

IN RE: PETITION FOR ADMIN. VARIANCE
NW/S of Field Road, 1,447.40 ft. N
centerline of McDonogh Road
3rd Election District
2nd Councilmanic District
(9131 Field Road)

Ilona L. Kessell & Peter S. Hengen
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-470-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Ilona L. Kessell and Peter S. Hengen. The administrative variance is requested for property located at 9131 Field Road in the Pikesville area of Baltimore County. The administrative variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (detached garage) with a height of 23 ft. in lieu of the required 15 ft. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 2, 2005, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated April 1, 2005, a copy of which is attached hereto and made a part hereof.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

RECORDED FOR FILES
4/25/05
Ray

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

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

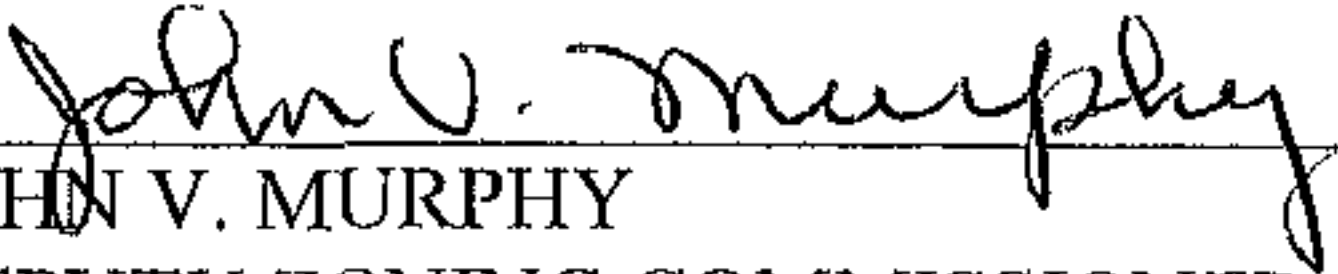
Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, I find that the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, this 25 day of April, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (detached garage) with a height of 23 ft. in lieu of the required 15 ft., be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

RECEIVED FOR FILING
4/25/05
Ray

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;
2. The Petitioners shall comply with the ZAC comments submitted by the Office of Planning dated April 1, 2005, a copy of which is attached hereto and made a part hereof;
3. When applying for a building permit, the site plan field must reference this case and set forth and address the restrictions of this Order.

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



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

4/28/05
Ray

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

April ²⁵~~22~~, 2005

Ms. Ilona L. Kessell
Mr. Peter S. Hengen
9131 Field Road
Pikesville, Maryland 21208

Re: Petition for Administrative Variance
Case No. 05-470-A
Property: 9131 Field Road

Dear Ms. Kessell & Mr. Hengen:

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

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

Very truly yours,

A handwritten signature in black ink that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

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





Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9131 FIELD ROAD

which is presently zoned DR-1

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) 400.3 BCZR

To permit an accessory structure (detached garage) with a height of 23' in lieu of the required 15'.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form

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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

PETER S. HENGEN

Name - Type or Print

Signature

ILONA L. KESSELL

Name - Type or Print

Ilona L. Kessell

Signature

9131 FIELD ROAD

410.363.8028

Address

PIKESVILLE

MD

21208

City

State

Zip Code

Representative to be Contacted:

PETER S. HENGEN

Name

9131 FIELD ROAD

410.363.8028

Address

PIKESVILLE

MD

21208

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

Reviewed By JF Date 3-21-05

Estimated Posting Date 4-3-05

CASE NO. 05-470-A

V. 25/01

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

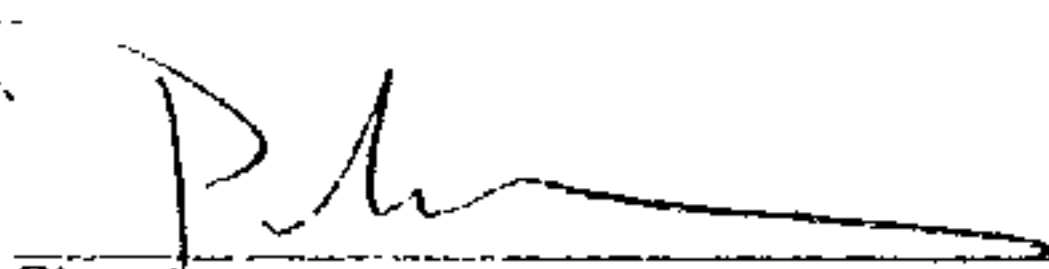
That the Affiant(s) does/do presently reside at

9131 FIELD ROAD
Address
PIKESVILLE, MD 21208
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

X SEE ATTACHED

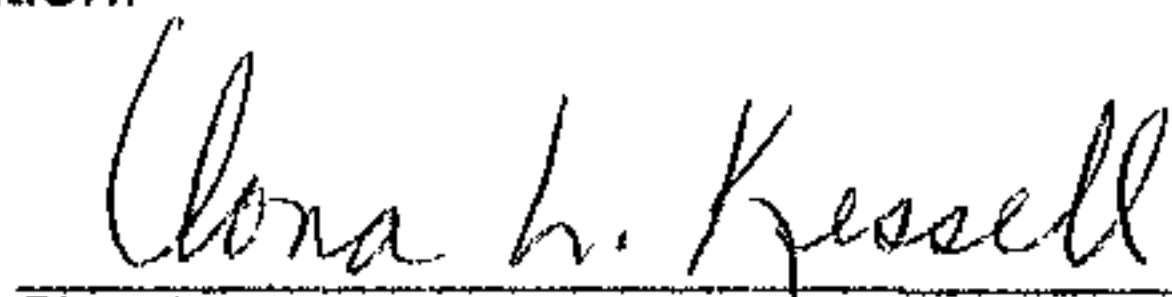
That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.



Signature

PETER S. HENGEN

Name - Type or Print



Signature

ILONA L. KESSELL

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 11 day of March, 2005, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Peter S. Hengen and Ilona L. Kessell
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal


Notary Public

My Commission Expires 1-1-09

Request for Administrative Variance

Height variance from 15' to 23' to construct a garage/shop

A. The first step requires the petitioner to prove, to the satisfaction of the hearing officer, that the property whereon structures are to be placed (or uses conducted) is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties.

The properties of Lyon Acres extend from McDonogh Road and are set on a loop known as Field Road. 9131 Field Road is the furthest most property on the loop and abuts a run-off pond for the Northwest Expressway also known as State Highway 795. With significant acreage of state owned adjacent swamp land 9131 Field Road is in a unique situation where a height variance to 23' will have no impact on neighboring residential areas.

B. The second step of the test requires that the petitioner must demonstrate that strict compliance with the BCZR would result in either practical difficulty or unreasonable hardship.

To provide practical difficulty for an area variance, the following criteria must be met:

(i) Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose render conformance unnecessarily burdensome.

The applicant is requesting relief from a 15' height restriction to a 23' height restriction to build a garage/shop. The added 8' will allow for this hobbyist a space tall enough to build theatrical sets. The relief to 23' maintains the spirit of the residential neighborhood. It is reasonable for the applicant to use this area of land for this purpose.

(ii) Whether the grant would be substantial injustice to the applicant, as well as other property owners in district, or whether a lesser relaxation than that applied for would give substantial relief.

It would be a substantial injustice to keep the property owner from pursuing his hobby. It is justified for the property owner to work on projects and store items from his neighbor's view so as to not make an eye-sore in the neighborhood.

(iii) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

The relief from 15' to 23' will be in such a fashion that the spirit of the ordinance will be observed. The garage/shop is to be built at the bottom of a slight slope. Therefore, the 23' height will be lower than the single story main residential structure.

The garage/shop will be nestled in tall trees maintaining a suburban atmosphere. The view from the main residential structure will not be obscured by the garage/shop structure.

C. No increase in residential density beyond that allowed by the BCZR shall be permitted.

There will be no increase in residential density.

D. The relief requested must be in strict harmony with the spirit and intent of height, area, parking, or sign regulations.

The relief requested is in strict harmony with the spirit and intent of area, parking, and sign regulations. The variance requested is for height.

E. And only in such manner as to grant relief without substantial injury to the public health, safety, and general welfare.

The relief is without substantial injury to the public health, safety, and general welfare.

ZONING DESCRIPTION FOR

9131 Field Road, Pikesville, MD 21208

Beginning at a point on the Northwest side of Field Road which is **50 feet** wide at the
distance of ^{1,447.4'} (number of feet) (~~North, South, East, West~~) of the centerline of the nearest
improved intersecting street called **McDonogh Road**. Being **Section #8** in the
subdivision of **Lyon Acres** as recorded in Baltimore County **Plat Book #18, Folio #98**,
containing **3.51 acres** or **152,896 square feet**. Also known as **9131 Field Road** and
located in the **3rd Election District, 2nd Councilmanic District**.

470

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 443410

DATE 3-21-85

ACCOUNT 001-006-6150

AMOUNT \$ 65.00

RECEIVED FROM: PETER HENSTEN

9131 FIELD RD. ITEM # 470
Adm. Var.

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS 4/1/85 100.00
10/2/85 1/1/86 0.00

RECEIPT # 39213 3/21/85 65.00

5 100.00 65.00 35.00

Receipt for 65.00 4/1/85

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS

Date: April 4, 2005

RE: Case Number 05-470-A
Petitioner/Developer: PETER HENGEN
Date of Hearing(Closing): April 18, 2005

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 9131 FIELD ROAD

The sign(s) were posted on April 2, 2005
(Month, Day, Year)



Linda O'Keefe
(Signature of Sign Poster)

LINDA O'KEEFE
(Printed Name of Sign Poster)

523 PENNY LANE
(Street Address of Sign Poster)

HUNT VALLEY MD 2103
(City, State, Zip Code of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 05- 470 -A

Address 9131 FIELD RD.

Contact Person: JUN FERNANDO

Planner, Please Print Your Name

Phone Number: 410-887-3391

Filing Date: 3-21-05

Posting Date: 4-3-05

Closing Date: 4-18-05

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 05- 470 -A

Address 9131 FIELD RD.

Petitioner's Name PETER HENGEN

Telephone 410-363-8028

Posting Date: 4-3-05

Closing Date: 4-18-05

Wording for Sign: To Permit an accessory structure (detached garage)
with a height of 23' in lieu of the required 15'.

WCR - Revised 6/25/04

**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: 05-470-A
Petitioner: PETER SCOTT HENGEN
Address or Location: 9131 FIELD ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: PETER SCOTT HENGEN
Address: 9131 FIELD ROAD
PIKESVILLE, MD 21208

Telephone Number: 410.961.8000

**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*

April 18, 2005

Peter S. Hengen
Ilona L. Kessell
9131 Field Road
Pikesville, Maryland 21208

Dear Mr. Hengen and Ms. Kessell:

RE: Case Number: 05-470-A, 9131 Field Road

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

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:

Enclosures

c: People's Counsel

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 29, 2005

ATTENTION: Zoning Review Planners

Distribution Meeting of April 4, 2005

Item No. 458, 459, 460, 464, 465, 466, 467, 468, 469, 470, 471, 472,

Pursuant to your request, the above 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 site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

Acting Lt. Warren T. Moffitt
Fire Marshal's Office
410-887-4880
MS-1102F

Cc:file

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director DATE: April 19, 2005
Department of Permits & Development
Management

FROM: Dennis A. Kennedy, ^{DAK} Acting Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For April 4, 2002
Item No. 459, 463, 464, 465, 467,
469, 470, 472

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

DAK:CEN
cc: file
ZAC-NO COMMENTS-04192005.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 1, 2005
RECEIVED

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

APR - 1 2005

SUBJECT: 5-470 – Administrative Variance

ZONING COMMISSIONER

The Office of Planning does not oppose the petitioner's request to permit an accessory structure with a height of 23 feet in lieu of the maximum permitted 15 feet provided the following conditions are met:

1. The petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
2. The accessory structure shall not be used for commercial purposes.
3. Submit elevations (all sides) of the proposed accessory structure to his office for review and approval prior to the issuance of any building permit.

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

Prepared by: Mark A. Coughlin

Section Chief: John J. [Signature]

AFK/LL: MAC

RECEIVED FOR PLANNING
4/25/05
Ray



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

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

Maryland Department of Transportation

Date: 3.25.05

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

RE: Baltimore County
Item No. 477 JRF

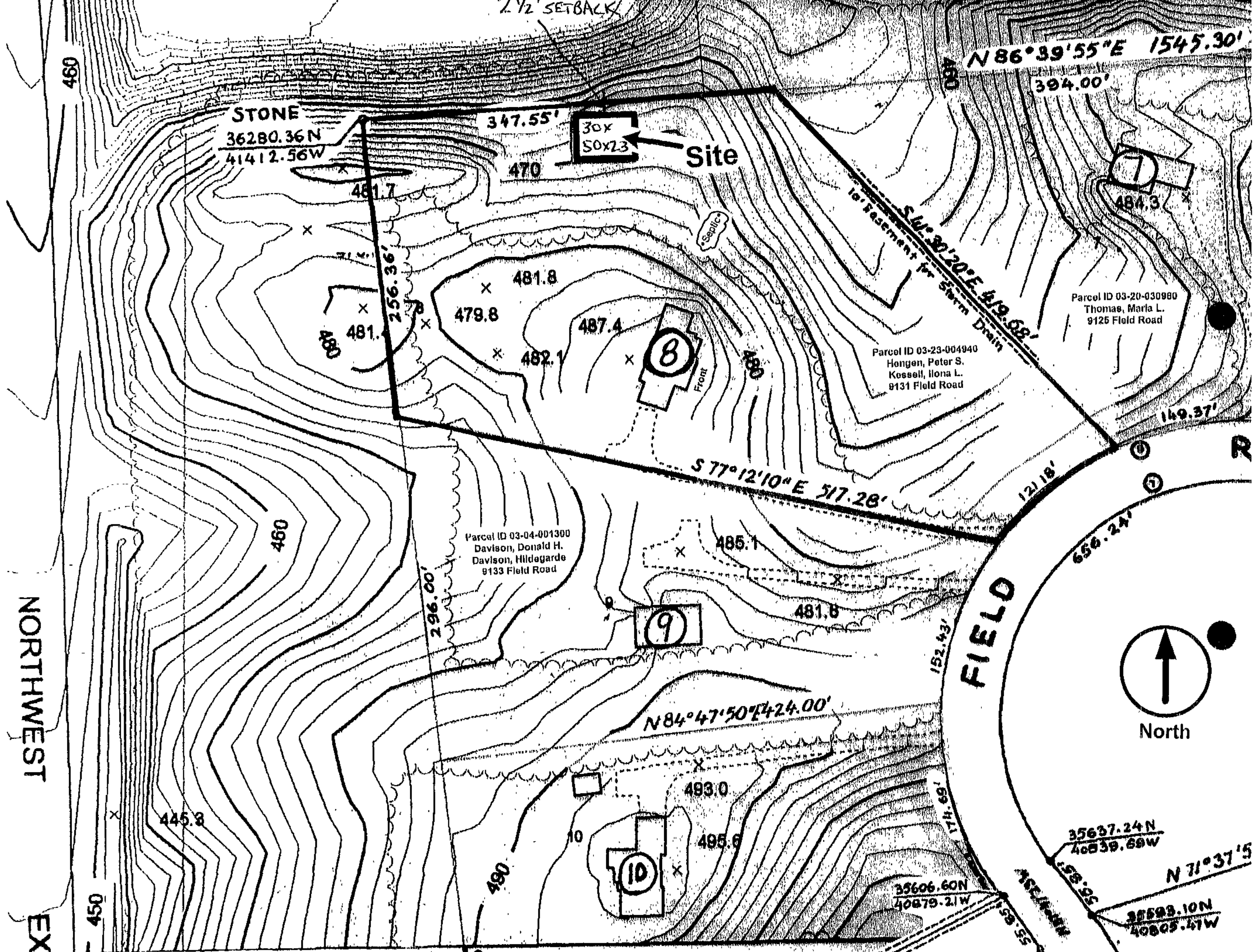
Dear Ms. Matthews:

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,

Steven D. Foster, Chief
Engineering Access Permits Division



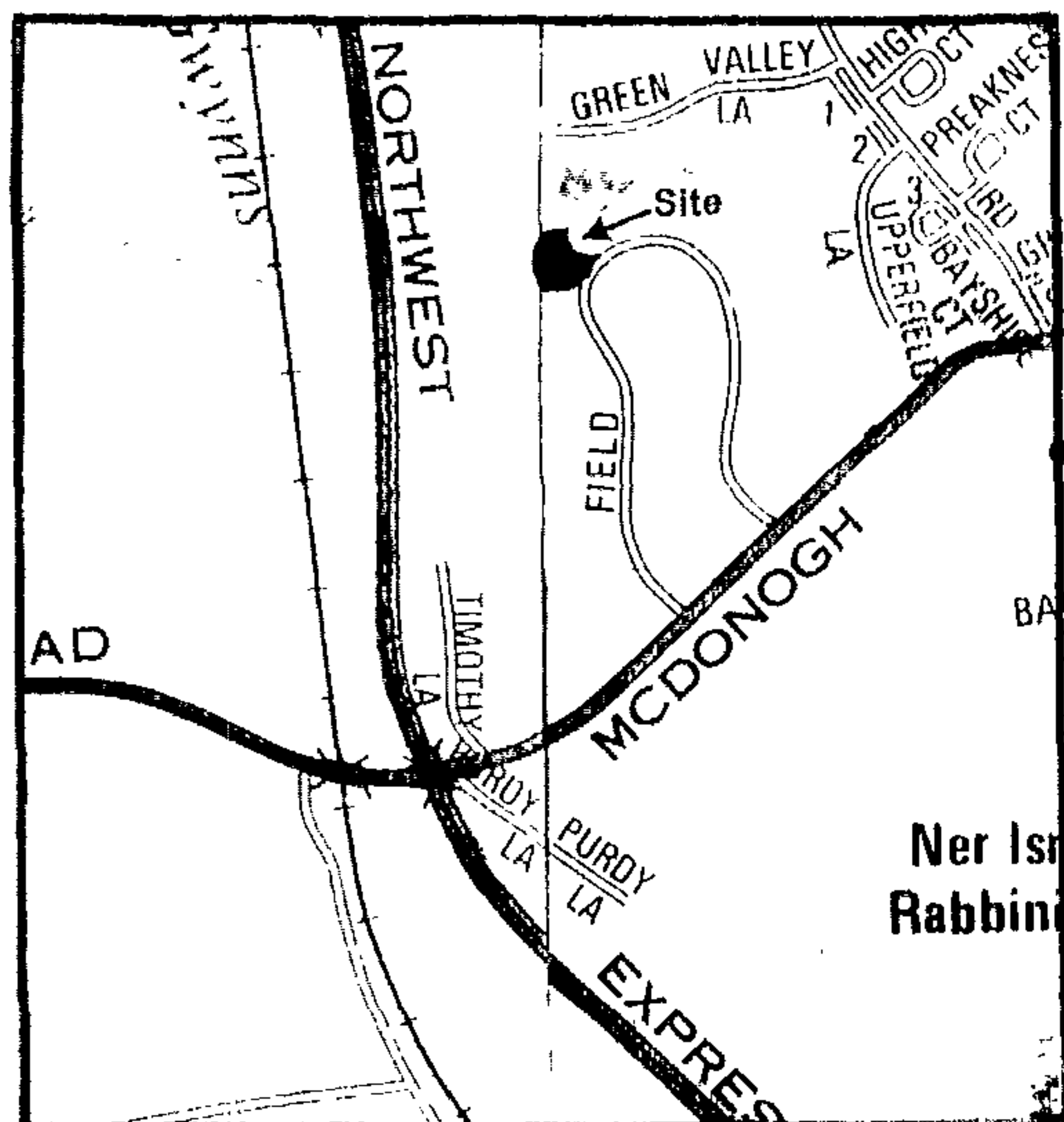
Scale of Drawing: 1" = 100'

Plat to Accompany Petition For Zoning Variance

Property Address: 9131 Field Road
 Subdivision Name: Lyon Acres
 Plat Book #18 Folio #98 Section #8
 Owner: Peter S. Hengen / Iona L. Kessell

February 16, 2005

Vicinity Map
 Scale: 1"=1000'



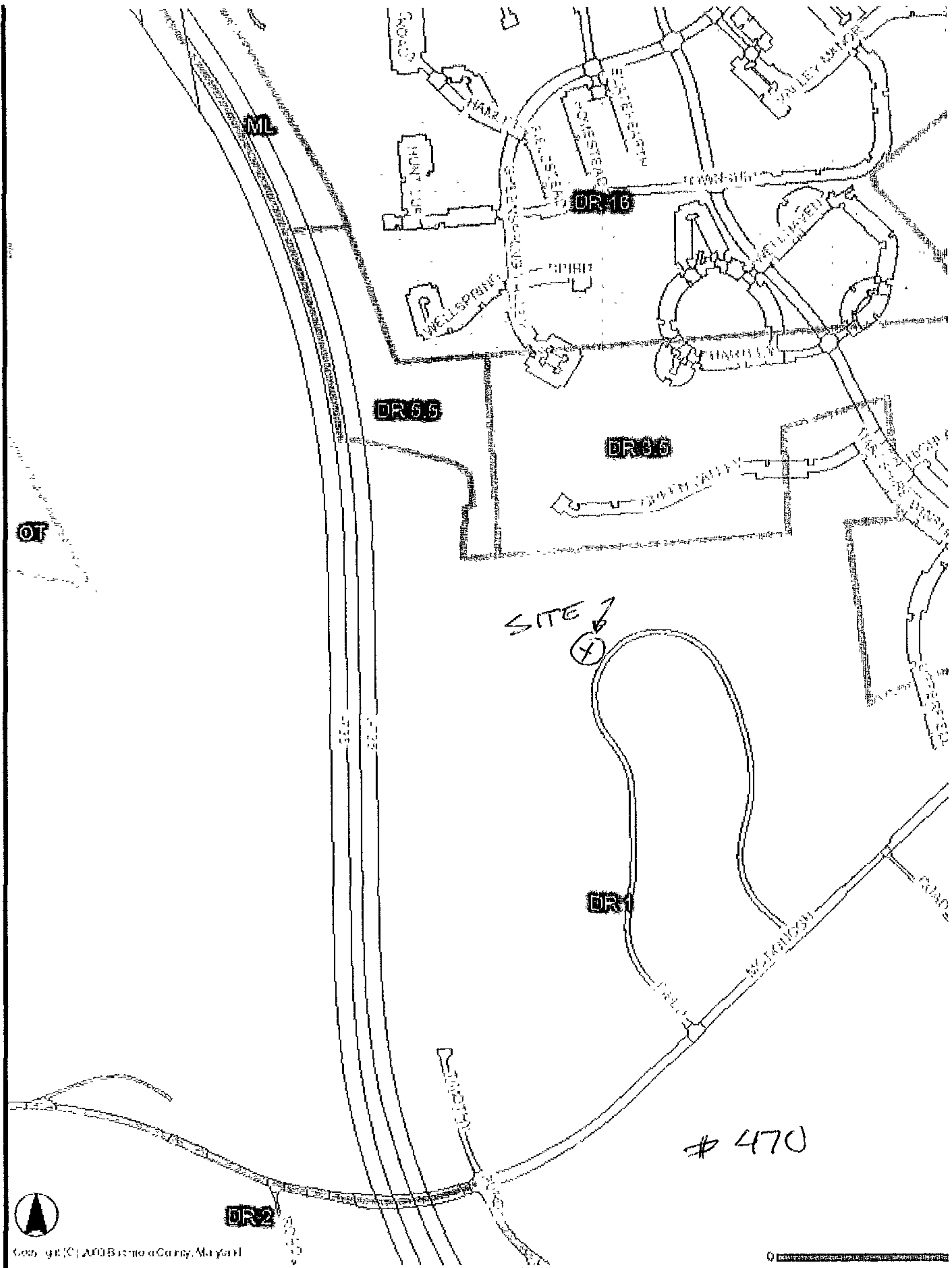
Location Information

Election District: 3
 Councilmanic District: 2
 Zoning: DR1
 Lot size: 3.51 acres / 152,896 Square Feet
 Private Sewer / Private Water
 Chesapeake Bay Critical Area: No
 100 Year Flood Plain: No
 Historic Property / Building: No
 Prior Zoning Hearing: No

ZONING OFFICE USE ONLY
 Reviewed By Item# Case#

Red 47

JF 470





#4770

017#

