

IN RE: PETITIONS FOR SPECIAL HEARING *

E/Side of Old York Road, (MD Route 562)

2,020' & 3,000' S of Intersection with *

Old York Road & Markoe Road

(Old York Road) *

10th Election District

3rd Council District *

Estate of Elizabeth W. Constable by *

James W. Constable, Esquire, Personal *

Representative, *Legal Owner*

Eleanor W. Reade, *Contract Purchaser* *

and *Petitioner*

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case Nos. 2009-0124-SPH

and

2009-0125-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing filed by Eleanor W. Reade, the contract purchaser of properties owned by the Estate of Elizabeth W. Constable (Constable) located on Old York Road, south of Markoe Road, in Monkton. Since the properties abut one another, the two (2) cases were heard contemporaneously. In both instances, relief is requested, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for the approval of three (3) non-density transfers from two (2) separate parcels owned by Constable. The subject property and requested relief are more particularly described on the site plan submitted in each case, which were accepted into evidence and respectively marked as Petitioner's Exhibit 1. In Case No. 2009-0124-SPH, the Petitioner requests (1) a non-density transfer of a 1.432 acre parcel of land bearing tax identification number 10-03-047951 (Parcel 146) from Constable to the Petitioner and (2) a non-density transfer of a 18.398 acre parcel bearing the tax identification number 10-03-047952 (Parcel 181) from Constable to the Petitioner. The third transfer, under Case No. 2009-0125-SPH, requests approval of the non-density transfer of the remaining 10.623 acres of

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Date

2-23-09

By

Parcel 181 from Constable to Ronald L. Maher, Jr. and Margaret Howard Maher, owners of an adjacent tract.

Appearing at the requisite public hearing in support of the requests were Eleanor Weller Reade; Ronald Maher, Jr., adjacent property owner, and Bruce E. Doak, surveyor with Gerhold, Cross & Etzel, Ltd., who prepared the site plan. John B. Gontrum, Esquire, of Whiteford, Taylor & Preston, L.L.P., represented the Petitioner. Appearing and offering testimony on behalf of the County's Department of Environmental Protection and Resource Management (DEPRM) was Wallace S. Lippincott, Jr. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject properties are roughly rectangular shaped parcels located approximately one-half mile north of the intersection of Old York Road and Monkton Road and south of Markoe Road in northern Baltimore County. The properties are zoned R.C.2 and are subject to a Maryland Agricultural Land Preservation Foundation (MALPF) easement. The properties are unimproved and primarily contain crops. Testimony indicated that the Petitioner intends to use the properties for agricultural uses pursuant to the requirements of the agricultural preservation easements to which the properties are subject.

Mrs. Reade is the oldest daughter of the Constable family and owns property at 16131 Old York Road directly adjacent to the subject tracts. She currently uses Parcel 181 to access Old York Road from her residence. Parcel 146, which lies north of her residence is mostly wooded with significant wetland areas as shown on Petitioner's Exhibit 1. She wishes to sell a portion of Parcel 181 to her neighbor to the north Mr. Maher, whose family also owns several tracts of land, which have been placed in agricultural land preservation. By sale of this parcel she would generate enough funds to purchase the properties from her deceased parents' Estate. On behalf of the Petitioner, Mr. Gontrum proffered that both Parcel 146 and Parcel 181 are

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Date 2-23-09
By [Signature]

subject to Maryland Agricultural Land Preservation easements, which restrict the nature of the use of the properties. *See* Petitioner's Exhibit 4.

Wallace S. Lippincott, Jr., Land Preservation Manager, DEPRM, appeared at the hearing and offered testimony regarding the proposed transfers. According to Mr. Lippincott, DEPRM has concerns with the proposed transfers of Parcel 181 because they do not meet the criteria for approval under the MALPF regulations and because they seemingly conflict with the DEPRM policies as set forth in Section 32-4-415 of the Baltimore County Code (B.C.C.). In this regard, Parcel 181 contains less than 50 acres and under current State regulations transfers of less than 50 acres from an agricultural easement are prohibited. One issue raised is whether these regulations would be applicable to easements that have been created prior to their adoption. Mr. Lippincott believes, as does Petitioner's counsel, that this issue involving Parcel 181 should be referred first to the MALPF Board for its determination. This Commission lacks statutory authority to resolve disputed real estate controversies.

However, with respect to the transfer of Parcel 146, Mr. Lippincott testified that DEPRM supports the transfer provided that the deed conveying the property contains a restriction that the parcel is non-buildable and that the density unit on the property may not be transferred to another property.

After due consideration of the evidence presented, I am persuaded to grant approval of the transfer of Parcel 146. All parties were in agreement that the transfer is proper, and there were no adverse comments submitted by any neighbors or by any of the County reviewing agencies to this transfer. This parcel is otherwise landlocked, and its use is distinguished from that of Parcel 181. In light of the testimony and evidence presented, it appears that the relief can be granted without violating the regulations imposed by the Maryland Agricultural Land Preservation Foundation as well as those imposed by the B.C.C.

FILED
Date 2-23-09
By [signature]

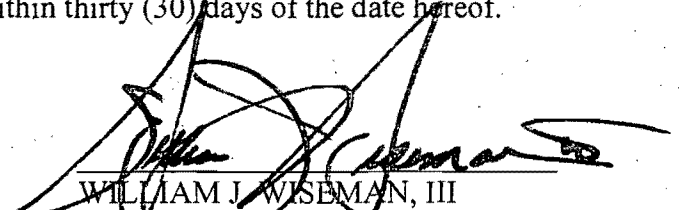
With regard to the proposed transfers pertaining to Parcel 181, I will refrain from ruling on the matter at this time until the Maryland Agricultural Land Preservation Foundation has had an opportunity to review the request and issue a decision thereon. The records in both Case Nos. 2009-0124-SPH and 2009-0125-SPH will remain open pending a resolution by MALPF and DEPRM.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the requested special hearing relief shall be granted in part and jurisdiction shall be retained to rule on the transfers involving Parcel 181 until such time as the MALPF Board has had the opportunity to determine whether the proposed transfers conform to regulations and the goals of agricultural preservation.

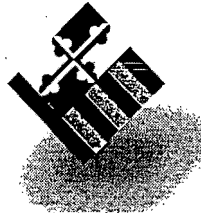
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of February 2009 that the Petition for Special Hearing in Case No. 2009-0124-SPH, seeking approval to allow a non-density transfer of a 1.432 acres of Parcel 146 from the Estate of George and Elizabeth Constable to Eleanor W. Reade, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following conditions:

- 1) The 1.432 acres of Parcel 146 shall remain subject to the Maryland Agricultural Land Preservation Foundation easement and shall be used in a manner that is consistent therewith.
- 2) The deed conveying the 1.432 acres of Parcel 146 shall contain a restriction that the parcel is non-buildable and that the density unit on the property may not be transferred to another property.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

RECEIVED FOR FILING
Date 2-23-09
By 123



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

February 23, 2009

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204

IN RE: PETITIONS FOR SPECIAL HEARING

E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road

(Old York Road)

10th Election District - 3rd Council District

Estate of Elizabeth W. Constable by James W. Constable, Esquire, Personal Representative,
Legal Owner and Eleanor W. Reade, *Contract Purchaser* and *Petitioner*

Case Nos. 2009-0124-SPH and 2009-0125-SPH

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matters.

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,

A handwritten signature in black ink, appearing to read "William J. Wiseman III", written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Eleanor Weller Reade, 16135 Old York Road, Monkton, MD 21111
Ronald Maher, Jr., 16339 Old York Road, Monkton, MD 21111
Bruce E. Doak, Gerhold, Cross & Etzel, Ltd., Suite 100, 320 East Towsontown Boulevard,
Towson, MD 21286
People's Counsel; Wallace S. Lippincott, Jr., DEPRM; Office of Planning; DPR; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at OLD YORK RD
which is presently zoned RC-2

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

SEE ATTACHED

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

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

Contract Purchaser/Lessee:

ELEANOR WELTER READE
Name - Type or Print
Eleanor W Reade
Signature
16135 OLD YORK RD
Address
MONKTON MD 21111
City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

GEORGE W. CONSTABLE
Name - Type or Print
Elizabeth W. Constable
Signature
ELIZABETH W. CONSTABLE
Name - Type or Print
Elizabeth W. Constable
Signature
16131 OLD YORK RD 410-659-1315
Address Telephone No.
MONKTON MD 21111
City State Zip Code

Representative to be Contacted:

GERHOLD, CROSS & EITZEL LTD.
Name
320 E. TOWSON TOWN BLVD 410-823-4470
Address Telephone No.
TOWSON MD 21286
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2009-0125-SPH

UNAVAILABLE FOR HEARING _____

REV 9/15/98

RECEIVED FOR FILING
Reviewed By A. TSUI Date 10/28/2008
Date 2-23-09
By ISW

OLD YORK ROAD

SPECIAL HEARING REQUESTED

Tax Account No.: 10-03-047952

*TO ALLOW A NON-DENSITY TRANSFER OF A 10.623 Ac.±,
PARCEL OF LAND FROM GEORGE W CONSTABLE AND
ELIZABETH W CONSTABLE TO RONALD L. MAHER JR
AND MARGARET HOWARD MAHER
(OWNERS OF AN ADJACENT TRACT)*

2009-0125-SPH

No. 2500

Date

10/28/08

PAID RECEIPT

DATE: 10/23/2013 TIME: 13:09:59

REC'D: 10/20/2000 10/20/2000 10/20/2000

5. FOR YOURS VERIFICATION

10-20-2011

Receipt Total 345.00

95.00 18 9.00 64

Baltimore County, Maryland

Total

6

Rec
From

GEORGE CONSTABLE (CONTRACT PURCHASER)
ELENA READE

For

OLD YORK RID

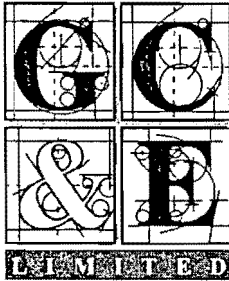
~~2009-0125-SPII~~

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286.
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

October 20, 2008

ZONING DESCRIPTION

George W. and Elizabeth W. Constable property

Tax ID: 10-03-047951

Old York Road

Baltimore County, Maryland

All that piece or parcel of land situate, lying and being in the Tenth Election District, Third Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning for the same at a point southerly 2020 feet $\pm$ from the intersection of Old York Road with Markoe Road along the centerline of Old York Road, South 70 degrees 45 minutes 14 seconds East 776.44 feet, South 66 degrees 32 minutes 54 seconds East 384.54 feet, South 68 degrees 41 minutes 03 seconds East 374.73 feet, South 18 degrees 27 minutes 42 seconds West 335.46 feet, North 67 degrees 45 minutes 18 seconds West 25.50 feet, and running thence,

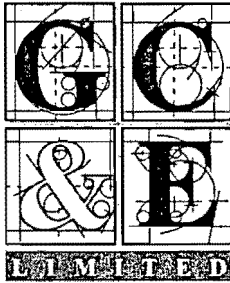
- 1) South 67 degrees 45 minutes 18 seconds East 486.23 feet,
- 2) South 46 degrees 04 minutes 09 seconds West 120.80 feet,
- 3) North 74 degrees 47 minutes 38 seconds West 434.98 feet,
- 4) North 20 degrees 14 minutes 23 seconds East 163.91 feet to the point of beginning.

Being part of Lot 146, Tax ID.10-03-047951
Containing 1.432 Acres of land, more or less.



Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

2009-0125-SPH



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October 20, 2008

ZONING DESCRIPTION

George W. and Elizabeth W. Constable property

Tax ID: 10-03-047952

Old York Road

Baltimore County, Maryland

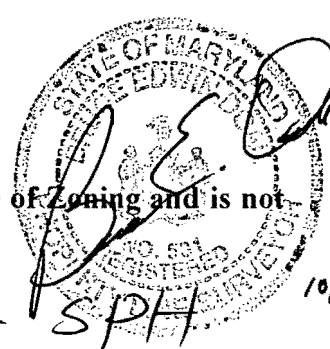
All that piece or parcel of land situate, lying and being in the Tenth Election District, Third Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning for the same at a point in the center of the Old York Road being southerly 3000 feet $\pm$ from the intersection of Old York Road with Markoe Road along the centerline of Old York Road and running thence,

- 1) North 17 degrees 45 minutes 46 seconds East 818.53 feet,
- 2) North 14 degrees 07 minutes 06 seconds East 156.29 feet,
- 3) South 70 degrees 45 minutes 14 seconds East 776.44 feet,
- 4) South 66 degrees 32 minutes 54 seconds East 384.54 feet,
- 5) South 68 degrees 41 minutes 03 seconds East 374.73 feet,
- 6) South 18 degrees 27 minutes 42 seconds West 335.46 feet,
- 7) North 67 degrees 45 minutes 18 seconds West 25.50 feet,
- 8) South 20 degrees 14 minutes 23 seconds West 163.91 feet,
- 9) South 74 degrees 47 minutes 38 seconds East 2.21 feet,
- 10) South 19 degrees 56 minutes 14 seconds West 209.26 feet,
- 11) South 51 degrees 56 minutes 14 seconds West 39.50 feet,
- 12) South 21 degrees 09 minutes 14 seconds West 90.91 feet,
- 13) North 72 degrees 54 minutes 41 seconds West 1114.74 feet,
- 14) North 77 degrees 02 minutes 21 seconds West 55.71 feet
- 15) North 81 degrees 30 minutes 21 seconds West 282.11 feet to the point of beginning.

Containing 30.75 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.



2009-0125

SPH

10/20/08

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: # 2009-0125-SPH

Old York Road

E/side of Old York Rd., 2020 feet south of the intersection of Old York Rd. & Markoe Rd.

10th Election District — 3rd Councilmanic District

Legal Owner(s): George & Elizabeth Constable

Contract Purchaser: Eleanor Reade

Special Hearing: to allow a non-density transfer of a 10.623 acres +/- parcel of land from Mr. & Mrs. Constable to Ronald & Margaret Maher (owners of adjacent tract).

Hearing: Wednesday, January 21, 2009 at 10:00 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 1/6/26 Jan. 6

191721

CERTIFICATE OF PUBLICATION

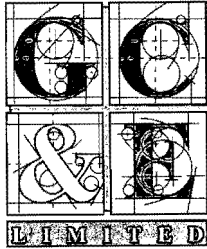
1/8/2009

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 1/6/2009.

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

S. Wilkinson

LEGAL ADVERTISING



Gerhold, Cross & Etzel, Ltd.

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Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE #2009-125-SPH

OWNER/DEVELOPER:
George & Elizabeth Constable

CONTRACT PURCHASER:
Eleanor Reade

DATE OF HEARING:
January 21, 2009

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: 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

LOCATION:
Old York Road

(see page 2 for full size photo)

SIGNATURE OF SIGN POSTER

Bruce E. Doak

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320 EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

POSTED ON: 01/05/09

ZONING NOTICE

CASE #: 2009-0125-SPH

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

PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
TIME &
DATE: Wednesday, January 21, 2009 at 10:00 a.m.

Special Hearing to allow a non-density transfer of a
10.623 acres +/- parcel of land from Mr. & Mrs.
Constable to Ronald & Margaret Maher (owners of
adjacent tract).

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL 410-387-3331 THE DAY BEFORE THE SCHEDULED HEARING DATE
DO NOT REMOTE THIS SIGN AND POST UNTIL THE DAY OF HEARING. YOUR PRESENCE IS THE
HEARINGS ARE HANDICAPPED ACCESSIBLE

ZONING NOTICE

CASE #: 2009-0124-SPH

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

PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
TIME &
DATE: Wednesday, January 21, 2009 at 9:00 a.m.

Special Hearing to allow a non-density transfer of a
1.432 acre +/- parcel of land from George &
Elizabeth Constable to Eleanor Reade (owner of
adjacent tract). To allow a non-density transfer of
18.398 acres +/- parcel of land from George &
Elizabeth Constable to Eleanor Reade (owner of
adjacent tract).

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL 410-387-3331 THE DAY BEFORE THE SCHEDULED HEARING DATE
DO NOT REMOTE THIS SIGN AND POST UNTIL THE DAY OF HEARING. YOUR PRESENCE IS THE
HEARINGS ARE HANDICAPPED ACCESSIBLE

O'Connor
&
Mooney
REALTORS®
410-321-8800

BY APPOINTMENT ONLY
HARRY & DORIAN FILBERT
410-456-6730

ZONING NOTICE

CASE # :2009-0125-SPH

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

PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
**TIME &
DATE :** Wednesday, January 21, 2009 at 10:00 a.m.

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POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

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



ZONING NOTICE

CASE # :2009-0124-SPH

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

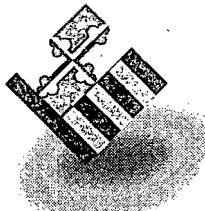
PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
**TIME &
DATE :** Wednesday, January 21, 2009 at 9:00 a.m.

Special Hearing to allow a non-density transfer of a
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CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

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





BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

December 5, 2008
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2009-0125-SPH

Old York Road

E/side of Old York Road, 2020 feet south of the intersection of Old York Road & Markoe Road
10th Election District – 3rd Councilmanic District

Legal Owners: George & Elizabeth Constable

Contract Purchaser: Eleanor Reade

Special Hearing to allow non-density transfer of a 10.623 acres +/- parcel of land from Mr. & Mrs. Constable to Ronald & Margaret Maher (owners of adjacent tract).

Hearing: Wednesday, January 21, 2009 at 10:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in cursive script, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Mr. & Mrs. Constable, 16131 Old York Road, Monkton 21111
Eleanor Reade, 16135 Old York Road, Monkton 21111
GC & E, 320 E. Towsontown Blvd., Towson 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JANUARY 6, 2009.**
- (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, January 6, 2009 Issue - Jeffersonian

Please forward billing to:
Eleanor Reade
16135 Old York Road
Monkton, MD 21111

410-472-4061

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: 2009-0125-SPH

Old York Road

E/side of Old York Road, 2020 feet south of the intersection of Old York Road & Markoe Road

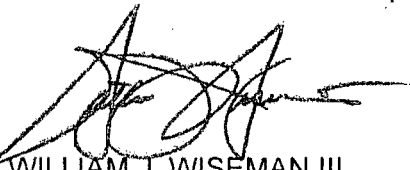
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105 West Chesapeake Avenue, Towson 21204



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: 2009-0125-SPH

Petitioner: GEROLD, CROSS & FETZEL LTD.

Address or Location: 320 E TOWSON TOWN BLVD, MD. TOWSON 21286

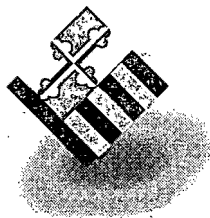
PLEASE FORWARD ADVERTISING BILL TO:

Name: ELEANOR W. READE

Address: 16135 OLD YORK RD.

MONKTON, MD 21111

Telephone Number: (410) 472-4061



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
January 15, 2009

George W. & Elizabeth W Constable
16131 Old York Rd.
Monkton, MD 21111-2107

Dear: George W. & Elizabeth W Constable

RE: Case Number 2009-0125-SPH, Old York Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 28, 2008. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

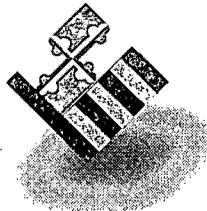
A handwritten signature in black ink that reads "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Gerhold; Cross & Etzel LTD; 320 E. Towsontown Blvd.; Towson, MD 21286
Eleanor W. Reade; 16135 Old York Rd.; Monkton, MD 21111-2107



BALTIMORE COUNTY
MARYLAND

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

November 10, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 03, 2008

Item Numbers: Item Number 0109 through 0125

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: November 7, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For November 10, 2008
Item No. 2009-125

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

We have no objection to the proposed non-density transfer provided that the subdivision is approved in accordance with all development regulations.

DAK:CEN:cab

cc: File

ZAC-ITEM NO 2009-125-11072008.doc



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

State Highway
Administration

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

Maryland Department of Transportation
November 6, 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. 2009-0125-SPH
MD 562 (Old York Road)
South of Markoe Road
Constable Property
Plan to Accompany a
Petition for Special Hearing

Dear Ms. Matthews:

We have reviewed the site plan for the Constable property located on MD 562 (Old York Road), which was received on November 3rd. We understand that this plan illustrates a proposal to allow a non density transfer of +/- 10.623 acres as shown on the Plan to Accompany a Petition for Special Hearing, dated October 21, 2008.

Our assessment and internal review reveals that the existing entrance onto MD 562 (Old York Road) is consistent with current State Highway Administration requirements. Therefore, this office has no objection to Constable Property at 16131 Old York Road, Case Number 2009-0125-SPH approval. However, the State Highway Administration request that the County consider requiring dedication of the property frontage along MD 562 (Old York Road). The standard setback for in this area for turn pike right-of-way is 33' from the roadway center line.

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

Very truly yours,

For 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



Ms. Kristen Matthews
Constable Property 2009-0125-SPH
Page two

Cc: Mr. & Mrs. George W. Constable, Owner
Mr. Keith Kucharek, Regional Intermodal Planning Division, SHA
Mr. David Malkowski, District Engineer, SHA
Mr. Walter Rullman, Real Property Manager, SHA
Mr. Walter T. Smith, Jr., Development Plans Review, Baltimore County

BW 1/21
10 am

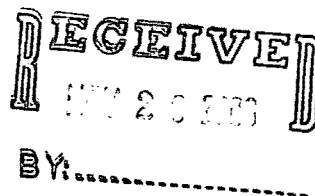
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 24, 2008

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



SUBJECT: Zoning Advisory Petition(s): Case(s) 09-125- Special Hearing
(See also Case# 09-124)

The Development Review Committee (DRC) on September 15, 2008 (DRC Item# 091508D) recommended that the project be tabled to the Agricultural Board and the Department of Environmental Protection and Resource Management. The Zoning Commissioner should defer consideration of the project until the Agricultural Board provides comments.

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

Prepared By:

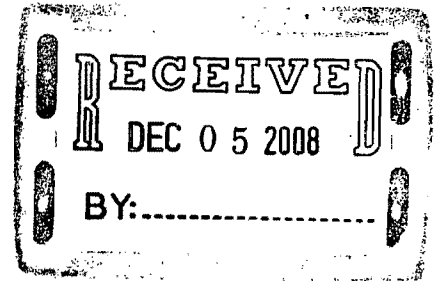
A handwritten signature in cursive script, appearing to read "Candi Murray", written over a horizontal line.

Division Chief:
CM/LL

A handwritten signature in cursive script, appearing to read "John Louha", written over a horizontal line.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: December 3, 2008
SUBJECT: Zoning Item # 09-125-SPH
Address Old York Road south of Markoe Road
(Constable Property)

Zoning Advisory Committee Meeting of November 3, 2008

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

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

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

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

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

Additional Comments:

The proposed lot line that creates the 1.675 acre parcel constitutes a subdivision of land.

Reviewer: Thomas Panzarella

Date: November 17, 2008

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: December 2, 2008
SUBJECT: Zoning Item # 0125-SpH
Address 16135 Old York Road

Zoning Advisory Committee Meeting of

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

Additional Comments:

The Land Preservation Section of the Department has reviewed the request and the following comments are provided.

1. Request for Non-density transfer of 18.398 acres from Parcel 181 is opposed because it does not meet the criteria for approval under the Maryland Agricultural Land Preservation Foundation. It is also opposed because it conflicts with the DEPRM policies for County Code 32-4-415.
 - a. This parcel is under a Maryland Agricultural Land Preservation Foundation (MALPF) Easement and the easement was purchased with public funds for the protection of agricultural land and to maintain the agricultural capability of the land. The County participates in the administration and the funding of this program as provided for in the County Code Article 24. The State informed the County on December 2, 2008 that the request cannot be approved because it does not meet the State regulations for an agricultural subdivision. While the regulations permit an area of smaller than 50 acres to be added to an adjacent property under easement, the remainder must be at least 50 acres. This request does not meet that standard.
 - b. Furthermore, the appropriate procedure to obtain approval of such a request is to submit a request for approval by MALPF through the

Baltimore County Agricultural Land Preservation Advisory Board (Advisory Board). If the applicant wishes to proceed with this request they should also proceed with a request for a General Exemption for Agricultural Purposes under the County Code. This process involves a request to the DRC and to the Advisory Board.

- c. Lastly, the request conflicts with DEPRM policies authorized in Baltimore County Code 32-4-415 governing the review of subdivisions of RC 2 property. The policies guide subdivisions to create a large lot and a small lot. The ultimate subdivision of the 1.65-acre area on Old York Road leaving behind approximately 28 acres in one piece under easement would meet those purposes. This request for a non-density transfer to split the 28-acre farm into two smaller pieces reduces the agricultural capability of the land.

Reviewer: W. Lippincott, Jr.

Date: November 25, 2008

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Old York Road; E/S Old York Road, 2,020' S
of intersection Old York Road & Markoe Rd* ZONING COMMISSIONER
10th Election & 3rd Councilmanic Districts
Legal Owners: George & Elizabeth Constable* FOR
Contract Purchaser(s): Eleanor W. Reade
Petitioner(s) * BALTIMORE COUNTY
* 09-125-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.

RECEIVED
NOV 12 2008

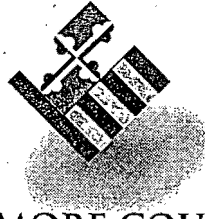
.....

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November, 2008, a copy of the foregoing Entry of Appearance was mailed to Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 19, 2010

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204

IN RE: PETITIONS FOR SPECIAL HEARING
E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road
(Old York Road)
10th Election District - 3rd Council District
Estate of Elizabeth W. Constable by James W. Constable, Esquire, Personal
Representative, *Legal Owner* and Eleanor W. Reade, *Contract Purchaser* and *Petitioner*
Case Nos. 2009-0124-SPH and 2009-0125-SPH

Dear Mr. Gontrum:

The case files, as you know, have been retained in my office pending the decision of the Maryland Agricultural Land Preservation Foundation. Has Eleanor Reade received any word that would allow her to proceed with the purchase/transfer of Parcel No. 181 from the Estate of her parents? Should the remaining non-density transfers be dismissed at this time without prejudice? Can the files be returned to the Zoning Review Office for safekeeping? I would appreciate a short response in this regard updating the status of this matter.

I shall await your advice.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. J. Wiseman III", written over a printed name and title.
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Eleanor Weller Reade, 16135 Old York Road, Monkton, MD 21111
Ronald Maher, Jr., 16339 Old York Road, Monkton, MD 21111
Bruce E. Doak, Gerhold, Cross & Etzel, Ltd., Suite 100, 320 East Towsontown Boulevard,
Towson, MD 21286
People's Counsel; Wallace S. Lippincott, Jr., DEPRM; Office of Planning; DPR; File

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: File

DATE: March 6, 2009

FROM: William J. Wiseman, III
Zoning Commissioner

SUBJECT: PETITIONS FOR SPECIAL HEARING
E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road
(Old York Road)
10th Election District - 3rd Council District
Estate of Elizabeth W. Constable by James W. Constable, Esquire, Personal
Representative, *Legal Owner* and Eleanor W. Reade, *Contract Purchaser* and
Petitioner
Case Nos. 2009-0124-SPH and 2009-0125-SPH

The case files are being retained in the Zoning Commissioner's Office pending a decision from the Maryland Agricultural Land Preservation Foundation with regard to the transfer of Parcel 181, which has not been resolved in the interim Order.

WJW:dlw

c: Kristen Matthews, Zoning Review, DPDM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Kristen Matthews, DPDM
File

DATE: March 24, 2010

FROM: William J. Wiseman, III
Zoning Commissioner

SUBJECT: PETITIONS FOR SPECIAL HEARING
E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road
(Old York Road)
10th Election District - 3rd Council District
Estate of Elizabeth W. Constable by James W. Constable, Esquire,
Personal Representative, *Legal Owner* and
Eleanor W. Reade, *Contract Purchaser and Petitioner*
Case Nos. 2009-0124-SPH and 2009-0125-SPH

I am returning the above-referenced files to your office for safekeeping as it appears permission was not obtained from the Maryland Agricultural Land Preservation Foundation (MALPF) for the transfer.

Thank you.

WJW:dlw
Attachment

COMBINED HEARING

Case No. 5: 2009-0124-SPH

2009-0125-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN FILED WITH ZONING PETITION	
No. 2	1942 DEED OF SUBJECT PROPERTY SCHAFER TO SEHLHURST	
No. 3	AERIAL VIEW OF SUBJECT TRACT(S)	
No. 4	AGRICULTURAL PRESERVATION AGREEMENT - 1997 - CONSTABLE TO MALPF (2 PARCELS)	
No. 5	ZONING MAP RC 2 DEPICTING PARCEL BOUNDARY	
No. 6	SITE PLAN SHOWING EXISTING EASEMENTS AND PROPOSED TRANSFERS	
No. 7	AGRICULTURAL PRESERVATION AGREEMENT 1989 - MATTER TO MALPF (5 PARCELS)	
No. 8	* ALL EXHIBITS PLACED IN FILE NO: 2009-0124-SPH	
No. 9		
No. 10		
No. 11		
No. 12		

DATE 1/21/09

PLEASE PRINT CLEARLY

PETITIONER'S SIGN-IN SHEET

[illegible]

CASE NAME CONSTABLE
CASE NUMBER 2009-124-SP4
DATE 2009-125-SP4
1/21/09

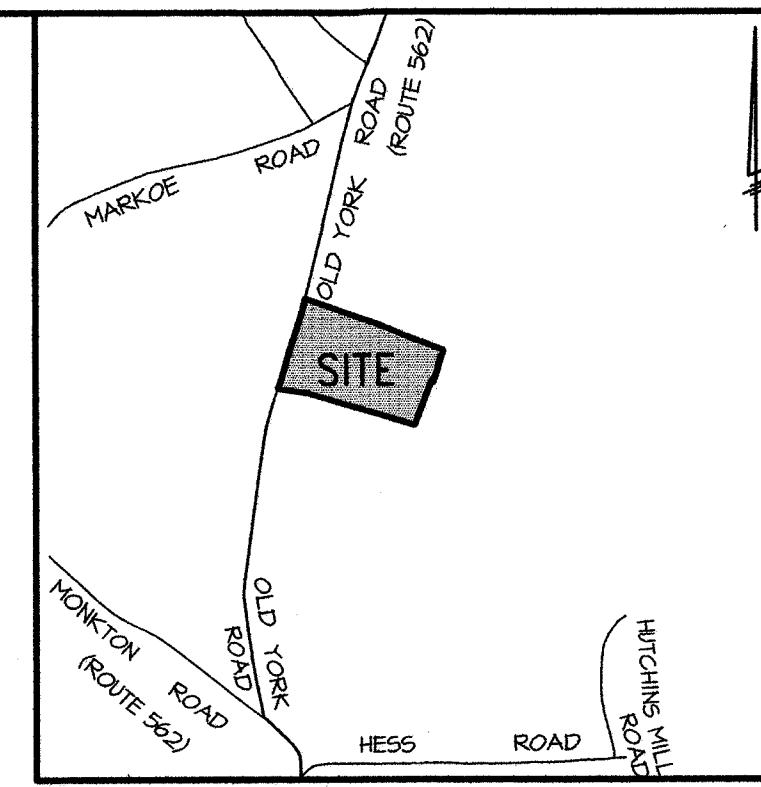
[illegible]

R.C. 2 PRINCIPAL STRUCTURE OR DWELLING SETBACKS

FROM ANY BUILDING FACE TO:
CENTERLINE OF ANY STREET 15'

FROM ANY BUILDING FACE TO:
LOT LINE OTHER THAN A STREET LINE 35'

MARYLAND STATE PLANE
COORDINATE SYSTEM
NAD 83/91



VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A SURVEY BY GERHOLD, CROSS AND ETZEL LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILES 29C1 AND 29C2
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 14.
4. WATERSHED - LITTLE GUNPOWDER FALLS SUBWATERSHED - NONE
5. SCHOOL DISTRICT: ELEMENTARY - JACKSONVILLE E.S.; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
6. A.D.C. MAP # GRID 13.B
7. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
8. THE SUBJECT PROPERTY (PARCEL 14, TAX ID 10-03-041950) IS HISTORIC.
9. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
10. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
11. THE 10.623 ACRES PARCEL AND THE 18.398 ACRES PARCEL WILL REMAIN AGRICULTURALLY UTILIZED.

OWNER

GEORGE W. CONSTABLE
ELIZABETH W. CONSTABLE
(JAMES W. CONSTABLE)
16131 OLD YORK ROAD
MONKTON, MARYLAND 21111-2107

PLAN TO ACCOMPANY A PETITION
FOR SPECIAL HEARING
CONSTABLE PROPERTY

OLD YORK ROAD
Zoned RC-2; GIS Tile 29C1, 29C2

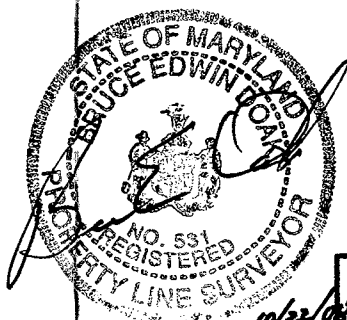
Deed Ref: R.R.G. No. 4494 folio 104
Tax Account No.: 10-03-041952
Tax Map 29; Grid 12; Parcel 181

10th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=100' Date: AUGUST 25, 2008

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21206
(410) 823-4470



SPECIAL HEARING REQUESTED

TO ALLOW A NON-DENSITY TRANSFER OF A 10.623 AC.
PARCEL OF LAND FROM GEORGE W. CONSTABLE AND
ELIZABETH W. CONSTABLE TO RONALD L. MAHER JR.
AND MARGARET HOWARD MAHER
(OWNERS OF AN ADJACENT TRACT)

REVISION PER ZONING	10/21/08
REVISION	DATE

COMPUTED: DRAWN: C.L.M. CHECKED: PETITIONER'S

EXHIBIT NO. 1
2009-125-SPH

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES W/BASEMENT	STREETS & PARKING
CcB2, GcB2 McB2, EMB2	Slight	Slight	Moderate: slope
CcC2, GcC2 McC2, EMB2	Moderate: slope	Moderate: slope	Severe: slope
Cu	Severe: moderately high water table; flooding hazard.	Severe: Flooding hazard	Severe: Flooding hazard
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
Hb	Severe: high water table; flooding hazard.	Severe: high water table; flooding hazard.	Severe: high water table; flooding hazard.
GcD2, McD3	Severe: slope	Severe: slope	Severe: slope
BaA, BaB	Severe: high water table; poor natural drainage; slow permeability.	Severe: high water table; poor natural drainage.	Severe: high water table; poor natural drainage.

LEGEND

- EXISTING BUILDING
- SOIL LINE
- WOODS LINE
- EXISTING PAVING
- ZONING LINE
- PROPERTY LINE
- CONTOURS



MARYLAND COORDINATE SYSTEM
NAD83(1981)

ZONING MAP

GIS TILE: 029C1, 029C2

SCALE: 1" = 200'

2009-0125-SPH