



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 905 HAYFIELDS RD.
which is presently zoned R.C.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) IA01.3A. (BCZR)

TO PERMIT THE CONSTRUCTION OF A DWELLING WITH A HEIGHT OF 41-FEET IN LIEU OF THE PERMITTED 35-FEET AND TO CONFIRM THE APPROVAL OF A SINGLE LOT AMENDMENT TO THE LATEST FINAL DEVELOPMENT PLAN FOR "HAYFIELDS MANOR", LOT 37.

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Case No. 06-687-A

Reviewed By D.T. Date 6/6/06

Zoning Description for 905 Hayfields Road

Beginning at a point on the west side of Hayfields Road (private)

900-feet south of the centerline of Hayfields Court (private).

Being Lot #37 in the subdivision known as "Resubdivision Plat of

a Portion of Hayfields Manor" S.M. 72/5" which plat is duly

recorded among the Land Records of Baltimore, Maryland in Plat

Book S.M. 73, Folio 146 containing 2.279 acres. Also known as

905 Hayfields Road located in the 8th Election District, 3rd

Councilmanic District.

06-687-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

[illegible]

0010016150

~~RAM KRASS~~

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THE REVENUE

WELCOME CUSTOMERS

Dr. D. Thompson

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U.S. DEPARTMENT OF AGRICULTURE
BUREAU OF PLANT INDUSTRY
WASHINGTON, D. C.

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CASSETT'S VALIDATION

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATHHEWS

DATE: 8/14/06

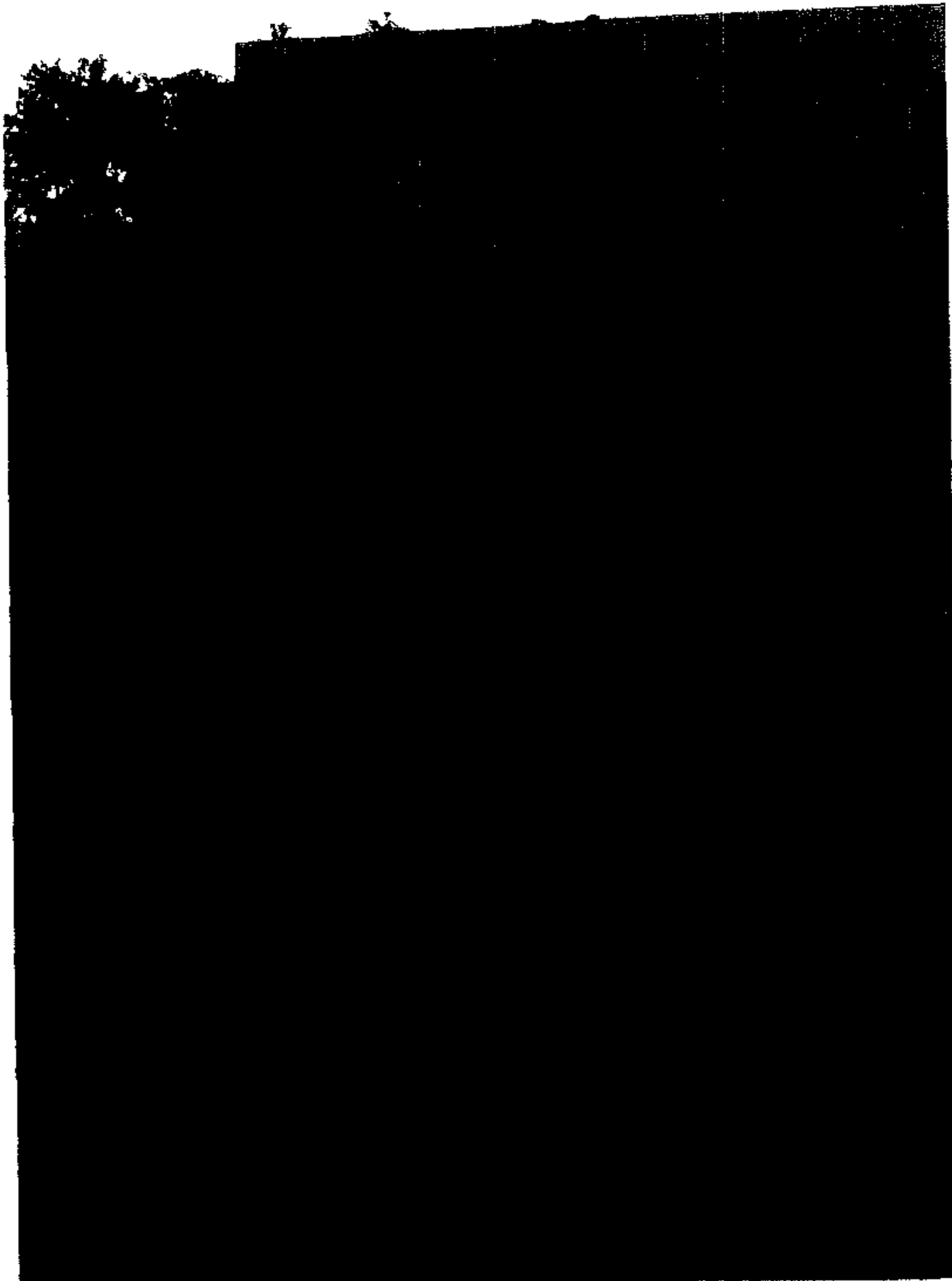
Case Number: 06-687-A

Petitioner/Developer: RON & HEIDI KRAUSS

Date of Hearing (Closing): 08/28/06

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: 905 HAYFIELDS ROAD

The sign(s) were posted on: 8/11/06



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley Maryland 21030
(City, State, Zip Code of Sign Poster)

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

CERTIFICATE OF POSTING

06-687-A

ATTENTION: KRISTEN MATTHEWS

DATE: 6/22/06

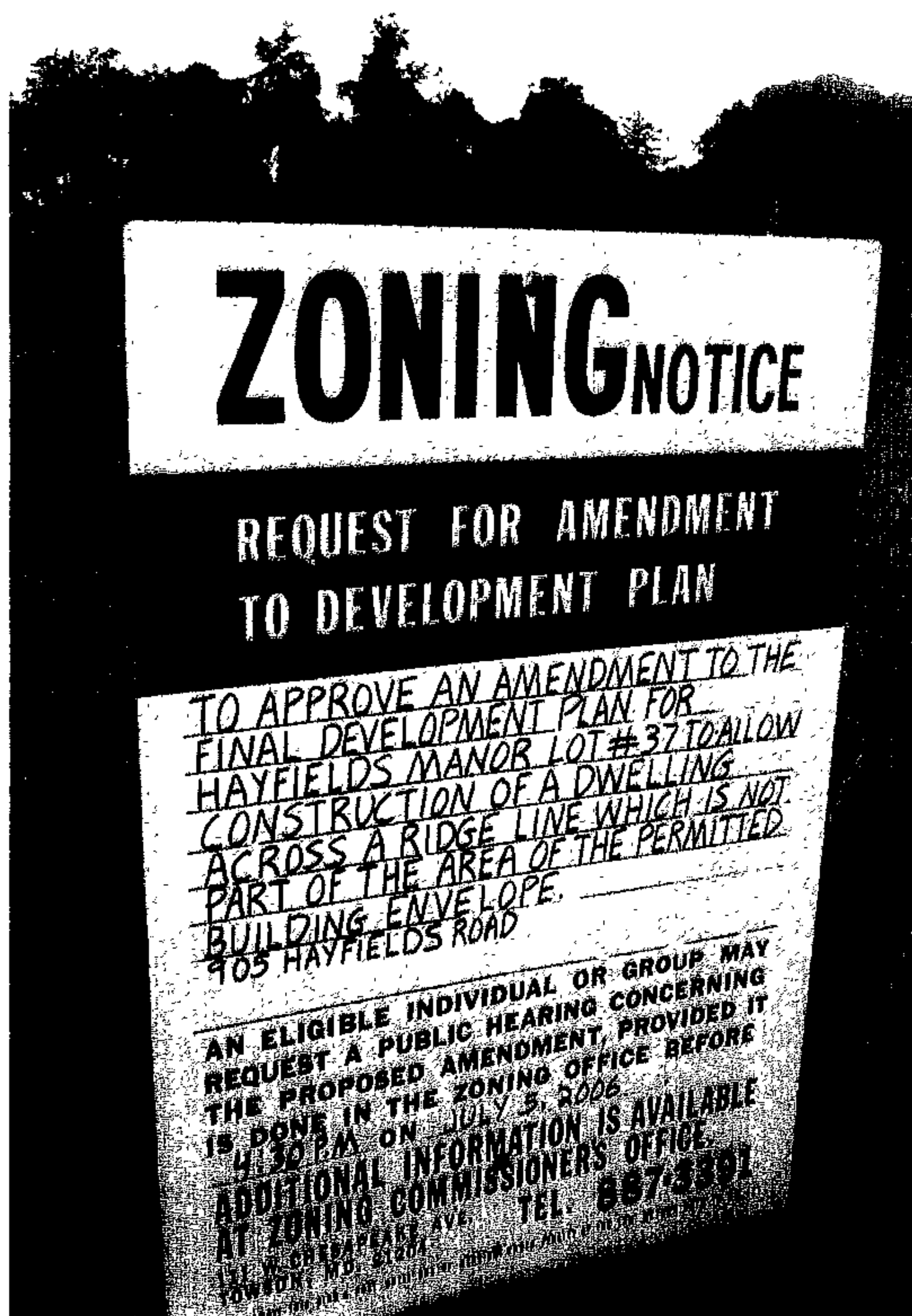
Case Number: SPECIAL AMENDMENT

Petitioner/Developer: RON & HEIDI KRAUSS

Date of Hearing (Closing): 07/05/06

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: 905 HAYFIELDS ROAD

The sign(s) were posted on: 6/19/06



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley Maryland 21030
(City, State, Zip Code of Sign Poster)

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

**Department of Permits and
Development Management**

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



Baltimore County

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

July 13, 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: 06-687-A

905 Hayfields Road
Westside of Hayfields Road, 900 feet south of centerline of Hayfields Court
8th Election District – 3rd Councilmanic District
Legal Owners: Ron G. & Heidi Krauss

Variance to permit the construction of a dwelling with a height of 41 feet in lieu of the permitted 35 feet and to confirm the approval of a single lot amendment to the latest Final Development Plan for "Hayfields Manor, Lot 37."

Hearing: Monday, August 28, 2006 at 2:00 p.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Ron & Heidi Krauss, 1412 Gerber Lane, Sparks 21152

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 12, 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.

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

TO: PATUXENT PUBLISHING COMPANY
Thursday, August 10, 2006 Issue - Jeffersonian

Please forward billing to:
Ron G. Krauss
1412 Gerber Lane
Sparks, MD 21152

410-935-8587

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: 06-687-A

905 Hayfields Road

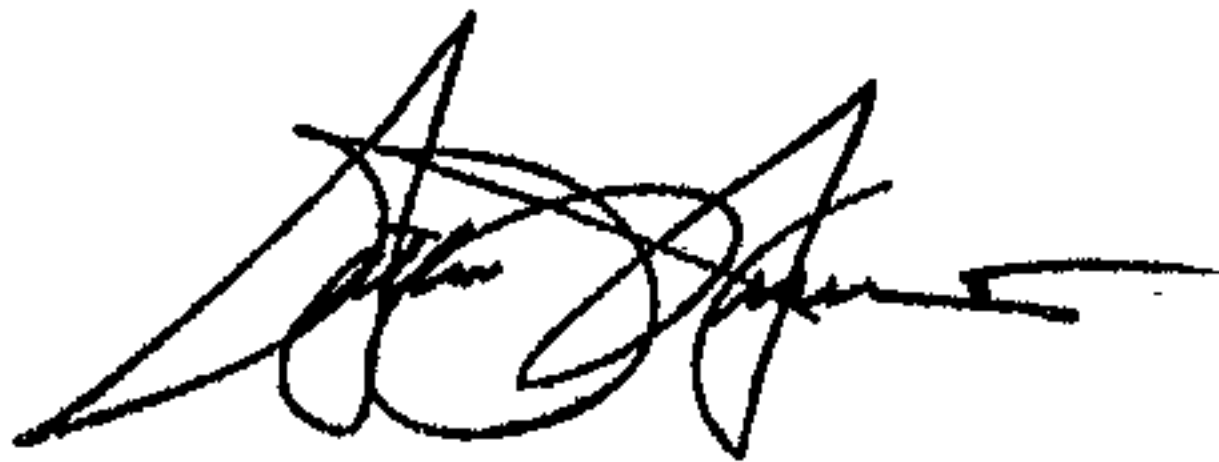
Westside of Hayfields Road, 900 feet south of centerline of Hayfields Court

8th Election District – 3rd Councilmanic District

Legal Owners: Ron G. & Heidi Krauss

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Hearing: Monday, August 28, 2006 at 2:00 p.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
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighbors/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: 06-687-A
Petitioner: KRAUSS
Address or Location: 905 HANFIELDS RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: RON G. KRAUSS
Address: 1412 GERBER LANE
SPARKS, MD 21152

Telephone Number: 410-935-8587

Revised 7/11/05 - SCJ



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
August 23, 2006

Ron G. Krauss
Heidi Krauss
1412 Gerber Lane
Sparks, MD 21152

Dear Mr. and Mrs. Krauss:

RE: Case Number: 06-687-A, 905 Hayfields Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 6, 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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

Fire Department

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



Baltimore County

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

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

July 13, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: July 10, 2006

Item No.: 638, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686,
687 and 688.

Pursuant to your request, the referenced plan(s) have been reviewed by the Fire Marshal's Office and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

Acting Lieutenant Don W. Muddiman
Fire Marshal's Office
410-887-4880
MS-1102F



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



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

Maryland Department of Transportation

Date: 7.11.06

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

RE: Baltimore County
Item No. 687 DT

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

Jm 8/28

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 18, 2006

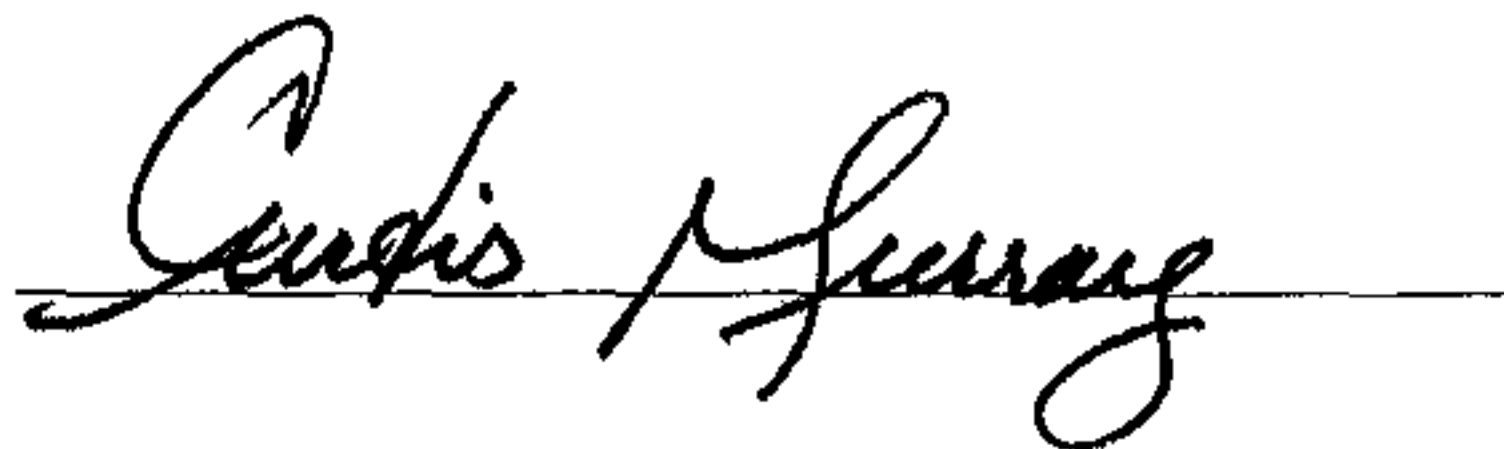
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-687- Variance**

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:



Division Chief:



CM/LL

RECEIVED

JUL 26 2006

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: July 13, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For July 17, 2006
Item Nos. 623, 638, 674, 675, 676, 677,
678, 679, 680, 683, 684, 685, 686, (687) and 688

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-7132006.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: August 23, 2006

SUBJECT: Zoning Item # 06-687-A (revised)
Address 905 Hayfields Road
(Krauss Property)

Zoning Advisory Committee Meeting of July 10, 2006

- X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
- The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
- 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).
- 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: D. Lykens

Date: August 23, 2006

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *JWL*

DATE: August 22, 2006

SUBJECT: Zoning Item # 06-687-A
Address 905 Hayfields Road
(Krauss Property)

Zoning Advisory Committee Meeting of July 10, 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:

Building houses higher than legal restrictions on prominent properties does not promote the RC-2 purposes of constraining and restraining urban development (see BCZR 1A01.1A.1 d and e). Applicant should demonstrate through designs, landscaping, etc. why this height can be accommodated without conflicting with the purposes of the RC-2 zone.

Reviewer: W.S. Lippincott

Date: July 18, 2006

RE: PETITION FOR VARIANCE
905 Hayfields Road; W/S Hayfields Road,
900' S c/line Hayfields Court
8th Election & Councilmanic Districts
Legal Owner(s): Ron & Heidi Krauss
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 06-687-A

* * * * *

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 and all 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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2006, a copy of the foregoing Entry of Appearance was mailed to, Ron & Heidi Krauss, 1412 Gerber Lane, Sparks, MD 21152, Petitioner(s).

RECEIVED

JUL 17 2006

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

From: Patricia Zook
To: Matthews, Kristen
Date: 8/29/2006 10:29:32 AM
Subject: Case No. 06-687-A — 905 Hayfields Road

Hi Kristen -

The above-referenced case was scheduled for a hearing on Monday, August 28, 2006 at 2:00 pm. Jack Murphy granted the Petitioner's request for postponement.

Doug Burgess, Esquire, attorney for the Petitioner, will contact you to reschedule the hearing. He will also notify the protestants of the rescheduled hearing.

Therefore, the file is being returned to you.

Patti Zook
Legal Secretary
Baltimore County
Office of the Zoning Commissioner
410-887-3868

THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED

SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800

TELEFAX: (410) 296-2765

EMAIL: NPN@NOLANPLUMHOFF.COM
WEB SITE: WWW.NOLANPLUMHOFF.COM

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

WRITER'S DIRECT DIAL
(410) 823-7852

* ALSO ADMITTED IN D.C.
** ALSO ADMITTED IN NEW
JERSEY

September 5, 2006

The Honorable John V. Murphy
Deputy Zoning Commissioner for Baltimore County
County Courts Building, 4th Floor
401 Bosley Avenue
Towson, Maryland 21204

Re: Zoning Case No.: 06-687-A
905 Hayfields Road

RECEIVED

SEP - 6 2006

ZONING COMMISSIONER

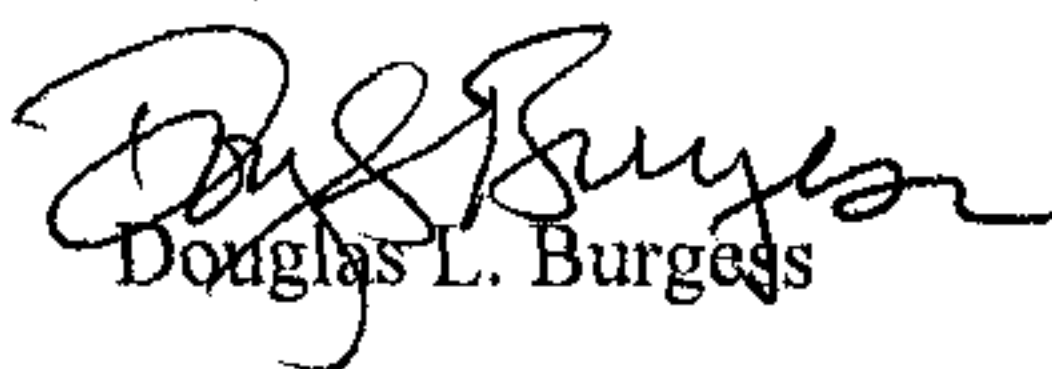
Dear Deputy Commissioner Murphy:

Kindly accept this letter from me as counsel for Ron and Heidi Krauss.

Please be advised that the Krausses dismissed the above captioned case on August 30, 2006.

Thank you.

Very truly yours,


Douglas L. Burgess

DLB/daf

cc: Ron and Heidi Krauss
Kenneth Bosley
Mark Wagner
Pritpal Kaur
Mira Jabaje
Ameeta Vohra



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

August 31, 2006

TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

Mr. Ron G. Krauss
Mrs. Heidi Krauss
1412 Gerber Lane
Sparks, Maryland 21152

RECEIVED

AUG 31 2006

RE: Zoning Variance Case No. 06-687-A
905 Hayfields Road, Lot #37 "Hayfields Manor"
8th Election District

ZONING COMMISSIONER

Dear Mr. Krauss & Mrs. Krauss:

A request to **withdraw** pending Zoning Variance Case No. 06-687-A has been received by this office on August 30, 2006. This petition was for a request to construct a dwelling with a height of 41-feet in lieu of the permitted 35-feet.

The previously approved Single Lot Amendment to the Final Development Plan for the subdivision known as "Hayfields Manor", Lot 37 still stands. When applying for a building permit for the construction of a dwelling please submit the signed approval form with your building permit application. A copy of the previously approved amendment is enclosed.

Should you have any additional questions please do not hesitate calling me at 410-887-3391.

Sincerely,

A handwritten signature in cursive script that reads "Donna Thompson".

Donna Thompson
Planner II
Zoning Review

DT
Enclosure

✓Cc: William J. Wiseman, III, Zoning Commissioner

ATTN: Donna Thompson

Attn: Zoning

August 30, 2006

Notice of zoning hearing

Case: # 06-687-A

Ron & Heidi Krauss request to withdraw
our petition for height variance on 905

Hayfields, Cockeysville, MD 21030

Please call

@ 410-935-8587

Ron & Heidi Krauss
Heidi Krauss

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

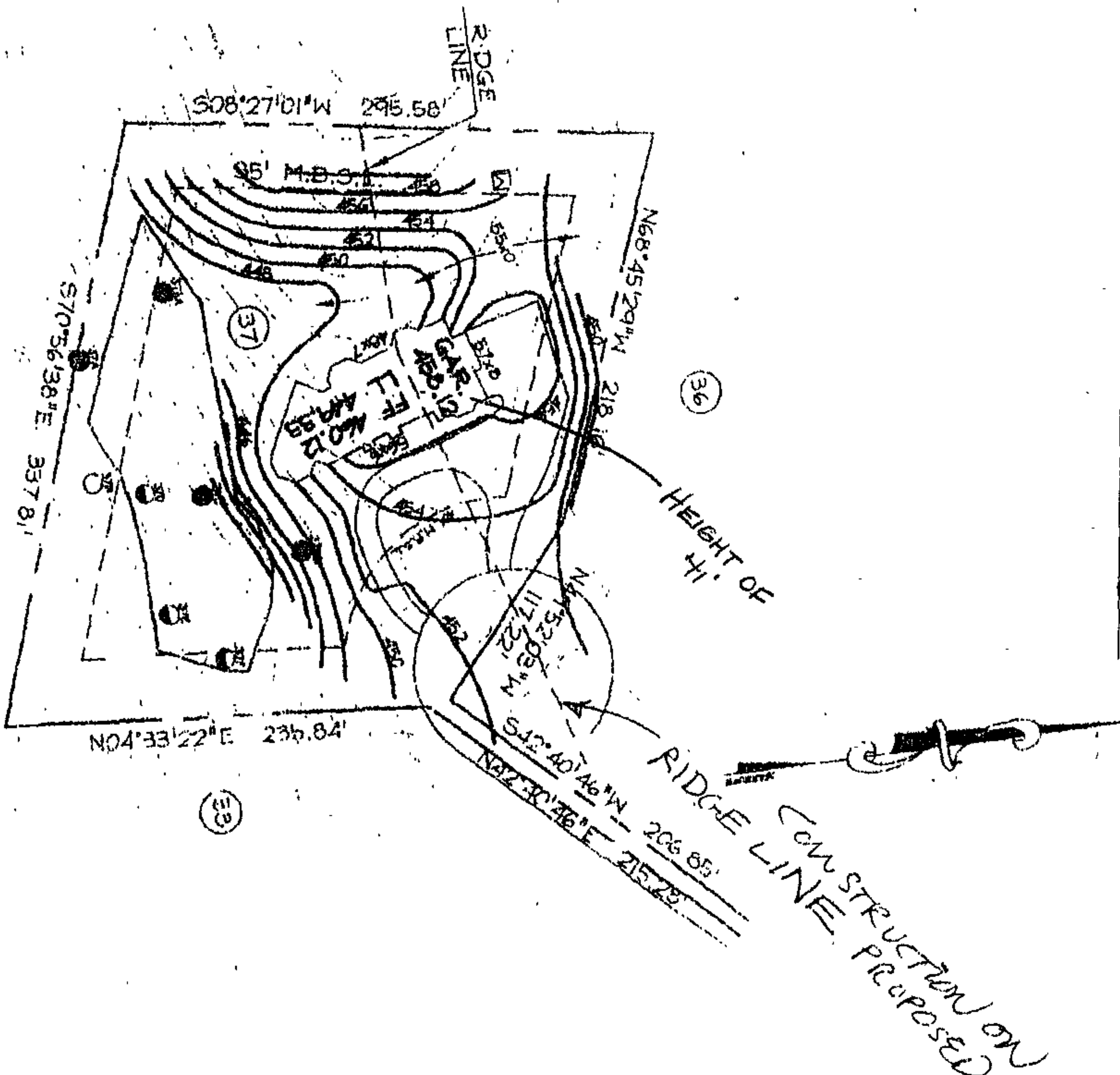
PROPERTY ADDRESS 905 HAYFIELDS RD.

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME HAYFIELDS MANOR

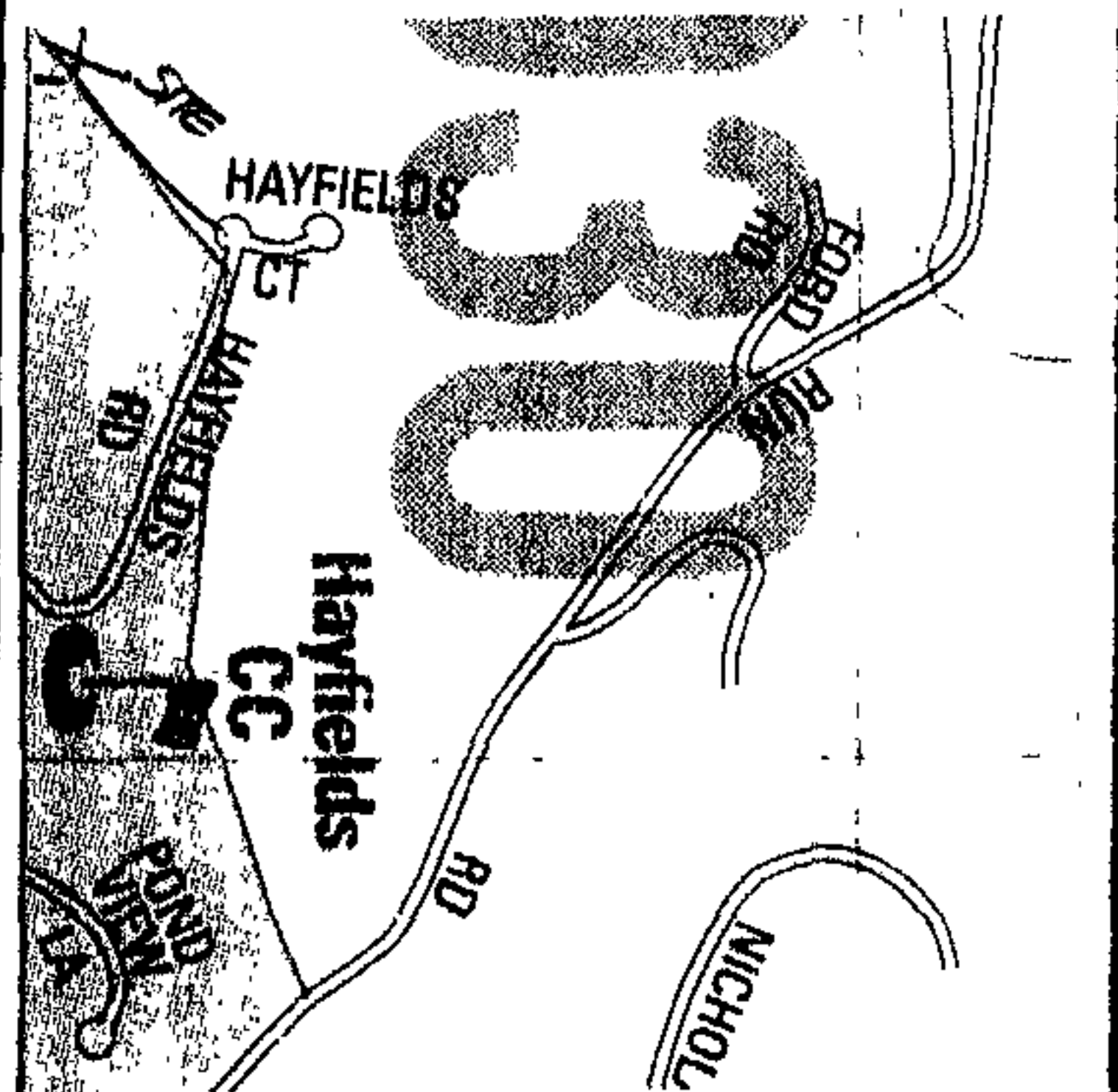
PLAT BOOK # 173 FOLIO # 146 LOT # 371 SECTION #

OWNER HEIDI S. KRAUS + RON G. KRAUS



PREPARED BY R.K.

SCALE OF DRAWING: 1" = 100'



LOCATION INFORMATION

ELECTION DISTRICT 8

COUNCILMANIC DISTRICT 3

1" = 200' SCALE MAP # 042A2

ZONING R.C. 2

LOT SIZE 2.279

ACREAGE SQUARE FEET

PUBLIC PRIVATE

SEWER ☐ ☒

WATER ☐ ☒

CHESAPEAKE BAY CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ ☒

HISTORIC PROPERTY / BUILDING ☐ ☒

PRIOR ZONING HEARING NONE

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

D.T. 687 06-687-A

August 25, 2006

1:34 PM

Re: Case No. 06-687-A scheduled for hearing on Monday, August 28, 2006 at 2:00 pm

Jack --

Patti brought this case to my attention which is assigned to you for Monday, August 28. This is the case that Mike Tanczyn, telephone number 410-296-8823, informed me that all is not as it should be.

As your file will indicate, I signed an amendment to the development plan based on the information attached thereto. Mike indicates that the prior HOH case no. VIII-661 and zoning case no. 96-347-SPHA precluded building on this ridge line.....

In any event they now come before you for a height variance very similar to the height variance they requested in my case 05-193-A also attached for your perusal.

The long and short of this, Jack, is that no where on the site plans being submitted is there any reference to these prior zoning cases approval of which was conditioned on no building on this ridge line, etc.

You may want to explore this during the hearing.

Bill

CASE NUMBER: 06-687-A

905 Hayfields Road

Location: W/side Hayfields Road, 900 feet south of centerline Hayfields Court
8th Election District, Councilmanic District

Legal Owner: Ron G. and Heidi Krauss

VARIANCE to permit the construction of a dwelling with a height of 41 feet in lieu of the permitted 35 feet and to confirm the approval of a single lot amendment to the latest Final Development Plan for "Hayfields Manor", Lot 37.

Hearing: Monday, 8/28/2006 at 2:00:00 PM, County Courts Building, 401 Bosley Avenue, Room 407, Towson 21204

96-347 SPHA
PDM VIII - 661

041C1

RC7

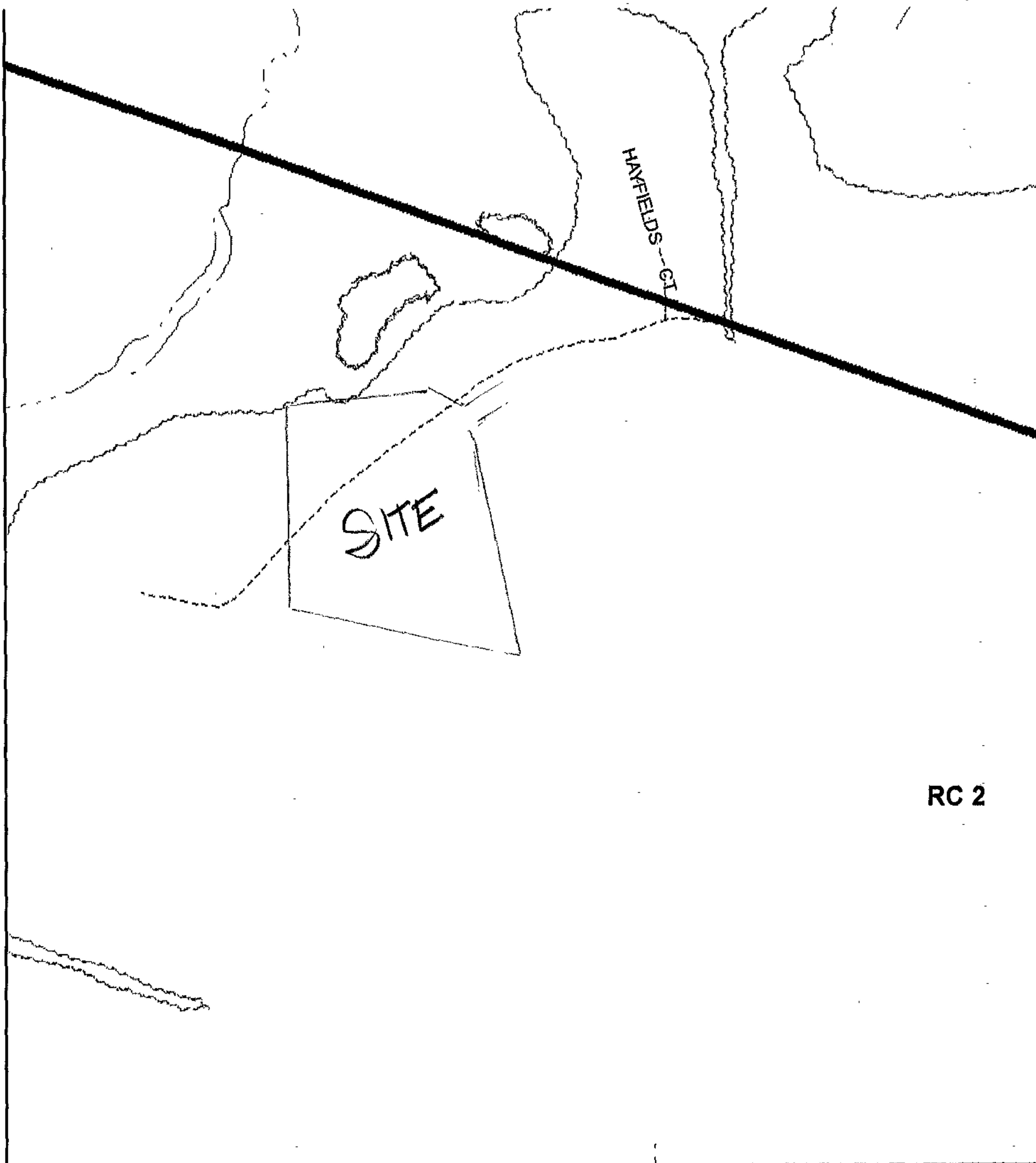
042A1

RC2

041C2

042A2





RC 2

042A2

IN RE: PETITION FOR VARIANCE
W/S Gerber Lane, 670' N of the c/l
Western Run Road
(1412 Gerber Lane)
8th Election District
3rd Council District

Ron Krauss, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-193-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Ron Krauss, and his wife, Heidi Krauss. The Petitioners request a variance from Section 1A01.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a single-family dwelling with a height of 41 feet in lieu of the maximum allowed 35 feet. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request was Ron Krauss, property owner. Kenneth Bosley and David Riegel who live in the area, appeared in opposition to the request. Mr. Bosley has an interest in the historical nature and farmlands which primarily comprise this area. Mr. Riegel resides nearby on Tanyard Road and makes his living in the construction business. There were no other interested persons present.

At the onset of the hearing, Mr. Bosley raised a preliminary Motion that the hearing be postponed pending proper public notification of the instant hearing. In this regard, he noted that the Notice of Zoning Hearing that appeared in the Jeffersonian newspaper failed to accurately describe the location of the property or give the actual day of the hearing in December 2004. A copy of the Certificate of Publication was submitted into evidence and marked as Protestant's Exhibit 1. Mr. Bosley believes that the failure to identify the specific date was fatal to the Zoning Commissioner's jurisdiction to conduct the hearing in this matter. A Certification of Posting was

*Similar
Case*

also entered into evidence as Protestant's Exhibit 2. That certificate indicates that property was posted with notice of the date, time and location of the hearing, as well as a description of the purpose of the hearing.

A review of the case file by the undersigned determined that sufficient public notice was given, in that the property duly posted, as required by law, with a sign giving notice of the public hearing on November 9, 2004. Since the hearing was scheduled for December 1, 2004, it appears that the property was posted for more than the required 15 days prior to the public hearing. The Court of Appeals decision in Cassidy v. County Board of Appeals of Baltimore County, 218 Md. 418 (1958) was cited for the proposition that the Notice of Zoning Hearing constituted sufficient compliance with the zoning regulations. Notwithstanding the fact that the numerical digit identifying the actual day of the hearing was missing, the publication called attention to the fact that a variance Petition had been filed and a hearing scheduled. Moreover, the posting of the property notified residents in the community that zoning relief was sought for the subject property. Mr. Bosley's Motion was denied and there being no further argument on this issue, the hearing continued on the merits of the request.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the northwest side of Gerber Lane, just north of its intersection with Western Run Road in northern Baltimore County. The property is also known as Lot 2 of the Bryan Property, which was approved for minor subdivision under Case No. 02-066M on September 18, 2003. The property contains a gross area of 2.502 acres, more or less, zoned R.C.2, and is proposed for development with a single-family dwelling. Mr. Krauss testified that he is a builder and that the proposed structure will be his permanent residence. As depicted in building elevation drawings submitted into evidence as Petitioner's Exhibits 2A and 2B, the proposed dwelling will be a large, two-story structure of approximately 7,000 sq.ft. that will feature a central (main) building and two wings on either end. The architectural style and design of the proposed house appears similar to those built in the 18th century and will feature a combination of stone and siding with a metal roof. Mr. Krauss testified that due to the topography of the property and heavy

forest conservation associated therewith, the height of the basement would be raised above the ground several feet before the first course of natural veneer stone can be built at ground level. Mr. Krauss indicated that he wishes to have contrast between the main portion of the home and the two wings described above. Thus, the center of the home will have a 9-foot basement, a 10-foot first floor, a 9-foot second floor, and a roof pitch of 9 and 12, so as to be compatible with the east and west wings of the home. Variance relief is requested as set forth above so that the center portion of the home can be constructed at a height of 41 feet in lieu of the maximum allowed 35 feet. In this regard, testimony indicated that the home would be screened from Gerber Lane by the existing forest buffer.

As noted above, Messrs. Bosley and Riegel are opposed to the requested relief. In addition, they referred to the proposed dwelling as a "McMansion" and opined that the structure is not in keeping with the character of the surrounding neighborhood. Mr. Riegel, who is a builder himself and is an active member of the Valleys Planning Council, is opposed to any development in the area. He indicated that there have been six homes built in the area in the last two years. He is particularly opposed to the Krauss home dwarfing other homes in the area, which are in the 3,500 to 4,000 sq.ft. range.

Mr. Krauss indicated that he could fill in around the foundation of the home in order to meet the required height limitation; however, would prefer not to in order to preserve the architectural integrity and design features of the home. Mr. Bosley is opposed to using rural farm land for luxury homes and believes that a grant of the variance in this instance will turn the pristine area of Sparks into a "millionaire's neighborhood."

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. I find that the variation in building heights is not only aesthetically pleasing, but is appropriate in this instance and will not be out of character with other homes in the area. Moreover, the height of the building will be screened from Gerber Lane by virtue of the existing forest buffer. Thus, I am persuaded that relief can be granted without detrimental impact to adjacent properties or the surrounding locale. There were no adverse comments submitted by

any County reviewing agency; however, the Department of Environmental Protection and Resource Management noted that the property is located in an agricultural preservation area and that an "Agricultural Nuisance Note" should be attached to all related plans as a condition of approval. Thus, as a condition of approval I will incorporate this comment as a restriction to insure compliance with the R.C.2 use regulations.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this ____ day of December 2004 that the Petition for Variance seeking relief from Section 1A01.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a single-family dwelling with a height of 41 feet in lieu of the maximum allowed 35 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The proposed development shall be in compliance with the Zoning Advisory Committee (ZAC) comments submitted by the Department of Environmental Protection and Resource Management (DEPRM), a copy of which is attached hereto and made a part hereof. All plans relative to the proposed development shall include the Agricultural Nuisance Note referenced therein and attached hereto.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

IN RE: DEV. PLAN HEARING & PETITIONS * BEFORE THE
 FOR SPECIAL HEARING & VARIANCE
 NW/S Western Run & Shawan Rds. @ * HEARING OFFICER/ZONING
 its intersection w/Interstate 83
 (301 Western Run Road) * COMMISSIONER
 8th Election District
 3rd Councilmanic District * FOR BALTIMORE COUNTY
 Hayfields, Inc., Developer/
 Petitioner * Case Nos. VIII-661 & 96-347SPHA

* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN AND VARIANCE ORDER

This matter comes before the Zoning Commissioner/Hearing Officer as a combined hearing, pursuant to the authority in Section 26-206.1.a of the Baltimore County Code. The Developer/Petitioner, Hayfields, Inc., seeks approval of the Red Lined Development Plan, (Developer's Exhibit No. 6) prepared by Daft, McCune, Walker, Inc. That development plan proposes development of the property encompassing approximately 475 acres known as the Hayfields Farm. The proposed development contains two components; namely, a country club ~~facility~~ featuring an 18 hole golf course and related amenities; and a residential community containing 38 single family dwelling lots, with a 39th lot reserved as a possible future conservancy lot.

This property is well known to the Zoning Commissioner and the proposal has been the subject of significant governmental review and public interest. The property is located on the northwest corner of the intersection of I-83 and Shawan Road. Interstate 83 is a major north/south thoroughfare which bisects Baltimore County. The highway runs from Baltimore City to the south, through the County, and into southern Pennsylvania to the north. This major man-made line of division, coupled with the property's unique history, has made the site a centerpiece of discussion regarding development within northern Baltimore County. To the east of the property, across I-83, is the Hunt Valley Industrial Park, the Hunt Valley Mall, and a cluster of buildings which encompass an industrial/employment/-

retail center. To the south of the site, across Shawan Road, are pockets of residential development. Many of these communities contain single family dwellings, and include residential communities within the Greater Timonium area and along Falls Road. To the north and west of the site are the valleys of Baltimore County; an area rural in character and noted for its agricultural use. It is the Hayfields strategic location relating to these diverse uses which surround it in all directions which has generated the public discussion regarding this proposal. To its proponents, the project presents an appropriate transitional use from the business/commercial/residential areas to the southeast, to the rural open areas to the northwest. To its opponents, development of Hayfields would be catastrophic, resulting in the loss of a farm which screens the valleys from the areas of more intense development. These opponents see the Hayfields property as the gateway to the valleys and fear the loss of the agricultural use of the property.

To a great extent, these philosophic issues of whether Hayfields should be developed are matters which should be decided through the political process. It is, ultimately, the executive and legislative branches of government which designate the zoning classification placed on the property and formulate the zoning and development laws. The Zoning Commissioner/Hearing Officer's function is to apply these laws to the matters presented. Although discretion need be employed, I am required to follow the mandate of the laws and regulations in effect.

I attempted to make this clear in the opinion previously issued by me relating to this property, in case No. 95-308-X. That case came before me as Zoning Commissioner, on a Petition for Special Exception, seeking approval of a country club on that portion of the property designated as Parcel A. That 34 page opinion set forth the law of special exceptions,

as I see it, and applied that law to the facts and issues presented. In my judgment, the proposed country club use was an appropriate special exception use on the subject property, in accordance with Section 502.1 of the BCZR as same has been construed by the case law. It is to be noted that the opinion and Order issued by me in that case was timely appealed by those opposing development of the site. As of the date hereof, the Board of Appeals has orally announced that it too will grant the Petition for Special Exception which was presented on appeal. However, the Board has not, as yet, issued its written decision. The matter is, of course, subject to future on the record appeals through the judicial process.

The matter now comes before me, as noted above, as a combined zoning and development plan review case. The Developer seeks approval of the development plan, pursuant to the laws contained in Title 26 of the Baltimore County Code, and, more particularly, Article 5 thereof, the development regulations. Certain variances are also requested as to existing buildings on the site and a Petition for Special Hearing is also presented. This Petition seeks amendment of the plan previously approved in the special exception case. The nature of the amendment to the plan relates to the changes ordered by me in the previous case, as well as the modifications to the plan generated by the Board of Appeals and Planning Board. The specifics of those changes will be discussed hereinafter.

The Hearing Officer's hearing constitutes the final step in Phase 1 of the development process. That process is instituted with the submission of a concept plan by the developer, which was submitted in this case on October 16, 1995. The development regulations require a community input meeting to be held in the vicinity of the site during evening hours. In this case, a first community input meeting was conducted on November 20, 1995 and a second meeting was held on December 5, 1995.

Following those meetings, a development plan conference was held on April 3, 1996 and the development plan submitted at that time. The Hearing Officer's hearings were conducted over four days during the period from May 8 through May 15, 1996.

Appearing at that hearing were members of the developer's team gathered to produce and present the plan. These included Edmund Haile, a professional engineer and registered land surveyor. Mr. Haile is the principal of Daft, McCune, Walker, Inc., a well known engineering firm in Baltimore County. Also present from that firm was George E. Gavrelis, a land planner and past director of the Baltimore County Office of Planning. Also appearing on behalf of the Developer was Stephanie Hau of Chesapeake Environmental Management. Ms. Hau was presented as an expert in the fields of environmental science, hydrology and the environmental effects of golf courses. Another expert witness presented by the Developer was Wes Guckert, President of The Traffic Group. Mr. Guckert testified as to the traffic issues raised by the development. Also present throughout the proceedings was John Mangione, on behalf of Hayfields, Inc., the corporate property owner. The Developer/Petitioner was represented by G. Scott Barhight, Esquire.

Those opposing the development were represented by George Nilson, Esquire of Piper and Marbury. Mr. Nilson's clients included the Valleys Planning Council, which was represented at the hearing through the person of John Bernstein, Executive Director. Mr. Nilson also represented a number of individual property owners in the area. Dennis Sutton, Victoria Woodward and Dan Kimmel, all residents of the area, also appeared to offer testimony, as did Patrick Ford, a Land Planner.

Also appearing at the hearing were representatives of the various Baltimore County and the State of Maryland agencies which evaluated the

project. Many of these agencies produced both written concept plan comments and development plan comments. Those comments are within the file and part of the record of this case. Certain of the County and State representatives testified to amplify upon their comments and explain same. Among those testifying included David Flowers, the Project Manager, John Lewis and Bob Bowling from the Office of Permits and Development Management (PDM), Rocky Powell, a Natural Resource Specialist, R. Bruce Seeley, Valerie Klein, and Steve Moglinicki, a Hydrologist, from the Department of Environmental Protection and Resource Management (DEPRM), Wally Lippincott, the Administrator of the Agricultural Preservation Program, and Ervin McDaniel from the Office of Planning, Rahee J. Famili from Traffic Engineering, Tim Dugan, Secretary of the Planning Board, and Bob Small from State Highway Administration.

Section 26-206 of the Baltimore County Code regulates development plan approval and sets forth the procedure to be employed at the Hearing Officer's hearing. That section requires that the Hearing Officer initially identify any unresolved agency comment or proposed or requested condition relative to the plan. Following the identification of these issues, appropriate testimony is then taken thereon. The parties identified numerous issues, which will be listed and discussed hereinafter.

ISSUE NO. 1.

THE NUMBER OF LOTS PERMITTED IN THE R.C.2 ZONE

One unresolved issue regarding the amended Red Lined development plan was identified by John Lewis on behalf of the office of the Department of Permits and Development Management, Zoning Review Section. Mr. Lewis' issue was raised in his concept plan comment dated October 16, 1995 and repeated in his development plan comment dated April 3, 1996. This comment is clearly an unresolved issue as identified within Section 26-206 of

the Code, and was adopted by the Valleys Planning Council and other Protestants as an open issue and was presented by them as justification for denial or revision of the plan.

Mr. Lewis was present at the Hearing Officer's hearing and presented testimony regarding his comment and position. Rebuttal testimony on behalf of the Developer was offered by George Gavrelis from Daft, McCune, Walker, Inc.

As noted above, the subject site is approximately 475 acres in area. The property is split zoned, R.C.2 and R.C.4. The R.C.2 zone encompasses 295.9 acres and the R.C.4 area is 178 acres. Generally, the R.C.2 property is concentrated on the south portion of the site immediately adjacent to Shawan Road. The R.C. 4 acreage is more towards the north of the site. The country club use would generally be on the R.C.2 acreage. In fact, the red lined development plan shows that 273.1 acres of the R.C.2 property will be part of the country club, including the golf course and accessory and related facilities. After utilization of that acreage for the club, approximately 21.8 acres of R.C.2 remain unutilized. From this amount, 7.6 acres are designated to be developed as four single family dwelling lots (lots 36 thru 39) and 14.2 acres are shown as homeowner's association open space. It is also worth noting that 3.5 acres of the R.C.4 zoned lands are designated as part of the country club.

Mr. Lewis' development concept plan and development plan comments and testimony objected to the Developer's utilization of the R.C.2 acreage. As he explained, it is his department's position that the BCZR requires the Developer to first subtract from the total R.C.2 acreage that portion being devoted to the country club use. Once that acreage is deducted from the total, the remaining 21.8 acres may be utilized in accordance with the

rights of subdivision regulations contained within Section 1A01.3 of the BCZR.

Section 1A01.3.B.1 regulates subdivision in an R.C.2 zone. As has been noted in numerous past opinions of this Zoning Commissioner, relating to the R.C. zoning classification, it is important to note that the regulations do not speak of density rights in the R.C. zones. Unlike the D.R. regulations, the division of R.C. property is governed by the BCZR by controlling rights of subdivision, as opposed to assigning numeric densities per acre.

Section 1A01.3.B.1 states that any lot within an R.C.2 zone having a gross area of between 2 and 100 acres may be subdivided once, so as to create two lots. For any lot larger than 100 acres, subdivision may occur at the rate of one lot per every 50 acres of gross area. Thus, a lot containing at least 150 acres may be subdivided so as to create 3 lots, a lot containing 200 acres may be subdivided into four lots, etc.

According to Mr. Lewis' testimony, subtraction of the acreage in the country club lot leaves 21.8 acres available for the residential component of the project. In that this amount is between 2 and 100 acres, Mr. Lewis opined that the Developer may subdivide that remaining acreage once, so as to create two building lots.

As authority for his position, Mr. Lewis points to Section 102.2 of the BCZR and the Policy Manual. Section 102.2 provides that no yard space or minimum area required for a building or use shall be considered as any part of the yard space or minimum area for another building or use. In Mr. Lewis' judgment, the Developer is attempting to utilize "rights of subdivision" attributable to the acreage which comprises the country club to create these four lots. That is, in that only 21.8 acres are left

following the creation of the country club lot, Mr. Lewis opined that only two residential lots could be created.

Moreover, Mr. Lewis testified about the long standing history of the interpretation of these sections of the BCZR by his office. He also referenced page 1.42.1 of the Zoning Commissioner's Policy Manual. According to Mr. Lewis, this page, which is the successor to page RM-22, in the old Policy Manual, describes "Mixed Uses on One Property". The Section attempts to develop a consistent approach to mixed uses on a single property but leaves the determination of these uses to "... the discretion of the Zoning Commissioner."

Needless to say, Mr. Gavrelis and the Developer disagree. Mr. Gavrelis does not favor Mr. Lewis' approach of deducting the country club from the total R.C.2 acreage and then determining what rights of subdivision remain from the balance. That is, Mr. Gavrelis observed that the entire R.C.2 area encompasses 295 acres. A tract of this size would permit subdivision under the R.C.2 zoning regulations to create 5 lots. In his judgment, 4 of these lots are the residential properties (lots 36-39) and 1 lot is attributed to the country club use.

Moreover, Mr. Gavrelis noted that Section 1A01.3.B regulates lot size in an R.C.2 zone and requires only that each lot must be a 1 acre minimum. Thus, in Mr. Gavrelis' opinion, the 295 acres of R.C.2 may be subdivided into 5 lots for so long as each lot is a minimum of 1 acre.

With all due deference with Mr. Lewis and the Zoning Office, I disagree with their interpretation in this case. In my judgment, they are misapplying the clear words and intent contained within the regulations. Specifically, I believe that the Office Permits and Development Management has confused the rights of subdivision available to an R.C.2 property with area requirements for same.

The clear unequivocal words of Section 1A01.3.B state that any R.C.2 tract can be subdivided at a rate of 1 subdivision permissible for every 50 acres. A right of subdivision is different from an area requirement. It cannot be disputed that the entire R.C.2 acreage available in this case can be subdivided so as to create 5 lots. How the Developer chooses to create these lots and the size of each individual lot is wholly at the discretion of the Developer, for so long as the 1 acre minimum can be maintained. The Developer could, if it desired, could create four 1 acre lots and one 291.1 acre lot.

The area regulations are quite different from the subdivision regulations. The area regulations require only that each lot be 1 acre in minimum. There is no language in the regulations which requires that the country club lot be first created and that the Developer thereafter determine how many lots can be created from the balance. Simply stated, there is no language within the regulations requiring this two step process which Mr. Lewis suggests.

Moreover, the application of Section 102.2 is inappropriate. That section does not discuss or regulate rights of subdivision. Rather it is concerned with minimum yard space or "area". That section would prevent, for example, two adjacent lots from utilizing the same area to meet minimum setback requirements. It would also prevent, in an example more closely attuned to the issue presented here, four 1/2 acre individual lots, in an R.C.2 zone, with a proviso that the other 1/2 acre necessary to achieve minimum lot size came from the country club lot. It is that extreme example which Section 102.2 would regulate. The plan before me, in my judgment, is not violative of Section 102.2 and the Policy Manual.

Although resolution of Mr. Lewis' issue is easily reached through the foregoing analysis, the parties failed to address an additional issue of

fact relating to the rights of subdivision which I believe is more difficult. The total tract encompasses approximately 475 acres. The R.C.2 zone encompasses 295.9 acres and the balance of 178.5 acres is zoned R.C.4.

As noted above, the Developer came in before this Zoning Commissioner in 1995 under a Petition for Special Exception for a country club. The Petition was granted and the site plan submitted at that time approved, with modifications. Within that site plan, the Developer divided the property into two parcels, shown as Parcel A and Parcel B. Parcel A was the country club lot. Parcel B were those lands which were dedicated to the residential component of the project. I have reviewed that site plan carefully and it is clear to me that lots 36 thru 39 were on Parcel B. That is, Parcel A contained only the 273.1 acres of R.C.2 land dedicated to the country club, plus the 3.5 acres of R.C.4 in the country club use. The question presented is clear. Did the Developer's submittal of that plan and the approval of same constitute, in effect, a first subdivision of the R.C.2 acreage? That is, was that submittal akin to the first step analysis argued by Mr. Lewis. Having created Parcel A by segregating those lands in the Petition for Special Exception and site plan attached thereto, is the Developer now required to create its residential lots only from the 21.8 acres left over.

A subdivision is defined in the BCZR as "The division of any tract or parcel of land including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building, development for rental or sale, including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes." Under this definition, the Petitioner's previous

Petition for Special Exception and site plan submitted thereto might well be considered a subdivision.

There have been similar cases before this Zoning Commissioner where similar previous subdivisions have occurred. Most often, particularly in the northern portion of Baltimore County, farms have been subdivided so as to create family lots. It is common for a land owner with several hundred acres to subdivide the property so as to create individual building lots for children. Prior cases have come before this Zoning Commissioner where it has become necessary to ascertain the intent of those prior subdivisions and determine the number of "rights of subdivision" which were left to the original tract.

Those types of cases most often come before the Zoning Commissioner as a Petition for Special Hearing. The Petition for Special Hearing presented in this case did not contain such a request for relief although, perhaps, it should have included a request. In any event, it seems clear that the Developer's intent in creating the country club lot was to utilize one right of subdivision available from the R.C.2 acreage. In my judgment, it is apparent that the Developer considers the country club to be a single and separate use, independent of the residential component of the project. Thus, although it may have been created first, the evidence is persuasive that the country club lot should be considered as the exercise of a single right of subdivision. As such, the Developer retained the ability to create four additional lots in the R.C.2 acreage. Therefore, in my judgment, lots 36 thru 39 are permissible.

ISSUE NO. 2

THE INTERSECTION OF SHAWAN ROAD AND WESTERN RUN ROAD

A second development plan issue was identified by the State Highway Administration and the Protestants relating to the intersection of Western

Run Road and Shawan Road. Vehicular access to the subject site will be by way of a turning movement from Shawan Road onto Western Run Road. Presently, Western Run Road is a small road of residential/rural character. There can be no doubt that on a proportionate basis, the traffic increase, after the project is built out, will be significant. This is due in part to the additional residences which will be constructed as well as the traffic generated by the country club and accessory uses thereto.

Western Run Road and Shawan Road are both County roadways, jurisdiction of which is maintained by Baltimore County. Nonetheless, the State Highway Administration has offered input into this issue. By way of letter of April 2, 1996, State Highway noted that, "It would be our recommendation to relocate the existing intersection opposite existing Weil Mandel Way located on the south side of Shawan Road." (Petitioner's Exhibit No. 7C)

Offering testimony in support of this comment was Bob Small from the State Highway Administration. Although not a traffic expert, Mr. Small was able to testify as State Highway's representative. He discussed his agency's evaluation of the traffic impact study which had been produced by the Developer's consultant. He noted that although the Western Run/Shawan Road intersection is adequate, its location was "less than desirable." He believes that a relocation of the intersection to the west is appropriate. This will provide a large area for traffic to merge when exiting southbound I-83 onto Shawan Road. Mr. Small believes that an increased volume of traffic both east and westbound on Shawan Road, will make the present intersections' function difficult in the future.

For its part, Baltimore County's Department of Public Works has bluntly advised the State Highway's Administration to, in essence, mind its own business. Copies of written comments from the County were re-

ceived into evidence (Petitioner's Exhibit Nos. 7A & 7B). These comments were to the effect that Shawan Road and Western Run Road are County roads and the State Highway has no jurisdiction over them. Moreover, the County notes that State Highway Administration, during its construction of the I-83 interchange, could have anticipated increased traffic volumes in the area. In essence, the County believes that State Highway Administration, having contributed to the potential traffic congestion by its construction of the I-83 southbound interchange in the manner completed, should not now have the authority to require the Developer or the County to re-orient County roads.

Testimony was also offered on behalf of the Developer from Wes Guckert, the principal of The Traffic Group. Mr. Guckert's credentials are well known and unlike Mr. Small, his testimony was accepted as expert testimony. Mr. Guckert testified at length regarding the traffic study which his office had prepared (Petitioner's Exhibit No. 11). In his judgment, for reasons set forth in detail on the record and within his report, relocation of the intersection is inappropriate. In his judgment, he believes that other means could be undertaken (e.g., restriping the road) which would not be so extreme and costly.

Upon due consideration of all of the testimony and evidence presented on this issue, I am not persuaded to accept State Highway Administration's recommendation. It is to be particularly emphasized that their comments are in the form of a recommendation only and not binding. The ultimate authority on this issue should come from Baltimore County's Department of Public Works. After all, the specific roads involved are County roads. Moreover, I am not convinced that the proposed relocation of the intersection will be effective in addressing State Highway's concerns. The relocation of the intersection will not eliminate or reduce the traffic vol-

umes. The volumes will be the same, no matter where the intersection is located. In my judgment, relocation of the intersection is not a practical option, at this point, based on the information presented. Although traffic volumes will increase, it is my judgment that the relocation of the intersection is not the only or most appropriate option to address those anticipated increased volumes. For these reasons, I decline to impose any condition on the approval of this plan which would necessitate a relocation of the intersection.

ISSUE NO. 3

THE SITING OF THE PROPOSED DWELLINGS ON LOTS 36, 37, 38 and 39

Section 26-207 of the Development Regulations requires that the Hearing Officer refer a development plan to the Planning Board in certain circumstances. Among the circumstances identified is when the project involves a building, structure or site included on the Landmarks Preservation Commission preliminary or final list. In this case, certain of the structures on the property are qualifying structures on the Landmarks Preservation Commission's list. Thus, the matter was referred to the Planning Board by this Hearing Officer's letter of October 26, 1995 as appended by my letter of March 21, 1996.

Section 26-208 regulates the procedure before the Planning Board upon such a referral. Section 26-208-C states that the Planning Board's action " . . . is binding upon the Hearing Officer and shall be incorporated as part of the Hearing Officer's final action on a plan."

The Planning Board took this matter under consideration and submitted its report to me by way of memorandum dated May 3, 1996. (Petitioner's Exhibit No. 2)). That 4-page memorandum indicates that the Planning Board reviewed the project over the course of four meetings and contains certain recommendations which must be adopted by me under the section

above cited. The effect of one of the Planning Board's recommendations is disputed by the parties and was, thus, identified as an unresolved issue.

The issue under consideration is contained on page 3 of the Planning Board's memorandum; specifically, sub-paragraph B3. The comment reads, in its entirety,

"Residential building lots Nos. 36, 37, 38 and 39, may be approved in the general location and with the boundaries proposed, provided that the approved plan and record plat shall contain a note requiring, (a) that the exterior design of the dwelling to be constructed on each lot shall, before the issuance of a building permit, be subject to approval by the Landmarks Preservation Commission, (b) that the dwellings to be constructed on those lots shall not be sited on the topographic ridge and shall be provided with vegetated buffering to shield the view of those homes from Shawan Road." (Emphasis added)

The parties disagree about the requirements imposed by this condition. Mr. Haile, on behalf of the Developer, noted that the subject lots are located on a ridge which runs through the property. As shown in the red lined plan, page 2 of 6, Mr. Haile depicted the top of the ridge in blue pen. Under the original plan, the dwellings on lots 37 and 39 were located on that ridge top. Dwellings on lots 36 and 38 were not located on the ridge top, but were a short distance away. The Developer, within the red lined plan, has moved the building envelopes slightly so that none of the houses are now situated on the ridge top. Thus, in the Developer's view point, the plan now complies with the Planning Board's comment. Clearly, the Developer has read that comment narrowly, and accepted same to mean only that the dwellings cannot be sited on the highest point of the ridge.

The Protestants disagree that the Developer's red lined amendments have satisfied the Planning Board's comment. They produced the testimony of Tim Dugan, an employee of the Office of Planning, in support of their

position. Mr. Dugan was present at the Planning Board meeting when the recommendation was formulated and testified extensively about the proceedings. It was Mr. Dugan who actually authored the memorandum at issue and he presented testimony into what he believes was the Planning Board's intent in offering these comments.

Mr. Dugan's testimony was forthright and honest. He attempted to present to me a fair and accurate representation of what occurred during the Planning Board's deliberations.

Based on Mr. Dugan's testimony and the memorandum offered, it is clear that the Planning Board, itself, was confused on this issue. Certainly, although one can conclude that it was their intent to minimize the visual impact of the houses on lots 36 thru 39, their attempts to achieve mitigation are difficult to understand. First, it is to be noted that the referral to the Planning Board in this case was due to the involvement of historic structures. How reducing the silhouette of the houses on lots 36 thru 39, when viewed from Shawan Road, mitigates the involvement of the historic structures on the Hayfields property is candidly beyond the understanding of this Hearing Officer. I see no reasonable nexus between the involvement of the historic structures and the Planning Board's intent to re-site the houses on these lots. Nonetheless, and unfortunately in this instance, the Planning Board's recommendation is binding.

Second, it is not clear how the Planning Board thought its recommendation would eliminate or mitigate this visual impact. In the beginning of its comment, the Planning Board specifically endorses and accepts the "general location" and "boundaries" of the subject lots. In my judgment, the roof of a house sited anywhere on those lots will be visible from Shawan Road. Although the lots do have some grade, the grade is not sufficient enough within each individual lot to compensate for the height

of the anticipated dwellings. Obviously, houses sited on the highest point of the individual lots will be higher; but, houses sited anywhere on the lots will still be visible and higher than the top of the ridge. To repeat, the difference in grade of the lots is not sufficient to fully compensate for the heights of the houses. Moreover, placing the houses closer to Shawan Road will alter the perspective of those viewing the properties from that road.

Therefore, the Planning Board's comment is inherently inconsistent. The resiting of the houses on the defined lots will not decrease their visibility to any significant degree.

After due consideration of Mr. Keller's memorandum of May 3, 1996, Mr. Dugan's testimony and his notes taken during the Planning Board's meeting (Petitioner's Exhibit No. 14), I will not require additional amendment to the red lined plan. In approving the location of the lots and their boundaries, the Planning Board must have been aware of the topography of those lots and the visibility of the proposed dwellings irrespective of where they were to be located thereon. The Planning Board's precise language is that the houses must be sited on the ridge top. The Developer has met this requirement. Thus, a fair reading of their comment is to require the dwellings to be located off of the ridge top only, as shown on Mr. Haile's red lined comment. This reading of the Planning Board's comment, although strained, makes more sense than any other interpretation.

ISSUE NO. 4

THE DUMBELL (REMOTE SEPTIC) LOTS IN THE R.C.4 ZONE

Nos. 13, 14, 16, 2, 3 AND 12 IN THE R.C.4 ZONE

Significant testimony and evidence was presented relating to those residential lots referred to as the "Dumbbell lots" located in the north-

east quadrant of the site. These lots utilize what the Developer labels as "remote septic areas" to provide necessary acreage to satisfy the area requirements for an R.C.4 lot and also to address environmental concerns.

Essentially, the facts surrounding the creation of these lots are undisputed. The Developer, under the rights of subdivision available in the R.C.4 zone, can create 35 building lots (see Section 1A03.4.B.1.b of the BCZR - 0.2 lot per acre). Moreover, the regulations governing development in an R.C.4 zone requires that each lot be of a minimum 1 acre (1A03.4.B.1.b.2) and that a minimum of 70% of the gross area of the tract to be developed shall be designated as the conservancy area (Section 1A03.4.B.1.b.1). The conservancy area is essentially to be left undisturbed and preserved for the protection of the water resource. In fact, the R.C.4 zone was created in recognition of the County's water resources and designed to be applied in order to protect those resources.

In wishing to fully utilize the maximum number of lots allowed, the Petitioner has created a series of remote septic areas. This concept is apparently new in Baltimore County. For the lots at issue, the Developer has created a buildable area for the construction of a dwelling adjacent to a proposed internal roadway. Running from the buildable area is a long "tail" or "stem" which is shown as part of the fee simple acreage of the subject lot. This narrow tail extends to an area some distance away in which the septic fields will be located. Thus, the proposed lots are in the shape of a dumbbell and the septic systems are truly remote, in terms of their location from the subject dwellings.

The Developer/Petitioner sees nothing wrong with this approach. They aver that it is appropriate under the zoning and development regulations and meets the letter of the law. They contend that it represents a novel,

yet permissible, solution to the design of the required septic systems and minimum acreage of the lots.

Apparently, DEPRM has accepted the Developer's approach. Testimony in this respect was offered from Steve Moglinicki of that department. Written comments are also contained within the file regarding the remote septic system.

The Protestants, quite obviously, disagree. They believe that the remote septic system approach disregards the spirit, if not the letter, of the law. They are also concerned over the fact that the septic areas will be located some distance away from the dwellings which they serve. The Protestants note an increased likelihood of a failure of the system along the tail and that fact that the property owner may not discover that the system has failed owing to the distances involved. A representative from DEPRM (Steve Moglinicki) concurred with these concerns.

A review of the development and zoning regulations is, in my judgment, appropriate in considering the propriety of this approach. Insofar as the development regulations, Baltimore County's Development Policies are contained within Section 26-166 of the Code. It is noted that these policies require the protection and promotion of public health, safety and welfare. More specifically, water supply, sewage and environmental degradation are issues identified within the development policies. The purposes of the development regulations (26-167) are also clearly delineated. Those purposes include to protect and provide for the public health, safety and general welfare of the County, to manage natural resources safely, and to implement public and private policy in order to provide adequate and efficient water, sewerage, etc.

These development regulations should be read in conjunction with the BCZR. As noted above, the R.C.4 zoning designation is a water shed protec-

tion designation. The BCZR recognizes the major high quality sources of water in Baltimore County and the potential detrimental effect of development upon same. The R.C.4 zoning regulations, including those provisions which permit a clustering of development and a 70% conservancy area were no doubt designed, in large part, to protect the water resources of the County.

In my judgment, the remote septic system lots run afoul of the policies and purposes of these regulations and cannot be permitted. In reaching this conclusion, a foremost consideration is the fact that the R.C.4 zoned land, by definition, contains water resources which need stringent protection. The transportation of sewage from the proposed dwellings through and across the R.C.4 lands unreasonably threatens these environmentally sensitive resources.

A discussion of the purposes of the conservancy area is also in order. Within Section 1A03.5.A.1 of the BCZR, it is stated, "That the acreage of the conservancy area, whenever possible shall, be contiguous . . . ". (Emphasis added). Contiguous, is defined in Webster's Third New International Dictionary as "Touching along boundaries often for considerable distances . . . or, next or adjoining." Although the regulations do not precisely state that area for development need be contiguous, the net effect of the long tail and remote septic systems is to bisect, by a fee strip, the conservancy area. Clearly, it was not the intent of the regulations that the conservancy area be pierced by fee simple strips leading from areas of development. To the contrary, the regulations clearly envision the preservation of large contiguous and undisturbed areas of ground in which the water resource is most sensitive.

For these reasons, it is my judgment that the dumbbell lots are inherently improper and need be removed. Although I applaud the Developer

and its experts for their ingenuity, strict compliance with the precise requirements of the zoning and development regulations does not translate into satisfaction of the spirit and intent of the legislation.

In view of my judgment in this regard, the plan need be amended. Perhaps, the Developer can cluster his lots in a manner consistent with the comments hereinabove and not lose any lots. If such an alternative is practical, so be it. However, if, for environmental or other reasons, the lots cannot be so clustered, the Developer may be faced with the possibility of the loss of certain lots. I will not specifically require such a forfeiture but will require that the Developer amend the plan consistent with the comments hereinabove. Such amendment shall be subject to review and approval from DEPRM. Moreover, the plan shall, thereafter, be resubmitted to the Hearing Officer for approval as in compliance with the provisions herein.

ISSUE NO. 5

CONFLICT WITH THE MASTER PLAN AND REFERRAL TO THE PLANNING BOARD

Both as a preliminary matter and an unresolved development plan, the Protestants contend that this case must be referred, again, to the Planning Board for consideration. As discussed hereinabove, Section 26-207 requires referral of the plan to the Planning Board by the Hearing Officer in certain circumstances. I previously referred the matter to the Planning Board because the plan involved historic structures. The Protestants want a second referral because the plan allegedly conflicts with the Master Plan.

From a purely practical standpoint, it is illogical to send this matter back to the Planning Board. The Board has already had an opportunity to review the project and, as noted above, has submitted a series of recommendations which are binding on the Hearing Officer and will be

incorporated in the approval of the plan. Thus, there is no sound practical reason to give the Planning Board a "second review".

Nonetheless, the Protestants argue that a second referral is mandated. They, no doubt, reference Section 26-208(a) of the Code, which limits the Planning Board to consider only the issues referred to it. Thus, since the Planning Board was previously to consider only the project's impact on involved historic structures, a second referral, on a different issue, is appropriate.

In any event, believing that the Planning Board understood its restricted mission, a conclusion which some might believe is quite a leap of faith, the issue is properly before me. That is, I must consider whether a second referral is in order so that the Planning Board may consider the plan in context with "conflicts with the Master Plan". In this regard, competing testimony was produced by both sides. The Protestants offered the testimony of Patrick Ford, who apparently also testified on the subject before the County Board of Appeals. For their part, the Developer/Petitioner called George Gavrelis. The Developer/Petitioner also rely upon a document entitled "Proposed amendments to the Baltimore County Code regarding conflicts with the Master Plan and other referrals to the Planning Board" (Petitioner's Exhibit No. 13).

A careful analysis with Mr. Ford's testimony is appropriate. He carefully analyzed the Master Plan and located a number of specific pages which he believes states principals in conflict with the proposed development plan. He characterized the plan as detrimental to agricultural uses in that the proposal disrupts agriculture in the County and might negatively effect ground water resources. Mr. Ford also discussed that the history of the site, its long term use as a farm, its distinctive soils and its unique location, there were all factors supporting his conclusions that

the project conflicted with the Master Plan. He also discussed nonagricultural development, such as what is proposed, and how same causes increased pressure on farmers and other holders of large acreage. In his judgment, the proposal conflicts with the Master Plan because of these disruptive effects on agriculture. More precisely, he stated that, "This proposal does not conform to the Master Plan".

Mr. Gavrelis and the Developer disagree. Essentially, they argue that a conflict is quite different than a failure to conform. Moreover, Mr. Gavrelis construes the word "conflict" narrowly. In his judgment, a conflict would exist only where property was proposed for use for public purposes, (e.g., a park or school) and where development of that site privately would prohibit such a future use. Mr. Gavrelis also noted that the Master Plan is a guide or advisory document only.

Based upon the testimony and consideration offered, I accept the Developer's position. In my judgment, the Protestants' definition of what constitutes a conflict is too narrow. Obviously, development of this site results in the loss of agricultural acreage. As such, the impacts of the County's agricultural base as a whole are negative. However, a conclusion that such development inherently conflicts with the Master Plan is inappropriate. Country Clubs, as well as dwellings, are permissible uses in the R.C. zones. Mr. Ford and the Protestants logic is too narrow; they seemingly would insist that any use other than agricultural be considered a conflict with the Master Plan. In my judgment, such a conclusion is inconsistent with what is intended within Section 26-207. In this case, I find no conflict with the Master Plan as I believe that term is defined by law and, therefore, decline to refer the matter, again, to the Planning Board.

ACCESSORY EMPLOYEE DWELLINGS

The Protestants also identified an issue regarding two structures shown on the plan which are designated as accessory employee dwellings. In essence, it was testified that these dwellings would be utilized to house certain employees of the golf course. Specifically, it is anticipated that the Club Pro (and his family) would reside in one dwelling and the Superintendent/Greens Keeper (and his family) would reside in another. The Developer believes that these dwellings are entirely appropriate with the country club, while the Protestants disagree. There was significant and argument offered on this issue, which will not be repeated herein. The record, quite obviously, speaks for itself.

The R.C. zone allows tenant houses as of right as accessory uses. On large farms, the property owner will frequently lease a dwelling to a tenant to work the fields and assist in agricultural operations. Although Section 101 of the BCZR does not define tenant house, it seems obvious that such an arrangement is what the drafters of the BCZR had in mind when they allowed the use.

The proposal under consideration is not a tenant house. Unlike a farm, this is not an agricultural operation. However, the principal is somewhat the same. The golf course, itself, contains a large geographic area and, not unlike a farm, the operation of the course is labor intensive. Just as individuals are needed to plant and harvest crop or manage livestock, individuals are required to maintain the grounds of a golf course in appropriate condition and manage the play on the course.

I do not see any inherent inconsistency with an arrangement permitting limited housing for employees of the golf course. Obviously, a dormitory or such similar use is not appropriate. Not every caddy, grass cutter, cashier, etc., should be housed on the property. However, reserv-

ing two buildings for use as dwellings of a key employee, and their families is appropriate. In my judgment, such an arrangement is properly an accessory use to the operation of the country club. Moreover, in my experience and based upon the testimony offered, such an arrangement is not unusual. Country clubs throughout the area, and across the country, provide certain live-in facilities for key employees. Such an arrangement is not improper here.

Therefore, the accessory uses shall be permitted. However, they shall be limited so that only a single employee and his family should be permitted per dwelling unit. Again, the Developer may identify two employees (e.g., Club Pro and Grounds Keeper/Superintendent) to house in the designated dwellings. Those two employees, as well as their families, could reside on the property. However, a dormitory arrangement is not appropriate; neither, quite obviously, is an arrangement where rooms will be leased for rent. The use of the accessory structure shall be a manner consistent with the comments expressed herein.

ISSUE NO. 7

THE PROCEDURE EMPLOYED BY THE DEVELOPER IN SEEKING APPROVAL OF THE PROJECT

In addition to the substantive issues which arise from a review of the development plan, the Protestants raised a procedural objection to the consideration of the development plan and requested zoning relief. Actually, this objection was first raised by the Office of the People's Counsel, which did not actively participate in the Hearing Officer's hearing. However, People's Counsel's arguments were adopted by the Protestants and, through a series of letters, answered by the Petitioner. In essence, People's Counsel objects to the timing and method employed by the Petitioner in seeking the overall approval of this project.

As noted above, the matter originally came in before me as a Petition for Special Exception, only, to permit a country club on the subject site. I granted the Petition for Special Exception as set forth hereinabove. A timely appeal of that Order was filed with the Board of Appeals and has been the subject of a hearing before the Board. The Board has affirmed the grant of the special exception but not, as yet, issued its written opinion. The relief requested in the within matter relates not only to approval of the development plan, but relief pursuant to a Petition for Special Hearing and a Petition for Variance. The Petition for Special hearing seeks a modification of the prior plan to bring same into compliance with the development plan. The changes from the previously approved plan in the special exception case and the current plan relate to conditions imposed by me as restrictions to the special exception approval, the Planning Board's requirements and the Board of Appeals' requirements as elicited at their deliberations. The variance relief sought relates to existing buildings on the site. In essence, the zoning variances are twofold; as to the height of certain structures and as to distances between those structures.

People's Counsel claims that the Court of Special Appeals decision in Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County, 103 Md. App. 324 (1995), as well as the zoning regulations, prohibits the Developer's somewhat piecemeal approach to obtaining approval. People's Counsel and the Protestants claim that the Developer cannot obtain special exception relief in one proceeding and variance relief in another. In People's Counsel's view, the relief sought is so intertwined so as to preclude separate consideration of these issues. People's Counsel also cites certain sections of the BCZR as authority for its position.

In my judgment, People's Counsel has improperly interpreted the Court's opinion in Chester Haven. In Chester Haven, a variance was requested to permit more units than allowed for a cluster of development in accordance with a proposed conditional (special exception) use. The Court, in that case, noted that the variance requested was so intertwined with the requested conditional use that, "Given the failure of the request for a variance, it was impossible for Appellants to comply with the specific conditions for which the ordinance required compliance before a grant of a conditional use could be made. . .". (pg.939)

A similar situation does not exist in the case before me. The variance requests are not so intertwined with the special exception use. The Petitioner may operate a country club/golf course with or without the variances. If the variances are denied, the buildings could be relocated or removed and the underlying use unaffected.

I do not read Chester Haven as broadly as People's Counsel. In cases where the variance relief and proposed special exception are not interconnected, a Petitioner need not seek special exception approval and variance relief simultaneously. Moreover, Section 26-206.1 of the Code makes clear that a Developer, may or may not, choose to couple a development plan submission with zoning relief. Although the Petitioner filed its development plan and requested a hearing on same in conjunction with the Petitions for Special Hearing and Variance, there is no mandate that all of the approvals necessary need be acquired following a single hearing. The Developer, in this case, has properly exercised its option to obtain the special exception relief first; then proceed with the development plan and variance relief. I see nothing inherently impermissible about this process.

Moreover, contrary to People's Counsel's assertion, Section 502.1.G is not a bar to the Petitioner's submissions in this case. That section requires the Zoning Commissioner/Board of Appeals to evaluate the special exception request and to determine if same is consistent with the purposes of the property's zoning classification and the spirit and intent of the BCZR. That section cannot be so broadly read so as to require that all variances which might ultimately be requested need be considered simultaneously with the special exception request. Only those variances intertwined with the use, as discussed in Chester Haven, need be petitioned for simultaneously.

For these reasons, I reject the Protestants and People's Counsel's assertions that the presentation of this case was procedurally flawed.

ISSUE NO. 8

THE ZONING RELIEF

In addition to the development plan approval, the Petitioner seeks zoning relief. More particularly, the Petition for Special Hearing is sought seeking amendment to the previously approved plan to bring same into compliance with the submitted development plan. Moreover, a series of variances are sought.

As to the special hearing relief, same should be granted. In the overall scheme of the project, the differences between the development plan under consideration and the approved special exception plan are minor. Certain internal lot lines have been adjusted, certain comments and notes added, and other revisions made; all to bring the plan into compliance with development plan comments and the restrictions imposed by the approving authorities. None of these changes are, in my judgment, major when considering the entire plan. Moreover, I find, as fact, that these changes do not detrimentally affect the health, safety or general

welfare of the locale. As it relates to these changes, I am persuaded that the Petitioner has met its burden at law, pursuant to Section 502.1 of the BCZR as construed by the case law.

The request for zoning variances are somewhat different. As noted above, a series of variances are requested, some from Section 1A01.3.A and others from Section 1A01.3.B.3. The variances relating to Section 1A01.3.A relate to two existing silos on site as well as the Hayfields' mansion. These variances request relief so as to permit the existing structures to remain, notwithstanding the fact that they are violative of the height limitations contained in the BCZR. Specifically, the silos are both 50 ft. in height, in lieu of the maximum 35 ft. allowed, and the Hayfields' mansion is 42 ft. in height, taller than the permitted 35 ft. In my judgment, a grant of these variances is appropriate. It seems clear that a significant facet of the overall project is to incorporate the historic structures into an adaptive re-use of the site. Retention of the existing mansion, as well as the silos, will assist in preserving the agricultural/historic character of the property. In my judgment, the testimony and evidence presented, all of which was uncontradicted as it relates to these variances, is persuasive. I am convinced that the Petitioner has satisfied the burden set forth in Section 307.1 of the BCZR as construed by the case law.

In addition to height variances, four other variances are requested as they relate to existing buildings. As can be expected, owing to the historic and previous use of this property, a series of buildings are clustered around the center of the site. These include the mansion house, a cook's house, a manager's house, a barn, etc. Under the R.C. regulations, the buildings are required to be located a minimum of 70 ft. apart. Variances are requested to legitimize these existing locations. The

Protestants objected to some of these variances, particularly as they relate to a garage building, shown on the site plan as Building 8. Building 8 is not a structure that has historic value and Mr. Mangione candidly testified that he was not sure what use would be made of that building. The Protestants aver that the variances as they relate to Building 8 should be denied in that the structure has no historic value and that the Petitioner's plans are not clear as to how that building will be used.

Section 307.1 of the BCZR regulates the variance process in Baltimore County. That section was recently, comprehensively, discussed by the Court of Special Appeals in Cromwell v. Ward, 102 Md. App. 691 (1995). The Court in Cromwell imposed a stringent interpretation of the language of Section 307 of the BCZR.

Based on this holding, I am persuaded by the Protestants' arguments. Clearly, the retention of Building 8 will not cause any detriment to the surrounding locale and its continued use is of benign effect. Nonetheless, those factors are not the test. As set forth in Cromwell, the Petitioner must demonstrate that the building/property at issue carries some unique quality that justifies the variance. Moreover, the Petitioner must demonstrate that strict adherence to the regulations would result in practical difficulty or unreasonable hardship. Although I see no harm in retaining Building 8, where situated, the Petitioner has not presented compelling testimony to overcome the variance standard. Thus, the two variances, as they relate to Building 8, shall be denied.

The other two variances relating to the buildings' separation shall be granted. These other variances relate to Buildings 2, 3, 5 and 6. All of those buildings are, in fact, historic structures and should be retained. The unique historic character of those buildings and the definitive plans established by the Petitioner for their re-use are compelling

reasons in support of the variance requests. Thus, the Petition for Variance shall be granted in part and denied in part.

RESTRICTIONS

The Protestants request that a number of restrictions be attached to the approval of any development plan, pursuant to Section 26-206(o) of the Baltimore County Code. These conditions may be imposed to alleviate or mitigate potential adverse impacts of the proposed development. Some of the restrictions requested by the Developer are mandated by law. Obviously, all such mandates will be incorporated as a condition of the approval of the plan. Moreover, the requirements of the Board of Appeals contained in their written decision on the Petition for Special Exception are necessary. The following restrictions will be imposed, pursuant to the authority under the section above referenced. In my judgment, these conditions are necessary and appropriate. The restrictions are:

1. The Petitioner (and its successor) shall be required to adhere to the DEPRM guidelines for the design and maintenance of golf courses (Protestants' Exhibit No. 2).
2. The Petitioner shall be required to provide for ground water monitoring at the golf course consistent with DEPRM guidelines for so long as pesticides and fertilizers are used at the site, subject to the ability of DEPRM to alter, suspend or terminate such monitoring in its discretion as future circumstances may suggest.
3. The Petitioner shall comply with all development plan comments, except expressly hereinabove overruled or revised. These include all DEPRM comments, including those contained within the memorandum dated May 1, 1996 (Items 2-11) from Steve Moglinicki to R. Bruce Seeley (Petitioner's Exhibit No. 10, pg. 2), dated May 10, 1995 and May 15, 1995.
4. The Petitioner shall obtain a ground water appropriation permit from the responsible State agency and the requisite amendment to the County's Master Water and Sewer Plan, or an exemption from those requirements from the appropriate State/County agency.

5. The location of the maintenance facility and the pesticide storage and mixing facility located therein shall be subject to the approval of DEPRM.

6. The location, design and technical requirements of the septic system serving the golf course and country club complex shall be subject to the review and approval of DEPRM and any other State or local agencies with jurisdiction over same.

7. The Petitioner shall comply with the terms and conditions of the Planning Board's recommendations (Petitioner's Exhibit No. 2) except as expressly modified and addressed herein.

8. The hours of operation of any restaurant included in the complex shall be from 10:30 A.M. to 9:00 P.M. on Mondays thru Thursdays, from 10:30 A.M. to 11:00 P.M. on Fridays, Saturdays and Sundays (with the closing hours being the hours after which no food orders will be taken) and subject to all applicable provisions of the BCZR.

CONCLUSION

This is a difficult case. The competing interests and concerns of the parties cannot be reconciled. However, in accordance with the applicable provisions of law, I believe that the development plan must be approved as conditioned and the zoning relief largely granted, consistent with the above. In my judgment, the development regulations and zoning regulations mandate such a result.

Pursuant to the development regulations of Baltimore County, as contained within Subtitle 26 of the Baltimore County Code, the advertising of the property and the public hearing thereon, I will approve the development plan consistent with the comments set forth above and shall so order; and the Petition for Special Hearing shall be granted; and the Petition for Zoning Variance shall be granted in part and denied, in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of June, 1996 that the development plan submitted in the within case as Developer/Petitioner's Exhibit No. 6, be and is hereby

APPROVED in accordance with the terms and conditions as set forth herein;
and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, approval to amend the previously approved plan in case No. 95-308-X, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that Petition for Variance from Section 1A01.3.A of the BCZR to permit an existing silo adjacent to Building 10 to have a height of 50 ft., in lieu of the maximum allowed 35 ft.; an existing silo in the R.C.4 conservation area to have a height of 50 ft., in lieu of the maximum allowed 35 ft.; and the existing Hayfields Mansion building to have a height of 42 ft., in lieu of the maximum permitted 35 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance from Section 1A01.3.B.3 of the BCZR, pursuant to Section 102.2, to permit a 50 ft. distance between existing buildings 2 and 6, in lieu of the required 70 ft.; and the distance between existing buildings 3 and 5 to be 50 ft., in lieu of the required 70 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance from Section 1A01.3.B.3 of the BCZR, pursuant to Section 102.2 to allow a distance between existing buildings 6 and 8 of 3 ft., in lieu of the required 70 ft.; and the distance between existing buildings 4 and 8 to be 65 ft., in lieu of the required 70 ft., be and is hereby DENIED, subject, however to the following restrictions:

1. The Petitioner (and its successor) shall be required to adhere to the DEPRM guidelines for the design and maintenance of golf courses (Protestants' Exhibit No. 2).
2. The Petitioner shall be required to provide for ground water monitoring at the golf course consistent with DEPRM guidelines for so long as pesticides and fertilizers are used at the site, subject to the ability of DEPRM to alter, suspend or terminate such

monitoring in its discretion as future circumstances may suggest.

3. The Petitioner shall comply with all development plan comments, except expressly hereinabove overruled or revised. These include all DEPRM comments, including those contained within the memorandum dated May 1, 1996 (Items 2-11) from Steve Moglinicki to R. Bruce Seeley (Petitioner's Exhibit No. 10, pg. 2) dated May 10, 1995 and May 15, 1995.

4. The Petitioner shall obtain a ground water appropriation permit from the responsible State agency and the requisite amendment to the County's Master Water and Sewer Plan, or an exemption from those requirements from the appropriate State/County agency.

5. The location of the maintenance facility and the pesticide storage and mixing facility located therein shall be subject to the approval of DEPRM.

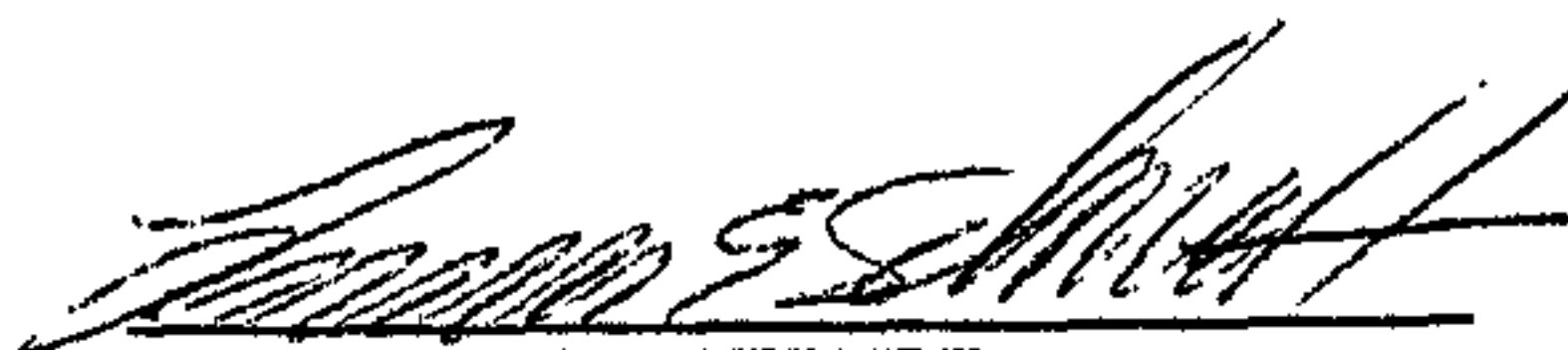
6. The location, design and technical requirements of the septic system serving the golf course and country club complex shall be subject to the review and approval of DEPRM and any other State or local agencies with jurisdiction over same.

7. The Petitioner shall comply with the terms and conditions of the Planning Board's recommendations (Petitioner's Exhibit No. 2) except as expressly modified and addressed herein.

8. The hours of operation of any restaurant included in the complex shall be from 10:30 A.M. to 9:00 P.M. on Mondays thru Thursdays, from 10:30 A.M. to 11:00 P.M. on Fridays, Saturdays and Sundays (with the closing hours being the hours after which no food orders will be taken) and subject to all applicable provisions of the BCZR.

IT IS FURTHER ORDERED that the Developer shall prepare and submit to Permits and Development Management (PDM), within thirty (30) days from the date of this Order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this opinion and Order and/or the development plan comments.

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.

A handwritten signature in dark ink, appearing to read 'Lawrence E. Schmidt', is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

BY: William F. Wiseman

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

111 W. Chesapeake Avenue

The application for your proposed Amendment has been reviewed and is accepted for filing by JOHN LEWIS on 6/6/06

A sign indicating the proposed Amendment must be posted on the property for fifteen (15) days before a decision can be rendered. The cost is \$60.00 for filing, \$35.00 per sign for posting; total of \$95.00.

In the absence of a request for public hearing during the 15-day posting period, a decision can be expected within approximately four weeks. However, if a valid demand is received by the closing date, then the decision shall only be rendered after the required public special hearing.

*SUGGESTED POSTING DATE 6/19/06 D ~~(15 Days Before C)~~

DATE POSTED 6/19/06

HEARING REQUESTED-YES _____ NO _____ -DATE _____

CLOSING DAY (LAST DAY FOR HEARING DEMAND) 7/03/06 C (B-3 Work Days)

TENTATIVE DECISION DATE 7/07/06 B (A + 30 Days)

*Usually within 15 days of filing

(MON, JUNE 19) LINDA OKEEFE
VERBAL ACCEPTANCE TO
POST

PER MR. KOTROCO, DIRECTOR PDM.
IF SIGN POSTER COMMITS TO
POSTING DATE SIGN ONLY NEEDS
TO BE UP 15 DAYS FROM THAT DATE.

CERTIFICATE OF POSTING

District 8

Location of property: ~~422 GIERBER LANE~~ 905 HAYFIELDS RD

Posted by: _____ Date of Posting: _____
Signature _____

Number of Signs: _____

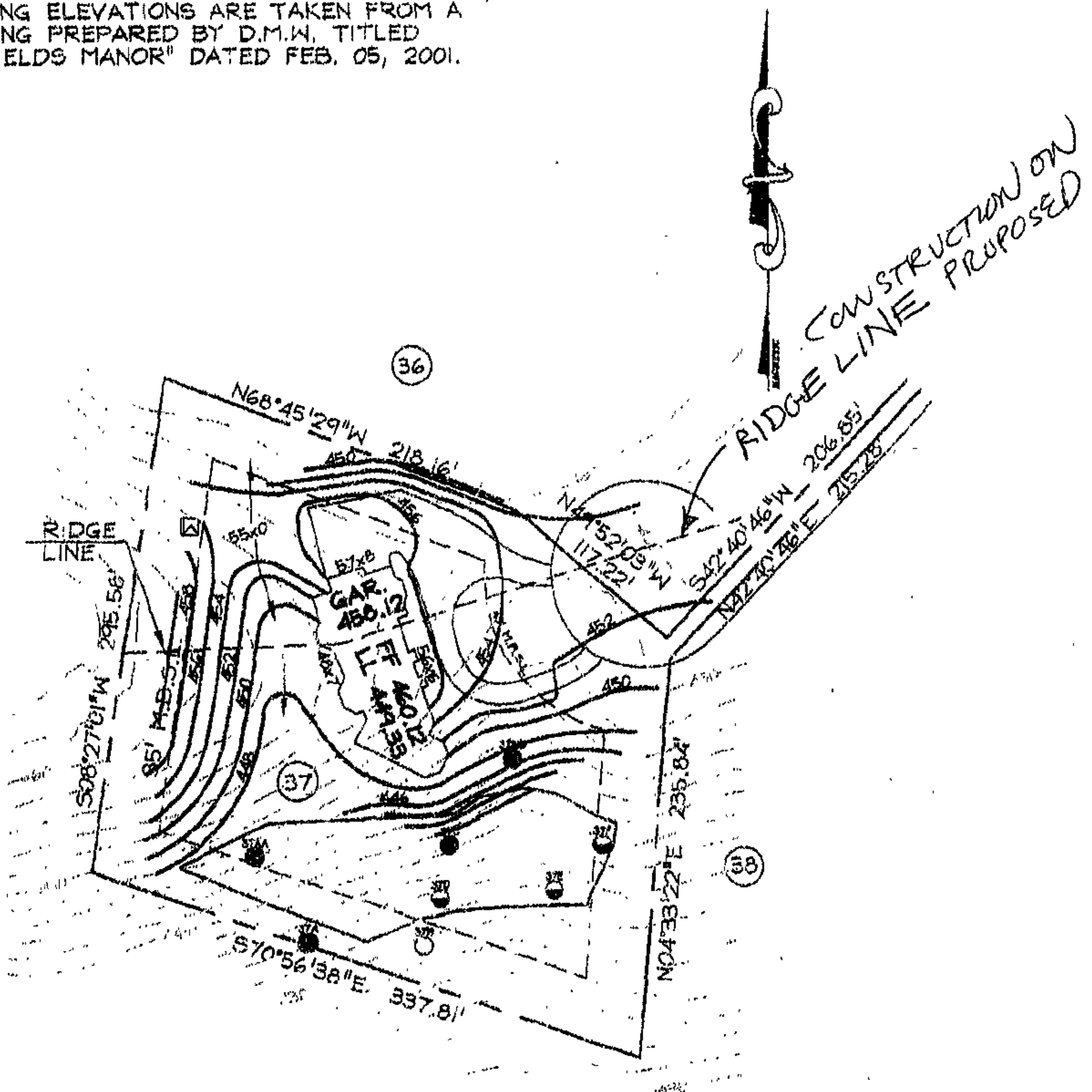
AMEND (TKTSOPH)

Revised 4/1/92

(ALONG WITH DEMAND DATES ETC)

SIGN TO STATE: TO APPROVE AN AMENDMENT TO THE FINAL DEVELOPMENT PLAN FOR HAY FIELDS MANOR LOT# 37 TO ALLOW CONSTRUCTION OF A DWELLING ACROSS A RIDGE LINE WHICH IS NOT PART OF THE AREA OF THE PERMITTED BUILDING ENVELOPE.

NOTE:
EXISTING TOPOGRAPHY IS NOT GUARANTEED,
EXISTING ELEVATIONS ARE TAKEN FROM A
DRAWING PREPARED BY D.M.W. TITLED
"HAYFIELDS MANOR" DATED FEB. 05, 2001.



PLAN FOR SINGLE LOT AMENDMENT.

NOTE: THERE MAY BE REASONABLE
VARIATIONS IN LOCATION SIZE AND
ORIENTATION FROM THE PLAN AS SHOWN.

h. l. h. s. 6/16/06

MERRITT DEVELOPMENT
CONSULTANTS, INC.

2416 E. JOPPA ROAD
BALTIMORE, MARYLAND
PHONE: 410-663-5525 FAX: 410-663-4315

CONCEPT PLAN LOT 37
905 HAYFIELDS ROAD
DISTRICT 8TH BALTIMORE COUNTY, MD
SCALE: 1"=100' JUNE 1, 2006

NOTICE OF ZONING HEARINGS

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: #06-887-A

905 Hayfields Road
Westside of Hayfields Road, 900 feet south of
centerline of Hayfields Court

8th Election District - 3rd Councilmanic District

Legal Owner(s): Ron G. & Heidi Krauss

Variance: to permit the construction of a dwelling with a height of 41 feet in lieu of the permitted 35 feet and to confirm the approval of a single lot amendment to the latest Final Development Plan for Hayfields Manor, Lot 37.

Hearing: Monday, August 28, 2006 at 2:00 p.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.

8/09/2 Aug. 10 105081

CERTIFICATE OF PUBLICATION

_____ 8/10/2006

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 8/10/2006.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING