IN RE: DEVELOPMENT PLAN HEARING \*
AND PETITION FOR SPECIAL HEARING

& VARIANCE

W/S of Regwood Road, N Harford Road 11<sup>th</sup> Election District

3<sup>rd</sup> Councilmanic District

(Cook and Rachinskas Property)

Michael Cook/Dave Rachinskas

Developers/Petitioners

BEFORE THE

**HEARING OFFICER** 

OF BALTIMORE COUNTY

Case Nos. XI-1008 & 06-444-SPHA

# FINAL 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 "Cook & Rachinskas Property", prepared by K J Wells, Inc. The Developer is proposing the development of the subject property into 6 new single-family dwellings. The subject property is located on the west side of Regwood Road, north of Harford Road in the Hydes area of Baltimore County. The particulars of the manner in which the property is finally 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 relief as follows:

# Petition for Variance:

Variances from the Baltimore County Zoning Regulations as follows: from Section 1A04.3B.2.c, to permit single-family dwellings to be located 60 feet from the RC2 zone on line the property of the Legal Owners, in lieu of the 150 feet required from a RC2 zone line; and alternatively, in the event that the Commissioner shall determine, pursuant to the companion Petition for Special Hearing filed, that Regwood Road is a "collector" roadway as defined in B.C.Z.R., Section 1A04.3B.2.a, a variance from Section 1A04.3B.2.b, to permit single-family dwellings to be located 75 feet from the centerline of Regwood Road.

# Petition for Special Hearing:

A Special Hearing is filed, (1) to approve non-density parcels (RC 2 zone) as part of the overall lot area designated for Lot Nos. 4 & 5 and not for minimum lot size or density; and (2) approve a non-density parcel (RC 5 zone) as part of the overall lot area designated for Lot Nos. 1, 2 & 3 and not for minimum lot size or density; (3) to approve Lot Nos. 1 & 2 pursuant to Section 32-4-409 of the Baltimore County Code and; (4) to find that Regwood Road is not a "collector" roadway as defined in Section 1A04.3B.2.a of the B.C.Z.R.

The property was posted with Notice of the Hearing Officer's Hearing on March 25, 2006. In addition, notice of the zoning hearing date and time was posted on the property on March 25, 2006, 2006 and published in "The Jeffersonian" newspaper on April 13, 2006, to notify any interested persons of the scheduled hearing date.

Appearing at the hearing on behalf of the revised Redline Development Plan approval request were Michael and Francis Cook, Bonnie Cook, Dave and Colleen Rachinskas, Donna Ches, Joan Cook, Kristin Ciarlo, Dennis Wrightson, Jennifer Petty, as well as Kenneth Wells of K.J. Wells, Inc., the engineering firm which prepared the Development Plan. Howard L. Alderman, Jr., Esquire, represented the Petitioners.

Also in attendance was Pat Garner as an interested citizen.

Also in attendance were representatives of the various Baltimore County reviewing agencies; namely: Donna Thompson (Zoning Review), Dennis Kennedy (Development Plans Review), Walt Smith (Development Management) and Ron Goodman (Bureau of Land Acquisition), all from the Department of Permits & Development Management (PDM); Jeff Livingston from the Department of Environmental Protection and Resource Management (DEPRM); Jenifer German from the Office of Planning, and Jan Cook from the Department of

Recreation & Parks.

As to the history of the project, the initial Concept Plan Conference was held on August 29, 2005 and a Community Input Meeting followed on September 26, 2005 at Long Green Volunteer Fire Department. A Development Plan Conference was held on April 5, 2006, 2005 and a Hearing Officer's Hearing was held on April 28, 2006 in Room 106 of the County Office Building.

# **Development Plan**

# **Developer Issues**

The Developer raised no issues at the outset of the hearing but noted that Land Acquisition, Planning and DEPRM had comments on the development plan.

# **County issues**

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

# Bureau of Development Plans Review

The representative indicated that according to the Traffic Engineering Section of the Department of Public Works, Regwood Road is not a collector road but rather a minor local rural road. He noted that Section 32-4-101 J defines collector street as one that conducts traffic between major arterial streets or activity centers, is a principal traffic artery within residential areas, and may handle high volume of traffic. He opined that a collector road includes taking traffic from more than one minor road, and includes consideration of the speed limit. Regwood Road does not meet this definition.

Mr. Alderman noted that Bill 77-05 which defines collector road for RC 5 zones removed 35 mph speed limit as a factor to consider when determining what is a "collector road".

In addition the representative requested and the Developer agreed to add a note to the development plan to keep the area between the curb line and sight line free of obstructions.

# Planning Office

The representative of the Office indicated that she agreed with the Developer's request not to provide a pattern book at this stage but rather at building permit stage because the Developer has not yet selected a builder and there are only six lots at issue. A note was placed on the development plan to that effect. This agreement was specified in greater detail on the written memorandum from the Planning Office dated April 28, 2006 which is included in the file. Included in this memorandum are the Planning Office findings that the development plan conforms to RC 5 performance standards.

The representative indicated further the revised development plan meets the Compatibility Objectives of the CMDP, the Development Regulations and the Residential Performance Standards of Section 260 of the BCZR. In addition he notes that the Office reviewed and approved the school impact analysis report in the file.

Finally the representative indicated that based upon her research, Regwood Road is not a collector road but rather a rural local road. She did not oppose the variance relief requested.

# Recreation and Parks

The representative of the Department indicated by e-mail that with only 6 dwellings, the local open space would require 6,000 sq. ft of local open space. This is too small an area to practically be useful and so the Department has approved a waiver of local open space and the Developer will pay a fee in lieu thereof.

# Department of Environmental Protection and Resource Management (DEPRM)

The representative of the Department indicated that the Department's review of storm water management facilities was not yet complete. Preliminary indications are that the design of the ponds height of embankment could be a serious problem which in turn could affect other elements of the development plan. He requested the case either be continued or the record kept open for resolution of these issues. The Developer agreed to keep the record open in this regard. Neither the County nor the Developer waived their right to a hearing if this matter is not resolved.

On April 23, 2006 the Developer's representative indicated in a memo to file that all DEPRM issues had been resolved in concept and that detailed drawings are to be submitted to DEPRM shortly. He requested the case remain open for this final review.

On January 10, 2007 the representative of the Department indicated by memorandum that all DEPRM issues had been resolved and the Department recommends approval of the plan.

# **Community Issues**

Ms. Garner who lives across Regwood Road on Merritt Avenue indicated her concern for the owners of the lots along the east side of Regwood who will faces lots 4 and 5 of the subject subdivision. She indicated that while there is a buffer strip along Regwood, there were no trees in the strip to shield the homes on the east side of Regwood from the homes on these lots. In response, the Developer widened the landscape buffer strip along Regwood to 15 feet as shown on the development plan. With that change she no longer opposed the plan.

# **Applicable Law**

- § 32-4-228. SAME CONDUCT OF THE HEARING.
- (a) Hearing conducted on unresolved comment or condition.
  - (1) The Hearing Officer shall take testimony and receive evidence regarding any unresolved comment or condition that is relevant to the proposed Development Plan,

including testimony or evidence regarding any potential impact of any approved development upon the proposed plan.

- (2) The Hearing Officer shall make findings for the record and shall render a decision in accordance with the requirements of this part.
- (b) Hearing conduct and operation. The Hearing Officer:
  - (i) Shall conduct the hearing in conformance with Rule IV of the Zoning Commissioner's rules;
  - (ii) Shall regulate the course of the hearing as the Hearing Officer considers proper, including the scope and nature of the testimony and evidence presented; and
  - (iii) May conduct the hearing in an informal manner.

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

- (a) Final decision.
  - (1) (i) The Hearing Officer shall issue the final decision within 15 days after the conclusion of the final hearing held on the Development Plan.
    - (iii) The Hearing Officer shall file an opinion which includes the basis of the Hearing Officer's decision.
  - (2) If a final decision is not rendered within 15 days:
    - (i) The Development Plan shall be deemed approved as submitted by the applicant; and
    - (ii) The Hearing Officer shall immediately notify the participants that:
      - 1. The Development Plan is deemed approved; and
      - 2. The appeal period began on the fifteenth day after the conclusion of the final hearing.
- (b) Appeals. A final decision of the Hearing Officer on a Development Plan may be appealed to the Board of Appeals in accordance with Part VIII of this subtitle.
- (c) Conditions imposed by Hearing Officer.
  - (1) This subsection does not apply to a Development Plan for a Planned Unit Development.
  - (2) In approving a Development Plan, the Hearing Officer may impose any conditions if a condition:
    - (i) Protects the surrounding and neighboring properties;
    - (ii) Is based upon a comment that was raised or a condition that was proposed or requested by a participant;
    - (iii) Is necessary to alleviate an adverse impact on the health, safety, or welfare of the community that would be present without the condition; and
    - (iv) Does not reduce by more than 20 %:
      - 1. The number of dwelling units proposed by a residential Development Plan in a DR 5.5., DR 10.5, or DR 16 zone; or
      - 2. The square footage proposed by a non-residential Development Plan.
  - (3) The Hearing Officer shall base the decision to impose a condition on factual findings that are supported by evidence.

Section 32-4-220 (b) 1 of the B.C.Z.R. Decision of the Hearing Officer.

The Hearing Officer shall grant approval of a Development Plan that complies with these development regulations and applicable policies, rules and regulations promulgated adopted in accordance with Article 3, Title 7 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.

# Testimony and Evidence

Mr. Alderman proffered that the subject property contains 27 acres +- and is split zoned with most of the tract RC 2. However there is also a strip along Regwood Road approximately 330 feet wide which is zoned RC 5. He opined that 5 lots would be permitted by density in the RC 5 portion of the tract (grandfathered density of .667) while 4 lots would be permitted in the RC 2 portion. The Developer is proposing 3 lots in the RC 5 and 3 in the RC 2 portions of the tract. In response to questions, he indicated that the property cannot be further subdivided.

Mr. Wells indicated that the redline changes to the plan were in response to the DPC comments and that he will add notes on sight distance and landscape plan to the development plan as requested by the County.

He briefly outlined the controversy regarding the Storm Water Management Facilities and opined that, however the open issues with DEPRM are resolved, it is highly unlikely that lots will have to be adjusted.

He indicated that the revised redline development plan, exhibit 1A and 1B conform to all County regulations and should be approved.

In regard to the requests for variances, he noted the property is irregularly shaped, has steep slopes, a stream etc as environmental constraints and is split zoned RC 2 and RC 5. The property is improved by an existing home on lot 1.

In regard to the request for special hearing, he noted that the proposed homes on Lots 4 and 5 are in the RC 5 portion of the tract as shown on exhibit 1B shows. However there are cross hatched areas in the RC 2 portion of the tract which are part of lots 4 and 5 and result in two non buildable areas of these lots as shown. He noted that these two small non buildable areas of lots 4 and 5 are not needed to meet the minimum lot size for RC 5.

Similarly the house on lot 3 is in the RC 2 portion of the tract. Lot 3 contains 3.3 acres. However this lot also contains a 1 acre area in the RC 5 portion of the tract which is again is non buildable. This non buildable area is not needed to meet the minimum lot size for the RC 2 zone.

The third request is to approve lots 1 and 2 as panhandle lots pursuant to Section 32-4-409 (a). These lots meet the required width of the in fee strip to the public road, Regwood Road, along the northern boundary of the track but need to be approved as panhandle configurations. Mr. Wells opined that these lots have irregular shapes with panhandle in fee strips to avoid development in environmentally sensitive areas. These interior lots are served by a common driveway. Mr. Wells opined that it was not practical to construct a public road to serve these lots in this rural neighborhood as this would increase the impervious surface and runoff.

The fourth request is to determine that Regwood Road is not a collector road.

In summary Mr. Wells opined that granting the requested relief would not be detrimental to the health safety and welfare of the community. As one example he noted that the private driveway would give the Fire Department better access to the homes on these lots as compared to coming around the in fee strips from Regwood Road. He indicated that these requests meet each criteria of Section 502.1 of the BCZR and are not inconsistent with the zoning classifications nor will adversely affect environmentally sensitive features of the site.

In regard to variance requests Mr. Wells noted that the RC 2/RC 5 line runs parallel to and about 350 feet from Regwood Road, the homes on lots 4 and 5 face the common driveway, not Regwood Road, and that the regulations require that any home be constructed 150 feet from any RC 2 line. The home on lot 4 is 60 feet from the RC 2 line. However if the Petitioner pushes the house back from the RC 2 line it then becomes closer to Regwood Road. He opined that site is oddly shaped, contains large environmental constraints, the variance request is internal to the development and it would be a hardship and practical difficult to comply with the regulations. There is no density issue as fewer lots are requested than allowed by density.

Mr. Alderman cited the Court of Appeals cases of Roser v Anne Arundel County, 368 Md 294, 793 A 2d545 (2002) and Lewis v Department of Natural Resources, 377 Md 382, 833 A 2d 563(2003) in support of granting the variance requests. He indicated that the RC 2 RC 5 line was imposed on the property and then the RC 5 regulations were changed to require 150 feet from the RC 2 line. He opined that after imposed regulations disproportionately impact this property making this site unique from a zoning standpoint.

In the alternative if Regwood Road is found to be a collector road, then the Petitioner requests a variance from Section 1A04.3B.2.b, to permit single-family dwellings to be located 75 feet from the centerline of Regwood Road.

# **Zoning Case**

# Applicable Law

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

"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

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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."

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.

# Findings of Fact and Conclusions of Law

# **Special Hearing**

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In regard to the request for special hearing to approve non-density parcels (RC 2 zone) as part of the overall lot area designated for Lot Nos. 4 & 5 and not for minimum lot size or density, I find that this request arises from the peculiar nature of the RC 2 RC 5 zoning line which runs 350 feet parallel to Regwood Road. Said another way this line does not follow the property lines and creates a split zone for this property. Almost by definition some part of a lot will fall in both zones. For example lot 4 must have access to the internal driveway if it is to back up to Regwood Road. Consequently some part of lot 4 must touch the RC 2 zone. It would make no sense to have the small non buildable areas in the RC 2 zone shown on Petitioner's exhibit 1 B belong to any other lot other than lot 4. If this were not true, parts of the same lot would be separated by the driveway.

Similarly the request to approve a non-density parcel (RC 5 zone) as part of the overall lot area designated for Lot Nos. 1, 2 & 3 is the mirror image of the above request. Here lots in the

RC 2 zone must have access to Regwood Road so by definition must cross the RC 5 portion of the property. This means that small portions of these RC 2 lots will lie in the RC 5 zone.

In regard to the request to approve Lot Nos. 1 & 2 pursuant to Section 32-4-409 of the Baltimore County Code, I find that these lots may have the panhandle configuration so as to have in fee access to Regwood Road. I further find that this configuration provides appropriate use of these irregularly shaped lots, avoids building in environmentally sensitive areas and will not conflict with public safety or general welfare. I further find that as these lots are internal to the site they will not be detrimental to adjacent properties.

Finally I find that Regwood Road is not a "collector" roadway as defined in Section 1A04.3B.2.a of the B.C.Z.R based on the testimony of both the representative of the Planning Office the Bureau of Development Plans Review.

In summary I find the request for special hearing will not adversely affect the community and within the spirit and intent of the regulations especially when property is split zoned.

# Variance Request

Having found Regwood Road is not a collector road, the Petitioner's second request for variance becomes moot.

In regard to the first request for variance to permit single-family dwellings to be located 60 feet from the RC2 zone on line the property of the Legal Owners, in lieu of the 150 feet required from a RC2 zone line, I find the property unique as the new regulations requiring 150 feet separation imposed after the RC 2 line was imposed, disproportionately impacts this property as compared to other properties in the zone and therefore is unique in a zoning sense. I further find there is no density issue as fewer lots are being requested than would be allowed by

density. I further find the variance can be granted within the spirit and intent of the regulations and will not adversely affect the community.

# Development Plan

This case was heard in April 2006 but was not approved by DEPRM for storm water management until January 10, 2007. Whatever revisions were required to the development plan to meet the regulation, I understand do not affect the basic plan and therefore would not trigger a new DPC or Hearing Officer's Hearing. The Planning Office has indicated that the Development Plan meets the spirit and intent of the regulations. In addition, the requests for special hearing and variance have been decided.

Considering all of the testimony and evidence, I find that the Developer has met all applicable regulations and that the revised Development Plan marked as Developer's Exhibit No. 1 should be approved. The plan complies with the development regulations and applicable policies, rules and regulations promulgated pursuant to Article 3, Title 7 of the Baltimore County Code. I further find that final approval of this plan is subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. Therefore, I will approve the Development Plan.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this \_\_\_\_\_\_ day of January, 2007 the Developers' requests for Special Hearing relief to approve non-density parcels (RC 2 zone) as part of the overall lot area designated for Lot Nos. 4 & 5 and not for minimum lot size or density; to approve a non-density parcel (RC 5 zone) as part of the overall lot area designated for Lot Nos. 1, 2 & 3 and not for minimum lot size or density; to approve Lot Nos. 1 & 2 pursuant to Section 32-4-409 of the Baltimore County Code and to find that Regwood Road is not a "collector" roadway as defined in

Section 1A04.3B.2.a of the B.C.Z.R, be and are hereby GRANTED; and

IT IS FURTHER ORDERED that the Developers/Petitioners' variances requested from the Baltimore County Zoning Regulations as follows: from Section 1A04.3B.2.c, to permit single-family dwellings to be located 60 feet from the RC2 zone on line the property of the Legal Owners, in lieu of the 150 feet required from a RC2 zone line is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petitioner's request alternatively, in the event that the Commissioner shall determine, pursuant to the companion Petition for Special Hearing filed, that Regwood Road is a "collector" roadway as defined in B.C.Z.R., Section 1A04.3B.2.a, a variance from Section 1A04.3B.2.b, to permit single-family dwellings to be located 75 feet from the centerline of Regwood Road, is hereby denied as moot; and

IT IS FURTHER ORDERED that Developer's Development Plan known as "Cook & Rachinskas Property" submitted into evidence as "Developer's Exhibit No 1 A and 1 B, be and is APPROVED subject to the following conditions:.

1. The Developer shall submit a pattern book of proposed new homes at building permit stage to the Office of Planning for their review and approval.

Any appeal from this decision must be taken in accordance with Section 32-4-281 of the Baltimore County Code and the applicable provisions of law.

JOIAN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:rai

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JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

January 12, 2007

HOWARD ALDERMAN, ESQUIRE LEVIN & GANN 502 WASHINGTON AVENUE, 8<sup>TH</sup> FLOOR TOWSON, MD 21204

Re:

DEVELOPMENT PLAN HEARING

(Cook And Rachinskas Property)

Case No. Case Nos. XI-1008 and 06-444-SPHA

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned case. The Development Plan for the Cook and Rachinskas Property has been approved with conditions 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. Thursty

JVM:pz Enclosure

c: Please See Attached List



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 12508 Regwood Road which is presently zoned RC5 & RC2

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

# SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.

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

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

### Contract Purchaser/Lessee: Legal Owner(s): N/A Francis Cook Name - Type or Print Name - Type or Print-Signature Signature Michael Cook (and others listed on Attachment 1) Address Telephone No. Name - Type or Print City State Zip Code Signature 12508 Regwood Road (410) 952-9791 Attorney For Petitioner: Address Telephone No. Howard L. Alderman, Jr., Esquire Hydes MD 21082 Name / Type or Print City State Zip Code Representative to be Contacted: Signature K.J. Wells, Inc. Attn: Kenneth J. Wells Levin & Gann, PA Company Name 502 Washington Avenue, Suite 800 410-321-0600 7403 New Cut Road 410-592-8800 Address Telephone No. Address Telephone No. Kingsville MD Towson 21087 Maryland 21204 City City State Zip Code State Zip Code OFFICE USE ONLY

REV 9/15/98

Case No. OW-HUY-SPHA

NOTE: Combined Development Plan and Zoning Hearing to be held pursuant to BCC §32-4-230

Reviewed By D.T. Date 3/14/06

ESTIMATED LENGTH OF HEARING

1-16-67 m

# Attachment 1

# PETITION FOR SPECIAL HEARING

CASE NO: 06- 444 -SPHA

Legal Owners - continued from Petition:

Name:

M. Colleen Rachinskas

Signature:

David B. Rachinskas

Signature:

Address:

12508 Regwood Road

Present Zoning:

RC5 & RC2

# 'REQUESTED RELIEF:

"why the Zoning Commissioner should": [1] approve non-density parcels (RC2 zone) as part of the overall lot area designated for Lot Nos. 4 & 5 and not for minimum lot size or density; and [2] approve a non-density parcel (RC5 zone) as part of the overall lot area designated for Lot Nos. 1, 2 & 3 and not for minimum lot size or density; and [3] approve Lot Nos. 1 & 2 pursuant to BCC § 32-4-409; and [4] find that Regwood Road is not a "collector" roadway as defined in BCZR § 1A04.3B.2.a; and [5] approve such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR.

# FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

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

(410) 321-0600 Fax: (410) 296-2801 halderman@LevinGann.com



# Petition for Variance

# to the Zoning Commissioner of Baltimore County

for the property located at 12508 Regwood Road

which is presently zoned RC5 & RC2

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

# SEE ATTACHED

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

# SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

### Contract Purchaser/Lessee: Legal Owner(s): N/A Francis Cook Name - Type or Print Name - Type or Print Signature Signature Michael Cook (and others listed on Attachment 1) Telephone No. Address Name - Type or Print City State Zip Code Signature c/o 12508 Regwood Road (410) 952-9791 Attorney For Petitioner: Address Telephone No. Howard L. Alderman, Jr., Esquire MDHydes 21082 Name - Type or Print City State Zip Code Representative to be Contacted: Signature K J Wells, Inc. Attn: Kenneth J. Wells Levin & Gann, PA Nottingham Centre, 8th Floor Company Name 502 Washington Avenue 410-321-0600 7403 New Cut Road 410-592-8800 Address Telephone No. Address Telephone No. Kingsville Towson, MD 21204 MD 21087 City State Zip Code City Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING \_ 06-444-SPHA Case No. UNAVAILABLE FOR HEARING, Reviewed By REV 9/15/98 **NOTE:** Combined Development Plan

Zoning Hearing to be held

pursuant to BCC §32-4-230

# **Attachment 1**

### PETITION FOR VARIANCE

CASE NO: <u>06- 444 \_SPHA</u>

Legal Owners - continued from Petition:

Name:

M. Colleen Rachinskas

Signature:

David B. Rachinskas

Signature:

Address:

12508 Regwood Road

Present Zoning:

RC5 & RC2

# REQUESTED RELIEF:

Grant: i) a variance from BCZR § 1A04.3B.2.c to permit single family dwellings to be located 60 feet from the RC2 zone on line the property of the legal Owners, in lieu of the 150 feet required from a RC2 zone line; and ii) alternatively, in the event that the Commissioner shall determine, pursuant to the companion Petition for Special Hearing filed, that Regwood Road is a "collector" roadway as defined in BCZR § 1A04.3B.2.a, a variance from § 1A04.3B.2.b to permit single family dwellings to be located 75 feet from the centerline of Regwood Road; and iii) for such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR.

### **JUSTIFICATION:**

- 1. The property is split-zoned and the requested variance from RC-2 zone line is completely internal;
- 2. The shallow depth of the RC5 zoned area;
- 3. The competing setbacks from roadway and internal RC2 zone line; and
- 4. For such further reasons that will be presented at the hearing on this Petition.

# FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

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

(410) 321-0600 Fax: (410) 296-2801 halderman@LevinGann.com

# kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800 Fax: (410) 817-4055

Email: kwells@kjwellsinc.com

7403 New Cut Road Kingsville, Md. 21087-1132

March 13, 2006

# ZONING DESCRIPTION 12508 REGWOOD ROAD BALTIMORE COUNTY MARYLAND 11th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT

**Beginning at a point** on the west side of Regwood Road (50 feet wide) which is approximately 23 feet north of the centerline of Upland Road (50 feet wide), thence the following courses and distances:

- 1) South 9 degrees 00 minutes 16 seconds West 97.99 feet
- 2) South 77 degrees 27 minutes 46 seconds West 191.26 feet
- 3) South 8 degrees 59 minutes 47 seconds West 103.45 feet
- 4) North 77 degrees 27 minutes 46 seconds East 218.18 feet
- 5) South 8 degrees 55 minutes 46 seconds West 199.30 feet
- 6) South 7 degrees 04 minutes 37 seconds West 278.86 feet
- 7) South 5 degrees 49 minutes 37 seconds West 416.63 feet
- 8) South 89 degrees 34 minutes 50 seconds West 1,109.44 feet
- 9) North 27 degrees 37 minutes 01 second West 345.71 feet
- 10) North 22 degrees 53 minutes 02 seconds West 312.88 feet
- 11) North 49 degrees 38 minutes 20 seconds East 345.83 feet
- 12) North 77 degrees 40 minutes 58 seconds East 1,079.08 feet

to the place of beginning as recorded in a Deed Liber 18075 folio 202. Containing 27.08 acres more or less.



OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT		大学 一個人
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DISTRIBUTION WHITE- CASHIER PINK - AGENCY YELLOW - CUSTOMER		CASHIER'S VALIDATION

### - NOTICE OF ZONING HEARING

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

Case: #06-444-SPHA

12508 Regwood Road

West side of Regwood Road, 23 feet north of centerline of Upland Road

11th Election District - 3rd Councilmanic District Legal Owner(s): Francis & Michael Cook & M. Colleen

& David Rachlinskas

Special Hearing: to approve non-density parcels (R.C. 2 zone) as part of the overall lot area designated for Lot Nos. 4 & 5 and not for minimum lot size of density and approve a non-donsity parcel (R.C. 5 zone) as part of the overall lot area designated for Lot Nos. 1, 2 & 3 and not for minimum lot size and density and to find that Regwood Road is not a "collector" roadway. Variance: to permit single family dwellings to be located 60 feet from the R.C. 2 zone on line with the property of the legal owners, in lieu of the 150 feet required from a R.C. 2 zone line and alternatively, in the event that the Commissioner shall determine that Regwood Road is a "collector" roadway and to permit single family dwellings to be located 75 feet from the centerline of Regwood Road. Hearing: Friday, April 28, 2006 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III.

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing,

Contact the Zoning Review Office at (410) 887-3391.

4/100 April 13

# CERTIFICATE OF PUBLICATION

LEGAL ADVERTISING

TO: PATUXENT PUBLISHING COMPANY

Thursday, April 13, 2006 Issue - Jeffersonian

Please forward billing to:

Kenneth J. Wells 7403 New Cut Road Kingsville, MD 21087 410-592-8800

# NOTICE OF ZONING HEARING

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Legal Owners: Francis & Michael Cook & M. Colleen & David Rachinskas

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Hearing: Friday, April 28, 2006 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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

# Department of Permits and Development Management

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



# Baltimore County

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

March 24, 2006

# 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: 06-444-SPHA

12508 Regwood Road

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11<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

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Hearing: Friday, April 28, 2006 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Howard Alderman, 502 Washington Avenue, Ste. 800, Towson 21204 Mr. & Mrs. Cook, 12508 Regwood Road, Hydes 21082 K.J. Wells, 7403 New Cut Road, Kingsville 21087

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, APRIL 13, 2006.

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



# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

# **ZONING REVIEW**

# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

	or Case Number: O6-444-SPHA	<del></del>
Petitioner: _	COOK + RACHINSKAS PROPERTY	<del></del>
Address or L	ocation: 12508 REGWOOD RD.	
	RWARD ADVERTISING BILL TO:  K.J. WELLS, INC ATTN: KENNETH J. WELLS	
Address:	7403 NEW CUT RD. KINGSVILLE, MD 21087	
Telephone N	umber: 1+10-592-8800	- 3 per 3/14/0

# 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 20, 2006

Howard L. Alderman, Jr. Esquire Levin & Gann, P.A. 502 Washington Avenue, Ste 800 Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 06-444-SPHA, 12508 Regwood Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 14, 2006.

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

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

Very truly yours,

u. Callabal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel Francis Cook 12508 Regwood Road Hydes 21082 K. J. Well, Inc. Attn: Kenneth J. Wells 7403 New Cut Road Kingsville 21087



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

# 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 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 March 29,2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: March 27, 2006

Item Numbers: 442,443,444,445,447,448,449,450,451,452,453,454,455,456

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.

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C)443-829-2946 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 3, 2006

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

Department of Permits & Development

**SUBJECT:** 

Zoning Advisory Committee Meeting

For April 3, 2006 Item Nos. 442, 443 (444) 445, 447, 448, 449, 450, 452, 453, 454, 455, and 456

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

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-04032006.doc



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

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

Maryland Department of Transportation

Date:

3.24.506

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

RE:

**Baltimore County** 

Item No. 44

DT

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

1. J. Gredh

# 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

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 27th day of March, 2006, a copy of the foregoing Entry of Appearance was mailed K.J. Wells, Inc, 7403 New Cut Road, Kingsville, MD 21087 and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

MAR 2 / 2006

POR Max ZIMMERMAN

People's Counsel for Baltimore County

Per.....

# MEMO TO FILE

PLEASE SCHEDULE THIS

PETITION WITH THE HEARING

OFFICER'S HEARING FOR COOK

& RACHINSKAS PROPERTY

ON 4/28/06 @ 9:00 A.M.





