IN RE: DEVELOPMENT PLAN HEARING

PETITION FOR HONEYGO SPECIAL VARIANCE

W/S of Philadelphia Road,

N Thirteen Mile Lane

11th Election District

5th Councilmanic District

(Honeygo Springs)

HEARING OFFICER

BEFORE THE

OF BALTIMORE COUNTY

Case Nos. XI-960 & 05-431-SPHAHSA

Ron Schaftel Honeygo Springs, LLC Developer/Petitioner

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HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, as a requested approval of a Development Plan known as "Honeygo Springs", prepared by Morris & Ritchie Associates, Inc. The Developer is proposing the development of the subject property into 14 single-family dwellings. The subject property is located on the west side of Philadelphia Road, north of Thirteen Mile Lane in the Honeygo area of Baltimore County. The particulars of the manner in which the property is proposed to be developed are more specifically shown on Developer's Exhibit No. 1, the Development Plan entered into evidence at the hearing.

In addition, the Petitioner is also requesting Petition for Honeygo Special Variance, Petition for Special Hearing and Petition for Variance relief as follows:

Honeygo Special Variance:

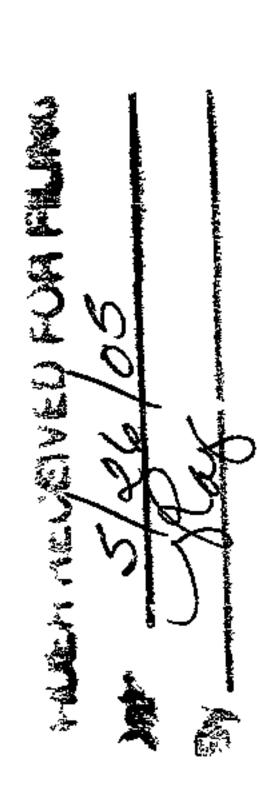
- 1. Special Variance from the Bean Run Subarea threshold limits to permit fourteen (14) building permit authorizations for Lot Nos. 1 through 14, pursuant to Sections 259.7.E.1, 259.7.S, 259.8 and 1A02.4.G of the Baltimore County Zoning Regulations (B.C.Z.R.); and
- 2. Special Variance to permit a sewer interceptor connection in an adjacent subarea for Lot No. 3 pursuant to Sections 259.7.S, 259.8 and 4A02.4.G of the B.C.Z.R.

Petition for Special Hearing:

1. Special hearing to confirm a density anomaly for Lot Nos. 1, 12, 13 and 14, bisected by a zone line.

Petition for Variance:

1. Variance to permit a building to arterial road right-of-way setback of 28 ft. in lieu of the required 40 ft., pursuant to Section 259.9.B.4.b of the B.C.Z.R.



The property was posted with Notice of the hearing for the Development Plan on March 12, 2005 for 20 working days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, the property was posted with Notice of the zoning hearing on March 12, 2005 and a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on March 29, 2005, to notify any interested persons of the scheduled hearing date

Appearing at the hearing on behalf of the Development Plan approval request was Ron Schaftel, Petitioner, David Altfield and Jim Herman. Mickey Cornelius appeared on behalf of The Traffic Group and Dean Hoover & Tim Madden, appeared on behalf of Morris & Ritchie Associates, Inc., the engineering firm that prepared the Development Plan. Arnold Jablon, Esquire and David H. Karceski., Esquire, represented the Petitioners.

Also in attendance were representatives of the various Baltimore County reviewing agencies; namely, Jeff Perlow (Zoning Review), Dennis Kennedy (Development Plans Review), Colleen Kelly (Development Management) and Eric Rockel (Bureau of Land Acquisition), all from the Office of Permits & Development Management ("PDM"); John Oltman from the Department of Environmental Protection and Resource Management ("DEPRM"); Mark Cunningham from the Office of Planning; Jan Cook from the Department of Recreation & Parks; and Avery Harden, Landscape Architect for Baltimore County.

Appearing in opposition to the Development Plan and Variance requests were D. Beaty, Charles L. Marks, Phyllis Sonderman, Maria Kowalevicz, Mary Lou Wloczewski, Beth Ann Kearney, William Libercci, Ed Creed, Dave DeGregorio and Uri Ben-Or.

As to the history of the project, the Concept Plan Conference was held on March 29, 2004 and a Community Input Meeting followed on April 28, 2004 at Perry Hall Community Hall. A Development Plan Conference was held on March 23, 2005 and a Hearing Officer's Hearing was held on April 14, 2005 in Room 106 of the County Office Building.

Developer Issues

The Developer raised no issues itself but acknowledged there were several issues with the Office Planning.

COUNTY ISSUES

Planning Office

The Office of Planning requested that the Development Plan and zoning relief be denied. The Representative of that office indicated that the Development Plan does not meet the applicable regulations in that the plan does not provide for a through road to properties to the south, does not have homes facing the public street, has garages on the street side of homes which become the dominate feature of the home and cul-de-sac are not properly designed. See the testimony and evidence of Mark Cunningham, representative of the Planning Office below.

The remaining County agencies reviewing the Redline Development Plan indicated that the plan meets the County regulations for which their Departments had responsibility with the following highlights:

Recreation and Parks

The representative of the Department indicated that the Developer's request to pay a fee in lieu of local open space had been approved by the Department as indicated in the Department's April 13, 2005 letter, which was placed in the file of this case.

Public Works

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The representative of the Department indicated that the retaining wall needs to be removed from the Development Plan to which the Developer agreed and changed the plan. With regard to the Developer's request to allow a sewer interceptor connection in an adjacent sewer subarea, the representative indicated that the receiving subarea had sufficient capacity to handle the sewerage generated by the proposed houses. However, he indicated that gravity sewer lines were not available at this site and all homes would have to be equipped with grinder pumps to pump sewerage to the receptor subarea.

Department of Environmental Protection and Resource Management (DEPRM)

The representative of the Department indicated that the stormwater management plan had not been reviewed as of the date of the first hearing and asked that the hearing be continued to allow time to complete the review.

On the second day of hearing, the representative indicated that the revised Redline Development

Plan met all regulations for which the Department had cognizance.

Zoning Office

The representative of that office questioned how non-buildable portions of the proposed lots would be enforced on the new homeowners. The Developer indicated that non-buildable portions of lots will be enforced by covenants and deed restrictions recorded in the land records and added redline changes to the Development Plan to reflect these areas. In addition, the Developer agreed to clarify the dimensions of lot widths along the internal street.

Land Acquisition

The representative of the Department presented questions to the Developer regarding the retaining wall near Philadelphia Road and the proposed highway widening of Philadelphia Road which the Developer answered to the Department's satisfaction. However, the representative required clarification of the redline plan regarding access to the stormwater management facilities and forest buffers. The Developer agreed and clarified the plan.

Community Issues

Mr. Libercci, representing the Perry Hall Improvement Association, indicated that the Development Plan did not meet the intent of the Honeygo regulations because: all homes do not face the street; the size of the buildings are excessive in proportion to the size of the lots; the Honeygo requirement that the front of lots be 85 feet wide are not met; garages dominate the street; the tract proposes twice the number of homes that should be allowed; grinder pumps should not be allowed; and the variance requests should be denied. Ms. Beaty, representing the Equestrian Acres Homeowners Association, indicated her opposition to the plan, which she contends does not meet Honeygo regulations and raised the issue of traffic on Holter Road.

Amended Petition

At the outset of the hearing, the Developer withdrew the Petition for Variance for the setback requested for the home on Lot 3 from Philadelphia Road. The required setback is 40 feet, which the Developer indicated it could meet by revising the location of the home and minor lot line adjustments. Those changes were made to the Redline Development Plan.

Applicable Law

- § 32-4-228. SAME CONDUCT OF THE HEARING.
- (a) Hearing conducted on unresolved comment or condition.
 - (1) The Hearing Officer shall take testimony and receive evidence regarding any unresolved comment or condition that is relevant to the proposed Development Plan, including testimony or evidence regarding any potential impact of any approved development upon the proposed plan.
 - (2) The Hearing Officer shall make findings for the record and shall render a decision in accordance with the requirements of this part.
- (b) Hearing conduct and operation. The Hearing Officer:
 - (i) Shall conduct the hearing in conformance with Rule IV of the Zoning Commissioner's rules;
 - (ii) Shall regulate the course of the hearing as the Hearing Officer considers proper, including the scope and nature of the testimony and evidence presented; and
 - (iii) May conduct the hearing in an informal manner.

§ 32-4-229. SAME – DECISION OF THE HEARING OFFICER.

- (a) Final decision.
 - (1) (i) The Hearing Officer shall issue the final decision within 15 days after the conclusion of the final hearing held on the Development Plan.
 - (iii) The Hearing Officer shall file an opinion which includes the basis of the Hearing Officer's decision.
 - (2) If a final decision is not rendered within 15 days:
 - (i) The Development Plan shall be deemed approved as submitted by the applicant; and
 - (ii) The Hearing Officer shall immediately notify the participants that:
 - 1. The Development Plan is deemed approved; and
 - 2. The appeal period began on the fifteenth day after the conclusion of the final hearing.
- (b) Appeals. A final decision of the Hearing Officer on a Development Plan may be appealed to the Board of Appeals in accordance with Part VIII of this subtitle.
- (c) Conditions imposed by Hearing Officer.

- (1) This subsection does not apply to a Development Plan for a Planned Unit Development.
- (2) In approving a Development Plan, the Hearing Officer may impose any conditions if a condition:
 - (i) Protects the surrounding and neighboring properties;
 - (ii) Is based upon a comment that was raised or a condition that was proposed or requested by a participant;
 - (iii) Is necessary to alleviate an adverse impact on the health, safety, or welfare of the community that would be present without the condition; and
 - (iv) Does not reduce by more than 20 %:
 - 1. The number of dwelling units proposed by a residential Development Plan in a DR 5.5., DR 10.5, or DR 16 zone; or
 - 2. The square footage proposed by a non-residential Development Plan.
- (3) The Hearing Officer shall base the decision to impose a condition on factual findings that are supported by evidence.

Prior Law Still Applicable Section 26-206 of the B.C.Z.R. Development Plan Approval.

(b) The hearing officer shall grant approval of a Development Plan that complies with these development regulations and applicable policies, rules and regulations promulgated pursuant to section 2-416 et seq. of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein.

Special Honeygo Variances

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Section 4A02.G Special Variances

Petitions for special variance from provisions of this subsection.

- 1. The Zoning Commissioner may, after a public hearing, grant a petition for a special variance from a provision of this subsection, only to an extent that will not violate that provision's purpose, pursuant to a finding:
- a. That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, or that the standard is not relevant to the development proposal; and
- b. That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b.

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.

Testimony and Evidence

Extensive testimony and evidence was presented on this contested case with the following highlights:

Deviation from Standards Issue

The Developer called Dean Hoover, Professional Land Planner, who was accepted as an expert witness. Mr. Hoover indicated that the property is vacant, is approximately 7.5 acres in size and split zoned DR2-H and DR 3.5-H. There are 5.95 acres zoned DR2-H, which allows 11 dwelling units, and 1.51 acres zoned DR 3.5 H, which allows 5 dwelling units for a total of 16 dwelling units on the property. The Developer is proposing 14 dwelling units. He noted that approximately 25% to 30% of the site is constrained by wetlands, forest buffers and stormwater management facilities. In addition, the property lies between I-95 to the west and Philadelphia Road to the east. He presented a history of the subdivision of the original 60-acre property from 1872 to the present time. See Developer's Exhibit 2. The subject tract has been held in the present configuration since 1957. Approximately two acres of the western end of this long tract was taken by the State Highway Administration in the 1960's for I- 95. Mr. Karceski indicated that one dimension of the property as shown on Developer's Exhibit 2 is erroneously shown as 204 feet. The actual dimension is approximately 257 feet wide as shown on the Development Plan, which is the limiting feature of the tract.

Mr. Hoover noted that access to the proposed development would be via an extension of Holter Road and will be constructed as part of the Overlook at Perry Hall subdivision to the north, which has been approved and is in construction phase. The Developer proposes to provide access to each home by a double cul-de-sac as shown on the Redline Development Plan. He indicated that this arrangement was needed because of the long and narrow configuration of the property, which is only 220 feet wide

north to south. However, there would be no road connection to the properties to the south similar to Holter Road nor directly to Philadelphia Road.

He also indicated that six of the homes located on public Road A would not face the public road but rather would face front-to-front. These homes are located on Lots 4 and 5, lots 6 and 7 and Lots 12 and 13. The side yards on these lots wound face the public road, Road A. On the other hand, the two homes on Lots 1 and 14 face extended Holter Road (not Road A) in order to give the new community a proper entrance. Also, the homes on Lots 2, 9, 10 and 11 face the proposed cul-de-sacs, which terminate Road A. Finally, the home on Lot 3 faces Philadelphia Road but has no direct access to it.

He admitted that this design does not conform to the Residential Performance Standards of Section 260.1 of the B.C.Z.R. However, he indicated that Section 260.1.B.4 allows deviations from standards to "Achieve the best possible development design, considering other goals in the Comprehensive Manual of Development Policies" (CMDP). He opined that this arrangement of homes and lots was the best possible design, given the circumstances of the existing lot and development to the north and south and the goals of the CMDP. See Developer's Exhibit 3 for the aerial view of the subject site in relation to the properties to the north and south.

One of the goals of the CMDP was that there would be no front yards of homes facing the rear yards of adjacent homes. He noted that, if the homes located on the north side of Road A were to face Road A as proposed by the Office of Planning, (see County Exhibit 1) those fronts would then face the rear yards of the properties to the south in violation of the CMDP provisions. On the other hand, Mr. Hoover, explained that his design would have side yards facing rear yards of homes in the adjacent Overlook subdivision to the north along Overlook Circle (again see Developer's Exhibit 3) and side yards facing the rear yards of properties to the south. He opined that the Developer's design fit better into the neighborhood and had no front yard to back yard situations. In support of this contention, Mr. Hoover presented photographs of homes in the area with side yards facing side yards. See Developer's Exhibit 5. He opined that simply having windows on the sides of homes, while allowing light and air,

do not give any special view out those windows because all that can be seen generally is the side of the next home a short distance away. These are not very usable in Honeygo subdivisions. However, the Developer's Plan has side yards facing the front street and rear yards of the homes on the Overlook subdivision. This provides much greater distances between side yard windows for a better view. In addition, there would also be a side entrance associated with the garage. Finally, he noted that having front facing yards provides opportunities to separate the homes without a road intervening, which he contends was a superior design. Overall, he opined that the plan presented was the best design for the narrow property and that even if the number of lots were reduced he would keep the same front to front design. See Developer's Exhibit 6, the rendering of the elevations of the proposed homes.

Mr. Hoover testified that the six homes with sides facing the street, meet the Honeygo lot width requirements of 85 feet and that by architecturally treating the side of these homes as if they were front, the Developer achieves spirit and intent of the Honeygo regulations. He noted that this plan opens up the side yards of homes in a way not normally found in Honeygo. The rear yards of homes, which face rear yards of other homes, are greater than what is ordinarily found.

When questioned by the protestants, Mr. Hoover indicated that if he rotated the homes on the six front to front lots this would leave a very small house on these lots. A practical home would require a rear yard variance, which the Developer did not want to request. He admitted that he knew of a minor subdivision on the properties to the south.

Mr. Madden, a certified Landscape Architect, testified for the Developer in regard to the request for deviation from standards. He indicated that the request should be granted on the basis of the "best possible design" criteria. He acknowledged that the regulations specify that Section 260.6 A 2 requires buildings to face the street, Section 260.6 B requires that a garage not be the dominant street feature, and Section 260.4 B prohibits use of cul-de-sacs, unless the Developer can demonstrate it meets several criteria. In regard to Lot 3, he acknowledged that reverse front lots are allowed under Section 260.2.B again for limited reasons. Having acknowledged these issues, he maintained that Section

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260.1.B 4 allows deviation from such standards to achieve the "best possible design" which he opined was exactly what the Developer proposed in this case. He argued that the subdivisions to the north but not the properties to the south defined the subject neighborhood where several individual homes are located on very large lots. In addition, he indicated that the CMDP does not favor any design but rather allows the features of the site to be taken into account as well as economic suitability. The CMDP allows variations from standards to achieve a better product. He noted that this property is in an area that the County has designated to be a growth area with dense development and that achieving acceptable density is part of the plan.

Mr. Madden indicated that this site presents a difficult challenge to a land planner because of its narrow shape and requires creative solutions to make the property useful. He pointed out that by rotating the front of the six homes to face the front of another home, the space between homes becomes more useable than ordinarily would be achieved by conventional design. In addition, the plan meets all environmental requirements, bulk requirements and setbacks specified in the regulations, as well as integrates local features into the plan. As a result, the plan creates a cohesive neighborhood, which the Planning design would lose with its single loaded street. He opined that the revised Redline Development Plan is the "best possible design" and is fully compatible with the new subdivisions to the north.

He disagreed with the Planing Office design (County Exhibit 1) as it would not be an efficient use of the property, and would result in the front of homes on the single loaded street facing the rear yards of the properties to the south along Thirteen Mile Lane. Upon questioning, he admitted that grills, garden swings and the like would be seen by drivers entering the subject property under the Developer's Plan and that rear fences of one home could be in the front yard of an adjacent home. However, he indicated that the Developer could restrict fences to minimize this problem.

Mr. Cunningham from the Office of Planning presented the office's opposition to the proposed Development Plan. He noted that deviations from standards can only be considered under Section

206.1.B.4 if the deviations are "clearly necessary". He maintained that deviations were not necessary at all much less clearly necessary. He opined that deviations from standards should be granted only if it were impossible to develop the property. He presented County Exhibit 1, an overlay sketch which indicated that ten lots could be arranged on the property along the north boundary of the property such that each could be served by a cul-de-sac terminated public road. In this plan, each home would face the new public road and all garages would be side loaded. The public road would have a spur to connect extended Holter Road to properties to the south. Mr. Cunningham opined that by reducing the number of lots as he proposes, no deviations from standards are necessary because all homes face the street, the garages are side loaded, and the rear yards of the new subdivision would then face the rear yards of the Overlook subdivision.

In addition, he opined that the Developer's Plan would result in the rear yards and fences of the front to front homes being fully visible from the public street. He objected to the Developer's Plan having the sides of the new homes face the public street, since this would not produce a smooth transition from the subdivisions to the north and not be compatible with the surrounding communities. Finally, he noted that the final elevation for the new homes presented by the Developer in Exhibit 6 was not submitted to the Planning Office as required and was not in the Pattern Book. For a summary of the Planning Office positions, see County Exhibit 2, letter to the Developer from the Director of Planning dated November 23, 2004 listing the Planning Office objections to the Developer's Plan in response to Developer's Exhibit 13.

Mr. Cunningham pointed out that the plan proposed by the Planning Office would not result in having the front yards of the new homes in this subdivision see the rear yards of the properties to the south as claimed by the Developer's witnesses. Rather, there would be 220 feet of woods between the new homes and the existing homes to the south plus 60 feet of buffer area in the subject subdivision as shown on County Exhibit 1. Even if properties to the south would be developed, the 60-foot buffer would always remain to separate them.

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When asked how it happened that neither the Zoning Office nor the Department of Public Works objected to the Developer's Plan, Mr. Cunningham acknowledged that there could be conflicts among the agency positions.

The Developer recalled Mr. Hoover, who presented the revised Redline Development Plan as Developer's Exhibits 8A, 8B and 8C. He indicated that the revised plan contained the changes requested by the various County agencies and also a refined fencing component.

Mr. Hoover noted that he was a member of the County Design Review Panel, discussed the functions and responsibilities of the Panel, and reiterated that deviations from standards can be granted if the result is the "best possible design".

He objected to the Planning Office Plan (County Exhibit 1) by questioning access to Lot 10, the home on the lot facing Philadelphia Road, and whether Lot 9 meets County standards. He opined that the buffer area indicated on the County plan would likely become "no man's land" of poorly maintained property for which neither the HOA or the new homeowners would have a sense of ownership. He asserted that the Developer's Plan provides a much superior smooth transition between subdivisions by having the homes on Lots 1 and 14 face extended Holter Road, and that the land to the north was higher than the subject property.

In regard to the properties to the south, he presented two scenarios for development neither of which he found compatible with County Exhibit 1. See Developer's Exhibit Nos. 9 and 10. In addition, in response to criticism of the Developer's Plan by the Planning Office and the Protestants regarding fencing, he presented a landscape/fencing plan, which he indicated was acceptable to the County Landscape Architect.

Mr. Hoover admitted upon questioning the he could not recall any plan similar to the Developer's proposal being approved in the Honeygo area. However, he maintained that the unique long narrow shape of the property drives this design. He conceded that if he had more land or a better configuration to deal with, he would not recommend this design.

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Through Road/Traffic Issues

Testimony offered by Mr. Cornelius, a professional traffic engineer, indicated that the property would have access to Philadelphia Road via Holter Road to be constructed as part of the new subdivision to the north, and that there are no failing intersections in the area. He further opined that there would be no measurable impact on traffic because of the construction of 14 new homes (14 peak hour trips).

In regard to the Office of Planning comment that a through connection should be provided to properties to the south, he indicated that if properties to the south develop, they can have access to Philadelphia Road via Thirteen Mile Lane which forms the southern border to these properties. Consequently, he opined that there was no reason to provide a through road to these properties. More importantly, he noted that if the through road is provided and the properties to the south are developed, those properties would connect to Thirteen Mile Lane and this subdivision. The result would be the creation of a bypass road (Holter Road extended) parallel to Philadelphia Road which would encourage cut through traffic by drivers seeking to bypass traffic signals and congestion on Philadelphia Road. This would subject this community and those above it to increased traffic and turn Holter Road extended into a collector road. He noted that the 2010 Master Plan does not indicate Holter Road as a collector road. He admitted, however, that while an extension of Holter Road to the south from this subdivision would not violate the regulations, not having such an extension would meet the regulations.

Ms. Beaty, one of the Protestants, who lives in the newly built "Saddlebrook" subdivision which is the next subdivision north of the Overlook at Perry Hall, testified that she fully supported the Developer's request not to connect Holter Road to properties to the south. She presented Protestant's Exhibit 1, a not to scale diagram of the connecting streets to the north. She described hazardous turns north on Philadelphia Road from the Saddlebrook subdivision, which she indicated would only become worse if the through road eventually connected to Thirteen Mile Lane.

Mr. Madden, the Developer's Landscape Architect, opined that the Master Plan 2010, does not show this property penetrated by a major road such as extended Holter Road which would connect subdivisions to the north and properties to the south. He indicated that the double loaded street proposed in this plan was very compatible with the double loaded streets in the adjacent subdivisions.

Mr. Cunningham, from the County's Planning Office, disagreed with the Protestants and Developer in regard to the through road. First he noted that the 2010 Master Plan requires interconnecting streets between subdivisions and that extended Holter Road is not shown because it is not intended to be a major street. See Master Plan page 84, item no. 5. He also indicated that the Overlook subdivision to the north was required to provide an interconnecting spur, which is in fact the only access road in the Developer's Plan.

Mr. Hoover, the Developer's Land Planner, indicated in rebuttal testimony that he opposes any cut through road for the subdivision but that the western cul-de-sac could be extended south if required. This would have the effect of connecting this and new subdivisions from the south in a disjointed fashion.

Front Loaded Garage Issue

Mr. Hoover indicated that there were many front loaded garages allowed in Honeygo. Mr. Madden opined that the use of distinctive roof lines in the design of the homes result in the garages not becoming the dominant street feature. See Developer's Exhibit 6. He noted that six homes in the Saddlebrook subdivision to the north have front facing garages and did not need deviation of standards as the Planning Office is claiming here.

Island in Cul-de-sac Issue

In addition, Mr. Hoover noted that the Office of Planning was requesting landscaped islands in the center of the cul-de-sac terminations of Road A. He, however, indicated that the islands would be too small to landscape, that the County Landscape Architect does not require these islands, that the Department of Public Works has cognizance of these islands and has approved the road system, and

that having an island in the cul-de-sac would make it difficult for large vehicles to turn around without backing up. He opined that these islands would be poorly maintained by the homeowner's association and would add little to the community.

Mr. Cunningham from the Planning Office disagreed and pointed to Section 260.4.B which specifies that if cul-de-sacs are used, landscaped islands "shall be " used.

Zoning Anomaly Issue

Mr. Hoover explained that the property is bisected by the zoning line and divides the DR 3.5H area to the north and the DR 2 H area to the south. This means that the building envelopes on Lots 14, 13, 12 and 1 are crossed by this boundary because the zoning dividing line did not follow property lines but rather crossed the property at an angle. He opined that granting the requested relief complied with the Zoning Commissioner's Policy Manual, would not adversely impact the community, and that the request met every criteria of Section 502.1 of the B.C.Z.R. which is the traditional standard for such requests.

This issue was not contested by either the Protestants or Planning Office.

Special Variance Issue

Mr. Hoover testified that the subject property is bifurcated by the line dividing the Bird River and Bean Run subareas. Essentially, Lot 3 is in the Bird Run subarea while the remaining portion of the property is in the Bean Run subarea. The Developer proposes to connect the 14 homes to the Bean Run subarea sewer system by means of grinder pumps installed for each new home. Mr. Hoover testified that Section 259.8 of the B.C.Z.R. specifies such properties qualify for an exception to the general rule forbidding special variances in Honeygo. He opined that Section 4A02.G.1, which allows special variances under certain circumstances, is fully met since the additional sewerage can be easily accommodated by the receptor subarea sewer system therefore passing the impact test. In addition, his research showed that no one had previously filed for such connection and so the request would pass

the second test of no adverse effects. Also, see the Revised Redline Development Plan, Developer's Exhibit 8B (marked in blue) for non-buildable areas created because of this anomaly.

In a second part to this request, he noted that the Developer's Special Variance requests to permit a sewer interceptor connection in the Bean Run subarea for Lot No. 3 which lies in the Bird Run subarea.

The Protestants contested these requests to the extent of the use of grinder pumps for this subdivision. Mr. Libercci described such use as outrageous as it violated the intent to have all properties in Honeygo served by gravity sewers when the sewers were ready to handle the connections. Mr. Libercci also wanted to clarify that the no building permit authorizations could be granted by the Developer's request.

Findings of Fact and Conclusions of Law

Deviation from Standards Issue

There is no dispute that the Development plan does not conform to the Residential Performance Standards of Section 260. Homes faces homes and not streets, there is no inter-subdivision road connection to the south, cul-de-sacs have no landscaped islands, etc. The Developer contends that deviations can be and should be granted to achieve "best possible design". The County contends that the property can be developed without deviations and therefore deviations should not be granted. I agree with the County that the evidence is overwhelming that the property can be developed without deviations. The question then is what is the intent of the Residential Performance Standards provision that allows deviations pursuant to Section 260.1.B.4 which sets the parameters for deviations from standards. The relevant parts of the regulation provides:

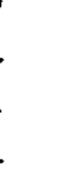
Intent; evaluation of compliance.

These performance design standards are intended to ensure that residential development in Baltimore County conforms with a higher quality of design.

Deviation from the standards may be allowed only if clearly necessary to:

Comply with another standard;

Comply with environmental regulations or otherwise protect resources; or



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- c. Achieve the best possible development design, considering other goals in the Comprehensive Manual of Development Policies
- C. Consideration of findings; deviation from standards.
- 1. The Office of Planning's findings shall be made by the Director of Planning and submitted to the hearing officer or to the Director of Permits and Development Management, as applicable.
- 2. The hearing officer or the Director of Permits and Development Management, as applicable, shall consider the findings presented by the Director of Planning or the Director's designee before a development plan is approved.
- 3. After considering the findings, the hearing officer or the Director of Permits and Development Management may deviate from the standards only in accordance with the requirements in Paragraph B.4 of this subsection".

It is clear that the Office of Planning's findings on this Development Plan are that the plan does not meet the regulations and should be denied. It is equally clear from the statute that the findings of the Planning Office are not binding on the Hearing Officer but that after consideration of the findings the Hearing Officer may grant deviations.

The Planning Office points to the words "clearly necessary" as dispositive of the matter and contends that the deviations are clearly unnecessary since the property can be developed without deviations. See County Exhibit 1. Consequently, in the Office's opinion there is no need to look further in the statute.

I would agree with the Office of Planning interpretation of the statute if the words were, "Deviation from the standards may be allowed only if clearly necessary **and**". This would mean there was a variance-like threshold that has to be overcome in order to grant any deviation. That threshold was to show, as Mr. Cunningham indicated in his testimony, that it was impossible to develop the property unless deviations were granted.

However the statute does not say "and" but rather says "to". The statute says

4 "Deviation from the standards may be allowed only if clearly necessary to....achieve the best possible development design, considering other goals in the Comprehensive Manual of Development Policies."

I find the clear meaning of the statute is not to establish a variance like threshold but rather the statute is looking to encourage creativity and excellence in design. This is completely consistent with

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the provision in the legislation, which specifically states, "These performance design standards are intended to ensure that residential development in Baltimore County conforms with a higher quality of design."

Having said that, my next problem is to determine if the proposed plan, in fact, meets that standard of "best possible development design, considering other goals in the Comprehensive Manual of Development Policies". Unlike deciphering statutes with which I am familiar, this criteria has a very high content of expertise in architecture and land planning. Both Mr. Hoover and Mr. Madden stridently assert the plan meets this standard. The Planning Office contends otherwise.

I find that I do not have sufficient information to make this decision. This kind of standard requires, in my view, independent peer review before a final decision can be made. Therefore, I will refer this matter to the Baltimore County Design Review Panel for their review and recommendation prior to making my decision in this matter. I am aware that this Panel is voluntary and may not take this referral. I am also aware that Mr. Hoover is a member of the Panel who will obviously not participate in the presentations or deliberations of the Panel, but who may have colleagues on the Panel that could possibly be favorable to his cause. Finally, I am aware that the Planning Office provides staff for the Panel and may be professionally close to members through long association. With all these caveats, I am not aware of any other independent groups who have the expertise to provide peer review. If for whatever reason the Panel declines to accept this referral, I direct the Developer and Planning Office to select another peer agency that can review the matter. The peer review should be made as indicated below.

Through Road/Traffic Issues

I am aware that the Developer and Protestants jointly and earnestly request no through connection to the properties to the south. From the Developer's standpoint, the whole community is the end of the road which likely commands higher prices for each lot. For adjacent communities, it means less traffic especially the dreaded cut through traffic. I also observe that this alliance between

Developer and community occurs on nearly every development plan review. So what's not to like? The problem is this pattern of development, although beneficial in the short term for directly affected communities, is very harmful for the larger community and the County.

Section 259.7 provides in the Statement of Legislative Intent for Honeygo Area that, "districts are to provide for a unified traditional design which will create a community instead of isolated subdivisions and commercial uses. It is expected that the Honeygo Area will include a neighborhood center surrounded by residential areas, which are connected to it, to each other, and to open space through a network of interconnected, continuous streets. Section 260.4, Streets and Parking provisions of the residential performance standards specify that a development proposal shall: "Provide for at least one street connection to an adjoining neighborhood or an adjoining property, not including the principal access to the subdivision, in order to facilitate good traffic circulation." (Emphasis supplied). It is clear to me the Council recognized the importance of interconnections in the larger scheme of development. I am sure they chose to connect communities with full knowledge of how unpopular this provision would be among communities and developers. In this larger picture, if every community is at the end of the road, emergency access is severely limited and traffic circulation nonexistent. Everyone is forced to navigate the same streets and choke points. Backups and accidents follow. So whether or not a subdivision is connected to properties adjacent to it affects not only the subject subdivision itself but all those present and future developments in the area and the County as a whole. Therefore, I consider this requirement quite separate from the internal standards applicable to subdivisions such as homes facing streets, front loaded garages, cul-de-sac design, etc.

I find and direct that Road A must connect to the properties to the south. As mentioned, however, at the hearing, the western cul-de-sac of can be extended to the properties to the south. This connection provides the needed linkage without making a straight road as shown on County Exhibit 1.

This will discourage speed and cut through traffic from Thirteen Mile Lane assuming some day the properties to the south are developed.

SET FORMAN

Front Loaded Garage Issue

The Honeygo Development Standards of Section 259.9 C.3 a and b provide

- a. Except for properties with approved development plans or CRG plans, which shall be allowed front entry garages in accordance with the regulations in effect prior to January 14, 1995, a front entry garage shall be recessed at least eight feet behind the front facade of the dwelling. A two-car garage facing the street shall have two individual doors separated by a divider. The front facade of all garages, including the divider and not including the garage doors, shall be constructed of the same approved materials as the front facade of the building.
- b. The exterior surface on the <u>front facade of all residential dwellings</u>, not including the garage doors, shall consist of at least 70% of approved materials.

The Honeygo Overlay District Design Guidelines of the CMDP provides that garages should be at the side or rear of the dwelling unit (page 7) and again at page 24. (Emphasis supplied)

Thus there is an apparent conflict among the regulations. This conflict has been recognized in the past such as the HOH hearing in Case No. XI-953 (Orchard Crossing) and Case No. XI-940 (Rohe Property). In the Rohe property case, the Planning Office indicated that front loaded garages were allowed as an option if the garage was setback from the front of the dwelling 8 feet. In Orchard Crossing, the Perry Hall Improvement Association took the position that front loaded garages were allowed per the Rohe case and agreed with the Developer's design for such. However, the Planning Office contended that only side-loaded garages were allowed. The Hearing Officer permitted front loaded garages after some discussion of the matter.

The Planning Office has recognized that there is a conflict among the regulations on this point. In both the Rohe Property and Orchard Crossing cases the Hearing Officer permitted front loaded garages if recessed the required 8 feet. To my knowledge no appellate review has overturned these decisions. In spite of conflicting regulations, I think it is important to treat development plans the same unless there is some overriding reason to the contrary. Therefore I find the front loaded garages are allowed in this plan if set back from the street 8 feet as proposed.

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Island in Cul-de-sac Issue

I find that the issue of whether or not there should be a landscaped island in the center of each cul-de-sac is one to be considered by the Design Review Panel in their review of the development plan in regard to the Developer's request for deviation to achieve the "best possible design". This issue should be considered along with the layout and architectural features of the Developer's plan.

Zoning Anomaly Issue

The zoning line bisects the property with the DR 3.5H area to the north and the DR 2 H area to the south. This means that the building envelopes on Lots 14, 13, 12 and 1 are crossed by this boundary because the zoning dividing line did not follow property lines but rather crossed the property at an angle. Considering the testimony and evidence in this matter, I will confirm the density anomaly for these lots and further confirm the nonbuildable areas shown on the revised Redline Development Plan, Developer's Exhibit 8B, resulting therefrom.

Special Variance Issue

Mr. Hoover testified that the subject property is bifurcated by the line dividing the Bird River and Bean Run subareas. Essentially, Lot 3 is in the Bird Run subarea while the remaining portion of the property is in the Bean Run subarea. The Developer proposes to connect the 14 homes to the Bean Run subarea sewer system by means of grinder pumps installed for each new home. I find that this property qualifies for the exception to the general rule forbidding special variances in Honeygo pursuant to Section 259.8 of the B.C.Z.R. I further find that the additional sewerage can be accommodated by the receptor subarea sewer system therefore passing the impact test. There is no evidence on the record to indicate that someone who had previously filed for such connection would be adversely affected by this request. Therefore, I will approve the Developer's request and grant the special variance.

However, as indicated at the hearing, the precise wording of the request seems to indicate that the Developer is requesting 14 building permit authorizations. I believe this is in conflict with the bold note on the bottom of Developer's Exhibits 8A, 8B and 8C beginning, "Building Permit Issuance

Restriction". This is purely a technical wording issue that can be resolved in the further process of approval of the Development Plan as described herein.

That said, I agree with Mr. Libercci that use of grinder pumps in this new subdivision is outrageous. It is one thing to allow grinders to relieve failing septic systems in the eastern side of the County but to apply them in this situation is quite another. These devices have different characteristics than merely connecting the home to a public sewer. This issue, however, has been reviewed previously and given Public Works granting use of grinders in this case, there is no evidence on the record that the County regulations are not met which would then result in denial of the plan.

I can, however, protect the public health and safety to require the Developer to inform the buying public of the peculiarities of these devices. I will require as a condition of approval that the Developer comply with the Department of Public Works regulations adopted November 26, 2003. In addition, I will require the Developer to notify prospective homebuyers of the existence of grinder pumps to connect homes in this development to the public sewer system, to describe in detail the characteristics and limitations of this devices and that the home buyer must bear the cost to maintain their own grinder pumps. This notification shall include warnings regarding the result of failure of the valves separating the local force main system from individual pumping systems installed on each home. This notification shall appear in a clear and bold note to that effect on the Final Development Plan and the Developer shall record such notice in the Land Records of Baltimore County for each lot which employs said grinder pumps

In a second part to this request, the Developer's Special Variance requests to permit a sewer interceptor connection in the Bean Run subarea for Lot No. 3 which lies in the Bird Run subarea. Based on the testimony and evidence, the Bean Run subarea can handle the additional sewerage and consequently I will approve this request when the development plan is ready for approval.

Development Plan

At this stage of review and in view of my referral of the deviation from standards issue to the

Design Review Panel, I can not approve the Developer's Revised Redline Development Plan. Assuming the Review Panel will accept this referral, I direct that the Panel review this matter and make recommendations in accord with this Order. The Development Plan must show a road connection to the properties to the south and may have front-loaded garages if set back 8 feet from the front of the dwelling. The neighborhood to be considered shall be the area between I-95 to the west, Philadelphia Road to the east, Thirteen Mile Lane to the south and Lloyd Avenue to the north.

The Developer may make further changes to the revised Redline Development Plan in the Panel review process. Should the Developer incorporate substantial changes to the plan during review by the Panel, I will refer the revised plan to the Development Plan Conference for further review by the County agencies and public. Thereafter, the Development Plan shall be subject to a subsequent public hearing on the revised plan. If the plan reviewed by the Panel is essentially the same as presented at the hearing on this case, the plan and Panel Recommendations will be presented at a subsequent public hearing before this Commission to allow the public and County agencies to comment on the Panel recommendations. Thereafter, this Commission will make a final decision on the Redline Development Plan.

Developer's Option

In the alternative, if the Developer revises its Development Plan to be without requests for deviations from standards, referral to the Panel is unnecessary and the revised plan will be referred to the Development Plan Conference for further review by the County agencies and subsequent public hearing before this Commission. There will be no need for a Community Input Meeting on the revised plan given the extensive review and information presented to the public in this case.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 26 day of May, 2005, that the Final Redline Development Plan known as "Honeygo Springs" submitted into evidence as "Developer's Exhibit Nos. 8A, 8B and 8C", be and is NOT APPROVED subject to further action by this Commission as above.;

IT IS FURTHER ORDERED, that Developer's requests for Honeygo Special Variance relief as

follows:

1. Special Variance from the Bean Run Subarea threshold limits to permit fourteen (14) building permit authorizations for Lot Nos. 1 through 14, pursuant to Sections 259.7.E.1,

259.7.S, 259.8 and 1A02.4.G of the Baltimore County Zoning Regulations (B.C.Z.R.);

2. Special Variance to permit a sewer interceptor connection in an adjacent subarea for Lot No.

3 pursuant to Sections 259.7.S, 259.8 and 4A02.4.G of the B.C.Z.R

are NOT APPROVED subject to further action by this Commission as above;

IT IS FURTHER ORDERED, that the Developer's request for special hearing relief, to confirm

a density anomaly for Lot Nos. 1, 12, 13 and 14, bisected by a zone line, be and is hereby NOT

APPROVED subject to further action by this Commission as above and;

IT IS FURTHER ORDERED, that the Developer's request for Petition for Variance, to permit a

building to arterial road right-of-way setback of 28 ft. in lieu of the required 40 ft., pursuant to Section

259.9.B.4.b of the B.C.Z.R., be and is hereby DENIED AS MOOT since this request was withdrawn

by the Developer.

Any appeal from this decision must be taken in accordance with Section 32-4-281 of the

Baltimore County Code and the applicable provisions of law.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj

24

Zoning Commissioner

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



Baltimore County

James T. Smith, Jr., County Executive William J. Wiseman III, Zoning Commissioner

May 26, 2005

Arnold Jablon, Esquire David Karceski, Esquire Venable, Baetjer & Howard, LLP 210 Allegheny Avenue Towson, Maryland 21204

> Re: Hearing Officer's Case Nos. XI-960 & 05-431-SPHAHSA Property: W/S of Philadelphia Road, N Thirteen Mile Lane 11th Election District, 5th Councilmanic District (Honeygo Springs)

Dear Messrs. Jablon & Karceski:

Enclosed please find the decision rendered in the above-captioned Development Plan and petitions for special hearing, variance and Honeygo special hearing.

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

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure



Copies to:

Ron Schaftel & David Altfield, 111 S. Calvert Street, Ste. 2820, Baltimore, MD 21202 Mickey Cornelius, The Traffic Group, 9900 Franklin Square Drive, Suite H, Baltimore, MD 21236 Dean Hoover, Tim Madden & Jim Herman, Morris & Ritchie Associates, Inc., 1220 E. Joppa Road, Towson, MD 21286

D. Beaty, 11403 Smiloff Road, White Marsh, MD 21162
Charles L. Marks, 4627 E. Joppa Road, Perry Hall, MD 21128
Phyllis Sonderman, 5507 Rogue Court, White Marsh, MD 21162
Maria Kowalevicz, 5514 Madge Court, White Marsh, MD 21162
Mary Lou Włoczewski, 11239 Philadelphia Road, White Marsh, MD 21162
Beth Ann Kearney, 11235 Philadelphia Road, White Marsh, MD 21162
William Libercci, 19 Shawn Court, Baltimore, MD 21236
Ed Creed, 5534 Apperson Way, White Marsh, MD 21162
Dave DeGregorio, 5410 13 Mile Lane, White Marsh, MD 21162
Uri Ben-Or, P. O. Box 68, Reisterstown, MD 21136

Copies to:

Ron Schaftel & David Altfield, 111 S. Calvert Street, Ste. 2820, Baltimore, MD 21202 Mickey Cornelius, The Traffic Group, 9900 Franklin Square Drive, Suite H, Baltimore, MD 21236 Dean Hoover, Tim Madden & Jim Herman, Morris & Ritchie Associates, Inc., 1220 E. Joppa Road, Towson, MD 21286 D. Beaty, 11403 Smiloff Road, White Marsh, MD 21162

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Dave DeGregorio, 5410 13 Mile Lane, White Marsh, MD 21162
Uri Ben-Or, P. O. Box 68, Reisterstown, MD 21136



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

NW/S of Philadelphia Road for the property located at NOrth of Thirteen Mile Lane

which is presently zoned D.R. 2H, D.R. 3.5H

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.

				P	We do solemnly de erjury, that I/we are	e the legal ow	rm, under ner(s) of t	the penalties of he property which
<u>Contract P</u>	Purchaser/Lessee:	• E			the subject of this egal Owner(s)			•
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Attorney F	or Petitioner:			<u>1</u>	ll S. Charles	Street,	S-2820	
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ATTACHMENT TO PETITION FOR SPECIAL HEARING

1. Special hearing to confirm a density anomaly for Lot Nos. 1, 12, 13, and 14, bisected by a zone line.



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located atof Thirteen Mile Lane

which is presently zoned D.R. 2H, D.R. 3.5H

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 Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be determined at hearing.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Variance, 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:	Legal Owner(s):
	Honeygo Springs, LLC
Name - Type or Print	Name - Type of Print
Signature	Signature
Address Telephone No.	Ronald O. Schaftel, Member Name-Type or Print
City State Zip Code	Signature (410)
Attorney For Petitioner:	111 S. Charles Street, S-2820 347-4800 Address Telephone No
Arnold E. Jablon/ David H. Karceski	Baltimore, Maryland 21202
Name: Type or Print	City State Zip Code Representative to be Contacted:
Signature .	4 7 7 7 7 7 7
Venable LLP Company	Arnold E. Jablon Name
210 Allegheny Avenue (410) 494-6200 Address (410) Telephone No.	210 Allegheny Avenue (410) 494-6200 Address Telephone No.
Towson, MD 21204 City State Zip Code	Towson, Maryland 21204 City State Zip Code
	OFFICE USE ONLY
Case No. 05-431-SPHAMSA	ESTIMATED LENGTH OF HEARING
221 9115198	UNAVAILABLE FOR HEARING Date 3/3/05

ATTACHMENT TO PETITION FOR SPECIAL VARIANCE

- 1. Special Variance from the Bean Run Subarea threshold limits to permit fourteen (14) building permit authorizations for Lot Nos. 1 through 14, pursuant to Sections 259.7.E.1, 259.7.S, 259.8, and 4A02.4.G of the Baltimore County Zoning Regulations ("BCZR").
- 2. Special Variance to permit a sewer interceptor connection in an adjacent subarea for Lot No. 3, pursuant to BCZR Sections 259.7.S, 259.8, and 4A02.4.G.

MORRIS & RITCHTE ASSOCIATES, INC.

ARCHITECTS, ENGINEERS, PLANNERS, SURVEYORS, AND LANDSCAPE ARCHITECTS



Zoning Description

Beginning at a point located in the centerline of Maryland Route 7 – Philadelphia Road which has a paving width of 27 feet at the distance of 775 feet northeasterly of the centerline of the nearest intersecting street, 13 Mile Lane which is unpaved and has a variable width. **Thence** the following courses and distances, viz:

South 31 degrees 20 minutes 45 seconds West, 117.18 feet; North 65 degrees 50 minutes 15 seconds West, 250.00 feet; South 31 degrees 20 minutes 45 seconds West, 80.00 feet; North 65 degrees 50 minutes 15 seconds West, 1335.82 feet; North 45 degrees 36 minutes 18 seconds East, 257.64 feet; South 64 degrees 32 minutes 47 seconds East, 1309.66 feet; South 24 degrees 57 minutes 31 seconds West, 10.00 feet; South 64 degrees 32 minutes 47 seconds East, 207.16 feet to the point and place of beginning, having no assigned address and being located along the northwesterly side of Philadelphia Road.

Containing an area of 324,673 square feet or 7.4535 acres of land, more or less, and being located in the Eleventh Election District of Baltimore County, Maryland.





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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: #05-431-SPHAHSA

NW/side of Philadelphia Road, north of Thirteen Mile Lane N/west side of Philadelphia Road, 775 ft. n/east of Thirteen Mile Lane (Honeygo Springs Development) 11th Election District - 5th Councilmanic District Legal Owner(s): Honeygo Springs, LLC, Ronald O. Schaftel, Member

Special Hearing: to confirm a density anomaly for Lots 1,12,13,and 14 bisected by a zone line. Special Variance Honeygo: to permit a building to arterial road right-ofway setback of 28 feet in lieu of the required 40 feet, pursuant to a BCZR Section 259.9.B.4.6 Variance: to permit a building to arterial road right-of-way setback of 28 feet in lieu of the required 40 feet.

Hearing: Thursday, April 14, 2005 at 9:00 a.m. in Room 106, Baltimore County Office Building, 111 West 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/3/798 Mar. 29

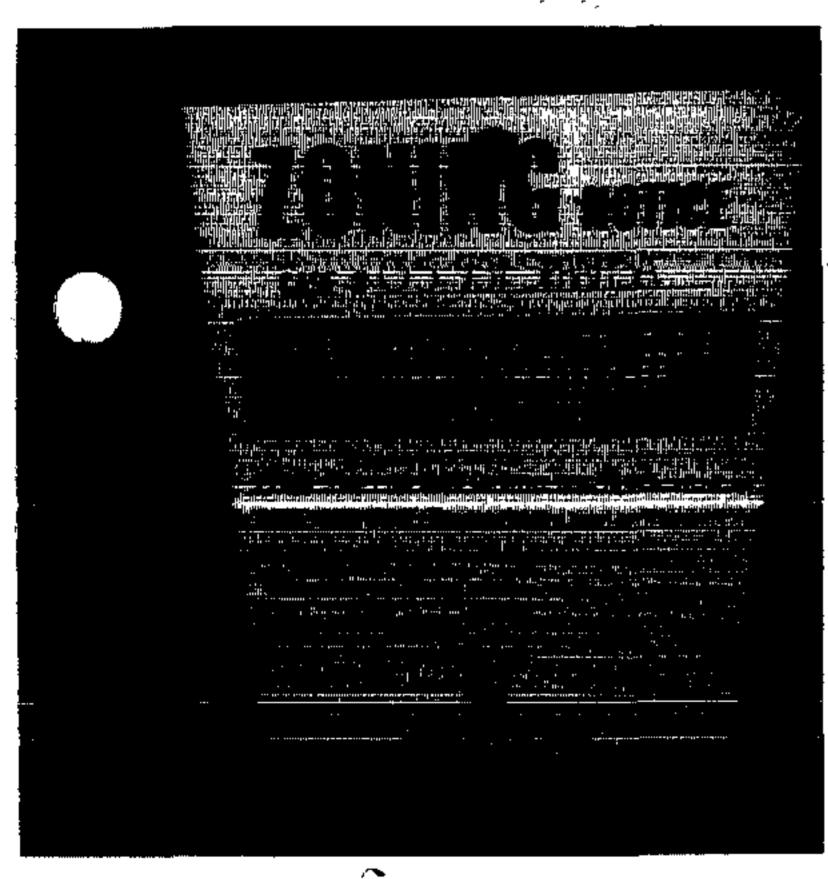
CERTIFICATE OF PUBLICATION

3/30/,2005
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 329,2005.
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

CERTIFICATE OF POSTING

	Petitioner/Developer: HONEYGO
	SPRINGS
	Date of Hearing/Closing: 4/14/05
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
ATTN: Kristen Matthews {(410) 887-3394}	
Ladies and Gentlemen:	3 •
This letter is to certify under the penalties of posted conspicuously on the property located	perjury that the necessary sign(s) required by law were at:
NW/SIDE OF PHILADED	CPHAR RD, NOF THIRTEEN MILE
LANE CHONEYGO SPRINGS	
The sign(s) were posted on	3/12/05 (Montil, Day, Year)
	Sincerely,



- Robert Black 3/15/05 (Signature of Sign Poster) (Date)
SSG Robert Black
(Print Name)
1508 Leslie Road
(Address)
Dundalk, Maryland 21222
(City, State, Zip Code)
(410) 282-7940
(Telephone Number)

RE: Case No.: 05-431-SPHAHSA

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

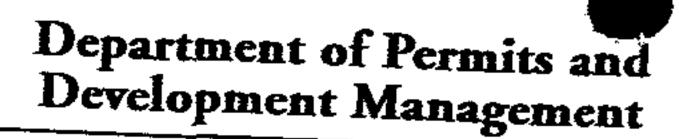
ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:	
Item Number or Case Number: 05-431-SPHAHSA	
Petitioner: HONEYGO SPRINGS LLC	
Address or Location: NW/S OF PHILAPELPHIARD, N OF THIRTEEN MILE LAP	NE
PLEASE FORWARD ADVERTISING BILL TO:	
Name: Aney Oontell	
Address: <u>Jenochle UP</u>	
210 Allegheny Avenue	
102050n, 14D. 21204	
Telephone Number: 410-494-62344	



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 8, 2005

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: 05-431-SPHAHSA

NW/side of Philadelphia Road, north of Thirteen Mile Lane N/west side of Philadelphia Road, 775 ft. n/east of Thirteen Mile Lane (Honeygo Springs Development)

11th Election District – 5th Councilmanic District

Legal Owners: Honeygo Springs, LLC, Ronald O. Schaftel, Member

Special Hearing to confirm a density anomaly for Lots 1,12,13, and 14 bisected by a zone line. Special Variance Honeygo to permit a building to arterial road right-of-way setback of 28 feet in lieu of the required 40 feet, pursuant to BCZR Section 259.9.B.4.6. Variance to permit a building to arterial road right-of-way setback of 28 feet in lieu of the required 40 feet.

Hearing: Thursday, April 14, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Arnold Jablon, Venable, 210 Allegheny Ave., Towson 21204 Ronald Schaftel, 111 S. Charles St., S-2820, Baltimore 21202

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 30, 2005.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE (2) FOR MISSIONER'S OFFICE

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

TO: PATUXENT PUBLISHING COMPANY

Tuesday, March 29, 2005 Issue - Jeffersonian

Please forward billing to:

Amy Dontell Venable, LLP 210 Allegheny Avenue Towson, MD 21204

410-494-6244

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: 05-431-SPHAHSA

NW/side of Philadelphia Road, north of Thirteen Mile Lane N/west side of Philadelphia Road, 775 ft. n/east of Thirteen Mile Lane (Honeygo Springs Development)

11th Election District – 5th Councilmanic District

Legal Owners: Honeygo Springs, LLC, Ronald O. Schaftel, Member

Special Hearing to confirm a density anomaly for Lots 1,12,13, and 14 bisected by a zone line. Special Variance Honeygo to permit a building to arterial road right-of-way setback of 28 feet in lieu of the required 40 feet, pursuant to BCZR Section 259.9.B.4.6. Variance to permit a building to arterial road right-of-way setback of 28 feet in lieu of the required 40 feet.

Hearing: Thursday, April 14, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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

Department of Permits a Development Management

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





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

April 5, 2005

Arnold E. Jablon Venable, LLP. 210 Allegheny Avenue Towson, Maryland 21204

Dear Mr. Jablon:

RE: Case Number: 05-431-SPHAHSA

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 3, 2005.

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

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

Very truly yours,

U. Call Rill ()

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR: clb

Enclosures

People's Counsel C: David H. Karceski Venable, LLP. 210 Allegheny Avenue Towson 21204 Honeygo Springs, LLC. Ronald O. Schaftel 111 S. Charles Street, S-2820 Baltimore 21202



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

Fire Department



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



Baltimore County

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

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

March 9, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: March 14, 2005

Item No.: 418, 419, 420, 422, 424, 425, 426, 427, 428, 429, 430, 432, 433.

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.

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

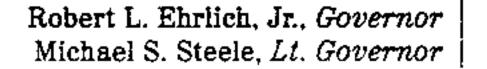
Acting Lieutenant Don W. Muddiman Lieutenant Franklin J. Cook Fire Marshal's Office (0)410-887-4881 (C)443-829-2946 MS-1102F

cc: File



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







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

3HP

Maryland Department of Transportation

Date: 3.8.05

Baltimore 601

Item No.

RE:

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

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's right-of-way.

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

Very truly yours,

Steven D. Foster, Chief Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr

DATE:

April 13, 2005

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of March 7, 2005

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

05-416

05-417

05-418

05-420

05-421

05-422

05-424

05-425

05-426

05-428

05-432

05-433

Reviewers:

Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: March 23, 2005

TO:

Timothy M. Kotroco, Director

Department of Permits &

Development Management

Robert W. Bowling, Supervisor Bureau of Development Plans

SUBJECT:

Zoning Advisory Committee Meeting

For March 14, 2005

Item Nos. 417, 418, 420, 421, 422, 425, 426, 427, 428, 429, 430, 431,

432, 433

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

RWB:CEN:cp

cc. File

ZAC-03142005-NO COMMENT ITEM NOS 417-433-03232005.doc

RE: PETITION FOR SPECIAL HEARING, SPECIAL VARIANCE AND VARIANCE NW/side Philadelphia Road, N of Thirteen Mile Lane, 775' NE Thirteen Mile Lane 11th Election & 5th Councilmanic Districts Legal Owner(s): Honeygo Springs, LLC by Ronald O. Schaftel, Member Petitioner(s) BEFORE THE

ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

05-431-SPHAHSA

* * * * * * * *

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 sent/documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

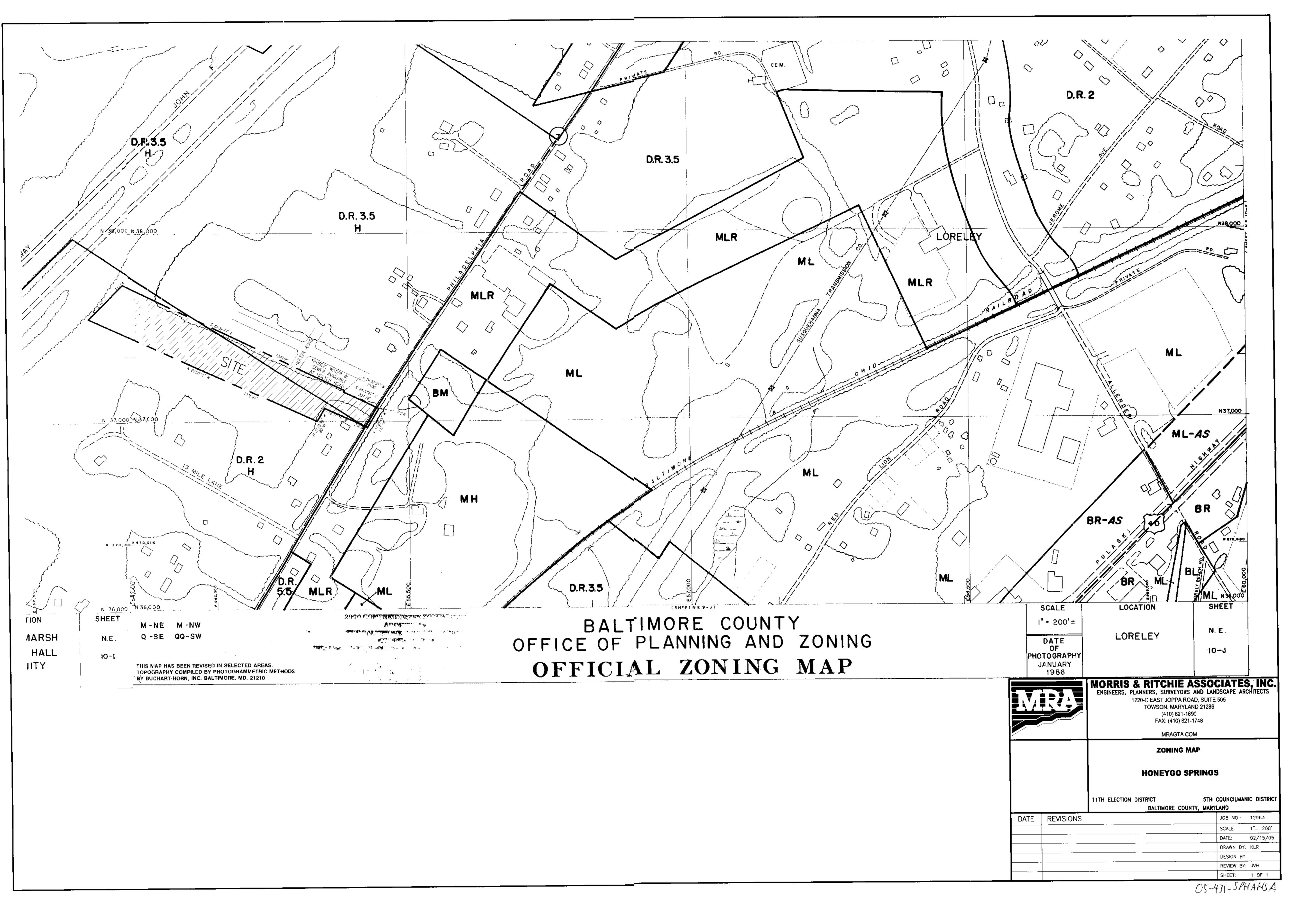
I HEREBY CERTIFY that on this 11th day of March, 2005, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

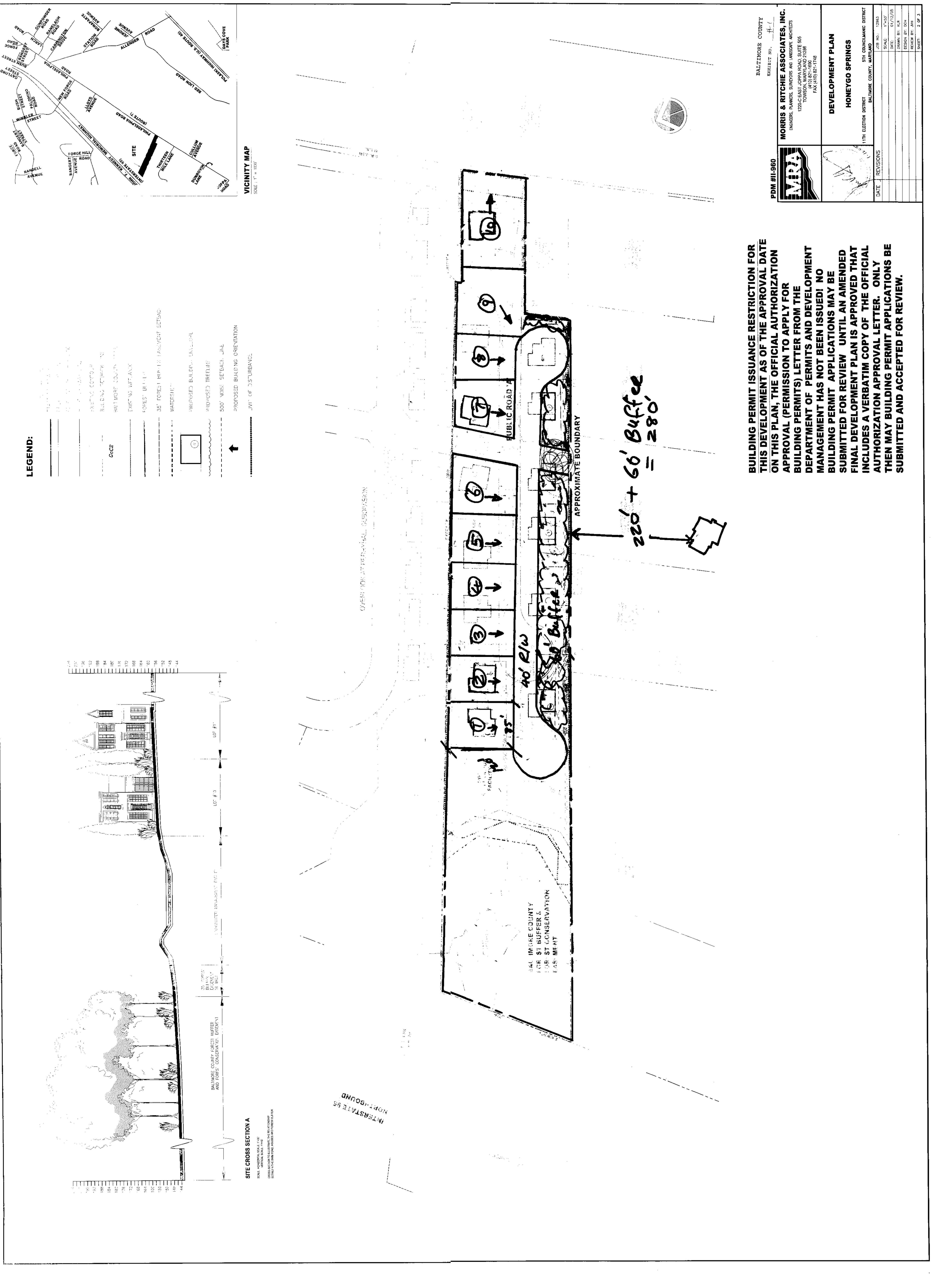
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PETER MAX ZIMMERMAN

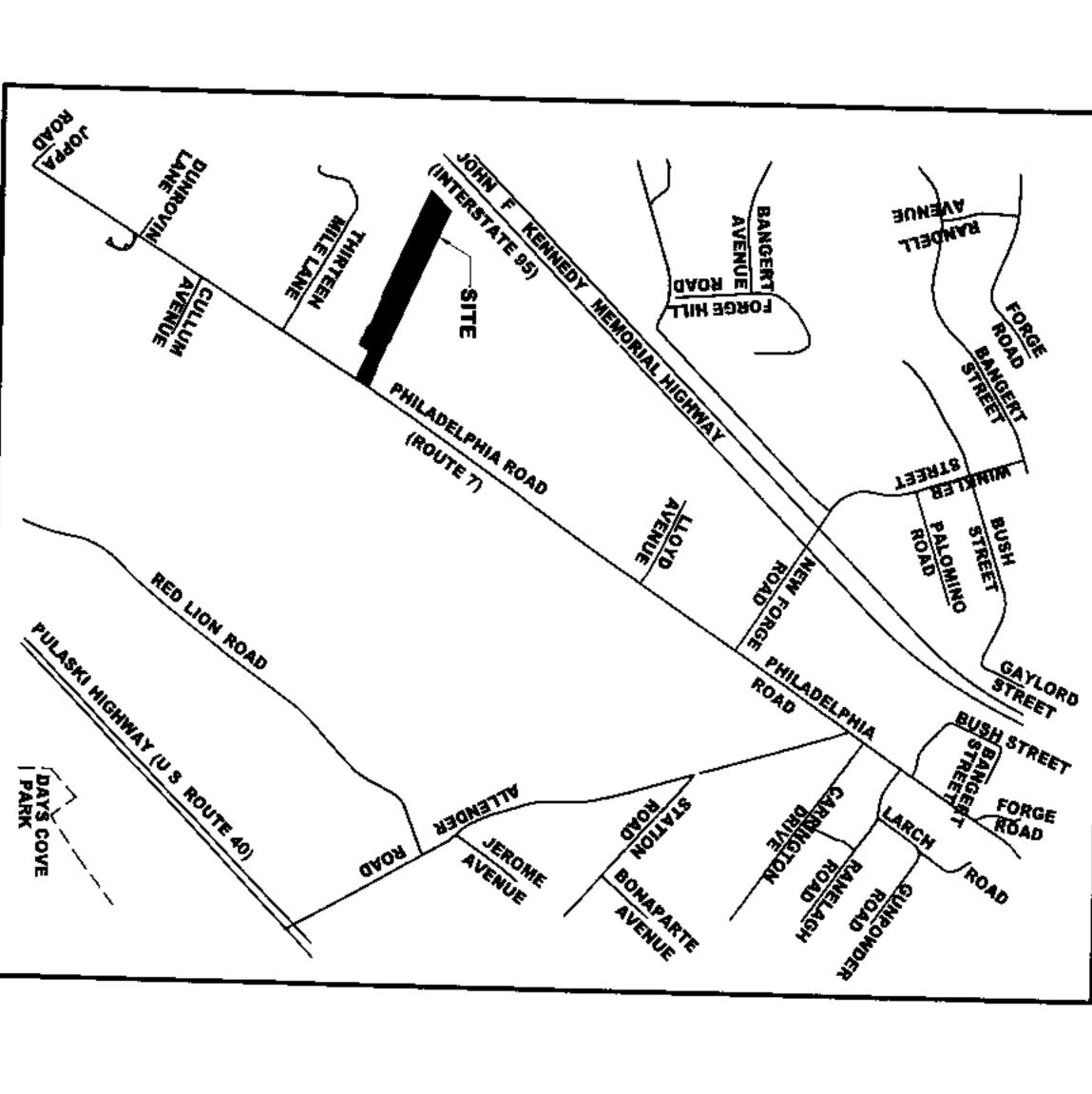
People's Counsel for Baltimore County

Per.....





CUL ATIONS D*** - - - - - NG IE ASSOCIATES, I EYORS AND LANDSCAPE ARCHITEC ! PPA ROAD SUITE 505 MARYLAND 21280 82 1690 16 821 748



EXCERPTS FROM THE HONEYGO DEVELOPMENT STANDARD: COMPLIANCE WITH THE FOLLOWING DEVELOPMENT STANDARDS MUST BE CERTIFIED ON BUILDING PERMIT APPLICATIONS AND PLANS.

Clear, (Bill Nos, 73-1999; 83-2001); 120-2003)

1. back-to-back proup homes are not permitted.

2. Revail establishments exceeding 65.003 square feet are not permitted.

3. Planned unit developments are not permitted.

4. Accessory strocures, including but not limited to solar particle, antennas, satellier dishes, trash pads and stonge sheds, are not permitted in the from yard of any principal use.

5. In A DR.3.5-H Zone, the only dwellings permitted are not permitted in the from yard of any principal use.

6. In A DR.3.5-H Zone, the only dwellings permitted are single family detached dwellings.

7. Except for nonresidential principal buildings or uses, and their accessory parking, the requirements of Section 1801.1.B.1 (residential transition area of these regulations do not apply.

7. Except for nonresidential principal buildings or uses, and their accessory parking, the requirements of Section 1801.1.B.1 (residential transition area of these regulations do not apply.

7. Except for nonresidential principal buildings or uses, and their accessory parking, the requirements of Section 1801.1.B.1 (residential transition area of these regulations do not apply.

8. Except for nonresidential principal buildings or uses, and their accessory parking the requirements of the section in the form of sections of Section 1801.2.C apply to development in the overlay districts. In the district, the minimum residential dwelling setbacks are:

a. Ten feet from the right-of-way of a notice or minor arterial or collector road, as defined in these regulations:

b. Force feet from the right-of-way of a notice or minor arterial or collector road, as defined in these regulations:

c. Not applied to porches or stoops in front yarrist and

6. Six feet from a side yard let from the is designed to bave a side or test entry general. However, the surrect are applicant to the entry general and the surrect are side or test entry generals. However, the surrect are side or test entry generals as the content of the surrect and provided to parte

Except for properties with approved dividequation plans on 50 feet from the rear property leng except for them the rear property leng except for the from the rear property leng except for dividing unit, and which do not exceed in whigh development and which do not extend more than 10 rear yard setback area.

In a DR-2-R Zone, the sum of all side yard setbacks may than 30 feet between dwellings.

Commercial developments shall have:

The front side, visible from the street upon which the built at least 25 feet lugh.

A setback of no trune than 15 feet from any building to the way upon which that building fromts, and

A fifteen-foot-wide landscaped befree team any purking and any public ngint-of-way, except that along bloodygo by setback of 40; feet from any parking facility to the right required.

The underlying zoning of the land is D.R 1:

No more than two jots share a driveway: and

Lox exceed 30,000 square teet in area.

Shift No. 72-1999

Except for properties with approved development gimes or CRo pain, which shall be allowed from earny galarys to abvordance with the received of effect prior to Tannon, 1, 49%, a fact erry grange shall be received at least eight feel beined the four tracks of the dwelling. A two-car garage facing the stress shall have two inclosing doors separated by a division. The front facade of all galarysis including the same approved materials as the front facade of the building the constructed of the same approved materials as the front facade of the building.

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

c. The extract sarface of a side-entry garage not including the garage doors, which faces the front of the dwelling stail be constructed of the same approved materials as the front facade of the building.

The extractive surface of a side-entry garage not including the garage doors, which faces the front of the dwelling stail be constructed of the same approved materials at side (coolis of all residence and entry of the same proposed entry of the same approved materials and cooling the same approved materials and cooling the same and states of the building of the building stail is not feather, that it is nonformance with the Honerge Overlay District Despt Galdelines, and any tence more than there feet them an aliesy.

Roofs shall be pathed in accordance with the Honerge Overlay District Despt Galdelines, and any tence more than there feet high shall also be stitude at all the streamed so it is not visible from the pound evel of adjacent building.

Summaner management fould be streamed so it is not visible from the pound evel of adjacent building.

All resignates shall be at least 22 feet wide (Ball No. 44-1997)

Signage standards. Signs are permitted, subject to Section 450 and the following additional restrictions: Ball No. 72-1991

Comy one wall-mounted one-pri

times the length of the wall upon which it is mounted, is permitted.

Open space standards.

The local open space requirements listed in the Local Open Space Manual, as adopted pursuant to Section 26-253 of the Baltimore County Code, 1985 Edition, as revised, shall be applied in the D.R.1 and D.R.2 underlying zones.

Stream buffers, wetlands and steep slopes contiguous to streams and regulated by the Department of Environmental Protection and Resource Management (DEPRM) for environmental purposes shall be dedicated to Baltimore County, recorded by the county government among the hand records of Baltimore County, and not used to meet the local open space requirements of the underlying zones.

For land developed for commercial uses at least 7% of the land shall be dedicated to open space for passive or active recreational uses. Paved portions of off-street parking lots or driveways shall be included in the calculation of the gross area, but shall not be designated to meet the open space requirement.

At least 25% of the perimeter of any open space must abut public rights-of-way or fronts of buildings, and such open space shall be landscaped

At least 25% of the perimeter of any open space shall be landscaped

The county may accept a fee in lieu of providing required open space when such fee is in conformance with these regulations. The fee shall be established amoually by the Baltimore County Planning Board in accordance with the procedure set forth in Section 15-9 of the Baltimore County Code. 1988 Edition, as revised. Bill No. 40-1997;

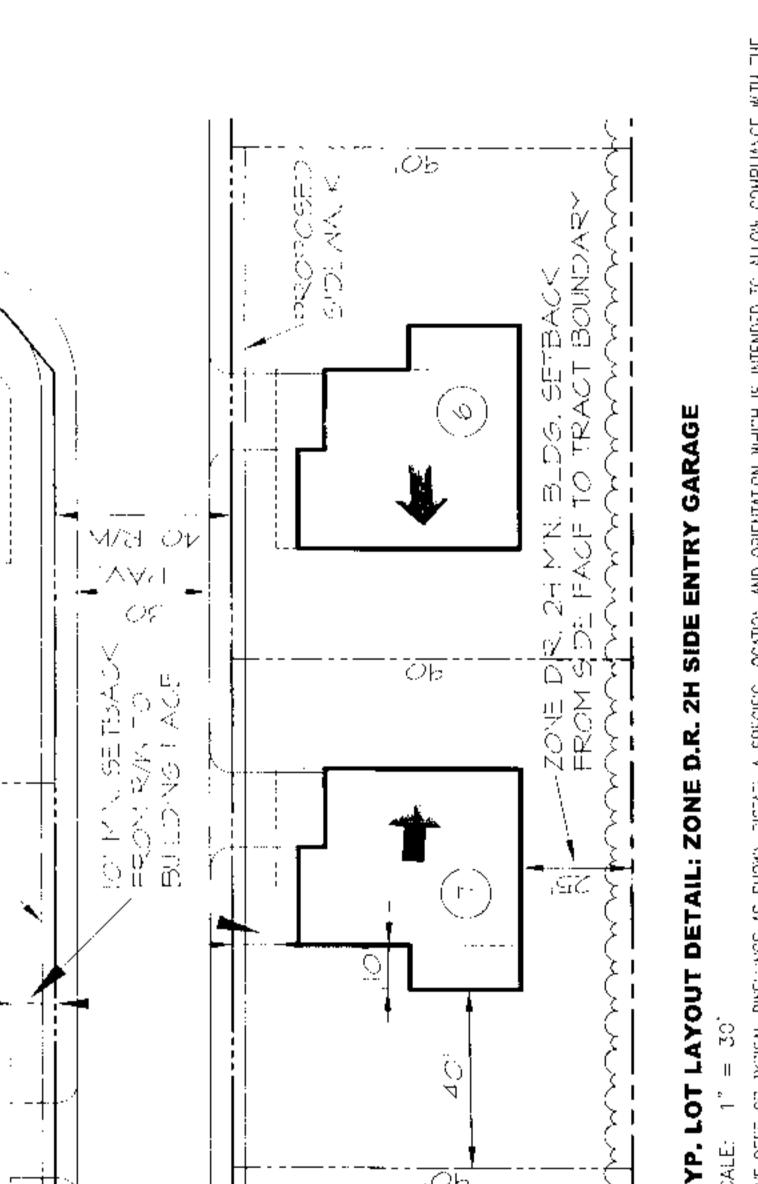
Forest conservation areas and wetlands not contiguous with streams shall not be used to meet the local open space requirements of the underlying zones.

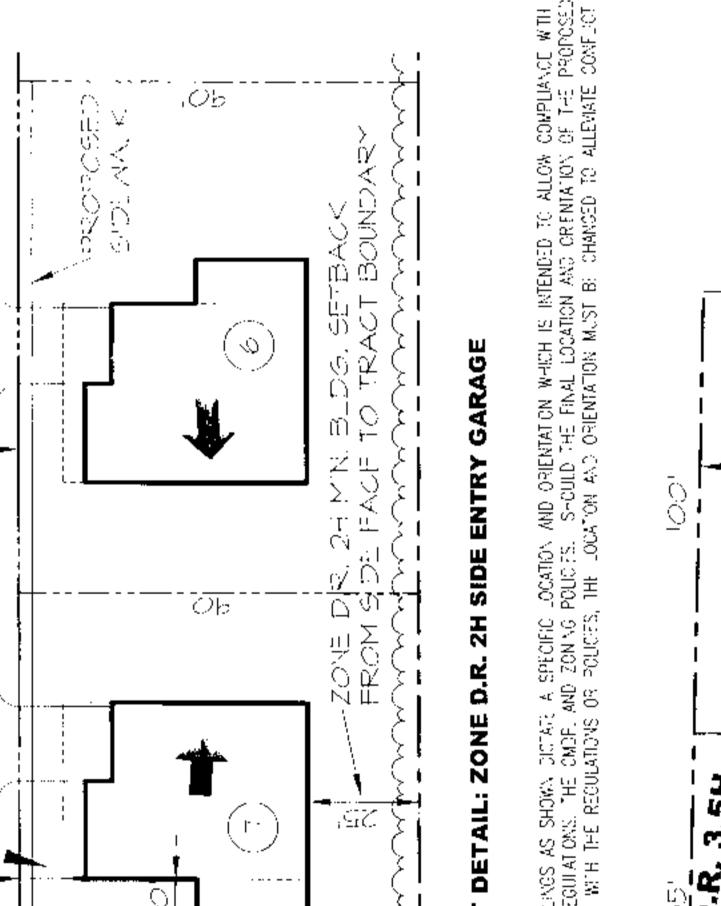
ovisions of Section 409.6 of these regulations apply except a d in this subsection. [Bill No. 73-1999]

visions of Section 102.4 of these regulations do not apply and any have sole access to an alley with a right-of-way of at least 16 feet. It parking bays are not permitted.

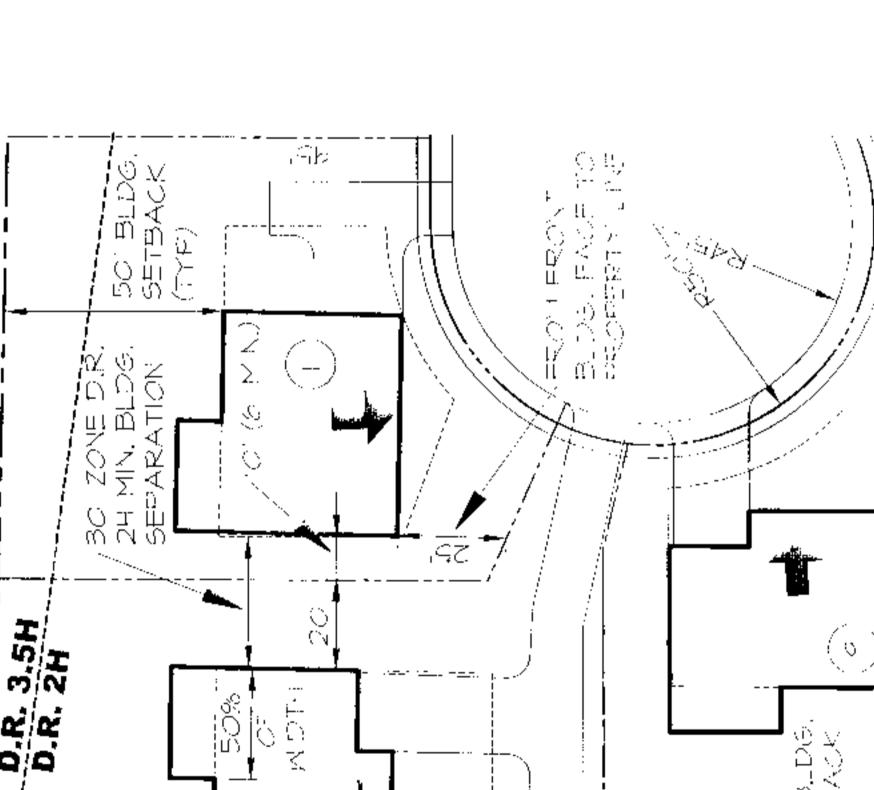
Ite-sac or court shall not exceed 400 feet in length unless, a need by the Director of Environmental Protection and Resource criterit, a longer length is needed to prevent encroachment or a darcas.

OWNER / APPLICAN







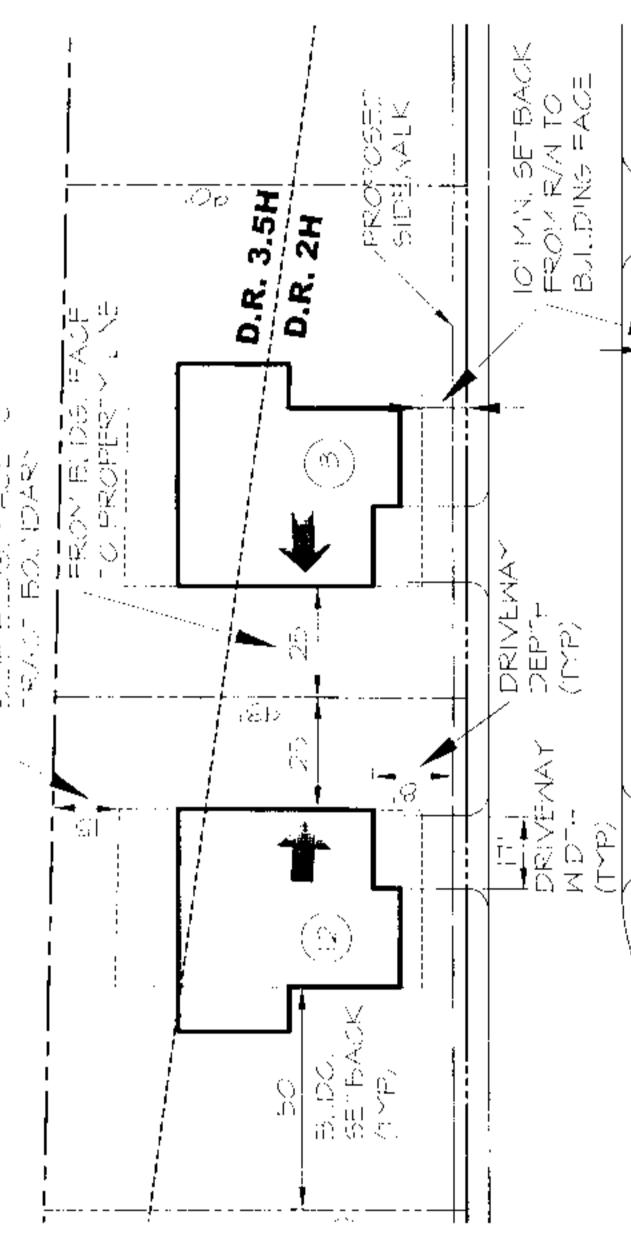


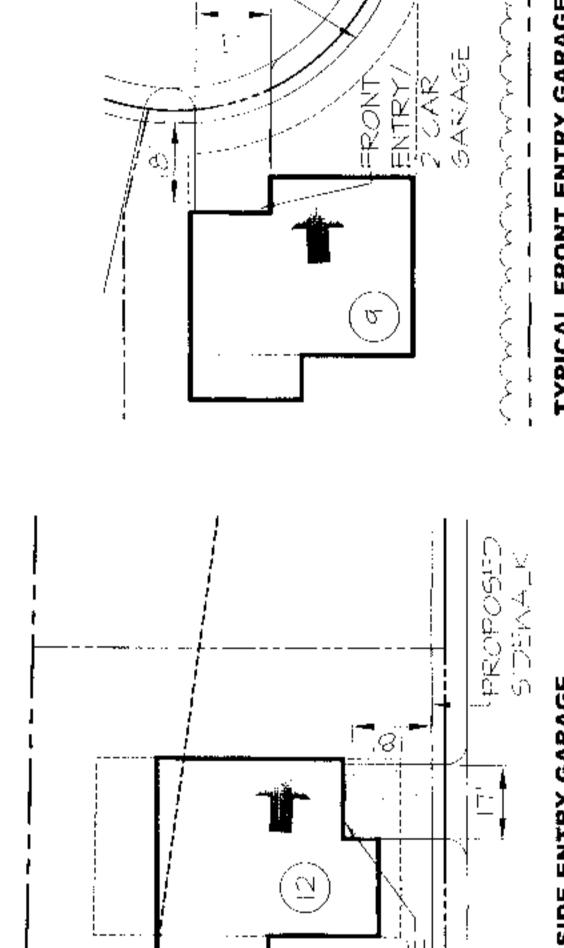
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FROM BUILDING FACE (FRONT, SIDE OR REAR) TO: RICHT-OF-MAY OF A MAJOR OR MINOR ARTERNAL OR COLLECTOR ROAD (NOT APPLIED TO PORCHES OR STOOPS IN FRONT YARD)	40,	40°
FROM BUILDING FACE TO: FRONT PROPERTY LINE (NOT A STREET LINE)	25.	25,
FROM BUILDING FACE (FRONT, SIDE OR REAR) TO:	50,	50,
REAR PROPERTY UNE (#3) A STREET UINE) (EXCEPT FOR UNROSFED ADDITIONS, INCLUSING PARIOS AND GECKS; AND ROCFED ADDITIONS WHICH DO NOT EXCEED IN WEBTH 50% OF THE DWELLING UNIT, AND WHICH DO NOT EXTEND MORE THAN 10 FEET INTO THE REAR YARD SETBACK AREA.)	(37.5" FOR UNROOFED ADDITIONS; 40" FOR ROOFED ADDITIONS)	(37.5' FOR UNROOFED ADDITIONS; 4C' FOR ROOFED ADDITIONS)
ROM BUILDING FACE (FRONT, SIDE OF REAR) TO:	6,	6.
SIDE YARD LOT LINE THAT IS NOT ADJACEN! TO A PUBLIC RIGHT-OF-WAY OR THE SAME AS A PUBLIC RIGHT-OF-WAY OR TO MAKE A SIDE OR REAR ENTRY GARAGE.	(SUM OF ALL SIDE YARGS WIDTHS MAY NOT BE LESS THAN 20")	(SUM OF ALL SIDE YARDS WIDTHS WAY NOT BE LESS THAN 20')
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ROM BUILDING FACE (FRONT, SIDE OR REAR) TO:	50,	
REAR PROPERZY LINE (#07 A STREET LINE) (EXCEPT FOR UNROSFED ADDITIONS, INCLUDING PATICS AND BECKS; AND ROOFED ADDITIONS, INCLUDING PATICS AND BECKS; AND ROOFED ADDITIONS WHICH DO NOT EXCEED IN WASH 50% OF THE DWELLING LINIT, AND WHICH DO NOT EXTEND MORE THAN 10 FEET INTO THE REAR YARD SETBACK AREA.)	(37.5° FOR UNROOFED ADDITIONS; 40° FOR ROOFED ADDITIONS)	(37.5' FOR UNROOTED ADDITIONS: 4C' FOR ROOFED ADDITIONS)
ROM BUILDING FACE (FRONT, SIDE OR REAR) TO: SIDE YARD LOT UNE THAT IS ADT ADJACENT TO A PUBLIC RIGHT-OF-WAY OR THE SAME AS A PUBLIC RIGHT-OF-WAY IF THE DWELLING UNIT IS DESIGNED TO MAYE A SIDE OR REAR ENTRY CARACE.	6' (SUN OF ALL SIDE YARDS W.DTHS MAY NOT BE LESS THAN 20')	6. (SUM OF ALL SIDE YARDS #:OTHS WAY NOT BE LESS THAN 20')
RONT ENTRY GARAGE SHALL BE RECESSED BEHIND THE RONT FACADE OF THE DWELLING. (A TWO CAR GARAGE FACING THE STREET SHALL HAVE TWO KNOMBUAL BOORS SEPARATED BY A DWDÉR. THE FRONT FACADE OF ALL GARAGES, INCLUDING THE GARAGE DOORS, SHALL BE CONSTRUCTED OF THE SAME WATERIALS AS THE FRONT FACADE OF THE BULLDING.)	ac)	B Min.
ROM SIDE BUILDING FACE TO: SIDE BUILDING FACE	30° SEРАВАПОМ	16' SEPARATION (FOR BUILDINGS <20' HEIGHT) 20' SEPARATION (FOR BUILDINGS >20' HEIGHT)
ROM SIDE BUILDING FACE TO. PAVING OF A PRIVATE ROAD	30'	25,
ROW SIDE BUILDING FACE TO TRACT BOUNDARY	25.	.51
NIMUM WIDTH FOR ANY SINGLE FAMILY DETACHED LOT AS MEASURED ALONG OTH THE FRONT WALL & REAR WALL OF THE DWELLING UNIT.	95'	,58
HIS TABLE LISTS MINIMUM SETBACK REQUIREMENTS FOR URBAN RESIDENTIAL USE IN THE HONEYGO OVERLAY DISTRICT.	THE HONEYGO OVERLAY DISTR	RICT. FOR A FULLER





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E COUNTY LANDSCAPE MANUAL, NORE COUNTY LANDSCAPE MANUAL, SUANT TO SECTION 259, 259.9.G, SECTION 504, BCZR. THE PROPOSE DEVELOPMENT WILL COMPLY NITIONED STANDARDS AND GILLPE L COMPLY VAND GUIDE HONEYGO OVI MANUAL, THE THE CMDP, TH OTHER BALTII POLICIES, PUR 260, 409, AND DWELLINGS A THE AFOREME ARE :

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