

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S Trenton Mill Road, 1,230' W		
Thomas Shilling Court	*	ZONING COMMISSIONER
(5305-5325 Trenton Mill Road)	*	OF
5 th Election District	*	
3 rd Council District	*	BALTIMORE COUNTY
Allender Property I, LLC	*	
<i>Petitioner</i>	*	Case No. 2010-0065-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by John F. Owings, Jr., Member, of Allender Property I, LLC, by and through its attorney, Lawrence M. Hammond, Esquire, of Hammond & Hammond, L.L.C. The Petitioner requests a special hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for the purpose of determining density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary and to amend the note on the revised site plan in Case No. 03-332-SPH referencing the proposed lots being in Carroll County. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requests were John F. Owings, Jr., and Douglas C. Myers, members of the property owner, and Lawrence M. Hammond, Esquire, the Petitioner's attorney. There were no Protestants or other interested persons present.

This most unusual case relates to the proper dividing line between Baltimore and Carroll County. Testimony and evidence offered demonstrates that the property is located on the south side of Trenton Mill Road just east of Hanover Pike (MD. Rte. 30) adjacent to the Piney Branch Golf and Country Club in Hampstead. The property contains a gross area of 24 acres, more or less, of R.C.2 zoned land. The property was acquired by Deed, dated January 6, 2009,

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 Date 11-25-09
 BY [Signature]

and recorded among the Land Records of Baltimore County in Liber No. 27590, Folio 411 (re-recorded to Petitioner in Liber SM No. 27584, Folio 631). Later, an additional parcel, which comprises a small part of the property, was also acquired by the Petitioner from Jane Allender Mauser and Joan Allender Offner. The property, which is the subject matter of this hearing, was once a part of a larger tract of land which lies on both sides of the boundary line between Baltimore and Carroll Counties. The Petitioner entered into a contract of sale to purchase all of the property located along Trenton Mill Road that lies on the east side of the boundary line between Baltimore and Carroll Counties. The Petitioner acquired title to this property by Deed, dated January 30, 2004, and recorded among the Land Records of Baltimore County in Liber SM No. 19617, Folio 339. Mr. Hammond stated that as a result of a lengthy controversy involving the respective County attorneys and State Legislature, a survey by Walter T. Tydings, Registered Property Line Surveyor, ascertained that the boundary line the parties used with respect to determining what portion of the seller's property was in Baltimore County and what part was in Carroll County was the boundary line set forth in the Acts of the General Assembly of the State of Maryland, December Session, 1835, Chapter 256, which created Carroll County from property located in both Baltimore and Frederick Counties. Mr. Myers testified that there have been a number of questions and disputes with respect to the true location of the boundary line over the many years. Consequently, Allender Property II, LLC developed what was believed to be all of the property it owned and located in Baltimore County as a minor subdivision known as "Golf Club Estate" (PDM No. 04-004M). The boundary line as set forth in the Acts of 1835 was accepted by Baltimore County with respect to its aforementioned minor subdivision. In this regard, this Commission held a hearing in Case Number 03-332-SPH granting approval for the redistribution of density. By his Order, dated October 14, 2003, then Deputy Zoning Commissioner, John V. Murphy, stated among other things,

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Date 11-25-09
BY [signature]

"that if and when the final dividing line between Baltimore and Carroll Counties is determined by the State Legislature, that the dimensions of Lot 3 and the two roadway out parcels shall be suitably adjusted. . . ."

In an attempt to remedy the situation, both County surveyors, Patrick A. Simon and Richard S. Krebs, determined to alter the location of the boundary line as to follow the "stones" as set in the 1841 survey of the County line prepared by Aamon Richards, which in effect created this substantial parcel of land which is the subject of this hearing. See Petitioner's Exhibit 3.

The Petitioner next secured an agreement with the County's Department of Permits and Development Management (DPDM), which is memorialized in a letter, dated March 28, 2006, signed by both Timothy M. Kotroco, Director, and Donald T. Rascoe, Deputy Director, of the DPDM. A copy of the letter was received as Petitioner's Exhibit 2. Mr. Hammond opined that in accordance with this administrative adjustment as contemplated in Deputy Zoning Commissioner Murphy's Order, that the subject property having been determined to be located in Baltimore County is now to be treated as a new parcel, which can be subdivided into two (2) building lots as illustrated on the site plan and pursuant to current R.C.2 regulations. Additionally, the Petitioner had filed litigation in the Circuit Court for Baltimore County. In its complaint, Allender Property sought a declaratory judgment that the boundary line between Baltimore and Carroll Counties is the line described in the Acts of 1835. That case (03-C-07-00754) was closed on August 25, 2007, and the property is presently shown as lying and being situated in Baltimore County on Tax Map No. 19.

In sum, I find from the testimony and evidence that the Petitioner is legally entitled to subdivide the subject 24-acre parcel into two (2) building lots pursuant to B.C.Z.R. Section 1A01.3.B. Lot 1 will be on the north portion of the tract with access from Trenton Mill Road and consist of 8.859 acres. Lot 2 will consist of 15.003 acres and as shown on Exhibit 1 will be on the southern portion of the tract located between the Carroll County line and the Piney Branch

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Date 11-25-09
By 193

Golf Course. I will mandate that the Petitioner obtain whatever form of development approval is required from the Department of Permits and Development Management.

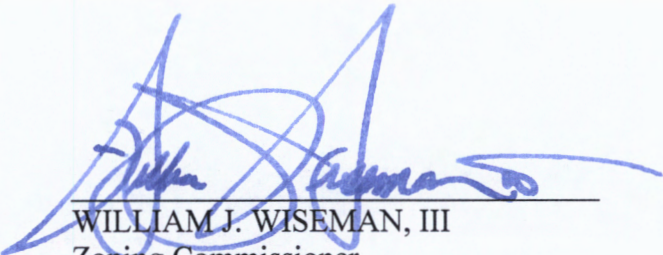
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the determination that the new parcel located in Baltimore County will yield two (2) building lots is decided in the affirmative.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of November 2009 that the Petition for Special Hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for the purpose of determining density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary and to amend the note on the revised site plan in Case No. 03-332-SPH referencing the proposed lots being in Carroll County, in accordance with Petitioner's Exhibits 1, 2 and 3, be and is hereby GRANTED; subject to the following restrictions:

1. Petitioner must obtain any and all development approvals as required by the Department of Permits and Development Management (DPDM) pursuant to Article 32 of the Baltimore County Code (B.C.C.), and
2. The Petitioner is made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from the date of this Order has expired. If for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

WJW:dlw


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 11-25-09
WJW



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

November 25, 2009

Lawrence M. Hammond, Esquire
Hammond & Hammond, L.L.C.
465 Main Street
P.O. Box 569
Reisterstown, Maryland 21136-0569

RE: PETITION FOR SPECIAL HEARING
S/S Trenton Mill Road, 1,230' W Thomas Shilling Court
(5305-5325 Trenton Mill Road)
5th Election District - 3rd Council District
Allender Property I, LLC – *Petitioner*
Case No. 2010-0065-SPH

Dear Mr. Hammond:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted with restrictions, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

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

WILLIAM J. WISEMAN
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: John F. Owings, Jr., Member, Allender Property I, L.L.C., P.O. Box 295,
Owings Mills, MD 21117
Douglas C. Myers, 800 Scarlett Drive, Towson, MD 21286
People's Counsel; Office of Planning; DPR; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

Trenton Mill Rd

which is presently zoned

RC2

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

SPECIAL HEARING for purpose of determining density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary and to amend the note on the revised site plan 03-332 SPH referencing the proposed lots being in Carroll County.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Allender Property I. L.L.C.

Name - Type or Print

John F. Owings, Jr., Member

Signature

John F. Owings, Jr., Member

Name - Type or Print

Signature

P.O. Box 295 410-833-1187

Address

Telephone No.

Owings Mills Md. 21117

City

State

Zip Code

Representative to be Contacted:

Douglas C. Myers

Name

800 Scarlett Drive 443-438-0860

Address

Telephone No.

Towson Md. 21286

City

State

Zip Code

413-275-2647

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By RJD

Date 8/25/09

dj homes atadelphia.net

Case No. 2010-0065-SPH

REV 9/15/98

ORDER RECEIVED FOR FILING

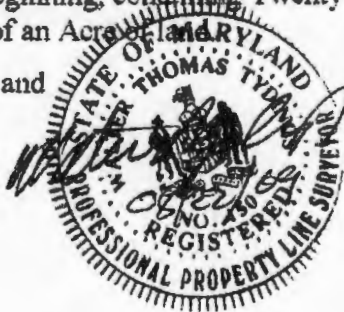
Date 11-25-09

By lw

Zoning Description for 5305 • 5325 Trenton Mill Road.

BEGINNING at a point on the Baltimore County/ Carroll county line, 2000 feet East of Hanover Pike in the center of Trenton Mill Road, thence leaving road, South 16 degrees 08 minutes 38 seconds West 2333.68 feet, North 49 degrees 42 minutes 51 seconds East 1753.39 feet, South 44 degrees 09 minutes 26 seconds East 211.00 feet, North 11 degrees 53 minutes 10 seconds West 121.91 feet, North 44 degrees 09 minutes 26 seconds West 100.00 feet, North 25 degrees 33 minutes 21 seconds East 421.05 feet to a point in Trenton Mill Road, thence along road, North 77 degrees 56 minutes 57 seconds West 41.14 feet, thence leaving road, South 25 degrees 33 minutes 21 seconds West 395.28 feet, South 49 degrees 42 minutes 51 seconds West 479.82 feet, North 64 degrees 34 minutes 31 seconds West 184.50 feet, North 15 degrees 37 minutes 00 seconds East 972.65 feet to a point in Trenton Mill Road, thence in road, North 53 degrees 13 minutes 50 seconds West 551.00 feet to the beginning, containing Twenty Four Acres and Seventy Five Thousandths (24.075) of an Acre.

Located in the Fifth Election District and
Third Councilmanic District



Item #0065

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 2010-0065-SPH
Petitioner: Allender Property I, L.L.C. et al
Address or Location: S/s Trenton Mill Rd, E of Carroll Co.

PLEASE FORWARD ADVERTISING BILL TO:

Name: John F Owings Enterprises
Address: P O Box 295
Owings Mills, Maryland
21117-0295
Telephone Number: 410-833-1187

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

No. 44757

Date: 8/25/09

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
001	806	0000		6150					\$130.00

Total: \$130.00

Rec
From:

For: Zoning hearing - case # 2010-0065-SPH

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

Certificate of Posting

RE: Case NO. 2010-0065-SPH

Petitioner/Developer _____

John Owings / Douglas Myers

Date of Hearing/Closing 10/19/09

Baltimore County
Department of Permits and Development Managements

NOTICE OF ZONING HEARING

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

Case: #2010-0065-SPH

5305-5325 Trenton Mill Road

S/side of Trenton Mill Road, 1230 west of Thomas

Shilling Court

5th Election District - 3rd Councilmanic District

Legal Owner(s): Allender Property I, LLC

Special Hearing: to determine the density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary and to amend the note on the revised site plan 03-332-SPH referencing the proposed lots being in Carroll County.

Hearing: Monday, October 19, 2009 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
10/15/1 Oct 1 216619

CERTIFICATE OF PUBLICATION

10/11, 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 10/11, 2009.

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

S. Wilkinson

LEGAL ADVERTISING

Certificate of Posting
Photograph Attachment

Re: 2010-0065-SPH

Petitioner/Developer: _____

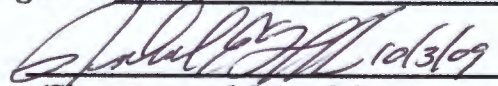
John Owings & Douglas Myers

Date of Hearing/Closing: 10/19/09



5305-5325 Trenton Mill Road

Posting Date: 10/3/09


(Signature and date of sign poster)



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

September 29, 2009

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2010-0065-SPH

5305-5325 Trenton Mill Road

S/side of Trenton Mill Road, 1230 west of Thomas Shilling Court

5th Election District – 3rd Councilmanic District

Legal Owners: Allender Property I, LLC

Special Hearing to determine the density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary and to amend the note on the revised site plan 03-332-SPH referencing the proposed lots being in Carroll County.

Hearing: Monday, October 19, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: John Owings, P.O. Box 295, Owings Mills 21117
Douglas Myers, 800 Scarlett Drive, Towson 21286

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, OCTOBER 3, 2009.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, October 1, 2009 Issue - Jeffersonian

Please forward billing to:
John Owings, Jr.
P.O. Box 295
Owings Mills, MD 21117

410-833-1187

NOTICE OF ZONING HEARING

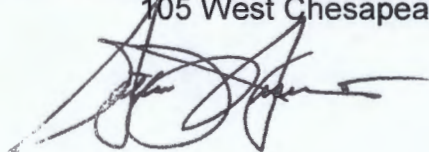
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2010-0065-SPH

5305-5325 Trenton Mill Road
S/side of Trenton Mill Road, 1230 west of Thomas Shilling Court
5th Election District – 3rd Councilmanic District
Legal Owners: Allender Property I, LLC

Special Hearing to determine the density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary and to amend the note on the revised site plan 03-332-SPH referencing the proposed lots being in Carroll County.

Hearing: Monday, October 19, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

October 15, 2009

John Owings, Jr.
Allender Property I, LLC
P.O. Box 295
Owings Mills, MD 21117

Dear: John Owings, Jr.

RE: Case Number 2010-0065-SPH, Trenton Mill Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 25, 2009. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Douglas Myers; 800 Scarlett Dr.; Towson, MD 21286



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

September 10, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: August 31.2009

Item Numbers 0065 and 0066

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

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

cc: File

BW 10/19
9am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 30, 2009

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

SUBJECT: 5305-5325 Trenton Mill Road

INFORMATION:

Item Number: 10-065

Petitioner: Allender Property I, LLC

Zoning: RC 2

Requested Action: Special Hearing

RECEIVED

OCT 13 2009

ZONING COMMISSIONER

The petitioner requests a special hearing pursuant for the purpose of determining density and zoning regulation for the 24-acre parcel as it relates to the Baltimore County Boundary and to amend the note on the revised site plan 03-332 SPH referencing the proposed lots being in Carroll County.

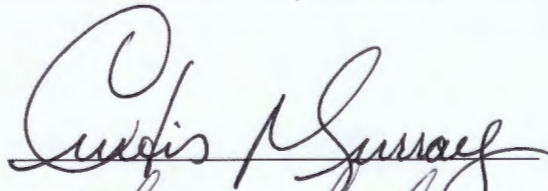
SUMMARY OF RECOMMENDATIONS:

The Office of Planning would support a determination of density and zoning regulation for the 24-acre parcel by the Zoning Commissioner provided that the Survey Division of the Baltimore County Department of Public Works confirms the Baltimore County/Carroll County Boundary Line and finds that indeed the total parcel falls within the Baltimore County boundary.

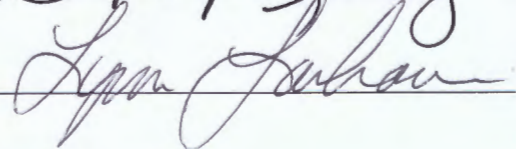
This parcel is the subject of Minor Subdivision 09030M. The last set of comments on the minor subdivision from July 2009 stated that if this property lies entirely within Baltimore County and can proceed through the development process it must be demonstrated that further density remains and if so that this does not constitute a fourth and fifth lot derived from Liber 5265 Folio 357 which was the subject deed in minor subdivision 04004M.

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

Prepared by:



Division Chief:
AFK/LL: CM



Cc: Lloyd Moxley, Office of Planning
Jean White, Information Technology



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

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: SEPT. 3, 2009

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

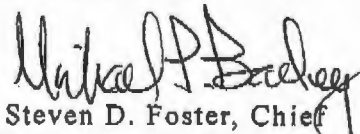
RE: Baltimore County
Item No. 2010-0065-SPH
5305-5325 TRENTON MILL RD
ALEXANDER PROPERTY, LLC
SPECIAL HEARING -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0065-SPH.

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

Very truly yours,


Fod Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: September 4, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For response date September 14, 2009
Item Nos. 2008-103, 2010-056, 057, 058,
059, 060, 061, 062, 064, 065, 066

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

DAK:CEN:kmt

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-09142009 -NO COMMENTS.doc

Jack
9/17

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
FROM: R. Bruce Seeley *RS/TBT*
DATE: September 16, 2003
SUBJECT: Zoning Item 03-332 (Revised plan)
Address 5201 Trenton Mill Road

RECEIVED
SEP 26 2003
ZONING COMMISSIONER

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

This will be supported subject to a condition that the house site for the remaining density unit on Parcel A will be located on non-prime and productive soils. This will be subject to the approval of DEPRM.

Reviewer: Wally Lippincott

Date: September 16, 2003

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
5305-5325 Trenton Mill Road; S/S Trenton *
Mill Road, 1230' W Thomas Shilling Court * ZONING COMMISSIONER
5th Election & 3rd Councilmanic Districts *
Legal Owner(s): Allender Property I, LLC * FOR
Petitioner(s) * BALTIMORE COUNTY
* 10-065-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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

SEP 10 2009

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 10th day of September, 2009, a copy of the foregoing Entry of Appearance was mailed to Douglas Myers, 800 Scarlett Drive, Towson, MD 21286, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

MODE = MEMORY TRANSMISSION

START=NOV-25 12:34

END=NOV-25 12:38

FILE NO.=653

STN NO.	COMM.	ONE-TOUCH/ ABBR NO.	STATION NAME/TEL. NO.	PAGES	DURATION
001	OK	2	94432752647	005/005	00:03:18

*forward to
Myers*

-ZONING COMMISSIONER OFF M-

***** -

- *****

410 887 3468- *****



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

November 25, 2009

Lawrence M. Hammond, Esquire
Hammond & Hammond, L.L.C.
465 Main Street
P.O. Box 569
Reisterstown, Maryland 21136-0569

RE: PETITION FOR SPECIAL HEARING
S/S Trenton Mill Road, 1,230' W Thomas Shilling Court
(5305-5325 Trenton Mill Road)
5th Election District - 3rd Council District
Allender Property I, LLC - *Petitioner*
Case No. 2010-0065-SPH

Dear Mr. Hammond:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted with restrictions, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

WILLIAM J. WISEMAN
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: John F. Owings, Jr., Member, Allender Property I, L.L.C., P.O. Box 295,
Owings Mills, MD 21117
✓ Douglas C. Myers, 800 Scarlett Drive, Towson, MD 21286
People's Counsel; Office of Planning; DPR; File

From: Debra Wiley
To: Myers, Douglas
Date: 11/25/2009 12:45 PM
Subject: Re: Allender Prop. I, LLC - Case No. 2010-0065-SPH

I am faxing it to you right now and you'll receive a copy in the mail as well. Have a nice Thanksgiving.

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

>>> "Douglas Myers" <djhomes@adelphia.net> 11/25/2009 12:37 PM >>>
My fax No. 443-275-2647

Thanks,
Doug

----- Original Message -----

From: "Debra Wiley" <dwiley@baltimorecountymd.gov>
To: "Douglas Myers" <djhomes@adelphia.net>
Sent: Wednesday, November 25, 2009 12:32 PM
Subject: Re: Allender Prop. I, LLC - Case No. 2010-0065-SPH

I can fax you a "signed" copy but the email verison isn't signed. What is your fax number ?

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

>>> "Douglas Myers" <djhomes@adelphia.net> 11/25/2009 12:18 PM >>>
Debra Wiley,

Looks good.

Can you Email me a signed copy? If not, I will come in on Friday to pick one up.

Thanks,

Doug Myers, Member
Allender Property I, L.L.C.
443-438-0860

----- Original Message -----

From: "Debra Wiley" <dwiley@baltimorecountymd.gov>
To: <djhomes@adelphia.net>
Sent: Wednesday, November 25, 2009 11:43 AM
Subject: Allender Prop. I, LLC - Case No. 2010-0065-SPH

Good Morning,

At Commissioner Wiseman's request, please find attached the Order for your review and/or comment. Thanks.

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

From: Debra Wiley
To: Livingston, Jeffrey
Date: 10/16/2009 12:40 PM
Subject: Comment Needed for Hearing - Monday, 10/19 @ 9 AM

*Missing
DEPRM*

Hi Jeff,

Bill will be conducting a hearing on Monday and in reviewing the case file, is in need of a DEPRM comment. The area is zoned R.C.2 and the case information is as follows:

CASE NUMBER: 2010-0065--SPH

Trenton Mill Road

Location: S side of Trenton Mill Road, 1230 W of Thomas Shilling Court.

5th Election District, 3rd Councilmanic District

Legal Owner: Allender Property I, LLC

SPECIAL HEARING 1) To determine the density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary; 2) To amend the note on the revised site plan 03-332-SPH referencing the proposed lots being in Carroll County.

Hearing: Monday, 10/19/2009 at 9:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanking you in advance for getting this to us before the scheduled hearing. Have a great weekend !

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

CC: Lippincott, Wallace; Lykens, David

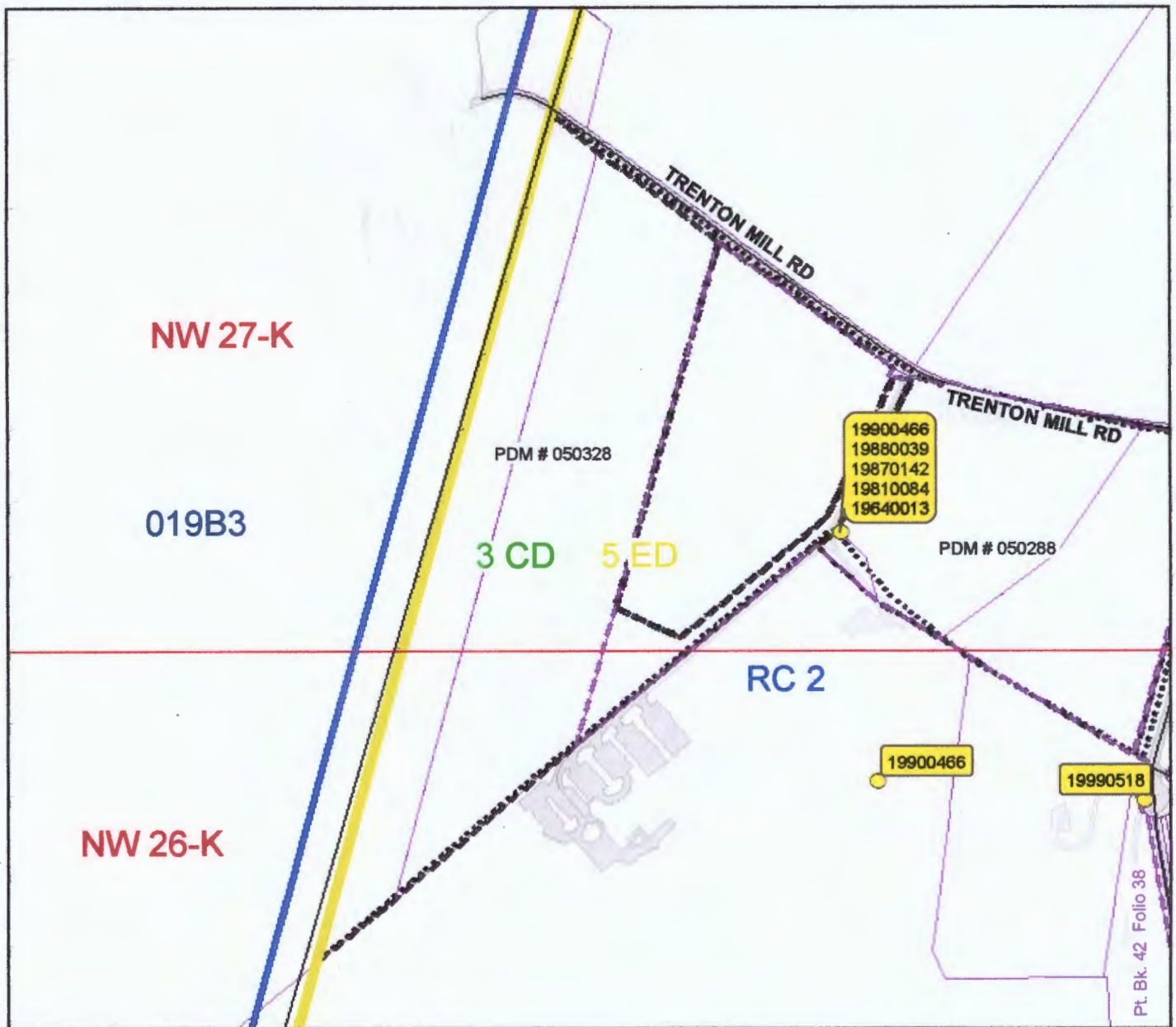
2010-0065-SPH 10/19 9AM

OP	9-30	Comments
FD	9-10	Comply w/ Code
DPR	9-4	No Comments
SHA	9-3	No objection
Prior Case 03-332-SPH		
Notice	Posting	PC Appearance

5305-5325 Trenton mill Rd
CASE NAME ~~2010-0065-SPH~~
CASE NUMBER 2010-0065-SPH
DATE 10-19-2009

[illegible]

Trenton Mill Road



Publication Date: August 20, 2009
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

DQ Map Notes



400 0 400
Feet
1 inch equals 400 feet

Item # 0065

Case No.: TRENTON Mill ROAD CASE - 2010-0065-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	
No. 2	3/28/06 Letter OF Understanding - Boundary Dispute	
No. 3	Baltimore County SURVEY 3/18/08	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

HAMMOND & HAMMOND, L.L.C.
ATTORNEYS AT LAW
465 MAIN STREET
P. O. BOX 569
REISTERSTOWN, MARYLAND 21136-0569
(410) 833-7576
FAX: (410) 833-4744

LLOYD J. HAMMOND (RETIRED)
LAWRENCE M. HAMMOND

OF COUNSEL
DOUGLAS S. CURTIS

March 28, 2006

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204

RE: Baltimore County/Carroll County Boundary Dispute

Dear Mr. Kotroco:

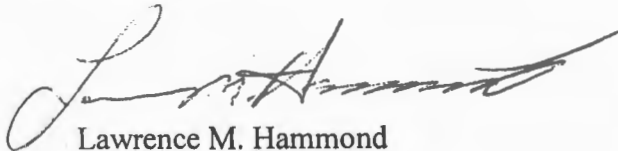
I write today on behalf of my clients, John F. Owings, Jr., and Douglas C. Myers regarding a meeting that was held on February 17, 2006 with Donald T. Rascoe, Deputy Director of the Department of Permits and Development Management. When Mr. Owings and I met with Mr. Rascoe we discussed the current status of the county boundary line dispute and investigation which is currently being conducted by Baltimore and Carroll Counties respectively. My clients are the contract purchaser of a parcel of land which is partially located in the disputed area. For your records, I have enclosed herewith a copy the property line survey for the entire parcel that my clients have contracted to purchase. As a result of the dispute, Messrs. Owings and Myers have not been able to move forward with the development of the land which clearly located in Carroll County. In order to allow my clients to process their plan through Carroll County, Mr. Owings and Mr. Rascoe agreed that the property described in Exhibit "A" and as shown on Exhibit "B", attached hereto shall be treated as a new parcel in the event that it is determined either through administrative, legislative or judicial means that the aforementioned property or any portion thereof is located in Baltimore County. As such said parcel shall be entitled to be subdivided into two (2) building lots, pursuant to the current RC-2 regulations as set forth in the

PETITIONER'S

EXHIBIT NO. 2

Baltimore County Zoning Regulations. As you will note the adjoining Minor Subdivision of Golf Club Estates is zoned RC-2. In order to memorialize the agreement reached between my clients and Baltimore County, Maryland, I ask that both you and Mr. Rascoe sign this letter where indicated, and return a copy of the executed letter to my office. I thank you for your attention to this matter and should you have any questions, please do not hesitate to contact me.

Sincerely yours,

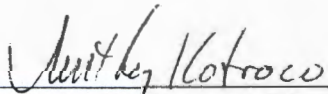


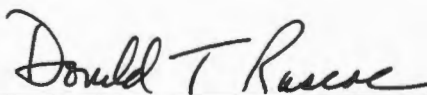
Lawrence M. Hammond

APPROVED AND ACCEPTED this

31st day of March, 2006.

Baltimore County Department of Permits
and Development Management

By: 
Timothy M. Kotroco, Director

By: 
Donald T. Rascoe, Deputy Director

ALL that lot or parcel of land situate, lying and being in the Eighth Election District of Carroll County, State of Maryland and described as follows, that is to say:

BEGINNING for the outlines to include the same at a spike now set in the centerline of a right of way, 60 feet wide, to be used in common with others entitled thereto, described in a Deed of Agreement by and between Joseph W. Allender and Wife, parties of the first part, and Piney Branch Golf & Country Club, Inc., parties of the second part, dated October 23, 1964, recorded among the Land Records of Baltimore County in Liber No. 4391 folio 578 etc., said spike being set at the end of 1590.36 feet in the North 58 degrees 42 minutes 13 seconds East 2388.80 foot line described in a Deed from Thomas E. Shilling et al. to Piney Branch Golf & Country Club, Inc., dated July 25, 1964, recorded among the Land Records in Liber R.R.G. No. 4379 folio 464 etc., said spike being also being set on the straight division line, running North 17 degrees East, between Baltimore County and Carroll County as established and described in the Acts of the General Assembly of the State of Maryland, December Session, 1835, Chapter 256, and, confirmed the next succeeding Session, Chapter 19, said spike also being set at the end of a line drawn, by true bearing, North 15 degrees 37 minutes 00 seconds East 35320.37 feet from a spike found in or near the center of the old bridge, over the center of the North Branch of the Patapsco River, on the Turnpike Road leading from Reisterstown to Westminster, thence leaving said right of way, running by true bearings, established by N.A.D. 83/ 91, and, binding on the straight divisional line between Baltimore County and Carroll County, the following line, North 15 degrees 37 minutes 00 seconds East 1343.97 feet to a spike set in or near the centerline of the present road bed of Trenton Mill Road and to intersect the South 46 degrees 15 minutes East 73.6 perches line described in a Deed from Helen L. Earhart and husband to Joseph W. Allender and Wife, dated May 19, 1950, recorded among the Land Records of Baltimore County in Liber T.B.S. No. 1846 folio 237 etc., and, recorded among the Land Records of Carroll County in Liber E.A.S. No. 205 folio 05 etc., thence running in or near the centerline of said road and binding reversely on that Deed the following line, North 53 degrees 13 minutes 50 seconds West 551.00 feet to a spike now set and to intersect the line between stone No.3 and stone No. 4, as located by Baltimore County, Md., and described in a survey of the County line by Amon Richards, dated August 27, 1841, recorded among the Land Records of Carroll County in Liber W.W. No. 1 folio 118 etc., thence binding on that line between stone No. 3 and stone No. 4 as located by Baltimore County, the following line, South 16 degrees 08 minutes 38 seconds West 2333.69 feet to a pipe and to intersect the first aforementioned Deed line, thence binding on that Deed, North 49 degrees 42 minutes 51 seconds East 954.95 feet to the place of beginning, containing Twenty two Acres and seventy two thousandths (22.072) of an acre of land, more or less.

SUBJECT, however, to the above mentioned Deed of Agreement by and between Joseph W. Allender and Hazel E. Allender, his wife, parties of the first part, and, Piney Branch Golf & Country Club, Inc., dated October 23, 1964, recorded among the Land Records of Baltimore County in Liber No. 4391 folio 578 etc.

TOGETHER, with the right to use the above mentioned right of way, 60 feet wide, described in the above mentioned Deed of Agreement, by and between Joseph W. Allender and Hazel E. Allender, his wife, parties of the first part, and, Piney Branch Golf & Country Club, parties of the second part, dated October 23, 1964, recorded among the Land Records of Baltimore County in Liber No. 4391 folio 578 etc.

BEING a part of the first parcel of land conveyed by Deed from Hazel E. Allender, widow, to

Jane A. Mauser and Joan A. Oeffner, dated December 24, 1971, recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5265 folio 357 etc., and, recorded among the Land Records of Carroll County in Liber C.C.C. No. 502 folio 450 etc.

HANOVER PIKE





BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

March 18, 2008

EDWARD C. ADAMS, JR., Director
Department of Public Works

Retracement Survey of the Baltimore/Carroll County Line

Between 2003 to 2006 Baltimore County and Carroll County Land Survey Divisions jointly performed a Retracement of the Survey enacted by the Maryland General Assembly in Chapter 10 of the Acts of 1840. The 1841 Surveyor, Amon Richards, set 9 stones at 2-mile intervals along the 16.5-mile long line. At the time of this current survey only 3 of the stones were found as still existing. The positions for the missing and found markers were determined and the following NAD83 (1991) coordinates computed.

In cases of conflicting evidence, Maryland Courts have held that an original marker, existing in the field, would take precedence over published coordinate values. Also due to differences in fieldwork procedures, traverse adjustments, readjustments, etc. **these published coordinates are provided as an aid to assist the user in recovering the actual marker and are not to be used in lieu of field rnn surveys.**

*Southwest corner of main arch of the
Westminster Turnpike Bridge (Found)*

North 663909.65
East 1349107.30

Stone No. 1 (To be set in future)

North 674078.80
East 1351740.12

Stone No. 2 (Found)

North 684260.31
East 1354327.01

Stone No. 3 (Found)

North 694765.99
East 1357149.91

Stone No. 4 (To be set in future)

North 704879.35
East 1360077.36

Stone No. 5 (To be set in future)

North 715213.29
East 1362759.97

Stone No. 6 (Found)

North 725483.03
East 1365678.70

Stone No. 7 (To be set in future)

North 735612.03
East 1368473.36

Stone No. 8 (To be set in future)

North 745773.12
East 1371149.60

Stone No. 9 (To be set in future)

North 748187.15
East 1371782.31



Patrick A. Simon 3/25/08
Patrick A. Simon
Professional Land Surveyor #10914



Richard S. Krebs 3/25/08
Richard S. Krebs
Professional Land Surveyor #10873

Debra Wiley - Re: Comment Needed for Hearing - Monday, 10/19 @ 9 AM

From: Wallace Lippincott
To: Livingston, Jeffrey; Wiley, Debra
Date: 10/19/2009 8:42 AM
Subject: Re: Comment Needed for Hearing - Monday, 10/19 @ 9 AM
CC: Lykens, David

Jeff,

I did not have a comment on this project. I already had reviewed the site plan and worked out any issues at that time. I defer to others on the issue of the Carroll Co border issue.

Wally

Wallace Lippincott, Jr.
Balto County DEPRM
105 West Chesapeake Ave
Towson, MD 21204
(410)887-3854

>>> Debra Wiley 10/16/2009 12:40 PM >>>

Hi Jeff,

Bill will be conducting a hearing on Monday and in reviewing the case file, is in need of a DEPRM comment. The area is zoned R.C.2 and the case information is as follows:

CASE NUMBER: 2010-0065--SPH

Trenton Mill Road

Location: S side of Trenton Mill Road, 1230 W of Thomas Shilling Court.

5th Election District, 3rd Councilmanic District

Legal Owner: Allender Property I, LLC

SPECIAL HEARING 1) To determine the density and zoning regulation application for the 24 acre parcel as it relates to the Baltimore County boundary; 2) To amend the note on the revised site plan 03-332-SPH referencing the proposed lots being in Carroll County.

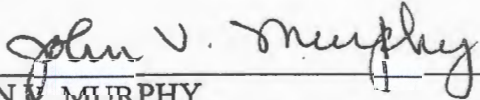
Hearing: Monday, 10/19/2009 at 9:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanking you in advance for getting this to us before the scheduled hearing. Have a great weekend !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 14 day of October, 2003, that the Petitioners' revised request for special hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for approval of (1) the redistribution of density from one parcel to another separate parcel of same ownership without creating any additional density and (2) for the creation of 2 non-density parcels totaling 1.995 acres, more or less, by metes and bounds, is hereby APPROVED under the following conditions:

1. That the terms of the Agreement between the Petitioners and Mr. and Mrs. Roche, as shown by their October 3, 2003 Agreement, attached hereto and made a part hereof, is hereby incorporated into this order and shall be enforceable by Baltimore County;
2. That if and when the final dividing line between Baltimore and Carroll Counties is determined by the State Legislature, that the dimensions of Lot 3 and the two roadway out parcels shall be suitably adjusted by administrative adjustment; and
3. That the comments from the Office of Planning and the Department of Environmental Protection and Resource Management, both dated September 16, 2003, are hereby incorporated in this Order.



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

appeal results in the Baltimore County Board of Appeals denying the relief requested in the Petition for Special Hearing, this Agreement shall be null and void.

L. The parties hereto request that this Agreement be incorporated by the Zoning Commission in his Opinion and Order granting the relief requested in the Petition for Special Hearing.

M. These Agreements shall be deemed executed and delivered in and shall be construed, governed and enforced in accordance with the laws of the State of Maryland in effect from time to time.

N. The parties hereto agree that Allender will record this document among the Land Records of Baltimore County, at Allender's expense once the approval pursuant to the Petition for Special Hearing in Case No.: 03-332-SPHA becomes final. Allender shall have thirty (30) days in which to record this Agreement and provide proof to Roche of such recording.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the day and year first above written.

WITNESS/ATTEST:

ALLENDER PROPERTY, L.L.C.

Nancy J. Evans

By: John F. Owings, Jr. (SEAL)
JOHN F. OWINGS, JR. Member

Stella Llesy

Timothy McC. Roche (SEAL)
TIMOTHY MCC. ROCHE

Stella Llesy

Patricia A. Roche (SEAL)
PATRICIA A. ROCHE

STATE OF MARYLAND, COUNTY OF Carroll, to wit:

I HEREBY CERTIFY that on this 15th day of October, 2003, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared JOHN F. OWINGS, JR., authorized

forth herein.

B. That Allender and its successors and assigns agree to provide a natural buffer area, approximately one hundred (100) feet in width, being the "hatched area", lying between Parcel 82 and a portion of Parcel 33, which is designated as Lot #1, as shown on the Topography Plan for the Allender Property, copy of said plat is attached hereto and incorporated as Exhibit "B". It is further agreed by Allender and its successor and assigns that there will be no further subdivision of Lot #1, for as long as the Protestants, either jointly or individually own parcel 82. Allender also agrees to provide a copy of this Settlement Agreement to any prospective purchaser of Lot #1. Additionally, Allender and its successors and assigns agree that no structure, building of any sort, shed, swimming pool, above or below ground, satellite dish or TV antenna, lights nor anything that is not natural vegetation shall be permitted in the hatched area described on Exhibit "B."

C. That Allender and its successors and assigns agrees not to remove any trees from the "hatched area" that are greater than four (4) inches in diameter, except for diseased and/or dead trees which pose a safety threat. Prior to Allender and/or its successors and assigns removing any trees that are greater than four (4) inches in diameter on the basis of disease and/or dead trees posing a safety threat, Allender or its successors will provide fifteen (15) days notice to Protestants as to what trees will be removed, who will be removing them, and any evidence that they are either diseased or pose a safety threat.

D. That the Protestants agree not oppose Allender's requested relief as set forth in the Petition for Special Hearing in Case No 03-332-SPH, or to note an appeal with the Baltimore County Board of Appeals.

E. That the Protestants agree not to oppose the future development of the "Property" as a Minor Subdivision consisting of three (3) building lots to be created from Parcel 33 and not to oppose the issuance of building permit for a residential dwelling to be constructed on parcel 51.

F. That the parties agree that imposition of the terms of

Petitioners are requesting that four (4) lots be created from the two parcels, with Parcel A being designated as Lot 1, and Lots 2, 3 and 4 being created from Parcel B.

The Petitioner testified that parcel A and parcel B were legally created before R.C.2 zoning was applied to the property (November 1979) and as such each parcel is entitled to two lots (two density units) for a total of four lots. They further request that one lot designation (density unit) be transferred from Parcel A to Parcel B resulting in three lots designated for Parcel B. See Petitioners' Exhibit No. 1. Finally, they request that 1.995 acres, more or less, be allowed to be created for the road access to Piney Branch Golf & Country Club, as well as lots they may develop in Carroll County. This would be a non density transfer.

A side issue arose at the hearing as to the proper line dividing Baltimore and Carroll County. Apparently, the County Attorneys of the respective Counties are involved in the controversy which likely will be resolved by the State Legislature. Final location of this line would directly affect the size of Lot 3 and perhaps the size of the non density transfer request. Dorothy Rowland, a neighbor, testified about her concerns with the proper dividing line between the Counties, and the impact the granting of the petition would have on the Joachim property. However, she had no objection to dividing the Baltimore County parcels into the four lots as requested, transferring one lot designation (density unit) from Parcel A to Parcel B or the non density transfer request to provide access to the country club.

Another issue arose in regard to adjacent landowners, Mr. and Mrs. Roche, and their concerns that their property be protected in case of further development of Lot 1. The Roches retained Carroll Holzer, Esquire to represent them, but Mr. Holzer was unable to attend the hearing due to conflicts in his schedule. However, the attorneys apparently have negotiated an agreement with the Petitioner such that the Petitioner and his successors will keep a 100 foot

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Lana Gast
Notary Public

My Commission expires:

August 22, 2006

c:\mdreform(dje)\allender.2se

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2009, Legislative Day No. 12

Bill No. 58-09

Councilmembers Kamenetz, Gardina, McIntire, Oliver & Olszewski

By the County Council, July 6, 2009

A BILL
ENTITLED

AN ACT concerning

Development

FOR the purpose of requiring adherence to all current laws and zoning classifications for certain residential development plans; providing for the expiration of development plan approval; providing for the manner and time of the vesting of development plans; defining terms; providing limits on the vesting of certain development plans; providing for the application of the Act; and generally relating to the development process and the expiration and vesting of development plans.

BY adding

Section 32-4-101(ccc) and (ddd)
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

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.

BY repealing and re-enacting, with amendments
Sections 32-4-261 and 32-4-262
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

BY adding
Section 32-4-264
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

BY repealing
Section 32-4-273 and Subsections 32-4-106(a)(1)(i)(2) and 32-4-271(f)(2)
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

BY repealing and re-enacting, with amendments
Sections 32-4-274
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 32-4-101(ccc) and (ddd) be and ~~it is~~ they are hereby added
3 to Article 32 - Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore
4 County Code 2003, to read as follows:

5 32-4-101. Definitions.

6 (CCC) VESTED. THE TERM "VESTED" OR "VESTING" IS A PROTECTED STATUS
7 CONFERRED ON A DEVELOPMENT PLAN. A VESTED DEVELOPMENT PLAN SHALL
8 PROCEED IN ACCORDANCE WITH THE APPROVED PLAN AND THE LAWS IN EFFECT
9 AT THE TIME PLAN APPROVAL IS OBTAINED. A PROPERTY OWNER, DEVELOPER OR
10 APPLICANT OBTAINS VESTED RIGHTS FOR A DEVELOPMENT PLAN IN ACCORDANCE
11 WITH SECTION 32-4-264 OF THIS TITLE.

12 (DDD) "NON-RESIDENTIAL PLAN" MEANS A PLAN OF DEVELOPMENT IN WHICH THE
13 DOMINANT ELEMENT OF THE PLAN IS (1) A COMMERCIAL DEVELOPMENT, (2) AN

1 INDUSTRIAL DEVELOPMENT, OR (3) A SENIOR HOUSING, ASSISTED LIVING, LIFE
2 CARE, CONTINUING CARE OR ELDERLY HOUSING FACILITY, CHURCH, SCHOOL, OR
3 OTHER INSTITUTIONAL USE.

4 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 32-4-261 and 32-4-262 of
5 Article 32 - Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore
6 County Code 2003, be and it is hereby repealed and re-enacted, with amendments, to read as
7 follows:

8 **§ 32-4-261. EXPIRATION OF DEVELOPMENT PLAN APPROVAL.**

9 (a) *In general.* [Unless extended under subsection (b) or under §32-4-274(a) of this subtitle,]
10 Development Plan approval shall expire 4 years after the date a final, non-appealable approval was
11 granted, UNLESS THE PLAN WAS VESTED PURSUANT TO SECTION 32-4-264. AN
12 APPROVED DEVELOPMENT PLAN MAY BE EXTENDED UNDER SUBSECTION (B) OR
13 UNDER §32-4-274(A).

14 (b) *Request for extension.*

15 (1) An applicant may make a written request to the Hearing Officer for a one year extension of the
16 4 year Development Plan approval period provided under subsection (a) of this section upon a
17 showing that a county agency failed to properly process an essential request necessary to achieve
18 vesting in a timely fashion, causing a delay beyond the initial four years after the final, non-
19 appealable approval was granted.

20 (2) The request for extension shall be filed prior to the expiration of four years from the date of
21 approval of the Development Plan.

22 (3) The Hearing Officer shall act within 60 days of the filing of the request and may grant, in
23 writing, the request for an extension.

24 (4) The Hearing Officer may not act upon the request for an extension until comments from the
25 applicable agencies are received.

1 (5) Any appeal of the extension granted under subsection (b) shall be on the record. The standard
2 of review shall be based upon an abuse of discretion.

3 (c) *Expiration of reclamation plan.* Approval by the Hearing Officer of a Development Plan for
4 which there is an approved reclamation plan shall expire 15 years from approval of the reclamation
5 plan by the Planning Board under Subtitle 5 of this title, UNLESS THE PLAN WAS VESTED
6 PURSUANT TO SECTION 32-4-264.

7 **§32-4-262. AMENDMENTS TO DEVELOPMENT PLANS.**

8 (1) Any material amendment to an approved non-residential [Development Plan] PLAN;
9 ~~INCLUDING A LIFE CARE OR CONTINUING CARE FACILITY PLAN~~; shall be reviewed and
10 approved in the same manner as the original plan.

11 (2) Any material amendment to [than] AN approved residential Development Plan or plat
12 shall be reviewed in accordance with this title, and with respect to that portion of the original plan
13 or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all
14 current law [and regulations, including the development regulations and the zoning regulations].
15 For purposes of this paragraph, any amendment to a plan or plat that results in an increase in density
16 or increase in the number of buildable lots is a material amendment.

17 SECTION 3. AND BE IT FURTHER ENACTED, that Section 32-4-264 be and it is hereby
18 added to Article 32-Planning, Zoning and Subdivision Control. Title 4 - Development, of the
19 Baltimore County Code 2003, to read as follows:

20 **§32-4-264. VESTING OF DEVELOPMENT PLANS.**

21 (A) IN GENERAL. A DEVELOPMENT PLAN VESTS IN ACCORDANCE WITH THE
22 PROVISIONS OF THIS SECTION.

23 (B) NON-RESIDENTIAL PLAN.

24 (1) A NON-RESIDENTIAL PLAN, ~~INCLUDING A LIFE CARE OR CONTINUING CARE~~
25 ~~FACILITY PLAN~~, FOR WHICH A PLAT IS NOT RECORDED VESTS WHEN SUBSTANTIAL
26 CONSTRUCTION OCCURS WITH RESPECT TO ANY PORTION OF THE PLAN.

27 (2) A NON-RESIDENTIAL PLAN, ~~INCLUDING A LIFE CARE OR CONTINUING CARE~~
28 ~~FACILITY PLAN~~, FOR WHICH A PLAT IS RECORDED VESTS WHEN PLAT
29 RECORDATION OCCURS FOR ANY PORTION OF THE PLAN.

1 (C) RESIDENTIAL DEVELOPMENT PLAN.

2 (1) A RESIDENTIAL DEVELOPMENT PLAN FOR WHICH A PLAT IS NOT RECORDED
3 VESTS WHEN SUBSTANTIAL CONSTRUCTION OCCURS WITH RESPECT TO ANY
4 PORTION OF THE PLAN.

5 (2) A RESIDENTIAL DEVELOPMENT PLAN FOR WHICH A PLAT IS RECORDED VESTS
6 WHEN PLAT RECORDATION OCCURS FOR ANY LOT, TRACT, SECTION OR PARCEL
7 THEREOF.

8 (D) LIMITATION ON VESTING. UNLESS AN EXTENSION HAS BEEN GRANTED UNDER
9 §32-4-274, CONSTRUCTION RELATING TO A VESTED RESIDENTIAL DEVELOPMENT
10 PLAN THAT OCCURS MORE THAN 9 YEARS AFTER THE PLAN WAS GRANTED FINAL,
11 NON-APPEALABLE APPROVAL SHALL COMPLY WITH ALL LAWS IN EFFECT AT THE
12 TIME PERMITS ARE ISSUED.

13 (E) RECLAMATION PLAN. AN APPROVED RECLAMATION PLAN VESTS WHEN
14 SUBSTANTIAL CONSTRUCTION OCCURS WITH RESPECT TO ANY PORTION OF THE
15 PLAN.

16 SECTION 4. AND BE IT FURTHER ENACTED, that Section 32-4-273 and Subsections
17 32-4-106(a)(1)(i)(2) and 32-4-271(f)(2) of Article 32-Planning, Zoning and Subdivision Control,
18 Title 4 - Development, of the Baltimore County Code 2003, be and ~~it is~~ they are hereby repealed.

19 SECTION 5. AND BE IT FURTHER ENACTED, that Section 32-4-274(a) of Article 32-
20 Planning, Zoning and Subdivision Control. Title 4 - Development, of the Baltimore County Code
21 2003, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

22 **§ 32-4-274. EXTENSION OF TIME LIMIT FOR VALIDITY OF SUBDIVISION [PLATS**
23 **AND APPROVED] PLANS.**

24 (a) *In general.* The Department of Permits and Development Management shall extend [a
25 subdivision plat for an entire subdivision or any section or parcel of the subdivision or] an approved
26 Development Plan that would otherwise [lapse] EXPIRE and become invalid under the provisions
27 of § 32-4-261 [or § 32-4-273] of this subtitle if a deficiency in basic services for water, sewer, or
28 transportation[:

29 (1) Prevented the applicant from recording the plat ; or

30 (2) Prevented development] PREVENTED THE VESTING OF THE PLAN , in accordance with
31 § [32-4-273(d)] 32-4-264 of this subtitle[, of the recorded subdivision plat, the entire subdivision,
32 or a section or parcel of the subdivision].

1 (b) *Length of extension - Approved plans.* With respect to an approved Development Plan, the length
2 of time of any extension shall be equivalent to the lesser of:

3 (1) The period of time that the deficiency prevents a plat from being recorded; or

4 (2) The period of time remaining for plan validity at the time of the deficiency determination.

5 [(c) *Same - Recorded subdivision plat.*

6 (1) With respect to a recorded subdivision plat, the length of time of an extension shall be equivalent
7 to the lesser of:

8 (i) The period of time that the deficiency prohibits or prohibited development of the entire
9 subdivision or any section or parcel of the subdivision; or

10 (ii) The period of time remaining for plat validity at the time of deficiency.

11 (2) In the event a deficiency occurs in the last 18 months of the life of a plat, the length of time of
12 the extension allowed shall be 18 months.]

13 [(d)] (C) *Determination of deficiency.* For the purpose of determining the extension of the time
14 limit of the validity of a [plat or] Development Plan, the Department of Permits and Development
15 Management shall consider property that is the subject of the plan [or plat] to have a deficiency if:

16 (1) Subsequent to plan approval or plat recordation the property is shown to be or to have been
17 within a deficient service area on a basic service map adopted by the County Council; or

18 (2) The issuance of building permits or the construction of public improvements or private
19 improvements is or was prohibited by order of the state or county.

20 SECTION 6. AND BE IT FURTHER ENACTED, that this Act shall apply to any
21 development, subdivision, parcel of land, or plat which received any form of approval from
22 Baltimore County prior to the effective date of this Act as follows:

23 (A) An unexpired residential development plan that was approved prior to the effective date of this
24 Act, but not yet vested in accordance with the law in effect prior to the effective date of this Act,

1 may acquire vested status in accordance with the provisions of this Act. If the plan vests within four
2 years from the effective date of this Act, the vested status shall date from the effective date of this
3 Act for a period of nine years.

4 (B) A residential development plan for which ~~a plat was recorded and an unexpired plat was~~
5 recorded or vested prior to the effective date of this Act, ~~but not yet expired~~, shall be vested for a
6 period of nine years dating from the effective date of this Act.

7 (C) Any amendment to a residential plan, or any application for further development of an unexpired
8 residential development plan or plat that was approved prior to the effective date of this Act, or any
9 part thereof, whether vested or not, shall be processed by the County in accordance with the
10 provisions of Article 32, Title 4, ~~Subtitle 2~~ of the County Code. Any prior process for residential
11 development approval that was utilized under prior enactments of the development regulations or
12 the zoning regulations, or any administrative interpretation(s) thereof, including any written County
13 authorizations expressing such interpretations, is no longer valid. This subsection does not apply
14 to an amendment accepted for filing prior to July 6, 2009 or to an amendment to a planned unit
15 development if the development was approved prior to 1990.

16 SECTION 7. AND BE IT FURTHER ENACTED, that this Act is adopted independently
17 of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the
18 rights to the vesting or processing of a development that would otherwise accrue from any provision
19 of the zoning or development regulations or any other County laws or administrative interpretations
20 thereof.

21 SECTION 8. AND BE IT FURTHER ENACTED, that this Act, having been approved by
22 the affirmative vote of five members of the County Council, shall take effect on August 17, 2009.

gm
9/17

IN RE: PETITION FOR SPECIAL HEARING
SW/Corner of Trenton Mill Road
and Thomas Shilling Court
5th Election District
3rd Councilmanic District
(5201 Trenton Mill Road)

Jane A. Mauser & Joan A. Oeffner
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 03-332-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Revised Petition for Special Hearing filed by Jane A. Mauser and Joan A. Oeffner requesting special hearing relief for property located at 5201 Trenton Mill Road in the northern area of Baltimore County. The subject property is zoned R.C.2. The revised special hearing request is pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for approval of (1) the redistribution of density from one parcel to another separate parcel of same ownership without creating any additional density and (2) for the creation of 2 non-density parcels totaling 1.995 acres, more or less, by metes and bounds.

The property was posted with Notice of Hearing on September 2, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 2, 2003 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of

NW 27-K

019B3

NW 26-K

025B1

Item #0065

Beginning

2333.68'

TRENTON MILL RD

GOLF CLUB ESTATES (PDM File/Project # MS 04004)

PDM # 050328

RC-2

PDM # 050288

20030332

19900466
19880039
19870142
19810084
19640013

3 CD

SED

1753.39'

S. 16° 08' 38" W

N 49° 42' 51" E

19900466

19990518

DRIVEWAY

Pt. Bk. 42 Folio 38

019C3

Pt. Bk. 70 Folio 32

PLAT TO ACCOMPANY PETITION FOR
ZONING SPECIAL HEARING

PROPERTY ADDRESS: 5325 & 5305 TRENTON MILL ROAD
PROPOSED SUBDIVISION NAME: "THE GREENS AT PINEY BRANCH"
OWNER: ALLENDER PROPERTY I, L.L.C.

Owner:
Allender Property I, L.L.C. et al.
P.O. Box 295
Owings Mills, Md., 21117
Tax No. 05 2500005827 (Baltimore County)
Map 19 Grd. 22 Pct. 120
Tax No. 08-010765 (Carroll County)
Map 41 Pct. 60

FOREST BUFFER EASEMENT No. 1 - 2.306 Acres
Beginning at the end of a line drawn North 15 degrees 37 minutes 00 seconds East
300.00 feet from the end of the South 49 degrees 42 minutes 51 seconds West 798.44
foot line as shown hereon.

1. N. 54° 34' 38" W. 123.46'
2. N. 41° 40' 09" W. 133.87'
3. N. 15° 42' 31" W. 166.21'
4. N. 23° 16' 04" E. 108.85'
5. N. 15° 33' 16" E. 190.69'
6. curve right R=65.62' L=206.15'
7. S. 32° 00' 19" E. 207.55'
8. S. 64° 53' 14" E. 38.64'
9. S. 15° 37' 00" W. 390.00'

FOREST BUFFER EASEMENT No. 2 - 1.147 Acres
Beginning at the end of the South 16 degrees 08 minutes 38 seconds West 2333.68 foot
line.

1. N. 16° 08' 38" E. 460.00'
2. S. 50° 55' 26" E. 56.46'
3. S. 36° 55' 12" E. 199.22'
4. S. 49° 42' 51" W. 382.00'

EXISTING FOREST BUFFER EASEMENT No. 3 - 1.7 Acres
Recorded in Liber S.M. No. 20392 folio 259 etc.

EXISTING FOREST CONSERVATION EASEMENT - 0.4 Acres
Recorded in Liber S.M. No. 20392 folio 252 etc.

PINEY BRANCH GOLF
AND COUNTRY CLUB, INC.
5301 TRENTON MILL ROAD
BALTIMORE, MD. 21155
MAP 25 (PARCEL 153)
TAX #0516045132
4379/464

60' R/W AGREEMENT BETWEEN JOSEPH W. AND
HAZEL E. ALLENDER AND PINEY BRANCH GOLF
AND COUNTRY CLUB RECORDED AMONG THE
LAND RECORDS OF BALTIMORE COUNTY IN
LIBER 4391, FOLIO 578

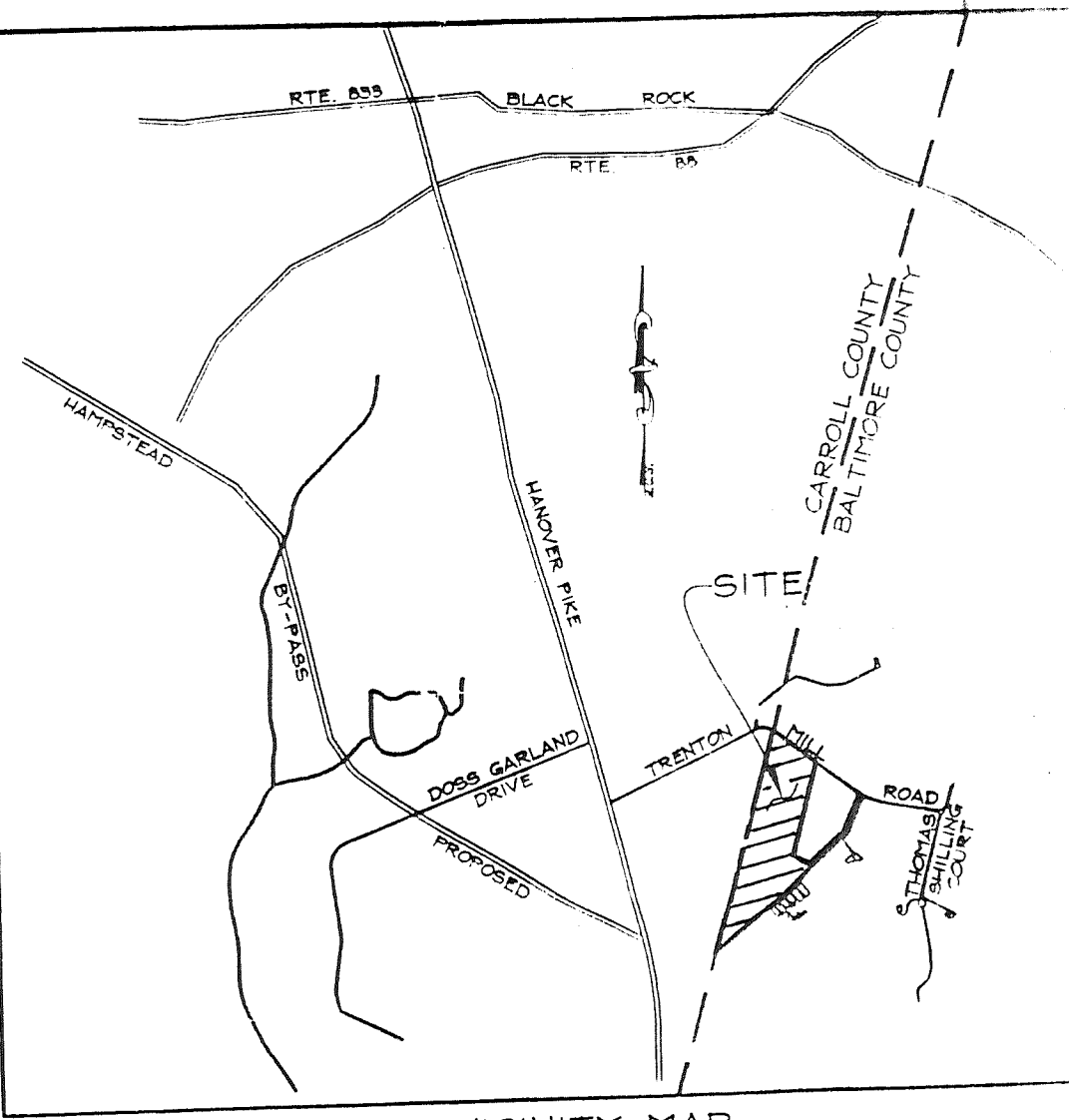
JANE A. MAUSER
& JOAN A. OFFNER
235 HANOVER PIKE
HARTFORD, MD. 21074
MAP 41 PARCEL 60 (CARROLL COUNTY)
TAX #08-010765
509/370

RONGLU GUAN
& LIE ZHOU
5311 TRENTON MILL ROAD
BALTIMORE, MD. 21155
MAP 19 PARCEL 417
TAX #2400007702
2578/708

DAVID & LAURA SILL
5623 TRENTON MILL ROAD
BALTIMORE, MD. 21155
MAP 19 PARCEL 119
TAX #2400007701
22502/632

CARELYN E. JENNINGS
11506/35E
#05160004111
MAP 19 Pct. 21
5304 Trenton Mill Rd
BALTIMORE, MD. 21155

Todd A. Shafer & wife
25039/69S
#051600006399
MAP 19 Pct. 51
ROAD



03-332 SPH
THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore
County, this 14 day of October, 2003, that the Petitioners' revised request for special hearing,
pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for approval
of (1) the redistribution of density from one parcel to another separate parcel of same ownership
without creating any additional density and (2) for the creation of 2 non-density parcels totaling
1.995 acres, more or less, by metes and bounds, is hereby APPROVED under the following
conditions:

1. That the terms of the Agreement between the Petitioners and Mr. and Mrs. Roche, as shown
by their October 3, 2003 Agreement, attached hereto and made a part hereof, is hereby
incorporated into this order and shall be enforceable by Baltimore County;
2. That if and when the final dividing line between Baltimore and Carroll Counties is
determined by the State Legislature, that the dimensions of Lot 3 and the two roadway cut
parcels shall be suitably adjusted by administrative adjustment; and
3. That the comments from the Office of Planning and the Department of Environmental
Protection and Resource Management, both dated September 16, 2003, are hereby
incorporated in this Order.

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

LOCATION INFORMATION

Election District: 5
Councilmanic District: 3
1"=200' scale map # 019 B3
Zoning- RC2
Size: 24.075 acres 1,048,707 sq. ft.
Sewer- Private
Water- Private
Chesapeake Bay Critical Area- No
100 Year Flood Plain- Yes
Historic Property- No
Prior Zoning Hearing- Yes (03-332SPH)

ZONING OFFICE USE ONLY
Reviewed By: [Signature] Item # Case #
2010-0065-SPH

PETITIONER'S
EXHIBIT NO. 1



Walter T. Tydings
Property Line Surveyor #150

DEVELOPER
ALLENDER PROPERTY I, L.L.C.
P.O. BOX 295
OWINGS MILLS, MD. 21117
410-833-1167
PREPARED BY: DOUGLAS C. MYERS