JOHN & VICTORIA POSEY - L/O
WELLS DEVELOPMENT C/P
13101 DOVER ROAD

07-470-SPH

5/08/2008 @ 10 am Day #1
~~7/23/08 @ 10 am Day #2~~ PP'd
9/16/08 @ 10 30 am Day #2
Remanded

Remand Order
4/2/09
by Agreement of Counsel

07-470-SPH

20070470 "A"
supplemental

5/20/2010 W/CBA-10-033 Zoning Order on Remand
CBA-10-032 Issued on 2/25/10

1

PJ

07-470-SPH

6/2/10

IN THE MATTER OF JOHN AND VICTORIA POSEY POSEY PROPERTY/TUFTON FARMS (RESUBDIVISION OF LOT 4)	* BEFORE THE * BOARD OF APPEALS * OF
8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	* BALTIMORE COUNTY
RE: DEVELOPMENT PLAN HEARING PETITION FOR SPECIAL HEARING DEPRM – REVOCATION OF SITE ANALYSIS PLAN (13101 DOVER ROAD)	* CASE NO.: CBA-10-032/CBA-10-033 ZONING 07-470-SPH HOH CASE NO.: VIII-231

* * * * * * * * * *

ORDER OF DISMISSAL

This case comes before this Board on appeals filed by Lawrence E. Schmidt, Esquire and Gildea & Schmidt, LLC , on behalf of John Posey, Victoria Posey and Wells Development Corporation, Petitioners/Appellants, from the decision of the Hearing Officer/Zoning Commissioner dated February 25, 2010 and the appeal of the decision/notification by the Department of Environmental Protection and Resource Management ("DEPRM") and the Office of Planning which revoked the approval of a Site Analysis Plan for the above property.

WHEREAS, the Board is in receipt of a Hand Delivered letter filed May 25, 2010, by Lawrence E. Schmidt, Esquire and Gildea & Schmidt, LLC , on behalf of John Posey, Victoria Posey and Wells Development Corporation, Appellants (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel requests on behalf of the Appellants that the appeals filed in HOH Case No.: VIII-231; CBA Case Nos. CBA-10-032 and CBA-10-033 and Zoning Case No.: 07-470-SPH be dismissed with prejudice as of May 25, 2010;

IT IS HEREBY ORDERED this 2nd day of June, 2010 by the Board of Appeals of Baltimore County that said appeals taken in CBA-10-032 and CBA-10-033 , to include Zoning Case No.: 07-470-SPH and HOH Case No.: VIII-231, be and the same are hereby **WITHDRAWN AND DISMISSED WITH PREJUDICE.**

BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chair

Wendell H. Grier

Robert W. Witt

6/2/10

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

June 2, 2010

Lawrence E. Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste 200
Towson, MD 21204

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: John and Victoria Posey-Legal Owners*
Case No.: CBA-10-032, CBA-10-033 and 07-470-SPH

Dear Counsel:

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

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

Very truly yours,

Theresa Shelton/KC

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Original Cover letter

c: John and Victoria Posey
The Valleys Planning Council/Teresa Moore
Fran Yeazel
John Sophocles
D. Schline
Stanley Kantor
Stephen Schloss and Susan Green
Martin Buckley
People's Counsel for Baltimore County
Colleen Kelly, Development Manager
Arnold F. "Pat" Keller, III, Director/Planning
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
Kenneth J. Wells/K. J. Wells, Inc.
Larry and Janice Bortner
Larry Epstein
Mike O'Malley
JoAnn Santos, M.D.
Wilson T. Gildee
Lisa Lum
David Lykens, DEPRM
Lloyd Moxley, Planning
Jonas Jacobson, Director/DEPRM
Patricia M. Farr, Manager/DEPRM
John Beverungen, County Attorney

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

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

May 25, 2010

Sent via Hand Delivery
Theresa R. Shelton
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: 13101 Dover Road
Case Nos.: 10-032/10-033
PDM No.: VIII-231

Dear Ms. Shelton:

Pursuant to Rule 3 of the Board of Appeals' Rules of Practice and Procedure, we are hereby dismissing, with prejudice, the appeals of both the Hearing Officer's decision and the appeal of DEPRM's action in revoking the approval of the Site Analysis Plan. Therefore, further hearing dates will not be required.

Thank you very much for your consideration of this matter. With kind regards, I remain

Very truly yours,

Lawrence E. Schmidt

Lawrence E. Schmidt

LES: jkl
CC: J. Carroll Holzer, Esquire, Holzer & Lee
Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Kenneth J. Wells, KjWellsInc.

3/25/10

IN RE: SITE ANALYSIS PLAN DISAPPROVAL; AND DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING	*	BEFORE THE
E side Dover Road at NE corner Tufton Ridge Road	*	COUNTY BOARD OF
8th Election District	*	APPEALS OF
2nd Councilmanic District	*	BALTIMORE COUNTY
(Posey Property/Tufton Farms Resubdivision of Lot 4)	*	**Case Numbers: VIII-231/2007-0470-SPH and _____**
John and Victoria Posey (*Property Owners*)	*	

RECEIVED
MAR 25 2010
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

* *

MOTION FOR CONSOLIDATION

The Property Owners (John and Victoria Posey) and Wells Development Corporation (collectively "Appellants") by their attorney Lawrence E. Schmidt, and Gildea & Schmidt, LLC, move to consolidate the above matters and for reasons state:

1. The Appellants in this matter seek certain approvals necessary to develop the subject property known as Lot 4 in the residential subdivision known as Tufton Farms. The property is presently zoned R.C. 6. Baltimore County law (See e.g. BCZR 1A07 and BCC 32-4-251, et seq.) requires that for lots zoned under the R.C. 6 classification, the property owner/Appellants must submit for approval to the Department of Environmental Protection and Resource Management ("DEPRM") and the Office of Planning ("Planning") a Site Analysis Plan. The Appellants submitted and received approval of a Site Analysis, as required. Thereafter, this approval was purportedly revoked by those County agencies pursuant to written comments submitted at/after the Hearing Officer's Hearing (HOH) on the matter.

2. DEPRM's written revised development plan comment purportedly revoking its' approval of the Site Analysis Plan was dated January 20, 2010 and presented to Appellants at the HOH on January 21, 2010.
3. Planning's written revised development plan comment purportedly revoking its' approval of the Site Analysis Plan was dated February 4, 2010 and was received by the Appellants via mail on February 20, 2010.
4. On February 22, 2010, Appellants timely appealed the purported rejection of the Site Analysis Plan by DEPRM and Planning to the County Board of Appeals of Baltimore County (the "Board") pursuant to Balt. Co. Code § 32-4-254(b). Upon information and belief, this appeal has not been assigned a case number by the Board nor has it been scheduled for hearing.
5. On February 25, 2010, the Hearing Officer for Baltimore County issued an order overruling Appellants' objections to the submittal of Planning and DEPRM's revised comments disapproving the Site Analysis Plan and, as a result thereof, denied the requested approval of the Appellants' development plan. That the Hearing Officer further dismissed, as moot, a related zoning petition for special hearing filed by the Appellants.
6. Simultaneously with the filing of this Motion, the Appellants have appealed the Hearing Officer's orders pursuant to Balt. Co. Code § 32-4-281.
7. These appeals to the Board deal with the same property and parties, encompass the same facts, circumstances, arguments of law and subject matter, and should be consolidated for all purposes to ensure an orderly disposition of the matter.

WHEREFORE, Appellants respectfully:

A. That the within identified matters be consolidated for all purposes; and,

B. For such other and further relief as the nature of their cause may require.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
410-821-0070
Attorney for Petitioners

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING E side Dover Road at NE corner Tufton Ridge Road 8th Election District 2nd Councilmanic District **(Posey Property/Tufton Farms Resubdivision of Lot 4)** John and Victoria Posey *(Property Owners)*	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY **Case Number: _____**

* *

ORDER

Upon consideration of the John Posey, Victoria Posey and Wells Development Corporation's Motion for Consolidation, it is this ___ day of _____, 2010 hereby ORDERED:

1. That CBA _____ is hereby consolidated with CBA _____, and that these cases shall be referred to as CBA _____.

_____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the **25th** day of **March, 2010**, a copy of the foregoing Motion for Consolidation was mailed first class, postage pre-paid to:

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

3/25/10

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING E side Dover Road at NE corner Tufton Ridge Road 8th Election District 2nd Councilmanic District **(Posey Property/Tufton Farms Resubdivision of Lot 4)** John and Victoria Posey *(Property Owners)*	*	BEFORE THE
	*	COUNTY BOARD OF
	*	APPEALS OF
	*	BALTIMORE COUNTY
	*	
	*	**HOH Case No. 08-231 and Zoning Case No. 2007-0470-SPH**
	*	

RECEIVED
MAR 25 2010
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

* *

PETITION TO ACCOMPANY APPEAL

John Posey, Victoria Posey and Wells Development Corporation, Petitioners, in the above-captioned case, by and through their attorneys, Lawrence E. Schmidt and Gildea & Schmidt, LLC, hereby file this Petition to Accompany Appeal (pursuant to Baltimore County Code ("BCC") § 32-4-281(b)(2)) and respectfully state:

FACTS

The Petitioners are the owners of Lot Number 4 in the Tufton Farms subdivision. The Lot is situated at the northeast corner of the intersection of Dover Road and Tufton Ridge Road. The property is 11.431 acres in gross area and is zoned RC 6. It is improved by one single family detached dwelling having an address of 13101 Dover Road. The development plan proposes this one lot being subdivided into two (with one lot being 1.5 acres and the balance of the acreage remaining as the existing lot).

The RC 6 zoning regulations impose particular requirements for development in that zone. Pursuant to those requirements (Baltimore County Zoning Regulations ("BCZR") 1A07 and BCC § 32-4-251, et seq.) and prior to submitting a development plan for the property; the Posey's consultant (Kenneth J. Wells, surveyor) obtained approval of the Primary Conservancy Area ("PCA") from Department of Environmental Protection and Resource Management

("DEPRM") on April 21, 2009. After such approval, he submitted a site analysis plan, which depicted the PCA and the Secondary Conservancy Area ("SCA"), to both DEPRM and the Office of Planning ("Planning"). By letter dated July 10, 2009, both Planning and DEPRM approved the submitted site analysis plan (the "SAP") pursuant to BCC §§ 32-4-251 through 32-4-254.

After obtaining this approval, a Development Plan was filed with Baltimore County pursuant to directive of the DRC/PDM letter dated September 29, 2009. A Development Plan Conference was held on December 30, 2009, which identified no substantive issues regarding the PCA or the SAP. A Hearing Officer's Hearing was scheduled and held on January 21, 2010. At the hearing, no agency, save DEPRM, raised objections to the Development Plan. Planning's representative, Lloyd Moxley, testified that his agency approved the SAP and raised no other objections to the Development Plan. He stated that prior to the hearing; he was unaware of any change in DEPRM's position regarding the SAP. Subsequent to the hearing, the Office of Planning revised its development plan comment based on DEPRM's comments at the hearing. The new comment, dated February 4, 2010 purported to reject the Site Analysis Plan.[1]

On the day of the Hearing Officer's Hearing, David Lykens, representative of DEPRM, submitted a revised development plan comment which purported to withdraw approval of the SAP. This attempted reversal stems from DEPRM's purported adoption of a new Forest Patch

[1] On February 22, 2010, Petition also filed an appeal to this Board of the DEPRM and Planning's purported rejection of the Site Analysis Plan pursuant to BCC § 32-4-254.

Map, which also was presented to the Hearing Officer on the morning of the hearing. The reason that the SAP was purportedly revoked is that DEPRM enlarged the PCA by including additional forest patch area as shown on the new map. No testimony was provided by DEPRM regarding the unavailability of the forest patch data or its evaluation through the review process in 2009. Mr. Lykens testified that the procedures contained in BCC Article 3, Title 7, which detail the procedures for adopting regulations, were not followed when DEPRM purportedly adopted the Forest Patch Map.

Based on Mr. Lykens' submittal, counsel for the Valleys Planning Council ("VPC") et al. moved to dismiss the case alleging lack of jurisdiction of the Hearing Officer. This motion was denied. Pursuant to Memorandum Order dated February 25, 2010, the Hearing Officer denied approval of the development plan for failure to satisfy the development regulations and further dismissed the special hearing relief request as moot. Pursuant to BCC § 32-4-281, Petitioner timely appealed to the Board and requested that it be consolidated with its appeal of the purported rejection of the SAP.[2]

GROUNDS FOR APPEAL

I. Are DEPRM and Planning legally permitted to revoke their joint approval of the SAP?

II. Should DEPRM be able to rescind approval based on its determination of the PCA and forest patch area?

[2] This Petition to Accompany Appeal addresses only the reasons for appeal based on the denial of the development plan and does not cover other arguments that may be made pursuant to 32-4-254, which will be heard *de novo*.

DISCUSSION

I. DEPRM Is Not Able to Revoke Its Approval of the Site Analysis Plan.

a. The Surrounding Circumstances Do Not Permit DEPRM to Revoke its Approval

There are limitations on when DEPRM, Planning or another agency may amend, modify or revoke its prior decisions, which are not satisfied in this instance. DEPRM has not alleged it mistakenly granted approval, nor has there been a changed factual circumstance regarding the property since the prior approval. The property exists as it did in 2009. The sole reason to revoke is that DEPRM has impermissibly changed its mind. There is no statute in the BCC which permits DEPRM to rescind or reconsider its previous approval. In the absence of any statute permitting reconsideration, the courts have permitted agencies to correct errors caused by fraud, surprise, mistake, inadvertence or when some new factual situation exists that justifies a different conclusion. See *Calvert County Planning Comm. v. Howlin Realty Management*, 364 Md. 301 (2001), 323, quoting *Zoning Appeals Board v. McKiney*, 174 Md. 551 (1938). The proponent seeking to overturn the previous decision has the burden to produce evidence to support the reversal. *See Kay Construction Co. v. County Council for Montgomery County*, 227 Md. 479, 483 (1962). A reversal is not permitted based upon the mere change of mind on the part of the agency. See *Howlin*, 364 Md. at 325.

Furthermore, even in cases of mistake the ability to rescind approvals may be limited by estoppel. *See Permanent Financial Corp. v. Montgomery County*, 308 Md. 239, 252-53 (1986).

Estoppel can be utilized to prevent corrective action by a municipality where: (i) there is an ambiguous statute, (ii) mistakenly but reasonably interpreted by an officer of the municipality, (iii) when the officer was acting within the scope of his authority, and (iv) a developer relied upon such action to its detriment. *See Permanent Financial Corp.*, 308 Md. at 247-53; *but see Marzullo v. Kahl*, 366 Md. 158, 199 (2001)(holding that where permits are issued in violation of the zoning ordinance, such permits are unlawful and cannot be grounds for estoppel).

i. The Hearing Officer Erred Because the DEPRM Forest Patch Map Has Not Been Properly Adopted.

The Hearing Officer created reversible error when he found the DEPRM map was properly adopted by DEPRM. Section 1A07.2 in the BCZR provides definitions of the terms used in the RC 6 regulations. It defines Forest Patch Area as, "[a]n area of land comprised of at least 200 contiguous acres of forest overlaying a stream system, as designated on a forest patch map *adopted* by the Department of Environmental Protection and Resource Management" (emphasis added). According to BCC § 3-7-101, "regulation" means a statement of county government that, "(1) has general application; (2) has future effect; (3) details or carries out a law that the county government administers; and (4) is in any form including:(i) a requirement; (ii) a standard; (iii) a statement of interpretation; or (iv) a statement of policy." Pursuant to BCC § 3-7-205 a new regulation or change to existing regulation must be submitted to the Baltimore County Attorney for approval as to form and legal sufficiency. The regulation is also required to have public notice and a public hearing held by the department proposing such adoption. BCC §

3-7-206. After public hearing, the county has the option to amend the regulation. BCC § 3-7-207(a). Assuming the regulation is then adopted, is must again be submitted to the County Attorney and then made available to the public. BCC § 3-7-207(d).

The Hearing Officer found that because BCZR did not state that the Forest Patch Map needed to be adopted "by regulation" that this relieved DEPRM of any requirement to comply with the law. The Hearing Officer blatantly ignored the fact that the Forest Patch Map constitutes a "regulation" as it meets the four criteria laid out in that definition within the BCC. First, it has general application and is not specific to one particular property. The map depicts forest patches throughout Baltimore County. Second, the Forest Patch Map is to have future effect and is not limited to the specific circumstances dealt with in the Development Plan. Third, it is part of the zoning laws, which are administered by Baltimore County. Fourth and finally, it is in the form of a map, which satisfies the requirement that the regulation be in "any form".

Because the Forest Patch Map is a regulation, there is only one way in which such regulation may be adopted, which is set forth in the BCC. DEPRM was required to follow the procedures set forth in the BCC to "adopt" the Forest Patch Map. As noted above, Mr. Lykens testified that the only reason the prior approval was to be withdrawn was because of DEPRM's preparation and purported adoption of a new "Forest Patch Map" in January 2010. Mr. Lykens also testified that the map had not been submitted to the County Attorney, no notice has been published and no public hearing has been held. None of the procedures set forth in the BCC

Article 3, Title 7 were followed by DEPRM when it purportedly "adopted" the map. Because the procedures have not been followed and the map itself constitutes a regulation, the map introduced at the morning of the hearing is not valid and is of no effect.

As the forest patch area is determined based on an adopted map, pursuant to Baltimore County Zoning Regulations ("BCZR") § 1A07.2, there has been no change to the forest patch area from that shown on the prior Forest Patch Map upon which DEPRM relied in 2009. Therefore, DEPRM, in its original evaluation of the SAP (which led to its approval) utilized the then existing Forest Patch Map. The facts surrounding the SAP today are identical to the facts when the SAP was approved by DEPRM. Consequently, the Hearing Officer should find it is impermissible for DEPRM to change its mind and revoke its prior approval without any reason. The Board should find that DEPRM has not properly adopted its Forest Patch Map, and therefore, is unable to rescind its approval of the SAP as to do so violates the rules set forth in *Howlin.*

ii. The Hearing Officer Erred Because DEPRM's Disapproval Is Not Based Upon New Information.[3]

The Hearing Officer also created reversible error when he found DEPRM was able to revoke its decision based on *Permanent Financial Corp.* as the revocation constitutes an impermissible change in mind. In granting its original approval, DEPRM carefully analyzed the

[3] DEPRM has not alleged that there was any fraud, mistake, inadvertence in approving the Site Analysis Plan. Rather the sole premise is that an updated Forest Patch Map has been adopted; therefore, these arguments need not be addressed.

Posey property through field investigations and other means. DEPRM representatives worked closely with Mr. Wells in gathering the necessary information to establish the PCA. Any previous Forest Patch Maps, applicable forest buffers, priority one forests and habitats of endangered species were evaluated to determine the PCA. DEPRM has not alleged that this process was not done in a diligent and competent fashion during the PCA and SAP approval process in 2009.

Furthermore, no testimony or evidence has been presented by DEPRM that the underlying data used to create the updated Forest Patch Map was unavailable or unevaluated either when DEPRM first approved the PCA in April of 2009, when DEPRM and Planning approved the SAP in July of 2009, or even when development plan comments were prepared and submitted on December 30, 2009. The data on which DEPRM's new Forest Patch Map was based was available for evaluation during each stage of the approval and comment process. This is clearly shown by the fact that the updated Forest Patch Map uses data gathered by aerial photography in the spring of 2008. Additionally, no testimony or evidence has been presented that data was evaluated improperly.

Given the fact the data was available (and not mistakenly evaluated), that leaves two scenarios: either (i) data was available and evaluated by DEPRM, or (ii) the data was available but intentionally not used. Under either of these scenarios, the rescission of the previous approval constitutes an impermissible change of mind. Under the first scenario, DEPRM has utilized and

evaluated the exact same data two separate times and come to two different conclusions about the forest patch area and PCA. This is the essence of a mere change of mind shown to be impermissible by the Courts. The second scenario is equally as impermissible, as the decision not to utilize available forest patch data to establish the PCA was a choice made by DEPRM. Its reversal of this choice is unsupported by any stated reasoning or logic.

Furthermore, the Hearing Officer improperly relies upon *Permanent Financial Corp.* and *Marzullo* as the controlling precedent. What distinguishes the case at hand from these cases is that the municipal employees *mistakenly* performed their duties.[4] Their interpretation of the law was overturned by the zoning authority or the courts. Pursuant to *Howlin* a mistake may permit revocation of previously granted approvals, which is why those cases considered whether the municipality was estopped from taking a normally acceptable action, i.e. revocation when a municipal employee has made a mistake. The issue before the Board is clearly distinguishable in that it is a question of whether DEPRM has impermissibly changed its mind because it has considered the SAP two times with the exact same facts and the exact same formulas and come to two opposing conclusions. This is the essence an impermissible change of mind, and not mistake, that *Howlin* prohibits. Consequently, there is no need to consider estoppel without some threshold satisfaction of the requirements of revocation set forth in *Howlin*. Accordingly, the Board should find that the Hearing Officer committed reversible error and DEPRM is not

[4] Throughout the course of the case in *Permanent Financial Corp.* the municipality had come to the realization that their formula was incorrect.

permitted to revoke its prior approval, as doing so would constitute a mere change of mind.

b. The Hearing Officer Erred Because the Site Analysis Plan Approval Is Final

Because there was no appeal of the SAP within 30 days of its approval, the approval is final and cannot be rescinded. The authority to file appeals of decisions made by Baltimore County is set out in Section 602 of the Baltimore County Charter. Therein, Section 602(d) provides for the jurisdiction of the Board of Appeals and states that "[t]he county board of appeals shall hear and decide appeals from all other administrative and adjudicatory orders as may from time to time be provided by Article 25A of the Annotated Code of Maryland (1957 Edition), as amended, or by legislative act of the county council not inconsistent therewith." Section 5(U) of Article 25A states that the Board has the ability to hear "an application for a zoning variation or exception or amendment of a zoning ordinance map; the *issuance*, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, *approval*, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order" (emphasis added). Pursuant to BCC § 3-5-104(c), all appeals to the Board must be filed within thirty (30) days of when the appealable action was taken.

The action taken by both Planning and DEPRM was the issuance of an approval of the SAP via letter dated July 10, 2009. This action is clearly an appealable event, pursuant to the BCC and the Annotated Code of Maryland Article 25A § 5U. Because the approval of the SAP could have been appealed to the Board, the failure to appeal it constitutes a waiver of any right to

now challenge its legitimacy. As neither DEPRM, Planning, the Protestants, nor any other party filed any appeal of the approval, the action is not capable of now being challenged in this, or any other, venue. The Board should find that the SAP approval cannot be revoked and proceed on the merits of the Development Plan.

II. DEPRM's Newly Adopted Map Incorrectly Depicts the Forest Patch.

The rules of statutory interpretation are well settled in Maryland.

> The cardinal rule of statutory interpretation is to ascertain and effectuate the intent of the Legislature. Statutory construction begins with the plain language of the statute, and ordinary, popular understanding of the English language dictates interpretation of its terminology.
>
> In construing plain language, [a] court may neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute; nor may it construe the statute with forced or subtle interpretations that limit or extend its application. Statutory text should be read so that no word, clause, sentence or phrase is rendered superfluous or nugatory...
>
> If statutory language is unambiguous when construed according to its ordinary and everyday meaning, then we give effect to the statute as it is written. If there is no ambiguity in that language, either inherently or by reference to other relevant laws or circumstances, the inquiry as to legislative intent ends; we do not need to resort to the various and sometimes inconsistent, external rules of construction, for the Legislature is presumed to have meant what it said and said what it meant.
>
> In some cases, the statutory text reveals ambiguity and then the job of this Court is to resolve that ambiguity in light of the legislative intent, using all the resources and tools of statutory construction at our disposal...Only when faced with ambiguity will courts consider both the literal or usual meaning of the words as well as their meaning in light of the objectives and purposes of the enactment. As our predecessors noted, "We cannot assume authority to read into the Act what the Legislature apparently deliberately left out. Judicial construction should only be resorted to when ambiguity exists." Therefore, the strongly preferred norm of

statutory interpretation is to effectuate the plain language of the statutory text. *City of Baltimore Development Corp. v. Carmel Realty Assoc.*, 395 Md. 299, 318-19 (2006) *quoting Chow v. State,* 393 Md. 431, 443-44 (2006).

a. The Hearing Officer Erred Because the PCA Does Not Contain All Four Necessary Criteria

The Board should find DEPRM's revision of its Forest Patch Map is a moot action, which affects neither the PCA nor the SAP. The relevant provisions in need of interpretation are contained in the BCZR. BCZR § 1A07.2 defines the PCA as:

> An area comprised of natural resources protected from disturbance by development. A primary conservancy area consists of:
>
> A. The forest buffer, regulated in Article 33, Title 3 of the Baltimore County Code, which includes streams, wetlands, floodplains and steep slopes;
>
> B. Forest patch areas;
>
> C. Priority one forests, as regulated by the Forest Conservation Technical Manual promulgated by the Department of Environmental Protection and Resource Management pursuant to Article 33, Title 6 of the Baltimore County Code, for implementation of the Forest Conservation Act; ***and***
>
> D. Habitats of endangered species…" (emphasis added).

The word "and" is defined in Webster's Third New International Dictionary unabridged (and therefore the BCZR), as "used as a function word or addition, especially of items within the same class or type." Consists is defined in Webster's Third New International Dictionary unabridged as "to become composed or made up – used with of <coal [consist]s mainly of carbon>".

Primary conservancy area, according to the BCZR definition, is made up of (i) a forest buffer, (ii) a forest patch areas, (iii) a priority one forests *and* (iv) habitat for endangered species.

The plain meaning of the word "and" as defined in the code indicates that each of these items must exist to constitute a PCA. Had the legislature wanted the PCA to contain only some of these factors, it could have used the word "or", which is defined in the BCZR to mean "and/or". Based on the testimony of Mr. Lykens at the hearing, it is clear that the PCA approved by DEPRM does not consist of all four of these items, rather it contained only forest patch areas.[5] In seeking to revise the PCA based on additional forest patch areas, the PCA will still not contain any forest buffer or habitat for endangered species. Therefore, whether or not there are forest patch areas on the property is a moot point because their existence would not substantively affect both the previously approved PCA and SAP.

The Hearing Officer found below that the DEPRM had consistently interpreted the PCA to include any one or more of the aforementioned criteria, which was further supported, he thought, by the fact that DEPRM should be given deference to the interpretation of its own regulations. *See Comptroller v. J/Port, Inc.*, 184 Md.App. 608, 638 (2009). What the Hearing Officer failed to recognize is that the PCA is not contained in DEPRM regulations, but rather in the BCZR, which are administered by the Zoning Commissioner. Therefore, no deference is warranted when DEPRM did not author or administer of the regulation it is attempting to interpret the Zoning Commissioner/Board of Appeals does. Furthermore, the Hearing Officer believed DEPRM's interpretation was correct because it was consistent with the principal

[5] Mr. Lykens testified that the Posey lot did not contain any forest buffers or endangered species. He was unsure about the existence of any priority one forests and "thought" the sole criteria satisfied was the forest patch area.

conservancy goals of the RC 6 zone. The Hearing Officer strayed from the rules of statutory interpretation, which focus on the plain language, unless there is some ambiguity. Given there is no ambiguity in the statute, which says the PCA consists of A, B, C ***and*** D, the Hearing Officer erred by deviating from the plain language of the statute. Because "and" is not an ambiguous word and does not lead to an ambiguous interpretation, it is improper to utilize vague and amorphous goals to influence the plan meaning of the regulation. As stated in *Carmel Realty Assoc.*, "the Legislature is presumed to have meant what it said and said what it meant". 395 Md. at 319. The Board should find that the revisions to the Forest Patch Map are moot as it imparts no substantive change on the PCA, and hence the SAP remains unchanged as well.

b. The Hearing Officer Erred Because the Forest Patch Area Cannot Exist Outside of the RC 6 Zone

The Board should find that the extent of the forest patch area is limited to those areas within the RC 6 zone. "Forest patch area" is defined in the BCZR §1A07.2 as "an area of land comprised of at least 200 contiguous acres of forest overlaying a stream system as designated on a Forest Patch Map adopted by [DEPRM]". The forest patch is not utilized in other Rural Conservation zones (or any other zones) and only has effect within the RC 6 zone. The Forest Patch Map offered at the hearing fails to show at least 200 contiguous acres of forest patch within an RC6 zone and is, on its face, incorrect.

In order to show a contiguous 200 acre area of forest in an attempt to meet the definition of a forest patch, DEPRM improperly utilizes areas zoned RC2 and RC 4. This approach is

disingenuous and contrary to the BCZR. The only area in which a forest patch may exist is when located within the RC 6 zone. There is no binding or meaningful effect of a forest patch area outside of the RC 6 zone. Logically, a forest patch cannot exist outside of the RC6 zone. Moreover, when areas outside the RC 6 zone are utilized as part of the forest patch, there is no assurance that such forest will remain or be protected. Utilizing these current forests without any evaluation of their longevity or protected status appears to be a whimsical and fleeting approach to forest patch determination, rather than one that could be counted as lasting and meaningful.

The entire RC 6 zoned land in the Tufton area constitutes approximately 135 acres. According to the new DEPRM Forest Patch Map, most of the zone is shown within a forest patch area; however, the forest patch proposed by DEPRM could be totally eliminated due to nearby owners, outside of the RC 6, dedicating their property for farming, logging or other purposes that may require deforestation. Furthermore, when looking at the RC 6 areas on the Forest Patch Map, it is evident the subject property's forest is not contiguous to other RC 6 forested areas. Thus, the forest should not be considered "contiguous" as required by the BCZR. Therefore, the proper reading of the BCZR would be to limit the forest patch areas to existing only within RC 6 zone because there would be assurance that these areas would be protected. Given this, the Board should find the property is not within a forest patch (as it is less than 200 acres), and the SAP and Development Plan properly depict the PCA.

III. And For Such Further Reasons As Will Be Presented In Argument At The Hearing For This Matter

CONCLUSION

Based upon the foregoing the Petitioner requests that:

1. That DEPRM and Planning's attempt to rescind their prior approval of the SAP be denied;
2. That Planning and DEPRM's amended comment revoking approval of the SAP be removed from the record;
3. That the new forest patch map be removed from the record; and
4. That the matter be remanded to the Hearing Officer for further proceedings to consider the Development Plan.

Filed concurrently with this Notice of Appeal is Petitioners' check made payable to Baltimore County in full payment of the costs of the appeal. Petitioners were a party below and fully participated in the proceedings.

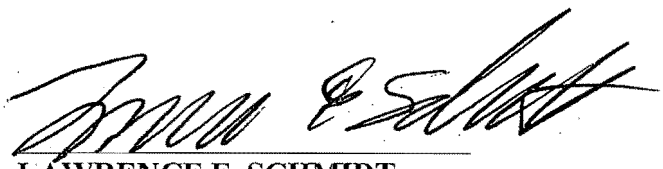
Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
410-821-0070
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of **March, 2010**, a copy of the foregoing Petition to Accompany Appeal was mailed first class, postage pre-paid to:

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204



LAWRENCE E. SCHMIDT

3/25/10

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING E side Dover Road at NE corner Tufton Ridge Road 8th Election District 2nd Councilmanic District **(Posey Property/Tufton Farms Resubdivision of Lot 4)** John and Victoria Posey *(Property Owners)*	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY **HOH Case No. 08-231 and Zoning Case No. 2007-0470-SPH**

* *

NOTICE OF APPEAL

John Posey, Victoria Posey and Wells Development Corporation, Petitioners in the above-captioned case, by and through their attorneys, Lawrence E. Schmidt and Gildea & Schmidt, LLC, feeling aggrieved by the decision of the Hearing Officer/Zoning Commissioner of Baltimore County in the Findings of Fact and Conclusions of Law dated February 25, 2010, attached hereto and incorporated herein as **Exhibit #1**, hereby appeals the aforementioned Findings of Fact and Conclusions of Law and Order to the County Board of Appeals of Baltimore County.

Filed concurrently with this Notice of Appeal is Petitioners' check made payable to Baltimore County in full payment of the costs of the appeal. Petitioners were a party below and fully participated in the proceedings.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
410-821-0070
Attorney for Petitioners

RECEIVED
MAR 25 2010
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

RECEIVED
MAR 25 2010
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of **March, 2010**, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to:

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

RECEIVED
MAR 25 2010
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING	*	BEFORE THE
E side Dover Road at NE corner Tufton Ridge Road	*	HEARING OFFICER
8th Election District	*	FOR BALTIMORE COUNTY
2nd Councilmanic District		
(Posey Property/Tufton Farms Resubdivision of Lot 4)	*	
	*	**HOH Case No. 08-231 and Zoning Case No. 2007-0470-SPH**
John and Victoria Posey *Property Owners*	*	

RECEIVED
MAR 25 2010
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

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

EXHIBIT #1

MEMORANDUM ORDER

I. Introduction

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County for a public hearing on a development proposal submitted in accordance with the development review and approval process contained in Article 32, Title 4, of the Baltimore County Code ("B.C.C."). John and Victoria Posey, the owners of the subject property, and Wells Development Corporation, the contract purchaser, (hereinafter "the Developers" or "Petitioners") submitted for approval a development plan prepared by Kenneth J. Wells with kjWells, Inc. known as the "Development Plan of the Posey Property – Resubdivision of Lot 4 Plat 1 – Section 2 Tufton Farms" (hereinafter the "Development Plan") for property located on the east side of Dover Road at the northeast corner of Tufton Ridge Road in the Worthington Valley area of Baltimore County. The Developers propose to subdivide the property consisting of 11.68 acres, zoned R.C.6, into two lots. The site is currently improved with a single-family dwelling that is to remain and the Developers propose to construct an additional single-family dwelling on the newly created lot.

The Developers are also requesting certain zoning relief and have filed an amended Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning

2/25/10

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING	*	BEFORE THE
E side Dover Road at NE corner Tufton Ridge Road	*	HEARING OFFICER
8th Election District	*	FOR BALTIMORE COUNTY
2nd Councilmanic District		
(Posey Property/Tufton Farms Resubdivision of Lot 4)	*	
	*	**HOH Case No. 08-231 and Zoning Case No. 2007-0470-SPH**
John and Victoria Posey *Property Owners*	*	

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

MEMORANDUM ORDER

I. Introduction

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County for a public hearing on a development proposal submitted in accordance with the development review and approval process contained in Article 32, Title 4, of the Baltimore County Code ("B.C.C."). John and Victoria Posey, the owners of the subject property, and Wells Development Corporation, the contract purchaser, (hereinafter "the Developers" or "Petitioners") submitted for approval a development plan prepared by Kenneth J. Wells with kjWells, Inc. known as the "Development Plan of the Posey Property – Resubdivision of Lot 4 Plat 1 – Section 2 Tufton Farms" (hereinafter the "Development Plan") for property located on the east side of Dover Road at the northeast corner of Tufton Ridge Road in the Worthington Valley area of Baltimore County. The Developers propose to subdivide the property consisting of 11.68 acres, zoned R.C.6, into two lots. The site is currently improved with a single-family dwelling that is to remain and the Developers propose to construct an additional single-family dwelling on the newly created lot.

The Developers are also requesting certain zoning relief and have filed an amended Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning

Regulations ("B.C.Z.R."). The amended Petition was marked and accepted into evidence as Developers' Exhibit 1 and seeks approval of the following:

- An amendment to the Final Development Plan ("FDP") entitled "Tufton Farms" (PDM Number VIII-231) so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into two (2) lots in accorrdance with B.C.Z.R. Sections 1A00.4 and 1B01.3 and Section 1B01.3.A.7.c of the Zoning Commissioner's Policy Manual ("Z.C.P.M."); and

- The non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with B.C.C. Section 32-4-106(a)(viii).

Appearing at the requisite Hearing Officer's Hearing in support of the proposed development and related zoning requests was Kenneth J. Wells with Wells Development Corporation. Lawrence E. Schmidt, Esquire appeared as counsel for the Developers. The proposal generated significant interest in the community and a number of neighbors and interested citizens appeared as Protestants in opposition to the development plan and requested zoning relief. These included Janice and Larry Bortner of 2308 Tufton Ridge Road, Fran Yeazel of 2314 Tufton Ridge Road, Larry Esptein of 2104 Tufton Ridge Road, John Sophocles of 2226 Tufton Ridge Road, and Mike O'Malley of 2322 Tufton Ridge Road. J. Carroll Holzer, Esquire appeared as attorney for the Protestants as well as the Valleys Planning Council. The case file also contains letters of opposition from several neighboring property owners.

In addition to the aforementioned individuals, numerous representatives of the various Baltimore County agencies who reviewed the plan and zoning petitions also attended the hearing, including the following individuals from the Department of Permits and Development Management: Colleen Kelly (Project Manager), Dennis Kennedy (Development Plans Review), John Lewis (Zoning Review Office), and Gigi Hampshire (Bureau of Land Acquisition). Also appearing on behalf of the County were David Lykens from the Department of Environmental

Protection and Resource Management (DEPRM) and Lloyd Moxley from the Office of Planning. Bruce Gill appeared on behalf of the Department of Recreation and Parks. In addition, written comments were received from the Baltimore County Fire Marshal's Office and the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

II. Procedural Background

In order to give some context to the instant development proposal and related zoning Petition, a review into the development background of the subject property would be beneficial. This matter originally came before the undersigned as a Petition for Special Hearing that was filed on or about April 16, 2007. At that time, Petitioners requested special hearing relief for approval of an amendment to the "Tufton Farms" Final Development Plan ("FDP") so as to permit the resubdivision of the subject property (known as Lot 4) into three (3) lots. As more of a housekeeping measure and largley unrelated to the resubdivision, Petitioners also requested approval of a non-density transfer and lot line adjustment from the subject property (Lot 4) to an adjacent property (Lot 3) that would not result in an increase in the number of lots or in the total allowable residential density. On August 27, 2007, a public hearing was convened and testimony and evidence was received from Petitioners and Protestants. On October 17, 2007, the undersigned issued an Order granting the Special Hearing relief as requested.

On or about November 7, 2007, a Notice of Appeal was filed by the Valleys Planning Council, et al. to the Board of Appeals. On May 8, 2007, the Board of Appeals convened a *de novo* hearing on the appeal. The case was heard and continued, and while pending for another hearing date, the subject proeprty was an issue (#02-035) during the 2008 Comprehensive Zoning Map Process ("CZMP"). On or about August 26, 2008, the property was part of a larger area that was rezoned -- and effectively "downzoned" -- from R.C.5 to R.C.6. On September 16,

2008, the Board of Appeals reconvened for the second day of the hearing; however, in light of the property's change in zoning, Petitioners moved that the case be remanded to the Deputy Zoning Commissioner for further proceedings. Petitioners indicated that an amendment to the FDP might still be contemplated, but would be significantly different due to the rezoning than that originally approved by the undersinged and appealed to the Board. Hence, Petitioners argued that a remand to the Deputy Zoning Commissioner was appropriate for consideration of a modified amendment to the extent permitted by the change in zoning. People's Counsel[1] and Mr. Holzer did not oppose the motion to remand. In an Opinion and Order to Remand dated April 2, 2009, the Board of Appeals remanded the case "to the Zoning Commissioner for further proceedings in light of the legislative rezoning of the property from RC-5 to RC-6."

Because the instant matter involves a resubdivision of a major subdivision (Tufton Farms) and not merely a minor subdivision of Lot 4, it is more than a "refinement." Council Bills 24-08 and 58-09 clarified that "any amendment to a plan or plat that results in an increase in density or increase in the number of buildable lots is a material amendment." A letter dated September 29, 2009 from Permits and Development Management Director Timothy Kotroco on behalf of the Development Review Committee ("DRC"), which was marked and accepted into evidence as Developers' Exhibit 2, directed the Developers to proceed with a development plan. As such, on or about October 4, 2009, the Developers prepared a Development Plan for the subject property which was followed by a Development Plan Conference on December 30, 2009 that was held between the Developer's consultants and County agency representatives to further review and scrutinize the plan. On January 21, 2010, the undersigned convened the aforementioned Hearing Officer's Hearing ("HOH") and related zoning hearing in Room 106 of

[1] People's Counsel had entered its appearance at the various stages of the case, from the original zoning hearing through the appeal to the Board of Appeals, and in the instant zoning matter as well.

the County Office Building located at 111 West Chesapeake Avenue, Towson, Maryland. B.C.C. Section 32-4-230 allows the Developers to proceed with the hearings on the proposed development and zoning matters in one combined Hearing Officer's Hearing. The property was posted with Notice of Hearing Officer's Hearing on December 20, 2009 for 20 working days prior to the hearing in order to notify all interested citizens of the date and location of the hearing. In addition, notice of the zoning hearing was timely posted on the property and published in *The Jeffersonian* in accordance with the County Code.

III. The Hearing Officer's Hearing

A. Preliminary Matters

At the outset of the hearing, Mr. Holzer on behalf of the Protestants made a preliminary motion to continue the proceedings or, in the alternative, dismiss the Hearing Officer's Hearing. In his motion, Mr. Holzer argued that the undersigned did not yet have authority or jurisdiction over the matter, citing B.C.C. Sections 32-4-251, et seq. concerning development in the R.C.6 Zone. In particular, he pointed to B.C.C. Section 32-4-251, which requires a site analysis plan be approved before an application is filed for approval of any development, and Section 32-4-254, which allows an applicant to appeal a decision of DEPRM and Planning that disapproves a site analysis plan to the Board of Appeals within 30 days after receiving notification from the County. Mr. Holzer indicated that, on information and belief, DEPRM was in the process of disapproving the Developers' site analysis plan, which would likely be followed by the Office of Planning. Hence, the Developers' next logical step, if they so chose, was to file an appeal with the Board of Appeals. He also argued that DEPRM's anticipated disapproval divested the undersigned of the authority to hear the HOH until after a determination of an appeal, if filed, to the Board of Appeals. Finally, Mr. Holzer also made a motion that the related zoning case be continued until the site analysis plan issue is resolved. On this issue, he argued that without an

approved site analysis plan, the development plan could not go forward. And without a viable development plan, the special hearing request becomes moot.

In response, Mr. Schmidt on behalf of the Developers disagreed with Mr. Holzer's interpretation. He argued that, to date, DEPRM had not disapproved the site analysis plan. Even assuming that DEPRM was prepared to issue a revised comment disapproving the site analysis plan, the Office of Planning had also not disapproved the plan, as required by B.C.C. Section 32-4-254. As things stood at this stage, the Developer had prepared a site analysis plan that was previously approved by DEPRM and Planning, had submitted a Development Plan, and was proceeding through the development plan approval process, up through and including the HOH and related Special Hearing. Hence, jurisdiction and authority over the case remained with the undersigned Hearing Officer. Mr. Schmidt also asserted that in the event DEPRM issued a revised comment disapproving the site analysis plan as anticipated, the HOH should go forward and he should be given the opportunity to call DEPRM's David Lykens as a witness in order to explore the circumstances under which the site analysis plan was first approved and then subsequently disapproved, and that a determination of whether the disapproval was proper rested with the undersigned as part of deciding issues related to the HOH proceeding. Mr. Schmidt acknowledged that an appeal may also lie with the Board of Appeals under B.C.C. Section 32-4-254, but insisted the two avenues were not necessarily mutually exclusive.

Over Mr. Holzer's objection, the undersigned permitted the HOH to proceed on a limited basis in order to determine, notwithstanding the aforementioned preliminary motions, whether there were any other outstanding issues associated with the Development Plan, and also accord Mr. Schmidt an opportunity to examine Mr. Lykens as to the issues concerning the prior approval of the site analysis plan and subsequent disapproval. It was made known to the parties that I would make a determination of the Protestants' motions prior to hearing the entire HOH

because those motions could prove to be dispositive of the development plan case and, therefore, could determine whether the HOH and related zoning case would proceed to a conclusion and / or be subject to further appeal.

B. Testimony and Evidence Presented at the HOH

Pursuant to Sections 32-4-227 and 32-4-228 of the B.C.C., which regulate the conduct of the Hearing Officer's Hearing, I am normally required first to identify any unresolved comments or issues as of the date of the hearing. Although I determined that the HOH would not proceed in its entirety, I believed it was prudent to make inquiry of the parties to determine if there were any unresolved issues with the Development Plan, other than the obvious issue with the site analysis plan. Upon making inquiry of Mr. Schmidt on behalf of the Developers, he stated that at the time of the DPC, there were no outstanding issues other than with the Department of Recreation and Parks in which a waiver of Open Space requirements had been requested. It was his understanding that all agency comments had been addressed on the Development Plan.

I then asked the particular agencies to state whether they had any outstanding issues. I have summarized their responses below:

Recreation and Parks: Bruce Gill appeared on behalf of the Department of Recreation and Parks and indicated that the local open space required for the two proposed dwellings is 2,000 square feet or 0.05 acre, more or less, and that a development plan that proposed 20 or less dwelling units should be considered for a waiver and a fee in lieu of open space. Pursuant to a letter dated January 19, 2010 from the Department of Recreation and Parks to the Developer's land use consultant, Mr. Wells, the request for waiver was granted with a fee in lieu of $2,900.00 to be paid to Baltimore County prior to recordation of the record plat. That letter was marked and accepted into evidence as Baltimore County Exhibit 1. With no other open issues, Mr. Gill's department recommended approval of the Development Plan.

Planning Office: Lloyd Moxley appeared on behalf of the Office of Planning. Mr. Moxley indicated that the Developers' School Impact Analysis matched the County's analysis and was acceptable. He also indicated that the Developers' request for Modification of Standards was reviewed and granted, and that the Development Plan was reviewed for compliance with the R.C.6 Performance Standards and found to meet the "spirit and intent" of those standards at the DPC on December 30, 2009. Mr. Moxley further indicated, however, that in light of the anticipated revised comment by DEPRM disapproving of the Developer's site analysis plan, and the impacts to the primary and secondary conservancy areas, his agency would reserve its final recommendation in order to review any revisions to the Performance Standards and site analysis plan. Therefore, Mr. Moxley indicated that his agency could not recommend approval of the Development Plan and would likely submit a revised comment.

Development Plans Review (Public Works): Dennis Kennedy appeared on behalf of the Bureau of Development Plans Review. Mr. Kennedy confirmed that the Developer's plan met all of his department's requirements and comments, and his department recommended approval of the Development Plan.

Office of Zoning Review: John Lewis appeared on behalf of the Zoning Review Office. Mr. Lewis indicated that the Development Plan and the related zoning Petition met his agency's technical requirements. His Office recommended approval of the Development Plan subject to a determination of the Special Hearing Petition and the issues associated with the site analysis plan.

Land Acquisition: Gigi Hampshire appeared on behalf of the Bureau of Land Acquisition. Ms. Hampshire indicated there were some minor labeling issues on the Plan that had been addressed, and there were no outstanding issues from her agency and recommended approval of the Development Plan.

Department of Environmental Protection and Resource Management (DEPRM): David Lykens appeared on behalf of DEPRM. Mr. Lykens referenced his agency's previous comments at the DPC on December 30, 2009, which indicated that DEPRM had approved a preliminary site analysis plan on April 21, 2009; however, that prior approval was made without the inclusion of a Forest Patch Map that was not available at that time. Mr. Lykens then submitted an amended comment dated January 20, 2010. Mr. Schmidt objected to inclusion of this amended comment at this late stage of the development review process, arguing that his client had made the required submittals to DEPRM and the Office of Planning that had resulted in an approved site analysis plan. It was improper to admit the amended comment that presumably now disapproves the site analysis plan at this juncture; however, over Mr. Schmidt's objection, the amended comment was marked and accepted into evidence as Baltimore County Exhibit 2. This amended comment indicates the following:

> The Site Analysis Plan that was approved on April 21, 2009 did not show the correct Primary Conservancy Area. The Baltimore County Zoning Regulations (1A07.2) specify that a Primary Conservancy Area should include among other things, Forest Patch areas. The Forest Patch Map for the areas rezoned to RC-6 in the year 2008 (including the Posey Property) was not available in April of 2009.
>
> DEPRM has produced and adopted an updated Forest Patch Map (attached) for the areas that were rezoned to RC-6 in 2008. The map indicates that all the forest on the Posey Property is included as part of a forest patch and should be included in the Primary Conservancy Area. Therefore, DEPRM is withdrawing its approval of the Primary Conservancy Area and above-referenced Site Analysis Plan.

Mr. Lykens also submitted the Forest Patch Maps and Mr. Schmidt objected to the admission of this evidence as well. As with the amended DEPRM comment, Mr. Schmidt argued that it was improper to admit the Forest Patch Map that was prepared at the "eleventh hour" only a week prior to the HOH. Again, over counsel's objection, the maps were marked and accepted into

evidence as Baltimore County Exhibits 3A through 3D[2]. As a result of the inclusion of the Forest Patch Map and the above amended comment, Mr. Lykens indicated that his agency could not recommend approval of the Development Plan.

In view of these adverse developments, Mr. Schmidt called upon Mr. Lykens to testify further. Mr. Lykens indicated that he is the Development Coordination Manager with DEPRM and is familiar with B.C.C. Sections 32-4-251 through 32-4-254 regarding development in the R.C.6 Zone and the requirement of an approved site analysis plan. During his testimony in response to Mr. Schmidt's questioning, Mr. Lykens acknowledged that the Developers made the appropriate submittals according to the process set forth in B.C.C. Sections 32-4-251, et seq. Initially, the preliminary site analysis plan was approved in April 2009. After the Primary Conservancy Area was approved by DEPRM and the Secondary Conservancy area was approved by the Office of Planning, the site analysis plan was approved as required by the Directors of both DEPRM and the Office of Planning pursuant to the letter dated July 10, 2009, which was marked and accepted into evidence as Developers' Exhibit 4.

Mr. Lykens testified that at some point following this approval, the issue involving the Forest Patch Map came to light. In his preparations for the December 30, 2009 DPC, Mr. Lykens spoke with the various agency representatives within DEPRM, including storm water management, ground water management, and environmental impact review. Following receipt of an email from Theresa Moore with the Valleys Planning Council, and based on his prior experience as a member of DEPRM's Environmental Impact Review Section, Mr. Lykens indicated to Mr. Schmidt at the DPC that there might be a problem with the site analysis plan approval and the identification of the conservancy areas. Mr. Lykens' concern was with the lack

[2] Baltimore County Exhibit 3A is a map of Forest Patches in the R.C.6 Zone with a County-wide overview, including the Tufton area that is the subject of this HOH and zoning hearing. Baltimore County Exhibits 3B through 3D are maps of Forest Patches in specific R.C.6 zoned areas of Baltimore County, including the aforementioned Tufton area, the Fork area, the Greenspring area, the Patapsco River area, and the Loch Raven area.

of a Forest Patch Map, which is one of the elements of a primary conservancy area. This issue was also raised subsequently by a neighbor of the subject property, John Sophocles, in a letter dated December 29, 2009 to Glen Shaffer with DEPRM received January 4, 2010, concerning his belief that the entire Posey Property is within the "forest patch."

Mr. Lykens indicated that a Forest Patch Map had not yet been prepared by DEPRM for the R.C.6 areas immediately following the 2008 CZMP. When DEPRM realized this map had not been prepared, and with the instant development proposal in the R.C.6 Zone still pending, DEPRM decided it should be done and prepared the Forest Patch Map that was accepted into evidence as Baltimore County Exhibits 3A through 3D. In short, Mr. Lykens indicated that the previous April 2009 and July 2009 approvals of the site analysis plan were in error and without the necessary inclusion of the Forest Patch Map.

In further response to Mr. Schmidt's questioning, Mr. Lykens explained that the Forest Patch Map was first prepared in 2000 with the creation of the R.C.6 Zone and the CZMP that year. The first map delineated the Patapsco-Granite Area and was prepared in accordance with the definition and requirements in B.C.Z.R. Section 1A07.2, which states that a Forest Patch Area is "[a]n area of land comprised of at least 200 contiguous acres of forest overlaying a stream system, as designated on a forest patch map adopted by the Department of Environmental Protection and Resource Management." Mr. Lykens indicated that an internal DEPRM committee met and discussed the requirements of a Forest Patch Map and the criteria that would be utilized to identify forest patch areas in the R.C.6 Zone, as well as the computer program that would create the map. In DEPRM's preparing of the Forest Patch Map and "adopting" the first map in 2000, Mr. Lykens acknowledged that this did not include public hearings or community input, nor was the map submitted to the County Attorney's Office for review and approval. Mr. Lykens also indicated that the map was updated following the 2004 CZMP and was finally

updated approximately one week prior to the instant January 21, 2010 Hearing Officer's Hearing, following the 2008 CZMP.

Finally, upon being questioned as to why it took so long following the 2008 CZMP for DEPRM to prepare the most recent Forest Patch Map that also now includes the Tufton Area, and to have previously approved the Developer's site analysis plan without inclusion of the Forest Patch Map, Mr. Lykens attributed part of the delay to the time it took to have a current aerial photograph of the area available. Otherwise, he indicated that the delay was an unintended oversight on his agency's part. As far as prioritizing necessary tasks in his agency, he indicated that the preparation of the Forest Patch Map did not receive initial attention because of the significant restrictions on development in the R.C.6 Zone and the very few development proposals in that zone requiring forest patch consideration.

At the conclusion of the hearing, Mr. Holzer renewed his motions and Mr. Schmidt reiterated his responses and once again objected to the admission of DEPRM's amended comment and the Forest Patch Map into evidence. The undersigned indicated I would take the matters under advisement and render a decision accordingly. Following the hearing, the undersigned received legal memorandums from attorneys Holzer and Schmidt as to Mr. Holzer's motions at the outset of the hearing and the issues raised over the admissibility of DEPRM's amended comment and the Forest Patch Map during the hearing.

In addition, perhaps as expected, the undersigned also received an amended comment dated February 4, 2010 from the Office of Planning in response to the submission of DEPRM's amended comment and the Forest Patch Map at the HOH. Planning's amended comment states, in pertinent part, as follows:

With respect to the Modification of Standards:

> The Director of the Office of Planning in concert with the Department of Environmental Protection and Resource Management and pursuant to the authority granted within the CMDP has determined that all the forest on the Posey Property is included as part of the Tufton Area Forest Patch and must be included in the Primary Conservancy Area. The Office of Planning cannot recommend approval of the requested modification of standards.

With respect to the R.C.6 Finding:

> In concert with representatives from the Department of Environmental Protection and Resource Management and subsequent to further review of Inter-Office Correspondence dated January 20, 2010 and Forest Patch Maps dated January 14, 2010 the Office of Planning and its Director finds that the above-referenced Development Plan does **not** (emphasis in original) meet the "spirit and intent" of Section 1A07 BCZR. Therefore, the Office of Planning is withdrawing approval of the Primary Conservancy Area and the R.C-6 Site Analysis Plan.

The Office of Planning's amended comment also recommends denial of the requested Special Hearing and recommends that the Development Plan be denied.

IV. Issues Presented

At this interim juncture, the issues before me are straightforward. As a threshold issue, it must be determined whether I have jurisdiction over this HOH and related zoning case in light of the provisions of B.C.C. Section 32-4-254. If that answer is in the affirmative, then it must also be determined whether the Forest Patch Map is legally admissible, and whether DEPRM (and by extension the Office of Planning) can legally change its previous approval of the Developer's site analysis plan to a disapproval based on the apparent presence of a forest patch on the subject property.

V. Decision and Rationale

A. Jurisdiction

As to whether I have jurisdiction over the case, to my knowledge, this is an issue of first

impression, perhaps because of the relative newness of the R.C.6 zoning in the County, and the scarcity of development in the R.C.6 Zone that stems from the conservancy area limitations. In my judgment, I do retain jurisdiction over this case. Although B.C.C. Sections 32-4-251 through 32-4-254 specifically address development in the R.C.6 Zone, I do not believe these provisions forestall or override the broader development process that includes the HOH, as well as the other stages of development contained in Article 32, Title 4 of the B.C.C. There are a number of occasions where County agencies issue comments pertaining to a development proposal and do not recommend approval at the HOH. This often occurs with DEPRM, Planning, and Development Plans Review. There may be some minor issues that need to be addressed by the Developer, but sometimes, the issues are more substantive, such as compliance with storm water management, alternatives analysis and mitigation, performance standards, and Public Works requirements. In these situations, the Hearing Officer is not divested of jurisdiction simply because these issues have not been resolved in the Developer's favor; rather, the HOH still proceeds. If the issues do get resolved and the various agencies recommend approval, then the development plan may be approved; however if not, then the development plan is not approved. I view the current situation much the same way. Although B.C.C. Section 32-4-254(b) gives the Developers an appellate avenue specifically as to the site analysis plan, it does not in my view halt the overall development process that includes the HOH.

The more complicated issues are whether I have the authority to, in effect, ignore the Forest Patch Map that appears to include the subject property and declare it invalid, as well as overrule and not admit DEPRM's amended comment revoking its prior approval of the Developers' site analysis plan.

B. Validity and Admissibility of the Forest Patch Map

As to the Forest Patch Map preparation and admissibility, B.C.Z.R. Section 1A07.2

defines a Forest Patch Area as "[a]n area of land comprised of at least 200 contiguous acres of forest overlaying a stream system ..." The definition also requires the Forest Patch Area to be "designated on a forest patch map adopted by the Department of Environmental Protection and Resource Management." The Forest Patch Map has particular relevance in the R.C.6 Zone because this Zone delineates the three functional parts of a tract to be developed as primary conservancy area, secondary conservancy area, and the development areas. The primary conservancy area includes forest patch areas.

According to Mr. Lykens' testimony, following the creation of the R.C.6 Zone in 2000 and in keeping with B.C.Z.R. Section 1A07.2, DEPRM designated a forest patch area and prepared a Forest Patch Map that was maintained by that agency. During each ensuing CZMP in 2004 and 2008, DEPRM updated the Forest Patch Map, culminating in the most recent Forest Patch Map that was prepared in mid-January 2010 and accepted into evidence as Baltimore County Exhibits 3A through 3D. I find that the Forest Patch Map properly designated the forest patch areas and was appropriately adopted by DEPRM. Although it is regrettable that the Map was not prepared in a more timely fashion so that it could have been included in the prior consideration and approval of the Developers' site analysis plan, I do not believe this substantial inconvenience, nor the argument that areas of the forest patch exist outside the R.C.6 Zone, renders the Forest Patch Map invalid or inadmissible.

In response to the Developers' argument that the primary conservancy area must include all four of the relevant criteria listed in B.C.C. Section 1A07.2 to qualify, I also accept Mr. Lykens' testimony on this issue. B.C.C. Section 1A07.2 states that a primary conservancy area consists of: (A) forest buffers; (B) forest patch areas; (C) priority one forests; and (D) habitat for endangered species. Mr. Schmidt argues that given the wording of the regulation and the fact that the subject property presumably consists of only a forest patch area, and not the other three

criteria as well, the property does not qualify as a primary conservancy area and therefore the forest patch designation does not affect the previously approved primary conservancy area or site analysis plan. However, Mr. Lykens indicated that since the creation of the R.C.6 Zone and the adoption of the conservancy Regulations, DEPRM has consistently interpreted the primary conservancy area to include any one or more of the aforementioned criteria and not necessarily all four at once. In my view, this interpretation is also consistent with the principal conservancy goals of the R.C.6 Zone. The factual precedent also supports such a finding. *See, Comptroller v. J/Port, Inc.*, 184 Md. App. 608, 638 (2009) (great deal of deference owed to agency's interpretation of its own regulations).

C. Admissibility of DEPRM's Amended Comment

As to the admissibility of DEPRM's amended comment and the issue of whether DEPRM can revoke its prior approval of the site analysis plan, it is on this point that the parties' memoranda sharply disagree, and although I take no pleasure in issuing an opinion that could lead to a harsh consequence, Maryland case law nonetheless dictates that result. Specifically, under long-established Maryland law, DEPRM is permitted to revoke its earlier acceptance of the site analysis plan, and is not estopped from doing so in the case at bar. In Maryland, the doctrine of estoppel applies very narrowly to local governments. *City of Hagerstown v. Long Meadow,* 264 Md. 481 (1972). As alluded to earlier, this can lead to seemingly inequitable and harsh results, and Maryland law is replete with cases wherein individuals have expended great amounts of time, effort, and money in reliance upon certain representations or assurances of a governmental employee, only to later discover that the employee or official was mistaken, and that the earlier approval, permit or license is therefore revoked. *See, e.g., Marzullo v. Kahl,* 366 Md. 158 (2001) (citing cases). As succinctly stated by our highest court:

> The doctrine of equitable estoppel cannot be invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment.

Lipsitz v. Parr, 164 Md. 222, 227 (1933).

Although the Developers in the case at bar have no doubt expended time and money in reliance upon DEPRM's and Planning's earlier approval of the site analysis plan, even a cursory review of *Marzullo* reveals that the hardship there was far greater. Indeed, the owner in that case had constructed a building and began operating a snake breeding business, in reliance upon an approval from County officials, and was later forced to cease business operations. In the instant matter, certainly, the Developers have invested significantly in pursuing this development proposal. Indeed, the Developers have persevered since 2007 through the original zoning hearing and appeal, a downzoning of the property during the 2008 CZMP, and the development plan process including the HOH; however, it is also noteworthy that the Developers are still in the very early stages of the development process in Baltimore County. The Development Plan has not reached the approval stage, no record plats have been recorded, no permits have been issued, and (unlike in the *Marzullo* case) no construction has commenced on the property.

The only narrow exception to this rule, wherein a municipal employee or officer will be estopped from revoking an approval or license, was set forth in *Permanent Financial Corp. v. Montgomery County,* 308 Md. 239 (1986). In *Permanent Financial,* a developer constructed an office building, pursuant to a permit and approval from zoning authorities in Montgomery County. During the course of construction, and after spending two million dollars, the County informed the developer that it has mistakenly calculated the height of the structure and that its prior approval was revoked. In that case, the Court noted that not only had the developer expended great sums of money and effort on the building, but that County inspectors were

following a long-standing administrative interpretation of an ambiguous regulation. In these circumstances, the Court held that the County was estopped from revoking the permit.

In the case at bar, there is no such ambiguous regulation (or long-standing interpretation thereof) that is at issue (and the owner/applicant does not argue to the contrary) and thus *Permanent Financial* is factually and legally inapplicable in this scenario. As such, DEPRM is permitted to revoke its earlier approval of the site analysis plan, especially given that there is no indication of bad faith or malice on the part of that agency or its employees.

In another portion of their memorandum, the Developers contend that DEPRM failed to properly "adopt" the Forest Patch Map, rendering it invalid, and should therefore be unable to rescind its earlier approval of the site analysis plan. In support of this argument, the Developers note that the pertinent section of the Zoning Regulations (B.C.Z.R. Section 1A07.2) requires that the Forest Patch Map be "adopted by the Department of Environmental Protection and Resource Management" (emphasis added). Citing to the County Code, the Developers argue that the adoption of the Forest Patch Map would constitute a "regulation," and given that the procedures enumerated in Article 3 of the County Code have not been observed, the map is not legally operative.

However, and contrary to the Developers' argument, the above-referenced section of the Zoning Regulations does not require that the Forest Patch Map be adopted "by regulation," and this undercuts the validity of this argument. Indeed, numerous sections of both the County Code and Zoning Regulations contain ordinances wherein the Council specifies that something should be adopted "**by regulation**" (emphasis added). *See, e.g.,* B.C.C. Sections 7-1-305(d); 10-2-105(c); 18-2-201(a); 18-2-306; 19-2-201; and B.C.Z.R. Sections 260.7; 4A03.12. Had the County Council wanted the Forest Patch Map to be adopted by regulation, it would have said as

much. *See, e.g., Mayor of Oakland v. Mayor of Mt. Lake Park,* 392 Md. 301, 318 (2006) (legislature "knows how" to require something in a statute, if that is its intention).

Leaving aside for a moment these fine points of law, the institutional precedent would dictate a similar result. Specifically (and the point is undisputed), on many occasions it happens that County agency officials "change their mind" shortly before or during an HOH, resulting in a revocation of an earlier disapproval or negative comment. This often occurs where the County agency is furnished with newer or more accurate information than on which a previous comment was based. Obviously, this almost always inures to the Developer's benefit, but it happens to be the converse of the scenario here, but is nonetheless applicable. Once again, this is supported by the previously cited case law. *See, Comptroller v. J/Port, Inc.,* 184 Md. App. 608, 638 (2009), *supra*, (great deal of deference owed to agency's interpretation of its own regulations). Here, DEPRM did not have the benefit of the Forest Patch Map when it approved the preliminary site analysis plan in April 2009 and when the site analysis plan was approved by DEPRM and the Office of Planning in July 2009. Subsequently, DEPRM has updated and designated the forest patch areas and adopted the Forest Patch Map, and has now considered the forest patch in the calculation of the primary conservancy area pursuant to B.C.Z.R. Section 1A07.2. As a result, it has determined that the entire property is comprised of primary conservancy area and is, thus, protected from further disturbance by development.

VI. Conclusion

Based on the aforegoing, the Protestants' motion to continue the proceedings or, in the alternative, dismiss the HOH and related zoning Petition, shall be denied. The Developers' objections to the admission of the Forest Patch Map and DEPRM's amended comment are overruled, and the Forest Patch Map and DEPRM's amended comment shall be admitted into evidence, and considered with the Office of Planning's amended comment that is part of the case

file. As a consequence of the above findings, the requested approval of the Development Plan shall be denied and the Petition for Special Hearing dismissed as moot.

Lastly, it should be noted that my decisions with regard to the Hearing Officer's Hearing considering the Development Plan proposal and the amended Petition for Special Hearing are treated differently for appeal purposes. The decision as to the Petition for Special Hearing is made by me sitting as Deputy Zoning Commissioner. An appeal from that decision is a *de novo* appeal to the Board of Appeals of Baltimore County pursuant to B.C.C. Section 32-4-401. The decisions from the HOH as to the admissibility of evidence and the denial of approval of the Development Plan are made by me sitting as Hearing Officer for Baltimore County. An appeal from that decision is on the record to the Board of Appeals pursuant to B.C.C. Section 32-4-281. In addition, pursuant to B.C.C. Section 32-4-254(b), DEPRM's and the Office of Planning's decision to disapprove the site analysis plan may, within 30 days after receiving notification from the county, be appealed to the Board of Appeals.

THEREFORE, IT IS ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County, this 25th day of February, 2010, that the Protestants' motion to continue the proceedings or, in the alternative, motion to dismiss the HOH and continue the related Petition for Special Hearing, be and is hereby **DENIED**; and

IT IS FURTHER ORDERED that the Developers' request that DEPRM's amended comment rescinding its prior approval of the site analysis plan not be admitted as evidence, be and is hereby **DENIED**, and the amended comment from DEPRM dated January 20, 2010 marked and accepted into evidence as Baltimore County Exhibit 2 shall be admitted herein; and

IT IS FURTHER ORDERED that the Developers' request that the Forest Patch Map be declared invalid and not be admitted as evidence, be and is hereby **DENIED**, and the Forest Patch Map marked and accepted into evidence as Baltimore County Exhibits 3A through 3D

shall be admitted herein; and

IT IS FURTHER ORDERED that as a consequence of the above rulings and for the reasons previously cited in the body of this Order and for the reason that the Development Plan fails to satisfy the development regulations and applicable policies, rules, and regulations, the request for approval of the "Development Plan of the Posey Property," be and is hereby **DENIED**; and

IT IS FURTHER ORDERED that the amended requests for Special Hearing as follows:

- An amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into two (2) lots in accorrdance with B.C.Z.R. Sections 1A00.4 and 1B01.3 and Section 1B01.3.A.7.c of the Zoning Commissioner's Policy Manual ("Z.C.P.M."); and

- The non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with B.C.C. Section 32-4-106(a)(viii),

be and are hereby **DISMISSED** as moot.

Any appeal(s) of this decision must be taken in accordance with the aforementioned appeal provisions of the Baltimore County Code.

THOMAS H. BOSTWICK
Hearing Officer/Deputy Zoning Commissioner
for Baltimore County

THB:pz

1/29/10

THE POSEY PROPERTY	*	BEFORE THE
HEARING OFFICER'S HEARING	*	DEPUTY
Case No.: II-745	*	ZONING COMMISSIONER
Zoning Case No.: 2009-0234-SPHX	*	FOR
	*	BALTIMORE COUNTY
	*	Case No.: _____

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

PROTESTANTS MEMORANDUM
RE: DEPRM HEARING OFFICER'S COMMENTS
ON FOREST PATCH DATED JANUARY 21, 2010

The Valleys Planning Council, by Teresa Moore and Larry Bortner, *et al.*, Protestants by and through their attorney, ***J. Carroll Holzer, Esquire***, Holzer & Lee, hereby submits this Memorandum as requested on January 21, 2010, by Deputy Zoning Commissioner Bostwick relative to the issue of whether or not the Deputy Zoning Commissioner must accept DEPRM's revised comments, and says:

Protestants submit that there are multiple reasons why the Deputy Zoning Commissioner must receive at the Hearing Officer's Hearing the final DEPRM comments in regard to their recommendation of denial of the Development Plan based upon their determination that the subject property contains "forest patch" which prohibits development requested by the Applicant.

First, the Baltimore County Code Relative to Development Policy §32-4-102 -- Section 32-4-102(b) provides ***the intent*** of the Baltimore County Development Regulations to "protect and promote public health, safety and welfare and to insure that the proposed

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

RECEIVED
JAN 29 2010
ZONING COMMISSIONER

development projects are safe, adequate and convenient." Further, "to protect the conservation of existing communities and promotion of the quality of development." The intent of the laws pursuant to that Section is further to "prevention of environmental degradation and promotion of environmental enhancement including adequacy of landscaping and energy conservation measures, and of protection of flood plains, steep slopes, watersheds, non-tidal wetlands, tidal wetlands, vegetation and other natural features of the site."

Section 32-4-114(a) provides that all "development shall comply with this title and all applicable laws or regulations of the County." The Development Review and Approval process is set forth in §32-4-201 and further, in §32-4-202(2), the "Director of Permits and Development Management may not alter the action or decision of a County Agency, including any decision relating to the approval, disapproval, or revocation of a permit."

Section 32-4-226 provides for review by ***County Agencies including the Office of Planning and Department of Environmental Protection and Resource Management***. Section 32-4-226(d) ***requires comments*** to be submitted to the Hearing Officer on the Development Plan from the aforesaid agencies. In that same Section, under (iv), "comments from the Director of Environmental Protection and Resource Management as to whether the proposed development and resource protection activities under §33-2-202, are consistent with the environmental policies of the County." The Hearing Officer's Hearing under §32-4-227(c) requires the files to contain ***all*** comments of the County Agencies.

Section 32-4-227(e) ***requires the Hearing Officer to consider any comments and conditions submitted by a County Agency***. Under §32-4-226 of this subtitle the Hearing Officer is required to receive and consider comments submitted by a County Agency and make the comments and conditions part of the permanent Development Plan file.

WHEREFORE, under the above-quoted sections of the Development Regulations, ***the Hearing Officer must consider*** the comments of DEPRM in this case denying the requested Development Plan based upon the conclusion and the mapping process indicating that the entire piece of property is contained within the "forest patch" which precludes development of the additional lot requested by the Applicant.

Second, Custom And Usage -- It has been the required practice pursuant to the Baltimore County Code of the Hearing Officer since the inception of the Development Plan process contained in the aforesaid articles to accept ***every*** comment of the required departments without exception. The undersigned has participated in hundreds of Development Plan Reviews before the Hearing Officer over almost two (2) decades in which at the time of the Hearing Officer's Hearing, departments which previously had raised issues and had recommended denials were modified at the Hearing Officer's date, when the various departments reviews and comments were met or resolved at the Hearing Officer's Hearing. Such redlined plans and revisions first seen at the Hearing Officer's Hearing have been the standard practice before the Hearing Officer's Hearing under these Development Regulations. As Counsel for the Applicant in this case admitted, the undersigned has been on the receiving end of revised comments in which Development Plans have been approved after originally being rejected and the first occasion that the Protestants were aware of the revision was on the morning of the Hearing Officer's Hearing. That practice would be reversed by a finding by the Deputy Hearing Officer and Zoning Commissioner in this case if he rejected timely submission of DEPRM's comments recommending denial in this case.

Third, testimony of David Lykens, the representative of DEPRM was a straightforward recognition that DEPRM initially erred in approving this Development Plan and approving a ***preliminary*** acceptance of the conservation area.

On the Developer's exhibit attached, (Exhibit A), the Development Plan, the notes on the Pan under the R.C. 6 analysis refer to the "***proposed*** primary conservancy area" and "***proposed*** secondary conservancy area." This wording supports our position that nothing is final at this stage and the Deputy Zoning Commissioner has the opportunity and obligation to consider all relevant findings before he makes a decision on this matter. The "proposed" primary conservancy area shown on the Plan does not meet zoning requirements.

Protestants will briefly discuss the substance of Mr. Lykens testimony in this case. It should be noted that he was cross-examined by Counsel for the Applicant during the formal portion of the Hearing Officer's Hearing. He was sworn and testified under oath. The undersigned Counsel **RESERVED** his examination of Mr. Lykens pending the Deputy Zoning Commissioner's ruling as to the acceptability of DEPRM's comments.

Lykens testified that he was the Development Coordinator Manager for DEPRM and for the Posey Property. He testified before development occurs that a Site Analysis Plan must be submitted and approved showing primary and secondary conservancy areas. Pursuant to §32-4-252, a ***Preliminary*** Site Analysis Plan was reviewed and approved. That §1A07.2 Baltimore County Zoning Regulations defined certain areas to be protected, one of which was the "forest patch." The secondary conservation area is reviewed by the Office of Planning, which they did in this case. Both offices ***initially in their preliminary*** approvals approved this project. Lykens

testified that he had personal experience with the R.C. 6 Zone in defining forest patch mapping back to the comprehensive rezoning in 2000, and then again in 2004. He testified that Mr. Schaffer had done the preliminary review and approval. He then testified that, in his official position, appearing and coordinating the review of the Development Plan, at the Development Plan Conference on December 30, 2009, ***Lykens told Counsel for the Appellant, that DEPRM had not correctly identified the Forest Patch Map*** and that it appeared, that it has raised a concern. Thus, all of the false indignation expressed at the January 21, 2010, meeting before the Deputy Hearing Officer, was not based upon surprise in that Counsel was alerted by the unimpeached testimony of Lykens on December 30, 2009, that DEPRM had not correctly identified the primary conservancy area because the "Forest Patch" Map had not been completed.

Lykens further testified that ***he*** was the person most experienced in R.C. 6 reviews and that he noticed that the box for the Forest Patch Map was not checked. He came to the conclusion that the Forest Patch Map needed to be generated ***before*** DEPRM could properly and finally recommend approval. He also testified that The Valleys Planning Council and a neighbor had likewise raised the issue of the "forest patch" delineation, and thus, DEPRM was put on notice that the Protestants were aware of the need to define the "forest patch" by an official map created by DEPRM.

Lykens candidly stated that he started the review and the creation of an up-to-date Forest Patch Map for this new R.C. 6 area created by the 2008 Comprehensive Rezoning change. Lykens stated that he raised the issue because he was aware that DEPRM had not produced a "Forest Patch Map" as a result of the rezoning from 2008. He testified that he met with other members of his department and they agreed that they needed to create such a map.

Lykens testified that under Zoning Regulation §1A07.2 a patch map was required to be adopted by DEPRM where there was two hundred (200) acres of forest over streams. He further testified that ***the patch area has to be included in the primary conservancy area as one of the four (4) criteria***. He testified again on examination that DEPRM in approving the primary conservation area and site analysis did not realize there was a Forest Patch Map for the area and approved "in error." He testified that the Posey Property today does contain "forest patch" which prevents development thereon.

Lykens then testified that DEPRM, after it was brought to the Department's attention, put a committee together and produced a Forest Patch Map which was adopted by the Department. Methodology used by DEPRM to adopt the 2008, Posey Forest Patch Map, was the same as used to define the 2000 and the 2004, Forest Patch Maps. The same people in DEPRM (Ms. Farr, Mr. Outen, Mr. Hirsch and Ms. Corman) were used to develop the 2008 map. He testified, unchallenged, that those individuals developed the criteria and evaluated the Tufton Farms Forest Patch in the same fashion that they had done in 2000 and 2004, Forest Patch Maps. He then testified that the Forest Patch Map was adopted by his department in January 2010.

When continued examination of Lykens by the Applicant challenged why there was a delay in producing the Forest Patch Map, he indicated that the Department decided that "the right thing to do would be to produce the map." In explaining why there was a delay in producing the Forest Patch Map, he indicated that there were not that many R.C. 6 properties coming before his Agency. Therefore, it had not received priority from DEPRM.

Protestants comments in regard to the testimony of Mr. Lykens was that it was honest and forthright. It clearly indicated that DEPRM felt it appropriate to do the right thing by creating the Patch Map rather than sweeping the lack of the Patch Map under the rug and allowing this development to proceed to approval. It is clear to Protestants that the requirement of creating a Forest Patch Map in the County Council legislation, supports the County Council's act in down-zoning this property from R.C. 5 to R.C. 6. Combined analysis by DEPRM (Forest Patch Map) and the County Council act in down-zoning coincides to support the Hearing Officer's denial of this Development Plan that there should not be additional development in this area. Clearly, it should not and clearly this case should end with the acceptance of the most recent DEPRM comments, resulting in the Hearing Officer denying the Development Plan.

One additional note in that it has always been Planning's position to be consistent with the environmental review of DEPRM on this issue. Therefore, it was anticipated that the Office of Planning would join with the Department of the Environment to deny the resubdivision requested in this Development Plan. Since the hearing, the Office of Planning, through its Director, Pat Keller, sent e-mail dated January 28, 2010, attached as Exhibit B that it will not support the subdivision.

Protestants position is that DEPRM created a legitimate Forest Patch Map which was properly done by the same people who created the criteria for the year 2000 and 2004. Lykens and DEPRM should be commended for insuring that the Baltimore County Code and Zoning Regulations were properly complied with in this case and that the initial oversight was corrected. The final Memorandum from DEPRM was the right thing to do and was certainly not unfair.

The County Council down-zoned R.C. 5 to R.C. 6 and the Forest Patch Mapping done by DEPRM simply confirms the logic of the County Council's intention to preserve this area. The alleged surprise of Applicant's Counsel appears in itself to be surprising since Lykens advised him about it on December 30, 2009, at the Development Plan Conference. (In anticipation that the Applicant may raise the fact that the initial approval of April 2009, was not appealed, Protestants would simply point out that it was only a ***Preliminary*** Plan approval and not final and secondly, that knowing the R.C. 6 law and the requirements, it could not have been final because the Forest Patch Map was not done and adopted for the site until 2010. Thus, that argument is no more than a red herring in this case.

Fourth, Case Law – There is substantial case law supporting Protestants position that compliance with existing laws by the County Agencies cannot be estopped by the argument made by the Applicant in this case. In the case of *City of Hagerstown v. Long Meadow Shopping Center*, 264 Md. 481 (1971), the Board who originally heard the request for a permit noted that this was a hard case with sympathy flowing towards Long Meadow Shopping Center because of its reliance on faulty advice from a County source from which it should have expected better and that it did so at substantial detriment to itself. In rejecting that hardship, the Court of Appeals then said that "the basic principles of law applicable to the situation wherein the property owner proceeds with plans or construction after receiving a building permit which has been invalidly or mistakenly issued, was fully discussed in *Lipsitz v. Parr*, 164 Md. 222 (1933). That case involved the issuance of a building permit authorizing the Applicant to construct a nice house in a zone where it was prohibited. The Applicant set up a defensive argument of estoppel against

the City's efforts to enjoin the work. The Court quoted *Lipsitz* as saying "everyone dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and extent of their powers and therefore, such a person cannot be considered to be deceived or misled by their acts when done without legal authority. In *Berwyn Heights* case, the Court noted that "***permits issued to the Appellee were in violation of the zoning ordinance; consequently, they were unlawful and did not estop the Appellant from prosecuting this suit***." (emphasis supplied). Thus, in *City of Hagerstown*, the ***Court concluded that a party who is advised erroneously by a municipality to commence construction without a building permit, has no better standing than the bearer of a permit subsequently determined to be invalid. Further, a municipality is not estopped to set up the illegality of a building permit, issuance of an illegal permit creates no vested rights in permittee***. (emphasis supplied). One who deals with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers.

Lipsitz v. Parr, 164 Md. 222 (1933), as cited in *City of Hagerstown* along with the *Berwyn Heights* case, clearly establishes the fundamental basis that regardless of the "Preliminary Plan approval," if it is against the law and against the Zoning Regulations as this situation is, there is no estoppel against a department or the County against changing its mind. This case does not even come close to the hardship created in the *Lipsitz* or *City of Hagerstown* cases.

More recently, in *Cromwell v. Ward*, 102 Md. App. 691 (1995), the Court cited *Lipsitz v. Parr* and again concluded in a Baltimore County case from the Court of Special Appeals that estoppel does not arise if the action of the municipality was in violation of the law.

While *Cromwell* is often cited for variance issues, it has applicability in this case, wherein the Court in citing *Lipsitz*, *City of Hagerstown*, as well as *Inlet Associates v. Assateague House Condominium Association*, 313 Md. 413 (1988). All concluded that estoppel cannot be invoked to defeat the enforcement of ordinances because of an error or mistake committed by one of its officers which has been relied on by a third party to his detriment. Here, reliance on the preliminary approval with knowledge of the R.C. 6 requirements and of the "Forest Patch Maps" created for the 2000 and 2004 Comprehensive Rezoning afford no relief to the Applicant in this case. Finally, in *Mary Pat Marzullo v. Peter Kahl*, 366 Md. 158 (2001), the famous snake case arising in Baltimore County, a similar argument was made that *Kahl* complained that Baltimore County should be estopped from preventing him from using his property to raise, breed and keep reptiles and snakes. He stated that it would be "fundamentally unfair" to not allow him to use the property for his business after he obtained permit approval and substantially constructed the reptile barn before he knew the Petitioners might file for a Special Hearing. The *Marzullo* Court cited *Lipsitz v. Parr* and *The Town of Berwyn Heights v. Rogers*, 228 Md. 271 (1962), to support its rejection of *Kahl's* argument. The Hearing Officer and Zoning Commissioner should likewise reject the argument of the Applicant in this case, accept the recent DEPRM comments and deny the Plan. All is required by law.

Fifth, finally the law (Code and Zoning Regulations) provided the Applicant with knowledge beginning in 2000, and certainly alerted him to the fact that a Forest Patch Map was one of the four (4) criteria required and that since it had not been done, it was incumbent upon him to ensure that DEPRM fulfilled its obligations before he submitted his Development Plan for

approval to the Hearing Officer. How can it be argued by the Applicant that he was surprised and blindsided at the last minute when the R.C. 6 law has been in existence and the Forest Patch Maps have been created all the way back to 2000. It is an argument that not only lacks substance, but is contrary to law.

It certainly cannot be contested that at §32-4-251(a)(1) and §32-4-251(b)(1) and (2) requires the approval of a primary conservancy area and a secondary conservancy area. It is also undisputed as testified by Lykens that the R.C. 6 Zone and the Baltimore County Zoning Regulations §1A07.2 defines the elements of a primary conservancy area and the Baltimore County Zoning Regulations §107.2, A through D defining primary conservancy area consists of Forest Patch Areas. Further, as testified by Lykens, DEPRM was required to create a Forest Patch Map and Area and prohibit development therein at R.C. 6 legislation.

WHEREFORE, Protestants submit while all of the above reasons that DEPRM's comments submitted at the Hearing Officer's Hearing on January 21, 2010, should be admitted and that as a result, the Development Plan should be **DENIED** which thereby also moots the need for further analysis under the Petition for Special Hearing to amend the previously approved Final Development Plan.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 2010, a copy of the foregoing Protestants Memorandum RE: DEPRM Hearing Officer's Comments on Forest Patch dated January 21, 2010, was mailed first class, postage pre-paid to the following:

Lawrence E. Schmidt, Esquire, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

from developer's exhibit in Z file

RC-6 SITE ANALYSIS:

PROPOSED PRIMARY CONSERVANCY AREA
SIZE: 0.8 ACRES
CONSISTS OF:
- FOREST BUFFERS
- STREAMS
- WETLANDS
- FLOODPLAINS
- X STEEP SLOPES
- FOREST PATCH
- X PRIORITY 1 FOREST (PER ECO-SCIENCE PROFESSIONALS, INC)
- HABITATS FOR ENDANGERED SPECIES

DENSITY CALULATION AREA:
11.6 GROSS AREA – 0.8 PRIMARY CONSERVANCY = 10.8 ACRES

PROPOSED SECONDARY CONSERVANCY AREA
SIZE: 5.5 ACRES
PERCENTAGE OF DENSITY CALCULATION AREA: 51%
CONSISTS OF:
- NATURAL OR CONSTRUCTED RESOURSES
- GREENWAYS
- X SCENIC VIEW SHEDS (0.6 ACRES OUTSIDE OF FCA)
- X FOREST CONSERVATION AREAS (5.7AC–0.8AC=4.9 ACRES)
- CULTIVATED AGRICULTURAL LAND
- AGRICULTURAL PERSERVATION EASEMENT
- HISTORICAL OR CULTURALLY SIGNIFICANT LAND OR FEATURES
- SPECIAL FEATURES

TOTAL CONSERVANCY AREA: 6.3 ACRES

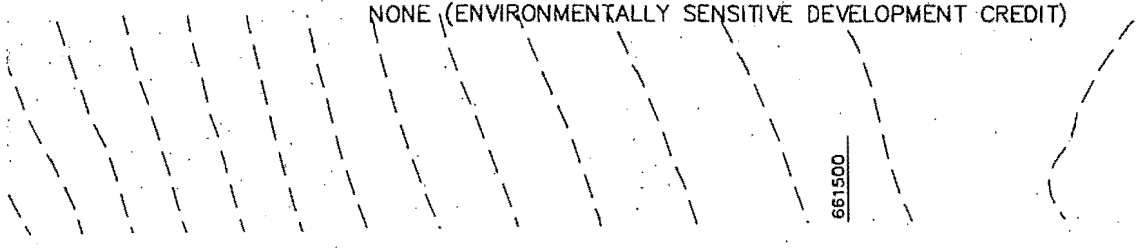
OWNERSHIP OF CONSERVANCY AREAS: OWNER LOT 4A

TOTAL FOREST CONSERVATION EASEMENT AREA: 5.7 ACRES

BUIDLING ENVELOPE:
LOT 4A: 20,000 SQUARE FEET
LOT 4B: 20,000 SQUARE FEET

MAXIMUM IMPERVIOUS COVERAGE:
LOT 4A: 35,041 SQUARE FEET
LOT 4B: 6,534 SQUARE FEET

STORMWATER MANAGEMENT FACILITY:
NONE (ENVIRONMENTALLY SENSITIVE DEVELOPMENT CREDIT)



Exh A

Cavalier

STERLING LEESE J CARROLL HOLZER PA <jcholzer@cavtel.net>

FW: Posey Property - Tufton Farms

1 message

Teresa Moore <moorevpc@comcast.net> **Thu, Jan 28, 2010 at 3:09 PM**
To: J Carroll Holzer <jcholzer@cavtel.net>

I can't remember if I sent this over, but just in case I didn't – below is confirmation that Planning has rescinded approval as well.

From: Pat Keller [mailto:pkeller@baltimorecountymd.gov]
Sent: Wednesday, January 27, 2010 1:49 PM
To: john sophocles
Cc: Larry Bortner; Teresa Moore
Subject: Re: Posey Property - Tufton Farms

Mr. Sophocles - Thank you for your email. For your information staff has found (as has DEPRM) that the proposed subdivision is located within a forest patch and therefore, staff will not support the minor subdivision. Pat Keller

Pat Keller
Director of Planning
pkeller@baltimorecountymd.gov
PH: 410.887.3211
Fax: 410.887.5862
105 W. Chesapeake Ave.
Suite 101
Towson, MD 21204

>>> john sophocles <j.sophocles@gmail.com> 1/27/2010 12:57 PM >>>
Mr. Keller,
My name is John Sophocles and along with Mr. Larry Bornter I am one of the community leaders - and long time property owners in the Tufton Farms Community - relating to the issues of the subdivision of properties within our community including the successful efforts in 2008 in the downzoning of approximately two hundred acres of The Tufton Farms Subdivision to RC6. The community appreciates the testimony of Lloyd Moxley at the January 21 hearing on the Posey Property. From what he said, it is our understanding that The Planning Office would be reviewing and possibly revising their position with regard to approval of the Prelimiary Site Analysis Plan.
As you may be aware, DEPRM has corrected an initial oversight and is now incorporating a required element, the forest patch, in their analysis and this substantially changes the Primary Conservancy Area determination. As a result, DEPRM has withdrawn their approval of the preliminary site analysis plan. The omission by DEPRM initially to consider the forest patch analysis was an unfortunate oversight by DEPRM that was corrected late in the process however, the finding is legitimate and we believe it should be conclusive over whether any properties should be subdivided.
Considering DEPRM's forest patch finding and the community's overwhelming support for the 2008 down zoning to RC6 we hope that The Planning Office will also adjust their approval and withdraw their initial approval of the site analysis plan for The Posey Property.

Exh B

We would appreciate your providing us with an update on Plannings position and a copy of any revised letter that may be issued.
Most Sincerely,
John Sophocles
2226 Tufton Ridge Rd.
Reisterstown, Md. 21136
410-771-9468
PS. Please excuse the initial incomplete message I sent to you. My error in sending it is merely a reflection of my lack of mulit-tasking skills.

1/29/10

RE: HEARING OFFICER'S HEARING	* BEFORE THE
John & Victoria Posey *Owners/Applicants*	* HEARING OFFICER/
	* ZONING COMMISSIONER
13101 Dover Road	* FOR
8th Election District 2nd Councilmanic District	* BALTIMORE COUNTY
	* **PDM No. 08-231**

* *

MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS

John and Victoria Posey, collectively the Owner/Applicant in the above captioned matter, by and through their attorneys, Lawrence E. Schmidt and Gildea and Schmidt, LLC, file this Memorandum in Opposition to Motion to Dismiss for the subject property and respectfully state:

FACTS

The Applicants are the owners of Lot Number 4 in the Tufton Farms subdivision. The Lot is a corner lot, situated at the northeast corner of the intersection of Dover Road and Tufton Ridge Road. The property is 11.431 acres in gross area (as measured to the center of the bed of adjacent public roads) and is zoned RC 6. It is improved by one single family detached dwelling, known as 13101 Dover Road. The development plan proposes this one lot being subdivided into two, with one lot being one and a half (1.5) acres, pursuant to the RC 6 standards, and the balance of the acreage remaining as the existing lot.

Prior to submitting a development plan for the property, the Posey's consultant (Kenneth J. Wells, surveyor) obtained approval of the acreage on the property that was identified as the Primary Conservancy Area ("PCA") from Department of Environmental Protection and Resource Management ("DEPRM") on April 21, 2009. After such approval, he submitted a site

analysis plan, which depicted the PCA and the Secondary Conservancy Area ("SCA"), to both DEPRM and the Office of Planning ("Planning"). By letter dated July 10, 2009, both Planning and DEPRM approved the submitted site analysis plan (the "SAP") pursuant to Baltimore County Code ("BCC") §§ 32-4-251 through 32-4-254.

After obtaining this approval, a Development Plan was filed with Baltimore County pursuant to directive of the DRC/PDM letter dated September 29, 2009. A Development Plan Conference was held on December 30, 2009, which identified no substantive issues regarding the PCA or the SAP. A Hearing Officer's Hearing was scheduled and held on January 21, 2010. At the hearing, no agency, save DEPRM, raised objections to the Development Plan. Planning's representative, Lloyd Moxley, testified that his agency approved the SAP and raised no other objections to the Development Plan. He stated that prior to the hearing; he was unaware of any change in DEPRM's position regarding the SAP.

On the day of the Hearing Officer's hearing David Lykens, representative of DEPRM, submitted a revised development plan comment which purported to withdraw approval of the SAP. This attempted reversal stems from DEPRM's decision to revise its Forest Patch Map, which also was presented to the Hearing Officer on the morning of the hearing. The reason that the SAP was purportedly revoked is that DEPRM enlarged the PCA by including additional forest patch area as shown on the new map. No testimony was provided by DEPRM regarding the unavailability of the forest patch data or its evaluation through the review process in 2009. Mr. Lykens did testify that the procedures contained in BCC Article 3, Title 7, which detail the procedures for adopting regulations, were not followed when DEPRM purportedly adopted the Forest Patch Map.

Based on Mr. Lykens' submittal, counsel for the Valleys Planning Council ("VPC") et al. moved to dismiss the case alleging lack of jurisdiction of the Hearing Officer. At the request of the Hearing Officer, this memorandum follows.

QUESTIONS PRESENTED

I. Does the Hearing Officer have jurisdiction over this matter given the attempted disapproval of the SAP by DEPRM?

II. Is DEPRM legally permitted to revoke its approval of the SAP?

III. Should DEPRM be able to rescind approval based on its determination of the PCA and forest patch area?

DISCUSSION

I. The Hearing Officer Retains Jurisdiction over the Development Plan regardless of DEPRM's Site Analysis Plan Action.

In addition to the arguments that demonstrate DEPRM cannot legally revoke its approval of the SAP, which will be set forth below, the Hearing Officer retains jurisdiction over the submitted Development Plan because the SAP has not been rejected by the Office of Planning. Section 32-4-254(b) of the BCC states that:

> If the Department of Environmental Protection and Resource Management *and* the Office of Planning disapprove the Site Analysis Plan, or if the applicant is unwilling to make any revisions required by the county, the applicant may, within 30 days after receiving notification from the county, appeal the decision to the Board of Appeals. [emphasis added]

The supplemental development plan comment submitted by Mr. Lykens at the hearing purports to disapprove the SAP, which was previously approved on July 10, 2009. Notwithstanding the contentions of VPC et al in their Motion to Dismiss, pursuant to the BCC, DEPRM's disapproval of the SAP is not sufficient to authorize an appeal to the Board of Appeals (the "Board"). The law requires that both Planning and DEPRM disapprove the plan or

that the applicant be unwilling to make any revisions required by Baltimore County. Planning, as confirmed by their representative Lloyd Moxley at the hearing, has not rejected the SAP. Simply stated, the appeal permitted by BCC § 32-4-254(b) is not ripe given that the conditions precedent to that right of appeal have not occurred.

Likewise, there are no "revisions" to the SAP required by the County. As the Hearing Officer explored during DEPRM's testimony, there have been no changes to the SAP requested by DEPRM, rather it has merely withdrawn its approval. As Mr. Lykens stated, DEPRM's objections cannot be cured by revisions to the plan. Therefore, neither condition exists to divest the Hearing Officer over jurisdiction of the Development Plan.

Moreover, as set out in Sections 32-4-251 through 32-4-254 of the Code, the development process for RC6 land is pursuant to a series of steps/stages, each building on the prior approval. The PCA is first approved, then the SCA, then the SAP. Only after those approvals can the development plan be filed. The development plan was filed and accepted in this case, evidencing the prior approvals and that those approvals were "final" and could thereafter not be changed.

II. DEPRM Is Not Able to Revoke Its Approval of the Site Analysis Plan.

a. The Site Analysis Plan Approval is Final

Because there was no appeal of the SAP within 30 days of its approval, the approval is final and cannot be rescinded. The authority to file appeals of decisions made by Baltimore County is set out in Section 602 of the Baltimore County Charter. Therein, Section 602(d) provides for the jurisdiction of the Board of Appeals and states that "[t]he county board of appeals shall hear and decide appeals from all other administrative and adjudicatory orders as may from time to time be provided by Article 25A of the Annotated Code of Maryland (1957 Edition), as amended, or by legislative act of the county council not inconsistent therewith."

Section 5(U) of Article 25A states that the Board has the ability to hear "an application for a zoning variation or exception or amendment of a zoning ordinance map; the *issuance*, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, *approval*, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order" (emphasis added). Pursuant to BCC § 3-5-104(c), all appeals to the Board must be filed within thirty (30) days of when the appealable action was taken.

The action taken by both Planning and DEPRM was the issuance of an approval of the SAP via letter dated July 10, 2009. This action is clearly an appealable event, pursuant to the BCC and the Annotated Code of Maryland Article 25A § 5U. Because the approval of the SAP could have been appealed to the Board, the failure to appeal it constitutes a waiver of any right to now challenge its legitimacy. As neither DEPRM, Planning, the Protestants, nor any other party filed any appeal of the approval, the action is not capable of now being challenged in this, or any other, venue. The Hearing Officer should find that the SAP approval cannot be revoked and proceed on the merits of the Development Plan.

b. The Surrounding Circumstances Do Not Permit DEPRM to Revoke its Approval

If the Hearing Officer disagrees with Applicant and finds that DEPRM may lawfully amend, modify or revoke its prior decision, there remain limitations to the circumstances in which this can be done. DEPRM has not alleged it mistakenly granted approval, nor has there been a changed factual circumstance regarding the property since the prior approval. The property exists as it did in 2009. The sole reason to revoke is that DEPRM has impermissibly changed its mind. There is no statute in the BCC which permits DEPRM to rescind or reconsider its previous approval. In the absence of any statute permitting reconsideration, the courts have permitted agencies to correct errors caused by fraud, surprise, mistake, inadvertence or that some

new factual situation exists that justifies a different conclusion. See *Calvert County Planning Comm. V. Howlin Realty Management*, 364 Md. 301 (2001), 323, quoting *Zoning Appeals Board v. McKiney*, 174 Md. 551 (1938). The proponent seeking to overturn the previous decision has the burden to produce evidence to support the reversal. *See Kay Construction Co. v. County Council for Montgomery County*, 227 Md. 479, 483 (1962). A reversal is not permitted based upon the mere change of mind on the part of the agency. (See *Howlin*, 364 Md. at 325).

i. The DEPRM Map Has Not Been Properly Adopted.

The Hearing Officer should find that DEPRM has not properly adopted its Forest Patch Map, and therefore, is unable to rescind its approval of the SAP. Section 1A07.2 in the BCZR provides definitions of the terms used in the R.C. 6 regulations. It defines Forest Patch Area as, "[a]n area of land comprised of at least 200 contiguous acres of forest overlaying a stream system, as designated on a forest patch map *adopted* by the Department of Environmental Protection and Resource Management" (emphasis added). According to BCC § 3-7-101, "regulation" means a statement of county government that, "(1) has general application; (2) has future effect; (3) details or carries out a law that the county government administers; and (4) is in any form including:(i) a requirement; (ii) a standard; (iii) a statement of interpretation; or (iv) a statement of policy." Pursuant to BCC § 3-7-205 a new regulation or change to existing regulation must be submitted to the Baltimore County Attorney for approval as to form and legal sufficiency. The regulation is also required to have public notice and a public hearing held by the department proposing such adoption. BCC § 3-7-206. After public hearing, the county has the option to amend the regulation. BCC § 3-7-207(a). Assuming the regulation is then adopted, is must again be submitted to the County Attorney and then made available to the public. BCC § 3-7-207(d).

The Forest Patch Map constitutes a "regulation" as it meets the four criteria laid out in that definition within the BCC. First, it has general application and is not specific to one particular property. The map depicts forest patches throughout Baltimore County. Second, the Forest Patch Map is to have future effect and is not limited to the specific circumstances dealt with in the Development Plan. Third, it is part of the zoning laws, which are administered by Baltimore County. Fourth and finally, it is in the form of a map, which satisfies the requirement that the regulation be in "any form".

Because the Forest Patch Map is a regulation, DEPRM was required to follow the policies and procedures set forth in the BCC for proper adoption. As noted above, Mr. Lykens testified that the only reason that the prior approval was to be withdrawn was because of DEPRM's preparation and purported adoption of a new "Forest Patch Map" in January 2010. Mr. Lykens also testified that the map had not been submitted to the County Attorney, no notice has been published and no public hearing has been held. None of the procedures set forth in the BCC Article 3, Title 7 were followed by DEPRM when it purportedly "adopted" the map. Because the procedures have not been followed, the map introduced at the morning of the hearing is not a valid regulation and is of no effect. As the forest patch area is determined based on an adopted map, pursuant to Baltimore County Zoning Regulations ("BCZR") § 1A07.2, there has been no change to the forest patch area from that shown on the prior Forest Patch Map upon which DEPRM relied in 2009. Therefore, DEPRM, in its original evaluation of the SAP (which led to its approval) utilized the then existing Forest Patch Map, as well as the PCA and SCA. The facts surrounding the SAP today are identical to the facts when the SAP was approved by DEPRM. Consequently, the Hearing Officer should find it is impermissible for DEPRM to change its mind and revoke its prior approval.

ii. DEPRM's Disapproval Is Not Based Upon New Information.[1]

Assuming *arguendo* the Forest Patch Map has properly been adopted; nonetheless DEPRM cannot revoke its prior approval because it would constitute an impermissible change in mind. In granting its original approval, DEPRM carefully analyzed the Posey property through field investigations and other means. DEPRM representatives worked closely with Mr. Wells in gathering the necessary information to establish the PCA. Any previous Forest Patch Maps, applicable forest buffers, priority one forests and habitats of endangered species were evaluated to determine the PCA. DEPRM has not alleged that this process was not done in a diligent and competent fashion during the PCA and SAP approval process in 2009.

Furthermore, no testimony or evidence has been presented by DEPRM that the underlying data used to create the updated Forest Patch Map was unavailable or unevaluated either when DEPRM first approved the PCA in April of 2009, when DEPRM and Planning approved the SAP in July of 2009, or even when development plan comments were prepared and submitted on December 30, 2009. The data on which DEPRM's new Forest Patch Map was based was available for evaluation during each stage of the approval and comment process. This is clearly shown by the fact that the updated Forest Patch Map uses data gathered by aerial photography in the Spring of 2008. Additionally, no testimony or evidence has been presented that data was evaluated improperly.

Given the fact the data was available (and not mistakenly evaluated), that leaves two scenarios: either (i) data was available and evaluated by DEPRM, or (ii) the data was available but intentionally not used. Under either of these scenarios, the rescission of the previous approval constitutes an impermissible change of mind. Under the first scenario, DEPRM has utilized and

[1] DEPRM has not alleged that there was any fraud, mistake, inadvertence in approving the Site Analysis Plan. Rather the sole premise is that an updated Forest Patch Map has been adopted; therefore, these arguments need not be addressed.

evaluated the exact same data two separate times and come to two different conclusions about the forest patch area and PCA. This is the essence of a mere change of mind shown to be impermissible by the Courts. The second scenario is equally as impermissible, as the decision not to utilize available forest patch data to establish the PCA was a choice made by DEPRM. Its reversal of this choice is unsupported by any stated reasoning or logic. Accordingly, the Hearing Officer should find that DEPRM is not permitted to reverse its prior decision, as doing so would constitute a mere change of mind.

III. DEPRM's Newly Adopted Map Incorrectly Depicts the Forest Patch.

a. The PCA Does Not Contain All Four Necessary Criteria

The Hearing Officer should find that DEPRM's revision of its Forest Patch Map is a moot action, which does not affect the PCA, and hence the SAP. The definition of Primary Conservancy Area is listed in BCZR § 1A07.2 as "[a]n area comprised of natural resources protected from disturbance by development. A primary conservancy area consists of, A. The forest buffer...B. Forest patch areas; C. Priority one forests; *and* D. Habitats of endangered species..." (emphasis added). The word "and" is defined in Webster's Dictionary, as "used as a function word or addition, especially of items within the same class or type." The definition of Primary Conservancy Area does not say that "only one", "any", "or" the elements need exist but that each "and" the others must exist.

In order to be a primary conservancy area according to the BCZR definition, the area must consist of each and every of (i) forest buffers, (ii) forest patch areas, (iii) priority one forests *and* (iv) habitat for endangered species. Based on the testimony of Mr. Lykens at the hearing, it is clear that the PCA approved by DEPRM does not consist of all four of these items,

rather it contained only forest patch areas.[2] In seeking to revise the PCA based on additional forest patch areas, the PCA will still not contain any forest buffer or habitat for endangered species. Therefore, whether or not there are forest patch areas on the property is a moot point because this does not substantively affect the previously approved PCA or the SAP. The Hearing Officer should find that the revisions to the Forest Patch Map are moot as it imparts no substantive change on the PCA, and hence the SAP.

b. The Forest Patch Area Cannot Exist Outside of the RC 6 Zone

The area determined to be the forest patch area should consist of only areas that are zoned RC 6. "Forest patch area" is defined in the BCZR §1A07.2 as "an area of land comprised of at least 200 contiguous acres of forest overlaying a stream system as designated on a Forest Patch Map adopted by [DEPRM]". The forest patch is not utilized in other Rural Conservation zones (or any other zones) and only has effect within the RC 6 zone. The Forest Patch Map offered at the hearing fails to show at least 200 contiguous acres of forest patch within an RC6 zone and is, on its face, incorrect.

In order to show a contiguous 200 acre area of forest in an attempt to meet the definition of a forest patch, DEPRM improperly utilizes areas zoned RC2 and RC 4. This approach is disingenuous and contrary to the BCZR. The only area in which a forest patch may exist is when located within the RC 6 zone. There is no binding or meaningful effect of a forest patch area outside of the RC 6 zone. Logically, a forest patch cannot exist outside of the RC6 zone. Moreover, when areas outside the RC 6 zone are utilized as part of the forest patch, there is no assurance that such forest will remain or be protected. Utilizing these current forests without any

[2] Mr. Lykens testified that the Posey lot did not contain any forest buffers or endangered species. He was unsure about the existence of any priority one forests and "thought" the sole criteria satisfied was the forest patch area.

evaluation of their longevity or protected status appears to be a whimsical and fleeting approach to forest patch determination, rather than one that could be counted as lasting and meaningful.

The entire RC 6 zoned land in the Tufton area constitutes approximately 135 acres. According to the new DEPRM Forest Patch Map, most of the zone is shown within a forest patch area; however, the forest patch proposed by DEPRM could be totally eliminated due to nearby owners, outside of the RC 6, dedicating their property for farming, logging or other purposes that may require deforestation. Furthermore, when looking at the RC 6 areas on the Forest Patch Map, it is evident the subject property's forest is not contiguous to other RC 6 forested areas. Thus, the forest should not be considered "contiguous" as required by the BCZR. Therefore, the proper reading of the BCZR would be to limit the forest patch areas to existing only within RC 6 zone because there would be assurance that these areas would be protected. Given this is the case, there should be no forest patch over the subject property (as it is less than 200 acres), and the SAP and Development Plan properly depict the PCA.

c. The Zoning Commissioner's authority to address this issue

As is well settled (*See* e.g. BCZR § 500.7), the Zoning Commissioner is the arbitrator of the zoning regulations. The arguments offered herein above are premised on the fact that the Zoning Commissioner must and shall interpret the provisions of the BCZR. The regulations at issue, although of an environmental character, are not contained in Article 33 of the BCC. Whether the Forest Patch Map was properly "adopted," whether "and" means all or one and whether a forest patch area can exist outside of the R.C. 6 zones all require the Zoning Commissioner to interpret the Zoning Regulations. What Mr. Lykens or Mr. Jacobson may think these regulations say is not dispositive. Again, as zoning, not environmental regulations, it is solely within the province of the Commissioner to rule upon their meaning.

CONCLUSION

Based upon the foregoing, as well as the testimony and evidence offered at the public hearing on this matter, the Applicant requests that:

1. DEPRM's attempt to rescind its prior approval of the SAP be denied; and
2. Protestant's Motion to Dismiss be denied; and
3. That the Hearing Officer's Hearing be scheduled for further proceedings to consider the Development Plan.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
410-821-0070
Attorney for Developer/Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of **January, 2010**, a copy of the foregoing Memorandum in Opposition to Motion to Dismiss was mailed first-class, pre-paid postage to:

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204
Attorney for Protestants



LAWRENCE E. SCHMIDT

1/29/10

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

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

January 29, 2010

Sent via Hand Delivery
Mr. Thomas H. Bostwick
Hearing Officer/Deputy Zoning Commissioner
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

RECEIVED
JAN 29 2010
ZONING COMMISSIONER

Re: Wells/13101 Dover Road (Posey Property)
Case No.: 07-470-SPH

Dear Commissioner Bostwick:

Per your request at the Hearing Officer's Hearing on January 21, 2010, please find enclosed the Applicants' Memorandum in Opposition to Motion to Dismiss in the above referenced matter.

Thank you for your consideration of this matter.

Very truly yours,

Lawrence E. Schmidt

LES: jkl
CC: Mr. Kenneth J. Wells, KjWellsInc.
J. Carroll Holzer, Esquire, Holzer & Lee

4/2/09

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE COUNTY
The application of John & Victoria Posey - Legal Owners/Petitioners for Special Hearing on property located at 13101 Dover Road	*	BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
8th Election District 2nd Councilmanic District	*	Case No. 07-470-SPH

* *

OPINION AND ORDER TO REMAND

This matter comes before the County Board of Appeals of Baltimore County arising from an appeal of the Deputy Zoning Commissioner's decision dated October 17, 2007, granting the applicant's Petition for Special Hearing pursuant to Baltimore County Zoning Regulations ("BCZR") § 500.7 to approve an amendment to the Final Development Plan ("FDP") entitled "Tufton Farms" (PDM No. VIII-231) so as to permit the re-subdivision of lot 4, plat 1, section 2 into three lots in accordance with BCZR §§ 1A00.4 and 1B01.3 and 1B01.3.a.7.c of the Zoning Commissioner's Policy Manual and, further, approving the non-density transfer and lot line adjustment from lot 4, plat 4, section 2 of the FDP entitled "Tufton Farms" (PDM No. VIII-231) to lot 3, plat 1, section 2 of the same, which does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with Baltimore County Code § 32-4-106(A)(8).

The matter came in for a public de novo hearing before the Board on July 23, 2008 and then abbreviated proceedings on September 16, 2008. Kenneth Wells, developer of the site and a professional land surveyor, appeared and testified in support of the petition and was represented by Lawrence E. Schmidt, of the law firm of Gildea & Schmidt, LLC. The Office of People's Counsel for Baltimore County participated in the proceedings and was represented by Peter Max Zimmerman, Esquire. Also appearing at the hearing was J. Carroll Holzer of the law firm Holzer

& Lee on behalf of Valley Planning Council and several individual residents (Larry and Janice Bortner, Dick and Fran Yazel, John Sophocleus, Mary Buckley, and Don and Sharon Schline) of the locale who oppose the requested relief. Those in attendance are reflected in the sign-in sheets which were circulated at the hearing and are maintained in the Board's case file.

The subject property under consideration is known as 13101 Dover Road and is shown on the record plat of Tufton Farms, Section 2; as lot 4. As originally created by the developer of Tufton Farms, lot 4 was approximately 10.2 acres in area. At the time of the filing of the Petition for Special Hearing, the property was zoned R.C. 5. The property is improved with one single family detached dwelling which formally was occupied by the property owners, John and Victoria Posey. However, it was indicated that Mr. Posey, for reasons of employment, has relocated to New Orleans, Louisiana and the dwelling is presently vacant. Under the instant Petition, the Posey's proposed a subdivision of their lot into three separate lots. As shown on the plat to accompany the Petition for Special Hearing, the new lots are shown as proposed lot 4A (3.5 +/- acres), lot 4B (2.5 +/-) lot and 4C (3.4 +/- acres). The Petitioner also sought to legitimize a prior conveyance of a portion of lot 4 to accommodate a driveway on an adjacent lot (lot 3) owned by Joseph Fell.

BCZR § 1B01.3 requires that a FDP for an approved residential subdivision shall be submitted to Baltimore County for those subdivisions in the D.R. zone. BCZR § 1B01.3(A)(7) provides that amendments may be permitted to an approved FDP. Specifically, an amendment can be considered and approved through a Petition for Special Hearing and a public hearing. Moreover, BCZR § 1A00.4 provides that those regulations relating to final development plans and the amendments thereto prescribed under BCZR § 1B01.3 shall include subdivisions in the

R.C. zones. Thus, in order to permit the subdivision of the Posey lot, the FDP for Tufton Farms Section 2 need be amended.

As noted above, the first hearing date for this matter was conducted on July 23, 2008 and the matter was then scheduled for further proceedings on September 16, 2008. However, during the intervening period between hearings, the matter was identified to be a part of a rezoning request by the Valley Planning Council. Specifically, as part of Baltimore County's Comprehensive Zoning Map Process for 2008, Valley Planning Council sought rezoning of the subject property from R.C. 5 to R.C. 6. (See 2008 CZMP Issue No. 02-35).

All issues identified in the 2008 CZMP were approved by vote of the Baltimore County Council on August 26, 2008. By legislation approved on that date, the Council approved the rezoning of the property. The rezoning of the property has significant implications upon the requested amendment to the FDP. Deputy Zoning Commissioner Bostwick's approval was appealed and the Board has not completed its de novo hearing.

At the time the parties resumed the hearing on September 16, 2008, counsel for the Petitioners moved that this matter be remanded to the Office of the Zoning Commissioner. The justification for this Motion is that an amendment to the FDP might still be contemplated by the Petitioners, however, the amendment would be significantly different (due to rezoning) than that approved by Deputy Commissioner Bostwick and considered by the Board on the first hearing date of July 23, 2008. Due to the anticipated differences to the amendment it was argued that a remand to the Zoning Commissioner's office was appropriate for consideration of a modified amendment. People's Counsel and counsel for the Protestants did not oppose the Motion.

In our judgment, the Motion should be granted. From a procedural standpoint, a grant of the Motion will enable the Petitioner to modify its proposed amendment as required by law. A

copy of any amended FDP shall be furnished to the Office of People's Counsel and counsel for the Protestants when re-filed with the Zoning Commissioner. Additionally, the Zoning Commissioner will circulate any amended plan for review and comment by appropriate County agencies and convene a public hearing to provide all parties with the opportunity to comment on the amendment. For the aforesaid reasons, the Petitioner's Motion shall be GRANTED.

IT IS THEREFORE ORDERED, this 2nd day of April, 2009 by the Board of Appeals of Baltimore County that the Petitioner's Motion to Remand this matter to the Office of the Zoning Commissioner be and is hereby GRANTED, consistent with the comments herein above; and it is further

ORDERED that this case be and is hereby REMANDED to the Zoning Commissioner for further proceedings in light of the legislative rezoning of the property from RC-5 to RC-6.

Any Petition for Judicial Review for this decision must be made in accordance with Rule 7-201-7-210 of the Maryland Rules.

Edward W. Crizer, Jr.
Acting Chairman

Andrew M. Belt

Maureen Murphy

4/2/09

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

RECEIVED

APR 02 2009

ZONING COMMISSIONER

April 2, 2009

Lawrence E Schmidt Esquire
Gildea & Schmidt Llc
600 Washington Avenue
Suite 200
Towson Md 21204

Re: IN THE MATTER OF: *JOHN AND VICTORIA POSEY* – Legal Owner
Case No.: 07-470-SPH

Dear Mr. Schmidt:

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

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

Very truly yours,

Theresa R. Shelton
Administrator

/trs

Enclosure: Opinion

c (w/Encl.): J. Carroll Holzer, Esquire
VPC /Teresa Moore, Executive Director
Larry & Janice Bortner Fran & Richard Yeazel Martin Buckley
John Sophocles Don Schline John B. and Victoria K. Posey
Kenneth J. Wells /Wells Development Corp. /C.P. and Consultant
Thomas A. Church, P.E. /Development Eng. Consultants

People's Counsel for Baltimore County
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO: Ed
Maureen
Andy

DATE: March 16, 2009

FROM: Theresa

RE: Posey – Remand Order

Attached is a Remand Order prepared by Mr. Schmidt and reviewed by all Counsel for the case to be remanded to the Zoning Commissioner.

Please return to me upon your signature, so I can pass it along.

Thank you.
T ☺

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE COUNTY
The application of John & Victoria Posey - Legal Owners/Petitioners for Special Hearing on property located at 13101 Dover Road	*	BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
8th Election District 2nd Councilmanic District	*	Case No. 07-470-SPH

* *

OPINION

This matter comes before the County Board of Appeals of Baltimore County arising from an appeal of the Deputy Zoning Commissioner's decision dated October 17, 2007, granting the applicant's Petition for Special Hearing pursuant to Baltimore County Zoning Regulations ("BCZR") § 500.7 to approve an amendment to the Final Development Plan ("FDP") entitled "Tufton Farms" (PDM No. VIII-231) so as to permit the re-subdivision of lot 4, plat 1, section 2 into three lots in accordance with BCZR §§ 1A00.4 and 1B01.3 and 1B01.3.a.7.c of the Zoning Commissioner's Policy Manual and, further, approving the non-density transfer and lot line adjustment from lot 4, plat 4, section 2 of the FDP entitled "Tufton Farms" (PDM No. VIII-231) to lot 3, plat 1, section 2 of the same, which does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with Baltimore County Code § 32-4-106(A)(8).

The matter came in for a public de novo hearing before the Board on July 23, 2008 and then abbreviated proceedings on September 16, 2008. Kenneth Wells, developer of the site and a professional land surveyor, appeared and testified in support of the petition and was represented by Lawrence E. Schmidt, of the law firm of Gildea & Schmidt, LLC. The Office of People's Counsel for Baltimore County participated in the proceedings and was represented by Peter Max Zimmerman, Esquire. Also appearing at the hearing was J. Carroll Holzer of the law firm Holzer

& Lee on behalf of Valley Planning Council and several individual residents (Larry and Janice Bortner, Dick and Fran Yazel, John Sophocleus, Mary Buckley, and Don and Sharon Schline) of the locale who oppose the requested relief. Those in attendance are reflected in the sign-in sheets which were circulated at the hearing and are maintained in the Board's case file.

The subject property under consideration is known as 13101 Dover Road and is shown on the record plat of Tufton Farms, Section 2; as lot 4. As originally created by the developer of Tufton Farms, lot 4 was approximately 10.2 acres in area. At the time of the filing of the Petition for Special Hearing, the property was zoned R.C. 5. The property is improved with one single family detached dwelling which formally was occupied by the property owners, John and Victoria Posey. However, it was indicated that Mr. Posey, for reasons of employment, has relocated to New Orleans, Louisiana and the dwelling is presently vacant. Under the instant Petition, the Posey's proposed a subdivision of their lot into three separate lots. As shown on the plat to accompany the Petition for Special Hearing, the new lots are shown as proposed lot 4A (3.5 +/- acres), lot 4B (2.5 +/-) lot and 4C (3.4 +/- acres). The Petitioner also sought to legitimize a prior conveyance of a portion of lot 4 to accommodate a driveway on an adjacent lot (lot 3) owned by Joseph Fell.

BCZR § 1B01.3 requires that a FDP for an approved residential subdivision shall be submitted to Baltimore County for those subdivisions in the D.R. zone. BCZR § 1B01.3(A)(7) provides that amendments may be permitted to an approved FDP. Specifically, an amendment can be considered and approved through a Petition for Special Hearing and a public hearing. Moreover, BCZR § 1A00.4 provides that those regulations relating to final development plans and the amendments thereto prescribed under BCZR § 1B01.3 shall include subdivisions in the

R.C. zones. Thus, in order to permit the subdivision of the Posey lot, the FDP for Tufton Farms Section 2 need be amended.

As noted above, the first hearing date for this matter was conducted on July 23, 2008 and the matter was then scheduled for further proceedings on September 16, 2008. However, during the intervening period between hearings, the matter was identified to be a part of a rezoning request by the Valley Planning Council. Specifically, as part of Baltimore County's Comprehensive Zoning Map Process for 2008, Valley Planning Council sought rezoning of the subject property from R.C. 5 to R.C. 6. (See 2008 CZMP Issue No. 02-35).

All issues identified in the 2008 CZMP were approved by vote of the Baltimore County Council on August 26, 2008. By legislation approved on that date, the Council approved the rezoning of the property. The rezoning of the property has significant implications upon the requested amendment to the FDP. Deputy Zoning Commissioner Bostwick's approval was appealed and the Board has not completed its de novo hearing.

At the time the parties resumed the hearing on September 16, 2008, counsel for the Petitioners moved that this matter be remanded to the Office of the Zoning Commissioner. The justification for this Motion is that an amendment to the FDP might still be contemplated by the Petitioners, however, the amendment would be significantly different (due to rezoning) than that approved by Deputy Commissioner Bostwick and considered by the Board on the first hearing date of July 23, 2008. Due to the anticipated differences to the amendment it was argued that a remand to the Zoning Commissioner's office was appropriate for consideration of a modified amendment. People's Counsel and counsel for the Protestants did not oppose the Motion.

In our judgment, the Motion should be granted. From a procedural standpoint, a grant of the Motion will enable the Petitioner to modify its proposed amendment as required by law. A

copy of any amended FDP shall be furnished to the Office of People's Counsel and counsel for the Protestants when re-filed with the Zoning Commissioner. Additionally, the Zoning Commissioner will circulate any amended plan for review and comment by appropriate County agencies and convene a public hearing to provide all parties with the opportunity to comment on the amendment. For the aforesaid reasons, the Petitioner's Motion shall be GRANTED.

Therefore it is this ____ day of _____, 2009 by the County Board of Appeal of Baltimore County:

ORDERED that the Petitioner's Motion to remand this matter to the Office of the Zoning Commissioner be and is hereby GRANTED consistent with the comments herein above.

Any Petition for Judicial Review for this decision must be made in accordance with Rule 7-201-7-210 of the Maryland Rules.

Edward W. Crizer, Jr.
Acting Chairman

Andrew M. Belt

Maureen Murphy

3/24/09

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 24, 2009

HAND DELIVERED
Theresa Shelton, Administrator
County Board of Appeals
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RECEIVED
MAR 24 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Re: John & Victoria Posey
Case No.: 07-470-SPH

Dear Mrs. Shelton

Upon review of the proposed Opinion and Order submitted by Lawrence E. Schmidt, I suggest and ask that on Page 4, the Order should add the following language, "and ORDERED that this case be and is hereby REMANDED to the Zoning Commissioner for further proceedings in light of the legislative rezoning of the property from RC-5 to RC-6." In addition, I suggest that the title on Page 1 read "Opinion and Order to Remand".

I have spoken with Mr. Schmidt on the telephone, and it is my impression that he does not oppose this clarification. I have been unable to reach Mr. Holzer. This letter is being faxed to both of their offices.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Lawrence E. Schmidt, Esquire via first class mail and fax
J. Carroll Holzer, Esquire via first class mail and fax

3/3/09

DRAFT

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE COUNTY
The application of John & Victoria Posey - Legal Owners/Petitioners for Special Hearing on property located at 13101 Dover Road	*	BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
8th Election District 2nd Councilmanic District	*	Case No. 07-470-SPH

* *

OPINION

This matter comes before the County Board of Appeals of Baltimore County arising from an appeal of the Deputy Zoning Commissioner's decision dated October 17, 2007, granting the applicant's Petition for Special Hearing pursuant to Baltimore County Zoning Regulations ("BCZR") § 500.7 to approve an amendment to the Final Development Plan ("FDP") entitled "Tufton Farms" (PDM No. VIII-231) so as to permit the re-subdivision of lot 4, plat 1, section 2 into three lots in accordance with BCZR §§ 1A00.4 and 1B01.3 and 1B01.3.a.7.c of the Zoning Commissioner's Policy Manual and, further, approving the non-density transfer and lot line adjustment from lot 4, plat 4, section 2 of the FDP entitled "Tufton Farms" (PDM No. VIII-231) to lot 3, plat 1, section 2 of the same, which does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with Baltimore County Code § 32-4-106(A)(8).

The matter came in for a public de novo hearing before the Board on July 23, 2008 and then abbreviated proceedings on September 16, 2008. Kenneth Wells, developer of the site and a professional land surveyor, appeared and testified in support of the petition and was represented by Lawrence E. Schmidt, of the law firm of Gildea & Schmidt, LLC. The Office of People's Counsel for Baltimore County participated in the proceedings and was represented by Peter Max Zimmerman, Esquire. Also appearing at the hearing was J. Carroll Holzer of the law firm Holzer & Lee on behalf of Valley Planning Council and several individual residents (Larry and Janice

Bortner, Dick and Fran Yazel, John Sophocleus, Mary Buckley, and Don and Sharon Schline) of the locale who oppose the requested relief. Those in attendance are reflected in the sign-in sheets which were circulated at the hearing and are maintained in the Board's case file.

The subject property under consideration is known as 13101 Dover Road and is shown on the record plat of Tufton Farms, Section 2; as lot 4. As originally created by the developer of Tufton Farms, lot 4 was approximately 10.2 acres in area. At the time of the filing of the Petition for Special Hearing, the property was zoned R.C. 5. The property is improved with one single family detached dwelling which formally was occupied by the property owners, John and Victoria Posey. However, it was indicated that Mr. Posey, for reasons of employment, has relocated to New Orleans, Louisiana and the dwelling is presently vacant. Under the instant Petition, the Posey's proposed a subdivision of their lot into three separate lots. As shown on the plat to accompany the Petition for Special Hearing, the new lots are shown as proposed lot 4A (3.5 +/- acres), lot 4B (2.5 +/-) lot and 4C (3.4 +/- acres). The Petitioner also sought to legitimize a prior conveyance of a portion of lot 4 to accommodate a driveway on an adjacent lot (lot 3) owned by Joseph Fell.

BCZR § 1B01.3 requires that a FDP for an approved residential subdivision shall be submitted to Baltimore County for those subdivisions in the D.R. zone. BCZR § 1B01.3(A)(7) provides that amendments may be permitted to an approved FDP. Specifically, an amendment can be considered and approved through a Petition for Special Hearing and a public hearing. Moreover, BCZR § 1A00.4 provides that those regulations relating to final development plans and the amendments thereto prescribed under BCZR § 1B01.3 shall include subdivisions in the R.C. zones. Thus, in order to permit the subdivision of the Posey lot, the FDP for Tufton Farms Section 2 need be amended.

As noted above, the first hearing date for this matter was conducted on July 23, 2008 and the matter was then scheduled for further proceedings on September 16, 2008. However, during the intervening period between hearings, the matter was identified to be a part of a rezoning request by the Valley Planning Council. Specifically, as part of Baltimore County's Comprehensive Zoning Map Process for 2008, Valley Planning Council sought rezoning of the subject property from R.C. 5 to R.C. 6. (See 2008 CZMP Issue No. 02-35).

All issues identified in the 2008 CZMP were approved by vote of the Baltimore County Council on August 26, 2008. By legislation approved on that date, the Council approved the rezoning of the property. The rezoning of the property has significant implications upon the requested amendment to the FDP. Deputy Zoning Commissioner Bostwick's approval was appealed and the Board has not completed its de novo hearing.

At the time the parties resumed the hearing on September 16, 2008, counsel for the Petitioners moved that this matter be remanded to the Office of the Zoning Commissioner. The justification for this Motion is that an amendment to the FDP might still be contemplated by the Petitioners, however, the amendment would be significantly different (due to rezoning) than that approved by Deputy Commissioner Bostwick and considered by the Board on the first hearing date of July 23, 2008. Due to the anticipated differences to the amendment it was argued that a remand to the Zoning Commissioner's office was appropriate for consideration of a modified amendment. People's Counsel and counsel for the Protestants did not oppose the Motion.

In our judgment, the Motion should be granted. From a procedural standpoint, a grant of the Motion will enable the Petitioner to modify its proposed amendment as required by law. A copy of any amended FDP shall be furnished to the Office of People's Counsel and counsel for the Protestants when re-filed with the Zoning Commissioner. Additionally, the Zoning Commissioner will circulate any amended plan for review and comment by appropriate County

agencies and convene a public hearing to provide all parties with the opportunity to comment on the amendment. For the aforesaid reasons, the Petitioner's Motion shall be GRANTED.

Therefore it is this ____ day of _____, 2009 by the County Board of Appeal of Baltimore County:

ORDERED that the Petitioner's Motion to remand this matter to the Office of the Zoning Commissioner be and is hereby GRANTED, consistent with the comments herein above.

Any Petition for Judicial Review for this decision must be made in accordance with Rule 7-201-7-210 of the Maryland Rules.

Edward W. Crizer, Jr.
Acting Chairman

Andrew M. Belt

Maureen Murphy

GILDEA & SCHMIDT, LLC

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

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

RECEIVED
MAR - 5 2009
BALTIMORE COUNTY
BOARD OF APPEALS

March 3, 2009

Ms. Theresa R. Shelton
County Board of Appeals of Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: In the Matter of: John and Victoria Posey
Case No. 07-470-SPH

Dear Ms. Shelton:

Please find enclosed a proposed Opinion and Order remanding the above matter. This was requested by the Board at the conclusion of its hearing of this matter on September 16, 2008.

I apologize for the delay in submitting this to the Board. I have forwarded a copy to Mr. Zimmerman and Mr. Holzer for their comment and edit (if any).

Please contact me if you have nay questions regarding this matter.

Very truly yours,

Lawrence E. Schmidt

LES: jk
Enclosure
CC: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
J. Carroll Holzer, Esquire, Holzer & Lee
Kenneth J. Wells, KjWellsInc.

11/5/07

IN RE: PETITION FOR SPECIAL HEARING E side of Dover Road, 25 feet N of Tufton Ridge Road **(13101 Dover Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
8th Election District 2nd Councilmanic District John B. & Victoria K. Posey Petitioners & Legal Owners Wells Development Corporation Contract Purchaser	*	Case No.: 07-470-SPH

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

NOTICE OF APPEAL

THE VALLEYS PLANNING COUNCIL, TERESA MOORE, EXECUTIVE DIRECTOR, P.O. BOX 5402, TOWSON, MD 21204, and individuals LARRY & JANICE BORTNER, 2308 TUFTON RIDGE ROAD, REISTERSTOWN, MD 21136; FRAN & RICHARD YEAZEL, 2314 TUFTON RIDGE ROAD, GLYNDON, MD 21071; MARTIN BUCKLEY, 2222TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136; JOHN SOPHOCLES, 2226 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136; AND DON SCHLINE, 2303 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136, Appellants in the above captioned matter, by and through their attorney, J. Carroll Holzer, P.A., feeling aggrieved by the decision of the Deputy Zoning Commissioner in Case No. 07-470-SPH, hereby note an appeal to the County Board of Appeals from Findings of Fact and Conclusions of Law dated October 17, 2007 attached hereto, and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is Appellants' check made payable to Baltimore County to cover the costs of the appeal. Appellants were parties below and fully participated in the proceedings.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

RECEIVED
NOV 05 2007
Per.....

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of November, 2007, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to Lawrence Schmidt, Esquire, Gildea & Schmidt, LLC, 600 Washington Ave., Suite 200, Towson, MD 21204; County Board of Appeals, Basement Old Court House, 400 Washington Ave., Towson, MD 21204; and People's Counsel for Baltimore County, Basement, Old Courthouse, 400 Washington Ave., Towson, M, 21204.

J. CARROLL HOLZER, Esquire

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

C:\My Docs\Notices 2007\Bortner-Posey CBA 11-2-07

IN RE: PETITION FOR SPECIAL HEARING E side of Dover Road, 25 feet N of Tufton Ridge Road **(13101 Dover Road)** 8th Election District 2nd Councilmanic District	*	BEFORE THE DEPUTY ZONING COMMISSIONER
	*	FOR BALTIMORE COUNTY
John B. and Victoria K. Posey *Petitioner and Legal Owners* Wells Development Corporation; Kenneth J. Wells *Contract Purchaser*	*	EXHIBIT #1 **Case No. 07-470-SPH**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by John B. and Victoria K. Posey, legal property owners, and Wells Development Corporation by Kenneth J. Wells, the contract purchaser. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) in order to amend the Final Development Plan ("FDP") entitled "Section Two, Tufton Farms" (PDM Number VIII-231) as follows:

- To permit the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP, with no increase in the number of lots, and no increase in the total residential density available to the lots considered as a whole in accordance with Section 32-4-106(a)(viii) of the Baltimore County Code, and;
- To permit the re-subdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with B.C.Z.R. Sections 1A00.4 and 1B01.3, and Section 1B01.3A.7.c of the Zoning Commissioner's Policy Manual (Z.C.P.M.).

The FDP for Section Two, Tufton Farms showing the entire original development, with recently added redlined revisions, was marked and accepted into evidence as Petitioners' Exhibit 1. In

10/17/07

IN RE: PETITION FOR SPECIAL HEARING E side of Dover Road, 25 feet N of Tufton Ridge Road **(13101 Dover Road)** 8th Election District 2nd Councilmanic District John B. and Victoria K. Posey *Petitioner and Legal Owners* Wells Development Corporation; Kenneth J. Wells *Contract Purchaser*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY **Case No. 07-470-SPH**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by John B. and Victoria K. Posey, legal property owners, and Wells Development Corporation by Kenneth J. Wells, the contract purchaser. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) in order to amend the Final Development Plan ("FDP") entitled "Section Two, Tufton Farms" (PDM Number VIII-231) as follows:

- To permit the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP, with no increase in the number of lots, and no increase in the total residential density available to the lots considered as a whole in accordance with Section 32-4-106(a)(viii) of the Baltimore County Code, and;
- To permit the re-subdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with B.C.Z.R. Sections 1A00.4 and 1B01.3, and Section 1B01.3A.7.c of the Zoning Commissioner's Policy Manual (Z.C.P.M.).

The FDP for Section Two, Tufton Farms showing the entire original development, with recently added redlined revisions, was marked and accepted into evidence as Petitioners' Exhibit 1. In

RECEIVED FOR FILING
10-17-07
By

addition, the subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 2.

This matter was originally scheduled for a public hearing on Monday, July 16, 2007. Prior to the hearing, a postponement request was submitted by J. Carroll Holzer, Esquire, on behalf of his clients, the Valleys Planning Council, Mr. Larry Bortner, and other adjacent and adjoining property owners to Petitioners' property. The property was previously posted with Notice of Hearing on June 30, 2007, and a Notice of Zoning hearing was published in *The Jeffersonian* newspaper on June 28, 2007 in order to notify any interested persons of the hearing date. It was agreed and understood by the parties that neither Petitioners nor Mr. Holzer's clients would be required to be present for the scheduled hearing on July 16, 2007 in order to postpone the case. On that date, there were no other interested persons present and the hearing was rescheduled by agreement of the parties to August 27, 2007. As the property had already been properly posted, I did not require the property to be posted for a second time. The hearing was then convened on August 27, 2007 at 9:00 AM in the County Courts Building, 401 Bosley Avenue, Room 407.

Appearing at the requisite public hearing in support of the requested special hearing relief was Lawrence E. Schmidt, Esquire, representing Petitioners John B. Posey and Victoria K. Posey. Also present was Kenneth J. Wells with Wells Devellpment Corporation, the contract purchaser and the consultant who prepared the revised plan for the resubdivision of the subject property. Also in attendance as interested citizens were Adel Sansur of 2304 Tufton Ridge Road, Tom Church of 6603 York Road, Ray Heller of 13215 Dover Road, Ron Baquol of 3002 Merryman's Mill Road, and Tom Hutson of 2205 Tufton Ridge Road. Appearing as Protestants in opposition to the requested special hearing relief were Teresa Moore on behalf of the Valleys Planning Council, Larry and Janice Bortner of 2308 Tufton Ridge Road, their attorney, J. Carroll

ORDER RECEIVED FOR FILING
Date 10-17-07
By RB

Holzer, Esquire, and their consultant, Jack Dillon. Mr. Holzer subpoenaed Diana Itter, a Community Planner with the Office of Planning, who appeared as a witness at the hearing. Also appearing as Protestants were Fran and Richard Yeazel of 2314 Tufton Ridge Road, Martin Buckley of 2222 Tufton Ridge Road, John Sophocles of 2226 Tufton Ridge Road, Don Schline of 2303 Tufton Ridge Road, and Tom and Jeanne Gildee of 2212 Tufton Ridge Road.

By way of background, the subject property is part of a subdivision that was developed approximately 30 years ago. The original development consisted of approximately 234.58 acres located south of Shawan Road, east of Dover Road, and northeast of Knox Road in the Worthington Valley area of Baltimore County. Approximately 119.58 acres was zoned R.C.2 and allowed for the placement of 20 lots. The remaining area was zoned R.C.5 consisting of 115 acres and allowed for 57.5 lots for a total of 77.5 lots in the combined R.C.2/R.C.5 zones. The Developer at that time, Gaylord Brooks Investment Company ("Gaylord Brooks") proposed 30 lots -- 15 to be built in the R.C.2 zone and 15 to be built in the R.C.5 zone. The Final Development Plan, Section Two, entitled "Tufton Farms" submitted by Gaylord Brooks was approved by the Baltimore County Office of Planning and Zoning in February, 1977.

Testimony and evidence offered at the hearing revealed that Petitioners were one of the original purchasers in the Section Two, Tufton Farms Development. They purchased Lot No. 4 of the 30 lot subdivision in August, 1977. Petitioners' property is an irregular-shaped parcel containing approximately 9.543 acres (10.237 acres in gross area as measured to the lot line within the bed of adjacent public roads), zoned R.C.5, and is improved with a two-story dwelling. There is a gravel driveway from the entrance on Dover Road to the existing dwelling. The lot is extremely wooded with lush forrests, and is surrounded by steep slopes.

Pursuant to Section 1B01.3.A.7 of the B.C.Z.R., Petitioners desire to amend the Final Development Plan for Section Two, Tufton Farms. This section sets forth the procedure for

ORDER RECEIVED FOR FILING
Date 10-17-07
By BB

amending an FDP in the manner requested by Petitioners. In addition, Section 1A00.4 states that development plans and final subdivision plats shall be required in the manner prescribed under Section 1B01.3, and for purposes of this section, all references to D.R. zones shall include the R.C. zone. As such, Section 1A00.4 adopts the FDP procedure for R.C. zones to follow the D.R. zone requirements, which are contained in Section 1B00, et. Seq. of the B.C.Z.R.

The nature of the amendments requested by Petitioners is to accomplish two objectives. The first is to convey .689 acre to the Fell property located on Lot 3 adjacent to and immediately north of Petitioners' property. The reason is because a portion of the Fell driveway from Dover Road leading to their property on Lot 3 encroaches on Petitioners' property. The Fell's and Petitioners desire to rectify this situation by conveying the .689 acre to the Fell's so that their entire driveway will be on their property. This conveyance is proposed as a non-density transfer and will have no practical impact on the properties other than to provide safe site distance, access to the public road, and recognition of the prior tranfer. Protestants did not express, nor put forth any evidence in opposition to this request.

Petitioners' second objective is to create a minor subdivision of Lot 4. Petitioners propose to raze the existing two-story dwelling and subdivide the lot into three new lots, labeled Lots 4A, 4B, and 4C on Petitioners' Exhibit 2 site plan. Lot 4A will consist of 3.53 acres and be improved with a dwelling. Lot 4B (where the existing dwelling is currently located) will consist of approximately 2.53 acres and be improved with a replacement dwelling. Lots 4A and 4B will utilize the current entrance way on Dover Road, which will eventually split toward the proposed dwellings. Lot 4C will consist of 3.48 acres and be improved with a dwelling and an entrance way on Tufton Ridge Road.

Offering evidence in support of the special hearing relief was Kenneth Wells, a licensed property line surveyor and expert in zoning development. Mr. Wells testified that Petitioners'

ORDER RECEIVED FOR FILING
Date 10-17-07
By PM

property was zoned R.C.5 at the time of the original development in 1977, which allowed for up to 77 units, and although there have been changes in zoning since 1977, Petitioners' property has remained zoned R.C.5. Mr. Wells also indicated that the current density is presented as under-utilized based on the original Final Development Plan. Marked and accepted into evidence as Petitioners' Exhibits 3A through 3C were aerial GIS photographs taken by Baltimore County showing the subject property along Dover Road and Tufton Ridge Road. The three photographs show a mostly heavily wooded area.

As to Petitioners' request to amend the FDP to convey the driveway area on Petitioners' property to the Fell's, the FDP for Tufton Farms currently shows Petitioners' Lot 4 as squared off at the northeast corner where it abuts Lot 3 belonging to the Fell's. As such, part of the Fell's driveway where it meets Dover Road at that northeast corner of Lot 4 is on the property of Petitioners on Lot 4. However, the deed between Gaylord Brooks and Petitioners, which was marked and accepted into evidence as Petitioners' Exhibit 4, refers to Lot 4 and the acreage associated with that lot, and also contains a "saving and accepting clause" as to the acreage on the east side of Dover Road at the division line between Lots 3 and 4, consisting of approximately .689 acre. In order to rectify this inconsistency, and the lack of conveyance accurately depicted on the FDP, Petitioners desire a non-density tranfer of that land to the Fell's.

As to the remaining 9.5 acres of Lot 4, Petitioners desire to create a minor subdivision. According to Petitioners, the acreages for all three proposed lots meet or exceed the density requirements for an R.C.5 zone and there will be no variances required. During the hearing, Mr. Wells testified concerning the special exception standards to be applied for amending a Final Development Plan contained in Section 502.1 of the B.C.Z.R. Mr. Wells offered his opinion that the proposed amendment to the FDP would not be detrimental to the health, safety or general welfare of the locality involved because the proposed amendment was consistent with current

RECEIVED FOR FILING
10-17-07

zoning regulations, was consistent with the current single-family dwellings located in Tufton Farms, and was consistent with the density restrictions in the R.C.5 zone, which allow up to five lots on Petitioners' property.

As to whether the amendment would tend to create congestion in roads, streets or alleys, Mr. Wells indicated that the average daily trips (ADT) would increase by 10 trips on Dover Road and by 10 on Tufton Ridge Road for a total of 20 additional ADT's. He also indicated that the proposed minor subdivision would have adequate site distances on Dover Road and Tufton Ridge Road, and the two additional lots would have very little impact on traffic. He added there are no failing intersections or problems with site distances in this area, and therefore, did not believe the amendment would create congestion. As to whether the amendment would create a potential hazard from fire, panic or other danger, Mr. Wells indicated that the area is very accessible -- fronted by two roads -- and therefore, accessible to emergency and fire service vehicles. As to whether the amendment would tend to overcrowd land and cause undue concentration of population, Mr. Wells indicated that each lot proposed in the minor subdivision would exceed the lot size required in an R.C.5 zone and would keep the same character of the land as is presently constituted, with woods and forest buffers.

As to whether the amendment would interfere with adequate provisions for schools, parks, water, sewerage, transporation or other public requirements, conveniences, or improvements, Mr. Wells opined that the minor subdivision would have a negligble effect on schools and would place very little impact on public services or infrastructure. The proposed development would utilize the current driveway for the existing structure and add only one entrance for proposed Lot 4C on Tufton Ridge Road. In addition, the lots would utilize well and septic, therefore, no public services would be impacted. As to whether the proposed amendment would be inconsistent with the purposes of the property zoning classification or in any other way

RECEIVED FOR FILING
10-17-07
RM

be inconsistent with the spirit and intent of the zoning regulations, Mr. Wells indicated that the use contemplated by the proposed minor subdivision is a use permitted by right in an R.C.5 zone and therefore is consistent with the zoning regulations and within the spirit and intent of those regulations. In addition, Mr. Wells opined that this amendment would not negatively impact impermeable surfaces and vegetative retention provisions of the zoning regulations, and would not be detrimental to the environment and natural resources of the site and vicinity, including forests, streams, wetlands, aquafers and floodplains in the R.C.5 zone.

On cross examination from Mr. Holzer, Mr. Wells indicated that his opinions were related only to the present subdivision plan and did not take into consideration other potential subdivisions and/or their impacts on this minor subdivision. Mr. Wells also indicated that he had a financial interest in this project because he was not only the land surveyor who prepared the site plan for the minor subdivision, but he is also the Developer for the project and, therefore, has an interest in seeing the project move forward. Mr. Holzer also asked Mr. Wells if he knew why the original Developer had proposed 77 lots but only developed 30 lots. Mr. Wells replied that it was his understanding it was due to convenants and restrictions limiting the amount of development. On redirect examination by Mr. Schmidt, Mr. Wells indicated that the covenants and restrictions were pursuant to a "Declaration of Restrictions" made in June 1977 by Gaylord Brooks, which was marked and accepted into evidence as Petitioners' Exhibit 6. Paragraph seven of the Declaration of Restrictions indicates that the restrictions shall be binding until the first day of July, 2007.

In opposition to the requested relief, Mr. Holzer presented testimony and evidence on behalf of Protestants. Mr. Holzer called as his first witness Diana Itter, a Community Planner with the Office of Planning. Ms. Itter indicated that since approximately March, 2005, there has been some effort to resubdivide lots in the area of the subject property. One lot is the property

RECEIVED FOR FILING
10-17-07

known as the Sansur property. This is a proposed two-lot minor subdivision in Tufton Farms and is currently in the minor subdivision review and approval process through the County's Bureau of Development Plans Review. Another proposed resubdivision is the property known as the Heller property. This is a proposed three-lot subdivision and involves a proposed panhandle lot as part of the subdivision. Ms. Itter testified that due to the configuration of the lots, and in particular the panhandle lot, this proposed minor subdivision was denied.

When asked by Mr. Holzer what in her view constituted the "Tufton Farms" neighborhood, Ms. Ittler indicated that the neighborhood included Section One of Tufton Farms which is located just north of Section Two, and also included the area west of Dover Road consisting of farmland, as well as the area to the south of Section Two to Knox Road. Ms. Itter also indicated that the use consisted of mostly a mix of agricultural and low density rural subdivisions.

Mr. Holzer then inquired of Ms. Itter as to the comment from the Office of Planning in connection with the instant matter, dated February 7, 2007. This comment had been previously marked and accepted into evidence as Petitioners' Exhibit 5. Ms. Itter stated that the "summary of recommendations" section of this comment referred to Section 1A04.4 of the B.C.Z.R. entitled "Performance Standards." This comment states that "should the Zoning Commissioner grant the petitioner's request, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with current RC 5 requirements." The comment also indicates that in order to prepare the statement of finding, certain information must be submitted to the Office of Planning, including photographs of existing adjacent dwellings, building elevations and architectural details, designs of decks, balconies, windows, etc., designs of all accessory structures, and landscaping details. When asked by Mr. Holzer if it would have been helpful to have this information prior to the hearing in

RECEIVED FOR FILING
10-17-07
PZ

order to prepare the statement of finding, Ms. Itter indicated that it would have been helpful. On cross examination from Mr. Schmidt, Ms. Itter also indicated that her office was not recommending denial of Petitioners' special hearing request, and that Petitioners' minor subdivision request was currently in the Development Review Process in accordance with the Baltimore County Code.

Mr. Holzer then called several nearby neighbors who were opposed to the requested relief. The first to testify was Larry Bortner of 2308 Tufton Ridge Road. Mr. Bortner indicated he resides on Lot 9 of Petitioners' Exhibit 1, consisting of approximately five acres. Mr. Bortner indicated that he and his family have lived there for approximately 10 years and that he is concerned that the proposed minor subdivision will change the character of the neighborhood. He stated that he purchased in this area because of the large, heavily wooded lots, and the fact that all of the lots were five acres or more -- and that five acres constituted one of the smaller lots. He stated that if Petitioners' nine acres is reduced by thirds, this would change the character of the subdivision and take away the uniqueness of the neighborhood. In his view, this uniqueness stemmed from the large lots and the wooded nature of the area, which contributed to privacy, wildlife, and the natural rural and wooded setting. Next, Janice Bortner testified and reiterated much of her husband's testimony concerning the wooded and rural nature of the area with extensive foilage and trees. She also indicated the value of the neighborhood was in the uniqueness of the wooded area, and that if the proposed development were permitted, there would be a snowball effect, with other lots possibly following suit. She also expressed concern that this might adversely effect other wells and water availability in the area.

The next witness was Martin Buckley of 2222 Tufton Ridge Road. Mr. Buckley lives on Lot 13 of Petitioners' Exhibit 1 consisting of approximately seven acres, and has lived there seven years. Mr. Buckley expressed concerns about the impact of the proposed development on

RECEIVED FOR FILING
10-17-07
PB

the trees and the wooded nature of the neighborhood. He indicated that he has a pasture with a small barn and is concerned about wildlife and about the impact this proposed development would have on water and well yields. He indicated that presently water yields are slightly above minimum water requirements. He also spoke of the uniqueness of the neighborhood in terms of the large lots, the fact that most of the homes are hidden from Tufton Ridge Road and Dover Road, and the fact that their neighborhood differs from the Shaney Brook Development nearby, which is more of a standard development with extensive clear-out and homes not built into the woods.

Next to testify was Mr. Richard Yeazel of 2314 Tufton Ridge Road. Mr. Yeazel resides on Lot 6 of Petitioners' Exhibit 1 consisting of just over five acres. He has resided there approximately 15 years and indicated that what first attracted him to the neighborhood was the rural nature of the area, and the combination of woods and pasture as well as the placement of the homes. He also indicated that the corner of Dover and Tufton Farms Roads, where Petitioners' lot is located, is essentially the gateway to their neighborhood, from a sight-line standpoint. He indicated Petitioners' property is in a strategic position right at the beginning of the subdivision, in terms of visibility, and that further development of the property into three lots would erode the wooded nature of the area at the entrance to the neighborhood.

John Sophocles resides at 2226 Tufton Ridge Road. Mr. Sophocles lives on approximately six acres and has resided there since 1988. He reiterated most of the previous testimony, and also added that when he came into this planned community known as Tufton Farms in 1988, he knew what the neighborhood consisted of and what he thought it would be in the future. He believes that to come in now 30 years later and divide the property further is not an appropriate use of the property, and that the County should protect what is there presently. He also expressed concern that granting approval of Petitioners' minor subdivision request

RECEIVED FOR FILING
10-17-07
PB

would have a domino effect of having one subdivision and then another, etc., forever altering the present character of the neighborhood.

Donald M. Schline resides at 2303 Tufton Ridge Road on Lot 28 of Petitioners' Exhibit 1. Mr. Schline's lot consists of approximately eight acres and he has lived there since 1983. Mr. Schline indicated that he was attracted to the area as a result of the wooded, private neighborhood, and the fact that he cannot see other dwellings from his house and there is an abundance of privacy. He also indicated that the original developer, Gaylord Brooks, advertised the new neighborhood in 1977 as an affluent, private neighborhood, and that granting Petitioners' special hearing relief will not be consistent will the original spirit and intent of the development as it was back in 1977.

Mr. Holzer than called Ms. Teresa Moore, the Executive Director of the Valleys Planning Council. Ms. Moore indicated that the area of Tufton Farms falls within the boundary of Valleys Planning Council coverage, which spreads from the Greenspring Valley north to the Prettyboy Reservoir. Ms. Moore indicated that Petitioners' proposed development was presented to the Executive Committee of the Valleys Planning Council and that the Committee decided to oppose the development. Ms. Moore indicated this was based on primarily two factors. First, that the proposed development was inconsistent with the Valleys Plan entitled "1964 Plan for the Valleys" in that the construction would abut the Valley "walls." The steep slopes and valley "walls" were shown on the map which was marked and accepted into evidence as Petitioners' Exhibit 7. Second, the Valleys Planning Council was contacted by nearby residents who voiced their opposition to the proposed minor subdivision. On cross examination from Mr. Schmidt, Ms. Moore indicated that there were approximately 600 members in the Valleys Planning Council including a 39-member board as well as committees. There were 10 individuals on the Executive Committee that considered Petitioners' proposal. Ms. Moore indicated that

RECEIVED FOR FILING
10-17-07
PM

Petitioners' proposal was not considered by the 39-member board or the entire membership. The matter was raised at the Executive Committee meeting and was voted on after discussions internally. Ms. Moore also indicated that prior to the vote, no one from the Valleys Planning Council spoke with anyone on behalf of Petitioners or other proponents of the development.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. The ZAC comment received from the Office of Planning dated February 7, 2007 indicates that should the undersigned grant Petitioners' requests, the Planning Office is required to provide a statement of finding to the Zoning Commissioner's Office indicating how the proposed construction complies with current R.C.5 requirements. In order to do so, Petitioners must submit certain information to the Planning Office, including photographs of adjacent dwellings, building elevations, building designs, accessory structure designs, and proposed landscaping. The ZAC comment from the Department of Environmental Protection and Resource Management (DEPRM) dated May 31, 2007 indicates that development of the subject property must comply with the Forest Conservation Regulations for the entire 10.72 acres comprising Lot 4. Finally, the ZAC comment from the Bureau of Development Plans Review dated April 24, 2007 indicates it has no objection to granting the request, except that the proposed subdivision shall comply with all development regulations.

Based on the testimony and evidence presented, and following the submission of Written Memorandums in lieu of closing argument, it is clear that although the underlying facts are not largely disputed, the parties obviously differ markedly on whether the requested relief should be granted -- specifically whether the proposed amendment to the Final Development Plan should be permitted.

On the one hand, counsel for Petitioners accurately states that this case is generally not about the development review process, but rather the discrete legal issue to be determined is

10-17-07

whether the FDP should be amended as requested by Petitioners. Counsel for Petitioners also correctly points out the separation between the notions of "zoning" and "subdivision control." *See, e.g., Baltimore County v. Wesley Chapel Bluemont Association*, 110 Md. App. 585, 678 A.2d 100 (1996) (local governments regulate the development of subdivisions, but in a process that is distinct from the notion of zoning). In addition, counsel for Petitioners notes that in considering the request to amend the FDP, the standard to be applied is the special exception criteria found in Section 502.1 of the B.C.Z.R.

On the other hand, counsel for Protestants correctly states that in addition to the 502.1 criteria, when considering an amendment to an FDP, it must be determined that the amendment will be consistent with the spirit and intent of the original plan.

As to the 502.1 special exception criteria, including whether the amendment to the FDP will be detrimental to the health, safety, or welfare of the locality involved, apart from some predictable opposition from a number of nearby residents, there has been no showing of adverse impact. As to congestion in roads, streets, or alleys, I find the addition of two dwellings with one additional entrance way on Tufton Farms Road will not have an appreciable impact. The relatively close proximity of the dwellings to the roads and the dwellings being built according to appropriate building codes will negate the potential hazard from fire, panic, or other dangers. As to overcrowding the land and causing an undue concentration of population, the proposed lots exceed the minimum lot size requirements of the R.C.5 zone and will be improved with single-family homes, hence there will not be any overcrowding. As to interference with adequate provisions for schools, parks, water, sewerage, and other public services, the additional lots will be served by private well and septic services, and will have minimal impact on schools, parks, and other conveniences or improvements in the area. There also does not appear to be any interference with adequate light and air.

RECEIVED FOR FILING
10-17-07

The next factor is whether the amendment will be inconsistent with the property's zoning classification or in any other way inconsistent with the spirit and intent of the zoning regulations. On this point, I find the proposed amendment for a minor subdivision is consistent with the use permitted in an R.C.5 zone, and meets all of the applicable area and density requirements. Protestants indicate the amendment would reduce the number of trees on the wooded sites and afford less privacy to nearby owners. However, it is apparent that the property will retain its unique rural character, with steep slopes surrounding the property and most of the forestry being retained. I also find the proposed amendment is consistent with the spirit and intent of the regulations. As to the issue of consistency with impermeable surface and vegetative retention, there was no evidence offered suggesting any impact. Concerning the final criteria of environmental and natural resources impacts to the site and the vicinity, as indicated above, I find the rural character of the property will be maintained and there will be minimal impact with the addition of two dwellings on the property.

In short, considering all the above factors, I find Petitioners' proposed amendment compares favorably with those factors. In particular, I am persuaded that the proposed amendment to the FDP will not be detrimental to the health, safety or welfare of the surrounding locale, nor will it be inconsistent with the zoning regulations.

The final issue is whether granting the amendment will be inconsistent with, or violate, the spirit and intent of the original plan. In their Memorandum, Protestants essentially argue that in order to prevail on this issue, Petitioners must establish that the spirit and intent of the original plan called for three lots where only one existed on Petitioners' property. However, on this point, I disagree with Protestants' argument. I believe this is but one factor to consider in determining the sprit and intent of the original plan. Indeed, there are several pieces of evidence to consider in making this determination. In support of their position that the amendment will

RECEIVED FOR FILING
10-17-07
PM

violate the spirit and intent of the original plan, Protestants argue in their Memorandum that when this subdivision was originally created and advertised 30 years ago, Gaylord Brooks touted its exclusivity, the large lots and privacy, and marketed it as "an affluent, private neighborhood." They also argue that the spirit and intent was clearly shown with the creation of only 30 lots where 77 could have been developed, and the placement of homes in heavily wooded areas.

Conversely, in support of their request for the amendment, Petitioners argue that they are still well within the allowable density for an R.C.5 zone, and that this minor subdivision resulting in only two additional lots will still maintain the wooded, rural character of the subdivision, as well as the "exclusivity" that Protestants believe the original plan requires. It should also be noted that proposed Lots 4A and 4C will be approximately 3.5 acres each, with Lot 4B being the smallest lot at 2.5 acres. The forests surrounding the lots will also be maintained, shielding the homes from view on Dover Road and Tufton Ridge Road, as well as the intersection of those roads -- the described "gateway" into the neighborhood.

Petitioners also argue that the "Declaration of Restrictions" dated June 24, 1977 and accepted into evidence as Petitioners' Exhibit 6 is illustrative of the intentions of the original plan. These covenants cover a number of topics and, as stated on page one, are "for the purpose of creating and maintaining a general scheme of development." However, these covenants say nothing with regard to subdividing a lot in the future, and in any event are only binding upon the owners until July 1, 2007. Indeed, Petitioners are not requesting that this Commission enforce the terms and conditions of the restrictive covenants one way or the other, and such enforcement is not the role of this Commission. But Petitioners do believe this exhibit is evidence of the spirit and intent of the original plan -- not to restrict future development of the individual properties, and certainly not beyond July 1, 2007.

ORDER RECEIVED FOR FILING
10-17-07
By

In conclusion, although I am mindful of the personal attachment to the subdivision Protestants have expressed in terms of keeping it as it has been for the last 30 years, and their perception of the negative quality-of-life impacts, as well as their view of the possible financial repercussions of allowing Petitioners' proposed amendment, I also believe that Petitioners have shown, both legally and factually, that their proposed amendment to the FDP should be granted. Specifically, I am persuaded that granting the amendment to the FDP to permit the non-density transfer and lot-line adjustment from Lot 4 to Lot 3, and to permit the re-subdivision of Lot 4 into three lots will not negatively impact the special exception criteria set forth in Section 502.1 of the B.C.Z.R. In addition, I am persuaded that the amendment will not violate or be inconsistent with the spirit and intent of the original plan.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 17th day of October, 2007, that Petitioners' request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to amend the Final Development Plan entitled "Section Two, Tufton Farms" (PDM Number VIII-231) as follows:

- To permit the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP, with no increase in the number of lots, and no increase in the total residential density available to the lots considered as a whole in accordance with Section 32-4-106(a)(viii) of the Baltimore County Code, and;

ORDER RECEIVED FOR FILING
10-17-07
MB

- To permit the re-subdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with B.C.Z.R. Sections 1A00.4 and 1B01.3, and Section 1B01.3A.7.c of the Zoning Commissioner's Policy Manual (Z.C.P.M.)

be and is hereby GRANTED.

As a condition precedent to the relief granted herein, Petitioners shall comply with each of the following conditions:

1. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code) for the entire 10.72 acres comprising Lot 4.

2. Dover Road is scenic. Therefore, the amount of vegetation shown on the plan to be retained along the Dover Road frontage should be in compliance with the Comprehensive Manual of Development Policies (CMDP) Scenic Routes, Enclosed Views.

3. In order for the Office of Planning to prepare a statement of finding to the Zoning Commissioner indicating how the proposed construction will comply with the current R.C.5 requirements, Petitioners shall submit the following information to the Planning Office:

    a) Photographs of existing adjacent dwellings.

    b) Building elevations (all sides) of proposed dwellings for review and approval. Proposed dwellings shall be compatible in size and architectural detail as that of the existing dwellings in the area. The exterior of the proposed building(s) shall use the same finish materials and architectural details on the front, side and rear elevations. Use of quality materials such as brick, stone or cedar is encouraged.

    c) Design of all decks, balconies, windows, dormers, chimneys and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.

    d) Design of all accessory structures at a scale appropriate to the dwelling, and design of garages with the same architectural theme as the principal building(s), on the site, providing consistency in materials, colors, roof pitch and style.

    e) Plan for providing landscaping along the public road, if it is consistent with the existing streetscape.

4. The proposed development shall comply with all development regulations.

RECEIVED FOR FILING
10-17-07

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

RECEIVED FOR FILING
10-17-07
PZ

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

October 17, 2007

LAWRENCE E. SCHMIDT, ESQUIRE
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, #200
TOWSON, MD 21204

Re: Petition for Special Hearing
Case No. 07-470-SPH
Property: 13101 Dover Road

Dear Mr. Schmidt:

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,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: *Please See Attached List*

KENNETH WELLS
WELLS DEVELOPMENT CORP
7403 NEW CUT ROAD
KINGSVILLE MD 21087

JACK AND VICTORIA POSEY
13101 DOVER ROAD
REISTERSTOWN MD 21136

THOMAS A. CHURCH, P.E.
DEVELOPMENT ENGINEERING
CONSULTANTS, INC.
6603 YORK ROAD
BALTIMORE, MD 21212

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

ADEL SANSUR
2304 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

RAY HELLER
13215 DOVER ROAD
REISTERSTOWN MD 21136

RON BAQUOL
3002 MERRYMANS MILL ROAD
PHOENIX MD 21131

TOM HUTSON
2205 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

TERESA MOORE
VALLEYS PLANNING COUNCIL
PO BOX 5402
TOWSON MD 21204

FRAN AND RICHARD YEAZEL
2314 TUFTON RIDGE ROAD
GLYDON MD 21071

LARRY AND JANICE BORTNER
2308 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

JACK DILLON
118 W. PENNSYLVANIA AVE
TOWSON MD 21204

MARTIN BUCKLEY
2222 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

JOHN SOPHOCLES
2226 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

DON SCHLINE
2303 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

TOM AND JEANNE GILDER
2212 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

9/24/07

RECEIVED
SEP 2 4 2007
BY:

IN THE MATTER OF: PETITION FOR SPECIAL HEARING 13101 Dover Road (Posey Property)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No.: 07-470-SPH

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

MEMORANDUM TO DEPUTY ZONING COMMISSIONER
IN LIEU OF FINAL ARGUMENT

Protestants, ***The Valleys Planning Council***, and ***Larry and Janice Bortner, Dick and Fran Yazel, John Sophocles, Marty Buckley, Don and Sharon Schline***, individuals, by ***J. Carroll Holzer, Esquire***, Holzer & Lee, hereby submits this Memorandum and says:

STATEMENT OF THE CASE

John and Victoria Posey, request a Special Hearing to amend the final Development Plan of Tufton Farms, Plat 1, Section 2 to allow the resubdivision of Lot 4 into three (3) lots and correct the adjacent lot line with Lot 3 to reflect the prior Deed conveyance. A hearing was held before the Deputy Zoning Commissioner on August 27, 2007. The subject property is zoned R.C. 5. The Protestants are The Valleys Planning Council within whose boundaries the subject property lies, as well as individual property owners of Tufton Farms, Plat 1, Section 2.

The engineer preparing this Plan, Ken Wells, acknowledged that he was also the Developer in this case, thus his opinions as to the 502.1 criteria may be self-serving to some extent.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

STATEMENT OF FACTS

A. Developer's Case.

The Developer presented Ken Wells, a property line surveyor licensed by the State of Maryland who prepared the Plat to accompany the Petition for Special Hearing. He testified that the original final Development Plan of Section 2 permitted 77.5 development units and only thirty (30) were utilized in the original subdivision. He testified that amending the final Development Plan to permit this minor subdivision of three (3) lots would have no effect on the Community. He testified the three (3) lots which would front on Dover Road would consist of 3.5, 2.5 and 3.5 acres which was consistent with the current zoning. He testified that the subdivision met all 502.1 criteria.

B. Protestants.

The Protestants called ***Diana Itter*** from the Planning Office to testify concerning the County comments submitted dated February 7, 2007. She testified that the surrounding Subdivision of Tufton Springs and Shaneybrook were not as spacious as the subject site. She testified that the Shaneybrook Subdivision was clear cut with much smaller lots and much less wooded in character. She testified that under the Summary of Recommendations for the office indicated that:

> "Should the Zoning Commissioner grant the Petitioner's request, this office is required to provide a Statement of Finding to the Zoning Commissioner indicating how the proposed construction complies with the current R.C. 5 requirements."

She indicated that information such as photographs, elevations and other design features needed to be presented and reviewed by her office. She acknowledged that that information had

not been presented to her office as of this hearing. An argument ensued regarding whether or not this submission was necessary for the purposes of the Zoning Commissioner's hearing. The Protestants, through Counsel submitted that to have any validity to the Zoning Commissioner's Decision, it was necessary for this material and the Planning Office's comments to be presented ***before*** the Zoning Commissioner made his Decision. The Deputy Zoning Commissioner ruled that it was not necessary to have this finding before the public hearing which took place on August 27, 2007. Counsel for Protestants submitted that the ruling and interpretation undermines the purpose and intent of the Regulations and the intent of the Planning Office. To have an analysis submitted by the Planning Office ***after*** the pubic hearing precludes the Protestants from analyzing and commenting upon a criteria relevant to the amendment of the final Development Plan and is inconsistent with the broad basis of the Regulations which require a determination by the Deputy Zoning Commissioner under the criteria of 502.1 of the Baltimore County Zoning Regulations. To this ruling, the Protestants took exception and the case was closed without a presentation of the Planning Office recommendations.

Subsequent to the testimony of Ms. Itter, the Protestants submitted the testimony of ***Mr. & Mrs. Bortner***. They testified that they have resided in the Community for ten (10) years on their property of approximately five (5) acres. They purchased their home at 2308 Tufton Ridge Road because of the privacy of the house location and the large and wooded lots in the Tufton Farms Subdivision. They testified that this Development was "unique" because of the large lot sizes and extensive tree cover on the lots. Many homes were available in other subdivisions but the large wooded lots were not available at those locations so they chose to

purchase in Tufton Farms. They testified that if other property owners in Tufton Ridge Subdivision are permitted to subdivide their lots, the uniqueness of the subdivision would be lost due to smaller lots, more homes and fewer trees. Thus, the property values would be substantially reduced. Ms. Bortner testified that the wooded lots and trees are the "architecture of the neighborhood." She testified that this is not a cookie cutter neighborhood and that there is a "feeling of spaciousness" between the homes. ***Martin Buckley*** testified that he had been a resident for seven (7) years and he owns six plus (6+) acres. He testified that this was a unique development because of the extensive tree cover and houses hidden for the most part from view. He compared it with an adjacent subdivision, Shaneybrook, which contained much smaller lots, fewer trees, and houses more obvious to the viewer.

Richard Yazel testified that he had been a resident of the subdivision for fifteen (15) years and owned five plus (5+) acres. He testified as to the uniqueness of the subdivision and the reason he acquired his property. He testified that the Posey property is particularly unique and unusual in that it is "the gateway" to Tufton Farms. He testified that the Posey property is a corner lot on Tufton Farms Road and Dover Road which sets the tone for the rest of the neighborhood. He, along with Buckley and Bortner oppose the amendment to the Final Development Plan.

John Sophocles testified that he purchased his property in 1988 and he has over six (6) acres. He testified that the reason he acquired a lot in the subdivision was due to its lot size and privacy. He testified that it is a unique neighborhood and that in his opinion, when the subdivision was created, "it was a planned Community" in that to create more valuable lots, the

Development retained large lots and heavily wooded lots. He testified that as a potential purchaser in 1988, he looked at the site and looked at the subdivision and decided to invest because he knew what to expect – that is, the retention of large lots, heavy woods and homes, for the most part, hidden from view. He strongly objected to the request of Posey.

Finally, ***Don Schline*** testified that he acquired the property in 1983, that he has more than five (5) acres, that it is heavily wooded and that he purchased the property based on the brochures and presentation by the original Developer, Gaylord Brooks, that this was to be an "affluent community" with five (5) wooded acres or more, with the houses being substantially hidden from view. He testified that if the amendment to the Final Development Plan is permitted, the complexion of the Community will change and the property values will decrease. He testified that Mr. Posey lives out-of-state and no longer cares about the complexion of Tufton Farms subdivision. He testified that in his opinion a three (3) to four (4) thousand square foot house on a one and one-half (1 ½) acre lot or two (2) acre lot would not be as valuable as a five plus (5+) acre lot and that would devalue his property and would no longer present the appearance of an "affluent Community subdivision."

Finally, ***Teresa Moore***, the Executive Director of The Valleys Planning Council, testified that the proposed amendment to the Final Development Plan is inconsistent with the Plan for The Valleys, which Plan has been recognized for years by Baltimore County. She testified that the properties in this subdivision (Tufton Farms II) are situated on the wall of the Worthington Valley and contain slopes of twenty-five percent (25%) or greater. She testified that the woods in Tufton Farms are part of an extensive forested area. The Plan for The Valleys, a land use-

planning document that laid the groundwork for the R.C. Zones in Baltimore County calls for the valley walls to be preserved from development and be maintained as forest to the maximum extent possible. She testified that the amendment is not consistent with the spirit and intent of the original Plan.

The subdivision is thirty (30) years old and there have been no changes to the FDP and that the neighborhood exists today as it was originally marketed and it has matured into a stable, established neighborhood that has long been viewed as finished/completed. This case will set a precedent for further amendments, which would really undermine the spirit and intent.

ARGUMENT

The Baltimore County Zoning Regulations are clear in regard to the analysis of the Special Hearing request to amend a Final Subdivision Plat. It is set forth as follows:

1B01.3 ***Plans and Plats.***

A. Development Plans.

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:

    1. 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 §502 and subject to the following provisions***: (emphasis supplied)

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].*** (emphasis supplied)

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 home association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of §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]. (emphasis supplied)

and

502.1 Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

A. Be determined to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air; [Bill No. 45-1982]
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; [Bill No. 45-1982]
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 1982]
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone. [Bill No. 74-2000].

The Protestants submit that the standard for the Deputy Zoning Commissioner to apply is ***whether the proposed amendment of three (3) lots where one currently exists is consistent with the spirit and intent of the original Plan***.

In answer to this question, one must first eliminate some obvious points made by the Petitioner. First, it is irrelevant and beyond the jurisdiction of the Deputy Zoning Commissioner to utilize the existence of a Restrictive Covenant Agreement one way or the other on the question involved in this case. Secondly, it is irrelevant that the subdivision utilized only thirty (30) of the available seventy-seven (77) density units and therefore additional density exists. As a matter of fact, it supports the Protestants' position that the Developer, Gaylord Brooks, at the time of the creation of this subdivision specifically gave up the ability to have seventy-seven (77) lots in favor of the creation of thirty (30) exclusive, large and heavily wooded lots to make this subdivision distinctive from those surrounding it and to make it more valuable from the standpoint of each individual lot and its future value.

What is clear is that the Petitioner has not met the burden of establishing that the spirit and intent of the original Plan called for three (3) lots where only one existed.

The testimony of all of the Protestants clearly indicated that the motivating factor on the part of each of the Protestants was the exclusivity of this subdivision, the fact that it contained large lots as opposed to other subdivisions in the immediate vicinity, and that it contained heavily wooded lots which permitted the location of the homes to be relatively private on each lot. Each and every neighbor testified as to the unique nature of this subdivision and the resulting inherent value in their home and lot based upon the privacy that was afforded.

The testimony relating to the Posey property as the "gateway" to the subdivision was also important in that the Posey property sets the tone for the rest of the Community because one enters the Community directly next to it.

The Protestants further established that Gaylord Brooks in its advertisement at the creation of the subdivision touted the exclusivity, the large lots, the privacy and the characterization as "an affluent, private neighborhood" to market these lots for a price greater than lots in other subdivisions in the neighborhood.

The spirit and intent of the original subdivision was clearly demonstrated by the creation of only thirty (30) lots where seventy-seven (77) could have been developed and the care which Gaylord Brooks utilized in siting the homes on each lot to retain the feeling of heavily wooded and private lots.

There has been no evidence presented by the Petitioner to demonstrate that his plan for a three (3) lot subdivision where one currently exists is consistent with the original purpose of the subdivision. The only testimony presented by the Petitioners characterizes changes made by subsequent zoning actions of the County and changes in the Regulations which would technically permit this subdivision, but that does not address the question of the original spirit and intent. No evidence has been shown how these three (3) lots are in any way, shape or form are consistent with the spirit and intent of the original Development Plan.

Finally, applying §502.1 of the Baltimore County Zoning Regulations one finds that this Amendment request would be detrimental to the health, safety and general welfare by reducing the number of trees on the wooded sites, afford less privacy to the owners, concentrate more homes in the subdivision and affect the property values of the other owners pursuant to §502.1a. It certainly would tend to overcrowd the land as created in the original subdivision under §502.1g. The Protestants have established that the proposal development is not in harmony with

the spirit and intent of the original Development Plan, and after the character and style of the present developer under §502.1g. Finally, it will be inconsistent with the natural recourses (forests) located on the site by opening of the existing tree canopy and allowing non-native invasive plants to encroach and spread into the forest in violation of §502.1.i.

WHEREFORE, the Protestants respectfully request that the Special Hearing to amend the final Development Plan be **DENIED**.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of September, 2007, a copy of the foregoing Memorandum to Deputy Zoning Commissioner in Lieu of Final Argument was mailed first class, postage pre-paid to the following: Lawrence E. Schmidt, Esquire, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

C:\My Docs\Memos 2007\Memo - Bortner – Posey Property - 9/20/07

9/24/07

IN THE MATTER OF:	*	BEFORE THE
JOHN AND VICTORIA POSEY	*	ZONING COMMISSIONER
13101 DOVER ROAD	*	OF BALTIMORE COUNTY
	*	
		CASE NO.: 07-470-SPH
	*	

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

POST-HEARING MEMORANDUM

John Posey and Victoria Posey, his wife, (hereinafter "Property Owners" or "Petitioners"), through Lawrence E. Schmidt and Gildea & Schmidt, LLC, their attorneys, submit this Post-Hearing Memorandum and respectfully state:

I. Introduction

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by the Property Owners. Therein, approval is requested of an amendment of the Final Development Plan (hereinafter "FDP") for the residential subdivision known as Tufton Farms. As described in the Petition, approval of two specific amendments to the FDP are sought; namely, 1.) to permit the re-subdivision of Lot 4, Plat 1, Section 2 into three (3) lots and 2.) to allow a non-density transfer and lot line adjustment from Lot 4, Pla1, Section 2 to Lot 3, Plat 1, Section 2. These specific amendments are shown on the Plat to Accompany the Petition for Special Hearing, received into evidence as Petitioners' Exhibit Number 1. At the conclusion of the public hearing held for this matter on August 27, 2007, the Deputy Zoning

Commissioner requested the submission of Post Hearing Memorandum in lieu of closing argument and this Memorandum therefore follows. The memorandum is to summarize Petitioner's testimony and argument offered during the public hearing.

II. Facts

The facts presented by Petitioner during the hearing are largely undisputed. The evidence presented by the Petitioner was by way of the testimony of Kenneth J. Wells, the expert witness (surveyor) who prepared the amended FDP, as well as documentary exhibits. Petitioners are the owners of Lot Number 4 in the Tufton Farms subdivision. The Lot is a corner lot, situated at the northeast corner of the intersection of Dover Road and Tufton Farms Road. The property is 9.543 acres in net area (10.237 acres in gross area, as measured to the lot line within the bed of adjacent public roads), zoned RC 5. It is improved by one single family detached dwelling, known as 13101 Dover Road. Access to that dwelling is via a driveway that leads into the property from Dover Road.

As noted above, the subject lot is part of the subdivision known as Tufton Farms, located in the Hunt Valley community of north central Baltimore County. This is a residential subdivision of substantially sized single family detached dwellings. The Tufton Farms subdivision was approved by Baltimore County in 1977, pursuant to the development review regulations and processes that existed

at that time.[1] Ultimately a Plat for that Section of the subdivision that contains Lot 4 was recorded in the Land Records of Baltimore County at Liber ELK, JR. 41, Folio 71 on June 15, 1977.

Subsequent to development plan approval under the then existing process, the Developer of Tufton Farms filed a Final Development Plan (FDP) with Baltimore County. This requirement of this filing is not as part of the development plan review process, rather, pursuant to the requirements contained in Section 1B01.3 of the BCZR As stated therein, an FDP is filed in order to provide prospective purchasers with notice of the specifics of a proposed subdivision and to allow Baltimore County's zoning office to review the proposal for compliance with the BCZR. Although the requirements for the filing of an FDP are located in the DR chapter of the BCZR as thus are most frequently applied to development in the DR zones, the requirement for an FDP is likewise applicable to residential development in the RC zone pursuant to BCZR Section 1A00.4.

III The Proposal

As described in the Petition, the Petitions seek a twofold amendment to the FDP. The first is to legitimatize a transfer of a small portion of Lot 4 to the owner of Lot 3. As more particularly shown on the Plan, when the adjacent property known as Lot 3 was being developed, it was determined that the grade

[1] The development review process as it existed at that time is no longer in existence. The current review process is found in Article 32, title 4 of the Baltimore County Code. This section is commonly referred to as the "development review regulations" and are separate and apart from the BCZR.

of that lot and other site constraints were such that the proposed driveway to serve that lot could not be located where originally envisioned. In view of these issues, the proposed driveway was re-located so that a portion of the same crosses onto Lot 4 (the subject property). In order to ensure that the driveway is entirely upon the lot which it serves and to bring the FDP into compliance with the conveyance which transferred an area of .689 acres that was transferred in order to accommodate the driveway, relief is requested to amend the FDP in accordance with that conveyance. There is no density being conveyed and no practical impact to the properties, other than to provide safe site distance, access to the public road (Dover Road) and legitimize the prior transfer. There were no objections to this amendment expressed by any of the Protestants at the hearing.

The second amendment is indeed the source of Protestants objections. Under the applicable density and area requirements of the BCZR, the Lot 4 may be subdivided to create five (5) lots total. In lieu of a subdivision of that number, a smaller subdivision of three lots is proposed and shown on Exhibit 1. Each new lot, designated on the plan as lots 4A, 4B and 4C, meets all of the area standards and requirements for lots in the RC 5 zone. Further, as shown on the plan, access to lots 4A and 4B will be by the existing driveway leading from Dover Road and the access to lot 4C will be by a driveway leading from Tufton Farms. Thus, there will be only one driveway from Dover Road, as is the case presently. As testified by Mr. Wells, the decision to retain one driveway entrance from Dover Road was based upon the fact that that roadway is a scenic route as classified by Baltimore

County. Tufton Farms Road is not so classified. In order to preserve the existing features of Dover Road at this location, the retention of a single point of access onto the subject property was preferred.

IV The Standard To Be Applied

As noted above, this case comes before the Deputy Zoning Commissioner as a Petition for Special Hearing to amend the previously approved FDP. Whether the FDP should be amended as requested by the Petitioner is the sole issue presented. This case is not about the development review process, whether current or prior development review standards should be applied, whether it was the intent of the Council to limit re-subdivision of RC zoned properties, etc.

In this regard, it is anticipated that Protestants will offer argument in their Post Hearing Memorandum regarding the development review regulations and whether the re-subdivision now proposed complies with current development regulations, how same should be processed, etc. Although those issues might need be addressed by Baltimore County at some point in the future, they are not the proper subject of this case. It is to be emphasized, this is a **zoning** case, not a **development** case.

The distinction between zoning law and subdivision review have been repeatedly recognized by the appellate courts of this State. In **Baltimore County v. Wesley Chapel Bluemount Road** 110 Md. App. 585, 678 A2d 100 (1996) the Court of Special Appeal held, " Case law recognizes the distinction between zoning and subdivision control" pg. 602. In fact Protestants' counsel in the

instant case participated in that matter. The Court of Appeals has similarly noted this distinction. (See e.g. **Board of County Commissioners of Cecil County v. Gaster**, 285 Md. 233, 401 A2d 666 (1979) and **Clarke v. County Commissioners for Carroll County**, 270 Md. 343, 311 A2d 417 (1973).

The standard to be applied when considering an amendment to an FDP are found in Section 1B01.3.A.7 of the BCZR. As stated therein, the "special exception" criteria set forth in Section 502.1 of the BCZR are to be applied.

V. Compliance with Section 502.1 and the Protestants Objections

As noted above, the evidence offered by Petitioners was largely through the testimony of Mr. Wells. His conclusions were largely unchallenged by the Protestants.

The Deputy Commissioner is no doubt well familiar with the language within Section 502.1 BCZR and the criteria therein. It will not be repeated herein. Essentially, that criteria requires an analysis of whether a grant of the relief requested (i.e. approval of the amendments to the FDP) will be detrimental to the health, safety and general welfare of the locale. The obvious conclusion is this case is that there will be no adverse impact.

In considering the specific criteria presented, there will obviously be no adverse impact as to traffic and upon the adjacent roads (See 502.1 B). Only two additional houses are proposed and the traffic impact will be minimal. There are no failing intersections in the area and no traffic moratoria. The proposed sight distance of the existing driveway on Tufton Farms Road is appropriate and the

same driveway that presently accesses the property from Dover Road will be used.

Obviously, there will be no danger from fire, panic or other danger (See 502.1 C). The houses will be built to Code. Moreover, the proposed dwellings will not overcrowd the land or cause undue concentration of population (502.1 D). The proposed lots easily exceed the minimum lot size requirement in the RC 5 zone. Lot 4 is one of the larger lots in the Tufton Farms subdivision and contains more than the acreage required (both from a residential density standpoint and an area standpoint) for subdivision in the RC 5 zone. In fact, as specifically testified by Mr. Wells, the Tufton Farms subdivision did not utilize all of the density available (77 units) at the time of project approval in 1977 and the proposed FDP amendment does not exceed density when viewed in the context of the both the entire subdivision and acreage of Lot 4 itself. As stated above, Lot 4 could be subdivided into five lots under the area/density requirements.

As the property will be served by private well/septic, the proposal clearly will not impact public utilities and the impacts on schools, parks, etc. will be minimal (502.1 E). It will obviously also not interfere with adequate light and air (502.1 F). The proposed amendments are consistent with the RC 5 regulations; as noted above, the applicable area and density requirements are met (502.1 G). No zoning variances are requested or needed. Finally, the environmental requirements set out in Sections 502.1 H and 502.1 I will be satisfied.

A number of residents testified in opposition to the request. Their testimony was essentially that, "we have ours and don't want any change in our neighborhood." Mr. Bortner testified that each lot in the subdivision should be at least five (5) acres, even though there are existing lots are smaller than that. Mrs. Bointner acknowledged that this case is not about architecture, since there are many diverse types of homes in the community and no established architectural style. It can therefore be concluded that the proposed dwellings will not be out of character with the others in the Tufton Farms subdivision. Mr. Buckley is concerned about the loss of trees, even though that most are being retained and the original area of Lot 4 will remain largely wooded. Other neighbors conceded that the new homes will be hard to see from adjacent properties.

Ultimately, the real concern of the opponents is that they disagree with the law (i.e. that this RC 5 lot can be subdivided). As noted by Petitioners' counsel, covenants originally binding on this subdivision as to further subdivision, lot size, etc. have expired. The Protestants improperly ask that the Deputy Zoning Commissioner effectively resuscitate the restrictions in these covenants. This request is obviously not what this case is about and it is fundamentally improper to apply these criteria when the collective community has permitted the covenants to lapse.

Testimony was also received in opposition to the request from Theresa Moore, Executive Director of the Valleys Planning Counsel (VPC). She offered two points of opposition to the request. First, that VPC opposes development on

the "walls" of the County's valleys (which is factually erroneous in this case) and second, that VPC opposes requests when contacted by opposing neighbors. She admitted that VPC never spoke to the Petitioners and that VPC's position was never adopted by its membership or executive board.

Finally, the Protestants also produced the testimony of Diana Itter of the Office of Planning. The purpose of her appearance for the Protestants is unclear, in that Office of Planning does not oppose the request (See Office of Planning ZAC comment). She defined the neighborhood as including not only the Tufton Farms subdivision, but also including the nearby Shaneybrook subdivision. That subdivision has lots smaller than the lots proposed in this request. She also indicated that the proposed subdivision of Lot 4 will be reviewed by her agency as part of the development review process. The conditions that she wants to be attached to any approval of this subdivision will be considered during development plan review.

Conclusion

It has often been stated that zoning decisions are not made by plebiscite (See e.g. **Quinn v. County Commissioners of Kent Co.** 20 Md. App. 413, 316 A2d 535 (1974). This case presents NIMBYism at its worst. Having allowed the covenants to lapse (an event that apparently many in the neighborhood welcome) the Protestants herein object to what Petitioners are expressly permitted to do under the BCZR. This case is not about which development regulations should apply, whether the restrictive covenants should be applied

through this process notwithstanding their lapse, etc. It is about whether an amendment to a Final Development Plan should be allowed, in accordance with the criteria to consider the same as set out in Sections 1B01.3.A.7 and 502.1 of the BCZR. The evidence presented was clear and convincing; the Petition for Special Hearing should be granted.

Respectfully submitted,

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

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September, 2007, a copy of the foregoing Hearing Memorandum was mailed, first class, postage prepaid to:

J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson MD 21204.

Lawrence E. Schmidt

GILDEA & SCHMIDT, LLC

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

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

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

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

September 24, 2007

Thomas Bostwick
Office of the Zoning Commissioner
401 Bosley Avenue, Suite 405
County Courts Building
Towson, MD 21204

RECEIVED
SEP 24 2007
BY:----------

Re: Posey/13101 Dover Road
Case No. 07-470-SPH

Dear Deputy Zoning Commissioner:

Enclosed please find the Post hearing memorandum for Case No. 07-470-SPH. Should you have any questions or comments, please contact me. With kind regards, I am

Very truly yours,

Lawrence E. Schmidt (OS)

Lawrence E. Schmidt

LES: dls
Cc: J. Carroll Holzer, Esquire

8W-98

1/30/96

See enclosed letter from landlord Mr. Haile dated 1/29/96. Tenant has vacated the premises and the problems have been corrected. Case closed.

E

2007470 "A"

Scanned 1/30/13 CR

(2)

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 13101 Dover Road

which is presently zoned 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

See attached.

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

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

Contract Purchaser/Lessee:

Wells Development Corporation
Name - Type or Print

Signature

7403 New Cut Road (410) 592-8800
Address Telephone No.

Kingsville MD 21087
City State Zip Code

Attorney For Petitioner:

Lawrence E. Schmidt
Name - Type or Print

Signature

Gildea & Schmidt, LLC
Company

600 Washington Avenue, Suite 200 (410) 821-0070
Address Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

John B. Posey
Name - Type or Print

Signature

Victoria K. Posey
Name - Type or Print

Signature

13101 Dover Road (410) 584-2574
Address Telephone No.

Reisterstown MD 21136
City State Zip Code

Representative to be Contacted:

Lawrence E. Schmidt
Name

600 Washington Avenue, Suite 200 (410) 821-0070
Address Telephone No.

Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1HR

UNAVAILABLE FOR HEARING ~

Reviewed By JC Date 4/16/07

Case No. 07-470-SPH

REV 9/15/98

RECEIVED FOR FILING
Date 10-17-07
By PB

ATTACHMENT TO PETITION FOR SPECIAL HEARING

1. An amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231), so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with BCZR §§1A00.4 and 1B01.3 and Section 1B01.3.A.7.c of the Zoning Commissioner's Policy Manual (ZCPM);

2. The non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC Section 32-4-106(a)(viii); and

3. For such other and further relief as may be deemed necessary by the Zoning Commissioner.

kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

April 4, 2007

Zoning Description for
13101 Dover Road
Baltimore County
Maryland

8th Election District
2nd Councilmanic District

Beginning at a point of the east side of Dover Road which is 70 feet wide at a distance of 25 feet north of the centerline Tufton Ridge Road which is 50 feet wide.

Being Lot 4 in the subdivision of "Plat 1 – Section 2 Tufton Farms" as recorded in Baltimore County in Plat Book 41 folio 71. Containing 9.543 acres or 415,671 square feet of land more or less.

A70



RC . 2

RC . 5

RC.4

RC . 5

Site

DOVER RD

TUFTON RIDGE RD

RC . 5

x70

200 SCALE ZONING MAP 041A3

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT JL #490 **No.** 28037

DATE 4/16/07 ACCOUNT 001 006 6150

AMOUNT $ 195.00

RECEIVED FROM: K J WELLS INC

FOR: SPH/AMENDMENT TO FDP ETC.

FOR 3 PROPOSED LOTS 13101 DOVER RD

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

[illegible] $195.00

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 0911

Date: 6.28.07

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				70.00
							Total:	70.00

Rec From: Ken Wells

For: Revised plans

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTION ITEM DRW
7/03/2007 7/02/2007 10:05:56 4
REC NOS 440 KEN MACH PYM
RECEIPT B 529078 7-02-2007 OHLM
Dept 578 ZONING VERIFICATION
000911
Recpt Tot $70.00
70.00 CK .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: #07-470-SPH
13101 Dover Road
E/side of Dover Road, 25 feet north of Tufton Ridge Road
8th Election District - 2nd Councilmanic District
Legal Owner(s): John B. & Victoria K. Posey
Contract Purchaser: Wells Development Corporation

Special Hearing: for an amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number V111-231) so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots, and the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms"(PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same; that does not result in an increase in the number of lots and there is no increase in the total residential available to the lots considered as a whole.

Hearing: Monday, July 16, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

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

6/335 June 28 140165

CERTIFICATE OF PUBLICATION

6/28/, 2007

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/28/, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 07-470-SPH

Petitioner/Developer: WELLS DEVELOPMENT CORP.

Date of Hearing/Closing: JULY 16, 2007

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTN: Kristen Matthews {(410) 887-3394}

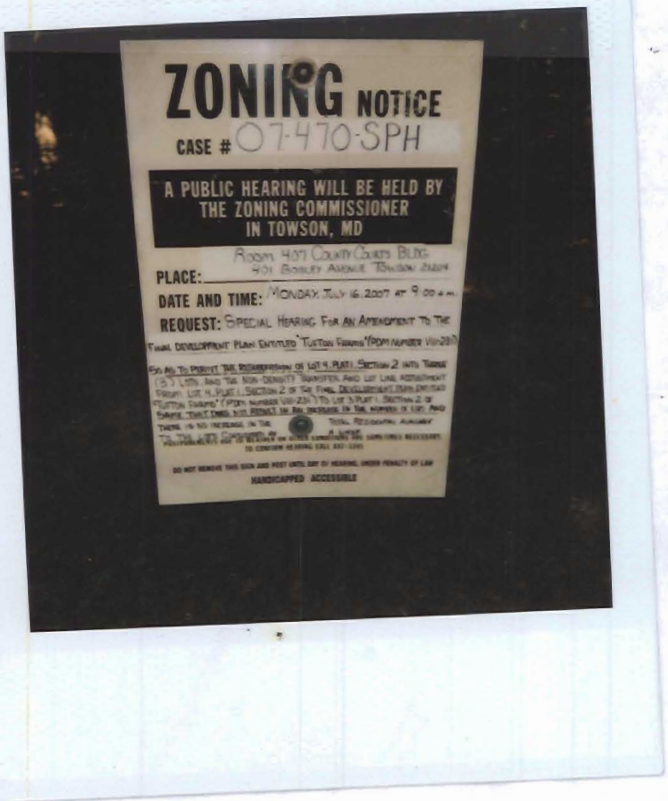
Ladies and Gentlemen:

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

13101 DOVER RD

The sign(s) were posted on JUNE 30, 2007
(Month, Day, Year)

Sincerely,



Robert Black JULY 2, 2007
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY
Thursday, June 28, 2007 Issue - Jeffersonian

Please forward billing to:
Lawrence Schmidt
Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204

410-821-0070

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: 07-470-SPH
13101 Dover Road
E/side of Dover Road, 25 feet north of Tufton Ridge Road
8th Election District – 2nd Councilmanic District
Legal Owners: John B. & Victoria K. Posey
Contract Purchaser: Wells Development Corporation

Special Hearing for an amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots, and the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential available to the lots considered as a whole.

Hearing: Monday, July 16, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

GILDEA & SCHMIDT, LLC

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI
JOSEPH R. WOOLMAN, III

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

BALTIMORE, MD OFFICE
300 EAST LOMBARD STREET
SUITE 1440
BALTIMORE, MARYLAND 21202
TELEPHONE 410-234-0070

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

April 11, 2007

Sent Via Hand Delivery
W. Carl Richards Jr.
Permits and Development Management
111 W. Chesapeake Avenue
Towson MD 21204

Re: *Wells/13101 Dover Road (Posey Property)*

Dear Mr. Richards:

In follow up to our filing appointment with John Lewis on Thursday, April 5, 2007, the following is being submitted for your review. Enclosed herein please find three (3) original signed copies of the Petition for with attachment, twelve (12) copies of the plat Parts A and B; Part A being the amended FDP and Part B being the site-specific conditions), three (3) copies of the property decription, one (1) copy of the official zoning map (200' scale), one (1) completed copy of the advertising and posting requirements procedures form and the filing fee.

Additionally, please note that the following language should be noted on the advertisement and sign to be posted giving notice of the relief requested, as indicated by Mr. Lewis at the filing appointment for this matter:

To amend the FDP for Lot 4 of "Tufton Farms" to create three lots and to approve an existing transfer of 0.69 acres to Lot 3 as being non-density and not affecting the residential density and any other relief deemed necessary by the Zoning Commissioner.

Please feel free to contact the undersigned with any comments, questions or concerns.

Very truly yours,

Jason T. Vettori

JTV: sf
Enclosure
CC: John Lewis, Permits and Development Management (w/o enclosure)
Kristen Matthews, Office of Zoning (w/o enclosure)
Kenneth J. Wells, Wells Development Corporation (w/o enclosure)
John & Victoria Posey (w/o enclosure)
Lawrence E. Schmidt, Esquire (w/o enclosure)

10 COPIES W/ ORDINOS. BRIEF

Rec'd 195.00
26632
MAILED TO K.J. Wells the Payee

GILDEA & SCHMIDT, LLC

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

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

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

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

July 16, 2007

J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson MD 21204

RECEIVED
JUL 18 2007
BY:.....

Re: Case #07-470-SPH
Posey Property

Dear Carroll:

This is to confirm the postponement of the above matter pursuant to your request as set forth in your letter of July 9, 2007. Sterling Leese from your office appeared with me before Deputy Commissioner Bostwick and formally postponed the hearing. We agreed that the matter would be reset to Monday, August 27, 2007 and Wednesday, August 29, 2007, if necessary. In that no one appeared at the postponement hearing, it will not be necessary for my client to undergo the expense of reposting or readvertising the property. I am going to attempt to have the existing sign changed, reflecting the new date.

I understand that you are representing Valley's Planning Council and Mr. Larry Bortner. Your letter indicates that you also represent "other adjacent and adjoining property owners." I would appreciate if you would identify those individuals. Please call or drop me a line with that information.

As always, I anticipate working with you regarding this matter.

Very truly yours,

Lawrence E. Schmidt

LES:jls
CC: Honorable Thomas Bostwick, Deputy Zoning Commissioner
Kenneth J. Wells, Wells Development Corporation

kjWellsInc
Land Surveying and Site Planning
7403 New Cut Road
Kingsville, Md. 21087-1132
Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

TRANSMITTAL LETTER

ATTENTION: John Lewis

DATE: June 26, 2007

TO: Baltimore County, Maryland
PDM Zoning Review Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Posey Property
Project Number: 2006-042

WE ARE SENDING YOU X Attached Under separate cover via Hand Delivered

DESCRIPTION
1 check in the amount of $70.00 for case # 07-470-SPH

THESE ARE TRANSMITTED as checked below

	For approval	Approved as submitted	Resubmit copies for approval
	For your use	Approved as noted	Submit copies for distribution
X	As requested	Returned for corrections	Return corrected prints
	For review & comment		Return prints to us
	For bids due		
	Other explanation:		

REMARKS:

COPY TO:

SIGNED:

IF ENCLOSURES ARE NOT AS NOTED, KINDLY NOTIFY US AT ONCE.

TB
8-27-07

IN THE MATTER OF: PETITION FOR SPECIAL HEARING	*	BEFORE THE ZONING
13101 DOVER ROAD	*	COMMISSIONER FOR
(POSEY PROPERTY)	*	BALTIMORE COUNTY
	*	Case No. 07-470-SPH

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

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Diana Itter
Planning
County Courts Bldg.
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only;
(X) Personally appear and produce documents or objects;
at Room 407, County Courts Bldg., Towson, MD
(Place where attendance is required)

on Monday, the 27th day of August, 2007 at 9: 00 a.m. **for such witness' testimony and continuing thereafter as necessary without need for separate subpoena for such witness' testimony as determined by the Zoning Commissioner. The witness can be "on call" and available in their office until called to appear as a witness.**

YOU ARE COMMANDED TO produce the following documents or objects:
Any and all files, letters, memos, comments, plats, maps, deeds, etc. in the above captioned case

J. Carroll Holzer, 508 Fairmount Ave., Towson, MD 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 8/21/07

Zoning Commissioner

SHERIFF'S RETURN

( )- Served and copy delivered on date indicated below.
( )- Unserved, by reason of

Date: _____

Fee: $

_____
SHERIFF

C:\My Docs\Subpoenas 2007-Diana Itter 8-20-07

17D4

Requested: Jan. 3, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 07-470-SPH

13101 DOVER ROAD

8TH ELECTION DISTRICT APPEALED: NOV. 5, 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.: 07-470-SPH

LEGAL OWNER: **JOHN & VICTORIA POSEY**

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

13101 DOVER ROAD

E/SIDE OF DOVER ROAD, 25' N OF TUFTON RIDGE ROAD

The sign was posted on 5/28, 2008.

By: Chen / Kelly
(Signature of Sign Poster)

Jerry Chen / Stu Kelly
(Print Name)


ZONING APPEAL
PUBLIC HEARING
410-887-3180
05.28.2008 10:06

COLEEN KELLY

kjWellsInc
Land Surveying and Site Planning
7403 New Cut Road
Kingsville, Md. 21087-1132
Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

TRANSMITTAL LETTER

ATTENTION: Joe Chmura

DATE: December 22, 2009

TO: Baltimore County, Maryland
PDM Development Processing Room 123
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Posey Property
Project Number: 2006-042

WE ARE SENDING YOU X Attached Under separate cover via Hand Delivered

DESCRIPTION
1 copy Certificate of Posting

THESE ARE TRANSMITTED as checked below

	For approval	Approved as submitted	Resubmit	copies for approval
X	For your use	Approved as noted	Submit	copies for distribution
	As requested	Returned for corrections	Return	corrected prints
	For review & comment		Return	prints to us
	For bids due			
	Other explanation:			

REMARKS:

RECEIVED
JAN 05 2010
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

COPY TO:

SIGNED: Alexa Verdetta

IF ENCLOSURES ARE NOT AS NOTED, KINDLY NOTIFY US AT ONCE.

Providing Land Surveying and Site Planning Services in Maryland since 1984

CERTIFICATE OF POSTING

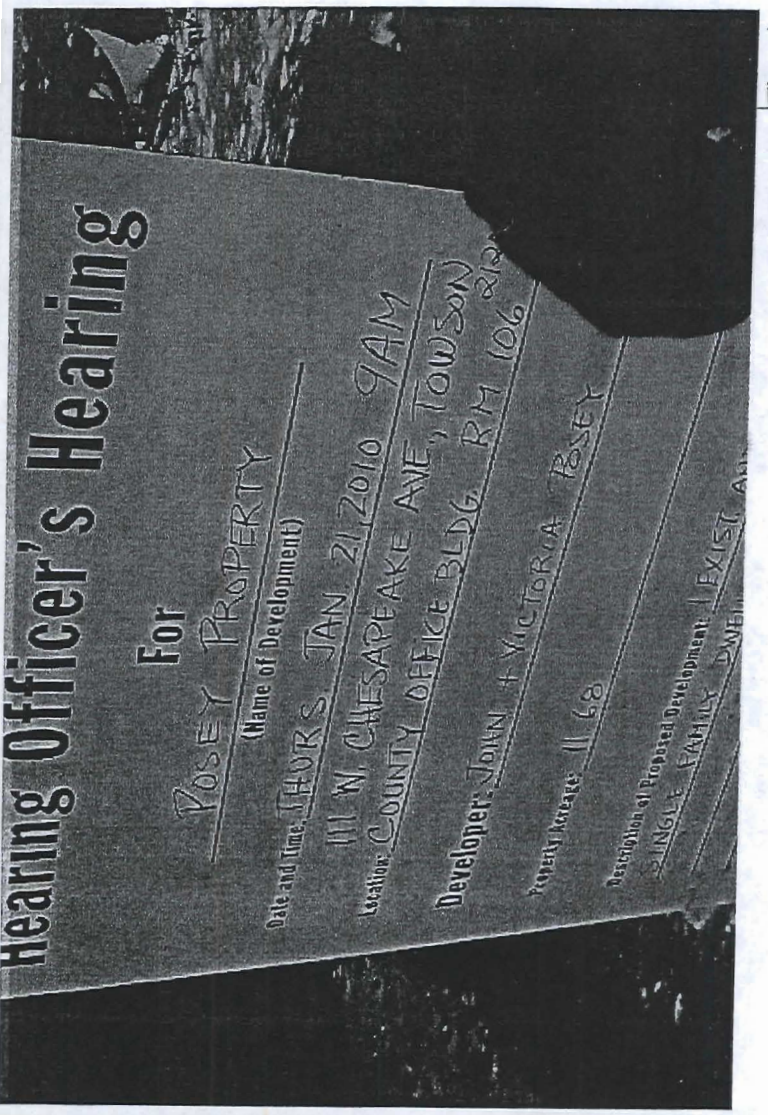
Date: 12-20-09

RE: Case Number: V-111-231

Petitioner/Developer: John + Victoria Posey

Date of Hearing/Closing: Thurs Jan. 21, 2010 9AM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 13101 Dover Rd



12-20-09
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

COLLEEN KELLY

CERTIFICATE OF POSTING

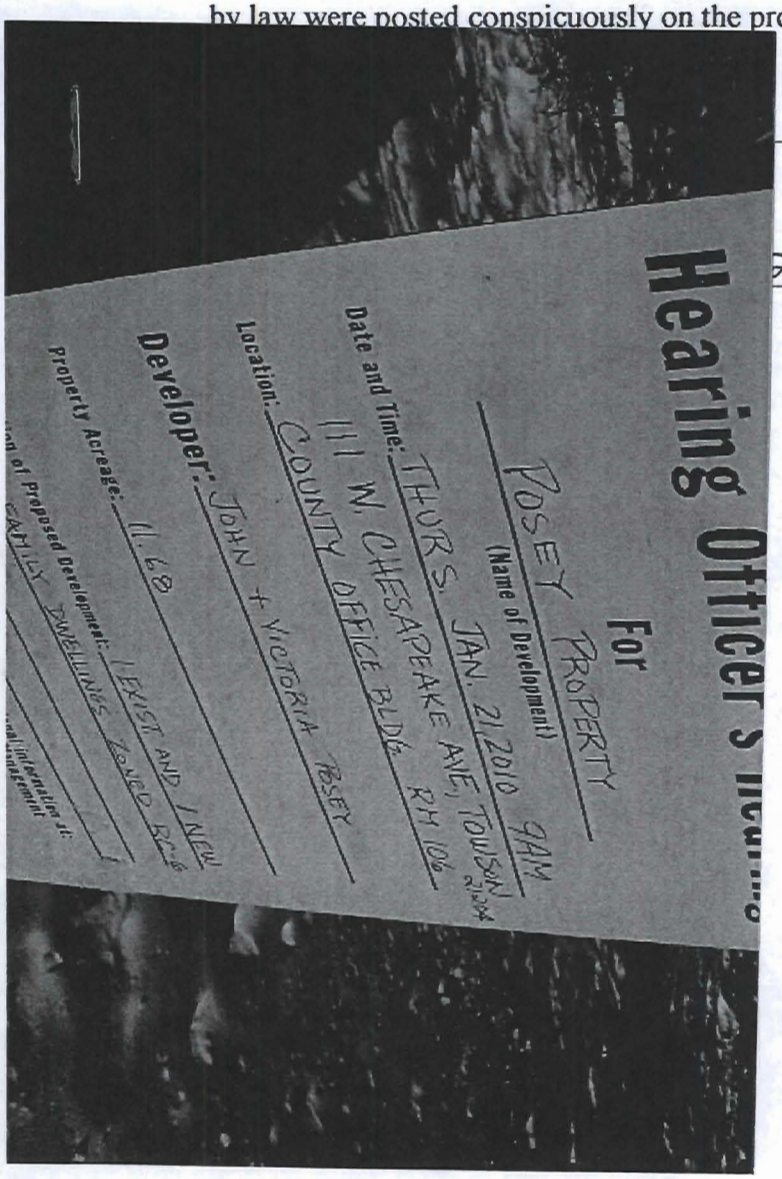
Date: 12-20-09

RE: Case Number: VIII-231

Petitioner/Developer: John + Victoria Posey

Date of Hearing/Closing: Thurs. Jan 21, 2010 9AM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 13101 Dover Rd



12-20-09
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT
RECEIVED
DEC 22 2009

BALTIMORE COUNTY
MARYLAND

May 29, 2007

JAMES T. SMITH, JR.
County Executive

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

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: 07-470-SPH
13101 Dover Road
E/side of Dover Road, 25 feet north of Tufton Ridge Road
8th Election District – 2nd Councilmanic District
Legal Owners: John B. & Victoria K. Posey
Contract Purchaser: Wells Development Corporation

Special Hearing for an amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots, and the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential available to the lots considered as a whole.

Hearing: Monday, July 16, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Mr. & Mrs. Posey, 13101 Dover Road, Reisterstown 21136
Wells Development Corporation, 7403 New Cut Road, Kingsville 21087

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JUNE 30, 2007.**
(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.

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

March 24, 2008

NOTICE OF ASSIGNMENT

CASE #: 07-470-SPH

IN THE MATTER OF: JOHN & VICTORIA POSEY –LO;
WELLS DEVELOPMENT CORP. - CP
13101 Dover Road 8th Election District; 2nd Councilmanic District

10/17/07 – D/Z.C.'s decision in which requested zoning relief was **GRANTED.**

ASSIGNED FOR: **THURSDAY, MAY 8, 2008 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : VPC /Teresa Moore, Executive Director
Larry & Janice Bortner
Fran & Richard Yeazel
Martin Buckley
John Sophocles
Don Schline

Counsel for Petitioners : Lawrence E. Schmidt, Esquire
Petitioners /Legal Owners : John B. and Victoria K. Posey
Kenneth J. Wells /Wells Development Corp. /C.P. and Consultant
Thomas A. Church, P.E. /Development Eng. Consultants

People's Counsel for Baltimore County
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

pp'd Day 2 to 9/16/08 - EC convenience

Hearing Room #2, Second Floor (next to Suite 203)
Jefferson Building, 105 W. Chesapeake Avenue

May 9, 2008

NOTICE OF ASSIGNMENT /Day #2

CASE #: 07-470-SPH

Day #2 /from 5/08/08

IN THE MATTER OF: JOHN & VICTORIA POSEY –LO;
WELLS DEVELOPMENT CORP. - CP
13101 Dover Road 8th Election District; 2nd Councilmanic District
10/17/07 – D/Z.C.'s decision in which requested zoning relief was **GRANTED.**

Having completed hearing day #1 on 5/08/08, the following date and time, upon confirmation with counsel and the panel members, has been assigned for hearing day #2:

ASSIGNED FOR: **WEDNESDAY, JULY 23, 2008 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco, Administrator

---

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : VPC /Teresa Moore, Executive Director
Larry & Janice Bortner
Fran & Richard Yeazel
Martin Buckley
John Sophocles
Don Schline

Tom Gildee
Mike O'Malley
Stephen Schloss

Counsel for Petitioners : Lawrence E. Schmidt, Esquire
Petitioners /Legal Owners : John B. and Victoria K. Posey
Kenneth J. Wells /Wells Development Corp. /C.P. and Consultant
Thomas A. Church, P.E. /Development Eng. Consultants

People's Counsel for Baltimore County
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Poss 7/15

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Second Floor (next to Suite 203)
Jefferson Building, 105 W. Chesapeake Avenue

May 15, 2008

NOTICE OF POSTPONEMENT & REASSIGNMENT /Day #2

CASE #: 07-470-SPH

Day #2 /from 5/08/08

IN THE MATTER OF: JOHN & VICTORIA POSEY –LO; WELLS DEVELOPMENT CORP. - CP
13101 Dover Road 8th Election District; 2nd Councilmanic District
10/17/07 – D/Z.C.'s decision in which requested zoning relief was **GRANTED.**

which had been scheduled for 7/23/08 for day #2 has been POSTPONED and reassigned due to Board member scheduling conflict; and, upon confirmation with counsel, has been reassigned for hearing day #2:

REASSIGNED FOR: **TUESDAY, SEPTEMBER 16, 2008 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: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : VPC /Teresa Moore, Executive Director
Larry & Janice Bortner
Fran & Richard Yeazel
Martin Buckley
John Sophocles
Don Schline

Tom Gildee
Mike O'Malley
Stephen Schloss

Counsel for Petitioners : Lawrence E. Schmidt, Esquire
Petitioners /Legal Owners : John B. and Victoria K. Posey
Kenneth J. Wells /Wells Development Corp. /C.P. and Consultant
Thomas A. Church, P.E. /Development Eng. Consultants

People's Counsel for Baltimore County
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

July 12, 2007

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Dear Mr. Schmidt:

RE: Case Number: 07-470-SPH, 13101 Dover Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 16, 2007. This letter is not an approval, but only a **NOTIFICATION.**

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
John B. Posey Victoria K. Posey 13101 Dover Road Reisterstown 21136
Wells Development Corporation Kenneth J. Wells 7403 New Cut Road Kingsville 21087

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: April 24, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For April 30, 2007
Item No. 07-470

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

We have no objection to granting the request; however the proposed subdivision shall comply with all development regulations.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 07-470-04242007.doc

TB 7/16
9AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
MAY 31 2007
BY:.....

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: May 31, 2007

SUBJECT: Zoning Item # 07-470-SPH
Address 1301 Dover Road
(Posey Property)

Zoning Advisory Committee Meeting of April 23, 2007

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

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

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

__X__ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code) for the entire 10.72 acres comprising Lot 4.

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

Additional Comments:

Reviewer: Tom Panzarella Date: May 23, 2007

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2007\ZAC 07-470-SPH.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 7, 2006

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

SUBJECT: 13101 Dover Road

INFORMATION:

Item Number: 7-470

Petitioner: John and Victoria Posey

Zoning: RC 5

Requested Action: Variance

The petitioner requests a special hearing to amend the final development plan of Tufton Farms Plat 1 Section 2 to allow the resubdivision of Lot 4 into three lots and correct the adjacent lot line with Lot 3 to reflect a prior deed conveyance. The applicant is also processing a minor subdivision known as the Posey Property. A covenant restricting future subdivision of the existing lots within Tufton Farms will expire July 1, 2007.

Dover Road is scenic. The amount of vegetation shown on the plan to be retained along the Dover Road frontage should be in compliance with the CDMP Scenic Routes, Enclosed views.

SUMMARY OF RECOMMENDATIONS:

Should the Zoning Commissioner grant the petitioner's request, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

1. Photographs of existing adjacent dwellings.
2. Submit building elevations (all sides) of the proposed dwelling to this office for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the

proposed building(s) uses the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.

3. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
4. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.
5. Provide landscaping along the public road, if consistent with existing streetscape.

For further questions or additional information concerning the matters stated herein, please contact Diana Itter with the Office of Planning at 410-887-3480.

Prepared By: Cindis Murray

Division Chief: Lynn Larson

MAC/LL

Fire Department

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



Baltimore County

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

April 24, 2007

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

ATTENTION: Zoning Review planners

Distribution Meeting of: April 23,2007

Item No.: 454, 455, 456, 457, 458, 459, 460, 461, 462, 464, 465, 466, 467, 468, 469, 470, 471, and 472.

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

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

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

cc: File

Printed on Recycled Paper

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

SHA State Highway Administration
Maryland Department of Transportation

John D. Porcari, *Secretary*
Neil J. Pedersen, *Administrator*

Date: 4/24/2007

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

RE: Baltimore County
Item No. 7-470-SPH
13101 Dover Road
Posey 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. 7-470-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

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

SHA
State Highway Administration
Maryland Department of Transportation

John D. Porcari, *Secretary*
Neil J. Pedersen, *Administrator*

Date: JULY 16, 2007

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

RE: Baltimore County
Item No. 07-470-SPH
13101 DOVER ROAD
POSEY 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. 07-470-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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: July 18, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For July 20, 2007
Item Nos. 07-470, 08-001, 002, 003, 004, 005, 006, 007, 008, 009, 011, 012, 013, 014, 015, 016, 017, 018 and 019

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

DAK:CEN:cab
cc: File
ZAC-NO COMMENTS-07202007.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Thomas H. Bostwick, Deputy Zoning Commissioner for Baltimore County

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

DATE: May 7, 2008

PROJECT NAME: Lot 4, Section 2, Tufton Farms Final Development Plan Amendment

CASE NUMBER: 07-470-SPH

PROJECT PLANNER: Lloyd Moxley

GENERAL INFORMATION:

Petitioner: John and Victoria Posey

Location: 13101 Dover Road

Councilmanic District: 2nd

Zoning: RC 5

RECOMMENDATION:

The following represents a finding on the part of the Baltimore County Office of Planning as to whether the above referenced property which is the subject of zoning case no. 07-470-SPH is in accord with the provisions of the Comprehensive Manual of Development Policies (CMDP) and Article 1B of the Baltimore County Zoning Regulations (BCZR).

Comprehensive Manual of Development Policies

Division II and Division III

The Office of Planning finds that the provisions of Division II and Division III of the CMDP do not apply to this R.C.5 (Rural Residential) zoned property located outside of the Urban Rural Demarcation Line (URDL). It is the opinion of this office that the application of the residential and or commercial standards found in said divisions of the CMDP would be in conflict with the performance standards found in Section 1A04.4 of the BCZR.

Division VI, Section A

The Office of Planning finds that the provisions of Division VI, Section A, CMDP applies in this case. Dover Road was identified as a scenic route in Zoning Advisory Comments generated by this office dated February 7, 2007. As such the route is subject to the aforementioned provisions. At this location on Dover Road the view would be classified as "enclosed". The amended Final Development Plan will not change this status. There will be no additional entrances onto Dover Road as the amended plan proposes the utilization of the existing entrance into the property to serve the northernmost proposed Lots 4A and 4B. Lot 4C is accessed from Tufton Ridge Road, not a scenic route. A 30' buffer is proposed which is to include indigenous trees to supplement the existing view. By scaling the plan, the limit of disturbance for the proposed development is more than 100' removed from the edge of paving for Dover Road at it's closest point thereby maintaining an adequate wooded buffer. Minimal grading at the road edge should be buffered with vegetation such as evergreen or flowering trees and shrubs that will enhance the existing wooded buffer. Any new structure to be built

will be subject to the performance standards found in Section 1A04.4 of the BCZR which compliments and reinforces the scenic view requirements of the CMDP.

Division VI, Sections B,C,D,E

Not applicable.

Division VI, Section H

It is the position of the Office of Planning that the relatively minor occurrence of crime within reporting area 303150 of Precinct # 3 does not justify the implementation of the requirements of Division VI, Section H, CMDP.

Finding:

The Baltimore County Office of Planning finds that the Lot 4, Section 2, Tufton Farms Final Development Plan Amendment is in accord with the provisions of the Comprehensive Manual of Development Policies. The Baltimore County Office of Planning further finds the amendment to be in accord with the applicable provisions of Article 1B of the Baltimore County Zoning Regulations.

Prepared By: _____

Division Chief: _____

LTM:kma

Cc: Timothy Kotroco, Director - Department of Permits & Development Management
Chairman, Baltimore County Board of Appeals

RE:	PETITION FOR SPECIAL HEARING 13101 Dover Road; E/S Dover Road, 25' N Tufton Ridge Road 8th Election & 2nd Councilmanic Districts Legal Owner(s): John & Victoria Posey Contract Purchaser(s): Wells Development Corp. Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-470-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 27th day of April, 2007, a copy of the foregoing Entry of Appearance was mailed to, Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED
APR 27 2007
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

SUBJECT: Development Plan Review Comments
For December 30, 2009

DATE: December 30, 2009

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: POSEY PROPERTY/ TUFTON FARMS RESUDIVISION LOT 4

P.D.M. NO.: 08 -231

LOCATION: N/E Corner Dover Road & Tufton Ridge road

DISTRICT: 8 C 2

We have reviewed the subject plan dated 10/04/2009 and have the following comments.

GENERAL COMMENTS:

All construction will be accomplished in accordance with Baltimore County Standard Specifications and Details for Construction *(February, 2000, as amended)* and Baltimore City Standard Details.

This property has been submitted as Minor Subdivision (Minor Sub. No. 07001M).

The construction of private utilities shall be inspected by a private inspection firm under the supervision of the *Baltimore County Construction Contracts Administration Division, Department of Public Works*. The construction shall be certified by a **Professional Engineer** prior to approval for occupancy by the *Department of Permits and Development Management.*

Security shall be posted prior to the issuance of building permits unless the posting of said security is deferred. The security shall be posted prior to the recording of the plat.

The developer shall be responsible for damages to the county's facilities, such as water meters, manholes, curbs and gutters and inlets within his subdivision and for any damages caused by his construction equipment outside of his subdivision. Occupancy permits will be withheld until such damages have been corrected.

The developer shall not allow any cable television cables to be installed in this subdivision without the required county permits being obtained. Baltimore County will

not assume any rights-of-way, easements, or maintenance of any public improvements, where such cables have been installed without a permit until the cables are satisfactorily located.

When an *Irrevocable Letter of Credit* is posted as security and the County's ability to draw on or otherwise call the *Letter of Credit* is negatively impacted for any reason (*bank default, receivership, etc.*), it shall be the sole responsibility of the developer to obtain a replacement *Letter of Credit* under the same terms and conditions.

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

HIGHWAY COMMENTS:

The Dover Road is an existing road, which shall ultimately be improved as a 50-foot street cross section on a 70-foot right-of-way.

The Tufton Ridge Road is an existing road, which shall ultimately be improved as a 24-foot street cross section on a 50-foot right-of-way.

In accordance with *Bill No. 32-72*, street lights are required along all road frontages of subdivisions. The developer will be responsible for the full cost of installation of the cable, poles and fixtures. Along new roads, the county will assume the cost of the power when the roads have been accepted for county maintenance. Along existing roads, the county will assume the cost of power after installation.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The developer is responsible for the total actual cost of drainage facilities required to carry the storm water runoff through the property to be developed to a suitable outfall. The developer's cost responsibilities include the acquiring of easements and right-of-way both onsite and offsite and the deeding in-fee of said right-of-way at no cost to the county. Preparation of all construction, right-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the county overhead both within and outside the development are also the responsibilities of the developer.

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the developer's responsibility. However, a drainage area map, scale 1"=200', including all facilities and drainage areas involved, shall be shown on a plan and submitted to Baltimore County for review.

The developer must provide necessary drainage facilities (*temporary or permanent*) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem, which may result due to improper grading or improper installation of drainage facilities, will be the full responsibility of the developer.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of topsoil.

In accordance with Baltimore County Council Grading, Sediment Control and Forest Management Ordinance (Bill No. 33-88), a grading plan shall be approved and a Performance Bond posted prior to issuance of a grading permit. A sediment control plan is required. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

Sediment control provisions will be required for the building permit application and for any grading involved.

WATER AND SANITARY SEWER COMMENTS:

Public water is not available to serve this property. Therefore, private well systems must be provided in conformance with the *Department of Environmental Protection and Resource Management* requirements. A water appropriation permit must be approved prior to signature on the record plat.

Public sewers are not available to serve this property. Therefore, private sewage systems must be provided. Soil tests must be conducted on each lot prior to approval of a record plat in accordance with the *Department of Environmental Protection and Resource Management* requirements.

TRAFFIC ENGINEERING COMMENTS:

All subsequent plans, including record plats, must note that the areas between the sight line and the curb line must be cleared, graded, and kept free of any obstructions.

SITE SPECIFIC COMMENTS:

Record plat 41/71 must be amended.

Show and label pad locations for mailbox and trash pick up on the plan.

Sight distance should be shown on the plan for Lot 4B entrance.

Area for Lot 4A shown in the plan and in the 'Site Analysis' is not same. Please revise.

* * * * *

DAK/VKD/vkd
cc: File

BALTIMORE COUNTY, MARYLAND

SUBJECT: DEVELOPMENT PLAN COMMENTS

FROM: PDM - ZONING REVIEW Date: 12/16/09

PROJECT NAME: Posey Property/Tufton Farms Resubdivision, Lot 4
PROJECT #: 07-001-M Minor Sub by JNP
Plan Date: 10/04/09
PDM # 08-231 Review # 1

THE DEVELOPERS ENGINEER MUST SEND ALL REVISIONS IN THROUGH DEVELOPMENT MANAGEMENT RM# 123, ATTENTION: LINDA BLACKMON

Pursuant to a decision by Development Management, There is no Concept Plan review to occur prior to the DPC meeting.

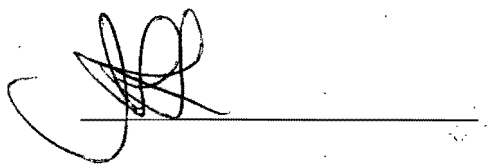
1. Document on the plan if/or not the site is in any failed Basic Services Map area or other area subject to restrictions for the development of this site. If in any of these areas, state what they are and what actions will be taken in light of same. Add this to note 35.

2. Plan note 23 states that a request for Amendment approval for the FDP remains unresolved under Case # 07-470-SPH. Based on this information, The staff must state that the Development Plan review for approval cannot proceed until the case is approved and the Order granting the SPH is placed verbatim on the Development Plan for further review.

3. There is some confusion regarding the Minor Subdivision under # 07-001-M as it relates to this Plan. Put the review and approval history for this and outline and label the minor Sub location, all on the Plan with the name of the Zoning Planner who is the Development Manager. If the Minor Sub approval is pending, it cannot be approved without the agreement among all of the plans and the Zoning Hearing approval and coordination of the FDP signature approval by this office being coordinated to take place concurrently in the Zoning Office. This coordination is the responsibility of the Developers Engineer. Explain how note 39 is applied based on the review/approval process in detail.

4. Dimension the area in the building envelope and adjust same not to exceed the 20,000 sq. ft limit under 1A07.8.B.3. Put front building orientation arrows on the lots and put the RC 6 setback standards on the plan. State/show compliance with the 200 ft. Ag. use setback.

5 Put the Performance Standards under 1A07.8.C on the Plan and clearly state how compliance with the Ownership and Covenant Standards under 1A07.9 and 10 will be met.



John Lewis
Planner II, Zoning Review

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy Kotroco, Director
Department of Permits and
Development Management
Attn: Colleen Kelly

DATE: December 30, 2009

FROM: Gigi Hampshire
PDM. Bureau of Land Acquisition

SUBJECT: Posey Property/Tufton Farms Resubdivision Lot 4
PDM# 08-231

A review of the Development Plan for the above referenced project results in the following comments. These comments are advisory in nature.

1. Offsite rights of way must be acquired prior to record plat approval.

2. Access easements, approved by DEPRM, should be shown for any stormwater management facilities, forest buffers, etc.

3. If offsite sight line easements are necessary per Development Plan Review's comments, the developer will be required to obtain these easements prior to record plat approval.

4. On the development plan, please identify and label all existing and proposed drainage and utility easements, highway widenings and slope easements, stormwater management facilities, forest buffers, flood plains, greenways and open space areas. Please clearly indicate whether or not the above are to be dedicated to Baltimore County. Please delineate and label required dedications for highway purposes as "Highway Widening Area". Not "Future", "Proposed" or "Ultimate" regardless of whether or not highway improvements will actually be required as part of the development.

5. Developers and/or their Engineers should consult with the Fire Department to determine if private fire suppression is necessary and to locate an appropriate place for the facility if so.

6. Please label and provide dimensions for any private easement or right of way that exists on the property. In addition, please provide the Bureau of Land Acquisition with a copy of the deed that created the private right of way or easement. Such information should be provided with the next revision to the plan.

December 30, 2009

Timothy Kotroco, Director
Department of Permits and
Development Management
PDM# 08-231

7. Additional site-specific comments:

Please place the recorded deed reference for the "Revertible Slope Easement per Plat 41/71" on the plan.

ADD DEDICATION TABLE.

GH:GH

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

To: Colleen Kelly

December 22, 2009

From: Lt. Roland Bosley Jr.

Subject: DPC

Project: Posey Property

PDM: 08-231

Location: Dover Road

Comments:

1. The fire marshal's office has no comments at this time if the below condition is met.

*** The Developer will be responsible for any rural water supply that will be needed should the property be re-subdivided and meet the rural water code of the Baltimore County Fire Code. A letter to the Fire Marshal will be required and a copy attached to the deeds of the property stating acceptance of the aforementioned.**

BALTIMORE COUNTY, MARYLAND

Subject: Development Plan Conference Comments Date: December 30, 2009

From: Department of Recreation and Parks

Project Name: Posey Property

Project Number: 08-231 Zoning: RC-6

Location: E/S Dover Rd @ NE Cor Tufton Ridge Rd

Districts: Elec. 08 Counc. 2

Local Open Space Comments:

This project is subject to the Adequate Public Facilities Act, Bill No. 110-99. The comments generated herein reflect the requirements of Bill No. 110-99 and the Baltimore County Local Open Space Manual, as adopted by the Baltimore County Council on February 22, 2000.

Local Open Space is required for this development.

The following are site/plan specific comments:

1. The Local Open Space required for 2 units is 2,000sf or 0.05 acres +/-; 1,300sf Active and 700sf Passive.

2. Add General Note: "Open Space Required – 1,300sf Active and 700sf Passive or a combination thereof as specified in Section III.D.3; Open Space Provided - 0sf; Waiver requested and fee in lieu to be paid." This is a Recreation and Parks standard notation designed for easy identification for the reviewer to minimize reviewing time for future plan and record plat submittals. Please add this note.

3. Both the bill and open space manual provide for a fee to be paid instead of dedicating the land. Although this provision is not automatic, it is appropriate for this site. Please refer to the updated LOS manual, Section III.H for specific requirements and standards for open space waivers.

4. **The developer / engineer has not submitted a waiver request to the Department of Recreation and Parks as required in Section III.H.3 of the Baltimore County Local Open Space Manual. The developer or engineer shall submit a waiver request to the**

Department of Recreation and Parks ASAP. The waiver request must be approved prior to the Hearing Officer's Hearing.

5. **Specific instructions will be provided with the waiver approval letter stating how the fee shall be paid.**

Important Waiver Information Please Read:

Payment of the fee is due prior to the recordation of the record plat. The waiver request will be processed prior to the Hearing Officer's Hearing. **The developer must forward a copy of the receipt of payment from the Baltimore County Office of Budget and Finance to the Department of Recreation and Parks prior to submitting record plat mylars for signature.**

Fee information is based on figures established by the County Administrative Officer as adopted by Resolutions 63-00, 58-06 & Bill No. 14-05. The fee due will be the current fee in effect at the time that the Local Open Space Waiver Request Form together with the Development Plan are submitted by the developer/engineer and approved by the Department of Recreation and Parks.

Baltimore County Master Plan Designated Greenway Comments:

1. No Master Plan designated Greenways are affected by this development.

Baltimore County Department of
Recreation and Parks
105 West Chesapeake Avenue, Suite 302
Towson, Maryland 21204

Department of Recreation and Parks ASAP. The waiver request must be approved prior to the Hearing Officer's Hearing.

5. **Specific instructions will be provided with the waiver approval letter stating how the fee shall be paid.**

Important Waiver Information Please Read:

Payment of the fee is due prior to the recordation of the record plat. The waiver request will be processed prior to the Hearing Officer's Hearing. **The developer must forward a copy of the receipt of payment from the Baltimore County Office of Budget and Finance to the Department of Recreation and Parks prior to submitting record plat mylars for signature.**

Fee information is based on figures established by the County Administrative Officer as adopted by Resolutions 63-00, 58-06 & Bill No. 14-05. The fee due will be the current fee in effect at the time that the Local Open Space Waiver Request Form together with the Development Plan are submitted by the developer/engineer and approved by the Department of Recreation and Parks.

Baltimore County Master Plan Designated Greenway Comments:

1. No Master Plan designated Greenways are affected by this development.

Baltimore County Department of
Recreation and Parks
105 West Chesapeake Avenue, Suite 302
Towson, Maryland 21204

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

SHA State Highway Administration

Beverley K. Swaim-Staley, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

December 30, 2009

Ms. Colleen M. Kelly,
Development Manager
Department of Permits and
Development Management
County Office Building
Room 105
Towson, Maryland 21204

RE: Baltimore County
Development Plan
Eastside of Dover Road
Northeast corner Tifton Ridge RD
Posey Property/Tufton Farms
PDM No. : 11-231

Dear Ms. Kelly:

Thank you for the opportunity to review the development for Posey Property/Tufton Farms, which was received on December 15th. We understand that this plan illustrates a proposal for the resubdivision of Lot 4 Plat 1- Section 2 "Tufton Farms" to create two (2) single family dwelling sites as depicted on the plan.

We have completed a review of the site plan. The number of vehicle trips generated by this development does not have the potential to negatively impact the State road network. Based on available information this office has no objection to development plan approval for the Posey Property/Tufton Farms PDM 11-231.

If you have any questions regarding our comments feel free to contact Michael Bailey at 410-545-55593 or call our toll free number in Maryland only 1-800-876-4742 extension 5593. Also, you may E-mail Mr. Bailey at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

Cc: Mr. Dennis Kennedy, Bur. Development & Plans Review, Baltimore County
Ms. Erin Kuhn, ADE-Traffic, SHA
Mr. David Malkowski, District Engineer, SHA
Mr. John Posey, Owner
Ms. Victoria Posey, Owner
Mr. Kenneth J. Wells, Engineer, kjWellsInc.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DATE: December 28, 2009

TO: Colleen Kelly
Development Manager

FROM: Janice M. Kemp
House Numbers
and Road Names Section

SUBJECT: Posey Property/Tufton Farms Resub. Lot 4 Dev. Plan Conference
PDM No. 08-231

1. Addresses are ok.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESONDENCE

TO: Colleen Kelly MS# 1105 DATE: December 10, 2009
PDM Development Management

FROM: Connie Crews
Department of Public Works
Metropolitan District Financing & Petitions

SUBJECT: Extinguishment of Front Foot Assessments
Project: Posey Property - resub lot 4, plat 1, sec 2 "Tufton Farms"
PDM # 08-231

The property accounts of the project above have no existing water or serwer benefits assessments.

If you have any questions, please contact me on ext, 3363.

CJC/cjc
c: file

HEARING OFFICER'S HEARING SCHEDULE

DATE: 1/21/2010 PROJECT: Posey Property/Tufton Farms Resubdivision L NUMBER: 08-231

AND: if needed

TIME: 9:00 AM LOCATION: E/S DOVER RD @ NE COR TUFTON RIDGE RD

MEETING LOCATION: Room 106, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204

MANAGER: Colleen Kelly PHONE #: 410-887-3321

COUNCIL DISTRICT: 2 DEVELOPER'S ENGINEER: kjWellsInc.

DEVELOPMENT PLAN CONFERENCE SCHEDULE

MEETING LOCATION: COUNTY OFFICE BUILDING - ROOM 123 111 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

DATE: 12/30/2009 PROJECT: Posey Property/Tufton Farms Resubdivision Lot 4 NUMBER: 08-231

TIME: 9:00:00 AM LOCATION: E/S DOVER RD @ NE COR TUFTON RIDGE RD

MANAGER: Colleen Kelly PROPOSAL: 2 SFDS

PHONE #: 410-887-3321

COUNCIL DISTRICT: 2 DEVELOPER'S ENGINEER: kjWellsInc.

REQUEST FOR HOH

MANAGER:	Colleen Kelly	PDM #	08-231
		ACRES:	11.6839
NAME:	Posey Property/Tufton Farms Resubdivision Lot 4		
ADDRESS:	E/S DOVER RD @ NE COR TUFTON RIDGE RD		
DEVELOPER:	JOHN & VICTORIA POSEY		
ENGINEER:	kjWellsInc.		
PROPOSAL:	2 SFDS		
PLANNER:			

DOES THIS NEED A SPECIAL EXCEPTION OR VARIANCE?

YES ✓ **NO** ____

amend FDP
NON DENSITY TRANSFER

ITEM NUMBER AND/OR DROP-OFF DATE 07-410 SPH **FOR VARIANCE, ET AL.**

ESTIMATED LENGTH OF HEARING: ____

ATTORNEY: LARRY SCHMIDT

OPPOSING ATTORNEY: ____

DATES NOT TO SET: ____

EMAIL OF PROJECT SUMMARY TO ZC'S OFFICE (date sent) 12/2/09

Thurs
JANUARY 21, 2009 HOH - Room 106
NEED ~~TO HEAR~~ OTR FROM KJ WELLS
OK

DPC: 12-30-09 @ 9:00

Post By: 12-21-09

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3321

December 4, 2009

kjWells, Inc.
7403 New Cut Road
Kingsville, MD 21087

Re: Posey Property/Tufton Farms
Resubdivision Lot 4
PDM Number: 08-231

Dear Sir or Madam:

The Development Plan Conference, and the Hearing Officer's Hearing, have been scheduled on the above referenced project. Please arrange to attend these meetings with appropriate representation. Please notify your client of these meetings.

DEVELOPMENT PLAN CONFERENCE:
Date: Wednesday, December 30, 2009 Time: 9:00 AM
Location: Development Management Conference Room 123
County Office Building; 111 W. Chesapeake Avenue; Towson, MD 21204

HEARING OFFICER'S HEARING:
Date: Thursday, January 21, 2010 Time: 9:00 AM
Location: Rm. 106, County Office Bldg.; 111 W. Chesapeake Ave.; Towson, MD 21204

A copy of a public notification letter of the Development Plan Conference and Hearing Officer's Hearing, is attached for your convenience. Please note that it is the developer's responsibility to send a copy of the development plan, and notify all interested parties of the conference and hearing. Also, it is the developer's responsibility to post the property. Please note the property must be posted by **December 21, 2009**. A county authorized sign posting company must post the sign(s). A list of authorized sign posters is available in Room 123 of the County Office Building. A certificate of posting and photograph of the sign must be forwarded to this office prior to the Hearing Officer's Hearing.

Sincerely,

Colleen M. Kelly
Project Manager

CMK:dak

BALTIMORE COUNTY, MARYLAND

RECEIVED

FEB 05 2010

ZONING COMMISSIONER

INTER-OFFICE CORRESPONDENCE

DEVELOPMENT PLAN CONFERENCE: Amended Comments

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

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

DATE: February 4, 2010

PROJECT NAME: Posey Property / Tufton Farms Resubdivision Lot 4

PROJECT NUMBER: VIII-231

PROJECT PLANNER: Lloyd Moxley

GENERAL INFORMATION:

Applicant Name: John and Victoria Posey
13101 Dover Road
Reisterstown, MD 21136

Location: E/S Dover Road @ NE Corner Tufton Ridge Road

Councilmanic District: 2nd

Land Management Area: Rural Residential Area

Zoning: R.C. 6

Acres: 11.68 acres ± (gross)

Surrounding Zoning and Land Use:

North:	RC 6	Rural Residential
South:	RC 6	Rural Residential/Vacant
East:	RC 4 & 6	Rural Residential/pond
West:	RC 5	Rural Residential/forest

Project Proposal:

Two single-family dwellings situated on 11.68 gross acres of RC 6 zoned property. The site is currently improved with a single-family dwelling that is to remain. The site is predominantly wooded with steep slopes on the northern portion. Dover Road at this location is classified as a Scenic Road.

Project History:

This property was previously developed as Lot 4, Plat 1, Section 2, Tufton Farms and recorded among the Land Records of Baltimore County in Plat Book 41 at page 71. The property in question was rezoned from RC 5 to RC 6 as part of 2008 CZMP Issue 2-035.The RC6 zoning was approved by the County Council in the 2008 Comprehensive Zoning Map Process.

Other Anticipated Actions and Additional Review Items:

☐ Special Exception	☒ Special Hearing	☐ PUD
☐ Variance	☐ Compatibility	☐ Design Review Panel
☐ Waiver	☒ Scenic Route	☐ Other
☐ RTA Modification	☐ Referral to Planning Board	

MASTER PLAN:

The *Master Plan 2010* Land Management Area Plan designation for the subject area is "Rural residential" The proposed use as indicated on the Proposed Land Use Map of Baltimore County is "forest".

MEETINGS:

Concept Plan Conference	-	Community Input Meeting	
Development Plan Conference	12/30/09	Hearing Officer's Hearing	01/21/10
Planning Board			

Chestnut Ridge Volunteer Fire Company, Capt. Dan Uddeme, 12020 Greenspring Ave, Owings Mills, MD 21117

Falls Road Community Association, Harold Burns, President, 210 E. Lexington Street, Suite 201, Baltimore, MD 21202

Tufton Ridge HOA, Larry Bortner, contact person, 2308 Tufton Ridge Road, Reisterstown, MD 21136

ROG Coordinating Council, Mary Molinaro, President, P.O. Box 117, Reisterstown, MD 21136

Teresa Moore, Executive Director Valleys Planning Council, PO Box 5402, Towson, MD 21285

MODIFICATION OF STANDARDS:

The Office of Planning has reviewed materials submitted by the applicant in support of a request for a Modification of Standards to the requirements of Part III, Comprehensive Manual of Development Policies (CMDP), Division VI, Section A, Scenic Views. The Director of the Office of Planning in concert with the Department of Environmental Protection and Resource Management and pursuant to the authority granted within the CMDP has determined that all the forest on the Posey Property is included as part of the Tufton Area Forest Patch and must be included in the Primary Conservancy Area. The Office of Planning cannot recommend approval of the requested modification of standards.

R.C. 6 FINDING:

In concert with representatives from the Department of Environmental Protection and Resource Management and subsequent to further review of Inter-Office Correspondence dated January 20, 2010 and Forest Patch Maps dated January 14, 2010 the Office of Planning and it's Director finds that the above referenced Development Plan does **not** meet the "spirit and Intent" of Section 1A07 BCZR. Therefore, the Office of Planning is withdrawing approval of the Primary Conservancy Area and the R.C-6 Site Analysis Plan.

SPECIAL HEARING:

The Office of Planning is aware of the prior zoning history pertinent to this site and acknowledges that the Special Hearing at hand is for a Single Lot Amendment to the Final Development Plan (FDP) for Tufton Farms. Said Amendment proposes re-subdivision of Lot 4 of said FDP to result in a total of two R.C.-6 zoned lots to be improved with a single-family dwelling on each new lot. Because the plan does not meet the requirements of Section 1A07 BCZR, the Office of Planning recommends that the Petition for Special Hearing be **DENIED.**

RECOMMENDATION:

The Office of Planning has reviewed the Development Plan and recommends the Development Plan be **DENIED.**

Prepared By: _____

Division Chief: _____

LTM/ltm

c: Thomas H. Bostwick, Deputy Zoning Commissioner
Lawrence E. Schmidt, Esq. Counsel for
Kenneth J. Wells

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 17, 2007

Lawrence Schmidt
Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204

Dear Mr. Schmidt:

RE: Case: 07-470-SPH, 13101 Dover Road

Please be advised that an appeal of the above-referenced case was filed in this office on November 5, 2007 from J. Carroll Holzer on behalf of his clients. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
J. Carroll Holzer
See Attached List

RECEIVED
DEC 18 2007
BALTIMORE COUNTY
BOARD OF APPEALS

KENNETH WELLS
WELLS DEVELOPMENT CORP
7403 NEW CUT ROAD
KINGSVILLE MD 21087

JACK AND VICTORIA POSEY
13101 DOVER ROAD
REISTERSTOWN MD 21136

OMAS A. CHURCH, P.E.
DEVELOPMENT ENGINEERING
CONSULTANTS, INC.
6603 YORK ROAD
BALTIMORE, MD 21212

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

ADEL SANSUR
2304 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

RAY HELLER
13215 DOVER ROAD
REISTERSTOWN MD 21136

RON BAQUOL
3002 MERRYMANS MILL ROAD
PHOENIX MD 21131

TOM HUTSON
2205 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

TERESA MOORE
VALLEYS PLANNING COUNCIL
PO BOX 5402
TOWSON MD 21204

FRAN AND RICHARD YEAZEL
2314 TUFTON RIDGE ROAD
GLYDON MD 21071

LARRY AND JANICE BORTNER
2308 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

JACK DILLON
118 W. PENNSYLVANIA AVE
TOWSON MD 21204

MARTIN BUCKLEY
2222 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

JOHN SOPHOCLES
2226 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

DON SCHLINE
2303 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

TOM AND JEANNE GILDER
2212 TUFTON RIDGE ROAD
REISTERSTOWN MD 21136

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

APPEAL

Petition for Special Hearing
13101 Dover Road
E/side of Dover Road, 25 ft. N or Tufton Ridge Road
8th Election District – 2nd Councilmanic District
Legal Owners: John & Victoria Posey
Contract Purchaser: Wells Development Corp

Case No.: 07-470-SPH

4/19/07

✓ Petition for Special Hearing (October 17, 2007)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (May 29, 2007)

✓ Certification of Publication (June 28, 2007 – The Jeffersonian)

✓ Certificate of Posting (June 30, 2007) by SSG Robert Black

✓ Entry of Appearance by People's Counsel (April 27, 2007)

✓ Petitioner(s) Sign-In Sheet – 2 Sheets

✓ Protestant(s) Sign-In Sheet – 1 Sheet

✓ Citizen(s) Sign-In Sheet – 1 Sheet

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibit
See Attached Exhibit Sheet

✓ Protestants' Exhibits:
See Attached Exhibit Sheet

Miscellaneous (Not Marked as Exhibit)
✓ 1. Post Hearing Memorandum from Lawrence Schmidt
✓ 2. Memorandum in Lieu of Argument by J. Carroll Holzer

✓ Deputy Zoning Commissioner's Order (October 17, 2007 - GRANTED)

✓ Notice of Appeal received on November 5, 2007 from J. Carroll Holzer

c: People's Counsel of Baltimore County, MS #2010
Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See Attached List

date sent December 17, 2007, klm

CASE #: 07-470-SPH

IN THE MATTER OF: JOHN & VICTORIA POSEY –LO; WELLS DEVELOPMENT CORP. - CP
13101 Dover Road 8th Election District; 2nd Councilmanic District

SPH – To amend Final Development Plan (FDP) entitled "Section Two, Tufton Farms" (PDM # VIII-231) to permit non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP w/no increase in number of lots and no increase in total residential density available to lots considered as a whole per § 32-4-106(a)(viii) of BCC; and to permit resubdivision of Lot 4, Plat 1, Section 2 into 3 lots per BCZR 1A00.4 and 1B01.3 and § 1B01.3A.7.c of the ZC Policy Manual.

10/17/07 – D/Z.C.'s decision in which requested zoning relief was **GRANTED.**

3/24/08 - Notice of Assignment sent to following; assigned for hearing on Thursday, May 8, 2008 at 10:00 a.m.:

J. Carroll Holzer, Esquire
VPC /Teresa Moore, Executive Director
Larry & Janice Bortner
Fran & Richard Yeazel
Martin Buckley
John Sophocles
Don Schline
Lawrence E. Schmidt, Esquire
John B. and Victoria K. Posey
Kenneth J. Wells /Wells Development Corp. /C.P. and Consultant
Thomas A. Church, P.E. /Development Eng. Consultants
People's Counsel for Baltimore County
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

5/08/08 – Board convened for hearing (Crizer, Murphy, Belt); completed day #1; upon confirmation of availability
for day #2 – notice to be sent (possible 7/23/08; awaiting call from counsel and Murphy).

5/09/08 – E-mail confirming 7/23/08 for both Mr. Schmidt and Mr. Holzer; also received e-mail from M. Murphy.
-- Notice of Assignment /Day #2 sent to parties; added Tom Gildee, Mike O'Malley, Stephen Schloss to notice (signed Protestant sheet on 5/08/08); day #2 assigned for Wednesday, July 23, 2008 at 10:00 a.m.

5/14/08 – Advised by Mr. Crizer that he will be out of town beginning 7/21/08 through 8/01/08; to be postponed and
reassigned for day #2.

CASE #: 07-470-SPH
PAGE TWO

IN THE MATTER OF: JOHN & VICTORIA POSEY –LO;
WELLS DEVELOPMENT CORP. - CP
13101 Dover Road 8th Election District; 2nd Councilmanic District

SPH – To amend Final Development Plan (FDP) entitled "Section Two, Tufton Farms" (PDM # VIII-231) to permit non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP w/no increase in number of lots and no increase in total residential density available to lots considered as a whole per § 32-4-106(a)(viii) of BCC; and to permit resubdivision of Lot 4, Plat 1, Section 2 into 3 lots per BCZR 1A00.4 and 1B01.3 and § 1B01.3A.7.c of the ZC Policy Manual.

10/17/07 – D/Z.C.'s decision in which requested zoning relief was **GRANTED.**

5/15/08 – Attempted to reassign to July and August dates; unable to confirm any of those dates with all parties;
therefore, upon confirmation with Counsel, Day #2 of the subject case has been POSTPONED, due to Board member's schedule conflict; and has been reassigned to Tuesday, September 16, 2008 at 10:30 a.m.

9/03/08 – FAX from J. Carroll Holzer, Esquire – Comprehensive rezoning as voted on 8/26/08 and its effect on this
property; namely, down-zoned to R.C. 6; requests that the petition be denied and that the matter is moot based upon Comprehensive Rezoning and to further postpone 9/16/08 hearing day #2.

9/05/08 – Hard copy original letter as indicated above filed by Mr. Holzer this date via USPS.

9/11/08 – Response from Mr. Schmidt expressing his position as to the Council's action; all to be addressed as a preliminary matter when the Board convenes on Tuesday, 9/16/08, at 10:30 a.m.

9/16/08 – Board convened for day #2 (Crizer, Murphy, Belt); joint request to remand this matter to the ZC; proposed order to be submitted by counsel for review by Board.

2/2009 Telephone calls to Counsel re: proposed order

3/5/09 – Received Draft Opinion from Mr. Schmidt.

3/10/09 L/M with People's Counsel and Carol Holzer re: proposed draftr

IN THE MATTER OF: JOHN & VICTORIA POSEY –LO;
WELLS DEVELOPMENT CORP. - CP
13101 Dover Road 8th Election District; 2nd Councilmanic District

SPH – To amend Final Development Plan (FDP) entitled "Section Two, Tufton Farms" (PDM # VIII-231) to permit non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP w/no increase in number of lots and no increase in total residential density available to lots considered as a whole per § 32-4-106(a)(viii) of BCC; and to permit resubdivision of Lot 4, Plat 1, Section 2 into 3 lots per BCZR 1A00.4 and 1B01.3 and § 1B01.3A.7.c of the ZC Policy Manual.

10/17/07 – D/Z.C.'s decision in which requested zoning relief was **GRANTED.**

3/16/09 – received a telephone cal from Mr. Holtzer that Remand Order was fine – no edits. Prepared final for signature. Sent email to Zoning Commissioner making him aware that order and file will be coming to him shortly.

3/24/09 – received letter from People's Counsel requesting amendment to Order.

Checked with Counsel on both sides – no objection to change.

3/30/09 – Amended Order and presented to panel for re-signing.

4/2/09 – Opinion and Order to Remand issued. Logged in Remand Section. Copied over documents from open file to remand April 2009 file. Complete file and any/all exhibits to be delivered to Zoning. Sending Deputy ZC email indicating that file on its way. Follow up on Remand Status in 60 days. **Follow up 7/1/09**

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE

John & Victoria Posey
Legal Owners/Petitioners

13101 Dover Road

8th Election District
2nd Councilmanic District

* HEARING OFFICER

* FOR

* BALTIMORE COUNTY

* **Case No. 07-470-SPH**

RECEIVED
JAN 14 2010
ZONING COMMISSIONER

* *

SUBPOENA DUCES TECUM

To: David V. Lykens
Department of Environmental Protection and Resource Management
105 W. Chesapeake Avenue, Suite 400
Towson, MD 21204

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Hearing Officer of Baltimore County on **21st** day of **January, 2010,** at 9:00 a.m., in Room 106 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland, 21204, and to bring with you copies of all documents related to DEPRM's approval of the Primary Conservation Area on April 21, 2009 and copies of all documents related to DEPRM's approval of the Site Analysis Plan dated July 10, 2009, for the purpose of testifying in the above-captioned matter at the request of Lawrence E. Schmidt of Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland, 21204.

LAWRENCE E. SCHMIDT
Attorney for Petitioners

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 2 (C)

Zoning Commissioner/Hearing Officer for
Baltimore County

Issued: 1-14-10

NOTICE

If you are requesting a subpoena for an official and/or employee of Baltimore County, please be aware of the requirements of Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County. That Rule requires that no official/employee of Baltimore County, the State of Maryland or any other political subdivision of Maryland, shall be compelled to appear at a hearing unless he/she has been served with a subpoena at least five (5) business days prior to the scheduled hearing.

Also, a copy of any subpoena served on an official/employee of Baltimore County must be provided to:

John E. Beverungen, Esquire
County Attorney
Baltimore County Office of Law
400 Washington Avenue, 2nd Floor
Towson, MD 21204

Zoning Commissioner/Hearing Officer for
Baltimore County

RE: WELLS/13101 DOVER ROAD * BEFORE THE

POSEY PROPERTY * COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* **CASE NO.: 07-470-SPH**

* *

RECEIVED
MAY - 1 2008
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Lloyd Moxley
Office of Planning
County Courts Building
401 Bosley Avenue, Room 406
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; **in Hearing Room # 2, Second Floor, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 on Thursday, May 8, 2008 at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

All Office of Planning files related to the matters, Case No.: 07-470-SPH and PDM #VII-231 (Posey Property, Tufton Farms).

SUBPOENA REQUESTED BY:
Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests ( ) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Kathleen C. Bianco

County Board of Appeals of Baltimore County

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

April 2, 2009

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

LAWRENCE E. SCHMIDT, ESQUIRE
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, #200
TOWSON, MD 21204

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

PETER MAX ZIMMERMAN
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
105 WEST CHESAPEAKE AVENUE, SUITE 204
TOWSON MD 21208

RE: Case No. 07-470-SPH
Property: 13101 Dover Road

Dear Messrs. Schmidt, Holzer and Zimmerman:

Please be advised that we are in receipt of the case file from the Board of Appeals of Baltimore County pertaining to the above-referenced matter. As you are aware, this matter was appealed to the Board of Appeals from an Order issued by the undersigned on October 17, 2007.

The matter came before the Board of Appeals on May 8, 2008 and again on September 16, 2008. On that date, prior to holding a hearing on the merits of the appeal, the Board of Appeals issued an Order that the case be remanded to the Deputy Zoning Commissioner/Zoning Commissioner for further proceedings.

The purpose of this letter is to advise you that this Commission is in possession of the above-referenced case file and now seeks guidance from the parties as to what, if any, further proceedings are to be scheduled in this matter. Please contact the undersigned in writing within the next sixty (60) days and advise what issues remain outstanding as per the Board of Appeals' Order of Remand.

Thank you for your prompt attention to this matter.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

January 20, 2010

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

Lawrence E. Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING
(Posey Property)
Case Nos. 08-231 & 2007-0470-SPH

Dear Counsel:

Please be advised that I am in receipt of the letter dated January 19, 2010 from Mr. Holzer requesting a postponement of the above-referenced Hearing scheduled for tomorrow, and the response letter dated today, January 20, 2010, from Mr. Schmidt.

In view of the fact that the hearing date for this project has been scheduled and public notice given through advertisement and posting, I must decline Mr. Holzer's request for postponement. Although I would welcome the guidance of the Board of Appeals when it decides the "Hutson" matter, I do not believe the pendency of that case would warrant a postponement of the instant matter. As to Mr. Holzer's second ground for postponement concerning an alleged violation of the Baltimore County Code regarding the "Primary Conservancy Area Plan," I believe this is an issue that can and should be addressed at tomorrow's hearing. As Mr. Schmidt indicated in his response letter, if a postponement is appropriate after discussing this issue at the Hearing, then I will consider such a motion or request at that time. While I appreciate Mr. Holzer's reasoning, I believe it would be unfair to the Developer, its counsel, County agency representatives, as well as other interested citizens to postpone the hearing at this juncture.

Thank you for your understanding in this matter.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

c: Timothy M. Kotroco, Director, Department of Permits and Development Management
Colleen Kelly, Project Manager, Department of Permits and Development Management

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

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

September 9, 2008

Mr. Edward W. Crizer, Jr.
Chairman
Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Case No. 07-470-SPH
Zoning Issue No. 2-35/Tufton Farms
Second Hearing Date: September 16, 2008

Dear Mr. Crizer

I am in receipt of Mr. Holzer's letter dated September 2, 2008 regarding the above matter.

Although I acknowledge the down zoning of this property by act of the Baltimore County Council on August 26, 2008, such action may not preclude the request of the Petitioner to amend the final development plan. Rather, the nature of the amendment may change as a result of the down zoning. Although, I am still reviewing this matter, I may request that the Board remand this matter to the Zoning Commissioner for him so consider a amendment to the final development plan (as revised) based on the new zoning.

I will address this as a preliminary matter next Tuesday.

Very truly yours,

Lawrence E. Schmidt

LES: jk
CC: J. Carroll Holzer, Esquire, Holzer & Lee
People's Counsel for Baltimore County
Kenneth J. Wells, KjWellsInc.
John & Victoria Posey

RECEIVED
SEP 11 2008
BALTIMORE COUNTY
BOARD OF APPEALS

TB

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

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

RECEIVED
APR 07 2009
ZONING COMMISSIONER

April 6, 2009

William J. Wiseman, III
Zoning Commissioner
Office of the Zoning Commissioner
Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson MD 21204

Re: Wells/ 13101 Dover Road (Posey Property)
Case No.: 07-470-SPH

Dear Commissioner Wiseman:

I trust that you have received a copy of the County Board of Appeals for Baltimore County's Opinion and Order to Remand dated April 2, 2009. The rezoning of the subject property during Baltimore County's CZMP (2008), has rendered the proposed amendment to the Final Development Plan moot. My client is exploring an amendment of a different nature and may request your re-hearing of an amended Petition. Therefore, please hold this matter until our amended Petitions are filed. In the alternative, if an amended Petition is not filed, I will file a Motion to Dismiss.

Your anticipated courtesy is appreciated. Should you have any questions or concerns regarding this matter, please do not hesitate to contact me. With kind regards, I remain

Very truly yours,

Lawrence E. Schmidt

LES: kmb
CC: Kenneth J. Wells
Carroll Holzer, Esquire
Peter Max Zimmerman, Esquire
Nancy West, Esquire

TB # 407

MONDAY **27** AUGUST

2007 **CASE NUMBER: 7-470-SPH**
13101 Dover Road
Location: E side Dover Road, 25 feet N of Tufton Ridge Road.
8th Election District, 2nd Councilmanic District
Legal Owner: John B. and Victoria K. Posey
Contract Purchaser: Wells Development Corporation; Kenneth J. Wells

Granted w/Cond. 10/17/07

SPECIAL HEARING An amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231), so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots, and the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole.

8/27 Rm 407 + 8/29 Rm 106

Hearing: Monday, ~~7/16/2007~~ at 9:00:00 AM, County Courts Building, 401 Bosley Avenue, Room 407, Towson 21204

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

April 2, 2009

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

LAWRENCE E. SCHMIDT, ESQUIRE
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, #200
TOWSON, MD 21204

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

PETER MAX ZIMMERMAN
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
105 WEST CHESAPEAKE AVENUE, SUITE 204
TOWSON MD 21208

RE: Case No. 07-470-SPH
Property: 13101 Dover Road

Dear Messrs. Schmidt, Holzer and Zimmerman:

Please be advised that we are in receipt of the case file from the Board of Appeals of Baltimore County pertaining to the above-referenced matter. As you are aware, this matter was appealed to the Board of Appeals from an Order issued by the undersigned on October 17, 2007.

The matter came before the Board of Appeals on May 8, 2008 and again on September 16, 2008. On that date, prior to holding a hearing on the merits of the appeal, the Board of Appeals issued an Order that the case be remanded to the Deputy Zoning Commissioner/Zoning Commissioner for further proceedings.

The purpose of this letter is to advise you that this Commission is in possession of the above-referenced case file and now seeks guidance from the parties as to what, if any, further proceedings are to be scheduled in this matter. Please contact the undersigned in writing within the next sixty (60) days and advise what issues remain outstanding as per the Board of Appeals' Order of Remand.

Thank you for your prompt attention to this matter.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

LANCE®

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

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

January 20, 2010

Via Facsimile Only
Honorable William J. Wiseman, III
Hearing Officer/Zoning Commissioner
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

Re: Wells/13101 Dover Road (Posey Property)
Case No.: 07-470-SPH

Dear Commissioner Wiseman:

I am in receipt of J. Carroll Holzer's letter dated January 19, 2010, requesting a postponement of the hearing scheduled for the above matter on January 21, 2010.

Mr. Holzer requests postponement of this matter for two reasons. First, he indicates that the Board of Appeals is scheduled to dispose of another case "very shortly." Obviously, the instant matter involves a separate property with separate issues. Whatever is decided by the Board of Appeals on the Hutson lot, it will not be binding as it relates to your decision on the instant matter. Thus, I do not believe a postponement is warranted on this basis.

Secondly, Mr. Holzer alleges "clear evidence" of a violation of the Baltimore County Code as it relates to the "Primary Conservancy Area Plan." Respectfully, I have no idea of the nature of this clear evidence. I have reviewed the Development Plan Comments issued by DEPRM in this case and there is no indication of any violation of the Baltimore County Code. Moreover, I have reviewed the County Code and do not find any reference therein to the term "Primary Conservancy Area Plan."

I would respectfully request that the parties appear tomorrow (January 21, 2010) to address this issue. As it is Mr. Holzer's Motion, I request that he offer whatever "clear evidence" is in his possession. I may well agree to a postponement after hearing that evidence, or may request that the Hearing Officer resolve this issue before proceeding to the Development Plan review and special hearing to amend the Final Development Plan.

In any event, unless directed otherwise by your office, I will appear tomorrow and anticipate responding to Mr. Holzer's Motion (particularly as to the second basis) at that time.

Thank you for your consideration of this matter.

Very truly yours,

Lawrence E. Schmidt

LES: jkl
CC: Mr. Kenneth J. Wells, KjWellsInc. (via hand delivery)
J. Carroll Holzer, Esquire, Holzer & Lee (via facsimile)

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@PCRLNET
xxxxxxxxxxxxxxxxx
jcholzer@cavtel.net

September 2, 2008
#7702

RECEIVED
SEP - 5 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Mr. Edward W. Crizer, Jr.
Chairman
Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor
Towson, Maryland 21204

RE: Case No.: *07-470-SPH*
Second Hearing Date: *Tuesday, September 16, 2008*

Dear Mr. Crizer:

The above-captioned matter is scheduled for a second day of hearing before your Panel on Tuesday, September 16, 2008, at 10:30 a.m. The matter had been previously been before the Board on May 8, 2008, at which time the Petitioner was in the process of presenting its initial case and Lloyd Moxley from the County was subject to being cross-examined.

Since that time, the Comprehensive Rezoning has taken effect and the subject property on August 26, 2008, was down zoned to R.C. 6 as indicated by the attached map issue.

The Petitioner here filed a Special Hearing Request to amend the Final Development Plan. As a result of the Comprehensive Rezoning, the Special Hearing Request must be denied as a matter of law. I would therefore request the Board of Appeals deny the Special Hearing Request and determine that the matter is moot based upon Comprehensive Rezoning and further, postpone the matter currently scheduled for Tuesday, September 16, 2008.

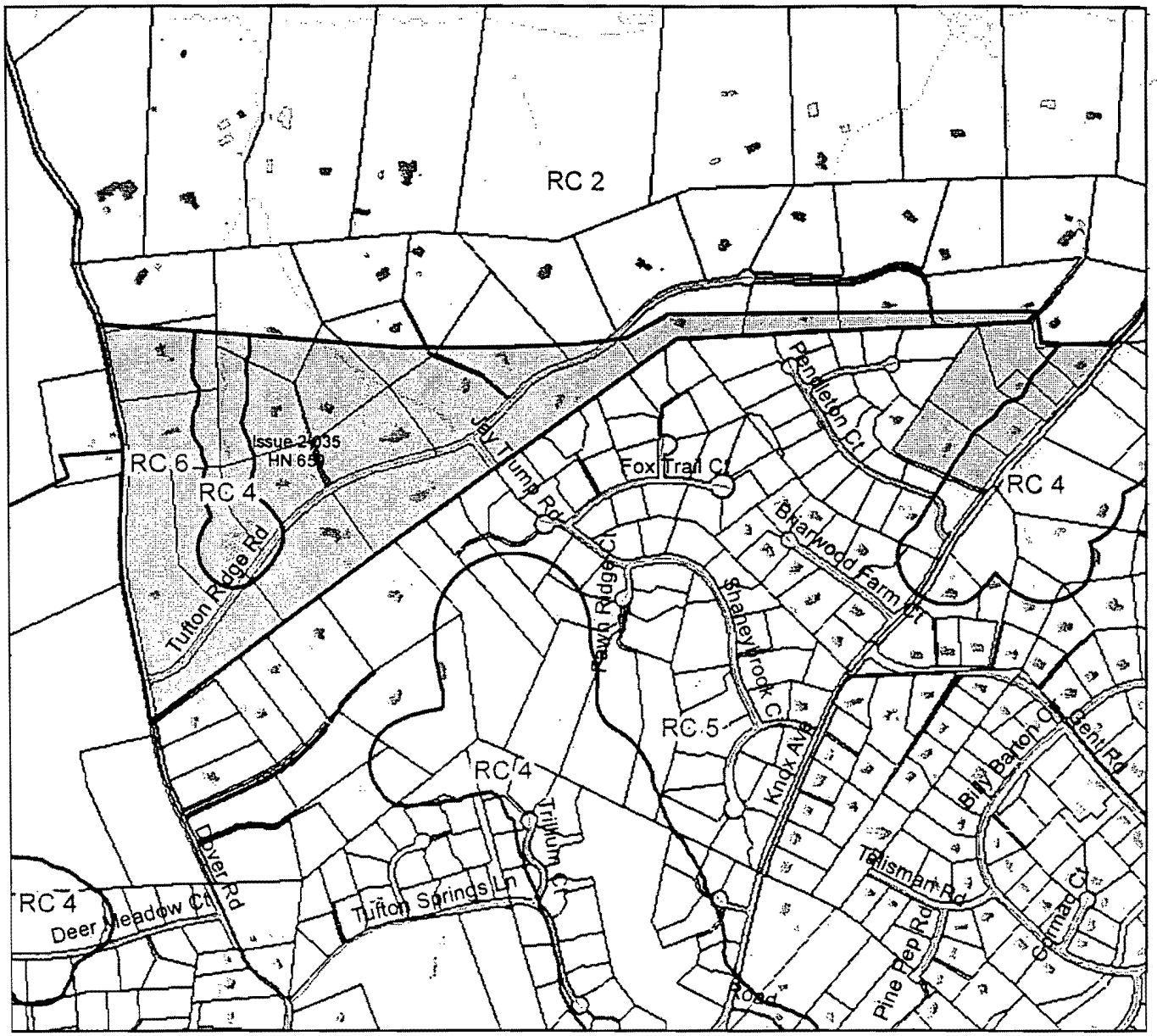
Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Lawrence E. Schmidt, Esquire
Mr. Larry Bortner
Ms. Teresa Moore
People's Counsel
for Baltimore County

CZMP 2008 - Issue Map
Holding Number: 659/Issue Number: 2-035



Iteration: COUNTY COUNCIL/1

ADC Reference Grid: 17F4

Zone	District	Acreage
RC 2		0.1
RC 4		21.3
RC 5		11.0
RC 6		97.8

Total Acreage: 130.2

1,000 0 1,000 Feet

1 inch equals 1,000 feet

N W E S

Publication Date: August 18, 2008
Publication Agency: Office of Planning
Projection/Datum: Maryland State Plane, FIPS 1900, NAD 1983/91 HARN, US Foot

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET
jcholzer@cavtel.net

April 8, 2009
#7702

Thomas H. Bostwick, Esquire
Deputy Zoning Commissioner
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

RECEIVED
APR 13 2009
ZONING COMMISSIONER

RE: Case No.: 07-470-SPH
Property: 13101 Dover Road

Dear Mr. Bostwick:

Please be advised that I cannot control when this case comes back before in that Larry Schmidt must determine whether or not he can propose a development under the new zone applied during the Comprehensive Rezoning. I do intend to appear and participate when and if the matter should be revised.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Larry Schmidt, Esquire
Peter Max Zimmerman, Esquire
Teresa Moore, Valleys Planning Council
Mr. Larry Bortner

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@CAVTEL.NET

January 19, 2010
#7702

William Wiseman, Esquire
Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED
JAN 19 2010
ZONING COMMISSIONER

RE: Posey Property; Case No.: 07-470-SPH

Dear Mr. Wiseman:

Please be advised that I represent The Valleys Planning Council, Larry Bortner, et al as Protestants to the multiple hearings (Posey, Sansur and Hutson) relating to attempts to Amend the FDP of the Tufton Farms Development and to re-subdivide existing lots of record as previously approved and recorded in Land Records.

I respectfully request a postponement of the hearing scheduled for Thursday, January 21, 2010 for the following reasons:

1st The Special Hearing relates to the same issues relative to amending the FDP presently before the County Board of Appeals in the Hutson matter which is scheduled for disposition very shortly by the CBA. The guidance given by the Board of Appeals might be of a major value in the Posey matter which is scheduled for a hearing on Thursday.

2nd There is clear evidence that in violation of the Baltimore County Code, the "Primary Conservancy Area Plan" was not properly prepared and approved by DEPRM and Planning as required before "Concept" and "Development Plans" were submitted and reviewed by all agencies. To date, even though information was requested from DEPRM as to this issue, DEPRM has not responded and counsel is unable to properly prepare for the Development Plan Hearing.

For the foregoing reasons, Protestants respectfully request a postponement of the Special Hearing in the above referenced matter.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Lawrence Schmidt, Esquire
The Valleys Planning Council

********** -COM[redacted]RNAL- ********** DATE JAN-20-2[redacted] *** TIME 10:29 ********

MODE = MEMORY TRANSMISSION START=JAN-20 10:27 END=JAN-20 10:29

FILE NO.=699

STN NO.	COMM.	ONE-TOUCH/ ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	a	94108210071	002/002	00:00:45

-ZONING COMMISSIONER OFF M-

********** - ***** - 410 887 3468- **********

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN, III
Zoning Commissioner

FACSIMILE TRANSMITTAL COVER SHEET

TO: Lawrence E Schmidt Esq. DATE: January 20, 2010

FAX NO.: 410-821-0071

FROM: William J. Wiseman, III
Zoning Commissioner

PAGES (including cover): 2

RE: Posey Property

[] ORIGINAL TO FOLLOW VIA MAIL/OVERNIGHT COURIER/HAND DELIVERY
[X] ORIGINAL WILL NOT BE MAILED

CONFIDENTIALITY NOTICE

The documents accompanying this telecopy transmission contain confidential information belonging to the sender which may be legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance or on account of the contents of this telecopy information is strictly prohibited. If you have received this telecopy in error, please immediately notify the sender to arrange for return of the original documents. Thank you.

Message/Comments:

Per our Conversation - see attached request for postponement. Please contact either Tom or me to discuss.

Thanks

County Courts Building | 401 Bosley Avenue, Suite 405 | Towson, Maryland 21204 | Phone 410-887-3868 | Fax 410-887-3468
www.baltimorecountyonline.info

TB 1/21

To:

Thomas H. Bostwick

Deputy Zoning Commissioner

Baltimore County

105 W. Chesapeake Ave.

Towson, MD 21204

1/19/10

RECEIVED

JAN 26 2010

ZONING COMMISSIONER

RE: My opposition to the Tufton Farms rezoning request for Posey and Hutson

Dear Mr. Bostwick,

I am writing concerning the rezoning of Tufton Farms from RC-6 to RC-5 which would allow further development in our neighborhood. The Posey and Hutson properties are requesting a 1 ½ acre lot be allowed on their current property. I strongly oppose!

The neighborhood of Tufton Farms is unique in this area of the county specifically because of the way it was developed. The larger property sizes provide advantages not only for the value of the properties and enjoyment by the residents, but also for the environment. Numerous studies have confirmed that trees and wildlife in neighborhoods reduce crime and environmental risk factors such as erosion, poor air quality, and contamination of streams and waterways. Benefits have also been noted in reduced health factors for residents such as lower risks of heart attack and high blood pressure. These were all considerations when my husband and I purchased our home in Tufton Farms less than 3 years ago and quite honestly I would like the neighborhood to stay at its current density. Further development of the two properties in question would increase traffic, eliminate many of the trees on the parcels in question, increase noise pollution from Tufton road (which is currently buffered by the density of trees) and open up the possibility of future development of other properties.

I am asking you to please reject any amendment to our zoning that would increase the number of homes in our neighborhood. Help us protect the very nature of our neighborhood.

Thank you for your time and consideration.

Sincerely,

Lisa Lum

2106 Tufton Ridge Road

Reisterstown, MD 21136

TB 1/21
9AM

January 15, 2010

RECEIVED
JAN 19 2010
ZONING COMMISSIONER

Desk Deputy Commissioner Bostwick

My wife Sharon and I, purchased property in Tufton Farms in 1983. Gaylord Brooks advertised and promoted Tufton Farms as a private affluent development with lots of five acres or more to afford residents privacy and the option to have horses, many of which did have horses. Baltimore County Council re-zoned the area to preserve the existing environment and the absolute protection of the many multi million Dollar homes and farms in the area. We are totally opposed to changing the zoning to allow A very small number of residents to have smaller lots to add horses. Doing so would decrease our property value, add more traffic to our neighborhood, and most certainly affect the wildlife. This would also create several years of dirt, dust, and construction vehicle noise and wear to our quiet private neighborhood. This would permanently change our neighborhood to an ordinary one instead of the existing extraordinary one!

Sincerely, Sharon Sellers
&
Ron Sellers

TB 1/21
9AM

Larry L. Bortner
2308 Tufton Ridge Road
Reisterstown, MD 21136

January 14, 2010

Thomas H. Bostwick
Deputy Zoning Commissioner
Baltimore County
105 West Chesapeake Avenue
Towson, MD 21204

RECEIVED
JAN 19 2010
ZONING COMMISSIONER

RE: PDM #08-231

Dear Deputy Commissioner Bostwick:

My wife and I are residents of Tufton Farms and are opposed to the request to subdivide the Posey property, located at the corner of Tufton Ridge Road and Dover Road, and amending our original Final Development Plan.

On February 20, 2009 Zoning Commissioner Wiseman denied a request by Thomas Hutson to amend our Final Development Plan. We believe that the Zoning Commissioner made the correct decision, that permitting additional lots in Tufton Farms would be contrary to the original spirit and intent of the FDP for Tufton Farms, and that his decision and arguments also apply to the Posey case.

We hope you will agree with the Zoning Commissioner that the Final Development Plan for Tufton Farms should not be amended and no further subdivision is appropriate for our development.

Sincerely,

Larry L. Bortner

TB 1/21
9AM

JoAnn C. Santos, M.D.
54 Scott Adam Road, Suite 106, Cockeysville, Maryland 21030
410-683-1220

January 14, 2010

Mr. Thomas H. Bostwick
Deputy Zoning Commissioner
Baltimore County
105 W. Chesapeake Ave.
Towson, MD 21204

RECEIVED
JAN 19 2010
ZONING COMMISSIONER

Dear Mr. Bostwick,

I am writing to protest the petition to allow 1 ½ acre lots on the Posey and Hutson properties. It is imperative that the R6 zoning be preserved in our Tufton Farms community. This is a unique development which adds to the serenity and beauty of the area and helps to maintain the value and the ambiance of the whole Worthington Valley eastern zone.

In addition, the constant infringement on the woodlands impairs the water table and inhibits the wildlife which contribute to the uniqueness and beauty of the area. It is important to strictly adhere to the guidelines already in place for our zoning. Exceptions should not be granted for the mere desire to put as many houses as possible on as many subdivided lots as possible!

Sincerely,

JoAnn C. Santos M.D. FAAP
2105 Tufton Ridge Lane
Reisterstown, MD 21136

TB 1/21
9Am

RECEIVED

JAN 07 2010

ZONING COMMISSIONER

Stanley Kantor
2220 Tufton Ridge Road
Reisterstown, Maryland 21136

January 6, 2010

Thopmas H. Bostwick
Deputy Zoning Commissioner
Baltimore County
105 W Chesapeake Avenue
Towson, Maryland 21204

Re: PDM#08-231

Dear Deputy Commissioner Bostwick:

As a resident of Tufton Farms, I am writing to oppose the request to resubdivide the Posey property which is located on the corner

of Tufton Ridge Road and Dover Road. As you know, the community has been battling requests to re-subdivide lots in this subdivision

for many years. The majority of the property owners in the subdivision believe that the resubdivision of any lot would be a violation

of the spirit and intent of the original Final Development Plan. We believe that under today's regulations, there is insufficient

density for any additional homes.

The community has been through an expensive and exhausting effort to preserve the integrity of the large wooded lots that make

Tufton Farms a unique subdivision. The unusual atmosphere of this area was a

TB 1/21
9AM

HERTZBACH & COMPANY, P.A.

Certified Public Accountants

Business Consultants

Larry Epstein
2104 Tufton Ridge Road
Reisterstown, MD 21136

January 4, 2010

RECEIVED

JAN 05 2010

ZONING COMMISSIONER

Thomas H. Bostwick,
Deputy Zoning Commissioner
Baltimore County
105 W. Chesapeake Avenue
Towson, MD 21204

RE: PDM#08-231

Dear Deputy Commissioner Bostwick:

As a resident of Tufton Farms, I am writing to oppose the request to re-subdivide the Posey property which is located on the corner of Tufton Ridge Road and Dover Road. As you know, the community has been battling requests to re-subdivide lots in this subdivision for several years. The majority of property owners in the subdivision believe the re-subdivision of any lot would be a violation of the spirit and intent of the original Final Development Plan. We also believe that under today's regulations, there is insufficient area for any additional homes due to environmental issues.

The community has been through an expensive and exhausting effort to preserve the integrity of the large, wooded lots that make Tufton Farms a unique subdivision. The unusual atmosphere of this area was a selling point at the time our homes were purchased, and we want to maintain this unique setting, both for quality of life factors and environmental purposes. The Baltimore County Council saw fit to downzone the area, signifying their agreement that this area should not be carved up into smaller lots.

In addition, the Zoning Commissioner issued an opinion in the remanded Hutson case that the Final Development Plan for Tufton Farms should not be amended. That decision is now before the Board of Appeals and a deliberation is scheduled for March 2010. We believe the Zoning Commissioner made many sound arguments for his decision and that those same arguments apply to the Posey case.

Considering the history of this area and the environmental issues associated with the steep ridge, well yields and runoff, I hope you will agree with the Zoning Commissioner that the Final Development Plan for Tufton Farms should not be amended and that no further subdivision is appropriate for this sensitive, wooded area.

Sincerely,

Larry Epstein, CPA, CVA, ABV, CFF

TB 1/21

RECEIVED

JAN 04 2010

ZONING COMMISSIONER

December 31, 2009

Thomas H. Boswick
Deputy Zoning Commissioner
Baltimore County
105 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Deputy Commissioner Boswick:

I am writing you to voice my opposition to the subdivision of the Posey property located at Dover Rd. and Tufton Ridge and part of the Tufton Farms subdivision.

I bought my lot #14 in 1981 and built my house in 1985. It is a beautiful house located on more than 9 wooded acres. My reason for living here is that the neighborhood is totally wooded and consists of large lots. In this respect it is unique in Baltimore County. My fear is that any subdivision is against the spirit and intention of this neighborhood and may indeed lead to the ultimate destruction of its character.

The Baltimore County Council has already down zoned our neighborhood indicating that our neighborhood should not be chopped up into smaller lots. Additionally the Zoning Commission issued their opinion that our original neighborhood development plan should not be amended. I ask that you make a decision consistent with these prior decisions.

I am fiercely opposed to any subdivision and urge you to prevent it.

Sincerely,

Wilson T. Gildee

Wilson T Gildee
2212 Tufton Ridge Rd
Reisterstown, MD 21136
410-584-2626
tgildee@comcast.net

TB 1/21
9AM

STEPHEN SCHLOSS& SUSAN R. GREEN
2311 TUFTON RIDGE ROAD
REISTERSTOWN, MD 21136
410-785-4001

December 29, 2009

Thomas H. Bostwick,

Deputy Zoning Commissioner

Baltimore County

105 W. Chesapeake Ave.

Towson, Maryland 21204

RECEIVED

JAN 05 2010

ZONING COMMISSIONER

Re. PDM#08-231

Dear Deputy Commissioner Bostwick:

As a resident of Tufton Farms, I am writing to oppose the request to resubdivide the Posey property which is located on the corner of Tufton Ridge Road and Dover Road. As you know, the community has been battling requests to re-subdivide lots in this subdivision for several years. The majority of property owners in the subdivision believe the resubdivision of any lot would be a violation of the spirit and intent of the original Final Development Plan. We also believe that under today's regulations, there is insufficient density for any additional homes.

The community has been through an expensive and exhausting effort to preserve the integrity of the large, wooded lots that make Tufton Farms a unique subdivision. The unusual atmosphere of this area was a selling point at the time our home was purchased, and we want to maintain this unique setting, both for quality of life factors and environmental purposes. The Baltimore County Council saw fit to downzone the area, signifying their agreement that this area should not be carved up into smaller lots. In addition the Zoning Commissioner issued an opinion in the remanded Hutson case that the Final Development Plan for Tufton Farms should not be amended. That decision is now before the Board of Appeals and a deliberation is scheduled for March of 2010. We believe that the Zoning Commissioner made many sound arguments for his decision and that those same arguments apply to the Posey case.

Considering the history of this area, I hope you will agree with the Zoning Commissioner that the Final Development Plan for Tufton Farms should not be amended and that no further subdivision is appropriate for this sensitive, wooded area.

Sincerely,

Stephen Schloss

2311 TUFTON RIDGE ROAD • REISTERSTOWN, MD • 21136
PHONE: 410-215-1108 • FAX: 410-785-4007

1-21-10
TB

John Sophocles
2226 Tufton Ridge Road
Reisterstown, MD 21136
410-771-9468
j.sophocles@gmail.com
December 29, 2009

Thomas H. Bostwick
Deputy Zoning Commissioner
Baltimore County
105 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED

JAN 04 2010

ZONING COMMISSIONER

Re: PDM #08-231

Dear Deputy Commissioner Bostwick,

As a property owner of Tufton Farms and a lead community committee member representing our neighborhood which includes over eighty percent (80%) of the Tufton Farms residents opposing the subdivision of any lots within our subdivision, I am writing to oppose the request to re-subdivide The Posey Property in our neighborhood. Our community has fought for over two and one half years all of the petitioners requesting to subdivide their lots, separately (which at some point the county should have consolidated all the cases) at great expense and with considerable effort to preserve the unique large wooded lot community which separates us from most slice and dice subdivisions in Northern Baltimore County.

We believe the subdivision of any lots in our community violates the spirit and intent of The Original Final Development Plan. We also believe that under today's regulations there is insufficient density for any additional homes.

The property owner's in our subdivisions purchased their lots originally as a unique setting for both quality of life factor and the environmental benefits afforded by heavily forested lots. Even Baltimore County saw fit to downzone the area reflecting their will to protect and preserve the community directly adjacent to the southern wall of The Worthington Valley.

Also, The Zoning Commissioner issued an opinion in the remanded Hutson Case that The FDP for Tufton Farms should not be amended. We believe and hope you review the many sound arguments made by The Zoning Commissioner for his decisions on Hutson and which these same arguments apply to The Posey Case.

Please consider the history of this area and we hope you agree with The Zoning Commissioner that The FDP should not be amended and that no further subdivision is appropriate within our community.

Thank you,

John Sophocles
Tufton Farms Property Owner
Lead Committee Member

TB 1/21
9am

MICHAEL J. O'MALLEY

Home:
2322 Tufton Ridge Road
Glyndon, Maryland 21071

Office:
4242 North Point Road
Baltimore, Maryland 21222

December 29, 2009

RECEIVED

JAN 07 2010

ZONING COMMISSIONER

Thomas H. Bostwick
Deputy Zoning Commissioner
Baltimore County
105 W. Chesapeake Avenue
Towson, MD 21204

Re: PDM# 08-231

Dear Deputy Commissioner Bostwick:

As a resident of Tufton Farms, I am writing to oppose the request to re-subdivide the Posey property which is located on the corner of Tufton Ridge Road and Dover Road.
As you know, the community has been battling requests to re-subdivide lots in this subdivision for several years. The majority of property owners in the subdivision believe the re-subdivision of any lot would be a violation of the spirit and intent of the original Final Development Plan. We also believe that under today's regulations, there is insufficient density for any additional homes.

The community has been through an expensive and exhausting effort to preserve the integrity of the large wooded lots that make Tufton Farms a unique subdivision. The unusual atmosphere of this area was a selling point at the time our homes were purchased, and we want to maintain this unique setting, both for quality of life factors and environmental purposes. The Baltimore County Council saw fit to downzone the area signifying their agreement that this area should not be carved up into smaller lots.

In addition, the Zoning Commissioner issued an opinion in the remanded Hutson case that the Final Development Plan for Tufton Farms should not be amended. That the decision is now before the Board of Appeals and a deliberation is scheduled for March 2010. We believe the Zoning Commissioner made many sound arguments for his decision and that those same arguments apply to the Posey case.

Considering the history of this area, I hope you will agree with the Zoning Commissioner that the Final Development Plan for Tufton Farms should not be amended and that no further subdivision is appropriate for this sensitive, wooded area.

Sincerely,

Michael J. O'Malley

Patricia Zook - Re: Remanded cases from the Board of Appeals (status of cases before Zoning Commissioner)

From: Patricia Zook
To: Shelton, Theresa
Date: 5/19/2009 12:52 PM
Subject: Re: Remanded cases from the Board of Appeals (status of cases before Zoning Commissioner)
CC: Bostwick, Thomas; Wiley, Debra; Wiseman, Bill

Good afternoon Theresa -

Below is an update and status for Tom's cases:

08-140-SPH – Adel & Arpi Sansur: Respone received from Petitioner's attorney. Petitioner to decide if he wants to proceed by doing a new plan based on the new zoning. We should receive a formal letter from the attorney asking us to return the file to the zoning office, but not dismiss yet.

08-217-SPHA – Muhammad Sajid: Response from Peoples Counsel received May 18, 2009 and we expect the Petitioner to withdraw the zoning petition.

07-470-SPH – Posey: A response from the parties is due June 3, 2009

08-110-SPH -- Michael Lang: Hearing held on Friday, May 15, 2009 and we anticipate issuing a decision within the next couple days.

I hope this information is helpful to you.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

>>> Theresa Shelton 5/18/2009 11:32 AM >>>
Gentlemen:

Good Morning. This email is to follow-up and obtain a status on cases that were remanded to you for further proceedings. These cases remain active on the Board's docket until such time as a disposition is reached by your office. The files are as follows:

Case #	Case Name	Date Remand
08-140-SPH	Adel & Arpi Sansur	11/17/2008
08-217-SPHA	Muhammad Sajid	8/5/2008
07-470-SPH	Posey	4/2/2009

08-110-SPH Michael Lang 4/28/2009

I await your response. If you need anything further, please do not hesitate to contact me.

Thank you for your time and support.

Theresa

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

From: Thomas Bostwick
To: Kelly, Colleen; Matthews, Kristen; Richards, Carl
CC: Schmidt, Larry
Date: 11/30/2009 4:43 PM
Subject: Re: Fwd: Posey (Case Number 07-140-SPH)

It's 07-470. Logistically, everything that has been written is fine with me.

Tom.

>>> Kristen Matthews 11/30/2009 4:03 PM >>>
Also, I noticed that in the subject field, the case number referenced is 07-140-SPH and in the body of the text below it shows 07-470-SPH. I was unable to locate anything referencing anything by the name of Posey, please notify me of which is the correct case number.

Thanks,

Kristen

>>> Carl Richards 11/30/2009 3:59 PM >>>
Everyone, If the Hearing officer can process the remand and amended zoning relief in open hearing without the usual amended paperwork and amendment fees, this office would not object. One of the reasons for the amended materials and fees for processing and distribution is to document and ensure that everyone is aware of the changes as if it were a new petition. If this can be accomplished, this office would have no objection. Last , but not least, new plan?, same description?, same area?, different notes? and zoning?, and other changed details, details, details. This office is the depository and the first place that someone checks the files for these updated details, and if they are there as if it were a new petition, all zoning requirements should be met.....,Carl

W. Carl Richards, Jr.
Zoning Review, Baltimore County
Permits and Development Management
Room 111, County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
410-887-3391; 410-887-3048 (fax)
http://www.baltimorecountymd.gov/agencies/permits/pdm_zoning/index.html

>>> Colleen Kelly 11/30/2009 12:19 PM >>>
Kristen,

This is for the HOH for January 21, 2009 with a special hearing Case #07-470-SPH. Please talk with Carl and let me know if this is OK.

Please hold the 21st tentatively if you haven't already for this (Posey) HOH.

Thanks.
Colleen

Colleen M. Kelly
Development Manager
Permits & Development Management
410-887-3321

I took the Green @ Work Energy Challenge Pledge.

>>> "Larry Schmidt" <lschmidt@gildeallc.com> 11/30/2009 12:03 PM >>>

All: You will recall that the above matter was remanded back to Commissioner Bostwick by the Board of Appeals by order dated April 2, 2009. This matter had gone to the Board as an appeal of the decision of Commissioner Bostwick which had granted a Petition for Special Hearing approving an amendment to an FDP, whereby the Posey lot was being subdivided into 3 proposed lots. Valley's Planning Council

RCS
RC6

The remand was necessitated by the rezoning of the property during the 2008 CZMP, which rendered the proposed subdivision impermissible. The Board remanded the case in that it (the Board) had not yet convened a hearing when the new zoning adopted during the CZMP became effective.

Under the new zoning, however, the property can be subdivided into two lots and indeed Ken Wells (consultant for the project) has recently filed a Development Plan for the property proposing such a subdivision. I understand that Colleen Kelly has tentatively scheduled a Development Plan Conference for December 30 and a Hearing Officer's Hearing for January 21, 2010. Under the circumstances, I am requesting leave to amend the prior Special Hearing to accommodate the new plan. The request continues to be "to amend the FDP", however, the nature of the amendment is to reflect the new plan (2 proposed lots) rather than the old plan (3 proposed lots). As permitted by Code, I would like to combine the HOH and the Special Hearing into a combined public hearing on January 21, 2010.

Mr. Bostwick, as the case is in your hands and jurisdiction, I will arrange for the posting of a zoning sign (as well as the required HOH sign) reflecting the amended relief for the January 21, 2010 hearing. I will amend the Petition for Special Hearing in open hearing to reflect the new plan. Again, it bears noting that the relief is the same as before (i.e. to amend the FDP for Tufton Farms) it is only that the amendment is altered to comply with the current zoning. The other relief originally requested (to accommodate a neighbor's driveway) likewise remains.

I am sending the e-mail to all interested parties and invite their comment.

Larry Schmidt

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 - fax

This email contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Gildea & Schmidt, LLC by telephone immediately.

Thomas Bostwick - RE: Fwd: Posey (Case Number 07-140-SPH)

From: "Larry Schmidt" <lschmidt@gildeallc.com>
To: kmatthews@baltimorecountymd.gov; CRichards@baltimorecountymd.gov; CKelly@baltimorecountymd.gov; tbostwick@baltimorecountymd.gov
Date: 11/30/2009 5:14 PM
Subject: RE: Fwd: Posey (Case Number 07-140-SPH)

Thanks Tom.

In answer to Carl's e-mail, yes, everything is still the same. The first petition (which Tom approved and was then appealed to the Board) was a special hearing "to approve an amendment of the FDP for Tufton Farms". It was for Lot 26, a/k/a 2205 Tufton Ridge Farms Road. Under the current proposal, this is the same. We are proposing to amend the **same** FDP by altering the **same** lot. The only difference is that we previously proposed subdividing lot 26 into 3 lots and now we are proposing subdividing it into 2. We have gone to the DRC about process, and were given a "b" exemption, requiring us to submit a Development Plan and going to a DPC and then an HOH. That is what we are doing and we are combining the HOH with the Special Hearing, as amended.

I'll do it however it makes the most sense, but I think amending as I suggested before makes is easiest.

Carroll Holzer's clients filed the appeal and that is why I copied him on my first e-mail. I do not know if they still object. I know that they objected to the 3 lot subdivision but I have heard that they might live with a two lot subdivision. Pete Zimmerman also was involved and that is why I copied him.

Sorry for the typo on the case number.

Larry

Lawrence E. Schmidt

Gildea & Schmidt, LLC

600 Washington Avenue

Suite 200

Towson, MD 21204

(410) 821-0070

(410) 821-0071 - fax

This email contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Gildea & Schmidt, LLC by telephone immediately.

-----Original Message-----
From: Thomas Bostwick [mailto:tbostwick@baltimorecountymd.gov]
Sent: Monday, November 30, 2009 4:43 PM
To: Colleen Kelly; Carl Richards; Kristen Matthews
Cc: Larry Schmidt
Subject: Re: Fwd: Posey (Case Number 07-140-SPH)

It's 07-470. Logistically, everything that has been written is fine with me.

Tom.

>>> Kristen Matthews 11/30/2009 4:03 PM >>>
Also, I noticed that in the subject field, the case number referenced is 07-140-SPH and in the body of the text below it shows 07-470-SPH. I was unable to locate anything referencing anything by the name of Posey, please notify me of which is the correct case number.

Thanks,

Kristen

>>> Carl Richards 11/30/2009 3:59 PM >>>
Everyone, If the Hearing officer can process the remand and amended zoning relief in open hearing without the usual amended paperwork and amendment fees, this office would not object. One of the reasons for the amended materials and fees for processing and distribution is to document and ensure that everyone is aware of the changes as if it were a new petition. If this can be accomplished, this office would have no objection. Last , but not least, new plan?, same description?, same area?, different notes? and zoning?, and other changed details, details, details. This office is the depository and the first place that someone checks the files for these updated details, and if they are there as if it were a new petition, all zoning requirements should be met.....,Carl

W. Carl Richards, Jr.
Zoning Review, Baltimore County
Permits and Development Management
Room 111, County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
410-887-3391; 410-887-3048 (fax)
http://www.baltimorecountymd.gov/agencies/permits/pdm_zoning/index.html

>>> Colleen Kelly 11/30/2009 12:19 PM >>>
Kristen,

This is for the HOH for January 21, 2009 with a special hearing Case #07-470-SPH. Please talk with Carl and let me know if this is OK.

Please hold the 21st tentatively if you haven't already for this (Posey) HOH.

Thanks.
Colleen

Colleen M. Kelly
Development Manager
Permits & Development Management
410-887-3321

I took the Green @ Work Energy Challenge Pledge.

>>> "Larry Schmidt" <lschmidt@gildeallc.com> 11/30/2009 12:03 PM >>>

All: You will recall that the above matter was remanded back to Commissioner Bostwick by the Board of Appeals by order dated April 2, 2009. This matter had gone to the Board as an appeal of the decision of Commissioner Bostwick which had granted a Petition for Special Hearing approving an amendment to an FDP, whereby the Posey lot was being subdivided into 3 proposed lots.

The remand was necessitated by the rezoning of the property during the 2008 CZMP, which rendered the proposed subdivision impermissible. The Board remanded the case in that it (the Board) had not yet convened a hearing when the new zoning adopted during the CZMP became effective.

Under the new zoning, however, the property can be subdivided into two lots and indeed Ken Wells (consultant for the project) has recently filed a Development Plan for the property proposing such a subdivision. I understand that Colleen Kelly has tentatively scheduled a Development Plan Conference for December 30 and a Hearing Officer's Hearing for January 21, 2010. Under the circumstances, I am requesting leave to amend the prior Special Hearing to accommodate the new plan. The request continues to be "to amend the FDP", however, the nature of the amendment is to reflect the new plan (2 proposed lots) rather than the old plan (3 proposed lots). As permitted by Code, I would like to combine the HOH and the Special Hearing into a combined public hearing on January 21, 2010.

Mr. Bostwick, as the case is in your hands and jurisdiction, I will arrange for the posting of a zoning sign (as well as the required HOH sign) reflecting the amended relief for the January 21, 2010 hearing. I will amend the Petition for Special Hearing in open hearing to reflect the new plan. Again, it bears noting that the relief is the same as before (i.e. to amend the FDP for Tufton Farms) it is only that the amendment is altered to comply with the current zoning. The other relief originally requested (to accommodate a neighbor's driveway) likewise remains.

I am sending the e-mail to all interested parties and invite their comment.

Larry Schmidt

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 - fax

This email contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Gildea & Schmidt, LLC by telephone immediately.

Thomas Bostwick - Posey (Case Number 07-140-SPH)

From: "Larry Schmidt" <lschmidt@gildeallc.com>
To: tshelton@baltimorecountymd.gov; tbostwick@baltimorecountymd.gov
Date: 11/30/2009 12:03 PM
Subject: Posey (Case Number 07-140-SPH)
CC: peoplescounsel@baltimorecountymd.gov; jcholzer@cavtel.net; kwells@kjwellsinc.com; CKelly@baltimorecountymd.gov

All: You will recall that the above matter was remanded back to Commissioner Bostwick by the Board of Appeals by order dated April 2, 2009. This matter had gone to the Board as an appeal of the decision of Commissioner Bostwick which had granted a Petition for Special Hearing approving an amendment to an FDP, whereby the Posey lot was being subdivided into 3 proposed lots.

The remand was necessitated by the rezoning of the property during the 2008 CZMP, which rendered the proposed subdivision impermissible. The Board remanded the case in that it (the Board) had not yet convened a hearing when the new zoning adopted during the CZMP became effective.

Under the new zoning, however, the property can be subdivided into two lots and indeed Ken Wells (consultant for the project) has recently filed a Development Plan for the property proposing such a subdivision. I understand that Colleen Kelly has tentatively scheduled a Development Plan Conference for December 30 and a Hearing Officer's Hearing for January 21, 2010. Under the circumstances, I am requesting leave to amend the prior Special Hearing to accommodate the new plan. The request continues to be "to amend the FDP", however, the nature of the amendment is to reflect the new plan (2 proposed lots) rather than the old plan (3 proposed lots). As permitted by Code, I would like to combine the HOH and the Special Hearing into a combined public hearing on January 21, 2010.

Mr. Bostwick, as the case is in your hands and jurisdiction, I will arrange for the posting of a zoning sign (as well as the required HOH sign) reflecting the amended relief for the January 21, 2010 hearing. I will amend the Petition for Special Hearing in open hearing to reflect the new plan. Again, it bears noting that the relief is the same as before (i.e. to amend the FDP for Tufton Farms) it is only that the amendment is altered to comply with the current zoning. The other relief originally requested (to accommodate a neighbor's driveway) likewise remains.

I am sending the e-mail to all interested parties and invite their comment.

Larry Schmidt

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 - fax

This email contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Gildea & Schmidt, LLC by telephone immediately.

From: Thomas Bostwick
To: Schmidt, Larry
Date: 04/13/09 12:24:46 PM
Subject: Re: 07-470-SPH, 13101 Dover Road

Mr. Schmidt,

That is fine with me. The main purpose of my letter was to get an idea of where this matter now stood, since the Board of Appeals transferred the actual file to our custody pending further proceedings.

That 60 day date is not a hard and fast time limit, especially since you have advised me of the status as requested.

Thank you for your prompt attention to this matter. If there are no objections from any party, we will hold onto the file and wait to hear whether an amended plan is submitted and possible rehearing is requested, or a motion to dismiss is filed.

Thomas H. Bostwick
Deputy Zoning Commissioner
for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
Phone: (410) 887-3868
Fax: (410) 887-3468

>>> "Larry Schmidt" <lschmidt@gildeallc.com> 04/13/09 11:56:58 AM >>>
Commissioner Bostwick (with a copy to Messrs Zimmerman and Holzer):

It appears as if the respective letters from me, Mr. Holzer and you all crossed in the mail. I concur with Mr. Holzer that "the ball is in my court" in that my client will either proceed with an amended development plan (albeit a different amendment than was submitted before) or will dismiss the case.

My client is weighing the options. I will get back to you as soon as a determination is made and will endeavor to have that decision made within the sixty day time frame established in your letter. I will, of course, notify all parties when a determination has been made.

Please confirm that this is acceptable and contact me if any further information is required.

Thank you for your courtesy.

Larry Schmidt

Lawrence E. Schmidt

Gildea & Schmidt, LLC

600 Washington Avenue

Suite 200

Towson, MD 21204

(410) 821-0070

(410) 821-0071 - fax

This email contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Gildea & Schmidt, LLC by telephone immediately.

CC: Counsel, People's; jcholzer@bcpl.net

From: Thomas Bostwick
To: Schmidt, Larry
Date: 7/20/2009 3:04 PM
Subject: Case No. 07-470-SPH - Posey Property

Larry,

You might remember this case -- the request to further subdivide the property at 13101 Dover Road in the Worthington Valley area. Our last communication was an email from you dated April 13, 2009 in response to a letter from me dated April 2, 2009, wherein you indicated that you and your client were in the process of determining whether an amended site plan would be submitted with a possible rehearing, or whether a motion to dismiss would be filed.

My main reason for getting back to you again is that we just received (a few days ago) an email from Sunny Cannington at the Board of Appeals requesting an update on the status of this case since it was remanded from the Board back to me some time ago.

Can you give me an update on this matter when you have a moment? Keep in mind I'm not in a hurry on this matter one way or the other. I just want to be able to get back to the Board. Thanks. Tom.

From: "Larry Schmidt" <lschmidt@gildeallc.com>
To: tbostwick@baltimorecountymd.gov
Date: Tue, Jul 21, 2009 11:45 AM
Subject: RE: Case No. 07-470-SPH - Posey Property

Hi Tom: Insofar as the above, I will have something filed with you (either a Motion to Dismiss, or, if we decide to move forward; an amended plan) by August 15, 2009. Can you give us until then and advise Sunny that we are close to making a decision on this and will advise you by that date?

Larry

Lawrence E. Schmidt

Gildea & Schmidt, LLC

600 Washington Avenue

Suite 200

Towson, MD 21204

(410) 821-0070

(410) 821-0071 - fax

This email contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Gildea & Schmidt, LLC by telephone immediately.

-----Original Message-----
From: Thomas Bostwick [mailto:tbostwick@baltimorecountymd.gov]
Sent: Monday, July 20, 2009 3:05 PM
To: Larry Schmidt
Subject: Case No. 07-470-SPH - Posey Property

Larry,

You might remember this case -- the request to further subdivide the property at 13101 Dover Road in the Worthington Valley area. Our last communication was an email from you dated April 13, 2009 in response to a letter from me dated April 2, 2009, wherein you indicated that you and your client were in the process of determining whether an amended site plan would be submitted with a possible rehearing, or whether a motion to dismiss would be filed.

My main reason for getting back to you again is that we just received (a few days ago) an email from Sunny Cannington at the Board of Appeals requesting an update on the status of this case since it was remanded from the Board back to me some time ago.

Can you give me an update on this matter when you have a moment? Keep in mind I'm not in a hurry on this matter one way or the other. I just want to be able to get back to the Board. Thanks. Tom.

CC: kwells@kjwellsinc.com

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence
Phone: 410-887-3180 Fax: 410-887-3182

To: Thomas Bostwick, Deputy Zoning Commissioner

From: Sunny Cannington, Legal Secretary

Date: April 2, 2009

Re: Remanded case
07-470-SPH John & Victoria Posey

Mr. Bostwick,

Attached is the above referenced case that has been remanded to you for further proceedings. After you have issued the necessary Order or Opinion, please send a copy of this Order/Opinion to us for our records.

Please retain the file for the appeals period of 30 days. If the case is appealed again, the file would need to be returned to us. Should no appeal be taken within the appropriate time period, you may return the file to the Office of Zoning Review for closing and filing.

Thank you for all of your help and support in this matter. It is our hope, that with your help, we will be able to maintain the files in such a way that a backlog will not arise again.

Thank you again and, as always, should you have any questions or problems, please do not hesitate to contact us.

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF:	***JOHN & VICTORIA POSEY –LO;*** 13101 Dover Road 8th Election Dist; 2nd Councilmanic District
CBA-10-032 2/4/10	Memorandum to Timothy Kotroco, Director of PDM from Director of Planning withdrawing the approval of the Primary Conservancy Area and Site Analysis Plan.
and	
CBA-10-033 2/25/10	Findings of Fact and Conclusion of Law issued by
Deputy	
PDM# VIII-231	Zoning Commissioner DENYING the request for approval of the "Development Plan of the Posey Property."
and	
CASE #: 07-470-SPH	**IN THE MATTER OF: JOHN & VICTORIA POSEY –LO; WELLS DEVELOPMENT CORP. - CP** 13101 Dover Road 8th Election District; 2nd Councilmanic District
	SPH – Filed Amended
DATE:	May 20, 2010
BOARD/PANEL:	Lawrence S. Wescott, Panel Chairman Wendell H. Grier Robert W. Witt
RECORDED BY:	Theresa R. Shelton / Administrator
PURPOSE:	To deliberate the following:

1. Whether the matter of the County's revocation of the Site Analysis Plan should be heard *de novo* or 'on the record'.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- That he Office of Planning did not submit their position on any plan until after the hearing
- Site Analysis Plan was approved and then the approval withdrawn – reason for withdrawal
- Petitioner can appeal to the Board after the decision is made and it would be *de novo*
- If matter is heard 'on the record', the Board would not have the full details
- Matter need to be heard *de novo* for the Board to obtain all of the information

- The operative document was not at the hearing
- There should be testimony on the entire issue of why the revocation was instituted

DECISION BY BOARD MEMBERS: Unanimous decision that the matter involving the revocation of the Site Analysis Plan should be heard *de novo*.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to have a *de novo* hearing on the revocation of the Site Analysis Plan.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above 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,

Theresa R. Shelton

Theresa R. Shelton

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 07-470-SPHAM
DATE 8/27/07

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Adel Sarsour	2304 Tufton ridge rd	Reisterstown MD	21136
Tom Church	6603 York Rd	Balto Md. 2122	
Ray Heller	13215 DOVER RD	REISTERSTOWN MD 21136	
RON BAGLOL	3002 Merrymans Mill Rd	Phoenix Md 21131	RLBDevllc2@comcast.net
TOM HUTSON	2204 HUTTON RIDGE RD	REST MD 21136	

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 07-470 SPHA
DATE 8/27/07

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
KENNETH WELLS	7403 NEW CUT RD	KINGSVILLE, MD. 21087	KWELLS@KJWELLSINC.COM
LAWRENCE E SCHMIDT	600 WASHINGTON AVE	TOWSON, MD 21204	

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PROTESTANTS

~~CITIZEN~~'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
TERESA MOORE	Valleys Planning Council	Towson 21204 PO Box 5402	MOORECVPC@comcast.net
Fran Yeazel	2314 Tufton Ridge Rd	Glyndon, MD 21071	yeagal@southlink.net
RICHARD YEAZEL	2314 TUFTON RIDGE RD	" "	
Larry Bortner	2308 Tufton Ridge Rd	Reisterstown MD 21136	lbortner@bortnerbros.com
Janice Bortner	2308 Tufton Ridge Rd	" " "	
Jack Dilla	118 W. Pennsylvania Ave	Towson MD 21204	jackdilla1@verizon.net
MARTIN BUCKLEY	2222 TUFTON RIDGE	REISTERSTOWN MD 21136	BUCKLEYMJ@COMCAST.NET
JOHN SOPHOCLES	2226 TUFTON RIDGE	REISTERSTOWN MD 21136	JSOPH7@AOL.COM
DON SCHLIJE	2303 Tufton Ridge Rd	"	
TOM GILDEE & JEANNE	2212 TUFTON RIDGE RD	REISTERSTOWN, MD 21136	WTGILDEE@COMCAST.NET

PLEASE PRINT CLEARLY

CASE NAME Wells/Posey
CASE NUMBER 07-470-SPH
DATE 7/16/07

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
LAWRence E Schmidt	600 WASHINGTON Ave, Ste	200 TOWSON, MD 2	1204 lschmidt@gildoolle.com
KENNETH J. WELLS	7403 NEW CUT ROAD	KINGSVILLE, MD. 21087	KWELLS@KWELLSTIK.com

PLEASE PRINT CLEARLY

CASE NAME POSEY PROPERTY
CASE NUMBER 08-231
DATE 1/21/10

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
LAWRENCE E. SCHMIDT	600 WASHINGTON AVE	TOWSON MD 21204	
KENNETH WELLS ✓	7403 NEW CUT RD.	KINGSVILLE, MD. 21087	

PLEASE PRINT CLEARLY

CASE NAME Posey Property
CASE NUMBER 08-231
DATE 1/21/10

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Janice Bortner ✓	2308 Tufton Ridge Rd	Reisterstown, MD 21136	
Larry Bortner ✓	2308 Tufton Ridge Rd	Reisterstown MD 21136	Lbortner@bortnerbros.com
Fran Yeazel ✓	2314 TUFTON Ridge Rd	Reisterstown 21136	yeazel@earthlink.net
LARRY EPSTEIN ✓	2104 TUFTON RIDGE RD.	REISTERSTOWN, MD 21136	LME@HERTZBACK.com
CARROLL HOLZER ✓	708 Fairmont Ave	Towson MD 21286	JCHolzer@Cavtel.Net
JOHN SOPHOCLES ✓	2226 TUFTON RIDGE RD		J.SOPHOCLES@GMAIL.COM
MIKE O'MALLEY ✓	2322 TUFTON RIDGE	GLYNDON, MD.	MIKE@OMALLEYLUMBER.COM

PLEASE PRINT CLEARLY

CASE NAME Posey Property
CASE NUMBER 08-231
DATE 1/21/10

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
DAVID LYKENS	DEPT OF		5959
BRUCE GILL	RECREATION + PARKS		3823
Liz Hampshire	Land Dev.		3253
Jessica Kennedy	Dev. Plan Review		3751
John Fiorentino	Zoning		3391
LLOYD MOXLEY	PLANNING		3480
[redacted]	[redacted]	[redacted]	[redacted]
Colleen Kelly	PROJECT MANAGER PDM		

B71399/C

20070470 "A"
supplemental

EXHIBITS

3

SCHOOL IMPACT ANALYSIS

Form 1
Current Enrollment
Office of Planning

Project Name POSEY PROPERTY / TUFTON FARMS

PDM Project Number VIII-231

Filing Date 11/20/2009

School District	State Rated Capacity (SRC)	Commited Seats	Net SRC	Actual September 30th Enrollment*	# of Pupils Above or (Below) SRC	Actual Enrollment as a Percentage of SRC
FRANKLIN Elementary School	496	-0-	496	495	-1	99.7%
FRANKLIN Middle School	1,422	-0-	1,422	1,297	-125	91.2%
FRANKLIN High School	1,647	-0-	1,647	1,578	-69	95.8%

*Enrollment is defined by the full time equivalent enrollment.

07031M 22-233 OCC

NOTES:

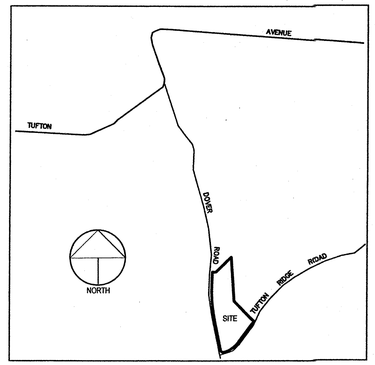
1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEIREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) 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.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) A REQUEST TO GRANT A FEE-IN-LIEU OF THE STORM WATER MANAGEMENT REQUIREMENTS HAS BEEN REQUESTED.
13) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
14) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
15) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
16) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
17) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
18) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
19) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
22) THE PANHANDLE DRIVEWAY SHALL CONFORM TO STANDARD PLATE R-P, R-Q, OR R-R.
23) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.

SITE DATA:

1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD REISTERSTOWN, MD 21136 410-584-2574
3) DEED REFERENCE: 5790/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4083.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) AREA OF TRACT: 9.5425 ACRES
17) AREA OF HIGHWAY WIDENING: -0- ACRES
18) NET AREA: 9.5425 ACRES
19) DENSITY CALCULATIONS:
LOTS ALLOWED: 9.5425 x .5 = 4
LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
REQUIRED: 2 x 3 = 6 SPACES
PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
DOVER ROAD: COLLECTOR
TIMBER RIDGE ROAD: LOCAL

LEGEND:

- 25%/> SLOPES
- MbB2 — SOIL SERIES
- 200 — EX. CONTOURS
- 200 — PROP. CONTOURS
- W — WETLANDS
- X — FENCING
- EX. WOODS LINE
- PROP. TREELINE
- LOD — LIMIT OF DISTURBANCE
- APPROVED PERC. TESTS
- FAILED PERC. TESTS
- MBSL — MINIMUM BUILDING SETBACK LINE



Vicinity Map
Scale: 1" = 1000'



I HEREBY CERTIFY THAT I REVIEWED WITH DUE DILIGENCE THE MINOR SUBDIVISION PLAN SHOWN HEREON AND HAVE PREPARED THIS MINOR SUBDIVISION PLAN PURSUANT TO THE AGENCY COMMENTS.

STATE OF MARYLAND ★ JAMES KELLY KENNETT ★ PROFESSIONAL ENGINEER
SEAL

NAD 83/91

REVISIONS:

NO.	DATE

RECEIVED
JAN 03 2007
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

PDM # VIII-231

BALTIMORE COUNTY MINOR SUBDIVISION
Project No.

DEVELOPMENT REGULATIONS
☐ Exempt from Article 32, Title 4, Subtitle 2, BBC
☐ Panhandle, exempt from Section # 32-4-211 through 32-4-217 and sections # 32-4-226 and 32-4-227, BBC

PDM CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED, DEPRM
By: _____ Date: _____

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

kjWellsInc
2403 NEW CUT ROAD
KINGSVILLE, MD 21087
(410) 592-8600

Land Surveying & Site Planning

MINOR SUBDIVISION PLAN
of the
POSEY PROPERTY
RESUBDIVISION LOT 4 PLAT 1 - SECTION 2 "TUFTON FARMS"
PLAT BOOK 41/71
BALTIMORE COUNTY
MARYLAND
8th ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/01/2007

PROJECT NO.:
POSEY

SHEET 1 OF 1

Protestant Sign In Sheet

Tom Gildee, 2212 Tufton Ridge, 410-584-2626 (21136)
Larry Bortner 2308 Tufton Ridge Rd 410-584-7251
Mike O'Malley 2322 Tufton Ridge 410-207-3156
Teresa Moore 118 W. Pennsylvania Ave 410-337-6877
Martin Buckley 2222 Tufton Ridge 410-785-1119
John Sophocles 2226 Tufton Ridge Rd. 410-271-8468
Stephen Schloss 2311 Tufton Ridge Rd- 410 785-4001
(21136)

Verified 5/8/08

Exhibits.

Case 07-470-SPlt
John + Victoria Posey
13101 Dover Road

Petitions Exhibits

(1) Resume Ken Wells.

(2) FDP Section 2 Tufton Farms 1977

(3A) Proposed Amendment to FDP
Lot 4 Orange

(3B) Enlarged + Detailed Version 3A
w/ proposed 3 lots w/ Notes

(4) Deed to Alan + Carolyn
3/1/1979 5996, 3

(5) Deed 5/4/77 Thomas Nickels / Black
L 5749, p. 150 to Gaylord Books
includes Lot 4.

(6) Deed Declaration Restrictions
Liber Folio
by Gaylord Brooks

(7) Planning Office Memo 5/7/08
approving amend FDP

(8) Plan Office - Internal Memo 12/20/07
by Lloyd Moxley - Perf Stds met.

Pet Ex. 1

kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800
Telecopier: (410) 817-4055
email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

Resume' of Kenneth J. Wells, R.P.L.S.

Prepared on April 7, 2008

Personal Background:
Date of Birth: December 18, 1948
Military Service: US Army (1969 – 1971)

Personal Education and Experience:
High School graduate (1966). Attended Catonsville Community College from 1974 to 1978 and completed the Surveying Technology Curriculum. Employed with surveying and engineering firms beginning in 1966 thorough 1984, excepting for time in military were the responsibilities entail being a member of a survey field crew, chief of surveys, performed boundary line and topographic surveys, prepared plans and documents for construction and performed as a site planner to determine the best land use along with the preparation of plans and documents for the subdivision of land.

Licensed to Practice Land Surveying:
Registered as a Property Line Surveyor in January of 1983.

Professional Organizations Membership:
Maryland Society of Surveyors
American Congress on Surveying and Mapping
National Society of Professional Surveyors

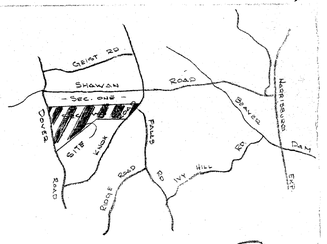
Professional Background:
I am the principal of a firm that was formed in 1984 which provides land surveying and site planning services on a wide variety of public and private projects. I have been accepted as an expert witness to testify in matters relating to land surveying, zoning and planning before the Baltimore County Zoning Commissioner and Members of the Board of Appeals of Baltimore County. I have also testified as an expert witness before the Hearing Officer of Baltimore County on a number of major subdivisions and have prepared numerous minor subdivision plans and related documents.

Petitioner No1

DWELLING UNIT CALCULATION

ALLOWED:
1. GROSS AREA OF SECTION TWO 234.58Ac.±
2. AREA OF R.C.-2 = 119.58Ac.± : 20 LOTS IN 100Ac.± = 20
   19.58Ac.± ÷ 25 = 0
   R.C.2 TOTAL LOTS ALLOWED 20
3. AREA OF R.C.-5 = 115.00Ac.± ÷ 2 = 57.5
   TOTAL LOTS ALLOWED R.C.2 & R.C.5 = 77.5 LOTS

PROPOSED:
4. TOTAL LOTS PROPOSED R.C.-2 = 15
5. TOTAL LOTS PROPOSED R.C.-5 = 15
   30 TOTAL LOTS PROPOSED.



LOCATION PLAN
No Scale

FARM-1 FARM-2 FARM-3 FARM-3 FARM-5 FARM-6 FARM-7 FARM-8 FARM-

"TUFTON FARMS" I

"PLAT ONE" "PLAT THREE" "PLAT FOUR"

TUFTON RIDGE

"KUOX RIDGE"

ROAD DOVER ROAD

RC-2 ZONE RC-5 ZONE

Nancy Black 48/353

Doris D. Greenwood 548/21

Hilda N. Fishpaw 1096/372

Harry O. Shaney 2525/[illegible]

Robert G. Mookes Property

Albert Chimnell Jr.

Lot 2 Lot 3 Lot 4 Lot 5 Lot 6 Lot 7

Tract A

Replat Lot 7A

Owner's Dwelling Lot 21

Drainage and Utility Easement

50' Mill Branch Tributary Easement

To Falls Rd.

OFFICE OF PLANNING & ZONING
APPROVED BY
Norman E. Gerber 2/17/77
DIRECTOR OF PLANNING DATE
Phillip Jenner 2/18/77
ZONING COMMISSIONER DATE

GENERAL NOTES:

1. ● DENOTES PROPOSED STREET LIGHT LOCATION.
2. ALL TOWNHOUSE LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO BE DONE ON OF THE TOWNHOUSE STREET R/W LINE ONLY AND NOT ON THE TOWNHOUSE LOT DRIVE WAY.
3. PRIVATE WATER & SEPTIC SYSTEMS TO BE INSTALLED IN ACCORDANCE WITH BALTO. CO. HEALTH DEPT. REGULATIONS.
4. THERE SHALL BE 2 OFF STREET PARKING SPACES PROVIDED FOR EACH LOT CONSTRUCTED WITH A DUSTLESS & DURABLE SURFACE. TOTAL PROVIDED 60-SIXES.
5. LOCATION OF DRIVES & PARKING TO BE DETERMINED BY LOCATION OF RESIDENCE.
6. INDIVIDUAL REFUSE CONTAINERS TO BE PICKED UP AT THE CURB FOR EACH LOT.
7. THERE SHALL BE NO GRADING OF THE ENTIRE SITE. THERE SHALL BE NO CLEAR CUTTING OF TREES & SHRUBS FROM ANY LOT, ONLY DEAD, DAMAGED, OR TREES NECESSARY FOR THE CONSTRUCTION OF HOMES & DRIVES, ARE TO BE REMOVED. MIN. GRADING SHALL BE PERFORMED AS REQUIRED FOR THE CONSTRUCTION OF THE HOME AND DRIVE ON ANY LOT.
8. PLANTING OF EACH LOT TO BE PROVIDED BY THE BUILDER OR OWNER OF EACH LOT.
9. ALL LOTS SHOWN HEREON ARE TO BE SOLD.
10. MIN. BUILDING HEIGHT OF STRUCTURES R.C.5 - 35' - R.C.2 - 35'
11. MAJOR VEGETATION - SECOND GROWTH TIMBER.
12. NO OPEN SPACE REQUIRED.
13. CONTOURS SHOWN HEREON ARE FROM BALTO. CO. PHOTOGRAMMETRICS AND IS NOT FIELD RUN.
14. MIN BUILDING SETBACKS R.C.O.2 R.C. 2 - FRONT 75 FROM ℄ OF ROAD, SIDE 25' REAR 50'.
15. MIN. BUILDING SETBACKS R.C.O.5 R.C. 5 - FRONT 75 FROM ℄ OF ROAD, SIDE & REAR 50'.
16. ⊠ DENOTES BUILDING AREA.
17. ALL LOT LINE DIMENSIONS WITH IN RC-2 ZONED AREAS AS SHOWN
18. THE OWNER RESERVES THE RIGHT TO GRANT & REMOVE ALL DRAINAGE EASEMENTS PRIOR TO THE SALE OF THE LOTS
19. LOT DIMENSIONS & ACREAGE AS SHOWN ARE APPROXIMATE AND ARE SUBSTANTIALLY IN ACCORDANCE WITH THE PLAT AS RECORD
20. OWNER RESERVES THE RIGHT TO CREATE JOINT DRIVEWAYS & MAINTANCE AGREEMENTS FOR INDIVIDUAL LOTS, PRIOR TO SALE

E. S. RAPHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OWNER & DEVELOPER:
GAYLORD BROOKS INVESTMENT CO.
BOX 62 PAPER MILL ROAD
PHOENIX MARYLAND 21131

FINAL DEVELOPMENT PLAN
SECTION TWO

"TUFTON FARMS"

8th ELECTION DISTRICT — BALTIMORE CO. MD.

SCALE 1" = 200' — JANUARY 25th, 1977

Pet. # 2

1376

MICROFILMED

ZONING COMMISSIONER'S ORDER:

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 17th day of October, 2007, that Petitioners' request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to amend the Final Development Plan entitled "Section Two, Tufton Farms" (PDM Number VIII-231) as follows:

- To permit the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP, with no increase in the number of lots, and no increase in the total residential density available to the lots considered as a whole in accordance with Section 32-4-106(a)(viii) of the Baltimore County Code, and;

- To permit the re-subdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with B.C.Z.R. Sections 1A00.4 and 1B01.3, and Section 1B01.3A.7.c of the Zoning Commissioner's Policy Manual (Z.C.P.M.)

be and is hereby GRANTED.

As a condition precedent to the relief granted herein, Petitioners shall comply with each of the following conditions:

1. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code) for the entire 10.72 acres comprising Lot 4.

2. Dover Road is scenic. Therefore, the amount of vegetation shown on the plan to be retained along the Dover Road frontage should be in compliance with the Comprehensive Manual of Development Policies (CMDP) Scenic Routes, Enclosed Views.

a) Photographs of existing adjacent dwellings.

b) Building elevations (all sides) of proposed dwellings for review and approval. Proposed dwellings shall be compatible in size and architectural detail as that of the existing dwellings in the area. The exterior of the proposed building(s) shall use the same finish materials and architectural details on the front, side and rear elevations. Use of quality materials such as brick, stone or cedar is encouraged.

c) Design of all decks, balconies, windows, dormers, chimneys and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.

d) Design of all accessory structures at a scale appropriate to the dwelling, and design of garages with the same architectural forms as the principal building(s), on the site, providing consistency in materials, colors, roof pitch and style.

e) Plan for providing landscaping along the public road, if it is consistent with the existing streetscape.

4. The proposed development shall comply with all development regulations.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

DWELLING UNIT CALCULATION

ALLOWED:

1. GROSS AREA OF SECTION TWO 234.58 Ac.±
2. AREA OF R.C.-2 = 110.58 Ac.± ÷ 20 LOTS (@ 100 Ac.± = 20
   10.58 Ac.± ÷ 25 = 0
   RC-2 TOTAL LOTS ALLOWED 20
3. AREA OF R.C.-5 = 115.00 Ac.± ÷ 2 = 57.5
   TOTAL LOTS ALLOWED RC 2 & RC 5 = 77.5 LOTS

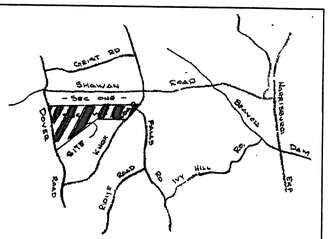
PROPOSED:

4. TOTAL LOTS PROPOSED R.C. 2: 15
5. TOTAL LOTS PROPOSED R.C. 5: 14 + 3 (SEE DWELLING UNIT CALCULATIONS FOR LOT 4 BELOW) = 17 ***

32 TOTAL LOTS PROPOSED. ***

DWELLING UNIT CALCULATIONS FOR LOT 4 (PER MINOR SUBDIVISION NO. 07-001M):
1) NET AREA OF TRACT: 9.5425 ACRES
2) GROSS AREA: 10.7237 ACRES (INCLUDES AREA TO CENTERLINES OF ROADS)
3) AREA OF HIGHWAY WIDENING: -0- ACRES
4) DENSITY CALCULATIONS:
   LOTS ALLOWED: 10.7237 x .5 = 5 / GROSS AREA
   LOTS ALLOWED: 9.5425 x .5 = 4 / NET AREA
   LOTS PROPOSED: 3

*** DENOTES AMENDED DATA



LOCATION PLAN
No Scale

REASON FOR AMENDMENT:

1) TO RE-SUBDIVIDE LOT 4 INTO 3 LOTS BY MINOR SUBDIVISION (NO. 07-001M).
2) TO CORRECTLY SHOW THE ADJUSTED LOT LINE BETWEEN LOTS 3 AND 4.
3) TO COMPLY WITH AN ORDER ISSUED BY THE DEPUTY ZONING COMMISSIONER DATED OCTOBER 17, 2007 CASE NO. 07-470-SPH.

STATE OF MARYLAND — KENNETH JAMES WELLS — No. 21331 — PROFESSIONAL LAND SURVEYOR — LINE DIVISION

AS TO AMENDING LOT 4

THIS FINAL DEVELOPEMENT PLAN COMPLIES WITH ALL COUNTY COMMENTS AND IS IN AGREEMENT WITH THE APPROVED MINOR SUBDIVISION PLAN TO BE APPROVED SIMULTANEOUSLY WITH THIS FINAL DEVELOPMENT PLAN.

FARM-1 FARM-2 FARM-3 FARM-3 FARM-5 FARM-6 FARM-7 FARM-8 FARM-9

ROAD — 640 — 2260'± — DRAINAGE AND UTILITY EASEMENT — 640 — 6360'± — 532'± — 2736'± — DRAINAGE AND UTILITY EASEMENT

DORIS B. GREENWOOD 54/21

NANCY BLACK 18/352

NANCY B. BLACK 48/363

SAVE AND EXCEPT AREA PER 5790/818 CONVEYED TO LOT 3

MINOR SUBDIVISION #07-001M LOT 4 IS TO BE SUBDIVIDED INTO 3 LOTS, 4A, 4B & 4C (SEE DWELLING UNIT CALCULATIONS ON THIS SHEET FOR EX. LOT 4)

LOT 4A 3.57 ACRES

LOT 4B 2.46 ACRES

LOT 4C 3.52 ACRES

MIN. BLDG. SETBACK LINES

PROPOSED DRIVEWAY

DEAD MANS BEAVER DAM

LOT 25

LOT A

LOT 7

LOT 5

LOT 3

LOT 2

LOT 1

LOT C

"POPLAR RIDGE" ENT 12 57/5

THREE — 10 BLKS — ROAD — PLAT — FOUR — 10 BLKS — PLAT

R.C.2 ZONE — R.C.5 ZONE

TUFTON FARMS — 5.9 AC± — 10 BLKS — RIDGE — 10 BLKS — 24' Setback

DOVER ROAD — 50' WIDE BUILDING RESTRICTION LINE — 50' DRAINAGE & UTILITY EASEMENT

HILDA N. FISHPAW 1636/372

HARRY O SHANEY 2003/221

HARRY O SHANEY 504/241

ROBERT G MOORES TRACT A ENT 12 57/75

ALBERT CHIMMEL

"KNOX RIDGE"

To Falls Rd.

AVENUE

N 44°52'32" E 291.36'

S 55°24'42" W 180.66'

S 55°24'42" W 1077.5'

S 55°24'42" W 1800'

S 55°26'21" W 388.66'

N 10°22'30" W 388.66'

S 53°38'21" W 66.66'

S 55°26'21" W 66.66'

S 55°38'05" W 65.76'

S 34°18'37" W 161.12'

S 87°25'37" W 146.29'

S 87°25'37" W 1285.36'

N 7°15'00" W 165.00'

S 84°17'30" W 195.00'

N 10°22'30" W 1800'

S 5°38'30" E 1800'

S 10°22'30" E 1800'

S 10°22'30" E 1800'

N 10°22'30" W 1800'

N 10°22'30" W

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO SHALL BE CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT CONTROLS.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
15) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
16) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
17) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
18) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
19) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
20) DOVER ROAD IS A SCENIC ROUTE.
21) ZONING HEARING: 07-470 SPH WAS GRANTED TO ALLOW AN AMENDMENT TO THE FINAL DEVELOPMENT PLAN AND TO AFFIRM A PREVIOUS LOT LINE ADJUSTMENT.
22) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
23) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
24) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
25) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
26) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT BY THE OWNER.
27) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.G OF THE BCZR (PER COUNTY COUNCIL BILL 55-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN.
28) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1979 RECORDED IN LIBER 6026 FOLIO 164 WHOSE RW NUMBER IS 79-097.
29) A LANDSCAPE PLAN IS NOT REQUIRED AS THE PROPERTY IS WOODED AND THE QUALITY OF THE EXISTING VEGETATION IS CONSIDERED GOOD. THE AMOUNT OF CLEARING SHALL BE LIMITED TO AN AREA TO ACCOMMODATE THE PROPOSED DWELLING, ACCESSORY STRUCTURES INCIDENTAL TO THE PRIMARY STRUCTURE AND GRADING.
30) THE AREA TO BE CLEARED FOR THE INSTALLATION OF THE SEPTIC SYSTEM SHALL BE LIMITED ONLY TO ACCOMMODATE THE REQUIRED COMPONENTS AND EACH SUBSEQUENT REPAIR AS THEY BECOME NECESSARY AS DETERMINED BY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT OF BALTIMORE COUNTY.
31) STORMWATER MANAGEMENT REQUIREMENTS FOR THIS PROJECT HAVE BEEN MET BY APPLICATION OF ENVIRONMENTALLY SENSITIVE DEVELOPMENT CREDIT, AS DESCRIBED IN THE 2000 MARYLAND STORMWATER MANAGEMENT DESIGN MANUAL.

OFFICE OF PLANNING RC-5 FINDINGS:

1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR PRIOR TO BUILDING PERMIT APPROVAL.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.

ZONING ORDER (CASE NO. 07-470-SPH):

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 17th day of October, 2007, that Petitioners' request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to amend the Final Development Plan entitled "Section Two, Tufton Farms" (PDM Number VIII-231) as follows:

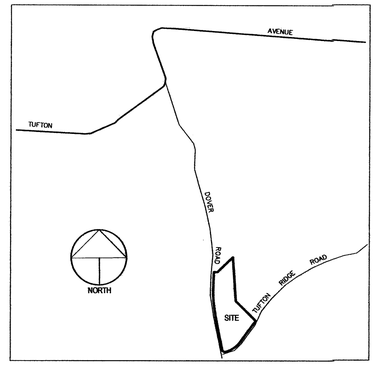
- To permit the non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the FDP to Lot 3, Plat 1, Section 2 of the FDP, with no increase in the number of lots, and no increase in the total residential density available to the lots considered as a whole in accordance with Section 32-4-106(a)(viii) of the Baltimore County Code, and;

SITE DATA:

1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
REISTERSTOWN, MD 21136
410 584-2574
3) DEED REFERENCE: 5790/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4083.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5425 ACRES
17) GROSS AREA: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: -0- ACRES
19) DENSITY CALCULATIONS:
LOTS ALLOWED: 10.7237 ± .5 = 5 / GROSS AREA
LOTS ALLOWED: 9.5425 ± .5 = 4 / NET AREA
LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: CASE NO. 07-470-SPH WHICH PERMITTED A NON-DENSITY TRANSFER AND TO PERMIT A 3 LOT SUBDIVISION OF THE SUBJECT LOT.
22) PARKING
REQUIRED: 2 x 3 = 6 SPACES
PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
DOVER ROAD: COLLECTOR (150' SETBACK FROM CENTERLINE)
TIMBER RIDGE ROAD: LOCAL (100' SETBACK FROM CENTERLINE)
24) LIMITS OF DISTURBANCE: 80,125 SF
24) IMPERVIOUS AREAS:
EXISTING: 15,200 SF/0.35 AC
NEW: 14,900 SF/0.34 AC
TO BE REMOVED: 4,200 SF/0.1 AC
NET NEW: 10,700 SF/0.25 AC

LEGEND:

	25%/> SLOPES
MbB2	SOIL SERIES
—200—	EX. CONTOURS
200	PROP. CONTOURS
W	WETLANDS
X	FENCING
	EX. WOODS LINE
	PROP. TREELINE
tod	LIMIT OF DISTURBANCE
	APPROVED PERC. TESTS
	FAILED PERC. TESTS
MBSL	MINIMUM BUILDING SETBACK LINE
	PROP. SUPPLEMENTAL PLANTINGS



Vicinity Map
Scale: 1" = 1000'

ZONING ORDER (CONT.):

- To permit the re-subdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with B.C.Z.R. Sections 1A00.4 and 1B01.3, and Section 1B01.3A.7.c of the Zoning Commissioner's Policy Manual (Z.C.P.M.)

be and is hereby GRANTED.

As a condition precedent to the relief granted herein, Petitioners shall comply with each of the following conditions:

1. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code) for the entire 10.72 acres comprising Lot 4.
2. Dover Road is scenic. Therefore, the amount of vegetation shown on the plan to be retained along the Dover Road frontage should be in compliance with the Comprehensive Manual of Development Policies (CMDP) Scenic Routes, Enclosed Views.
3. In order for the Office of Planning to prepare a statement of finding to the Zoning Commissioner indicating how the proposed construction will comply with the current R.C.5 requirements, Petitioners shall submit the following information to the Planning Office:
   a) Photographs of existing adjacent dwellings.
   b) Building elevations (all sides) of proposed dwellings for review and approval. Proposed dwellings shall be compatible in size and architectural detail as that of the existing dwellings in the area. The exterior of the proposed building(s) shall use the same finish materials and architectural details on the front, side and rear elevations. Use of quality materials such as brick, stone or cedar is encouraged.
   c) Design of all decks, balconies, windows, dormers, chimneys and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
   d) Design of all accessory structures at a scale appropriate to the dwelling, and design of garages with the same architectural theme as the principal building(s), on the site, providing consistency in materials, colors, roof pitch and style.
   e) Plan for providing landscaping along the public road, if it is consistent with the existing streetscape.
4. The proposed development shall comply with all development regulations.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

PDM # VIII-850

BALTIMORE COUNTY MINOR SUBDIVISION
Project No. 07-001M

DEVELOPMENT REGULATIONS
☐ Exempt from Article 32, Title 4, Subtitle 2, BBC
☐ Panhandle, exempt from Section # 32-4-211 through 32-4-217 and sections # 32-4-226 and 32-4-227, BBC

PDM CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED, DEPRM
By: _____ Date: _____

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

Petitioner's 35

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning

I HEREBY CERTIFY THAT I REVIEWED WITH DUE DILIGENCE ALL MINOR SUBDIVISION PLANS AND THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND PURSUANT TO THE AGENCY COMMENTS.

STATE OF MARYLAND KENNETH JAMES WELLS PROFESSIONAL ENGINEER 21087 REGISTERED PROFESSIONAL ENGINEER
SEAL

NAD 83/91

REVISIONS:

NO.	DATE
1	3/10/2007
2	10/22/2007
3	11/28/2007
4	2/08/2008
5	3/22/2008
6	4/01/2008

Final Development Plan
of Lot 4 Section 2 Tufton Farms
POSEY PROPERTY
RESUBDIVISION LOT 4 PLAT 1 - SECTION 2 "TUFTON FARMS"
PLAT BOOK 41/71
BALTIMORE COUNTY
MARYLAND
8th ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/01/2007

PROJECT NO.:
2006-042

SHEET 2 OF 2

T-3
THE TITLE GUARANTEE COMPANY
(Corporation Form)

App. H- 97853

LIBER 5996 PAGE 023

This Deed, Made this 1st day of MARCH, in the year one thousand nine hundred and seventy-nine, by and between GAYLORD BROOKS INVESTMENT COMPANY ----------

a body corporate of the State of Maryland, of the first part, Grantor, and ALAN T. FELL and CAROLYN G. FELL, his wife, parties of the second part, Grantees

1-7-79 234246 ***483.50
1-7-79 234247 ***190.00
1-7-79 234248 ***237.50
1-7-79 234249 *****9.00

The actual consideration paid or to be paid is $47,500.00.

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey and assign unto the said Grantees, as tenants by the entireties, their assigns, and unto the survivor of them, his or her heirs, personal representatives and assigns, in fee simple, all those ----------

---------- lot(s) of ground situate in the Eighth Election District of Baltimore County ---------- in the State of Maryland, and described as follows, that is to say:

THE FIRST THEREOF:

BEING known and designated as Lot No. 3, as shown on Plat 1, Section 2, "TUFTON FARMS", which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K.Jr. No. 41, folio 71.

THE SECOND THEREOF:

BEGINNING for the same at a point on the east side of Dover Road at the division line between Lot 3 and Lot 4 as shown on Plat 1 Section 2 "TUFTON FARMS" and recorded among the Plat Records of Baltimore County in Liber E.H.K.Jr. No. 41, folio 71, running thence and binding on the east right-of-way line of Dover Road as shown on the aforesaid Plat south 2 degrees 50 minutes 53 seconds west 190.00 feet, thence leaving the east right-of-way line of Dover Road and running for lines of division through Lot 4 the two following courses and distances: 1) south 87 degrees 09 minutes 07 seconds east 50.00 feet and 2) north 46 degrees 36 minutes 28 seconds east 301.48 feet to the division line between Lots 3, 4 and 5 as shown on the aforesaid Plat running thence and binding on the division line of Lots 3 and 4 south 86 degrees 43 minutes 21 seconds west 260.00 feet to the place of beginning.

Containing 0.689 acres of land more or less.

Subject to a 20 foot revertible slope easement along the first line of the above described second parcel.

BEING part of Lot 4 as shown on Plat 1 Section 2 "TUFTON FARMS" and recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 41, folio 71.

BEING part of all that property which by Deed dated May 4, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 5749, folio 150, was granted and conveyed by Thomas S. Nichols, et al, unto the within named Grantor.

No 4
Petitioner

BALTIMORE COUNTY CIRCUIT COURT (Land Records) [MSA CE 62-5851] EHK Jr. 5996, p. 0023. Printed 07/19/2007. Image available as of 04/06/2006.

Let No 51

LIBER 5769 PAGE 150

FEE-SIMPLE DEED — LONG RANGE — INDIVIDUAL GRANTOR AND GRANTEE — 8-15

TRANSFER TAX NOT REQUIRED
5-4-77
Walter R. Richardson
Director of Finance
Per Bonnie C. DeLuca
Authorized Signature
Transfer Tax Paid
on E.H.R. p. 5658/143

This Deed, Made this 4th day of May in the year one thousand nine hundred and seventy-seven , by and between THOMAS S. NICHOLS and GARY BLACK ----------

---------- , of the first part, and GAYLORD BROOKS INVESTMENT COMPANY, a body corporate of the State of Maryland ---------- of the second part,

Witnesseth, that in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations, receipt whereof is hereby acknowledged the said THOMAS S. NICHOLS and GARY BLACK ----------

do hereby grant and convey unto the said GAYLORD BROOKS INVESTMENT COMPANY----

its ~~heirs, personal representatives~~ and assigns, and successors in fee simple, all that lot(s) of ground, situate, lying and being in Baltimore County , State of Maryland, and described as follows, that is to say:—

BALTIMORE COUNTY CIRCUIT COURT (Land Records) [MSA CE 62-5804] ERK 5769, p. 0150

LIBER 5772 PAGE 650

Plat No 6

THIS DECLARATION OF RESTRICTIONS, Made this 22nd day of June, 1977, by GAYLORD BROOKS INVESTMENT COMPANY, a Maryland corporation, Declarant.

The Declarant is the owner, in fee simple, of the lots numbered as shown on the following Plat:

Lots 1, 2, 3, 4, 5 and 30 as shown on the Plat entitled "Plat 1, Sec 2, Tufton Farms," which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K.,Jr. No. 41, folio 71.

The Declarant, for the purposes of creating and maintaining a general scheme of development, desires that the aforesaid lots be subject to the covenants and conditions and restrictions hereinafter set forth.

NOW, THEREFORE, The Declarant for itself, its successors and assigns, hereby declares that all the aforesaid lots shall be subject to the covenants, restrictions, conditions and reservations hereinafter set forth.

1. Lots as shown on the aforesaid Plat of Tufton Farms shall be used for private residential purposes only and no dwelling shall be erected, altered, placed or permitted to remain on any lot other than one detached dwelling not to exceed two and one-half stories in height, said dwelling designed for single family occupancy. Single family occupancy shall not be construed to prevent the erection of a dwelling with an attached apartment or living area for use by member or members of the owner's family. Nothing herein contained shall prevent the use of part of a lot as a right of way for use by other lots within the subdivision. Residential use shall not bar a home office use of the property provided the owner of said lot complies with the applicable zoning regulations of Baltimore County.

2. No building, fence, wall, hedge, or other structure shall be commenced, erected, placed or altered in structure or color, on any lot until the plans and specifications and including color scheme and a grading plan showing the location of the structure have been approved in writing by the Architectural Approval Committee, hereinafter referred to as Committee. This Committee shall consist of three (3) members, one of which shall be an architect. The members shall be chosen by the Declarant. In the event of death or resignation of a member of said Committee, the Declarant shall select a new member. In the event that the Declarant fails to name a new

TRANSFER TAX NOT REQUIRED
Walter R. Richardson
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per: [signature]
Authorized Signature

Declaration of Restrictions

BA CIRCUIT COURT (Land Records) [MSA CE 62-5627] EHK 5772, p. 0650. Printed 05/08/2008. Online 11/29/2005.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Petitioner No 7

TO: Thomas H. Bostwick, Deputy Zoning Commissioner for Baltimore County

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

DATE: May 7, 2008

PROJECT NAME: Lot 4, Section 2, Tufton Farms Final Development Plan Amendment

CASE NUMBER: 07-470-SPH

PROJECT PLANNER: Lloyd Moxley

GENERAL INFORMATION:

Petitioner: John and Victoria Posey

Location: 13101 Dover Road

Councilmanic District: 2nd

Zoning: RC 5

RECOMMENDATION:

The following represents a finding on the part of the Baltimore County Office of Planning as to whether the above referenced property which is the subject of zoning case no. 07-470-SPH is in accord with the provisions of the Comprehensive Manual of Development Policies (CMDP) and Article 1B of the Baltimore County Zoning Regulations (BCZR).

Comprehensive Manual of Development Policies

Division II and Division III

The Office of Planning finds that the provisions of Division II and Division III of the CMDP do not apply to this R.C.5 (Rural Residential) zoned property located outside of the Urban Rural Demarcation Line (URDL). It is the opinion of this office that the application of the residential and or commercial standards found in said divisions of the CMDP would be in conflict with the performance standards found in Section 1A04.4 of the BCZR.

Division VI, Section A

The Office of Planning finds that the provisions of Division VI, Section A, CMDP applies in this case. Dover Road was identified as a scenic route in Zoning Advisory Comments generated by this office dated February 7, 2007. As such the route is subject to the aforementioned provisions. At this location on Dover Road the view would be classified as "enclosed". The amended Final Development Plan will not change this status. There will be no additional entrances onto Dover Road as the amended plan proposes the utilization of the existing entrance into the property to serve the northernmost proposed Lots 4A and 4B. Lot 4C is accessed from Tufton Ridge Road, not a scenic route. A 30' buffer is proposed which is to include indigenous trees to supplement the existing view. By scaling the plan, the limit of disturbance for the proposed development is more than 100' removed from the edge of paving for Dover Road at it's closest point thereby maintaining an adequate wooded buffer. Minimal grading at the road edge should be buffered with vegetation such as evergreen or flowering trees and shrubs that will enhance the existing wooded buffer. Any new structure to be built

Petitioner No 8

RC 5 Finding
Posey Property-07001 M
!2/20/07
Lloyd T. Moxley

Architectural Form

The conceptual proposes a traditional style two-story construction utilizing solid materials. The style employs a water table to be carried entirely around the structure with all façades articulated with windows. The 2 car side load garage has split doors with raised panel features. The diversity of the established neighborhood would accommodate an architectural style of this nature.

Scale

The proposal is within the parameters of scale already found within the neighborhood.

Materials

The use of solid materials such as wood and stone and the additional architectural detailing of other finish materials meets the standards of the zone. The materials are solid, consistent and continuous in design.

Detailing and Landscaping

The proposed supplemental plantings and the sensitive approach to tree preservation during construction fulfills the requirements of Section 1A04.4 BCZR

LTM
12/20/07

15 705-211 W 12

PETITIONER'S

—

PROTESTANTS

EXHIBITS

20070470 "A"

Supplemental

4

Case No.: 07-470-SPH

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	Final Develop Plan for 1977 of Section 2 - Tufton Farms	Zoning Map of Tufton Farms lots > 4 acres
No. 2	Minor Subdivision Plan for Lot 4	Photograph of Tufton Farms w/ lot lines superimposed
No. 3 A, B, C	Aerial Photos	
No. 4	[redacted] Deed	
No. 5	2/7/06 - Planning Comments	
No. 6	Covenants + Restrictions that expire 7/07	
No. 7	Steep slopes + Valley Walls and VPC	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

NOT ADMITTED

DWELLING UNIT CALCULATION

ALLOWED:
1. GROSS AREA OF SECTION TWO 234.58 AC.±
2. AREA OF R.C.-2 - 119.58 AC.± : 1.20 LOTS / 1 ACRE = 20
   19.58 AC.± + 25 = 0
   R.C.2 TOTAL LOTS ALLOWED 20
3. AREA OF R.C.-5 - 115.00 AC.± ÷ 2 = 57.5
   TOTAL LOTS ALLOWED R.C.2 & R.C.5 = 77.5 LOTS

PROPOSED:
4. TOTAL LOTS PROPOSED R.C.2 = 15
5. TOTAL LOTS PROPOSED R.C.5 = 17 ***
   32 TOTAL LOTS PROPOSED. ***

*** DENOTES AMENDED DATA

REASON FOR AMENDMENT:
1) *** RE-SUBDIVIDE LOT 4 INTO LOTS
2) TO CORRECTLY SHOW THE ADJUSTED LOT LINE BETWEEN LOTS 3 AND 4.

STATE OF MARYLAND — SURVEYOR'S CERTIFICATE — BOUNDARY LINE SURVEY — AS TO AMENDING LOT 4

LOCATION PLAN
No Scale

SAVE AND EXCEPT AREA PER 5700/818 CONVEYED TO LOT 3

K. F. RAPHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OWNER & DEVELOPER:
GAYLORD BROOKS INVESTMENT CO
BOX 62 PAPER MILL ROAD
PHOENIX MARYLAND 21131

GENERAL NOTES:

1. ● DENOTES PROPOSED STREET LIGHT LOCATION.
2. ALL PANHANDLE LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE PANHANDLE & STREET R/W LINE ONLY AND NOT ONTO THE PANHANDLE LOT DRIVEWAY.
3. PRIVATE WATER & SEPTIC SYSTEMS TO BE INSTALL IN ACCORDANCE WITH BALTO. CO. HEALTH DEPT. REGULATION.
4. THERE SHALL BE 2 OFF STREET PARKING SPACES PROVIDED FOR EACH LOT CONSTRUCTED WITH A DUSTLESS & DURABLE SURFACE. TOTAL PROVIDED 60-SAID.
5. LOCATION OF DRIVEWAYS REMAINING TO BE DETERMINED BY LOCATION OF RESIDENCE.
6. INDIVIDUAL REFUSE CONTAINERS TO BE PLACED UP AT THE CURB FOR EACH LOT.
7. THERE SHALL BE NO GRADING ON THE ENTIRE SITE. THERE SHALL BE NO CLEARING, CUTTING OR TREES & SHRUBS FROM ANY LOT, ONLY DEAD, DAMAGED, OR TREES NECESSARY FOR THE CONSTRUCTION OF HOMES & DRIVES, ARE TO BE REMOVED. MIN. GRADING SHALL BE PERFORMED AS REQUIRED FOR THE CONSTRUCTION OF THE HOME AND DRIVE ON ANY LOT.
8. PLANTING OF EACH LOT TO BE PROVIDED BY THE BUILDER OR OWNER OF EACH LOT.
9. ALL LOTS SHOWN HEREON ARE TO BE SEWED.
10. MIN. BUILDING HEAT OF SPRINKLERED R.C.5 - R.C.2 35'
11. MAJOR VEGETATION - SECOND GROWTH TIMBER.
12. 1.16 OPEN SPACE REQUIRED.
13. CONTOURS SHOWN HEREON ARE FROM BALTO. CO. PHOTOGRAMETRICS AND NOT FIELD RUN.
14. MIN. BUILDING SETBACKS REQ'D R.C.2 - FRONT 75 FROM ℄ OF ROAD, SIDE 25' REAR 50'
15. MIN. BUILDING SETBACKS REQ'D R.C.5 - FRONT 75 FROM ℄ OF ROAD, SIDE & REAR 50'
16. ☒ DENOTES BUILDING AREA.
17. ALL I OR II SOIL CLASSIFICATIONS WITH ALL RC 2 ZONED AREAS AS SHOWN
18. THE OWNER RESERVES THE RIGHT TO CREATE & REALIGN ALL DRAINAGE EASEMENTS PRIOR TO THE SALE OF THE LOTS.
19. LOT DIMENSIONS & ACREAGE AS SHOWN ARE APPROXIMATE AND ARE SUBSTANTIALLY IN ACCORDANCE WITH PLAT OF RECORD
20. OWNER RESERVES THE RIGHT TO CREATE JOINT DRIVEWAYS & MAINTANCE AGREEMENTS FOR INDIVIDUAL LOTS, PRIOR TO SALE

OFFICE OF PLANNING & ZONING
APPROVED BY
Norman E. Gerber 2/10/77
DIRECTOR OF PLANNING — DATE
[illegible] 2/18/77
ZONING COMMISSIONER — DATE

Revised Plan to Accompany a Zoning Petition
Proposed 1st Amended
FINAL DEVELOPMENT PLAN
SECTION TWO

"TUFTON FARMS"

8th ELECTION DISTRICT — BALTIMORE CO. MD.
SCALE 1" = 200' — JANUARY 25th 1977

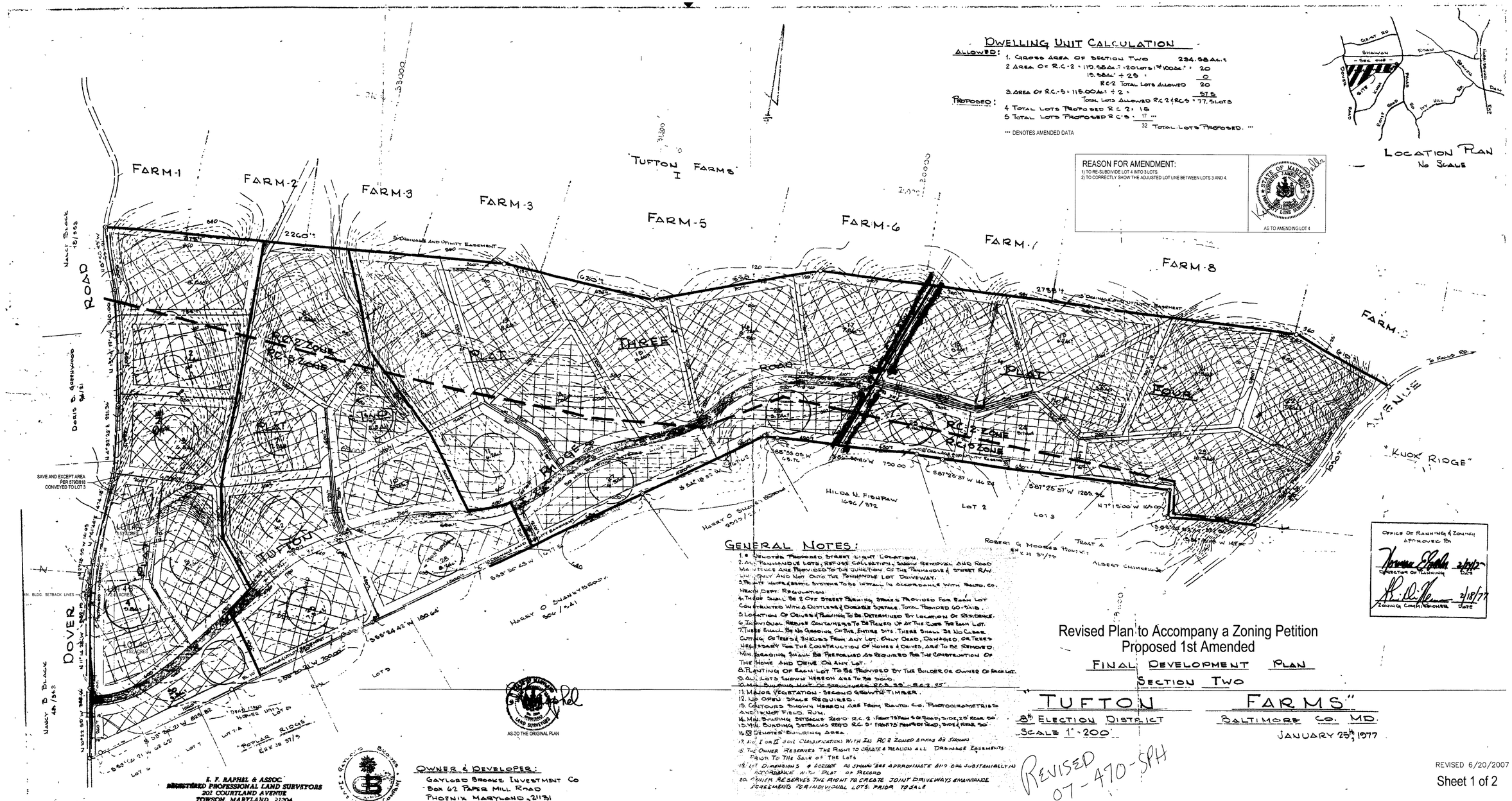
REVISED 6/20/2007

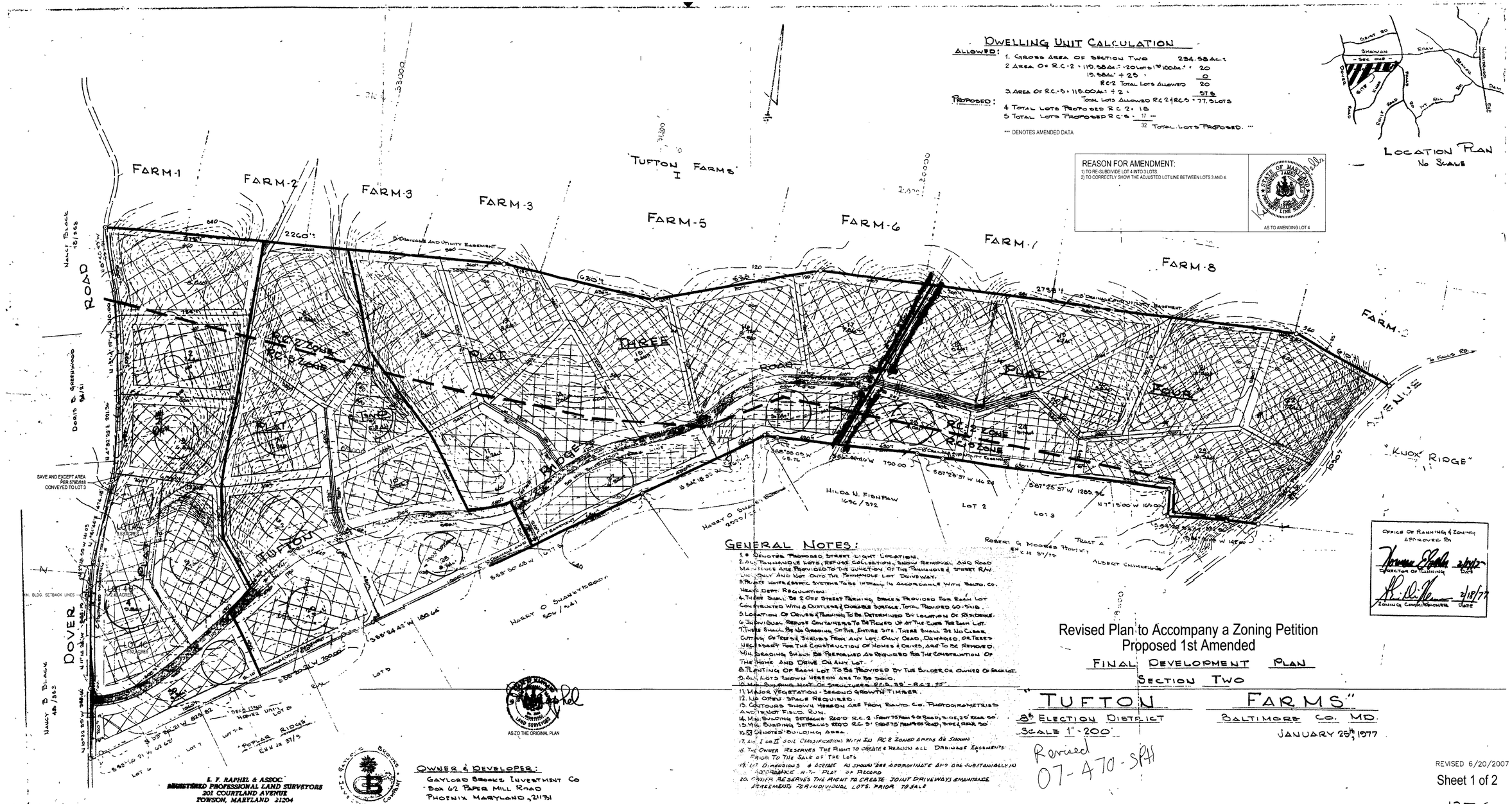
PETITIONER'S EXHIBIT NO. 1

Sheet 1 of 2

1376

MICROFILMED


FARM-1
FARM-2
FARM-3
FARM-3
FARM-5
FARM-6
FARM-7
FARM-8
FARM-9
"TUFTON FARMS"
DOVER ROAD
"KUOX RIDGE"
FOUR MILE RUN
RC-2 ZONE
RC-5 ZONE
RC-2 ZONE
RC-5 ZONE
LOT #1
LOT #2
LOT #3
LOT #4
LOT #5
LOT #6
LOT #7
LOT 7-A
LOT 1
LOT 2
LOT 3
TRACT A
TRACT B
TRACT C
TRACT D
TRACT E
TRACT F
TRACT G
TRACT H
TRACT I
TRACT J
TRACT K
TRACT L
TRACT M
TRACT N
TRACT O
TRACT P
TRACT Q
TRACT R
TRACT S
TRACT T
TRACT U
TRACT V
TRACT W
TRACT X
TRACT Y
TRACT Z
Nancy B. Black 48/365
Doris B. Greenwood 3961
Hilda U. Fishpaw 1696/372
Harry O. Shanebrook 5001/421
Robert G. Moores 5818/37
Albert Chimenello
Tufton Farms
Tufton Farms
Tufton Farms


FARM-1
FARM-2
FARM-3
FARM-3
FARM-5
FARM-6
FARM-7
FARM-8
FARM-9
TUFTON FARMS I
DOVER ROAD
PLAT ONE
PLAT TWO
PLAT THREE
PLAT FOUR
RC-2 ZONE
RC-5 ZONE
"KNOX RIDGE"
TUFTON
DOVER
POPLAR RIDGE
Nancy Black 181/505
Doris B. Greenwood 541/51
Hilda U. Fishpaw 1696/372
Harry O. Shanefelt 2057/141
Robert G. Moores Trustee 6M K.12 37/70
Albert Chimenello
Lot 1 thru Lot 7
Lot 2
Lot 3
Lot 4
Tract A
SAVE AND EXCEPT AREA PER 5700/618 CONVEYED TO LOT 3
N. BLDG. SETBACK LINES
Dedicated Homes Lots
Lot 7-A
Lot 7
Lot 6
Lot 5
Lot 4
Lot 3
Lot 2
Lot 1
Lot 4A
1.0 Ac. ±
Nancy B. Black 48/363
Lot 4B
1.0 Ac. ±
Lot 4C
1.0 Ac. ±
Lot 4D
1.0 Ac. ±
Lot 4E
1.0 Ac. ±
Lot 4F
1.0 Ac. ±
Lot 4G
1.0 Ac. ±
Lot 4H
1.0 Ac. ±
Lot 4I
1.0 Ac. ±
Lot 4J
1.0 Ac. ±
Lot 4K
1.0 Ac. ±
Lot 4L
1.0 Ac. ±
Lot 4M
1.0 Ac. ±
Lot 4N
1.0 Ac. ±
Lot 4O
1.0 Ac. ±
Lot 4P
1.0 Ac. ±
Lot 4Q
1.0 Ac. ±
Lot 4R
1.0 Ac. ±
Lot 4S
1.0 Ac. ±
Lot 4T
1.0 Ac. ±
Lot 4U
1.0 Ac. ±
Lot 4V
1.0 Ac. ±
Lot 4W
1.0 Ac. ±
Lot 4X
1.0 Ac. ±
Lot 4Y
1.0 Ac. ±
Lot 4Z
1.0 Ac. ±
Lot 4AA
1.0 Ac. ±
Lot 4BB
1.0 Ac. ±
Lot 4CC
1.0 Ac. ±
Lot 4DD
1.0 Ac. ±
Lot 4EE
1.0 Ac. ±
Lot 4FF
1.0 Ac. ±
Lot 4GG
1.0 Ac. ±
Lot 4HH
1.0 Ac. ±
Lot 4II
1.0 Ac. ±
Lot 4JJ
1.0 Ac. ±
Lot 4KK
1.0 Ac. ±
Lot 4LL
1.0 Ac. ±
Lot 4MM
1.0 Ac. ±
Lot 4NN
1.0 Ac. ±
Lot 4OO
1.0 Ac. ±
Lot 4PP
1.0 Ac. ±
Lot 4QQ
1.0 Ac. ±
Lot 4RR
1.0 Ac. ±
Lot 4SS
1.0 Ac. ±
Lot 4TT
1.0 Ac. ±
Lot 4UU
1.0 Ac. ±
Lot 4VV
1.0 Ac. ±
Lot 4WW
1.0 Ac. ±
Lot 4XX
1.0 Ac. ±
Lot 4YY
1.0 Ac. ±
Lot 4ZZ
1.0 Ac. ±
Lot 4AAA
1.0 Ac. ±
Lot 4BBB
1.0 Ac. ±
Lot 4CCC
1.0 Ac. ±
Lot 4DDD
1.0 Ac. ±
Lot 4EEE
1.0 Ac. ±
Lot 4FFF
1.0 Ac. ±
Lot 4GGG
1.0 Ac. ±
Lot 4HHH
1.0 Ac. ±
Lot 4III
1.0 Ac. ±
Lot 4JJJ
1.0 Ac. ±
Lot 4KKK
1.0 Ac. ±
Lot 4LLL
1.0 Ac. ±
Lot 4MMM
1.0 Ac. ±
Lot 4NNN
1.0 Ac. ±
Lot 4OOO
1.0 Ac. ±
Lot 4PPP
1.0 Ac. ±
Lot 4QQQ
1.0 Ac. ±
Lot 4RRR
1.0 Ac. ±
Lot 4SSS
1.0 Ac. ±
Lot 4TTT
1.0 Ac. ±
Lot 4UUU
1.0 Ac. ±
Lot 4VVV
1.0 Ac. ±
Lot 4WWW
1.0 Ac. ±
Lot 4XXX
1.0 Ac. ±
Lot 4YYY
1.0 Ac. ±
Lot 4ZZZ
1.0 Ac. ±
Lot 4AAAA
1.0 Ac. ±
Lot 4BBBB
1.0 Ac. ±
Lot 4CCCC
1.0 Ac. ±
Lot 4DDDD
1.0 Ac. ±
Lot 4EEEE
1.0 Ac. ±
Lot 4FFFF
1.0 Ac. ±
Lot 4GGGG
1.0 Ac. ±
Lot 4HHHH
1.0 Ac. ±
Lot 4IIII
1.0 Ac. ±
Lot 4JJJJ
1.0 Ac. ±
Lot 4KKKK
1.0 Ac. ±
Lot 4LLLL
1.0 Ac. ±
Lot 4MMMM
1.0 Ac. ±
Lot 4NNNN
1.0 Ac. ±
Lot 4OOOO
1.0 Ac. ±
Lot 4PPPP
1.0 Ac. ±
Lot 4QQQQ
1.0 Ac. ±
Lot 4RRRR
1.0 Ac. ±
Lot 4SSSS
1.0 Ac. ±
Lot 4TTTT
1.0 Ac. ±
Lot 4UUUU
1.0 Ac. ±
Lot 4VVVV
1.0 Ac. ±
Lot 4WWWW
1.0 Ac. ±
Lot 4XXXX
1.0 Ac. ±
Lot 4YYYY
1.0 Ac. ±
Lot 4ZZZZ
1.0 Ac. ±
Lot 4AAAAA
1.0 Ac. ±
Lot 4BBBBB
1.0 Ac. ±
Lot 4CCCCC
1.0 Ac. ±
Lot 4DDDDD
1.0 Ac. ±
Lot 4EEEEE
1.0 Ac. ±
Lot 4FFFFF
1.0 Ac. ±
Lot 4GGGGG
1.0 Ac. ±
Lot 4HHHHH
1.0 Ac. ±
Lot 4IIIII
1.0 Ac. ±
Lot 4JJJJJ
1.0 Ac. ±
Lot 4KKKKK
1.0 Ac. ±
Lot 4LLLLL
1.0 Ac. ±
Lot 4MMMMM
1.0 Ac. ±
Lot 4NNNNN
1.0 Ac. ±
Lot 4OOOOO
1.0 Ac. ±
Lot 4PPPPP
1.0 Ac. ±
Lot 4QQQQQ
1.0 Ac. ±
Lot 4RRRRR
1.0 Ac. ±
Lot 4SSSSS
1.0 Ac. ±
Lot 4TTTTT
1.0 Ac. ±
Lot 4UUUUU
1.0 Ac. ±
Lot 4VVVVV
1.0 Ac. ±
Lot 4WWWWW
1.0 Ac. ±
Lot 4XXXXX
1.0 Ac. ±
Lot 4YYYYY
1.0 Ac. ±
Lot 4ZZZZZ
1.0 Ac. ±
Lot 4AAAAAA
1.0 Ac. ±
Lot 4BBBBBB
1.0 Ac. ±
Lot 4CCCCCC
1.0 Ac. ±
Lot 4DDDDDD
1.0 Ac. ±
Lot 4EEEEEE
1.0 Ac. ±
Lot 4FFFFFF
1.0 Ac. ±
Lot 4GGGGGG
1.0 Ac. ±
Lot 4HHHHHH
1.0 Ac. ±
Lot 4IIIIII
1.0 Ac. ±
Lot 4JJJJJJ
1.0 Ac. ±
Lot 4KKKKKK
1.0 Ac. ±
Lot 4LLLLLL
1.0 Ac. ±
Lot 4MMMMMM
1.0 Ac. ±
Lot 4NNNNNN
1.0 Ac. ±
Lot 4OOOOOO
1.0 Ac. ±
Lot 4PPPPPP
1.0 Ac. ±
Lot 4QQQQQQ
1.0 Ac. ±
Lot 4RRRRRR
1.0 Ac. ±
Lot 4SSSSSS
1.0 Ac. ±
Lot 4TTTTTT
1.0 Ac. ±
Lot 4UUUUUU
1.0 Ac. ±
Lot 4VVVVVV
1.0 Ac. ±
Lot 4WWWWWW
1.0 Ac. ±
Lot 4XXXXXX
1.0 Ac. ±
Lot 4YYYYYY
1.0 Ac. ±
Lot 4ZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAA
1.0 Ac. ±
Lot 4BBBBBBB
1.0 Ac. ±
Lot 4CCCCCCC
1.0 Ac. ±
Lot 4DDDDDDD
1.0 Ac. ±
Lot 4EEEEEEE
1.0 Ac. ±
Lot 4FFFFFFF
1.0 Ac. ±
Lot 4GGGGGGG
1.0 Ac. ±
Lot 4HHHHHHH
1.0 Ac. ±
Lot 4IIIIIII
1.0 Ac. ±
Lot 4JJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKK
1.0 Ac. ±
Lot 4LLLLLLL
1.0 Ac. ±
Lot 4MMMMMMM
1.0 Ac. ±
Lot 4NNNNNNN
1.0 Ac. ±
Lot 4OOOOOOO
1.0 Ac. ±
Lot 4PPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRR
1.0 Ac. ±
Lot 4SSSSSSS
1.0 Ac. ±
Lot 4TTTTTTT
1.0 Ac. ±
Lot 4UUUUUUU
1.0 Ac. ±
Lot 4VVVVVVV
1.0 Ac. ±
Lot 4WWWWWWW
1.0 Ac. ±
Lot 4XXXXXXX
1.0 Ac. ±
Lot 4YYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEEEEEEEE
1.0 Ac. ±
Lot 4FFFFFFFFFFFFFFFFFFFFF
1.0 Ac. ±
Lot 4GGGGGGGGGGGGGGGGGGGGG
1.0 Ac. ±
Lot 4HHHHHHHHHHHHHHHHHHHHH
1.0 Ac. ±
Lot 4IIIIIIIIIIIIIIIIIIIII
1.0 Ac. ±
Lot 4JJJJJJJJJJJJJJJJJJJJJ
1.0 Ac. ±
Lot 4KKKKKKKKKKKKKKKKKKKKK
1.0 Ac. ±
Lot 4LLLLLLLLLLLLLLLLLLLLL
1.0 Ac. ±
Lot 4MMMMMMMMMMMMMMMMMMMMM
1.0 Ac. ±
Lot 4NNNNNNNNNNNNNNNNNNNNN
1.0 Ac. ±
Lot 4OOOOOOOOOOOOOOOOOOOOO
1.0 Ac. ±
Lot 4PPPPPPPPPPPPPPPPPPPPP
1.0 Ac. ±
Lot 4QQQQQQQQQQQQQQQQQQQQQ
1.0 Ac. ±
Lot 4RRRRRRRRRRRRRRRRRRRRR
1.0 Ac. ±
Lot 4SSSSSSSSSSSSSSSSSSSSS
1.0 Ac. ±
Lot 4TTTTTTTTTTTTTTTTTTTTT
1.0 Ac. ±
Lot 4UUUUUUUUUUUUUUUUUUUUU
1.0 Ac. ±
Lot 4VVVVVVVVVVVVVVVVVVVVV
1.0 Ac. ±
Lot 4WWWWWWWWWWWWWWWWWWWWW
1.0 Ac. ±
Lot 4XXXXXXXXXXXXXXXXXXXXX
1.0 Ac. ±
Lot 4YYYYYYYYYYYYYYYYYYYYY
1.0 Ac. ±
Lot 4ZZZZZZZZZZZZZZZZZZZZZ
1.0 Ac. ±
Lot 4AAAAAAAAAAAAAAAAAAAAAA
1.0 Ac. ±
Lot 4BBBBBBBBBBBBBBBBBBBBBB
1.0 Ac. ±
Lot 4CCCCCCCCCCCCCCCCCCCCCC
1.0 Ac. ±
Lot 4DDDDDDDDDDDDDDDDDDDDDD
1.0 Ac. ±
Lot 4EEEEEEEEEEEEEEE

LEGEND:

	25%/> SLOPES
MbB2	SOIL SERIES
—200—	EX. CONTOURS
—200—	PROP. CONTOURS
—W—	WETLANDS
—x—	FENCING
	EX. WOODS LINE
	PROP. TREE LINE
—lod—	LIMIT OF DISTURBANCE
	APPROVED PERC. TESTS
A	FAILED PERC. TESTS
BRL	MINIMUM BUILDING SETBACK LINE

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 15 PERCENT OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
20) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
21) DOVER ROAD IS A SCENIC ROUTE.
22) THE PROPERTY SHOWN HEREON HAS NO ZONING HISTORY, BUT MAY REQUIRE A SPECIAL HEARING TO ALLOW THE FINAL DEVELOPMENT PLAN TO BE AMENDED.
23) THE EXISTING SEPTIC COMPONENTS THAT CURRENTLY SERVE THE EXISTING DWELLING SHOWN HEREON WILL BE RECONFIGURED AND/OR REPOSITIONED SO THAT THE DRAIN FIELD WILL FALL WITH THE PRESCRIBED SEPTIC RESERVE AREA. ANY PROTION OF THE EXISTING SYSTEM THAT WILL BE ABANDONED SHALL BE REMOVED AND BACKFILLED.
24) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
25) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
26) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
27) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
28) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT.
29) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.04 OF THE BCZR (PER COUNTY COUNCIL BILL 55-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER, DEVELOPER, DEVELOPER'S ENGINEER, CONTRACT PURCHASER OR BUILDING PERMIT APPLICANT TO OBTAIN COMPLIANCE CERTIFICATION FROM THE OFFICE OF PLANNING PRIOR TO BUILDING PERMIT APPLICATION AND TO PRESENT THIS CERTIFICATION ON ANY BUILDING PERMIT SITE PLANS/PLOT PLANS.
30) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1979 RECORDED IN LIBER 6026 FOLIO 164 WHOSE RW NUMBER IS 79-097.

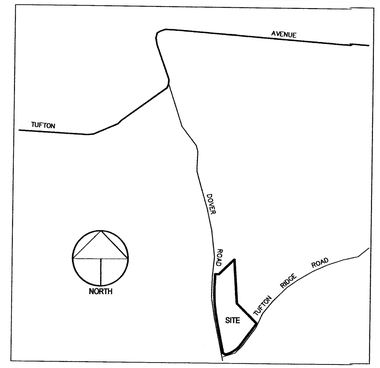
OFFICE OF PLANNING RC-5 FINDINGS:

1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.
5) PROVIDE A LANDSCAPE PLAN.

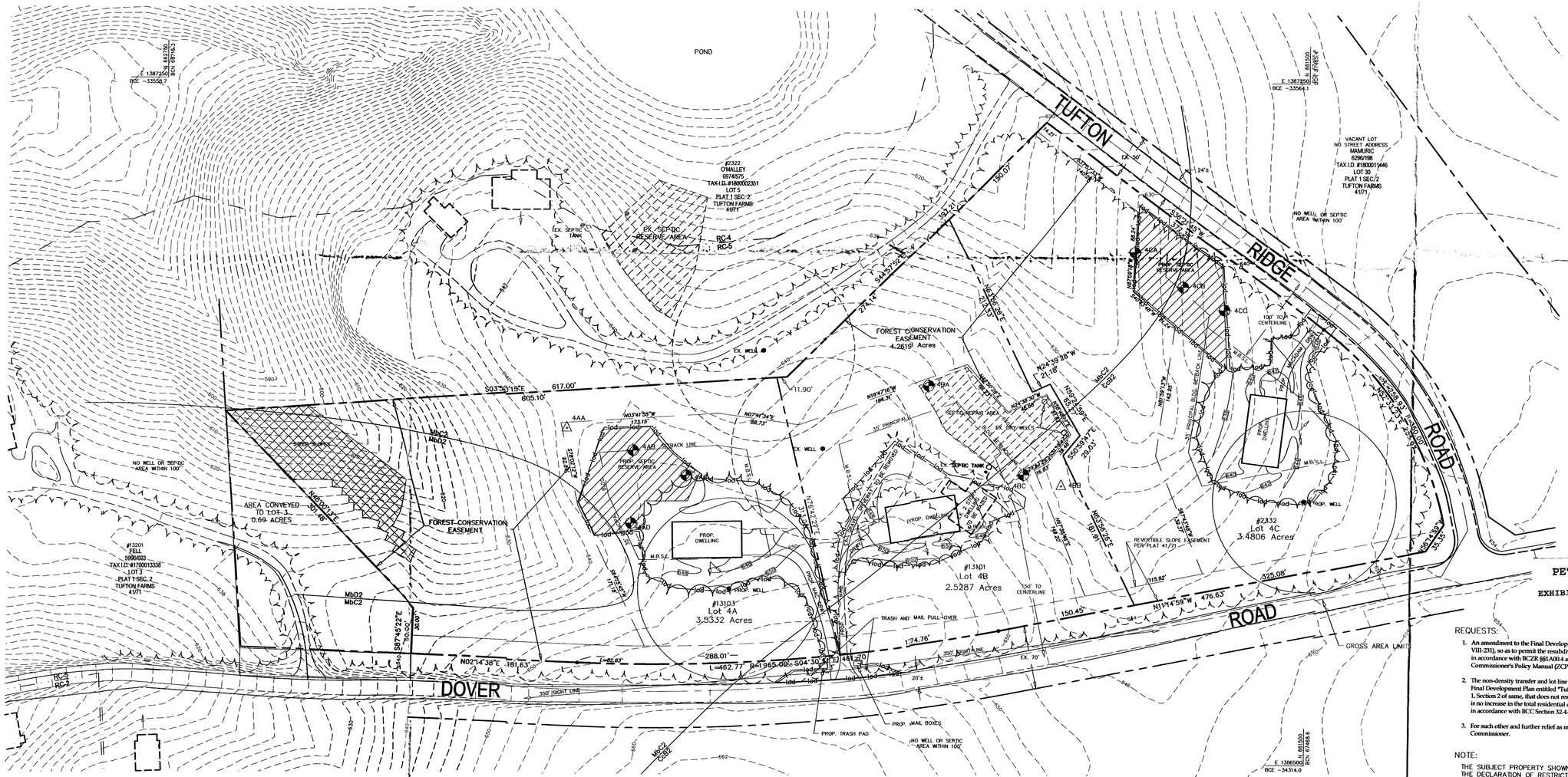
SITE DATA:

1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
REISTERSTOWN, MD 21136
410-584-2574
3) DEED REFERENCE: 5790/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP- 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4083.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBWATERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5405 ACRES
17) GROSS AREA OF TRACT: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: -0- ACRES
19) DENSITY CALCULATIONS:
LOTS ALLOWED: 10.7237 (GROSS AREA) x .5 = 5
LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
SINGLE- FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
REQUIRED: 2 x 3 = 6 SPACES
PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
DOVER ROAD: COLLECTOR
TIMBER RIDGE ROAD: LOCAL
24) DEVELOPER'S NAME: WELLS DEVELOPMENT CORP.
25) DEVELOPER'S ADDRESS:
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
26) DEVELOPER'S TELEPHONE NO.: 410-592-8800

NOTE:
GROSS AREA STATED HEREON CONSIST OF THE TRACT BOUNDARY OF LOT 4 PLUS THE AREA TO THE CENTERLINE OF TIMBER RIDGE ROAD AND 30 FEET OF DOVER ROAD.



Vicinity Map
Scale: 1" = 1000'



PETITIONER'S
EXHIBIT NO. 2

REQUESTS:

1. An amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231), so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with BCZR §1A00.4 and 1B01.3 and Section 1B01.3.A.7.c of the Zoning Commissioner's Policy Manual (ZCPM);
2. The non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC Section 32-4-106(a)(viii); and
3. For such other and further relief as may be deemed necessary by the Zoning Commissioner.

NOTE:
THE SUBJECT PROPERTY SHOWN HEREON IS SUBJECT TO THE DECLARATION OF RESTRICTIONS DATED JUNE 24, 1977 RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER 5772 FOLIO 650 AND IS TO EXPIRE ON JULY 1, 2007.

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning

STATE OF MARYLAND · JAMES KENNETH WELLS · 21087 · REGISTERED PROPERTY LINE SURVEYOR
SEAL

NAD 83/91

REVISIONS:

NO.	DATE
1	6/20/2007

REVISED PLAN TO ACCOMPANY A ZONING PETITION
for a SPECIAL HEARING
POSEY PROPERTY
RESUBDIVISION LOT 4 PLAT 1 - SECTION 2 "TUFTON FARMS"
PLAT BOOK 41/71
BALTIMORE COUNTY
MARYLAND
8th ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT

PDM # VIII-231

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/01/2007

PROJECT NO.:
2006-042

SHEET 2 OF 2


PET EX
3A


3B


3C

T-3
THE TITLE GUARANTEE COMPANY
(Corporation Form)
App. H-94027

LIBER 5790 PAGE 818

This Deed, Made this 12th day of August, in the year one thousand nine hundred and ------ seventy-seven ---, by and between ----------

---------- GAYLORD BROOKS INVESTMENT COMPANY ----------

a body corporate of the State of ---------- Maryland ----------, of the first part, Grantor, and

JOHN B. POSEY and VICTORIA K. POSEY, his wife, parties of the second part, 8-17-77 219955 ***422.50
8-17-77 219954 ***180.00
8-17-77 219954C ***229.50
8-17-77 219953C *****9.00

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey and assign unto the said Grantees, parties of the second part, as tenants by the entiretids, their assigns, and unto the survivor of them, his or her heirs and assigns, in fee simple; ----------

---------- all that ---------- lot(s) of ground situate in the Eighth Election District of Baltimore County, in the State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 4, as shown on the Plat entitled "PLAT I, SECTION II, TUFTON FARMS", which Plat is recorded among the Land Records of Baltimore County in Plat Book EHK,JR. No. 41, folio 71. The improvements thereon being known as No. 2330 Tufton Ridge Road. CONTAINING 10.231 acres, more or less.

SAVING AND EXCEPTING from the above described lot, all that parcel more particularly described as follows:

BEGINNING for the same at a point on the East side of Dover Road at the division line between Lot 3 and Lot 4 as shown on Plat I Section II "TUFTON FARMS" and recorded among the Plat Records of Baltimore County in Liber EHK,JR. No. 41, folio 71 running thence and binding on the East right-of-way line of Dover Road as shown on the aforesaid Plat S 2°50'53" W 190.00' thence leaving the East right-of-way line of Dover Road and running for lines of division through Lot 4 the two following courses and distances: 1) S 87°09'07" E 50.00' and 2) N 46°36'28" E 301.48' to the division line between Lots 3,4, and 5 as shown on the aforesaid Plat running thence and binding on the division line of Lots 3 and 4 S 86°43'21" W 260.00' to the place of beginning.

CONTAINING 0.689 Acres of land, more or less.

BEING part of the whole tract of land which by Deed dated May 4, 1977 and recorded among the Land Records of Baltimore County in Liber EHK,JR. No. 5749, folio 150 was granted and conveyed by Thomas S. Nichols to the within named Grantor in fee simple.

PETITIONER'S

EXHIBIT NO. 4

BA CIRCUIT COURT (Land Records) [MSA CE 62-5645] EHK 5790, p. 0818. Printed 04/16/2007. Online 12/20/2005

PETITIONER'S EXHIBIT NO. 5

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 7, 2008

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

Post-it® Fax Note 7671	Date 8/23	# of pages ▶ 2
To KEN WELLS	From PLANNING	
Co./Dept.	Co.	
Phone #	Phone # 410-887-3480	
Fax # 410-887-4055	Fax # 410-887-5862	

SUBJECT: 13101 Dover Road

INFORMATION:

Item Number: 7-470

Petitioner: John and Victoria Posey

Zoning: RC 5

Requested Action: Variance

The petitioner requests a special hearing to amend the final development plan of Tufton Farms Plat 1 Section 2 to allow the resubdivision of Lot 4 into three lots and correct the adjacent lot line with Lot 3 to reflect a prior deed conveyance. The applicant is also processing a minor subdivision known as the Posey Property. A covenant restricting future subdivision of the existing lots within Tufton Farms will expire July 1, 2007.

Dover Road is scenic. The amount of vegetation shown on the plan to be retained along the Dover Road frontage should be in compliance with the CDMP Scenic Routes, Enclosed views.

SUMMARY OF RECOMMENDATIONS:

Should the Zoning Commissioner grant the petitioner's request, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

1. Photographs of existing adjacent dwellings.
2. Submit building elevations (all sides) of the proposed dwelling to this office for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the

THIS DECLARATION OF RESTRICTIONS, Made this 22nd day of June, 1977, by GAYLORD BROOKS INVESTMENT COMPANY, a Maryland corporation, Declarant.

The Declarant is the owner, in fee simple, of the lots numbered as shown on the following Plat:

Lots 1, 2, 3, 4, 5 and 30 as shown on the Plat entitled "Plat 1, Sec 2, Tufton Farms," which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K.,Jr. No. 41, folio 71.

The Declarant, for the purposes of creating and maintaining a general scheme of development, desires that the aforesaid lots be subject to the covenants and conditions and restrictions hereinafter set forth.

NOW, THEREFORE, The Declarant for itself, its successors and assigns, hereby declares that all the aforesaid lots shall be subject to the covenants, restrictions, conditions and reservations hereinafter set forth.

1. Lots as shown on the aforesaid Plat of Tufton Farms shall be used for private residential purposes only and no dwelling shall be erected, altered, placed or permitted to remain on any lot other than one detached dwelling not to exceed two and one-half stories in height, said dwelling designed for single family occupancy. Single family occupancy shall not be construed to prevent the erection of a dwelling with an attached apartment or living area for use by member or members of the owner's family. Nothing herein contained shall prevent the use of part of a lot as a right of way for use by other lots within the subdivision. Residential use shall not bar a home office use of the property provided the owner of said lot complies with the applicable zoning regulations of Baltimore County.

2. No building, fence, wall, hedge, or other structure shall be commenced, erected, placed or altered in structure or color, on any lot until the plans and specifications and including color scheme and a grading plan showing the location of the structure have been approved in writing by the Architectural Approval Committee, hereinafter referred to as Committee. This Committee shall consist of three (3) members, one of which shall be an architect. The members shall be chosen by the Declarant. In the event of death or resignation of a member of said Committee, the Declarant shall select a new member. In the event that the Declarant fails to name a new

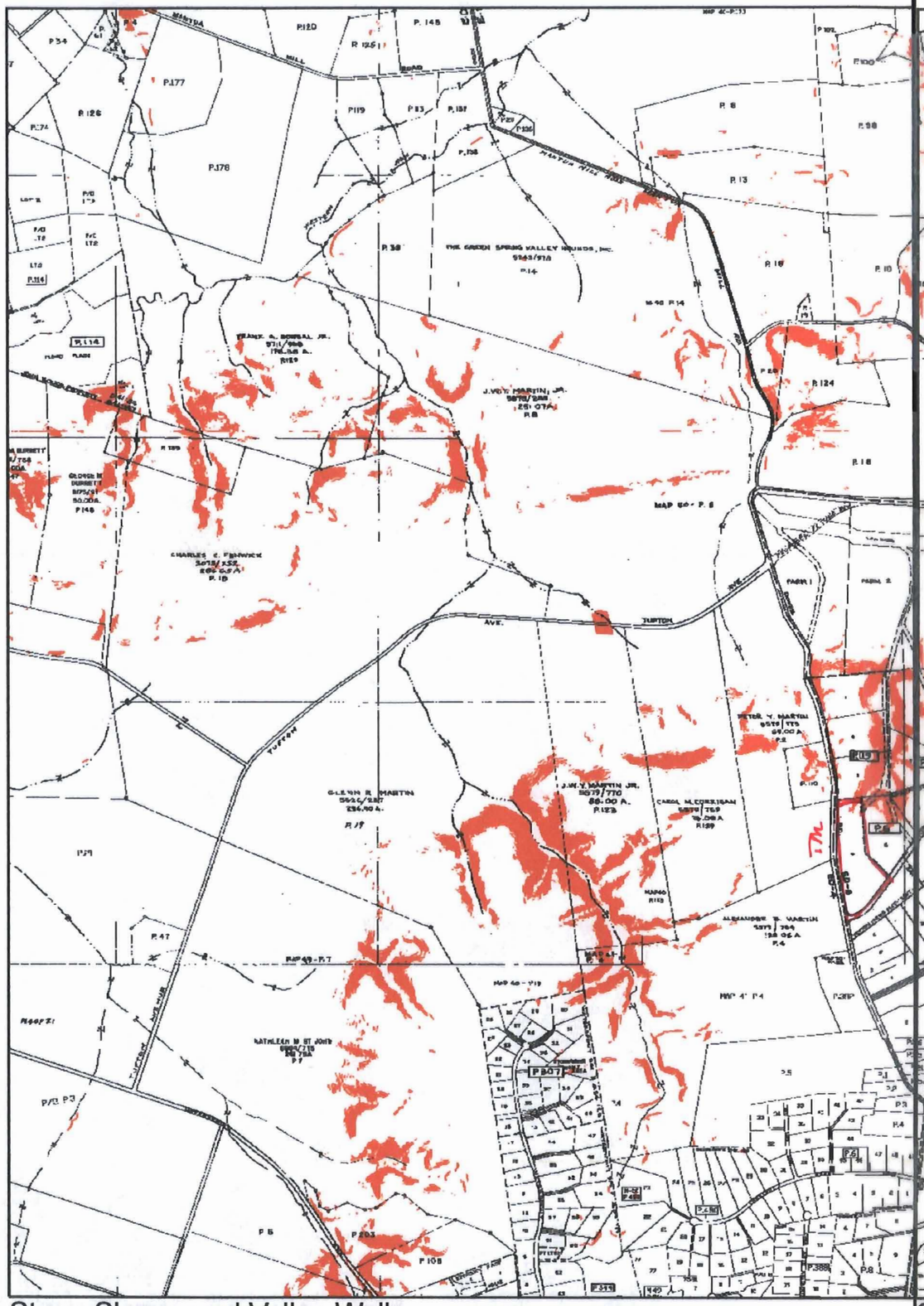
exp-act

TRANSFER TAX NOT REQUIRED
Walter R. Richardson
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per: Gloria J. Colburn
Authorized Signature

Declaration of Restrictions

PETITIONER'S
EXHIBIT NO. 6

BA CIRCUIT COURT (Land Records) [MSA CE 62-5627] EHK 5772, p. 0650. Printed 04/04/2007. Online 11/29/2005.



Steep Slopes and Valley Walls
in the Valleys Planning Council

400 200 0 400 800 1,200 Feet
1 inch equals 1,000 feet
1:12,000

Legend
Slopes of 25 % or more

F3

Prepared by Baltimore County Department of
Environmental Protection and Resource Management,
Geographic Information Services
12.8.2006
R:\Depts\DEPRM\Projects\PERCGIS_MIS\VPC_valleywalls_parcelbook.mxd
R:\Depts\DEPRM\Projects\PERCGIS_MIS\VPC_valleywalls.pdf

BALTIMORE COUNTY
MARYLAND



Steep Slopes and Valley Walls
in the Valleys Planning Council

400 200 0 400 800 1,200 Feet
1 inch equals 1,000 feet
1:12,000

Legend
Slopes of 25 % or more

F4

Prepared by Baltimore County Department of
Environmental Protection and Resource Management,
Geographic Information Services
12.8.2006
R:\Depts\DEPRM\Projects\PERCGIS_MIS\VPC_valleywalls_parcelbook.mxd
R:\Depts\DEPRM\Projects\PERCGIS_MIS\VPC_valleywalls.pdf

BALTIMORE C
MARYLA

PETITIONER'S

EXHIBIT NO. 7

Case No.: 07-470-SPH

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	✓ Final Develop Plan for 1977 of Section 2 - Tufton Farms	Zoning Map of Tufton Farms lots > 4 acres
No. 2	✓ Minor Subdivision Plan for Lot 4	Photograph of Tufton Farms w/ lot lines superimposed
No. 3 A/B/C	✓ Aerial Photos	
No. 4	[redacted] Deed	
No. 5	✓ 2/7/06 - Planning Comments	
No. 6	✓ Covenants + Restrictions that expire 7/07	
No. 7	✓ Steep slopes + Valley Walls and VPC	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Tufton Farms - RC 5 Parcels > 4 Acres

Legend

- Easement
- RC 5 parcels - 4 acres or greater
- Tax Parcel
- RC 2
- RC 4
- RC 5
- Tufton Farms Subdivision Sections

N

Section I

Section II

RC 2

RC 4

RC 5

1:3,600

0 600 1,200 2,400 Feet

PROTESTANT'S
EXHIBIT NO. 1

Tufton Farms - RC 5 Parcels > 4 Acres

Legend

- Elevation
- Streams
- Tufton Farms Subdivision Sections
- RC 5 parcels - 4 acres or greater
- Tax Parcel
- Buildings

Section I

TUFTON

DEER MEADOW

CHESTNUT WOODS

LONGRIDGE

BRIDLEPATH

DEER CREEK

N

1:3,600

0 600 1,200 2,400 Feet

PROTESTANT'S
EXHIBIT NO. 2

Together with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

To have and to hold the said described lots(s) of ground and premises, unto and to the use of the said Grantees, parties of the second part, as tenants by the entireties, their assigns, and unto the survivor of them, his or her heirs and assigns, in fee simple; subject to the legal operation and effect of a certain "Declaration of Restrictions" by the within named Grantor dated June 24, 1977 and recorded among the Land Records of Baltimore County in Liber EHK,JR. No. 5772, folio 650.

And the said Grantor covenants that it will warrant specially the property hereby granted and conveyed, and that it will execute such further assurances of said land as may be requisite.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

In Testimony Whereof, the said Grantor has caused its corporate seal to be hereto affixed, and its Vice-President to set his hand hereto.

WITNESS:

GAYLORD BROOKS INVESTMENT COMPANY

BY _____ (Seal)
Vice President

State of Maryland, County of Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 12th day of August, 1977, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Richard A. Weber, who acknowledged himself to be the Vice-President of the Grantor Corporation, and that he, as such Vice-President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing, in my presence, the name of the said corporation by himself as Vice-President, and certified that this conveyance is not part of a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the Grantor Corporation.

WITNESS: my hand and Notarial Seal

_____
Notary Public

My Commission expires: July 1st, 1978

933 All

Recd'd for record AUG 17 1977 at
per Elmer H. Kahline, Jr., Clerk
Mail to THE TITLE GUARANTEE COMPANY
Receipt No. 9720

EA CIRCUIT COURT (Land Records) [MSA CE 62-5645] EHK 5790. p. 0819. Printed 04/16/2007. Online 12/20/2005.

member within thirty (30) days of said vacancy, the remaining members shall select a new member.

Before commencement of construction, the owners of lots shall present their plans and specifications to the Committee together with a nonrefundable fee of Fifty Dollars ($50.00) covering the cost of reviewing the plans and specifications. Plans and specifications must be acted on by the Committee within fifteen (15) days after submission. If the Committee fails to act on said plans and specifications within said fifteen-day period, the plans and specifications shall automatically be approved. The fee charged for reviewing the plans and specifications shall not be charged more than once except if the plans and specifications submitted are for a different house after prior plans and specifications have been approved by the Committee for the same property. The Committee shall have the right to refuse to approve any such plans or specifications, or grading and location plans which are not suitable or desirable, in its opinion, for esthetic or other reasons, and in so passing upon such plans, specifications, or grading, and location plans, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials, of which it is built, to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure or the roadway as planned on the outlook from the adjacent or neighboring properties. In the event of the failure to the purchaser or purchasers of lots in Tufton Farms to obtain the required prior written approval of plans, specifications and grading studies as established in this paragraph, said purchasers hereby agree to reimburse the Declarant or its assigns for all costs and expenses to which it may be put as a result of said failure including, but not limited to, Court costs and attorneys fees. Any dewelling constructed on said lot shall be completed in every exterior detail within 12 months from date of beginning such construction.

On all lots, the dwelling erected thereon shall comply with the following minimum square footage requirements: a two story structure shall contain at least 2,500 square feet of living area, of which at least 1,450 square feet shall be on the first floor; a one and one-half story structure shall contain at least 2,300 square feet of living area, of which at least 1,600 square feet shall be on the first floor; a one story structure shall contain at least 2,000 square feet of living area. A bi-level or raised rancher shall have at least 1,600 square feet of living area on the main floor and shall have a total of at least 2,100 square feet of living area. On all developed lots provision shall be made for a two-car garage.

3. Easements for installation, maintenance of utilities and drainage facilities are reserved as shown on the aforesaid recorded Plats. In addition thereto, the Baltimore Gas & Electric Company shall have the right to place upon the lots at such locations as may be deemed necessary by the Baltimore Gas & Electric Company, electric transformer and transformer pads.

4. No structure of a temporary character, such as, but not limited to, a trailer, shack, tent, shall be placed or used on any of the lots aforesaid as a residence or for storage or as an auxiliary building, either temporarily or permanently, except that a temporary structure may be placed or used thereon if used and operated solely in connection with the construction of permissible permanent improvements; provided, however, that such temporary

CIRCUIT COURT (Land Records) [MSA CE 62-5627] EHK 5772, p. 0651. Printed 04/04/2007. Online 11/29/2005.

structure shall be removed from the premises within 30 days after completion of the construction of the permissible permanent improvement; and provided, further, that such structure be removed within a period of twelve months from the date of its original construction.

5. No recreation vehicles, such as, but not limited to, campers, motor homes, and tent vehicles may be parked or kept on any lot, except those that are stored in a garage. No motorized 2 or 3-wheeled vehicles may be operated on any lot.

6. No live poultry, hogs, cattle, horses, ponies or other similar livestock shall be kept on any lot, except as hereinafter provided. A maximum of two dogs and two cats are permitted, provided that they are properly housed and cared for and are restricted to the lot owner's property. Horses and ponies shall be permitted on lots over three (3) acres in size, provided the horses and ponies are housed in a suitable stable and attached paddock and not used for commercial purposes.

7. Owners of lots shall be responsible for providing driveway access to their lots from the paved portion of the County Road abutting the owner's lot. All driveways shall be paved with a hard durable surface, such as macadam, tar and chip, concrete or other similar material. Paving shall be completed one year from the date of commencement of construction of the dwelling on said lot.

8. The Declarant, its successors and assigns, reserves the right to waive such portion of the protective covenents placed on this property as the Declarant deems necessary or in the best interest of the development as determined by the Declarant. All waivers shall be in writing and a copy thereof shall be filed with the Architectural Approval Committee and a copy thereof shall be available to all lot owners upon request. The Declarant also reserves the right to change building setback lines and to alter lot lines between lots owned by the Declarant.

9. The provisions herein contained shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant or the owner of any part of said land included in said Plat, their respective legal representative, heirs, successors and assigns. Failure by the Declarant or any such owner or owners to enforce any restriction, condition, covenant or agreement herein contained, shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto.

10. These restrictions shall be binding until the first day of July, 2007. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant.

11. Invalidation of any of these covenants, agreements, restrictions or conditions by judgment or Court order shall in no way affect any of the other provisions which shall remain in full force and effect.

12. These restrictions shall apply only to the lots as shown on the aforesaid Plat of Tufton Farms and shall not be binding on any other property of the Declarant, its successors, and assigns.

IT COURT (Land Records) [MSA CE 62-5627] EHK 5772, p. 0652. Printed 04/04/2007. Online 11/29/2005.

AS WITNESS the corporate seal and the signature of James E. Matthews, Vice-President of Gaylord Brooks Investment Company.

GAYLORD BROOKS INVESTMENT COMPANY

By _____
James E. Matthews, Vice-President

WITNESS:

_____

STATE OF MARYLAND: COUNTY OF BALTIMORE: TO WIT:

I HEREBY CERTIFY, That on this 27th day of June 1977, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Baltimore, personally appeared James E. Matthews, Vice-President of Gaylord Brooks Investment Company, and he acknowledged the foregoing Declaration of Restrictions to be the act of said body corporate.

AS WITNESS my hand and Notarial Seal

_____
Notary Public

My Commission expires:

July 1, 1978

ROBERT E. CARNEY, JR. NOTARY PUBLIC BALTIMORE CO., MD.

0J11**** 2820111 11-0C MM

0J11**** 2820111 11-0C MM

Rec'd for record JUN 30 1977 at 12 57 P.M.
Per Elmer H. Kahline, Jr., Clerk
Mail to Mrs. Jean Gaylord
Receipt No. _____

COURT (Land Records) [MSA CE 62-5627] EHK 5772, p. 0653 Printed 04/04/2007. Online 11/29/2005.

LEGEND:

	25%/> SLOPES
MbB2	SOIL SERIES
--200--	EX. CONTOURS
200	PROP. CONTOURS
W	WETLANDS
x	FENCING
	EX. WOODS LINE
	PROP. TREE LINE
lod	LIMIT OF DISTURBANCE
	APPROVED PERC. TESTS
	FAILED PERC. TESTS
MBSL	MINIMUM BUILDING SETBACK LINE

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 15 PERCENT OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
20) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
21) DOVER ROAD IS A SCENIC ROUTE.
22) THE PROPERTY SHOWN HEREON HAS NO ZONING HISTORY, BUT MAY REQUIRE A SPECIAL HEARING TO ALLOW THE FINAL DEVELOPMENT PLAN TO BE AMENDED.
23) THE EXISTING SEPTIC COMPONENTS THAT CURRENTLY SERVE THE EXISTING DWELLING SHOWN HEREON WILL BE RECONFIGURED AND/OR REPOSITIONED SO THAT THE DRAIN FIELD WILL FALL WITH THE PRESCRIBED SEPTIC RESERVE AREA. ANY PROTION OF THE EXISTING SYSTEM THAT WILL BE ABANDONED SHALL BE REMOVED AND BACKFILLED.
24) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
25) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
26) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
27) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
28) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT.
29) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.2A OF THE BCZR (PER COUNTY COUNCIL BILL 55-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER, DEVELOPER, DEVELOPER'S ENGINEER, CONTRACT PURCHASER OR BUILDING PERMIT APPLICANT TO OBTAIN COMPLIANCE CERTIFICATION FROM THE OFFICE OF PLANNING PRIOR TO BUILDING PERMIT APPLICATION AND TO PRESENT THIS CERTIFICATION ON ANY BUILDING PERMIT SITE PLANS/PLOT PLANS.
30) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1970 RECORDED IN LIBER 5026 FOLIO 164 WHOSE RW NUMBER IS 79-097.

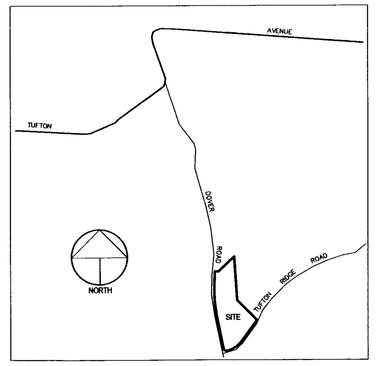
OFFICE OF PLANNING RC-5 FINDINGS:

1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.
5) PROVIDE A LANDSCAPE PLAN.

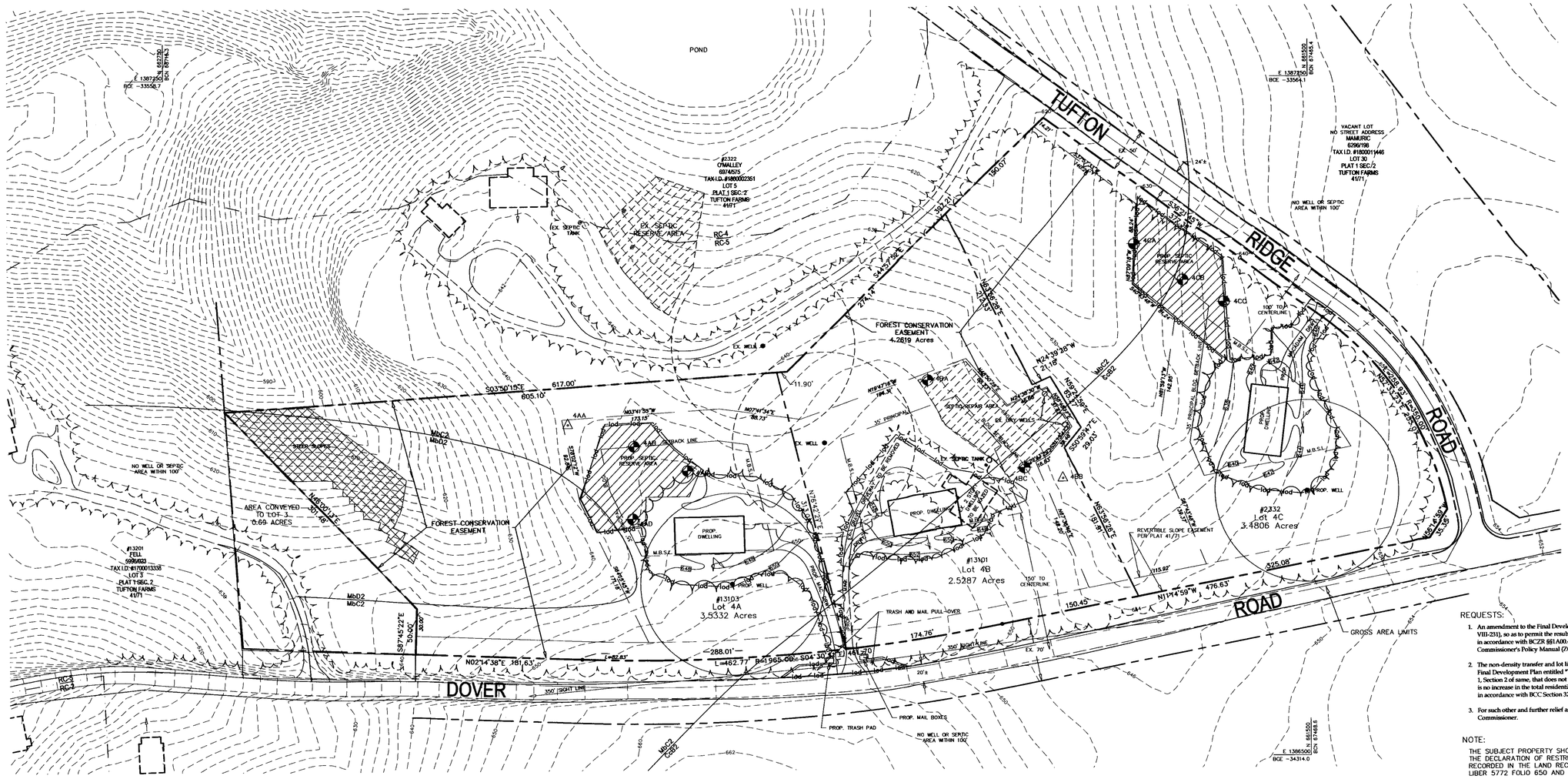
SITE DATA:

1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
REISTERSTOWN, MD 21136
410-554-2574
3) DEED REFERENCE: 5790/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4063.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5425 ACRES
17) GROSS AREA OF TRACT: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: -0- ACRES
19) DENSITY CALCULATIONS:
LOTS ALLOWED: 10.7237 (GROSS AREA) x .5 = 5
LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
REQUIRED: 2 x 3 = 6 SPACES
PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
DOVER ROAD: COLLECTOR
TIMBER RIDGE ROAD: LOCAL
24) DEVELOPER'S NAME: WELLS DEVELOPMENT CORP.
25) DEVELOPER'S ADDRESS:
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
26) DEVELOPER'S TELEPHONE NO.: 410-592-8800

NOTE:
GROSS AREA STATED HEREON CONSIST OF THE TRACT BOUNDARY OF LOT 4 PLUS THE AREA TO THE CENTERLINE OF TIMBER RIDGE ROAD AND 30 FEET OF DOVER ROAD.



Vicinity Map
Scale: 1" = 1000'


POND
TUFTON
RIDGE
ROAD
DOVER
ROAD
#2322
O'MALLEY
697/475
TAX I.D. #1800002351
LOT 5
PLAT 1 SEC. 2
TUFTON FARMS
41/71
EX. SEPTIC TANK
EX. SEPTIC RESERVE AREA
RC-4
RC-5
FOREST CONSERVATION EASEMENT 4.2819 Acres
EX. WELL
S03°50'15"E 617.00'
605.10'
11.90'
4AA
4AB
4AC
4BA
4BB
4BC
PROP. SEPTIC RESERVE AREA
PROP. DWELLING
PROP. WELL
PROP. SHED
EX. SEPTIC TANK
EX. WELL
#1310
Lot 4A
3.5332 Acres
#1310
Lot 4B
2.5287 Acres
#2332
Lot 4C
3.4806 Acres
#1320
FELL
595/623
TAX I.D. #1700013338
LOT 3
PLAT 1 SEC. 2
TUFTON FARMS
41/71
AREA CONVEYED TO LOT 3
0.69 ACRES
FOREST CONSERVATION EASEMENT
NO WELL OR SEPTIC AREA WITHIN 100'
VACANT LOT
NO STREET ADDRESS
MANUBRIC
629/198
TAX I.D. #1800011446
LOT 30
PLAT 1 SEC/2
TUFTON FARMS
41/71
NO WELL OR SEPTIC AREA WITHIN 100'
E 1387250
N 661500
BCE = 33558.7
E 1387250
N 661500
BCE = 33564.1
E 1386500
N 661500
BCE = 34314.0
E 1386500
N 661500
BCN 67488.8
MbD2
MbC2
MbB2
EsB2
S87°45'22"E 305.60'
N02°14'38"E 181.63'
L=462.77'
R=1965.00'
S04°30'20"E 461.70'
288.01'
S45°37'50"E 274.14'
N24°39'28"W 21.16'
N65°36'28"E 23.43'
N24°39'28"W 196.31'
N07°34'34"E 80.73'
N03°41'56"W 173.19'
N76°43'02"E 307.48'
N65°36'28"E 191.91'
N65°36'28"E 151.91'
N13°14'59"W 476.63'
N65°45'59"E 55.08'
N65°36'28"E 29.43'
N65°36'28"E 150.45'
N13°14'59"W 115.92'
N13°14'59"W 425.08'
N65°36'28"E 174.76'
N65°36'28"E 150.07'
N24°39'28"W 24.71'
N24°39'28"W 24.71'
N65°36'28"E 24.71'
N65°36'28"E 24.71'
N13°14'59"W 142.82'
N13°14'59"W 142.82'
N65°36'28"E 150.07'
N65°36'28"E 150.07'
N65°36'28"E 150.07

LEGEND:

- 25%/> SLOPES
- MbB2 — SOIL SERIES
- --200-- EX. CONTOURS
- 050 PROP. CONTOURS
- W WETLANDS
- x FENCING
- EX. WOODS LINE
- PROP. TREE LINE
- lod LIMIT OF DISTURBANCE
- APPROVED PERC. TESTS
- FAILED PERC. TESTS
- MBSL MINIMUM BUILDING SETBACK LINE

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 15 PERCENT OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
20) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
21) DOVER ROAD IS A SCENIC ROUTE.
22) THE PROPERTY SHOWN HEREON HAS NO ZONING HISTORY, BUT MAY REQUIRE A SPECIAL HEARING TO ALLOW THE FINAL DEVELOPMENT PLAN TO BE AMENDED.
23) THE EXISTING SEPTIC COMPONENTS THAT CURRENTLY SERVE THE EXISTING DWELLING SHOWN HEREON WILL BE RECONFIGURED AND/OR REPOSITIONED SO THAT THE DRAIN FIELD WILL FALL WITH THE PRESCRIBED SEPTIC RESERVE AREA, ANY PROTION OF THE EXISTING SYSTEM THAT WILL BE ABANDONED SHALL BE REMOVED AND BACKFILLED.
24) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
25) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
26) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
27) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
28) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT.
29) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.0M OF THE BCZR (PER COUNTY COUNCIL BILL 55-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER, DEVELOPER, DEVELOPER'S ENGINEER, CONTRACT PURCHASER OR BUILDING PERMIT APPLICANT TO OBTAIN COMPLIANCE CERTIFICATION FROM THE OFFICE OF PLANNING PRIOR TO BUILDING PERMIT APPLICATION AND TO PRESENT THIS CERTIFICATION ON ANY BUILDING PERMIT SITE PLANS/PLOT PLANS.
30) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1979 RECORDED IN LIBER 6026 FOLIO 164 WHOSE RW NUMBER IS 79-097.

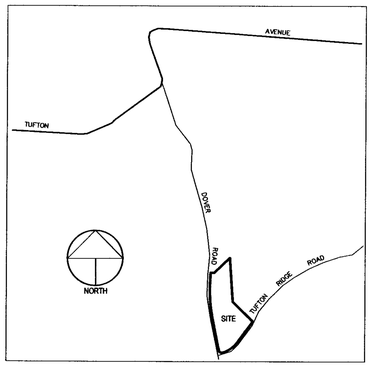
OFFICE OF PLANNING RC-5 FINDINGS:

1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.
5) PROVIDE A LANDSCAPE PLAN.

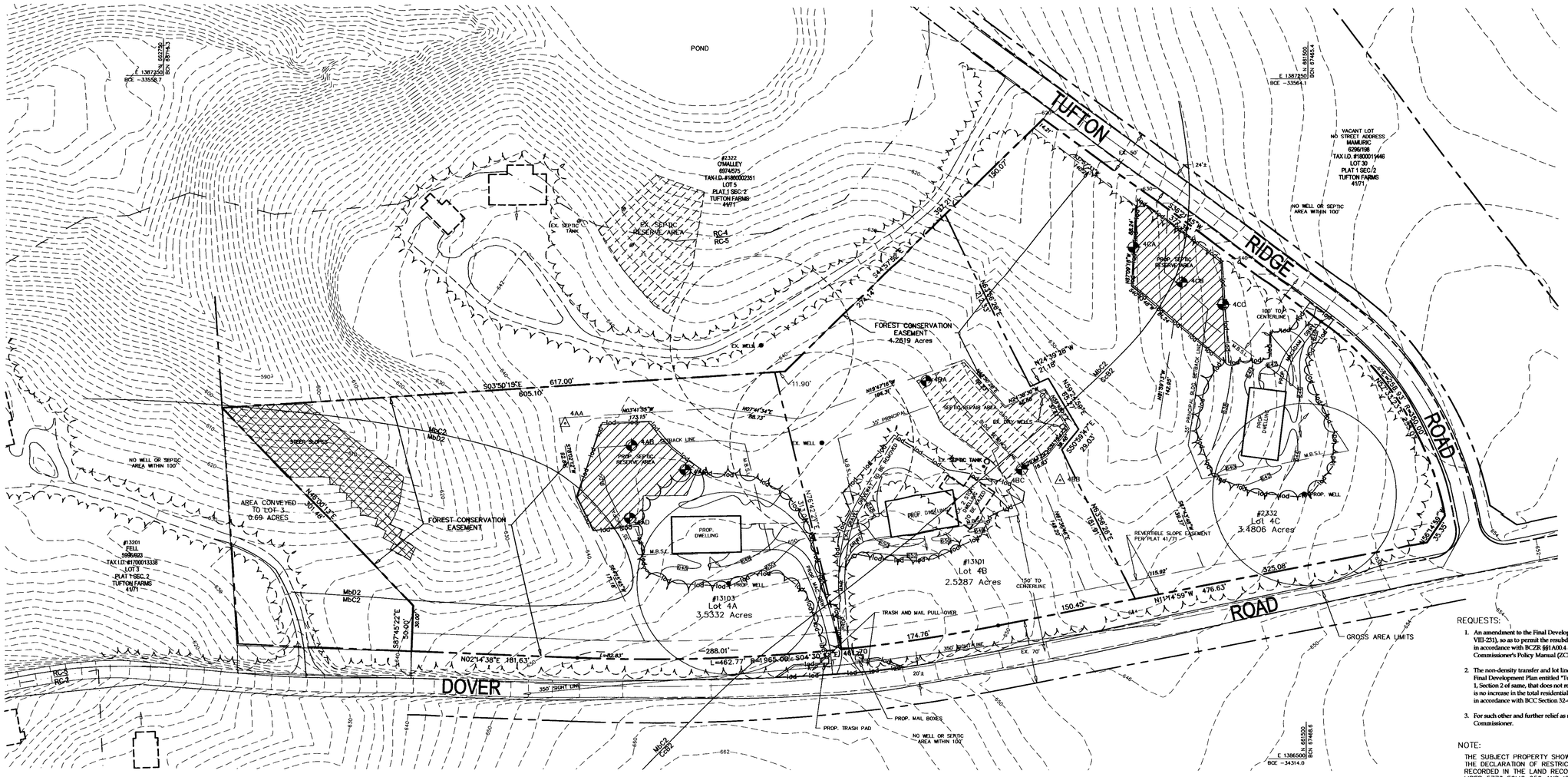
SITE DATA:

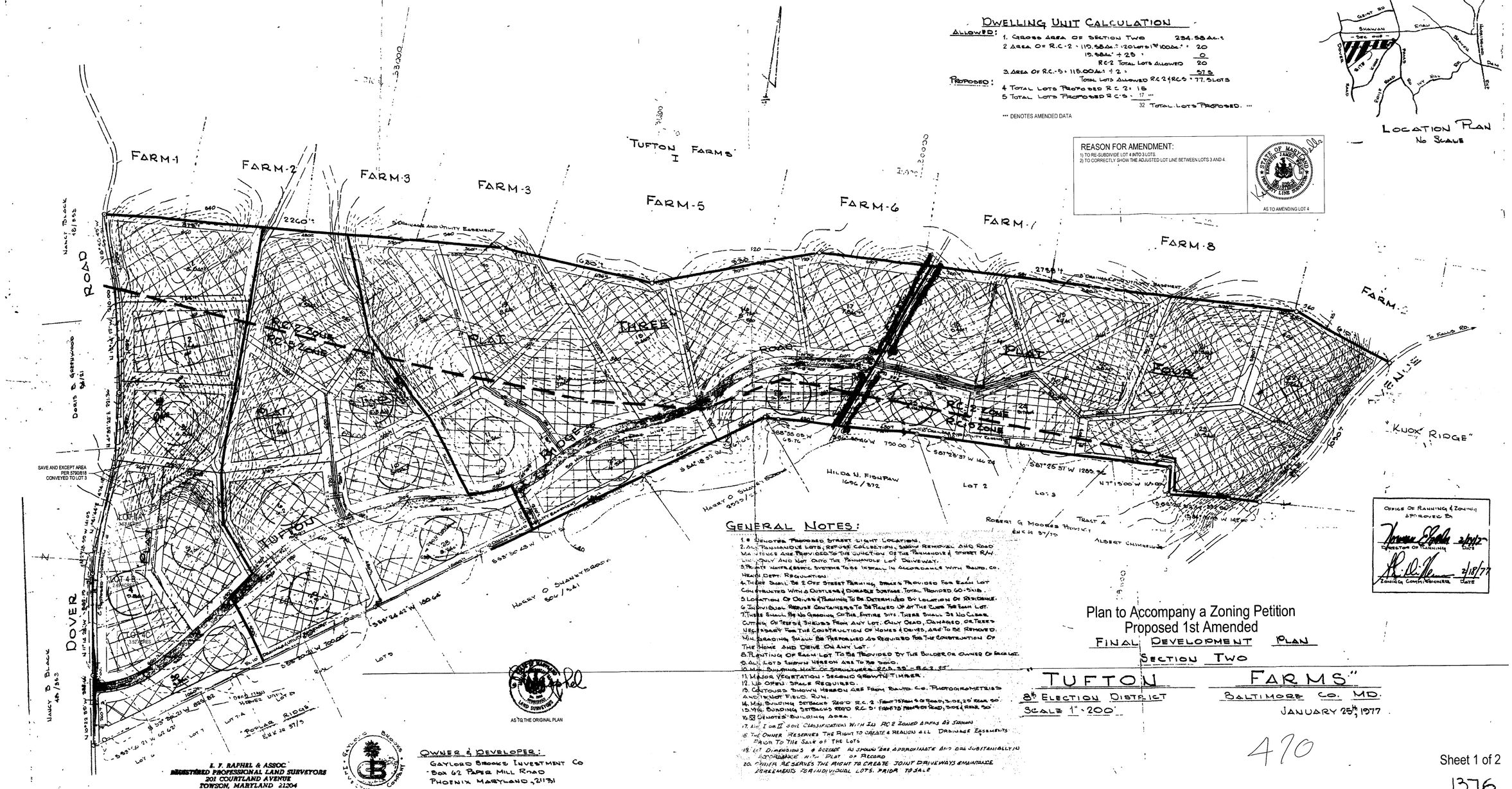
1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
REISTERSTOWN, MD 21136
410-584-2574
3) DEED REFERENCE: 5750/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4063.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5425 ACRES
17) GROSS AREA OF TRACT: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: .0- ACRES
19) DENSITY CALCULATIONS:
LOTS ALLOWED: 10.7237 (GROSS AREA) x .5 = 5
LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
REQUIRED: 2 x 3 = 6 SPACES
PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
DOVER ROAD: COLLECTOR
TIMBER RIDGE ROAD: LOCAL
24) DEVELOPER'S NAME: WELLS DEVELOPMENT CORP.
25) DEVELOPER'S ADDRESS:
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
26) DEVELOPER'S TELEPHONE NO.: 410-592-8800

NOTE:
GROSS AREA STATED HEREON CONSIST OF THE TRACT BOUNDARY OF LOT 4 PLUS THE AREA TO THE CENTERLINE OF TIMBER RIDGE ROAD AND 30 FEET OF DOVER ROAD.



Vicinity Map
Scale: 1" = 1000'


POND
TUFTON
RIDGE
ROAD
DOVER
ROAD
#2322
O'MALLEY
8974/575
TAX I.D. #1800002351
LOT 5
PLAT 1 SEC. 2
TUFTON FARMS
41/71
EX. SEPTIC TANK
EX. SEPTIC RESERVE AREA
RC-4
RC-5
FOREST CONSERVATION EASEMENT 4.2619 Acres
EX. WELL
S03°50'15"E 617.00'
605.10'
11.90'
S54°57'58"E 274.14'
N24°39'28"W 21.16'
N24°39'28"W 160.07'
N65°20'32"E 50.00'
S24°39'28"E 50.00'
S65°20'32"W 50.00'
N24°39'28"W 50.00


FARM-1
FARM-2
FARM-3
FARM-3
FARM-5
FARM-6
FARM-7
FARM-8
FARM-9
TUFTON FARMS I
DOVER ROAD
RC-2 ZONE
RC-5 ZONE
PLAT THREE
PLAT FOUR
TUFTON
DOVER RIDGE
"KNOX RIDGE"
LOT 4A
LOT 4B
LOT 4C
LOT 1
LOT 2
LOT 3
TRACT A
"TOPHAM RIDGE"
SAVE AND EXCEPT AREA PER 5790/818 CONVEYED TO LOT 3
HILDA N. FISHPAW 1696/872
HARRY O SHANEYBROOK 2050/121
ROBERT G MOORES HEIRS ENR 48 87/10
ALBERT CHIMENTI
NANCY B. BLACK 48/363
DAVID B. GREENWOOD 98/61
S.C.&U.E.
D.&U.E.
DRAINAGE & UTILITY EASEMENT
2200'±
2750'±
1750'±
1500'±
600'±
S 88° 24' 42" W 1500.00'
S 87° 25' 57" W 1285.36'
N 7° 15' 00" W 1470'
S 87° 28' 37" W 141.24'
S 88° 24' 42" W 150.00'
S 88° 50' 18" W 200.00'
S 3° 35' 20" W 88.82'
S 3° 35' 20" W 68.62'
S 88° 50' 18" W 150.00'
N 88° 50' 18" E 150.00'
S 88° 50' 18" W 150.00'
N 88° 50' 18" E 150.00'
S 88° 50' 18" W 150.00'
S 88° 50' 18" W 150.00'
S 88° 50' 18" W

LEGEND:

- 25%/> SLOPES
- MbB2 SOIL SERIES
- EX. CONTOURS
- PROP. CONTOURS
- WETLANDS
- FENCING
- EX. WOODS LINE
- PROP. TREE LINE
- LIMIT OF DISTURBANCE
- APPROVED PERC. TESTS
- FAILED PERC. TESTS
- MBSL MINIMUM BUILDING SETBACK LINE

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 15 PERCENT OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
20) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
21) DOVER ROAD IS A SCENIC ROUTE.
22) THE PROPERTY SHOWN HEREON HAS NO ZONING HISTORY, BUT MAY REQUIRE A SPECIAL HEARING TO ALLOW THE FINAL DEVELOPMENT PLAN TO BE AMENDED.
23) THE EXISTING SEPTIC COMPONENTS THAT CURRENTLY SERVE THE EXISTING DWELLING SHOWN HEREON WILL BE RECONFIGURED AND/OR REPOSITIONED SO THAT THE DRAIN FIELD WILL FALL WITH THE PRESCRIBED SEPTIC RESERVE AREA. ANY PROTION OF THE EXISTING SYSTEM THAT WILL BE ABANDONED SHALL BE REMOVED AND BACKFILLED.
24) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
25) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
26) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
27) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
28) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT.
29) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.04 OF THE BCZR (PER COUNTY COUNCIL BILL 55-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER, DEVELOPER, DEVELOPER'S ENGINEER, CONTRACT PURCHASER OR BUILDING PERMIT APPLICANT TO OBTAIN COMPLIANCE CERTIFICATION FROM THE OFFICE OF PLANNING PRIOR TO BUILDING PERMIT APPLICATION AND TO PRESENT THIS CERTIFICATION ON ANY BUILDING PERMIT SITE PLANS/PLOT PLANS.
30) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1979 RECORDED IN LIBER 6026 FOLIO 164 WHOSE RW NUMBER IS 79-097.

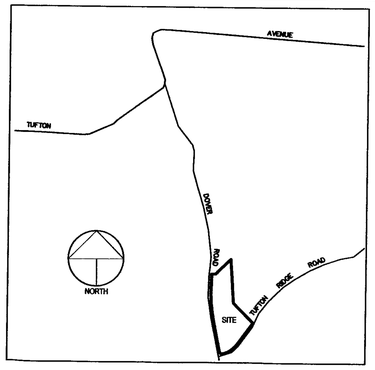
OFFICE OF PLANNING RC-5 FINDINGS:

1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.
5) PROVIDE A LANDSCAPE PLAN.

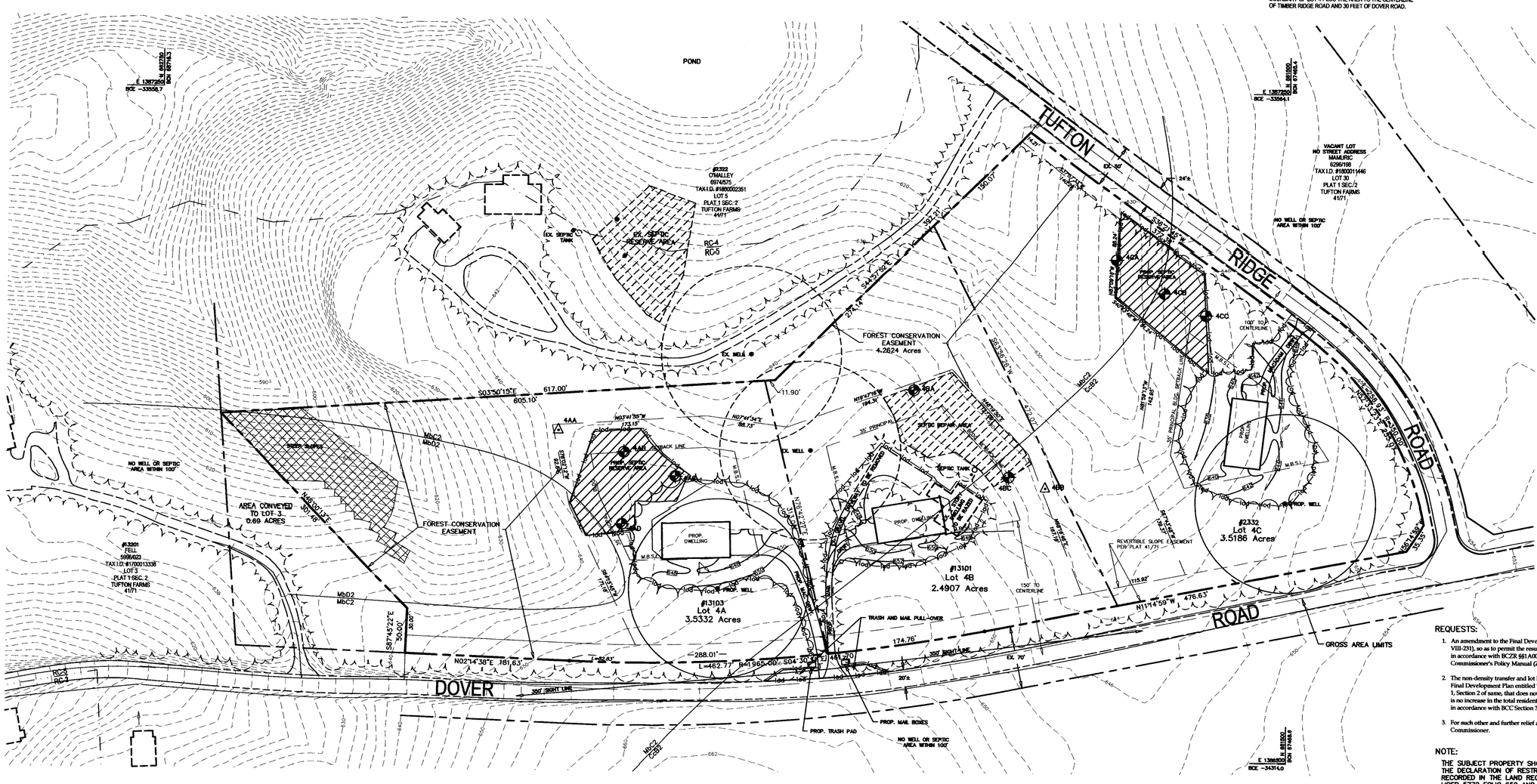
SITE DATA:

1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD REISTERSTOWN, MD 21136 410-584-2574
3) DEED REFERENCE: 5700/618
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4063.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5405 ACRES
17) GROSS AREA OF TRACT: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: .0- ACRES
19) DENSITY CALCULATIONS:
LOTS ALLOWED: 10.7237 (GROSS AREA) x .5 = 5
LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
REQUIRED: 2 x 3 = 6 SPACES
PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
DOVER ROAD: COLLECTOR
TIMBER RIDGE ROAD: LOCAL
24) DEVELOPER'S NAME: WELLS DEVELOPMENT CORP.
25) DEVELOPER'S ADDRESS:
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
26) DEVELOPER'S TELEPHONE NO.: 410-592-8800

NOTE:
GROSS AREA STATED HEREON CONSIST OF THE TRACT BOUNDARY OF LOT 4 PLUS THE AREA TO THE CENTERLINE OF TIMBER RIDGE ROAD AND 30 FEET OF DOVER ROAD.



Vicinity Map
Scale: 1" = 1000'



REQUESTS:

1. An amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231), so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with BCZR §§1A00.4 and 1B01.3 and Section 1B01.3.A.7.c of the Zoning Commissioner's Policy Manual (ZCPM);
2. The non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC Section 32-4-106(a)(viii); and
3. For such other and further relief as may be deemed necessary by the Zoning Commissioner.

NOTE:
THE SUBJECT PROPERTY SHOWN HEREON IS SUBJECT TO THE DECLARATION OF RESTRICTIONS DATED JUNE 24, 1977 RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER 5772 FOLIO 650 AND IS TO EXPIRE ON JULY 1, 2007.

GRAPHIC SCALE
80 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning

STATE OF MARYLAND ★ KENNETH J. WELLS ★ PROPERTY LINE SURVEYOR ★ SEAL

NAD 83/91

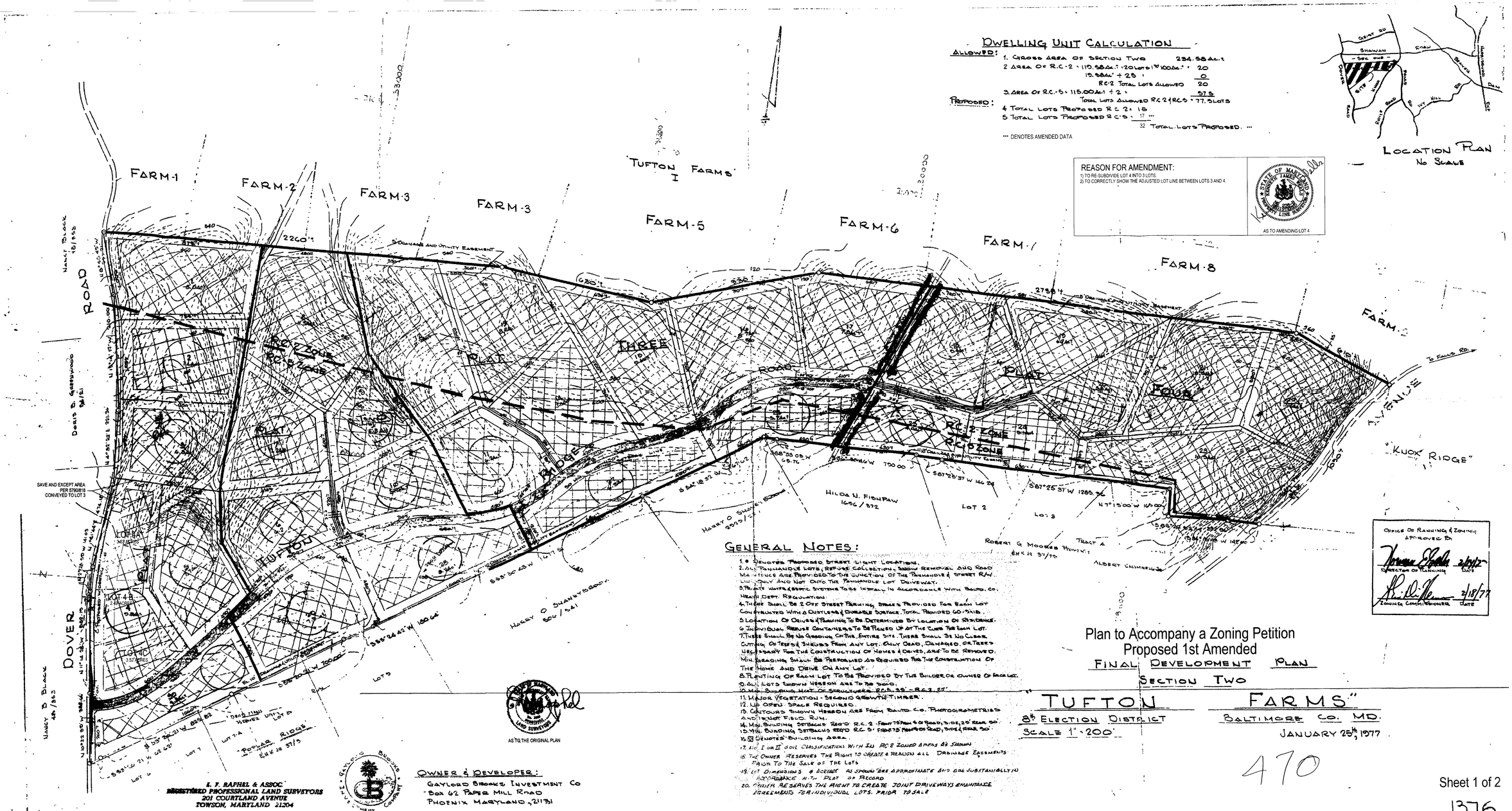
REVISIONS:

NO.	DATE

PLAN TO ACCOMPANY A ZONING PETITION
for a SPECIAL HEARING
POSEY PROPERTY
RESUBDIVISION LOT 4 PLAT 1 - SECTION 2 "TUFTON FARMS"
PLAT BOOK 41/71
BALTIMORE COUNTY
MARYLAND
8th ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT

PDM # VIII-231

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/01/2007
PROJECT NO.: 2006-042
SHEET 2 OF 2


FARM-1
FARM-2
FARM-3
FARM-3
FARM-5
FARM-6
FARM-7
FARM-8
FARM-9
"TUFTON FARMS" I
DOVER ROAD
"KNOX RIDGE"
FOREST DRIVE
TUFTON AVENUE
DOVER ROAD
THREE PLAT
FOUR PLAT
RC-2 ZONE
RC-5 ZONE
LOT 4-A
LOT 4-B
LOT 4-C
LOT 1
LOT 2
LOT 3
TRACT A
"POPLAR RIDGE"
Nancy D. Black 48/383
Doris B. Greenwood 98/151
Hilda U. Fishpaw 1696/372
Harry O. Shaney 2023/541
Robert G. Moores Jr. ENK JR 57/73
Albert Chimenes
Dover Road
Shawan Road
Great Rd
Hunt Valley
Beaver Dam Rd
Falls Rd
To Falls Rd
S.C. Drainage and Utility Easement
S.C. Drainage Easement
Ingress, Egress and Utility Easement
Ingress, Egress and Utility Easement
SAVE AND EXCEPT AREA PER 5790/618 CONVEYED TO LOT 3
N 11°14'24" W 2680.19'
S 88°50'21" W 1322.82'
N 10°22'55" W 388.46'
S 88°46'42" W 1800.00'
S 88°50'21" W 1322.82'
S 88°46'42" W 1800.00'
S 88°55'05" W 65.72'
S 67°25'37" W 146.24'
S 67°25'37" W 1265.36'
N 7°15'00" W 1500.00'
S 84°18'52" W 1601.42'
S 84°18'52" W 1601.42'
S 88°55'05" W 730.00'
S 88°55'05" W 730.00'
N 10°22'55" W 388.46'
N 11°14'24" W 2680.19'
S 88°50'21" W 1322.82'
S 88°46'42" W 1800.00'
S 67°25'37" W 1265.36'
N 7°15'00" W 1500.00'
S 84°18'52" W 1601.42'
S 88°55'05" W 730.00'
S 67°25'37" W 146.24'
S 88°55'05" W 65.72'
S 88°46'42" W 1800.00'
S 88°50'21" W 1322.82'
N 10°22'55" W 388.46'
N 11°14'24" W 2680.19

LEGEND:

- 25%/> SLOPES
- MbB2 — SOIL SERIES
- —200— EX. CONTOURS
- PROP. CONTOURS
- —W— WETLANDS
- —X— FENCING
- EX. WOODS LINE
- PROP. TREE LINE
- —lod— LIMIT OF DISTURBANCE
- APPROVED PERC. TESTS
- FAILED PERC. TESTS
- MBSL — MINIMUM BUILDING SETBACK LINE

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 15 PERCENT OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
20) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
21) DOVER ROAD IS A SCENIC ROUTE.
22) THE PROPERTY SHOWN HEREON HAS NO ZONING HISTORY, BUT MAY REQUIRE A SPECIAL HEARING TO ALLOW THE FINAL DEVELOPMENT PLAN TO BE AMENDED.
23) THE EXISTING SEPTIC COMPONENTS THAT CURRENTLY SERVE THE EXISTING DWELLING SHOWN HEREON WILL BE RECONFIGURED AND/OR REPOSITIONED SO THAT THE DRAIN FIELD WILL FALL WITH THE PRESCRIBED SEPTIC RESERVE AREA. ANY PROTION OF THE EXISTING SYSTEM THAT WILL BE ABANDONED SHALL BE REMOVED AND BACKFILLED.
24) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
25) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
26) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
27) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
28) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT.
29) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.04 OF THE BCZR (PER COUNTY COUNCIL BILL 56-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER, DEVELOPER, DEVELOPER'S ENGINEER, CONTRACT PURCHASER OR BUILDING PERMIT APPLICANT TO OBTAIN COMPLIANCE CERTIFICATION FROM THE OFFICE OF PLANNING PRIOR TO BUILDING PERMIT APPLICATION AND TO PRESENT THIS CERTIFICATION ON ANY BUILDING PERMIT SITE PLAN/PLOT PLANS.
30) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1979 RECORDED IN LIBER 6026 FOLIO 164 WHOSE RW NUMBER IS 79-097.

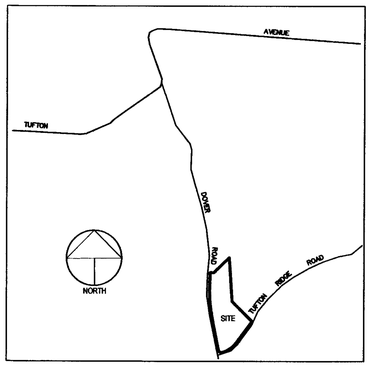
OFFICE OF PLANNING RC-5 FINDINGS:

1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.
5) PROVIDE A LANDSCAPE PLAN.

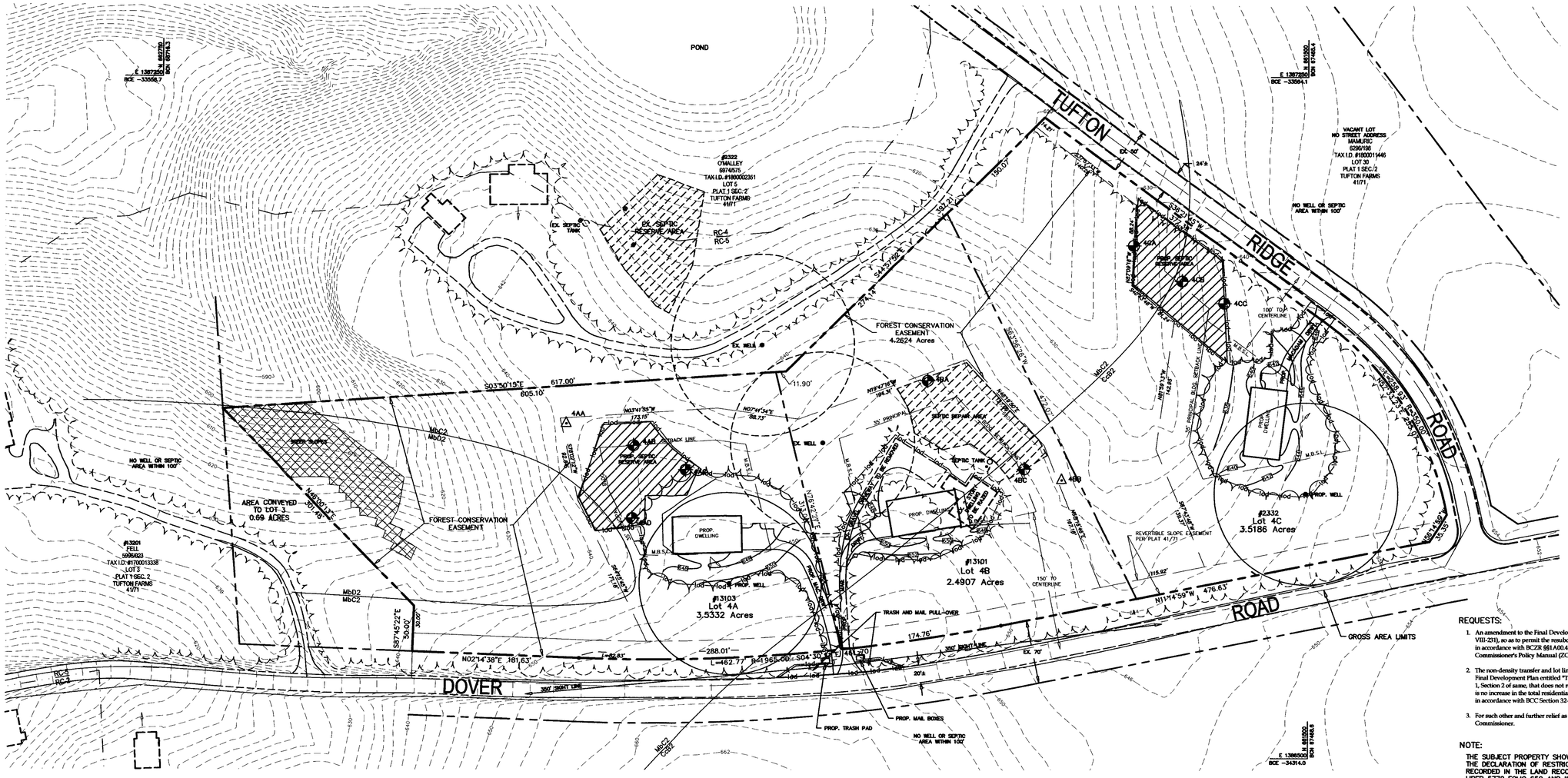
SITE DATA:

1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
   REISTERSTOWN, MD 21136
   410-584-2574
3) DEED REFERENCE: 5790/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 04143
9) CENSUS TRACT: 4065.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5425 ACRES
17) GROSS AREA OF TRACT: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: -0- ACRES
19) DENSITY CALCULATIONS:
   LOTS ALLOWED: 10.7237 (GROSS AREA) x .5 = 5
   LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
   SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
   REQUIRED: 2 x 3 = 6 SPACES
   PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
   DOVER ROAD: COLLECTOR
   TIMBER RIDGE ROAD: LOCAL
24) DEVELOPER'S NAME: WELLS DEVELOPMENT CORP.
25) DEVELOPER'S ADDRESS:
   7403 NEW CUT ROAD
   KINGSVILLE, MARYLAND 21087
26) DEVELOPER'S TELEPHONE NO.: 410-592-8800

NOTE:
GROSS AREA STATED HEREON CONSIST OF THE TRACT BOUNDARY OF LOT 4 PLUS THE AREA TO THE CENTERLINE OF TIMBER RIDGE ROAD AND 30 FEET OF DOVER ROAD.



Vicinity Map
Scale: 1" = 1000'



REQUESTS:

1. An amendment to the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231), so as to permit the resubdivision of Lot 4, Plat 1, Section 2 into three (3) lots in accordance with BCZR §§1A00.4 and 1B01.3 and Section 1B01.3.A.7.c of the Zoning Commissioner's Policy Manual (ZCPM);
2. The non-density transfer and lot line adjustment from Lot 4, Plat 1, Section 2 of the Final Development Plan entitled "Tufton Farms" (PDM Number VIII-231) to Lot 3, Plat 1, Section 2 of same, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC Section 32-4-106(a)(viii); and
3. For such other and further relief as may be deemed necessary by the Zoning Commissioner.

NOTE:
THE SUBJECT PROPERTY SHOWN HEREON IS SUBJECT TO THE DECLARATION OF RESTRICTIONS DATED JUNE 24, 1977 RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER 5772 FOLIO 650 AND IS TO EXPIRE ON JULY 1, 2007.

GRAPHIC SCALE

60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning

SEAL

NAD 83/91

REVISIONS:

NO.	DATE

PLAN TO ACCOMPANY A ZONING PETITION
for a SPECIAL HEARING
POSEY PROPERTY
RESUBDIVISION LOT 4 PLAT 1 - SECTION 2 "TUFTON FARMS"
PLAT BOOK 41/71
BALTIMORE COUNTY
MARYLAND
8th ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT

PDM # VIII-231

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/01/2007

PROJECT NO.:
2006-042

SHEET 2 OF 2

DWELLING UNIT CALCULATION

ALLOWED:
1. GROSS AREA OF SECTION TWO 234.58 Ac.±
2. AREA OF R.C.-2 - 119.58 Ac.± : 120 LOTS (1ST 100 Ac.± = 20
   19.58 Ac.± ÷ 25 = 0
   R.C.2 TOTAL LOTS ALLOWED 20
3. AREA OF R.C.-5 = 115.00 Ac.± ÷ 2 = 57.5
   TOTAL LOTS ALLOWED R.C.2 & R.C.5 = 77.5 LOTS

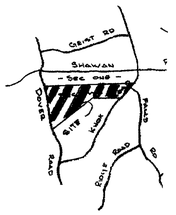
PROPOSED:
4. TOTAL LOTS PROPOSED R.C. 2 = 15
5. TOTAL LOTS PROPOSED R.C.-5 = 17 ***
   32 TOTAL LOTS PROPOSED. ***

*** DENOTES AMENDED DATA

REASON FOR AMENDMENT:
1) TO RE-SUBDIVIDE LOT 4 INTO 3 LOTS.
2) TO CORRECTLY SHOW THE ADJUSTED LOT LINE BETWEEN LOTS 3 AND 4.

STATE OF MARYLAND — REGISTERED PROPERTY LINE SURVEYOR

AS TO AMENDING LOT 4



LOCA

FARM-1 FARM-2 FARM-3 FARM-3 FARM-5 FARM-6 FARM-7 FARM-8

"TUFTON FARMS" I

DOVER ROAD

NANCY B. BLACK 48/363

DORIS D. GREENWOOD 5431

SAVE AND EXCEPT AREA PER 5790/818 CONVEYED TO LOT 3

LOT #4 4.5 ACRES

LOT #3 7.50 ACRES

LOT #2 7.50 ACRES

LOT #1 7.50 ACRES

MIN. BLDG. SETBACK LINES

5' DRAINAGE AND UTILITY EASEMENT

R.C.2 ZONE R.C.5 ZONE

THREE PLAT

FOUR PLAT

ROAD

TUFTON ROAD

DEED 1380 HOMES UNITS LOT A

LOT 7A

"POPLAR RIDGES" ELEV. 18 57/5

LOT 7

LOT 6

LOT 5

HARRY O SHANKS 50C/521

HILDA N. FISHPAW 1696/872

LOT 2

LOT 3

ROBERT G. MOORES TRACT A ENT. 12 37/75

ALBERT CHIMNEL

N 71°15'00" W 1600'±

S 67°25'37" W 1285.96'

S 67°25'37" W 146.24'

S 88°55'05" W 68.76'

S 88°24'42" W 180.44'

S 88°24'42" W 700.00'

S 88°18'20" W 1611.0'

S 88°50'49" W 1000.00'

N 11°16'32" W 568.15'

N 14°27'16" W 1405.46'

N 14°27'16" W 1405.46'

S 88°50'49" W 1000.00'

S 88°50'49" W 1000.00'

S 88°50'49" W 1000.00

NOTES:

1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) ALL IMPERVIOUS AREAS SHOULD BE LIMITED TO 15 PERCENT OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.
20) THE CONTRACT PURCHASER OF LOT 4B WILL BE RESPONSIBLE TO RAZED THE EXISTING DWELLING AND REMOVE A PORTION OF THE EXISTING GRAVEL DRIVEWAY PRIOR TO OBTAINING A BUILDING PERMIT.
21) DOVER ROAD IS A SCENIC ROUTE.
22) THE PROPERTY SHOWN HEREON HAS NO ZONING HISTORY, BUT MAY REQUIRE A SPECIAL HEARING TO ALLOW THE FINAL DEVELOPMENT PLAN TO BE AMENDED.
23) PROPOSED EMERGENCY VEHICLE ACCESS ROAD MUST BE A HARD SURFACE CAPABLE OF SUPPORTING EMERGENCY APPARATUS, WEIGHING 65,000 lbs. ON TWO AXLES.
24) NO MORE THAN 15% OF ANY LOT IN AN RC-5 ZONE MAY BE COVERED BY BUILDINGS.
25) THE PROPOSED DEVELOPMENT IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
26) THE PROPERTY SHOWN HEREON IS NOT A HISTORIC SITE OR LOCATED WITHIN AN HISTORIC DISTRICT.
27) ALL DRIVEWAYS AND PARKING SPACES WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAYS, PARKING AND MANEUVERING AREAS WILL BE PAVED MACADAM AND SHALL BE PAVED WITHIN 60 DAYS AFTER OBTAINING A USE AND OCCUPANCY PERMIT.
28) THE OFFICE OF PLANNING HAS SUBMITTED WRITTEN FINDINGS TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARDS LISTED IN SUBSECTION 1A04.04 OF THE BCZR (PER COUNTY COUNCIL BILL 55-04, EFFECTIVE JUNE 11, 2004). THIS DEVELOPMENT AND ALL PROPOSED DWELLINGS WILL COMPLY WITH SAID OFFICE OF PLANNING WRITTEN FINDINGS AND PERFORMANCE STANDARDS AS SHOWN ON THIS PLAN. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER, DEVELOPER, DEVELOPER'S ENGINEER, CONTRACT PURCHASER OR BUILDING PERMIT APPLICANT TO OBTAIN COMPLIANCE CERTIFICATION FROM THE OFFICE OF PLANNING PRIOR TO BUILDING PERMIT APPLICATION AND TO PRESENT THIS CERTIFICATION ON ANY BUILDING PERMIT SITE PLANS/PLOT PLANS.
29) GAYLORD BROOKS INVESTMENT COMPANY CONVEYED UNTO BALTIMORE COUNTY THOSE AREAS IN AND TO THE BED OF DOVER ROAD INCLUDING THE WIDENING AND TUFTON RIDGE ROAD AS DESCRIBED IN A DEED DATED MAY 4, 1979 RECORDED IN LIBER 6026 FOLIO 164 WHOSE RW NUMBER IS 79-097.
30) A LANDSCAPE PLAN IS NOT REQUIRED AS THE PROPERTY IS WOODED AND THE QUALITY OF THE EXISTING VEGETATION IS CONSIDERED GOOD. THE AMOUNT OF CLEARING SHALL BE LIMITED TO AN AREA TO ACCOMMODATE THE REQUIRED DWELLING, ACCESSORY STRUCTURES INCIDENTAL TO THE PRIMARY STRUCTURE AND GRADING.
31) THE AREA TO BE CLEARED FOR THE INSTALLATION OF THE SEPTIC SYSTEM SHALL BE LIMITED ONLY TO ACCOMMODATE THE REQUIRED COMPONENTS AND EACH SUBSEQUENT REPAIR AS THEY BECOME NECESSARY AS DETERMINED BY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT OF BALTIMORE COUNTY.

OFFICE OF PLANNING RC-5 FINDINGS:

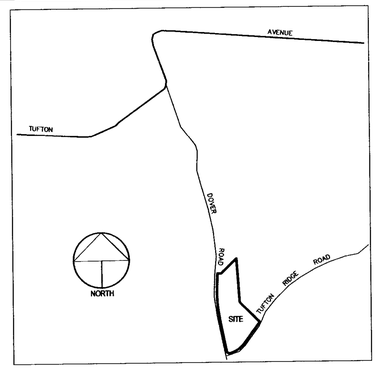
1) PROVIDE PHOTOS OF EXISTING BUILDINGS AND OTHER SIGNIFICANT FEATURES ON THE SITE OF THE PROPOSED DEVELOPMENT.
2) PROVIDE PHOTOS OF EXISTING HOUSING IN THE SURROUNDING NEIGHBORHOOD (TO ESTABLISH NEIGHBORHOOD ARCHITECTURAL CHARACTER).
3) PROVIDE ARCHITECTURAL ELEVATIONS OF THE PROPOSED DWELLINGS TO INCLUDE BUILDING MATERIAL AND COLORS. IF ARCHITECTURAL ELEVATION DRAWINGS ARE NOT AVAILABLE AT THE TIME OF THIS PLAN APPROVAL THEN ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A04.G OF THE BCZR.
4) PROPOSED GRADING MUST BE SUBMITTED THAT RETAINS SIGNIFICANT SITE FEATURES AND PLANT MATERIALS.

SITE DATA:

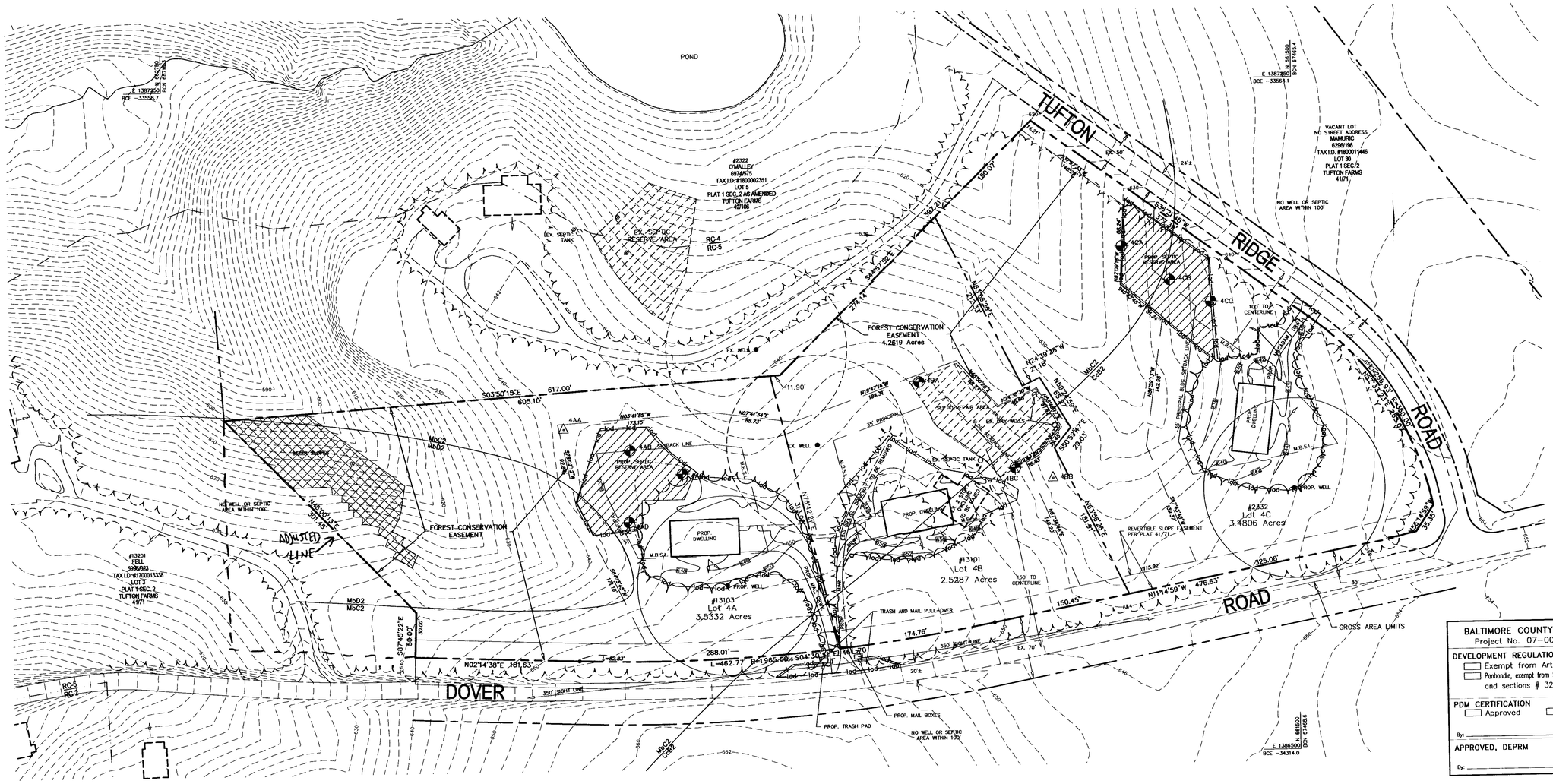
1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
   REISTERSTOWN, MD 21136
   410-584-2574
3) DEED REFERENCE: 5790/818
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013339
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4083.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) NET AREA OF TRACT: 9.5425 ACRES
17) GROSS AREA: 10.7237 ACRES
18) AREA OF HIGHWAY WIDENING: -0- ACRES
19) DENSITY CALCULATIONS:
   LOTS ALLOWED: 10.7237 x .5 = 5 / GROSS AREA
   LOTS ALLOWED: 9.5425 x .5 = 4 / NET AREA
   LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
   SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
   REQUIRED: 2 x 3 = 6 SPACES
   PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
   DOVER ROAD: COLLECTOR (150' SETBACK FROM CENTERLINE)
   TIMBER RIDGE ROAD: LOCAL (100' SETBACK FROM CENTERLINE)
24) LIMITS OF DISTURBANCE: 80,125 SF
26) IMPERVIOUS AREAS:
   EXISTING: 15,200 SF/0.35 AC
   NEW: 14,900 SF/0.34 AC
   TO BE REMOVED: 4,200 SF/0.1 AC
   NET NEW: 10,700 SF/0.25 AC

LEGEND:

- 25%/> SLOPES
- MbB2 — SOIL SERIES
- 200 — EX. CONTOURS
- 600 — PROP. CONTOURS
- W — WETLANDS
- x — FENCING
- EX. WOODS LINE
- lod — LIMIT OF DISTURBANCE
- APPROVED PERC. TESTS
- FAILED PERC. TESTS
- MBSL — MINIMUM BUILDING SETBACK LINE



Vicinity Map
Scale: 1" = 1000'


POND
TUFTON
ROAD
RIDGE
ROAD
DOVER
ROAD
#2322
O'MALLEY
6974/575
TAX I.D.:#1800002351
LOT 5
PLAT 1 SEC. 2 AS AMENDED
TUFTON FARMS
42/106
#3201
FELL
5690/602
TAX I.D.:#1700013338
LOT 3
PLAT 1 SEC. 2
TUFTON FARMS
41/71
#2332
Lot 4C
3.4806 Acres
#13101
Lot 4A
3.5332 Acres
#13101
Lot 4B
2.5287 Acres
VACANT LOT
NO STREET ADDRESS
MANUBIC
6296/198
TAX I.D. #1800011446
LOT 30
PLAT 1 SEC/2
TUFTON FARMS
41/71
FOREST CONSERVATION EASEMENT
4.2819 Acres
FOREST CONSERVATION EASEMENT
EX. SEPTIC RESERVE AREA
PROP. SEPTIC RESERVE AREA
EX. SEPTIC TANK
PROP. DWELLING
PROP. WELL
EX. WELL
EX. DRY WELLS
PROP. TRASH PAD
PROP. MAIL BOXES
TRASH AND MAIL PULL-OVER
REVERTIBLE SLOPE EASEMENT PER PLAT 41/71
NO WELL OR SEPTIC AREA WITHIN 100'
ADJUSTED LINE
GROSS AREA LIMITS
S03°30'15"E 617.00'
605.10'
N02°14'38"E 481.63'
R=1965.08'
L=462.77'
S04°30'00"E 461.70'
288.01'
N11°14'59"W 476.63'
325.09'
150.45'
174.76'
S87°45'22"E 30.00'
N87°45'22"W 30.00'
N02°14'38"E 150.07'
S44°57'38"E 274.14'
N44°57'38"W 274.14'
N24°39'28"W 21.05'
N65°20'32"E 50.00'
S24°39'28"E 29.03'
N65°20'32"E 50.00'
S65°39'28"E 139.31'
N65°39'28"W 140.20'
N24°39'28"W 34.32'
S24°39'28"E 34.32'
N65°20'32"E 50.00'
S65°39'28"E 29.03'
N24°39'28"W 21.05'
S44°57'38"E 274.14'
N44°57'38"W 274.14'
N02°14'38"E 150.07'
S87°45'22"E 30.00'
N87°45'22"W 30.00'
N11°14'59"W 476.63'
325.09'
150.45'
174.76'
S03°30'15"E 617.00'
605.10'
N02°14'38"E 481.63'
R=1965.08'
L=462.77'
S04°30'00"E 461.70'
288.01'
E 1387250
BCE -33556.7
E 1386500
BCE -34314.0
E 1385550
BCE 67465.4
MbD2
MbC2
RC-5
RC-2
MbC2
C0D1
MbC2
C0D2
MbC2
C0D2
MbD2
MbC2
MbC2
C0D2
MbC2
C0D2
MbC2
C0D

NOTES:

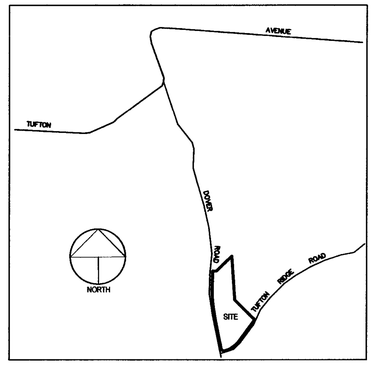
1) THIS PLAN IS NOT A RECORD PLAT AND ANY REFERENCE MADE TO THIS PLAN IS FOR INFORMATIVE PURPOSES ONLY.
2) THE PROPERTY LINES SHOWN HEREON REFLECT THOSE LINES DESCRIBED IN THE REFERENCED DEED AND/OR SHOWN ON THE REFERENCED PLAT AND MAY NOT BE THE ACTUAL LINES OF POSSESSION THAT MAY BE CLAIMED BY ADVERSE POSSESSION.
3) ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORM DRAIN, OR ADJACENT PROPERTY.
4) 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.
5) HOUSE DOWNSPOUTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
6) THIS PROPERTY AS SHOWN HEREON HAS BEEN HELD INTACT PRIOR TO AUGUST 1977. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN HEREON HAS BEEN EVER UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLING.
7) ANY FUTURE SUBDIVISION OF THIS PROPERTY MAY REQUIRE STORM WATER MANAGEMENT QUANTITY CONTROL.
8) MAXIMUM BUILDING HEIGHT NOT TO EXCEED 35 FEET.
9) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
10) THERE ARE NO UNDERGROUND STORAGE TANKS LOCATED ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
11) THE ISSUANCE OF THE BUILDING PERMIT AND ALL GRADING WILL BE DONE IN ACCORDANCE WITH THE STANDARD PLAN FOR SEDIMENT AND EROSION CONTROL.
12) THERE ARE NO RARE, THREATENED OR ENDANGERED SPECIES HABIT LOCATED ON THE SUBJECT PROPERTY.
13) THE DEVELOPER MUST PROVIDE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGES TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEMS WHICH MAY RESULT, DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES, WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
14) THE PANHANDLE SHALL BE PAVED WITHIN ONE YEAR IF ISSUANCE OF THE FIRST OCCUPANCY PERMIT PRIOR TO THE ISSUANCE OF OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.
15) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
16) ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
17) BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, REGRESS OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID PRIVATE RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING, AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED, TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE TELEVISION.
18) THE PROPOSED DRIVEWAY IS TO BE BUILT PER DEPARTMENT OF PUBLIC WORKS STANDARD PLATE R-15, TYPICAL DRIVEWAY ENTRANCE APRON.
19) THE PANHANDLE DRIVEWAY SHALL CONFORM TO STANDARD PLATE R-P, R-Q, OR R-R.
20) THE AREA BETWEEN THE SIGHT LINE AND EDGE OF PAVEMENT SHALL BE CLEARED, GRADED AND KEPT FREE FROM OBSTRUCTIONS.

SITE DATA:

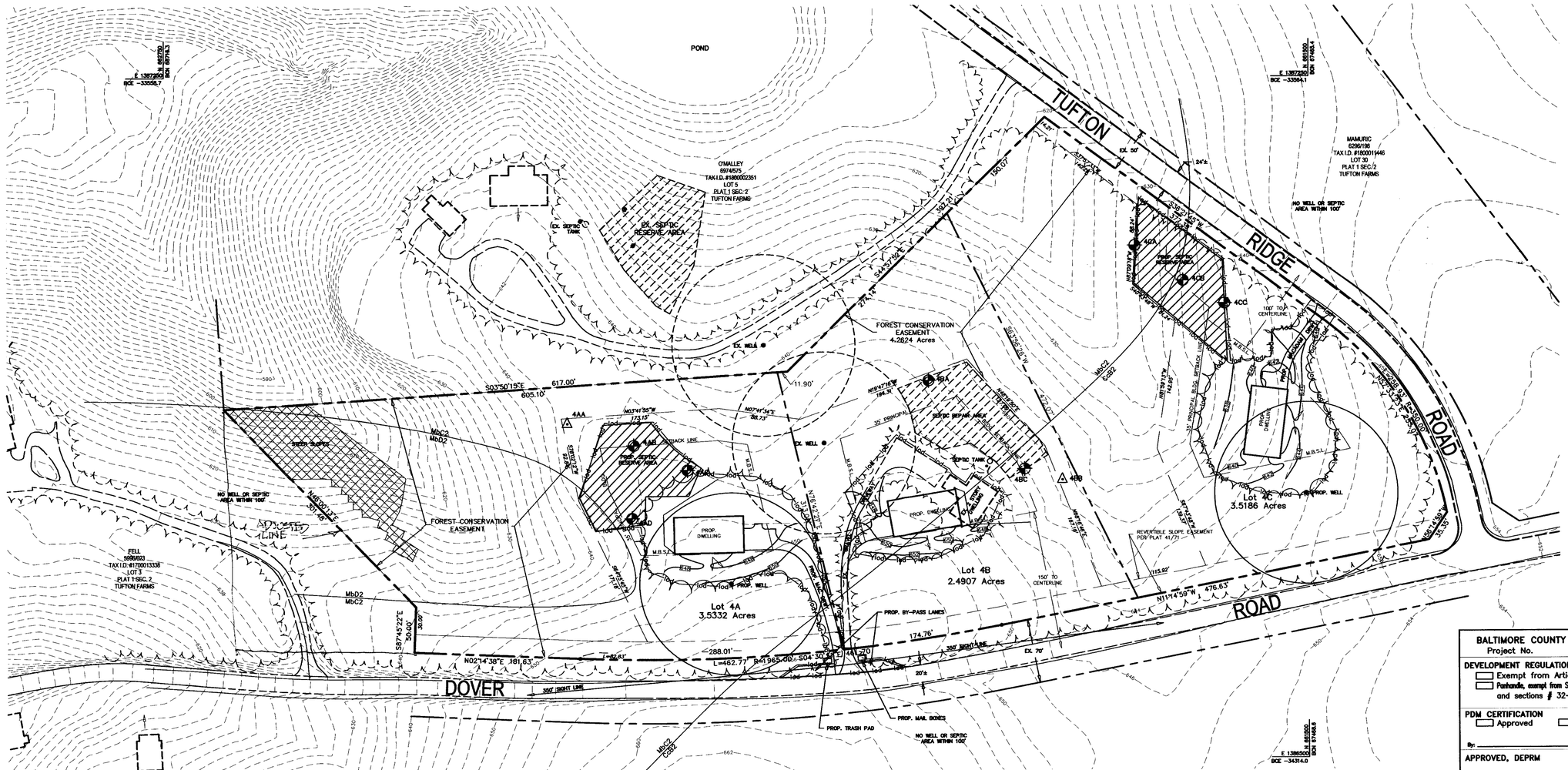
1) OWNER: JOHN AND VICTORIA POSEY
2) OWNER'S ADDRESS: 13101 DOVER ROAD
   REISTERSTOWN, MD 21136
   410-584-2574
3) DEED REFERENCE: 5790/618
4) PLAT REFERENCE: LOT 4 PLAT 41/71
5) TAX ACCOUNT NUMBER: 1700013338
6) TAX MAP: 41 GRID 19 PARCELS 119
7) ZONING: RC-5
8) ZONING MAP: 041A3
9) CENSUS TRACT: 4083.01
10) COUNCILMANIC DISTRICT: 2nd
11) ELECTION DISTRICT: 8th
12) WATERSHED: DEAD MAN
13) SUBSEWERSHED: NON SERVICE
14) SCHOOL DISTRICT: FRANKLIN ES
15) REGIONAL PLANNING DISTRICT: CHESTNUT RIDGE
16) AREA OF TRACT: 9.5425 ACRES
17) AREA OF HIGHWAY WIDENING: -0- ACRES
18) NET AREA: 9.5425 ACRES
19) DENSITY CALCULATIONS:
    LOTS ALLOWED: 9.5425 x .5 = 4
    LOTS PROPOSED: 3
20) EXISTING AND PROPOSED USE:
    SINGLE FAMILY DWELLINGS
21) PRIOR ZONING HEARINGS: NONE
22) PARKING
    REQUIRED: 2 x 3 = 6 SPACES
    PROPOSED: 6 SPACES
23) ROAD DESIGNATION:
    DOVER ROAD: COLLECTOR
    TIMBER RIDGE ROAD: LOCAL
24) LIMITS OF DISTURBANCE: 80,125 SF
24) IMPERVIOUS AREAS:
    EXISTING: 15,200 SF/0.35 AC
    NEW: 14,900 SF/0.34 AC
    TO BE REMOVED: 4,200 SF/0.1 AC
    NET NEW: 10,700 SF/0.25 AC

LEGEND:

- 25%/> SLOPES
- MbB2 — SOIL SERIES
- —200— EX. CONTOURS
- —200— PROP. CONTOURS
- —W— WETLANDS
- —X— FENCING
- EX. WOODS LINE
- PROP. TREELINE
- —lod— LIMIT OF DISTURBANCE
- APPROVED PERC. TESTS
- FAILED PERC. TESTS
- MBSL — MINIMUM BUILDING SETBACK LINE



Vicinity Map
Scale: 1" = 1000'



PDM # VIII-231

BALTIMORE COUNTY MINOR SUBDIVISION
Project No.

DEVELOPMENT REGULATIONS
☐ Exempt from Article 32, Title 4, Subtitle 2, BBC
☐ Panhandle, exempt from Section # 32-4-211 through 32-4-217 and sections # 32-4-226 and 32-4-227, BBC

PDM CERTIFICATION
☐ Approved ☐ Disapproved
By: _____ Date: _____

APPROVED, DEPRM
By: _____ Date: _____

GRAPHIC SCALE

80 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning

I HEREBY CERTIFY THAT I REVIEWED WITH DUE DILIGENCE THE MINOR SUBDIVISION COMMENTS DATED FROM _____ TO _____ AND HAVE PREPARED THIS MINOR SUBDIVISION PLAN PURSUANT TO THE AGENCY COMMENTS.

STATE OF MARYLAND KENNETH JAMES WELLS PROPERTY LINE SURVEYOR
SEAL

NAD 83/91

REVISIONS:	
NO.	DATE

MINOR SUBDIVISION PLAN of the POSEY PROPERTY
RESUBDIVISION LOT 4 PLAT 1 - SECTION 2 "TUFTON FARMS" PLAT BOOK 41/71

BALTIMORE COUNTY
MARYLAND
8th ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/01/2007

PROJECT NO.:
POSEY

SHEET 1 OF 1