IN RE: PETITION FOR SPECIAL HEARING E/side of Sagamore Forest Lane, 670 feet +/- S of c/l of Worthington Avenue 4th Election District 2nd Councilmanic District **(12807 Sagamore Forest Lane** **proposed Lot 6A)**	* * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
David and Dian Miller *Legal Owner*	*	**CASE NO. 07-177-SPH**

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

IN RE: PETITION FOR SPECIAL HEARING E/side of Sagamore Forest Lane, 670 feet +/- S of c/l of Worthington Avenue 4th Election District 2nd Councilmanic District **(12807 Sagamore Forest Lane** **proposed Lot 6B)**	* * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
David and Dian Miller *Legal Owner*	*	**CASE NO. 07-178-SPH**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on Petitions for Special Hearing filed by the legal owners of the subject property, David and Dian Miller. The Petitioners are requesting the following:

Case No. 07-177-SPH: This property is located at 12807 Sagamore Forest Lane, proposed Lot 6A. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC-2 zone, containing 0.5725 acres (24,939 square feet), a part of Lot 6A, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve septic area location for Lot 6A to be located in an RC-2 zone in lieu of the required RC - 5 (i.e.: same zone as house).

12-26-06

IN THE MATTER OF THE APPLICATION OF DAVID AND DIAN MILLER -LEGAL OWNERS /PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S OF SAGAMORE FOREST LANE, 670' S OF C/L WORTHINGTON AVENUE 12807 SAGAMORE FOREST LANE 4TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 07-177-SPH and CASE NO. 07-178-SPH

* * * * * * * *

ORDER OF DISMISSAL OF PETITIONS

This case comes to the Board on appeal filed by Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, from the December 26, 2006, decision of the Deputy Zoning Commissioner in which the subject Petitions were granted with restrictions.

WHEREAS, the Board is in receipt of a letter of withdrawal of Petitions in Case No. 07-177-SPH and Case No. 07-178-SPH filed on February 28, 2008, by Dian Miller and David Miller, Petitioners (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Petitioners request that the Petitions for Special Hearing filed in Case No. 07-177-SPH and Case No. 07-178-SPH be withdrawn and dismissed as of February 28, 2008,

IT IS THEREFORE this 17th day of March, 2008, by the County Board of Appeals of Baltimore County

ORDERED that said Petitions filed in Case No. 07-177-SPH and Case No. 07-178-SPH be and are hereby **WITHDRAWN AND DISMISSED with prejudice**, pursuant to Rule 3.b.II of the Board's Rules of Practice and Procedure, and that the Deputy Zoning Commissioner's Order dated December 26, 2006, including any and all relief granted therein, is rendered ***null and void.***

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Wendell H. Grier, Panel Chairman

Robert W. Witt

Edward W. Crizer, Jr.

CASE #: 07-177-SPH **IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners /Petitioners** 12807 Sagamore Forest Lane /Proposed Lot 6A
4th Election District; 2nd Councilmanic District

SPH – Proposed Lot 6A – to approve creation of undersized non-density parcel of land in RC2 zone and to approve septic area location for Lots 6A to be located in RC 2 zone ilo required RC 5 (same zone as house)

and

CASE #: 07-178-SPH **IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners /Petitioners** 12807 Sagamore Forest Lane /Proposed Lot 6B
4th Election District; 2nd Councilmanic District

SPH – Proposed Lot 6B – To approve creation of undersized non-density parcel of land in RC 5 zone and to approve well location for Lot 6B in an RC 5 zone ilo required RC 2 (same zone as house)

12/26/2006 – D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

5/14/2007 - Notice of Assignment sent to following; assigned for hearing on Thursday, June 14, 2007 at 10:30 a.m.:
Office of People's Counsel
David and Dian Miller
A. L. Snyder /Surveyor
Jacqueline Quad
Harry and Jennifer Abramson
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

6/14/07 – Board convened for hearing (Grier, Witt, Crizer); Wayne G. Gracey, Esquire, entered his appearance on behalf of Mr. and Mrs. Miller; file noted. Memos to be filed on 7/11/07; deliberation to be assigned and notice sent.

6/25/07 – Notice of Deliberation sent to parties; deliberation assigned for Tuesday, July 31, 2007 at 9:00 a.m. FYI copy to 4-6-7. (Confirmed availability of "6" for this date; 4 and 7 scheduled.)

7/11/07 – People's Counsel for Baltimore County's Memorandum filed by Mr. Zimmerman; Memorandum filed by Wayne G. Gracey, Esquire, on behalf of David and Dian Miller. **MEMOS FILED IN 07-177-SPH.**
-- Copies of above memos forwarded to 4-6-7 via USPS.

7/17/07 – Notice of PP and Reassigned Deliberation sent to parties this date; postponed from July date due to conflict for Board member (7); and reassigned to Tuesday, September 11, 2007 at 9:00 a.m. FYI copy to 4-6-7.

7/26/07 – Letter from Mr. and Mrs. Miller – requesting consideration for earlier deliberation date; personal matters require an early resolution of this matter for reasons as stated in letter. Conferred with panel for this matter; Board will be available on 8/21/07 to deliberate at 9 a.m. Advised Ms. Miller via telephone that request would be granted and amended notice sent next week.

7/31/07 – Second Notice of Reassignment sent to parties; case reassigned to earlier date for public deliberation and reassigned to Tuesday, August 21, 2007 at 9:00 a.m. FYI copy to 4-6-7 advising of change (Messrs Grier and Witt are sitting on 8/21/07; Mr. Crizer will come in on 8/21/07).

8/21/07 – Board convened for public deliberation (Grier, Witt, Crizer); unanimous decision – D -Petition for Special Hearing /Cases 07-177-SPH and 07-178-SPH /undersized lot; written decision to be issued; appellate period to run from date of written Order and not today's date. (4)

County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Return Service Requested

RECEIVED
MAR 24 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Order of Dismissal
07-177-SPH & 07-178-SPH

DAVID AND DIAN MILLER
12807 SAGAMORE FOREST LANE
REISTERSTOWN MD 21136

AARH531 21136

**3-18-08BAL TM02 12PRSRT 1STCL

PRESORTED
FIRST CLASS

Master

016H26512963
$00.334
03/18/2008
Mailed From 21204
US POSTAGE

Returned
3/24/08

X 212 NEE 1 C06C 08 03/21/08
FORWARD TIME EXP RTN TO SEND
MILLER'DAVID M
12290 GREEN MEADOW DR APT 113
COLUMBIA MD 21044-4847

RETURN TO SENDER

11/14/07 – Notice of Assignment /Hearing for Argument Only sent to parties this date; hearing scheduled for Thursday, December 13, 2007 at 9:00 a.m. for the limited purpose of receiving argument as to the impact, if any, of the Lynch (Surina) decision issued by the Court of Appeals, as cited in People's Counsel's Post-Hearing Memorandum in the subject matter. A cover letter was also sent this date to Counsel advising of the limited nature of this hearing. FYI copy to 4-6-7.

12/13/07 – Board convened for argument only hearing as indicated above (Grier, Witt, Crizer). Public deliberation to be scheduled and notice sent.

12/27/07 – Notice of Deliberation sent to parties; public deliberation scheduled for Thursday, January 24, 2008 at 9:30 a.m. FYI copy to 4-6-7.

1/24/08 – Board convened for public deliberation on limited issue as argued 12/13/07. Reversed decision reached at first deliberation; granted Petitioner's requested special hearing relief; written opinion /order to be issued. (4)

2/28/08 – Letter of withdrawal of petitions filed by David Miller and Dian Miller this date; Order of Dismissal of Petitions with prejudice to be issued by the Board, in which any relief granted by the Deputy Zoning Commissioner in his decision of 12/26/06 shall be rendered null and void. Grier, Witt, and Crizer to sign order of dismissal.

Case No. 07-178-SPH: This property is located at 12807 Sagamore Forest Lane, proposed Lot 6B. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC- 5 zone, containing 0.2446 acres (10,655 square feet), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve well location for Lot 6B to be located in an RC-5 zone in lieu of the required RC - 2 (i.e.: same zone as house).

The property was posted with Notice of Hearing on November 30, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on November 30, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

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

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: ZAC comment letters were received from the Office of Planning dated October 30, 2006, and a copy of which is incorporated herein and made a part hereof the file. Also David Lykens, from the Department of Environmental Protection and Resource Management personally appeared at the hearing to indicate that DEPRM had no objection to either request.

RECEIVED FOR FILING
12-26-06

Interested Persons

Appearing at the hearing on behalf of the requested special hearing were David and Diane Miller, Petitioners, and A.L. Snyder, Surveyor, who prepared the site plan. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property is lot 6 of the Sagamore Forest Subdivision which was created in August 1976 as shown by the Section Four Sagamore Forest Subdivision Plat, exhibit 3. Lot 6 contains 4.0 acres and is split zoned RC 2 and RC 5 and is improved by the Petitioner's home which is located toward the rear of the lot away from Sagamore Forest Lane.

The Petitioner would like to subdivide their lot into two lots, 6A and 6B, as shown in exhibit 1. Lot A would contain 2.17 acres while lot 6B would contain 1.88 acres. Mr. Snyder indicated that he originally proposed to divide the lot along the RC 2/RC 5 zoning line shown. However because of a stream on the property and associated forest buffers there was not enough room for the septic reserve area. There were also problems locating good perc sites. As a result he proposed the configuration shown on exhibit 1.

However this configuration meant that part of the septic reserve area for lot 6A would be located in the RC 2 zoned portion of the lot. The existing house on lot 6A is in the RC 5 portion of the lot. Similarly the well for the proposed house on lot 6B would be in the RC 5 portion of the lot while the proposed house itself would be in the RC 2 portion. Thus the need for a special hearing.

Mr. Snyder explained that the 0.2 acre triangular portion of lot 6B on which the well is located would be a non density parcel. Similarly the 0.5 acre portion of lot 6A on which a small part of the septic reserve area for the existing house is located would be non density. He opined

ORDER RECEIVED FOR FILING
Date 12-26-06
By

that because lot 6 was a lot of record prior to 1979 when the RC 2 regulation went into effect, that portion of the property in the RC 2 zone is entitled to two lots. The RC 5 portion is entitled to one lot. Although together this property can support three dwellings, the Petitioners are proposing only two. However he agreed to clearly designate the two non density parcels as such in the land records to assure there would be no further use of these parcels for further subdivision.

In regard to community impact the Petitioners indicated that they contacted and kept informed the owner of the home closest to the proposed home, the Crossans, who had no objection to the proposed house. Ms. Miller indicated that they informed the Sagamore Forest Association who after some questions have no objection to the request. She also noted that the by laws of the Association limit lot owner to one subdivision of any lot. Mr. Miller noted that the lots in Sagamore Forest and this lot are heavily wooded and it is unlikely that the new home would be seen by the community.

Findings of Fact and Conclusions of Law

I find the requests for special hearing to be most reasonable and would be within the spirit and intent of the regulations. The proposed lots meet the minimum lot acreage, and the proposed house meets the setback regulations for the RC 2 zone. Lot 6 was created prior to 1979 when the RC 2 regulations were imposed. I have no problem agreeing that a 4 acre lot has two density units under the RC 2 regulations. It is a lot of record prior to 1979. However the RC 2 portion of lot 6 was not a lot of record prior to 1979 and in my view not entitled to two density units. I further find the RC 5 portion is not entitled to another density unit for a total of three density units. In my view once a Petitioner claims his subdivision under RC 2, the whole record lot of four acres is used in regard to density. I also realize that in this case, this issue is purely academic as the Petitioners are not trying to achieve three lots. I raise this matter only because the calculation of density is given in note 4 and I did not want to appear to have approved this note.

ORDER RECEIVED FOR FILING
Date 12-21-06

In any case I also find that the proposed subdivision will not adversely affect the community if the non density status of the two parcels is clearly indicated in the land records. By recording this information in the land records, future buyers will be fully notified of the non density status and not seek to create more lots by lot line adjustment or otherwise. I note that the Planning Office deferred to DEPRM in this matter and that DEPRM does not oppose the request.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' request for special hearing should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 26th day of December, 2006, that special hearing relief for properties set forth as follows:

Case No. 07-177-SPH: The Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC-2 zone, containing 0.5725 acres (24,939 square feet), a part of Lot 6A, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve a part of a septic reserve area for Lot 6A to be located in an RC-2 zone in lieu of the required RC 5 zone as shown on Petitioner's exhibit 1, is hereby GRANTED; and

Case No. 07-178-SPH: The Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC- 5 zone, containing 0.2446 acres (10,655 square feet), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve a well for Lot

12-26-06

6B to be located in an RC-5 zone in lieu of the required RC - 2 as shown on Petitioner's exhibit 2, is hereby GRANTED;

both subject however to the following conditions precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner shall cause this Order showing the non density status of the parcels created to be recorded in the land records of Baltimore County prior to record plat
3. That the density calculation of note 4 is not approved.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

Date 12-26-06
By

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

December 26, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

DAVID AND DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON MD 21071

Re: Petition for Special Hearing
Case No. 07-177-SPH located at 12807 Sagamore Forest Lane
proposed Lot 6A
Case No. 07-178-SPH located at 12807 Sagamore Forest Lane
proposed Lot 6B

Dear Mr. and Mrs. Miller:

Enclosed please find the decision rendered in the above-captioned case.

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

Very truly yours,

John V. Murphy / pz

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz

Enclosure

c: A.L. Snyder, 1911 Hanover Pike, Hampstead MD 21074

PLEASE PROCESS FOR FILING
12-26-06
pz

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

January 19, 2007

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

Re: PETITION FOR SPECIAL HEARING
E/S Sagamore Forest Lane, 670' S of c/l Worthington Avenue
(12807 Sagamore Forest Lane proposed Lot 6B)
4th Election District; 2nd Council District
David and Dian Miller- Petitioners
Case No.: 07-178-SPH

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated December 26, 2006 by the Baltimore County Deputy Zoning Commissioner.

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

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio/rmw

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: David & Dian Miller

RECEIVED
JAN 19 2007
Per...

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

(proposed lot 6B)

for the property located at 12807 Sagamore Forest Lane
which is presently zoned RC 2 & RC 5

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

Creation of an undersized non-density parcel of land in an RC 5 Zone, containing 0.2446 acres (10,655 sq ft), a part of lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and section 1A005.6.(1).c (ZCPM) - to approve well location for lot 6B to be located in an RC 5 zone in lieu of the required RC 2 (ie: same zone as house)

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

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

David M. Miller
Name – Type or Print

Signature

Dian Miller
Name – Type or Print

Dian Miller
Signature

12807 Sagamore Forest Lane
Address Telephone No.

Glyndon, MD 21071
City State Zip Code

Representative to be Contacted:

A. L. Snyder, Surveyor, Inc.
Name

1911 Hanover Pike 410-239-7744
Address Telephone No.

Hampstead, MD 21074
City State Zip Code

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____
Reviewed By KDD **Date** 10/18/06

Case No. 07-178-SPH

ACCEPTED FOR FILING
Date 12/26/06
By M

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 21840

DATE 10/18/06

ACCOUNT 1001.006 6150

AMOUNT $ 65.00

RECEIVED FROM: Zoning Commissioner Case # 07-178-SPH

FOR:

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS DATE	ACTUAL DATE	TIME	DRW
10/18/2006	10/18/2006	10:06:12	2

REG WS02 MALL JEVA JEE OPEN
>>RECEIPT # 025401 10/18/2006
Dept 6 020 ZONING VERIFICATION
OR-NO: 021840 65.00
Recpt Tot 65.00 CK
65.00 CK 0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

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

Case: #07-178-SPH
12807 Sagamore Forest Lane (proposed Lot 6B)
E/side of Sagamore Forest Lane, 670 feet +/- south of centerline of Worthington Avenue
4th Election District - 2nd Councilmanic District
Legal Owner(s): David & Dian Miller

Special Hearing: to approve the creation of an undersized non-density parcel of land in an RC-5 Zone, containing 0.2246 acres (10,665 sq. ft.), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b(1)c (ZCPM) - to approve well location for Lot 6B to be located in an RC-5 zone (i.e. same zone as house).

Hearing: Friday, December 15, 2006 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

11/381 November 30 117488

CERTIFICATE OF PUBLICATION

11/30/, 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 11/30/, 2006.

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

S. Wilkinson

LEGAL ADVERTISING

19 LF.

Requested: 4/~~18~~/2007

APPEAL SIGN POSTING REQUEST

CASE NO. 07-178-SPH

12807 SAGAMORE FOREST LANE

4th ELECTION DISTRICT APPEALED: 1/19/2007

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 07-178-SPH

LEGAL OWNER: DAVID & DIAN MILLER

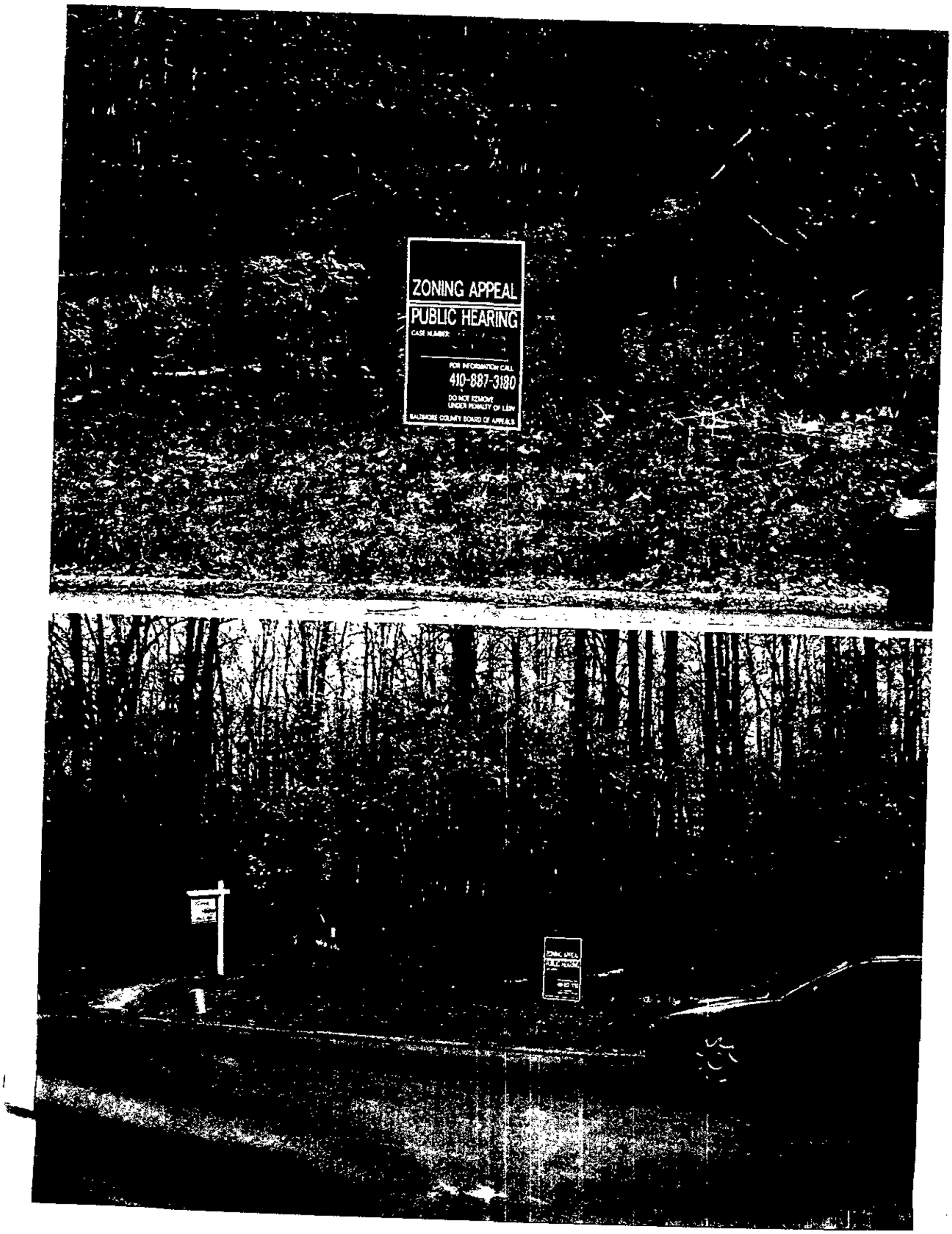
This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

12807 SAGAMORE FOREST LANE

The sign was posted on 5-1-07, 2007.

By: _____
(Signature of Sign Poster)

JASON SEIDELMAN
(Print Name)


ZONING APPEAL
PUBLIC HEARING
CASE NUMBER
FOR INFORMATION CALL
410-887-3180
DO NOT REMOVE
UNDER PENALTY OF LAW
BALTIMORE COUNTY BOARD OF APPEALS

CERTIFICATE OF POSTING

RE: Case No.: 07-178-SPH

Petitioner/Developer: David & Dian Miller

Date of Hearing/Closing: 12/15/06.

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 W. Chesapeake Avenue
Towson, MD 21204

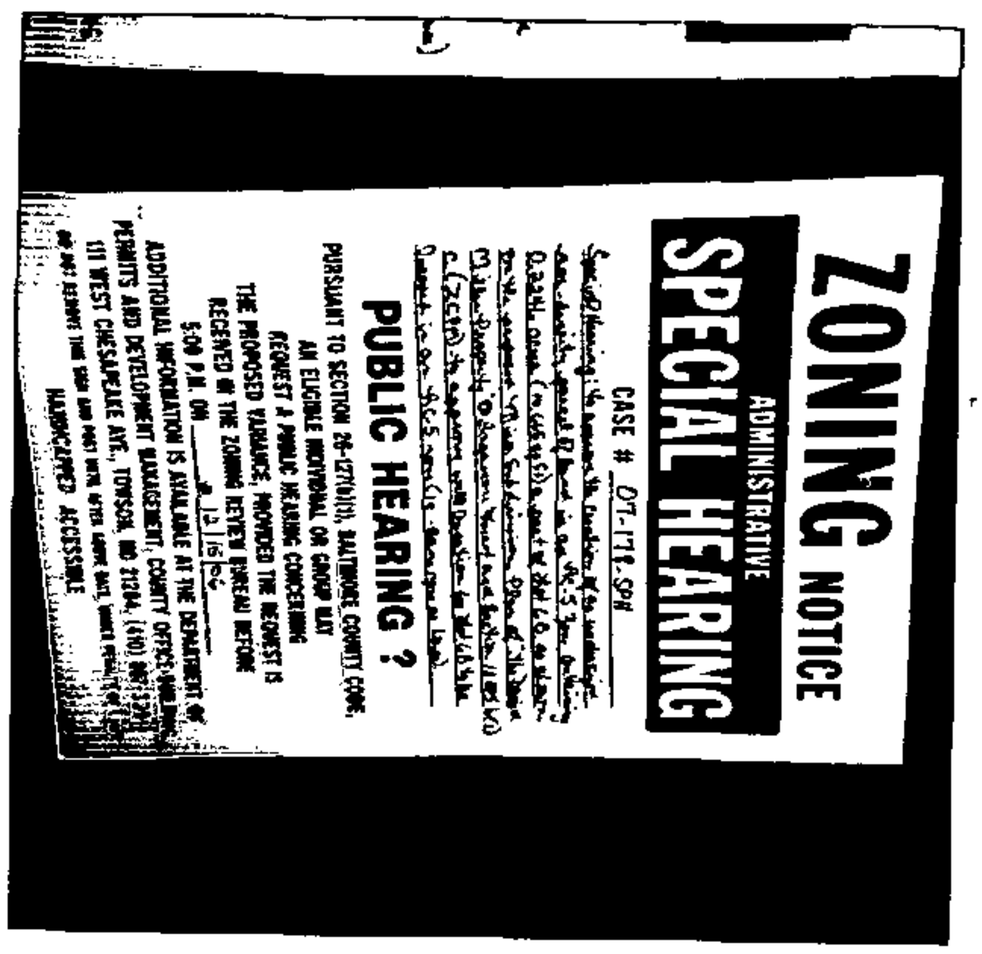
Attention:

Ladies and Gentlemen:

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

12807 Sagamore Forest Lane - Lot 6B

The sign(s) were posted on 11/30/2006
(Month/Day/Year)



11/30/06. 6:45 AM

Sincerely,

Sandra L. Egolf 11/30/06.
(Signature of Sign Poster/Date)

SANDRA L. EGOLF
(Printed Name)

SHANNON-BAUM SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD. 21784
(Address)

410-781-4000

APR 18 2007

Requested: 4/18/2007

APPEAL SIGN POSTING REQUEST

CASE NO. 07-178-SPH

12807 SAGAMORE FOREST LANE

4th ELECTION DISTRICT

APPEALED: 1/19/2007

03/13/07

Dear Kathleen Bingo
My wife and I have been in the process of sub dividing a lot. This process has taken over 4 years. We finally got the approval for the subdivision when the people's council filed an appeal. We have put over $40,000 into the process and we are both unemployed and must sell our house, but to sell it without the subdivision would be a tremendous loss. Is there anyway we could file an emergency appeal to have the appeal heard as soon as possible. Our situation is extreme and would appreciate it if you could grant us this request.

Thank you in advance

David and Dian Miller
12807 Sagamore Forest Lane
Reisterstown Md. 21136

Case no 07177 and 07178

RECEIVED
MAR 16 2007
BALTIMORE COUNTY
BOARD OF APPEALS

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

November 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: 07-178-SPH
12807 Sagamore Forest Lane (proposed Lot 6B)
E/side of Sagamore Forest Lane, 670 ft. +/- south of centerline of Worthington Avenue
4th Election District – 2nd Councilmanic District
Legal Owners: David & Dian Miller

Special Hearing to approve the creation of an undersized non-density parcel of land in an RC-5 Zone, containing 0.2246 acres (10,665 sq. ft.), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b(1)c (ZCPM) – to approve well location for Lot 6B to be located in an RC-5 zone (i.e. – same zone as house).

Hearing: Friday, December 15, 2006 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: David & Dian Miller, 12807 Sagamore Forest Lane, Glyndon 21071
A.L. Snyder, 1911 Hanover Pike, Hampstead 21074

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, NOVEMBER 30, 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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, November 30, 2006 Issue - Jeffersonian

Please forward billing to:
Dian Miller
12807 Sagamore Forest Lane
Reisterstown, MD 21136

410-833-5656

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: 07-178-SPH
12807 Sagamore Forest Lane (proposed Lot 6B)
E/side of Sagamore Forest Lane, 670 ft. +/- south of centerline of Worthington Avenue
4th Election District – 2nd Councilmanic District
Legal Owners: David & Dian Miller

Special Hearing to approve the creation of an undersized non-density parcel of land in an RC-5 Zone, containing 0.2246 acres (10,665 sq. ft.), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b(1)c (ZCPM) – to approve well location for Lot 6B to be located in an RC-5 zone (i.e. – same zone as house).

Hearing: Friday, December 15, 2006 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 07-178-SPH

Petitioner: DAVID + DIAN MILLER

Address or Location: 12807 SAGAMORE FOREST LANE REISTERSTOWN, MD. 21136

PLEASE FORWARD ADVERTISING BILL TO:

Name: DIAN MILLER

Address: 12807 SAGAMORE FOREST LANE
REISTERSTOWN, MARYLAND 21136

Telephone Number: 410. 833. 5656

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 7, 2006

David M. Miller
Dian Miller
12807 Sagamore Forest Lane
Glyndon, MD 21071

Dear Mr. and Mrs. Miller:

RE: Case Number: 07-178-SPH, 12807 Sagamore Forest Lane (proposed Lot 6B)

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 18, 2006.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
A.L. Snyder, Surveyor, Inc. 1911 Hanover Pike Hampstead 21074

07-177-SPH and 07-178-SPH

Verified

People's Counsel Exhibits

1. SDAT
2. Arial Photo from B.C. O.I.T.
3. 32-4-409 Panhandle Driveways
4. Sagamore Forest Plat Section 4
5. Zoning Map Plan Sheet 0 49A1
6. Highlighted Regs.

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District - 04 Account Number -** 1700009087

Owner Information

Owner Name: MILLER DAVID M
MILLER DIAN

Use: RESIDENTIAL

Principal Residence: YES

Mailing Address: 12807 SAGAMORE FOREST LANE
REISTERSTOWN MD 21136

Deed Reference: 1) /10912/ 504
2)

Location & Structure Information

Premises Address
12807 SAGAMORE FOREST LA

Legal Description
4.055 AC
12807 SAGAMORE FOREST LA
SAGAMORE FOREST

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
49	2	263			4		6	1	Plat Ref: 39/ 122

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1986	3,358 SF	4.05 AC	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value As Of 01/01/2007	Phase-in Assessments As Of 07/01/2006	As Of 07/01/2007
Land:	130,500	261,000		
Improvements:	348,730	454,270		
Total:	479,230	715,270	479,230	557,910
Preferential Land:	0	0	0	0

Transfer Information

Seller:	WOLTMAN ADAM F	**Date:**	01/19/1995	**Price:**	$371,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/10912/ 504	**Deed2:**	
Seller:	TRADER RICHARD E,JR	**Date:**	12/27/1985	**Price:**	$49,500
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7072/ 415	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2006	07/01/2007
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

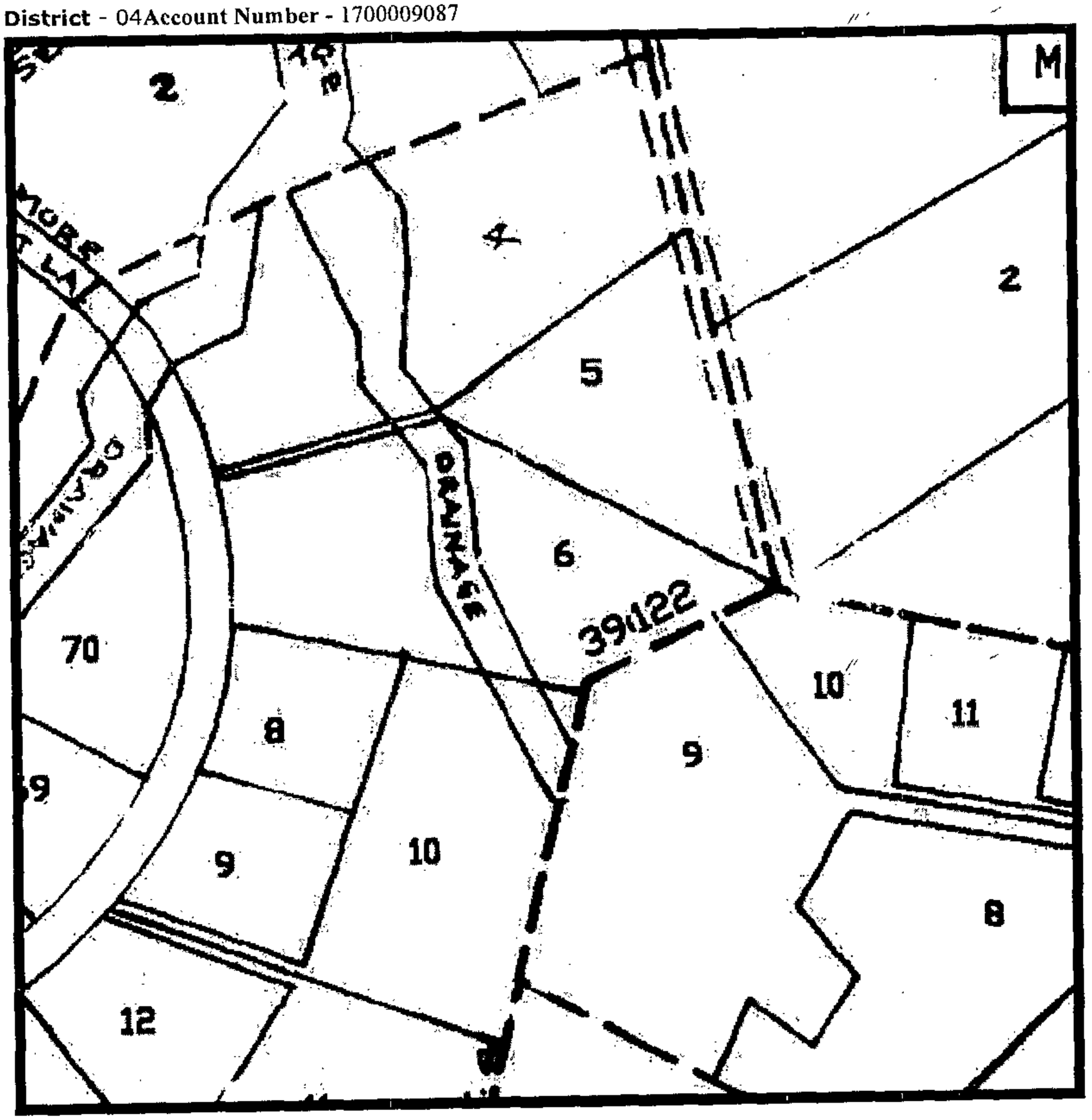
* NONE *

P.L. Exhibit #1

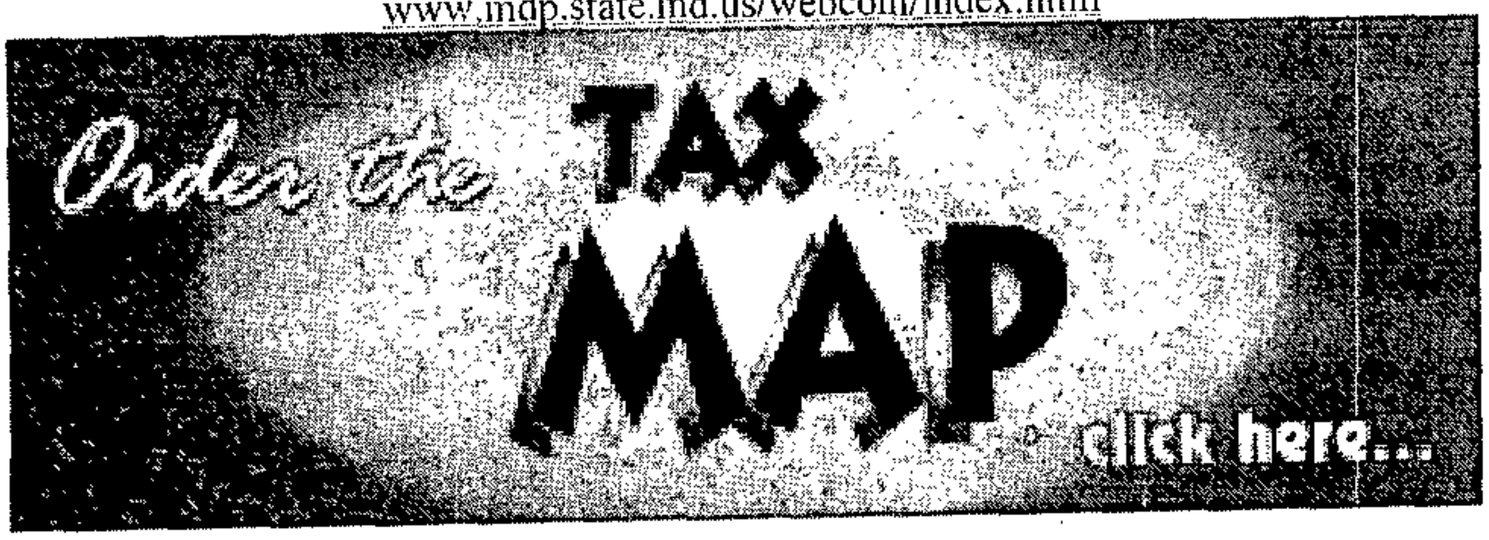
Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 04Account Number - 1700009087



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at
www.mdp.state.md.us/webcom/index.html



(2) The total number of signs to be kept to a minimum; and

(3) Informational signs not to be placed or be of such a number or design as to distract drivers' attention from traffic-control signs or devices.

(c) *Benches and street lighting.*

(1) The county may require benches and other outdoor furniture to be grouped and to be of a "break-away" design.

(2) The county shall require street lighting to be of a type and size that is adequate for safety and appropriate to the vicinity.

(d) *Transit facilities.* The county may require transit facilities, such as bus turnouts, for sites to be served by public transit.
(1988 Code, § 26-264) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-409. PANHANDLE DRIVEWAYS.

(a) *In general.*

(1) The county may only allow a panhandle lot:

(i) To achieve better use of irregularly shaped parcels;

(ii) To avoid development in environmentally sensitive areas;

(iii) Where the lot will not be detrimental to adjacent properties; and

(iv) Were the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) *In-fee strip; required.*

(1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

(i) 20 feet in width to serve one lot;

(ii) 12 feet in width per lot where two lots are involved;

P.C. Ex #3

(iii) 10 feet in width per lot where three or more lots are involved; or

(iv) 12 feet in width per lot where there are two or more lots in a development that is within the metropolitan area where public water and sewer services are available, planned, or considered.

(c) *Same; exception.* In cases where a right-of-way has been established before the submission of the Development Plan, the Hearing Officer may approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip.

(d) *Panhandle driveways.*

(1) A single panhandle driveway may serve up to five dwellings, three of which may be on internal lots not adjacent to the local street or collector street.

(2) Panhandle driveways serving lots greater than 20,000 square feet may serve five internal lots plus two dwellings on the front lots adjacent to the panhandle driveway and the local street or collector street.

(3) Front lots are not required to be part of the panhandle driveway development.

(4) Notwithstanding the provisions of § 32-4-107 of this title, the requirements of this subsection may not be waived.

(e) *Length of panhandle in DR and RC zones.*

(1) In a DR zone, the panhandle length may not exceed 500 feet.

(2) In an RC zone, the panhandle length may not exceed 1,000 feet.

(3) The maximum permitted length of a panhandle is subject to variance under § 307 of the Baltimore County Zoning Regulations.

(f) *Panhandle driveways serving multiple lots.*

(1) For panhandle driveways serving more than one lot, the developer shall note on the record plat any covenants that provide for common use and maintenance of the panhandle driveway and culvert.

(2) A use in common agreement is established if the panhandle driveway serves two or more abutting panhandle lots.

(g) *Dwelling orientation on panhandle lot.*

(1) The orientation of the dwelling on each panhandle lot shall be indicated on the Development Plan.

(2) The dwelling shall be oriented to establish a desirable relationship between:

(i) Each of the proposed dwellings and existing adjacent homes; and

(ii) The proposed dwellings themselves.

(h) *Panhandle driveway and street intersection; requirements.* At the intersection of the panhandle driveway and the street, the following shall be provided by the developer:

(1) A paved trash collection area that:

(i) Is located at the right-side intersection of the panhandle driveway and public road, as the driveway is exited; and

(ii) Is at least 16 square feet per dwelling unit served by the panhandle driveway;

(2) A mail delivery area that is located at the left intersection of the panhandle driveway and public road, as the driveway is exited; and

(3) Numerical identification of each dwelling served by the panhandle driveway in accordance with § 35-2-206 of the Code.

(i) *Construction of panhandle driveway.*

(1) The panhandle driveway shall be built in accordance with standards established by the Director of Public Works.

(2) The panhandle shall be paved within 1 year of the issuance of the first occupancy permit or before the issuance of the occupancy permit of the last lot to be served, whichever comes first.

(3) In DR zones required utilities shall be provided to all lots to be served by the panhandle before the paving of the panhandle driveway.

(j) *Parking along panhandle driveway.* Parking is not permitted along a panhandle driveway.

(k) *Waiver.* Except as provided in subsections (d) and (e) of this section, the Director of Planning may grant a waiver from any provision in this section or title if the Director finds:

(1) That the size, scope, and nature of the subdivision of land into three or fewer lots for residential single-family dwellings does not justify strict compliance with this section;

(2) That a waiver would be within the scope, purpose, and intent of this section; and

(3) Compliance with all other county ordinances and regulations.
(1988 Code, §§ 26-168, 26-266) (Bill No. 172, 1989, § 2; Bill No. 106, 1990, § 1; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-1993; Bill No. 61-95, § 1, 6-30-1995; Bill No. 8-96, § 3, 3-23-1996; Bill No. 49-96, § 15, 7-1-1996; Bill No. 38-98, § 4, 6-20-1998; Bill No. 51-99, § 1, 8-26-1999; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-410. REQUIRED FACILITIES.

(a) *Water supply.*

(1) Water volume and pressure shall be adequate to extinguish fires in any building on a tract that is to be served by public water-supply facilities.

(2) Fire hydrants shall be provided in sufficient numbers and at appropriate locations to serve firefighting needs.

(b) *Sewage.* Proposed public or private sewage facilities shall be designed and located to function safely and without danger of contaminating groundwater, surface water, or public or private water supplies.

(c) *Drainage facilities.*

(1) In this subsection, "development" has the meaning stated in § 32-8-101 of this article.

(2) Proposed drainage facilities shall be adequate to accommodate the amount of runoff that would be generated by:

(i) The proposed development; and

(ii) The entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction.

(3) Development may not increase the extent of the floodplain on neighboring properties.

(d) *Facility easements.* Easements for cable television and other municipal and public utilities may be required where necessary to ensure adequate service to the prospective occupants or users of the proposed development.
(1988 Code, §§ 26-267, 26-268, 26-269, 26-270) (Bill No. 173-93, § 3, 11-17-1993; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 27, 7-1-2004)

from the Director of the Department of Environmental Protection and Resource Management.

(2) The recommendations shall be provided to the Board of Appeals within 30 days after the Department is notified by certified mail, return receipt requested, by the petitioner of the filing of the petition for reclassification, unless the Department by written request to the Board of Appeals, with good cause shown, moves that additional time not to exceed an additional 30 days is required to prepare and file said recommendations with the Board of Appeals.

B. The meeting of criteria established in this article for the filing of zoning reclassification petitions shall not in itself be sufficient grounds to reclassify property.

1A00.4 Plans and plats. Development plans and final subdivision plats shall be required in the manner prescribed under Section 1B01.3, and, for the purpose of this section, all references to D.R. Zones shall include the R.C. Zones.

1A00.5 Application to tract divided by zone boundary. Whenever a single tract is divided by a zone boundary so that portions of such a tract lie within R.C. Zones of different classifications, the total number of dwellings or density units permitted shall apply to each tract individually and, for the purpose of these regulations, shall be considered as separate parcels.

PEOPLE'S #6

f. Spirits manufacture, including the manufacture of alcohol to be used in gasoline/alcohol mixtures, but excluding the production of these mixtures. **[Bill Nos. 178-1979; 51-1993]**

g. Firewood operations. **[Bill No. 151-1992]**

h. Winery, including accessory retail and wholesale distribution of wine produced on-premises. Temporary promotional events, such as wine tastings or public gatherings associated with the winery, are permitted, within any limits set by the special exception. **[Bill No. 51-1993]**

i. Bottled water plant, if the source of the water is located on the same site as the plant, and provided that the Director of Environmental Protection and Resource Management makes a recommendation that the proposed facility will not adversely affect the quality or capacity of surface water or groundwater. **[Bill No. 51-1993]**

1A01.3 Height and area regulations.

A. Height regulation. No structure hereafter erected in an R.C.2 Zone shall exceed a height of 35 feet, except as otherwise provided under Section 300.

B. Area regulations. **[Bill No. 178-1979]**

1. Subdivision lot density. No lot of record lying within an R.C.2 Zone and having a gross area of less than two acres may be subdivided. No such lot having a gross area between two and 100 acres may be subdivided into more than two lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of one lot for each 50 acres of gross area. In cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right- of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record. **[Bill Nos. 199-1990; 125-2005]**

2. Lot size. A lot having an area less than one acre may not be created in an R.C.2 Zone.

3. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of any street or within 35 feet of any lot line other than a street line.

4. Principal dwellings per lot. No more than one principal dwelling is permitted on any lot in an R.C.2 Zone.

1A01.4 Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Title 2, Subtitle 5 of the Agriculture Article of the Annotated Code of Maryland shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to § 2-513 of the Agriculture Article in the case of any conflict between those provisions and these regulations. **[Bill Nos. 178-1979; 137-2004]**

2. Under the provisions adopted pursuant to the authority of Section 504.2, development in D.R. Zones may be made subject to additional standards of lot area, yard space, open-space distribution, building distribution or other aspects or characteristics of site planning or project design. Such standards shall be based upon specified existing, prospective or stipulated conditions or circumstances of development, and shall be designed to further the specific purposes of this article and the purposes of these zoning regulations in general.

3. Local open space. Local open space tracts in D.R. Zones shall be designed, established and maintained in accordance with the standards, guidelines and procedures set forth in the Baltimore County Local Open Space Manual as enabled in § 32-4-404 of the Baltimore County Code.[4] **[Bill No. 137-2004]**

1B01.3 Plans and plats.

A. Development plans.

1. Purpose. This paragraph is intended:

a. To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; and

b. To provide for review of residential development plans to determine whether they comply with these regulations and with standards and policies adopted pursuant to the authority of Section 504.

2. Partial development plan. For the purposes of this article, a "partial development plan" is a portion of a final development plan, and a partial or final development plan is "applicable" to a given lot if it covers all property in the subdivision within 300 feet of the given lot, in addition to the lot itself.

3. Subdivision lot sales, development and use subject to partial development plan. No interest in any lot which is in a D.R. Zone and is hereafter created by subdivision of a record lot existing on the effective date of this article or created by consolidation of such lots may be sold unless a final or partial development plan applicable to the lot has been approved as required under Paragraph 6, below; further, no use may be established and no construction may take place on any lot so created except in accordance with such a plan. The provisions of this paragraph shall not apply to Class A assisted living facilities. **[Bill No. 188-1993]**

4. Notice in conveyance. Any party who sells an interest in real property within an area covered by an approved partial or final development plan shall attach to the instrument of sale a notice directing the buyer's attention to the plan (including any amendment) and listing the location of the

[4] **Editor's Note: Former Subsection C, Open Space, Building Separation and Other Area Standards, which followed, was repealed by Bill No. 126-1992.**

various certified copies which may be publicly inspected (Paragraph 6), together with a listing of the recorded plats covering all portions of the subdivision as a whole. The notice shall also generally apprise the buyer of the rights, requirements and remedies provided under the development plan, those provided under this article and these zoning regulations in general, and those set forth in provisions adopted pursuant to the authority of Section 504, and, to this end, the notice shall be on a form issued by the county and approved by the Office of Law, the Zoning Commissioner, and the Planning Board as being clear and sufficient for the purpose.

5. Forms and content of plans.

   a. Forms. Each partial development plan must be filed both as a separable document or set of documents and as part of a final development plan which includes all partial development plans as approved for other portions of the subdivision. Upon approval, each final development plan thus filed supersedes previous final development plans of the subdivision.

   b. Content. Each partial and final development plan must show: the locations, types and exterior dimensions of all proposed structures and all existing structures to be retained; generalized floor plans to scale; layout of parking facilities; streets and drives giving access to and lying within the tract; existing topography and major vegetation; proposed grading; common amenity open space (including local open space); all additional information that may be required under procedures adopted pursuant to the authority of Section 504; and all additional information which is necessary, as determined by the Director of the Department of Permits and Development Management, to ascertain whether the project will comply with the zoning and subdivision requirements of Baltimore County. The plan shall contain the note that landscaping and screening shall conform to the standards contained in the Baltimore County Landscape Manual adopted pursuant to § 32-4-404 of the Baltimore County Code. **[Bill No. 137-2004]**

6. Initial review and approval procedure. Procedural steps and requirements in the submission and review of various preliminary versions of partial and final development plans shall be as established provisions adopted pursuant to the authority of Section 504 or, in the absence of such provisions, as established by the Office of Planning. In formulating such steps and requirements, the Planning Board or the Office of Planning shall effect maximum coordination between the integration with similar and related steps and requirements in the submission and review of plans pursuant to the subdivision regulations. If the partial and final development plans for a subdivision are approved by the Zoning Commissioner as complying with the zoning regulations, approved by the Director of Planning as being consistent with the subdivision regulations and any subdivision plans filed pursuant thereto, and approved in such other manner as may be prescribed

under provisions adopted pursuant to the authority of Section 504, copies of the plans, certified by the Zoning Commissioner and the Director of Planning as having been so approved, shall be filed with such county or state agencies as they may direct and as may otherwise be required, and shall be retained in the files of the Office of Planning, including the files of the Zoning Commissioner.

7. Amendment of approved development plans. After partial or final development plans have been approved as provided under Paragraph 6, preceding, they may be amended only as provided below:

a. Amendment prior to sale of interest in nearby property. The development plans may be amended by simple resubmission, or by the submission of appropriate documents of revision, subject to the same requirements as are applied to original plans, if there is no change with respect to any lot, structure or use within 300 feet of a lot or structure which has been sold since the original plans were filed.

b. Amendment after sale of interest in nearby property or upon demand for hearing. In the case of an amendment not allowed under Subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be amended through special exception procedures, in the manner provided under Section 502 and subject to the following provisions:

(1) The amendment must be in accord with the provisions of the Comprehensive Manual of Development Policies and with the specific standards and requirements of this article, as determined by the Office of Planning. The Director, on behalf of the Planning Board, shall notify the Zoning Commissioner accordingly. **[Bill No. 29-1995]**

(2) Only an owner of a lot abutting or lying directly across a street or other right-of-way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing. **[Bill No. 29-1995]**

(3) It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article. **[Bill No. 29-1995]**

c. Amendment upon request by owner of lot within subdivision. The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect

to a structure on an individual lot created under the plans and used according to the purpose stated therein, or with respect to such lot, at the request of the lot owner, under the following requirements and conditions:

(1) Reasonable notification, by a standard method established pursuant to the authority of Section 504 and approved by the County Attorney, must be given to the occupants and owners of all real property which is fully or partially situated within 300 feet of the lot in question.

(2) It must be determined that a formal demand for hearing by an eligible individual or group, as described in Paragraph b, has not been filed.

(3) It must be determined that standards adopted under the authority of Section 504, in addition to the specific requirements under these regulations, will not be violated by the amendment.

(4) The Zoning Commissioner and the Director of Planning must certify that the amendment is in keeping with the spirit and intent of this article and other Baltimore County land use and development requirements administered by them, and both must certify that the amendment does not violate the spirit and intent of the original plan.

d. Any amended development plan and any document of amendment of such a plan must be filed with all agencies or officials with whom copies of the original plan have been filed pursuant to paragraph above, and no amendment takes effect otherwise.

B. Final subdivision plat.

1. Purpose. Pursuant to the regulations for D.R. Zones, a portion of a tract of land may be subdivided for development at a higher residential density than the maximum average density permitted, lessening the permitted density of development on the remainder of the tract; or a portion of the tract may be subdivided for development at less than the maximum average density, thus increasing the density at which the remainder of the tract may be developed (Section 1B01.2.A). It is the purpose of this paragraph to assure that these factors will be identified in the sale of any portion of a development tract in a D.R. Zone and, in particular, to prevent the unknowing purchase of a tract which, as a result of such prior subdivision, may not itself be developed at the average gross density specified in the regulations.

2. Effect. No subdivision of a tract or a portion of a tract may be created after the effective date of this article, except as otherwise provided under Section 1B02.3.A.2 unless the final subdivision plat therefore contains a summary showing the total number of dwelling or density units allowed for the entire tract under the applicable D.R. Zones. The summary shall indicate, as appropriate, the number of dwelling or density units utilized by previous

final subdivision plats for portions of the same tract, the number of dwelling or density units contained in the current subdivision plat, and the balance of dwelling or density units allowed for the remainder of the tract under the applicable D.R. Zone(s). It is the intent of these zoning regulations to prohibit subdivision or resubdivision of portions of a tract in a D.R. Zone in a manner so as to exceed the total number of dwelling or density units allowed under the applicable D.R. Zone(s) for the entire tract.

Jm
12/15

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 30, 2006

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

RECEIVED
OCT 3 - 2006
ZONING COMMISSIONER

SUBJECT: 12807 Sagamore Forest Lane (lot 6b)

INFORMATION:

Item Number: 7-178 ***(also see 7-177)***

Petitioner: David and Dian Miller

Zoning: RC 2 and RC 5

Requested Action: **Special Hearing**

The property in question is a split-zoned lot in Sagamore Forest Section 4 Lot 6 is being resubdivided into two lots, 6A and 6B. The request is to allow the well location for lot 6b to be located in the RC5 zone in lieu of the RC2 zone, which is the location of the proposed new dwelling as shown on the minor subdivision plan of the David Miller Property at Sagamore Forest. A non-density parcel of .24 acres would be created in the RC5 zone.

SUMMARY OF RECOMMENDATIONS:

Due to the unique configuration of the property, the Office of Planning does not oppose the well as shown on the submitted plan. Every effort should be made to limit the grading and clearing required for the construction of the new dwelling, driveway and well.

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

Prepared by: Curtis Murray

Division Chief: Lyn Lanham
AFK/LL: CM

W:\DEVREV\ZAC\7-178.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 26, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For October 30, 2006
Item Nos. 07-170, 171, 172, 174, 175, 176, 177, 178, 179, 180, 181. and 182

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-10262006.doc

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

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

October 31, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 23, 2006

Item Number(s): 170 through 182
178

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

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

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on Recycled Paper

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

SHA State Highway Administration Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: October 31, 2006

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

RE: Baltimore County
Item No. 7-178-SPH
12807 Sagamore Forest Lane
Miller Property
Special Hearing

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-178-SPH.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

A. L. Snyder
Surveyor, Inc.
1911 Hanover Pike
Hampstead, Maryland 21074

(410) 239-7744 (410) 374-9695

TRANSMITTAL SHEET

DEC 12, 2006
Date

Please deliver the following pages to:

Name: PATTY

Company: BALTO. CO. ZONING

Fax Number: 410 887 3468

Total Number of Pages (including transmittal sheet): 3

Sender: BETH SNYDER

If any problems occur, please call (410) 239-7744 and ask for Sender.
Thank you.

Comments:

The information contained in this facsimile message is confidential information intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

This facsimile will be confirmed by U.S. Mail. ✓ Yes ___ No

A. L. Snyder
Surveyor, Inc.
1911 Hanover Pike
Hampstead, Maryland 21074
(410) 239-7744 (410) 374-9695 phone/fax

Zoning Description

David M. Miller & Dian Miller Property

Lot 6B

September 21, 2006

Beginning 230 feet, more or less, east of the east side of Sagamore Forest Lane and 850 feet, more or less, south of Worthington Avenue; thence,

1.) S 77° 33′ 09″ E 179.00 feet,

2.) N 24° 32′ 34″ W 149.05 feet,

3.) S 49° 19′ 32″ W 148.83 feet to the point of beginning.

Containing 0.2446 acres of land, more or less.

Being a part of that land which was conveyed to David M. Miller and Dian Miller from Adam F. Woltman and Felice Jill Woltman, his wife, by deed dated December 28, 1994 and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 10912 folio 504 etc., known as Lot 6 of Section Four, Sagamore Forest, recorded among the said Land Records in Plat Book E.H.K., Jr. 39 folio 122 and also known as #12807 Sagamore Forest Lane and located in the Fourth Election District and Third Councilmanic District of Baltimore County, Maryland.

STATE OF MARYLAND
ALBERT LEROY SNYDER
No. 28
PROPERTY LINE SURVEYOR

Item # 178

12/15

YAHOO! MAIL

Print - Close Window

From: "Bruce and Margareta Galanter" <mbgalant@comcast.net>

To: "'Bruce and Margareta Galanter'" <mbgalant@comcast.net>

Subject: FW: Subdivision 12807 Sagamore Forest Lane

Date: Sun, 3 Dec 2006 16:10:27 -0500

RECEIVED

DEC 19 2006

ZONING OFFICE

Dear Neighbors,

Kevin Kamenetz, our Baltimore County Councilman, has sent me a notice of a hearing before the Zoning Commission on December 15, 2006 and asked that I forward to you information regarding the hearing. The full notice of the proposed subdivision is posted in front of the property at 12807 Sagamore Forest Lane . I have called the Zoning office and talked to a planer as well as communicated with the owner, Dian Miller and her surveyor. Here is the summary of the information:

1. Cases 7-177-SPH ad 7-178-SPH
2. Hearing date Friday, December 15, 2006 at 9 and 10 AM 401 Bosley Ave , Room 407, Towson 21204
3. Purpose: create two undersized non-density lots (no building permitted) so that the property at 12807 Sagamore Forest Lane may be divided into two lots, one for the existing house and one (over one acre) for an additional wooded home site. The current property has over 4 acres according to the plats.
4. The lots identified as 6A and 6B will be used for a small portion of the septic area for the new lot and also for a well.
5. The reason for the new non-density lots is technical and is caused by the fact that the current property crosses the line between RC5 and RC2 zones.
6. The covenants which used to prohibit subdivisions have expired.
7. The Miller's house is also for sale.

Anyone who opposes the subdivision should attend the meeting. The Board has discussed the issue and in that the new lot is over one acre, has no objections.

Sincerely,

Bruce Galanter
President
Sagamore Forest , Worthington Hillside Community Association

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

February 27, 2007

David Miller
Dian Miller
12807 Sagamore Forest Lane
Glyndon, MD 21071

Dear Mr. and Mrs. Miller:

RE: Case: 07-178-SPH, 12807 Sagamore Forest Lane, proposed Lot B

Please be advised that an appeal of the above-referenced case was filed in this office on January 19, 2007 by The People's Counsel, Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

RECEIVED
FEB 28 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Sincerely,

Timothy Kotroco
Director

TK:

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
A. L. Snyder 1911 Hanover Pike Hampstead 21074

APPEAL

Petition for Special Hearing
12807 Sagamore Forest Lane
East side of Sagamore Forest Lane, 670 feet +/- south of centerline of Worthington Avenue
4th Election District – 2nd Councilmanic District
Legal Owners: David and Dian Miller

Case No.: 07-178-SPH

✓ Petition for Special Hearing (October 18, 2006)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (November 13, 2006)

✓ Certification of Publication (November 30, 2006)

✓ Certificate of Posting (November 30, 2006) by Shannon-Baum Signs, Inc.

✓ Entry of Appearance by People's Counsel (October 30, 2006)

✓ Petitioner(s) Sign-In Sheet – None

✓ Protestant(s) Sign-In Sheet – None

✓ Citizen(s) Sign-In Sheet – None

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibit – None

✓ Protestants' Exhibits: None

✓ Miscellaneous (Not Marked as Exhibit)
1) Plat to accompany Petition for Special Hearing

✓ Deputy Zoning Commissioner's Order (December 26, 2006 GRANTED in accordance w/order)

✓ Notice of Appeal received on January 19, 2007 by The People's Counsel of Baltimore County

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FEB 28 2007
BALTIMORE COUNTY
BOARD OF APPEALS

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
A. L. Snyder 1911 Hanover Pike Hampstead 21074
David and Dian Miller 12807 Sagamore Forest Lane Glyndon 21071
Jacqueline Grad 12803 Sagamore Forest Ln 21136

date sent February 27, 2007, amf

HARRY AND JENNIFER ABRAMSON
12805 SAGAMORE FOREST LANE
REISTERSTOWN MD 21136

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 14, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-177-SPH — **IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners /Petitioners** 12807 Sagamore Forest Lane /Proposed Lot 6A
4th Election District; 2nd Councilmanic District

and

CASE #: 07-178-SPH — **IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners /Petitioners** 12807 Sagamore Forest Lane /Proposed Lot 6B
4th Election District; 2nd Councilmanic District

12/26/2006 – D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

ASSIGNED FOR: **THURSDAY, JUNE 14, 2007 at 10:30 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Legal Owners /Petitioners : David and Dian Miller

A. L. Snyder /Surveyor

Jacqueline Quad
Harry and Jennifer Abramson

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

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TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

July 31, 2007

SECOND NOTICE OF REASSIGNMENT OF DELIBERATION

IN THE MATTER OF:

DAVID AND DIAN MILLER – Legal Owners /Petitioners
Case No. 07-177-SPH and Case No. 07-178-SPH

which had been postponed to 9/11/07 has been **REASSIGNED** to an earlier date, upon confirmation of availability of Board members; and has been **reassigned** for the following date and time:

DATE AND TIME : TUESDAY, AUGUST 21, 2007 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: **Closing briefs were filed on 7/11/07.**

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

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Legal Owners /Petitioners : Wayne G. Gracey, Esquire
Legal Owners /Petitioners : David and Dian Miller

A. L. Snyder /Surveyor

Jacqueline Quad
Harry and Jennifer Abramson

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

FYI: 4-6-7

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BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: **DAVID AND DIAN MILLER** **07-177-SPH**
12807 SAGAMORE FOREST LANE
4TH E; 2ND C **07-178-SPH**

DATE: August 21, 2007

BOARD/PANEL Wendell Grier, Chairman
Robert Witt
Edward W. Crizer, Jr.

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate the creation of an undersized non-density parcel of land in an RC 5 Zone, containing 0.2446 acres (10,655 sq. ft.), a part of lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b.(1).c (ZCPM) – to approve well location for lot 6B to be located in an RC 5 Zone in lieu of the required RC 2 Zone (i.e. same zone as house).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

Compen

1) Is this matter correct coming before the Board?
2) When is a development plan final?
3) Other various points concerning this case.

STANDING

- The Board, through its discussions, agreed that this matter is proper coming before the Board.
- The house and lot were bought in 1995. (Lot – 6A)
- Part of property is located in R.C. 5 and R.C. 2.
- While the property has two zones, the house is located in one zone.
- The Petitioner's want to subdivide their property to allow the building of another house. (Lot – 6B)
- Unfortunately, because of a stream that is running thru the property, there is no place to put a well unless a small portion of the original property can be rezoned.
- People's Counsel is concerned that if this would be allowed, it could open doors for over development.
- One Board member suggested that the Miller's should have had the small section they wanted to transfer reclassified.
- There was a feeling that allowing Petitioners request would be going against the spirit and intent of the development and that others in the development would want to do the same thing.
- In addition, the density laws have changed since the initial property was bought and developed upon.

DECISION BY BOARD MEMBERS: The Board felt that granting Petitioners request would be against the spirit and intent of the development and that it would be going against the new laws regarding density in that area.

FINAL DECISION: After a thorough review of the facts, testimony, and law in the matter, the Board unanimously decided to *DENY* the granting of the undersized non-density parcel of land.

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

Respectfully Submitted

Linda B. Fliegel
County Board of Appeals

MR DAVID MILLER
12290 GREEN MEADOW DRIVE
SUITE 113
COLUMBIA MD 21044

Additional copy sent to Mr. Miller at the above address per 11/15/07 request.

Sagamore Forest Lane copy returned 11/20/07; additional copy sent to:

DAVID M. MILLER
12290 GREEN MEADOW DRIVE
APT 116
COLUMBIA, MD 21044-4847

County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

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07-177-SPH
and
07-178-SPH

DAVID AND DIAN MILLER
12807 SAGAMORE FOREST LANE
REISTERSTOWN MD 21136

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COLUMBIA MD 21044-4847

RETURN TO SENDER

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County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

November 14, 2007

NOTICE OF ASSIGNMENT / Hearing for Argument Only

CASE #: 07-177-SPH — **IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners /Petitioners** 12807 Sagamore Forest Lane /Proposed Lot 6A
4th Election District; 2nd Councilmanic District

and

CASE #: 07-178-SPH — **IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners /Petitioners** 12807 Sagamore Forest Lane /Proposed Lot 6B
4th Election District; 2nd Councilmanic District

12/26/2006 – D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

A hearing for the purpose of receiving argument only regarding the impact, if any, of *People's Counsel for Baltimore County, et al. v. Dorothy Surina, et al., No. 111, Sept. Term 2006,* on the subject matter has been scheduled at the request of the Board; and has been

ASSIGNED FOR: **THURSDAY, DECEMBER 13, 2007 at 9:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Legal Owners /Petitioners : Wayne G. Gracey, Esquire
Legal Owners /Petitioners : David and Dian Miller

A. L. Snyder /Surveyor

Jacqueline Quad
Harry and Jennifer Abramson

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

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TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 27, 2007

NOTICE OF DELIBERATION

IN THE MATTER OF:

DAVID AND DIAN MILLER – Legal Owners /Petitioners
Case No. 07-177-SPH and Case No. 07-178-SPH

Having received argument on the limited issue as requested by the Board on 12/13/07, public deliberation has been scheduled for the following date and time on that limited issue as argued:

DATE AND TIME : THURSDAY, JANUARY 24, 2008 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

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

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Legal Owners /Petitioners : Wayne G. Gracey, Esquire
Legal Owners /Petitioners : David and Dian Miller

A. L. Snyder /Surveyor

Jacqueline Quad
Harry and Jennifer Abramson

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

FYI: 4-6-7

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07-176-SPH

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DAVID M. MILLER
12290 GREEN MEADOW DRIVE
APT 116
COLUMBIA, [illegible]

212 NEE 1 B071 08 12/31/07
RETURN TO SENDER
MILLER'DAVE
12290 GREEN MEADOW DR APT 113
COLUMBIA MD 21044-4847

RETURN TO SENDER

KARH531 21044

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DAVID AND DIAN MILLER
12807 SAGAMORE FOREST LANE
REISTERSTOWN MD 21136

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12290 GREEN MEADOW DR APT 113
COLUMBIA MD 21044-4847

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BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

COPY

IN THE MATTER OF: David and Dian Miller
07-177-SPH *and* 07-178-SPH
12807 SAGAMORE FOREST LANE
4TH E; 2ND C

DATE: January 24, 2008

BOARD/PANEL: Wendell H. Grier, Panel Chairman
Robert W. Witt
Edward W. Crizer, Jr.

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To re-deliberate the Miller case, due to a new ruling in the Court of Appeals which may have an impact on the Board's initial decision in this case, on the creation of an undersized non-density parcel of land in an RC 5 Zone, containing 0.2446 acres (10,655 sq. ft.), a part of lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b.(1).c (ZCPM) – to approve well location for lot 6B to be located in an RC 5 Zone in lieu of the required RC 2 Zone (i.e. same zone as house).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

1) Is a split zoned property eligible for development?
2) Is density a consideration in this case?

STANDING

- Surina case definitely paved the way for split zoned development and was similar in this case as there was a cross over of R.C. 2 and R.C. 5.
- The Miller case is self contained as they own all four (4) acres.
- Somehow, when the zoning process was changed the Miller's property was split and contained both R.C. 2 and R.C. 5 zoning.
- Now, the Millers would like relief which would enable them to build an additional house.
- The Millers, need to reconfigure their property lines so their septic system will be in the R.C. 5 zone and the new house with its septic system will be in the R.C. 2 zone.
- Denisty is not an issue as it is merely the building of one additional home on the four (4) acre parcel of land.
- The mere building of one additional home would not impact traffic, schools, emergency response, etc.

FINAL DECISION: After a thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to *REVERSE* the decision of their first deliberation and *GRANT* Petitioner's request for special hearing relief.

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

Respectfully Submitted

Linda B. Fliegel

Linda B. Fliegel
County Board of Appeals

RE:	PETITION FOR SPECIAL HEARING 12807 Sagamore Forest Lane (Proposed Lot 6B); E/S Sagamore Forest Lane, 670' S c/line Worthington Avenue 4th Election & 2nd Councilmanic Districts Legal Owner(s): David & Dian Miller Petitioner(s)	* * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-178-SPH

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

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent 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 30th day of October, 2006, a copy of the foregoing Entry of Appearance was mailed to, A.L. Synder, Surveyor, Inc, 1911 Hanover Pike, Hampstead, MD 21074, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
OCT 3 - 2006
Rec'd. [illegible]

County Board of Appeals of Baltimore County

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

November 15, 2007

Wayne G. Gracey, Esquire
WEINSTOCK, FRIEDMAN
AND FRIEDMAN, P.A.
4 Reservoir Circle
Baltimore, MD 21208

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

RE: *In the Matter of: David and Dian Miller -Petitioners*
Case No. 07-177-SPH and Case No. 07-178-SPH

Dear Counsel:

In his closing Memorandum in Case No. 07-177-SPH and Case No. 07-178-SPH, People's Counsel raised the case of *People's Counsel for Baltimore County, et al. v. Dorothy Surina, et al., No. 111, Sept. Term 2006.* Since that time, the Court of Appeals has come down with an Opinion in that matter.

The Board feels that, in fairness to everyone, counsel should be given the opportunity to argue whether or not this case affects the outcome of the present case. Therefore, a hearing for the purpose of receiving argument only, limited to the above-referenced Court of Appeals decision and its impact on the subject matter, has been scheduled for Thursday, December 13, 2007 at 9:00 a.m.

Please note that any brief filed in this matter will be accepted prior to or at the time of the scheduled argument on December 13th.

Very truly yours,

Kathleen C. Bianco
Administrator

: David and Dian Miller
A. L. Snyder /Surveyor
Jacqueline Quad
Harry and Jennifer Abramson
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FILE

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4-6-7
#4

People's Counsel for Baltimore County, et al. v. Dorothy Surina, et al., No. 111, Sept. Term 2006.

ZONING LAW - SPLIT-ZONED PROPERTY UNDER COMMON OWNERSHIP - PERMITTED USES - STORMWATER MANAGEMENT (SWM) - SWM FACILITIES, AS AN ANCILLARY USE, ARE CONTEMPLATED BY THE ZONING SCHEME DESPITE THE LACK OF THEIR EXPRESS INCLUSION AS "USES" IN THE PERMITTED USE ENUMERATIONS IN THE ZONING ORDINANCE.

ZONING LAW - SPLIT-ZONED PROPERTY UNDER COMMON OWNERSHIP - INTERIOR ACCESS ROADS - PLACEMENT OF THE ACCESS ROAD DID NOT VIOLATE THE RESOURCE CONSERVATION PROVISIONS OF THE ZONING ORDINANCE WHERE THE ROAD SERVES IDENTICAL PERMITTED USES IN BOTH THE R.C. 2 AND R.C. 5 ZONES.

Circuit Court for Baltimore County
Case No. C-04-12588

IN THE COURT OF APPEALS OF

MARYLAND

No. 111

September Term, 2006

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.

v.

DOROTHY SURINA, et al.

Bell, C.J.
Raker
*Cathell
Harrell
Battaglia
Greene,
Wilner, Alan M. (Retired, (specially assigned),
JJ.

Opinion by Harrell, J.

Filed: August 23, 2007

*Cathell, J., now retired, participated in the hearing and conference of this case while an active member of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and adoption of this opinion.

We are asked in this litigation to determine whether a proposed stormwater management ("SWM") facility and private residential access road, the former designed

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primarily to serve new single-family residential construction on lots in Baltimore County's R.C. 5 (Rural-Residential) zone and the latter serving those lots and a lot in the R.C. 2 (Rural-Agricultural) zone, both may be placed on the R.C. 2 zoned portion of the split-zoned tract. The Baltimore County Zoning Commissioner and Board of Appeals approved the proposed development. The Circuit Court for Baltimore County, on judicial review of that action filed by neighbors of the proposed development, reversed, holding that placement of the SWM facility on the R.C. 2 portion of the development violated existing zoning regulations. The Circuit Court, however, found no zoning problem with regard to the access road. The Court of Special Appeals, in an unreported opinion, reversed-in-part and affirmed-in-part the judgment of the Circuit Court, holding that there existed "no zoning impediments" whatsoever to the development plan. We shall affirm, but for reasons different than those relied on by the Court of Special Appeals.

BACKGROUND INFORMATION

The basic facts underlying the present case are as follows, divergent inferences advocated by the parties aside. The controversy arises from a development plan submitted to Baltimore County by Respondents, Dorothy Surina and Jeanne Gough (the land owners) and Gaylord Brooks Realty Company (the developer). The development project, identified as "Lynch Property - Sweet Air Road," is proposed for a 47 acre tract of land located near the intersection of Sweet Air Road and Manor Knoll Court, east of Jacksonville, a rural area in the northeastern portion of Baltimore County (the "Property"). Under the "Rural Protection and Resource Conservation" ("R.C.") area zoning in the County, Baltimore County Zoning Regulations ("BCZR") §§ 1A00.1 - 1A09.8, the Property and immediately adjacent parcels of land[1] are subject to various development requirements aimed at agricultural, watershed, critical area, and rural resource preservation.[2] The Property is divided by Sweet Air Road, a public road which runs in an east-west direction. Approximately 32.3 acres of the Property is located south of Sweet Air Road. The remaining 14.7 acres is located to the north. The portion lying to the south of Sweet Air Road is zoned, in its entirety, in the R.C. 2 zone under the Zoning Regulations, *see* BCZR §§ 1A01.1 - 1A01.4, and is improved with an existing residential structure.[3] The part of the Property located to the north of Sweet Air Road is split-zoned, meaning that there exists multiple zoning boundaries within that portion. *Alviani v. Dixon*, 365 Md. 95, 100 n.2, 775 A.2d 1234, 1236 n.2 (2001). On the west side of the northern parcel are 10.8 acres of R.C. 5 zoned land.[4] There are two smaller areas on the eastern section of the northern portion of the

[1]The Gunpowder State Park borders the Property immediately to the north and east. The record indicates further that, to the west, there is a R.C. 5 zoned residential community consisting of twenty to thirty single-family dwellings.

[2]The County's generally stated purposes in establishing the resource conservation zones are as follows: (1) to discourage the current patterns of development in rural areas; (2) to "[p]rovide sufficient and adequate areas for rural-suburban and related development in selected and suitable areas;" (3) to "[p]rotect both natural and man-made resources from compromising effects of specific forms and densities of development;" (4) to "[p]rotect areas desirable for more intensive future development by regulating undesirable forms of development within these areas until such time as intensive development commences[;]" and (5) to "[h]elp achieve the goals of the Chesapeake Bay Critical Area Protection Law by enacting land use policies to control development within the Critical Area by conserving the land and water resource base for agriculture, forestry and other natural resource uses; minimizing adverse effects on water quality; and conserving fish, wildlife and plant habitat." BCZR § 1A00.2.

[3]The mailing address of the existing dwelling is 4501 Sweet Air Road.

[4]As we will describe *infra*, R.C. 5 land is categorized as rural-residential. The general (continued...)

Property, collectively shaped like a wedge and approximately 3.9 acres in size, zoned R.C. 2.[5] The development plan proposes eight single-family dwelling lots for the entire Property. Specifically, the proposal provides for the development of six new homes predominantly within the R.C. 5 zone,[6] one new dwelling on the northeasterly wedge-shaped R.C. 2 zoned parcel,[7] and the retention of the existing dwelling located at 4501 Sweet Air Road.

1. Private Access Road

Part of the infrastructure proposed in support of the subdivision, to be located on the part of the Property north of Sweet Air Road, fuels the instant controversy. Vehicular access to the lots, according to the development plan, is to be provided by a private road leading from Sweet Air Road into the interior of the R.C. 5 zoned land. The access road enters the proposed subdivision in the R.C. 5 zone, crosses briefly into the R.C. 2 zone, and then back into the R.C. 5 zone, where it eventually terminates in a cul-de-sac. The road is intended to provide owners of the R.C. 2 lot and the otherwise land-locked R.C. 5 zoned lots with access

[4](...continued)
regulations governing development in this zone are found at BCZR §§ 1A04.1 - 1A04.4.

[5]R.C. 2 is categorized as a rural-agricultural zone. The regulations governing the permissible uses of R.C. 2 zoned land are located at BCZR §§ 1A01.1 - 1A01.4.

[6]Five of the six lots comprised exclusively of R.C. 5 zoned land are each approximately 1.5 acres in size. The sixth lot, although predominantly in the R.C. 5 zone, is 4 acres, but contains a small portion of R.C. 2 zoned land. The R.C. 2 portion of the sixth lot is not computed towards density for the overall tract or needed to satisfy minimum lot size or any other requirements applicable to the R.C. 5 zone for the sixth lot.

[7]The plan proposes in the R.C. 2 zone the construction of one single-family home on a 1.27 acre lot.

to Sweet Air Road. The design and location of the interior access road follows generally the existing natural topography of the Property.

2. Stormwater Management Facility

Also at issue is the placement of a stormwater management ("SWM") facility on the R.C. 2 zoned section of the Property which, according to the record, is intended to accommodate stormwater runoff from the R.C. 5 lots and surrounding areas.[8] The SWM facility is proposed to be located entirely within the R.C. 2 zoned land, adjacent to the private access road.[9]

Section 4-204 of the Environment Article of the Maryland Code (1982, 2007 Repl. Vol.) provides that all counties in Maryland shall adopt laws to implement a comprehensive

[8]Before the Zoning Commissioner and Board of Appeals, there was some disagreement as to the utility of placing the SWM facility where it was proposed by the developer. As we will discuss *infra*, although there was evidence presented that the runoff created by the R.C. 2 lot would not drain naturally into the SWM facility as sited, there was additional testimony proffered indicating that movement of the facility across the zoning boundary into the R.C. 5 zone would result in increased runoff onto the R.C. 2 lot and neighboring parcels. The reason given for this was that the proposed location of the SWM facility was positioned at the lowest-lying spot in the development area. Moving the facility into the R.C. 5 lot would therefore require moving the facility upgrade.

[9]As the intermediate appellate court noted,

> [t]he Lynch Property sits on a low ridge, so that storm drainage is currently off the property toward adjacent neighbors. Development plans show that the proposed SWM facility "shall be public" and located entirely in the R.C. 2 zone at a site that is lower than the R.C. 5 zoned land in the parcel. The proposed SWM site is situated where the R.C. 5 property will drain into it, rather than onto the neighboring property. Plans state that the SWM reservation area will "be dedicated and granted at no cost to Baltimore County."

stormwater management program.[10] Pursuant to this mandate, Baltimore County adopted a regulatory scheme which provides generally that, unless the proposed development qualifies under one of the enumerated exceptions in Baltimore County Code § 33-4-104(b), no proposed land development in the County may commence unless the developer/landowner obtains from the local government approval of a stormwater management plan. The exceptions to this requirement are: "(1) Agricultural land management practices; (2) Additions or modifications to existing single-family, detached, or semidetached residential structures, if the additions or modifications [do not disturb more than 5,000 square feet of land area]; (3) Developments that do not disturb more than 5,000 square feet of land area; and (4) Land development activities that the administration determines will be regulated under specific state laws which provide stormwater management no less stringent than the provisions of this title."). *See also* Baltimore County Code §§ 32-6-107 (providing that no building permit may issue unless the applicant first meets the requirements of Article 33,

[10]The term "stormwater management" may refer to a system of either quantitative or qualitative controls. "Quantitative control" refers to a stormwater system or abatement practice that manages "the increased volume and rate of surface stormwater runoff caused by man-made changes to the land." Baltimore County Code § 33-4-101(ff)(1). Qualitative controls refer to a system that regulates water quality by eliminating pollutants, contaminants, or other particulate matter contained in the stormwater runoff which originates from particular development site(s). Baltimore County Code § 33-4-101(ff)(2).

Title 4 of the Baltimore County Code[11] as well as § 32-4-410(c)[12] of that same Code). None of the exceptions apply to the subject development plan.

Stormwater management facilities may be located either on a proposed development site or off-site. If a facility is considered "on-site," it is intended to control stormwater runoff originating from within the site upon which the facility is located. Baltimore County Code § 33-4-101(v). An "off-site" facility, on the other hand, is intended to collect stormwater runoff from more than one site. Baltimore County Code § 33-4-101(v). "Site" is broadly defined by the Baltimore County Code and refers to "any tract, lot, or parcel of land, *or combination of tracts, lots, or parcels of land, that are in one ownership*, or are contiguous and in diverse ownership, *where development is to be done as part of a unit, subdivision, or project* . . . ." Baltimore County Code § 33-4-101(dd) (emphasis added).

As part of a proposed development plan, a SWM facility may also be designated for public or private maintenance. Baltimore County Code § 33-4-110. If designated for public maintenance, "[t]he county shall take in-fee ownership of the stormwater management devices and practices . . . ." Baltimore County Code § 33-4-110(1). If the facility is designated for private maintenance, however, the property owner (or its successor) is responsible for maintaining the facility in accordance with standards spelled out by the

[11]Article 33, tit. 4, § 33-4-101 to 33-4-116 covers, in depth, the requirements and design standards for construction of stormwater management facilities in the County.

[12]Section 32-4-410(c)(2) provides that "[p]roposed drainage facilities shall be adequate to accommodate the amount of runoff that would be generated by: (i) The proposed development; and (ii) The entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction."

County "in a recorded deed of declaration for maintenance and access." Baltimore County Code § 33-4-110(2). To that end, the Baltimore County Code defines "public improvements" as those "improvements [which are] required by the county as a condition of development *that are intended to be dedicated to the county in fee simple or by other interests in title.*" Baltimore County Code § 32-4-101(nn) (emphasis added). "Private improvements," on the other hand, are those improvements which are "required by the county as a condition of development that are *not intended to be dedicated* to the county." Baltimore County Code § 33-4-101(mm) (emphasis added). *See also* Baltimore County Code § 32-4-302(c) ("The applicant shall prepare, execute, and deliver to the county those improvements . . . required to convey to the county all rights-of-way *that are determined to be necessary and appropriate for the county to accept and maintain the public improvements.*") (emphasis added). As indicated on the approved development proposal, the stormwater management facility in the present case is intended to be conveyed by the Respondents in-fee to the County for public maintenance.[13]

The present case began at the Zoning Commissioner / Hearing Officer (Commissioner) level when Respondents filed with the County a concept plan for the Property, pursuant to Baltimore County Code § 32-4-213. The concept plan included a simple, clean, and straight-forward schematic representation of the proposed subdivision.

[13]Specifically, the development plan indicates that the SWM facility is intended by the developers to be constructed at Respondents' expense and granted in-fee to the County upon completion and approval by the Baltimore County Department of Environmental Protection and Resource Management that the facility was constructed in accordance with the County's SWM design requirements.

The review process continued according to § 32-4-216[14] with the scheduling and completion of a Concept Plan Conference between the Department of Permits and Development Management, the Department of Environmental Protection and Resource Management, the Office of Planning, and the applicants. Subsequent to that meeting, a § 32-4-217 Community Input Meeting[15] was conducted, at which time, the owners of neighboring properties were given the opportunity to review and offer comments on the proposed development. After consideration and incorporation of the suggestions proposed during the earlier phases of the development approval process, the developers submitted a Development Plan for review and comments by the County at a Development Plan Conference. Baltimore County Code §§ 32-4-221 to 32-4-226.[16] Subsequent to the Development Plan Conference, a quasi-judicial

[14]Baltimore County Code § 32-4-216(a), in pertinent part, provides that "[w]ithin 10 working days following the filing of a concept plan, the Department of Permits and Development Management shall hold a concept plan conference with the applicant and representatives from the Department of Environmental Protection and Resource Management, the Office of Planning, the Department of Permits and Development Management, and other appropriate agencies, to receive the comments of the agencies."

[15]According to the Code, a Community Input Meeting should be conducted within 10 working days after the concept plan conference. At this meeting the developer and the surrounding community may discuss and resolve "community concerns and developer constraints" in terms of zoning issues. Baltimore County Code § 32-3-217(a), (b).

[16]The Development Plan essentially is a final proposed plan which incorporates the suggestions and resolutions to issues which arose during the earlier concept phases of the process. The applicant may not file a Development Plan without first holding a community input meeting regarding the proposed development. Baltimore County Code § 32-4-221(a).

public hearing was scheduled before the Commissioner. Baltimore County Code § 32-4-227.[17]

The Long Green Valley Community Association, and three individuals, Charlotte Pine, Steve Preston, and Gary Elser, at some point prior to this hearing, filed with the Commissioner a Petition for Special Hearing pursuant to BCZR 500.7.[18] It was at the § 32-4-227 public hearing that counsel for the neighbors advised the Commissioner that the petition

[17]Baltimore County Code § 32-4-227 provides that "final action on a Development Plan may not be taken until after a public quasi-judicial hearing before a Hearing Officer."

[18]BCZR § 500.7, in pertinent part, provides:

> The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. *The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.*

(emphasis added). The issues framed for the Special Hearing were as follows:

> 1) Is a road that supports R.C. 5 residential development permitted within an R.C. 2 zone; 2) Is a storm water management facility that solely supports R.C. 5 development permitted within an R.C. 2 zone; 3) Can the R.C. 2 zone on the north and south sides of Sweet Air Road support both proposed Lots 6 and 7; 4) Can the density of an R.C. 2 zone parcel on the north and south sides of Sweet Air Road support Lots 6 and 7 along with the storm water management facility, and Lot 8 on the south side of Sweet Air Road; 5) Whether the creation of non-density parcels as part of residential lots shown on a development plan require a separate special hearing request, and specifically, a portion of proposed Lot 7 in the R.C. 2 zone; and, 6) such other and further issues as may be developed by the testimony presented at the hearing.

had been filed. Pursuant to Baltimore County Code, § 32-4-230(a), "[i]f the Development Plan requires a special exception, variance, special hearing, or interpretation of the Baltimore County Zoning Regulations, the applicant may combine the public hearing required under Title 3, Subtitle 3 of this article and under the Baltimore County Zoning Regulations with the public hearing held by the Hearing Officer on the Development Plan." The applicants consented to a single public hearing, which was held on 2 December 2003. The Commissioner filed on 16 December 2003 an opinion and order approving Respondents' development plan, pending the outcome of a traffic study aimed at determining if there existed a safe sight distance at the intersection of the interior access road and Sweet Air Road. Subsequent to receipt of that study, Respondents filed a red-lined development plan incorporating necessary changes indicated by the traffic study. The amended development plan was approved on 3 June 2004 by the Commissioner.

Petitioners noted with the Board of Appeals ("CBA") a timely administrative appeal. The CBA heard the matter on 7 September 2004. After the submission of legal memoranda from the parties and open deliberation on 26 October 2004 regarding the issues presented by the Petition for Special hearing, the CBA rendered its final decision on 10 November 2004, affirming the Commissioner's decision to approve the amended Development Plan. The Long Green Valley Community Association and the People's Counsel for Baltimore County filed on 6 December 2004 a Petition for Judicial Review in the Circuit Court for Baltimore County.

The Circuit Court reversed the decision of the CBA, concluding that the SWM facility contemplated by the development plan violated Baltimore County's resource conservation zoning regulations. Specifically, the Circuit Court held that, even though the facility was to be conveyed to and maintained by the County, the SWM system, by virtue of the fact that the need for stormwater management at all was precipitated by and served only the new development, was not a "public facility." In other words, the Circuit Court found that presumed government ownership and maintenance of the facility was insufficient indicia that the SWM facility would be a "public improvement," where the facility was required by and served only the proposed subdivision.

The Circuit Court rejected the developer's argument that the SWM pond constituted, pursuant to BCZR § 101, an "uncontrolled excavation," and, therefore, a permitted accessory use, in the R.C. 2 zone. The Circuit Court concluded that "a permitted principal use [such as housing] in one zone cannot be served by [an] accessory use[,] [the SWM facility], if that accessory use is located in a separate zone having its own, specific regulations."

As to the access road, the Circuit Court found that the development plan approved by the Zoning Commissioner "show[ed] only a small piece of the roadway that extends through the R.C. 2 zone, as most of the road is located in the R.C. 5 zone. Clearly, the access road [] serv[ed] both the R.C. 2 and R.C. 5 zones separately, and this type of road [wa]s a use permitted by right in each zone according to BCZR § 1A01.2B.5 and § 1A04.2A.7." The Circuit Court reasoned further that "there is no requirement in the BCZR that requires a street or way in one particular zone to provide access to that zone only. Stated differently, each

zone is supported by that part of the access road through which it travels, and it is therefore not in violation of the BCZR."

Respondents here noted a timely appeal with the Court of Special Appeals, raising the following issues:

> (1) Did the Circuit Court substitute improperly its judgment for the County Board of Appeals in ruling that a stormwater management facility, an improvement required as part of the development approval for a split-zoned residential subdivision, is prohibited in a portion of the R.C. 2 zoned area of the subject property?
>
> (2) Does the spirit, intent and scope of the BCZR prohibit the location of the SWM facility in a portion of the R.C. 2 zoned area of the subject property?
>
> (3) Did the County Board of Appeals apply the correct law and is its written opinion supported by substantial evidence?

The Court of Special Appeals, in an unreported opinion, agreed with the Commissioner and the CBA "that the proposed SWM facility is a public facility that is exempt from [the] R.C. 2 zoning restrictions [established in the BCZR]." Relying on our holding in *Glascock v. Baltimore County*, 321 Md. 118, 581 A.2d 822 (1990) (" '[I]t is a basic long-standing principle of statutory construction that the State is not deemed to be bound by an enactment of the General Assembly unless the enactment specifically names the State or manifests a clear and indisputable intention that the State is to be bound.' ") (citations omitted), the intermediate appellate court concluded that the to-be-County-owned SWM facility would fall outside the purview of the BCZR by virtue of the fact that it would be a public facility serving an important governmental function. The appellate court placed

significant emphasis on the fact that the facility, pursuant to the approved development plan, was to be conveyed in-fee to the County and that it was to be maintained by the County for the purposes of stormwater runoff serving and protecting also neighboring tracts of land, thereby serving broadly the public's health, safety, and welfare. The panel therefore remanded the matter to the Circuit Court with instructions to affirm the CBA's approval of the amended development plan. The intermediate appellate court found it unnecessary to address the other two issues before it.

The People's Counsel of Baltimore County, along with Long Green Valley Community Association, filed with this Court on 8 November 2006 a timely Petition for Writ of Certiorari. We issued the writ, 396 Md. 12, 912 A.2d 648 (2006), in order to consider the following questions:[19]

[19]We reworded the questions for brevity and clarity. The questions framed in the petition for writ of certiorari were as follows:

> (1) Whether a storm water management facility required as a condition of private development approval, and serving that development, is a "public facility" or "pubic use" exempt from county zoning law?
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> (2) Whether the Court of Special Appeals misapplied, and improperly extended the rule of *Glascock v. Baltimore County*, 321 Md. 118, 581 A.2d 822 (1990), that county governmental uses and activities are exempt from zoning?
>
> (3) Whether the Court of Special Appeals confused conditions for private land development with dedications of land for public use, disregarded distinctions illustrated in *City of Annapolis v. Waterman*, [357 Md. 484, 745 A.2d 1000 (2000),] and confused subdivision restrictions with zoning use law in a way reminiscent of *Remes v. Montgomery County*[, 387 Md. 52, 874 A.2d 470 (2005)]?

(continued...)

1. Whether the Court of Special Appeals confused subdivision restrictions with zoning use law in a way reminiscent of *Remes v. Montgomery County*, 387 Md. 52, 874 A.2d 470 (2005).

2. Whether a storm water management facility, required as a condition of private development approval, and serving that development, is a "public facility" or "pubic use" exempt from county zoning law under the reasoning in *Glascock v. Baltimore County*, 321 Md. 118, 581 A.2d 822 (1990), that county governmental uses and land development activities are exempt from local and municipal zoning regulations. In other words, whether the Court of Special Appeals confused conditions for private land development with dedications of land for public use, disregarding distinctions illustrated in *City of Annapolis v. Waterman*, 357 Md. 484, 745 A.2d 1000 (2000).

3. Whether the more-restricted R.C. 2 Agricultural Zone area may be used for a SWM facility and private access road in support of lots developed in the adjoining Rural-Residential Zone Area, where the Agricultural Zone would not permit the lot density those pieces of infrastructure were designed to support.

4. Whether the Court of Special Appeals allowed the equivalent of a disguised *de facto* rezoning of the R.C. 2 zoned property.

[19](...continued)

> (4) Whether the highly restricted Agricultural Zone area may be used for an S.M. facility, private driveway, and lot area for lots developed in the adjoining Rural-Residential Zone Area, where the Agricultural Zone itself would not permit that lot density?
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> (5) Whether the Court of Special Appeals allowed the equivalent of a disguised rezoning or unauthorized density transfer (a.k.a. *De facto* rezoning of the property)?

STANDARD OF REVIEW

When this or any appellate court reviews the final decision of an administrative agency such as the CBA, the court looks through the circuit court's and intermediate appellate court's decisions, although applying the same standards of review, and evaluates the decision of the agency. *Mastandrea v. North*, 361 Md. 107, 133, 760 A.2d 677, 691 (2000) (citing *White v. North*, 121 Md. App. 196, 219, 708 A.2d 1093, 1105 (1998), *rev'd on other grounds*, 356 Md. 31, 736 A.2d 1072 (1999)). We therefore shall focus our attention in the main on the decision of the CBA.

In doing so, this Court may not substitute its judgment for the administrative agency's in matters where purely discretionary decisions are involved, particularly when the matter in dispute involves areas within that agency's particular realm of expertise, *see, e.g.*, *Bd. of Physician Quality Assurance v. Banks*, 354 Md. 59, 68-69, 729 A.2d 376, 381 (1999), so long as the agency's determination is based on "substantial evidence." *See White*, 356 Md. at 44, 736 A.2d at 1079-80; *Mayor of Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 398, 396 A.2d 1080, 1089 (1979). In that latter regard, we inquire whether the zoning body's determination was supported by "such evidence as a reasonable mind might accept as adequate to support a conclusion . . . ." *Annapolis Waterfront Co.*, 284 Md. at 398, 396 A.2d at 1089; *see also Annapolis Waterfront Co.*, 284 Md. at 398-99, 396 A.2d at 1089 ("The heart of the fact-finding process often is the drawing of inferences made from the evidence . . . . The court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is

reasonableness, not rightness.") (citations omitted); *Snowden v. Mayor and City Council of Baltimore*, 224 Md. 443, 447-48, 168 A.2d 390, 392 (1961) (quoting 4 KENNETH CULP DAVIS & RICHARD J. PIERCE, ADMINISTRATIVE LAW § 29.11, at 186 (1958)). Thus, we will uphold the administrative decision of the zoning body, here the CBA, to approve the development plan if that action was "fairly debatable" on the facts as found by it. *White*, 356 Md. at 44, 736 A.2d at 1079-80; *Sembly v. County Bd. of Appeals of Baltimore County*, 269 Md. 177, 182, 304 A.2d 814, 818 (1973); *Bd. of County Comm'rs for Cecil County v. Holbrook*, 314 Md. 210, 216-17, 550 A.2d 664, 668 (1988); *Prince George's County v. Meininger*, 264 Md. 148, 152, 285 A.2d 649, 651 (1972); *Zengerle v. Bd. of County Comm'rs for Frederick County*, 262 Md. 1, 17, 276 A.2d 646, 654 (1971); *Gerachis v. Montgomery County Bd. of Appeals*, 261 Md. 153, 156, 274 A.2d 379, 381 (1971).

We are less deferential in our review, however, of the legal conclusions of the administrative body and may reverse those decisions where the legal conclusions reached by that body are based on an erroneous interpretation or application of the zoning statutes, regulations, and ordinances relevant and applicable to the property that is the subject of the dispute. *Belvoir Farms Homeowners Assoc., Inc. v. North*, 355 Md. 259, 267-68, 734 A.2d 227, 232 (1999) (citing *Catonsville Nursing Home, Inc. v. Loveman*, 349 Md. 560, 569, 709 A.2d 749, 753 (1998)); *see also Mombee TLC, Inc. v. Mayor and City Council of Baltimore*, 165 Md. App. 42, 884 A.2d 745 (2005) (finding that an appellate court's role "is precisely the same as that of the circuit court," and that "like that court, we are 'limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and

conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law' ") (citations omitted). When determining the validity of those legal conclusions reached by the zoning body, however, "a degree of deference should often be accorded the position of the administrative agency" whose task it is to interpret the ordinances and regulations the agency itself promulgated. *Marzullo v. Kahl*, 366 Md. 158, 172, 783 A.2d 169, 177 (2001). Thus, "[e]ven though the decision of the Board of Appeals was based on the law, its expertise should be taken into consideration and its decision should be afforded appropriate deference in our analysis of whether it was 'premised upon an erroneous conclusion of law.' " *Marzullo*, 366 Md. at 172, 783 A.2d at 178 (quoting *Banks*, 354 Md. at 68, 729 A.2d at 380).

DISCUSSION

II. Rural Conservation Zones.[20]

Before examining the merits of the parties' arguments, it is appropriate that we first inquire into the permitted uses of R.C. 2 and R.C. 5 zoned land, particularly as it may relate to the placement of access roads and stormwater management facilities in support of residential development. When considering these uses, it is important to keep in mind the overarching principles of the Rural Conservation zones, which are to:

[20]We focus, for the purposes of this opinion, primarily on the purposes and underlying reasons for establishment of the R.C. 2 and R.C. 5 zones. For a more extensive historical discussion of the Resource Conservation Zones in Baltimore County, see *Security Mgmt. Corp. v. Baltimore County*, 104 Md. App. 234, 655 A.2d 1326 (holding that placement of property in Baltimore County's RC-4 resource conservation zone did not constitute a deprivation of the landowner's constitutional rights to either equal protection or substantive due process), *cert. denied*, 339 Md. 643, 664 A.2d 886 (1995).

> (A) Discourage present land use patterns of development and to create a framework for planned or orderly development;
>
> (B) Provide sufficient and adequate areas for rural-suburban and related development in selected and suitable areas;
>
> (C) Protect both natural and man-made resources from compromising effects of specific forms and densities of development; [and]
>
> (D) Protect areas desirable for more intensive future development by regulating undesirable forms of development within these areas until such time as intensive development commences.

BCZR § 1A00.2.

A. The R.C. 2 Rural-Agricultural Zone

The R.C. 2 agricultural zone's primary purpose is to "foster conditions favorable to continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." BCZR § 1A01.1.B.[21] This stated purpose is based on the premise:

> a. That Baltimore County is fortunate in that it is endowed with a variety of very productive agricultural soil types which should not be lost unnecessarily to urbanized development;
>
> b. That agricultural industry is an integral part of the Baltimore County economy and that a continued conversion of agricultural land will continue to undermine this basic industry;

[21]The R.C. 2 zone was established for the purpose of preserving agricultural land, as opposed to the R.C. 3 mixed-use agricultural classification, which was established in order to "foster conditions favorable to agricultural and residential use of the land while still maintaining the rural character of the area." BCZR § 1A02.1.A.

c. That scattered development is occurring in a sporadic fashion in areas of Baltimore County containing productive agricultural land;

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

e. That heretofore Baltimore County has been unable to effectively stem the tide of new residential subdivisions in productive agricultural areas of Baltimore County;

* * * * *

g. That Baltimore County possesses numerous areas which are highly suitable for urban development, including residential subdivisions which are not located in areas of productive agricultural land.

BCZR § 1A01.1.A.

The primary control device through which the intended purposes of rural-agricultural preservation are carried out are the use regulations contained in BCZR §§ 1A01.2 - 1A01.4. Although agricultural operations obviously are the preferred use permitted as of right in a R.C. 2 zone, BCZR § 1A01.2.A, other uses are permitted as of right, BCZR § 1A01.2.B, or by special exception. BCZR § 1A01.2.C. Uses permitted as of right, which are pertinent to the present case, include "streets and ways," BCZR § 1A01.2.B.5, and single-family detached

dwellings, BCZR § 1A01.2.B.1.[22] Stormwater management facilities are not mentioned explicitly in the enumeration.

The construction of single-family detached dwellings is subject to height and density regulations found at BCZR § 1A01.3.B. The BCZR provides that no tract within an R.C. 2 zone may be subdivided if it contains a gross area of less than two acres. BCZR § 1A01.3.B.1. Tracts having a gross area of between two and 100 acres may not be subdivided into more than two lots total. *Id.* For tracts above 100 acres in size, they may be subdivided at a density of no more than one lot per 50 acres. *Id.* In terms of minimum lot size, no lots having a gross area of less than one acre may be created in a R.C. 2 zone. BCZR § 1A01.3.B.2. "No more than one principal dwelling is permitted on any lot in an R.C. 2 Zone." BCZR § 1A01.3.B.4.

B. The R.C. 5 Rural-Residential Zone

The R.C. 5 rural-residential zone was established by Baltimore County on the premise that, among other things, rural-residential development "constitutes a wasteful use of land

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[22] "Uncontrolled excavations," which are

> [t]he digging of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface for any of the following purposes: When incidental to the operation of a permitted business or manufacturing use located on the same property, but excluding any digging of material for sale, exchange, processing or manufacture; *For grading or other purposes incidental to improvement of the land; and When incidental to the development of land or to grading for public improvements[.]*

BCZR § 101 (emphasis added), likewise are permitted as of right when ancillary to otherwise permitted uses in the zone. BCZR § 1A01.2.B.9.a.

and is fiscally expensive to serve with respect to the provision of basic services." BCZR § 1A04.1.A.1.b.[23] In that vein, the R.C. 5 zone was created in order to:

> 1. Provide for rural-residential development in suitable areas in which basic services are not anticipated.
>
> 2. Eliminate scattered and generally disorderly patterns of future rural-residential development.
>
> 3. Assure that encroachments onto productive or critical natural resource areas will be minimized.
>
> 4. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems.

BCZR § 1A04.1.B.1 - .4. Permitted uses of right in the R.C. 5 zone pertinent to the present case are single-family detached dwellings, BCZR § 1A04.2.A.2, and streets and ways, BCZR § 1A04.2.A.7. Stormwater management facilities are not mentioned as such in the list of permitted uses within the R.C. 5 zone.[24]

A primary difference between the R.C. 2 and R.C. 5 zones, presumably because of the divergent foci between them in terms of residential and agricultural development, are the density levels permitted in each. Minimum lot size and density levels permitted within the R.C. 5 zone are more generous than those allowed in the R.C. 2 zone. The regulations provide that no lot may be created within the R.C. 5 zone with a total gross area of less than

[23]For a complete list of the findings underlying the creation of R.C. 5 zones, see generally BCZR § 1A04.1.A.

[24]Like the R.C. 2 zone, uncontrolled excavations accessory to permitted uses are allowed.

1.5 acres, BCZR § 1A04.2.B.a, and the maximum allowable residential density within the zone is 0.5 dwellings per acre. *Id.*

III. What is to be Made of the Fact That a SWM Facility, Which is a Utilization of the Property Required by the County as a Pre-Condition to the Approval of a Proposed Development, is Not Addressed As Such As a Permitted Use in the Zoning Regulations?[25][26]

Respondents posit that construction and operation of a SWM facility "is not a use within the contemplation of the zoning regulations" because the management of stormwater

[25]This question applies only to the stormwater management facility in the development plan. Access roads clearly are "uses" permitted as of right in both the R.C. 2, BCZR § 1A01.2.B.5, and R.C. 5 zones, BCZR § 1A04.2.A.7.

[26]An appellate court generally may not affirm an administrative agency (here the CBA) on grounds on which the agency itself did not rely in making its decision. *Anderson v. Dep't of Pub. Safety & Correctional Servs.*, 330 Md. 187, 213 n.2, 623 A.2d 198, 211 n. 2 (1993) ("[I]n judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.") (quoting *United Steelworkers of America Local 2610 v. Bethlehem Steel*, 298 Md. 665, 679, 472 A.2d 62, 69 (1984)); *see Motor Vehicle Admin. v. Shepard*, 399 Md. 241, 260, 923 A.2d 100, 111 (2007) ("[T]he reviewing court, restricted to the record made before the administrative agency, may not pass upon issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency. *Stated differently*, an appellate court will review an adjudicatory agency decision solely on the grounds relied upon by the agency.") (citing *County Council of Prince George's County v. Brandywine Enterprises, Inc.*, 350 Md. 339, 349, 711 A.2d 1346, 1350-51 (1998); *Cicala v. Disability Review Bd. for Prince George's County*, 288 Md. 254, 260, 418 A.2d 205, 209 (1980)); *Ins. Comm'r v. Equitable Life Assurance Soc'y of the United States*, 339 Md. 596, 634, 664 A.2d 862, 881 (1995) ("[J]udicial review of administrative decisions is limited to the issues or grounds dealt with by the administrative agency.") (citations omitted).

The CBA, when addressing "whether an R.C. 2 zoned property can be used to support the development of R.C. 5 property, including density, stormwater management (SWM), and a road or driveway," found "compelling testimony that the [SWM] facility in this case will not solely support the development in R.C. 5 but will also be used to support the development in the R.C. 2 zone." More importantly, as an alternate basis to conclude that there was no zoning impediment to the development plan, "[t]he Board also cited compelling testimony that stormwater management facilities are like landscaping and not identified as a principal use in any zone."

is not addressed as such in the enumeration of permitted uses in the BCZR in the R.C. 5 or R.C. 2 zones. Rather than constituting a "use" in and of itself, Md. Code (1982, 2007 Repl. Vol.), Environment Article, § 4-204; Baltimore County Code § 33-4-104(b), Respondents contend that, because development regulations and zoning laws are separate, but interrelated bodies of law, the SWM facility, at least under the circumstances of the present case, falls outside regulation by the BCZR, notwithstanding Petitioners' assertion to the contrary.

It must be conceded, as general rule, that, when a zoning ordinance enumerates specifically the permitted uses within a particular zone, the ordinance "establish[es] that the only uses permitted in the [] zone are those designated as uses permitted as of right and uses permitted by special exception. Any use other than those permitted and being carried on as of right or by special exception is prohibited." *Kowalski v. Lamar*, 25 Md. App. 493, 499, 334 A.2d 536, 540 (1975) (citations omitted); *see also* ARDEN H. RATHKOPF & DAREN A. RATHKOPF, 1 THE LAW OF ZONING & PLANNING § 1:7 (4th ed. 2005) ("Reported court decisions often involve simply whether an owner's proposed use within a particular zoning district is a use allowed by right, an accessory use, a specially permitted use, or a use entirely prohibited within that district.").

It is well-settled that zoning regulations and subdivision controls regulate different aspects of the land use regulatory continuum. *Coffey v. Maryland-Nat'l Capital Park & Planning Comm'n*, 293 Md. 24, 30, 441 A.2d 1041, 1044 (1982) (holding that zoning and subdivision planning "represent separate municipal functions and neither is a mere rubber-stamp for the other") (quoting *Popular Refreshments, Inc. v. Fuller's Mil Bar*, 205 A.2d 445

(N.J. Super. 1964), *cert. denied*, 208 A.2d 143 (N.J. 1965)); *Remes v. Montgomery County*, 387 Md. 52, 64 n.8, 874 A.2d 470, 477 n.8 (2005); *Wesley Chapel Bluemount Ass'n v. Baltimore County*, 347 Md. 125, 129, 699 A.2d 434, 436 (1997) (citing generally *Board of County Comm'rs v. Gaster*, 285 Md. 233, 401 A.2d 666 (1979)). *See also* ARDEN H. RATHKOPF & DAREN A. RATHKOPF, 5 THE LAW OF ZONING & PLANNING § 90:24 (4th ed. 2005) ("[W]here the rules and regulations enacted or approved by the legislative body as a guideline for the planning board contain requirements different from those imposed by the zoning ordinance with respect to lot size, frontage, width, setback or other non-use features, or standards relating to design of the subdivision such as road length, size of cul-de-sacs, location of points of ingress and egress and the like, such rules and regulations have been held to control. For example, where the subdivision regulations provide that a subdivision must be compatible with the county master plan and the proposed plat shows a greater density than called for in the master plan, the subdivision may be rejected although the zoning ordinance permits the density proposed."). While zoning laws define the uses that are permitted in a particular zoning district, *i.e.*, the R.C. 5 and R.C. 2 zones, subdivision regulations inform how, when, and under what circumstances a particular tract may be developed. *Remes*, 387 Md. at 74, 874 A.2d at 482 ("[Z]oning dictates what one can build on, or how one may use his property while subdivision or planning determines how the land is divided"). Included in these subdivision controls are provisions which require the developer/property owner to construct infrastructure improvements of various types necessary to support "uses" permitted in the zone by the applicable zoning regulations.

Despite their different aims, however, the two regulatory schemes are intended to complement each other in terms of the safety, health, and general welfare of the community at large. Zoning regulations and subdivision/development controls, along with the establishment of a master plan in a particular locality, serve additional common objectives in terms of the effective, efficient, and consistent use of land within *similarly-situated* districts. *Coffey*, 293 Md. at 30, 441 A.2d at 1044. As we stated in *Wesley Chapel Bluemount Association*,

> [g]*overnmental control* over land development is effected principally in three ways - through the adoption of (1) master plans delineating the desired uses for all land within the planning area, both for development and for roads, parks, schools, and other public purposes, (2) zoning regulations designed to implement the master plans by placing legal restrictions on the use of the land by non-governmental persons and entities, and (3) subdivision and other development regulations designed to ensure that private development of the land is consistent with the applicable master plan and zoning regulations. Although each of these devices has an independent purpose and may be subjected to a separate development and approval procedure, their functions, to some extent, coalesce, in that they are *all designed* to assure that land development occurs in a manner that is consistent with overall legislative policy and community welfare.

347 Md. at 129, 699 A.2d at 436 (citing generally *Bd. of County Comm'rs v. Gaster*, 285 Md. 233, 401 A.2d 666 (1979)). Thus, although zoning laws and subdivision regulations are separate forms of regulation, and typically are administered by different governmental agencies or bodies, they operate in practical application to ensure that land in a particular

locality is developed in a relatively uniform and consistent manner, especially when Euclidian zones,[27] such as the R.C. zones, are concerned.

Nowhere in any of the relevant cases explaining the differences between zoning and subdivision regulation is there an indication that improvements required by a subdivision regulation may be placed anywhere the developer wishes, regardless of an improvement's location relative to internal zoning boundaries and their requirements.[28] To the contrary, all

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[27]"Euclidean zoning is a fairly static and rigid form of zoning named after the basic zoning ordinance upheld in *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 47 S. Ct. 114, 71 L. Ed. 303 (1926)." *Mayor & Council of Rockville v. Rylyns*, 372 Md. 514, 534, 814 A.2d 469, 480 (2002). As we stated in *Rylyns*:

> "The term 'Euclidean' zoning describes the early zoning concept of separating incompatible land uses through the establishment of fixed legislative rules . . . ." 1 ZIEGLER, RATHKOPF'S THE LAW OF ZONING AND PLANNING (4th Ed. Rev.1994), § 1.01(c), at 120 ("Rathkopf's"). Generally, by means of Euclidean zoning, a municipality divides an area geographically into particular use districts, specifying certain uses for each district. "Each district or zone is dedicated to a particular purpose, either residential, commercial, or industrial," and the "zones appear on the municipality's official zoning map." 5 Rathkopf's, § 63.01, at 63-1-2. In this way, the municipality "provides the basic framework for implementation of land use controls at the local level." 1 Rathkopf's, § 1.01(c), at 122.

372 Md. at 534, 814 A.2d at 480 (quoting *Rouse-Fairwood Dev. Ltd. P'ship v. Supervisor of Assessments for Prince George's County*, 138 Md. App. 589, 623, 773 A.2d 535, 555 (2001)). "Euclidian zoning is designed to achieve stability in land use planning and zoning and to be a comparatively inflexible, self-executing mechanism which, once in place, allows for little *modification* beyond self-contained procedures for predetermined exceptions or variances." *Rylyns*, 372 Md. at 534, 814 A.2d 481.

[28]In *Remes v. Montgomery County*, 387 Md. 52, 874 A.2d 470 (2005), for example, we were called upon to determine whether two contiguous subdivided lots merged for zoning purposes as it related to Montgomery County's issuance of a permit for the construction of a single-family dwelling on one of the "combined" lots which, if the lots were individually owned, would have violated a

(continued...)

[28](...continued)
number of the County's spatial zoning requirements relative to setbacks, vehicular access, and accessory uses. 387 Md. at 59, 68, 874 A.2d at 473-74, 479. The two contiguous lots were under common ownership at the time Montgomery County's Division of Permitting Services ("DPS") issued an earlier permit for the construction of the existing single-family dwelling on one of the lots. *Remes*, 387 Md. at 58, 874 A.2d at 473. The lots were assessed by the County as one lot for tax purposes. *Id.* The newer permit was issued to the respondent, a developer, who was not, at the time of issuance, the owner of record of the lot where the second dwelling was proposed. *Remes*, 387 Md. at 59, 874 A.2d at 473.

When the common owner, one month after issuance of the new permit, attempted to convey to the respondent the lot, the petitioner, a neighboring land owner, filed in the Circuit Court for Montgomery County a Complaint for Declaratory and Injunctive Relief, seeking to rescind the sale and enjoin any future sale of the lot. *Remes*, 387 Md. at 59, 60, 874 A.2d at 474. The petitioner's challenge was based on his belief that the two lots had merged for zoning purposes, *Remes*, 387 Md. at 60, 874 A.2d at 474, an issue that this Court raised, but did not decide in *Friends of the Ridge v. Baltimore Gas & Electric Company*, 352 Md. 645, 658 n.11, 724 A.2d 34, 41 n.11 (1999):

> An owner of contiguous parcels who erects a structure in what would ordinarily be a setback of one of the individual parcels might, under this doctrine, although we do not now decide it, also cause a combination of lots thus restricting the future alienability of the unbuilt upon parcel because the conveyance of that parcel would cause the property upon which the structure is built to be in violation of the ordinance. Such an owner would also risk being forced to bring that parcel into conformity by removing the structure from the setback.

We ultimately concluded that, because the two lots "were under common ownership, and at the time of that common ownership, they were used in service to one another," they merged for zoning purposes. *Remes*, 387 Md. at 87, 874 A.2d at 490. Our decision was based, at least in part, on the concept that

> zoning merger is not a resubdivision. When zoning merger occurs, the lots remain divided. Thus, zoning merger, in effect, is an adjustment of zoning requirements. It has no effect on subdivision. Title examiners regularly consider aspects of zoning when examining titles in order to be able to indicate to purchasers the uses that can be made of a property. Those uses have no effect on subdivision regulation. One must comply with *both* zoning and subdivision requirements. In the present case, the applicant cannot meet zoning

(continued...)

proposed subdivision developments must comply with the applicable zoning ordinances in effect at the time the subdivision is proposed. Baltimore County Code § 32-4-104 ("Proposed development shall be in compliance with the present zoning classification on the property to be developed."); Baltimore County Code § 32-4-114(a) ("Except as otherwise provided in this title, all development shall comply with this title and all other applicable laws or regulations of the county."); *Wesley Chapel Bluemount Ass'n*, 347 Md. at 129, 699 A.2d at 436 ("[Z]oning decisions take into account the provisions of the applicable master plan and subdivision and development approvals take into account compliance with applicable zoning regulations.").

[28](...continued)

> requirements because of the doctrine of zoning merger and thus, while Lot 11 may be sold, it cannot be used, absent zoning variances or other zoning relief, if any.

Remes, 387 Md. at 67, 874 A.2d at 478. Thus, we concluded that the lot could not be sold to another party, notwithstanding the previous subdivision, if construction on that lot would otherwise violate the zoning setbacks applicable to the lots if the common ownership were severed.

A broad reading of our decision in *Remes* might support the conclusion that zoning laws and subdivision regulations are rigidly separate and distinct. No language in that case, however, supports the conclusion that an improvement not explicitly addressed in the zoning laws, but otherwise required by the subdivision regulations, is exempt from the zoning requirements.

Wesley Chapel Bluemount Association v. Baltimore County, the principal case relied on by Respondents, was a case of statutory interpretation involving whether the review process of a subdivision development plan proposed in a resource conservation zone constituted a "zoning matter" requiring, pursuant to Maryland Code (1957, 1995 Repl. Vol.), State Government Article, § 10-503, open deliberations by the Baltimore County Board of Appeals. 347 Md. 125, 136, 699 A.2d 434, 439-40 (1997). Beyond the abstractly stated principle that zoning law and subdivision regulations are independent, but related, concepts, *Wesley Chapel Bluemount* does not support Respondents' argument as framed.

Respondents' interpretation, however, that a SWM facility is not contemplated by, and therefore not subject to the BCZR generally and the R.C. 2 and R.C. 5 regulations specifically, when required in conjunction with single-family residential permitted use, defies logic and common sense because, at the same time, it is required by the subdivision controls as a condition of approval of that subdivision. The fault in Petitioners' reasoning is particularly apparent when the BCZR, read in broader context, contemplates expressly the construction of SWM facilities despite the absence as an enumerated permitted "use" as such in any of Baltimore County's resource conservation zones. In the R.C. 6 (Rural Conservation and Residential) zone, for example, no specific reference is made to stormwater management in terms of "uses" permitted, as of right or otherwise. BCZR § 1A07.3. Yet, the BCZR provisions governing use of land in the R.C. 6 classification provide that "[s]tormwater management facilities must be integrated with the *topography of the site* and consistent with the visual appearance of the surrounding natural features." BCZR § 1A07.8.C.1. The BCZR follow an identical pattern in its provisions relating to the R.C. 7 (Resource Preservation) zone. While stormwater management facilities are not mentioned as "uses" permitted in the R.C. 7 zone, BCZR § 1A08.3, another provision otherwise makes specific reference to stormwater management. SWM facilities located in R.C. 7 zones "must be integrated with the topography of the site and consistent with the visual appearance of the surrounding natural features." BCZR 1A08.6.C.1. In like fashion, the provisions pertaining to R.C. 8 (Environmental Enhancement) zones do not mention SWM facilities as "uses" permitted in the zone, yet they provide that SWM facilities "shall be integrated into the site design to

utilize nonstructural practices unless it is demonstrated that this is not possible." BCZR 1A09.7.C.1. Thus, regardless of whether an SWM facility properly may be characterized as a "use" in its traditional sense, it is clear that SWM facilities are nevertheless clearly contemplated by, and embraced by, the BCZR's basic zoning scheme in conjunction with allowed, explicitly mentioned uses in the rural conservation zone scheme generally. Thus, SWM facilities, required by subdivision regulations in conjunction with permitted uses in the R.C. 2 and R.C. 5 zones, are not exempt from regulation under the BCZR merely because SWM facilities are not mentioned in the permitted use enumerations.

Moreover, though we do not decide here whether a stormwater management facility is an "uncontrolled excavation" within the meaning of that term as permitted in the R.C. 5 and R.C. 2 zones as an ancillary use, primarily because Respondents did not file a cross-petition for certiorari raising that issue which they pursued in the Circuit Court, we observe that the construction of stormwater management ponds typically requires "the digging of . . . earthen material from a land surface . . . [f]or grading or other purposes incidental to improvement of the land; and [w]hen incidental to the development of land or to grading for a public improvement[] . . . ," BCZR § 101, such as here to serve to control run-off from a proposed residential subdivision. Thus, it seems not inconsistent with the development of expressly permitted uses, like single-family detached homes allowed in the R.C. 5 and R.C. 2 zones, to allow ancillary required infrastructure such as SWM facilities.

By the same token, there is no Maryland authority for Respondents' proposition that infrastructure improvements in the development approval process are immune from

appropriate zoning requirements, where the zoning ordinance may be wholly silent on the subject, because the improvements are required as conditions of the subdivision regulations. The more reasonable construction is that when an infrastructure improvement ancillary to an otherwise permitted residential subdivision is required as a condition to county approval of the development plan, some flexibility is implied in the definition of the "uses" which are subject to the zoning regulations of the county, particularly when certain other provisions of the same zoning regulations, despite the absence from the enumeration of the permitted "uses" in the particular zone of the particular "use," contemplate specifically that utilization of the land. SWM management facilities are contemplated by the zoning scheme despite the lack of their express inclusion as "uses" in the permitted use enumerations in the BCZR.

IV. Under the Circumstances of the Present Case, the Decisions of the Commissioner and CBA That There are No Zoning Impediments to Placing the SWM Facility and a Portion of the Interior Access Road in the R.C. 2 Zone are Correct.

"Whenever a single tract is divided by a zone boundary so that portions of such a tract lie within R.C. Zones of different classifications, the total number of dwellings or density units permitted shall apply to each tract individually and, for the purpose of these regulations, shall be considered as separate parcels." BCZR § 1A00.5. With this in mind, Petitioners argue that, because "each zone is designed and structured with uniformity and to be self-contained with respect to principal and accessory uses," it is impermissible to locate in the R.C. 2 agricultural zone infrastructure, *i.e*, the SWM facility and access road, designed to support lots located on the R.C. 5 rural residential land, especially where the zoning laws

applicable to the agricultural zone would not permit the lot density the road and SWM facility were designed to support. Respondents, on the other hand, argue that no such zoning conflict exists between the commonly-owned, split-zoned Property.

A. The Proposed Placement of the SWM Facility on the R.C. 2 Land Would Not Violate the BCZR.

The record indicates that there was substantial disagreement between the parties at the CBA hearing regarding the consequences of placement of the SWM facility. Daniel O'Leary, a principal civil engineer called by Petitioners as an expert in stormwater management, testified as to various aspects of the placement of the SWM facility. Mr. O'Leary explained, *inter alia*, that, from a design standpoint, there would be more uncontrolled or un-managed flow from the development if the drainage pond were moved upgradient.[29] As such, he testified that, if the SWM facility were placed entirely within the R.C. 5 zone, "there may be some areas along the R.C. 5/R.C. 2 border that may no longer drain to it because they [would not] physically drain there," although he acknowledged that moving the facility onto the R.C. 5 land would not be fatal to the general development scheme. Regarding the environmental impacts of increased runoff from both the development and the access road ancillary to the proposed construction, counsel for

[29]Reports and plats depicting the topography of the land apparently indicate that the area in the vicinity of the R.C. 5 / R.C. 2 zoning boundary is a low point such that the bulk of stormwater runoff originating from the proposed development would flow into the SWM facility as sited by Respondents.

Respondents inquired whether "there would be more uncontrolled runoff if [the SWM facility] were constructed in the R.C. 5 versus R.C. 2 location." Mr. O'Leary replied, "Yes."

When asked whether the SWM facility would be smaller in size if designed to serve either the R.C. 2 lot by itself or, more abstractly, a single-lot development, O'Leary testified as follows:

> Question: If . . . you had none of this development in the R.C. 5, and you simply had one house where it's currently proposed on lot number seven, would you need a stormwater management facility?
>
> Answer: I don't think so. You would still need to address stormwater management.
>
> Q: But you would not need a facility such as the size and magnitude that's proposed on this [Respondent]'s [development plan]?
>
> A: I said [it would] be very unusual to have a stormwater management device for a single lot. So, yes. You have to address it, so not knowing exactly what the impact is from just that lot would be, it [is] hard for me to say. But it [is] unlikely a pond, for instance, would be required for a single lot development.
>
> * * *
>
> Q: In follow up then, it [is] the density of the housing on the R.C. 5 along with the road system that requires the facility that [is] proposed on the [Respondent]'s [development plan].
>
> A: Yes.

In a follow up question, Respondents' counsel asked O'Leary whether the SWM facility, as proposed on the R.C. 2 zoned land, would be effective controlling the runoff from the R.C.

5 property. O'Leary replied in the affirmative, indicating that at least three of the R.C. 5 lots and the roadway, which, in his opinion, was the most important factor because it would create the most runoff draining into the stormwater management pond, flowed to the facility.[30] Moreover, O'Leary testified that, because the Property sits on a low ridge, the R.C. 2 lot on the east portion of the Property actually would drain to the east and not into the SWM facility. While the bulk of the runoff collecting in the SWM facility would originate from the R.C. 5 lots, however, runoff originating from the stretch of the interior access road in the R.C. 2 zone would flow into the SWM pond.[31]

In reaching its decision to affirm the Commissioner's approval of the development plan, the CBA placed significant emphasis on the testimony of O'Leary regarding the efficacy of placing the stormwater management at the low point on the Property in an effort to minimize runoff, "indicating th[at], if the stormwater management facility were moved from the R.C. 2 zone to the R.C. 5 zone, runoff would actually be increased." We conclude that a reading of the SWM development regulations, as well as the BCZR, supports the CBA's decision.

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[30]Specifically, O'Leary testified that a small amount of run-off originating from the interior access road, which began on the R.C. 5 land and traversed the R.C. 2 portion, would drain into the SWM facility.

[31]Although the Baltimore County Code provides that SWM facilities must be able to accommodate runoff from "[t]he entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction," Baltimore County Code § 33-4-410(c)(ii), there is no evidence on the record before us that there are streams or areas upgrade from the Property that will produce additional or accelerated runoff.

The County's entire purpose in requiring adequate stormwater management is "to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff." Baltimore County Code § 33-4-102; BALTIMORE COUNTY DEP'T OF ENVTL. PROT. & RES. MGMT., STORM WATER MANAGEMENT ENGINEERING REGULATIONS, Article 5 § 14-151(A) (2001). This coincides, to some degree, with one of the stated purposes of the BCZR resource conservation zones to "[p]rotect both natural and man-made resources from the compromising effects of specific forms and densities of development." BCZR § 1A00.2.B.

Stephen Preston, a resident in the community located to the west of the Property, testified, before the CBA, as to his concerns regarding stormwater runoff. Mr. Preston testified that "[t]he Lynch Property itself is a low ridge, basically, so that it runs off on every side onto adjacent property. It runs off to the east into Gunpowder State Park, and it runs off to the west through the adjoining properties []." Mr. Preston referred specifically to a map of the area surrounding Gunpowder State Park, and testified that the map "show[ed] the fact that [the Property sat on] a low ridge with drainage off of the east, north, and west occurring on [his (Mr. Preston's)] property immediately below where that runoff occurs." Mr. Preston testified further that his property, and the property of Mr. Elser, his neighbor to the south, sat lower than the Lynch Property, such that stormwater drained off the Property and onto their land. As the Commissioner concluded correctly, the entire purpose of having a SWM facility is to maintain stormwater runoff onto neighboring parcels at the level predating construction,

and as if the Property were undeveloped. BALTIMORE COUNTY DEP'T OF ENVTL. PROT. & RES. MGMT., STORM WATER MANAGEMENT ENGINEERING REGULATIONS, Article 5, § 14-151(C) (2001) ("Proper management of stormwater management runoff will: (1) Minimize damage to public and private property; (2) Reduce the effects of development on land and stream channel erosion; (3) Assist in the attainment and maintenance of water quality standards; (4) Reduce local flooding; and *(5) Maintain after development, as nearly as possible, the predevelopment runoff characteristics.*") (emphasis added).

The record reflects that the SWM facility design was based on the topography, the location of impervious surfaces on the Property, and achieving a pre-development rate of stormwater runoff. The CBA determined that "if the SWM facility were located in the R.C. 5 zone, that change would result in more uncontrolled or unmanaged runoff." Although "most of the runoff directed to [the SWM facility] will originate in the R.C. 5 zone," the runoff originating from the R.C. 2 portion of the road will flow additionally into the SWM facility. In other words, the SWM facility is ancillary to the single-family dwellings in both the R.C. 5 and R.C. 2 lots, which are uses permitted as of right in both zones. Based on the evidence in this record, if the Commissioner and CBA, charged with interpreting the resource conservation provisions of BCZR, chose to place emphasis on the environment impacts associated with placement of the SWM facility, a conclusion based on those environmental impacts to approve the development plan was not unreasonable or irrational.[32]

[32]We note that it appears that the location of the SWM facility on the R.C. 2 land, as (continued...)

The CBA's conclusion also is reasonable considering that BCZR provisions relating to the overall resource conservation scheme contemplate SWM facilities and that they should be sited according to topographical considerations. As stated *supra*, the BCZR provisions governing use of land in the R.C. 6 classification provide that "[s]tormwater management facilities must be integrated with the *topography of the site* and consistent with the visual appearance of the surrounding natural features." BCZR § 1A07.8.C.1 (emphasis added); BCZR 1A08.6.C.1.(providing that SWM facilities located in R.C. 7 (Resource Preservation) zone "must be integrated with the topography of the site and consistent with the visual appearance of the surrounding natural features."); *see also* BCZR 1A09.7.C.1 (stating that, in the R.C. 8 (Environmental Enhancement) zone, SWM facilities "shall be integrated into the *site design* to utilize nonstructural practices unless it is demonstrated that this is not possible.").[33] The Baltimore County Code provisions governing SWM management provide that a "site" may be comprised of one lot or even multiple lots if those lots are commonly

[32](...continued)
proposed, is neutral in terms of the total density and yield of the proposed development. Before the CBA, it was undisputed that the R.C. 5 land could support a theoretical maximum of seven dwellings. The development plan proposed only six dwellings in the R.C. 5 zone. Naturally, the developer is not entitled automatically to the maximum number of lots that a property would yield mathematically; however, nothing on this record indicates that the developer's placement, in the R.C. 2 zone, of the SWM facility maximized the achievable density in the R.C. 5 zone.

[33]We do not construe the absence of similar provisions in the BCZR for the R.C. 2 or R.C. 5 zones as indicative of a legislative intent that stormwater management facilities are prohibited in those zones. Rather, a comprehensive overview of the resource conservation zoning scheme, subdivision requirements, and the stormwater management regulations compel the conclusion that such infrastructure improvements, where required by proposing the development of otherwise permitted primary uses in those zones, are allowed.

owned and where those lots, when completed, will form a larger subdivision. Baltimore County Code § 33-4-101(dd) (defining a "site" as "any tract, lot, or parcel of land, *or combination of tracts, lots, or parcels of land, that are in one ownership*, or are contiguous and in diverse ownership, *where development is to be done as part of a unit, subdivision, or project* . . . .") (emphasis added).

B. Placement of the Access Road Did Not Violate the Resource Conservation Provisions of the BCZR Where There is Evidence in the Record that the Road was Designed to Provide Access to Both the R.C. 2 and R.C. 5 lots.

Turning our focus to the access road, although we agree with Petitioners that "zoning ordinance[s] [are] concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants," *Anderson v. Associate Professors of Loyola College*, 39 Md. App. 345, 349, 385 A.2d 1203, 1204-05 (1978); *Mayor & City Council of Baltimore v. Poe*, 224 Md. 428, 433, 168 A.2d 193, 195 (1961); *Boulevard Scrap Co. v. Mayor and City Council*, 213 Md. 6, 10, 130 A.2d 743, 745 (1957), we conclude that the R.C. 2 and R.C. 5 zoning regulations do not conflict where the road is designed to service identical permitted uses in both zones.

In the present situation, the proposed development, currently in common ownership, is split-zoned, but each zone allows single-family, detached residential dwellings as primary uses permitted as of right. Streets and ways are permitted as of right in both zones in order to provide access to major roads for the purposes of ingress and egress. The foundation of the controversy manufactured for this case is that other zoning regulations applicable to each zone differ in terms of permissible lot density.

In *Leimbach Construction Co. v. Mayor and City Council of Baltimore*, 257 Md. 635, 264 A.2d 109 (1970), there were two adjacent parcels of land, under common ownership, one zoned for residential use and the other for commercial use. *Leimbach Construction Co.*, 257 Md. at 637, 264 A.2d at 109. Because the pre-existing access to the commercial lot was made impossible by the earlier collapse of a bridge leading to the property, the landowner applied for a permit to install a driveway across the otherwise vacant residential lot. *Leimbach Construction Co.*, 257 Md. at 637, 264 A.2d at 109-10. Because there were no structures on the residential lot to be served by the proposed road, it was manifest that the access road located within the residentially-zoned lot was intended to serve only the commercially-zoned lot. *Leimbach Construction Co.*, 257 Md. at 637-38, 264 A.2d at 110. In concluding that the road impermissibly "would be a 'business' use of land in a residential use district," *Leimbach Construction Co.*, 257 Md. at 640, 264 A.2d at 111, our predecessors reasoned, somewhat naively, that "[a]ccess can be accomplished on foot or on horseback; material can be fetched by pack-train. A bridge would be far more convenient, of course, and, in the long run, much less expensive. But this is none of our concern . . . ." *Id.*

As the CBA correctly pointed out in this case, "[i]f the roadway had been constructed only across the R.C. 2 land and its sole use was to access the lots in the R.C. 5 zone, then Petitioner's argument may have some merit." In *Leimbach*, the road had no apparent or immediate utility in terms of proposed uses on the residential lot on which it was located. In the present case, however, the proposed access road encroaches upon only a small portion of the R.C. 2 lot, and is ancillary to the proposed single-family, detached dwellings on both

the R.C. 2 and R.C. 5 zoned lots. The access road is a use permitted as of right in both the R.C. 2 and R.C. 5 zones according to BCZR §§ 1A01.2.B.5 and 1A04.2.A.7, respectively, and serves as a mode of ingress and egress for the homes located in both zones. While certainly *Leimbach* may be said to support the proposition that "each zone is designed and structured with uniformity and to be self-contained with respect to principal and accessory uses," we find nothing in the BCZR, the subdivision regulations, or our precedents which indicates that, when a split-zoned property, in which both portions are under common ownership when developed, is to contain infrastructure improvements ancillary to permitted uses consistently allowed in both zones, the relative infrastructure must be located entirely within the more densely-developed zone.[34]

[34]In this regard, the CBA appears to have parsed the problem in different ways under different circumstances, but not so inconsistently with regard to its determination here. The record reflects that, in *In re Beth Tfiloh Congregation of Baltimore City, Inc.*, 01-468-SPH, CBA-01-136 (24 July 2002), Beth Tfiloh Congregation, owned an existing synagogue in a D.R. 1 (Density Residential) zone. When the Congregation sought to construct in the D.R. 1 zone a private school, dining hall, and gymnasium, the property owner sought also to construct in the adjacent R.C. 4 (Watershed Protection) zone camp bunkhouses and athletic fields in order to serve as accessory uses to the private school and synagogue located in the D.R. 1 zone.

The Congregation attempted to justify the location of the recreational facilities by arguing that they were accessory to the school, a use which was permitted explicitly in the D.R. 1 zone. Although the CBA acknowledged that "the bunkhouses and athletic fields and facilities [did] qualify as 'accessory uses' to the principal uses in the D.R. 1 property," because the R.C. 4 zone, the location in which the accessory uses were to be placed, did not permit the principal school use, the CBA nevertheless determined that the accessory uses were prohibited in the R.C. 4 zone.

In contrast, the proposed access road in the present case is ancillary to a single-family dwelling, a principal use permitted as of right in the R.C. 2 rural-agricultural district. Thus, we find that *Beth Tfiloh* is distinguishable, and conclude accordingly that the CBA did not commit legal error by refusing to consider it in the present case.

We are not persuaded by Petitioner's direction of our attention to *Delbrook Homes, Inc v. Mayers*, 248 Md. 89, 234 A.2d 880 (1967), *Board of County Commissioners of Anne Arundel County v. Snyder*, 186 Md. 342, 46 A.2d 689 (1946), or *Alviani v. Dixon*, 365 Md. 95, 99, 775 A.2d 1234, 1236 (2001), as support for the sweeping proposition that accessory uses may not be located in zones in which the principal use they serve is prohibited.

In *Delbrook Homes*, Chartwell, a private community located in Anne Arundel County, sought to operate a beach area for its residents in a nearby water-oriented community known as Lakeland. 248 Md. at 82, 234 A.2d at 882. Neighbors residing in Lakeland challenged the use of the beach area by Chartwell residents and their guests, claiming that it created traffic problems, excess noise, and other various encroachments, including individuals parking and otherwise trespassing on their property. *Delbrook Homes*, 248 Md. at 83-84, 234 A.2d at 882-83. Our task was to determine "whether such a private community beach must be located within the perimeter of, or contiguous to the community which it serves." *Delbrook Homes*, 248 Md. at 82, 234 A.2d at 881. We concluded that land owned in a separate water-oriented community could not be used as a "private community beach," under the Anne Arundel County zoning ordinances, where the beach is located outside the boundaries of the community it was intended to serve. Our decision hinged on the fact that

> [t]he term "private community beach" in the context of the zoning ordinance means a beach for the use and benefit of the surrounding and neighboring property owners, *not one for the exclusive use of a community in another area*. Although the uses imposed on the property by either group might well be identical, the fact remains that the residents of Chartwell cannot be expected to assume attitudes of responsibility toward the

> surrounding neighborhood and community control over the beach facilities as would those who reside in close proximity to the beach, that is, the residents of the Lakeland area.

Delbrook Homes, 248 Md. at 83, 234 A.2d at 882 (emphasis added). In other words, the violative land use was for the exclusive use of the Chartwell residents, to the exclusion of Lakeland residents. As indicated *supra*, we deal in the present case with a situation where the proposed use is ancillary to and serves permitted uses on both parcels of land.

Snyder is similarly distinguishable. Maurice Snyder applied for a permit to construct on Solomon's Island Road in Edgewater, Maryland, a showroom, office, lounge, and warehouse for the sale and display of factory-built motor boats. *Snyder*, 186 Md. at 343, 46 A.2d at 690. The proposed development site was located in a residential zoning district. *Snyder*, 186 Md. at 344-45, 46 A.2d at 690-91. Although we concluded there that "[t]he whole purpose of the [zoning] regulations is to exclude mercantile, manufacturing and trade activities from the area, and to permit therein only residential and farming activities," *Snyder*, 186 Md. at 345, 46 A.2d at 691, the case involved in no way a situation where the owner was building infrastructure in order to support two differently zoned parcels of commonly-owned land. Rather, *Snyder* involved a traditional, straightforward case in which the owner was attempting to establish a purely commercial use in a residential zone.

In *Alviani*, the property at issue was a 1.2 acre parcel located in Anne Arundel County, and split-zoned under the applicable ordinances as C1-B (community retail) and RLD (residential low density). *Alviani*, 365 Md. at 98, 99, 775 A.2d at 1236. The landowner sought to build an automotive service facility, a use permitted by special exception/variance

in the C1-B zone, but prohibited altogether in the RLD zone. *Alviani*, 365 Md. at 99, 775 A.2d at 1236. As a result, the property owner sought to have the RLD portion re-zoned as either C1-B or C4 (highway commercial), where the facility would be permitted as of right. *Id.* Aside from the fact that the holding in *Alviani* involved principally the appropriateness of granting the requested variances, rather than an issue implicating the special problem of split-zoning, the factual circumstances are entirely dissimilar from the present case. We deal in the present case with a utilization of land ancillary to permitted uses on two parcels within different residential districts with different density limitations. The proposed use in *Alviani* involved placement of a principal use spanning two zoning districts, in one of which the principal use was prohibited.

C. The Testimony of Paul Solomon

Moreover, Petitioners' argument regarding placement of both the SWM facility and interior access road is based principally upon the testimony of Paul Solomon, a former employee of the Baltimore County Office of Planning and Zoning. Mr. Solomon, according to his credentials, was involved intimately with the creation of the R.C. zones. Mr. Solomon testified before the CBA as an expert witness that, because the primary goal of the R.C. 2 zone was to preserve the land within that zoning district in order to maximize agricultural output, placement in the R.C. 2 zoning district of infrastructure improvements supporting land located in the R.C. 5 zone was inconsistent with that goal. When pressed on cross-examination, however, Mr. Solomon conceded that there was no specific reference in the BCZR to that effect. Rather, according to him, the conflict between the zoning regulations

and the placement of the SWM facility in the R.C. 2 zone was "implicit" in that infrastructure may be placed in compliance with the zoning laws only when it is ancillary to a use permitted within that particular zone. The CBA, in rendering its decision affirming the Commissioner, was unpersuaded by, and rejected the testimony of, Mr. Solomon due to his inability to offer legal support for his contention. Because the Commissioner and CBA chose to discount Mr. Solomon's testimony in interpreting the zoning regulations, we defer to their expertise and ability to assess more directly how the witnesses testified.

V. We decline to Reach the Issue of Whether the SWM Facility, Under the Circumstances of this Case, is a Governmental Use Exempt From the BCZR Pursuant to *Glascock v. Baltimore County.*

The parties' quarrel moves next to whether, pursuant to *Glascock v. Baltimore County*, 321 Md. 118, 581 A.2d 822 (1990), and its progeny, the SWM facility is a "public improvement" that qualifies as a "public use" exempt from regulation by the BCZR. The debated proposition is that the SWM facility, which is claimed to be an improvement to the Property required by the Baltimore County Code, will be constructed, and conveyed in-fee to the County for the purposes of public maintenance, and thus broadly serves the public by "reduc[ing] as nearly as possible the adverse effects of stormwater runoff and [] safeguard[ing] life, limb, property and public welfare." Maryland Code (1982, 2007 Repl. Vol.), Environment Article, § 4-201. Petitioners argue that the SWM facility, regardless of whether it constitutes a "public" or "private" improvement, nevertheless is not a "public facility" exempt from the BCZR because it is a local facility which serves only the run-off

from the proposed subdivision, rather than a regional facility broadly serving a greater public. The Commissioner, CBA and Court of Special Appeals accepted Respondents' argument, concluding that the SWM facility is a "public improvement" which *serves the broad purpose* of maintaining "the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff." Baltimore County Code § 33-4-102. Because we conclude that there are no zoning impediments to the SWM facility, we need not address whether the Commissioner, CBA, and Court of Special Appeals were correct in concluding that the rule annunciated in *Glascock*, under the present circumstances, relieves the SWM facility from the requirements of the BCZR. We are compelled, however, to nevertheless discuss briefly the *Glascock* doctrine and the problems associated with applying it to the facts of the present litigation.

A. The Rule of *Glascock*: A Local Government, When it Owns, Leases, or Otherwise Controls Property in that Locality and Puts the Property to Public Use, is Not Subject to its Own Zoning Laws, Absent an Explicit Legislative Provision Manifesting an Intent *that the Local Government* be Subject to those Laws.

The concept that a local subdivision of State government generally is not subject to its own zoning laws, unless there is an explicit legislative provision which provides otherwise, may be traced in Maryland to *Commissioners of Cambridge v. Henry*, 263 Md. 370, 283 A.2d 415 (1971). In that case, the City of Cambridge sought to build, within city limits, a waterfront public park adjacent to a city-owned public marina. *Henry*, 263 Md. at 371, 283 A.2d at 416. After the permit application was reviewed, approved, and granted by

the proper local authorities, several neighboring residents filed, in the Circuit Court for Dorchester County, a complaint aimed at enjoining the proposed construction. *Henry*, 263 Md. at 371-72, 283 A.2d at 416. The waterfront park, according to the neighbors, would violate applicable local zoning ordinances prohibiting commercial uses in the particular zoning district. *Henry*, 263 Md. at 372, 283 A.2d at 416. Our resolution of the case hinged on the fact that the applicable zoning ordinance provided specifically that, before any *statutory right* to redress was available through the judicial process, certain issues presented in the case, namely that construction of the park would impose "immediate substantial and irreparable injury" on the neighborhood, needed, in the first instance, to be addressed by the local Board of Appeals. *Henry*, 263 Md. at 373-74, 283 A.2d at 417. Because the claimant failed to follow those *statutory procedures, i.e., bringing* the complaint first before the Board of Appeals, we concluded that dismissal of the judicial action was appropriate. *Id.* In considered dicta, however, we explained for guidance that, when the appeal came before the Board, the Board would have to consider whether the City should be bound in the first place by its own zoning regulations. *Henry*, 263 Md. at 374, 283 A.2d at 417 ("[G]enerally a governmental body that has enacted a zoning law is not itself bound by that law.") (citing *Nehrbas v. Incorporated Village of Lloyd Harbor*, 140 N.E.2d 241, 242 (N.Y. 1957)). The reasoning behind this principle was that,

> [i]n the very nature of things, a municipality must have the power to select the site of buildings or other structures for the performance of its governmental duties. Accordingly, it necessarily follows, a village is not subject to zoning restrictions

> in the performance of its governmental, as distinguished from its corporate or proprietary, activities.

Id. (quoting *Nehrbas*, 140 N.E.2d at 242).

Six years after *Henry*, we were called upon, in *Mayor and City Council of Baltimore v. State*, 281 Md. 217, 378 A.2d 1326 (1977), to determine whether Baltimore City could enforce against the State the City's zoning, building, and fire codes in order to prevent the construction by the State of a correctional facility on property, within city limits, leased by the State. According to the municipal zoning laws at the time, the owner of any land within the particular zoning district was required, before it could proceed with any plans to convert an existing structure into a correctional facility, to obtain a specific zoning approval, by ordinance, from the Mayor and Council. *City of Baltimore v. State*, 281 Md. at 223, 378 A.2d at 1329. In holding that the State was not required to obtain such an approval before commencing with its proposed conversion activities, we stated that "it is a basic and long-standing principle of statutory construction that the State is not deemed to be bound by an enactment of the General Assembly unless the enactment specifically names the State or manifests a clear and indisputable intention that the State is to be bound." *Id.* Relying our earlier conclusions in *State v. Milburn*, 9 Gill 105, 118 (1850), which in turn quoted Justice Story, we reasoned that

> General Acts of the Legislature are meant to regulate and direct the acts and rights of citizens, and in most cases, the reasoning applicable to them applies with very different and often contrary force, to the government itself. It appears to me, therefore, to be a safe rule, founded in the principles of the common law, that the general words of a statute ought not to include the

> government, or affect its rights, unless that construction be clear and undisputable upon the text of the Act."

City of Baltimore v. State, 281 Md. at 223-24, 378 A.2d at 1329. Because Maryland Code (1957, 1970 Repl. Vol.), Article 66B, §§ 2.01 to 2.13, the enabling act which granted to the City the power to enact zoning laws, did not manifest an intent that the State be bound by those laws, we concluded that Baltimore City lacked the authority to enforce against the State its zoning ordinances when the land was to be used for the benefit of the general public. *City of Baltimore v. State*, 281 Md. at 223, 224, 378 A.2d at 1329, 1330. In *Board of Child Care of the Baltimore Annual Conference of the Methodist Church, Inc. v. Harker*, we extended this rule to include in the exemption the "State's agencies and instrumentalities." 316 Md. 683, 693, 561 A.2d 219, 224 (1989) ("That the exemption from county zoning regulations accorded to the State under our holding in *City of Baltimore v. State* . . . extends to the State's agencies and instrumentalities is entirely manifest.").

Turning to *Glascock v. Baltimore County*, the basis of Respondents' claim that the SWM facility would not be, in any event, subject to the BCZR, we were confronted with a situation where the County, as lessee of land owned by a local volunteer fire company, sought to construct in a Baltimore County resource conservation zone a 620 foot wireless communication tower. 321 Md. 118, 120, 581 A.2d 822, 823 (1990). The communication tower, a use permitted only by special exception in the zone, was intended to be utilized by the County as part of a countrywide governmental communication system serving principally as an emergency response system for the police and fire departments. *Id.* When the County

failed to seek the requisite special exception, an adjacent property owner challenged on that basis the County's right to construct the tower. *Id.*

We held that, as a "territorial division[] of the State, created and organized for public political purposes connected with the administration of state government, and specially charged with the administration and superintendence of the local affairs of the community," the County enjoyed exemption from its zoning regulations, absent evidence of a contrary intent expressed there, when the proposed use was in furtherance of its governmental, as opposed to corporate or proprietary, functions. *Glascock*, 321 Md. at 122, 581 A.2d at 824 (citations omitted); *see also Pan Am. Health Org. v. Montgomery County*, 338 Md. 214, 226, 657 A.2d 1163, 1169 (1995) ("[T]he common law provides that [the State] is not bound by local zoning ordinances unless the General Assembly clearly indicates a contrary intent. Local governments, as instrumentalities of the State, enjoy this same common-law immunity.") (citations omitted). Thus, we extended the common-law rule from *City of Baltimore v. State*, that a State enjoys governmental immunity from its own, and its municipalities', zoning laws, to include in the exemption the counties as political subdivisions of the State. Based on our belief that "nothing could be more important than the potential savings of life of a police officer or a fire fighter," *Glascock*, 321 Md. at 121, 581 A.2d at 823, and in light of the fact that nothing in the BCZR or Maryland Code (1987 Repl. Vol.), Article 25A, § 5(X), the grant to Baltimore County of its power to enact zoning laws,

evidenced an intent that the County be bound to its own regulations, we concluded that there was no obligation that the County pursue a special exception. *Id.*[35]

B. The Assertion of Immunity Under *Glascock* in This Case is Problematic.

The Circuit Court pointed out that the determination of whether an improvement to the development site required by the subdivision regulations constitutes a "public use" immune from the BCZR under the *Glascock* doctrine is governed not only by whether the facility is owned and operated by the government, but also whether its use is "important in carrying out a government function." *See Glascock*, 321 Md. at 120, 581 A.2d at 823 (indicating the importance of adequate emergency communication equipment to public safety). The intermediate appellate court agreed with the relevant principles of law identified by the Circuit Court, but disagreed with their application to the facts of this case.

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[35]This holding is not inconsistent with *Mayor & Aldermen of Annapolis v. Anne Arundel County*, 271 Md. 265, 316 A.2d 807 (1974). In that case, the Anne Arundel County government owned land located within the City of Annapolis' historic district. When the County filed an application to demolish the historically-designated building, the City and its Historic District Commission filed a complaint for injunctive relief in order to prevent the County from carrying out its plans. *Mayor & Aldermen of Annapolis*, 271 Md. at 273, 316 A.2d at 812. The County argued that it was subject neither to the Annapolis historic district zoning regulations nor the jurisdiction of the City's Historic District Commission. In the course of ruling in favor of the City, we placed emphasis on the distinction between traditional and historic district zoning. Despite the general rule, regarding traditional zoning, that the County would not be subject to the laws of the political subdivision, we observed that, in terms of historic district zoning, the General Assembly manifested explicitly an intent, by virtue of Chapter 274 of the Acts of 1963, that any political subdivision which owned land within a municipal historic district be subject to the jurisdiction of that municipality's historic district commission. *Mayor & Aldermen of Annapolis*, 271 Md. at 291, 316 A.2d at 820. Also persuasive was the fact that the City of Annapolis and Anne Arundel County had subjected themselves to their own respective zoning laws. *Mayor & Aldermen of Annapolis*, 271 Md. at 290, 316 A.2d at 820; *see also* Annapolis City Code § 22-5; Anne Arundel County Code § 13-334A.

There are two primary problems with applying *Glascock* to the present case. First is the problem with ownership of the SWM facility at the time the exemption determination was sought and made. We are unable to locate a Maryland case in which a private developer/landowner asserted successfully such an exemption from zoning laws. In the cases in which a the *Glascock*-type exemption was asserted successfully, the proponent, the "developer" if you will, was a governmental entity seeking to develop land which it owned or otherwise controlled at the time it proposed the establishment of the provocative use, facility, or structure. *Compare Henry*, 263 Md. at 371, 283 A.2d at 416 (proposed construction by the City of a waterfront public park on land adjacent to a city-owned public marina); *City of Baltimore*, 281 Md. at 223, 378 A.2d at 1329 (proposed construction by the State of a correctional facility on property leased by the State); *Glascock*, 321 Md. at 120, 581 A.2d at 823 (proposed construction by Baltimore County of a fire and police emergency communication tower on land leased by the County from the local volunteer fire department) *with Harker*, 316 Md. at 688, 561 A.2d at 222 ("[N]o exemption exist[s] 'from local zoning for privately owned land used by private organizations for functions governmental in nature' [when a non-profit corporation is providing child shelter services subject to governmental regulation] "); *Pan Amer. Health Org. v. Montgomery County*, 338 Md. 214, 223, 657 A.2d 1163, 1167 (1995) ("[T]he word 'government' [in the common law principle espoused in *City of Baltimore* and *Glascock*] refers only to the State of Maryland and its instrumentalities, not to all levels of government. [The] [Pan American Health Organization, a regional office of the World Health Organization,] is not part of and does not derive its existence from the

State of Maryland."); *Cassidy v. Board of Zoning Appeals*, 218 Md. 418, 431-32, 146 A.2d 896, 903 (1958) (distinguishing between "private undertakings" and undertakings "clothed with a public interest," and concluding that a special exception was warranted under the circumstances, thereby obviating the need to determine whether a privately owned public utility ("BGE") was given preferential treatment by the local government); *Creative County Day School of Sandy Spring, Inc. v. Montgomery County Board of Appeals*, 242 Md. 552, 219 A.2d 789 (1966) (distinguishing between public, private non-parochial, and private parochial secondary schools, and determining that it was not unreasonable for the County to require the private non-parochial school to obtain a special exception before building a school in a residential use district while excusing the public and parochial schools from that same requirement).

In the present case, however, private parties are asserting governmental exemption from the zoning laws, proposing to construct improvements on land presently owned and operated by them on the presumption that the proposed infrastructure improvement, upon completion, will be approved by the local government in terms of compliance with local design and operational standards and fee simple title will be accepted by the local government for the purpose of continuing maintenance at some future time.

The underlying purpose of the rule that a governmental entity is immune from its own zoning laws, unless a contrary result is apparent from the words of the laws, when it owns or controls land and uses it in furtherance of some governmental purpose, is premised, at least in part, on the rationale that,

> [i]n the very nature of things, a municipality must have the power to select the site of buildings or other structures for the performance of its governmental duties. Accordingly, it necessarily follows, a village is not subject to zoning restrictions in the performance of its governmental, as distinguished from its corporate or proprietary, activities.

Henry, 263 Md. at 374, 283 A.2d at 417 (citing *Nehrbas*, 140 N.E.2d at 242). With this principle in mind, in order for the immunity to attach to the proposed SWM facility, the governmental body proposed to receive title to the completed use, facility, or structure must have agreed prospectively (expressly or by operation of law), at a minimum, to accept ownership or control in "advance" or at the time of the determination of exemption.

The purpose of requiring proof of the prospective acceptance by the governmental entity qualifying for the exemption of the proposed use, facility, or structure should be obvious. First, approval of the location and intended purpose of the proposed use, facility, or structure on the land use proposal is manifested by acceptance. Further, demonstration of the prospective agreement or requirement that the proposed use, facility, or structure will be owned or controlled by the governmental entity is necessary to foreclose unilateral representations by a private applicant. As we stated in *Waterman*, 357 Md. at 504, 745 A.2d at 1010, the purpose of requiring an acceptance by the local government is to prevent a situation where a developer imposes upon the municipality the responsibility for maintenance and repair for an otherwise private facility merely by designating unilaterally the improvement for public maintenance. *See also Waterman*, 357 Md. at 504 n.8, 745 A.2d at 1010 n.8 ("In many instances, it is ultimately to a developer's sales advantage to offer to

dedicate to the local government water and sewer facilities, streets, recreational areas or other sites because, if the offer is accepted, the local government, not the future residents of the subdivision, generally will be responsible for maintenance of the facilities. In 'closed subdivisions,' which limit public access, homeowners associations generally are responsible for maintaining such facilities.").[36]

We could not locate in the record the answer to whether the County requested conveyance of the proposed SWM facility for public maintenance, and therefore required in-fee "dedication," or whether it was Respondents who initiated the proposal that the SWM facility be conveyed to the County.[37, 38] In any event, it does not matter at whose behest the

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[36]Although *Waterman* involved the distinction between a "dedication" and a "condition to approval of a private use," as opposed to perhaps a conveyance in fee simple, the reasoning behind requiring evidence of prospective governmental acceptance of a dedication is equally applicable to a situation where a particular improvement is intended to be conveyed in fee simple for the same purposes as it would be used otherwise in a dedication or a reservation. Moreover, the same implications arise in that, if evidence of acceptance were not required before a conveyance takes place, any developer may unilaterally place on the local government responsibility for maintenance regardless of the nature of the improvement.

[37]Respondents assert that they were required by the County to convey the SWM facility as a public improvement at no cost to the County. Specifically, Respondents point to Baltimore County Code §§ 33-4-110(1), 32-4-302(c)(2)(i) ("The rights-of-way [determined to be necessary and appropriate for the county to accept and maintain the public improvements] shall be conveyed in . . . [f]ee Simple"), and 302(c)(3) ("The nature of the conveyance shall be established by the county."), "[o]nce the SWM facility has been completed and accepted, Baltimore County 'shall' take in-fee ownership for public maintenance."

Respondents' argument that all SWM facilities, regardless of the circumstances, are required to be conveyed in-fee to the county for maintenance is contradicted by our reading of Baltimore County Code § 33-4-110(1). Section 33-4-110 reads, in its entirety:

> Upon completion and acceptance of the stormwater management devices, practices, or both:

(continued...)

[37](...continued)

(1) The county shall take in-fee ownership of the stormwater management devices and practices *designated for public maintenance*; and

(2) *For privately maintained stormwater management devices, practices*, or both:

(i) The property owner shall be responsible for maintenance; and

(ii) The property owner's specific maintenance responsibilities shall be detailed in a recorded deed of declaration for maintenance and access.

(emphasis added). Section 33-4-110(1), read in context, indicates clearly that a SWM facility may be maintained either publicly or privately, and that only those SWM management devices and practices *actually designated by the County for public maintenance* are conveyed in-fee and therefore constitute "public improvements." *Compare* Baltimore County Code § 33-4-101(mm) (defining "private improvements" as those improvements which are "required by the county as a condition of development that are not intended to be dedicated to the county.") *with* Baltimore County Code § 32-4-101(nn) (defining "public improvements" as those which are "required by the county as a condition of development that are intended to be dedicated to the county in fee simple or by other interests in title.").

Moreover, while the Court of Special Appeals lumped together streets, drains, sewers, waterlines, sidewalks, gutters, landscaping, streetlights and traffic-control devices, and stormwater management facilities as "public improvements," the Baltimore County Code does not pigeon-hole specific types of improvements as either public or private. Baltimore County Code § 32-4-101(w) ("'Improvements' means improvements as determined necessary and appropriate by the county," and includes, *inter alia*, "stormwater management facilities"). In other words, the code neither delineates specifically that SWM facilities necessarily are all public improvements nor describes specifically when "designation," thereby requiring conveyance in-fee by the developer/landowner to the County for public maintenance, must occur.

[38]It is worth noting that the Court of Special Appeals drew an analogy to Maryland Code (1957, 2003 Repl. Vol), Article 66B, § 14, which denominates in Washington County SWM facilities as "public facilities," and also to the County Codes of Frederick and Anne Arundel counties, which define like facilities as public improvements. We find this analogy inapt, if for no other reason, than that the Baltimore County Code, which governs subdivision approval in the jurisdiction where the land is located, makes specific reference to the possibility of both private and public improvements. *See* Baltimore County Code § 33-4-110; Baltimore County Code § 32-4- (continued...)

SWM facility is to be conveyed, because there has been no affirmative indication that the governmental unit charged with maintaining such a SWM facility likely would accept the offer to convey in-fee for the purposes of continuing public maintenance.

To the contrary, a representative of the Department of Environmental Protection and Resource Management (DEPRM), the governmental unit charged with maintaining public SWM facilities, was present at the CBA hearing at which the development plan was considered. At that time, the DEPRM submitted evidence, based on Baltimore County Code §§ 14-331 to 14-350 (Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains), §§ 14-401 to 14-422 (Forest Conservation Regulations), and BCZR 1A01.1.A, indicating some technical discontent with the proposed development plan. At no time did the DEPRM express any sentiment that reasonably could be construed as a willingness to accept or a likelihood of acceptance of the conveyance in-fee to the County of the proposed SWM facility for the purposes of maintenance. In this situation, mere approval by the CBA of the development plan delineating a location and intended purpose of a SWM facility proposed by the private developer does not manifest, by itself, acceptance by the appropriate governmental unit so as to satisfy the government ownership/control requirement for application of *Glascock*.

VI. Placement of the SWM Facility and Access Road in the R.C. 2 Zoned Lot Did Not Constitute a *De Facto* Rezoning of the R.C. 2 Land to the R.C. 5 zone.

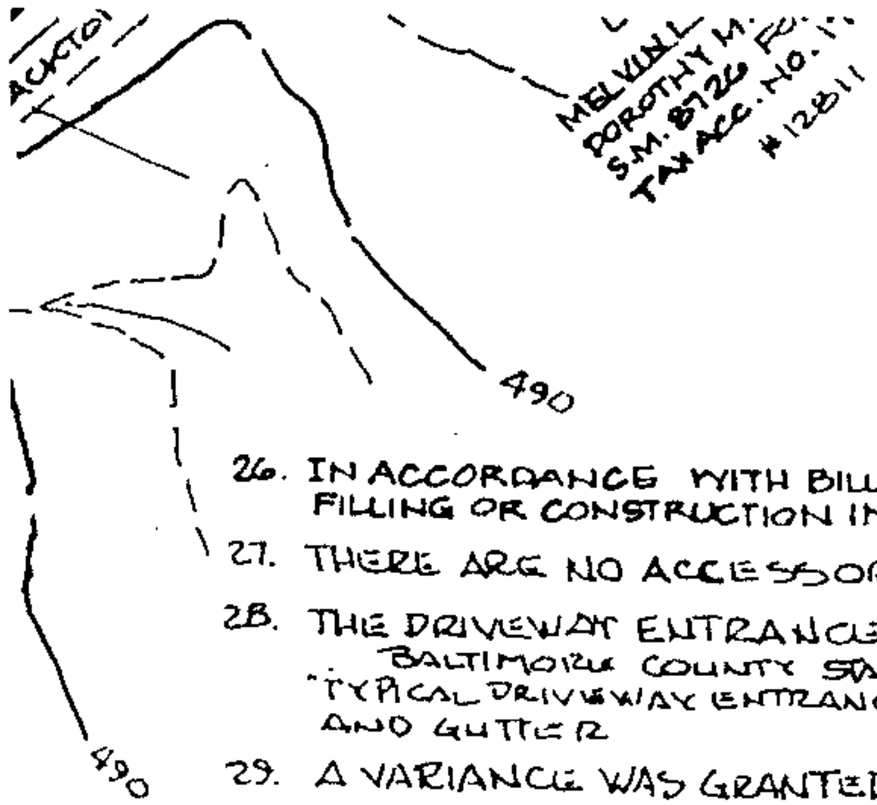
[38](...continued)
101(mm), (nn).

Prior to submission of the development plan which ignited the present litigation, Respondents sought to change the zoning of the R.C. 2 portion of the Property to R.C. 5. The justification for this proposed reclassification was that, when the County Council established originally in 1976 the Baltimore County resource conservation zones for the purposes of agricultural resource preservation in the County, the wedge-shaped 3.9 acre tract in the northern parcel was zoned mistakenly as R.C. 2, instead of the intended R.C. 5. In other words, Respondents claimed that the zoning lines were drawn in error, and that the entire northern portion should have been placed in the R.C. 5 zone. The case was heard in public session before the Board of Appeals over two days. Citing the well-settled principle that there is a "strong presumption of correctness of original zoning in comprehensive rezoning and [that] to sustain a piecemeal change in circumstance such as present here, there must be strong evidence of mistake in the original zoning or comprehensive rezoning, or evidence of substantial change in the character of the neighborhood must be produced," *Rockville v. Henley*, 268 Md. 469, 472, 302 A.2d 45, 46 (1973); *Heller* v. *Prince George's County*, 264 Md. 410, 412, 286 A.2d 772, 773 (1972), the Board rendered on 6 May 2002 its opinion that there was insufficient evidence to support Respondents' argument that a "mistake" occurred. It therefore rejected Respondents' request to re-zone the entirety of the Property located north of Sweet Air Road as R.C. 5.

Because we conclude that there are no zoning impediments as a matter of law to the placement on the R.C. 2 zoned land of the SWM facility and access road, and because we defer to the expertise of the Commissioner and CBA in interpreting, on this record, the

County's resource conservation zoning regulations, we conclude that no *de facto* rezoning occurred by approval of the development plan. There arises from the CBA's earlier denial of the "mistake" rezoning application prosecuted by Respondents on evidentiary insufficiency grounds no mandatory inference that reflects adversely upon the subsequent development plan approval. The two cases are not related except as to partial identity of the subject property.

JUDGMENT OF THE COURT OF SPECIAL APPEALS AFFIRMED; COSTS TO BE PAID BY PETITIONERS.



26. IN ACCORDANCE WITH BILL NO. 18-90 SECTION 26-276 DREDGING, FILLING OR CONSTRUCTION IN ANY WETLAND IS PROHIBITED.
27. THERE ARE NO ACCESSORY STRUCTURES ON SITE.
28. THE DRIVEWAY ENTRANCE FOR LOT 6B SHALL CONFORM WITH BALTIMORE COUNTY STANDARD DETAIL PLATE "R-15" FOR "TYPICAL DRIVEWAY ENTRANCE FROM ROAD WITHOUT CURB AND GUTTER
29. A VARIANCE WAS GRANTED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT FROM THE REGULATIONS FOR THE PROTECTION OF WATER QUALITY, STREAMS, WETLANDS AND FLOODPLAINS TO LOCATE A WELL WITHIN THE FOREST BUFFER EASEMENT ON LOT 6B. CONDITIONS WERE PLACED UPON THIS VARIANCE, INCLUDING RESTORATION OF THE AREA DISTURBED BY THE WELL RIG, TO OFFSET WATER QUALITY IMPACTS.

AUGUST 6, 1996.

THE DEVELOPER'S SURVEYOR CONFIRMS, TO THE BEST OF HIS KNOWLEDGE, NO PART OF THE GROSS AREA OF THIS PROPERTY HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF SITE DWELLING.

17. THE PROPOSED HOUSE SHALL BE A SINGLE FAMILY RESIDENCE.
18. THE EXISTING HOUSE IS A SINGLE FAMILY RESIDENCE
19. ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL, WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATER BODY, WATERCOURSE, WETLAND, STORM DRAIN OR ADJACENT PROPERTY.
20. TOTAL AREA OF PROPOSED LAND DISTURBANCE -
21. ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 30 PERCENT OF CLEARED AREA, AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
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24. THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR OF THE ISSUANCE OF THE FIRST OCCUPANCY PERMIT AND PRIOR TO THE ISSUANCE OF THE OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
25. THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED AND KEPT FREE OF ANY OBSTRUCTIONS.

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
DAVID MILLER PROPERTY @ LOT 6
SAGAMORE FOREST SECTION FOUR

FOURTH ELECTION DISTRICT ~~THIRD~~ 2 COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
DATE: SEPTEMBER 21, 2006
SCALE: 1" = 50'
CENSUS TRACT: 4044.02

RBD

07-178-SPH

PREVIOUSLY RECORDED: E.H.K. JR 39 FOLIO 122

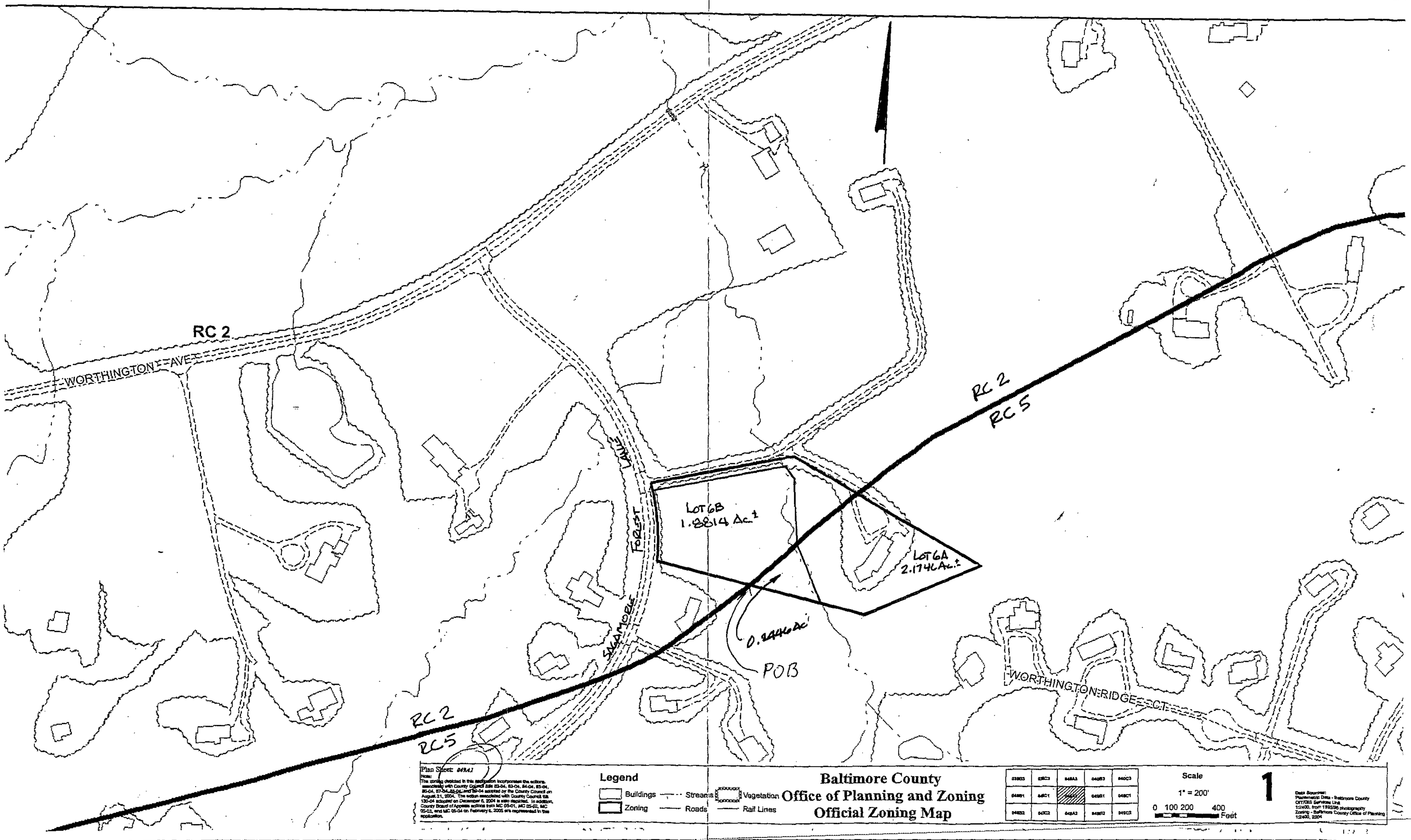
OWNERS: DAVID M. MILLER
DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON, MARYLAND 21136
410-833-5656

STATE OF MARYLAND
ALBERT LEROY SNYDER
No. 26
PROPERTY LINE SURVEYOR

A.L. SNYDER
SURVEYOR, INC.
1911 HANOVER PIKE
HAMPSTEAD, MD. 21074
410-239-7744

COUNTY FILE# 04069M

Item #178


RC 2
WORTHINGTON AVE
RC 2
RC 5
SYCAMORE LANE
FOREST
LOT 6B
1.8814 Ac±
LOT 6A
2.1746 Ac±
0.2446 Ac±
POB
WORTHINGTON RIDGE CT
RC 2
RC 5
Plan Sheet: 049A1
Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 83-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 06-04 on February 6, 2005 are represented in this application.
Legend
Buildings
Zoning
Streams
Roads
Vegetation
Rail Lines
Baltimore County
Office of Planning and Zoning
Official Zoning Map
Scale
1" = 200'
0 100 200 400
Feet
1
Data Sources:
Planimetric Data - Baltimore County
OIT/GIS Services Unit
12/400, from 1993/95 photography
Zoning - Baltimore County Office of Planning
12/400, 2004

07-177-SPH
07-178-SPH
Mueller

Verified
KDV

Petitioner's Exhibits

1. Plat to Accompany Petition for S.P.
2. Minor subdivision Plan
3. Plat to Accompany Petition for SP Lot 6A
4. Plat to Accompany Petition for SP Lot 6B

840
170
50

→ 1060 ← → 200 ←
20

→ 1080

Produced by Baltimore County GIS Services Unit
Date: January 24, 2007
Date of Imagery: April 2005

1 inch equals 50 feet

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

N
W E
S

P.C. Ex #2

COORDINATE TABLE

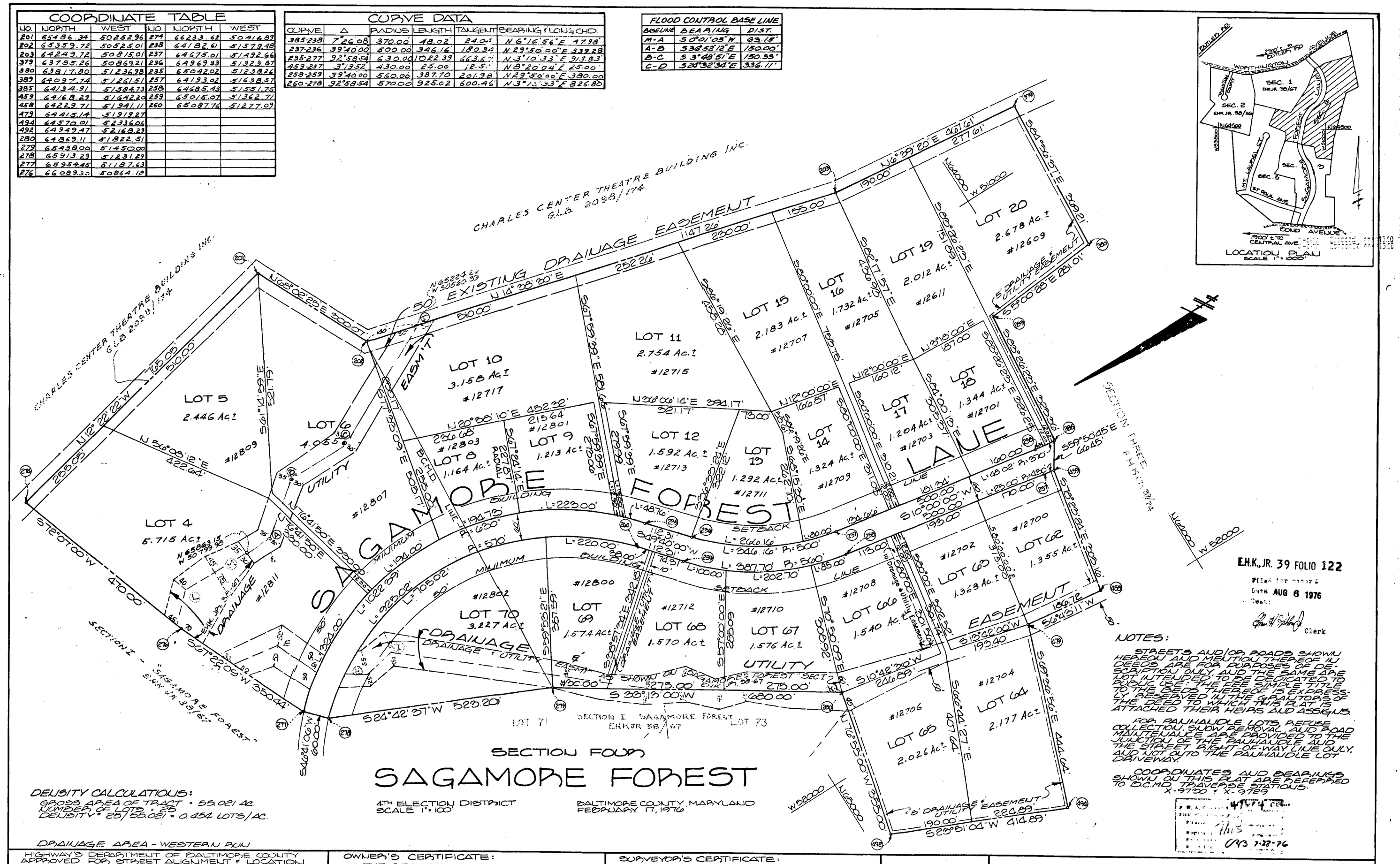
NO.	NORTH	WEST	NO.	NORTH	WEST
201	65486.34	50282.96	274	66233.62	50416.89
202	65359.72	50525.01	238	64182.61	51579.48
203	64249.72	50815.01	237	64675.01	51432.66
379	63785.26	50869.21	236	64969.33	51323.87
380	63817.80	51236.98	235	65042.02	51238.26
389	64097.74	51261.51	257	64193.02	51638.57
385	64134.91	51384.73	258	64685.43	51531.76
459	64168.29	51642.20	259	65015.07	51362.71
468	64229.71	51941.11	260	65087.76	51277.09
479	64415.14	51919.27			
434	64570.01	52336.06			
432	64949.47	52168.29			
280	64869.11	51822.51			
279	65439.00	51450.00			
278	65913.29	51231.29			
277	65954.45	51187.63			
276	66089.30	50864.18			

CURVE DATA

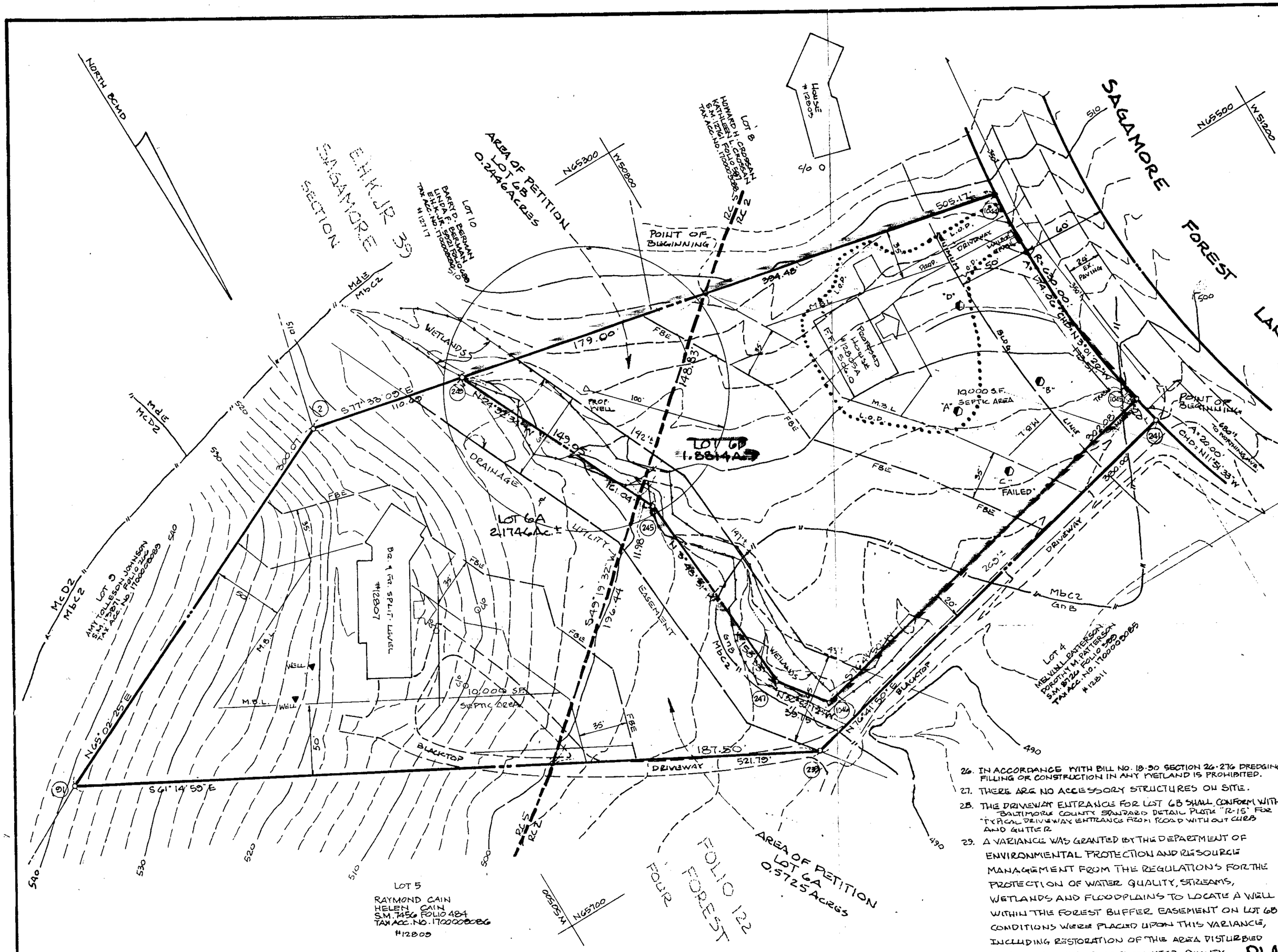
CURVE	Δ	RADIUS	LENGTH	TANGENT	BEARING & LONG CHD.
385-239	7°26'08"	370.00	48.02	24.01	N 6°16'56"E 47.98
237-236	39°40'00"	500.00	346.16	180.34	N 29°50'00"E 339.28
235-277	92°58'54"	630.00	1022.39	663.6	N 31°0'33"E 913.83
459-457	3°39'52"	430.00	25.00	12.5	N 8°20'04"E 25.00
258-259	39°40'00"	560.00	387.70	201.32	N 29°50'00"E 380.00
260-278	92°58'54"	570.00	925.02	600.46	N 31°0'33"E 826.85

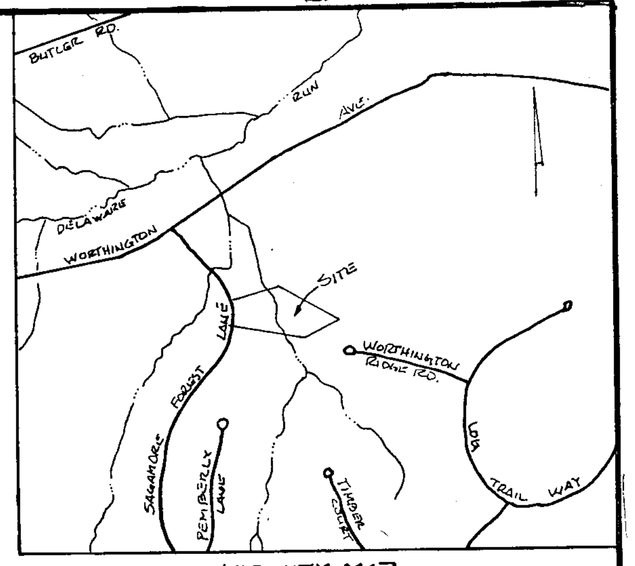
FLOOD CONTROL BASE LINE

BASELINE	BEARING	DIST.
M-A	S 0°01'08"W	83.15'
A-B	S 38°52'12"E	150.00'
B-C	S 9°49'57"E	150.39'
C-D	S 38°39'34"E	336.11'


CHARLES CENTER THEATRE BUILDING INC.
G.L.B. 2098/174
EXISTING DRAINAGE EASEMENT
LOT 5
2.446 Ac.±
#12809
LOT 6
4.055 Ac.±
LOT 4
5.715 Ac.±
#12807
#12811
LOT 10
3.158 Ac.±
#12717
LOT 11
2.754 Ac.±
#12715
LOT 15
2.183 Ac.±
#12707
LOT 16
1.732 Ac.±
#12705
LOT 19
2.012 Ac.±
#12611
LOT 20
2.678 Ac.±
#12609
LOT 8
1.164 Ac.±
#12803
LOT 9
1.213 Ac.±
#12801
LOT 12
1.592 Ac.±
#12713
LOT 13
1.292 Ac.±
#12711
LOT 14
1.324 Ac.±
#12709
LOT 17
1.204 Ac.±
#12703
LOT 18
1.344 Ac.±
#12701
SAGAMORE FOREST
LANE
SECTION THREE
E.H.K.JR. 39/174
LOT 70
3.227 Ac.±
#12802
LOT 69
1.574 Ac.±
#12800
LOT 68
1.570 Ac.±
#12712
LOT 67
1.576 Ac.±
#12710
LOT 66
1.540 Ac.±
#12708
LOT 65
1.368 Ac.±
#12702
LOT 62
1.355 Ac.±
#12700
LOT 64
2.177 Ac.±
#12704
LOT 63
2.026 Ac.±
#12706
EASEMENT
DRAINAGE
UTILITY
SECTION I - SAGAMORE FOREST
E.H.K.JR. 38/67
SECTION I SAGAMORE FOREST
E.H.K.JR. 38/67
LOT 71
LOT 73
N 65°02'25"E 500.00'
S 12°07'00"W 470.00'
S 61°22'00"W 350.44'
S 24°42'51"W 528.20'
S 62°51'04"W 414.89'
S 10°42'30"W 246.89'
S 10°42'00"W 193.40'
S 10°00'00"W 193.00'
S 10°00'00"W 190.00'
S 10°00'00"W 275.00'
S 30°19'00"W 680.00'
S 64°44'27"E 407.64'
S 67°00'56"E 444.64'
S 58°00'28"E 281.01'
S 64°56'07"E 300.21'
S 64°00'10"E 300.21'
S 64°00'10"E 300.21'
S 64°00'10

EX. 2





VICINITY MAP
SCALE: 1" = 1000'

NOTES:

1. CURRENT TITLE REFERENCE: S.M. 10912 FOLIO 504, DECEMBER 28, 1994 DAVID M. MILLER & DIAN MILLER; P.B. E.H.K JR. 39 FOLIO 122
2. GROSS AREA: 4.055 ACRES± ; NET AREA: 4.055 ACRES±
3. CURRENT ZONING: RC 2 2.2148 AC± RC 5 1.8402± 200 SCALE ZONING MAP N.W. 2D
4. DENSITY: LOTS ALLOWED: RC2 2.2148 AC.÷2 LOTS; RC5 1.8402 AC.x0.667=1 LOT LOTS PROPOSED: 2
5. TOPOGRAPHY SHOWN HEREON IS TAKEN FROM BALTIMORE COUNTY GIS PLANIMETRIC TILE 049a1
6. SOILS: MAP 20
7. WATERSHED: DELAWARE RUN
8. SUBBSEWERSHED: N/A
9. REGIONAL PLANNING DISTRICT: 306A
10. SCHOOL DISTRICT: 81 FRANKLIN
11. TAX MAP: 49 BLK. 2 P. 263
12. TAX ACCT. NO. 1700009087
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14. THERE ARE NO UNDERGROUND FUEL OR PESTICIDE TANKS ON SITE
15. THE PROPERTY SHOWN HEREON HAS NO PRIOR ZONING HISTORY
16. THE PROPERTY SHOWN HEREON HAS BEEN HELD INTACT SINCE AUGUST 6, 1976.
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PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
DAVID MILLER PROPERTY @ LOT 6
SAGAMORE FOREST SECTION FOUR

FOURTH ELECTION DISTRICT THIRD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
DATE: SEPTEMBER 21, 2006
SCALE: 1" = 50'
CENSUS TRACT: 4044.02

Pet. Ex #4

PREVIOUSLY RECORDED: E.H.K. JR 39 FOLIO 122

OWNERS: DAVID M. MILLER
DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON, MARYLAND 21136
410.833.5686

A.L. SNYDER
SURVEYOR, INC.
1911 HANOVER PIKE
HAMPSTEAD, MD. 21074
410.239.7744

COUNTY FILE # 04069M

JOB # 01062

BALTIMORE COUNTY MINOR SUBDIVISION
Project No. _____

DEVELOPMENT REGULATIONS
☐ Exempt from Division 2
☐ Panhandle, exempt from Sections 26-202 & 26-206

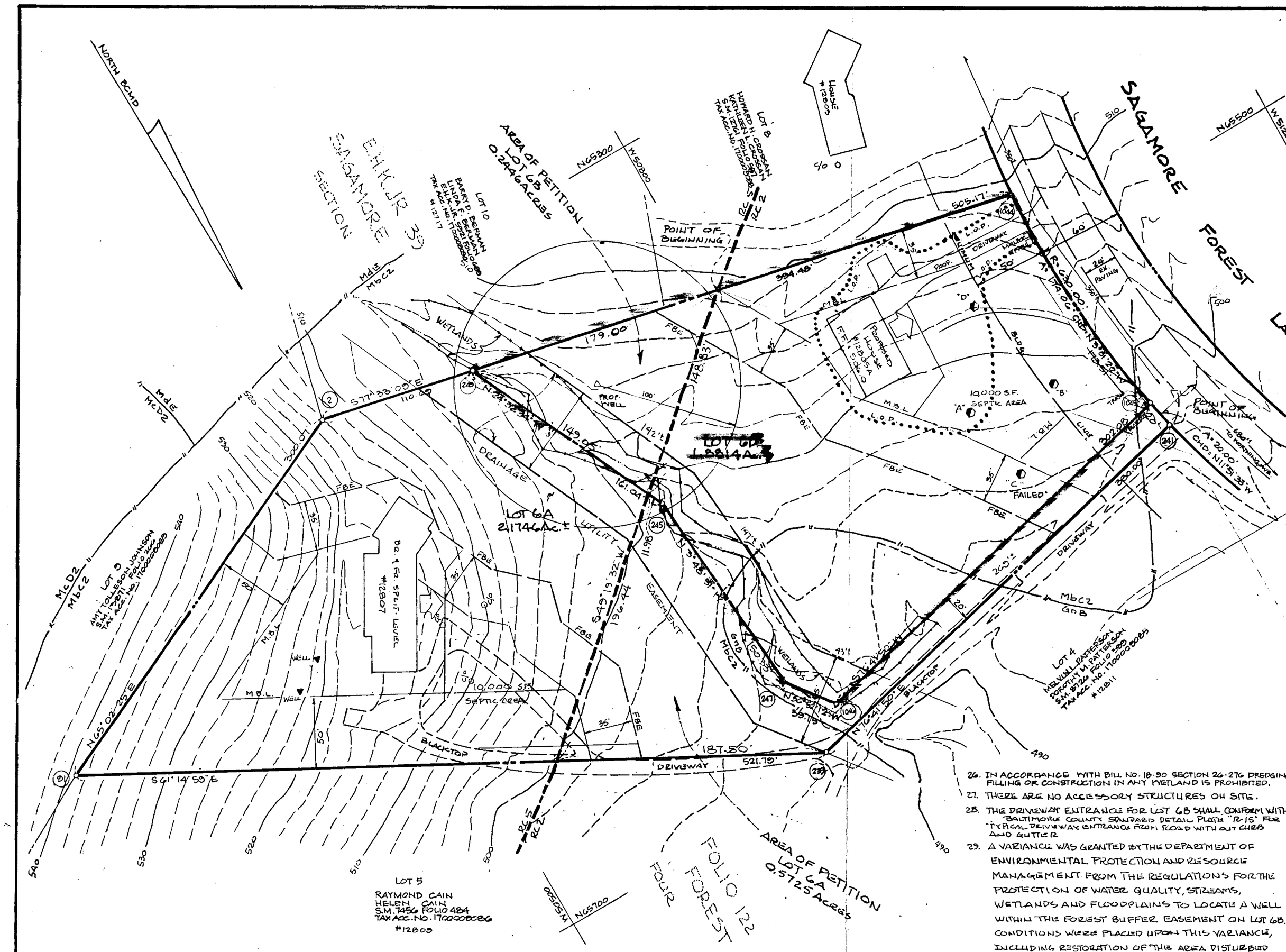
P.D.M. CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

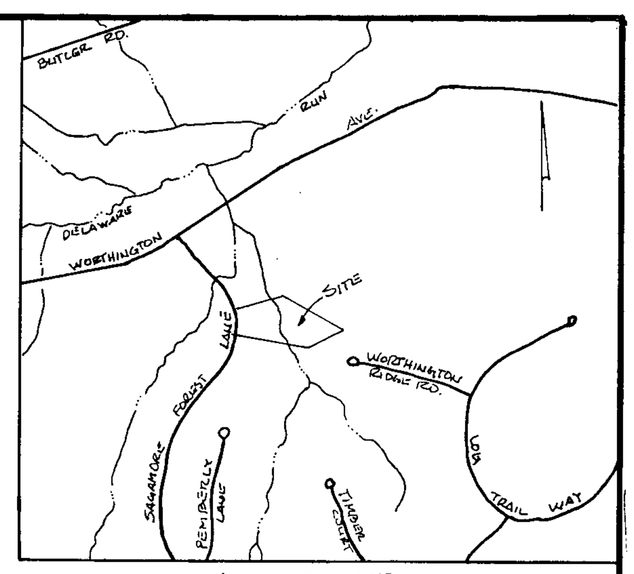
APPROVED D.E.P.R.M.
By: _____ Date: _____

COORDINATES CHART - BCMD DATUM

NO.	NORTH	WEST	DESCRIPTION
2	65359.6554	50525.0179	PIPE
91	65486.3400	50252.9600	PIPE
239	65737.3174	50710.4260	PK NAIL SET
241	65661.3854	51031.5714	REBAR & CAP SET
245	65530.0029	50700.0009	REBAR & CAP SET
247	65680.0000	50710.0009	REBAR & CAP SET
249	65383.5151	50633.1104	REBAR & CAP SET
1044	65468.5423	51018.3133	REBAR & CAP SET
1045	65641.8130	51027.4614	REBAR & CAP SET
1046	65711.3197	50733.4908	REBAR & CAP SET

REVISION	DATE





VICINITY MAP
SCALE: 1" = 1000'

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4. DENSITY: LOTS ALLOWED: RC2 2.2148 AC.÷2 LOTS; RC5 1.8402 AC. X 0.667 = 1 LOT LOTS PROPOSED: 2
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25. THE AREAS BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED AND KEPT FREE OF ANY OBSTRUCTIONS.
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PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
DAVID MILLER PROPERTY @ LOT 6
SAGAMORE FOREST SECTION FOUR

FOURTH ELECTION DISTRICT ~~THIRD~~ 2 COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
DATE: SEPTEMBER 21, 2006
SCALE: 1" = 50'
CENSUS TRACT: 4044.02

07-178-SPH

PREVIOUSLY RECORDED: E.H.K.JR 39 FOLIO 122

OWNERS: DAVID M. MILLER
DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON, MARYLAND 21136
410-833-5686

STATE OF MARYLAND
ALBERT LEROY SNYDER
No. 26
PROPERTY LINE SURVEYOR

A.L. SNYDER SURVEYOR, INC.
1911 HANOVER PIKE
HAMPSTEAD, MD. 21074
410-239-7744

COUNTY FILE # 04069M

JOB # 01062

BALTIMORE COUNTY MINOR SUBDIVISION
Project No. _____

DEVELOPMENT REGULATIONS
☐ Exempt from Division 2
☐ Panhandle, exempt from Sections 26-202 & 26-206

P.D.M. CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED D.E.P.R.M.
By: _____ Date: _____

COORDINATES CHART - BCMD DATUM

No.	NORTH	WEST	DESCRIPTION
2	65359.6554	50525.0179	PIPE
91	65486.3400	50252.9600	PIPE
239	65737.3174	50710.4260	PK NAIL SET
241	65661.3854	51031.5714	REBAR & CAP SET
245	65530.0029	50700.0009	REBAR & CAP SET
247	65680.0000	50710.0009	REBAR & CAP SET
249	65383.5151	50633.1104	REBAR & CAP SET
1044	65468.5423	51018.3133	REBAR & CAP SET
1045	65641.8130	51027.4614	REBAR & CAP SET
1046	65711.3197	50733.4908	REBAR & CAP SET

REVISION	DATE

Plan Sheet: *049A1*

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

Legend

Buildings — Streams — Vegetation
Zoning — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

039B3	039C3	040A3	040B3	040C3
048B1	048C1	049A1	049B1	049C1
048B2	048C2	049A2	049B2	049C2

Scale

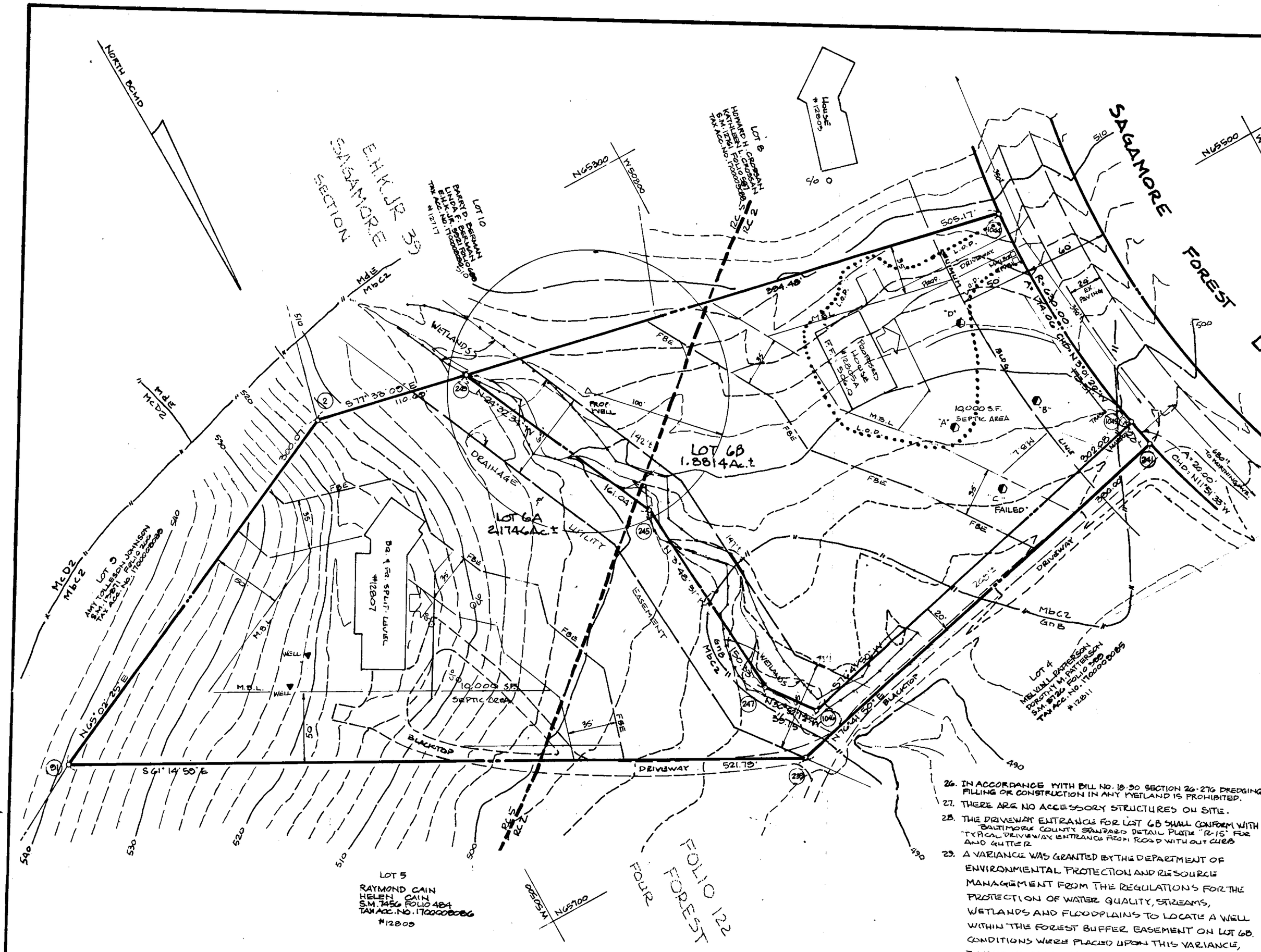
1" = 200'

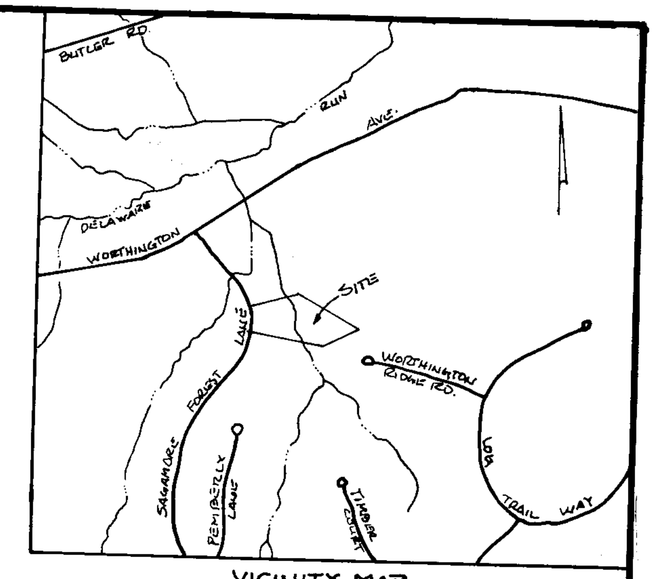
0 100 200 400 Feet

1

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

P.C. Ex #5





VICINITY MAP
SCALE: 1" = 1000'

NOTES:

1. CURRENT TITLE REFERENCE: S.M. 10912 FOLIO 504, DECEMBER 28, 1994 DAVID M. MILLER & DIAN MILLER; P.B. E.H.K.JR. 39 FOLIO 122
2. GROSS AREA: 4.055 ACRES± ; NET AREA: 4.055 ACRES±
3. CURRENT ZONING: RC 2 2.2148 AC± RC 5 1.8402± 200 SCALE ZONING MAP NW. 20
4. DENSITY: LOTS ALLOWED: RC2 2.2148 AC.÷2 LOTS; RC5 1.8402 AC. X 0.667 = 1 LOT LOTS PROPOSED = 2
5. TOPOGRAPHY SHOWN HEREON IS TAKEN FROM BALTIMORE COUNTY GIS PLANIMETRIC TILE 049a1
6. SOILS: MAP 20
7. WATERSHED: DELAWARE RUN
8. SUBSEWERSHED: N/A
9. REGIONAL PLANNING DISTRICT: 306A
10. SCHOOL DISTRICT: 81 FRANKLIN
11. TAX MAP: 49 BLK. 2 P. 263
12. TAX ACCT. NO. 1700009087
13. THERE ARE NO WELLS OR SEPTICS LOCATED WITHIN 100 FEET OF THE SITE UNLESS OTHERWISE SHOWN HEREON.
14. THERE ARE NO UNDERGROUND FUEL OR PESTICIDE TANKS ON SITE
15. THE PROPERTY SHOWN HEREON HAS NO PRIOR ZONING HISTORY
16. THE PROPERTY SHOWN HEREON HAS BEEN HELD INTACT SINCE AUGUST 6, 1976.
    THE DEVELOPER'S SURVEYOR CONFIRMS, TO THE BEST OF HIS KNOWLEDGE, NO PART OF THE GROSS AREA OF THIS PROPERTY HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF SITE DWELLING.
17. THE PROPOSED HOUSE SHALL BE A SINGLE FAMILY RESIDENCE.
18. THE EXISTING HOUSE IS A SINGLE FAMILY RESIDENCE
19. ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL, WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATER BODY, WATERCOURSE, WETLAND, STORM DRAIN OR ADJACENT PROPERTY.
20. TOTAL AREA OF PROPOSED LAND DISTURBANCE -
21. ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 30 PERCENT OF CLEARED AREA, AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
22. HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRYWELLS, WHERE FEASIBLE.
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MINOR SUBDIVISION PLAN OF THE DAVID MILLER PROPERTY @ SAGAMORE FOREST

FOURTH ELECTION DISTRICT THIRD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
DATE: MARCH 14, 2002
SCALE: 1" = 50'
CENSUS TRACT: 4044.02

Pet. Ex #2

PREVIOUSLY RECORDED: E.H.K.JR 39 FOLIO 122

OWNERS: DAVID M. MILLER
DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON, MARYLAND 21136
410-833-5686

STATE OF MARYLAND
ALBERT LEROY SNYDER
No. 26
PROPERTY LINE SURVEYOR

A.L. SNYDER SURVEYOR, INC.
1911 HANOVER PIKE
HAMPSTEAD, MD. 21074
410-239-7744

COUNTY FILE# 04069M

JOB # 01062

BALTIMORE COUNTY MINOR SUBDIVISION
Project No. _____

DEVELOPMENT REGULATIONS
☐ Exempt from Division 2
☐ Panhandle, exempt from Sections 26-272 & 26-276

P.D.M. CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED D.E.P.R.M.
By: _____ Date: _____

COORDINATES CHART - BCMD DATUM

NO.	NORTH	WEST	DESCRIPTION
2	65359.6554	50325.0179	PIPE
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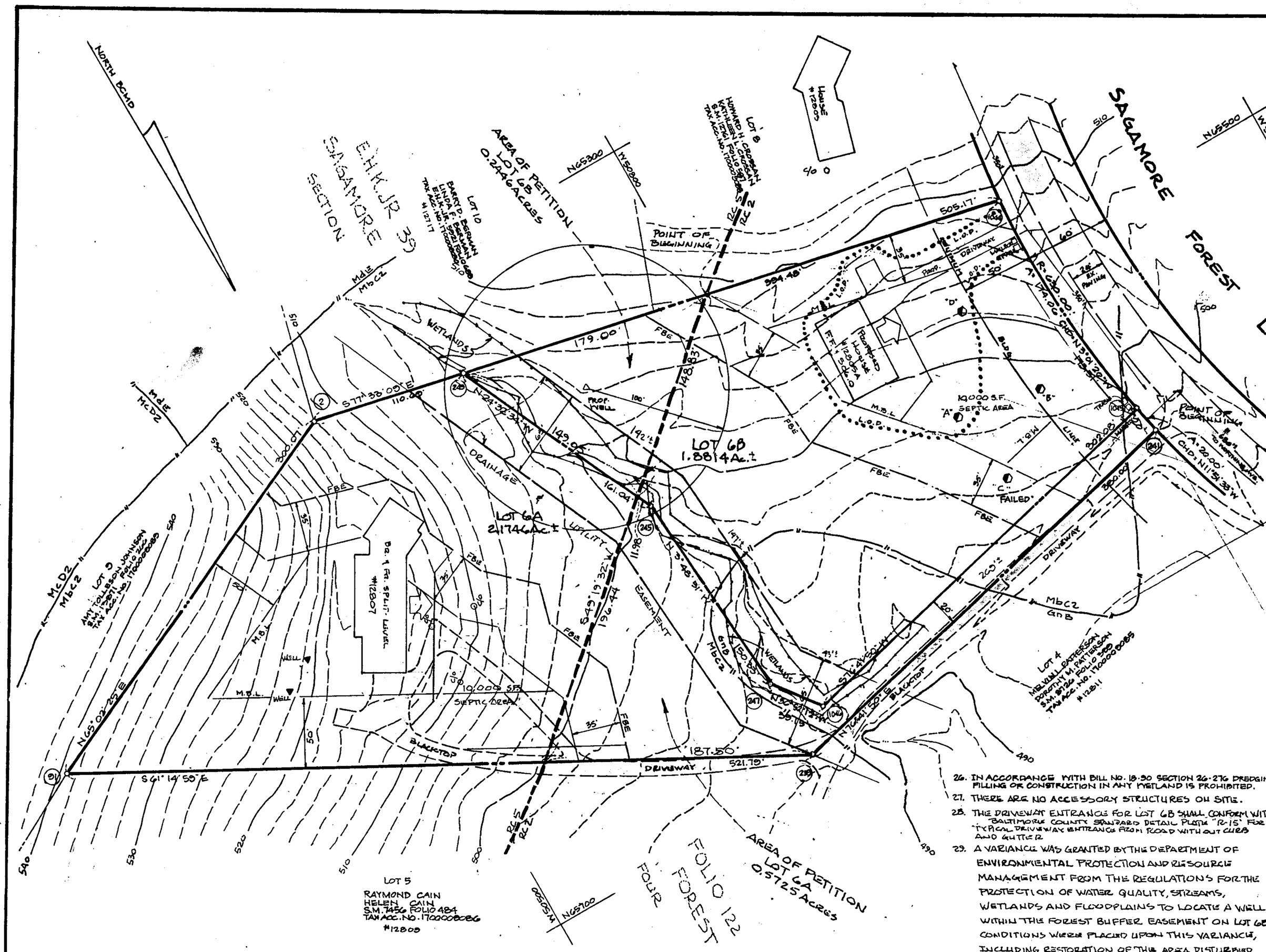
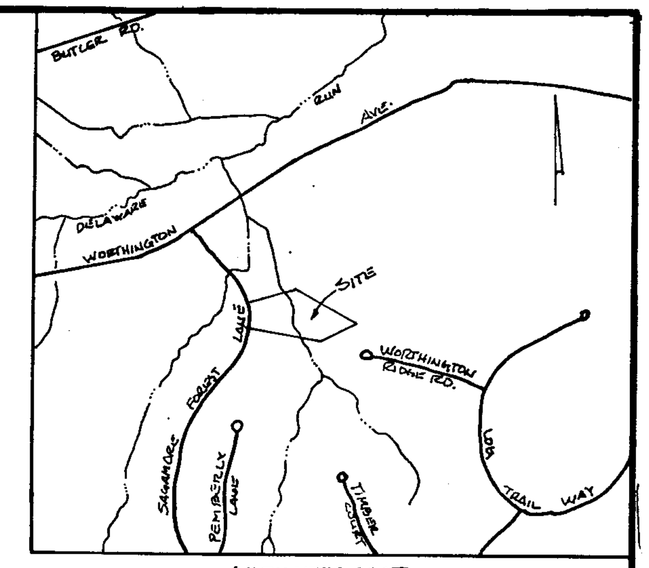
1045	65641.8130	51027.4614	REBAR & CAP SET
1046	65711.3197	50733.4908	REBAR & CAP SET

REVISION	DATE
REVISED	8-13-04
REVISED	12-7-05





VICINITY MAP
SCALE: 1" = 1000'

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PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
DAVID MILLER PROPERTY @ LOT 6
SAGAMORE FOREST SECTION FOUR

FOURTH ELECTION DISTRICT THIRD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
DATE: SEPTEMBER 21, 2006
SCALE: 1" = 50'
CENSUS TRACT: 4044.02

Pet. Ex 1

PREVIOUSLY RECORDED: E.H.K. JR 39 FOLIO 122

OWNERS: DAVID M. MILLER
DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON, MARYLAND 21136
410-833-5686

STATE OF MARYLAND
ROBERT LEROY SNYDER
No. 26
PROPERTY LINE SURVEYOR

A.L. SNYDER SURVEYOR, INC.
1311 HANOVER PIKE
HAMPSTEAD, MD. 21074
410-239-7744

COUNTY FILE # 06060M

JOB # 01062

BALTIMORE COUNTY MINOR SUBDIVISION
Project No. _____

DEVELOPMENT REGULATIONS
☐ Exempt from Division 2
☐ Panhandle, exempt from Sections 26-202 & 26-206

P.D.M. CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED D.E.P.R.M.
By: _____ Date: _____

COORDINATES CHART - BCMD DATUM

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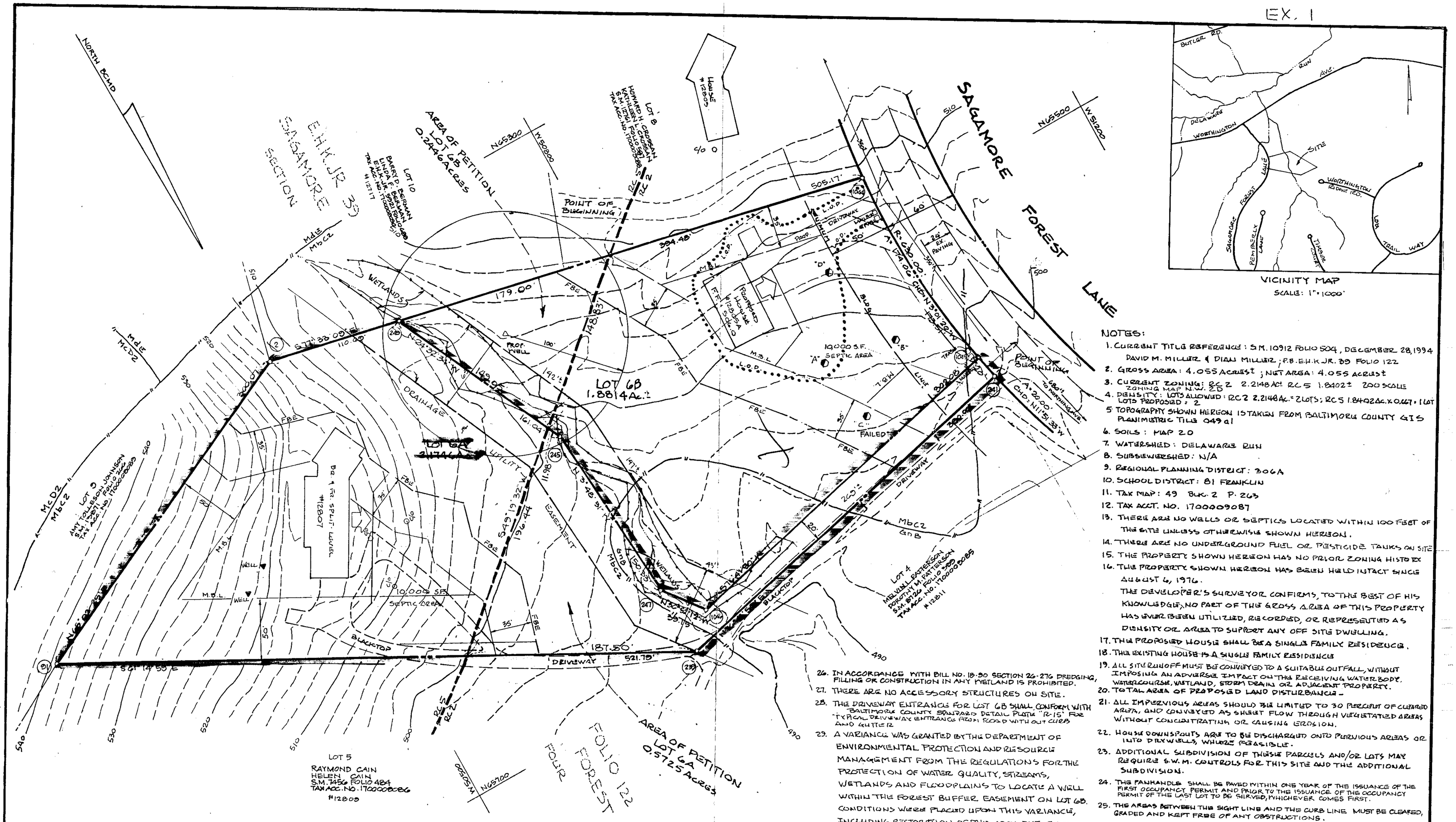
REVISION	DATE

EX. 1



VICINITY MAP
SCALE: 1" = 1000'

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PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
DAVID MILLER PROPERTY @ LOT 6
SAGAMORE FOREST SECTION FOUR

FOURTH ELECTION DISTRICT THIRD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
DATE: SEPTEMBER 21, 2006
SCALE: 1" = 50'
CENSUS TRACT: 4044.02

Pet. Ex #3

PREVIOUSLY RECORDED: E.H.K. JR 39 FOLIO 122

OWNERS: DAVID M. MILLER
DIAN MILLER
12807 SAGAMORE FOREST LANE
GLYNDON, MARYLAND 21136
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STATE OF MARYLAND
ALBERT LEROY SNYDER
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A.L. SNYDER
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1911 HANOVER PIKE
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COUNTY FILE # 04069M

JOB # 01062

BALTIMORE COUNTY MINOR SUBDIVISION
Project No. _____

DEVELOPMENT REGULATIONS
☐ Exempt from Division 2
☐ Panhandle, exempt from Sections 26-202 & 26-206

P.D.M. CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED D.E.P.R.M.
By: _____ Date: _____

COORDINATES CHART - BCMD DATUM

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