IN RE: DEVELOPMENT PLAN HEARING
& PETITION FOR SPECIAL HEARING
SE/S of Harford Road
Opposite of Placid Avenue
11th Election District
5th Councilmanic District
(BENDER-VOGEL, LLC)

Bender-Vogel, LLC

Developer/Petitioner

* BEFORE THE

* HEARING OFFICER

* FOR

* BALTIMORE COUNTY

* CASE NOS. XI-990 & 06-026-SPH

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 the "Bender-Vogel, LLC" property, prepared by STV Incorporated. The Developer is proposing the development of the subject property into 18 single-family dwellings. The subject property is located on the southeast side of Harford Road opposite Placid Avenue in the Carney 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 special hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for approval of a density anomaly for Lots 2 & 3 of the proposed development.

The property was posted with Notice of the hearing for the Development Plan on July 6, 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 special hearing on July 19, 2005 and a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on July 26, 2005, to notify any interested persons of the scheduled hearing date.

As to the history of the project, a Concept Plan Conference was held on February 28, 2005.

A Community Input Meeting was held at the Pine Grove Elementary School on April 7, 2005. A

Development Plan Conference followed on July 20, 2005. A Hearing Officer's Hearing for this

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development plan and special hearing was held on August 5, 2005 in Room 106 of the County Office Building. The hearing concluded on September 2, 2005.

Appearing at the hearing on behalf of the Development Plan approval request at the August 5, 2005 hearing were Craig Rodgers and Mickey Cornelius of The Traffic Group. Tony Lorteal, Jennifer Leonard, Ken Green and Kay Morin appeared on behalf of STV Incorporated, the firm that prepared the Development Plan. Benjamin Bronstein, Esquire represented the Petitioners. In attendance at the September 2, 2005 hearing on this Development Plan were Kay Morin and Ken Green of STV Incorporated, in addition to Benjamin Bronstein, Esquire and Craig Rodgers.

The following protestants/interested citizens attended the hearing: Meg O'Hare, Marge Mitchell, Mary & Patrick Rooney, Betty & Dan Ehm, William Reisinger, George Anthony, John Romoser, Margaret Hart, Raymond Keeler, Steven Waldon, Fred LaSorte, Aaron Joseph, Barbara Kunkel, Edmund Kunkel & Katharine Kunkel, Eddora Kunkel, Joyce Faby, Edward Cooper, Alice Baker, Ruth Baisden, Robert Derwart, Richard G. Taylor, John Hess and Michael Torr.

Also in attendance at the August 5, 2005 and September 2, 2005 hearings were representatives of the various Baltimore County reviewing agencies, namely, Jun Fernando (Zoning Review), Dennis Kennedy (Development Plans Review), Eric Rockel (Bureau of Land Acquisition) and Christine Rorke, Project Manager (Development Management), all from the Office of Permits & Development Management; David Lykens from the Department of Environmental Protection and Resource Management (DEPRM); Curtis Murray from the Office of Planning; and Jan Cook & Jean Tansey from the Department of Recreation & Parks.

Developer Issues

The Developer initially withdrew its request for special hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for approval of a density anomaly for Lots 2 & 3 of the proposed development. The property is split zoned DR 3.5 and DR 2 across lots 2 and 3. The Developer proffered that the relief was not necessary as the plan provides 18 lots, which

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consume 19 dwelling units without the requested relief. The property zoning and size allow 22 dwelling units. The Development Plan was marked accordingly and a portion of lot 3 marked as "non density – non buildable".

In addition, the Developer raised the issue of waiver of open space. Under the regulations, the Developer must provide 1,000 sq. ft. of local open space per lot (18,000 sq. ft.). However, the Developer proposes to pay a fee in lieu of actually providing the local open space as permitted under the regulations. The Developer contends that paying a fee in lieu of providing local open space is "automatic" in these circumstances and that the Department of Recreation and Parks was not justified in refusing to grant such a waiver.

County Issues

Each of the reviewing agencies indicated that the Development Plan met all County regulations with the following exceptions and highlights:

Recreation and Parks

The representative of the Department indicated that the Developer must provide 1,000 sq. ft. of local open space per lot (18,000 sq. ft.). The Developer applied to the Department for a waiver proposing instead to pay a fee in lieu as permitted under the regulations. However, the Department refused to grant the waiver due to community concerns and the need for recreation facilities in the Parkville area. The Developer indicated that the Hearing Officer should grant the waiver.

Department of Environmental Protection and Resource Management (DEPRM)

The representative of the Department indicated that all prior issues raised by the Department had been satisfied and the plan met the regulations.

Plans Review/Public Works

The representative of the Department recommended that this Commission approve a waiver of the roadway right-of-way width for the loop portion of Bender Circle from 50 ft. ordinarily

required to 40 ft. The right-of-way for the portion of Bender Road from the loop to Harford Road would meet the required 50 ft. width. He noted that the loop portion of Bender Circle would be paved a full 30 ft. as required and that sidewalks, curb and gutter would be installed so that the appearance of the road would be the same as any equivalent County road. However, the County's right-of-way would be 40 ft.

The representative also recommended a second waiver to waive construction of sidewalks along the Soon property, which lies to the north. He noted that the Soon property is undeveloped but, if this property comes in for development, the Soon developer would be required to install the sidewalks.

Community Concerns

Adjacent property owners and members of the Carney Improvement Association and Greater Parkville Coordinating Council expressed their opposition to approving the Development Plan with the following highlights:

Storm Water Management

Several members of the community raised the issue of the adequacy of the storm water management component. They noted that Summit Avenue floods when it rains depositing trash and silt along its edges. They were concerned that 18 more homes would increase runoff feeding into Jennifer Branch thereby making the problem worse. Jennifer Branch used to be a small stream but has greatly increased in size and volume of water in recent years. They noted that the banks of the tributary and Jennifer Branch have eroded over the years which problem would be worsened by the new development. They further noted that this storm water management design concentrates storm water onto this property whereas the natural flow is in three directions.

In a general discussion regarding this issue, Mr. Green, the Developer's engineer, described the storm water management facility as having an initial compartment, which filters pollutants from the water. Thereafter, the water enters a holding pond that releases the water over 12 hours to the

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outfall, which he described as an unnamed tributary of Jennifer Branch Run. Because the water discharges slowly there should be no erosion of the streams due to this development. He indicated that the facility met all State and County regulations.

The Developer's engineer also opined that there was no opportunity for this Developer to over design the Storm Water Management (SWM) facilities to reduce erosion and flooding down stream caused by other developments in the larger drainage area. He noted that the location of the SWM facilities in this case are above the stream and so do not allow handling more water than generated by this development so as to improve the overall drainage area.

In addition, several members expressed concern that the storm water management pond loomed above their properties, which were 20 ft. or more below. They were concerned that the pond would fail during heavy rains and release torrents of water onto their property. In addition to natural causes for the pond to fail, vandals could stop up the drainage pipe so the pond would not discharge as designed. Several suggested that these concerns would be alleviated if the storm water management pond were relocated on Harford Road. Mr. Green explained that the location for the SWM facility shown was the only one that would serve all lots and provide a suitable outfall into Jennifer Branch Run.

Mr. Joseph expressed his concern that the development would impact wetlands below Jennifer Branch and fauna and flora of the area. In addition he contends that storm water management regulations are not adequate as there is no provision for sizing the facilities to accommodate additional future runoff in the drainage area due to increase rain or other development in the pipeline.

Traffic

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The Developer's engineer indicated that the plan presented incorporates a proposed widening of Harford Road by the State Highway Administration.

Several protestants expressed concern that there had been many accidents on Harford Road in the immediate vicinity and the addition of 18 additional homes would make the safety problem worse. They noted that Harford Road has a crest south of the development, which limits sight distance along Harford Road for travelers coming from the development. The Developer's engineers indicated the Development will be served by Bender Circle as the only access to Harford They met with the State Highway Administration who required them to pay for Road. improvements to Harford Road at Bender Circle and Placid Avenue, including widening of both This will allow the State to add a left turn lane at Placid Avenue so that sides of Harford Road. northbound drivers coming over the crest will not find vehicles standing in a travel lane waiting to With these proposed changes to Harford Road the State make a left turn into Placid Avenue. Highway Administration does not oppose the development. In addition, the Developer's engineers indicated that there would be adequate sight distance along Harford Road for drivers coming out of Bender Circle.

Ms. Kunkel indicated that the intersection of Harford and Joppa Roads is a failing intersection, which should prohibit further development in the area. In response, Mr. Cornelius, the Developer's traffic engineer, indicated that this intersection is not failing by County standards which are different from other standards used by the State and other counties. He explained that the Baltimore County Basic Services Map shows Harford and Joppa Roads to be at a service level D. The intersection would have to degrade to level F before this development could be affected.

He admitted that using the State's method of rating intersections, this intersection is service level F. He noted that the three methods of rating intersections give different results. The State uses the Highway Capacity Manual method. Other counties use this method or the Critical Lane Analysis. Only Baltimore County uses the older Loaded Cycle method.

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Schools

Mr. Joseph raised the issue of overcrowded schools in the area that would be adversely affected by more children from the new development and others in the pipeline. The Developer's engineers pointed to the school impact analysis, which shows that no school in the area would exceed the 115 % overcrowding limit specified by the County, which would delay the development. In fact, some community members opined the schools were not overcrowded.

Public Utilities

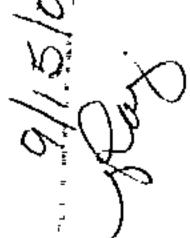
Several protestants questioned whether the sewer system had the capacity to accept more inflow, given the well publicized recent sewer system failures which resulted in the Federal Government imposing fines on the County. In addition, Ms. Kunkel noted that she has observed sewerage squirting out of manholes along the 8-inch line, which serves this area. The representative of the Department of Public Works indicated that the sewer system has adequate capacity and that the sewer system failures were found to be maintenance problems not capacity problems. However, as a courtesy to these concerns the representative agreed to review the capacity of the system once again. He noted in his e-mail dated September 13, 2005 that the sewer system could handle this small development.

Ms. Baisden indicated that she had listed local open space, landscaping, performance standards, environmental and traffic concerns.

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.



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- (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 %:

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 - (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.

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.

Preliminary Matter

The County's Project Manager noted that the Councilman from this district recently introduced a bill (Bill No. 85-05) that would prohibit development plan approval for properties in the Carney area such as this property which were not approved as of August 1, 2005. The Councilman proposed a one-year study of the recreation space available to the existing County residents in this area. However, upon vote of the County Council the bill was amended to prohibit issuing building permits rather than development plan approval and consequently did not affect this development plan approval process.

Testimony and Evidence

Developer's Case

The Developer is proposing to develop the property into 17 new single-family dwellings and to retain one of the two existing dwellings on the property if the Development Plan is approved.

The home to be retained will be on lot 3. The new homes would be served by Bender Circle, a loop road, and have one entrance onto Harford Road as shown on the Redline Development Plan, Developer's Exhibit 1. Ms. Leonard, a landscape architect, testified that from her visits to the site, the property presently has a mowed meadow area and forest rated "fair" in addition to the existing home. There are no wetlands. She presented the Landscape Plan to the County for review and received minor comments in response.

In regard to the local open space issue, Ms. Leonard indicated that the Department of Recreation and Parks indicated at the Concept Plan Conference that they would grant a waiver from providing local open space of 18,000 sq. ft. and allow the Developer to pay a fee in lieu thereof instead. She was incredulous that the Department reversed its decision and now denied the waiver. She indicated that the County has never required a developer to actually provide local open space for developments under 20 dwellings.

Mr. Green, senior project manager, opined that the Redline Development Plan incorporates all the comments from the State Highway Administration in regard to improvements to Harford Road (Route 147). These improvements do not include sidewalks along this edge of Harford Road but do include widening of both sides of Harford Road and installing a left turn lane at Placid Avenue.

On questioning, Mr. Green noted that in spite of community contentions otherwise, there was no way to move the storm water management pond from the proposed location to the edge of Harford Road. He noted that there were no storm drains in Harford Road into which the SWM pond could be discharged. Because of this, the only feasible approach was to discharge the storm water into the tributary of Jennifer Branch as proposed. If the pond was located next to Harford Road, the discharge pipe would have to transect the whole property and as a result more forest would have to be cleared. Mr. Green admitted that the storm water management pond as proposed would be approximately 20 ft. above the adjacent residential homes on Finney Drive.

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The representative of the Department of Recreation and Parks restified in more detail as to his Department's decision not to grant the waiver of local open space and allow the Developer to pay a fee instead. He admitted that initially the Department indicated it would grant the waiver. However, upon hearing from the Community regarding the lack of open and recreational space in the Carney area, the Department denied the requested waiver. He noted generally that there is not sufficient open space in the Carney area and in particular that the Department had to remove play equipment from the nearby "Missing Pines" recreational area due to its location in the flood plain. The State requires 30 acres of open space for every 1000 residents but that the County overall now provides 19 acres per 1000 while Parkville provides only 17 acres per 1000.

He presented two layouts designed by his Department showing alternative locations for the required local open space (LOS) which were introduced as County Exhibits 1A and 1B. He noted that the regulations require 18,000 sq. ft (approximately 0.41 acres) of LOS for this 18 lot development. If LOS were provided the Developer would likely lose two lots which in turn would reduce the LOS requirement to 16,000 sq. ft. Finally, instead of having a homeowners association care for this LOS, he proposed that the County maintain the LOS where the County would reinstall the play equipment removed from Missing Pines.

Upon questioning, he admitted that one of the goals of the local open space regulations was to serve the new community and that by reinstalling the Missing Pines play equipment at this location, the surrounding community would likely use the recreational facility in addition to the new residents. He denied that actually providing this LOS would conflict with the goals of the Local Open Space Manual as shown in Section II B or that the local open space regulations were designed for the new residents only. He admitted that there were no sidewalks on the eastern side of Harford Road where County Exhibit 1A shows a park, and that Harford Road was not suitable for children without such sidewalks. Finally, he noted that the Department would like to work with both the

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Developer and Community in finding a suitable location for the LOS on site. As such, the Department may accept somewhat less than the required area provided by the LOS Manual.

The representative noted that the Department has traditionally interpreted Section 32-6-108 of the Baltimore County Code, which specifies the amount of local open space, to mean that the Department has jurisdiction to grant waivers for developments up to 20 dwelling units. In the Department's view, the Hearing Officer has the authority to grant waivers of LOS above 20 units. This control point of 20 units is derived from subsection (d) of this section and the Local Open Space Manual.

Mr. Cornelius, the Developer's traffic engineer, testified that he met with the State Highway Administration regarding the entrance to this development (Bender Circle) on Harford Road. He noted that originally Bender Circle was to connect to Harford Road directly across from Placid Avenue. Streets are normally to connect opposite another street such as Placid Avenue for the safest intersection. However, Harford Road has a crest of a hill between Summit Avenue and the subject property. This means that vehicles turning south on Harford Road from Bender Circle would have limited sight distance to the south. By moving Bender Circle's connection toward the crest as now proposed, full 400 ft. sight distance in either direction can be achieved. He indicated that 385 ft. is required.

In addition, northbound vehicles on Harford Road come over the crest only to find vehicles turning left into Placid Avenue stopped in the travel lane of Harford Road due to oncoming southbound traffic. Apparently, several serious accidents have occurred when the northbound vehicles were unable to stop in time. The SHA wants a left turn lane for Placid Avenue to move the left turning vehicles out of the travel lane. Through negotiations with this Developer, the SHA was able to fund a widening of Harford Road and left turn lane onto Placid Avenue as shown in the detail of Developer's Exhibit 1. Also see Developer's Exhibit 6, the letter of June 14, 2005 from

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the SHA which indicates the proposed access is safe for the new residents and outlines the left turn improvement at Placid Avenue.

Protestant's Case

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Patrick Rooney testified for the protestants as a traffic accident reconstruction expert. He noted that he personally knew of 12 accidents in the immediate area, due to the crest of the hill on Harford Road. He related that most of these accidents occur when motorists come over the crest to discover a left turning vehicle stopped in the travel lane waiting to turn left onto Placid Avenue, although a few have occurred at Summit Avenue for the same reason. He noted that this danger increased with increased speed.

He also testified that offset intersections such as proposed here are not desirable from a traffic safety standpoint. He pointed to the first requirement by the SHA in their letter of February 24, 2005 in further support of this position. See Protestants' Exhibit 2. He complained that this Developer has not incorporated all of the listed SHA requirements into the Redline Development Plan. Mr. Rooney also indicated that the intersection of Harford and Joppa Roads has been a failing intersection since the 1980's. As a result, the southbound traffic on Harford Road often backs up to Cub Hill Road at peak morning hours, but regularly backs up to Placid Avenue. He personally noted that it often takes 20 to 24 minutes to get through the intersection between the months of September and June, in both the morning and afternoon peak rush hours. Finally, he opined that the road system can not handle more traffic.

on neighborhood streets significantly but noted that it is the continuous approval of such subdivisions that cause the congestion. Finally, he agreed with the Developer that the location of the local open space area on Harford Road as shown on County Exhibit 1A would not be appropriate due to traffic hazards previously described. He denied that even if the SHA removed

the crest of the hill on Harford Road that the problem would go away as Bender Circle should be aligned opposite Placid Avenue. This ended the first hearing day testimony.

Dam Breech Analysis

After the first day hearing was complete the undersigned wrote to the Developer as to whether a "dam breech analysis" had been completed in this case. See letter to the Developer dated August 16, 2005. This analysis would investigate the effect of a storm water management pond wall failure on the adjoining properties when the pond was filled with water.

At the outset of the second day hearing, Mr. Bronstein noted that this analysis had not been requested by DEPRM and consequently not done by the Developer. The representative of DEPRM, in his testimony on the second day, indicated that his Department ordinarily does not require such an analysis for excavated ponds such as that proposed by the Developer in this case. This is in contrast to ponds where the walls are to be constructed of fill material. In the excavated pond proposed, the water level at full capacity will reach only ground level and thus not be a cause of concern.

Protestants Case continued

Ms. Rooney presented the County Police Department data of traffic accidents on the area roads from January 1, 2000 to December 31, 2004 as Protestants' Exhibit 3, and opined that from her personal experience the road system in the area can not handle additional traffic.

Ms. O'Hare, President of the Carney Improvement Association, presented a letter dated July 22, 2005 from the Director of the DEPRM who acknowledged that area streams channels have degraded over the years due to urban storm water run off. See Protestants' Exhibit 6. The Director indicated that this problem resulted from the lack of proper buffers for streams in past regulations in older areas such as Carney, but pledged that this Developer will be required to meet all present regulations. Ms. O'Hare indicated that approval of this Development Plan will simply worsen an already bad stream erosion problem. See protestants' Exhibit 8 for photographs of the stream in a

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moderate storm. She was skeptical that the five employees allocated by the County to monitor the 800 storm water ponds currently in the County was enough. She cited the pond at Harford and Summit Roads has not been properly maintained by the County and opined that the pond at Waltham Woods has already failed.

Ms. O'Hare further expressed concern about the large number of traffic accidents in the area, the fact that Bender Circle is not opposite Placid Avenue which is not a safe design per the SHA, and if the State finds the intersection at Joppa and Harford Roads to be failing, the County should prohibit additional development in the area.

She further expressed the need for more recreational open space in the area. However, on questioning, she indicated that access for the public to the local open space might be off of Finney Drive. In any, case she did not believe that people going to the LOS facility would travel at peak times.

Mr. Joseph who lives on Finney Drive, below the proposed storm water management pond, expressed concern about the safety of the pond and presented information in Protestants' Exhibits 11 and 13 regarding failures of earthen dams and federal dam safety programs. He also presented photographs of the hill behind his home on which the proposed storm water management pond will be located. See Exhibits 12D through 12G. He presented a list of 232 storm water management ponds in the County and expressed concern that five County employees could possibly maintain these. He opined that the storm water management pond could be constructed adjacent to Harford Road where if the pond failed it would not endanger adjacent properties. Upon questioning, he was unable to point to any County maintained pond that failed but indicated he understood that the Waltham Woods pond did fail.

Ms. Kunkel presented photographs of the traffic on Harford Road and the proposed location of Bender Circle in relation to Placid Avenue and the crest of the hill. See Protestants' Exhibit 16A through 16E. Mr. Joseph presented a video tape of a car trip made by him on Harford Road in the

area of the proposed development. See Protestants' Exhibit 17. He also objected to approving the requested waiver of right-of-way width for Bender Circle and sidewalks along the Soon property.

Mr. Waldon presented photographs of the hill on which the proposed storm water pond will be built in relation to his home below the hill, and expressed concern about the safety of his family should the pond fail.

Ms. Baker objected to the proximity of the proposed homes to one another from a fire hazard standpoint.

Ms. Baisden, President of the Greater Parkville Community Council, lamented the lack of open space in the Parkville area, objected to the Developer's request to pay a fee in lieu of providing local open space and requested the Developer be required to submit a landscape plan to the County for review prior to development plan approval.

Findings of Fact and Conclusions of Law

As mentioned at the hearing on this matter, development plans must be approved if they meet applicable County regulations. The community raised many issues during the hearing, which I will now address.

Stream Erosion

The community has presented strong evidence that the unnamed tributary to Jennifer Branch and Jennifer Branch itself has suffered substantial erosion over the years due to past development in the drainage area. Indeed, the County recognizes this problem as shown by the letter of the Director of DEPRM dated July 22, 2005, Protestants' Exhibit 6. The e-mail dated September 13, 2005 from Dennis Kennedy indicates that the County has a capital improvement program for stream restoration of Jennifer Branch, which is in the design at present. It is clear that the County and community agree on this point. The Developer has never disagreed.

It may seem completely logical to the community that any further development, such as proposed here, will increase the problem and, therefore, the development should not be approved.

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It may seem completely logical to the community that any further development, such as proposed here, will increase the problem and, therefore, the development should not be approved.

However, the question I must answer is whether this property owner should be penalized for the fact that other property owners have developed their properties in the past. As the Director of DEPRM acknowledges, past development has not been subject to present storm water regulations.

I regret that there apparently is no opportunity to over design the storm water management system for this development so as to capture and slow water from the general drainage area and thus actually improve the erosion problem. This is so because the storm water management facilities proposed are physically above the stream. As we have said to each other many times in the hearings, water does not flow uphill. I also believe that the County's present regulations will be rigorously applied by DEPRM in this case, so as not to make a bad situation worse. The regulations are intended and, from all I know, actually mimic the storm water run off from the property as it now sits in a partially developed state. I have no regulatory basis to deny approval of the plan on the issue of stream erosion.

Sewer capacity

The community questioned the representative of the Public Works Department at length regarding the capacity of the sewer system to handle the additional effluent from this development. The representative of the Department indicated in his e-mail of September 13, 2005 that after hearing from the community he rechecked the capacity issue. His report indicates that there is more than adequate capacity and that there is no evidence to confirm reported maintenance problems. I have no regulatory basis to deny approval of the plan on the issue of sewer capacity.

Traffic Safety

The community has presented a very strong case that the traffic existing on Harford Road is very congested. The intersection of Joppa and Harford Roads is rated at a failing level by State Highway standards. It often takes 20 minutes to go through the intersection at peak hours. Undoubtedly, one reason for the traffic congestion is development in the traffic shed. Another likely reason is that families now own and drive more vehicles than in the past.

However, the question is, should the development be stopped for traffic generated by past development and/or personal choices of residents who own and drive more vehicles? There are two existing homes on the property. Would the addition of the traffic from 16 new homes significantly impact the existing heavy congestion on area roadways? Logic would seem to say we can not continue to approve even small housing developments as Mr. Rooney so eloquently put it. However, regulations and not logic dictate the answer.

The law allows any development to be at least slowed down but not stopped if the property is in a failing traffic shed, as shown on the County's Basic Services maps. However, even if the property were in the County's failing traffic shed, the Development Plan could be approved, and reserve capacity use certificates issued. Only building permits would be withheld until some correction of the traffic problem can be found.

The problem for the community's case is that the failing traffic shed at the intersection of Joppa and Harford Roads in not recognized by the County on the Basic Services Map of the area. As far as the County regulations are concerned, the intersection is not failing. This means that there is no County recognized failing traffic shed around this intersection identified on the Basic Services Map in which development is slowed. This means that I have no regulatory basis to deny approval of the plan on the issue of traffic safety. Development plan approval or denial is based on applicable regulations.

That said, the fact that the County and State have different intersection rating systems is very troubling and with all due respect needs to be corrected by legislation. The County standard is established by Section 4A02.4 D 1 of the B.C.Z.R. which specifies that the County will use the 1965 Highway Capacity Manual published by the National Academy of Sciences rather than a standard established by traffic experts. According to the SHA's letter of June 14, 2005 (Developer's Exhibit 6), the County standard reflects only the present status of intersections but can

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not predict future level of service as the State's standard can. Mr. Cornelius noted that only Baltimore County uses this standard of all the Counties and the State.

In addition, I note that even though the SHA identifies the intersection as failing by its standards and presumably this property would be within the State's failing traffic shed boundaries, the SHA finds the proposed entrance of Bender Circle onto Harford Road to be "safe". Again, see the June 24, 2005 letter from Secretary Ports accepted as Developer's Exhibit 6. This letter obviously supersedes the prior letter from the SHA dated February 24, 2005, relied upon by the Protestants. See Protestants' Exhibit 2. The February 24, 2005 letter was in response to the earlier Concept Plan. In addition, the SHA supplemented its comments on the Development Plan under consideration in its June 29, 2005 letter, which is part of the file but not introduced by either side into evidence. This letter summarizes final arrangement with the Developer to widen Harford Road, install a left turn lane for Placid Avenue, and locate Bender Circle at the crest of the hill on Harford Road. In all, the SHA does not object to this development. Again, I have no regulatory basis to deny approval of the plan on the issue of traffic safety.

Storm Water Management Pond Safety

The Protestants presented extensive information on dam safety and expressed their concerns that the pond, which looms uphill from their homes, may fail. I accept DEPRM's explanation that they did not require a "dam breech analysis" because the walls of the pond are excavated earth and not constructed fill. Yet the Protestants' photographs vividly illustrate that the pond will be high above the Protestants' homes on Finney Road, and should it fail the impact on the Finney Road homes could be devastating. I also realize that in most cases where an analysis is required it occurs in Phase II of the development process.

However, in this case I will require a dam breech analysis before the Development Plan is approved. My concern is that because of the steep slopes leading from the pond to the neighborhood below, the analysis may well show that the pond needs to be reinforced, moved or

widened. Should this occur, the whole Development Plan may shift to the extent that it will require major revision. Consequently, I find it prudent to do the analysis before approval of the plan so that impacts, if any, can be addressed.

Local Open Space

The Developer raised the issue that the local open space should be waived and a fee be paid in lieu thereof. Mr. Bronstein argues passionately that below 20 dwelling units, waiver of local open space is automatic by the County and that the Department has merely caved into public pressure to deny the waiver. I must admit that in the several years I have reviewed development plans, I do not recall any case in which the Recreation and Parks Department has not granted such a waiver for developments less than 20 dwelling units. The Recreation and Parks representatives usually explain that 20 dwelling units require 20,000 sq. ft. for local open space, which is less than ½ acre. These small plots are difficult for the newly formed Homeowners Association (HOA) to maintain. In addition, Code Section 32-6-108 (c) (2) requires active open space in no less than 20,000 sq. ft. parcels. This development only requires 18,000 sq. ft. total. Consequently, the Developer argues that the County regulations do not envision requiring such a small parcel and a waiver should be granted.

In this instance, however, the Department was requested to deny the waiver by the community who is still smarting after the County removed play equipment from nearby Missing Pines Park. The Department recognized the substantial shortfall in open space generally for the Parkville area and saw an opportunity to relocate the play equipment to a parcel in this subdivision. They intend to manage the area themselves rather than turn this over to an HOA. Likewise, the community has made a strong case that Parkville lacks open and recreational space.

As we have said to each other many times during the course of the hearing, development plan approvals are based on regulations. The regulations of Section 32-4-411 (a) specify that the Developer shall provide local open space. One of the purposes of local open space regulations is to

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"offer recreational opportunities close to home". This does not say providing open space is intended for the exclusive benefit of the new residents as the Developer contends. I find no reason to believe the regulations exclude benefit to the larger community immediately around the development as well as benefit the new residents.

While I was initially not sure of the reason for the Code to specify that active open space must be not less than 20,000 sq. ft. parcels, after some review, it occurred to me that the legislation was trying to forbid creating multiple tiny local open space parcels spread over the entire subdivision. Presumably, a plan could meet the regulations of 1,000 sq. ft. per dwelling if enough tiny parcels were created. However, active open space is intended for interactive play, which requires contiguous land and not disjointed hunks of land to accomplish its goal. Consequently, I find the Council did not intend to make waiver automatic by specifying 20,000 sq. ft. parcels, but rather directed parcels be created which are large enough for active play. Ideally, this would be 20,000 sq. ft. However, I see no reason to believe a slightly smaller contiguous parcel such as requested by the Department would not meet the regulations. Consequently, I will not grant the requested waiver.

The Developer has not presented an alternative development plan, which provides for the required local open space and, therefore, a plan that I can approve. County Exhibits 1A and 1B indicate that if LOS is required several lots will be lost and the plan likely will be reconfigured substantially. Consequently, I will not approve the Redline Development Plan presented by the Developer, but I will require the Developer to locate the local open space parcel in conjunction with the County agencies and to submit a modified plan to the Development Plan Conference for final County review. Thereafter, a Hearing Officer's Hearing will be scheduled on the final plan.

Public Works Waivers

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The representative of the Department recommended that this Commission approve a waiver of the roadway right-of-way width for the loop portion of Bender Circle. The Developer proposes

40 ft. in lieu of the 50 ft. required. The representative also recommended a second waiver to waive construction of sidewalks along the Soon property, which lies to the north. However, given that the plan must be substantially revised to include local open space, I will reserve my decision on these

requests. It may turn out that neither is needed under the final design.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 15 day of September, 2005, that the Development Plan known as the "Bender-Vogel, LLC" property, submitted into evidence as "Developer's Exhibit No. 1, be and is hereby NOT APPROVED; that it must be revised to provide local open space pursuant to the LOS Manual and incorporate any changes indicated by a dam breech analysis for the storm water management facility; that the revised plan shall be remanded to the DPC for final review by County agencies; and, thereafter the revised plan shall be reviewed at a Hearing Officer's Hearing.

IT IS FURTHER ORDERED, that the request for special hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for approval of a density anomaly for Lots 2 & 3 of the proposed development, having been withdrawn, be and it is hereby DISMISSED WITHOUT PREJUDICE.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj

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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

September 15, 2005

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

> Re: Hearing Officer's Hearing – Development Plan Case No. XI-990 E/S of Harford Road, Opposite Placid Avenue Property: Bender-Vogel, LLC

Dear Mr. Bronstein:

Enclosed please find the decision rendered in the above-captioned case. The Development Plan for the "Bender/Vogel Property" has been approved 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 & 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

John V. Snurfly

JVM:raj Enclosure



Copies to:

Meg O'Hare, 3012 Summit Avenue, Baltimore, MD 21234 Marge Mitchell, 9918 Finney Drive, Baltimore, MD 21234 Mary & Patrick Rooney, 3014 Summit Avenue, Baltimore, MD 21234 Betty & Dan Ehm, 7 Acre Court, Baltimore, MD 21234 William Reisinger, 3 Acre Court, Baltimore, MD 21234 George Anthony, 9802 Hilltop Drive, Baltimore, MD 21234 John Romoser, 9909 Harford Road, Baltimore, MD 21234 Margaret Hart, 9911 Harford Road, Baltimore, MD 21234 Raymond Keeler, 9905 Finney Drive, Baltimore, MD 21234 Steven Waldon, 9906 Finney Drive, Baltimore, MD 21234 Fred LaSorte, 9901 Finney Drive, Baltimore, MD 21234 Aaron Joseph, 9910 Finney Drive, Baltimore, MD 21234 Barbara, Katharine & Edmund Kunkel, 9919 Finney Drive, Baltimore, MD 21234 Eddora Kunkel, 9917 Finney Drive, Baltimore, MD 21234 Joyce Faby, 900 Finney Drive, Baltimore, MD 21234 Edward Cooper, 9915 Finney Drive, Baltimore, MD 21234 Alice Baker, 2307 Ellen Avenue, Baltimore, MD 21234 Ruth Baisden, 7706 Oak Avenue, Baltimore, MD 21234 Robert Derwart, 2917 Erie Avenue, Baltimore, MD 21234 Richard G. Taylor, 2 Acre Court, Baltimore, MD 21234 John Hess, 9908 Finney Drive, Baltimore, MD 21234 Michael Torr, 19 Northford Way, Baltimore, MD 21234 Craig Rodgers, 111 W. Susquehanna Avenue, 2nd Floor, Towson, MD 21204 Mickey Cornelius, The Traffic Group, 9900 Franklin Square Dr., Baltimore, MD 21236 Tony Lorteal, Jennifer Leonard, Ken Green & Kay Morin, STV, Inc., 7125 Ambassador Road, Suite 200, Baltimore, MD 21244



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

I/We do solemnly declare and affirm, under the penalties of

is the subject of this Petition.

perjury, that I/we are the legal owner(s) of the property which

for the property located at 9915 & 9919 Harford Road
which is presently zoned Dr 3.5 & DR 5.5

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

a density anomaly. (243 273)

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.

Contract Purchaser/Lessee:			Legal Owner(s):				
Name - Type or Print		······································	William H. Vogel Name - Type or Print	فالبر فالمستسبب فوقعه			
Signature	<u> </u>		Signature Grover C. Bender	1 Dogood)		
Address .		Telephone No.	Name - Type or Print		<u> </u>		
City	State	Zip Code	Signature J				
Attorney For Petitioner:	•		9915 Harford Road Address	9919 Harford Road	410-356-9229 Telephone No.		
Benjamin Brønstein			Baltimore	Maryla	•		
Name - Type or Print	1		City	State	Zip Code		
Jen of			Renresantativa	to be Contacted:	•		
Signature	· · · · · · · · · · · · · · · · · · ·	·····	LYCKI COCITORIY C				
			Kay Morin	STV Incorporated			
Company 29 West Susquehanna Avenue, Suite 205 410-296-0200			Name 7125 Ambassador I	Road	410-944-9112		
Address		elephone No.	Address	 	Telephone No.		
Towson	Maryland	21204	Baltimore	Maryla	nd 21244		
CHY	State	Zip Code	City	State	Zip Code		
10 0 m		OFFICE USE ONLY					
0 4			ESTIMATED LENGTH OF HEARING				
Case No. 06-020	U-SPH		UNAVAILABLE	UNAVAILABLE FOR HEARING			
REV 9115198		R	eviewed By	Date	12-05		

Worley Surveying

Surveying • Land Planning • Engineering 585 McAllister Street - Hanover, Pennsylvania 17331 (717) 637-5674 • FAX (717) 633-1987 worleysurveying@earthlink.netws@worleysurveying.com

ZONING DESCRIPTION BENDER - VOGEL PROPERTY NOS. 9915 - 9919 HARFORD ROAD AT PLACID AVENUE NEAR CARNEY, BALTIMORE COUNTY, MD

BEGINNING at a point on the southeasterly side of Harford Road, Maryland Route No. 147 (60' wide), distant South 27° 36' 36" West 79 feet from the projected centerline of Placid Avenue (40' wide), thence running on said southeasterly side of Harford Road,

- 1. North 27° 36′ 36″ East 220.00 feet to a point, thence leaving Harford Road and running,
- 2. South 60° 12' 23" East 836.78 feet to a point, thence
- 3. South 51° 05' 49" West 412.99 feet to a point, thence
- 4. North 39° 19' 11" West 7.32 feet to a point, thence
- 5. North 60° 33' 04" West 422.41 feet to a point, thence
- 8. North 28° 39' 57" East 165.00 feet to a point, thence
- North 60° 13' 53" West 245.86 feet to the place of beginning, as recorded in Deed Liber S.M. No. 13328, Folio 132 and in Deed Liber Q.T.G. 4901, Folio 248.

CONTAINING 5.7251 acres of land, more or less. Also known as No. 9915 and 9919 Harford Road, and located in the Eleventh (11th) Election District.

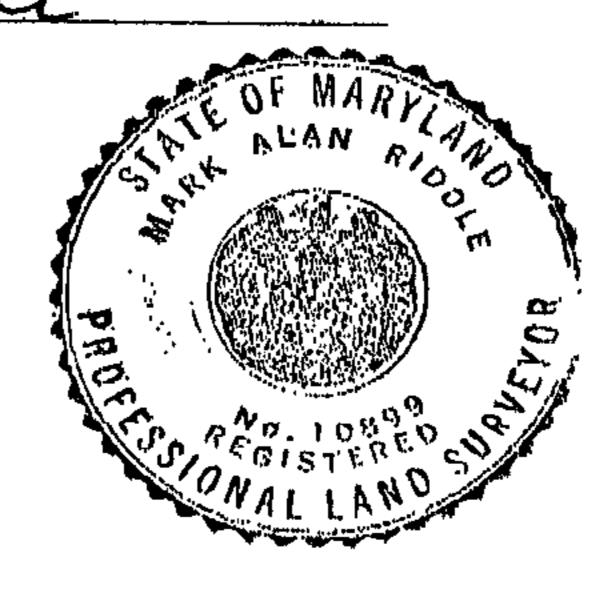
WORLEY SURVEYING

Mark A. Riddle

MD Professional Land Surveyor No. 10899

MAR/ cab

Project No. 3988



JE 026

July 7, 2005

RECEIVED FROM: FOR: OFFICE OF BUDGET & MISCELLANEOUS BALTIMORE COUN ma 12 - 5 - 40 ·17 RECEIPT TY, MARYLAND FINANCE 1 ACCOUNT. AMOUNT ፈታ ያኮ 4 • 上するい 13 900

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CASHIER'S VALIDATION

DISTRIBUTION
WHITE - CASHIER

PINK -

AGENCY

YELLOW - CUSTOMER

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: #06-026-SPH
9915 & 9919 Harford Road
Steast side of Harford Road
at the distance of 79 feet
from the centerline of Placid Avenue
11th Election District
Legal Owner(s), William H.
Vogel & Grover C. Bender
(Deceased)
Special Hearing to approve a density anomaly for
Lots 2 and 3, which are
split-zoned

Bplit-zoned.
Hearing: Friday, August 5, 2006 at 9:00 a.m. in Room 108, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County
NOTES: (1) Hearings are
Handicapped Accessible;

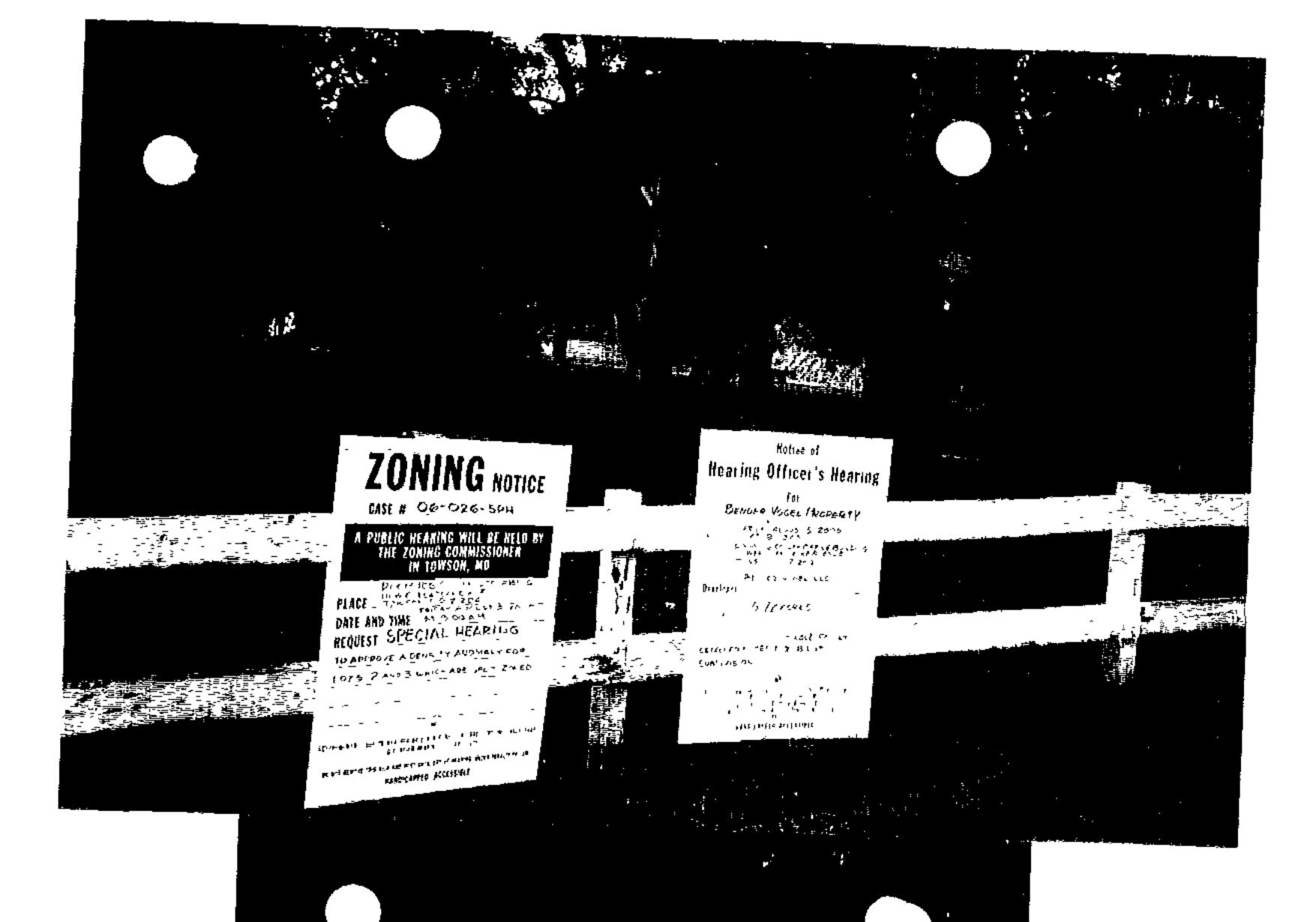
for special accommoda-tions Please Contact the Zoning Commissioner's Of-fice at (410) 887-4386. (2) For information con-cerning, the File and/or Hearing, Contact the Zon-ing Review Office at (410) 887-3391. JT 7/751 Jul 28 80425

CERTIFICATE OF PUBLICATION

727,2005
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 726,20 <u>05.</u>
XI The Information
The Jeffersonian
🖵 Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

Wilkingon



THE RESERVE TO THE PARTY OF THE

CASE #_ 06-026-5PH

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE: TOWBON, MD ZIZO4

DATE AND TIME: AT 9:00 AM

REQUEST: SPECIAL HEARING

TO APPROVE A DENSITY ANOMALY FOR

17.54

CERTIFICATE OF POSTING

Baltimore County Department of

County Office Building, Room 111

111 West Chesapeake Avenue

Attention: Christen Matthews

Towson, MD 21204

ROAD

Permits and Development Management

The sign(s) were posted on UUH

RE: Case No.: 06-026-5PH Petitioner/Developer: BENDEN-VocaEL, LLC Date of Hearing/Closing: August 5, 2005 Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the propery located at 9915-9919 (YARFOR) (Month, Day, Year) Sincerely,

(Signature of Sign Poster and Date) CARLAGE, MOORE (Printed Name)

3225 RYERSON CIRCLE (Address)

BAUTIMORE, MD, 21227 (City, State, Zip Code)

(410) 242-4263 (Telephone Number)

Department of Permits and Development Management

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





Baltimore County

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

July 14, 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: 06-026-SPH

9915 & 9919 Harford Road

huth Kotrocc

S/east side of Harford Road at the distance of 79 feet from the centerline of Placid Avenue 11th Election District – 5th Councilmanic District

Legal Owners: William H. Vogel & Grover C. Bender (Deceased)

Special Hearing to approve a density anomaly for Lots 2 and 3, which are split-zoned.

Hearing: Friday, August 5, 2005 at 9:00 a.m. in Room 106, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Benjamin Bronstein, 29 West Susquehanna Avenue, Ste. 205, Towson 21204 William Vogel, 9915 Harford Road, Baltimore 21234 Margaret Bender, 9919 Harford Road, Baltimore 21234 Kay Morin, STV Incorporated, 7125 Ambassador Road, Baltimore 21244

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JULY 21, 2005.
 - (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
 - (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



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

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is ubject 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.

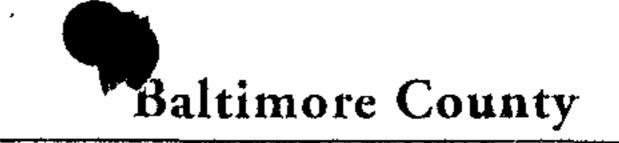
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 06-026-5P4 Petitioner: 4 Vogil masset Bender
Address or Location: Hesford Rd
PLEASE FORWARD ADVERTISING BILL TO:
Address: D.9 W. Susquehama Am Towatt 21204
Vowdth 21204
Telephone Number: 410 296 1207

Department of Permits and Development Management

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





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

July 25, 2005

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

Dear Mr. Bronstein:

RE: Case Number: 06-026-SPH, 9915 &9919 Harford Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 12, 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.

W. Callinal Callinal

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
William H. Vogel Grover C. Bender 9915 Harford Road Baltimore 21234
Kay Morin STV Incorporated 7125 Ambassador Road Baltimore 21244

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

Par Caller

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

SEP 1 4 2005

DATE: September 13, 2005

TO:

John Murphy

Deputy Zoning Commissioner

FROM:

Dennis A. Kennedy, Supervisor Bureau of Developers Plans Review

Department of Permits and Development Management

SUBJECT:

Bender/Vogel Hearing Follow-up

The following items were brought up at the HOH for the subject site.

Sewer capacity: I double-checked with the Sewer Design Section of the Bureau of Engineering. There is plenty of capacity in the sewers that serve this site. The main interceptor, which runs along Jennifer Branch, has room for at least one million gallons per day of additional flow. The small (8") pipe that this site will use also has plenty of capacity. I informed Mr. Kunkle of this on August 29, 2005, since he was the person at the HOH who brought it up.

Sewer maintenance: I sent our Bureau of Utilities personnel to the site to investigate claims of the sewer leaking. No leaks were found and the sewer was found to be flowing freely. Perhaps their time would have been better spent where there are actual maintenance problems.

Stream restoration: I checked with the Capital Improvements Section of DEPRM. They informed me that there is a project for stream restoration of Jennifer Branch. It is about halfway through the design process with work scheduled for 2007.

DAK cc:file

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: August 4, 2005

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

9915-9919 Harford Road

INFORMATION:

Item Number:

6-026

Petitioner:

William Vogel and Margaret Bender

Zoning:

DR 3.5 and DR 5.5

Requested Action:

Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request. The zoning anomaly being requested will not alter the density of the affected lots nor affect the overall layout of the proposed development plan.

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

Prepared by:

Division Chief:

AFK/LL: CM

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENÇE

TO: Timothy M. Kotroco, Director **DATE:** July 25, 2005

Department of Permits & Development

Management

Dennis A. Kennedy, Supervisor FROM:

Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting

For August 1, 2005 Item Nos. 020, 022, 023, 025, 026, 027, 028, 029, 030, and 031

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

DAK:CEN:clw ce: File

ZAC-NO COMMENTS-07262005.doc







Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

JRF

Maryland Department of Transportation

RE:

Date: 7.20.275

Baltimore County

Item No. 026

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

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

1. Joell

Engineering Access Permits Division

Fire Department

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





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

County Office Building, Room 123 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 July 18, 2005

ATTENTION:

Zoning Plan Reviewers

Dist. Meeting of:

Ju x y 25,2005

Item No.:

(かん) 020-031

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.

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

Insp. Pack Fire Marshal's Office 410-887-5178 MS-1102F

cc: File



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

RE: PETITION FOR SPECIAL HEARING 9915 and 9919 Harford Road; SE/side Harford Rd, 79' c/line Placid Avenue

BEFORE THE

11th Election & 5th Councilmanic Districts

ZONING COMMISSIONER

Legal Owner(s): William Vogel & Grove Bender*

FOR

Petitioner(s)

*

BALTIMORE COUNTY

06-26-SPH *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence 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 18th day of July, 2005, a copy of the foregoing Entry of Appearance was mailed to Kay Morin, STV Incorporated, 7125 Ambassador Road, Baltimore, MD 21244 and Benjamin Bronstein, 29 Susquehanna Avenue, Suite 205, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

Per.....

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

The Carney Improvement Association

8/5

www.carneymaryland.org

Meg O'Hare, President Romi Shah, Vice-President Marilyn Ryan, Secretary

P.O. Box 28282 Carney, Maryland 21234-8282 John Ryan, Treasurer

Jenne Krause, Recording Secretary

Hat Rooney, Sergeant-At Arms

April 5, 2005

Mr. William J. Wiseman, III
Baltimore County Zoning Commissioner
Baltimore County Courts Building
401 Bosley Avenue
Towson, MD 21204

APP 7 2005

7Ci. JONER

Dear Mr. Wiseman:

I am writing on behalf of the Carney Improvement Association and the citizens of Carney. We would like to go on record that the Carney Improvement Association's position with regard to proposed development known as the Bender-Vogel property, is that we are opposed to <u>any</u> variances and special exceptions for variances for the Bender-Vogel property located at 9915-9919 Harford Road.

The Carney area is a built out community with little open space. In fact, we are very deficient in open space. The Jennifer Run/Jennifer Branch steam that flows through Carney is suffering already from serious erosion and pollution from the building that has taken place in the last 10 years.

We would appreciate being advised about any hearing related to this property.

Sincerely,

Mrs. Meg O'Hare

meg E Hare

Carney Improvement Association President



Bill Wiseman - Bender-Vogel Property

From:

"Meg OHare" < CarneyCIA@msn.com>

To:

<wwiseman@co.ba.md.us>

Date:

4/4/2005 7:07:47 AM Bender-Vogel Property

Subject: CC:

"Pat and Mary Sue Rooney" <rooneyredcell@comcast.net>, "irajshah"

<irajshah@aol.com>, "Romi Shah" <RShah@sha.state.md.us>, "John and Marilyn
Ryan" <jpryan7@juno.com>, "Mary Margaret OHare" <moots711@msn.com>, "Ruth

Baisden" <ruthbaisden@yahoo.com>

Dear Mr. Wiseman,

The attached letter states the position of the Carney Improvement Association that we are opposed to granting any variances or variances for special exceptions for the Bender-Vogel Property.

Sincerely,

Meg O'Hare

Carney Improvement Association President



www.carneymaryland.org

Meg O'Hare, President Romi Shah, Vice-President Marilyn Ryan, Secretary

P.O. Box 28282 Carney, Maryland 21234-8282 John Ryan, Treasurer Joanne Krause, Recording Secretary Pat Rooney, Sergeant-At-Arms

Mr. William J. Wiseman, III
Baltimore County Zoning Commissioner
Baltimore County Courts Building
401 Bosley Avenue
Towson, MD 21204

Dear Mr. Wiseman:

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We would appreciate being advised about any hearing related to this property.

Sincerely,

Mrs. Meg O'Hare
Carney Improvement Association President



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

July 11, 2005

Dept of Permits & Development Mgt ATTN: Mr. Jung Fernando
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Bender-Vogel Property

Dear Mr. Fernando:

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

- 1. Petition for Special Hearing in triplicate;
- 2. Twelve (12) copies of the Plat to Accompany Petition;
- 3. Three copies of the description under seal;
- 4. Copy of the 200 Scale Zoning Map; and
- 5. My check to cover costs.

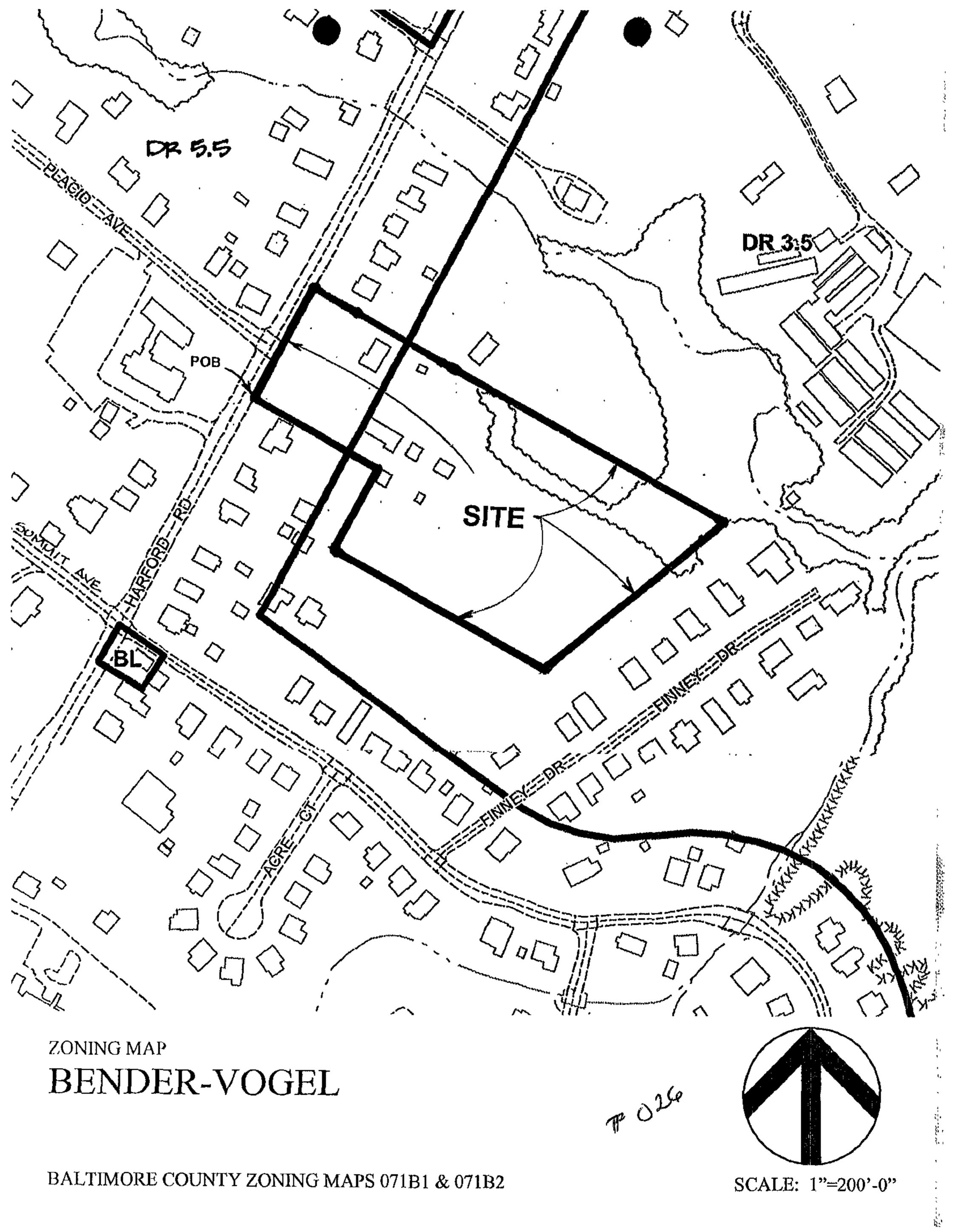
There are no violations. Please enter my appearance on behalf of the Petitioner and kindly consolidate the hearing on this Petition with the hearing on the development plan, which is scheduled for August 5, 2005 in room 106 of the County Office Building.

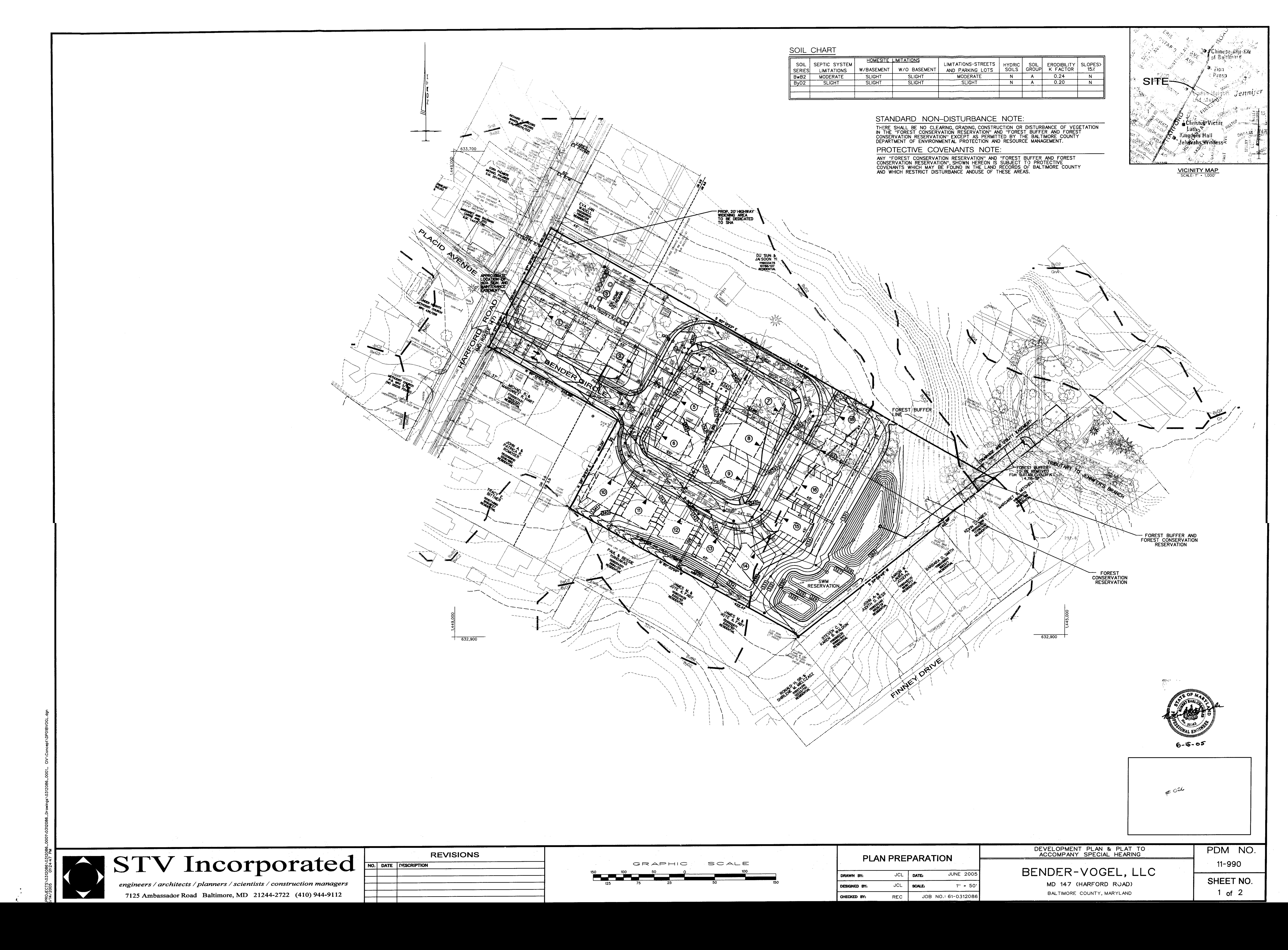
Thank you for your kind and prompt attention to this matter.

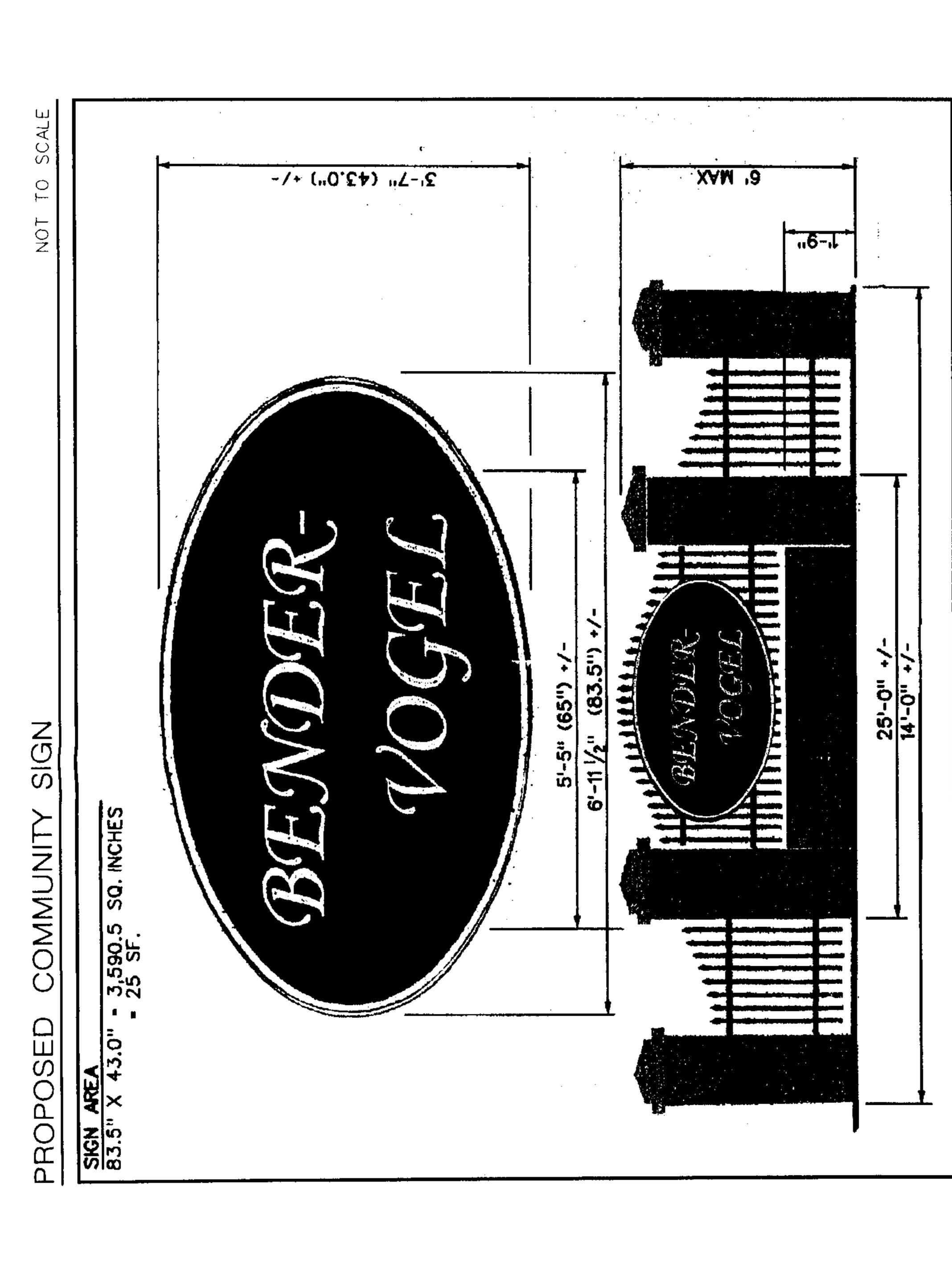
Very trally yours,

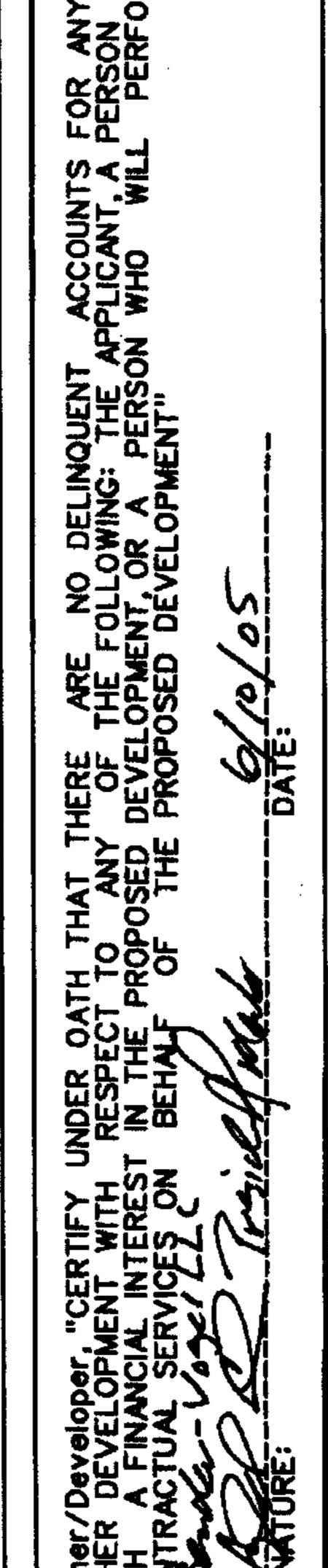
Benjamin Bronstein

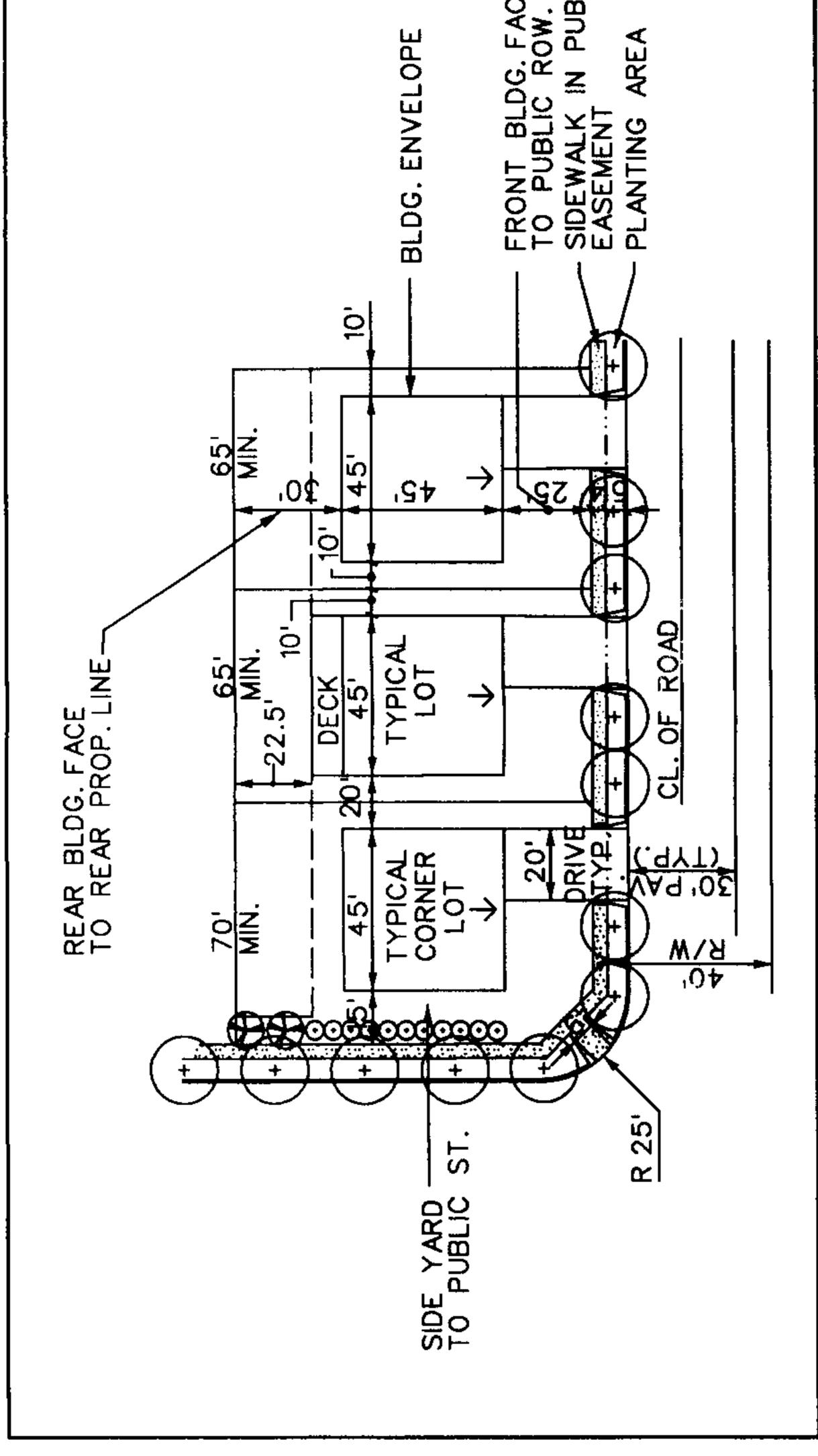
BB/mlh Enclosures











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YOUT		TO REAR PROP. LINE	70' 65' 65' MIN. MIN. 10' 5 -	10 10 10 10 10 10 10 10	FRONT FRONT PUB SIDEWAL EASEMEN	CL. OF ROAD	1

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AS SHOWN DICTATE A SPECIFIC LOCATION AND ORIENT WITH BALTIMORE COUNTY ZONING REGULATIONS AND ION CHANGE OR CREATE CONFLICTS WITH THE REGULATION MUST BE CHANGED TO ALLEVIATE THE CONFLICT.

	BENDER - VOGEL.
GENERAL NOTES:	1. APPLICANT/ CONTRACT PURCHASER:

PEN SPACE REPASSIVE OR A CENTION III.D.3.

PROVIDED: 0 SF

A WAIVER WILL

COMMENTS DATE 9919 HARFORD RD.
BALTIMORE, MD 2123
WILLIAM H. VOGEL & 9915 HARFORD RD.
BALTIMORE, MD 2123 GENERAL NOTES:

1. APPLICANT

2. OWNERS:

2. OWNERS:

3. PREPARED BY:

2. OWNERS:

3. PREPARED BY:

3. PREPARED BY:

4. EXISTING SITE ADDRESS:

5. PROPERTY INFORMATION:

4. EXISTING SITE ADDRESS:

5. PROPERTY INFORMATION:

6. DISTRICT INJURIES:

7. WATERSHID:

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8. EXISTING SITE ADDRESS:

8. DISTRICT INJURIES:

8. EXISTRIC SITE ADDRESS:

9916 & 9919 & 9919 WATERSHIP

9. PROPOSED USE: SINGLE-FAMILY DETACHED HOWE

PROPOSED: SINGLE-FAMILY DETACHED HOWE

PROPOSED USE: SINGLE-FAMILY DETACHED HOWE

PROPOS

THEREOF AS

로 -

CHOOL: CARNEY ELEMENTARY
-: PINE GROVE MIDDLE
PARKVILLE HIGH
S NOT INCLUDE NOR IS CONTIGE
PERTY OR SITES REGISTERED O SCHOOL DISTRICTS:

ELEMENTARY SCHOOL:
PINE GROVE MIDDLE
MIDDLE SCHOOL:
PINE GROVE MIDDLE
HIGH SCHOOL:
PRARKVILLE HIGH
SCHOOL:
THIS SITE DOES NOT INCLUDE NOR IS CONTI
BUILDINGS PROPERTY OR SITES REGISTERED
INVENTORIES LIST.
THE SIDE ELEVATIONS OF ALL DWELLINGS TO
ALL CORNER LOTS SHALL INCLUDE WINDOWS,
SHALL NOT BE LEFT BLANK WALLS.

1. FOREST CONSERVATION:

A. THE FOREST STAND DELINEATION REPORT AND WORKSHEET IS PENDING BY DEPRM.

B. BALTIMORE COUNTY FOREST CONSERVATION REUBY PAYING A FEE-IN-LIEU FOR 0.9 ACRES OF A PENDING REVIEW BY DEPRM.

3. THIS SITE DOES NOT LIE WITHIN THE CHESAPEAKE AREA.

4. THERE ARE NO EXISTING PONDS, STREAMS, BODIES SOURCES, WETLANDS OR FLOODPLAIN LOCATED ON TRIUTARY TO JENNIFER'S BRANCH RUNS THROUGH UTILITY EASEMENT).

5. THERE IS NO KNOWN SIGNIFICANT REGULATED PLAICOMMUNITIES EXISTING ON SITE.

6. THERE ARE NO KNOWN ARCHAEOLOGICAL SITES OR MATERIALS ON THIS PROPERTY.

7. STORMWATER MANAGEMENT WILL BE REQUIRED FOR

ARA A

1. AVERAGE DAILY TRIPS:

18 LOTS & 10.0/UNIT - 180 ADT'S

2. ALL ON-SITE ROADS SHALL BE DEDICATED TO BAL.

3. BUREAU OF TRAFFIC ENGINEERING AND TRANSPORT.

HAS CONFIRMED THAT THE SUBJECT SITE IS NOT DEFICIENT AREA.

4. COMMUNITY STREET LIGHTS WILL BE PROVIDED FOIL PER BILL 32-72.

5. A WAVER FROM PUBLIC WORKS STANDARDS IS REGAINED SIDEWALK ON THE LOTS WITHIN A PUBLIC SIDEWAL.

6. SANITARY EJECTON ON A 40' RIGHT OF WAY AND SIDEWALK ON THE LOTS WITHIN A PUBLIC SIDEWAL.

7. LANDSCAPE NOTES:

A. SCREENING AND LANDSCAPING SHALL BE PROCOMPLIANCE WITH THE BALTIMORE COUNTY LANDSCAPING.

B. A LANDSCAPE PLAN WILL BE APPROVED PRIORAPPLICATION.

SIDENTIAL PERFORMANCE
DEVELOPMENT POLICIES
L. PURSUANT TO SECTION
SIS SUBJECT TO OTHER
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OF THE AFOREMENTIONE
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WITH SECTION MANUAL, ALL BCZR SECTION

REGULATIONS LINED IN THE

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NO. DATE DESCRIPTION			
	/ * * /	ianners / scientists / construction managers	

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BALTIMORE COUNTY, MARY	JOB NO.: 61-0312086	REC	ECKED BY:
MD 147 (HARFORD R	SCALE: AS NOTED	JCL	SIGNED BY:
コピンフトとしている	DATE: JUNE 2005	JCL./PJP	AWN BY: