11/19/10

RE: PETITION FOR RECLASSIFICATION 1206 Molesworth Rd: NW/S Molesworth Rd. 1645' NE Armcost Rd, 406' NW Molesworth Rd 6th Election and 3rd Councilmanic Districts Legal Owner(s): Neal Jacobs Petitioner	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY CASE NO. R-09-269 (CYCLE I, 2009)

BACKGROUND

This matter comes before the Board as a Petition for Reclassification of the property described as 1206 Molesworth Road: NW/S Molesworth Road 1645' NE Armacost Road, 406' NW Molesworth Road, from 2008 countywide comprehensive rezoning ordinance. As a result of the 2008 Comprehensive Zoning Map Process ("CZMP"), a portion of the subject property was reclassified from R.C. 4 to R.C. 7. The Petitioner has requested that his property be reclassified back to the original R.C. 4. Lawrence Schmidt, Esquire, of Gildea and Schmidt appeared on behalf of the Petitioner. Peter Max Zimmerman appeared on behalf of People's Counsel for Baltimore County. A hearing was held before the Board on September 15, 2009 to hear Motions to Quash regarding subpoenas issued by the Petitioner to members of the Baltimore County Counsel. This Motion was publicly deliberated on October 14, 2009, with the Motion to Quash being granted. A hearing on the merits began on March 3, 2010 and continued, reconvening on May 26, 2010, May 27, 2010, and concluding June 9, 2010. The case was publicly deliberated on August 17, 2010.

FACTS

The subject property is located adjacent to Molesworth Road in the Middletown Farms community of Baltimore County. The property is owned by Petitioner, Neal Jacobs. The property is approximately 6.1 acres in area (265,716 square feet). Access to the property is by way of a

driveway leading from Molesworth Road to the Petitioner's dwelling. As a result of the 2008 CZMP, it is now split zoned RC 7 (5.913 acres) and RC 4 (0.187 acres).

The Petitioner purchased the subject property in 2006. Petitioner received limited exemption approval from the full development process for a proposed minor subdivision to create one additional lot. Thereafter, the substantive review of the Development Plan for compliance with ("Regulations" or "BCZR") took place over the course of the next two years.

Evidence was presented that the Petitioner wrote checks to Baltimore County and a forest conservation bank to cover fees required to satisfy development requirements. The Petitioner testified that the delay in the approval of the minor subdivision was due to a County comment regarding insufficient access. As evidenced in Petitioner's Exhibit No. 5, Petitioner purchased land from a neighbor to acquire the required access.

Prior to final approval of the Development Plan, the predominant portion of the subject property was reclassified from RC 4 to RC 7 in the 2008 CZMP. Petitioner contends that the reclassification of his property in the 2008 CZMP was in error. The Petitioner's Zoning Reclassification Petition requests that the Board find that an error occurred and the requested zoning change should be made.

Petitioner alleges to have discovered that his property was proposed for down zoning after the 2008 CZMP. In accordance with BCC § 32-3-512, Petitioner filed a documented site plan with his petition. This site plan was offered into evidence before this Board and appears to be the same minor subdivision plan reviewed by the Office of Planning, with Planning's comments dated September 10, 2009.

OPINION

While counsel for the Petitioner and Peoples Counsel, have raised a variety of issues purported to support their respective arguments, this Board finds the question as to whether the classification at issue was established in "error" to be the essence of this matter.

BCZR § 32-3-510(a), Baltimore County's codification of the standard for reclassification, states "[b]efore property is reclassified on the official zoning map of the county, the Board of Appeals must find that ... [a] substantial change has occurred in the character of the neighborhood in which the property is located since the property was last classified; or that the last classification was established in error."

It is clear from the Petitioner's argument that he is not claiming a substantial change in the character of the neighborhood, but rather that an error occurred.

The County Council defines "error" in BCZR § 32-3-510(d). BCZR § 32-3-510(d) reads as follows:

(1) Before a property is reclassified on the basis of error, the Board of Appeals must find, from its review of the reports considered under subsection (c)(1) of this section, that at the time the last classification of the property was established, the County Council did not consider facts and circumstances then existing that were relevant to the decision.

(2) A classification error may not be established on the basis of :

(i) Economic disadvantage resulting from the last classification;

(ii) The incompatibility of the last classification with the zoning classification of surrounding tracts or parcels of land;

(iii) The lack of conformity of the last classification with the recommendations of the Baltimore County Master Plan; or

(iv) The failure of the County Council to consider the property as a specific issue in the comprehensive zoning map process.

The Petitioner's argument in short is that the County Council was unaware of the existence of Mr. Jacobs' proposed minor subdivision and the ongoing processing of a plan for such. Petitioner cites the testimony of Jesse Bialek, who was responsible for reviewing the CZMP issue, who testified that she was not aware that other planning staff were simultaneously reviewing the Petitioner's minor subdivision plan. Petitioner argues that since the Planning Board and County Council rely upon the Planning staff to inform them of relevant information when considering an issue, the logical inference is that the County Council was unaware of the Petitioner's proposed minor subdivision. Accordingly, the Petitioner contends that due to this lack of knowledge, the down zoning of the Petitioner's property was done in error. The Petitioner presented evidence that the Baltimore County CZMP process, which continued from September 2007 to September 2008 overlapped with the County's consideration of the minor subdivision, which lasted from approximately December 2006 to September 2008. During this overlap, the County did not make a connection between the two independent reviews.

In assessing the Petitioner's argument, the Board finds the BCZR § 32-3-510(d) which states "Before a property is reclassified on the basis of error, the Board of Appeals must find . . . the County Council did not consider facts and circumstances then existing that were relevant to the decision" to be central to our decision.

It is clear from the evidence presented to the Board, that the County Council was not aware of the Petitioner's pending minor subdivision that was proceeding contemporaneously with the CZMP, and for which the County had already collected a substantial amount of money from the Petitioner. The Petitioner's review process was essentially completed to the County's

satisfaction. Due to the fact that the Petitioner's proposed minor subdivision was substantially along in the review process, we believe that this would constitute "facts and circumstances" relevant to Council's classification decision. Additionally, the Board does not base this finding of error in failing to consider these "facts and circumstances" on economic disadvantage resulting from the last classification; the incompatibility of the last classification with the zoning classification of surrounding tracts or parcels of land; the lack of conformity of the last classification with the recommendations of the Baltimore County Master Plan; or the failure of the County Council to consider the property as a specific issue in the comprehensive zoning map process as contemplated in BCZR § 32-3-510(d)2.

CONCLUSION

In keeping with the definition of error found in BCZR § 32-3-510(d), the Board finds that the County Council was unaware of the Petitioner's proposed minor subdivision that was progressing contemporaneously with the CZMP. The Board further finds that the existence of the Petitioner's proposed minor subdivision and extent to which the application process had progressed were relevant "facts and circumstances" that should have been considered by the County Council and that failing to do so constituted "error" as defined by statute. Accordingly, the Petitioner's Petition for Zoning Reclassification is GRANTED.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 19th day of November, 2010, that the present zoning designation of R.C. 7 be changed to R.C 4 as requested in the Petition for Reclassification filed under Case No.: R-09-

269/CYCLE I/2009, be and the same is hereby **GRANTED**, pursuant to the Site Plan submitted as Petitioner's Exhibit #1; and it is further

ORDERED that the Office of Planning make the necessary change and correction as set out herein on the latest Comprehensive Zoning Map for Baltimore County with regard to the subject property.

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

Lawrence M. Stahl, Panel Chairman

Andrew M. Belt

Edward W. Crizer, Jr.

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

November 19, 2010

Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
Gildea & Schmidt LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Ste 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Neal Jacobs – Legal Owner/Petitioner*
Case No.: R-09-269

Dear Counsel:

Enclosed please find a copy of the final Opinion 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: Neal Jacobs
Bruce Doak/Gerhold, Cross & Etzel, Ltd.
Bryan McIntire, County Council, 3rd District
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
W. Carl Richards /Zoning Office /PDM
Timothy M. Kotroco, Director /PDM
John E. Beverungen, County Attorney
Colleen Kelly, Project Manager/PDM
Arnold F. 'Pat' Keller, III, Director /Office of Planning

7/16/10

RECEIVED
JUL 16 2010
BALTIMORE COUNTY
BOARD OF APPEALS

NEAL JACOBS	*	BEFORE THE
1206 MOLESWORTH ROAD	*	COUNTY BOARD OF APPEALS
6TH ELECTION DISTRICT	*	OF
3RD COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	*	**Case No.: R-09-269**
	*	

* *

PETITIONER'S POST HEARING MEMORANDUM

Neal Jacobs, Property Owner/Petitioner ("Petitioner"), by and through his attorneys, Lawrence E. Schmidt and Gildea & Schmidt, LLC, submits this Post Hearing Memorandum at the request of the County Board of Appeals of Baltimore County ("Board") in support of the Petition for Zoning Reclassification filed herein and respectfully states:

INTRODUCTION

A. The Subject Property

The subject property is located adjacent to Molesworth Road in the Middletown Farms community of northern Baltimore County. As noted above, the property is owned by the Petitioner herein, Neal Jacobs. The property is approximately 6.1 acres in area (265,716 square feet). The site can best be described as a flag lot or panhandle lot. The main body of the property is a rectangularly shaped tract which is improved with a single-family dwelling in which the Petitioner resides. Access to the property is by way of a long tail which contains a driveway leading from Molesworth Road to the dwelling. It is presently split-zoned RC 7 (5.913 acres) and RC 4 (0.187 acres). The rectangularly shaped portion is zoned RC 7 and the driveway (tail) is zoned RC 4.

After purchasing the subject property in 2006, Petitioner received limited exemption approval from the full development process for a proposed minor subdivision to create one additional lot. Thereafter, the substantive review of the Development Plan for compliance with the Baltimore County Code ("Code" or "BCC") and Baltimore County Zoning Regulations ("Regulations" or "BCZR") took place over the course of the next two (2) years. Prior to final approval of the Development Plan, the predominant portion of the subject property was reclassified (i.e. downzoned) from RC 4 to RC 7 in the 2008 Comprehensive Zoning Map Process ("CZMP")[1]. Petitioner contends that the reclassification of his property in the 2008 CZMP was in error. The instant Zoning Reclassification Petition requires that the Board find that an error occurred and the requested zoning change should be made.

The Petitioner first discovered that the property was even proposed for downzoning *after* the 2008 CZMP. Hoping to continue with the subdivision he had been processing for in excess of two (2) years, the Petitioner filed the instant Petition for Zoning Reclassification. In an effort to be more clear about why he was requesting a reclassification and to commit to a specific plan, in accordance with BCC § 32-3-512, Petitioner filed a documented site plan with his petition. The documented site plan is intended to give the Office of Planning, the Planning Board and the Board of Appeals a clear picture of what exactly the Petitioner intends to do with the property being proposed for reclassification. The documented site plan submitted herein is, as indicated by the Office of Planning in their report on the reclassification request, is the same as the minor subdivision plan, with the caveat that the documented site plan incorporates Planning's comments dated September 10, 2008 (two days after the property was downzoned).

[1] The "tail" area encompassing the driveway remained RC 4, along with the immediate adjacent residential properties which directly front Molesworth Road. The main body of the property was rezoned.

B. Procedural History

The instant Petition for Reclassification was filed in the first of five cycles between the 2008 CZMP and 2012 CZMP. Despite the Petitioner having filed the instant request in the first of five such cycles, the matter has already extended beyond the statutorily provided timeframe for Cycle 1 reclassifications. *See* BCC § 32-3-504. Petitioner offers the following overview of the procedural history for the instant reclassification request.

The Reclassification was timely filed for consideration during Cycle 1, which began on April 16, 2009, the year following the quadrennial comprehensive zoning map process. In the instant matter, the statutorily provided timeframe for processing a Cycle 1 Petition for Reclassification was on track up until Period IV, the scheduled hearing(s) before the Board. The original hearing date, September 15, 2009, was supplanted by a motions hearing.[2]

The motions hearing was in regards to subpoenas which were issued for each of the County Council members. Petitioner subpoenaed the County Council members in an effort to submit the best evidence of the issue the Board is being asked to consider; to wit, whether the County Council was aware of and considered facts and circumstances then existing that were relevant to the decision to reclassify the subject property. The Board granted the Office of Law's Motion to Quash and People's Counsel's Motion in Limine, having found that the County Council is entitled to a legislative privilege regarding legislative acts such as the quadrennial CZMP.

The Board's minutes dated October 14, 2009, which reflect the decision on the aforementioned motions and are part of the case file, is to be incorporated into the Opinion and Order on this Petition for Reclassification. Thereafter, finding time in the Board's calendar for

[2] The instant motions hearing took longer than the entire substantive hearing on the only other petition considered by the Board in Cycle 1, which, coincidentally, was handled by this law firm.

the scheduling of successive days for the hearing extended consideration of the instant reclassification petition beyond the original deadline of December 31, 2009. *See* BCC § 32-3-508(c). This matter came in for three (3) days of public hearings before the Board on May 26, 2010, May 27, 2010 and June 9, 2010.

Petitioner was represented at that hearing by the undersigned counsel and testimony in support of the Petition was offered by Neal Jacobs, Bruce Doak (a surveyor/expert witness), David Thomas (neighbor and employee of the Department of Public Works) and Jesse Bialek (Baltimore County Office of Planning). Petitioners also offered eighteen (18) exhibits into evidence in support of the requested relief. Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, appeared in opposition to the Petition for Zoning Reclassification. He called James Patton (engineer/expert witness), Donald Outen, Michael Pierce and Kirsten Burger to offer testimony in opposition to the requested relief. Protestants also offered fifty-one (51) exhibits into evidence in opposition to the requested relief.

PETITIONER'S REQUESTED RELIEF

Petitioner sets forth the following Standard of Review to be applied by the Board in it's consideration of the instant Petition for Reclassification.

Standard of Review

1. Was the last classification of the property established in error?

2. Is the requested reclassification warranted based on a consideration of the purposes of the BCZR and maps, including:

    (i) Population trends;
    (ii) Availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities;
    (iii) Compatibility of uses generally allowable under the requested classification with the present and projected development or character of the surrounding area;

(iv) Any pertinent recommendation of the Planning Board or Office of Planning; and
(v) Consistency of the current and requested classifications with the Master Plan, the county water and sewer plan, and the capital program.

3. Does the Board find that the Petition for Reclassification should be granted?

Analysis

Standard 1: Was the Last Classification of the Property Established in Error?

After a thorough review of the County's standard for error determination (standard of review), the Board will be compelled to find that the last classification was established in error. BCZR § 32-3-510(a), Baltimore County's codification of the findings necessary for zoning reclassification reads, in pertinent part, "[b]efore property is reclassified on the official zoning map of the county, the Board of Appeals must find that ... [a] substantial change has occurred in the character of the neighborhood in which the property is located since the property was last classified; or [t]hat the last classification was established in error." Mr. Jacobs is claiming that an error occurred. He is not claiming that there has been a substantial change in the character of the neighborhood.

The County Council defines "error" in BCZR § 32-3-510(d). BCZR § 32-3-510(d) reads as follows:

(1) Before a property is reclassified on the basis of error, the Board of Appeals must find, from its review of the reports considered under subsection (c)(1) of this section, that, at the time the last classification of the property was established, the County Council did not consider facts and circumstances then existing that were relevant to the decision.

(2) A classification error may not be established on the basis of:
(i) Economic disadvantage resulting from the last classification;
(ii) The incompatibility of the last classification with the zoning classification of surrounding tracts or parcels of land;
(iii) The lack of conformity of the last classification with the recommendations of the Baltimore County Master Plan; or

(iv) The failure of the County Council to consider the property as a specific issue in the comprehensive zoning map process.

The entirety of the testimony and evidence before this Board is conclusive that, at the time the last classification of the property was established, the County Council was unaware of the existence of Mr. Jacobs' proposed minor subdivision and ongoing processing of a plan for the same. Jesse Bialek, who was reviewing the CZMP issue, testified that she was not aware that other Planning staff, i.e., Lynn Lanham, Lloyd Moxley and Donnell Zeigler, were simultaneously reviewing Mr. Jacobs' minor subdivision plan. Petitioner's Exhibit No. 4. The Planning Board and County Council rely upon the Planning staff to inform them of relevant information when considering an issue. Petitioner contends that his minor subdivision, in all its complexity, was not known about by the County Council. Protestants have offered no evidence in support of the proposition that the County Council knew about Mr. Jacobs' minor subdivision. Indeed, this fact is not contradicted by any fact or inference from the record.

The County's CZMP process, which continued from September 2007 to September 2008, overlapped with the County's consideration of the minor subdivision, which lasted from approximately December 2006 to September 2008. During this overlap, the County never connected the dots, so to speak, between the two independent reviews. In fact, on May 6, 2008, checks in the amount of $4,000 and $4,704 were written to Baltimore County and a forest conservation bank (3rd party), respectively, to cover fees required to satisfy development requirements[3]. Petitioner's Exhibit Nos. 6 and 14. This date is significant in that the CZMP issue was created prior to September 2007, so Planning had been reviewing the proposed subdivision and the County received money with no apparent idea that the property was an issue. The

[3] The check to Baltimore County for $4,000 was for a stormwater management waiver fee and the check for $4,704 was to cover the forest conservation requirement. Certainly, Mr. Jacobs has never received the "benefit of the bargain" insofar as paying these fees. Baltimore County received actual cash compensation and forest conservation protection while Mr. Jacobs' plan was never approved. The scenario reeks of "unjust enrichment."

principle issue delaying the approval of the minor subdivision was a recurring County comment that insufficient access existed. As evidenced by Petitioner's Exhibit No. 5, on June 25, 2008, Petitioner purchased land at a cost of $22,500 from Tracey Dowling, a neighbor, to satisfy development requirements regarding access.

By way of example, but not by limitation, of the apparent ignorance of the corresponding reviewers within Planning, the County Council approved the comprehensive rezoning for the Third Councilmanic District of Baltimore County when it passed Bill No. 87-08, which took effect on September 8, 2008. See Protestant's Exhibit No. 46. Mr. Moxley,[4] in a letter dated September 10, 2008, was still reviewing the plan as if the property still had the RC 4 zoning. See Petitioner's Exhibit No. 16.

While Petitioner does not directly challenge that the error is based upon deficient notice of the potential re-zoning to the Petitioner, it is uncontroverted that the lack of actual notice in the instant matter contributed to the fact that the County Council did not consider the aforementioned facts and circumstances. Unbeknownst to the Petitioner or his consultant, Kirsten Burger, individually, and as a representative of the Sparks Glencoe Community Planning Council, Inc. ("Sparks Glencoe"), had raised an "issue" within the statutorily provided time period for community associations to do so, September 1 – October 15, BCC § 32-3-214(a)(2)[5]. Jesse Bialek, the area planner for the Third Councilmanic District, who was newly hired

[4] Lloyd Moxley, Development Review Section of the Office of Planning, was one of multiple staff members from Planning in charge of analyzing all facts and circumstances regarding the proposed minor subdivision.

[5] The Petitioner contends that Sparks Glencoe lacked standing to create said issue. As Kirsten Burger testified, the Office of Planning has a long standing practice that community associations can only create issues within their geographic boundaries. Sparks Glencoe's self-proclaimed boundaries are essentially the entire northern portion of Baltimore County. Clearly, Sparks Glencoe does not represent the interests of all of the property owners within their arbitrarily and capriciously created boundaries. As Kirsten Burger testified, Mr. Jacobs' neighborhood does not receive any publications of Sparks Glencoe, which it distributes to other property owners, nor does the association bear a reasonable nexus to his neighborhood. While this does not constitute a basis for Petitioner's assertion that an "error" exists, it is telling about the loaded information the Council was considering.

immediately prior to the 2008 CZMP, was in charge of considering facts and circumstances regarding each issue in her Councilmanic District.

The County is required to provide notice to the owner pursuant to BCC § 32-3-215 and to post signs intended to give all property owners affected notice of the "issue." As this was an approximately 307 acre issue (Issue No. 3-094 in the 2008 CZMP), Planning, with little to no discernable methodology, unilaterally decided to post only (2) such signs, one along Middletown Road and the other along Armacost Road.[6] Petitioner's Exhibit No. 8. The location of the signs, coupled with the fact that the signs were posted in the two most obscure areas (relative to this 300+ acre issue) contributed to the Petitioner's ignorance of the fact that his property was subject to a downzoning request. The Petitioner testified that he does not routinely travel past either of the two locations where notice was posted. Dave Thomas, Assistant to the Director of Public Works and a neighbor, attested to the fact that the signs were obscure and that he would not have been aware of the signs giving notice of the 2008 CZMP issue were it not for his employment with the County and familiarity with the process. He corroborated the Petitioner's testimony that the signs were posted in an inconspicuous manner. The location of the sign at the northernmost point of the issue and the speed of which vehicles travel along Middletown Road rendered this sign ineffective at providing notice. Mr. Thomas further stated that he did not believe that he ever drove by the sign on Armacost Road while it was posted.[7] It is also noteworthy that Mr. Jacobs' property is located in the southeastern most corner of 2008 CZMP Issue No. 3-094, yet no notice was posted on his property (which is nearest the overall issue's access to Interstate 83).

[6] Ms. Bialek testified that Ms. Burger provided input on where the signs should be posted.

[7] If Petitioner's property was its own issue, rather than part of a larger tract, he asserts that he clearly would have been made aware of the fact that the County Council would be considering whether or not to downzone his property. Petitioner and Mr. Doak testified that had they been made aware of the fact that Mr. Jacobs' property was an issue in the CZMP, they would have been able to vest this minor subdivision.

Additionally, there is not sufficient evidence to prove a letter giving Mr. Jacobs notice of his property being an issue was ever sent. What is known is that the letter which was purportedly sent was not sent by certified mail, return receipt requested.[8] Jesse Bialek testified that the administrative practice of Planning was that an administrative assistant printed off an automatically generated letter and, as a matter of course, mailed same to the affected property owners by regular mail. The Petitioner testified that he never received said letter. The alleged mailing of a letter by regular mail, the only evidence of which is Ms. Bialek's testimony regarding Planning's administrative practice, is, at best, circumstantial evidence that notice was ever sent.

Nevertheless, People's Counsel, on behalf of the Protestants, will undoubtedly assert that failure to post or mail notice does not invalidate or affect any subsequent change in the zoning of the subject property per BCC § 32-3-215(f). The Petitioner does not contend that the defective notice itself constitutes a finding of error. Rather, the issue of notice, or lack thereof, and resulting impact on Petitioner's ability to vest his subdivision, would have been considered to be relevant by the County Council had it been brought to their attention prior to the vote on the 2008 CZMP.

Petitioner contends that, had the County Council been made aware of the notice issue, the disproportional impact of this issue upon the Petitioner versus his neighbors and given the fact that he was the only property owner processing a subdivision; constituted additional grounds to exclude his property from the larger issue. The fees Petitioner paid for what is presently a phantom development would have further impacted their decision on whether or not to

[8] At present, the cost to send a letter by certified mail, return receipt requested is $5.54 ($5.10 for certified mail and $.44 for postage). Where signs do not afford sufficient notice and certain issues encompass large acreage and multiple properties, it does not seem unduly burdensome for the County or person(s) filing issues under BCC § 32-3-214 to make a more concerted effort to provide actual notice or notice which is more likely than not to be advised of their property rights being usurped.

downzone his property. At a minimum, the County should have let the Petitioner know that he was paying the aforementioned money at his own risk due to the pending CZMP issue. As such, these factors should be considered by the Board in its determination of the finding of an error necessitating a reclassification.

Planning's BCZR § 32-3-510(c)(1) report, Ms. Bialek's and Mr. Doak's testimony, as well as several exhibits, all point to the fact that the minor subdivision was on the precipice of being approved when it was downzoned. Mr. Doak and Mr. Jacobs both testified that they had no actual notice of the CZMP issue, Issue No. 3-094. Had they known about the issue (i.e. received actual notice), the Petitioner and his consultant could have easily expedited that processing of his plan in order to obtain approval and vest the subdivision prior to the downzoning. As Jessie Bialek testified, the County Council has, on prior occasions, separately considered the unique circumstances of individual property owners who were part of a larger issue. As such, the Board must find that Mr. Jacobs' situation is deemed facts and circumstances then existing that were relevant to the County Council's decision on the last reclassification.

Under the statutorily provided standard for error determination, the Board is bound to make its findings based upon its review of Planning's and the Planning Board's BCC § 32-3-510(c)(1) reports. Petitioner's Exhibit Nos. 12 &13. BCC § 32-2-510(c)(1) reads, in pertinent part:

> (c) *Considerations in making determinations.*
>
> (1) Except as provided in paragraph (2) of this subsection, when hearing a zoning classification petition, the Board of Appeals shall consider in evidence without authenticating testimony:
>
> (i) The report of the Planning Board; or
>
> (ii) A duly submitted relevant report or comments from any other county agency.

Planning and the Planning Board clearly felt that the facts and circumstances of Mr. Jacobs' subdivision were relevant to the decision regarding the last classification. The relevancy of the facts and circumstances are discussed in greater detail in the referenced reports.

In the interest of clarifying the law regarding cycle zoning a review of Maryland's enabling statute, the bill that created Baltimore County's reclassification process and caselaw regarding the standard for error determination is warranted. The state enabling statute, Article 66B, §4.05(a)(2), in pertinent part, requires that there be a finding that there was a mistake in the existing zoning classification and that findings of fact, including substantially similar matters to those set out in BCC § 32-3-510(a)(2), were made.

The County Council, following state law, passed the County's present law regarding the reclassification request process in Bill No. 153-04. Protestant's Exhibit No. 48. However, the County Council, in stark contrast to vicinal jurisdictions, conferred the authority to determine if there was an error to the Board. The County Council retained this authority in many surrounding jurisdictions including, but not limited to, Howard County and Baltimore City. This is particularly relevant as the issue at the heart of this hearing, whether the County Council considered "facts and circumstances then existing that were relevant to the decision [to reclassify the property]" could have been resolved much more easily if the County Council were evaluating the instant petition. Nonetheless, the Board has absolutely no evidence before it that the County Council considered any of the facts or circumstances Petitioner has asserted.

A thorough review of Bill No. 153-04 indicates that the County Council's original draft of the bill provided different standards for error[9] determination. As originally drafted, the "standards for ***mistake*** determination," as provided under BCC § 32-3-510(d)(1) read, "[b]efore a property is reclassified on the basis of ***mistake***, the Board of Appeals must find that, at the time

[9] Original draft used the term "mistake" rather than "error."

the last classification was established, the County Council ***was aware of and*** did not consider ***all of the*** facts and circumstances then existing that were relevant to the decision." All of the items in bold and italics were stricken from the bill. The word "mistake," in both instances, was replaced with error. In addition, amendments to BCC § 32-3-510(d)(1) under this bill included the addition of the requirement that the Board must find ",from its review of the reports considered under subsection (c)(1) of this section," that the County Council did not consider all facts and circumstances that were relevant to the decision. As originally drafted, the standard of review required a showing that the County Council had both knowledge of facts and circumstances but deliberately ignored them. Instead, the County Council elected to premise an error determination only on relevant facts and circumstances the County Council did not consider. There is no requirement for a finding that the County Council deliberately ignored a fact. Finally, Section 2 of the bill provides that "the provisions of this Act shall be construed to be in addition to, and not in derogation of, the principles of the common law of Maryland with respect to the standards for determining error in the zoning reclassification process."

In *White v. Spring*, 109 Md. App. 682, 719, 675 A.2d 1023 (1996), the Court describes what, in terms of terms of traditional zoning and rezoning, a mistake is. In *White*, the Court of Special Appeals found that "there was substantial evidence before the Council that its prior zoning conclusions had been based upon mistaken and erroneous assumptions that created a misapprehension." In *White*, the Court clarified what a constitutes a mistake and the rationale behind zoning policy. While Section 2 of Bill No. 153-04, referenced in the previous paragraph, seems, at first glance, to indicate that Baltimore County's legislatively created reclassification process is further restricted by the common law, the opposite is true. The *White* Court clarifies that strict statutory construction is to be applied. Generally speaking, "[t]he creation of zoning

policy is a matter reserved for the legislative body of government, it is neither normally an administrative nor a judicial function." *Id.* at 647. However, some "jurisdictions have, by statute, created procedures and practices that, on occasion, bear little resemblance to traditional zoning standards, practices and procedures. In those jurisdictions, judicial review of their activities often must incorporate a consideration of their respective statutory provisions." *Id.* Stated another way, the Baltimore County Council can divest itself of the authority to grant reclassifications and limit an error determination to whether or not *the County Council did not consider facts and circumstances then existing that were relevant to the decision* rather than reliance "upon mistaken or erroneous evidence." *Id.*

The *White* Court further held that "[i]n rezoning matters under the change/mistake rule, once a mistake is established, the Council is in the same position as it was at the time of the prior comprehensive rezoning." *Id.* at 709. The Court held that it is as if the Council were considering the properties anew. In the instant matter, by legislative act, the Council has conferred the power to rezone the property to the Board. The Board is further instructed to base its decision upon the BCC § 32-3-510(c)(1) reports. Those reports support the requested reclassification. In anticipation of Protestants' contention that the Council would have still rezoned the property to RC 7 had it known about the minor subdivision, Petitioner notes that neither the Planning nor the Planning Board report makes any mention of the RC 7 zoning being relevant for consideration of the Board in the instant reclassification request.

In *People's Counsel v. Beachwood,* 107 Md. App. 627, 670 A.2d 484 (1996), "Judge Maylon, for the majority, described what a zoning mistake is not...From those two cases, the law of zoning mistake as applicable to traditional rezoning, may be completely understood." *White* at 697. As further provided by *White*:

In *Beachwood*, Judge Moylan, for the majority, described what a zoning mistake is not. Here, we describe what, in terms of traditional zoning and rezoning, a zoning mistake is. From these two cases, the law of zoning mistake, as applicable to traditional rezoning, may be completely understood.

In *Beachwood*, Judge Moylan noted that there had been no allegation that the County Council had relied upon evidence that was erroneous or a mistake; instead, it was alleged that it had relied upon correct factual evidence to arrive at an erroneous or mistaken conclusion. It was also noted that, before the Board of Appeals, *Beachwood* had alleged that the conclusion reached by the Council was "out of character with the zoning of the surrounding area." 107 Md.App. at 636, 670 A.2d 484. Judge Moylan further stated that the Board's majority opinion had proffered that the County's conclusions as to rezoning resulted in a classification that "was erroneously zoned by the County Council." Id. at 635, 670 A.2d 484. Citing and quoting from *Boyce v. Sembly*, 25 Md.App. 43, 50-51, 334 A.2d 137 (1975), we stated that

> error or mistake is established when there is probative evidence to show that the ... premises relied upon by the Council ... were invalid. Error can be established by showing that ... the Council failed to take into account then existing facts ... so that the Council's action was premised ... on a misapprehension.

Beachwood, 107 Md.App. at 645, 670 A.2d 484 (emphasis omitted). Judge Moylan then elucidated the operative concern, in respect to the consideration of a zoning mistake:

> The finding of a mistake or error is not so much concerned with the logical validity or merit of ultimate conclusion-drawing as it is with the adequacy and accuracy of the factual premises that underlie the conclusion-drawing. A conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.

Id at 698.

This standard is instructive, but BCC § 32-3-510 controls reclassification determinations in Baltimore County.

Petitioner contends that the error is not based on any of the grounds in BCC § 32-3-510(d)(2). Briefly, while it is clear that Mr. Jacobs has taken a financial beating and land zoned RC 7 is worth less than land zoned RC 4, this is not the basis of Petitioner's contention of error. Next, while both the RC 7 and RC 4 classifications are compatible with surrounding tracts or parcels, this is not the basis of Petitioner's contention of error. The Master Plan is similarly not the basis for Petitioner's error contention[10]. Finally, Petitioner is not alleging that his property should have been considered as a specific issue in the CZMP. BCC § 32-3-510(d)(2) requires that an error may not be based on the claim that the subject property was not a specific issue in the CZMP. Petitioner's property was an issue so why would he complain that it was not. Mr. Jacobs has not alleged that his property should be considered a specific issue. Clearly, Petitioner's error contention is based on the aforementioned reasons rather than anything to do with his property being considered its own issue.

Standard 2: Is the Requested Reclassification Warranted Based on a Consideration of the Purposes of the BCZR and Maps?

Before property is reclassified, the Board must find that the requested reclassification is warranted based on a consideration of the purposes of the Baltimore County Zoning Regulations and maps, including specific issues provided in BCC § 32-3-510(a)(2). The evidence regarding these considerations supports the reclassification. Testimony and evidence indicate that "population trends" have not changed significantly.

BCC § 32-3-510(c)(1) reports from the Office of Planning and the Planning Board note, among other things, the "availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities." The Planning Board considered these elements and found

[10] This basis seems to contradict BCC § 32-3-510(a)(2)(v).

nothing that precluded the requested reclassification. Furthermore, the County agencies' comments on the minor subdivision, which was processed for over two (2) years, and the fact that the County was prepared to approve same is about the most telling piece of evidence that the reclassification to RC 4 would not adversely impact adequate public facilities.

The proposed residential use as restricted by the documented site plan is compatible with the character of the surrounding area. No adjoining property owners have any issues with the Petitioner's minor subdivision. In fact, David Thomas, DPW, confirmed that, as a neighbor, he did not oppose the subdivision or the instant reclassification request. Tracy Dowling sold an in-fee strip to accommodate the minor subdivision which was being processed and is now being proposed in the documented site plan. Petitioner contends that this sale is evidence that Ms. Dowling has no opposition to the proposed minor subdivision.[11] Mr. Jacobs further testified that his other neighbor to the west had no issues with the subdivision/reclassification either.

As previously referenced, Planning and the Planning Board, in their BCC § 32-3-510(c)(1) reports, took umbrage with the failure of Baltimore County to connect the dots regarding the CZMP issue and the subdivision. The two recommendations state that the Petitioner should be allowed to move forward and make his case at the Board of Appeals. The Petitioner contends that it is telling that Planning's report added that it was prepared to approve the subdivision before it was discovered that the property had been downzoned.

Lastly, the Board must find that the requested reclassification is warranted based on consideration of the consistency of the current and requested classifications with the Master Plan, the county water and sewer plan, and the capital program. Finally, the property is served by well and septic with no planned service in the foreseeable future, so the water and sewer plan and

[11] Mr. Thomas testified that Mr. Jacobs discussed his access issue regarding his proposed subdivision and need to provide sufficient access. Suffice to say, it is safe to assume Ms. Dowling had a similar conversation with Petitioner before selling sufficient land to him to address his access issue to the satisfaction of the County for $22,500.

capital program have essentially no impact on the consideration of this reclassification request. As noted in Planning's BCC § 32-3-510(c)(1) report, the Master Plan notes that the proposed land use as single family detached rural and there are no community plans for this area. The BCZR states that the RC 5 zone was created for Rural Residential purposes. As such, one could make the argument that the RC 5 zone is the appropriate zone for the property. Having said that, Petitioner is merely seeking reclassification to the RC 4 zone, the legislatively stated purpose of this zoning is Watershed Protection, the stated purpose of Sparks-Glencoe's creation of Issue No. 3-094.

Standard 3: Does the Board find that the Petition for Reclassification Should be Granted?

As previously indicated by the *White* Court,"[i]f a petitioner can establish a zoning mistake, a zoning change is permitted, but, even then, it is not required." *White* at 697. The *White* Court did not, however, expand upon the standard or provide any instruction regarding the second step in the reclassification process. The Court did not address this test because it was not an issue on appeal in that case. For the reasons previously outlined herein, the Petitioner has established a zoning mistake.

While a zoning change is permitted, but is not required, the relevance of the particular circumstances requires that the Board approve the requested zoning change, as limited by the documented site plan. The County has already said it was prepared to approve the minor subdivision. The documented site plan is an identical copy of the minor subdivision. Due to the multitude of issues summarized herein, the Council would have excluded Mr. Jacobs' property from the properties which were downzoned as part of Issue No. 3-094. A zoning change is justified in this instance.

PROTESTANT'S ARGUMENTS

Cumulatively, the testimony and evidence presented by the Protestants was completely devoid of any information from which the Board could find that the Council considered the Petitioner's facts and circumstances.

Protestants offered no evidence that the County Council was aware of Mr. Jacobs' subdivision. Furthermore, the Planning Board and Planning BCC § 32-3-510(c)(1) reports, in addition to the testimony and evidence offered at the three (3) day hearing, did not prove that the basis for error was premised upon a specifically excluded reason. In fact, a brief summary of Protestants' witnesses' testimony and their corresponding evidence will demonstrate that they have not proven that an error did not exist.

Mr. Pierce testified that there should never, under any circumstances, be a cycle rezoning. Although he would prefer that no zoning ever be done through a process other than the CZMP, State and County law clearly provides for the Cycle process through the Board of Appeals. Thus, his objection to all reclassification requests is not relevant to this proceeding.

Kirsten Burger lacks credibility. She opposes the instant reclassification, while she herself bought a farmhouse, tore it down and built a 3,865 square foot residence. It is entirely possible that Mr. Jacobs' minor subdivision will contain less square footage than Ms. Burger's home. *See* Petitioner's Exhibit No 18. Apparently having "gotten hers", she believes that a future moratorium on any further home building in the self described sphere of influence of the Greater Sparks Glencoe association should be imposed, for the protection of the environment . Ms. Burger also testified about the environmental benefits of the RC 7 Zone over the RC 4 Zone, but her testimony misses the point. The issue is not whether one classification is better for the environment than another. The mere fact that "the RC 7 zone allows less density" is irrelevant to the error determination or the ultimate decision whether the property should be rezoned RC 4 in

its entirety. Furthermore, it is uncontroverted that the Planning Board's and Planning's BCC § 32-3-510(c)(1) reports, from which the Board is to make its findings, do not suggest that the zoning should still be RC 7. Rather, the Planning Board noted that the Board should find whether an error exists or not.

Similarly, Donald Outen's testimony and evidence is of no probative value on the issue of error determination or the classification the Board deems appropriate. The Planning and Planning Board reports make no mention of the environmental issues Mr. Outen noted in his testimony and evidence. As his testimony indicated, these materials were provided to Planning as part of the CZMP. Nevertheless, Ms. Bialek and Planning, in reviewing their CZMP file and drafting their BCC § 32-3-510(c)(1) report, did not see fit to recommend against the reclassification, or mention the impact of Mr. Jacobs' subdivision on the watershed for that matter. Ms. Burger and her community association had created several issues representing a significant amount of acreage, in part, on the advice of Mr. Outen, a member of North County Preservation, and justified the vast downzoning of the northern part of the county on the basis that it was intended to protect the watershed. On cross examination, Mr. Outten acknowledged that rezoning the better part of the northern part of Baltimore County to RC 7 was principally designed to stop all development, which would be the best thing for the environment. Petitioner is principally concerned with never having received actual notice and the resulting effect it had on his minor subdivision. Had one of the three Planning staff members who worked on the minor subdivision, Donnell Zeigler, Lloyd Moxley and Lynn Lanham communicated with Jesse Bialek, who was newly hired, this issue could have been avoided completely. Better yet, it would have been nice of Sparks-Glencoe to have made a more concerted effort to provide actual notice to Petitioner.

Mr. Outen and Ms. Burger testified that, according to the BCZR, the RC 7 zone was the best zone for protecting the watershed because it allowed less development. . Their testimony is contradicted by the legislatively stated purpose for the RC 4 (Watershed Protection) zone, rather than the RC 7 (Resource Preservation) zone.

They further testified that if this reclassification request were granted, it would create a precedent and additional neighbors would file similar petitions. There is no evidence before the Board that any other property owners in this subdivision were (a) were processing a subdivision and (b) meet the statutory definition for an error determination. Thankfully, the Board is wise enough to realize that Petitioner's unique circumstances are distinguishable from that of other property owners, so they won't be swayed by this uninformed layman opinion.

The Planning and Planning Board reports, upon which the Board should rely upon in making its findings, make no such reference to a need for a moratorium on development in all of northern Baltimore County or that the prevention of one additional lot is of such paramount importance that an obvious error should not be corrected. Sparks Glencoe, with a tenuous at best nexus to the Middletown Farms community, created so many issues (representing significant acreage across all of Baltimore County) that Planning personnel was overextended to such an extent that Petitioner's subdivision did not get considered in the last reclassification

James Patton testified that the minor subdivision could not be approved as submitted. The Board is being asked to determine the instant classification petition, not the sufficiency of the minor subdivision. This is a poor attempt to further expand the Board's scope of review to include issues other than the standard for error determination and if a zoning change is required. This, after all, is a reclassification request. The statutory construction regarding the standard for error determination does not necessitate consideration of development issues other than those

detailed in BCC § 32-3-520(a)(2). Despite Petitioner's objections, Mr. Patton was permitted to testify at length regarding issues related to the minor subdivision that were not relevant to the instant Petition for Reclassification.

This argument is akin to requiring proof of the applicability of development regulations to a Growth Allocation request. This Board previously considered such an argument in Case No. 08-111 (In the Matter of: Vandermast Property/PDM 15-919). The Board, in that case, ruled that development issues were not related to that reclassification request (reclassification of overlay district (Critical Area classification)).

We contend that, under the doctrine of issue preclusion, collateral estoppel in particular, precludes the Board's consideration of this argument. To further illustrate the difference between the reclassification standard of review and the zoning and development issues applied to the stalled minor subdivision, People's Counsel acknowledged to the Board that the subdivision would still necessitate Development Plan approval if the reclassification request were granted. To add this consideration to the error determination would provide the Protestants two bites at the same apple and would require the Board to unnecessarily review issues outside the purview of the reclassification request. Nowhere in the codification of reclassification law or caselaw is there a requirement that full analysis of Development Plan regulatory compliance is necessary. This is a red herring if I've ever seen one.

Having said that, out of an abundance of caution, Petitioner will briefly touch on the substantive issue regarding the minor subdivision. Petitioner contends that the original subdivision approval and pending minor subdivision have sufficient density and otherwise satisfy the Zoning Regulations and development regulations. For purposes of analyzing such issues in the instant reclassification request, the BCC § 32-3-510(c)(1) reports acknowledge that

the minor subdivision, the representation of which has been submitted in the documented site plan, is ready to be approved by the County.

Mr. Jacobs' property was part of a subdivision in 1975. That subdivision was called Middletown Farms. The Middletown Farms subdivision plan was approved pursuant to the Joint Subdivision Planning Committee ("JSPC") process. The density and bulk regulations applicable to the Middletown Farms JSPC Plan approval was controlled by the 1975 version of the County's Regulations. Petitioner's Exhibit No. 16. The property was zoned RDP (Rural: Deferred Planning) at the time of the Middletown Farms subdivision.

As you are undoubtedly aware, the CZMP takes place every four (4) years. Over the years, the zoning of the property has changed. The Regulations applicable to the various zoning classifications have also changed over the years. By way of example, but not by limitation, in the 2004 CZMP, the instant property was downzoned from RC 5 (Rural Residential) to RC 4 (Watershed Protection).

When the original subdivision was approved there was sufficient density to accommodate the creation of additional lots. Mr. Doak testified that the RDP zone did not limit density, so there was additional density available. Likewise, Mr. Doak further testified that the RC 4 zone permitted Mr. Jacobs' proposed minor subdivision.

Correspondingly, Petitioner believes Protestants may argue that amendment of the FDP is required. Again, this is an issue that will be addressed as part of the ultimate minor subdivision approval. The Board need not make a determination regarding this issue which is not directly related to the instant reclassification request. Protestants presented several arguments that have no bearing on the instant Petition for Zoning Reclassification and are tantamount to little more than a diversionary tactic.

Mr. Patton testified that the documented site plan does not provide all of the details required under the Code. This so called argument is just downright silly. There are no additional requirements for a reclassification petition which includes a documented site plan. BCC § 32-3-512. In fact, the inclusion of a documented site plan can best be characterized as than a self-imposed restriction on the proposed use of the property being considered. If there is any issue to be taken with the sufficiency of the documented site plan, Petitioner contends that the reclassification should be considered without the documented site plan. In the alternative, the Board could impose a condition that Planning should approve any additional element(s) it deems necessary. The Planning and Planning Board BCC § 32-3-510(c)(1) reports make no mention whether there was any technical deficiency of the documented site plan. In fact, Planning, in it's report, noted in its recommendation to the Planning Board that it was prepared to approve the minor subdivision which was identical to the documented site plan. Therefore, the Board can draw the conclusion that there was no deficiency. Furthermore, there are specific exceptions to providing all of the information the documented site plan in the Code. . As set forth in BCC § 32-3-512(b), a variation of the documented site plan requires little more than the building envelope to be shown.

CONCLUSION

For all of the aforementioned reasons Petitioner respectfully requests that the Board of Appeals:

1. Grant the Petition for Zoning Reclassification as depicted and shown on documented site plan exhibit; or, in the alternative
2. Grant the Petition for Zoning Reclassification without a documented site plan.

Respectfully Submitted,

LAWRENCE E. SCHMIDT
JASON T. VETTORI
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this **16th** day of **July, 2010**, a copy of the foregoing Petitioner's Post Hearing Memorandum was mailed, postage pre-paid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, MD 21204

LAWRENCE E. SCHMIDT

7/16/10

RE:	PETITION FOR RECLASSIFICATION 1206 Molesworth Rd; NW/S Molesworth Rd, 1645' NE Armcost Rd, 406' NW Molesworth Rd* 6th Election and 3rd Councilmanic Districts Legal Owner(s): Neal Jacobs Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY CR-09-269

* * * * * * * * * * * * *

RECEIVED
JUL 16 2010
BALTIMORE COUNTY
BOARD OF APPEALS

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Table of Contents

Statement of the Case 1
Questions Presented 2
Baltimore County Code Standards for "Piecemeal" Administrative Reclassification 3
The Function and Purpose of Comprehensive Zoning 4
The Baltimore County CZMP and the "Mistake" Standard 6
Note: Petitioner has No Vested Rights 13
An Outline of Petitioner's Claim of Mistake 14
Argument 14
A Tale of Two Cases 14
I. The Comprehensive Rezoning is Reasonably Related to the Public Safety, Health, and Welfare, Fits R.C. 7 Zone Goals, and is a Legitimate Exercise of Legislative Judgment; as a Matter of Law There is No Mistake 16
II. The Petition is Flawed and Irrelevant Because Based on Private Financial Interests, which may not be Elevated above the Public Interest 23
III. Petitioner's Claim of Mistake based on Lack of Notice or Awareness is Flawed 27
a. Ignorance of Law and the CZMP is No Excuse; It is Outrageous to Shift Blame 27
b. Failure to Provide Notice Does Not Invalidate the Law; in any event, the Planning Office Provided the Required Notice by Posting and First Class Mail 28
IV. The Petition is Disqualified because based on Economic Disadvantage and Failure to Consider the Individual Property as a Specific Issue 29

V. The R.C. 4 Zone is Unwarranted 29

a. The Proposed Site Plan to Resubdivide Lot 16 is an Amendment of the Major Middletown Farms Subdivision, is Subject to the Zoning Law, is Inconsistent with the Spirit and Intent of the Original Plan, and Exceeds the Maximum Density..... 29

b. The Proposed Rezoning is also Inconsistent with the Master Plan 2010 and the Recent Amendment for Rural Areas 33

c. The Proposed Rezoning is Riddled with other Adverse Impacts..... 34

VI. The Documented Site Plan is Incomplete..... 34

Conclusion 35

RE:	PETITION FOR RECLASSIFICATION 1206 Molesworth Rd; NW/S Molesworth Rd, 1645' NE Armcost Rd, 406' NW Molesworth Rd* 6th Election and 3rd Councilmanic Districts Legal Owner(s): Neal Jacobs Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY CR-09-269

* * * * * * * * * * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Statement of the Case

Petitioner Neal Jacobs' requests an administrative "piecemeal" reclassification. He claims there is a "mistake" in the 2008 countywide comprehensive rezoning ordinance as applied to his property. He asks the County Board of Appeals ("CBA") to change the zoning back to R.C. 4 (Watershed Protection) so that he may re-subdivide Lot 16 in the north county Middletown Farms subdivision.

In 1976, the Planning Board gave final approval to the "Middletown Purchase" "tentative" subdivision plan under then County Code Section 22-40 (1978). P.C. Exh. 25. The developer recorded the subdivision plat, called "Middletown Farms, in 1976. It laid out 47 lots on 148 acres. P.C. Exh. 4A-B. The lots are on the north and south sides of Molesworth Road, with 2-3 acre lots fronting the road and 4-8 acre panhandle lots bordering to the rear. Lot 16 has 6 acres. It is one of several large panhandle lots on the north side. When the subdivision was approved, the area was zoned R.D.P. (Rural Deferred Planning), with a minimum lot size of 1 acre. In 1976, when the R.C. zones replaced the R.D.P. Zone. The County Council ("the Council") rezoned the area to R.C. 5 (Rural-Residential). In 2004, the Council comprehensively rezoned the property to R.C. 4. P. C.Exh. 7. None of the 47 lots have ever been re-subdivided.

In August, 2008, to complete the 2008 comprehensive zoning map process ,("CZMP"), the Council enacted Bill 87-08. This comprised the decisions for the Third Councilmanic District. For Issue 3-94, spanning 307 acres, the legislation rezoned from R.C. 4 to R.C. 7 (Resource Preservation) a 175-acre area which includes Mr. Jacobs' lot. P.C. Exh. 9. There were 234 "Issues" in this district. P.C. Exh. 10. Many involved hundreds of acres. Taken together, thousands of acres were rezoned to R.C. 7, a Resource Preservation Zone established in 2000 to provide stronger protection to watershed and other preservation areas. Among other things, the R.C. 7 Zone has a protective maximum lot density of .04 lot per acre of gross tract area (an average of one lot per 25 acres). BCZR Section 1A08.6.B.1. In contrast, the maximum R.C. 4 Zone lot density for tracts in excess of 10 acres is .2 lot per acre (one lot per five acres). BCZR Section 1A03.4.B.1.b.

The legislative reclassification significantly reduces permitted density. This protects sensitive ecological areas: the Gunpowder watershed and Loch Raven and Prettyboy Reservoir. These sources of the metropolitan water supply are designated Resource Preservation Areas in the 2010 Master Plan. P.C. Exh. 51, pages 241-43.

The Greater Sparks-Glencoe Community Planning Council ("GSGCPC") had initiated the 307-acre issue and other issues in September, 2007. P.C. Exh. 10, 12, 28. There ensued county staff, Planning Board, and County Council review and public hearings. P.C. Exh. 8. Along with the reclassification of 175 acres to R.C.7, the Council reclassified 132 acres to R.C. 2, Agricultural. Remarkably, the Office of Planning, Department of Environmental Protection and Resource Management ("DEPRM"), and Planning Board all recommended R.C. 7 for the 175-acre area. P.C. Exh. 9.

Questions Presented

1. Is it at least fairly debatable (in this case, actually undisputed) that the 2008 comprehensive zoning is reasonably related to the public safety, health, and welfare, appropriate in the area, consistent with the findings and goals of the R.C. 7 Zone, so that, as a matter of law, there is no legislative "mistake" by the County Council?

2. Is Petitioner's claim of "mistake" is fundamentally flawed because personal

subdivision application status is irrelevant, and indeed antithetical, to the public safety, health, and welfare purposes of comprehensive zoning?

3. Is Petitioner's allegation of lack of notice, which he translates as a County Council mistake, also flawed because:

a. Ignorance of the comprehensive zoning process is no excuse, and it is outrageous to attempt to assign and shift blame to the County Council?

b. Under the County Code, lack of notice is not a ground for invalidation of the comprehensive zoning?

4. Is the Petition further disqualified because it is essentially based on economic disadvantage and an alleged failure to consider the property as a particular or specific issue, which the County Code excludes as grounds for a finding of mistake?

5. Is the requested R.C.4 zone unwarranted because the proposed resubdivision:

a. circumvents and conflicts with the zoning law governing amendment of final development plans, and exceeds maximum R.C. 4 Zone subdivision lot density for the entire tract,

b. conflicts with Master Plan 2010 and the recent Rural Areas Amendment?

c. is riddled with other adverse impacts?

6. Is the documented site plan is incomplete, and does it fail to include several required elements, such as an adequate environmental impact statement?

If the answer to any one of these questions is affirmative, then the CBA must deny the petition for reclassification. We submit the answer to each of them is affirmative.

Baltimore County Code Standards for "Piecemeal" Administrative Reclassification

Let us begin with the Baltimore County Code provisions governing piecemeal "cycle rezoning" petitions. There will then follow a discussion in depth of comprehensive zoning and the "mistake-change" rule. We shall then analyze the 2008 CZMP rezoning here, the question of mistake, and other important issues.

In 1978, the County Council assigned to the CBA original jurisdiction over individual petitions for reclassification. Charter Section 602(e). In 1978 and 1979, the Council codified and elaborated the "change-mistake" rule developed earlier by

Maryland courts. Bills 122-78 and 46-79. There have been several amendments. Bill 153-04 is especially important here. P.C. Exh. 48.

Currently, County Code Section 32-3-510(a)(1) establishes "change-mistake" as the first of two prongs. There must be proof of substantial change in the character of the neighborhood, or "that the last classification of the property was established in error." P.C. Exh. 47. Bill 153-04 added Section 32-3-510(d). This states, among other things, that a finding of error "at the time the last classification of the property was established" may not be based on "Economic disadvantage" or 'failure of the County Council to consider the property as a specific issue in the comprehensive zoning map process."

The second prong is that "The requested reclassification is warranted..." Code Section 32-3-510(a)(2). This lists required considerations. For "documented site plan" petitions, Section 32-3-512 in turn enumerates required elements. Such documentation is not a basis for a finding of error, but rather pertains to whether the request is warranted. Code Section 32-3-514. Notably, subsection (a)(11) requires an "environmental impact statement, as defined in the Baltimore County Zoning Regulations," and "... competently prepared by a professional planner or engineer of appropriate qualifications"

The Function and Purpose of Comprehensive Zoning

It is critical to preserve the integrity of the comprehensive rezoning process. Petitioners in "piecemeal" administrative rezoning cases typically have intense personal reasons to challenge the legislative action. They marshal resources, tactics, and advocacy to achieve their ends. In response, the appellate courts have provided judicial safeguards.

We have had few piecemeal rezoning cases recently. The CBA has recognized the scope and value of legislative discretion and judgment. Nevertheless, we must guard against complacency. Therefore, we shall revisit in depth the applicable law.

In the landmark comprehensive zoning case, Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926), the Supreme Court held that the legislative classification must be upheld if fairly debatable. Zoning is an exercise of the police power, the essential power of government to provide for the public safety, health, welfare. The legislature, as the representative branch of government, has wide discretion in its implementation.

The Court of Appeals recapitulated in Anderson House, LLC v. Mayor & City Council of Rockville 402 Md. 689, 723 (2008)

> "Because the Anderson House property was rezoned as part of a comprehensive rezoning, that rezoning must "bear[ ] a substantial relationship to the public health, comfort, order, safety, convenience, morals, and general welfare." *Norbeck Vill. Joint Venture v. Montgomery County Council*, 254 Md. 59, 65, 254 A.2d 700, 705 (1969). Judge Liss of the Court of Special Appeals summarized well the case law on review of comprehensive rezoning when he wrote for the court panel in *Stump v. Grand Lodge of Ancient, Free and Accepted Masons of Maryland*, 45 Md.App. 263, 269, 412 A.2d 1305, 1308 (1980):
>
> > 'Zoning decisions which are made during a comprehensive rezoning process are strongly presumed to be correct. The reason for this strong presumption is that when engaged in comprehensive rezoning, the [zoning authority] is not considering individual properties on an isolated or piecemeal basis, but rather, it is considering the overall needs and development of the County [or City] as a whole.
> >
> > 'Comprehensive rezoning is a vital legislative function, and in making zoning decisions during the comprehensive rezoning process, a [zoning authority] is exercising what has been described as its 'plenary' legislative power. The power is broad and is limited only by the constitutional restriction that the [zoning authority's] action 'bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare....'
>
> *Id.* (internal citations omitted); *see Howard County, Md. v. Dorsey*, 292 Md. 351, 355, 438 A.2d 1339, 1342 (1982) (recognizing that "there is a strong presumption of the correctness of original zoning and of comprehensive rezoning, and that 'strong evidence' of error is required to overcome that presumption"); *Heller v. Prince George's County*, 264 Md. 410, 412, 286 A.2d 772, 774 (1972) ("We have said quite often that there is a strong presumption of the correctness of original zoning and comprehensive rezoning...."); *Norbeck Vill. Joint Venture*, 254 Md. at 66, 254 A.2d at 705 (1969) ("The broad test of the validity of a comprehensive rezoning is whether it bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare, and such zoning enjoys a strong presumption of validity and correctness."); *McBee v. Balt. County*, 221 Md. 312, 316-17, 157 A.2d 258, 260 (1960) (noting that because a comprehensive rezoning "cover[s] a substantial area, ... it is entitled to the same presumption that it is correct as is an original zoning.")

In Anderson House, the City Council created a new zone and comprehensively rezoned various properties, including Anderson House's property. As in the present case, the rezoning clearly precluded resubdivision and additional development. 402 Md. at 699. Judge Glenn Harrell's opinion sustained the comprehensive rezoning. He observed,

> "Even where reasonable doubt exists, the Ordinance must be sustained. Id. 'In other words, the legislature is presumed to have acted with in [its police powers] so thatif any state of facts reasonably can be conceived that would sustain [the Ordinance], the existence of that state of facts as a basis for the passage of the [regulation] must be assumed." 402 Md. at 724.

Judge Harrell then explained that the rezoning of the Anderson House property was consistent with the stated goals of the zone and that, given its location and structure, its "character makes it a logical candidate" for the new zone. The opinion rejected Anderson House's claims that the rezoning was irrational, discriminatory, created an "island," and even conflicted with Planning Staff and Planning Board recommendations.

Neal Jacobs' challenge pales in comparison to the challenges rejected in Anderson House, It is, moreover, antithetical to comprehensive zoning. We shall discuss this later.

The Baltimore County CZMP and the "Mistake" Standard

Baltimore County first adopted comprehensive zoning in 1945. Baltimore County Code Section 32-3-101 (2010 edition) currently provides that the zoning map and regulations are "[f]or the purpose of promoting the health, safety, morals, and general welfare of the community, ..." There follows an enumeration of specific elements, including "[t]he density of population." The county zoning process --- the division of the county into zones --- is designed to achieve these purposes. Code Section 32-3-201(a). This includes the preparation of zoning regulations and maps. Code Section 32-3-202. The comprehensive zoning map process necessarily pertains to the same public interest objectives. Code Sections 32-3-211 to 32-3-225.

For many years, the legislature engaged in comprehensive zoning on a sector basis. In 1969, the County Council enacted legislation to structure comprehensive zoning as a countywide legislative exercise to take place in 1971, then 1976, and every four years thereafter. The Court of Appeals reviewed this history in Nottingham Village v. Baltimore County 266 Md. 339 (1972). It also approved the practice whereby the council member for each district would have primary responsibility to review district issues and support action by the entire council. 266 Md. at 349-53.

Meanwhile, consistent with Euclid, Maryland courts developed the "mistake-change" rule. Unless there is "strong" evidence of mistake or change, the legislative judgment stands. The goal is to further public safety, health, and welfare generally. There are usually specific legislative purposes for particular zones. The law does not elevate the personal interest of a single property owner above the interests of the public in general.

The "mistake" standard thus does not exist in isolation. When the courts speak of a "failure to take into account relevant facts," the inquiry relates to the legislative purposes of comprehensive zoning. An allegation of "mistake," in this context, must relate to the public interest, not to individual needs, plans, or financial interest.

In Coppolino v. County Board of Appeals of Baltimore County, 23 Md.App. 358, 367-68 (1974), Judge Rita Davidson issued the first of three opinions on the "mistake" standard. As here, the property owner filed a petition for zoning reclassification soon after enactment of the comprehensive rezoning ordinance, which downshifted the zoning from D.R. 16 to D.R. 5.5. The CBA found the Council action to be "clearly in error and confiscatory in nature." The Court of Special Appeals reversed the CBA's finding of mistake. Judge Davidson quoted the applicable scope of judicial review:

> "'. . . Where a legislative body, or a board of county officials, pursuant to authority conferred upon it, has granted a rezoning of property, the question on judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable, Montgomery County v. Pleasants, 266 Md. 462, 295 A.2d 216 (1972); Himmelheber v. Charnock, 258 Md. 636, 267 A.2d 179 (1970); Chevy Chase Village v. Mont. Co., 258 Md. 27, 264 A.2d 861 (1970); Smith v. Co. Comm'rs of Howard Co., 252 Md. 280, 249 A.2d 708 (1969). We shall follow that test in considering this appeal.
>
> 'While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced, Rockville v. Henley, 268 Md. 469, 302 A.2d 45 (1973); Heller v. Prince George's Co., 264 Md. 410, 412, 286 A.2d 772 (1972); Creswell v. Baltimore Aviation, 257 Md. 712, 721, 264 A.2d 838 (1970). Since, as we have also said, this burden is onerous, Cabin John Ltd. v. Montgomery Co., 259 Md. 661, 271 A.2d 174 (1970); Creswell v. Baltimore Aviation, supra; Wells v. Pierpont, 253 Md. 554, 253 A.2d 749 (1969), the task confronting

appellants (appellees), whose application followed the comprehensive rezoning by merely four months, is manifestly a difficult one." (emphasis in original)

Judge Davidson sustained Baltimore County's quadrennial countywide process as comprehensive. She rejected the property owner's perverse claim that the existing zoning must be a "mistake" for the Council to rezone it comprehensively. She explained,

> "The Court of Appeals and this Court have consistently held that the 'change or mistake' rule is not controlling in cases involving comprehensive rezoning. Scull v. Coleman, 251 Md. 6, 12, 246 A.2d 223 (1968); Trustees v. Baltimore County, 221 Md. 550, 560-561, 158 A.2d 637 (1960); McBee v. Baltimore County, 221 Md. 312, 316-317, 157 A.2d 258 (1960); Roberts v. Grant, 20 Md.App. 247, 253, 315 A.2d 103 (1974). The reason for this rule was set forth cogently in McBee, supra, 221 Md. at 316-317, 157 A.2d at 260, where the Court of Appeals pointed out that:
>
> > 'Where the matter is studied comprehensively, the inquiry into time and space with respect to change is naturally more extensive than on a single application. In short, the County Commissioners were here exercising a plenary power, delegated by the General Assembly, to legislate a new zoning for the whole county. The new map reflects changes occurring over a wide area, and takes into account future public needs and purposes. Hence the legislative body is not confined to a consideration of changes in the immediate neighborhood. The so-called 'change or mistake' rule applicable to piecemeal rezoning cases as stated in Northwest Merchants Terminal v. O'Rourke, 191 Md. 171, 191, 60 A.2d 743, is not controlling here, because the new legislation is itself a comprehensive plan designed to cover a substantial area and to supersede the old zoning throughout that area. When such a new map is adopted, it is entitled to the same presumption that it is correct as is an original zoning.'
>
> We see nothing in the 'cyclical' zoning scheme adopted by the Council which impels a modification of this rule. The fact that comprehensive rezoning may occur in Baltimore County with greater frequency than has been the case in the past does not alter the fact that it will result from careful study of changes occurring in wide areas and an assessment of future public needs and purposes. Indeed, in our view, the system will enhance the stability and permanence of zoning classifications by assuring that the majority of zoning classifications are determined in accordance with a carefully considered integrated plan of development, based upon a full understanding of the present and future needs of a broad area, rather than upon a piecemeal review of limited scope.' 23 Md. App. at 369-70."

This discussion reflects the broad public interest goals of comprehensive zoning, in contrast to the narrow private interests of each property owner.

Judge Davidson also rejected the property owners' specious claim that they could not make "suitable" use of the property. She cited the rule that there was no mistake on

this point unless there was denial of all reasonable use of property. All uses permitted by right and special exception had to be taken into account. 23 Md. App. at 370-72.

Judge Davidson elaborated on the mistake standard in Boyce v. Sembly 25 Md. App. 43 (1975), the second of her three key opinions. Again, she reversed the Baltimore County CBA's finding that the D.R. 5.5 zone was a "mistake." She included examples which show that mistake must relate to general land use issues involving the property and the area. She also reiterated that the property owner could not complain of oppression unless there was a denial of all reasonable use. Because of the importance of understanding the "mistake," standard, we quote at length, 25 Md. App. at 50-53,

> "In this case, in order to grant the requested reclassification, the Board needed strong and substantial probative evidence that there was 'mistake' or 'error' in the comprehensive zoning of 1971. In order to assess the evidence before the Board, it is necessary to understand the inherent nature of the terms 'mistake' or 'error' as they are used in zoning law. A perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. **Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension.** (emphasis supplied). Bonnie View Club v. Glass, 242 Md. 46, 52-53, 217 A.2d 647, 651 (1966); Jobar Corp. v. Rodgers Forge Community Ass'n, 236 Md. 106, 112, 116-18, 121-22, 202 A.2d 612, 615, 617-18, 620-21 (1964); Overton v. County Commissioners, 225 Md. 212, 216-17, 170 A.2d 172, 174-76 (1961); see Rohde v. County Board of Appeals, 234 Md. 259, 267-68, 199 A.2d 216, 218-19 (1964). Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect. As the Court of Appeals said in Rockville v. Stone, 271 Md. 655, 662, 319 A.2d 536, 541 (1974):
>
> > 'On the question of original mistake, this Court has held that when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize a rezoning.'
>
> [Internal citations omitted].
>
> **"It is presumed, as part of the presumption of validity accorded comprehensive zoning, that at the time of the adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to**

show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning. Bonnie View Club, supra, at 242 Md. 48-49, 52, 217 A.2d 649, 651 (mineshaft and subsurface rock formation); by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account, Overton, supra, at 225 Md. 216-17, 170 A.2d 174-75 (topography); or by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which if, itself, recognized as existing at the time of the comprehensive zoning, Jobar Corp., supra, at 236 Md. 116-17, 202 A.2d 617-18 (need for apartments). See Rohde, supra, at 234 Md. 267-68, 199 A.2d 221. (emphasis supplied).

> "Because facts occurring subsequent to a comprehensive zoning were not in existence at the time, and, therefore could not have been considered, there is no necessity to present evidence that such facts were not take into account by the Council at the time of the comprehensive zoning. Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not 'fairly debatable.'"

Judge Davidson also reiterated that a claim that the zone disallows a "suitable" use of the property is not a basis for a finding of mistake unless the application of the zone denies all reasonable use of the property.

The main lesson or message is that the objective facts or conditions to be taken into account relate to the physical and area land use conditions and circumstances at the heart of the comprehensive zoning process. The examples given include subsurface mineshaft and rock formation, topography, and the recognized need for apartments. Again, they do not relate to the isolated subjective or particular development advantage, desires, plans, progress, and financial situation of a single property owner or developer.

It also must be kept in mind that zoning and rezoning inevitably involves the drawing of lines. The fact that an adjoining property is zoned differently is not an argument for piecemeal rezoning. Board of County Comm'rs v. Farr 242 Md. 315, 321 (1966); Messenger v. Board of County Comm'rs 259 Md. 693 (1970).

Judge Davidson completed her trilogy with Howard County v. Dorsey 292 Md. 351 (1982). This brought Coppolino and Boyce to the Court of Appeals. Her opinion

affirmed the Howard County CBA's denial of a piecemeal petition for reclassification. She also rejected yet another claim that the property could not suitably be developed.

This leads us to People's Counsel for Baltimore County v. Beachwood II LP 107 Md. App. 627, 645-46 (1995) cert. denied 342 Md. 472 (1996). By this time, the County Council had codified the "mistake-change" rule. Judge Charles Moylan discussed Boyce in the course of reversing yet another Baltimore County CBA finding of mistake,

> "It was in the second of the series of three opinions, *Boyce v. Sembly*, 25 Md.App. 43, 334 A.2d 137 (1975), that Judge Davidson set out explicitly that a conclusion on the part of the County Board of Appeals that the comprehensive zoning of the County Council under review was wrong, ill-advised, or unsuitable is not an adequate finding of an *actual mistake or error* within the contemplation of zoning law. The legal meaning of "mistake" or "error" is far more restricted:
>
> > 'In order to assess the evidence before the Board, it is necessary to understand the inherent nature of the terms "mistake" or "error" as they are used in zoning law. A perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and *error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid.* Error can be established by showing that at the time of the comprehensive zoning *the Council failed to take into account then existing facts,* or projects or trends which were reasonably foreseeable of fruition in the future, *so that the Council's action was premised initially on a misapprehension.*
> >
> > 25 Md.App. at 50-51, 334 A.2d 137. (Emphasis supplied).
>
> "To grasp this limited content of the terms "mistake" and "error" in zoning law, it may be helpful to draw an analogy to a flaw in the syllogistic process. The finding of a mistake or error is not so much concerned with the logical validity or merit of ultimate conclusion-drawing as it is with the adequacy and accuracy of the factual premises that underlie the conclusion-drawing. A conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.
>
> "*Boyce* furthermore makes it clear that the burden is on those seeking a reclassification to show *both* 1) the then-existing conditions that allegedly made the comprehensive zoning incorrect *and also* 2) the literal failure of the County Council even to have considered those conditions:
>
> > *'It is presumed,* as part of the presumption of validity accorded comprehensive zoning, *that at the time of the *646 adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing.*

> Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary *not only to show the facts that existed* at the time of the comprehensive zoning *but also which,* if any, *of those facts were not actually considered* by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning ... 25 Md.App. at 51-52, 334 A.2d 137. (Emphasis supplied).
>
> In the present case, there is no shred or hint of suggestion in either the opinion of the circuit court or the majority opinion of the County Board of Appeals that at the time of the comprehensive zoning in 1992 there were then existing conditions with respect to the Beachwood property or with respect to surrounding areas that were not known to the County Council. There was, *ipso facto,* no showing of the requisite mistake or error on which a reclassification would necessarily depend. We find appropriate in this regard the conclusion we reached under similar circumstances in *Boyce:*
>
> Thus, *unless there is probative evidence to show that there were then existing facts which the Council,* in fact, *failed to take into account,* or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and *the question of error is not "fairly debatable."* 25 Md.App. at 52, 334 A.2d 137. (Footnote omitted) (Emphasis supplied)."

The key point, as in all rezoning cases, is that the "failure to take into account then existing facts" must pertain comprehensively to the public safety, health, and welfare. So, when Judge Moylan refers to "existing conditions with respect to the ... property or with respect to surrounding areas that were not known to the County Council, he is referring to physical conditions or trends with public safety, health, and welfare implications for land use. He is not referring to the private economic goals of the property owner.

In accord with Beachwood, the County Council enacted Bill 153-04. P.C. Exh. 48. The Bill's Fiscal Note is instructive. P.C. Exh. 49. New Code Section 32-3-510(d)(1) restates the inquiry as to whether the Council "consider[ed] facts and circumstances then existing that were relevant to the decision." Section 32-3-510(d)(2) clarifies that "a classification error may not be established on the basis" of several enumerated items. We shall discuss the application of these items in Section IV of the Argument.

To fill out the picture, earlier this year, the Council approved Resolution 20-10, adopting an amendment to Master Plan 2010 for the Rural Areas. The Resolution and pertinent excerpts are attached. The Plan states a "Specific Policy" to "Preserve Land

Designated for Resource Preservation," (including the Loch Raven Reservoir, the Gunpowder, and the Prettyboy Reservoir). The Plan states, at page 20

"Use the following guidelines in evaluating rezoning requests:

- **"The current combination of RC 7 and RC 8 is the best zoning mechanism for achieving the management goals of the Resource Preservation areas. .... Zoning changes that would permit additional residential density or increased commercial development should not be granted."**

* * *

- **"Requests for zoning changes that increase development densities in the Loch Raven, Prettyboy, and Liberty drainage areas should not be granted, in accordance with the County's commitments in 1984 and 2005 to the regional "Reservoi5r Watershed Management Agreement and Action Strategy." ....**

Note: Petitioner has No Vested Rights

It should be underlined that a property owner's pursuit of the development process and expenditure of substantial funds does not confer immunity from rezoning unless there are vested rights. Otherwise stated, it is not relevant to the comprehensive zoning decision. To obtain vested rights, a property owner traditionally must obtain a building permit and substantial construction. Prince George's County v. Sunrise LP 330 Md. 297 (1993) collates the main precedents. In Maryland Reclamation Associates v. Harford County ___ Md. ___ (2010), Judge Adkins summarized,

> "This Court has set forth a clear standard for determining when a person has obtained a vested right in an existing zoning use:
>
> > Generally, in order to obtain a vested right in an existing zoning use that will be protected against a subsequent change in a zoning ordinance prohibiting that use, the owner must initially obtain a valid permit. Additionally, in reliance upon the valid permit, the owner must make a substantial beginning in construction and in committing the land to the permitted use before the change in the zoning ordinance has occurred.
>
> *Powell v. Calvert County*, 368 Md. 400, 411-12, 795 A.2d 96, 102-03 (2002) (quoting *O'Donnell v. Bassler*, 289 Md. 501, 508, 425 A. 2d 1003, 1007 (1981))."

Here, there is no claim of vested rights, as the subdivision process was not complete when the rezoning occurred. Consultant Bruce Doak's claim that he might have

made better efforts to complete the process had he known of the rezoning issue is speculative and anyway does not translate to a mistake on the part of the County Council.

An Outline of Petitioner's Claim of Mistake

Mr. Jacobs is the only property owner who has claimed legislative "mistake" in the 2008 comprehensive rezoning of thousands of acres to the R.C. 7 Zone. Moreover, he does not claim mistake for any other property rezoned in Issue 3-94. Rather, he claims that his property alone suffered from mistaken legislative action.

Mr. Jacobs had applied for a minor subdivision in late 2006. County departments were processing the application. He was addressing the various site problems --- panhandle driveway, stormwater management, forest conservation, and other environmental issues --- but had not completed the process when the County Council rezoned the property. Mr. Jacobs essentially claims unfair surprise, and claims:

1) He was unaware that his property was part of a CZMP issue;

2) He did not get the letter that the county routinely sends out;

3) He did not see the signs placed on Middletown Road or Armacost Road because he usually takes a different route;

4) His consultant did not know about the situation (although he drove by the Middletown Road sign every day);

5) If he or his consultant had known, they would have communicated his situation to the County Council;

6) The Council did not know about his situation; and

7) If the Council had known, the Council would not have rezoned his property.

Argument

A Tale of Two Cases

We shall now explain, first, why the CBA must, as a matter of law, sustain the County Council's legislative judgment here. Then, we shall show that the Jacobs petition's approach is fundamentally flawed and does not meet applicable requirements.

This is a tale of two cases. Mr. Jacobs focuses on his own ignorance, and that of his consultant, while attempting to shift blame to the Baltimore County Council for

allegedly failing to know about or consider his situation and1. eventual plight. Remarkably, Mr. Jacobs has not challenged the general validity of the Council's legislative judgment on Issue 3-94. Rather, he seeks to have his property alone exempted or excluded from the judgment. This is inherently a flawed argument because it ignores the very nature and purpose of comprehensive zoning.

In contrast, we focus on the public interest here in the rezoning to the R.C. 7 Zone. There was overwhelming evidence provided to the Council to support its placement in this Resource Preservation area, and its fit with the stated goals of the zone.

On the first prong of "mistake," it is our position that Mr. Jacobs' personal and isolated claim is not germane or relevant to the public safety, health, and welfare considerations which control comprehensive zoning. We also believe that his challenge conflicts with the explicit standards of the county code which reject economic disadvantage and failure to consider an individual property. Furthermore, the alleged lack of notice is explicitly not a ground for a challenge. On the second prong, the requested R.C. 4 zoning for resubdivision is not legal or warranted for a number of reasons. To add to the complications, the documented site plan is incomplete, most obviously because the "environmental impact statement" on file does not satisfy the requirements of the zoning regulations and county code.

Petitioners often tempt zoning boards with tales of personal woe and sympathy. They claim that it would not be harmful to grant their particular request. They suggest that a limited rezoning would not be a precedent and would not damage the comprehensive process. This argument ignores the integral character of the CZMP and the insidious and corrosive impact of piecemeal rezonings. There are many property owners who may desire a less restrictive zone for a variety of sympathetic reasons, especially in today's economic climate. One piecemeal rezoning easily leads to another. The CZMP then collapses like a house of cards. Mr. Jacobs' attempt to resubdivide his property to make money should not and must not trump comprehensive zoning.

As we proceed, it appears helpful to review first the overwhelming evidence which supports comprehensive application of the R.C. 7 zone to this area and property. We shall then address the flaws and defects in Mr. Jacobs' challenge.

I. The Comprehensive Rezoning is Reasonably Related to the Public Safety, Health, and Welfare, Fits R.C. 7 Zone Goals, and is a Legitimate Exercise of Legislative Judgment; as a Matter of Law There is No Mistake.

The Baltimore County Council in 1975 established four Resource Conservation Zones – R.C. 2, R.C. 3, R.C. 4, and R.C. 5. Bill 98-75. See Security Management Corp. v. Baltimore County 104 Md. App. 234, cert. denied 339 Md. 643 (1995), cert. denied 516 U.S. 1115. There have since been added several new R.C. Zones.

In Bill 74-2000, the Council added the R.C. 7 Resource Preservation Zone. P.C. Exh. 40. It followed the Master Plan 2010 recommendation, adopted February 22, 2000, to improve upon the R.C. 4 Zone and to reduce density in watershed protection areas to one lot per 25-50 acres. P.C. Exh. 51, page 241-43. The Bill refers not only to the Master Plan, but also to the Planning Board report dated June 1, 2000. The Report stated,

"PROJECT DESCRIPTION

> This report responds to Council Resolution 27-00 which asks the Planning Board to recommend criteria and standards for a new zone to preserve critical resources, in accordance with the recommendations of *Master Plan 2010*, adopted by the County Council 2000.

BACKGROUND

> *Master Plan 2010*, the county's comprehensive plan adopted by the County Council in February 2000, identifies specific resource preservation areas where valuable cultural, historic, recreational, and environmental resources are located and should be protected. These rural resources are of value to the region in general and to Baltimore County in particular. These natural, environmentally-sensitive open spaces balance the intensely developed urban portion of the county. A majority of these lands are contained within the current RC 4 zone. Large portions of these areas are publicly owned, such as Soldiers Delight Natural Environment area, Gunpowder Falls State Park, Patapsco Valley State Park, Northpoint State Park and the Prettyboy, Liberty, and Loch Raven Reservoirs.
>
> Among the actions recommended in Master Plan 2010 to protect resources in the Resource Preservation Areas are: the reduction of permitted residential densities in these areas to one dwelling per 25-50 acres of land; and the creation of a planned unit

development (PUD) process for the approval of large institutional, educational, religious and recreational developments in the Resource Preservation Areas."

The main point here is that the County Council enacted Bill 74-00 to improve upon and replace the R.C. 4 Zone in Resource Preservation areas and to reduce the permitted density to one lot per 25 acres. The Council implemented this very purpose in the 2008 CZMP for 175 acres in Issue 3-94, including the Jacobs property, and thousands of other acres in Resource Preservation areas around the reservoir watersheds.

These legislative decisions conform to the BCZR Section 1A08.1.A legislative findings: to implement Master Plan 2010, to reduce permitted residential density, to protect rural resources, and to apply it "only to lands currently zoned R.C. 4 ...." They are also consistent with the several BCZR Section 1A08.1.B legislative goals: to protect ecosystems, forests, streams, environmentally sound use of land and forests

The evidence is obvious and overwhelming that the R.C. 7 Zone fits this area, including the large panhandle lots north of Molesworth Road such as the Jacobs lot. Let us examine at the evolution of Issue 3-94 and summarize the testimony.

North County Preservation ("NCP"): Michael Pierce testified for NCP and brought Rule 8 papers. PC. Exh. 42. He described the assembly of environmental and resource data to assist community groups in the CZMP. P.C. Exh. 43. An active participant in north county land use matters, he agreed that the R.C. 7 Zone was appropriate for the area and Jacobs property and served important environmental goals.

The Greater Sparks-Glencoe Community Planning Council ("GSGCPC"). Kirsten Burger, the President, described GSGCPC's use of environmental and resource data, including NCP source material. P.C. Exh. 43. She explained the formulation of Issue 3-94 and other issues. She reviewed the September, 2007 rezoning application and excellent justification summary for the GSGCPC issues. PC Exh. 12. She described the location in the Prettyboy Reservoir and Gunpowder River watersheds and the necessity to maintain forest buffers and reduce development to protect the metropolitan water supply. P.C. Exh. 18. She later filed a document to describe how the rezoning would carry out the goals of the Master Plan and the R.C. 7 Zone. P.C. Exh. 19. She provided compelling

testimony at the Planning Board about degradation of the north county land and water bodies, and the need to reduce residential density. P.C. Exh. 20. She visited the area with Councilman McIntire. He was, of course, already familiar with it from long experience.

At the CBA, she produced a notebook, including Rule 8 materials, a history of the Issue, and a masterful summary of Master Plan and R.C. 7 Zone goals which support the rezoning of the 175 acres, including large Middletown Farms lots such as Lot 16. P.C. Exh. 28. She also connected it to the Reservoir Watershed Management Agreement.

She placed the present petition in the larger picture of protecting the public water supply and environmental resources from additional development impacts. There are many properties in this area with development potential.. They could use a rezoning approval here to argue for the same treatment. If he is allowed to resubdivide, it would be arguably unfair and arbitrary to deny to others the same dispensation.

When Mr. Schmidt, counsel for Mr. Jacobs objected to Ms. Burger giving testimony to elaborate on her submission, Chairman Lawrence Stahl rightly described her written presentation as "marvelous," as if no further discussion were required. Be that as it may, it is fortunate that Mr. Stahl allowed her the same opportunity available to other witnesses. In the event, despite Mr. Schmidt's attempts first to muzzle Ms. Burger, and later, on cross-examination, to harangue and scold her, she maintained her position wonderfully. She also described how the Jacobs property fit the characteristics of the area to be protected, with the Owl Branch, its floodplain, and substantial forest. At the same time, she noted that each property must be viewed as a related part of a larger area.

Mr. Schmidt also tried the desperate tack to suggest that GSGCPC has no business or concern with the Prettyboy Reservoir area. Ms. Burger parried this with the enlightened recognition of the widespread ecological interrelationship of areas in the northern county. Jacobs' counsel's approach merely illustrated the myopic and narrow-minded tactics employed to try to gain an advantage.

The DEPRM Recommendation; Donald Outen; the Reservoir Protection Management Program; Gould Charshee; Councilman McIntire; Patterns of Development. In March, 2008, DEPRM made its recommendations on the various

rezoning issues. The recommendation on Issue 3-94 supported the rezoning to R.C. 7 because it is "more protective of forests, aquatic habitat, and water quality in the reservoir watershed." P.C. Exh. 17, page 3. The comments included the location in the Loch Raven watershed, with portions in the Owl Branch and Gunpowder Falls subwatersheds, the sensitive Maryland DNR Use III-P (trout stream) classification, the presence of brook and brown trout, the low-density residential development, the mature forest, and the environmental benefits of a decrease in impervious area.

Donald Outen, the well-qualified veteran DEPRM coordinator for this process, testified under subpoena at the hearing. He described the way the different DEPRM sections contributed to the 2008 comments, and how the DEPRM comment reflected the collective judgment of the Director and staff. P.C. Exh. 34, 35. He confirmed that the Jacobs property shared the environmental conditions of the area, including the Owl Branch, the mature forest, and the other characteristics of the watershed.

He also discussed the Reservoir Watershed Management Program ("RWMP"), in which he serves as a Baltimore County representative along with representatives from the other metropolitan counties under the aegis of the Baltimore Metropolitan Council ("BMC"). He produced a Reservoir Program Technical Report and the current 2005 Reservoir Watershed Management Agreement. P.C. Exh. 32, 33. He explained that the R.C. 7 rezoning is consistent with the goals of that program.

Mr. Outen described his work and consultation with Gould Charshee, the BMC Water Resources Program Manager. During the 2008 CZMP, Mr. Charshee filed on March 4, 2008 a letter explaining in depth the zoning strategy of the RWMP to achieve lower density development. P.C. Exh. 16. For Issue 3-94, Mr. Charshee wrote,

> "**Recommendation**: Support. The proposed change(s) will help to reduce future development in the reservoir watersheds by reducing the density o the residential development that will be allowed on existing Resource Conservation-zoned parcels. This will help to limit future increases in impervious surfaces in the watersheds and will protect the natural functions of forests, wetlands and streams for maintaining reservoir water quality."

Mr. Outen added that Councilman Bryan McIntire is the Chairman of a key policy committee for the RWMP, as described in the agreement and reflected prominently in the photographs. There can be no dispute that Mr. McIntire, the long-time Councilman for the north county, was well aware of the environmental and watershed protection issues.

Finally, Mr. Outen discussed his study of the Resource Conservation Zones and development patterns. He provided a graphic presentation, which showed excessive development in the R.C. 4 Zone areas. P.C. Exh. 37. This dovetailed with the Council's establishment of the R.C. 7 Zone to provide better watershed protection. His study also reflected the historical trend of rezoning to reduce density in the R.C. zone areas. The widespread application of the R.C. 7 Zone contributed to this trend.. On cross-examination, he responded to Jacobs' counsel's harping that the name of the R.C. 4 Zone is the Watershed Protection Zone. Mr. Outen pointed to the data which confirmed it was not providing the amount of protection expected or necessary and appropriate.

The Office of Planning; We have already remarked that the planning staff and Planning Board supported the R.C. 7 rezoning during the 2008 CZMP. In spite of that, the June and July, 2009 OPZ and Planning Board reports on the Jacobs petition concluded with a neutral recommendation. Pet. Exh. 12, 13. They Planning Board said,

> "**PLANNING BOARD RECOMMENDATIONS:** Recommends that the Petitoner be allowed to move forward and make its case at the Board of Appeals.

Neither OPZ nor the Planning Board provided any information or reason to indicate that the Council had made a mistake.

Jesse Bialek, the area planner, testified under subpoena by Mr. Jacobs' counsel. The only questions about the appropriateness of the R.C. 7 came during cross-examination by our office. Amazingly, Mr. Jacobs' counsel objected that it was irrelevant to inquire into the Planning Office's reasons for support of the rezoning during the 2008 CZMP. He appeared to concede the propriety of the R.C. 7 Zone in the area, but just not for the Jacobs property. Chairman Stahl eventually overruled the objections.

Ms. Bialek then explained that the OPZ staff recommendations were made based on review and discussions with the Planning Director Pat Keller, Deputy Planning

Director Jeffrey Long, Chief of Community Planning Jeffrey Mayhew. She stood by her office's 2008 recommendation. She was also able to confirm that the area one of the Master Plan designated Resource Preservation areas, and that the rezoning conformed to the legislative goals of the R.C. 7 Zone. Her testimony was general, in that she had studied the issue in detail for a couple of years.

James Patton: Mr. Patton, a registered civil engineer, Master of City Planning, and environmental planner, was the most qualified expert to testify comprehensively about land use issues. P.C. Exh. 44. He had visited the area and reviewed aerial photography. P.C. Exh. 1. He reviewed documents, including the petition and documented site plan, 2008 CZMP file materials, and the Middletown Farms subdivision plat. He reviewed pertinent provisions of the Zoning Regulations, County Code, and Master Plan and even several appellate court cases. He attended the entire CBA hearing.

Mr. Patton described the area, including smaller lots along Molesworth Road, larger lots to the rear (including the Jacobs lot), forested areas, and farms further to the north. He concurred that this is a Resource Preservation Area designated in the 2010 Master Plan. It includes a tributary to public water supplies. Mr. Patton found that application of the R.C. 7 Zone to the Jacobs property was appropriate, consistent with the master plan, and consistent with the findings and goals of the R.C.7 Zone.

Mr. Patton was the only witness to identify a very specific problem relating to the legislative amendment of Bill 153-04. He found that the thrust of the Jacobs petition in reality was that Mr. Jacobs suffered an economic disadvantage and that he complained of a failure to look at his property as a specific issue. But Code Sections 32-3-510(d)(2)(i),(iv) now explicitly disqualify these grounds as a basis for a finding of error. As noted, we shall discuss this further in Section IV.

He found that application of the R.C. 7 Zone to Mr. Jacobs' property is compatible with the surrounding area and helps fulfill the intent to protect the watershed. At the same time, he observed that the incompatibility ... with the zoning classification of surround tracts or parcels of land" is not a ground for a finding of error. Code Section 32-

510(d)(2)(ii). Here, Lot 16 is one of many large lots in the Middletown Farms subdivision which received the R.C. 7 designation.

Mr. Patton was also the only witness to evaluate in depth whether the requested R.C. Zone is warranted. He found that the proposed resubdivision is subject to the zoning law governing amendments of final development plans. BCZR Sections 1B01.3, 1A00.4. P.C. Exh. 50A-B. These provisions require satisfaction of special exception standards and consistency with the spirit and intent of the original plan. Section 1B01.3.A.7.b. Most important, the proposal would be disqualified because the proposed resubdivison would exceed the R.C. 4 Zone density limits applicable to the entire Middletown Farms subdivision tract. BCZR Section 1B01.3.b.2. While the subdivision was well within the R.D.P. zone allowance when built, the 47 lots on 148 acres now exceeds the .2 lot per acre density of the R.C. 4 Zone. Therefore, no further subdivision is allowed under either zone.

As Mr. Patton said, the PDM bureaucracy and departmental staff who processed Mr. Jacobs' DRC application disregarded the zoning law. It is unlawful to process a subdivision which conflicts with the zoning law. We shall discuss this in Section V.

Mr. Patton also identified omissions in the documented site plan elements required under Code Section 32-3-512. These included the lack of elevation drawings, coverage, height, and exterior materials of the proposed dwelling; lack of a new well location; lack of onsite water-quality best management practices (or justification for their absence); and lack of an environmental statement which satisfies the BCZR Section 101.1 definition and is prepared by a competent engineer or planner. We shall discuss this in Section VI.

Overview: This record fits the profile Judge Harrell described in Anderson House to sustain the comprehensive rezoning there. The R.C. 7 zone fits this watershed area designated as Resource Preservation and is consistent with the specific legislative goals of the zone. Indeed, the record here overwhelmingly supports the R.C. 7 zone, in contrast to the more debatable situation in Anderson House. A comparison with Coppolino, Boyce, Dorsey, and Beachwood reveals that in every one of these cases, the property

owners had at least made plausible, albeit debatable, arguments about the appropriate zoning for the area and the property, not just a personal financial plea.

The Court of Appeals had likewise reversed Baltimore County C.B.A. administrative rezonings in earlier cases, where Petitioners presented arguments going to the general merits of application of the zone. Trainer v. Lipchin, 269 Md. 667 (1973); Stratakis v. Beauchamp, 268 Md. 643 (1973); Brenbrook Construction Co. v. Dahne, 254 Md. 443 (1969); Pahl v. County Board of Appeals of Baltimore County, 237 Md. 294 (1965) Shadynook Imp. Ass'n v. Molloy, 232 Md. 265 (1963).

Suffice it to say that developers in the above cases tried virtually every conceivable approach to persuade the courts of the merits of their proposals, and the unsuitability of the legislative decision. There were arguments about the character of the neighborhood, the economics of development, traffic, population, and other rezonings. But in every case, the appellate courts exposed the simple point that the petitions rested on dissatisfaction and disagreement with the legislative judgment. Even disagreements expressed in the form of expert planning opinions cannot serve as evidence of mistake. Beachwood is just the latest decision to carry forward these legal principles.

In sum, the R.C. 7 zoning here is not just reasonable and fairly debatable, which is all that is necessary for it to be sustained as a matter of law. It is the right zone for this area and property at the right time. If the CBA were to find mistake on this record, it would amount to a usurpation of the legislative function and would be reversible error.

II. The Petition is Flawed and Antithetical to Comprehensive Zoning Because it is Based on Private Financial Concerns, and Elevates Them above the Public Interest

We now examine in more detail the evidence Mr. Jacobs presented in support of his claim. As noted, Mr. Jacobs' objective is to resubdivide lot 16 in Middletown Farms and sell a dwelling lot in order to make money.

Neal Jacobs: Mr. Jacobs acquired lot 16 on December 29, 2005. P.C. Exh. 2-3. It is known as 1206 Molesworth. There is a dwelling built in 1978, where he lives. He has submitted a "documented site plan" to divide the property into two lots, with the intention of constructing a second dwelling and selling the lot for revenue purposes.

Mr. Jacobs began to make arrangements to subdivide the lot soon after acquisition. He retained Bruce Doak, a surveyor and consultant. On November 13, 2006, Mr. Doak's office filed a "DRC" (Development Review Committee) application for a "Plan Refinement," described in handwritten print as a "MINOR SUB B-5 W/PLAT." (a subdivision of 3 lots or less afforded a limited exemption from a development plan hearing under County Code Section 32-106(b)(5)). P.C. Exh. 5. Department of Permits and Development Management (PDM) Director Timothy Kotroco issued his approval for the refinement application to proceed on December 15, 2006. Pet. Exh. 2.

Mr. Jacobs described a number of issues which arose. He had to acquire an easement from a neighbor for sufficient area for an expanded panhandle driveway, eventually acquired on June 25, 2008. Pet. Exh. 4A-G, 5. He had to address stormwater management concerns. He was able to obtain a Department of Environmental Protection and Resource Management (DEPRM) variance, subject to conditions and payment of a fee, paid in May, 2008. Pet. Exh. 6A-6C. He had to obtain a forest conservation variance because of the plan to remove trees. This was likewise subject to a fee into a "forest retention bank" paid in May, 2008. Pet. Exh. 7A-B. There were other environmental issues raised, as described in DEPRM correspondence dated March 3, 2008. Pet. Exh. 14A. Among other things, as described in DEPRM correspondence dated August 18, 2008, an environmental agreement would be required. Pet. Exh. 14C. Pet. Exh. There were also issues concerning channels that may be regulated by the Corps of Engineers.

The subdivision application was still in process when, to conclude the 2008 comprehe the County Council enacted comprehensive zoning ordinance 87-08 on August 26, 2008, effective September 8, 2008. P.C. Exh. 45-46. This ordinance included the rezoning issue which reclassified Mr. Jacobs' property from R.C. 4 to R.C. 7. When county staff learned of the reclassification, Lloyd Moxley of the Office of Planning informed Mr. Doak's office that the subdivision could not be approved.

Mr. Jacobs made complaint to the county executive's office by e-mail and also retained counsel, Lawrence Schmidt. He complained that he did not know about the

comprehensive rezoning process. On December 4, 2008, PDM Director Kotroco responded to Mr. Jacobs by letter. P.C. Exh. 26. He said this about the 2008 CZMP,

> "It began in September 2007 and took about one year to complete. The CZMP involves community meetings in each council district as well as written notification to property owners and the post of properties. It is very unfortunate that you were not made aware of the proposed re-zoning of your property. The re-zoning of land is a very open and public process. It is very easy to check and verify that a change is being proposed. I am at a loss as to why you were not made aware of the re-zoning of your land as it was occurring. This information was readily available to your consultant.
>
> Unfortunately, as it stands today the zoning that is now on your property does not allow the approval of the minor subdivision. When a subdivision plan is approved, it must be in accordance with the zoning that is currently on the property. The County Code is very specific about this. There is nothing that my office or the County Executive can do to change that.
>
> I am very sorry that you are in this situation. One possible option is to petition for a change in zoning at the time of the 2012 CZMP. Petitions will be accepted sometime in September 2012. [sic, actually 2011]."

Instead of waiting for the 2012 CZMP, which begins in September, 2011, Mr. Jacobs filed the present petition in February, 2009.

Jesse Bialek: Mr. Jacobs subpoenaed Jesse Bialek concerning the notice issue. She said that her office sent Mr. Jacobs the usual first class mail notice letter to affected property owners. She identified a computer-run copy of the February 20, 2008 letter. P.C. Exh. 6. She also confirmed the Planning Office's decision to place the zoning signs on Molesworth and Armacost Roads. She did not send letters certified, return receipt requested, and she did not make telephone calls. As shown on cross-examination, the law requires for each issue only first class mail and placement of a sign or, in the Planning Office's discretion,, more than one sign. Code Section 32-3-215. P.C. Exh. 11. No other property owners have complained about lack of notice.

Ms. Bialek was unaware of Mr. Jacobs' subdivision application. Naturally, she was in no position to inform Councilman McIntire (or anyone else) about it. She could not know, of course, what information the councilman had from other sources. She stood by her office's recommendation of the R.C. 7 Zone, and never suggested that the pendency of a subdivision application should affect the CZMP decision.

David Thomas: David Thomas, appearing under subpoena, owns and resides on an adjacent smaller 3-acre parcel fronting on Middletown Road. This property bordered Issue 3-94. Mr. Thomas also happens to be Assistant to the Director of Public Works.

Mr. Jacobs had attempted to acquire an easement from him, but they could not agree on price. Mr. Thomas confirmed he had received a letter notifying of the adjacent rezoning issue. As to the merits, he said the County Council had discretion.

Bruce Doak: Jacobs' final witness, Bruce Doak, his surveyor and consultant during the 2006-08 subdivision process, appeared as an expert on zoning, although he showed no education or particular expertise about comprehensive zoning. He echoed that he was unaware of the CZMP issue affecting the Jacobs property, even though he drove by the sign on Molesworth every day. His testimony was more in the nature of advocacy and embroidery than objective analysis. He gave perfunctory testimony that the County Council erred because, in his opinion, it did not consider Mr. Jacobs' subdivision application. He similarly advocated for the appropriateness of the proposed site plan.

Mr. Doak did not challenge the R.C. 7 Zone as applied to any of the other properties in Issue 3-94. Nor did he challenge the proposition that application of the R.C. 7 Zone furthered the public interest in this area. He did not analyze Master Plan 2010 or the legislative findings and goals of the R.C. 7 Zone.

Overview: Irrelevance; Antithesis. So, the entire thrust of Mr. Jacobs' claim is, in essence, that his experience in the subdivision process afforded him a kind of entitlement, expectation, or claim that his property should not be subject to rezoning, that he did not have notice, that his ignorance translates to the Council's ignorance, and that this invalidates the legislative judgment for his property alone, and no one else's.

Mr. Jacobs' claim is flawed. His personal experience and situation in the subdivision process is irrelevant to comprehensive zoning judgment for a substantial area. Indeed, it is antithetical. The relevant facts are the objective facts about the property, the surrounding area and zoning, and significant projects and trends. The relevant objective is the public interest, not the personal financial experience of property owners.

It is also noteworthy that Jacobs' occasional suggestion that his lot is at "the corner" of comprehensive zoning Issue 3-94 is misleading and a red herring. Lot 16 is one of the large lots which logically (more than fairly debatably) belonged in the issue.

III. Petitioner's Claim of Mistake based on Lack of Notice or Awareness is Flawed

a. Ignorance of Law and CZMP is No Excuse; It is Outrageous to Shift Blame

Citizenship brings with it responsibility. Ignorance of the law is no excuse. Citizens who own property must be alert to zoning law, just as they must be alert to motor vehicle, taxation, and myriad other laws and regulations affecting daily lives.

This is especially true when a property owner engages in the subdivision process. It is up to the property owner to know the zoning of the property and what may affect it. Moreover, as PDM Director Kotroco wrote, the Baltimore County CZMP "... is a very open and public process." There is no other legislative process in Baltimore County which is more accessible and takes longer than the year-long CZMP.

In this case, there is the additional factor that Mr. Jacobs hired Mr. Doak, a consultant who holds himself out as an expert with experience in the zoning process. Mr. Doak had many clients in the 2008 CZMP. He interacted with Ms. Bialek. Coincidentally, he drove by the Molesworth Road sign virtually every day from his home on Baker Schoolhouse Road to his workplace in Towson or to the metropolitan area.

If there were any "mistake," the mistake was that of Mr. Jacobs and Mr. Doak in not paying attention to this very open process. It is outrageous for them to cast aspersions and blame on the County Council and to project, shift, or scapegoat their own failures.

It also is likely that Mr. Jacobs received the letter that the County Office of Planning sent out on February 20, 2008. No other property owner made any complaint about notice. David Thomas, the neighbor, recalled receiving a similar letter. Mr. Jacobs (or his fiancé) probably did not recognize the letter's significance or unwittingly disposed of it. In any event, as we not show, lack of notice is not a basis for a finding of mistake.

b. Failure to Provide Notice Does Not Invalidate the Law; in any event, the Planning Office Provided the Required Notice by Posting and First Class Mail

In every CZMP, there are property owners affected financially and otherwise by a potential rezoning, and there are neighbors and the public who likewise may be affected Some of them have desires to develop their property, others have plans, and others are in process. Until they complete their projects, or have legally approved subdivision plats (Bill 54-09), they have no vested rights and cannot go forward. It does not matter whether the Council knows the details of the progress of various plans and projects. In any event, the burden is on particular property to make personal concerns known, not the other way around. Otherwise, any property owner or member of the public could come forward after the process with some point they say the Council did not consider. Anyone could claim a lack of notice on the issues affecting large areas. Indeed, with or without notice, anyone could claim the Council didn't know about and consider their problem, such as in the instance where a property is not a specific issue. To tolerate such arguments would eviscerate the process and demean the legislative prerogative. It would open the process up to endless Monday Morning Quarterback second-guessing.

These considerations support the legislative judgment that lack of notice is not a reason to invalidate the zoning law. County Code Section 32-3-215(f) states,

> **"Failure to post a property or mail notice does invalidate or affect any subsequent change in the zoning of the subject property."** P.C. Exh. 11.

This goes hand in hand with the law in Section 32-3-510(d)(2) that the failure to consider a property as a specific issue is not a ground for a finding of error.

In any event, as noted in cross-examination of Jesse Bialek, her office complied with pertinent requirements. Section 32-3-215(d)(1) says, ".... The Office of Planning shall determine the manner of posting the property and the content of the notice." Section 32-3-215(d)(2) states that the "... notice to the property owner shall be in the form of a letter ..." There is no requirement to telephone or send a registered letter. Section 32-3-215(e) provides that "[i]f a zoning issue contains more than one property, the Office of Planning may post one or more notices for all properties included in the issue."

IV. The Petition is Disqualified because based on Economic Disadvantage and Failure to Consider the Individual Property as a Specific Issue

As Mr. Patton rightly said, the claim of mistake is disqualified under County Code Section 32-3-510(d)(2)(i). There is no getting around the point that the real thrust of Mr. Jacobs' claim of mistake is that he has suffered an unfair economic disadvantage. That is the only thing which separates his situation from the many other property owners in the Middletown Farms subdivision and elsewhere in the County whose properties were rezoned to the R.C. 7 Zone. No matter what other name he may give to it, the petition is based on economic advantage and effectively must be ruled out as a false start.

As Mr. Patton also noted, Mr. Jacobs' claim of mistake is disqualified under Code Section 32-3-510(d)(2)(iv) because it boils down substantially or effectively to a claim that the Council did not address his property as a specific issue. Mr. Jacobs does not claim any mistake as to the rest of the 175 acres comprehensively rezoned to R.C.7. He seeks an exemption for his property alone.

Mr. Jacobs seeks to mask or avoid the legitimate concern that his case would be a dangerous precedent and erode the integrity of the CZMP. But in doing so, he makes it all the more obvious that his claim narrowly focuses and functions as a claim that the Council did not address his property as a specific issue.

V. The R.C. 4 Zone is Unwarranted

a. The Proposed Site Plan to Resubdivide Lot 16 is an Amendment of the Major Middletown Farms Subdivision, is Subject to the Zoning Law, is Inconsistent with the Spirit and Intent of the Original Plan, and Exceeds the Maximum Density.

County Code Section 32-510(a)(2) requires proof that "... the requested reclassification is warranted. ..." Here, Jacobs requests the R.C. 4 Zone combined with a documented site plan for resubdivision. Code Section 32-3-512. Approval of the rezoning would necessarily incorporate the resubdivision. Code Section 32-3-514.

It is elementary that a subdivision must comply with zoning law. If the proposed subdivision is illegal, the CBA cannot properly approve it as part of a documented site plan zoning reclassification. To say that it is "warranted" despite its illegality would be

ridiculous. To say that a review of its illegality should be put off to another day is also ridiculous. The issue is clear, present, and unavoidable.

A major problem is that Jacobs' DRC application proceeded without regard to the zoning law governing amendment of final development plans and special exception review. While the PDM Director approved it for processing in the development process, this does substitute for or constitute approval under the zoning law.

The proposed resubdivision is subject to the zoning law governing amendment of final development plans. BCZR Sections 1A00.4 (Bill 98-75), 1B01.3.A.7 (Bill 100-70), and 502.1. This requires special exception review, consistency with the intent of the original plan, and compliance with density limits for the entire tract. This also brings into play County Code Section 32-3-515, which assigns to the CBA "....original jurisdiction for the purpose of hearing and deciding ... special exceptions ...that are dependent upon the granting of a zoning classification of the property involved in the petition."

The CBA recently decided a case with a similar proposal for resubdivision of a single lot in an R.C. Zone. On June 23, 2010, the CBA issued its opinion In the Matter of Thomas and Cynthia Hutson, Case No. 9-35-SPH. There, the Planning Board approved the original development plan for the major Tufton Farms subdivision in 1977. This was the final development plan for the purpose of the zoning law, a subdivision in the same position as the Middletown Purchase plan approved by the Planning Board in 1976. P.C. Exh. 25. The developer recorded that plat in the same way as the Middletown Farms plat. Just like the present case, the plat there laid out less than half the maximum number of lots permitted by zoning at the time. As in the present case, the Council subsequently rezoned the property (there, a key part) to a more restrictive zoning classification.

There was no dispute that the proposed resubdivison was subject to the zoning law. After an evidentiary hearing, the CBA determined to deny the resubdivision because of a conflict with the requirement that the proposal be consistent with the spirit and intent of the original plan. The CBA did not need to reach the broader special exception issue.

The zoning law is fundamental. It must be satisfied to qualify for PDM subdivision plan review. It is impermissible to approve a re-subdivision without zoning

approval. Otherwise stated, zoning compliance may not be skirted or delayed. An applicant may not pick apart the process by segregating development approval without prior or concurrent zoning application. This would facilitate manipulation and disregard of the zoning law. When the PDM process moves forward without regard to zoning law, it is all too easy for a divided and shortsighted bureaucracy to slip up and issue illegal permits. So there is no misunderstanding, let us include additional legal analysis.

Judge Glenn Harrell described the relationship between zoning and subdivision regulations in People's Counsel v. Surina 400 Md. 662, 689-90 (2007),

> "It is well-settled that zoning regulations and subdivision controls regulate different aspects of the land use regulatory continuum. *Coffey v. Maryland-Nat'l Capital Park & Planning Comm'n,* 293 Md. 24, 30, 441 A.2d 1041, 1044 (1982) (holding that zoning and subdivision planning "represent separate municipal functions and neither is a mere rubber-stamp for the other") [citations omitted]....
>
> * * *
>
> **"Despite their different aims, however, the two regulatory schemes are intended to complement each other in terms of the safety, health, and general welfare of the community at large. Zoning regulations and subdivision/development controls, along with the establishment of a master plan in a particular locality, serve additional common objectives in terms of the effective, efficient, and consistent use of land within similarly-situated districts. *Coffey*, 293 Md. at 30, 441 A.2d at 1044."** Emphasis supplied.

In Miller v. Forty West Builders 62 Md. App. 320, 329-35 (1985), the CSA held that a subdivision plan must comply with zoning law. Upon review of the same Baltimore County Code provisions,, the Court wrote that "A subdivider ... must first meet applicable zoning regulations ...." 62 Md. App. at 334, quoting Yokley, Zoning Law and Practice. The Court also quoted Anderson, American Law of Zoning,

> "While the zoning power and authority to review subdivision plats are separate, it seems clear that plans should not be approved which violate existing zoning regulations. There is little to be said for approving a plat, for example, which discloses substandard lots. Such an approval would be a disservice to the developer who would be unable to build on the lots, and it would encourage deviation from those portions of the comprehensive plan which are implemented by the zoning regulations in issue."

Here, with Bill 100, 1970, the Council established the approval process for amendments to final development plans in Density Residential Zones. BCZR §

1B01.3.A.7. PC Exh. 50-A. In 1975, the Council extended these provisions to the R.C. Zones in Bill 98-75, including BCZR Section 1A00.4.

When an amendment is proposed after sale of property in the area, there is a special exception standard and hearing requirement. BCZR § 1B01.3.A.7.b. This states.

> "... the plans may be amended through special exception procedures, in the manner provided in Section 502 and subject to the following provisions: ....

These provisions require. Among other things, that the proposed amendment "... be consistent with the spirit and intent of the original plan and of this article." Ibid.

There is also a threshold density standard, which places aggregate limits on subdivision lot density for the entire tract. BCZR § 1B01.3.B. 2 concludes,

> B. Final subdivision plat.
>
> 2. Effect... 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."

The statutory reference to "the entire tract" refers unambiguously 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 -- > ...."

* * *

Here, the procedural problem is that Mr. Jacobs filed a DRC application which sidestepped the requirement for zoning approval. The PDM Director allowed Mr. Jacobs to proceed in the development process, but this does not excuse the failure to comply with zoning law. The PDM Director may has no such authority. Agencies operate with delegated powers. An agency may not bypass its governing law. As the Court wrote in Vest v. Giant Food Stores 329 Md. 461, 476 (1993):

> "An agency 'cannot override the plain meaning of the statute or extend its provisions beyond the clear import of the language employed."

The substantive problems are both significant and insurmountable. To begin, the proposal does not on its face appear to be consistent with the intent of the original plan. It would be the first break in the pattern of large panhandle lots situated to the rear of the lots fronting on Molesworth Road. This original plan reflects the intent to minimize the number of panhandle lots, which are not favored. See County Code Section 32-4-409. Pet. Exh. 4C. There also appear to have been environmental constraints which led the developer to limit the number of lots in this area. The stormwater management and forest conservation problems, variances, and other environmental challenges which Jacobs encountered reinforce the point that the original plan should not be changed. For the same reasons, the proposal would appear to have adverse impacts on the public safety, health, and welfare, inconsistent with the spirit and intent of the zoning law, and have adverse environmental impacts to the stream and forest. The fact that none of the lots have ever been resubdivided in the 30 years of their existence is telling.

Even if these problems could be overcome, there is the insurmountable problem of the density limit. When the 2004 Council rezoned the area to R.C. 4, it imposed the maximum density limit of 0.2 lot per acre (one lot per 5 acres) for subdivisions in excess of 10 acres. As a result, the Middletown Farms subdivision, with 47 lots on 148 acres (.32 lot per acre) now exceeds the maximum density. Mr. Jacobs' proposed resubdivision thus would add density to a subdivision which is already over the limit. This is illegal. There is no way the CBA can properly find that an illegal subdivision is "warranted."

b. The Proposed Rezoning is also Inconsistent with the Master Plan 2010 and the Recent Amendment for Rural Areas

Code Section 32-3-510(a)(2)(v) requires consistency with the Master Plan. Here, the R.C. 4 Zone is now plainly inconsistent. We have recited the Master Plan 2010 instruction to reduce density to 1 lot per 25-50 acres in Resource Preservation Areas. P.C. Exh. 51, pages 241-43. We have also cited attached Council Resolution 20-10, the Rural Area Amendment, which declares that in reviewing rezoning requests, the combination of RC 7 and RC8 zoning is the best zoning mechanism for achieving the goals of the Resource Preservation Areas, and requests which increase density should not be granted.

c. The Proposed Rezoning Is Riddled with Other Adverse Impacts

On top of all this, the litany of problems which Jacobs encountered in attempting to navigate the subdivision process just demonstrates that it is inappropriate to re-subdivide this environmentally sensitive lot. The panhandle driveway, stormwater management, forest conservation, and other environmental issues are all indicative of adverse environmental impacts. While the bureaucracy was willing unilaterally to allow Jacobs to avoid the normal requirements by variance or otherwise, these impacts constitute additional reasons to find that a rezoning is unwarranted.

VI. The Documented Site Plan is Incomplete

Mr. Patton accurately saw that the documented site plan fails to include several elements required by County Code Section 32-3-512, such as the second well, the elevation drawings, the height, the exterior materials, and environmental features. The incompleteness stems, at least in part, from the way it was prepared. Mr. Doak took the plan submitted to the DRC and essentially re-titled it as a documented site plan.

Here, we focus on a significant failure: the lack of an adequate environmental impact statement ("EIS") as defined in the zoning regulations. Code Section 32-3-512(a)(11). Mr. Doak submitted the attached February 25, 2009 letter, which apparently was to serve as the EIS. There is nothing else in the file.

Mr. Doak's letter does not meet the BCZR 101.1 definitional elements,

> "ENVIRONMENTAL IMPACT STATEMENT A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:
>
> A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;
>
> Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;
>
> Any adverse environmental effects that cannot be avoided;

Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and

Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98-1975]"

Furthermore, Mr. Doak is not a professional engineer or planner qualified to prepare an EIS. A surveyor' license, together with experience in processing zoning petitions, does not translate to the ability to prepare an EIS. The lack of a proper EIS is thus yet another basic reason to disqualify this petition for reclassification.

Conclusion

For the foregoing reasons, as a matter of law, the County Board of Appeals should and must deny this Petition for Zoning Reclassification.

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 16th day of July, 2010, a copy of the Memorandum of People's Counsel for Baltimore County was mailed to Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s) and Kirsten Burger, 1906 Corbridge Lane, Monkton, Maryland 21111, Lead Protestant.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 8

Resolution No. 20-10

All Councilmembers

By the County Council, April 19, 2010

A RESOLUTION of the Baltimore County Council to adopt an amendment to the Baltimore County Master Plan 2010.

WHEREAS, the Baltimore County Council adopted the Baltimore County Master Plan 2010 on February 22, 2000; and

WHEREAS, the Baltimore County Charter requires the Office of Planning to prepare and revise a Master Plan at least every ten years; and

WHEREAS, a portion of the Master Plan 2010 is devoted to advisory policies for the "rural county"; and

WHEREAS, the Baltimore County Office of Planning has prepared an amendment to the rural areas portion of Master Plan 2010, and the Baltimore County Planning Board held public hearings on the proposed amendment and, on January 21, 2010, voted to recommend the amendment to the County Council for adoption as an amendment to Master Plan 2010; and

WHEREAS, the County Charter requires the County Council to consider, accept or modify a proposed Master Plan amendment and to adopt such amendment by legislative act; and

WHEREAS, the County Council held a public hearing on the proposed amendment on March 15, 2010.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the amendment to the rural areas of Master Plan 2010 submitted by the Office of Planning and adopted by the Baltimore County Planning Board, including mapped and written proposals, is hereby amended and modified in accordance with the amendment attached hereto, and as amended and modified, is hereby adopted as an amendment to Master Plan 2010 to serve as a guide for the development of the County, subject to such further modifications as deemed advisable by the Baltimore County Council.

AMENDMENTS TO
MASTER PLAN AMENDMENT: RURAL AREAS

1. On page 3, in the second sentence of the paragraph titled "The New Master Plan", strike "However" and substitute the following: "One of the fundamental concepts of Master Plan 2010 is that the orderly development of the Baltimore County community is not a static process. It is subject to the social and economic changes that will naturally occur during the life of the master plan. The policy decisions of the County Council, which are expressed through its law-making power, are the means to address the county's evolving needs. The statements of Master Plan 2010 and the statements of this amendment to Master Plan 2010 are intended to guide the Council in this role. With this latest statement,"

2. On page 7, in the fourth line of the second full paragraph, after "private water wells", strike "and" and substitute ", or other private water sources, and private"

BALTIMORE COUNTY, MARYLAND

MASTER PLAN AMENDMENT:

RURAL AREAS



January 21, 2010

James T. Smith, Jr., County Executive

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

Jonas A. Jacobson, Director,
Department of Environmental Protection and Resource Management

For more information:

Web site: http://www.baltimorecountymd.gov/Agencies/planning/masterplanning/index.html

e-mail: masterplan@baltimorecountymd.gov
R. Bruce Seeley, Master Plan Coordinator
410-887-3480

TABLE OF CONTENTS

Executive Summary	3
Comparison of Present and Proposed Plans	6
Rural Areas	7
Protecting Rural Resources and Managing Growth	9
Agricultural Priority Preservation Areas	11
Rural Legacy Program	17
Resource Preservation Areas	20
Rural Residential Areas	21
Rural Commercial Centers	22
Historic Resources	23
Scenic Resources	24
Rural Infrastructure and Services	27
Fire Protection	29
Transportation	30
Recreation and Parks	31

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

February 25, 2009

Jason T. Vettori
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

Re: Jacobs Property / Molesworth Lane

Dear Mr. Vettori,

The subject property was being reviewed by Baltimore County as a minor subdivision (PDM#07-41M). The review and the subdivision process were in their final stages. The Baltimore County Department of Environmental Protection and Resource Management (DEPRM) had reviewed the plans delineating the wetlands and streams and had approved all of the submissions. As a condition of the subdivision approval, a Forest Buffer Easement was imposed on the subject property. DEPRM also reviewed the plans delineating the forest which exists and had approved all of the submissions. A Forest Conservation Easement was imposed on the subject property and a fee of $4704 was paid as a condition of the subdivision approval.

The proposed development of the subject property also required a review and approval of the storm water management regulations. That approval was given after a $4000 fee was paid.

Sincerely,

Bruce E. Doak
Principal

9/10/09

RE: PETITION FOR RECLASSIFICATION * BEFORE THE BOARD
1206 Molesworth Rd; NW/S Molesworth Rd,
1645' NE Armcost Rd, 406' NW Molesworth Rd* OF APPEALS
6th Election and 3rd Councilmanic Districts
Legal Owner(s): Neal Jacobs * FOR
Petitioner(s)
* BALTIMORE COUNTY
* CR-09-269

RECEIVED
SEP 10 2009
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

MOTION IN LIMINE

People's Counsel for Baltimore County moves to limit evidence, as a matter of law and public policy, as follows

1. Petitioner Neal Jacobs has filed a zoning reclassification petition with the County Board of Appeals to challenge the 2008 comprehensive zoning ordinance. His petition pertains to Issue 3-94, which covered 307 acres. The County Council reclassified 175 acres, including the Jacobs property, from R.C. 4 to R.C. 7. The Council at the same time reclassified 132 acres to R.C. 2. The County Board of Appeals has scheduled an administrative hearing on Jacobs' piecemeal rezoning petition for September 15, 2009.

2. Upon review of the file, it has just come to the attention of People's Counsel that on September 1, 2009, Petitioner Neal Jacobs filed requests for subpoenas to all seven county council members, council aides Marcie Goodman and Gail Morton, and planner Jesse Bialek to appear at the September 15 hearing.

3. The present motion in limine pertains to these subpoenas of county officials. It concerns Petitioner's apparent intent to inquire into the subjective motives, thought processes, wisdom, judgment, and propriety of the legislative action. The motion is also concerned with the potential infringement and disruption of the legislative branch of government and the respect due to the separation of powers.

4. To begin, our office concurs with the motion to quash filed on behalf of the council members and the two aides filed by the Baltimore County Office of Law pertinent to legislative privilege or immunity, based on the case law cited below.

5. Moreover, it is well-established in zoning cases that there may be no inquiry or testimony as to the subjective explanation, intent, or motive of the legislators, as reflected in the landmark Maryland case of Montgomery County v. District Land Corp. 274 Md. 691 (1975), attached, and national sources. The comprehensive zoning ordinance must be evaluated objectively, based on relevant legal standards.

6. In this connection, it is inappropriate to admit or receive testimony from any witness as to the subjective explanation, intent or motive of the legislators, whether it involves conversations or opinions about what the legislator did or might have done.

7. It is especially inappropriate to admit such testimony directly from a legislator or an aide as to this matter, as it infringes on the legislative process. It is also inappropriate to allow any planner or other witness to make statements, opine, or speculate as to what the councilman consciously knew, did not know, or intended and/or what he might or should have done subjectively.

8. The County Board of Appeals has quashed subpoenas or limited testimony in a special exception case. See attached People's Counsel's Motion in Limine and CSA brief, pages 1-3, in the Southside Brokers case, 96-226-X. We cannot recall any case in which such inquiry has been allowed, whether by subpoena to a council member or testimony as to what councilmen said or thought.

9. To be sure, People's Counsel has no objection to a custodian of records producing official files, such as the Office of Planning issue file pertaining to Issue 3-94 requested by petitioner, or other public records such as the relevant logs of recommendations and council action. Public records and correspondence are ordinarily admitted as objective parts of the record.

Wherefore, People's Counsel prays that the County Board of Appeals limit and preclude Petitioner's attempt, via subpoena or otherwise, to introduce testimony relating to the subjective motives, intent, thought processes, and judgment of the legislative branch of government. This applies especially to the legislators and their aides, because of the infringement to the legislative function, but also other witnesses.

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

Statement of Points and Authorities

The subjective explanation, intent, or motives of individual legislators are not admissible in zoning cases such as challenges to comprehensive zoning map amendments. Montgomery County v. District Land Corp. 274 Md. 691 (1975). Introduction of such "evidence" also infringes on legislative privilege and the legislative process. See Montgomery County v. Schooley, 97 Md. App. 107 (1993); Supreme Court of Virginia v. Consumers Union, 446 U.S. 719 (1980); Schlitz v. Commonwealth, 854 F.2d 43 (4th Cir. 1988); Baker v. Mayor & City Council, 894 F.2d 679 (4th Cir. 1990); Hollyday v. Rainey, 964 F.2d 441 (4th Cir. 1992); Racine v. Cecil County 843 F. Supp. 53 (D. Md. 1994).

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September, 2009, a copy of the foregoing Motion in Limine was mailed to Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s) and to John Beverungen, County Attorney and Adam Rosenblatt, Assistant County Attorney, Office of Law, Old Courthouse, 2d Floor, 400 Washington Avenue, Towson, MD 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Westlaw Delivery Summary Report for COUNSEL,PEOPLE'S

Date/Time of Request:	Tuesday, September 8, 2009 10:18 Central
Client Identifier:	PEOPLESCOUNSEL
Database:	MD-CS-FIND
Citation Text:	337 A.2d 712
Lines:	583
Documents:	1
Images:	0

The material accompanying this summary is subject to copyright. Usage is governed by contract with Thomson Reuters, West and their affiliates.

337 A.2d 712
274 Md. 691, 337 A.2d 712
(Cite as: 274 Md. 691, 337 A.2d 712)

C

Court of Appeals of Maryland.
COUNTY COUNCIL FOR MONTGOMERY COUNTY, Maryland
v.
DISTRICT LAND CORPORATION et al.
No. 170.

May 8, 1975.

Landowners appealed from adoption by county council of sectional map amendment which down-zoned their properties. The Circuit Court, Montgomery County, H. Ralph Miller, J., entered order reversing action of counsil insofar as it affected plaintiffs' tracts and the county appealed. The Court of Appeals, Singley, J., held that resolution of zoning council to effect that purpose of sectional map amendment was to bring zoning of nearly 4,000 acres into conformity with master plan, resolution was not a local amendment as to two action of council insofar as it affected tracts which were down-zoned so that it was not necessary to base amendment on change or mistake; that evidence established that the rezoning bore a reasonable relationship to general welfare by implementing wedges and corridors concept of master zoning plan and preserving open space in and adjacent to park; and that the facts that landowner spent more than one million dollars in studies and plans for development of property and that valid building permit was issued did not give owner a vested right in zoning classification which the property enjoyed at time of purchase and did not preclude down-zoning.

Order reversed, resolution reinstated.

West Headnotes

[1] Zoning and Planning 414 ⇐154

414 Zoning and Planning
414III Modification or Amendment
414III(A) In General
414k154 k. Circumstances Affecting Validity of Amendment in General. Most Cited Resolution of zoning council to effect that purpose of sectional map amendment was to bring zoning of nearly 4,000 acres into conformity with master plan was not a local amendment as to two tracts which were down-zoned; thus it was not necessary to base amendment on change or mistake as would be required if it had been a local map amendment.

[2] Zoning and Planning 414 ⇐675

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)3 Presumptions
414k675 k. Modification or Amendment; Rezoning. Most Cited Cases

Zoning and Planning 414 ⇐684

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)3 Presumptions
414k680 Burden of Showing Grounds for Review
414k684 k. Amendment or Rezoning. Most Cited Cases
If sectional plan amendment constituting comprehensive rezoning bears a substantial relationship to public health, comfort, order, safety, convenience, morals and general welfare it is entitled to same strong presumption of validity and correctness as that enjoyed by original zoning and persons attacking correctness or classification have heavy burden in overcoming presumption of its validity.

[3] Zoning and Planning 414 ⇐653

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)2 Additional Proofs and Trial De Novo
414k652 Amendment or Rezoning, Sufficiency of Evidence
414k653 k. Reasonableness. Most Cited Cases
Evidence established that rezoning, resulting in down-zoning of two tracts, bore a reasonable relationship to general welfare by implementing wedges and corridors concept of master zoning plan and preserving open space in and adjacent to park.

[4] Constitutional Law 92 ⟹2487

92 Constitutional Law
92XX Separation of Powers
92XX(C) Judicial Powers and Functions
92XX(C)2 Encroachment on Legislature
92k2485 Inquiry Into Legislative Judgment
92k2487 k. Motive. Most Cited (Formerly 92k70.3(2))
Judicial branch cannot institute inquiry into motives of legislature in enactment of laws.

[5] Zoning and Planning 414 ⟹615

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)1 In General
414k614 Wisdom, Judgment or Opinion
414k615 k. Regulations in General. Most Cited Cases

Zoning and Planning 414 ⟹672

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)3 Presumptions
414k672 k. Validity of Regulations in General. Most Cited Cases
Zoning ordinances are presumed to be valid and courts will not pass on their wisdom.

[6] Zoning and Planning 414 ⟹643

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)2 Additional Proofs and Trial De Novo
414k643 k. Admissibility of Evidence. Most Cited Cases
In absence of showing of fraud, state officials' depositions and papers not of public record were not admissible in zoning case to show that down-zoning had been intended to depress price in event tract was subsequently acquired for incorporation into park.

[7] Zoning and Planning 414 ⟹465

414 Zoning and Planning
414VIII Permits, Certificates and Approvals
414VIII(D) Effect of Determination; Revocation
414k465 k. Vested or Property Rights. Most Cited Cases
Obtaining building permit creates no vested right in existing zoning classification unless substantial construction has been undertaken in reliance thereon.

[8] Zoning and Planning 414 ⟹465

414 Zoning and Planning
414VIII Permits, Certificates and Approvals
414VIII(D) Effect of Determination; Revocation
414k465 k. Vested or Property Rights. Most Cited Cases
Possession of building permit, together with payment of high price in reliance on existing zoning and substantial architectural fees, creates no vested right in existing zoning, in absence of actual construction.

[9] Zoning and Planning 414 ⟹376

414 Zoning and Planning
414VIII Permits, Certificates and Approvals
414VIII(A) In General
414k375 Right to Permission, and Discretion
414k376 k. Change of Regulations as Affecting Right. Most Cited Cases
That landowner had spent more than one million dollars in studies and plans for development of property and valid building permit had been issued did not give owner a vested right in zoning classification which the property enjoyed at time of purchase and did not preclude down-zoning thereafter.

****713 *692** Stephen J. Orens, Asst. County Atty. (Richard S. McKernon, County Atty., Alfred H. Carter, Deputy County Atty., and John B. Walsh, Jr., Asst. County Atty., Rockville, on the brief), for appellant.

Jerome E. Korpeck, Silver Spring (Robert L. Brownell, Mark W. Kugler and ****714** Wheeler & Korpeck, Silver Spring, on the brief), for ***693** Dist. Land Corp.

William M. Canby, Rockville (James K. Ligon, Rockville, on the brief), for Charles H. Ligon, and others.

Argued before SINGLEY, SMITH, DIGGES, LEVINE, ELDRIDGE and O'DONNELL, JJ.

SINGLEY, Judge.

In July, 1972, the Montgomery County Council (the Council) sitting as the District Council, enacted Resolution 7-797 which adopted a sectional map amendment affecting approximately 3,903 acres in those parts of the Darnestown and Gaithersburg Election Districts of the County which lay within the boundaries of the Master Plan for Gaithersburg and Vicinity planning area. Approximately 207.9 acres were rezoned by the resolution, including 73.5 acres (the Anderson Tract) theretofore classified R-20 (multiple-family, medium density residential), owned by the appellant District Land Corporation (District Land), which were reclassified as R-R (rural residential), and 35 acres (the Kunlo Tract) which had been classified I-1 (light industrial), owned by Charles H. Ligon, Steven O. Beebe and A. Dement Bonifant, trustees for Gaithersburg Associates, a partnership (the Trustees), which were also reclassified R-R.

District Land and the Trustees had opposed the adoption of the resolution as it affected their properties. They appealed to the Circuit Court for Montgomery County which entered an order reversing the action of the Council insofar as it affected the Anderson Tract and the Kunlo Tract. This appeal followed.

As is typical of zoning controversies involving valuable tracts of undeveloped land, this case has produced a massive record. What is atypical, however, is the narrowness of the only real issue: whether the sectional map amended adopted by Resolution 7-797 constituted comprehensive rezoning. For a resolution of this question, additional facts must be considered.

When District Land purchased the Anderson Tract in 1967, some 69 acres had already been rezoned R-20. District Land proceeded with its plan to develop the R-20 parcel with apartment buildings, which were permitted in an area so ***694** classified, despite the fact that there was being developed a Master Plan for Gaithersburg and Vicinity (the Master Plan) during the years 1968-1970 which recommended an R-R classification for the parcel. The Master Plan was finally approved by the Council on 8 January 1971 and by Maryland-National Capital Park and Planning Commission on 14 January.

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

http://web2.westlaw.com/print/printstream.aspx?prft=HTMLE&destination=atp&sv=Split&... 09/08/09

A building permit for the construction of 420 apartment units was issued in August of 1971, but construction could not proceed because of the refusal of Washington Suburban Sanitary Commission to issue water and sewer connection permits, a refusal based on the fact that the proposed development was not in compliance with the Master Plan. This controversy ultimately reached us in District Land Corp. v. Washington Suburban Sanitary Comm'n, 266 Md. 301, 292 A.2d 695, decided 5 July 1972, in which we remanded the case to the Circuit Court for Prince George's County for the issuance of a writ of mandamus directing the Sanitary Commission to issue the connection permits. On 11 July 1972, Resolution 7-797 was enacted by the Coun- cil.

The Trustees acquired the Kunlo Tract in 1965. In 1966, it was reclassified from R-R to I-1 by the District Council. We upheld the reclassification in Kirkman v. Montgomery County Council, 251 Md. 273, 247 A.2d 255 (1968). A five-acre portion of the property has since been cleared and fenced and is used for the storage of motor vehicles and boats.

The Master Plan had been the subject of extended consideration. Public hearings had been held as early as 1968 and the plan was ultimately pulished in final draft ****715** form in June, 1970 and adopted by the Concil in January, 1971. Application F-805, which proposed the sectional map amendment at issue here, was introduced by the Council itself in March, 1972. It was approved by the Montgomery County Planning Board of the Mayland-National Capital Park and Planning Commission in April and was the subject of an extensive public hearing in June, before Resolution 7-797 was enacted in July.

***695** [1] The court below, in reversing the action of the Council, concluded that Resolution 7-797 in the contemplation of the County's zoning ordinance, Montgomery County Code (1972, 1973 Cum.Supp.) s 59-195, was a local map amendment in that it down-zoned two properties and was not, as it purported to be, a sectional map amendment effecting comprehensive rezoning.[FN1] The court concluded that as a local map amendment, it failed because there had been no showing of change or mistake. See Wells v. Pierpont, 253 Md. 554, 253 A.2d 749 (1969).

> FN1. Montgomery County Code (1972, 1973 Cum.Supp.) s 59-195 provides that proposed text or map amendments may take one of three forms:
>
> '(a) A local amendment covering a single tract, all portions of which are proposed to be classified in the same zone; or all portions of which are proposed to be classified in one of two alternative zones.
>
> '(b) A sectional plan amendment covering a section of the Maryland-Washington Regional District, portions of which may be proposed to be classified in different zones.
>
> '(c) A district plan amendment covering the entire Maryland-Washington Regional District within the county.'

We simply do not share the trial court's view. To us, this case seems strangely reminiscent of Montgomery County Council v. Leizman, 268 Md. 621, 303 A.2d 374 (1973). There, the property owners held two small parcels, one of which had been reclassified from R-R to C-1 in 1966. A little later, the Maryland-National Capital Park and Planning Commission adopted the Master Plan for the Rock Creek Planning Area, which recommended the reclassification of both parcels to R-T (residential-town houses). In 1971, the District Council approved a sectional map amendment to bring some 30 properties into conformity with that Master Plan.

What Judge McWilliams, for the Court, said there at 622 of 268 Md., at 375 of 303 A.2d is a nutshell

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

description of this case:

'It turns out, however, that there is really only one question to be resolved, i.e., whether the zoning application . . . filed by The Maryland-National Capital Park and Planning Commission . . . proposes a comprehensive rezoning bearing a ***696** substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare. If there is such a relationship then the comprehensive rezoning, which was granted by the Montgomery County Council sitting as the District Council for the Maryland-Washington Regional District in Montgomery County . . . enjoys a strong presumption of validity and correctness, Norbeck, supra, (Norbeck Village Joint Venture v. Montgomery County Council, 254 Md. 59, 254 A.2d 700 (1969)) and the cases therein cited.'

In a preamble to Resolution 7-797 the Council stated:

'This application is a sectional map amendment filed by the County Council for Montgomery County, Maryland, sitting as a District Council for that portion of the Maryland-Washington Regional District located within Montgomery County, for the purpose of bringing the properties involved into conformance with the Master Plan for Gaithersburg and Vicinity which was adopted by the Maryland-National Capital Park and Planning Commission on January 14, 1971, and approved by the County Council for Montgomery County, Maryland, sitting as a District Council, on January ****716** 8, 1971. The purpose of this sectional map amendment is to bring the zoning of all of the lands within the regional district adjacent to the Seneca Creek Park (involving 207.9 acres) into conformity with the Master Plan for Gaithersburg and Vicinity. The total acreage which is the subject of this application is 3,903 acres.

'The application proposes to rezone eight separate parcels as set forth in the application. By memorandum dated April 27, 1972, the Technical Staff of the Maryland-National Capital Park and Planning Commission recommended that this application be approved by the District Council. In ***697** its report and in its testimony at the public hearing on this application held on June 15, 1972, a member of the Technical Staff described the individual parcels and discussed the reasons for the conclusions of the Staff regarding the application. The Staff noted as follows:

* * *

The eight parcels were then described. Five were to be up-zoned; the two at issue here down-zoned, and no action was taken as regards a .64-acre parcel, which had been included in the application in error.

The preamble continued:

'Both in its report and its testimony at the hearing, the Technical Staff stated that the most dominant open-space feature shown in the Master Plan for Gaithersburg and Vicinity is the Great Seneca Park which follows Great Seneca Creek and extends throughout the Gaithersburg Planning Area from a point north of the planning area to the Potomac River. The portion of Great Seneca Park south of Maryland Route 355 is to be acquired by the State, and the remaining portion of the park north of Route 355 is to be acquired by the Maryland-National Capital Park and Planning Commission. The subject parcels, therefore, were segregated from the remaining portion of the Gaithersburg Planning Area and made a part of this application so as to bring those lands within the regional district adjacent to the Great Seneca Park into conformity with the Master Plan. The Technical Staff noted that for the most part, the classifications requested are a decrease in intensity to allow the preservation of the Great Seneca Park by establishing only low-intensity development nearby. Additionally, the parkland is the only wedge between the two-corridor cities of Gaithersburg and Germantown. Thus, the

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

Staff felt *698 that the only way to preserve the 'corridor city concept' would be to prohibit the encroachment of high-density uses between Gaithersburg and Germantown by low-intensity development near the Park so that the two 'cities' could not merge.

'On May 11, 1972, the Montgomery County Planning Board and the Maryland-National Capital Park and Planning Commission unanimously, by a 4-0 vote, one member abstaining, recommended to the District Council that this application be approved for the reasons set forth in the Technical Staff report which the Planning Board approved and incorporated by reference into its recommendation. At the public hearing, in addition to testimony by the Technical Staff, numerous citizens testified in favor of the application and indicated that low-density zoning along Great Seneca Park is essential for the protection of the Park and the Seneca watershed. Further, there was testimony that higher density zoning and development should be located in the larger cities, i.e., Gaithersburg and Germantown, and that the intensity of development should be progressively lowered for land moving in the way of the corridor cities. The Great Seneca Creek represents the natural dividing line between the corridor cities of Gaithersburg and Germantown, and there was testimony that the application, if granted, would be an appropriate manner of preserving the wedge between the two corridor cities.'

**717 'The District Council, after thorough consideration and evaluation of the transcript and exhibits of record, agrees with the Planning Board and Technical Staff and finds that this application with a single exception detailed below should be approved as a comprehensive rezoning to bring the zoning of the lands within the regional district that *699 are adjacent to the Seneca Creek Park into conformity with the Master Plan for Gaithersburg and Vicinity. The District Council reiterates its agreement with the stated purposes and goals of the Master Plan for Gaithersburg and Vicinity. To achieve these purposes and goals, the District Council deems it necessary to grant the comprehensive rezoning of the several parcels to provide for a coordinated, planned and orderly development of the Planning Area with low density development to preserve the Great Seneca Park as an open-space wedge between Gaithersburg and Germantown and to prevent an urban spread which would merge Gaithersburg with Germantown. Further, the District Council finds that the land use pattern that will result is that which the District Council and Planning Commission have established as County policy by their adoption and approval of the Master Plan, and which is supported by the road network, the sewerage plan, the school locations and other elements of the Plan.'

What Chief Judge Hammond, writing for the Court, said in Norbeck Village Joint Venture v. Montgomery County Council, 254 Md. 59, 254 A.2d 700 (1969), is pertinent here:

'The appellants argue that for the County to decrease the permissible density of their land and that of other similarly zoned land and to refuse to furnish sewerage to their land in order to control the growth of population and to continue the present open space in the Olney region was to use zoning and planning impermissibly as a substitute for eminent domain and to reduce so substantially the value of their land as to amount to confiscation.

'If these contentions are sound, no zoning would ever have been allowed or sustained and all comprehensive rezoning would have to continue or increase permissible density, not reduce it. All original zoning decreases the right to use property *700 as the owner pleases. Zoning places restrictions on property that was free of any restriction and the value of some if not most of that property necessarily is going to be lessened. None of this as such invalidates comprehensive zoning, original or subsequent. Euclid, Ohio v. Ambler Realty Company, 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 ((1926)),

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

Ark Readi-Mix Concrete Corp. v. Smith, 251 Md. 1, 246 A.2d 220 ((1968)). The broad test of the validity of a comprehensive rezoning is whether it bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare, and such zoning enjoys a strong presumption of validity and correctness. Scull v. Coleman, 251 Md. 6, 246 A.2d 223 ((1968)); Stevens v. City of Salisbury, 240 Md. 556, 214 A.2d 775 ((1965)). A property owner has no vested right to the continuance of the zoning status of his or neighboring property, merely the right to rely on the rule that a change will not be made unless it is required for the public good. Wakefield v. Kraft, 202 Md. 136, 144, 96 A.2d 27 (30 (1953)). . . .' 254 Md. at 65-66, 254 A.2d at 704.

Scull v. Coleman, 251 Md. 6, 246 A.2d 223 (1968) involved a similar issue:

'On September 21, 1966, the Maryland-National Capital Park and Planning Commission (Planning Commission) adopted a Master Plan for Kemp Mill-Four Corners and (V)icinity of Montgomery County. The area covered by the plan consisted of 4,263 acres in southeastern Montgomery County, of **718 which approximately eighty-nine per cent was developed at the time of the adoption. The Planning Commission filed zoning application No. E-955, a sectional map amendment, with the District Council on December 2, 1966, for the purpose of rezoning all of the land within the planning area to conform with the Master Plan's recommended classifications. This application proposed to rezone *701 approximately 128 acres, including the appellees' 3.5 acres which is located at the southwesterly side of University Boulevard near the intersection of Arcola Avenue in Wheaton, Maryland, from C-1 (Local Commercial) to the R-60 (One-Family, Detached Residential) zone. Appellee, Randolph Hills, Inc., is the owner of the subject property, and appellee Tracy C. Coleman, is the contract purchaser.' 251 Md. at 8, 246 A.2d at 224.

'We hold that resolution No. 6-380 of the Montgomery County Council granting the rezoning requested in zoning application No. E-955 was comprehensive in nature. The purpose of No. E-955, a sectional map amendment, was to rezone all of the land within the planning area boundaries to conform with the recommendations of the Kemp Mill-Four Corners Master Plan. While appellees are correct in saying that only 128.21 acres out of 4,263 acres were considered for reclassification, it is equally true that the area of the Master Plan is already eighty-nine per cent developed. Wholesale changes in existing zoning are not to be anticipated, but achieving an adjusted and coordinated development of the area might require selective revision. The fact that few changes were made does not affect the comprehensive nature of the plan; otherwise it would be difficult to have such a plan in a developed area. The plan covers a substantial area; it was approved by the technical staff and Planning Board of the Park and Planning Commission; and it was given careful consideration and adopted after extensive study.' 251 Md. at 10-11, 246 A.2d at 225.

[2] Since we have satisfied ourselves that Resolution 7-797 was not a local amendment covering two tracts as the court below determined, but rather a sectional plan amendment and thus comprehensive rezoning, we turn to the question *702 whether the rezoning bore a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare. If it did, the rezoning enjoys a strong presumption of validity and correctness, Montgomery County Council v. Leizman, supra, 268 Md. at 622, 303 A.2d 374; Norbeck Village Joint Venture v. Montgomery County Council, supra, 254 Md. at 66, 254 A.2d 700. Indeed it is entitled to the same presumption of correctness as that enjoyed by an original zoning, and persons attacking the correctness of the classification have a heavy burden in overcoming the presumption of its validity, Scull v. Coleman, supra, 251 Md. at 10,

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

246 A.2d 223. Compare Carl M. Freeman Associates, Inc. v. State Roads Comm'n, 252 Md. 319, 329, 250 A.2d 250, 255 (1969).

Under the view which the trial court took of the case there was no need for it to meet the question whether Resolution 7-797 bore a reasonable relationship to the general welfare. As a consequence, there has yet to be a judicial determination of this issue.

On 27 April 1972, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission adopted the report and recommendation of the technical staff that Application F-805 be approved as submitted.

The report incorporated the following comments:

'The most dominant open-space feature shown in the Master Plan is the Great Seneca Park which follows Great Seneca Creek and extends through the Gaithersburg Planning Area from a point ****719** north of the Planning Area to the Potomac River. The portion of Great Seneca Park south of Maryland Route 355 is to be acquired by the state. The remaining portion of the park north of Route 355, is to be acquired by The Maryland-National Capital Park and Planning Commission. The subject parcels, therefore, have been segregated from the remaining portion of the Gaithersburg Planning Area and made a part of this sectional map amendment so as to bring those lands ***703** within the Regional District, adjacent to the Great Seneca Park, into conformity with the Master Plan. For the most part, the classifications requested, in conformance with the Plan, are a decrease in intensity, to assure the preservation of the Great Seneca Park by allowing only low-intensity development nearby. In addition, the parkland is the only wedge between the two corridor cities of Gaithersburg and Germantown. Thus the only way to preserve the 'corridor city concept' is to prohibit the encroachment of high-density uses between Gaithersburg and Germantown by lowintensity development near the park so that the two 'cities' do not merge. For these reasons the staff recommends the approval of this sectional map amendment.' (Emphasis in original.)

Early on, we quoted in some detail the preamble to Resolution 7-797, as adopted by the Council, much of which is in the same vein: that the dominant motive was to implement the wedges and corridors concept of the Master Plan and preserve the open space in and adjacent to Great Seneca Park.

We have examined with care the testimony at the public hearing before the Council. It was undisputed that the Great Seneca Creek watershed is the County's largest, and that Great Seneca Park will provide a green wedge along the creek between Germantown and Gaithersburg. While there was criticism of the proposed reclassification of the Anderson and Kunlo Tracts, it took the form of questioning whether more intensive development would in fact increase the run-off of surface waters, and whether the fulfillment of a need for moderate cost housing would be further retarded.

Only one witness, the Trustees' expert, opposed the adoption of the proposed reclassification on the ground that it bore no relation to the general welfare. He categorically denied that it did, without giving reasons. Ranged on the other side were a baker's dozen of property owners, ***704** conservationists, and representatives of community associations who addressed themselves to considerations of open space, recreation, ecology and the like. We have repeatedly held that an expert's opinion is of no greater probative value than the soundness of his reasons given therefor will warrant, A. H. Smith Sand & Gravel Co. v. Department of Water Resources, 270 Md. 652, 313 A.2d 820 (1974); Surkovich v. Doub, 258 Md. 263, 265 A.2d 447 (1970); Westview Park Imp. & Civic Ass'n v. Hayes, 256 Md. 575, 261 A.2d 164 (1970); Miller v. Abrahams, 239 Md. 263, 211 A.2d 309 (1965).

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

[3] While both District Land and the Trustees in their appeals to the lower court challenged the idea that the rezoning bore a reasonable relation to the general welfare, in the briefs which they filed there and at argument before us they seek to skirt the issue by relying on the notion that the Council acted in bad faith in its effort to achieve an improper purpose and thus reached a result which was both arbitrary and discriminatory. This argument must fail if we confine ourselves to a consideration of only that which was properly before the trial court, a problem to be hereinafter considered. Having concluded that the reclassification was comprehensive rezoning, District Land and the Trustees failed completely to meet the heavy burden which was theirs. The record is simply devoid of any solid evidence on which can be predicated a contention that the rezoning bore no substantial relation to the general public welfare.

****720** We now turn to a consideration of two other matters: one, a contention advanced by the Trustees, the other, a contention made by District Land.

[4] It is well settled that the judicial branch of government cannot institute an inquiry into the motives of the legislature in the enactment of laws, lest the legislature be subordinated to the courts, Hammond v. Lancaster, 194 Md. 462, 476, 71 A.2d 474, 480, 483 (1950); 2 J. Dillon, Municipal Corporations s 580, at 914-15 (5th ed. 1911). And while Dillon goes on to say that the analogy should not be applied to its fullest extent to municipal corporations when powers are used fraudulently, only a scattering of cases share the ***705** Dillon view, see C. Rhyne, Municipal Law s 9-4, at 229-30 (1957) and cases collected in n. 42 and n. 49.

We think the better view is that stated by Rhyne, supra, s 9-4, at 229:

'As a general rule, the motives, wisdom or propriety of a municipal governing body in passing an ordinance are not subject to judicial inquiry. . . . In addition, individual council members and other city officials may not testify as to the motives actuating council action, as recorded in its minutes, nor may they testify as to what was intended or meant by an adopted measure.'

A similar view is taken in 5 E. McQuillin, Municipal Corporations ss 16.90 and 16.91, at 287-94 (3d ed. 1969 Rev.Vol.).

[5] The same principle applies to zoning ordinances, which are presumed to be valid. As a consequence, courts will not pass on the wisdom of such measures. Rhyne, supra, s 32-4, at 829-30, citing Walker v. Board of County Comm'rs of Talbot County, 208 Md. 72, 116 A.2d 393 (1955); Wakefield v. Kraft, 202 Md. 136, 96 A.2d 27 (1953); to the same effect, 8A E. McQuillin ss 25.278 and 25.279, at 265-284 (3d ed. 1965 Rev.Vol.). See also Annot., 71 A.L.R.2d 568 (1960); Annot., 32 A.L.R. 1517 (1924).

[6] The Trustees seize upon some language in Aspen Hill Venture v. Montgomery County, 265 Md. 303, 289 A.2d 303 (1972):

'This Court has many time held that upon appeal the Circuit Court in its review of the evidence is bound by the record made before the governmental body from which the appeal is taken. Suburban Properties, Inc. v. Rockville, 241 Md. 1, 6, 215 A.2d 200 (1965); Board of Commissioners v. Meltzer, 239 Md. 144, 156, 210 A.2d 505 (1965) and Bishop v. Board of Commissioners, 230 Md. 494, 501, 187 A.2d 851 (1963). However, these decisions are directed to matters which would enhance or ***706** diminish the evidence supporting or challenging the application, such as evidentiary matters bearing on mistake or change or need and were not, in our opinion, intended as authority to exclude matters of public record which directly relate to the arbitrary, capricious or discriminatory quality of the conduct of the zoning authority which affects the property of the applicant. . . .' 265 Md.

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

at 316-17, 289 A.2d at 310.

Taking this as their point of departure, the Trustees embarked on deposing eight State officials, and in delving into their correspondence, in an effort to show that the down-zoning of the Kunlo Tract was intended to depress the price in the event the tract was acquired for incorporation into Great Seneca Park. While it only partially affects the result which we reach, we think the Trustees' reliance on Aspen Hill was misplaced as these depositions and papers were evidentiary matters not of public record. We therefore hold that the action of the court below in admitting and considering the depositions and exhibits was erroneous.

The language in Aspen Hill must be considered against its facts. There, the same District Council which had denied commercial zoning to the appellant's land on the basis of lack of need, granted it to an adjacent tract 60 days later. What we ****721** held to be admissible in Aspen Hill was a public record-the subsequent action of the zoning authority-from which a valid inference of arbitrariness of capriciousness could be drawn.

Maryland Rule B 10, on which the court relied, provides that in appeals from administrative agencies, 'Additional evidence may be allowed when permitted by law.' The short of it is that in the absence of proof of fraud, which was neither alleged nor proved here, the evidence which the court allowed would be nowhere permitted by law.

At argument before us, the Trustees contended that even if the motive of the legislative body could not be considered, its purpose could be. While there is a suggestion of support for this in 5 E. McQuillin, supra, s 16.91, at 291-92, this principle is more likely to be invoked in considering ***707** questions of statutory construction, where legislative purpose may be germane to a determination of reasonableness or constitutionality, as was the case in Hammond v. Lancaster, supra, 194 Md. 462, 71 A.2d 474, 483.

[7][8][9] The second point is that raised by District Land, which would have us review the lower court's conclusion that District Land had no vested right in the R-20 zoning classification which the property enjoyed at the time of purchase. District Land rests its contention on the spending of more than $1,000,000.00 on studies and plans for the development of the property, together with the issuance of a valid building permit. We have held that the obtention of a building permit creates no vested right in an existing zoning classification unless substantial construction has been undertaken in reliance thereon, Rockville Fuel & Feed Co. v. City of Gaithersburg, 266 Md. 117, 291 A.2d 672 (1972) and that possession of a building permit, taken together with the payment of a high price in reliance on existing zoning, and with substantial expenditures for architectural fees creates no vested right in the absence of actual construction, Ross v. Montgomery County, 252 Md. 497, 250 A.2d 635 (1969). See also People's Counsel, Public Service Comm'n v. Public Service Comm'n, 259 Md. 409, 270 A.2d 105 (1970) and Richmond Corp. v. Board of County Comm'rs, 254 Md. 244, 255 A.2d 398 (1969). We remain unpersuaded by the argument that the rule is less onerous elsewhere, see 2 Rathkopf, The Law of Zoning and Planning, ch. 57, s 3 (3d ed. 1972) and cases there cited.

Because we are satisfied that Resolution 7-797 amounted to comprehensive rezoning and was validly enacted, we shall reverse.

Order reversed; resolution 7-797 reinstated; costs to be paid by appellees.

Md. 1975.
County Council for Montgomery County v. District Land Corp.
274 Md. 691, 337 A.2d 712

END OF DOCUMENT

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

10/18/96

RE: PETITION FOR SPECIAL EXCEPTION 1508 Back River Neck Road (Country Ridge Shopping Center), 767' SE of Back River Neck Road, the point of which on Back River Neck Road is 200' S of Hopewell Street 11th Election Dist., 5th Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Legal Owner: Country Ridge Shopping Center, Inc. Contract Purchaser/Lessee: Southside Brokers, Inc. Petitioners	*	Case No. 96-226-X

* * * * * * * * * *

MOTION IN LIMINE

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY moves to limit evidence, as a matter of public policy:

1. Upon review of the file, it appears that Petitioners have subpoenaed two (2) County Council members, Kevin Kamenetz and Louis L. DePazzo.

2. It is well-established in zoning cases that there may be no such judicial or administrative inquiry into the motives, wisdom, or propriety of legislative conduct.

3. In this connection, it is inappropriate to admit or receive testimony as to the subjective explanation, intent, or motive of the legislators.

4. It is particularly inappropriate to admit testimony directly from a legislator, as this intrudes on the legislative process and its independence.

WHEREFORE, People's Counsel requests that the County Board of Appeals limit or preclude the Petitioners' proposed testimony from elected representatives of the County Council.

Apx. 1

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

STATEMENT OF POINTS AND AUTHORITIES

1. Montgomery County v. District Land Corp., 274 Md. 691 (1975); Montgomery County v. School, 97 Md.App. 107 (1993); Supreme Court of Virginia v. Consumers Union, 446 U.S. 719 (1980).

2. Public Service Comm'n v. Patuxent Valley, 300 Md. 200 (1984); Montgomery County v. Stevens, 337 Md. 471 (1995).

PETER MAX ZIMMERMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of October, 1996, a copy of the foregoing Motion in Limine was mailed to:

1) Roger N. Powell, Esq., Powell and Sorrell, 107 Old Court Road, Baltimore, MD 21208, attorney for Petitioners;

2) Robert F. Dashiell, Esq., 2300 N. Calvert Street, Suite 100, Baltimore, MD 21218, attorney for Protestant Pawn It, Inc.;

Apx. 2

SOUTHSIDE BROKERS, INC.	*	IN THE
Appellant	*	COURT OF SPECIAL APPEALS
v.	*	OF MARYLAND
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.	*	September Term, 1998
	*	No. 866
Appellees		

* * * * * * * * * * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S BRIEF AND APPENDIX

Statement of the Case

SOUTHSIDE BROKERS, INC. (Southside), a tenant in the Country Ridge Shopping Center, applied for a zoning special exception to operate a pawnshop at the Essex property on Back River Neck Road, zoned B.M. (Business Major). Baltimore County Zoning Regulations ("BCZR") 233.4, 502.1 (Apx. 20, 25-26).

The Zoning Commissioner denied the petition on January 22, 1996 because it failed to meet the minimum distance requirement of one mile from an existing pawnshop on Eastern Boulevard. (E.246). On reconsideration, the Commissioner changed his mind and ruled on April 19, 1996 that the one-mile limit does not apply to Southside because it was relocating from a distant location on Pulaski Highway. He also found the special exception appropriate. (E. 253).

Upon appeal *de novo* by People's Counsel, area citizens, and the Back River Neck Community Association, the County Board of Appeals (CBA) held a two-day trial November 6, 1996 and March 12, 1997. (E. 147-95, 85-146). On April 30, 1997, the CBA majority denied the special exception on its merits. The CBA found, separately and independently, that the site failed to meet specific minimum location standards. (E. 205).

At the CBA, Southside never raised the issue of preemption by state law. Nor did it question the countywide numerical limit of pawnshops to twelve, as, in any event, Southside's proposal did not exceed this limit.

Southside sought judicial review of the CBA decision. For the first time, it mentioned preemption, but without citation of authorities. The Circuit Court nevertheless addressed it, along with the merits of special exception and location standards. It affirmed the CBA decision (E. 238), and denied a motion to alter or amend judgment. (E. 245).

There followed this appeal to the Court of Special Appeals.

Southside's New Issues, Theories, and Tactics on Appeal to this Court

Southside's presentation has changed dramatically. It no longer raises the merits of the CBA's denial of the special exception. We review the consequences in Argument Section I, *infra*.

Southside instead introduces these new arguments and theories:

1) Concerning application of Bill 112-95's specific location standards to its relocation, Southside now relies on February 15, 1996 correspondence of Councilman Kevin Kamenetz. (Southside brief, 9-13, App. 1-2). This was not proffered at the CBA hearing. It also is not part of the 1994-95 legislative history. The writing opposed the Commissioner's initial view that location standards apply, while allowing that the relocation is subject to special exception requirements.

Remarkably, at the CBA, Southside subpoenaed both Councilmen Kamenetz and Louis DePazzo. But the CBA on November 6, 1996 granted People's Counsel's motion in limine by Baltimore County's protective motion to quash the subpoenas. (E. 155-56, Apx. 1-2). It held that subjective explanation, intent, or motives of individual legislators are not

admissible, citing Montgomery County v. District Land Corp. 274 Md. 691 (1975). Introduction of such "evidence" also infringes on legislative privilege and the legislative process. See Montgomery County v. Schooley, 97 Md. App. 107 (1993); Supreme Court of Virginia v. Consumers Union, 446 U.S. 719 (1980); Schlitz v. Commonwealth, 854 F.2d 43 (4th Cir. 1988); Baker v. Mayor & City Council, 894 F.2d 679 (4th Cir. 1990); Hollyday v. Rainey, 964 F.2d 441 (4th Cir. 1992).

Its subpoena quashed and evidence thus limited, Southside (as noted) failed to make any proffer to the CBA and later failed to raise the matter at the Circuit Court. Therefore, it is neither procedurally nor substantively proper to use it here.

The County Attorney's opinion issued soon after, on February 20, 1996, was likewise not proffered to the CBA. In any event, it is neither evidence nor persuasive.

We review generally the application of location standards in Argument, Section II, *infra.*

2) Southside now introduces the arcane theory that BCZR 101 defines "pawnshop" in terms of its "business," rather than "structure" or "land formation," so that the pawnshop regulations do not run with the land (Brief 14-16). This ignores the principle that zoning reg-ulates land use, and does not depend on personality or corporate identity. Southside uses this new issue to support its position that Bill 112-95's transitional clause, Sec. 6, protects South-side, wherever it goes, regardless of location. This argument is both new and without merit. Again, we address this in detail in our Argument on location standards, Section II, *infra.*

3) Southside newly questions numerical limits (countywide maximum - 12; council district - 2) as "licensing" rather than "zoning" legislation, unauthorized by the Express

Powers Act. (Brief 17-20). Were this issue properly raised, it should be rejected. Control of number or concentration of a land use is an exercise of the police power and planning and zoning power conferred by State law to charter counties. Md. Ann. Code Art. 25A, Sec. 5(S), (X). (Apx. 3-7).

The countywide limit is, moreover, not in question because the proposal does not exceed it. While the property violates the limit of two per council district, the CBA decision does not depend on it. The CBA found a basic failure to satisfy special exception standards, and a separate failure to meet minimum distance standards from an existing pawnshop.

Nevertheless, we discuss the "numbers" issue further in Argument Section III, *infra*.

4) Southside now briefs with case law an issue first casually mentioned in its Circuit Court memo, that state law precludes charter county zoning on the subject of pawnshops. (Brief 21-25). Again, while not properly before this Court, we address it in depth in Section III, *infra*.

We underline that the CBA heard the case *de novo*. Its hearing is the hearing of record under the Express Powers Act, Md. Ann. Code Art. 25A, Sec. 5(U) (Apx.5), Charter Sec. 603 (Apx.9), and the Baltimore County Code, as discussed next. Accordingly, under Maryland administrative law, Southside had to raise all legal issues there that it wished to preserve. The failure to raise such issues or arguments causes them to be lost.

The *De Novo* Appeal to the County Board of Appeals

Under Charter Sec. 603 and Code Sec. 26-132 (Apx. 9, 16-17), the appeal is *de novo*. It starts the case anew. The case then proceeds as if the Commissioner opinion did not exist.

Judge Paul Alpert analyzed the CBA appeal system in Boehm v. Anne Arundel Co., 54 Md.App. 497, 511, cert.den. 297 Md. 108 (1983). He wrote:

9/4/09

RECEIVED
SEP - 8 2009
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITION FOR RECLASSIFICATION

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

BEFORE THE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

Case No. R-09-269

MOTION TO QUASH SUBPOENAS

Councilman McIntire, Councilman Kamenetz, Councilman Moxley, Councilman Oliver, Councilman Gardina, Councilman Bartenfelder, Councilman Olszewski, Gail Morton, Legislative Aide to Councilman McIntire, and Marcie Goodman, Legislative Aide to Councilman McIntire (collectively "Movants"), by undersigned counsel, respectfully move to quash the Subpoenas requiring each of them to appear as a witness and to produce certain records in the above-captioned proceeding. The grounds of the Motion are as follows:

1. Pursuant to Rule 5 of the Rules of Practice and Procedure of the County Board of Appeals (CBA), the CBA has the power to cause subpoenas to be issued to compel the attendance of witnesses and to require the production of records and documentary or other tangible evidence.

2. Maryland Rules 2-510 and 3-510 govern the subpoena power of the Circuit and District Courts in the State of Maryland, and the rules each contain a section for objecting to and motioning to quash subpoenas under various circumstances.

3. While CBA Rule 5 does not expressly include a similar provision, undersigned counsel is aware that Rule 5, as a matter of pattern and practice, has been interpreted to permit

the CBA to entertain such a motion and to quash subpoenas for the same or similar reasons enumerated in the Maryland Rules.

4. The subpoena in this case must be quashed in order to protect the Movants from "annoyance, embarrassment, oppression, [and] undue burden [and] expense." Md. R. 2-510(e).

5. Each of the Movants enjoys a legislative privilege, which provides complete protection from being forced to testify in civil actions about matters that occurred during the legislative session. *See* STATE GOV'T. ART. § 2-1801; COURTS & JUD. PROC. Art. § 9-122; *U.S. v. Mandel*, 415 F.Supp. 1025, 1027 (D.Md. 1976); citing *United States v. Brewster*, 408 U.S. 501 (1972) (Holding that the doctrine of legislative immunity operates both in civil and criminal proceedings to prevent inquiry into legislative acts or into the motivation for those acts; it precludes any showing of how a legislator voted, acted, or decided on matters within the sphere of legitimate legislative activity)

6. In the case at hand, the Petitioner is requesting a reclassification and has issued a subpoena for each of the members of the Baltimore County Council and two legislative aides in an effort to elicit testimony and obtain documentation of discussions and analysis that took place during the 2008 CZMP, a purely legislative process. All of the subpoenas should be quashed, as the Movants are all asserting their legislative privilege and cannot be compelled to testify to any of the matters that led to the change in the zoning of the Petitioner's property.

7. While the Petitioner cannot be faulted for attempting to prove his case through the testimony of the County Councilmen, these subpoenas must be quashed in order to prevent the unnecessary burden and expense of compelling the presence of public officials who will not provide any testimony that is relevant to the issues at stake in this proceeding.

WHEREFORE, Movants, Councilman McIntire, Councilman Kamenetz, Councilman Moxley, Councilman Oliver, Councilman Gardina, Councilman Bartenfelder, Councilman Olszewski, Gail Morton, Legislative Aide to Councilman McIntire, and Marcie Goodman, Legislative Aide to Councilman McIntire, respectfully request that the aforementioned subpoenas be quashed in advance of any scheduled hearing.

Respectfully submitted,

JOHN E. BEVERUNGEN
County Attorney

ADAM M. ROSENBLATT
Assistant County Attorney
Baltimore County Office of Law
Old Courthouse, 2nd Floor
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4420

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of September 2009, a copy of the foregoing Motion was mailed, postage pre-paid, to:

Lawrence E. Schmidt, Esq.
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

ADAM M. ROSENBLATT

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at 1206 Molesworth Road
which is presently zoned/districted R.C. 7

ACCEPTED FOR FILING 2/27/09 DT

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, pursuant to BCC Section 32-3-512: (1) that the zoning/district status of the herein described property be reclassified, in accordance with the documented site plan, pursuant to the zoning law of Baltimore County from an R.C. 7 zone/district to an R.C. 4 zone/district, for the reasons given in the attached.

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Lawrence E. Schmidt
Name - Type or Print

Signature

Gildea & Schmidt, LLC
Company

600 Washington Avenue, Suite 200 (410) 821-0070
Address Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

Neal Jacobs
Name - Type or Print

Signature

Name - Type or Print

Signature

1206 Molesworth Road (410) 598-8607
Address Telephone No.

Parkton MD 21120
City State Zip Code

Representative to be Contacted:

Lawrence E. Schmidt
Name

600 Washington Avenue, Suite 200 (410) 821-0070
Address Telephone No.

Towson MD 21204
City State Zip Code

REV 9/18/98

CR-2009-0269

Brief
(Reasons in Support of Requested Zoning Reclassification)
1206 Molesworth Road

The subject property is an irregularly shaped property (6.1 acres +/-) with frontage on Molesworth Road. It is part of the Middletown Farms subdivision located near Middletown Road, west of I-83 in northern Baltimore County. Middletown Farms was platted under two separate plats as recorded in the Land Records of Baltimore County on October 6, 1976. The property is part of Plat A, which contains twenty-five lots. Twenty of the lots are less than three acres in area and the owner's (Neal Jacobs) lot is one of the largest in the subdivision.

In 2006, Mr. Jacobs, well in advance of the 2008 CZMP, initiated the subdivision process, in order to finance his retirement. The property was zoned RC 4 at that time. The proposed subdivision would create a second building lot. Each of the resultant lots would be in excess of three acres in area, still larger in comparison with most of the lots in Section A of the Middletown Farms subdivision. Sufficient density to permit the proposed subdivision exists. Mr. Jacobs' subdivision was first considered by the Development Review Committee ("DRC"). The DRC, in a letter dated December 15, 2006, concluded that the proposal met the requirements for a Baltimore County Code ("BCC") § 32-4-106(b)(5) limited exemption as a minor subdivision (3 or fewer lots for single-family residential use).

At the time the minor subdivision was filed, the subject lot was served by a narrow fee strip, which provided access to Molesworth Road, a public street. Baltimore County required Mr. Jacobs to widen this strip. After a lengthy negotiation with his neighbor, further complicated by the fact that the neighbors were divorcing, he purchased an additional 8 foot strip, at a cost in excess of $22,500, in order to comply with County panhandle requirements. Additionally, he was in the process of conveying forest buffer easements, paid $4,000 as a fee-in-lieu of providing stormwater management, and was in the process of satisfying other County requirements, when he first became aware of the fact that his property was downzoned in the 2008 Comprehensive Zoning Map Process ("CZMP").

Mr. Jacobs and his consultants were not aware that his property was an issue in the 2008 CZMP. Under the notice provisions in the BCC, the County was only required to post two signs giving notice of the 307.4 acre parcel being included as an issue in the 2008 CZMP. Those signs were posted over one-quarter mile away from Mr. Jacobs' lot and his usual means of ingress and egress to his home (via I-83 and Middletown Road) did not lead past either of the two signs. No specific notice was given to Mr. Jacobs, or his engineer, with respect to the processing of his minor subdivision (PDM # 07-041-M) being included as an issue in the 2008 CZMP. We contend that Mr. Jacobs, in spite of delays in the County subdivision process coupled with delays in acquiring the in fee strip for access, could have still gotten approval for his subdivision in advance of the downzoning, had he, and/or his

engineer, been made aware that his property was involved in 2008 CZMP Issue No. 3-094 at the inception of the CZMP.

The in-fee strip is still zoned RC 4. The remainder of the panhandle lot was rezoned RC 7 in the 2008 CZMP. The fact that this property was being subdivided and undergoing review through the minor subdivision process was not presented to staff, the Planning Board and/or the County Council. Had this information above been presented to the Office of Planning, the Planning Board and/or the County Council, the subject lot would not have been included in the 307.4 acre parcel downzoned from RC 4 to RC 7, as Issue No. 3-094. In further support of this contention, the instant property is the easternmost portion of the 307.4 acre parcel. The instant petition includes a documented site plan, in accordance with BCC § 32-3-512, which substantially complies with the most recent submissions to the County as part of the minor subdivision process.

The size and configuration of the property, the adjacent properties' respective zoning classifications, the subject property's location, the stated issues with the notification regarding the subject property's inclusion in the 2008 CZMP and the County's lack of awareness of the ongoing, substantial efforts in effectuating the approval of the minor subdivision justifies a reclassification of the zoning of the site to RC 4, provided the resultant subdivision substantially complies with the documented site plan. For the aforementioned reasons, and for such other and further reasons as will be presented at the public hearing for this matter, a reclassification of the zoning of the subject property to RC 4, pursuant to the standards set forth in BCC § 32-3-510, is justified.

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

February 4, 2009

ZONING DESCRIPTION
Neil Joacobs Property
Tax ID: 17-00-010620
Molesworth Road
Baltimore County, Maryland

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

Commencing at a point in the center of Armacost Road and the center of Molesworth Road, thence running Northeasterly along the centerline of Molesworth Road 1,630 feet, more or less, thence leaving said road and running North 26 degrees 45 minutes 03 seconds West 404.03 feet to the zoning place of beginning, and running thence,

1) North 26 degrees 45 minutes 03 seconds West 592.74 feet,
2) North 53 degrees 50 minutes 07 seconds East 393.18 feet,
3) South 35 degrees 05 minutes 00 seconds East 595.33 feet, and
4) South 55 degrees 05 minutes 13 seconds West 479.01 feet, to said zoning place of beginning.

Containing 5.912 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.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 35213

Date: 2/27/09

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6181				575.00
							Total:	575.00

Rec From: GILDER + SCHMIDT LLC

For: PETITION FOR ZONING RECLASSIFICATION #1

JACOBS / 1206 MOLESWORTH RD.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

CASHIER'S VALIDATION

CERTIFICATE OF PUBLICATION

5/7/, 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 5/5/, 2009.

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

S. Wilkinson

LEGAL ADVERTISING

...R BALTIMORE COUNTY
...il No.: 03-C-09-4609

NOTICE
(Adult)
(DOM REL 61)

...ove Petitioner has filed a Petition for Change of ... which he/she seeks to change his/her name from ...nen to Joey Tsu-Yi Chen. The petitioner is seeking a ...ange because: He wants his legal name to match ...e on his school records. His American nickname is ...d he wants to permenently change his name to Joey ...rson may file an objection to the Petition on or be... 20th day of May, 2009. The objection must be sup...y an affidavit and served upon the Petitioner in ac...e with Maryland Rule 1-321. Failure to file an objec...affidavit within the time allowed may result in a judg... default or the granting of the relief sought.
...of this notice shall be published one time in a news...f general circulation in the county/city at least fifteen ...s before the deadline to file an objection.

...E MENSH, Clerk
...py Test:
...E MENSH, Clerk
...5 May 5 200654

FOR CHANGE OF NAME
BY AND THROUGH HIS/HER MOTHER/FATHER
ASAD ULLAH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Civil No.: C-09-4869

NOTICE
(Minor)
(DOM REL 65)

The above Petitioner has filed a Petition for Change of Name in which he/she seeks to change the name of a minor child from Qura-tul-ann Asad to Quratulain Asad. The petitioner is seeking this name change for the child for the following reasons: The child believes that new spellings provide better pronunciation of her name.

Any person may file an objection to the Petition on or before the 25th day of May, 2009. The objection must be supported by an affidavit and served upon the Petitioner in accordance with Maryland Rule 1-321. Failure to file an objection or affidavit within the time allowed may result in a judgment by default or the granting of the relief sought.

A copy of this notice shall be published one time in a newspaper of general circulation in the county/city at least fifteen (15) days before the deadline to file an objection.

SUZANNE MENSH, Clerk
True Copy Test:
SUZANNE MENSH, Clerk
JT 5/654 May 5 200652

Patuxent Classifieds! 410-321-0247

LIC NOTICES

...vahey, Boozer, Devan, & Dore, P.A.
Attorneys At Law
606 Baltimore Avenue, Suite 302
Towson, MD 21204
(410) 828-5525

...BSTITUTED TRUSTEES' SALE
OF VALUABLE
...ASEHOLD DWELLING PROPERTY
KNOWN AS
...O. 2055 KELMORE ROAD
Baltimore, MD 21222

...der and by virtue of the power of sale contained in a ...ain Deed of Trust from Louis Passano to John Burson, Trustee(s), dated August 21, 2006 and recorded ...ng the Land Records of Baltimore County in Liber No. 54, folio 729, and Declaration of Substitution of Trust- dated March 9, 2009 and recorded among the aforementioned Land Records substituting Thomas P. Dore, k S. Devan, Kristen K. Haskins, Gerard F. Miles, Jr. as stituted Trustees under the Deed of Trust aforesaid, ...ls Fargo Home Mortgage, A Division of Wells Fargo ...k, N.A. being the current holder of the Note(s) se...ed thereby, and default having occurred under the ...ns thereof, the undersigned Substituted Trustees will ...r for sale at public auction, Courthouse Door, County ...rts Building, 401 Bosley Ave, (Bosley Avenue en...nce), Towson, Maryland on

Wednesday May 6, 2009
at 9:30 AM.

...that lot of ground and the improvements thereon sit...e in Baltimore County, State of Maryland, as described ...he Deed of Trust dated August 21, 2006 and recorded ...ong the land records of Baltimore County, in Liber ...354, folio 729, also being further described in a Deed ...ted August 21, 2006 and recorded among the land re...rds of Baltimore County in Liber 24354, folio722.
...ubject to an annual ground rent of $96.00 due and pay...e on the 23rd days of May & November in each and ev... year.
...he improvements thereon consist of a dwelling.
...he property will be sold in "AS IS" condition, subject to ... existing building violations, etc. and also subject to ...nditions, restrictions and agreements of record affect... same, if any. Neither the Trustees nor their respective ...nts, successors or assigns make any representations ...warranties, either expressed or implied with respect to ...e property including without limitations, description, ...e, recorded or unrecorded leases or other occupancy ...reements, if any, operating and management agree...nts, physical conditions or to the environmental condi...ns of the subject property. The Trustees shall be re...red to convey insurable title.
...A Statement of Mortgage Debt has been filed in the ...eclosure case in the approximate amount of ...46,000.00.
...ERMS OF THE SALE: Cash or certified check deposit in ...e amount of $14,500.00 will be required of the purchas...(other than the above-named Holder) at the time and ...ce of sale, balance in cash, immediately within twenty ...) days of the final ratification of the sale by the Circuit ...urt for Baltimore County, time being of the essence, ...d to bear interest at the rate of 8.000% per annum ...m the date of sale to date of settlement. In the event ...e above-named Holder purchases the property at the ...e as the high bidder, no deposit will be required and ...e requirement of interest on the balance of the pur...ase price shall be waived. In the event settlement is de...ed for any reason, there shall be no abatement of inter... If the purchaser defaults, in addition to all other rem...es including but not limited to attorney fees, the Sub...uted,Trustees may declare the entire deposit forfeited ...d resell the property at the risk and expense of the de...lting purchaser. The defaulting purchaser shall be lia... for the payment of any deficiency in the purchase ...ce, all costs and expenses of both sales, attorney fees ...d all other charges due and incidental and consequen... damages. Taxes, water/sewer charges and ...ndo/HOA dues, if any, to be adjusted to the date of ...e. Ground rent, if any, whether incurred prior to or af... the sale to be paid by purchaser. All other public ...rges and assessments payable on an annual basis, in...ding sanitary and/or metropolitan district charges to ... adjusted for the current year to date of sale and as...ned thereafter by the purchaser. Cost of all documen...y stamps and transfer taxes shall be borne by the pur...ser. Purchaser shall have the responsibility of obtain... possession of the property. In the event the Substitut... Trustees do not convey title for any reason, ...chaser's sole remedy is return of deposit. The Substi...ed Trustees shall have the right to terminate this con...ct in the event the holder has entered into any agree...nt with or accepted funds from or on the behalf of the ...rtgagor. Upon termination of the contract, Purchaser's ...e remedy shall be return of the deposit. Purchaser ...ees to pay a deed preparation and document review ... of $350.00 to the Seller's attorney and an additional ... of $250.00 for the review of any motion, which may ...subsequently filed with the Court to substitute a pur...ser herein.

Thomas P. Dore, Mark S. Devan, Kristen K. Haskins,
Gerard F. Miles, Jr., Substituted Trustees

Tidewater Auctions, LLC

Covahey, Boozer, Devan, & Dore, P.A.
Attorneys At Law
606 Baltimore Avenue, Suite 302
Towson, MD 21204
(410) 828-5525

SUBSTITUTED TRUSTEES' SALE
OF VALUABLE
LEASEHOLD DWELLING PROPERTY
KNOWN AS
NO. 103 DORGATE ROAD
Owings Mills, MD 21117

Under and by virtue of the power of sale contained in a certain Deed of Trust from Alice R. Kelley to Settlement Solutions, Trustee(s), dated July 30, 2007 and recorded among the Land Records of Baltimore County in Liber No. 26214, folio 636, and Declaration of Substitution of Trustees dated January 28, 2009 and recorded among the aforementioned Land Records substituting Thomas P. Dore, Mark S. Devan, Kristen K. Haskins, Gerard F. Miles, Jr. as Substituted Trustees under the Deed of Trust aforesaid, James B. Nutter & Company being the current holder of the Note(s) secured thereby, and default having occurred under the terms thereof, the undersigned Substituted Trustees will offer for sale at public auction, Courthouse Door, County Courts Building, 401 Bosley Ave, (Bosley Avenue entrance), Towson, Maryland on

Wednesday May 6, 2009
at 9:30 AM.

All that lot of ground and the improvements thereon situate in Baltimore County, State of Maryland, as described in the Deed of Trust dated July 30, 2007 and recorded among the land records of Baltimore County, in Liber 26214, folio 636, also being further described in a Deed dated May 1, 2007 and recorded among the land records of Baltimore County in Liber 26214, folio626.

Subject to an annual ground rent of $120.00 due and payable on the 7th days of May and November in each and every year.

The improvements thereon consist of a dwelling.

The property will be sold in "AS IS" condition, subject to any existing building violations, etc. and also subject to conditions, restrictions and agreements of record affecting same, if any. Neither the Trustees nor their respective agents, successors or assigns make any representations or warranties, either expressed or implied with respect to the property including without limitations, description, use, recorded or unrecorded leases or other occupancy agreements, if any, operating and management agreements, physical conditions or to the environmental conditions of the subject property. The Trustees shall be required to convey insurable title.

A Statement of Mortgage Debt has been filed in the foreclosure case in the approximate amount of $160,000.00.

TERMS OF THE SALE: Cash or certified check deposit in the amount of $16,000.00 will be required of the purchaser (other than the above-named Holder) at the time and place of sale, balance in cash, immediately within twenty (20) days of the final ratification of the sale by the Circuit Court for Baltimore County, time being of the essence, and to bear interest at the rate of 8.000% per annum from the date of sale to date of settlement. In the event the above-named Holder purchases the property at the sale as the high bidder, no deposit will be required and the requirement of interest on the balance of the purchase price shall be waived. In the event settlement is delayed for any reason, there shall be no abatement of interest. If the purchaser defaults, in addition to all other remedies including but not limited to attorney fees, the Substituted Trustees may declare the entire deposit forfeited and resell the property at the risk and expense of the defaulting purchaser. The defaulting purchaser shall be liable for the payment of any deficiency in the purchase price, all costs and expenses of both sales, attorney fees and all other charges due and incidental and consequential damages. Taxes, water/sewer charges and condo/HOA dues, if any, to be adjusted to the date of sale. Ground rent, if any, whether incurred prior to or after the sale to be paid by purchaser. All other public charges and assessments payable on an annual basis, including sanitary and/or metropolitan district charges to be adjusted for the current year to date of sale and assumed thereafter by the purchaser. Cost of all documentary stamps and transfer taxes shall be borne by the purchaser. Purchaser shall have the responsibility of obtaining possession of the property. In the event the Substituted Trustees do not convey title for any reason, purchaser's sole remedy is return of deposit. The Substituted Trustees shall have the right to terminate this contract in the event the holder has entered into any agreement with or accepted funds from or on the behalf of the mortgagor. Upon termination of the contract, Purchaser's sole remedy shall be return of the deposit. Purchaser agrees to pay a deed preparation and document review fee of $350.00 to the Seller's attorney and an additional fee of $250.00 for the review of any motion, which may be subsequently filed with the Court to substitute a purchaser herein.

Thomas P. Dore, Mark S. Devan, Kristen K. Haskins,
Gerard F. Miles, Jr., Substituted Trustees

Tidewater Auctions, LLC
(410) 825-2900 - www.tidewaterauctions.com

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING RECLASSIFICATION 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 reclassification hearing. This is accomplished by Baltimore County posting a sign on the property at least fifteen (15) days before the hearing and advertising in local newspapers. The advertising consists of a list and map of all reclassification petitions (cost evenly distributed between all petitioners), as well as individual advertising in local newspapers. The list and map must be published in two newspapers for three different weeks and the individual advertisements must be published in two newspapers fifteen (15) days prior to 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: CR-2009-0269

Petitioner: NEAL JACOBS

Address or Location: 1206 MOLESWORTH RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI GILDEA + SCHMIDT, LLC

Address: 600 WASHINGTON AVE., SUITE 200
TOWSON, MD 21204

Telephone Number: 410-821-0070

Revised 2/20/98 - SCJ

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, Jefferson Building
105 W. Chesapeake Avenue, Second Floor
(adjacent to Suite 203)

July 23, 2009

NOTICE OF ASSIGNMENT
CYCLE I ZONING RECLASSIFICATION PETITION

CASE #: R-09-269 **IN THE MATTER OF: Neal Jacobs** – Legal Owner/Petitioner
CYCLE I, Item #1 1206 Molesworth Road/ 6th E; 3rd C.

2/27/09 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner. From R.C. 7 to R.C. 4 / Acres Requested: 5.912 as shown on Documented Plan to Accompany Reclassification Petition

ASSIGNED FOR: TUESDAY, SEPTEMBER 15, 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 /Legal Owners : Jason T. Vettori, Esquire
: Lawrence E. Schmidt, Esquire

Appellant /Legal Owner : Neal Jacobs

Bryan McIntire, County Council, 3rd District
Jeffrey Long, Deputy Director, Office of Planning
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
W. Carl Richards /Zoning Office /Department of Permits & Development Management
Colleen Kelly, Project Manager /Department of Permits & Development Management
Timothy M. Kotroco, Director /Department of Permits & Development Management
Arnold F. 'Pat' Keller, III, Director / Office of Planning
Office of People's Counsel

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

September 25, 2009

NOTICE OF DELIBERATION
ON BALTIMORE COUNTY'S MOTION TO QUASH SUBPOENAS AND OFFICE OF PEOPLE'S COUNSEL'S MOTION IN LIMINE

CASE #: R-09-269 **IN THE MATTER OF: Neal Jacobs** – Legal Owner/Petitioner
CYCLE I, Item #1 1206 Molesworth Road/ 6th E; 3rd C.

A Motion to Quash Subpoenas having been filed by Baltimore County and a Motion In Limine having been filed by Office of People's Counsel, the arguments on these Motions having been heard on September 15, 2009, a public deliberation has been scheduled for the following date/time:

DATE AND TIME: **WEDNESDAY, OCTOBER 14, 2009 at 9:00 a.m.**

LOCATION : Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor
(adjacent to Suite 203)

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.

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 /Legal Owners : Jason T. Vettori, Esquire
: Lawrence E. Schmidt, Esquire

Appellant /Legal Owner : Neal Jacobs

Bryan McIntire, County Council, 3rd District
Jeffrey Long, Deputy Director, Office of Planning
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
W. Carl Richards /Zoning Office /Department of Permits & Development Management
Colleen Kelly, Project Manager /Department of Permits & Development Management
Timothy M. Kotroco, Director /Department of Permits & Development Management
Arnold F. 'Pat' Keller, III, Director / Office of Planning
Office of People's Counsel

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 4, 2009

NOTICE OF ASSIGNMENT
CYCLE I ZONING RECLASSIFICATION PETITION

CASE #: R-09-269 **IN THE MATTER OF: Neal Jacobs** – Legal Owner/Petitioner
CYCLE I, Item #1 1206 Molesworth Road/ 6th E; 3rd C.

2/27/09 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner. From R.C. 7 to R.C. 4 / Acres Requested: 5.912 as shown on Documented Plan to Accompany Reclassification Petition

This matter having heard Motions on September 15, 2009 and having a Public Deliberation regarding the Motions on October 14, 2009; the mater has been scheduled for a hearing as follows:

ASSIGNED FOR: TUESDAY, FEBRUARY 16, 2010, 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 /Legal Owners : Jason T. Vettori, Esquire
: Lawrence E. Schmidt, Esquire

Appellant /Legal Owner : Neal Jacobs

Bryan McIntire, County Council, 3rd District
Jeffrey Long, Deputy Director, Office of Planning
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
W. Carl Richards /Zoning Office /Department of Permits & Development Management
Colleen Kelly, Project Manager /Department of Permits & Development Management
Timothy M. Kotroco, Director /Department of Permits & Development Management
Arnold F. 'Pat' Keller, III, Director / Office of Planning
Office of People's Counsel

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 8, 2009

POSTPONEMENT AND NOTICE OF RE-ASSIGNMENT
CYCLE I ZONING RECLASSIFICATION PETITION

CASE #: R-09-269 **IN THE MATTER OF: Neal Jacobs** – Legal Owner/Petitioner
CYCLE I, Item #1 1206 Molesworth Road/ 6th E; 3rd C.

2/27/09 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner. From R.C. 7 to R.C. 4 / Acres Requested: 5.912 as shown on Documented Plan to Accompany Reclassification Petition

This matter having heard Motions on September 15, 2009 and having a Public Deliberation regarding the Motions on October 14, 2009; the mater WAS SCHEDULED FOR A HEARING ON 2/16/2010. Due to a conflict with the Board of Appeal, the matter has been re-assigned to the following date:

ASSIGNED FOR: WEDNESDAY, MARCH 3, 2010 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 /Legal Owners : Jason T. Vettori, Esquire
: Lawrence E. Schmidt, Esquire

Appellant /Legal Owner : Neal Jacobs

Bryan McIntire, County Council, 3rd District
Jeffrey Long, Deputy Director, Office of Planning
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
W. Carl Richards /Zoning Office /Department of Permits & Development Management
Colleen Kelly, Project Manager /Department of Permits & Development Management
Timothy M. Kotroco, Director /Department of Permits & Development Management
Arnold F. 'Pat' Keller, III, Director / Office of Planning
Office of People's Counsel

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

RECEIVED
JAN - 5 2010
BALTIMORE COUNTY
BOARD OF APPEALS

January 5, 2010

Leslie D. Gradet, Esq., Clerk
Court of Special Appeals of Md.
361 Rowe Boulevard
Annapolis, MD 21401

Re: Seminary Galleria, LLC v. Dulaney Valley Improvement Ass'n, et al.
Case No. 02591 September Term, 2008
Argument Dates: March 1-10, 2010

Dear Ms. Gradet:

I have received the Court's Order in the above case, scheduling argument during the time period March 1-10, 2010. I am currently scheduled for hearings on both March 1, 2010 and March 3, 2010. On March 1, 2010, I am scheduled In the Matter of H.N.S. Development, LLC, Case No. 03-C-09-009034 before the Circuit Court for Baltimore County. On March 3, 2010, I am scheduled In the Matter of Neal Jacobs, Case No. CR-09-269 before the Baltimore County Board of Appeals. This case was specially set by agreement of all parties. I am enclosing copies of both Notices of Assignment. I respectfully request that this appeal be set on a date other than March 1, 2010 or March 3, 2010.

Thank you for your cooperation.

Very truly yours,

Peter Max Zimmerman by e.d

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
cc: Michael Tancyzn, Esquire , Attorney for Dulaney Valley Improvement
Howard L. Alderman, Jr. Esquire, Attorney for Seminary Galleria
John B. Gontrum, Esquire, Attorney for HNS Development LLC
Lawrence E. Schmidt, Esquire, Attorney for Neal Jacobs
Theresa Shelton, Administrator for Baltimore County Board of Appeals

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

:arole S Demilio Esq
'he Jeferson Bldg, Rm 204
.05 W. Chesapeake Ave Rm
'owson MD 21204

Assignment Date: 11/09/09

:ase Title: In the Matter of H N S Development L L C
:ase No: 03-C-09-009034 AA

County Bd of Appeals for Bc Co

'he above case has been assigned to the EXPEDITED APPEAL TRACK. Should you iave any questions concerning your track assignment, please contact: Joy M Keller at (410) 887-3233.
'ou must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 11/24/09
2. All Motions (excluding Motions in Limine) are due by..... 01/20/10
3. TRIAL DATE is..... 03/01/10
   Civil Non-Jury Trial; Start Time: 09:30AM; To Be Assigned; 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

Camera Phones Prohibited: Pursuant to Md. Rule 16-109 b.3., cameras and recording equipment are strictly prohibited in courtrooms

and adjacent hallways. This means that camera cell phones should not be brought with you on the day of your hearing to the Courthouse.

cc: J Carroll Holzer Esq
cc: John B Gontrum Esq
cc: Peter M Zimmerman Esq
Issue Date 11/09/09

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

March 5, 2010

NOTICE OF ASSIGNMENT DAY 2 AND DAY 3
CYCLE I ZONING RECLASSIFICATION PETITION

CASE #: R-09-269 **IN THE MATTER OF: Neal Jacobs** – Legal Owner/Petitioner
CYCLE I, Item #1 1206 Molesworth Road/ 6th E; 3rd C.

2/27/09 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner. From R.C. 7 to R.C. 4 / Acres Requested: 5.912 as shown on Documented Plan to Accompany Reclassification Petition

This matter having heard Motions on September 15, 2009 and having a Public Deliberation regarding the Motions on October 14, 2009; the mater WAS SCHEDULED FOR A HEARING ON 2/16/2010. Due to a conflict with the Board of Appeal, the matter was re-assigned to 3/3/10(Day #1) and the hearing was continued to the following dates that have been agreed to by Counsel as follows:

ASSIGNED FOR: WEDNESDAY, MAY 26, 2010, at 10:00 a.m. – DAY #2; AND
THURSDAY, MAY 27, 2010, AT 10:00 A.M. – DAY #3; AND

WEDNESDAY, JUNE 9, 2010, at 10:00 a.m. – DAY #4 (IF NEEDED); AND
THURSDAY, JUNE 10, 2010, AT 10:00 A.M. – DAY #5 (IF NEEDED).

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 /Legal Owners : Jason T. Vettori, Esquire
: Lawrence E. Schmidt, Esquire

Appellant /Legal Owner : Neal Jacobs

Bryan McIntire, County Council, 3rd District
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
W. Carl Richards /Zoning Office /Department of Permits & Development Management
Colleen Kelly, Project Manager /Department of Permits & Development Management
Timothy M. Kotroco, Director /Department of Permits & Development Management
Arnold F. 'Pat' Keller, III, Director / Office of Planning
Office of People's Counsel

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

June 10, 2010

NOTICE OF DELIBERATION
CYCLE I ZONING RECLASSIFICATION PETITION

CASE #: R-09-269 **IN THE MATTER OF: Neal Jacobs** – Legal Owner/Petitioner
CYCLE I, Item #1 1206 Molesworth Road/ 6th E; 3rd C.

2/27/09 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner. From R.C. 7 to R.C. 4 / Acres Requested: 5.912 as shown on Documented Plan to Accompany Reclassification Petition

This matter having heard Motions on September 15, 2009 (Day #1)and having a Public Deliberation regarding the Motions on October 14, 2009; the matter had hearing days of March 3, 2010 (Day #2); May 26, 2010 Day #3); May 27, 2010 (Day #4); and concluded on June 9, 2010 (Day #5);
a public deliberation has been scheduled for the following:

DATE AND TIME : **TUESDAY, AUGUST 17, 2010 at 10:30 a.m.**

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

NOTE: Closing briefs are due on Friday, July 16, 2010 no later than 4:00 p.m.
(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

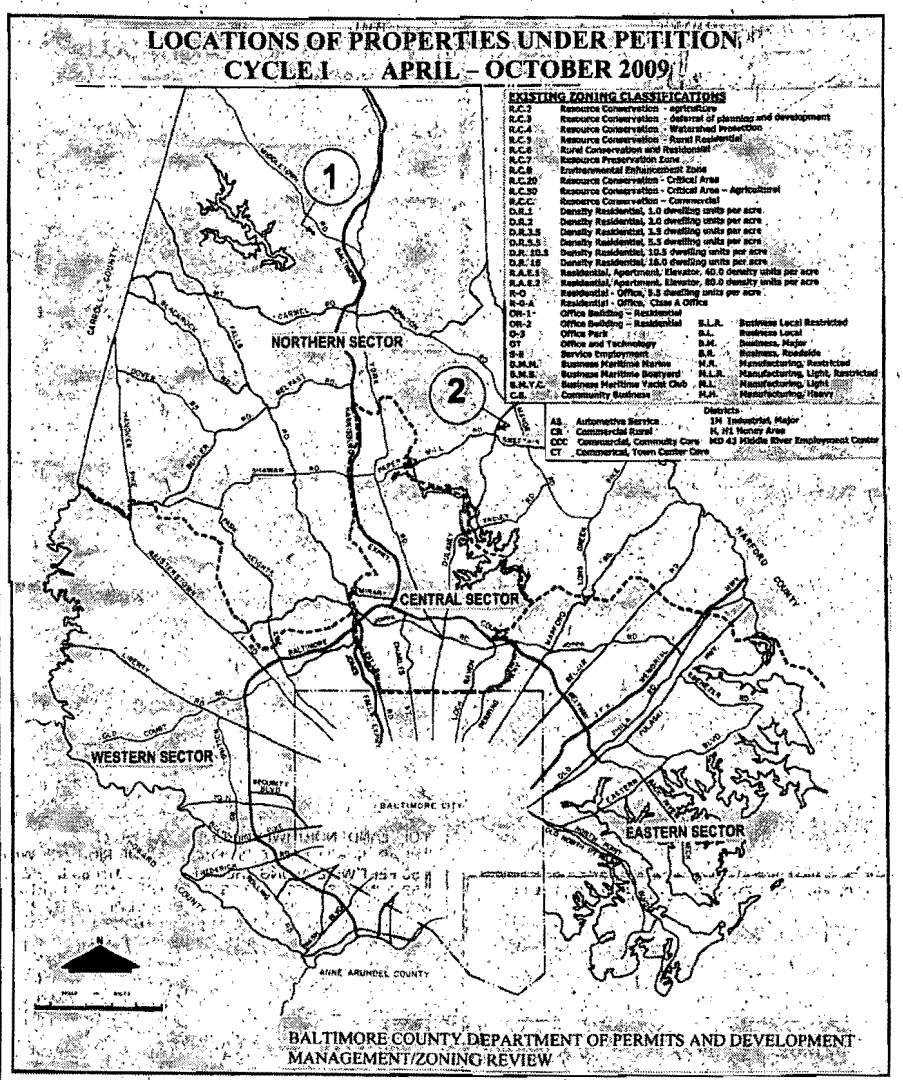
---

c: Counsel for Appellant /Legal Owners : Jason T. Vettori, Esquire
: Lawrence E. Schmidt, Esquire

Appellant /Legal Owner : Neal Jacobs

Bryan McIntire, County Council, 3rd District
William J. Wiseman, III, Zoning Commissioner
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
W. Carl Richards /Zoning Office /Department of Permits & Development Management
Colleen Kelly, Project Manager /Department of Permits & Development Management
Timothy M. Kotroco, Director /Department of Permits & Development Management
Arnold F. 'Pat' Keller, III, Director / Office of Planning
Office of People's Counsel

RECLASSIFICATION & REDISTRICTING PETITIONS ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE APRIL 2009 - OCTOBER 2009 ZONING RECLASSIFICATION CYCLE 1



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW

ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE ZONING RECLASSIFICATION CYCLE 1 APRIL 2009 - OCTOBER 2009

WESTERN SECTOR
No Petitions

NORTHERN SECTOR

Item #1

Property Owner:	Neal Jacobs
Case No./Hearing Date:	CR-2009-0269, **Tuesday, September 15, 2009 at 10:00 a.m.**
Contract Purchaser:	N/A
Location:	NW/S Molesworth Road, 1645': NE Armacost Rd., 406' NW Molesworth Road
Address:	1206 Molesworth Road
Existing Zoning:	RC-7
Election District:	6th
Councilmanic District:	3rd
Area:	5.912 acres
Proposed Zoning:	RC-4
Miscellaneous:	Documented Plan, also See Minor Sub #07-041-M

Item #2

Property Owners:	Howard Lintz
Case No./Hearing Date:	R-2009-0270, **Wednesday, September 16, 2009 at 10:00 a.m.**
Contract Purchaser:	N/A
Location:	S/E Jarrettsville Pike (Route 146) 244' S/w of Southside Avenue
Address:	14345 Jarrettsville Pike
Existing Zoning:	Parcel 'A' RC-5 Parcel 'B' RC-5
Election District:	10th
Council District:	3rd
Area:	Parcel 'A' 0.58 Acres, Parcel 'B' 0.084 Acres
Proposed Zoning:	Parcel 'A' - RC-5 - CR Parcel 'B' - RO - CR
Misc.:	Open Plan

CENTRAL SECTOR
No Petitions

EASTERN SECTOR
No Petitions

BY ORDER OF
MAUREEN MURPHY, CHAIRMAN,
BALTIMORE COUNTY
BOARD OF APPEALS

ARNOLD F. KELLER, III, DIRECTOR,
OFFICE OF PLANNING AND
COMMUNITY CONSERVATION

JT/5/675 May 5

200582

RE:	PETITION FOR RECLASSIFICATION 1206 Molesworth Rd; NW/S Molesworth Rd, 1645' NE Armcost Rd, 406' NW Molesworth Rd* 6th Election and 3rd Councilmanic Districts Legal Owner(s): Neal Jacobs Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY CR-09-269

* * * * * * * * * * * * *

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
MAY 11 2009
BALTIMORE COUNTY
BOARD OF APPEALS

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 11th day of May, 2009, a copy of the foregoing Entry of Appearance was mailed to Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

May 13, 2009

Peter Max Zimmerman
People's Counsel for
Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Neal Jacobs /Reclassification*
Case No. CR-09-269

Dear Mr. Zimmerman:

This will acknowledge receipt of your Entry of Appearance filed May 11, 2009, in the above captioned subject matter.

Please be advised that you have been added to our case file and that you will receive copies of all future correspondence and notices in this matter.

Please call me if I can be of any further assistance.

Very truly yours,

Theresa R. Shelton

Theresa R. Shelton
Administrator

c: Lawrence E. Schmidt, Esquire
Neal Jacobs

Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 15, 2009

Lawrence M. Stahl, Panel Chairman
County Board of Appeals
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
SEP 15 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Neal Jacobs
1206 Molesworth Rd
CR-09-269

Dear Chairman Stahl,

Pursuant to the Board's instruction to transmit copies of cases which will be helpful to the Board's deliberations, I am enclosing three copies of People's Counsel for Baltimore County v. Beachwood I, Ltd Partnership 107 Md. App. 627 (1995). I am also enclosing Montgomery County v. Schooley 97 Md. App. 107 (1993), the decision by Chief Judge Alan Wilner, which I discussed at some length at oral argument.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County

PMZ/rmw
Enclosure

cc: Jason T. Vettori Esquire
Adam Rosenblatt, Assistant County Attorney

Westlaw Delivery Summary Report for COUNSEL,PEOPLE'S

Date/Time of Request:	Tuesday, September 15, 2009 08:47 Central
Client Identifier:	PEOPLESCOUNSEL
Database:	MD-CS
Citation Text:	627 A.2d 69
Lines:	630
Documents:	1
Images:	0

The material accompanying this summary is subject to copyright. Usage is governed by contract with Thomson Reuters, West and their affiliates.

Westlaw.

627 A.2d 69
97 Md.App. 107, 627 A.2d 69
(Cite as: 97 Md.App. 107, 627 A.2d 69)

C

Court of Special Appeals of Maryland.
MONTGOMERY COUNTY, Maryland, et al.
v.
James SCHOOLEY, et al.
No. 1645, Sept. Term, 1992.

July 8, 1993.

Action was commenced challenging redistricting plan adopted by county council. The Circuit Court, Montgomery County, DeLawrence Beard, J., denied county's motion for protective order blocking deposition of member of county council. County appealed. The Court of Special Appeals, Wilner, C.J., held that: (1) county had standing to appeal denial of motion for protective order, and (2) legislative privilege applied to caucus and meetings with political officials to discuss proposed redistricting plan.

Vacated and remanded.

West Headnotes

[1] Appeal and Error 30 ⇐142

30 Appeal and Error
30IV Right of Review
30IV(A) Persons Entitled
30k137 Parties of Record
30k142 k. States, Political Divisions, Boards, or Officers. Most Cited Cases
County had standing to appeal denial of motion seeking protective order to prevent deposition of county council member on grounds that legislative privilege applied and that testimony would not be admissible to show legislative intent where county was party to litigation and was authorized by statute to seek protective order. Md.Rule 2-403; Const.Declaration of Rights, Art. 10; Const. Art. 3, § 18; U.S.C.A. Const. Art. 1, § 6, cl. 1.

[2] Counties 104 ⇐59

104 Counties
104II Government
104II(C) County Board
104k59 k. Liabilities of Members. Most Cited Cases
Legislative privilege applied to meeting by county council member with political officials to discuss pending redistricting plan. Md.Rule 2-402; Const.Declaration of Rights, Art. 10; Const. Art. 3, § 18; U.S.C.A. Const. Art. 1, § 6, cl. 1.
****70*108** Linda B. Thall, Sr. Asst. County Atty. (Joyce R. Stern, County Atty., on the brief), Rockville, for appellants.

Charles Michael Tobin (Stephanie L. Schwartz, Deborah M. Mulligan and Ober, Kaler, Grimes & Shriver, on the brief), Washington, DC, for appellees.

Argued before WILNER, C.J., and HARRELL and GETTY (JAMES S., Retired, Specially Assigned), JJ.

WILNER, Chief Judge.

In an action filed in the Circuit Court for Montgomery County, appellees challenged the councilmanic redistricting plan adopted by the County Council following the 1990 census. We are not concerned here with the validity of that plan, which has yet to be determined by the circuit court, but only with a discovery matter that arose during the litigation. The plaintiffs sought to take the deposition of a member of the County Council, Isiah Leggett; the County moved for a protective order blocking that deposition; the court denied the motion; and the County appealed. The two issues before us are (1) whether the County may appeal the denial of its motion, and (2) if so, whether the court erred in its ruling.

I.

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

Westlaw Delivery Summary Report for COUNSEL,PEOPLE'S

Date/Time of Request:	Tuesday, September 15, 2009 09:56 Central
Client Identifier:	PEOPLESCOUNSEL
Database:	MD-CS
Citation Text:	670 A.2d 484
Lines:	1714
Documents:	1
Images:	0

The material accompanying this summary is subject to copyright. Usage is governed by contract with Thomson Reuters, West and their affiliates.

Westlaw.

670 A.2d 484
107 Md.App. 627, 670 A.2d 484
(Cite as: 107 Md.App. 627, 670 A.2d 484)

Court of Special Appeals of Maryland.
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.
v.
BEACHWOOD I LIMITED PARTNERSHIP.
No. 239, Sept. Term, 1995.

Dec. 1, 1995.
Reconsideration Denied Jan. 30, 1996.

People's counsel for county and neighbors of tract in question appealed decision of county board of appeals granting zoning reclassification which lowered permitted residential density as requested by developer. The Circuit Court, Baltimore County, John Grason Turnbull, J., affirmed. Counsel and neighbors appealed. The Court of Special Appeals, Moylan, J., held that: (1) evidence before board was not sufficient to generate fairly debatable issue that county council made mistake as to zoning of tract; (2) in granting reclassification, board failed to satisfy county code's requirements as to factors that must be considered in making reclassification, and as to written findings required for reclassifications involving land within certain critical area; and (3) reclassification would not be treated as instance of contract zoning.

Reversed.

Cathell, J., concurred and filed opinion.

West Headnotes

[1] Zoning and Planning 414 ⇦672

414 Zoning and Planning
414X Judicial Review or Relief
414X(C) Scope of Review
414X(C)3 Presumptions
414k672 k. Validity of Regulations in General. Most Cited Cases
As policy decision made by legislative branch of charter county, comprehensive zoning required no further justification to support it; it was presumptively correct.

[2] Administrative Law and Procedure 15A ⇦751

15A Administrative Law and Procedure
15AV Judicial Review of Administrative Decisions
15AV(D) Scope of Review in General
15Ak751 k. Limitation of Scope of Review in General. Most Cited Cases
Ordinarily, when judicial branch of government is called on to review decision made by administrative agency, the watchword is deference.

[3] Constitutional Law 92 ⇦2470

92 Constitutional Law
92XX Separation of Powers
92XX(C) Judicial Powers and Functions
92XX(C)2 Encroachment on Legislature
92k2470 k. In General. Most Cited (Formerly 92k70.1(1))

Constitutional Law 92 ⇦2540

92 Constitutional Law
92XX Separation of Powers
92XX(C) Judicial Powers and Functions
92XX(C)3 Encroachment on Executive
92k2540 k. In General. Most Cited (Formerly 92k72)
Courts, at all levels, are enjoined not to substitute their judgment for that of the coordinate branch of government to whom such judgment has been, in our scheme of divided government, primarily entrusted.

[4] Administrative Law and Procedure 15A ⇦788

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

http://web2.westlaw.com/print/printstream.aspx?rs=WLW9.09&destination=atp&prft=HTMLE&fn=_to... 09/15/2009

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO : Timothy Kotroco, Director
Department of Permits and
Development Management
Attn: Carl Richards

DATE: April 14, 2009

FROM : Theresa R. Shelton TRS
Board of Appeals of Baltimore County

SUBJECT: Cycle I, 2009 – Reclassification Petitions

Carl:

Attached is a preliminary listing of the two (2) Petitions for Reclassification filed on February 27, 2009 for Cycle I, 2009. One is an Open Plan and one is a Documented Plan.

I've also included the dates of hearing for these Petitions, which are as follows:

HOWARD LINTZ – Tuesday, August 4, 2009 at 10:00
** Day #2, if needed will convene on Thursday, August 6, 2009 at 10:00

NEAL JACOBS – Tuesday, August 18, 2009 at 10:00
** Day #2, if needed will convene on Wednesday, August 19, 2009 at 10:00

Please forward to me when available a finalized list with assigned case numbers and any necessary corrections to names and locations so that our docketing work for these files can be completed.

Upon verification from you, that these dates are acceptable/available; and notification of the assigned case numbers, this office will send the Assignment Notice to all interested parties.

Should you have any questions regarding the attached, please call me at extension 3180.

Encl.: Information Sheet / Petitions for Reclassifications / Cycle I, 2009

c: ARNOLD F. "PAT" KELLER, DIRECTOR / PLANNING
JEFFREY LONG, DEPUTY DIRECTOR / PLANNING
Kristen Matthews /PDM
Office of People's Counsel

Petitions for Reclassifications /Cycle I, 2009

Petitioner

NEAL JACOBS
Legal Owner / Petitioner

N/S Molesworth Road
1,645 +/- E of Armacost Road
1206 Molesworth Road

From R.C. 7 to R.C. 4
Acres Requested: 5.912

Case # (to be assigned)

#R – 09- _____

2009 / CYCLE I, Item #1

6th Elections District
3rd Councilmanic District

Filed as Documented Plan

February 27, 2009 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner, Petitioner.

Date of Hearing (please confirm):

– Tuesday, August 18, 2009 at 10:00 a.m.

** Day #2, if needed will convene on Wednesday, August 19, 2009 at 10:00 a.m.

Petitioner

HOWARD LINTZ
Legal Owner5 / Petitioner

E/S Jarrettsville Pike
244' S of C/L Southside Avenue
14345 Jarrettsvile Pike

From R.C. 5 to R.O – C.R. and R.C. 5 C.R.
Acres Requested: 1.42

Case # (to be assigned)

#R – 09- _____

2009 / CYCLE I

10th Elections District
3rd Councilmanic District

Filed as Open Plan

February 27, 2009 Petition for Reclassification filed by Sebastian A. Cross, Esquire, on behalf of Howard Lintz, Legal Owner, Petitioner.

Date of Hearing (please confirm):

- Tuesday, August 4, 2009 at 10:00 a.m.

** Day #2, if needed will convene on Thursday, August 6, 2009 at 10:00 a.m.

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO : Timothy Kotroco, Director
Department of Permits and
Development Management
Attn: Carl Richards

DATE: April 15, 2009

FROM : Theresa R. Shelton, Administrator
Board of Appeals of Baltimore County

SUBJECT: **AMENDED CORRESPONDENCE** / Cycle I, 2009 – Reclassification Petitions

---

Carl:

Attached is a preliminary listing of the two (2) Petitions for Reclassification filed on February 27, 2009 for Cycle I, 2009. One is an Open Plan and one is a Documented Plan.

The corrected dates of the hearing on these Petitions are as follows:

NEAL JACOBS – Tuesday, September 15, 2009 at 10:00

HOWARD LINTZ – Wednesday, September 16, 2009 at 10:00

Please forward a finalized list *with assigned case numbers* and any necessary corrections to names and locations so that our docketing work for these files can be completed.

This office will send the Assignment Notice to all interested parties.

Should you have any questions regarding the attached, please call me at extension 3180.

Encl.: **Amended** Information Sheet / Petitions for Reclassifications / Cycle I, 2009

c: ARNOLD F. "PAT" KELLER, DIRECTOR / PLANNING
JEFFREY LONG, DEPUTY DIRECTOR / PLANNING
Kristen Matthews /PDM
Office of People's Counsel

Petitions for Reclassifications /Cycle I, 2009

Petitioner

NEAL JACOBS
Legal Owner / Petitioner

N/S Molesworth Road
1,645 +/- E of Armacost Road
1206 Molesworth Road

From R.C. 7 to R.C. 4
Acres Requested: 5.912

Case # (to be assigned)

#R – 09- _____

2009 / CYCLE I, Item #1

6th Elections District
3rd Councilmanic District

Filed as Documented Plan

February 27, 2009 Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner, Petitioner.

Date of Hearing:

– Tuesday, September 15, 2009 at 10:00 a.m.

Petitioner

HOWARD LINTZ
Legal Owner5 / Petitioner

E/S Jarrettsville Pike
244' S of C/L Southside Avenue
14345 Jarrettsvile Pike

From R.C. 5 to R.O – C.R. and R.C. 5 C.R.
Acres Requested: 1.42

Case # (to be assigned)

#R – 09- _____

2009 / CYCLE I

10th Elections District
3rd Councilmanic District

Filed as Open Plan

February 27, 2009 Petition for Reclassification filed by Sebastian A. Cross, Esquire, on behalf of Howard Lintz, Legal Owner, Petitioner.

Date of Hearing:

- Wednesday, September 16, 2009 at 10:00 a.m.

RECEIVED
JUL 2 0 2009
BALTIMORE COUNTY
BOARD OF APPEALS

BALTIMORE COUNTY, MARYLAND

MEMORANDUM

TO: Lawrence S. Wescott
Chairman, Board of Appeals

DATE: July 13, 2009

FROM: Arnold F. 'Pat' Keller, III
Secretary to the Planning Board

SUBJECT: Cycle I Zoning Reclassification Petition – 1206 Molesworth Road, (Case CR- 2009-0269), Council District 3, Neal Jacobs, property owner

A Petition for Reclassification was filed with the Department of Permits and Development Management and forwarded to the Office of Planning for presentation to the Baltimore County Planning Board.

The Petition was introduced to the Planning Board on June 18, 2009, requesting a zoning reclassification from RC 7 to RC 4. On July 2, 2009, the Board, by a majority vote recommended that the Petitioner be allowed to move forward and make his case at the Board of Appeals. A copy of the Planning Board Report is attached.

If you have any questions, please contact Ms. Jessie Bialek, Community Planner, at 410-887-3480.

AFK:bjw

c: Bryan McIntire, County Council, 3rd District
John Beverungen, County Attorney
Fred Homan, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Peter M. Zimmerman, People's Counsel
Tim Kotroco, Director, Permits & Development Management
Jeffrey Long, Deputy Director, Office of Planning
Lawrence E. Schmidt, Esquire
Jessie Bialek, Community Planner
Edward J. Gilliss, Esquire, Chairman, Baltimore County Planning Board

Zoning Reclassification Report
Planning Board
1206 Molesworth Road

CASE NO:

CR-2009-0269

PETITIONER:

Neal Jacobs

REQUESTED ACTION:

Reclassification to RC 4

EXISTING ZONING:

RC 7

LOCATION:

1206 Molesworth Road, north side of Molesworth Road, east of Armacost Road

AREA OF SITE:

5.91 acres; gross acreage 6.1

ZONING/USE OF ADJACENT PROPERTIES:

North:	RC 7	Single family detached dwelling
South:	RC 4	Single family detached dwelling
East:	RC 4	Single family detached dwelling
West:	RC 7	Single family detached dwelling

SITE DESCRIPTION:

The property is improved with one existing single-family detached dwelling located in the southwestern quadrant of the property. There is parking area in the front of the dwelling and two sheds on the northwestern side of the property. There is also a small pond in the rear of the property. The rest of the property is wooded and vacant. A panhandle driveway that intersects with Molesworth Road accesses the property to the south of the dwelling.

PROPERTIES IN THE VICINITY:

The surrounding community is a mostly rural residential with a few parcels that are still vacant. The surrounding adjacent properties to the north, south, east, and west are single-family detached dwellings, mostly on lots of 3 acres or less. The Petitioner's lot is one of the larger ones in the community as well as the adjacent property to the west. The properties to the south and east are zoned RC 4 and the properties to the north and west are zoned RC 7.

WATER AND SEWERAGE:

W-7, S-7 The property is not served by public water and sewerage.

TRAFFIC AND ROADS:

The property is located on the northern side of Molesworth Road. And is accessed by a panhandle driveway.

ZONING HISTORY:

The property was rezoned from RC 5 to RC 4 in the 2004 Comprehensive Zoning Map Process (CZMP), Issue number 3-124. It was again rezoned from RC 4 to RC 7 in the 2008 CZMP, Issue number 3-094.

MASTER PLAN/COMMUNITY PLAN:

The Baltimore County Master Plan 2010 shows the proposed land use as single family detached rural. There are no community plans for this area.

PROPOSED vs. EXISTING ZONING:

The RC 7 zone is a resource preservation zone that allows a 1 acre minimum lot size and a maximum density of 0.04 dwelling units per acre. In other words, there can be 1 lot per 25 acres and tracts less than 50 acres cannot be subdivided. The purpose of this zone is to protect and preserve valuable cultural, historical, recreational, and environmental resources through a low-density rural zone. Generally by right this zone permits single family detached dwellings, farms, and a farm roadside stand. The RC 7 zone also allows for other uses through the special exception process such as an antique shop, bed and breakfast, winery, and church. Churches however are only permitted on property that was appropriately zoned before being zoned RC 7. This zone may not be applied to current RC 2 zoned land and all development in this zone is subject to performance standards that include architectural review.

The RC 4 zone is a watershed protection zone that allows a 3 acre minimum lot size or a 1 acre minimum lot size for cluster subdivisions with a maximum density of 0.2 dwelling units per acre for the 1 acre minimum and 0.1 for the 3 acre minimum. The purpose of the RC 4 zoning classification is to provide for the protection of the water supplies of metropolitan Baltimore by preventing contamination through unsuitable types or levels of development in the watersheds. Generally by right this zone permits single-family detached dwellings and farms. The RC 4 zone also allows for other uses through the special exception process such as an antique shop, church, golf course/country club, or landscape operation. Residential development in this zone requires the allocation of an unbuildable area (conservancy area) of 70% of the tract acreage. The 70% shall include forest stands, farm fields, steep slopes, and/or wetlands.

DOCUMENTED PLAN:

The petitioner submitted a documented site plan.

PLANNING BOARD RECOMMENDATIONS:

Recommends that the Petitioner be allowed to move forward and make its case at the Board of Appeals.

TRAFFIC AND ROADS:

The property is located on the northern side of Molesworth Road. And is accessed by a panhandle driveway.

ZONING HISTORY:

The property was rezoned from RC 5 to RC 4 in the 2004 Comprehensive Zoning Map Process (CZMP), Issue number 3-124. It was again rezoned from RC 4 to RC 7 in the 2008 CZMP, Issue number 3-094.

MASTER PLAN/COMMUNITY PLAN:

The Baltimore County Master Plan 2010 shows the proposed land use as single family detached rural. There are no community plans for this area.

PROPOSED vs. EXISTING ZONING:

The RC 7 zone is a resource preservation zone that allows a 1 acre minimum lot size and a maximum density of 0.04 dwelling units per acre. In other words, there can be 1 lot per 25 acres and tracts less than 50 acres cannot be subdivided. The purpose of this zone is to protect and preserve valuable cultural, historical, recreational, and environmental resources through a low-density rural zone. Generally by right this zone permits single family detached dwellings, farms, and a farm roadside stand. The RC 7 zone also allows for other uses through the special exception process such as an antique shop, bed and breakfast, winery, and church. Churches however are only permitted on property that was appropriately zoned before being zoned RC 7. This zone may not be applied to current RC 2 zoned land and all development in this zone is subject to performance standards that include architectural review.

The RC 4 zone is a watershed protection zone that allows a 3 acre minimum lot size or a 1 acre minimum lot size for cluster subdivisions with a maximum density of 0.2 dwelling units per acre for the 1 acre minimum and 0.1 for the 3 acre minimum. The purpose of the RC 4 zoning classification is to provide for the protection of the water supplies of metropolitan Baltimore by preventing contamination through unsuitable types or levels of development in the watersheds. Generally by right this zone permits single-family detached dwellings and farms. The RC 4 zone also allows for other uses through the special exception process such as an antique shop, church, golf course/country club, or landscape operation. Residential development in this zone requires the allocation of an unbuildable area (conservancy area) of 70% of the tract acreage. The 70% shall include forest stands, farm fields, steep slopes, and/or wetlands.

DOCUMENTED PLAN:

The petitioner submitted a documented site plan.

PLANNING BOARD RECOMMENDATIONS:

Recommends that the Petitioner be allowed to move forward and make its case at the Board of Appeals.

Zoning Reclassification Report
Planning Board
1206 Molesworth Road

CASE NO:

CR-2009-0269

PETITIONER:

Neal Jacobs

REQUESTED ACTION:

Reclassification to RC 4

EXISTING ZONING:

RC 7

LOCATION:

1206 Molesworth Road, north side of Molesworth Road, east of Armacost Road

AREA OF SITE:

5.91 acres; gross acreage 6.1

ZONING/USE OF ADJACENT PROPERTIES:

North:	RC 7	Single family detached dwelling
South:	RC 4	Single family detached dwelling
East:	RC 4	Single family detached dwelling
West:	RC 7	Single family detached dwelling

SITE DESCRIPTION:

The property is improved with one existing single-family detached dwelling located in the southwestern quadrant of the property. There is parking area in the front of the dwelling and two sheds on the northwestern side of the property. There is also a small pond in the rear of the property. The rest of the property is wooded and vacant. A panhandle driveway that intersects with Molesworth Road accesses the property to the south of the dwelling.

PROPERTIES IN THE VICINITY:

The surrounding community is a mostly rural residential with a few parcels that are still vacant. The surrounding adjacent properties to the north, south, east, and west are single-family detached dwellings, mostly on lots of 3 acres or less. The Petitioner's lot is one of the larger ones in the community as well as the adjacent property to the west. The properties to the south and east are zoned RC 4 and the properties to the north and west are zoned RC 7.

WATER AND SEWERAGE:

W-7, S-7 The property is not served by public water and sewerage.

CR-2009-0269



Map prepared by:
Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD
21204

N

0 100 200 400
Feet

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

Phone: 410-887-3180 Fax: 410-887-3182

To: Larry Stahl

From: Sunny Cannington, Legal Secretary

Date: September 15, 2009

Re: Jacobs—Reclass

Larry,

A Motion to Quash subpoenas and a Motion in Limine have been filed in the Jacobs reclass-Tuesday's case. Jason Vettori indicated that Mr. Schmidt may not be available for the entire hearing on Tuesday. If the parties wish to postpone this matter, please make sure they realize that we are booked through until January. If something opens up before that, we will get the date in. Either way, the parties must agree to extend the time to follow up on this case.

Also, should the Lintz reclass on Wednesday need a second day, they too will have to agree to the extended time frame.

From: Theresa Shelton
To: Matthews, Kristen; Richards, Carl
CC: Keller, Pat; Kotroco, Timothy; Long, Jeff
Date: 4/14/2009 5:48 PM
Subject: ERROR - Tentative Reclassification Dates in August 2009

Good Evening:

Please disregard the Interoffice Correspondence dated April 14, 2009 which provided tentative dates in August 2009 for the two Petitions for Reclassifications. These dates are in error. According to Section 32-3-504 - Schedule of Cycles and Period- the Reclassifications must be heard before the Board of Appeals in Period IV, which is September 1 through December 31.

An Amended/Corrected Interoffice Correspondence will be prepared and sent with the corrected assigned hearing dates. The hearings will be scheduled before the Board in September, 2009.

I apologize for my oversight in this matter and any confusion/conflict it may have caused.

Please do not hesitate to contact me on extension 3180 if you have any questions.

Thank you for your understanding and support.

Theresa

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

RECLASSIFICATION & REDISTRICTING PETITIONS
ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS
APRIL 2009 – OCTOBER 2009 ZONING RECLASSIFICATION CYCLE 1

* Agenda Only
\+ Agenda and Petition
& Agenda and Plat
# Agenda, Petition and Plat

Distribution:

Baltimore County Board of Appeals Hearing File (Theresa Shelton)
* Zoning Commissioner's Office (William Wiseman, III); MS #2112
# PDM, Zoning Review DRC/ZAC Meeting File (W. Carl Richards, Jr.)
• PDM, Code Enforcement
* PDM, Building Inspection (Karen Hopkins)
& PDM, Development Plans Review (Dennis Kennedy)
# Planning Office (Curtis Murray); *Director (Pat Keller)
* Recreation and Parks (Jean Tansey); MS #52
# DEPRM (Jeff Livingston) - 2 plats
& State Highway Administration, Access Permits Division (Mike Bailey)
& PDM, Building Plans Review (Lt. Herb Taylor) MS #1102F
* Economic Develop. Commission, Business Develop. MS #2M07
* Highways (Tim Burgess); MS #1003
* Community Conservation (Mary Harvey); MS #1102M
\+ People's Counsel (Peter Zimmerman); MS #2010
* Honorable McIntire, County Council, District 3; MS #2201
# IF CRITICAL AREA, Maryland Office of Planning
# IF FLOODPLAIN, Department of Natural Resources (Kevin Wagner)
IF FLOODPLAIN, Public Works (David Thomas); MS #1315
* IF FLOODPLAIN, Permits
* IF FLOODPLAIN, Code Enforcement (Donald Brand)
# IF ELDERLY HOUSING, Community Development; MS #1102M

RECEIVED
MAY - 5 2009
BALTIMORE COUNTY
BOARD OF APPEALS

The attached information is being forwarded to you for comment. Your comments should reflect any conflicts with the codes, standards or regulations of your office or department. Development representatives that attend the meeting should be prepared to submit their agency's response as either "no comment", "written comment" or "more review time required" within one week. If no written response is received within two weeks, it is assumed that your agency has "no comment". All written comments must reference the case number. All comments received will be compiled and included in the zoning/reclassification file for review and consideration by the Board of Appeals during the course of the upcoming reclassification hearing (as referenced on the agenda).

You should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: Kristen Matthews.

If you have any questions regarding these zoning reclassifications, please contact Carl at 410-887-3391.

Revised 4/21/06

ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS
FOR THE ZONING RECLASSIFICATION CYCLE I
APRIL 2009 – OCTOBER 2009

WESTERN SECTOR
No Petitions

NORTHERN SECTOR

Item #1

Property Owner:	Neal Jacobs
Case No./Hearing Date:	CR-2009-0269, **Tuesday, September 15, 2009 at 10:00 a.m.**
Contract Purchaser:	N/A
Location:	NW/S Molesworth Road, 1645'. NE Armacost Rd., 406' NW Molesworth Road
Address:	1206 Molesworth Road
Existing Zoning:	RC-7
Election District:	6th
Councilmanic District:	3rd
Area:	5.912 acres
Proposed Zoning:	RC-4
Miscellaneous:	Documented Plan, also See Minor Sub #07-041-M

Item #2

Property Owners:	Howard Lintz
Case No./Hearing Date:	R-2009-0270, **Wednesday, September 16, 2009 at 10:00 a.m.**
Contract Purchaser:	N/A
Location:	S/E Jarrettsville Pike (Route 146), 244' S/w of Southside Avenue
Address:	14345 Jarrettsville Pike
Existing Zoning:	Parcel 'A' RC-5 Parcel 'B' RC-5
Election District:	10th
Council District:	3rd
Area:	Parcel 'A' 0.58 Acres, Parcel 'B' 0.084 Acres
Proposed Zoning:	Parcel 'A' – RC-5 – CR Parcel 'B' – RO – CR
Misc.:	Open Plan

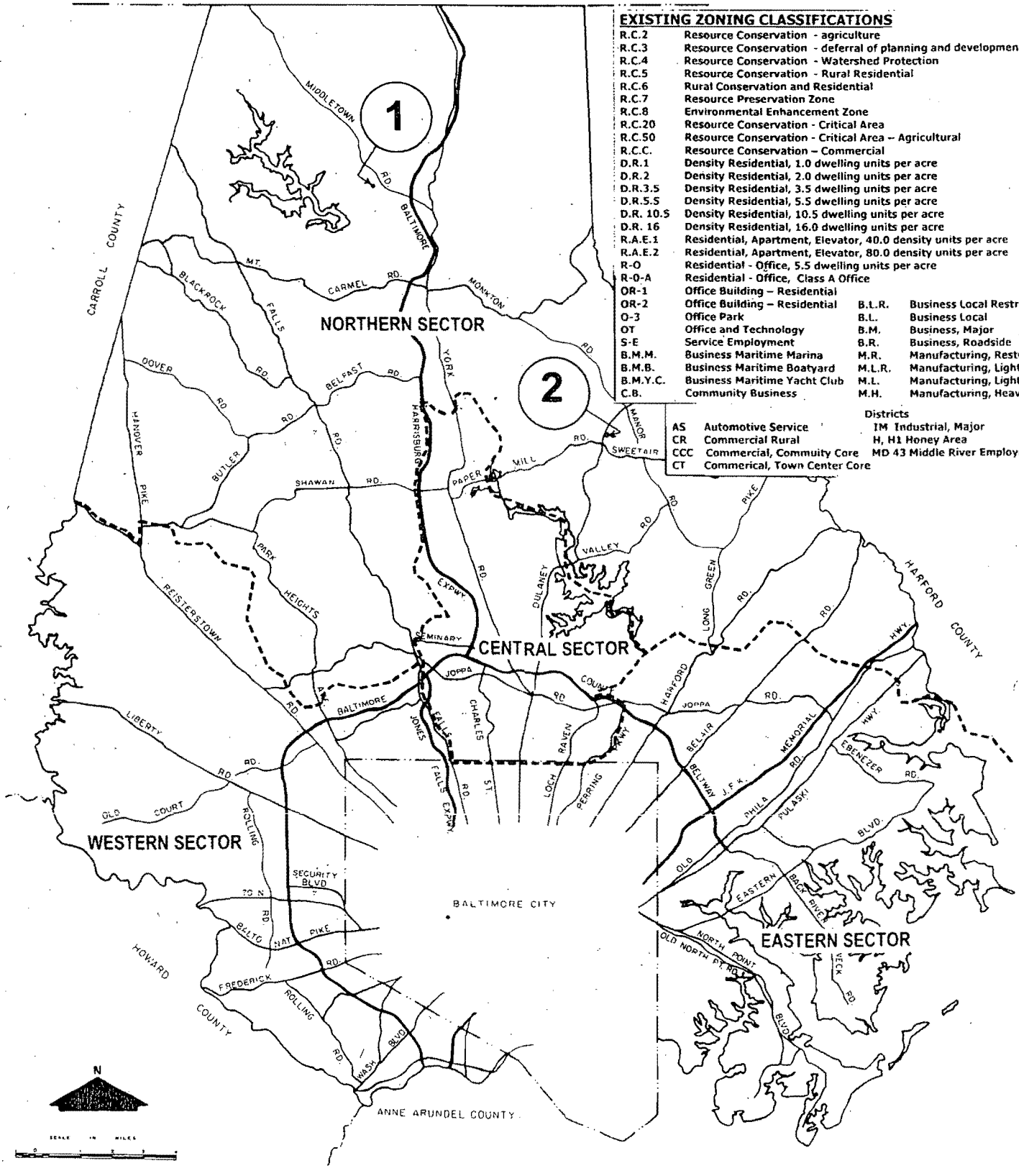
CENTRAL SECTOR

No Petitions

EASTERN SECTOR

No Petitions

LOCATIONS OF PROPERTIES UNDER PETITION
CYCLE I APRIL – OCTOBER 2009



EXISTING ZONING CLASSIFICATIONS

R.C.2	Resource Conservation - agriculture
R.C.3	Resource Conservation - deferral of planning and development
R.C.4	Resource Conservation - Watershed Protection
R.C.5	Resource Conservation - Rural Residential
R.C.6	Rural Conservation and Residential
R.C.7	Resource Preservation Zone
R.C.8	Environmental Enhancement Zone
R.C.20	Resource Conservation - Critical Area
R.C.50	Resource Conservation - Critical Area – Agricultural
R.C.C.	Resource Conservation – Commercial
D.R.1	Density Residential, 1.0 dwelling units per acre
D.R.2	Density Residential, 2.0 dwelling units per acre
D.R.3.5	Density Residential, 3.5 dwelling units per acre
D.R.5.5	Density Residential, 5.5 dwelling units per acre
D.R. 10.5	Density Residential, 10.5 dwelling units per acre
D.R. 16	Density Residential, 16.0 dwelling units per acre
R.A.E.1	Residential, Apartment, Elevator, 40.0 density units per acre
R.A.E.2	Residential, Apartment, Elevator, 80.0 density units per acre
R-O	Residential - Office, 5.5 dwelling units per acre
R-O-A	Residential - Office, Class A Office
OR-1	Office Building – Residential
OR-2	Office Building – Residential
O-3	Office Park
OT	Office and Technology
S-E	Service Employment
B.M.M.	Business Maritime Marina
B.M.B.	Business Maritime Boatyard
B.M.Y.C.	Business Maritime Yacht Club
C.B.	Community Business
B.L.R.	Business Local Restricted
B.L.	Business Local
B.M.	Business, Major
B.R.	Business, Roadside
M.R.	Manufacturing, Restricted
M.L.R.	Manufacturing, Light, Restricted
M.L.	Manufacturing, Light
M.H.	Manufacturing, Heavy

Districts

AS	Automotive Service
CR	Commercial Rural
CCC	Commercial, Commuity Core
CT	Commerical, Town Center Core
IM	Industrial, Major
H, H1	Honey Area
MD 43	Middle River Employment Center

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW

MINUTES
Baltimore County Planning Board Meeting, June 18, 2009

Contents

Call to order, introduction of Board members, pledge of allegiance to the Flag, and announcements

Review of today's Agenda

Minutes of the June 4, 2009 meeting

Item for Introduction

** 1. Request for a Planned Unit Development, (PUD), PDM No. XIV-472, known as Brandywine. Introductory remarks by Office of Planning Staff. Public hearing scheduled for July 2, 2009.

** 2. Request for Cycle Zoning Reclassification:

a. 14345 Jarrettsville Pike, Case No. R-2009-0270

b. 1206 Molesworth Road, Case No. CR-2009-0269

Item for Further Discussion and Vote

3. Request for Planned Unit Development, (PUD), PDM # XII-153, known as Yorkway

Other Business

4. Report of the Landmarks Preservation Commission Meeting of June 11, 2009

Adjournment of the Board meeting

a. 14345 Jarrettsville Pike, Case No. R-2009-0270

Lawrence E. Schmidt, Esquire, representing the Petitioner, Howard Lintz, outlined the specifics of the request to reclassify the site from RC 5 to RO-CR and RC 5-CR. Using a projected map, Mr. Schmidt pointed out the property in question which is improved with three existing single-family detached dwellings, close to the road. Only one is currently being used as an office, the other two are vacant. Behind the structures are spaces for parking and an open field. The zoning change was requested first during the 2008 Comprehensive Map Zoning Process (CZMP). Planning recommended a split zoning with RO-CR in the front where the buildings are located and RC 5-CR in the rear. The County Council left the zoning at RC 5. Planning concurs with the Petitioner in his request for reclassification, and would support the request with the submission of a documented site plan. Ms. Bialek, 3rd District Community Planner, explained the cycle zoning process, which occurs between the Comprehensive Zoning Map Process that is scheduled every 4 years.

b. 1206 Molesworth Road, Case No. CR-2009-0269

Lawrence E. Schmidt, Esquire, presented the Petition for property owner Neal Jacobs for reclassification of property currently zoned RC 7 to RC 4. A panhandle driveway off Molesworth Road accesses the property. In recounting the zoning history of the property, Mr. Schmidt noted that the property was rezoned from RC 5 to RC 4 in the 2004 CZMP. It was again rezoned from RC 4 to RC 7 in the 2008 CZMP. The Petitioner was in the midst of the process of recording a minor subdivision in 2008 and was unaware that there was also a CZMP issue going forward at the same time. Under the circumstances, the Petitioner feels it is appropriate that he be allowed to move forward and present his case to the Board of Appeals. Ms. Bialek noted that the Planning Office recommends that the Petitioner be allowed to move forward.

Board Member Mr. Miller suggested that postings for properties being considered for a zoning change be displayed more prominently.

Copies of the Petitions, illustrative maps, and a copy of the PowerPoint are filed as Appendix D.

Item for further deliberation and vote

3. Request for Planned Unit Development (PUD), PDM # XII-153, known as Yorkway

Dr. Gregory moved that the Baltimore County Planning Board as a result of the inter-agency and public comments on the proposed Yorkway Redevelopment Planned Unit Development (PUD), PDM # XII-153, recommendations from the Office of Planning, input from the public hearing on June 4, 2009 and further deliberations on June 18, 2009,

Revised Tentative Agenda*
Thursday June 18, 2009
MEETING
Beginning at 4:00 p.m.,
Room 104, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland

Meeting
of the
Baltimore County Planning Board
Edward J. Gilliss, Chairman

Call to order, introduction of Board members, pledge of allegiance to the Flag, and Announcements

Review of today's Agenda

Minutes of June 4, 2009 meeting

Item for Introduction

** 1. Request for a Planned Unit Development, (PUD), PDM No. XIV-472, known as Brandywine. Introductory remarks by Office of Planning Staff. Public hearing scheduled for July 2, 2009.

** 2. Request for Cycle Zoning Reclassification:

a. 14345 Jarrettsville Pike, Case No. R-2009-0270

b. 1206 Molesworth Road, Case No. CR-2009-0269

Items for Further Discussion and Vote

3. Request for Planned Unit Development, (PUD), PDM # XII-153, known as Yorkway

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Neal Jacobs R-09-269

DATE: August 17, 2010

BOARD/PANEL: Lawrence M. Stahl, Chairman
Andrew M. Belt
Edward W. Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Reclassification to reclassify the 5.912 acres of the property from R.C.7 to R.C 4.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the history of this matter. Mr. Jacobs, the property owner, was working closely with the Office of Planning to have a section of his property down-zoned to R.C.4. A separate division of the Office of Planning was working on the Comprehensive Zoning Map Process (CZMP). When the CZMP was completed, Mr. Jacobs property was shown on the map as zoned R.C.7 instead of the requested R.C.4.
- The Board discussed the statute which regulates the Reclassification process. The statute states that the Board must determine if the County Council didn't consider facts or circumstances of which it should have been aware. The Board discussed that Mr. Jacobs had proceeded through the County's process to a point where large sums of money had been accepted from him, leading the Board to believe that the down zoning would have been approved had the CZMP not occurred at the same time.
- The Board reviewed the testimony presented at the hearing. A representative from the Office of Planning had appeared at the hearing and indicated that her job was to relay information from Planning to the County Council with regard to the CZMP and she was not aware that Mr. Jacobs had requested a down-zoning of his property therefore she was unable to inform the County Council.
- The Board discussed the arguments of the Office of People's Counsel presented in their memoranda. People's Counsel asserts that if the Board grants the reclassification of this property the Board is usurping the authority of the County Council. The Board disagrees stating that the Board was given statutory power to make this decision so that when something of this nature occurs, the property owner doesn't have to wait four more years for the next CZMP, or take this matter back before the County Council.

- The Board discussed the differences between R.C. 7 and R.C. 4. From the evidence and testimony presented, the Board determined that while R.C. 7 does offer protections that R.C. 4 doesn't offer, the protections do not impact this property. The Board likened the protections of R.C. 7 to giving flood insurance to a property located in the desert.

DECISION BY BOARD MEMBERS: The Board determined that based on the evidence and testimony, the County Council was unaware that this matter was taking place and should have been considered during the CZMP. The process to which Mr. Jacobs was engaged, was vetted by individuals representing the County in Zoning matters. That the R.C. 7 Zoning is not appropriate or proper for this property.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Reclassification of the subject property.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Neal Jacobs CR-09-269

DATE: October 14, 2009

BOARD/PANEL: Lawrence Stahl
Andrew Belt
Edward Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Baltimore County's Motion to Quash Subpoenas; and
2. Office of People's Counsel's Motion In Limine

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the facts of this case. The Petitioner subpoenaed the County Council members with regard to the Comprehensive Zoning Map Process in which this property was affected. Baltimore County, through Adam Rosenblatt, Assistant County Attorney, filed a Motion to Quash the Subpoenas and the Office of People's Counsel filed a Motion In Limine.
- The Board consulted the case law and statutes applicable in this matter. The Office of People's Counsel cited the case of Montgomery County v. Schooley and People's Counsel v. Beachwood I Limited Partnership. The Board quoted from the case law wherein the Court of Special Appeals stated, "As a general rule, the motives, wisdom or propriety of a municipal governing body in passing an ordinance are not subject to judicial inquiry...." The Board accepts this quote as meaning that the County Council is immune to inquiry and it would be a slippery slope to allow the County Council to be called to testify.
- The Board is at issue with attempting to recreate what a legislative body did while the members of that legislative body are under questioning. The Board feels that absent a potentially criminal action, it is not reasonable to subpoena a County Council member.

DECISION BY BOARD MEMBERS: The Board determined that it is not reasonable for a County Council member to be subpoenaed for testimony in this matter.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to Grant Baltimore County's Motion to Quash and Office of People's Counsel's Motion In Limine.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

RE:	PETITION FOR RECLASSIFICATION 1206 Molesworth Rd; NW/S Molesworth Rd, 1645' NE Armcost Rd, 406' NW Molesworth Rd 6th Election and 3rd Councilmanic Districts Legal Owner(s): Neal Jacobs Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY CR-09-269

* * * * * * * * * * * * *

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on January 6, 2010, I effected service of process by personally serving a Subpoena upon Donald C. Outen, AICP, Department of Environmental Protection and Resource Management, 105 West Chesapeake Avenue, 4th Floor, Towson, Maryland 21204, to appear before the County Board of Appeals for Baltimore County.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under penalty of perjury that the contents of this Affidavit are true and correct to my knowledge.

Rebecca M. Wheatley

Name: **Rebecca M. Wheatley, Legal Secretary**
Firm: **People's Counsel for Baltimore County**
Address: **The Jefferson Building**
105 W. Chesapeake Avenue, Room 204
Towson, Maryland 21204

RECEIVED
JAN - 6 2010
BALTIMORE COUNTY
BOARD OF APPEALS

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

February 25, 2009

Jason T. Vettori
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

Re: Jacobs Property / Molesworth Lane

Dear Mr. Vettori,

The subject property was being reviewed by Baltimore County as a minor subdivision (PDM#07-41M). The review and the subdivision process were in their final stages. The Baltimore County Department of Environmental Protection and Resource Management (DEPRM) had reviewed the plans delineating the wetlands and streams and had approved all of the submissions. As a condition of the subdivision approval, a Forest Buffer Easement was imposed on the subject property. DEPRM also reviewed the plans delineating the forest which exists and had approved all of the submissions. A Forest Conservation Easement was imposed on the subject property and a fee of $4704 was paid as a condition of the subdivision approval.

The proposed development of the subject property also required a review and approval of the storm water management regulations. That approval was given after a $4000 fee was paid.

Sincerely,

Bruce E. Doak
Principal

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildealic.com

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

Item 1
RECEIVED
FEB 27 2009
BALTIMORE COUNTY
BOARD OF APPEALS

February 27, 2009

Via Hand Delivery
Theresa R. Shelton
County Board of Appeals of Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Jacobs/1206 Molesworth Road
Petition for Reclassification with Documented Site Plan

Dear Ms. Shelton:

Please accept the following Petition for Reclassification with documented site plan in accordance with BCC § 32-3-512. In accordance with the Baltimore County Board of Appeals' Guide for Preparation of Reclassification Petitions, enclosed herein please find three (3) copies of the original signed Petition forms, four (4) copies of the property description, four (4) copies of a brief stating the reasons why the reclassification sought should be made, four (4) copies of the appropriate 1":200' scale zoning maps, four (4) copies of the 1":1000' scale zoning maps, a filing fee and sign posting fee, an advertising form, fourteen (14) copies of the site plan and seven (7) copies of the Environmental Impact Statement, which comes in the form of a letter from Bruce E. Doak to Jason T. Vettori dated February 25, 2009.

Please feel free to contact the undersigned with any comments, questions or concerns regarding this Petition for Reclassification. Thank you for your attention to this most important matter. With kind regards, I am

Very truly yours,

Jason T. Vettori

JTV: kmb
CC: Neal Jacobs
Mr. Bruce E. Doak, Gerhold, Cross & Etzel, Ltd.
Lawrence E. Schmidt, Esquire

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildeallc.com

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

September 1, 2009

Sent via Hand Delivery
Ms. Theresa R. Shelton
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Jacobs/1206 Molesworth Road
Case No.: R-09-269

Dear Ms. Shelton:

Enclosed herein please find Subpoenas Duces Tecum for Jessie Bialek, area planner for the 3rd Councilmanic District for the Office of Planning, and for each of the Councilman regarding the above referenced matter. As indicated in each of the subpoenas we are requesting that each of the named individuals personally appear and produce documents at the hearing scheduled for 10:00 a.m. on Tuesday, September 15, 2009. Please telephone the undersigned regarding issuance of the subpoenas, so we can pick up the subpoenas and serve same on the individuals noted therein as soon as possible.

Very truly yours,

Jason T. Vettori

LES: jkl
Enclosures
CC: Lawrence E. Schmidt, Esquire

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildeallc.com

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

February 24, 2010

Sent via Hand Delivery
Ms. Theresa R. Shelton
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Jacobs/1206 Molesworth Road
Case No.: R-09-269

Dear Ms. Shelton:

Enclosed herein please find a Subpoena/Subpoena Duces Tecum for Jessie Bialek, area planner for the 3rd Councilmanic District for the Office of Planning regarding the above referenced matter. As indicated in the subpoena, and in accordance with Rule 5 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, we are requesting that the named individual personally appear and produce documents at the hearing scheduled for 10:00 a.m. on Tuesday, September 15, 2009. Please telephone the undersigned regarding issuance of the subpoena(s), so we can pick up the subpoena(s) and serve same on the individual noted therein as soon as possible.

Very truly yours,

Jason T. Vettori

LES: jkl
Enclosures
CC: Lawrence E. Schmidt, Esquire

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA/SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Jessie Bialek, Office of Planning
The Jefferson Building
105 W. Chesapeake Avenue, Suite 101
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; **(X)** Personally appear and produce documents or objects;

In Hearing Room #2, Suite 206, The Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Wednesday, March 3, 2010 at 10:00 a.m.

YOU ARE FURTHER COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
FEB 24 2010
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildeallc.com

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

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

February 26, 2010

Sent via Hand Delivery
Ms. Theresa R. Shelton
County Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Jacobs/1206 Molesworth Road
Case No.: R-09-269

Dear Ms. Shelton:

Enclosed herein please find a Subpoena/Subpoena Duces Tecum for David L. Thomas, Assistant to the Director of the Department of Public Works, regarding the above referenced matter. As indicated in the subpoena, and in accordance with Rule 5 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, we are requesting that the named individual personally appear at the hearing scheduled for 10:00 a.m. on Tuesday, September 15, 2009. Please telephone the undersigned regarding issuance of the subpoena(s), so we can pick up the subpoena(s) and serve same on the individual noted therein as soon as possible.

Very truly yours,

Jason T. Vettori

LES: jkl
Enclosures
CC: Lawrence E. Schmidt, Esquire

RECEIVED
FEB 26 2010
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO:

David L. Thomas
Assistant to the Director
Department of Public Works
111 W. Chesapeake Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: (X) Personally appear; ( ) Produce documents and/or objects only; ( ) Personally appear and produce documents or objects;

In Hearing Room #2, Suite 206, The Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Wednesday, March 3, 2010 at 10:00 a.m.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Sunny Cannington
County Board of Appeals of
Baltimore County

RECEIVED
FEB 26 2010
BALTIMORE COUNTY
BOARD OF APPEALS

RE:	PETITION FOR RECLASSIFICATION 1206 Molesworth Rd; NW/S Molesworth Rd, 1645' NE Armcost Rd, 406' NW Molesworth Rd 6th Election and 3rd Councilmanic Districts Legal Owner(s): Neal Jacobs Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY CR-09-269

* * * * * * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Donald C. Outen, AICP
Natural Resource Manager
Baltimore County Dept. of Environmental
Protection & Resource Management
105 W. Chesapeake Ave., Suite 400
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (**X**) Personally appear and produce documents or objects; in Hearing Room 2, Second Floor, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 on **March 3, 2010 at 10 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):**

- Any and all documents relating to the review and recommendations for 2008 comprehensive zoning map process issue number 03-94.

RECEIVED
DEC 2 8 2009
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:
Peter Max Zimmerman, People's Counsel
Office of People's Counsel for Baltimore County
105 W. Chesapeake Avenue, Room 204
Towson, Maryland 21204
(410) 887-2188

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (_) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Theresa R. Shelton

County Board of Appeals for Baltimore County

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman John Olszewski
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (**X**) Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Sunny Cannington
County Board of Appeals of
Baltimore County

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman Joseph Bartenfelder
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; **(X)** Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman Vincent J. Gardina
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; **(X)** Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Sunny Cannington
County Board of Appeals of
Baltimore County

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman Kenneth N. Oliver
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (**X**) Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Sunny Cannington
County Board of Appeals of Baltimore County

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman S.G. Samuel Moxley
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (**X**) Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman Kevin Kamenetz
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (**X**) Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Councilman T. Bryan McIntire
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; **(X)** Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Marcie Goodman, Legislative Aide to
Councilman T. Bryan McIntire
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Gail Morton, Legislative Aide to
Councilman T. Bryan McIntire
400 Washington Avenue
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

In Hearing Room #2, Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Sunny Cannington
County Board of Appeals of Baltimore County

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITION FOR RECLASSIFICATION
1206 MOLESWORTH ROAD

Neal Jacobs, Legal Owner/Petitioner

6th Election District
3rd Councilmanic District

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. R-09-269

* *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Jessie Bialek, Office of Planning
The Jefferson Building
105 W. Chesapeake Avenue, Suite 101
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (**X**) Personally appear and produce documents or objects;

In Hearing Room #2, The Jefferson Building, 105 W. Chesapeake Avenue, Second Floor, Towson MD 21204 on Tuesday, September 15, 2009 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

Office of Planning's CZMP file and all related documents for the comprehensive rezoning of 1206 Molesworth Road granted by the County Council to Sparks Glencoe Community Council.

SUBPOENA REQUESTED BY:

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP - 1 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
County Board of Appeals of
Baltimore County

RECLASSIFICATION CYCLE I

DATES AND ACTION

DATE	ACTION
April 16	The beginning of Cycle I in the year following the comprehensive zoning map process
April 16 – May 31	Period I Report by the Director of Panning In general: Review petitions; publish report to include maps, recommendations, etc.
June 1 – July 31	Period II Planning Board Duties 1) Publish and submit to BOA report of recommendations 2) Submit to BOA a recommended schedule for hearings.
August 1 – August 31	Period III BOA establishes the schedule for hearings; Within the first 15 days of the period, with the assistance of the Office of Planning; publish its entire schedule together with map in at least 2 newspapers Require that the hearing notice be posted on each property at least 15 days before hearing. Require notice of hearing be placed in 2 newspapers of general interest
September 1 – December 31	Period IV The Board of Appeals shall hold hearings as scheduled.

NEAL JACOBS
Legal Owner / Petitioner

#R – 09- 02269

N/S Molesworth Road
1,645 +/- E of Armacost Road

2009 / CYCLE I, Item #1

1206 Molesworth Road

6th Elections District
3rd Councilmanic District

From R.C. 7 to R.C. 4

Filed as Documented Plan

Acres Requested: 5.912

February 27, 2009	Petition for Reclassification filed by Jason T. Vettori, Esquire, on behalf of Neal Jacobs, Legal Owner, Petitioner.

Jason T. Vettori, Esquire Lawrence E. Schmidt, Esquire GILDEA & SCHMIDT LLC 600 Washington Avenue Suite 200 Towson, MD 21204	Counsel for Legal Owner / Petitioner 410-821-0070 FAX 410-821-0071
Neal Jacobs 1206 Molesworth Road Parkton, MD 21120	Legal Owner / Petitioner
Bruce Doak Gerhold, Cross & Etzel, Ltd. Suite 100 320 East Towsontown Blvd. Towson, MD 21204	

People's Counsel for Baltimore County

Pat Keller, Director /Planning
Jeffrey Long, Deputy Director / Planning
William J. Wiseman III /Zoning Commissioner
Don Rascoe, Acting Development Manager /PDM
W. Carl Richards / PDM
Coleen Kelly, Project Manager, PDM
Timothy M. Kotroco, Director /PDM
Baltimore County Council, 3rd District

Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

ZONING RECLASSIFICATION ROUGH LOG- Cycle 1, April To October 2009

(2)

PROPERTY OWNER	HOWARD LINTZ
CONTRACT PURCHASER	N/A
LOCATION	E/S JARRETTSVILLE PIKE 244'± S OF C/L SOUTHSIDE AVE. (14345 JARRETTSVILLE PIKE)
EXISTING ZONING	R.C.5
ELECTION D.	10
COUNCIL D.	3
ACRES REQUESTED	1.42
PROPOSED ZONING	R.O.-C.R. AND R.C.5-C.R.

R-

ATTORNEY/OWNER	GILDEA + SCHMIDT, LLC (SEBASTIAN A. CROSS
ADDRESS	600 WASHINGTON AVE., SUITE 200
CITY/STATE/ZIP	TOWSON, MD 21204
PHONE	410-821-0070
OPEN PLAN	✓
DOCUMENTED	
FEE PAID	575.00
BY	WCR
DATE	2/27/09

(1)

PROPERTY OWNER	NEAL JACOBS
CONTRACT PURCHASER	N/A
LOCATION	N/S MOLESWORTH RD. 1,645'± E OF ARMACOST RD. (1206 MOLESWORTH RD)
EXISTING ZONING	R.C.7
ELECTION D.	6
COUNCIL D.	3
ACRES REQUESTED	5.912
PROPOSED ZONING	R.C.4

CR-

ATTORNEY/OWNER	GILDEA + SCHMIDT, LLC (LAWRENCE E. SCHMIDT
ADDRESS	600 WASHINGTON AVE., SUITE 200
CITY/STATE/ZIP	TOWSON, MD 21204
PHONE	410-821-0070
OPEN PLAN	
DOCUMENTED	✓
FEE PAID	575.00
BY	WCR
DATE	2/27/09

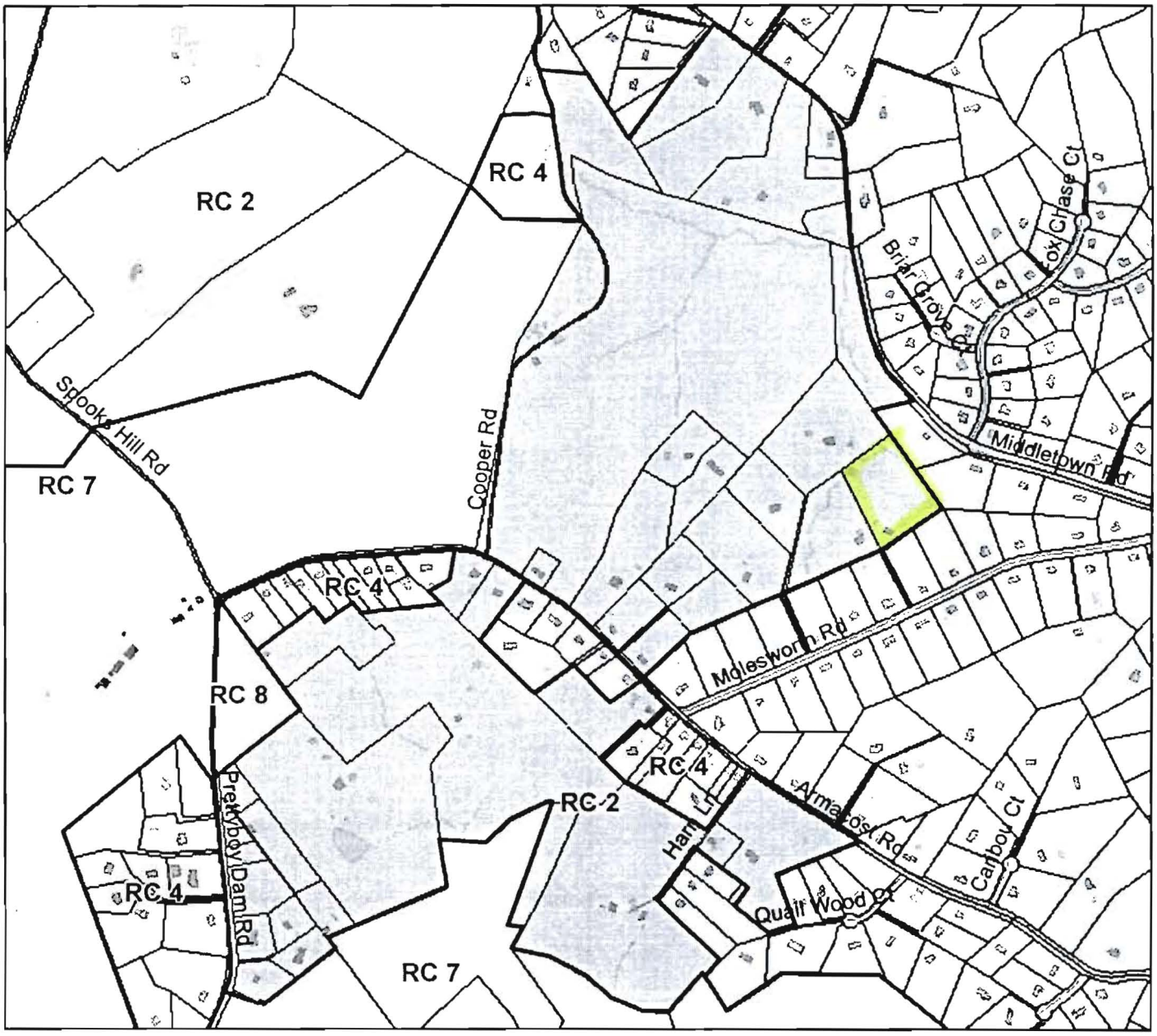
PROPERTY OWNER	
CONTRACT PURCHASER	
LOCATION	
EXISTING ZONING	
ELECTION D.	
COUNCIL D.	
ACRES REQUESTED	
PROPOSED ZONING	

ATTORNEY/OWNER	
ADDRESS	
CITY/STATE/ZIP	
PHONE	
OPEN PLAN	
DOCUMENTED	
FEE PAID	
BY	
DATE	

PROPERTY OWNER	
CONTRACT PURCHASER	
LOCATION	
EXISTING ZONING	
ELECTION D.	
COUNCIL D.	
ACRES REQUESTED	
PROPOSED ZONING	

ATTORNEY/OWNER	
ADDRESS	
CITY/STATE/ZIP	
PHONE	
OPEN PLAN	
DOCUMENTED	
FEE PAID	
BY	
DATE	

CZMP 2008 - Issue Map
Holding Number: 646/Issue Number: 3-094



Iteration: COUNTY COUNCIL/2

ADC Reference Grid: 6K3

Zone	District	Acreage
RC 2		132.3
RC 7		175.2

Total Acreage: 307.5

1,000 0 1,000 Feet

1 inch equals 1,000 feet

Publication Date: August 27, 2008
Publication Agency: Office of Planning
Projection/Datum: Maryland State Plane, FIPS 1900, NAD 1983/91 HARN, US Foot

People's Counsel Sign-In Sheet

Case Name: Neal Jacobs
Case No.: R-09-269
Date: March 3, 2010

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	Michael Pierce	7448 Bradshaw Rd	410 817-4795	mpierce1@aol.com	NCP	
✓	Kirsten Burger	1906 Corbridge Lane	410-472-2280	kirstenburger@comcast.net	Steet Sparks Community Planning Council	Defend CZMP downzoning
✓	JIM PATTON	780 ELKRIDGE LANDING LINTHICUM, MD 21090	410-691-0205	JSPatton@comcast.net	Glenelg PEOPLES COUN	EXPERT

P.C. Ex #1

People's Counsel Sign-In Sheet

Case Name: Petition for Reclassification (Zoning) 1206 Molesworth Road
Case No.: R-09-269
Date: 9/15/09

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
	Kirsten Burger	1906 Corbridge Lane, 21111	410-472-2280	kirstenburger@comcast.net	Severn-Glencoe NCP	Environmental protection
	Michael Pierce	7448 Bradshaw Rd	4108174795			

Pet No 2

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

December 15, 2006

Gerhold, Cross & Etzel, Ltd.
320 E. Towsontown Boulevard
Suite 100
Towson, MD 21286

RE: Jacobs Property
1206 Molesworth Road
DRC Number 120406G; Dist. 6C3

Dear Sir or Madam:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Sections 32-1-101, 32-3-401, and 32-3-517 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 32-4-106 and Section 32-4-262 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management.

The DRC has, in fact, met in an open meeting on December 4, 2006, and made the following recommendations:

The DRC has determined that your project meets the requirements of a limited exemption under Section 32-4-106(b)(5). Please amend the Record Plat.

Pet. Ex #2 3-3-10 Jacobs

In order to further process your development plan, submit a complete minor subdivision package, as described in the **Procedures for Minor Subdivision**, prepared in accordance with Sections 32-4-221 through 32-4-224 of the Baltimore County Code, and a copy of this letter to this office.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 15th day of December 2006, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Timothy Kotroco
Director

TK:WTS:sem

c: Joe Chmura
File
Enclosure

Pet. No 3

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

COPY

CERTIFICATE OF POSTING

RE: PDM# 07-041-M
OWNER/DEVELOPER:
Neal Jacobs

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

ATTENTION: JOE CHMURA

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:
1206 Molesworth Road

(see page 2 for full size photo)

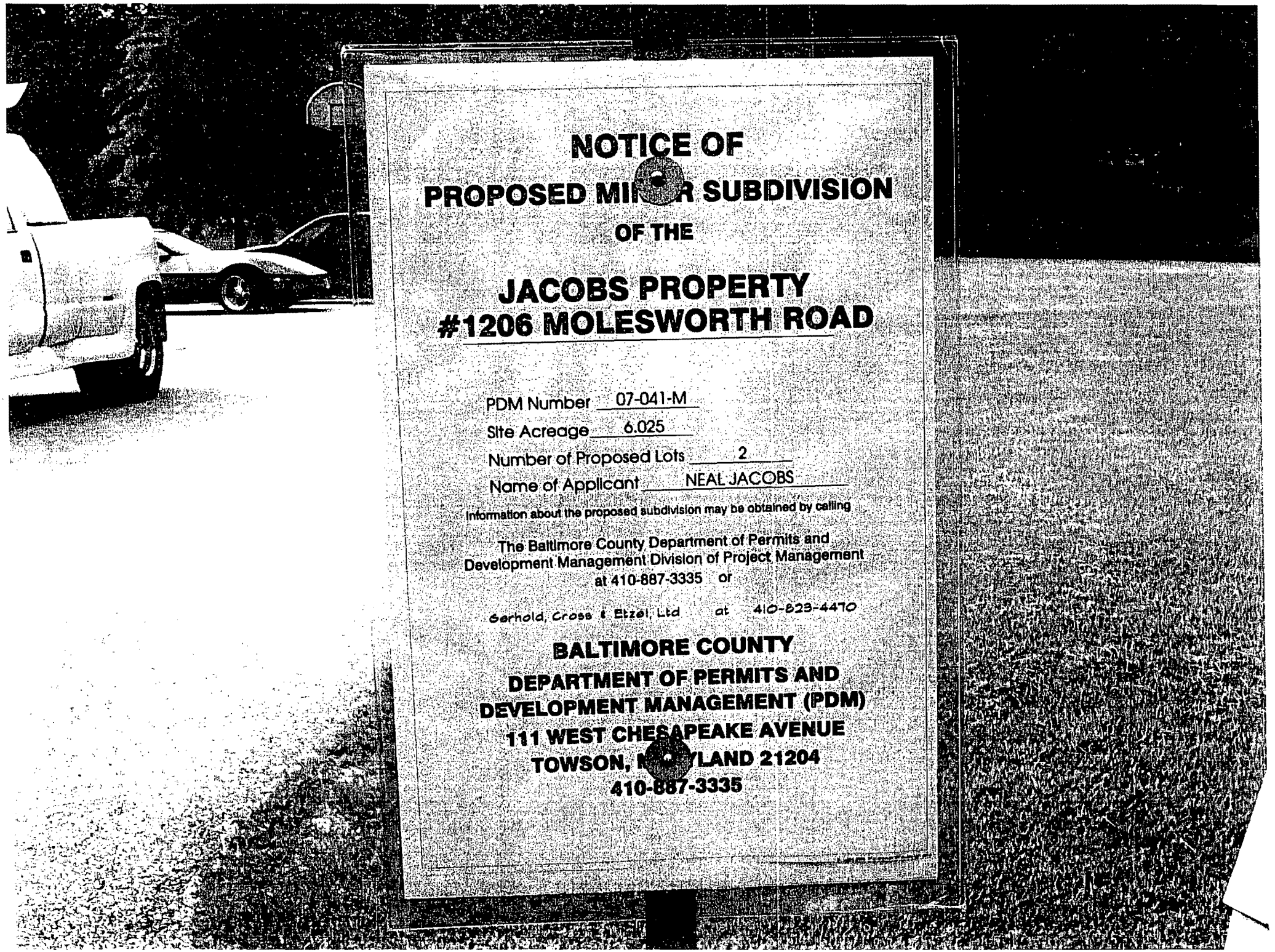
POSTED ON: May 21, 2007

SIGNATURE OF SIGN POSTER

Bruce E. Doak

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

3-3-10 Jacobs
Pet. Ex #3


NOTICE OF
PROPOSED MINOR SUBDIVISION
OF THE
JACOBS PROPERTY
#1206 MOLESWORTH ROAD
PDM Number 07-041-M
Site Acreage 6.025
Number of Proposed Lots 2
Name of Applicant NEAL JACOBS
Information about the proposed subdivision may be obtained by calling
The Baltimore County Department of Permits and
Development Management Division of Project Management
at 410-887-3335 or
Gerhold, Cross & Etzel, Ltd at 410-823-4470
BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT (PDM)
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3335

NOTICE OF
PROPOSED SUBDIVISION
OF THE
JACOBS PROPERTY
#1706 MIDDLESWORTH ROAD

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT (DPDM)
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204 (410)

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

PETITIONER'S EXHIBIT NO. 4A

COPY

Lloyd Moxley
Baltimore County, Maryland
Office of Planning - Development Review Section
County Courts Building, Room 406
401 Bosley Avenue
Towson, Maryland 21204

January 3, 2008

Subject: PDM No. 07-041-M; Minor Subdivision of the Jacobs Property

Dear Mr. Moxley:

In reviewing your comments on this subdivision I see that you are requiring a Special Hearing for a waiver to Section 32-4-409(b)(2)(ii) BCC. This section states: "Panhandle fee strips shall be a minimum of 12 feet in width per lot where two lots are involved." As this proposal is a resubdivision of a prior development I believe the prior subdivision must be considered as well. Our proposal is to resubdivide Lot 16 an existing panhandle lot which adjoins another panhandle lot; Lot 15. The width of each existing panhandle lot is twelve feet which adds up to an existing 24 feet. By resubdividing Lot 16 we would be adding an additional panhandle lot which therefore would require us to adhere to Section 32-4-409(b)(2)(iii) BCC and not the section you mentioned. Section 32-4-409(b)(2)(iii) states: "Panhandle fee strips shall be a minimum of 10 feet in width per lot where three or more lots are involved." As our proposal creates three adjoining panhandle lots served by private well and septic systems and adds an additional eight foot strip creating a total shared strip 32 feet in width, I would hope you would agree that our requirements fall into this other section of the Baltimore County Code and a special hearing would not be required.

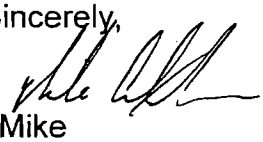
The DRC met December 4, 2006 and determined that this project be a Minor Subdivision and Amended Record Plat only. This is a new process for resubdivisions. The addition of the eight foot strip was discussed during this meeting and the committee felt that the proposed 32 feet of width would be adequate for the addition of a third panhandle lot to the two existing panhandle lots.

In additional meetings following the DRC, the eight for strip was discussed with both Walt Smith and Dennis Kennedy, who determined that this property may be acquired concurrently with the recording of the record plat and we may continue to show its use for the panhandle strips in the Minor Subdivision.

Pet. Ex #4 3-3-10 Jacobs

Also, in previous conversations with both Donnell Zeigler the original reviewer from your department and Lynn Lanham, division chief and correspondence with Donnell Zeigler I had been led to believe that this issue had been resolved and a Special Hearing for a waiver would not be required. Unfortunately it seems these notes were not added to your file. Please, add this correspondence to your file and forward a copy of your resolution to me. If this matter would require further discussion please call me at (410)-823-4470 to set up a time we could both meet. Thank you.

Sincerely,



~Mike
Michael Alexander
Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors
Office: 410.823.4470
Email: malexander@gcelimited.com

TO: GERHOLD, CROSS & ETZEL

4B

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Joe Chmura
Department of Permits and
Development Management

DATE: November 26, 2007

FROM: Lloyd T. Moxley
Development Review Section
Office of Planning

PROJECT NAME: Jacobs Property

PROJECT NO.: 07041 M SECOND REVIEW

The Office of Planning has reviewed the above referenced project and offers the following comments:

1. The proposal will require a waiver to Section 32-4-409(b)(2) (ii) BCC.
2. The LOD does not consider the disturbance required to install the septic. Revise plan to convey this information.
3. Provide information as to why the tract frontage on Molesworth Road is 12.00' as opposed to 20.00'. Confirm with the Office of Zoning Review whether or not the resubdivided and reconfigured Lot 17 should be shown in its entirety with the resultant area given.
4. A Use-in-Common Easement for Ingress and Egress for Lots 15, 16 and 16A will be required with recording references shown on the plan.
5. Dimension all setbacks

Lloyd T. Moxley, Planner
Development Review

Lynn Lanham, Chief
Development Review

DZ:kma

W:\DEVREV\MINOR\07041m2.doc

Bet. Ex # 4B 3-3-10 Jacobs

(2) The total number of signs to be kept to a minimum; and

(3) Informational signs not to be placed or be of such a number or design as to distract drivers' attention from traffic-control signs or devices.

(c) *Benches and street lighting.*

(1) The county may require benches and other outdoor furniture to be grouped and to be of a "break-away" design.

(2) The county shall require street lighting to be of a type and size that is adequate for safety and appropriate to the vicinity.

(d) *Transit facilities.* The county may require transit facilities, such as bus turnouts, for sites to be served by public transit.
(1988 Code, § 26-264) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-409. PANHANDLE DRIVEWAYS.

(a) *In general.*

(1) The county may only allow a panhandle lot:

(i) To achieve better use of irregularly shaped parcels;

(ii) To avoid development in environmentally sensitive areas;

(iii) Where the lot will not be detrimental to adjacent properties; and

(iv) Were the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) *In-fee strip; required.*

(1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

(i) 20 feet in width to serve one lot;

(ii) 12 feet in width per lot where two lots are involved;

Pet. Ex # 4C 3-3-10 Jacobs

(iii) 10 feet in width per lot where three or more lots are involved; or

(iv) 12 feet in width per lot where there are two or more lots in a development that is within the metropolitan area where public water and sewer services are available, planned, or considered.

(c) *Same; exception.* In cases where a right-of-way has been established before the submission of the Development Plan, the Hearing Officer may approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip.

(d) *Panhandle driveways.*

(1) A single panhandle driveway may serve up to five dwellings, three of which may be on internal lots not adjacent to the local street or collector street.

(2) Panhandle driveways serving lots greater than 20,000 square feet may serve five internal lots plus two dwellings on the front lots adjacent to the panhandle driveway and the local street or collector street.

(3) Front lots are not required to be part of the panhandle driveway development.

(4) Notwithstanding the provisions of § 32-4-107 of this title, the requirements of this subsection may not be waived.

(e) *Length of panhandle in DR and RC zones.*

(1) In a DR zone, the panhandle length may not exceed 500 feet.

(2) In an RC zone, the panhandle length may not exceed 1,000 feet.

(3) The maximum permitted length of a panhandle is subject to variance under § 307 of the Baltimore County Zoning Regulations.

(f) *Panhandle driveways serving multiple lots.*

(1) For panhandle driveways serving more than one lot, the developer shall note on the record plat any covenants that provide for common use and maintenance of the panhandle driveway and culvert.

(2) A use in common agreement is established if the panhandle driveway serves two or more abutting panhandle lots.

(g) *Dwelling orientation on panhandle lot.*

(1) The orientation of the dwelling on each panhandle lot shall be indicated on the Development Plan.

(2) The dwelling shall be oriented to establish a desirable relationship between:

(i) Each of the proposed dwellings and existing adjacent homes; and

(ii) The proposed dwellings themselves.

(h) *Panhandle driveway and street intersection; requirements.* At the intersection of the panhandle driveway and the street, the following shall be provided by the developer:

(1) A paved trash collection area that:

(i) Is located at the right-side intersection of the panhandle driveway and public road, as the driveway is exited; and

(ii) Is at least 16 square feet per dwelling unit served by the panhandle driveway;

(2) A mail delivery area that is located at the left intersection of the panhandle driveway and public road, as the driveway is exited; and

(3) Numerical identification of each dwelling served by the panhandle driveway in accordance with § 35-2-206 of the Code.

(i) *Construction of panhandle driveway.*

(1) The panhandle driveway shall be built in accordance with standards established by the Director of Public Works.

(2) The panhandle shall be paved within 1 year of the issuance of the first occupancy permit or before the issuance of the occupancy permit of the last lot to be served, whichever comes first.

(3) In DR zones required utilities shall be provided to all lots to be served by the panhandle before the paving of the panhandle driveway.

(j) *Parking along panhandle driveway.* Parking is not permitted along a panhandle driveway.

(k) *Waiver.* Except as provided in subsections (d) and (e) of this section, the Director of Planning may grant a waiver from any provision in this section or title if the Director finds:

(1) That the size, scope, and nature of the subdivision of land into three or fewer lots for residential single-family dwellings does not justify strict compliance with this section;

(2) That a waiver would be within the scope, purpose, and intent of this section; and

(3) Compliance with all other county ordinances and regulations.
(1988 Code, §§ 26-168, 26-266) (Bill No. 172, 1989, § 2; Bill No. 106, 1990, § 1; Bill No. 1, 1992, § 2; Bill No. 173-93, § 3, 11-17-1993; Bill No. 61-95, § 1, 6-30-1995; Bill No. 8-96, § 3, 3-23-1996; Bill No. 49-96, § 15, 7-1-1996; Bill No. 38-98, § 4, 6-20-1998; Bill No. 51-99, § 1, 8-26-1999; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-410. REQUIRED FACILITIES.

(a) *Water supply.*

(1) Water volume and pressure shall be adequate to extinguish fires in any building on a tract that is to be served by public water-supply facilities.

(2) Fire hydrants shall be provided in sufficient numbers and at appropriate locations to serve firefighting needs.

(b) *Sewage.* Proposed public or private sewage facilities shall be designed and located to function safely and without danger of contaminating groundwater, surface water, or public or private water supplies.

(c) *Drainage facilities.*

(1) In this subsection, "development" has the meaning stated in § 32-8-101 of this article.

(2) Proposed drainage facilities shall be adequate to accommodate the amount of runoff that would be generated by:

(i) The proposed development; and

(ii) The entire upstream area, if the area were fully developed in accordance with the Baltimore County Zoning Regulations in effect at the time of the design or construction.

(3) Development may not increase the extent of the floodplain on neighboring properties.

(d) *Facility easements.* Easements for cable television and other municipal and public utilities may be required where necessary to ensure adequate service to the prospective occupants or users of the proposed development.
(1988 Code, §§ 26-267, 26-268, 26-269, 26-270) (Bill No. 173-93, § 3, 11-17-1993; Bill No. 79-01, § 2, 7-1-2004; Bill No. 75-03, § 27, 7-1-2004)

4P

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Joe Chmura
Department of Permits and
Development Management

DATE: April 4, 2007

FROM: Donnell Zeigler
Development Review Section
Office of Planning

PROJECT NAME: Jacobs Property

PROJECT NO.: 07041 M

The Office of Planning has reviewed the above referenced project and offers the following comments:

1. Both proposed lots will need a Special Hearing to permit two in fee strips less the required 24 feet.
2. Revise the building setback line for both proposed lots. No part of the building setback can be within the Forest Conservation Easement.
3. Show the building setback dimension from the Forest Conservation Easement for the proposed dwelling on lot 16B.
4. Provide a limit of disturbance for the proposed lot.
5. Sign and seal the final mylar plan.
6. Show the panhandle profile.
7. Provide a covenant (use in common and maintenance) to be recorded with the plat.

Donnell Zeigler

Lynn Lanham, Chief
Development Review

DZ:kma

Jacobs
3-3-10
Ref. Enc #40

W:\DEVREV\MINOR\07041m.doc

Ret
4/E

Mike Alexander

From: Mike Alexander
Sent: Thursday, February 22, 2007 8:33 AM
To: 'Donnell Zeigler'
Cc: Scott Lindgren
Subject: RE: Jacobs Property

Good Morning Donnell,

Thank you for your time in considering our request for panhandle lots.

We feel that a special hearing is not necessary for reduced panhandle strips but would like to have the Office of Zoning comment at time of Minor Subdivision review as to this if you still feel it necessary. There will be 3 panhandles together, two of which are ten feet and one of which is twelve feet, giving a total width of thirty-two feet which if I understand correctly is more than adequate and meets all current regulations regarding panhandle width.

Again we will be creating a minor subdivision plan AND amending the record plat per the DRC (see packet sent to you 01-17-2007). No FDP is available to be amended and my understanding from Lynn Lanham that the new process requires a minor subdivision plan and no longer amending the JSPC plan.

I hope that you agree with this and look forward to receiving your further comments at the time of your review of the Minor Subdivision Plan.

Thank you for your time and consideration.

~Mike

Michael Alexander
Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors
320 East Towsontown Boulevard
Suite 100
Towson, MD 21286
Office: 410.823.4470
Fax: 410.823.4473
Email: malexander@gcelimited.com

Visit our website at http://www.gcelimited.com

This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system.

E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message which arise as a result of e-mail transmission. If verification is required please request a hard-copy version. This message is provided for informational purposes only.

-----Original Message-----
From: Donnell Zeigler [mailto:dzeigler@baltimorecountymd.gov]
Sent: Wednesday, February 07, 2007 2:09 PM
To: Mike Alexander
Subject: Jacobs Property

Hello Mike,
Here are Planning's comments on the Jacobs Property:
-Planning would require that the property go through a Special Hearing for reducing the widths of the panhandle strips.

Jacobs
3-3-10
Pet. Ex #4E

-If the property has a Final Development Plan then it will have to be amended.

Donnell T. Zeigler
Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Phone: 410.887.3480

Mike Alexander

From: Donnell Zeigler [dzeigler@baltimorecountymd.gov]
Sent: Wednesday, February 07, 2007 2:09 PM
To: Mike Alexander
Subject: Jacobs Property

Hello Mike,
Here are Planning's comments on the Jacobs Property:
-Planning would require that the property go through a Special Hearing for reducing the widths of the panhandle strips.
-If the property has a Final Development Plan then it will have to be amended.

Donnell T. Zeigler
Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Phone: 410.887.3480

4F

COPY

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

TRANSMITTAL SHEET

TO:	FROM:
Donnell Zeigler	Mike Alexander
COMPANY:	DATE:
Balt. Co. Office of Planning	Wednesday, January 17, 2007
RE:	TOTAL NO. OF PAGES INCLUDING COVER:
Jacobs Property	3 & 3 plats
FAX NUMBER:	PHONE NUMBER:
	(410)-887-3480

WE ARE TRANSMITTING:

☐ ATTACHED ☐ VIA MAIL ☐ VIA MESSENGER ☐ FOR REVIEW ☐ F.Y.I.
☐ PRINTS ☐ PLANS ☐ PROPOSAL ☐ DESCRIPTIONS ☐ LOCATION DRAWING
☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ UNDER SEPARATE COVER

QTY	DATE	ITEM	DESCRIPTION
1	10-6-1976	plat	Plat "A" Middletown Farms (EHKJr. 40/39)
1	11-08-2006	plats	Plan to Accompany DRC Request (sheets 1 & 2 of 2)
1	12-15-2006	copies	DRC Letter

NOTES/COMMENTS:

Donnell:

Attached please find a copy of the DRC Letter and plan. I have also attached a copy of the original record plat which shows a 12' panhandle for lot 16 and for lot 15. We are proposing to subdivide Lot 16 for which we are acquiring an additional eight foot strip from Lot 17, thereby giving us 20' of which we can give a ten foot panhandle to each proposed lot because of the adjoining Lot 15's 12' panhandle which gives us a total of 32' for panhandle strips, more than the required width for three lots is only thirty feet. The lot we ~~which~~ to subdivide was created by this record plat October 6, 1976 and was original zoned RDP. According to current density regulations and regulations at that time as shown on the DRC plan we may still subdivide Lot 16 and create one additional lot. I am aware of the need for agreements with the neighbor regarding access and the T-turnaround. There will be minimum disturbance to the existing woods and a LOD will be shown on the Minor Subdivision plan.

~Mike

Cc:

\GCE Transmittal.doc

Re T. Ex #4F 3-3-10 Jacobs

Mike Alexander

From: Donnell Zeigler [dzeigler@baltimorecountymd.gov]
Sent: Wednesday, January 17, 2007 10:32 AM
To: Mike Alexander
Subject: Jacobs Property

4/6

Hello Mike,
There are a couple of issues that would have to be worked on the Jacobs property before the property is to be submitted. The first issue as Im sure you're aware of is the width of the in fee strips. The plan was not clear on whether one of the strips was less then 12 feet of width or whether both strips were under 12 feet. Either way the property will need a Special Hearing to permit in fee strips for two panhandle lots less then 24 feet. Secondly, the proposed T-turnaround crosses over onto the Stricker Property to the west. Covenants will have to be provided to show rights to use the proposed paved t-turnaround. Lastly, I would like to see a limit of disturbance to show what vegetation will remain for lot 16B.

Also how long has this property been intact? If this property has been apart of a subdivision please provide a devolution of title.

Thanks for submitting the proposed plan for our review, Donnell

Donnell T. Zeigler
Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Phone: 410.887.3480

Jacobs 3-3-10 Pet. Ex. 46

0027148 374

PETITIONER'S EXHIBIT NO. 5

Baltimore Maryland

THIS DEED made this 25th day of June, 2008 by and between Tracey Dowling, party of the first part, Grantor and Neal Jacobs, party of the second part, Grantee.

WITNESSETH, that in consideration of the sum Twenty Two Thousand Five Hundred dollars and Zero cents ($22,500.00) the actual consideration paid or to be paid, and other good and valuable considerations, receipt of which are hereby acknowledged, the said party of the first part does grant and convey to the said Neal Jacobs, as sole owner, his personal representatives and assigns, in fee simple, all that lot of ground situate in Baltimore County, Maryland and described as follows, that is to say:

Beginning for the same at a point of intersection of the northwest side of Molesworth Road with the division line between Lot 17 and Lot 16 as shown and laid out on a plat titled "Plat "A" Middletown Farms" and recorded among the Plat Records of Baltimore County in Plat Book E.H.K., Jr. No. 40 folio 39, thence leaving said Molesworth Road and running and binding on the North 26 degrees 27 minutes 29 seconds West 405.92 foot line of said Lot 17 which by a deed dated July 30, 2003 and recorded among the Land Records of Baltimore Count in Liber S.M. no. 19069 folio 9 was conveyed by Thomas J. Fiorello, sole owner to Tracey Dowling, sole owner, (1) North 26 degrees 45 minutes 03 seconds West, as the courses are now refereed to the Maryland Coordinated System NAD 83/91, 405.75 feet, thence running and binding on a part of the North 55 degrees 21 minutes 54 seconds West 232.36 feet division line between Lot 17 and Lot 16, (2) North 55 degrees 05 minutes 13 seconds East 8.08 feet, thence leaving said division line and running for a line of division, now made, through Lot 17 and running parallel with and distant 8.00 feet northeasterly measured at right angles, from the first line of this description, (3) South 26 degrees 45 minutes 03 seconds East 405.90 feet to the northwest side of said Molesworth Road as shown on said plat and thence running and binding on said northwest side of Molesworth Road and running and binding on a part of the south 63 degrees 32 minutes 31 seconds West 230.00 foot line of said Lot 17, (4) South 63 degrees 16 minutes 13 seconds West 8.00 feet to the place of beginning.

Containing 0.075 of an acre, more or less.

Being part of a parcel of land designated Lot 17 on "Plat "A" Middletown Fanns" which by a deed dated July 30, 2003 and recorded among the Land Records of Baltimore County in Liber S.M. No. 19069 folio 9 was conveyed by Thomas J. Fiorello, sole owner to Tracey Dowling, sole owner.

TOGETHER WITH the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said Neal Jacobs, as sole owner, his personal representatives and assigns, in fee simple.

AND the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property hereby granted; and that she will execute such further assurances of the same as may be requisite.

WITNESS the hand(s) and seal(s) of Grantor.

WITNESS:

_____ _____ (Seal)
Tracey Dowling, Grantor

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 25th day of June, 2008, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Tracey Dowling, known to me (or satisfactorily proven) to be person whose name is the subscribed to the within instrument, and acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires: _____

REVIEWED SDAT
BY DATE

Agricultural Transfer Tax
Not Applicable

Signature KCW Date 6/30/08

BA CIRCUIT COURT (Land Records) MSA CE 62-27005 0027148, p. 0374. Printed 11/07/2008.

Pet. Ex #5 3-3-10 Jacobs

This is to certify that the within instrument has been prepared (i) by or under or under the supervision of the undersigned Maryland attorney, or (ii) by a party to this instrument.

Gregory E. Fisher, Attorney

RETURN TO:

Hillside Title and Escrow, LLC
201 W. Padonia Road, Suite 300
Timonium, Maryland 21093
(410) 560-7406
File No. 6366

ASSESSED VALUE

PART OF PROPERTY # 1700010621	ACREAGE .075

	FCV	FCV	ASSESSMENT
LAND	600	1120	
IMP	0	0	
TOTAL	600	1120	600

ASSESSMENT OFFICE

NAME: KW DATE: 6/30/08

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

0027148 377

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only
(Type or Print in Black Ink Only - All Copies Must Be Legible)

IMP-FD SURE $ 20.00
RECORDING FEE 20.00
TR TAX STATE 112.50
TOTAL 152.50
Rest PAID Rcpt # 50115
SM BC Blk # 3618
Jun 30, 2008 03:16 pm

Space Reserved for Circuit Court Clerk Recording Violation

1 Type(s) of Instruments: X Deed; Deed of Trust; Mortgage; Lease; Other:

2 Conveyance Type Check Box: X Improved Sale; Unimproved Sale; Mult. Accounts; Not an Arms-Length Sale |9|. Arms-Length |1|; Arms-Length |2|; Arms-Length |3|

3 Tax Exemptions (if Applicable) Cite or Explain Authority: Recordation; State Transfer; County Transfer

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$22,500.00		
Any New Mortgage		Transfer Tax Consideration	$
Balance of Existing Mortgage		X ( )% =	$
Other		Less Exemption Amount -	$
		Total Transfer Tax =	$
Other		Recordation Tax Consideration	$
		X ( )% =	$
Full Cash Value		TOTAL DUE	$

5 Amount of Fees

	Doc 1	Doc 2	Agent
Recording Charge	20.00	20.00	
Surcharge	20.00	20.00	Tax Bill:
State Recordation Tax	$112.50	.00	
State Transfer Tax	$112.50	.00	C.B. Credit:
County Transfer Tax (if Applicable)	$337.50	.00	
Other			Ag. Tax/Other:
Other			

Paid SDAT 8/7/19

6 Description of Property

SDAT requires submission of all applicable information. A Maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	1700010621				

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	Sq. Ft./Acreage (4)
Molesworth					

Location/Address of Property Being Conveyed (2): 1204 Molesworth Rd., Baltimore County, MD 21120

Other Property Identifiers (if applicable) | Water Meter Account No.:

Residential ☒ or Non-Residential ☐ | Fee Simple ☒ or Ground Rent ☐ Amount:

Partial Conveyance? ☐ Yes ☒ No | Description/Amt. Of Sq. Ft./Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc 1: Grantor(s) Name(s)	Doc 2: Grantor(s) Name(s)
Tracey Dowling	Neal Jacobs
Doc 1: Owner(s) of Records, if Different from Grantor(s)	**Doc 2: Owner(s) of Record if Different from Grantor(s)**

8 Transferred To

Doc 1: Grantee(s) Names	Doc 2: Grantee(s) Name(s)
Neal Jacobs	

New Owner's (Grantee) Mailing Address: 1204 Molesworth Rd., Parkton, MD 21120

9 Other Names to be Indexed

Doc 1: Additional Names to be Indexed (Optional)	Doc 2: Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Courtney Frank
Firm: Hillside Title and Escrow, LLC
Address: 201 W. Padonia Road, Suite 300, Timonium, Maryland 21093
Phone: (410) 560-7406

X Return to Contact Person
☐ Hold for Pickup
X Return Address Provided

Space Reserved for County Validation

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

	Yes	X	No	Will the property being conveyed be the grantee's principal residence?
	Yes	X	No	Does transfer include personal property? If yes, identify:
	Yes	X	No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line

☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification

Transfer Number: | Date Received: | Deed Reference: | Assigned Property No.:

Ward	19	Geo	Map	Sub	Block		
Building		Zoning	Grid	Plat	Lot		
Condo		Use	Parcel	Section	Occ Cd		
REMARKS		Town Cd	Ex/Sl	Ex Cd			

Distribution: Clerk's Office; BUSINESS: SDAT; Office of Finance

ACTUAL TIME 6/30/2008 14:52:17

DUPLICATE PAID RECEIPT

2nd Minor Subdivision Review

E copy

RECEIVED
NOV 1 - 2007
DEVELOPMENT COORDINATION

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

SWM

TO: GERHOLD CROSS & ETZEL

DATE: 11/14/07*

Pet 6A

TO: DEPRM–Development Coordination (David Lykens/Jeff Livingston)
GWM (Dan Esser)
Agric. Pres. (Wally Lippincott)
SWM (Al Wirth/Ed Schmaus)
EIR (Pat Farr/~~Glenn Shaffer~~/Paul Dennis)
DPW – Solid Waste Management (Steven Makowski)
Fire Dept. (Special Projects Officer)
OPCC - Development Review (Lynn Lanham/Curtis Murray)
PDM - House Numbers & Street Names (Janice Kemp)
Development Plans Review (Dennis Kennedy/David Derickson)
Land Acquisition (Steve Houk)
Zoning Review (Jeffrey Perlow)
Rec & Parks (Jan Cook/Bruce Gill)
SHA (Mike Bailey)
Bell Atlantic (B. Seiss)

NOV 16 2007

A-0659-H1

FROM: Jeffrey Perlow, Planner
Zoning Review, PDM

SUBJECT: **2nd Minor Subdivision Review**
Minor Subdivision Name: JACOBS PROPERTY
Minor Subdivision Number: 07-041-M Election District: _____
Engineer: GERHOLD, CROSS & ETZEL Phone No.: 410-823-4470

ACTION: Please review the attached plan for compliance with the current regulations and **return comments to this office by** NOVEMBER 30, 2007 *If you have no comments or do not need to review this plan, please indicate by placing your initials_____and date___/___/___here.*
(IF APPROVED, PLEASE RESPOND IN DUPLICATE!!)

Please initial here if your agency requests Land Acquisition to acquire:

_____ HIGHWAY WIDENING	_____ FOREST BUFFER
_____ GREENWAY	_____ FLOODPLAIN
_____ DRAIN/UTILITY EASEMENT	_____ PUBLIC WORKS AGREEMENT
_____ FOREST CONSERVATION	_____ NONE OF THE ABOVE

COMMENTS:
12/14/07 STORMWATER MANAGEMENT MUST BE ADDRESSED IN ACCORDANCE WITH OUR MARCH 27, 2007 LETTER. SWM CAN NOT APPROVE THIS MINOR SUBDIVISION YET.
Edward Schmaus
5/12/08 The stormwater management Fee-in-lieu has been payed so SWM can approve this minor subdivision.
Edward Schmaus

JNP – Revised 8/29/2006

Pet. Ex # 6a 3-9-10 Jacobs

Pet 6B

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

DAVID A.C. CARROLL, *Director*
Department of Environmental Protection and Resource Management
410 887-3768
FAX 410 887-4804

Storm Water Engineering

February 13, 2008

Mr. Mike Alexander
Gerhold, Cross & Etzel, Ltd.
320 E. Towsontown Blvd., Ste. 100
Towson, Maryland 21286

RE: JACOBS PROPERTY
Stormwater Management Fee-in-Lieu,
Loch Raven Watershed
Project I.D. A065941
DEPRM Tracking # 03-08-554

Dear Mr. Alexander:

This office has reviewed the information submitted and finds that a variance can be granted for this project under Section 33-4-113 of the Baltimore County Code. This section of the regulations allows a stormwater management variance to be granted if there were exceptional circumstances such that strict adherence to the provisions of this article would result in unreasonable hardship or practical difficulty and not fulfill the intent of this article. In approving the variance, the following conditions must be met.

1. All runoff must be conveyed to a suitable outfall without imposing an adverse impact on the receiving waterbody, watercourse, wetland, storm drain or adjacent property.
2. The total area of land disturbance must be noted on the plan, limits of disturbance must be shown on the plan.
3. As much as possible, impervious areas should be conveyed as sheet flow through vegetated areas without concentrating or causing erosion.
4. House down spouts should be discharged onto pervious areas where feasible.
5. Additional subdivision on these parcels and/or lots will require stormwater management controls for this site and the additional subdivision.
6. A payment shall be made to the Stormwater Management Fund in the amount of $4,000 or $40,000 per on-site impervious acre, in this case, 0.10 acres. This payment shall be made prior to a minor sub approval. This is the rate for residential properties outside the Priority Funding Area and Urban Rural Demarcation Line. This represents the impervious areas not being treated by stormwater management credits. The payment should be in the form of a check payable to Baltimore County Maryland and should be submitted to the Finance and Administration Section of this Department.

Should there be further questions, please contact Edward Schmaus at 410 887-3768.

Very truly yours,

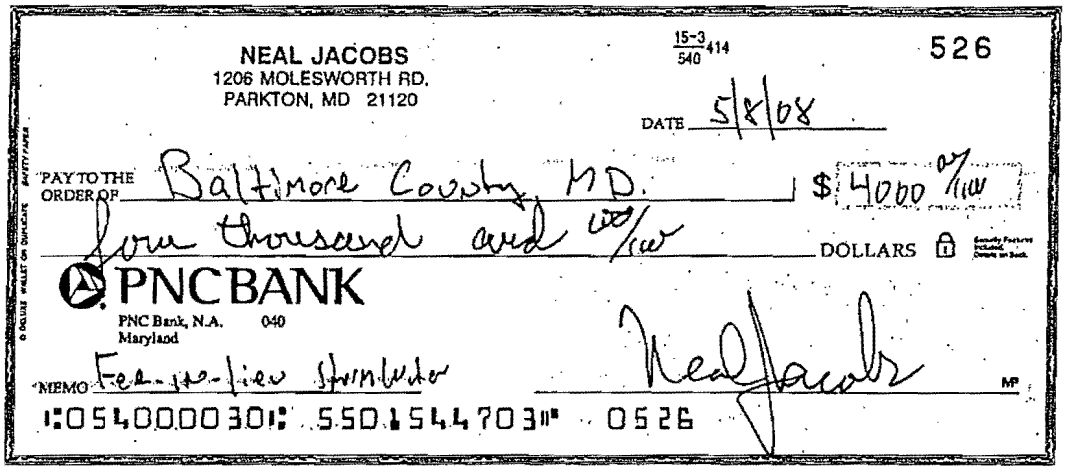
Thomas L. Vidmar

Thomas L. Vidmar, PE, Deputy Director
Department of Environmental Protection and Resource Management

TLV:pms
c: Finance and Administration Section
jacobs

Pet. Ex #6B 3-3-10 Jacobs

Ret
GC



NEAL JACOBS
1206 MOLESWORTH RD.
PARKTON, MD 21120

15-3/540 414

526

DATE 5/8/08

PAY TO THE ORDER OF Baltimore County, MD. $ 4000 00/100

four thousand and 00/100 DOLLARS

PNC BANK
PNC Bank, N.A. 040
Maryland

MEMO Fee-in-lieu Stormwater

Neal Jacobs

1:054000030: 5501544703" 0526

Pet. Ex #6 C 3-3-10 Jacobs

Pet 7 A

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

August 14, 2007

Mr. Eric Vangrin
Human & Rohde, Inc
512 Virginia Avenue
Towson, Maryland 21286

Re: Jacobs Property
1206 Molesworth Road
Forest Conservation Retention Bank Request

Dear Mr. Vangrin:

A request to purchase 0.4 acres of credit in a DEPRM-approved offsite Forest Conservation forest retention bank in lieu of planting was received by this Department on June 21, 2007. We have reviewed this request, and acknowledge that in this case, greater resource protection will be achieved through the use of the retention bank rather than through planting, and that no priority planting area exists on the site. Therefore, your request is hereby approved, in accordance with provisions of the Forest Conservation Regulations.

It is the development project applicant's responsibility to contact the bank owners and to make the arrangements for the purchase of credits. Please follow the instructions below. Proof of payment must be received by this Department prior to the approval of the grading plan or minor subdivision plan, whichever is applicable.

Available offsite forest retention banks from which you may choose, and contacts for the banks, are listed below:

Retention Bank	Contact Person	Phone No.
Leonard Property	Marty O'Neill	410-329-6755
White House Farm	Pattianne Smith	410-879-4735
Miller Lane Farm	Scott McGill or Jim Morris	410-692-7500

The choice of which bank to use is up to the development project applicant. Additionally, negotiations regarding the price to be paid to use a bank are between the development project applicant and the bank owner, and do not involve the County.

Pet. Ex #7A 8-3-10 Jacobs

Once the development project applicant has decided on which bank to use and has paid the bank owner, please have the bank owner sign the statement below verifying receipt of payment. Please also have the development project applicant sign the letter, acknowledging that he/she has paid the bank owner. The entire, original signed letter must then be returned to Environmental Impact Review of this Department to obtain final forest conservation approval for the development project.

Please be advised that paying money to the bank owner does not convey any rights upon the development project applicant to utilize the bank property. This includes, but is not limited to, a right of access to the bank property. Please be further advised that failure to return the signed letter in a timely fashion may result in delays in processing of future development plans for the subject project.

If you have any questions, please contact Thomas Panzarella of Environmental Impact Review at 410-887-3980.

Sincerely,

Regina A. Esslinger, Supervisor
Environmental Impact Review

****

I/We hereby grant permission to Neal Jacobs to use 0.4 acres of the Ranarivan Farm forest retention bank, and verify that I/We have received full payment for this purpose.

5/13/08

Retention Bank Owner Date Retention Bank Owner Date

****

I/We hereby certify that I/We paid the above bank owner for use of 0.4 acres of the _____ forest retention bank, in order to comply with conditions of this Forest Conservation approval letter.

5/8/08

Development Project Applicant Date Development Project Applicant Date

****

jacobsFCBANK.doc/sheir/jomP

Def. Ex. # 78 3-3-10 Jacobs

NEAL JACOBS
1206 MOLESWORTH RD.
PARKTON, MD 21120

15-3/540 414

528

DATE 5/8/08

PAY TO THE ORDER OF Ramarion LLC. $ 4704 48/100

Four thousand seven hundred four and 48/100 DOLLARS

PNC BANK
PNC Bank, N.A. 040
Maryland

MEMO

Neal Jacobs

MP

⑆054000030⑆ 5501544703⑈ 0528

Pltf 75

Pet No 8

CZMP 2008 - Sign Location Map
Holding Number: 646/Issue Number: 3-094



ADC Reference Grid: 6K3

Publication Date: October 30, 2007
Publication Agency: Office of Planning
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

1,000 0 1,000 Feet

1 inch equals 1,000 feet

N
W E
S

Pet. Ex #8 3-3-10 Jacobs

ZONING RECLASSIFICATION ROUGH LOG- Cycle 1, April To October 2009

(2)

PROPERTY OWNER	HOWARD LINTZ							ATTORNEY/OWNER	GILDEA + SCHMIDT, LLC (SEBASTIAN A. CROSS		
CONTRACT PURCHASER	N/A							ADDRESS	600 WASHINGTON AVE., SUITE 200		
LOCATION	E/S JARRETTSVILLE PIKE 244'± S OF C/L SOUTHSIDE AVE. (14345 JARRETTSVILLE PIKE)							CITY/STATE/ZIP	TOWSON, MD 21204		
EXISTING ZONING	R.C.5	ELECTION D.	10	COUNCIL D.	3	ACRES REQUESTED	1.42	PHONE	410-821-0070		
PROPOSED ZONING	R.O.-C.R. AND R.C.5-C.R.							OPEN PLAN	✓	DOCUMENTED		FEE PAID	575.00	BY	WCR
R-2009-0270											DATE	2/27/09

(1)

PROPERTY OWNER	NEAL JACOBS							ATTORNEY/OWNER	GILDEA + SCHMIDT, LLC (LAWRENCE E. SCHMIDT		
CONTRACT PURCHASER	N/A							ADDRESS	600 WASHINGTON AVE., SUITE 200		
LOCATION	N/S MOLESWORTH RD. 1,645'± E OF ARMACOST RD. (1206 MOLESWORTH RD)							CITY/STATE/ZIP	TOWSON, MD 21204		
EXISTING ZONING	R.C.7	ELECTION D.	6	COUNCIL D.	3	ACRES REQUESTED	5.912	PHONE	410-821-0070		
PROPOSED ZONING	R.C.4 Remove w/c #14 and provide elevations / Ex+Prop. zoning on plat.							OPEN PLAN		DOCUMENTED	✓	FEE PAID	575.00	BY	WCR
CR-2009-0269 w/c #17 "prior to final sub. approval"								See Minor Sub #07-041M						DATE	2/27/09

PROPERTY OWNER	~~Exhibit~~ Attach							ATTORNEY/OWNER			
CONTRACT PURCHASER								ADDRESS			
LOCATION								CITY/STATE/ZIP			
EXISTING ZONING		ELECTION D.		COUNCIL D.		ACRES REQUESTED		PHONE			
PROPOSED ZONING								OPEN PLAN		DOCUMENTED		FEE PAID		BY	
											DATE	

PROPERTY OWNER								ATTORNEY/OWNER			
CONTRACT PURCHASER								ADDRESS			
LOCATION								CITY/STATE/ZIP			
EXISTING ZONING		ELECTION D.		COUNCIL D.		ACRES REQUESTED		PHONE			
PROPOSED ZONING	Ret. Ex #9 3-3-10 Jacob							OPEN PLAN		DOCUMENTED		FEE PAID		BY	
											DATE	

Minutes
June 18, 2009

Call to order, introduction of Board members, pledge of allegiance to the Flag, and announcements

Chair Mr. Edward Gilliss called the regularly scheduled meeting of the Baltimore County Planning Board to order at 4:03 p.m. The following Board members were:

Present	Absent
Dr. Robert Gregory	Mr. Robert J. Palmer
Mr. Wayne C. McGinnis	Ms. Nellie Grinage
Mr. Dennis P. Hoover	
Ms. Dorothy Foos (4:10 p.m.)	
Mr. William Moore	
Mr. Dean Hoover	
Mr. Gordon K. Harden, Jr.	
Mr. Adam T. Sampson	
Mr. Gerard Wit (4:35 p.m.)	
Mr. H. Edward Parker	
Mr. Paul Miller	
Mr. Aaron Dock	

County staff present included Pat Keller, Jeff Long, Curtis Murray, Barbara Weaver, Krystle Patchak, Lynn Lanham, Jeff Mayhew, Jen Nugent, and Jessie Bialek from the Office of Planning.

Review of today's Agenda

The agenda was revised, deleting the Plinlimmon PUD scheduled as "Items for Further Discussion." The revised agenda of the June 18, 2009 meeting is filed as Appendix A.

Minutes of the June 4, 2009 meeting

Mr. Dennis Hoover moved the acceptance of the minutes of the June 4, 2009 meeting as published. The motion was seconded by Mr. Ed Parker and passed unanimously at 4:06 p.m. Absent were Messrs. Palmer, Wit, Ms. Grinage and Ms. Foos. A copy of the approved Minutes of the June 4, 2009 meeting is filed as Appendix B.

Items for Introduction

1. Request for a Planned Unit Development, (PUD), PDM No. XIV-472, known as Brandywine.

Re T-Ex #10 3-3-10 Jacob

Ms. Nugent introduced the request for a Planned Unit Development (PUD) known as Brandywine, located in the 6th Councilmanic District, E/S Kenwood Avenue @ NE corner Delegge Road. The applicant proposes a Planned Unit Development (PUD) of 72 residential townhouse units on 7.44 acres of land zoned BL, BLR, DR 3.5 and DR 5.5. The PUD will take advantage of the DR 16 density zoning allowed for PUDs.

The County Council found the site eligible for County review, and by the adoption of Resolution No. 65-08 approved the continued review of the PUD in accordance with Section 32-4-242. A Pre-Concept Plan Conference was held on September 30, 2008, a Concept Plan Conference on January 12, 2009, and a Community Input Meeting on February 18, 2009. The County Council passed Resolution 31-09 amending the community benefit on June 1, 2009 from contribution funds to Franklin Square Hospital to contributing $1000 per unit to improvements to the existing Rosedale Park.

As detailed in the Report of the Planning Staff, which is filed as Appendix C, (and also available on line at **www.baltimorecountymd.gov/agencies/planning/PUD/index.html**), the proposed PUD:

- Will provide a community benefit by providing improvements to Rosedale Park
- Is in keeping with the Master Plan 2010's urban strategy
- Is compatible with the eight objectives as spelled out in Section 32-4-402 of The Baltimore County Code
- The five Modifications of Standards, which focus primarily on setbacks, allow for redevelopment design that meets the goals of the Master Plan, allows the housing types desired by the Community and is compatible to the neighborhood.
- There were no agency comments that would prohibit proceeding. However, DEPRM has not completed its stormwater management evaluation at this point. Their report is expected at the next meeting.

The Planning Staff recommends approval with conditions, which are also spelled out under Recommendations in the Staff Report filed as Appendix C and on line. A Public Hearing is scheduled for July 2, 2009.

Questions raised included:

- What is the expected sale price for the homes?
- Regarding the Community Benefit: What specific use is expected for the funds?

Mr. Joseph Leake, who resides in Greenview Park, Rosedale, and had attended the Community Input Meeting, expressed his opposition to the Board regarding the Brandywine PUD based on (1) overcrowding of current Shady Spring school and (2) increased traffic. As an alternative, Mr. Leake suggested the creation of a music-theater Park on the proposed PUD site.

2. Request for Cycle I Zoning Reclassifications:

   a. 14345 Jarrettsville Pike, Case No. R-2009-0270

Lawrence E. Schmidt, Esquire, representing the Petitioner, Howard Lintz, outlined the specifics of the request to reclassify the site from RC 5 to RO-CR and RC 5-CR. Using a projected map, Mr. Schmidt pointed out the property in question which is improved with three existing single-family detached dwellings, close to the road. Only one is currently being used as an office, the other two are vacant. Behind the structures are spaces for parking and an open field. The zoning change was requested first during the 2008 Comprehensive Map Zoning Process (CZMP). Planning recommended a split zoning with RO-CR in the front where the buildings are located and RC 5-CR in the rear. The County Council left the zoning at RC 5. Planning concurs with the Petitioner in his request for reclassification, and would support the request with the submission of a documented site plan. Ms. Bialek, 3rd District Community Planner, explained the cycle zoning process, which occurs between the Comprehensive Zoning Map Process that is scheduled every 4 years.

b. 1206 Molesworth Road, Case No. CR-2009-0269

Lawrence E. Schmidt, Esquire, presented the Petition for property owner Neal Jacobs for reclassification of property currently zoned RC 7 to RC 4. A panhandle driveway off Molesworth Road accesses the property. In recounting the zoning history of the property, Mr. Schmidt noted that the property was rezoned from RC 5 to RC 4 in the 2004 CZMP. It was again rezoned from RC 4 to RC 7 in the 2008 CZMP. The Petitioner was in the midst of the process of recording a minor subdivision in 2008 and was unaware that there was also a CZMP issue going forward at the same time. Under the circumstances, the Petitioner feels it is appropriate that he be allowed to move forward and present his case to the Board of Appeals. Ms. Bialek noted that the Planning Office recommends that the Petitioner be allowed to move forward.

Board Member Mr. Miller suggested that postings for properties being considered for a zoning change be displayed more prominently.

Copies of the Petitions, illustrative maps, and a copy of the PowerPoint are filed as Appendix D.

Item for further deliberation and vote

3. Request for Planned Unit Development (PUD). PDM # XII-153, known as Yorkway

Dr. Gregory moved that the Baltimore County Planning Board as a result of the inter-agency and public comments on the proposed Yorkway Redevelopment Planned Unit Development (PUD), PDM # XII-153, recommendations from the Office of Planning, input from the public hearing on June 4, 2009 and further deliberations on June 18, 2009, APPROVE the PUD and the requested Modifications of Standards as fully articulated in the Baltimore County Planned Unit Development Approval document (DRAFT) for Yorkway Redevelopment in accordance with Section 32-4-245 of the Baltimore County Code (see attached). Mr. Parker seconded the Motion.

Mr. Dean Hoover recused himself from the deliberation and vote.

Discussion by the Planning Board suggested the following additions and clarifications to the Approval Form:

- Clarify: That community resident Christine Ames who lives directly across from the proposed development in the 2600 block of Yorkway, between Leeway and Kentway, asks to modify the PUD design to show rear load garages in that block as there is a viable alley to accommodate. Furthermore, this would make the narrow street safer and relieve parking congestion.
- Correct omission: On Page 9, Modification # 8, the lot numbers should read "18 and 46."
- The community benefit, as indicated in Resolution No. 9-09, will provide improvements to Heritage Park, which serves the greater Dundalk community.

The Motion was voted on at 5:20 p.m. and passed unanimously. Absent were Mr. Palmer and Ms. Grinage.

Other comments by Board members and staff:

- It is the Board's prerogative is to amend the draft of the Approval Document.
- Recommendations in the Approval Form are the same as in the Staff Report
- The Draft Approval Form in anticipation of a vote should be expected 2 weeks prior to the vote.
- Mr. Dean Hoover suggested that the Planning Office get assistance from the Office of Law in preparing the Approval Document.
- Mr. Long commented that the individual attorneys on the PUD's have been most helpful.
- Mr. Parker commends the preparation and sophistication of the communities' input.

A copy of the Draft Approval Form, Resolution 9-09 and additional written comments are filed as Appendix E.

Other Business

4. Report of the Landmarks Preservation Commission Meeting of June 11, 2009

Mr. Dean Hoover referred the Board to the Report of the Landmarks Preservation Commission which contained the highlights of major issues addressed at the June 11, 2009 meeting. The report is filed as Appendix F.

Adjournment of the Board meeting

Dr. Gregory moved the adjournment of the Board meeting. The Motion was seconded by Mr. Parker and passed unanimously at 5:26 p.m. Absent were Mr. Palmer and Ms. Grinage.

bw Approved 7/2/09

MINUTES
Baltimore County Planning Board Meeting
and Public Hearing
Regarding the Request for a Planned Unit Development
known as Brandywine, PDM # XIV-472
July 2, 2009

Contents

Call to order, introduction of Board members, pledge of allegiance to the Flag, and announcements

Review of today's Agenda

Minutes of the June 18, 2009 meeting

Public Hearing**
by the
Baltimore County Planning Board
4 p.m.
Edward J. Gilliss, Chairman

Call to order, introduction of Board members, and remarks on procedures by Chairman

Request for Planned Unit Development, (PUD),
known as Brandywine, PDM # XIV-472

**Comments by citizens

Adjournment of Public Hearing

Items for Introduction

1. The Overlea-Fullerton Community Plan
2. Water and Sewerage Plan, Cycle 27
3. Legislation: Wind Turbines

Item for Community Input, Further Discussion and Vote

** 4. Cycle I Reclassification

Jacob
Pet. Ex #11 3-3-10

a. 14345 Jarrettsville Pike, Case No. R-2009-0270
b. 1206 Molesworth Road, Case No. CR-2009-0269

Adjournment of the Board meeting

Appendices

Appendix A	Tentative Agenda
Appendix B	Approved Minutes of the June 18, 2009 meeting
Appendix C	Plinlimmon Farm, PDM # II-739, Pattern Book, Revised June 2009, and Staff Recommendations PUD Findings
Appendix D	Cycle 1 Zoning Reclassification
Appendix E	Request for Planned Unit Development (PUD) PDM # XIV-472
Appendix F	The Overlea/Fullerton Community Plan
Appendix G	Water and Sewerage Plan, Cycle 27
Appendix H	Wind Turbines – Draft Proposed Amendments to the BCZR regarding wind turbines on residential property

Minutes
July 2, 2009

Call to order, introduction of Board members, pledge of allegiance to the Flag, and announcements

Chair Edward J. Gilliss called the regularly scheduled meeting of the Baltimore County Planning Board to order at 4:00 p.m. The following members were:

Present	Absent
Mr. Paul Miller	Mr. Aaron Dock
Mr. Wayne C. McGinnis	Mr. Dennis Hoover
Mr. Dean Hoover	
Mr. Gerard Wit (arrived 4:15 p.m.)	
Ms. Dorothy Foos	
Mr. William Moore	
Ms. Nellie Grinage	
Dr. Robert Gregory (arrived 4:37 p.m.)	
Mr. Robert J. Palmer	
Mr. Adam T. Sampson	
Mr. Edward Parker	
Mr. Gordon K. Harden, Jr. (left 4:15 p.m.)	

County staff present included Pat Keller, Curtis Murray, Barbara Weaver, Krystle Patchak, Jeff Mayhew, Lynn Lanham, Jen Nugent, Laurie Hay, Kathy Schlabach, and Lloyd Moxley from the Office of Planning.

Review of today's Agenda

There were no changes to the Tentative Agenda as published, which is filed as Appendix A. However, it was noted that the Cycle I Zoning Reclassification issue would be the first item of business.

Minutes of the June 18, 2009 meeting

Mr. Parker moved to accept the Minutes of the June 18, 2009 meeting as prepared. The Motion was seconded by Ms. Grinage and passed unanimously at 4:02 p.m. Absent were Mr. Dock, Mr. Wit, Mr. Dennis Hoover and Dr. Gregory. A copy of the approved Minutes of the June 18, 2009 meeting is filed as Appendix B.

JACOBS / MOLESWORTH

Announcement

Mr. Lloyd Moxley noted for the record that the Pattern Book for Plinlimmon Farm (Revised June 2009) was provided to each member along with the Draft Staff Recommendations Planned Unit Development Findings PDM # II-739. He pointed out that the modification of standards language on page H-2 was not accurate and directed attention to the modifications as detailed in the Staff Report. Copies of the Revised Pattern Book and Draft Staff Recommendations are filed as Appendix C.

Item for Community Input, Further Discussion and Vote

1. Cycle I Reclassification
   a. 14345 Jarrettsville Pike, Case No. R-2009-0270

Mr. Miller moved approval of the Petitioner Lintz' request for split zoning of the property located at 14345 Jarrettsville Pike to RO-CR in the front where the buildings are located and RC 5-CR to the rear provided a documented site plan is submitted. Mr. Parker seconded the Motion. The Motion passed unanimously at 4:05 p.m. Absent were Mr. Dock, Mr. Wit, Mr. Dennis Hoover and Dr. Gregory.

   b. 1206 Molesworth Road, Case No. CR-2009-0269

Mr. Harden moved that Petitioner Mr. Neal Jacobs, whose property is located at 1206 Molesworth Road, be permitted to proceed with the reclassification process before the Board of Appeals. Mr. Parker seconded the Motion. Mr. McGinnis noted that this request was part of a large 2008 CZMP issue. He opposes this Petition. Mr. Harden expressed concern that the property owner had already paid non-refundable fees to the County and was unaware of the CZMP issue affecting his property. The Motion to approve the Petition was passed by a majority vote at 4:15 p.m. Mr. McGinnis and Mr. Miller voted against the motion. Absent were Mr. Dock, Mr. Dennis Hoover and Dr. Gregory. Copies of the Petitions for Reclassification are filed as Appendix D.

Mr. Dean Hoover moved to suspend the meeting for the Public Hearing. The Motion was seconded by Ms. Foos and passed unanimously at 4:16 p.m. Absent were Mr. Dock, Mr. Dennis Hoover and Dr. Gregory.

* *

Public Hearing
Baltimore County Planning Board
Edward J. Gilliss, Chairman

Call to order, introduction of Board members, and remarks on procedures by Chairman

Brandywine, PUD, PDM # XIV-472

Chairman Edward Gilliss convened the Public Hearing at 4:17 p.m., for the Planned Unit Development (PUD) known as Brandywine, PDM # XIV-472. G. Scott Barhight,

Esquire, representing the developer, Iron Horse Properties, spoke about the qualifications and experience of the development team responsible for the PUD, which is located in the 6th Councilmanic district, at E/S Kenwood Ave @ NE corner Delegge Road. Mr. David Martin presented the PUD, describing its location in the greater community and outlining specifics of the project, which was first introduced to the Planning Board by Planning Staff on June 18, 2009. The PUD proposes 72 townhouse units on 7.44 acres of land. Thirty-seven are rear-loaded garage units; thirty-five are front-loaded. Additional parallel parking in recessed bays on the street will be available for visitors. Mr. Barhight presented additional information concerning "the community benefit." The original Resolution No. 65-08 directed the community benefit funds of $1,000 per unit to Franklin Square Hospital. However, Resolution No. 31-09 amended the community benefit to direct the funds to effect improvements to Rosedale Park, including upgrading parking and repairing soil erosion.

Mr. Moore, Board Member, commented that he understood that the expectation of the PUD process was to have a higher quality development, and questioned whether the building materials were of high quality. In response, using illustrations, Mr. Martin identified the mixture of treatments, color, and overall site design that demonstrate added quality. Mr. Moore also inquired of the limited green space, much of which is used for stormwater management. Mr. Wit, Board Member, inquired about the sale price of the homes. He was advised that the homes would be priced in the mid to high $200,000's. It was noted that the school analysis indicated the development would not trigger a school moratorium.

Comments by citizens

Mr. Joseph Leake, who resides in Greenview Park, Rosedale, expressed his concern about increased traffic and the impact of the proposed development on local schools, which are already over capacity. Instead of the PUD, Mr. Leake would like to see a park located on the site—possibly one with a focus on theater. Planning Staff will address the school issue.

Adjournment of Public Hearing

The public hearing was concluded at 4:56 p.m

* * * *

A copy of the draft Overlea-Fullerton Community Plan, Approaches for the Future, May 5, 2009, is filed as Appendix F.

3. Water and Sewerage Plan, Amendments, Cycle 27

Mr. Jeff Mayhew, Chief, Community Planning, presented this matter in the stead of Mr. David Thomas, Deputy Director, Department of Public Works, and requested that the Planning Board schedule a public hearing for July 16, 2009. Staff will present details at the time of the Public Hearing. Mr. Parker moved that a Public Hearing be scheduled for July 16, 2009 regarding Water and Sewerage Plan, Amendments, Cycle 27. Ms. Foos seconded the Motion, which passed unanimously at 5:03 p.m. A copy of the proposed amendments is filed as Appendix G.

4. Legislation: Wind Turbines

Ms. Kathy Schlabach, Chief, Strategic Planning, introduced the draft of proposed Amendments to the Baltimore County Zoning Regulations Regarding Small Wind Energy Systems, dated June 22, 2009. On July 7, 2008, the Baltimore County Council passed Resolution 52-08, which requested that the Planning Board propose amendments to the zoning regulations in order to regulate the location and use of wind turbines for residential energy use. At the request of the Planning Board, the Office of Planning has proposed amendments to the zoning regulations per the Report; filed as Appendix H. A copy of the draft Report is on the County website. Mr. Gilliss advised that the Board has established an ad hoc committee with Mr. Sampson, as Chair and Mr. McGinnis, Mr. Moore, Mr. Dean Hoover, and Mr. Parker as committee members. The committee's task is to review the draft Report and make a presentation to the full Board. Thereafter, a decision on scheduling a public hearing will be made.

Mr. Parker moved the adjournment of the July 2, 2009 meeting of the Baltimore County Planning Board. Mr. Miller seconded the Motion, which passed unanimously at 5:16 p.m. Absent were Mr. Harden, Mr. Dock, and Mr. Dennis Hoover.

bw

Approved 7/16/09

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

ARNOLD F. 'PAT' KELLER, III
Director, Office of Planning

TO: Members
Baltimore County Planning Board

DATE: June 18, 2009

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

In the current cycle, the Baltimore County Board of Appeals accepted two reclassification petitions. The petitions include 14345 Jarrettsville Pike, Case No. R-2009-0270 and 1206 Molesworth Road, Case No. CR-2009-0269. In compliance with the Baltimore County Code, recommendations on the petitions are submitted in the attached report.

The Planning Board is scheduled to review the petitions on June 18, 2009, and to make final recommendations on July 2, 2009. The Planning Board's report must be submitted to the Baltimore County Board of Appeals no later than July 31, 2009.

The Board of Appeals has tentatively scheduled hearing dates on these petitions and will advertise these hearings as required. Hearings are set to take place during the period from September 1, 2009 through December 31, 2009.

AFK:JM:lsn

Attachment

c: Hon. T. Bryan McIntire, 3rd District Councilman
Jessie Bialek, 3rd District Planner, Office of Planning

Jacob
Ret. Ex #12 3-3-10

105 West Chesapeake Avenue, Suite 101 | Towson, Maryland 21204 | Phone: 410-887-3211 | Fax: 410-887-5862
planning@baltimorecountymd.gov www.baltimorecountymd.gov

REPORT BY THE
BALTIMORE COUNTY
OFFICE OF PLANNING
TO THE
BALTIMORE COUNTY
PLANNING BOARD

ZONING RECLASSIFICATION PETITIONS

CYCLE I, 2009

JULY 31, 2009

Introduction

Under the provisions of Section 32-3-305(d) of the Baltimore County Code, the Director of Planning is required to submit to the Planning Board, during Period 1 of each zoning cycle, a report on the petitions accepted by the County Board of Appeals for filing during the previous zoning cycle. The report is to contain the following information:

1. Maps showing properties under petition and the reclassifications sought therefore; such maps may also identify groups of such properties located close to each other and show indications of the inter-relation of petitions with respect to planning considerations.

2. Recommendations on the petitions.

3. Supporting data for the recommendations, including any pertinent data and recommendations submitted by other County agencies.

4. Recommendations for scheduling of all hearings (to be held during the next Period IV, prepared in consultation with the County Board of Appeals).

The following pages report the Office of Planning's analysis and recommendations. The process of formulating these recommendations included staff inspections of each site; a review of the policies and statements in the current Baltimore County Master Plan, and a review of the 2008 Comprehensive Zoning Map Process.

In reaching its decision on each petition, the Board of Appeals is required to use the standards in Section 32-3-510 of the Baltimore County Code. During the first year following the Comprehensive Zoning Map Process, Section 32-3-510(b) further limits the Board's authority to granting reclassifications.

Zoning Reclassification Report
1206 Molesworth Road

CASE NO:

CR-2009-0269

PETITIONER:

Neal Jacobs

REQUESTED ACTION:

Reclassification to RC 4

EXISTING ZONING:

RC 7

LOCATION:

1206 Molesworth Road, north side of Molesworth Road, east of Armacost Road

AREA OF SITE:

5.91 acres

ZONING/USE OF ADJACENT PROPERTIES:

North:	RC 7	Single family detached dwelling
South:	RC 4	Single family detached dwelling
East:	RC 4	Single family detached dwelling
West:	RC 7	Single family detached dwelling

SITE DESCRIPTION:

The property is improved with one existing single-family detached dwelling located in the southwestern quadrant of the property. There is parking area in the front of the dwelling and two sheds on the northwestern side of the property. There is also a small pond in the rear of the property. The rest of the property is wooded and vacant. A panhandle driveway that intersects with Molesworth Road accesses the property to the south of the dwelling.

PROPERTIES IN THE VICINITY:

The surrounding community is a mostly rural residential with a few parcels that are still vacant. The surrounding adjacent properties to the north, south, east, and west are single-family detached dwellings, mostly on lots of 3 acres or less. The Petitioner's lot is one of the larger ones in the community as well as the adjacent property to the west. The properties to the south and east are zoned RC 4 and the properties to the north and west are zoned RC 7.

WATER AND SEWERAGE:

W-7, S-7 The property is not served by public water and sewerage.

TRAFFIC AND ROADS:

The property is located on the northern side of Molesworth Road. And is accessed by a panhandle driveway.

ZONING HISTORY:

The property was rezoned from RC 5 to RC 4 in the 2004 Comprehensive Zoning Map Process (CZMP), Issue number 3-124. It was again rezoned from RC 4 to RC 7 in the 2008 CZMP, Issue number 3-094.

MASTER PLAN/COMMUNITY PLAN:

The Baltimore County Master Plan 2010 shows the proposed land use as single family detached rural. There are no community plans for this area.

PROPOSED vs. EXISTING ZONING:

The RC 7 zone is a resource preservation zone that allows a 1 acre minimum lot size and a maximum density of 0.04 dwelling units per acre. In other words, there can be 1 lot per 25 acres and tracts less than 50 acres cannot be subdivided. The purpose of this zone is to protect and preserve valuable cultural, historical, recreational, and environmental resources through a low-density rural zone. Generally by right this zone permits single family detached dwellings, farms, and a farm roadside stand. The RC 7 zone also allows for other uses through the special exception process such as an antique shop, bed and breakfast, winery, and church. Churches however are only permitted on property that was appropriately zoned before being zoned RC 7. This zone may not be applied to current RC 2 zoned land and all development in this zone is subject to performance standards that include architectural review.

The RC 4 zone is a watershed protection zone that allows a 3 acre minimum lot size or a 1 acre minimum lot size for cluster subdivisions with a maximum density of 0.2 dwelling units per acre for the 1 acre minimum and 0.1 for the 3 acre minimum. The purpose of the RC 4 zoning classification is to provide for the protection of the water supplies of metropolitan Baltimore by preventing contamination through unsuitable types or levels of development in the watersheds. Generally by right this zone permits single-family detached dwellings and farms. The RC 4 zone also allows for other uses through the special exception process such as an antique shop, church, golf course/country club, or landscape operation. Residential development in this zone requires the allocation of an unbuildable area (conservancy area) of 70% of the tract acreage. The 70% shall include forest stands, farm fields, steep slopes, and/or wetlands.

DOCUMENTED PLAN:

The petitioner submitted a documented site plan.

OFFICE OF PLANNING RECOMMENDATIONS:

It is incumbent upon the Petitioner to prove that the County Council made an error when the maps were last adopted. The development review section of the Office of Planning was in the process of reviewing the minor subdivision plan, which is the same as the documented site plan. The last set of comments were sent to the Petitioner's engineer on September 10, 2008.

Those comments are shown on the documented site plan and were addressed. This Office was prepared to approve the project before it was discovered that the property had been re-zoned during the 2008 CZMP. The Petitioner should be allowed to move forward and make its case at the Board of Appeals.

CR-2009-0269



Map prepared by:
Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD
21204

N

0 100 200 400
Feet

BALTIMORE COUNTY, MARYLAND

MEMORANDUM

TO: Lawrence S. Wescott
Chairman, Board of Appeals

DATE: July 13, 2009

FROM: Arnold F. 'Pat' Keller, III
Secretary to the Planning Board

SUBJECT: Cycle I Zoning Reclassification Petition – 1206 Molesworth Road, (Case CR- 2009-0269), Council District 3, Neal Jacobs, property owner

A Petition for Reclassification was filed with the Department of Permits and Development Management and forwarded to the Office of Planning for presentation to the Baltimore County Planning Board.

The Petition was introduced to the Planning Board on June 18, 2009, requesting a zoning reclassification from RC 7 to RC 4. On July 2, 2009, the Board, by a majority vote recommended that the Petitioner be allowed to move forward and make his case at the Board of Appeals. A copy of the Planning Board Report is attached.

If you have any questions, please contact Ms. Jessie Bialek, Community Planner, at 410-887-3480.

AFK:bjw

c: Bryan McIntire, County Council, 3rd District
John Beverungen, County Attorney
Fred Homan, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Peter M. Zimmerman, People's Counsel
Tim Kotroco, Director, Permits & Development Management
Jeffrey Long, Deputy Director, Office of Planning
Lawrence E. Schmidt, Esquire
Jessie Bialek, Community Planner
Edward J. Gilliss, Esquire, Chairman, Baltimore County Planning Board

Pet. Ex #13 3-3-10 Jacobs

Zoning Reclassification Report
Planning Board
1206 Molesworth Road

CASE NO:

CR-2009-0269

PETITIONER:

Neal Jacobs

REQUESTED ACTION:

Reclassification to RC 4

EXISTING ZONING:

RC 7

LOCATION:

1206 Molesworth Road, north side of Molesworth Road, east of Armacost Road

AREA OF SITE:

5.91 acres; gross acreage 6.1

ZONING/USE OF ADJACENT PROPERTIES:

North:	RC 7	Single family detached dwelling
South:	RC 4	Single family detached dwelling
East:	RC 4	Single family detached dwelling
West:	RC 7	Single family detached dwelling

SITE DESCRIPTION:

The property is improved with one existing single-family detached dwelling located in the southwestern quadrant of the property. There is parking area in the front of the dwelling and two sheds on the northwestern side of the property. There is also a small pond in the rear of the property. The rest of the property is wooded and vacant. A panhandle driveway that intersects with Molesworth Road accesses the property to the south of the dwelling.

PROPERTIES IN THE VICINITY:

The surrounding community is a mostly rural residential with a few parcels that are still vacant. The surrounding adjacent properties to the north, south, east, and west are single-family detached dwellings, mostly on lots of 3 acres or less. The Petitioner's lot is one of the larger ones in the community as well as the adjacent property to the west. The properties to the south and east are zoned RC 4 and the properties to the north and west are zoned RC 7.

WATER AND SEWERAGE:

W-7, S-7 The property is not served by public water and sewerage.

TRAFFIC AND ROADS:

The property is located on the northern side of Molesworth Road. And is accessed by a panhandle driveway.

ZONING HISTORY:

The property was rezoned from RC 5 to RC 4 in the 2004 Comprehensive Zoning Map Process (CZMP), Issue number 3-124. It was again rezoned from RC 4 to RC 7 in the 2008 CZMP, Issue number 3-094.

MASTER PLAN/COMMUNITY PLAN:

The Baltimore County Master Plan 2010 shows the proposed land use as single family detached rural. There are no community plans for this area.

PROPOSED vs. EXISTING ZONING:

The RC 7 zone is a resource preservation zone that allows a 1 acre minimum lot size and a maximum density of 0.04 dwelling units per acre. In other words, there can be 1 lot per 25 acres and tracts less than 50 acres cannot be subdivided. The purpose of this zone is to protect and preserve valuable cultural, historical, recreational, and environmental resources through a low-density rural zone. Generally by right this zone permits single family detached dwellings, farms, and a farm roadside stand. The RC 7 zone also allows for other uses through the special exception process such as an antique shop, bed and breakfast, winery, and church. Churches however are only permitted on property that was appropriately zoned before being zoned RC 7. This zone may not be applied to current RC 2 zoned land and all development in this zone is subject to performance standards that include architectural review.

The RC 4 zone is a watershed protection zone that allows a 3 acre minimum lot size or a 1 acre minimum lot size for cluster subdivisions with a maximum density of 0.2 dwelling units per acre for the 1 acre minimum and 0.1 for the 3 acre minimum. The purpose of the RC 4 zoning classification is to provide for the protection of the water supplies of metropolitan Baltimore by preventing contamination through unsuitable types or levels of development in the watersheds. Generally by right this zone permits single-family detached dwellings and farms. The RC 4 zone also allows for other uses through the special exception process such as an antique shop, church, golf course/country club, or landscape operation. Residential development in this zone requires the allocation of an unbuildable area (conservancy area) of 70% of the tract acreage. The 70% shall include forest stands, farm fields, steep slopes, and/or wetlands.

DOCUMENTED PLAN:

The petitioner submitted a documented site plan.

PLANNING BOARD RECOMMENDATIONS:

Recommends that the Petitioner be allowed to move forward and make its case at the Board of Appeals.

CR-2009-0269



Map prepared by:
Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD
21204

N

0 100 200 400
Feet

TO: TIGER, OLD, CROSS & ETZEL

DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
INTEROFFICE CORRESPONDENCE

TO: ☐ Design & Review DATE: March 3, 2008
☒ PDM
☒ Jeffrey Perlow, Planner
Zoning Review

PROJECT NAME: Jacobs Property
Molesworth Road
TYPE OF PLAN: Minor Subdivision #07041M
2nd Submittal
PLAN/REV. DATE: November 20, 2007

Staff of Environmental Impact Review (EIR) have reviewed the subject submission. The following recommendations are made:

☒ Disapproved with comment

1. The FCE/FBE that is 39,399 square feet over laps the FCE/FBE that is 4,199 square feet, and others. Please revise this and any other overlaps so that each easement is identified correctly with the extent of their leader lines, and quantified separately. This is shown correctly on the approved Forest Conservation Plan, which is currently being revised per my comments on the above date. Please coordinate with the environmental consultant so that the plans match.

2. The 100-year Water Surface is shown as 100-year floodplain on the FCP. If Water Surface is correct, please coordinate with the environmental consultant to revise the FCP.

3. Remove the sequencing numbers from the environmental easements.

4. The 0.5-acre 100-year Water Surface /Drainage & Utility Easement should be re-labeled as "Forest Buffer Easement/100-year Water Surface/Drainage and Utility Easement."

5. Submit the signed, executed Forest Conservation Retention Bank letter.

6. Add a note to the plan stating, "Baltimore County Forest Conservation regulations have been addressed, in part, by the purchase of 0.4 acre of credit at a DEPRM-approved forest conservation retention bank."

P.T. Ex 14A Jacobs 5-27-10 CBAR-09-269

7. The Forest Buffer/Forest Conservation Easements must be recorded in the Baltimore County Land Records prior to Minor Subdivision approval. Submit an original mylar and two copies of the RW Plat, an intake sheet, the engineer certification, the attorney certification, and the Declaration of Protective Covenants to DEPRM for review.

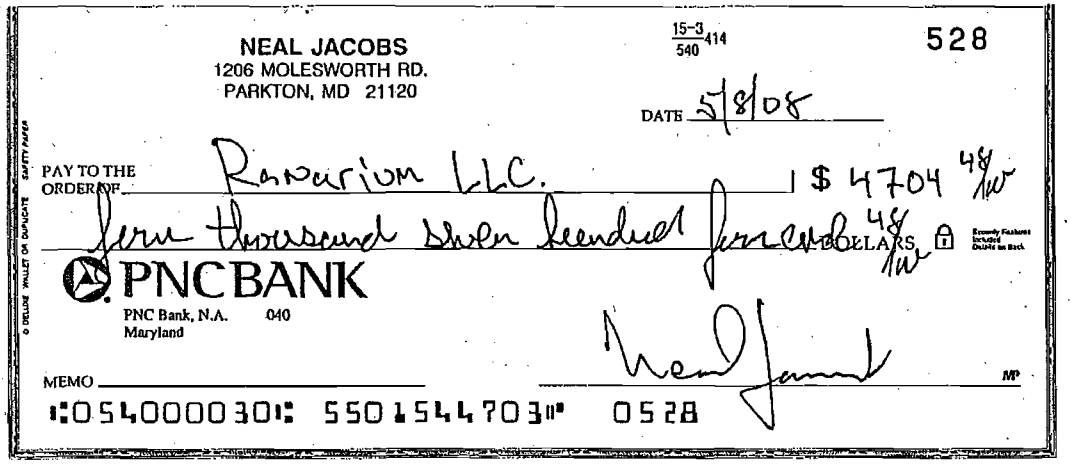
8. An Environmental Agreement may be required.

9. Channels exist onsite that may be regulated by the U.S. Army Corps of Engineers (COE) as Waters of the U.S. in accordance with the recent guidance found in the 2000 Nationwide Permit. These same areas may or may not be regulated by Baltimore County Code. You are advised that COE permits may be required to impact these channels. Based on these refined criteria, the COE can take jurisdiction on projects, including those under construction, and issue stop work orders and/or violation notices.

REVIEWER: Thomas Panzarella
Natural Resource Specialist

PHONE: 410-887-3980

JacobsMS2.doc/sheir/tomp



NEAL JACOBS
1206 MOLESWORTH RD.
PARKTON, MD 21120

15-3/540 414

528

DATE 5/8/08

PAY TO THE ORDER OF Ranarium LLC. $ 4704 48/100

Four thousand seven hundred four and 48/100 DOLLARS

PNC BANK
PNC Bank, N.A. 040
Maryland

MEMO

MP

⑆054000030⑆ 5501544703⑈ 0528

PeT. Ex 14A Jacobs

TO; GERHOLD, CROSS & ETZEL

DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
INTEROFFICE CORRESPONDENCE

TO: ☐ Design & Review DATE: August 18, 2008
☒ PDM
☒ Jeffrey Perlow
Planner, Zoning Review

PROJECT NAME: Jacobs Property
Molesworth Road
TYPE OF PLAN: Minor Subdivision #07-041-M
PLAN/REV. DATE: July 29, 2008

Staff of Environmental Impact Review (EIR) have reviewed the subject submission. The following recommendations are made:

☒ Approved with comment

1. This review copy is approved. ~~Please submit the Minor Subdivision mylar with the Record Plat Check Print or mylar.~~
2. An Environmental Agreement will be required.
3. Channels exist onsite that may be regulated by the U.S. Army Corps of Engineers (COE) as Waters of the U.S. in accordance with the recent guidance found in the 2000 Nationwide Permit. These same areas may or may not be regulated by Baltimore County Code. You are advised that COE permits may be required to impact these channels. Based on these refined criteria, the COE can take jurisdiction on projects, including those under construction, and issue stop work orders and/or violation notices.

REVIEWER: Thomas Panzarella TP PHONE: 410-887-3980
Environmental Impact Review

jacobsMolesworthMS3approv.doc/sheir/tomP

Pet. Ex 14c Jacobs

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

COPY

CERTIFICATE OF POSTING

RE: PDM# 07-041-M
OWNER/DEVELOPER:
Neal Jacobs

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

ATTENTION: JOE CHMURA

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:
1206 Molesworth Road

(see page 2 for full size photo)

POSTED ON: May 21, 2007

SIGNATURE OF SIGN POSTER

Bruce E. Doak

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

CBA-R-09-269 5-27-10 Ref. E&R Jacobs



NOTICE OF
PROPOSED MINOR SUBDIVISION
OF THE
JACOBS PROPERTY
#1206 MOLESWORTH ROAD

PDM Number 07-041-M

Site Acreage 6.025

Number of Proposed Lots 2

Name of Applicant NEAL JACOBS

Information about the proposed subdivision may be obtained by calling

The Baltimore County Department of Permits and Development Management Division of Project Management at 410-887-3335 or

Gerhold, Cross & Etzel, Ltd at 410-823-4470

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT (PDM)
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3335

NOTICE OF
PROPOSED [illegible] SUBDIVISION
OF
JACOBS PROPERTY
8704 HOLLESWORTH ROAD

BALTIMORE COUNTY
DEPARTMENT OF PERMITS, LAND
DEVELOPMENT MANAGEMENT (PDM)
[illegible]
[illegible]
[illegible]

TO: GERHOLD, CROSS & ETZEL, LTD.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Joe Chmura
Department of Permits and
Development Management

DATE: September 10, 2008

FROM: Lloyd T. Moxley
Development Review Section
Office of Planning

PROJECT NAME: Jacobs Property

PROJECT NO.: 07041 M THIRD REVIEW

The Office of Planning has reviewed the above referenced project and offers the following comments:

1. The plan intent is not clear. Are the existing 2' and 10' strips to be combined in-fee with proposed Lot 16A? Section 32-4-409 (b) BCC requires in-fee strip access to the local street. If such in-fee access is not available a waiver to the requirements of the BCC regulations must be requested of and granted by the Director of Planning. The waiver request must include a narrative as to why the in-fee strip is not provided. If the plan does in fact propose combining said strips with the 2' strip for a total of 12' adjacent to the 12' strip proposed for Lot 16B the overall tract dimension should be 24'. Please clarify.

LTM dy 7Z

Lloyd T. Moxley, Planner
Development Review

Lynn Lanham

Lynn Lanham, Chief
Development Review

LTM:kma

W:\DEVREV\MINOR\07041m4.doc

Ret. Ex 16 Jacobs 5-27-10 CBA-R-09-269

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

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

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

1.[1] Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above,[2] in order to:

a. Prevent untimely urban development of relatively open rural land; and

b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.
[Bill No. 100, 1970.]

2. Intent as to application of R.D.P. zoning classification to property or removal therefrom. It is intended:

a. That rural land shall be classified within R.D.P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume) as amended, all consistently indicate that such land is to be serviced by public sewerage and water-supply systems and, in the case of those said documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such nonserviced land as is specifically herein described (in this Subparagraph 3[3] or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;

b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

---

1. *The line designating this subparagraph and those immediately following as parts of a Paragraph "A" was deleted from Bill No. 100, 1970 by amendment after introduction.*
2. *Findings deleted from Bill No. 100, 1970 by amendment after introduction.*
3. *Now Subparagraph 2, as a result of amendment of Bill No. 100, 1970 after introduction.*

Pet. Ex 17 Jacobs 6-9-10 CBA-R-09-269

c. That reclassification of land as R. D. P. shall not represent a commitment by Baltimore County with respect to type of future development, but only that more particular planning for the use of such land shall be executed in the future; and

d. That certain distinct existing areas of compact development, such as certain approved subdivisions or the immediate environs of typical rural business centers, are not normally to be classified as R. D. P.

[Bill No. 100, 1970.]

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

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

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

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

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

---

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

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

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

10. Animal boarding places (regardless of class), kennels, veterinarians' offices or veterinariums, subject to the provisions of Section 421.
11. Excavations, uncontrolled.
12. Schools, except business or trade schools or such schools as are permitted as special exceptions (Paragraph B, below), but including schools for agricultural training.
13. Accessory uses or buildings (not subject to the provisions of Section 400), including, but not limited to:

    a. An office or studio of a doctor, dentist, lawyer, architect, engineer, artist, musician, or other professional person, provided that such office or studio is established within the same building as that serving as his bona fide residence; does not occupy more than 25 per cent of the total floor area of such residence as existing on the effective date of this provision;[7] and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees; provided, further, that signs relative to such use shall be prohibited except as noted in Section 413.

    b. Home occupations as defined in Section 101, also subject to the sign provisions of Section 413.

    c. Parking space, including residential-garage space.

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

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

---

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

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

11. Golf driving ranges, miniature-golf ranges, or baseball-batting ranges.
12. Helistops.
13. Marinas.
14. Public-utility uses not permitted as of right.
15. Residential art salons (see Section 402C).
16. Riding stables (commercial or noncommercial).
17. Sanitary landfills (see Section 412).
18. Shooting ranges.
19. Volunteer-fire-company facilities.
20. Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure or, if attached to another structure, an accessory use, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line
21. Large-scale unit developments, as provided in Section 430

1A00.3—Height and Area Regulations. [Bill No. 100, 1970.]

A. Height. No structure in an R.D.P. zone shall exceed a height of 35 feet, except as otherwise specifically provided in these Zoning Regulations (see Section 300). [Bill No. 100, 1970.]

B. Area Regulations. [Bill No. 100, 1970.]

1. Lot Area. No lot less than 1 acre in net area shall be hereafter created in an R.D.P. zone, subject to attaining percolation tests satisfactory to the Baltimore County Department of Health and conforming to the applicable health requirements. [Bill No. 100, 1970.]

2. Minimum Linear Dimension. Except as otherwise provided in Subparagraph 3, below, the minimum linear dimension of any lot hereafter created in an R.D.P. zone shall be 150 feet. For the purposes of these regulations, the minimum linear dimension of any lot shall be the diameter of the largest circle in a horizontal plane which may be inscribed within the lot boundaries. [Bill No. 100, 1970.]

3. The minimum distance between any building in an R.D.P. zone and any lot line other than a street line shall be 50 feet; the minimum distance between the building and the center line of any street shall be 75 feet. [Bill No. 100, 1970.]

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

Go Back
View Map
New Search

Account Identifier: **District** - 10 **Account Number** - 2000009129

Owner Information

Owner Name:	SALTZBERG LEE BURGER KIRSTEN A	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	1906 CORBRIDGE LA MONKTON MD 21111	**Deed Reference:**	1) / 7816/ 556 2)

Location & Structure Information

Premises Address
1906 CORBRIDGE LA

Legal Description
5.082 AC
CORBRIDGE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
29	7	2					10	2	**Plat Ref:** 54/ 127

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1990	3,865 SF	5.08 AC	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value As Of 01/01/2008	Phase-in Assessments As Of 07/01/2009	As Of 07/01/2010
Land	210,600	308,880		
Improvements:	376,560	517,000		
Total:	587,160	825,880	746,306	825,880
Preferential Land:	0	0	0	0

Transfer Information

Seller: FRACK E JAMES,JR	**Date:** 03/17/1988	**Price:** $95,000
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 7816/ 556	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

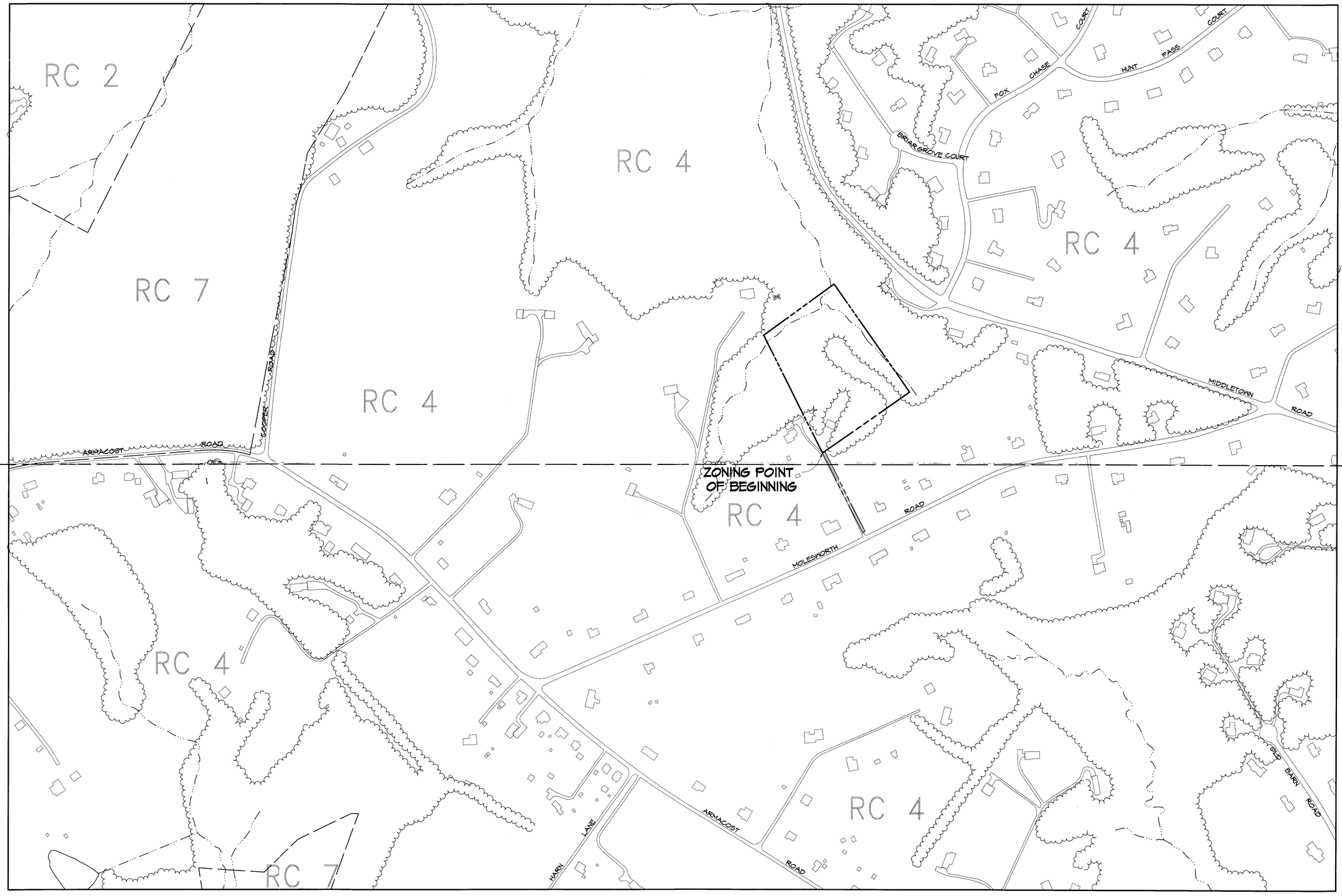
Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

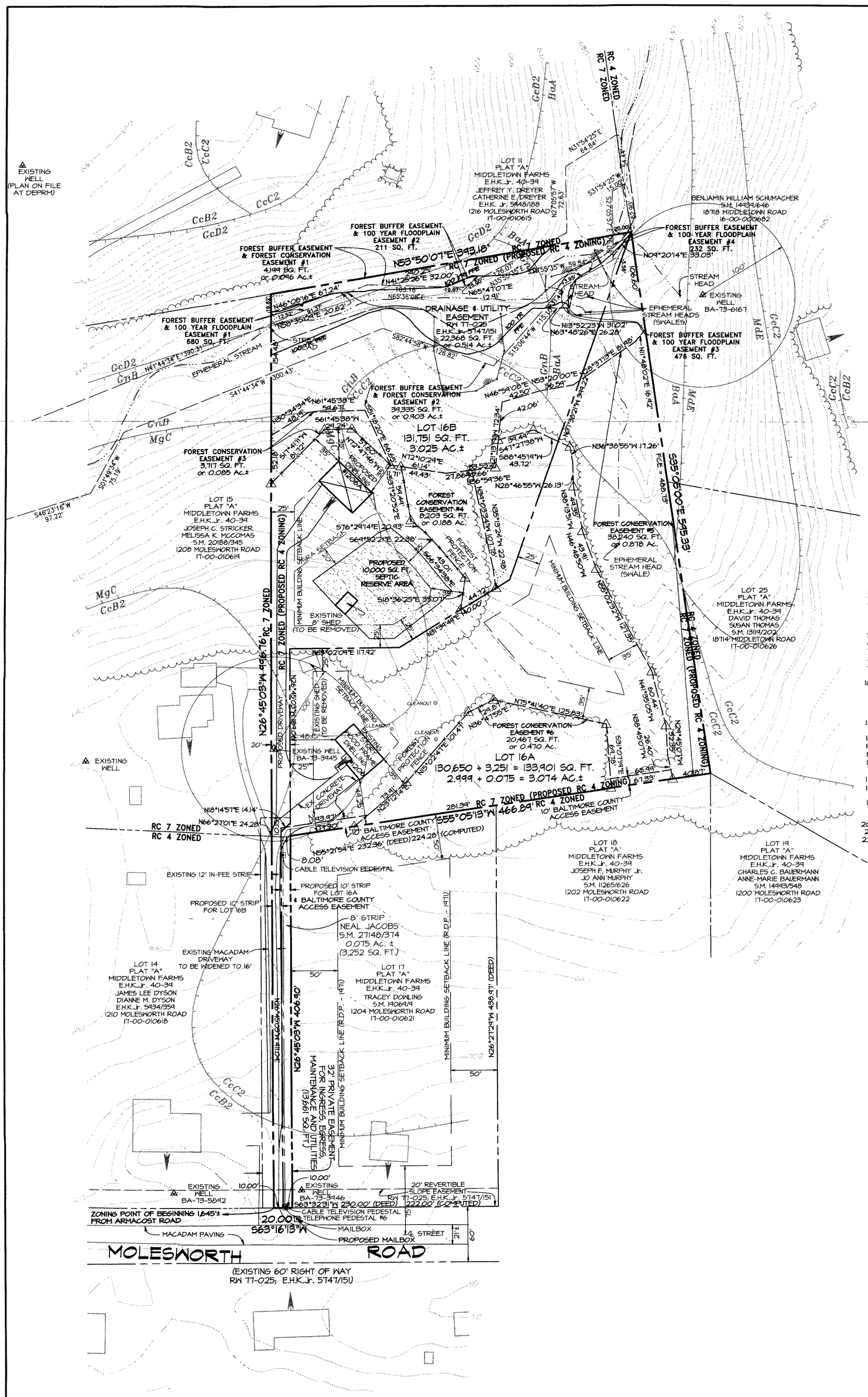
Tax Exempt: NO
Exempt Class:

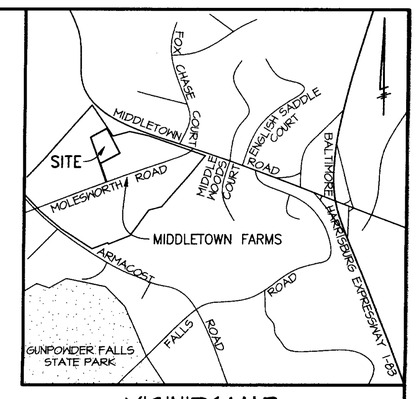
Special Tax Recapture:
* NONE *

Pet. Ex 18 Taxlog 6-9-11 CBA-B-09-219



ZONING MAP GIS TILE: 016C1, 016C2 SCALE: 1"= 200'





VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A SURVEY PERFORMED BY GERHOLD, CROSS & ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 016C1 & 016C2.
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 5.
4. CENSUS TRACT 406000 REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN SUBSEWERSHED NONE
   SCHOOL DISTRICT: ELEMENTARY - PRETTYBOY E.S.; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
   A.D.C. MAP & GRID 7 A3
5. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
7. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
8. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
9. ALL APPARENT SEPTIC SYSTEMS, WELLS, AND SOIL PERCOLATION TESTS WITHIN 100' OF THE PROPERTY LINES WERE FIELD LOCATED.
10. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
11. THE ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.)
12. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOOD PLAIN AREAS OR HYDRIC SOILS.
13. EXISTING USE: 1 SINGLE FAMILY DWELLING; PROPOSED USE: 2 SINGLE FAMILY DWELLINGS
14. THERE ARE NO ZONING LINES WITHIN 200 FEET OF THE SUBJECT PROPERTY.
15. MASTER WATER DESIGNATION: W-7; MASTER SEWER DESIGNATION: S-7
16. THE EXISTING WELL BA 73-3445 IS TO REMAIN AND IS TO BE USED BY LOT 16B. THE NEW WELL BA 95-2282 IS TO BE CONNECTED TO THE EXISTING HOUSE AND SERVE LOT 16A.
17. THE EXISTING SHEDS SHALL BE REMOVED BY OWNER AT TIME OF BUILDING PERMIT APPLICATION.
18. ALL DRIVEWAYS WILL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVEWAY, PARKING AND MANEUVERING AREAS WILL BE PAVED.
19. THE SUBJECT PROPERTY IS NOT IN A MORATORIUM AREA OR IN A AREA WHERE FAILURE OF THE BASIC SURVICES MAPS CURRENTLY EXIST PER SECTION 4A02 (BCZR)
20. NO PROPOSED SINAGE FOR THIS PROJECT
21. NO FIRE HYDRANTS EXIST
22. AS PART OF THE MINOR SUBDIVISION (PDM# 07-041-M) DEPRM HAS REVIEWED ALL OF THE ENVIROMENTAL ASPECTS OF THE SUBJECT PROPERTY.

REASON FOR RESUBDIVISION

TO RESUBDIVIDE LOT 16

THIS WAS DETERMINED TO BE A MINOR SUBDIVISION AND AN AMENDED RECORD PLAT BY THE DEVELOPMENT REVIEW COMMITTEE UNDER SECTIONS 32-4-221, 324-4-224, 32-4-1(b)(5) IN LETTER DATED DECEMBER 15, 2006, DRC No. 1204066, DIST. 6C3

THE AMENDED RECORD PLAT MUST BE RECORDED PRIOR TO THE SALE/RECORDING OR BUILDING PERMIT APPROVAL OF LOT 16A.

FOREST BUFFER & FOREST CONSERVATION EASEMENT NOTES

1. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENT, FOREST CONSERVATION EASEMENT OR FOREST BUFFER & FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
2. ANY FOREST BUFFER EASEMENT, FOREST CONSERVATION EASEMENT OR FOREST BUFFER & FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND AMONG THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
3. BALTIMORE COUNTY FOREST CONSERVATION REGULATIONS HAVE BEEN ADDRESSED, IN PART WITH THE PURCHASE OF 0.4 ACRE OF CREDIT AT A DEPRM-APPROVED FOREST CONSERVATION RETENTION BANK

LEGEND

- FCE PROTECTION SIGNS
- EXISTING WELL
- PROPOSED WELL AREA
- PROPOSED DWELLING
- EXISTING BUILDING
- SOIL LINE
- WOODS LINE
- PROPOSED PAVING
- EXISTING PAVING
- STREAM
- PROPERTY LINE
- CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES W/BASEMENT	STREETS & PARKING
CcB2, CcC2	Slight	Slight	Moderate: slope
GcC2	Moderate: slope	Moderate: slope	Severe: slope
MgC	Slight to moderate: slope	Moderate: stoniness; slope	Severe: slope
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
GcD2, MdE	Severe: slope	Severe: slope	Severe: slope
BaA	Severe: high water table; poor natural drainage; slow permeability.	Severe: high water table; poor natural drainage.	Severe: high water table; poor natural drainage.

AREA CALCULATIONS

GROSS AREA	6.100 Ac.±
LOT 16	6.025 Ac.±
8' STRIP (LOT 17)	0.075 Ac.±
HIGHWAY WIDENING	0 Ac.±
NET AREA IN RC 7 ZONE:	5.913 Ac.±
NET AREA IN RC 4 ZONE:	0.187 Ac.±

OWNER\DEVELOPER

NEAL JACOBS
1206 MOLESWORTH ROAD
PARKTON, MD 21120-9454
410-598-8607

STATE OF MARYLAND BRUCE EDWIN DOAK NO. 531 REGISTERED PROPERTY LINE SURVEYOR 2/12/09

DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETTITION OF THE

JACOBS PROPERTY

(RESUBDIVISION OF LOT 16 & PART OF LOT 17, PLAT A, MIDDLETOWN FARMS, PLAT BOOK 40, FOLIO 39)
1206 MOLESWORTH ROAD
Deed Ref: S.M. No. 23258 folio 313
Plat Ref: E.H.K.Jr. No. 40 folio 39 "MIDDLETOWN FARMS"
Tax Account No.: 17-00-010620
Zoned R.C. 4 AND RC 7; GIS Tiles 016C1 & 016C2
Tax Map 16; Grid 12; Parcel 116; Lot 16
6th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

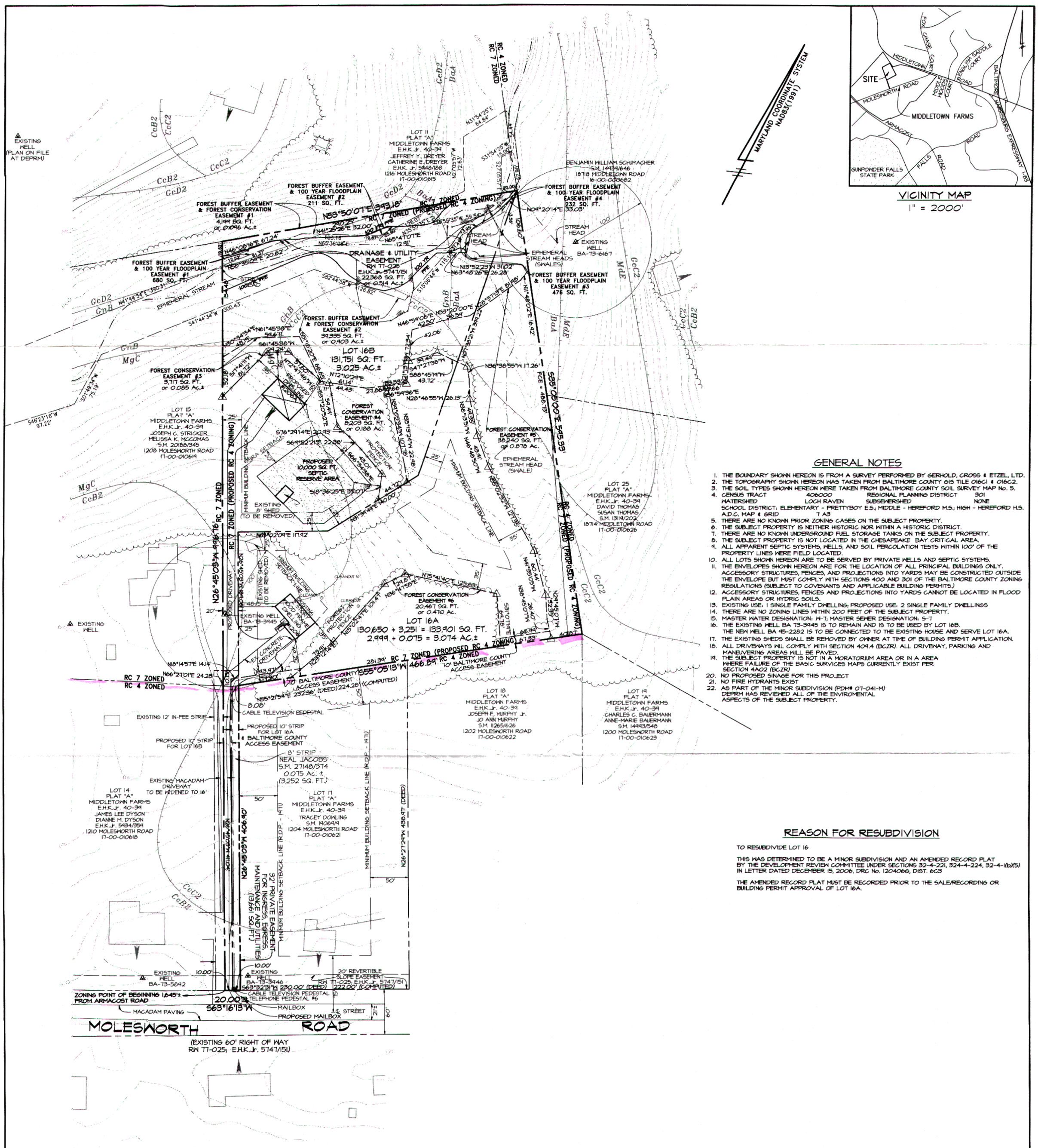
Scale: 1"=60' Date: FEBRUARY 9, 2009

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

COMPUTED: E.D.-L. | DRAWN: T.E.H. | CHECKED: S.A.L. | FILE: X:\J\Jacobs Molesworth\zoning.pro

Petitioners Exhibits

✓	✓	1. Site Plan
✓	✓	2. Letter from Director Kotroco Dec. 15, 2006
✓	✓	3. Certificate of Posting
✓	✓	4 A-b letter from Michael Alexander 1-3-2008
✓	✓	5 Deed to driveway
✓	✓	6 A-C Minor Sub review, letter from Vidmar, check
✓	✓	7 A + B Letter from Esslinger 8-14-07 B check
✓	✓	8. Sign location Map
✓	✓	9. Zoning reclass Log
✓	✓	10. Planning Board Minutes June 18, 2009
✓	✓	11. Planning Board Minutes July 2, 2009
✓	✓	12 letter from Pat Keller (Zoning Reclass Petitions)
✓	✓	13. Memorandum to L. Wescott (Zoning reclass report)
✓ verified	✓	14. A-C DEPRM interoffice Corr. + check
✓ 5/28/10	✓	15. Sign notification
✓ KSC	✓	16. Balto Co. inter office corr. verified from Lloyd Moxley
✓		17. Section 1A00 RDP Zones 3/3/10 DS
✓		18. Burger MDAT and verified 5/26/10
✓ verified 6/10/10		
		DS



VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A SURVEY PERFORMED BY GERHOLD, CROSS & ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 016C1 & 016C2.
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 5.
4. CENSUS TRACT 406000 REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN SUBSEWERSHED NONE
   SCHOOL DISTRICT: ELEMENTARY - PRETTYBOY E.S.; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
   A.D.C. MAP & GRID 7 A3
5. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
7. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
8. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
9. ALL APPARENT SEPTIC SYSTEMS, WELLS, AND SOIL PERCOLATION TESTS WITHIN 100' OF THE PROPERTY LINES WERE FIELD LOCATED.
10. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
11. THE ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.)
12. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOOD PLAIN AREAS OR HYDRIC SOILS.
13. EXISTING USE: 1 SINGLE FAMILY DWELLING; PROPOSED USE: 2 SINGLE FAMILY DWELLINGS
14. THERE ARE NO ZONING LINES WITHIN 200 FEET OF THE SUBJECT PROPERTY.
15. MASTER WATER DESIGNATION: W-7; MASTER SEWER DESIGNATION: S-7
16. THE EXISTING WELL BA 73-3445 IS TO REMAIN AND IS TO BE USED BY LOT 16B. THE NEW WELL BA 45-2282 IS TO BE CONNECTED TO THE EXISTING HOUSE AND SERVE LOT 16A.
17. THE EXISTING SHEDS SHALL BE REMOVED BY OWNER AT TIME OF BUILDING PERMIT APPLICATION.
18. ALL DRIVEWAYS WIL COMPLY WITH SECTION 409.4 (BCZR). ALL DRIVENAY, PARKING AND MANEUVERING AREAS WILL BE PAVED.
19. THE SUBJECT PROPERTY IS NOT IN A MORATORIUM AREA OR IN A AREA WHERE FAILURE OF THE BASIC SURVICES MAPS CURRENTLY EXIST PER SECTION 4A02 (BCZR)
20. NO PROPOSED SINAGE FOR THIS PROJECT
21. NO FIRE HYDRANTS EXIST
22. AS PART OF THE MINOR SUBDIVISION (PDM# 07-041-M) DEPRM HAS REVIEWED ALL OF THE ENVIROMENTAL ASPECTS OF THE SUBJECT PROPERTY.

REASON FOR RESUBDIVISION

TO RESUBDIVIDE LOT 16

THIS WAS DETERMINED TO BE A MINOR SUBDIVISION AND AN AMENDED RECORD PLAT BY THE DEVELOPMENT REVIEW COMMITTEE UNDER SECTIONS 32-4-221, 324-4-224, 32-4-1(b)(5) IN LETTER DATED DECEMBER 15, 2006, DRC No. 1204066, DIST. 6C3

THE AMENDED RECORD PLAT MUST BE RECORDED PRIOR TO THE SALE/RECORDING OR BUILDING PERMIT APPROVAL OF LOT 16A.

FOREST BUFFER & FOREST CONSERVATION EASEMENT NOTES

1. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENT, FOREST CONSERVATION EASEMENT OR FOREST BUFFER & FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
2. ANY FOREST BUFFER EASEMENT, FOREST CONSERVATION EASEMENT OR FOREST BUFFER & FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO THE PROTECTIVE COVENANTS WHICH MAY BE FOUND AMONG THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
3. BALTIMORE COUNTY FOREST CONSERVATION REGULATIONS HAVE BEEN ADDRESSED, IN PART WITH THE PURCHASE OF 0.4 ACRE OF CREDIT AT A DEPRM-APPROVED FOREST CONSERVATION RETENTION BANK

AREA CALCULATIONS

GROSS AREA	6.100 Ac.±
LOT 16	6.025 Ac.±
8' STRIP (LOT 17)	0.075 Ac.±
HIGHWAY WIDENING	0 Ac.±
NET AREA IN RC 7 ZONE:	5.913 Ac.±
NET AREA IN RC 4 ZONE:	0.187 Ac.±

OWNER\DEVELOPER

NEAL JACOBS
1206 MOLESWORTH ROAD
PARKTON, MD 21120-9454
410-598-8607

LEGEND

FCE PROTECTION SIGNS
EXISTING WELL
PROPOSED WELL AREA
PROPOSED DWELLING
EXISTING BUILDING
SOIL LINE
WOODS LINE
PROPOSED PAVING
EXISTING PAVING
STREAM
PROPERTY LINE
CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES w/BASEMENT	STREETS & PARKING
CcB2, CcC2	Slight	Slight	Moderate: slope
GcC2	Moderate: slope	Moderate: slope	Severe: slope
MgC	Slight to moderate: slope	Moderate: stoniness; slope	Severe: slope
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
GcD2, MdE	Severe: slope	Severe: slope	Severe: slope
BaA	Severe: high water table; poor natural drainage; slow permeability.	Severe: high water table; poor natural drainage.	Severe: high water table; poor natural drainage.

STATE OF MARYLAND BRUCE EDWIN DOAR No. 931 REGISTERED PROPERTY LINE SURVEYOR 2/12/09

DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETTITION OF THE JACOBS PROPERTY

(RESUBDIVISION OF LOT 16 & PART OF LOT 17, PLAT A, MIDDLETOWN FARMS, PLAT BOOK 40, FOLIO 39)
1206 MOLESWORTH ROAD
Deed Ref: S.M. No. 23258 folio 313
Plat Ref: E.H.K.Jr. No. 40 folio 39 "MIDDLETOWN FARMS"
Tax Account No.: 17-00-010620
Zoned R.C. 4 AND RC 7; GIS Tiles 016C1 & 016C2
Tax Map 16; Grid 12; Parcel 116; Lot 16
6th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=60' Date: FEBRUARY 9, 2009

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

COMPUTED: E.D.-L. | DRAWN: T.E.H. | CHECKED: S.A.L. | FILE: X:\J\Jacobs Molesworth\zoning.pro

Ret Ex #1 3-3-10 Jacob Ret No 1

verified 10/10/10 TS

People's Counsel

1. Arial photo
2. Deed
3. SDAT
4. Subdivision Plat Middletown Farms A+B
5. DRC Application
6. CZMP Notice
7. 2004 Comprehensive Zoning Map Process
8. CZMP chart of Flow for Process
9. CZMP 2008
10. CZMP 2008 Dist. 3 Zoning Issues
11. 32-3-215 of Code verified 3/24/10 TS
12. CZMP 2008 Applicant Info
13. Certificate of Posting TS
14. Long Green Valley Assoc. letter
15. Valleys Planning Council letter
16. Reservoir Watershed Manag. Program Packet
17. CZMP Comments from All Agency
18. Sparks-Glencoe Comm. Planning Council Down Zone
19. " " " " Justification Summary
20. A-D letters (for + against)
21. Certificate of Publication verified 5/26/10 TS
22. Doak MDAT verified 5/28/10 KRC
23. Doak Map Quest
24. Doak subdivision plat
25. Middletown Purchase Plan
26. letter from Director Kotroco.

Verified 6/10/16-DS

Case No: R-09-269 Case Name: Neal / Jacobs

Exhibit List

Party: Peoples' Counsel Date: 5-27-10

Exhibit No:	Description:
27	Sparks-Glencoe Geographical Boundaries
28	Binder made by Kirsten Burger
29	Rule 8 papers for Kirsten Burger in Binder
30	ADC Map of County
31	2 page Map of Area
32	Reservoir Program Tech Report
33	Reservoir Watershed Management 2005
34	DEPRM comments
35	DEPRM 2008 C2MP Final Review Com
36	Small Arial
37	Resource Conservation Zoning
38	Inter-office corr. from "Pat" Keller
39	letter to Councilman Bartenfelder
40	Bill No. 74-00
41	Resource Conservation Zones (Code)

Verified 5/28/10 KKC

Case No: R-09-269 Case Name: Neal / Jacobs

Exhibit List

Party: Peoples Counsel Date: 6-9-10

✓	Exhibit No:	Description:
✓	42	Rule 8 papers for Michael Pierce NCP
✓	43	CZMP Taking Advantage of what we Know NCP
✓	44	James S Patton CV
✓	45	Balto. Co. Council Minutes
✓	46	Bill No. 87-08
✓	47	Code
✓	48	Bill 153-04 12-20-04
✓	49	Fiscal Note
✓	50 A-B	Zoning Regs
✓	51	Master Plan 2010

verified 6/10/10 trs

PC Exhibit #3 3 Sheets

MILLER CAROLYN MARLENE
ARCHIBALD AUBREY L
WULFF KENNETH E
GILMORE DONALD J JR
SALAMONE RICHARD A
GARDNER DEBORAH
BUNDRA DENNIS A
HILL BRUCE G
MIDDLETOWN
HESS KEITH
FOERSTER JOHN W
EPPS BILLY E JR
FELTER JOHN O
FOX CHASE
DREYER JEFFREY Y
SCHUMACHER BENJAMIN WILLIAM
HENDERSON JAMES P
LAIE RICHARD W
ROSS ANDREW E JR
STICKLES EDWIN A LYNN
HAYDEN TIMOTHY E
BARRATT JAMES MARY ANNA
CURREY KIMBERLY RAY
THOMAS DAVID
WALLICK BARRY L
JACOBS NEAL
PAPAROUNIS DENISE M
NORRIS PATRICK J
PHILLIPS BARBARA DEE PRES
STRICKER JOSEPH C
MORGAN JAMES P JR
PATON CHARLES R
BAUERMANN CHARLES C
STRATMANN CARL H JR
DOTTERWEICH ANDREW H JR
MURPHY JOSEPH F JR
BRYNES GLENN
DOWLING TRACEY
MACKERT JOHN K JR
VOGT JOHN FREDRIC
DYSON JAMES LEE
MOLESWORTH
CIARLO PASQUALE R
BOHLEN DANIEL
BRYNES GLENN
DARDOZZI PAUL D
KOCH BAYARD S
SANTMYER CHARLES W 3RD
RAFI KIRK A
ROY AMBER
MILLER RUSSELL LOUIS
TIRALLA DAVID M
BOOTH BRIAN A
BICHELL CHRISTIAN P 3RD
BECKER JOEL W
ARFORD JAMES W
HANNIBAL ARTHUR W JR
ZEA CARLOS
KOUNESKI JOSEPH V JR
BEIL NATHAN J
BRIGHAM PATRICK E
MESSENAUER J THOMAS
THOMAS NANNIE LEE

Produced by Baltimore County GIS Services Unit
Date: May 19, 2009
Date of Imagery: 2005

1 inch = 100 feet

The Cadastral Information on this Plot was compiled from existing deed information. This Information is not to be considered authoritative. The Survey Information was not field checked and Certified by a licensed land surveyor.

DEED, FEE SIMPLE
INDIVIDUAL GRANTOR

(DEEDFEE)

THIS DEED made this 29th day of DECEMBER, in the year Two Thousand Five by and between THOMAS WILLIAM RYAN and PATRICIA A. RYAN, parties of the first part, Grantor(s) and NEAL JACOBS, party of the second part, Grantee(s).

WITNESSETH, that in consideration of the sum of Four Hundred Seventy-Three Thousand and 00/100 ($473,000.00) DOLLARS, the actual consideration paid or to be paid, and other good and valuable considerations, receipt of which are hereby acknowledged, the said parties of the first part do grant and convey to the said NEAL JACOBS, as sole owner, his personal representatives and assigns, in fee simple, all that lot of ground situate in Baltimore County E, State of Maryland, and described as follows, that is to say:

ALL THAT LOT OF GROUND SITUATE, LYING AND BEING IN BALTIMORE COUNTY, STATE OF MARYLAND AND DESCRIBED AS FOLLOWS, THAT IS TO SAY:

BEING KNOWN AND DESIGNATED AS LOT NO. 16 AS SHOWN ON THE PLAT ENTITLED PLAT (A) MIDDLETOWN FARM, AND RECORDED AMONG THE PLAT RECORDS OF BALTIMORE COUNTY, IN PLAT BOOK E.H.K.JR. NO. 40, FOLIO 39.

THE IMPROVEMENTS THEREON BEING COMMONLY KNOWN AS 1206 MOLESWORTH ROAD, PARKTON, MARYLAND 21120.

BEING THE SAME LOT OR PARCEL OF GROUND WHICH BY DEED DATED JULY 12, 1985 AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER 6958 FOLIO 079, WAS GRANTED AND CONVEYED BY NORMAN M. PHILLIPS, JR. AND GLADYS J. PHILLIPS, UNTO THOMAS WILLIAM RYAN AND PATRICIA A. RYAN, HIS WIFE, AS TENANTS BY THE ENTIRETY, THEIR ASSIGNS, THE SURVIVOR OF THEM.

The Grantee hereby certifies, under penalties of perjury, that the land conveyed in said Deed is residentially improved, owner-occupied real property and that the residence will be occupied by me.

parcel # 06-1700010620

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said NEAL JACOBS, as sole owner, his personal representatives and assigns, in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will

BA CIRCUIT COURT (Land Records) [MSA CE 62-23113] SM 23258, p. 0313. Printed 08/13/2009. Online 02/08/2006.

P.C. Ex #2 3-3-10 Jacob

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw1.1)

Go Back
View Map
New Search

Account Identifier: **District -** 06 **Account Number -** 1700010620

Owner Information

Owner Name:	JACOBS NEAL	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	1206 MOLESWORTH RD PARKTON MD 21120-9454	**Deed Reference:**	1) /23258/ 313 2)

Location & Structure Information

Premises Address
1206 MOLESWORTH RD

Legal Description
6.025 AC
1206 MOLESWORTH RD
MIDDLETOWN FARMS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	A
16	12	116					16	2	**Plat Ref:**	40/ 39

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1978	1,776 SF	6.02 AC	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2008	Phase-in Assessments As Of 07/01/2008	As Of 07/01/2009
Land	111,080	212,650		
Improvements:	211,470	243,570		
Total:	322,550	456,220	367,106	411,662
Preferential Land:	0	0	0	0

Transfer Information

Seller:	RYAN THOMAS WILLIAM	**Date:**	01/20/2006	**Price:**	$473,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/23258/ 313	**Deed2:**	
Seller:	PHILLIPS NORMAN M,JR	**Date:**	07/16/1985	**Price:**	$135,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 6958/ 79	**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.C. Ex #3 3-3-10 Jacob

166-11-52
472.

HE BALTIMORE 17 0153 PHOENIX 52103

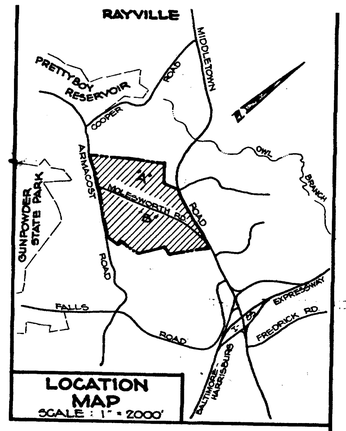
COORDINATE SCHEDULE

№	NORTH	WEST	№	NORTH	WEST
55	121944.50	21788.70	110	123140.46	19275.60
56	122120.05	22241.57	215	122947.06	19521.46
60	122229.27	22393.60	211	122705.28	19478.90
85	122249.71	22917.51	114	122595.50	19810.70
59	122841.22	21750.09	115	122512.56	20379.25
77	123349.18	19940.64	116	122228.55	20550.57
45	123077.17	20782.18	103	121902.92	21784.57
61	123249.08	20274.21	104	121695.05	21707.70
62	123347.51	19925.77	117	121736.25	21599.95
64	123259.12	19519.47	54	121272.09	21345.04
108	123298.46	19819.92	286	121740.56	21888.84
109	123227.44	19500.93	289	123205.84	19550.40
217	123154.94	19447.46	113	122710.97	19445.55

DENSITY TABULATION

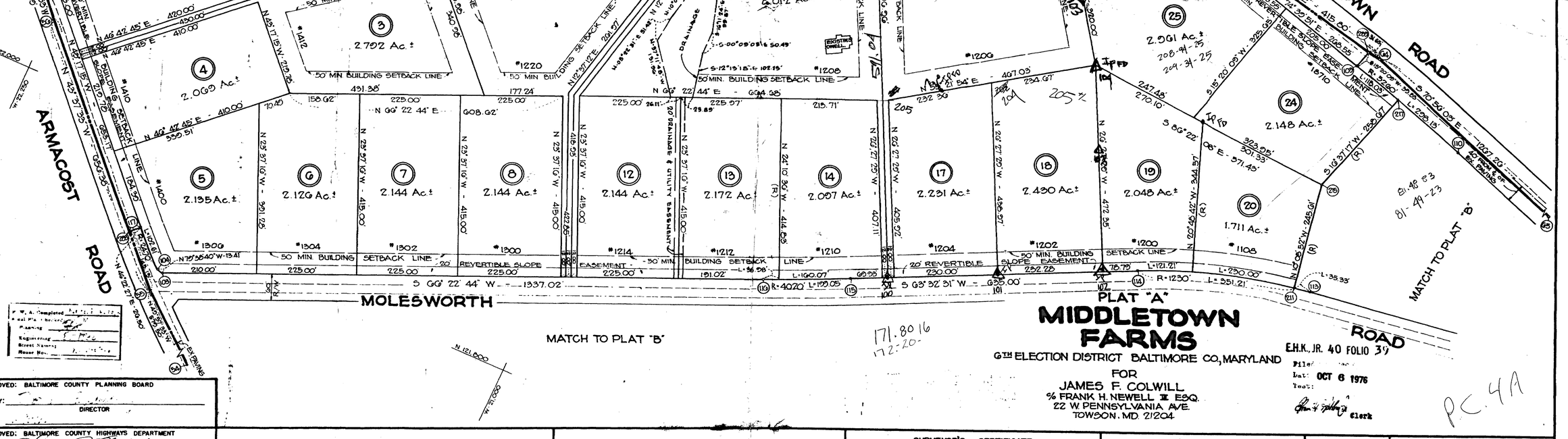
1. ZONED ..... R.D.P.
2. GROSS AREA OF TRACT ..... 148.941 Ac.±
3. NET AREA OF TRACT ..... 141.508 Ac.±
4. NUMBER OF LOTS 47
5. NUMBER OF LOTS PER ACRE 0.332
6. DRAINAGE AREA ..... PRETTYBOY RESERVOIR
7. REFUSE COLLECTION, SNOW REMOVAL AND MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE PANHANDLE AND STREET RIGHT OF WAY LINE ONLY AND NOT ONTO THE PAN-HANDLE DRIVEWAYS.

Note: Highway and Highway Widening · Slope, Drainage and Utility Easements shown hereon are reserved unto the Developer and are hereby offered for Dedication to Baltimore County, Md. The Developer, his personal representative, and Assigns, shall convey said areas, by Deed, to Baltimore County, Md. at no cost.



CURVE DATA

FROM	TO	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING	DISTANCE
104	117	2470'	102.91'	02°22'49"	51.51'	N 44°26'40" W	102.91'
115	119	4020'	199.09	02°50'15"	99.54	S 64°57'38" W	199.02'
211	114	12230'	351.21'	16°27'57"	176.81'	S 71°43'20" W	350.02'
77	108	740'	128.01'	09°54'52"	64.09'	S 69°40'25" E	127.85'
109	217	52.00'	116.08'	01°17'05"	59.02'	S 24°01'17" E	115.03'
113	114	12.50'	20.34'	18°00'21"	10.48'	S 72°22'42" W	20.34'
109	110	52.00'	226.13'	09°14'51"	140.11'	S 79°02'26" E	225.09'



P.W.A. Completed	
Final Plat Received	
Planning	
Engineering	
Street Name(s)	
House No.	

APPROVED: BALTIMORE COUNTY PLANNING BOARD
BY: _____ DIRECTOR
DATE: _____

APPROVED: BALTIMORE COUNTY HIGHWAYS DEPARTMENT
BY: Thornton M. Mourning HIGHWAYS ENGINEER
DATE: 10/5/76

APPROVED: BALTIMORE COUNTY HEALTH DEPARTMENT
BY: _____ DEPUTY STATE AND COUNTY HEALTH OFFICER
DATE: _____

THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS, ARE FOR THE PURPOSE OF DESCRIPTION ONLY, AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

THE COURSES AND COORDINATES SHOWN HEREON ARE REFERRED TO THE COORDINATE SYSTEM AS ESTABLISHED BY THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE REFERRED TO THE FOLLOWING TRAVERSE STATIONS.

10057	N 122931.58	W 18503.83
10058	N 123100.81	W 19007.18

SURVEYOR'S CERTIFICATE

I, J. CARROLL HAGAN A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN COMPLIANCE WITH SECTIONS 72A TO 72E, INCLUSIVE, OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION AS ENACTED OR AMENDED BY THE ACTS OF 1945 AND 1947 AND SUBSEQUENT ACTS, IF ANY, AMENDATORY THERETO.

OWNER'S CERTIFICATE

THE REQUIREMENTS OF SECTIONS 72A TO 72D OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION, CHAPTER 106 OF THE ACTS OF 1945, AS AMENDED BY CHAPTERS 64 AND 788 OF THE ACTS OF 1947, AND SUBSEQUENT ACTS IF ANY, AMENDATORY THERETO SO FAR AS THEY CONCERN THE MAKING OF THE PLAT AND SETTING OF THE MARKERS, HAVE BEEN COMPLIED WITH.

JAMES F. COLWILL
OWNER OF LAND SHOWN HEREON
BY _____

PLAT "A"
MIDDLETOWN FARMS

6TH ELECTION DISTRICT BALTIMORE CO., MARYLAND
FOR
JAMES F. COLWILL
% FRANK H. NEWELL III ESQ.
22 W. PENNSYLVANIA AVE.
TOWSON, MD. 21204

E.H.K. JR. 40 FOLIO 39
File: _____
Let: OCT 6 1976
Tests: _____
_____ Clerk

EVANS, HAGAN & HOLDEFER, INC.
SURVEYORS & ENGINEERS
8013 BELAIR ROAD - BALTIMORE, MD. 21236
(301) 668-1501

M.H. _____ DATE _____ SCALE 1" = 100'

171.8016
172-20-

P.C. 4A 3-3-10 Jacob

P.C. 4A

P 67498 MSA SSU 1236 - 6312 - 1

Jacob 3-3-10 #4 & #3 of 3

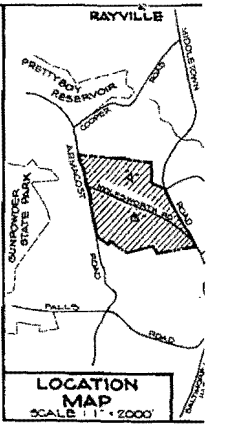
COORDINATE SCHEDULE

	WEST		NORTH	WEST
90	19166.70	5	123140.46	19275.60
96	21241.57	210	122947.56	19821.46
97	22235.60	211	122705.26	19478.30
98	22317.51	114	122585.80	19510.74
82	21756.03	115	122512.56	20579.23
16	19540.64	116	122226.58	20586.97
17	20762.15	103	121892.62	21764.57
108	20274.21	104	121958.09	21707.76
91	19223.77	117	121786.23	21560.06
92	19319.47	34	121272.09	21545.04
40	19610.52	286	121740.59	21888.84
44	19500.05	280	121285.84	19850.40
91	19447.46	115	122710.97	19443.93

DENSITY TABULATION

1. ZONED ..... R.D.P.
2. GROSS AREA OF TRACT ..... 146.041 Ac.±
3. NET AREA OF TRACT ..... 141.508 Ac.±
4. NUMBER OF LOTS 47
5. NUMBER OF LOTS PER ACRE 0.332
6. DRAINAGE AREA ..... PRETTYBOY RESERVOIR
7. REFUSE COLLECTION, SNOW REMOVAL AND MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE PANHANDLE AND STREET RIGHT OF WAY LINE ONLY AND NOT ONTO THE PANHANDLE DRIVEWAYS.

ighway and Highway Widening. Slope, Drainage
Utility Easements shown hereon are reserved
to the Developer and are hereby offered for
dication to Baltimore County, Md. The Developer,
s personal representative, and Assigns, shall convey
id areas, by Deed, to Baltimore County, Md. at no
ost.



CURVE DATA

FROM	TO	RADIUS	LENGTH	DELTA	TANGENT	CHORD DE
104	117	2470'	102.01'	02° 22' 45"	51.01'	N 44° 26' 4
115	116	4020'	159.05'	02° 30' 15"	79.54'	S 04° 37' 5
211	114	12350'	351.32'	16° 21' 27"	176.56'	S 11° 45' 2
77	104	740'	128.91'	09° 58' 52"	64.62'	S 04° 40' 2
109	217	5720'	116.08'	01° 17' 08"	58.02'	S 74° 01' 1
113	114	12150'	368.54'	16° 00' 21"	185.58'	S 72° 52' 4
105	110	5260'	250.15'	02° 43' 51"	140.11'	S 75° 02' 2

PLAT "A"
MIDDLETOWN FARMS

6TH ELECTION DISTRICT BALTIMORE CO., MARYLAND

E.H.K. JR. 40 FOLIO 39

FOR
JAMES F. COLWILL
% FRANK H. NEWELL, III ESQ.
22 W. PENNSYLVANIA AVE.
TOWSON, MD. 21204

Filed: OCT 6 1976

Clerk

COUNTY PLANNING BOARD
DIRECTOR

COUNTY HIGHWAYS DEPARTMENT
WAYS ENGINEER

COUNTY HEALTH DEPARTMENT
AND COUNTY HEALTH OFFICER

THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS, ARE FOR THE PURPOSE OF DESCRIPTION ONLY, AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

THE COURSES AND COORDINATES SHOWN HEREON ARE REFERRED TO THE COORDINATE SYSTEM AS ESTABLISHED BY THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE REFERRED TO THE FOLLOWING TRAVERSE STATIONS.

10057	N 122051.58	W 18505.65
10058	N 123100.61	W 19007.15

SURVEYOR'S CERTIFICATE

I, J. CARROLL HAGAN A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN COMPLIANCE WITH SECTIONS 72A TO 72E, INCLUSIVE, OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION AS ENACTED OR AMENDED BY THE ACTS OF 1945 AND 1947 AND SUBSEQUENT ACTS, IF ANY, AMENDATORY THERETO.

OWNER'S CERTIFICATE

THE REQUIREMENTS OF SECTIONS 72A TO 72D OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION, CHAPTER 1016 OF THE ACTS OF 1945, AS AMENDED BY CHAPTERS 94 AND 788 OF THE ACTS OF 1947, AND SUBSEQUENT ACTS IF ANY, AMENDATORY THERETO SO FAR AS THEY CONCERN THE MAKING OF THIS PLAT AND SETTING OF THE MARKERS, HAVE BEEN COMPLIED WITH.

JAMES F. COLWILL
OWNER OF LAND SHOWN HEREON

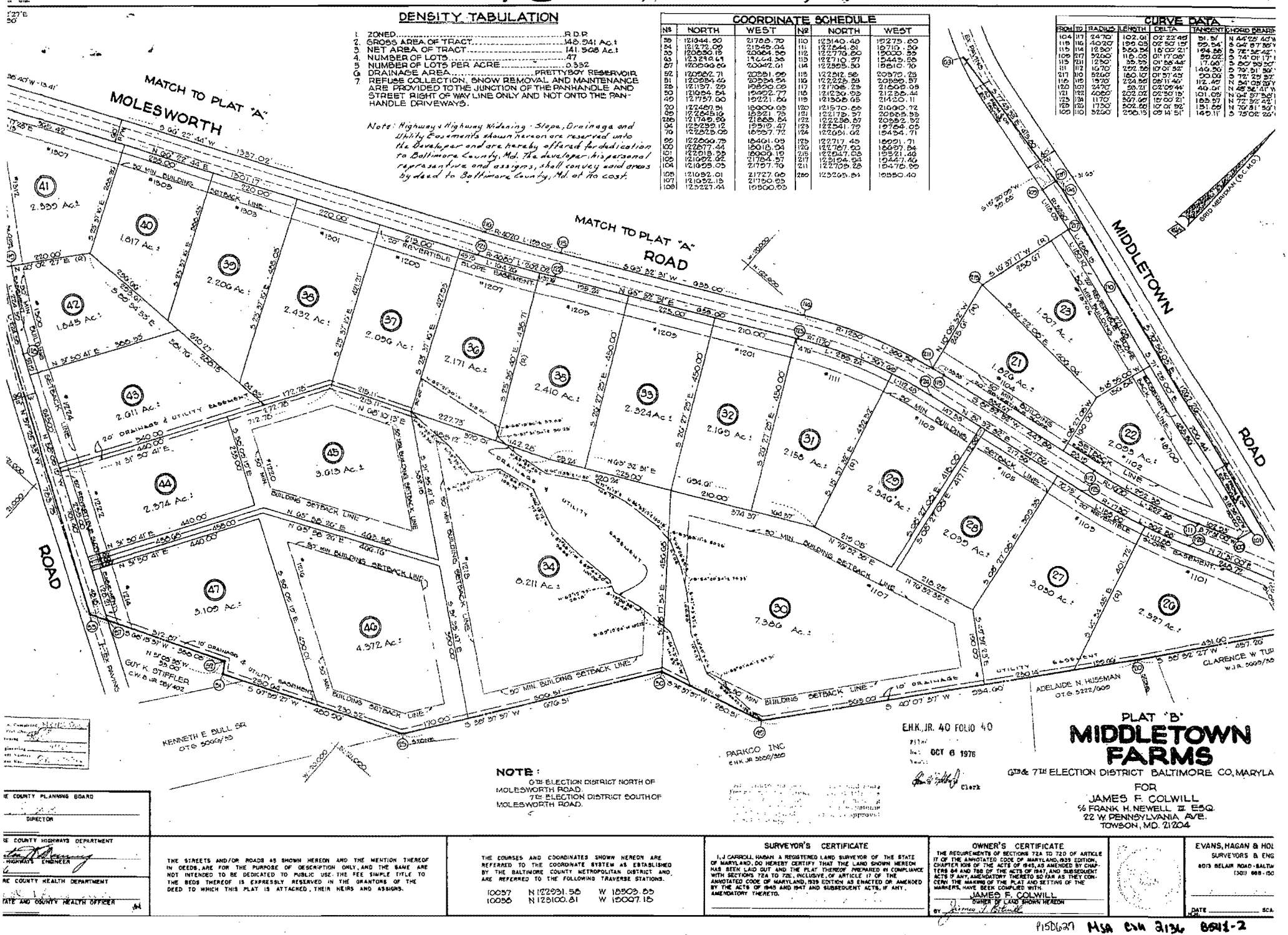
BY

EVANS, HAGAN & I
SURVEYORS &
8013 BELAIR ROAD-BA
(301) 668-

DATE

P150626

BA CO. 2136 85



P150627 HSA EHK 3136 8641-2

Gerhold Cross & Etzel

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
Suite 100 · 320 East Towsontown Boulevard

DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# _____
County Use Only
November 13, 2006

NOV 13 2006
Filing Date: _____
Stamp in w/PDM date stamp here

This application must be accompanied by the following:

1. **One copy of the completed DRC application form checklist.**
2. **Three copies of this DRC application, completed in full.**
3. **Three copies of a letter of request (attach one to each DRC application).**
4. **Nine copies of the plan folded to 8 ½ x 11 inches.**
5. **$50 fee (check made payable to Baltimore County and non-refundable; do not staple check to request form)**

Project Name: Jacobs Property PDM File #: _____

Project Address: #1206 Moleswoorth Road Zip Code: 21120 ADC Map #: 7 A3

Councilmanic District: 3 Election District: 6 Project Acreage: 6.025

Tax Account No(s): 17-00-010620 Zoning: R.C. 4

Engineer: Michael Alexander Gerhold, Cross & Etzel, Ltd. Engineer's Phone No.: (410) - 823 - 4470

Applicant: Neal Jacobs Applicant's Phone No.: (410) - 598 - 8607

Address: 320 E. Towsontown Blvd, Suite 100

Towson, Maryland Zip 21286 Email: _____

Is this an antenna? ___ Yes X No If "Yes" check one of the following: Cellular ___ (CAC) Water Tower ___ (WTC) MonoPole ___ (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

( ) Limited Exemption under Section 32-4-106 (____) (____)
( ) Material Amendment to the plan
(X) Plan Refinement
( ) Waiver of public works standards
( ) Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

Minor Sub
B-5 w/ Plat

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request.

Please note that a DRC application form checklist is available in room 123 of the Baltimore County Office Building and on the Baltimore County web site at www.co.ba.md.us. A copy of that checklist must be completed and included along with this DRC application.

Please see the DRC application form checklist for complete submittal requirements.

c: Council, Planning, DEPRM

rev. 10/2004

3-3-10 Jacob
R.C. Ex #5

JACOBS NEAL
1206 MOLESWORTH RD
PARKTON, MD 21120

02/20/2008

Tax Account Number: 6-1700010620
In accordance with Sections 32-3-211 through 32-3-225 of the Baltimore County Code, 2003, every four years Baltimore County undergoes a comprehensive zoning process, allowing any person to ask for any zoning on any property.

Please be advised that your property, referenced by the Tax Account Number above, is being considered for a possible zoning change under 2008 CZMP Issue **3-094** at the request of **Sparks-Glencoe Community Planning Council**. The description of your property is listed below as well as the existing and requested zoning for the issue. Your property may only be a portion of the entire issue.

Property Description:IMPS6.025 AC
1206 MOLESWORTH RD
MIDDLETOWN FARMS
1,206 MOLESWORTH RD

Existing Zoning (Acres)		***Requested Zoning (Acres)***	
RC 4	307.4	RC 7	307.4
	307.4		307.4

The Office of Planning has prepared a Log of Issues that lists all zoning requests. A copy of the current Log of Issues is available on the County Web Page at the following address:
http://www.baltimorecountymd.gov/Agencies/planning/zoning/2008czmp/2008czmpissuelogs.html

The Planning Board will be holding public hearings on all zoning issues in each Councilmanic District during March 2008. The hearing for your issue is scheduled for March 11, 2008 at Loch Raven Senior High School. Citizens are welcome to attend and present their comments on these issues at the public hearings. If you are unable to attend the meeting in your Councilmanic District, you may send written comments to:

Baltimore County Office of Planning
Attention Coordinator, 2008 CZMP
401 Bosley Ave, Suite 406
Towson, MD 21204

Please make certain that all correspondence contains the 2008 CZMP Issue Number listed above.

For additional information or questions, please contact the Office of Planning at 410-887-3480 or visit our website at www.baltimorecountymd.gov/go/czmp.

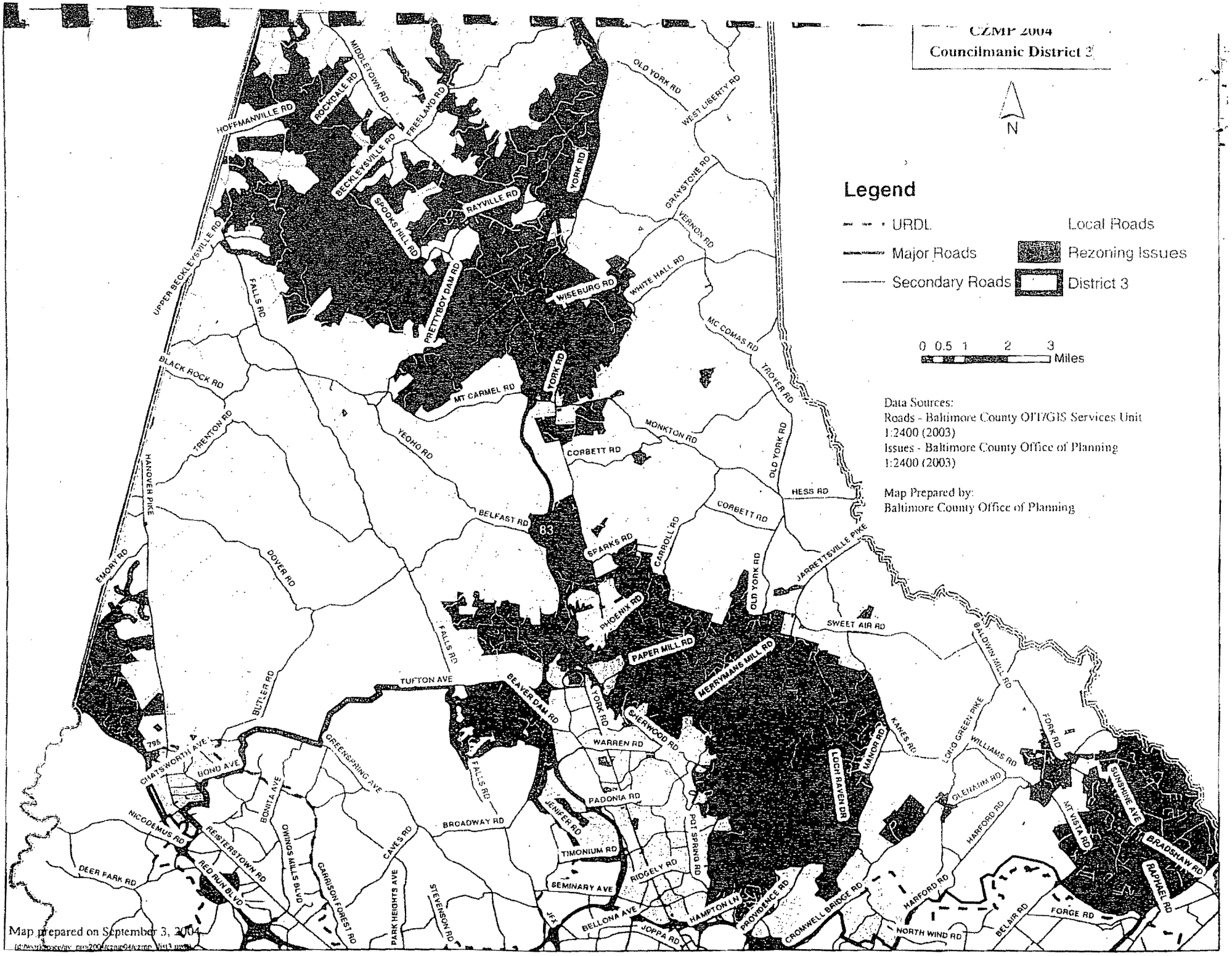
Jacob 3-3-10 P.C. Ex #6

Baltimore County
2004 Comprehensive Zoning Map Process



Final Log of Issues
Adopted August 31, 2004

P.C. Ex #7 3-3-10 Jacob

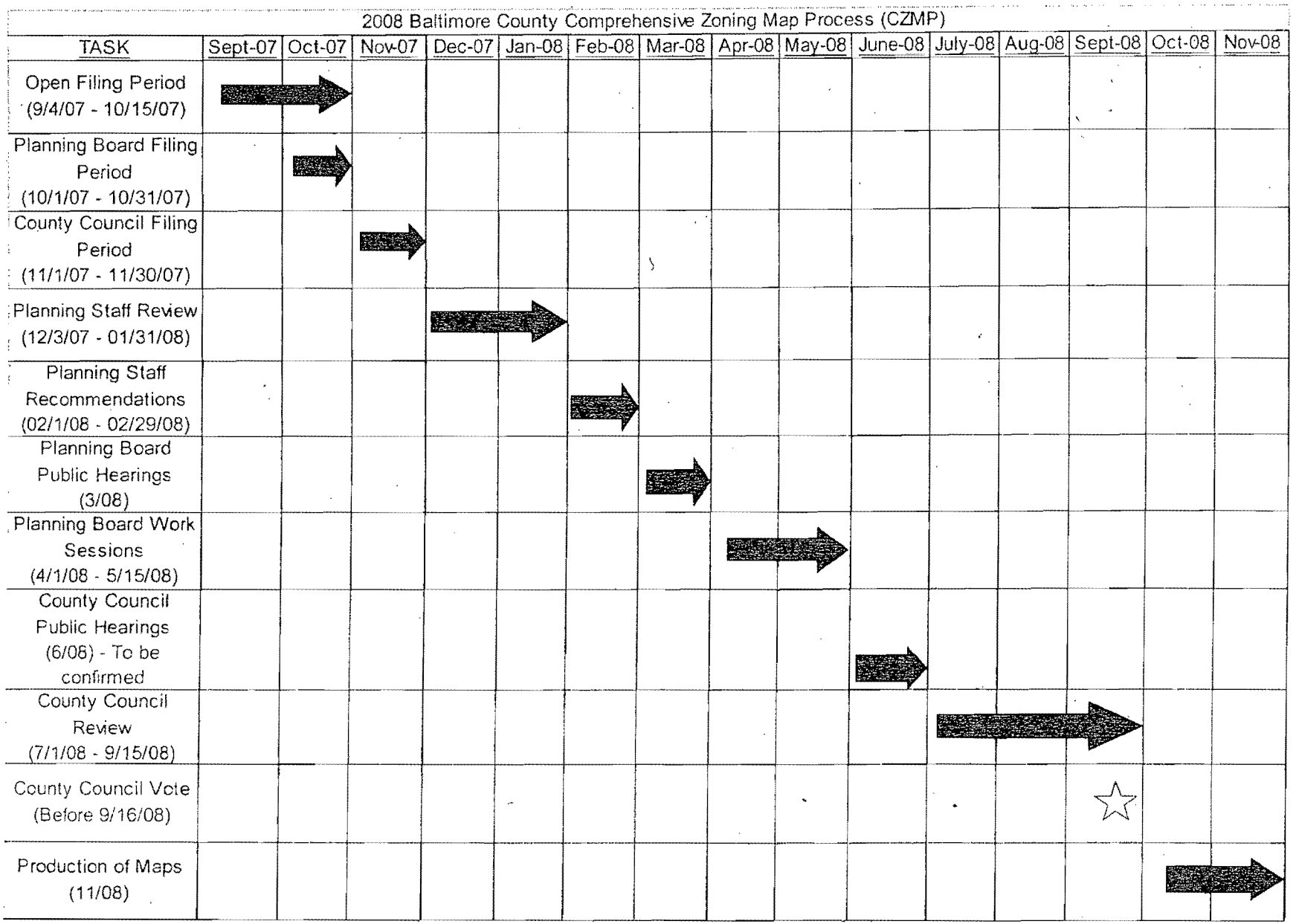

CZMP 2004
Councilmanic District 3
N
Legend
URDL
Major Roads
Secondary Roads
Local Roads
Rezoning Issues
District 3
0 0.5 1 2 3
Miles
Data Sources:
Roads - Baltimore County OIT/GIS Services Unit
1:2400 (2003)
Issues - Baltimore County Office of Planning
1:2400 (2003)
Map Prepared by:
Baltimore County Office of Planning
Map prepared on September 3, 2004
HOFFMANVILLE RD
ROCKDALE RD
MIDDLETOWN RD
FREELAND RD
OLD YORK RD
WEST LIBERTY RD
BECKLEYSVILLE RD
SPOOKS HILL RD
RAYVILLE RD
YORK RD
GRANSTONE RD
VERNON RD
UPPER BECKLEYSVILLE RD
FALLS RD
PRETTYBOY DAM RD
WISEBURG RD
WHITE HALL RD
MC COMAS RD
TROYER RD
BLACK ROCK RD
MT CARMEL RD
YORK RD
TRENTON RD
YEOHO RD
MONKTON RD
CORBETT RD
OLD YORK RD
HESS RD
HANOVER PIKE
BELFAST RD
83
SPARKS RD
CARROLL RD
CORBETT RD
JARRETTSVILLE PIKE
EMORY RD
DOVER RD
PHOENIX RD
OLD YORK RD
SWEET AIR RD
BALDWIN HILL RD
FALLS RD
PAPER MILL RD
MERRYMANS MILL RD
TUFTON AVE
BUTLER RD
BEAVER DAM RD
YORK RD
SHERWOOD RD
KANES RD
LONG GREEN PIKE
WILLIAMS RD
FORK RD
795
CHATSWORTH AVE
BOND AVE
GREENSPRING AVE
WARREN RD
LOCH RAVEN DR
MANOR RD
FALLS RD
PADONIA RD
GLENARM RD
SUNSHINE AVE
BONITA AVE
JENIFER RD
HARFORD RD
MT VISTA RD
NICODEMUS RD
RESTERSTOWN RD
BROADWAY RD
POT SPRING RD
TIMONIUM RD
OWINGS MILLS BLVD
CAKES RD
RIDGELY RD
BRADSHAW RD
DEER PARK RD
RED RUN BLVD
GARRISON FOREST RD
SEMINARY AVE
PARK HEIGHTS AVE
STEVENSON RD
HAMPTON LN
PROVIDENCE RD
CROMWELL BRIDGE RD
HARFORD RD
RAPHEL RD
JFX
BELLONA AVE
JOPPA RD
NORTH WIND RD
BELAIR RD
FORGE RD

Baltimore County 2004 Comprehensive Zoning Map Process

Final Log of Issues

August 31, 2004

Issue Number	Owner, Petitioner / Location	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	County Council Decision	Comment
3-123	County Council West of I-83, Between Freeland Rd and Middletown Rd	BL 0.005 BL CR 0.001 BM CR 0.139 ML 0.163 RC 2 10.246 RC 4 287.176 RC 5 4,155.175 Total 4,452.905	BL 0.005 BL CR 0.001 BM CR 0.139 ML 0.163 RC 6 4,452.597 or RC 7 Total 4,452.905	BM CR 0.139 BL CR 0.001 BL 0.005 ML 0.163 RC 5 4,155.175 RC 2 10.246 RC 4 287.176 Total 4,452.905	BL 0.005 BL CR 0.001 BM CR 0.139 ML 0.163 RC 2 10.246 RC 4 287.176 RC 5 4,155.175 Total 4,452.905	BL 0.080 BM CR 0.133 ML 0.649 RC 4 2,990.306 RC 5 1,433.289 RC 7 28.448 Total 4,452.905	
3-124	County Council East side of York Rd, 200' South of Timonium Rd	BL 0.215 BR 0.008 DR 5.5 0.046 Total 0.269	BL 0.265 BR 0.004 Total 0.269	DR 5.5 0.046 BL 0.223 Total 0.269	BL 0.223 DR 5.5 0.046 Total 0.269	BM 0.223 DR 5.5 0.046 Total 0.269	
3-125	Staff East side of York Rd, across from Landstreet Ave	BL 0.267 BM 2.697 DR 2 0.040 DR 3.5 0.027 MR 17.696 Total 20.727	BL 0.267 BM 2.697 DR 2 0.040 DR 3.5 0.027 MR 17.696 Total 20.727	MR 17.446 BM 2.812 DR 2 0.333 DR 3.5 0.076 BL 0.060 Total 20.727	BL 0.060 BM 2.812 DR 2 0.333 DR 3.5 0.076 MR 17.446 Total 20.727	BL 0.060 BM 2.812 DR 2 0.333 DR 3.5 0.076 MR 17.446 Total 20.727	



P.C. Ex#8 3-3-10 Jacob

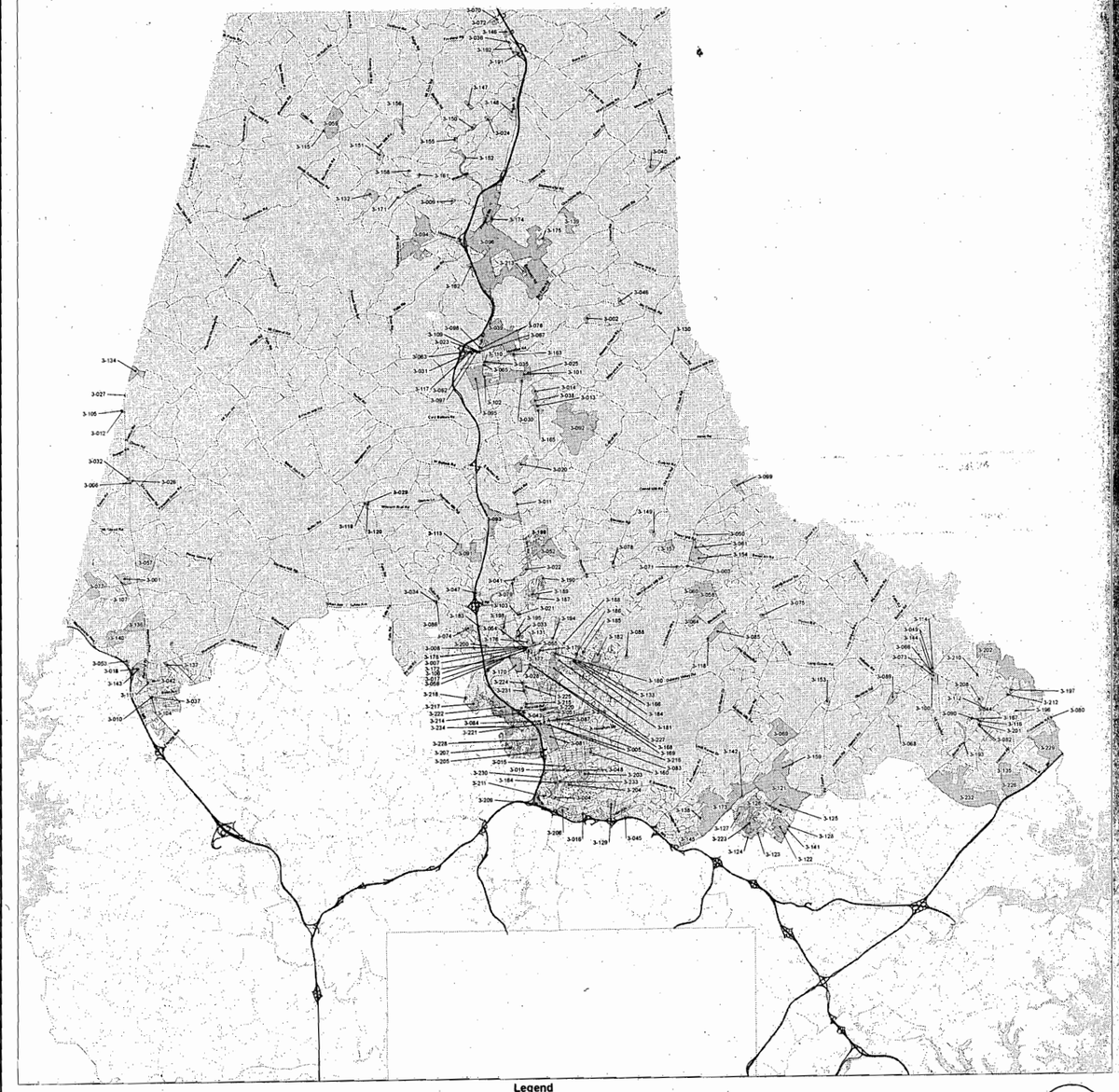
COMPREHENSIVE ZONING



MAP PROCESS 2008

3-3-10 Jacob
Att #3.7.d

Comprehensive Zoning Map Process 2008
Councilmanic District 3 - Zoning Issues



Legend

- IssueBoundaryArea
- Major Roads
- Street Centerline
- Hydrology

1 inch equals 0.895532 miles

2.5 1.25 0 2.5 5 Miles

BALTIMORE COUNTY MARYLAND

Publication Date: January 14, 2008
Publication Agency: Office of Planning
Director: Arnold F. 'Pat' Keller
401 Bosley Ave, Towson MD
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

(a) *Preliminary report by Planning Board; required.* The Director of Planning shall release a preliminary report on the zoning regulations or zoning map after the proposed regulations or map have been accepted by the Planning Board for public hearing.

(b) *Notice.*

(1) (i) The Planning Board shall hold at least one public hearing on the proposed zoning map after:

1. The preliminary report is released; and

2. Giving public notice in two newspapers of general circulation at least 20 days before the public hearing.

(ii) During the period of the public notice, the Director of Planning shall make the preliminary report of the Planning Board and any accompanying maps and exhibits available for public inspection in the Office of Planning.

(2) Unless a public hearing is required by resolution of the County Council adopted under § 32-2-101 of this article, the Planning Board is not required to hold a public hearing on a proposed regulation or on a matter referred by the County Council

(c) *Final report by Planning Board.*

(1) The Director of Planning shall submit to the County Council a report containing the final recommendations of the Planning Board with regard to the proposed zoning regulations or map.

(2) In the case of the zoning map, the Planning Board shall attach to the report a copy of the final zoning map as recommended by the Planning Board.

(3) (i) If there is a disagreement among the members of the Planning Board as to any part of the proposed zoning map or regulations, the dissenting member may file with the County Council one or more minority reports stating the basis for the disagreement with the majority.

(ii) The Planning Board shall include the minority report with the final report of the majority.

(1988 Code, § 26-123) (Bill No. 18, 1990, § 2; Bill No. 63, 1992, § 1; Bill No. 51-94, § 1, 5-20-1994; Bill No. 95-94, §§ 1, 2, 7-12-1994; Bill No. 50-99, § 1, 7-12-1999; Bill No. 103-02, § 2, 7-1-2004; Bill No. 72-04, § 1, 8-11-2004)

Annotation–Former § 26-123 (1988) cited in People's Counsel for Baltimore County v. Prosser, 119 Md.App. 150, 704 A.2d 483 (1998).

§ 32-3-204. [REPEALED].

PART II. COMPREHENSIVE ZONING MAP PROCESS

§ 32-3-211. "ISSUE" DEFINED.

In this Part II, "issue" means a tract or parcel of land proposed for a change in zone or district

classification.

(1988 Code, § 26-123) (Bill No. 18, 1990, § 2; Bill No. 63, 1992, § 1; Bill No. 51-94, § 1, 5-20-1994; Bill No. 95-94, §§ 1, 2, 7-12-1994; Bill No. 50-99, § 1, 7-12-1999; Bill No. 16-02, § 1, 5-5-2002; Bill No. 103-02, § 2, 7-1-2004)

Annotation–Former § 26-123 (1988) cited in People's Counsel for Baltimore County v. Prosser, 119 Md.App. 150, 704 A.2d 483 (1998).

§ 32-3-212. CHANGES IN ZONING.

(a) *Duty of Planning Board to recommend revised map.* Within the one-year period immediately preceding May 31, 2004, and within each one-year period immediately preceding May 31st of every fourth year thereafter, the Planning Board, after completely reviewing the zoning map then in effect, shall recommend to the County Council a new or comprehensively revised version of the map in accordance with this subtitle.

(b) *Zoning maps sent to County Council; identify changes.*

(1) The Director of Planning shall transmit the recommended zoning map to the County Council within 20 days after the Planning Board's vote on the recommended map.

(2) The map shall identify as a separate issue each area or parcel of land recommended or considered by the Planning Board for a change in zoning.

(c) *Applicability.* The provisions of this section are mandatory and shall apply regardless of any optional actions taken under §§ 32-3-202 and 32-3-203 of this subtitle.

(1988 Code, § 26-123) (Bill No. 18, 1990, § 2; Bill No. 63, 1992, § 1; Bill No. 51-94, § 1, 5-20-1994; Bill No. 95-94, §§ 1, 2, 7-12-1994; Bill No. 50-99, § 1, 7-12-1999; Bill No. 16-02, § 1, 5-5-2002; Bill No. 103-02, § 2, 7-1-2004)

Annotation–Former § 26-123 (1988) cited in People's Counsel for Baltimore County v. Prosser, 119 Md.App. 150, 704 A.2d 483 (1998).

§ 32-3-213. HEARING REQUIRED.

(a) *In general.* Each time the County Council receives a recommended zoning map from the Director of Planning under the procedure set forth in § 32-3-212 of this subtitle, the County Council shall schedule a hearing on the zoning map, in accordance with the procedures set forth in §32-3-221 of this subtitle.

(b) *Adoption of map.* The County Council shall adopt a new zoning map before September 16, 2004 and before every September 16 every fourth year thereafter.

(1988 Code, § 26-125) (Bill No. 18, 1990, § 2; Bill No. 63, 1992, § 1; Bill No. 51-94, § 1, 5-20-1994; Bill No. 95-94, §§ 1, 2, 7-12-1994; Bill No. 50-99, § 1, 7-12-1999; Bill No. 16-02, § 1, 5-5-2002; Bill No. 103-02, § 2, 7-1-2004; Bill No. 75-03, § 5, 7-1-2004)

Annotation–Former § 26-125 (1988) cited in People's Counsel for Baltimore County v. Prosser, 119 Md.App. 150, 704 A.2d 483 (1998).

P.C. Ex #11 Jacobs 5-26-10 CBAR-09-269

Comprehensive Zoning Map Process 2008 - Applicant Information

olding Number
646

Applicant Information

Applicant Name and Address
Renae Olver
8 Hunt Farms Ct.

Sparks, MD 21152

Phone Number 4104722033
E-mail: rolver1@hotmail.com
Organization Sparks-Glencoe Community Planning C

Rezoning Information

Existing Use res

Proposed Use rural

Owner? N
Total Acreage 4.0

Existing Zoning see attached

Proposed Zoning see attached

Zoning History
NONE

Zoning History Described
rc4

Justification
see attached

Property Information

Rezoning Property Address	Council District / Taxmap / Book	Election District / Lot / Folio	Tax Account / Parcel
18701 COOPER RD	3	7	2100010177
IMPS79.1 AC NES	0016		0041
ARMACOST RD	0000	0000	

Please schedule an appointment with the community planner listed below to complete the application process.

District 3 Community Planner: Please contact Jessie Bialek at 4108873480 or JBialek@Baltimorecountymd.gov to schedule an appointment.

NOTE: Your request will NOT become an issue until you have meet with a community planner and paid the required fees and approved an issue map. Only then will an issue number be assigned The deadline for paying fees is October 15, 2007. It is strongly

P.C. Ex #12 Jacobs 5-26-10 CBA-R-09-269

CERTIFICATE OF POSTING

RE: Issue No 3-094

Applicant Renae Olver

Date of Planning Board Public Hearing 3-11-08

Location Loch Raven Senior H.S.

Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue
Towson MD 21204

RECEIVED
FEB 26 2008
OFFICE OF PLANNING

Ladies and Gentlemen:

This letter is to certify under penalties of perjury that the necessary sign(s) required by Sect. 32-3-215 (a) & (b) of the County Code were posted conspicuously for the property known as **Issue No.** 03-094

Address 18701 Cooper Rd

The signs were posted on 2-23-08
(Month, Day, Year)

Photographs of Sign(s)

Sincerely,

J. Lawrence Pilson
(Signature of Sign Poster and Date)

J. LAWRENCE PILSON
(Printed Name)

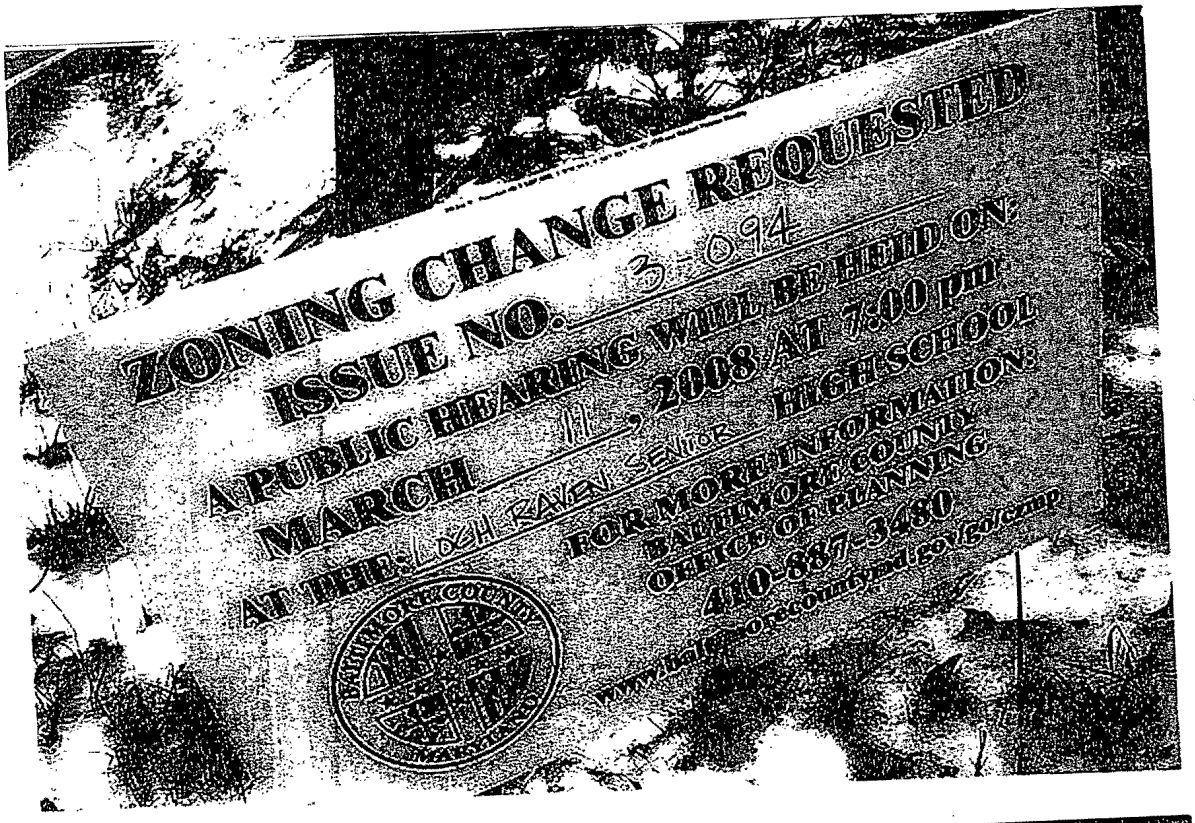
1915 Old Bank Rd
Parkton, Md 21120
(Address)

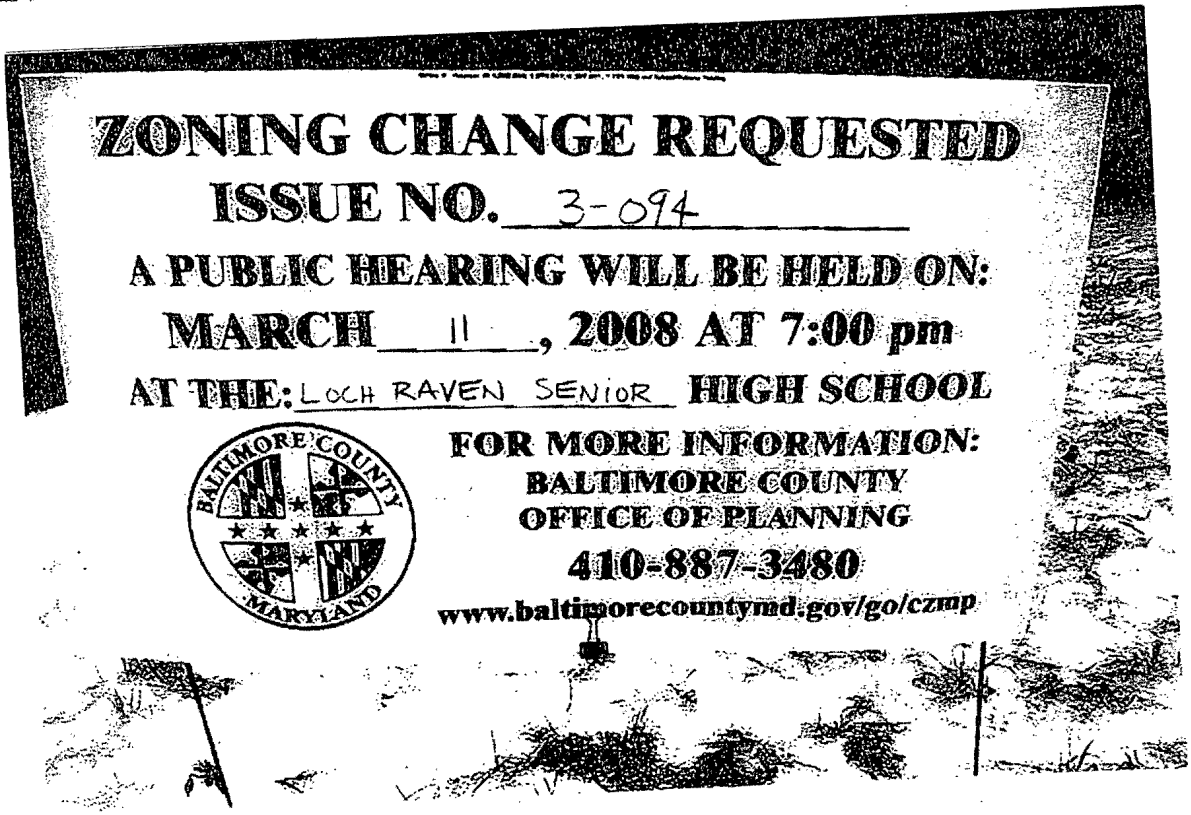
410-343-1443
(Telephone Number)

S:\CZMP 2008\Certificate of Posting.doc

P.C. Ex #13 Jacobs 5-26-10 CBA R-09-269

P.C. EXH #13


ZONING CHANGE REQUESTED
ISSUE NO. 3-094
A PUBLIC HEARING WILL BE HELD ON:
MARCH 11, 2008 AT 7:00 pm
AT THE: LOCH RAVEN SENIOR HIGH SCHOOL
FOR MORE INFORMATION:
BALTIMORE COUNTY
OFFICE OF PLANNING
410-887-3480
www.baltimorecountymd.gov/go/czmp


ZONING CHANGE REQUESTED
ISSUE NO. 3-094
A PUBLIC HEARING WILL BE HELD ON:
MARCH 11, 2008 AT 7:00 pm
AT THE: LOCH RAVEN SENIOR HIGH SCHOOL
BALTIMORE COUNTY MARYLAND
FOR MORE INFORMATION:
BALTIMORE COUNTY
OFFICE OF PLANNING
410-887-3480
www.baltimorecountymd.gov/go/czmp

LONG GREEN VALLEY ASSOCIATION
P.O. Box 91
Baldwin, Maryland 21013

January 16, 2008

Baltimore County
Office of Planning
2008 Comprehensive Zoning Map Process

At the January 15, 2008 meeting of the Long Green Valley Association the board of directors voted to **support issue number 3-094**. The board considered that, if granted, the property would allow less density and be more consistent with the rural nature of its surroundings.

The mission of the LGVA is to preserve the agricultural and rural character of the area for the benefit of future generations. Over the years the association has worked to maintain and promote the pristine nature of the area, its valuable natural resources, and active agriculture community.

Sincerely,

Carol T. Trela
Secretary

P.C. Ex #14 Jacobs 5-26-10 CBA R-07-269

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

RECEIVED
FEB 19 2008
OFFICE OF PLANNING

February 15, 2008

Mr. Pat Keller
Director, Office of Planning
401 Bosley Avenue, Room 406
Towson, Maryland 21204

Dear Mr. Keller:

At the February 12, 2008 meeting of the Valleys Planning Council's Executive Committee, CZMP issues in districts 2 and 3 were reviewed. Positions were taken on numerous issues.

Specifically, the VPC **supports 3-094**. The VPC supports efforts that preserve farmland and sensitive areas; limit sprawl outside the URDL; and avoid adding congestion to arterial routes and opposes zoning changes that are counter to these goals.

We hope that the recommendation of the Planning Office will incorporate our views.

Sincerely,

Teresa Moore

Teresa Moore
Executive Director

C.B.A. - R-09-169 5-26-10 A.C.C. Ex. #15 Tabled

RESERVOIR WATERSHED MANAGEMENT PROGRAM
c/o Baltimore Metropolitan Council
2700 Lighthouse Point East – Baltimore, MD 21224

Mr. Edward Gilliss, Chairman
Baltimore County Planning Board
401 Bosley Ave.
Towson MD 21204

March 4, 2008

RE: Zoning reclassification petition no. 3-094

Dear Mr. Gilliss:

This letter presents for the Planning Board's consideration the position of the region's **Reservoir Watershed Management Program** on an individual zoning reclassification petition (or "issue") currently being considered by Baltimore County under the 2008 Comprehensive Zoning Map Process (CZMP). The current list of issues in the second, third, fourth and fifth Councilmanic districts was reviewed by the Reservoir Technical Group. The group's review was limited to those petitions which involve properties draining to Liberty, Loch Raven or Prettyboy reservoirs.

This comment conforms to policy commitments made in the *2005 Action Strategy for the Reservoir Watersheds*, a document which was endorsed by Baltimore County and by the other participants in the regional reservoir program. (These policy commitments are quoted later in this letter.)

The program currently is based on the *Reservoir Watershed Management Agreement of 2005*, which was signed by Baltimore City, Baltimore County, Carroll County, the two soil conservation districts in Baltimore and Carroll counties, the Maryland Department of Agriculture, the Maryland Department of the Environment, and the Baltimore Metropolitan Council. The *2005 Agreement* (successor to a 1984 Agreement) focused on the need to protect the three reservoirs from elevated inputs of sediment, phosphorus, bacteria, sodium and chlorides. It also authorized the continuation of the Reservoir Technical Group (RTG)--which includes technical staff from all of the signatory parties--as the ongoing coordinating mechanism to carry out the program.

Issue Number 3-094 Location W of I-83, south of Middletown Rd - north + south sides of Armacost Rd at Cooper Rd.

Reservoir watershed Loch Raven Acres affected 307.4

Present zoning RC4 Proposed new zoning RC7*

Recommendation: Support. The proposed change(s) will help to reduce future development in the reservoir watersheds by reducing the density of the residential development that will be allowed on existing Resource Conservation-zoned parcels. This will help to limit future increases in impervious surfaces in the watersheds and will protect the natural functions of forests, wetlands and streams for maintaining reservoir water quality.

Note: General background information is presented on the following pages.

P.C. Ex #16 Jacobs 5-26-10 CBA-R-09-269

Background on Reservoir Watershed Agreement goals and commitments

While the three reservoirs lie in Baltimore and Carroll counties, they provide all of the public drinking water for Baltimore City and Baltimore County, as well as the water for portions of Anne Arundel, Carroll, Harford and Howard counties. The region's shared water supply system, portions of which are almost 100 years old, represents a priceless and irreplaceable legacy. The aim of the Reservoir Watershed Management Program is to help ensure the wise stewardship of the reservoirs and their tributaries, so that they will continue to provide the region with high-quality drinking water, well into the future.

All three of the reservoirs were found in the early 1970s to be suffering from high levels of phosphorus and algae. Phosphorus coming from the discharges of several small sewage treatment plants, from agriculture and from suburban/urban areas in the watersheds was contributing to the excessive growth of algae in the reservoirs. Concerns over the quality of the raw water and the long-term health of the lakes led to the signing of the *1984 Reservoir Watershed Management Agreement*. The signatories to that agreement have carried out over the past 24 years literally hundreds of actions, involving both public projects and private efforts, to pursue the goals of that pact.

In 2005, the earlier watershed management agreement was renewed by the same signatory agencies. The *2005 Agreement* included the following goals:

- Maintain existing water quality in the reservoirs and their tributaries, and reduce phosphorus, sediment, bacterial, sodium and chloride loadings to the reservoirs (and their tributaries) to acceptable levels, in order to...eliminate existing and prevent future water quality impairments, as defined under the federal Clean Water Act, Section 303(d). [All three reservoirs have been identified as impaired by one pollutant or another under this mandatory state/federal program.] ...
- It is a goal of the Reservoir Program to promote patterns of land use in the three reservoir watersheds and promote landowner stewardship practices that together will help to meet the aforementioned water quality standards and technical goals for the reservoirs and their tributaries.

Many of the policies and actions committed to in the *2005 Action Strategy* (appended to the 2005 Agreement) are intended to directly pursue these two goals (among others) for the reservoirs.

Because zoning greatly influences the type and intensity of future land uses (and the related pollutant loadings to local waterways), the *2005 Action Strategy* includes several policies agreed to by all the signatories which relate to local zoning issues:

- Baltimore County will maintain insofar as possible the current limits of extension of the Urban-Rural Demarcation Line (URDL) in the Loch Raven and Liberty watersheds. (The Prettyboy watershed lies well outside of the URDL line.)
- Baltimore and Carroll Counties will maintain the current extent of conservation and agricultural zoning in the reservoir watersheds, insofar as possible.

- Baltimore and Carroll Counties will protect the reservoir watersheds by limiting insofar as possible additional urban development zoning within the reservoir watersheds.

Ever since 1988, the Reservoir Watershed Management Program has reviewed and commented on proposed rezoning actions in both Baltimore and Carroll Counties in light of these broad policies.

The land use-water quality connection

A growing body of scientific research has established that the quantity and quality of runoff from the landscape is greatly influenced by the land cover— from forest, field, cropland, and pasture, through various types of suburban housing, all the way up to retail and manufacturing areas and other high-density urban uses. Speaking in very general terms, forests are the most protective of local water quality, followed by well-managed pasture land and cropland, and then by very low-density residential development. As residential densities go up, phosphorus concentrations in the storm runoff increase dramatically, the potential for groundwater contamination increases, and the erosion of local stream channels by runoff worsens. Land uses with high percentages of impervious surfaces are the most detrimental of all to stream habitat and to local water quality.

Although the Baltimore reservoirs are well-managed, their water quality continues to be threatened by existing and new development, and by other land use practices in their watersheds. That is why it's so important to keep as much of the remaining unurbanized portions of the three watersheds as possible in forest and in other land uses with low imperviousness, such as agriculture and low-density development.

These principles were among the factors considered when Baltimore County adopted its Urban-Rural Demarcation Line in 1967 and its Resource Conservation zones in 1975. Those bold new policies set the ground rules for most subsequent land-use decisions in the reservoir watersheds in Baltimore County (as well as in other parts of the county.) These policies have been the "first line of defense" for protecting the watersheds, and in many ways, they have served the people of Baltimore County (as well as all of the water system's other customers) very well.

Minimizing the risks of future development in Baltimore County watershed areas

When the Reservoir Technical Group participated in the 2004 CZMP process, our comments included the results of a Baltimore County staff analysis of the potential for new residential lots to be developed, under existing zoning, on **rural** lands in the reservoir watersheds. In the county's portion of each watershed, there was (under the pre-2004 zoning) the potential to **double** over time the number of all rural residences that already existed.
A number of the "downzonings" that were approved in the 2004 CZMP cycle contributed significantly to reducing the overall potential for new rural residential development. We welcomed those changes.

Despite the significant downzonings adopted by Baltimore County in 2004, we believe that there remains a need to further reduce development pressures in the county's northern rural areas, and to apply rural zoning classifications that protect the forests, streams, wetlands, and other environmental resources which help to protect and maintain the water quality of the three reservoirs and their many tributaries.

Principles guiding our current recommendations

Our comments on individual rezoning "issues" in the three watersheds rest on two broad principles, which grow out of the commitments made in the *2005 Action Strategy*:

- We are opposed to any petitions which propose to convert present Resource Conservation (RC) acreage to other zoning categories.
- We support petitions which would convert acreage from an urban category or from a higher-density RC zone to a lower-density RC zone (i.e., permitting fewer new residences to be built on the same tract(s) of land.)

In addition, the Reservoir Technical Group is opposed to any petitions which would convert acreage from a lower-density RC zone to a higher-density RC zone (i.e., permitting more new residences to be built on the same tract(s) of land.) We are also concerned about each rezoning petition in the watershed areas that would convert a parcel from one (or more) type(s) of urban zoning category to a more "intensive" urban zoning category (ies.) The more intensive urban uses typically involve an increase in the percent imperviousness of a given site (requiring more complicated stormwater management controls), and they often result in increased local vehicular activity. Although we are not taking positions on individual *urban-to-urban* petitions in the watersheds, we are concerned about the cumulative effects on the reservoirs of existing and proposed new residential/urban development. We urge the County to focus on reducing such effects during the development review process for each project.

Thank you for giving consideration to our comments. We applaud Baltimore County's longstanding tradition of using land use policy to help protect the Baltimore metropolitan water-supply reservoirs for future generations. We appreciate having had the chance to participate in Baltimore County's Comprehensive Zoning Map Process. If you have any questions, please contact me at 410-732-0500 x1006.

Sincerely,

Gould Charshee

Gould Charshee
Water Resources Program Manager
Baltimore Metropolitan Council

Cc: Arnold F. (Pat) Keller III
Reservoir Technical Group

Baltimore County 2008 Comprehensive Zoning Map Process
Comments from All Agency

Selection Criteria *Select Issue Numbers From Issue Number In List(3-094)*

Issue Number: 3-094

Owner, Petitioner: Sparks-Glencoe Community Planning Council

Location: North and south sides of Armacost Rd at Cooper Rd

Existing Zoning and Acres		Requested Zoning and Acres		Final Staff Recommendation		Planning Board Recommendations	County Council Decision
RC 4	307.4	RC 7	307.4	RC 4	132.3		
	307.4		307.4	RC 7	175.2		
					307.5		

Comments

Aging
Standard Comments:

Additional Comments

Comments Date

Final Recommendation Final Date

Community Conservation
Standard Comments:

P.C. Ex#17 Jacobs 5-26-10 CBA R-09-269

SPARKS-GLENCOE COMMUNITY PLANNING COUNCIL

DOWNZONING REQUESTS

JUSTIFICATION SUMMARY

Northern Baltimore County is a rural area with expanses of undeveloped land holding precious natural resources. The Prettyboy Reservoir and Gunpowder River are important sources of clean water. Forested areas help maintain a healthy environment. The soils sustain crop farms, and equestrian, dairy, beef, and livestock farms are also spread across the area. People are drawn to Northern Baltimore County for recreational pursuits because of its natural beauty, clean rivers and streams, country roads and the NCR, or Torrey Brown Rail Trail. Old buildings provide reminders of the area's role in our nation's his tory. Together, the environment, local agriculture, recreation and historic sites define the rural character of Northern Baltimore County. Each of these is threatened by the continuation of residential building under current zoning. More protective land use is essential to safeguard the area's rural character.

The Sparks-Glencoe Community Planning Council is dedicated to preserving the rural character of Northern Baltimore County. Pursuant to that goal, we have submitted petitions for downzoning in several areas. These petitions focus on watersheds, agricultural areas, recreational attractions and historic sites. There are many reasons justifying placing more restrictive zoning in these areas. The environment in the whole region, including the Chesapeake Bay, will be improved by reducing the amount of impervious surface placed over the countryside. The State of Maryland (DNR) has defined attributes which are integral to the protection of the natural resou rces in these areas. Each of the following issues contains several of these features, such as Green Infrastructure, and sensitive species, within their boundaries.

In addition, reducing future development would result in less traffic on the narrow, winding roads characteristic of the area. More restrictive zoning would preserve the beautiful scenery of Northern Baltimore County and the sense of tranquility it provides. This would ensure that the area would continue to draw the thousands of visitors who come to enjoy a variety of recreational activities, bringing economic benefits to area businesses. Each of these requests would advance Baltimore County's Master Plan goal of preserving rural areas beyond the Urban/Rural Demarcation Line, and directing development to areas better served by existing infrastructure.

P.C. Ex # 18 Jacobs 5-26-10 CBA-R-09-269

Issue No. 3-094

Location: Prettyboy Reservoir Area--Middletown Road to Armacost Road, Harn Lane, Prettyboy Dam Road, Cooper Road.
Total Acres: 307.4

Supporting reasons:

- Most of this land is in the watershed of the Prettyboy Reservoir and the Gunpowder River; downzoning to protect forest buffers and reduce development is especially important because of the millions of Baltimore Metropolitan area residents dependent on this water supply.
- This area adjoins the Gunpowder State Park and contains Maryland Green Infrastructure area and Forest Interior Dwelling Species habitat.
- Downzoning will support the many recreational uses of the State Park, and the Gunpowder River.

The land included in this request for downzoning is in the watershed of both the Prettyboy Reservoir and the Gunpowder River. It adjoins the Gunpowder Falls State Park. Since Prettyboy Reservoir is the main source of water into the Gunpowder River, protecting the area around the Reservoir from development protects the health of the entire river. RC-7 zoning is most appropriate in this area to ensure that forest buffers and conservancy areas are preserved. The lower density permitted by RC-7 zoning will minimize the amount of impervious surface which is detrimental to the quality of water. In addition to providing drinking water to the Baltimore Metropolitan area, the river supports native brook trout, rainbow and brown trout. RC-7 zoning will also protect wildlife habitat around the watersheds and allow for greater public enjoyment of the State Park. Recreational uses of the area include fishing, canoeing, kayaking, swimming, tubing, and hiking.

The area of this request is well outside the URDL, so protective zoning is consistent with the goal stated in the County's Master Plan, to preserve the rural character and natural resources in the areas beyond the URDL. Rezoning this land RC-7 would be compatible with the adjacent land to the south and west, which is zoned RC-2 or RC-7. Zoning the area of this request RC-7 would create a larger block of RC-7 land adjacent to the reservoir and State Park.

Area: 307.4 acres

SPARKS-GLENCOE COMMUNITY PLANNING COUNCIL

CZMP DOWNZONING REQUESTS

PROMOTE COUNTY GOALS

Northern Baltimore County holds a variety of rural resources: rivers, streams, forests, fertile farmland, recreational areas, and historic sites. Baltimore County's Master Plan and Zoning Code state that the County intends to preserve these resources. The current CZMP presents an opportunity for County officials to effectuate those intentions with protective zoning.

The Sparks-Glencoe Community Planning Council has submitted petitions for downzoning in several areas, focusing on watersheds, agricultural areas, recreational attractions and historic sites. Adopting RC-7 zoning would further the County's progress toward protecting these resources. It would help to preserve rural areas beyond the Urban/Rural Demarcation Line, and direct development to areas better served by existing infrastructure. In addition, it would help to carry out these goals, policies and actions in the Master Plan:

> Maintain the URDL and enact stronger measures for preserving rural land uses, retaining the agriculture industry, and protecting the county's natural resources.
>
> Identify and protect the remaining high value natural resources in watersheds in order to preserve their beneficial functions for clean water, clean air, and habitat.
>
> Continue commitments to restrict development in the reservoir watersheds.

P.C. Ex # 19 Jacobs 5-26-10 CBA-R-09-269

Promote the identification, protection, and restoration of historic resources.

Protect the remaining natural resources and promote conservation of biological diversity.

Protect tidal tributaries to the Chesapeake Bay, including the Gunpowder River.

Increase the acreage of riparian forest buffers.

(Master Plan 2010, pages 7, 124, 126, 127, 133)

The RC-7 zoning classification is intended to achieve those Master Plan goals. The Baltimore County Zoning Regulations state that: "The Baltimore County Council seeks to achieve the following goals in the RC-7 Zone:

1. To preserve and protect total ecosystem function, including riparian and aquatic ecosystems;

2. To protect forests, streams and floodplains;

3. To protect the water quality of watercourses, the Chesapeake Bay and regional biodiversity;

4. To respect historic sites in their settings;

5. To provide a quality recreational experience to visitors;

6. To protect remaining prime and productive soils in areas not currently protected by the RC 2 Zone;

7. To maintain the unique character of a rural area by preserving its natural, historic, cultural, recreational, scenic, architectural and archaeological resources;

8. To provide for the environmentally sound use of land and forest resources, and to prevent forest fragmentation, especially in areas of extensive interior forest;

9. To implement state and federal mandates for the protection of natural resources and rural legacy;

10. To enhance rural character and environmental protection by locating buildings in harmony with site conditions;

11. To preserve the traditional character of rural communities by limiting the scale and intensity of development;

12. To incorporate traditional features of the local built environment into development; and

13. To maintain the rural scale and character of area roads by limiting growth in the volume of traffic generated by local development."

BCZR Section 1A08.1B.

Since the land included in our petitions contains forests, reservoirs, rivers, streams, farmland, recreational areas and historic sites, RC-7 zoning would be a perfect fit. Continuing to allow more intense development under the current RC-4 or RC-5 zoning would sacrifice the important goals identified in the Master Plan and in the Zoning Code. Allowing vital water sources to become degraded could force difficult and costly repair measures upon taxpayers. Sparks-Glencoe urges Baltimore County officials to seize the opportunity created by the 2008 CZMP to adopt RC-7 zoning to protect the precious resources in Northern Baltimore County.

Good evening. My name is Kirsten Burger. I am the President of the Sparks-Glencoe Community Planning Council. Sparks-Glencoe has 250 members who are interested in preserving the natural resources in northern Baltimore County.

Sparks- Glencoe supports our Issues – No. 3-039 and 92 through 96. One of our board members will explain the reasons for each of these requests.

We have also made recommendations on 18 requests for **upzoning** in our area, which will be addressed by other speakers.

Our requests for downzoning focus on the Gunpowder Falls River, and other waterways in the north county, and on the Torrey Brown, or NCR Trail. These **shared resources** are extremely valuable to the larger region. Both the River and the Trail are widely used by people from all over the state, and even from out of state. They come to fish, canoe, tube and bike, and they support local businesses. They come to get away from development—to unwind in a tranquil environment. If you allow these areas to be built out as permitted by current zoning, you will be destroying that which benefits the larger community.

One after another body of water in Maryland is declared dead or degraded. The erosion and pollution produced by development are major causes of this decline. Governments are faced with huge cleanup costs, and they are rarely successful. You can avoid repeating that dismal scenario by protecting the rivers, streams, forests and open fields in northern Baltimore County now.

The County's Master Plan designates the Prettyboy Reservoir, the Loch Raven Reservoir, and the Gunpowder area **Resource Preservation areas**, and recommends reducing residential densities from one per 5 acres to one per 25 – 50 acres in these areas. (Master Plan p. 241-43) Downzoning the areas we have requested would be a step towards accomplishing that **County goal.**

PLEASE, take this opportunity to protect these **precious** resources so they can continue to serve the needs of the many people who depend on them. Thank You!

P.C. Ex 204 Jacobs 5-26-10 CBA-R-09-269

BALTIMORE COUNTY
MARYLAND

Baltimore County Planning Board
Comprehensive Zoning Map Process
2008 Public Hearing

Comment Form

Issue Number
3-094

NAME Clarence Ford Jr.

ADDRESS 18923 Middletown Rd.
Perkton Md. 21120

Comments:
I don't think anyone should be able to change my zoning when I pay the taxes. "Free Country"

P.C. Ex #26

March 11, 2008

To: Planning Board

From: Nedda Evans, Board Member, Sparks-Glencoe Community Planning Council

Subject: Downzoning in Loch Raven Reservoir Watershed
Issue Numbers: 3-039, 3-092, 3-093, 3-094, 3-095, 3-096

Our organization has requested that the above issues, all located within the Loch Raven Watershed, be placed in the Resource Preservation zoning classification, RC7.

According to the Maryland Department of the Environment, the Loch Raven Reservoir is impaired and in violation of the Federal Clean Water Act.

- Much of the land in our downzoning application consists of large tracts of forested lands. Forest tract provides the best filtration system for the ground water as it flows into the Gunpowder River and ultimately into the Loch Raven Reservoir
- If trees are stripped from the land and replaced with impervious surface, there will be no trees to filter out the impurities and, there will be more stormwater runoff carrying contaminants into the reservoir

Resource Preservation zoning has also been requested in order to facilitate retention of agriculture within the community.

- Once the farmland is gone, it is gone forever
- We need to retain our ability to produce food and one day it is likely that we will need farmland in order to grow biofuels

The Sparks-Glencoe Community Planning Council also seeks to protect the natural beauty of northern Baltimore County. When you make your recommendation to the Baltimore County Council, I ask that you keep northern Baltimore County green, save our farms, and keep your drinking water clean. Recommend in favor of the Sparks-Glencoe Community Planning Council downzoning issues.

Nedda Evans

P.C. Ex 20

Issue # 3-094 for Loch Raven Watershed C.Z.M.P.

Balto Co Planning Board 3/11/03

Hello, My name is Laura Rew and I thank the Planning Board for their help in preserving the rural integrity of the North County. It is very important that our fresh clean water streams be kept healthy for the trout, aquatic life, hikers, and bird watchers. Bicyclists, sport fishing and other out door activities. To accomplish this goal, we need to protect the environment by down zoning. This will alleviate development run off, which contains herbicides and lawn fertilizers. These streams are our natural resources to fresh water. Fisherman and women from all over the world come to our area. It is truly a "Jewel" due to its pristine nature.

P.C. Ex 200

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
NOTICE OF PUBLIC HEARING ON THE
RECOMMENDED COMPREHENSIVE ZONING MAPS FOR BALTIMORE COUNTY

Pursuant to Sections 26-124 and 26-125 of the Baltimore County Code, 1988, as amended, notice is hereby given of hearings to be held by the County Council of Baltimore County on the Comprehensive Zoning Maps (as shown by Councilmanic District), recommended by the Baltimore County Planning Board, according to the following schedule:

DISTRICT	TIME&DATE	LOCATION
FIFTH	7:00 P.M., MONDAY JUNE 2, 2008	COUNCIL CHAMBERS 400 WASHINGTON AVENUE
SECOND	7:00 P.M., WEDNESDAY JUNE 4, 2008	PIKESVILLE HIGH SCHOOL 7621 LABYRINTH ROAD
SIXTH	7:00 P.M., TUESDAY JUNE 10, 2008	OVERLEA HIGH SCHOOL 5401 KENWOOD AVENUE
SEVENTH	7:00 P.M., THURSDAY JUNE 12, 2008	PATAPSCO HIGH SCHOOL 8100 WISE AVENUE
FIRST	7:00 P.M., WEDNESDAY JUNE 18, 2008	LANSDOWNE HIGH SCHOOL 3800 HOLLINS FERRY ROAD
THIRD	7:00 P.M., TUESDAY JUNE 24, 2008	LOCH RAVEN HIGH SCHOOL 1212 COWPENS AVENUE
FOURTH	7:00 P.M., THURSDAY JUNE 26, 2008	NEW TOWN HIGH SCHOOL 4931 NEW TOWN BOULEVARD
SPECIAL SESSION FINAL ADOPTION	6:00 P.M., TUESDAY AUGUST 26, 2008	COUNTY COUNCIL CHAMBERS SECOND FLOOR-COURT HOUSE

At each hearing the County Council will take testimony on the recommended Comprehensive Zoning Map for the particular Councilmanic District in the County in which that hearing is being held and on the Final Report of the Planning Board.

Persons desiring to speak may register, beginning at 6:00 P.M., in the lobby of the auditorium of the school.

Copies of the proposed zoning maps recommended by the Baltimore County Planning Board and copies of the Final Report of the Planning Board on the proposed zoning maps are available for public inspection in the County Council Office, Second Floor, Court House, Towson, Maryland, and in the Office of Planning, Fourth Floor, Courts Building, 401 Bosley Avenue, Towson, Maryland, and in the Office of Planning, Fourth Floor, Courts Building, 401 Bosley Avenue, Towson, Maryland on weekdays during regular office hours of 8:30 A.M. to 4:30 P.M.

In addition, copies of all the maps and the Log of Issues for each Councilmanic District will be available at the following webpage:
www.baltimorecountymd.gov/Agencies/planning/zoning/2008czmp

Thomas J. Peddicord, Jr.,
Legislative Counsel/Secretary
BALTIMORE COUNTY COUNCIL

J/OMT 5/176 May 15

173093

CERTIFICATE OF PUBLICATION

5/15/, 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 5/15/, 2008

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

S. Wilkinson

LEGAL ADVERTISING

P.C. Ex 21 Jacobs 5-26-10 CBA-07-269

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
NOTICE OF PUBLIC HEARING ON THE
RECOMMENDED COMPREHENSIVE ZONING MAPS FOR BALTIMORE COUNTY

Pursuant to Sections 26-124 and 26-125 of the Baltimore County Code, 1988, as amended, notice is hereby given of hearings to be held by the County Council of Baltimore County on the Comprehensive Zoning Maps (as shown by Councilmanic District), recommended by the Baltimore County Planning Board, according to the following schedule:

DISTRICT	TIME&DATE	LOCATION
FIFTH	7:00 P.M., MONDAY JUNE 2, 2008	COUNCIL CHAMBERS 400 WASHINGTON AVENUE
SECOND	7:00 P.M., WEDNESDAY JUNE 4, 2008	PIKESVILLE HIGH SCHOOL 7621 LABYRINTH ROAD
SIXTH	7:00 P.M., TUESDAY JUNE 10, 2008	OVERLEA HIGH SCHOOL 5401 KENWOOD AVENUE
SEVENTH	7:00 P.M., THURSDAY JUNE 12, 2008	PATAPSCO HIGH SCHOOL 8100 WISE AVENUE
FIRST	7:00 P.M., WEDNESDAY JUNE 18, 2008	LANSDOWNE HIGH SCHOOL 3600 HOLLINS FERRY ROAD
THIRD	7:00 P.M., TUESDAY JUNE 24, 2008	LOCH RAVEN HIGH SCHOOL 1212 COWPENS AVENUE
FOURTH	7:00 P.M., THURSDAY JUNE 26, 2008	NEW TOWN HIGH SCHOOL 4931 NEW TOWN BOULEVARD
SPECIAL SESSION FINAL ADOPTION	6:00 P.M., TUESDAY AUGUST 26, 2008	COUNTY COUNCIL CHAMBERS SECOND FLOOR-COURT HOUSE

At each hearing the County Council will take testimony on the recommended Comprehensive Zoning Map for the particular Councilmanic District in the County in which that hearing is being held and on the Final Report of the Planning Board.

Persons desiring to speak may register, beginning at 6:00 P.M., in the lobby of the auditorium of the school.

Copies of the proposed zoning maps recommended by the Baltimore County Planning Board and copies of the Final Report of the Planning Board on the proposed zoning maps are available for public inspection in the County Council Office, Second Floor, Court House, Towson, Maryland, and in the Office of Planning, Fourth Floor, Courts Building, 401 Bosley Avenue, Towson, Maryland, and in the Office of Planning, Fourth Floor, Courts Building, 401 Bosley Avenue, Towson, Maryland on weekdays during regular office hours of 8:30 A.M. to 4:30 P.M.

In addition, copies of all the maps and the Log of Issues for each Councilmanic District will be available at the following webpage: **www.baltimorecountymd.gov/Agencies/planning/zoning/2008czmp**

Thomas J. Peddicord, Jr.,
Legislative Counsel/Secretary
BALTIMORE COUNTY COUNCIL

NCN 6/016 June 5

174997

CERTIFICATE OF PUBLICATION

6/5/, 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 6/5/,2008.

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

S. Wilkinson

LEGAL ADVERTISING

NOTICE
BALTIMORE COUNTY COUNCIL BILLS - INTRODUCED

The following bills were introduced by the County Council at its **August 4, 2008** meeting, and are scheduled for final reading and vote on **August 26, 2008 at 6:00 P.M.:**

Bill 85-08: An Act concerning The Comprehensive Zoning Map - First District
Bill 86-08: An Act concerning The Comprehensive Zoning Map - Second District
Bill 87-08: An Act concerning The Comprehensive Zoning Map - Third District
Bill 88-08: An Act concerning The Comprehensive Zoning Map - Fourth District
Bill 89-08: An Act concerning The Comprehensive Zoning Map - Fifth District
Bill 90-08: An Act concerning The Comprehensive Zoning Map - Sixth District
Bill 91-08: An Act concerning The Comprehensive Zoning Map - Seventh District

The following bills were introduced by the County Council at its **August 4, 2008** meeting, will be discussed at the **August 26, 2008** work session and are scheduled for final reading and vote on **September 2, 2008 at 7:00 P.M.:**

Bill 92-08: An Act concerning Final Landmarks List Additions
Bill 93-08: An Act concerning Classification and Compensation Plans
Bill 94-08: An Act concerning Conveyance of Easements
Bill 95-08: An Act concerning STD Surveillance Grant
Bill 96-08: An Act concerning C.T. District of Towson

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

Work Sessions are held in the County Council Conference Room at 2:00 p.m. Legislative Meetings are held in the County Council Hearing Chamber at 6:00 p.m.

8/044 Aug. 7 180218

CERTIFICATE OF PUBLICATION

8/7, 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 8/7, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

NOTICE
BALTIMORE COUNTY COUNCIL BILLS - INTRODUCED

The following bills were introduced by the County Council at its **August 4, 2008** meeting; and are scheduled for final reading and vote on **August 26, 2008 at 6:00 P.M.:**

Bill 85-08: An Act concerning The Comprehensive Zoning Map - First District
Bill 86-08: An Act concerning The Comprehensive Zoning Map - Second District
Bill 87-08: An Act concerning The Comprehensive Zoning Map - Third District
Bill 88-08: An Act concerning The Comprehensive Zoning Map - Fourth District
Bill 89-08: An Act concerning The Comprehensive Zoning Map - Fifth District
Bill 90-08: An Act concerning The Comprehensive Zoning Map - Sixth District
Bill 91-08: An Act concerning The Comprehensive Zoning Map - Seventh District

The following bills were introduced by the County Council at its **August 4, 2008** meeting; will be discussed at the **August 26, 2008** work session and are scheduled for final reading and vote on **September 2, 2008 at 7:00 P.M.:**

Bill 92-08: An Act concerning Final Landmarks List Additions
Bill 93-08: An Act concerning Classification and Compensation Plans
Bill 94-08: An Act concerning Conveyance of Easements
Bill 95-08: An Act concerning STD Surveillance Grant
Bill 96-08: An Act concerning C.T. District of Towson

The next County Council Legislative meeting will be held on **August 26, 2008 at 6:00 P.M.**

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

Work Sessions are held in the County Council Conference Room at 2:00 p.m. Legislative Meetings are held in the County Council Hearing Chamber at 7:00 p.m.

8/143 Aug. 14 180810

CERTIFICATE OF PUBLICATION

8/14, 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 8/14, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

NOTICE - BALTIMORE COUNTY COUNCIL BILLS - ENACTED

The following bills were passed by the County Council at its **August 26, 2008** meeting and signed by the County Executive and take effect on **September 8, 2008**:

Bill 85-08: An Act concerning The Comprehensive Zoning Map - First District

Bill 86-08: An Act concerning The Comprehensive Zoning Map - Second District

Bill 87-08: An Act concerning The Comprehensive Zoning Map - Third District

Bill 88-08: An Act concerning The Comprehensive Zoning Map - Fourth District

Bill 89-08: An Act concerning The Comprehensive Zoning Map - Fifth District

Bill 90-08: An Act concerning The Comprehensive Zoning Map - Sixth District

Bill 91-08: An Act concerning The Comprehensive Zoning Map - Seventh District

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary
183181

9/165 Sept. 11

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 9/11, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

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

Go Back
View Map
New Search

Account Identifier: **District** - 06 **Account Number** - 2400002492

Owner Information

Owner Name:	DOAK BRUCE E DOAK GAYLE M	**Use:**	AGRICULTURAL
		Principal Residence:	NO
Mailing Address:	3801 BAKER SCHOOL HOUSE RD FREELAND MD 21053-9738	**Deed Reference:**	1) 2)

Location & Structure Information

Premises Address
GUNPOWDER RD

Legal Description
2.547AC PT PARCEL A
ESR GUNPOWDER RD
GUNPOWDER FARM

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	
5	3	32						2	Plat Ref:	75/ 58

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		2.55 AC	33

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2008	Phase-in Assessments As Of 07/01/2009	As Of 07/01/2010	PREFERENTIAL LAND VALUE INCLUDED IN LAND VALUE
Land	520	520			
Improvements:	0	0			
Total:	520	520	520	520	
Preferential Land:	520	520	520	520	

Transfer Information

Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

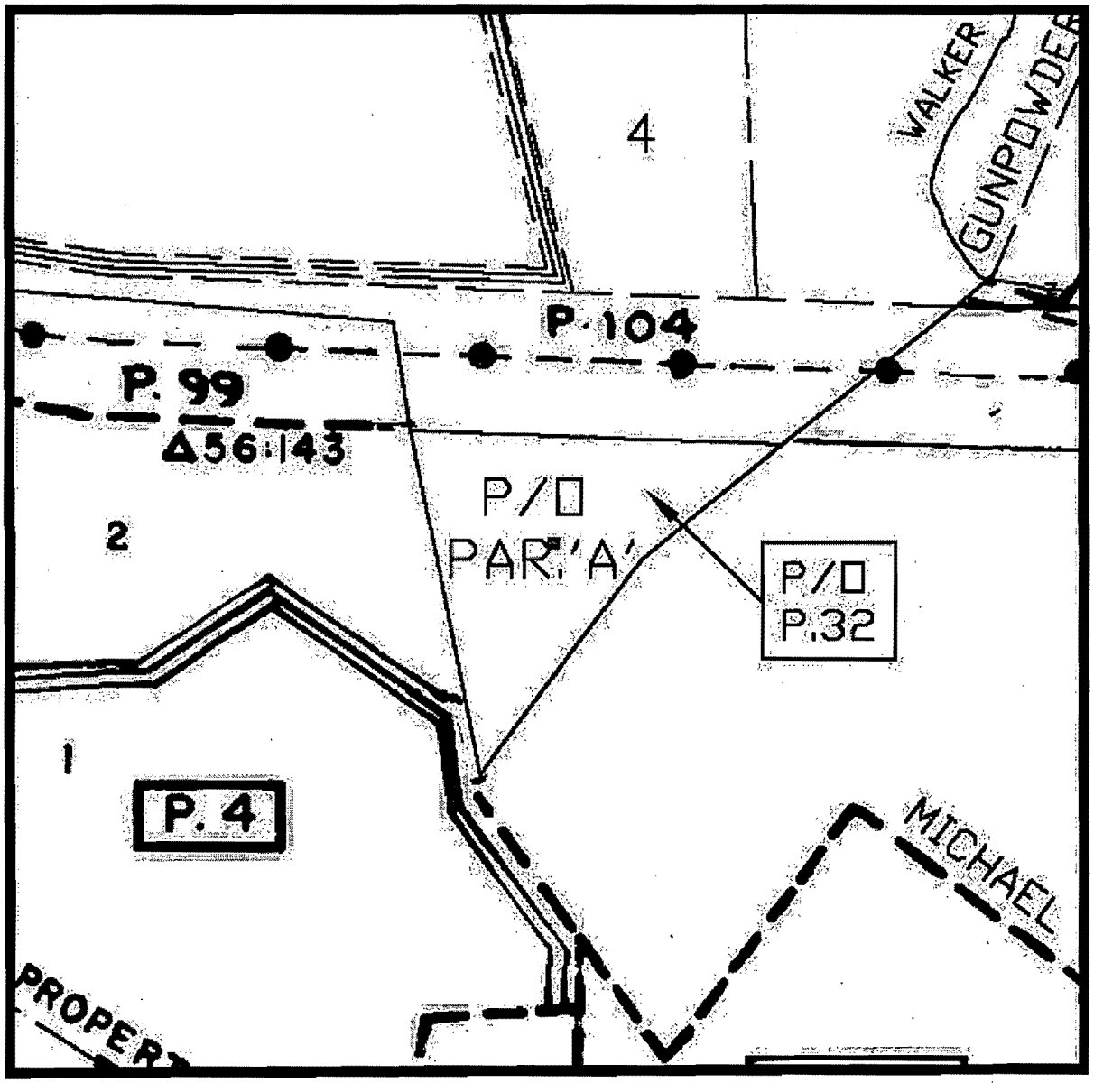
Special Tax Recapture:
AGRICULTURAL TRANSFER TAX

P.C. Ex 22 Jacobs 5-27-10 CAA-R-09-269

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

Go Back
View Map
New Search

District - 06**Account Number** - 2400002492

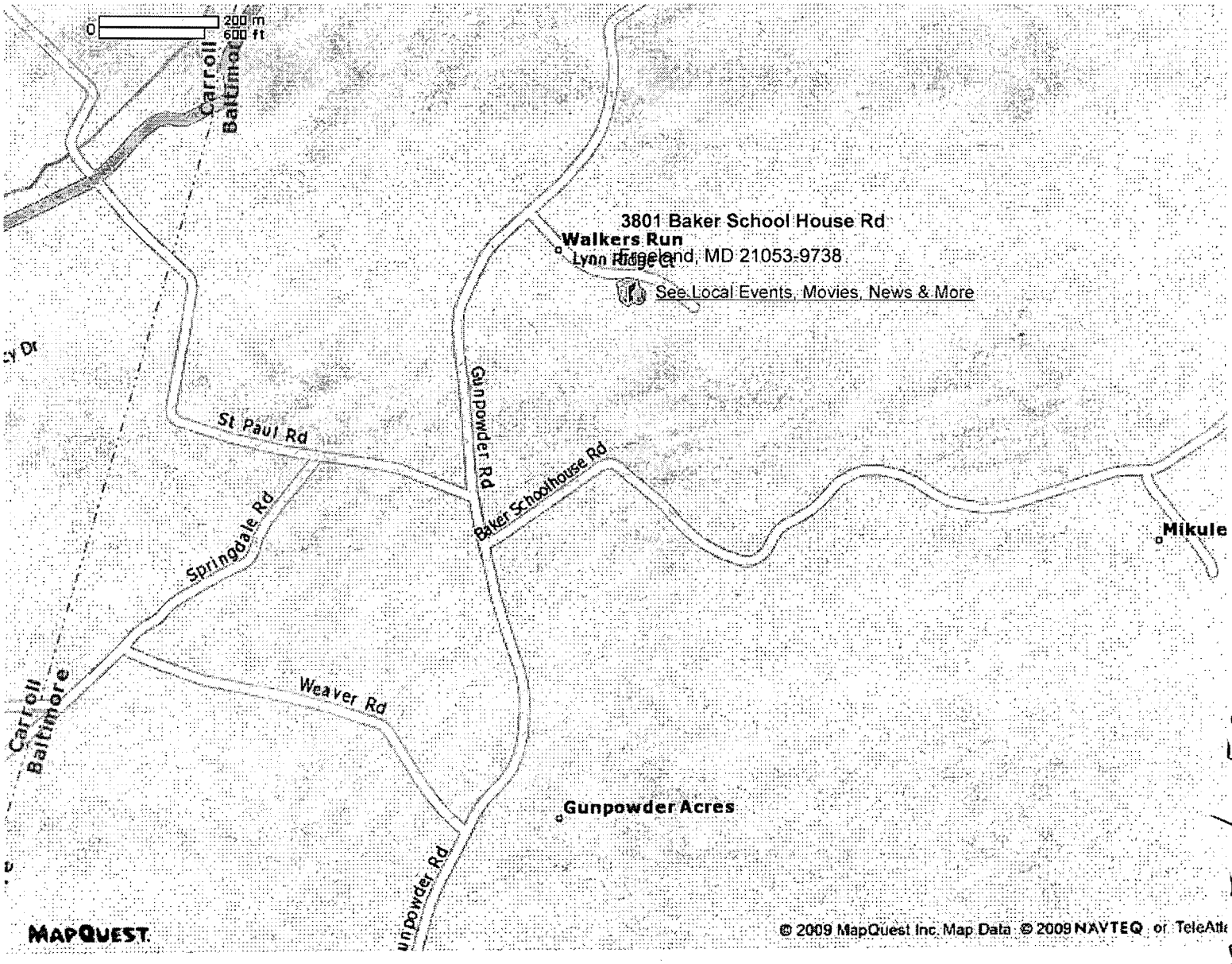


Property maps provided courtesy of the Maryland Department of Planning ©2008.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

MAPQUEST

Sorry! When printing directly from the browser your directions or map may not print correctly. For best results, try clicking the Printer-Friendly button.

3801 Baker School House Rd Edit
Freeland, MD 21053-9738



All rights reserved. Use subject to License/Copyright Map Legend
Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our Terms of Use

P.C. Ex 23 Jacob 5-27-10 CBA-R-09-269

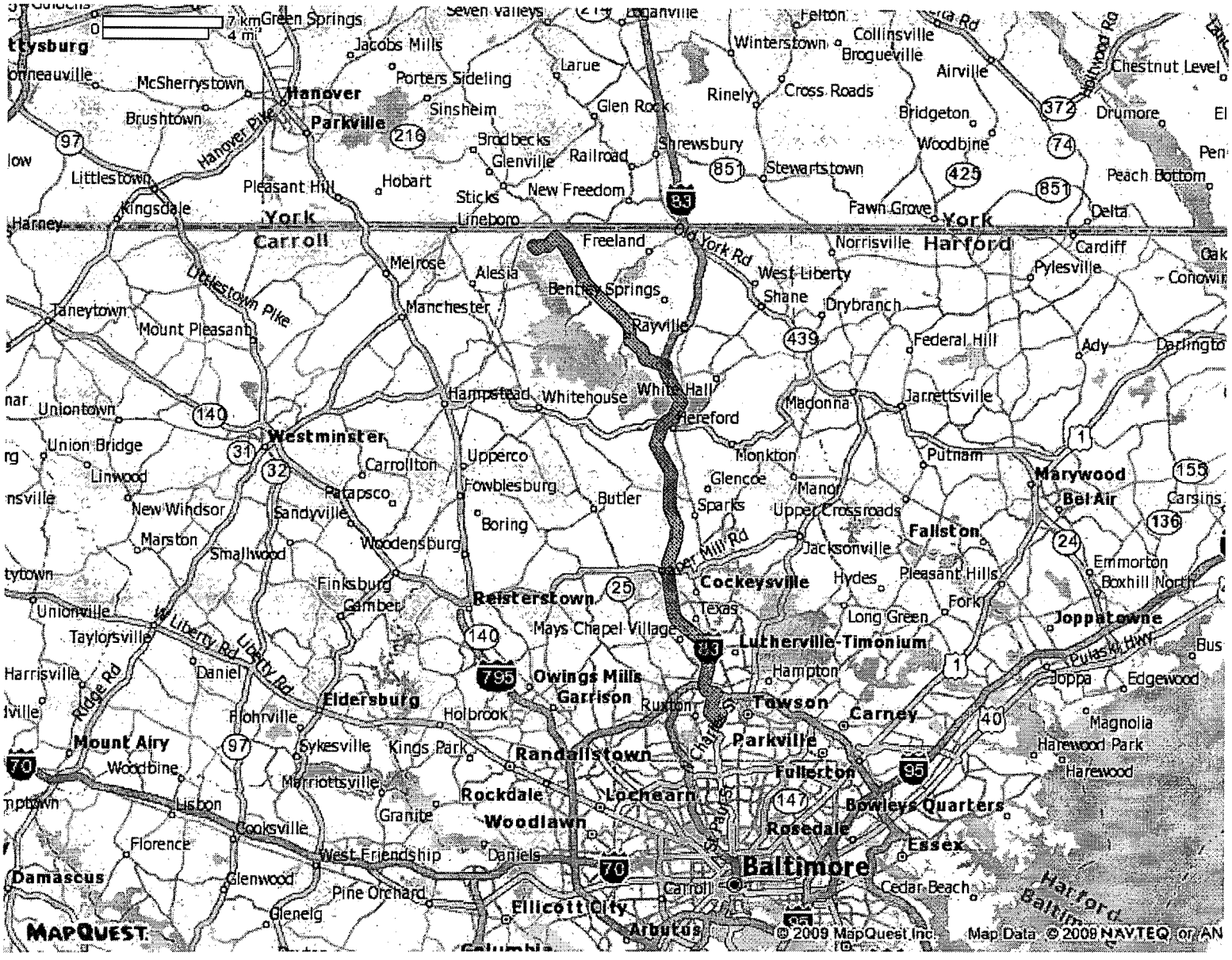
MAPQUEST

Sorry! When printing directly from the browser your directions or map may not print correctly. For best results, try clicking the Printer-Friendly button.

Starting Location
Towson, MD 21204

Ending Location
3801 Baker School House Rd
Freeland, MD 21053-9738

Total Travel Estimates: **40 minutes** / **27.98 miles** Fuel Cost: Calculate



Towson, MD 21204

Directions from A to B:

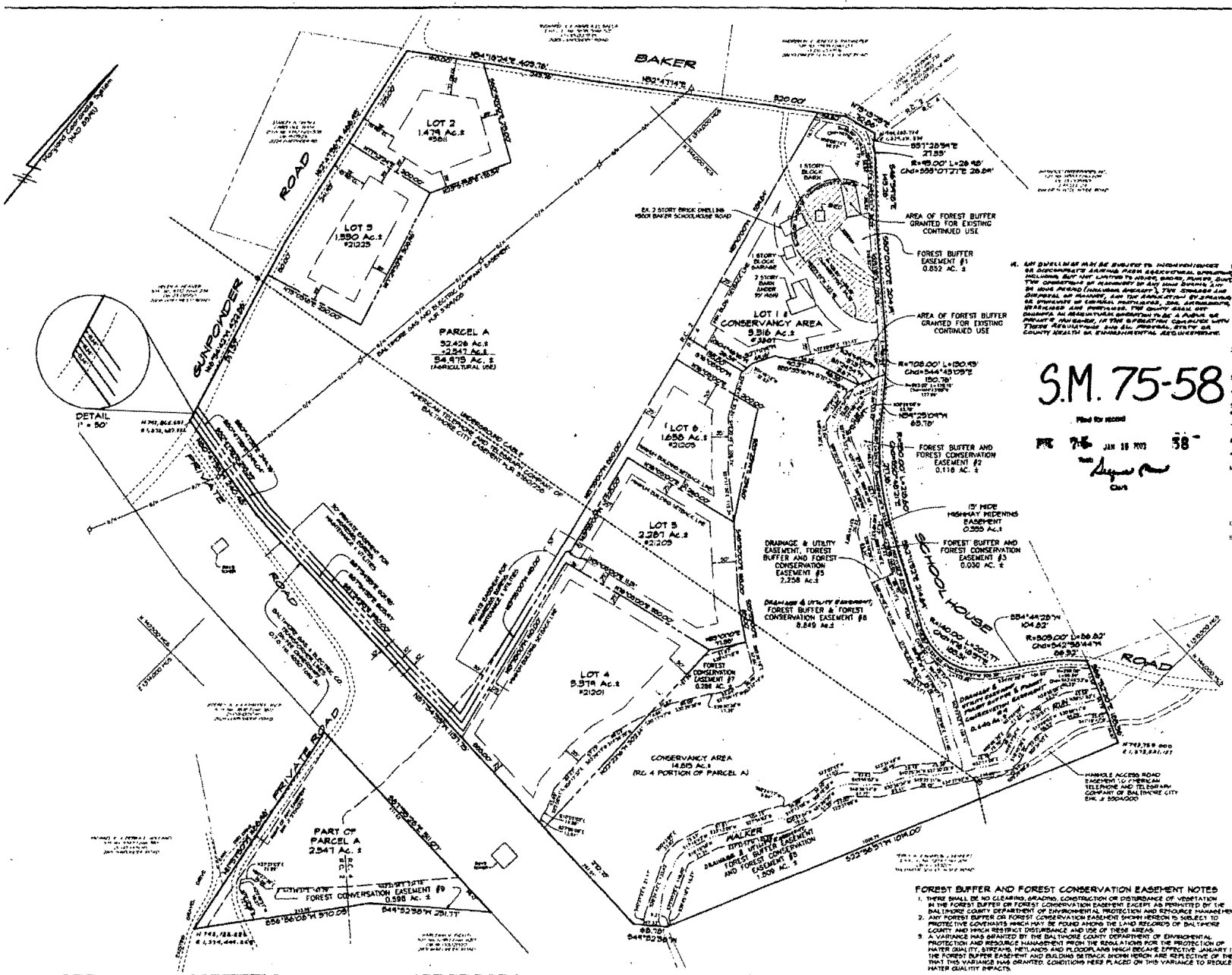
START	1: Start out going **WEST** on **PICCADILLY RD** toward **CHESTNUT AVE.**	0.1 mi
	2: Turn **LEFT** onto **CHESTNUT AVE.**	0.3 mi

	3: Turn **SLIGHT RIGHT** to stay on **CHESTNUT AVE**.	0.0 mi
NORTH 139	4: Turn **RIGHT** onto **N CHARLES ST/MD-139 N**.	1.4 mi
WEST 695	5: Merge onto **I-695 W/BALTIMORE BELTWAY OUTER LOOP** toward **PIKESVILLE**.	0.5 mi
24 EXIT NORTH 83	6: Merge onto **I-83 N** via **EXIT 24** toward **TIMONIUM/YORK PA**.	16.2 mi
31 EXIT	7: Take the **MIDDLETOWN RD** exit, **EXIT 31**, toward **PARKTON**.	8.3 mi
	8: Turn **LEFT** onto **BAKER SCHOOLHOUSE RD**.	1.3 mi
END	9: **3801 BAKER SCHOOL HOUSE RD**.	0.0 mi

B **3801 Baker School House Rd**
Freeland, MD 21053-9738

Total Travel Estimates: **40 minutes** / **27.98 miles** Fuel Cost: **Calculate**

All rights reserved. Use subject to License/Copyright Map Legend
Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our Terms of Use


BAKER
ROAD
GUNPOWDER
PRIVATE
ROAD
SCHOOL HOUSE
ROAD
PRIVATE ROAD
LOT 1
CONSERVANCY AREA
9.816 Ac.±
#1207
LOT 2
1.479 Ac.±
#5611
LOT 3
1.590 Ac.±
#21225
LOT 4
5.319 Ac.±
#21201
LOT 5
2.281 Ac.±
#21205
LOT 6
1.658 Ac.±
#21205
PARCEL A
52.426 Ac.±
-2.547 Ac.±
54.973 Ac. ±
(AGRICULTURAL USE)
PART OF
PARCEL A
2.547 Ac.±
CONSERVANCY AREA
14.815 Ac.±
(RC 4 PORTION OF PARCEL A)
AREA OF FOREST BUFFER
GRANTED FOR EXISTING
CONTINUED USE
FOREST BUFFER
EASEMENT #1
0.832 AC. ±
AREA OF FOREST BUFFER
GRANTED FOR EXISTING
CONTINUED USE
FOREST BUFFER AND
FOREST CONSERVATION
EASEMENT #2
0.116 AC. ±
15' WIDE
HIGHWAY WIDENING
EASEMENT
0.355 Ac.±
FOREST BUFFER AND
FOREST CONSERVATION
EASEMENT #3
0.030 AC. ±
DRAINAGE & UTILITY
EASEMENT, FOREST
BUFFER AND FOREST
CONSERVATION
EASEMENT #5
2.258 Ac.±
DRAINAGE & UTILITY EASEMENT,
FOREST BUFFER & FOREST
CONSERVATION EASEMENT #8
8.849 Ac.±
FOREST
CONSERVATION
EASEMENT #7
0.288 AC. ±
FOREST CONSERVATION EASEMENT #9
0.595 Ac. ±
EXISTING 40'R/W
FOREST CONSERVATION EASEMENT #9
0.595 Ac. ±
WALKER
DRAINAGE & UTILITY EASEMENT
AND FOREST CONSERVATION
EASEMENT #6
1.509 Ac. ±
MANHOLE ACCESS ROAD
EASEMENT TO AMERICAN
TELEPHONE AND TELEGRAPH
COMPANY OF BALTIMORE CITY
ENT. # 3004000
EX. 2 STORY BRICK DWELLING
#5001 BAKER SCHOOLHOUSE ROAD
1 STORY
BLOCK
GARAGE
2 STORY
BARN
UNDER
REPAIR
1 STORY
BLOCK
BARN
DETAIL
1" = 50'
UNDERGROUND CABLE
AMERICAN TELEPHONE AND TELEGRAPH COMPANY OF
BALTIMORE CITY ENT. # 3004000
BALTIMORE GAS AND ELECTRIC COMPANY EASEMENT
PLAT 3 WB 14/20
BALTIMORE GAS AND ELECTRIC CO.
OVERHEAD & UNDERGROUND
ELECTRIC & TELEPHONE
EASEMENT
LIBER 6000 FOLIO 391
NO PRIVATE EASEMENT FOR
PUBLIC UTILITIES
HEREBY VOIDED
BALTIMORE GAS AND ELECTRIC CO.
OVERHEAD & UNDERGROUND
ELECTRIC & TELEPHONE
EASEMENT
LIBER 6000 FOLIO 391
PUBLIC UTILITIES
EASEMENT
HEREBY VOIDED

Selection Criteria *Select Issue Numbers From Issue Number In List(3-094)*

Additional Comments

Comments Date

Final Recommendation Final Date

County Council
Standard Comments:

Additional Comments

Comments Date

Final Recommendation Final Date

Economic Development
Standard Comments:

Additional Comments

Comments Date

Final Recommendation Final Date

Education
Standard Comments:

No comments.

Selection Criteria *Select Issue Numbers From Issue Number In List(3-094)*

Additional Comments

Comments Date

Final Recommendation Yes Final Date 03/17/2008

Environmental Protection
Standard Comments:

Consistent with the department goals, priorities, and programs.

Additional Comments

This 307.4-acre area is located in the Loch Raven Reservoir watershed (primarily in the Owl Branch subwatershed with a portion in the Gunpowder Falls subwatershed), which is classified as Use III-P by the Maryland Dept. of Natural Resources (DNR). This area is bounded on the west by Baltimore City property associated with the Prettyboy reservoir, to the south by a portion of the Gunpowder Falls State Park that contains contiguous mature forest, to the east by low-density residential development, and to the north by Middletown Road. The land within the proposed reclassification area is comprised of agricultural fields, low-density residential development, and mature forest. Owl Branch and its associated 100-year floodplain traverse the northern portion of the site. Brook and brown trout have been found downstream of this site in both the Gunpowder Falls and Owl Branch subwatersheds by DNR. Trout communities are sensitive to increased stream temperatures, pollutant concentrations, and flow volumes associated with increased runoff from impervious areas. A large portion of this property lies within a Master Plan-designated Agricultural Preservation Area. The proposed zoning reclassification from RC 4 to RC 7 would result in a decrease in impervious area if this are were further developed due to the lower residential density of the RC 7 zone. Reclassification from RC 4 to RC 7 would therefore be more protective of forests, aquatic habitat, and water quality in this reservoir watershed.

Comments Date 02/20/2008

Final Recommendation Yes Final Date 02/20/2008

Planing Board
Standard Comments:

Additional Comments

Comments Date

Final Recommendation Final Date

Selection Criteria *Select Issue Numbers From Issue Number In List(3-094)*

Planning
Standard Comments:

HISTORIC No historic impact.

Support staff recommeded zoning to ensure consistency with Master Plan 2010 and/or adopted Community Plan goals.

Additional Comments

Comments Date

Final Recommendation No Final Date

Public Works
Standard Comments:

WATER No Planned Service Area

TRAFFIC No comments.

SEWER Unavailable- Private sewer system required.

Additional Comments

Comments Date

Final Recommendation Yes Final Date 03/05/2008

Recreation & Parks
Standard Comments:

No comments.

Selection Criteria *Select Issue Numbers From Issue Number In List(3-094)*

Additional Comments

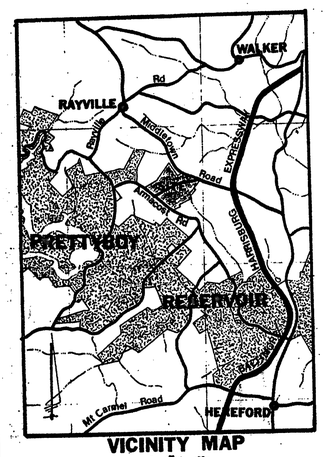
Comments Date

Final Recommendation Yes Final Date 02/05/2008

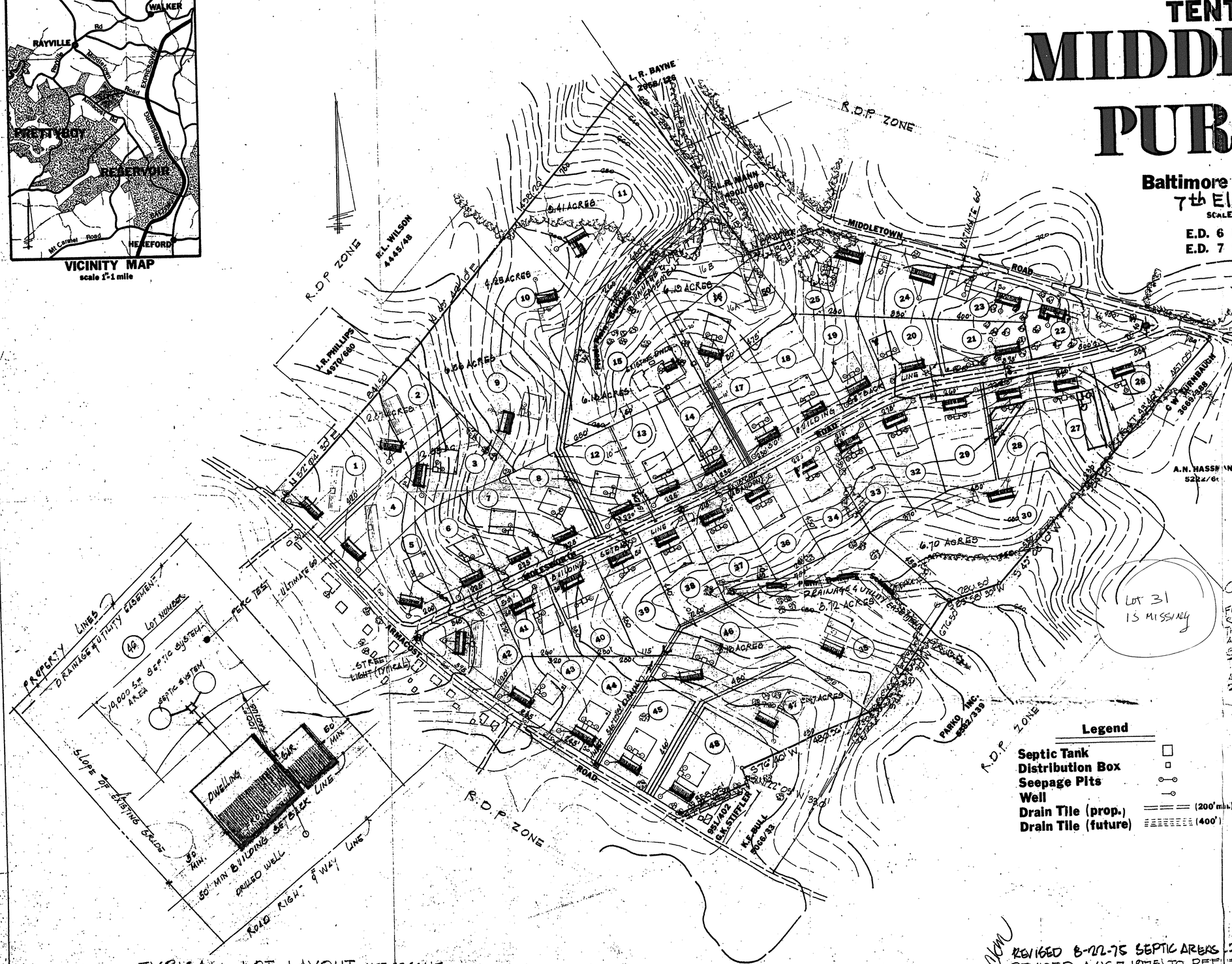
TENTATIVE
MIDDLETOWN PURCHASE

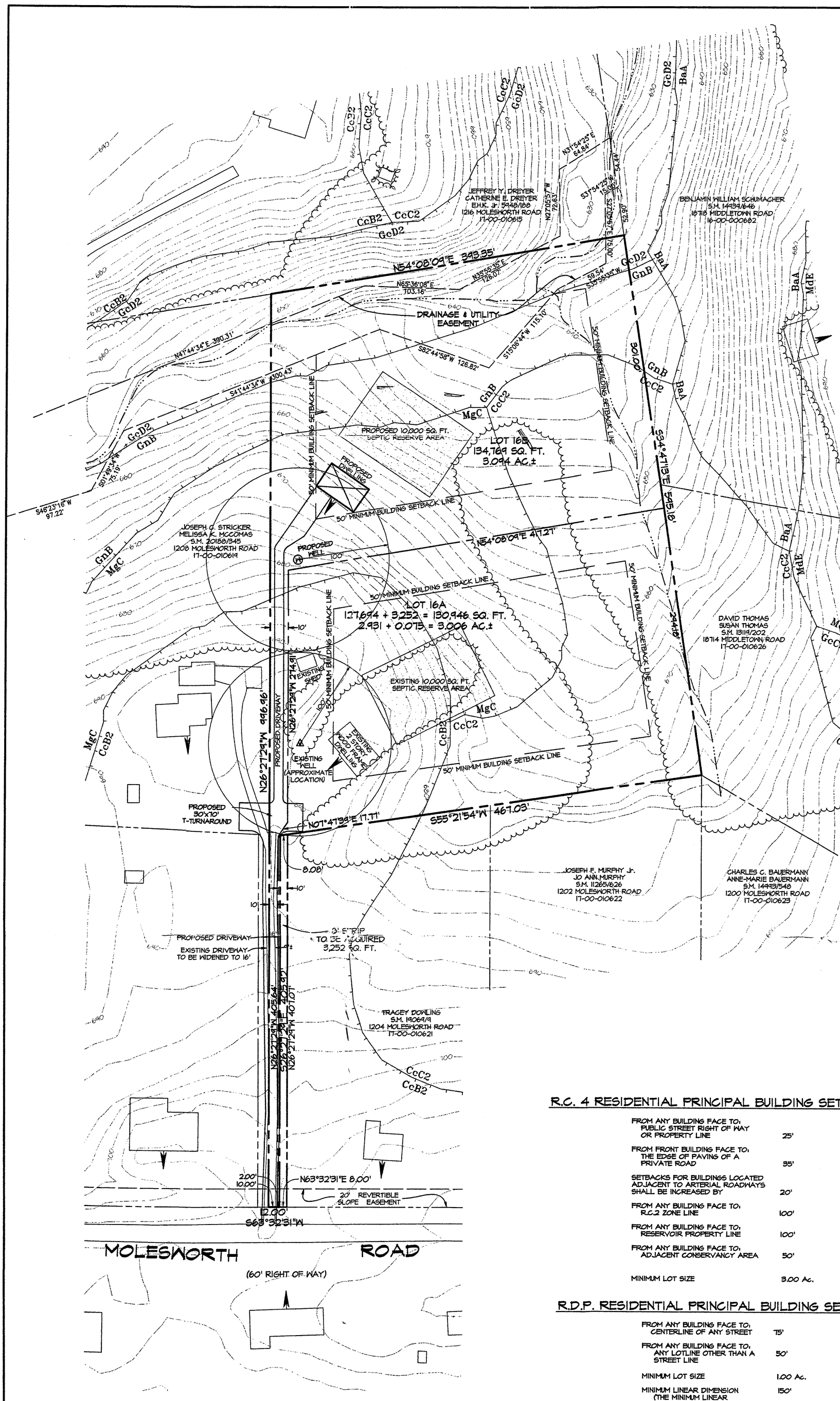
Baltimore Co., Maryland
7th Elect. Dist.
SCALE 1" = 200'

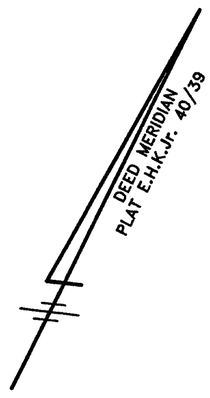
E.D. 6 N/Molesworth
E.D. 7 S/ Molesworth

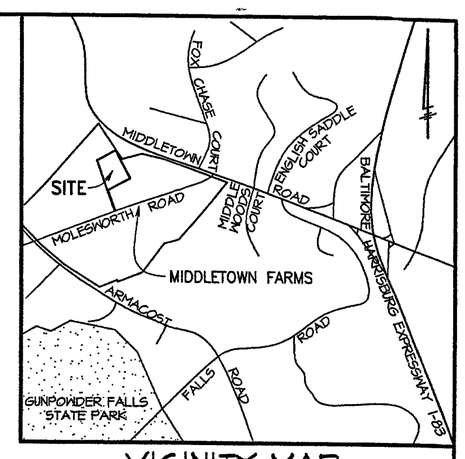


VICINITY MAP
scale 1"=1 mile


L. R. BAYNE 2998/125
R.D.P ZONE
L. R. MANN 4901/368
MIDDLETOWN ROAD (ULTIMATE 60')
E.L. WILSON 4445/48
R.D.P ZONE
L.R. PHILLIPS 4970/660
6.41 ACRES
4.28 ACRES
6.56 ACRES
6.10 ACRES
6.12 ACRES
6.70 ACRES
8.72 ACRES
8.47 ACRES
DRAINAGE & UTILITY EASEMENT
EXISTING DWLG
PROPOSED DRIVEWAY
BUILDING RESTRICTION LINE
EXISTING DRIVE
PROPOSED DWLG
PROPOSED STREET
STREET LIGHT (TYPICAL)
ARMACOST ROAD
ROAD
S 45° 40' W
S 45° 40' W 1320.05'
S 45° 40' W 1320.05'
S 45° 40' W 1320.05'







VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM PLAT E.H.K. Jr. Book 40 Folio 39.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 016C1 & 016C2.
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 5.
4. CENSUS TRACT 406000 REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN SUBSEWERSHED NONE
   SCHOOL DISTRICT: ELEMENTARY - PRETTYBOY E.S.; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
   A.D.C. MAP & GRID 7 A3
5. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
7. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
8. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
9. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
10. ALL APPARENT SEPTIC SYSTEMS, WELLS, AND SOIL PERCOLATION TESTS WITHIN 100' OF THE PROPERTY LINES WERE FIELD LOCATED.
12. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
13. THE ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.)
14. A.D.T.'S 2 x 12.4 = 24.8
15. LOCAL OPEN SPACE IS NOT REQUIRED FOR MINOR SUBDIVISIONS.
16. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOOD PLAIN AREAS OR HYDRIC SOILS.
17. HIGHWAY, SLOPE EASEMENTS, DRAINAGE AND UTILITIES EASEMENTS, ACCESS EASEMENTS AND STORM WATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON, ARE RESERVED UNTO THE OWNER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND.
18. BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAT TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE T.V.
19. THIS PROPERTY, AS SHOWN HEREON, HAS BEEN HELD INTACT SINCE OCTOBER 15, 1976. THE DEVELOPER'S SURVEYOR 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 ANY OFF-SITE DWELLINGS.

R.C. 4 RESIDENTIAL PRINCIPAL BUILDING SETBACKS

FROM ANY BUILDING FACE TO: PUBLIC STREET RIGHT OF WAY OR PROPERTY LINE	25'
FROM FRONT BUILDING FACE TO: THE EDGE OF PAVING OF A PRIVATE ROAD	35'
SETBACKS FOR BUILDINGS LOCATED ADJACENT TO ARTERIAL ROADWAYS SHALL BE INCREASED BY	20'
FROM ANY BUILDING FACE TO: R.C.2 ZONE LINE	100'
FROM ANY BUILDING FACE TO: RESERVOIR PROPERTY LINE	100'
FROM ANY BUILDING FACE TO: ADJACENT CONSERVANCY AREA	50'
MINIMUM LOT SIZE	3.00 Ac.

R.D.P. RESIDENTIAL PRINCIPAL BUILDING SETBACKS

FROM ANY BUILDING FACE TO: CENTERLINE OF ANY STREET	75'
FROM ANY BUILDING FACE TO: ANY LOTLINE OTHER THAN A STREET LINE	50'
MINIMUM LOT SIZE	1.00 Ac.
MINIMUM LINEAR DIMENSION (THE MINIMUM LINEAR DIMENSION OF ANY LOT SHALL BE THE DIAMETER OF THE LARGEST CIRCLE IN A HORIZONTAL PLANE WHICH MAY BE INSCRIBED WITHIN THE LOT BOUNDARIES)	150'

DENSITY CALCULATIONS

R.C. 4. (2006)

GROSS AREA	6.025 Ac.±
HIGHWAY WIDENING	0 Ac.±
8' STRIP	0.075 Ac.±
NET AREA (DENSITY RIGHTS)	6.025 Ac.±
LOTS PERMITTED	6-10 Ac.± = 2 Lots
LOTS PROPOSED	2

DENSITY CALCULATIONS

R.D.P. (1970)

LOTS PERMITTED	1 x 148.9 Ac.± = 148 Lots
LOTS UTILIZED	47
LOTS PROPOSED (ADDITIONAL)	1
TOTAL LOTS	48

OWNER\DEVELOPER

NEAL JACOBS
1206 MOLESWORTH ROAD
PARKTON, MD 21120-9454
410-598-8607

REASON FOR RESUBDIVISION

TO RESUBDIVIDE LOT 16 INTO 2 LOTS (16A & 16B).

LEGEND

EXISTING WELL
PROPOSED WELL AREA
PROPOSED DWELLING
EXISTING BUILDING
SOIL LINE
WOODS LINE
PROPOSED PAVING
EXISTING PAVING
STREAM
PROPERTY LINE
CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES W/BASEMENT	STREETS & PARKING
CcB2, CcC2	Slight	Slight	Moderate: slope
GcC2	Moderate: slope	Moderate: slope	Severe: slope
MgC	Slight to moderate: slope	Moderate: stoniness; slope	Severe: slope
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
GcD2, MdE	Severe: slope	Severe: slope	Severe: slope
BaA	Severe: high water table; poor natural drainage; slow permeability.	Severe: high water table; poor natural drainage.	Severe: high water table; poor natural drainage.

REVISION	DATE

SHEET 2 OF 2
PLAN TO ACCOMPANY
DRC REQUEST

JACOBS PROPERTY

1206 MOLESWORTH ROAD
Deed Ref: S.M. No. 23258 folio 313
Plat Ref: E.H.K.Jr. No. 40 folio 39
"MIDDLETOWN FARMS"
Tax Account No.: 17-00-010620
Zoned R.C. 4; GIS Tiles 016C1 & 016C2
Tax Map 16; Grid 12; Parcel 116; Lot 16
6th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=60' Date: NOVEMBER 08, 2006

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

COMPUTED:	DRAWN: SMH	CHECKED:	FILE: X:\Jacobs Molesworth\drc.pro

R.C. 25 cont.

File Wall

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 4, 2008

Neal Jacobs
1206 Molesworth Road
Parkton, MD 21120

RE: Jacobs Property Minor Subdivision
Minor Subdivision Number 07041M
PDM No. 06302

Dear Mr. Jacobs:

Thank you for your email to Baltimore County Executive James T. Smith, Jr. regarding a problem you are experiencing with a minor subdivision on your property. Mr. Smith has requested that I investigate the issue and respond on his behalf. I am the Director of the Department of Permits and Development Management. My staff and I met with your attorney in an attempt to find are solution to your problem.

As you know the zoning of your property was changed during the 2008 Comprehensive Zoning Map Process (CZMP). This is a process that occurs every four years. It began in September 2007 and it took about one year to complete. The CZMP involves community meetings in each council district as well as written notification to property owners and the posting of properties. It is very unfortunate that you were not made aware of the proposed re-zoning of your property. The re-zoning of land is a very open and public process. It is very easy to check and verify that a change is being proposed. I am at a loss as to why you were not made aware of the re-zoning of your land as it was occurring. This information was readily available to your consultant.

P.C. Ex 26 Jacobs 5-27-10 CBA-R-09-249

Director's Office | County Office Building
111 West Chesapeake Avenue, Room 105 | Towson, Maryland 21204 | Phone 410-887-3353 | Fax 410-887-5708
www.baltimorecountymd.gov

Unfortunately, as it stands today the zoning that is now on your property does not allow the approval of the minor subdivision. When a subdivision plan is approved, it must be in accordance with the zoning that is currently on the property. The County Code is very specific about this. There is nothing that my office or the County Executive can do to change that.

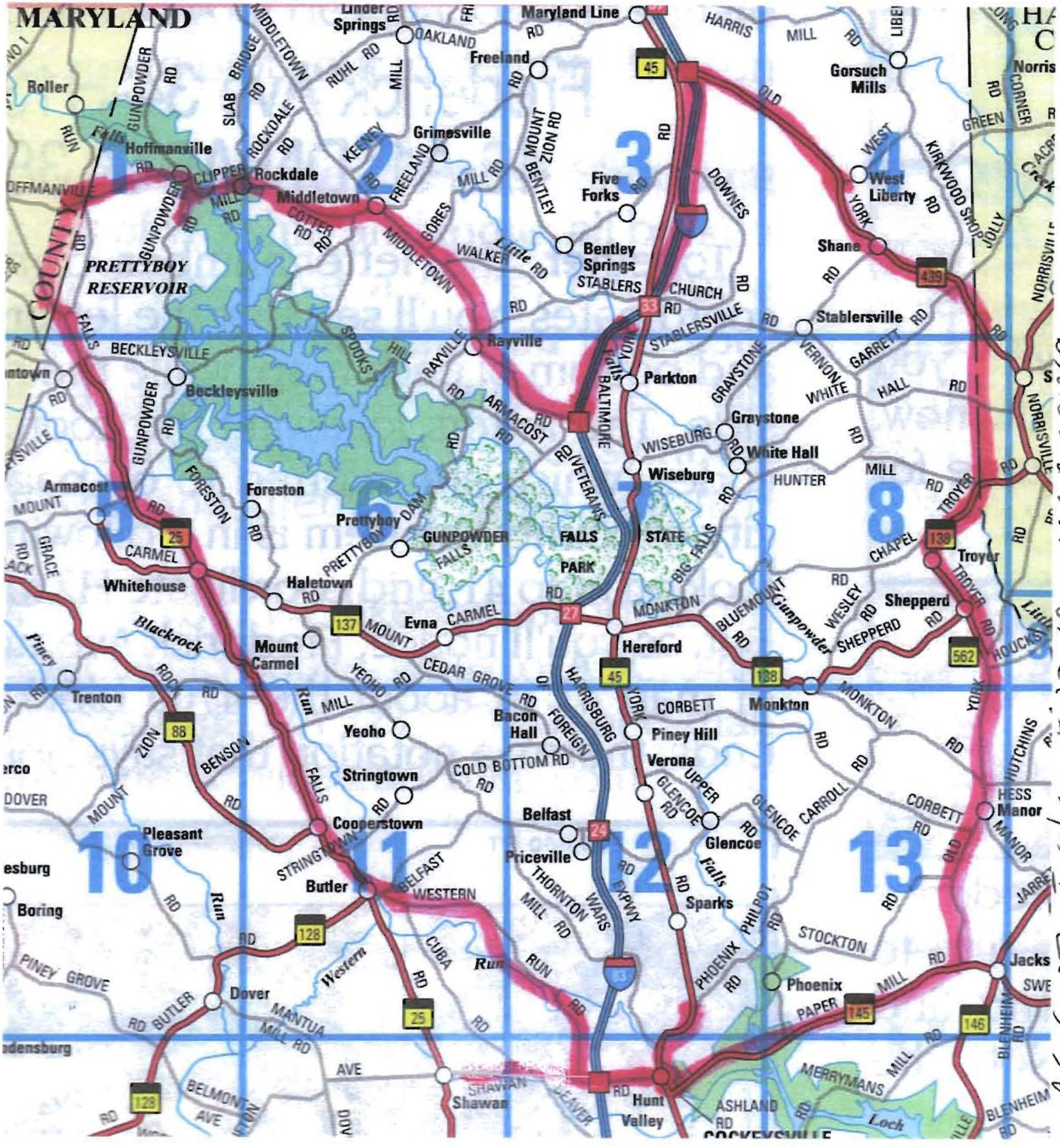
I am very sorry that you are in this situation. One possible option is to petition for a change in zoning at the time of the 2012 CZMP. Petitions will be accepted sometime in September 2012. Perhaps you can work to have the property rezoned to allow your minor subdivision. In addition, you have an excellent attorney working to find a solution to your problem. Perhaps he will find a way to remedy this situation.

Sincerely,

Timothy Kotroco

Timothy M. Kotroco
Director

cc : The Honorable James T. Smith, Jr., Baltimore County Executive



CBA-R-09-269
5-27-10
P.C. Ex 27 Jacobs



P.C. Ex 28+29
Jacobs
5-27-10
CBA-R-04-269

Maps | Attachment 4 | Attachment 3 | Attachment 2 | Attachment 1

MAP 6

MAP 7

Joins Map 2

Joins Map 3

Joins Map 5

Joins Map 8

Joins Map 11

Joins Map 12

870,000 FT

880,000 FT

890,000 FT

900,000 FT

76°45'00"

76°42'30"

76°40'00"

660,000 FT

650,000 FT

640,000 FT

39°37'30"

39°35'00"

MD GRID

21102

21120

21161

21155

21152

21111

BECKLEYSVILLE ROAD

PRETTYBOY

FROG HOLLOW COVE

Frog Hollow

PARSONAGE RD

Scenic Overlook

SPOOKY HILL

ARNACOST

COOPER RD

RESERVOIR

PRETTYBOY COVE

Prettyboy Dam

Gunpowder Falls

Branch

STORE

FORESTON

Forest Bapt

Prettyboy

THOMPSON ESTATES

MOUNT CARMEL

HALETOWN

CARMEL

Mount Carmel Utd Meth

MOUNT CARMEL YEOHO

GREENSIDE VISTA

EVNA

MOUNT CARMEL FARMS

Cedar Grove Utd Meth

FALLS Black Rock Run

BLACKROCK RUN

PRETTYBOY

PRETTYBOY GARTH

GUNPOWDER FALLS STATE PARK

Cabin Run

Bush

DAIRY MANOR FARMS

GLEN DAIRY CT

TIMOTHY MANOR

HOOT OWL HILLS

Owl Branch

HUNTRIDGE NORTH

PARKTON

Parke Utd Meth

Fourth Mine Branch

STABLERSVILLE

Gunpowder Falls State Park Trail

Little Falls

NCRR Trail

Third Mine Branch

GRAYSTONE ROAD

Second Mine Branch

WHITE HALL ROAD

WHITE HALL

MIDDLETOWN

Exit - 31

BALTIMORE HARRISBURG (VETERANS OF FOREIGN WARS MEMORIAL EXPRESSWAY)

HAMLET FARMS

COACHMANS FIELD

Our Lady of Grace Cath

Wiseburg Utd Meth

WISEBURG

GILLCREST

Woodhall Vineyard

Camp Wood Youth Group

GUNPOWDER FALLS STATE PARK

Hereford HS

Gunpowder Youth Camp

Camp Alkor

Camp Kalor

Salvation Army Camp Pah Tok

Top Rail Ranch

BRANDY SPRINGS

Exit-27

Hereford Shop Ctr

Hereford Meth

Hereford Co 44

Hereford Ambulance Co 53

FLICKERWOOD

MOUNT CARMEL MDWS

HEREFORD TIMBER RIDGE

HOPE MEADOWS

MONKTON ROAD

MAPLEHURST WOODS

Saint Lukes Utd Meth

PINEY CREEK

MAGERS LANDING

HENDERSON HILL

MERRYMANS FARMS

BIG FALLS RD

YORK ROAD

BELFAST ROAD

PINEY HILL RD

6-20500

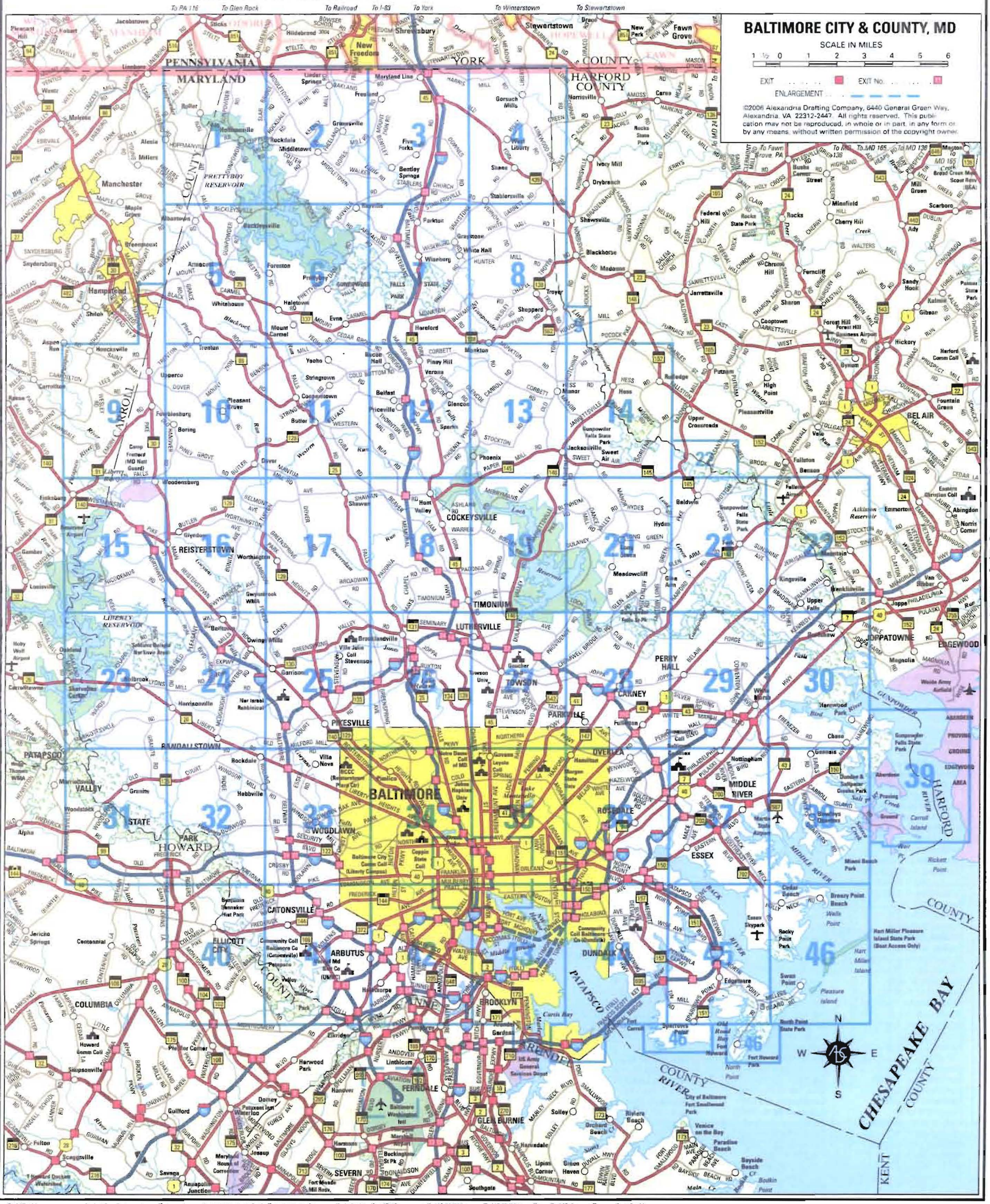
© ALEXANDRIA DRAFTING CO.

P.C. Ex 31 Jacobs 6-9-10 CBA-R-09-269

BALTIMORE CITY & COUNTY, MD

INDEX TO MAPS

Pages 2, 3, and 4 provide you a complete Step-by-Step guide to using your Street Map Book, Map Legend, Table of Contents and Key to Abbreviations. Take a few minutes to familiarize yourself with this time-saving information.



PC. Ex 30 Jacobs 6-9-10 CBA-R-09-269

RESERVOIR PROGRAM TECHNICAL REPORT:

Water Quality Assessment, Targeted Studies and Ongoing Water Quality Issues in the Baltimore Metropolitan Water Supply Reservoirs and Their Watersheds

NOVEMBER 2004



Baltimore Reservoir Watershed Management Program:
Reservoir Technical Group

P.C. Ex 32 Jacobs 6-9-16 <BA-R-09-279

TABLE OF CONTENTS

Introduction..... page 1

Background: Sampling and Analysis Activities..... page 2

Overview: Current Understanding of Water Quality Trends..... page 6
(organized by type of pollutant)

Targeted Analyses which Focus on Reservoir/Watershed
Water Quality Issues..... page 17

Intensive tributary monitoring in Gunpowder watershed... page 18

Development of the Gunpowder Watershed Model..... page 20

Mercury loading limits for the three reservoirs..... page 22

Source Water Assessments for Liberty and Loch Raven.... page 23

Loch Raven Watershed Water Quality Mgt. Plan..... page 25

Water Resources Action Strategy for Liberty Watershed.... page 27

Source Water Stewardship Project for Prettyboy Wshed.... page 29

Ongoing and Emerging Water Quality Assessment Issues
in the Reservoir Watersheds..... page 32

List of References



Reservoir Watershed Management Agreement of 2005 with the 2005 Action Strategy

Supported by Background Information on the Program

Baltimore Reservoir Watershed Management Program

2006

Baltimore Metropolitan Council

PARTNERS IN PROGRESS

PC Ex 33 Jacobs 6-09-10 CBA-R-926-04-926

Table of Contents

	page
Introduction	1
Requirements for Reservoir Program Success	2
Reservoir Watershed Management Agreement of 2005	4
2005 Action Strategy for the Reservoir Watersheds	14
Chart Summarizing the Action Strategy Commitments	24
Background (physical setting) and Program History	33
Structure and Operation of the Program	34
Appendix A: Highlights of the 1984 Agreement	36
Appendix B: Principal Water Quality Concerns - 2005	38
Appendix C: Listing of Past Accomplishments	41
Appendix D: Membership of the Standing Committees	44
Appendix E: Selected List of References	45

Photos by Donald Outen, Baltimore County; Janice Outen, MDE

Selection Criteria *Select Issue Numbers From Issue Number In List(3-094)*

Additional Comments

Comments Date

Final Recommendation Yes Final Date 03/17/2008

Environmental Protection
Standard Comments:

Consistent with the department goals, priorities, and programs.

Additional Comments

This 307.4-acre area is located in the Loch Raven Reservoir watershed (primarily in the Owl Branch subwatershed with a portion in the Gunpowder Falls subwatershed), which is classified as Use III-P by the Maryland Dept. of Natural Resources (DNR). This area is bounded on the west by Baltimore City property associated with the Prettyboy reservoir, to the south by a portion of the Gunpowder Falls State Park that contains contiguous mature forest, to the east by low-density residential development, and to the north by Middletown Road. The land within the proposed reclassification area is comprised of agricultural fields, low-density residential development, and mature forest. Owl Branch and its associated 100-year floodplain traverse the northern portion of the site. Brook and brown trout have been found downstream of this site in both the Gunpowder Falls and Owl Branch subwatersheds by DNR. Trout communities are sensitive to increased stream temperatures, pollutant concentrations, and flow volumes associated with increased runoff from impervious areas. A large portion of this property lies within a Master Plan-designated Agricultural Preservation Area. The proposed zoning reclassification from RC 4 to RC 7 would result in a decrease in impervious area if this are were further developed due to the lower residential density of the RC 7 zone. Reclassification from RC 4 to RC 7 would therefore be more protective of forests, aquatic habitat, and water quality in this reservoir watershed.

Comments Date 02/20/2008

Final Recommendation Yes Final Date 02/20/2008

Planing Board
Standard Comments:

Additional Comments

Comments Date

Final Recommendation Final Date

P.C. Ex 34 Jacobs 6-9-10-CBA-R-09-269

ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

2008 CZMP Final Review Comments

Issue No. 3-094

_____ This Department has no comments on the proposed zoning reclassification.

__X__ The proposed zoning reclassification is consistent with the goals, policies, and programs of this Department.

_____ The proposed zoning reclassification raises certain environmental concerns but is generally consistent with the goals, policies, and programs of this Department (see comments below).

_____ The proposed zoning reclassification raises substantial environmental concerns which are not consistent with the goals, policies, or programs of this Department (see comments below).

Notice: Please be advised that any land development activity (clearing, grading, or construction) at the above-referenced site must comply with all environmental requirements in effect at the time of such development activity.

Comments:

This 307.4-acre area is located in the Loch Raven Reservoir watershed (primarily in the Owl Branch subwatershed with a portion in the Gunpowder Falls subwatershed), which is classified as Use III-P by the Maryland Dept. of Natural Resources (DNR). This area is bounded on the west by Baltimore City property associated with the Prettyboy reservoir, to the south by a portion of the Gunpowder Falls State Park that contains contiguous mature forest, to the east by low-density residential development, and to the north by Middletown Road. The land within the proposed reclassification area is comprised of agricultural fields, low-density residential development, and mature forest. Owl Branch and its associated 100-year floodplain traverse the northern portion of the site. Brook and brown trout have been found downstream of this site in both the Gunpowder Falls and Owl Branch subwatersheds by DNR. Trout communities are sensitive to increased stream temperatures, pollutant concentrations, and flow volumes associated with increased runoff from impervious areas. A large portion of this property lies within a Master Plan-designated Agricultural Preservation Area. The proposed zoning reclassification from RC 4 to RC 7 would result in a decrease in impervious area if this are were further developed due to the lower residential density of the RC 7 zone. Reclassification from RC 4 to RC 7 would therefore be more protective of forests, aquatic habitat, and water quality in this reservoir watershed.

Approved: _____ Date: _____

David A.C. Carroll, Director

P.C. Ex 35 Jacobs 6-9-10 CBA-R-09-216

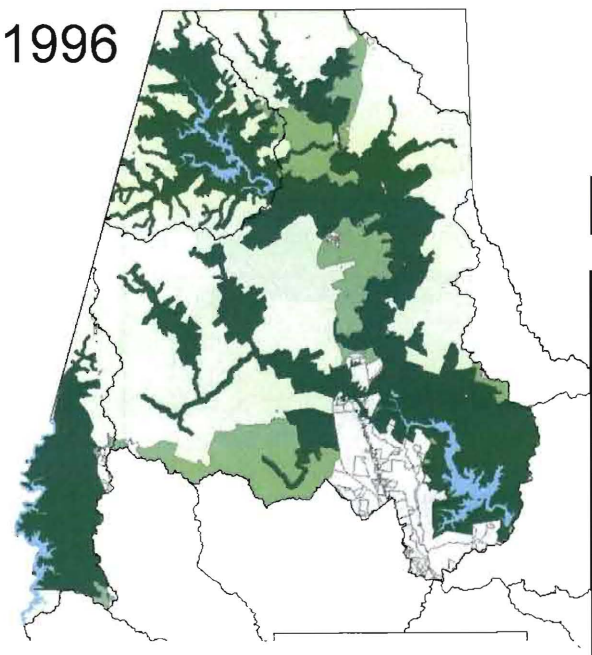


P. C. Ex 36 Jacobs 6-9-10 CBA-R-09-269

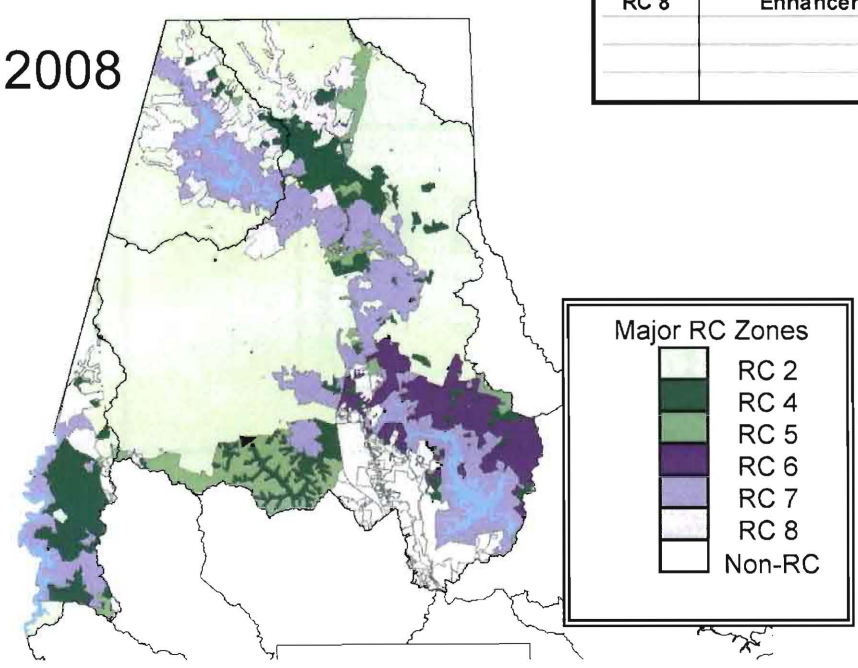
Resource Conservation Zoning

Protecting Reservoir Watersheds in Baltimore County

1996



2008



RC zones cover 169,041 acres of 182,471 acres of reservoir watersheds

Zone	Name	Maximum Density	Den. Ratio	Minimum Lot Size
RC 2	Agricultural Protection	2 lots max (tracts 2-100 ac); 0.02 lots/ac (lots of record > 100 ac.)	1:50	1 ac.
RC 4	Watershed Protection	0.2 lots/ac.; 2 lots total (tracts of 6-10 ac.); 0.01 lots/ac. if no cluster	1:5	3 ac; 1 ac (cluster tracts > 10 ac.)
RC 5	Rural Residential	0.5 lots/ac.	1:2	1.5 ac.
RC 6	Rural Conservation & Residential	0.2 lots/ac.; no density for buffers/large forests; conservancy areas required	1:5	1 ac. Maximum: 1.5 ac.
RC 7	Resource Preservation	0.04 lots/ac. (tracts ≥ 50 ac.); 0.0 (tracts < 50 ac.)	1:25	1 ac.
RC 8	Environmental Enhancement	1 lot (tracts < 10 ac.); 2 lots (tracts 10-30 ac.); 3 lots (tracts 30-50 ac.); 0.02 lots/ac. (tracts > 51 ac.)	1:50 (> 51 ac.)	3 ac.

Zoning Changes, 1996-2008

- Overall extent of RC zones in reservoir watersheds maintained at 92.6%
- RC 2 increased 15,146 acres (+19.7%)
- RC 4 decreased 58,459 acres (-78.2%)
- RC 5 decreased 8,555 acres (-49.2%)
- ~9,000 acres of new RC 6; 32,000 acres of new RC 7; 11,000 acres of new RC 8

P.C. Ex 37 Jacobs 6-9-10 CBA-R-09-269

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Addresses Listed Below DATE: April 10, 2000

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

SUBJECT: Review of Proposed Legislation for RC 7 – Resource Preservation Zone

Attached please find proposed legislation for a new rural zone entitled RC 7 – Resource Preservation. The RC 7 zone is being introduced at this, its earliest opportunity, because rezoning can only occur every four years during the Comprehensive Zoning Map Process, which is currently underway.

Master Plan 2010 recommends the creation of a resource preservation zone to effectively protect Baltimore County's significant cultural, historic, recreational, and environmental resources. This zone is proposed to have a density of 1 unit per 25 acres of gross area and to allow large institutional, educational, religious, and recreational uses only through a Planned Unit Development (PUD) process. This zone is designed to supplement the existing rural zones currently being used in Baltimore County while preserving the Counties rural legacy.

Your comments and insights on this proposed legislation are being solicited. Please review the attached legislation and provide any comments to the Office of Planning by Friday April 21, 2000. Comments may either be: mailed to the Baltimore County Office of Planning, 401 Bosley Avenue, Suite 406, Towson, Maryland 21204; faxed to 410-887-5862, or e-mailed to dpinning@co.ba.md.us. Please call David Pinning at 410-887-3211 should you have any questions regarding this matter.

Pat Keller
Arnold F. 'Pat' Keller, III

AFK:DP:bjs

Attachment

Addresses

Michael H. Davis, Executive Office
Members, Baltimore County Council
Planning Board Members
Lawrence Schmidt, Zoning Commissioner
Pat Farr, DEPRM
John Lewis, PDM
Jean Tansey, R&P

John Wasilisin, Admin. Officer
Thos. Peddicord, County Council
Virginia Barnhart, County Attorney
George Perdikakis, Dir. DEPRM

Wally Lippincott, DEPRM
Don Rascoe, PDM
Chas. R. Olsen, Dir. DPW

Terry Young, Executive Secretary
Brian Rowe, Auditor's Office
Peter Zimmerman, People's Counsel
Don Outen, DEPRM

Arnold Jablon, Dir. PDM
John Weber, Dir. R&P
Arlene Anderson, BCPL-Clearing House

A:\rc 7legismemo.doc

PC. Ex 38 Jacobs 6-9-10 CBA-R-09-269

Baltimore County
Planning Board

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3495
Fax: (410) 887-5862

June 7, 2000

The Honorable Joseph Bartenfelder
Chairman, Baltimore County Council
Court House
Towson, MD 21204

Re: RC 7 Resource Preservation Zone

Dear Councilman Bartenfelder:

In its meeting on June 1, 2000, the Baltimore County Planning Board voted to approve the enclosed report on a proposed new RC 7 Resource Preservation Zone, in response to County Council Resolution No. 27-00.

The Office of Planning will be pleased to assist the Council in the consideration of this matter.

Sincerely,

Arnold F. 'Pat' Keller, III
Secretary

AFK:JMAC:rlh

Enclosure

c. Members, Baltimore County Council
John Wasilisin, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Brian Rowe, County Auditor
Virginia Barnhart, County Attorney
Mary Harvey, Director, Community Conservation
Arnold Jablon, Director, Permits and Development Management
George Perdikakis, Director, DEPRM
Charles R. Olsen, Director, Public Works
John F. Weber, III, Director, Recreation and Parks
Peter Zimmerman, People's Counsel

M:\LEGISLA\Jackie\RC 7 Transmittal.doc

Printed with Soybean Ink
on Recycled Paper

P.C. Ex 39 Jacobs 6-9-10 CBA-R-00-274

By:

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2000, Legislative Day No. 15

Bill No. 74-00

Mr. T. Bryan McIntire, Councilman

By the County Council, August 7, 2000

A BILL
ENTITLED

AN ACT concerning

Land Use and Development - Resource Conservation Zones

FOR the purpose of amending the Baltimore County Zoning Regulations in order to create a new RC 7 zoning classification; adding certain definitions; establishing certain guidelines and use limitations for development; establishing certain permitted uses by right and by special exception; establishing certain area, design, and performance standards and guidelines; establishing certain procedures for the approval of certain permits and plans; permitting certain agriculture inconveniences; prohibiting certain special exceptions in certain resource conservation zones; excluding certain special exception use property area from the area used for the calculation of residential density in all zones; and generally relating to the use and development of resource conservation zones.

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.

B.C. Ex 40 Jacobs 6-9-10 CBA-R-09-269

County to run with the land and continue in perpetuity. The easements and covenants must be shown on the concept plan and on the development plan or minor subdivision plan for the development, as applicable, and on the record plat.

A. For all subdivisions or other development, except as provided in Paragraph B, a permanent preservation easement on the conservancy area must be granted to Baltimore County or to a land trust which the county approves, and must permanently restrict further subdivision or development of the conservancy area. The easement must:

1. Allow public access to greenways and other open space areas subject to approval by the Department of Environmental Protection and Resource Management and the Department of Recreation and Parks;

2. Indicate uses and activities approved in the conservancy area subject to Section 1A07.7.C with any applicable conditions or limitations; and

3. Provide that any modification of a preservation easement held by Baltimore County be subject to a public hearing.

B. In the case of a development where additional permitted density remains, a conservancy area shall be shown on the approval plan and, if the plan involves subdivision, recorded in the land records of Baltimore County. A permanent preservation easement as described in Paragraph A must be granted if further subdivision subjects the tract to the development plan review process under Article 32 of the Baltimore County Code. **[Bill No. 137-2004]**

C. Other covenants or easements may be required as to ensure that the standards of this section are met, including:

1. An easement guaranteeing maintenance of, and county access to, any well or septic or stormwater management facilities that may be approved for location in common areas on any part of the tract; and

2. An easement to provide for the maintenance of open views.

SECTION 1A08
R.C.7 (Resource Preservation) Zone
[Bill No. 74-2000]

§ 1A08.1. Findings and legislative goals.

A. Findings.

1. Master Plan 2010, adopted by the County Council in February 2000, identifies specific resource preservation areas where valuable cultural, historic, recreational and environmental resources are located and should be protected for the health of the local community and the community at large.

BA-R-09-269 Ex 41 Jacobs-6-9-10 R.C.

NORTH COUNTY PRESERVATION

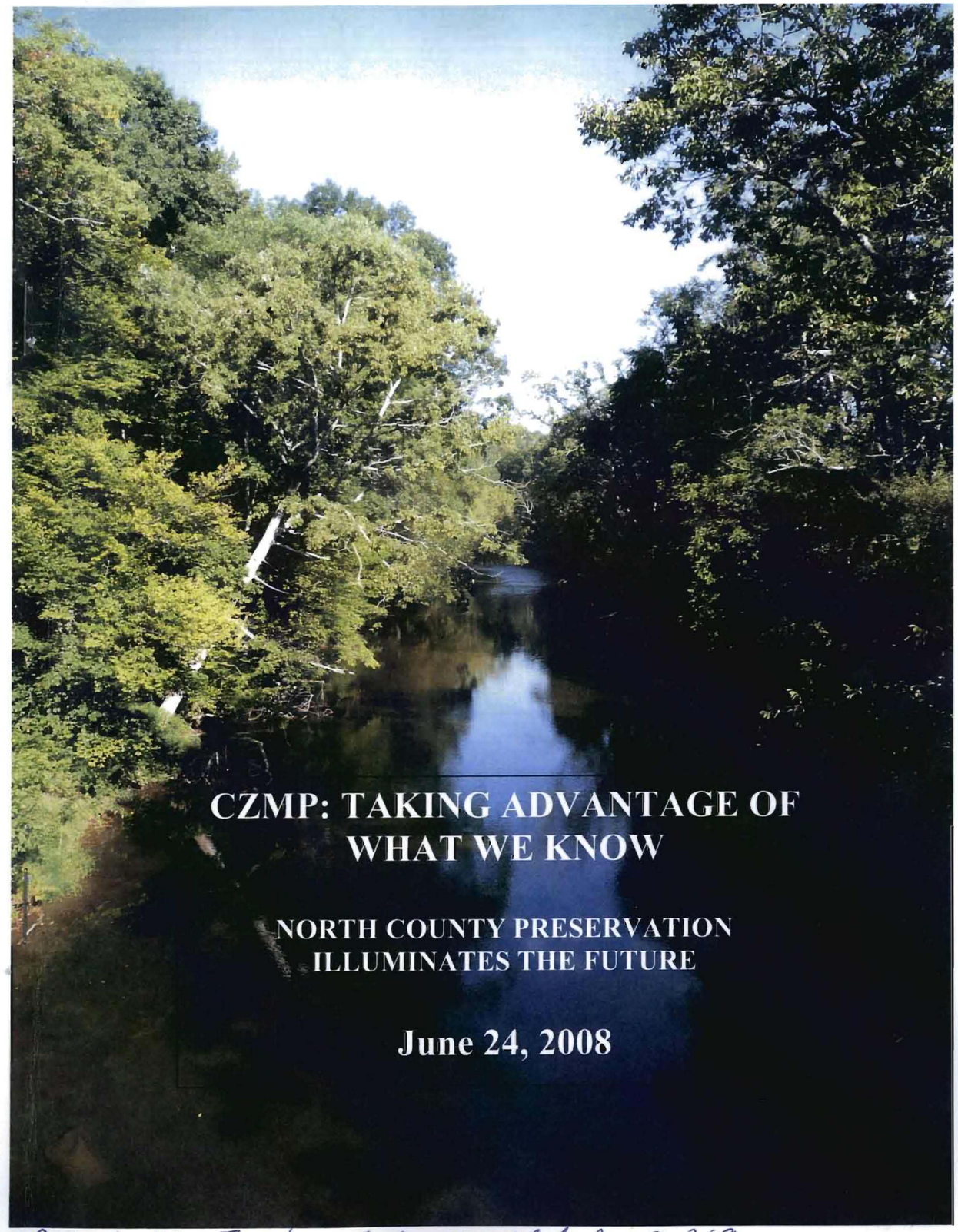
RESOLVED: That at the BOARD OF DIRECTORS meeting of North County Preservation held on August 13, 2009 it was decided by the Board that responsibility for review and action on all zoning and development matters for the period 2009-2010 be placed on the Board of Directors.

ATTEST: North County Preservation

Wendy McIver
Secretary
Wendy McIver

Michael A Pierce
President
Michael Pierce

P.C. Ex 42 Jacobs 6-9-10 CBA-R-09-274



CZMP: TAKING ADVANTAGE OF WHAT WE KNOW

NORTH COUNTY PRESERVATION ILLUMINATES THE FUTURE

June 24, 2008

P.C. Ex 43 Jacobs 6-9-10 CBA-R-09-269

Table of Contents

I. Statement to the Baltimore County Planning Board	**6-7**
II. Brook Trout	**8-17**
III. Green Infrastructure	**18-27**
IV. School Capacity	**28-35**
V. Thanks	**36**

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	Bachelor of Science, Civil Engineering
UNIVERSITY OF PENNSYLVANIA	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.

P.C. Ex 44 Jacobs 6-9-10 CBA-A-09-269

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 2008, LEGISLATIVE DAY NO. 14
AUGUST 26, 2008 6:00 P.M.

****

A. The meeting was called to order by Chairman Kamenetz at 6:05 P.M. The Chairman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 100 persons in attendance and the following Councilmembers were present:

S.G. SAMUEL MOXLEY	FIRST DISTRICT
KEVIN KAMENETZ	SECOND DISTRICT
T. BRYAN MCINTIRE	THIRD DISTRICT
KENNETH N. OLIVER	FOURTH DISTRICT
VINCENT J. GARDINA	FIFTH DISTRICT
JOSEPH BARTENFELDER	SIXTH DISTRICT
JOHN OLSZEWSKI, SR.	SEVENTH DISTRICT

B. **CALL OF BILLS FOR FINAL READING AND VOTE**

Bill 85-08 - The Comprehensive Zoning Map - First District, was called. Councilman Moxley moved to accept the Planning Board's recommendation on the following issues:

1-002 (strike comments), 1-006, 1-012 (strike comments), 1-015, 1-019, 1-024, 1-025, 1-026, 1-028, 1-032, 1-034, 1-035, 1-036, 1-038, 1-040, 1-041, 1-042, 1-046, 1-047, 1-049, 1-050, 1-055, 1-057, 1-059, 1-060

Councilman Oliver seconded the motion and these issues were passed unanimously.

Councilman Moxley then moved the following changes in the First District Comprehensive Zoning Map:

1-001 from BL CCC to BL CCC (.7acres) and R-O-A (.4 acres) as shown on the map (strike comments). Motion was seconded by Councilman Olszewski and passed unanimously.

1-003 from BL to BR. Motion was seconded by Councilman McIntire and passed unanimously.

1-004 from DR 3.5 to BM. Motion was seconded by Councilman Olszewski and passed unanimously.

2-039 from BL (0.0 ac.) and DR 3.5 (0.3 ac.) to BL (0.2 ac.) and DR 3.5 (0.1 ac.), as shown on the overlay. Motion was seconded by Councilman Moxley and passed unanimously.

2-043 from DR 3.5 (0.0 ac.) and ROA (0.2 ac.) to the existing zoning of BL (0.0 ac.), DR 3.5 (0.0 ac.) and ROA (0.2 ac.). Motion was seconded by Councilman Moxley and passed unanimously.

2-045 from DR 3.5 to BL. Motion was seconded by Councilman Moxley and passed unanimously.

2-054 from RC 4 to the existing zoning of RC 5. Motion was seconded by Councilman Moxley and passed unanimously.

Thereafter, upon motion by Councilman Kamenetz, seconded by Councilman Moxley, Bill 86-08, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 87-08 - The Comprehensive Zoning Map - Third District, was called. Councilman McIntire moved to accept the Planning Board's recommendation on the following issues:

3-003, 3-009, 3-011, 3-012, 3-013, 3-015, 3-016, 3-017, 3-018, 3-023, 3-029, 3-031, 3-035, 3-036, 3-038, 3-040, 3-042, 3-043, 3-044, 3-045, 3-046, 3-047, 3-048, 3-051, 3-057, 3-058, 3-059, 3-060, 3-062, 3-063, 3-065, 3-067, 3-068, 3-069, 3-070, 3-072, 3-074, 3-075, 3-076, 3-080, 3-082, 3-083, 3-084, 3-085, 3-087, 3-089, 3-090, 3-091, 3-092, 3-098, 3-099, 3-101, 3-105, 3-108, 3-109, 3-110, 3-111, 3-112, 3-113, 3-115, 3-116, 3-117, 3-118, 3-119, 3-120, 3-122, 3-124, 3-126, 3-127, 3-128, 3-129, 3-130, 3-133, 3-134, 3-135, 3-136, 3-141, 3-144, 3-148, 3-151, 3-153, 3-154, 3-155, 3-156, 3-159, 3-162, 3-163, 3-165, 3-167, 3-171, 3-174, 3-175, 3-176, 3-178, 3-183, 3-187, 3-191, 3-192, 3-193, 3-194, 3-195, 3-196, 3-197, 3-198, 3-200, 3-201, 3-202, 3-203, 3-204, 3-205, 3-206, 3-207, 3-208, 3-210, 3-212, 3-213, 3-214, 3-215, 3-217, 3-219, 3-220, 3-221, 3-222, 3-223, 3-224, 3-225, 3-228, 3-230, 3-231, 3-232, 3-027 (strike comment)

Councilman Moxley seconded the motion and these issues passed unanimously.

Councilman McIntire then moved the following changes in the Third District Comprehensive Zoning Map:

3-001 from RC 2 to RC 4. Motion was seconded by Councilman Moxley and passed unanimously.

P.C. 45 Jacobs 6-9-10 CBA-R-09-269

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2008, Legislative Day No. 13

Bill No. 87-08

Mr. T. Bryan McIntire, Councilman

By the County Council, August 4, 2008

A BILL
ENTITLED

AN ACT concerning

The Comprehensive Zoning Maps - Third District

FOR the purpose of repealing certain existing zoning maps and to adopt an official zoning map for the Third Councilmanic District of Baltimore County, such map to be known as the 2008 Official Comprehensive Third District Councilmanic District Zoning Map for Baltimore County and to supersede any previous zoning maps approved by the County Council of Baltimore County for that particular district.

WHEREAS, under the provisions of Sections 32-3-221 through 32-3-223, Baltimore County Code, 2003, the County Council has received a final report of the Planning Board on the Board's proposed County-wide Comprehensive Zoning Map for Baltimore County and has held public hearings thereon after giving at least 10 working days' notice thereof in a newspaper of general circulation throughout the County, and during the period of such notice the final report of the Planning Board, with accompanying maps and supporting exhibits, were shown and exhibited in the Office of Planning, in each Councilmanic District, and at such other public places as designated by the County Council; and after the expiration of such period of notice and hearings, the County Council made certain changes in the Comprehensive Zoning Map for the Third Councilmanic District of Baltimore County which the County Council deemed appropriate; now, therefore

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.

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the portion of the official zoning map of Baltimore County referred to in Section 32-1-101 of the Baltimore County Code and now in effect, including any amendments thereto and comprehensive revisions of portions thereof as it pertains to the Third Councilman District of Baltimore County, be and it is hereby repealed, and that the boundaries of zones and districts, as established by the Baltimore County Zoning Regulations, as shown on the Official Comprehensive Third Councilmanic District Zoning Map for Baltimore County accompanying this Act, are hereby established.

SECTION 2. BE IT FURTHER ENACTED, that the accompanying Official Comprehensive Third Councilmanic District Zoning Map for Baltimore County is hereby adopted and declared to be a part of this Act to the same extent as if it were incorporated herein. The Official Comprehensive Third Councilmanic District Zoning Map is the map described in Section 32-3-202(d) of the Baltimore County Code, the correctness of which is attested to by the signature of the chairman of the Baltimore County Council. When this Act stands enacted, the Director of Permits and Development Management shall thereupon have legal custody of said map.

P.C. 46 Jacobs -6-9-10 CBA-R-09-269

(2) Pay the required fee.

(d) *Procedure for hearings.* The Board of Appeals shall hear and dispose of the appeal as provided in the charter and the rules of procedure established by the Board of Appeals.

(1988 Code, § 26-132) (Bill No. 18, 1990, § 2; Bill No. 116, 1990, § 2; Bill No. 4, 1992, § 1; Bill No. 103-02, § 2, 7-1-2004)

Annotations:

Remedy provided under title 34 of 1958 Code held to be an alternative to that afforded by this section, at least where it is affirmatively alleged that the Planning Board has violated zoning regulations and that a violation of either the zoning or the subdivision regulations was subject to an injunction under title 34. Lynn v. Goldman, 216 Md. 562, 141 A.2d 172 (1958).

County Council need not follow the recommendations of the Planning Board, and need not have any further or additional hearing in regard to any changes or amendments the County Council may see fit to make. Swathmore Company v. Kaestner, 253 Md. 517, 266 A.2d 341 (1970).

The people's counsel has the right to appeal zoning decisions. People's Counsel for Baltimore County v. Williams, 45 Md. App. 617, 415 A.2d 585 (1974).

Former § 26-132 (1988) cited in Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc., 133 Md.App. 510, 758 A.2d 611 (2000).

SUBTITLE 5. ZONING RECLASSIFICATION THROUGH CYCLE ZONING

§ 32-3-501. DEFINITIONS.

(a) *In general.* In this subtitle, the following words have the meanings indicated.

(b) *Petition.* "Petition" means a petition for zoning reclassification.

(c) *Use.* "Use" includes development.

(d) *Zoning reclassification.*

(1) "Zoning reclassification" means:

(i) A change to a district or zone of a particular piece of property; or

(ii) A correction to the official Chesapeake Bay Critical Area Map adopted under § 33-2-105 of the Code.

(2) "Zoning reclassification" includes approval for the use of growth allocation in connection with paragraph (1)(i) and (ii) of this subsection.

(1988 Code, § 2-356) (Bill No. 103-02, § 2, 7-1-2004; Bill No. 75-03, § 5, 7-1-2004)

§ 32-3-502. AUTHORITY OF THE BOARD OF APPEALS.

Subject to the requirements of this subtitle, the Board of Appeals may grant a zoning reclassification.

(1988 Code, § 2-356) (Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-503. PETITION FOR ZONING RECLASSIFICATION.

(a) *Authority to petition.* Only the legal owner of a property or the owner's legally authorized representative may file a petition for a zoning reclassification of the property with the Board of Appeals.

(b) *Requirements.*

(1) The petition shall include:

(i) The petitioner's explanation of the reasons why the reclassification should be granted; and

(ii) Sufficient detail to properly inform the county authorities required to review the petition.

(2) A petition that alleges a change in condition or error as justification for the reclassification sought shall include a precise description of the change or error and supporting information required under § 32-3-510 of this subtitle.

(c) *Petition must meet Board of Appeals procedures; exception.*

(1) The Department of Permits and Development Management may not accept a petition for filing unless the petition meets the rules of practice and procedure established by the Board of Appeals.

(2) Notwithstanding any other requirement in the rules, a petitioner may submit plans that do not show a proposed use of the property under petition.

(1988 Code, § 2-356) (Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-504. SCHEDULE OF CYCLES AND PERIODS.

(a) *In general; cycles.* For the purpose of considering contemporaneous zoning reclassification petitions in relation to each other, the Board of Appeals shall consider the petitions during one of the following cycles:

(1) Cycle 1, which begins on April 16 in the year following the comprehensive quadrennial zoning map process;

(2) Cycle 2, which begins on October 16 in the year following the comprehensive quadrennial zoning map process;

(3) Cycle 3, which begins on April 16 two years after the comprehensive quadrennial zoning map process;

P.C. Ex 47 Jacobs 6-9-10 CBA-R-09-269

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2004, Legislative Day No. 24

Bill No. 153-04

Mr. Kevin Kamenetz, Councilman

By the County Council, December 20, 2004

A BILL
ENTITLED

AN ACT concerning

Zoning Reclassification through Cycle Zoning

FOR the purpose of providing standards for the Board of Appeals to follow in determining if the last zoning classification of a property was established in error; providing for the application of this Act; and generally relating to the zoning reclassification of property in the cycle zoning process.

BY repealing and re-enacting, with amendments

Section 32-3-510
Article 32 - Planning, Zoning, and Subdivision Control
Title 3 - Zoning
Subtitle 5 - Zoning Reclassification through Cycle Zoning
Baltimore County Code 2003

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 32-3-510 of Article 32, Planning, Zoning, and

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.

P.C. Ex 48 Jacobs 6-9-10 CBA-09-227

§ 1B01.3 Plans and plats.

A.
Development plants.

1.
Purpose. This paragraph is intended:

a.
To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; and

b.
To provide for review of residential development plans to determine whether they comply with these regulations and with standards and policies adopted pursuant to the authority of Section 504.

2.
Partial development plan. For the purposes of this article, a "partial development plan" is a portion of a final development plan, and a partial or final development plan is "applicable" to a given lot if it covers all property in the subdivision within 300 feet of the given lot, in addition to the lot itself.

3.
Subdivision lot sales, development and use subject to partial development plan. No interest in any lot which is in a D.R. Zone and is hereafter created by subdivision of a record lot existing on the effective date of this article or created by consolidation of such lots may be sold unless a final or partial development plan applicable to the lot has been approved as required under Paragraph 6, below; further, no use may be established and no construction may take place on any lot so created except in accordance with such a plan. The provisions of this paragraph shall not apply to Class A assisted living facilities.

[Bill No. 188-1993]

4.
Notice in conveyance. Any party who sells an interest in real property within an area covered by an approved partial or final development plan shall attach to the instrument of sale a notice directing the buyer's attention to the plan (including any amendment) and listing the location of the various certified copies which may be publicly inspected (Paragraph 6), together with a listing of the recorded plats covering all portions of the subdivision as a whole. The notice shall also generally apprise the buyer of the rights, requirements and remedies provided under the development plan, those provided under this article and these zoning regulations in general, and those set forth in provisions adopted pursuant to the authority of Section 504, and, to this end, the notice shall be on a form issued by the county and approved by the Office of Law, the Zoning Commissioner, and the Planning Board as being clear and sufficient for the purpose.

5.
Forms and content of plans.

a.
Forms. Each partial development plan must be filed both as a separable document or set of documents and as part of a final development plan which includes all partial development plans as approved for other portions of the subdivision. Upon approval, each final development plan thus filed supersedes previous final development plans of the subdivision.

P.C. Ex 504 Jacobs 6-9-10 CBA-R.09-269

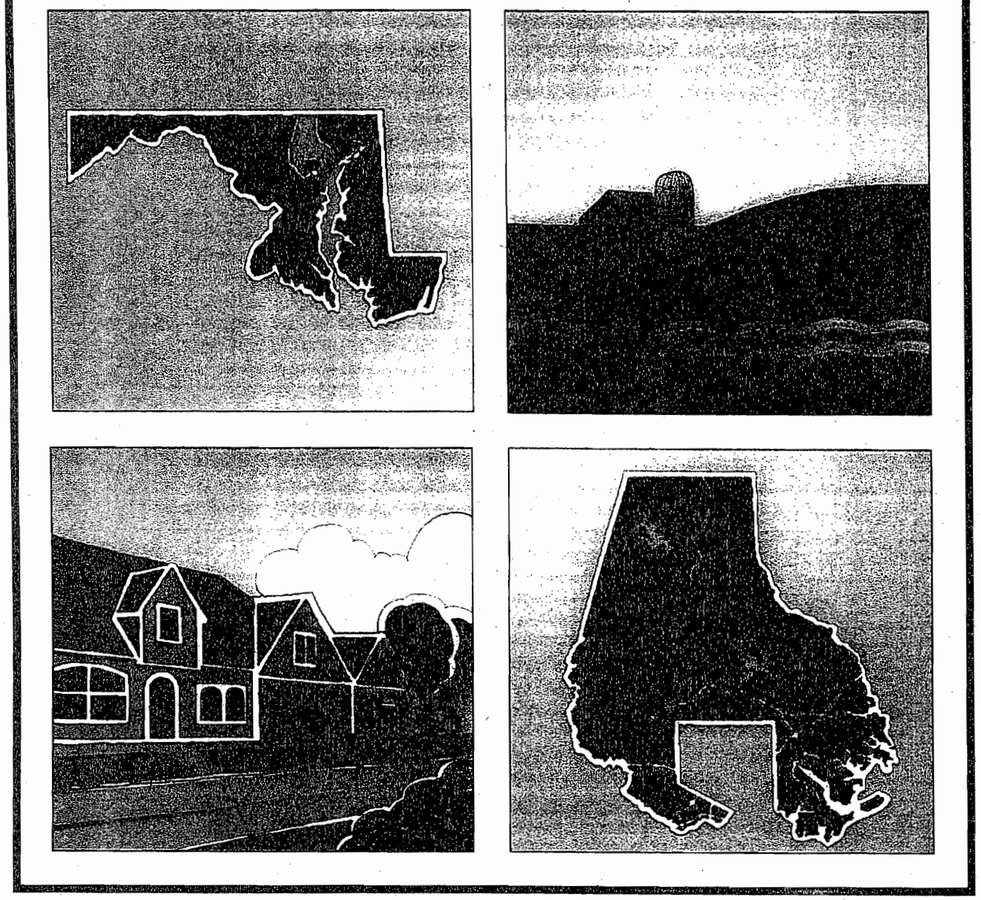
§ 1A00.4 Plans and plats.

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.

P.C. Ex. 50B Jacobs 6-9-10 CBA-R-09-269

MASTERPLAN2010

BALTIMORE COUNTY, MARYLAND



AS ADOPTED BY BALTIMORE COUNTY COUNCIL

FEBRUARY 22, 2000

P.C. Ex 51 Jacobs 6-9-10 CBA-R-2