

IN RE: PETITION FOR SPECIAL HEARING

NE of Davis Avenue, 190 feet +/- SE from
c/l of Acme Avenue
2nd Election District
4th Councilmanic District
(10724 Davis Avenue)

Rita H. Weslow;
by Franklin E. Warfield, Power of Attorney
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-332-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 Franklin E. Warfield, Power-of-Attorney, on behalf of the legal owner of the subject property, Rita H. Weslow. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a non-density transfer of 10.5 acres of R.C.2 zoned land to adjoining Lot 4. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing was Petitioner Franklin E. Warfield, Power-of-Attorney, for Rita H. Weslow, and his son, David Warfield. Also appearing in support of the requested relief were Joseph Warfield and Catherine Warfield with C.L. Warfield & Associates, the engineering consultants who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence revealed that the subject property, known as Tract "A" on the site plan, is an irregular-shaped parcel containing approximately 12.1197 acres, more or less, and zoned R.C.2. The property is located on the northeast side of Davis Avenue, near Old Court Road in the Woodstock area of Baltimore County. The property is improved with a single-family

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dwelling that is situated near the front of the property, relatively close to Davis Road. As shown on the site plan, the properties depicted as Tract "A" and Tract "B," as well as Lots 1 through 4, have been in the Graziani and Warfield families for a number of years -- known as the "Augustus Graziani, et al. Property." Over the years, the properties have been developed and dwellings constructed thereon.

Petitioner Rita Weslow's nephew is David Warfield. As shown on the site plan, David Warfield owns Lots 1 and 4. Presently, Franklin Warfield resides on Lot 1 at 10720 Davis Avenue and David Warfield resides on Lot 4 at 10714 Davis Avenue. According to Franklin Warfield, Ms. Weslow's brother-in-law, her desire upon her death is to bequeath Tract "A" and Tract "B" to David Warfield. As also shown on the site plan, Petitioners propose the non-density transfer of approximately 10.5 acres of Tract "A" to Lot 4. The reason for the request is to enable that part of Tract "A" to remain undeveloped and to continue the current agricultural use of the property.

Catherine Warfield, Petitioner's engineer, explained that as a result of the transfer, the improved area of the property would remain unchanged, with an existing driveway, dwelling, and septic reserve area. The remainder of Tract "A" will also keep 1.64 acres of open, but naturally forested, yard area in the front and rear of the property. Permitting the transfer of the 10.5 acres will allow Franklin and David Warfield to continue to work the existing orchard as well as retain the heavily wooded area of that land situated northeast of David Warfield's property. Speaking in more detail, David Warfield indicated the orchard depicted on the site plan adjacent to his home on Lot 4 consists of approximately 40 trees that bear various fruits, including grapes, blackberries, blueberries, apples, and peaches. He also indicated there are a number of pine trees that are sold during the holidays, and that he and his father work the orchard. Upon Ms. Weslow's death, it is

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likely that her home at 10724 Davis Avenue (the proposed 1.64 acres of the subject property included in Tract "A") will be sold. In order to ensure that the remaining 10.5 acres stays in the family and retains its wooded and rural character, and continues to be used for the orchard, Petitioners desire the non-density transfer of the 10.5 acres to David Warfield's Lot 4. Photographs which were marked and accepted into evidence as Petitioner's Exhibits 2A through 2H show the property from the entrance at Davis Avenue along the driveway to the rear of the property where the orchard is located. Petitioners also stressed that the 10.5 acre parcel will have no density rights, those rights having already been utilized on the existing home on Tract "A" and the existing homes on Lots 1 through 4.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case within the case file. Comments received from the Department of Environmental Protection and Resource Management dated February 13, 2008 indicate that the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains, and must comply with the Forest Conservation Regulations. Development of the property may also require an alternatives analysis submittal and mitigation to be addressed as well as compliance with the above regulations. Soil evaluation may be required for 10724 Davis Avenue. Comments received from the Bureau of Development Plans Review dated February 7, 2008 indicate they do not have any objection to the proposed non-density transfer provided that the subdivision is subsequently approved in accordance with all development regulations.

As to the request for special hearing, I am persuaded to grant the relief. As stated in Section 1A01.1.B of the B.C.Z.R., the purpose of the R.C.2 zoning classification is to foster conditions favorable to a continued agricultural use of the productive agricultural areas of

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Baltimore County by preventing incompatible forms and degrees of urban uses. In addition, agricultural operations are afforded preferential treatment over and above all other permitted uses in R.C.2 zones. In this case, Petitioners desire to continue the current agricultural use and to keep the wooded, rural character of the 10.5 acre portion of Tract "A" via the non-density transfer of that land to Lot 4. Moreover, in my judgment, Petitioner's plans are appropriate and will not be detrimental to the health, safety, or general welfare of the surrounding locale.

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 Petitioner's request for special hearing should be granted with conditions.

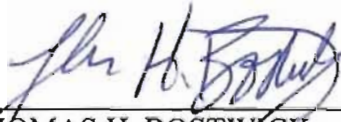
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 9th day of April, 2008 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a non-density transfer of 10.5 acres of R.C.2 zoned land to adjoining Lot 4 is hereby GRANTED subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. 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).
4. Petitioner specifically acknowledges and agrees there shall be no density rights associated with the transfer of the 10.5 acre portion of Tract "A."
5. Petitioner shall comply with the requirements of the Development Review Committee concerning lot line adjustments under Section 32-4-106(a)(1)(viii).

NOTICE RECEIVED FOR FILING

4.9.08

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

NOT RECORDED FOR FILING
4-9-08
pz



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at #10724 DAVIS AVENUE
which is presently zoned RC-2

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

TRANSFER OF 10.5 ACRES OF RC-2 LAND TO ADJOINING LOT No 4

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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s): RITA H. WESLOW

BY FRANKLIN E. WARFIELD (BY POWER OF ATT)

Name - Type or Print

Signature

Name - Type or Print

Signature

10720 DAVIS AVENUE

Address

Telephone No.

WOODSTOCK

MD.

21163

City

State

Zip Code

Representative to be Contacted:

CATHERINE WARFIELD

Name

4900 KEMP RD 410 833 8707

Address

Telephone No.

REISTERSTOWN MD

21136

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 08-332-SPH

Reviewed By Jan Date 01-25-08

REV 9/15/98

FILED RECEIVED FOR FILED

4-9-08

pb

ZONING DESCRIPTION

ZONING DESCRIPTION FOR SPECIAL HEARING FOR #10724 DAVIS AVENUE, WOODSTOCK, MD. 21163 (WESLOW PROPERTY)

Beginning at a point on the northeast side of Davis Avenue, which is an existing 30 ft wide right-of-way, at a distance of 190 ft southeast of the centerline of Acme Ave. a 25 ft wide right- of- way. Being Tract “ A “ in the subdivision of “ Augustus Graziani et al Property “ as recorded in Baltimore County Plat Book #53 Folio #72 containing 12.1197 acres. Also known as #10724 Davis Avenue and located in the 2nd Election District and 4th Councilmanic District.

**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: #08-332-SPH

10724 Davis Avenue
N/east of Davis Avenue,
190+- southeast from
centerline of Acme Avenue
2nd Election District
4th Councilmanic District
Legal Owner(s): Rita
Weslow by Franklin Warfield
(Power of Attorney)

Special Hearing: to approve a non-density transfer of 10.5 acres of RC-2 land to adjoining Lot No. 4.

Hearing: Monday, March 24, 2008 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) 887-4386.

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

3/019 Ma6

165783

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 3/6/, 2008.

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

J. Wilkins

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **09758**

Date: **01-25-2008**

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
201	006			4150				65.00

Total: **65.00**

Rec From: **F. Warfield**

For: **08-332 SPH**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

RECEIPT NO. 09758
 DATE 01/25/2008
 DEPT 5 528 ZONING VERIFICATION
 BALTIMORE COUNTY, MARYLAND
 RECEIPT TOTAL \$65.00
 BUSINESS ACTUAL 1/25/2008 1/25/2008 2
 RECD MAIL MAIL JEN JEN
 DEPT 5 528 ZONING VERIFICATION
 CASHIER'S VALIDATION
 RECEIPT NO. 09758
 DATE 01/25/2008
 DEPT 5 528 ZONING VERIFICATION
 BALTIMORE COUNTY, MARYLAND
 RECEIPT TOTAL \$65.00
 BUSINESS ACTUAL 1/25/2008 1/25/2008 2
 RECD MAIL MAIL JEN JEN
 DEPT 5 528 ZONING VERIFICATION
 CASHIER'S VALIDATION

Certificate of Posting

RE: Case NO. 08-332-SPH

Petitioner/Developer _____

Catherine Warfield

Date of Hearing/Closing 3/24/08

Baltimore County
Department of Permits and Development Managements
County Office Building – Room 111
111 W. Chesapeake Ave.
Towson, Md. 21204

Attention:

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

10724 Davis Road

The sign(s) were posted on 3/8/08
(Month, Day, Year)

Sincerely,

 3/8/08
(Signature of sign Poster and date)

Richard E. Hoffman
(Printed Name)

See Attached
Photograph

904 Dellwood Drive
(Address)

Fallston, Md. 21047
(City, State, Zip Code)

410-879-3122
(Telephone Number)

Certificate of Posting
Photograph Attachment

Re: 08-332-SPH

Petitioner/Developer: _____

Catherine Warefield

Date of Hearing/Closing: 3/24/08



10724 Davis Road

John E. Ziff 3/18/08

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:

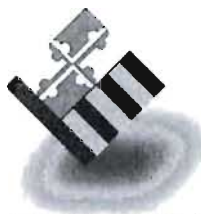
Item Number or Case Number: 332
Petitioner: RITA H. WESLOW BY FRANKLIN WARFIELD-POWER OF ATTORNEY
Address or Location: 10724 DAVIS AVE.

PLEASE FORWARD ADVERTISING BILL TO:

Name: CATHERINE WARFIELD
Address: 4900 KEMP RD
REISTERSTOWN, MD 21136

Telephone Number: 410-833-8707

Revised 7/11/05 - SCJ



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

February 7, 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: 08-332-SPH

10724 Davis Avenue

N/east of Davis Avenue, 190+/- southeast from centerline of Acme Avenue

2nd Election District – 4th Councilmanic District

Legal Owners: Rita Weslow by Franklin Warfield (Power of Attorney)

Special Hearing to approve a non-density transfer of 10.5 acres of RC-2 land to adjoining Lot No. 4.

Hearing: Monday, March 24, 2008 at 9:00 a.m. County Courts Building, 401 Bosley Avenue,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Franklin Warfield,, 10720 Davis Avenue, Woodstock 21163
Catherine Warfield, 4900 Kemp Road, Reisterstown 21136

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, MARCH 8, 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
Thursday, March 6, 2008 Issue - Jeffersonian

Please forward billing to:
Catherine Warfield
4900 Kemp Road
Reisterstown, MD 21136

410-833-8707

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: 08-332-SPH

10724 Davis Avenue

N/east of Davis Avenue, 190+/- southeast from centerline of Acme Avenue

2nd Election District – 4th Councilmanic District

Legal Owners: Rita Weslow by Franklin Warfield (Power of Attorney)

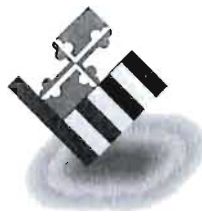
Special Hearing to approve a non-density transfer of 10.5 acres of RC-2 land to adjoining Lot No. 4.

Hearing: Monday, March 24, 2008 at 9:00 a.m. County Courts Building, 401 Bosley Avenue,
401 Bosley Avenue, Towson 21204



WILLIAM J. WISEMAN
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

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

March 19, 2008

Franklin E. Warfield
10720 Davis Avenue
Woodstock, MD 21163

Dear Mr. Warfield:

RE: Case Number: 08-332-SPH, 10724 Davis Avenue

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 25,, 2008. 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
Catherine Warfield 4900 Kemp Road Reisterstown 21136



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

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

Maryland Department of Transportation

Date: FEB. 4, 2008

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

RE: Baltimore County
Item No. 8-332-SPH
10724 DAVIS AVENUE
WESLOW 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. 8-332-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,

A handwritten signature in black ink that reads "Michael P. Bailey".

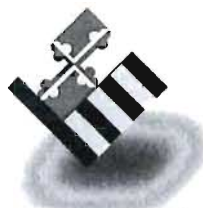
Fon Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

County Office Building, Room 111
, 2007
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

February 11, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: February 04, 2008

Item Number: 325,326,328,329,330,331,332,333,334,335,336,338,339

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

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4880 (C)443-829-2946
MS-1102F

cc: File

TB 3/24
9am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 4, 2008

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MAR 05 2008

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

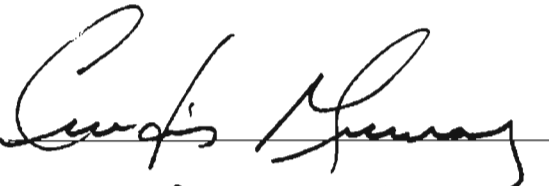
BY:

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-332- Special Hearing**

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

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

Prepared By:



Division Chief:



CM/LL

TB
3-24-08
9am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
FEB 13 2008

BY:.....

TO: Timothy M. Kotroco

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

DATE: February 13, 2008

SUBJECT: Zoning Item # 08-332-SPH
Address 10724 Davis Avenue
(Weslow Property)

Zoning Advisory Committee Meeting of February 4, 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:

Development of this property may require an alternatives analysis submittal and mitigation to be addressed as well as compliance with the above regulations. – *John Russo; Environmental Impact Review*

08-332-SPH
10724 Davis Avenue
(Weslow Property)

The non-density transfer is denied until a plan approved showing the existing wells and septic reserve areas for 10714 and 10724 Davis Avenue. Soil evaluations may be required for 10724 Davis Avenue. Contact DEPRM's Groundwater Management section for more information. – *S. Farinetti; Ground Water Management*

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
10724 Davis Avenue; NE/S Davis Avenue, *
190' SE c/line Acme Avenue * ZONING COMMISSIONER
2nd Election & 4th Councilmanic Districts *
Legal Owner(s): Rita Weslow, by * FOR
Franklin Warfield (POA) *
Petitioner(s) * BALTIMORE COUNTY
* 08-332-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 6th day of February, 2008, a copy of the foregoing Entry of Appearance was mailed to, Catherine Warfield, 4900 Kemp Road, Reisterstown, MD 21136, Representative for Petitioner(s).

RECEIVED

FEB - 6 2008

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

March 17, 2009

CATHERINE L. WARFIELD, P.E.
C.L. WARFIELD AND ASSOCIATES
4900 KEMP ROAD
REISTERSTOWN MD 21136

Re: Petition for Special Hearing
Case No. 08-332-SPH
Property: 10724 Davis Avenue

Dear Ms. Warfield:

I am in receipt of your letter dated February 2, 2009 and amended site plan pertaining to the above-referenced matter, wherein you request clarification and modification of my Order dated April 9, 2008 granting a special hearing for approval of a non-density transfer and lot line adjustment for the Rita H. Weslow property located on Davis Avenue in the Woodstock area of Baltimore County. As I recall, the purpose of the special hearing request was to convey an agricultural portion of Tract "A" (currently part of a tract improved with a dwelling located near Davis Avenue) to Ms. Weslow's nephew, David Warfield, who is the owner of contiguous Lot 4, and who, along with his father Franklin Warfield, works the agricultural portion of Tract "A" as a fruit orchard.

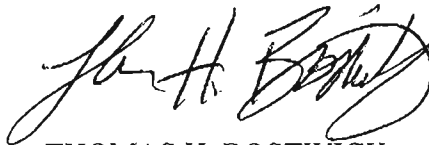
Your letter and amended site plan indicates that the suggested lot size presented on the original Petition was not field surveyed and when the final lot line adjustment area was surveyed, it was determined that several rows of trees that are part of the agricultural portion where the orchard is located were not part of the area designated for transfer to Lot 4 as originally intended. In particular, you indicate that the remainder of Tract "A" was to be 1.61 acres; however, as surveyed -- and in order to include the entire area of the orchard as intended -- the actual remainder of Tract "A" would be lessened by 40 feet, and consist of 1.41 acres, as labeled on the amended site plan. As such, you have requested that my Order be amended and clarified to reflect the intent of the original Petition for Special Hearing for non-density transfer and lot line adjustment.

Catherine L. Warfield, P.E.
March 17, 2009
Page 2

After reviewing my April 9, 2008 Order and the amended site plan, I find that your minor change in area transferred and the resulting remainder of Tract "A" from 1.61 acres to 1.41 acres is within the spirit and intent of my original Order, and also accomplishes the actual intent of the property owner to maintain the current agricultural use on the property by transferring that agricultural portion to Lot 4, while also maintaining the separate improved remainder of Tract "A." Therefore, I shall clarify my previous Order to indicate that the remainder of Tract "A" will keep 1.41 acres as shown on the amended site plan.

I hope this letter adequately responds to your concerns. If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas H. Bostwick", written over a horizontal line.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz



C. L. WARFIELD AND ASSOCIATES
CONSULTING ENGINEERS

February 2, 2009
Thomas Bostwick, Esq.
Deputy Zoning Commissioner
401 Bosley Avenue
Towson, MD. 21204

RECEIVED

FEB 04 2009

RE: Zoning Special Hearing 08-332SPH
Weslow Property Non-density Transfer

ZONING COMMISSIONER

Dear Mr. Bostwick:

This request is for clarification and modification of your order of approval of the Non-density Transfer and lot line adjustment for the Weslow Property.

The original request noted the desire of Rita Weslow to convey the agricultural portion of the Remainder of Tract A used as an orchard on her property to David Warfield, her nephew, as an addition to contiguous Lot No. 4 shown on record plat 53/72. She will retain the remainder of Tract A including the existing house to sell for financial aid for her medical care in a nursing home.

The suggested lot size presented on the petition was not field surveyed, and when the final lot line adjustment was surveyed, it was found that several rows of trees in the orchard will not be designated for transfer to Lot #4 as originally intended.

This does not satisfy the original intent to retain the full agricultural use of the orchard; therefore, we request that the order for 08-332 SPH be amended as clarified by the red line shown on the attached plat to create the Remainder of Tract A as 1.41 Acres +/- and Lot No. 4 as 11.76 acres +/- . This minimal reduction to the acreage of the Remainder of Tract A from 1.61 ac +/- to 1.41 ac +/- is not significant and it meets the requirements for a minimum 1 acre lot in the RC 2 zone. The revision accomplishes the original intent of the property owner to maintain the current agricultural use on the property while providing the ability to market the existing house to cover medical expenses. Existing wells and septic systems on this and adjacent properties are not impacted by the amendment to the lot line adjustment.

Thank you for your consideration in this matter.

Sincerely,

Catherine L. Warfield, P.E.
Engineer Representative for Rita Weslow

CASE NAME _____
CASE NUMBER 68-337-SPK
DATE _____

[illegible]

**GENERAL DURABLE POWER OF ATTORNEY
OF
RITA H. WESLOW**

I, **RITA H. WESLOW**, appoint my brother-in-law, **FRANKLIN E. WARFIELD**, to be my attorney in fact. If he is not reasonably available or is unable to act as my attorney, then I appoint my nephew, **DAVID M. WARFIELD**, to be my attorney in fact. I ratify all that my attorneys may lawfully do or cause to be done by virtue of this general power of attorney. I revoke all general powers of attorney previously executed by me, except for (1) any special, restricted or limited power of attorney that I may have given in connection with any borrowing, banking or other commercial transaction, or (2) any appointment of any agent to make health care decisions on my behalf.

POWERS

I confer upon my attorney in fact full power to administer my personal and business affairs and to deal with all of my property, whether standing in my name alone or in my name with any other person or persons. In order to illustrate and not to limit this general authority, I set forth some of the powers that my attorney in fact may exercise on my behalf, as follows:

1. **RECEIVE PROPERTY.** To receive all sums of money, dividends, interest, debts, gifts, legacies, and other property of any nature due to me.
2. **DEPOSIT AND WITHDRAW FUNDS.** To endorse and deposit in any account checks or other instruments payable to my order, and to sign and deliver checks or other orders for the withdrawal of funds from any account.
3. **USE ASSETS FOR MY CARE.** To use any assets that my attorney in the liberal exercise of discretion considers appropriate for my maintenance, support or health. However, no attorney may use any assets in a manner that would discharge any personal legal obligation of the attorney.
4. **ENTER SAFE DEPOSIT BOX.** To enter any safe deposit box in my name alone or in my name with any other person or persons.

5. **DEAL WITH PROPERTY.** To retain, invest in, sell at public or private sale, mortgage, lease, exchange, manage, subdivide, develop, build, alter, repair, improve, raze, abandon or otherwise deal with or dispose of any real or personal property, regardless of its nature, including United States savings bonds and governmental securities.

6. **BORROW FUNDS OR MAKE LOANS.** To borrow funds on my behalf from any party (including my attorney), or to make loans, upon whatever terms, periods of time, and security my attorney considers advisable.

7. **VOTE SECURITIES.** To vote securities in person or by proxy and to enter into or participate in a voting trust or a shareholder's agreement.

8. **REGISTER IN NOMINEE FORM.** To register any property in the name of a nominee or in other form without disclosure of my interest.

9. **DISPOSE OF CLAIMS.** To pay, extend, renew, prosecute, defend, compromise or submit to arbitration all rights, obligations or claims that I may have against others or that others may have against me.

10. **EXECUTE DOCUMENTS.** To execute, acknowledge, and deliver documents.

11. **EMPLOY AGENTS.** To employ brokers, investment counsel, custodians, realtors, accountants, attorneys, and other agents, and to delegate powers and discretions to any of them.

12. **FILE TAX RETURNS AND PROSECUTE TAX CLAIMS.** To file or join in filing any tax return and make all decisions related to it, and to prosecute on my behalf before any taxing authority or court any claim or suit for refund of taxes or for redetermination of tax deficiencies.

13. **CARRY INSURANCE.** To carry insurance against damage or loss to my property or against claims of other persons.

14. **DEAL WITH INSURANCE POLICIES.** To purchase, maintain, surrender collect or cancel (a) any life insurance policy, annuity, or endowment contract in which I have an interest, (b) any liability insurance protecting me against third party claims, (c) any health, medical or disability insurance on my behalf, and (d) any casualty insurance insuring assets of mine against loss or damage, or the exercise any options, rights, or privileges contained in any such policies. This includes the right to obtain the cash surrender value, convert any policy to any other type of policy, revoke any mode of settlement and select another, and pay any part or all of the premiums on any policy or contract.

15. **APPLY FOR AND RECEIVE BENEFITS.** To apply for and receive any government retirement, employee welfare or other benefits to which I may be entitled, including Social Security benefits; and to exercise any right to elect benefit or payment options.

16. **SATISFY CHARITABLE PLEDGES.** To satisfy my written charitable pledges, whether or not they are supported by legal consideration.

17. **CARRY ON BUSINESS.** Without filing reports with any court, to continue, incorporate, enter into, or carry on in my behalf any business, whether as a stockholder, general or limited partner, or sole or joint owner, or otherwise; to invest whatever assets may be needed in the business; to employ agents to operate the business; to serve in any capacity with the business; to receive reasonable compensation for services, in addition to compensation for general services as my attorney; and to reorganize, liquidate, merge, consolidate, or transfer the business or any part of it.

18. **MAKE CHARITABLE AND FAMILY GIFTS.** To make gifts on my behalf to charitable organizations and/or members of my family, in whatever amounts my attorney considers desirable, taking into consideration all relevant factors, including tax savings and my general pattern of giving, if any. However, no attorney may make any gift (1) to himself in excess of the amount excludible under Internal Revenue Code section 2503(b) in any calendar year, unless appropriate for the attorney's support, health or education, or (2) that would discharge any legal obligation of the attorney. These provisions regarding gifts shall also apply to any disclaimer of property on my behalf where such property would pass as a result of such disclaimer to or for the benefit of one or more members of my family.

19. **TRANSFER ASSETS TO REVOCABLE TRUST.** To transfer any property of mine to the trustees then acting under the **RITA H. WESLOW REVOCABLE TRUST DATED MAY 8, 2000**. Any property transferred to my revocable trust shall be added to the trust then held under that trust agreement and administered and disposed of under its provisions then and thereafter applicable.

20. **DO ALL THINGS WITH FINAL AUTHORITY.** To do all things that I would be able to do myself. All decisions made by my attorney in good faith are binding on all persons.

DURABILITY

This general power of attorney shall not be affected by lapse of time or by my disability or incapacity but shall continue in full force and effect during my disability or incapacity.

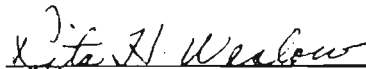
FAILURE TO HONOR DOCUMENT

By executing this general power of attorney I intend to minimize any delay and/or expense to me by permitting my attorney to act on my behalf. Accordingly, I authorize my attorney to institute suit for compensatory and/or punitive damages against any person or entity that fails to honor this document.

GUARDIAN OR CONSERVATOR

I request that no guardianship or conservatorship proceeding for the administration of my property be commenced if I am disabled or incapacitated. If for any reason a proceeding becomes necessary or advisable, I appoint my brother-in-law, **FRANKLIN E. WARFIELD**, to be my guardian or conservator. If he fails to qualify or ceases to act as such, I appoint my nephew, **DAVID M. WARFIELD**, to be my guardian or conservator. I excuse each guardian or conservator from giving bond.

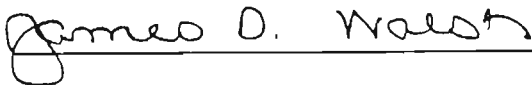
EXECUTED on May 8, 2000.



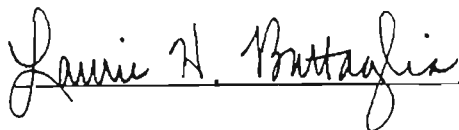
RITA H. WESLOW

Witness:

Address:



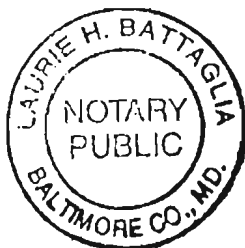
10805 Hickory Ridge Road
Suite 205
Columbia, Maryland 21044



10805 Hickory Ridge Road
Suite 205
Columbia, Maryland 21044

STATE OF MARYLAND
COUNTY OF HOWARD

I HEREBY CERTIFY that on May 8, 2000, before me, a notary public of the State of Maryland, personally appeared **RITA H. WESLOW**, the person named in the foregoing general durable power of attorney, and acknowledged it to be her act and deed.



Laurie H. Battaglia
Notary Public

My commission expires 3-1-04.



PETITIONER' S

EXHIBIT NO. 2A-H

B





ID REAR











086A1

1600014143
Pt. Bk. 37 Folio 97

RC 5

1900005431

0204001110

Patapsco Hydrology 100 Foot Stream Buffer

NW 4-L

RC 2

10724

SITE
4 CD

Flood Zone

2 ED
086A2

2000004608
Pt. Bk. 53 Folio 72

PDM # 020269

Pt. Bk. 49 Folio 56

1900006685

1800013044
Pt. Bk. 45 Folio 131

AVENUE

0213200270

0204500070

2100011608

0206570290

0216450100

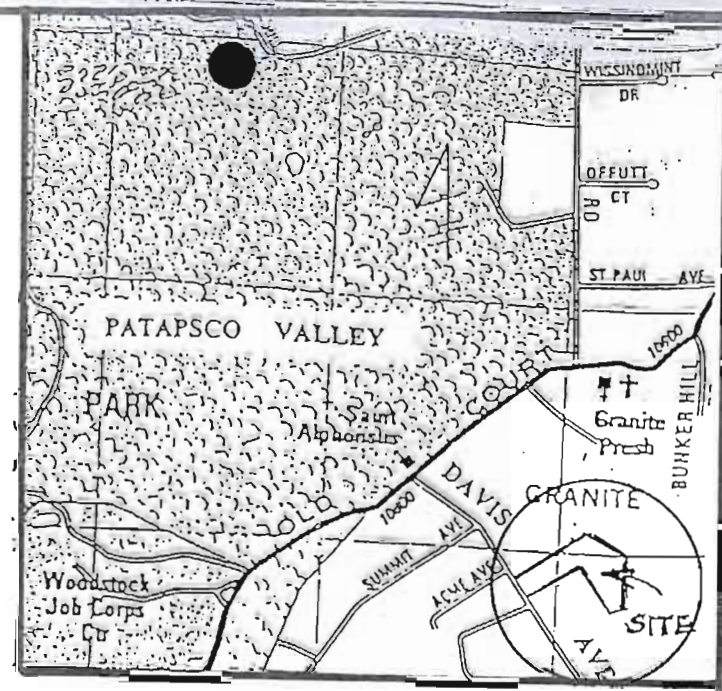
0214000020

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LYNNE VYNER SHPAK 16.5 AC
DEED 6626/454 - ACCT #0204001110

LESLIE C. PAHL SR, MARY JANE PAHL
DEED: 21249/686
ACCT#170002385

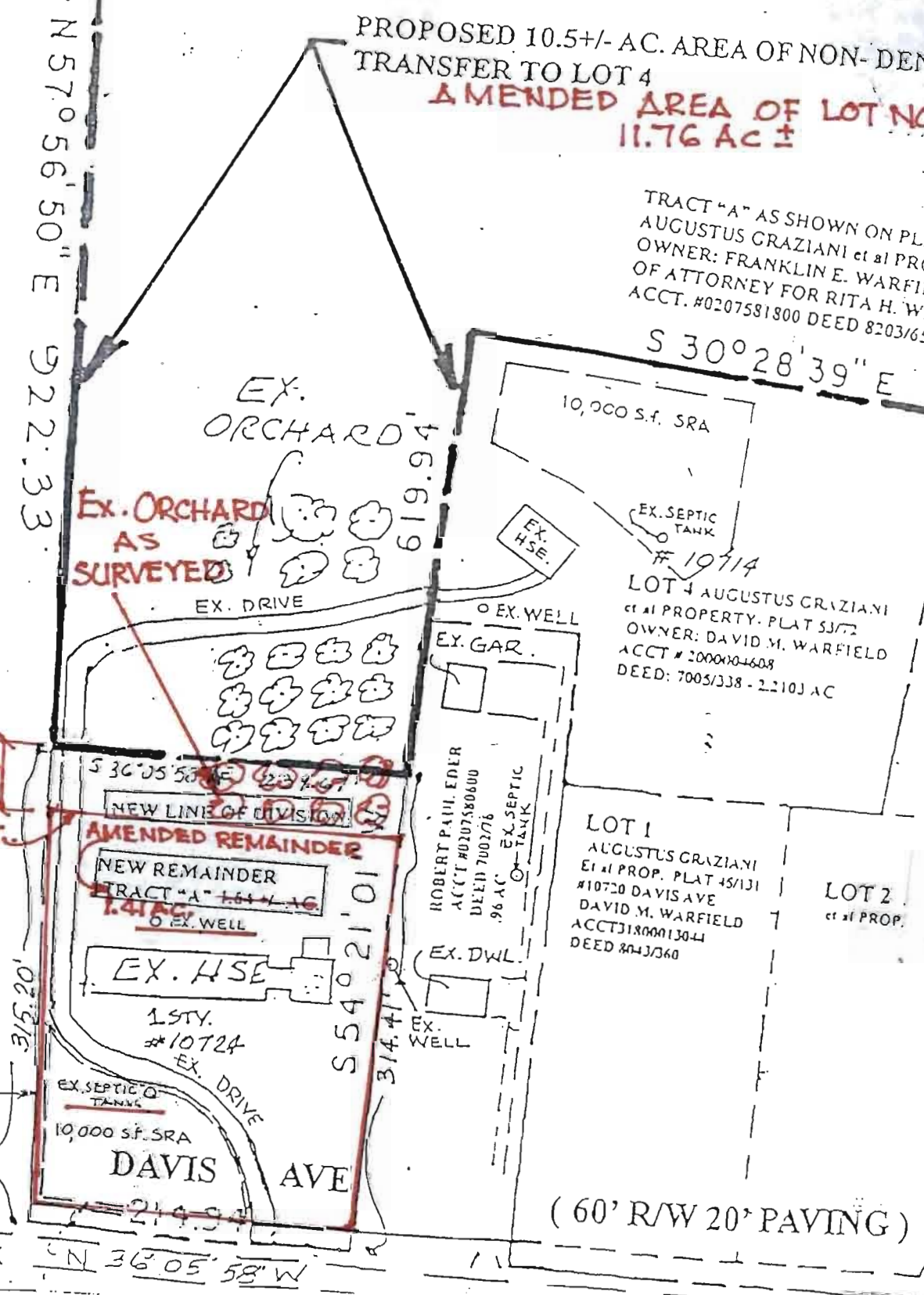


VICINITY MAP
1" = 2000'

PROPOSED 10.5+/- AC. AREA OF NON-DENSITY
TRANSFER TO LOT 4
**AMENDED AREA OF LOT NO. 4
11.76 AC ±**

TRACT "A" AS SHOWN ON PLAT 53/72 TITLED
AUGUSTUS GRAZIANI et al PROPERTY
OWNER: FRANKLIN E. WARFIELD BY POWER
OF ATTORNEY FOR RITA H. WESLOW
ACCT. #0207581800 DEED 8203/656-ACRES: 12.1197

GRANITE ACRES PLAT BOOK: E.H.K. JR. 37
TRACT "B" VACANT PARCEL
OWNER: RITA H. WESLOW
ACCT #1600014140 - DEED 8203/656
8.6 AC



**AMENDED PLAN FOR 08-332 SPH
MOVE PROPOSED LOT LINE ADJUSTMENT
40' TOWARD DAVIS AVE. TO RETAIN THE
EXISTING ORCHARD PER ORIGINAL
INTENT.**

**AMENDED-REMAINDER TRACT A-1.41 AC ±
AMENDED- LOT NO. 4 - 11.76 AC ±**

**FEB. 2, 2009
Catherine Warfield, P.E.**

EXISTING WELLS AND
SEPTIC TANKS FOR 10724,
10714 & 10720 DAVIS AVE.
WERE FIELD LOCATED
3-21-08

**PLAT TO ACCOMPANY
DRC REQUEST**
10724 Davis Avenue

E.D. 2 C4
Property Tax No. 021800013044

Owner: Franklin Warfield/ Power of Attorney
For Rita Weslow
10720 Davis Avenue
Woodstock, Maryland 21163
Zone: RC 2
Zoning Case No. 08-332-SPH
Zoning Order: April 9, 2008
Granted: Approval of a non-density transfer and
continued agricultural use.

Scale: 1" = 100' August 26, 2008

C.L. Warfield and Associates, Inc.
4900 Kemp Road
Reisterstown, Maryland 21136
Ph: 410-833-8707 Fax: 410-833-8944
Email: clwarfield@verizon.net

PREPARED BY *Jaw*
SCALE: 1" = 100'

LYNNE VYNER SHPAK 16.5 AC
DEED 6626/454 - ACCT#0204001110

S39°31'50"E 140.67'
S28°01'45"E 220.46'

S61°50'00"E 200.00'

S39°01'22"E 142.00'

S06°25'58"W 401.32'
LESLIE C. PAHL SR, MARY JANE PAHL
DEED: 21249/686
ACCT#1700002385

PROPOSED 10.5+/- AC. AREA OF NON-DENSITY
TRANSFER TO LOT 4

TRACT "A" AS SHOWN ON PLAT 53/72 TITLED
AUGUSTUS GRAZIANI et al PROPERTY
OWNER: FRANKLIN E. WARFIELD BY POWER
OF ATTORNEY FOR RITA H. WESLOW
ACCT. #0207581800 DEED 8203/656-ACRES: 12.1197

EX. ORCHARD

10,000 S.F. SRA

EX. SEPTIC TANK

#10714

LOT 4 AUGUSTUS GRAZIANI
et al PROPERTY- PLAT 53/72
OWNER: DAVID M. WARFIELD
ACCT # 2000004608
DEED: 7005/338 - 2.2103 AC

LOT 3 AUGUSTUS GRAZIANI
et al PROPERTY- PLAT 49/56
OWNER: KEVIN P. BURKE
SHERRI L. RYAN
#10716 DAVIS AVE
ACCT. # 1900006685
DEED 14948/56

LOT 1
AUGUSTUS GRAZIANI
et al PROP. PLAT 45/131
#10720 DAVIS AVE
DAVID M. WARFIELD
ACCT#31800013044
DEED 8043/360

LOT 2 AUGUSTUS GRAZIANI
et al PROP. PLAT 45/131

NEW LINE OF DIVISION

NEW REMAINDER
TRACT "A" 1.64 +/- AC.

EX. WELL

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EX. SEPTIC TANK

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LYNNE VYNER SHPAK 16.5 AC
DEED 6626/454 - ACCT#0204001110

S39°01'22"E
142.00'

LESLIE C. PAHL SR, MARY JANE PAHL
DEED: 21249/686
ACCT#1700002385
S06°25'58"W
401.32'

S39°31'50"E
140.67'

S28°01'45"E
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S61°50'00"E
200.00'

PROPOSED 10.5+/- AC. AREA OF NON-DENSITY
TRANSFER TO LOT 4

TRACT "A" AS SHOWN ON PLAT 53/72 TITLED
AUGUSTUS GRAZIANI et al PROPERTY
OWNER: FRANKLIN E. WARFIELD BY POWER
OF ATTORNEY FOR RITA H. WESLOW
ACCT. #0207581800 DEED 8203/656-ACRES: 12.1197

S30°28'39"E
662.62'

243.22'
823.93'

EX. ORCHARD
619.94'

LOT 4 AUGUSTUS GRAZIANI
et al PROPERTY- PLAT 53/72
OWNER: DAVID M. WARFIELD
ACCT # 2000004608
DEED: 7005/338 - 2.2103 AC

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OWNER: KEVIN P. BURKE
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ACCT. # 1900006685
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AUGUSTUS GRAZIANI
Et al PROP. PLAT 45/131
#10720 DAVIS AVE
DAVID M. WARFIELD
ACCT#31800013044
DEED 8043/360

LOT 2 AUGUSTUS GRAZIANI
et al PROP. PLAT 45/131

NEW LINE OF DIVISION

NEW REMAINDER
TRACT "A" 1.64 +/- AC.

EX. HSE
1STY.
#10724

EX. DRIVE

DAVIS AVE

214.94'

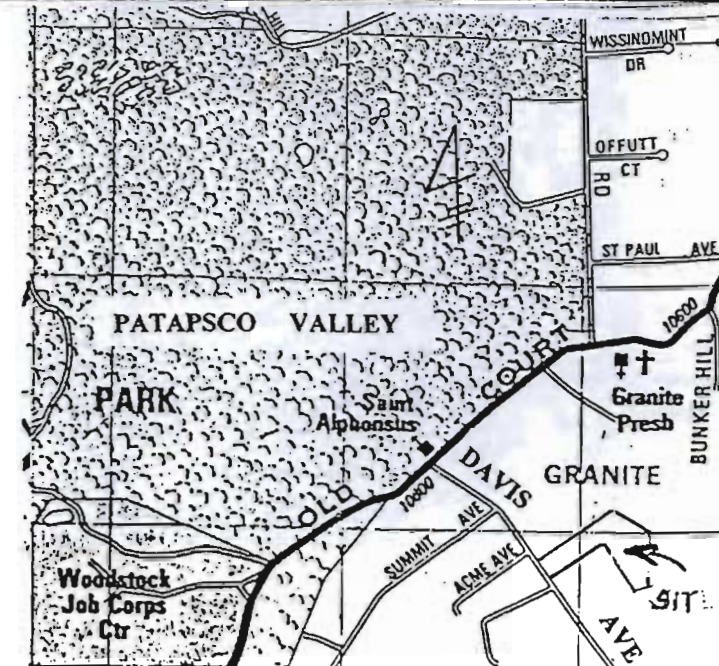
N36°05'58"W

ROBERT PAUL EDER
ACCT #0207580600
DEED 7002/76
.96 AC

EX. DWL.

(60' R/W 20' PAVING)

PREPARED BY *Jan*
SCALE: 1" = 100'



VICINITY MAP
1" = 2000'

PLAT TO ACCOMPANY PETITION FOR ZONING SPECIAL HEARING

PETITION TO ALLOW A NON-DENSITY TRANSFER
OF 10.5+/- ACRES FROM TRACT "A" TO LOT 4

PROPERTY ADDRESS: 10274 DAVIS AVE.
SUBDIVISION: AUGUSTUS GRAZIANI et al PROPERTY
LOT 4 - A RESUBDIVISION OF A PART OF TRACT "A"
PLAT BOOK #53 FOLIO #72
OWNER: FRANKLIN E. WARFIELD BY POWER
OF ATTORNEY FOR RITA H. WESLOW

LOCATION INFORMATION

ELECTION DISTRICT - 2
COUNCILMANIC DISTRICT - 4
1" = 200' SCALE MAP # NW 4-L
ZONING - RC -2
LOT SIZE- 12.1197 ACRES
SEWER - PRIVATE ; WATER - PRIVATE
CHESAPEAKE BAY CRITICAL AREA - NO
100 YEAR FLOODPLAIN - NO
HISTORIC PROPERTY - NO
PRIOR ZONING HEARING - NONE

ZONING OFFICE USE ONLY

REVIEWED BY

ITEM#

CASE #