	Amount
Purchase Price/Consideration	$ 14000.00
Any New Mortgage	$ .00
Balance of Existing Mortgage	$
Other:	$
Other:	$
Full Cash Value	$ 14000.00

Finance Office Use Only	
Transfer and Recordation Tax Consideration	
Transfer Tax Consideration	$
X ( ) %	= $
Less Exemption Amount	- $
Total Transfer Tax	= $
Recordation Tax Consideration	$
X ( ) per $500	= $
TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 40.00	$
Surcharge	$ 0.00	$
State Recordation Tax	$ 70.00	$
State Transfer Tax	$ 70.00	$
County Transfer Tax	$ 210.00	$
Other	$	$
Other	$	$

Agent:
Tax Bill:
C.B. Credit:
Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	11-2400005020	16923/323			( ) (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)

Location/Address of Property Being Conveyed (2): Parcel A Cowenton Avenue, Perry Hall, MD 21128

Other Property Identifiers (if applicable):

Water Meter Account No.:

Residential [X] or Non-Residential [ ] — Fee Simple [X] or Ground Rent [ ] — Amount: $N/A

Partial Conveyance? [ ] Yes [X] No — Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Charles P. Freitag, Jr.	

Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	Doc. 2 – Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
Keith A. Randlett	

New Owner's (Grantee) Mailing Address: 7808 Tilmont Avenue, Baltimore, MD 21234

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name:	D. Sweeney
Firm:	Mid-Atlantic Title Company
Address:	100 West Road Suite 215 Towson, MD 21204
Phone:	Telephone: 410-321-6075 Fax: 410-337-8607

[X] Return to Contact Person
[ ] Hold for Pickup
[ ] Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[ ] Yes [X] No — Will the property being conveyed be the grantee's principal residence?
[ ] Yes [X] No — Does transfer include personal property? If yes, identify: ______
[ ] Yes [X] No — Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

Assessment Use Only - Do Not Write Below This Line

( ) Terminal Verification ( ) Agricultural Verification ( ) Whole ( ) Part ( ) Tran. Process Verification
Transfer Number | Date Received | Deed Reference | Assigned Property No.:

Year			Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

County, Maryland
CK $.00 CA
$280.00
005020
RECORDATION TAXES
95 7/12/2005 OFLN
N DDOL DMD
7/12/2005 11:41:07 2
ACTUAL TIME DRW
REGISTRATION
DUPLICATE PAID RECEIPT

7/12/2005

04-M-7384JOC

GENERAL NOTES

1) HIGHWAYS AND HIGHWAY WIDENINGS, SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS, ACCESS EASEMENTS, FOREST BUFFER AREAS IN FEE OR EASEMENT, FOREST CONSERVATION AREAS IN FEE OR EASEMENT AND STORMWATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON ARE RESERVED UNTO THE OWNER AND EXCEPT FOR THOSE INDICATED AS PRIVATE ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE OWNER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND AT NO COST. UNTIL SUCH TIME AS SAID CONVEYANCE IS ACCEPTED BY BALTIMORE COUNTY, THE OWNER AUTHORIZES BALTIMORE COUNTY, ITS AGENTS AND ASSIGNS THE RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING AND REPAIRING ROAD, UTILITY LINES AND FACILITIES AND STORMWATER MANAGEMENT PONDS AND FACILITIES.

2) THE STREETS AND/OR ROADS SHOWN HEREON AND MENTION THEREOF IN DEEDS ARE FOR PURPOSES OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

3) THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF THE BALTIMORE COUNTY CODE, SECTION 26-216.

4) THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.

5) THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.

6) ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT AND DEPARTMENT OF PUBLIC WORKS.

7) THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THIS PLAT.

8) THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES ADOPTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

9) THE SECOND REVISED LIMITED EXEMPTION DEVELOPMENT PLAN FOR THIS PROPERTY WAS APPROVED ON FEBRUARY 13, 2003.

10) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER AND FOREST CONSERVATION EASEMENTS EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

11) ANY FOREST BUFFER AND FOREST CONSERVATION EASEMENT SHOWN HEREON ARE SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

12) THIS SITE IS LOCATED IN WATERSHED 6 AND SUBSEWERSHED 19.

13) THE LOTS AND UNITS CREATED BY THIS SUBDIVISION PLAT ARE SUBJECT TO A FEE OF ASSESSMENT TO COVER OR DEFRAY ALL OR PART OF THE DEVELOPERS COST OF INSTALLATION OF WATER AND SEWER FACILITIES, PURSUANT TO THE BALTIMORE COUNTY CODE SECTION 26-246.THIS FEE OR ASSESSMENT, WHICH RUNS WITH THE LAND, IS A CONTRACTUAL OBLIGATION BETWEEN THE DEVELOPER AND EACH OWNER OF THIS PROPERTY AND IS NOT IN ANY WAY A FEE OR ASSESSMENT OF BALTIMORE COUNTY

14) THE APPROVAL OF THIS PLAT IS BASED UPON A REASONABLE EXPECTATION THAT THE WATER AND SEWER SERVICE WHICH IS PLANNED FOR THIS DEVELOPMENT WILL BE AVAILABLE WHEN NEEDED. HOWEVER, BUILDING PERMITS MAY NOT BE ISSUED UNTIL THE PLANNED WATER AND SEWER FACILITIES ARE COMPLETED AND DETERMINED TO BE ADEQUATE TO SERVE THE PROPOSED DEVELOPMENT.

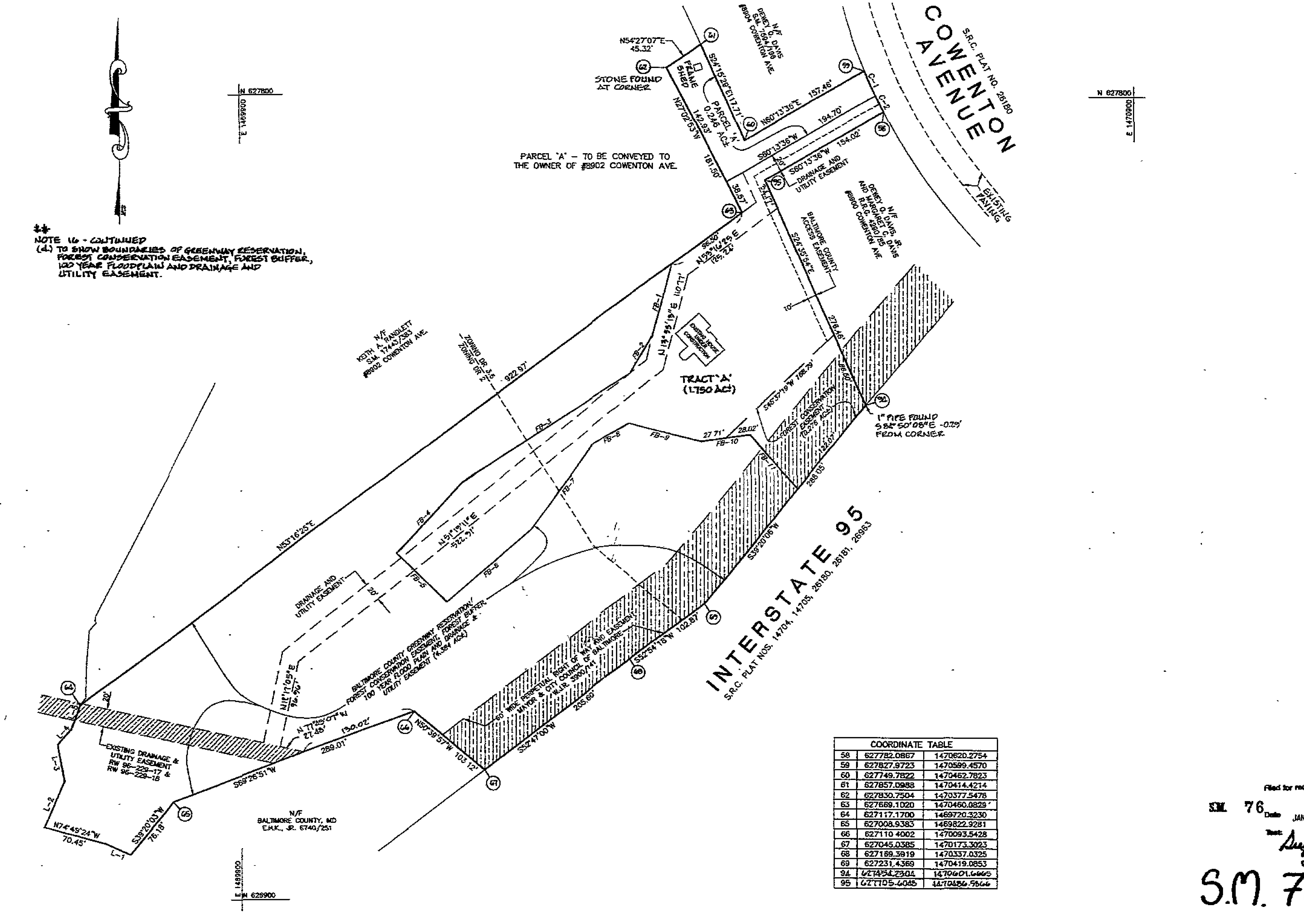
15) WITHIN THE AREA SHOWN AS BALTIMORE COUNTY GREENWAY RESERVATION PERMITTED ACTIVITIES INCLUDE PUBLIC ACCESS FOR HIKING, BICYCLING, FISHING, NATURE/ENVIRONMENTAL STUDIES AND BALTIMORE COUNTY SUPERVISED TRAIL IMPROVEMENTS AND MAINTENANCE, SUBJECT TO APPROVAL BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

16) REASONS FOR PLAT AMENDMENT:
- (a) TO CREATE PARCEL 'A' TO BE CONVEYED TO THE OWNER OF #8902 COWENTON AVENUE
- (b) TO CREATE A DRAINAGE AND UTILITY EASEMENT FOR THE EXTENSION OF PUBLIC SEWER TO COWENTON AVENUE
- (c) THESE CHANGES WERE APPROVED BY THE DRC AS A REFINEMENT ON 10/15/02 (DRC #101502J).
- (d) **

17) SITE INFORMATION:

EXISTING ZONING	DR 2 & DR 3.5
TOTAL AREA OF PLAT	6.380 AC±
AREA OF PARCEL 'A'	0.246 AC±
AREA OF TRACT 'A'	1.750 AC±
AREA OF GREENWAY RESERVATION	4.384 AC±

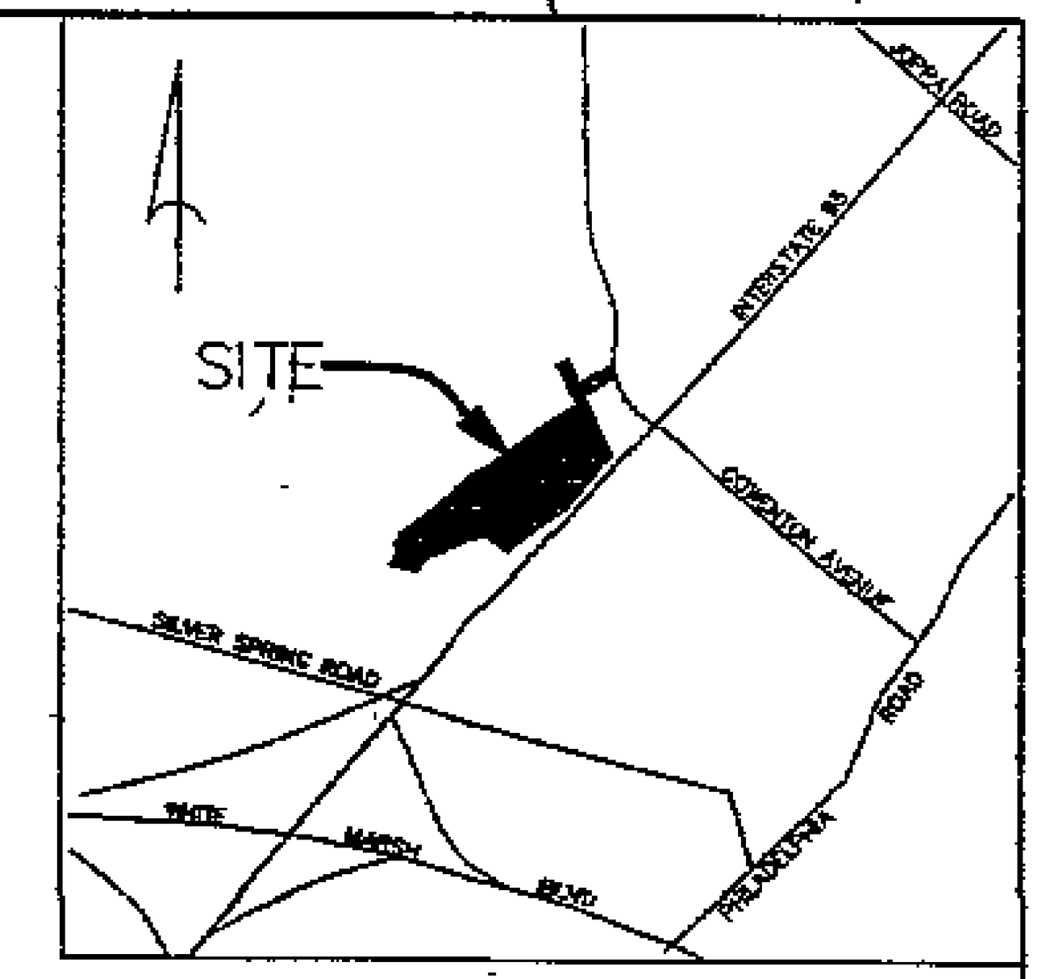
** NOTE 16 - CONTINUED
(d) TO SHOW BOUNDARIES OF GREENWAY RESERVATION, FOREST CONSERVATION EASEMENT, FOREST BUFFER, 100 YEAR FLOODPLAIN AND DRAINAGE AND UTILITY EASEMENT.



LINE CHART		
L-1	N65°37'51"W	28.97'
L-2	N24°06'45"E	56.55'
L-3	N10°58'14"W	41.50'
L-4	N41°32'07"E	23.10'
L-5	N19°23'39"E	28.74'
FB-1	S13°55'19"W	81.81'
FB-2	S30°38'37"W	50.49'
FB-3	S57°11'51"W	226.51'
FB-4	S42°46'45"W	107.70'
FB-5	S46°29'19"E	78.27'
FB-6	N49°26'33"E	125.37'
FB-7	N36°10'31"E	116.35'
FB-8	N59°49'55"E	48.36'
FB-9	S76°05'49"E	81.66'
FB-10	N81°50'47"E	55.73'
FB-11	S41°14'17"E	81.27'

CURVE	RADIUS	DELTA	LENGTH	TANGENT	CHORD BEARING
C-1	612.96'	02°50'14"	30.35'	15.18'	S23°28'01"E 30.35'
C-2	612.96'	01°52'26"	20.05'	10.03'	S25°49'21"E 20.05'

COORDINATE TABLE		
58	627782.0867	1470620.2754
59	627827.9723	1470599.4570
60	627749.7822	1470462.7823
61	627857.0988	1470414.4214
62	627830.7504	1470377.5478
63	627669.1020	1470460.0829
64	627117.1700	1469720.3230
65	627008.9383	1469822.9281
66	627110.4002	1470093.5428
67	627045.0385	1470173.3023
68	627169.3919	1470337.0325
69	627231.4369	1470419.0853
94	627454.2304	1470601.6665
95	627705.6045	1470456.5566



VICINITY MAP
SCALE: 1" = 1000'

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 4

PLAT RECORDING 15.00
TOTAL 15.00
Rept # 69464 Blk # 3246
Jan 15, 2004 11:28

Filed for record
S.M. 76 Date JAN 15 2004 80
Clerk

S.M. 76-80

RESUBDIVISION PLAT OF TRACT A LANDS OF ALBAN, COOK & JEDNORALSKI

(PREVIOUSLY RECORDED IN PLAT BOOK S.M. 73/60)

11TH ELECTION, 5TH COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 80' MAY 15, 2003

NOTE:
I HEREBY CERTIFY THAT I HAVE REVIEWED WITH DUE DILIGENCE THE APPROVED SECOND REVISED LIMITED EXEMPTION DEVELOPMENT PLAN DATED FEBRUARY 13, 2003 AND HAVE PREPARED WITH DUE DILIGENCE THIS RECORD PLAT, PURSUANT TO THAAT APPROVED PLAN.

OWNERS
CHARLES P. FREITAG, JR.
7808 TILMONT AVENUE
BALTIMORE, MD. 21234
DEED REF. S.M. 16923/323
TAX ACCT. NO.. 23-00010299

OWNER'S CERTIFICATION
THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, HEREBY CERTIFIES THAT TO THE BEST OF ITS KNOWLEDGE THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED WITH, INSOFAR AS SAME CONCERNS THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS.
CHARLES P. FREITAG, JR — DATE 5/30/03

APPROVED BY THE DIRECTOR OF DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 26-215(c), BALTIMORE COUNTY CODE
1-12-04
DIRECTOR OF DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

APPROVED
8/4/03
DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT — DATE

P.W.A. COMPLETED N/A - DDP
FINAL PLAT CHECKED: DDP 1-12-03
PDM 8-22-03
ENGINEERING RJB 7/11/03
STREET NAMES/HOUSE NOS. 6-5-03
REC. & PARKS 6-10-03

COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE MARYLAND STATE COORDINATE SYSTEM (NAD 83/91) AND ARE BASED ON THE FOLLOWING TRAVERSE STATIONS:
GIS #131 N 628811.731 E 1466614.196
GIS 131 TO AZMK 131 AZ=281°15'22.4"

SURVEYOR'S CERTIFICATION
THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT AND THE PLAT THEREOF HAS BEEN PREPARED IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY INSOFAR AS SAME CONCERNS THE MAKING OF THE PLAT AND THE SETTING OF MARKERS.
LEONARD T BOHAGER #10859 — 05-28-03 DATE

LITTLE & ASSOCIATES, INC.
ENGINEERS~SURVEYORS~LAND PLANNERS
1045 TAYLOR AVENUE, SUITE 111
TOWSON, MARYLAND 21286
PHONE: (410)296-1636

COMPUTED: JCW DRAWN: JCW CHECKED: LTB PROJECT NUMBER: 02537

Pet. Ex. #5

(1) Unroofed additions, including patios and decks; and

(2) Roofed additions which do not exceed in width 50% of the dwelling unit, and which do not extend more than 10 feet into the rear yard setback area.

f. In a DR-2-H Zone, the sum of all side yard setbacks may not be less than 30 feet between dwellings.

5. Commercial developments shall have:

a. The front side, visible from the street upon which the building fronts, at least 25 feet high;

b. A setback of no more than 15 feet from any building to the right-of-way upon which that building fronts; and

c. A fifteen-foot-wide landscaped buffer between any parking facilities and any public right-of-way, except that, along Honeygo Boulevard, a setback of 40 feet from any parking facility to the right-of-way is required. The forty-foot setback is not subject to the variance provisions of Section 307. **[Bill No. 77-2004]**

C. Building and site design standards.

1. Panhandle lots are not permitted unless:

a. The underlying zoning of the land is D.R.1;

b. No more than two lots share a driveway; and

c. Lots exceed 30,000 square feet in area.

2. Reverse frontage lots are not permitted.

3. **[Bill No. 73-1999]**

a. Except for properties with approved development plans or CRG plans, which shall be allowed front entry garages in accordance with the regulations in effect prior to January 14, 1995, a front entry garage shall be recessed at least eight feet behind the front facade of the dwelling. A two-car garage facing the street shall have two individual doors separated by a divider. The front facade of all garages, including the divider and not including the garage doors, shall be constructed of the same approved materials as the front facade of the building.

b. The exterior surface of a side-entry garage, not including the garage doors, which faces the front of the dwelling shall be constructed of the same approved materials as the front facade of the building.

4. The exterior surface on the front facade of all residential dwellings, not including the garage doors, shall consist of at least 70% of approved materials. This requirement is not subject to the variance provisions of Section 307. **[Bill Nos. 40-1997; 73-1999; 52-2004]**

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: John Alexander
Department of Permits and
Development Management

DATE: April 1, 2004

FROM: Mark A. Cunningham
Development Review Section
Office of Planning

PROJECT NAME: Randlett Property

PROJECT NO.: 03047 M – **SECOND REVIEW**

The Office of Planning has reviewed the above referenced project and offers the following comments:

Section 259.9C.1of the BCZR prohibits panhandle lots in Honeygo on land zoned DR 2H or DR 3.5H. The subject property is in the Honeygo Plan area. This office does not recall having reviewed a panhandle submittal on the subject site, and does not support the proposed subdivision.

Mark A. Cunningham

MAC:kma

W:\DEVREV\MINOR\03047m2.doc

(2) The total number of signs to be kept to a minimum; and

(3) Informational signs not to be placed or be of such a number or design as to distract drivers' attention from traffic-control signs or devices.

(c) *Benches and street lighting.*

(1) The county may require benches and other outdoor furniture to be grouped and to be of a "break-away" design.

(2) The county shall require street lighting to be of a type and size that is adequate for safety and appropriate to the vicinity.

(d) *Transit facilities.* The county may require transit facilities, such as bus turnouts, for sites to be served by public transit.
(1988 Code, § 26-264) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-409. PANHANDLE DRIVEWAYS.

(a) *In general.*

(1) The county may only allow a panhandle lot:

(i) To achieve better use of irregularly shaped parcels;

(ii) To avoid development in environmentally sensitive areas;

(iii) Where the lot will not be detrimental to adjacent properties; and

(iv) Were the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) *In-fee strip; required.*

(1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

(i) 20 feet in width to serve one lot;

(ii) 12 feet in width per lot where two lots are involved;

(iii) 10 feet in width per lot where three or more lots are involved; or

(iv) 12 feet in width per lot where there are two or more lots in a development that is within the metropolitan area where public water and sewer services are available, planned, or considered.

(c) *Same; exception.* In cases where a right-of-way has been established before the submission of the Development Plan, the Hearing Officer may approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip.

(d) *Panhandle driveways.*

(1) A single panhandle driveway may serve up to five dwellings, three of which may be on internal lots not adjacent to the local street or collector street.

(2) Panhandle driveways serving lots greater than 20,000 square feet may serve five internal lots plus two dwellings on the front lots adjacent to the panhandle driveway and the local street or collector street.

(3) Front lots are not required to be part of the panhandle driveway development.

(4) Notwithstanding the provisions of § 32-4-107 of this title, the requirements of this subsection may not be waived.

(e) *Length of panhandle in DR and RC zones.*

(1) In a DR zone, the panhandle length may not exceed 500 feet.

(2) In an RC zone, the panhandle length may not exceed 1,000 feet.

(3) The maximum permitted length of a panhandle is subject to variance under § 307 of the Baltimore County Zoning Regulations.

(f) *Panhandle driveways serving multiple lots.*

(1) For panhandle driveways serving more than one lot, the developer shall note on the record plat any covenants that provide for common use and maintenance of the panhandle driveway and culvert.

(2) A use in common agreement is established if the panhandle driveway serves two or more abutting panhandle lots.

(g) *Dwelling orientation on panhandle lot.*

(1) The orientation of the dwelling on each panhandle lot shall be indicated on the Development Plan.

(2) The dwelling shall be oriented to establish a desirable relationship between:

(i) Each of the proposed dwellings and existing adjacent homes; and

(ii) The proposed dwellings themselves.

(h) *Panhandle driveway and street intersection; requirements.* At the intersection of the panhandle driveway and the street, the following shall be provided by the developer:

(1) A paved trash collection area that:

(i) Is located at the right-side intersection of the panhandle driveway and public road, as the driveway is exited; and

(ii) Is at least 16 square feet per dwelling unit served by the panhandle driveway;

(2) A mail delivery area that is located at the left intersection of the panhandle driveway and public road, as the driveway is exited; and

(3) Numerical identification of each dwelling served by the panhandle driveway in accordance with § 35-2-206 of the Code.

(i) *Construction of panhandle driveway.*

(1) The panhandle driveway shall be built in accordance with standards established by the Director of Public Works.

(2) The panhandle shall be paved within 1 year of the issuance of the first occupancy permit or before the issuance of the occupancy permit of the last lot to be served, whichever comes first.

(3) In DR zones required utilities shall be provided to all lots to be served by the panhandle before the paving of the panhandle driveway.

(j) *Parking along panhandle driveway.* Parking is not permitted along a panhandle driveway.

(k) *Waiver.* Except as provided in subsections (d) and (e) of this section, the Director of Planning may grant a waiver from any provision in this section or title if the Director finds:

(1) That the size, scope, and nature of the subdivision of land into three or fewer lots for residential single-family dwellings does not justify strict compliance with this section;

(2) That a waiver would be within the scope, purpose, and intent of this section; and

(3) Compliance with all other county ordinances and regulations.
(1988 Code, §§ 26-168, 26-266) (Bill No. 172, 1989, § 2; Bill No. 106, 1990, § 1; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-1993; Bill No. 61-95, § 1, 6-30-1995; Bill No. 8-96, § 3, 3-23-1996; Bill No. 49-96, § 15, 7-1-1996; Bill No. 38-98, § 4, 6-20-1998; Bill No. 51-99, § 1, 8-26-1999; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-410. REQUIRED FACILITIES.

(a) *Water supply.*

(1) Water volume and pressure shall be adequate to extinguish fires in any building on a tract that is to be served by public water-supply facilities.

(2) Fire hydrants shall be provided in sufficient numbers and at appropriate locations to serve firefighting needs.

(b) *Sewage.* Proposed public or private sewage facilities shall be designed and located to function safely and without danger of contaminating groundwater, surface water, or public or private water supplies.

(c) *Drainage facilities.*

(1) In this subsection, "development" has the meaning stated in § 32-8-101 of this article.

(2) Proposed drainage facilities shall be adequate to accommodate the amount of runoff that would be generated by:

(i) The proposed development; and

(ii) The entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction.

(3) Development may not increase the extent of the floodplain on neighboring properties.

(d) *Facility easements.* Easements for cable television and other municipal and public utilities may be required where necessary to ensure adequate service to the prospective occupants or users of the proposed development.
(1988 Code, §§ 26-267, 26-268, 26-269, 26-270) (Bill No. 173-93, § 3, 11-17-1993; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 27, 7-1-2004)

IN RE: PETITION FOR VARIANCE
S/S Forge Road, 1900' SE of the c/l
Cross Road
(4713A, B & C Forge Road)
11th Election District
6th Council District

Melvin Guy
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 02-108-A
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Melvin Guy. The Petitioner seeks relief from Sections 259.9.C.1.a and 259.9.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the minor subdivision of the subject property, zoned D.R.3.5H and located in the Honeygo District, with create three single family dwelling lots, all of which will share a panhandle driveway. The regulations cited above permit panhandle lots in the Honeygo District only on land zoned D.R.1 and only two lots may share a single driveway. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were James Guy, the son of Melvin Guy, property owner; Dwight Little, the engineer who prepared the site plan for this property; and, Howard L. Alderman, Jr., Esquire, attorney for the Petitioner. There were no Protestants or other interested persons present.

This most interesting case presents a number of difficult issues for consideration. The subject property is an irregular shaped parcel located on the south side of Forge Road not far from Cross Road in the Honeygo District of Perry Hall. The property contains a gross area of 3.23 acres, more or less, zoned D.R.3.5 H and is presently vacant. The Petitioner proposes to subdivide the property to create three lots and provide access to each by way of a shared panhandle driveway

off of Forge Road. As shown on the site plan, the property is shaped somewhat like an upside down "T", with the stem of same a narrow strip approximately 45 feet wide by 307 feet deep, which provides the property's frontage on Forge Road. That is, the property only has 45 feet of frontage on Forge Road. The majority of the property (the cross part of the "T") is located to the rear of the properties known as 4711, 4713, 4715, 4717 and 4801 Forge Road.

As is well-settled, the Honeygo District is a designated growth area in Perry Hall. The regulations for the H-District include a number of stringent requirements to assure high quality development. As noted above, the Petitioner proposes a minor subdivision of the property to create three single family lots which are to be served by a single panhandle driveway leading from Forge Road through the above described narrow strip to the developable portion of the site. As more particularly shown on the site plan, proposed Lot 1 will be 1.099 acres in area; proposed Lot 2, which abuts Lot 1 on the east side and Lot 3 on its west side, will be .843 acres in area; and, Lot 3 will be 1.239 acres in area.

In support of the request, Mr. James Guy testified as to the significant efforts he made in formulating the proposed development. He indicated that he contacted a number of County reviewing agencies before preparing the subject plan to assure that same was feasible and would be endorsed by those agencies. For example, the rear of the property abuts a substantial subdivision known as Perry Hall Farms. Mr. Guy made arrangements to extend an existing sewer line serving that subdivision into the subject site, and has, in fact, completed that connection. The availability of sewer is an issue requiring significant review and authorization under the Honeygo regulations (see Section 259.7 of the B.C.Z.R.).

Additionally, Mr. Guy contacted the Office of Planning prior to the formulation of his subdivision plan. In this regard, he testified that the Office of Planning indicated at that time that they would not oppose his proposal if certain conditions were met. Specifically, the Office of Planning indicated the proposed subdivision should be limited to not more than 3 houses, significantly less than the 11 permitted under the property's D.R.3.5 zoning classification and its acreage. Moreover, the Office of Planning advised Mr. Guy that the proposed homes need be

oriented so as to not face the rear of those dwellings that front on Forge Road. Thus, the Petitioner prepared his plan in accordance with those comments and submitted same for minor subdivision approval under Project No. 01-69M; however, a decision on the minor subdivision will not be made until after this case is decided.

A preliminary issue in this case is whether the Zoning Commissioner is authorized to grant variances from the requirements of Sections 259.9.C.1.a and b of the B.C.Z.R. As is well-settled, the Zoning Commissioner can grant a variance from bulk and area regulations of the B.C.Z.R. (see Section 26-127 of the Baltimore County Code and Section 307 of the B.C.Z.R.); however, the Zoning Commissioner does not have the authority to grant use variances. It is clear that the language of Section 259.9.C.1.b of the B.C.Z.R., which provides that no more than two lots may share a single panhandle driveway, is in the nature of an area or bulk standard and therefore may be varied. The requirement that the underlying zoning of the property be D.R.1 as set out in Section 259.9.C.1.a of the B.C.Z.R. is a different type restriction. In examining this issue, it is clear that the relief sought is not a request for the approval of a use that is not permitted in the D.R.1 zone. Single family dwellings are permitted uses by right in the D.R.1 zone, and certainly allowed in the Honeygo District. Moreover, Section 259.9.C of the B.C.Z.R. is labeled as a "building and site design standard." Based upon these factors, I find that the relief sought may be properly considered by this Zoning Commissioner.

Regulations governing panhandle driveways are also found in Section 26-266 of the Baltimore County Code. That Section falls within Division IV of the Development Regulations which set out general design standards and requirements. Although the Zoning Commissioner may waive the requirements contained within Division IV of the Development Regulations, pursuant to Sections 26-171 and 26-172 of the Code, there is no waiver requested here. Apparently, the Petitioner believes that the requirements set out in Section 26-266 of the Code are or will be met, insofar as the proposed panhandle driveway is concerned. It is indeed clear that those requirements must be met in that no waiver has been requested, nor will same be granted within this case.

Date 11/27/01
By

It is to be noted that Section 26-266 of the Code mandates panhandle lots and driveways are permitted only to achieve better use of irregularly shaped parcels, to avoid development in environmentally sensitive areas, and to provide access to interior lots where a public road is neither feasible nor desirable. In considering whether these criteria are applicable in this case, the history of the subject property need be reviewed.

The subject property was originally part of a larger tract acquired by the Guy family a number of years ago. The Petitioner submitted a copy of the deed recorded in the Land Records of Baltimore County at Liber 4616, Folio 149 and dated April 27, 1966. That deed shows that James Guy's grandparents, Melvin R. Guy, Sr., and his wife, Aloyse E. Guy, acquired the subject parcel (3.23 acres) as part of a larger tract (5.061 acres) from Joseph H. Volz and his wife, Mary A. Volz. Several years later, the senior Mr. & Mrs. Guy conveyed a portion of that property (4.35 acres) to their son, Melvin R. Guy, Jr., and his wife, Patricia Lynn Guy, by deed dated April 23, 1969 at Liber 4988, Page 302. The senior Mr. & Mrs. Guy retained .711 acres, which was ultimately developed with a single family dwelling shown on the site plan as 4715 Forge Road. Melvin Guy, Jr. and his wife eventually acquired that parcel as an inheritance when the senior Mr. & Mrs. Guy passed away. That property abuts the eastern property line of the proposed panhandle strip.

After their acquisition of the 4.35 acres, the junior Mr. & Mrs. Guy later conveyed, by deed at Liber 5199, Page 657, dated July 1, 1971, a 1.12-acre tract to Wayne A. Teubner and his wife, Susan L. Teubner. The reason behind this subdivision and conveyance is of note. Apparently, Melvin Guy, Jr. worked for the Bethlehem Steel Corporation in the early 1970s. At that time, his parents were still alive and resided at 4715 Forge Road, the .711 acre parcel which was later acquired by Mr. Guy by inheritance. In any event, Mr. Guy, Jr. was transferred by his employer to Bethlehem, Pennsylvania and in order to obtain funds necessary to buy a house in Pennsylvania, he subdivided a portion of the 4.35 acre parcel he had acquired from his parents. Specifically, he sold the 1.12-acre parcel to Mr. & Mrs. Teubner. That parcel was ultimately conveyed to Lawrence A. Wheeler and is shown on the site plan as being located on the west side of the strip where the panhandle driveway will be located. A single family dwelling was ultimately constructed thereon.

Date 11/21/01
By

As noted above, the history of these subdivisions is significant as it explains the current T-shape of the subject property. It is also to be noted that several of these subdivisions occurred prior to the adoption of County Council Bill No. 100, which was passed on August 5, 1970 and made effective on September 17, 1970, and referenced with the adoption of the zoning maps on March 31, 1971.

Based upon this history, it is clear that the subject parcel is indeed irregularly shaped. Thus, the one requirement under Section 26-266 that panhandle lots are permitted only to achieve better use of irregularly shaped parcels is clearly met. Additionally, it is obvious that it would be inappropriate to construct a public road through the strip to serve the three lots proposed. Such a road would adversely impact adjacent properties and is certainly not necessary to serve only three dwellings. Thus, the second requirement of Section 26-266 that panhandles be provided only to provide access to interior lots where a public road is neither feasible nor desirable is also met. I easily find that it is neither practical nor feasible or desirable to construct a public road within the strip of the property, between the lots known as 4713 and 4715 Forge Road.

The final requirement under Section 26-266 of the Code is that panhandle lots are permitted only to avoid development in environmentally sensitive areas. Testimony and evidence offered at the hearing by Mr. Little is that this requirement is also met. There was no contrary evidence offered. It is evident that there are no floodplains or wetlands within the area of the panhandle driveway. However the property does appear to be wooded and thus could be considered environmentally sensitive. Moreover, the construction of a public road would require a larger area of macadam than the panhandle drive, which would alter the amount of impervious surface on this property. Thus, it is clear that the criteria of Section 26-266 of the Code have been met. Again, as noted above, there is no waiver requested from any of the requirements contained therein.

Turning to the requirements set out in Section 259.9.C of the B.C.Z.R., variance relief can be granted only if strict adherence to the requirements of Section 307 of the B.C.Z.R. are met. That Section has been construed by the Court of Special Appeals in Cromwell v. Ward, 102 Md. App. 691 (1995). Essentially, Section 307 and the case law requires that variance relief can be

Date 11/2/01
By

granted only upon a showing that the subject property is unique and that such uniqueness drives the need for the variance. Moreover, relief can be granted only if a practical difficulty would result. Finally, it must be shown that there will be no detrimental impact on surrounding properties.

For the reasons discussed above, it is obvious that the subject property is unique. The shape of the property is quite unusual in terms of its narrow strip leading from Forge Road to a wider body encompassing the rear of the parcel. The physical characteristics of this property, most specifically, its configuration, leads to the conclusion that it is unique. I also find that a grant of the variance would not cause adverse impacts on surrounding properties. To the contrary, this is one of those unusual cases where strict adherence with the regulations would adversely impact adjacent properties, far more than if the variance were granted. That is, it is clear that the Petitioners could construct a public road from Forge Road to the interior of the lot in order to provide vehicular access to those lots. However, the construction of a public road would result in more impervious surface and would cause a greater detrimental impact on neighboring properties than the construction of the panhandle drive.

Finally, as to the practical difficulty test, I am persuaded that the Petitioner has met that requirement. It is particularly significant here that the density yield of the property is 11 units. The Petitioner proposes only 3 units, far less than that allowed given the size of the property and its density. Moreover, the lots are all over 30,000 sq.ft. in area, and are as large, if not larger, than other lots in the area. This is not an instance where the property owner is seeking maximum development of a given property, which might be inconsistent with surrounding properties. In this regard, I concur with the recommendations originally made by the Office of Planning, that a panhandle driveway is appropriate here, for so long as development is limited to three houses and those houses are oriented on the lots so as to not detrimentally impact existing properties.

For all of these reasons I will grant the Petition for Variance. Although I am cognizant of the strict design requirements imposed by the Honeygo regulations, this property is indeed unique and the issue presented here is unusual. In my judgment the Petitioners' proposal represents a well thought out scheme of development for this irregularly shaped parcel and should therefore be approved. Obviously, this ruling is without prejudice to the Petitioner or the reviewing

Date 11/21/01
By

agencies of Baltimore County as it relates to the minor subdivision process. The Petitioner must satisfy the development review requirements codified in Title 26 of the Baltimore County Code. The relief granted herein is limited only to a variance from Sections 259.9.C.1a and b of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of November, 2001 that the Petition for Variance seeking relief from Sections 259.9.C.1.a and 259.9.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit three panhandle lots in the Honeygo District on land zoned D.R.3.5H, and to permit those lots to share one panhandle driveway, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until 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) The relief granted herein is limited only to a variance from Sections 259.9.C.1a and b of the B.C.Z.R. to permit three panhandle lots sharing one driveway on the subject property zoned D.R.3.5H.

3) The dwellings on the three lots shall be oriented in such a manner so as to not adversely impact the existing dwellings on Forge Road.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Date 11/21/01
By BJS

259.8 Zoning Commissioner's powers. **[Bill Nos. 176-1994; 79-2003]**

The Zoning Commissioner may not grant a variance from the standards established in Section 259.7 as provided in Section 4a.02.4.g of these regulations, unless the variance request involves property that is bisected by two or more subareas identified in Section 259.7, or property that is the subject of a concept plan that was accepted for filing by the Department of Permits and Development Management prior to August 4, 2003.

259.9 Development standards for H and H1 Overlay Districts. **[Bill No. 176-1994]**

These standards are intended to be additions to, modifications of and exceptions from the standards required by the underlying zoning classification on the land in the area. All conflicts are to be resolved in accordance with Subsection G of this section.

A. Uses. **[Bill Nos. 73-1999; 83-2001[2]; 120-2003[3]]**

1. Back-to-back group homes are not permitted.
2. Retail establishments exceeding 65,000 square feet are not permitted.
3. Planned unit developments are not permitted.
4. Accessory structures, including but not limited to solar panels, antennas, satellite dishes, trash pads and storage sheds, are not permitted in the front yard of any principal use.
5. In A D.R.3.5-H Zone, the only dwellings permitted are single-family detached dwellings.

B. Bulk and area standards. **[Bill Nos. 40-1997; 73-1999]**

1. Except for nonresidential principal buildings or uses, and their accessory parking, the requirements of Section 1B01.1.B.1 (residential transition area) of these regulations do not apply.
2. Institutional uses are subject to the bulk and area requirements of the underlying zone.
3. Except for properties with approved development plans or CRG plans, the minimum width for any single-family detached lot is 85 feet as measured along both the front wall and rear wall of the dwelling unit.
4. Except as provided in this section, the provisions of Section 1B01.2.C apply to development in the overlay districts. In the districts, the minimum residential dwelling setbacks are:
   a. Ten feet from the right-of-way of a collector street, neighborhood street, alley or court as defined in the Honeygo Overlay District design guidelines;

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2 **Editor's Note: This bill also provided for the renumbering of former Subsection A.3, regarding accessory structures, as Subsection A.4.**

3 **Editor's Note: This bill stated that it would not apply to any residential development for which a concept plan had been filed prior to 12-2-2003.**

Section 307, Variances [BCZR 1955; Bill Nos. 107-1963; 32-1988; 2-1992; 9-1996]

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

EN Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

Pet. Ex. #11

0020668 482

THE FOUNTAINHEAD TITLE GROUP
2015 EMMORTON RD., SUITE 110
BEL AIR, MD 21015

13877BD

This Deed, MADE THIS 23rd day of July in the year Two Thousand Four by and between **Charles P. Freitag, Jr.**, party of the first part, and **Christine Y. Sisk and Linda T. Mabry**, parties of the second part.

Witnesseth, That in consideration of the sum of **Four Hundred Five Thousand Dollars and NO Cents ($405,000.00)**, the receipt of which is hereby acknowledged, the said party of the first part does grant and convey to the said parties of the second part, as joint tenants, their assigns, the survivor of them and the survivor's personal representatives, heirs and assigns, in fee simple, that parcel of ground situate in Baltimore County, Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Tract "A" as shown on Plat entitled; " Resubdivided Plat of Tract "A" Land of Alban, Cook & Jednoralski", which said Plat is recorded among the land Records of Baltimore County, Maryland in Plat Book SM Liber 76, folio 80. The improvements thereon being known as No. 8840 Cowenton Avenue.

WHEREAS, Code of Maryland Regulations, 1992, as amended (hereafter referred to as "COMAR") Section 08.19.05.02 requires the establishment of long-term protective measures for all land retained as forest, afforested, or reforested areas defined in Natural Resources Article Section 5-1601; and

WHEREAS, the Baltimore County Department of Enviromental Protection and Resource Management ("DEPRM") has primary responsibility for developing and implementing a local forest conservation program within Baltimore County pursuant to Natural Resources Article Section 5-1603; and

SEE ALSO FOREST CONSERVATION DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS Deed dated March 24, 2004, in order to protect the environmental quality of the area of the Property, said area shown on Tract "A" (1.750 Ac.+), containing 0.276 acres, more or less, as designated on the Plat as "Forest Conservation Easement" (the "Forest Conservation Easement") the Declarant therein desires to protect said Forest Conservation Easement by imposing covenants, conditions and restrictions which will bind the lots and the present and future owners thereof. The County Shall have the legal right to enforce the covenants, conditions and restrictions as set forth therein together with the enforcement rights referenced in Section 4.

SEE ALSO FOREST BUFFER AND FOREST CONSERVATION DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS Deed dated March 24, 2004, in order to protect the environmental quality of the area of the Property, said area containing 4.384 acres, more or less, as designated on the Plat as "Baltimore County Greenway Reservation, Forest Conservation Easement, Forest Buffer, 100 Year Flood Plain and Drainage & Utility Easement" (hereinafter referred to as the "Forest Buffer and Forest Conservation Easement") the Declarant therein desires to protect said Forest Buffer and Forest Conservation Easement by imposing covenants, conditions and restrictions which will bind the lots and the present and future owners thereof. The County shall have the legal right to enforce the covenants, conditions and restrictions as set forth herein together with the enforcement rights referenced in Section 4.

SEE ALSO Deed and Agreement dated March 24, 2004 by and between Charles P. Freitag, Jr. and Baltimore County, Maryland recorded or intended to be recorded prior here to among the Land Records of Baltimore County, Maryland pertaining to a 20' wide Drainage and Utility Easement across Tract "A" (1.750Ac.+) as shown on the Plat entitled "Resubdivision Plat of Tract A Land of Alban, Cook & Jednoralski" as recorded among the Land Records of Baltimore County in Plat Book S.M. 76, folio 80.

SEE ALSO Greenway Deed dated March 24, 2004 by Charles P. Freitag, Jr. and Baltimore County, Maryland recorded or intended to be recorded prior here to among the Land Record of Baltimore County, Maryland pertaining to the reservation for " Greenway" said parcel of land containing 4.384 acres, more or less, as designated on the Plat as "Baltimore County Greenway Reservation, Forest Conservation Easement, Forest Buffer, 100 Year Flod Plain and Drainage & Utility Easement". Said Property is shown on a Subdivision Plat entitled "Resubdivision Plat of Tract A Land of Alban, Cook & Jednoralski", which is recorded among the Plat Records of Baltimore County in Plat Book S.M. 76. folio 80, (the "Plat").

BEING a portion of the parcels transferred in a deed dated August 30, 2002, and recorded among the Land Records of Baltimore County, Maryland in Liber No. 16923, folio 323 was granted and conveyed by Timothy S. O'Shea unto Charles P. Freitag, Jr., the Grantor herein.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

Edward J. Brush, Esquire

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

REVIEWED SDAT
8-30-04
BY DATE

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE MB DATE 8-30-04

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
11

AFFIDAVIT AS TO TOTAL PAYMENT RESIDENT/PRINCIPAL RESIDENCE EXEMPT FROM WITHHOLDING.

THE undersigned certify under the penaltis of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland,(the "Withholding Law:):

1. That I am/we are the transferor, of that real property described in the accompanying deed.
2. The amound of total payment for the purpose of the Withholding Law is $0.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part as joint tenants, their assigns, the survivor of them and the survivor's personal representatives, heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said Grantor(s) and Grantee(s).

Test:

Nancy M. Smith

Charles P. Freitag (SEAL)
CHARLES P. FREITAG, JR.

(SEAL)
CHRISTINE Y. SISK

(SEAL)
LINDA T. MABRY

STATE OF MARYLAND, **COUNTY OF** BALTIMORE, to wit:

I Hereby Certify, That on this 23rd day of July in the year Two Thousand Four, before me, the subscriber, a Notary Public of the State of MARYLAND, County of BALTIMORE personally appeared Charles P. Freitag, Jr. ~~and Christine Y. Sisk and Linda T. Mabry~~ known to me (or satisfactorily proven) to be the person whose name ~~are~~ subscribed to the within instrument, and acknowledged the foregoing Deed to be ~~their~~ His act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

Nancy M. Smith

My Commission Expires: 12/01/06

File Number: **13877BEL**
RETURN TO: FOUNTAINHEAD TITLE GROUP
2015 EMMORTON ROAD, SUITE 110
BEL AIR, MD 21015

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part as joint tenants, their assigns, the survivor of them and the survivor's personal representatives, heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said Grantor(s) and Grantee(s).

Test:

_____ _____(SEAL)
CHARLES P. FREITAG, JR.

_____ _____(SEAL)
CHRISTINE Y. SISK

_____ _____(SEAL)
LINDA T. MABRY

STATE OF Maryland, **COUNTY OF** Harford, to wit:

I Hereby Certify, That on this 23rd day of July in the year Two Thousand Four, before me, the subscriber, a Notary Public of the State of Maryland, County of Harford personally appeared ~~Charles P. Freitag, Jr.~~ and Christine Y. Sisk and Linda T. Mabry known to me (or satisfactorily proven) to be the person whose name are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

_____

My Commission Expires: 3/1/08, ____

File Number: **13877BEL**
RETURN TO: FOUNTAINHEAD TITLE GROUP
2015 EMMORTON ROAD, SUITE 110
BEL AIR, MD 21015

SARAH JOCELYN CURTIS NOTARY PUBLIC HARFORD COUNTY, MD.

0020668 485 File No.

AFFIDAVIT OF QUALIFICATION AS FIRST TIME MARYLAND HOME BUYER(S)

Grantee(s) hereby make oath and affirm under penalties of perjury that the following statements are true to the best of the knowledge, information and belief of each individual:

GRANTEES/OCCUPANTS

1. The undersigned individuals and each of them has/have never before owned an interest in residential real property located in the State of Maryland that has been the individuals' principal residence; and
2. The property described in the Deed to which this affidavit is attached is improved by a residence which will be occupied as my/our principal residence; or
3. I/we am/are fully qualified to make this affidavit.
4. This affidavit is made to qualify Grantee(s) for the benefits under TP section 13-203.

_____ _____

GRANTEE(S)/CO-MAKER(S) OR GUARANTOR(S)

1. The undersigned individuals and each of them is a Grantee of residentially improved real property located in the State of Maryland which is more particularly described herein.
2. Each of the undersigned is a Co-maker or a Guarantor of the purchase money mortgage or purchase money deed of trust as defined in TP 12-108(l) of the Tax Property Article on the property who will not occupy the property as Grantee's principal residence.
3. I/we am/are fully qualified to make this affidavit.
4. This affidavit is made to qualify Grantee(s) for benefits under TP Section 13-203.

_____ _____

OCCUPANCY RIDER
(FOR BALTIMORE COUNTY AND HARFORD COUNTY ONLY)

Grantee(s) join in the execution of this Deed under oath for the purposes of certifying that the within residentially improved property shall be occupied by the Grantee(s).

Linda T Mabry _____

_____

ACKNOWLEDGEMENT

STATE OF MARYLAND, COUNTY OF Harford, TO WIT:

I HEREBY CERTIFY that on this 25 day of July, 2000, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Linda T. Mabry and Christine Gisske, the Grantees, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged the foregoing instrument to be his/her/their act, and in my presence signed and sealed the same.

AS WITNESS my hand and seal.

My commission expires: 3/1/

SARA JOCELYN CURTIS NOTARY PUBLIC HARFORD COUNTY, MD.

_____
Notary Public

State of Maryland Land Instrument Intake Sheet

[] Baltimore City [X] County: Baltimore County

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only - All Copies Must Be Legible)

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TR TAX STATE 2,025.00
TOTAL 2,065.00
Rest BA01 Rcpt # 48097
SM DM Blk # 1617
Sep 10, 2004 01:14 pm

1 Type(s) of Instruments	([ ] Check Box if Addendum Intake Form is Attached.)							
	1	Deed		Mortgage		Other		Other
	2	Deed of Trust		Lease				
2 Conveyance Type Check Box	X	Improved Sale Arm-Length[1]		Unimproved Sale Arms-Length[2]		Multiple Account Arms-Length[3]		Not an Arms-Length Sale[9]
3 Tax Exemptions (if applicable) Cite or Explain Authority	Recordation							
	State Transfer							
	County Transfer							

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 405,000.00		
Any New Mortgage	$ 324,000.00	Transfer Tax Consideration	$
Balance of Existing Mortgage	$	X( )% =	$
Other:	$	Less Exemption Amount -	$
		Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
		X( ) per $500 =	$
Full Cash Value	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2	
Recording Charge	$ 20.00	$ 20.00	Agent:
Surcharge	$ 20.00	$ 20.00	Tax Bill:
State Recording Tax	$ 2025.00	$	
State Transfer Tax	$ 2025.00	$	C.B. Credit:
County Transfer Tax	$ 5745.00	$	
Other	$	$	A.G. Tax/Other:
Other	$	$	

6 Description of Property

SDAT Requires Submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-10(g)(3)(i).

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
11	2400005019		72	552	[ ] (5)

Subdivision Name	Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)
Lands of Alban, Cook & Jednorals				73/60	

Location/Address of Property Being Conveyed (2): 8840 Cowenton Avenue, Baltimore, MD 21128

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] Amount: $

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
Charles P. Freitag, Jr.	Christine Y. Sisk
	Linda T. Mabry
Doc. 1 - Owner(s) of Record, if Different form Grantor(s)	**Doc. 2 - Owner(s) of Record, if Different form Grantor(s)**

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
Christine Y. Sisk	John Burson Esq (Trustee)
Linda T. Mabry	

New Owner's (Grantee) Mailing Address: 8840 Cowenton Avenue Baltimore, MD 21128

9 Other Names To Be Indexed

Doc. 1 - Additional Name(s) to be Indexed (Optional)	Doc. 2 - Additional Name(s) to be Indexed (Optional)
	Wells Fargo Bank NA

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Kimberly Popp FILE: 13877BEL
Firm: The Fountainhead Title Group
Address: 2015 Emmorton Road
Suite 110, Bel Air, MD 21015 (410) 879-5940

[X] Return to Contact Person
[ ] Hold for Pickup
[ ] Return Address Provided

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[X] Yes [ ] No Will the property being conveyed be the grantee's principal residence?
[ ] Yes [X] No Does transfer include personal property? If yes, identity:
[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

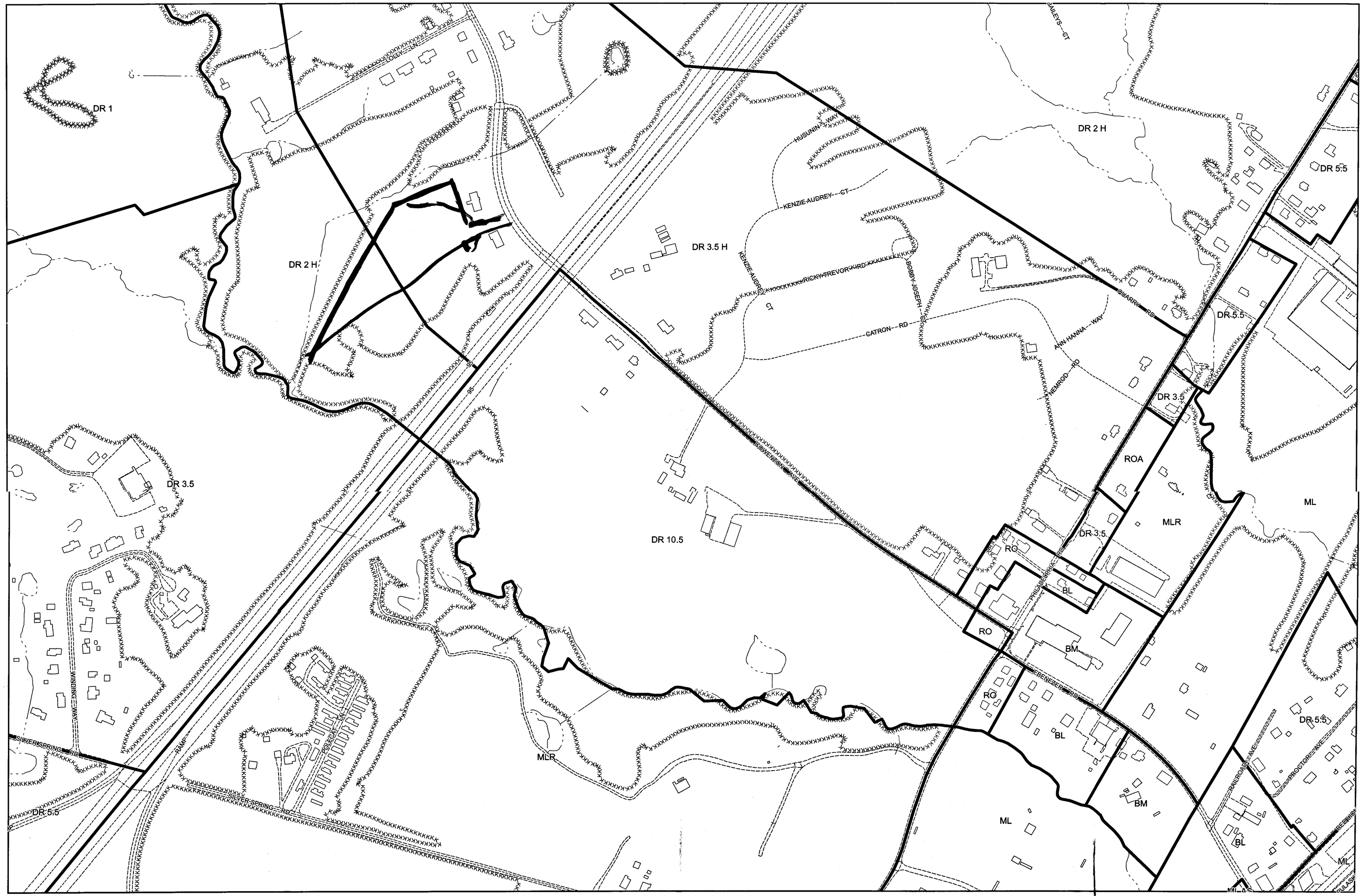
Assessment Use Only - Do Not Write Below This Line

[ ] Terminal Verification [ ] Agricultural Verification [ ] Whole [ ] Part [ ] Tran. Process Verification
Transfer Number | Date Received | Deed Reference | Assigned Property No.
Year 19 19 | Geo | Map | Sub | Block
Land | Zoning | Grid | Plat | Lot
Buildings | Use | Parcel | Section | Occ. Cd.
Total | Town Cd. | Ex. St. | Ex. Cd.
REMARKS:

9/2/04

Distribution: White - Clerk's Office
Canary - SSDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (6/95)

PC Exh 7



Plan Sheet: *072C3*

Note:
Section 32-3-202 of the Baltimore County, 2003 Code establishes the zoning geodatabase. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

Zoning — Streams — Vegetation
Buildings — Roads

Baltimore County
Office of Planning and Zoning
Official Zoning Map

072A2	072B2	072C2	073A2	073B2
072A3	072B3	072C3	073A3	073B3
082A1	082B1	082C1	083A1	083B1

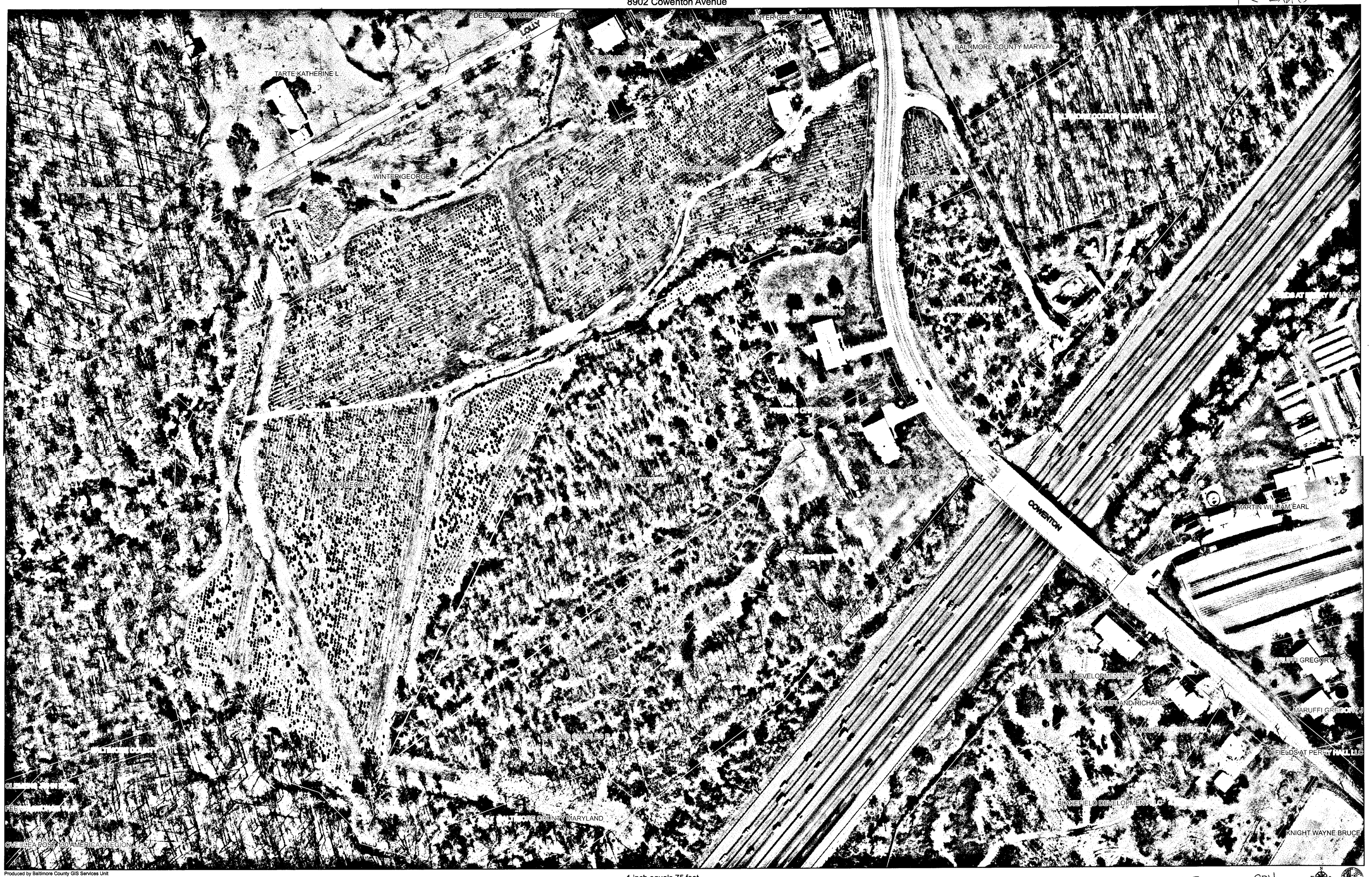
Scale
1" = 200'
0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

PC Exh 6

8902 Cowenton Avenue



Produced by Baltimore County GIS Services Unit
Date: August 11, 2005
Date of Imagery: 2002

1 inch equals 75 feet

05-205-SPH

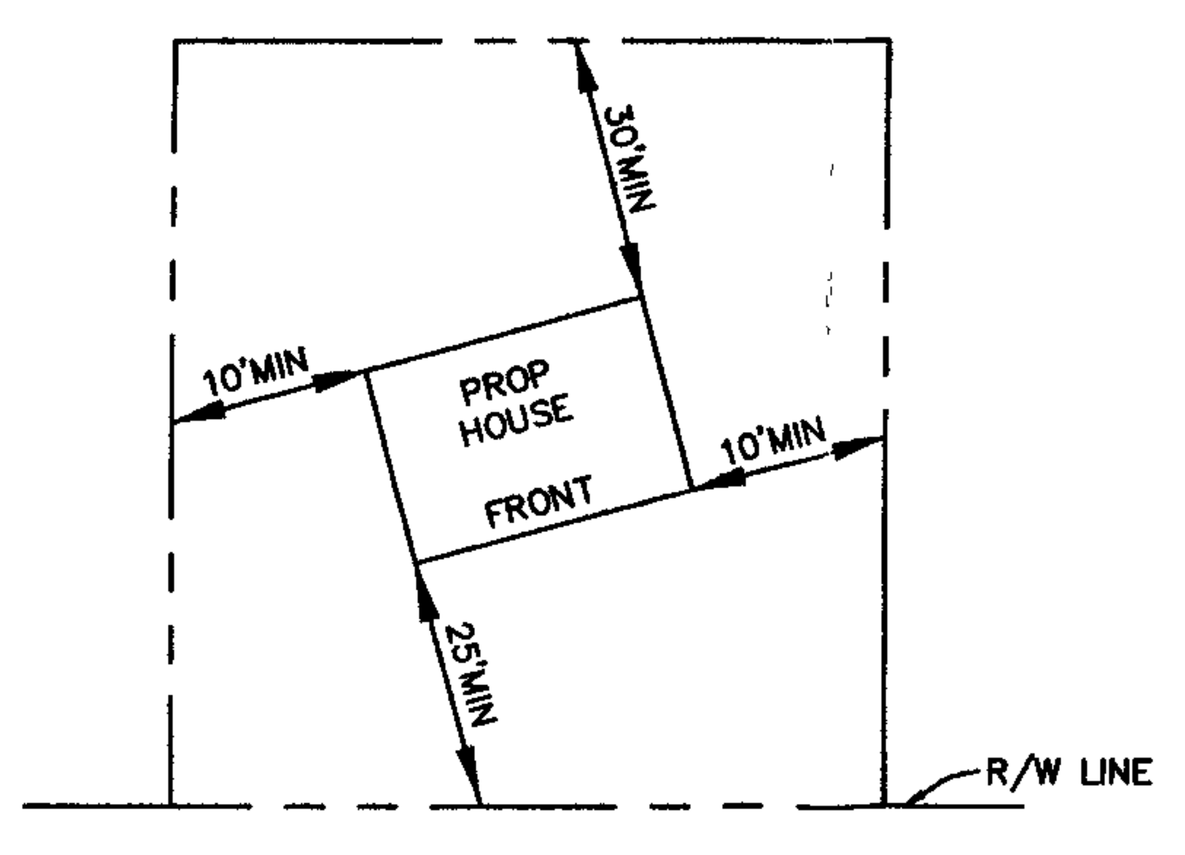
*NOTE:
TYPICAL BUILDINGS SHOWN ON THESE SINGLE FAMILY LOTS DICTATE A SPECIFIC ORIENTATION WHICH ALLOWS COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS. SHOULD THE ORIENTATION CHANGE, THE SETBACKS REQUIRED BY SECTION 1B01.2.C.1.b. MUST BE MET.

ZONING SETBACKS (DR 2 H & DR 3.5 H)

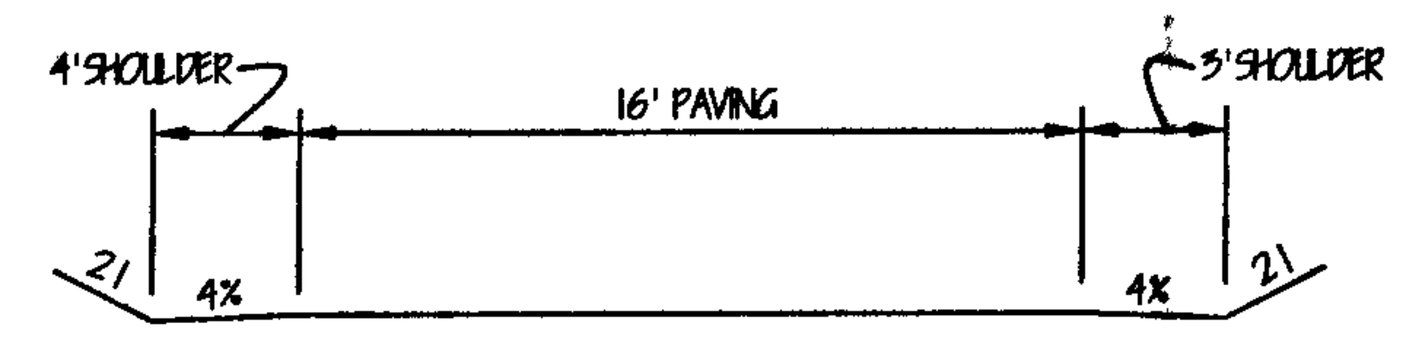
FRONT YARD	25'
SIDE YARD BUILDING TO BUILDING	10' MIN
REAR YARD	30'

SITE DATA

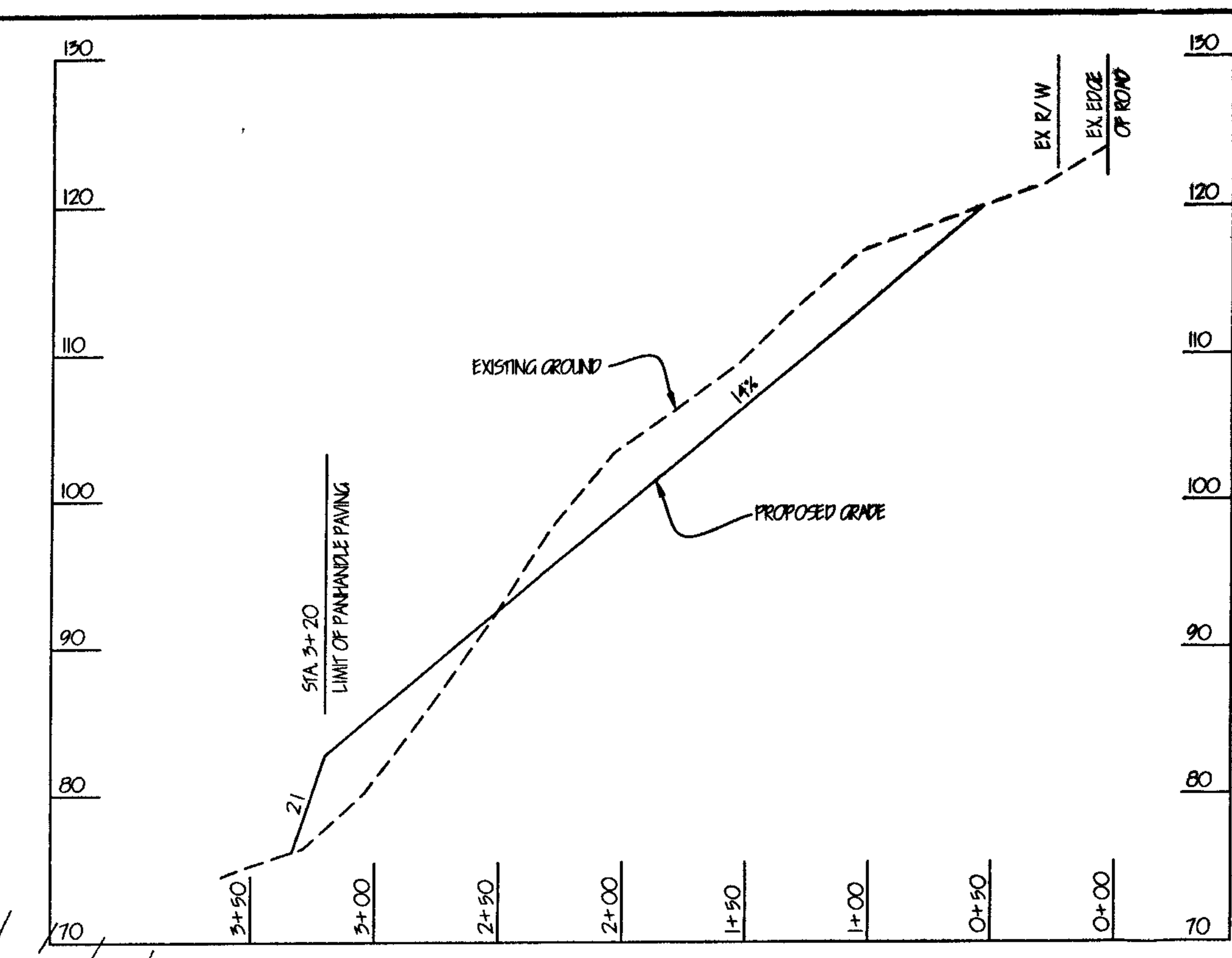
GROSS AREA: 5.73 AC±
ALLOWANCE FOR ROAD FRONTAGE: 0 AC±
NET AREA: 5.73 AC±
EXISTING ZONING: DR 2 & DR 3.5 200 SCALE MAP NE 9 I
EXISTING USE: 1 SINGLE FAMILY DWELLING (UNDER CONSTRUCTION)
PROPOSED USE: 2 SINGLE FAMILY DWELLINGS
DENSITY CALCULATIONS:
UNITS ALLOWED: 2.43 AC (DR 2) = 4 UNITS
3.31 AC (DR 3.5) = 11 UNITS
TOTAL UNITS PERMITTED: 15
TOTAL UNITS PROPOSED: 2
OWNER: KEITH RANDLETT
8902 COWENTON AVE.
BALTIMORE, MARYLAND 21236
410-302-4250
TAX ACCOUNT NUMBER:11-0305I440
TAX MAP NO. 72 GRID 23 PARCEL 198
DEED 17443/383
CENSUS TRACT: 23
REGIONAL PLANNING DISTRICT: 5
SCHOOL DISTRICT: CHAPEL HILL ELEMENTARY
PERRY HALL MIDDLE
PERRY HALL HIGH
PARKING REQUIRED: 2 P.S./LOT x 2 LOTS = 4 P.S.
PARKING PROPOSED: 4 P.S. (9' x 18')
WATER & SEWER DESIGNATIONS: W-1,S-1
WATERSHED: BIRD RIVER SUBSEWERSHED: 19



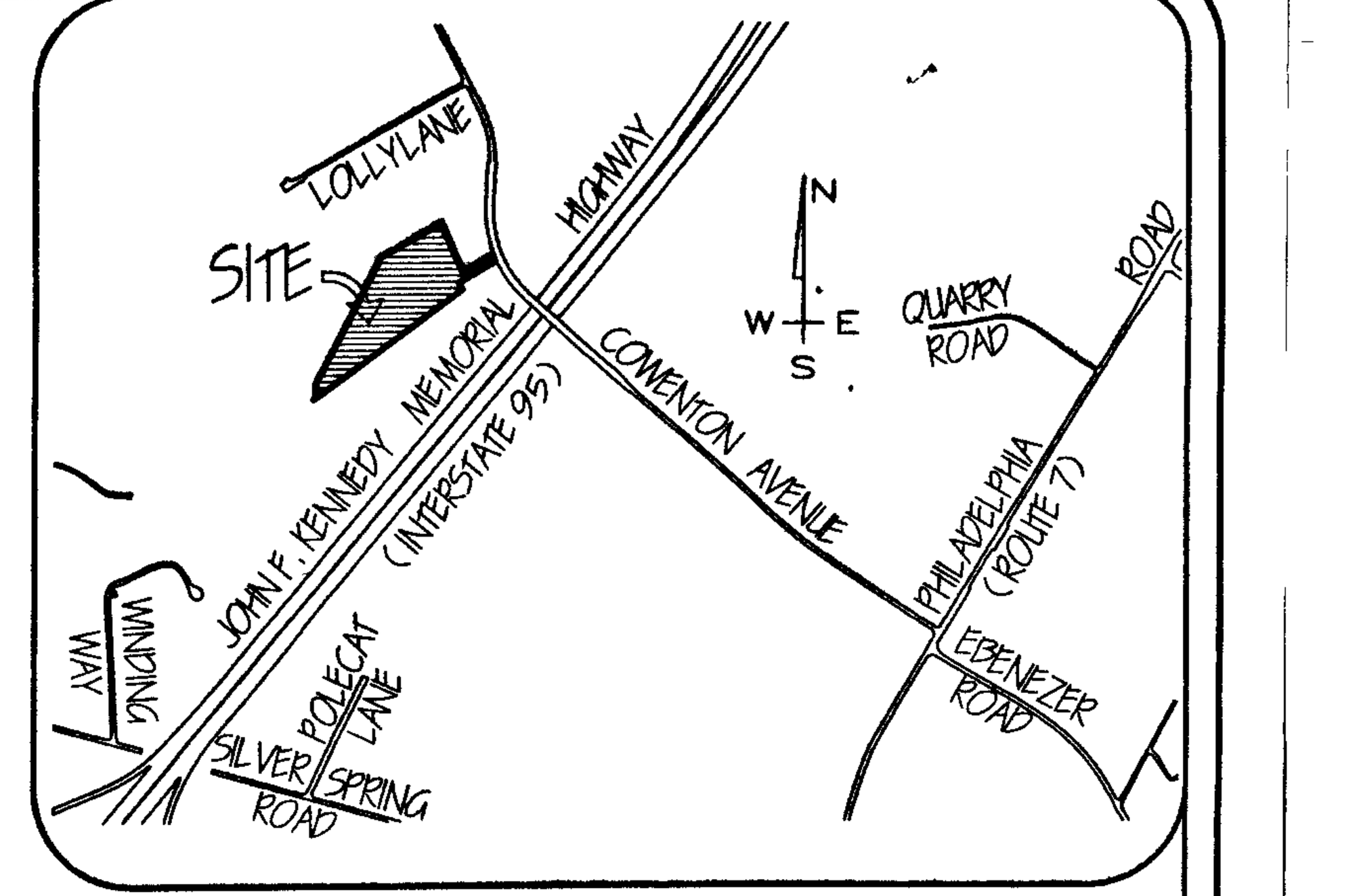
TYPICAL BUILDINGS SETBACKS DETAIL
NOT TO SCALE



TYPICAL SECTION FOR PANHANDLE DRIVE IN A CUT-SECTION
NOT TO SCALE
NOTE: SHOULDER OF 6" GRADED AGGREGATE BASE ALONG PANHANDLE WHEN CUT GRADE EXCEEDS 7% PAVED DRIVE WILL BE SLOPED 4% TOWARDS SHOULDER

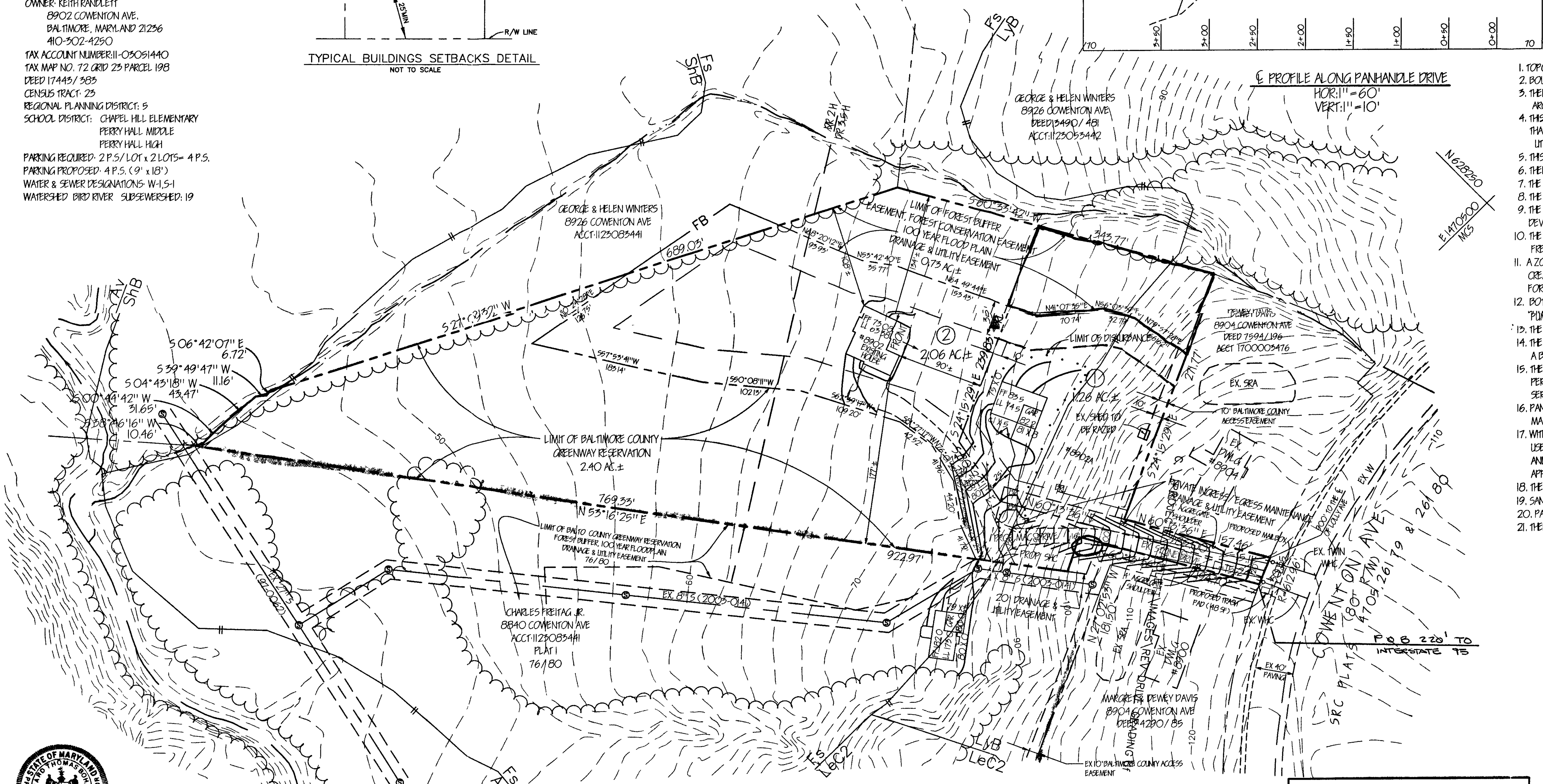


℄ PROFILE ALONG PANHANDLE DRIVE
HOR:1" = 60'
VERT:1" = 10'



VICINITY MAP
1" = 1000'

ALL STATE LEGAL® PETITIONER'S EXHIBIT 1



LIMIT OF DISTURBANCE
11,622 SF OR 0.27 AC±

GENERAL NOTES

1. TOPOGRAPHY SHOWN IS BASED ON BALTIMORE COUNTY GIS TILE 72C3.
2. BOUNDARY SHOWN IS BASED ON A DEED PLOT.
3. THERE ARE NO KNOWN CRITICAL AREAS, HAZARDOUS WASTE SITES, ENDANGERED SPECIES HABITATS, ARCHEOLOGICAL OR HISTORICAL SITES ON THIS PROPERTY.
4. THIS PROPERTY HAS BEEN HELD INTACT PRIOR TO 1971. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF -SITE DWELLINGS.
5. THIS PROPERTY HAS NO KNOWN PRIOR ZONING CASES.
6. THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS ON SITE.
7. THE SOIL TYPES FOR THIS SITE WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 37.
8. THE GRID SYSTEM SHOWN IS BASED ON THE MARYLAND COORDINATE SYSTEM
9. THE FOREST CONSERVATION AND FOREST BUFFER EASEMENTS SHOWN WERE APPROVED WITH THE DEVELOPMENT PLAN FOR THE LANDS OF ALBAN, COOK, DAVIS & BLAKEFIELD PROPERTY.
10. THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED, AND KEPT ANY FREE OF OBSTRUCTIONS.
11. A ZONING FINAL DEVELOPMENT PLAN MAY BE REQUIRED DEPENDING ON THE NUMBER OF LOTS CREATED AS DETERMINED FROM ZONING AND THE EFFECTIVE DATE OF THE ZONING REGULATIONS FOR THAT ZONE.
12. BOTH DWELLINGS WILL HAVE GRAVITY SEWER SERVICE TO THE FIRST FLOOR, AND UTILIZE AN EJECTOR "PUMP FOR THE LOWER LEVEL.
13. THE ZONING WITHIN 200 FEET OF THE SITE IS DR 2H AND DR 3.5H.
14. THE EXISTING SHED ON-SITE IS TO BE REMOVED BY THE DEVELOPER PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR THAT LOT.
15. THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR OF THE ISSUANCE OF THE FIRST OCCUPANCY PERMIT AND PRIOR TO THE ISSUANCE OF THE OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
16. PANHANDLE DRIVEWAYS SERVING MORE THAN ONE LOT A "COVENANT (USE IN COMMON AND MAINTENANCE) IS TO BE RECORDED WITH THE DEED.
17. WITHIN THE AREA SHOWN AS "BALTIMORE COUNTY RECREATIONAL GREENWAY RESERVATION", PERMITTED USES MAY INCLUDE: PUBLIC ACCESS FOR HIKING, BICYCLING, FISHING, NATURE/ENVIRONMENTAL STUDIES, AND BALTIMORE COUNTY SUPERVISED TRAIL IMPROVEMENTS AND MAINTENANCE, SUBJECT TO APPROVAL BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
18. THE PANHANDLE SHALL BE 10" THICK; 2" HOT MIX ASPHALT OVER 8" GRADED AGGREGATE BASE.
19. SANITARY SEWER HOUSE CONNECTIONS TO BE BUILT PER D.P.W. STD. PLATE S-12A (SEE DWG. #2003-0141).
20. PANHANDLE DRIVEWAY TO BE BUILT PER D.P.W. STD. PLATE R-P OR R-Q.
21. THERE ARE NO WELL AND SEPTIC SYSTEMS ON SITE.

205

FOREST CONSERVATION NOTES

1. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENT, OR FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
2. ANY FOREST BUFFER EASEMENT, OR FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

STORM WATER MANAGEMENT NOTES

1. ALL RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORMDRAIN OR ADJACENT PROPERTY.
2. AS MUCH AS POSSIBLE, IMPERVIOUS AREAS SHOULD BE CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
3. HOUSE DOWN SPOUTS SHOULD BE DISCHARGED ONTO PERVIOUS AREAS WHERE FEASIBLE
4. ADDITIONAL SUBDIVISION ON THESE PARCELS AND/OR LOTS WILL REQUIRE STORMWATER MANAGEMENT CONTROLS FOR THIS SITE AND THE ADDITIONAL SUBDIVISION.

MERRITT DEVELOPMENT CONSULTANTS INC.
9831 MAGLEDT ROAD
BALTIMORE MD 21234
410-663-5525
FAX 410-663-4315

I HEREBY CERTIFY THAT I HAVE REVIEWED WITH DUE DILIGENCE THE AGENCY COMMENTS DATED JULY 29, OCTOBER 29, 2003 AND FEBRUARY 23, 2004 AND HAVE PREPARED WITH DUE DILIGENCE THIS MINOR SUBDIVISION PLAN PURSUANT TO THOSE AGENCIES COMMENTS.

REVISION BLOCK

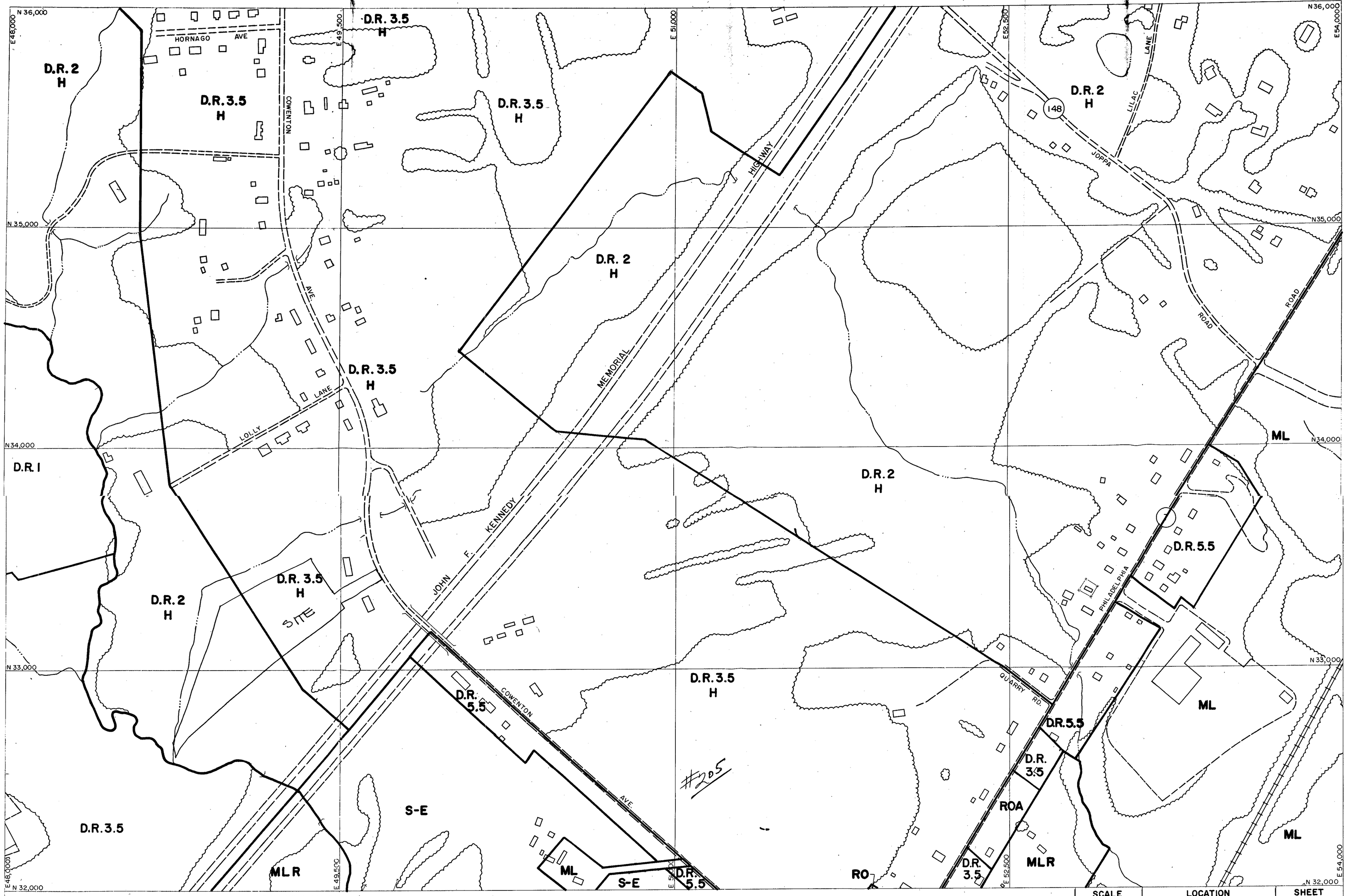
DATE	COMMENTS	BY
7/20/04	REVISED PER COUNTY COMMENTS	MDC

BALTIMORE COUNTY MINOR SUBDIVISION
Project No 03-047-M
DEVELOPMENT REGULATIONS
☐ Exempt from Division 2
☐ Panhandle, exempt from Sections 26-202 & 26-206
PDM CERTIFICATION
☐ Approved ☐ Disapproved
By ________ Date ________
APPROVED DEPRM
By ________ Date ________

PLAN TO ACCOMPANY ZONING VARIANCE

MINOR SUBDIVISION PLAN RANDLETT PROPERTY

DISTRICT 14C6	BALTIMORE COUNTY, MD
SCALE: 1" = 60'	DATE: SEPT. 17, 2003



MAP NE 9I

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00.

James T. Smith, Jr.
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	WHITEMARSH	N. E. 9-I
DATE OF PHOTOGRAPHY JANUARY 1986		

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