2/16/05

IN RE: PETITIONS FOR SPECIAL HEARING SW/S of Masemore Road and S/S of Brandy Springs Road 7th Election District 3rd Councilmanic District **(1314-B Mount Carmel Road)** Barbara & Glenn Durst *Petitioners*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 05-273-SPH

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing filed by the legal owners of the subject property, Barbara and Glenn Durst. The Petitioners are requesting special hearing relief for property located at 1314-B Mount Carmel Road in the northern area of Baltimore County. The special hearing request is to: 1) allow a nonconforming use as a commercial kennel; 2) to approve the creation of a non-density lot for the land on which the kennel is situated; 3) to permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres; 4) to modify the decision and plan in Case No. 84-54-X; and 5) to permit a commercial kennel and accessory buildings to be located 0 ft. in lieu of the required 200 ft. from the property line.

The property was posted with Notice of Hearing on January 10, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on January 11, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the variance and special exception requests were Paul Cummins, II, Shawne Imler, Nancy Dowling, Mary Flora, Levi and Joyce Carlstrom, Patricia Stimlin, Lt. R. B. Paal, Jr., Dawn Foster, Barry Durst and Glenn & Barbara Durst, the Petitioners. Bruce Doak of Gerhold, Cross & Etzel also appeared on behalf of the Petitioners. Deborah C. Dopkin, Esquire represented the Petitioners at the hearing. Appearing in opposition to these requests were Radford Baker, Melody Baker, Penney Baker, Craig Timlin, Jr., Hope Pezzulla and Michael McComas. Frank Borgerding, Esquire represented Michael McComas, one of the protestants. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance contains 44.7 acres, more or less, and is zoned R.C. 2. The Petitioners have their principal residence on the west end of the property along with a breeding kennel inside the home which was permitted as a special exception in 1984 in Case No. 84-54-X. In the center of the property the Petitioners own another kennel which is the subject of this Petition. Otherwise the property has forest and agricultural uses.

The Petitioners would like to carve out 3.2 acres of land around the second kennel and sell it to the present kennel manager. This would be a non-density lot so as not to absorb one of the two dwelling unit lots on this RC 2 property. Eventually the Petitioner would like to subdivide the remaining 41 acres to provide a 30 acre lot for the Petitioner's son's home. Mr. Durst testified that he was no longer able to handle the large parcel, and needed his son's family

nearby, as he and his wife were getting older. In addition, he noted that his son's family has outgrown the home they now occupy south of the present Durst home, which home is shown on Petitioner's Exhibit 1. However, a portion of the testimony in the case involved where and under what circumstances his son would locate the new home. This was of primary concern to the protestants in the case.

Mr. Doak, the Licensed Property Line Surveyor employed by the Petitioner, testified that the uses surrounding the property were residential and agricultural. He noted from his personal inspection that the uses on the property were: agricultural uses (including hay production), forests, the Durst home on the west end, the commercial kennel located thereon, a garage with living facilities, a trailer at the subject kennel, and storage trailer off the subject parcel. He presented extensive photographs of the driveways, structures and accessory uses such as exercise pens and dog runs involving the subject parcel. See Petitioners' Exhibit 2. He noted that he drew the proposed boundaries of the 3.2 acre parcel as small as possible to include all the kennel functions, that the Petitioners had no intention of expanding the kennel operation, and so deliberately limited the parcel size to reassure the neighbors.

Although the 30 acre lot for Mr. Durst son's home was not the subject of the hearing, Mr. Doak referred to this next step in stating that the location for the new home was limited by DEPRM to areas not in agriculture, not on steep slopes, near streams, or in wooded areas. This left an area behind the Baker and McComas properties for the new home. This request for a new home for his son was the subject of Case No. 04-027-SPH in which this Deputy Zoning Commissioner denied a transfer of land to allow the son's home to be built. Mr. Doak distinguished this case from the subject case by noting that all of the dwellings found to exist in Case No. 04-027-SPH were now abandoned with the exception of the Durst principal residence.

Mr. Doak noted that the request to approve a non-density lot of 3.2 acres and find the commercial kennel on that parcel was nonconforming and could continue, would not affect the

surrounding community as the kennel described was the same as had been there since 1972. No expansion of the kennel was being requested. He noted that kennels are allowed in the RC 2 zone by special exception but that this request was to confirm a non-conforming kennel. He testified that approval of the 3.2 acre parcel as a non-density unit was within the spirit and intent of the regulations, as this kennel use was compatible with the residential and agricultural uses in the area. He noted the nearest residence was 350 ft. away form the kennel and that the principal protestants' homes were over 600 ft. away form the kennel.

Mr. Doak indicated that the request to modify the plan in Case No. 84-54-X was precautionary only. He noted that that decision involved the breeding kennel in the Durst principal residence only, that there were no restrictions in that decision and that he only included this request in an abundance of caution. He also noted that the request to allow a commercial kennel within 0 ft. of a residential boundary in lieu of the required 200 ft. arises because the 3.2 acre parcel is all used for kennel operations, this parcel borders directly on the edge of the property line and consequently requires, not a variance, but a special hearing to allow the use without the 200 ft. setback from a property line pursuant to Section 421.2. He noted that this request for special hearing rather than variance was taken after consultation with the Zoning Office.

Finally, he indicated that the subject kennel was housed in a building that has a residential appearance but he was not sure the building did not contain some kitchen and bathroom facilities.

On cross-examination, he testified that he personally inspected the trailer on the 3.2 acre parcel and that such was not habitable. He said that it lacked toilet and kitchen facilities, and that the Petitioners used it to store dog food and laundry.

Mr. Durst testified that he and his wife have owned the property since 1972. He indicated that his home is also the location of the breeding kennel allowed in 1984 by special

exception. He acknowledged that next to his home is a garage which has living facilities and which although vacant now, has been used to house his mother-in-law, grandchildren, and other family members. He noted that vandals had damaged the trailer located off of the subject parcel after the last tenant moved out, and that he was using it to support his farming operations. With regard to the trailer on the subject parcel, he indicated that it was not habitable, as it had no kitchen.

As to the subject kennel, he testified that he bought the property with the intention of building his home and a kennel. Eventually he built the structure in 1973, which all have identified as the commercial kennel, which is the subject of this hearing. He and his family occupied the second floor of the building as their home while his wife used the ground floor of the building as a kennel until 1986. He further testified that the second floor had been used by the manager of the kennel as her residence thereafter until 6 months ago when the present manager moved out.

In regard to the kennel operation, he indicated that the use of the building as a kennel has been continuous and uninterrupted since 1972. He started with 10 to 12 pets and one employee. He presented a letter of support for the continued use of the commercial kennel from the Hereford Community Association and many neighbors and customers. He noted that many pet owners need a place to board their pets especially in the summer months. He felt that the kennel would have no adverse impact on the surrounding community as the kennel was buffered by a double row of mature pine trees and the distance to neighboring residences. He noted that the kennel now has up to 100 animals at peak season. Finally, he noted that the subject parcel would not be taken out of agriculture use, because the parcel never was used for agriculture and has been a commercial kennel all these years.

On cross-examination, he noted that the kitchen and bath facilities on the second floor of the kennel have not been removed.

Shawn Imler testified that she manages the kennel presently and would like to buy it from the Petitioners. She confirmed that she no longer lives above the kennel, but rather the second floor is used for various kennel operations. She noted that the night manager is present from 9 PM to 7 AM and that the kennel handles up to 120 animals in peak season. Presently there are 30 animals on site. Five employees assist the manager. She testified that when she first started in 1988, there were 25 to 30 animals at the kennel. There have been no complaints about the kennel operation, which is licensed by the County. She testified that she did not find the noise of the dogs barking a problem. There are approximately 5 to 7 vehicles a day at the kennel. She noted that the trailer on the parcel has been vacant for 8 months and is now used for storage.

Mr. Paal, a customer, testified that this kennel has been in continuous operation for the past 20 years. Ms. Foster, a neighbor, testified that the kennel has been at the subject location since 1972 and she does not object to the noise the dogs make. Mr. Carlstrom, a neighbor, indicated that the kennel had been operating continuously at the subject site since 1972. He personally remembers Mr. Durst building the kennel building. Mr. Cummings, president of the Hereford Community Association testified in support of the Petition as a needed business in the area.

Opposition to the request came from nearby property owners. Ms. Baker, an adjacent property owner, testified that she opposed the requested relief as the kennel continues to have kitchen and bathroom facilities and the Durst will simply re-let the premises as soon as this case is completed. She also complained about the noise from dogs barking. She submitted an affidavit after the hearing stating that the kennel was still occupied by the manager and an employee contrary to other witnesses' testimony.

Mr. McComas, an adjacent property owner, similarly testified that he opposed the requested relief. He questioned the credibility of the Petitioners, complained about the noise

from the kennel and any further building on the Durst property by way of subdivision or otherwise.

At the undersigned's request, the Petitioners' attorney submitted a memorandum summarizing the legislative history of regulations, which have been imposed on the Durst property. As no response was received in opposition to the memorandum by this Commission, I assume that the protestant's attorney agrees with the memorandum.

Findings of Fact and Conclusions of Law

The Petitioners' memorandum of law summarizing the legislative history of the regulations imposed on the Durst property indicates that a kennel was a permitted use by right in the RDP zones until 1979 when this use was changed to be allowed by special exception. From the testimony and evidence presented, I find that the use of the parcel's building as a kennel was a lawful use from 1973 when the kennel opened and that it has continued uninterruptedly since that time.

The Protestants argue, however, that the use changed since its inception in 1973. First they note that the number of animals has drastically increased from 10 to 12 animals to today's 120 peak. Secondly, they argue that the evidence indicates the building on the parcel was once a residence and kennel to now it is only used as a kennel. They argue that this shows a change in use and loss of nonconforming status. Mr. Durst and Ms. Imler testified the residential use was discontinued six or eight months ago. In her affidavit received after the hearing Ms. Baker indicates that this testimony was false and that the kennel is still occupied. However, the Petitioners did not ask that I recognize both the residential and kennel uses but asked for only the kennel as a nonconforming use.

In regard to the change in use argument, I find that the use as a kennel has not changed. I understand that the number of animals has increased substantially but I look at this as the typical and permissible intensification and not an extension. From all the evidence before me, the size

of the buildings associated with the kennel has remained essentially the same since Mr. Durst constructed it in 1973. I am sure there were some accessory additions but basically the facility is the same. Said another way, I have no evidence that the kennel facilities on the property have exceeded the 25% rule of Section 104.3 since the new zoning was imposed on the property in 1979.

Consequently, I find that the use of the property for a commercial kennel located on the 3.2 acre parcel, as shown in Petitioner's Exhibit 1, is a legal nonconforming use and has not been abandoned nor has such nonconforming use been discontinued for a period of one year or more. I further find that the zoning use division line demarcating the area of the nonconforming use is the boundaries of the 3.2 acre parcel described in Petitioner's Exhibit 1. Mr. Doak testified that this parcel included all the kennel activities, structures and accessory uses.

Having found the zoning use division line to be the 3.2 acre parcel, I also will approve the fifth request to permit a commercial kennel and accessory buildings to be located 0 ft. in lieu of the required 200 ft. from the property line. In fact, the northern boundary of the 3.2 acre parcel is on the property line and therefore 0 ft. in lieu of the required 200 ft. If I were to require a 200 ft. setback, the existing kennel would all but be eliminated.

In regard to the Petitioner's third request to permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres, I find that the evidence indicates the trailer is not inhabited, all facilities for human habitation have been removed and the trailer is used for storage to support the commercial kennel. I conclude this from Mr. Doak's testimony based on his personal observation of the trailer.

Finally, I look to the real issue in the case. Again, although many who attended the hearing were primarily concerned with where Mr. Durst wants to build his son's home, that issue is not before me. The remaining issue that is before me is whether or not to approve the creation of a non-density lot for the land on which the kennel is situated. Here Ms. Baker's affidavit

would seem to be most relevant. It probably seems logical that if the kennel is occupied then I can not allow creation of a non-density lot.

However, I do not believe human habitation is the issue. The B.C.Z.R. defines "dwelling" as "A building or portion thereof which provides living facilities for one or more families." The measure is not whether or not the premises is occupied, if there are living facilities for families, we have a dwelling. Living facilities for families is not defined in the regulations but traditionally these facilities have kitchens, bathroom, sleeping areas, etc. A kennel can have a bathroom for its employees but it would not have human bath facilities such as showers or bathtubs, fabric towels or amenities. A kennel can have an area to prepare animal food but it would not have a kitchen with an oven, range or human eating facilities. A kennel may have areas in which animals sleep or rest but may not have beds with headboards, mattresses, and the like or mirrors on the wall at human height, closets with human clothes, etc. In short, if the building has living facilities for human families, it is a dwelling. It is not enough to simply remove the humans from occupying the premises. All human facilities must be removed or the building is a dwelling.

From the evidence before me there are now three dwellings on the property. These include the Durst home over the breeding kennel, the garage close by and the commercial kennel building. Regarding the garage next to the Durst home, Mr. Durst testified that various family members have used this building for living quarters for some years. There is no evidence that the facilities to allow human occupation have been removed. Similarly, it is clear the second floor of the commercial kennel has been occupied as human living space since 1973, perhaps even to this day. There may even be two dwellings in this building. But there is no evidence the facilities for human family living has been removed. Mr. Doak was careful to say in his testimony that he had not inspected the whole building. On the other hand, I am convinced the facilities for human living have been removed from the trailer on the 3.2 acre parcel from Mr.

Doak's description. I do not know whether the trailer off of the 3.2 acre parcel is a dwelling or not.

It is clear that the Petitioners believed that all they had to do to eliminate a dwelling, is to eliminate the people from living there. That is not the case, although it is obviously a vital step in that right direction.

Consequently, the question now is whether I can approve a non-density lot on which the commercial kennel is situated when I have found that the lot still has one (and maybe two) dwellings on it. As strange as this may seem to the protestants, I believe and find that I can. The Petitioners have asked for a non-density lot. This means that they must permanently remove all facilities for human habitation from the premises. I see no reason why the Petitioners can not receive what they ask for.

Said another way, this office receives daily requests for zoning relief prior to the property actually conforming to the request. Someone wants to build a structure but needs a variance. They apply for the variance before they build the building. In this example, the County would not require them to build a building in hopes a variance would be granted.

Similarly, here the Petitioners ask to approve a non-density lot. I will grant their wish, but as the old saying goes be careful what you wish for. In this case the Petitioner must remove all facilities for human habitation within the 3.2 acre parcel. Not to do so after having been granted a non-density lot would be a zoning violation. I am sure that the neighbors will keep the kennel under close review and will complain to Zoning Enforcement if the facilities for human habitation are not removed, much less should someone live there. In addition, I will require that notice of the non-density lot be recorded in the Land Records for Baltimore County so that future purchasers of the 3.2 acre tract will be aware of the severe limitation of the parcel.

For the reasons above, I will grant the Petitioners' fourth request to modify the decision and plan in Case No. 84-54-X.

Finally I would like to note once again that the issue of further subdivision of the Durst property is not before me. How the subdivision reviews treat the presently existing dwellings on the property, I leave to their good judgment.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request and request for Special Hearing should be granted.

THEREFORE, IT IS ORDERED, this 16 day of February, 2005, by the Deputy Zoning Commissioner, that the Petition for Special Hearing to: 1) allow a nonconforming use as a commercial kennel within a zoning use division line described by the boundary of the 3.2 acre parcel shown on Petitioner's exhibit 1 ; 2) to approve the creation of a non-density lot within the zoning use division line described by the boundary of the 3.2 acre parcel shown on Petitioner's exhibit 1 for the land on which the kennel is situated; 3) to permit an existing non-residential trailer to remain as accessory to the commercial kennel on the 3.2 acre lot; 4) to modify the decision and plan in Case No. 84-54-X; and 5) to permit a commercial kennel and accessory buildings to be located 0 ft. in lieu of the required 200 ft. from the property line, be and is hereby GRANTED with the following conditions:

1. The Petitioners shall permanently remove all facilities for human habitation from the land on which the commercial kennel is situated as described by the boundary of the 3.2 acre parcel shown on Petitioners' Exhibit 1; and
2. The Petitioners shall record this Order in the Land Records of Baltimore County.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

11/2/05

IN THE MATTER OF THE APPLICATION OF GLENN AND BARBARA DURST -PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE SW/S OF MASEMORE RD & S/S OF BRANDY SPRINGS RD (1314b MT CARMEL ROAD) 7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 05-273-SPH

* * * * * * * * *

STIPULATION AND ORDER

Background

Barbara and Glenn Durst, Legal Owners of the property known as 1314B Mt. Carmel Road in the northern area of Baltimore County, sought special hearing relief before the Deputy Zoning Commissioner. The special hearing request was to (1) allow a nonconforming use as a commercial kennel; (2) to approve the creation of a nondensity lot for the land on which the kennel is situated; (3) to permit an existing nonresidential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres; (4) to modify the decision and plan in Case No. 84-54-X; and (5) to permit a commercial kennel and accessory buildings to be located 0' in lieu of the required 200' from the property line. Mr. and Mrs. Durst were represented by Deborah C. Dopkin, Esquire. The Protestants at the hearing, Michael C. and Elizabeth W. McComas, were represented by Francis X. Borgerding, Jr., Esquire.

On February 16, 2005, the Deputy Zoning Commissioner rendered his decision, granting the request for special hearing with the condition that the Petitioner shall permanently remove all facilities for human habitation from the land on which the commercial kennel is situated as described by the boundary of the 3.2-acre parcel shown on Petitioners' Exhibit 1.

The Protestants, Mr. and Mrs. McComas, appealed that decision to the Board of Appeals.

Subsequent to the filing of the appeal, the parties reached an agreement resolving the

issues that led to the appeal. On October 11, 2005, the attorneys for the Petitioners and the Protestants appeared before the Board and indicated that the issues had been resolved through the negotiation and execution of a Covenant Agreement. The parties stated that they were agreeable to the Board issuing a decision incorporating the terms and conditions of the Covenant Agreement into the Board's Order. The Board has reviewed the Covenant Agreement and finds that it is in compliance with the Zoning Regulations of Baltimore County and therefore will accept the agreement of the parties. Since the hearing before the Board is a *de novo* hearing, there is no need for the Board to affirm the decision of the Deputy Zoning Commissioner.

ORDER

THEREFORE, IT IS THIS 2nd day of November, 2005 by the County Board of Appeals of Baltimore County

ORDERED that the Special Hearing shall be granted with the following conditions:

1) The Covenant Agreement executed by Petitioners, Glenn L. Durst and Barbara P. Durst, and Protestants, Michael C. McComas and Elizabeth W. McComas, on September 23, 2005 shall be attached to and become part of this Order.

2) This Order shall be recorded in the Land Records for Baltimore County in accordance with the agreement of the parties set forth in Section 4 of the Covenant Agreement.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chair

Mike Mohler

John P. Quinn

3/15/05

IN RE: PETITIONS FOR SPECIAL HEARING SW/S of Masemore Road and S/S of Brandy Springs Road 7th Election District 3rd Councilmanic District **(1314-B Mount Carmel Road)** Barbara & Glenn Durst Petitioners	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No.: 05-273-SPH

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

NOTICE OF APPEAL

Appellant, Michael McComas, whose address is 1300 Mt. Carmel Road, Parkton, Maryland 21120, by and through his attorney, Francis X. Borgerding, Jr., feeling aggrieved by the Deputy Zoning Commissioner's decision in the above-captioned case, hereby appeals to the County Board of Appeals for Baltimore County from the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law dated February 16, 2005 in the above-captioned case, a copy of which is attached hereto and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the costs of the appeal noted herein.

FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR APPELLANT

RECEIVED
MAR 16, 2005
Per.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 15 day of March, 2005, a copy of the aforegoing was mailed, first-class postage prepaid, to:

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 1000
Towson, Maryland 21204-4916

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Old Court House, Room 47
400 Washington Avenue
Towson, Maryland 21204

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

County Board of Appeals for Baltimore County
400 Washington Avenue, Room 49
Towson, Maryland 21204

FRANCIS X. BORGERDING, JR.

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1314-B Mount Carmel Road
which is presently zoned R.C.2

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

SEE ATTACHED

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

Glenn L. Durst
Name - Type or Print

Glenn L. Durst
Signature

Barbara P. Durst
Name - Type or Print

Barbara P. Durst
Signature

1314-B Mount Carmel Road 410-343-0616
Address Telephone No.

Parkton, Maryland 21120
City State Zip Code

Attorney For Petitioner:

Deborah C. Dopkin, Esquire
Name - Type or Print

Deborah C. Dopkin
Signature

Deborah C. Dopkin, P.A.
Company

409 Washington Avenue, #1000 410-821-0200
Address Telephone No.

Towson, MD 21204
City State Zip Code

Representative to be Contacted:

Deborah C. Dopkin, Esquire
Name

409 Washington Avenue, #1000 410-821-0200
Address Telephone No.

Towson, MD 21204
City State Zip Code

ORDER RECEIVED FOR FILING
2/16/05

Case No. 05-273-SPH

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By JRF Date 11/24/04

REV 9/15/98

1. To affirm a non-conforming use as commercial kennel;
2. To approve the creation of a non-density lot for the land on which the kennel is situated;
3. To permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of ~~two~~ 3.2 acres;
4. To modify the decision and plan in Case no. 84-54X; and
5. To permit a commercial kennel and accessory buildings to be located 0' in lieu of the required 200' from the property line.

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

November 23, 2004

DURST PROPERTY
1314B MOUNT CARMEL ROAD
PARKTON, MARYLAND 21120

All that piece or parcel of land situate, lying and being in the Seventh Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at the intersection of the southwest side of Masemore Road and the south side of Brandy Springs Road, thence southwesterly 50 feet more or less, to the Zoning Point of Beginning, thence running for the following sixteen courses and distances: (1) Binding on the south side of Brandy Springs Road with a curve to the left having a radius of 300 feet, subtended by an arc of 148.89 feet, the chord of said arc being North 87 degrees 14 minutes 47 seconds West for a distance of 147.37 feet, (2) South 11 degrees 27 minutes 21 seconds East 43.98 feet, (3) South 55 degrees 03 minutes West 113.79 feet, (4) South 54 degrees 35 minutes 45 seconds West 235.51 feet, (5) North 75 degrees 12 minutes 35 seconds West 390.51 feet, (6) North 35 degrees 24 minutes 15 seconds West 776.54 feet, (7) South 54 degrees 35 minutes 45 seconds West 803.00 feet, (8) North 63 degrees 52 minutes 53 seconds West 895.76 feet, (9) South 49 degrees 06 minutes 09 seconds West 300.00 feet, (10) South 8 degrees 54 minutes 06 seconds East 156.30 feet, (11) South 4 degrees 26 minutes 52 seconds West 452.77 feet, (12) South 82 degrees 14 minutes 06 seconds East 1179.34 feet, (13) South 34 degrees 35 minutes 15 seconds 655.89 feet, (14) North 55 degrees 13 minutes 33 seconds East 784.08 feet, (15) North 54 degrees 35 minutes 45 seconds East 739.38 feet, and (16) North 55 degrees 03 minutes East 247.52 feet to the place of beginning.

Containing 44.7 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

STATE OF MARYLAND
BRUCE EDWIN DAK
NO. 531
REGISTERED
PROPERTY LINE SURVEYOR

#273

11/24/04

X:\Durst\zoning.doc

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 42620

DATE 11-24-04 ACCOUNT 001-006-6150

AMOUNT $325.00

RECEIVED FROM: Glenn L. Durst
1314-B MOUNT CARMEL RD

FOR: Pet. for Special Hearing ITEM ~~325~~ 273

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
11/24/2004	11/24/2004	09:18:48	2

REG WS04 WALKIN BROL BMB
>>RECEIPT # 291702 11/24/2004 OFLW
Rept 5 52R ZONING VERIFICATION
CR NO. 042620
Recpt Tot $325.00
$325.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

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

Case: #05-273-SPH
1314-B Mount Carmel Road
S/west side of Masemore Road & s/side Brandy Springs Road
7th Election District — 3rd Councilmanic District
Legal Owner(s): Glenn L. and Barbara P. Durst

Special Hearing: to allow a nonconforming use as a commercial kennel, to approve the creation of a non-density lot for the land on which the kennel is situated, to permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres, to modify the decision and plan in Case No. 84-54-X, and to permit a commercial kennel and accessory buildings to be located 0 feet in lieu of the required 200 feet from the property line.

Hearing: Wednesday, January 26, 2005 at 10:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake 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.

JT 1/652 January 11 35342

CERTIFICATE OF PUBLICATION

1/12/, 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 1/11/, 2005.

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

S. Wilkinson

LEGAL ADVERTISING

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE 05-273 SPH
PETITIONER/DEVELOPER:
Glenn L. & Barbara P. Durst
DATE OF HEARING: 1/26/05

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

LOCATION:
1314 B Mount Carmel Road

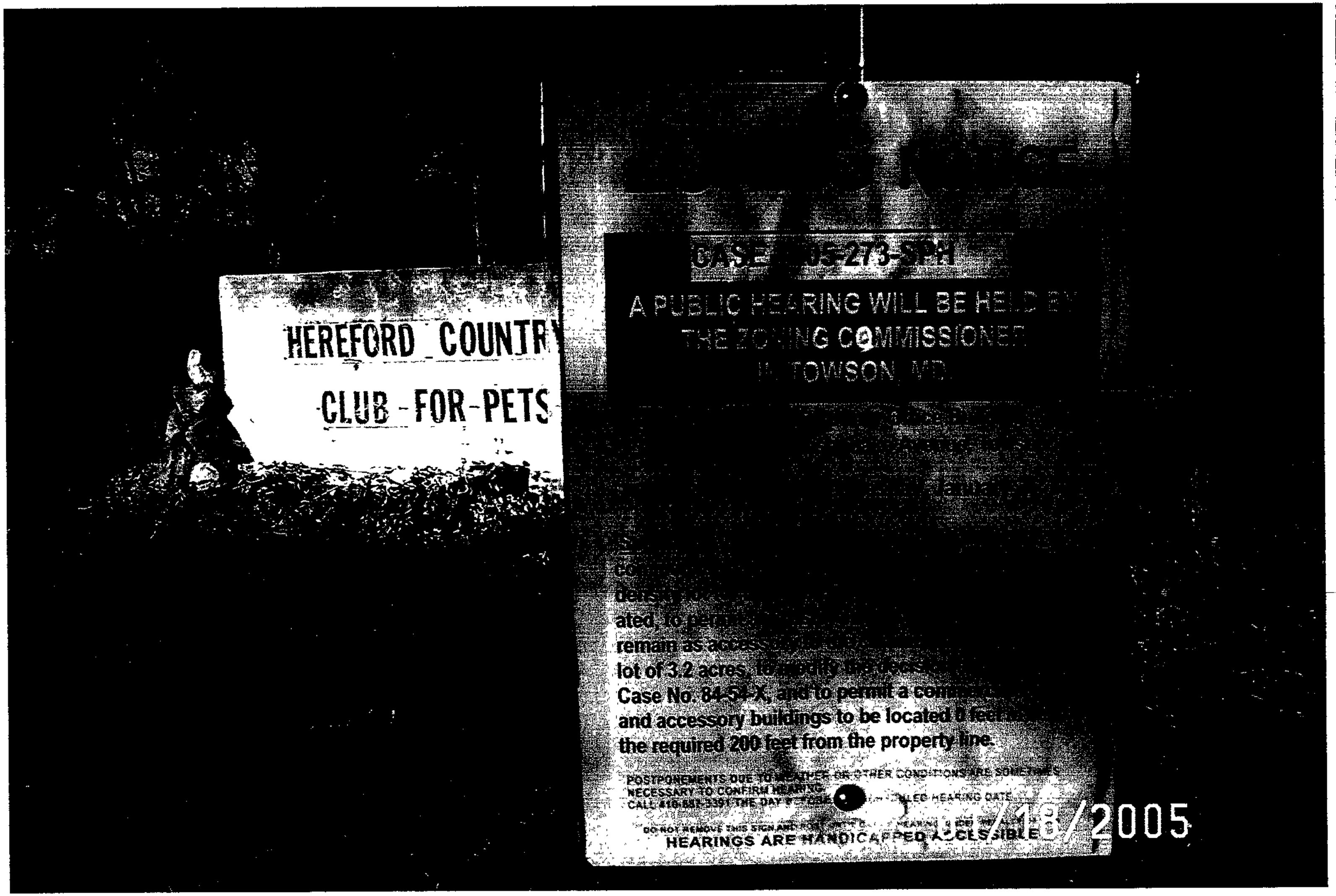
POSTED ON: 1/10/05

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

(see page 2 for full size print)


HEREFORD COUNTR
CLUB FOR PETS
CASE 05-273-SPH
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
TOWSON, MD.
ated, to per
remain as access
lot of 3.2 acres, to
Case No. 84-54-X, and to permit a com
and accessory buildings to be located 0 feet
the required 200 feet from the property line.
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL #10-887-3391 THE DAY
HEARINGS ARE HANDICAPPED ACCESSIBLE
/18/2005

APPEAL SIGN POSTING REQUEST

CASE NO. 05-273-SPH

GLEN & BARBARA DURST

1314B MT. CARMEL ROAD

7TH ELECTION DISTRICT APPEALED: 3/16/2005

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

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

CERTIFICATE OF POSTING

7A10

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 05-273-SPH

Legal Owners: GLENN & BARBARA DURST

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

1314B MT. CARMEL ROAD

_____

The sign was posted on 5/11, 2005

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Print Name)

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 05-273 SPH

Petitioner: Glenn & Barbara Durst

Address or Location: 1314 - B Mt. Carmel Rd.

PLEASE FORWARD ADVERTISING BILL TO

Name: Deborah C. Dopkin

Address 409 Washington Ave St. 1000

Towson MD 21204

Telephone Number: 410 821-0200

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 11, 2005 Issue - Jeffersonian

Please forward billing to:
Deborah Dopkin
409 Washington Ave., Ste. 1000
Towson, MD 21204

410-821-0200

NOTICE OF ZONING HEARING

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

CASE NUMBER: 05-273-SPH
1314-B Mount Carmel Road
S/west side of Masemore Road & s/side of Brandy Springs Road
7th Election District – 3rd Councilmanic District
Legal Owners: Glenn L. and Barbara P. Durst

Special Hearing to allow a nonconforming use as a commercial kennel, to approve the creation of a non-density lot for the land on which the kennel is situated, to permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres, to modify the decision and plan in Case No. 84-54-X, and to permit a commercial kennel and accessory buildings to be located 0 feet in lieu of the required 200 feet from the property line.

Hearing: Wednesday, January 26, 2005 at 10:00 a.m. in Room 106, County Office 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.

County Board of Appeals of Baltimore County

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

Continued for purpose of finalizing agreement

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 6, 2005

NOTICE OF ASSIGNMENT

CASE #: 05-273-SPH

IN THE MATTER OF: GLENN & BARBARA DURST
1314 B Mount Carmel Road 7th E; 3rd C

2/16/05 –D. Z.C.'s Decision in which special hearing relief was GRANTED with restrictions.

ASSIGNED FOR: **TUESDAY, AUGUST 30, 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: Counsel for Appellant /Protestant : Francis X. Borgerding, Jr., Esquire
Appellant /Protestant : Michael McComas

Counsel for Petitioners : Deborah C. Dopkin, Esquire
Petitioners : Glenn & Barbara Durst
Bruce Doak /Gerhold Cross & Etzel LTD

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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on Recycled Paper

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 18, 2005

Deborah C. Dopkin
409 Washington Avenue, # 1000
Towson, Maryland 21204

Dear Ms. Dopkin:

RE: Case Number: 05-273-SPH, 1314-B Mount Carmel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 24, 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
Glen L. and Barbara P. Durst 1314-B Mount Carmel Road Parkton 21120

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Fire Department

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

Baltimore County

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

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

December 6, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: December 6, 2004
273

Item No.: 250,268-176

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: 12.3.04

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

RE: Baltimore County
Item No. 273 JRF

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

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

Very truly yours,

S. F. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

RE: PETITION FOR SPECIAL HEARING 1314B Mount Carmel Road; SW/side Masemore Rd and s/side Brandy Springs Rd 7th Election & 3rd Councilmanic Districts Legal Owner(s): Glenn & Barbara Durst Petitioner(s)	* * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 05-273-SPH

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

ENTRY OF APPEARANCE

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

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

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 2004, a copy of the foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esquire, 409 Washington Avenue, St 1000, Towson, MD, 21204, Attorney for Petitioner(s).

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

RECEIVED
DEC 2 2004
Per.....

Department of Permits
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 30, 2005

Deborah Dopkin
409 Washington Avenue
Towson, MD 21204

Dear Ms. Dopkin:

RE: Case: 05-273-SPH, 1314 B Mt. Carmel Road

Please be advised that an appeal of the above-referenced case was filed in this office on March 16, 2005 by Francis Borgerding, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Frank Borgerding, Jr., 409 Washington Avenue, Ste. 600, Towson 21204
Glen & Barbara Durst, 1314-B Mt. Carmel Road, Parkton 21120

RECEIVED
APR 1 - 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Printed on Recycled Paper

Case No. 05-273-SPH

In the Matter of: Glenn and Barbara Durst - Petitioners
1314 B Mt. Carmel Road 7th E; 3rd C

SPH – To allow nonconforming use as commercial kennel; to approve creation of non-density lot for land on which kennel is situated; to permit existing non-residential trailer to remain as accessory to kennel; to modify 84-54-X; and to permit commercial kennel and accessory bldgs to be located 0' from property line ilo required 200'.

2/16/05 –D. Z.C.'s Decision in which special hearing relief was GRANTED with restrictions.

6/06/05 -Notice of Assignment sent to following; assigned for hearing on Tuesday, August 30, 2005 at 10 a.m.:

Francis X. Borgerding, Jr., Esquire
Michael McComas
Deborah C. Dopkin, Esquire
Glenn & Barbara Durst
Bruce Doak /Gerhold Cross & Etzel LTD
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

9/29/05 – Letter from D. Dopkin providing the Board with a copy of the fully executed Covenant Agreement between Mr. McComas, Appellant, and Mr. Durst, Petitioner.

10/03/05 – Per telephone conversations with counsel this morning, this matter has been specially assigned before the Board on Tuesday, October 11, 2005 at 8:55 a.m., prior to the Board's normal docket, for the sole purpose of putting on the record the agreement reached between the parties to this matter.
-- Letter sent this date to all parties confirming the assignment before the Board on 10/11/05 at 8:55 a.m.

10/11/05 – Board convened for specially assigned hearing for proffer on the record regarding the covenant agreement reached between the Petitioner and the Appellant to this matter. Based upon said hearing, the Board will adopt the findings of the Deputy Zoning Commissioner and incorporate the Covenant Agreement as part of its written Order to be issued as promptly as possible, as indicated on the record. (3)

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
IN THE MATTER OF
GLENN AND BARBARA DURST --Legal Owners
CASE NO.

05-273-SPH

PETITIONERS
7th E; 3rd C

The above-mentioned hearing was held on Tuesday, October 11, 2005, commencing at 9:00 a.m. at the County Board of Appeals of Baltimore County, Old Courthouse, Hearing Room 48, 400 Washington Avenue, Towson, Maryland 21204, before Lawrence S. Wescott, Panel Chairman; Mike Mohler; and John P. Quinn.

APPEARANCES:

DEBORAH C. DOPKIN, ESQUIRE
On behalf of Petitioners

FRANCIS X. BORGERDING, JR., ESQUIRE
On behalf of Appellant /Protestant

REPORTED BY: Kathleen C. Bianco
Administrator, Board of Appeals

ORIGINAL

PROCEEDINGS

MR. WESCOTT: We are here this morning to put a settlement on the record in Case No. 05-273-SPH, In the Matter of Barbara and Glenn Durst. It is our understanding that the parties to this matter have reached an agreement and will prepare the necessary paperwork encompassing that agreement.

MS. DOPKIN: That's correct.

MR. WESCOTT: Therefore, we will ask you to prepare an appropriate order, agreed upon by both parties and submit it to the Board. We will then review it and sign it.

MR. BORGERDING: There was an Order submitted previously prior to opening a hearing such as this and there seemed to be a bit of a problem.

MR. WESCOTT: Is there something that needs to be changed? We have not reviewed that Order but if it's agreeable....

MR. BORGERDING: It was submitted approximately 2 weeks ago. Since this was a de novo appeal, there was a feeling that it might not suffice without opening a hearing, with having the Board pass an Order without....

MS. DOPKIN: I'm here on behalf of Mr. and Mrs. Durst. They are the Petitioners before the Zoning Commissioner for a special hearing to allow a nonconforming use for a commercial kennel and create a non-density parcel on which the kennel is located. The request also included amending a prior special exception. The Deputy Zoning Commissioner for Baltimore County granted the Petitions in his decision dated February 16, 2005 from which Mr. Borgerding, on behalf of adjoining property owner, filed an appeal. Subsequent to that appeal, the parties have agreed on many of the outstanding issues and incorporated their agreement in an written document, which has been submitted to the Board by way of a Covenant Agreement dated September 23, 2005, with a plan accompanying that agreement.

I believe both have been submitted to the Board. We would like, on the record today, to ask this Board to adopt the finding of the Deputy Zoning Commissioner in his Findings of Fact and decision of February 15, 2005, and affirm that decision subject to the conditions and restrictions in the Covenant Agreement, so that the agreement may be enforced through the County Code Enforcement mechanism and through the Land Record process.

It is a condition of this Agreement that this Board's Order be issued prior to recordation, affirming the decision, adopting the conditions.

MR. WESCOTT: We will prepare an Order and incorporate the terms and conditions of the Agreement.

MS. DOPKIN: Would add as a personal note that this matter was settled by Mr. Borgerding's good offices, and also wish to express my sympathy on the passing of Mr. Hackett.

MR. BORGERDING: He was a true gentleman.

MR. WESCOTT: I only met him a few times, but I understand he was well thought of. Thank you both very much for resolving this matter. We will issue the Order as promptly as possible.

(Whereupon the hearing was adjourned.)

DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 1000
TOWSON, MARYLAND 21204

TELEPHONE 410-821-0200
FACSIMILE 410-823-8509
e-mail ddopkin@dopkinlaw.com

DEBORAH C. DOPKIN

April 8, 2005

RECEIVED
SEP 29 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Deliver
Kathleen C. Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 05-273-SPH

Dear Ms. Bianco:

In accordance with prior conversations among Mr. Wescott, Frank Borgerding and myself, please find enclosed a copy of the fully executed Covenant Agreement resolving the dispute in the above captioned matter.

It is my understanding that the Board will issue an order incorporating the terms of the Covenant Agreement so it may be enforced through the County Zoning Office. I would appreciate your sending copies of the order to both me and Mr. Borgerding as soon as it is signed since the terms of the agreement require that it be recorded within ten days of the Board's Order.

Thank you for your prompt attention to this matter. If you should have any questions or require additional information, please do not hesitate to contact either me or Frank Borgerding.

Very truly yours,

Deborah C. Dopkin

DCD/kmc
Enclosure
cc: Francis X. Borgerding, Jr., Esquire
Mr. Barry Durst
C:\docs\KMC\DCD\LETTERS 2005\Bianco Kathleen-durst.wpd

Re: GLEN and BARBARA P. DURST	*	BEFORE THE
Petitioners	*	COUNTY BOARD OF APPEALS
	*	OF
7th Election District 3rd Councilmanic District	*	BALTIMORE COUNTY
Petitioner/Appellee	*	
		Case No. 05-273-SPH
	*	

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

STIPULATION AND ORDER

Based on a review of the facts and subject to the affirmation with conditions of the decision of the Zoning Commissioner of Baltimore County in Case No. 05-273-SPH, Appellant, Michael C. McComas, and Petitioner/Appellee have reached an agreement resolving the issues that led to this appeal, and therefore, believe that it is not in the public interest to pursue the appeal of this matter and thereby stipulates to the entry of an Order by the County Board of Appeals affirming the decision of the Zoning Commissioner in Case No. 05-273-SPH, and modifying and amending that decision to incorporate as conditions of the County Board of Appeals new Order the terms of the agreement entered into by the parties, a copy of said Agreement attached hereto as Exhibit A and incorporated herein.

Respectfully submitted,

FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR APPELLANT

DEBORAH DOPKIN
409 Washington Avenue, Suite 1000
Towson, Maryland 21204
COUNSEL FOR APPELLEE

County Board of Appeals of Baltimore County

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

October 3, 2005

Francis X. Borgerding, Jr., Esquire
1000 Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

Deborah C. Dopkin, Esquire
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Glen and Barbara P. Durst*
Case No. 05-273-SPH / Special Assignment

Dear Counsel:

This letter will confirm our conversation this morning regarding the jointly requested assignment of the subject matter before the Board of Appeals on **Tuesday, October 11, 2005 at 8:55 a.m**. prior to the Board's scheduled docket for the purpose of putting an Agreement on the record. This matter, which was previously assigned for hearing on August 30, 2005, was postponed by joint request of counsel in order to allow sufficient time to finalize the agreement between the parties.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

c: Michael McComas
Glenn & Barbara Durst
Bruce Doak /Gerhold Cross & Etzel LTD
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FILE

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DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 1000
TOWSON, MARYLAND 21204

TELEPHONE 410-821-0200
FACSIMILE 410-823-8509
e-mail ddopkin@dopkinlaw.com

DEBORAH C. DOPKIN

RECEIVED
FEB - 7 2005
ZONING COMMISSIONER

February 3, 2005

Via Facsimile Transmission and First Class Mail
John V. Murphy, Esquire
Deputy Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RE: Case No. 05-273-SPH
Hereford Country Club for Pets

Dear Mr. Murphy:

I am in receipt of a letter and attachments dated January 28, 2005 from Melody R. Baker regarding the above captioned case. While I understand that the letter and attachment are hearsay and outside of the record in this case, I am compelled to write to you out of a concern for the interest of my clients, the Dursts, who own the property.

While not commenting on the January 28th correspondence, I wish to ask you to consider, as a condition of any order in this case, that the uses on the property be subject to inspection by the Baltimore County Department of Permits and Development Management, Office of Zoning Enforcement, to assure compliance with the order and with the zoning regulations in general.

Thank you for your attention to this matter.

Very truly yours,

Deborah C. Dopkin

DCD/kmc
Enclosure
cc: Frank Borgerding, Esquire
Mr. Glenn Durst
Melody R. Baker
C:\docs\KMC\DCD\LETTERS 2005\murphy john2.wpd

DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 1000
TOWSON, MARYLAND 21204

TELEPHONE 410-821-0200
FACSIMILE 410-823-8509
e-mail ddopkin@dopkinlaw.com

DEBORAH C. DOPKIN

RECEIVED
FEB - 1 2005
ZONING COMMISSIONER

January 27, 2005

John Murphy, Esquire
Deputy Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RE: Case No. 05-273-SPH
Hereford Country Club for Pets

Dear Mr. Murphy:

This office represents Mr. and Mrs. Glenn Durst, the petitioners in the above captioned matter. You conducted the hearing on this matter on Wednesday, January 26, 2005.

Pursuant to your request, I am providing you with evidence that the use of the property as a kennel was permitted at the time it was established in 1972. Please find enclosed a copy of pages 5 thru 10 of Bill 100 which adopted broad changes to the Baltimore County Zoning Regulations in 1970. The exact provisions that pertain to this use are part of Article 1A00-R.D.P. zones. I direct your attention to page 8, section 1A00.2 - Use Regulations - A.10, which lists animal boarding places and kennels, among other uses, as permitted as of right.

This provision was not amended until 1979 with the adoption of Bill 178-79, which changed the use to one permitted by special exception. Copies of the pertinent pages are enclosed. I am also enclosing a copy of Bill 87-01 regarding commercial and private kennels.

I trust you will find these helpful, but if you desire further information, please let me know and I will try to provide it to you. By copy of this letter, I am sending all of the enclosures to Frank Borgerding, counsel for the protestants.

Very truly yours,

Deborah C. Dopkin

DCD/kmc
Enclosure
cc: Frank Borgerding, Esquire
Mr. Bruce E. Doak
Mr. Glenn Durst
C:\docs\KMC\DCD\LETTERS 2005\murphy john.wpd

August 19, 2005

Dear Mr. Wescott,

Deborah Dopkin and Frank Borgerdine phoned this afternoon to say that they have reached an agreement in the Durst matter, which is set for trial on Aug. 30, 2005. The attorneys would like to avoid the Aug. 30, 2005 hearing, if at all possible, and they wanted to know what type of instrument the Board would require to have this agreement on record and as part of the Order.

August 22, 2005

Mr. Wescott,

I spoke with Mrs. Dopkin to let her know that they should prepare the Agreement and Order. I let her know that the Board will attach the Order to our document when the time comes. Mrs. Dopkin said that she will go ahead and notify Mr. Borgerdine so he can prepare the Agreement and Order. Additionally, I let her know that you would be in the office on Tuesday just in case they should have any questions.

Linda

Thank you Mr. Wescott.

1308 Mount Carmel Road
Parkton, Maryland 21120

RECEIVED
FEB - 1 2005
ZONING COMMISSIONER

January 28, 2005

Mr. John V. Murphy
Deputy Zoning Commissioner
Office of Zoning Commissioner
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Dear Deputy Commissioner Murphy:

Enclosed is an affidavit that is of vital importance for you to consider in rendering a decision in the case of 1314-B Mount Carmel Road; Parkton, Maryland that is currently before you.

If I am needed for cross examination, I am more than willing to testify.

Thank you for your attention to this matter.

Respectfully,

Melody R. Baker

Melody R. Baker

MB/swd

cc: Deborah Dopkin, Esquire

Enclosure

AFFIDAVIT OF MELODY♪ R. BAKER

I, Melody♪ R. Baker being at least 18 years of age and competent to testify from personal knowledge as to the facts set forth herein, do state:

On January 26, 2005 I had a prior commitment and had to leave the hearing of Case Number: 05-273-SPH, 1314-B Mount Carmel Road at 1:00 P.M. On my way home after recalling the testimonies I had heard thus far, I knew two (2) people, Shawne Imler and Jason, the groomer, lived at the Country Club contrary to the testimony of Shawne Imler and Glen Durst that as of five (5) months ago, no one was living at the kennel.

I knew this to be untrue and thought I would have to prove it. I knew the only opportunity I would have was right then. At approximately 1:25 P.M. I stopped by the Hereford Country Club for Pets to see Jason, the Groomer. I knew he lived there in one apartment and Shawne lived in the other apartment.

The following is the sequence of events that transpired:

1. I pulled in and saw Jason grooming a cocker spaniel. I entered his grooming area and said hello. I said "look Jason, I know you know what is going on" and he replied, "Mel, I am really trying to keep out of it." I said I did not want to put him in the middle but I had to ask him to be honest with me as I did not want to put him in an awkward position of having to go to court because I knew he had been to court in the past and would not want to go.

   I asked him, "Are you still living here?" He said, "I have another address." I said, "I know that but my question was "Are you still living here?" He said, "Yes, I am still living here." I asked "and is Shawne?" His reply was "Yes she is still living here but we <u>are</u> moving." I said, "I appreciate your honesty because I know it is the truth. It was stated you moved out five (5) months ago. He repeated, "But we are moving." He said, "I do not have transportation and it is just so much more convenient to live here." I told him I asked Shawne if I could do a walk through today at 3:00 P.M. and she said she had other plans but she would see if she could change them or what she could arrange and I told her I'd come back today so I would be back.

   I was there no more than 5-8 minutes as I raced to make it where I needed to be.

2. On my way back home at approximately 2:45 P.M. I stopped back at the kennel. I asked Jason if Shawne was there and he said "no, but she is on her way". I said "Well, I'll wait then so she can give me a time to do the walk through." Since he said she was on her way, I knew he had spoken to her. He said, "Mel, technically I am the Night Manager here so the apartment does go with the kennel." I believe that is what she now told h im to say. Testimony does not reflect his name as the night manager.

Shawne then called and the girl at the desk said, "Shawne says you have to leave." I replied, "I was meeting her here to schedule the walk through, let me talk to her."

The girl, Tracey, I believe was her name said and I could hear Shawne on the phone loudly, said "Shawne said you have to leave." I replied, "Oh is there a restraining order against me now?"

I said, "let me talk to her." The girl handed me the phone and Shawne started yelling and cursed at me "you _ _ _ _ _ _ it's because of you I have to move." I replied, "Now Shawne that is not true." She said, "You just threatened one of my employees." I said, "I did not and with the phone in my hand I opened the room to the grooming area and said, "Jason, did I threaten you?" He said, "No, I just told her you brought up my past about court."

Shawne said she was going out of town next week and had no time between now and then for me to walk through. I told her Jason just confirmed that you and he are still living there. She said she would be getting a restraining order against me. She yelled, "I have to talk to my attorney, I have to talk to my attorney."
I said, "Ok, I will see you in court." I then left.

As I was driving down the drive way a silver SUV came speeding straight at me and it was Shawne. She swerved just as she got close to me. I could see the rage on her face.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing affidavit are true.

Melody R. Baker

Melody R. Baker

1308 Mount Carmel Road
Parkton, Maryland 21120

February 14, 2005

RECEIVED
FEB 15 2005
ZONING COMMISSIONER

Mr. Barry Durst
1314A Mount Carmel Road
Parkton, Maryland 21120

Dear Mr. Durst:

I am responding to your certified mail dated February 7, 2005. I must comment that I am confused as to your role with the kennel operation. You stated kennel employees are instructed not to allow anyone past the lobby. However, in the past five (5) years I have always observed customers in the grooming area and I have always been invited to enter. I have also had unrestricted access to the entire level.

On January 26, 2005, it was as a customer exited the grooming area, I greeted Jason and entered. At no time was I asked to remain in the lobby. The ridiculous allegation that I threatened and verbally assaulted employees is clearly a defense strategy to cover up the element of surprise by my visit.

A visit to the HCCFP is not needed as the two (2) week time period from the January 26, 2005 hearing provided the opportunity to move out the tenants that under testimony had been gone five (5) months ago.

To protect myself from further false allegations, my contact with any of the Dursts or kennel employees will be in the presence of a neutral third party or in writing. Stating such, I must bring your attention to another incident that happened on Saturday, February 5, 2005 at approximately 1:30 P.M. While someone was schooling our blind horse, your cocker spaniel ran on my property the entire length of three (3) fields. I have pleasantly requested numerous times that for the safety of the riders and horses you confine your dogs to your property. On January 26, 2005 you assured me the problem was taken care of by your new shock collars. Obviously they are not working. Now what???

Despite our disagreements, we will continue to be neighbors. I hope any concerns can be addressed by solutions that are mutually satisfying.

Sincerely,

Melody Baker

Melody Baker

MB/swd

cc: Deputy Commissioner John V. Murphy
Deborah Dopkin, Esquire

Corporate Offices
(410) 744-8570

Carpet Land
WHERE QUALITY CARPET COSTS YOU LESS!

Commercial Division
(410) 744-7805

6432 BALTIMORE NATIONAL PIKE
BALTIMORE, MD 21228-9962

RECEIVED
FEB 14 2005
ZONING COMMISSIONER

Via Certified Mail

February 10, 2005

Mr. Barry Durst
1314A Mt. Carmel Rd.
Parkton, Md. 21120

Dear Mr. Durst:

In regards to your certified letter dated February 7, 2005, please be advised that I believe it is not necessary for me to inspect the premises of the kennel and trailers. As testified by Ms Melody Baker thru affidavit, the employee of Hereford Country Club for Pets testified to her that he was living on the premises. This is in conflict to the testimony that was made by both your lessee and your father.

For me to inspect the premises at this date would not be necessary. I would assume that any suggestion of some one living on the premises would have been removed since Ms. Baker's inspection. As I stated in my testimony, this matter boils down to credibility. The events depicted in Ms Baker's affidavit seriously question the validity to the testimony of your witnesses.

Sincerely,

Michael C. McComas

Cc: Mr. Francis X. Borgerding, Esq.
Mr. John V. Murphy, Esq.

7 February 2005

RECEIVED

FEB 1 0 2005

ZONING COMMISSIONER

Melody Baker
1308 Mt. Carmel Road
Parkton, Maryland 21120

Ms. Baker,

I am writing you concerning a visit you made to the Hereford Country Club for Pets (HCCFP) on 26 January 2005 at approximately 1:30 p.m.

As Ms. Imler indicated at the hearing that morning, she would gladly arrange for you to visit the kennel at a mutually agreed upon time.

As you know, the lobby area of the kennel is open to the public. However, the kennel employees are instructed not to allow anyone past the lobby. We were dismayed to learn that Wednesday afternoon when you came to property, contrary to the request of the employees, you entered the grooming area where customers are not permitted. Further, the kennel employees felt that you threatened and verbally assaulted them. The employees involved were very upset at the disruption, which also affects the animals in our care. In the future, if you visit the property, I hope you will take this into consideration and act accordingly.

If you would like to arrange a visit to the HCCFP I personally would be happy to show you the inside of the premises including the trailers on the property. Please give me a call when you would like to do so.

Please understand that the employees of the kennel have been advised to call the local police if anyone forces entry to the property beyond the public lobby or conducts themselves in an abusive or threatening manner. Though I do not believe this situation will arise, we wish to avoid a repetition of any such incidents in the future. Thank you for your understanding. I look forward to hearing from you.

Sincerely,

Barry Durst

RE: CASE # 05-223-SPH

CC: Deborah C. Dopkin, Esquire
Melody Baker (first class mail)
John V. Murphy, Esq

7 February 2005

RECEIVED

FEB 1 0 2005

ZONING COMMISSIONER

Michael McComas
1300 Mt. Carmel Road
Parkton, Maryland 21120

Mr. McComas,

I would like to extend an invitation to take you on a tour of the Hereford Country Club for Pets and the trailers on the property. Please contact me at your convenience to arrange this meeting.

Sincerely,

Barry Durst

RE: CASE # 05-273-SPH

Cc: Deborah C. Dopkin, Esquire
John V. Murphy, Esq

PLEASE PRINT CLEARLY

CASE NAME 1314-B Mt. Carmel Rd.
CASE NUMBER 05-273-SPH
DATE 1/26/05

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
GRADFORD BAKER	504 Linwood AVE.	BEL AIR, MD 21014	
Melody Baker	1308 Mt. Carmel Rd	Parkton, MD 21120	
Jennifer Baker	504 Linwood Ave	Bel Air MD 21014	
R.B. Paul Jr / LEVEL BAC 380	4058 Dance Mill Road	Phoenix, MD 21131	
~~LOUI A. CARLSTROM~~	~~1120 MT. CARMEL RD~~	~~PARKTON, MD 21120~~	
~~Joyce CARLSTROM~~	~~1120 MT. CARMEL RD~~	~~Parkton, MD 21120~~	
Dawn Foster	1108 Mt. Carmel RD	Parkton, MD 21120	
CRAIG D Finlin JR	1416 Rayville rd.	Parkton, MD. 21120	
Hope Pezzulla	1209 Brandy Springs Rd.	Parkton, MD 21120	
Frank Borgerding Esq	representing		
Michael C. McComas	1300 Mt. Carmel Rd., Parkton	Parkton, Md 21120	

PLEASE PRINT CLEARLY

CASE NAME 1314-B Mt. Carmel Rd
CASE NUMBER 05-273-SPH
DATE 1/26/05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
GLENN DURST	1314 B Mt. Carmel Rd	Parkton MD 21120	~
PAUL I CUMMINS, II	16933 FLICKERWOOD RD 21120	PARKTON, MD 21120	pcummins@verizon.net
BARBARA P. DURST	1314 B MT. CARMEL RD	PARKTON MD 21120	
Shawne Imler	1416 Rayville Rd	Parkton Md 21120	ernhart@attnet
D[illegible] Foster	1108 Mt Carmel RD	Parkton, MD 21120	
JOYCE CARLSTROM	1120 MT CARMEL RD	Parkton, MD 21120	
LEVI A. CARLSTROM	1120 MT. CARMEL RD	PARKTON, MD 21120	
Nancy Dowling	1217 Brook Meadow Dr.	Towson, Md 21286	ndowling3 at Comcast.net
Mary Flora	2817 Stockton Rd	Phoenix, Md 21131	
PATRICIA S TIMLIN	1416 Rayville RD	PARKTON, MD 21120	PSTimlin@Hotmail.com
Deborah C Dopkin	409 Washington Ave	Towson MD 21204	DDopkin@Dopkinlaw.com
BRUCE E. DOAK	320 E. TOWSONTOWN BLVD	TOWSON MD 21286	
GERHOLD CROSS & ETZEL			
BARRY DURST	1314A MT. CARMEL RD	PARKTON MD 21120	TAUNIA_DURST@HOTMAIL.COM

COVENANT AGREEMENT

THIS AGREEMENT, has been entered into on this 23rd day of September, 2005, by and between **GLENN L. DURST** and **BARBARA P. DURST** ("Durst"), having an address of 1314B Mt. Carmel Road, Parkton, Maryland 21120, and **MICHAEL C. McCOMAS** and **ELIZABETH W. McCOMAS**, ("McComas") having an address of 1300 Mt. Carmel Road, Parkton, Maryland 21120.

RECITALS

A. Durst is the owner of a parcel of land comprising 43.85± acres located on the North Side of Mount Carmel Road in the Seventh Election District of Baltimore County, Maryland, and more particularly described in a Deed recorded among the Land Records of Baltimore County, Maryland in Liber 5281, Folio 826 (the "Durst Property"). The Durst Property is improved by a dwelling, presently occupied by Glenn L. Durst and Barbara P. Durst, part of which is used as a breeding kennel, (herein the "Durst Residence"), outbuildings, as shown on Exhibit A, none of which are to be used for human habitation a separate building utilized as a commercial kennel, a shed and trailer used for storage not human habitation in connection with the commercial kennel. Further, agricultural activities are conducted on the Durst Property.

B. Durst has heretofore submitted a zoning petition and plat to the appropriate agencies of Baltimore County to allow a

F. Durst and McComas have agreed that if Durst subjects the Durst Property to certain restrictions, McComas is willing to forego any opposition to the zoning petition in case number 05-273 SPH now before the Board of Appeals, the use and development of the Durst Property or the Subdivision, so long as such use and development of the Durst Property is restricted as hereinafter set forth.

G. Durst is willing to place certain restrictions upon the use and development of the Durst Property as hereinafter set forth.

H. In order to make the covenants, restrictions and conditions contained in this Agreement binding between the parties, the parties have entered into this Agreement to that end and with the intent that Durst will hold, utilize the Durst Property for the term hereof subject to the said restrictions and conditions contained herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual agreements and understandings herein contained, and for other good and valuable considerations, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby agree as follows:

1. Incorporation of Recitals. The recitals are hereby incorporated herein as if each recital were fully set forth.

2. Restrictions Upon Durst Property.

a. Permitted Uses. The Durst Property shall be used and developed only in accordance with Exhibit A, namely as no more than three (3) separate parcels, improved with the Durst Residence and one (1) additional single-family detached dwelling to be erected for the occupancy of Barry Durst, a commercial kennel with no dwelling units for human habitation, and such accessory and related buildings and uses as are shown on Exhibit A, none of which are to be used for human habitation. Nothing herein shall restrict permitted agricultural uses on any part of the Durst property, except in the designated non-disturbance areas.

b. Limitations on Use.

(i) Non-Disturbance Areas. In the area identified as Area A on Exhibit A, Durst agrees that there shall be no fencing, cutting, clearing, grading, hunting, or other disturbance, and Durst shall not use the area for vehicular travel, whether by golf-cart, mini-bike, motorcycle or all terrain vehicles. Durst shall use reasonable efforts to prohibit trespassers from conducting such prohibited activities within Area A, by posting appropriate warning signs on the Durst Property. Intrusions on the Durst Property by trespassers shall not be deemed a violation of this Agreement by Durst.

In the area identified as Area B on Exhibit A, Durst agrees that there shall be no cutting, clearing or grading except to permit Durst to install a driveway no greater than 10 ft. in width as shown on Exhibit A and fencing, provided that such fencing shall be located not closer than thirty-five feet (35') from the property line between the Durst Property and the McComas Property.

c. Landscaping. In the area identified as Area C on Exhibit A, at such time as Durst constructs the proposed house, Durst agrees to install fifteen (15) Leland Cypress trees, approximately six feet (6') tall at intervals of no greater than ten feet (10') between trees to provide a visual screen between the Durst Property and the McComas Property.

d. Fencing. If and at such time as Durst has livestock, (i.e., horses, cattle, goats, sheep) on the Durst Property, Durst shall install fencing in the area shown on Exhibit A which cannot be closer than 35 ft. from the McComas property line; however, such fencing shall not tie into the existing fencing on the McComas Property.

3. McComas Consideration. In consideration of the imposition of the restrictions upon the Durst Property set forth in Paragraph 2 above, McComas agrees and covenants that they will withdraw opposition in case number 05-273-SPH now pending before the County Board of Appeals of Baltimore County upon entry of an

order by the Board of Appeals establishing the terms of this agreement as conditions to the granting of said order and will not oppose Durst in the zoning petition, use, development and improvement of the Durst Property and of the Subdivision as provided herein (collectively, the "Improvements") before any and all governmental bodies or agencies, whether legislative, administrative or judicial, having jurisdiction, including generally, but not limited to hearings, appeals and any other action at any level, zoning approvals, hearings before the Hearing Officer of Baltimore County (or alternative approvals in lieu thereof), Department of Environmental Protection and Resource Management, the Zoning Commissioner and the County Board of Appeals, before the County Council, or before any other entity whose approval may be required for the zoning reclassification, use, development and Improvement of the Durst Property (collectively, the "Governmental Agencies") as presently described by this Agreement and the Subdivision as contemplated by this Agreement and Exhibit A.

It is expressly understood and agreed that the plans for Subdivision contemplated by Exhibit A, and any subsequent renewals thereof, shall have the support of McComas for the uses as permitted and as limited by this Agreement, as set forth in Exhibit A. The parties expressly understand and agree that Exhibit A may

If Durst does not record this Agreement within the aforementioned ten (10) days, McComas may record the same at Durst expense.

5. Enforcement. In the event of a breach or threatened breach hereof, either party may enforce this Agreement. The parties acknowledge that remedies at law may be inadequate to protect them from a breach or threatened breach of this Agreement. Each party expressly agrees that in addition to all remedies available at law or in equity, the other party shall be entitled to seek and receive injunctive relief to address any breach of this Agreement by the other. Notwithstanding either party's right to enforce this Agreement, McComas shall provide Durst written notice of an alleged breach by Durst, and Durst shall have the right within fifteen (15) days of receipt of written notice to correct the alleged violation, prior to the institution of any action or proceeding by McComas; the parties further agree that prior to the expiration of thirty (30) days of receipt of notice from McComas to Durst, they shall submit to mediation to try to resolve any dispute between them, the costs of such mediation to be borne by Durst. If mediation is not successful in resolving the alleged breach of this agreement in the reasonable discretion of McComas, then McComas may take any appropriate legal action to enforce this agreement. If McComas takes legal action to enforce the terms of this agreement

and prevails before any appropriate judge or Board or other appropriate venue, then Durst agrees to pay McComas' legal fees in bringing any such action.

6. Miscellaneous Provisions.

a. This Agreement may be executed in counterparts.

b. This Agreement is binding on the parties', as well as their successors and assigns for the term as stated in paragraph 4.

c. This Agreement contains the entire understanding of the parties. Any amendments must be in writing, signed by all parties hereto.

d. Durst and McComas hereby warrant and represent that each has legal title and authority to bind themselves and their respective properties, and that all necessary action required to be taken to authorize the execution of the Agreement has been taken.

e. All notices to be given hereunder shall be in writing. If the United States mail is used, it shall be sent registered or certified mail, return receipt requested, and shall be deemed delivered on the third business day following the date of mailing. For the purposes of such notices the respective addresses of the parties shall be as set forth on Page 1 hereof.

f. This agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESS

Karen M. Cummings

Glenn L. Durst (SEAL)
Glenn L. Durst

Barbara P. Durst (SEAL)
Barbara P. Durst

Beverly J. Kaufman

Michael C. McComas (SEAL)
Michael C. McComas

Beverly J. Kaufman

Elizabeth W. McComas (SEAL)
Elizabeth W. McComas

State of Maryland, County of Baltimore, to wit:

I HEREBY CERTIFY that on this 23rd day of September, 2005, before me, a Notary Public of the State of Maryland, personally appeared **Glenn L. Durst,** known to me (or satisfactorily proven to be) the person whose name is subscribed to the within instrument, who acknowledged that he executed the foregoing instrument for the purposes therein contained.

KAREN M. CUMMINGS NOTARY PUBLIC BALTIMORE COUNTY, MD

WITNESS my hand and Notarial Seal.

Karen M. Cummings
Notary Public

My Commission Expires: 9/1/06

State of Maryland, County of Baltimore, to wit:

I HEREBY CERTIFY that on this 23rd day of September, 2005, before me, a Notary Public of the State of Maryland, personally appeared **Barbara P. Durst,** known to me (or satisfactorily proven to be) the person whose name is subscribed to the within instrument, who acknowledged that she executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and Notarial Seal.

KAREN M. CUMMINGS NOTARY PUBLIC BALTIMORE COUNTY, MD.

Karen M. Cummings
Notary Public

My Commission Expires: 9/1/06

State of Maryland, County of Baltimore, to wit:

I HEREBY CERTIFY that on this 17th day of September, 2005, before me, a Notary Public of the State of Maryland, personally appeared **Michael C. McComas,** known to me (or satisfactorily proven to be) the person whose name is subscribed to the within instrument, who acknowledged that he executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and Notarial Seal.

BEVERLY J. KAUFMAN NOTARY PUBLIC BALTIMORE COUNTY MARYLAND

Beverly J. Kaufman
Notary Public

My Commission Expires: 7/1/08

State of Maryland, County of Baltimore, to wit:

I HEREBY CERTIFY that on this 17th day of September, 2005, before me, a Notary Public of the State of Maryland, personally appeared **Elizabeth W. McComas,** known to me (or satisfactorily proven to be) the person whose name is subscribed to

the within instrument, who acknowledged that she executed the foregoing instrument for the purposes therein contained.

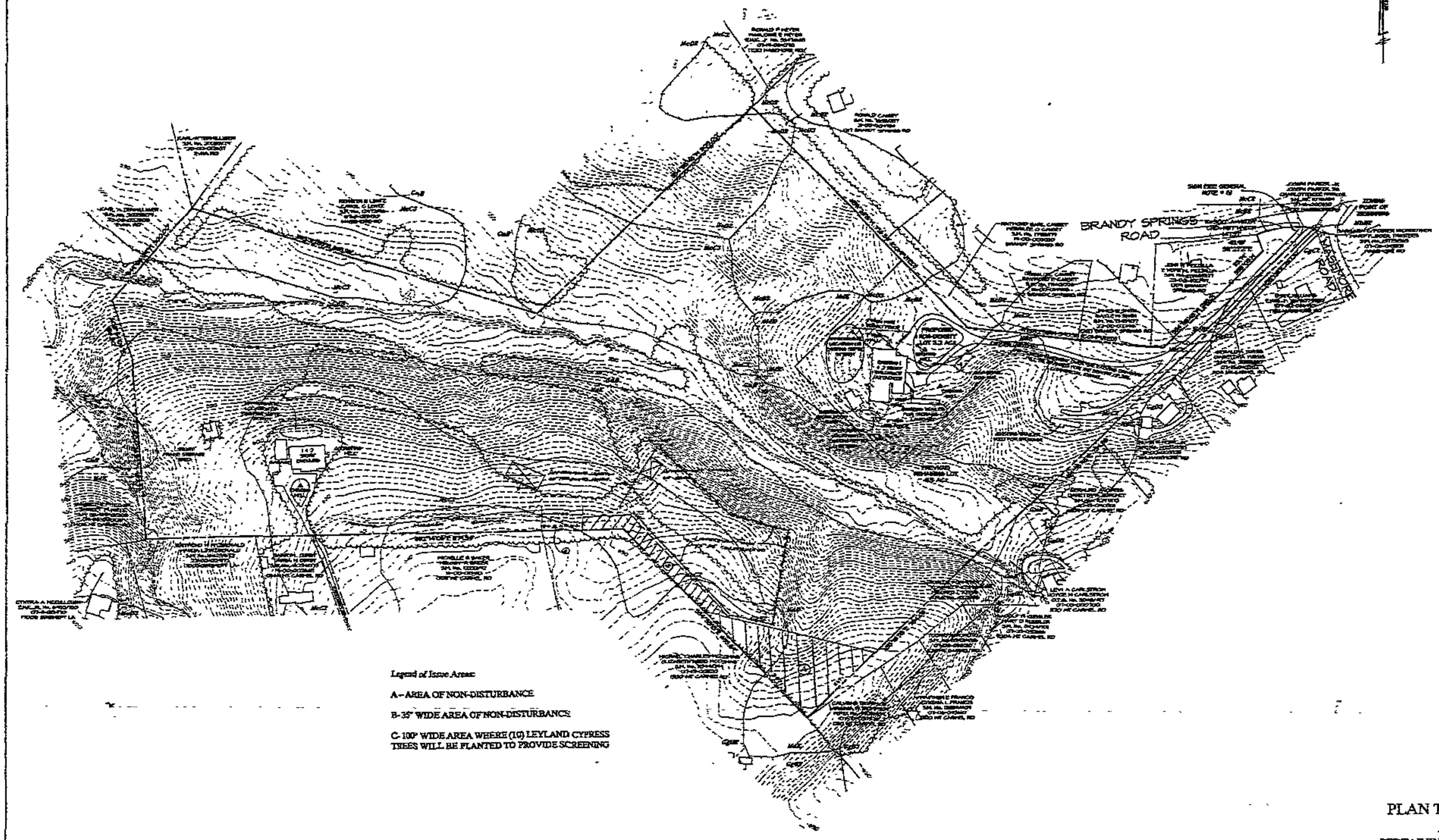
WITNESS my hand and Notarial Seal.

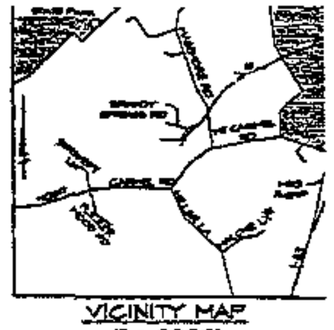
BEVERLY J. KADRMAS
BALTIMORE COUNTY MARYLAND
NOTARY PUBLIC

Notary Public

My Commission Expires:

E:\covenant agreement.wpd





VICINITY MAP
1" = 2000'

Legend of Issue Areas:

A – AREA OF NON-DISTURBANCE

B-35' WIDE AREA OF NON-DISTURBANCE

C-100' WIDE AREA WHERE (10) LEYLAND CYPRESS TREES WILL BE PLANTED TO PROVIDE SCREENING

LEGEND

DWELLING	
DWELLING (HELLIN)	
SOIL LINE	
WOODS LINE	
DRAINAGE PATTERN	
PROPERTY LINE	
CONTOURS	

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FIELDS (FIELDS)	REPRESENTED WATERSHED	STREETS & PARKING
CaB2	Slight	Slight	Moderate slope
CaC2, BgC2	Moderate slope	Moderate slope	Severe slope
BgB2	Slight	Slight	Moderate slope
BnB	Severe high water table, impermeable, slow permeability	Severe high water table	Severe high water table
BgD2	Severe slope	Severe slope	Severe slope
HaC2, HaCB	Moderate slope	Moderate slope	Severe slope
HaD2, HaDB, HaE	Severe slope	Severe slope	Severe slope

OWNER
ALBIN L. DURST
BARBARA P. DURST
13445 MT CARMEL ROAD
PARKTON, MARYLAND 21120
(410) 343-0146

PLAN TO ACCOMPANY AN AGREEMENT

PERTAINING TO THE DURST PROPERTY

June 18, 2005 Scale 1"=100'

Deed Ref: E.H.K.Jr. No. 5281 folio 526
Also E.H.K. Jr. No. 6375 folio 171
Tax Account No.: 16-00-007240
Zoned R.C.-2; Map NW 27D & NW 28D
Tax Map 21; Grid 11; Parcel 307
7th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=100' Date: NOVEMBER 29, 2004

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

DRAWN	DRAWN: C.J.A.	CHECKED:	PROJECT MANAGER

5/29/03

JW 5/28

IN RE: PETITION FOR VARIANCE SW/Corner of Brandy Springs Road and Mount Carmel Road 7th Election District 3rd Councilmanic District (1314 "B" Mt. Carmel Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 03-453-SPH
Barbara P. & Glenn L. Durst *Petitioner*	*	

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by Barbara P. and Glenn L. Durst requesting special hearing relief for property located at 1314 "B" Mt. Carmel Road. The subject property is zoned R.C.2. The special hearing request is to approve the transfer of one density unit, along with one acre of land, from Maurice E. Fitez, Jr. to Mr. and Mrs. Durst, as shown on the attached zoning plans.

Appearing at the hearing on behalf of the special hearing request were Glenn and Barbara Durst, their son and daughter-in-law, Barry and Taunia Durst, and Joseph Larson appearing on behalf of Spellman Larson & Associates, the engineers who prepared the site plan of the property. Appearing in opposition to the Petitioners' request were adjacent property owner, Melody Baker and her father, Radford Baker. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of one acre of land, zoned R.C.2, located on the north side of Mt. Carmel Road, which property is owned by Maurice E. Fitez, Jr. The Durst's are petitioning for permission to allow Mr. Fitez to convey this one acre of land to the Durst family, which one acre would be joined with the 44.71 acres currently owned by Mr. and Mrs. Durst. The purpose of the transfer of the one acre, along with one density unit, is to permit Barry and Taunia Durst the

ability to construct a new single-family home on the Durst family property for themselves and their five children.

After reviewing the petition for special hearing form filed along with this request, it is noted that Mr. Maurice Fitez, the actual owner of the property, did not sign the special hearing petition, which is a mandatory requirement for such a request. The ultimate decision to be made on this special hearing request has a tremendous impact on the property owned by Maurice Fitez and his signature and participation in this proceeding is absolutely necessary in order for the matter to go forward. Actually, the special hearing petition indicates that the legal owners of the property, which is the subject of this request, are Glenn and Barbara Durst. However, this is not the situation at this time. The Durst's are the intended purchasers of the land. However, at this time it is owned by Maurice Fitez. Therefore, it is necessary for Mr. Fitez to participate in this proceeding in order for the special hearing request to be entertained and a decision to be rendered thereon. Accordingly, because of this technical flaw in the petition application, the special hearing petition must be dismissed.

The participants may amend their special hearing request to include the name of Maurice Fitez and his signature. The ultimate decision in this case will basically eliminate one density unit from the Fitez property. The remaining one density unit attributable to the Fitez property will have been utilized by his own dwelling located thereon. Therefore, in order for the zoning records to be accurate and in order for this matter to be documented in the Land Records of Baltimore County, it is necessary for Mr. Fitez to participate in this proceeding. Accordingly, the special hearing petition shall be dismissed and the Petitioners shall be granted leave to amend their special hearing petition for a future hearing.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 29th day of May, 2003, that as a result of the technical flaw in the Special Hearing Petition filed herein, the request is hereby DISMISSED.

IT IS FURTHER ORDERED, that the Petitioners shall be permitted to amend their Special Hearing request to include the name and signature of Maurice Fitez as the legal owner of the property. Once properly filed, the matter may be reset for another public hearing. The property shall be reposted with a sign advertising a new hearing date and notice must be sent by the Petitioners to Melody and Radford Baker at the address specified on the Citizen's Sign-In Sheet.

Timothy M. Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

JM 11/10/03

IN RE: PETITION FOR SPECIAL HEARING N/S of Mt. Carmel Road, W/S of Brandy Springs Road 7th Election District 3rd Councilmanic District **(1314 "B" Mt. Carmel Road)** **(1406 Mt. Carmel Road)**	* * * * 	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-027-SPH
Barbara P. & Glenn L. Durst, *Legal Owners* **and** Shirley M. & Maurice E. Fitez, Jr., *Grantor Petitioners* *Petitioners*	* * *	

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by Barbara P. and Glenn L. Durst requesting special hearing relief for property located at 1314 "B" Mt. Carmel Road/1406 Mt. Carmel Road. The subject property is zoned R.C.2. The special hearing request is to approve the transfer of one density unit, along with one acre of land, from Maurice E. Fitez, Jr. to Mr. and Mrs. Durst, as shown on the attached zoning plans.

This matter (Case No. 03-453) had previously been heard by Timothy M. Kotroco, Deputy County Attorney, on May 28, 2003. At that time, a decision on the merits was not made, the case was dismissed and the Petitioners were granted leave to amend their special hearing request. This action was taken due to the fact that Maurice Fitez is the legal owner of the one-acre being transferred but his name did not appear on the petition.

The property was posted with Notice of this Hearing on August 25, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 26, 2003 to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: (1) ZAC comment dated August 19, 2003 from the Department of Environmental Protection & Resource Management (DEPRM), a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were Glenn and Barbara Durst, their son and daughter-in-law, Barry and Taunia Durst, and Joseph Larson appearing on behalf of Spellman Larson & Associates, the engineers who prepared the site plan of the property. On the second day of the hearing the Petitioners were represented by Edward Covahey, Esq. Also appearing in support of the petition were Maurice Fitez, Shawne Imler, Patricia Timlin and Craig Timlin.

Appearing in opposition to the Petitioners' request were Michael McComas, an adjacent property owner, who was represented by Francis Borgerding, Esq. Melody Baker and her father, Radford Baker, also adjacent property owners, appeared in opposition. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The Petitioners' case was presented by Joseph Larson, civil engineer. Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of land zoned R.C.2 located on the north side of Mt. Carmel Road. Petitioners Durst and Fitez requested permission to allow Mr. Fitez to convey one density unit (plus one acre of land) to the Durst family. Petitioner Durst presently owns 44.71 acres of RC 2 land adjacent to the Fitez property. The purpose of the transfer of the one density unit (along with the one-acre) is to permit Barry and Taunia Durst, to construct a new single-family home on the Durst family property for themselves and their children. Petitioners Glen and Barbara Durst already have a home on the property and after the transfer there would still be enough density units to build the new home after completing a minor subdivision. Mr. Larson opined that building a new home on this large tract would not adversely impact the surrounding community as the site chosen for the new home was nearly invisible to adjacent property owners through a buffer of woods and ridge line.

The Plan to accompany Zoning Petition (Petitioners' Exhibit 1) states that the existing use on the property is one dwelling and kennel operation. On cross-examination, Mr. Larson admitted that the kennel operation requires a special exception in a RC 2 zone and that no special exception has been requested. Mr. Larson raised the possibility that the kennel likely is non-conforming. However, neither a special exception nor special hearing to confirm the non-conforming kennel was requested with this hearing although either could have been heard at the same time as this request.

Mr. Larson admitted that there were several mobile homes on the property which were occupied. In addition to the kennel, someone occupies a kennel keepers' home, which is also situated on the property above the kennel. Notice again is taken of the information on Petitioner's Exhibit 1, which shows that Barry and Taunia Durst own a lot adjacent to the Glen and Barbara Durst property. It is unknown what will become of this property, if the petition is granted allowing Barry and Taunia Durst to build on the larger Durst tract. Mr. Durst also testified that at his advanced age he needed to be near his son and daughter-in-law who would occupy the new home.

A great deal of the hearing concerned whether or not adjoining property owners such as the Bakers and McComas could see the location of the new home from their respective properties. Testimony from both Baker and McComas indicated the site was visible, while testimony from Mr. Larson and Mr. Durst indicated that the site was not visible. Both sides submitted extensive photographs to illustrate their respective positions.

Ms. Baker testified that in addition to the senior Durst home, the two trailers, and the kennel keeper's apartment as noted above, there exists another apartment above a garage next to the Durst home which is also occupied. Finally, she indicated that there were actually two separate kennels operating on the premises, a boarding kennel and separate breeding kennel. According to Ms. Baker, there were six known dwellings on the property, five of which were occupied along with two kennels. She objected to yet another dwelling being proposed. She also testified that Barry Durst admitted that the Durst families' intent was to subdivide the property so as to sell one of the kennels, implying that this request was not about building a new home for the Durst children, but rather to prepare the way for selling off a large portion of the Durst tract.

Mr. McComas testified that he objected to the location of the proposed home. He stated that extensive woods on the Durst property had been cleared and that the noise from the kennel would occasionally wake him. Again he submitted extensive photographs to support his position.

Mr. Durst, called on rebuttal, testified that while there was an apartment over the garage near his home, it was simply used by family members who smoked or when the main home was full. He testified that he had permits for the mobile homes that only one would be occupied in the future, and that one mobile home was an accessory use to the kennel. He indicated that the primary use of the property was forest or raising Christmas trees. Again he asserted that the location of the proposed home is not visible from either the Baker or McComas homes.

Findings of Fact and Conclusions of Law

The protestants raise as an initial issue as to whether or not the Zoning Commissioner has the power to transfer density units regardless of the facts of a specific case. They cite the decision by Judge Howell in her February 6, 1990 decision in the *Gudeman* case (Case No. 89-CG-911). While the primary issue before Judge Howell was whether a road which divided the Gudeman property acted to subdivide the property, Judge Howell opined that the Zoning Commissioner does not have the authority to transfer density units as there is no specific grant of such authority from the County Council to do so. Judge Howell's opinion recognized that the Zoning Commissioner's Office had an unwritten policy allowing such transfers for several years prior to the *Gudeman* case. The *Gudeman* case was appealed to the Court of Special Appeals and in an unreported decision filed January 22, 1991, the court decision focused again on the road subdivision issue for the holding in the case. The Court of Special Appeals recognized the power to transfer issue specifically and then declared it to be a "non issue" since the underlying issue of the road had been decided leaving one lot which could be subdivided into two. The

transfer issue became moot and the court declined to rule on the issue. Whether the Court was indicating to Judge Howell that having found as she did on the road issue that she should not have ruled on the transfer issue, I will leave to the legal historians to argue.

Eventually, the County Council adopted a bill clarifying the road subdivision issue but took no action to define or clarify the transfer issue. Clearly, the Council was aware of the transfer issue. In 1992 the Director of Permits and Development Management adopted administratively a written policy (1A01.3.B.1 a) clarifying subdivision of lots in RC 2 zones and also providing: "If the intent is to reconfigure the existing lots, the main purpose must be for the protection and preservation of farm land and not to create "more uniform lots for home sites". This obliquely recognized the long held policy of the Zoning Office that the office had the power to approve transfer of density units between lots. Finally, in the *McGee* case (Case No. 94-42-SPH), Commissioner Schmidt reviewed the above history and concluded that this office has the authority under Section 500.7 to transfer density units in RC 2 zones notwithstanding Judge Howell's 1998 decision. Since that time, this office has regularly approved transfer of density units in RC 2 zones and that issue has not risen again to the appellate level for further clarification.

Finally, I note that the administrative agencies of the County not only acknowledge the Zoning Office's authority in this matter but welcome it. As an example, the agricultural arm of the Department of Environmental Protection and Resource Management (DEPRM) has the charter to preserve agricultural land in RC 2 zones. The ability of this office to transfer density units to preserve agriculture gives DEPRM a valuable tool to guide new home sites away from prime and productive soils. Losing this authority would severely limit this ability.

A typical example of how this authority is typically applied is as follow. An owner may own four parcels of land recorded separately prior to the imposition of RC 2 zoning in November 1979 and each lot of record would be between 2 and 100 acres. The Zoning Regulations would allow the owner to subdivide these four lots into eight lots. On these eight lots the owner could build eight houses. These houses often would be located regardless of the affect on agriculture. Most likely they would be located along road frontage. This can breakup a farming operation making it difficult or impossible to continue agricultural pursuits. However, it is perfectly within the owner's legal right to do so under the law.

However, to preserve agricultural uses among the parcels, it is most prudent to transfer density units away from parcels with prime and productive soils in favor of locating new lots and home sites on less valuable farm land. Better yet, would be to cluster these lots wherever rocky soils or ridgelines occur. It makes enormous sense to save the use of prime agricultural soils in this manner.

However, in application and for practical reasons, this authority to transfer density units has been limited by a succession of Deputy Zoning Commissioners and Zoning Commissioners. Above all else, the transfer must promote the goals preserving agriculture in the County as stated above. In other words, the goal of the transfer should not be to promote the development of home sites on the property. See Zoning Commissioner's Policy Manual, Section 1A01.3.B.1 d.

In addition, during my research of the issue within the office, I find a very consistent policy of approving density transfers only when adjusting density units among parcels in the same ownership. The reason is quite practical. First, the Petitioner must be legally bound by the decision. If a stranger is supposedly giving up density units and is not a petitioner, the stranger surely can further subdivide his property frustrating the intent of the RC 2 zone. As important,

the receiving property typically goes on to the subdivision process having had the zoning issues resolved. This subdivision process then documents in a very formal manner with record plats recorded, public works agreements, etc. The whole world knows that the receiving property will be developed under the rules of the County. However, the donating property is not subdivided. There are no plats recorded, public works agreements entered into, etc. Consequently, in the future, a purchaser of the donating property may innocently believe that since the property has not been subdivided, he may have full legal right to do so when in fact that right may be extinguished or severely restricted.

Findings of Fact and Conclusions of Law

I conclude that given the legal history of the transfer issue as above, and given the broad authority of this office under Section 500.7 of the Baltimore County Zoning Regulations, I find that this office has the authority to approve density transfers in RC 2 zones. However, in this case I decline to exercise that authority.

I find that based upon the testimony and evidence presented at the hearing that the primary purpose of the proposal is not to enhance agriculture, but rather to provide another home site on the premises. This is clearly the only purpose of the proposal. There is no evidence that this transfer would improve agriculture. There is only the fleeting mention by Mr. Durst that in addition to the many residential and commercial uses on the property that somehow and in some location they raise Christmas trees. There was no testimony or evidence regarding the Fitez property, which supposedly is being preserved for agriculture by the transfer.

In addition, I find that transfer of density units from Mr. Fitez to the Durst property violates the longstanding rule in this office prohibiting density transfers from strangers. The Fitez property will not be subdivided with plats recorded, public works agreements entered into,

etc. The world will not know that he has given up his right to further subdivide his property but for an obscure note on an adjacent property zoning petition. I acknowledge that I may require notation on the deed transferring the 1 acre parcel to the Durst family to the effect that such development rights are extinguished. However, I do not have confidence that future title search at the time of the sale of the remaining Fitez property would ever find such a limitation from an out parcel transfer.

Finally, I find that the Durst property already has at least six dwelling units existing upon it, which in my view would absorb any density transfers before any new dwelling could be allowed under the regulations. It may well be that the apartment over the garage could perhaps be an in-law-apartment under the Zoning Regulations. I do not know because the Petitioner did not ask to resolve this issue in conjunction with the request before me. It may well be that the kennel manager's dwelling could be accessory to the kennel. I do not know because the Petitioner did not ask to resolve this issue in conjunction with the request before me. It may well be that the kennel is non-conforming or that it deserves a special exception. I do not know this either because the Petitioner did not ask to resolve this issue in conjunction with the request before me. I will stop with these few examples. All such outstanding issues must be resolved based on petition and evidence before me in order to fairly judge whether the receiving property can apply any density transfer units available to it to new home sites. Instead of disclosing these many uses on the property, the Petitioner presents a plan, which, in my view, falsely shows only an existing home and kennel on the property. There is a great deal of trust this office places on presentations made to it. I cannot inspect properties to confirm the veracity of such presentations. I depend upon the petitioner and the petitioner's experts to tell the whole story. But for the protestants testimony and evidence, I would not know of these other uses in this case.

Petitioner's Exhibit 1 states "existing uses" and "1 dwelling and kennel operation." Mr. Covahey had nothing whatsoever to do with presenting this matter, but only entered the case after the Petitioners' case in chief had been presented.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12th day of December, 2003, that the Petitioners' request to transfer one density unit along with one acre of land from Fitez to Durst as shown on Petitioner's Exhibit 1, be and is hereby DENIED.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

BALTIMORE COUNTY, MARYLAND
Environmental Protection & Resource Management
Inter-Office Correspondence

August 19, 2003

To: Zoning Commissioner

From: Wally Lippincott, Jr.
D.E.P.R.M.

Re: Case No. 04-27-SpH, 1314 "B" Mt Carmel Road

Comments:

1. The adjacent landowners have indicated that the submitted plan does not appear to accurately reflect the existing uses and structures on the property. Prior to proceeding, the applicant should indicate whether the two house trailers on the property are being used for residential purposes and whether there are apartments associated with the kennel operations.
2. Transfer of density between properties under separate ownership is not permitted. Transfer of density between two lots of record is also not specifically provided for in the RC 2 zone. See Circuit Court in the case of Gudeman v. People's Counsel – 88-490-sph.

Recommendation:

This request to move density from the Fitez property to the Durst property would appear to be a density transfer and not permitted. If on the other hand the purpose is to create a new one acre lot with one density and transfer this to Durst, it would appear that this should be a minor subdivision. In either event, this request does not appear to advance any agricultural or other purpose of the RC 2 and should not be approved.

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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 17

Bill No.87-01

Mr. Kevin Kamenetz, Councilman

By the County Council, September 17, 2001

A BILL
ENTITLED

AN ACT concerning

~~Animal Boarding Places, Kennels, Pet Shops, Veterinarian's Offices, and Veterinariums~~
Kennels - Commercial and Private

FOR the purpose of amending the Baltimore County Zoning Regulations in order to establish ~~guidelines concerning animal boarding places, commercial kennels, private kennels, pet shops, veterinarian's offices, and veterinariums; repealing, amending, and adding certain definitions; permitting commercial kennels and private kennels to be located in certain zones; establishing certain setback limitations; limiting the number of dogs permitted at a private kennel located in a residential zone; authorizing the Zoning Commissioner to impose certain conditions or restrictions; making certain stylistic changes; and generally relating to the regulation of animal boarding places, commercial kennels, private kennels, pet shops, veterinarian's offices, and veterinariums.~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining INDICATES AMENDMENTS TO BILL.

guidelines concerning commercial kennels and private kennels; repealing, amending, and adding certain definitions; permitting commercial kennels and private kennels to be located in certain zones; establishing certain setback limitations; limiting the number of dogs permitted at a private kennel located in certain zones; authorizing the Zoning Commissioner to impose certain conditions or restrictions for the granting of a special exception; providing certain exemptions from the provisions of this Act; providing an effective date; and generally relating to the regulation of commercial kennels and private kennels.

By repealing

Sections 101 - Definitions, the definition of "Kennel"
Baltimore County Zoning Regulations, as amended

By adding

Section 101 - Definitions, alphabetically, the definitions of "Commercial Kennel" and "Private Kennel"
Baltimore County Zoning Regulations, as amended

By repealing and re-enacting, with amendments

Sections 101- Definitions, the definitions of "Animal Boarding Place" and "Animal Boarding Place, Class A", 1A01.1.C.2, 1A02.2.B.2, 1A07.3.B.2, 1B02.1, 236.2, 253.2.C.3, 256.4, and 421
Baltimore County Zoning Regulations, as amended

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 101 - Definitions, the definitions of "Kennel" of the
3 Baltimore County Zoning Regulations, as amended be and it is hereby repealed.
4 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 101 - Definitions,
5 alphabetically, the definitions of "Commercial Kennel" and "Private Kennel" be and they are

1 hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

2 Section 101 - Definitions

3 COMMERCIAL KENNEL - ANY ESTABLISHMENT WHERE THE COMMERCIAL

4 BREEDING OF DOGS OR THE BOARDING, GROOMING, SALE, OR TRAINING OF

5 DOGS TAKES PLACE AND FOR WHICH A FEE IS CHARGED. A COMMERCIAL

6 KENNEL DOES NOT INCLUDE A PRIVATE KENNEL, PET SHOP, VETERINARIAN'S

7 OFFICE, OR VETERINARIUM.

8 PRIVATE KENNEL - ANY BUILDING, STRUCTURE, OR LAND, OR ANY PORTION

9 THEREOF, INCLUDING A DWELLING, THAT IS USED, INTENDED TO BE USED, OR

10 ARRANGED FOR THE HOUSING OF MORE THAN THREE DOGS, NOT INCLUDING

11 PUPPIES LESS THAN 4 MONTHS OLD, FOR THE PURPOSES OF SHOW, HUNTING,

12 PRACTICE TRACKING, FIELD OR OBEDIENCE TRIALS, OR AS PETS. PRIVATE

13 KENNEL DOES NOT INCLUDE A PET SHOP OR DOGS ACCESSORY TO A FARM USE.

14 SECTION 3. AND BE IT FURTHER ENACTED, that Sections 101- Definitions, the

15 definitions of "Animal Boarding Place" and "Animal Boarding Place, Class A", 1A01.1.C.2.

16 1A02.2.B.2, 1A07.3.B.2, 1B02.1, 236.2, 253.2.C.3, 256.4, and 421 of the Baltimore County

17 Zoning Regulations, as amended be and they are hereby repealed and re-enacted, with

18 amendments, to read as follows:

19 Section 101 Definitions

20 Animal Boarding Place - Any building, other structure or land, or any portion thereof,

21 [which] THAT is used, intended to be used, or arranged for the boarding, breeding or other care

22 of animals, EXCEPT DOGS, for profit[, but excluding a farm, kennel,]. AN ANIMAL

1 BOARDING PLACE DOES NOT INCLUDE COMMERCIAL AGRICULTURE, AS DEFINED

2 IN SECTION 101, OR A pet shop, veterinarian's office or veterinarium.

3 Animal Boarding Place, Class A - An animal boarding place exclusively for [dogs,] cats,

4 birds [and/or] OR other household pets, EXCLUDING DOGS.

5 Section 1A01 R.C. 2

6 1A01.1 General Provisions.

7 C. Uses permitted by special exception. The following uses, only, may be permitted by

8 special exception in any R.C. 2 Zone, provided that in each case the hearing authority

9 empowered to hear the petition finds that the use would not be detrimental to the primary

10 agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further

11 provided that the hearing authority finds that the use would support the primary agricultural use

12 in its vicinity and would not itself be situated on land more appropriately used for primary

13 agricultural uses:

14 2. Animal boarding places (regardless of class), COMMERCIAL kennels, PRIVATE

15 KENNELS, veterinarians' offices or veterinariums (see Section 421).

16 Section 1A02 R.C. 3

17 1A02.2 Use regulations.

18 B. Uses permitted by special exception. The following uses, only, are permitted by special

19 exception in R.C. 3 Zones:

20 2. Animal boarding places (regardless of class), COMMERCIAL kennels, PRIVATE

21 KENNELS, veterinarians' offices or veterinariums, subject to the provisions of Section 421.

Section 1A07 R.C. 6

1A07.3 Permitted uses.

B. Uses permitted by special exception. The following uses only may be permitted by special exception in an R.C. 6 Zone:

2. Animal boarding places regardless of class, COMMERCIAL kennels, PRIVATE KENNELS, and veterinarian offices.

Section 1B02

1B02.1 Uses permitted as of right or by special exception according to zoning classification. The following uses are permitted in D.R. Zones either as of right or special exception in accordance with the schedule below, wherein the abbreviations and symbols shall be interpreted as follows:

S.E. = Use Permitted by Special Exception Only
+ = Use Permitted as of Right
(X) = Use Prohibited

	D.R.1	D.R.2	D.R.3.5	D.R.5.5	D.R.10.5	D.R.16
Airports	S.E.	(X)	(X)	(X)	(X)	(X)
Animal boarding places, Class A (see Section 421)	+	S.E	S.E.	S.E.	(X)	(X)
Animal boarding places, Class B (see Section 421)	S.E.	S.E.	S.E.	(X)	(X)	(X)
Antique shops (see Section 402B)	S.E.	S.E.	(X)	(X)	(X)	S.E.
Cemeteries	S.E.	S.E.	S.E.	S.E.	(X)	(X)
COMMERCIAL KENNELS	(X)	(X)	(X)	(X)	(X)	(X)
Conversion of dwellings to tearooms or restaurants (see Section 402)	S.E.	S.E.	(X)	(X)	(X)	(X)
Golf driving ranges, miniature-golf courses or baseball-batting ranges	S.E.	S.E.	(X)	(X)	(X)	(X)
Kennels PRIVATE KENNELS	[+] S.E.	S.E.	S.E.	[S.E.] (X)	(X)	(X)
Racetracks, commercial	S.E.	S.E.	(X)	(X)	(X)	(X)
Residential art salons (see Section 402C)	S.E.	S.E.	S.E.	S.E.	(X)	S.E.
Riding stables, commercial	S.E.	S.E.	(X)	(X)	(X)	(X)
Sanitary landfills	S.E.	S.E.	(X)	(X)	(X)	(X)
Shooting ranges	S.E.	S.E.	(X)	(X)	(X)	(X)
Trailers and trailer parks	See Section 415.6					

1 Section 236 Business, Roadside (B.R.) Zone Use Regulations

2 The following uses only are permitted:

3 236.2 PRIVATE KENNEL AND COMMERCIAL KENNEL, SUBJECT TO SECTION 421

4 236.3 The following uses when located at least 50 feet from the residential zone boundaries at

5 the ends of the commercially zoned frontages:

6 [Kennel]

7 Section 253 Manufacturing, Light (M.L.) Zone Use Regulations

8 253.2 Uses permitted by special exception. The uses listed in this subsection are permitted by

9 special exception only (see Section 502).

10 C. The following interim uses, provided that it is shown by the petitioner and verified by the

11 Director of Public Works that public sewerage and water supply facilities will not be available to

12 the site of any such use for a period of at least two years after the time the petition is heard, and

13 provided, further, that any such use shall be discontinued and the grant of the special exception

14 shall expire on the date within a year after such time as public sewerage and water supply

15 facilities do become available on the site , as shall be more particularly stipulated in the order

16 granting the special exception.

17 3. [Kennels] COMMERCIAL KENNELS AND PRIVATE KENNELS, SUBJECT TO

18 SECTION 421.

19 Section 256 Manufacturing, Heavy (M.H.) Zone Use Regulations

20 256.4 Special Exceptions. The following uses only when permitted as special exceptions (see

21 Sections 270 and 502):

22 [Kennel] COMMERCIAL KENNEL AND PRIVATE KENNEL, SUBJECT TO SECTION

421

Section 421 Animal Boarding Place, Kennel, Pet Shop, Veterinarian's Office, Veterinarium

421.1 [Where] IF an animal boarding place or PRIVATE kennel is allowed in a residential zone, either as a special exception or as a permitted use, [no part of any such use shall] ANY PART OF THE USE, INCLUDING BUT NOT LIMITED TO, EXERCISE AREAS, SEPTIC SYSTEMS, DOG RUNS AND PARKING AREAS, MAY NOT be located within 200 feet of the nearest property line.

421.2 [Where] IF an animal boarding place, COMMERCIAL KENNEL, PRIVATE kennel, or pet shop is allowed in [a] AN OFFICE, business, or [industrial] MANUFACTURING zone, either as a special exception or as a permitted use, [no part of such use shall] ANY PART OF THE USE, INCLUDING BUT NOT LIMITED TO, EXERCISE AREAS, SEPTIC SYSTEMS, DOG RUNS AND PARKING AREAS, MAY NOT be located within 200 feet of the nearest [residential zone] PROPERTY LINE OR LEASE LINE.

421.3 [Where] IF a veterinarian's office or a veterinarium is allowed in a residential zone as a special exception, it shall be located only on a lot having an area of [two] 2 acres or more, and [no part of any such use shall] ANY PART OF THE USE MAY NOT be located within 100 feet of the nearest property line.

421.4 A PERSON MAY NOT OWN, KEEP, OR HARBOR MORE THAN 10 DOGS, NOT INCLUDING PUPPIES LESS THAN 4 MONTHS OLD, IN A PRIVATE KENNEL THAT IS LOCATED IN A ~~RESIDENTIAL~~ D. R. ZONE.

~~421.5 THE GRANTING OF ANY SPECIAL EXCEPTION FOR A COMMERCIAL KENNEL OR PRIVATE KENNEL, THE ZONING COMMISSIONER MAY IMPOSE ADDITIONAL~~

County Council of Baltimore County Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman
(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

Town: A coherent urban area generally comprising: three to five communities (up to approximately 25 neighborhoods, 100,000-150,000 persons); a central concentration of public facilities, institutions, and commercial uses necessary or appropriate to serve the population of the area as a whole, including a high school and one or more major department stores; and industrial or similar major-employment uses.

Water-supply system, public: A water-supply system which is operated by the County or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the County or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional water-supply system.

SECTION 4. *And be it further enacted,* That Sub-section 103.1 is hereby amended by adding the following:

Provided further, however, that the use and development of land in M.L. zones shall not be affected by the foregoing provision, but development is permitted in accordance with any preliminary development plan approved by the Office of Planning and Zoning before the effective date of this further proviso, even though such development may be counter to then-current regulations for M.L. zones, if, on the fifth anniversary of such effective date, construction either is completed or is substantially commenced and diligently being pursued to completion; otherwise, the regulations generally in effect at the time such use or development is to be established shall control.

SECTION 5. *And be it further enacted,* That new Articles 1A and 1B be and they are hereby added immediately after Article 1, said new Articles to read as follows:

ARTICLE 1A—RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES

Section 1A00-*R.D.P. Zones (Rural: Deferred-Planning).*

1A00.1-General Provisions.

~~A. Legislative Statement of Findings and Policy.~~

~~1. Declaration of Findings. It is found.~~

~~a. That new development in Baltimore County has occurred to an appreciable degree in the form of urban sprawl;~~

~~b. That there are disadvantages experienced by the residents of prematurely developed outlying areas which are part of the urban sprawl pattern, namely inefficiencies, diseconomies, and inconveniences resulting from the nonscheduled and thus necessarily lagging construction or installation of various public facilities, from the~~

~~inadequacy or lack of choice in retail shopping or service establishments, from a relatively time-consuming journey to work, and from a prospectively lasting absence or insufficiency in choice of transportation mode;~~

~~c. That, characteristically, commercial as well as industrial and other major employment activities in such areas are similarly hampered by the same and related inefficiencies, diseconomies, and inconveniences;~~

~~d. That urban sprawl leads to increasingly excessive capital outlays for public facilities;~~

~~e. That the processes of urban sprawl have typically been such as to induce qualities of environmental incoherence and unsightliness;~~

~~f. That conversely, a pattern of urban containment obviates the deleterious effects of urban sprawl, and that, notably in the case of a high rate of development activity, total capital outlays for public facilities within the context of urban containment can be substantially lower than the aforementioned excessive outlays required to support urban sprawl, for an equivalent or greater level of service, in that user proximity, system compactness, and other advantages of containment provide for substantially more efficient and economical installation;~~

~~g. That sound policies to prevent urban sprawl would not inhibit desirable urban growth, but, to the contrary would result in continuing accommodation of undiminished urban growth within relatively compact, rationally expanding areas of urban development;~~

~~h. That, for the foreseeable future, it is in the public interest to reserve suitable rural lands for agricultural purposes and for certain other needed low-intensity uses appropriately located in rural areas;~~

~~i. That detailed public planning for future urban development in certain outlying rural areas is not desirable in view of (1) prevailing uncertainties as to long-range demographic trends, (2) the necessarily indefinite or uncertain nature of economic projections as they may affect the selection of alternative development patterns applied to outlying, presently rural areas, (3) the similarly indefinite or uncertain nature of various other data and projections that would be necessary to the preparation of such plans, (4) patterns of land ownership and typical sizes of individual or conglomerate land holdings, particularly as these matters relate to a possible trend or inducement toward a greater employment of unit-development systems where desirable, (5) an anticipation that numerous relevant planning studies being undertaken, at the time of the enactment of this Section 1A00, by Baltimore County, by agencies of the governmental jurisdictions at other levels, and by private agencies, as well as certain relevant studies expected to be commenced in a period of several years hereafter, will produce findings essential to such planning, (6)~~

~~the fact that the present urban area and certain limited, adjacent areas suitable for the orderly accommodation of urban growth (including the provision of open spaces of various sizes and functions) together contain land which is vacant or sparsely developed but which has been determined to be suitable and sufficient in extent to accommodate urban development and any probable increment of population growth for a period of more than a decade hereafter;~~

~~j. That, in view of the foregoing, further urban sprawl would be inimical to the public interest and, conversely, an affirmative policy to foster a pattern of urban containment is essential to the general welfare of the County;~~

~~k. That typical agricultural usage, or other use or development of land at very low intensity, clearly provides for a potential feasibility of development at urban intensity, where desirable, in future stages of the County's growth, while urban development would not be feasible after preemption of rural land for development at typical suburban intensities; and~~

~~l. That the promulgation of zoning regulations to prohibit the subdivision of land in outlying rural areas into small tracts is an accepted, valid, appropriate, and otherwise reasonable action to inhibit urban sprawl and to minimize the prospective health hazards brought about by development of moderately sized lots not serviced by public water supply or sewerage systems.~~

~~2.~~ *1.* Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above, in order to:

a. Prevent untimely urban development of relatively open rural land; and

b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.

~~3.~~ *2.* Intent as to application of R.D.P. zoning classification to property or removal therefrom. It is intended:

a. That rural land shall be classified within R.D.P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume), as amended, all consistently indicate that such land *is to be serviced by public sewerage and water-supply systems* and, in the case of those said documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such non-

serviced land as is specifically herein described (in this Subparagraph 3 or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;

b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

c. That reclassification of land as R.D.P. shall not represent a commitment by Baltimore County with respect to type of future development, but only that more particular planning for the use of such land shall be executed in the future; and

d. That certain distinct existing areas of compact development, such as certain approved subdivisions or the immediate environs of typical rural business centers, are not normally to be classified as R.D.P.

~~4.~~ *3.* Special Policy for Certain Developments. In view of possible overriding public benefits to be derived from certain large-scale unit developments, the establishment of such developments is hereby excepted from application of the policy hereinbefore stated to the extent indicated under Section 430 ("Unit Developments").

B. Locational Requirement. No R.D.P. zone shall be established or re-established within the urban-rural demarcation line, but said line may be re-established to include an R.D.P. zone or part thereof existing at the time said line is re-established.

1A00.2-Use Regulations.

A. Uses Permitted as of Right. The following uses, only, are permitted as of right in R.D.P. zones:

1. Farms, or, on existing undersized lots, limited-acreage wholesale flower farms.

2. One-family detached dwellings.

3. Churches or other buildings for religious worship.

4. Trailers (see Section 415).

5. Research institutes, as defined in Section 101 and as permitted and regulated in D.R. 1 zones (see Section 418).

6. Hospitals.

7. Telephone, telegraph, electrical-power, or other electrical lines, all underground with the exception of such lines as are permitted above ground in D.R. zones.

8. Other cables; conduits; gas, water, or sewer mains; or stormdrain systems: all underground.

9. Railroads or other transportation lines.

10. Animal boarding places (regardless of class), kennels, veterinarians' offices or veterinariums, subject to the provisions of Section 421.

11. Excavations, uncontrolled.

12. Schools, except business or trade schools or such schools as are permitted as special exceptions (Paragraph B, below), but including schools for agricultural training.

13. Accessory uses or buildings (not subject to the provisions of Section 400), including, but not limited to:

a. An office or studio of a doctor, dentist, lawyer, architect, engineer, artist, musician, or other professional person, provided that such office or studio is established within the same building as that serving as his bona fide residence; does not occupy more than 25 per cent of the total floor area of such residence as existing on the effective date of this provision; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees; provided, further, that signs relative to such use shall be prohibited except as noted in Section 413.

b. Home occupations as defined in Section 101, also subject to the sign provisions of Section 413.

c. Parking space, including residential-garage space.

B. Uses Permitted by Special Exception. The following uses, only, are permitted as special exceptions:

1. Airports

2. Antique shops (see Section 402B).

3. Boat yards.

4. Cemeteries.

5. Commercial beaches

6. Community buildings, swimming pools, or other structural or land uses devoted to civic, social, recreational, or educational activities.

7. Conservatories for music or other arts.

8. Dwellings or other buildings converted to tea rooms or restaurants, as provided in Subsection 402.3, or tea rooms or restaurants expressly constructed for such purpose, but otherwise subject to the same such restrictions.

9. Excavations, controlled (see Section 403), provided renovation or appropriate adaptation of the land is assured within a reasonable time, as determined by the Zoning Commissioner.

10. Golf courses, country clubs, or other outdoor recreation clubs; also quasi-public camps, including day camps.

11. Golf driving ranges, miniature-golf ranges, or baseball-batting ranges.

12. Helistops.

13. Marinas.

14. Public-utility uses not permitted as of right.

15. Residential art salons (see Section 402C).

16. Riding stables (commercial or noncommercial).

17. Sanitary landfills (see Section 412).

18. Shooting ranges.

19. Volunteer-fire-company facilities.

20. Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure or, if attached to another structure, an accessory use, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line.

21. Large-scale unit developments, as provided in Section 430.

1A00.3-Height and Area Regulations.

A. Height. No structure in an R.D.P. zone shall exceed a height of 35 feet, except as otherwise specifically provided in these Zoning Regulations (see Section 300).

B. Area Regulations.

1. Lot Area. No lot less than ~~10~~ *1* acres in net area shall be hereafter created in an R.D.P. zone, ~~except as provided in Subparagraph 3, below~~ SUBJECT TO ATTAINING PERCOLATION TESTS SATISFACTORY TO THE BALTIMORE COUNTY DEPARTMENT OF HEALTH AND CONFORMING TO THE APPLICABLE HEALTH REQUIREMENTS.

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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 20

BILL NO. 178-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, October 15, 1979

A BILL
ENTITLED

AN ACT to implement various elements of the County's ~~Comprehensive~~ Master Plan, and more specifically those objectives, policies and standards relating to the assimilation, location, quantity, quality and timing of growth and development in Baltimore County, the provision of adequate public facilities to support development and the protection of agricultural and environmentally-sensitive land in the resource conservation zoning classifications, ~~and to provide for the establishment of overlay district areas and regulations and requirements pertaining thereto; to provide for a master plan consistency determination~~ AND TO ADOPT BASIC SERVICES MAPS AND REGULATIONS AND REQUIREMENTS PERTAINING THERETO; and to provide for monitoring of development activity; by adding new Article 4A - GROWTH MANAGEMENT; by repealing Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. of said regulations and enacting new Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. in lieu thereof; by adding Subsections 1A01.4, 1A02.4, ~~259.3 -- and new definitions "Facilities impact use, Class A", "Facilities impact use, Class B", "Housing for the elderly"; "Industrial, quasi-industrial, or industry-related use"; and "Nonindustrial use" to Section 101, all of the Baltimore County Zoning Regulations; by repealing and re-enacting with amendments Subsections 100.1.B.2, 100.1.G., 100.4, the definition of "Farm" under Section 101, and Subsection 259.2, all of the Baltimore County Zoning Regulations;~~ by repealing Subsection 1A04.3.B.2 of said regulations; and by repealing Council Bill 177-79.

NOTE: NOTICE OF AMENDMENT TO THIS BILL.
At the time of Final Reading, the Council unanimously voted to delete pages 3 through 43 of the bill as introduced and replace them with pages 3 through 21. For purposes of clarity and economy, the deleted pages are not included.

1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5 and 1A04.3.B.1 are hereby enacted in lieu thereof to said regulations, to read as follows:

Section 1A01 - R.C.2 (AGRICULTURAL) ZONES

1A01.2-Use regulations.

B. Uses permitted as of right. The following uses, only, are permitted as of right in all R.C. 2 zones:

1. Dwellings, 1-family detached

2. Farms, satellite farms, farmettes, and limited-acreage wholesale flower farms (see Section 404)

3. Open space, common

4. Streets and ways

5. Telephone, telegraph, electrical-power, or other lines or cables, provided that any such line or cable is underground; underground gas, water, or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines.

6. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of paragraphs b, c, e or f of subsection 415.1 and subparagraph 415.2.a(1) or 415.3.c(1), as applicable.

7. Accessory uses or structures, including, but not limited to, the following:

a. Excavations, uncontrolled

b. Farmers' roadside stands (see Section 404)

c. Home occupations

d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or persons engaged in other, similar occupations, provided that the use is established within the building that serves as the owner's domicile; occupies a floor area no greater than 25% of the floor area used for residential purposes, not including garage floor area or unfinished basement space; and does not involve the employment of more than 2 nonresidents.

e. Parking space, including residential-garage space and space for recreational vehicle (see Section 415A)

f. Piers, wharves, docks and bulkheads (subject to the provisions of Section 417)

g. Radio antennas in conjunction with wireless transmitting or receiving facilities, provided that any such facility is used by a resident who has an amateur radio operator's license issued by the Federal Communications Commission. No such antenna may extend closer than the front building line to any street on which the lot may front; no rigid-structure antenna may be taller above grade level than the horizontal distance to the nearest property line or 100 feet, whichever is less; and no supporting structure may be situated within 50 feet of any property line (see also Section 400).

h. Swimming pools, tennis courts; garages, utility sheds or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400)

I. TENANT HOUSES, INCLUDING TRAILERS USED AS TENANT HOUSES.

C. Uses permitted by special exception. The following uses, only, may be permitted by special exception in any R.C. 2 zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 24, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses:

1. Airports

2. Animal boarding places (regardless of class), kennels, veterinarians' offices, or veterinariums (see Section 421)

3. Antique shops (see Section 402B)

4. Camps, including day camps

5. Community care centers providing care for not more than 15 persons per site

6. Churches or other buildings for religious workship

7. Excavations, controlled

8. Farmers' co-op roadside stands

9. Fishing and shellfishing facilities, Class I or II

10. Golf courses or country clubs

11. Hunting or fishing preserves

12. Offices for agriculture-related uses; physicians' or dentists' offices as principal uses

13. Public-utility uses not permitted as of right

14. Research institutes (see Section 418)

15. Residential art salons (see Section 402C)

16. Restaurants or tea rooms converted from dwellings (see subsection 402.3)

17. Riding stables

18. Sanitary landfills (see Section 412)

19. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories, or colleges

20. Shooting ranges, including archery, pistol, skeet, trap, or small-bore rifle ranges, or turkey shoots

21. Trailers as provided in Paragraph 415.1.d

22. Volunteer-fire-company or ambulance rescue facilities

23. Wireless transmitting or receiving facilities as principal uses

24. The following "agricultural-support" uses:

a. Farm-machinery sales, storage, or service; blacksmithing

b. Feed or grain mills or driers

c. Fertilizer sales or storage

d. Sawmills

e. Slaughter houses or manufacture, processing, or packing of fruit, vegetables, animal, or meat products, or by-products

f. Wine or spirits manufacture, including the manufacture of alcohol to be used in gasoline-alcohol mixtures, but excluding the production of those mixtures (as a principal use)

1A01.3 - Height and area regulations

B. Area regulations

1. Subdivision Lot Density.

No lot of record lying within an R.C.2 zone and having a gross area of LESS THAN 2 acres ~~or less~~ may be subdivided. No such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total), and such a lot having a gross area of MORE THAN 100 acres ~~or more~~ may be subdivided only at the rate of 1

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

TIM M. KOTROCO
DIRECTOR

BUILDING PERMIT

JOHN R. REISINGER
BUILDINGS ENGINEER

PERMIT #: B577267 CONTROL #: MR DIST: 07 PREC: 01
DATE ISSUED: 11/30/2004 TAX ACCOUNT #: 1600007240 CLASS: 05

PLANS: CONST PLOT: 2 R PLAT DATA ELEC NO PLUM NO
LOCATION: 1314 MT CARMEL RD
SUBDIVISION: 900 W MASEMORE RD

OWNERS INFORMATION
NAME: BURST,GLENN & BARBARA
ADDR: 1314 MT CARMEL RD

TENANT:
CONTR: OWNER
ENGNR:
SELLR:
WORK: COSNTRUCT BARN ON SIDE OF FX PROPERTY.ACCESSORY
STRUCTURE LETTER ATTACHED.
FARM USE ONLY PER APPLICANT;PLANS WAIVED;MS
46'X30'X22'=1,380SF

BLDG. CODE:
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATEL: OWNED

PROPOSED USE: SFD : BARN
EXISTING USE: SFD

TYPE OF IMPRV: NEW BULDING CONTRUCTION
USE: OTHER - RESIDENTIAL
FOUNDATION: BLOCK BASEMENT: FULL
SEWAGE: PRIV. EXISTS WATER: PRIV. EXISTS

LOT SIZE AND SETBACKS

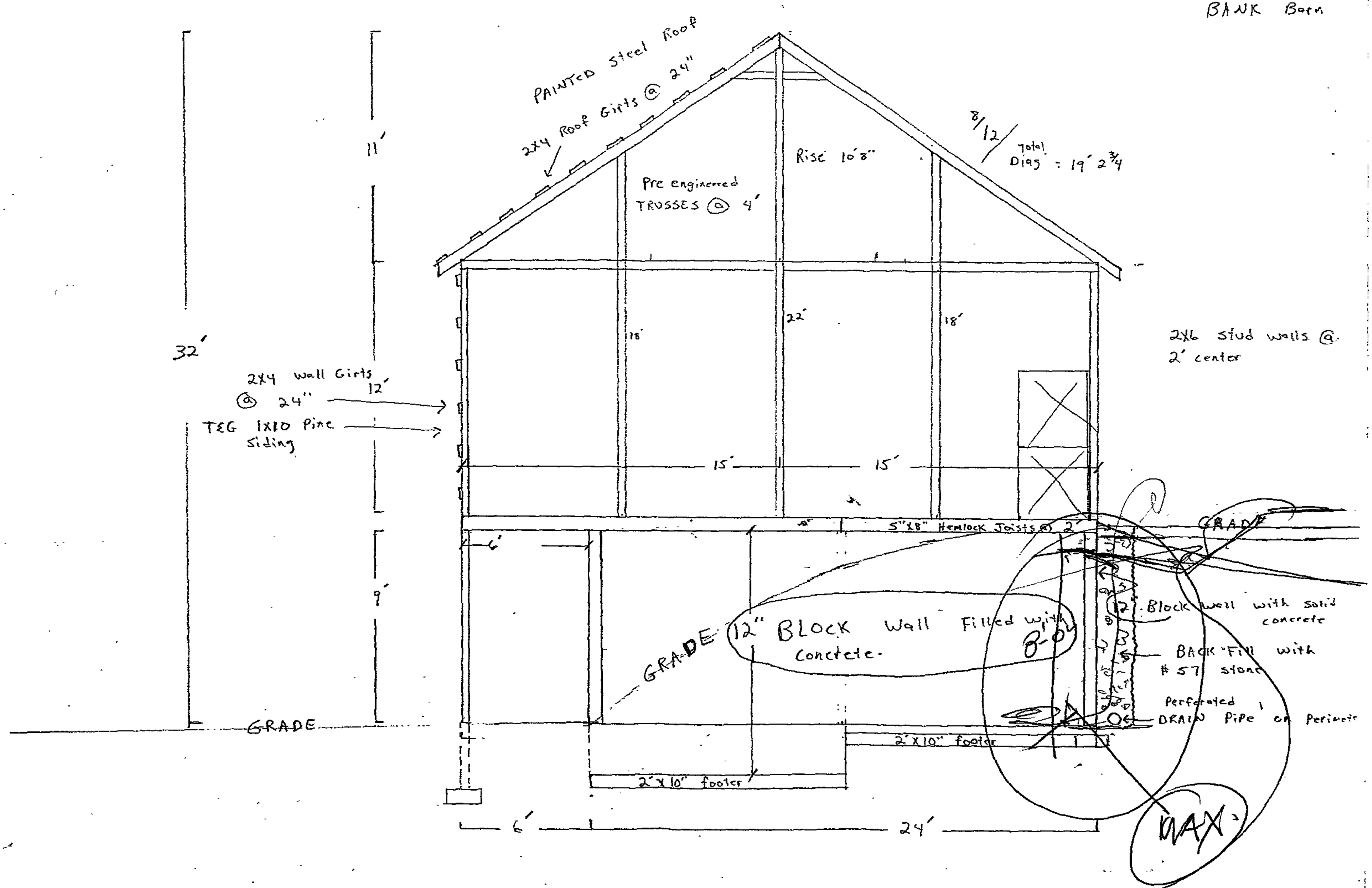
SIZE: 43.85AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 140'
SIDE SETB: 700'/1000
SIDE STR SETB:
REAR SETB: 700'

THIS PERMIT EXPIRES
ONE YEAR FROM
DATE OF ISSUE

Red #4

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

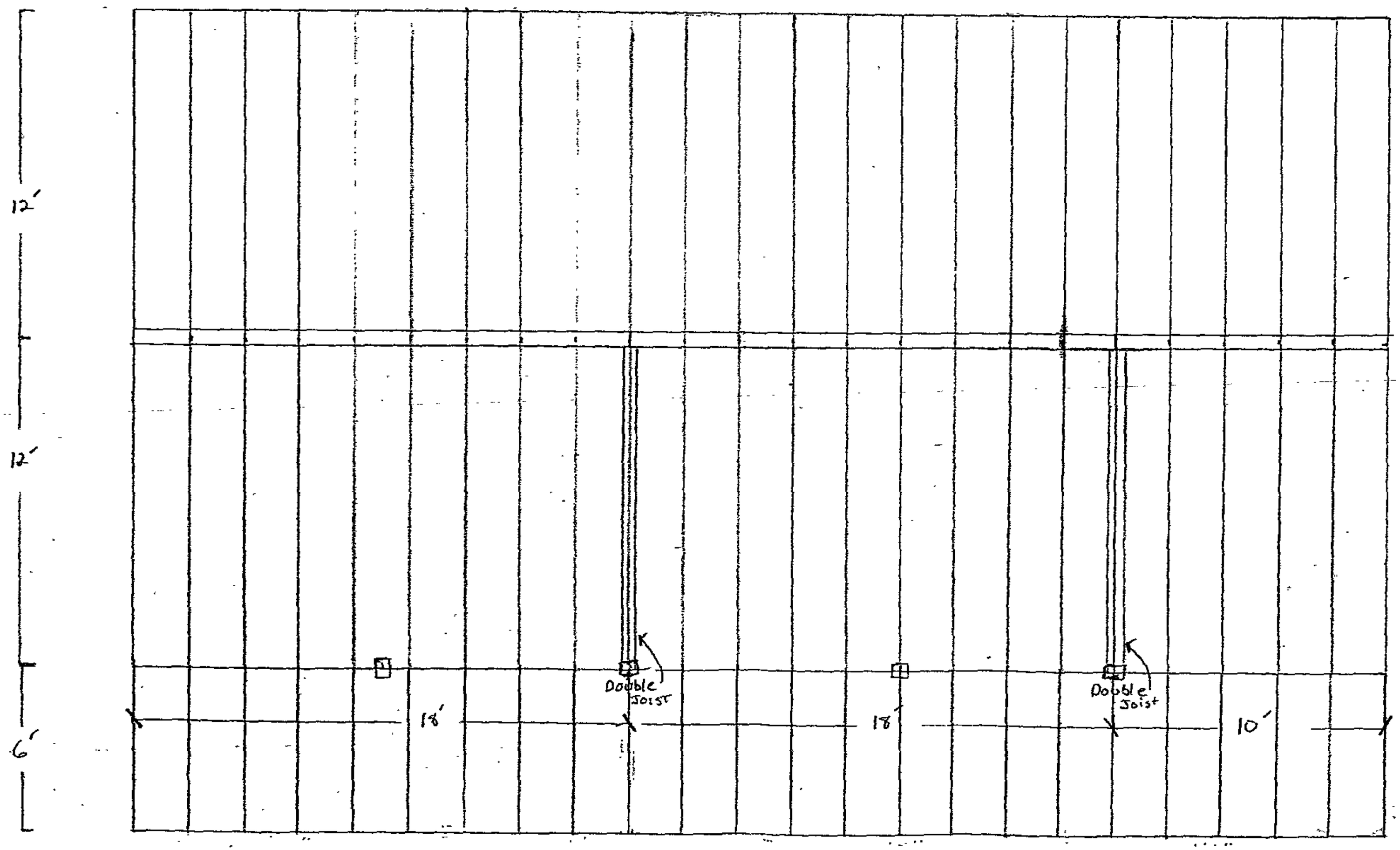
30'X 46X12'
BANK Barn

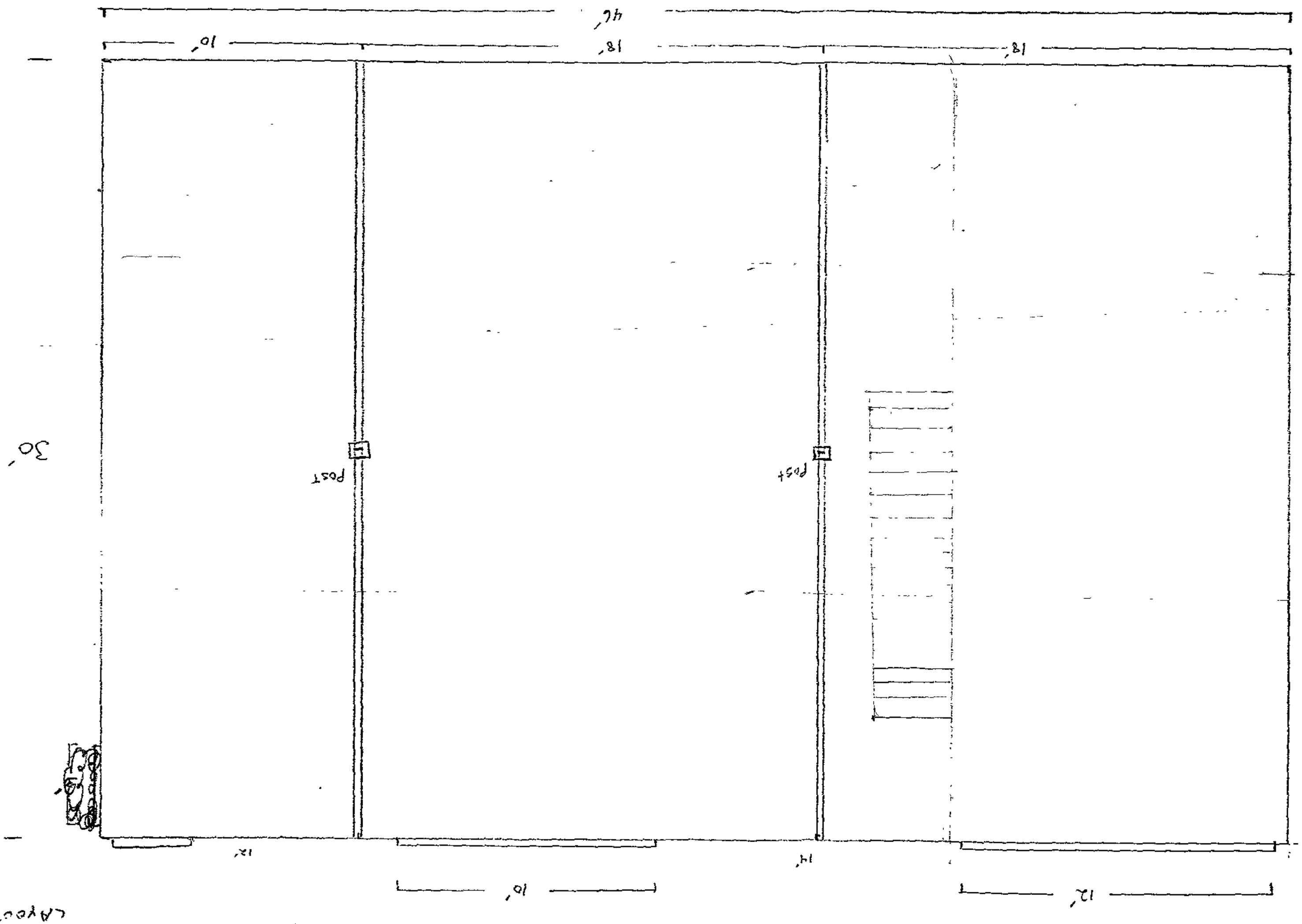


1 ST Floor
LAY OUT

34'X46'X12'
Bank Barn

46 PC 5"X8"X14 Joists @ 2' center Hemlock
[illegible] PC 2X8X12 For Gables + cut in ½ For cantilever Hemlock





12' 1st Floor Wall & Frame Layout

~~3'x~~ 62'9" Ring

HEREFORD COMMUNITY ASSOCIATION, INC.

The Principle Voice of the Hereford Community

November 19, 2004

Timothy M. Kotroco, Esquire, Director
Permits and Development Management
Baltimore County
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Durst Property
Petition for Zoning Exception

Dear Mr. Kotroco,

At the regularly scheduled bi-monthly meeting of the Hereford Community Association on October 24, 2004, representatives of Glenn and Barbara Durst and family presented a proposal for the future development of their property.

Their proposal consists of dividing the property that is to the west of Masemore Road and to the north of Mount Carmel Road into three parcels. The Hereford Country Club for Pets would be one parcel and the remaining property would be divided to provide for an additional home-site. Since the Hereford Country Club for Pets was established in the early 70's before the current zoning regulations, approval of a non-conforming use by a current tenant must be granted.

The Glenn and Barbara Durst and family asked for support in the approval for their petition. A motion was made and unanimously passed to support the approval of their proposal.

It is requested that the Zoning Commissioner of Baltimore County be advised of the support of the Hereford Community Association and this letter of support be placed in the files of the petition.

Sincerely,

Paul Z Cummins, II

Paul Z. Cummins, II
President

Hereford Community Association, Inc.

P.O. Box 180
Monkton, MD 21111

t. 410-357-0252
f. 410-357-0252
(Call first)
pcummins@verizon.net

Pet #5

Hereford Country Club for Pets

1201 Brandy Springs Rd. Parkton MD 21120

In 1972, the above name kennel was built with the approval of Baltimore County as "*non-conforming use*". It has operated for over 30 years as a license commercial kennel without incident. We are going to the County to affirm the "*non-conforming use*" of this commercial kennel and create a lot around said kennel. If you have any question please call 410-343-0616. The under signed agree with the above

Name	Address	Phone
Tatuba Yuhas	19214 Falls Rd, Hampstead, MD 21074	410-374-3864
Dan R Yuhas	19214 Falls Rd Hampstead MD 21074	410-374-3864
Jim Mathony	15016 Priceville Rd Sparks MD 21152	410-472-9323
D L Robertson	6600 Kittendale Rd Balto. Md 21220	410 335-6123
Keidi Robertson	660 Kittendale Road Balt. 21220	(410)335-6123
Amy Dugoji	15018 Priceville Road, Sparks 21152	443-857-6382
Maggie Mathony	15016 Priceville RD Sparks, MD 21152	410-472-9323
Eric Durst	1314A Mt Carmel rd Parkton, M.D. 21120	410-329-8005
Chesta Ladwig	1314 B MT CARMEL RD. PARKTON MD 21120	410 916-1163
Zak Foster	1108 mt carmel rd Parkton, M.D. 21120	410-357-5737
Ruth F. Mathony	20 Dunvale Rd. Apt. 503, Towson, MD. 21204	410-938-2214
Sheila Durst	3810 Easton ct Abingdon Md 21009	410-569-4408
Helen Speedie	363 Point to Point Rd. Sulair, Md 21015	410-569-8851
Mary Heise	2432 Gullsawmill Rd. Jarrettsville, Md.	410-357-4691
George Carey	225 Ridge ave Towson Md 21186	443-995-5026
Irem McDonnell	825 Ridge ave. Towson Md 21186	———
Ilene Carlstrom	16650 Miller Ln. Parkton MD 21120	———
Kelley Carlstrom	16650 Miller Ln. Parkton, MD 21120	———
Barry Durst	1314A mt carmel Rd Parkton MD 21120	(410) 329-8005
NEIL Delimont	1305 Pineyhill Rd Monkton MD 21111	———
DON McCafferty	1306 Belfast Rd Sparks MD 21152	(720)810-2119
Matthew Delimont	1305 Piney Rd Monkton MD 21111	410-916-0115
Ashley Laughter	2606 Hunters Mill Rd. White Hall, MD. 21161	410-357-5840
Robert [illegible]	16946 [illegible] RD Hampstead MD	410 357-4500
Patty Howard	98 West View Dr Shrewsbury, PA 17361	717 235-6998

Pet #6

please sign

Hereford Country Club for Pets

1201 Brandy Springs Rd. Parkton MD 21120

In 1972, the above name kennel was built with the approval of Baltimore County as "*non-conforming use*". It has operated for over 30 years as a license commercial kennel without incident. We are going to the County to affirm the "*non-conforming use*" of this commercial kennel and create a lot around said kennel. If you have any question please call 410-343-0616. The under signed agree with the above

Name	Address	Phone
Madeline Schobey	411 E Lake Ave Balto MD 21212	
Bob Sagnette	609 Piccadilly RD Towson 21204	410-583-1806
Jill Pecuras (Photo)		410-393-2628
Pamela Shipp	7 Stoddard Ct Sparks MD 21152	410-472-2993
Bill Jones	1315 Rayville Rd. Parkton, MD 21120	410-343-1690
Lorraine Hirsh	5808 Greenspring Ave. Balto 21209	410-664-5568
Connie Cantwell	20823 W. Liberty Rd Cwhitehall	410-357-4244
Jennie Rothschild	1803 W. Rogers Bel MD 21209	410-367-0960
Pete Denbar	20600 Mt. Zion Rd, Freeland MD 21053	410-329-8188
Rutland B. Paul Jr.	4058 Dance Mill Rd. Phoenix, MD 21131	410-592-7738
Tammy Handzo	14207 Sawmill Ct. Phoenix MD 21131	410-592-8334
George McKim	2000 Falls Rd - Parkton, MD 21120	410-357-4265
Karen Brown	17300 Prettyboy Dam Rd. Parkton, MD 21120	410-357-8519
Donald Jasinski	3 Barrance Ct Towson, MD 21204	410-337-9387
Nancy A Sopko	3022 Pebble Beach Dr. Ellicott City MD 21024	410-418-9752
Craig Tinker	1416 Rayville RD Parkton MD 21120	410 371 1774
Hal C Brandon	13 Valley Glen Ct Reisterstown MD	410 561-1381
Linda Losey	2725 Bison Mill Rd. Sparks, MD 21152	410-960-8824
[illegible]	22 Glenberry Court Phoenix, MD	410-527-1460
William Frazier	621 Bentley Rd Parkton MD	410-357-9591
Gordon Lindsey	3177 Glen Eagle Blvd Sarasota FL 34237	941-953-6600
B.E. Jordan	17217 Forestor Rd. Hyde MD 21055	410-239-3732
Kim Beltran	18 Patricks Ct Parkton MD 21120	
Judy Graham	403 E. Timonium Rd Timonium, 21093	252-8887
Rick Smith	1207, Brandy Springs Rd, Parkton MD.	410-357-8663

Please sign

Hereford Country Club for Pets

1201 Brandy Springs Rd. Parkton MD 21120

In 1972, the above name kennel was built with the approval of Baltimore County as "*non-conforming use*". It has operated for over 30 years as a license commercial kennel without incident. We are going to the County to affirm the "*non-conforming use*" of this commercial kennel and create a lot around said kennel. If you have any question please call 410-343-0616. The under signed agree with the above

Name	Address	Phone
Sheila Krome	30 Mace [illegible] Balto Md 21228	
Hutch Vernon	6011 Hollins Ave Balti MD 21210	
Joe McCann	8022 [illegible] dgely Park 21234	
Alison Sommaler	11244 Falls Rd Lutherville Md 21093	
Susan Curtis	27 English Pen Circle Sparks Md 21152	
Wendy Wilson	11 Deep Run Ct., Cockeysville, MD 21030	
Alison [illegible]	304 Stableview Ct Parkton 21120	
Anne Seaskart	419 Murdock Rd. Balt 21212	
Bob Schwartz	29 Sherwood Rd. Cockeysville 21230	
Mary Lou Kenney	203 St. Dunstan's Rd. 21212	
Walter Scott	12282 ~~[illegible]~~ Bonmot Pl. Reisterstown 21136	
John Palmer	935 Joshua tree CT Owings Mills 21117	
Gregor Lehmiller	20050 Guc Mill Road Freeland, MD 21053	
Heather Sparks	224 Parkwood Rd Dundalk, MD 21222	
Denise Clack	222 Parkwood Rd Dundalk MD 21222	
Steven Brooks	5305 Purlington Way Baltimore, MD 21212	
Terry Prinir	20 Westminster Bridge Way 21093	410-823-7523
Shawn Dippel	15331 York Rd Sparks, MD. 21152	410-7718222
Marjorie McDonald	7 Howetson Ct. Timonium, MD 21093	410 628-7668
Jannenne Corcoran	16 Skidmore Ct Towson, MD 21204	410-321-6808
Nicole Marano	402 Dixie Drive Towson, MD 21204	410-339-5353
Gerry Crosso	3901 Forty Hill Ave Nottingham MD 21236	410 6631469
Judy Spencer	18404 Graystone Rd, Whitehall, 21161	410.343.0839
[illegible]	17 Seven Springs Ct. Phoenix MD 21131	410 771-1947
	615 Bedlerick Circle Lutherville, MD 21093	410-561-1057

Shawn - Her Friend

Hereford Country Club for Pets

1201 Brandy Springs Rd. Parkton MD 21120

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Name	Address	Phone
Laura Herman	302 Wyndhurst Ave. Baltimore, MD 21210	410-433-2268
Dudley O'Donnell	2552 Ashbrooke Dr 21042	410-465-1047
Jerry L. Prinie	20 Westminster Bridge Way Lutherville 21093	410-823-7523
Cori Clemens	1846 Circle Rd Rixton, Md 21284	410823-1846
Patricia Timl	1416 Rayville Rd Parton MD 21120	410 329 6442
Shawn McDevon	2380 Michael Dr Westminster MD 21157	410-857-1383
Steve Parsons (Katie)	1637 Chamlesway Towson MD 21204	410 494 0602
Shawne Imler	1201 Boston St. Balt. Md 21206	410 371 6044
Marty Basu	1214 N. Charles St. Apt 401 MD 21201	410-262-0015
K. Taylor Welsh (Spiren)	44 Thornhill Rd. Lutherville MD 21093	410 321-8669
Eve Helmich	5 Hunters Ct Timonium MD 21093	410 561-1575
Marion Cockey	5 Hunters Ct Timonium MD 21093	410561-1575
Stephanie Nixon	7110 Rodgers Ct. Baltimore MD 21212	443-540-7345
Mary Flora	2817 Stockton Rd Phoenix Md 21131	410-472-2740
Frances Andrews	3706 Hickory Ave Baltimore MD 21211	410 366 7511
April Babcock	231 Parkwood Rd Dundalk MD 21222	443 801 1504
Mark Vynoda	2005 Fountain. St., Baltimore, MD 21231	812-243-8953
Carol Allen	3115 Paper Mill Rd 21131	
Dave Cervino	1016 Armacost Rd Parkton MD 21120	410-343-2092
[illegible]	720 Reservoir St	410.925-8302
Nancy [illegible]	613 Reservoir St	410 523 3455
[illegible]	21602 N. Ruth Rd. Freeland Md 21053	410 343 1273
Claude Mills	1512 Taylor Ave. 21234	410 661-7118
Paul W Tim[illegible]	118 Covington RD Shrewsbury PA	
Robert Nieburg	17008 Sunswept Ln Parkton MD	

Hereford Country Club for Pets

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Name	Address		Phone
Linda Kelly	601 Quiet Oaks Lane	21111	410-343-3160
Leigh DeVito	3000 3306 Willoughby Rd	21034	410 661 1607
Kelly Brown	1510 Green Spring Drive	21093	410 560-0810
MIKE FLANAGAN	15010 YORK RD	21152	410 472 1702
JIM WHELAN	18 MANSEL DR, REISTERSTOWN	21136	410-561-3054
GARY PEAL	2001 BANEBERRY COURT	21209	410-764-2753
Sheri Massa	417 Hastings Rd	21286	410 8256724
L McMahon	8106 Cornwall RD	Balto MD 21222	410-288-4461
P. Christyn	8520 Westerman Circle	Balto MD 21236	4102569605
K.M. Bristow	6172 Parkway Dr	Balto MD 2212	410-435-5145
R.C. Bristow	6172 Parkway Dr.	Balto MD 21212	410-435-5145
Susan BALDWIN	14536 BONNIE VIEW RD	SPARKS MD 21152	410-771-4851
KAREN HOFFBERGER	3806 BANEBERRY CT	21209	410-318-6658
Jane Brown	11659 St. David's La.	Lutherville 21093	410-252-0932
Rick Schell	11162 Falls Rd	21093	410-3378609
Marilyn Lerch	20121 Downes Rd	Parkton MD 21120	410-357-8642
Maureen Beemt	11630 Walker Rd	Freeland MD 21053	410 357 5024
J Gearing	1300 Upper Glencoe Rd	Sparks MD 21152	410 771 4431
K Findlay	54 Loveton Farms Ct.	21152	443-604-5616
JE Hickey	1911 Corbridge Ln	Lutherville 21111	410 472 2038
D. DeCoy	4215 Sheldon Ave	Balt. MD 21206	410 804 7183
[illegible]	14221 PHOENIX RD	PHOENIX MD 21131	410-472-0380
Janice Dod	325 Sechrist Flat Rd.	Fetter PA 17322	7172462215
Nancy Ebel	12146 Henson Garth,	Owings Mills 21117	4106541511
Tracy Preto	32 Mayre Ct	Baltimore 21120	4103357577

Hereford Country Club for Pets

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Name	Address	Phone
TRACY Preto		
MIKE LAWSON	17 MIDDLE AVE. 21093	410-561-4716
Don CARLBERG	4419 LINKWOOD RD 21210	410 868 - 7031
Martin Miller	1124 Coupens Ave, Towson 21286	410 494-7052
BOB WALLACE	622 CORBETT RD, MONKTON MD 21111	410-591 4335
Sally Bergen	90 Fair Corners Loop, Sparks MD 21152	410 472 9156
Don Store	6608 Flockewood Rd. 21120	343-0227
JOHN YUNCZA	638 LAVENHAM CT 21093	410 560 9945
Chuck Brooks	16554 Yeoho Rd, Sparks 21152	410-472-2249
Bruce Knight	17008 EVNA Rd. 21120	410-329.6012
WALBSONSTAW	13 Valley Glen Ct 21136	410-561-1386
SCOTT STOTHOFF	19822 York Rd. PARKTON, MD. 21120	410 357-9894
Doug Edwards	9004 Saracen Dr Pikesville MD 21205	410-963-0758
Katie Braid	8725 Bentley Rd. Parkton 21120	(410) 343-1086
Jesse Quinn	PO Box 245 White Hall MD 21161	410-343-1061
Michael Kalandrog	2A fitzgerald ct. 21234	443 384-2726
Dana Bosk	6 Carriage Walk Ct. 21234	410-665-3240
Virginia Murphy	1306 C Derby Rd Towson MD	443-831-0886
Adrian Murphy	25 Charlotte Place, Lancaster PA	717-330-6994
~~Mar~~ Lisa Johnson	1812 Leadbourn Ave, Balto 21204	410 ~~528-8061~~ 583-7772
Tim Shaffney	20816 Hunt Pass Ct, Parkton 21120	410 357 0404
Neil Didrikson	11659 St. David's Lane, Lutherville, 21093	410-252-9244
Ann Meyers	10611 Bluebell Way Cockeysville MD 21030	410 683-1058
G.L. Frank	1429 Jeffers RD Towson MD 21204	410 823 3287
Laura Frank	1429 Jeffers RD Towson MD 21204	

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Name	Address	Phone
Gina Stone	Parkton	410|343-0027
Jeanne Prater	Baldwin	410-593-9844
Paul B Deadulla	York	717-428-1744
[illegible]	Parkville	410-663-6588
Paul Tink.	118 Covington Rd Shrewsbury PA	443·581·1893
John Daum	Timonium, Md 21093	410-252-9471
Carolyn Dupont	622 Deepdene Rd Baltimore 21210	410-323-2336
Dennis Solomon	18802 FOX CHASE CT, PARKTON, MD	410 329-6499
Jean Suda Jean Suda	742 Chapel Ridge Road Timonium, MD 21093	410 560-1149
Barbara Kleusa	4512 Buckeystown Rd	410 374-8176
Lock Winscher	17736 Foreston Rd Parkton md 21212	410-374-1223
Matt Bush	Parkton	410-357-5544
Katie Braid	725 Bentley Rd. Parkton md 21120	410-343-1086
Faith Sullivan	2878 Beechland Ave Balto	410-254-4872
Freida Pieto	Parkville MD	410-668-7862
Debbie Dickerson	1946 White Hall RD	410 329-6762
Michelle + Scott Tomlin	17402 Pretty Boy Dam Rd	410 357 9265
Jon & Lorraine Hiaxt	5808 Greenspring Ave	410-664-5568
McCullah	10562 Gallrudge Rd 21030	410 628-1335
Alec Vilar	2212 Fox Hunt Ln, Lutherville, MD 21093	917-447-3792
Jeff & Vicki & White	Shrewsbury, PA	443-270-1354
Will Cloyd	7 Keel Manor Ct	410 343 3290
Joe Strumbrosky	12101 Glenbauer Rd Kingsville, MD 21087	(410) 592-9785
Don McCullah	1012 Bosley Rd Cockeysville 21030	(410) 628-1335
Nancy Hopkins	153 Brandon Rd Balt. 21212	443-306-6907

Hereford Country Club for Pets

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Name	Address	Phone
Tamara Mills	Taylor Ave. Parkville MD 21234	410 661-7118
Lynn McLain	5701 Downing Pl. 21212	410-728-2360 410-327-1745
Glen Eckhart	122 Chapel Lane, Ephrata Pa 17522	1717-656-9778
Ed Down	24 Bee Tree Mill Ct PARKTON	410-746-4448
Eric Gross	10528 Gatoridge Rd. Cockeysville 21030	410-628-4945
Bob Thommen	1902 Shawan Valley Ln. Reisterstown 21136	410-252-0799
[illegible]	[illegible]	411 [illegible]-0877
Vickie White	118 Covington Dr. Shrewsbury PA	

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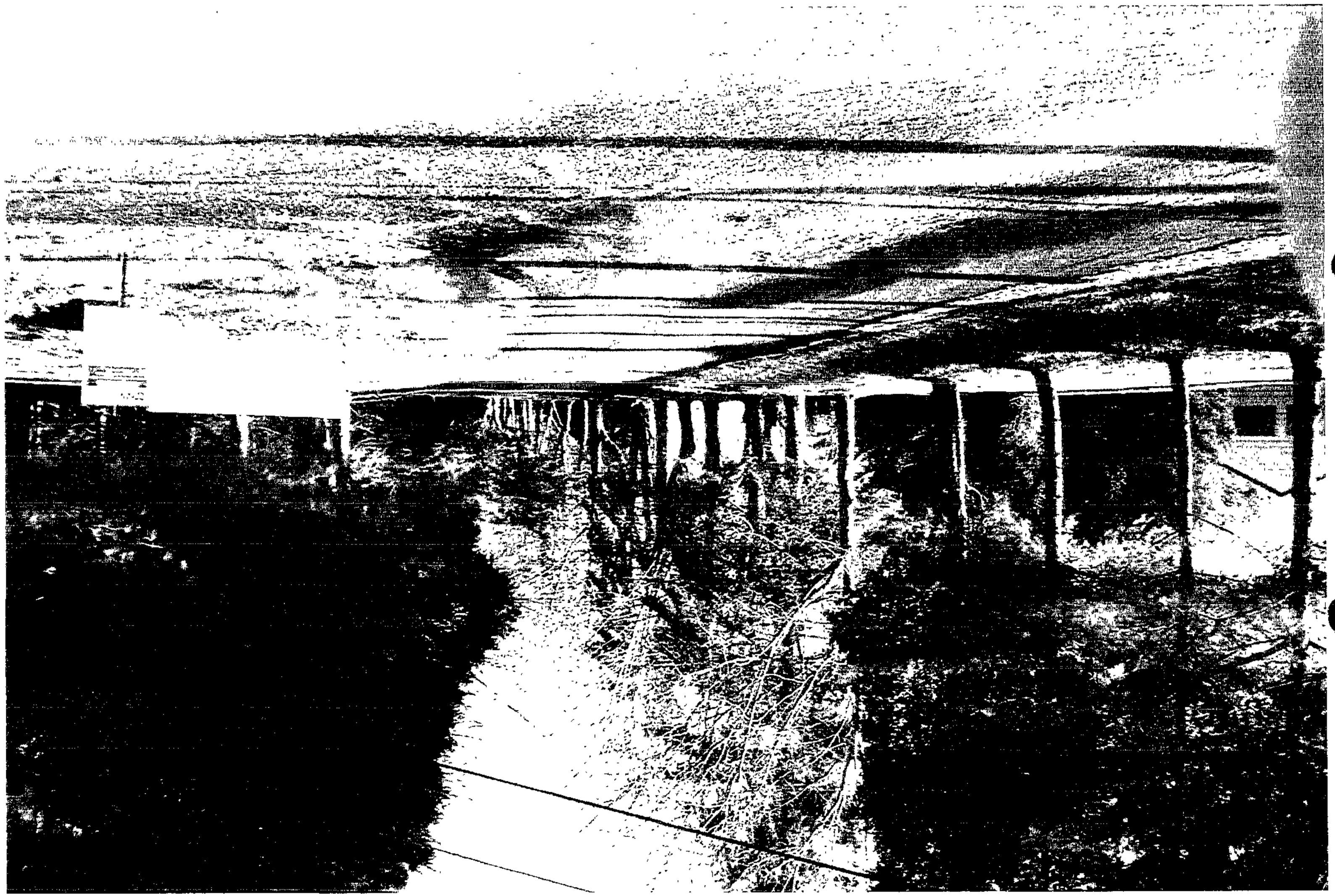
Name	Address	Phone
Julie Miller	7658 Old Battle Grove Rd. Baltimore MD 21222	(410)627-8577
Heidi Fers	177 E. Telegraph Rd. Airville, PA 17302	
Fred Durst	1208 Cambridge Rd. Silver, MD 21014	410-420-0887
Dawn Foster	1108 Mt Carmel RD, Parkton, MD 21120	410-357-5237
Joyce Carlstrom	1120 Mt. Carmel RD Parkton, MD 21120	
Neil A. Carlstrom	1120 MT. CARMEL RD, PARKTON, MD 21120	410-357-8087

Part #3

01/18/2005

18

01/18/2005



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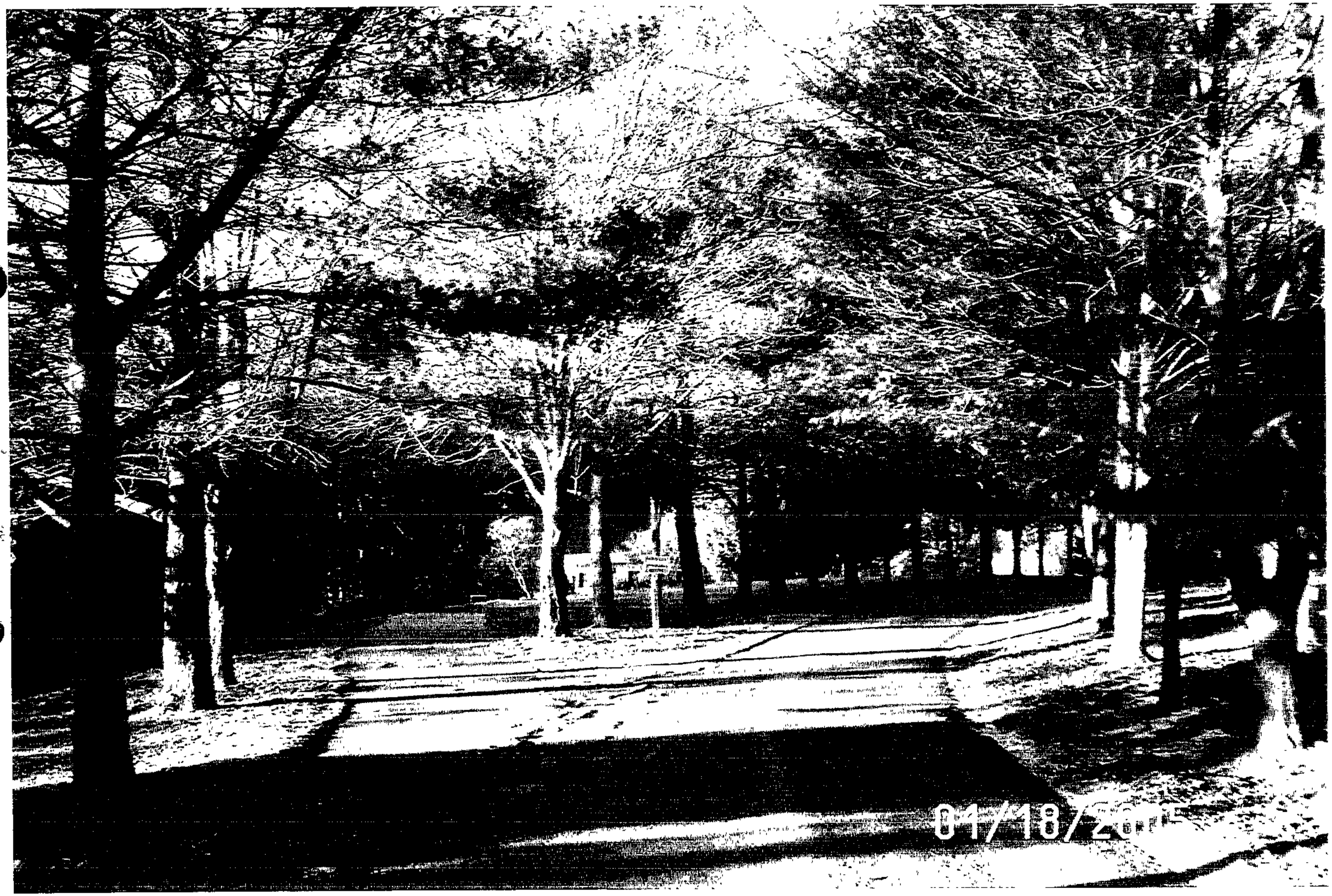
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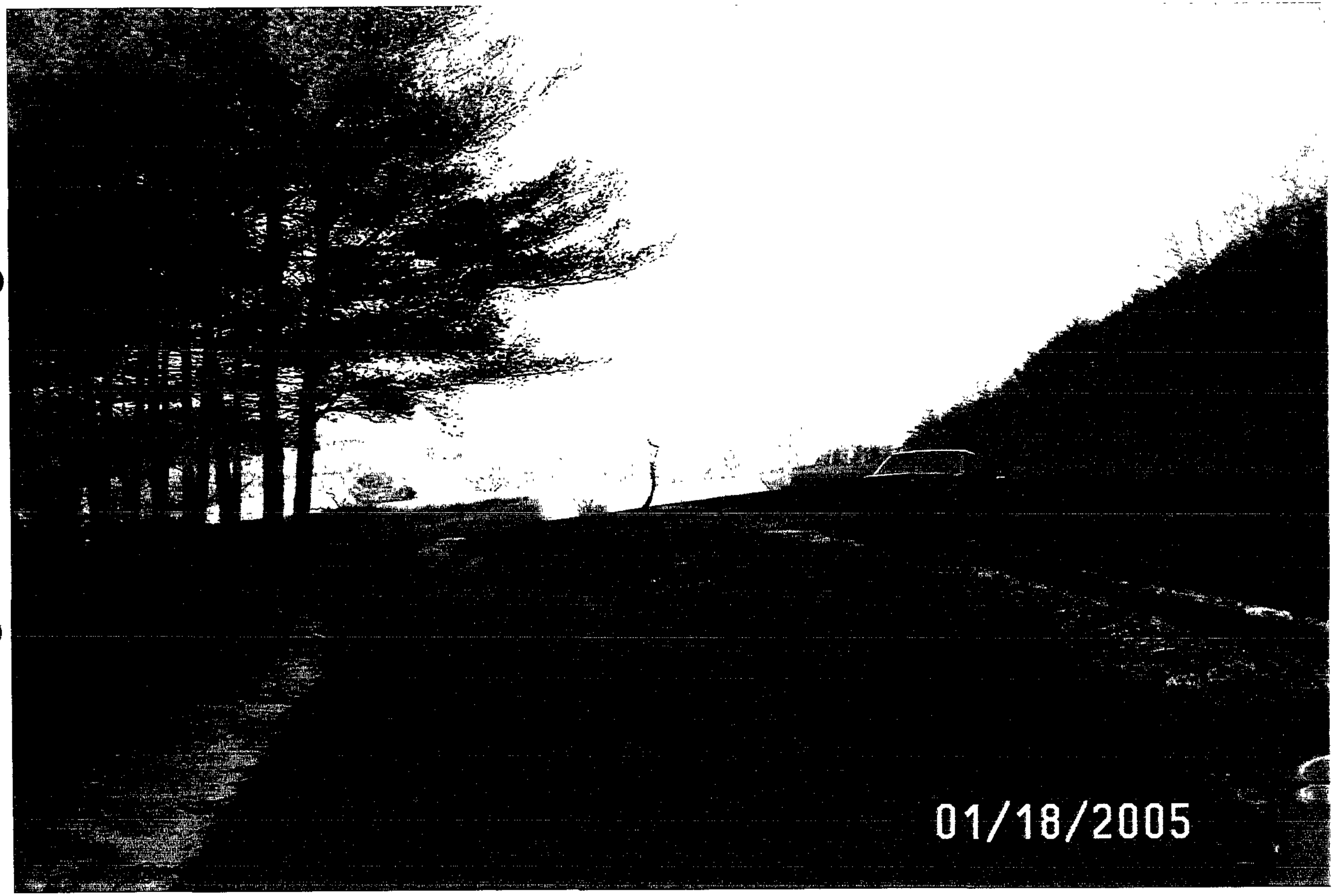
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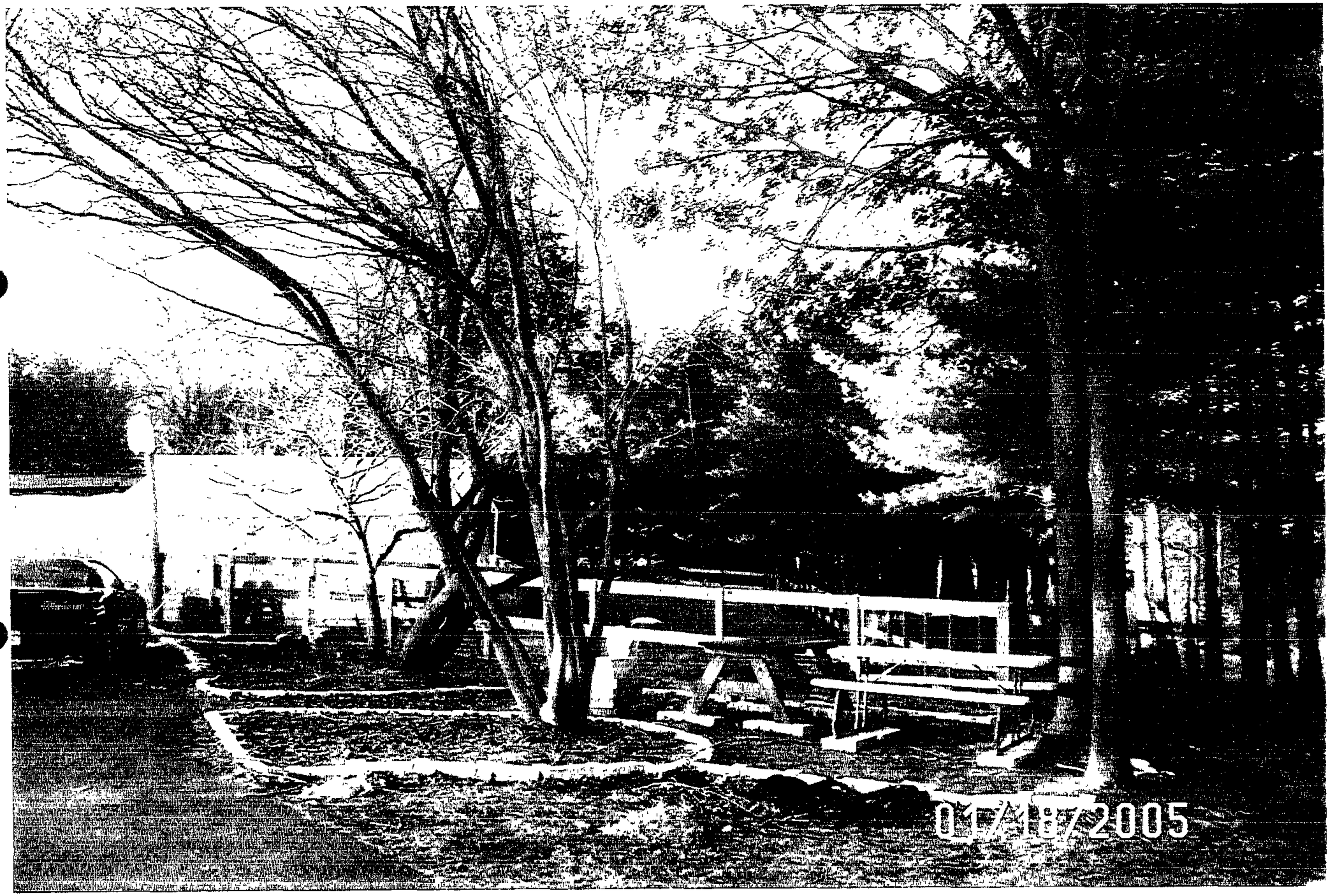
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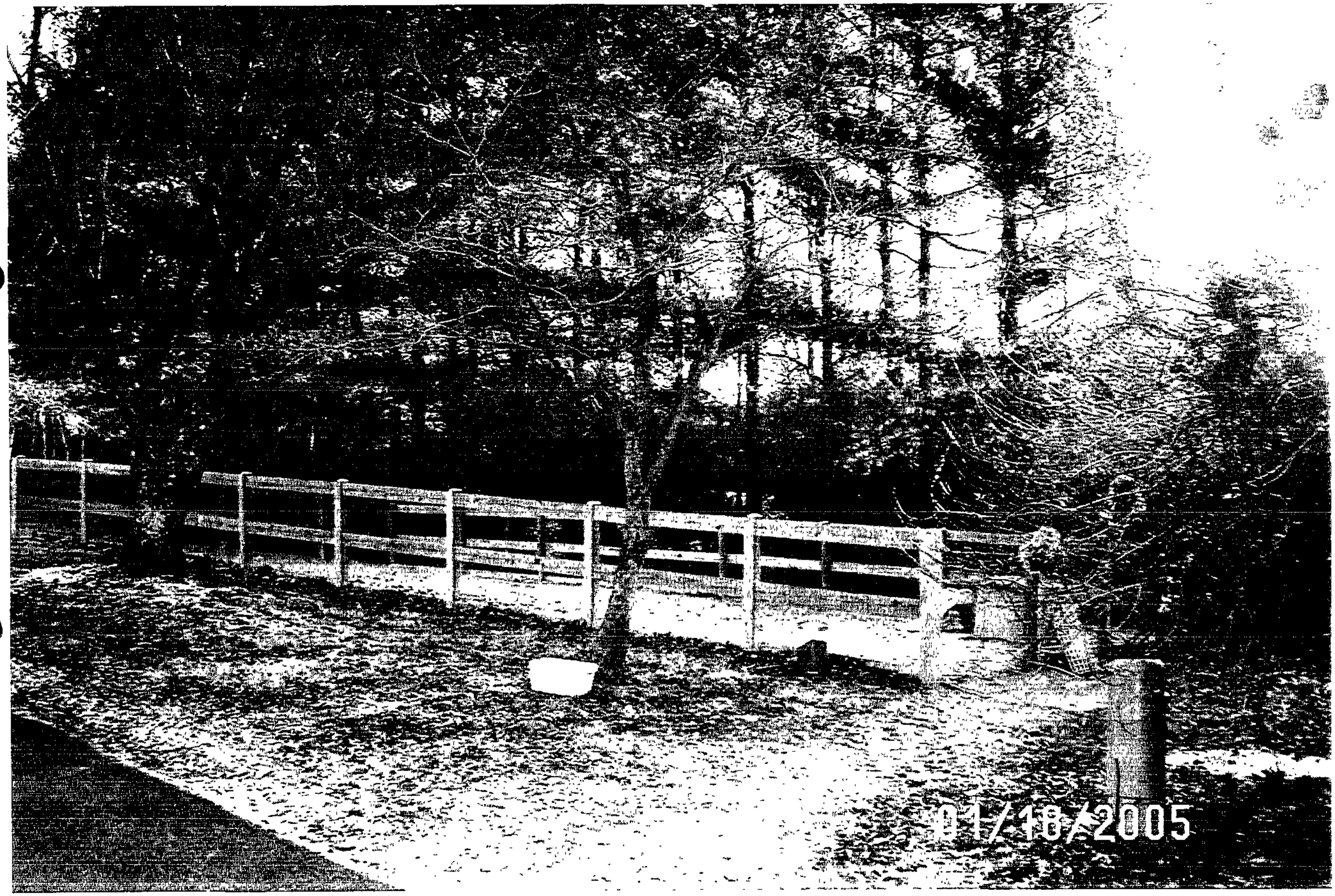

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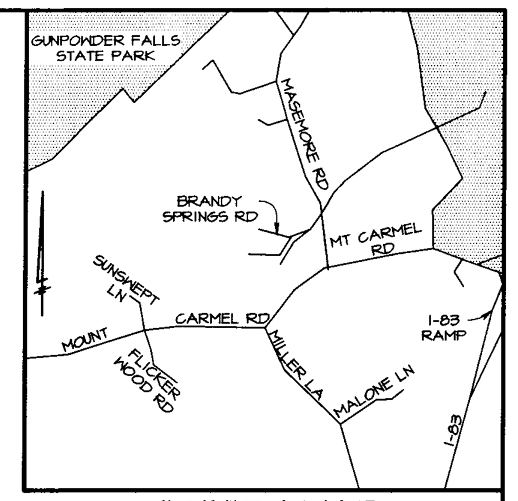
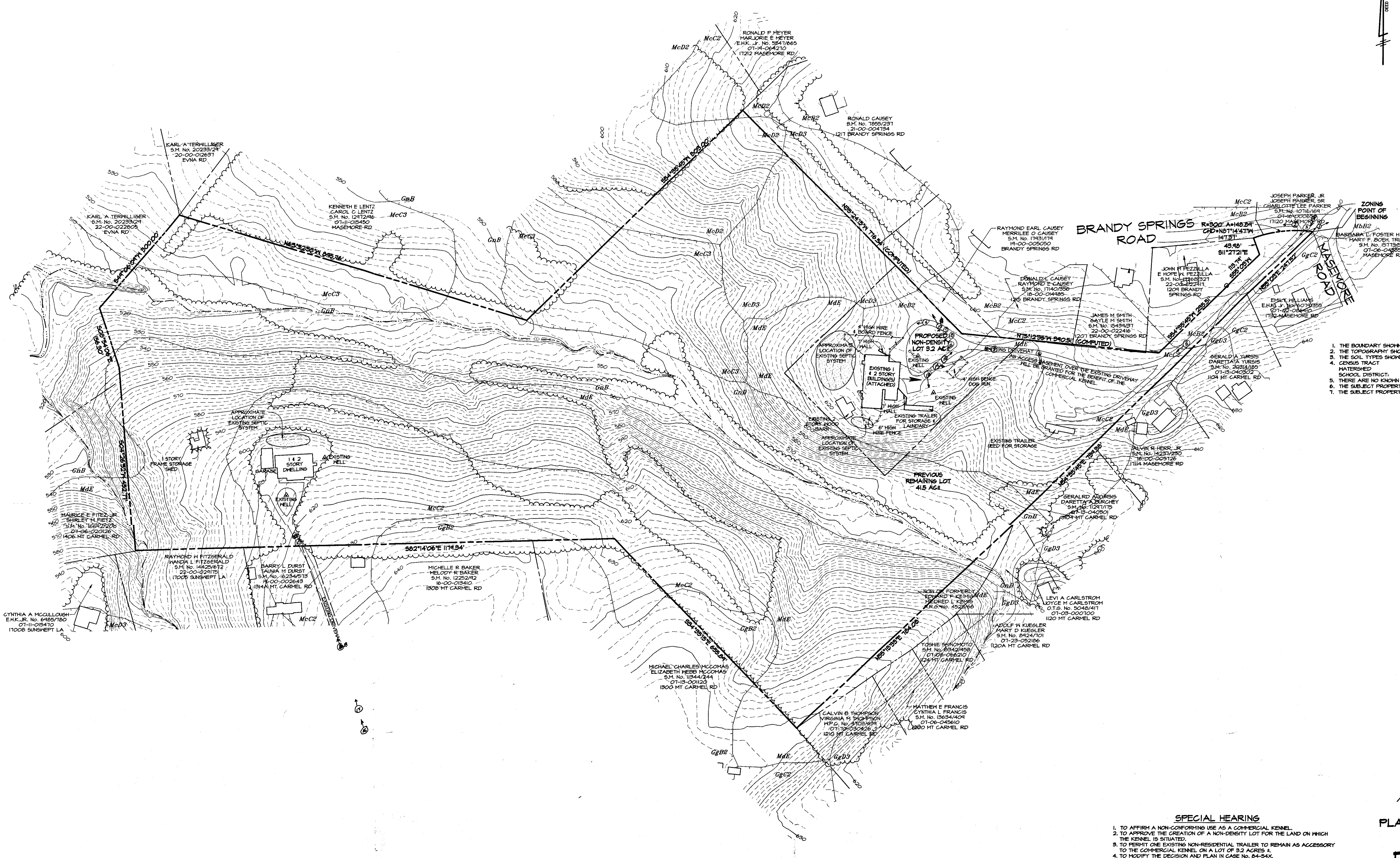


VICINITY MAP
1" = 2000'



GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM THE TITLE DEED.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 21C2.
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 9.
4. CENSUS TRACT 4070.00 — REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN — SUBSEWERSHED NONE
   SCHOOL DISTRICT: 52 — A.D.C. MAP & GRID 7 A11
5. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
7. THE SUBJECT PROPERTY DOES NOT LIE IN A HISTORIC ZONE.

OWNER

GLENN L DURST
BARBARA P DURST
1314B MT CARMEL ROAD
PARKTON, MARYLAND 21120
(410) 343-0616

Plan to Accompany Photographs

SPECIAL HEARING

1. TO AFFIRM A NON-CONFORMING USE AS A COMMERCIAL KENNEL.
2. TO APPROVE THE CREATION OF A NON-DENSITY LOT FOR THE LAND ON WHICH THE KENNEL IS SITUATED.
3. TO PERMIT ONE EXISTING NON-RESIDENTIAL TRAILER TO REMAIN AS ACCESSORY TO THE COMMERCIAL KENNEL ON A LOT OF 3.2 ACRES ±.
4. TO MODIFY THE DECISION AND PLAN IN CASE No. 84-54X.
5. TO PERMIT A COMMERCIAL KENNEL TO BE LOCATED 0' IN LIEU OF THE REQUIRED 200' FROM THE PROPERTY LINE.

ITEM # 273

PLAT TO ACCOMPANY A PETITION FOR A ZONING HEARING OF THE DURST PROPERTY

MT CARMEL ROAD
Deed Ref: E.H.K.Jr. No. 5281 folio 826
Also E.H.K. Jr. No. 6375 folio 171
Tax Account No.: 16-00-007240
Zoned R.C.- 2; Map NW 27D & NW 28D
Tax Map 21; Grid 17; Parcel 307
7th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND BRUCE EDWIN DOAK NO. 531 REGISTERED PROPERTY LINE SURVEYOR 11/24/04

Scale: 1"=100' Date: NOVEMBER 23, 2004

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

Pet #2

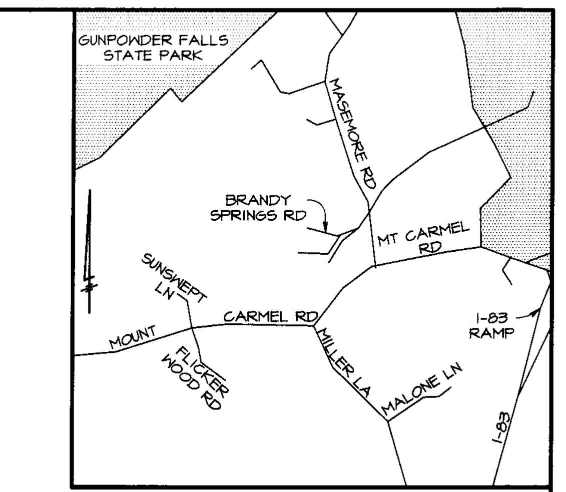
REVISION	DATE	COMPUTED:	DRAWN: C.J.S.	CHECKED:	FILE: X:\Durst\zoning.pro
REVISED PER COUNTY MEETING ON 11/24/04	11/24/04				

LEGEND

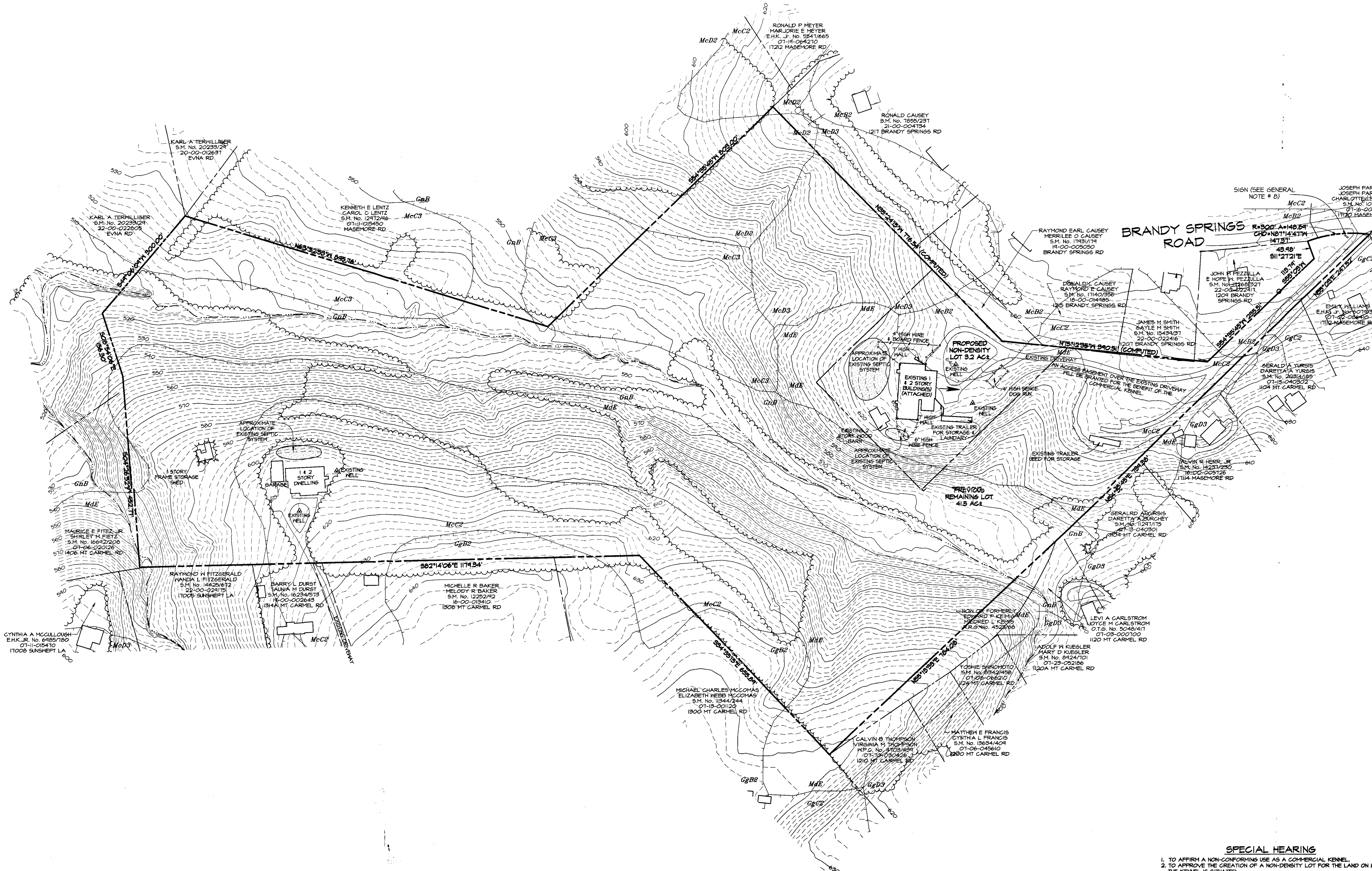
EXISTING WELL
EXISTING DWELLING
SOIL LINE
WOODS LINE
EXISTING PAVING
PROPERTY LINE
CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES W/BASEMENT	STREETS & PARKING
CcB2	Slight	Slight	Moderate: slope
CcC2, GgC2	Moderate: slope	Moderate: slope	Severe: slope
GgB2	Slight	Slight	Moderate: slope
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
GgD3	Severe: slope	Severe: slope	Severe: slope
McC2, McC3	Moderate: slope	Moderate: slope	Severe: slope
McD2, McD3 MdE	Severe: slope	Severe: slope	Severe: slope



VICINITY MAP
1" = 2000'



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4. CENSUS TRACT 4070.00 — REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN — SUBSEWERSHED NONE
   SCHOOL DISTRICT: 52 — A.D.C. MAP & GRID 7 A11
5. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
7. THE SUBJECT PROPERTY DOES NOT LIE IN A HISTORIC ZONE.
8. A ZONING VARIANCE TO PERMIT A SIGN OF 32 SQ. FT. WAS GRANTED PER CASE No. 77-163-A (ITEM 137)

OWNER

GLENN L DURST
BARBARA P DURST
1314B MT CARMEL ROAD
PARKTON, MARYLAND 21120
(410) 343-0616

SPECIAL HEARING

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ITEM # 273

PLAT TO ACCOMPANY A PETITION FOR A ZONING HEARING OF THE DURST PROPERTY

MT CARMEL ROAD
Deed Ref: E.H.K.Jr. No. 5281 folio 826
Also E.H.K. Jr. No. 6375 folio 171
Tax Account No.: 16-00-007240
Zoned R.C.- 2; Map NW 27D & NW 28D
Tax Map 21; Grid 17; Parcel 307
7th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=100' Date: NOVEMBER 23, 2004

LEGEND

- EXISTING WELL
- EXISTING DWELLING
- SOIL LINE
- WOODS LINE
- EXISTING PAVING
- PROPERTY LINE
- CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES w/BASEMENT	STREETS & PARKING
CcB2	Slight	Slight	Moderate: slope
CcC2, GgC2	Moderate: slope	Moderate: slope	Severe: slope
GgB2	Slight	Slight	Moderate: slope
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
GgD3	Severe: slope	Severe: slope	Severe: slope
McC2, McC3	Moderate: slope	Moderate: slope	Severe: slope
McD2, McD3 MdE	Severe: slope	Severe: slope	Severe: slope

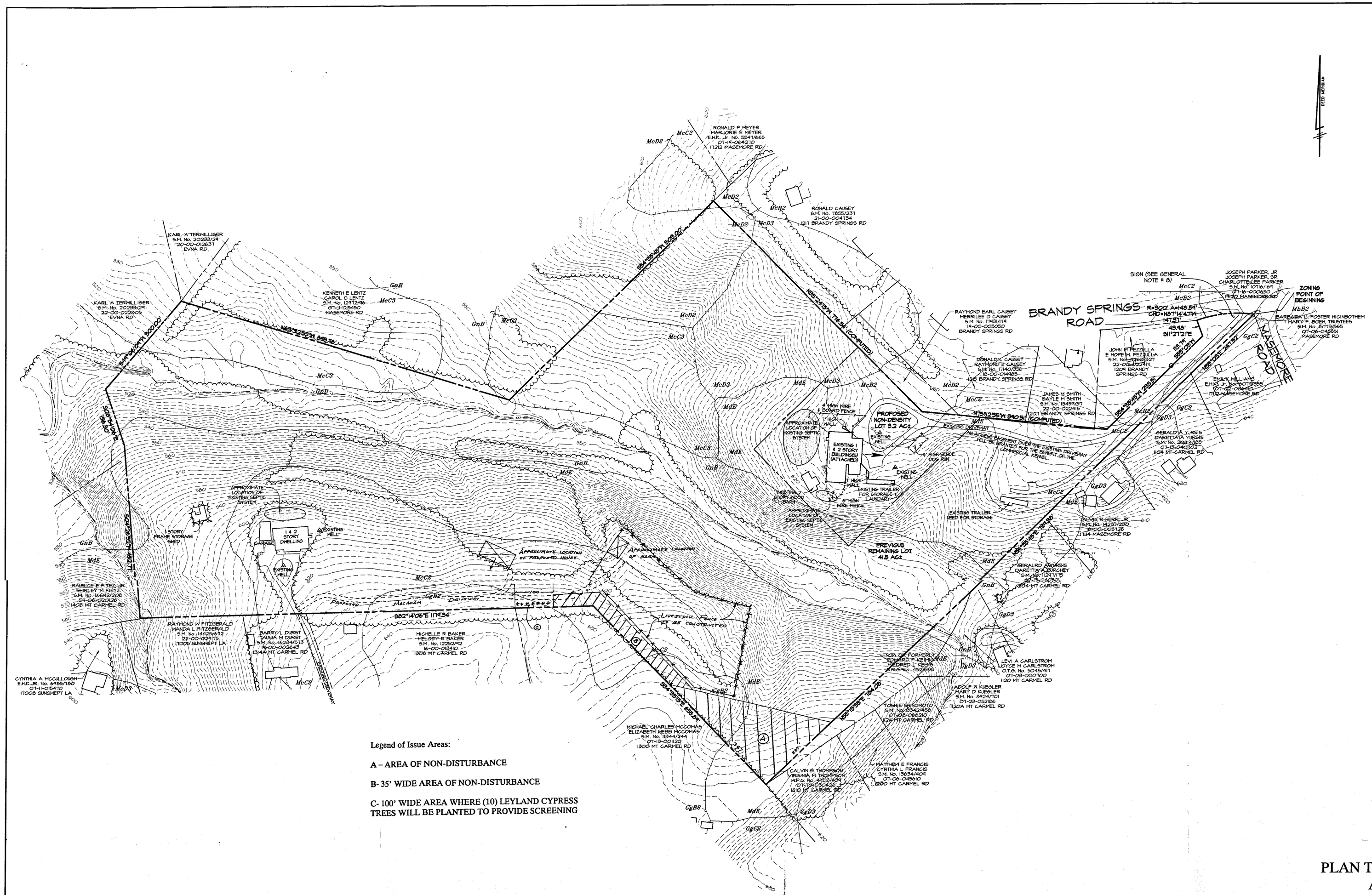
REVISION	DATE
ADDED SIGN & GENERAL NOTE 8.	1/20/05
REVISED PER COUNTY MEETING ON 11/24/04	11/24/04

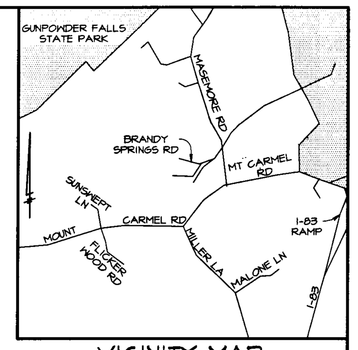
GERHOLD, CROSS & ETZEL, LTD.

REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

COMPUTED: | DRAWN: C.J.S. | CHECKED: | FILE: X:\Durst\zoning.pro

Pet # 7A10





VICINITY MAP
1" = 2000'

OWNER
GLENN L DURST
BARBARA P DURST
13148 MT CARMEL ROAD
PARKTON, MARYLAND 21120
(410) 343-0616

PLAN TO ACCOMPANY AN AGREEMENT

PERTAINING TO THE DURST PROPERTY

June 10, 2005 Scale 1"=100'

REVISED: SEPT. 19, 2005 B. DRAWN

Deed Ref: E.H.K.Jr. No. 5281 folio 826
Also E.H.K. Jr. No. 6375 folio 171
Tax Account No.: 16-00-007240
Zoned R.C.- 2; Map NW 27D & NW 28D
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Scale: 1"=100' Date: NOVEMBER 23, 2004

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(410) 823-4470

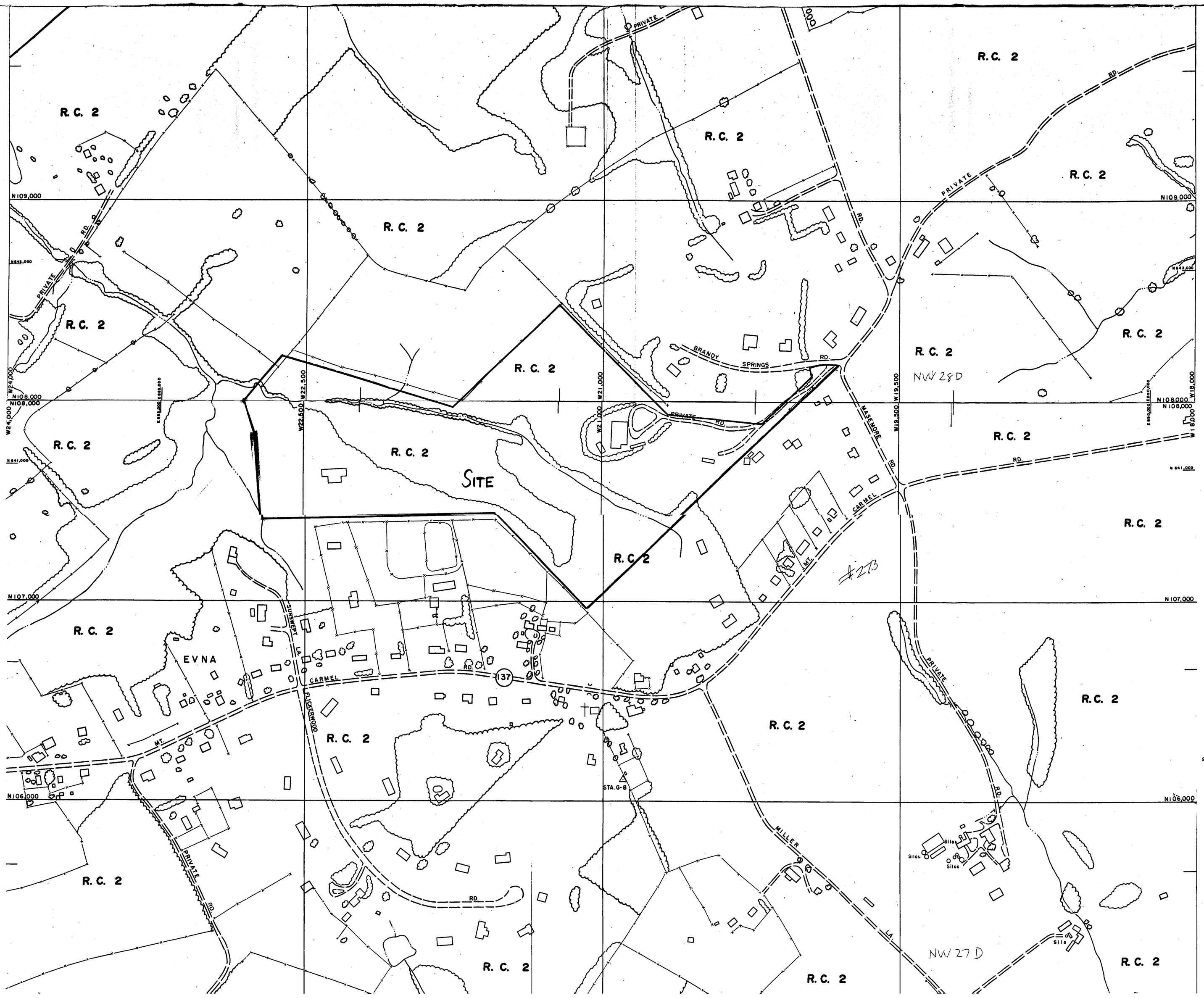
COMPUTED:	DRAWN: C.J.S.	CHECKED:	FILE:X:\Durst\zoning.pro

LEGEND

EXISTING WELL
EXISTING DWELLING
SOIL LINE
WOODS LINE
EXISTING PAVING
PROPERTY LINE
CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES w/BASEMENT	STREETS & PARKING
CcB2	Slight	Slight	Moderate: slope
CcC2, GgC2	Moderate: slope	Moderate: slope	Severe: slope
GgB2	Slight	Slight	Moderate: slope
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
GgD3	Severe: slope	Severe: slope	Severe: slope
McC2, McC3	Moderate: slope	Moderate: slope	Severe: slope
McD2, McD3 McE	Severe: slope	Severe: slope	Severe: slope


R.C. 2
PRIVATE RD.
BRANDY SPRINGS RD.
MASEMORE RD.
CARMEL RD.
MT.
SITE
EVNA
SUNSWEPT LA.
FLICKERWOOD
137
STA. G-8
MILLER LA.
Silos
Silo
N109,000
N108,000
N107,000
N106,000
W24,000
W22,500
W21,000
W19,500
W18,000
NW 28D
NW 27D
#273

non-density transfer of the commercial kennel and to subdivide it and approximately 2.9 acres of land on which it is located as a separate lot, together with site improvements, utilities, parking, trailer, shed and related accessory uses (the "Subdivision"), all as more particularly shown on Exhibit A, attached hereto and made a part hereof. The zoning petition and Subdivision were approved by the Deputy Zoning Commissioner of Baltimore County in Case No. 05-273 SPH.

C. Durst has heretofore applied to the appropriate officials of Baltimore County and has been issued a permit to construct a barn on the Durst Property in connection with the agricultural activities conducted thereon.

D. McComas is the owner of a parcel of land comprising 9.99± acres located on the North Side of Mount Carmel Road in the Seventh Election District of Baltimore County, Maryland, and more particularly described in a Deed recorded among the Land Records of Baltimore County, Maryland in Liber 11344, Folio 255 (the "McComas Property"). The McComas Property is improved by a dwelling and outbuildings, and agricultural activities are conducted on a portion of the McComas Property.

E. McComas has heretofore noted a timely appeal of the decision in Case No. 05-273 SPH.

be amended to the extent of necessary and required for approval of the Subdivision by governmental agencies having jurisdiction there over, as long as any such amendment is not inconsistent with the purpose and intent of this agreement and does not move the proposed residence any closer to the McComas' property or change or enlarge any of the uses permitted by this agreement or Exhibit A attached hereto.

4. Binding Effect; Duration. This Agreement shall be recorded by Durst, at Durst expense, among the Land Records of Baltimore County, within 10 days of the granting of the Board of Appeals' Order in case no. 05-273-SPH and, the same shall be binding upon the Durst Property and shall inure to the benefit of each of the parties respectively, for a term which shall commence upon the issuance of the order by the Board of Appeals in case no. 05-273-SPH and shall terminate and be of no force and effect upon the later to occur of:

(i) the death of the latter of Michael McComas or Elizabeth McComas, if occupying the McComas Property; or

(ii) the date upon which the latter of Michael McComas or Elizabeth McComas ceases to occupy the McComas Property; or

(iii) the expiration of thirty (30) years from the date hereof.

421.5 IN GRANTING ANY SPECIAL EXCEPTION UNDER THIS SECTION, THE ZONING COMMISSIONER MAY IMPOSE ADDITIONAL CONDITIONS OR RESTRICTIONS, SUCH AS INCREASING BUFFERS, REQUIRING ODOR, NOISE, OR ANIMAL WASTE DISPOSAL MITIGATION, AND SETTING LIMITS ON THE NUMBER AND BREEDS OF DOGS, TO ENSURE THAT THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR GENERAL WELFARE OF THE SURROUNDING AREA.

~~SECTION 4. AND BE IT FURTHER ENACTED, that the provisions of this Act do not apply to any animal boarding place or kennel in existence and operating with a valid permit on the effective date of this Act.~~

SECTION 4. AND BE IT FURTHER ENACTED, that the provisions of this Act do not apply to any animal boarding place or kennel in existence and operating with a final, valid permit or other final, non-appealable approval from Baltimore County on the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, that this Act, having been approved by the affirmative vote of at least five Councilmembers, shall take effect on October 22, 2001.

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