

6/27/10

IN THE MATTER OF
THOMAS AND CYNTHIA HUTSON
- LEGAL OWNERS/PETITIONERS
S/SIDE OF TUFTON RIDGE RD, 1,150 FT E OF
C/O OF JAY TRUMP RD
(2205 TUFTON RIDGE ROAD)
8th Election District, 2nd Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 09-035-SPH

RE: Petition for Special Hearing

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals on an appeal of the Hearing Officer/Zoning Commissioner's order dated February 20, 2009. That Order denied the Special Hearing request, pursuant to §500.7 of Baltimore County Zoning Regulations ("BCZR"), to allow an amendment to the Final Development Plan ("FDP") entitled "Tufton Farms, Section Two". The request was for a re-subdivision of Lot 26, Plat 3, Section 2 into two (2) lots consistent with BCZR §1A00.4 and 1B01.3.A.7 and §502.1 of the BCZR.

A hearing before the Board was held over two days, beginning on July 29, 2009 and continued and completed on December 1, 2009. Memoranda in lieu of closing arguments were submitted to this Board on February 1, 2010. A public deliberation was held on March 2, 2010.

Petitioners, Thomas and Cynthia Hutson, the property owners, were represented by Arnold Jablon, Esquire, of Venable, L.L.P. Protestants, The Valleys Planning Counsel ("VPC"), through Teresa Moore, Executive Director and various individual lot owners of Tufton Farms were represented by J. Carroll Holzer, Esquire. People's Counsel filed a pre-hearing brief, but did not participate in the hearing.

Alan T. Fell, an individual lot owner and attorney, filed an appearance as an individual and appeared on the first day of the hearing. Mr. Fell did not appear at the second day of the hearing and did not file a Memorandum in this matter.

Background

The background in this case was succinctly set forth by the Zoning Commissioner in his decision. Thomas A. Church, a professional engineer with Development Engineer Consultants, Inc., was accepted as an expert in land development and zoning. Mr. Church testified that he prepared the site plan and provided expert testimony with respect to the background of the development of Tufton Farms and the proposal to subdivide Lot 26. Mr. Church stated that Tufton Farm subdivision was originally developed approximately 32 years ago. The subdivision (Section 2) consists of 234.58 acres of land located south of Shawan Road, east of Dover Road, and northeast of Knox Road in Worthington Valley. As shown on the FDP, 119.58 acres of the property are in the R.C.2 zone, which at the time of the development of the property allowed for the development of up to twenty (20) lots. The remaining 115 acres were zoned R.C.5, and allowed for a maximum of seventy-five (75) lots in 1977 when the development was begun, creating a total of seventy-seven (77) permissible lots in the combined R.C.2 / R.C.5 zoning classification that encompassed the subdivision. The plan shows uniformly large lots with lot size averages of 7.24 acres.

Mr. Church stated that instead of developing the property to its maximum potential of 77 lots, Gaylord Brooks Investment Company ("Gaylord Brooks") proposed and developed only 30 lots with 15 located in the R.C.2 zone and 15 in the R.C.5 zone. The Subdivision Record Plat as well as the Final Development Plan for Tufton Farms were approved by the Office of Planning and Zoning of Baltimore County in February of 1977. Mr. Church then explained the changes made to the subject property during the 2008 Comprehensive Zoning Map Procedure ("CZMP"). Prior to the 2008 changes the subject property was split-zoned R.C.2 and R.C.5. However, Issue 2-035 of the 2008 CZMP, which encompassed roughly 130.2 acres of the Tufton Farms

subdivision, in effect, down-zoned the R.C.5 portion off the Hudson's property to R.C.6. The R.C.2 portion of the property was not changed or altered in any way by virtue of Issue 2-035.

Mr. Church then testified as to the specific nature of the subject property and the requested relief sought before the Board. Lot 26 is an irregular shaped lot containing a net area of 5.71 acres which is split-zoned. The northern half of the lot is undisturbed and zoned R.C.2, the southern half is improved with the Petitioner's single family dwelling and zoned R.C.6. The property is located on the far east end of Tufton Ridge Road, which terminates in a cul de sac that marks the termination of the public access road.

The Petitioners are proposing to re-subdivide the property. Lot 26A would be comprised of 1.580 acres in the northeast corner of the property, all of which is located within the R.C.2 zoning classification. The balance of the 4.130 acres would become Lot 26B and is split-zoned 1.250 acres of R.C.2 and 2.925 of R.C.6. Petitioners proposed the construction of the new dwelling in the southern corner of proposed Lot 26A. The proposed dwelling would be accessed via a private driveway that directly connects to the cul de sac at the eastern end of Tufton Ridge Road. According to Mr. Church only .25 acres of land would need to be cleared in order to construct the proposed dwelling and driveway on Lot 26A. Mr. Church also explained that there would be a retaining wall to the south of the proposed new home that would make the home sit down in the property so as not to be as visible from the cul de sac or the road.

Mr. Church noted that Petitioners had complied with all setbacks and were not asking for any type of variance. He admitted that some trees will come down, and that there will be roughly one-third of an acre of the property that would have a limit of disturbance ("LOD"). The LOD of a third of an acre would only account for the home and the driveway. He stated that the septic system would not disturb trees. He also testified that the size of the dwelling would be

approximately 2,500 square feet living space with a two-car garage. Other than the footprint of the home, Mr. Church was not sure which style of home would be constructed.

Evidence

Petitioner's Evidence.

In addition to providing background, Mr. Church testified with respect to whether or not the proposed subdivision would meet the spirit and intent of the FDP. In his opinion, the intent of the FDP was to develop wooded lots, not large lots. In his opinion, the Petitioners are doing everything that its possible to keep Lot 26 as wooded as possible.

In addition, Mr. Church was asked to opine with respect to compliance with Section 502.1 of the Baltimore County Zoning Regulations. He testified that in his opinion the additional house would not tend to create congestion in the roads, streets or alleys in Tufton Farms. In his opinion the additional house would have no effect on the traffic in the area. Also, the additional house would not cause a potential hazard from fire, panic or other danger. Mr. Church did not think that the addition of the one house would tend to overcrowd the land or cause undue concentration of population, and that the proposed changes would not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements. He also felt that it would not interfere with adequate light and air. He felt that the proposed subdivision would be consistent with the purposes of the property zoning classification and would not in any way be inconsistent with the spirit and intent of the BCZR.

Mr. Church also testified that he was familiar with the R.C.2 regulations and the changes that had been made since 1977. At the time of the original development of Tufton Farms in 1977, the R.C.2 regulations called for twenty (20) lots per one hundred (100) acres and every twenty-five (25) acres were allowed one (1) additional lot. The present R.C.2 regulations allow

two (2) lots per one hundred (100) acres with a minimum of one (1) acre lots. For every additional fifty (50) acres, the developer would be allowed one (1) additional dwelling.

Mr. Church also testified with respect to the Declaration of Restrictions which had been placed on the Tufton Farms development. He stated that the original restrictions were placed on the property by a Declaration of Restrictions dated January 12, 1978. These Restrictions pertain to a number of lots in the Tufton Farms development including Lot 26, the Lot in question in this matter. The Declaration of Restrictions was made by the developer, Gaylord Brooks Investment Company. The Restrictions do not appear to restrict the number of lots in the development. The Restrictions were binding until the first day of July 2007. The Petitioners also submitted another Deed, dated May 4, 1977 between Thomas S. Nichols and Gary Black and Gaylord Brooks Investment Company. It was recorded on May 4, 1977 and contained conditions and restrictions which state:

1. The property herein conveyed shall not be subdivided into more than thirty three (33) Lots.
2. The minimum lot size of any lot so created shall be not less than three (3) acres.
3. These restrictions shall be binding until July 1, 2006. Enforcement shall be by proceeding at Law or in equity against person or persons violating or attempting to violate any Covenants."

Petitioner also submitted a third document, entitled AMENDMENT OF DECLARATION OF RESTRICTIONS, dated September 11, 1978, by Gaylord Brooks Investment Company, Oakmont Homes, Inc., and First Federal Savings and Loan Association of Brooklyn. This document was prepared for the purpose of consenting to the Amendment of the

Declaration of Restrictions conveyance of Lot 6 of Tufton Farms development by the party of the first part (Gaylord Brooks) to Oakmont Homes and First Federal S&L. The document states that the first paragraph of the Declaration of Restrictions dated January 12, 1978 would be changed to read as follows:

" ... Residential use shall not bar a home office use of the property provided the owner of said lot complies with the applicable zoning regulations of Baltimore County. The Developer reserves the right to resubdivide lots owned by it provided that the total number of lots within area as shown on the aforesaid Plats shall not exceed twenty-six (26) and further provided that the lots as resubdivided shall not be less than five acres in size. Lots so created shall automatically be subject to the legal operation and effect of the original Declaration of Restriction and as amended herein."

The document then goes on to state that all other provisions of the aforesaid Declaration shall remain and continue in full force and effect; Petitioners contending that these restrictions expired on July 1, 2007.

As stated previously, Mr. Church contends that the spirit and intent of the FDP shows that the Developer originally was concerned with the idea of large wooded lots and that the restrictions on the number of lots was allowed to expired in July of 2007, thereby, allowing for the subdivision of Lot 26 into Lot 26A and B, in compliance with the R.C.2 zoning regulations.

Protestant's Evidence and Testimony.

Protestant's presented a number of Unit Owners in the Tufton Farms area who expressed their opinion with respect to the proposed subdivision.

Janice Bortner testified that she is the owner of Lot 9 and has lived on the property for 11 years. She testified that it is a very serene area that has large wooded lots which was the main reason for her to buy into the area. She was concerned about the division of Lot 26 for several reasons. One reason was that well water in the area has been a problem. The second issue was one of run-off with drainage. She added that as a resident of Tufton Farms she feared that the subdivision of Lot 26 would have a domino effect and that other lot owners would attempt to subdivide their lots which would cause smaller lots to be established and thereby affect the property values of all the lots in Tufton Farms. She narrated a home movie that she made showing the lots and homes along Tufton Ridge Road.

Wilson T. Gildee testified that he is an original owner in Tufton Farms and bought in 1981. He built his home in 1985. He was attracted to the development by the large wooded lots. The 5 to 10 acre lots guarantees privacy that he could get in no other part of the County. He was also concerned about the property values if small lots were allowed in the community.

Mr. Mike O'Malley testified that he has lived in the development for 25 years and has a 9 acre lot. His is one of the largest lots in the subdivision. He was also concerned about property values due to the splitting of a lot that he considers to be one of the smallest lots in the development.

John Sophocles testified that he lives on Tufton Ridge Road. He bought his home in 1988 and also was attracted by the large wooded lots. He contended that the subdivision is not in keeping with the spirit and intent of the rest of the Tufton Farms development. He is also concerned about hurting the property values by creating a 1.3 acre lot.

Mr. Richard Yeazel testified that he lives on Tufton Ridge Road and bought his lot in 1992. He does not want the character of the neighborhood or the development to change. He

purchased his lot because of the rural setting and he was concerned that dividing Lot 26 would affect the property values.

Teresa Moore, the Executive Director of The Valleys Planning Council, Inc. testified that The Valleys Planning Council was in agreement with the Protestants that amending the Final Development Plan would not be in keeping with the spirit and intent of the Final Development Plan. The VPC had passed several Resolutions indicating that they opposed any development or subdivision of the FDP of Tufton Farms. VPC was concerned that the subdivision would affect the protection of the "valley wall" and Tufton Ridge is the wall of the Worthington Valley. She stated that a Plan was prepared by renowned landscape architect Ian McCard, which was an ecologically based plan that predated Smart Growth. The Plan calls for protection of steep slopes and valley walls so that the valley would be protected. It was her feeling and the feeling of the VPC that allowing subdivision of the Tufton Farms development would open the door for other proposals that would effect the wall of the Worthington Valley. She also stated that the VPC was involved in the 2008 Comprehensive Zoning Map Process ("CZMP") to change the zoning from R.C.5 to R.C.6. She stated that the zoning change encompassed roughly 98 acres.

In addition, Ms. Moore was concerned with the flooding down stream from the property and the construction that was being proposed for the R.C.2 portion of the property. She felt that splitting the property down the line of the R.C.2 / R.C.6 would affect the R.C.6 zone, even though nothing is being built in the R.C.6 zone.

The Protestants also submitted the testimony of Jack Dillon, who was accepted as an expert in Planning, Zoning and the development of property. Mr. Dillon had worked for Baltimore County and was assigned to the Third District by the Office of Planning. He noted that Tufton Farms is a unique subdivision with a pattern of large secluded wooded lots. It was his opinion that any amendment to a development plan should be reviewed for compliance with all

current laws and regulations. Mr. Dillon reviewed *Baltimore County Code* ("BCC") Section 32-4-262(2), which reads:

- (2) Any material amendment to an approved residential Development Plan or plat shall be reviewed in accordance with this title, and with respect to that portion of the original plan or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all current law. For purposes of this paragraph, any amendment to a plan or plat that results in an increase in density or increase in the number of buildable lots is a material amendment.

He also stated that under BCC Section 32-4-106 Limited Exemptions, he felt the division of Lot 26 was a request for a Minor Subdivision of a Major Development that had an FDP and that there was no community input meeting held in this matter.

In addition, Mr. Dillon cited other sections of the BCZR. Specifically he cited 1B01-3.A.7b(3) which pertains to the amendment of an approved development plan and states:

"It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article."

Mr. Dillon also cited 1B01-3.A.7c(4) which states:

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

Mr. Dillon was also asked to comment on whether or not the proposed plan to subdivide Lot 26 meets the requirement of Section 502.1 of the BCZR. He testified that in his opinion it failed to meet two (2) or the eight (8) requirements. The first was that the subdivision would be detrimental to the health, safety, or general welfare of the community. He felt that it would have an additional impact to the existing drainage area of the community. And that the subdivision

would also modify the character of the neighborhood, which could lead to additional changes to the character of the subdivision.

In addition, he felt that the subdivision would be inconsistent with the purposes of the property's zoning classification. The proposal is not consistent with the current R.C.2 zone because he considered that the R.C.2 zone has already been over-utilized. Mr. Dillon stated that had the Tufton Farms development been developed under the present R.C.2 regulations, the Developer would only be allowed to develop two (2) lots per parcel of tracts between two (2) and one hundred (100) acres in size. He also testified that in his opinion, the Covenants that were presented by the Petitioners were not part of the FDP and therefore they were irrelevant with respect to whether or not the division of Lot 26 was consistent with the spirit and intent of the original FDP.

Finally, the Protestants presented Mr. James Patton, a civil engineer, as an expert Engineer licensed in the State of Maryland. Mr. Patton testified in his opinion the site plan was not complete since it did not indicate all the panhandle driveways, other existing houses, or any storm water management areas. In addition, he felt that there was nothing stated about existing well problems in the area and erosion problems from water coming off Lot 26. In his opinion, there were deficiencies in the Plat that kept it from meeting the standards under BCZR Section 502.1.

Finally, Protestants submitted into evidence as Exhibit 2, an interoffice correspondence memorandum from Arnold F. "Pat" Keller, III, Director of Office of Planning, dated February 4, 2009. In this Memorandum, the Office of Planning recommended denial of the Special Hearing on the subject property. The Memorandum stated :

"However, the Office of Planning recommends denial of the Special Hearing to amend the FDP of Tufton Farms, Plat 3, Section 2, since

the amendment is not within the spirit and intent of the originally approved Final Development Plan ("FDP") or the first Amended FDP. Lot 26 is one of the smaller lots on the FDP and it is uniformly wooded. The construction of a new single family dwelling on Lot 26B, as shown on the plan will require removal of at least a half acre of trees for the new dwelling, driveway and septic reserve area. The amount of disturbance does not appear to be in accordance with Note 7 of the FDP. Note 7 states:

There shall be no grading of the entire site. There shall be no clear cutting of trees and shrubs of any lot, only dead or damaged trees necessary for the construction of homes and drives are to be removed. Minimal grading shall be performed as required for the construction of the home or the drive of any lot. "

The FDP Amendment for Lot 4, Posey property adds two (2) notes, Note 21 and 22; the most significant is Note 22, which states the "maximum coverage by buildings is fifteen percent (15%), a coverage factor has not been calculated on the plan. A 250 foot diametric dimension has also not been shown on the plan."

Protestants submitted, that since the Zoning Commissioner had denied the plan, this Memorandum supports the denial of the Amendment of the FDP under BCZR Section 1B01.3(c)(4) which requires that:

"The Zoning Commissioner and the Director of Planning must certify that the amendment is in keeping with the spirit and intent of this article and other Baltimore County land use and development requirements

administered by them, and both must certify that the amendment does not violate the spirit and intent of the original plan."

Issues Presented

1. Does the proposed amendment to the FDP of Tufton Farms satisfy the provisions of Section 1B01.3.A.7 of the BCZR?
2. Does the proposed amendment to the FDP of Tufton Farms satisfy the provisions of Section 502.1 of the BCZR?

Decision

At the beginning of the hearing, Counsel for Protestants, Mr. Holzer, made a Motion to Dismiss the Petition based on Section 1B01.3A.7c(4), which requires the Zoning Commissioner and the Director of Planning to certify that an Amendment to an FDP is "in keeping with the spirit and intent of this article, ... and both must certify that the Amendment does not violate the spirit and intent of the original plan." Mr. Holzer cited the fact that the Protestants had not appealed the recommendations of the Director of Planning in which the Office of Planning recommended denial of the proposed Amendment. Petitioners contested this Motion contending that Section 1B01.3A.7c(4) did not apply in this situation since the Petitioner had requested a hearing before the Zoning Commissioner. Section 1B01.3A.7 of the BCZR states in part as follows:

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

b. Amendment after sale of interest in nearby property or upon demand for hearing. In the case of an amendment not allowed under Subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be

amended through special exception procedures, in the manner provided under Section 502 and subject to the following provisions:

1. The amendment must be in accord with the provisions of the Comprehensive Manual of Development Policies and with the specific standards and requirements of this article, as determined by the Office of Planning. The Director, on behalf of the Planning Board, shall notify the Zoning Commissioner accordingly.

2. Only an owner of a lot abutting or lying directly across a street or other right-of-way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing.

3. It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article."

Section 1B01.3c. states:

"Amendment upon request by owner of a lot within subdivision. The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect to a structure on an individual lot created under the plans and used according to the purpose stated therein, or with respect to such lot, at the request of the lot owner, under the following requirements and conditions:

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

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

(3) It must be determined that standards adopted under the authority of Section 504, in addition to the specific

requirements under these regulations, will not be violated by the amendment.

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

Petitioners contend that they had filed for a hearing in this matter and therefore, Section 1B01.3.A.7c(4) is not applicable.

At the beginning of the hearing, the Board agreed with the position of the Petitioner and denied the Motion to Dismiss. On the second day of the hearing, more than six (6) months later, the issue arose again and unfortunately was not clarified. The Board hereby clarifies the decision at the beginning of the hearing and denies the Motion to Dismiss, based upon Section 1B01.3.A.7c(4).

A second Motion to Dismiss was made by Mr. Alan T. Fell at the beginning of the hearing. His Motion stated that the Board could not make a proper decision on Section 502.1 without delineation of the R.C.6 portion of the lot into primary and secondary conservancy areas. The Board Panel Chairman stated "I believe it is essentially fact based from what you brought up, the factors that you have stated that for us to consider whether or not that should be done. I think it is an issue you can bring up in your Closing Memos. We will hold this until the end of the case. You are free to argue that point, but I think at the time before we hear any evidence its really nothing we can delve into at this point in time. So I am not going to rule on your Motion now, I think the Board is going to consider your arguments most respectfully and that can be included in the Memorandum at the conclusion of the case." Mr. Fell did not submit a Memorandum in support of his position at the end of the case and the Board finds that in this

situation, there is no reason to require a delineation of the R.C.6 portion of the property.

Therefore we deny the Motion to Dismiss.

Section 1B01:3A.7 concerns Amendment of approved development plans. Section 7b(3) of that Section states:

"It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article."

Petitioners presented the testimony of its expert witness, Mr. Church, who indicated that, in his opinion, the original intent of the Developers of the Tufton Farms property was to develop wooded lots. He did not feel that there was any mention with respect to the size of the lots.

Petitioners cited three separate Covenant documents which were entered into after the property was sold. The most recent Covenant limited lots to five (5) acres and the number of lots to twenty-six (26). One set of restrictions expired on July 1, 2007. The second set of restrictions (Petitioners Exhibit 8) calls for a limitation of thirty-three (33) lots and are binding until July 1, 2006. Neither the Petitioner nor the Protestants submitted any testimony or evidence from any individuals who were familiar with the reasons for the restrictions and covenants in the three documents presented in evidence or the reason for the expiration dates of the covenants.

The Protestant's expert witness, Mr. Dillon, in his testimony, stated that he did not consider the covenants and/or restrictions to be part of the FDP, therefore, not relevant to the subdivision. In fact, there are no restrictions on the FDP (Petitioners Exhibit 3) since the Plan was approved by the Office of Planning on February 14, 1977 and the original Deed setting forth restrictions was recorded May 4, 1977. The other two documents recording restrictions were recorded in 1978.

The Board feels that the Developers, Gaylord Brooks, had an opportunity, at the time it began to develop Tufton Farms, to develop up to seventy seven (77) lots. It chose to develop only thirty (30) large wooded lots in order to present a secluded private atmosphere to prospective purchasers. Testimony from a number of current owners of the lots in the development indicates that Gaylord Brooks was correct in it's assumption that such a development would have an appeal to certain individuals. All the residents, cites that large wooded lots as the reason for their purchases.

The covenants further demonstrate the intention to limit the number and size of the lots. The smallest lot is five (5) acres and the largest is approximately nine (9) acres. The covenants limit the number of lots to no more than thirty three (33).

As stated above, there is no evidence as to the reason that the covenants were set to expire in 2006 or 2007. However, the covenants are not part of the FDP.

Section 1B01.3A.7b(3) of the BCZR cited above, requires that this Board find that any amendments to the plan "be consistent with the spirit and intent of the original plan and this article." The section does not mention any covenants or restrictive deeds.

This Board finds that subdividing Lot 26, one of the smallest lots in the development, would not be consistent with the spirit and intent of the original plan and Article 1B of the BCZR.

In addition, the Board considers the position of the VPC that Tufton Farms is part of the wall of the Worthington Valley and that wall should not be disturbed.

Having found that the subdivision does not meet the spirit and intent of the FDP, the Board does not need to determine whether or not the subdivision meets the requirements of Section 502.1. of the BCZR.

After a review of all the testimony and evidence presented in this matter, the Board will deny the Petition for Special Hearing and will so order.

ORDER

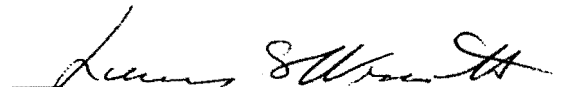
THEREFORE, IT IS THIS 23rd day of June, 2010 by the Board of Appeals of Baltimore County

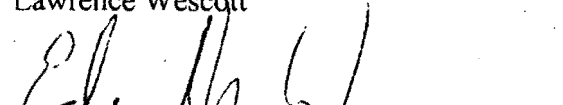
ORDERED that, for the reasons as stated in the foregoing Opinion, Petitioner's Request for Special Hearing to amend the FDP in case number 09-035-SPH, to permit the re-subdivision of Lot 26, Plat 3, Section 2 of Tufton Ridge Farms into two lots be and the same is hereby **DENIED.**

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew M. Belt, Panel Chair


Lawrence Wescott


Edward W. Crizer



County Board of Appeals of Baltimore County

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June 23, 2010

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508 Fairmount Avenue
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RE: *In the Matter of: Thomas and Cynthia Hutson – Legal Owner/Petitioners*
Case No.: 09-035-SPH

Dear Counsel:

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

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

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Original Cover letter

c: Thomas and Cynthia Hutson
Teresa Moore/Valleys Planning Council
Larry and Janice Bortner
Thomas Gildee
Martin Buckley
Office of People's Counsel
Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney
Nancy C. West, Assistant County Attorney
Dennis Kennedy, Development Plan Review

Thomas Church/Development Engineering Consultants, Inc.
Steven Schloss
Michael O'Malley
John Sophocles
Paul Miller
William J. Wiseman, III, Zoning Commissioner
Arnold F. "Pat" Keller, Director/Planning
Diana Itter, Community Planner/Planning
Colleen Kelly, Project Manager

2/1/10

IN RE: PETITION FOR SPECIAL HEARING
2205 Tufton Ridge Road
S/S Tufton Ridge Road
1,150' E of c/line Jay Trump Road

8th Election District
2nd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 09-035-SPH

Legal Owner(s): Thomas & Cynthia Hutson

Petitioners

* * * * *

PROTESTANTS MEMORANDUM IN LIEU OF FINAL ARGUMENT

Protestants, The Valleys Planning Council, by *Teresa Moore* and *Larry Bortner, et al.*, individuals, by and through their attorney, *J. Carroll Holzer, Esquire*, Holzer & Lee, hereby submits this Memorandum in Lieu of Final Argument:

I.

STATEMENT OF THE CASE

The history of this case will fill up quite a few pages. Suffice it to say that the Protestants believed that attempts to subdivide existing lots in the Tufton Farms subdivision, had ended, when the 2008 Comprehensive Rezoning Process, the County Council in its wisdom down-zoned all the R.C. 5 zoned property to R.C. 6. While a number of potential subdivisions were not pursued by other property owners, the instant Petitioner seizing upon the fact that his lot was split-zoned with R.C. 2 from which he could make the present argument that he had density sufficient to provide one additional lot on the R.C. 2 portion of Lot 26.

This matter originally came before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by *Thomas H. Hutson* and *Cynthia G. Hutson*, the Legal Owners of the subject property. Special Hearing relief was requested pursuant to §500.7 of the Baltimore County Zoning Regulations to allow an amendment to the Final Development Plan (FDP), entitled "Tufton Farms Section 2," to permit the re-subdivision of Lot 26, Plat 3, Section 2 into two (2) lots consistent with the Baltimore County Zoning Regulations §1A00.4

LAW OFFICE
HOLZER AND LEE
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**BALTIMORE COUNTY
BOARD OF APPEALS**

and §1B01.3.A.7. Initially, the Site Plan dated July 11, 2008, was submitted and accepted as Petitioner's Exhibit #1. However, the property was subsequently rezoned pursuant to the 2000 Comprehensive Zoning Map Process (CZMP). Accordingly, revised plans (Revision date, January 12, 2009), showing the rezoned portion of the subject property and the requested relief were submitted before the Zoning Commissioner as Exhibits #2 and #2A.

Appearing before the Zoning Commissioner and this Board, The Valleys Planning Council through Teresa Moore and Steven Schloss, Larry and Janice Bortner, Michael O'Malley, Thomas Gildee, John Sophocles and Martin Buckley have protested at all levels the amendment to the Final Development Plan permitting a two (2) lot subdivision on existing Lot 26.

Zoning Commissioner's Decision

The Zoning Commissioner, after reciting testimony from both sides, commented upon one of the Protestants arguments that the County Council's decision to down-zone the area demonstrates an attempt to further the original Developer's intent to maintain a uniquely green subdivision with an undeveloped feel. The Zoning Commissioner stated this position is supported by the Office of Planning in its Zoning Advisory Committee comment dated February 5, 2009, wherein it is stated:

“...The Office of Planning recommends denial of the Special Hearing to amend the FDP for Tufton Farms, Plat 3, Section 2. Since the amendment is not within the spirit and intent of the original approved FDP or the First Amended FDP. Lot 26 is one of the smaller lots on this FDP. It is uniformly wooded... The amount of disturbance does not appear to be in accordance with Note 7 of the FDP. Note 7 states ‘there shall be no grading of the entire site. There shall be no clear cutting of trees and shrubs from any lot. Only dead and damaged trees necessary for construction of homes and drives are to be removed...’”

The Zoning Commissioner then denied the request for Special Hearing and provided his rationale:

1. Special Exception standards under §502.1 must be met as well as additional criteria established in §1B01.3.A.7.B(3). He also cited §1B01.3.A.7.C(4) which says both the Zoning Commissioner and the Director of Planning must certify that the amendment does not violate the spirit and intent of the original Plan.

2. Found that compliance with §1B01.3.A.7.B(3) has not been met. He reasoned that the original Developer could have developed seventy-seven (77) lots but chose only to develop thirty (30).
3. The Zoning Commissioner was persuaded that the County Council's decision to down-zone one hundred thirty (130) acres of Tufton Farms pursuant to Issue 2-035 of the 2008 CZMP, discloses a continuing desire to maintain the original spirit and intent of the FDP for Tufton Farms.
4. To create a 1.5 acre lot in the middle of large wooded properties ranging from six (6) to nine (9) acres would be a departure from the original intent.
5. The Zoning Commissioner further found that §1B01.3.B.2 which controlled density was also detrimental to Petitioner's cause and that over the years the density for the R.C. 2 Zone has been reduced.
6. The Zoning Commissioner determined if this entire area were subdivided for the first time today, the tract area of one hundred nineteen (119) acres would support a maximum of two (2) lots, thus, the original Developer was fortunate to have developed the property in 1977, before the establishment of stronger restrictions in 1979.
7. He further concluded that the present case involves a re-subdivision of a "major subdivision from thirty-two (32) to thirty-three (33) lots, not a minor subdivision of Lot 26." It is more than a refinement. It is a material amendment and the cumulative effect could significantly increase the size of a subdivision.
8. He finally concluded that it is not enough that the Tufton Farms subdivision at issue in the present case is already over density under current law and that no more is allowed. He cited Bill 24 of 2006, indicating that material amendments to Development Plans must comply with current law, then denied the Petition for Special Hearing Request and an appeal was taken to this Board of Appeals.

People's Counsel for Baltimore County Pre-Hearing Memorandum

Prior to the start of the hearing before this Board, People's Counsel submitted a lengthy well-reasoned eight (8) page Memorandum which addressed significant substantive and legal issues. That Memorandum is hereby adopted as if again set forth herein. The undersigned would summarize significant issues raised by People's Counsel.

First, he summarized the law governing amendments to Final Development Plans as found in the Baltimore County Zoning Regulation, §1B01.3. He commented that the average lot size within the Tufton Subdivision in gross areas about 7.4 acres per lot. That the current proposal would create a lot of approximately 1.6 net acres. **Second**, he commented on three (3) changes in the zoning law which affect this subdivision. The first change came in 1979, relating to the R.C. 2 Zone. It restricted the density to two-dwelling lots for lots of record between two (2) and one hundred (100) acres and one lot per fifty (50) acres for lots of record having a gross area of more than one hundred (100) acres. He commented that if Tufton Farms had not been developed, the new law would have only allowed two (2) dwelling lots on the 119.58 acres. The other changes in the law related to the R.C. 5 Zone. In 2005, the Council enacted Bill 128, reducing the R.C. 5 density. More importantly, in 2008, the County Council rezoned the R.C. 5 Zone area in the Tufton Farms area to R.C. 6 Zone. He commented that the R.C. 6 density is more restrictive, allowing .2 lot per acre of the density calculation area. People's Counsel then presented the following arguments.

The ***first argument was that the Petition does not satisfy the Baltimore County Zoning Regulations §1B01.3/1A00.4 standards.*** He stated the proposed re-subdivision conflicts with and exceeds the tract density limits set by the law governing amendments of subdivision Plats. He concluded that the existing fifteen (15) lots already far exceed in the R.C. 2 Zone the maximum density for the one hundred fifteen (115) acre R.C. 6 area, the maximum density would at most be twenty (20) and the lots would have to be outside a secondary conservancy area. The maximum density for the entire tract would be at most twenty-two (22) lots and there exists at least thirty (30) lots today. Thus, the existing density of Tufton Farms thus exceeds the maximum lot density permitted under current law. He further commented that the implications are Countywide to the Board's decision in this case. He concluded that it would give an unfair advantage to lot owners of older dense subdivisions to allow what amounts to a density multiplier further aggravating the disparity.

His second argument was that the proposal was inconsistent with the spirit and intent of the original plans. He noted the average gross lot size of 7.4 acres and that Lot 26 is already below the average size with the creation of a lot less than two (2) acres, this would be a major deviation from the land use pattern. He noted Planning Director Keller's February 4, 2009, correspondence citing Planning's concern.

His third argument was that the proposal does not satisfy the Special Exception standards. He commented that the inconsistency of the proposal with the spirit and intent of the original Plan translates as a failure to satisfy the Special Exception standards. He concluded that in light of the 1979, and 2008, Zoning Regulation and map changes affecting subdivision lot density, it would undermine the County Council's legislative purpose to permit re-subdivision of a lot where the existing subdivision exceeds the limit for the current zoning.

As a fourth argument, he concluded that there is no grandfather clause to perpetuate laws long since repealed. There are no vested rights for expansion and new development. He pointed out that the County Council in its enactment of Bill 24-08 closed a potential end around argument by clearly stating any requests which results in an increased density or an increase in the number of buildable lots is a material amendment.

Finally, he concluded that the Zoning Commissioner correctly recognized that the present request for re-subdivision is not a refinement and moreover, that it is an amendment to a Final Development Plan for a major subdivision.

The County Board of Appeals Day #1, July 29, 2009

The Board's hearing began with a preliminary Motion by Protestants to Dismiss this case before the Board of Appeals on the basis that §1B01.3.A.7.C(4) of the Baltimore County Zoning Regulations states that:

“The Zoning Commissioner and the Director of Planning must certify that the amendment is keeping with the spirit and intent of this article and other Baltimore County land use and development requirements administered by them and ***both*** must certify that the amendment does not violate the spirit and intent of the original Plan.”

The Director of the Office of Planning on February 4, 2009, issued a determination of denial, which is in the Board's file and part of the Record in this case. Pursuant to the above-cited Section, his determination of Denial means that §1B01.3.A.7.C(4) cannot be complied with in that both he and the Zoning Commissioner must certify the amendment does not violate the spirit and intent. No appeal was filed by the Developer to a determination of the Director of the Department which could have been appealed under the Baltimore County Charter. The failure to appeal means that it is now impossible for the Developer to comply with §1B01.3.A.7.C(4). Therefore, this case should be dismissed by the Board. Such a motion was made and denied by the Board. Protestants request that it be reconsidered now that the hearing has been completed.

A. Developer's Case.

1. **Mr. Thomas Church.** The Developer presented Thomas Church as an engineering consultant whose qualifications were in civil engineering. He testified that he developed the Site Plan to re-subdivide Lot 26. He submitted a series of technical exhibits which will be simply noted here. Petitioner's Exhibit #1 was aerial photographs showing the R.C. 2 and R.C. 6 property. Petitioner's Exhibit #2 was the Site Plan prepared showing a gross area of 6.27 acres and a net area of 5.71 acres. The R.C. 2 Zone consisted of 3.34 acres; the R.C. 6 Zone consisted of 2.925 acres. He acknowledged that the comprehensive rezoning in 2008, changed the R.C. 5 Zone to R.C. 6 Zone. He testified that the lot sizes would be for Lot 26B in R.C. 6 Zone would be 1.9 acres and for Lot 26A in the R.C. 2 Zone would be 1.58 acres.

Petitioner's Exhibit #3 was the Final Development Plan of February 18, 1977, going thirty (30) lots.

Petitioner's Exhibit #4, Record Plat 3 of 4 for Section 2.

Petitioner's Exhibit #5, Zoning Map - 1976.

Petitioner's Exhibit #6A and Exhibit #6B, Zoning Map for 2008.

On cross-examination, he ignored Note 7 of the original Final Development Plan, marked as Petitioner's Exhibit #3, which called for no additional clearing on the property. He testified compliance with §502.1.

On cross-examination, he admitted the average lot sizes of Lot #12 - 5.5, Lot #11 - 6.2, Lot #13 - 8.2, Lot #15 - 9.4, Lot #14 - 7.4, Lot #27 - 6.3, Lot #16 - 8.7, Lot #26 - 5.74, Lot #17 - 7.8.

He then presented Petitioner's Exhibit #7 - Covenant Agreement.

Petitioner's #8 - May 4, 1977 Agreement and Petitioner's #9.

Not admitted were Petitioner's Exhibit #10 for identification and Petitioner's Exhibit #11. He then rendered opinions as to approval of the request by the Board.

B. Protestants Case.

1. **Ms. Janice Bortner.** Ms. Janice Bortner, wife of Larry Bortner, testified as to her continued opposition to any re-subdivision of lots within Tufton Farms. She testified as to her objection based upon the existing lot size and wooded nature of the Community, the inability to see many of the homes due to the wooded and large lots. She showed a video which encompassed both the entrance to the subdivision as well as traversing Tufton Ridge Road to its conclusion at the location of the subject site. She stated the Petitioner's request was inconsistent with the original intent of the 1977 subdivision.

2. **Mr. Thomas Gildee.** Mr. Thomas Gildee testified that he was an original property owner in 1981, and that his lot consists of nine (9) acres and that the overall subdivision contains large wooded lots of five (5) to ten (10) acres. He objected to the Petitioner's proposal and provided rationale as to the original intent and nature of the Developer who created on this wooded hillside large lots which were a departure from the "cookie cutter" subdivisions that were springing up elsewhere.

3. **Mr. Michael O'Malley.** He testified that has resided on Lot #5 for twenty-five (25) years and that his lot is 8.8 acres in size and that he strongly objects to re-subdivision of Petitioner's lot as well as his participation in opposing other subdivision requests in Tufton Farms.

Day 2 - December 1, 2009

Day #2 - December 1, 2009, (NOTE: A Transcript of Day #2 proceedings was transcribed and is attached to this Memorandum as an Appendix for the Board's benefit. Much of the technical testimony presented by the Protestants came before the Board by way of testimony of Jack Dillon and James Patton, (Land Planner and Civil Engineer respectively).

4. Mr. John Sophocles. The Protestants then presented as their fourth witness, John Sophocles of 2226 Tufton Ridge Road. He acquired his lot in 1988. He testified that basically he searched for three (3) years in northern Baltimore County to purchase a piece of property that afforded the trees and large lots that constituted Tufton Farms. His lot offered a rural type setting of many trees and a lot of privacy. He testified that over eighty percent (80%) of the property owners in Tufton Ridge were against subdividing within the Community. He likewise testified that a 1.3 acre lot, much smaller than the remaining Community, would affect the property values within the Community.

5. Mr. Richard Yeazel. Mr. Richard Yeazel of 2314 Tufton Ridge. He acquired his lot in June 1992, moving from Los Angeles. He stated that homes were available in other subdivisions, but it was the size of the lots, the citing and the unique character of the neighborhood that attracted him to Tufton Farms. He cited the spacing of the homes, the lot sizes and the wooded lots made that made the Tufton Farms subdivision unique. He testified that he believed it was the intent of the Developer to provide a unique large lot subdivision and that original intention should not be changed.

6. Ms. Teresa Moore. Ms. Teresa Moore of Valleys Planning Council testified and provided a Rule 8 form. She testified that Valleys Planning Council opposed the amendment of the Final Development Plan. She agreed with the testimony of the individual Protestants that amending the Final Development Plan would not be in keeping with the original spirit and intent of the Final Development Plan. The Valleys Planning Council was concerned about the impact on The Valley wall which is a tenet of the Pan for The Valley. Tufton Ridge is on the wall of The Worthington Valley. The noted architect, Ian McCard, prepared a Plan for The Valleys in 1962, known as the McCard Plan. That re-subdivision of these lots would be in violation of that Plan. She also testified that The Valleys Planning Council filed the issue in the CZMP to change the zoning from R.C. 5 to R.C. 6 and were successful. Approximately ninety-eight (98) acres of R.C. 5 Zone were rezoned. She further testified that since a portion of Lot #26 contains R.C. 6 zoning designation, that even though the house is in the R.C. 2 portion of the lot, that the R.C. 6 regulation should come into play, because it is being subdivided. She testified that The Valleys concern was the impact to the forest and storm water issues.

Her testimony concluded the lay presentation.

Protestant Expert Testimony

A. Jack Dillon.

Jack Dillon was called as an expert in Planning, Zoning and development matters. Mr. Dillon worked for thirty (30) years for the Office of Planning, Zoning and DEPRM.

Dillon testified that he had visited the site numerous times in 2009. (T. 38). He was familiar with the Tufton Ridge area even before this case while employed for Baltimore County. He was also familiar with the R.C. Zones in that he was part of the team that developed these zones in 1975. (T. 39). After being requested to define the neighborhood and this particular lot, Dillon testified that Tufton Farms was unusual and a unique rural subdivision. He testified that there are not very many subdivisions in the County that retained the environmental features the way this one has. It was designed in such a way that it worked well with the terrain and was able to maintain the size of large lots and maintain the tree cover on the lots. (T. 40). He testified it fit in beautifully with the McCard Plan by protecting The Valley walls by trying to maintain as much tree cover on the wall so that the valley floor would not be affected. He testified that wildlife in the area flourished.

He testified as to the heavily forested area of the subdivision. (T. 42). He testified that the heavy forest screened the houses along Tufton Farms Road from view. (T. 43).

Dillon testified that he reviewed the Applicant's Site Plan and felt that it was lacking in a number of areas. (T. 47). He testified first that it does not show the driveways that enter into the cul-de-sac to the East. It does not show all the houses that are in relative proximity to the proposed lot in that there is another house across the street. There are also houses that are just up the cul-de-sac a bit. Dillon testified there was no note that it was a "well-critical" area. (Meaning water wells). Dillon further testified that in reviewing the Final Development Plan which was to be amended, there was a Note 7 on the Final Development Plan which refers to a required setback, a rear yard setback from any dwelling to an R.C. 2 Zone of fifty feet (50'). (T. 49). Dillon opined that the original Final Development Plan required a setback from the rear lot line of the house. In this case, they are showing a house with a thirty-five foot (35') setback in the rear and it violates the intent of the Final Development Plan. He testified the

fact that Covenants expired after thirty (30) years does not change the requirements of the Final Development Plan. (T. 51). Dillon's opinion is that regardless of what today's requirements are, the fifty foot (50') setback is a requirement of the FDP which prevails over any new County setback. (T. 52).

Dillon then referred to two (2) sections of the Baltimore County Code in analyzing the proposed Site Plan. First, §32-4-262 and §32-4-106(b)(2). Dillon opined that he believed they apply to the term Development Plan and Final Development Plan. He testified that "I believe the intent here of the obligation of the Final Development Plan as it states in the amendment, the amendment of the Development Plan is that on #2, it deals with material amendment. What is material amendment? He opined that in this case creating a new lot is material amendment. (T. 55). He believed that the amendment to a Final Development Plan shall be reviewed for compliance with all current laws and regulations including the Development and Zoning Regulations and for purposes of the paragraph he is referring to any amendment to a Plan that resulted in increase in density or an increase in a number of buildable lots as a material amendment.

He then referred to §32-4-106 citing that there is a request in this case that there is a minor subdivision of a major development that had a Final Development Plan. They, the Applicant, did not have a Community Input Meeting. Dillon opined that was an issue in this case. (T. 56). Dillon then concluded that the request here is for a major subdivision approval. That is a modification of a lot within a Final Development Plan that is a thirty (30) lot development. (T. 57).

Dillon then testified in regard to the changes in the R.C. Zones from the time of the original R.C. Zones establishment. He opined that in 1979, (two (2) years after this Final Development Plan was approved), the County Council amended the R.C. 2 Zone to be more restrictive, so if the original Developer had come in 1980, the number of lots would have been substantially less. Dillon concluded that the County Council, over the years, since 1977, has reduced density in the R.C. 2 Zone and in the R.C. 5 Zone, plus they created three (3) additional R.C. Zones, all kinds of specialty zones that have reinforced the reduction of density and development throughout the north county. (R.C. 6, R.C. 7 and R.C. 8 Zones). (T. 59).

When Dillon was asked whether or not this proposed Plan meets the spirit and intent of the original 1977 Plan, he replied "no." The 1977 Plan had a pattern of very large lots. The smallest one was around five (5) acres to almost eleven (11) acres. The intent of that Plan was to have large lots laid out in a fashion that respected the natural topography to a large degree and that is what was done. This proposal is in conflict with that. (T. 60). Dillon then agreed with the Planning Director.

Dillon then touched on the fact that the Zoning Commissioner and the Director of Planning must certify that the amendment is in keeping with the spirit and intent of this article and of the Baltimore County Land Use and Development Requirements administered by them and both must certify that the amendment does not violate the spirit and intent of the original Plan. He noted that the Planning Director did not certify his support of this amendment and the Zoning Commissioner also did not certify his support because of his denial. (T. 63).

Finally, Mr. Dillon addressed an observation during his field investigation that the storm water area that drains off the site, appeared to be not functioning properly but he deferred to James Patton, Civil Engineer, a discussion in that regard. (T. 68).

Dillon, in responding to an inquiry as to whether or not this proposed Plan meets the requirements of §502.1, he opined that it was in conflict with two (2) of those requirements – (a) detrimental to the health, safety and general welfare of the Community and (b) be inconsistent with the purposes of the property zoning classification. (T. 72).

In conclusion, Dillon testified that he reviewed the People's Counsel's Memorandum raising these issues and concurred with People's Counsel's Opinion and Comments. (T. 73).

After cross-examination, Dillon then opined at T. 127, that the cross-examination did not change his opinion in regard to his original testimony. He opined that this Plan modifies the Final Development Plan and that it would alter the character of the neighborhood and that it violates the spirit and intent of the Final Development Plan. (T. 127).

Summary of Dillon Testimony

In summary, Dillon's testimony was directed to two (2) main points:

1. That there is a procedure within the Regulation that allows for a request for an amendment of a Final Development Plan to be reviewed and approved or denied and those Regulations do not work in the Petitioner's favor.
2. That because of the modifications to the R.C. 2 Zone and the reclassification of a portion of the subdivision from R.C. 5 Zone to R.C. 6 Zone, no density is available.

Dillon did cite §1B01.3A that may be appropriate. He was certain that §1B01.3B.1 and §1B01.3B.2 does apply with special emphasis on the last sentence which states "it is the intent of the Zoning Regulations to prohibit subdivisions of a portions of a tract in a D.R. Zone in a matter so as to exceed the total number of dwelling or density units allowed under the D.R. Zones for the entire tract." Dillon referred to Zimmerman's Memorandum dated July 24, 2009, which touches on that point on Page 4. Finally, Dillon's opinion is that the proposal is not consistent with the spirit and intent of the original approved Plan and that Plan as well as the recorded Plat were what the residents of the subdivision had relied on. Dillon rejected the suggestion that somehow the unused density shown on the original Plan carries forward is just not the case. Section 32-4-104(b) "Present Zoning Classification. Proposed development shall be in compliance with the present zoning classification on the property to be developed." Dillon believed that leaves no doubt that the current zoning classifications rule today. It was here that he stated that the subdivision was in fact a non-conforming use and now exceeds the allowable density under current zoning.

B. James S. Patton.

James S. Patton was called by Protestants and testified as a professional Civil Engineer. (T. 128). Patton qualified as a professional Civil Engineer licensed in the State of Maryland. (T. 129).

Patton first reviewed the Petition filed in this case and found that it did not accurately depict the proposed development of the lot as to its existing conditions. (T. 130). He testified that the Plat did not show the panhandle driveways exiting the cul-de-sac opposite the

proposed entrance for this driveway. (The panhandle driveways could create in his opinion, a traffic safety condition). The second item he found was the steepness of the proposed driveway relative to the storm water quality and the impervious area. He testified there was no drawing on this Plat relative to Storm Water Quality Management which is required. (T. 133). Third, that the proposed grading created a six foot (6') retaining wall at the rear of the house which was not conducive to a proper aesthetic view of this site. Fourth, he testified that he walked the public area in the vicinity of the site and discovered significant problems relative to storm water drainage. He entered a series of photographs marked as Protestants Exhibit #10, which establishes that there is erosion downstream already as a result of drainage from the subject site. He described erosion by the head wall and the sump area. (T. 135-140). He testified that the erosive effects of storm water were all coming from the proposed lot – Lot 26. (T. 140). When questioned in regard to the significance of permitting an additional home site on this lot, Patton indicated that it would “increase the amount and rate of runoff if it were permitted to go unmanaged without addressing the present issues.” (T. 141).

He then reviewed the proposed Development Plan and found first that the density calculations that are shown on the Final Development Plan and the number of lots that are actually shown establishes that at the time of the adoption of the FDP, fewer lots than what would have been permitted at the time under zoning. However, relative to the current zoning, there would be fewer lots permitted to the total tract. He agreed with Dillon's testimony. (T. 142). He further testified that the Final Development Plan required a zoning setback line of fifty feet (50') in the rear yard. (T. 142). He also testified that the Final Development Plan required two (2) exterior parking places and that is not shown on the Site Plan. (T. 144-145). In response to Board Member Westcott's question, Patton confirmed that with two (2) exceptions in the entire Tufton Farms Subdivision, all the houses had two (2) external parking spaces which the proposed Lot 26 does not have. (T. 145). Patton also raised a similar issue to that raised by People's Counsel in his Memorandum and Dillon in his testimony that because Lot 26 is split-zoned, R.C. 6 and this is an amendment of a Final Development Plan, which is a major subdivision that the effects of the R.C. 6 Zone requirements on Lot 26 must be considered and not isolate the proposed new lot on Lot 26 to

the R.C. 2 Zone. (T. 147). Patton then raised a serious issue relative to the zoning line being different from the 1977 FDP. (T. 148). Patton produce various overlays marked as Protestants Exhibit #11 and established that if you compare the Final Development Plan and the 2008 zoning lines, you have a diversion of the zoning lines between 1977 FDP and the proposed Plat. The net result of an error made from the original Final Development Plan to today's current zoning line establishes that there is less area in the R.C. 2 Zone than what they are showing on the proposed Plat to support the Petition. (T. 151). The effect of the drawing of the zoning line is an *error which creates more R.C. 2 Zone land today than in the original Final Development Plan.* (T. 152). Patton was unable to tell when the error occurred between 1977 and 2008. (T. 153). In a rough approximation, there is one-half (1/2) to three-quarters (3/4) of an acre more R.C. 2 land today than in 1977, as a result in the error of drawing the zoning line. (T. 153).

Patton's testimony concluded the hearing.

II.

LEGAL ARGUMENT

In an unusual alignment of the stars in this case, the Planning Director, the Zoning Commissioner and the People's Counsel all agree that this proposed request for an amendment to the Final Development Plan should be **DENIED**.

The respective County officials opposed the approval of this Petition for Special Hearing for multiple and often overlapping reasons.

In summary, the Planning Director denied the Plan since the Amendment was not within the spirit and intent of the original approved FDP. Lot 26 is one of the smaller lots and is uniformly wooded and the construction of a new single-family dwelling will require removal of at least one-half (1/2) acre of trees for the new dwelling, the amount of disturbance does not appear to be in accordance with Note 7 of the FDP which states there shall be no grading of the entire site; there shall be no clear cutting of trees or shrubs. Note 22 on the FDP shows the maximum coverage by buildings is fifteen percent (15%) and the Planning Director found the coverage factor had not been calculated on the Plan. Also, a two hundred fifty foot (250') diametric dimension also has not been shown on the Plan.

The Zoning Commissioner in his Decision, was broader in his analysis. He first commented on the Director of Planning's denial and referred to §1B01.3.A.7.C(4) in the Baltimore County Zoning Regulations stating that the Zoning Commissioner and the Director of Planning must certify that the amendment is in keeping with the spirit and intent of this article... and both must certify that the amendment does not violate the spirit and intent of the original Plan. In this case, both Planning Director and Zoning Commissioner found that the relief requested by the Petitioner's was inconsistent with the spirit and intent of the original FDP. The Zoning Commissioner also gave a number of reasons in addition. First, that the original Developer only chose thirty (30) lots out of seventy-seven (77) possible at the time which showed his intent to restrict the size of this subdivision. Second, that the County Council's Decision to down-zone in the 2008 Comprehensive Rezoning discloses a continuing desire to maintain the original spirit and intent for Tufton Farms. Third, that the 1.5 acre improved lot would mark a significant departure from the sediment expressed by Gaylord Brooks. He also found §1B01.3.B.2 as also detrimental to Petitioner's request. The Zoning Commissioner found that if this entire area were subdivided for the first time today, there would be many less houses permitted and at present, the Tufton Farms subdivision is already over-density under current law and that no more is allowed.

The People's Counsel for Baltimore County as herein stated before set forth multiple grounds as to why this Petition should be denied. Those grounds range from legislative efforts by the County Council in 1979 in 2005, and in 2008, which reflect that the County Council desire to reduce the density permitted in the R.C. 2 Zone, in the R.C. 5 Zone, and finally by replacing the R.C. 5 Zone with the R.C. 6 Zone currently applicable to the subject site. The legislative intent could not be clearer, that density reduction in the R.C. Zones was a paramount concern to the County Council. Specifically, the County Council in 2008, rezoned the entire Tufton Farms by eliminating the R.C. 5 Zone in creating a specialty R.C. 6 Zone which takes into account environmental features which are prevalent in the Tufton Farms subdivision. People's Counsel then specifically established that the Petition does not satisfy the standards of §1B01.3 and §1A00.4 standards by not being in compliance with the spirit of

the original Plan. He likewise set forth that the proposed re-subdivision conflicts with and exceeds the tract density limits set by the law governing the amendments of subdivision Plats. He commented upon the inconsistency of the lot size and noted that the proposal does not satisfy the Special Exception standards under §502.1(a) and (g).

He commented on Bill 24-08 and agreed with the Zoning Commissioner who found that any request that results in increased density or increase in the number of buildable lots is a material amendment which ultimately eliminated consideration of the Petitioner's request.


The Opinions of the Zoning Commissioner and the People's Counsel were supported by the testimony of Protestants experts Patton and Dillon and support the lay testimony of the Protestants.

Of particular concern to the Protestants is that the unrebutted clear and convincing testimony of Patton and his Exhibits prepared for the Board established that in 1977, the zoning line between R.C. 5 and R.C. 2 which bisected Lot 26 of the Petitioner was changed between 1977 and the present day. While it is unknown how or why the zoning line changed, the clear evidence establishes that in fact today there is more R.C. 2 land on Lot 26 than in 1977. Patton's testimony was that it was approximately one-half (1/2) acre more R.C. 2 zoned area on Lot 26 today than existed in 1977. Significance of the increase in R.C. 2 zoned area cannot be lost on the board in that Petitioner is attempting to shoehorn an additional lot in the R.C. 2 Zone. If one were to subtract one-half (1/2) acre from the total R.C. 2, it would be clear that this subdivision could not be accomplished.

Finally, we turn to the Protestants and their objections and resistance to multiple re-subdivision of lots in Tufton Farms. Eighty percent (80%) of Tufton Farms residents have opposed the re-subdivision of various lots proposed. The Protestants have opposed each and every attempt to amend the Final Subdivision Plan (which has amounted to at least five (5) properties) over the last few years. They believed that the matter was resolved when the County Council at the request of The Valleys Planning Council and the residents of Tufton Farms ask that their property be rezoned to R.C. 6 from R.C. 5. They have appeared at every Zoning Commissioner's hearing and every Board of Appeals hearing to register their concern. They have expended resources and time and effort in retaining experts, counsel and appearing before the administrative bodies of the County to oppose these requests.

Protestants submit that it is now time for the Board to end these re-subdivision efforts; to determine that under today's standards this subdivision is already overbuilt; and determine that the intent of the original Developer in 1977 was to produce and insure large residential lots, substantially wooded, which afford privacy between the home sites and deny the Petitioner's request herein.

Respectfully submitted,



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Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of February, 2010, a copy of the foregoing Protestants Memorandum in Lieu of Final Argument was mailed first class, postage pre-paid to the following: Arnold Jablon, Esquire, Venable, LLP, 210 West Pennsylvania Avenue, Suite 500, Towson, Maryland 21204 and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Jefferson Building, 105 West Chesapeake Avenue, Room 204, Towson, Maryland 21204.



J. CARROLL HOLZER, Esquire

1/29/10

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JAN 29 2010

BALTIMORE COUNTY BOARD OF APPEALS

IN MATTER OF:
2205 Tufton Ridge Road, S/S Tufton Ridge
Road, 1150' E of c/line Jay Trump Road
Phoenix, Md 21131

* BEFORE THE COUNTY
* BOARD OF APPEALS

2nd Councilmanic District
8th Election District

*
* OF BALTIMORE COUNTY

*
* Case No.: 09-035 SPH
*
*

Legal Owners: Thomas & Cynthia Hutson

Petitioners

* * * * *

PETITIONERS' POST-HEARING MEMORANDUM

Petitioners Thomas and Cynthia Hutson, by Arnold Jablon with Venable, LLP, their attorney, hereby submit this Hearing Memorandum for consideration by the County Board of Appeals.

INTRODUCTION

In the *de novo* hearing before the Board of Appeals, as described below, Petitioners presented strong and substantial evidence for the Board of Appeals to conclude that sufficient evidence exists to approve their request to amend the Final Development Plan of Tufton Farms, Section 2, to permit the subdivision of Lot 26 into two lots, pursuant to §1A00.4, §1B01.3.A7 and §502.1 of the Baltimore County Zoning Regulations (BCZR).

FACTUAL BACKGROUND

Pogo once said that he met the enemy, and the enemy was "us". The facts are not complicated. We have complicated them.

The subject property is comprised approximately 6.271 gross AC +/-, of which 3.346 AC +/- is zoned RC 2 and 2.925 AC is zoned RC 6, as is more particularly shown on **Petitioners' Exhibit 2**, the site plan identified as the Minor Subdivision Plan. The

subject property is Lot 26, one of nine (9) lots comprising Plat 3, Section 2, of the Tufton Farms plat, recorded 14 July 1977, at EHK, Jr. 41, Folio 92, recorded amongst the Land Records of Baltimore County. See **Petitioners' Exhibit 4**. The original development consisted of 234.58 AC +/-, and is located south of Shawan Road, east of Dover Road and NE of Knox Road, in Worthington Valley. In 1977, when Tufton Farms was approved, approximately 119.58 AC was zoned RC 2, which then under the RC 2 zoning regulations in effect was permitted to have 20 lots. Approximately 115 AC +/- was zoned RC 5, and under the then regulations was permitted to have 57.5 lots. See **Petitioners' Exhibit 5**, the 1976 official County Zoning Map for confirmation of the zoning in place in 1977, when the subject subdivision was approved and the plat recorded. Of the total permitted, the number developed was 30, 15 in the RC 2 zone, and 15 in the RC 5 zone. See **Petitioners' Exhibit 3**, the Final Development Plan (FDP). The FDP was approved on February 18th, 1977. The zoning calculations permitted in 1977 were delineated, as referred to above, on the FDP.

In 2008, the property zoned RC 5 within the Tufton Farms subdivision was rezoned to RC 6 as part of the Comprehensive Zoning Map Process, which was limited to that portion of the subject property zoned RC 5. The part of the subject property zoned RC 2 was not rezoned. See **Petitioners' Exhibits 6 A and B**, official 2008 zoning map. Access to the property is by Tufton Ridge Road off of Dover Road. The Petitioners' property, known as 2205 Tufton Ridge Road, and identified as Lot 26 on the Plat and FDP, is located on the south side of Tufton Ridge Road where Tufton Ridge Road terminates in a cul-de-sac, as shown on **Petitioners' Exhibit 2**.

The Petitioners propose to subdivide their property into two lots. As shown on **Petitioners' Exhibit 2**, their property is split zoned. One lot would be entirely within the RC 2 zoned portion of their property, and is identified on **Exhibit 2** as lot 26A, would be 1.580 AC. The other lot, shown as Lot 26B, would be 4.130 AC, and include the entire portion of the property zoned RC 6 plus 1.205 AC of the RC 2 portion of the property.

On or about May 4th, 1977, the property comprising what is Tufton Farms was sold by Thomas S. Nichols and Gary Black to Gaylord Brooks Investment Company

(hereinafter referred to as "Brooks"), and a deed was recorded in the Land Records of Baltimore County, at Liber 5749, Page 150. This deed contained certain covenants, conditions, and restrictions, of which was the following relevant provision:

"These restrictions shall be binding until July 1, 2006...."

See **Petitioners' Exhibit 8.**

On or about January 12th, 1978, Brooks created and recorded a Declaration of Covenants, at Liber 5847, Page 499, in the Land Records of Baltimore County. See **Petitioners' Exhibit 7.** Brooks by this document changed the date through which the restrictions delineated in **Exhibit 8** would be binding, from July 1st, 2006 to July 1st, 2007. See paragraph 10, page 7, of **Petitioners' Exhibit 7.**

On or about September 11th, 1978, Brooks recorded an Amendment of Declaration of Restrictions, at Liber 5936, Page 202, in the Land Records of Baltimore County. While this Amendment amended certain of the restrictions contained in the Declaration of Covenants, **Exhibit 7**, none involved the termination date for the restrictions contained therein. The Amendment of Declaration of Restrictions specifically provided that all other provisions shall remain and continue in force and effect. See Page 203, paragraph 2, **Petitioners' Exhibit 9.** It is uncontested that whatever restrictions were in place at the time of subdivision, they ran out on July 1st 2007.

While the total acreage of what was to become Tufton Farms permitted a total of 77 lots, the developer chose to develop only 30 lots, 15 within the RC 2 and 15 within the RC 5. See **Petitioners' Exhibit 3.**

The Petitioners' property is an irregular shaped lot, with the northern half of the lot undisturbed and zoned RC 2. The southern half is improved with the Petitioners' single family dwelling and zoned RC 6. The property slopes downward toward Tufton Ridge Road. The high end is in the back of the lot. See **T-p. 42, lines 1-10, 7/29/09.** The testimony was clear and uncontested that the lots of Tufton Farms are primarily wooded. The existing house on this lot is centrally located.

The Petitioners propose two lots, as indicated lot 26A and lot 26B, with the proposed house to be entirely within the RC 2 part of the property. Nothing is proposed, no changes, for the RC 6 portion of the property, where the existing dwelling is located. See **T-p. 44, lines 15-19, 7/29/09**. The Petitioners presented Tom Church (hereinafter referred to as "Church"), accepted by the Board as an expert in land use, the development and zoning regulations in Baltimore County, who testified extensively about the location of the subject site, the zoning and development history of the Tufton Farms subdivision, and the proposed subdivision of lot 26 to create one additional single family dwelling in addition to the existing dwelling. Using an aerial of the area, **Petitioners' Exhibit 1**, the 1976 and 2008 zoning maps, **Petitioners' Exhibits 5, 6A and 6B**, Mr. Church drew a picture of the subject property. Then, as is today, each of the lots comprising the subject property is wooded and the Petitioners' property is one of the smaller lots. **T-p. 71, lines 16-18, 7/29/09**. Most of the lots are improved with a single family dwelling. Mr. Church testified that on Lot 26 there exists and would continue to exist a forest buffer placed into a forest conservation easement, where the trees are to be protected and cannot be removed. See **T-p. 61, lines 6-21, 7/29/09**. Approximately .36 acres out of the proposed 1.58 acres for Lot 26A would be cleared. **T-p. 71, lines 19-21; p. 72, lines 1-2, 7/29/09**. Mr. Church further testified that while the subject property slopes toward Tufton Ridge Road, there are no steep slopes, which he explained meant a slope that was at least 25%. The slope here is about 17% or 18%. **T-p. 66, lines 2-6, 7/29/09**. The impervious area of lot 26A is going to be the house and driveway, for a total of .42 acres or less. **T-p. 74, lines 13-14, 7/29/09**.

QUESTIONS PRESENTED

- 1. Does the proposed amendment to the Final Development Plan for Section Three of Tufton Farms satisfy the provisions of §§1B01.3.A.7, BCZR?**
- 2. Does the proposed amendment satisfy the provisions of §502.1, BCZR?**

ARGUMENT

If the original FDP somehow formed a sacred trust with those who bought into the Tufton Ridge subdivision, the covenant agreements adopted by the developer were the foundation upon which the trust was created.

Future subdivision of individual lots was not prohibited but its inevitability recognized.

- 1. The proposed amendment is consistent with the spirit and intent of the original Final Development Plan (FDP) and of §1B01 of the BCZR.**

(A) The Protestants initially present two oral motions to dismiss.

(i) The first motion to dismiss related to §1B01.3A.7.c.(4), which requires the Zoning Commissioner and the Director of Planning to certify that an amendment to a FDP “is in keeping with the spirit and intent of this article...and both must certify that the amendment does not violate the spirit and intent of the original plan.”

The Protestants argued that the request of Petitioners to amend the FDP should be dismissed by their failure to appeal from the Summary of Recommendations, dated February 4th, 2009, in which the Office of Planning recommended denial of this proposed amendment. **Protestants' Exhibit 2.**

However, §1B01.3.A.7c applies to situations where the Zoning Commissioner without a public hearing but with the concurrence of the Director of Planning amends an

FDP at the request by an owner of a lot within the subdivision of the FDP. Subsection c requires certain conditions for its applicability: first, no public hearing; second, notice given to all occupants and owners of property within 300' of the lot in question, by a method pursuant to §504 of the BCZR and by the County Attorney; third, the standards of §504 would not be violated by the proposed amendment; and fourth, the certification as referred to above.

They argue the February 4th memo constitutes a final decision from which, if the Petitioners disagreed, an appeal was required. The failure to do so makes the OP memo final and, therefore, the appeal from the Zoning Commissioner's decision moot. See **T-p. 9, lines 18-20, 7/29/09.**

The Protestants' argument fails because the section they rely on is simply not applicable.

This section applies only if there is no public hearing. Clearly and unequivocally the petition filed by the Petitioners rely on §1B01.3A7b! A public hearing was requested, was held, and there is no requirement for a "certification" from the Director of the Office of Planning. The converse to subsection c.(4), in which the Zoning Commissioner and the Director of Planning "must certify that the amendment is in keeping with the spirit and intent of this article and other Baltimore County land use and development requirements administered by them, and both must certify that the amendment does not violate the spirit and intent of the original plan", is subsection b.(1), which requires the Director to "determine" that the amendment is in accord with the provisions of the CMDP and the specific standards and requirements of §1B01. This was done,

Protestants' Exhibit 2, the memo from the Office of Planning in which it concludes that the provisions of the CMDP do not impact this proposed amendment and that §1B do not apply as it pertains exclusively to the DR zones. The memorandum then goes on to recommend that the proposed amendment does not comport with the spirit and intent of the original plan and provides its reasons on which it based its recommendation.

§1B01.3A7 governs amendments of approved development plans. "After partial or final development plans have been approved as provided under Paragraph 6, preceding, they may be amended only as provided below:" Sub§7a. provides how amendments *prior to sale* of interest in nearby property are to occur. Sub§7b. provides how amendments *after sale of interest in nearby property or upon demand for hearing* are to occur. Sub§c. provides how amendments *upon request by owner of lot within subdivision* are to occur.

Sub§7b. states as follows:

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

(1) The amendment must be in accord with provisions of the CMDP and with the specific standards and requirements of this article, as determined by the Office of Planning. The Director, on behalf of the Planning Board, shall notify the Zoning Commissioner accordingly.

(2) Only an owner of a lot abutting or lying directly across a street or other right-of-way from the property in question, *an owner of a structure on such a lot*, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of §504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in questions are eligible to file a demand for hearing.

(3) It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article.

Sub§7c. states as follows:

...The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect to a structure on an individual lot crated under the plans and used according to the purpose stated therein, or with respect to such lot, at the request of the lot owner, under the following requirements and conditions:

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

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

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

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

(emph added)

The Petitioners here filed a "formal demand" for a hearing, which was heard by the Zoning Commissioner. Unequivocally, §7c is not applicable.

For the purposes of this Memorandum, now the conundrum: The Board denied the Protestants' motion to dismiss. **T-p. 18, lines 13-15, 7/29/09; or** the Board did not deny the motion, but held it sub curia for argument in memos. **T-p.65, lines 20-21; p. 66, line 1, 12/1/09.**

Whether the Board did or did not deny this motion, there is no other legal conclusion to be drawn from the applicable law than to deny it. The law does not justify any other conclusion.

Jack Dillon (hereinafter referred to as "Dillon"), the Protestant's land use expert, admitted on cross examination that there is a difference between a proposed amendment to an FDP where there is a hearing and where there is no hearing. **T-p. 86, lines 15-21; p. 87, lines 1-13, 12/1/09.**

"Q. Right. So there was a public hearing. So the concurrence of the Office of Planning or the director of planning is not necessary, is it? Isn't that a condition precedent?"

A. I'm not sure."

Q. What's the difference between subsection b and subsection c of subsection 7?

A. b, Amendment after sale of interest in a property, nearby property, or upon demand for a hearing.

Q. And c? do I need to repeat the obvious?

A. No, I see it.

p. 87, lines 3-13, 12/1/09.

One more point, as minor as it may be, or as inconsequential. The reference to the Zoning Commissioner in §1B01.3.7.c doesn't mean Zoning Commissioner. It means Director of the Department of Permits and Development Management. This is one of those anomalies created when the PDM was established. While §1B01.3.7c refers to the

Zoning Commissioner, it means the Director. §3-2-1103 (2) (ii), BCC, states as follows: "Except for the conduct of hearings under Article 32 of the Code, all other administrative matters assigned to the Zoning Commissioner in Article 32 of the Code, by the Baltimore County Zoning Regulation, or under any other authority." Inasmuch as §1B01.3.7c provides for approval of an amendment to a FDP administratively, without a hearing, it is not the Zoning Commissioner but the Director who provides the required certification.

(ii) The second motion to dismiss, although in artfully presented, appeared to be based on the rezoning of the instant property to RC 6 and the Board's inability to apply §502.1, BCZR. There seems to be no similar incongruity. It was denied. **T-p. 22, lines 11-12, 7/29/09.**

B. The proposed amendment is consistent with the spirit and intent of the original plan.

This is the crux of the case.

The proposed amendment is consistent with the spirit and intent of the original plan.

Protestants collectively argue that when the subdivision was originally created and advertised, the developer touted its exclusivity, the large lots and their privacy. The proposed subdivision of Lot 26 does "not fit with the intent of the neighborhood, which was large lots". **T-p. 190, lines 4, 5, 7/29/09.**

The original FDP was approved in 1977 with 30 building lots. The density at the time the FDP was approved permitted 77. The Petitioners' request would result in only one additional lot, and, as Mr. Church testified, both lots, 26A and lot 26B, would

maintain their wooded, rural character. The “exclusivity” so desired by the Protestants would be retained.

Mr. Gildee and his wife will continue to have the privacy they crave to continue their practice of bathing naked out in their back yard. **T-p.206, line 16, 7/29/09.**

Lot 26A will be 1.58 AC +/- and be entirely within the RC 2 zoned portion of the property. This exceeds the minimum acreage requirement for RC 2. Lot 26B will be 4.13 AC +/-, which includes all of the RC 6 and a portion of the RC 2.

Of equal importance, and addressing the Protestants’ lust for privacy, is the forest conservation easement areas of more than 3 AC! **Petitioners’ Exhibit 2.** As Mr. Church testified, at length, the trees surrounding the lot and those retained in the lots, will shield the homes from view on Tufton Ridge Road to the degree that the existing homes are. **T-p. 68, lines 14-28, 7/29/09.** The fact is one additional lot, one additional home, will not violate the spirit and intent of the original FDP, and rather be consistent with the original FDP.

If the original FDP somehow formed a sacred trust with those who bought into the Tufton Ridge subdivision, the covenant agreements adopted by the developer were the foundation upon which the trust was created. These agreements are illustrative of the intentions of the original plan.

The Protestants admitted to having received them at settlement.

One Agreement, dated May 4th, 1977, provided covenants, conditions and restrictions, one of which, number 1, stated that there could not be more than 33 lots. This restriction, as the others, would terminate on July 1st, 2006. **Petitioners’ Exhibit 8.**

The Agreement, dated January 12th, 1978, provided no limitation on the number of lots, and, in any case, specified that the covenants, restrictions, conditions and reservations delineated therein would terminate on July 1st, 2007. **Petitioners' Exhibit 9**. In both, the intent of the 1977 FDP is both magnified and clarified. The intent of the original FDP was to permit subdivision after 2006 or 2007, whichever the Agreement. And to reinforce this spirit and intention, there is nothing in either Agreement that prohibits subdivision in the future, which the developer could have done and did not. This is evidence of the spirit and intent of the original plan. Future subdivision of individual lots was not prohibited but recognized. The language of the Agreements are cognitive of the future growth of Tufton Farms. The proposed subdivision of Lot 26 is within the spirit and intent of the original plan.

Indeed, the original deed restriction was for 33 lots, See **Petitioners' Exhibit 8**, and the instant proposal if approved would not exceed that original restriction.

The Petitioners are not suggesting this Board enforce these Agreements. To the contrary, there is nothing to enforce! The time to permit subdivision is now and the Petitioners in concert with the Agreements and with the intent of the original FDP submit their instant proposal. The Protestants cannot have it both ways—the original plan was inviolate and the restrictions in the Agreements mean nothing.

If privacy and richness of a rural setting were the lynchpins upon which the Protestants purchased their lots, the addition of one specific lot, Lot 26 B, will not diminish them. As described above in great detail, Mr. Church described the trees to remain, the orientations of the existing and proposed homes on the Lot 26A and 26B, the

forest buffer, and the location of Lot 26. All of which insure the continued, perceived inviolate natural setting in which their homes exist. The Protestants' constant refrain throughout their testimony was, if approved, this particular subdivision would cause a domino effect causing the downfall of the Tufton Farm subdivision, plat 3, section 2. They chose to emphasize throughout their testimony the rezoning of the RC 5 zoned land to RC 6. This was done, they say, to prevent the subdivision of any lot within Plat 3, §2. The rezoning did restrict any subdivision, to the extent land zoned RC 5 was changed to RC 6. What the rezoning in 2008 did not do was to change 119 acres zoned RC 2. If it was the intent of the rezoning to prevent subdivision within the RC 6, then it was equally the intent to permit subdivision within the RC 2.

Testimony from Mr. Church on cross examination by Counsel for the Protestants was that in 1977, when the FDP and record plat were approved, there existed 119.58 acres of RC 2 zoned land, which then permitted 20 lots. **T-p. 144, lines 12-18, 7/29/09.** There is still 119.58 acres of RC 2. 20 lots were permitted in 1977 in the RC 2 portion of the subdivision and 15 were provided. **Petitioners' Exhibit 4.**

Protestants' apparently argue the current RC 2 regulations prohibit the subdivision of Lot 26. Mr. Church agreed with Protestants' Counsel that the RC 2 zoning regulations changed in 1979, and, under current law, only 2 lots would be permitted in 119 acres, +/- . However, Mr. Church testified that, due to the size of Lot 26, therefore, the current RC 2 regulations permit two lots. Mr. Dillon, the Protestants' land use expert, testified that the proposed amendment would be in contradiction to the current RC 2 regulations and therefore prohibited, because, in his opinion, the subdivision of Lot 26 had to be viewed

in the context of the entire original FDP, of 119 acres, +/-, and not viewed separately as did Mr. Church. This issue is immaterial. Whether under the new regulations or the old, Lot 26 may be divided. Indeed, when shown Bill No.24-08, **Petitioners' Exhibit 12**, Mr. Dillon agreed that the current RC 2 regulations did not apply. **T-p. 83, lines 9-16; p. 88, lines 2-11, 12/1/09.**

Bill No. 24-08 provides any material amendment to an approved residential development plan or plat shall be reviewed for compliance with all current law and regulations including the development regulations and the zoning regulations, thus Counsel for Protestants "argued" in his cross examination of Mr. Church that the current RC 2 regulations permit only 2 lots within the RC 2 zoned portion of the entire original subdivision, 119 acres. Mr. Church did agree that if looked at as a whole, then Counsel would be correct. As there are more lots, 15, in the RC 2 zone as approved in Plat 3, §2, than what would otherwise be permitted under the current regulations, this proposed subdivision of lot 26 would not be allowed. Mr. Church disagreed with this premise. The proposed amendment to permit Lot 26 to be divided into two lots is considered by itself, not as part of the whole subdivision, he testified.

Mr. Dillon testifying on behalf of the Protestants quoted from §32-4-104(b), BCC, which requires a proposed development to be in compliance with the present zoning classification on the property to be developed. **Protestants' Exhibit 8.** He further quoted §32-4-262(2), BCC, which states any material amendment to an approved Development Plan or plat shall be reviewed in accord with Title 32 and reviewed for compliance *with all current law and regulations, including the development regulations*

and zoning regulations, and any amendment to a plan or plat that results in an increase in density or increase in the number of buildable lots is a material amendment. (emph added) **Protestants' Exhibit 6.** Mr. Church testified that the DRC approved the minor subdivision. **T-p. 137, lines 2-5, 7/29/09.**

Mr. Dillon agreed, however, when confronted with Section 3 of Bill No. 24-08, which provided an exception to the provisions of this legislation, that the instant proposal is not subject to the current development regulations or zoning regulations.

Bill No.24-08 provides a simple exception to the general application legislated by §32-4-262 (2), and cited by Mr. Dillon. The current development regulations and zoning regulations *do not apply* to any *plan or application for a proposed development* that is accepted for filing prior to the *effective date* of the law. (emph added) **§3 Bill 24-08, Petitioners' Exhibit 12.** See also the Editor's note, **Protestants' Exhibit 6.** The effective date was May 19th, 2008. **Petitioners' Exhibit 12.** As testimony and evidence confirmed, a forestation plan and perc test plan were submitted prior to May 19th. **Petitioners' Exhibits 10 and 11.** Both are plans for the proposed development of Lot 26. Mr. Dillon "reluctantly" admitted that the original RC 2 regulations, in effect in 1977, apply. **T-p. 83, lines 9-16, 12/1/09.**

Whether Lot 26 should be viewed distinct from the overall development, or as part of it, is immaterial. The proposed subdivision can comply with either the old or the new! There is ample density available to permit the subdivision of Lot 26.

Further, the inconsistencies contained in the Agreements, **Petitioners' Exhibits 7, 8 and 9,** including lot size, number of lots, and dates of termination of the restrictions

themselves, clearly indicate the intent of the FDP and of the developer. From limitation on the number of lots, originally at 26 (**Petitioners' Exhibit 9**), then 33 (**Petitioners' Exhibit 8**), then eliminated (**Petitioners' Exhibit 7**); from a minimum lot size (**Petitioners' Exhibit 9**) to no minimum lot size (**Petitioners' Exhibit 7**); from no termination of restrictions, to termination by July 1st 2006 (**Petitioners' Exhibit 8**), then by July 1st 2007 (**Petitioners' Exhibit 7**). Prior to the sale of any lots, the developer clearly defined its intentions to reflect the spirit and intent of the FDP at issue here.

And then there is the law itself, §1B01.3A7, BCZR. The County Council has recognized the right to resubdivide lots included within previously approved Final Development Plans. The FDP is not a development plan; they are distinctly separate plans, required pursuant to different laws. The FDP is a zoning plan and not to be confused with the development plan submitted for approval to the Hearing Officer. See §32-4-101, BCC. The requirements for amendment to the FDP are spelled out in the BCZR. Amendments to a development plan are spelled out in §32-4-262. See **Protestants' Exhibit 6**. Amendments to the FDP are not provided for in the County Code, Article 32 or elsewhere, but solely by §1B01.3A7, BCZR. Amendments, within the context of the zoning regulations, irrespective of the requirements of the development regulations contained in Article 32 of the BCC, are permitted.

§1B01.3A7b.(3) requires that there be a determination in the course of the hearing procedure that the amendment would be *consistent* with the spirit and intent of the original plan and of "this article". (emph added) As "consistent" is not a word defined in §101 of the BCZR, referral to Webster's 3rd International Dictionary is mandated. See

§101, BCZR. "Consistent" means "compatible", "harmonious". There are no changes proposed for Tufton Ridge Road; lots 26A and B retain their natural setting and will be similar to the other lots within the subdivision; the proposed lot 26A will forever be undevelopable except for the existing house and its driveway. Also, and significantly, that portion of lot 26A zoned RC 2, and located adjacent to Tufton Ridge Road, while not legally part of the proposed lot 26B, will visually merge with lot 26B providing a vista unchanged from that which the Protestants have today. Mr. Church testified, in his opinion, the amendment if granted would be consistent with the existing subdivision and be within the spirit and intent of original FDP. He further cites the retention of the woods on both lots 26A and 26B. **T-p. 84, lines 5-9, 7/29/09.**

The Protestants point to certain notes on the original FDP to underscore their conviction that the proposed amendment is not consistent with its spirit and intent. And they refer to the inter-office correspondence, dated February 4th, 2009, in which the Office of Planning (OP) recommends denial of the amendment. **Protestants' Exhibit 2.** OP refers to note 7 of the original FDP, which states there cannot be grading of an entire site, cannot clear cut trees and shrubs, and can only remove dead or damaged trees necessary for the construction of homes and driveway. OP, in its correspondence to the Zoning Commissioner, also claims that the proposed plan shows the removal of at least one half acre of trees for the dwelling, driveway and septic reserve area. The references cited by the OP are either misleading or wrong. Mr. Church rebutted each of the allegations. First, no trees can be disturbed within the 10,000 SF of the septic reserve area; to do so, the area would not perc. **T-p.71, lines12-17, 7/29/09.** The only

disturbance would be for the proposed 2-story dwelling, about 2500 SF, and a drive pad and driveway, total approximately .36 AC. **T-p. 71, lines 18-21; p. 72, lines 1-2, 7/29/09.** Second, there is no clear-cutting of trees proposed. The proposed plan conforms to Note 7. **T-p.73, lines 1-3, 7/29/09.** The only limit of disturbance as shown on the plan is around the house. **T-p.72, lines 7-9, 7/29/09.** All the clearing that will occur will be within 15' outside of the perimeter of the building. **T-p.73, lines 4-6, 7/29/09.** OP quotes 2 notes that were not on the original FDP in support of its recommendation. **T-p.73, lines 7-15, 7/29/09.** These are not only inapplicable but inappropriate. They do not exist. OP stated the maximum coverage by buildings is 15% and stated that the coverage factor was not calculated on the plan; OP also stated a 250' diametric dimension is required but also not shown. As Mr. Church testified, these references are inapplicable to the instant plan because the references are applicable to a RC 5 zone, not RC2, in which zone such restrictions are not required. **T-p.73, lines 16-21; p. 74, lines 1-7, 7/29/09.**

Mr. Dillon agreed.

He did, however, testify in contradiction to Mr. Church that in his opinion, the proposed subdivision of Lot 26 would not be within the spirit and intent of the original FDP. **T-p. 59, lines 19-21; p. 60, lines 1-9, 12/1/09.** He agreed with the recommendation of the OP, to which he referred for support, **Protestants' Exhibit 2.** He also referred to the decision of the Zoning Commissioner in the instant matter, **Petitioners' Exhibit 13,** and the memo submitted by People's Counsel, **Protestants' Exhibit 12.** Mr. Dillon's primary argument against is the size of the proposed lots

compared to the existing lots. Notwithstanding the covenants and deed restrictions, he testified, it is the FDP that controls because people rely on the FDP. **T-p.90,lines 16-17, 12/1/09.** He admitted, however, that he really is not sure how such reliance occurs. **T-p. 91, 2-4, 12/1/09.** The FDP is not recorded, the record plat is. People have to find it on their own. The FDP is not “necessarily” provided at settlement. He agreed the record plat in the instant case did not have the notes delineated on the FDP to which he referred in support of his opinion.

“Q. So one has a reliance, would you not agree, that there is two things that a person who buys the property in Tufton Ridge comes to rely on looking at the record plat?

One, March 1, the covenant agreement goes out of play in 2007. That’s the one thing they can rely on, correct?

A. Yes.

Q. And two, they can rely on the fact that one way or another, the zoning in place in 1977 permits many more lots than otherwise are in existence?

A. Well, they—I don’t know if they can rely on that. They may see that, but I’m not sure they fully rely on that.”

T-p 94, lines 2-14, 12/1/09.

As to the OP’s memo, **Protestants’ Exhibit 2**, to which Mr. Dillon referred in support of his opinions, he agreed with Mr. Church that there is no “clear cutting of trees” proposed. **T-100, line 17, 12/1/09.** He agreed from a review of the site plan that grading would be for the “house and area for septic and retaining walls and driveways.” **T-p.**

101, lines 14-17, 12/1/09. Thus, consistent with the notes on the original FDP. While he agrees with OP's comment that the proposed amendment would not be consistent with the original FDP, he admits that the reasons expressed by OP in support of its recommendation are either wrong or inapplicable.

And lest we forget Protestants' argument that the sizes of the proposed lots, smaller than otherwise presently exist, would not be consistent with the spirit and intent of the original FDP. If the amendment were approved, both lot 26A and lot 26B would be smaller. The average lot in Tufton Farms, plat 3, §2, is between 5 and 6 acres. **T-p. 83, lines 6-7, 7/29/09.** Mr. Church testified, in his opinion, the proposed lots would nonetheless be consistent with the spirit and intent of the original FDP. **T-p-84, lines 5-9, 7/29/09.** Mr. Dillon disagreed.

The distillation of the Protestants' arguments comes down to this: one additional lot means the downfall of the entire community! The reasons they set forth do not reach the level of inconsistency needed to deny this particular amendment. Obviously, the proposed lots 26A and 26B will be smaller than those presently existing. It is equally obvious that the new lots will have no deleterious affect. Size of the lots should not be the deciding factor. The deer will still roam; the trees will still shed their leaves in winter; the privacy so prized will not be invaded; the natural terrain and setting of the Tufton Farms subdivision will continue to be inviolate.

For all of the above reasons, contrary to the arguments of the Protestants, the Petitioners have presented sufficient cause for the Board of Appeals to determine that the proposed subdivision of lot 26 into lot 26A and lot 26B is within the spirit and intent of

the original plan. The proposed amendment agrees with and is accordant with the spirit and intent of the original FDP for Tufton Ridge. The creation of lot 26A and lot 26B is compatible with and is not self contradictory. The same principles applied to the original plan by the developer are applied now.

2. The proposed amendment satisfies the provisions of §502.1, BCZR.

As expected, Mr. Church testified, in his opinion, there would be compliance with all of the strictures contained in §502.1. In his opinion there would be no adverse impacts caused by the division of lot 26 into lot 26A and lot 26B. He testified if approved, it would not be detrimental the health, safety or general welfare of those who live within Tufton Farms, Plat 3, §2. **T-p.98, lines 13-16, 7/29/09.** Notwithstanding the Protestants' objections, the impact of the proposed amendment is minimal to the surrounding properties. He testified that the amendment would be consistent with the zone and with the zoning regulations, consistent with the density restrictions in the RC 2 zone, whichever restrictions are applicable. The amendment would be consistent with the current single-family dwellings located in Tufton Farms. It would be consistent with purposes of the **property's zoning classification** and would be consistent with the spirit and intent of the BCZR. (emph added) **T-p. 79, lines 19-21; p. 80, lines 1-4, 7/29/09.** This property's zoning classification, not to overemphasize the point, is RC 2. The density permitted in 1977 allows the density as proposed by the amendment. 20 lots were permitted, 15 lots created. One additional lot is proposed here. The RC 6 on lot 26A conforms with and will remain and reflect the rural character of the subdivision. No variances are requested. The new lot is appropriate in context of this area and is

compatible with the houses and lots in the vicinity. The BCZR requires that where a property is divided by a zone boundary, density is considered separately. Density is applied to each tract individually and each is considered as separate parcels. §1A00.5, BCZR.

Mr. Church further opined, the amendment, if granted, would not tend to create congestion in roads, streets or alleys. **T-p. 76, lines 3-6, 7/29/09.** The subject property is not located in a deficient traffic shed and, in his opinion, would have no or at worst a minimal impact on traffic in the area. **T-p. 77, line 6, 9/29/09.** In his opinion, the amendment would not be a potential hazard from fire, panic or other danger. **T-p. 77, lines 7-10, 7/29/09.** It would not overcrowd the land and would not cause undue concentration of population. **T-p. 77, lines 11-14, 7/29/09.** While the RC 5 land was changed to RC 6, the RC 2 remains the same. Only the property with sufficient RC 2 will be utilized. The amendment will not interfere with adequate provisions for schools, parks, waters, sewerage, transportation or other public requirements, conveniences, or improvements. **T-p. 79, lines 9-14, 7/29/09.** The amendment, if granted, will not interfere with adequate light and air. **T-p.79, lines 15-18, 7/29/09.** The amendment would not be inconsistent with the impermeable surface or vegetative retention provisions of the BCZR. **T-p. 98, lines 5-12, 7/29/09.** If granted, the amendment would not be substantially detrimental to the adjacent properties or materially impair the purpose or the public interest of the zoning regulations. **T-p. 99, lines 9-14, 7/29/09.**

On cross examination, Mr. Church was questioned about the lot line setbacks as shown on the original FDP, **Petitioners' Exhibit 3**, which pursuant to Note 14, were to

be 75' from the centerline of the road, side yard 25' and 50' to the rear. **T-p. 160, lines 7-9, 7/29/09.** Mr. Church testified that the rear set back shown on the site plan is 35', measured from the building envelope to the property line. **Petitioners' Exhibit 2.** While the 35' rear setback conforms to the current RC 2 regulations, it does not conform to Note 14. Mr. Church responded to Counsel that Lot 26 could be subdivided into 2 lots under the current RC 2 regulations. **T-p. 146, lines 2-14, 7/29/09.** Counsel then supposed that if Tufton Farms came in today for subdivision, it would not be eligible for the same number of lots in the RC 2 and RC 6 that were permitted in 1977. Mr. Church agreed. (Of course, RC 6 did not exist in 1977) Mr. Church, however, testified that under the current RC 2 regulations, Lot 26 could be subdivided. Counsel argued Lot 26 could not be extracted from the total acreage but considered as part of the total acreage, therefore the subdivision of Lot 26 would not be permitted under the current regulations. **T-p. 148, line 7, 7/29/09.** In 1977, the regulations in place did permit the number of lots as indicated on the FDP, **Petitioners' Exhibit 3.** Consistent throughout his cross examination, Mr. Church testified the issue is Lot 26, not the entire subdivision. There is no attempt to subdivide any lot other than Lot 26, and the proposed acreage satisfies the current RC 2 regulations as well as conforming to the RC 2 regulations existing in 1977. As thoroughly explained above, it does not matter which, the current or the past, regulations apply. It was still Mr. Church's opinion that the proposed amendment is consistent with the purposes of Lot 26 A's zoning classification of RC 2 and is consistent with the spirit and intent of the Zoning Regulations.

Mr. Church was questioned about the inconsistency with Note 14 of the original FDP, which provided that the rear yard setbacks for the dwellings was to be 75'. Mr. Church agreed that the site plan, **Petitioners' Exhibit 2**, shows a rear yard setback of 35' from the building envelope to the rear property line, and, further, agreed that the proposed dwelling as shown on the site plan matched the building envelope. While the proposed rear yard setback complies with the current RC 2 regulations, it does not conform to the 1977 required rear yard setback or Note 14. As Mr. Church explained, the building envelope was drawn to provide room within which the proposed house could be located. **T-p. 111, lines 1-21, 7/29/09.** There had been no decision made where the house was to be sited and, therefore, the building envelope was constructed to provide the maximum area within which the house could be sited. This issue is a "red herring". There is no question from a perusal of the site plan, and as drawn from the testimony, that the building envelope as shown on the site plan is not necessarily the building line. The house could easily be sited anywhere within the building envelope as shown on **Petitioners' Exhibit 2** to conform to the 75' rear yard setback. §1A01.3B.3, "...No *principal structure or building*" can be within 35' from the rear property line. (emph added) Note 14 refers to "minimum building setbacks", one of which is to be 75' rear yard. Clearly, the building envelope shown on the site plan was the broadest boundary within which a dwelling could be located. The setback is not measured from the building envelope but from the dwelling.

If consistency with the original FDP is to be measured by a rear yard setback, then the Board could resolve this "inconsistency" by requiring a 75' setback!

The Protestants also presented James Patton, a civil engineer, as an expert. Mr. Patton testimony basically revolved around storm water management issues, and, notwithstanding Mr. Holzer's protestations to the contrary, about the zoning regulations, specifically the applicability of RC 6. See **T-pp. 146-151; p. 169, lines 15-19, 12/1/09.** Mr. Patton admitted that the issues he raised require review by the appropriate County agencies, and the issue of amending the FDP was but one "stop along the road" to securing a building permit. **T-p. 165, lines 12-18, 12/1/09.** The approval of grading and storm water management is not before the Board. The approval of this particular amendment to this particular FDP is. The issue before this Board is a zoning issue, only. Each of the issues raised by Mr. Patton are resolvable and will be addressed when the appropriate plans are submitted for review. There is no point in submitting them prior to securing approval of the amendment of the FDP. Without such approval, there is no subdivision.

CONCLUSION

For the above stated reasons, the Petitioners respectfully request that the Board of Appeals of Baltimore County find that:

The Petitioner has complied with §1B013.7.b §502.1, BCZR, and requested amendment should be granted.

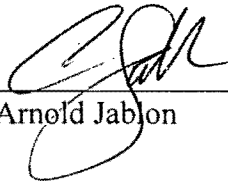
Respectfully submitted,



Arnold Jablon
Venable, LLP
210 West Pennsylvania Ave.
Towson, Maryland 21204
(410) 494-6298

Certification of Service

IT IS HEREBY CERTIFIED that a copies of the foregoing Petitioners' Hearing Memorandum was mailed by first class delivery, postage prepaid, on this 29th day of January 2010 to J. Carroll Holzer, 508 Fairmount Ave., Towson, Maryland 21204, Alan Fell, Esq., 13201 Dover Rd, Reisterstown, Maryland 21136 and to Peter M. Zimmerman, Esq., Jefferson Bldg, Room 204, 105 West Chesapeake Ave., Towson, Maryland 21204 .



Arnold Jablon



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
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PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

July 27, 2009

Panel Chairman c/o Theresa Shelton, Administrator
County Board of Appeals of Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
JUL 27 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

Re: Thomas & Cynthia Hutson
2205 Tufton Ridge Road
Case No.: 09-035-SPH

Dear Ms. Shelton:

Upon further review of my memorandum, I wish to correct the arithmetic on page 4 with respect to the potential permitted density in the R.C. 6 part of the tract. Given the .2 lot per acre density, the calculation for 115 acres would yield a maximum of 23 lots, not 20. Again, this has to be qualified because it assumes that there is no primary conservancy area as determined by DEPRM. It also assumes that the lots could be placed outside a designated secondary conservancy area and meet performance standards. In reality, the number allowed would probably be much lower.

The net result for the entire tract is that the theoretical maximum of 23 R.C. 6 plus 2 R.C. 2 adds to a theoretical maximum of 25. There are already 30 lots developed. Therefore, even under the assumptions most favorable to the developer, the maximum density is already exceeded.

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw

cc: Arnold Jablon, Esquire
J. Carroll Holzer, Esquire

Because the law (BCZR § 1A00.5) treats each zoned area of a split-zoned R.C. Zone property as a separate parcel, it is important to describe the respective allocation of the lots between the two zones. The developer chose to place 15 lots in the R.C. 2 Zone, within the 20 then allowed based on the .2 lot per acre density provided in the 1975 law.. There were likewise placed 15 lots within the R.C. 5 Zone, well within the 78 allowed at that time by the .667 lot per acre density. These lots have apparently been developed. The average lot size in gross area is about 7.4 acres per lot.

(According to ZC Wiseman's opinion, footnote 4, in 1979, two additional lots were created by re-subdivision of lots 12, 13, and 22. However, lots 22A and 30 are vacant. It is unclear whether these lots are now in separate ownership, or whether they may be developed under current law. In any event, they are not at issue.)

Petitioners acquired lot 26 in 1983. See SDAT computer printout, attached. Their lot consists of about 6.2 acres in gross area and 5.7 acres in net area. It is even now one of the smaller lots in the subdivision. The zoning of lot 26 parallels the subdivision in that it is split-zoned. It had about 2.8 net acres zoned R.C. 2 and about 2.9 acres zoned R.C. 5 when the petitioners bought the property. According to the SDAT record, the existing dwelling was built in 1988. It is on the part of the property then zoned R.C. 5.

The current proposal is to divide lot 26. Lot 26A would have the new dwelling.. It would occupy 1.6 net acres in the northeast corner of the current lot, zoned R.C. 2. Lot 26B would occupy the other 4.1 acres and retain the existing dwelling. This lot would still be split-zoned, 1.2 acres R.C. 2 and 2.9 acres of the original R.C. 5.

Zoning changes

Since the 1977 approval, there have been three changes in zoning law affecting this subdivision and, therefore, this subject property. The first change came in 1979. It relates to the R.C. 2 Zone. The County Council enacted Bill 178. Among other things, this amended the subdivision lot density provisions of the R.C. 2 Zone. It restricted the density to two dwellings lots for lots of record between 2 and 100 acres, and one lot per 50 acres for lots of record having a gross area of more than 100 acres. BCZR § 1A01.3.B.1. If the Tufton Farms subdivision had not yet been developed, the new law would have allowed but two dwelling lots on the 119.58 acres.

The other changes in the law relate to the R.C. 5 Zone. In 2005, the Council enacted Bill 128, reducing the R.C. 5 Zone density from .667 lot per acre to .5 lot per acre. BCZR § 1A04.3.B.1.a. More importantly, in 2008, the County Council rezoned the R.C. 5 Zone area in the Tufton Farms, Section 2 subdivision to R.C. 6, Rural Conservation and Residential). The R.C. 6 density is more restrictive, allowing .2 lot per acre of the “density calculation area.” BCZR § 1A07.B.1.a. (The “density calculation area” is the part of the site outside the defined “primary conservancy area.” BCZR 107.2.) There is also a detailed set of performance standards in the R.C. 6 Zone. Generally speaking, the R.C. 6 Zone is more protective and restrictive as to land use and density than the R.C. 5 Zone. It is unclear how many lots would have been feasible on the 115 acres of R.C. 6 under current law. This would require a delineation of the primary conservancy area and the density calculation area. The presence of woods in the subdivision suggests there would be a substantial area qualified for primary conservancy.

Preliminary Argument

The Petition does not satisfy the BCZR § 1B01.3/1A00.4 standards

Introduction

The Petitioners’ desire to resubdivide Lot 26 clearly involves an amendment to the 1977 final subdivision plan and related plat. The SDAT record lists the plat as 41/92, plat no. 3. As noted, the source of the law governing amendment of final development plans is Bill 100, 1970, which included BCZR 1B01.3 to regulate amendments in Density Residential Zones. In 1975, Council Bill 98-75 extended this protection to Resource Conservation Zones by incorporation in BCZR § 1A00.4.

For residential subdivisions where lots have been sold prior to a requested amendment, the law sets up a review process. It requires compliance with special exception standards as well as consistency with the spirit and intent of the original plan. BCZR §1B01.3.A.7.b. This provides protection to the neighborhood, including other property owners in the subdivision. It also includes a tract density limit in BCZR § 1B01.3.B.2, which is critical in the present case.

The proposed resubdivision conflicts with and exceeds the tract density limits set by the law governing amendment of subdivision plats

A threshold standard in the present case involves the aggregate limits on subdivision lot density for the entire tract. BCZR § 1B01.3.B. 2 concludes,

“It is the intent of these zoning regulations to prohibit subdivision or resubdivision of portions of a tract in a D.R. Zone in a manner so as to exceed the total number of dwelling or density units allowed under the applicable D.R. Zone(s) for the entire tract.”

BCZR § 1A00.4 cross-references and incorporates this provision into the law governing the Resource Conservation Zones. It states,

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

There is nothing ambiguous about this law. Of course, the statutory reference to “the entire tract” refers to the entire subdivision, not just a single lot. Webster’s Third New International Dictionary defines the word “tract,” for the purpose here, as

“**2** : an area either large or small: as a (1) region or stretch (as of land) that is usu. indefinitely described or without precise boundaries <a few large –s for settlement> <the wooded – between the two rivers> <a great – of unexplored area (2) : a precisely defined or definable area of land <an 80 acre -- > <an urban census -- >”

The 234.58-acre tract here is Tufton Farms, Section 2. The new dwelling lot would be in the R.C. 2 Zone. For the 119.58-acre R.C. 2. Zone area, the maximum density under current law is 2 dwelling lots. The existing 15 lots already far exceed the maximum density. For the 115-acre R.C. 6 area, even if assumed entirely as a “density calculation area” (lacking a primary conservancy area), the maximum density would at most be 20, and the lots would have to be outside a “secondary conservancy area.” The maximum density for the entire tract would at most be 22 lots. There exist at least 30 lots now.

The existing density of Tufton Farms thus exceeds the maximum lot density permitted under current law. The approval of an additional lot would compound the present excess and set a precedent for many other re-subdivisions.. To illustrate, if this request is approved, it could be the harbinger for a dramatic multiplication of lots at Tufton Farms and other early developments in the rural area.

The implications are countywide. They span the entire R.C-2 Zone spectrum. There are many situations like the present one, where subdivisions were developed in the R.C. zones prior to applicable changes in the regulations or maps. That they had the fortune to develop in advance of more protective legislation is not an excuse for an addition to density which already is excessive by current standards.

As to the equities, it is to be remembered that any existing farm properties in the R.C. 2 zone and other R.C. Zones are subject to the current strong density restrictions. It would give an unfair advantage to lot owners in the older dense subdivisions to allow what amounts to a density multiplier, further aggravating the disparity.

The proposal is inconsistent with the spirit and intent of the original plan

As noted, the subdivision was developed with a pattern of large lots. Purchasers relied in part on the ample area and space available on each lot. With an average gross lot size of 7.4 acres, lot 26 is already below the average size. With the creation of a lot less than 2 acres in size in the R.C. 2 Zone for the new dwelling, this would be a major deviation from the land use pattern. The remaining lot of a little more than 4 acres would also be well below the average.

The deviations in lot size are also important because of the consequences for increased building and impervious surface coverage, grading, and removal of trees. In this connection, Planning Director Pat Keller's February 4, 2009 correspondence recommended denial based on the inconsistency. In addition to the size problem, the Director and his staff wrote that the lot is "uniformly wooded," that the new construction would involve substantial tree removal, and that this would conflict with the restrictions in FDP Note 7 on grading and clear cutting of trees and shrubs.

The proposal does not satisfy the incorporated special exception standards

The inconsistency of the proposal with the spirit and intent of the original plan also translates as a failure to satisfy special exception standards. BCZR § 502.1.A pertains to the public safety, health, and welfare of the locality. This involves, in great measure, the compatibility of land uses in a neighborhood setting. This is particularly true within a subdivision. It is not necessary that all uses must be identical. But jarring

deviations are unacceptable. BCZR § 502.1.G focuses on the consistency with the purposes of the property's zoning classification. In light of the 1979 and 2008 zoning regulation and map changes affecting subdivision lot density, it would undermine the legislative purpose to permit re-subdivision of a lot where the existing subdivision exceeds the limit for the current zoning. Again, this is true in each single case, and also true because it creates a precedent. BCZR § 502.1.I meanwhile addresses the protection of environmental and natural resources, including forests, in the R.C. 2 and other R.C. Zones. The likely destruction of the woods is another particular adverse impact.

Note on the application of current law

BCZR § 1B01.3 requires application of current zoning law to amendments of final development plans. When it comes to new lots, there is no grandfather clause to perpetuate laws long since repealed. There are no vested rights for expansion and new development. To be sure, buildings may be built in accordance with plats approved by the Baltimore County Planning Board prior to a change in the law under BCZR § 103.3, but this is limited to the lots thereby approved. It is not a launching pad or multiplier for re-subdivision.

Sometimes, property owners seeking re-subdivision attempt to circumvent the requirement for zoning review of amendments to final development plans. They have sometimes invoked the concept of "refinement." There is no statutory provision for this concept. Rather, it is found in the Development Management Policy Manual. It evolved to differentiate "material" from "non-material" amendments for the purpose of development review under the forerunners of County Code § 32-4-262. Originally framed during the County Review Group era, the Policy Manual created the Development Review Committee (DRC). Among other things, the DRC could review and approve "refinements" without a full public meeting or hearing. To define "refinement," the Manual stated, in Policy No. 1.a.III, page 2,

"... that slight, minor, or insignificant changes to an approved plan, which have no significant impact on the site or on adjacent properties to the neighborhood at large may be considered as 'Plan Refinements' fully in keeping with the informative, conceptual and schematic nature of the CRG plan."

In 1992, the hearing officer process replaced the CRG process. Pursuant to PDM Policy, page 8, policies applicable to the CRG process were extended to the development process. Thus, if an

amendment qualified as a “refinement,” the county agencies could approve it without a full public CRG meeting, or later, hearing officer review.

In Meadows of Greenspring Homeowners Assoc. v. Foxleigh Enterprises CSA No. 2170, Sept. Term 2003, the court held that a reduction in building height from eight stories to two stories was a material amendment, and not a “refinement,” notwithstanding the PDM director’s letter explaining that reductions in size or scope of a project is considered a refinement or correction.” The court cited the common and ordinary meaning of the word “material,” as well as the policy reference to “slight, minor, or insignificant changes.”

Clearly, a re-subdivision could never properly be considered a “refinement.” There is no accurate way to describe any re-subdivision as “slight, minor, or insignificant.” Moreover, even if it could properly be called a “refinement,” that would not be a ground to circumvent zoning review. BCZR § 600 clarifies that the zoning regulations prevail over any less restrictive provisions in other parts of county law. The bottom line is that there has often been misuse of the refinement concept in the DRC process to stretch it way beyond its plausible and proper boundaries and thereby avoid the required hearing.

In any event, as ZC Wiseman recognized, the County Council unarguably closed this potential end-around by enacting Bill 24-08. This made explicit that any request “which results in an increase density or increase in the number of buildable lots is a material amendment.” Previously, Bill 24-06 had underlined that material amendments must comply with current zoning law. The relevant code provisions are §§ 32-4-104 and 32-4-262(2). The zoning law and development are now in parallel, and they do not leave any wiggle room for property owners to reincarnate the law of yesteryear.

Along with the tactical use of the “refinement” concept, property owners have sometimes made use of the “limited exemption” for “minor subdivisions” (subdivision of land into three or fewer lots) under Code §32-4-106(b)(5) or its forerunners. To employ this tactic, they focus solely on their own lot, positing that their proposed re-subdivision merely creates a second lot. This approach deliberately ignores the reality that the lot is already part of a major subdivision, and the amendment therefore constitutes an addition to that major subdivision. Once again, there is no excuse to avoid a public hearing.

Here, ZC Wiseman properly recognized that the present request for re-subdivision


is not a "refinement," and, moreover, that it is an amendment to a final development plan for a major subdivision. The recognition that the re-subdivision of a single lot in a major subdivision is subject to zoning review in a special hearing is extremely important. The County Board of Appeals should reinforce this point. That may reduce the temptation for property owners to try the DRC route to circumvent the zoning process.

Conclusion

For the foregoing reasons, the petition for special hearing should be denied.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 2009, a copy of the foregoing People's Counsel for Baltimore County's Pre-Hearing Memorandum was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s) and to J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Maryland 21286, Attorney for Protestants.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
 Real Property Data Search (2007 vw2.3)

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

Account Identifier: District - 08 Account Number - 1700013707

Owner Information

Owner Name: HUTSON THOMAS H
 HUTSON CYNTHIA G
Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 2205 TUFTON RIDGE RD
 REISTERSTOWN MD 21136-5514
Deed Reference: 1) / 6621/ 601
 2)

Location & Structure Information

Premises Address 2205 TUFTON RIDGE RD
Legal Description 5.710 AC
 1026 NE JAY TRUMP RD
 TUFTON FARMS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	3
41	20	133			2		26	2	Plat Ref:	41/ 92

Special Tax Areas
 Town Ad Valorem Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1988	3,678 SF	5.71 AC	04
Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	BRICK

Value Information

	Base Value	Value	Phase-in Assessments		
		As Of	As Of	As Of	
		01/01/2008	07/01/2008	07/01/2009	
Land	242,460	242,460			
Improvements:	447,580	461,480			
Total:	690,040	703,940	694,673	699,306	
Preferential Land:	0	0	0	0	

Transfer Information


Seller: BRUECKNER RICHARD J
Type: IMPROVED ARMS-LENGTH
Date: 11/09/1983
Deed1: / 6621/ 601
Price: \$66,800
Deed2:
Seller:
Type:
Date:
Deed1:
Price:
Deed2:
Seller:
Type:
Date:
Deed1:
Price:
Deed2:

Exemption Information

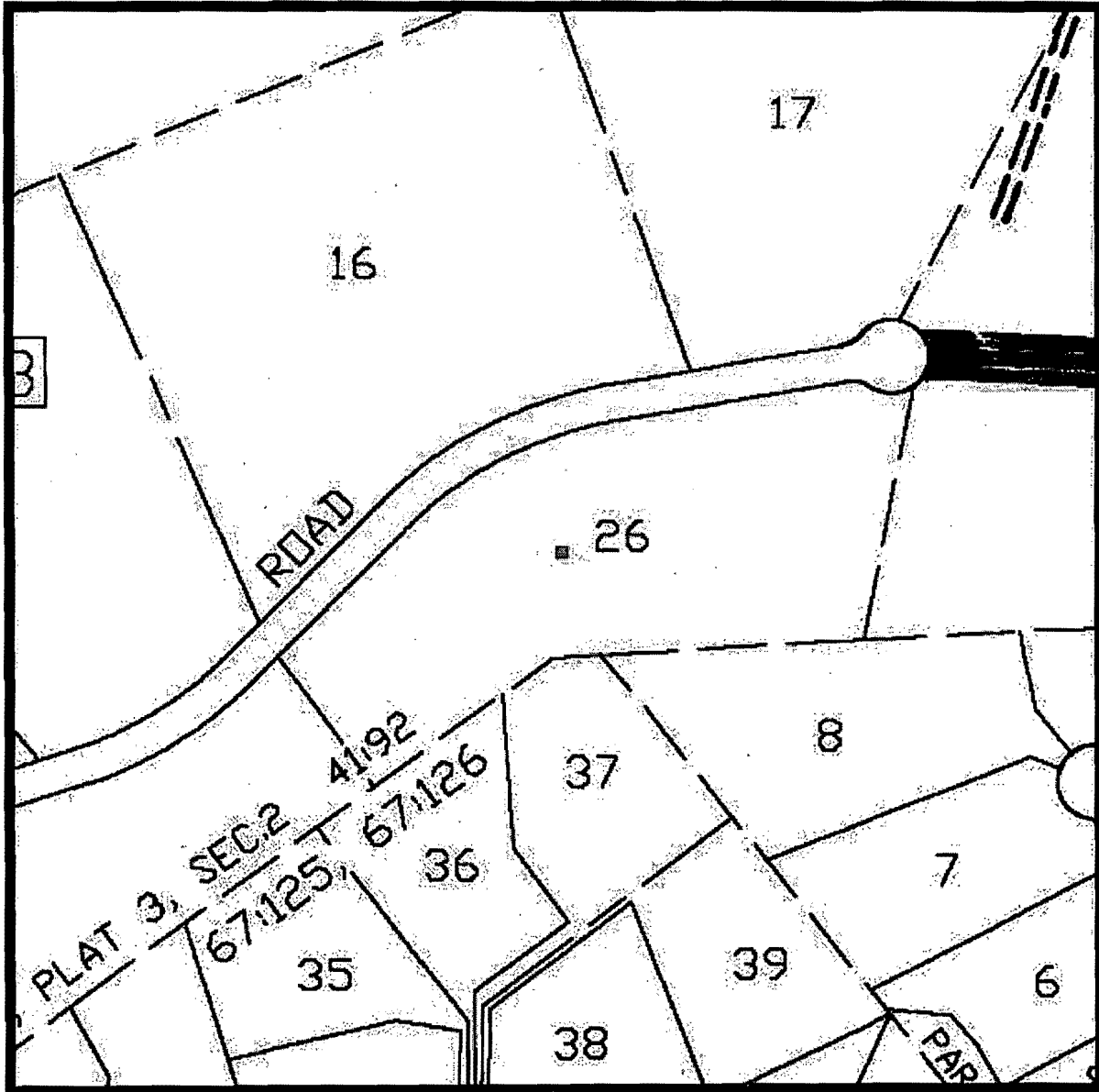
Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

	<p>Maryland Department of Assessments and Taxation BALTIMORE COUNTY Real Property Data Search</p>	<p>Go Back View Map New Search</p>
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District - 08 Account Number - 1700013707



Property maps provided courtesy of the Maryland Department of Planning ©2008.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

18 March 2009

Timothy Kotroco, Esq.
Director, Department of Permits and Development Management
111 West Chesapeake Ave.
Towson, Maryland 21204

Re: Appeal to County Board of Appeals
Petition for Special Hearing
Case No. 09-0035 SPH

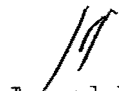
Dear Mr. Kotroco:

Please be advised that I represent Mr. and Mrs. Thomas H. Hutson.

Attached hereto is our Notice of Appeal to the County Board of Appeals from the decision of the Zoning Commissioner, dated 20 February 2009, in which the Zoning Commissioner denied a special hearing to permit the re-subdivision of Lot 26, Plat 3, Section 2 of the FDP entitled "Tufton Farms, Section Two".

Thank you for your attention in this matter.

Sincerely,



Arnold Jablon
AEJ/aj

c: Baltimore County Board of Appeals
J. Carroll Holzer, Esq.
Hon. William Wiseman, Esq.

RECEIVED
MAR 18 2009
BALTIMORE COUNTY
BOARD OF APPEALS

3/18/09

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE COUNTY
S/S of Tufton Ridge Rd, 1,150'		
E of c/l of Jay Trump road	*	ZONING COMMISSIONER
(2205 Tufton Ridge Road)		
	*	OF BALTIMORE COUNTY
2 nd Councilmanic District		
8 th Election District	*	
Thomas H. Hutson, et ux., Owners		
	*	
Case No. 09-0035SPH		

* * * * *

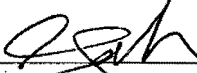
NOTICE OF APPEAL

Mr. and Mrs. Thomas H. Hutson, owners of the subject property, by and through their attorney Arnold Jablon, Venable, LLP, feeling aggrieved by the final decision and determination of the Zoning Commissioner of Baltimore County denying the appellants' request to re-subdivide their property in Case No. 09-0035 SPH, dated 20 February 2009 and attached hereto and incorporated herein as Exhibit A.

Appellants herewith take exception to that final decision of the Zoning Commissioner as reflected in Exhibit A and appeal to the County Board of Appeals. Appellants submit that the review by the CBA from the final decision of the Zoning Commissioner shall be a hearing *de novo* pursuant to the Baltimore County Charter.

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the costs of the appeal.

Respectfully submitted



Arnold Jablon
Venable, LLP
210 Allegheny Ave.
Towson, Maryland 21204
410-494-6298

attorney for appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT copies of the foregoing Notice of Appeal was hand delivered to the Baltimore County Board of Appeals, Jefferson Bldg, 2nd Fl, Suite 203, 105 West Chesapeake Ave., Towson, Maryland 21204; Timothy Kotroco, Director, Department of Permits and Development Management, Towson, Maryland 21204, and J. Carroll Holzer, Esq. 508 Fairmount Ave., Towson, Maryland 21286 on this 18 day of March, 2009.



Arnold Jablon.

EXHIBIT A

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
S/S Tufton Ridge Road, 1,150' E of c/line * ZONING COMMISSIONER
Jay Trump Road *
(2205 Tufton Ridge Road) *
8th Election District * FOR
2nd Council District *
* BALTIMORE COUNTY
Thomas H. Hutson, et ux *
Petitioners * Case No. 2009-0035-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Thomas H. Hutson and Cynthia G. Hutson, the legal owners of the subject property, by and through their attorney, Arnold E. Jablon, Esquire. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an amendment to the Final Development Plan (FDP) entitled "Tufton Farms, Section Two", to permit the re-subdivision of Lot 26, Plat 3, Section 2, into two (2) lots consistent with B.C.Z.R. Sections 1A00.4 and 1B01.3.A.7.¹

The site plan, dated July 11, 2008, that was initially submitted with this Petition was marked and accepted into evidence as Petitioners' Exhibit 1. However, as will be explained in greater detail, this property was subsequently rezoned pursuant to the 2008 Comprehensive Zoning Map Process (CZMP). Accordingly, revised plans (Revision date January 12, 2009) showing the rezoned portion of the subject property and the requested relief were submitted and accepted and marked as Petitioners' Exhibits 2 and 2A.

¹ At the outset of the hearing, counsel for the Petitioners amended the Petition for special hearing, which was inadvertently filed as a request for amendment of "plat 2, section 2" instead of "plat 3, section 2." Since this amendment had no effect on the nature of the requested relief, and corrected a simple clerical error, the amendment was permitted without objection.

2/20/09

IN RE: **PETITION FOR SPECIAL HEARING** *
S/S Tufton Ridge Road, 1,150' E of c/line *
Jay Trump Road *
(2205 Tufton Ridge Road) *
8th Election District *
2nd Council District *

Thomas H. Hutson, et ux *
Petitioners *

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2009-0035-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Thomas H. Hutson and Cynthia G. Hutson, the legal owners of the subject property, by and through their attorney, Arnold E. Jablon, Esquire. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an amendment to the Final Development Plan (FDP) entitled "Tufton Farms, Section Two", to permit the re-subdivision of Lot 26, Plat 3, Section 2, into two (2) lots consistent with B.C.Z.R. Sections 1A00.4 and 1B01.3.A.7.¹

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Appearing at the requisite public hearing in support of the request were Arnold E. Jablon, Esquire, of Venable, LLP, representing Thomas and Cynthia Hutson, property owners, and Thomas A. Church, Professional Engineer with Development Engineering Consultants, Inc., who prepared the site plans and provided expert testimony with respect to the proposal and the County's zoning and development regulations. Also present were Paul G. Miller and Kenneth J. Wells with Wells Development Corporation. The issues presented in this case generated significant public interest. J. Carroll Holzer, Esquire represented neighboring property owners as well as Teresa Moore and the Valleys Planning Council. Testifying in opposition were Steven Schloss, Larry and Janice Bortner, Michael O'Malley, Thomas Gildee, John Sophocles and Martin Buckley. The Protestants' opinions are also reflected in a series of letters received in opposition, which were collectively marked and received into evidence as Protestants' Exhibit 1. Additionally, Diana Itter, a Community Planner with the County's Office of Planning, appeared but was not called to testify.

Testimony and evidence describing the subject property and the proposed minor subdivision was offered primarily by the Petitioners engineer, Thomas Church, who stated he is familiar with the property. Mr Church, accepted as an expert in land development and zoning, provided a background of the Tufton Farms subdivision, which was originally developed approximately 32 years ago. The subdivision (Section Two) consists of 234.58 acres of land located south of Shawan Road, east of Dover Road, and northeast of Knox Road in Worthington Valley. This area has justifiably earned a reputation as being one of the finest residential areas in the entire metropolitan area. As shown on Petitioners' Exhibit 4 (the FDP Plat), 119.58 acres are in the R.C.2 zone allowing at the time for the development of up to 20 lots. The remaining 115 acres were zoned R.C.5 and allowed for a maximum of 57 lots, creating a total of 77

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permissible lots in the combined R.C.2/R.C.5 zoning classifications that encompassed the subdivision. The plan shows uniformly large lots with an average lot size of 7.24 acres.

Mr. Church's testimony revealed that instead of developing the property to its maximum potential, the Developer at that time, Gaylord Brooks Investment Company (Gaylord Brooks) proposed and developed only 30 lots with 15 located in the R.C.2 zone and 15 in the R.C.5 zone. The Subdivision Record Plat, as well as the Final Development Plan for Tufton Farms, were approved by the Office of Planning and Zoning in February 1977. These documents were respectively received into evidence as Petitioners' Exhibits 3 and 4, and the property at issue in this request for special hearing, Lot 26, is illustrated on both of these Exhibits.

Mr. Church next proceeded to explain the changes made to the property during the 2008 CZMP. Prior to the 2008 changes, the subject property was split zoned R.C.2 and R.C.5. However, Issue 2-035 of the 2008 CZMP, which encompassed a total of 130.2 acres throughout the Tufton Farms subdivision, in effect downzoned the R.C.5 portion of the Hutson's property to R.C.6. The R.C.2 portion of the property was not changed or altered in any way by virtue of Issue 2-035.

Further testimony from Mr. Church provided insight as to the specific nature of the subject property and requested relief. Lot 26 is an irregular shaped lot containing a net area of 5.71 acres that is split-zoned.² The northern half of the lot is undisturbed and zoned R.C.2, the southern half is improved with the Petitioners single-family dwelling and zoned R.C.6. The property is located at the far east end of Tufton Ridge Road, a public road, that terminates in a cul-de-sac that marks the termination of the public access road. According to Mr. Church, the

² The existing Lot 26 is 6.2 acres gross area and 5.6 acres net area.

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property slopes downward towards Tufton Ridge Road, so that entering the property from the driveway requires a fairly significant incline. Petitioners submitted an aerial photograph of the property, which was accepted into evidence as Petitioners' Exhibit 5. The photograph reveals a green, primarily wooded lot with a single-family, two-story dwelling located centrally on the property that was built in 1988.

As illustrated on the site plan (Petitioners' Exhibit 2A), the Hudson's are proposing to re-subdivide the property. Lot 26A would be comprised of 1.580 acres in the northeast corner of the property, all of which is located within the R.C.2 zoning classification. The balance of the 4.130 acres would become Lot 26B, and is split-zoned (1.205 acres of R.C.2 and 2.925 acres of R.C.5). As noted, the existing two-story dwelling in which the Petitioners reside would be known as Lot 26B. The Petitioners propose the construction of a new dwelling in the southern corner of proposed Lot 26A. The proposed dwelling would be accessed via a private driveway that directly connects to the cul-de-sac at the eastern end of Tufton Ridge Road. According to Mr. Church, only .25 acres of land would need to be cleared in order to construct the proposed dwelling and driveway on Lot 26A.

Mr. Church testified that in his opinion, the requested special hearing meets all of the criteria in B.C.Z.R. Sections 502.1 and 1B01.3.A.7. According to Mr. Church, the proposed special hearing would not be detrimental to the health, safety, and welfare of the surrounding locale, and would not impact traffic or increase congestion as the property is located at the end of Tufton Ridge Road without any nearby deficient traffic sheds. Additionally, the request would only require .25 acres to be cleared, and would not affect public utilities or create any risk of fire, panic or danger in the surrounding community. Mr. Church believed that the request would not adversely impact school or transportation resources, would not have any significant impact on

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light or air, and would not tend to overcrowd the property or surrounding community. Finally, as required by Section 1B01.3.A.7 of the B.C.Z.R., Mr. Church testified that the requested relief is consistent with the spirit and intent of the original plan for the Tufton Farms subdivision. At this point, Petitioners rested their case.

On behalf of the Protestants, J. Carroll Holzer, Esquire declined to cross examine Mr. Church, and presented his case solely by asking a series of nearby neighbors to explain their opposition to the requested FDP amendment. As previously stated, Steven Schloss, Larry and Janice Bortner, Michael O'Malley, Thomas Gildee, John Sophocles and Martin Buckley all appeared and testified. Teresa Moore of the Valleys Planning Council intended to testify but became ill and submitted written objections to the relief requested. Each of the Protestant neighbors, who have all lived in the Tufton Farms subdivision for many years, explained that their most decisive factor in moving to this location was primarily influenced by the unique nature of the peaceful, wooded surrounding area. Tufton Farms is an upscale community, and several of the Protestants testified that they could have simply purchased a "McMansion" in a more typical subdivision, but chose to move to Tufton Farms to live on larger, greener lots that feel more like a nature preserve than a suburban subdivision. Two (2) of the Protestants, Larry and Janice Borter, submitted a short video that they filmed while slowly driving down Tufton Ridge Road towards the subject property. The video, which was marked and accepted into evidence as Protestants' Exhibit 2, reveals a densely forested area where homes are not easily visible from the public right-of-way. Several neighbors can be seen taking a leisurely stroll, and the video actually captures deer running across Tufton Ridge Road. All of the Protestants testified that they moved to Tufton Farms for the unique value that such a serene atmosphere adds to their life at home.

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Another common theme advocated by the Protestants' was the fact that the County Council decided to downzone the R.C.5 portion of Tufton Farms thereby demonstrating a furtherance of Gaylord Brooks' intent to keep Tufton Farms largely wooded and undeveloped. When the subdivision was first developed, the properties were subject to restrictive covenants that prevented further lot development for a period of 25 years. While these covenants have since expired, the Protestants, one by one explained their thinking that the County Council's decision to downzone the area demonstrates an attempt to further the original developer's intent to maintain a uniquely green subdivision with an undeveloped feel. This position is supported by the Office of Planning in its Zoning Advisory Committee comment, dated February 5, 2009, wherein it is stated:

“ . . . the Office of Planning recommends **denial** of the special hearing to amend the FDP for Tufton Farms Plat 3 Section 2 since the amendment is not within the spirit and intent of the original approved FDP or the first amended FDP. Lot 26 is one of the smaller lots on this FDP. It is uniformly wooded. . . . The amount of disturbance does not appear to be in accordance with note 7 of the FDP. Note 7 states ‘There shall be no grading of the entire site. There shall be no clear cutting of trees & shrubs from any lot. Only dead, or damaged trees necessary for the construction of homes & drives are to be removed. Minimal grading shall be performed as required for the construction of the home and drive on any lot.’”

This is a difficult case, and I am not persuaded that the request for special hearing should be granted. First, it is important to remember that the relief requested by the Petitioners involves an amendment to an existing final development plan. The source of the law governing such an amendment is Bill 100-70, which included B.C.Z.R. Section 1B01.3 to regulate proposed amendments in Density Residential Zones. In 1975, Council Bill 98-75 extended this protection to Resource Conservation Zones by incorporation in B.C.Z.R. Section 1A00.4.

For residential subdivisions, where lots have been developed prior to a requested amendment, the regulations set up a review process that requires satisfaction of the special

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exception standards contained in B.C.Z.R. Section 502.1 as well as the following additional criteria contained in Section 1B01.3.A.7.b(3):

“It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article.”

The legislative intent was to provide protection to the neighborhood, including other property owners in the subdivision. This requirement is furthered by Section 1B01.3.A.7.c(4) of the B.C.Z.R., which states that:

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

As previously stated, the Office of Planning submitted a ZAC comment in which Planning recommended denial of the requested relief. The Office of Planning commented that Lot 26 is one of the smallest lots in the subdivision. In this regard, it should be apparent to the eye when focusing on the “Tufton Farms” FDP that the plan presents uniform large lots. The proposed Lot 26A is 1.58 acres and, by contrast, would be the smallest R.C.2 lot in the entire subdivision.

It is clear after considering the testimony of those that live in this community and the position of the Office of Planning that they believe that the relief requested by the Petitioners is inconsistent with the spirit and intent of the original FDP. Thus, compliance with Section 1B01.3.A.7.b(3) of the B.C.Z.R has not been met.

Based upon the evidence and testimony presented at the public hearing, I find that the special hearing requested, if granted, would violate the spirit and intent of the original FDP for Tufton Farms. Mr. Church testified that although Gaylord Brooks, the initial developer, could have developed 77 lots in Tufton Farms, he chose only to develop 30. Many of the lots were

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restricted by additional covenants preventing any further development for 25 years. While the covenants have since expired, I am persuaded that the County Council's decision to downzone 130.2 acres of Tufton Farms pursuant to Issue 2-035 of the 2008 CZMP discloses a continuing desire to maintain the original spirit and intent of the FDP for Tufton Farms.³ The Protestants each testified to the uniquely peaceful and forested nature of their properties, and their fear that permitting the Hutson's to subdivide and create a 1.5 acre improved lot in the midst of large wooded properties ranging from 6-9 acres in size would mark a significant departure from the sentiment expressed by Gaylord Brooks when it originally limited development to 30 lots. I am convinced after reviewing the evidence presented at the public hearing that the requested amendment would violate the spirit and intent of the original FDP. Accordingly, I am persuaded that the Petitioners' request for special hearing should be denied.

There are also the substantive provisions of B.C.Z.R. 1B01.3.B.2 which control density which is also detrimental to Petitioners cause. Bill 98-75 created the Resource Conservation Zones (R.C.2, R.C.3, R.C.4 and R.C.5). As enacted in Bill 98-75, the R.C.2 zone listed, for areas of more than 20 acres, a maximum density of 0.2, one lot per five (5) acres. As stated above, this original R.C.2 zone permitted 20 lots in Section Two of "Tufton Farms". There was no provision in Bill 98-75 to immunize or extend approved plans so as to immunize them from legislative zoning reclassification applicable to amendments of subdivision plans and plats.

In 1979, the County Council passed Bill 178. It strengthened the R.C.2 zone subdivision lot density restrictions by amending B.C.Z.R. 1A01.3.B.1. This subsection currently states:

³ This Commission previously considered and granted two (2) requests for special hearing to subdivide properties in the Tufton Farms subdivision (*See* 07-470-SPH and 08-140-SPH). However, these cases were presented to the Deputy Zoning Commissioner prior to the 2008 CZMP where the County Council downzoned 130.2 acres of the Tufton Farms subdivision. I find it persuasive that this recent downzoning represents the Council's attempt to further the spirit and intent of the original FDP by promoting large, wooded lots and preventing future subdivisions in Tufton Farms.

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

The "Tufton Farms" Section Two area still contains 119.58 acres classified in the R.C.2 zone. There has thus been no change in the zoning classification since 1976. If this entire area were subdivided for the first time today, the tract area of 119 acres would support a maximum of two (2) lots. The developer, Gaylord Brooks, was thus fortunate to have developed the property in 1977, before the establishment of stronger restrictions in 1979.

The present case involves the resubdivision of a major subdivision from 32 to 33 lots⁴, not a "minor subdivision" of Lot 26. It also is more than a "refinement". Council Bill 24-08 clarified that "any amendment to a plan or plat that results in an increase in density or increase in the number of buildable lots is a *material amendment* . It should be remembered that one lot approval may be followed by another so that the cumulative effect could significantly increase the size of a subdivision.

In sum, the current subdivision lot density control under B.C.Z.R. 1B01.B.2 does not depend for implementation on whether the old subdivision was in its time platted to the maximum density than allowed. The statutory language looks forward under the current law, not backward to what the developer might have done under the older law. Moreover, as a practical

⁴ The record plats consist of 32 large wooded estate lots, not as shown on the approved Final Development Plan. This is due to the resubdivision of Lots 12, 13 and 22 by record plat in 1979 without amendment of the FDP. There are 15 dwellings in the R.C.6 zone, 15 dwellings in the R.C.2 zone and two (2) vacant lots, Lot 30 in the R.C.6 zone and Lot 22A in the R.C.2 zone.

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By [Signature]

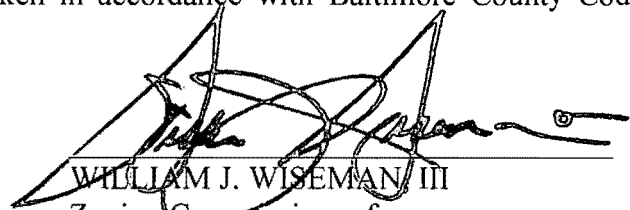
matter, to argue about what a developer might have done in the distant past is speculative. There may be a variety of reasons, as is the case here why Gaylord Brooks chose to plat and sell 30 lots, and no more. It is enough that the "Tufton Farms" subdivision at issue in the present case is already over density under current law, and that no more is allowed. The County Council, in 2006, passed Bill 24. This amended County Code Sections 32-4-104 and 32-4-262 to underline that all development plans, as well as material amendments to development plans, must comply with current law. In other words, older subdivisions are not in a time capsule which allows their expansion as if proposed at the time of the original plan. Accordingly, for this additional reason, I am not inclined to grant the Petitioners' request to create a 16th R.C.2 lot on the 119.58 R.C.2 acres in Tufton Farms.

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

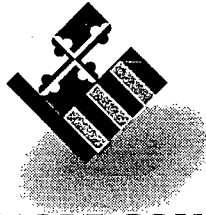
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 20th day of February, 2009, that Petitioners' request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an amendment to the Final Development Plan (FDP) entitled "Tufton Farms, Section Two", to permit the re-subdivision of Lot 26, Plat 3, Section 2, into two (2) lots pursuant to B.C.Z.R. Sections 1A00.4 and 1B01.3.A.7, in accordance with Petitioners' Exhibits 2 and 2A, be and is hereby DENIED.

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

WJW:dlw


WILLIAM J. WISEMAN III
Zoning Commissioner for
for Baltimore County

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Date 2-20-09
By [Signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

February 20, 2009

WILLIAM J. WISEMAN III
Zoning Commissioner

Arnold E. Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

IN RE: PETITION FOR SPECIAL HEARING

S/S Tufton Ridge Road, 1,150' E of c/line Jay Trump Road
(2205 Tufton Ridge Road)
8th Election District - 2nd Council District
Thomas H. Hutson, et ux – Petitioners
Case No. 2009-0035-SPH

Dear Mr. Jablon:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied, 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: Thomas H. & Cynthia G. Hutson, 2205 Tufton Ridge Road, Reisterstown, MD 21136
Thomas A. Church, P.E., Development Engineering Consultants, Inc., 6603 York Road,
Baltimore, MD 21212
Paul G. Miller & Kenneth J. Wells, Wells Development Corporation, 7403 New Cut Road,
Kingsville, MD 21087
J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286
Teresa Moore, Valleys Planning Council, P.O. Box 5402, Towson, MD 21204
Steven Schloss, 2311 Tufton Ridge Road, Reisterstown, MD 21136
Larry L. & Janice P. Bortner, 2308 Tufton Ridge Road, Reisterstown, MD 21136
Michael O'Malley, 2322 Tufton Ridge Road, Reisterstown, MD 21136
Thomas Gildee, 2212 Tufton Ridge Road, Reisterstown, MD 21136
John Sophocles, 2226 Tufton Ridge Road, Reisterstown, MD 21136
Martin Buckley, 2222 Tufton Ridge Road, Reisterstown, MD 21136
People's Counsel; Diana Itter, Office of Planning; DEPRM; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 2205 Tufton Ridge Road

which is presently zoned RC 2 and RC 5

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

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

(This box to be completed by planner)

an amendment to the Final Development Plan entitled "Tufton Farms, Section Two", to permit the resubdivision of Lot 26, Plat 2, Section 2 into two (2) lots, pursuant to section 1Aa00.4 and section 1B01.3A7, BCZR

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print _____
Signature _____
Venable, LLP
Company _____
210 Allegheny Ave. 410 494 6298
Address _____ Telephone No. _____
Towson, Maryland 21204
City _____ State _____ Zip Code _____

Legal Owner(s):

Thomas H. Hutson
Name - Type or Print _____
Signature _____
Cynthia G. Hutson
Name - Type or Print _____
Signature _____
2205 Tufton Ridge Road
Address _____ Telephone No. _____
Reisterstown, Maryland 21136
City _____ State _____ Zip Code _____

Representative to be Contacted:

Arnold Jablon
Name _____
210 Allegheny Ave., 410 494 6298
Address _____ Telephone No. _____
Towson, Maryland 21204
City _____ State _____ Zip Code _____

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Date 2-20-09

By DW

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2009-0035-SPH
REV 9/15/98

UNAVAILABLE FOR HEARING
Reviewed By D.T. Date 8/4/08

DROP-OFF

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road
Baltimore, Maryland 21212
(410) 377-2600
(410) 377-2625 Fax

ZONING DESCRIPTION FOR 2205 TUFTON RIDGE ROAD

BEGINNING FOR THE SAME at a point on the south side of Tufton Ridge Road, 50 feet wide, said point being 1,150 feet more or less east of the centerline of Jay Trump Road, 50 feet wide.

Thence along the south side of Tufton Ridge Road the following courses and distances:

1. North 44 degrees 59 minutes 07 seconds East, 238.99 feet
2. Along a curve to the right with a radius of 550.00 feet, an arc length of 351.01 feet and a chord of North 63 degrees 16 minutes 07 seconds East, 345.09 feet
3. North 81 degrees 33 minutes 07 seconds East 228.28 feet
4. Along a curve to the right with a radius of 50.00 feet, an arc length of 36.14 feet, and a chord of South 77 degrees 44 minutes 36 seconds East, 35.36 feet.
5. Along a curve to the left with a radius of 50.00 feet, an arc length of 62.35 feet, and a chord of North 87 degrees 17 minutes 51 seconds East, 58.44 feet

Thence leaving the south side of Tufton Ridge Road and along the following courses and distances:

6. South 10 degrees 55 minutes 04 seconds West, 354.33 feet
7. South 86 degrees 58 minutes 43 seconds West, 350.91 feet
8. South 88 degrees 53 minutes 02 seconds West, 65.76 feet
9. South 54 degrees 18 minutes 29 seconds West, 298.67 feet
10. North 35 degrees 41 minutes 31 seconds West, 221.67 feet

2009-0035-SPH

to the point of beginning.

Containing 248,728 square feet or 5.710 acres of land, more or less.

Being Lot 26 as shown on a plat entitled, "Plat 3, Section 2, Tufton Farms" recorded in the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 41, Folio 92.

Also being the same lot as described in a deed dated November 9, 1983, and recorded in the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 6621, Folio 601.

Also known as #2205 Tufton Ridge Road in the 8th Election District, Baltimore County, Maryland.



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 18363

PAID RECEIPT

Date 8/4/08

BUSINESS ACTUAL TIME
 07/2008 8/05/2008 11:33:00
 REG. NO. MAIL JEVA JOE
 RECEIPT # 594291 8/07/2008
 5:58 ZIVARD VERIFICATION
 01356
 Reg. Int. 1325.00
 \$325.00 - 01 4.00
 Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			650				325.00

Total 325.00

Rec From VENABLE LLP

For 2009-0025-SPH 2205 TUNTON RIDGE RD
D. THOMPSON

**CASHIER'S
 VALIDATION**

DISTRIBUTION
 WHITE: CASHIER PINK: AGENCY YELLOW: CUSTOMER

**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: #2009-0035-SPH
2205 Tufton Ridge Road
S/side of Tufton Ridge Rd.
1,150 ft. east of centerline of
Jay Trump Road
8th Election District
2nd Councilmanic District
Legal Owner(s): Thomas Hutson
Special Hearing: for an
amendment to the final develop-
ment plan entitled 'Tufton
Farms, Section Two' to permit
the resubdivision of Lot 26,
plat 2, section 2, into lots, pur-
suant to Section 1A00.4 and
section 1B01.3A7.

**Hearing: Tuesday, September
23, 2008 at 9:00 a.m. in
Room 104, Jefferson Build-
ing, 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 concern-
ing the File and/or Hearing,
Contact the Zoning Review Of-
fice at (410) 887-3391.

JT/9/634 Sept. 9 183004

CERTIFICATE OF PUBLICATION

9/11, 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 9/9, 2008.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 2009-0035-SPH

Petitioner/Developer: _____

Thomas Hutson

Date of Hearing/Closing: Sept 23,08

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: _____

2205 Tufton Ridge Road

The sign(s) were posted on Sept 7, 2008

(Month, Day, Year)

Sincerely,

Robert Black

(Signature of Sign Poster)

Sept 9, 08

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

②

ZONING NOTICE

CASE # 2009-0035-SPH

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

PLACE: Room 104, JEFFERSON BUILDING
105 W. CHESPEAKE AVE. TOWSON 21284

DATE AND TIME TUESDAY, SEPTEMBER 23, 2008 AT 9:00 A.M.

REQUEST SPECIAL HEARING FOR AN AMENDMENT TO THE
FINAL DEVELOPMENT PLAN ENTITLED "TUFTON FARMS", SECTION

TWO TO PERMIT THE RESUBDIVISION OF LOT 26 PLAT 2, SECTION
2 INTO LOTS, PURSUANT TO SECTION 1A00-4 AND SECTION
1B01 3A7.

ADJUSTMENTS 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

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: #2009-0035-SPH
2205 Tufton Ridge Road
S/side of Tufton Ridge Rd,
1,150 ft. east of centerline of
Jay Trump Road
8th Election District
2nd Councilmanic District
Legal Owner(s): Thomas Hutson

Special Hearing: for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Tuesday, October 21, 2008 at 9:00 a.m. in Room 104, 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/10/606 Oct. 7 185375

CERTIFICATE OF PUBLICATION

10/9/2008

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 10/7/2008.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No: 2009-0035-SPH

Petitioner/Developer: J. CARROLL
HOLZER / THOMAS HUTSON

Date Of Hearing/Closing: 10/21/08

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

Attention:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 2205 TUFTON RIDGE ROAD

This sign(s) were posted on October 5, 2008

(Month, Day, Year)

Sincerely,

Martin Ogle 10/5/08
(Signature of sign Poster and Date)

Martin Ogle

Sign Poster

16 Salix Court

Address

Balto. Md 21220

(443-629 3411)



PA050008.JPG
10/05/2008

CERTIFICATE OF POSTING

RE2009-0035-SPH

Petitioner/Developer: _____

Thomas Hutson

Date of Hearing/closing Feb 13 2009

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

Attn : Kristin 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 .

2205 Tufton Ridge Road.

The sign(s) were posted on _____ Jan 28, 2009
(Month, Day, Year)

Sincerely,

Robert Black / 1-29-09
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

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: #2009-0035-SPH

2205 Tufton Ridge Road

S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road

8th Election District - 2nd Councilmanic District

Legal Owner(s): Thomas Hutson

Special Hearing: for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into 2 lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Friday, February 13, 2009 at 9:00 a.m. In Room 104, 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.

1/564 Jan. 29

193138

CERTIFICATE OF PUBLICATION

1/30/2009

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 1/29/2009.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE2009-0035-SPH

Petitioner/Developer: _____

Thomas Hutson

Date of Hearing/closing Feb 13 2009

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

Attn : Kristin 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 .

2205 Tufton Ridge Road.

The sign(s) were posted on _____ Jan 28, 2009
(Month, Day, Year)

Sincerely,

Robert Black 1-29-09
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

ZONING NOTICE

CASE # 2009-0035:SPH

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

PLACE ROOM 104, JEFFERSON BUILDING
105 W CHESAPEAKE AVE TOWSON 21204

DATE AND TIME: FRIDAY, FEBRUARY 13, 2009 AT 9:00^{AM}

REQUEST: SPECIAL HEARING FOR AN AMENDMENT TO
THE FINAL DEVELOPMENT PLAN ENTITLED "TOWSON FARMS SECTION
TWO" TO PERMIT THE RESUBDIVISION OF LOT 26, PLAT 2, SECTION
2 INTO 2 LOTS PURSUANT TO SECTION 1800.4 AND SECTION 1801.3A7.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 857-3391

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

HANDICAPPED ACCESSIBLE

Requested: April 20, 2009

APPEAL SIGN POSTING REQUEST

CASE NO.: 09-035-SPH

2205 Tufton Ridge Road

8th ELECTION DISTRICT

APPEALED: 3/18/09

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

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

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Theresa Shelton
Administrator

CASE NO.: 09-035-SPH

LEGAL OWNER: Thomas and Cynthia Hutson

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

2205 TUFTON RIDGE ROAD
S/SIDE OF TUFTON RIDGE ROAD, 1,150' E OF C/L JAY TRUMP ROAD

The sign was posted on 4-21-09

By: Stuart Kelly
(Signature of Sign Poster)

STUART Kelly
(Print Name)

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

Phone: 410-887-3180

Fax: 410-887-3182

To: Stuart Kelly, Code Enforcement

From: Sunny Cannington, Legal Secretary

Date: April 20, 2009

Re: Sign Posting

Stuart:

Attached, please find a Sign Posting Request for 2205 Tufton Ridge Road in Case No.: 09-035-SPH. This case has not yet been scheduled for a hearing.

Thank you for your time and cooperation in posting these signs. Have a wonderful week!

Sunny

RECEIVED

APR 21 2009

BALTIMORE COUNTY
BOARD OF APPEALS

PHOTOGRAPHIC RECORD

FA 0231039

Citation/Case No.: CO 59075 959 MIDDLEBOROUGH RD

Date of Photographs: 4-21-09

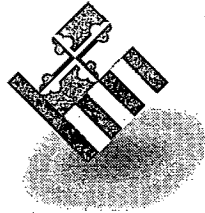


I HEREBY CERTIFY that I took the 2 (number of photos) photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

M. Stathery
Enforcement Officer

11/14/00





BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY MANGROCO, 2008
August 21, 2008
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: 2009-0035-SPH

2205 Tufton Ridge Road

S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road

8th Election District – 2nd Councilmanic District

Legal Owner: Thomas Hutson

Special Hearing for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Tuesday, September 23, 2008 at 9:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204


Timothy Mangroco
Director

TK:klm

C: Arnold Jablon, 210 Allegheny Avenue, Towson 21204

Mr. & Mrs. Hutson, 2205 Tufton Ridge Road, Reisterstown 21136

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 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
Tuesday, September 9, 2008 Issue - Jeffersonian

Please forward billing to:
Development Engineering Consultant, Inc 410-377-2600
6603 York Road
Baltimore, MD 21212

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: 2009-0035-SPH

2205 Tufton Ridge Road
S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road
8th Election District – 2nd Councilmanic District
Legal Owner: Thomas Hutson

Special Hearing for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Tuesday, September 23, 2008 at 9:00 a.m. in Room 104, 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/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: 2009-0035-SPH

Petitioner: THOMAS + CYNTHIA HUTSON

Address or Location: 2205 TURTON RIDGE RD, ROYSTERSHAW 21136

PLEASE FORWARD ADVERTISING BILL TO:

Name: DEVELOPMENT ENGINEERING CONSULTANTS, INC

Address: 6603 YORK RD

BALTO 21212

Telephone Number: 410 377-2600

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 7, 2008 Issue - Jeffersonian

Please forward billing to:
J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

410-825-6961

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: 2009-0035-SPH

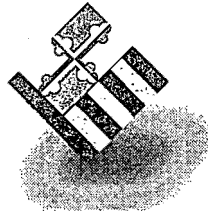
2205 Tufton Ridge Road
S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road
8th Election District – 2nd Councilmanic District
Legal Owner: Thomas Hutson

Special Hearing for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Tuesday, October 21, 2008 at 9:00 a.m. in Room 104, 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.



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

September 22, 2008
TIMOTHY M. KOTROCO, *Director*
*Department of Permits and
Development Management*

NEW 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: 2009-0035-SPH

2205 Tufton Ridge Road

S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road

8th Election District – 2nd Councilmanic District

Legal Owner: Thomas Hutson

Special Hearing for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Tuesday, October 21, 2008 at 9:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

A handwritten signature in black ink that reads "Timothy Kotroco".

TK:klm

C: Arnold Jablon, 210 Allegheny Avenue, Towson 21204
Mr. & Mrs. Hutson, 2205 Tufton Ridge Road, Reisterstown 21136
J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286

- NOTES: (1) **MR. HOLZER'S OFFICE WILL HAVE A ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, OCTOBER 6, 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, January 29, 2009 Issue - Jeffersonian

Please forward billing to:
J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

410-825-6961

NOTICE OF ZONING HEARING

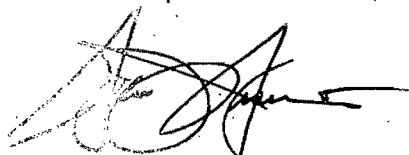
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2009-0035-SPH

2205 Tufton Ridge Road
S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road
8th Election District – 2nd Councilmanic District
Legal Owner: Thomas Hutson

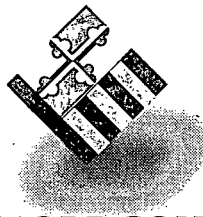
Special Hearing for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into 2 lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Friday, February 13, 2009 at 9:00 a.m. in Room 104, 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.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

January 22, 2009
TIMOTHY M. KOTROCO, *Director*
*Department of Permits and
Development Management*

NEW 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: 2009-0035-SPH

2205 Tufton Ridge Road

S/side of Tufton Ridge Rd., 1,150 ft. east of centerline of Jay Trump Road

8th Election District – 2nd Councilmanic District

Legal Owner: Thomas Hutson

Special Hearing for an amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into 2 lots, pursuant to Section 1A00.4 and Section 1B01.3A7.

Hearing: Friday, February 13, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, 210 Allegheny Avenue, Towson 21204
Mr. & Mrs. Hutson, 2205 Tufton Ridge Road, Reisterstown 21136
J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286

- NOTES: (1) **MR. HOLZER'S OFFICE WILL HAVE A ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JANUARY 29, 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.



County Board of Appeals of Baltimore County

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

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

April 21, 2009

NOTICE OF ASSIGNMENT

CASE #: 09-035-SPH IN THE MATTER OF: Thomas H. and Cynthia G. Hutson
Legal Owners /Petitioners
2205 Tufton Ridge Road / 8th Election District; 2nd Councilmanic District

RE: SPH – pursuant to §500.7 of BCZR, to allow an amendment to the FDP entitled “ Tufton Farms, Section Two”, to permit the re-subdivision of Lot 26, Plat 3, Section 2 into two (2) lots consistent with BCZR §1A00.4 and 1B01.3.A.7.

2/20/09 – ZC decision that the Petitioner’s Request for Special Hearing relief is DENIED.

ASSIGNED FOR: WEDNESDAY, JULY 29, 2009, AT 10:00 A.M.

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

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

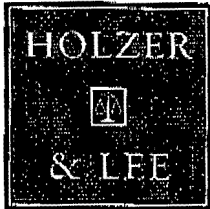
IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board’s Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

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

c: Counsel for Appellant/Petitioner : Arnold Jablon, Esquire
Appellant/Petitioner : Thomas H. and Cynthia G. Hutson
Counsel for Protestants : J. Carroll Holzer, Esquire

Thomas Church
Teresa Moore, Valleys Planning Council Steven Schloss Larry and Janice Bortner
Michael O’Malley Thomas Gildee John Sophocles Martin Buckley
Paul Miller Kenneth Wells

Office of People’s Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. “Pat” Keller, Director/Planning
Diana Itter, Community Planner/Planning
Colleen Kelly, Project Manager
Nancy C. West, Assistant County Attorney
John E. Beverungen, County Attorney



LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@CAVTEL.NET

August 10, 2009
#7702

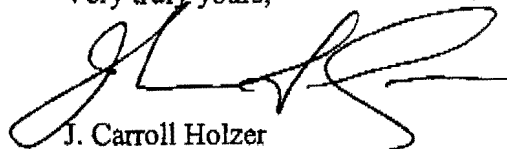
VIA FAX 410-887-3182
Ms. Theresa R. Shelton, Administrator
County Board of Appeals
of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

RE: *In the Matter of Thomas & Cynthia Hutson*
Case No.: 09-035-SPH

Dear Theresa:

In looking at the available dates you listed in your letter to me dated August 4, 2009 in the above captioned matter, October 12, 2009 will not work because my expert witness, Jack Dillon, is not available. However, both December 1 & 2 work for both me and Mr. Dillon.

Very truly yours,



J. Carroll Holzer

JCH:mlg

cc: Office of People's Counsel
Arnold Jablon, Esq.
Greater Bloomfield Assn.



County Board of Appeals of Baltimore County

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

August 4, 2009

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

Arnold Jablon, Esquire
Venable, Baetjer & Howard, LLP
210 W. Pennsylvania Avenue, S. 500
Towson, MD 21204

RE: *In the Matter of: Thomas and Cynthia Hutson*
Case No. 09-035-SPH

Dear Counsel:

On July 29, 2009, the Board convened for a hearing on the above captioned matter. The matter did not conclude and needs an additional hearing date.

The Board sits on Tuesday, Wednesday and Thursday of each week. The docket is currently scheduled through the end of November 2009. To avoid future scheduling conflicts and pending confirmation from your office as to availability, I will hold the following dates:

Wednesday, October 12, 2009 at 10:00 a.m.
Tuesday, December 1, 2009 at 10:00; and
Wednesday, December 2, 2009 at 10:00 a.m.

Upon notification from Counsel as to which date works for everyone, a notice will be sent, reassigning to the confirmed date. Please contact this office upon receipt of this letter to confirm availability.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,

A handwritten signature in black ink that reads "Theresa R. Shelton".
Theresa R. Shelton
Administrator

Duplicate Original

c: Thomas H. and Cynthia Hutson
Peter Max Zimmerman
People's Counsel for Baltimore County
Teresa Moore, Valleys Planning Council

HUTSON

August 4, 2009

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

Arnold Jablon, Esquire
Venable, Baetjer & Howard, LLP
210 W. Pennsylvania Avenue, S. 500
Towson, MD 21204

RE: *In the Matter of: Thomas and Cynthia Hutson*
Case No. 09-035-SPH

Dear Counsel:

On July 29, 2009, the Board convened for a hearing on the above captioned matter. The matter did not conclude and

The Board sits on Tuesday, Wednesday, currently scheduled through the end of November and pending confirmation from your office.

Wednesday, October ⁴ 14, 2009 at 10:00 AM
Tuesday, December 1, 2009 at 10:00 AM
Wednesday, December 2, 2009 at 10:00 AM

Upon notification from Counsel a date will be sent, reassigning to the confirmed date. Please confirm availability.

Thanking you in advance for your assistance, any questions, please call me at 410-887-4444

message

For T
From Jack Dillion
Time _____ Date _____
Phone _____
 URGENT! _____

Lang resched
for
9/17 - ok w/ him

Un Hutson
12/1 or 12/2
are better.



Enclosure

c: Thomas H. and Cynthia Hutson
Peter Max Zimmerman
People's Counsel for Baltimore County
Teresa Moore, Valleys Planning Council



County Board of Appeals of Baltimore County

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

August 6, 2009

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

Arnold Jablon, Esquire
Venable, Baetjer & Howard, LLP
210 W. Pennsylvania Avenue, S. 500
Towson, MD 21204

RE: *In the Matter of: Thomas and Cynthia Hutson*
Case No. 09-035-SPH

Dear Counsel:

In my letter to you of August 4, 2009, I incorrectly stated the date in October. The correct date that I am holding is Wednesday, October 14, 2009. The previous letter had stated October 12th, which is a Monday. The correct dates are as follows:

Wednesday, October 14, 2009 at 10:00 a.m.
Tuesday, December 1, 2009 at 10:00; and
Wednesday, December 2, 2009 at 10:00 a.m.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,

A handwritten signature in black ink that reads "Theresa R. Shelton".

Theresa R. Shelton
Administrator

Duplicate Original

c: Thomas H. and Cynthia Hutson
Peter Max Zimmerman
People's Counsel for Baltimore County
Teresa Moore, Valleys Planning Council

August 18, 2009

Arnold Jablon

T 410.494.6298
F 410.821.0147
AEJablon@Venable.com

Ms. Theresa Shelton
Administrator
County Board of Appeals of Baltimore County
Jefferson Bldg
2nd Floor, Suite 203
105 West Chesapeake Ave
Towson, Maryland 21204

Re: Case No. 09-035 SPH
In Re: Thomas and Cynthia Hutson

Dear Ms. Shelton:

Pursuant to your letter, dated 6 August 2009, and Mr. Holzer's letter of August 10th, the Board indicated that December 1st and 2nd are available for the continuation of the above matter.

After confirmation with my clients, both dates are acceptable. While I believe that we can finish in one additional day, I would like to suggest that December 2nd be held in reserve in case we don't.

Thank you.

Sincerely,



Arnold Jablon

c: J. Carroll Holzer, Esq.
Peter Max Zimmerman, Esq.



County Board of Appeals of Baltimore County

5-3-7

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

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

August 24, 2009

NOTICE OF ASSIGNMENT - DAY #2

CASE #: 09-035-SPH IN THE MATTER OF: Thomas H. and Cynthia G. Hutson
Legal Owners /Petitioners
2205 Tufton Ridge Road / 8th Election District; 2nd Councilmanic District

RE: SPH - pursuant to §500.7 of BCZR, to allow an amendment to the FDP entitled "Tufton Farms, Section Two", to permit the re-subdivision of Lot 26, Plat 3, Section 2 into two (2) lots consistent with BCZR §1A00.4 and 1B01.3.A.7.

2/20/09 - ZC decision that the Petitioner's Request for Special Hearing relief is DENIED.

The Board convened on July 29, 2009 and this matter was continued. The matter has been assigned to Day #2, as agreed by Counsel as follows:

ASSIGNED FOR: TUESDAY, DECEMBER 1, 2009 AT 10:00 A.M. - DAY #2;
if needed WEDNESDAY, DECEMBER 2, 2009 @ 10 AM - DAY #3

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

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

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

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

Theresa R. Shelton, Administrator

c: Counsel for Appellant/Petitioner : Arnold Jablon, Esquire
Appellant/Petitioner : Thomas H. and Cynthia G. Hutson
Counsel for Protestants : J. Carroll Holzer, Esquire

Thomas Church
Teresa Moore, Valleys Planning Council Steven Schloss Larry and Janice Bortner
Michael O'Malley Thomas Gildee John Sophocles Martin Buckley
Paul Miller Kenneth Wells

Office of People's Counsel William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM Arnold F. "Pat" Keller, Director/Planning
Diana Itter, Community Planner/Planning Colleen Kelly, Project Manager
Nancy C. West, Assistant County Attorney
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

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

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

December 2, 2009

DELIBERATION NOTICE

CASE #: 09-035-SPH

IN THE MATTER OF: **Thomas H. and Cynthia G. Hutson**
Legal Owners /Petitioners
2205 Tufton Ridge Road / 8th Election District; 2nd Councilmanic District

Having HEARD THIS MATTER ON July 29, 2009 (Day #1) and concluded this matter on 12/01/09 (Day #2); public deliberation has been scheduled for the following date /time:

DATE AND TIME: TUESDAY, MARCH 2, 2010 at 9:30 a.m.

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due no later than 4:00 p.m. on Monday, February 1, 2010

(Original and three [3] copies)

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

Theresa R. Shelton
Administrator

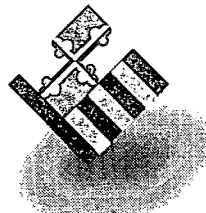
c: Counsel for Appellant/Petitioner : Arnold Jablon, Esquire
Appellant/Petitioner : Thomas H. and Cynthia G. Hutson
Counsel for Protestants : J. Carroll Holzer, Esquire

Thomas Church
Teresa Moore, Valleys Planning Council
Michael O'Malley Thomas Gildee
Paul Miller Kenneth Wells

Steven Schloss Larry and Janice Bortner
John Sophocles Martin Buckley

Office of People's Counsel
Timothy Kotroco, Director/PDM
Diana Itter, Community Planner/Planning
Nancy C. West, Assistant County Attorney
John E. Beverungen, County Attorney

William J. Wiseman, III, Zoning Commissioner
Arnold F. "Pat" Keller, Director/Planning
Colleen Kelly, Project Manager



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

February 3, 2009

Arnold Jablon
Venable
210 Allegheny Ave.
Towson, MD 21204

Dear: Arnold Jablon

RE: Case Number 2009-0035-SPH, 2205 Tufton Ridge Rd

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 4, 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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Thomas & Cynthia Hutson; 2205 Tufton Ridge Rd; Reisterstown, MD 21136

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 1, 2008

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

SUBJECT: 2205 Tufton Ridge Road

INFORMATION:

Item Number: 9-035

Petitioner: Thomas H. Hutson

Zoning: RC 6

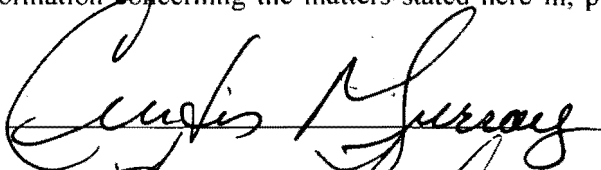
Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. The subject property was recently included in the 2008 CZMP process (issue # 2-035). As a result a portion of the property was rezoned to RC 6. The petitioner should resubmit a site plan and petition that reflects such. This office will then find on any request for zoning relief.

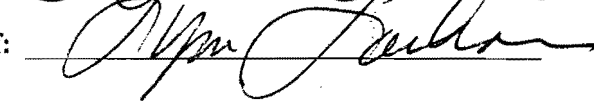
For further information concerning the matters stated here in, please contact Jeff Mayhew at 410-887-3480.

Reviewed by:



Division Chief:

AFK/LL: CM



BLW 2/13
2pm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 4, 2009

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

RECEIVED

SUBJECT: 2205 Tufton Ridge Road

FEB 05 2009

INFORMATION:

Item Number: 9-035

ZONING COMMISSIONER

Petitioner: Thomas H. & Cynthia Hutson

Zoning: RC 2 and RC 6

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The property in question is split zoned, RC2 (Agricultural) and RC6 (Rural Conservation and Residential).

The rear portion of Lot 26 was rezoned from RC5 to RC6 in the 2008 CZMP Issue 2-035 as part of 130.2-acre issue. The proposal is to amend the FDP for Tufton Farms Plat 3 Section 2 in order to allow Lot 26 to be re-subdivided into two lots. The site plan shows Lot 26A as a proposed 1.58 acre RC2 lot and Lot 26B which contains the existing dwelling in the RC6 zone and the existing septic in the RC2 zone. This submittal does not include a special hearing to allow the septic for Lot 26B be located in the RC2 zone with the dwelling in the RC6 zone.

The following represents a finding on the part of the Baltimore County Office of Planning as to whether the above referenced property which is the subject of 09-035-SPH is in accord with the provisions of the Comprehensive Manual of Development Policies (CMDP), Article 1B of the Baltimore County Zoning Regulations (BCZR) and the spirit and intent of the Tufton Farms FDP.

Comprehensive Manual of Development Policies

Division II and Division III

The Office of Planning finds that the provisions of Division II and Division III of the CMDP do not apply to this R.C.2 /RC6 zoned property located outside of the Urban Rural Demarcation Line (URDL). The residential and/ or commercial standards found in said divisions of the CMDP are not applicable.

Division VI, Section A

The Office of Planning finds that the provisions of Division VI, Section A, CMDP does not apply since Tufton Ridge Road is not identified as a scenic route in Master Plan 2010.

Division VI, Sections B,C,D,E,F,G.

Not applicable.

Division VI, Section H

The relatively minor occurrence of crime within reporting area 303150 of Precinct # 3 does not justify the implementation of the requirements of Division VI, Section H, CMDP.

Finding:

The Baltimore County Office of Planning finds that the provisions of the Comprehensive Manual of Development Policies do not impact the Lot 26 Section 2, Tufton Farms Final Development Plan amendment. Further, Article 1B of the Baltimore County Zoning Regulations does not appear to be applicable as it pertains exclusively to the DR zones.

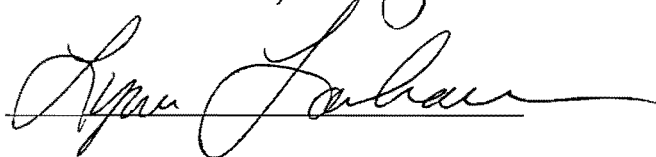
However, the Office of Planning recommends **denial** of the special hearing to amend the FDP for Tufton Farms Plat 3 Section 2 since the amendment is not within the spirit and intent of the original approved FDP or the first amended FDP. Lot 26 is one of the smaller lots on this FDP. It is uniformly wooded. The construction of a new single family dwelling on Lot 26B, as shown on the plan, will require removal of at least 1/2 acre of trees for the new dwelling, driveway and septic reserve area. The amount of disturbance does not appear to be in accordance with note 7 of the FDP. Note 7 states "There shall be no grading of the entire site. There shall be no clear cutting of trees & shrubs from any lot. Only dead, or damaged trees necessary for the construction of homes & drives are to be removed." Minimal grading shall be performed as required for the construction of the home and drive on any lot." The FDP amendment for Lot 4 (Posey property) added two notes Note 21 and 22; the most significant is Note 22, which states, "The maximum coverage by buildings is 15 percent." A coverage factor has not been calculated on the plan. A 250' diametric dimension has also not been shown on the plan

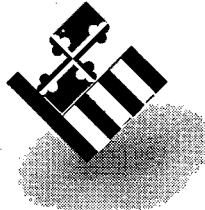
For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by:



Division Chief:
AFK/LL: CM





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

January 26, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: January 19, 2009

Item Numbers **0035**, 0128, 0183, 0184, 0185, 0186, 0187, 0188, 0189

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: January 26, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For January 26, 2009
Item Nos. 2009-~~0035~~ 0128, 0183, 0184,
0186, 0187, 0188, and 0189

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

DAK:CEN:lrk
cc: File
ZAC-012609 -NO COMMENTS

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: August 14, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For August 18, 2008
Item Nos. 2009-0026, 0027, 0028, 0029,
0030, 0031, ~~0035~~ and 0036

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

DAK:CEN:lrk
cc: File
ZAC-ITEM NO. 2009-0028-08142008

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
OCT 17 2008

BY:.....

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: September 23, 2008
SUBJECT: Zoning Item # 09-035-A
Address 2205 Tufton Ridge Road
(Hutson Property)

Zoning Advisory Committee Meeting of August 11, 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:

_____ 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:

Reviewer: Michael S. Kulis
Environmental Impact Review

Date: September 16, 2008



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

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

Maryland Department of Transportation

Date: JAN. 22, 2009

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

RE: Baltimore County
Item No 2009-0035-SPA
2205 TUNTON RIDGE RD
HUTSON PROPERTY
SPECIAL EXCEPTION

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. 2009-0035-SPA

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,

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

SDF/MB





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: August 12, 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 2009-0035 SPH
2205 HUTTON RIDGE ROAD
HUTTON 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. 2009-0035 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,

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, MARYLAND

Inter-Office Correspondence

TO: File

DATE: October 21, 2008

FROM: William J. Wiseman, III
Zoning Commissioner



SUBJECT: **PETITIONS FOR SPECIAL HEARING**
8th Election District – 2nd Council District

Legal Owner: Thomas Hutson
Case No. 2009-0035-SPH - (2205 Tufton Ridge Road)

Legal Owner: John & Christine Ramming
Case No. 2009-0036-SPH - (2219 Tufton Ridge Road)

The above-captioned cases were scheduled before me on October 21, 2008 at 9:00 AM. Arnold Jablon, Esquire appeared on behalf of Thomas and Cynthia Hutson and John and Christine Ramming who desire to resubdivide their lots in the Tufton Farms subdivision. J. Carroll Holzer, Esquire appeared on behalf of the Valleys Planning Council, Larry and Janice Portner, etc., et al. At the outset, Mr. Jablon moved to have both cases continued in order to allow time to resubmit new site plan(s) in both cases to reflect those portions of the property that were rezoned during the 2008 CZMP process (Issue No. 2-035). On behalf of the Protestants, Mr. Holzer presented no objection but made clear for the record that his expert witness, Jack Dillon, is scheduled to have extensive knee surgery in the next week or two and after rehabilitation will spend an extended vacation in Florida from January 2009 until March 2009. Both counsel agreed that the cases would be rescheduled with this in mind either in December 2008 or after March 2009.

By copy of this memorandum, I am informing Kristen Matthews of this agreement and asking her to enforce the timing of rescheduling these matters accordingly. It is also to be noted that all properties are to be reposted and readvertised once the amended petition and site plan are received for filing. I am also returning said file with accompanied memorandum.

WJW:dlw

c: Kristen Matthews, DPDM

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 2205 Tufton Ridge Road; S/S Tufton Ridge * ZONING COMMISSIONER
 Road, 1,150' E of c/line Jay Trump Road *
 8th Election & 2nd Councilmanic Districts *
 Legal Owner(s): Thomas & Cynthia Hutson * FOR
 Petitioner(s) *
 * BALTIMORE COUNTY
 * 09-035-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
 Jefferson Building, Room 204
 105 West Chesapeake Avenue
 Towson, MD 21204
 (410) 887-2188

RECEIVED

AUG 20 2008

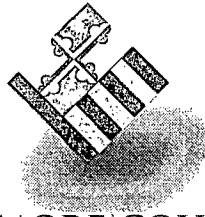
.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August, 2008, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

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

~~April 15, 2009~~ **APR 15, 2009** KOTROCO, *Director*
Department of Permits and
Development Management

Arnold Jablon
Venable
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 2009-0035-SPH, 2205 Tufton Ridge Road

Please be advised that we received your appeal of the above-referenced case was filed in this office on March 18, 2009. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Thomas & Cynthia Hutson, 2205 Tufton Ridge Road, Reisterstown 21136
Thomas Church, 6603 York Road, Baltimore 21212
Paul Miller, Kenneth Wells, 7403 New Cut Road, Kingsville 21087
J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286
Teresa Moore, Valleys Planning Council, P.O. Box 5402, Towson 21204
Steven Schloss, 2311 Tufton Ridge Road, Reisterstown 21136
Mr. & Mrs. Bortner, 2308 Tufton Ridge Road, Reisterstown 21136
Michael O'Malley, 2322 Tufton Ridge Road, Reisterstown 21136
Thomas Gildee, 2212 Tufton Ridge Road, Reisterstown 21136
John Sophocles, 2226 Tufton Ridge Road, Reisterstown 21136
Martin Buckley, 2222 Tufton Ridge Road, Reisterstown 21136

APPEAL

Petition for Special Hearing
2205 Tufton Ridge Road
S/side of Tufton Ridge Rd., 1,150 feet east of centerline of Jay Trump Rd.
8th Election District – 2nd Councilmanic District
Thomas Hutson – Legal Owner

Case No.: 2008-0035-SPH

Petition for Special Hearing (August 4, 2008)

Zoning Description of Property

Notice of Zoning Hearing (January 22, 2009)

Certification of Publication (The Jeffersonian – January 29, 2009)

Certificate of Posting (January 28, 2009) by Robert Black

Entry of Appearance by People's Counsel (August 20, 2008)

Petitioner(s) Sign-In Sheet – One Sheet

Citizens (s) Sign-In Sheet – One Sheet

County Representative(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plan to accompany petition
2. Revised plan
3. Original Subdivision Plat – Record Plat
4. FDP – Plat Section 2 of Tufton Farms
5. Aerial
6. Forest Buffer Plan
7. Perc test – New Lot Passed

Protestants' Exhibits:

1. Letter's of Opposition and Email
2. Film shown at Hearing

Miscellaneous (Not Marked as Exhibit)

1. More Letters of opposition from the Planning Office
2. Development Activity – Tufton Farms (past history)

Zoning Commissioner's Order (DENIED – February 20, 2009)

Notice of Appeal received on March 18, 2009 from Arnold Jablon

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See attached letter

date sent April 17, 2009, klm

From: Krysundra Cannington
To: Moore, Teresa
CC: Shelton, Theresa
Date: 7/22/2009 8:20 AM
Subject: Re: Hutson 09-035-SPH

Dear Ms. Moore,

In response to your email from yesterday, it is my understanding that Mr. and Mrs. Bortner provided the mini video cassette which is located in our file. It is also my understanding that they provided the equipment to play the mini cassette at the hearing before the Zoning Commissioner. We do not have the equipment available to us to view the video on the mini cassette.

If you wish to show the video at the hearing, it is suggested that you contact Mr. and Mrs. Bortner to have them bring the equipment.

Thank you for your email. I am glad that you contacted us in advance of the hearing to request equipment.

Should you have any questions, please do not hesitate to contact me.

Krysundra "Sunny" Cannington
Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180
kcannington@baltimorecountymd.gov

>>> "Teresa Moore" <moorevpc@comcast.net> 7/21/2009 2:47 PM >>>
Dear Theresa:

We are party to a case before the Board of Appeals, scheduled for a hearing on July 29 (Hutson/Tufton Farms case 2009-0035-SPH).

Several neighbors are planning to testify at the hearing, and one couple provided a video that is in the zoning commissioner's case file.

I am writing to ask if that can be available for the hearing and also to check that the proper equipment would be available in the hearing room. Can you let me know?

Thanks very much for your assistance.

Teresa Moore
Executive Director
Valleys Planning Council
410-337-6877 (phone)
410-296-5409 (fax)

Krysundra Cannington - Re: Hutson; Case No. 09-035-SPH

From: Bill Wiseman
To: Cannington, Krysundra
Date: 7/21/2009 4:28 PM
Subject: Re: Hutson; Case No. 09-035-SPH

Sunny- The protestant that produced and played the video is identified in my Order. OIT was not involved and the neighbor who made the tape brought the equipment to the hearing.

Bill

>>> Krysundra Cannington 7/21/2009 3:57 PM >>>
Hi Bill,

We were talking about this case earlier. We received an email asking about a video from a case that came from your office. It appears that we were provided with a mini cassette that appears to be from a camcorder of some sort. Is this the video you remember from this case? If so, what equipment did you use to show the film? Did OIT have to provide equipment or did the Protestant's provide a disk??? We have no equipment to play this type of video. Please help!

Thank you!!!

Sunny

Krysundra "Sunny" Cannington
Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180
kcannington@baltimorecountymd.gov

Krysundra Cannington - question on upcoming hearing

From: "Teresa Moore" <moorevpc@comcast.net>
To: <tshelton@baltimorecountymd.gov>
Date: 7/21/2009 2:48 PM
Subject: question on upcoming hearing

Dear Theresa:

We are party to a case before the Board of Appeals, scheduled for a hearing on July 29 (Hutson/Tufton Farms case 2009-0035-SPH).

Several neighbors are planning to testify at the hearing, and one couple provided a video that is in the zoning commissioner's case file.

I am writing to ask if that can be available for the hearing and also to check that the proper equipment would be available in the hearing room. Can you let me know?

Thanks very much for your assistance.

Teresa Moore
Executive Director
Valleys Planning Council
410-337-6877 (phone)
410-296-5409 (fax)

Kristen Matthews - case nos. 09-035 and 09-036

From: "Jablon, Arnold E." <AEJablon@Venable.com>
To: "Kristen Matthews" <kmatthews@baltimorecountymd.gov>
Date: 9/19/2008 11:21 AM
Subject: case nos. 09-035 and 09-036
CC: <jcholzer@cavtel.net>

I have no objection to Mr. Holzer's requests to postpone both of these cases; however, I would like to reschedule each as quickly as possible. In addition, it should be Mr. Holzer's responsibility to repost or readvertise, at his clients' expense. Please provide me with alternative dates.

Thanks.

Arnold Jablon
Venable, LLP
210 Allegheny Ave
Towson, Maryland 21204
410 494 6298 (o)
410 821-0147 (f)

ajablon@venable.com

U.S. Treasury Circular 230 Notice: Any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (a) avoiding penalties that may be imposed under the Internal Revenue Code or by any other applicable tax authority; or (b) promoting, marketing or recommending to another party any tax-related matter addressed herein. We provide this disclosure on all outbound e-mails to assure compliance with new standards of professional practice, pursuant to which certain tax advice must satisfy requirements as to form and substance.

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: Debra Wiley
To: Livingston, Jeffrey
Date: 10/17/08 10:25:56 AM
Subject: Comment Needed

Missing
DEPRM

Good Morning Jeff,

Bill has a hearing scheduled for Tuesday, October 21st from 9 to 12 for both Case No. 2009-0035-SPH & 2009-0036-SPH. I do see a comment received via email from you to Patti for 2009-0036, however, we do not see one for 2009-0035-SPH. I have provided a case description for your convenience in order to prepare a comment as follows:

CASE NUMBER: 2009-0035-SPH

2205 Tufton Ridge Road - (Zoned R.C.2 & R.C.5)

Location: S side of Tufton Ridge Rd., 1,150 feet E of c/l of Jay Trump Road.

8th Election District, 2nd Councilmanic District

Legal Owner: Thomas H. Hutson

SPECIAL HEARING An amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of lot 26, plat 2, section 2, into 2 lots, pursuant to Section 1Aa00.4 and Section 1B01.3A7.

Hearing: Tuesday, 10/21/2008 at 9:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104

Thanks and have a great weekend !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

From: Debra Wiley
To: Livingston, Jeffrey
Date: 09/19/08 1:11:28 PM
Subject: Comment Needed for 9/23 Hearing for Bill

Missing
DEPRM

Hi Jeff,

Bill has a hearing scheduled for Tuesday, 9/23 @ 9 AM and would like a DEPRM comment. I have provided a case description as follows for your convenience:

CASE NUMBER: 2009-0035-SPH

2205 Tufton Ridge Rd. (Zoned R.C.2 and R.C.5)

Location: S side of Tufton Ridge Rd., 1,150 feet E of c/l of Jay Trump Road.
8th Election District, 2nd Councilmanic District

Legal Owner: Thomas H. Hutson

SPECIAL HEARING An amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into 2 lots, pursuant to section 1Aa00.4 and section 1B01.3A7

Hearing: Tuesday, 9/23/2008 at 9:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanks and have a wonderful weekend !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

From: Debra Wiley
To: Murray, Curtis
Date: 09/18/08 1:23:38 PM
Subject: Comment Needed

OP missing 9/18

Hi Curtis,

We've received the case files for hearings next week and we missing a comment from your office. I have provided a case description below for your convenience in preparing a comment.

CASE NUMBER: 2009-0035-SPH

2205 Tufton Ridge Rd

Location: S side of Tufton Ridge Rd., 1,150 feet E of c/l of Jay Trump Road.

8th Election District, 2nd Councilmanic District

Legal Owner: Thomas H. Hutson

SPECIAL HEARING An amendment to the final development plan entitled "Tufton Farms, Section Two" to permit the resubdivision of Lot 26, plat 2, section 2, into 2 lots, pursuant to section 1Aa00.4 and section 1B01.3A7

Hearing: Tuesday, 9/23/2008 at 9:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanks and have a great day !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

2009-0035-SP14

OP	10-1	Comment
DPR	8-14	No comment
SHA	8-12	No objection
Missing DEPRM ✓ Rec'd 10/17 via email		
Notice ✓	Posting ✓	PC Appearance ✓

Armed Jablon -

Rep. the Petitioners

J. Candice Holzner -

Rep. Valley Planning Council

+ Larry Bortner, et al

JUL-29-2008 13:48 FROM:DEC INC.

410 377 2625

TO:914432670106

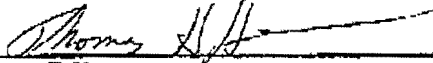
P.2

Zoning Office
Department of Permits and Development Management
111 West Chesapeake Ave
Towson, Maryland 21204

Zoning Office:

Please be advised that we, the undersigned, have authorized Arnold Jablon, Esq., Venable, LLP, 210 Allegheny Ave., Towson, Maryland 21204, to be our attorney-in-fact and attorney-at-law and on our behalf file the attached petitions for zoning relief. We hereby understand that the relief requested is for property we own and we hereby and herewith acknowledge our express permission for said petitions to be filed on our behalf. The petition(s) filed are for property located at 2205 Tufton Ridge Road property we own.

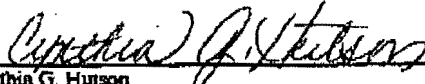
Further, the undersigned are the owners of said property, and hereby and herewith authorize Mr. Jablon to be our attorney-in-fact and attorney-at-law and represent us in this matter.



Thomas H. Hutson

7/29/09 (Date)

2205 Tufton Ridge Road



Cynthia G. Hutson

2205 Tufton Ridge Road
address

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Thomas and Cynthia Hutson 09-035-SPH

DATE: March 2, 2010

BOARD/PANEL: Andrew M. Belt
Lawrence S. Wescott
Edward W. Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing to amend the Final Development Plan (FDP) of "Tufton Farms" to permit the re-subdivision of Lot 26, Plat 3, Section 2 into two lots.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the issues in this matter. The Board stated that the Petitioner accurately listed the relevant questions in this matter, in their closing brief. The questions at issue in this matter are: 1) Does the proposed amendment to the FDP satisfy the provisions of § 1B01.3.A.7 of the BCZR? and 2) Does the proposed amendment satisfy the provisions of § 502.1 of the BCZR?
- The Board reviewed both sections of the BCZR and the contentions of the parties. The Protestant contended that the Planning Director made recommendations and the Zoning Commissioner ruled against the proposed amended re-subdivision. The Petitioners and Protestants also argued over whether § 1B01.3.A.7c applied to this situation. The Board determined that the BCZR is slightly confusing and poorly written. This section states that the Zoning Commissioner and Planning Director must certify that the amendment does not violate the spirit and intent of the original plan. The Petitioners argued that this section does not apply while People's Counsel and the Protestants argued that this section was pertinent. The Board determined that § 1B01.3.A.7c did not apply as the only time it would apply is if the Zoning Commissioner did not hold a hearing and made his determination. The Board is not aware of any cases in which the Zoning Commissioner has made determinations without holding a hearing.
- The Board discussed briefly that a Motion to Dismiss had been presented to the Board at the hearing. The Board had heard argument, deliberated and denied the Motion on the record.
- The Board then moved on to the merits of this matter. The Board reviewed that BCZR requires that any amendments made to the FDP must be done in keeping with the spirit and intent of the original plan and the current laws. The Board is aware that the Zoning

IN RE: PETITION FOR SPECIAL HEARING *

BEFORE THE

S/S Tufton Ridge Road, 1,150' E of c/line *

BOARD OF APPEALS

Jay Trump Road *

FOR

(2205 Tufton Ridge Road) *

BALTIMORE COUNTY

8th Election District *

Case № 09035

2th Council District *

* * * * *

ENTRY OF APPEARANCE

Please enter my appearance in The above captioned case. I will be representing myself only. I ~~represent~~^{spect} fully request copies of all papers filed in This case from This date April 20th 2009 forward.

Alan T. Fell *Alan T. Fell*

Past president of The Tufton Farms Association

13201 Dover Road

Tufton Farms

Reisterstown, Maryland 21136 – 5526

(410) 5842616

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on This 20th day of April, 2009, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD, 21204, Attorney for Petitioner(s) ~~and~~ *Caroll Holzer Esq. 508 Fairmount Ave. Towson MD. 21204*

Spencer Fell *[Signature]* 4-20-09

14221 Dove Creek Way

Condominium # 303

Sparks, Maryland 21152

RECEIVED
APR 21 2009

BALTIMORE COUNTY
BOARD OF APPEALS

BW 10/21
9 AM

IN THE MATTER OF: PETITIONS FOR
SPECIAL HEARING

2219 & 2205 Tufton Ridge Rd.

S/east & S/side of Tufton Ridge Rd.

8th Election District

2nd Councilmanic District

Legal owners:

John & Christine Ramming & Thomas Hutson

* BEFORE THE ZONING
* COMMISSIONER FOR
* BALTIMORE COUNTY
* Case Nos. 2009-0036 SPH &
2009-035-SPH

* * * * *

SUBPOENA

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

TO: Arnold "Pat" Keller, Director
Office of Planning
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce documents and or objects only;
(X) Personally appear and produce documents or objects;
at Room 104, Jefferson Bldg., Towson, MD (See attached Notice of Hearing)
(Place where attendance is required)

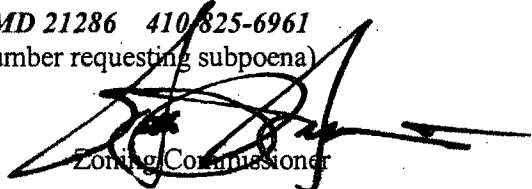
on Tuesday, the 21st day of October, 2008 at 9: 00 a.m. **for such witness' testimony and continuing thereafter as necessary without need for separate subpoena for such witness' testimony as determined by the Zoning Commissioner. The witness can be "on call" and available in their office until called to appear as a witness.**

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

J. Carroll Holzer, 508 Fairmount Ave., Towson, MD 21286 410/825-6961

(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 10/14/08


Zoning Commissioner

SHERIFF'S RETURN

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

Date: _____

Fee: \$

SHERIFF



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
 Real Property Data Search (2007 vw5.1)

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

Account Identifier: District - 08 Account Number - 1700013707

Owner Information

Owner Name:	HUTSON THOMAS H HUTSON CYNTHIA G	Use:	RESIDENTIAL
Mailing Address:	2205 TUFTON RIDGE RD REISTERSTOWN MD 21136-5514	Principal Residence:	YES
		Deed Reference:	1) / 6621/ 601 2)

Location & Structure Information

Premises Address	Legal Description
2205 TUFTON RIDGE RD	5.710 AC 1026 NE JAY TRUMP RD TUFTON FARMS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	3
41	20	133			2		26	2	Plat Ref:	41/ 92

Special Tax Areas

	Town
	Ad Valorem
	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1988	3,678 SF	5.71 AC	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	BRICK

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2008	07/01/2008	07/01/2009
Land	242,460	242,460		
Improvements:	447,580	512,760		
Total:	690,040	755,220	711,766	733,492
Preferential Land:	0	0	0	0

Transfer Information


Seller:	BRUECKNER RICHARD J	Date:	11/09/1983	Price:	\$66,800
Type:	IMPROVED ARMS-LENGTH	Deed1:	/ 6621/ 601	Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	

Exemption Information

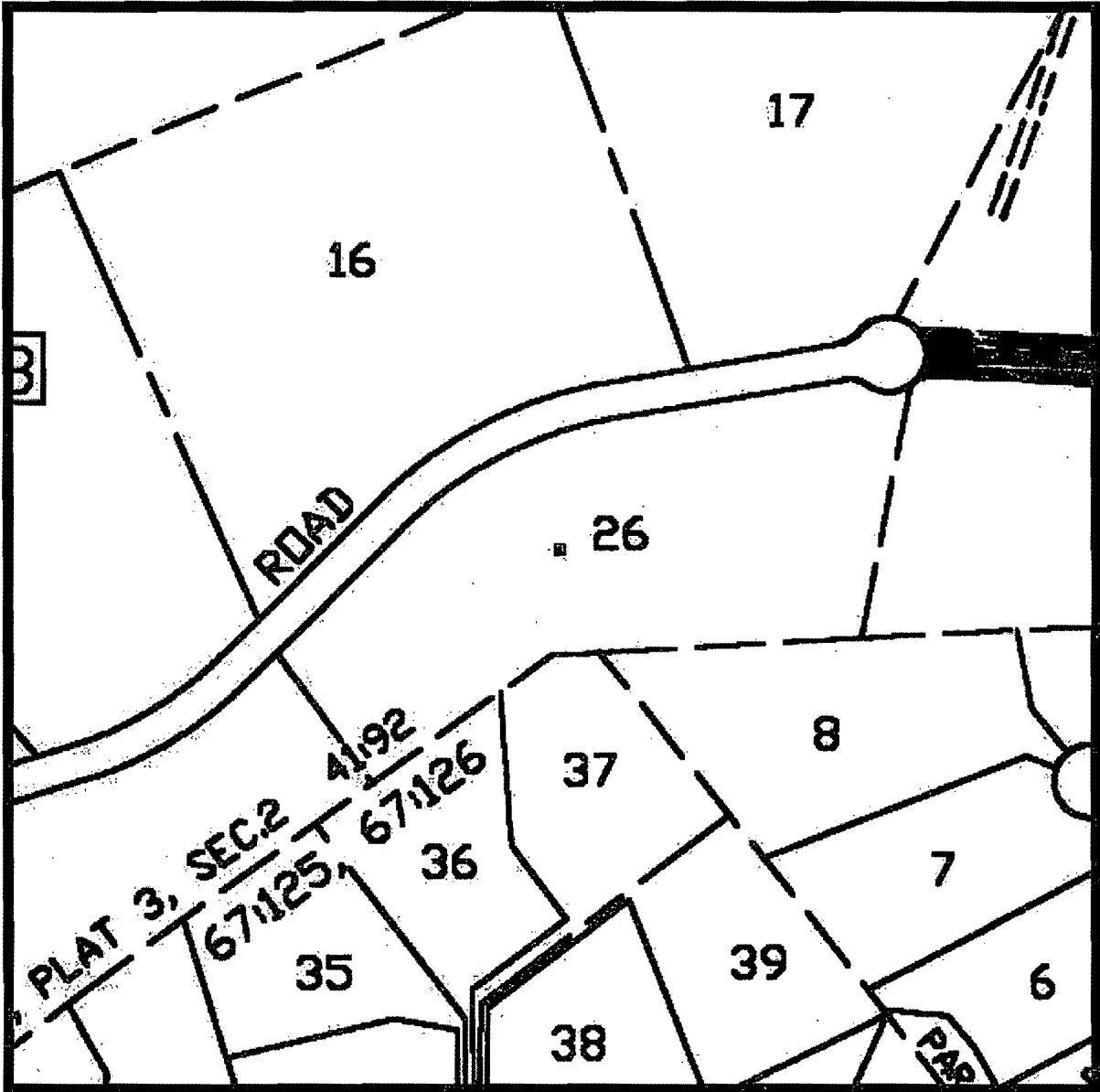
Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

 <p>Maryland Department of Assessments and Taxation BALTIMORE COUNTY Real Property Data Search</p>	<p>Go Back View Map New Search</p>
--	--

District - 08 Account Number - 1700013707



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

Pt. Bk. 40 Folio 93
1700009991

GERBER PROPERTY (PDM File/Project # MS 04165)

Pt. Bk. 40 Folio 92 1700009925

1700013706

1800003323

RC 2

2200

Pt. Bk. 41 Folio 92

1700013705

2206

TUFTON RIDGE RD

1700013704

Pt. Bk. 43 Folio 27

1800003330

2 CD NW 18-F
8 ED 041A3

1700013707

2205

041B3

Flood Zone X

2400006167

2400006168

Pt. Bk. 76 Folio 145

2200024074

10

MEDFORD (PDM File/Project # 8-765)

2400006166

1700013708

2200024073

8'

12

13113

RC 5

QUAIL COVEY CT

2200024076

2400006165

2200024072

6'

Pt. Bk. 68 Folio 126

3'

2200024075

2400006182

2200024068

2200024071

4'

2102

2200024079

2200024067

2116

2200024069

2200024070

2'

2200024077

1'

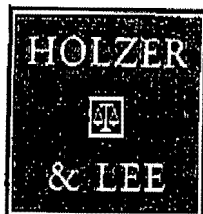
2104

2400006164

2112

2100

2009-0035-SPH



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@CAVTRIL.NET

November 25, 2009
#7702

VIA FAX 410-887-3182

Ms. Theresa R. Shelton, Administrator
County Board of Appeals
of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204**RECEIVED**

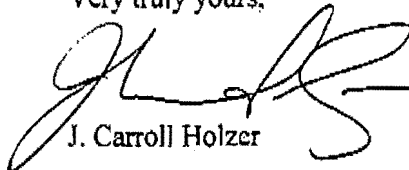
NOV 25 2009

BALTIMORE COUNTY
BOARD OF APPEALS*RE: In the Matter of Thomas & Cynthia Hutson
Case No.: 09-035-SPH*

Dear Theresa:

The above captioned matter has been set before the Board of Appeals for December 1 and 2, 2009. However, I have a Court of Special Appeals argument in the case of Joanne Hulliher v. Albert J. Bierman, a case that the Board heard a couple of years ago, on December 2, 2009. I have attached a copy of the Court of Special Appeals' Notice. I would be glad to work with you and Arnold Jablon to work out a mutually convenient hearing date for Day #3, if necessary.

Very truly yours,


J. Carroll Holzer

JCH:mlg

cc: Office of People's Counsel
Arnold Jablon, Esq.
VPC
Larry Bortner



Court of Special Appeals

Robert C. Murphy Courts of Appeal Building
Annapolis, Md. 21401-1699

LESLIE D. GRADET
CLERK

(410) 280-1450
WASHINGTON AREA 1-888-200-7444

ROBERT J. GREENLEAF
CHIEF DEPUTY

Notice Date 10/23/2009

J. CARROLL HOLZER, ESQUIRE
508 FAIRMOUNT AVE
TOWSON, MD 21286

Re: JOANNE HULLIHEN V. ALBERT J. BIERMAN
No. 01845, September Term, 2008

Dear Counsel:

Argument in the above-referenced case has been set for 12/02/2009, in Courtroom 002. Please report to this office no later than 9:00 a.m. on that date.

Very truly yours,

LESLIE D. GRADET
CLERK

2314 Tufton Ridge Rd

Glyndon, MD 21071

July 25, 2009

TO:

Baltimore Cty Board of Appeals

105 W. Chesapeake Ave, 2nd Floor

Towson, MD 21204

Re Hutson Property Appeal Opposition
(orig. 2009-0035 EPA)

Tufton Ridge Road / Tufton Farms

Hearing July 29, 2009

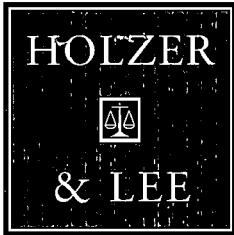
To Board:

We are long term residents (17 years) of Tufton Ridge Road / Tufton Farms, the subdivision that includes the Hutson Property, subject of the July 29, 2009 appeal hearing.

While long standing prior commitments have us out of town on July 29, we want you to be aware - as neighbors - of our strong and consistent feelings on this matter.

It appears clear to all that the original plan for Tufton Farms was to create a unique, wooded subdivision

(Encl)



LAW OFFICES

J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923

E-MAIL: ~~JCHOLZER@BCPL.NET~~
jcholzer@cavtel.net

09-0035
09-0036 x

September 12, 2008
#7702

Kristen:
OK to postpone
TK

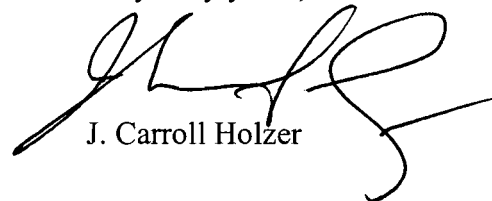
Mr. Timothy Kotroco, Director
Permits & Development Management
111 Chesapeake Avenue
Towson, Maryland 21204

RE: *Zoning Commissioner Hearing*
2205 Tufton Ridge Road (Thomas H. Hutson)
2219 Tufton Ridge Road (John & Christine Ramming)
Scheduled for Tuesday, September 23, 2008 at 10:00 a.m. and 11:00

Dear Mr. Kotroco:

Please be advised that I am representing the Valleys Planning Council and Larry Bortner, *et al.* against the proposed Special Hearing for an amendment to the Final Development Plan on Tufton Farms in the above-captioned case. I am presently scheduled before the Baltimore County Board of Appeals in Case No.: 08-042-SPHXA in the matter of Sarkar Kabiruddin currently scheduled for Tuesday, September 23, 2008 at 10:00 a.m. I would respectfully request that these two (2) cases be postponed and reassigned to a mutually convenient date.

Very truly yours,



J. Carroll Holzer

JCH:mlg

cc: Ms. Teresa Moore
Mr. Larry Bortner
Arnold Jablon, Esquire

July 31, 2008

HAND DELIVERED

Mr. W. Carl Richards, Jr., Supervisor
Zoning Review Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
Petitioner: Thomas & Cynthia Hutson
Location: 2205 Tufton Ridge Road

Dear Mr. Richards:

I am drop filing the enclosed Petition for Special Hearing for the above-referenced property. This property is not in violation of any zoning laws. With this letter, I have enclosed the following documents:

1. Petition for Special Hearing (3)
2. Zoning Descriptions (3)
3. Site Plans (12)
4. Newspaper advertising form (1)
5. Signature Authorization form (1)
6. Check in the amount of \$325.00

If you have any questions or concerns regarding this filing, please give me a call.

Very truly yours,

Amy D. Matte

Amy D. Matte
Paralegal

cc: Arnold Jablon, Esquire
Enclosures

TO1DOCS1/#261780v1

2009-0035-SPH

8/12
Amber



Diabetes
Meds

Diabetes
Meds
1st of 2



Carl,

09-0035

D.T.

Here is revised plan for project we
discussed. With check, I will schedule
w/ Kristen

Carl

[]

Bill,

Here are several items file.

Jay and Diana

2-13
2009-003
SPK
JEM

RECEIVED

FEB 11 2009

ZONING COMMISSIONER

As you know, the Tufton Ridge area was unanimously approved by the Baltimore County Council for a downzoning from RC5 to RC6 during the 2008 CZMP. As a result, several re-subdivision cases that were in various stages of the hearing process were remanded back to the zoning commissioner level and will be re-examined to take into account the new zoning. As a resident of Tufton Farms, I am writing to ask that the Office of Planning recommend denial of any requests to amend the Final Development Plan.

The majority of residents in the Tufton Farms I and II subdivisions have felt from the beginning that amendments to the Final Development Plan would not be in keeping with the original spirit and intent. We further believe that the cumulative impact of multiple re-subdivisions would have a negative impact on the environmental and scenic resources of the area. And finally, we feel that amendments to the Final Development Plan would undermine the recent zoning decision which is clearly aimed at preserving the forested area and the wall of the Worthington Valley. As you know, the RC6 zone is one of the most protective zones in Baltimore County and is aimed at forest patch and ecosystem protection.

When reconsidering the Tufton Farms cases, we urge you to support the goals of the new RC6 zone by making a finding that the Final Development Plan should not be amended.

Thank you for your time.

Sincerely,

Tom Gildee

Mr. Tom Gildee
2212 Tufton Ridge Road
Reisterstown, MD 21136

Mr Keller,
I am an original owner and resident of this beautiful neighborhood. I have lived here since 1985 and cherish this unique property and neighborhood. Please help us to preserve it and to protect the beautiful Worthington Valley, a Maryland treasure.
Thanks for your help,
Tom Gildee

OFFICE OF PLANNING

JAN 29 2009

RECEIVED

Past History

Development Activity-Tufton Farms

Project Name/No.	Location	Lot #	Net Acreage	Gross Acreage	# of Lots Proposed	Minor Sub Status	Special Hearing Status
Posey - 07001M	13101 Dover Road	4	10.8 RC 6	11.64 RC 6	2	1 st Review 3/07 RC6 Site Analysis 2/09	07-470sph granted 10/17/07 under RC5, appealed to Bd of Appeals Joint request to remand 9/08 to Zoning Commissioner after RC6 zoning applied
Sansur - 07033M	2304 Tufton Ridge Road	10	5.6 RC 6	6.1 RC 6	2	1 st Review 5/07	08-140sph granted 4/8/08 under RC5, appealed to Bd of Appeals Remanded 11/17/08 to Deputy Zoning Commissioner after RC6 applied
Heller - 07146M	13215 Dover Road	2	Not Indicated on plan	5.3 RC 6 1.2 RC 4 .7 RC 2	2	2 nd Review 4/08	08-476sph postponed on 6/16/08, RC6 applied
Hutson - 08056M	2205 Tufton Ridge Road	26	2.9 RC 6 2.7 RC 2	2.9 RC 6 3.3 RC 2	2	Filed with PDM on hold as per engineer	09-035sph scheduled on 2/13/09 before the Zoning Commissioner
Ramming - 08055M	2219 Tufton Ridge Road	27	6.4 RC 6	7.2 RC 6	2	Filed with PDM on hold as per engineer	09-036sph postponed on 10/21/08 must be reposted and re-advertised

Hutson Issues

Tufton Farms Section 2 is 234.58 gross acres in area. Gaylord Brooks, Inc. subdivided it in 1977 when the zoning was RC2 and RC5. The average lot size of any lot is 7.24 acres, which far exceeded the minimum zoning requirements for each zone.

The recorded plats consist of 32 large wooded estate lots, not 30 as shown on the approved final development plan. This is due to the resubdivision of lots 12, 13 & 22 by record plat in 1979 without amendment of the fdp. There are 15 dwellings in the RC6 zone, 15 dwellings in the RC2 zone and two vacant lots, lot 30 in the RC6 zone and lot 22a in the RC2 zone.

Zoning changes

There is a small amount of RC 4 zoning that was applied as part of the 2004 CZMP Issue 2-060.

The RC5 zoned area in Section 2 was rezoned to RC6 as part of 2008 CZMP Issue 2-035, filed by the Valleys Planning Council. The RC6 zoning was put in place because the County Council was of the opinion that RC6 better suited the unique environmental features of the area, which consists of steep slopes, streams and wooded hillsides.

Unlike the other RC zones, RC6 also has a density calculation area, which requires the primary conservancy area to be deducted from the tract. Density is calculated at the rate of .2 lots per acre of the remaining area.

Process Issues: The engineer who submitted the plan for the Hutson property has not submitted for review an amended final development plan for Tufton Farms showing all 32 existing lots, the proposed resubdivision of Lot 26 and amended density calculations.

Spirit and Intent Issue: Is the special hearing to amend the fdp in keeping with the spirit and intent of the original approved FDP for Tufton Farms Section 2?

The 250 foot diametral dimension that was shown on the approved fdp, has not been shown on the site plan.

The final development plan for Tufton Farms Section 2 contains Note 7 stating, "There shall be no grading of the entire site. There shall be no clear cutting of any trees & shrubs from any lot. Clearing and grading to be limited to the house site and driveway only. Only dead, damaged or trees necessary for the construction of homes and drives are to be removed."

The amount of grading and clearing proposed for the proposed dwelling on Lot 26 A is excessive and violates that note.

The existing lot 26, the Hutson lot is 6.2 acres gross area and 5.6 acres net area. The proposed RC 2 lot, Lot 26A is 1.58 acres and is the smallest RC2 lot in the entire subdivision. There is also the issue of the existing septic in the RC2 zone while the existing dwelling is within the RC6 zone.

TRANSCRIPTS
EXHIBITS

2

1 IN THE MATTER OF: * BEFORE THE
 2 Thomas H. and Cynthia Hutson * COUNTY BOARD OF APPEALS
 3 Legal Owners/Petitioners * OF
 4 2205 Tufton Ridge Road * BALTIMORE COUNTY
 5 8th Election Distrct * Case No. 09-035-SPH
 6 2nd Councilmanic District * December 1, 2009

7 * * * * *

8 The above-entitled matter came on for hearing
 9 before the County Board of Appeals of Baltimore County,
 10 Hearing Room #2, Jefferson Building, 105 W. Chesapeake
 11 Avenue, Towson, Maryland 21204, December 1, 2009.

12 * * * * *

17 ORIGINAL

21 Reported by: Carolyn E. Peatt

IN THE MATTER OF: * BEFORE THE

Thomas H. and Cynthia Hutson * COUNTY BOARD OF APPEALS

Legal Owners/Petitioners * OF

2205 Tufton Ridge Road * BALTIMORE COUNTY

8th Election District * Case No. 09-035-SPH

2nd Councilmanic District * July 29, 2009

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County, Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, July 29, 2009.

* * * * *

ORIGINAL

Reported by: Carolyn E. Peatt

Case No.: 2009-0035-SPH 2205 TUFTON RIDGE RD

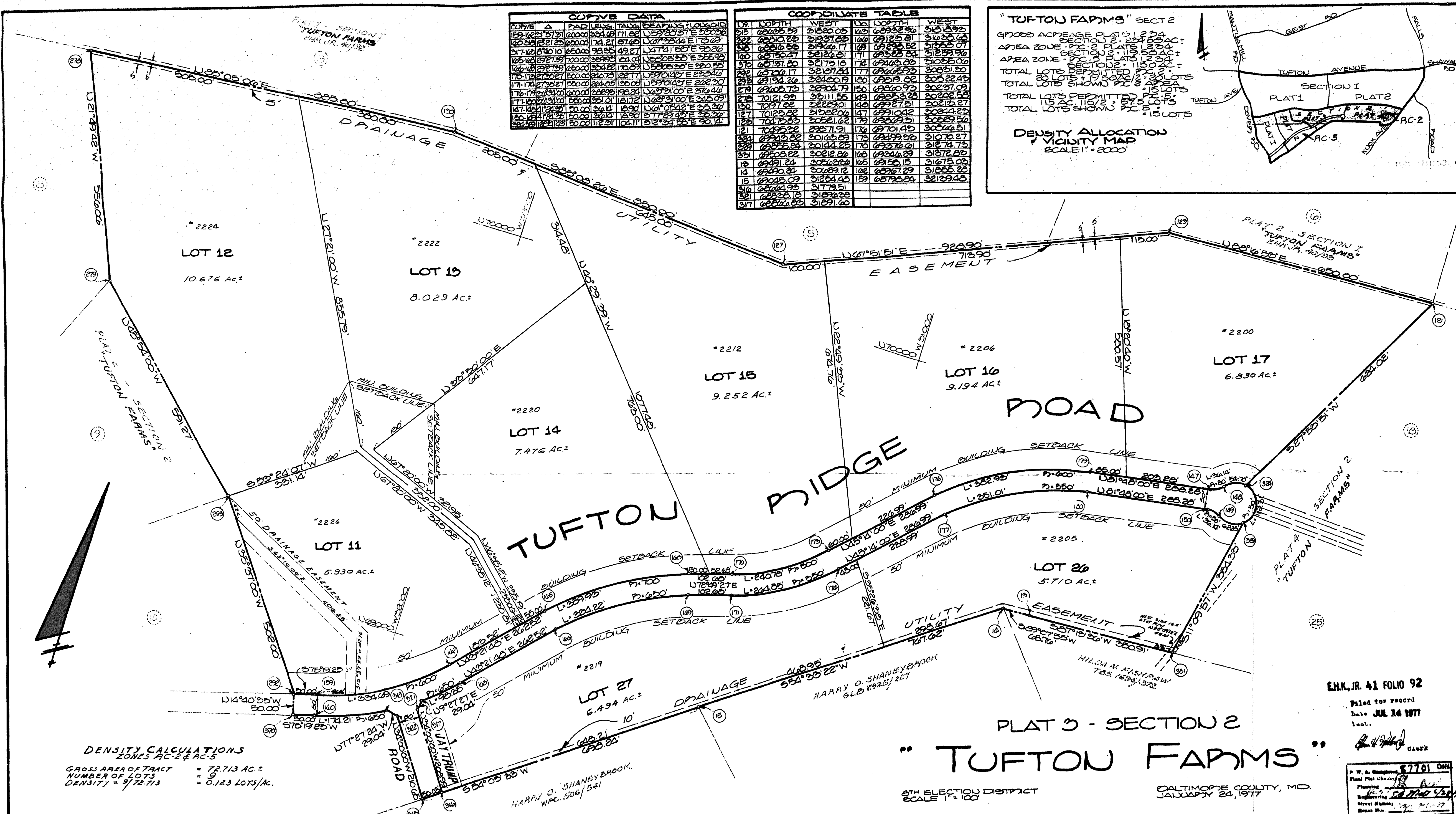
Exhibit Sheet

Petitioner/Developer

Protestant

Colonized

No.	Petitioner/Developer	Protestant
No. 1	Plan that accompanied Original Petition	Letters of Oppositor and E-mail
No. 2 2A	Revised Plan Current Zoning Classification	FILM SHOWN
No. 3 7/14/77	Original Subdivision Plat - Record Plat	
No. 4 2/17/1977	FDP - Plat Section 2 Tufton Farms	
No. 5	Aerial 8" x 11" Lot 26	
No. 6	Forest Buffer Plan (Appropriation Plan)	
No. 7	Peric test - 2/08 3/08 NEW LOT PASSED	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

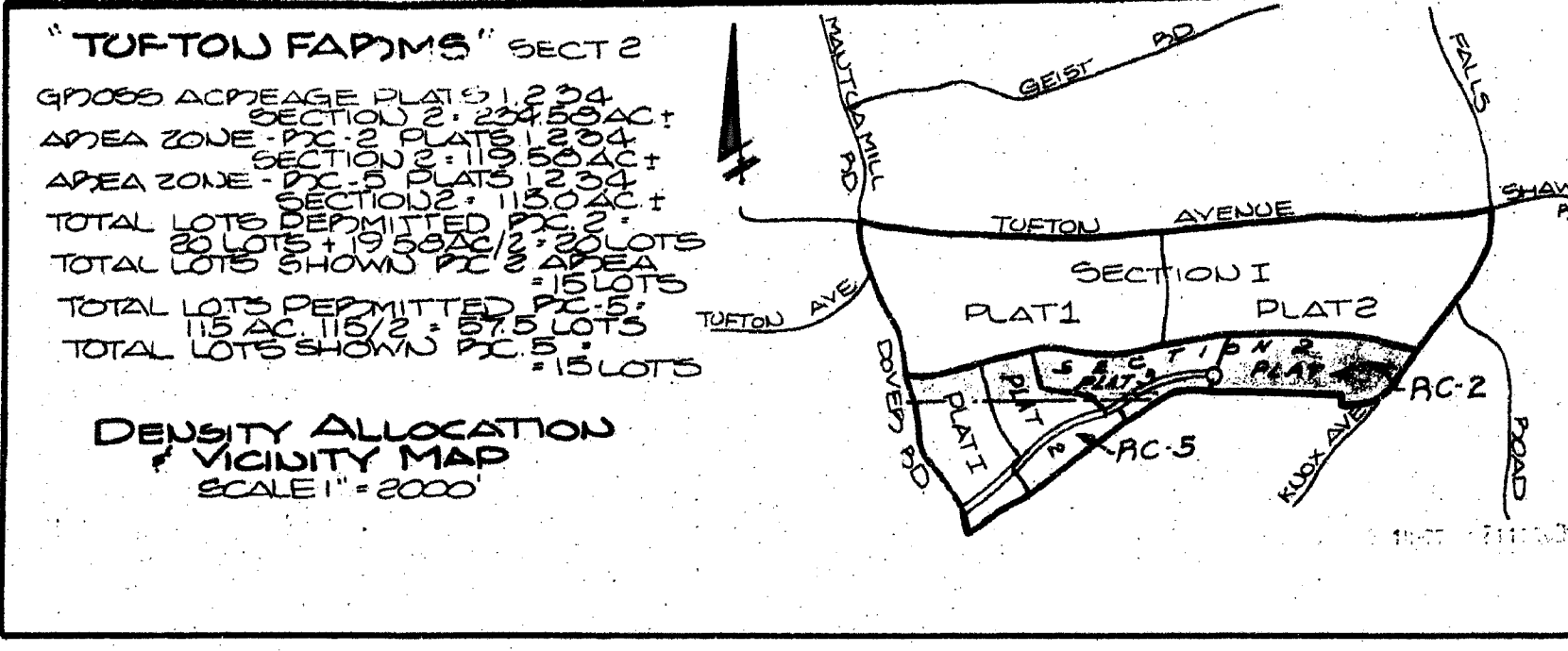


CURVE DATA

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15	151.00	151.00	171.00	151.00	151.00	151.00	151.00
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18	151.00	151.00	171.00	151.00	151.00	151.00	151.00
19	151.00	151.00	171.00	151.00	151.00	151.00	151.00
20	151.00	151.00	171.00	151.00	151.00	151.00	151.00

COORDINATE TABLE

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89	68932.99	31043.93	98	68932.99	31043.93
90	68932.99	31043.93	99	68932.99	31043.93
91	68932.99	31043.93	100	68932.99	31043.93



DENSITY CALCULATIONS
 ZONES AC. & AC.3
 GROSS AREA OF TRACT = 72.713 AC.±
 NUMBER OF LOTS = 9
 DENSITY = 9/72.713 = 0.123 LOTS/AC.

PLAT 3 - SECTION 2
"TUFTON FARMS"

EMK, JR. 41 FOLIO 92
 Filed for record
 Date **JUL 14 1977**
 Title:
 Clerk

W. & O. Moore 47701 OWN
 Planning
 Registered
 Street Number
 Home No.

DEAD MAN WATERSHED
 HIGHWAY'S DEPARTMENT OF BALTIMORE CO
 APPROVED FOR STREET ALIGNMENT & LOCATION

ROADS ENGINEER DATE
 APPROVED FOR BALTO CO HEALTH DEPT

DENSITY ENGINEER DATE
 APPROVED FOR BALTO CO PLANNING BOARD

DIRECTION DATE

NOTES:
 COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE BASED UPON THE BALTIMORE METRIC COORDINATE SYSTEM X-39577, Y-9931.
 SETBACKS AND/OR EASEMENTS SHOWN HEREON AND MENTIONED THEREON IN CONNECTION WITH ANY OF THE LOTS ARE FOR PUBLIC USE ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THESE SETBACKS ARE TO BE THE BASIS THEREOF IN ANY FUTURE PERMITS IN THE HANDS OF THE DEPT. TO WHICH THIS PLAT IS ATTACHED. THESE SETBACKS ARE SUBJECT TO THE DEPT. OF PUBLIC WORKS AND UTILITIES.
 REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JOINTION OF THE BALTIMORE AND THE STREET DEPARTMENT JULY, AND NOT OUT OF THE BALTIMORE LOT DRIVEWAY.

OWNER'S CERTIFICATE:
 THE REQUIREMENTS OF SECTION 29 TO 36, ARTICLE 74 OF THE ANNOTATED CODE OF MARYLAND, 1977 EDITION, TITLE 46, SUBTITLE 2, CHAPTER 201, OF THE CODE OF MARYLAND, AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE OBTAINING OF PERMITS HAVE BEEN COMPLIED WITH.

GAYLORD BROOKS INVESTMENT CO.
Richard O. Moore Pres. 5-24-77
 OWNER DATE

SURVEYOR'S CERTIFICATE:
 I, **E.F. PAPHEL**, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN PLATTED AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO THE SURVEYS OF LAND KNOWN AS HOUSE BILL NO. 489, CH. 101, OF THE ACTS OF 1946 AND 1950, SEVERAL ACTS AMENDATORY THEREOF.

E.F. Paphel 5-17-77
 REG. NO. 10000-2884 DATE

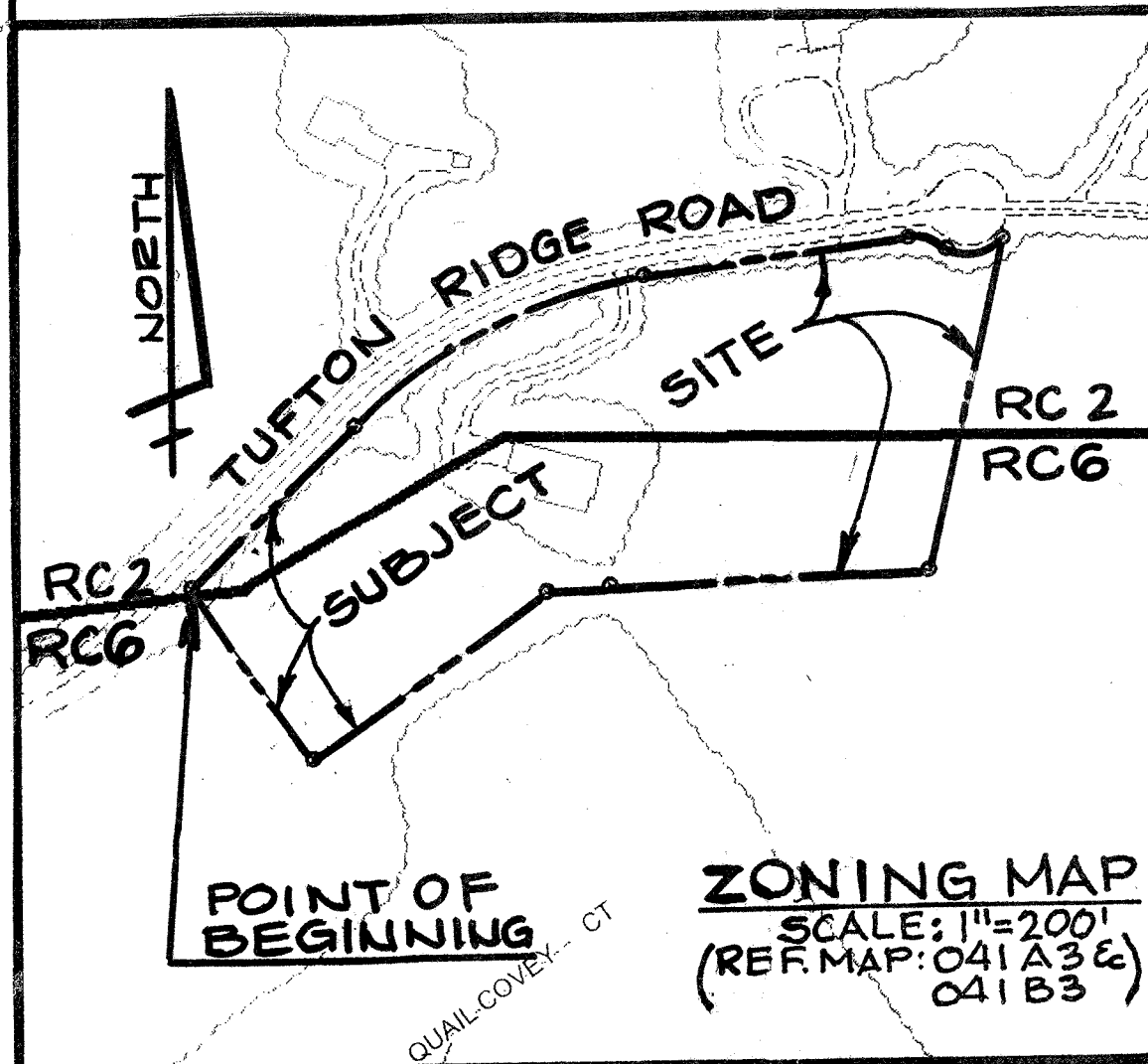
E.F. PAPHEL & ASSOCIATES
 REGISTERED PROFESSIONAL LAND SURVEYORS

80 COURTLAND AVE
 TOWSON, MD 21284

1376

MSA 55-1036-901341-92

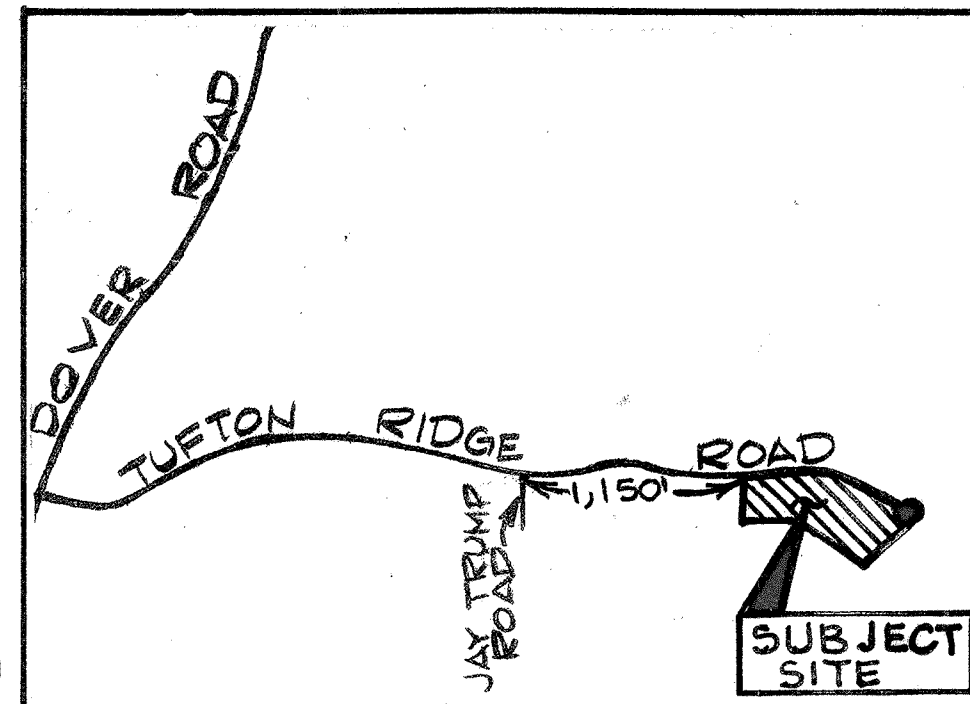
PLAT TO ACCOMPANY PETITION FOR ZONING: VARIANCE, SPECIAL HEARING



DENSITY TABULATION
RC-2
BETWEEN 2 & 100 AC. = 2

TOTAL ALLOWED = 2
TOTAL PROPOSED = 2

STEPHEN M. GOEN
#2108 TUFTON RIDGE RD.
18-00-003323



LOCATION INFORMATION

ELECTION DISTRICT NO.: 8
COUNCILMANIC DISTRICT NO.: 2
ZONING: RC-2 & RC-6
(REFERENCE MAP(S): 041 A3 & 041 B3)
AREA OF SITE:
NET= 248,728 S.F. = 5.710 AC
GROSS= 272,164 S.F. = 6.271 AC

	PUBLIC	PRIVATE	YES	NO
SEWER	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
WATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
CHESAPEAKE AREA CRITICAL AREA	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
AREA DESIGNATION:	N/A			
100 YEAR FLOODPLAIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
HISTORIC PROPERTY / BUILDING	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
PRIOR ZONING HEARINGS: DRC No. 080408C				

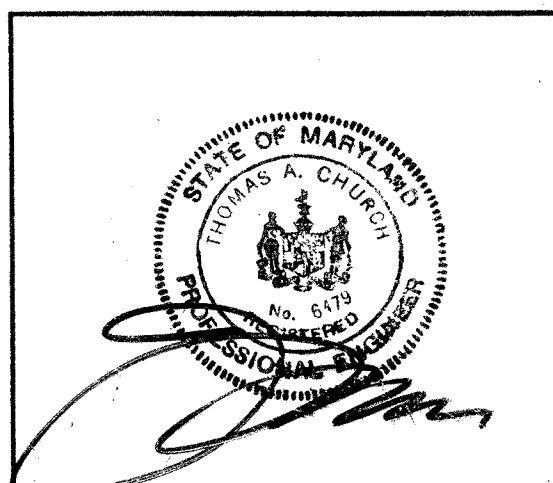
ZONING OFFICE USE ONLY

REVIEWED BY	ITEM #	CASE #

PROPERTY DATA
OWNER: THOMAS H. & CYNTHIA G. HUTSON
ADDRESS: 2205 TUFTON RIDGE ROAD
REISTERSTOWN, MD, 21136
PHONE NUMBER: 410-785-1117
TAX ACCOUNT NUMBER(S): 17-00-013707

THIS PROPERTY AS SHOWN ON THIS PLAN HAS BEEN HELD INTACT SINCE JUL. 14, 1977.
THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF
THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR
REPRESENTED AS DENSITY OR AREA TO SUPPORT OFF-SITE DWELLINGS.

USE OF PROPERTY
EXISTING: RESIDENTIAL
PROPOSED: RESIDENTIAL



CASE No: 2009-0035-SPH

Drawing	FLD
Check	T.A.C.
Design	10/16/08
Check	DATE

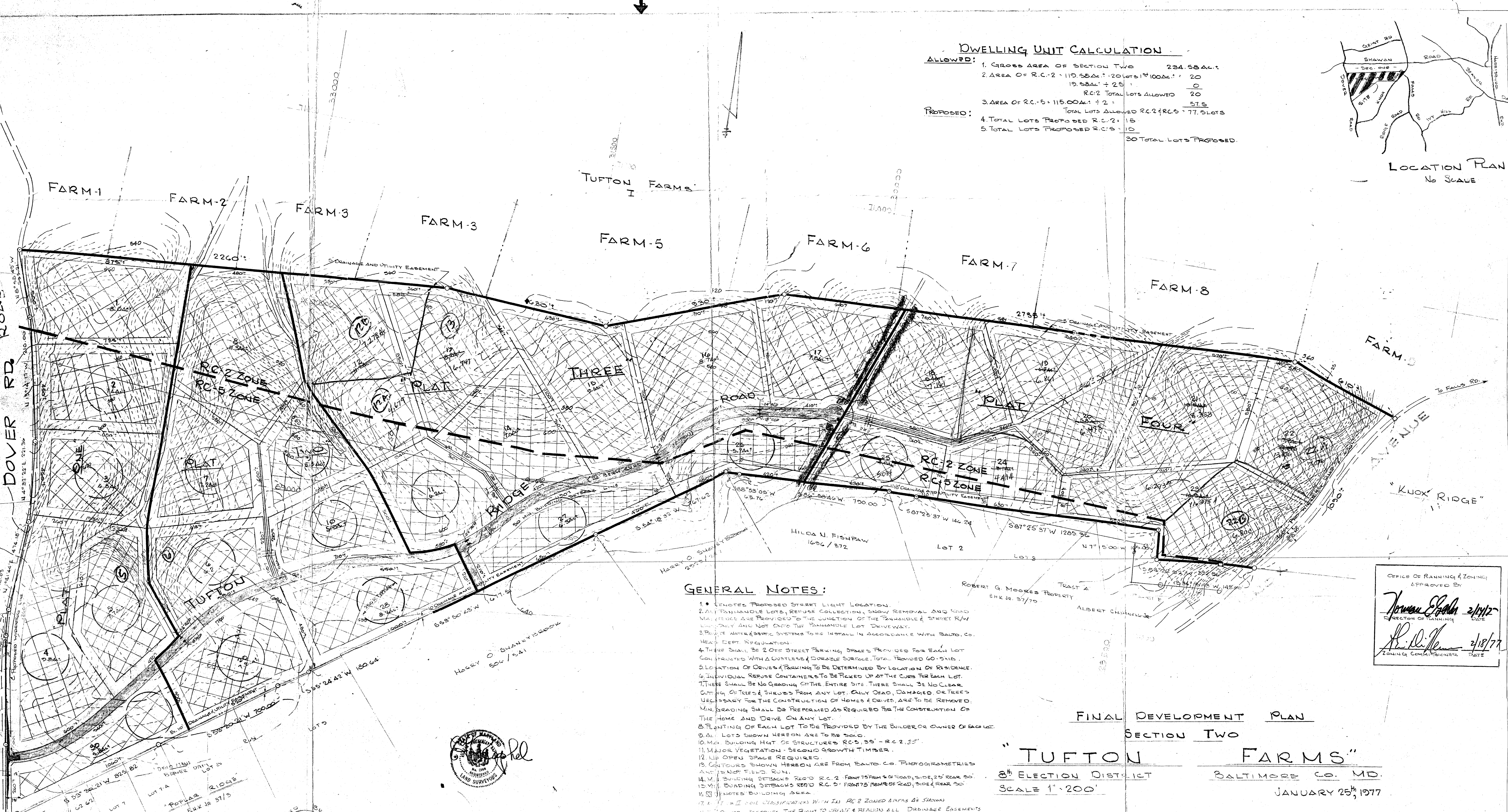
DEVELOPMENT ENGINEERING CONSULTANTS, INC.
SITE ENGINEERS & SURVEYORS
6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

APPLICANTS
THOMAS H. & CYNTHIA G. HUTSON
2205 TUFTON RIDGE ROAD
REISTERSTOWN, MD, 21136
410-785-1117

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
HUTSON PROPERTY ~ 2205 TUFTON RIDGE RD
ELECTION DISTRICT 8 BALTIMORE COUNTY, MARYLAND

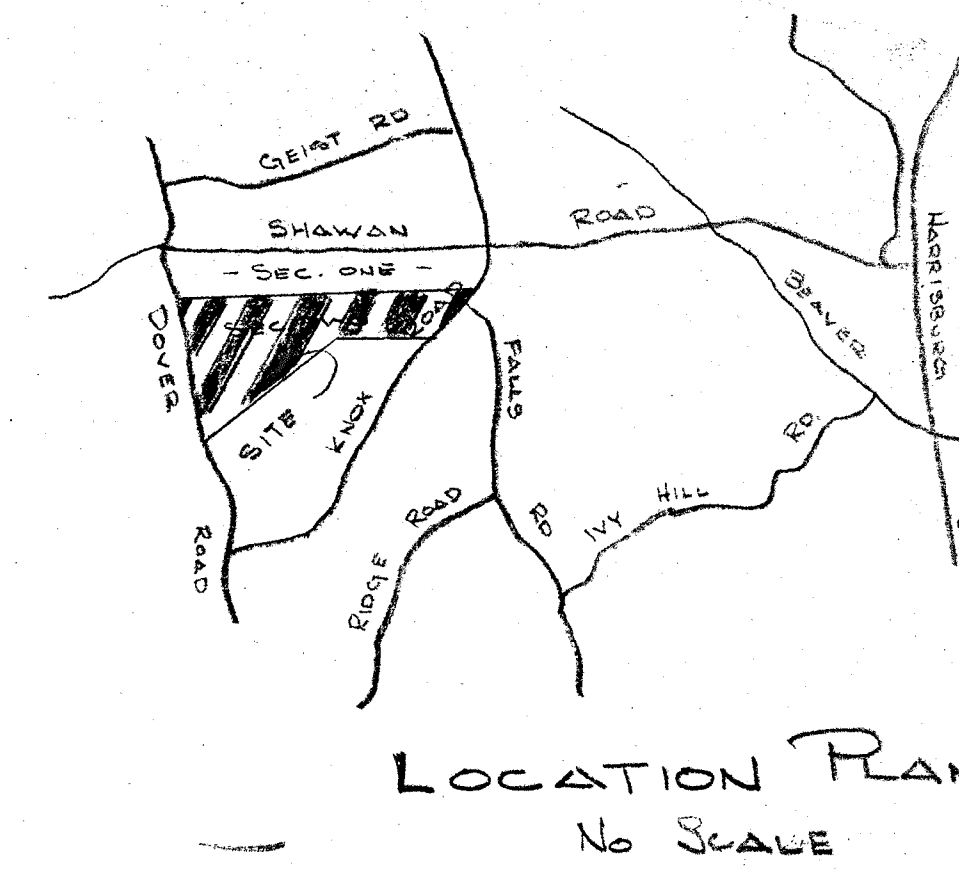
COUNCILMAN
PETITIONER'S
EXHIBIT NO. 2A

SHEET	1
DATE	07-11-08
REV.	10-16-08
SCALE	1"=50'
CONTRACT NUMBER	08-103



DWELLING UNIT CALCULATION

ALLOWED:	1. GROSS AREA OF SECTION TWO	234.58 AC.
	2. AREA OF R.C.-2	110.58 AC. ÷ 20 LOTS @ 100 AC. = 20
		19.58 AC. ÷ 25 = 0
		RC-2 TOTAL LOTS ALLOWED
		20
	3. AREA OF R.C.-5	115.00 AC. ÷ 2 = 57.5
		TOTAL LOTS ALLOWED RC-2 & RC-5
		77.5 LOTS
PROPOSED:	4. TOTAL LOTS PROPOSED R.C.-2	18
	5. TOTAL LOTS PROPOSED R.C.-5	12
		30 TOTAL LOTS PROPOSED



GENERAL NOTES:

1. LOCATES PROPOSED STREET LIGHT LOCATION.
2. ALL PANHANDLE LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE PANHANDLE & STREET R/W. LAND ONLY AND NOT OVER THE PANHANDLE LOT DRIVEWAY.
3. REFUSE WATER & SEPTIC SYSTEMS TO BE INSTALLED IN ACCORDANCE WITH BALTO. CO. HEALTH DEPT. REGULATION.
4. THERE SHALL BE 2 OFF STREET PARKING SPACES PROVIDED FOR EACH LOT CONSTRUCTED WITH A CURBLED & DURABLE SURFACE, TOTAL PROVIDED 60-916.
5. LOCATION OF DRIVES & PARKING TO BE DETERMINED BY LOCATION OF RESIDENCE.
6. INDIVIDUAL REFUSE CONTAINERS TO BE PICKED UP AT THE CURB FOR EACH LOT.
7. THERE SHALL BE NO GRADING OF THE ENTIRE SITE. THERE SHALL BE NO CLEAR CUTTING OF TREES & SHRUBS FROM ANY LOT. ONLY DEAD, DAMAGED, OR TREES NECESSARY FOR THE CONSTRUCTION OF HOMES & DRIVES, ARE TO BE REMOVED. MIN. GRADING SHALL BE PERFORMED AS REQUIRED FOR THE CONSTRUCTION OF THE HOME AND DRIVE ON ANY LOT.
8. PLANTING OF EACH LOT TO BE PROVIDED BY THE BUILDER OR OWNER OF EACH LOT.
9. ALL LOTS SHOWN HEREON ARE TO BE SOLD.
10. MAX. BUILDING HGT. OF STRUCTURES RC-5, 35' - RC-2, 35'.
11. MAJOR VEGETATION - SECOND GROWTH TIMBER.
12. NO OPEN SPACE REQUIRED.
13. CONTOURS SHOWN HEREON ARE FROM BALTO. CO. PHOTOGRAMMETRIES AND ARE NOT FIELD RUN.
14. MIN. BUILDING SETBACKS REGD RC-2: FRONT 15' FROM R.O. ROAD, SIDE 25' REAR 30'.
15. MIN. BUILDING SETBACKS REGD RC-5: FRONT 15' FROM R.O. ROAD, SIDE 25' REAR 30'.
16. NOTES BUILDING AREA.
17. A. I. II - SOIL CLASSIFICATION WITH IN RC-2 ZONED AREAS AS SHOWN.
18. OWNER RESERVES THE RIGHT TO WHAT A REALTOR ALL DRAINAGE EASEMENTS PRIOR TO THE SALE OF THE LOTS.
19. DIMENSIONS & LOCATIONS AS SHOWN ARE APPROXIMATE AND ARE SUBSTANTIALLY IN ACCORDANCE WITH PLAT OF RECORD.
20. OWNER RESERVES THE RIGHT TO CREATE JOINT DRIVEWAYS & MAINTENANCE AGREEMENTS FOR INDIVIDUAL LOTS, PRIOR TO SALE.

FINAL DEVELOPMENT PLAN

SECTION TWO

"TUFTON FARMS"

8th ELECTION DISTRICT

BALTIMORE CO. MD.

JANUARY 25th, 1977

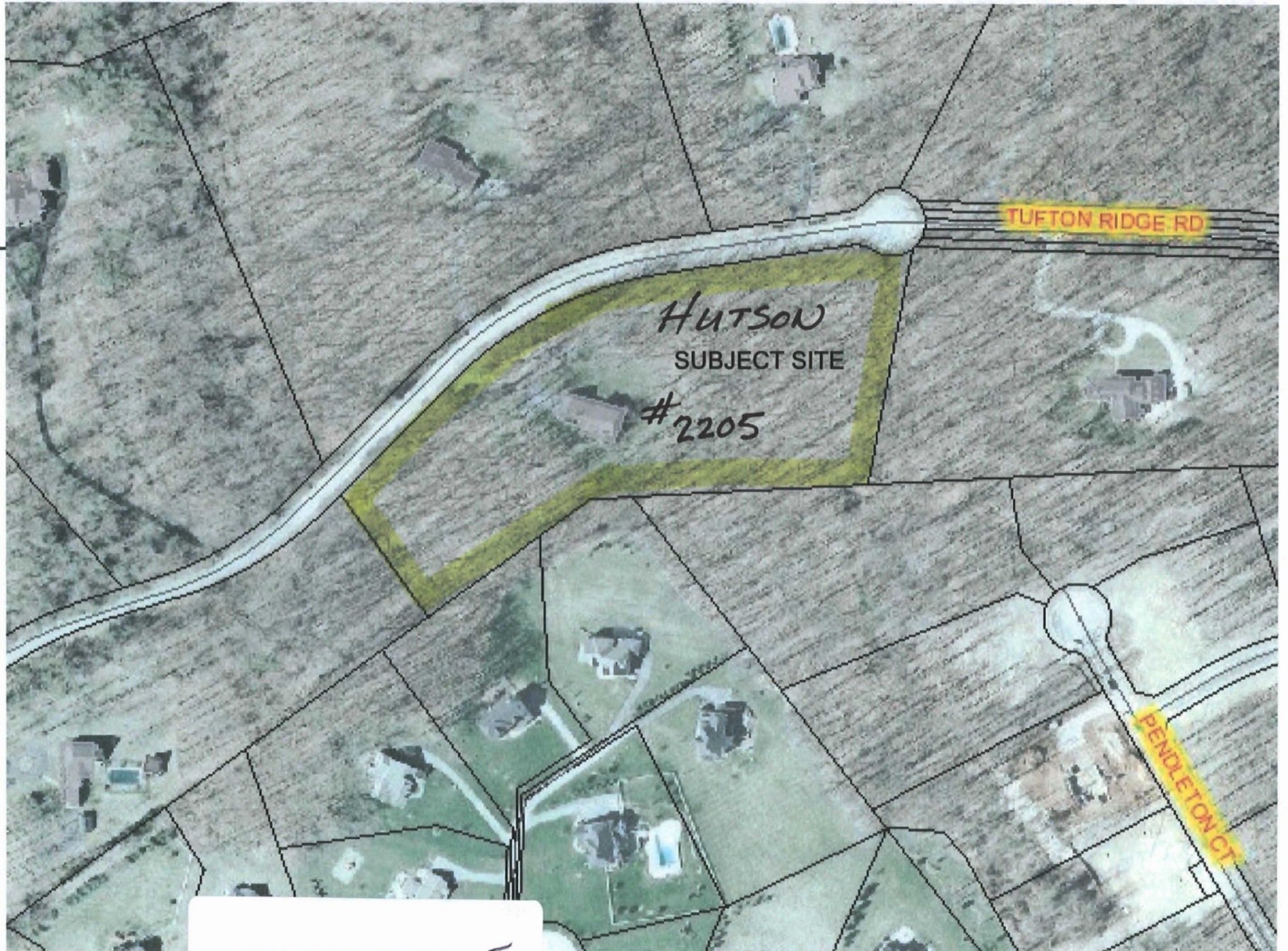
F. F. RAPHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OWNER & DEVELOPER:
GAYLORD BROOKS INVESTMENT CO.
Box 62 PAPER MILL ROAD
PHOENIX MARYLAND, 21151

OFFICE OF PLANNING & ZONING
APPROVED BY
Norman E. Spahn 2/11/77
DIRECTOR OF PLANNING DATE
R. D. Nelson 2/18/77
ZONING COMMISSIONER DATE

PETITIONER'S
EXHIBIT NO. 4

1376



DEVELOPMENT ENGIN
6603 YORK ROAD
410-577-2000





PETITIONER'S EXHIBIT 5

2205 TUFTON RIDGE ROAD (HUTSON PROPERTY)
SCALE: 1" = 200' OCTOBER 17, 2008
CONTR. NO. 08103

ENVIRONMENTAL NOTES:

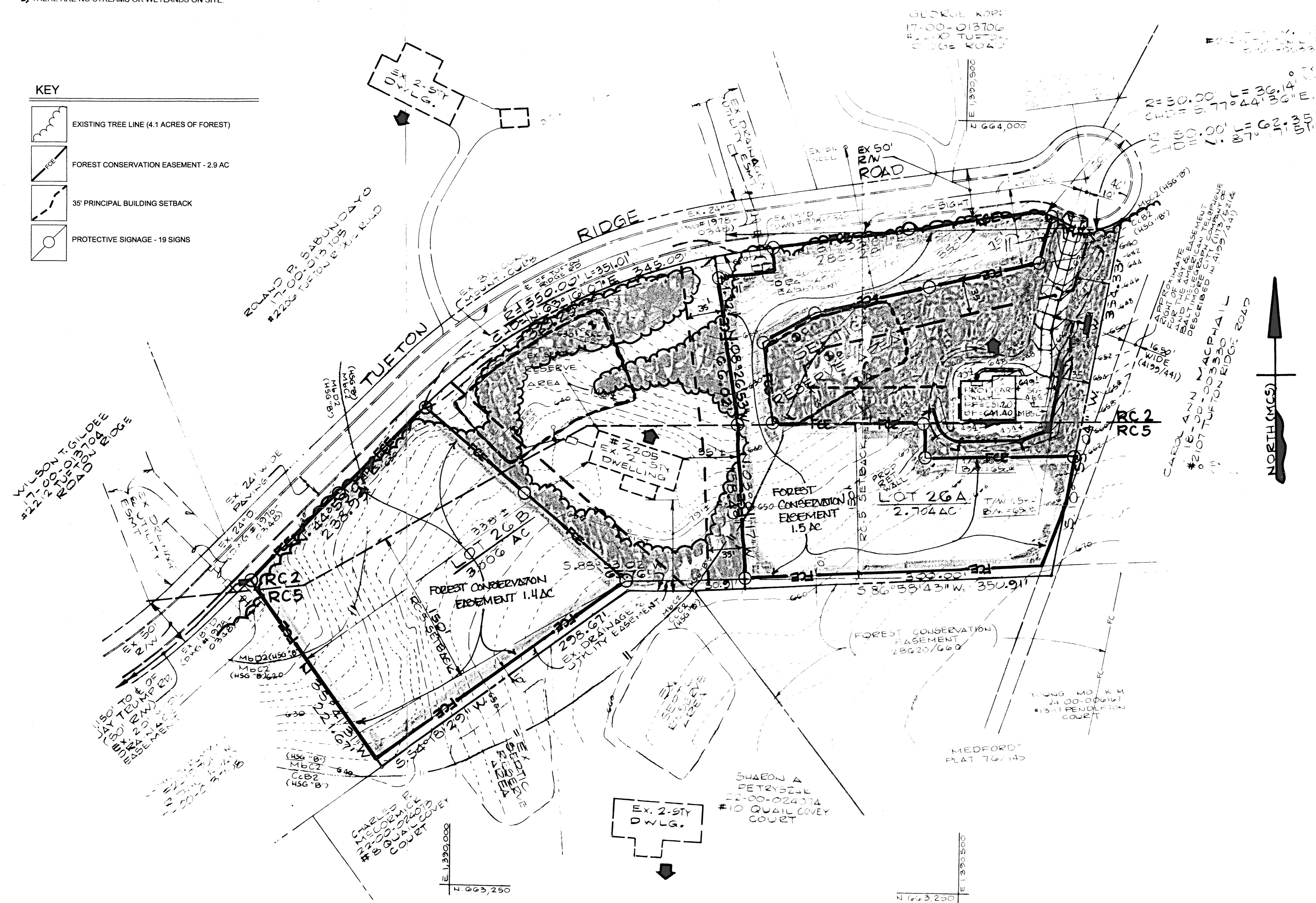
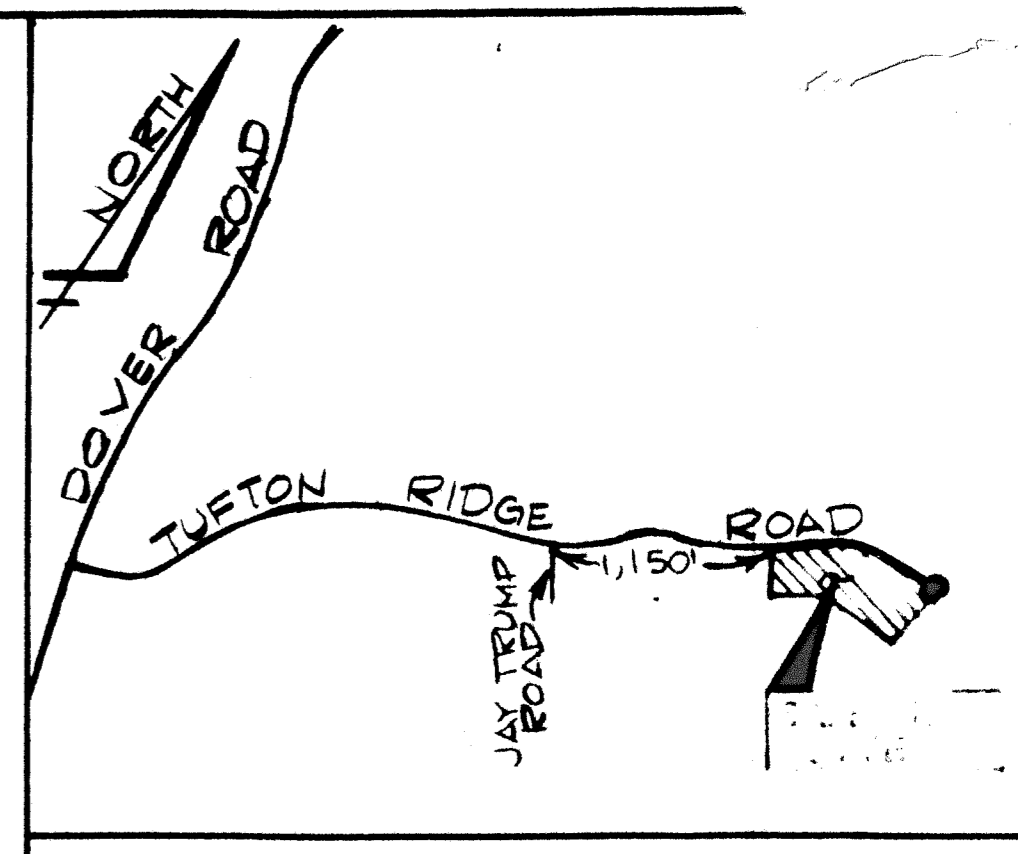
- 1) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT OR HAZARDOUS MATERIALS ON SITE.
- 2) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO UNDERGROUND STORAGE TANKS ON SITE.
- 3) THERE ARE NO STREAMS OR WETLANDS ON SITE.

KEY

-  EXISTING TREE LINE (4.1 ACRES OF FOREST)
-  FOREST CONSERVATION EASEMENT - 2.9 AC
-  35' PRINCIPAL BUILDING SETBACK
-  PROTECTIVE SIGNAGE - 19 SIGNS

DENSITY TABULATION

RC-2	2.82 AC	= 2
RC-5	2.925 AC	= 1
TOTAL ALLOWED		= 3



GENERAL NOTES:

- 1) AREA OF TRACT
NET = 5.7 AC
GROSS = 2.71 AC
- 2) ZONING CLASSIFICATION
RC-2 (REFERENCE MAP 041 43 22 041 33)
RC-5 (REFERENCE MAP 041 43 22 041 33)
- 3) DENSITY CALCULATIONS
ALLOWED = 3
PROPOSED = 2
- 4) OWNER INFORMATION
NAME: THOMAS H. & CYNTHIA G. HUTSON
ADDRESS: 2205 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136
PHONE NUMBER: 410-785-1117
- 5) PROPERTY INFORMATION
TAX ACCOUNT NUMBER: 17-00-013107
DEED REFERENCE: 6621/601
PLAT REFERENCE: 41/32
- 6) LOCATION INFORMATION
TAX MAP: 41 GRID 20
CENS. TRACT: 408301
REGIONAL PLANNING DISTRICT: 307
SCHOOL DISTRICT: FRANKLIN ELEM.
KEY SET: W-SE
WATERSHED: LOCH RAVEN
PARCEL 133
SUB-SEWERSHED: NONE
ELECTION DISTRICT: 8TH
COUNCILMANIC DISTRICT: 2ND
POSITION SHEET: 69NW 22
A.D.C. MAP: 17 E 4
- 7) USE OF SITE
EXISTING: RESIDENTIAL
PROPOSED: RESIDENTIAL

STANDARD EASEMENT NOTES

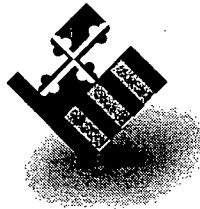
Standard Nondisturbance Note:
There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Protective Covenants Note:
Any Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.

PLAN PREPARED BY:
HUMAN & ROHDE, INC.
Landscape Architects
512 Virginia Ave.
Towson, Maryland 21286
(410) 825-3885 Phone
(410) 825-3887 Fax

PETITIONER'S
EXHIBIT NO. 6

Drafted: T.L.B. Design: T.A.C. Date: 3/1/08 Revisions:	DEVELOPMENT ENGINEERING CONSULTANTS, INC. SITE ENGINEERS & SURVEYORS 6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212	DEVELOPERS THOMAS H. & CYNTHIA G. HUTSON 2205 TUFTON RIDGE ROAD REISTERSTOWN, MD, 21136 410-785-1117	FOREST CONSERVATION PLAN MINOR SUBDIVISION PLAN FOR HUTSON PROPERTY ~ 2205 TUFTON RIDGE RD ELECTION DISTRICT 8 COUNCILMANIC DISTRICT 2 BALTIMORE COUNTY, MARYLAND	SHEET 1 OF 2	DATE 02-15-08 REV 05/08/08 SCALE 1"=50'	CONTRACT NUMBER 08-103
---	---	---	---	-----------------	---	---------------------------



BALTIMORE COUNTY
M A R Y L A N D

RECEIVED
MAY - 1 2008

BY:.....

JAMES T. SMITH, JR.
County Executive

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

April 24, 2008

Mr. Timothy C. Browne
DEVELOPMENT ENG CONS INC
6603 YORK RD
BALTIMORE MD 21212

RE: Tufton Farms, Resubdivision of Lot 26, Lots 26A & 26B,
2205 Tufton Ridge Road, D-8

Dear Mr. Browne,

A representative of this office, J. Robert Powell, R.S., conducted soil evaluations on 04/07/2008 regarding the above-referenced lot(s).

Based on the evaluations and the master plan dated 03/12/2008, **APPROVAL** will be granted for the installation of a private sewage disposal system. Soil percolation tests will be **valid for a period of five (5) years from the date of tests, approval letter or record plat, whichever is most recent.** At the expiration of this period of time, the results will become **VOID** without notice to that effect having been given by the Approving Authority.

It should be noted, there is an area designated on the site plan for the sewage disposal system and expansion thereof. Under no circumstances shall any permanent structures above or below ground, be permitted within this area. Also, no underground electric lines, water pipes, gas lines, etc., shall be permitted in the septic reserve area.

The following are comments that concern persons developing property:

- Where water wells are to be used as a source of water supply, the Baltimore County Code, (Title 35, Article 2, Sec. 35-41), requires that a well meeting the minimum recovery rate of one gallon per minute be drilled prior to issuance of a building permit.

PETITIONER'S EXHIBIT 7

Mr. Timothy C. Browne

April 24, 2008

Page 2

- Water well yield test reports shall be valid for a period of three years from the date of the yield test. At the expiration of that period of time, a retest must be performed and the report submitted to this office prior to issuance of a building permit.
- In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County.
PLEASE NOTE: For subdivisions of 11 or more lots a Water Appropriation Permit application must be submitted for review. This permit must then be issued by the Maryland Department of the Environment, Water Management Administration before final approval of the subdivision. Questions regarding the subdivision process should be directed to the Development Coordination Section at 410-887-5859.

Attached is a copy of the original soil evaluation data for the above-referenced lots.

If you have any questions regarding this matter, please contact this office at 410-887-2762 between 8:30 - 9:30 a.m.

Sincerely,



J. Robert Powell, R.S.
Soil Evaluation Program

attachments

Case No.: 2009-0035-SPH 2205 TUFTON RIDGE RD

Exhibit Sheet

Petitioner/Developer

Protestant

No.	Petitioner/Developer	Protestant
No. 1	Plan that accompanied Original Petition	Letters of Oppositor and E-mail
No. 2 2A	Revised Plan Current zoning classification	FILM SHOWN
No. 3 7/14/77	Original Subdivision Plat - Record Plat	
No. 4 2/7/74 1977	FDP - Plat Section 2 Tufton Farms	
No. 5	Aerial 8" x 11" Lot 26	
No. 6	Forest Buffer Plan (Appropriation Plan)	
No. 7	Peric test - 2/08 3/08 NEW LOT PASSED	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Colorized

Start Page Mail Calendar Documents

jcholzer@c



Search Mail

Show search options
Create a filter

Compose Mail

42 Acre Sale in West VA - 42acresfor999.com/Land_Sale_West_VA - \$89,900. Excellent Financing! Mountain View Property Bargains

« Back to Inbox Archive Report spam Delete Move to Labels More actions

Inbox (1)

Starred

Fwd: Tufton Farms - Hutson hearing Inbox X

alicevpc@comcast.net (Alice Noplos) to me, moorevpc

[show details](#) 10:33 AM (19 minutes ago) Rej

Chats

Dear Commissioner Wiseman,

Sent Mail

Drafts

I was planning to testify at the hearing this afternoon on the Hutson case (2 p.m.). I have unfortunately come down with a stomach bug and do not expect to make an appearance. I'm hoping you can accept my testimony on behalf of the VPC via this email.

All Mail

Spam

The VPC has been, and remains, opposed to the request to amend the final development plan for the Tufton Farms II subdivision. I believe that breaking the existing lots into smaller lots is inconsistent with the original spirit and intent of the FDP. The subdivision is unusual in that it has very large lots (average size about 7 acres) and it is covered with mature trees. In addition, there are steep slopes and streams present.

Trash

Contacts

In 2004, the county included this area in an issue that would have changed the zoning to RC6 on this and a very large surrounding area. That issue did not pass. However, in the 2008 CZMP, the VPC filed issues to place conservation zoning on the walls of the Greenspring and Worthington valleys. The Tufton Farms area is the wall of the Worthington Valley. Both these issues were unanimously passed by the County Council.

J Carroll Holzer

Search, add, or invite

Labels

Read e-mails

Edit labels

We believe the change in zoning supports our case that the subdivision remain as is, with large wooded lots, and therefore urge you deny the amendment request. The lot in question would only be about 1.5 acres in size, far smaller than other lots in the development. And allowing this amendment would set the stage for other properties to seek resubdivision, while denying it would send a signal that this area is viewed as unique and ecologically important -- as evidenced by the recent zoning change.

I'm sorry to miss the hearing but look forward to reading your decision when it is out.

Thanks very much,

Teresa Moore

Valleys Planning Council

Reply Reply to all Forward

« Back to inbox Archive Report spam Delete Move to Labels More actions

PROTESTANT'S

EXHIBIT NO. 1

John Sophocles
2226 Tufton Ridge Road
Reisterstown, Maryland 21136
410-771-9468
j.sophocles@gmail.com
February 12, 2009

2/13 2PM
2009-6035
SPH

Mr. William Wiseman
Baltimore County Zoning Commissioner
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

FEB 12 2009

HAND DELIVERED

Re: Tufton Farms Community
Hutson Hearing - Request to Subdivide
Hearing Date, February 13, 2009

ZONING COMMISSIONER

Dear Commissioner Wiseman,

As a property owner since 1988 in the above referenced subdivision, I am writing to you to express my objection to The Baltimore County Zoning Office granting rights to subdivide existing lots to the above referenced petitioner or any other future petitioners in our community. As you know, the Tufton Ridge area was unanimously approved by The Baltimore County Council for downzoning from RC5 to RC6 during the 2008 CZMP.

The issues were debated by both sides in many different forums and experts including environmentalists shared their views as well as property owners on both sides of the issue.

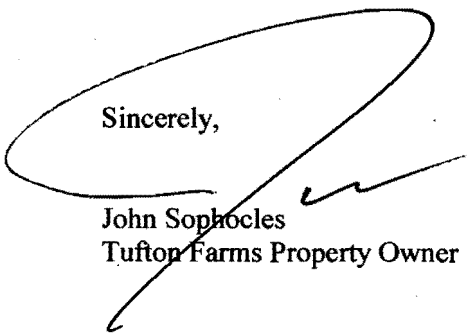
Over 80% of the property owners in the Tufton Farms Community signed a petition against the subdivision of existing lots in our community and ultimately The Baltimore County Council voted in our favor to downzone to RC6. That should have been the end of this matter.

The average lot size in our community, which is heavily forested and reflecting the original intent of the developer and planner is 6.5 acres. The petitioner for the Hutson Property wants to create a 1.3 acre lot which is not in keeping with the original intent and the scenic beauty and resources of the community. Any amendment to the Final Development Plan would undermine the recent zoning decision, go against the will of the vast majority of property owners and would compromise the overall environmental ecosystem presently preserved in our area bordering the southern wall of Worthington Valley.

My wife and I purchased our property over 21 years ago and paid a significant premium in order to enjoy both the privacy and beauty as well as the long term investment benefit of owning in such a unique community.

Please seriously consider this request to deny any amendment to The Final Development Plan and help us keep our neighborhood as we know it.

Sincerely,


John Sophocles
Tufton Farms Property Owner

BW 2113
2009-0035-SPH

2314 Tufton Ridge Rd
Glyndon, MD 21071
February 10, 2009

Mr William Wiseman
Baltimore County Zoning Commission
105 W. Chesapeake Ave
Towson, MD 21204

RECEIVED
FEB 12 2009

ZONING COMMISSIONER

Re Hearing February 13, 2009
Hutson Property, 2205
Tufton Ridge Rd, Request to
Subdivide (Tufton Farms)

Dear Mr Wiseman

We strongly urge your denial of the captioned request to subdivide and amend the final Development Plan for Tufton Farms. We feel any such subdivision violates the spirit and intent of the original plan for Tufton Farms, a unique subdivision. This ^{recommended} position would be in keeping with the well documented position of the vast majority of Tufton Farms residents as well as in conformance with the recent down zoning to R6, approved by Councilman Komenetz and the Baltimore County Council.

Thank you for your consideration of our position.

Sincerely,
Richard F. Yeazel
Frances M. Yeazel

MICHAEL J. O'MALLEY

2/13 2PM
2009-0035-
SPH

Home:
2322 Tufton Ridge Road
Glyndon, Maryland 21071

Office:
4242 North Point Road
Baltimore, Maryland 21222

RECEIVED

FEB 12 2009

ZONING COMMISSIONER

February 11, 2009

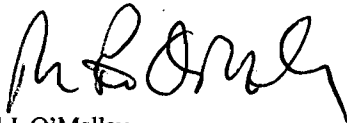
Mr. William Wiseman
Baltimore County Zoning Commissioner
105 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Wiseman:

I have lived in Tufton Farms for almost twenty-five years. I bought my property because of the uniqueness of the neighborhood. The large lots offer natural beauty and a sense of privacy. Any subdivision of the existing lots will be a detriment to our community.

Therefore I oppose the Husdon Subdivision and any other subdivision of existing lots in Tufton Farms. I am certain that no one person bought a lot here to subdivide ten – twenty years later.

Sincerely,



Michael J. O'Malley

Thank you,

FILM TAKEN
OF TUFTON RIDGE
ROAD

PROTESTANT'S

EXHIBIT NO. 2

PETITIONERS

EXHIBITS

③

verified
7/29/09 tbs

verified 12/2/09
tbs

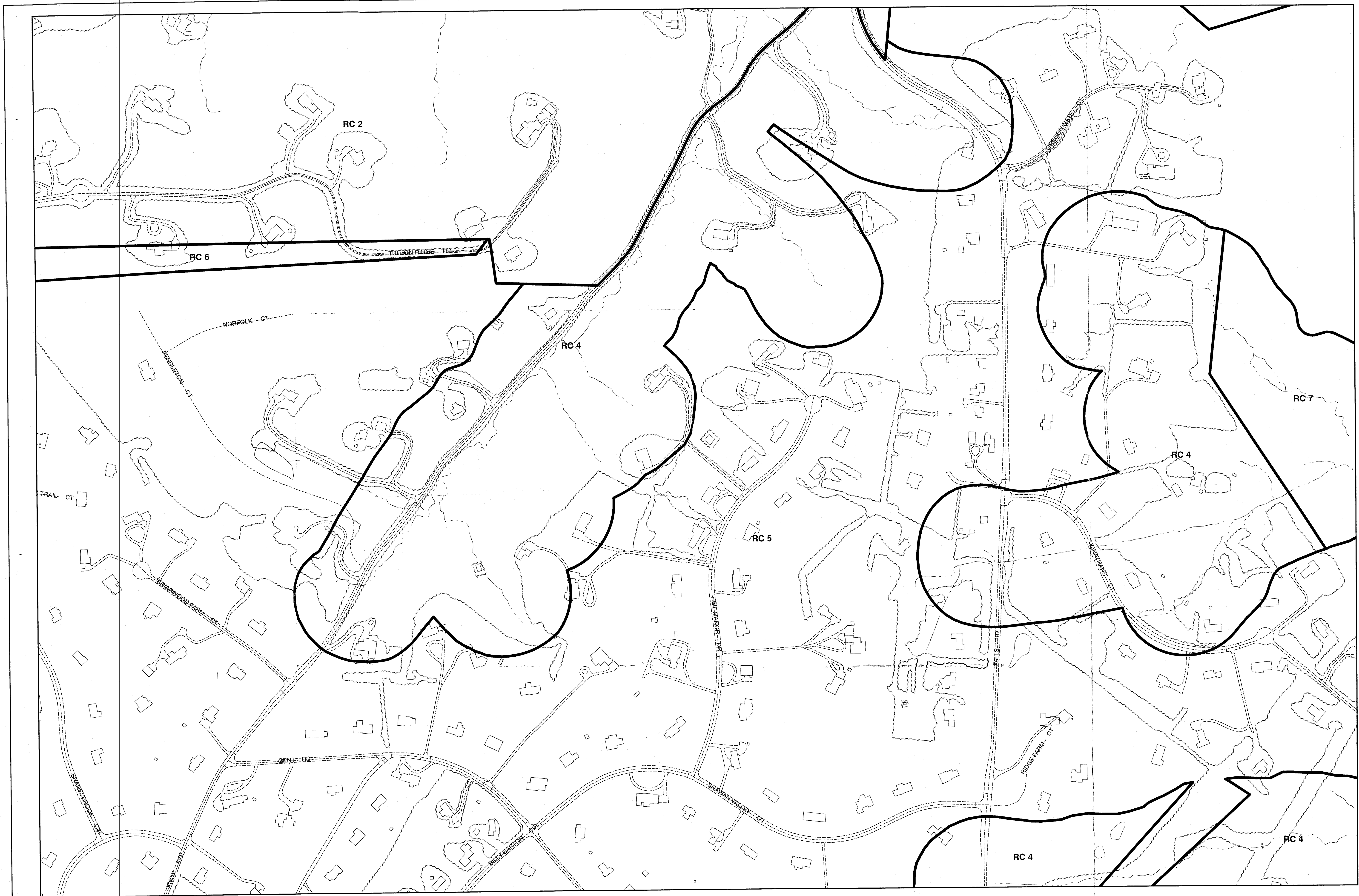
Petitioners Exhibit

LARGE BOARD EXHIBITS (2)

- ✓ 1. County Aerial Map with added overlays
- ✓ 2. Site plan
- ✓ 3. Final Development Plan
- ✓ 4. Plat 7-14-1977
- ✓ 5. Zoning Map 1976
- ✓ 6 a+b Zoning Maps (2008)
- ✓ 7. covenants declaration of restrictions
- ✓ 8. Deed
- ✓ 9. Deed
- ✓ 10. Forest Conservation Plan I.D. only
- ✓ 11. PERC Test Plan I.D. Only
- ✓ 12. Bill No. 24-08
- ✓ 13. Zoning Commissioners' order (need copy)

ⓐ





Plan Sheet: 041B3

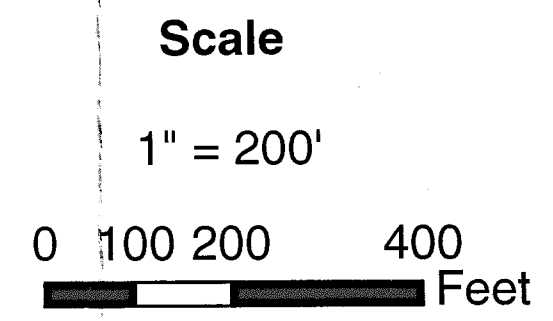
Note:
The zoning depicted in this application incorporates the actions associated with 2008 Comprehensive Zoning Map Process, zoning changes associated with an adopted Community Plan and Baltimore County Board of Appeals actions through December 31, 2008.

Legend

- Buildings
- Streams
- Vegetation
- Zoning
- Roads
- Rail Lines

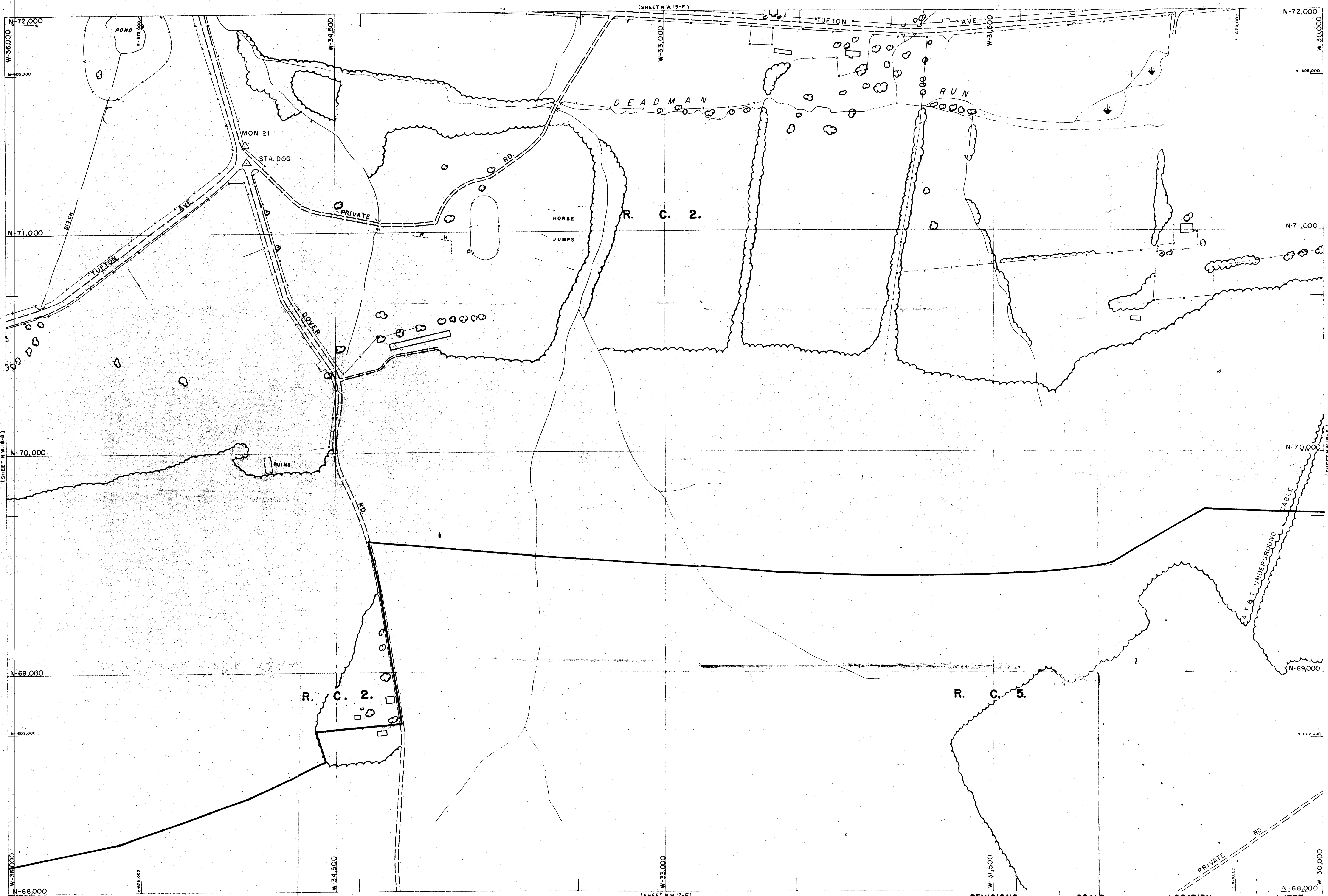
**Baltimore County
Office of Planning and Zoning
Official Zoning Map**

040C2	041A2	041B2	041C2	042A2
040C3	041A3	041B3	041C3	042A3
049C1	050A1	050B1	050C1	051A1



Data Sources:
Planimetric Data - Baltimore County
CIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2008

APPELLANT'S EXHIBIT *lea*



W - SE
W - NE

1976 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT. 7, 1976 & OCT. 8, 1976
BILL NOS. 108-76, 109-76, 110-76, 111-76,
112-76, 113-76, and 114-76
CHAIRMAN COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP

REVISIONS		SCALE
BY	DATE	1" = 200'
		DATE OF PHOTOGRAPHY
Compiled By Photogrammetric Methods MAPS, INCORPORATED - BALTIMORE 22, MARYLAND		

LOCATION
SOUTH OF
BIG SPRING
N.W.
18-F

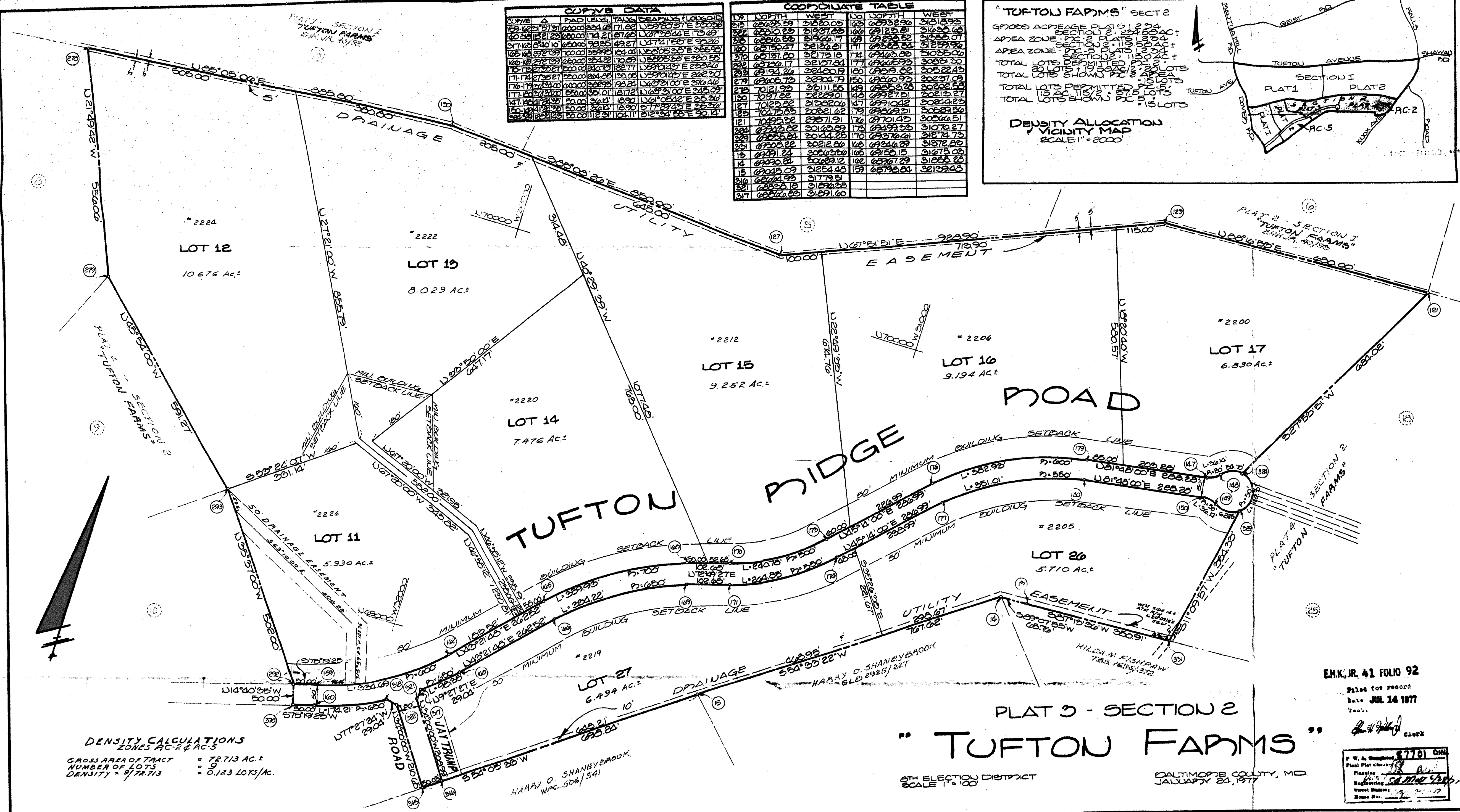
1976-RC5

APPELLANT'S EXHIBIT 5

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62	100.00 100.00
63	100.00 100.00
64	100.00 100.00
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92	100.00 100.00
93	100.00 100.00
94	100.00 100.00
95	100.00 100.00
96	100.00 100.00
97	100.00 100.00
98	100.00 100.00
99	100.00 100.00
100	100.00 100.00

"TUFTON FARMS" SECT 2
 GROSS ACRESAGE PLAT 1 2.24
 SECTION 2, 2.24 ACRES
 AREA ZONE - D-2 1.12 ACRES
 SECTION 2, 1.12 ACRES
 AREA ZONE - D-2 1.12 ACRES
 SECTION 2, 1.12 ACRES
 TOTAL LOTS PERMITTED 15 LOTS
 TOTAL LOTS SHOWN 15 LOTS
 TOTAL LOTS PERMITTED 15 LOTS
 TOTAL LOTS SHOWN 15 LOTS
 DENSITY ALLOCATION
 VICINITY MAP
 SCALE 1" = 2000'



DENSITY CALCULATIONS
 ZONES AC-2 & AC-5
 GROSS AREA OF TRACT = 72.713 AC.
 NUMBER OF LOTS = 9
 DENSITY = 8.078 LOTS/AC.

PLAT 3 - SECTION 2
 "TUFTON FARMS"
 6TH ELECTION DISTRICT
 SCALE 1" = 100'
 BALTIMORE COUNTY, MD
 JANUARY 24, 1977

EMK, JR. 41 FOLIO 92
 Filed for record
 Date JUL 14 1977
 Book 117
 Page 117
 F. W. & Associates, 7701 ORA
 Planning
 Surveying
 80 COURTLAND AVE.
 TOWSON, MD 21284

DEAD MAN WATERPISHED
 HIGHWAY'S DEPARTMENT OF BALTIMORE CO
 APPROVED FOR STREET ALIGNMENT LOCATION
 ROAD ENGINEER
 DATE
 APPROVED FOR BALTO CO HEALTH DEPT
 DEPUTY STATE HEALTH OFFICER
 DATE
 APPROVED FOR BALTO CO PLANNING BOARD
 DIRECTOR
 DATE

NOTES:
 COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE THE RESULT OF A CALCULATED METRIC-TANGENTIAL DISTRICT COORDINATE SYSTEM (X-Y-Z) SYSTEM.
 STREETS ALIGNED ON THIS PLAT WERE OPENED AND METRICATED TO THE SAME AREA LOT INTERLUM TO BE DESIGNATED TO PUBLIC USE. THIS SEE SURVEYOR TO BE DESIGNATED TO PUBLIC USE IS EXPRESSLY RESERVED IN THE SURVEYOR'S CERTIFICATE TO WHICH THIS PLAT IS ATTACHED. THEIR HEAVENS AND OCEANS.
 CONVEYABLE LOTS PERUSE COLLECTION SHOW PERVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JOINTION OF THE CALICULATED AND THE STREETS TO BE METRICATED ONLY, AND LOT OUTSIDE THE CONVEYABLE LOT CONVEYWAY.

OWNER'S CERTIFICATE:
 THE REQUIREMENTS OF SECTION 29 TO BE APPLICABLE TO THE CALICULATED COORDINATE SYSTEM OF THIS PLAT HAVE BEEN COMPLIED WITH.
 GAYLORD BROOKS INVESTMENT CO.
 Richard A. Moore Pres 5-24-77
 OWNER

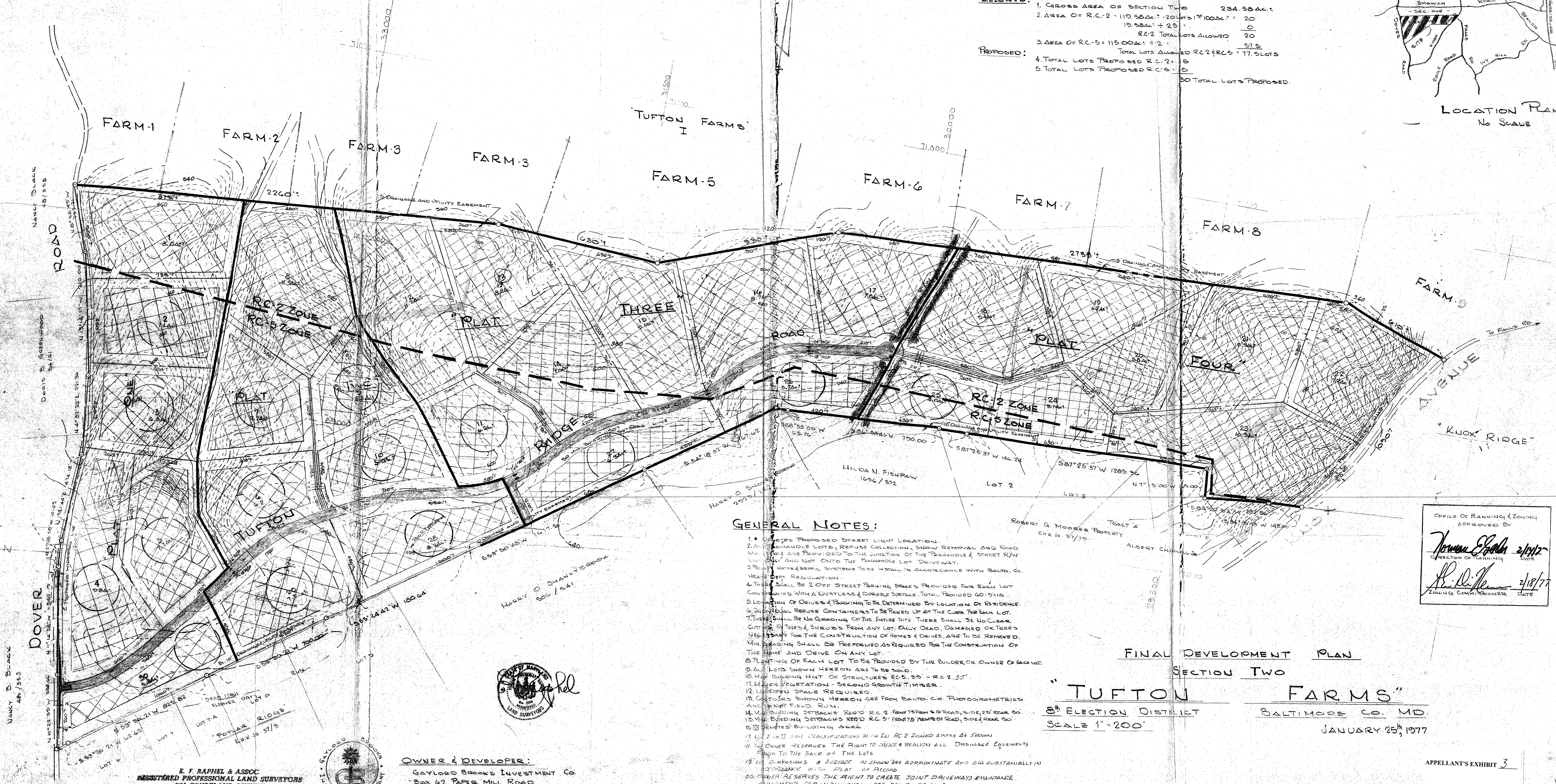
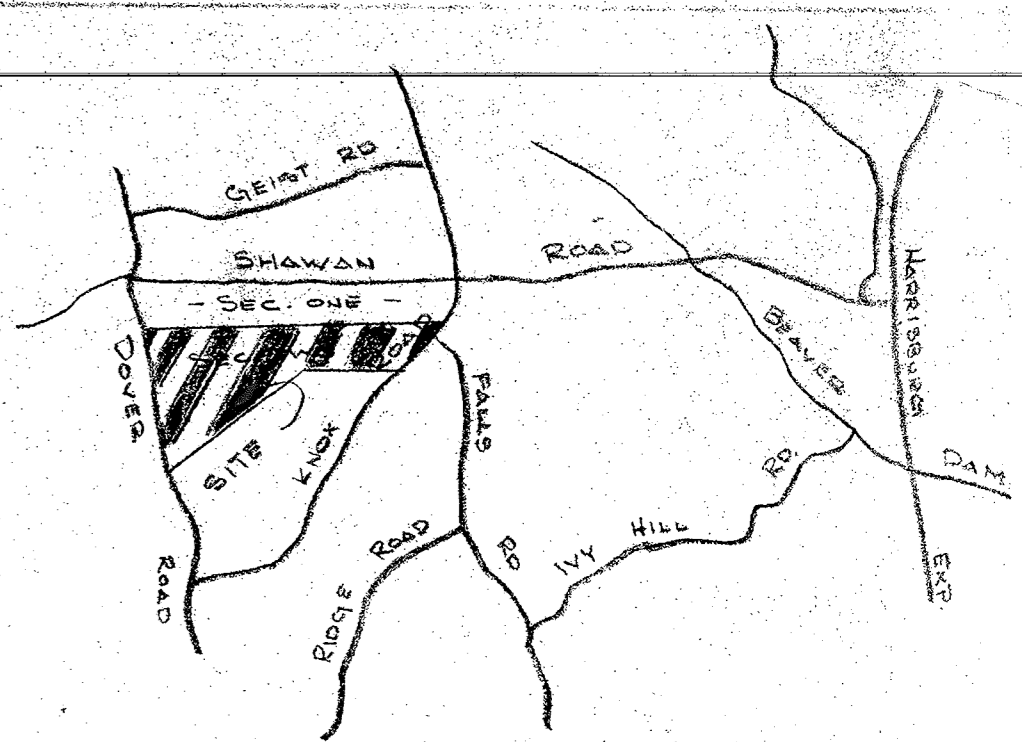
SURVEYOR'S CERTIFICATE:
 I, F. W. & ASSOCIATES, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND DO HEREBY CERTIFY THAT THE LOTS SHOWN HEREON HAVE BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO THE SURVEYING OF LAND SHOWING HOUSE PLOTS AND CONVEYABLE LOTS AND THE SURVEYOR'S CERTIFICATE ACTING AS A HOUSE PLOT SURVEYOR IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO THE SURVEYING OF LAND SHOWING HOUSE PLOTS AND CONVEYABLE LOTS AND THE SURVEYOR'S CERTIFICATE ACTING AS A HOUSE PLOT SURVEYOR.
 F. W. & Associates
 5-17-77
 DATE

F. W. & ASSOCIATES
 REGISTERED PROFESSIONAL LAND SURVEYORS
 80 COURTLAND AVE.
 TOWSON, MD 21284

1376
 MSA 55-4-1236-801341-92

DWELLING UNIT CALCULATION

ALLOWED:	1. GROSS AREA OF SECTION TWO	234.58 AC.
	2. AREA OF R.C.-2 - 110.58 AC. ÷ 20 LOTS 1700 AC.	5.5
	19.58 AC. ÷ 25	0.78
	RC-2 TOTAL LOTS ALLOWED	6.23
	3. AREA OF R.C.-5 - 115.00 AC. ÷ 2	57.5
	TOTAL LOTS ALLOWED RC-2 & RC-5	63.73
PROPOSED:	4. TOTAL LOTS PROPOSED RC-2	15
	5. TOTAL LOTS PROPOSED RC-5	17
	TOTAL LOTS PROPOSED	32



GENERAL NOTES:

1. LOCATES PROPOSED STREET LIGHT LOCATION.
2. ALL HANDLE LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE SHALL BE PROVIDED TO THE JUNCTION OF THE PARALLEL & STREET R/W LINE ONLY AND NOT ON TO THE PARALLEL LOT DRIVEWAY.
3. ALL WATER & SEWER SYSTEMS TO BE INSTALLED IN ACCORDANCE WITH BALTO. CO. HEALTH DEPT. REGULATION.
4. THERE SHALL BE 2 OFF STREET PARKING SPACES PROVIDED FOR EACH LOT CONFORMING WITH A DUSTLESS & DRAINAGE SURFACE. TOTAL PROVIDED 40-DNBS.
5. LOCATION OF DRIVES & PARKING TO BE DETERMINED BY LOCATION OF RESIDENCE.
6. ALL WASTE REFUSE CONTAINERS TO BE KEPT UP AT THE CURB FOR EACH LOT.
7. THERE SHALL BE NO GRADING OF THE ENTIRE SITE. THERE SHALL BE NO CLEAR CUTTING OF TREES & SHRUBS FROM ANY LOT. ONLY DEAD, DAMAGED OR TREE'S USELESS FOR THE CONSTRUCTION OF HOMES & DRIVES, ARE TO BE REMOVED. MIN. GRADING SHALL BE PERFORMED AS REQUIRED FOR THE CONSTRUCTION OF THE HOME AND DRIVE ON ANY LOT.
8. PLANTING OF EACH LOT TO BE PROVIDED BY THE BUILDER OR OWNER OF EACH LOT.
9. ALL LOTS SHOWN HEREON ARE TO BE SOLD.
10. MAX. BUILDING HGT. OF STRUCTURES RC-5, 35' - RC-2, 35'.
11. MAJOR VEGETATION - SECOND GROWTH TIMBER.
12. UNOCCUPIED SPACE REQUIRED.
13. CONDITIONS SHOWN HEREON ARE FROM BALTO. CO. PHOTOGRAMMETRIC AND AERIAL FIELD SURVY.
14. MIN. BUILDING SETBACKS RC-2: 5' FRONT, 5' FROM 4' OF ROAD, 5' SIDE, 25' REAR, 50' MIN. BUILDING SETBACKS RC-5: 5' FRONT, 5' FROM 4' OF ROAD, 5' SIDE & REAR, 50' MIN. BUILDING SETBACKS.
15. MIN. BUILDING SETBACKS RC-5: 5' FRONT, 5' FROM 4' OF ROAD, 5' SIDE & REAR, 50' MIN. BUILDING SETBACKS.
16. UNOCCUPIED SPACE REQUIRED.
17. ALL LOTS II SOIL CLASSIFICATIONS WITH IN RC-2 ZONED AREAS AS SHOWN.
18. OWNER RESERVES THE RIGHT TO CREATE & REALIGN ALL DRAINAGE EASEMENTS PRIOR TO THE SALE OF THE LOTS.
19. ALL DIMENSIONS & AREAS AS SHOWN ARE APPROXIMATE AND ARE SUBSTANTIALLY IN ACCORDANCE WITH PLOT OF RECORD.
20. OWNER RESERVES THE RIGHT TO CREATE JOINT DRIVEWAYS, MAINTENANCE AGREEMENTS FOR INDIVIDUAL LOTS, PRIOR TO SALE.

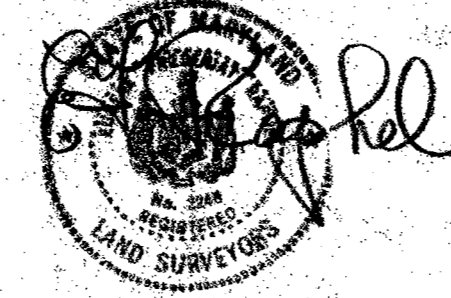
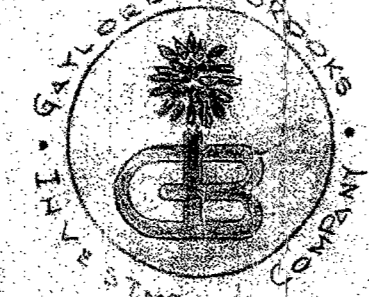
FINAL DEVELOPMENT PLAN
SECTION TWO

"TUFTON FARMS"
8th ELECTION DISTRICT BALTIMORE CO. MD.
SCALE 1"=200'
JANUARY 25th, 1977

OFFICE OF PLANNING & ZONING
APPROVED BY
Norman E. Gahn 2/18/77
SECTION OF PLANNING
Robert G. Moore 2/18/77
ZONING COMMISSIONER DATE

OWNER & DEVELOPER:
GAYLORD BROOKS INVESTMENT CO.
Box 62 PAPER MILL ROAD
PHOENIX MARYLAND, 21131

F. F. RAPHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COURTLAND AVENUE
TOWSON, MARYLAND 21284



ENVIRONMENTAL NOTES:

- 1) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT OR HAZARDOUS MATERIALS ON SITE.
- 2) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO UNDERGROUND STORAGE TANKS ON SITE.
- 3) THERE ARE NO STREAMS OR WETLANDS ON SITE.

STANDARD EASEMENT NOTES

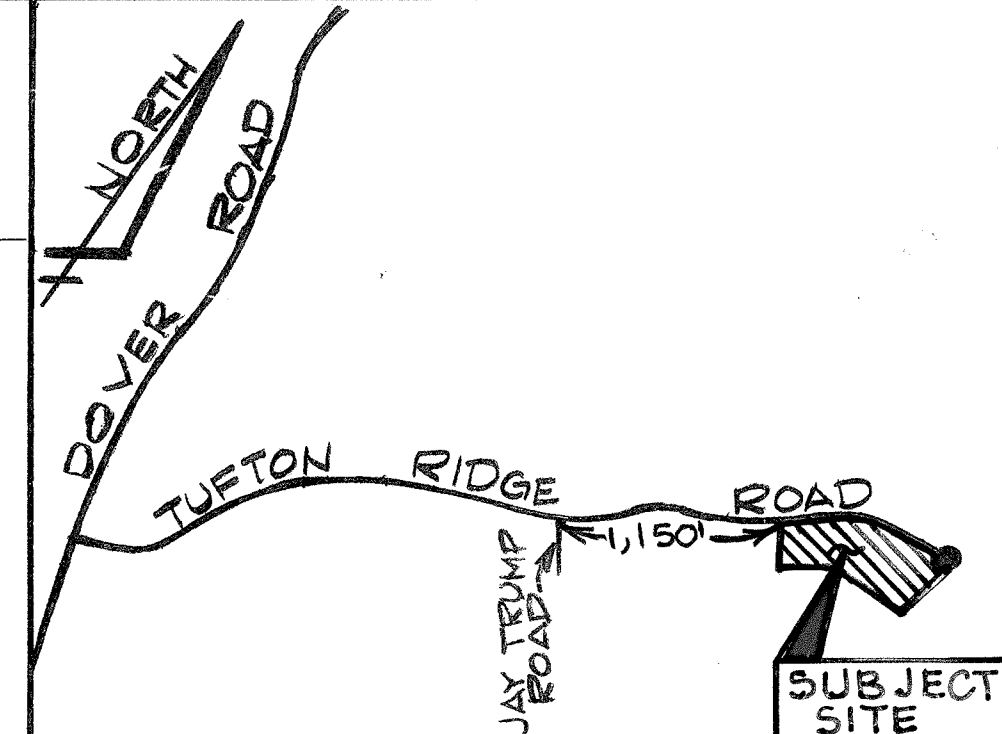
Standard Nondisturbance Note:
There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Protective Covenants Note:
Any Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.

DENSITY TABULATION

RC-2	BETWEEN 2 & 100 AC	= 2
RC-6		= 0
+ 0.2 X 2.925 AC = 0.59		= 0
TOTAL ALLOWED		= 2
TOTAL PROPOSED		= 2

STEPHEN M. GOEN
#2108 TUFTON RIDGE RD.
18-00-062323



VICINITY MAP
SCALE: 1"=1,000'

GENERAL NOTES:

- 1) AREA OF TRACT:
NET = 5.710 AC.
GROSS = 6.271 AC.
- 2) ZONING CLASSIFICATION: RC-2 & RC-6 (REFERENCE MAP 041 A3 & 041 B3)
(RC-2 = 3.346 AC, RC-6 = 2.925 AC TOTAL = 6.271 AC)
- 3) DENSITY CALCULATIONS:
ALLOWED = 2 (SEE SEPARATE TABULATION)
PROPOSED = 2
- 4) OWNER INFORMATION:
NAME: THOMAS H. & CYNTHIA G. HUTSON
ADDRESS: 2205 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136
PHONE NUMBER: 410-785-1117
- 5) PROPERTY INFORMATION:
TAX ACCOUNT NUMBER: 17-00-013707
DEED REFERENCE: GG21/601
PLAT REFERENCE: 41/92
- 6) LOCATION INFORMATION:
TAX MAP: 41
GRID: 20
PARCEL: 133
GEN. TRACT: 408301
SUB-SEVERSHED: NONE
REGIONAL PLANNING DISTRICT: 307
ELECTION DISTRICT: 8TH
SCHOOL DISTRICT: FRANKLIN ELEM.
KEY SHEET: W-SE
POSITION SHEET: G9/W22
WATERSHED: LOCH RAVEN
A. D. C. MAP: 17 E A
- 7) USE OF SITE:
EXISTING: RESIDENTIAL
PROPOSED: RESIDENTIAL
- 8) WATER AND SEWER:
WATER DESIGNATION: W-7
SEWER DESIGNATION: S-7
- 9) THIS PROPERTY AS SHOWN ON THIS PLAN HAS BEEN HELD INTACT SINCE JUL. 14, 1977. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT OFF-SITE DWELLINGS.
- 10) EXISTING GROUND COVER: WOODS, LAWN & IMPERVIOUS (DRIVEWAY AND HOUSE).
- 11) MAXIMUM BUILDING HEIGHT = 35' (FOR PRINCIPAL STRUCTURE).
- 12) THIS SITE IS NOT LOCATED IN ANY DEFICIENT AREA ON THE BASIC SERVICES MAP.
- 13) TO THE BEST OF OUR KNOWLEDGE, THIS IS NOT IN A HISTORIC DISTRICT OR SITE.
- 14) THE DEVELOPER MUST PROVIDE THE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGE TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEM WHICH MAY RESULT DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
- 15) THIS SITE IS NOT AFFECTED BY A 100 YEAR FLOODPLAIN.
- 16) THE AREAS BETWEEN THE SIGHT LINES AND THE CURB LINE MUST BE CLEARED, GRADED AND KEPT FREE OF OBSTRUCTIONS.
- 17) ZONING HISTORY: DRC NO. 080408C (ALLOWED LIMITED EXEMPTION UNDER SECT. 32-4-10G (b)(5), 8/15/08.)

NOTE: THERE SHALL BE NO DISTURBANCE OR DEVELOPMENT IN THE FOREST CONSERVATION PORTION OF THE SUBJECT SITE.

NOTE: ALL EXISTING RIGHTS-OF-WAY AND EASEMENTS HAVE BEEN RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY. EXISTING DRAINAGE: RW-78-213, UTILITY EASEMENTS: 8998/319, EXISTING RIGHTS-OF-WAY: RW-79-097, 6028/164

FOREST CONSERVATION EASEMENTS AREAS

ESMT. NO.	LOT NO.	SQUARE FEET	ACRES
1	26A	22,924	0.526
2	26B	45,683	1.049
3	26B	62,679	1.439
TOTAL		131,286	3.014

LEGEND

- FC — FOREST CONSERVATIONS EASEMENT
- RC2 / RC6 — ZONING LINE
- — — — — PROPERTY LINE
- MBSL — MINIMUM BUILDING SETBACK LINE (PRINCIPAL STRUCT.)
- CcB2 (HSG.#B) / MBD2 (HSG.#B) — SOILS LINE
- ↑ W — FRONT ORIENTATION
- — PROPOSED WELL AREA
- — PERC TEST (PASSED)
- LOD — LIMIT OF DISTURBANCE

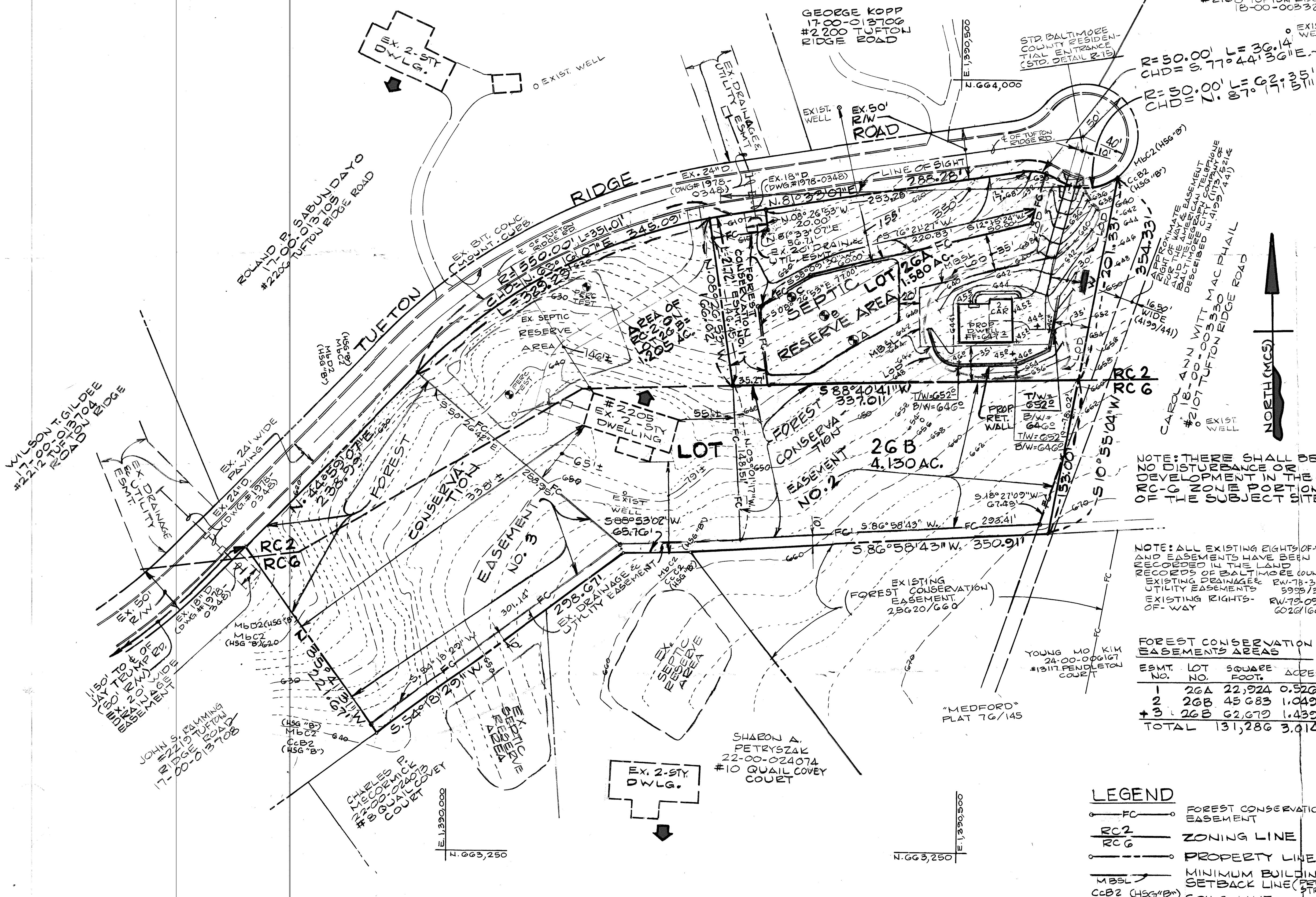
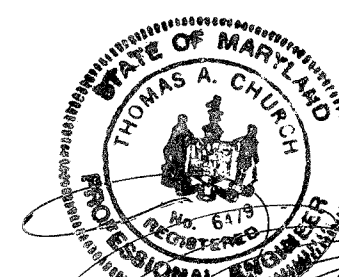
AREA OF DISTURBANCE
18,100 S.F. = 0.42 AC

Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 6479, Expiration Date: 08/05/2009.

I hereby certify that I have reviewed with due diligence the Minor Subdivision comments dated and have prepared with due diligence this Minor Subdivision Plan pursuant to those comments.

CERTIFICATION STAMP

BALTIMORE COUNTY MINOR SUBDIVISION
PROJECT NO.: 08056M
DEVELOPMENT REGULATIONS
Exempt from Article 32, Title 4, Subtitle 2, BCC
Panhandle exempt from Sections 32-4-211 through 32-4-217 AND Sections 32-4-226 and 32-4-227, BCC
PDM CERTIFICATION
Approved _____ Disapproved _____
By: _____ Date: _____
APPROVED DEPRM
By: _____ Date: _____



NOTE: THIS PLAN IS BASED ON THE MARYLAND COORDINATE SYSTEM (NAD 83/91, NAVD 88)

DEVELOPERS
THOMAS H. & CYNTHIA G. HUTSON
2205 TUFTON RIDGE ROAD
REISTERSTOWN, MD, 21136
410-785-1117

MINOR SUBDIVISION PLAN FOR
HUTSON PROPERTY - 2205 TUFTON RIDGE RD
ELECTION DISTRICT 8 BALTIMORE COUNTY, MARYLAND
COUNCILMANIC DISTRICT 2

MINOR SUBDIVISION NUMBER
08056M
SHEET 1 OF 1
DATE 02-25-08
REVISED 02-21-08
SCALE 1"=50'
CONTRACT NUMBER 08-103

DATE	REVISIONS
10/21/08	REVISE LOT 26A, LIMIT NEW DEVELOPMENT TO RC-2 ZONED AREA.
9/3/08	REVISE RC-5 TO RC-6
7/3/08	ADD FOREST CONSERVATION ESMTS. PER HUMAN & ZONING REPORT, DATE 6/27/08.
5/8/08	ADD PROP. GRADES AND LOD, AND PERC TEST PER WELL AREA TO RC-2 ZONED PER ZONING REPORT.
3/12/08	REV. PER & W.M. COMMENTS PER PERC TESTS

DEVELOPMENT ENGINEERING CONSULTANTS, INC.
SITE ENGINEERS & SURVEYORS
6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

ENVIRONMENTAL NOTES:

- 1) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT OR HAZARDOUS MATERIALS ON SITE.
- 2) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO UNDERGROUND STORAGE TANKS ON SITE.
- 3) THERE ARE NO STREAMS OR WETLANDS ON SITE.

STANDARD EASEMENT NOTES

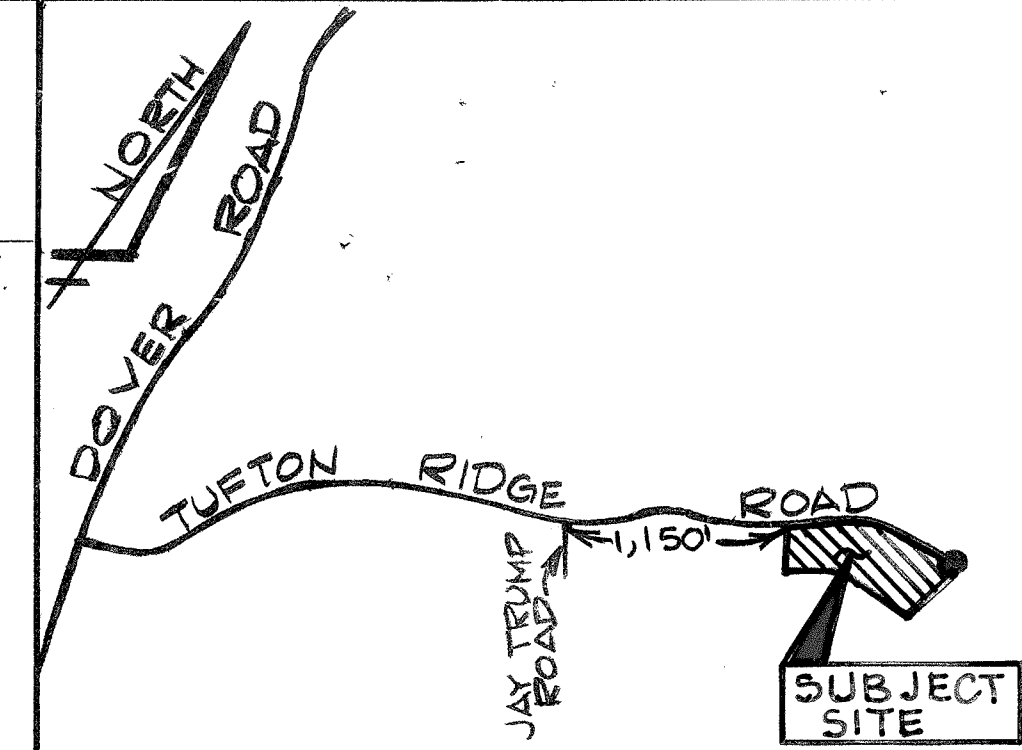
Standard Nondisturbance Note:
 "There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management."

Protective Covenants Note:
 "Any Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas."

DENSITY TABULATION

RC-2	BETWEEN 2 & 100 AC	= 2
RC-6		= 0
+ 0.2 X 2.925 AC = 0.59		= 0
TOTAL ALLOWED		= 2
TOTAL PROPOSED		= 2

STEPHEN M. GOEN
 #2108 TUFTON RIDGE RD.
 18-00-003323



VICINITY MAP
 SCALE: 1" = 1,000'

GENERAL NOTES:

- 1) AREA OF TRACT:
 NET = 5.710 AC.
 GROSS = 6.271 AC.
- 2) ZONING CLASSIFICATION: RC-2 & RC-6 (REFERENCE MAP 041 A3 & 041 B3)
 (RC-2 = 3.346 AC, RC-6 = 2.925 AC TOTAL = 6.271 AC)
- 3) DENSITY CALCULATIONS (GROSS):
 ALLOWED = 2 (SEE SEPARATE TABULATION)
 PROPOSED = 2
- 4) OWNER INFORMATION:
 NAME: THOMAS H. & CYNTHIA G. HUTSON
 ADDRESS: 2205 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136
 PHONE NUMBER: 410-785-1117
- 5) PROPERTY INFORMATION:
 TAX ACCOUNT NUMBER: 17-00-013707
 DEED REFERENCE: 6621/601
 PLAT REFERENCE: 41/92
- 6) LOCATION INFORMATION:
 TAX MAP: 41
 CENS. TRACT: 408301
 REGIONAL PLANNING DISTRICT: 307
 SCHOOL DISTRICT: FRANKLIN ELEM.
 KEY SHEET: W-SE
 WATERSHED: LOCH RAVEN
- 7) USE OF SITE:
 EXISTING: RESIDENTIAL
 PROPOSED: RESIDENTIAL
- 8) WATER AND SEWER:
 WATER DESIGNATION: W-7
 SEWER DESIGNATION: S-7
- 9) THIS PROPERTY AS SHOWN ON THIS PLAN HAS BEEN HELD INTACT SINCE JUL. 14, 1977. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT OFF-SITE DWELLINGS.
- 10) EXISTING GROUND COVER: WOODS, LAWN & IMPERVIOUS (DRIVEWAY AND HOUSE).
- 11) MAXIMUM BUILDING HEIGHT = 35' (FOR PRINCIPAL STRUCTURE).
- 12) THIS SITE IS NOT LOCATED IN ANY DEFICIENT AREA ON THE BASIC SERVICES MAP.
- 13) TO THE BEST OF OUR KNOWLEDGE, THIS IS NOT IN A HISTORIC DISTRICT OR SITE.
- 14) THE DEVELOPER MUST PROVIDE THE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGE TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEM WHICH MAY RESULT DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
- 15) THIS SITE IS NOT AFFECTED BY A 100 YEAR FLOODPLAIN.
- 16) THE AREAS BETWEEN THE SIGHT LINES AND THE CURB LINE MUST BE CLEARED, GRADED AND KEPT FREE OF OBSTRUCTIONS.
- 17) ZONING HISTORY: DEC. NO. 080408C (ALLOWED LIMITED EXEMPTION UNDER SECT. 32-4-106 (b)(5), 8/15/08.)

1.580 Ac RC-2
 1.205 Ac RC-2
 2.785 Ac, RC-2 (Net)

NOTE: THERE SHALL BE NO DISTURBANCE OR DEVELOPMENT IN THE RC-6 ZONED PORTION OF THE SUBJECT SITE.

NOTE: ALL EXISTING RIGHTS-OF-WAY AND EASEMENTS HAVE BEEN RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY. EXISTING DRAINAGE: E-W-78-313, UTILITY EASEMENTS: 9995/319. EXISTING RIGHTS-OF-WAY: R-W-79-097, 6026/164.

FOREST CONSERVATION EASEMENTS AREAS

ESMT. NO.	LOT NO.	SQUARE FEET	ACRES
1	26A	22,924	0.526
2	26B	45,683	1.049
3	26B	62,679	1.439
TOTAL			131,286 3.014

LEGEND

- FC FOREST CONSERVATIONS EASEMENT
- RC2 ZONING LINE
- RC6 ZONING LINE
- PROPERTY LINE
- MBSL MINIMUM BUILDING SETBACK LINE (PRINCIPAL STRUCTURE)
- CcB2 (H5G "B") SOILS LINE
- MDD2 (H5G "B") SOILS LINE
- FRONT ORIENTATION ARROW
- PROPOSED WELL AREA
- PERC TEST (PASSED)
- LIMIT OF DISTURBANCE

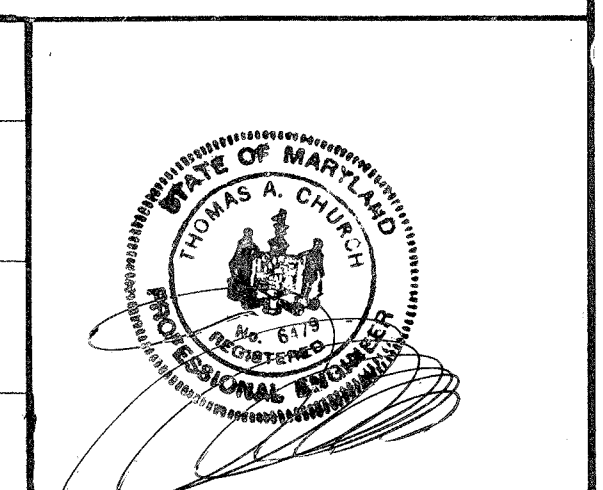
AREA OF DISTURBANCE
 18,100 SF. = 0.42 AC

Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 6479, Expiration Date: 08/05/2009.

I hereby certify that I have reviewed with due diligence the Minor Subdivision comments dated and have prepared with due diligence this Minor Subdivision Plan pursuant to those comments.

CERTIFICATION STAMP

BALTIMORE COUNTY MINOR SUBDIVISION
 PROJECT NO: 08056M
 DEVELOPMENT REGULATIONS
 Exempt from Article 32, Title 4, Subtitle 2, BCC
 Panhandle exempt from Sections 32-4-211 through 32-4-217 AND Sections 32-4-226 and 32-4-227, BCC
 PDM CERTIFICATION
 Approved _____ Disapproved _____
 By: _____ Date: _____
 APPROVED DEPRM
 By: _____ Date: _____

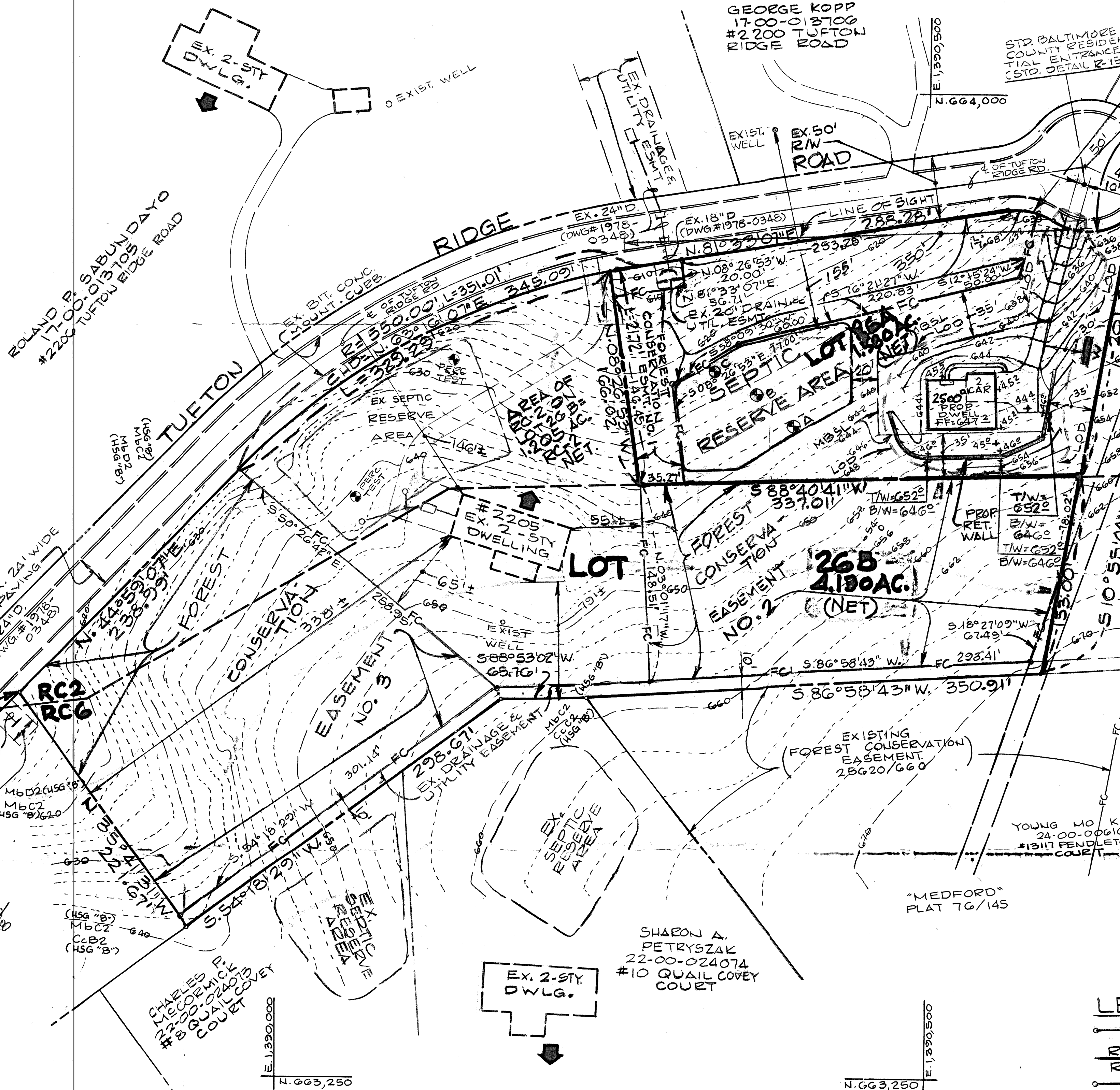


NOTE: THIS PLAN IS BASED ON THE MARYLAND COORDINATE SYSTEM (NAD 83 / 01, NAVD 88)



DEVELOPERS
 THOMAS H. & CYNTHIA G. HUTSON
 2205 TUFTON RIDGE ROAD
 REISTERSTOWN, MD, 21136
 410-785-1117

MINOR SUBDIVISION PLAN FOR
HUTSON PROPERTY - 2205 TUFTON RIDGE RD
 ELECTION DISTRICT 8 BALTIMORE COUNTY, MARYLAND COUNCILMANIC DISTRICT 2
 MINOR SUBDIVISION NUMBER **08056M**
 SHEET 1 OF 1
 DATE **02-15-08**
 REV'D **2-1-08**
 SCALE **1" = 50'**
 CONTRACT NUMBER **08-103**



WILSON T. GILDEE
 #221700-013704
 ROAD RD

ROLAND B. SABUNDAYO
 #2200 TUFTON RIDGE ROAD

JOHN S. KRAMMING
 #221915-015108
 17-00-015108

CHARLES R. LECOCHE
 #10 QUAIL COVEY COURT

SHARON A. PETRYSAK
 #10 QUAIL COVEY COURT

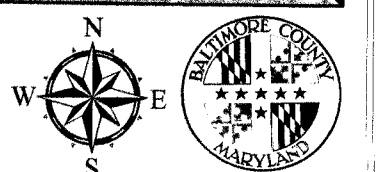
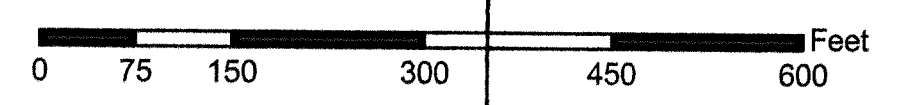
YOUNG MO KIM
 #1911 PENDELTON COURT

DATE	REVISIONS
10/2/08	REVISE LOT 26A, LIMIT NEW DEVELOPMENT TO RC-2 ZONED AREA.
3/3/08	REVISE RC-5 TO RC-6
7/3/08	ADD FOREST CONSERVATION ESMTS. PER HUMAN & ZONING REPORT, DATE 6/2/08.
5/8/08	ADD PROP GRADES AND LOD, AND RE-LOC. PROP. WELL. RELATE TO 2008 PER ZONING PLAN.
3/12/08	REV. PER @ W.M. COMMENTS FOR PERC TESTS.

DEVELOPMENT ENGINEERING CONSULTANTS, INC.
 SITE ENGINEERS & SURVEYORS
 6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212



Map Produced By Baltimore County GIS Services
Production Date: July 24, 2009
Aerial Photography From April 2008



PET EXH 1

SCALE: 1"=150'
CASE No. 2009-0035-SPH



Plan Sheet: 041A3

Note:
The zoning depicted in this application incorporates the actions associated with 2008 Comprehensive Zoning Map Process, zoning changes associated with an adopted Community Plan and Baltimore County Board of Appeals actions through December 31, 2008.

Legend

	Buildings		Streams		Vegetation
	Zoning		Roads		Rail Lines

**Baltimore County
Office of Planning and Zoning
Official Zoning Map**

040B2	040C2	041A2	041B2	041C2
040B3	040C3	041A3	041B3	041C3
049B1	049C1	050A1	050B1	050C1

Scale
1" = 200'
0 100 200 400 Feet

Data Sources:
Planimetric Data - Baltimore County
OTI/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2008

APPELLANT'S EXHIBIT (6)

Ret. Ex # 7

LIBR 5847 PAGE 499

THIS DECLARATION OF RESTRICTIONS, made this 12th day of January, 1978, by GAYLORD BROOKS INVESTMENT COMPANY, a Maryland corporation, Declarant.

The Declarant is the owner, in fee simple, of the lots numbered as shown on the following Plats:

Lots 6, 7, 8, 9, 10, 28, and 29 as shown on the Plat entitled "Plat 2, Section 2, Tufton Farms," which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K.Jr. No. 41 (folio 91).

Lots 11, 12, 13, 14, 15, 16, 17, 26, and 27 as shown on the Plat entitled "Plat 3, Section 2, Tufton Farms," which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K.Jr. No. 41, folio 92.

Lots 18, 19, 20, 21, 22, 23, 24, and 25 as shown on the Plat entitled "Plat 4, Section 2, Tufton Farms," which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K.Jr. No. 41, folio 93.

The Declarant, for the purposes of creating and maintaining a general scheme of development, desires that the aforesaid lots be subject to the covenants and conditions and restrictions hereinafter set forth.

NOW, THEREFORE, The Declarant for itself, its successors and assigns, hereby declares that all the aforesaid lots shall be subject to the covenants, restrictions, conditions and reservations hereinafter set forth.

1. Lots as shown on the aforesaid Plats of Tufton Farms shall be used for private residential purposes only and no dwelling shall be erected, altered, placed or permitted to remain on any lot other than one detached dwelling not to exceed two and one-half stories in height, said dwelling designed for single family occupancy. Single family occupancy shall not be construed to prevent the erection of a dwelling with an attached apartment or living area for use by member or members of the owner's family. Nothing herein contained shall prevent the use of part of a lot as a right of way for use by other lots within the subdivision. Residential use shall not bar a home office use of the property provided the owner of said lot complies with the applicable zoning regulations of Baltimore County.

2. No building, fence, wall, hedge, or other structure shall be commenced, erected, placed or altered in structure or color, on any lot until the plans and specifications and including color scheme and a grading plan showing the location of the structure have been approved in writing by the Architectural Approval Committee, hereinafter referred to as Committee. This Committee shall consist of three (3) members, one of which shall be an architect. The members shall be chosen by the declarant. In the event of death or resignation of a member of said Committee, the declarant shall select a new member. In the event that the Declarant fails to name a new

TRANSFER TAX NOT REQUIRED
Walter R. Richardson
Director of Finance
BALTIMORE COUNTY, MARYLAND

Per: Walter R. Richardson
1-18-78 Authorized Signature
Richardson

APPELLANT'S EXHIBIT 7

PET. Ex #8

LIBER 5749 PAGE 150

FEE SIMPLE DEED — LONG RANGE — INDIVIDUAL GRANTEE AND GRANTEE — 8-18

TRANSFER TAX NOT REQUIRED

5-4-77
Walter R. Richardson
Director of Finance

Per: *[Signature]*
Authorized Signature
Thomas S. Nichols
E.H.K. 2-5655/743

This Deed, Made this 4th day of May

in the year one thousand nine hundred and seventy-seven, by and between

THOMAS S. NICHOLS and GARY BLACK -----

-----, of the first part, and

GAYLORD BROOKS INVESTMENT COMPANY, a body corporate of the State of

Maryland -----

of the second part,

Witnesseth, that in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, receipt whereof is hereby acknowledged

the said THOMAS S. NICHOLS and GARY BLACK -----

do hereby grant and convey unto the said GAYLORD BROOKS INVESTMENT COMPANY-----

its ~~heirs, assigns, and successors~~ assigns, and successors

in fee simple, all that lot(s) of ground, situate, lying and being in

Baltimore County, State of Maryland, and described as follows, that is to say:—

PETITIONER'S EXHIBIT *8*

PeT-Ex # 9

LIBER 5936 PAGE 202

THIS AMENDMENT OF DECLARATION OF RESTRICTIONS, Made this 11th day of September, 1978, by Gaylord Brooks Investment Company, a Maryland Corporation, Declarant, hereinafter called party of the first part and Oakmont Homes, Inc., a body corporate of the State of Maryland, hereinafter called party of the second part, and First Federal Savings and Loan Association of Brooklyn, a body corporate of the State of Maryland, hereinafter called party of the third part.

WHEREAS, the Declarant was the owner, in fee simple, of all the lots as shown on Plat No. 2, Plat No. 3, and Plat No. 4, Section 2, Tufton Farms, which Plats are recorded among the Land Records of Baltimore County in Liber EHK, Jr. No. 41, folio 91, 92, and 93, and;

WHEREAS, the Declarant had executed a certain Declaration of Restrictions dated January 12, 1978, and recorded among the Land Records of Baltimore County in Liber EHK Jr. No. 5847 folio 499 wherein certain restrictions were imposed on the aforesaid lots: and,

WHEREAS, by a Deed dated July 27, 1978 and recorded among the Land Records of Baltimore County in Liber EHK, Jr. No. 5919, Folio 177, the party of the first part did convey unto the party of the second part Lot 6 as shown on "Plat 2, Tufton Farms"; and,

WHEREAS, by a Deed of Trust dated July 27, 1978, and recorded among the Land Records of Baltimore County in Liber EHK Jr. No. 5919, folio 379, the party of the second part did convey their lot unto the party of the third part; and,

WHEREAS, the party of the second and third parts are willing to join in the execution of this Agreement for the purpose of consenting to the Amendment of the Declaration of Restrictions.

NOW, THEREFORE, the Declarant, for itself, its successors and assigns, hereby declares that the Declaration of Restrictions dated January 12, 1978, and recorded among the Land Records of Baltimore County in Liber EHK Jr. No. 5847, folio 499 are amended as follows:

1. The first paragraph of the aforesaid Declaration of Restrictions is hereby changed to read as follows:
 1. Lots as shown on the aforesaid Plats of Tufton Farms shall be used for private residential purposes only and no dwelling shall be erected, altered, placed or permitted to remain on any lot other than one detached dwelling not to exceed two and one-half stories in height, said dwelling designed for single family occupancy. Single family occupancy shall not be construed to prevent the erection of a dwelling with an attached apartment or living area for use by


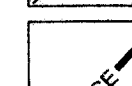


TRANSFER TAX NOT REQUIRED

Walter R. Richard
 Director of Finance
 BALTIMORE COUNTY, MARYLAND
 9-11-78
 Per: *[Signature]*
 Authorized Signature

ENVIRONMENTAL NOTES:

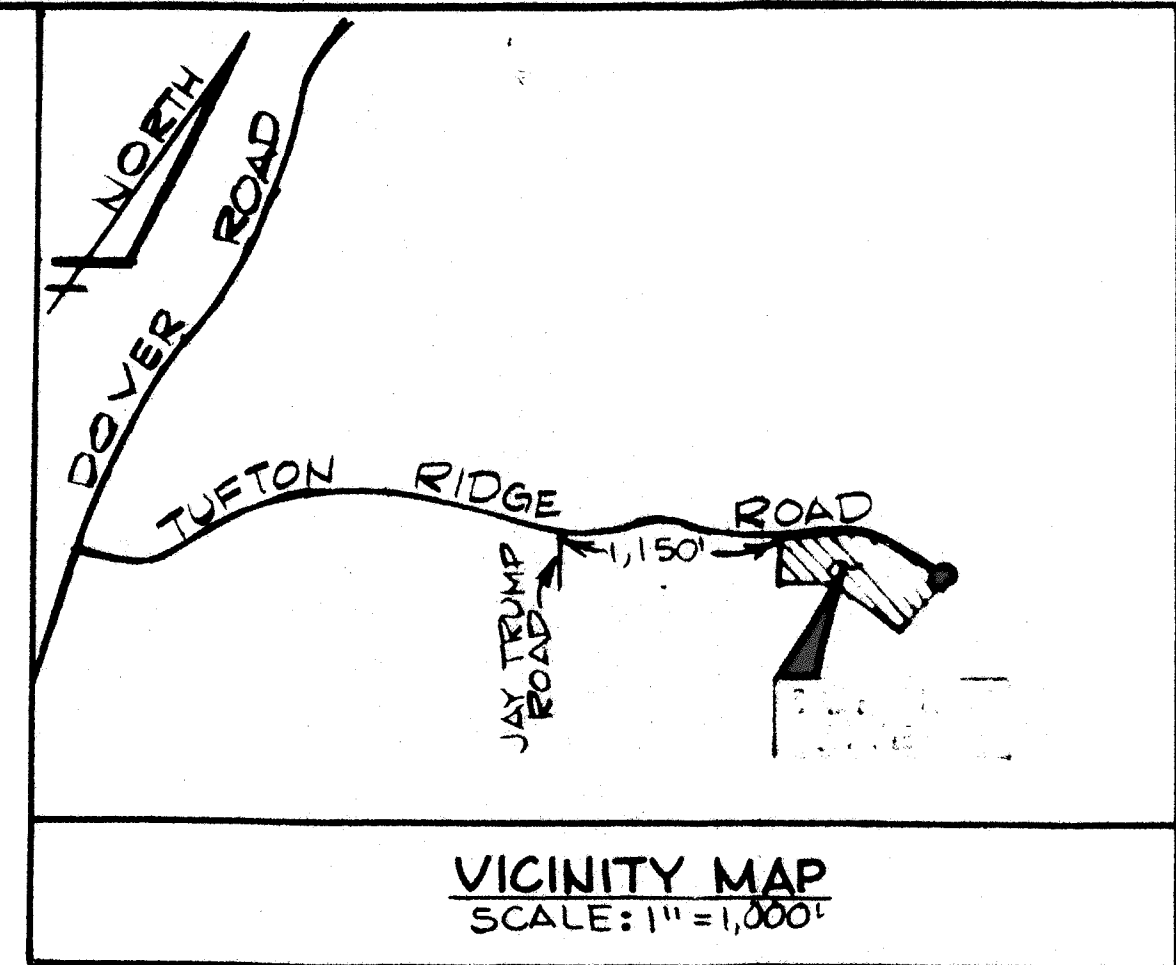
- 1) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT OR HAZARDOUS MATERIALS ON SITE.
- 2) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO UNDERGROUND STORAGE TANKS ON SITE.
- 3) THERE ARE NO STREAMS OR WETLANDS ON SITE.

KEY

-  EXISTING TREE LINE (4.1 ACRES OF FOREST)
-  FOREST CONSERVATION EASEMENT - 2.9 AC
-  35' PRINCIPAL BUILDING SETBACK
-  PROTECTIVE SIGNAGE - 19 SIGNS

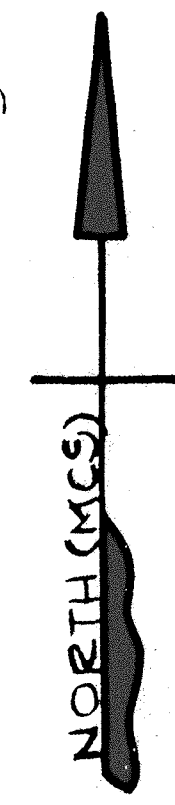
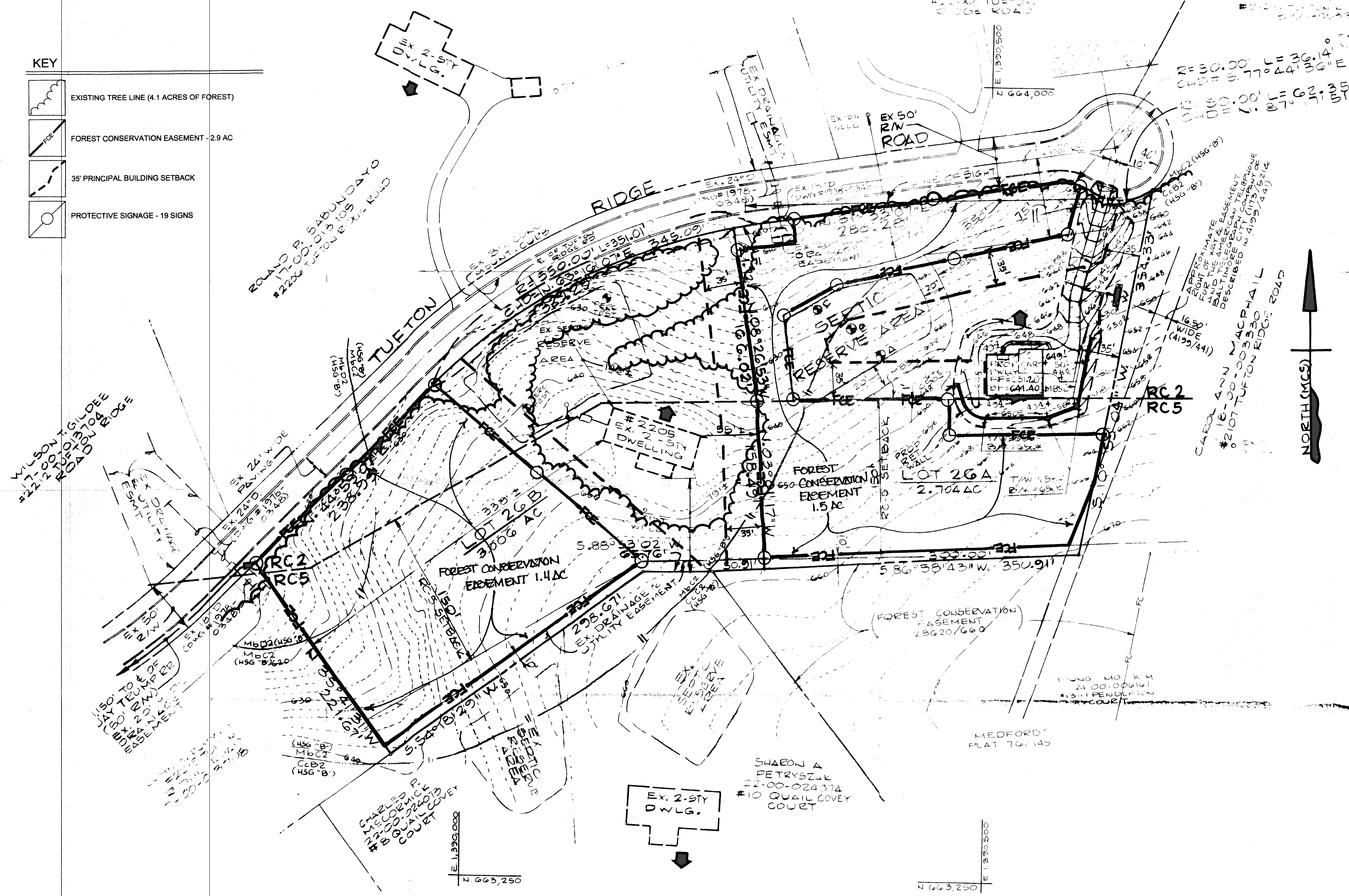
DENSITY TABULATION

RC-2	
RC-5	= 2
RC-5	= 1
TOTAL ALLOWED	= 3



GENERAL NOTES:

- 1) AREA OF TRACT
NET = 5.7 AC
GROSS = 8.271 AC
- 2) ZONING CLASSIFICATION
RC-2 (REFERENCE MAP 04143 & 04133)
RC-5 (RC-5 = 2,925 AC)
- 3) DENSITY CALCULATIONS
ALLOWED = 3
PROPOSED = 2
- 4) OWNER INFORMATION
NAME: THOMAS H. & CYNTHIA G. HUTSON
ADDRESS: 2205 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136
PHONE NUMBER: 410-785-1117
- 5) PROPERTY INFORMATION
TAX ACCOUNT NUMBER: 17-00-013107
DEED REFERENCE: 6621/601
PLAT REFERENCE: 41/92
- 6) LOCATION INFORMATION
TAX MAP: 41 GRID 20
CENS. TRACT: 408301
REG. PLANNING DISTRICT: 307
SCHOOL DISTRICT: FRANKLIN ELEM.
KEY SET: W-5E
WATERSHED: LOCH RAVEN
PARCEL 133
SUB-SEWERSHED: NONE
ELECTION DISTRICT: 8TH
COUNCILMANIC DISTRICT: 2ND
POSITION SHEET: 69 LW 22
A.D.C. MAP: 17 E 4
- 7) USE OF SITE
EXISTING: RESIDENTIAL
PROPOSED: RESIDENTIAL



PLAN PREPARED BY:
HUMAN & ROHDE, INC.
Landscape Architects
512 Virginia Ave.
Towson, Maryland 21286
(410) 825-3885 Phone
(410) 825-3887 Fax

STANDARD EASEMENT NOTES

Standard Nondisturbance Note:
"There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management."

Protective Covenants Note:
"Any Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas."

J.D. ONLY
PET
APPELLANT'S EXHIBIT 10

Drafting: T.L.B. Title: T.A.C. Design: 5/18/08 Check: 2/12/08	ADD PROP GRADES AND LOD AND REVISIONS PER ZONING REGULATIONS. REV. PER GWM COMMENTS FOR PERC-3'S REVISIONS	DEVELOPMENT ENGINEERING CONSULTANTS, INC. SITE ENGINEERS & SURVEYORS 6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212	DEVELOPERS THOMAS H. & CYNTHIA G. HUTSON 2205 TUFTON RIDGE ROAD REISTERSTOWN, MD, 21136 410-785-1117	FOREST CONSERVATION PLAN MINOR SUBDIVISION PLAN FOR HUTSON PROPERTY ~ 2205 TUFTON RIDGE RD ELECTION DISTRICT 8 BALTIMORE COUNTY, MARYLAND	MINOR SUBDIVISION NUMBER 1 OF 2	DATE: 02-15-08 REV: 05/08/08 SCALE: 1"=50'	CONTRACT NUMBER: 08-103
--	--	---	---	---	------------------------------------	--	-------------------------

ENVIRONMENTAL NOTES:

- 1) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT OR HAZARDOUS MATERIALS ON SITE.
- 2) TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO UNDERGROUND STORAGE TANKS ON SITE.
- 3) THERE ARE NO STREAMS OR WETLANDS ON SITE.

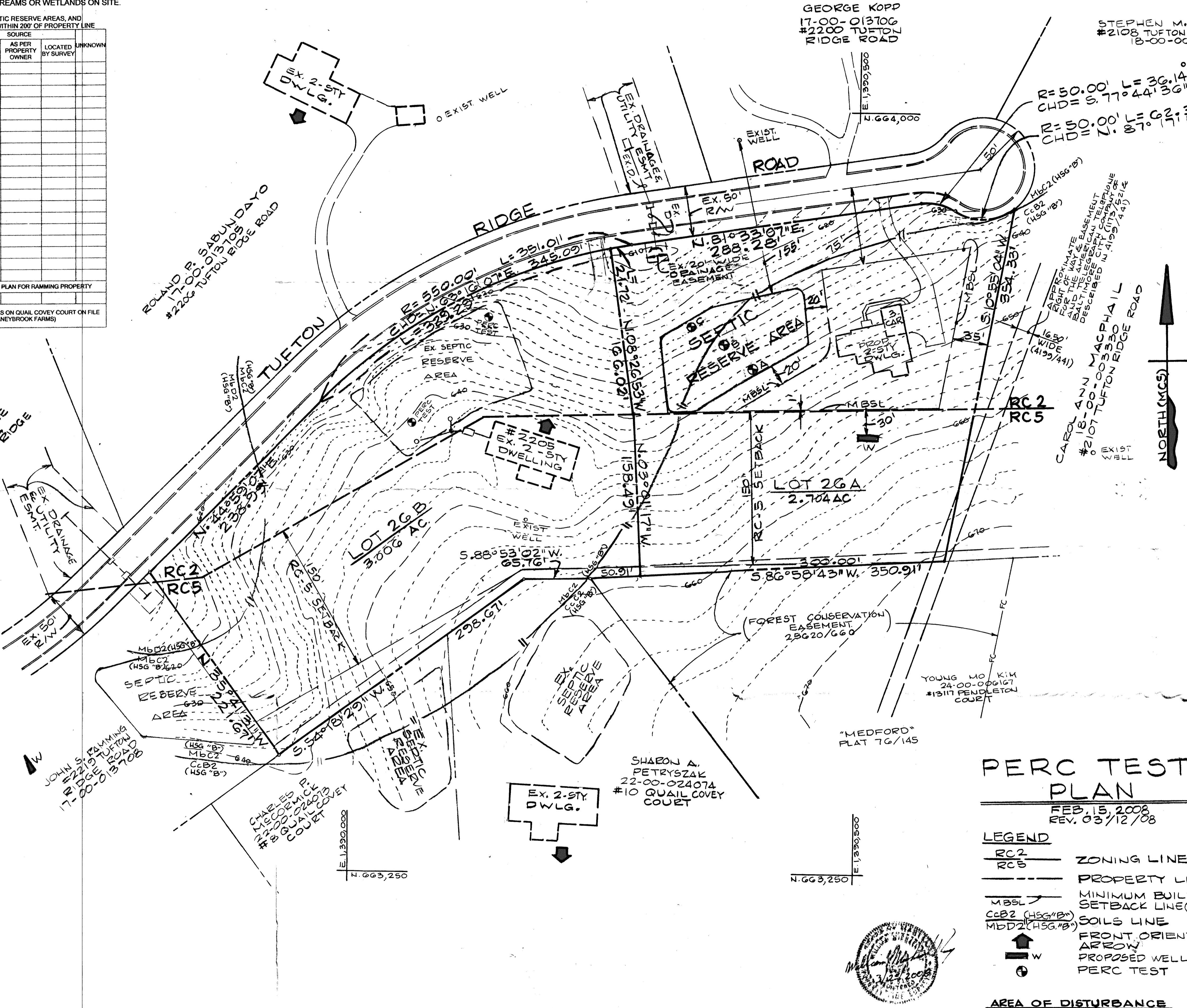
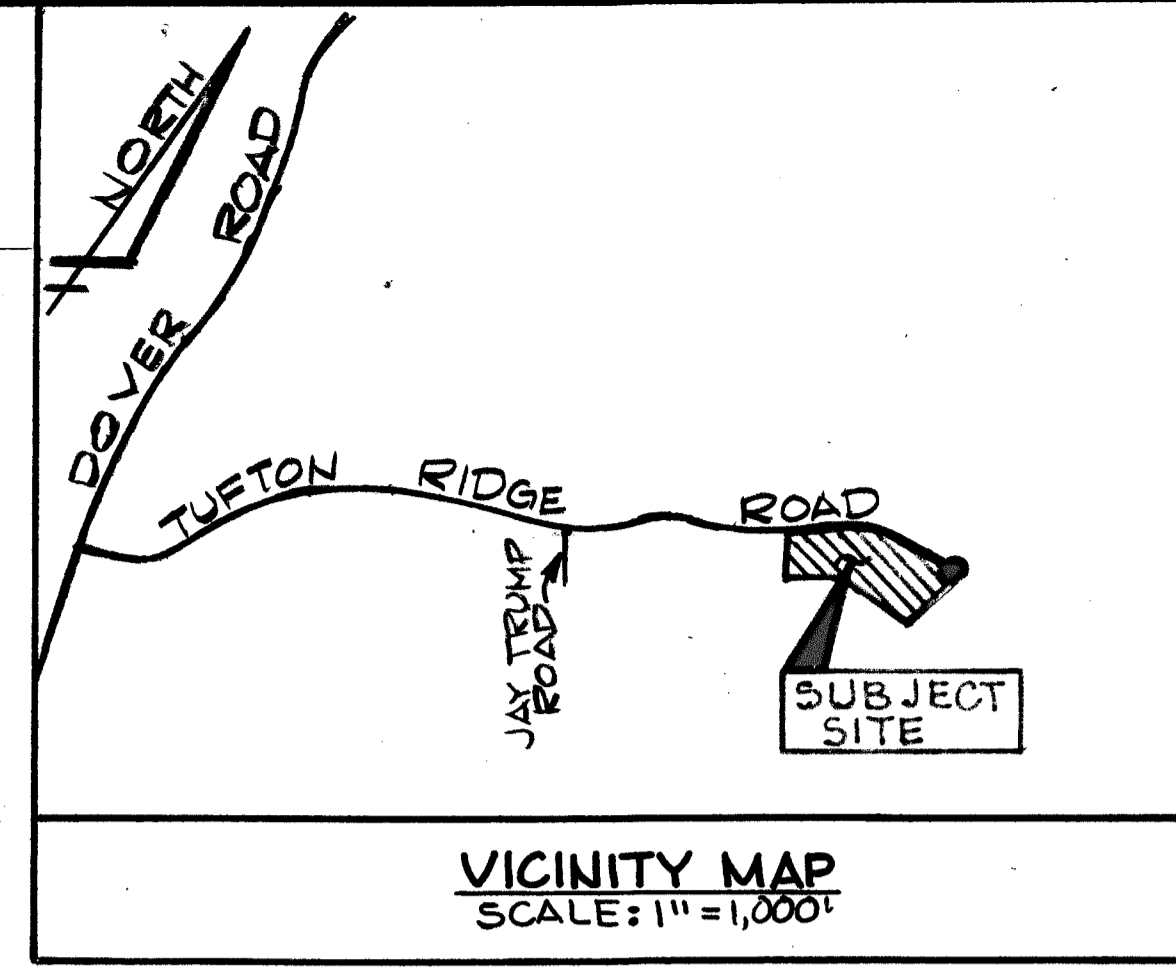
WELLS, SEPTIC SYSTEMS / SEPTIC RESERVE AREAS, AND UNDERGROUND STORAGE TANKS WITHIN 200' OF PROPERTY LINE

PROPERTY ADDRESS	TYPE OF INFO	EXISTS (Y/N)	AS PER D.E.P.R.M. FILES	SOURCE AS PER PROPERTY OWNER	LOCATED BY SURVEY	UNKNOWN
TUFTON RIDGE ROAD						
2107	WELL	Y	✓			
	SEPTIC	Z	✓			
	UST	Z	✓			
2108	WELL	Z	✓			
	SEPTIC	Z	✓			
	UST	Z	✓			
2200	WELL	Z	✓			
	SEPTIC	Z	✓			
	UST	Z	✓			
2206	WELL	Z	✓			
	SEPTIC	Z	✓			
	UST	Z	✓			
2212	WELL	Z	✓			
	SEPTIC	Z	✓			
	UST	Z	✓			
2219	SEE MINOR SUBDIVISION PLAN FOR RAMMING PROPERTY					

INFORMATION FOR EXISTING RESIDENCES ON QUAIL COVEY COURT ON FILE WITH D.E.P.R.M. (SEE SHANEYBROOK FARMS)

DENSITY TABULATION

RC-2	
BE TWEEN 2 & 100 AC	= 2
RC-5	
+ 0.5 X 2.925 AC = 1.46	= 1
TOTAL ALLOWED	= 3



- GENERAL NOTES:**
- 1) AREA OF TRACT: NET = 5.710 AC, GROSS = 6.271 AC
 - 2) ZONING CLASSIFICATION: RC-2 & RC-5 (REFERENCE MAP: RC-2 = 3.346 AC, RC-5 = 2.925 AC TOTAL = 6.271 AC)
 - 3) DENSITY CALCULATIONS: ALLOWED = 3 (SEE SEPARATE TABULATION), PROPOSED = 2
 - 4) OWNER INFORMATION: NAME: THOMAS H. & CYNTHIA G. HUTSON, ADDRESS: 2205 TUFTON RIDGE ROAD, REISTERSTOWN, MD, 21136, PHONE NUMBER: 410-785-1117
 - 5) PROPERTY INFORMATION: TAX ACCOUNT NUMBER: 17-00-013707, DEED REFERENCE: 6621/601, PLAT REFERENCE: 41/92
 - 6) LOCATION INFORMATION: TAX MAP: 41, GRID: 20, PARCEL: 133, CENSUS TRACT: 408301, REGIONAL PLANNING DISTRICT: 307, SCHOOL DISTRICT: FRANKLIN ELEM., KEY SHEET: W-5E, WATERSHED: LOCH RAVEN
 - 7) USE OF SITE: EXISTING: RESIDENTIAL, PROPOSED: RESIDENTIAL
 - 8) WATER AND SEWER: WATER DESIGNATION: W-7, SEWER DESIGNATION: S-7
 - 9) THIS PROPERTY AS SHOWN ON THIS PLAN HAS BEEN HELD INTACT SINCE THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT OFF-SITE DWELLINGS.
 - 10) EXISTING GROUND COVER: WOODS, LAWN & IMPERVIOUS (DRIVEWAY AND HOUSE).
 - 11) MAXIMUM BUILDING HEIGHT = 35' (FOR PRINCIPAL STRUCTURE).
 - 12) THIS SITE IS NOT LOCATED IN ANY DEFICIENT AREA ON THE BASIC SERVICES MAP.
 - 13) TO THE BEST OF OUR KNOWLEDGE, THIS IS NOT IN A HISTORIC DISTRICT OR SITE.
 - 14) THE DEVELOPER MUST PROVIDE THE NECESSARY DRAINAGE FACILITIES (TEMPORARY OR PERMANENT) TO PREVENT CREATING ANY NUISANCES OR DAMAGE TO ADJACENT PROPERTIES, ESPECIALLY BY THE CONCENTRATION OF SURFACE WATERS. CORRECTION OF ANY PROBLEM WHICH MAY RESULT DUE TO IMPROPER GRADING OR IMPROPER INSTALLATION OF DRAINAGE FACILITIES WOULD BE THE FULL RESPONSIBILITY OF THE DEVELOPER.
 - 15) THIS SITE IS NOT AFFECTED BY A 100 YEAR FLOODPLAIN.
 - 16) ARCHITECTURAL ELEVATION DRAWINGS MUST BE SUBMITTED TO THE OFFICE OF PLANNING FOR REVIEW AND APPROVAL IN ACCORDANCE WITH SECTION 1A.04.G OF THE BALTIMORE COUNTY ZONING REGULATIONS.
 - 17) ZONING HISTORY: THERE IS NO ZONING HISTORY FOR #2205 TUFTON RIDGE ROAD.
 - 18) THE AREAS BETWEEN SIGHT LINE(S) AND THE CURB LINE MUST BE CLEARED, GRADED AND KEPT FREE OF OBSTRUCTIONS.

Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 6479, Expiration Date: 08/05/2009.

CERTIFICATION STAMP

BALTIMORE COUNTY MINOR SUBDIVISION

PROJECT NO: _____

DEVELOPMENT REGULATIONS

Exempt from Article 32, Title 4, Subtitle 2, BCC
Panhandle exempt from Sections 32-4-211 through 32-4-217 AND
Sections 32-4-226 and 32-4-227, BCC

PDM CERTIFICATION

Approved _____ Disapproved _____

By: _____ Date: _____

APPROVED DEPRM

By: _____ Date: _____

Drafting T.L.B.	
Check T.A.C.	
Design	2/12/08
Check	DATE

DEVELOPMENT ENGINEERING CONSULTANTS, INC.
SITE ENGINEERS & SURVEYORS
6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

DEVELOPERS
THOMAS H. & CYNTHIA G. HUTSON
2205 TUFTON RIDGE ROAD
REISTERSTOWN, MD, 21136
410-785-1117

MINOR SUBDIVISION PLAN FOR
HUTSON PROPERTY ~ 2205 TUFTON RIDGE RD
ELECTION DISTRICT 8
BALTIMORE COUNTY, MARYLAND

MINOR SUBDIVISION NUMBER
SHEET 1 OF 1
DATE 02-15-08
REV. 03-12-08
SCALE 1"=50'
CONTRACT NUMBER 08-103

PERC PLAN

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2008, Legislative Day No. 7

Bill No. 24-08

Mr. T. Bryan McIntire, Councilman

By the County Council, April 7, 2008

A BILL
ENTITLED

AN ACT concerning

Amendments to Development Plans

FOR the purpose of clarifying the effect of a request to amend an approved residential development plan or plat if the amendment results in a density increase; and generally relating to amendments to development plans.

BY repealing and re-enacting, with amendments

Section 32-4-262
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 32-4-262 of Article 32 - Planning, Zoning and Subdivision
3 Control, Title 4 - Development, of the Baltimore County Code 2003, be and it is
4 hereby repealed and re-enacted, with amendments, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.
 ~~Strike-out~~ indicates matter stricken from bill.
 Underlining indicates amendments to bill.

1 § 32-4-262. Amendments to Development Plans.

CBA
Ret. Ex # 12
12-1-09

Pet SMH # 13

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S Tufton Ridge Road, 1,150' E of c/line		
Jay Trump Road	*	ZONING COMMISSIONER
(2205 Tufton Ridge Road)		
8 th Election District	*	FOR
2 nd Council District	*	BALTIMORE COUNTY
Thomas H. Hutson, et ux	*	Case No. 2009-0035-SPH
Petitioners	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Thomas H. Hutson and Cynthia G. Hutson, the legal owners of the subject property, by and through their attorney, Arnold E. Jablon, Esquire. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an amendment to the Final Development Plan (FDP) entitled "Tufton Farms, Section Two", to permit the re-subdivision of Lot 26, Plat 3, Section 2, into two (2) lots consistent with B.C.Z.R. Sections 1A00.4 and 1B01.3.A.7.¹

The site plan, dated July 11, 2008, that was initially submitted with this Petition was marked and accepted into evidence as Petitioners' Exhibit 1. However, as will be explained in greater detail, this property was subsequently rezoned pursuant to the 2008 Comprehensive Zoning Map Process (CZMP). Accordingly, revised plans (Revision date January 12, 2009) showing the rezoned portion of the subject property and the requested relief were submitted and accepted and marked as Petitioners' Exhibits 2 and 2A.

¹ At the outset of the hearing, counsel for the Petitioners amended the Petition for special hearing, which was inadvertently filed as a request for amendment of "plat 2, section 2" instead of "plat 3, section 2." Since this amendment had no effect on the nature of the requested relief, and corrected a simple clerical error, the amendment was permitted without objection.

RECEIVED FOR FILING
7-20-09
BY

PROTESTANT'S

EXHIBITS

4

verified
12/29/09 hrs

verified 12/2/09 hrs
Protestants Exhibits

- ✓ 1. BCZR 1B01 (portion) (2 pages)
- ✓ 2. Inter-office corr. from Pat Keller (2p)
dated 2-4-09
- ✓ 3. Tape of movie - ~~not in file~~
- ✓ 4. Rule 8 papers on Teresa Moore
- ✓ 5. BCZR 32-4-262
- ✓ 6. BCZR 32-4-106
- ✓ 7. BCZR 1B01.3.A
- ✓ 8. BCZR 32-4-104
- ✓ 9. James S. Patton. Resume'
- ✓ 10. Photos taken by Patton (arial + 1-10) 11 pgs.
- ✓ 11 a-c Aerial photo + 2 overlays
- ~~✓~~ 12. letter from Peter M. Zimmerman
→ not in file / ✓ Cruz notes 12/2/09

6

Protestants Ea #1

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

7. Amendment of approved development plans. After partial or final development plans have been approved as provided under Paragraph 6, preceding, they may be amended only as provided below:
 - a. Amendment prior to sale of interest in nearby property. The development plans may be amended by simple resubmission, or by the submission of appropriate documents of revision, subject to the same requirements as are applied to original plans, if there is no change with respect to any lot, structure or use within 300 feet of a lot or structure which has been sold since the original plans were filed.
 - b. Amendment after sale of interest in nearby property or upon demand for hearing. In the case of an amendment not allowed under Subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be amended through special exception procedures, in the manner provided under Section 502 and subject to the following provisions:
 - (1) The amendment must be in accord with the provisions of the Comprehensive Manual of Development Policies and with the specific standards and requirements of this article, as determined by the Office of Planning. The Director, on behalf of the Planning Board, shall notify the Zoning Commissioner accordingly. [Bill No. 29-1995]
 - (2) Only an owner of a lot abutting or lying directly across a street or other right-of-way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing. [Bill No. 29-1995]
 - (3) It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article. [Bill No. 29-1995]
 - c. Amendment upon request by owner of lot within subdivision. The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect

Protestants Ex #2

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 4, 2009

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

RECEIVED

SUBJECT: 2205 Tufton Ridge Road

FEB 05 2009

INFORMATION:

Item Number: 9-035

ZONING COMMISSIONER

Petitioner: Thomas H. & Cynthia Hutson

Zoning: RC 2 and RC 6

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The property in question is split zoned, RC2 (Agricultural) and RC6 (Rural Conservation and Residential).

The rear portion of Lot 26 was rezoned from RC5 to RC6 in the 2008 CZMP Issue 2-035 as part of 130.2-acre issue. The proposal is to amend the FDP for Tufton Farms Plat 3 Section 2 in order to allow Lot 26 to be re-subdivided into two lots. The site plan shows Lot 26A as a proposed 1.58 acre RC2 lot and Lot 26B which contains the existing dwelling in the RC6 zone and the existing septic in the RC2 zone. This submittal does not include a special hearing to allow the septic for Lot 26B be located in the RC2 zone with the dwelling in the RC6 zone.

The following represents a finding on the part of the Baltimore County Office of Planning as to whether the above referenced property which is the subject of 09-035-SPH is in accord with the provisions of the Comprehensive Manual of Development Policies (CMDP), Article 1B of the Baltimore County Zoning Regulations (BCZR) and the spirit and intent of the Tufton Farms FDP.

Comprehensive Manual of Development PoliciesDivision II and Division III

The Office of Planning finds that the provisions of Division II and Division III of the CMDP do not apply to this R.C.2 /RC6 zoned property located outside of the Urban Rural Demarcation Line (URDL). The residential and/ or commercial standards found in said divisions of the CMDP are not applicable.

FILM TAKEN
OF TUFTON RIDGE
ROAD

PROTESTANT'S
EXHIBIT NO. 23

The Valleys Planning Council, Inc.

118 W. Pennsylvania Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, Fax: 410 296-5409

AFFIDAVIT

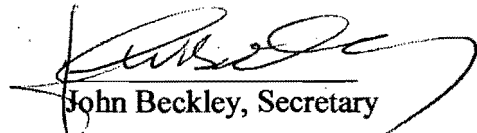
**STATE OF MARYLAND
BALTIMORE COUNTY, SS:**

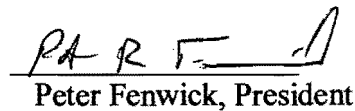
TO WIT:

I hereby swear upon penalty of perjury that I, Teresa Moore, am currently the Executive Director of the Valleys Planning Council, Inc.

ATTEST:

The Valleys Planning Council, Inc.


John Beckley, Secretary


Peter Fenwick, President

Date: 5/16/08

CBA
D10. Ex 9
12-1-09

§ 32-4-262. AMENDMENTS TO DEVELOPMENT PLANS.

(1) Any material amendment to an approved non-residential Development Plan shall be reviewed and approved in the same manner as the original plan.

(2) Any material amendment to than approved residential Development Plan or plat shall be reviewed in accordance with this title, and with respect to that portion of the original plan or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all current law and regulations, including the development regulations and the zoning regulations. For purposes of this paragraph, any amendment to a plan or plat that results in an increase in density or increase in the number of buildable lots is a material amendment.

(1988 Code, § 26-211) (Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 18, 7-1-2004; Bill No. 24-06, § 1, 3-17-2006; Bill No. 24-08, § 1, 5-19-2008)

Annotation—Former § 26-211 (1988) cited in Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc., 133 Md.App. 510, 758 A.2d 611 (2000).

Editor's note:

Section 2 of Bill No. 24-08 provides that this Act is adopted independently of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the rights to the vesting of a development that would otherwise accrue from the zoning regulations or other county laws.

Section 3 of Bill No. 24-08 provides that this Act does not apply to any plan or application for a proposed development that is accepted for filing prior to the effective date of the Act.

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12-1-09

§ 32-4-106. LIMITED EXEMPTIONS.

(a) *Exemption from development review and approval process.*

(1) The following proposed development is exempt from compliance with Subtitle 2 of this title:

(i) The building or preparation of land for building a dwelling for one or two families:

1. On a single lot or tract that is not part of a recorded plat; or
2. On a lot or lots exempt from the lapse provisions of § 32-4-273 of this title;

(ii) The building or preparation of land for building on a lot of record lawfully in effect at the time of the building or preparation of the land for building, provided the lot of record did not result from a subdivision of land exempt under § 32-4-105 of this subtitle;

(iii) The construction of one tenant house or the location of one trailer on a farm tract;

(iv) The subdivision of property in accordance with a court order, a will, or the laws of intestate succession;

(v) The resubdivision or lot line adjustment of industrially zoned or commercially zoned parcels of land that have been the subject of a previously approved Development Plan and recorded plat;

(vi) The construction of residential accessory structures or minor commercial structures;

(vii) The construction of a building owned and operated by a county volunteer fire, ambulance, or rescue company that is used primarily for:

1. Storage or training purposes;
2. Fund-raising activities; or
3. Other purposes related to rescue or fire-suppression activities;

(viii) Lot line adjustments in residential zones for lots that are not part of an approved Development Plan under this title or an approved Development Plan under Article 1B of the

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12-1-09

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

7. Amendment of approved development plans. After partial or final development plans have been approved as provided under Paragraph 6, preceding, they may be amended only as provided below:
 - a. Amendment prior to sale of interest in nearby property. The development plans may be amended by simple resubmission, or by the submission of appropriate documents of revision, subject to the same requirements as are applied to original plans, if there is no change with respect to any lot, structure or use within 300 feet of a lot or structure which has been sold since the original plans were filed.
 - b. Amendment after sale of interest in nearby property or upon demand for hearing. In the case of an amendment not allowed under Subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be amended through special exception procedures, in the manner provided under Section 502 and subject to the following provisions:
 - (1) The amendment must be in accord with the provisions of the Comprehensive Manual of Development Policies and with the specific standards and requirements of this article, as determined by the Office of Planning. The Director, on behalf of the Planning Board, shall notify the Zoning Commissioner accordingly. [Bill No. 29-1995]
 - (2) Only an owner of a lot abutting or lying directly across a street or other right-of-way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing. [Bill No. 29-1995]
 - (3) It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article. [Bill No. 29-1995]
 - c. Amendment upon request by owner of lot within subdivision. The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect

§ 32-4-104. SCOPE OF TITLE.

(a) *Applicability of title.* This title shall apply to the process of review for approval of all development.

(b) *Present zoning classification.* Proposed development shall be in compliance with the present zoning classification on the property to be developed.

(1988 Code, § 26-169) (Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 79-01, § 2, 7-1-2004; Bill No. 24-06, § 1, 3-17-2006)

Annotation—Former § 26-169 (1988) cited in Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc., 133 Md.App. 510, 758 A.2d 611 (2000).

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RESUME

JAMES S. PATTON, P.E.,

PRESIDENT - PATTON CONSULTANTS, LTD.

Mr. Patton has over forty (40) years experience in site engineering and site planning, site development services, and project management for a wide variety of public and private clients. His experience in the private sector has been in residential, commercial, and industrial site development and construction. His public works experience is very broad, as he served as an officer in the U. S. Navy Civil Engineer Corps and as City Engineer for Washington, PA. In addition, he has provided site engineering and planning services to many local school boards, hospitals, colleges, and institutions in their development and construction programs, either as a consultant or as a board member.

He has been responsible for projects ranging in size and scope from a few thousand square feet to areas of more than a thousand acres. These projects have included storm water management, water distribution, sanitary sewer, streets, roads, parking areas, grading, building construction, wetlands and critical areas, and erosion control. His background includes new development, expansion, restoration, renewal and revitalization.

Plan approvals and obtaining permits for site development and construction is a major focus. The ability to overview the various elements of site development and building construction such as zoning, environmental concerns, and utilities has been and is an important function performed by Mr. Patton in obtaining approvals and expediting the development of a site or project.

EDUCATION:

SWARTHMORE COLLEGE
UNIVERSITY OF PENNSYLVANIA

Bachelor of Science, Civil Engineering
Master of City Planning

LICENSES & CERTIFICATIONS:

PROFESSIONAL ENGINEER

Maryland #9493
Pennsylvania, West Virginia (inactive)

EXPERT WITNESS

Baltimore County Circuit Court;
Baltimore County District Court;
Board of Appeals and Zoning
Commissioner; Anne Arundel County, MD,
Harford County, MD, and
Baltimore County, MD
Zoning Commission-City of Baltimore
Circuit Court, Washington County, PA.

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PRO. EX # 9

12-1-09



LOT 16

LOT 17

LOT 18

LOT 26

LOT 25

FOREST CONSERVATION

MEDFORD LOT 8

MEDFORD LOT 9

TUFTON RIDGE RD.

PREPARED BY
PATTON CONSULTANTS, LTD
July 22, 2009

PHOTOGRAPH ORIENTATION

PROTESTANT'S EXHIBIT # _____

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12-1-09



LOT 26

HEAD WALL

SUMP

Cul-de-Sac

PHOTO #1

Cul-deSac



LOT 26
LOT

LOT 26

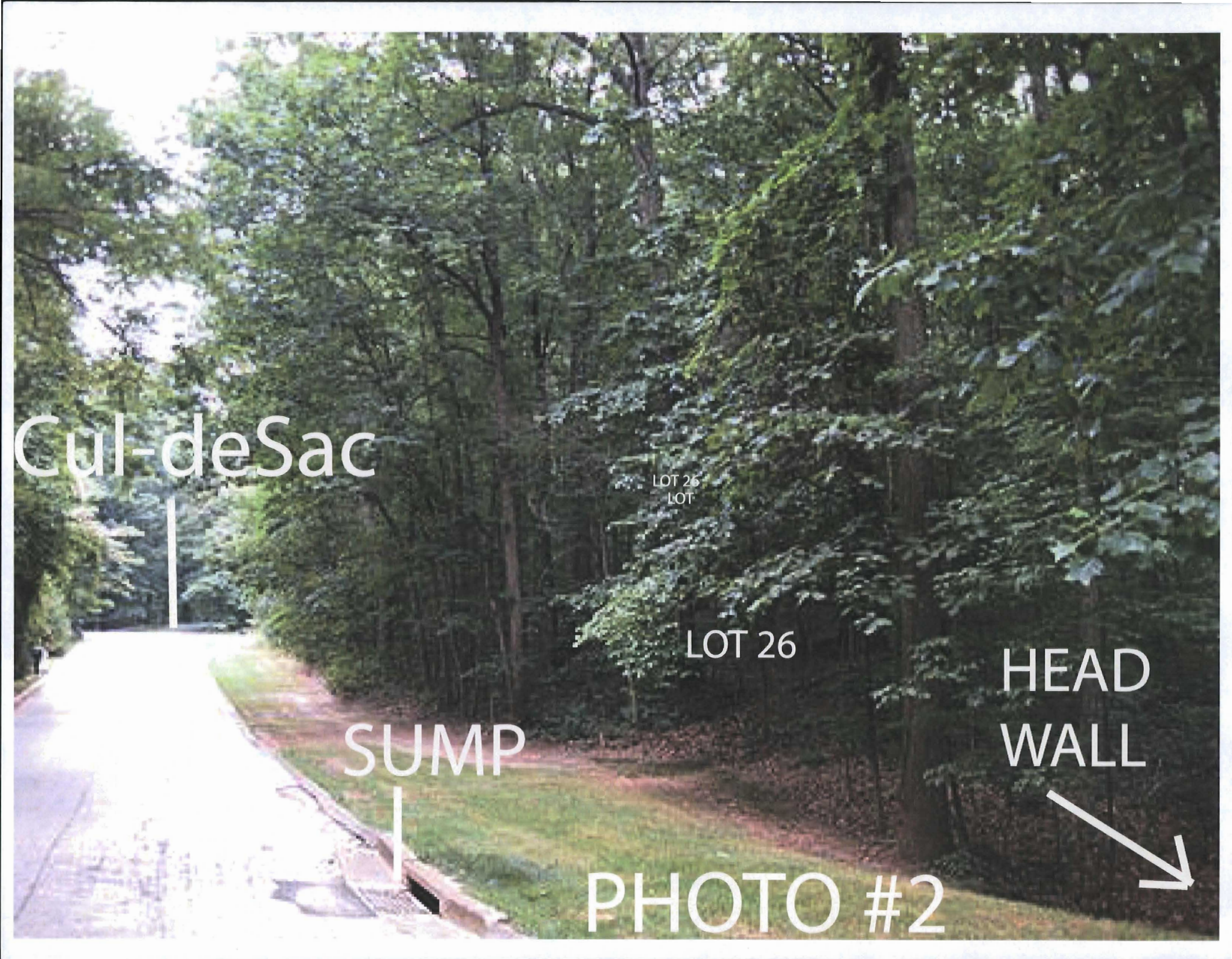
SUMP



HEAD
WALL



PHOTO #2





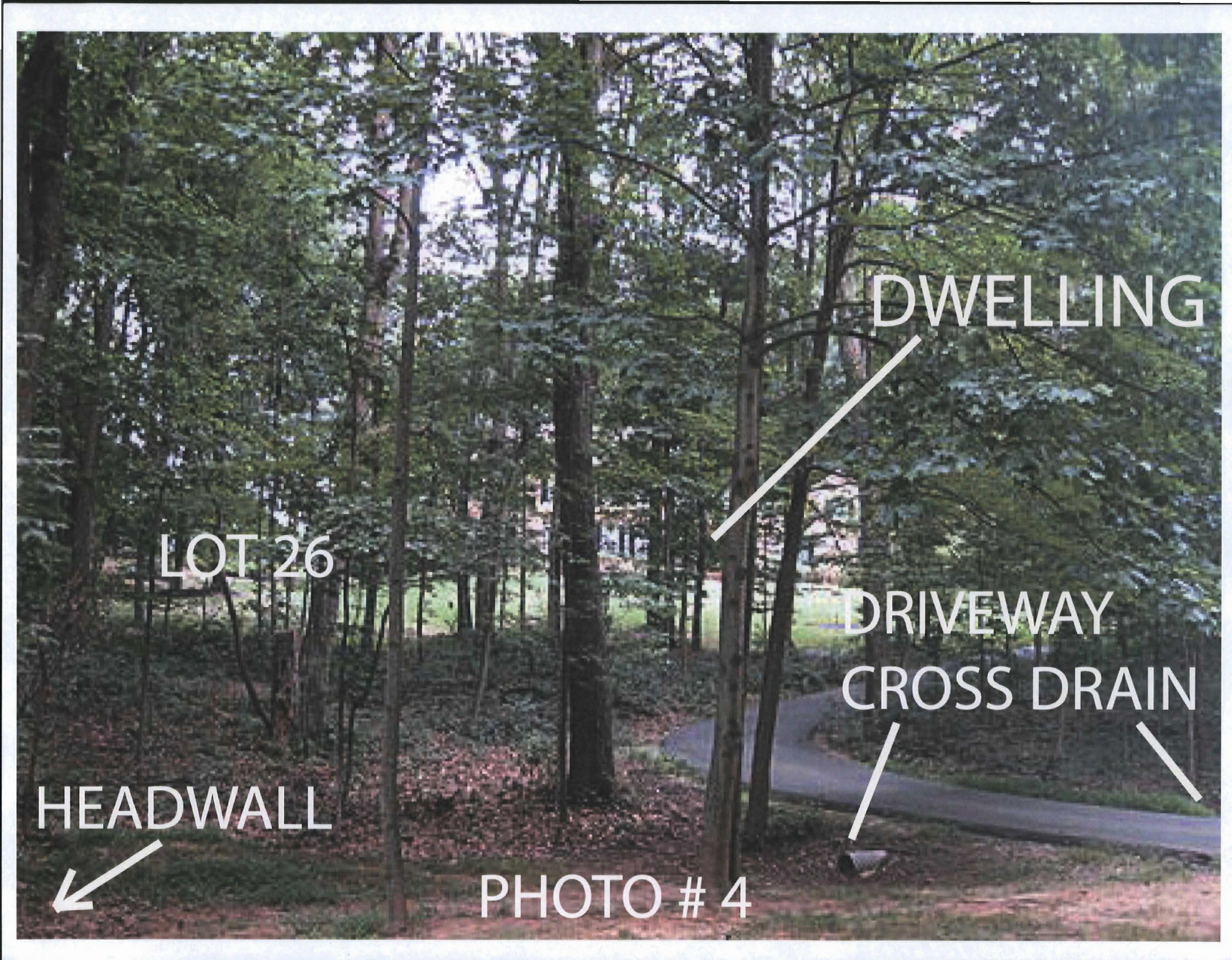
LOT 26

DWELLING

HEAD WALL



PHOTO #3



LOT 26

HEADWALL



DWELLING



DRIVEWAY

CROSS DRAIN



PHOTO # 4

DWELLING

LOT 26

CROSS DRAIN

TUFTON
RIDGE
ROAD

HEAD WALL



PHOTO # 5

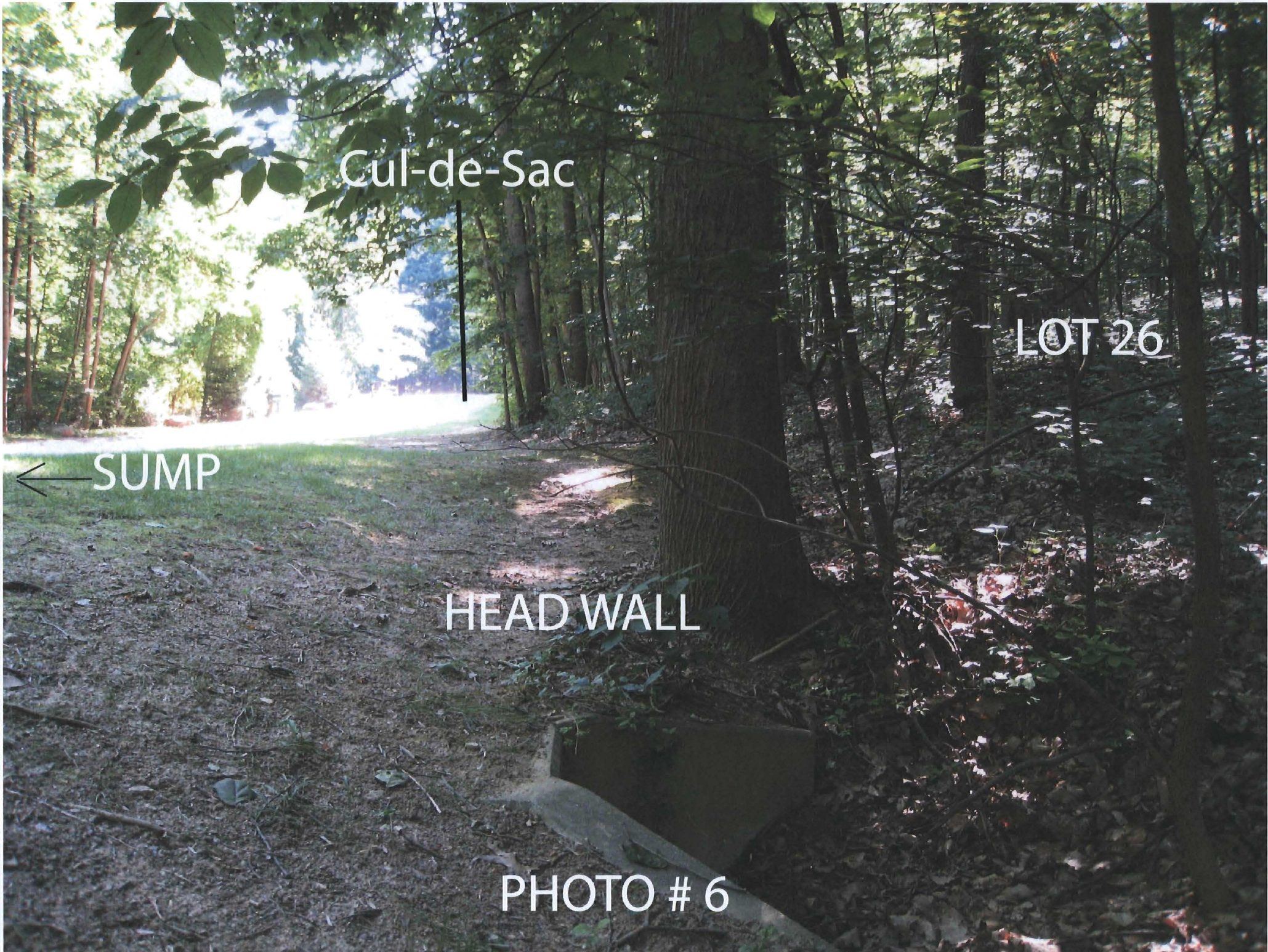
Cul-de-Sac

LOT 26

← SUMP

HEAD WALL

PHOTO # 6





TUFTON RIDGE ROAD

HEAD WALL

PHOTO # 7

LOT 16

LOT 17

END WALL

TUFTON RIDGE ROAD

PHOTO #8



Cul-de-Sac

TUFTON RIDGE ROAD

LOT 17

END WALL

LOT 16

PHOTO # 9



A photograph showing a concrete structure with a circular opening. The structure appears to be an end wall of a tunnel or pipe. The opening is dark, suggesting a void or a passage. The concrete is weathered and has some vegetation growing on it. The foreground is filled with large, gnarled tree roots and some debris. The overall scene is outdoors, possibly in a wooded area.

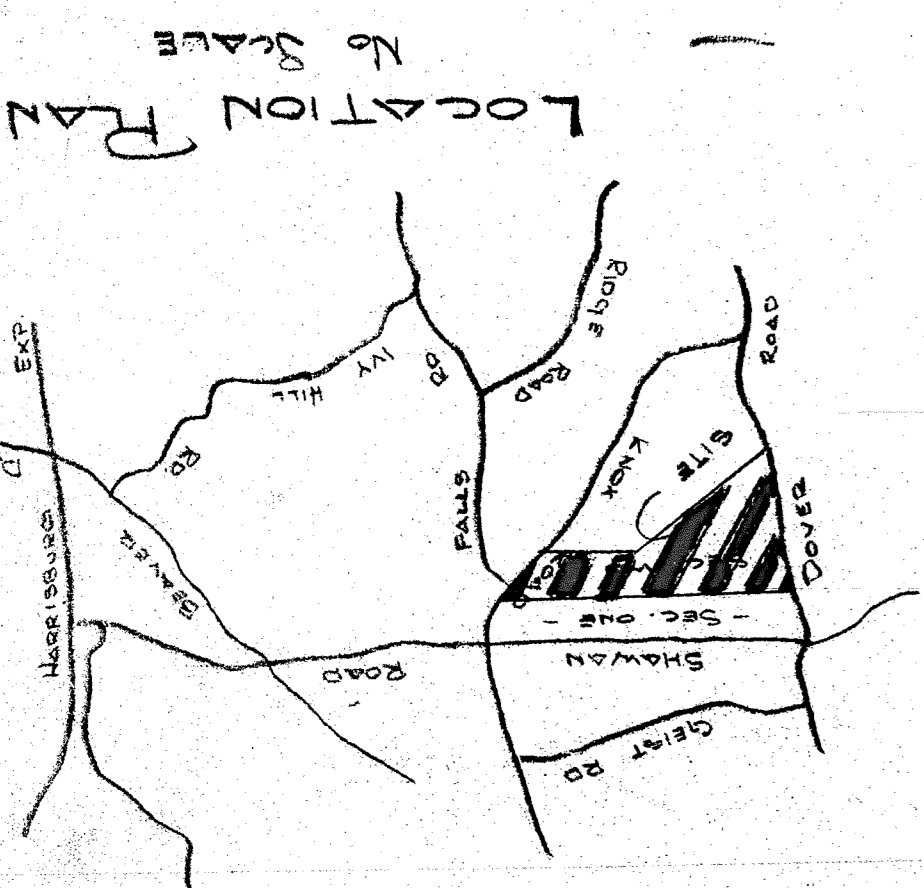
END WALL

VOID

PHOTO #10

OFFICE OF PLANNING & ZONING
 SECTION OF PLANNING
 APPROVED BY
Thomas Spahn
 1/17/17

FINAL DEVELOPMENT PLAN
 SECTION TWO
 "TUFTON"
 2nd ELECTION DISTRICT
 SCALE 1"=200'



DWELLING UNIT CALCULATION

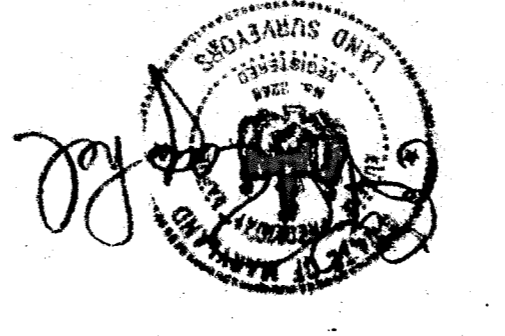
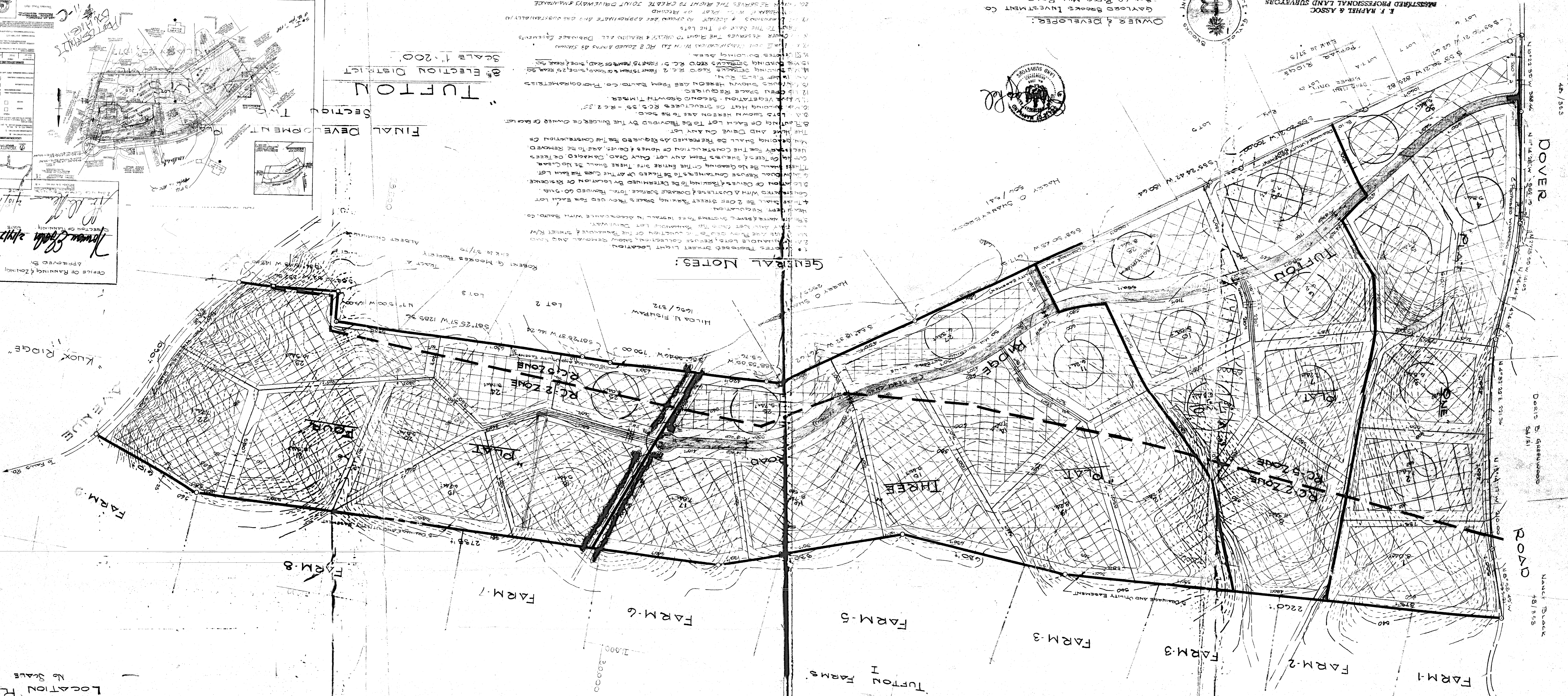
ALLOWED:	1. GROSS AREA OF SECTION TWO	234,584 sq. ft.
	2. AREA OF R.C.2 - 119,584 sq. ft. (20% of 1)	20
	3. AREA OF R.C.5 - 115,000 sq. ft. (2% of 1)	0
	R.C.2 Total Lots Allowed	20
	R.C.5 Total Lots Allowed	0
	4. TOTAL LOTS PROPOSED R.C.2 + 5	25
	5. TOTAL LOTS PROPOSED R.C.5 - 15	10
	TOTAL LOTS ALLOWED R.C.2 + R.C.5 - 77 SLOTS	77
	60 Total Lots Proposed	

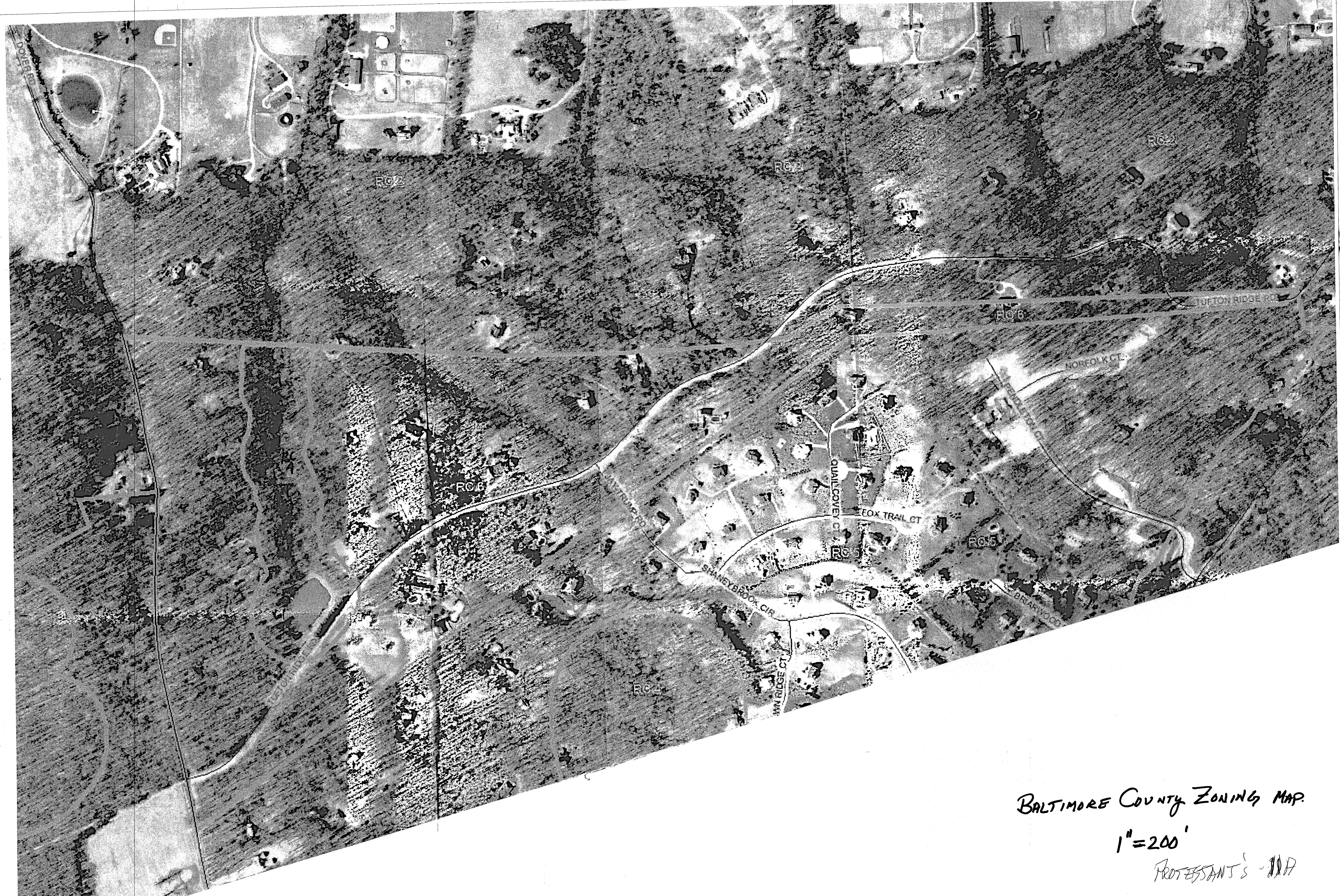
GENERAL NOTES:

1. LOTS PROPOSED SHOWN BY DASHED LINE. THE LOCATION OF THE PROPOSED LOTS AND THE PROPOSED DRIVEWAYS ARE SHOWN BY DASHED LINES. THE LOCATION OF THE PROPOSED DRIVEWAYS ARE SHOWN BY DASHED LINES.
2. THE PROPOSED DRIVEWAYS ARE TO BE CONSTRUCTED AND MAINTAINED BY THE OWNER OF EACH LOT. THE DRIVEWAYS ARE TO BE CONSTRUCTED AND MAINTAINED BY THE OWNER OF EACH LOT.
3. THE PROPOSED DRIVEWAYS ARE TO BE CONSTRUCTED AND MAINTAINED BY THE OWNER OF EACH LOT. THE DRIVEWAYS ARE TO BE CONSTRUCTED AND MAINTAINED BY THE OWNER OF EACH LOT.
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5. THE PROPOSED DRIVEWAYS ARE TO BE CONSTRUCTED AND MAINTAINED BY THE OWNER OF EACH LOT. THE DRIVEWAYS ARE TO BE CONSTRUCTED AND MAINTAINED BY THE OWNER OF EACH LOT.

OWNER & DEVELOPER:
 GARLORD BROOKS INVESTMENT CO.
 BOX 62 PARR MILL ROAD
 PHOENIX MARYLAND, 21131

REGISTERED PROFESSIONAL LAND SURVEYOR
 F. RAPHAEL & ASSOC.
 201 COURTLAND AVENUE
 TOMSON MARYLAND 21204





BALTIMORE COUNTY ZONING MAP.

1"=200'

PROFESSIONAL'S MAP