

IN RE: **PETITION FOR SPECIAL HEARING** *
E/S Butler Road, 1500' N Worthington Ave.
4405 Butler Road (4417 Butler Road) *
4th Election District
3rd Council District *

Kathleen Bell *
Petitioner *

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 2008-0549-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing filed by the legal owner of the subject property, Kathleen Bell. The Petitioner is requesting zoning relief for the property she owns at 4405 Butler Road in the Glyndon community of northern Baltimore County. Specifically, special hearing relief is requested to approve the nonconforming use of the subject property as a horticultural nursery. The property and requested relief are more particularly described on the amended site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Kathleen Bell, property owner, and her attorney, Sebastian A. Cross, Esquire of the law firm Gildea & Schmidt, LLC. Also appearing in support of the request were the Petitioner's son, Scott Newton, and Charles Brown, a long time resident of the locale. There were no Protestants present, however, it should be noted that David Kirby, an inspector with the Bureau of Code Enforcement of the Department of Permits and Development Management (DPDM) appeared and participated at the hearing.

Testimony and evidence offered revealed that the subject property is an irregularly shaped parcel consisting of 16.2 acres, more or less, and zoned R.C.2. The property fronts on the

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Date 10-17-08
By [Signature]

southeast side of Butler Road, just north of Worthington Avenue in Glyndon. The property has historically been used for two different purposes. A portion of the property is used residentially and is improved with a one-story stone dwelling and a one-story brick home as illustrated on the site plan. The Petition for Special Hearing does not relate to this residential use, rather, the remaining (northern) portion of the property which features a commercial use; namely a horticultural nursery. As shown on the plan, the nursery that operated as "Worthington Garden" in the 1950's is improved with an office/warehouse building, a series of greenhouse buildings and an area of outdoor storage.

A "nursery, horticultural" is a land use defined in Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.). Therein, the use is defined as, "an agricultural operation primarily engaged in the production and marketing of trees, shrubs and plants." The definition then goes on to provide that the plant materials produced and marketed at the nursery may be produced on premises or may be purchased elsewhere at any stage of maturity for further production on the subject site. Additionally, the definition provides that horticultural nurseries may engage in certain accessory uses, such as the storage of plant materials, sales of products necessary for the health of the nursery stock and certain landscaping services. A horticultural nursery use is distinguished from a landscape service operation, which is defined in B.C.Z.R. Section 101 as "an operation primarily engaged in the designing, installing, planting or maintaining of lawns, gardens or other plantings at office site commercial or residential uses." They are also not contractor's equipment storage yards or construction equipment storage yards¹.

¹ B.C.Z.R. Section 101 defines contractor's equipment storage as "the use of any space, whether inside or outside a building, for the storage or keeping of contractor's equipment or machinery, including building materials storage, construction equipment storage or landscaping equipment and associated materials." A construction equipment yard is, "the use of any space, whether inside or outside a building, for the storage or keeping of construction equipment or machinery, including landscaping equipment and associated materials."

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Date
By

Uncontradicted testimony and evidence offered by Ms. Bell (legal owner) is that the commercial use on the property is consistent with a horticultural nursery as defined in the B.C.Z.R. Indeed, the numerous greenhouse building located on the site are persuasive to a finding that the primary use of the subject property has been for the *production and marketing of trees, shrubs and plants*. The Petitioner does not request a designation of the use on the site as either a landscape service operation, a contractor's equipment storage yard and/or a construction equipment storage yard.

As is well settled, the regulations (B.C.Z.R.) are written in the inclusive; that is, only uses specifically enumerated therein for each of the zoning classifications are permitted. *See Kowalski v. Lamar*, 25 Md. App. 493 (1975). A horticultural nursery is not permitted by right in the R.C.2 zone.

In considering the Petition, an examination of the relevant zoning regulations is in order. Baltimore County first adopted zoning regulations in 1945. Those basic regulations divided the County into a series of zones, designated A through G. Zones A through D were designated as residential zones, zone E was a commercial zone, zone F a light industrial zone and zone G was a heavy industrial zone. Under the County's first zoning maps, much of the northern agricultural County was not designated with any zone as only the urban areas of the County were zoned. Additionally, a horticultural nursery was not defined or identified as a land use under the 1945 regulations.

The regulations were comprehensively amended and reenacted by the County Commissioners of Baltimore County on March 30, 1955. The specific zones were expanded and reclassified into a series of "R" (residential) zones, business zones and manufacturing zones. Still, under the B.C.Z.R., as adopted in 1955, a horticultural nursery was not a defined land use.

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The 1955 regulations have been comprehensively amended and added to over the years. Current Section 404 of the B.C.Z.R. defines and regulates farms and agricultural operations. This section was added pursuant to Council Bill No. 85-67 (in 1967) and was further amended by Bill No. 41-92 (in 1992). Therein a series of farming and agricultural operations are defined and regulated; including horticultural nurseries, landscape service operations, farmer's roadside stands and farm markets.

Although these farming and agricultural uses have only relatively recently been defined and regulated within the B.C.Z.R., even the early versions of the regulations identified the zoning concept known as a "nonconforming use." Indeed, Section XI of the 1945 Zoning Regulations and Section 104 of the 1955 Zoning Regulations described nonconforming use. These sections and that concept survives to today's regulations. Under current law, a nonconforming use is defined in Section 101 of the B.C.Z.R. as a "legal use that does not conform to the use regulation for the zone in which it is located or a special regulation applicable to such a use." Section 104 of the B.C.Z.R. regulates nonconforming uses. In essence, the nonconforming use designation is utilized to grandfather a use which existed on a property prior to the date of the enactment of a statute regulating and or permitting that use. The Maryland Court of Appeal noted in an early case, "Where the evidence conclusively establishes that a property owner before and at the time of the adoption of the original zoning ordinance (or last comprehensive zoning) was using in a lawful manner substantially all of his tract of land for a use which by this legislative action became non-permitted, the owner had established a lawful nonconforming use." *Board of Zoning Appeals of Howard Co. v. Meyer*, 207 Md. 389, 114 A2d 626 (1955).



In this case, the testimony presented by Charles Brown was persuasive on this issue. Mr. Brown testified that he has lived in this area all his life and grew up around the corner from 4417 Butler Road. His memory of the subject property dates back to 1949. His uncontradicted testimony was that the subject has been used as a horticultural nursery for years. He recalls prior owners (the Masemore family) operating greenhouses on the site when he was a young man. He specifically testified that he worked as a teenager at the subject property for the nursery business for some five (5) years.

Moreover, the nursery use has continued uninterrupted on this property for many years. The present owner, Ms. Bell, testified that she has been operating the nursery since her acquisition and the site had been operated by Wayne and Beverly Clark for 16 years prior to her purchase. Prior to the Clarks, the business was run by Milton and Dot Masemore who began operations in 1958 and had been known as the "Worthington Gardens". (See Petitioner's Exhibit 6).

Further testimony was that the present case was instituted as a result of action taken by a recent tenant on the property. Apparently that tenant (Robert Arudt) leased the property from Ms. Bell as a horticultural nursery. Later, he broke his lease and vacated the premises. In an effort to apparently avoid his obligations under his lease, he contacted Baltimore County and asserted that the horticultural nursery operation was illegal. This assertion was directly contradicted by a letter (Petitioner's Exhibit 2) which was submitted at the hearing. By that letter, dated September 25, 2007, executed by W. Carl Richards, Jr., Zoning Review Supervisor in the Department of Permits and Development Management, Mr. Richards confirmed that the horticultural nursery operation is a nonconforming use under the B.C.Z.R. and therefore lawful. In order to confirm

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Date 10-17-08
By [Signature]

Richards' opinion, the applicant filed the instant Petition for Special Hearing in order for an evidentiary hearing on the issues to occur before this Commission.

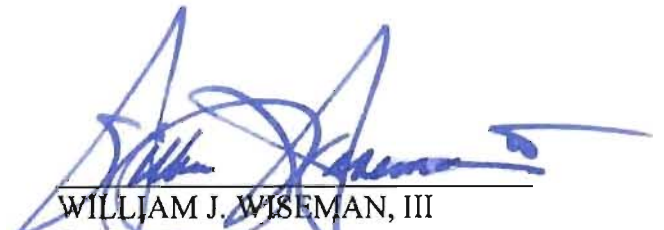
Based upon the evidence and testimony offered, I easily find that the horticultural nursery operation is a permitted use and that the Petition for Special Hearing should be granted. It is to be particularly noted that the relief granted herein is only to permit the nonconforming use operation which has been established as a horticultural nursery. That is, the activity on the site must conform with the operation as described in the definition as contained in Section 101 of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested should be granted and the nonconforming use confirmed.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County, this 17th day of October, 2008, that the Petition for Special Hearing, seeking confirmation that the horticultural nursery use on the property is a permitted nonconforming use, be and is hereby GRANTED, subject to the following restriction:

1. Petitioner is hereby made aware that proceeding at this time is at her 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.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

RECEIVED FOR FILING
Date 10-17-08
By [Signature]



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

October 17, 2008

WILLIAM J. WISEMAN III
Zoning Commissioner

Sebastian Cross, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

RE: PETITION FOR SPECIAL HEARING
E/S Butler Road, 1500' N Worthington Ave.
4405 Butler Road (4417 Butler Road)
4th Election District - 3rd Council District
Kathleen Bell – *Petitioner*
Case No. 2008-0549-SPH

Dear Mr. Cross:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, 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: Kathleen Bell, 4415 Butler Road, Glyndon, MD 21071
Scott Newton, 5 Austin Road, Reisterstown, MD 21136
Charles Brown, 4227 Butler Road, Glyndon, MD 21071
Inspector David Kirby, Bureau of Code Enforcement, DPDM
People's Counsel; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 4405 Butler Road (4417 Butler Road)

which is presently zoned R.C. 2

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

Confirm the existence of a permitted nonconforming use for a horticultural nursery on property.

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:

Sebastian A. Cross, Esquire

Name - Type or Print

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Kathleen Bell

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

Name - Type or Print

Representative to be Contacted:

Sebastian A. Cross, Esquire

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Case No. 2008-0549-SPH

Reviewed By

Date

REV 9/15/98

ORDER RECEIVED FOR FILING

Date 10-17-08

By [Signature]

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: #2008-0549-8PH

4405 Butler Road
(4417 Butler Road)
E/side of Butler Road, 1500
feet +/- north of Worthington
Avenue

4th Election District
3rd Councilmanic District
Legal Owner(s): Kathleen Ball
Special Hearing: to confirm
the existence of a permitted
nonconforming use for a horticultural nursery on property.

Hearing: Tuesday, September
18, 2008 at 9:00 a.m. in
Hearing Room 1, Jefferson
Building, 105 West Chesapeake
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.

JT 9/20 Sept. 2 102711

CERTIFICATE OF PUBLICATION

9/4/2008

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 9/2/2008.

- ☒ 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. 15354

PAID RECEIPT

Date: 5.28.08

BUSINESS ACTUAL TIME DPM
 5/28/2008 5/28/2008 10:20:49 5

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				65.-

Total: 65.-

Rec

From: K. Bell

For: 2008-0549 SPH

REC 15354 WALKIN KENT MBE

RECEIPT # 627928 5/28/2008 OFLM

5 528 ZONING VERIFICATION

CR # 015354

Receipt Tot \$65.00

\$65.00 CR 4.00 CA

Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CERTIFICATE OF POSTING

RE: Case No.: 2008-0549-SPH

Petitioner/Developer: _____

Kathleen Bell

Date of Hearing/Closing: Sept. 16, 08

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

ATTN: Kristen Matthews

Ladies and Gentlemen:

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

4405 Butler Road (4417 Butler Road) _____

The sign(s) were posted on Sept. 1, 2008
(Month, Day, Year)

Sincerely,

Robert Black

(Signature of Sign Poster) (Date)

Sept 2, 2008

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



ZONING NOTICE

CASE # 2008-0549-SPH

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

PLACE: HEARING ROOM 1, 2ND FLOOR JEFFERSON
BUILDING, 105 W. CHEESAPEAKE AVE. TOWSON
21204

DATE AND TIME: TUESDAY, SEPTEMBER 16, 2008 AT 9:00^{A.M.}

REQUEST: SPECIAL HEARING TO CONFIRM THE EXISTENCE
OF A PERMITTED NONCONFORMING USE FOR A HORTICULTURAL
NURSERY ON PROPERTY.

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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

August 26, 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: 2008-0549-SPH

4405 Butler Road (4417 Butler Road)
E/side of Butler Road, 1500 feet +/- north of Worthington Avenue
4th Election District – 3rd Councilmanic District
Legal Owners: Kathleen Bell

Special Hearing to confirm the existence of a permitted nonconforming use for a horticultural nursery on property.

Hearing: Tuesday, September 16, 2008 at 9:00 a.m. in Hearing Room 1, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Sebastian Cross, 600 Washington Avenue, Ste. 200, Towson 21204
Kathleen Bell, 4415 Butler Road, Glyndon 21071

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 1, 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, September 2, 2008 Issue - Jeffersonian

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

410-821-0070

NOTICE OF ZONING HEARING

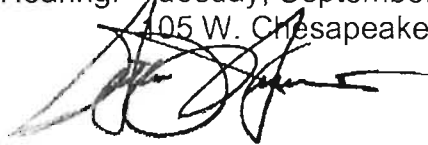
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CASE NUMBER: 2008-0549-SPH

4405 Butler Road (4417 Butler Road)
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Hearing: Tuesday, September 16, 2008 at 9:00 a.m. in Hearing Room 1, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: ~~05-49~~ 0549

Petitioner: Haythleen Bell

Address or Location: 4405 Butler Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Gilda + Schmidt

Address: 600 Washington Ave, Suite 200
Towson Md 21204

Telephone Number: 410 821-0070

Revised 2/20/98 - SCJ

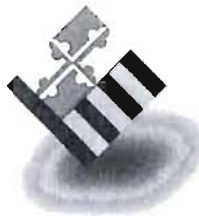
5.28.08

NOTE TO FILE :

Applicant will Submit

Zoning Description Prior to Hearing.

JCM



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

September 11, 2008

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
600 Washington Ave. Ste. 200
Towson, MD 21204

Dear: Sebastian A. Cross, Esquire

RE: Case Number 2008-0549-SPH, 4405- 4417 Butler Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 28, 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:lnw

Enclosures

c: People's Counsel
Kathleen Bell, 4415 Butler Rd., Glyndon, MD 21071

BW 9/16
9 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 26, 2008

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

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JUN 30 2008

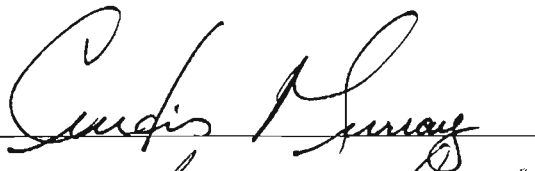
BY:.....

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-549- Special Hearing**

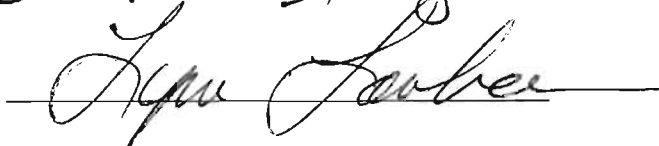
The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By:



Division Chief:
CM/LL



BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
SEP 15 2008

BY:.....

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: September 15, 2008

SUBJECT: Zoning Item # 08-549-A
Address 4405 Butler Road
(Bell Property)

Zoning Advisory Committee Meeting of June 9, 2008

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

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

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

 Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

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

Additional Comments:

DEPRM inspector's (both EIR and Sediment Control) have visited the site and have found no violations

Reviewer: J. Livingston

Date: 9/15/08



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
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

June 16, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: June 09, 2008

Item Number: 0527A, 0549A, 0550A, 0551SPH, 0552SPHA, 0553X, 0554A, 0555A, 0556A, 0557SPH

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

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

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

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: June 10, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For June 16, 2008
Item Nos. 08-0548, 0549, 0550, 0551,
0552, 0553, 0554, 0555, 0556, and 0557

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

DAK:CEN:lrk

cc: File

ZAC-06102008-NO COMMENTS



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

State Highway
Administration

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

Maryland Department of Transportation

Date: 6/20/2008

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

RE: Baltimore County
Item No. 2008-0549-A
MD 128
4405 BUTLER RD.
BELL PROPERTY
SPECIAL HEARING

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 6/10/08. A field inspection and internal review reveals that the existing entrance onto MD 128 is consistent with current State Highway Administration requirements. Therefore, this office has no objection to 4405 BUTLER RD, Case Number 2008-0549-A approval.

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

Very truly yours,

For ¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

Cc: Mr. David Malkowski, District Engineer, SHA
Mr. Michael Pasquariello, Utility Engineer, SHA

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



GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

www.gildeallc.com

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

May 28, 2008

Jim Thompson
Baltimore County Code Enforcement
111 W. Chesapeake Avenue
Towson, MD 21204

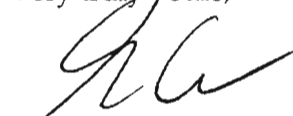
Re: Case # 08-3240
4417 (4405) Butler Road
Zoning Case No.: 05-49

Dear Mr. Thompson:

This correspondence serves as a follow up to our previous letter sent to you on May 20, 2008 regarding the above referenced property. This letter serves to notify your office Ms. Bell has filed for a Special Hearing to confirm the existence of a permitted nonconforming use for a horticultural nursery on the property and received Zoning Case No. 05-49.

Upon the issuance of the Zoning Commissioner's Order we will forward this on to your office for your files. If there is any additional information you require, please notify our office. As always I am,

Very truly yours,



Sebastian A. Cross

SAC:kmb

cc: Timothy Kotroco, Department of Permits and Development Management
David Kirby, Code Enforcement Inspector
Kathleen Bell
Lawrence E. Schmidt, Esquire
Charles B. Marek, III, Esquire

CASE NAME Bee
CASE NUMBER 2008-0549-SP-1
DATE 9-16-08

[illegible]

CASE NAME Bee
CASE NUMBER 2008-0549-SPH
DATE 9-14-08

[illegible]

RE: PETITION FOR VARIANCE * BEFORE THE
4405 Butler Road; E/S Butler Road, * ZONING COMMISSIONER
1,500' N of Worthington Avenue * FOR
4th Election & 3rd Councilmanic Districts * BALTIMORE COUNTY
Legal Owner(s): Kathleen Bell * 08-549-SPH
Petitioner(s)

* * * * *

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
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

Per.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June, 2008, a copy of the foregoing Entry of Appearance was mailed to Sebastian A. Cross, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Attn: Debbie (410)

Here is the info

2009-0549-SPH

OP	6/24	No Comment
FD	6/10	" "
DRR	6/10	" "
Cost/Relation Reg. Category		
DEFRM	9/15	Comment ✓
Notice Posting		PC Appearance ✓

great
id (✓)

Christina

Bis - 9-12

(Re: 2008-0549-N)

Dr. Peter Kirby will attend
meeting + please to drop by
at least 5-10 minutes prior to
expect to you re: case information.
We'd like to start 1st since he's
also scheduled for 9am. Meeting in
the Bldg. See

Christina
Debbie

PDLV0102F

Permits & Development - Livability System
View CasesCase No: 08-3240Address: 04417 BUTLER RD 21136Insp Area: 004 Dist: 000 Date Rcv: 4/17/2008 Grp: ENF Intk: KHInspec: KIRBY Inspec2: Date Inspec: 9/12/2008Close: 0/00/0000 Activity: PREV Delete: Problem: RUNNING ILLEGAL BUSINESS FORM RESIDENCECL Name: ARNDT ROBERTCL Address: 01407 NICODEMUS RD
BALTIMORE MD 21136CL Home Phone: 410-526-4439 CL Work Phone: Tax Acct. 0406045810Owner: KATHLEEN BELL

Enter=Continue F12=Cancel

PDJ/V0103F

Permits & Development - Livability System

View Cases

Case No: 08-3240Notes: **** PREVIOUS CASE NOTES PRINTED IN FILE ****

8/05/08---ROBERT ARNDT CALLED AGAIN REGARDING STATUS. I ADVISED THAT I AM
IN PROCESS OF SETTING UP MEETING WITH SUBJECT PARTIES TRYING TO BRING TO CONCLU
SION. I WILL CONSULT TIM PRIOR TO NEXT STEP. DWK

8/08/08---I LEFT MESSAGE ON TOM CRISPIN VOICE MAIL (410-887-3980). ALSO
LEFT MESSAGE ON SEBASTIAN CROSS VOICE MAIL REGARDING GETTING TOGETHER AT SUBJEC
T PROPERTY (410-821-0070). DWK

8/15/08--I COORDINATED MEETING TODAY AT SITE WITH SEBASTIAN CROSS, ATTORN
EY, URBAN GARDENS OWNERS, AND TOM CRISPIN WITH DEPRM. WE MET @ 10:00AM AND DISCU
SSED PROPERTY USE WHILE WALKING PROPERTY. TOM CRISPIN REVIEWED FLOOD PLAIN AREA
AND DID NOT FIND THEM IN VIOLATION. I REVIEWED THEIR PLAN WITH THE PROPERTY. THE
YPLAN ON GROWING PLANTS AND TREES AS A HORTICULTURAL NURSERY WHEN THE PLACE IS R
EADY. THEY WOULD GO OFF SITE TO PLANT TREES, SHRUBS, ETC... THE BUSINESS IS NOT
YET UP AND OPERATING SO I CANNOT REALLY FIND ANY VIOLATION AT THIS TIME. SEBASTI
AN CROSS BELIEVES PREVIOUS TENANT WAS LOSING MONEY AND CALLED ON HIMSELF REGARDI
NG ZONE SO HE COULD GET OUT

Enter=Continue F12=Cancel

PDLVD104F

Permits & Development - Livability System

View Cases

Case No: 08-3240

Notes: OF LEASE. I AM NOT AWARE OF HOW PROBLEMS BETWEEN LANDLORD AND PREVIOUS T
ENANT CAME ABOUT. I LEFT MESSAGE FOR TIM THAT I NEEDED TO MEET WITH HIM AFTER MY
VACATION. DWK

8/25/08---I MET WITH TIM KOTROCO AND I UPDATED HIM ON OUR MEETING. WE REVIEWE
D PHOTOS AND HE ALSO DOES NOT BELIEVE ANY VIOLATIONS AS BUSINESS NOT EVEN UP AND
RUNNING YET. I ACTUALLY HAD FILE ON SPECIAL HEARING THAT WAS GIVEN TO BE SCHEDU
LED. I ADVISED TIM THAT ROBERT ARNDT HAS BEEN CALLING WANTS TO KNOW WHAT WE ARE
DOING ABOUT THE LANDSCAPING BUSINESS THAT HE SAYS IS TAKING PLACE AT PROPERTY. H
E DOES NOT UNDERSTAND HOW THIS BUSINESS CAN OPERATE WHEN HE WAS " KICKED OFF " P
ROPERTY. DWK

8/27/08---ROBERT ARNDT CALLED BACK TO SEE WHAT CAME OUT OF MY MEETING TIM. I
ADVISED WE DO NOT SEE ANY VIOLATION AND HE REALLY HAS A PROBLEM WITH THIS. HE SA
YS THEY ARE DUMPING ON THE PROPERTY WHILE TRUCK WITH MEN ARE LEAVING IN THE MORN
ING. HE WANTS TO SHOW ME PILE OF DEBRIS DROPPED ON PROPERTY AND OTHER THINGS. I
AGREED TO MEET HIM AT GLYDON FIREHOUSE THURSDAY, 9/04 @ 10:30 AND GO TO PROPERTY
AND LET HIM POINT OUT AREAS THAT HE BELIEVES A LANDSCAPE BUSINESS IS BEING OPERA
TED AT PROPERTY. DWK

Enter=Continue F12=Cancel

PDLV0105F

Permits & Development - Livability System

View Cases

Case No: 08-3240

Notes: 9/04/08---I ARRIVED AT GLYNDON FIRE STATION AT 10:25 AND WAITED TIL 1
0:45 FOR ROBERT ARNDT. HE NEVER SHOWED SO I WENT TO SUBJECT PROPERTY. I SAW T
ONY SMOUSE, ONE OF THE BROTHERS/OWNERS. WE DISCUSSED THE PROPERTY AGAIN. HE SAYS
SOME OF THE BRUSH DEBRIS WAS LEFT THERE AND THEY HAD DUMPED SOME ON THE PROPERT
Y. THERE WERE ACTUALLY 2 TRUCKS PARKED ON PROPERTY AND TONY CONFIRMED EMPLOYEES
DO EMBARK AND DISEMBARK FROM THE PROPERTY. THERE WERE 3 EMPLOYEES OR SO WHEN I W
AS THERE. TONY SAYS THEY NEED TO KEEP WORKING AS THEY GET READY TO START PLANTIN
G, ETC.. IN THE FALL. I ADVISED HIM ONLY RETAIL BUSINESS CAN BE FOR FLOWERS, PL
ANTS, TREES, ETC.. THAT THEY GROW AND THEY CANNOT BRING ANYTHING IN TO GROW. I
T DOES NOT APPEAR TO ME THAT A SPECIAL HEARING FOR HORTICULTURAL IS SOLVING ANYT
HING. I CONCLUDED FROM MY CONVERSATION TODAY THAT THE PROPERTY IS BEING OPERATED
AS A LANDSCAPE BUSINESS AND WE HAVE ANOTHER " ROBERT ARNDT "SITUATION. PHOTOS.

9/04/08---I MET WITH TIM AND ADVISED CONTENTS OF MY MEETING TODAY. I F
IRMLY BELIEVE LANDSCAPE BUSINESS AT SUBJECT PROPERTY. TIM WOULD LIKE ME TO ATTEN
D SPECIAL HEARING OF HORTICULTURE NURSERY AND TESTIFY TO PROBLEMS OF LANDSCAPE B
USINESSES TO GIVE SPECIFIC WORDING OF FINAL ORDER TO TAKE CARE OF PROBLEM. THIS
WOULD ELIMINATE TAKING IN

Enter=Continue F12=Cancel

PDLV0106F

Permits & Development - Livability System

View Cases

Case No: 08-3240

Notes: FRONT OF RICK. I NEED TO VERIFY HEARING DATE BUT I THINK IT WAS 9/16. P
/U 9/12/08. DWK

Enter=Continue F12=Cancel



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw6.3)

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

Account Identifier: District - 04 **Account Number -** 0406045810

Owner Information

Owner Name: BELL KATHLEEN **Use:** AGRICULTURAL
Principal Residence: YES
Mailing Address: 4417 BUTLER RD **Deed Reference:** 1) /20718/ 445
 GLYNDON MD 21136-4812 2)

Location & Structure Information

Premises Address **Legal Description**
 4417 BUTLER RD 16.2 AC
 SES BUTLER RD
 650FT N WORTHINGTON AVE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
49	1	98						1	Plat Ref:

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1960	1,731 SF	16.20 AC	33

Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2007	Phase-In Assessments As Of 07/01/2008	As Of 07/01/2009	PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE
Land	125,320	185,320			
Improvements:	251,840	394,570			
Total:	377,160	579,890	512,312	579,890	
Preferential Land:	5,320	5,320	5,320	5,320	

Transfer Information

Seller: BELL KATHLEEN	Date: 09/21/2004	Price: \$150,000
Type: NOT ARMS-LENGTH	Deed1: /20718/ 445	Deed2:
Seller: MASIMORE DOROTHY E	Date: 03/28/2001	Price: \$49,400
Type: NOT ARMS-LENGTH	Deed1: /15074/ 594	Deed2:
Seller: FOWBLE ERNEST E AG USE 83-84	Date: 10/07/1971	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 5223/ 479	Deed2:

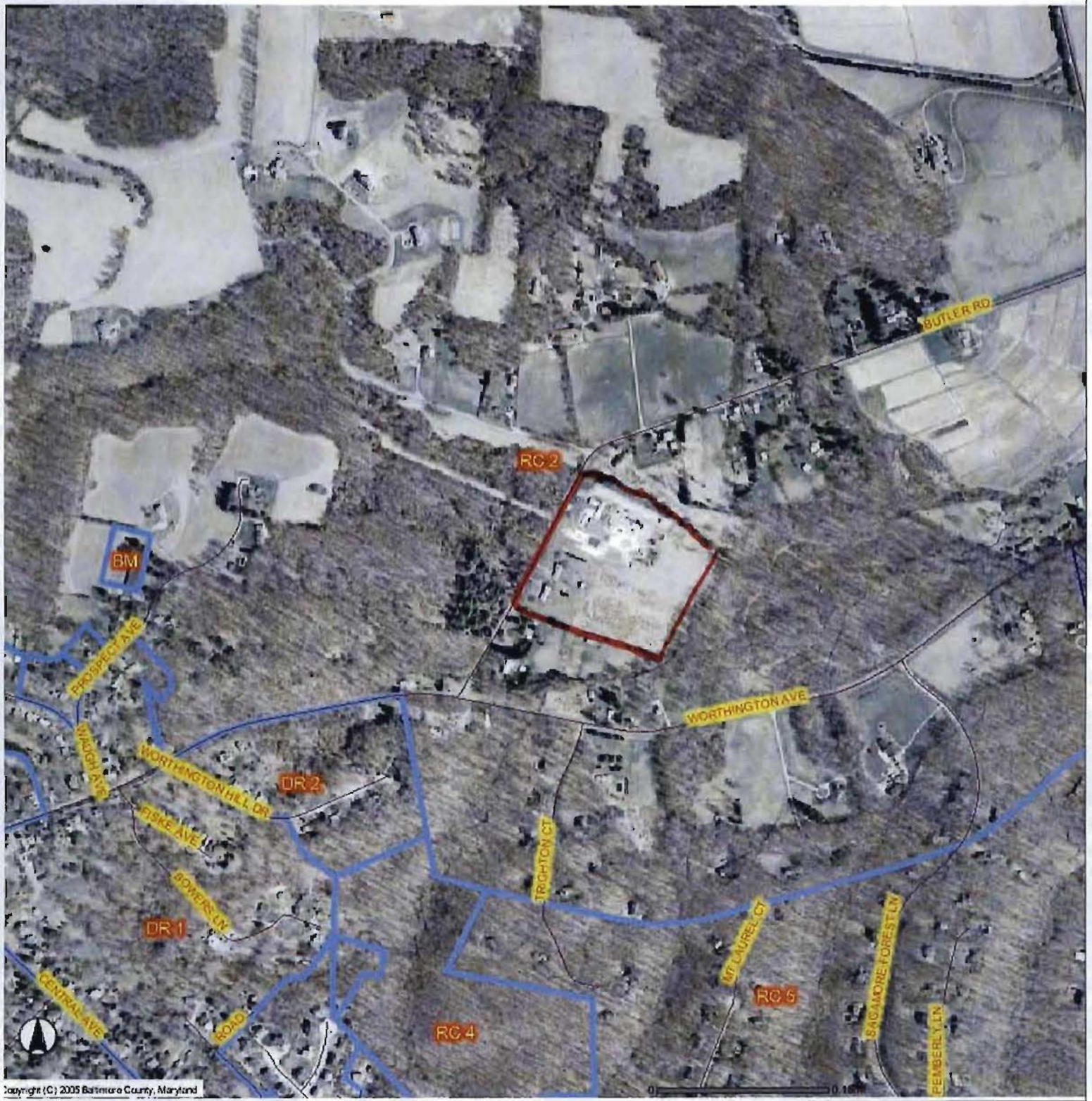
Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 AGRICULTURAL TRANSFER TAX

Baltimore County - My Neighborhood





3 CD
NW 17-I
RC 2
4 ED

Loch Raven Hydrology 100 Foot Stream Buffer
Flood Zone A

Flood Zone X

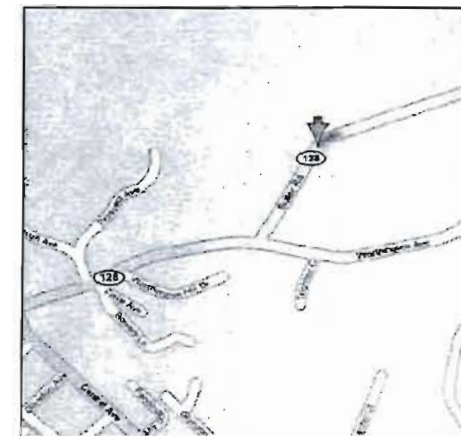
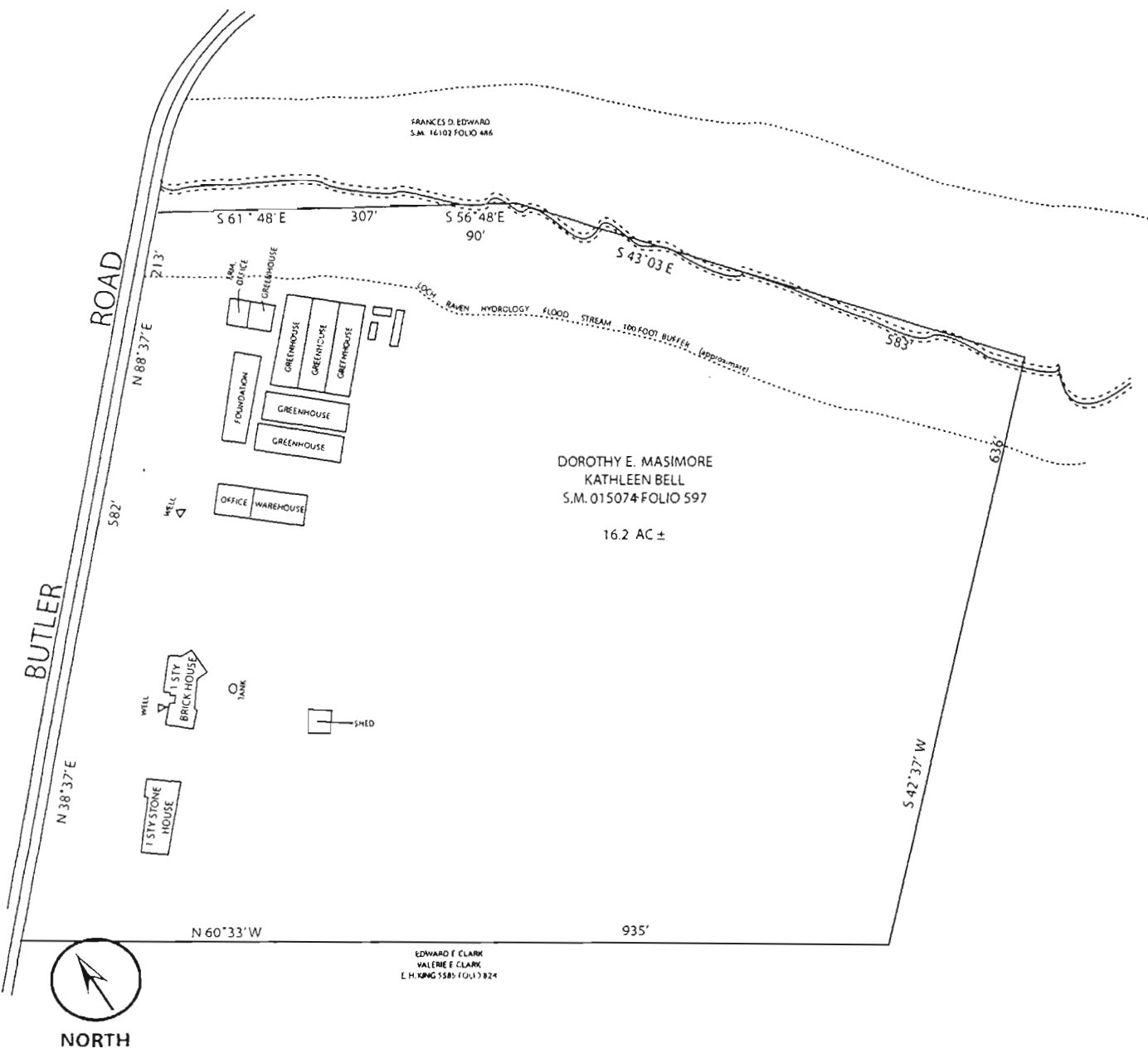
049A1

DELAWARE RUN

BUTLER RD

PLAT TO ACCOMPANY PETITION FOR ZONING ☐ VARIANCE ☒ SPECIAL HEARING

PROPERTY ADDRESS 4405 Butler Road (4417 Butler Road)



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 4

COUNCILMANIC DISTRICT 2

1"=200' SCALE MAP # 049A1

ZONING R.C.2

LOT SIZE 16.2 705,672
ACREAGE SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☐	☒
WATER	☐	☒

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒
PRIOR ZONING HEARING	☐	☒

ZONING OFFICE USE ONLY

REVIEWED BY _____ ITEM # _____ CASE # _____

PREPARED BY: Kathleen Bell

SCALE OF DRAWING: 1" = 40'

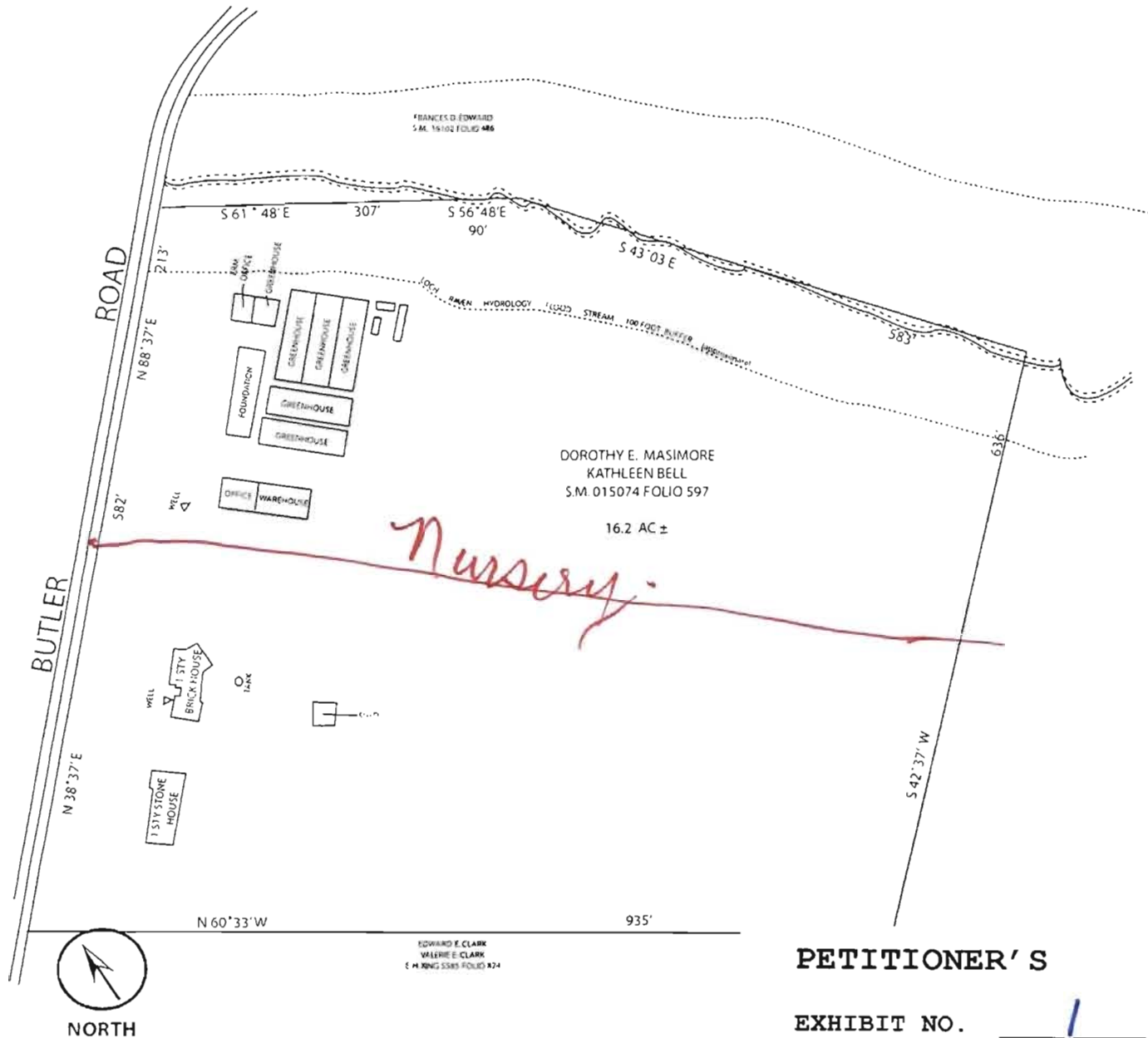
Case No.: 2008-0549-SPH 4405 BUTLER RD

Exhibit Sheet

Petitioner/Developer		Protestant
No. 1	→ SITE PLAN - AMENDED → ZONING ADVISORY Position	
No. 2	→ AMENDED SITE PLAN	
No. 3	→ 1975 Code - RDS → Permitted Use	
No. 4		
No. 5	→ Current Regs 6 - Community Inves	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PLAT TO ACCOMPANY PETITION FOR ZONING ☐ VARIANCE ☒ SPECIAL HEARING

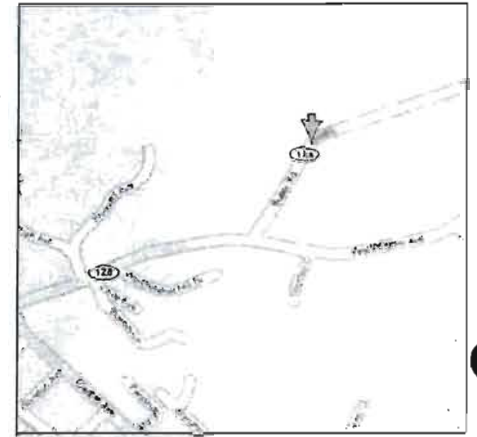
PROPERTY ADDRESS 4405 Butler Road (4417 Butler Road)



PETITIONER'S

EXHIBIT NO. 1

SCALE OF DRAWING: 1" = 40'



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 4

COUNCILMANIC DISTRICT 2

1"=200' SCALE MAP # 049A1

ZONING R.C.2

LOT SIZE 16.2 705,672
ACREAGE SQUARE FEET

SEWER PUBLIC ☐ PRIVATE ☒

WATER ☐ ☒

CHESAPEAKE BAY CRITICAL AREA YES ☐ NO ☒

100 YEAR FLOOD PLAIN ☐ ☒

HISTORIC PROPERTY/ BUILDING ☐ ☒

PRIOR ZONING HEARING ☐ ☒

ZONING OFFICE USE ONLY

REVIEWED BY _____ ITEM # _____ CASE # _____

PREPARED BY: Kathleen Bell

GILDEA & SCHMIDT, LLC

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

SEBASTIAN A. CROSS

F. GILLIS GREEN

ERIC N. LAMB

CHARLES B. MAREK, III

DAMLAN C. O'DOHERTY

JASON T. VETTORI

600 WASHINGTON AVENUE
SUITE 200
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ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

September 25, 2007

W. Carl Richards, Jr.
Zoning Review Supervisor
Permits and Development Management
111 W. Chesapeake Avenue
Towson MD 21204

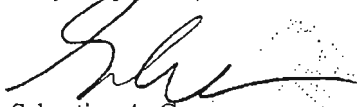
Re: Bell/4415 Butler Road Property
Zoning Confirmation Letter

Dear Mr. Richards:

This letter serves as a Zoning Confirmation Letter that a nursery use is permitted at the above referenced location due to it existing as a non-conforming use with continual operations predating the Zoning Regulations for horticultural nurseries in R.C. 2 Zone. I have attached both an article demonstrating that this horticultural nursery has been in operation since at least 1955 as well as an affidavit from the owner, Ms. Kathleen Bell stating that this operation has been continual since that time. As such, this letter seeks to confirm that a horticultural nursery can take place on site being a non-conforming use. This approval is now being sought as Ms. Bell has a new tenant that hopes to move in on October 1, 2007.

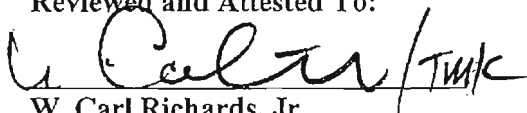
This letter also serves to notify Baltimore County that Ms. Bell will be filing for a special hearing to confirm her non-conforming status or in the alternative a special exception for a horticultural nursery in an R.C.2 zone. If you are in agreement that the new tenants may be allowed to pursue a horticultural nursery operation subject to these eventual zoning hearings, please sign and attest where indicated and return to this office. As always I am

Very truly yours,


Sebastian A. Cross

SAC:kmb

Reviewed and Attested To:


W. Carl Richards, Jr.
Zoning Review Supervisor

PETITIONER'S

EXHIBIT NO.

2

AFFADAVIT OF KATHLEEN BELL

I, KATHLEEN BELL, do hereby declare as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters herein of which I have personal knowledge.
2. I am the owner of all that property situate in the Fourth District of Baltimore County known as 4417 Butler Road, Glyndon, Maryland 21136 (the "Property").
3. The Property has been used continuously as a horticultural nursery by three separate businesses over at least the past 49 years.
4. The Property was used as a horticultural nursery by Milton and Dot Masimore from 1958 to 1987.
5. The Property was then used as a horticultural nursery by Wayne and Beverly Clark from 1987 to November of 2003.
6. The Property was then used as a horticultural nursery by B&B Landscaping, Inc. and Robert E. Arndt, Jr. from May of 2004 to May 1, 2007.

I solemnly declare and affirm under the penalties of perjury and that the above statements are true and correct.

Date:

9/24/07

Kathleen Bell
Kathleen Bell

THIS LEASE made this day of May, 2004 by and between DOROTHY E. MASIMORE and KATHLEEN BELL (Owners) and B. & B. LANDSCAPING, INC., a Maryland corporation, and ROBERT E. ARNDT, JR. ind and dba B & B Landscaping. (Tenants)

RECITAL: Tenants are hereby leasing from Owner(s) the subject property. The corporation named as one of the Tenants was incorporated on October 14, 2003.

TERMS AND PROVISIONS

Owners hereby lease to Tenants and Tenants hereby lease from Owners the eight acres, more or less, constituting the approximately southernmost half of the plot of ground conveyed to Owners by a deed dated Feb. 5, 2001 and recorded in Baltimore County Land Records in 15074/594 subject to the following terms:

1. TERM: This tenancy hereby created shall be for a five year term beginning on May 15, 2004 and ending at midnight of May 14, 2009.

2. RENT. The monthly rental for the first year shall be One Thousand, Six Hundred Dollars (\$1,600) and the rent for each month of each succeeding year shall be five percent more than the rent of the preceding year, each of which rental payments shall be owed and due on the first mail delivery day of each month except the first and last month as set forth below. Tenants shall supply Owners with a two-month security deposit along with the first payment of rent. Rent payment for the second half of May 2004 and first half of May, 2009, shall each be in the amount of one-half the amount of the monthly rent above stated and be due and owing on the 15th of the month.

3. USE OF LAND: Tenants shall use the land essentially as it is now being used, for landscaping, growing and selling of plants, trees and other garden products. Any other use without the prior written agreement of Owners shall be a violation of this lease

4. INSURANCE: Tenants shall purchase and maintain at their own expense, for the duration of this tenancy, insurance coverage in not less than the following:

Workers Compensation as required by law

General Liability of One Million Dollars including Owners as parties in interest and protecting Owners against all claims asserted against them for property damage and personal injury resulting from Tenants' use of the leased property.

Casualty insurance covering damage caused by fire, lightning, wind, water, snow, hail, ice and storm in an amount not less than the replacement cost of all structures and all property of all kinds on the leased property from time to time, including business-interruption insurance, regardless of by whom any of same may be owned. Tenants shall be responsible for replacing an/or repairing all structures and property supplied by Owners, damaged or destroyed by such

PETITIONER' S

EXHIBIT NO.

3

casualty. Owners shall be named as parties in interest on such insurance policies.

Tenants shall on request, exhibit to Owners the policies for such insurance and proof of payment of the premiums. Tenants shall not operate or allow to be operated, any activity causing a fire hazard and they shall bear all liability for any damages or injuries caused by fire to Owners' or others' property or person as a result of fire on the leased property resulting from Tenants' occupancy and use of the leased property.

5. INDEMNITY: A. Tenants agree to fully comply with all county, state and federal rules, regulations and laws applicable to the leased property and the business they operate there and pay all costs of any fees and licenses needed for the business and to save and keep Owners harmless and indemnify them against and from any penalties, assessments or charges imposed for any violation of same by Tenants' their employees and agents and contractors and will pay or reimburse Owners for the amounts of any penalties or any charges Owners shall find it necessary or expedient to pay for same by reason of any breach thereof by Tenants et al and also all costs incurred by Owners in defense or resolution thereof including reasonable attorneys fees.

B. Tenants shall at all times protect and indemnify the Owners against and from any and all losses, costs, expenses including attorneys fees, damages or liability asserted by any persons or entities arising from any occurrence or condition on the leased property causing injury to any person(s) or damage to any property or for any other claim or cause of action of any kind caused by or arising from the business and/or its operation and will protect and indemnify and save and keep harmless, the Owners, from any and all claims, costs, liens and demands of all kinds from any one(s) or entities asserted against them arising from Tenants' use of the demised property. Owners shall have no obligation to maintain, repair or replace anything on the leased property.

6. ASSIGNMENT: Tenants shall not sub-lease to others or assign the tenancy hereby created or any portion thereof, nor permit anyone other than Tenants to conduct any business or enterprise on the rented premises without Owners' express written consent.

7. ALTERATIONS: Certain structures exist on the leased property since prior to this lease. No further structures may be erected nor any alteration of the existing structures be made without Tenants having submitted to Owners a writing providing the particulars of such planned construction or alteration and obtaining Owners' written assent to such. Should any structure or improvement by Tenants result in any additional taxes assessed to Owners, Tenants agree to reimburse Owners for the amount of such increase

8. CASUALTY LOSS: The rent payable hereunder shall continue to accrue if structures or personal property and/or contents on the demised property are damaged or destroyed and Tenants shall protect themselves by insuring same and maintaining business interruption insurance

9. TERMINATION: Tenants shall leave all structures, betterments and alterations thereto on the leased property at the termination of their tenancy, in good condition, normal wear and tear excepted, all of which, no matter by whom built or caused to be built, shall become or remain the property of and owned by Owners. The grounds shall be returned to the same condition as when Tenants first occupied the property.

10. EMINENT DOMAIN: Should the property hereunder leased or any part thereof be taken under eminent domain by any governmental or quasi-governmental entity or body, this lease or any renewal thereof shall terminate and rent will be apportioned appropriately to the date of the taking. Tenants shall not be entitled to any part of the compensation for the taking of the property from the governmental or quasi-governmental agency exercising said power. Should the taking be for only a part of the property so that Tenants can continue to operate their business on the remaining part of the demised property, they may continue operations under the tenancy as if there had been no taking.

11. REPAIRS: Tenants shall have sole and full responsibility for maintaining all structures on the leased property without any contribution from or liability by Owners for repairs and regardless of who supplied same. Tenants shall take all reasonable precautions to prevent damage to structures on the property.

12. UTILITIES: Owners shall at their own expense, within three years, provide for the leased property, a well and septic tank. Tenants shall have sole and complete responsibility for obtaining and paying for all additional utility facilities not presently available or thereby supplied and which they wish to have available and they will pay the full cost of all electricity, gas, heating, oil and water used by the business or such of these as are or become available, plus any repairs not otherwise the responsibility of entities not a party hereto.

13. RENEWAL: (a) Tenants shall have the option to renew this lease for an additional five year period after the above stated term at a rental to be computed at five percent above the amount of the rental in the last year of the initial term, as rent for the first year and an additional five percent of the amount of rental for each succeeding year computed on the amount of the rental for each preceding year of the renewal term. Exercise of this option can be effectuated only if Tenants deliver to Owners, not less than one hundred twenty (120) days before the end of the initial term, a written statement of their commitment to the renewal. All provisions and terms of this lease shall apply and be binding on the parties during the term of such renewal period and any subsequent extension or renewal.

14. RIGHT OF FIRST REFUSAL: At any time, should Owners advise Tenants that they have in hand and want to accept a bona fide offer from an independent third party for purchase of the property, including any date after Tenants have given notice of their intention to renew, the option in Tenants to renew shall terminate and Owners shall submit to Tenants a copy of such offer. Tenants shall thereupon have ten (10) days after receipt of a copy of the offer, to submit a signed, written offer to purchase under the

same terms and amount of the third party offer to purchase. If Tenants do not timely submit such written offer and close on purchase within thirty days thereafter, Owners may proceed to sell the property to the third party and Tenants shall no longer have a renewal option, any notice of intent to renew notwithstanding. Should the third party change the terms of their offer before it is signed by Owners, Tenants shall have the same ten (10) day period in which to offer to purchase for the same terms and amount as the amended offer.

15 TAXES: Unless the property hereby leased can be assessed and taxed separately from the remaining portion of the entire sixteen acres more or less lot, the annual real property tax bills from Baltimore County and the State of Maryland shall be the responsibility of the parties as follows:

If the two halves of the sixteen acre lot are assessed separately, each party shall pay their own tax bill.

If the entire lot of sixteen acres is assessed as one unit, Tenants shall be responsible for one-half of the tax on the ground and all taxes assessed on the business they operate and the structures they use on the leased property and all business personal property taxes.

If Owners pay the entire tax bill, the amount to be paid by Tenants as above defined shall be due and owing by Tenants as an additional rent due with the next rent installment.

16. LAWFUL USE: All activities on the leased property shall be lawful and not in violation of any county, state or federal law or rule. Any breach of this provision shall accord to Owners the option to terminate the tenancy with no advance notice required.

17. ENTRY: Owners can enter the premises for inspection during normal business hours.

18. LIENS: Any liens placed on either or both halves of the property owned by Owners as a result of actions or inactions by Tenants or any of them, or their agents, contractor or sub-contractors shall constitute a breach of this lease and Owners shall have the option to immediately terminate the tenancy hereunder created with no requirement for advance notice. The amount of such lien(s) shall be a debt immediately owed by Tenants jointly and severally to Owners.

19. APPEARANCE: The leased property and all structures on it shall be kept in proper and neat condition with no garish or oversized erections or signs. Grass shall be no higher than four inches.

20. JOINT AND SEVERAL LIABILITY: Tenants are indebted for the rent payments and all other obligations herein stated, both jointly and severally. All undertakings are

binding on the Tenants and their respective heirs and personal representatives, successors and assigns..

21. REMEDIES OF OWNERS: In the event of default by Tenants in payment of rent for ten days beyond the stated due date, or any breach of any non-rent covenant continuing for thirty days, Owners may proceed by distraint, may evict Tenants by summary court proceedings, with or without notice, re-enter and take possession of the demised lot of ground and all property of all kinds of Tenants or others on said lot and keep, destroy or remove it in their discretion and with or without terminating the lease and without it constituting civil or criminal trespass and this lease provision constitutes Tenants' agreement to exercise of such remedies by Owners. Owners may thereupon re-lease the premises to others. Exercise by Owners of any remedy shall not bar the exercise by Owners of any other remedies provided by this lease or by law. If the lease is terminated by Owners, Tenants shall still be liable to them, in addition to any other amounts owed or to be owed, for the cost of re-possession and re-entry including court costs and reasonable attorneys fees. If Owners elect to not terminate the lease, Owners shall be under no obligation to re-rent the property but if they do so upon re-taking possession, Owners may re-rent the property to others for a term that can be equal to, partial or beyond the remaining term of Tenants and Tenants shall have no claim to any amount of rent from a subsequent tenant that exceeds the amount of rent provided herein to be paid by Tenants.. Tenants shall remain liable to Owners for the amount that the rent received from a successor tenant shall not cover the amount of rent to be owed by Tenants hereunder, plus all expenses incurred by Owners to obtain replacement Tenants and any expenses incurred by Owners in asserting the above remedies, including reasonable attorney fees.

Should the amount of rent collected from a subsequent tenant obtained as a result of default by Tenants, exceed the amount of rent required to be paid by Tenants hereunder, all of such excess shall be the property of Owners, and Tenants shall have no claim to or benefit from any portion thereof. Tenants shall remain liable for all unpaid rent provided for herein to the end of the existing term, less the amount of rent received by Owners from a replacement tenant up to the amount required of Tenants herein.

Should the property be abandoned by Tenants, Owners may enter as if this lease had never existed and assert possession, keep, destroy or dispose of any property of any kind remaining regardless of by whom owned and re-rent the property as Owners. Should any claim be asserted by any third party claiming ownership of any property found on the demised lot of ground, Tenants shall be liable to Owners for any costs and expenses including attorney fees paid by Owners in defending against such claim and/or paying any amount required by a court or administrative judgment or order to be paid to such claimant

22. OWNERS NON-LIABILITY: Owners shall have no liability or responsibility to Tenants, or to any third person(s) or entities asserting any claim of any kind including

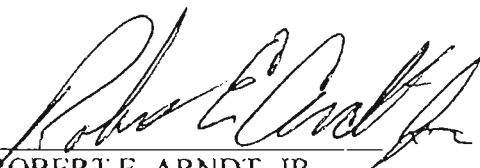
for any property damage or personal injury or otherwise, involving any structures, equipment or fixtures supplied by Owners.

23. REMOVAL OF PROPERTY: Tenants may not remove any structures, facilities or equipment or parts thereof supplied by Owners, without Owners' prior written approval

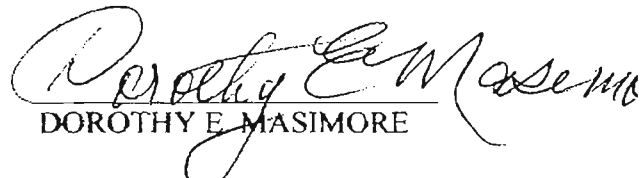
24. BANKRUPTCY: Any bankruptcy filing or assignment for creditors by either Tenant shall provide Owners the option to terminate this lease immediately.

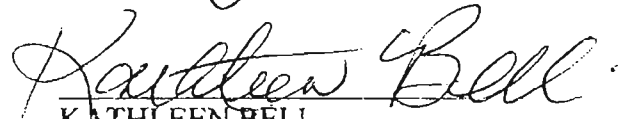
AGREED TO BY THE PARTIES

TENANTS


ROBERT E. ARNDT, JR.

OWNERS


DOROTHY E. MASIMORE

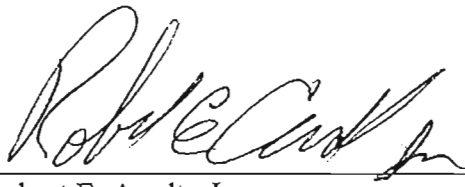

KATHLEEN BELL

B. & B. LANDSCAPING, INC.

BY 
ROBERT E. ARNDT, JR., PRESIDENT
Duly authorized by the corporation



I hereby declare and affirm under penalties of perjury that I am authorized and Empowered by B. & B. Landscaping, Inc. to enter into this lease on its behalf and to thereby commit the Corporation to performance of its terms.

A handwritten signature in cursive script, appearing to read "Robert E. Arndt, Jr.", written in black ink.

Robert E. Arndt, Jr.

["Dwelling, Duplex", "Dwelling, Group House", "Dwelling, One-Family", "Dwelling, Semi-detached", and "Dwelling, Two-Family" and definitions deleted by Bill No. 100, 1970.]

Excavations, Uncontrolled: The digging of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface for any of the following purposes:

1. When incidental to the operation of a permitted business or manufacturing use located on the same property, but excluding any digging of material for sale, exchange, processing or manufacture;
2. For grading or other purposes incidental to improvement of the land;
3. When incidental to the development of land or to grading for public improvements.

[B.C.Z.R., 1955; Resolution, November 21, 1956.]

Excavations, Controlled: All types of excavations other than those defined above as "Excavations, Uncontrolled". [B.C.Z.R., 1955.]

Expressway: A motorway or portion thereof which: is, or is intended, for intra-metropolitan travel of varying distances; has or is intended to have a center median strip and a total of four or more lanes for moving traffic; is designed or intended for traffic speeds of at least 55 miles per hour; has no direct access to individual uses on abutting private property; and has been designated as an expressway by the Planning Board. [Bill No. 40, 1967.]

Face-rear orientation: Orientation of a building (automotive-service station) in such a manner that the pumps, openings to the service bays, etc., face away from any street and toward the rear of the site. [Bill No. 40, 1967.]

Face-side orientation: Orientation of a building (automotive-service station) in such a manner that the pumps, openings to the service bays, etc., face away from any street and toward a side of the site. [Bill No. 40, 1967.]

Family: Any number of individuals lawfully living together as a single house-keeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel. [B.C.Z.R., 1955.]

Farm: 3 acres or more of land, and any improvements thereon, used primarily for commercial agriculture, including, but not limited to: crop, dairy, stock and poultry farming; horse breeding, training and stabling; and commercial greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm. [Bill No. 85, 1967.]

Farm (Limited-Acreage Wholesale Flower Farm): A limited-acreage wholesale flower farm is less than 3 acres of land, and any improvements thereon, used primarily for growing flowers and small plants and the wholesale distribution thereof. [Bill No. 85, 1967.]

PETITIONER'S

ARTICLE 1A—RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES
[Bill No. 100, 1970.]

Section 1A00—R.D.P. ZONES (RURAL: DEFERRED-PLANNING). [Bill No. 100, 1970.]

1A00.1—General Provisions. [Bill No. 100, 1970.]

- 1.¹ Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above,² in order to:
 - a. Prevent untimely urban development of relatively open rural land; and
 - b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.

[Bill No. 100, 1970.]
2. Intent as to application of R.D.P. zoning classification to property or removal therefrom. It is intended:
 - a. That rural land shall be classified within R.D.P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume) as amended, all consistently indicate that such land is to be serviced by public sewerage and water-supply systems and, in the case of those said documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such nonserviced land as is specifically herein described (in this Subparagraph 3³ or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;
 - b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

1. The line designating this subparagraph and those immediately following as parts of a Paragraph "A" was deleted from Bill No. 100, 1970 by amendment after introduction.

2. Findings deleted from Bill No. 100, 1970 by amendment after introduction.

3. Now Subparagraph 2, as a result of amendment of Bill No. 100, 1970 after introduction.

- c. That reclassification of land as R.D.P. shall not represent a commitment by Baltimore County with respect to type of future development, but only that more particular planning for the use of such land shall be executed in the future; and
- d. That certain distinct existing areas of compact development, such as certain approved subdivisions or the immediate environs of typical rural business centers, are not normally to be classified as R.D.P.

[Bill No. 100, 1970.]

- 3. Special Policy for Certain Developments. In view of possible overriding public benefits to be derived from certain large-scale unit developments, the establishment of such developments is hereby excepted from application of the policy hereinbefore stated to the extent indicated under Section 430 ("Unit Developments"). [Bill No. 100, 1970.]

- B.⁴ Locational Requirement. No R.D.P. zone shall be established or re-established within the urban-rural demarcation line, but said line may be re-established to include an R.D.P. zone or part thereof existing at the time said line is re-established. [Bill No. 100, 1970.]

1A00.2—Use Regulations. [Bill No. 100, 1970.]

- A.⁵ Uses Permitted as of Right. The following uses, only, are permitted as of right in R.D.P. zones:

- 1. Farms, or, on existing undersized lots, limited-acreage wholesale flower farms.⁶
- 2. One-family detached dwellings.
- 3. Churches or other buildings for religious worship.
- 4. Trailers (see Section 415).
- 5. Research institutes, as defined in Section 101 and as permitted and regulated in D.R. 1 zones (see Section 418).
- 6. Hospitals.
- 7. Telephone, telegraph, electrical-power or other electrical lines, all underground with the exception of such lines as are permitted above ground in D.R. zones.
- 8. Other cables; conduits; gas, water, or sewer mains; or storm-drain systems: all underground.
- 9. Railroads or other transportation lines.

4. Line designating preceding provisions as Paragraph "A" deleted--see note 1 above.

5. All provisions of this paragraph from Bill No. 100, 1970.

6. Since a limited-acreage wholesale flower farm consists of less than three acres of land (see Section 101), and since the minimum lot size in R.D.P. zones is one acre (rather than ten acres, as set forth in Bill No. 100, 1970 before amendment), there is a question as to the effect of the phrase "on existing undersized lots".

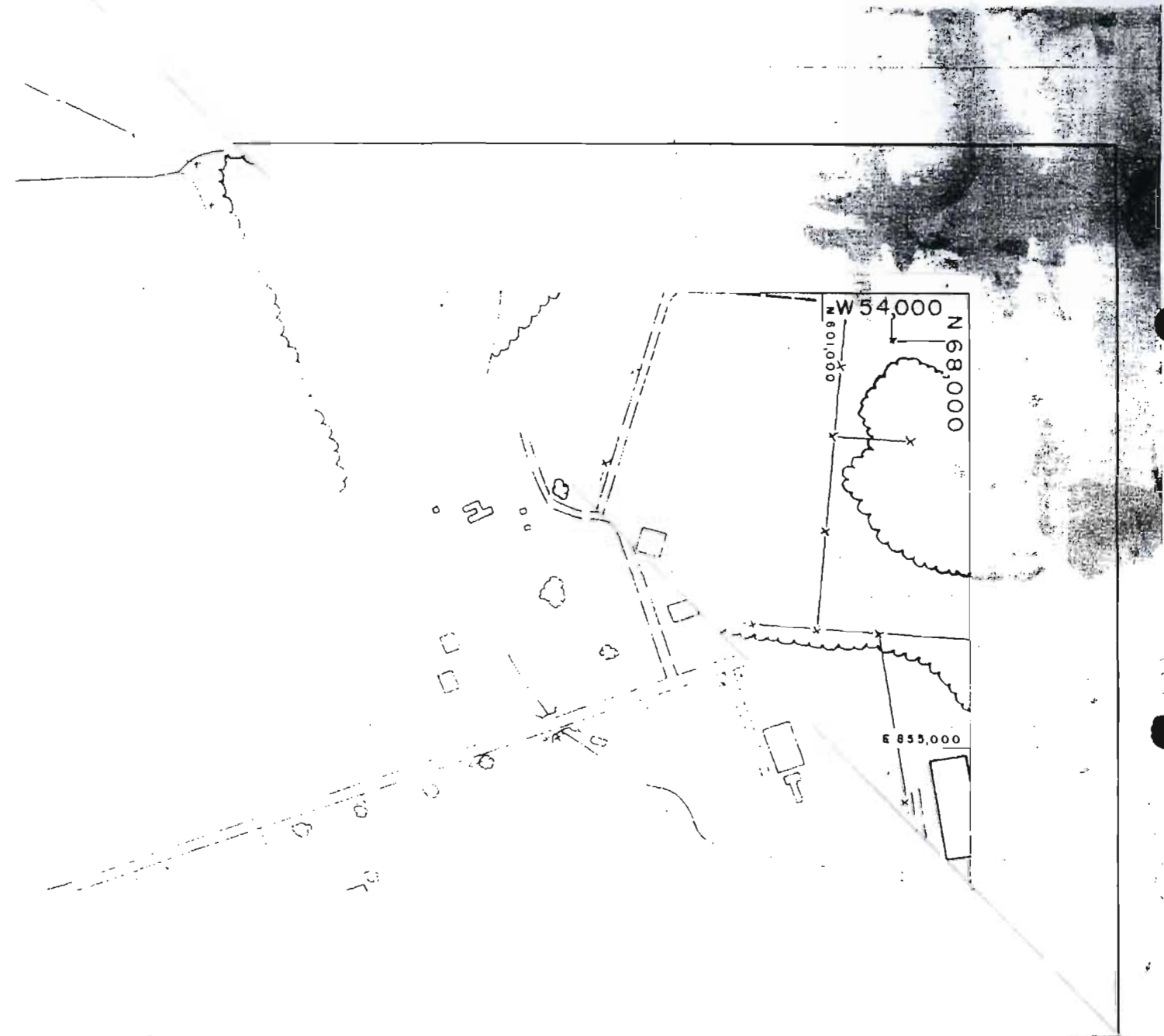
10. Animal boarding places (regardless of class), kennels, veterinarians' offices or veterinarians, subject to the provisions of Section 421.
11. Excavations, uncontrolled.
12. Schools, except business or trade schools or such schools as are permitted as special exceptions (Paragraph B, below), but including schools for agricultural training.
13. Accessory uses or buildings (not subject to the provisions of Section 400), including, but not limited to:
 - a. An office or studio of a doctor, dentist, lawyer, architect, engineer, artist, musician, or other professional person, provided that such office or studio is established within the same building as that serving as his bona fide residence; does not occupy more than 25 per cent of the total floor area of such residence as existing on the effective date of this provision;⁷ and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees; provided, further, that signs relative to such use shall be prohibited except as noted in Section 413.
 - b. Home occupations as defined in Section 101, also subject to the sign provisions of Section 413.
 - c. Parking space, including residential-garage space.

B.⁸ Uses Permitted by Special Exception. The following uses, only, are permitted as special exceptions:

1. Airports
2. Antique shops (see Section 402B).
3. Boat yards.
4. Cemeteries.
5. Commercial beaches
6. Community buildings, swimming pools, or other structural or land uses devoted to civic, social, recreational, or educational activities.
7. Conservatories for music or other arts.
8. Dwellings or other buildings converted to tea rooms or restaurants, as provided in Subsection 402.3, or tea rooms or restaurants expressly constructed for such purpose, but otherwise subject to the same such restrictions.
9. Excavations, controlled (see Section 403), provided renovation or appropriate adaptation of the land is assured within a reasonable time, as determined by the Zoning Commissioner.
10. Golf courses, country clubs, or other outdoor recreation clubs; also quasi-public camps, including day camps.

7. Regarding the effective date of the provisions of Bill No. 100, 1970, see note 3, Section 100.

8. All provisions of this paragraph from Bill No. 100, 1970.



ARTICLE 1A

RESOURCE CONSERVATION ZONES [Bill No. 98-1975¹]

Section 1A00 General Provisions for All R.C. Classifications

1A00.1 Findings. It is found:

- A. That development in the rural areas of Baltimore County has in recent years been taking place at an increasing rate;
- B. That this development has occurred without the framework of a land use plan or other planning components;
- C. That due to this and other factors, this development has formed very undesirable land use patterns;
- D. That in general, these patterns are, or can be described as, urban sprawl;
- E. That a significant amount of urban sprawl development is occurring as linear development along the various highways of the rural areas of the county as tracts of land immediately fronting along highways are "lotted off"; the utility of the road system is being impaired and future improvements will be frustrated if this process continues;
- F. That it has been established that this development carries with it an extremely high cost to the county in a number of respects including:
 1. The cost of servicing this pattern of development;
 2. The cost with respect to its consumption and use of prime agricultural land, critical watershed areas, mineral extractive sites, as well as of other important natural resource areas;
 3. The cost of future development opportunities due to the fact that viable, rational alternatives will be lost totally or compromised significantly by the present form of development;
- G. That the aspect of the comprehensive plan that is applicable and which is being considered for rural Baltimore County embodies solutions to the various problems;
- H. That the effective implementation of this plan requires additional zoning classifications; and

¹ Editor's Note: Bill No. 98-1975, which enacted this Article, also repealed former Article 1A, Sections 1A00 and 1A01, previously added by Bill No. 100-1970.

- i. Tenant houses, including trailers used as tenant houses. [Bill No. 178-1979]
- j. Rubble landfills, provided that the actual fill area does not exceed 3% of the total contiguous acreage of the property in the same ownership and subject to the provisions of Section 412.7 only. [Bill No. 97-1987]
- k. Signs, subject to Section 450. [Bill No. 89-1997]
10. Commercial film production, subject to Section 435. [Bill No. 57-1990]
11. Transit facilities. [Bill No. 91-1990]
12. Equestrian centers, provided that any such equestrian center has access to two roads, one of which is a road having, within two miles from the equestrian center, an interchange with an interstate expressway; contains no permanent grandstand; and contains no lights other than those consistent with farm use. Temporary structures, such as removable tents, viewing stands and seating, are permitted, provided that they are removed within a reasonable time following the event or events which they serve. [Bill No. 24-2002]
- C. **Uses permitted by special exception.**¹ The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: [Bill No. 178-1979]
1. Airports. [Bill No. 178-1979]
 2. Animal boarding places (regardless of class), commercial kennels, private kennels, veterinarians' offices or veterinarians (see Section 421). [Bill Nos. 178-1979; 87-2001]
 3. Antique shops (see Section 402B). [Bill No. 178-1979]
 4. Camps, including day camps. [Bill No. 178-1979]
 5. Community care centers provided that no residential community care center, i.e., a center which serves as the residence of the persons for whom care is provided, shall provide care for more than 15 persons per site, and no day community care center shall provide care for more than 15 persons per acre nor more than 75 persons per site. [Bill Nos. 178-1979; 157-1986]
 6. Churches or other buildings for religious worship. [Bill No. 178-1979]

¹ Editor's Note: The following uses were included in this section by Bill No. 98-1975, and deleted by Bill No. 178-1979: "baseball batting ranges," "cemeteries," "community bldgs. swimming pools," "fish hatcheries," "golf driving ranges, miniature-golf," "helistops," "hospitals," "nursing, convalescent homes," "railroads," "sanitariums" and "shooting preserves."

7. Excavations, controlled. [Bill No. 178-1979]
8. Farm market, subject to the provisions of Section 404.4. [Bill Nos. 178-1979; 41-1992]
9. Fishing and shellfishing facilities, Class I and II. [Bill No. 178-1979]
10. Golf courses or country clubs. [Bill No. 178-1979]
11. Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood, provided that:
 - a. Only three persons, including the disabled person and the members of his immediate family who are residents of the dwelling, are employed in the use on the premises; and
 - b. In any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in his occupation away from the premises of his home.

Any provision of Section 502.2 to the contrary notwithstanding, any special exception granted pursuant to this item shall expire upon the first to occur of the following:

- (1) Five years after the issuance of the permit;
- (2) The death of a disabled person;
- (3) The termination of the disability; or
- (4) The failure of the disabled person to permanently reside at the premises.

A new special exception for the use may be granted when the previous special exception expires but only upon the completion of the entire application and hearing process in the same manner as if it were the initial application for this special exception. It is the purpose of this provision to prevent the use of residential property for business purposes by an occupant other than a disabled person and to ensure that any occupation permitted pursuant to this item will be conducted in a manner appropriate to its surroundings. [Bill No. 27-1981]

12. Horticultural nurseries, subject to the provisions of Sections 404.1 and 404.2. [Bill No. 41-1992]
13. Hunting or fishing preserves. [Bill No. 178-1979]
14. Landscape service operations, subject to the provisions of Sections 404.1 and 404.3. [Bill No. 41-1992]

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Closing of garden shop evokes bittersweet memories

SUSAN C. INGRAM 18 NOV 03



Beverly and Wayne Clark with their dog Scuba. The Clarks plan to close Worthington Gardens after the holidays. Susan C. Ingram/Staff photo

Wayne and Beverly Clark may have been all smiles last week as the wind blustered through their greenhouses at Worthington Gardens in Glyndon, but behind the smiles was a hint of sadness at having to close the business they've run for the past 16 years.

Worthington Gardens has been a neighborhood institution on Butler Road since 1958 when Milton and Dot Masimore began selling field-grown mums.

When the Masimores retired, the Clarks bought the business but not the property in 1987. Since then they've consulted the older couple for their gardening expertise.

"It was a whole new change for us and just having them here was an

advantage," Beverly Clark said in 1998 interview surrounding their business' 40th anniversary. "We still find that we learn more each year."

Now with eight acres and 14 greenhouses, Wayne Clark said business grew steadily over the past decade and a half.

Worthington Gardens supplied several garden stores, including Watson's and Valley View Farms. They were known for their greenhouses full of fresh flowers and became the only fresh-cut anemone grower in Maryland.

But last year was bad.

"It's been awful because of all the wet weather. It's been one of the worst years we've had," he said.

First, the 2002 drought and the governor's consequent ban on watering stopped people from buying plants.

In February, six greenhouses collapsed under the weight of a record snowstorm.

"Then the rain all spring contributed to lack of sales," Wayne Clark said. "But that was industry wide."

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Clark said the couple cut back expenses to weather the disasters.

"It hurt, but that's not the reason we're going out of business," he said.

Because the Clarks don't own the property, they decided it was not financially feasible to invest more money on repairs and expansion.

It was not an easy decision to make.

"My kids grew up here," said Wayne Clark.

Both Clark children worked at the business. Three grandchildren have spent time there.

Over their 16 years working in Glyndon, the Clarks have made a lot of friends.

"It's really been nice having the community support us for so many years," said Wayne Clark. "When I first came here we met people who brought their children here. Now their children are bringing their children."

Students from the Hannah More School and The Harbour School went to Worthington Gardens to learn about plants and growing.

"It was an experience watching them learn," Wayne Clark said.

The Clarks plan to stay open throughout the holiday season, selling Christmas trees, poinsettias, wreaths and other holiday plants and accessories.

They want to stay in the landscaping business, work from their Manchester home and keep in touch with their regular customers.

The Clarks were active with the Maryland Greenhouse Growers' Association, of which Wayne was a board member and president.

"That was an experience," Wayne Clark said, about meeting growers from around the country and the world.

"We've met a lot of neat people," Beverly Clark said. "We're really going to miss our friends who came in, and we thank them for their patronage throughout the years."

Joetta Nelson, who has worked at Worthington Gardens for 11 years, had bittersweet memories last week.

"It was great. I learned a lot here. I didn't know anything about flowers when I started here," she said.

- Community Times

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