

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
W/S Bonita Avenue, 1,037' N of the c/line		
Thoroughbred Lane	*	ZONING COMMISSIONER
(12334 Bonita Avenue)		
4 th Election District	*	OF
2 nd Council District		
	*	BALTIMORE COUNTY
Anna M. Allen, etc. et al, <i>Owners</i>		
David Palmer, <i>Contract Purchaser</i>	*	Case No. 08-319-SPH
Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Anna M. Allen, individually and as Personal Representative of the Estate of William H. Allen, Sr. (Deceased), by David M. Groft, attorney-in-fact and David Palmer, the contract purchaser, represented by Robert D. Porter, Esquire. The Petitioners request a special hearing to permit a proposed dwelling with minimum side yard building setbacks of 20 feet in lieu of the required 50 feet. Reference is made to Sections 1A04.3.B.1.b and 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing were Anna Marie Allen's son, David Groft, acting pursuant to a power of attorney; Vernon F. Smith, acting as real estate agent on behalf of the owners; David Palmer, contract purchaser; Natalie Morrill, Todd Morrill and Guy C. Ward, R.S., an expert in land planning and zoning with the engineering firm of McKee & Associates, Inc., the consultants who prepared the site plan for this property. Robert D. Porter, Esquire, Hodes, Pessin & Katz, P.A. entered his appearance on behalf of Petitioners. Diana Itter appeared and testified on behalf of the Baltimore County Office of Planning.

Testimony and evidence offered disclosed that the property under consideration is an unimproved long rectangularly shaped parcel, approximately 109 feet wide and 650 feet deep,

UNDER RECORDED FOR FILING
 Date 8-2-08
 By [Signature]

located on the west side of Bonita Avenue, just north of Thoroughbred Lane in Owings Mills. The property is also known as Parcel 243 on Tax Map 49 and contains a gross area of 1.639 acres, more or less, zoned, R.C.5. This is an existing lot of record created prior to 1972, is mostly forested and bifurcated by a stream. In this regard, it is noted that Parcel 237 (12330 Bonita Avenue) fronts on Bonita Avenue and abuts the east end of the subject property. This parcel (237) is also owned by the Allen family and is improved with a modest 1-½ story single-family dwelling built in 1920 with a garage in the rear yard. The contract purchaser is completing the purchase of the properties and is desirous of making substantial improvements to the existing home and constructing a new 60 foot wide, two-story single-family dwelling on the subject property (Parcel 243) that will be compatible with the 80-lot subdivision immediately to the south known as "Worthington". A perpetual easement agreement over a portion of Parcel 237 will provide the new home with ingress and egress to Bonita Avenue (*See* Petitioners' Exhibit 3). The proposed improvements have been discussed with adjacent neighbors, Ronald and Suzanne Spohn (12326 Bonita Avenue) and John and Sarah Gill (12336 Bonita Avenue) who have no objections. The well and septic reserve areas as shown on the site plan have received Department of Environmental Protection and Resource Management (DEPRM) approvals (*See* Petitioners' Exhibit 2). As shown on the site plan, the property is 100 feet wide at the front property line and 118.92 feet wide along the rear property line. Thus, the property is clearly undersized by today's standards given its R.C.5 zoning classification requiring minimum setbacks of 50 feet from any side property line. Therefore, it is clear that compliance with current regulations is neither practical nor possible, and that relief pursuant to Section 1A04.3B of the B.C.Z.R. is appropriate given the unique configuration and narrow width of the lot. Mr. Ward testified that the proposal would be consistent with many of the other houses in the neighborhood and pointed to examples of other similar sized lots with single-family dwellings on the 200-scale zoning map. He further testified that the subject property is a buildable lot of record and that the overall density of this neighborhood will not be affected by the proposed development. Diana Itter from the Baltimore County Office of Planning who has been working

ORDER RECEIVED FOR FILING

Date

3-20-08

By

3

with the Petitioners with regard to the Performance Standards for the new construction, appeared and testified that she had reviewed photographs of existing buildings and other significant features of the site and reviewed photographs of the existing housing in the surrounding neighborhood and agreed that the proposed development would be in keeping with the architectural character of the area. She indicated that while she has no objection to the proposal, she would like to receive the final building elevation drawings of the proposed dwelling submitted to her agency for review and approval well in advance to the application for building permits.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. Based on my review of the site plan, the elevations and photographs, I find that relief is warranted given the unique configuration of the property, the site constraints associated therewith and the fact that this is a lot of record created prior to 1972. The now vacant lot has never been utilized as yard space for any other adjacent property. It is clear that strict compliance with the regulations would result in a practical difficulty and unreasonable hardship upon the Petitioners and prohibit use of the property for a permitted use. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency, and no one voiced opposition to the proposed home being built by the contract purchaser whose family is active in the community. I further find that the relief requested meets the spirit and intent of the R.C.5 zoning regulation and complies with the Performance Standards set forth in Section 1A04.4 of the B.C.Z.R. For all of these reasons, I am persuaded that a grant of the relief will not result in any detrimental impact to adjacent properties or the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of March 2008 that the Petition for Special Hearing seeking approval to permit a proposed dwelling with minimum side yard building setbacks of 20 feet in lieu of the required 50 feet as referenced in Sections 1A04.3.B.1.b and 1A04.3.B.2.b of the Baltimore

County Zoning Regulations (B.C.Z.R.), in accordance with Petitioners' Exhibit 1, be and the same is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Final building elevation drawings of the proposed dwelling shall be submitted to the Office of Planning for review and approval prior to the issuance of any permits. The Petitioners shall provide a landscaping plan at the same time that demonstrates that the grading shall retain significant site features and plant materials.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

COPIES RECEIVED FOR FILING
Date 3-20-08
By 123



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 20, 2008

Robert D. Porter, Esquire
Hodes, Pessin & Katz, P.A.
901 Dulaney Valley Road
Suite 400
Towson, MD 21204

IN RE: PETITION FOR SPECIAL HEARING

W/S Bonita Avenue, 1,037' N of the c/line Thoroughbred Lane

(12334 Bonita Avenue)

4th Election District - 2nd Council District

Anna M. Allen, etc. et al, *Owners*; David Palmer, *Contract Purchaser* – Petitioners

Case No. 08-319-SPH

Dear Mr. Porter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted with conditions, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Anna M. Allen, c/o David Graft (Power of Attorney), 1910 Ridgewood Court,
Hampstead, Maryland 21074
David Palmer, 15276 Dover Road, Reisterstown, MD 21136
Vernon F. Smith, 1130 Baltimore Boulevard, Westminster, MD 21157
Natalie Morrill, 713 Bay Street, Baltimore, MD 21211
Todd Morrill, 2401 Benson Mill Road, Sparks, MD 21152
Guy C. Ward, McKee & Associates, Inc., 5 Shawan Road, Suite 1,
Cockeysville, MD 21030
People's Counsel; Office of Planning; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 12334 Bonita Ave., Owings Mills, Md. 21117, E.D. 2
which is presently zoned RC-5

(This petition must be filed in person, in the zoning office, in triplicate, with original signatures.)

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
(This box to be completed by planner)

Please 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 bound 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:

Dave Palmer

Name - Type or Print

Dave Palmer

Signature

15276 Dover Road 410 404 5467

Address

Telephone No.

Reisterstown, Md. 21136

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Anna M. Allen, & William H. Allen (Deceased)

Name - Type or Print

Dave Groft POA for Anna Mary Allen

Signature

Dave Groft (Power of Attorney)

Name - Type or Print

Signature

1910 Ridgewood Ct.

Address

Telephone No.

Hampstead, Md. 21074

City

State

Zip Code

Representative to be Contacted:

Guy C. Ward, R.S.

Name

McKee & Assoc., Inc. 410 527 1555

Address

Telephone No.

Cockeysville, Md. 21030

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 08-319-SPL

REV 9/15/98

UNAVAILABLE FOR HEARING

Reviewed By Csh

Date 1/11/98

Date 3-20-08

By [Signature]

Attachment 1
Petition for Special Hearing

Case Number:

Address: 12334 Bonita Ave., Owings Mills Md. 21117 - Tax Map 49 Grid 15 Parcel 243

Legal Owner(s): Anna M. Allen and William H. Allen (Deceased),
Dave Groft (Power of Attorney)

Petitioner / Contact Purchaser: Dave Palmer

Present Zoning: RC-5

Prior Zoning Case: N/A

Request for Relief:

To determine whether or not the Zoning Commissioner should approve:
In accordance with Section 1A04.3.B.1b., special hearing relief is sought from Sections 1A04.3B.2.b of the zoning regulations of Baltimore County to permit a proposed dwelling with minimum side yard building setbacks of 20 feet in lieu of the required 50 feet and for such additional relief as the nature of this case as presented at the time of hearing on this petition may require.

Reason for Request:

Due to the unique configuration and characteristics of the subject property, specifically being that the subject property is long and exceedingly narrow (average size of 650 feet long by 109 feet wide), and because an existing stream bifurcates the property resulting in a Forest Buffer Easement and resultant setbacks, the application of the required 50 foot side yard setbacks leaves an insufficient building envelope for the construction of a principal dwelling. The requested relief will permit a dwelling to be constructed that is similar in size and configuration to those found on neighboring properties. Without the requested relief, the Petitioner will suffer practical difficulty and undue hardship as the property will not be able to be improved with a dwelling.

FOR ADDITIONAL INFORMATION ON THIS PETITION PLEASE CONTACT:

Guy C. Ward, R.S., Associate

McKee & Associates, Inc

Engineering, Surveying, Land Planning, Real Estate Development
Shawan Place, 5 Shawan Road, Suite 1, Hunt Valley, MD 21030
Tel: (410) 527-1555 Fax: (410) 527 1563 E-Mail : mckee@qis.net

319

**Zoning Description for Allen Property-- 12334 Bonita Avenue
(a.k.a. Tax Map 49 Grid 9 Parcel 243)**

Commencing at point located along the west side of Bonita Avenue which is 20 feet, +/-, wide at a distance of 1037 feet, +/- north of the centerline of the nearest improved intersecting street Thoroughbred Lane, which is 60 feet wide , said point also being located at the beginning of the second or North 63° 50' West 200 foot line of a deed dated November 26, 1998 which was recorded in the Land Records of Baltimore County at deed liber 13852, folio 398 from Anna Mary Allen, Personal Representative of the Estate of William Howard Allen, Deceased grantor, unto Anna Mary Allen, widow, grantee thence running with said second line, North 63° 50' West 200.00 feet to the point of beginning of the zoning description, thence running the four following courses and distances:

1. North 63° 50' West 655.30 feet,
2. South 22° 26' West 118.92 feet,
3. South 65° 27' East 647.44 feet, and
4. North 26° 03' East 100.00 feet to the place of beginning,

Containing 1.639 acres or 71,396 square feet of land, more or less.

Being known as Tax Map 49 Grid 9 Parcel 243, and being located in the 4th Election District and 2nd Councilmanic District of Baltimore County Maryland.

319

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: #08-319-SPH

12334 Bonita Avenue

W/side of Bonita Avenue at a distance of 1037 feet north of centerline of Thoroughbred Lane

4th Election District - 2nd Councilmanic District

Legal Owner(s): Anna M. Allen & William H. Allen (Deceased)

per Dave Grott (P.O.A.)

Contract Purchaser: Dave Palmer

Special Hearing: to permit a proposed dwelling with minimum side yard building setbacks of 20 feet in lieu of the required 50 feet.

Hearing: Tuesday, March 18, 2008 at 10:00 a.m. In Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

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

JT/3/611 Mar 4

165451

CERTIFICATE OF PUBLICATION

3/6/2008

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 3/4/2008.

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

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **09276**

Date: **1-17-08**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 1/17/2008 1/17/2008 14:14:37 9

REC 1605 WALKIN CSTE ONS
 >>RECEIPT # 431155 1/17/2008 OFLN
 Dept 5 528 ZONING VERIFICATION

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		006		6150				65.00

009276
 Recpt Tot \$65.00
 \$65.00 CR \$0.00 CA
 Baltimore County, Maryland

Total: **65.00**

Rec
 From: **Mc KEE & ASSOCIATES**

For: **12334 BUNITA AVE 21117**
CASE OR-319-5PH

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

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

Date: March 03, 2008
MAI Job No : 08-002

Attention: Mr. Timothy Kotroco , Ms. Kristen Matthews
RE:Case Number : No. 08-319-SPH

Petitioner/Developer: David Palmer

Date of Hearing/Closing: March 18, 2008

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 # 12334 Bonita Avenue

The sign(s) were posted on

March 03, 2008

(Month, Day, Year)


(Signature of Sign Poster)

William D. Gulick, Jr.

(Printed Name of Sign Poster)

McKee and Associates, Inc.

5 Shawan Road, Suite 1

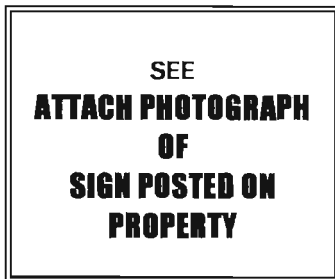
(Street Address of Sign Poster)

Cockeysville, MD 21030

(City, State, Zip Code of Sign Poster)

(410) 527-1555

(Telephone Number of Sign Poster)



Revised 3/1/01 - SCJ

ZONING NOTICE

CASE # 08-319-SPH

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

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

TUESDAY
DATE AND TIME: MARCH 18, 2008 @ 10:00 AM

REQUEST: SPECIAL HEARING
TO PERMIT A PROPOSED DWELLING
WITH MINIMUM SIDE YARD BUILDING
SETBACKS OF FEET IN LIEU OF THE
REQUIRED 50 FEET.

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

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

03.03.2008 11:49

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 08-319-SPH
Petitioner: DAVE PALMER, CONTRACT PURCHASER
Address or Location: 12334 BONITA AVE OWINGS MILLS MD 21117

PLEASE FORWARD ADVERTISING BILL TO:

Name: DAVE PALMER
Address: 15276 DOWER ROAD
REISTERSTOWN, MD 21136
Telephone Number: 410-404-5467



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

February 5, 2008
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: 08-319-SPH

12334 Bonita Avenue

W/side of Bonita Avenue at a distance of 1037 feet north of centerline of Thoroughbred Lane
4th Election District – 2nd Councilmanic District

Legal Owners: Anna M. Allen & William H. Allen (Deceased) per Dave Groft (P.O.A)

Contract Purchaser: Dave Palmer

Special Hearing to permit a proposed dwelling with minimum side yard building setbacks of 20 feet in lieu of the required 50 feet.

Hearing: Tuesday, March 18, 2008 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Dave Palmer, 15276 Dover Road, Reisterstown 21136
Dave Groft, 1910 Ridgewood Court, Hampstead 21074
Guy Ward, McKee & Associates, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, MARCH 3, 2008.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 4, 2008 Issue - Jeffersonian

Please forward billing to:
Dave Palmer
15276 Dover Road
Reisterstown, MD 21136

410-404-5467

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: 08-319-SPH

12334 Bonita Avenue

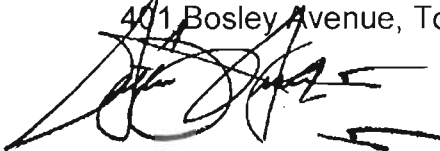
W/side of Bonita Avenue at a distance of 1037 feet north of centerline of Thoroughbred Lane
4th Election District – 2nd Councilmanic District

Legal Owners: Anna M. Allen & William H. Allen (Deceased) per Dave Graft (P.O.A)

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Special Hearing to permit a proposed dwelling with minimum side yard building setbacks of 20 feet in lieu of the required 50 feet.

Hearing: Tuesday, March 18, 2008 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
FEB 15 2008

BY:

TO: Timothy M. Kotroco

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

DATE: February 14, 2008

SUBJECT: Zoning Item # 08-319-SPH
Address 12334 Bonita Avenue
(Allen Property)

Zoning Advisory Committee Meeting of January 28, 2008

- _____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
- X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
- _____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The proposed well site must be at a higher elevation than the septic reserve area. Contact DEPRM's Ground Water Management (GWM) section for more information. -- S.
Farinetti; Ground Water Management

Reviewer: Michael S. Kulis

Date: February 12, 2008

Bw 3/18
10am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 3, 2008

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

RECEIVED
MAR 05 2008

SUBJECT: 12334 Bonita Avenue

BY: _____

INFORMATION:

Item Number: 8-319

Petitioner: Anna M. Allen & William H. Allen

Zoning: RC 5

Requested Action: **Special Hearing**

The property in question is a vacant, land locked, wooded lot of record to the rear of an existing dwelling, known as 12330 Bonita Avenue. It appears that the vacant lot was established prior to the effective date of Bill 55-04 according to the Maryland State Assessment records. However, since it is not within a Planning Board approved subdivision, any new construction is subject to the performance standards as per Section 1A04.4 of the BCZR.

SUMMARY OF RECOMMENDATIONS:

In accordance with 1A04.4 of the Baltimore County Zoning Regulations (Bill 55-04), the Office of Planning must provide a finding before approval of the special hearing. In order to make that finding the following items must be addressed:

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 materials and colors. (If architectural elevation drawings are not available at this time, a note must be placed on the site plan stating " 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.

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

Reviewed by: Candis Murray

Division Chief: Alper Larkov
AFK/LL: CM

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
12334 Bonita Avenue; W/S Bonita Avenue, *
1037' N c/line Thorough Lane * ZONING COMMISSIONER
4th Election & 2nd Councilmanic Districts *
Legal Owner(s): Anna & William Allen * FOR
Petitioner(s) * BALTIMORE COUNTY
* 08-319-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 25th day of January, 2008, a copy of the foregoing Entry of Appearance was mailed to, Guy Ward, McKee & Associates, Inc, 5 Shawan Road, Suite 1, Hunt Valley, MD 21030, Representative for Petitioner(s).

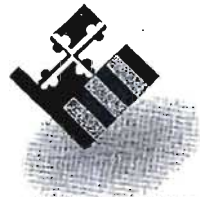
RECEIVED

JAN 25 2008

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



BALTIMORE COUNTY
MARYLAND

RECEIVED FEB 15 2008

JAMES T. SMITH, JR.
County Executive

DAVID A.C. CARROLL, *Director*
Department of Environmental Protection
and Resource Management

February 12, 2008

Guy C. Ward
McKee and Associates, Inc
Suite 1, 5 Shawan Rd
Cockeysville Md 21030

RE: 12334 Bonita Ave, Allen Property, D-4

Dear Mr. Ward,

The well variance request submitted for 12334 Bonita Ave to allow a proposed well to be lower in elevation than a proposed septic reserve area has been reviewed by both Rob Powell and myself.

As this is an existing lot of record created prior to 1972 and the separation distance from the proposed well to the septic reserve areas exceeds the minimum setbacks, the well variance request is approved.

If you have any questions regarding this matter, please contact this office at 410-887-2762.

Sincerely,

Susan S. Farinetti, R.S.

J:\Well Variances\Well Variances 2008\Bonita Ave, 12334, 02 12 08.doc

McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

February 11, 2008

Mrs. Susan Farinetti and
Mr. J. Robert Powell
Ground Water Management Division
Baltimore County DEPRM
401 Bosley Ave.
Towson, Md. 21204

COPY

Subject: Allen Property- 12334 Bonita Ave.
Well Variance Request

Dear Mrs. Farinetti and Mr. Powell,

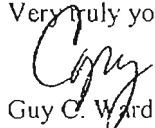
We are writing to request variance relief for the well placement for the above listed property. Specifically we are seeking relief to permit the proposed well to be placed at a lower elevation than the septic area. We make this request for the following reasons:

1. The adjacent properties at #12322, #12326 and #12330 Bonita Ave. all have septic reserve areas (SRA), or septic systems, located immediately adjacent to, and up-gradient of the subject property.
2. A stream bisects the property and the resultant Forest Buffer Easement limits the available area for the installation of the well.
3. The narrow configuration of the property (being approximately 105 feet wide) limits the availability to relocate the proposed well site.
4. There is an existing public water line that terminates adjacent to #12330 Bonita Avenue according to DPW drawing No 74-0724 (copy attached). However, the subject property is zoned RC-5 and located outside the URDL (Urban Rural Demarcation Line) according to Mr. Dave Thomas of the Department of Public Works. Mr. Thomas indicated that the extension of public utilities beyond the URDL is not typically permitted without changing the County Master Plan (a lengthy process), and that the extension would therefore not likely be permitted.
5. The property is an existing lot of record created prior to 1972, and requires adequate area for one installation and one repair of the septic system. Along these lines, we have provided a 5,440 s.f. septic reserve area as shown on the attached plan.

We attach a copy of the Percolation Testing and Well Variance Plan for your review. We feel that we have placed the well and septic reserve areas in the most reasonable locations available so as to provide the greatest separation distance between the proposed well and the onsite and adjacent S.R.A.'s. Please note that the onsite SRA is located over 200 feet horizontally from the proposed well and that it is NOT directly up-gradient. We have provided approximately 230 feet of separation from the SRA for # 12326 Bonita Ave as that reserve area is generally the closest to being located directly up-gradient from the proposed well. We therefore feel that the granting of this request is reasonable in that there are no other options other than to place the well at a lower elevation than the septic reserve area.

Be advised that a Zoning Special Hearing to provide relief from the side yard setbacks is also pending at this time (case # 08-319-SPH). Thank you for your consideration in this matter,

Very truly yours,


Guy C. Ward, R.S., Associate
GCW:mth
Enclosures

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

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 08-319-SPH
DATE 3-18-08

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
✓ David Palmer	15276 Doler Rd	Reisterstown, MD 21136	Palmer70@nsn.com
✓ GUY WARD	McKee & Assoc, Inc 5 SHAWAN RD SUITE 1 COCKEYSVILLE MD. 21030		gcw@mckeeinc.com
✓ Natalie Momiee	213 Bay St. Baltimore MD 21211		Natalie.french12@hotmail.com
* ✓ Vernon F Smith	1130 Balto Blvd #4	Wartiminsler, MD 21157	vsmith@cbmare.com
✓ David Graft	1910 RIDGEWOOD CT	HAMPSTEAD, MD 21074	-
✓ Robert Porter	Hodes, Pessin & Katz, PA 901 Buloney Valley Rd, Ste 400	Towson, MD 21204	rporter@hpklegal.com
Reinstated agent for Dave Graft.			
MORRILL			
✓ Todd Morrill	2401 Benson Mill Rd Sparks Md. 21152		

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19**THE REGULATIONS****ARTICLE 1A, RESOURCE CONSERVATION ZONES [Bill No. 98-1975****Section 1A04, R.C.5 (Rural-Residential) Zone**

A. Height regulation. No structure hereafter erected in an R.C.5 Zone shall exceed a height of 35 feet, except as provided under Section 300.

B. Area regulations.

1. Lot area; density control. [Bill Nos. 178-1979; ^{EN} 55-2004^{EN}]

a. A lot having an area of less than 1 1/2 acres may not be created in an R.C.5 Zone. The maximum gross residential density is 0.5 dwelling per acre. [Bill No. 128-2005^{EN}]

b. Exceptions to minimum lot size. [Bill No. 152-2004]

(1) The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4 may not be varied.

(2) The Office of Planning may authorize a smaller lot size per residential unit, but in no event less than one acre per unit, for a tract of property for which growth allocation acreage has been awarded prior to June 11, 2004, pursuant to Article 32, Title 9 of the Baltimore County Code, if at least 50% of the tract is donated to and accepted by the County for public benefit.

2. Building setbacks. [Bill No. 55-2004]

a. As used in this section, "collector road" means a street or road that is intended for travel, including commuter travel, between residential neighborhoods, but not for travel within neighborhoods, and is not designated as a principal arterial. [Bill No. 77-2005^{EN}]

b. Any principal building hereafter constructed in an R.C. 5 Zone shall be situated at least 150 feet from the center line of any collector road, or any scenic route identified in the Baltimore County Master Plan, and 100 feet from the center line of any road that leads to or connects with a collector road, and at least 75 feet from the center line of any other street or road, and at least 50 feet from any lot line other than a street line, except as otherwise provided in Paragraph 5 below. [Bill No. 77-2005^{EN}]

c. Any principal building constructed in an R.C.5 Zone that is contiguous to an R.C.2 or R.C.7 Zone shall be situated at least 150 feet from the zone line.

3. Coverage. No more than 15% of any lot in an R.C.5 Zone may be covered by buildings, except as otherwise provided in Paragraph 5 below.

4. Exceptions for certain record lots. Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Office of Planning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

5. Dwellings per lot. No more than one dwelling is permitted on any lot in an R.C.5 Zone, but not

results

Page 1 of 1

 Maryland Department of Assessments and Taxation BALTIMORE COUNTY Real Property Data Search (2007 v03.1)	Go Back View Map New Search
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Account Identifier: District - 04 Account Number - 0401036326

Owner Information

Owner Name:	ALLEN WILLIAM H,SR ALLEN ANNA M	Use:	RESIDENTIAL
Mailing Address:	1910 RIDGEWOOD CT HAMPSTEAD MD 21074-2521	Principal Residence:	NO
		Deed Reference:	1) / 4876/ 324 2)

Location & Structure Information

Premises Address	Legal Description
BONITA AVE	1.60 AC REAR NWS BONITA AV 1056 N GWYNNBROOK

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
49	9	243						1	Plat Ref:

Special Tax Areas	Town
	Ad Valorem
	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		1.60 AC	04

Stories	Basement	Type	Exterior
---------	----------	------	----------

Value Information

	Base Value	Value	Phase-In Assessments	
		As Of	As Of	As Of
		01/01/2007	07/01/2007	07/01/2008
Land	18,600	37,200		
Improvements:	0	0		
Total:	18,600	37,200	24,800	31,000
Preferential Land:	0	0	0	0

Transfer Information

Seller: HARRIS CHARLES E	Date: 05/21/1968	Price: \$300
Type: IMPROVED ARMS-LENGTH	Deed1: / 4876/ 324	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt:	NO
Exempt Class:	

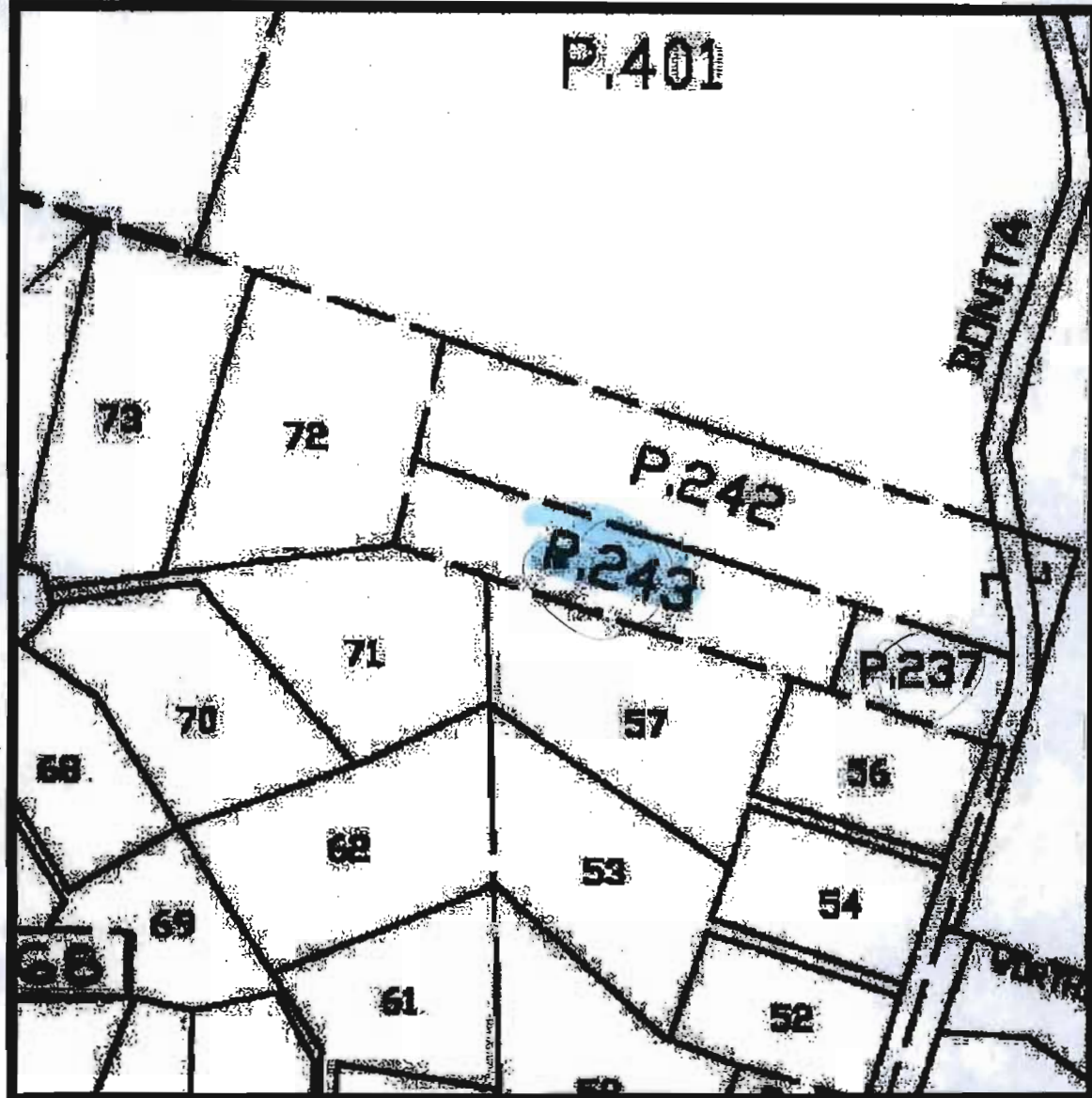
Special Tax Recapture:
* NONE *



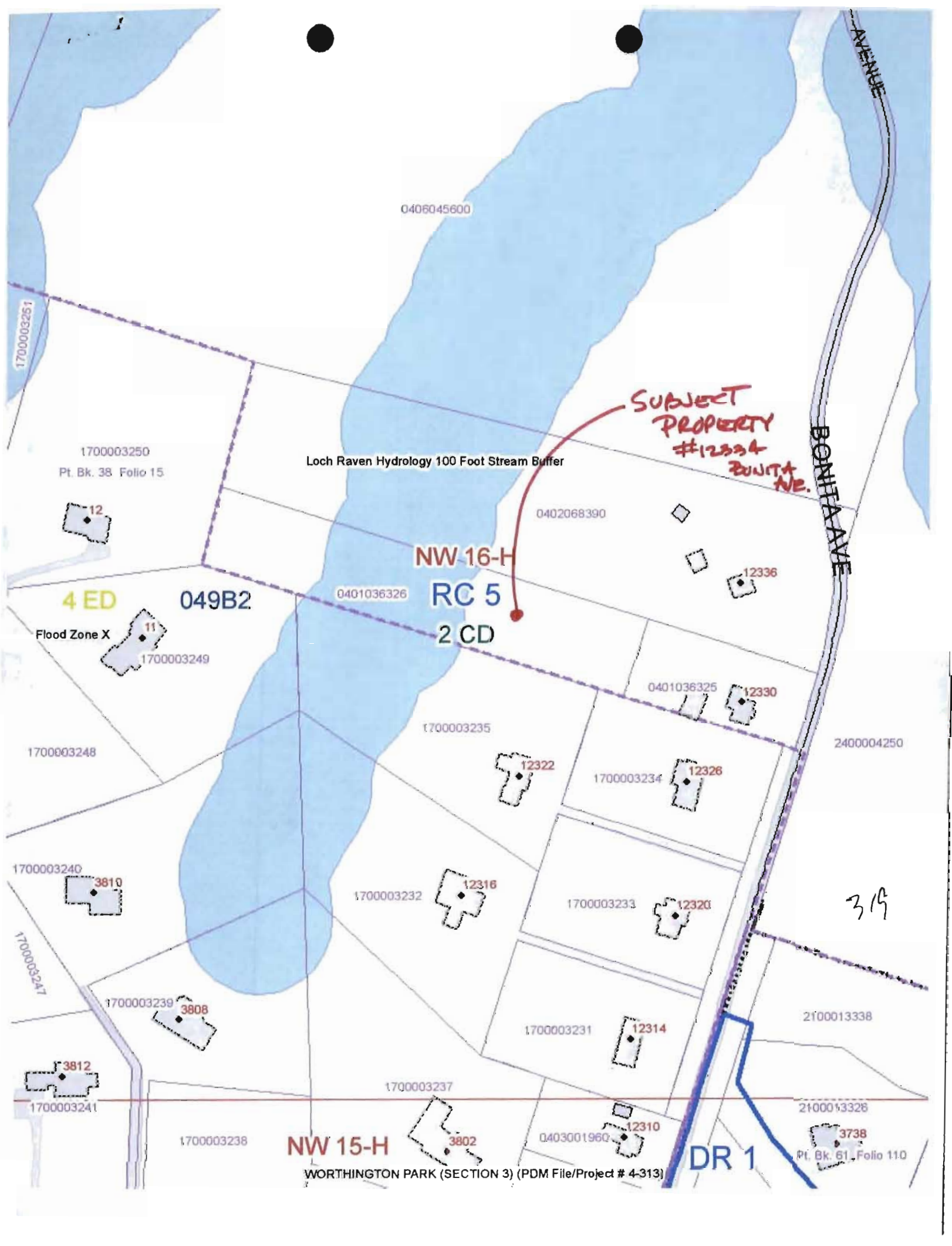
Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)

District - 04 Account Number - 0401036326



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



0406045600

BONITA AVE.

SUBJECT
PROPERTY
#12334

BONITA
AVE.

Loch Raven Hydrology 100 Foot Stream Buffer

0402068390

NW 16-H

RC 5

2 CD

0401036326

049B2

1700003250
Pt. Bk. 38 Folio 15.

4 ED

Flood Zone X

1700003249

1700003248

1700003235

0401036325

2400004250

1700003234

1700003240

1700003232

1700003233

1700003247

1700003239

1700003231

2100001338

21000013328

Pt. Bk. 61 Folio 110

NW 15-H

DR 1

WORTHINGTON PARK (SECTION 3) (PDM File/Project # 4-313)

Baltimore County - My Neighborhood



#12334 BONITA AVE.
ZONING MAP

319

Case No.: 08-319-SPH 12334 Bonita Ave

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Variance to approve Well + Septic Locations	
No. 3	Declaration of Easement	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

NO TITLE EXAMINATION
NO CONSIDERATION

DECLARATION OF EASEMENT

THIS DECLARATION OF EASEMENT (this "Declaration") is made this _____ day of _____, 2008 by ANNA M. ALLEN (the "Declarant").

RECITALS

A. The Declarant owns fee simple title to that lot or parcel of land located in Baltimore County, Maryland and commonly known as 12330 Bonita Avenue, Owings Mills, Maryland by virtue of a Deed dated November 26, 1998 and recorded among the Land Records of Baltimore County in Liber 13852, folio 398 (the "Burdened Property").

B. The Declarant also owns fee simple title to that lot or parcel of land which is adjacent to and landlocked behind the Burdened Property by virtue of a Deed dated May 8, 1968 and recorded among the Land Records of Baltimore County in Liber 4876, folio 324 (the "Benefitted Property").

C. The Declarant desires to establish a perpetual easement over a portion of the Burdened Property for the benefit of the Benefitted Property to ensure that said Benefitted Property shall have ingress, egress and access to and from Bonita Avenue.

AGREEMENTS

NOW THEREFORE, THIS DECLARATION WITNESSETH that, in consideration of the premises and conditions set forth herein and other good and valuable consideration (the actual monetary consideration paid or to be paid being Zero Dollars [\$0.00]), the receipt and sufficiency of which are hereby acknowledged, the Declarant states and declares as follows:

1. Recitals. The Recitals are incorporated by this reference as material provisions of this Agreement and not as mere recitals.

2. The Easement.

2.1 Establishment of Easement. The Declarant hereby creates and establishes a permanent easement (the "Easement") in, on, over, through and across an area of the Burdened Property which is ten feet (10') wide and commences at the beginning of the Second or North 26° 03' 30" West 200.00 foot line of a deed dated November 26th, 1998 from Anna Mary Allen, Personal Representative of the Estate of William Howard Allen, Deceased, grantor, unto Anna Mary Allen, grantee, thence running along the south side of the entirety of said line at a width of 10 feet, North 26° 03' 30" West 200.00 feet. The Easement is for purposes of installing, using, maintaining, repairing and replacing a driveway and utilities to serve the Benefitted Property and any improvements now existing or hereafter constructed thereon. The Easement includes

PETITIONER' S

EXHIBIT NO. 3

reasonable rights of ingress, egress and access over such other portions of the Grantors' Property as are reasonably necessary to use and enjoy the Easement Area as provided herein.

2.2 Covenants and Agreements.

2.2.1 Use of the Easement Area shall be in accordance with applicable laws, codes, ordinances, regulations and requirements.

2.2.2 Use of the Easement Area by the owner of the Benefitted Property shall be at no cost, expense or liability to the owner of the Burdened Property.

2.2.3 The owner of the Benefitted Property shall be responsible to maintain the Easement Area and any improvements and utilities located in the Easement Area.

3. Miscellaneous.

3.1 Nature of Rights Granted. The easements, covenants and restrictions contained herein are appurtenant to and shall run with and be binding upon the Burdened Property and the Benefitted Property in perpetuity. This Declaration shall be binding upon and inure to the benefit of the Declarant and her personal representatives, heirs and assigns.

3.2 Entire Agreement and Amendment. This Declaration contains the entire understanding and agreement of the Declarant with respect to the matters described herein, and may be altered, modified or amended only by a written agreement signed by the owners of each Property described herein at the time of such amendment and recorded among the Land Records of Baltimore County, Maryland.

3.3 Severability. No determination by any court, governmental or administrative entity or otherwise that any section, subsection or provision of this Declaration or any amendment hereto is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such section, subsection or provision, or (b) such section, subsection or provision in any circumstance not controlled by such determination. Each such section, subsection or provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

3.4 Governing Law. The laws of the State of Maryland, without regard to principles of conflicts of laws, shall govern the interpretation and enforcement of this Declaration.

{This space is left blank intentionally; the signature page follows.}

WITNESS, the hand and seal of the Declarant as of the date first written above.

WITNESS:

DECLARANT:

Anna M. Allen, by David M. Groft,
Attorney-in-Fact (SEAL)

STATE OF MARYLAND
CITY/COUNTY OF _____

On this _____ day of _____, 2008, before me the undersigned officer, personally appeared David M. Groft, known to me (or satisfactorily proven) to be the person whose name is subscribed as attorney-in-fact for Anna M. Allen, and acknowledged that he executed the same as the act of his principal for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

ATTORNEY CERTIFICATION

This is to certify that the foregoing instrument was prepared by or under the direction and supervision of the undersigned attorney who is licensed to practice law in the State of Maryland.

Robert D. Porter

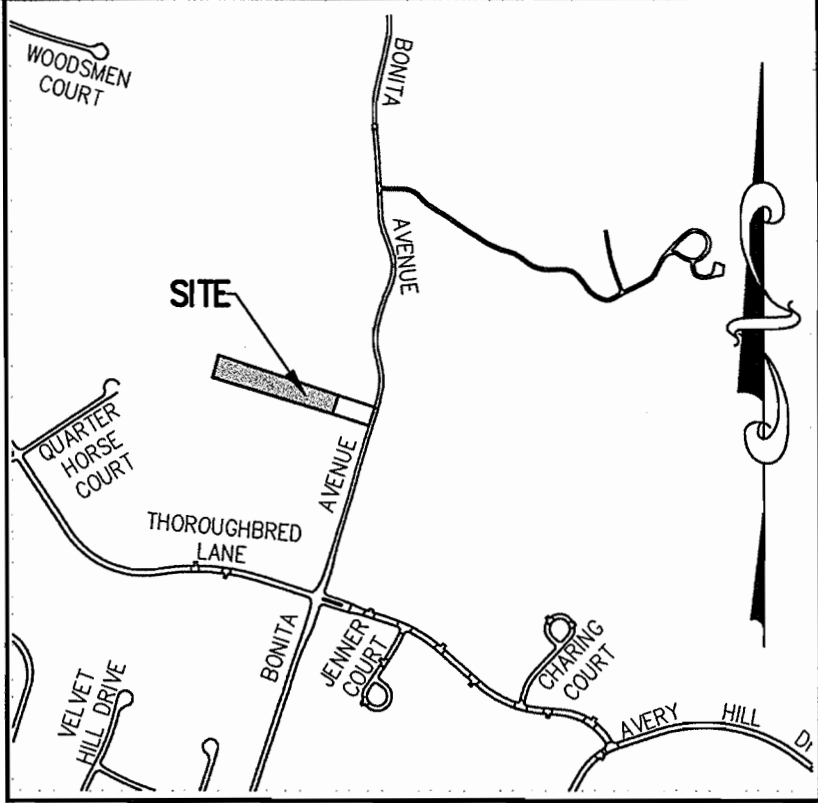
After recording, please return to:
Robert D. Porter, Esquire
Hodes, Pessin & Katz, P.A.
901 Dulaney Valley Road, Suite 400
Towson, Maryland 21204
(410) 938-8800

GENERAL NOTES

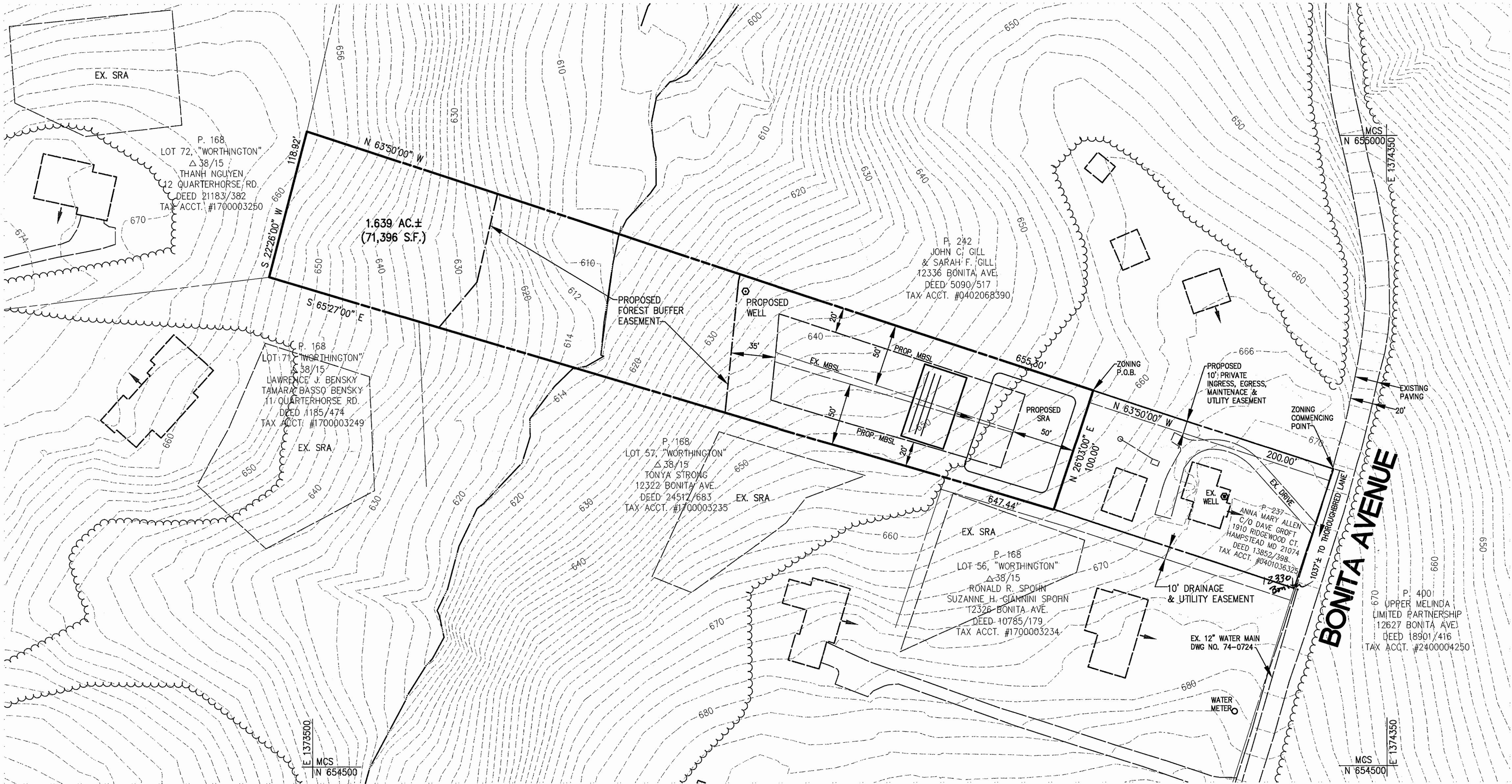
1. THERE ARE NO ZONING LINES WITHIN 200 FEET OF THE SUBJECT PROPERTY.
2. THERE ARE NO PRIOR ZONING HEARINGS FOR THIS PROPERTY.
3. THERE IS NO 100 YEAR FLOODPLAIN PER FEMA FIRM MAP #240010 0210 B.
4. IMPERVIOUS COVERAGE SHALL NOT EXCEED 15 PERCENT.

SITE DATA

1. EXISTING ZONING: RC-5
2. GROSS AREA 71,396 SF= 1.639 AC.
3. NET AREA 71,396 SF= 1.639 AC.
4. 2000 CENSUS TRACT: 404402
5. 2000 CENSUS BLOCK GROUP: 240054044023
6. LAND MANAGEMENT AREA: RURAL RESIDENTIAL AREA
7. COUNCIL DISTRICT: 2
8. ELEMENTARY SCHOOL DISTRICT: FRANKLIN
9. MIDDLE SCHOOL DISTRICT: FRANKLIN
10. HIGH SCHOOL DISTRICT: FRANKLIN
11. REGIONAL PLANNING DISTRICT: 306
12. WATERSHED: LOCH RAVEN
13. WATER SERVICE AREA: REISTERSTOWN FIFTH ZONE
14. SEWER SHED: NONE
15. TRANSPORTATION ZONE: 0470
16. ZIP CODE: 21117
17. 200 SCALE ZONING MAP NO. 049B2
18. FIMA MAP #240010 0210 B



VICINITY MAP
SCALE: 1"=1000'



PLAN TO ACCOMPANY
PETITION FOR
ZONING SPECIAL HEARING
ALLEN PROPERTY
#12334 BONITA AVENUE

TAX MAP 49, GRID 9, PARCEL 243
2ND COUNCILMANIC DISTRICT
4TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
SCALE: 1"=50' DATE: JANUARY 2, 2008

CONTRACT PURCHASER
DAVE PALMER
15276 DOVER ROAD
REISTERSTOWN, MD 21136
410-404-5467

OWNERS
ANNA M. ALLEN
WILLIAM H. ALLEN, SR., DECEASED
DAVE GROFT, POWER OF ATTORNEY
1910 RIDGEWOOD COURT
HAMPSTEAD, MD 21074-2521
DEED REFERENCE: 4876/324
TAX MAP NO.: 0701036326

PETITIONER'S

EXHIBIT NO. 1

319

COMPUTED BY: DRAWN BY: REK CHECKED BY: GCW JOB No.: 08-002

McKEE & ASSOCIATES, INC.
Engineering - Land Planning - Land Surveying

Natural Resource Planning - Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563