9/9/08

IN THE MATTER OF PEOPLES COUNSEL FOR BALTIMORE COUNTY	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	FOR
	*	BALTIMORE COUNTY
IN THE MATTER OF: PETITIION FOR SPECIAL HEARING AND VARIANCE: 06-551-SPHA N/W SIDE OF Garrett Road, 655 feet north of Centerline of Old Garrett Road	*	CASE NO. 03 C 08 1204
7th Election District 3rd Councilmanic District (2816 Garrett Road)	*	

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

JUDGMENT ORDER

For the reasons stated in this Court's Memorandum Opinion dated September 9, 2008, the decision of the Board of Appeals dated January 3, 2008 is AFFIRMED.

9/9/08
Date

Kathleen Gallogly Cox
Judge

Clerk: Please send copies to all parties.

True Copy Test
SUZANNE MENSH, Clerk
Per _____ Assistant Clerk

SEP 25 2008

FILED SEP 19 2008

IN THE MATTER OF PEOPLES COUNSEL FOR BALTIMORE COUNTY	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	FOR
	*	BALTIMORE COUNTY
IN THE MATTER OF: PETITIION FOR SPECIAL HEARING AND VARIANCE: 06-551-SPHA N/W SIDE OF Garrett Road, 655 feet north of Centerline of Old Garrett Road	*	CASE NO. 03 C 08 1204
7th Election District 3rd Councilmanic District (2816 Garrett Road)	*	

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

MEMORANDUM OPINION

This matter came before the Court for argument on the administrative appeal filed by the People's Counsel from the Opinion and Order of the County Board of Appeals of Baltimore County ("the Board") dated January 3, 2008, which granted zoning approvals sought by Patsy Lorenz ("Lorenz") under a Petition for Special Hearing and variance. The Court has considered the record of the administrative proceedings, together with the Memoranda and arguments of counsel, in deciding this appeal.

I. Procedural Background

Lorenz owns and occupies property located at 2816 Garrett Road in White Hall, which is also known as Lot 19 in the Nottinghamshire Farms development. Lot 19 is approximately 6.9 acres, and was originally purchased by Lorenz's husband in 1974. Around that time, the County approved the Nottinghamshire Farms subdivision, consistent with it zoning classification of R.D.P, Rural Deferred Planning. The R.D.P

FILED SEP 19 2008

zoning in effect would have permitted development on one-acre parcels. However the original subdivision plan created just 32 lots on the parcel. The zoning classification for the Nottinghamshire Farms subdivision was changed in 1976 to R.C.2, the Agricultural Zone, which would now allow just 3 lots on the 159 total acres.

Lot 19 is serviced by a panhandle driveway, which is 36 feet wide and 1,150 feet in length. A section 10 feet wide is paved down the center of the panhandle. This panhandle also services Lots 18 and 20 in the Nottinghamshire Farms development. Each of these three lots has an easement over 12 feet of the width of the panhandle drive.

Lorenz and her husband lived on Lot 19 from the time their home was built in 1976 until her husband's death in 2002. Lorenz now seeks to downsize her home and have her daughter move nearby. She therefore proposes to subdivide the property into Lots 19A and B. Lorenz plans to build a second home, which she will occupy, on 2.4 acres that will be designated as Lot 19A, while her daughter will remain in the original house on the remaining 4.5 acres that will be designated as Lot 19B. She proposes to increase the length of the current panhandle drive from 1,150 feet to 1,430 feet, and to increase the width of the paved portion in the right-of-way from ten feet to sixteen feet throughout the length of the drive.

Since the proposed split in Lot 19 would result in reducing Lorenz's easement for the panhandle drive from 12 feet to 6 feet for each of the two resulting lots, Lorenz sought a waiver of the size limitations set forth in Baltimore County Code ("BCC") §32-4-409, which requires a width of 10 feet per lot where three or more lots are involved. Additionally, she sought a waiver of the 1,000 foot length limitation, to increase the length of the current panhandle drive from 1,150 to 1,430 feet.

Initially Lorenz requested a waiver of the BCC §32-4-409 restrictions from the Baltimore County Office of Planning. That request was denied by letter dated February 1, 2006 with a recommendation that the parties seek similar relief through the Special Hearing process in order to allow input from adjacent property owners being served by the existing panhandle drive. Thereafter, a Petition for Special Hearing and Variance was filed with the Zoning Commissioner on April 28, 2006, seeking waiver of the width and length requirements of the Code.

Lorenz's request was reviewed by the Deputy Zoning Commissioner, who granted the request for waiver pursuant to §32-4-107 to allow the six foot wide panhandle drive per lot, and the increased length of 1,430 feet. This approval was subject to a limitation that development of the property must comply with the requirements for the Regulations for Protection of Water Quality, Streams, Wetlands and Floodplains (BCC §§ 33-3-101 through 33-3-120), and the Forest Conservation Regulations (BCC §§ 33-6-101 through 33-6-122).

The matter was appealed to the Board, which conducted a two-day evidentiary hearing on June 21 and September 5, 2007. On January 3, 2008, the Board affirmed the decision to grant the waiver. The present appeal followed.

II. Legal Analysis

The initial issue presented is whether the Board could decide the waiver issues for the size restrictions for the panhandle drive in isolation, without also considering the zoning and density issues that are necessary to approve the subdivision of Lot 19 into two separate parcels. The subdivision and density issues were not before the Zoning Commission, and were also not addressed by the Board, despite urging by People's

Counsel. On appeal, People's Counsel contends that the Board erred, as a matter of law, in addressing waiver in isolation, without first deciding related zoning issues. People's Counsel seeks reversal of the Board's decision, and contends that the Petitioner is not entitled to further sub-divide her property. At a minimum, People's Counsel seeks remand to the Board to require it to address the zoning and density issues. Alternatively, in the event this Court determines that the Board could properly limit the scope of its decision to the waiver requests, People's Counsel maintains the Board failed to analyze properly the applicable standards for approval of the request.

Petitioner contends the Board properly addressed the waiver issues presented. To the extent that other zoning approvals must be obtained before construction on the second lot can commence, Petitioner maintains they are and will be addressed in the permit and licensing process. Additionally, Petitioner maintains the record fully supports the decision of the Board to grant the waiver request.

A. Subdivision and Density Issues

Lorenz argues the Board properly exercised restraint in deciding only the matters raised in the Petitions for Special Hearing and Variance. *See, Kelly Catering v. Jolman,* 96 Md. App. 256 (1993). Lorenz further notes that the request for minor sub-division approval for the Property is presently pending, so legitimate issues or concerns about subdivision approval and density will be dealt with in that context.

People's Counsel argues that concerns relating to subdivision approval and density will get meaningful review only if reviewed in conjunction with this request for waiver. Further, People's Counsel argues the Board erred in determining the merits of the waiver request before first ensuring that the proposed plan satisfied the applicable

zoning requirements, citing *Miller v. Forty West Builders,* 62 Md. App. 320, 329-35 (1985); and *Riffin v. People's Counsel,* 137 Md. App. 90, 96, *cert. denied,* 363 Md. 660 (2001).

In *Miller v. Forty West Builders, supra.*, the Court of Special Appeals discussed the interplay between zoning, which restricts or defines land use, and the broader concept of land planning, which incorporates aspects of the County master plan and subdivision regulation, in addition to zoning. The court stressed that legislation in the field of zoning and subdivision control is therefore related, and must be read together to give effect to the full meaning. In that context, the Court stated:

> A subdivider, seeking approval of a subdivision plat, must first meet applicable zoning regulations and then must comply with state and county subdivision regulations. Thus, where a preliminary plat indicates on its face that it is violative of zoning ordinances, the denial of approval of the plan will be sustained. While the zoning power and authority to review plats are separate, it seems clear that plats should not be approved which violate existing zoning regulations. There is little to be said for approving a plat, for example, which discloses substandard lots.

In *Riffin v. People's Counsel,* 137 Md. App. 90 (2001), the Court of Special Appeals affirmed the decision of the County Board of Appeals denying a request for various special exceptions to accommodate a "recreational facility." The denial was based upon the Board's determination that the proposed use was for a bungee jumping operation that was prohibited, as opposed to "recreational use" which would be permitted. In affirming the denial of the exceptions, the Court noted, "The Board simply cannot grant a special exception for a use that is neither permitted by law nor by Baltimore County Zoning Regulations."

The Baltimore County Zoning Regulations ("BCZR") §500.7 grants the Zoning Commission the power to conduct hearings and pass orders, "As shall in his discretion be

necessary for the proper enforcement of all zoning regulations...." In addition, BCZR §307 grants the following authority to the Zoning Commissioner:

> To grant variances from height and area regulations ... only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances.

Petitioner maintains that under the RC2 zoning currently governing the property, she is entitled to subdivide her lot into two lots. Petitioner maintains the subdivision, buffer and conservation issues that People's Counsel seeks to raise must all be addressed with the Department of Environmental Protection and Resource Management ("DEPRM") during the development review process.

In addressing the challenge by People's Counsel to the preliminary issues of zoning and density, the Board stated:

> The Appellant chose to argue whether Lot 19 could be subdivided and concentrated on the zoning change and density that has occurred in the development. That was not the issue here. The issue here is whether or not the present panhandle driveway could accommodate an additional lot. We agree that when the Petitioner files for a permit to construct a dwelling on Lot 19A, the issues raised by the Appellant will be relevant at that time.

On appeal from the decision of an administrative agency, the determination below should be affirmed if it is not based upon an error of law, and if the agency's conclusions are reasonably based upon the record. See, People's Counsel v. Maryland Marine, 316 Md. 491, 196-197 (1989) and cases cited therein. This standard prohibits a reviewing court from substituting its judgment for the expertise of the administrative agency. That

deference is not accorded if the reviewing court determines that the decision below is based upon an erroneous conclusion of law. See, Belvoir Farms v. North, 355 Md. 259, 267-268 (1999) and cases cited therein.

In order for a reviewing court to uphold the decision of an administrative board, the Court must determine whether reasoning minds reasonable could have reached the factual conclusions made by the Board. See Eberle v. Bell, 103 Md. App. 160, 166 (1975) and cases cited therein. The reviewing court, however, must not simply substitute its factual determinations for that of the Board or agency. See, Supervisor of Assessments v. Ely, 272 Md. 77 (1974).

People's Counsel has cited no provision of the County Code or Zoning Regulations that prohibits the Petitioner from proceeding in the present fashion. The Court of Special Appeals decisions in *Miller* and *Riffin* do not support the position asserted by People's Counsel that the issues of zoning and density must be addressed in a unified proceeding before a waiver can be granted.

The administrative review process requires the Court to give due deference to the substantive expertise of the administrative body. In this case, both the Zoning Commissioner and the Board of Appeals concurred that the issues currently raised by People's Counsel will be properly addressed by DEPRM in the permitting review process. As the Board noted, in this instance the Baltimore County Planning Director himself suggested the procedural route the Petitioner followed. Their judgment on that issue will be affirmed.

B. Waiver and Variance Determination

People's Counsel next challenges the substantive grant of relief under the applicable standards. Notably, the Board found that People's Counsel "did not present any testimony or evidence to challenge or contradict the merits of the waiver request." Yet on appeal, they argue the Board failed to apply proper analysis in granting the request.

The Board held that there was no evidence that the panhandle driveway would have any detrimental impact on the adjoining properties. The Board further noted that the request for waiver as to the length was "academic" because the existing driveway already exceeds the length limit and the additional length would have no effect. The Board further noted that the Petitioner intended to widen the paved portion of the driveway, which would improve the use, even with the additional lot. Thus the Board approved the request for waivers.

BCC §32-4-107 provides the general provisions for waiver. In general, a Hearing Officer may grant waiver of any or all of the size restrictions for a panhandle drive if it finds:

(1) The size, scope, and nature of a proposed development does not justify strict compliance with the requirements;

(2) Waiver would be within the scope, purpose, and intent of the title; and

(3) Compliance with all other county laws and regulations.

Alternatively, waiver may be granted where compliance would cause unnecessary hardship.

The Board, while not expansive in its discussion, clearly considered the above factors in granting the variance. The Board noted that the easement for the other two lots

served by the panhandle will not be impacted. Further, the testimony at the hearing supports the finding that the nature of the lot does not warrant strict compliance. The proposed development would not significantly increase use but would provide a wider paved lane to the benefit of all other adjacent lots. (9/5/07 Tr. p. 9-11; 6/21/07 Tr. p. 47-50). This waiver simply permits an extension of an existing panhandle, rather than construction of a new means of access. (6/21/07 Tr. p. 36-41). As to the final waiver requirement, it is clear that the Petitioner must demonstrate compliance with other County laws and regulations in the course of the permitting process.

The length of the panhandle can also be approved pursuant to a variance under BCZR §307, as stated in BCC §32-4-409(e). A variance may be granted if there exist special circumstances, peculiar to the land, that make compliance with the BCZR result in practical difficulty or unreasonable hardship. Accordingly, the Board was required to find that the property is unique, and that as a consequence a hardship will occur unless a variance is granted.

There is evidence in the record to support the Board's findings on variance. The lot is shaped so that the back portion cannot be accessed without extension of the panhandle drive (6/21/07 Tr., pp 64-68). . This alone is sufficient to demonstrate uniqueness and hardship, in that there is no other means of access if development of the second lot is to occur. Accordingly, there is substantial evidence in the record to support the grant of a variance.

III. Conclusion

For the reasons stated, the decision of the Board comports with the applicable law, and is supported by substantial evidence. Therefore, the decision is affirmed.

9/9/08
Date

Kathleen Gallogly Cox
Judge

Clerk: Please send copies to all parties.

True Copy Test
SUZANNE MENSH, Clerk
Per
Assistant Clerk

4/7/08

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
PEOPLE'S COUNSEL FOR *
BALTIMORE COUNTY
Jefferson Building, Suite 204 *
105 W. Chesapeake Avenue
Towson, MD 21204 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS NO. : 03-C-08-1204
OF BALTIMORE COUNTY *
Jefferson Building, Suite 203
105 W. Chesapeake Avenue *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF :
PATSY LORENZ FOR SPECIAL HEARING *
& VARIANCE for property located on the NW/S
of Garrett Road, 665' N of c/l of Old Garrett Road *
(2816 Garrett Road)

*

7th Election District
3rd Councilmanic District *

BOARD OF APPEALS CASE NO.: 06-551-SPHA *

RECEIVED AND FILED
2008 APR -7 AM 9:40
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY:

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD APPEALS AND DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT

03-C-08-1204

April 28, 2006	Petition for Special Hearing and Variance – for a waiver, pursuant to Section 32-4-107 of the Baltimore County Code from the requirements of § 32-4-409 BCC, to allow a panhandle driveway with a width of 6' in lieu of the minimum 10' (for each lot) and a length of 1,430 (+/-) feet, in lieu of the maximum permitted of 1,000 feet (for proposed lot 19B) in a RC zone.
May 8, 2006	Entry of Appearance filed by People's Counsel for Baltimore County
May 9, 2006	Notice of Zoning Hearing
June 2, 2006	Certificate of Posting
June 6, 2006	Publication in newspaper
June 15, 2006	ZAC Summary of Comments
June 20, 2006	Hearing Held before the Zoning Commissioner
July 6, 2006	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commission. *GRANTING, with conditions,* Petitioner's Petition for Special Hearing and Variance Request.
July 27, 2006	Letter of Appeal filed by People's Counsel for Baltimore County.
Aug. 20, 2006	File received in the Board of Appeals.
June 21, 2007	Board convened for hearing – Day #1

Peoples' Counsel Exhibits

1. Plat 1 (Same as Petitioner's #4 without typo).
2. Dept. of Assessments & Taxation Report on the Property.
3. Baltimore County Code – Sec. 22-85 - 1978
4. Nottinghamshire Master Plat – 1974.
5. Letter dated 6/7/06 Inter-office.
6. Map Showing Garrett Road
7. Aerial Photo of Lorenz Property
8. Map 01323 With Location of Lorenz Lot

9. Soil Survey of the Area.
10. Master Plan 2010
11. Resource Conservation Zone.
12. Panhandle Driveway
13. Black's Law Dictionary Excerpt.
14. Slope Protection and Soil Regs. § 32-4-405
15. Map of Agricultural Easements – 5/2007

Petitioner's Exhibits

1. James Grammer – Resume.
2. Letter dated 12/5/05 from Mr. Grammer to Mr. Keller.
3. Letter dated 2/1/06 from Mr. Keller & Mr. Grammer
4. Plat One of Nottinghamshire Farm Recorded in the Land
   Records with Overlays.
5. Aerial of the Property.
6. Map.
7. Plat to Accompany Petition.
8. A – K Photos of the Driveway.
9. Letter from Lynda Gillespie.
10. Record Plat of the John Utter....Property.

10A Deed of Easement - 1/2/98.
10B Dead of Easement – 12/12/1986

Sept. 5, 2007	Board convened for Hearing – Day #2.
Oct. 22, 2007	Petitioner's Memorandum of Law filed by Lawrence Schmidt on behalf of Patsy Lorenz.
	People's Counsel for Baltimore County's Memorandum.
Nov. 22, 2007	Board convened for Public Deliberation.
Jan. 5, 2008	Board issued its Opinion and Order *GRANTING* Petitioner's request for Special Hearing and Variance relief.
Jan. 24, 2008	Petition for Judicial Review file by People's Counsel and received in the Board on February 7, 2008.
Feb. 12, 2008	Certificate of Notice filed in the Circuit Court for Baltimore County and to all pertinent parties.
April 3, 2008	Received Transcript.

April 7, 2008 Record of Proceedings filed with the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered before the Board.

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204 (410) 887-3180

c: People's Counsel for Baltimore County
Lawrence E. Schmidt, Esq.
Patsy Lorenz
Heidi Owings
James Grammer

2/12/08

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
PEOPLE'S COUNSEL FOR *
BALTIMORE COUNTY
Old Courthouse – Room 47 *
400 Washington Avenue
Towson, MD 21204 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS NO. : 03-C-08-1204
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF :
PATSY LORENZ FOR SPECIAL HEARING *
& VARIANCE for property located on the NW/S
of Garrett Road, 665' N of c/l of Old Garrett Road *
(2816 Garrett Road)

*

7th Election District
3rd Councilmanic Districe *

BOARD OF APPEALS CASE NO.: 06-551-SPHA *

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

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

PEOPLE'S COUNSEL AND DEPUTY
PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, MD
Old Courthouse – Room 47
400 Washington Avenue
Towson, MD 21204

RECEIVED AND FILED
2008 FEB 12 PM 12: 14
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

LAWRENCE E. SCHMIDT, ESQUIRE
600 Washington Ave. – Suite 200
Towson, MD 21204

PATSY LORENZ
2816 Garrett Road
White Hall, MD 21161

HEIDI OWINGS
1710 Stablersville Road
White Hall, MD 21161

JAMES GRAMMER
McKee & Associates, Inc.
5 Shawan Road – Suite 1
Cockeysville, MD 21030

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this 12th day of February, 2008, a copy of the foregoing Certificate of Notice has been mailed: People's Counsel/Deputy People's Counsel for Baltimore County, Old Courthouse – Room 47, 400 Washington Avenue , Towson, MD 21204, Lawrence E. Schmidt, Esquire, 600 Washington Ave. – Suite 200, Towson, MD 21204, Patsy Lorenz, 2816 Garrett Road , White Hall, MD 21161, Heidi Owings, 1710 Stablersville Road , White Hall, MD 21161, James rammer, McKee & Associates, Inc., 5 Shawan Road – Suite 1, Cockeysville, MD 21030.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

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

February 12, 2008

People's Counsel for
Baltimore County
400 Washington Ave. – Roon 47
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-08-1204
Petition for Judicial Review
Patsy Lorenz
Board of Appeals Case No.: 06-551-SPHA

Dear: Mr. Zimmerman and Ms. Demilio:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410- 486-8209
HEARING DATE: June 21 and Sept. 5, 2007
(Please be advised that part of the Sept. 5, 2007 is on tape)

This office has also notified Ms. Peatt that a transcript on the above captioned matter is due by April 1, 2008, for filing in the Circuit Court. A copy of your Petition, which includes your telephone number, has been provided to the Court Reporter, which enables her to contact you for payment provisions.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure
c: Carolyn Peatt, Court Reporter
Lawrence E. Schmidt, Esq.
James Grammer/McKee & Associates, Inc.
Heidi Owings
William J. Wiseman, III/Z.C.
Pat Keller, Dir./Planning
Timothy M. Kotroco, Dir./PDM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

February 12, 2008

Lawrence E. Schmidt, Esquire
606 Washington Avenue – Suite 200
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-08-1204
Petition for Judicial Review
Patsy Lorenz
Board of Appeals Case No.: 06-551-SPHA

Dear Mr. Schmidt:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on January 24, 2008, and received in the Board of Appeals on February 7, 2008, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 03-C-08-1204.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/trs
Enclosure

c: People's Counsel for
Baltimore County
Patsy Lorenz
Heidi Owings
James Grammer

Printed with Soybean Ink
on Recycled Paper

1/24/08

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	FOR
	*	
IN THE MATTER OF THE APPLICATION OF **PATSY LORENZ** FOR SPECIAL HEARING & VARIANCE for property located on the NW/S of Garrett Road, 665' N of c/l of Old Garrett Road (2816 Garrett Road) 7th Election District, 3rd Councilmanic District	*	BALTIMORE COUNTY
	*	Civil No. C-08-1204
Case No. 06-551-SPHA before the County Board of Appeals of Baltimore County	*	

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

PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY hereby requests judicial review of Opinion and Order of the County Board of Appeals dated January 3, 2008. People's Counsel for Baltimore County was a party to the proceeding before the County Board of Appeals of Baltimore County in this matter.

This Petition is filed pursuant to Rule 7-202 of the Maryland Rules of Procedure.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED AND FILED
2008 JAN 24 AM 11:00
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

C. Le Sl. C

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

RECEIVED
FEB 07 2008
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th of January, 2008, a copy of the foregoing Petition for Judicial Review was mailed to Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

1/3/08

IN THE MATTER OF THE APPLICATION OF PATSY LORENZ – LEGAL OWNER / PETITIONER FOR SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NW/S OF GARRETT ROAD, 665' N OF C/L OF OLD GARRETT ROAD (2816 GARRETT ROAD) 7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * Case No. 06-551-SPHA *

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County arising from an appeal of the Deputy Zoning Commissioner's decision with restrictions dated July 6, 2006 granting the Petitioner's request for a special hearing pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (BCZR) for a waiver pursuant to § 32-4-107 of the *Baltimore County Code* (BCC) from the requirements of BCC § 32-4-409 to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet where three or more lots are involved, and a length of 1,430 +/- feet in lieu of the maximum 1,000 feet permitted in an R.C. zone.

The two-day public de novo hearing was held by the Board on June 21, 2007 and September 5, 2007. Patsy Lorenz, Petitioner, was represented by Lawrence E. Schmidt, Esquire. The Office of People's Counsel for Baltimore County, Appellant, was represented by Peter M. Zimmerman, People's Counsel for Baltimore County. In lieu of closing arguments, Counsel for the Petitioner and People's Counsel submitted closing memoranda. A public deliberation was held by the Board on November 20, 2007.

Background

Ms. Patsy Lorenz, Petitioner, is the owner and occupant of 2816 Garrett Road, White Hall, MD 21161, also known as Lot 19 in the Nottingham Shire Farms development in the 7th

Election District, 3rd Councilmanic District of Baltimore County. The size of Lot 19 is approximately 6.9 acres and is currently zoned R.C. 2. Lot 19 is serviced by a panhandle driveway, which is 36 feet in width and 1,150 feet in length. The panhandle driveway also services two other lots, Lots 18 and 20, of the Nottingham Shire Farms development. The three lots, Lots 18, 19, and 20, each have an easement of 12 feet of the width of the panhandle driveway. Ms. Lorenz proposes to split Lot 19 into two lots to be known as Lot 19A and 19B. Lot 19A would be 2.4 acres in size and Lot 19B 4.5 acres in size. Lot 19B would contain her existing dwelling on Lot 19, and a new dwelling would be built on the new Lot 19A. Because the splitting of Lot 19 would result in her easement being reduced to 6 feet in width for Lots 19A and 19B, she is seeking a waiver of § 32-4-409 of the BCC which requires a width of 10 feet per lot where three or more lots are involved. She is also seeking a waiver for the length of the panhandle driveway in excess of 1,000 feet for the new Lot 19A as required by § 32-4-409 of the BCC.

Testimony and Evidence

Mr. James Grammer, of McKee and Associates, Inc., testified for the Petitioner and was accepted as an expert witness in Baltimore County planning and zoning. Mr. Grammer testified that on December 5, 2005, by letter to Mr. Arnold Keller, Director of the Baltimore County Office of Planning, he requested on behalf of the Petitioner a waiver to permit two 6-foot wide strips in lieu of the minimum 10 feet requirement for the panhandle driveway. Mr. Grammer included a red-lined plan which shows the existing improvements and approximate location of the proposed lot and dwelling. The letter was introduced as Petitioner's Exhibit #2, and the Plan as Petitioner's Exhibit #4. On February 1, 2006, by letter to Mr. Grammer, Mr. Keller denied the request for waiver and recommended that the relief sought from § 32-4-409, "be possibly

obtained through the special hearing process." Mr. Keller, in his letter, stated: "There are other existing lots currently being served by the panhandled right-of-way in question. Those said lots also have subdivision potential. Section 32-4-409 indicates only five lots may be served by a panhandle driveway, granting your waiver request would result in a hindrance of adjacent property owners subdividing their lots. The conduction of a public hearing would allow for equal input of all property owners being served by the subject panhandle right-of-way." Mr. Keller's letter was introduced as Petitioner's Exhibit #7.

On April 28, 2006, Patsy Lorenz, at Mr. Keller's suggestion, filed a Petition for Special Hearing with the Department of Permits & Development Management for a waiver from the requirement of § 32-4-409 of the BCC as to the width and length. On June 20, 2006, a public hearing was held by the Deputy Zoning Commissioner. On July 6, 2006, the Deputy Zoning Commissioner granted the Petitioner's request for a waiver from the requirements of § 32-4-409, BCC. Mr. Grammer testified that the length of the panhandle driveway currently exceeds 1,000 feet and is 32 feet wide. It has a 10-foot wide paved driveway down the center of it, and Ms. Lorenz proposes increasing the paved width to 16 feet. The fee simple strips of Lots 18 and 20 will not be impacted by the request. They will continue to own their respective 12-foot strips.

Mr. Schmidt introduced as Petitioner's Exhibit #9 a letter from Linda Gillespie, the owner of Lot 18, supporting Ms. Lorenz' request for the waiver. Lot 18 is adjacent to the proposed Lot 19A and is also serviced by the panhandle driveway. There were no other letters or testimony in support of or in opposition to Ms. Lorenz' request.

Ms. Patsy Lorenz, Petitioner, testified that she has owned Lot 19 since 1974 and lives alone in the existing home on Lot 19. Her husband died in 2002. She testified that she proposes to subdivide Lot 19 into Lots 19A and 19B and build a second house, which she will occupy on

proposed Lot 19A. Her daughter will live in the existing house on proposed Lot 19B. Ms. Lorenz is retired and the new house will provide her with a lower cost of living. She testified that three houses are presently using the panhandle driveway, and there is farmland opposite the panhandle driveway.

Mr. Zimmerman called Wallace Lippincott as a witness for the Appellant. Mr. Lippincott has been employed by Baltimore County since 1988, and has worked in the Land Preservation Office since 1992. He was accepted as an expert witness in planning, environmental and land preservation. Mr. Lippincott testified that granting the Petitioner's request would conflict with the County's efforts to preserve and foster agriculture. The new lot that would result from this request would be immediately adjacent to an agricultural easement and active farm. (See People's Counsel Exhibit #5.) Mr. Lippincott testified that the soils of the Elmore Farm, which is adjacent to the proposed Lot 19A, would impact the proposed house by spraying, etc. Under cross-examination, he testified that he has visited the Elmore Farm property but not the Lorenz property.

Mr. Zimmerman reviewed and submitted as People's Counsel Exhibit #7 an aerial photograph of Lot 19, the Lorenz property, Lots 17, 18 and 20, and the Elmore Farm property. The photographs show that Lots 17, 18, 19, and 20 are opposite the Elmore Farm and are separated by the panhandle driveway. Mr. Zimmerman also submitted the following as People's Counsel exhibits:

- Exhibit #3, Baltimore County Code 1978, 1988/89, Cumulative Supplement, § 22-85, Panhandle Driveways;
- Exhibit #11, Article 1A, Resource Conservation Zone;
- Exhibit #12, § 32-4-409, Panhandle Driveways;
- Exhibit #14, § 32-4-415, Slope Protection and Soils; and

° Exhibit #15, Map of the Agricultural Easements in the Area.

No further witnesses were presented by People's Counsel.

Issues Presented

Mr. Schmidt, in his opening remarks and Post-Hearing Memorandum, stated that this case is about Ms. Lorenz' request pursuant to her Petition for Special Hearing /Variance filed before the Office of the Zoning Commissioner for Baltimore County for a waiver from certain requirements for panhandle driveways under § 32-4-409 of the BCC. Mr. Schmidt stated that this case is not about the rights of subdivision, the amendment of a Development Plan, or the impact of residential development upon agriculture.

Mr. Zimmerman, in his opening remarks and Post-Hearing Memorandum, argues that the purpose of the requested waiver and variance is to facilitate the re-subdivision of Lot 19 of Nottingham Shire Farms. Mr. Zimmerman contends that when the County approved the subdivision in 1974 the zoning classification was R.D.P., Rural Deferred Planning. (See People's Counsel Exhibit #4.) The zoning classification of the property subsequently changed to R.C. 2, which would allow three lots on 159 acres. Nottingham Farms contains 32 lots on 159 acres. Mr. Zimmerman concludes that the existing subdivision exceeds the density, which would be allowed under the present zoning. He also contends that the proposal of re-subdivision is subject to the zoning law applicable to amendments to final development plans and plats, and that the Petitioner has failed to file the required special hearing for review under this law.

Mr. Schmidt, in his Post-Hearing Memorandum, states that if People's Counsel is correct then Baltimore County's Department of Permits and Development Management will not allow the issuance of any permit for the construction of a dwelling on the Lorenz property until there is compliance with the requirements necessary to subdivided Lot 19.

Opinion

After reviewing the testimony and evidence presented by the Petitioner and the Appellant, it is our unanimous opinion that Petitioner's request for a waiver of the width and length of the panhandle driveway should be granted. There was no evidence or testimony presented to indicate that the waiver to adjust the width of Petitioner's fee-simple interest in the panhandle driveway would have any detrimental effect on the other fee-simple owners of the driveway, or any adjacent landowners. The request for the waiver as to the length is academic because the driveway is in excess of 1,000 feet, and the additional length would have no effect. On the other hand, the testimony that the Petitioner intends to widen the paved portion of the driveway an additional 6 feet will improve the use of the driveway, even with use by one additional lot. The question of whether the Planning Director has the sole authority to grant a waiver of the width of a panhandle driveway was answered by the Planning Director himself when he suggested that the Petitioner seek the waiver by filing a Petition for a Special Hearing with the Zoning Commissioner, which decision was ultimately appealed to this Board.

The Appellant, on the other hand, did not present any testimony or evidence to challenge or contradict the merits of the waiver request. The Appellant chose to argue whether Lot 19 could be subdivided and concentrated on the zoning change and density that has occurred in the development. That was not the issue here. The issue here is whether or not the present panhandle driveway could accommodate an additional lot. We agree that when the Petitioner files for a permit to construct a dwelling on Lot 19A, the issues raised by the Appellant will be relevant at that time. Mr. Lippincott's testimony and evidence concentrated solely on the agricultural impact of adding an additional dwelling and not on the panhandle driveway. His testimony only addressed the impact of the Elmore Farm on the new dwelling and the new

dwelling's impact on the Elmore Farm. He presented no testimony or evidence to indicate that granting the waiver for the panhandle driveway will have any detrimental impact on the adjoining properties. There were no other witnesses for the Appellant.

One last point, and an important one, was the reason the Planning Director suggested that the Petition file for a special hearing. He was concerned that the neighboring lot owners, who he said might also have the ability to subdivide their lots, would have no input if he were to make a decision to allow or deny the waiver. The Petitioner requesting a special hearing gave them the opportunity to be heard. No neighbors, other than Ms. Gillespie, responded.

ORDER

THEREFORE, IT IS THIS 3rd day of January, 2007 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioner's request to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet where three or more lots are involved and a length of 1,430 +/- feet in lieu of the maximum 1,000 feet is hereby **GRANTED.**

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Wendell H. Grier

Robert W. Witt

County Board of Appeals of Baltimore County

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

January 3, 2008

Peter M. Zimmerman, People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Patsy Lorenz – Legal Owner /Petitioner*
Case No. 06-551-SPHA

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosure

c: Lawrence E. Schmidt, Esquire
Patsy Lorenz
James Grammer /McKee and Associates, Inc.
Heidi Owings
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

10/22/07

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 2816 Garrett Road; NW/S Garrett Road, 665' N c/line of Old Garrett Road 7th Election & 3rd Councilmanic Districts Legal Owner(s): Patsy Lorenz Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 06-551-SPHA

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BOARD OF APPEALS

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PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Background

This office's *de novo* appeal comes to the County Board of Appeals (CBA) from the Deputy Zoning Commissioner's (DZC) July 6, 2006 decision. DZC John Murphy granted a special hearing petition for a waiver to width standards – 6 feet instead of the minimum 10 feet -- and a variance from length standards –1,430 feet instead of the maximum 1000 feet -- governing panhandle driveways. Baltimore County Code Sec. 32-4-409. PC Exh. 12. People's Counsel challenges the legitimacy of the waiver and variance under this code section. The panhandle driveway waiver raises procedural as well as and substantive issues. The variance must satisfy BCZR Sec. 307.1.

The purpose of the requested waiver and variance is to facilitate the resubdivision of Lot 19 of Nottinghamshire Farms, a subdivision with 32 lots on 159 acres. When the County approved this subdivision in 1974, the zoning classification was R.D.P, Rural Deferred Planning. P.C. Exh. 4. The subdivision was within the density controls then applicable. The zoning classification of the property subsequently changed to R.C. 2, Agricultural Zone, which would allow 3 lots on 159 acres. The existing subdivision, therefore, exceeds the density which would now be allowed. In this context, People's Counsel challenges the proposed resubdivision because it aggravates this excess. In legal terms, it conflicts with the law governing amendment of

subdivision plans and tract density limits for amendments of subdivision plats under Bills 100, 1970, 98-75, and 178-79, BCZR 1A00.4, 1A01.3, and 1B01.3. These issues are important because they affect any existing R.C. 2 Zone subdivisions platted prior to establishment of the R.C 2 Zone in Bill 98-75, its mapping in 1976, and further density controls imposed in 1979.

Scope of the Zoning Inquiry

Petitioner's counsel has argued that because the petition on its face requests only a waiver and variance to panhandle driveway requirements, there should not be any inquiry into other zoning issues. This ignores that the site plan and testimony reflect the essential undertaking to resubdivide Lot 19. This necessarily involves the law governing amendment of development plans and plats and the controlling density.

Petitioner's position, properly understood, is that she may circumvent zoning law by choosing and framing the petition and relief requested while omitting or disregarding other zoning requirements. This is a false position. It is impermissible for the County Board of Appeals to grant a petition which disregards and conflicts with applicable law. Riffin v. People's Counsel 137 Md. App. 90, 96 (2001).

Here, the proposal for resubdivision is subject to the zoning law applicable to amendments to final development plans and plats. Petitioner has failed to file the required special hearing for review under this law. In addition, the proposal conflicts with the current law which forbids resubdivision in excess of the density limits for the entire tract. Petitioner cannot avoid these issues by framing the petition narrowly and selectively as a matter of panhandle driveway law.

Applicability of Present Law

Land use proposals must be reviewed under current law, in the absence of vested rights. Even if zoning laws change during litigation, the new law applies. Powell v. Calvert County 368 Md. 400 (2002); Layton v. Howard County 399 Md. 36 (2007).

Our research reflects that the County enacted its first statutory panhandle driveway law in 1982. The current law is the product of subsequent amending legislation and has been in place for many years. The applicable law relating to amendments of subdivision plans and plats was enacted in 1970 (Bill 100) and extended to the R.C. Zones in 1975 (Bill 98). The County Council reclassified this property to R.C. 2 in 1976, bringing the above provisions into play. So, while the existing Nottinghamshire Farms subdivision was approved before these laws were enacted, that is not the case with respect to new land use proposals, such as for lot resubdivision.

To be sure, there are vested with respect to existing lots and dwellings. But there are no vested rights for amendments, for resubdivision, or for newly created lots. Indeed, the general rule is that to obtain vested rights, a property owner must obtain a valid building permit and proceed to substantial above-ground construction with respect to the specific use. Prince George's County v. Sunrise Dev. LP 330 Md. 297 (1993), Sycamore Realty Co. v. People's Counsel 344 Md. 57 (1996); Collington Corporate Center v. Prince George's County 358 Md. 296, 306 (2000); Sterling Homes v. Anne Arundel County 116 Md. App. 206 (1997).

Moreover, in 2006, the County Council recently passed Bill 24. This amended County Code Secs. 32-4-104 and 32-4-262 to underline that all development plans, as

well as material amendments to development plans, must comply with current law. The explicit requirement that a development comply with present zoning law actually predated Bill 24-06. See Code Secs. 32-4-104(c) and 32-4-114(a) (2003). Bill 24 also codified the rule that a valid building permit and substantial construction are prerequisites to vested rights. Code Sec. 32-4-273.

In other words, older subdivisions are not in a time capsule which allows their expansion as if proposed at the time of the original plan and without regard to new land use law. There is no genuine dispute that current law applies. The requested waiver and variance relate to current panhandle driveway law standards. The site plan also shows a building setback of 35 feet from the lot line for the proposed dwelling, just the minimum required by BCZR 1A01.3.B.3. The problem here is that the proposed resubdivision does not satisfy either the current standards for panhandle driveway waivers and variances or, more fundamentally, the current limits on subdivision tract density.

Statement of Facts

Nottinghamshire Farms Plat and Zoning History

a. Density issues: Approval of the original plan and plat based on R.D.P. Zone standards; the 1976 legislative zoning reclassification to the R.C.2 Zone; the 1979 strengthening of density controls.

Spellman, Larson & Associates prepared the original "JSPC" plan for Nottinghamshire Farms. See PC Exh. 1, 4. The plan notes the R.D.P. zoning, the 159 acre gross acreage, the maximum allowable lots as 159, and the proposed lots as 32. After various agencies signed off, the Planning Board approved the plan in 1974. Indeed, the tax records show that Alfred Lorenz, Jr., Petitioner's husband, acquired the lot on November 1, 1974.

The RDP Zone was enacted in Bill 100, 1970. BCZR 1A00. This zone set a minimum lot acreage requirement of one acre, subject to percolation tests. BCZR 1A00.3.B.1. (1975). The Nottinghamshire Farms subdivision proposed larger lots and satisfied the RDP Zone permitted density. Bill 98-75 created the Resource Conservation Zones (R.C.2, R.C. 3. R.C. 4 and R.C. 5). It repealed the RDP and companion RSC Zones. As enacted in Bill 98-75, the R.C. 2 Zone listed, for areas of more than 20 acres, a maximum density of 0.2, one lot per five (5) acres. The County Council first mapped the zone in 1976. There is no evidence that Nottinghamshire Farms has ever been classfied in any other R.C. Zone. So, the record logically reflects that the Council mapped the subdivision as R.C. 2 during this first R.C. Zone mapping process.

Under the original R.C. 2 Zone, the maximum number of allowed lots here would have been 31, one less than proposed. There was no provision in Bill 98-75 to immunize or extend approved plans so as to immunize them from legislative zoning reclassification applicable to amendments of subdivision plans and plats.

In 1979, the County Council passed Bill 178. It strengthened the R.C. 2 Zone subdivision lot density restrictions by amending BCZR 1A01.3.B.1. This subsection currently states, in PC Exh. 11, p. 1A-10,

> "1. Subdivision lot density. No lot of record lying within an R.C. 2 Zone and having a gross area of less than two acres may be subdivided. **No such lot having a gross area between two and 100 acres may be subdivided into more than two lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of one lot for each 50 acres of gross area.** In cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right-of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record." Emphasis supplied.

The Nottinghamshire Farms area is still classified in the R.C. 2 Zone. There has thus been no change in the zoning classification since 1976. If the entire area were subdivided for the first time today, the tract area of 159 acres would support a maximum of three lots. The developer was thus fortunate to have developed the property in 1974, before the establishment of stronger restrictions in 1976 and especially 1979.

b. Panhandle driveway issues; history; the current law

The 1974 Nottinghamshire Farms plan shows three panhandle driveways. P.C. Exh. 1. The driveway at issue serves lots 18, 19, and 20 and provides access to Garrett Road. Based on the scale of the site plan, it appears to be 1150 feet in length. Each of the panhandle driveway fee simple strips is 12 feet wide. A shorter panhandle driveway serves lot 3. The third pandhandle driveway serves lots 9 and 10 and provides access to Old Garrett Court. None of these lots appear to have been resubdivided.

There is no note on the 1974 plan for panhandle driveways. This is understandable because no county ordinance specified panhandle driveway controls until Bill 56, 1982, including then Code Sec. 22-85. PC Exh. 3. The County Council has since amended and recodified the law several times, leading to current Code Sec. 32-4-409. PC Exh. 12. It begins with general criteria for controls on panhandle driveways and continues on to more specific provisions, including the width and length limits at issue here.

Petitioner's' present undertaking to resubdivide lot 19

Lot 19 is 6.9 acres in size and has an existing dwelling, with the address of 2816 Garrett Road. In 2005, Petitioner Patsy Lorenz engaged McKee & Associates, and James Grammer, a project manager, to assist in the resubdivision of her lot. Mr. Grammer

wrote to the Planning Director on December 5, 2005 to request a waiver to the panhandle driveway width requirement "for the creation of a new lot." Pet. Exh. 2. He asked permission for two six-foot strips to serve each of the newly formed lots 19A and 19B.

The proposal carves out two new lots. Proposed Lot 19A, nearest to the existing panhandle driveway, would have 2.4 acres and a proposed dwelling 35 feet from lot boundary. Proposed Lot 19B, to the interior would have 4.5 acres, including the existing dwelling. It would require the extension of the panhandle driveway to the requested 1430 feet, compounding the existing excessive length and thus subject to variance review.

While Mr. Grammer's letter mentioned Code Sec. 32-4-409(k), he did not provide any justification pertinent to the statutory standards. He merely stated this legal opinion,

> "The subject property is approximately 6.9 acres in size and is currently zoned RC-2. It has been held intact since August 21, 1974 and should therefore have 2 density units available to it under the R.C. 2 regulations. The original 'Nottinghamshire Farms' subdivision was created under the R.D. P. zoning regulations. The property is currently improved with a single-family dwelling."

In addition, while Mr. Grammer referred to the RC-2 zoning regulations, he failed to mention the key provisions relating to amendments of final development plans, especially BCZR 1A00.4 and 1B01.3. He also failed to mention that there would be required a variance to the length standards.

After review of the request, Planning Director Keller replied by letter dated February 1, 2006. He began,

> "Your request for a waiver to the panhandle requirements for the creation of a new lot (19A) from the provision of Section 32-4-409(K) of the Baltimore County Code has been DENIED. As such, it is recommended that the relief sought of Section 32-4-409 be possible obtained through the Special Hearing process."

He went on to suggest also that adjacent property owners might be concerned about the waiver, including the effect on the potential to subdivide their lots. He added that a public hearing would allow for their "equal input."

On April 28, 2006, Petitioner filed the present petition for special hearing for the width waiver, combined with a request for variance from the length standards. But Petitioner did not file the required petition to amend the subdivision plan or plat. Petitioner chose to disregard the basic zoning law governing resubdivision.

This standard procedure required by law has been followed in many cases reviewed at the ZC and CBA levels. The legal requirements for FDP amendment are separate from panhandle waiver requirements. If a proper Petition had been filed, DZC Murphy might have focused on the density issue. In its absence, the DZC overlooked it.

Questions Presented

1. a. What is the appropriate procedure for amendment of a final development plan (FDP) and final subdivision plat in connection with resubdivision of a lot? Should Petitioners have filed a Petition to amend the FDP and final plat?

b. Does the proposed resubdivision conflict with and exceed the tract density limits set by the law governing amendment of subdivision plats?

2. a. What are the appropriate procedures for panhandle driveway waivers and variances, and how do they relate to the development plan review process?

b. Is there any legal justification for waiver of the width requirements of the panhandle driveway law?

3. Is there any legal justification for a variance to the length requirements of the panhandle driveway law?

Argument

I. a. Petitioner failed to file the required petition for special hearing to amend the final development plan and plat.

The source of the law governing amendment of final development plans is Bill 100, 1970, which included BCZR 1B01.3 to regulate amendments in Density Residential Zones. In 1975, Council Bill 98-75 extended this protection to Resource Conservation Zones by incorporation in BCZR 1A00.4.

For residential subdivisions where lots have been sold prior to a requested amendment, the law sets up a review process, which refers to special exception standards as well as consistency with the spirit and intent of the original plan. BCZR 1B01.3.A.7. This provides protection to the neighborhood, including other property owners in the subdivision. There are also the substantive provisions of BCZR 1B01.3.B.2, which control density and are critical in the present case.

Petitioners' desire to resubdivide Lot 19 clearly involves an amendment to the final subdivision plan and plat. P.C. Exh. 1, the 1974 plan, is sometimes colloquially referred to as a JSPC Plan, because then involving Joint Subdivision Planning Committee review. But the County Code at that time did not even refer to the JSPC, which served a kind of interagency staff function. Rather, the Code explicitly gave the Planning Board final approval authority over "subdivision plats." Bill 80, 1960, as codified in Sec. 22-35 of the 1968 Code and Sec. 22-40 of the 1978 Code, stated, *inter alia*,

"(b) The planning board may approve or after hearing disapprove a plat. ...

(c) Where approval of a plat, map, or plan of land is required by any officer or body of the county, including the board of health, department of public works, board of education and board of recreation, under the provisions of any other law or ordinance, such approval shall be certified on the plat before the final plat shall be approved as a prerequisite to its acceptance for filing by the clerk of the circuit court."

The 1974 plan here necessarily included that final Planning Board approval. It also included the certifications of various other officers. Essentially, the plan and plat typically were one document. Mr. Grammer admitted, as he had to, that the 1974 plan was the last and final plan (or plat) approved for this subdivision. No amount of semantic gymnastics or spin can provide an escape from the simple proposition that this is the final plan and plat subject to the zoning law applicable to final development plans and plats. The current request involves a change or amendment to what was approved in 1974.

If a proper special hearing petition had been filed, there would have been the fuller review required under the BCZR 1A00.4/1B01.3 criteria. In the absence of the petition, the DZC had no authority to approve this modified subdivision request in the guise merely of a panhandle driveway waiver and variance.. Neither does the CBA have any authority on *de novo* appeal.

(It should also be underlined, parenthetically, that a property owner cannot properly avoid this process by obtaining piecemeal a panhandle driveway waiver and variance piecemeal and then filing for a minor subdivision or "refinement" via the Development Review Committee (DRC) process. The DRC posts its schedule on the county website but provides no realistic public notice and no opportunity for public comment. It is the avenue of choice for property owners to sidestep other legal requirements and avoid full review. This would just be another step here in the

circumvention, negation, and undermining of the FDP Plan amendment law and public hearing process. It is elementary that all development plans must comply with all county laws, including zoning laws. See BCZR Sec. 600, Code Sec. 32-4-104(b), 32-4-114(a) (2003). It is critical for the County Board of Appeals to uphold the zoning law now and not tolerate this pattern of evasion of the law.

Moreover, in context, the present case involves the resubdivision of a major subdivision from 32 to 33 lots, not a "minor subdivision" of Lot 19. It also is much more than a "refinement." Separately, as a matter of policy, while the PDM Director, upon DRC recommendation, may approve a "refinement," this policy may not be used as a tool to avoid the zoning law governing FDP Plan amendments. In any event, "refinements" are defined as situations involving a "slight, minor, or insignificant [change] to an approved plan." Meadows of Greenspring Homeowners v. Foxleigh Enterprises Court of Special Appeals No. 2170, October 22, 2004. There, quoting the Baltimore County Development Policy Manual, the Court held that a reduction in the size of a proposed building was not a "refinement." Here, the addition of one lot in itself is significant. It should also be remembered that one lot approval may be followed by another, so that the cumulative effect could be to double or triple the size of a subdivision via the DRC and so avoid both the normal zoning and development review processes.

b. The proposed resubdivision conflicts with and exceeds the tract density limits set by the law governing amendment of subdivision plats.

Bill 100, 1970, the source of the law relating to amendment of final development plans and plats, established significant substantive standards, which remain to the present day. As noted, Bill 98, 1975 incorporated them for the R.C. Zones.

The most critical of these standards in the present case involves the aggregate limits on subdivision lot density for the entire tract. BCZR 1B01.3.B. 2 concludes,

> "It is the intent of these zoning regulations to prohibit subdivision or resubdivision of portions of a tract in a D.R. Zone in a manner so as to exceed the total number of dwelling or density units allowed under the applicable D.R. Zone(s) for the entire tract."

BCZR 1A00.4 cross-references and incorporates this provision into the law governing the Resource Conservation Zones. It states,

> "Plans and plats. Development plans and final subdivision plats shall be required in the manner prescribed under Section 1B01.3, and, for the purpose of this section, all references to D.R. Zones shall include the R.C. Zones."

There is nothing ambiguous about this law. Of course, the statutory reference to "the entire tract" refers to the entire subdivision, not just a single lot. Webster's Third New International Dictionary defines the word "tract," for the purpose here, as

> "**2 :** an area either large or small: as a (1) region or stretch (as of land) that is usu. indefinitely described or without precise boundaries <a few large –s for settlement> <the wooded – between the two rivers> <a great – of unexplored area (2) : a precisely defined or definable area of land <an 80 acre -- > <an urban census -- > ...."

The entire tract at issue in the present case is the 159-acre tract for the Nottinghamshire Farms subdivision. The maximum density for an unimproved tract of this size under current law is 3 dwelling units. BCZR 1A03.B.1.a. The existing 32-lot subdivision already exceeds the density allowed under current law. From any point of view, there is no more subdivision allowed by law.

As to the equities, it is to be remembered that any existing farms in the R.C. 2 zone are subject to the current strong density restrictions. There is already disparity between their allowed density and the density of Nottinghamshire Farms. It should not be

aggravated by a ruling which could double the density of this existing subdivision and have countywide implications.

Petitioner and her representatives have focused on her single lot and argued that, as a lot of record between 2 and 100 acres in size, it is entitled to a subdivision of one additional dwelling. But this disregards the context of the entire subdivision and the explicit controls governing it under the FDP plat amendment law. It is settled that "... the language of a statute must be viewed as a whole, with reference to the surrounding provisions of a statute." Department of Human Resources v. Howard 397 Md. 353, 362 (2007). It is essential to "... construe the statute as a whole so that no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory." The goal also is to avoid any "unreasonable, illogical or inconsistent interpretation ...." Mayor & Town Council of Oakland v. Mayor & Town Council of Mountain Park 392 Md. 301, 316 (2006); Department of Health v. Kelly 397 Md. 399, 420 (2007).

Petitioner may also argue that the existing subdivision is below the density allowed under the R.D.P Zone density allowed at the time it was approved. Even if this were true, it would not be a legal excuse because BCZR 1B01.3.b.2 imposes a tract density limit based on current law. To be sure, the R.D.P. Zone in 1975 would have allowed more than 32 lots based on the minimum lot size of one acre, subject to satisfactory percolation tests. But there is now no room for additional density under the current law explicitly stated in BCZR 1B01.3.B.2.

In sum, the current subdivision lot density control under BCZR 1B01.B.2 does not depend for implementation on whether the old subdivision was in its time platted to the

maximum density then allowed. The statutory language looks forward under the current law, not backward to what the developer might have done under the old law. Moreover, as a practical matter, to argue about what a developer might have done in the distant past is fruitless and speculative. There may have been a variety of reasons why the developer here chose to plat and sell 32 homes, and no more. These may have included percolation issues, other environmental constraints, or market considerations. We do not know. This is not, and should not be, a consideration in the implementation of current law. It is enough that the Nottinghamshire Farms subdivision at issue in the present case is already over density under current law, and that no more is allowed.

This case may affect all existing R.C. 2 Zone subdivisions platted under earlier zoning classifications or the pre-1979 R.C.2 zoning regime. The CBA should not view this case in isolation as just involving a single new lot. The case means more than that. As it has been written, ask not for whom the bell tolls, it tolls for me.

The Agricultural Zone involves the concept of ecology. It recognizes the interconnectedness of land uses in the agricultural areas. This recognition extends to the insidious impact of incremental encroachment of subdivision development, including the expansion and sprawl of existing subdivisions.

II. a. County Code Sec. 32-4-409 assigns to the Planning Director specifically the function to review and approve waivers relating to panhandle driveway width. It provides, on the other hand, that length deviations are subject to the variance process, which the Zoning Commissioner reviews in the first instance.

As noted earlier, legislative action to control panhandle driveways began in 1982 with Bill 56-82 and the codification in Code Sec. 22-85. PC Exh. 3. The current panhandle driveway law, as amended, is in Code Sec. 32-4-409. PC Exh. 12.

The interesting procedural aspect is that Sec. 32-409(k) (k) assigns the planning director the function to grant or deny waivers, except for specified lot limits under subsection (d) and for driveway length, subject to variance under subsection (e). The waiver provision sets specific statutory criteria for consideration by the planning director.

Given the legislative assignment to the planning director, what role is left to the zoning commissioner/hearing officer (ZC/HO)? Ordinarily, the hearing officer may grant waivers to development regulations under Code Sec. 32-4-107 "[A]t the request of a department director." But Code Sec. 32-4-409(k) establishes a specific and extraordinary review process for panhandle driveway waivers.

In this context, the essential statutory function of the planning director must be respected and not circumvented. In Capital Commerical Properties v. Montgomery County Park & Planning Comm'n 158 Md. App. 88 (2004) Rodowsky, J., the Court held that where a statute delegates to a particular department a specific review function in the development process, then the decisionmaking function rests with that department. There, a question arose as to which agency had the function to review parking facilities plans (PFPs): the Planning Board, in its general review of the development, or the Director of the Department of Permitting Services (DPS) to whom the county code specifically assigned review of parking Facilities Plans, setbacks, and waivers. The Court held that it would be duplicative and counterproductive to have both agencies conduct the review. Rather, as the specifically assigned agency, the DPS Director had the authority and function to review PFPs setbacks, and waivers.

We thought initially that the way to reconcile the various provisions might be to recognize the primary decision making function of the planning director, but to allow the zoning commissioner/hearing officer to utilize the public hearing process to review the planning director's decision for errors of law. Upon further analysis of the specific statutory assignments in Code Sec. 32-4-409 and the Capital Commercial Properties decision, it appears that the Planning Director has exclusive authority to grant panhandle driveway waivers. This is not a function of the Zoning Commissioner based either on his special hearing authority in BCZR 500.7 or his general waiver authority as hearing officer under Code Sec. 32-4-107. In contrast, the Commissioner does have authority under Code Sec. 32-4-409 and BCZR 307.1 to consider variances to panhandle driveway length. There is thus a division of authority between the Planning Director and the Zoning Commissioner concerning different panhandle driveway issues.

Here, Petitioner submitted a request to the planning director for a waiver. Director Keller subsequently denied the waiver. While he suggested that Petitioner file for a special hearing, he did not actually request that the ZC grant a waiver. Therefore, even if Code Sec. 32-4-107 still could ever apply to panhandle driveway waivers, it could not apply on this record. From any point of view, the ZC/HO was without authority here to grant a waiver under BCZR 500.7 with respect to panhandle driveway width. Correlatively, the County Board of Appeals lacks such authority upon *de novo* appeal. Please note that a panel of the CBA recently so held in the Gombeski case. No. 6-589-SPHA (2007). We will nevertheless address the merits of the waiver.

b. There is no justification to waive the width requirements of the panhandle driveway law

The main thing is to understand the panhandle driveway law. Code Sec. 32-4-409. PC Exh. 12. The purpose of this law is to control and limit panhandle driveways because these driveways pose access problems for ordinary and emergency vehicles compared to driveways with direct access to public streets. Therefore, the law discourages them.

The terms "panhandle driveway" and "panhandle lot" are defined as follows, in Code Sec. 32-4-101(dd) and (ee),

> (dd) "*Panhandle driveway*" means the paved roadway that serves one or more abutting panhandle lots and provides vehicular access to the local street or to a collector street.
>
> (ee) "*Panhandle lot*" means a lot shaped and situated so that the only frontage or access to a local street or to a collector street is a narrow strip of land that:
>
> (1) Is held in-fee, except as provided in Sec. 32-4-409 of this title; and
> (2) May contain a panhandle driveway, water and sewer lines, and other utilities."

Code Sec. 32-4-409(a) is particularly important. It states the essential purpose of the law to allow panhandle driveways only in limited circumstances, where it passes all of the following tests,

> "(a) In general
>
> (1) The county may only allow a panhandle lot:
>
> (i) To achieve better use of irregularly shaped parcels;
> (ii) To avoid development in environmentally sensitive areas;
> (iii) Where the lot will not be detrimental to adjacent properties; and
> (iv) Where the lot will not conflict with efforts to provide for public safety and general welfare.
>
> (2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable."

Here, there is just no evidence in this record that the Gombeski's proposal to create an additional panhandle lot here satisfies these criteria. Mr. Grammer's December 5, 2005 letter was silent on these matters, as was his testimony. It simply serves the personal and/or financial interest of Petitioner to accomplish the resubdivision of Lot 19. It serves no land use or environmental purpose. The arguable indifference of other lot owners on the driveway is also not an excuse. There is a public interest in this matter.

To be sure, the law provides for a waiver under specified circumstances. In addition to the general provisions of Sec. 32-4-409(a), there is Code Sec. 32-4-409(k),

> "(k) Waiver. Except as provided in subsections (d) and (e) of this section, the Director of Planning may grant a waiver from any provision in this section or title if the Director finds:
>
> (1) That the size, scope, and nature of the subdivision of land into three or fewer lots for residential single-family dwellings does not justify strict compliance with this section;
> (2) That a waiver would be within the scope, purpose, and intent of this section; **and**
> (3) Compliance with all other county ordinances and regulations."

Subsection (k)(1) appears to allow for the grant of a waiver only in situations where there are "three or fewer lots." Here, the proposal involves a 32-lot subdivision, with a proposed fourth lot on this panhandle driveway; so, right away there is a disqualification. Secondly, even if the proposal were otherwise eligible, the waiver test refers back in subsection (k)(2) to the scope, purpose, and intent of the section, expressed primarily in subsection (a), which again is not satisfied. Thirdly, under subsection (k)(3), there must be compliance with other county laws and ordinances.

Petitioner did not and could not properly address any of the statutory criteria. James Grammer, the project manager, did not understand the panhandle driveway law.

He advocated the waiver for the reason that otherwise Lorenz could not achieve her desire to resubdivide the lot (to which he believed her entitled), and that he saw no adverse effects. He cited the presence of trees on the neighboring farm as a buffer, so as to avoid providing a buffer on his plan and to deflect criticism that the new dwelling would be within about 35 feet of the driveway and adjacent farm. If Mr. Grammer's justification were accepted, then the law would collapse like a house of cards.

The existence of a panhandle driveway approved prior to establishment of legal controls does not furnish an excuse to manufacture new panhandle lots. The purpose of the law is to limit such lots, not to multiply them. Insofar as Mr. Grammer suggested that the addition of another panhandle lot on an existing panhandle driveway is harmless and acceptable, the CBA should reject the suggestion. The Court of Appeals rejected a similar argument long ago in Easter v. Mayor & City Council of Baltimore 195 Md. 395 (1950),

> "..., nor is it material that three buildings, some distance to the north, extend to the building line. These may have been built before the passage of the Ordinance, or they may have been built under permit or without permit. As was said in Potts v. Board of Adjustment, 133 N.J.L. 230, 43 A.2d 850, 854: "Prior exceptions granted by the adjustment board are no in themselves controlling. Ill-advised or illegal variances do not furnish grounds for a repetition of the wrong. If that were not so, one variation would sustain if it did not compel others, and thus the general regulation eventually would be nullified. The annulment of zoning is a legislative function that is beyond the domain of the zoning board." See also the cases collected in a note 168 A.L.R. 13, 41-44. The same principle was announced and applied in Heath v. Mayor and City Council of Baltimore, supra, Md., 58 A.2d 896, 898, Mayor and City Council of Baltimore V. Byrd, Md., 62 A.2d 588, 591, and Cassel v. Mayor and City Council of Baltimore, Md., 73 A.2d 486.
>
> The principal fact relief upon to justify an exception of the area and set-back rules, adopted in the general interest under the police power, is the existence of an exception on the adjoining lot. Undoubtedly this is detrimental to the applicant, although his case is somewhat weakened by his tacit acceptance of the situation over a period of years. But we think the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan. "It is by these gradual encroachments, individually of relative insignificance, that the integrity of the general scheme is undermined and ultimately shattered. One

> departure serves as justification for another * * * *." Dubin v. Wich, 120 N.J.L. 469, 200 A. 751, 754. In the case of non-conforming uses, the ordinance tolerates their continuance, but looks towards their ultimate elimination. Colati v. Jirout, supra. The same principle applies to special exceptions. Heath v. Mayor and City Council of Baltimore, supra, Md., 58 A.2d 896. Use variances area doubtless more serious than dimensional changes, but that is only a matter of degree." 73 A.2d 492-93.

It is not feasible to eliminate the existing panhandle driveway use serving dwellings in a subdivision platted prior to the enactment of panhandle driveway controls. But the change or expansion of the use is another matter. The existence of a nonconforming panhandle driveway use is thus not an excuse for expansion of the use to serve more lots.

Petitioner never produced evidence sufficient to meet the burden of proof to satisfy panhandle driveway law waiver standards. In contrast, referring to Code Sec. 32-4-409(a), Wallace Lippincott, Director of the County's Agricultural Preservation Program, explained that the proposed new dwelling and well close to the boundary would be detrimental to the adjacent farm, which is active in grain and organic production. (The word "adjacent" means "lying near or close to" or "neighboring," P.C. Exh. 13, so the panhandle driveway location does not make the bordering farm any less "adjacent"). He discussed the nature of conflicts between agricultural uses and nearby residential uses.

Mr. Lippincott's relevant educational background and experience far surpassed that of Mr. Grammer. He was the only expert with a concentration on agricultural and environmental issues. He explained the county's agricultural easement program, and the investment the county has made in preserving farms in the program. He produced both an aerial photo and a DEPRM map showing the great number of easements in the area, including on the adjacent farm. P.C. Exh. 7, 15. He produced soils data, showing the

the main purposes of the R.C. 2 Zone is to guard against further incremental encroachment of residential development, especially on relatively small lots.

III. There is no legal justification under BCZR Sec. 307.1 for a variance to the length requirements of the panhandle driveway law.

There is also no justification for the requested variance to allow additional length to the panhandle driveway, which already more than doubles current standards. There is nothing unique about the property that causes any practical difficulty. Mr. Lippincott observed that the lot is one of 32 lots subdivided and used for residential purposes. Cromwell v. Ward 102 Md. App. 691, 705-21 (1995) should serve as a constant reminder of the strictness of variance standards under BCZR Sec. 307.1. The law forbids dispensation of variances for convenience, financial advantage, or other personal needs. A property owner may not properly avoid land use restrictions applicable to all property owners in the area. Riffin v. People's Counsel 137 Md. App. 90 (2001). Here, there is a specific law enacted to control and curb the use of panhandle driveways.

Petitioner has resided on the property for over thirty years. According to SDAT records, the existing dwelling was constructed in 1976. P.C. Exh. 2. The property is a typical subdivision lot. It is ample in size, 6.9 acres. It has plenty of room for residential and accessory uses. The property is large enough to accommodate a nice garden or orchard, not to mention a swimming pool, athletic field or court, or other such uses. Mr. Grammer seemed not to know much about the existing use. As for Ms. Lorenz, she mentioned her desire to move into the new dwelling, making room for her daughter to occupy the existing dwelling. This, of course, is a personal preference, which does not justify a variance. The lots could and likely would ultimately be sold to third parties.

prime and productive soils there. P.C. Exh. 9. He underlined the legislative purpose of the Agricultural Zone and the recognition that incremental residential development tends to undermine the farming community in various ways. P.C. Exh. 13. He cited the Master Plan. P.C. Exh. 10. He noted DEPRM policies to protect soils. P.C. Exh. 14. He explained that a new dwelling would have a direct detrimental impact on the adjacent farm operation and an overall incremental impact on farming in the area. It would be inconsistent with the purposes of the R.C. 2 Zone, the Master Plan and the policies to protect prime soils. For example, the legislative finding in BCZR 1A01.1.A.1.d says,

> "That continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurs but is incompatible with the agricultural use of the surrounding areas."

There is also the stated legislative purpose in BCZR 1A01.1.B,

> "Purposes. The R.C. 2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses."

Mr. Lippincott also noted that there is nothing irregular about the shape of the Lorenz lot. It is rectangular and a fairly typical lot in a subdivision with lots bigger, smaller, and about the same size. So, that separate requirement is not satisfied.

Under these circumstances, the record reflects that the proposal has nothing to do with the legislative purpose "to achieve better use of irregularly shaped lots" or "to avoid development in environmentally sensitive areas." Most important, there is a direct and substantial effect on the adjacent farm and a palpable inconsistency with the stated legislative purposes of the Agricultural Zone. Despite the obvious presence of the existing subdivision, the area is in the center of a significant Agricultural Zone. One of

Insofar as Mr. Grammer focused on the existing nonconforming panhandle driveway, the argument that a few more hundred feet more in length for a new panhandle lot is insignificant misses the point. As noted earlier, the law discourages panhandle driveways and does not support their expansion or the creation of new panhandle lots. Mr. Grammer admitted that his reasons for advocacy here could also support other panhandle driveway deviations in the Nottinghamshire Farms subdivision. This multiplier would further undermine the panhandle driveway law and the fabric of the approved subdivision. This is contrary to the spirit and intent of the zoning law and the public safety, health and welfare. McLean v. Soley 270 Md. 208, 213-14 (1973).

It is also impermissible under BCZR Sec. 307.1 to grant a variance which results in excessive residential density. The density conflict thus comes in from yet another direction. While the petition here on its face is for a variance to the panhandle driveway width, it is effectively a request for a density variance.

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CERTIFICATE OF SERVICE

I CERTIFY this 22nd day of October, 2007, that a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to Lawrence Schmidt, Esq. Gildea & Schmidt, LLC., 600 Washington Avenue, Towson, MD 21204 , Attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

10/22/07

IN RE: PETITION FOR SPECIAL HEARING AND VARIANCE
N/W side of Garrett Road, 655 feet north of centerline of Old Garrett Road

7th Election District
3rd Councilmanic District
(2816 Garrett Road)

Patsy Lorenz,
Petitioner

* BEFORE THE
* COUNTY BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. 06-551-SPHA

* *

HEARING MEMORANDUM

Patsy Lorenz ("Owners" or "Petitioner") by and through Lawrence E. Schmidt and Gildea & Schmidt, LLC, her attorneys, hereby submits this Hearing Memorandum in accordance with the direction of the County Board of Appeals for Baltimore County ("Board") at the conclusion of the hearing held on the above referenced appeal, in lieu of closing argument.

I. Statement of the Case

This case is about the Owner's request, pursuant to a Petition for Special Hearing/Variance filed before the Office of the Zoning Commissioner of Baltimore County, for a waiver from certain requirements of Section 32-4-409 of the Baltimore County Code ("BCC"). Specifically, the Petitioner seeks relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR") for a waiver pursuant to 32-4-107 of the BCC. The specific provisions of Section 32-4-409 for which a waiver is requested is to allow a panhandle driveway (fee strip) with a width of six feet in lieu of the minimum required 10 feet for each proposed lot (Lots 19A and 19B) and a length of 1430± feet in lieu of the maximum permitted 1000 feet in an R.C. zone.

This case is not about the rights of subdivision, the amendment of a development plan or the impact of residential development upon agriculture. Notwithstanding the assertions of People's Counsel to the contrary, this Board should consider only the issue identified and

presented to it *within* the Petition for Special Hearing/Variance. It is well settled that a judicial body should exercise restraint and allow the submission of evidence and argument only about issues that are relevant and material to the question before it (See Kelly Catering v. Holman, 96 Md. App. 256 (1993)). It is manifestly unjust and improper for People's Counsel to assert and the Board to entertain, evidence and argument that does not affect any issue of consequence. Even assuming arguendo that People's Counsel's arguments have merit (and the Petitioner avers that they do not) the appeal of the instant Petition is not the proper forum for these arguments to be entertained.

In the event People's Counsel's arguments are meritorious, the Baltimore County Department of Permit and Development Management will not approve the processing of the Petitioner's plans for the subdivision of her property without compliance with all applicable zoning and development regulations in Baltimore County. To provide People's Counsel an open forum under this appeal to raise any and all objections to a project is simply wrong and unfair. People's Counsel is able to seek review of any of its issues through the filing of its own Petition for Special Hearing raising any issues it deems appropriate, or, the filing of an appropriate action in the Circuit Court of Maryland for Baltimore County. The Petitioner requests that the Board consider only issues raised in the Petition regarding the panhandle driveway.

II. Facts

The facts presented in this case are largely uncontradicted. The Petitioner presented testimony of Patsy Lorenz, property owner, and James Grammer, Project Manager with McKee and Associates. Mr. Grammer's office was responsible for the preparation of the Plat to Accompany the Petition for Special Hearing/Variance accepted into evidence as Petitioner's Exhibit 1. People's Counsel called but a single witness, Wallace S. Lippincott Jr. of the Department of Environmental Protection and Resource Management. Both sides also submitted

documentary evidence into the record, which will be referred to within this Memorandum as necessary.

The uncontradicted testimony and evidence established the following. Ms. Lorenz is the title owner of Lot 19 of the Nottinghamshire Farms subdivision. This is a rural residential subdivision located in the Whitehall community of northern Baltimore County. The subdivision was approved by Baltimore County on or about August 20, 1974 through the then existing residential subdivision review process known as the JSPC. Ms. Lorenz is the original owner of Lot 19 as laid out in that subdivision. Lot 19 and the immediately adjacent properties are shown both on the site plan (Petitioner's Exhibit No. 1), as well as Plat 1 of Nottinghamshire Farms Subdivision (Petitioner's Exhibit No. 4). This plat was recorded in the Land Records of Baltimore County following subdivision approval on August 21, 1974 in Plat book at Liber EHKJr. 38, Folio 8.

Lot 19 is 6.9 acres in area and zoned R.C. 2. It is presently improved with an existing two-story single-family dwelling known as 2816 Garrett Road. Ms. Lorenz testified that she lives alone in this dwelling. The property was originally acquired by her and her husband (Alfred J. Lorenz, Jr.); however, he is deceased.

Ms. Lorenz proposes the subdivision of her lot into two separate lots. As noted above, the property is zoned R.C.2 and a subdivision of this 6.9 acre parcel is expressly permitted by Section 1A01.3.B.1 of the BCZR. Therein, it is stated that any lot having a gross area between 2 and 100 acres may be subdivided once to create two lots. Further, Section 1A01.3.B.2 provides that each lot shall have an area of not less than one acre. As more particularly shown on the site plan, Ms. Lorenz proposes subdividing Lot 19 into two lots, shown as Lots 19A and 19B. Lot 19B will occupy the "rear" portion of the existing lot when viewed from the driveway. It contains the existing two-story dwelling in which Ms. Lorenz resides, known as 2816 Garrett Road. Lot 19B will be 4.5 acres. Lot 19A will occupy the "front" portion of the existing lot when

viewed from the driveway. Lot 19A is shown to be 2.4 acres in area. It will be improved with a proposed single-family dwelling.

Ms. Lorenz testified that for reasons of age and convenience, she wishes to move into a smaller house. She stated that the existing house is difficult for her to maintain. Thus, she envisions moving into the new (smaller) house on proposed Lot 19A. The existing house will be occupied by her daughter and family. Thus, the conveyances for the purposes of allowing Ms. Lorenz independent in her own home, while provided the necessary security of having a family member live nearby.

As is also shown on the site plan, existing Lot 19 is accessed via a panhandle strip. The strip begins at a point adjacent to the public road known as Garrett Road and then runs parallel to and 12-feet from the northeastern boundary of the Nottinghamshire Farms subdivision. The strip, beginning at Garrett Road, is located between existing Lot 17 ("Adele Property") and a working farm next door owned by the Elmore family. The panhandle driveway located thereon does not serve the Adele Property, which has direct access onto Garrett Road. However, the panhandle driveway serves three lots; Lot 18 ("Gillespie Property"), Lot 19 ("Lorenz Property) and Lot 20 ("Lewis Property). Each of these panhandle lots contain a 12-foot wide fee-simple strip, leading from the "flag lot" or "panhandle lot" to the public road.[1] Centered on this collective 36-foot panhandle width is a 10-foot wide paved driveway. The Petitioner proposes widening the driveway to a paved width of 16-feet. That driveway currently serves the three lots and houses thereon noted above and can easily accommodate the minimal traffic produced by a fourth dwelling. No relief is sought as it relates to the paved width of the driveway and none is necessary.

The relief sought arises from the requirements of Section 32-4-409 of the BCC. That

[1] In other jurisdictions, this type of property is known as a flag lot; as it resembles a flag attached to a narrow pole or tail that leads to the public street.

section regulates panhandle driveways. Specifically, Section 32-4-209(b)(2) requires that panhandle fee strips shall be a minimum of 20 feet wide for a single lot, 12 feet wide for two lots, and 10 feet wide for three or more lots. In this case, each panhandle strip must be a minimum of 10 feet in width, and in fact the existing Lorenz strip of 12 feet is more than required. However, under the proposed subdivision, Ms. Lorenz's panhandle strip will be divided into two 6-foot strips. One 6 foot wide strip will serve Lot 19A and the other Lot 19B. It is to be noted that the fee simple strips of the Gillespie Property and the Lewis Property will not be impacted by this request. They will continue to own their respective 12 foot wide strips. Moreover, the existing 10 foot wide paved driveway itself will be widened to 16-feet. Relief is requested only from Section 32-4-409(b)(2) of the BCC, as set forth above.

The second prong of relief arises from the requirement in Section 32-4-409(e)(2) of the BCC. Therein, panhandle driveways in the R.C. zone may not extend a length of 1000 feet. In fact, the existing panhandle driveway serving the Lorenz Property and Lewis Property exceeds that length. However, relief is requested in view of the creation of the new lots known as Lot 19A and 19B.

Ms. Lorenz testified about the history and use of her property as described above. Mr. Grammer testified about the proposed subdivision and the relief requested. He further opined that a grant of the proposed relief would not detrimentally impact any adjacent property. Moreover, he stated that, in his expert opinion, the existing paved driveway would not be overburdened by the Petitioner's subdivision, and that the panhandle drive, which exists and is proposed here, is appropriate and complies with the standards set forth in 32-4-409(a) of the BCC.

III. Procedural History and the Propriety of the Petition and Board's Review

As noted above, this matter comes to the Board as an appeal by People's Counsel of the decision of Deputy Zoning Commissioner John V. Murphy, granting relief under the Petition

for Special Hearing/Variance filed by the Petitioner. As described during the hearing before the Board, the filing of this Petition was at the direction of the Office of Planning.

The panhandle regulations for which relief is requested are not contained in the BCZR. Rather, they are contained in the BCC, specifically, Article 32, entitled "Planning, Zoning and Subdivision Control." Title 4 of Article 32 sets out Baltimore County's development review regulations. The panhandle regulations are part of those development regulations. Moreover, Section 32-4-107 of the BCC allows for waivers of the development regulations.

In this case, the Petitioner sought a waiver of the panhandle requirements from the Director of the Office of Planning. By letter dated September 5, 2005, Mr. Grammer requested a waiver of the panhandle requirement for the Lorenz Property (see Exhibit No. 2). The Director of Planning, Arnold F. "Pat" Keller, III, replied on February 1, 2006 (see Exhibit 3). Therein, he indicated that the requested waiver was denied, and recommended that the relief sought could be obtained through the Special Hearing process. Thus, the instant Petition for Special Hearing/Variance was filed.

This process is identical to the process for similar relief which was considered by the Board in a recent decision before it (see *In the Matter of the Application of Niels Braid*, Case No. 06-332-SPH). In that matter, a waiver of the panhandle regulations was also requested by the property owner, and a letter requesting such a waiver was submitted to the Office of Planning. An identical response from Mr. Keller was issued. Mr. Braid thereafter filed a Petition for Special Hearing and requested a waiver.

In addressing the procedural issue, the Board stated, "[t]he Board, based upon BCZR 500.7 and the testimony and facts presented, that the Planning Director advised the Petitioners to proceed with a waiver by way of Special Hearing, unanimously agrees that the Petitioners were correct in seeking the Special Hearing and the Zoning Commissioner acted within the scope of the regulations based upon the BCZR." Thus, the identical process as was used by Ms.

Lorenz in this case was held to be proper.

The Petitioner is not unmindful of the Broad's recent decision, *In the Matter of Kevin Gombeski*, Case No. 06-589-SPHA. Therein, the Board held that the Director of Planning had the exclusive right to grant a waiver from the panhandle width requirements. However, unlike *Braid*, in the instant case there was a recommendation by the Director to file a Petition for Special Hearing. Also the Board granted a waiver for the panhandle length and neglected People's Counsel's argument that the matter of amending the development plan should be considered.

Additionally, the Board set forth the burden of proof for the entertainment in considering panhandle waivers in *Braid*. Therein, the Board looked to BCC Section 32-4-107 and the criteria within. The Board held that the provisions in that Section need to be applied to the Petition.

V. The actual issue presented

In this case, the uncontradicted testimony offered by Mr. Grammer and Ms. Lorenz addressed each of those factors identified in BCC Section 32-4-107 and BCZR Section 307. Mr. Grammer noted that the size, scope and nature of the proposed subdivision of Lorenz Property into two lots did not justify strict compliance with the panhandle regulations. He also opined that a waiver would be within the scope, purpose and intent of the development regulations, and that all other County laws and regulations had been complied with. Moreover, he concluded that compliance with the regulations was not possible and would cause unnecessary hardship. In this regard, Ms. Lorenz's existing fee-simple strip of 12-feet cannot be expanded in that she does not own property on either side. Further, as noted above, he observed that the length of the existing panhandle already exceeds the one thousand foot maximum permitted, that the property is unique, that the Petitioner would suffer a practical difficulty if relief were denied, and that adding an additional lot to the panhandle as presently configured would not

be detrimental to adjacent properties. As to the actual issue presented and the facts, circumstances and criteria to be applied in adjudging that issue; the Petitioner avers that the Petition should be granted and there was no material or relevant evidence presented to rebut Petitioner's evidence. To deny this request would prohibit the use of the property for a permitted purpose (a dueling) and ignore actual conditions on site.

People's Counsel's Case

As noted above, People's Counsel wishes to detract the Board's attention from the actual issue in this case by raising other irrelevant and extraneous issues. Although Petitioner hesitates to offer any legitimacy of those arguments by responding thereto, Petitioner and her counsel feel compelled to offer the response herein.

A. A Grant of the Relief Will Not Adversely Impact the Agricultural Resources.

People's Counsel's sole witness was Wallace S. Lippincott Jr. from the Department of Environmental Protection and Resource Management. Mr. Lippincott is that Department's agricultural specialist and works to implement County efforts to preserve and promote agriculture. In essence, he testified that the grant of this relief would adversely impact agriculture. He specifically referenced the farm that is located on the other side of the panhandle strip from the Lorenz Property (Elmore farm).

In response, should be noted that if the Board considers this objection in context to the requested waiver of the panhandle requirements, it must clearly reject People's Counsel's argument. Surely, a narrower/longer panhandle strip cannot conceivably be considered to adversely impact any adjacent property. There is already a paved driveway providing access, and utilization of that driveway is the only means of access to the Petitioner's lot. The real objection, obviously, is the additional dwelling which will result. Somehow, People's Counsel and Mr. Lippincott believe that the proposed subdivision and construction of a second house will adversely impact agriculture. There is simply no rational basis for this assertion.

People's Counsel and Mr. Lippincott have perverted the intention of the R.C.2 regulations. The intent of these regulations is to prevent urban sprawl and the conversion/loss of farmland into urban forms of development. The regulations are not intended to be interpreted so as to prohibit the subdivision of an existing non-farm residential property! The R.C.2 regulations do not prohibit residential development. In fact, dwellings are a permitted use as of right. Ms. Lorenz's subdivision of her property for the construction of an additional dwelling is expressly permitted by right under the R.C.2 provisions of the BCZR.

This is not an instance of a property being taken out of current agricultural use and converted to residential use. If that were the case, then Mr. Lippincott may have a legitimate concern. There will be no less farming in Whitehall if this relief were granted than if this relief were not. Mr. Lippincott and People's Counsel miss the point. The regulations were enacted to prevent urban sprawl and the elimination of farmland and the replacement thereof by residential use. The subject property is contained within the confines of a residential subdivision. The Lorenz Property is not now farmed, and the fact that another lot will be created does not eliminate an agricultural resource.

He also complains that future residents of the new house would complain about agricultural impacts. In this regard, Ms. Lorenz is the future resident, and she has lived there for 30 years with the farm operating next door. Additionally, her house is buffered by a mature row of vegetation and the fee-simple strips owned by her neighbors that encompass the panhandle. Moreover, it is also to be noted that the Elmore farm is already in the State of Maryland's agricultural preservation. Those property owners have elected to permanently farm the land and not convert the property. This is not a case where Ms. Lorenz's subdivision will create a domino effect and result in the loss of the adjacent farm from its present use. The property owners are committed (morally and legally) to a continuation of the farming.

In sum, Mr. Lippincott's concerns are not supported by any legal precedent and his

attempt to read the regulations as he desires, rather than they are written, should not be a basis of a denial of the Petition. Moreover, if the Board wishes to provide future owners of Lots 19A and 19B notice of the adjacent farming operation (as if it is not self evident), the Board can require the addition of the standard agricultural note on the plan as did Deputy Commissioner Murphy.

B. Development Plan Amendment

People's Counsel stated during his opening statement that the Petition should also be denied because the Petitioner did not seek to amend the development plan for Nottingham Farms, pursuant to BCZR Section 1B01.3. In response to this argument (and again to emphasize); this is not an issue before the Board in this case. If People's Counsel is correct, then Baltimore County's Department of Permits and Development Management will not allow the issuance of any permit to allow the construction of a dwelling on the Lorenz Property until there is compliance with that Section. The Petitioner will then be required to prepare an amended "development plan" in accordance with BCZR Section 1B01.3.A.7 of the BCZR. If that amendment requires a public hearing per 1B01.3.A.7(b), then People's Counsel and any objecting neighbor can voice their objection at that time.[2]

In addressing this argument, an understanding of the development review process in Baltimore County is vital. Under current law, development is review in accordance with the provisions of Article 32, Title 4 of the Baltimore County Code. This Board is no doubt familiar with the Hearing Officer process, as appeals therefrom are often taken to the Board. After a development plan is approved pursuant to the development regulations in the BCC, then the developer/owner is required to file a "final development plan" with Baltimore County pursuant to the *zoning regulations* (See BCZR 1B01.3). The final development plan is required to provide public notice of the development and to ensure compliance with the County's zoning

[2] Interestingly, no one appeared in opposition to the request at the hearing. To the contrary, the petition enjoys support from Ms. Lorenz's neighbors.

regulations. After a final development plan is filed, then the developer/owner records a "record plat" of the proposed development in the Land Records for Baltimore County. Although the requirement for the filing of a final development plan is found in that Section of the BCZR that regulates development in the D.R. zone (See Section 1B01.3), it has been extended to apply to development in the R.C. zone by BCZR Section 1A00.4.

The short answer to the People's Counsel's objection is that there is no final development plan for Nottinghamshire Farms to amend. The regulations cited above did not exist in 1974 when this plan was approved. As was testified to by Mr. Grammer, the JSPC approved the development plan in 1974, and thereafter a plat was recorded. There is simply no final development plan to amend. There were two steps in place in 1974, JSPC approval, then record plat, not three, development plan approval, final development plan submission, then record plat as is the case today.

Creeping Subdivision

People's Counsel also argues that Ms. Lorenz plans constitute a "creeping subdivision" and should not be allowed. Under People's Counsel's theory, there can be no subdivision of the Lorenz property.

At the time of the approval of the Nottinghamshire Farms, this property was zoned RDP (Rural Deferred Planning), a classification that no longer exists. Under that classification (as shown on the plat), there was density to permit 159 dwelling units. Only 32 lots were approved. Clearly, under the "old" density, there is a significant amount of density available. Subsequently, the property was rezoned to R.C.2 and per the requirements of the R.C.2 noted herein above, Ms. Lorenz property can be subdivided to create two lots. Thus, there is adequate density under either the original zoning classification as well as the current classification.

People's Counsel has argued that the re-zoning of the property to R.C.2 somehow constitutes a moratorium on further subdivision. There is simply nothing in the law to support

this contention. Moreover, County law specifically requires that any development be processed in accordance with current law, not the law in effect at the time of the prior approval. (See BCC Section 32-4-104(b)).

Finally, it is to be noted that (as testified to by Mr. Grammer and admitted by Mr. Lippincott) there have already been two re-subdivisions of existing lots in this community already. Both were processed and approved by Baltimore County. Specifically, Lots 2 and 25 have been re-subdivided to create two lots (four total).

The People's Counsel has tried this argument before and it has been rejected by the Hearing Officer, the Board, and the Circuit Court. (See in Re: Hausner Property, Case No. 03-C-06-001697). Therein, the Board and Court both concluded that the re-zoning of the property to R.C.2 did not bar a re-subdivision.

Conclusion

For the aforegoing reasons, the Petitioner requests that this Board grant the Petition for Special Hearing/Variance filed herein.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of October, 2007, a copy of the aforegoing Hearing Memorandum was hand delivered to:

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

LAWRENCE E. SCHMIDT

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
F. GILLIS GREEN
ERIC N. LAMB
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI

600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildeallc.com

ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

October 22, 2007

Sent Via Hand Delivery
Ms. Kathleen C. Bianco
County Board of Appeals
Old Court House
400 Washington Avenue
Room 49
Towson, MD 21204

Re: 2816 Garrett Road (Lorenz Property)
Case No. 06-551-SPHA

Dear Ms. Bianco:

Enclosed please find three copies of the Petitioner's Hearing Memorandum in the above captioned matter. With kind regards, I am

Very truly yours,

Lawrence E. Schmidt

LES: sf
CC: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County

RECEIVED
OCT 22 2007
BALTIMORE COUNTY
BOARD OF APPEALS

7/6/06

IN RE: PETITION FOR SPECIAL HEARING AND VARIANCE N/W side of Garrett Road, 665 feet North of centerline of Old Garrett Road 7th Election District 3rd Councilmanic District **(2816 Garrett Road)** Patsy Lorenz *Petitioner*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 06-551-SPHA

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing and Variance filed by the legal owner of the subject property, Patsy Lorenz. The Petitioner is requesting special hearing and variance relief for property located at 2816 Garrett Road in the Nottinghamshire Farms area of Baltimore County. The special hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a waiver pursuant to Section 32-4-107 of the Baltimore County Code (B.C.C.) from the requirements of Section 32-4-409 B.C.C. to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a length of 1,430 ± feet in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone.

The property was posted with Notice of Hearing on June 2, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 6, 2006 to notify any interested persons of the scheduled hearing date.

Applicable Law

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

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning

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7-6-06
By

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.

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 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."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Department of Environmental Planning and Resource Management dated June 7, 2006 which requests the requests be denied, a copy of which is made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance and special hearing requests were Patsy Lorenz, Petitioner, and Heidi Owings. Lawrence E. Schmidt, Esquire, represented the Petitioner. James Grammer, McKee & Associates, Inc., prepared the site plan. Dave Lykens, from the Department of Environmental Protection and Resource Management appeared at the hearing in opposition to the requests. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

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7-6-06

Testimony and Evidence

The subject property contains 6.9 acres, is zoned RC 2 and is improved by the Petitioner's home. This property is lot 19 in the Nottinghamshire Farms subdivision which was approved by the JSPC and recorded in the land records in 1974. See Petitioner's exhibit 2. Thirty two lots were approved in this subdivision under the old RDP regulations which required one acre lots. As such this 159 acre property would have permitted 159 lots.

The subject property is served by a long panhandle driveway from Garrett Road along with lot 18 and lot 20 as shown on the Plat to Accompany, exhibit 1. Although there is one common paved portion of the driveway which all use for access to the public road, each lot has a 12 foot wide in fee strip to Garrett Road.

The Petitioner would like to subdivide lot 19 into two lots as shown. Lot 19 B would contain the Petitioner's existing home and 4.5 acres. The Petitioner indicated that her daughter would move into this home with her family. The Petitioner would build a new home for herself on lot 19 A which would contain 2.4 acres. The new home would be located in the far northern corner of the new lot because of environmental constraints. Lot 19 is primarily forested with no agricultural uses.

The Petitioner proposes to divide the existing 12 foot wide in fee strip serving lot 19 into two 6 foot wide strips as shown. In addition the existing driveway to the home on lot 19 already exceeds the maximum driveway length of 1000 feet in this RC zone per Section 32-4-409. This driveway also provides access to lots 18 and 20 both of which are improved with a single family dwelling. Together with lot 19, this driveway has 10–12 feet of paving on a 36 foot wide strip.

The zoning relief requested is to waive the in fee strips required by Section 32-4-409 (b) to allow two 6 foot strips in lieu of the required 10 feet and to approve the driveway of 1,430 feet

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7-6-09

in length in lieu of the maximum of 1,000 feet in this RC zone. The Petitioner filed alternative requests for variance or by special hearing.

Mr. Grammer indicated that under the current RC 2 zoning the Petitioner was entitled to subdivide the lot into two lots as the subject lot was created before November 1979 when the RC 2 regulations were imposed on this property. He indicated that if the zoning relief was approved the Petitioner would then address perc tests, buffer and conservation issues with DEPRM during the development review process.

In regard to the zoning requests he opined that the a public road is not feasible under the circumstances, that the panhandle driveway would serve four interior lots which are greater than 20,000 square feet and the existing driveway is greater than 1,000 feet long.

In regard to the comments from DEPRM, Mr. Grammer noted that the property is not used in any way for agriculture. The nearest farm is located to the northeast across the 12 foot driveway and so is not adjacent to any agricultural use. See exhibit 3 for the location outlined in red of the nearest farm. He noted again that Nottingham Farms is a residential, not agricultural community that was approved before the RC 2 regulations were imposed.

Mr. Lykens from the Department of Environmental Protection and Resource Management indicated that new subdivisions have a negative impact on agricultural preservation. He briefly reviewed the agricultural preservation program in the area, indicated the farm noted by the Petitioner is in the agricultural preservation program, and that the stream in lot 19 and septic reserve area for the new home would push the new home toward the active farm as shown on exhibit 1. He noted that new residents adjacent to an active farm often suffer with the noise, traffic and smells of the agricultural uses on adjacent farms. These problems include sprays for agricultural uses, agricultural machinery traveling very slowly along County roads and smells of animals and fertilizer. This can lead to pressure on the government to discontinue the

7-6-06

agricultural uses which is contrary to the purpose of RC 2 zone. He admitted on questioning that while this might be a new house, it was not a new neighborhood having existed for the past 30 years at this location. He also admitted that there is a substantial line of trees along the southwest edge of the farm which will isolate the new homeowner from the agricultural uses on the farm to some extent. He noted that the problem for DEPRM is not just this one new house but the process.

Mr. Schmidt suggested that these worries could be allayed by having the standard agricultural note added to this order as a condition of approval.

Ms. Lorenz, the Petitioner, indicated that she would be the one to occupy the new house and that after 35 years at this location the nearby agricultural uses would not bother her. She also noted the stand of trees along the southwest edge of the farm which will isolate her from the agricultural uses.

Findings of Fact and Conclusions of Law

I have great respect for the work done by DEPRM to preserve agricultural uses in the County especially in the RC 2 zones. I was particularly pleased to have an actual representative of the Department appear at the hearing to explain DEPRM's opposition to the request. I agree with Mr. Lykens that the smells, noise and commotion from agricultural uses that new residents have to endure can cause great pressure to discontinue nearby agricultural uses.

However on balance I will approve the requested relief. Lot 19 is not in agricultural use so granting the requests will not stop agricultural uses. There are no direct agricultural use issues in this case. There are indirect issues which DEPRM raises but I believe these can be handled by requiring the standard agricultural note be recorded in the land records so that when Petitioner sells lot 19 A, the buyer will have full notice of the smells, noise and traffic associated with the nearby agricultural uses.

I also find that under the circumstances of a requested subdivision that the most appropriate avenue for relief is by way of special hearing rather than variance. In regard to the driveway length the existing driveway is already longer than allowed under the BCC which undoubtedly was adopted after the old subdivision was approved in 1974. In regard to allowing a 6 foot wide in fee strip to lots 19 A and 19 B, the driveway itself, which serves lots 20 and 18 as well, will not be affected other than the additional traffic of one house. This could be a maintenance issue for the neighbors who will have four families using the driveway instead of three and may require revising the maintenance agreement among the users. However I do not see a maintenance issue tobe a zoning issue.

Special Hearing

I find the requested waivers should be granted as the size scope and nature of the proposed development does not justify strict compliance with the regulations, the waiver is within the scope, purpose and intent of the regulations, all other laws and regulations will be complied with and compliance would cause unnecessary hardship on the Petitioner.

I will grant the request for special hearing to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a length of 1,430 $\pm$ feet in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone as I find that this waiver will not adversely affect the community including the agricultural uses nearly if the Petitioner records this Order in the land records.

Variances

Having granted the requested waivers by special hearing, the variance requests become moot.

THEREFORE, IT IS ORDERED, this 6th day of July, 2006, by the Deputy Zoning Commissioner, that the Petitioner's request for Special Hearing pursuant to Section 500.7 of the

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Date 7-6-06
By

Baltimore County Zoning Regulations (B.C.Z.R.), for a waiver, pursuant to Section 32-4-107 of the Baltimore County Code (B.C.C.) from the requirements of Section 32-4-409 B.C.C. to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a length of 1,430 ± feet, in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone is hereby GRANTED subject to the following conditions:

1. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. The Petitioner shall record this Order in the County land records which shall be notice to the public as follows:

> Inconveniences arising from agricultural operations. Any dwelling in an R.C. zone may be subject to inconveniences or discomforts arising from agricultural operations. These may include noise, odors, fumes, dust, the operation of machinery during any twenty-four-hour period, the storage and disposal of manure and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. The County shall not consider an agricultural operation to be a public or private nuisance if the operation complies with these regulations and all federal, state or county health or environmental requirements.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

IMAGE RECEIVED FOR FILMING
Date 7-6-06
By

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

July 6, 2005

PATSY LORENZ
2816 GARRETT ROAD
WHITE HALL, MD 21161

Re: Petition for Special Hearing and Variance
Case No. 06-551-SPHA
Property: 2816 Garrett Road

Dear Ms. Lorenz:

Enclosed please find the decision rendered in the above-captioned case. The petition for Special Hearing and Variance has been granted with restrictions in accordance with the enclosed Order.

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

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz
Enclosure

c: Lawrence E. Schmidt, Esquire, Gildea & Schmidt, LLC, 300 East Lombard Street, Suite 1440, Baltimore MD 21211
Heidi Owings, 1710 Stablersville Road, White Hall MD 21161

7-6-05

FLOOD

Petition for Variance/ Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at: 2816 ~~Corbett Road~~ Garrett Road

which is presently zoned: RC-2

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

For a waiver, pursuant to Section 32-4-107 of the Baltimore County Code ("BCC"), from the requirements of §32-4-409 BCC, to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a length of 1,430 (+/-)feet, in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone.

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

To be presented at the hearing for this matter.

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:

N/A
Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Lawrence E. Schmidt
Name - Type or Print

Signature

Gildea & Schmidt, LLC
Company

300 E. Lombard Street, Suite 1440 — (410) 234-0070
Address — Telephone No.

Baltimore — MD — 21211
City — State — Zip Code

Legal Owner(s):

Patsy Lorenz
Name - Type or Print

Signature Patsy Lorenz

Name - Type or Print

Signature

2816 Garrett Road — (410) 357-0929
Address — Telephone No.

White Hall — MD — 21161
City — State — Zip Code

Representative to be Contacted:

James Grammer, McKee & Associates, Inc.
Name

5 Shawan Road, Suite 1 — (410) 527- 1555
Address — Telephone No.

Cockeysville — MD — 21030
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 06-551-SPHA

Reviewed By BJR Date 4/28/06

REV 9/15/98

ORDER RECEIVED FOR FILING
Date 7-6-06
By

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

ZONING DESCRIPTION
2816 GARRETT ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MD

BEGINNING at a point on the northwest side of Garrett Road, 60-feet wide, said point being situated 665' northeasterly from the centerline of Old Garrett Court, 50-feet wide. Being Lot 19 in the subdivision Plat One, Nottinghamshire Farms as recorded in Baltimore County Plat Book E.H.K., Jr. 38, page 8, and containing 6.9 acres of land, more or less. Also being known as 2816 Garrett Road and lying in the 7th Election District, 3rd Councilmanic District.

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

#551

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: # 06-551-SPHA
2816 Garrett Road
Northwest side of Garrett Road, 665 feet north of centerline of Old Garrett Road
7th Election District — 3rd Councilmanic District
Legal Owner(s): Patsy Lorenz

Variance/Special Hearing: for a waiver for general design standards to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a variance for a length of 1,430 feet +/-, in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone.

Hearing: Tuesday, June 20, 2006 at 9:00 a.m. in Room 407, 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 accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 6/612 June 6 97613

CERTIFICATE OF PUBLICATION

6/8/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/6/, 2006.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 6265

DATE 4/25/06 ACCOUNT R 001-006-6150

AMOUNT $ 65.00

RECEIVED FROM:

FOR:

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item #551

PAID RECEIPT

5/01/2006 4/25/2006 10:14:15 2

Rcpt Tot $65.00

$65.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

DATE: June 2, 2006

TO: Baltimore County, PDM

RE : 2816 Garrett Rd. Case NO. : 06-551-SPHA
MCKEE JOB NO. : 05-220

ATTENTION:Mrs. Kristen Matthews

(X) We are submitting ( ) We are returning ( ) We are forwarding

( ) Herewith ( ) Under separate cover

No.	Description
1	Certificate Of Posting
2	Photos

(X) For processing ( ) For your use ( ) For your review

( ) Please call when ready ( ) Please return to this office ( ) In accordance with your request

Remarks:

For further information, please contact the writer at this office.

Very truly yours,

McKee & Associates, Inc.

William D. Gulick, Jr.

cc:

RECEIVED
JUN – 5 2006
BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

CERTIFICATE OF POSTING

Baltimore County Dept. of Permits &
Development Management
111 W. Chesapeake Avenue, Rm. 111
Towson, MD 21204

Date: June 2, 2006

Attention: Mrs. Kristen Matthews

RE: Case Number: 06-551-SPHA

Petitioner/Developer: Patsy Lorenz

Date of Hearing/Closing: June 20, 2006

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 2816 Garrett Road

The sign(s) were posted on June 2, 2006
(Month, Day, Year)

William D. Gulick, Jr.
(Signature of Sign Poster)

William D. Gulick, Jr.
(Printed Name of Sign Poster)

McKee and Associates, Inc.
5 Shawan Road, Suite 1
(Street Address of Sign Poster)

Cockeysville, MD 21030
(City, State, Zip Code of Sign Poster)

(410) 527-1555
(Telephone Number of Sign Poster)

SEE
ATTACH PHOTOGRAPH
OF
SIGN POSTED ON
PROPERTY

Revised 3/1/01 - SCJ

ZONING NOTICE

CASE # 06-551-SPHA

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

PLACE: COUNTY COURTS BUILDING-ROOM 407
401 BOSLEY AVENUE
TOWSON, MD 21204

DATE AND TIME: TUESDAY
JUNE 20, 2006 @ 9:00 AM

REQUEST: ** VARIANCE
SPECIAL HEARING **
FOR A WAIVER FOR GENERAL DESIGN STANDARDS TO ALLOW A PANHANDLE DRIVEWAY WITH A WIDTH OF 6 FEET IN LIEU OF THE MINIMUM 10 FEET (FOR EACH LOT) AND A VARIANCE FOR A LENGTH OF 1,430 FEET +/-, IN LIEU OF THE MAXIMUM PERMITTED 1,000 FEET (FOR PROPOSED LOT 19B) IN A RC ZONE.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

06.02.2006

GARRETT ROAD

06.02.2006

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 06-551-SPHA

Petitioner: PATSY LORENZ

Address or Location: 2816 GARRETT ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: PATSY LORENZ

Address: 2816 GARRETT ROAD
WHITE HALL, MD 21161

Telephone Number: 410 357-0929

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 6, 2006 Issue - Jeffersonian

Please forward billing to:
Patsy Lorenz 410-357-0929
2816 Garrett Road
White Hall, MD 21161

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: 06-551-SPHA
2816 Garrett Road
Northwest side of Garrett Road, 665 feet north of centerline of Old Garrett Road
7th Election District – 3rd Councilmanic District
Legal Owner: Patsy Lorenz

Variance/Special Hearing for a waiver for general design standards to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a variance for a length of 1.430 feet +/-, in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone.

Hearing: Tuesday, June 20, 2006 at 9:00 a.m. in Room 407, 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 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

May 9, 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: 06-551-SPHA
2816 Garrett Road
Northwest side of Garrett Road, 665 feet north of centerline of Old Garrett Road
7th Election District – 3rd Councilmanic District
Legal Owner: Patsy Lorenz

Variance/Special Hearing for a waiver for general design standards to allow a panhandle driveway with a width of 6 feet in lieu of the minimum 10 feet (for each lot) and a variance for a length of 1.430 feet +/-, in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone.

Hearing: Tuesday, June 20, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Lawrence Schmidt, 300 E. Lombard Street, Ste. 1440, Baltimore 21211
Patsy Lorenz, 2816 Garrett Road, White Hall 21161
James Grammer, 5 Shawan Road, Ste. 1, Cockeysville 21030

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JUNE 5, 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.

Printed on Recycled Paper

APPEAL SIGN POSTING REQUEST

CASE NO. 06-551-SPHA

2816 GARRETT ROAD

7TH ELECTION DISTRICT APPEALED: 7/27/2006

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 06-551-SPHA

LEGAL OWNER: PATSY LORENZ

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

2816 GARRETT ROAD

MAP 4 G12

The sign was posted on 4/26/07, 2006

By: Jeff Radcliffe
(Signature of Sign Poster)

Jeff Radcliffe
(Print Name)

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 25, 2007

NOTICE OF ASSIGNMENT

CASE #: 06-551-SPHA

IN THE MATTER OF: PATSY LORENZ – Legal Owner /Petitioner
2816 Garrett Road 7th Election District; 3rd Councilmanic District

7/06/06 – D.Z.C.'s Order in which requested special hearing was approved with restrictions.

ASSIGNED FOR: **THURSDAY, JUNE 21, 2007 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Appellant : Office of People's Counsel

Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Patsy Lorenz

James Grammer /McKee and Associates, Inc.

Heidi Owings

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 21, 2007

NOTICE OF ASSIGNMENT /Day #2

CASE #: 06-551-SPHA

IN THE MATTER OF: PATSY LORENZ – Legal Owner /Petitioner
2816 Garrett Road 7th Election District; 3rd Councilmanic District

7/06/06 – D.Z.C.'s Order in which requested special hearing was approved with restrictions.

Hearing day #2 from 6/21/07

ASSIGNED FOR: WEDNESDAY, SEPTEMBER 5, 2007 at 10 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Patsy Lorenz

James Grammer /McKee and Associates, Inc.

Heidi Owings

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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County Board of Appeals of Baltimore County

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

September 6, 2007

NOTICE OF DELIBERATION

IN THE MATTER OF:

PATSY LORENZ – Legal Owner /Petitioner
Case No. 06-551-SPHA

Having heard this matter on 6/21 and 9/05/07, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, NOVEMBER 20, 2007 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: **Closing briefs are due on Monday, October 22, 2007**
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Patsy Lorenz

James Grammer /McKee and Associates, Inc.

Heidi Owings

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FYI 2-4-6

Printed with Soybean Ink on Recycled Paper

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

June 15, 2006

Lawrence E. Schmidt
300 E. Lombard St. Suite 1440
Baltimore, MD 21211

Dear: Mr. Schmidt,

RE: Case Number: 06-551-SPHA, 2816 Garrett Rd.

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 28, 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:sma

Enclosures

c: People's Counsel
Patsy Lorenz 2816 Garrett Rd. White Hall, MD, 21161
McKee & Associates, Inc. James Grammer 5 Shawan Rd., Suite 1 Cockeysville, MD 21030

Printed on Recyclec Paper

jlm 6/20

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

MAY 18 2006

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Jeff Livingston, DEPRM - Development Coordination

DATE: May 18, 2006

SUBJECT: Zoning Item # 06-551
Address 2816 Garrett Road
(Lorenz Property)

Zoning Advisory Committee Meeting of May 8, 2006

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

__X__ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: Paul A. Dennis Date: May 17, 2006

S:\Devcoord\06-551.doc

FILM RECEIVED FOR FILING
7-6-06
BY

6/20

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUN 0 8 2006

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 7, 2006

SUBJECT: Zoning Item # 06-551-SPHA
Address 2816 Garrett Road
(Lorenz Property)

Zoning Advisory Committee Meeting of May 8, 2006

__X__ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Agricultural Preservation:

Do not approve. The granting of this will conflict with the County's efforts to preserve and foster agricultural land. The new lot that would result from this request will be immediately adjacent to an agricultural easement and active farm. This conflicts with the purpose of the zone and is detrimental to the public purpose of fostering agricultural resources.

Reviewer: P. Dennis; W.S. Lippincott Date: June 6, 2006

S:\Devcoord\ZAC 06-551-SPHA.doc

jm 6/20

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 24, 2006

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-551- Variance and Special Hearing**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Bill Hughey in the Office of Planning at 410-887-3480.

Prepared By: Curtis Murray

Division Chief: Lynn Lanham

CM/LL

RECEIVED
MAY 26 2006
ZONING COMMISSIONER

W:\DEVREV\ZAC\6-551.doc

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

SHA State Highway Administration — Driven to Excel

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

Maryland Department of Transportation

Date: 5.5.04

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

RE: Baltimore County
Item No. 551 BPR

Dear. Ms. Matthews:

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

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

Very truly yours,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 12, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 15, 2006
Item Nos: 441, 537, 538, 539, 540, 542, 544, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, and 557

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-05102006.doc

Fire Department

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

Baltimore County

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

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

May 8,2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: May 15,2006

Item Numbers: 537 thru 557

551

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

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 2816 Garrett Road; NW/S Garrett Road, 665' N c/line of Old Garrett Road 7th Election & 3rd Councilmanic Districts Legal Owner(s): Patsy Lorenz		*	BEFORE THE
		*	ZONING COMMISSIONER
		*	FOR
	Petitioner(s)	*	BALTIMORE COUNTY
		*	06-551-SPHA

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

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

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

RECEIVED
MAY 08 2006
Per.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of May, 2006, a copy of the foregoing Entry of Appearance was mailed James Grammer, McKee & Associates, 5 Shawan Road, Suite 1, Cockeysville, MD 21030 and Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 300 E. Lombard Street, Suite 1440, Baltimore, MD 21202, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

August 18, 2006

Lawrence Schmidt
Gildea & Schmidt, LLC
300 E. Lombard Street, Ste. 1440
Baltimore, MD 21211

Dear Mr. Schmidt:

RE: Case: 06-551-SPHA, 2816 Garrett Road

Please be advised that an appeal of the above-referenced case was filed in this office on July 27, 2006 by People's Counsel. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Patsy Lorenz, 2816 Garrett Road, White Hall 21161
James Grammer, McKee & Associates, Inc., 5 Shawan Road, Ste. 1, Cockeysville 21030
Heidi Owings, 1710 Stablersville Road, White Hall 21161

Printed on Recycled Paper

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

July 27, 2006

Hand-delivered
Timothy Kotroco, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re: PETITION FOR SPECIAL HEARING & VARIANCE
NW/S Garrett Road, 665' N c/line Old Garrett Road
(2816 Garrett Road)
7th Election District; 3rd Council District
Patsy Lorenz - Petitioner
Case No.: 06-551-SPHA

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated July 6, 2006 by the Baltimore County Deputy Zoning Commissioner..

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio/rmw

Carole S. Demilio
Deputy People's Counsel

RECEIVED
JUL 27 2006
Per.....

PMZ/CSD/rmw

cc: Lawrence E. Schmidt, Esquire
Patsy Lorenz
David Lykens, DEPRM

APPEAL

Petition for Special Hearing & Variance
2816 Garrett Road
N/west side of Garrett Road, 665 feet north of centerline of Old Garrett Road
7th Election District – 3rd Councilmanic District
Legal Owner: Patsy Lorenz

Case No.: 06-551-SPHA

Petition for Special Hearing (April 28, 2006)

Zoning Description of Property

Notice of Zoning Hearing (May 9, 2006)

Certification of Publication (June 6, 2006 – The Jeffersonian)

Certificate of Posting (June 2, 2006) by William D. Gulick, Jr.

Entry of Appearance by People's Counsel (May 8, 2006)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – None

County Representative's Sign-in Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit
1. Plat to accompany petition for Special Hearing/Variance
2. Preliminary Plan
3. Portion of Tax Map 13

Protestants' Exhibits:
None
Miscellaneous (Not Marked as Exhibit)
None
Deputy Zoning Commissioner's Order (GRANTED w/restrictions – July 6, 2006)

Notice of Appeal received on July 27, 2006 from People's Counsel

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Patsy Lorenz, 2816 Garrett Road, White Hall 21161
James Grammer, McKee & Associates, Inc., 5 Shawan Road, Ste. 1, Cockeysville 21030
Heidi Owings, 1710 Stablersville Road, White Hall 21161

date sent August 21, 2006, klm

CASE #: 06-551-SPHA

IN THE MATTER OF: PATSY LORENZ – Legal Owner /Petitioner
2816 Garrett Road 7th Election District; 3rd Councilmanic District

SPH – To allow panhandle driveway with width of 6' ilo minimum 10' for each lot and a length of 1,430 +/- feet ilo max permitted 1,000' for proposed lot 19B in an RC zone

7/06/06 – D.Z.C.'s Order in which requested special hearing was approved with restrictions.

4/25/07 --Notice of Assignment sent to following; assigned for hearing on Thursday, June 21, 2007 at 10:00 a.m.:

Office of People's Counsel
Lawrence E. Schmidt, Esquire
Patsy Lorenz
James Grammer /McKee and Associates, Inc.
Heidi Owings
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

6/21/07 – Board convened for hearing (Stahl, Grier, Witt); concluded day #1; Notice of Assignment /Day #2 sent to parties this date; assigned for Wednesday, September 5, 2007 at 10:00 a.m. /confirmed with counsel prior to sending notice.

9/05/07 – Board convened for day #2 (2-4-6); completed hearing this date; memos due from counsel 10/22/07; public deliberation to be assigned.

9/06/07 – Notice of Deliberation sent to parties; public deliberation scheduled to Tuesday, November 20, 2007 at 9:00 a.m. FYI copy to 2-4-6.

10/22/07 – Hearing Memorandum filed by Lawrence Schmidt, Esq., and Gildea & Schmidt LLC on behalf of Patsy Lorenz, Legal Owner.
-- People's Counsel for Baltimore County's Memorandum filed by Peter M. Zimmerman and Carole S. Demilio on behalf of Office of People's Counsel.
-- Copy of each memo sent to 2-4-6.

11/20/07 – Board convened for public deliberation (Stahl, Grier, Witt); unanimous decision of the Board – special hearing request is GRANTED; written opinion/order to be issued; appellate period to run from date of written Order. (6)

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: **PATSY LORENZE**
2816 GARRETT ROAD
WHITE HALL, MD 21161
CASE NO.: 06-551-SPHA

DATE: November 20, 2007

BOARD/PANEL: Lawrence M. Stahl, Chairman
Wendell H. Grier
Robert Witt

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate a Petition for Variance – for a waiver, pursuant to Sec. 32-4-107 of the BCC, from the requirements of 32-4-409 BCC, to allow a panhandle driveway with the width of 6' in lieu of the minimum 10' (for each lot) and a length of 1,430 (+/-) feet, in lieu of the maximum permitted 1,000 feet (for proposed lot 19B) in a RC zone.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

1) Can the Petitioner divide their property into two lots?
2) What is the standard for a waiver?
3) Who has the authority to grant the waiver?

The Board referenced or read from the following:

1) § 32-4-77 – *Waivers – of the BCC*
2) § 32-4-409 – *Granting of Variances - of the BCC* (with respect to practical difficulty and/or unreasonable hardship
3) § 307 *Panhandle driveways – of the BCZR*
4) Mr. Gillispie's letter of support.
5) Review of maps/plats.
6) *Cromwell v. Ward*

STANDING

- The appeal came before the Board *de novo.*
- The piece of land in questions is approximately 6.9 acres
- This one additional house would not have an adverse effect on the area.
- R.C. 2 would allow/permit the building of an additional house.
- The County standards should be applied. With respect to the size, scope and nature in this case:
  a) Size – Very small – 1 house already exists so it is a partially developed lot.
  b) Scope – The additional house would make a total of four houses.

c) Nature – Minor change in the panhandle and the number of cars that would be utilizing the roadway.

- The changes in the panhandle may actually make it easier for emergency traffic.
- There is no need, as suggested in People's Counsel's Memorandum, for an amendment to a development plan because there was never a development to begin with.
- People's Counsel stated that the Planning Director is the only one authorized to grant waivers of this kind. This was not supported by the interpretation of the County statutes by Chairman Stahl.
- There is a land lock of sorts with this property in comparison to other properties in the area.
- The panhandle itself renders the property unique.

DECISION BY BOARD MEMBERS: The Board unanimously determined that it has the authority to grant a waiver, just as the Dir. of Planning and Zoning or the Zoning Commissioner, once an appeal has been filed and the matter comes before them. Additionally, the Board expressed that the panhandle driveway already exceeds the 1,000 feet maximum and that it would only need to be extended an additional 430 feet. Finally, the Board agreed that the property was unique because of its land lock nature and that not granting this waiver would cause practical difficulty for the Petitioner.

FINAL DECISION: After a thorough review of the facts, testimony, and law in this matter, the Board unanimously decided to *GRANT* Petitioner's request for zoning relief to allow the extension, as well as the width, of the panhandle driveway.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted

Linda B. Fliegel

Linda B. Fliegel
County Board of Appeals

PLEASE PRINT CLEARLY

CASE NAME Lorenz
CASE NUMBER 06-551-A
DATE 6/20/06 5th Hrg

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Lawrence E Schmidt	300 E Lombard St	Ste 1440 Balt, MD 21202	
Patti Lorenz	2816 Garrett Road	White Hall, Md. 21161	
James Grammer	5 Shawan Rd Ste 1	Cockeysville, MD 21030	
HEIDI OWINGS	1710 Stablersville Rd.	Whitehall MD 21161	
	Project manager		

PLEASE PRINT CLEARLY

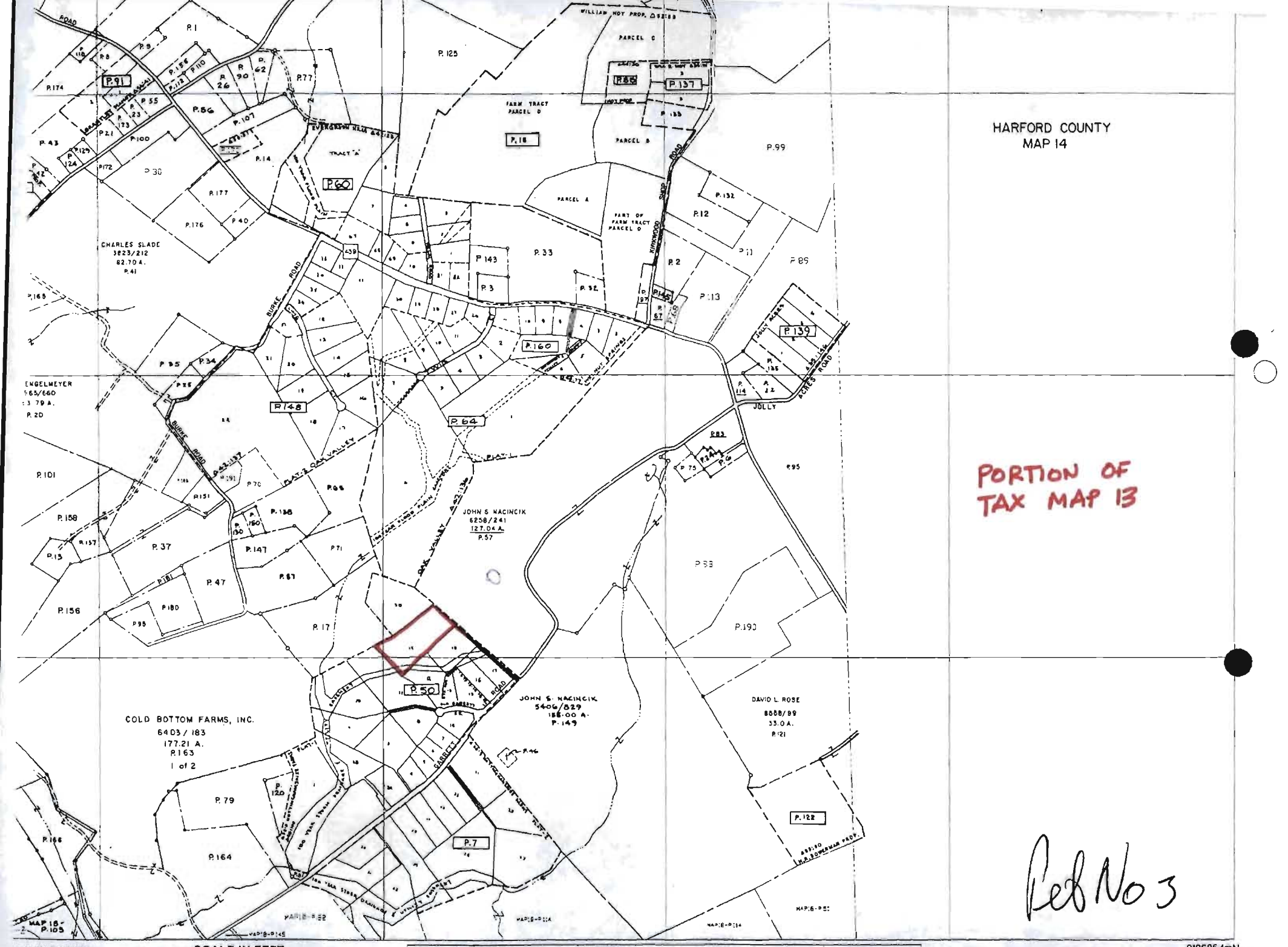
CASE NAME________________

CASE NUMBER______________

DATE_____________________

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
DAVID LYKENS	DEPRM		dlykens@co.ba.md.us


HARFORD COUNTY
MAP 14
PORTION OF
TAX MAP 13
Ref No 3
CHARLES SLADE
3823/212
82.70 A.
P.41
ENGELMEYER
565/660
3.79 A.
P.20
JOHN S. MACINCIK
6258/241
127.04 A.
P.57
JOHN S. MACINCIK
5406/829
155.00 A.
P.149
COLD BOTTOM FARMS, INC.
6403/183
177.21 A.
P.163
1 of 2
DAVID L. ROSE
8888/89
33.0 A.
P.121
BURKE ROAD
JOLLY ACRES ROAD
OAK VALLEY
GARRETT
KIRKWOOD ROAD
SWAMP ROAD
EVERGREEN MILL ROAD
FARM TRACT PARCEL D
PARCEL A
PARCEL B
PARCEL C
PART OF FARM TRACT PARCEL D
TRACT A
WILLIAM HOY PROP. DEEDED
P.91
P.85
P.137
P.60
P.18
P.148
P.64
P.160
P.139
P.50
P.7
P.122
P.99
P.89
P.95
P.193
P.83
P.33
P.17
P.79
P.164
P.37
P.47
P.67
P.71
P.147
P.158
P.156
P.101
P.43
P.30
P.176
P.177
P.40
P.34
P.35
P.125
P.77
P.174
P.12
P.11
P.13
P.2
P.3
P.143
P.132
P.139
P.135
P.114
P.75
P.95
SCALE IN FEET
MARYLAND DEPARTMENT OF PLANNING
PROPERTY MAPPING SECTION
PROPERTY LINE
SUBDIVISION BOUNDARY
TOWN BOUNDARY
PRIVATE ROAD
STREAM LINE
MDP
219685.4mN
438430.5mE
BALTIMORE COUNTY

Produced by Baltimore County GIS Services Unit
Date: July 27, 2006
Date of imagery: 2005

1 inch equals 100 feet

The Cadastral Information on this Plot was compiled from existing deed information. This Information is not to be considered authoritative. The Survey Information was not field checked and Certified by a licensed land surveyor.

N
W E
S

P.C. No. 7

MASTER PLAT

LOCATION INSET
1"=1,000

MASTER

"MASTER"

RETEST ALL REMAINING LOTS 11-25-77 PH P. D. Diver

Baltimore County Department ... reviewed for tentative approval
Date ____
Approved ____
Disapproved ____
All requirements of the Maryland State Department of Health and Baltimore County Department of Health pertaining to private water and/or sewerage systems must be complied with prior to approval of building applications.
Acting DEPUTY STATE & COUNTY HEALTH OFFICER
Signature 3/6/74
M.K.E.

Baltimore County
JOINT DIVISION PLANNING COMMISSION
OF THE OFFICE OF PLANNING AND ZONING
Tentatively Approved (Date) 3/6/74
Chairman
Member
BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
Tentatively Approved (Date) 3/8/74
Director William N. Thorn
DEPARTMENT OF PUBLIC WORKS
Bureau of Engineering
Tentatively Approved for Street Alignment and Grades
Location of Water, Sewer & Storm Drains, Including Highway plans, subject to Approval Construction Drawings.
(Date) 3/6/74
Chief, Bureau of Engineering

BALTIMORE COUNTY FIRE DEPARTMENT
This Preliminary Plan is Tentatively Approved ONLY for location, width and turning radii of "private" streets, roads, drives, alleys and similar means of ingress. This approval will be VOID if any buildings are shifted or any of the means of ingress are altered without prior notice to the Fire Department for additional approvals.

STATE OF MARYLAND
ROBERT E. SPELLMAN
No. 4888
REGISTERED
LAND SURVEYOR

PRELIMINARY PLAN
NOTTINGHAMSHIRE FARMS
7TH DISTRICT
BALTIMORE CO., MD.

MANOR LAND ASSOCIATES
C/O O'NEILL & CO
BOX 1387
BECKLEYSVILLE RD
MILLERS, MD
21107

REVISED 1/20/74
REVISED 11/19/74 LOTS 20 & 31
REVISED 8-14-73
REVISED 7-19-73

SPELLMAN, LAWSON & ASSOC. INC.
SUITE 303 --- INVESTMENT BLDG.
TOWSON, MARYLAND 21204
SCALE 1"=100' 823-3804 JUNE 15, 1973

P.C. No. 4 7387

COORDINATE TABLE					
NO.	NORTH	EAST	NO.	NORTH	EAST
1	5501.017	965.106	10	6060.898	2873.990
2	5564.632	837.007	20	7074.139	2620.317
3	5920.949	674.327	21	7082.619	2594.868
4	5940.101	745.409	22	7012.262	2590.702
5	6587.544	918.981	23	7024.261	2623.805
6	6808.813	852.748	24	7042.892	2850.750
7	6925.392	1182.956	25	7019.716	2949.870
8	7218.289	1155.250	26	6987.920	2948.557
9	7287.698	1216.029	27	6906.516	2857.057
10	7284.046	2139.921	28	6857.149	2813.194
11	8164.877	1880.126	29	6840.067	2791.335
12	8573.062	1998.170	30	6833.849	2784.215
13	8530.812	2096.706	31	6831.728	2592.817
14	8378.151	2424.881	32	6368.736	2524.286
15	7267.071	2417.145	33	6151.791	1953.096
16	7345.205	2438.292	34	6088.246	1851.096
17	7042.116	2005.060	35	5486.559	1706.249
18	6961.614	2907.724	36	5428.140	1719.238

CURVE DATA					
NO.	RADIUS	Δ	LENGTH	TAN.	CHORD
A	277.00	45°42'00"	220.94	116.72	N 71°09'00" W 215.13'
B	28.00'	45°05'57"	27.55'	14.55'	N 71°27'01.5" W 26.84'
C	50.00'	270°11'54"	235.78'	—	—
D	28.00'	45°05'57"	27.55'	14.55'	N 63°27'01.5" E 26.84'
E	227.00	45°42.00"	181.08'	95.66'	N 71°09'00" W 176.30'
F	1130.00'	6°25'46"	126.80'	63.47'	S 45°47'07" W 126.74'
G	820.00'	18°00'00"	257.61'	129.88'	S 50°42'00" W 256.55'
H	2150.00'	3°12'00"	120.08'	60.05'	S 58°06'00" W 120.06'

DENSITY CALCULATIONS

GROSS ACREAGE: 139.9 Ac±
NET ACREAGE: 139.7 Ac±
ROAD WIDENING OF GARRETT ROAD: 2.6 Ac±
ROAD WIDENING OF OLD GARRETT COURT: 0.2 Ac±
DWELLING UNITS ALLOWED: 139.9 x 1 = 139 UNITS/ACRE
DWELLING UNITS PROPOSED: 52 UNITS
GROSS RESIDENTIAL DENSITY: .37 UNITS/ACRE
NET RESIDENTIAL DENSITY: .21 UNITS/ACRE
EX. ZONING: RDP

■ DENOTES CONC. MON. SET

EDWARD E. STAFFORD 1415/288

EDWARD E. STAFFORD 1213/564

EDWARD E. STAFFORD 1415/288

WILMER E. CUMMINGS 2278/145

LOCATION MAP
SCALE: 1"=2000'

GARRETT

4200 FT.± TO OLD YORK RD.

4200 FT.± TO VERNON ROAD

LOT 1 19.8 Ac.±

LOT 2 7.6 Ac±

LOT 3 4.8 Ac±

LOT 4 1.3 Ac±

LOT 5 1.1 Ac±

LOT 6 1.1 Ac±

LOT 7 1.2 Ac±

LOT 8 2.2 Ac±

LOT 9 4.2 Ac±

LOT 10 7.2 Ac±

LOT 11 6.9 Ac±

LOT 12 6.9 Ac±

LOT 13 1.2 Ac±

LOT 14 1.2 Ac±

LOT 15 2.9 Ac±

LOT 16 2.0 Ac±

LOT 17 2.8 Ac±

LOT 18 3.4 Ac±

LOT 19 6.9 Ac±

LOT 20 6.0 Ac±

STORM DRAINAGE EASEMENT

10' DRAINAGE & UTILITY EASEMENT

UTILITY EASEMENT

50' MINIMUM BUILDING SETBACK LINE

200' MINIMUM BUILDING SETBACK LINE

100 YEAR FLOOD PLAIN

EXISTING ROADS

OLD GARRETT COURT

GARRETTS WINDSOR ROAD

BOYSTON J. SCUDLYE 3524/548

LIBER F. SUMMERS W.H. 1466/157

PLAT ONE
NOTTINGHAMSHIRE FARMS

GARRETT ROAD

7TH ELECTION DISTRICT
SCALE: 1"=100'

BALTIMORE CO., MD.
JULY 15, 1974

E.H.K., JR. 38 FOLIO 8
Filed for record
Date AUG 21 1974
Test:
Clerk

OWNER & DEVELOPER
MANOR LAND ASSOCIATES
c/o O'NEILL & CO.
BOX 138 A
BECKLEYSVILLE ROAD
MILLERS, MD. 21107

All requirements of the Maryland State Department of Health and Baltimore County Department of Health pertaining to private water and/or sewerage systems must be complied with prior to approval of building applications.

P. W. As Completed
Final Plat Checked
Planning
Engineering
Street Names
House Nos.

Loch Raven WATERSHED

HIGHWAY'S DEPARTMENT OF BALTO. COUNTY
APPROVED FOR STREET ALIGNMENT & LOCATION
ROAD ENGINEER — DATE 8/20/74

APPROVED FOR BALTO. CO. HEALTH DEPT.
MKE 8-20-74
DEPUTY STATE & COUNTY HEALTH OFFICER — DATE 8/20/74

APPROVED FOR BALTO. CO. PLANNING BOARD
DIRECTOR — DATE 8/1/74

NOTES:

STREETS AND/OR ROADS SHOWN HEREON AND THE WIDTH THEREOF IN DEEDS ARE FOR PURPOSES OF DESCRIPTION ONLY, AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE; THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

FOR PANHANDLE LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE PANHANDLE AND THE STREET RIGHT OF WAY ONLY, AND NOT OUTO THE PANHANDLE DRIVEWAY.

COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE BASED ON ASSUMED DATA.

OWNER'S CERTIFICATE:

THE REQUIREMENTS OF SECTION 59 TO 62, ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1957 EDITION (TITLE: CLERKS OF THE COURT) SUB-TITLE: CLERKS OF CIRCUIT COURTS), AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS HAVE BEEN COMPLIED WITH.

Manor Land Associates
Joseph M. O'Neill, Co-Pt. 8/19/74
OWNER — DATE

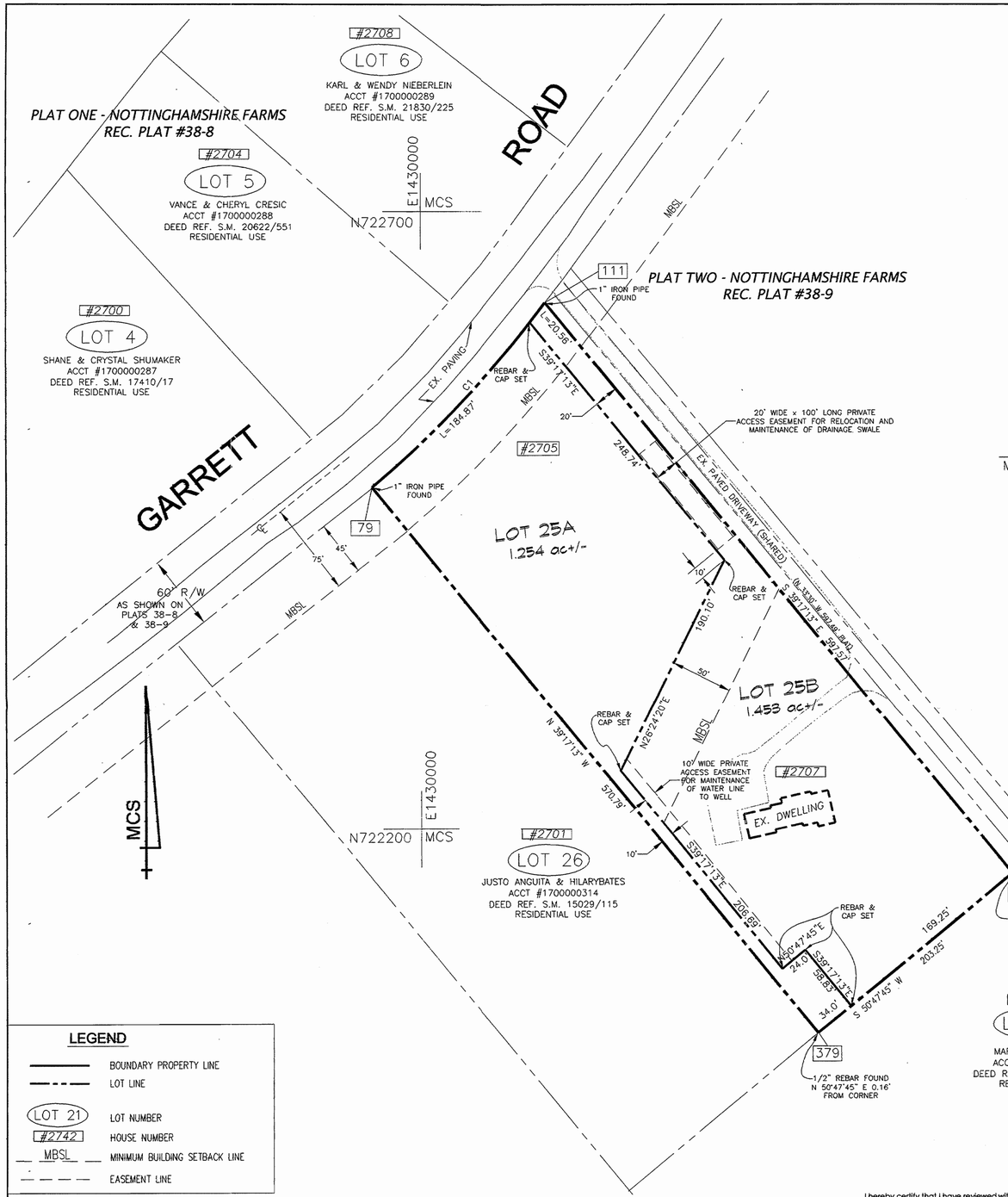
SURVEYOR'S CERTIFICATE:

I, ROBERT E. SPELLMAN, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATIVE TO THE SUBDIVISION OF LAND KNOWN AS HOUSE BILL NO. 459, CH. 1016, OF THE ACTS OF 1945 AND SUBSEQUENT ACTS AMENDATORY THEREOTO.

Robert E. Spellman JULY 15, 1974
PROFESSIONAL LAND SURVEYOR — DATE
REG. # 4503

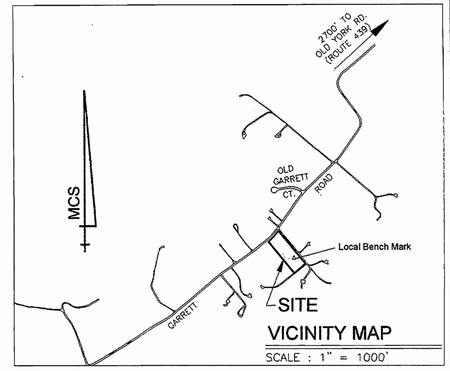
CBA PE FSH

SPELLMAN, LARSON & ASSOC. INC.
SUITE 302
INVESTMENT BUILDING
TOWSON, MARYLAND 21204
823-3535



COORDINATE TABLE (MCS)		
POINTS	NORTH	EAST
79	722,476.824	1,429,960.493
111	722,626.024	1,430,101.029
229	722,183.513	1,430,479.412
379	722,035.043	1,430,321.919

CURVE TABLE				
CURVE	R	ARC LEN.	Δ	CHORD
C1	880.00'	205.43'	13°22'31"	S43°17'14"W 204.97'



GENERAL NOTES

1. HIGHWAYS, AND HIGHWAY WIDENINGS, SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS, ACCESS EASEMENTS, FOREST BUFFER AREAS IN FEE OR EASEMENT, FOREST CONSERVATION AREAS IN FEE OR EASEMENT, GREENWAY AREAS IN FEE OR EASEMENT, AND STORM WATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON, ARE RESERVED UNTO THE OWNER AND, EXCEPT FOR THOSE INDICATED AS PRIVATE, ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE OWNER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS WILL CONVEY SAID AREAS BY DEED, TO BALTIMORE COUNTY, MARYLAND, AT NO COST, UNTIL SUCH TIME AS SAID CONVEYANCE IS ACCEPTED BY BALTIMORE COUNTY, THE OWNER AUTHORIZES BALTIMORE COUNTY, IT'S AGENTS AND ASSIGNS, THE RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING AND REPAIRING ROADS, UTILITY LINES AND FACILITIES, AND STORM WATER MANAGEMENT PONDS AND FACILITIES.
2. STREETS AND/OR ROADS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR PURPOSES OF DESCRIPTIONS ONLY, AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.
3. THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF THE BALTIMORE COUNTY CODE, SECTION32-4-273.
4. THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.
5. THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.
6. ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT AND THE DEPARTMENT OF PUBLIC WORKS.
7. THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THE PLAT.
8. THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES ADOPTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
9. EXCEPT AS OTHERWISE INDICATED, ALL BUILDING RESTRICTION LINES SHOWN HEREON HAVE BEEN PLACED AS THE RESULT OF AND INTERPRETATION ONLY OF THE CURRENTLY APPLICABLE REGULATIONS AND POLICIES OF THE BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT. EXCEPTIONS TO THESE RESTRICTIONS MAY APPLY.
10. THIS SITE IS LOCATED IN THE LOCH RAVEN DRAINAGE AREA.
11. THE MINOR SUBDIVISION FOR THE PROPERTY SHOWN ON PLAT WAS APPROVED (PDM No. 06-022M)
12. TRASH COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE TO BE PROVIDED TO THE JUNCTION OF THE PANHANDLE AND STREET RIGHT OF WAY.
13. SOIL PERCOLATION TESTS WILL BE VALID FOR A PERIOD OF FIVE YEARS FROM THE DATE THE RECORD PLAT IS SIGNED BY THE DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT. AT THE EXPIRATION OF THIS PERIOD, NEW TESTS MAY BE REQUIRED.
14. ALL REQUIREMENTS OF THE MARYLAND STATE OF THE ENVIRONMENT AND BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT PERTAINING TO PRIVATE WATER AND/OR SEWAGE SYSTEMS MUST BE COMPLIED WITH PRIOR TO APPROVAL OF BUILDING APPLICATIONS.
15. PANHANDLE DRIVES MUST BE MAINTAINED BY THE OWNERS OF PROPERTIES.
16. EASEMENT AGREEMENTS FOR PANHANDLES ARE INTENDED TO BE RECORDED SIMULTANEOUSLY WITH THE PLAT.

OWNER : JOHN C. & LISA UTTENREITHER
2707 GARRETT ROAD
WHITE HALL MD. 21161-9741
PHONE (410) 357-9456
DEED REF. : S.M. 14,873/418
TAX ACCT. NUMBER : 17000313

2705 - 2707 GARRETT ROAD
Minor Subdivision No. - 36-022-M

DENSITY NOTES

EXISTING ZONING: RC-2
GROSS AREA: RC-2 2.848 AC.± (TO ℄ OF ROAD)
TOTAL 2.848 AC±
LOTS ALLOWED: RC-2 = 2 LOTS
NO. OF LOTS PROPOSED: 2 LOTS

HIGHWAY WIDENING AREA: 0.00 AC±
NET AREA: 2.707 AC±
ROAD DEDICATION: 0.00 AC±
NET AREA OF LOTS: 2.707 AC±
PARKING REQ'D: 2 SPACES/LOT = 4
PARKING PROP.: 2 SPACES/LOT = 4

ZONING NOTE:
IN ACCORDANCE WITH COUNTY COUNCIL BILL 24-06, THIS SUBDIVISION COMPLIES WITH THE CURRENT ZONING REGULATIONS AND REQUIREMENTS FOR "RC 2" PROPERTY.

Filed for record
S.M. 78 FOLIO 196
Date JAN 26 2007
Test: Clerk

SM
78-196

LEGEND

- BOUNDARY PROPERTY LINE
- LOT LINE
- LOT 21 — LOT NUMBER
- #2742 — HOUSE NUMBER
- MBSL — MINIMUM BUILDING SETBACK LINE
- EASEMENT LINE

I hereby certify that I have reviewed with due diligence the approved Minor Subdivision Plan (PDM# 06-022m) and have prepared with due diligence this Record Plat pursuant to the Minor Subdivision Plan.

GRAPHIC SCALE
0 50 ft. 100 ft. 150 ft. 200 ft.

APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

Director of the Department of Environmental Protection and Resource Management — Date 11/17/07

APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 32-4-272, BALTIMORE COUNTY CODE

Director of Permits and Development Management — Date 1/26/07

OWNER'S CERTIFICATE

The undersigned, owner of the land shown on this plat, hereby certifies that, to the best of it's knowledge, the requirements of Subsection (C) of Section 3-108 of the Real Property Article of the Annotated Code of Maryland have been complied with, insofar as same concerns the making of this plat and setting of the markers.

FOR THE PROPERTY OWNER(S)

JOHN C. UTTENREITHER

LISA UTTENREITHER

SURVEYOR'S CERTIFICATE

The undersigned, a Registered Land Surveyor of the State of Maryland does hereby certify that he is the surveyor who prepared this plat and that the land shown on this plat has been laid out, and the plat thereof has been prepared, in compliance with Subsection (C) of Section 3-108 of the Real Property Article of the Annotated Code of Maryland, particularly insofar as same concerns the making of the plat and setting of the markers.

JOSEPH C. THOMPSON — Date 12-06-2006
Registered Land Surveyor, Md. #21039

SEAL

PWA COMPLETED :
FINAL PLAT CHECKED :
P.D.M. : 1-24-07
HOUSE NUMBERS : 12-20-06
ENGINEERING : DAK 1/8/07
RECREATION & PARKS : 12/22/06

COORDINATES and BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE "MARYLAND COORDINATE SYSTEM" NAD 83/91 AND ARE BASED ON THE FOLLOWING:

STATION: OLD YORK (JV6490)

MARYLAND COORDINATE SYSTEM (MCS)

DATE	REVISION DESCRIPTION	BY
-	-	

Record Plat of the John Uttenreither Property

a Re-subdivision of lot 25 of "Plat 2 Nottinghamshire Farms" (Plat 38, Folio 9)

BALTIMORE COUNTY (WHITE HALL) SCALE: 1" = 50 ft. DISTRICT 7 C3 MARYLAND DATE: 12/5/06

ENGINEER:
R. A. CHILDRESS & ASSOC., INC.
713 PHEASANT DRIVE
FOREST HILL, MD. 21050
(410) 803-0304

SURVEYOR:
THOMPSON & McCORD ASSOCIATES
402 N. HICKORY AVENUE, SUITE B
BEL AIR, MARYLAND 21014
(410) 803-0696

DWG. NO. RP-1
SHEET 1 OF 1

PDF NO. 70

NOTES:

1. EXISTING ZONING IS RC-2.

2. THERE HAVE BEEN NO PRIOR ZONING HEARINGS FOR THIS LOT.

3. THIS SITE IS SERVED BY PRIVATE WELL & SEPTIC SYSTEM.

4. THE EXISTING AND PROPOSED DWELLINGS DO NOT LIE WITHIN A 100 YEAR FLOOD PLAIN.

5. THIS SITE LIES ON A 200 SCALE ZONING MAP 013B3.

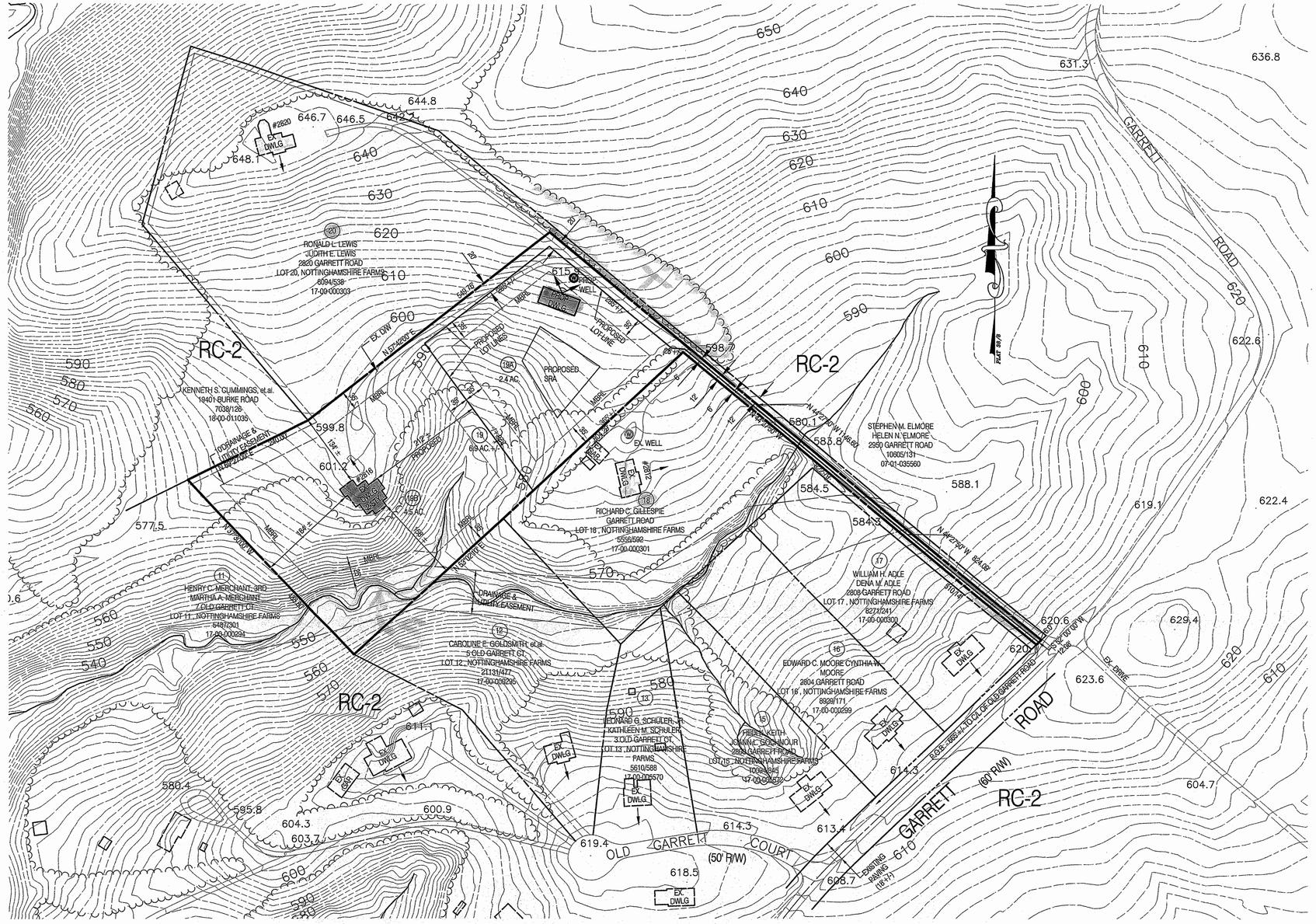
6. EXISTING USE OF THIS PROPERTY IS RESIDENTIAL.

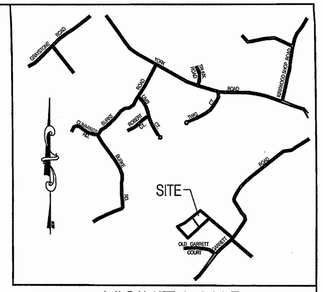
7. THIS SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).

LOT INFORMATION:
LOT 19
PLAT ONE
NOTTINGHAMSHIRE FARMS
EHK,JR. 38/8
TAX MAP 13, GRID 15, PARCEL 50, LOT 19
DEED REFERENCE: 21433/267
TAX ACCT. NO. : 17-00-000302

	PUBLIC	PRIVATE
SEWER	☐	☒
WATER	☐	☒

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒





VICINITY MAP

SCALE: 1"=1000'

7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

Petitioner No 7

PLAT TO ACCOMPANY PETITION
FOR SPECIAL HEARING/VARIANCE

#2816 GARRETT ROAD

7TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
3RD COUNCILMANIC DISTRICT
SCALE: 1"= 100' DATE: APRIL 18, 2006

COMPUTED BY:	DRAWN BY: NS	CHECKED BY:	JOB No.: 05-220

McKEE & ASSOCIATES, INC.
Engineering – Land Planning – Land Surveying
Natural Resource Planning – Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

OWNER
PATSY LORENZ
2816 GARRETT ROAD
WHITE HALL, MD 21161
410-357-0929

COORDINATE TABLE					
NO.	NORTH	EAST	NO.	NORTH	EAST
1	5501.917	965.106	19	6960.938	2873.790
2	5564.632	837.997	20	7074.139	2620.317
3	5929.949	674.327	21	7082.679	2594.868
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5	6587.544	918.981	23	7024.261	2623.805
6	6808.813	832.748	24	7042.892	2890.250
7	6925.393	1183.356	25	7019.716	2949.870
8	7318.289	1155.250	26	6991.930	2948.557
9	7537.698	1216.029	27	6906.376	2857.057
10	7884.046	2139.921	28	6857.145	2813.194
11	8264.877	1880.136	29	6840.067	2791.335
12	8573.062	1998.179	30	6835.845	2794.215
13	8530.812	2096.706	31	6531.233	2522.817
14	8378.151	2424.831	32	6368.738	2324.286
15	7867.071	3417.145	33	6151.791	1953.026
16	7343.525	3438.292	34	6088.346	1851.096
17	7045.115	3005.960	35	5486.555	996.243
18	6961.614	2909.724	36	5428.140	919.238

CURVE DATA						
NO.	RADIUS	Δ	LENGTH	TAN.	CHORD	
A	277.00	45°42'00"	220.94	116.72	N 71°00'00" W	215.13'
B	35.00'	45°05'57"	27.55'	14.53'	N 71°27'01.5" W	26.84'
C	30.00'	270°11'54"	233.79'	∞	—	
D	35.00'	45°05'57"	27.55'	14.53'	N 63°27'01.5" E	26.84'
E	227.00	45°42'00"	181.08'	95.66'	N 71°00'00" W	176.30'
F	1130.00'	6°25'46"	126.80'	63.47'	S 48°47'07" W	126.74'
G	820.00'	18°00'00"	257.61'	129.88'	S 50°42'00" W	256.55'
H	2150.00'	3°12'00"	120.08'	60.05'	S 58°06'00" W	120.06'

DENSITY CALCULATIONS

GROSS ACREAGE: 159.9 Ac±
NET ACREAGE: 155.7 Ac±
ROAD WIDENING OF GARRETT ROAD: 0.8 Ac±
ROAD WIDENING OF OLD GARRETT COURT: 0.5 Ac±
DWELLING UNITS ALLOWED: 159.9 × 1 : 159 UNITS/ACRE
DWELLING UNITS PROPOSED: 32 UNITS
GROSS RESIDENTIAL DENSITY: .20 UNITS/ACRE
NET RESIDENTIAL DENSITY: .21 UNITS/ACRE
EX. ZONING: R.D.P.

■ DENOTES COORD. MON. SET

PLAT ONE
NOTTINGHAMSHIRE FARMS

GARRETT ROAD
7th ELECTION DISTRICT
SCALE: 1"=100'
BALTIMORE CO., MD.
JULY 15, 1974

OWNER & DEVELOPER
MANOR LAND ASSOCIATES
% O'NEILL & CO.
BOX 138 A
DECKLEYSVILLE ROAD
MILLERS, MD.
21107

E.H.K., JR. 38 FOLIO 8
Filed for record
Date AUG 21 1974
Test:
[signature] Clerk

P. W. A. Completed
Final Plat Checked
Planning
Engineering HWS
Street Naming 8-20-74
House Nos.

All requirements of the Maryland State Department of Health and Baltimore County Department of Health pertaining to private water and/or sewerage systems must be complied with prior to approval of building applications.

HIGHWAY'S DEPARTMENT OF BALTO. COUNTY
APPROVED FOR STREET ALIGNMENT & LOCATION
[signature] 8/20/74
ROAD ENGINEER DATE
APPROVED FOR BALTO. CO. HEALTH DEPT.
[signature] 8/20/74
DEPUTY STATE & COUNTY HEALTH OFFICER DATE
APPROVED FOR BALTO. CO. PLANNING BOARD

NOTES:

STREETS AND/OR ROADS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR PURPOSES OF DESCRIPTION ONLY, AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

FOR PANHANDLE LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE PANHANDLE AND THE STREET RIGHT OF WAY ONLY AND NOT ONTO THE PANHANDLE LOT DRIVEWAY.

COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE BASED ON ASSUMED DATA.

OWNER'S CERTIFICATE:

THE REQUIREMENTS OF SECTION 59 TO 62, ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1957 EDITION (TITLE, CLERKS OF THE COURT, SUB-TITLE, CLERKS OF CIRCUIT COURTS) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS HAVE BEEN COMPLIED WITH.

Manor Land Associates

SURVEYOR'S CERTIFICATE:

I, ROBERT E. SPELLMAN, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO THE SUBDIVISION OF LAND KNOWN AS HOUSE BILL NO. 459, CH. 1016, OF THE ACTS OF 1945 AND SUBSEQUENT ACTS AMENDATORY THERETO.

REDLINED PLAN TO ACCOMPANY PANHANDLE WAIVER REQUEST LORENZ PROPERTY

SCALE: 1"= 100' DATE: 12-5-05

SPELLMAN, LARSON & ASSOC. INC.
SUITE 303
INVESTMENT BUILDING
TOWSON, MARYLAND 21204
823-3535

PET. EXH. No. 4

NOTES:

1. EXISTING ZONING IS RC-2.

2. THERE HAVE BEEN NO PRIOR ZONING HEARINGS FOR THIS LOT.

3. THIS SITE IS SERVED BY PRIVATE WELL & SEPTIC SYSTEM.

4. THE EXISTING AND PROPOSED DWELLINGS DO NOT LIE WITHIN A 100 YEAR FLOOD PLAIN.

5. THIS SITE LIES ON A 200 SCALE ZONING MAP 013B3.

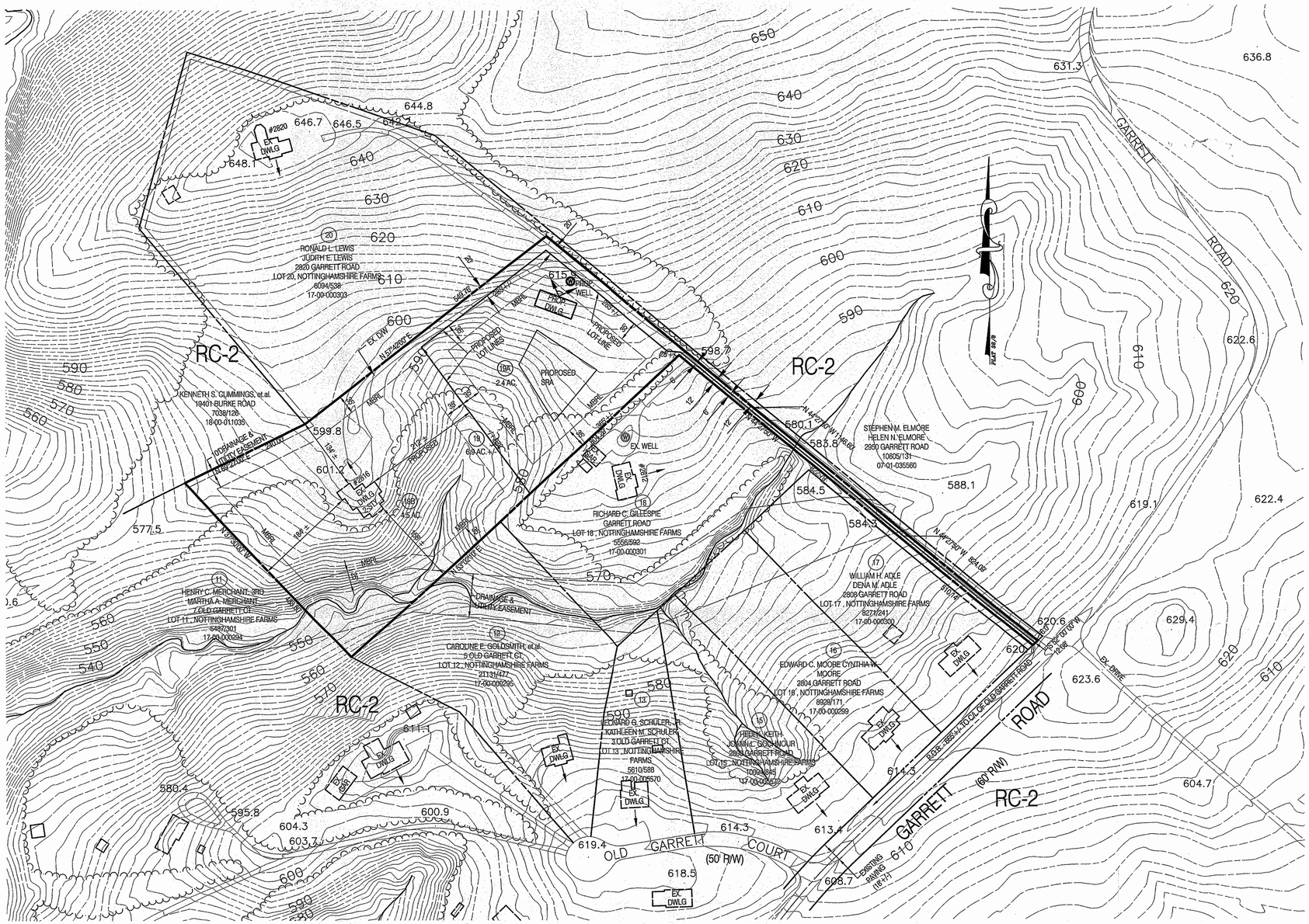
6. EXISTING USE OF THIS PROPERTY IS RESIDENTIAL.

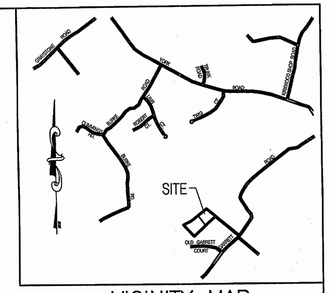
7. THIS SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).

LOT INFORMATION:
LOT 19
PLAT ONE
NOTTINGHAMSHIRE FARMS
EHK,JR. 38/8
TAX MAP 13, GRID 15, PARCEL 50, LOT 19
DEED REFERENCE: 21433/267
TAX ACCT. NO. : 17-00-000302

	PUBLIC	PRIVATE
SEWER	☐	☒
WATER	☐	☒

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒





VICINITY MAP
SCALE: 1"=1000'
7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

McKEE & ASSOCIATES, INC.
Engineering – Land Planning – Land Surveying
Natural Resource Planning – Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

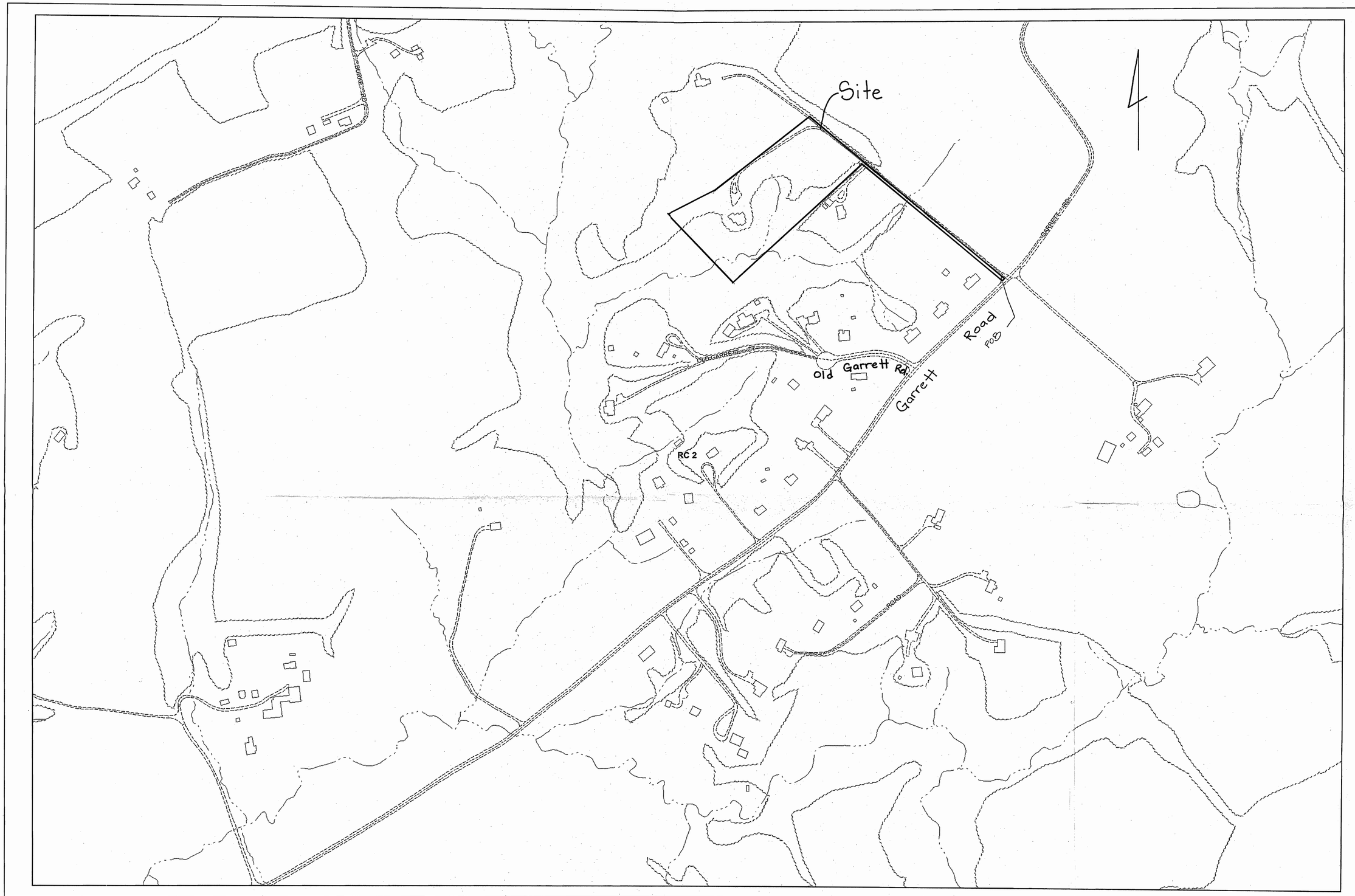
OWNER
PATSY LORENZ
2816 GARRETT ROAD
WHITE HALL, MD 21161
410-357-0929

Rev. No 1

PLAT TO ACCOMPANY PETITION
FOR SPECIAL HEARING/VARIANCE
#2816 GARRETT ROAD

7TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
3RD COUNCILMANIC DISTRICT
SCALE: 1"=100' DATE: APRIL 18, 2006

COMPUTED BY:	DRAWN BY: NS	CHECKED BY:	JOB No.: 05-220



Plan Sheet: ***013B3***

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

012C2	013A2	013B2	013C2	
012C3	013A3	013B3	013C3	
017C1	018A1	018B1	018C1	

Scale

1" = 200'

0 100 200 400 Feet

N

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

#551

MASTER PLAT

LOCATION INSET
1" = 1000'

MASTER

MASTER

Baltimore County Department of Health
Reviewed for Preliminary Approval
Date 3/6/74
Approved
Disapproved
All requirements of the Maryland State Department of Health and Baltimore County Department of Health pertaining to private water and/or sewerage systems must be complied with prior to approval of building applications.
Acting DEPUTY STATE & COUNTY HEALTH OFFICER
M.K.E. Signature 3/6/74

Baltimore County
BUREAU OF TRAFFIC ENGINEERING
Date 3/6/74
Approved
Disapproved
Traffic Engineer
STATE HIGHWAY ADMINISTRATION
Date 3/8/74
Approved
Disapproved
Asst. Chief Engineer

DEPARTMENT OF PUBLIC WORKS
Bureau of Engineering
Date 3/7/74
Approved
Disapproved
Bureau of Sewer & Storm Drain
Public Service Commission Reference
Fire Prevention Bureau

BALTIMORE COUNTY BUREAU OF PLANNING
This Preliminary Plan is Tentatively Approved ONLY for location, width and typical radii of "private" streets, roads, drives, alleys and similar means of ingress. This approval will be VOID if any buildings are erected or any of the means of ingress are altered without prior notice to the Fire Department for additional approvals.

PRELIMINARY PLAN
NOTTINGHAMSHIRE FARMS
7TH DISTRICT
BALTIMORE CO., MD.

MANOR LAND ASSOCIATES
C/O O'NEILL & CO
BOX 138A
BECKLEY MILLS RD
MILLERS, MD
21107

REVISED 11/20/74
REVISED 11/1/73 (SITE 20 & 34)
REVISED 8-16-73
REVISED 7-13-73

SPRUHAN, LABOLD & ASSOC. INC.
SUITE 303 — INVESTMENT BLDG.
TOWSON, MARYLAND 21204
SCALE 1" = 100'

STATE OF MARYLAND
ROBERT E. SPRUHAN
REGISTERED
LAND SURVEYOR

Pet No 2

McKEE ORIGINAL 4-25-05 Pet #2

R:\Depts\Deprm\Projects\LandPres\May2007QAQC

RestrictionType

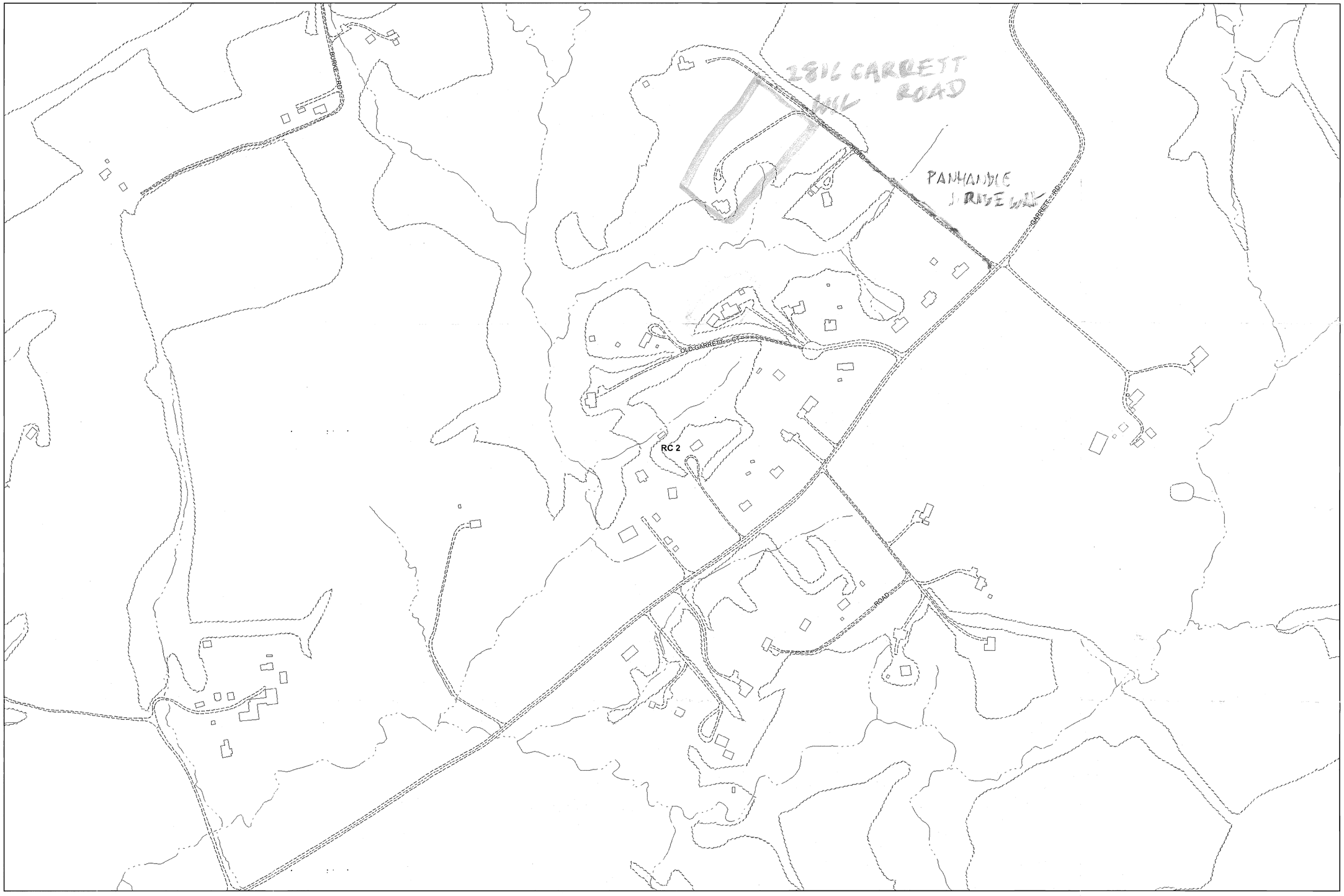
- Purchased in Fee
- Negotiations
- Interested
- Easment
- TaxParcel
- Ag District

Easements QAQC
May 2007
Tax Map 13

1,200 0 1,200 2,400 3,600 Feet

1 inch equals 600 feet

N W E S



Plan Sheet: ***013B3***

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

012C2	013A2	013B2	013C2	
012C3	013A3	013B3	013C3	
017C1	018A1	018B1	018C1	

Scale

1" = 200'

0 100 200 400 Feet

N

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

P.C. No. 8

6/21/07

Verified

CASE NO. 06-551-SPHA

PETITIONER'S EXHIBITS

✓ 1. James Seamon - Resume

✓ 2. Letter dated 12/5/06 from Mr. Seamon & Mr. Keller

✓ 3. Letter dated 2/1/06 from Mr. Keller & Mr. Seamon

✓ 4. Plat One of Hattenbaugh Farms recorded in ~~B~~ the land records. with overlays.

✓ 5. Aerial Photo of the property

✓ 6. ~~Facts~~ map.

✓ ✓ 7. Plat to accompany Petition.

✓ 8. A-K Photos of the driveway.

✓ 9. Letter from Iyuda Millinger

✓ 10. Recd. Plat of the John Allen with Property.

10A Deed of Easement 1/2/98

10B " " " 12/12/86

18025 Bunker Hill Road
Parkton, MD 21120

James D. Grammer

Summary of Qualifications

Employment

Current Position: Project Manager **Years Employed (1983-Present)**
McKee and Associates, Inc.
5 Shawan Road, Suite 1
Cockeysville, Md. 21030

1985 - Present
Project Manager

Responsible for the management of residential and commercial development projects including the preparation of feasibility studies and property analysis, preparation of engineers cost estimates, processing of projects through the development review process, representation at reviewing agency meetings and testimony at required hearings, management of the drafting and design of all required drawings, computations of boundary surveys, preparation of public works agreements and contract documents, coordination of outside consultants and contractors, and management of projects through construction and closeout. Duties also include preparation of proposals, supervision of billing and account receivables, and marketing of the firms services.

Have provided testimony for both residential and commercial cases involving Variances, Special Hearings and Special Exceptions.

1983-1985
Draftsman/ Designer

Responsible for the drafting of preliminary plans, development plans, record plats, construction drawings zoning plans, right-of-way plats, location surveys, residential site plans, deed research, computations of deeds, preparation of deed composites, preparation of boundary survey worksheets including related computations, design of public road, water, sewer and storm drain drawings, computations for construction stakeout and preparation of cut sheets.

Education

CONTINUING EDUCATION YEARS ATTENDED (1986-1996)
Catonsville Community College *Catonsville, Md.*

Continuing education studies in surveying and engineering curriculum involving many aspects of surveying and real estate development.

HIGH SCHOOL DIPLOMA YEARS ATTENDED (1979-1982)
Loch Raven Senior High School *Baltimore County, Md.*

PET. EXH NO. 1

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

December 5, 2005

Mr. Arnold "Pat" Keller, Director
Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD 21204

Dear Mr. Keller:

Subject: **Panhandle Waiver Request**
Lorenz Property
Lot 19, "Nottinghamshire Farms"

On behalf of the owners of the above listed property, Mrs. Alfred J. Lorenz, Jr., we are hereby requesting a waiver to the panhandle requirements for the creation of a new lot (i.e. Lot 19A, as shown on the Redlined Plan to Accompany Panhandle Waiver Request) in accordance with Section 32-4-409(K) Baltimore County Code. Specifically a waiver to the in-fee strip width requirement is sought in accordance with the parameters established in Section 32-4-409(b). Currently the subject property is served only by a 12-foot wide in-fee strip. As such, we are hereby requesting a waiver to permit two 6-foot wide streets in-lieu of the minimum 10-foot requirement, which is otherwise normally required.

The subject property is approximately 6.9 acres in size and is currently zoned RC-2. It has been held intact since August 21, 1974 and should therefore have 2 density units available to it under the RC-2 regulations. The original "Nottinghamshire Farms" subdivision was created under the R.D.P. zoning regulations. The property is currently improved by a single-family dwelling.

We are including a redlined plan, which depicts the existing improvements and approximate location of a proposed future lot and dwelling location for your use.

Should you have any questions, please contact our offices.

Thank you for your cooperation in this matter, we look forward to hearing from you in the near future.

Very truly yours,

McKEE AND ASSOCIATES, INC.

James D. Grammer, Associate

JDG:mcc
Enclosures

PET. EXH. NO. 2

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

Office of Planning

401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Tel: 410-887-3211 • Fax: 410-887-5862
E-mail: planning@co.ba.md.us

Baltimore County

Arnold F. Pat Keller, III, Director

February 1, 2006

Mr. James C. Grammer
McKee & Associates, Inc.
5 Shawan Road
Shawan Place Ste 1
Cockeysville, MD 21030

Re: Lorenz Property
Lot 19, Nottinghamshire Farms
Garrett Road

Dear Mr, Grammer:

Your request for a waiver to the panhandle requirements for the creation of a new lot (19A) from the provisions of Section 32-4-409 (K) of the Baltimore County Code has been DENIED. As such, it is recommended that the relief sought of Section 32-4-409 be possibly obtained through the Special Hearing process.

There are other existing lots currently being served by the panhandle right-of-way in question. Those said lots also have subdivision potential. Section 32-4-409 indicates only 5 lots may be served by a panhandle driveway, granting your waiver request would result in a hindrance of adjacent property owners subdividing their lots. The conduction of a public hearing would allow for equal input of all property owners being served by the subject panhandle right-of-way. In addition, the requested panhandle length would exceed the 1000 feet maximum allowed in an RC zone (Section 32-4-409 (e) (2)). The Director may not grant a waiver of this section.

Should you have any questions concerning the matters stated herein, please call Lynn Lanham with the Office of Planning at 410-887-3480.

Sincerely,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

PET. EXH. No. 3

AFK:LL:kma

RECEIVED FEB - 3 2006

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

Printed on Recycled Paper

********** -COMM. JOURNAL- ********** DATE FEB-06-2006 ***** TIME 10:44 ********

MODE = MEMORY TRANSMISSION START=FEB-06 10:31 END=FEB-06 10:44

FILE NO.=679

STN NO.	COMM.	ONE-TOUCH/ ABBR NO.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	[010]	SHELLY	001/001	00:06:13

-McKee and Assoc., Inc. -

********** -410 527 1563 - ***** - 410 527 1563- *********

Office of Planning

401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Tel: 410-887-3211 • Fax: 410-887-5862
E-mail: planning@co.ba.md.us

Baltimore County

Arnold F. Pat Keller, III, Director

February 1, 2006

Mr. James C. Grammer
McKee & Associates, Inc.
5 Shawan Road
Shawan Place Ste 1
Cockeysville, MD 21030

To: Andy Shelly
From: Jim Grammer

Re: Lorenz Property
Lot 19, Nottinghamshire Farms
Garrett Road

Dear Mr, Grammer:

Your request for a waiver to the panhandle requirements for the creation of a new lot (19A) from the provisions of Section 32-4-409 (K) of the Baltimore County Code has been DENIED. As such, it is recommended that the relief sought of Section 32-4-409 be possibly obtained through the Special Hearing process.

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Should you have any questions concerning the matters stated herein, please call Lynn Lanham with the Office of Planning at 410-887-3480.

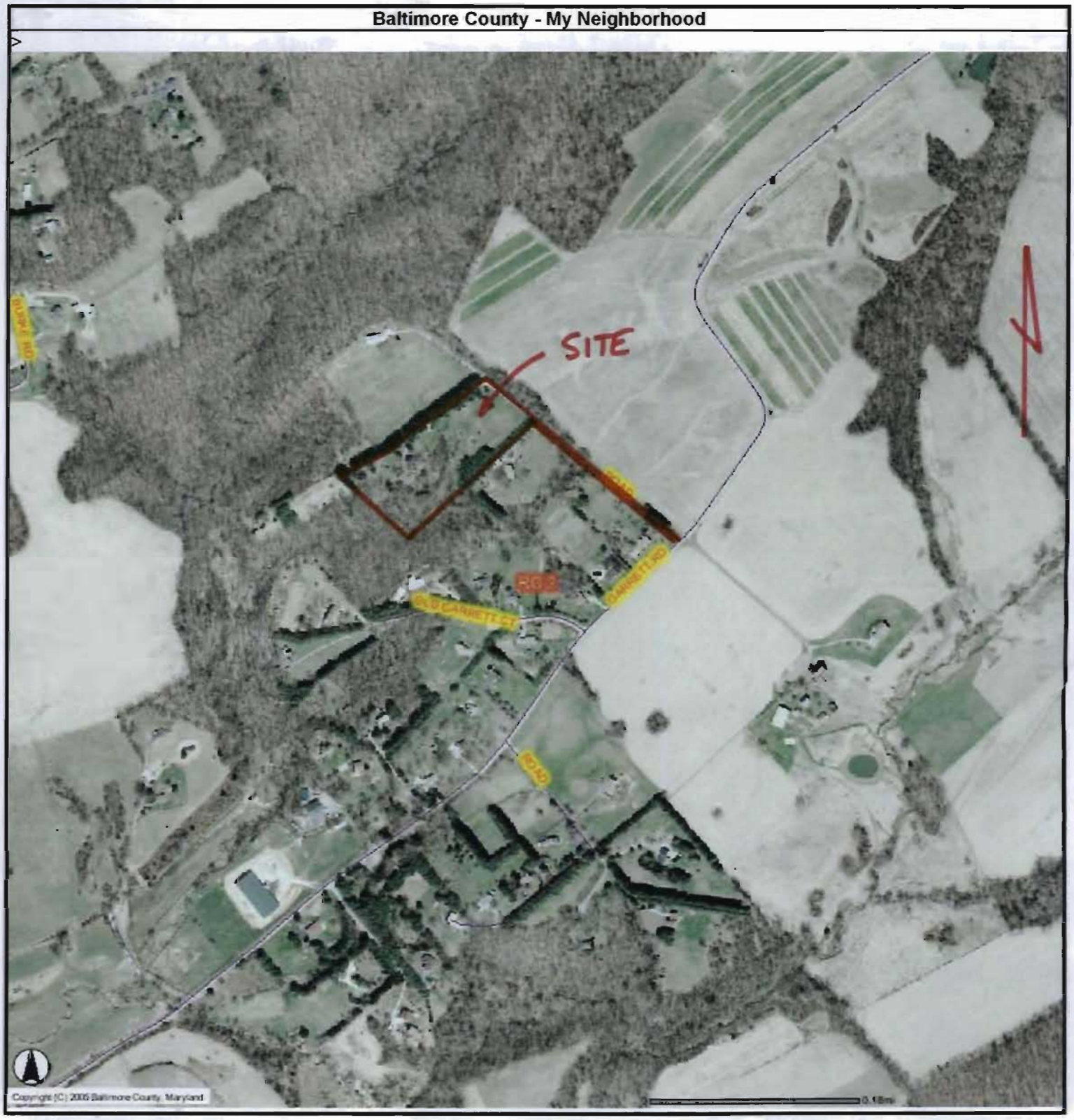
Sincerely,

Pat Keller

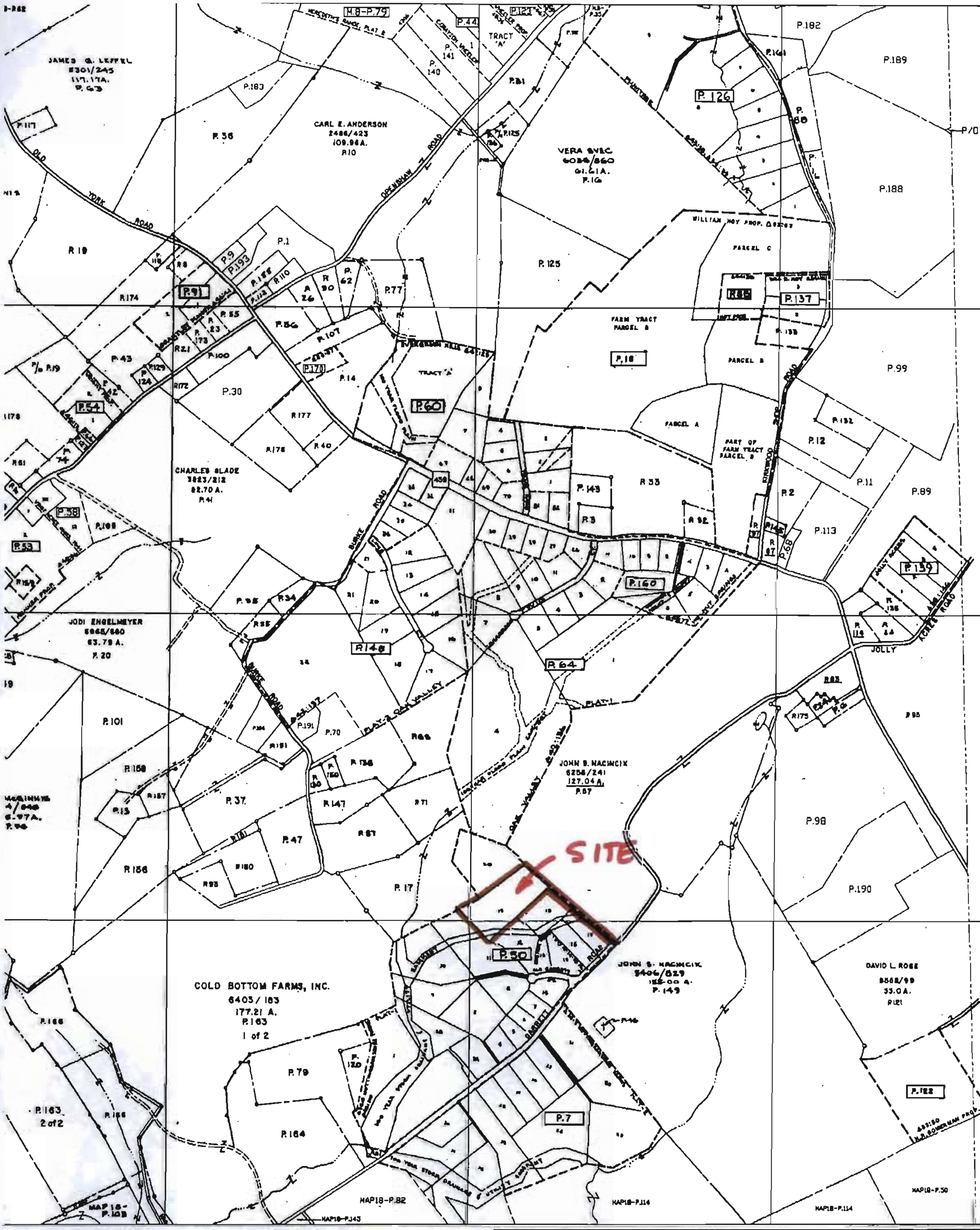
Arnold F. 'Pat' Keller, III
Director

AFK:LL:kma

RECEIVED FEB - 3 2006


Baltimore County - My Neighborhood
SITE
OLD CARROLL RD
OLD CARROLL ST
CARROLL RD
ROAD
ROAD
Copyright (C) 2005 Baltimore County, Maryland

PET EXH.
NO. 5



RIGHT. THEY MAY NOT BE COPIED
NG ELECTRONIC MEANS SUCH AS:
R IMAGE PROCESSING, OR BY ANY
ED WITHOUT PERMISSION IN
MENT OF PLANNING.

SCALE IN FEET

600 0 600 1200 1800

914 (18) 917

COMPILED BY:
MARYLAND DEPARTMENT OF PLANNING
PROPERTY MAPPING SECTION

PROPERTY LINE
SUBDIVISION BOUNDARY
TOWN BOUNDARY
PRIVATE ROAD
STREAM LINE
CONTINUING OWNERSHIP
PARCEL NUMBERING
SCALE 1"=600' (RF 1:7200)

REVISED TO:	DATE	BY	USER	LAST P. NO.	QUARTER-QUADRANGLE	DATE OF PHOTO	SHA GRID
	JUN '06	RWB					

MDP
Maryland
Department of Planning

9

PET. EXH NO 6

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

FROM GARRETT ROAD LOOKING
NORTH ALONG DRIVEWAY

A

MIDWAY ALONG DRIVE LOOKING
SOUTH TOWARDS GARRETT RD

B

PICTURE EXHIBITS
2816 GARRETT ROAD
CASE No. 06-551-SPHA

Pet. Ex H.
No. 8

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

C

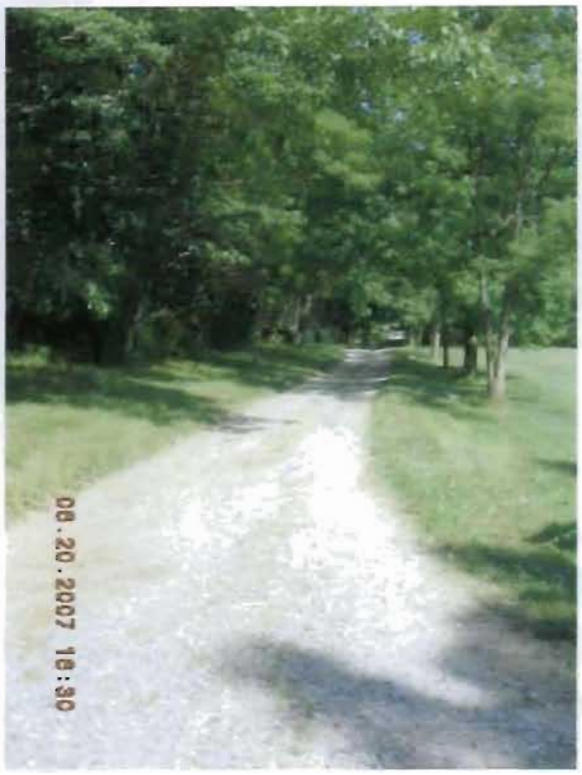
MIDWAY ON DRIVE LOOKING NORTH TOWARDS SUBJECT LOT

D

AT SUBJECT LOT LOOKING TOWARDS LEWIS DRIVEWAY

PICTURE EXHIBITS
2816 GARRETT ROAD
CASE No. 06-551-SPHA

E



FROM LORENZ DRIVEWAY SOUTHERLY
TOWARDS GARRETT ROAD

F

SUBJECT PROPERTY FROM SE CORNER AT DRIVEWAY

PICTURE EXHIBITS
2816 GARRETT ROAD
CASE No. 06-551-SPHA

G

SUBJECT PROPERTY FROM NE CORNER AT LORENZ DRIVEWAY

H

SUBJECT PROPERTY

PICTURE EXHIBITS
2816 GARRETT ROAD
CASE No. 06-551-SPHA

I

AT LORENZ DRIVEWAY EASTERLY TOWARDS ADJACENT FARM

J

AT SE CORNER OF SUBJECT PROPERTY SOUTHEASTERLY TOWARDS ADJACENT FARM

PICTURE EXHIBITS
2816 GARRETT ROAD
CASE No. 06-551-SPHA

K

HEDGEROW OF ADJACENT FARM FROM GARRETT ROAD

PICTURE EXHIBITS
2816 GARRETT ROAD
CASE No. 06-551-SPHA

To Whom it may concern

As a neighbor of Mrs. Lorenz for 31 years, I firmly support her plans to subdivide her property and build a house on the new divided lot. I know her new home will be in keeping with ambience of the area. She has always been more than willing to help with any work that was needed in the upkeep of the entrance to our properties. Mr. Lorenz was extremely important in keeping our right of way in good condition. As a contractor, he was very knowledgeable in the selection and spreading of stone. He took the lead in obtaining and delivery of stone. Since his death, Mrs. Lorenz has stayed very involved in our continuing maintenance of our driveway. Mrs. Lorenz has always been a wonderful neighbor and I hope will be one for many years to come.

Sincerely,

Lynda Gillispie

Lynda Gillispie

PET. EXH NO. 9

0012586 206

Pet 10 A

RETURN TO:
ALL MARYLAND TITLE CO., INC.
400 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

DGS FILE No. 03-07-95-04

THIS DEED OF EASEMENT made this 2nd day of January, 1998, by and between STEPHEN MARK ELMORE and HELEN NORMAN ELMORE, his wife, parties of the first part, Grantor, JOHN S. NACINCIK and DIXIE B. NACINCIK, his wife parties of the second part, Mortgagee, and the STATE OF MARYLAND, to the use of the Department of Agriculture on behalf of the Maryland Agricultural Land Preservation Foundation, party of the third part, Grantee, and containing covenants intended to be real covenants running with the land,

WITNESSETH:

WHEREAS, Title 2 of Subtitle 5 of the Agriculture Article, Annotated Code of Maryland, created the Maryland Agricultural Land Preservation Foundation for the purpose of preserving agricultural land and woodland; and

WHEREAS, by authority of Agriculture Article, Section 2-504(3), Annotated Code of Maryland, the Grantee may purchase agricultural preservation easements to restrict land to agricultural use; and

WHEREAS, the Grantor owns the hereinafter described tract(s) or parcel(s) of land located in an agricultural preservation district established pursuant to Agriculture Article, Section 2-509, Annotated Code of Maryland, and desires to sell an agricultural preservation easement to the Grantee to restrict the land to agricultural use.

NOW, THEREFORE, in consideration of the sum of Three Hundred Fifty Thousand Dollars and No Cents, ($350,000.00) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor for the Grantor, the successors, personal representatives and assigns of the Grantor, does grant and convey, to the State of Maryland, for the use of the Grantee, its successors and assigns, an agricultural preservation easement in, on and over the hereinafter described tract(s) or parcel(s) of land, subject to the covenants, conditions, limitations and restrictions hereinafter set forth, so as to constitute an equitable servitude thereon, and as more particularly described as follows:

BA CIRCUIT COURT (Land Records) [MSA_CE 63_12441] SM 12586, p. 0206, Printed 08/29/2007. Online 03/04/2005.

Tax Exempt pursuant to Md. Code Annot. Tax Property Art., Sect. 12-108(a)(1)

Pet 10 A

See Exhibit "A" attached hereto and made a part hereof;

AND the Grantor covenants for and on behalf of Grantor, the personal representatives, successors and assigns of the Grantor, with the Grantee, its successors and assigns, to do and refrain from doing upon the above described land all and any of the various acts set forth, it being the intention of the parties that the said land shall be preserved solely for agricultural use in accordance with the provisions of the Agriculture Article, Title 2, Subtitle 5, Annotated Code of Maryland, and that the covenants, conditions, limitations and restrictions hereinafter set forth, are intended to limit the use of the above described land and are to be deemed and construed as real covenants running with the land.

COVENANTS, CONDITIONS, LIMITATIONS AND RESTRICTIONS

A. Subject to the reservations hereinafter contained, the Grantor for the Grantor, the successors, personal representatives, successors and assigns of the Grantor, covenants and agrees as follows:

(1) (a) Except as otherwise provided in this instrument, the above described land may not be used for any commercial, industrial, or residential purpose.

(b) As a personal covenant only and one that is not intended to run with the land, the Grantee, on written application from the Grantor, shall release free of easement restrictions only for the Grantor who originally sold this easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that Grantor or the Grantor's child subject to the following conditions:

(i) The total number of lots allowed to be released under this paragraph may not exceed 10 lots of 1 acre or less at a maximum of not more than 1 lot for each 20 acres or portion thereof;

(ii) The Grantor shall pay the Grantee for any acre or portion thereof released at the price per acre that the Grantee paid the Grantor for the easement provided that the Maryland Agriculture Land Preservation Foundation's Board of Trustees have the right to

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approve the location and configuration of the parcels so conveyed; it being the intent that the agricultural use of the property not be impaired by said partitions;

(iii) Before any conveyance or release, the Grantor and the child, if there is a conveyance to a child, shall agree not to subdivide further any acreage allowed to be released; the agreement shall be recorded among the land records where the land is located and shall bind all future owners; and

(iv) If, while the above described land was in an agricultural preservation district, the Foundation released free of the district's restrictions for a person owning that land, 1 acre or less for the purpose of constructing a dwelling house for the use of that Grantor or the Grantor's child, the Grantee may not release free of easement restrictions for the Grantor, an additional lot for the same purpose; for each lot that the Grantor had excluded from the district's restrictions for this purpose, the number of lots that the Grantor otherwise would be entitled to have released under paragraph (1)(b) is reduced by one.

(c) Application for Lot Exclusion. Before a lot may be released from an easement's restrictions for the construction of a dwelling house, the landowner shall submit an application to the Foundation that:

(i) The landowner has signed;

(ii) Contains a declaration that the lot and dwelling house are only for the use of the landowner or the landowner's child, whichever is the case (if the use is for the landowner's child, identify the child);

(iii) Includes signed statements indicating approval of the release from the local agricultural land preservation advisory board and confirmation from the county planning and zoning department that the proposed lot appears to meet

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local zoning regulations;

(iv) Includes a description of the land to be excluded and affected by both the dwelling and access to that dwelling, so as to gauge the impact that the dwelling and any access to that dwelling will have on the agricultural operations of the farm;

(v) Includes a survey plat or tax map on which the precise location of the proposed lot is noted.

(d) After certifying that the landowner or child of the landowner has met the conditions provided in subsections (a) and (b) of this section, the Foundation shall issue a Preliminary Release which shall:

(i) Become final when the Foundation receives and certifies a non-transferrable building permit in the name of the landowner (or child of the landowner if the proposed lot is intended for the landowner's child's use) for the construction of a dwelling house; or

(ii) Become void upon the death of the person for whose benefit the release was intended if the Foundation has not yet received a building permit as provided in this regulation.

(e) Any preliminary or final release, building permit or other document issued or submitted in accordance with this section shall be recorded among the land records where the land is located at the landowner's expense and shall bind all future owners.

The limitations set forth under paragraph (1)(b) that the maximum lot size be 1 acre or less is increased to 2 acres or less if the circumstances described in Agriculture Article, Section 2-513, Annotated Code of Maryland, exist.

The right reserved to the Grantor under paragraph (1)(b) belongs only to the Grantor who originally sold this easement and may be exercised only by the Grantor named in the instrument.

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(f) The Grantor may construct housing for tenants fully engaged in operation of the farm, but this construction may not exceed 1 tenant house per 100 acres. The land on which a tenant house is constructed may not be subdivided or conveyed to any person, nor may the tenant house be conveyed separately from the original parcel.

(g) The land subject to this Deed of Easement may not be subdivided for any purpose unless written approval first has been obtained from the Grantee.

(h) No development rights from the above described tract(s) or parcel(s) may be transferred to another area, or to another person, or to a political subdivision.

(i) On written request to the Grantee, the Grantor may exclude from the easement restrictions one acre or less surrounding each single dwelling house, which existed as of the date of this Deed of Easement by a land survey and recordation provided at the expense of the Grantor or Grantor's personal representatives, successors or assigns. However, before any exclusion is granted, the Grantor shall agree with the Grantee not to subdivide further any acreage to be released and said agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(j) No rights-of-way, easements, oil, gas or mineral leases, or other similar servitude may be conveyed, or permitted to be established in the above described land without the Grantee's express permission.

(k) Unless written approval is first obtained from the Grantee, no easement or other restriction may be granted to any person or government agency in land subject to this deed of easement.

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(2) No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the land herein described; provided, however, the Grantor reserves the right to erect signs not exceeding 4 feet x 4 feet for each of the following purposes:

(a) to state the name of the property and the name and address of the occupant;
(b) to advertise any home or ancillary occupations consistent with the purposes of this easement subject to the approval of the Grantee; and
(c) to advertise the property's sale or rental.

(3) No ashes, sawdust, bark, trash, rubbish or any other material may be dumped on the above described land; provided, however, the Grantor reserves the right to dump any material which is for regular agricultural use.

The Grantor reserves the right to use the above described land for any farm use, and to carry on all normal farming practices, including the operation at any time of any machinery used in farm production or the primary processing of any agricultural products; the right to conduct upon the said land any agricultural operation which is in accordance with good husbandry practices and which does not cause bodily injury or directly endanger human health, including any operation directly relating to the processing, storage, or sale of farm, agricultural or woodland products produced on the said above described land; and all other rights and privileges not hereby relinquished, including the Grantor's right of privacy.

B. And the parties, for themselves, their personal representatives, successors and assigns, further covenant and agree as follows:

(1) The above described land shall be managed in accordance with sound agricultural soil and water conservation practices so as to promote the agricultural capability of the land; also woodland shall be managed in accordance with sound forestry practices; provided, however, the Grantor reserves the right to selectively cut or clear cut from time to time trees which will not alter the agricultural character of the land or diminish its productive capability.

(2) The Grantor shall implement all soil conservation and water quality practices that are contained within a soil conservation plan approved by the local soil

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conservation district, made or revised within the last ten years of the date of the application to sell an easement, which lists all soils conservation and water quality problem areas on the land. The plan shall be implemented according to the schedule of implementation contained within the plan which exists at the time of easement settlement. Revisions to the schedule of implementation may be made as approved by the Board of Supervisors of the local soil conservation district, however, the plan shall be fully implemented within ten years of the easement settlement date. Exceptions may be considered by the Grantee on a case by case basis.

(3) The Grantor shall implement a forest management plan demonstrating forest management techniques if 50% or more of the acreage contained in the property consists of woodland.

(4) The Grantee or its authorized representative shall have the right to enter on the above described land from time to time for the sole purpose of inspection and enforcement of the easement, covenants, conditions, limitations and restrictions herein contained; provided, however, that the Grantee shall have no right to inspect the interior of any structures on the above described land.

(5) If the easement or any covenant, condition, limitation or restriction herein contained is violated or breached, the Grantee may after due notice to the Grantor, the Grantor's personal representatives, successors or assigns, institute an action in equity to enjoin, by ex parte, temporary or permanent injunction, such violation or breach; to require the restoration of the above described land to its condition prior to such violation or breach; to recover damages; and to take such other legal action as may be necessary to insure compliance with the easement and the covenants, conditions, limitations and restrictions herein contained.

(6) If the Grantor has any doubts concerning the easement, covenants conditions, limitations or restrictions herein contained with respect to any particular use of the said land, the Grantor may submit a written request to the Grantee for

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consideration and approval of such use.

(7) This easement does not grant the public any right to access or any right of use of the above described land.

(8) Nothing herein contained shall relieve the Grantor, the Grantor's personal representatives, successors or assigns of the obligation to pay real estate taxes.

(9) This easement shall be in perpetuity, or for so long as profitable farming is feasible on the Grantor's land and may be released only by the Grantee as provided by Agriculture Article, Section 2-514, Annotated Code of Maryland.

AND the Grantor further covenants that the Grantor has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that the Grantor will warrant specially the property interest hereby conveyed; and that the Grantor will execute such further assurances of the same as may be required.

Miscellaneous Provisions

A. As used herein the singular form of a word includes both the singular and plural, the plural form of a word includes both plural and singular, and reference to words of certain gender includes reference to all genders.

B. The provisions of this Deed of Easement shall be governed by the laws of the State of Maryland and the parties hereby expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising hereunder after all administrative remedies have been exhausted.

C. No determination by any court, governmental body or otherwise that any provision of this Deed of Easement is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

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D. Notwithstanding any provision herein to the contrary, the one (1) dwelling(s) existing as of the date of this Deed of Easement may be used for any lawful purpose (e.g. for residential purposes), unless otherwise prohibited by local zoning.

John S. Nacincik and Dixie B. Nacincik, his wife, hereby join in execution of this Deed of Easement for the sole purpose of agreeing to subordinate to this Deed of Easement, and hereby do subordinate their mortgage lien from Grantors dated June 21, 1994 and recorded among the aforesaid Land Records in Liber S.M. No. 10605 Folio 135.

AS WITNESS the hand(s) and seal(s) of the Grantor and the Mortgagee.

WITNESS:

Sharon Cremen

Stephen Mark Elmore (Seal)
STEPHEN MARK ELMORE, Grantor

Sharon Cremen

Helen Norman Elmore (Seal)
HELEN NORMAN ELMORE, Grantor

Sharon Cremen

John S. Nacincik (Seal)
JOHN S. NACINCIK, Mortgagee

Sharon Cremen

Dixie B. Nacincik (Seal)
DIXIE B. NACINCIK, Mortgagee

STATE OF MARYLAND, COUNTY OF Baltimore, To Wit:

I HEREBY CERTIFY that, on this 2nd day of January, 1998 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Stephen Mark Elmore, known to me (or satisfactorily proven) to be the Grantor(s) whose name(s) is subscribed to the within Deed of Easement and acknowledged that he executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

Sharon L. Cremen
Notary Public

SHARON L. CREMEN NOTARY PUBLIC Baltimore Co MD

My Commission Expires: 4/1/00

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STATE OF MARYLAND, COUNTY OF Baltimore, To Wit:

I HEREBY CERTIFY that, on this 2nd day of January, 1997 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Helen Norman Elmore, known to me (or satisfactorily proven) to be the Grantor(s) whose name(s) is subscribed to the within Deed of Easement and acknowledged that she executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

Sharon E. Cremen
Notary Public

SHARON E. CREMEN NOTARY PUBLIC Baltimore Co., MD

My Commission Expires: 4/1/00

STATE OF MARYLAND, COUNTY OF _____, To Wit:

I HEREBY CERTIFY that, on this 2nd day of January, 1997 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared John S. Nacincik, known to me (or satisfactorily proven) to be a Mortgagee whose name (s) is subscribed to the within Deed of Easement and acknowledged that he executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

Sharon E. Cremen
Notary Public

My Commission Expires: 4/1/00

STATE OF MARYLAND, COUNTY OF Baltimore, To Wit:

I HEREBY CERTIFY that, on this 2nd day of January, 1997 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Dixie B. Nacincik, known to me (or satisfactorily proven) to be a Mortgagee whose name (s) is subscribed to the within Deed of Easement and acknowledged that she executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

Sharon E. Cremen
Notary Public

SHARON E. CREMEN NOTARY PUBLIC Baltimore Co., MD

My Commission Expires: 4/1/00

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THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned Maryland Attorney or by a party to this instrument.

Robert S. Abrahams, Attorney-at-Law

elmore:AgEsm.

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"Exhibit A"

BEING KNOWN AND DESIGNATED and beginning for the same at a hickory tree, a corner of the land now being described, of the land now or formerly belonging to Mrs. John Sterling, of the land now or formerly belonging to John Sterling, Esq., and the land now or formerly belonging to D.D. Waters, and running thence south 57 1/2 degrees East 12 perches to a stone on the west side of the York Road; South 70 1/2 degrees East 28 perches to a stone in the York Road; South 44 degrees East 8 perches to a stone in the York Road; South 13 1/2 degrees East 36 perches to a stone in the York Road; South 61 degrees West 58 perches to a stone in the meadow; South 64 1/2 degrees East 5 perches to a stone; South 23 1/2 degrees West 87 perches to a stone; North 68 1/2 degrees West 13 1/2 perches to a stone; South 36 degrees West 84 perches to a stone; North 46 1/2 degrees West 99 1/4 perches to a stone; North 31 degrees East 83 perches to a white oak tree; North 4 1/4 degrees East 8 perches to a white oak tree; North 85 degrees East 38 3/10 perches to a stone and North 46 1/4 degrees East 111 7/10 perches to the place of beginning. Containing 132 acres and 113 square perches of land, more or less.

Being the same lands which by deed dated June 21, 1994 and recorded among the Land Records of Baltimore County in Liber S.M. No. 10605 Folio 131 were granted and conveyed by John S. Nacinclk and Dbde B. Nacinclk, his wife unto Stephen Mark Elmore and Helen Norman Elmore, his wife.

SAVING AND EXCEPTING therefrom, however, all that lot or parcel of land which by Deed dated March 17, 1954 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2472, folio 288, etc., was granted and conveyed by Grandison Almoney unto Malcolm F. Wiley, et al., is therein described as follows:

BEING KNOWN AND DESIGNATED and beginning for the same at the beginning of the parcel of land secondly described in a Deed dated September 1, 1894 and recorded among the Land Records of Baltimore County in Liber L.M.B. No. 215, folio 362, was conveyed by Thomas J. Hunter, Trustees, et al., to James R. Almoney, said place of beginning also being at the beginning of the tenth line of a parcel of land which by a Deed dated July 29, 1925 and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 613, folio 429, was conveyed by Charles E. Gulder, Executor, to Grandison Almoney, and running thence with and binding on a part of the tenth line of the herein last mentioned parcel of land, North 46 1/2 degrees West 10 8/10 perches to a point on the southeast side of a County Road and to the beginning of the fifth line of the aforesaid secondly described parcel of land in the aforesaid Deed from Hunter to Almoney; thence running with and binding on said fifth line, North 40 1/2 degrees East 40 perches to a point on the southeast side of County Road; thence leaving said County Road and running with and binding on the sixth line of said parcel of land, South 71 3/4 degrees East 9 perches to intersect the ninth line of the aforesaid parcel of land which was conveyed by Gulder to Almoney; and thence running and binding on a part of said ninth line and on the seventh line of the aforesaid parcel of land which was conveyed by Hunter to Almoney, South 37 1/2 degrees West 44 perches to the place of beginning. Containing 2 acres and 83 square perches of land, more or less. York Road as referred to in above description is now known as Old York Road.

SAVING AND EXCEPTING all that parcel of ground which by an Agreed Inquisition dated August 25, 1994 and recorded among the Land Records of Baltimore County in Liber 10734, folio 136 and also recorded in the Circuit Court for Baltimore County in Case No. 91CG864, State Roads Commission v. John S. Nacinclk, et al., and more particularly described as:

BEING KNOWN AND DESIGNATED as all that property consisting of 3.139 acres, more or less, as lying between the lines marked "Right of Way Line" as shown on Plat Nos. 52297 (Rev. 2/26/90) and 52298 (Rev. 2/26/90) which is being taken in fee simple; 0.702 of an acre, more or less, as shown on Plat Nos. 52297 (Rev. 2/26/90) and 52298 (Rev. 2/26/90) for revertible easements for supporting slopes; and 0.268 of an acre, more or less, as shown on Plat Nos. 52297 (Rev. 2/26/90) and 52298 (Rev. 2/26/90) for revertible easements for special purposes; i.e., highway construction. The aforesaid Plats previously having been filed with the Circuit Court for Baltimore County.

BEING a portion of the same lot of ground which by Deed dated June 21, 1994 and recorded among the Land Records of Baltimore County in Liber 10605, folio 131, was granted and conveyed by John S. Nacinclk and Dbde B. Nacinclk unto Stephen Mark Elmore and Helen N. Elmore.

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0012586 218

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: BALTIMORE

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

IMP FD SURC $ 5.00
RECORDING FEE 75.00
TOTAL 80.00
Rcpt # 27573
Blk # 71
Jan 05, 1998 03:23 PM

1 Type(s) of Instruments (☐ Check Box if Addendum Intake Form is Attached.)

☐ Deed	☐ Mortgage	☒ Other DEED OF EASEMENT	☐ Other	
☐ Deed of Trust	☐ Lease			

2 Conveyance Type Check Box

☐ Improved Sale Arms-Length [1]	☐ Unimproved Sale Arms-Length [2]	☐ Multiple Accounts Arms-Length [3]	☐ Not an Arms-Length Sale [9]

3 Tax Exemptions (If Applicable) Cite or Explain Authority

Recordation	
State Transfer	To Gov't.
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 350,000.00	Transfer Tax Consideration	$
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
		X ( ) per $500 =	$
Full Cash Value	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 75.00	$
Surcharge	$ 5.00	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
Other	$	$

Agent:
Tax Bill:
C.B. Credit:
Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/Alt(3c)	Plat Ref.	SqFt/Acreage (4)
					13.2 AC+

Location/Address of Property Being Conveyed (2)

Other Property Identifiers (if applicable) | Water Meter Account No.

Residential ☐ or Non-Residential ☐ | Fee Simple ☐ or Ground Rent ☐ | Amount:

Partial Conveyance? ☒ Yes ☐ No | Description/Amt. of SqFt/Acreage Transferred: 13.24C + 113 Sq. perches

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
STEPHEN MARK EIMORE HELEN NORMAN EIMORE	
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 - Owner(s) of Record, if Different from Grantor(s)**
JOHN S. NACINCIK & DIXIE B. NACINCIK	

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
STATE OF MD. DEPARTMENT OF AGRICULTURE	

New Owner's (Grantee) Mailing Address

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: SHARON CREMEN
Firm: ALL MARYLAND TITLE CO.
Address: 400 W. PENNSYLVANIA AVE
TOWSON, MD 21204 Phone: (410) 825-0110

☒ Return to Contact Person
☐ Hold for Pickup
☒ Return Address Provided

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence?
☐ Yes ☒ No Does transfer include personal property? If yes, identify:
☐ Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

TRANSFER TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY MARYLAND
By: [signature]
Date: 1-5-98 Sec. 13-207 A
Authorized Signature

Assessment Use Only - Do Not Write Below This Line

☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Trans. Process Verification

Transfer Number: Date Received: Deed References: Assessed Property No.

Year	19	19	Geo.	Map	Sub	Block	
Land			Zoning	Grid	Plat	Lot	
Buildings			Use	Parcel	Section	Occ. Cd.	
Total			Town Cd.	Ex. St.	Ex. Cd.		

REMARKS:

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Distribution: White - Clerk's Office
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (6/95)

193701

LIBER 7437 PAGE 369

Ret 10B

DGS File No. 03-05-81-08

THIS DEED OF EASEMENT

made this 12 day of DEC., 1986, by and between JOHN S. NACINCIK and DIXIE B. NACINICK, his wife, "GRANTORS"; ROYSTON SCHULTE ~~and LILLIAN M. SCHULTE~~, "MORTGAGEES" ; and the STATE OF MARYLAND, to the use of the Maryland Agricultural Land Preservation Foundation of the Department of Agriculture, "GRANTEE", and containing covenants intended to be ~~CONF~~ F 36.00
AGRMT 0 00
SH CLERK 36.00
A72032 C002 R02 T14:48
03/09/87
covenants running with the land,

WITNESSETH:

WHEREAS, Title 2 of Subtitle 5 of the Agriculture Article, Maryland Annotated Code, created the Maryland Agricultural Land Preservation Foundation for the purpose of preserving agricultural land and woodland; and

WHEREAS, by authority of Agricultural Article, Section 2-504(3), Maryland Annotated Code, the Grantee may purchase agricultural preservation easements to restrict land to agricultural use; and

WHEREAS, the Grantors own the hereinafter described tract or parcel of land located in an agricultural preservation district established pursuant to Agricultural Article Section 2-509, Maryland Annotated Code, and desire to sell an agricultural preservation easement to the Grantee to restrict the land to agricultural use.

NOW, THEREFORE, in consideration of the sum of ONE HUNDRED FIFTY-FOUR THOUSAND DOLLARS ($154,000.00) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantors for themselves , their heirs, personal representatives and assigns, does grant and convey, to the State of Maryland, for the use of the Grantee, its successors and assigns, an agricultural preservation easement in, on and over the hereinafter described tract or parcel of land, subject to the covenants, conditions, limitations and restrictions hereinafter set forth, so as to constitute an equitable servitude thereon, that is to say:

ALL that certain tract or parcel of land situate, lying and being in Election District 5, Baltimore County, Maryland and more particularly described as follows:

STATE DEPARTMENT OF ASSESSMENTS & TAXATION

CLERK 12-18-86 DATE

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per [signature]
Authorized Signature
Date 12/17/86 Sec. 11-85 A

SIGNATURE [signature] DATE 12-12-86

RET 10B

BEGINNING for the first at a stone set up at the end of the fifth line of Lot No. 2 (as designated by Benjamin Almony in the division of his real estate) and running thence South 23 1/2 degrees East 7-8/10 perches to a stone, North 55 degrees West 6-6/10 perches, South 42 degrees West 84 perches, South 48-3/4 degrees East 2-8/10 perches to a stone, South 43 1/2 degrees West 52 perches, South 35 degrees East 158 perches, to a stone, North 69 degrees East 110 perches to a hickory tree, then by lot 2 aforesaid reversely, North 26-3/4 degrees West 61 perches to a stone, North 23 1/2 degrees West 7-8/10 perches to a stone, North 26-3/4 degrees West 149 perches to the place of beginning. Containing (147-3/4) one hundred and forty-seven and three-fourths acres of land, more or less.

ALSO A ROAD OR RIGHT OF WAY, BEGINNING at a stone at the end of the eighth line of the above described lot and running thence South 85 degrees East 12 perches, North 73 degrees East 16 perches, North 75 degrees East 16 perches, North 71 degrees East 8 perches, North 53 degrees East 12 perches, North 58 degrees East 55 perches to the public road and from the end of 52 perches on the last line, South 35 degrees East 14 perches to said road to be on the North side of said lines, and for width, 1 1/2 perches.

EXCEPTING thereout the graveyard on said lot, which begins at a stone set up at the Northwest corner of said lot and about 10 perches east of the end of the fifty line of the lot now conveyed, thence South 40 degrees East 10 perches to a stone, North 50 degrees East 8 perches to a stone, North 40 degrees West 10 perches to a stone, South 50 degrees West 8 perches to the place of beginning, for half an acre of land.

BEGINNING for the second at the end of the South 42 degrees West 84 perches line of the land which by a deed dated October 27, 1874 and recorded among the Land Records of Baltimore County in Liber J.B. No. 89, folio 228, etc., was conveyed by Benjamin Almony to Ann Almony, and running thence bounding on said land two courses and distances as now run South 46-1/4 degrees East 2-8/10 perches and South 46-3/4 degrees West 53-6/10 perches, to Albert J. B. Almony's land, thence bounding on said North 34 degrees West 19-1/4 perches to the county road, thence North 52 degrees East 49-6/10 perches to a point on the Southeast side of said road, North 40 1/2 degrees East 40 perches to a point on the Southeast side of said road, thence South 71-3/4 degrees East 9 perches to intersect the aforesaid South 42 degrees West 84 perches line of the land conveyed as hereinbefore recited from Almony to Almony, and thence bounding on part of said line, as now run, South 37 1/2 degrees West 44 perches to the place of beginning. Containing seven and three-quarter (7-3/4) acres of land, more or less.

The net acreage intended to be conveyed by this instrument totals 155.50 acres more or less.

BEING the same property conveyed to the within named Grantors from Royston J. Schlute and Lillian M. Schulte by deed dated November 2, 1973 and recorded among the Land Records of Baltimore County, Maryland in Liber 5406, folio 829.

AND the Grantors covenant for and on the behalf of themselves, their heirs, personal representatives, successors and assigns, with the Grantee, its successors and assigns, to do and refrain from doing upon the

A CIRCUIT COURT (Land Records) [MSA CE 62-7292] SM 7437, p. 0370. Printed 08/29/2007. Online 06/30/2005.

above described land all and any of the various acts set forth, it being the intention of the parties that the said land shall be preserved solely for agricultural use in accordance with the provisions of Agriculture Article, Title 2, Subtitle 5, Maryland Annotated Code, and that the covenants, conditions, limitations and restrictions hereinafter set forth, are intended to limit the use of the above described land and are to be deemed and construed as real covenants running with the land.

COVENANTS, CONDITIONS, LIMITATIONS AND RESTRICTIONS

A. Subject to the reservations hereinafter contained, the Grantors covenant, grant, and relinquish the following rights:

(1) (a) The right to develop or subdivide the above described land for industrial, commercial, or residential use or purpose; provided, however, the Grantors reserve as a personal covenant only and one not intended to run with the land, the right to convey one acre or less upon written application to the Grantee, to themselves or to each of their children for the purpose of constructing a dwelling for his or that child's personal use; however, the Grantors may not convey more than 1 acre or less at a maximum density of not more than 1 acre for each 20 acres or portion thereof, not to exceed 10 lots of one acre or less, on the land herein described; the Grantors shall pay the Grantee for the release of the easement or for the benefit of conveying, free of the easement restrictions at the price per acre that the Grantee paid the Grantors for the grant of easement; and the further right to construct, subject to the approval of the Grantee, houses for tenants fully engaged in the operation of the farm provided such construction does not exceed one tenant house for each 100 acres. The land on which a tenant house is constructed may not be subdivided or conveyed to any persons. In addition, the tenant house may not be conveyed separately from the original parcel. The Grantors shall notify the Grantee if the land is subdivided to permit the Grantee to determine whether such subdivision violates any of the covenants.

CIRCUIT COURT (Land Records) [MSA CE 62-7292] SM 7437, p. 0371, Printed 08/29/2007, Online 06/30/2005.

conditions, limitations or restrictions contained herein;

(b) The right to subdivide the above described land for any purpose except upon written approval of the Grantee;

(c) The right to transfer any and all development rights from the above-described parcel to other areas, or to other persons, or to other entities, or to political subdivisions.

(d) Before any conveyance is made pursuant to paragraph (1)(a) above, Grantors shall agree with the Grantee not to subdivide any land conveyed. This agreement shall be recorded among the land records where the land is located and shall bind all future owners; and

(e) On request to the Grantee, the Grantors may exclude from the easement restrictions 1 acre per each single dwelling, which existed at the time of the sale of the easements by a land survey and recordation provided at the expense of the owner. However, before any exclusion is granted, the Grantors shall agree with the Grantee not to subdivide each acre excluded. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(2) The right to erect, display, place or maintain signs, billboards, or outdoor advertising displays on the land herein described; provided, however, the Grantors reserve the right to erect signs not exceeding 4 feet X 4 feet for each of the following purposes:

(a) To state the name of the property and the name and address of the occupant;

(b) To advertise any home or ancillary occupation consistent with the purposes of this easement subject to the approval of the Grantee; and

(c) To advertise the property's sale or rental.

(3) The right to dump ashes, sawdust, bark, trash, rubbish or any other material; provided, however, the Grantors reserve the right to dump any material which is for regular agricultural use.

The Grantors reserve the right to use the above described land

for any farm use, and to carry on all normal farming practices, including the operation at any time of any machinery used in farm production or the primary processing of any agricultural products; the right to conduct upon the said land any agricultural operation which is in accordance with good husbandry practices and which does not cause bodily injury or directly endanger human health, including any operation directly relating to the processing, storage, or sale of farm, agricultural or woodland products produced on the said above described land; and all other rights and privileges not hereby relinquished, including their right of privacy.

B. And the parties, for themselves, their heirs, personal representatives, successors and assigns, further covenant and agree as follows:

(1) The Grantors shall manage the above described land in accordance with sound agricultural soil and water conservation practices so as to promote the agricultural capability of the land; and shall manage any woodland in accordance with sound forestry practices; however, the Grantors reserve the right to selectively cut or clear cut from time to time trees which will not alter the agricultural character of the land or diminish its productive capability.

(2) The Grantors shall implement all soil conservation and water quality practices that are contained within a soil conservation plan approved by the local soil conservation district, made or revised within the last ten years of the date of the application to sell an easement, which lists all soil conservation and water quality problem areas on the land. The plan shall be implemented according to the schedule of implementation contained within the plan which exists at the time of easement settlement. Revisions to the schedule of implementation may be made as approved by the Board of Supervisors of the local soil conservation district, however, the plan shall be fully implemented within ten years of the easement settlement date. Exceptions may be considered by

CIRCUIT COURT (Land Records) [MSA_CE 62-7292] SM 7437, p. 0373. Printed 08/29/2017 Online 08/30/2005.

the Grantee on a case by case basis.

(3) The Grantee or its authorized representative shall have the right to enter on the above described land from time to time for the sole purposes of inspection and enforcement of the easement, covenants, conditions, limitations and restrictions herein contained; provided, however, that the Grantee shall have no right to inspect the interior of any structures on the above described land.

(4) That if the easement or any covenant, condition, limitation or restrictions herein contained is violated or breached, the Grantee may after due notice to the Grantors, their heirs, personal representatives, successors or assigns, institute an action in equity to enjoin, by ex parte, temporary or permanent injunction, such violation or breach; to require the restoration of the above described land to its condition prior to such violation or breach; to recover damages; and to take such other legal action as may be necessary to insure compliance with the easement and the covenants, conditions, limitations and restrictions herein contained.

(5) If the Grantors have any doubt concerning the easement, covenants, conditions, limitations or restrictions herein contained with respect to any particular use of the said land, he may submit a written request to the Grantee for consideration and approval of such use.

(6) That this easement does not grant the public any right of access or any right of use of the above described land.

(7) That nothing herein contained shall relieve the Grantors, their heirs, personal representatives, successors or assigns of the obligation to pay real estate taxes.

(8) That this easement shall be in perpetuity, or for so long as profitable farming is feasible on the Grantors' land and may be released only by the Grantee as provided by Agricultural Article Section 2-514, Md. Ann. Code.

AND the Grantors further covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property interest hereby conveyed; and that they will execute such further assurances of the same as may be required.

ROYSTON SCHULTE, Surviving Mortgagee, hereby joins in the execution of this Deed of Easement for the sole purpose of agreeing to subordinate to this Deed of Easement, his lien of Mortgage from John S. Nacincik and Dixie B. Nacincik, his wife dated November 2, 1973 in Liber 5406, folio 831.

AS WITNESS the hands and seals of the Grantors and Mortgagee.

WITNESS:

JOHN S. NACINCIK, Grantor (SEAL)

DIXIE B. NACINCIK, Grantor (SEAL)

ROYSTON SCHULTE, Mortgagee (SEAL)

STATE OF MARYLAND, COUNTY OF [illegible], To Wit:

I HEREBY CERTIFY that, on this 12 day of [illegible], 1986, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared JOHN S. NACINCIK and DIXIE B. NACINCIK, his wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Deed of Easement and acknowledged that they executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

STATE OF MARYLAND, COUNTY OF [illegible] TO WIT:

I HEREBY CERTIFY that, on this 12 day of [illegible], 1986, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared ROYSTON J. SCHULTE ~~and LILIAN M. SCHULTE,~~ known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Deed of Easement and acknowledged that they executed the same for the purposes therein contained and in my presence signed and sealed the same.

CIRCUIT COURT (Land Records) [MSA CE 62-7292] SM 7437, p. 0375. Printed 08/29/2007. Online 06/30/2005

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: July 1, 1990

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

LISA PASCHAL SNYDER, Attorney-at-Law

Return to
E.A.D., Jr.
MONUMENTAL TITLE CORPORATION
MONUMENTAL TITLE BUILDING
SEVERNA PARK, MARYLAND 21146

CASE No. 06-551-SPHA 6/21/07

PEOPLES' COUNSEL EXHIBITS

Marked

✓✓ 1. PLAT 1 (SAME AS PET. NO 4 WITHOUT TYPO).

✓✓ 2. DEPT. OF ASSESS. & TAX REPORT ON THE PROPERTY

✓✓ 3. BALTIMORE COUNTY CODE - SEC 22-85 1978

✓✓ 4. NOTTINGHAM TITLE MASTER PLAT - 1974.

✓ 5. LETTER DATED 6/7/06 INTEROFFICE

✓ 6. MAP SHOWING GARLETT RD.

✓ 7. AERIAL PHOTO OF LORENZ PROPERTY

✓ 8. MAP 01323 WITH LOCATIONS OF LORENZ LOT IN BLUE

✓ 9. SOIL SURVEY OF THE AREA.

✓ 10. MASTER PLAN 2010

✓ 11. RESOURCE CONSERVATION ZONES.

✓ 12. PANHANDLE DRIVEWAY REGS

✓ 13. BLACK'S LAW DICTIONARY EXCERPT.

✓ 14. SLOPE PROTECTION AND SOILS REGS. 32-4-415

✓ 15. MAP OF AGRICULTURAL EASEMENTS Q.A.G.C. 5/2007

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 07 **Account Number** - 1700000302

Owner Information

Owner Name: LORENZ PATSY
Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 2816 GARRETT RD
WHITE HALL MD 21161-9738
Deed Reference: 1) /21433/ 267
2)

Location & Structure Information

Premises Address
2816 GARRETT RD

Legal Description
6.9 AC NS GARRETT RO
2816 GARRETT RD
NOTTINGHAMSHIRE FARMS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	1
13	22	50					19	2	Plat Ref:	38/ 8

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1976	2,276 SF	6.90 AC	04

Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value As Of 01/01/2005	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	72,270	144,550		
Improvements:	131,070	177,700		
Total:	203,340	322,250	242,976	282,612
Preferential Land:	0	0	0	0

Transfer Information

Seller:	LORENZ ALFRED J,JR	**Date:**	02/16/2005	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/21433/ 267	**Deed2:**	
Seller:	LORENZ ALFRED L,JR	**Date:**	10/15/1992	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 9410/ 361	**Deed2:**	
Seller:	MANOR LAND ASSOC IATES	**Date:**	11/01/1974	**Price:**	$14,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 5487/ 764	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

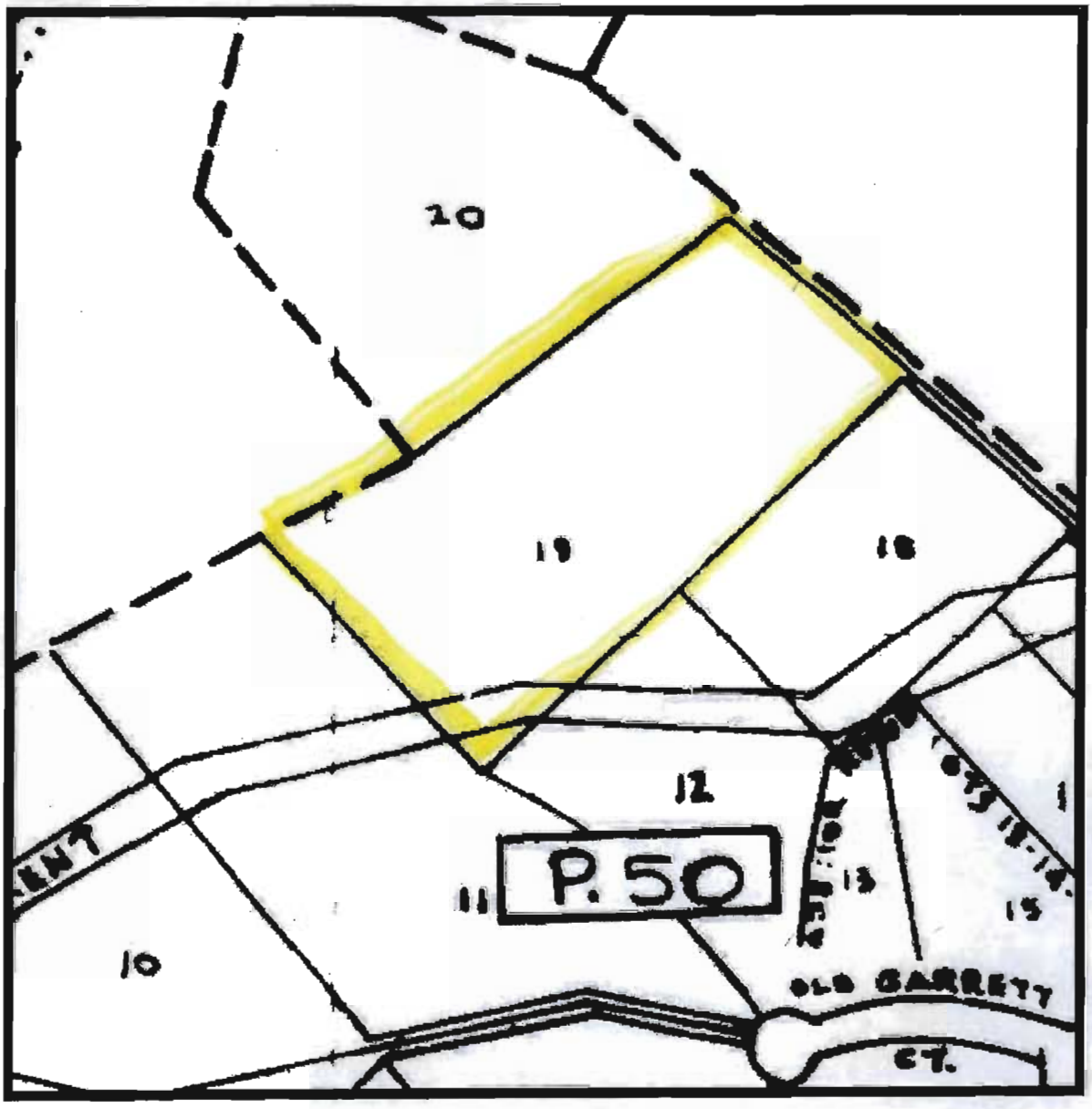
Special Tax Recapture:
* NONE *

PEOPLE'S EXH. NO. 2

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 07 **Account Number** - 1700000302



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

BALTIMORE COUNTY CODE 1978

MAY 17 1990
PEOPLE'S COUNSEL

1988/89 CUMULATIVE SUPPLEMENT

Containing all additions and amendments to the Baltimore County Code, 1978, through the 1989 Session of the Baltimore County Council, Bill No. 149-89

MUNICIPAL CODE CORPORATION

Tallahassee, Florida 1990

PEOPLES' COUNSEL EXH. NO. 3

(4) Increase the suitability of the design or construction to the terrain, soil, surface drainage, groundwater, or anticipated traffic load or speed.

In addition, the county may require the provision of turning lanes and traffic signals as necessary at heavily traveled intersections or impose other special requirements for street design or arrangement as may be necessary to minimize the total number of intersections or to minimize four-way intersections, oblique intersections, intersections on curves, or large corner radii. No proposed street may be designed so as to intersect at grade with any railroad, except sidings. (Bill No. 56, 1982, § 2)

Sec. 22-83. Parking, signs, benches and transit facilities.

(a) Parking required under provisions of the zoning regulations and the Maryland Building Code for the Handicapped must be located and designed so as not to interfere with vehicular or pedestrian traffic and so as to be convenient to the principal entrance of buildings. Parking areas may be required to be dispersed on the site so that each is relatively small.

(b) Signposts must be unobtrusive and the total number of signs minimized. In particular, informational signs must not be placed or be of such a number or design as to distract drivers' attention from traffic-control signs or devices.

(c) Benches or other outdoor furniture may be required to be grouped and be of "break-away" designs. Street lighting must be of types and sizes both adequate for safety and appropriate to the vicinity.

(d) Transit facilities such as bus turnouts may be required for sites to be served by public transit. (Bill No. 56, 1982, § 2)

Sec. 22-84. Pedestrian and bicycle paths.

The manual adopted pursuant to section 22-105(b)(4) may provide for the design and location of pedestrian and bicycle paths. (Bill No. 56, 1982, § 2)

Sec. 22-85. Panhandle driveways.

The use of panhandle lots may be permitted where such lots would not be detrimental to adjacent properties and would be

in the interests of the
driveway may be perm
Where a panhandle lot
access for emergency-s
the intersection of the
trash collection, mail d
ing served by the drive
maintenance and use
any plat showing a pa
recorded with the plat,

Sec. 22-86. Water su

For tracts to be serv
volume and pressure r
building on the tract; a
numbers and at approp
(Bill No. 56, 1982, §2)

Sec. 22-87. Sewerage

Proposed public or pr
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plies. (Bill No. 56, 1982

Sec. 22-88. Drainage

Proposed drainage fa
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Sec. 22-89. Other util

Easements for cable
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No. 56, 1982, § 2)

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on 22-105(b)(4) may pro-
trian and bicycle paths.

mitted where such lots
roperties and would be

in the interests of the prospective users. No single panhandle driveway may be permitted to serve more than five (5) dwellings. Where a panhandle lot is proposed, each lot must have adequate access for emergency-service vehicles. Provision must be made at the intersection of the panhandle driveway and the street for trash collection, mail delivery, and identification for each dwelling served by the driveway. Appropriate agreements for common maintenance and use of the panhandle must be submitted with any plat showing a panhandle lot, and the agreements must be recorded with the plat, upon approval. (Bill No. 56, 1982, § 2)

Sec. 22-86. Water supply.

For tracts to be served by public water-supply facilities, water volume and pressure must be adequate to extinguish fires in any building on the tract; and hydrants must be provided in sufficient numbers and at appropriate locations to serve fire-fighting needs. (Bill No. 56, 1982, §2)

Sec. 22-87. Sewerage.

Proposed public or private sewerage facilities must be designed and located to function safely and without danger of contaminating groundwater, surface water, or public or private water supplies. (Bill No. 56, 1982, § 2)

Sec. 22-88. Drainage.

Proposed drainage facilities must be adequate to accommodate the amount of run-off that would be generated by the proposed development and from the entire upstream area, if the area were fully developed in accordance with the zoning regulations in effect at the time of design or construction. (Bill No. 56, 1982, § 2)

Sec. 22-89. Other utilities.

Easements for cable TV and other municipal and public utilities may be required where necessary to ensure adequate service to the prospective occupants or users of the proposed development. (Bill No. 56, 1982, § 2)

6/20

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUN 0 [illegible] 2006

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 7, 2006

SUBJECT: Zoning Item # 06-551-SPHA
Address 2816 Garrett Road
(Lorenz Property)

Zoning Advisory Committee Meeting of May 8, 2006

__X__ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

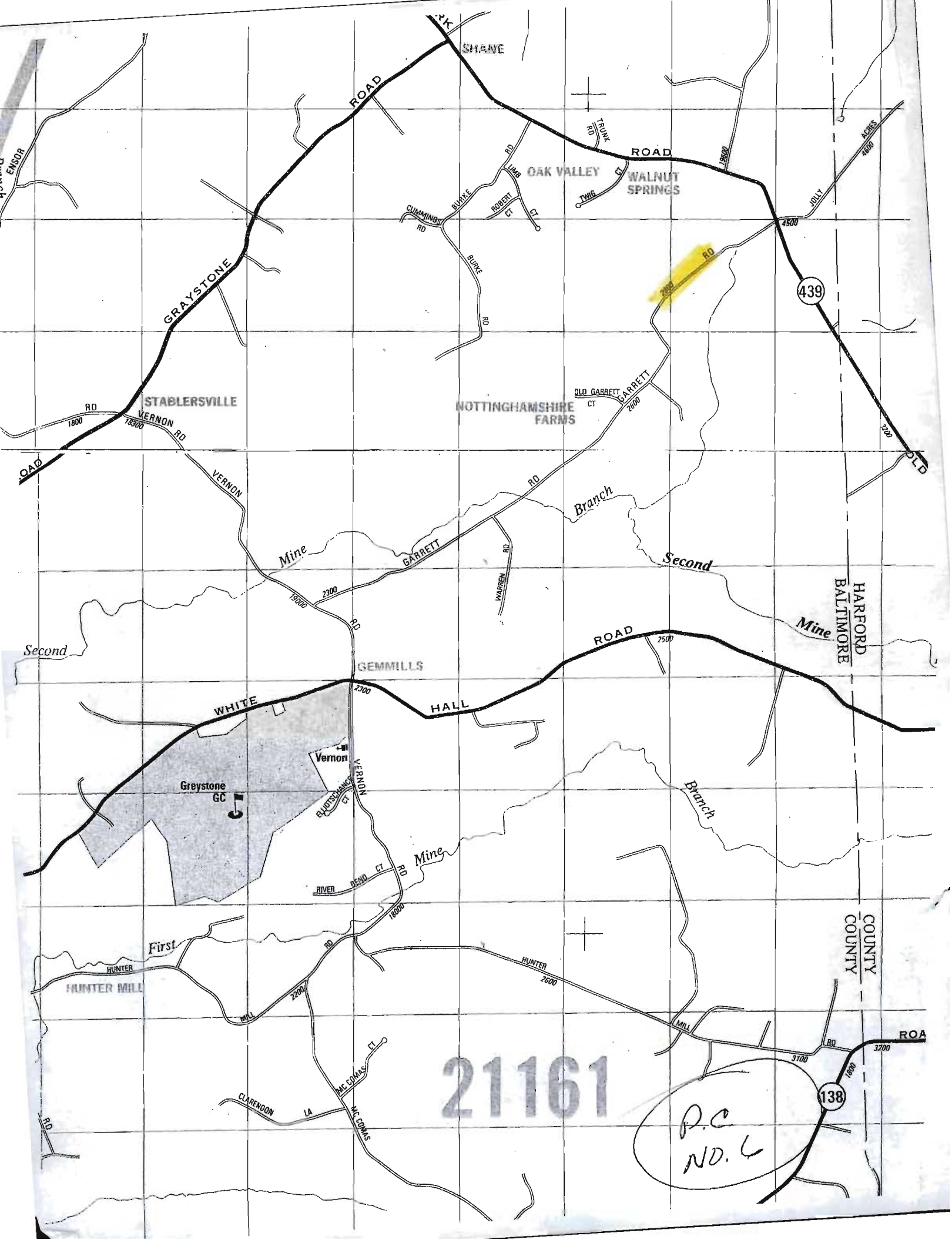
Agricultural Preservation:

Do not approve. The granting of this will conflict with the County's efforts to preserve and foster agricultural land. The new lot that would result from this request will be immediately adjacent to an agricultural easement and active farm. This conflicts with the purpose of the zone and is detrimental to the public purpose of fostering agricultural resources.

P.C. No. 5

Reviewer: P. Dennis; W.S. Lippincott Date: June 6, 2006

S:\Devcoord\ZAC 06-551-SPHA.doc


SHANE
ROAD
GRAYSTONE
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TRUNK RD
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19600
ACRES
4600
OAK VALLEY
WALNUT SPRINGS
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DWIG
LIMB
RD
CUMMINS
RD
BURKE
ROBERT
CT
CT
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JOLLY
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439
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2800
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VERNON
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FARMS
RD
Branch
Mine
GARRETT
RD
WARREN
RD
Second
Mine
HARFORD
BALTIMORE
Second
19000
2300
RD
GEMMILLS
ROAD
2500
WHITE
HALL
2300
Vernon
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Greystone
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ELLICOTT
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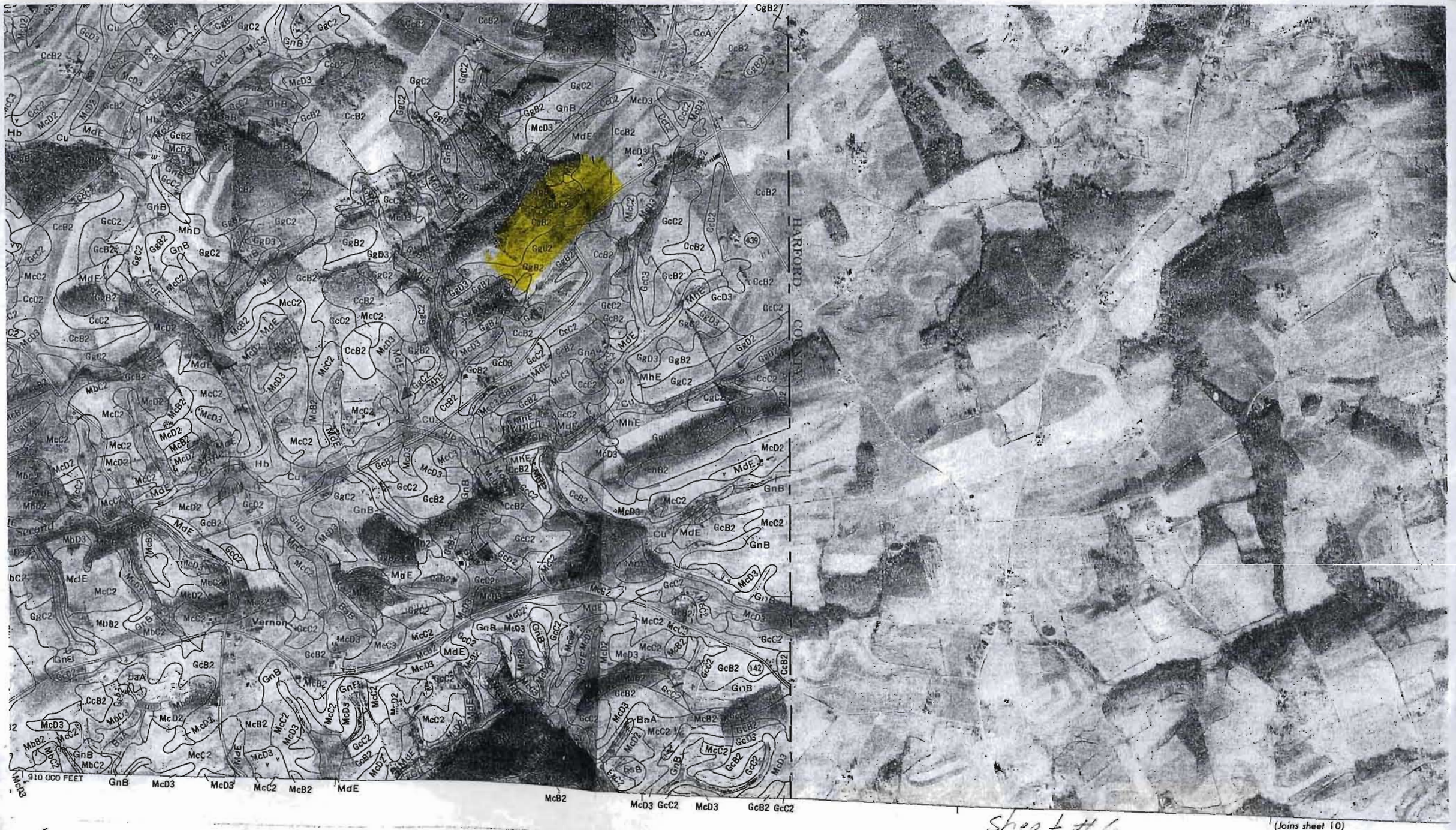
SOIL SURVEY

Baltimore County Maryland

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720-2791. To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C., 20250, or call (202) 720-7327 (Voice) or (202) 720-1127 (TDD). USDA is an equal employment opportunity employer.

UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service
In cooperation with
MARYLAND AGRICULTURAL EXPERIMENT STATION

P.C.
No. 9



Sheet #6
Soil Survey

2 and 3 and chroma of 1 are limited to undisturbed A1 horizons less than 6 inches thick.

The B horizon is mostly 7.5YR in hue but ranges to 5YR in places. The value ranges from 4 to 6 and the chroma from 4 to 8. Texture of the B horizon generally is loamy sand, but the horizon is sand in places. In some profiles a transitional B3 horizon is between the B2t and C horizons.

The C horizon generally is yellower and has higher values and lower chromas than the B horizon. Thus the C horizon described in the representative profile is somewhat redder than generally is typical for the series. The thin bands of loamy sand described in the C horizon are genetically similar to material in the B horizon. In many profiles these bands are lacking.

The solum ranges from about 27 to 40 inches in thickness. The profile generally is free of gravel, but in places the B and C horizons contain thin layers of ferruginous sandstone or ironstone.

Galestown soils do not closely resemble any other soils of Baltimore County. They are the only classified genetic soils in the county that are coarse textured throughout.

Galestown loamy sand, 0 to 5 percent slopes (GoB).—This soil has the profile described as representative of the series. Included in mapping are a few acres where finer material has been deposited on and mixed with the surface layer.

This soil is especially suited to early truck crops, but ought to have supplementary irrigation available. Because of low fertility and seasonal droughtiness, the choice of crops is restricted. This soil is seldom used for hay crops or pasture. Capability unit IIIs-1; woodland subclass 3s.

Galestown loamy sand, 5 to 10 percent slopes (GoC).—This soil is more droughty than Galestown loamy sand, 0 to 5 percent slopes, and the choice of crops is even more restricted. Included in mapping are a number of acres that have slopes of more than 10 percent. Some areas have lost the surface layer and even a part of the subsoil, probably by soil blowing.

Little of the soil is used for cultivated crops, and practically none of it is used for hay or pasture. The soil is better suited to early truck crops and orchards than to other uses. Capability unit IVs-1; woodland subclass 3s.

Glenelg Series

The Glenelg series consists of deep, well-drained, gently sloping to strongly sloping soils on uplands of the Piedmont Plateau. These soils formed in material that weathered in place mainly from such acid crystalline rocks as mica schist. They are the most extensive and important soils for farming in the county. The native vegetation is mixed hardwoods, mainly oaks. Large areas have been cleared.

In a representative profile the surface layer is dark yellowish-brown loam about 7 inches thick. The subsoil is about 18 inches thick. It is strong-brown light silty clay loam in the upper part and yellowish-red light clay loam in the lower part. This material is somewhat sticky and plastic when wet. Underlying the subsoil is banded yellowish-red, dark yellowish-brown, and yellowish-brown loam derived from disintegrated rock material overlying bedrock.

The Glenelg soils are strongly acid or very strongly acid and are fairly easy to work. In spring they warm soon enough for all normal farming operations. Permeability is moderate, and the available moisture capacity is moderate to high. These soils are used for practically all purposes. Slope and the hazard of erosion are the main limitations to use.

Representative profile of Glenelg loam, 3 to 8 percent slopes, moderately eroded, in a white pine plantation about 200 feet south of Beckleysville Road and three-fourths mile northeast of Beckleysville:

Ap—0 to 7 inches, dark yellowish-brown (10YR 4/4) loam; moderate, fine, granular structure; very friable, slightly sticky; many roots; very strongly acid; clear, smooth boundary.

B21—7 to 20 inches, strong-brown (7.5YR 5/6) light silty clay loam; weak, medium, subangular blocky structure; friable, slightly sticky and slightly plastic; common roots; distinct clay films; some mica flakes; strongly acid; clear, wavy boundary.

B3—20 to 25 inches, yellowish-red (5YR 4/6) light clay loam; weak, medium, subangular blocky structure; friable; slightly sticky and slightly plastic; common roots; few mica flakes and soft schist fragments; strongly acid; gradual, wavy boundary.

C—25 to 80 inches, banded yellowish-red (5YR 4/6) dark yellowish-brown (10YR 3/4), and yellowish-brown (10YR 5/8) loam; massive with inherent rock structure; soft, loose; a few roots in upper part; some soft schist fragments and angular quartzite gravel; strongly acid.

The A horizon generally is 10YR in hue, but in places it is 7.5YR; value ranges from 3 to 5 and chroma from 1 to 4. The lowest value and chroma are limited to A1 horizons less than 6 inches thick. The texture is loam or gravelly loam, and the silt content is nearly 50 percent.

In the Bt horizon the hue generally is 7.5YR, but in some places it is 10YR, and in others it ranges to 5YR. The value is 4 or 5, and the chroma ranges from 6 to 8. The Bt horizon is loam, silt loam, or silty clay loam that is 25 to 35 percent clay.

The C horizon generally is more than 3 feet thick, but it is thinner in places where the profile contains many coarse fragments. This horizon is always micaceous. It generally is variegated, but it lacks gray colors.

The solum ranges from about 18 to 30 inches in thickness. Depth to bedrock ranges from about 4 to 10 feet or more. The solum is as much as 20 percent gravel, which is mostly hard, white, angular quartzite. Vertical injections of quartzite, 4 to 10 inches thick, are at widely but irregularly spaced intervals in undisturbed parts of the solum and in the C horizon.

Glenelg soils are similar to Chester, Elsinboro, Edgemont, and Sassafras soils, but they are more micaceous than any of those soils. They have a finer textured B horizon than the closely associated Manor soils. Glenelg soils are similar to Hollinger soils, but they are more strongly acid.

Glenelg loam, 3 to 8 percent slopes, moderately eroded (GcB2).—This soil has the profile described as representative of the series. Included in mapping are a large number of small, nearly level soils and some widely scattered areas of soils that are severely eroded.

This soil is well suited to cultivated crops, pasture, and trees, and to most nonfarm uses. The hazard of further erosion is the chief limitation to use. The hazard of further erosion is slight in wooded areas. Capability unit IIe-4; woodland subclass 2o.

Glenelg loam, 8 to 15 percent slopes, moderately eroded (GcC2).—This soil is well suited to farming and to most other uses. The hazard of further erosion is severe in cultivated areas unless appropriate erosion-control measures are applied and maintained. Capability unit IIIe-4; woodland subclass 2o.

Glenelg loam, 8 to 15 percent slopes, severely eroded (GcC3).—This soil has a browner surface layer than that in the profile described as representative of the series

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The subsoil is exposed in many places, and it is thinner than that in less eroded Glenelg soils. Many gullies cut the areas, and the hazard of further erosion is severe. Cultivated crops ought to be grown only at infrequent intervals, and a protective cover of hay, pasture, or other plants should be kept on the soil. In addition other erosion control measures ought to be intensively applied and maintained. Capability unit IVe–3; woodland subclass 2o.

Glenelg loam, 15 to 25 percent slopes, moderately eroded (GcD2).—This soil has a thin surface layer. The subsoil is thinner and depth to bedrock is less than that in less sloping Glenelg soils.

Much of this soil has been kept in trees or under other protective cover. Further erosion is a very severe hazard if clean-tilled crops are grown. The soil is suited to pasture and trees, but cultivated crops can be grown only at infrequent intervals. A protective cover of vegetation should be kept on the soil most of the time. Capability unit IVe–3; woodland subclass 2r.

Glenelg loam, 15 to 25 percent slopes, severely eroded (GcD3).—This soil has lost most of its surface layer and much of its subsoil through erosion. Many gullies cut the areas. This soil is not suited to cultivated crops, but it is suited to hay, pasture, and trees. Some areas are suited to sodded orchards. Capability unit VIe–3; woodland subclass 2r.

Glenelg channery loam, 3 to 8 percent slopes, moderately eroded (GgB2).—The profile of this soil is similar to the one described as representative of the series, except that many flat fragments of mica schist as much as 6 inches long occur throughout the profile. These fragments make up 15 to 20 percent of the surface layer, and they generally are more abundant as depth increases. The fragments are abrasive to farm implements, but they help to retard soil loss through erosion. The profile also contains some hard quartzite gravel. Included in mapping are a few areas that are severely eroded.

The soil is suited to crops, pasture, and trees. The hazard of further erosion is moderate. Capability unit IIe–4; woodland subclass 2o.

Glenelg channery loam, 8 to 15 percent slopes, moderately eroded (GgC2).—This soil has more flat fragments of schist on the surface than the less sloping Glenelg channery loam. Included in mapping are some widely scattered areas that are severely eroded.

Under good management that includes measures for the control of further erosion, this soil is suited to cultivated crops, pasture, and trees. Capability unit IIIe–4; woodland subclass 2o.

Glenelg channery loam, 15 to 25 percent slopes, moderately eroded (GgD2).—This steep soil has enough flat rock fragments throughout the profile to retard soil loss. Most of the soil has been kept in trees, and areas that have been cleared have been well protected. This soil is suited to an occasional cultivated crop and to pasture and trees. Capability unit IVe–3; woodland subclass 2r.

Glenelg channery loam, 15 to 25 percent slopes, severely eroded (GgD3).—This soil has lost most of the fine material formerly in its surface layer and part of its subsoil through erosion. Many gullies cut the areas. The surface of the soil generally is covered by fragments of schist, and the gullies are at least partly filled by such fragments.

This soil is not suited to cultivated crops. It is suited to hay, pasture, trees, or sodded orchards. Capability unit VIe–3; woodland subclass 2r.

Glenelg-Urban land complex, 0 to 8 percent slopes (GlB).—This complex consists of soils of the Glenelg series, most of which have been cut, filled, graded, or otherwise disturbed for nonfarm uses. These soils are mostly on the Piedmont Plateau close to Baltimore or in other built-up areas.

Included with these soils in mapping are small areas that have a thicker subsoil than is typical of Glenelg soils. Also included are small areas where the subsoil is thinner than typical of Glenelg soils.

In about 50 percent of the area of this complex, the soils are relatively undisturbed. In about 30 percent of the complex, the soils have been covered by as much as 18 inches of fill material, or they have had as much as two-thirds of the original profile removed by grading or cutting. The remaining 20 percent of the complex is Urban land, where the soils have been covered by fill material to a depth of more than 18 inches, or most of the profile or all of it has been cut away. The fill material is variable, but it generally is from adjacent areas of Glenelg soils or related soils that have been cut or graded. Streets, sidewalks, and buildings make up a large part of the complex.

Internal drainage is good on this complex, except where it has been modified by man. The areas generally are good for foundations and footings, and they are satisfactory for basements and other excavations. The soil materials and most fill materials are suitable for lawns, ornamental shrubs, and other vegetation. In deeper cuts, the suitability of the soil materials for vegetation must be determined locally at each site. Capability unit and woodland subclass not assigned.

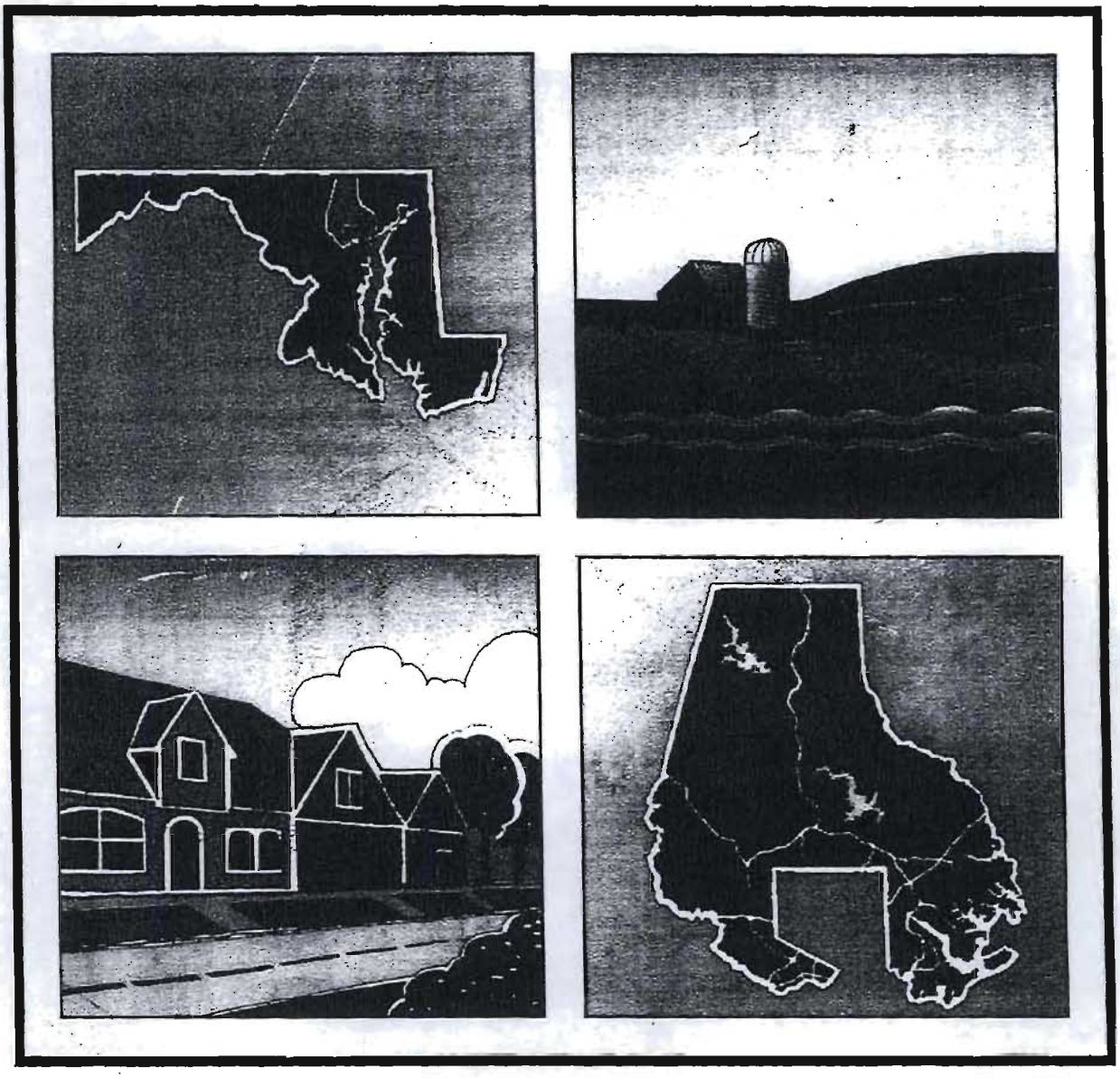
Glenelg-Urban land complex, 8 to 15 percent slopes (GlC).—This complex consists of moderately sloping Glenelg soils that have been used for residential or other nonfarm uses. Included in mapping are many areas where the subsoil is lighter in texture and more readily permeable than that of typical Glenelg soils.

In about 30 percent of the area of this complex, the soils are relatively undisturbed. In about 40 percent of the complex, the soils have been covered by as much as 18 inches of fill material, or they have had as much as two-thirds of the original profile removed by cutting or grading. The remaining 30 percent of the complex is Urban land, where the soils have been covered by fill material to a depth of more than 18 inches, or most of the profile or all of it has been graded away. The fill material is variable, but it generally is fram adjacent areas of Glenelg soils that have been cut or graded. Streets, sidewalks, and buildings make up part of the complex.

Internal drainage is good on this complex except where it has been modified by man. The areas generally are good for foundations and footings, and they are satisfactory for basements or other shallow excavations. The soil materials and most fill materials are fairly suitable for lawns, ornamental shrubs, and other vegetation. In deeper cuts, the suitability of the soil ma-

MASTER PLAN 2010

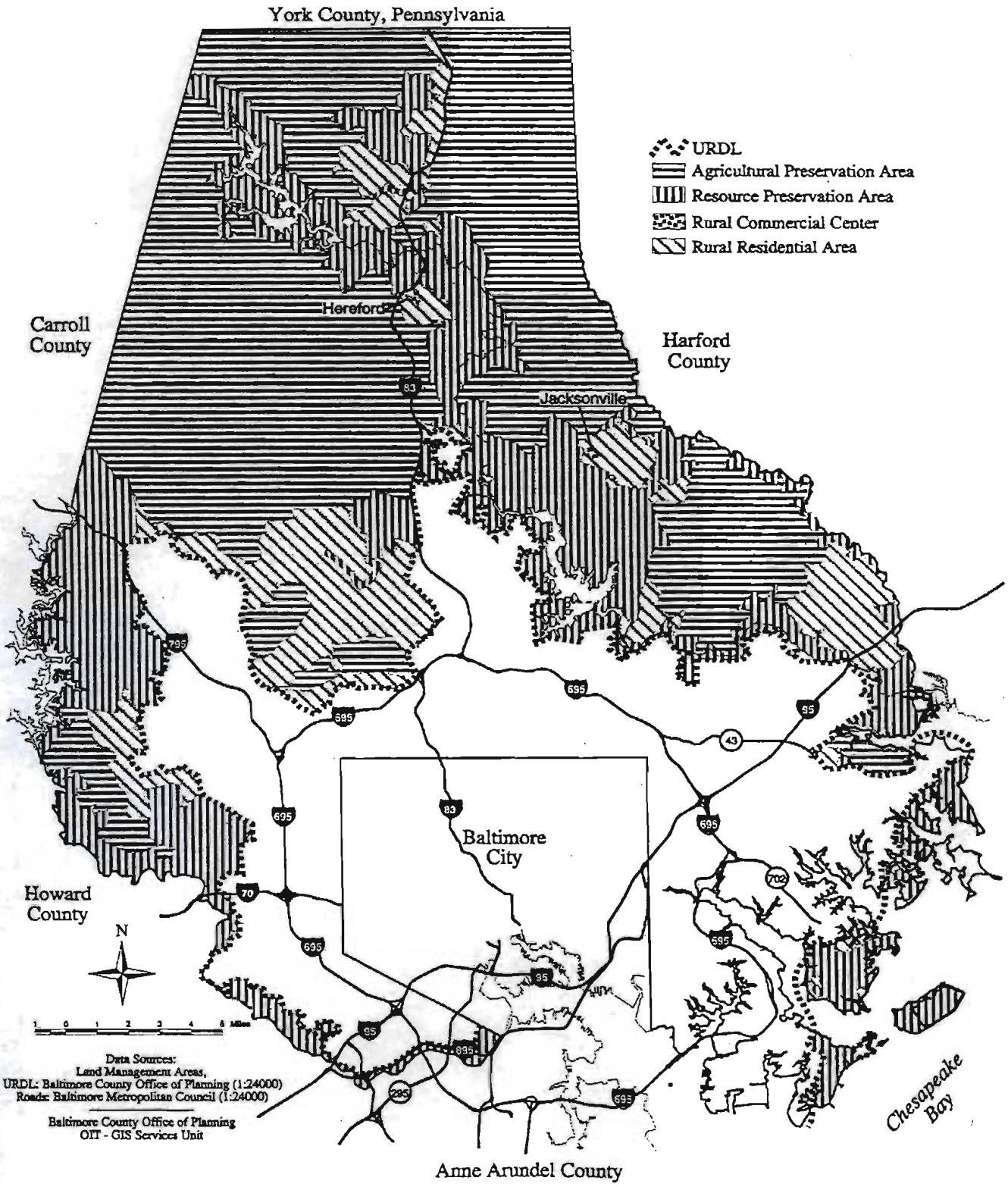
BALTIMORE COUNTY, MARYLAND



AS ADOPTED BY BALTIMORE COUNTY COUNCIL

FEBRUARY 22, 2000

P.C. No. 10



MAP 35
RURAL LAND MANAGEMENT AREAS

Rural Land Management Areas use zoning as the primary tool to direct and control development. Over the duration of the master plan, parcels of land in rural areas may be subject to rezoning requests. All rezonings should be consistent with land use concepts contained in the master plan. Additional tools for directing development, discussed in the following sections, include:

Agricultural Preservation District: By voluntary agreement with the state and county, the owner of eligible productive farm or forest land can establish binding restrictions for a minimum of five years (open-ended term) to prevent, absolutely, the subdivision or development of the land for nonfarm purposes. A district agreement is a prerequisite to an easement through the Maryland Agricultural Land Preservation Program.

Land Preservation Easement: By voluntary agreement with the state, county, or private land trust, the owner of eligible productive farm, forest, historic, or natural areas can establish a permanent easement to prevent the subdivision or development of the land except as provided for by the easement agreement. Existing easement programs include the Maryland Agricultural Land Preservation Program, the Baltimore County Agricultural Land Preservation Program, the Rural Legacy Program, and various land trusts such as the Maryland Environmental Trust.

Land Trusts: Qualified conservation organizations are eligible to accept easements on land for the protection of farm, forest, historic, or natural features. A land trust must be qualified under ¶170(H)(3) of the Internal Revenue Code for a landowner to be eligible for a tax deduction. In order to apply to the Rural Legacy Program as a sponsor, a land trust must also have a cooperative agreement with the Maryland Environmental Trust.

Purchase of Development Rights (PDR): The voluntary sale of the rights to develop a property by the landowner to a governmental agency or land trust. The sale price may be determined by an appraisal, formula, or mutually agreed upon method. The land is then restricted from development and subject to the easement conditions that typically include, at a minimum, requirements for best management practices that will protect soil, water, and natural resources.

Transfer of Development Rights (TDR): The possible creation of TDRs has been discussed for some time in Baltimore County as having potential for preserving rural areas. It is a process in which the unused density permitted to be developed on a piece of land is transferred to a different parcel. The development of a TDR program involves a detailed investigation of all possible alternatives and includes participation by affected properties. The designation of "user receiving area" in either the urban or rural portion of the county is the most difficult problem to resolve.

Rural Legacy Program: The state Smart Growth legislation established the Rural Legacy Program for fiscal years 1998 through 2002. The mission of the Rural Legacy Program is to protect and preserve areas rich in agricultural, forestry, natural and cultural resources. The state has structured the program to encourage local land trusts and local governments to prepare rural legacy plans that seek to protect significant and threatened resources. Through an annual competitive selection process, a limited number of plans are selected for funding.

AGRICULTURAL PRESERVATION AREAS

Agricultural preservation areas were created to protect the county's agricultural industry, as well as its natural resources, and areas of scenic and historical significance. Designated areas include:

- Caves
- Upperco/Worthington/Sparks
- Parkton
- Monkton/Whitehall
- Bird River
- Greenspring
- Patapsco/Granite
- Freeland/Maryland Line
- Long Green

The 1997 U.S. Census of Agriculture recorded 75,795 acres of farmland in the county, which represents a 9% decrease from the 1992 figure of 83,232 acres. Protecting rural resources has involved numerous efforts by the county and citizen groups. The most significant milestones are listed below.

- *Plan for the Valleys* written in 1963 by Wallace-McHarg Associates for citizens of Greenspring and Worthington valleys concerned about the impact of development in the 1950s.
- Donation in 1974 of first easement to Maryland Environmental Trust.

Agricultural preservation areas protect the county's agricultural industry, as well as its natural, historic and scenic resources.

- Adoption in 1975 of resource conservation zones that included an agricultural zone.
- Adoption of the 1979 master plan that described the importance of protecting natural resources including agriculture, watersheds and the rural landscape.
- Use of the URDL as a planning line for water and sewer master plan, and the creation of rural zoning classifications.
- Significant reduction of permitted density in the agricultural zone in 1980.
- Adoption and funding by the Maryland Agricultural Land Preservation Foundation of a PDR program, which provides an equitable tool for landowners permanently to protect rural lands.
- Adoption of the 1989-2000 master plan that reinforced the earlier planning and regulatory goals to protect agricultural land and rural landscapes.
- Adoption in 1989 of a development regulation to protect prime and productive soils.
- Adoption in 1994 of a local PDR program to supplement the state program.
- 1996 downzoning of 9,000 acres from RC 4 to RC 2.

POLICY

- Permanently preserve lands for agriculture and avoid conflicts with incompatible uses.

PROTECTING AGRICULTURAL LANDS MUST HAVE TWO STRATEGIC ELEMENTS: 1) DEVELOPMENT CONTROLS; AND 2) PERMANENT EASEMENT PROGRAMS.

ISSUES AND ACTIONS

A successful effort to protect agricultural lands must have two strategic elements: 1) the county must have development controls to assure that agricultural resources are not developed; and 2) there must be effective permanent easement programs that meet the needs of landowners by assuring equity and preserving sufficient acreage to maintain a viable agricultural operation.

Issue: Revising Development Controls to Support Agriculture

Major subdivisions, defined as being greater than three lots, continue to occur in prime agricultural areas, threatening the viability of preserved

RESOURCE CONSERVATION ZONES
[Bill No. 98-1975[1]]

Section 1A00
General Provisions for All R.C. Classifications

1A00.1 Findings. It is found:

A. That development in the rural areas of Baltimore County has in recent years been taking place at an increasing rate;

B. That this development has occurred without the framework of a land use plan or other planning components;

C. That due to this and other factors, this development has formed very undesirable land use patterns;

D. That in general, these patterns are, or can be described as, urban sprawl;

E. That a significant amount of urban sprawl development is occurring as linear development along the various highways of the rural areas of the county as tracts of land immediately fronting along highways are "lotted off"; the utility of the road system is being impaired and future improvements will be frustrated if this process continues;

F. That it has been established that this development carries with it an extremely high cost to the county in a number of respects including:

1. The cost of servicing this pattern of development;

2. The cost with respect to its consumption and use of prime agricultural land, critical watershed areas, mineral extractive sites, as well as of other important natural resource areas;

3. The cost of future development opportunities due to the fact that viable, rational alternatives will be lost totally or compromised significantly by the present form of development;

G. That the aspect of the comprehensive plan that is applicable and which is being considered for rural Baltimore County embodies solutions to the various problems;

H. That the effective implementation of this plan requires additional zoning classifications; and

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1 Editor's Note: Bill No. 98-1975, which enacted this Article, also repealed former Article 1A, Sections 1A00 and 1A01, previously added by Bill No. 100-1970.

P.C. No. 11

I. That effective implementation of the resource conservation area requirements in the Chesapeake Bay Critical Area criteria requires additional resource conservation zoning classifications to accommodate strictly controlled growth while conserving habitat and water quality within the Critical Area. **[Bill No. 32-1988]**

1A00.2 Purposes. Pursuant to the above findings, it is the purpose of the Resource Conservation Zones to:

A. Discourage present land use patterns of development and to create a framework for planned or orderly development;

B. Provide sufficient and adequate areas for rural-suburban and related development in selected and suitable areas;

C. Protect both natural and man-made resources from compromising effects of specific forms and densities of development;

D. Protect areas desirable for more intensive future development by regulating undesirable forms of development within these areas until such time as intensive development commences.

E. Help achieve the goals of the Chesapeake Bay Critical Area Protection Law[2] by enacting land use policies to control development within the Critical Area by conserving the land and water resource base for agriculture, forestry and other natural resource uses; minimizing adverse effects on water quality; and conserving fish, wildlife and plant habitat. **[Bill No. 32-1988]**

1A00.3 Rezoning. **[Bill No. 32-1988]**

A. Filing of rezoning petitions.

1. No petition to reclassify an R.C. Zone or portion thereof as other than an R.C. Zone may be accepted for filing by the Zoning Commissioner unless:

a. The capital program, duly adopted Baltimore County Master or Comprehensive Plans, and the "county plan" required under Subtitle 5 of Title 9 in the Environment Article of the Annotated Code of Maryland 1987, as amended, show that the property under petition is to be serviced by public sewerage and water supply systems within two years after the date the petition is submitted; and

b. Required recommendations.

(1) No zoning reclassification may be granted for property zoned R.C.20 or R.C.50 by the Board of Appeals of Baltimore County unless the Board has received, in addition to any other recommendations from county agencies required by law or regulations, a recommendation on such requested reclassification

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2 **Editor's Note: See Title 8, Subtitle 18, of the Natural Resources Article of the Annotated Code of Maryland.**

from the Director of the Department of Environmental Protection and Resource Management.

(2) The recommendations shall be provided to the Board of Appeals within 30 days after the Department is notified by certified mail, return receipt requested, by the petitioner of the filing of the petition for reclassification, unless the Department by written request to the Board of Appeals, with good cause shown, moves that additional time not to exceed an additional 30 days is required to prepare and file said recommendations with the Board of Appeals.

B. The meeting of criteria established in this article for the filing of zoning reclassification petitions shall not in itself be sufficient grounds to reclassify property.

1A00.4 Plans and plats. Development plans and final subdivision plats shall be required in the manner prescribed under Section 1B01.3, and, for the purpose of this section, all references to D.R. Zones shall include the R.C. Zones.

1A00.5 Application to tract divided by zone boundary. Whenever a single tract is divided by a zone boundary so that portions of such a tract lie within R.C. Zones of different classifications, the total number of dwellings or density units permitted shall apply to each tract individually and, for the purpose of these regulations, shall be considered as separate parcels.

Section 1A01
R.C.2 (Agricultural) Zone

1A01.1 General provisions.

A. Legislative statement of findings.

1. Declaration of findings. It is found:

a. That Baltimore County is fortunate in that it is endowed with a variety of very productive agricultural soil types which should not be lost unnecessarily to urbanized development;

b. That the agricultural industry is an integral part of the Baltimore economy and that a continued conversion of agricultural land will continue to undermine this basic industry;

c. That scattered development is occurring in a sporadic fashion in areas of Baltimore County containing productive agricultural land;

d. That continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurs but is incompatible with the agricultural use of the surrounding area;

e. That heretofore Baltimore County has been unable to effectively stem the tide of new residential subdivisions in productive agricultural areas of Baltimore County;

f. That Baltimore County has certain wetlands along Chesapeake Bay and its tributaries which serve as breeding grounds and nursery areas for the bay's biotic life; and

g. That Baltimore County possesses numerous areas which are highly suitable for urban development, including residential subdivisions which are not located in areas of productive agricultural land.

B. Purposes. The R.C.2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses.

1A01.2 Use regulations.

A. Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones.

B. Uses permitted as of right.[1] The following uses only are permitted as of right in all R.C.2 Zones: **[Bill No. 178-1979]**

1. Dwellings, one-family detached. **[Bill No. 178-1979]**

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[1] **Editor's Note: "Churches and schools for agriculture training," originally included in this section by Bill No. 98-1975, were moved to Section 1A01.2.C by Bill No. 178-1979.**

2. Farms and limited acreage wholesale flower farms (Section 404). **[Bill Nos. 178-1979; 51-1993]**

3. Open space, common. **[Bill No. 178-1979]**

4. Public schools. **[Bill Nos. 63-1980; 47-1982; 47-1985]**

5. Streets and ways. **[Bill No. 178-1979]**

6. Telephone, telegraph, electrical-power or other lines or cables, provided that any such line or cable is underground; underground gas, water or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines. **[Bill No. 178-1979]**

7. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of Subsection B, C, E or F of Section 415.1 and Section 415.2.A.1 or 415.3.C.1, as applicable. **[Bill No. 178-1979]**

8. Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency. **[Bill Nos. 220-1981; 137-2004]**

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

   a. Excavations, uncontrolled. **[Bill No. 178-1979]**

   b. Farmer's roadside stand and produce stand, subject to the provisions of Section 404.4. **[Bill Nos. 178-1979; 41-1992]**

   c. Home occupations (see Section 101). **[Bill Nos. 124-1978; 178-1979]**

   d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident employee. **[Bill Nos. 78-1979; 105-1982; 65-1999]**

   e. Parking space, including residential-garage space and space for recreational vehicle (Section 415A). **[Bill No. 178-1979]**

   f. Piers, wharves, docks and bulkheads, subject to the provisions of Section 417. **[Bill No. 178-1979]**

   g. Radio operator antennas, subject to Section 426A. **[Bill Nos. 178-1979; 30-1998]**

   h. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400). **[Bill No. 178-1979; Bill No. 71-1987]**

i. Tenant houses, including trailers used as tenant houses. **[Bill No. 178-1979]**

j. Rubble landfills, provided that the actual fill area does not exceed 3% of the total contiguous acreage of the property in the same ownership and subject to the provisions of Section 412.7 only. **[Bill No. 97-1987]**

k. Signs, subject to Section 450. **[Bill No. 89-1997]**

10. Commercial film production, subject to Section 435. **[Bill No. 57-1990]**

11. Transit facilities. **[Bill No. 91-1990]**

12. Equestrian centers, provided that any such equestrian center has access to two roads, one of which is a road having, within two miles from the equestrian center, an interchange with an interstate expressway; contains no permanent grandstand; and contains no lights other than those consistent with farm use. Temporary structures, such as removable tents, viewing stands and seating, are permitted, provided that they are removed within a reasonable time following the event or events which they serve. **[Bill No. 24-2002]**

C. Uses permitted by special exception.[1] The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: **[Bill No. 178-1979]**

1. Airports. **[Bill No. 178-1979]**

2. Animal boarding places (regardless of class), commercial kennels, private kennels, veterinarians' offices or veterinariums (see Section 421). **[Bill Nos. 178-1979; 87-2001]**

3. Antique shops (see Section 402B). **[Bill No. 178-1979]**

4. Camps, including day camps. **[Bill No. 178-1979]**

5. Community care centers provided that no residential community care center, i.e., a center which serves as the residence of the persons for whom care is provided, shall provide care for more than 15 persons per site, and no day community care center shall provide care for more than 15 persons per acre nor more than 75 persons per site. **[Bill Nos. 178-1979; 157-1986]**

6. Churches or other buildings for religious worship. **[Bill No. 178-1979]**

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[1] **Editor's Note: The following uses were included in this section by Bill No. 98-1975, and deleted by Bill No. 178-1979: "baseball batting ranges," "cemeteries," "community bldgs. swimming pools," "fish hatcheries," "golf driving ranges, miniature-golf," "helistops," "hospitals," "nursing, convalescent homes," "railroads," "sanitariums" and "shooting preserves."**

7. Excavations, controlled. **[Bill No. 178-1979]**

8. Farm market, subject to the provisions of Section 404.4. **[Bill Nos. 178-1979; 41-1992]**

9. Fishing and shellfishing facilities, Class I and II. **[Bill No. 178-1979]**

10. Golf courses or country clubs. **[Bill No. 178-1979]**

11. Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood, provided that:

    a. Only three persons, including the disabled person and the members of his immediate family who are residents of the dwelling, are employed in the use on the premises; and

    b. In any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in his occupation away from the premises of his home.

    Any provision of Section 502.2 to the contrary notwithstanding, any special exception granted pursuant to this item shall expire upon the first to occur of the following:

    (1) Five years after the issuance of the permit;

    (2) The death of a disabled person;

    (3) The termination of the disability; or

    (4) The failure of the disabled person to permanently reside at the premises.

    A new special exception for the use may be granted when the previous special exception expires but only upon the completion of the entire application and hearing process in the same manner as if it were the initial application for this special exception. It is the purpose of this provision to prevent the use of residential property for business purposes by an occupant other than a disabled person and to ensure that any occupation permitted pursuant to this item will be conducted in a manner appropriate to its surroundings. **[Bill No. 27-1981]**

12. Horticultural nurseries, subject to the provisions of Sections 404.1 and 404.2. **[Bill No. 41-1992]**

13. Hunting or fishing preserves. **[Bill No. 178-1979]**

14. Landscape service operations, subject to the provisions of Sections 404.1 and 404.3. **[Bill No. 41-1992]**

15. Offices for agriculture-related uses. **[Bill Nos. 178-1979; 37-1988]**

16. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons as an accessory use, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees. **[Bill Nos. 105-1982; 65-1999]**

(Cont'd on page 1A-9)

17. Public utility uses not permitted as of right. **[Bill No. 178-1979]**

18. Rail passenger station, subject to Section 434. **[Bill No. 91-1990[1]]**

19. Residential art salons (see Section 402C). **[Bill No. 178-1979]**

20. Standard restaurants or tearooms converted from dwellings (Section 402.3). **[Bill Nos. 178-1979; 110-1993]**

21. Riding stables. **[Bill No. 178-1979]**

22. Sanitary landfills, or rubble landfills in which the actual fill area exceeds 3% of the total contiguous acreage of the property in the same ownership. However, the fill area of a rubble landfill may not exceed 7% of the total contiguous acreage, nor may the fill area exceed a depth of 20 feet unless the Zoning Commissioner specifically finds that the landfill should be exempt from the depth limitation (see Section 412). **[Bill Nos. 178-1979; 97-1987]**

23. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories or colleges. **[Bill No. 178-1979]**

24. Shooting ranges, including archery, pistol, skeet, trap or small-bore rifle ranges, or turkey shoots. **[Bill No. 178-1979]**

25. Sludge disposal facility – landspreading (Section 412A.2.E). **[Bill No. 46-1982]**

26. Trailers, as provided in Section 415.1.D. **[Bill No. 178-1979]**

27. Volunteer fire company or ambulance-rescue facilities. **[Bill No. 178-1979]**

28. Wireless telecommunications towers, subject to Section 426. **[Bill No. 30-1998]**

29. The following "agricultural-support" uses as principal commercial uses: **[Bill Nos. 178-1979; 51-1993]**

    a. Farm-machinery sales, storage or service; blacksmithing. **[Bill No. 178-1979]**

    b. Feed or grain mills or driers. **[Bill No. 178-1979]**

    c. Fertilizer sales or storage. **[Bill No. 178-1979]**

    d. Sawmills. **[Bill No. 178-1979]**

    e. Slaughterhouses or manufacture, processing or packing of fruit, vegetables, animal or meat products, or by-products. **[Bill No. 178-1979]**

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1 Editor's Note: Former Item 14, "Research institutes (see Section 418)," which followed this item, was repealed by Bill No. 122-1984.

f. Spirits manufacture, including the manufacture of alcohol to be used in gasoline/alcohol mixtures, but excluding the production of these mixtures. **[Bill Nos. 178-1979; 51-1993]**

g. Firewood operations. **[Bill No. 151-1992]**

h. Winery, including accessory retail and wholesale distribution of wine produced on-premises. Temporary promotional events, such as wine tastings or public gatherings associated with the winery, are permitted, within any limits set by the special exception. **[Bill No. 51-1993]**

i. Bottled water plant, if the source of the water is located on the same site as the plant, and provided that the Director of Environmental Protection and Resource Management makes a recommendation that the proposed facility will not adversely affect the quality or capacity of surface water or groundwater. **[Bill No. 51-1993]**

1A01.3 Height and area regulations.

A. Height regulation. No structure hereafter erected in an R.C.2 Zone shall exceed a height of 35 feet, except as otherwise provided under Section 300.

B. Area regulations. **[Bill No. 178-1979]**

1. Subdivision lot density. No lot of record lying within an R.C.2 Zone and having a gross area of less than two acres may be subdivided. No such lot having a gross area between two and 100 acres may be subdivided into more than two lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of one lot for each 50 acres of gross area. In cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right- of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record. **[Bill Nos. 199-1990; 125-2005]**

2. Lot size. A lot having an area less than one acre may not be created in an R.C.2 Zone.

3. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of any street or within 35 feet of any lot line other than a street line.

4. Principal dwellings per lot. No more than one principal dwelling is permitted on any lot in an R.C.2 Zone.

1A01.4 Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Title 2, Subtitle 5 of the Agriculture Article of the Annotated Code of Maryland shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to § 2-513 of the Agriculture Article in the case of any conflict between those provisions and these regulations. **[Bill Nos. 178-1979; 137-2004]**

(2) The total number of signs to be kept to a minimum; and

(3) Informational signs not to be placed or be of such a number or design as to distract drivers' attention from traffic-control signs or devices.

(c) *Benches and street lighting.*

(1) The county may require benches and other outdoor furniture to be grouped and to be of a "break-away" design.

(2) The county shall require street lighting to be of a type and size that is adequate for safety and appropriate to the vicinity.

(d) *Transit facilities.* The county may require transit facilities, such as bus turnouts, for sites to be served by public transit.
(1988 Code, § 26-264) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-409. PANHANDLE DRIVEWAYS.

(a) *In general.*

(1) The county may only allow a panhandle lot:

(i) To achieve better use of irregularly shaped parcels;

(ii) To avoid development in environmentally sensitive areas;

(iii) Where the lot will not be detrimental to adjacent properties; and

(iv) Were the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) *In-fee strip; required.*

(1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

(i) 20 feet in width to serve one lot;

(ii) 12 feet in width per lot where two lots are involved;

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(iii) 10 feet in width per lot where three or more lots are involved; or

(iv) 12 feet in width per lot where there are two or more lots in a development that is within the metropolitan area where public water and sewer services are available, planned, or considered.

(c) *Same; exception.* In cases where a right-of-way has been established before the submission of the Development Plan, the Hearing Officer may approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip.

(d) *Panhandle driveways.*

(1) A single panhandle driveway may serve up to five dwellings, three of which may be on internal lots not adjacent to the local street or collector street.

(2) Panhandle driveways serving lots greater than 20,000 square feet may serve five internal lots plus two dwellings on the front lots adjacent to the panhandle driveway and the local street or collector street.

(3) Front lots are not required to be part of the panhandle driveway development.

(4) Notwithstanding the provisions of § 32-4-107 of this title, the requirements of this subsection may not be waived.

(e) *Length of panhandle in DR and RC zones.*

(1) In a DR zone, the panhandle length may not exceed 500 feet.

(2) In an RC zone, the panhandle length may not exceed 1,000 feet.

(3) The maximum permitted length of a panhandle is subject to variance under § 307 of the Baltimore County Zoning Regulations.

(f) *Panhandle driveways serving multiple lots.*

(1) For panhandle driveways serving more than one lot, the developer shall note on the record plat any covenants that provide for common use and maintenance of the panhandle driveway and culvert.

(2) A use in common agreement is established if the panhandle driveway serves two or more abutting panhandle lots.

(g) *Dwelling orientation on panhandle lot.*

(1) The orientation of the dwelling on each panhandle lot shall be indicated on the Development Plan.

(2) The dwelling shall be oriented to establish a desirable relationship between:

(i) Each of the proposed dwellings and existing adjacent homes; and

(ii) The proposed dwellings themselves.

(h) *Panhandle driveway and street intersection; requirements.* At the intersection of the panhandle driveway and the street, the following shall be provided by the developer:

(1) A paved trash collection area that:

(i) Is located at the right-side intersection of the panhandle driveway and public road, as the driveway is exited; and

(ii) Is at least 16 square feet per dwelling unit served by the panhandle driveway;

(2) A mail delivery area that is located at the left intersection of the panhandle driveway and public road, as the driveway is exited; and

(3) Numerical identification of each dwelling served by the panhandle driveway in accordance with § 35-2-206 of the Code.

(i) *Construction of panhandle driveway.*

(1) The panhandle driveway shall be built in accordance with standards established by the Director of Public Works.

(2) The panhandle shall be paved within 1 year of the issuance of the first occupancy permit or before the issuance of the occupancy permit of the last lot to be served, whichever comes first.

(3) In DR zones required utilities shall be provided to all lots to be served by the panhandle before the paving of the panhandle driveway.

(j) *Parking along panhandle driveway.* Parking is not permitted along a panhandle driveway.

(k) *Waiver.* Except as provided in subsections (d) and (e) of this section, the Director of Planning may grant a waiver from any provision in this section or title if the Director finds:

(1) That the size, scope, and nature of the subdivision of land into three or fewer lots for residential single-family dwellings does not justify strict compliance with this section;

(2) That a waiver would be within the scope, purpose, and intent of this section; and

(3) Compliance with all other county ordinances and regulations.

(1988 Code, §§ 26-168, 26-266) (Bill No. 172, 1989, § 2; Bill No. 106, 1990, § 1; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-1993; Bill No. 61-95, § 1, 6-30-1995; Bill No. 8-96, § 3, 3-23-1996; Bill No. 49-96, § 15, 7-1-1996; Bill No. 38-98, § 4, 6-20-1998; Bill No. 51-99, § 1, 8-26-1999; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-410. REQUIRED FACILITIES.

(a) *Water supply.*

(1) Water volume and pressure shall be adequate to extinguish fires in any building on a tract that is to be served by public water-supply facilities.

(2) Fire hydrants shall be provided in sufficient numbers and at appropriate locations to serve firefighting needs.

(b) *Sewage.* Proposed public or private sewage facilities shall be designed and located to function safely and without danger of contaminating groundwater, surface water, or public or private water supplies.

(c) *Drainage facilities.*

(1) In this subsection, "development" has the meaning stated in § 32-8-101 of this article.

(2) Proposed drainage facilities shall be adequate to accommodate the amount of runoff that would be generated by:

(i) The proposed development; and

(ii) The entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction.

(3) Development may not increase the extent of the floodplain on neighboring properties.

(d) *Facility easements.* Easements for cable television and other municipal and public utilities may be required where necessary to ensure adequate service to the prospective occupants or users of the proposed development.

(1988 Code, §§ 26-267, 26-268, 26-269, 26-270) (Bill No. 173-93, § 3, 11-17-1993; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 27, 7-1-2004)

BLACK'S LAW DICTIONARY

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

Author of Treatises on Judgments, Tax Titles, Intoxicating Liquors, Bankruptcy, Mortgages, Constitutional Law, Interpretation of Laws, Rescission and Cancellation of Contracts, Etc.

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P.C. NO 13

Ad finem /æd fáynəm/. Abbreviated *ad fin.* To the end. It is used in citations to books, as a direction to read from the place designated to the end of the chapter, section, etc. *Ad finem litis*, at the end of the suit.

Ad firmam /æd fərməm/. To farm. Derived from an old Saxon word denoting rent. *Ad firmam noctis* was a fine or penalty equal in amount to the estimated cost of entertaining the king for one night. *Ad feodi firmam*, to fee farm.

Ad fundandam jurisdictionem /æd fəndándəm jùrəsdìkshiyównəm/. To make the basis of jurisdiction.

Ad gaolas deliberandas /æd jeyləs dəlìbərándəs/. To deliver the gaols; to empty the gaols. *Ad gaolam deliberandam;* to deliver the gaol; to make gaol delivery.

Ad gravamen /æd grævéymən/. To the grievance, injury, or oppression.

Adhering. Joining, leagued with, cleaving to; as, "adhering to the enemies of the United States." "Adhering" consists in giving to the United States the loyalty due from a citizen. United States v. Stephan, D.C. Mich., 50 F.Supp. 738, 741. Any intentional act furthering hostile designs of enemies of the United States, or an act which intentionally strengthens or tends to strengthen enemies of the United States, or which weakens or tends to weaken power of the United States to resist and attack such enemies, constitutes "adhering" to such enemies. United States v. Haupt, D.C.Ill., 47 F.Supp. 836, 839.

Adhesion. Agreement to join; adherence. The entrance of another nation into an existing treaty with respect only to a part of the principles laid down or the stipulations agreed to. Properly speaking, by adhesion the third nation becomes a party only to such parts as are specifically agreed to, and by accession it accepts and is bound by the whole treaty. See **Accession.**

Adhesion contract. Standardized contract form offered to consumers of goods and services on essentially "take it or leave it" basis without affording consumer realistic opportunity to bargain and under such conditions that consumer cannot obtain desired product or services except by acquiescing in form contract. Distinctive feature of adhesion contract is that weaker party has no realistic choice as to its terms. Wheeler v. St. Joseph Hospital, Cal.App., 63 Cal.App.3d 345, 133 Cal.Rptr. 775, 783; Standard Oil Co. of Calif. v. Perkins, C.A.Or., 347 F.2d 379, 383. Not every such contract is unconscionable. Lechmere Tire and Sales Co. v. Burwick, 360 Mass. 713, 720, 721, 277 N.E.2d 503.

Adhibere /ædhəbériy/. In the civil law, to apply; to employ; to exercise; to use. *Adhibere diligentiam*, to use care. *Adhibere vim*, to employ force.

Ad hoc /æd hó(w)k/. For this; for this special purpose. An attorney ad hoc, or a guardian or curator ad hoc, is one appointed for a special purpose, generally to represent the client or infant in the particular action in which the appointment is made.

Ad hoc arbitration. Submission of a particular issue to arbitration.

Ad hominem /æd (h)ómənəm/. To the person. A term used in logic with reference to a personal argument.

Ad hunc diem /æd (h)əŋk dáyəm/. At this day.

Ad idem /æd áydəm/. To the same point, or effect. *Ad idem facit*, it makes to or goes to establish the same point.

A die confectionis /èy dáyiy kənfèkshiyównəs/. From the day of the making.

A die datus /èy dáyiy déydəs/. From the day of the date. Used in leases to determine the time or running of the estate, and when so used includes the day of the date.

Adieu /ədyúw/. L. Fr. Without day. A common term in the Year Books, implying final dismissal from court.

A digniori fieri debet denominatio /èy digniyóray fáyəray débət dənòmənéysh(iy)ow/. Denomination ought to be from the more worthy. The description (of a place) should be taken from the more worthy subject (as from a will).

A digniori fieri debet denominatio et resolutio /èy digniyóray fáyəray débət dənòmənéysh(iy)ow et rèzəl(y)uwsh(iy)ow/. The title and exposition of a thing ought to be derived from, or given, or made with reference to, the more worthy degree, quality, or species of it.

Ad inde /æd índiy/. Thereunto. *Ad inde requisitus*, thereunto required.

Ad infinitum /æd ìnfináydəm/. Without limit; to an infinite extent; indefinitely.

Ad inquirendum /æd iŋkwəréndəm/. To inquire; a writ of inquiry; a judicial writ, commanding inquiry to be made of anything relating to a cause pending in court.

Ad instantiam /æd instænsh(iy)əm/. At the instance. *Ad instantiam partis*, at the instance of a party.

Ad interim /æd íntərəm/. In the meantime. An officer *ad interim* is one appointed to fill a temporary vacancy, or to discharge the duties of the office during the absence or temporary incapacity of its regular incumbent.

Adiratus /ædəréydəs/. Lost; strayed; a price or value set upon things stolen or lost, as a recompense to the owner.

Adjacent. Lying near or close to; sometimes, contiguous; neighboring. *Adjacent* implies that the two objects are not widely separated, though they may not actually touch, Harrison v. Guilford County, 218 N.C. 718, 12 S.E.2d 269, while *adjoining* imports that they are so joined or united to each other that no third object intervenes. Wolfe v. Hurley, D.C.La., 46 F.2d 515, 521. See **Adjoining.**

Adjective law. The aggregate of rules of procedure or practice. As opposed to that body of law which the courts are established to administer (called "substantive law"), it means the rules according to which the substantive law is administered; *e.g.* Rules of Civil Procedure. That part of the law which provides a method for enforcing or maintaining rights, or obtain-

(2) The county may not allow encroachment in the floodway causing an increase in the existing base flood elevation.

(3) In areas where the base flood elevation has not been established, the county shall determine the riverine floodplain and flood elevation by means of a flood study prepared in accordance with the requirements of the Department of Public Works Design Manual and sealed by a registered professional engineer before the issuance of a permit or the recording of a subdivision plat.

(e) *Wetlands.*

(1) The county may not permit dredging, filling, or construction in any nontidal wetland or tidal wetland.

(2) The county shall require adequate protection of nontidal wetlands or tidal wetlands from contamination.
(1988 Code, § 26-276) (Bill No. 173-93, § 3, 11-17-1993; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 27, 7-1-2004)

§ 32-4-415. SLOPE PROTECTION AND SOILS.

(a) *Development Plan or plat approval; slope protection required.* The county may not approve a Development Plan or plat unless the county finds that the proposed development:

(1) Includes protective measures adequate to prevent erosion or sloughing of any steep slope or unstable slope; and

(2) Promotes the preservation of the natural topographic features of the steep slope or unstable slope.

(b) *Same; soil limitation.* The county may not approve a Development Plan or plat on soils that present a severe or moderate limitation to development unless the county finds that adequate measures have been taken to mitigate the effects of the limitation.

(c) *Same; prime and productive soils.* On prime and productive soils within the RC-2 zone, the county may not approve a Development Plan or plat unless the county finds that construction, excavations, buildings, structures, pavements, grading, clearing, or other disturbances of the soils will be limited or restricted in accordance with policies established by the Department of Environmental Protection and Resource Management to promote agricultural uses and protect the county's soil resources.
(1988 Code, § 26-277) (Bill No. 18, 1990, § 2; Bill No. 113, 1992, § 5; Bill No. 79-01, § 2, 7-1-2004)

P.C. No 14

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

INTERIM APPLICATION OF
BALTIMORE COUNTY COUNCIL BILL No. 134-89

April 1, 1990
(Revised June 4, 1990)

County Council Bill No. 134-89 requires this agency to establish policies "to promote agricultural uses and protect Baltimore County's soil resources". In order to prevent unnecessary and/or unwarranted delays in processing plans and/or plats and for the purpose of avoiding uncertainty in regard to the effect of this legislation in general, the following interim policy is effective immediately.

Any plan and/or plat submitted to this agency for development approval that involves RC-2, RC-3 or RC-4 zoning needs to be reviewed by the Baltimore County Department of Environmental Protection and Resource Management to determine its consistency with the interim policy detailed below. All other existing requirements of the Baltimore County Zoning Regulations continue to be applicable.

RC-2 and RC-4 zoned land within the "Agricultural Preservation Areas" as established in the draft Baltimore County Master Plan, 1989-2000 shall be subject to the following additional requirements. (No RC-3 exists within "Agricultural Preservation Areas".)

1. Lots created within RC-2 zoned areas shall be 60,000 square feet or less or greater than 50 acres in size except that exceptions can be made in regard to these standards based on sewerage and water system requirements; unique physical characteristics of the site; adjacent development characteristics; and other factors which create practical difficulties in satisfying these lot size requirements as determined by the Department of Environmental Protection and Resource Management.

2. Lots created within RC-2 and RC-4 zoned land shall not be located on prime and productive soils as referenced in the Baltimore County Soil Survey unless it is demonstrated that no other suitable area for lot placement exists and the location of lots shall not seriously impact the utility of a farming operation or significantly diminish the agricultural land resources.

3. In regard to prime and productive soils within RC-4 zoned land, the residential density calculated shall be the same as for RC-2. In addition, provisions for lot size and location in regard to all lots allowed within RC-4 zoned areas shall be similar to #1 and #2 above.

DOES NOT Apply to WOODLAND CLEARING
1 1 2