BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Michael P. Smith, Personal Representative (Estate of Myles R. McComas) 15-208-SPH

DATE: October 7, 2015

BOARD/PANEL: Andrew M. Belt, Chairman
Meryl W. Rosen
James H. West

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following -- Petition for Special Hearing pursuant to § 500.7 of the B.C.Z.R. to confirm the prior and proposed inter-family subdivision and non-density transfer of a parcel zoned R.C. 2/BL-CR and to confirm the rights of subdivision (density) associated therewith.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of the parcel. The parcel is zoned RC2 and a small portion is zoned BL-CR. The property was bi-sected by Falls Road. At issue is the number of conveyances currently on the property.
- Before his death Mr. McComas conveyed a portion of the parcel to his son and daughter-in-law for the purpose of building a home. Later, another portion of the property was conveyed in order to accommodate a driveway to provide access to the property. The additional conveyance was only to provide access to the property, not to provide the right to build another dwelling.
- Counsel for the Petitioner, and People's Counsel, have reached an agreement on the number of subdivision rights and agree that the property to the east can be developed with one principal dwelling, and the western piece can contain one principal dwelling either where the existing dwelling is located, or anywhere else on the property.
- The conveyances from the Estate are exempt from the subdivision process.
- Counsel for the Petitioner, and People's Counsel, will submit a proposed Order to the Board for their review and approval.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to confirm prior inter-family conveyances, and to confirm inter-family conveyance with one building right to the eastern piece of property and one building right to the western piece of property, and that conveyances are exempt from the subdivision review process.

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,

Tammy A. McDiarmid, Legal Secretary

Board of Appeals of Baltimore County

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

August 14, 2015

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Michael P. Smith, Personal Representative
(Estate of Myles R. McComas)
15-208-SPH 17318 Falls Road
5th Election District; 3rd Councilmanic District

Re: Petition for Special Hearing pursuant to § 500.7 of the B.C.Z.R. to confirm the prior and proposed inter-family subdivision and non-density transfer of a parcel zoned R.C. 2/BL-CR and to confirm the rights of subdivision (density) associated therewith.

5/15/15 Opinion and Order of Administrative Law Judge wherein the Petition for Special Hearing was GRANTED; and Petitioner shall be permitted to combine (by way of a non-density transfer) the 1.7 acre and 9.25 acre parcels to create a single lot of record of 11± acres; and Petitioner shall have one further right of subdivision on remaining land situated on west side of Falls Road.

6/24/15 Order on Petitioner's Motion for Reconsideration of ALJ wherein the Motion was DENIED.

ASSIGNED FOR: WEDNESDAY, OCTOBER 7, 2015 AT 10:00 A.M.

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

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.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

---

c: Counsel for Petitioner/Appellant : Lawrence E. Schmidt, Esquire
Petitioner/Appellant : Estate of Myles R. McComas
Michael P. Smith, Personal Representative

Kenneth Wells/kjWells, Inc.
Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Jim Jung
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

July 23, 2015

RECEIVED
JUL 23 2015
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS** - Petition for Special Hearing
Property: 17318 Falls Road
Case No.: 2015-0208-SPH

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed with the Department of Permits, Approvals, and Inspections (PAI) on July 21, 2015 and received in this Office on July 22, 2015. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
Jim Jung, 17216 Hunter Green Road, Upperco, MD 21155

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

October 22, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Carole S. DeMilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: *In the Matter of: Michael P. Smith, Personal Representative (Estate of Myles R. McComas)*
Case No.: 15-208-SPH

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington HAM

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Michael P. Smith, Personal Representative of the Estate of Myles R. McComas
Kenneth Wells/kjWells, Inc.
Jim Jung
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF	*	BEFORE THE
Michael P. Smith, Personal Representative	*	BOARD OF APPEALS
(Estate of Myles R. McComas)	*	OF
17318 Falls Road, Petitioner	*	BALTIMORE COUNTY
5th Election District	*	
3rd Councilmanic District	*	**Case No.: 15-208-SPH**
Re: Petition for Special Hearing	*	
	*	

* *

OPINION

This case comes to the Board on appeal of the decision of the Administrative Law Judge ("ALJ") granting with restrictions a Petition for Special Hearing seeking relief pursuant to Baltimore County Zoning Regulations ("BCZR") § 500.7 and subsequently denying a Motion for Reconsideration of that decision. The Special Hearing requested confirmation of certain prior and proposed inter-family conveyances (subdivision) of a parcel split zoned BL-CR and RC 2 and to confirm the rights of subdivision (density) associated therewith. Also requested is the granting of an exemption from the County's subdivision regulations for future residential development on the property pursuant to Baltimore County Code ("BCC") § 32-4-106(a)(iv).

Appearing at the de novo hearing held by the Board on October 7, 2015 for this matter was Lawrence E. Schmidt, Esquire of Smith, Gildea, and Schmidt, counsel for the Petitioner, namely, Michael P. Smith, Personal Representative of the Estate of Myles R.

McComas. Also appearing was Carole DeMilio, Esquire, Deputy People's Counsel for Baltimore County. There were no other interested persons present. As will be detailed hereinafter, counsel for the Petitioner and People's Counsel jointly proffered the undisputed facts germane to the issues in this case and also advised that they were in agreement as to a proposed decision of the Board. The decision which follows is in accordance with the proffered evidence and the parties' agreement.

Factual Background

The property at issue in this case is an irregularly shaped parcel of land located adjacent to the intersection of Mt. Carmel Road and Falls Road in northern Baltimore County. The property is approximately 20.2± acres in total area and is predominantly zoned RC 2 (18.5± acres), but a small portion is zoned BL-CR (1.7± acres). The property is bisected by Falls Road (MD Route 25) so that there is effectively an eastern piece of the overall tract (8.5± acres) and a western piece (11.7± acres).

The relevant genesis of the history of the title of this property dates to 1888, when John Hale held title to 53 acres which included the entire subject tract. Between 1891 and 1919, Hale conveyed 4 separate parcels (the deeds for these conveyances are in the Board's case file and were accepted below as evidence to the ALJ) comprising approximately 12 acres from the original tract.[1] Following John Hale's death in or about 1965, his son, Clarence Hale held title. Later that year, Clarence Hale conveyed the tract, as it then existed, to Myles R. McComas and Rachel McComas, his wife. In 1970, Mr.

[1] All of the documents accepted by the ALJ were also accepted as evidence by the Board at the de novo hearing.

and Mrs. McComas conveyed approximately 10 acres to the Board of Education of Baltimore County for the construction of a public school. These conveyances resulted in the tract as configured and shown on the site plan as of November 25, 1979, the effective date of the adoption of the RC 2 zone in the BCZR. As is well settled, this is the relevant date for determining "lots of record", as defined in BCZR § 101.1, and computing the rights of density/subdivision associated therewith.

If considered a single tract (as alleged by People's Counsel and disputed by the Petitioner), the tract as configured as of November 25, 1979 would yield two density units. That is, the property could be divided once to create two building lots. This is because, pursuant to BCZR § 1A01.3.B.1, any lot of record between two and one hundred acres in area may be subdivided once.

In any event, continuing the chronology, in 1987 and 1988 (through two separate transactions that were apparently done for tax purposes) the senior McComas' conveyed approximately 9.25 acres to their son, Myles Jr., and his wife, their daughter-in-law, Janney McComas, for the purpose of constructing a single family dwelling. This conveyance was not approved via the subdivision review process under Baltimore County law, rather, was accomplished by deed between the parents and son/daughter-in-law. The parties agree, and the Board so finds, that this conveyance is hereby legitimized and that it conveyed one density unit to Myles Jr and his wife Janney. This density unit was indeed utilized when Myles Jr. and Janney constructed a dwelling on the 9.25 acre lot. Janney McComas currently resides on that property following the untimely death of her husband, Myles Jr. Later, apparently in order to accommodate a

driveway to Myles Jr. and Janney's house, the senior McComas' conveyed in 1989 a triangular shaped 1.7 acre parcel from the original tract in order to provide access (driveway) to Myles Jr. and Janney's newly constructed home. This conveyance was also not approved/reviewed by Baltimore County. Again, however, the parties agree and the Board so finds that the conveyance was "non density" in nature and that the parties did not intend on conveying any density or building rights. By this decision, the conveyance is hereby legitimized.

Following these two conveyances to their son and daughter-in-law, the property became configured as it is today. As noted above, it is 20.2± acres in area. Rachel McComas preceded her husband in death and Myles R. McComas Sr. died in 2014. Pursuant to the provisions of his Last Will and Testament, he bequeathed the eastern piece of the property to his son, Michael McComas. Moreover, his Last Will and Testament provided that the western portion of the property be distributed to the three surviving children of Myles Jr (the grandchildren of Myles McComas Sr.). It is these bequests which generate the instant petition.

The question presented in the instant Petition for Special Hearing is "what rights of subdivision/density are available to the tract?" As noted above, People's Counsel avers that there is but a single density remaining in the RC 2 acreage, as the tract is but a single parcel, is between 2 and 100 acres and one density unit was previously conveyed to Myles Jr. and Janney. People's Counsel maintains that pursuant to BCZR 1A01.3.B.1 Falls Road does not divide the tract into two separate lots, regardless of when or how the road was created. The Petitioner offers a different theory. Through counsel, the

Estate of Myles R. McComas Sr. avers that Falls Road effectively subdivided the property into two pieces (east and west) and that each piece is a separate lot for the purposes of determining density. In the Estate's view, there are two density units attributable to the eastern piece and one density unit remaining on the westerly piece. People's Counsel opposes this interpretation.

Based on the proffer of the parties and the fasts herein, we find that one density unit should be assigned to the 8.5 +/- acres on the eastside of Falls Road, which is presently vacant and bequeathed to Michael McComas. Thus, Mr. McComas has the right to develop that property with one single family dwelling. As to the westerly piece, we note that it is already improved with several buildings. These include a commercial structure, a barn and a single family detached principal dwelling. These improvements are all in the BL-CR zoned portion of the tract. The RC 2 zoned portion is not improved. Moreover, it is undisputed that these improvements have existed on the property for many years, prior to the adoption of the RC 2 zone in 1979 and possibly before the adoption of any zoning in Baltimore County in 1945. Under these circumstances, we find that the westerly piece therefore has one density unit presently existing, on the BL-CR portion. In light of the special facts arising in this particular case, we shall not prohibit here the utilization of that existing density unit anywhere, on the 11.7 +/- acres on the west side of Falls Road, either in the RC 2 or BL-CR zone. Thus we find that the western parcel may also have one principal dwelling. It can be in the form of the existing dwelling in the BL-CR zone, or, could be utilized elsewhere on the 11.7 +/- acres of the west side of Falls Road. We hold that the 20.2+/- tract herein can sustain no

more than three principal dwellings - the existing one on Myles Jr. and Janney's property, a dwelling on the property bequeathed to Michael (east) and either the existing principal dwelling (or replacement therefore) on the property bequeathed to the grandchildren (west). As noted above, under the circumstances of this case, we find this resolution fair and equitable.

Lastly, the Petitioner presents a final question, which we will also address. As noted above, we hereby legitimize the prior conveyances from Mr. and Mrs. McComas Sr. to their son Myles Jr. and his wife, Janney. Insofar as the proposed distribution of this property under the Last Will and Testament of Myles Sr., we find that it is not subject to the development review process. We note the provisions of Baltimore County Code § 32-4-106(a)(iv) which provides the subdivision of land pursuant to a Last Will and Testament is exempt from the County's development review regulations. Although this issue is typically addressed by the County DRC (Development Review Committee), its decisions are appealable to this Board and we have jurisdiction over this determination. In the interest of judicial economy and to address all relevant issues, we therefore make this determination. Clearly, BCC 32-4-106 (a)(iv) applies here. Thus, upon their respective acquisitions (by deed executed by Personal Representative of the Estate) Michael McComas may apply for a building permit to construct a single family dwelling on his acquired property. Similarly, the grandchildren may do the same should they decide to "relocate" the density unit that exists on their property and build a single dwelling elsewhere on the property. There is no subdivision review (neither a minor subdivision, major subdivision and/or lot line adjustment) required in view of

this exemption. The owners need only apply and obtain the requisite building permit (conditional or compliance with all requirements applicable thereto) as the conveyance under Mr. McComas' Last Will & Testament is exempt from the subdivision review process.

ORDER

THEREFORE, IT IS THIS 22nd day of October, 2015, by the Board of Appeals of Baltimore County,

ORDERED that

1. The conveyance to Myles and Janney McComas of 9.25± acres under Deeds dated December 30, 1987 and January 5, 1988 and recorded at Liber 7760, Folio 815 and Liber 7763, Folio 030 represented the conveyance of one density unit from the overall tract and is hereby approved; and
2. The conveyance to Myles and Janney McComas of 1.7± acres under Deed dated June 1, 1989 and recorded at Liber 8437, Folio 576 was a non density transfer and is hereby approved; and
3. That property hereinabove described as the eastern piece and to be bequeathed and conveyed to Michael McComas may be developed with one principal dwelling and that the property hereinabove described as the western piece and to be bequeathed and conveyed to grandchildren of Myles R. McComas, Sr., may be developed with one principal dwelling; and

4. That the conveyances from the Estate of Myles R. McComas to Michael McComas and the grandchildren of Myles R. McComas as described hereinabove are exempt from the subdivision review process per BCC § 32-4-106(a)(iv).

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew M. Belt, Panel Chair

Meryl W. Rosen

James H. West

APPROVED AS TO CONTENT AND FORM.

Lawrence E. Schmidt
Attorney for Estate of Myles R. McComas

Carole DeMilio
Attorney for People's Counsel of Baltimore County

Board of Appeals

Case No: 15-208-SPH Case Name: Michael P Smith - Per. Rep for Estate of Myles McComas

Exhibit List

Party: McComas Date: 10/7/15

Exhibit No:	Description:
✓ 1	File before ALJ (already in BOA file)
	VERIFIED BY KC DATE: 10/7/15

Case No.: 2015-0208-SPH

Exhibit Sheet

Petitioner/Developer | Protestant

No. 1	Plan (revised)	
No. 2	SHA R.O.W. plat	
No. 3	Deed 168/542	
No. 4	Deed 190/75	
No. 5	Deed 192/135	
No. 6	Deed 445/346	
No. 7	Deed 516/376	
No. 8	Deed 4560/259	
No. 9	Inquisition 5106/212	
No. 10	10A Deed 7760/815 10B Deed 7763/030	
No. 11	Deed 8437/576	
No. 12	Last Will + Testament Myles McComas, Sr.	

Case No.: _____

Exhibit Sheet - Continued

	Petitioner/Developer	Protestants
No. 13	13A 13B SDAT records	
No. 14	Color photos	
No. 15		
No. 16		
No. 17		
No. 18		
No. 19		
No. 20		
No. 21		
No. 22		
No. 23		
No. 24		

APPEAL

Petition for Special Hearing
17318 Falls Road
5th Election District – 3rd Councilmanic District
Legal Owner: Michael P. Smith, Personal Representative (Estate of Myles R. McComas)
Case No.: 2015-0208-SPH

Petition for Special Hearing (March 25, 2015)

Zoning Description of Property

Notice of Zoning Hearing (April 6, 2015 for Hearing on May 4, 2015)

RECEIVED
JUL 23 2015
BALTIMORE COUNTY
BOARD OF APPEALS

Certification of Publication – (April 14, 2015)

Certification of Posting (Linda O'Keefe – April 14, 2015)

Entry of Appearance by People's Counsel – (April 2, 2015)

Petitioner(s) Sign-In Sheet – (1 Page)

Citizens(s) Sign-In Sheet – (1 Page)

Zoning Advisory Committee (ZAC) Comments – (5 Pages)

Petitioner's Exhibits:
- 1 – Site Plan
- 2 – SHA R.O.W. Plat
- 3- Deed 168/542
- 4- Deed 190 /75
- 5- Deed 192/135
- 6- Deed 445/346
- 7- Deed 516/376
- 8- Deed 4560/259
- 9- Inquisition 5106/212
- 10-A. Deed 7760/815
- 10-B. Deed 7763/030
- 11- Deed 8437/576
- 12- Last Will & Testament – Myles McComas, Sr.
- 13-A& B- SDAT Records
- 14. Color Photos

Miscellaneous: (1 page)

Cover Letter and Administrative Law Judge's Opinion and Order –
(GRANTED – May 15, 2015)

Motion for Reconsideration from Lawrence E. Schmidt, Esq. on June 9, 2015

Cover Letter and Administrative Law Judge's Motion for Reconsideration Opinion and Order –
(DENIED – June 24, 2015)

Notice of Appeal received on July 21, 2015 filed by Lawrence E. Schmidt, Esq.

Pl 13A

Real Property Data Search (w3)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 05 Account Number - 0513001051

Owner Information

Owner Name:	MCCOMAS MYLES R MCCOMAS RACHEL H	Use: Principal Residence:	AGRICULTURAL NO
Mailing Address:	1214 WYNNSIDE LN HAMPSTEAD MD 21074-2608	Deed Reference:	/04560/ 00259

Location & Structure Information

Premises Address:	FALLS RD 0-0000	Legal Description:	7 AC ES FALLS RD 300 FT SE HEREFORD RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0020	0010	0129		0000				2014	Plat Ref:

Special Tax Areas:	Town: Ad Valorem: Tax Class:	NONE	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			7.0000 AC	05

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2014	As of 07/01/2015
Land:	2,600	2,600		
Improvements	0	0		
Total:	2,600	2,600	2,600	2,600
Preferential Land:	2,600			2,600

Transfer Information

Seller: HALE JOHN O AG U SE 83-84	Date: 12/16/1965	Price: $0
Type: NON-ARM S LENGTH OTHER	Deed1: /04560/ 00259	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2014	07/01/2015
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: Special Tax Recapture:

Pet BB

Real Property Data Search (w3)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 05 Account Number - 0513001050

Owner Information

Owner Name:	MCCOMAS MYLES R MCCOMAS RACHEL H	Use:	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	1214 WYNNSIDE LN HAMPSTEAD MD 21074-2608	Deed Reference:	/04560/ 00259

Location & Structure Information

Premises Address:	17318 FALLS RD 0-0000	Legal Description:	8.0084 AC WS FALLS RD SW COR MT CARMEL RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0020	0010	0129		0000				2013	Plat Ref:

Special Tax Areas:	Town:	NONE
	Ad Valorem:	
	Tax Class:	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
	378		8.0100 AC	06

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
		RETAIL STORE				

Value Information

	Base Value	Value As of 01/01/2013	Phase-in Assessments As of 07/01/2014	As of 07/01/2015
Land:	129,800	129,800		
Improvements	79,300	80,100		
Total:	209,100	209,900	209,633	209,900
Preferential Land:	0			0

Transfer Information

Seller: HALE JOHN O AG U SE 83-84	Date: 12/16/1965	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /04560/ 00259	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2014	07/01/2015
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: Special Tax Recapture:

and assigns for all the residue of the term yet to come and unexpired therein, with the benefit of renewal forever, subject to the payment of the annual rent of one hundred and twenty two dollars and fifty cents to whomsoever the same may be payable in equal half yearly instalments, and the said Josie M. Habighurst and George L Habighurst covenant that they will warrant specially the property hereby granted and that they will execute such further assurances of said lot of ground and improvements as may be requisite. Witness our hands and seals.

Test
James F. Hickey

Josie M Habighurst (Seal)
Geo L Habighurst (Seal)

State of Maryland
Frederick County to wit

I hereby certify, that on this twenty fourth day of April in the year one thousand eight hundred and eighty eight before the subscriber, a Justice of the Peace of the State of Maryland in and for Frederick County aforesaid personally appeared Josie M. Habighurst and George L Habighurst the above named parties and each acknowledged the foregoing Deed to be their respective act.

James F. Hickey J P

State of Maryland Frederick County Set

I hereby certify, that James F. Hickey Esquire, before whom the ~~annexed~~ acknowledgments were made and who has thereto subscribed his name, was at the time of so doing a Justice of the Peace of the State of Maryland in and for Frederick County duly appointed commissioned and sworn and authorized by law to take acknowledgements and administer oaths, and to exercise the jurisdiction conferred by law on such Justice, and that ~~that~~ the signature attached thereto, purporting to be his I believe to be genuine. In Testimony whereof I have hereunto subscribed my name and affixed the Seal (Seal) (Place) of the Circuit Court for Frederick County this 26th day of April A. D. 1888.

W. Irving Parsons
Clerk of the Circuit Court for Frederick County

Recorded April 30 1888 and examined
per John W. Shanklin Clerk

Airey A Grothe ~~Gas~~ hold Deed to John O. Hale	This Deed made this Twenty first day of April in the year one thousand eight hundred and

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JWS 168 p. 0542, MSA_CE62_168. Date available 11/22/2006. Printed 05/01/2015.

eighty eight, between Airey A. Growthe and William H. Growthe her husband of Baltimore County in the State of Maryland of the first part, and John O. Hale of the County and State aforesaid of the second part. Witnesseth that in consideration of the sum of Three thousand two hundred and twenty five dollars, the receipt whereof is hereby acknowledged, the said Airey A. Growthe and William H. Growthe her husband do grant and convey unto the said John O. Hale his heirs and assigns in fee, all that part of a tract of land called "Benjamin Rogers Reserve", situate, lying and being in Baltimore County aforesaid. Beginning for the same at a stone planted in the Hereford road at the end of five and a half perches on the north forty seven perches line of the whole tract called "Benjamin Rogers Reserve" aforesaid the same being a corner of that part hereof conveyed to Abraham D. Uhlhelm and wife, and running thence bounding on the outlines of the whole tract, north two degrees and forty five minutes East thirty two and three fourth perches until it intersects the first line of a tract of land called "Pearson and Benjamin's Lott", thence running with and bounding thereon North seventy six degrees and thirty minutes West fourteen and a half perches, thence South seventy seven degrees and forty five minutes West five and six tenth perches to the N 78° W 86 ps line of the whole tract of land called "Benjamin Rogers Reserve" thence running with and bounding thereon, North seventy four degrees and fifteen minutes West sixty six perches to the end of said line, still running with and bounding on said tract of land North eighty seven degrees and thirty minutes West forty six perches, thence leaving the out lines and running South fifteen degrees and fifteen minutes West ninety six and a half perches to the end of the 5th line of that part hereof conveyed to J. S. Myerly thence bounding ~~reversely~~ reversely thereon the two following courses viz. North eighty degrees east ninety five perches still north eighty degrees east one perch to the middle of the Falls Road, thence bounding on the 2nd line of a conveyance from the said Airey A. Growthe and husband to J. S. Myerly for three acres, North fifty four degrees and forty five minutes East fifteen and a half perches, thence bounding on a conveyance from the said Airey A. Growthe and husband to the aforesaid Abraham D. Uhlhelm and wife the three freeoning courses viz. North fifty four degrees and forty five minutes East twenty six and six tenths

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JWS 168, p. 0543, MSA_CE62_168. Date available 11/22/2006. Printed 05/01/2015.

perches to a stone in Gecha Road, South sixty three degrees East seven and seven eighth perches to a stone in the Gecha Road South eighty degrees East sixteen perches to the first place of beginning. Containing fifty six and three fourths acres of land, more or less. Being the same land and premises in part, that was conveyed by Barbara E. Storm, mortgagee and Trustee to Airey A. Jackson, now Grothe, by deed bearing date the 22nd day of May in the year 1883 and recorded among the Land Records of Baltimore County in Liber W. M. S. No 134 folio 551 &c. Together with the improvements thereon and the rights and appurtenances thereto belonging or appertaining. To Have and to Hold the above described lot of land and premises hereby mentioned to be granted and conveyed with the rights and appurtenances aforesaid unto the said John O. Hale his heirs and assigns to his and their proper use and benefit forever in fee. And the said Airey A. Grothe and William H. Grothe her husband 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 the said property specially to the said John O. Hale, his heirs and assigns and that they will execute such further assurance as may be requisite. Witness the hands and seals of said grantors

Test
George W. Jordan

Airey Ann Grothe (Seal)
William H. Grothe (Seal)

State of Maryland
Baltimore County ss

I hereby certify, that on this twenty first day of April in the year one thousand eight hundred and eighty eight before the subscriber a Justice of the Peace of the State of Maryland in and for Baltimore County aforesaid, personally appeared Airey A Grothe and William H Grothe her husband, the grantors in the foregoing Deed and separately acknowledged the same to be their respective deed and act

George W. Jordan J. P.

Recorded April 30. 1888 and examined
per John W. Shanklin Clerk

5907 Jacob H. Kraft and wife Deed to Frank W. George

This Deed, made this third day of March, in the year one thousand eight hundred and eighty eight, between Jacob H. Kraft & Kate G. Kraft, of Balto. County, in the State of Maryland

© BALTIMORE COUNTY CIRCUIT COURT (Land Records) JWS 188, p. 0544. MSA_CE62_188. Date available 11/22/2006. Printed 05/01/2015.

Released per Lindsay Oct 24/85

Pet No 4 190/75

19 John O. Hale and others Deed to Samuel L. Lloyd

This Deed, made this Sixteenth day of October in the year one thousand eight hundred and ninety one between John O. Hale and Emma Hale his wife of the first part, Thomas Kellaugh of the second part, and Samuel L. Lloyd of the third part, all of Baltimore County in the State of Maryland, Whereas by the last will and testament of Avery A. Grathe late of Baltimore County deceased duly executed, admitted to probate, and recorded among the Will Records of Baltimore County, Thomas Kellaugh was appointed the executor thereof. And Whereas the said John O. Hale has bargained and sold unto the said Samuel L. Lloyd a certain piece or parcel of land, being a part of the same land and premises described in a Mortgage from John O. Hale and wife to Avery A. Grathe during her life time. And Whereas an order was granted to the Orphans Court of Baltimore County on the 23rd day of September 1891, and approved by them authorizing and empowering Thomas Kellaugh, executor as aforesaid to join in this deed for the purpose of releasing from the operation of said Mortgage the part hereinafter particularly described, Now therefore this deed Witnesseth that in consideration of the sum of Ninety two dollars, the said John O. Hale and Emma Hale his wife and Thomas Kellaugh executor as aforesaid do grant and convey unto the said Samuel L. Lloyd his heirs and assigns in fee all that part of an original tract of land called "Benjamin Rogers Reserve" situate, lying and being in Baltimore County aforesaid. Beginning for the same at a point in the Hereford road and in the north forty seven perches line of the whole tract of land called "Benjamin Rogers Reserve" and running thence bounding thereon north three degrees east twenty nine perches, thence north eighty degrees west nine perches and six eighths of a perch, thence south five degrees west twenty nine perches to the County road aforesaid thence running with and bounding thereon south seventy nine degrees east ten and three fourth perches to the first place of beginning containing one acre and eighty four hundredths of an acre of land more or less, together with the improvements thereon, and the rights and appurtenances thereto belonging or appertaining. To Have and To Hold the land and premises hereby mentioned to be granted and conveyed with the rights and appurtenances aforesaid unto the said Samuel L. Lloyd his heirs and assigns, to his and their proper use and behoof forever. And the said grantors covenant that they will warrant the said property specially to the said Samuel L. Lloyd his heirs and assigns. And that they will execute such further assurance as may be requisite.

Witness the hands and seals of said grantors

Test.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) LMB 190, p. 0075. MSA_CE62_190. Date available 12/14/2006. Printed 05/01/2015.

J. T. Thompson.

John O. Hale (Seal)
Emma M. Hale (Seal)
Thomas Kelbaugh (Seal)

State of Maryland
Baltimore County S.S.

I hereby certify, that on this seventh day of October in the year one thousand eight hundred and ninety one, before the subscriber a justice of the Peace of the State of Maryland, in and for Baltimore County aforesaid personally appeared John O. Hale, and Emma Hale his wife and Thomas Kelbaugh, the grantors in the foregoing deed and separately acknowledged the same to be their respective act.

John T. Thompson J. P.

Recorded Dec. 2 1891. at 3 P.M. and examined
per Lewis M. Bacon Clerk

Mary P. Johnstone et al
Deed to
Robert J. Dungan

This Deed made this Fifth day of December in the year of our Lord one thousand eight hundred and ninety one, by and between Mary P. Johnstone widow Robert B. Johnstone, and Mary O. P. Johnstone his wife all of the City of Philadelphia, in the State of Pennsylvania, the said Mary P. Johnstone and Robert B. Johnstone being copartners trading as "Brighton Land and Improvement Company" parties of the first part and Robert J. Dungan of Baltimore City in the State of Maryland party of the second part. Witnesseth that in consideration of Two Thousand Dollars, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, his heirs or assigns, all that lot or parcel of ground situate and lying in Baltimore County in the State of Maryland described in a deed from Joshua Parsons and wife to Robert Johnstone and Robert B. Johnstone both of the City of Philadelphia in the State of Pennsylvania dated the eighteenth day of July A.D. 1889 and recorded among the Land Records of Baltimore County in Liber W.P.C. No 178 folio 135 &c. Beginning for the same at the intersection of the south side of the County road known as Patterson Avenue and the southwestern outline of the lands of the Western Maryland Railroad and running thence bounding on the south side of Patterson Avenue south fifty two and one half degrees west fourteen hundred and sixty six feet to a stone thence at right angles to Patterson Avenue south thirty seven and one half degrees east sixteen hundred and sixty one feet to a stone planted in the East line of said parcel of ground described in a deed from said Dungan to Joshua Parsons dated the twenty seventh day of January A.D. 1889 and recorded among the said

Mary P. Johnstone et al to Robert J. Dungan Dec. 5 1891

BALTIMORE COUNTY CIRCUIT COURT (Land Records) LMB 190, p. 0076, MSA_CE62_190. Date available 12/14/2006. Printed 05/01/2015.

line of the tract called Prices Hardship and running thence with the second line of said part corrected South sixty five degrees and forty five minutes East forty four and a half perches to a stone planted at the root of the original Spanish oak line thence reversing the seventh line corrected of the tract called Hills Reparation South sixty nine degrees West sixty two perches to a stone marked No 7 thence by a straight line to the place of beginning, containing and laid out for seven, acres two roods and nineteen square perches of land. Being the same lot of land conveyed by Enoch Shaver to the said Susanna Bound by deed dated Octo 22d 1864 Recorded in liber J W L No 42. folio 47, &c. Together with the buildings and improvements thereupon erected made or being and all and every the rights roads ways, waters, privileges appurtenances and advantages to the same belonging or in any wise appertaining and the said Daniel S Wilson and Elizabeth A Wilson his wife hereby covenant that they will warrant specially the property hereby granted and that they will execute such further assurances as may be requisite

Witness hand and seal

Test

W. I. McCullough } Daniel S. Wilson (Seal)
Emma Rollinger } Elizabeth A Wilson (Seal)

State of Maryland

City of Baltimore to wit

I hereby certify that on this twenty second day of December in the year one thousand eight hundred and ninety one before the subscriber a justice of the Peace of the State of Maryland in and for the County of Baltimore aforesaid personally appeared Daniel S Wilson and Elizabeth A Wilson his wife and acknowledged the foregoing deed to be their respective act.

W. I. McCullough, J. P.

Recorded May 25d 1892 at 8 30 A. M. and Examined.

Per Lewis M. Bacon, Clerk

818

John O. Hale et. als. Deed To John E Lloyd

This Deed made this twenty first day of May in the year one thousand eight hundred and ninety two between John O Hale and Emma M Hale his wife of the first part Thomas Kilbaugh of the second part and John E Lloyd of the third part all of Baltimore County in the State of Maryland whereas by the last will and testament of Amy Agrothe late of Baltimore County deceased duly executed admitted to probate, and recorded among the wills records of Baltimore County. Thomas Kilbaugh was appointed the executor thereof and whereas the said John O Hale has bargained and sold unto the said John E Lloyd a certain piece or parcel of land being a part of the same land and premises described in a mortgage from John O Hale and wife to the said Amy Agrothe during her life time and whereas an order was presented

BALTIMORE COUNTY CIRCUIT COURT (Land Records) LMB 192, p. 0135, MSA_CE62_192. Date available 12/14/2006. Printed 05/01/2015.

Recorded per ticket Sept 21 1891

to the Orphans Court of Baltimore County on the 17th day of May 1892 and approved by them authorizing and empowering Thomas Kelbaugh executor as aforesaid to join in this deed for the purpose of releasing from the operation of said mortgage the part hereinafter particularly described. Now therefore this deed witnesseth that in consideration of the sum of three hundred and seventy five dollars the said John O. Hale and Emma M. Hale his wife and Thomas Kelbaugh executor as aforesaid do grant and convey unto the said John E. Lloyd his heirs and assigns in fee all that part of an original tract of land called Benjamin Rogers Reserve lying in Baltimore County aforesaid. Beginning for the same at the end of ninety three perches recorded on the S 11 1/4° W 96 1/2 po line of that part of Benjamin Rogers Reserve conveyed by Elizabeth Cole to Joshua Cole May 3d 1806 and running thence bounding on a road South eighty nine degrees East twenty three and nine tenth perches to a stone thence South five and three fourth degrees West nine and three tenth perches to a stone thence North seventy nine degrees West twenty four and four tenth perches to a stone standing in the aforesaid S 11 1/4° W 96 1/2 po. line of Joshua Coles part of Benjamin Rogers Reserve as aforesaid thence bounding reversely therein to the first place of beginning containing one acre and eleven square perches of land more or less together with the improvements thereon and the rights and appurtenances thereto belonging or appertaining To Have and to Hold the land and premises hereby mentioned to be granted and conveyed with the rights and appurtenances aforesaid unto the said John E. Lloyd his heirs and assigns to his and their proper use and benefit forever and the said grantors covenants that they will warrant specially the said property to the said John E. Lloyd his heirs and assigns and that they will execute such further assurances as may be requisite.

Witness the hands and seals of said grantors.

Test
William H. Ehler

John O. Hale (Seal)
Emma M. Hale (Seal)
Thomas Kelbaugh (Seal)

State of Maryland.

Baltimore County, ss.

I hereby certify that on this twenty first day of May in the year one thousand eight hundred and ninety two before the subscriber a Justice of the Peace of the State of Maryland in and for Baltimore County personally appeared John O. Hale and Emma M. Hale his wife and Thomas Kelbaugh the grantors in the foregoing deed and separately acknowledged the same to be their respective act

William H. Ehler. J. P.

Recorded May 23d 1892 at 10 45 A. M. and Exd

Per Lewis M. Bacon, Clerk.

Deed Fees Paid. Deed No. Clerk W. Smith

This Deed made this 19th day of May in the year one thousand eight hundred and.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) LMB 192, p. 0136, MSA_CE62_192. Date available 12/14/2006. Printed 05/01/2015.

Pl No 446

and affixed my notarial seal.

J. Bayard Williams (Seal) Notarial Seal
Notary Public

Recorded May 25 1915 at 10.55 A M. and Exd
per William P Cole Clerk

25961
U.S. Rev
.50¢

John O. Hale
+ Wf
Deed to
Daniel H Wheeler
+ Wf

This Deed Made this Fifteenth day of May in the year one thousand nine hundred and fifteen by John O. Hale and Emma M. Hale his wife, of Baltimore County in the State of Maryland

Witnesseth that in consideration of the sum of Five dollars, and other good and valuable considerations the said John O. Hale and Emma M. Hale his wife, do grant and convey unto Daniel H. Wheeler and Mary J. Wheeler his wife of the County and State aforesaid as tenants by the entirety, their heirs and assigns, in fee simple all that lot or parcel of land situate, lying and being in the Fifth Election District of Baltimore County in the State of Maryland aforesaid and described as follows, that is to say.

Beginning for the outlines to include the same at a stone the end of the second line of a deed of conveyance from John O. Hale and wife to Frederick S. Myerly bearing date April 15 th 1899, and recorded among the Land Records of Baltimore County in Liber N. B. M. No 258 folio 77 &c and running thence bounding on the third line of said Deed South 9 and 1/2 degrees West 39 perches to a point in the Hereford Road thence bounding on said road North 75 and 1/2 degrees West 5 and 1/4 perches, North 58 and 1/2 degrees West 17 perches, thence by lines of division as located and agreed upon North 39 and 1/4 degrees East three fourths of a perch to a stone on the East side of the road aforesaid, still North 39 and 1/4 degrees East 24 and 8/10 perches to a stone set up by agreement of all parties concerned thence by a line as mutually agreed upon, South 77 degrees East 8 and 8/10 perches to the first place of beginning, containing two acres, two roods and one square perch of land more or less

PER TICKET
MAR 26 1918
CANCELLED

CIRCUIT COURT (Land Records) WPC 445, p. 0346. MSA_CE62_445. Date available 03/22/2004. Printed 02/18/2015.

and husband by deed bearing date April 21st 1888 and recorded among the Land Records of Baltimore County in Liber J. W. S. No 168 folio 542 &c.
Together with the buildings and improvements thereupon erected, made or being and all and every the rights alleys ways waters, privileges, appurtenances and advantages, to the same belonging or any appertaining To Have and To Hold the land and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Daniel H Heeter and Mary J. Heeter his wife, as tenants by the entirety, their heirs and assigns in fee simple.
And the said John O. Hale and Emma M. Hale his wife each hereby covenant that they will warrant specially the property hereby granted and conveyed, and that they will execute such further assurances of said land and premises as may be requisite
Witness the hands and seals of said Grantors
Test. John O. Hale (seal)
Thomas M. Hill Emma M. Hale (seal)
State of Maryland Baltimore County to wit
I Hereby Certify that on this Fifteenth day of May in the year one thousand nine hundred and fifteen before me the subscriber a Justice of the Peace of the State of Maryland, in and for Baltimore County aforesaid, personally appeared John O. Hale and Emma M. Hale his wife and each acknowledged the foregoing Deed to be their act.
Thomas M. Hill J.P.
Recorded May 25th 1915 at 11 A. M and Exd
per William P. Cole Clerk

23962 John R. Elly Deed to Adolph B. Hirschmann	This Deed Made this 19th day of May in the year one thousand nine hundred and Fifteen by John R. Elley (single) of Baltimore City

DELIVERED JUL 3 0 1915

State of Maryland, of the first part and Adolph B. Hirschmann of the said City and State of the second part Witnesseth, that in consideration of the sum

CIRCUIT COURT (Land Records) WPC 445, p. 0347, MSA_CE62_445. Date available 03/22/2004. Printed 02/18/2015.

made, rising and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or anywise appertaining.

To have and to hold said parcel of ground and premises above described and mentioned and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said the Board of Education of Baltimore County, its successors and assigns in fee simple. And the said Grantor hereby covenants that she will warrant specially the property hereby granted and conveyed; and that she will execute such further assurances of said parcel of ground as may be requisite.

Witness the hand and seal of said grantor.

Mary J. Lamper (Seal)

Arthur N. Rogers

State of Maryland, City of Baltimore, to-wit:

I hereby certify, that on this 7th day of October in the year one thousand nine hundred and nineteen before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared Mary J. Lamper (Widow) the Grantor named in the foregoing Deed, and she acknowledged the foregoing Deed to be her act.

As witness my hand and Notarial Seal.

Arthur N. Rogers
Notary Public

(Notarial Seal)

Recorded October 8, 1919 at 11^00 a. m. and exd.
Per William P. Lerch, Clerk.

17929
2 2 00
RES.

John O. Hale
wf.

Deed to
Clarence I. Hale

DELIVERED
MAR 4 1920
PER TICKETT

This Deed, made this twenty-eighth day of August in the year one thousand nine hundred and nineteen, between John O. Hale and Emma M. Hale, his wife, of Baltimore County in the State of Maryland, of the first part, and Clarence I. Hale of the County and State aforesaid of the second part.

Witnesseth, that in consideration of the sum of two thousand dollars the said John O. Hale and Emma M. Hale his wife, do grant and convey unto the said Clarence I. Hale, his heirs and assigns, all that lot or parcel of ground situate in the Fifth Election District of Baltimore County in the State of Maryland aforesaid, and described as follows, that is to say: Beginning

Ret 8

THIS DEED, Made this 14th day of December in the year one thousand nine hundred and sixty-five, by and between CLARENCE I. HALE, Surviving Executor as hereinafter mentioned, of the first part, and MYLES R. McCOMAS and RACHEL H. McCOMAS, his wife, of the second part.

WHEREAS, John O. Hale died siezed and possessed of the hereinafter described property and by his Last Will and Testament dated September 9, 1919, duly admitted to probate by the Orphans Court of Baltimore County and recorded in the Office of the Register of Wills of Baltimore County in Wills Liber W.J.P. No. 2 folio 93, did by Item A of said Last Will and Testament leave the hereinafter described property to Emma M. Hale "to have and to hold unto the proper use and benefit of the said Emma M. Hale, as long as she remains my widow, but in case she dies or is married again then all of the property above mentioned to be sold by my Executors hereinafter named...", and

WHEREAS, the said Emma M. Hale, widow of John O. Hale died February, 1957, and

WHEREAS, the said John O. Hale by his said Last Will and Testament did appoint John E. Hale and Clarence I. Hale Executors of said Last Will and Testament, the said John E. Hale being now deceased thereby leaving Clarence I. Hale the sole surviving Executor of the said Last Will and Testament of John O. Hale, and

WHEREAS, the said Clarence I. Hale, surviving Executor of John O. Hale as aforesaid, in exercise of the power, authority and direction conferred upon him by the said Last Will and Testament of John O. Hale, did sell the hereinafter described fee simple property to Myles R. McComas and Rachel H. McComas, his wife, at and for the sum of Thirty-seven Thousand ($37,000.00) Dollars, and

BALTIMORE COUNTY CIRCUIT COURT (Land Records) OTG 4560, p. 0259 MSA_CE62_4416. Date available 08/14/2008. Printed 05/01/2015

North eighty degrees East ninety-five perches, still North eighty degrees East one perch to the middle of the Falls Road; thence bounding on the second line of a conveyance from the said Airey A. Grothe and husband to F. G. Myerly for three acres, North fifty-four degrees and forty-five minutes East fifteen and a half perches, thence bounding on a conveyance from the said Airey A. Grothe and husband to the aforesaid Abraham D. Wilhelm and wife the three following courses, viz: North fifty-four degrees and forty-five minutes East twenty-six and six-tenths perches to a stone in Yeoha Road; South sixty-three degrees East seven and seven-eighth perches to a stone in the Yeoha Road; South eighty degrees East sixteen perches to the first place of beginning. Containing fifty-six and three fourths acres of land more or less.

BEING all and the same property which by Deed dated April 21, 1888 and recorded among the Land Records of Baltimore County in Liber J.W.S. No. 168 folio 542 was granted and conveyed by Airey A. Grothe and William H. Grothe, her husband, unto John O. Hale.

SAVING AND EXCEPTING all those parcels of land described in the following Deeds, viz: Deed from John O. Hale, et al to The County Commissioners of Baltimore County, recorded among the Land Records of Baltimore County in Liber L.M.B. No. 219 folio 225; Deed from John O. Hale and Emma M. Hale, his wife, and Thomas Kelbaugh to Samuel L. Lloyd, recorded among the Land Records of Baltimore County in Liber L.M.B. No. 190 folio 75; Deed from John O. Hale and Emma M. Hale, his wife, and Thomas Kelbaugh, to John E. Lloyd, recorded among the Land Records of Baltimore County in Liber L.M.B. No. 192 folio 135; Deed from John O. Hale and Emma M. Hale, his wife, to Daniel W. Wheeler and wife, recorded among the Land Records of Baltimore County in Liber W.P.C. No. 445 folio 346; Deed from John O. Hale and Emma M. Hale, his wife, to Clarence I. Hale, recorded among the Land Records of Baltimore County in Liber W.P.C. No. 516 folio 376.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Myles R. McComas and Rachel H. McComas, his wife, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns, in

BALTIMORE COUNTY CIRCUIT COURT (Land Records) OTG 4560, p. 0261 MSA_CE62_4416. Date available 08/14/2006. Printed 06/01/2015.

Plat No 9

BOARD OF EDUCATION OF BALTIMORE COUNTY, MARYLAND, a body corporate and politic	:	IN THE
	:	CIRCUIT COURT FOR
v.	:	BALTIMORE COUNTY
MYLES R. McCOMAS and RACHEL H. McCOMAS, his wife	:	CONDEMNATION
	:	9/27/1533

. . . . . .

INQUISITION made and taken at Bar in the Circuit Court for Baltimore County, in the matter of the Petition of the Baltimore County Board of Education, a body corporate and politic, for the condemnation of the property hereinafter mentioned, witnesseth:

THAT, We, the Jury, whose names are hereunto subscribed and whose seals are hereunto affixed, being duly impaneled, sworn and charged to ascertain and justly and impartially value the damages which the Defendants will sustain by the taking, use and occupation of the following property:

BEGINNING for the same at a stone heretofore set in the sixth line of the parcel of land described in a deed dated December 14, 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4560, folio 259 from Clarence I. Hale, Executor to Myles R. McComas and wife, said stone also being at the end of the third line of the parcel of land described in a deed dated June 10, 1954 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2495, folio 351 from John W. Hessian, III, to Harry M. Martin and wife and thence running with and binding on a part of the sixth line of the first herein mentioned parcel of land and binding on the outline of the property of the Board of Education of Baltimore County, South 18 degrees 15 minutes West 835.78 feet to a concrete monument heretofore set at the southeast corner of said Board of Education property, thence leaving said outline and running for lines of division the three following courses and distances, viz: South 86 degrees 25 minutes East 681.60 feet to a concrete monument, North 1 degrees 26 minutes 20 seconds East 728.51 feet to a concrete monument and North 76 degrees 06 minutes 20 seconds West 48.20 feet to a stone heretofore set at the beginning of the third line of the parcel of land described in the aforesaid deed from Hessian to Martin and thence running with and binding on said third line North 76 degrees 06 minutes 20 seconds West 401.80 feet to the place of beginning.

Containing 10.00 acres of land, more or less.

Said property is located in the Fifth Election District of Baltimore County, Maryland, as shown on the attached plat prepared by Dollenberg Brothers, Surveyors and Civil Engineers dated August 9, 1968.

[redacted]

Having heard the evidence and duly considered the same, weo do find and determine that:

It is necessary for the Petitioner to condemn the said property and that the damages sustained by the Defendants because of the taking of their fee simple interest and estate in and to the parcel of land hereinbefore particularly described and the property and rights as set forth in the Petition are the sum of $ 12601 00.

THAT upon payment of said sum to the Defendants, the title to the property shall be held and become vested in the Board of Education of Baltimore County, Maryland, clear and discharged of any claims, liens and demands of the Defendants and the said Board of Education of Baltimore County, Maryland shall thereupon have the right to immediate possession of said property.

WITNESS hereof, We, the Jury, have hereunto set our hands and seals this 26 day of June, 1970.

Frank M. Robey (SEAL)
Loretta Ronnicher (SEAL)
Hurst L. Holden (SEAL)
Walter J. Mislak (SEAL)
Carl R. Cramer Jr. (SEAL)
John A. Piazza (SEAL)
Janet Schultz (SEAL)
Herbert G. Smith (SEAL)
Wilfred J. Forbes (SEAL)
Kathleen Dolan (SEAL)
Dorine A. Kleinz (SEAL)
Dorothy B. Jones (SEAL)

Rec'd for record JUL 2 1970 at 9 A.M.
Per Orville T. Gossell, Clerk
Mail to
Receipt No. $

BALTIMORE COUNTY CIRCUIT COURT (Land Records) DRB 5106, p. 0213, MSA_CE62_4961. Date available 12/10/2015. Printed 12/07/2014.

and appurtenances thereunto belonging or in anywise appertaining. To have and to hold the said lot, piece or parcel of ground above described or mentioned and hereby intended to be conveyed together with the rights and appurtenances aforesaid to the same belonging or in anywise appertaining unto and to the proper use and behoof of the said James H. White his heirs and assigns in fee simple, with the understanding and subject to the agreement that the said James H. White his heirs and assigns will not erect or suffer any slaughter house, skin dressing or bone boiling establishment, glue, soap, candle, chemical or starch manufactory or other building for any offensive operation to be erected or used upon any part of the land hereby granted, also that no part of said lot of ground shall ever be used for the keeping of swine or other animals of like offensive character and further that all privy wells dug on or in the said ground shall be cemented and made and kept water tight and that no house erected on said lot of ground shall cost less than eight hundred dollars. And the said Samuel Brothers covenants that he will warrant specially the property hereby granted and that he will execute such further assurances of said land as may be requisite.

Witness the hands and seals of the said grantors.

Test:
W. W. Ingram

Samuel Brothers (Seal)
Marion A. Brothers (Seal)

State of Pennsylvania
City and County of Philadelphia, to wit:

I hereby certify, that on the Second day of March in the year One Thousand Eight Hundred and Ninety one before me, the subscribed, a Commissioner for the State of Maryland duly appointed and qualified resident in the City and County of Philadelphia aforesaid, personally appeared Samuel Brothers and Marion A. Brothers, his wife, the grantors named in the aforegoing Deed and respectively acknowledged the same to be their act.

In Testimony Whereof, I have hereunto subscribed my name and affixed my offecial seal the day and year above written.

Commr of Deeds Seal's Place

William W. Ingram
Commissioner of Deeds for Maryland.

Recorded October 5th 1896. at 10:35 A.M. and examined.
Per Lewis M. Bacon, Clerk

Ret. 10A

NO CONSIDERATION NO TITLE EXAMINATION

THIS DEED, made this 30th day of December, in the year one thousand nine hundred and eighty-seven, by and between MYLES R. McCOMAS and RACHEL H. McCOMAS, his wife, parties of the first part and MYLES ROSS McCOMAS, JR. and JANNEY H. McCOMAS, his wife, parties of the second part.

WHEREAS, the actual consideration paid or to be paid is $0.00.

WITNESSETH, That in consideration of the sum of $0.00 and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Myles R. McComas and Rachel H. McComas, his wife, do hereby grant and convey unto the said Myles Ross McComas, Jr. and Janney H. McComas, his wife, as tenants by the entireties, their assigns, the survivor of them, and the survivor's personal representatives and assigns, in fee simple, an undivided one-half interest in and to all that lot of ground, situate, lying and being in the Fifth Election District of Baltimore County, State of Maryland and described as follows, that is to say:

D RC/F 20.00
0 #
SM CLERK 20.00
#34966 C002 R02 T15:12
12/31/87

Beginning for the same at a point at the end of the 6th or South 15 degree 15 minute West 96 1/2 perch line of the land which by deed dated December 14th, 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4460 folio 259 was conveyed by Clarence I. Hale, Executor to Myles R. McComas and Rachel H. McComas, his wife, running thence and binding on the 7th line of said deed as now surveyed North 83 degrees 41 minutes 00 seconds East 1569.60 feet to Falls Road, running thence for lines of division now made the three following courses and distances 1) binding on Falls Road North 18 degrees 28 minutes 00 seconds West 40.91 feet thence leaving Falls Road and running parallel to and distant 40 feet from the above described first line 2) South 83 degrees 41 minutes 00 seconds West 698.80 feet thence 3) North 2 degrees 07 minutes 20 seconds East 380.76 feet to the end of the 2nd or South 86 degree 25 minute East 681.60 foot line of the land which by inquisition dated June 26, 1970 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5106 folio 212 was conveyed by Myles R. McComas and Rachel H. McComas, his wife, to the Board of Education of Baltimore County, Maryland running thence and binding reversely on said 2nd line as now surveyed North 85 degrees 44 minutes 00 seconds West 681.60 feet to intersect the 1st line of the first mentioned deed, Hale to McComas, running thence and binding on part of said 1st line as now surveyed South 18 degrees 17 minutes 00 seconds West 595.90 feet to the place of beginning. Containing 9.266 acres of land more or less.

20

AGRICULTURAL TRANSFER TAX NOT APPLICABLE
SIGNATURE JR DATE 12-31-87

RECEIVED FOR TRANSFER
State Department of Assessments & Taxation for Baltimore County
JR 12-31-87
Date
By

TRANSFER TAX NOT REQUIRED
BALTIMORE COUNTY, MARYLAND
Authorized Signature
Date 12-31-87 Sec. 11-85 C

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7760, p. 0815, MSA_CE62_7645. Date available 10/17/2005. Printed 12/17/2014.

Being part of the land which by deed dated December 14th 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4660 folio 259 was conveyed by Clarence I.Hale, Executor, to Myles R. McComas and Rachel H. McComas, his wife, within Grantors.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or anywise appertaining.

TO HAVE AND TO HOLD an undivided one-half interest in and to all that lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Myles Ross McComas, Jr. and Janney H. McComas, his wife, as tenants by the entireties, their assigns, the survivor of them, and the survivor's 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 execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of the within grantors.

WITNESS:

Martin J. Smith — Myles R. McComas (SEAL)
Myles R. McComas

Martin J. Smith — Rachel H. McComas (SEAL)
Rachel H. McComas

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7760, p. 0816, MSA_CE62_7615. Date available 10/17/2005. Printed 12/17/2014.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 30th day of December 1987, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Myles R. McComas and Rachel H. McComas, his wife, the within grantors, and they acknowledged the aforegoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

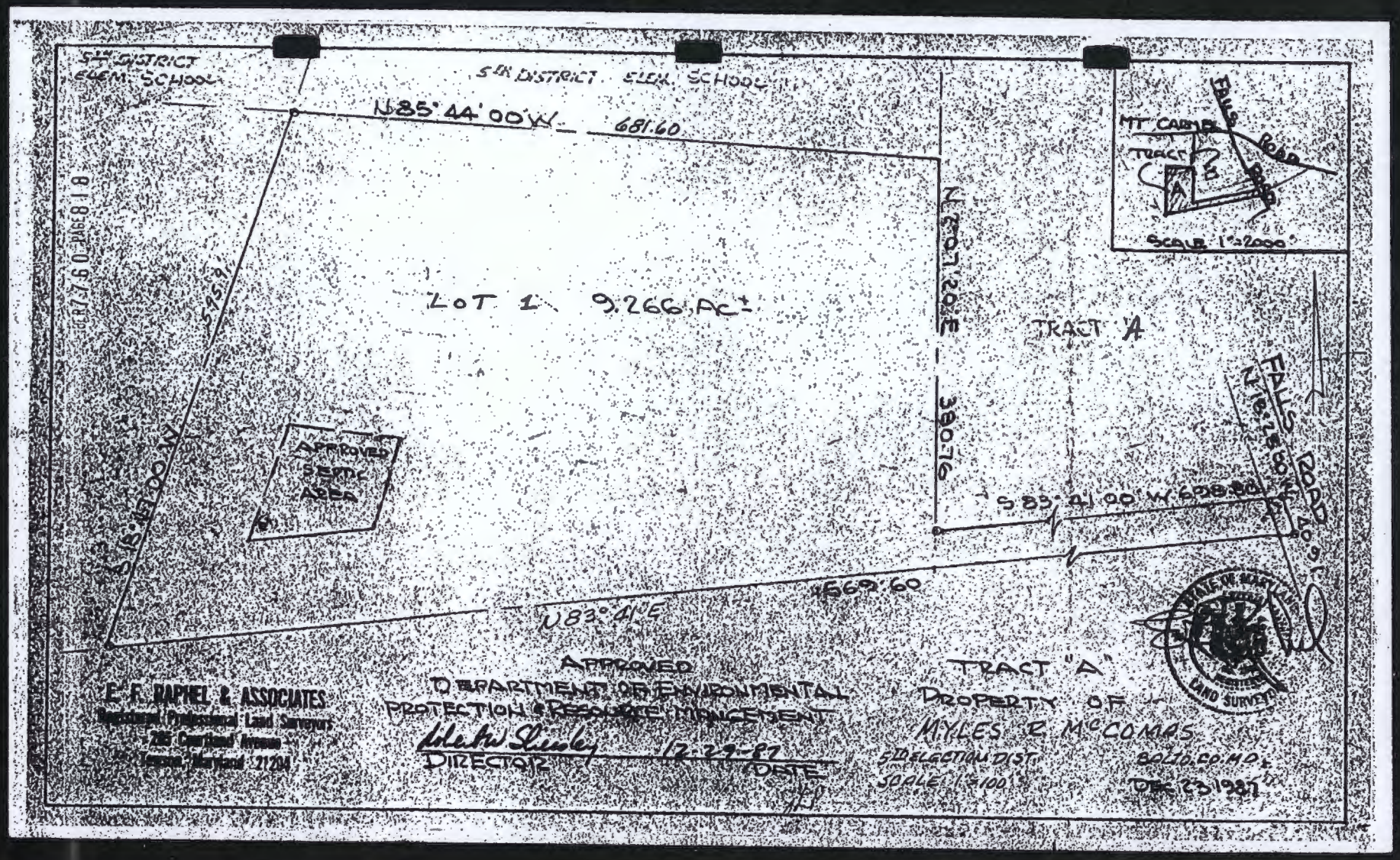
Martin J. Smith
Notary Public

My Commission Expires: 7-1-90

MARTIN J. SMITH • NOTARY PUBLIC • BALTIMORE CO., MD.

Smith, Johns & Smith
143 main St.
Reisterstown, Md 21136

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7760, p. 0817. MSA_CE62_7615. Date available 10/17/2005. Printed 12/17/2014.



BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7700, p. 0618 MSA_CE64_7815. Date available 10/17/2005. Printed 12/17/2014.

Ref 1013

NO CONSIDERATION

NO TITLE EXAMINATION

THIS DEED, made this 5th day of January, in the year one thousand nine hundred and eighty-eight, by and between MYLES R. McCOMAS and RACHEL H. McCOMAS, his wife, parties of the first part and MYLES ROSS McCOMAS, JR. and JANNEY H. McCOMAS, his wife, parties of the second part.

WHEREAS, the actual consideration paid or to be paid is $0.00.

WITNESSETH, That in consideration of the sum of $0.00 and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Myles R. McComas and Rachel H. McComas, his wife, do hereby grant and convey unto the said Myles Ross McComas, Jr. and Janney H. McComas, his wife, as tenants by the entireties, their assigns, the survivor of them, and the survivor's personal representatives and assigns, in fee simple, an undivided one-half interest in and to all that lot of ground, situate, lying and being in the Fifth Election District of Baltimore County, State of Maryland and described as follows, that is to say:

Beginning for the same at a point at the end of the 6th or South 15 degree 15 minute West 96 1/2 perch line of the land which by deed dated December 14th, 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4460 folio 259 was conveyed by Clarence I. Hale, Executor to Myles R. McComas and Rachel H. McComas, his wife, running thence and binding on the 7th line of said deed as now surveyed North 83 degrees 41 minutes 00 seconds East 1569.60 feet to Falls Road, running thence for lines of division now made the three following courses and distances 1) binding on Falls Road North 18 degrees 28 minutes 00 seconds West 40.91 feet thence leaving Falls Road and running parallel to and distant 40 feet from the above described first line 2) South 83 degrees 41 minutes 00 seconds West 698.80 feet thence 3) North 2 degrees 07 minutes 20 seconds East 380.76 feet to the end of the 2nd or South 86 degree 25 minute East 681.60 foot line of the land which by inquisition dated June 26, 1970 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5106 folio 212 was conveyed by Myles R. McComas and Rachel H. McComas, his wife, to the Board of Education of Baltimore County, Maryland running thence and binding reversely on said 2nd line as now surveyed North 85 degrees 44 minutes 00 seconds West 681.60 feet to intersect the 1st line of the first mentioned deed, Hale to McComas, running thence and binding on part of said 1st line as now surveyed South 18 degrees 17 minutes 00 seconds West 595.90 feet to the place of beginning. Containing 9.266 acres of land more or less.

RECEIVED: TRANSFER
State of
Assessment and Taxation
for Baltimore County
JR 1-5-88
Date

TRANSFER TAX
JR DATE 1-5-88

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7763, P. 0030, MSA_CE62_7618. Date available 10/17/2005. Printed 12/17/2014.

Being part of the land which by deed dated December 14th 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4660 folio 239 was conveyed by Clarence I.Hale, Executor, to Myles R. McComas and Rachel H. McComas, his wife, within Grantors.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or anywise appertaining.

TO HAVE AND TO HOLD an undivided one-half interest in and to all that lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Myles Ross McComas, Jr. and Janney H. McComas, his wife, as tenants by the entireties, their assigns, the survivor of them, and the survivor's 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 execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of the within grantors.

WITNESS:

Martin J. Smith — Myles R. McComas (SEAL)
Myles R. McComas

Martin J. Smith — Rachel H. McComas (SEAL)
Rachel H. McComas

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7763, p. 0031, MSA_CE52_7618. Date available 10/17/2005. Printed 12/17/2014.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 5th day of January 1988, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Myles R. McComas and Rachel H. McComas, his wife, the within grantors, and they acknowledged the aforegoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

Martin J. Smith
Notary Public

My Commission Expires: 7-1-90

MARTIN J. SMITH NOTARY PUBLIC BALTIMORE CO., MD.

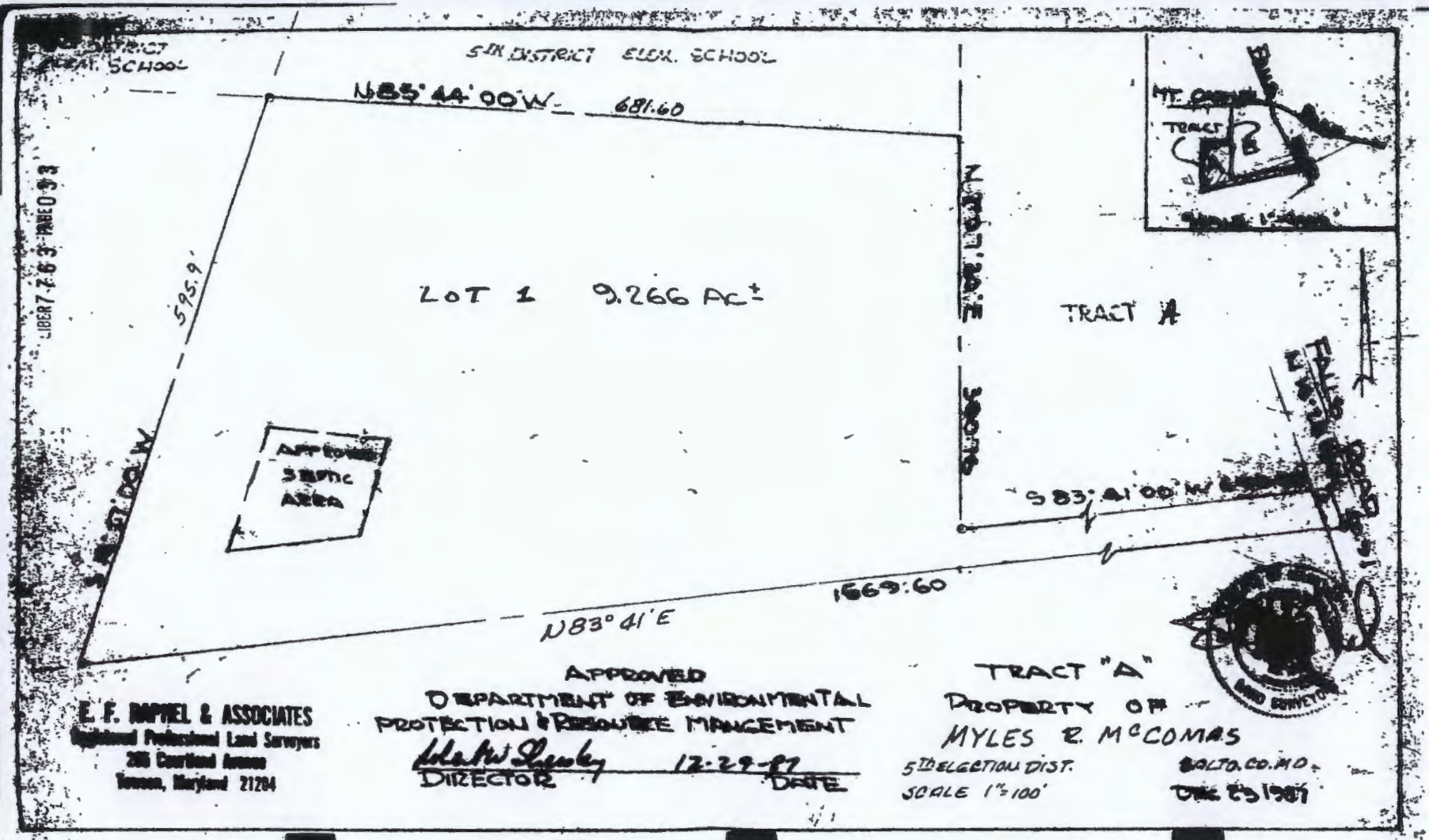
C RC/F 20.00
DEED 0 #
SM CLERK 20.00

#33349 C001 R02 T08:33

01/06/88

Smith, John + Smith
143 Main St.
Reisterstown, Md. 21136

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7763, p. 0032, MSA_CE52_7618. Date available 10/17/2005. Printed 12/17/2014.



BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 7763, p. 0033, MSA_CE62_7618. Date available 10/17/2005. Printed 12/17/2014.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 8437, p. 0576, MSA_CE62_8292. Date available 03/09/2005. Printed 05/01/2015.

Deed 11

NO CONSIDERATION NO TITLE EXAMINATION

THIS DEED, made this 1st day of June, in the year one thousand nine hundred and eighty-nine, by and between MYLES R. McCOMAS and RACHEL H. McCOMAS, his wife, parties of the first part and MYLES ROSS McCOMAS, JR. and JANNEY H. McCOMAS, his wife, parties of the second part.

WHEREAS, the actual consideration paid or to be paid is $0.00.

WITNESSETH, That in consideration of the sum of $0.00 and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Myles R. McComas and Rachel H. McComas, his wife, do hereby grant and convey unto the said Myles Ross McComas, Jr. and Janney H. McComas, his wife, as tenants by the entireties, their assigns, the survivor of them, and the survivor's personal representatives and assigns, in fee simple, all that lot of ground, situate, lying and being in the Fifth Election District of Baltimore County, State of Maryland on the west side of Falls Road (Md. Rte. 25) and described as follows, that is to say:

Beginning for the same at a steel bar now set in the third or S 83 degrees 41 minutes 00 seconds W 698.80 feet line of that parcel of land conveyed by Myles R. McComas and Rachel H. McComas, his wife, to Myles Ross McComas, Jr. and Janney H. McComas, his wife, by deed dated December 30, 1987 and recorded among the Land Records of Baltimore County in Liber S.M. No. 7760 folio 815, etc., said point of beginning being S 86 degrees 25 minutes 31 seconds W 299.74 feet from the beginning of said line, thence running with and binding on the remainder of the said 3rd line 1.) S 86 degrees 25 minutes 31 seconds W 399.06 feet to a steel bar now set at the beginning of the 4th or N 2 degrees 07 minutes 20 seconds E 380.76 feet line of the first mentioned conveyance, thence running with and binding on the said fourth line 2.) N 4 degrees 52 minutes 34 seconds E 380.86 feet to a concrete monument heretofore set at the beginning of the first or N 1 degree 26 minutes 20 seconds E 728.51 feet line of that parcel of land conveyed by the Board of Education of Baltimore County, Maryland to Baltimore County, Maryland by deed dated October 6, 1971 and recorded among the aforementioned Land Records in Liber O.T.G. No. 5250 folio 184, etc., thence for a line of division now made through the whole tract which was conveyed to Myles R. McComas and Rachel H. McComas , his wife, from Clarence I. Hale, executor, by deed dated December 14, 1965 and recorded among the aforementioned Land Records in Liber O.T.G. No. 4560 folio 259, etc., 3.) S 45 degrees 53 minutes 57 seconds E 509.54 feet to the place of beginning. Containing 1.7256 acres of land more or less.

AGRICULTURAL TRANSFER TAX NOT APPLICABLE

SIGNATURE JR DATE 3-27-90

TRANSFER TAX NOT REQUIRED
Director of Finance
By: Authorized Signature
Date 3-27-90 Sec. 11-35 C

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
JR 3-27-90

and for the County aforesaid, personally appeared Myles R. McComas and Rachel H. McComas, his wife, the within grantors, and they acknowledged the aforegoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

Martin J. Smith
Notary Public

My Commission Expires: 7-1-90

Smith & Johns
143 Main St
Reisterstown, Md
21136

DEED & RCPT 16.
SM CLERK 16.
#66311 C001 R02 T14:5
03/21/9

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 8437, p. 0578, MSA_CE62_8292. Date available 03/09/2005. Printed 05/01/2015.

Pet. No. 14

JAKO'S PLACE
COFFEE & CARRY OUT SHOP
Planet Aid
Clothes & Shoes
THANK YOU!

LAST WILL AND TESTAMENT

OF

MYLES R. McCOMAS, SR.

I, **MYLES R. McCOMAS, SR.,** of Carroll County, State of Maryland, being of sound and disposing mind, memory and understanding, do hereby make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all Wills and Codicils, thereto heretofore made by me.

Myles R. McComas Sr.

ITEM ONE: I direct my Personal Representative to pay all my just debts, expenses of my last illness and my burial expenses, including the cost of a suitable burial lot and perpetual care thereof and the cost of the erection of a suitable marker and/or monument at my grave (or such of these as have not otherwise been provided for during my lifetime); and the amount to be expended for such burial expenses shall be in the sole discretion of my Personal Representative, free of any limitation or restriction imposed by law and without the necessity of securing any Order of any Court.

ITEM TWO: I hereby devise and bequeath all of 17318 and 17320 Falls Road which lies on the west side of Falls Road (State Department and Assessment Tax Number 05 0513001050) unto MICHAEL PAUL SMITH (hereinafter called "Trustee") IN TRUST NEVERTHELESS, for the benefit of my granddaughters, ANN CAMERON KURY, MARTHA ROSS McCOMAS and my grandson, MYLES ROSS McCOMAS III. In the event that Michael Paul Smith is unwilling and/or unable to serve as Trustee, I appoint MICHAEL G. WEBER in his place and stead. Having full faith and confidence in each of them, I request that they be excused from giving bond for the faithful performance of their duties. The Trustee shall collect

all income, rents and profits from this Trust Estate and after payment of all taxes thereon and all expenses and charges incident to the management thereof, shall, accounting from the date of my death, pay over and distribute the net income and principal thereof in the following manner:

i. The entire principal and income of the said Trust shall be retained by my said Trustee in a Common Trust Fund to be held and used in the Trustee's sole discretion for the benefit of my said beneficiaries, to be used for their continued maintenance, support, health, general welfare and education. Any net income not so used in any calendar year shall be added to the principal and invested and reinvested as hereinafter provided.

ii. The Trust shall terminate when the youngest of said beneficiaries attains the age of thirty (30) years, or sooner dies. Upon termination of the Trust, the Trustee shall distribute the remaining balance of this Trust Estate, including principal and accumulated income, absolutely unto my said beneficiaries.

iii. In the event that any of said beneficiaries shall have predeceased me or died prior to receiving any or all of the benefits to which he/she is entitled under the terms of this Trust, then his/her lawful descendants, if any, shall take per stirpes and not per capita. In the event that any of said beneficiaries shall have predeceased me or died prior to receiving all of the benefits to which they are entitled under the terms of this Trust, leaving no lawful descendants, then in that event, I hereby bequeath all of the proceeds, both principal and accumulated income of this Trust Fund unto the surviving children of my deceased son, M. Ross McComas, per stirpes and not per capita.

ITEM THREE: I hereby devise and bequeath all 17318 and 17320 Falls Road which lies on the east side of Falls Road (State Department and Assessment Tax Numbers 05 0513001051 and 05 0513001052) unto my son, Michael C. McComas. In the event that

Myles R. McComas Jr.

MICHAEL C. McCOMAS shall have predeceased me or died simultaneously with me, leaving lawful descendants surviving, then in that event and only in that event, I hereby give, devise and bequeath said real property unto the descendants of MICHAEL C. McCOMAS, per stirpes and not per capita.

ITEM FOUR: (A) I give and bequeath the sum of Two Hundred Thousand Dollars ($200,000.00), unto MICHAEL PAUL SMITH (hereinafter called "Trustee"), IN TRUST NEVERTHELESS, to be held in trust for the benefit of to my granddaughter, ANN CAMERON KURY. In the event that Michael Paul Smith is unwilling and/or unable to serve as Trustee, I appoint MICHAEL G. WEBER in his place and stead. Having full faith and confidence in each of them, I request that they be excused from giving bond for the faithful performance of their duties. The Trustee shall collect all income, rents and profits from this Trust Estate and after payment of all taxes thereon and all expenses and charges incident to the management thereof, shall, accounting from the date of my death, pay over and distribute the net income and principal thereof in the following manner:

i. The entire principal and income of the said Trust shall be retained by my said Trustee in a Trust Fund to be held and used in the Trustee's sole discretion for the benefit of my said beneficiary, to be used for his/her continued maintenance, support, health, general welfare and education. Any net income not so used in any calendar year shall be added to the principal and invested and reinvested as hereinafter provided.

ii. The Trust shall terminate when said beneficiary attains the age of thirty (30) years, or sooner dies. Upon termination of the Trust, the Trustee shall distribute the remaining balance of this Trust Estate, including principal and accumulated income, absolutely unto my said beneficiary.

Kyle R. McComas Sr.

iii. In the event that said beneficiary shall have predeceased me or died prior to receiving any or all of the benefits to which he/she is entitled under the terms of this Trust, then his/her lawful descendants, if any, shall take per stirpes and not per capita. In the event that said beneficiary shall have predeceased me or died prior to receiving all of the benefits to which they are entitled under the terms of this Trust, leaving no lawful descendants, then in that event, I hereby bequeath all of the proceeds, both principal and accumulated income of this Trust Fund unto the surviving children of my deceased son, M. Ross McComas, per stirpes and not per capita.

(B) I give and bequeath the sum of Two Hundred Thousand Dollars ($200,000.00), unto MICHAEL PAUL SMITH (hereinafter called "Trustee"), IN TRUST NEVERTHELESS, to be held in trust for the benefit of to my granddaughter, MARTHA ROSS McCOMAS. In the event that Michael Paul Smith is unwilling and/or unable to serve as Trustee, I appoint MICHAEL G. WEBER in his place and stead. Having full faith and confidence in each of them, I request that they be excused from giving bond for the faithful performance of their duties. The Trustee shall collect all income, rents and profits from this Trust Estate and after payment of all taxes thereon and all expenses and charges incident to the management thereof, shall, accounting from the date of my death, pay over and distribute the net income and principal thereof in the following manner:

i. The entire principal and income of the said Trust shall be retained by my said Trustee in a Trust Fund to be held and used in the Trustee's sole discretion for the benefit of my said beneficiary, to be used for his/her continued maintenance, support, health, general welfare and

Myles R. McComas Sr.

education. Any net income not so used in any calendar year shall be added to the principal and invested and reinvested as hereinafter provided.

ii. The Trust shall terminate when said beneficiary attains the age of thirty (30) years, or sooner dies. Upon termination of the Trust, the Trustee shall distribute the remaining balance of this Trust Estate, including principal and accumulated income, absolutely unto my said beneficiary.

iii. In the event that said beneficiary shall have predeceased me or died prior to receiving any or all of the benefits to which he/she is entitled under the terms of this Trust, then his/her lawful descendants, if any, shall take per stirpes and not per capita. In the event that said beneficiary shall have predeceased me or died prior to receiving all of the benefits to which they are entitled under the terms of this Trust, leaving no lawful descendants, then in that event, I hereby bequeath all of the proceeds, both principal and accumulated income of this Trust Fund unto the surviving children of my deceased son, M. Ross McComas, per stirpes and not per capita.

Myles R McComas Jr.

(C) I give and bequeath the sum of Two Hundred Thousand Dollars ($200,000.00), unto MICHAEL PAUL SMITH, (hereinafter called "Trustee"), IN TRUST NEVERTHELESS, to be held in trust for the benefit of to my grandson, MYLES ROSS McCOMAS III. In the event that Michael Paul Smith is unwilling and/or unable to serve as Trustee, I appoint MICHAEL G. WEBER in his place and stead. Having full faith and confidence in each of them, I request that they be excused from giving bond for the faithful performance of their duties. The Trustee shall collect all income, rents and profits from this Trust Estate and after payment of all taxes thereon and all expenses and charges incident to the management thereof, shall, accounting from the date

of my death, pay over and distribute the net income and principal thereof in the following manner:

i. The entire principal and income of the said Trust shall be retained by my said Trustee in a Trust Fund to be held and used in the Trustee's sole discretion for the benefit of my said beneficiary, to be used for his/her continued maintenance, support, health, general welfare and education. Any net income not so used in any calendar year shall be added to the principal and invested and reinvested as hereinafter provided.

ii. The Trust shall terminate when said beneficiary attains the age of thirty (30) years, or sooner dies. Upon termination of the Trust, the Trustee shall distribute the remaining balance of this Trust Estate, including principal and accumulated income, absolutely unto my said beneficiary.

iii. In the event that said beneficiary shall have predeceased me or died prior to receiving any or all of the benefits to which he/she is entitled under the terms of this Trust, then his/her lawful descendants, if any, shall take per stirpes and not per capita. In the event that said beneficiary shall have predeceased me or died prior to receiving all of the benefits to which they are entitled under the terms of this Trust, leaving no lawful descendants, then in that event, I hereby bequeath all of the proceeds, both principal and accumulated income of this Trust Fund unto the surviving children of my deceased son, M. Ross McComas, per stirpes and not per capita.

ITEM FIVE: I give, devise and bequeath all the rest, residue and remainder of my estate, including all property over which I may have any power of testamentary disposition, as follows:

Myles R McComas Sr.

A. One-half (½) to my son, MICHAEL C. McCOMAS. In the event that MICHAEL C. McCOMAS shall have predeceased me or died simultaneously with me, leaving lawful descendants surviving, then in that event and only in that event, I hereby give, devise and bequeath his one-half (½) interest unto the descendants of MICHAEL C. McCOMAS, per stirpes and not per capita. In the event my said son, MICHAEL C. McCOMAS, shall have predeceased me or died simultaneously with me leaving no lawful descendants surviving, I give, devise and bequeath his one-half (½) interest to the descendants of my deceased son, MYLES R. McCOMAS, JR.

B. One-sixth (1/6) unto MICHAEL PAUL SMITH, IN TRUST NEVERTHELESS, to be held in trust for the benefit of to my granddaughter, ANN CAMERON KURY, as set forth in Section FOUR (A).

C. One-sixth (1/6) unto MICHAEL PAUL SMITH, IN TRUST NEVERTHELESS, to be held in trust for the benefit of to my granddaughter, MARTHA ROSS McCOMAS, as set forth in Section FOUR (B).

D. One-sixth (1/6) unto MICHAEL PAUL SMITH, IN TRUST NEVERTHELESS, to be held in trust for the benefit of to my grandson, MYLES ROSS McCOMAS III, as set forth in Section FOUR (C).

Myles R. McComas Jr.

ITEM SIX: If any person who becomes a beneficiary under this Will shall not have reached the age of eighteen (18) years at the time of distribution of their share, their bequest or devise shall be made under the Maryland Uniform Transfer to Minor's Act to be held by the Guardian for that minor until that child reaches the age of twenty-one (21) years, or the maximum age allowed in accordance with that section, whichever is later.

ITEM SEVEN: Except as is otherwise expressly provided in the foregoing provisions of this my Last Will and Testament and not in derogation or limitation of the authority and discretion conferred upon Trustees by law, I give and bestow upon my Trustees the following additional authority, discretion, immunity and exoneration for each Trustee created herein:

A. The Trustees shall make all distributions of income or principal provided for hereunder directly into the hands of the beneficiary entitled to receive the same and not into the hands of another, whether claiming by their authority or otherwise, and neither the principal nor the income of the Trust Estate shall be subject to any assignment or order, nor shall the same be anticipated by any beneficiary in any manner, nor shall the same be liable for the debts, contracts or engagements of any beneficiary, nor taken in execution by attachment or garnishment, nor by any other legal or equitable proceeding while remaining in the hands of the Trustees. Any deposit to the credit of the account of any such beneficiary in any bank or trust company shall be deemed to be the equivalent of payment into the hands of such beneficiary. If any person entitled to receive payments of income or principal hereunder shall, in the judgment of the Trustees, be a person of unsound mind, whether adjudicated under a disability or not, or be a person suffering from any physical or mental disorder which, in the judgment of the Trustees, renders such person incapable of the management of their estate or of the payments to which they may be entitled hereunder, the Trustees may, in their discretion, expend for the account of such person the amounts payable to them, or pay the same to their duly appointed guardian, if any, or the Trustees may make such payments to the person who, in the judgment of the Trustees, is taking responsibility for disbursing the funds available for their care and maintenance or, in their discretion, may apply such payments directly to the support, maintenance, education and care of

Wyler R. McGuire Jr.

such incapacitated or disabled beneficiary, and the receipt of such person shall be a full and complete discharge to the Trustees for any sums so paid over. If any person entitled to receive payments of income or principal hereunder shall be an infant or minor, then the Trustees shall be authorized to make such payments to the legal guardian of such infant or minor or, in their discretion, they may apply such payments directly to the support, maintenance, education and care of such minor beneficiary, and the receipt of any such person or fiduciary shall constitute a full and complete discharge to the Trustees for such sums so paid over. Without limitation of the foregoing, I specifically provide that my Trustees shall be authorized, where directed, to make payments of income or principal to a minor beneficiary, nevertheless to retain such payments in whole or in part and continue to administer the sum or sums thus retained in trust under the terms of this Will until, in the discretion of my Trustees, the payment in whole or in part of sums thus retained shall become appropriate and proper; provided, however, that any funds thus retained in trust shall, in any event, be disbursed as provided herein when such minor beneficiary shall attain the age as hereinbefore set forth or shall earlier die.

B. If there are insurance proceeds payable to my Trustees, I give my Trustees full power and authority to claim and receive any such proceeds.

C. I authorize and empower my said Trustees to make loans to or purchase assets from my Personal Representative.

D. My Trustees may invest and reinvest any funds held in trust hereunder and keep the same invested in any such property as they may deem advisable, without being restricted as to the character of any investment by any statute, rule of law or court, or practice governing the diversification or investment of trust funds.

Taylor R. McConnell Jr.

E. My Trustees may retain, without liability for loss, any investment which I may own at the time of my death.

F. My Trustees may sell, exchange, pledge or otherwise dispose of any part or all of the Trust Estate, at such times, for such prices and upon such terms as they shall deem advisable; and extend the time of payment of any obligation at any time constituting part of the Trust Estate; or grant options for the sale or exchange of any property constituting the Trust Estate.

G. My Trustees may foreclose mortgages and bid in property under foreclosure and hold, lease and manage the same; continue mortgage investments upon and after maturity, either with or without renewal or extension, upon such terms as to the Trustees may seem advisable; partition any real estate which the Trustees may hold jointly or in common with others; and execute and deliver any and all deeds, leases, mortgages or other conveyances or instruments which the Trustees may consider necessary or proper in connection with any such matters.

H. My Trustees may compromise, adjust, settle or submit to arbitration, upon such terms as they may deem advisable, any claim in favor of, or against, the Trust Estate.

I. My Trustees may borrow money for any purpose deemed by them beneficial to the Trust Estate upon such terms as they may determine and pledge any of the assets of the Trust Estate as security for the repayment of any such loan.

J. My Trustees may vote in person or by proxy any stocks or other securities held by them, or join in, consent to or oppose any deposit agreement, reorganization proceedings, plan of reorganization, merger, dissolution or other adjustment of capital funds or indebtedness affecting any securities or property held hereunder, or pay any assessment upon any such securities or property, or exercise any option and take advantage of any rights given to any owner of any

Myles R. McCormick Jr.

securities or other property in the Trust Estate, and (without being limited in any way to the powers specifically enumerated herein) generally to take, in their absolute discretion, any and all action for the benefit and protection of the Trust Estate and the securities or other property at any time held therein which the said Trustees might do if the sole owners thereof.

K. My Trustees may determine whether any expenses or disbursements made by them shall be charged against the principal or income or partly against principal and partly against income and such determination shall be conclusive against all persons interested hereunder.

L. My Trustees may generally, with respect to the Trust Estate, exercise all such rights and powers and do all such acts and enter into all such agreements as persons owning similar property in their own right might lawfully exercise, do or enter into.

M. My Trustees may make any distribution hereunder in cash or in kind, or partly in cash and partly in kind, and for that purpose use and allocate, at valuations fixed by them, any property then a part of the Trust Estate; or in order to facilitate any distribution of the Trust Estate or for any purpose whatsoever, value and appraise any assets of the Trust Estate, such valuation and appraisal to be conclusive against all persons interested hereunder.

Myles R. McConnon Jr

ITEM EIGHT: I hereby nominate, constitute and appoint MICHAEL PAUL SMITH as Personal Representative of this my Last Will and Testament. In the event that MICHAEL PAUL SMITH is unable or unwilling to serve, I hereby appoint MICHAEL G. WEBER in his place and stead. Having full faith and confidence in each of them, I hereby request that they and each of them be excused from giving bond for the faithful performance of their duties.

I hereby confer upon my Personal Representative all powers necessary for the administration of my estate and for such purpose I authorize him to sell at public or private sale, deed, assign, convey, mortgage, lease, invest or otherwise deal with my estate as he, in his sole and absolute discretion, may deem proper; and to compromise claims against or owing to my estate; and to vote in person or by either limited or general proxy securities constituting a part of my estate without liability for loss by reason of the exercise of such voting rights; and in any case in which my Personal Representative is required, either under the provisions of this Will or in order to make a proper distribution of my estate, to divide the assets of my estate, or any of them, I hereby authorize him to make such division in whole or in part, in cash or in kind, and any division so made by my Personal Representative shall be binding and conclusive upon all persons interested in my estate; all of which powers shall be exercised without prior application to or subsequent ratification by the Orphan's Court of Carroll County or any other court having jurisdiction over the administration of my estate. It is my intention that the enumeration of the above powers shall not be a limitation upon the exercise by my Personal Representative of other powers conferred upon him by law.

Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN TESTIMONY WHEREOF, I have signed my name on the margin of each of the eleven (11) preceding pages hereof and hereunto set my hand and affix my seal to this my Last Will and Testament this 11th day of October, 2011.

Myles R. McComas Sr. (SEAL)
MYLES R. McCOMAS, SR.

SIGNED, SEALED, PUBLISHED and DECLARED, by the above-named Testator, **MYLES R. McCOMAS, SR.**, as and for his Last Will and Testament, in the presence of the undersigned, who, at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses to his signature the day and year last-above written.

Ashley M. McCoy

Address 9412 Oak White Rd.
Balto. MD 21234

Irene J. Castelino

Address 5109 Morning Dove Way
Perry Hall, MD 21128

State of Maryland / Department of Health and Mental Hygiene

Certificate of Death

For State Registrar 1

Reg. No.

Physician/ Medical Examiner

1. Decedent's Name (First, Middle, Last): Myles Ross McComas, Sr.
2. Date of Death (Month, Day, Year): May 16 2014
3. Time of Death: 5:23 A M
4a. Facility Name (if not institution, give street and number): Manor Care Ruxton
4b. City, Town, or Location of Death: Towson
4c. County of Death: Baltimore

Funeral Director

5. Social Security Number: 216-14-5803
6. Sex: 1 [X] M 2 [ ] F
7. Age (In yrs. last birthday): 94 Yrs.
If Under 1 Year: Months / Days
If Under 24 Hrs.: Hours / Min.
8. Date of Birth (Month, Day, Year): May 21 1919
9. Birthplace (State or Foreign Country): MD

Usual Residence of Decedent

10a. State: MD
10b. County: Carroll
10c. City, Town or Location: Hampstead
10d. Inside City Limits: 1 [ ] Yes 2 [X] No
10e. Street and Number: 1214 Wynnside Lane
10f. Zip Code: 21074
10g. Citizen of What Country: USA

To Be Completed by Funeral Director

11. Marital Status: 1 [ ] Never Married 2 [ ] Married 3 [X] Widowed 4 [ ] Divorced
12. Was Decedent Ever in U.S. Armed Forces? 1 [X] Yes 2 [ ] No If Yes, Give Year or Dates.
13. Was Decedent of Hispanic Origin? (Specify Yes or No- If Yes, specify Cuban, Mexican, Puerto Rican, etc.) 1 [ ] Yes 2 [X] No Specify:
14. Race - American Indian, Black, White, etc. Specify: white
15. Decedent's Education (Specify only highest grade completed): Elementary/Secondary (0-12): 7 College (1-4 or 5+):
16a. Decedent's Usual Occupation (Give kind of work done during most of working life. DO NOT use retired): Owner
16b. Kind of Business/Industry: Carpet
17. Father's Name (First, Middle, Last): Harry Ross McComas
18. Mother's Name (First, Middle, Maiden Surname): Martha Florence Wilhelm
19a. Informant's Name/Relationship (Type, Print): Michael McComas/son
19b. Mailing Address (Street and Number or Rural Route Number, City or Town, State, Zip Code): 1300 Mt. Carmel Rd., Parkton, MD 21120
20a. Method of Disposition: 1 [X] Burial 2 [ ] Cremation 3 [ ] Removal from State 4 [ ] Donation 5 [ ] Other (Specify)
20b. Place of Disposition (Name of cemetery, crematory or other place): Forest Ridge Cemetery Date: 5/20/14
20c. Location (City or Town, State): Upperco, MD
21. Signature of Funeral Service Licensee: Michael Carpenter
22. Name and Address of Facility: Lemmon Funeral Home of Dulaney Valley, Inc. 10 W. Padonia Rd., Timonium, MD 21093

Physician/ Medical Examiner

23a. Part I. Enter the disease, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line.

Immediate Cause (Final disease or condition resulting in death):
a. Failure To Thrive
Due to (or as a consequence of):
b. Dysphagia
Due to (or as a consequence of):
c. Debility
Due to (or as a consequence of):
d. Cerebrovascular Accident

Sequentially list conditions, if any, leading to immediate cause. Enter Underlying Cause (Disease or injury that initiated events resulting in death) Last.

Approximate Interval Between Onset and Death

IF FEMALE:
23b. Was decedent pregnant in the past 12 months? 1 [ ] Yes 2 [ ] No 9 [ ] Unknown
23c. If yes, outcome of pregnancy: 1 [ ] Live Birth 2 [ ] Fetal death 3 [ ] Ectopic pregnancy 4 [ ] Pregnant at time of death 5 [ ] Other (Specify) 9 [ ] Unknown
23d. Date of delivery: Month Day Year

Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.

23e. Did tobacco use contribute to the cause of death? 1 [ ] Yes 2 [X] No 3 [ ] Probably 4 [ ] Unknown
24a. Was an autopsy performed? 1 [ ] Yes 2 [X] No
24b. Were autopsy findings available prior to completion of cause of death? 1 [ ] Yes 2 [ ] No
25. Was case referred to medical examiner? 1 [ ] Yes 2 [X] No
26. Place of Death (Check only one): Hospital: 1 [ ] Inpatient 2 [ ] ER/Outpatient 3 [ ] DOA Other: 4 [X] Nursing Home 5 [ ] Residence 6 [ ] Other (Specify)
27. Manner of Death: 1 [X] Natural 2 [ ] Accident 3 [ ] Suicide 4 [ ] Homicide 5 [ ] Pending Investigation 6 [ ] Could not be determined
28a. Date of injury (Month, Day, Year)
28b. Time of injury
28c. Injury at work? 1 [ ] Yes 2 [ ] No
28d. Describe how injury occurred
28e. Place of Injury - At home, farm, street, factory, office building, etc. (Specify)
28f. Location (Street and Number or Rural Route Number, City or Town, State)

Medical Certificate: To Be Completed by Physician/Medical Examiner

29a. Certifier (Check only one): 1 [ ] Certifying Physician: To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner(s) stated. 2 [ ] Medical Examiner: On the basis of examination and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated. 3 [X] Certifying Nurse Practitioner: To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner as stated.
29b. Signature and title of certifier: Cefarra Scrup
29c. License number: R125808
29d. Date signed (Month, Day, Year): 05-16-2014
30. Name and address of person who completed cause of death (Item 23a) (Type, Print): Anne Lewis, CRNP 6301 N. Charles St, Ste 4105, Towson, MD 21204

State Registrar

31. Date filed (Month, Day, Year): MAY 20 2014
32. Registrar's Signature

VS-17 Rev. 06-2011 790363

ORIGINAL

I HEREBY CERTIFY THAT THIS DOCUMENT IS A TRUE COPY OF A RECORD ON FILE IN THE DIVISION OF VITAL RECORDS.

DATE ISSUED

VOID

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
DAVID W. TERRY*
*Admitted in MD, MO, IL, AR

LAUREN DODRILL BENJAMIN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO**
NATALIE MAYO
ELYANA TARLOW
of counsel:
JAMES T. SMITH, JR.
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
**Admitted in MD, FL, PA

July 21, 2015

RECEIVED
JUL 21 2015
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

Via Hand Delivery
Arnold Jablon, Esquire
Director
Baltimore County Department of Permits, Approvals and Inspections
111 West Chesapeake Ave, Suite 105
Towson, MD 21204

Re: Notice of Appeal
Property: 17318 Falls Road
Case No. 2015-0208-SPH

Dear Mr. Jablon,

Enclosed herewith please find an original and three (3) copies of the Notice of Appeal on behalf of Appellant, Michael P. Smith, Personal Representative of the Estate of Myles R. McComas, to be filed in the above referenced matter. Please date stamp the copies and return the same to our courier. Also enclosed, please find a check in the amount of $265.00 to cover the filing fee for such appeal.

Please contact me should you have any questions.

Very truly yours,

Lawrence E. Schmidt

LES/amf
Enclosures
cc: Administrative Law Judge John E. Beverungen
Peter Max Zimmerman, Esquire
Krysundra Cannington, Board of Appeals

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

No. 94689

Date: 7-22-15

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				265.00
							Total:	265.00

Rec From: Lawrence E. Schmidt Esq.

For: Appeal - 2015-0208-SPH

17318 Falls Rd.

Hearing: May 4 2015 Decision: 5-15-15

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

PAID RECEIPT
BUSINESS ACTUAL TIME DRAWER
7/24/2015 7/22/2015 14:20:20 2
REG WS02 WALKIN ZONING FEE
RECEIPT B 929948 7/22/2015 OFLD
REF 5 520 ZONING VERIFICATION
REF NO. 94689
Recpt Tot $265.00
$265.00 CK $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
DAVID W. TERRY*
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of counsel:
JAMES T. SMITH, JR.
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
**Admitted in MD, FL, PA

July 21, 2015

RECEIVED
JUL 21 2015
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APPROVALS AND INSPECTIONS

Via Hand Delivery
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Baltimore County Department of Permits, Approvals and Inspections
111 West Chesapeake Ave, Suite 105
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Re: Notice of Appeal
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Please contact me should you have any questions.

Very truly yours,

Lawrence E. Schmidt

LES/amf
Enclosures
cc: Administrative Law Judge John E. Beverungen
Peter Max Zimmerman, Esquire
Krysundra Cannington, Board of Appeals

RECEIVED
JUL 21 2015
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: **PETITION FOR SPECIAL HEARING** **17318 Falls Road**	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
5th Election District 3rd Councilmanic District	*	OF
	*	BALTIMORE COUNTY
Michael P. Smith, Personal Representative (Estate of Myles R. McComas) Appellant	*	
	*	**Case No.:**
ALJ Case No. 2015-0208-SPH	*	
	*	

* *

NOTICE OF APPEAL

The Appellant, Michael P. Smith, Personal Representative of the Estate of Myles R. McComas, by and through his attorneys, Lawrence E. Schmidt and Smith, Gildea, and Schmidt, LLC, feeling aggrieved by the decision of the Administrative Law Judge for Baltimore County from the Order on Motion for Reconsideration dated June 24, 2015 (which adopted and re-stated the decision of the Administrative Law Judge dated May 15, 2015), in the above-captioned matter, hereby note this appeal to the County Board of Appeals for Baltimore County in accordance with Baltimore County Code §32-3-401 by filing this Notice of Appeal with the Director of the Baltimore County Department of Permits, Approvals & Inspections.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of **July, 2015,** a copy of the foregoing Notice of Appeal was hand delivered to:

John E. Beverungen, Esquire
Administrative Law Judge for Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

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

IN RE: **PETITION FOR SPECIAL HEARING** **17318 Falls Road**	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
5th Election District 3rd Councilmanic District	*	OF
	*	BALTIMORE COUNTY
Michael P. Smith, Personal Representative (Estate of Myles R. McComas) Appellant	*	
	*	**Case No.:**
ALJ Case No. 2015-0208-SPH	*	
	*	

* *

NOTICE OF APPEAL

The Appellant, Michael P. Smith, Personal Representative of the Estate of Myles R. McComas, by and through his attorneys, Lawrence E. Schmidt and Smith, Gildea, and Schmidt, LLC, feeling aggrieved by the decision of the Administrative Law Judge for Baltimore County from the Order on Motion for Reconsideration dated June 24, 2015 (which adopted and re-stated the decision of the Administrative Law Judge dated May 15, 2015), in the above-captioned matter, hereby note this appeal to the County Board of Appeals for Baltimore County in accordance with Baltimore County Code §32-3-401 by filing this Notice of Appeal with the Director of the Baltimore County Department of Permits, Approvals & Inspections.

Respectfully submitted,

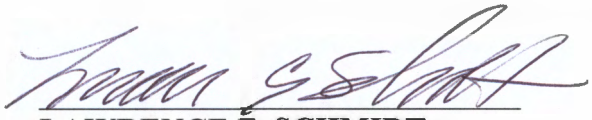
LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of **July, 2015,** a copy of the foregoing Notice of Appeal was hand delivered to:

John E. Beverungen, Esquire
Administrative Law Judge for Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

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

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

May 15, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

RE: Petition for Special Hearing
Property: 17318 Falls Road
Case No.: 2015-0208-SPH

Dear Mr. Schmidt:

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

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Jim Jung, 17216 Hunter Green Road, Upperco, Maryland 21155

IN RE: **PETITION FOR SPECIAL HEARING**	*	BEFORE THE
(17318 Falls Road)		
5th Election District	*	OFFICE OF
3rd Council District		
Michael P. Smith, Per. Rep.	*	ADMINISTRATIVE HEARINGS
(Estate of Myles R. McComas)		
Legal Owner	*	FOR BALTIMORE COUNTY
Petitioner	*	**Case No. 2015-0208-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Michael P. Smith, Personal Rep. (Estate of Myles R. McComas) legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to confirm the prior and proposed inter-family subdivision and non-density transfer of a parcel zoned R.C.2/BL-CR and to confirm the rights of subdivision (density) associated therewith.

Appearing at the public hearing in support of the requests was surveyor Ken Wells, whose firm prepared the site plan. Lawrence E. Schmidt, Esquire, represented the Petitioner. A neighbor (Mr. Jung) attended the hearing to obtain further details regarding the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP), and will be discussed below.

The great majority of the property in this case is zoned R.C.2. As in similar cases of this nature, determining the subdivision and density rights for such parcels is a bit like completing a jigsaw puzzle. To make such a determination requires a detailed examination of various

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Date 5/15/15

By Sen

conveyances throughout the years, with particular emphasis on the status of things as of 1979. It was then the County first adopted area and density regulations for the R.C.2 zone.

The chronology in this case begins in or about 1888, when John Hale acquired by deed approximately 53+/- acres of land in northern Baltimore County (Pet. Ex. 3), situated near what is now the intersection of Falls and Mount Carmel Roads. Between 1891 and 1919, Hale conveyed 4 parcels (see deeds, Pet. Ex. Nos. 4-7) comprising about 12+/- acres of the original tract. In or about 1965, following John Hale's death, his son Clarence became owner of the property. In that same year, Clarence Hale deeded (Ex. 8) approximately 40 acres of the tract to Myles and Rachel McComas. In 1970, (Ex. 9) the Baltimore County Board of Education acquired by condemnation approximately 10 acres of the tract. That was the status of things as of November 1979, the starting point for analyzing density rights associated with R.C.-2 land.

In 1987 and 1988, Myles and Rachel McComas conveyed (Ex. Nos. 10A & 10B) to their son (Myles Jr.) and daughter in-law about 9.25+/- acres of the property. This was followed in 1989 by a conveyance (Ex. 11) to the same grantees of an approximate 1.7+/- acre parcel of land. A single family dwelling was constructed on the larger parcel, and a driveway providing access to the home was constructed across the 1.7 acre parcel. These parcels were conveyed by deed, not through a subdivision process. One of the transfers for which approval is sought herein is the "non-density" transfer of the 1.7 acre parcel to the 9.25 acre parcel improved with the dwelling, to create a single parcel. The DOP does not oppose this request.

Myles McComas Sr. died in 2014, and his will (Ex. No. 12) grants a portion of the remaining land (on the west side of Falls Road) to his grandchildren, and the remaining portion (east of Falls Road) to his son Michael McComas. The Petition was filed in this case to determine the development rights associated with the property as it presently exists.

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As it turns out, the pivotal issue that requires resolution is whether a 1927 acquisition by the State Roads Commission (SRC) (See plat, Ex. 2) had the effect of dividing the property into two parcels. At or about that time, the SRC acquired the necessary "right of way and land" shown on the plat to construct the road shown thereon; i.e., Falls Road. The SRC was established in 1908 to create a system of highways throughout the state, and it was "given authority to acquire by purchase or condemnation all property needed" for that purpose. Murphy v. State Roads Comm'n., 159 Md. 7 (1930). A later case noted the agency could acquire property also by gift, agreement, grant or purchase. Dunne v. State Roads Comm'n., 162 Md. 274 (1932).

Had this acquisition by the SRC (now SHA) taken place after 1990, it seems clear that the B.C.Z.R. would answer the inquiry in the negative. The Regulations provide that "[i]n cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right-of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record." B.C.Z.R. §1A01.3.B.1.

But this provision was enacted in 1990, and would therefore not be applicable in determining the legal effect of an acquisition dating to 1927. In an analogous case, the court in Lovinger v. Lane County, 138 P.3d 51 (Or. 2006) held that a nearly identical regulation was not applicable when it was enacted 30 years after the road in question was constructed. The relevant question then becomes: did the County Council enact this provision to codify existing law/practice, or was the law enacted to change the practice as it then existed.

There seems to be no definitive answer as to what the rule or practice was in 1990 regarding whether a road or easement would bifurcate parcels of land. Counsel noted that prior to that time zoning commissioners had issued conflicting rulings on the question of whether a road or right of

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By Sen

way would divide a parcel for zoning/development purposes. And there does not appear to be any Maryland appellate case law on point, although counsel noted that in an unreported opinion (known as Gudeman), the court of special appeals held that a public road did not divide the tract into separate parcels for development purposes.

Based on out-of-state case law, it seems as if a transfer of a fee simple interest to create a road would have the effect of dividing the parcel. This type of conveyance, as an incident of basic real property law, would create "separate ownership" and therefore noncontiguous parcels. Lovinger, 138 P3d. at 54-56. Here, based on the exhibit submitted (Ex. No. 2), it is unclear exactly what interest was acquired by the SRC in 1927. In these circumstances, I cannot assume the state acquired a fee simple interest, as opposed to a "right-of-way" or easement for travel. This conclusion is buttressed by a common law doctrine pertaining to rural roads (such as Falls Road in the vicinity of the subject property) which provides that unless stated to the contrary, the government acquires only an easement for travel. Turner v. WSSC, 221 Md. 494, 498-500 (1960).

In light of the above, I believe the tract of land in 1979 (approximately 30+/- acres) was a single parcel, even though bisected by Falls Road. Though the 1987-89 conveyances to Myles McComas Jr. and his wife arguably established 2 separate "lots of record," the 1989 conveyance involved a "non-density" parcel, and the DOP did not oppose the request that the two parcels be combined into a single "lot of record" for the single family dwelling and driveway providing access to the home. That lot will be approximately 11 +/- acres, which (according to the devolution of title chart on the site plan) will leave a remaining parcel of approximately 18.8+/- acres.

The remaining portion of land is bisected by Falls Road, and state tax records show the tract east of Falls Road is 7 acres and categorized as agricultural, while the tract on the west side of Falls Road, categorized as commercial (given the existence of a small country store on the

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Date 5/15/15
By Sen

commercially-zoned portion of the land) is 8 acres. Petitioner's Ex. Nos. 13A & 13B. The tax records indicate the remaining property is 15+/- acres, while the site plan puts the figure at 18.8+/- acres. No explanation was provided for the discrepancy, though the significant number of conveyances through the years no doubt played a role.

The DOP indicated in its ZAC comment that Petitioner has no further subdivision rights, since the existing house at 17318 Falls Road would constitute the second lot permitted by B.C.Z.R. §1A01.3. I disagree, because the house in question, which Mr. Jung stated was uninhabited and in very poor condition, is situated within the BL-CR zone, not the R.C.2 zone. The aforementioned regulation applies only to "a lot of record lying within an R.C.2 zone." As such, I believe Petitioner has one further subdivision right on the remaining portion of land. In light of the DOP's comment regarding the prime agricultural soils in the area, I believe the additional dwelling (assuming one is constructed) should be erected on the west side of Falls Road, so that the property on the east side of the road (categorized and taxed by the state as "agricultural") can remain "vacant land" as shown on the site plan. This will provide a large, unimproved parcel for agricultural purposes, which are to be favored and fostered in the R.C.2 zone. B.C.Z.R. §1A01.

THEREFORE, IT IS ORDERED this **15th** day of May, 2015, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to confirm the rights of subdivision (density) associated with the subject property, in accordance with the terms of the foregoing Opinion, be and is hereby GRANTED.

IT IS FURTHER ORDERED Petitioner shall be permitted to combine (by way of a non-density transfer) the 1.7 acre parcel identified herein with the 9.25 acre parcel to create a single lot of record of 11+/- acres.

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Date 5/15/15
By Sen

IT IS FURTHER ORDERED Petitioner shall have one further right of subdivision (i.e., available density to construct one single-family dwelling) on the remaining land situated on the west side of Falls Road, identified on the site plan (Ex. No. 1) as "#17318 Tax ID No. 0513001050."

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING
Date 5/15/15
By sln

MB 5-4-15

RECEIVED

JUN 09 2015

OFFICE OF ADMINISTRATIVE HEARINGS

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(17318 Falls Road)		
5th Election District	*	OFFICE OF
3rd Council District		
Michael P. Smith, Per. Rep.	*	ADMINISTRATIVE HEARINGS
(Estate of Myles R. McComas)		
Legal Owner	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2015-0208-SPH
	*	

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

PETITIONER'S MOTION FOR RECONSIDERATION OF ALJ BEVERUNGEN'S OPINION AND ORDER

The Estate of Myles R. McComas, through the Personal Representative of the Estate, Michael P. Smith (collectively the "Petitioners"), by and through their attorneys, Lawrence E. Schmidt, Christopher W. Corey, and Smith, Gildea & Schmidt, LLC, pursuant to Rule 4, Section K of the Rules of Practice and Procedure Before the Hearing Officer of Baltimore County, file this Motion for Reconsideration of the Opinion and Order of the Administrative Law Judge dated May 15, 2015 (hereinafter "ALJ"), for the reasons set forth hereinafter.

I. BACKGROUND

This matter came before the Office of Administrative Hearings for Baltimore County ("OAH") for public hearing on Monday, May 4, 2015, as a Petition for Special Hearing. The Petition was filed in order to facilitate the administration and distribution of certain real property owned by the Estate of Myles R. McComas, and more specifically seeking approval for prior and proposed inter-family subdivisions and a previous non-density transfer of a parcel of land zoned RC 2. In addition, the Petition sought confirmation that the proposed distribution of real property of the Estate was exempt from the development review process as contained in Article 32 of the Baltimore County Code ("BCC"). Finally, the Petition requested confirmation of the rights of

subdivision (density) associated the McComas property. At a public hearing held on the Petition, no one appeared in opposition.

After the public hearing, and in a written opinion and order issued on May 15, 2015, certain findings of fact were made by the ALJ. These are not contested herein. These findings established the following. In or about 1888, John Hale acquired by deed approximately 53+/- acres of land in northern Baltimore County in proximity to what would become the intersection of Falls Road and Mount Carmel Road. During his period of ownership, Mr. Hale conveyed from the property four separate parcels of land between 1891 and 1919, comprising approximately 12+/- acres. Following Hale's death in 1965, his son (Clarence Hale) inherited the property, and in that same year he conveyed what remained of the original property (approximately 40 acres) to Myles McComas, Sr. and Rachel McComas, his wife. In 1970, Mr. and Mrs. McComas conveyed approximately 10 acres pursuant to a condemnation action to the Baltimore County Board of Education for the development of that acreage with a school. As summarized in the ALJ's opinion, "[t]hat was the status of things as of November 1979, the starting point for analyzing density rights associated with R.C.-2 land." (ALJ Opinion, pg. 2). Thus, the McComas' owned approximately 30 acres of land as of November 1979. As is well settled, November 25, 1979 is the date utilized in determining the development/subdivision potential of property zoned RC 2, as that is the date on which Baltimore County enacted legislation establishing those rights of subdivision for such parcels (Bill 178-99).

In 1987 and 1988 (through two separate conveyances that were apparently done for tax purposes) Myles and Rachel McComas transferred 9.25+/- acres of the property to their son (Myles Jr.) and his wife (Janney H. McComas). Thereafter a single family dwelling was constructed on that acreage by the younger McComas Family. A second conveyance of 1.7(+/-)

acres to their son and daughter-in-law was completed in 1989 by the senior Mr. and Mrs. McComas for purpose of providing land to accommodate a driveway from Falls Road to the dwelling which had been constructed on the 9.25 acre property. As stated in the ALJ's opinion, "[o]ne of the transfers for which approval is sought herein is the 'non-density' transfer of the 1.7 acre parcel to the 9.25 acre parcel improved with the dwelling, to create a single parcel." (ALJ Opinion, pg. 2). As noted above, the Petition seeks confirmation of the legitimacy of these conveyances, as they were apparently completed without formal approval by Baltimore County. The conveyance of the 9.25 undoubtedly conveyed one density unit (right of subdivision) as a dwelling was built on that acreage. The 1.7 acre transfer was "non-density" in nature; as that small acreage was never residentially developed and transferred only to accommodate the adjacent dwelling and became merged into that lot.

As noted above, the Petition also requests approval (from a zoning and subdivision perspective) of provisions of the Last Will and Testament of Myles McComas Sr., which is presently being probated in the Register of Wills of Baltimore County. That Will bequeaths certain acreage of the original 40 acres located to the west of Falls Road to his grandchildren, and acreage to the east of Falls Road to his son, Michael McComas.[1] In order to administer Myles R. McComas' Estate, the Petition seeks confirmation that the distribution of property as directed under the Will is permitted without development/subdivision review (See BCC § 32-4-106(a)(iv)) and a determination of the development/subdivision rights now associated with the property. The Petitioners largely agree with all aspects of the ALJ's opinion and order, but request reconsideration of the conclusion that the acreage subject to probate is but a single lot of

[1] Myles McComas' wife (Rachel McComas) predeceased him and thus he was the sole owner of the property at the time of his death. On the date of his passing, the property totals approximately 19 acres (i.e. 40 acres originally acquired less the acreage conveyed Baltimore County and later to the son/daughter-in-law for their home and driveway),

record and contains only a single development right. As will be addressed hereinafter, Petitioner avers that the acreage to be inherited by Michael McComas has two density units and the property to be inherited by the McComas grandchildren has one remaining density unit.

Indeed, the threshold issue in addressing this question was correctly stated in the ALJ's opinion wherein it was stated that "...the pivotal issue turns on whether a 1927 acquisition by the State Road Commission ("SRC"), [now known as State Highway Association ("SHA")], had the effect of dividing the property into two parcels." (ALJ Opinion, pg. 3). If this acquisition by the SHA effectively subdivided the property into two pieces (i.e. one on each side of Falls Road) then the parcel on the west side retains one right of subdivision (i.e. 2 rights attributable to an RC 2 zoned parcel between 2 and 100 acres, less the density unit conveyed to son/daughter-in-law) and the undeveloped parcel on the west side contains two density units.

In reaching the conclusion that the property is but a single parcel, the ALJ analyzed the granting language "right of way and land" set forth in the 1927 Plat that transferred the property to the SHA. (ALJ Opinion, pg. 3). The ALJ noted that the property would undoubtedly be considered a single parcel if the acquisition by SHA occurred after 1990, due to the enactment of Baltimore County Zoning Regulation ("BCZR") § 1A01.3.B.1 in that year. That section provides that RC 2 zoned parcels divided by a road, right of way or easement are considered to be single properties. However, given the date of SHA's acquisition (1927), which predated not only the adoption of the RC zone in the BZCR but indeed the adoption of any zoning regulation in Baltimore County, the ALJ properly determined that this provision of the BCZR is inapplicable in analyzing the legal effect of an acquisition that took place over 60 years before its enactment. *Id.* That is, determining the status of what would become the McComas' holdings as they existed immediately after the 1927 transfer is dispositive.

In analyzing this issue, the ALJ correctly noted that as an incident of basic real property law, the transfer of a fee simple interest to create a road would have the effect of dividing the parcel into noncontiguous parcels under "separate ownership." *Id.* at 4. Indeed, when an individual owns two properties that are separated by a parcel owned in fee simple by another, basic property law would mandate the conclusion that (absent an intervening statute) the two unconnected properties are separate pieces of land. Indeed, this had been the interpretation by the zoning authorities of Baltimore County in the years before 1990, until the County Council legislatively resolved the issue as it relates to roads, rights of way and easements, by its enactment on the current language in § 1A01.3.B.1. Where Petitioners respectfully disagree and seek reconsideration of the Opinion turns on the following finding: "...I cannot assume the state acquired a fee simple interest, as opposed to a "right-of-way" or easement for travel." (ALJ Opinion, pg. 4) This finding thus led to a conclusion that the approximately +/-30 acres tract of land was a single parcel in 1927 after the conveyance to SHA was completed. *Id.*

Prior to addressing the particular facts and legal theories relevant to the issue, the following should be particularly noted. Due to the particular facts and circumstances surrounding this case, the decision rendered herein will be of specific application and not precedent. Decisions of the ALJ are not precedent as a matter of law, notwithstanding that the Baltimore County zoning authorities prefer a consistent application of the BCZR. But the collective facts and circumstances here are unique (e.g. conveyance by plat to SHA prior to the adoption of any zoning, subsequent out conveyances and distribution to separate beneficiaries.) Petitioners recognize that the ALJ is not a judge of the court and cannot "do equity". However, some sense of fundamental fairness should be applied, so that the McComas beneficiaries do not acquire a parcel without *any* development and subdivision rights, which is the effect of the prior decision.

As the result of ALJ's prior decision, the parcel on the west side of Falls Road has no density and cannot be used for any residential use. Notwithstanding the Department if Planning's desire for open space and retention of the rural nature of the locale as expressed in their ZAC comment, the elimination of any rights of development for the property by the beneficiary smacks of seizure of land without compensation by the sovereign, particularly under these factual circumstances. Although the RC 2 zone is a resource conservation zone, residential development is a permitted and appropriate use.

II. ARGUMENT

1. Pursuant to Maryland Law, There is no Presumption that the Government Acquires Only an Easement for Travel Under the Facts at Issue

As support for the ALJ's determination that SHA's acquisition of the bed of Falls Road was not in fee simple, the case of *Turner v. WSSC,* 221 Md. 494, 498-500 (1960), was cited. The ALJ stated that this case established "...a common law doctrine pertaining to rural roads (such as Falls Road in the vicinity of the subject property) which provides that unless stated to the contrary, the government acquires only an easement for travel." (ALJ Opinion, pg. 4). The Petitioner's respectfully disagree. To the contrary, for reasons to be discussed herein, it is Petitioner's position that under the circumstances presented in this case, that the SHA is presumed to have acquired a fee simple interest in the bed of Falls road, and only where a contrary intent is clearly stated will this presumption be rebutted.

In *Turner v. WSSC*, unlike in the instant matter, the ownership of the bed of the state road at issue was not in dispute. *Turner,* 221 Md. at 498 ("It was stipulated that the Turners hold record title to the bed of Georgia Avenue..."). The question presented in *Turner* was whether the laying of a sanitary sewer in the road bed exceeded the scope of the State's easement therein, particularly considering the rural character of the road, thus entitling the *Turners* to

compensation. *Id.* at 499; see *Baltimore County Water and Electric Co. v. Dubreuil,* 105 Md. 424, 439-40 (1907) (where it was again undisputed that the abutting property owners owned the adjacent street bed in fee, the Court held that an injunction was properly issued to prohibit the laying of water pipes in the street bed because of the rural character of the street). Accordingly, this case concerned the scope of an existing easement and *did not establish a presumption* that the government only acquires an easement for travel in rural roads.

Although Petitioners aver that no presumption of easement is created in *Turner,* the Petitioners recognize a long line of Maryland cases which provide for such a presumption in railroad cases only. Perhaps this is the presumption upon which the ALJ relied. Specifically, "Maryland courts presume that the grant of a right-of-way to a railroad is an easement if the deed fails to convey expressly the grantor's intent to create a fee simple interest." *Baltimore County v. AT&T Corp.*, 735 F. Supp. 2d. 1063, 1071 (D. S.D. Ind. 2010) (citing *Miceli v. Foley*, 83 Md. App. 541, 575 (1990). But this presumption is expressly limited to railroad cases, as the Court in *Baltimore County v. AT&T Corp.* further explained that "Maryland also recognizes substantial policy reasons for construing ambiguous grants made to railroads as easements rather than fee simple titles." *Id.* at 1072. Thereafter, the Court went on to quote the following explanation from the Maryland Court of Appeals in *Chevy Chase Land Co. v. United States*, 355 Md. 110, 126-27 (1999):

> "A great number of railroad corridors have been abandoned in recent years. See *Preseault v. ICC*, 494 U.S. 1, 5, 110 S.Ct. 914, 108 L.Ed.2d 1 (1990) (observing that the nation's railway system has lost about 130,000 miles of track since 1920 and noting that 'experts predict that 3,000 miles will be abandoned every year through the end of this century') (footnote omitted). Whether a right-of-way is construed as an estate in fee simple or an easement has significant implications for the utility of the land upon abandonment. If the deed of a right-of-way is construed as an estate in fee simple, the railroad will retain the right-of-way even after it is no longer used for any transit purposes—effectively severing otherwise contiguous pieces of property, and for no useful purpose." *Id.*

The *AT&T* Court went on to state that "[t]he *Chevy Chase Land* court recognized that a deed to a railroad purporting to convey a right-of-way may sometimes convey an estate in fee simple but reaffirmed the presumption against a fee 'when a deed conveying a right-of-way fails to express a clear intent to convey a different interest in land, a presumption arises that an easement was intended.'" *Id.* Accordingly, as provided above, the presumption that an easement will be conveyed absent an express intent to convey fee simple title is exclusive to the railroad context. This presumption is not applicable to the public travelway known as Falls Road.

2. There is a Presumption Under Maryland Law that the Road Bed was Conveyed in Fee Simple

Rather than the reliance upon an alleged presumption in Maryland law, an examination of the language in the conveying instrument is the most appropriate means of analysis to determine the nature of the interest acquired by SHA. There are four words/phrases used in the instrument of conveyance which demonstrate the intent of the Grantor to transfer the property absolutely, in fee simple.

First, in § 2-101 of the Real Property Article (Rules of Construction) of the Annotated Code of Maryland entitled: "Grant" or "bargain and sell" the following is stated:

> "The word '*grant*', the phrase 'bargain and sell', in a deed[2], or any other words purporting to transfer the whole estate of the grantor, passes to the grantee the whole interest and estate of the grantor in the land mentioned in the deed unless a limitation or reservation shows, by implication or otherwise, a different intent.

[2]§ 1-101(c) of the Real Property Article provides an extremely broad definition of "Deed" that includes the conveyance document at issue. § 1-101(c) states that a "Deed includes any deed, *grant*, mortgage, deed of trust, lease, *assignment*, and release, pertaining to land or property or any interest therein or appurtenant thereto, including an interest in rents and profits from rents." (emphasis added)

Moreover, the 1927 SHA Plat which conveyed the property to SHA provides, in pertinent part, as follows:

> "[W]e for ourselves, our heirs, personal representatives and assigns do hereby deed, *grant*, and convey unto the State of Maryland for the purpose of or to be used in connection with a State Highway *the right of way and land* shown on the accompanying plat…"

Thus, by the *grant* of the property by the then owners to SHA, the intention of the owners was to convey their "whole interest and estate" unto SHA, as in fee simple.

Second, the reference to the conveyance of "land" is significant. In § 4-105 of the Real Property Article, Annotated Code of Maryland the following is stated:

> "Unless a contrary intention appears by express terms or is necessarily implied, *every grant of* ***land*** *passes a fee simple estate*, and every grant or reservation of an easement passes or reserves an easement in perpetuity." (emphasis added)

Thus, the use of the word "land" in describing the nature of the conveyance is evidence of the intent to convey a fee simple interest.

Third, the Court of Special Appeals has cited with approval the following rule of construction when interpreting words of conveyance: "The words 'heirs and assigns', as one New York court has noted, are the usual technical words of conveyance granting a title in fee simple." *Gardner v. Garner,* 25 Md. App. 638, 644 (1975).

Finally, the ALJ noted the language in the instrument which referenced the conveyance of a right of way to SHA in the discussion of whether a fee simple interest or right of way was being transferred. The ALJ observed that the use of the phrase "right of way" could be interpreted to describe the nature of the interest conveyed. But an examination of the entire passage, in context, is instructive. This language is dispositive to the conclusion that the grantor intended to impose a deed restriction, limiting what SHA could do with the land acquired. In other words, the owner not only granted land in fee to the grantees and their successors and

assigns; but also conveyed with that absolute interest a limitation thereon that the land could be used for highway purposes only and not for other uses.

Therefore, applying the statutory provisions of law stated above to the facts at issue, § 2-101 establishes the general rule that the word "grant" purports to convey the whole interest of the grantor in the land, absent an intent to the contrary. The word "grant" is in fact used in the conveyance language of the 1927 Plat. Moreover, § 4-105 distinguishes between "easements" and "land", further providing that every grant of land passes a fee simple estate unless a contrary intent is shown. As shown above, the 1927 Plat at issue likewise provides for a conveyance of land, as distinguished from a right of way, thus indicating a conveyance in fee simple pursuant to § 4-105. Additionally, the granting language of the 1927 Plat also contains the language "heirs" and "assigns", which according to the Court of Special Appeals in *Gardner*, "are the usual technical words of conveyance granting a title in fee simple." Finally, although a "right of way" is identified in the instrument, considering the entirety of the language used, it is reasonable that such words were utilized to impose a deed restriction to the future use of the property and not to describe the interest conveyed.

Collectively, Petitioners believe that the presumption identified in the ALJ's opinion is inapplicable under the present circumstances. It is the Petitioners belief that applying the applicable principles of law to the present facts requires a determination that the bed of Falls Road was conveyed to SHA in fee simple, unless a contrary intent can be established. There is no evidence to the contrary. Accordingly, Petitioners respectfully request that ALJ reconsider this issue of law.

3. Applying Principles of Construction, the Granting Language "and Land" Provides for a Fee Simple Conveyance

As noted herein, the 1927 Plat describes the interest being transferred as "the right of way *and land*." In analyzing the meaning of this conveyance language, Maryland Courts have explained that "we must consider the deed as a whole, viewing its language in light of the facts and circumstances of the transaction at issue as well as the governing law at the time of the conveyance." *Chevy Chase,* 355 Md. at 123. Additionally, the Court in *Chevy Chase* explained that "it has generally been held by courts of this and other states that deeds which in the granting clause convey a 'right of way' are held to convey an easement only." *Id* at 124. Furthermore, it is well established that "[a] right of way, whether public or private, is essentially different from a fee simple right to the land itself over which the way passes. A right of way is nothing more than a special and limited right of use." *Id.* at 126 (quoting *Pub. Serv. Commn. v. Gas Etc. Corp.,* 162 Md. 298, 312 (1932)). Therefore, under the facts at issue, given that the meaning of the term "right of way" is clear under Maryland law, the pertinent question here is what was the intent of the parties in including the language "and land" as far as determining what interest was conveyed.

Significantly, in determining that the term "right of way" conveyed an easement and not a fee simple interest, the Court in *Chevy Chase* emphasized that, unlike in the case at bar, "[t]he granting clause does not state that a piece of *land* is being conveyed nor does it provide any indication that an estate in fee simple was intended to be conveyed"; (emphasis added) rather, "the granting clause of the deed directly conveys a 'right of way.'" *Chevy Chase,* 355 Md. at 130. As such, the Court in *Chevy Chase* recognized that the word "land" indicates something different than a right of way and that an estate in fee simple was intended to be conveyed. Turning to the case at bar, consistent with the Court's analysis in *Chevy* Chase, the use of the

words "and land" in the 1927 Plat provides a conveyance of a fee simple interest in the bed of Falls Road.

A review of out of state case law provides further support for this conclusion, and in particular, analogous conveyance language was analyzed in the California case of *Concord and Bay Point Land Co.* v. *City of Concord,* 229 Cal. App. 3d. 289 (1991). The principle issue in *Conrad* was whether an interest in land that was conveyed to a railroad company was in fee simple or merely an easement. *Id.* at 294. The Court in *Conrad* noted that, like in Maryland, "[a] grant of real property is presumed to convey a fee simple title unless it appears from the grant a lessor estate was intended"; however, "[d]eeds for railroad rights-of-way are usually construed as giving a mere right if way (i.e. easement)." *Id.* at 294. In *Conrad,* the pertinent description language under consideration was follows:

> "A strip of *land* sixty (60) feet in width through the property of the said party of the first part, situate in the County of Contra Costa, State of California, being thirty (30) feet on each side of a center line...*to be used for a right-of-way* for an electric railroad." *Id.* at 293.

In analyzing this description, the Court in *Conrad* noted the use of the word "land" as "indicating that it is the land itself, and not merely an easement over the land, which is conveyed." *Id.* at 294. The Court emphasized that "the description clause here did use the word 'land': Parcel Three is described as a 'strip of land'", and in reliance thereon determined that this "language is not apt for conveyance of a mere easement." *Id.* at 295-96. Instead, the *Conrad* Court established that "the deed clearly grants an estate in land; an easement is an interest in the land of another rather than an estate of land." *Id.* at 295. Additionally, while the *Conrad* Court certainly indicated that the use of the word "land" was dispositive, the Court also addressed the use of the phrase "right-of-way", stating that "right-of-way appears here to be used in the physical sense, as the location of a railway roadbed." *Id.* at 296. Thus, despite the presumption

against construing conveyances to railroads as transferring interests in fee simple, the *Conrad* held the use of the word "land" in the plain language of the deed indicates an intent to convey a fee simple interest and that a contrary intent is not indicated by use of the phrase "right-of-way." *Id.* at 297.

Here, the granting language at issue is analogous to the language under consideration in *Conrad*, where the governing principles of real property law were the same as those applicable in the case at bar. Like in *Conrad,* Petitioners believe that the use of the word "land" in the granting clause of the 1927 Plat demonstrates the conveyance of a fee simple interest. For this reason and in consideration of the authority cited herein, Petitioners respectfully request reconsideration of the ALJ's decision and find that the conveyance to SHA was in fee simple.

4. Extrinsic Evidence Shows the acreage on both sides of the Falls Road are considered separate parcels

It is noteworthy that Falls Road is a Maryland State Highway, identified as Maryland Route 25. Additionally, SHA has designated Falls Road as a Maryland Scenic Byway, thus rendering the Falls Road corridor subject to increased regulation relating to roadside planting and landscaping, requests for access permits, roadside maintenance, roadside enhancement, utilities, signage, and lighting, in addition to other miscellaneous matters. (See SHA Scenic Byway Guidelines (hereinafter "Appendix 1"); see also Maryland Scenic Byway Strategic Plan (hereinafter "Appendix 2"), pg. 5. The impact of the designation of Falls Road a Scenic Byway can also be seen within Baltimore County Code § 32-4-226, which allows SHA to review and offer input on proposed Development Plans submitted in Baltimore County. Most significantly, however, the SHA Scenic Byway Guidelines leave no doubt as to the ownership of the instant property, considering that the Guidelines provide that *100% of the roads that are designated as*

Scenic Byways are owned by government entities. Specifically, the SHA Scenic Byway Guidelines state as follows:

> "SHA has designated 19 byways that encompass 1595 miles. Of this mileage 84% is owned by the State, nearly 15% is owned by local jurisdictions, and a small percentage is owned by the National Park Service." (App. 1, pg. 3).

Moreover, as indicated at the public hearing, SHA maintains the road. They pave it, repair it and treat it as their own. Clearly, based on these acts, and the designation of the road as a scenic byway, SHA exercises complete dominion over this land as a fee simple owner would. In addition to the designation of Falls Road as both a State Road and a Scenic Byway, the Maryland Department of Assessments and Taxation ("SDAT") provides further evidence of the separation of the parcels as two separate properties. SDAT identifies the property to the east of Falls Road and the property to the west of Falls Road as separate parcels with separate Tax Identification numbers (Tax ID 0513001050 & 0513001051).

Thus, when considering this extrinsic evidence in conjunction with the additional arguments set forth herein, Petitioners respectfully request that the ALJ reconsider the Opinion and revise the same to hold that the 1927 conveyance of Falls Road was a transfer in fee simple, thus creating two separate parcels (each with separate rights of subdivision) on either side.

III. CONCLUSION

Therefore, for the reasons set forth herein, Petitioners respectfully request that the ALJ reconsider the Opinion dated May 15, 2015, and find that for purposes of establishing development rights pursuant to the BCZR, the McComas property is two separate parcels on the date of the enactment of the R.C. 2 Regulations. Further, to eliminate any confusion or uncertainty in the future, the Petitioner requests that the ALJ specifically articulate the following:

1. That the previous conveyance of the 9.25 acres from Myles McComas Sr. and Rachel McComas, his wife, to their Myles McComas and Janney H. McComas, his wife, was a density transfer of one right of subdivision (density unit) that was thereafter exercised via the construction of a single family detached dwelling.
2. That the previous conveyance of the 1.7 acres from Myles McComas Sr. and Rachel McComas, his wife, to Myles McComas Jr. and Janney H. McComas, his wife, was for improvement with a driveway and was a non density transfer of property.
3. That the proposed conveyance by Last Will and Testament of Myles McComas to his grandchildren of the "east side" parcel and to his surviving son of the "west side" parcel is not subject to the development/subdivision review process pursuant to BCC 32-4-106(1a)(iv).
4. That the conveyance by prior owners of the bed of Falls Road to the State Roads Commission (SHA) effectively created two separate parcels of land on either side, each with its own separate rights of subdivision and that the parcel on the east side contains one density unit and the parcel on the west side contains two density units.

Respectfully submitted,

Lawrence E. Schmidt, Esquire

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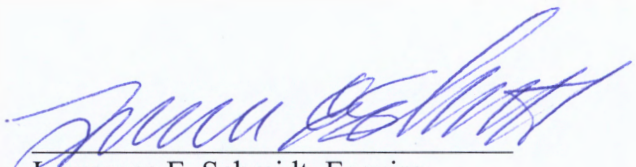
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of **June,** ___ **2015**, a copy of the foregoing Motion for Reconsideration was sent via electronic mail and mailed first-class, postage prepaid to:

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



Lawrence E. Schmidt, Esquire

MARYLAND BYWAYS

MARYLAND

Sustaining the roads less traveled

Context Sensitive Solutions

For work on Maryland Byways

SHA • A Century of Progress 100 years 1908 • 2008

Appendix 1

February 2008

Acknowledgments

Thank you to the Working Group for their thoughtful advice and participation in the development of this guidebook. Special thanks to Mr. Charles Adams and Mr. Terry Maxwell for their overall vision and support for preserving, maintaining and enhancing Maryland's Byways.

Please Note:

The purpose of this publication is to serve as a planning, design and management tool and to provide general information that will assist the Maryland State Highway Administration (SHA) in their efforts to preserve, maintain and enhance Maryland's Byways. The guidelines are intended for use by SHA staff to be consulted as they develop individual projects or implement broad programs and activities, recognizing the scenic values, historic significance and overall character of the state's byways and the need to gain concurrence from the relevant regulatory agencies, while at the same time considering safety, operations, maintenance, constructability, stakeholder input, impact on the route's users and neighbors, and cost. The authors, their employees and agents shall bear no responsibility for any use of the contents of the publication.

The organization and development of these guidelines began as an outgrowth of the Maryland Historic National Road Corridor Partnership Planning effort conducted from January of 2000 to May of 2001 and in the Maryland State Highway Administration's ongoing efforts at encouraging Context Sensitive Solutions (CSS) as a way of doing business for all projects following the 1998 "Thinking Beyond the Pavement" Workshop. The concept of developing CSS principles and treatment guidelines for Maryland's Byways was first suggested as a parallel to the framework provided in the field of historic preservation by the Secretary of the Interior's Standards for Rehabilitation which provide a framework for understanding the significance of historic resources and for guiding treatment decisions that will preserve the physical fabric and character-defining features of these resources. While these broad guidelines are intended for use for all of the state's byways, ideally each byway would have a CSS guide tailored to preserving its resources, maintaining its overall character and enhancing the byway. Such a guide has been developed for the Maryland Historic National Road Byway to provide specific guidance for this nationally designated All American Road.

Working Group for SHA Byways Guidelines

Mr. Charles Adams, Director, Office of Environmental Design, SHA
Mr. Dennis Adams, National Scenic Byways Program, Federal Highway Administration
Mr. Erv Beckert, Department of Public Works and Transportation, Prince George's County
Mr. Joe Bissett, Office of Construction, SHA
Ms. Elizabeth Buxton, Cultural Resources, Project Planning Division, SHA
Mr. Fred Crozier, District Engineer, Maryland SHA, LaVale, MD
Mr. Jack Dillon, Executive Director, The Valleys Planning Council, Inc.
Ms. Carol Ebright, Archeologist, Project Planning Division, SHA
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Mr. John Zanetti, Office of Highway Design, SHA

Additional Advisors for this project:

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Mr. Dan Marriott, National Trust for Historic Preservation
Mr. Charles Birnbaum, Historic Landscape Initiative, National Park Service
Ms. Elizabeth Hughes, Deputy Director, Maryland Historical Trust
Mr. Peter Kurtze, Administrator, Evaluation and Registration, Maryland Historical Trust
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Introduction

Maryland's Byways Program

The Maryland State Highway Administration (SHA) has established the Maryland Byways Program to enhance quality of life for Maryland's citizens, engender pride, and improve visitor appeal of the state's most scenic, cultural and historic roads. Byways help residents express their values of place, contribute to the state's economy through tourism development, and provide unique experiences for all. This document is intended to build awareness about Maryland's collection of byways and understanding that their scenic qualities and the visual environment of the road are especially important to maintain. The document is provided as a tool to help SHA staff make informed decisions about all types of projects or maintenance along Maryland's designated byways. SHA seeks to identify, designate, promote, and encourage stewardship of the state's byways and their surrounding resources while providing safe routes for travel.

SHA has designated 19 byways that encompass 1595 miles. Of this mileage 84% is owned by the State, nearly 15% is owned by local jurisdictions, and a small percentage is owned by the National Park Service. About 34% of the routes are currently classified as arterials, 50% are classified as collector routes, and about 15% are classified as local roads. While all of these routes have been designated as State Byways by SHA, two of them have achieved additional designation by the Federal Highway Administration (FHWA). In 2002 FHWA designated the Historic National Road as an All American Road and the 2005 Catoctin Mountain Highway as a National Byway.

The Purpose of the Guidelines

The function and appearance of a road corridor are the result of many separate actions taken over time to address specific needs. While each of these actions - repair of a drainage culvert, changing the approach to an intersection which has become a high accident location, or adding signage to alert travelers to a nearby historic museum – has a valid purpose, the result of all of them can either support or degrade the experience of traveling a byway route for both local residents and visitors. The cumulative effect of a series of individual actions, if undertaken without reference to protecting and enhancing the special qualities of the byway, can be far greater than anticipated.

SHA has been a national leader in implementing Context Sensitive Solutions (CSS) for transportation development. Context Sensitive Solutions result from a collaborative, interdisciplinary approach to developing and implementing transportation projects, involving all stakeholders to ensure that transportation projects are in harmony with communities and preserve and enhance environmental, scenic, aesthetic, and historic resources while enhancing safety and mobility. While the CSS approach applies to all of SHA's projects, Maryland's Byways, designated for their acknowledged scenic, cultural and historic qualities, merit additional care in decision-making to preserve and enhance their special qualities. SHA's CSS Policy Framework and Goals are included in Appendix A (see page 15).

Maryland Byway Statistics

- Maryland Byways: 19 routes, 1595 miles
- Ownership
  - 84% State
  - 15% local jurisdictions
  - Less than 1% National Park Service
- Nationally designated byways: 3
  - Historic National Road
  - Catoctin Mountain Highway
  - Chesapeake County

The purpose of this guidance is to help project staff and other stakeholders understand the special qualities of a byway and make project and operational decisions that will reinforce and enhance these qualities. It is understood that actions by SHA regarding preserving, maintaining and enhancing the special features of the byway are only a portion of all actions that will affect the appearance of the byway corridor. Actions on privately or publicly held land along the byway corridor but outside the right-of-way can either support or erode the visual quality and character of the corridor, but guidance regarding these actions is outside of the scope of this document. In a number of places in these guidelines, however, reference is made to areas for cooperation between the SHA project team and local officials to achieve project and community objectives.

When to Use these Guidelines

These guidelines have been developed to help project managers, private development project representatives, design team members, environmental managers, access permit managers, contractors, district maintenance workers, resource and related permitting agency staff, and interested citizens to apply the Maryland Byway CSS guidelines during project planning, design, construction and operations for projects undertaken along Maryland's designated byways.

Whether you are responsible for a safety improvement along a byway, roadside planting, a request for an access permit, or roadside maintenance, before proceeding with the work, you need to acquire some knowledge of the Maryland Byway as a whole and why it was designated.

The principal expertise about Maryland's Byways is found in SHA's Office of Environmental Design (OED). OED's staff will be involved in projects in the SHA's Primary Construction Program and Secondary Construction Program that have project overview from SHA's central office in Baltimore. Most projects on Maryland's Byways, however, will be ones that SHA refers to as System Preservation Minor Projects, such as Safety/Spot Improvements, Resurface/Rehabilitation, Traffic Management Signage/Signals, Bridge Replacement/ Rehabilitation, Intersection Capacity Improvements, and Pedestrian/Bicycle Facilities. System Preservation Minor Projects are performed mostly at the District level and typically have not involved OED review. When any project is proposed that is on the state's designated byways, District Office staff should consult with OED staff to make the required assessments of significant byway features and so that OED staff can represent the byway interests on the project team.

Approach to Work

SHA's program criteria for designating byways require that all corridors must possess important scenic qualities, be representative of a heightened visual experience, distinctive with respect to the composition of features associated with a byway corridor, or showcase unique traits of that particular region. In addition to scenic qualities, many byway corridors also possess natural, historical, cultural, and/or archeological features and resources and may provide access to significant recreational or tourism opportunities.

In addition, SHA's Environmental Policy calls for SHA staff to incorporate and integrate smart growth, environmental protection and enhancement measures in planning, design, construction and operations; and to protect and enhance all aspects of the natural and human environment whenever possible.

The basic approach to work along a byway is to **identify, preserve, maintain** and to **enhance** the features that contribute to a resident's or visitor's special experience when traveling along the byway. The next section explains CSS principles for Maryland's byways that embody these actions to provide a framework for understanding the byway as a resource and for preserving and/or enhancing its significant qualities. The final section of this guide reviews fifteen project elements and makes suggestions for treatments aimed to meet the goal of preserving, maintaining and enhancing Maryland's Byways.

What to do When Your Project is Located on a Maryland Byway

- Check the Maryland Byways Map to identify byway routes. If you are unsure if the project is on a byway, call the Byways Coordinator at SHA's Office of Environmental Design (410 545-8637).
- Determine if SHA is the only road manager or if other jurisdictions also hold responsibility.
- Follow MD Byway CSS Principles
- Determine appropriate treatments to preserve character-defining features, maintain the byway character and/or enhance the special character of the road.

Principles

Identifying the Byway's Character-defining Features

Understand the overall significance of the roadway as a byway.

■ **What is the nature of the scenic qualities?**
What is the nature of the scenic qualities for which the road was designated – views of distant scenery, rural views close to the road, views of historic buildings, etc.?

■ **What are other notable resources?**
What types of other resources (natural, historical, cultural, archeological, recreational) contribute to the overall significance? How and where are these represented along the byway?

Understand the positive quality of the experience that a traveler has along this byway within the context of a typical length of trip. Identify elements of the road design and roadside that contribute to this positive experience.

■ **What is the quality of the traveling experience?**
Is the traveling experience one that conveys the character of a small town? Is the experience one that is characterized by open spaces and broad views? Is the experience one of traveling through an overhanging canopy of trees? Is the experience one of traversing a two-lane route with relatively narrow shoulders and closely spaced trees?

■ **What is the character of the road and roadside?**
What are the elements of the road and roadside design that establish the character of the road and the traveler's experience as you have identified it? Roadway design elements would include both its alignment and the associated structures used in the construction of the road. Such elements might include paved or turf shoulders, sidewalks, hiker/biker trails, landscaped medians, traffic signage, lane and edge pavement, striping and underground utility facilities (no poles) or a bridge design which provides water views from passenger vehicles.

If a project were to be undertaken within Chestertown which is part of the Chesapeake Country Byway, for example, the specific intrinsic qualities or resources would include historic buildings of the National Register Historic District and scenic views of the historic streetscape. The elements of the road and roadside context that contribute to the byway's scenic and historic character could include brick sidewalks, street trees which provide a partial canopy over the street, and elements of the streetscape that convey a sense of community scale and encourage slower vehicle speeds and multi-modal use including use by bicycles and pedestrians. In a more rural environment, the elements of the road and roadside context that contribute to the byway's scenic and/or historic character might include the drainage accommodated through swales, horizontal and vertical alignments that follow the natural contours of the land, and the proximity of trees to the roadside.

The list of intrinsic qualities or resources and the elements of the road and roadside context that contribute to the byway's scenic and/or historic character are called "character-defining features."

Maryland Byway CSS Principles

■ **Identify** Character-defining features.
- Identify specific intrinsic qualities or resources.
- Identify elements of the road and roadside that contribute to the byway's scenic and/or historic character.

■ **Preserve** Character-defining features where possible.

■ **Maintain** the overall character of the roadway.

■ **Enhance** the Byway to Support its Special Character.
- Where character-defining features are missing, develop solutions to meet goals in a manner to complement characteristics of the byway.
- Include roadside enhancement projects to add value to the traveller's experience.

Character-defining features of this streetscape in Westminster include both intrinsic resources and road and roadside elements.
Intrinsic resources: *historic buildings and the scenic character of the streetscape.* ***Road and roadside elements:*** *lighting standards, street trees, and brick sidewalks. Intrinsic resources of the rural roadway on the right include the pastoral equestrian landscape, and extensive views. Road and roadside elements include the 2-lane narrow cross-section, one-foot gravel shoulders, continuous fencing the evenly spaced row of mature trees alongside, and gentle dip of the swale.*

Preservation of Character-defining Features

Preservation is defined as the act or process of applying measures necessary to sustain the existing form of identified character-defining features of a byway. In some instances preservation will apply to road features that are judged to be historically significant. Where a historic feature is identified, work will generally focus on the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. Preservation would apply to the old alignments of the western section of the Historic National Road, for example, including alignments that are no longer used but have remains of the original road and related structures. Preservation might also be appropriate to retain a specific scenic view that has been recognized and valued by travelers for many years along a byway.

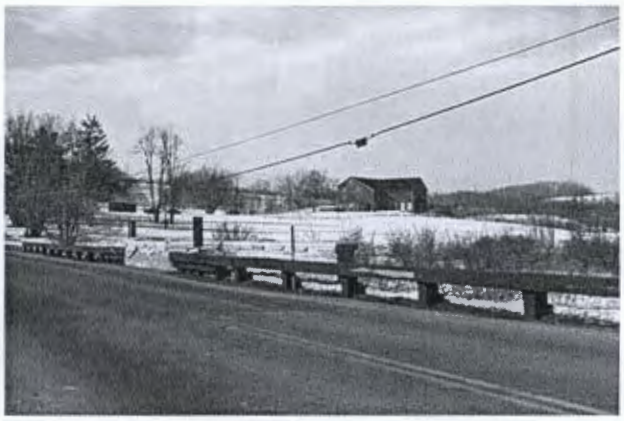
At times it may not be possible to preserve the physical fabric of a character-defining byway feature due to safety issues or issues of durability of materials. In these cases it may be possible to design a new feature that replicates the physical character of the historic feature but with needed modern materials. For the Historic Columbia River Highway in Oregon, for example, the guardrail used along much of the byway's perimeter was considered so important to defining the byway's character that a modern guardrail was designed as a close replica of the historic rail and crash tested to ensure it met safety requirements.

In other cases it may be possible to work with a project element that was an important character-defining feature in the past but is now beyond repair, to support a new use that allows it still to contribute to the character of the byway. For example, the 1920's concrete bridge over the Monocacy River that is falling apart could be stabilized as a pedestrian bridge and overlook to view the adjacent tollhouse that is a character-defining feature of the Historic National Road.

Maintaining the Byway Character

Maintaining the character of the byway is a key concept. The character of the byway derives from the distinctive qualities, attributes or characteristics of the road and right-of-way as well as from the specific intrinsic qualities found outside the right of way. It may derive from physical attributes such as the vertical and horizontal alignment of the road or from the relationship of the alignment to scenic views of dramatic natural features or of pastoral farm scenes. Concern for maintaining the character-defining features applies to planning and design phases of a project, to project construction, to access permit decision-making, to traditional maintenance activities of planting, mowing and snow removal along a byway – in essence to all actions that affect the context of the byway.

The positive experience of traveling along a byway whether by auto, bicycle or on foot is the essence of why the state has designated the byway. The traveler may be commuting to work, on a pleasure trip to visit nearby attractions, or enjoying physical exercise along the byway. The physical character of the byway will enhance the traveler's experience. However, if individual actions are undertaken without reference to protecting and enhancing the overall character of the byway, the byway's appealing qualities may be lost.



This recently reconstructed bridge over Meadow Run illustrates how small structures similar in scale and proportion to an older structure can be designed to maintain the character of the roadway. In this case some original materials were reused. These are photos of the same bridge, one from the side, looking up and one from the road level view.

Enhancing the Byway to Support its Special Character

These CSS Guidelines for byways encourage two forms of enhancement for Maryland's byways, developing project solutions that complement the characteristics of the byway in areas where character-defining features have been lost, and including roadside enhancement projects to add value to the traveler's experience.

Where a proposed action does not affect an identified character-defining feature, consideration should be given as to how the action undertaken can complement the byway's character-defining features. Can the project be done in a manner to enhance the visual and physical quality of the byway? For example, although the physical character and appearance of the Historic National Road in the commercial area of LaVale has changed greatly from the historic appearance of the road in this area, actions could be taken to support the resources that do remain from the historic period and to make this section of the road less out of character with historic sections of the road. Improvements could be made in LaVale to make it easier for pedestrians to walk to the historic Toll House. Traffic calming goals could be accomplished by narrowing the look and feel of the road.

Large paved parking areas serving local shopping centers in LaVale that degrade the visual quality of the road corridor could be improved visually with the support of creative funding. For example, the owners of these centers could work cooperatively to seek non-point source pollution funding from the Environmental Protection Agency to improve the water quality and appearance of the creek and parking lots, thus providing an additional means to improve the overall visual quality of the Historic National Road through this section of LaVale. In some of these projects SHA would have a direct role. In others as SHA staff bring stakeholders together to provide input to transportation projects, SHA staff and consultants may serve as a catalyst to advance creative ideas among local business people and encourage their efforts.

The second type of enhancement addresses roadside enhancement projects such as streetscape improvements (gateways, traffic calming, pedestrian safety measures, landscape, lighting and signs), trailheads to provide recreational access along the byway, wayfinding for directional and visitor information or interpretive signs. Such projects may add significant value for both residents and visitors.

While some enhancement actions will fall within the scope of SHA's project, others may be the responsibility of local planning officials. For this reason it is important to include local planning officials in project working groups. Some strategies to enhance the byway that emerge from the transportation project working group may not be a direct responsibility of SHA to implement, and may need to be implemented through zoning, requirements for screening in areas, removal of blight or eyesores along the roadway, and other actions that can be taken at the local planning level.

The Mount Rainier Roundabout, although not on a byway, illustrates the type of roadside enhancements that would add significantly to a byway's character. Brick pavers reference early 20th century trolley tracks, bus shelters echo the historic trolley shelter designs, a bas relief of faces of residents tops the shelters and surrounds planting areas.

Information Resources

When undertaking any action that will affect one of Maryland's roads, it is important to know if SHA has designated the road as a Maryland Byway. SHA's Office of Environmental Design (OED) maintains the list of designated routes. SHA's Byways Coordinator can be reached at (410) 545-8637. It will be helpful to determine if SHA is the only road manager or if there are others responsible who need to be consulted as well. If other road managers are involved, they should be encouraged to use these CSS principles and guidelines.

SHA encourages local governments citizens interested in a byway to develop a Corridor Management Plan (CMP) for that byway. A CMP is a written document that lays out the goals, strategies, and responsibilities for conserving and enhancing a byway's most valuable qualities. It can address issues from tourism development, roadway safety, highway signs, the preservation of historic structures and natural features to plans for a new archeological museum. If a CMP has been completed for a byway, it will include or reference documentation on the significance of the byway and provide a list of character-defining features. It will likely be fairly complete in identifying scenic, historic and other specific resources. It may or may not articulate the character-defining features of the road and roadside that contribute to the byway's scenic and/or historic character. However, future CMPs will include this information. The CMP may also include recommendations about roadway design, maintenance and operation. The SHA Byways Coordinator can tell you if a CMP has been completed or is underway for a specific byway.

If a CMP has not been completed, SHA's Byways Coordinator will assist you in understanding the significance of the byway as a whole and in identifying the character-defining features along the length of the project area. Sources of information he will draw on include:

- SHA's documentation prepared for the designation.
- Information compiled by county or local jurisdictions. For example, Anne Arundel County has compiled video and GIS-compatible information on the character-defining features of most of its identified scenic routes.
- Other completed studies of the route.
- SHA's cultural resources staff.
- Maryland's Department of Natural Resources
- The Maryland Historical Trust.

Just as every byway is unique, every project will pose different challenges in terms of identifying, preserving, maintaining and enhancing the character-defining features of the byway. The byway design, maintenance and management guidelines that follow have been developed to provide a framework to guide SHA's and other stakeholders' actions that affect Maryland's Byways.

Determining Appropriate Treatments

Once the team and involved stakeholders have determined project goals and have identified the byway's character-defining features, an assessment should be made as to which of these features will be impacted and which features can be preserved. If it is not possible to preserve all the character-defining features of the road and right-of-way, it will be very important nevertheless to maintain the overall character of the traveler's experience on the byway. With understanding of the features that make up this experience and creative approaches to meeting project goals such as those suggested in these guidelines, it should be possible to preserve, maintain and enhance the byway's special character.

Elements that Affect a Byway's Character-defining Features

1. Safety
2. Alignment and Geometry
3. Roadside Barriers
4. Grading and Drainage
5. Traffic Control Devices
6. Utilities
7. Landscape
8. Bridges and Small Structures
9. Signs
10. Lighting
11. Access
12. Roadside Enhancements
13. Bicycles
14. Maintenance
15. Management of Publicly Owned Land

The Context Sensitive Solutions process will be aided by implementing a highly interactive process involving all stakeholders along the byway with an interest in the project. A cooperative working arrangement whereby all of the interested points of view are included from conception to implementation is a hallmark of CSS. Designers aiming to employ flexible approaches to design on byways can make use of several tools: FHWA's "Flexibility in Highway Design" published in 1997; AASHTO's "A Guide for Applying AASHTO Policies to Achieve Flexibility in Highway Design" published in 2004; the Transportation Research Board's Special Report 214 "Designing Safer Roads: Practices for Resurfacing, Restoration and Rehabilitation;" and SHA's guide "When Main Street is a State Highway."

Design, Maintenance and Management Guidelines Safety

When considering safety-related design changes to a scenic or historic roadway, any changes should strive to retain, to the maximum extent possible, the scenic and historic character of the roadway. The traditional methods of trying to improve safety on state highways may not be possible or appropriate for scenic roads. These methods have concentrated on physical modifications to the roadway and roadside such as widening lanes and shoulders, adding guardrail, cutting trees, and changing the vertical and horizontal geometry. These techniques will often destroy the visual quality that led to the scenic designation. In addition, by creating a more wide-open look to the road, these techniques, while attempting to reduce the apparent dangers for the driver, usually result in higher vehicle speeds. This is especially problematic for scenic roads, since a substantial proportion of the users of these roads are new to the road, wish to drive slowly to enjoy the view, and may include bicyclists as well. For byways, therefore, an increase in accidents could possibly be the result of traditional strategies to improve safety, since these techniques would be likely to increase the speed differential between users.

■ Addressing Identified Safety Concerns

To address an identified safety concern consider the following: traffic calming measures; increase visibility of a potential hazard, rather than removing it; increases in sight distance; traffic control and regulation signage; lowering design speed; pavement striping and marking; raised pavement markers; and street lighting.

■ Compatibility of Safety Features

Safety related design changes to a byway should be compatible with the byway's character-defining features by minimizing the visual contrast between the safety feature and its setting. For example:

- By using steel backed wood guardrails in a rustic or natural setting; or
- By using weathering steel guardrail.

■ Reinforce Desired Driver Behavior

When confronting problems associated with travel speeds well in excess of posted speeds, consideration should be given to improving the driver's behavior through appropriately scaled traffic calming techniques as a means to maintain the character-defining features of the byway.

■ The Value of Direct Observation

Direct observation in the field to understand the causes of a safety problem may assist in identifying means to address the problem that will not alter the scenic and historic character of the roadway.

Alignment and Geometry

The natural topographic characteristics of the roadway and how it fits into the landscape – its alignment and geometry – should be preserved to the maximum extent practical.

Introduction of street trees planted at increasingly closer spacing gives drivers additional clues that they should slow down when approaching a rural village as shown approaching Poplar Springs. Gateway signs (right) also help to define the beginning of the hamlet or village area.

■ Future Increased Capacity Needs

When addressing increased capacity needs, consider whether an existing alternate or parallel route can carry increased capacity to allow the byway to continue to serve its current function without need for redesign to carry anticipated higher traffic volumes in the future.

■ Reinforcing Safe Travel Speeds

A reconstructed section of roadway should match the cross section of the existing road sections in order not to create false driver expectations about safe travel speeds.

For an example, when a new subdivision was planned along Riva Road south of the South River Bridge, the county called for building a standard section. The resulting road section, due to its increased width and straighter alignment, leads drivers to accelerate, resulting in their reaching the adjacent older road section –one that probably will not be widened in the foreseeable future– at a higher than desirable speed.

■ Examples of Compatible Design

When considering changes to the roadway geometry and alignment, compatibility can be achieved by utilizing techniques that strive to more closely match the design speed with the desired posted speed, allowing the road to "lay lightly on the land," rather than cut through the landscape "like a knife through butter."

For example:

- Splitting the profile of a four-lane divided section around a topographic feature.
- Seeking reduced lane and shoulder widths to minimize the need for cut and fill.

■ The Visual Treatment of Shoulders

The visual treatment of shoulders is extremely important on byways. Turf shoulders increase the pastoral quality of the roadway. Contrasting paving materials and various patented or traditional methods of turf reinforcement can be used to differentiate parking and non-roadway areas from the traveled way. This will minimize the visual impact of broad expanses of asphalt, and will provide greater safety by clearly delineating vehicular circulation.

Roadside Barriers

Roadside barriers are typically used along a roadside when it is not economically or environmentally feasible to remove a fixed object or other area of concern from the roadside clear area. Standard "W-beam" guardrail systems are generally not a desirable treatment on byways due to their visual prominence and contrast that detracts from the byway's character. A Cor-ten "rusting" steel or a color galvanized box beam may be a good choice. The dark color of rusting steel provides less visual contrast with the landscape than standard galvanized steel. The box beam has a thinner profile allowing for more transparency to views beyond the road.

Steel W-Beam with weathering steel finish is in use on I-68 and may be an appropriate guardrail for some of Maryland's byways. Steel backed timber guardrail is another aesthetic alternative. This was used along the Historic National Road as part of the recently completed reconstruction of the Meadow Run Bridge (see photo on page 7).

Grading and Drainage

Grading and drainage should be undertaken in a manner to reinforce the existing character of the roadway when the byway was designated. Direct observation in the field can be extremely valuable in determining compatible approaches.

■ Suitable Slope Designs

When considering changes that require modifications to the

adjacent slopes (cut and fill) or modifying drainage patterns, compatibility can be achieved through the use of biological slope stream bank stabilization rather than structural methods.

■ Blending Road Design with the Natural Landscape

The "knife through butter" look of a precisely engineered and constructed slope has a super-highway character, and should be avoided. Uphill cut slopes needed to accommodate additional roadway width or drainage should look like they are a part of the natural landscape. This approach means accentuating a natural drainage swale, or steepening or relaxing a slope according to the specific soil and rock materials found. In some cases this will require agreements with abutting owners since some additional land may be involved. The result, however, can be more stable and less expensive, as well as better looking.

PHOTOGRAPHS BY SHA

Soil bio-engineering concepts were used by SHA and Maryland Department of Natural Resources to restore Porter Run adjacent to the Historic National Road near Clarysville. Willow whips were interplanted to help stabilize the streambank.

■ Location Specific Stormwater Management Facilities

Stormwater management facilities should be designed to be an integral part of the natural landscape structure associated with their location. A landscaped pond in a pasture would not be an appropriate means for handling storm water management whereas such a feature might be quite appropriate in a neighborhood.

Traffic Control Devices

Traffic control devices including signs and traffic barriers should not detract from or overwhelm the visual character of the natural or constructed landscape.

■ Appropriate Traffic Control Devices

When considering traffic control devices, compatibility can be achieved by selecting appropriately scaled signs, barriers, signal control boxes, and other devises designed to be no larger than necessary and to have minimal visual contrast with the setting. For example, traffic signs at an intersection may be smaller on an intersecting lower volume street than on the higher volume cross street. In terms of color, consider using dark colors in a forested environment for the device frames or support structures as a means of reducing visual contrast.

■ Integrating Regulatory Signs

Regulatory signs are guided by the manual of Uniform Traffic Control Devices. Along a byway, warning signs and reflective markings are often used as a means of warning travelers of upcoming curves, speed zones, intersections, and steep grades. It may be possible to reduce the number of signs by using other techniques for warning drivers. In addition, the cumulative visual impact of necessary signs can be reduced by specifying dark colors on the back of the signs similar to what is done on National Park Service roads, such as the George Washington Parkway.

■ Preserve, Maintain, and Enhance

Where some choice in placement is available, traffic control devices should be planned to preserve, maintain and enhance the character-defining features of the byway. Signal control boxes, for example, should be placed in a visually unobtrusive location. Likewise, traffic control devices should not impede pedestrian or bicyclists' use of the road corridor where project goals seek to accommodate these modes.

Utilities

Utilities should be placed or relocated so as to preserve or enhance the character of the byway.

■ Overhead and Underground Utilities

When work on overhead or underground utilities is required, compatibility can be achieved by finding ways to minimize tree removal and pruning requirements. Spacer bars can be specified that minimize the width of the required clear area. These bars hold individual utility wires together as a single unit without touching and can reduce the right of way clearing requirements.

■ Limitation of Underground Utilities

Requests for underground utilities are often made for scenic byways. Underground placement of electric, telephone, and cable utilities can be cost effective within towns and built up areas when coordinated with an ongoing construction project. Problems can occur, however, if plans call for adjacent property owners to upgrade their service connections at their own cost and if they are unwilling or unable to do this. This is often the biggest constraint to underground placement of utilities.

■ Minimizing Visual Intrusion of Lines

It is also possible to minimize the visual intrusion of overhead utility lines by moving utility poles to the rear of building lots, by adjusting the location of poles to avoid having to compromise specimen trees or obstruct attractive views, or by consolidation of lines on a single pole.

A useful reference for utility issues is SHA's "Design Guidelines: Utility Coordination Using Thinking Beyond the Pavement Principles."

Landscape

Natural landscape features, particularly native and traditional plant materials and tree cover, should be preserved and maintained to support the visitor's experience envisioned in designating the byway.

■ Landscape as Screening Device

Landscape materials may serve as a useful screening device to accomplish enhancement goals for the project.

■ Landscape as Contributing Resource

In historic areas, street trees, stone walls, and gardens are often associated with a listed site and should be preserved as a contributing resource.

■ Landscape Can Help to Calm Traffic

Landscape designs may serve as an important tool to accomplish both safety and traffic calming objectives. Street trees narrow the look and feel of a roadway environment and increase the amount of "visual friction" along the roadside leading drivers naturally to slow their operating speed.

■ Native Plants can Address Erosion

Plantings of roadside grasses or native ground covers may be used to address erosion problems on shallow slopes. Erosion problems on steeper slopes should be addressed, where applicable, by the planting of vines, ground cover, or other lower-growing herbaceous or woody plants.

Bridges and Small Structures

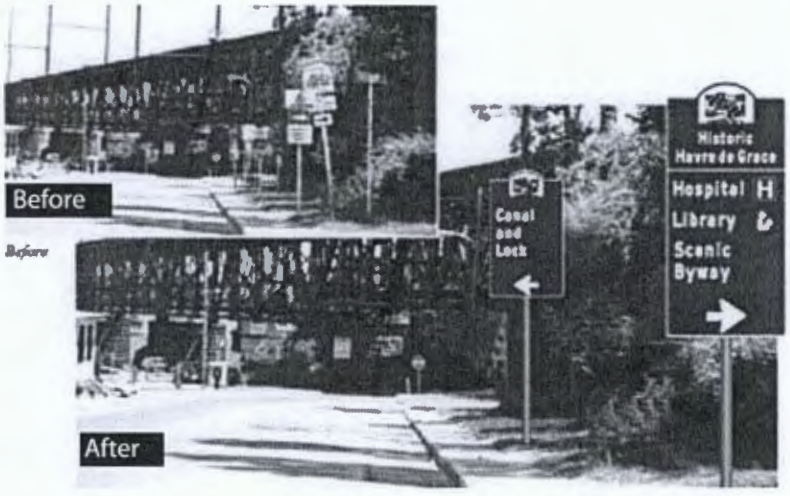
If a bridge or small structure is considered a character-defining feature of the byway, it should be preserved through maintenance and repair if possible.

When a bridge must be replaced, compatibility can be achieved by replacing the structure in kind with what was originally there or by reconstructing a bridge with similar types of details. If, however, the existing bridge is of a style that detracts from the byway's character, a replacement bridge can enhance the byway by selecting a design that is more compatible with the character of the byway.

■ Replacement Bridge Design

For an example of a design detail that could enhance a replacement bridge design, one might use the two tube open steel bridge rail developed by the Wyoming DOT or a Texas Type C411, crash tested for urban streets with 45 mph speed

SHA's Office of Traffic and Safety and Maryland Department of Tourism have initiated an effort to relate all way-finding and directional signs to themed travel routes, rather than to specific destinations or attractions. One goal of the program is to reduce sign clutter. Here are photos of signage at Havre de Grace before and after implementing this approach.



limits or less. The Texas rail looks like open concrete rails with parapet wall openings and is particularly useful for recreating the appearance of historic bridge rails. The open steel bridge rail improves views to the waterway below.

■ Visual Compatibility of Bridge Abutments

Greenways and trails are often an integral part of a byway travel experience. Bridge abutments should be designed to be visually compatible with the rock types and soil color of the adjacent streambank. Form-liners can be used on concrete walls to achieve an attractive design at less cost.

Signs

Signs should be limited in number and size to be effective in communicating necessary information while minimizing their impact on the scenic and other values of the byway.

Guidelines for Compatable Signage

- Signs should be appropriately sized for the design speed of the road.
- Signs should be consolidated where possible to minimize sign clutter and a proliferation of sign poles.
- Existing billboards should be considered for removal to improve the scenic quality of the road.
- New billboards are not allowed to be permitted or constructed along designated scenic byways that are on the National Highway System or old Primary system.
- Local planning and zoning officials should be included in project working groups to coordinate project strategies for signage with local jurisdictions' codes and enforcement plans.

Lighting

Street lighting where installed along byways should minimize glare and light pollution. Light standards should be compatible with the character of the area being served and be scaled to serve project goals, whether for pedestrian or vehicular use.

■ Use of Street Lighting

Street lighting may be required along byways where necessary at major access points, where there are security problems or poor vertical and horizontal alignments or when traffic accident data or traffic volumes warrant street light installation.

■ New and Replacement Street Lighting

New and replacement street lighting should be scaled appropriately to meet project goals.

Increasing development pressures have resulted in the addition of turn lanes along the Historic National Road. The two-lane cross-section with narrow shoulders is a character-defining feature of this portion of the National Road. As pavement is widened it affects the perception of the road as a byway.

■ Minimizing Light Pollution

New and replacement lighting along scenic byways should use full cut-off optics luminaries to minimize light pollution.

Access Management

Approval of access permits and decisions regarding requirements for acceleration or deceleration lanes should be made carefully taking into consideration the importance of maintaining and enhancing the character-defining features of the roadway.

■ Access Management Decisions

Access management decisions should be made in coordination with local planning officials as they affect local land use.

■ Adjusting Accel/Deceleration Lanes

It may be desirable to shorten or narrow acceleration and deceleration lanes to maintain character-defining features of the roadway. Field observations may be very useful to determine if a reduced acceleration and deceleration lane will suffice to meet project needs.

For example, Anne Arundel County denied access to a large planned unit development in South River Colony onto Brick Church Road in order to preserve the character-defining features of this scenic road and to focus circulation and access to Routes 214 and 2. In the county's Martha's Vineyard subdivision off of Mill Swamp Road, acceleration and deceleration lanes were reduced in size to protect the character-defining features of this scenic road and to reduce the need for grading which would have diminished the scenic qualities of the road.

Roadside Enhancements

The roadside enhancement projects that are likely to be constructed within SHA right-of-way include measures that support the byway travel experience or make those portions of the byway that no longer retain their intrinsic qualities more attractive. At a minimum, any work should not overwhelm nor detract from the distinctive character of the roadway and should be compatible with the existing road features in size, scale and proportion.

■ Landscape and Signs

Landscaping and appropriately scaled signs can be used to create a gateway to a community helping to establish the community's sense of place.

■ Interpretative Signage

Interpretive signage can be added to pull off areas to tell the stories of the byway and provide information about the byway's significance.

■ Native Plant Materials

Where appropriate, the use of native plant materials in natural planting patterns and historically traditional plant materials, especially street trees, should be emphasized to enhance the character of the roadway.

■ Special Decorative Treatments

In urban areas, where possible, consideration should be given to using special decorative treatments that reinforce the character of the area. For example, higher quality materials can be used such as brick or decorative stone work for bridges, overpasses, and sidewalks, etc.

Bicycles

The accommodation of bicycles on Maryland's byways often presents challenging issues. On the one hand enjoying a byway while traveling by bicycle can be very appealing. On the other hand, an important character-defining feature of many byways is the size of the cross-section which may change substantially if bicycle lanes are added.

SHA recently adopted a policy whereby the agency, "shall make accommodations for bicycling and walking a routine and integral element of planning, design, construction, operations and maintenance activities as appropriate." SHA's policy also states that a "minimum four (4) foot-wide outside shoulder is preferred on all roadways with open sections." This policy may apply when doing resurfacing work.

Decisions regarding requirements for bicycle accommodations should be made carefully taking into consideration the importance of maintaining the character-defining features of the specific scenic byway. Many byways include rural roads with a narrow scale, often with a close proximity of trees and/or other landscape features. In this situation, a design waiver may be requested to minimize or eliminate the proposed bike lane in order to lessen the potential adverse effect. Waivers are especially appropriate when bicycle improvements are not identified as a priority in the stateway bicycle plan, and where the additional lane width would be isolated and therefore raise false expectations of the type of conditions that should be expected by the bicyclist. Byway sections through towns with a narrow street or buildings close to the right-of-way line (such as New Market or Boonsboro) may also require a waiver.

■ Reduced Accel/Deceleration & Bike Lanes

Concerning proposals for acceleration/deceleleration lanes combined with bike lanes along rural byways with a narrow scale, a design waiver should be considered to shorten, taper or lessen the width of acceleration and deceleration lanes as well as lessen the width or eliminate the proposed bike lane in order to maintain the byway's narrow scale. Field observations may be useful to determine if a reduced acceleration/deceleration lane width will meet bicyclist needs.

■ Bike Conditions and Scenic Features

For those locations where bicycle accommodations are a priority and conditions are poor, efforts should be made to both improve bicycle conditions and maintain the character-defining features.

Maintenance

A byway should receive the level of maintenance necessary for safe public travel by auto, bicycle and agriculture-related equipment while still preserving the character-defining features of the route. The primary purpose of maintenance practices along state highways, including scenic byways, is to maintain appropriate clear areas and sight distances, and remove rapidly decaying and dying branches and trees to minimize the hazard of falling branches along the roadway and along utility easements. Along byways, maintenance programs can also beautify the roadway and roadside environment. Suggestions include:

Guidelines for Maintenance Along Scenic Byways

- Adjust mowing practices to maximize flowering times of roadside wildflowers.

Strategically Chosen Maintenance Practices Can Enhance a Byway: *Grant funding is being pursued to prepare and implement landscape design plans for this area near Clarysville Bridge along the Historic National Road. Invasive plants need to be removed and a new sustainable plant community should be established that reflects the landscape character that would have been found here in the mid-19th century heyday of the National Road.*

- Develop landscape design plans that encourage natural revegetation to minimize mowing requirements.
- Encourage private citizens within towns to adopt the maintenance program for planting areas at community entrances, medians, street tree planting beds, and roadside pull-offs.
- Where feasible, when bridge repairs are necessary, they should be made in such a way as to preserve the scenic and/or historic qualities of the structure.
- Where feasible, when a guardrail is replaced along a byway, it should be of a material that enhances the roadway.
- Tree removal and/or pruning should be selective and follow good arboricultural practices in order to maintain the character of the roadway. Selective tree cutting may be deemed a necessary periodic maintenance technique to maintain the scenic vistas of a designated roadway. Such a determination should be made in consultation with SHA's byways coordinator.

Management of Publicly Owned Land

Publicly owned land adjacent to a byway should be managed in a manner that supports preserving, maintaining and enhancing the byway.

- SHA or other state agencies that own land adjacent to the byway should consider retaining ownership to maintain the current condition of the land.
- If SHA or other state agencies dispose of such land, they should consider placing a perpetual easement on the land prior to sale that will not allow uses or visual intrusions that would degrade the character of the byway.

Appendix

Maryland State Highway Administration CONTEXT SENSITIVE SOLUTIONS (CSS)

Policy Framework

Context Sensitive Solutions is a collaborative, interdisciplinary approach to developing and implementing transportation projects, involving all stakeholders to ensure that transportation projects are in harmony with communities and preserve and enhance environmental, scenic, aesthetic and historic resources while enhancing safety and mobility.

Community Satisfaction

SHA will develop projects that are deemed by the community to meet community transportation needs, contribute to community character and values, and are seen as having added lasting value to the community while minimizing disruption to the community to the extent reasonable.

Mobility and Safety

SHA will develop projects that enhance mobility and safety for users of all modes.

Environmental Stewardship

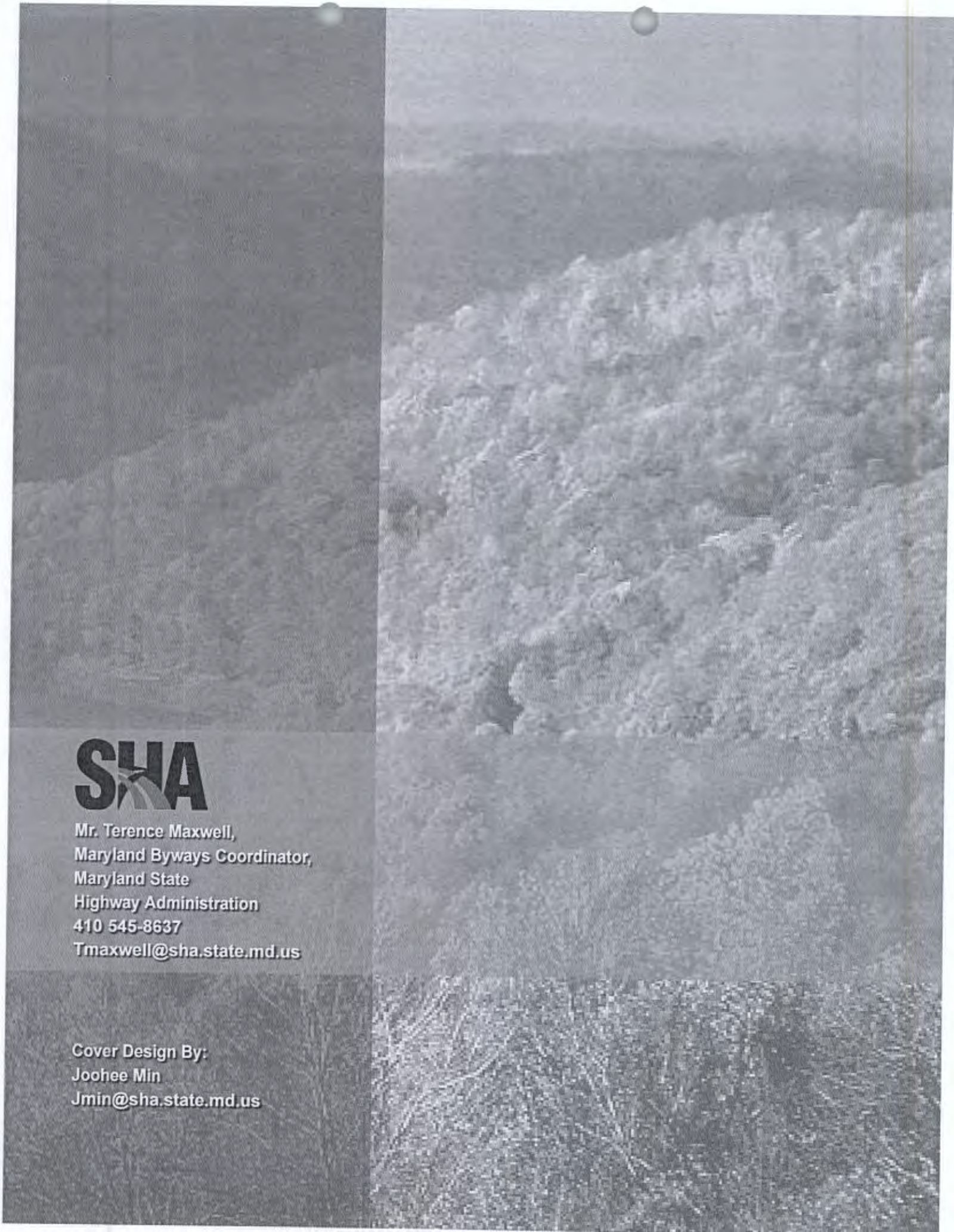
SHA will develop projects that protect and enhance all aspects of the natural and human environment, including the scenic, aesthetic, historic and natural resources of the area.

Project Delivery Process

SHA will deliver projects in collaboration with a full range of stakeholders to establish and achieve transportation, community, and environmental goals within the programmed budget. The process will be tailored to each project and the transition between phases, from planning through construction, will be seamless.

Economic Impact

SHA will develop projects that have positive economic impacts on the surrounding community and as part of a regional economic development strategy.



Mr. Terence Maxwell,
Maryland Byways Coordinator,
Maryland State
Highway Administration
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MARYLAND
SCENIC BYWAYS

MOVING FORWARD TOWARD SUSTAINABILITY

Appendix 2

MESSAGE FROM THE GOVERNOR

Govenor Martin O'Malley and First Lady Katie with sons Jack and William and daughters Tara and Grace.

For 24 years, the Maryland Scenic Byways Program has helped guide travelers from the region, the nation and the world to some of Maryland's most cherished landscapes, vibrant main streets, bountiful agricultural communities and maritime waterfronts. The scenic byways provide our visitors with a window into our great State and all it has to offer. They also increase economic activity by encouraging travelers to learn more about our valuable history and to visit longer in our communities while eating at nearby restaurants and staying at local hotels.

Maryland Scenic Byways: Moving Forward Toward Sustainability provides the organizational framework to guide the Maryland Department of Transportation's State Highway Administration and its partners to continue supporting Maryland's system of scenic byways as an integral part of Maryland's transportation network. This program is an important tool in our efforts to promote our rich culture and natural beauty through heritage and nature-based tourism and economic development. Maryland's Scenic Byways Program has expanded tourism opportunities, helped in the preservation and enhancement of historic sites and attractions, and played a key role in the conservation of scenic and historic landscapes.

Maryland's scenic byways support community revitalization, transportation improvements, economic development, Smart Growth and environmental restoration. Please read more to learn about the benefits of this program and our ongoing efforts to highlight Maryland's unique travel destinations while protecting, preserving and celebrating the quality of life of the communities along our scenic travel routes.

The Honorable Martin O'Malley, Governor

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ACKNOWLEDGEMENTS

Maryland Scenic Byways Program Advisory Committee

SHA wishes to thank the following Maryland Scenic Byways Strategic Plan Advisory Committee members who helped advise on the development of this plan.

Marty Baker, Maryland Department of Transportation
Jeffrey Buchheit, Baltimore City Heritage Area*
Suzanne Copping, National Park Service*
Amanda Fenstermaker, Dorchester County Tourism
Christopher Haugh, Frederick County Tourism*
Richard Hughes, Maryland Department of Planning
Jeanette Mar, Federal Highway Administration
Jay Parker, Lower Eastern Shore Heritage Council
Bill Pencek, Office of Tourism Development
Roslyn Racanello, Southern Maryland Heritage Area
Marci Ross, Office of Tourism Development*
Amy Seitz, Department of Housing and Community Development
John F. Wilson, Department of Natural Resources

Sponsors and Stakeholders

Throughout the strategic planning process, the following byway sponsors and stakeholders contributed ideas, gave presentations and offered suggestions to assist in the development of this strategic plan.

Tiffany Ahalt, Maryland National Road Association*
Ellie Altman, Adkins Arboretum
Melissa Appler, Maryland Department of Planning*
Judy Bixler, Oxford Bellevue Ferry, Oxford Talbot County Tourism Board Chrm.
Bernadette Bowman, Kent County Tourism & Economic Development, Chesapeake Country
Don Briggs, NPS Potomac Heritage National Scenic Trail
Carolyn Brinkley, Town of Centreville, Centreville Main Street
Frank Cavanaugh, Talbot County Village Center Board
Jay Corvan, Architect
Deborah Divins, Dorchester Chamber of Commerce, Stories of the Chesapeake Heritage Area
Faith Elliott Rossing, Queen Anne's County Economic Development and Tourism
Jean Fabi, Queen Anne's County Planning and Zoning
Elizabeth Ferguson, Rural Life Museum
Jerry Freibaum, Tilghman Village Committee
Wayne Gannaway, America's Byways Resource Center (former)*
Carla Gerber, Kent County Planning, Housing & Zoning, Chesapeake Country
Donna Glime, Federalsburg Historical Society
Joe Glime, Federalsburg Historical Society
Denise Harris, Journey Through Hallowed Ground
Dawn Hein, Mountain Maryland Gateway to the West Heritage Area
Stephen Hollie, RK&K for SHA/TEDD
Anne Kyle, Maryland Office of Tourism
Lynn Lanham, Baltimore County
Mary Ann Lisanti, Lower Susquehanna Heritage Greenway
Lisa Ludwig, Lower Eastern Shore Heritage Area
Kathy Mackel, Caroline County Office of Tourism
Aaron Marcavitch, Anacostia Trails Heritage Area
James Meredith, Blackwater Paddle & Pedal
Capt. Frank Newton, Skipjack Nathan of Dorchester
Jenifer Nugent, Baltimore County
John Ohler, Maryland Park Service
Amy Owsley, Eastern Shore Land Conservancy*
Kate Patton, Lower Shore Land Trust
Curt Pianalto, America's Byways Resource Center (former)
Jennifer Pitts, Southern Maryland Heritage Area Consortium
Deborah A. Renshaw, Town of St. Michaels
Joanne Richart-Young, Cecil County Economic Development, Tourism + Agriculture, CCSNCB
Jennifer Shull, Town of Trappe
Ryan Sigworth, Maryland Department of Planning*
Julie Siler, C&O Canal Trust
Martin Sokolich, Talbot County Planning
Robert Stanley, Tree Keepers
Jason Vaughan, Baltimore National Heritage Area
Mary Jo Veverka, C&O Canal Trust
Julie Widdowson, Somerset County Tourism
Cheryl Willey, Cambridge Lighthouse
George Wright, Cambridge Lighthouse
Cate Magennis Wyatt, Journey Through Hallowed Ground Partnership*

* contributed a presentation during an advisory group work session

SHA Office of Environmental Design

Sonal Sanghavi, Director
Terry Maxwell, Scenic Byways Program Coordinator
Dennis Haskins, Planner

Consultant Team

Jon Conner, ASLA, JMT
Jim Klein, ASLA, Lardner/Klein Landscape Architects, PC
Graphic design and layout by Janelle Jackson, JMT

MARYLAND'S SCENIC BYWAYS PROGRAM

Mount Calvert along the Star-Spangled Banner National Historic Trail

TODAY AND YESTERDAY

Maryland's scenic byways program has evolved over the last twenty-four years since the first scenic routes map was published by the State Highway Administration (SHA) in 1988. These scenic and historic roadways have become so much more than just a line on a map—they provide experiences. Maryland's Scenic Byways program helps communities along these routes enhance their quality of life and pride in their communities. The program adds significantly to the visitor experience by identifying and promoting, as well as encouraging responsible management and preservation of the State's most scenic, cultural and historic roads along with their surrounding resources.

Over the past twenty-four years, the SHA's Scenic Byways Program has worked collaboratively with its sister agencies and programs—the Maryland Heritage Areas Program (MHAP), the National Park Service (NPS), the Office of Tourism Development (OTD), the Department of Planning (DOP), the Department of Natural Resources (DNR), and Maryland Main Street Program (MMSP)—along with support from the Federal Highway Administration's National Scenic Byway Program to establish and develop the program into a system of byways that are linked together to create distinctive travel destinations throughout the state.

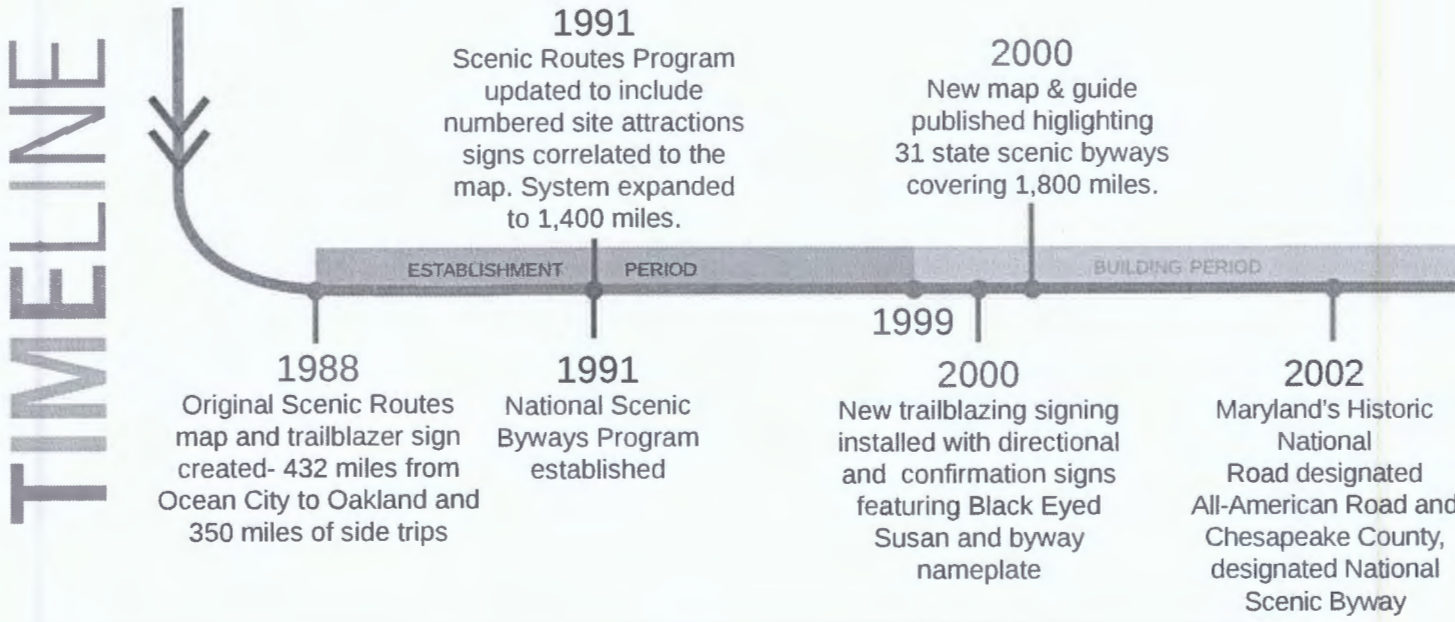
Historic Saint Mary's City along the Religious Freedom Byway in Southern Maryland

Today the program is moving forward to determine how best to sustain the qualities that make these routes worthy of the state or national designation —by all modes of travel. Today's byways provide an opportunity for communities to attract visitors and educate their citizens by showcasing their history and culture. Today's byways help to preserve a community's natural and cultural resources and provide opportunities for economic development based on that history or culture by offering opportunities for people to stay and linger and learn about our history and culture.

SELECTED ACCOMPLISHMENTS

Over the past twenty four years, the Maryland Scenic Byways Program has:

- Established a system of 18 scenic byways encompassing 2,221 miles of beautiful roads offering a taste of Maryland's scenic beauty, history and culture
- Increased awareness and established the national significance of six routes through the Federal Highway Administration's National Scenic Byway Program
- Secured over $17.2 million in direct funding and at least $3.4 million more in matching and leveraged funds and services to implement priority projects aimed at protecting, promoting and enhancing projects along the state's system of scenic byways
- Secured over six million in funding to directly support the protection, enhancement and promotion of the Star-Spangled Banner, Harriet Tubman Underground Railroad, Journey Through Hallowed Ground and C & O Canal Byways that are the backbones of three major commemorations occurring from 2011-2015
- Developed (or is in the process of developing) locally initiated management plans to help protect, promote and enhance 13 of the State's 18 scenic byways
- Partnered with the OTD to produce and distribute hundreds of thousands of copies of byway maps and guides, supported by advertising campaigns, welcome center exhibits and international marketing to help spread the word about Maryland as a travel destination



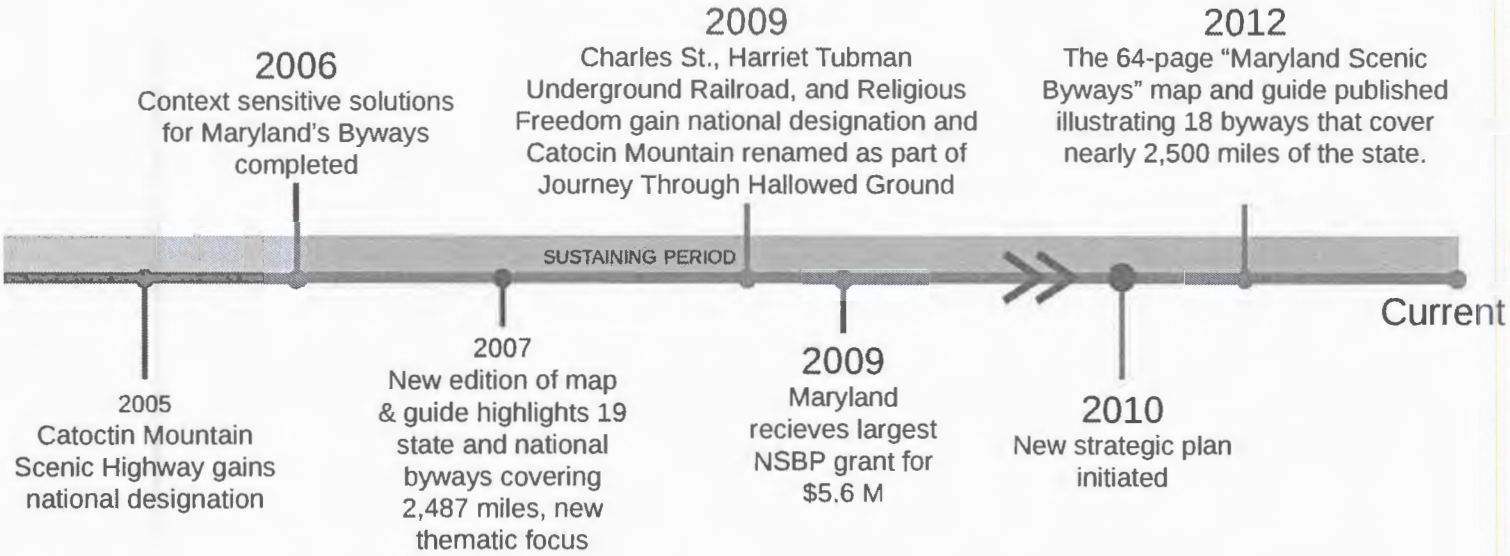
- Adopted guidelines to help SHA project staff and other stakeholders understand the special qualities of a byway and make project and operational decisions that will reinforce and enhance these qualities—a project that was recognized by American Association of State Highway and Transportation Officials (AASHTO) along with the Federal Highway Administration (FHWA)—in 2007 for national recognition

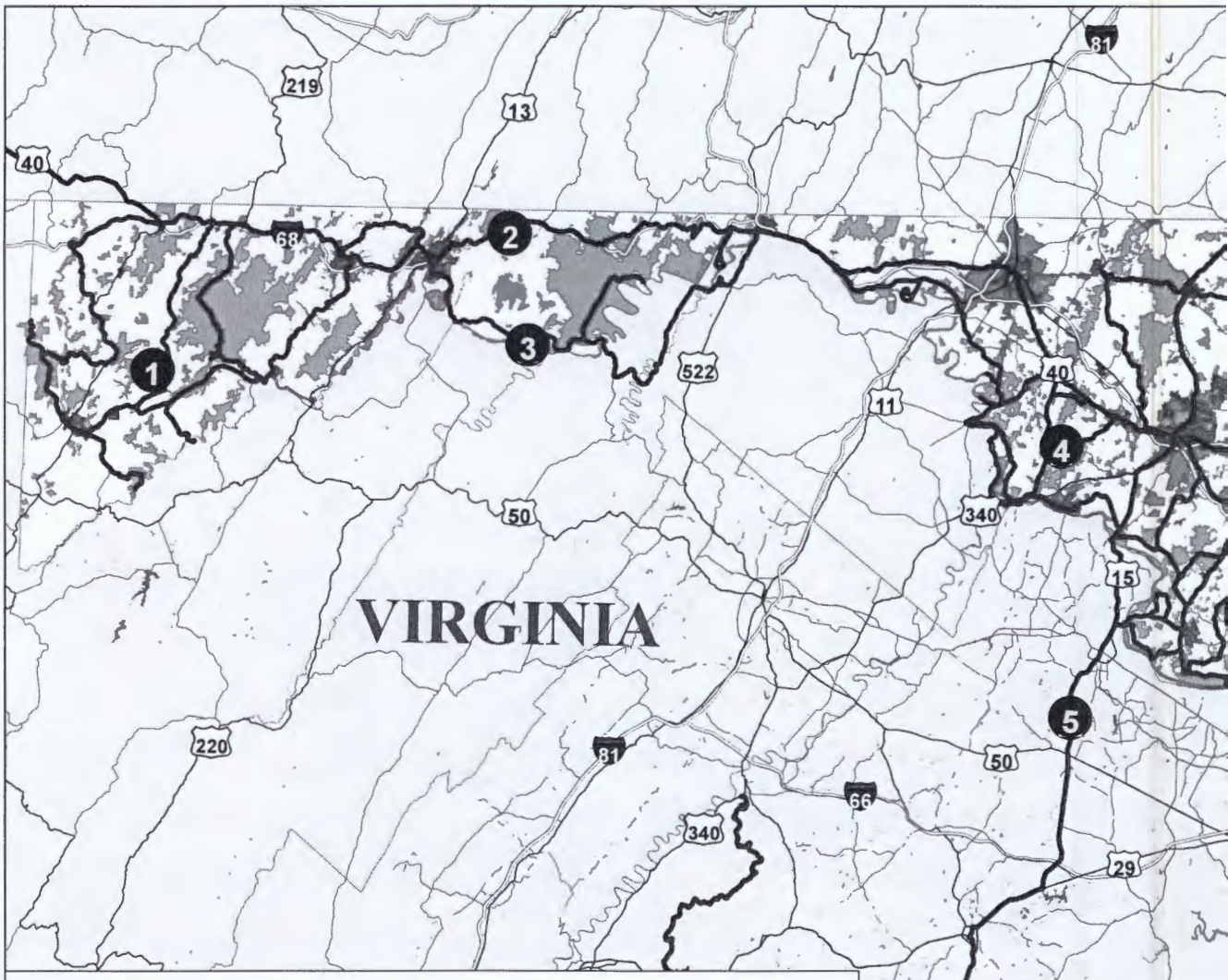
- Installed outdoor interpretive exhibits along Maryland's Historic National Road, Chesapeake Country and in 2012 along the Harriet Tubman and Star-Spangled Banner Byways to help tell some of the stories associated with these travel routes in a coordinated way

- Coordinated with Maryland Department of Natural Resources (DNR), Maryland Environmental Trust and other statewide and regional conservation and preservation organizations to conserve or preserve important landscapes and sites along Maryland's scenic byways

- Supported market research by the OTD to gain a keener understanding of the public's perception of scenic byways and heritage areas, and to guide future investments in scenic byway programs and projects

- Began upgrades to theState and National Scenic byway wayfinding signing to meet current Manual of Uniform Traffic Control Devices (MUTCD) standards. Funding includes support for web based navigational interpretive media to complement the upgraded sign system.





MARYLAND SCENIC BYWAYS

Legend

- State Scenic Byway
- National Scenic Byway
- All American Road
- Interstate Route
- U.S. Route
- State Route
- Public and Protected Lands*
- Municipalities
- Priority Funding Area

Maryland Byways
1. Mountain Maryland
2. Historic National Road
3. Chesapeake and Ohio Canal
4. Antietam Campaign
5. Journey Through Hallowed Ground
6. Old Main Streets
7. Mason and Dixon
8. Falls Road
9. Horses and Hounds
10. Lower Susquehanna
11. Charles Street
12. Star-Spangled Banner
13. Booth's Escape
14. Roots and Tides
15. Religious Freedom Byway
16. Chesapeake Country
17. Michener's Chesapeake Country
18. Harriet Tubman Underground Railroad
19. Cape to Cape

Other Regional Byways
A. George Washington Memorial Parkway
B. Brandywine Valley
C. Route 9 Coastal Heritage Byway
D. Harriet Tubman Underground Railroad (DE)
E. Western Sussex Byway
F. Bayshore Heritage Byway

* Public and Protected Lands include federal, state and local lands, privately conserved lands, agricultural lands, environmental easements, and rural legacy areas.

GIS Sources: MDDNR, MD SHA, ESRI

0 5 10 20 Miles

N

Lardner/Klein Landscape Architects, P.C.
Planning • Urban Design • Landscape Architecture

MARYLAND
NEW JERSEY
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KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

June 24, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: Motion for Reconsideration - Petition for Special Hearing
Property: 17318 Falls Road
Case No.: 2015-0208-SPH

Dear Mr. Schmidt:

Enclosed please find a copy of the Motion for Reconsideration rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

IN RE: **PETITION FOR SPECIAL HEARING**	*	BEFORE THE
(17318 Falls Road)		
5th Election District	*	OFFICE OF
3rd Council District		
Michael P. Smith, Personal Representative	*	ADMINISTRATIVE HEARINGS
(Estate of Myles R. McComas)		
Legal Owner	*	FOR BALTIMORE COUNTY
Petitioner	*	**Case No. 2015-0208-SPH**

* * * * * * * *

ORDER ON PETITIONER'S MOTION FOR RECONSIDERATION

Now pending in the above matter is a Motion for Reconsideration filed by the Petitioners. While such motions are frequently filed in zoning cases, it is not often that a Petitioner can show "some new or different factual situation exists that justifies the different conclusion." Calvert Co. v. Howlin Realty, Inc., 364 Md. 301, 325 (2001). In this case, I do not believe the Petitioners have presented any new facts or evidence, and as such the Motion will be denied.

The task in the above case - - determining what if any interest in real property was acquired by the State of Maryland in connection with a roadway project -- would be a difficult one even if the events in question were relatively recent. But the task in this case is made much more difficult by the fact that the acquisition in question took place in 1927. The only evidence presented was a plat (admitted as Petitioners' Exhibit 2) executed by several adjoining landowners. That document indicates that the owners granted and conveyed to the State "the right of way and land" shown thereon. But there is no indication anywhere within the document that a fee simple absolute title was granted, and the law in 1927 (Maryland Annotated Code, Article 92, § 28 [1924 ed.]) in fact allowed the State to acquire easements by gift, which may very well be what occurred in this case.

The bottom line is that without the benefit of expert testimony and/or additional evidence on the issue, I am left to hazard a guess as to whether a fee simple or some other estate in land was

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Date 6-24-15
By DW

conveyed in 1927. Although Petitioners cite several sections of the Maryland Annotated Code, there is no indication that such statutes were "on the books" in 1927.

Finally, the Petitioners' Motion has created some confusion concerning the May 15, 2015 Order in this case and the relief being sought in the Motion. Petitioners contend that the acreage to be inherited by Michael McComas (the unimproved parcel to the east of Falls Road) "has two density units." *See,* Petitioners' Motion, pp. 3-4. But on page 15 of their Motion, Petitioners request confirmation "that the parcel on the east side contains one density unit." Likewise, the Petitioners contend that the parcel to be inherited by the McComas grandchildren (to the west of Falls Road) has one remaining density unit, although the request for relief seeks confirmation that "the parcel on the west side contains two density units." *See*, Petitioners' Motion, p.15.

Just to be clear, the parcel situated to the east of Falls Road would -- if deemed a separate parcel for development and zoning purposes -- yield two lots, pursuant to Baltimore County Zoning Regulations (B.C.Z.R.) § 1A01.3.B.1. The parcel to the west of Falls Road, which was subdivided in 1987, would have no further rights of subdivision although Petitioners would have the right to one additional dwelling (i.e., two lots total). But, as noted at the outset, the Motion will be denied.

THEREFORE, IT IS ORDERED this **24th** day of **June, 2015**, that the Motion for Reconsideration be and is hereby DENIED.

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/dlw

ORDER RECEIVED FOR FILING

Date 6-24-15

By

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 17318 Falls Road **which is presently zoned** RC 2, BL CR

Deed References: 04560/00259 10 Digit Tax Account # 0513001050 & 0513001051

Property Owner(s) Printed Name(s) Myles R. McComas and Rachel McComas

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ✓ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see attached.

2. ____ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ____ **a Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

TO BE PRESENTED AT HEARING

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.
Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

ORDER RECEIVED FOR FILING
Date 5/15/15
By DEN

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Michael Paul Smith, Personal Representative / of the Estate of Myles R. McComas

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 mpsmith@sgs-law.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 lschmidt@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2015-0208SPH **Filing Date** 3/25/15 **Do Not Schedule Dates:** _____ **Reviewer** JCM

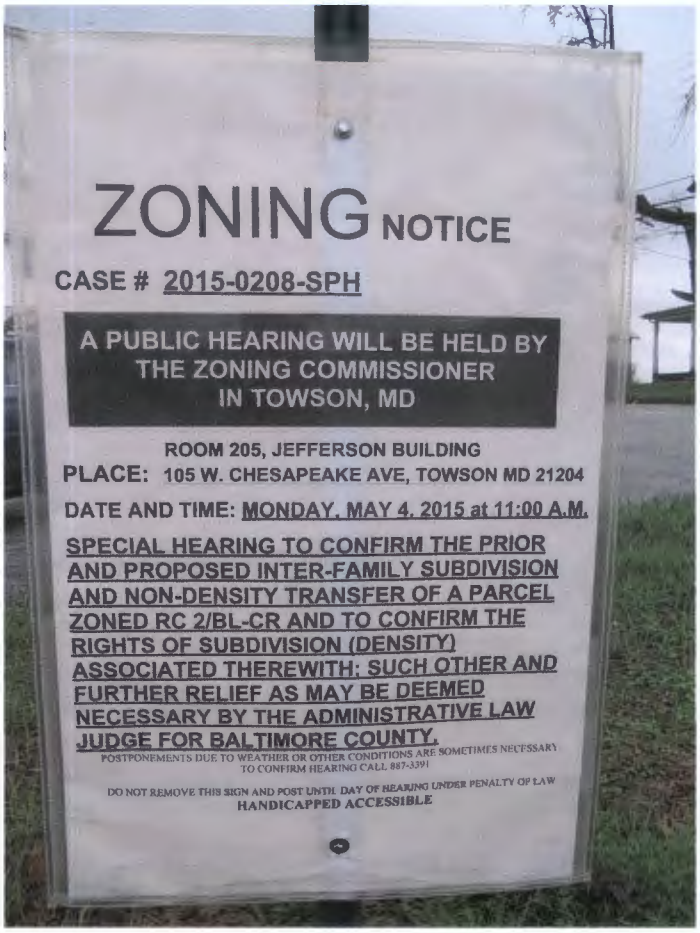
REV. 10/4/11

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 4/14/2015
Case Number: 2015-0208-SPH
Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. of SMITH, GILDEA & SCHMIDT, LLC
Date of Hearing (Closing): MAY 4, 2015

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
17318 FALLS ROAD – (ON-SITE)

The sign(s) were posted on: APRIL 14, 2015



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 – 666 – 5366
(Telephone Number of Sign Poster)

PLEASE PRINT CLEARLY

CASE NAME McGomas
CASE NUMBER 2015-208-SPH
DATE 5/4/15

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
KENNETH WELLS	7403 NEWGATE RD.	21087	
LAWRENCE E SCHMIDT	600 WASHINGTON AVE	TOWSON MD 21204	lschmidt@sgs-law.com

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 2015-208
DATE 5-4-2015

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Jim Jung	17216 Hunter Green Rd	Upperco MD 21155	Jim@hallmarkcountertops.com

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

April 29, 2015

Michael Paul Smith
The Estate of Myles R McComas
600 Washington Avenue
Suite 200
Towson MD 21204

RE: Case Number: 2015-0208 SPH, Address: 17318 Falls Road

Dear Mr. Smith:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 25, 2015. 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: jaw

Enclosures

c: People's Counsel
Lawrence E Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson MD 21204

5/4

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: April 14, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED
APR 17 2015
OFFICE OF ADMINISTRATIVE HEARINGS

SUBJECT: 17318 Falls Road

INFORMATION:

Item Number: 15-208

Petitioner: Michael Paul Smith, Personal Representative
Estate of Myles R. McComas

Zoning: BL-CR & RC 2

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the Petition for Special Hearing to confirm the non-density transfer of a parcel zoned RC 2 and BL-CR and to confirm the rights of subdivision associated with the subject tract..

The Department of Planning offers the following recommendations:

- The 1.7 ac., Tax Parcel 264 for which the non-density transfer is being requested is of minimal agricultural value or potential for principal residential use. The Department has no objection to the non-density transfer and combination with the 9.3 acre Tax Parcel 259 to create a single lot.
- The 17318 Falls Road property is the remaining lands of a larger tract recorded among the Land Records for Baltimore County in L. 4660 at F. 259. Save for the 1.7 ac., Tax Parcel 264 subdivided in 1989 by deed L.8437 at F. 576 and the 9.3 ac., Tax Parcel 259 subdivided in 1987 by deed L.7760 at F. 815 all other off –conveyances from the tract described in L. 4660 at F. 259 are indicated by the plan to have occurred prior to 11/1979. 4560
- 17318 Falls Road property is prime and productive land due to its flat topography and location. Of note, the property is crossed by Falls Road and has two separate tax account numbers attached to it although under a single Tax Parcel 129 identification number. Pursuant to BCZR 1A01.3.B.1 where land in a single ownership is *"crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right-of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record."*
- The Department recommends that 17318 Falls Road property is single tract for the purposes of determining prior and proposed subdivision rights. The Department further recommends that the 9.3 ac. Tax Parcel 259 utilizes one of two subdivision rights attached to the remaining lands in L. 4660 at F. 259 pursuant to the aforementioned 1A01.3.B.1 thereby leaving one

right with the property. It is the recommendation of this Department that the single remaining subdivision right be assigned to the dwelling now existent at 17318 Falls Road.

For further information concerning the matters stated here in, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief: Kathy Schlabach

AVA/KS/LTM

s:\planning\dev rev\zac\zacs 2015\15-208.docx

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: March 31, 2015

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

DAK

SUBJECT: Zoning Advisory Committee Meeting
For April 6, 2015
Item No. 2015-0206, 0208 and 0209

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

DAK:CEN
cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC04062015.doc

Larry Hogan, *Governor*
Boyd Rutherford, *Lt. Governor*

State Highway Administration
Maryland Department of Transportation

Pete K. Rahn, *Secretary*
Melinda Peters, *Administrator*

Date: 3/30/15

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2015-0208-XA
Special Hearing
Michael Paul Smith,
Representative of the Estate
of Myles R. McConnas.
19318 Falls Road
MD25

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 3/30/15. A field inspection and internal review reveals that an entrance onto MD25 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Special Hearing, Case Number 2015-0208-XA.

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may email him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

ARTICLE 1A. Resource Conservation Zones

SECTION 1A01. R.C.2 (Agricultural) Zone

§ 1A01.3. Height and area regulations.

A. Height regulation. No structure hereafter erected in an R.C.2 Zone shall exceed a height of 35 feet, except as otherwise provided under Section 300.

B. Area regulations.
[Bill No. 178-1979]

1. Subdivision lot density. No lot of record lying within an R.C.2 Zone and having a gross area of less than two acres may be subdivided. No such lot having a gross area between two and 100 acres may be subdivided into more than two lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of one lot for each 50 acres of gross area. In cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right-of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record.
[Bill Nos. 199-1990; 125-2005]

2. Lot size. A lot having an area less than one acre may not be created in an R.C.2 Zone.

3. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of any street or within 35 feet of any lot line other than a street line.

4. Principal dwellings per lot. No more than one principal dwelling is permitted on any lot in an R.C.2 Zone.

SMITH, GILDEA & SCHMIDT LLC

Please file payment went to Debbie ALJ

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
DAVID W. TERRY*
*Admitted in MD, MO, IL, AR

LAUREN DODRILL BENJAMIN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO**
NATALIE MAYO
ELYANA TARLOW
of counsel:
JAMES T. SMITH, JR.
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
**Admitted in MD, FL, PA

July 21, 2015

RECEIVED
JUL 21 2015
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

Via Hand Delivery
Arnold Jablon, Esquire
Director
Baltimore County Department of Permits, Approvals and Inspections
111 West Chesapeake Ave, Suite 105
Towson, MD 21204

Re: Notice of Appeal
Property: 17318 Falls Road
Case No. 2015-0208-SPH

Dear Mr. Jablon,

Enclosed herewith please find an original and three (3) copies of the Notice of Appeal on behalf of Appellant, Michael P. Smith, Personal Representative of the Estate of Myles R. McComas, to be filed in the above referenced matter. Please date stamp the copies and return the same to our courier. Also enclosed, please find a check in the amount of $265.00 to cover the filing fee for such appeal.

Please contact me should you have any questions.

Very truly yours,

Lawrence E. Schmidt

LES/amf
Enclosures
cc: Administrative Law Judge John E. Beverungen
Peter Max Zimmerman, Esquire
Krysundra Cannington, Board of Appeals

IN RE: **PETITION FOR SPECIAL HEARING** **17318 Falls Road**	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
5th Election District 3rd Councilmanic District	*	OF
	*	BALTIMORE COUNTY
Michael P. Smith, Personal Representative (Estate of Myles R. McComas) Appellant	*	
	*	**Case No.:**
ALJ Case No. 2015-0208-SPH	*	
	*	

* *

NOTICE OF APPEAL

The Appellant, Michael P. Smith, Personal Representative of the Estate of Myles R. McComas, by and through his attorneys, Lawrence E. Schmidt and Smith, Gildea, and Schmidt, LLC, feeling aggrieved by the decision of the Administrative Law Judge for Baltimore County from the Order on Motion for Reconsideration dated June 24, 2015 (which adopted and re-stated the decision of the Administrative Law Judge dated May 15, 2015), in the above-captioned matter, hereby note this appeal to the County Board of Appeals for Baltimore County in accordance with Baltimore County Code §32-3-401 by filing this Notice of Appeal with the Director of the Baltimore County Department of Permits, Approvals & Inspections.

Respectfully submitted,

LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of **July, 2015,** a copy of the foregoing Notice of Appeal was hand delivered to:

John E. Beverungen, Esquire
Administrative Law Judge for Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

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

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

December 16, 2015

Shreyas Panchigar
2926 W. Almondbury Dr.
Pasadena, Maryland 21122

RE: Petition for Special Exception and Variance
Property: 2710 Hammonds Ferry Road
Case No. 2016-0053-XA

Dear Mr. Panchigar:

In regard to the above case, I was informed by Dennis Kennedy, Chief of the Bureau of Development Plans Review (DPR) that I inadvertently failed to attach to the Order the Zoning Advisory Committee comment issued by that agency. I apologize for that oversight, and included with this correspondence is a copy of the DPR comment dated September 11, 2015, which shall be considered a condition *nunc pro tunc* to the zoning relief granted in the November 3, 2015 Order.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Dennis Kennedy, Development Plans Review
Peter Zimmerman, Esq., Baltimore County Office of People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: September 11, 2015

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

SUBJECT: Zoning Advisory Committee Meeting
For September 7, 2015
Item No. 2016-0053

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comments.

The proposed auto office and the one-story addition to the existing building constitute development, but the site has not been submitted for development review. When development review is done, the right-of-way line along the frontage will be moved in certain locations such that the sidewalk will be in the right-of-way. This should be accounted for at this stage so a new right-of-way line enclosing the sidewalk should be drawn and the parking should be set back 10' from the new right-of-way line. Not addressing this issue now will result in further variances being required before building permits can be issued.

A Landscape and Lighting Plan will be required.

* * * * * *

ORDER RECEIVED FOR FILING
Date 12/16/15
By Den

DAK:CEN
cc:file

ZAC-ITEM NO 16-0053-09142015.doc

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

No. 123579

Date: 3/25/15

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				$ 75.—

Total: 75.—

Rec From: EST of MYLES McCOMAS

For: 2015-0208 SPH

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

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
3/25/2015	3/25/2015	09:29:40	5

REG WS05 WALKTN RB05 LRB
>>RECEIPT # 768160 3/25/2015 OFLN
Rcpt 5 526 ZONING VERIFICATION
CK NO. 123579
Recpt Tot $75.00
$75.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 2015-0208 SPH

Petitioner: Michael Paul Smith, Personal Representative of the Estate of Myles R. McComas

Address or Location: 17318 Falls Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Lawrence E. Schmidt, Esquire

Address: Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Telephone Number: 410-821-0070

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Tuesday, April 14, 2015 Issue - Jeffersonian

Please forward billing to:
Lawrence Schmidt 410-821-0070
Smith, Gildea & Schmidt
600 Washington Ave., Ste. 200
Towson, MD 21204

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0208-SPH
17318 Falls Road
SW/corner of Falls and Mt. Carmel Roads
5th Election District – 3rd Councilmanic District
Legal Owners: Estate of Myles R. McComas, Michael Paul Smith, Personal Representative

Special Hearing to confirm the prior and proposed inter-family subdivision and non-density transfer of a parcel zoned RC 2/BL-CR and to confirm the rights of subdivision (density) associated therewith; such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Monday, May 4, 2015 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

July 23, 2015

RECEIVED
JUL 23 2015
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS** - Petition for Special Hearing
Property: 17318 Falls Road
Case No.: 2015-0208-SPH

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed with the Department of Permits, Approvals, and Inspections (PAI) on July 21, 2015 and received in this Office on July 22, 2015. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
Jim Jung, 17216 Hunter Green Road, Upperco, MD 21155

APPEAL

Petition for Special Hearing
17318 Falls Road
5th Election District – 3rd Councilmanic District
Legal Owner: Michael P. Smith, Personal Representative (Estate of Myles R. McComas)
Case No.: 2015-0208-SPH

Petition for Special Hearing (March 25, 2015)

Zoning Description of Property

Notice of Zoning Hearing (April 6, 2015 for Hearing on May 4, 2015)

Certification of Publication – (April 14, 2015)

Certification of Posting (Linda O'Keefe – April 14, 2015)

Entry of Appearance by People's Counsel – (April 2, 2015)

Petitioner(s) Sign-In Sheet – (1 Page)

Citizens(s) Sign-In Sheet – (1 Page)

Zoning Advisory Committee (ZAC) Comments – (5 Pages)

Petitioner's Exhibits:
- 1 – Site Plan
- 2 – SHA R.O.W. Plat
- 3- Deed 168/542
- 4- Deed 190 /75
- 5- Deed 192/135
- 6- Deed 445/346
- 7- Deed 516/376
- 8- Deed 4560/259
- 9- Inquisition 5106/212
- 10-A. Deed 7760/815
- 10-B. Deed 7763/030
- 11- Deed 8437/576
- 12- Last Will & Testament – Myles McComas, Sr.
- 13-A& B- SDAT Records
- 14. Color Photos

Miscellaneous: (1 page)

Cover Letter and Administrative Law Judge's Opinion and Order –
(GRANTED – May 15, 2015)

Motion for Reconsideration from Lawrence E. Schmidt, Esq. on June 9, 2015

Cover Letter and Administrative Law Judge's Motion for Reconsideration Opinion and Order –
(DENIED – June 24, 2015)

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 17318 Falls Road **which is presently zoned** RC 2, BL CR

Deed References: 04560/00259 10 Digit Tax Account # 0513001050 & 0513001051

Property Owner(s) Printed Name(s) Myles R. McComas and Rachel McComas

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ✓ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see attached.

2. ____ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ____ **a Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

TO BE PRESENTED AT HEARING

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.
Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

ORDER RECEIVED FOR FILING
Date 5/15/15
By ASN

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address / City / State

Zip Code / Telephone # / Email Address

Legal Owners (Petitioners):

Michael Paul Smith, Personal Representative / of the Estate of Myles R. McComas

Name #1 – Type or Print / Name #2 – Type or Print

Signature #1 / Signature # 2

600 Washington Avenue, Suite 200 / Towson / MD

Mailing Address / City / State

21204 / (410) 821-0070 / mpsmith@sgs-law.com

Zip Code / Telephone # / Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 / Towson / MD

Mailing Address / City / State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code / Telephone # / Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 / Towson / MD

Mailing Address / City / State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code / Telephone # / Email Address

CASE NUMBER 2015-0208SPH **Filing Date** 3/25/15 **Do Not Schedule Dates:** _____ **Reviewer** JCM

REV. 10/4/11

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION
17318 Falls Road

Special Hearing:

1. To confirm the prior and proposed inter-family subdivision and non-density transfer of a parcel zoned RC 2/BL-CR and to confirm the rights of subdivision (density) associated therewith; and

2. Such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

kjWellsInc

Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

March 21, 2015

Zoning Description
McComas Property

17318 Falls Road and Vacant Land
Baltimore County
Maryland
5th Election District
3rd Councilmanic District

Beginning at a point formed by the intersection of the centerlines of Falls Road (Md. Route 25) and Mount Carmel Road (Md. Route 137) thence the following courses and distances:

1) South 19 degrees 46 minutes 13 seconds East 231.95 feet
2) South 69 degrees 54 minutes 54 seconds East 915.06 feet
3) South 62 degrees 20 minutes 12 seconds East 111.44 feet
4) South 47 degrees 20 minutes 33 seconds West 703.13 feet
5) North 29 degrees 33 minutes 27 seconds West 40.92 feet
6) South 72 degrees 36 minutes 36 seconds West 258.83 feet
7) North 59 degrees 45 minutes 06 seconds West 509.46 feet
8) North 8 degrees 58 minutes 12 seconds West 728.51 feet
9) North 86 degrees 30 minutes 46 seconds West 48.20 feet
10) North 0 degrees 09 minutes 28 seconds West 148.74 feet
11) South 85 degrees 50 minutes 34 seconds East 350.83 feet

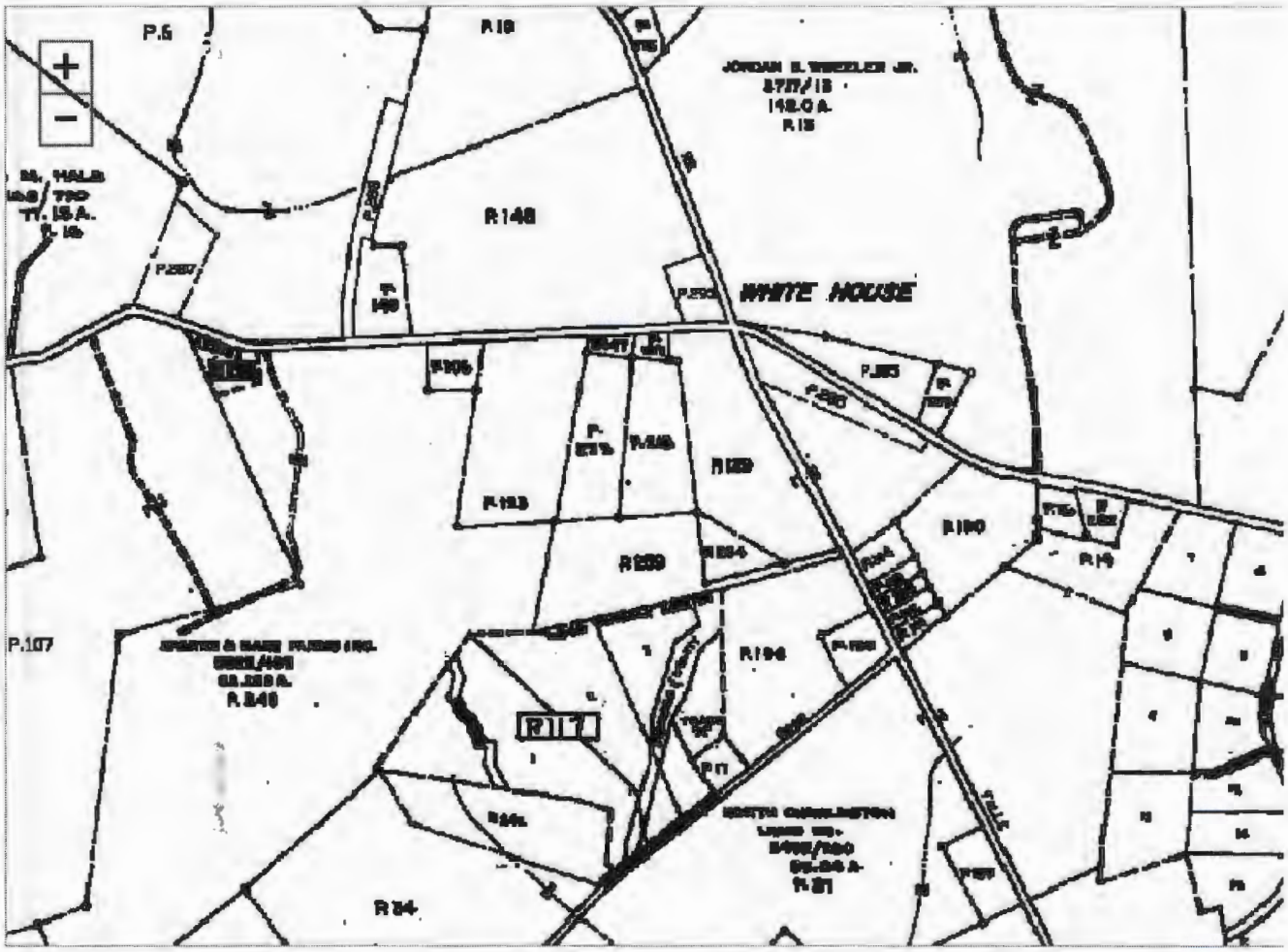
to the point of beginning of the remaining land described in a Deed Liber 4560 folio 259 containing 18.8 acres more or less.

STATE OF MARYLAND
KENNETH JAMES WELLS
NO. 236-B
REGISTERED
PROPERTY LINE SURVEYOR

Baltimore County

New Search (http://sdat.resiusa.org/RealProperty)

District: **05** Account Number: **0513001050**



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (http://www.plats.net).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (http://www.mdp.state.md.us/OurProducts/OurProducts.shtml).

(http://imsweb05.mdp.state.md.us/website/mosp/)

Loading... Please Wait. Loading... Please Wait.

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4/20/15
WCR

RECEIVED
APR 17 2015
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: April 14, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 17318 Falls Road

INFORMATION:

Item Number: 15-208

Petitioner: Michael Paul Smith, Personal Representative
Estate of Myles R. McComas

Zoning: BL-CR & RC 2

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the Petition for Special Hearing to confirm the non-density transfer of a parcel zoned RC 2 and BL-CR and to confirm the rights of subdivision associated with the subject tract..

The Department of Planning offers the following recommendations:

- The 1.7 ac., Tax Parcel 264 for which the non-density transfer is being requested is of minimal agricultural value or potential for principal residential use. The Department has no objection to the non-density transfer and combination with the 9.3 acre Tax Parcel 259 to create a single lot.
- The 17318 Falls Road property is the remaining lands of a larger tract recorded among the Land Records for Baltimore County in L. 4660 at F. 259. Save for the 1.7 ac., Tax Parcel 264 subdivided in 1989 by deed L.8437 at F. 576 and the 9.3 ac., Tax Parcel 259 subdivided in 1987 by deed L.7760 at F. 815 all other off –conveyances from the tract described in L. 4660 at F. 259 are indicated by the plan to have occurred prior to 11/1979.
- 17318 Falls Road property is prime and productive land due to its flat topography and location. Of note, the property is crossed by Falls Road and has two separate tax account numbers attached to it although under a single Tax Parcel 129 identification number. Pursuant to BCZR 1A01.3.B.1 where land in a single ownership is *"crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right-of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record."*
- The Department recommends that 17318 Falls Road property is single tract for the purposes of determining prior and proposed subdivision rights. The Department further recommends that the 9.3 ac. Tax Parcel 259 utilizes one of two subdivision rights attached to the remaining lands in L. 4660 at F. 259 pursuant to the aforementioned 1A01.3.B.1 thereby leaving one

right with the property. It is the recommendation of this Department that the single remaining subdivision right be assigned to the dwelling now existent at 17318 Falls Road.

For further information concerning the matters stated here in, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief: Kathy Schlabach

AVA/KS/LTM

CASE NO. 2015-0208-SPH

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
3/31/15	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	N/C
_____	DEPS (if not received, date e-mail sent _____)	_____
_____	FIRE DEPARTMENT	_____
4/14/15	PLANNING (if not received, date e-mail sent _____)	C
3/30/15	STATE HIGHWAY ADMINISTRATION	no obj
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. ___ _____)

PRIOR ZONING (Case No. ___ _____)

NEWSPAPER ADVERTISEMENT Date: 4/14/15

SIGN POSTING Date: 4/14/15 by O'Keefe

PEOPLE'S COUNSEL APPEARANCE Yes ☑ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search (w4)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 05 Account Number - 0513001050

Owner Information

Owner Name:	MCCOMAS MYLES R MCCOMAS RACHEL H	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	STE 200 600 WASHINGTON AVE BALTIMORE MD 21204-1301	**Deed Reference:**	/04560/ 00259

Location & Structure Information

Premises Address:	17318 FALLS RD 0-0000	**Legal Description:**	8.0084 AC WS FALLS RD SW COR MT CARMEL RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0020	0010	0129		0000				2013	Plat Ref:

Special Tax Areas:		**Town:**	NONE
		Ad Valorem:	
		Tax Class:	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
	378		8.0100 AC	06

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
		RETAIL STORE				

Value Information

	Base Value	Value As of 01/01/2013	Phase-in Assessments As of 07/01/2014	As of 07/01/2015
Land:	129,800	129,800		
Improvements	79,300	80,100		
Total:	209,100	209,900	209,633	209,900
Preferential Land:	0			0

Transfer Information

Seller: HALE JOHN O AG U SE 83-84	Date: 12/16/1965	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /04560/ 00259	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

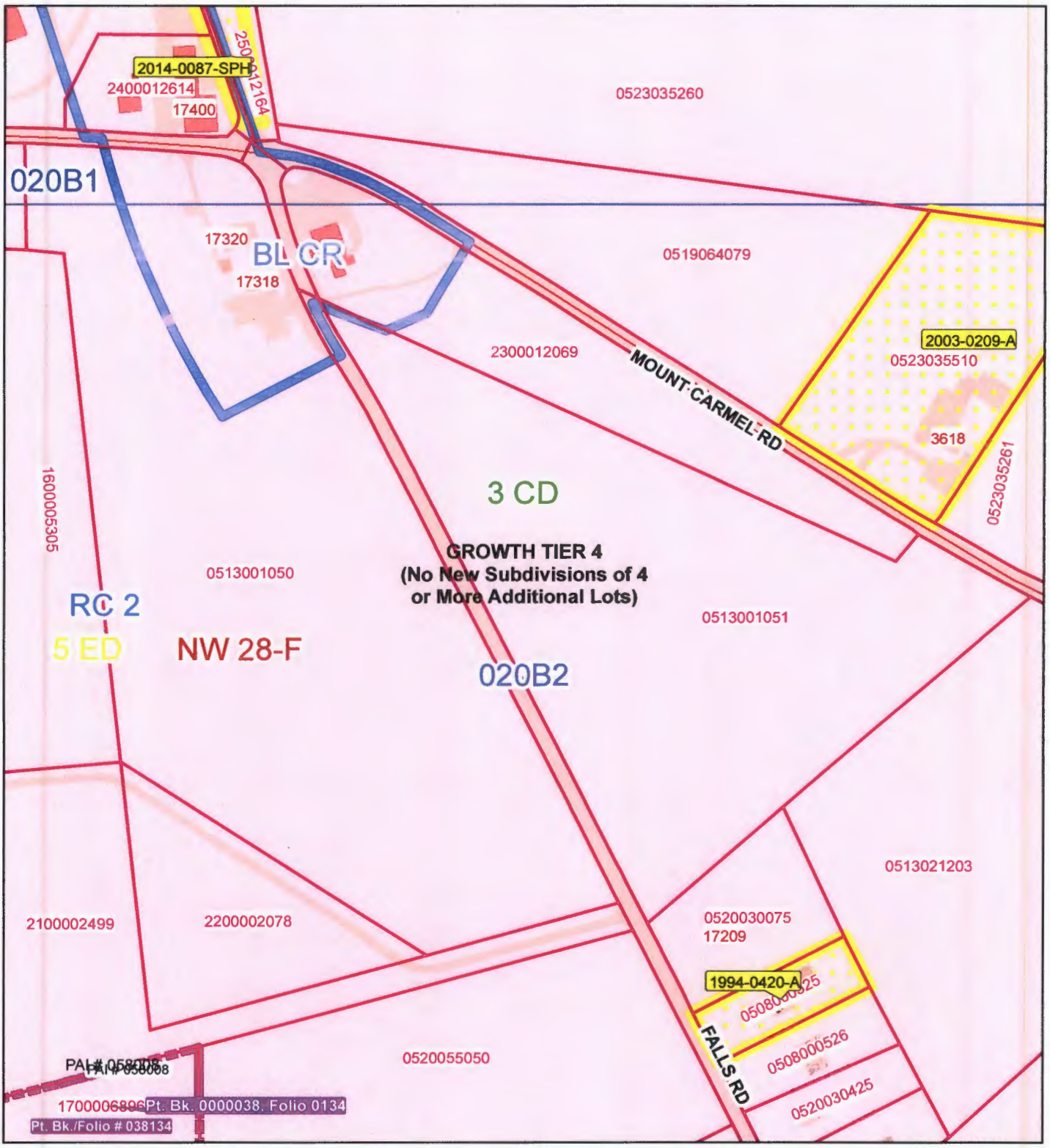
Partial Exempt Assessments:	Class	07/01/2014	07/01/2015
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt:	Special Tax Recapture:
Exempt Class:	NONE

Homestead Application Information

Homestead Application Status: No Application

17318 Falls Road



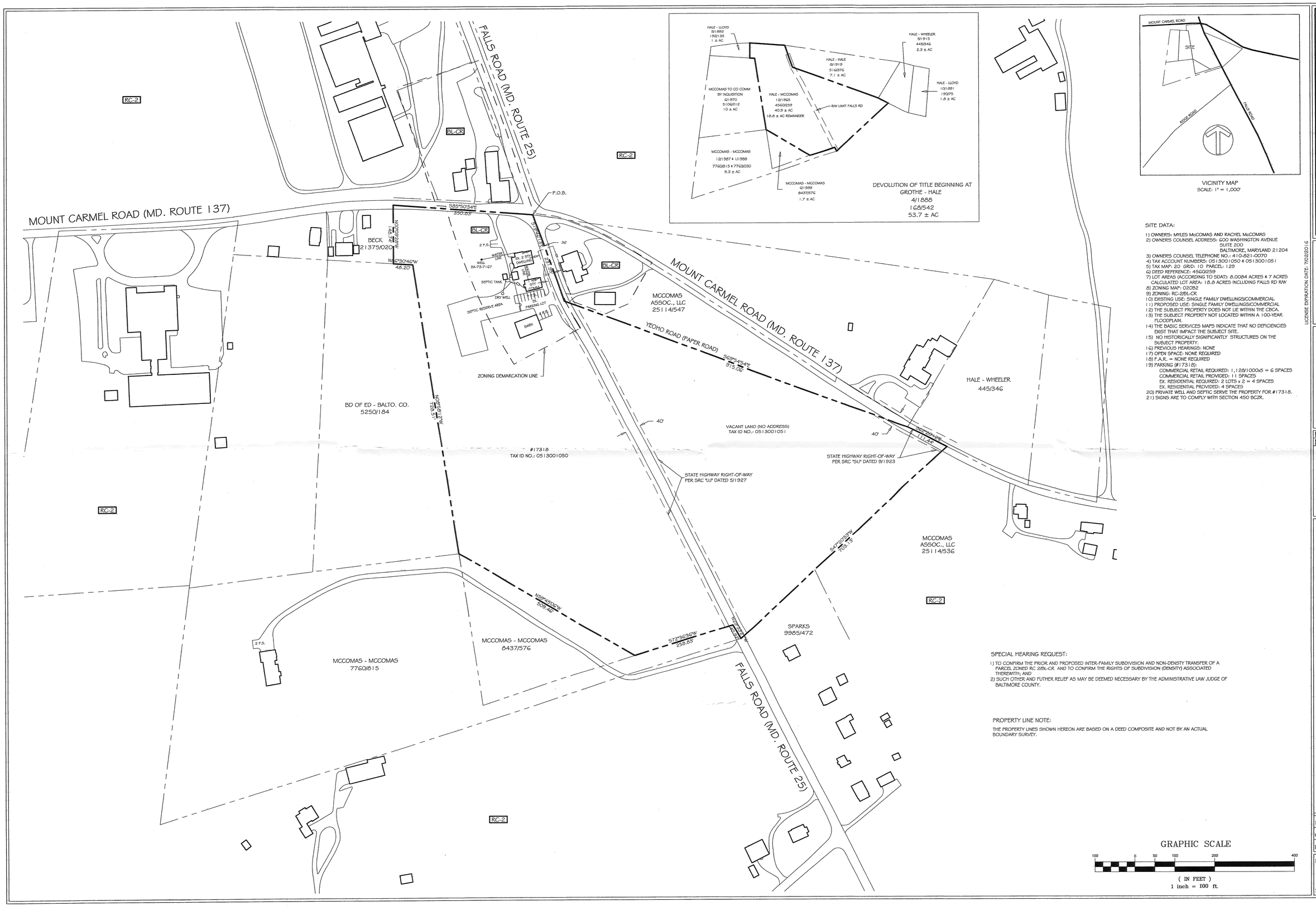
Publication Date: 3/24/2015

Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

N W E S

0 50 100 200 300 400 Feet

1 inch = 200 feet



SITE DATA:

1) OWNERS: MYLES McCOMAS AND RACHEL McCOMAS
2) OWNERS COUNSEL ADDRESS: 600 WASHINGTON AVENUE
SUITE 200
BALTIMORE, MARYLAND 21204
3) OWNERS COUNSEL TELEPHONE NO.: 410-821-0070
4) TAX ACCOUNT NUMBERS: 0513001050 & 0513001051
5) TAX MAP: 20 GRID: 10 PARCEL: 129
6) DEED REFERENCE: 4560/259
7) LOT AREAS (ACCORDING TO SDAT): 8.0084 ACRES & 7 ACRES
CALCULATED LOT AREA: 18.8 ACRES INCLUDING FALLS RD R/W
8) ZONING MAP: 020B2
9) ZONING: RC-2/BL-CR
10) EXISTING USE: SINGLE FAMILY DWELLINGS/COMMERCIAL
11) PROPOSED USE: SINGLE FAMILY DWELLINGS/COMMERCIAL
12) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
13) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
14) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
15) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
16) PREVIOUS HEARINGS: NONE
17) OPEN SPACE: NONE REQUIRED
18) F.A.R. = NONE REQUIRED
19) PARKING (#17318):
COMMERCIAL RETAIL REQUIRED: 1,128/1000x5 = 6 SPACES
COMMERCIAL RETAIL PROVIDED: 11 SPACES
EX. RESIDENTIAL REQUIRED: 2 LOTS x 2 = 4 SPACES
EX. RESIDENTIAL PROVIDED: 4 SPACES
20) PRIVATE WELL AND SEPTIC SERVE THE PROPERTY FOR #17318.
21) SIGNS ARE TO COMPLY WITH SECTION 450 BCZR.

SPECIAL HEARING REQUEST:

1) TO CONFIRM THE PRIOR AND PROPOSED INTER-FAMILY SUBDIVISION AND NON-DENSITY TRANSFER OF A PARCEL ZONED RC 2/BL-CR AND TO CONFIRM THE RIGHTS OF SUBDIVISION (DENSITY) ASSOCIATED THEREWITH; AND
2) SUCH OTHER AND FUTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY.

PROPERTY LINE NOTE:

THE PROPERTY LINES SHOWN HEREON ARE BASED ON A DEED COMPOSITE AND NOT BY AN ACTUAL BOUNDARY SURVEY.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8900
Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 7/02/2016

STATE OF MARYLAND KENNETH JAMES WELLS PROPERTY LINE SURVEYOR

SEAL

NAD 83/91

REVISIONS:

NO.	DATE

PLAN TO ACCOMPANY A PETITION FOR A SPECIAL HEARING OF THE ESTATE OF MYLES McCOMAS PROPERTY

BALTIMORE COUNTY
MARYLAND
5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

DRAWN BY: CAV/KJW
CHECKED BY: KJW
DATE: 2/20/2015
PROJECT NO.: 2015-005
SHEET 1OF 1

Falls Road
End B-78 - Black Rock
Baltimore Co.
Contr. No. B-81
Scale 1" = 100' Sheet No. 2
MD. 25

UJ

PETITIONER'S
EXHIBIT NO. 2

Highway Purpose

WHEREAS the State Roads Commission of Maryland, acting for the State of Maryland, proposes to lay out and construct as a State Highway, the road shown on attached plat in

County, and

WHEREAS the laying out of said road will be a material benefit to the undersigned.

Now in consideration of the above premises and of One Dollar and other good and valuable considerations, we for ourselves, our heirs, personal representatives and assigns do hereby deed, grant and convey unto the State of Maryland for the purpose of or to be used in connection with a State Highway the right of way and land shown on accompanying plat, which is hereby made a part hereof, and we do further release the State of Maryland, the State Roads Commission, its members, officers, agents and employees from any and all claim or demand for damages or injuries whatever caused by the taking, use or improvement of said land for a public highway including any change of grade or drainage, the creation or extension of slopes, embankments or excavations in connection therewith, or any other matters or things arising out or caused by the laying out and construction of the said State Highway.

IN WITNESS WHEREOF we have hereunto set our hands and seals, this 13 day of MAY in the year 1927

CARROL H. MARTIN Seal

Test:

B.F. PHILLIPS Seal
R.A. PHILLIPS Seal
JOHN SEAKS Seal
GEO. M HALL Seal
EMMA M. HOLE
KATHIE M.B. STANSBURY
JAKS R. PEREGORY
EFFIE M. PEREGORY

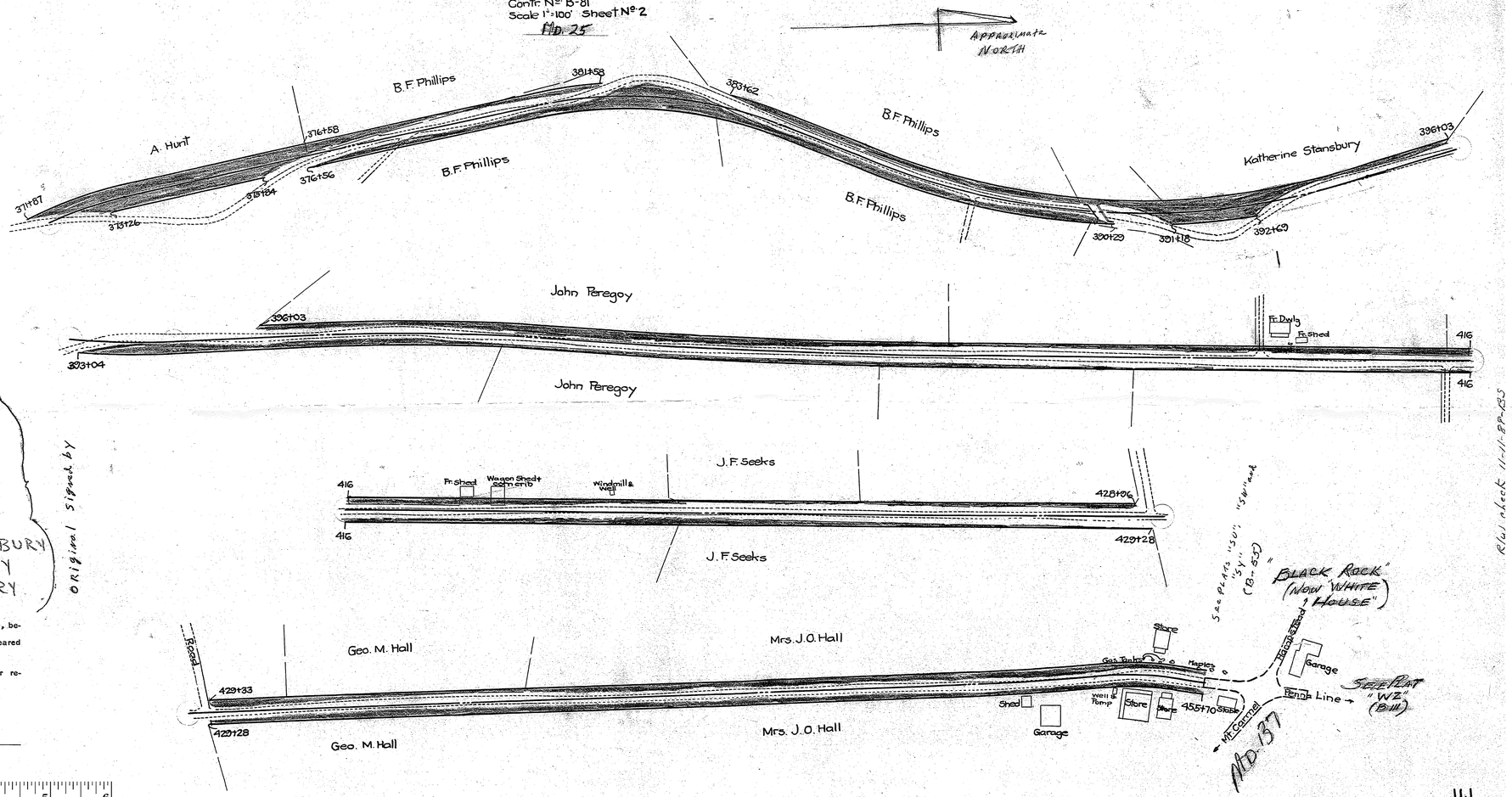
Original signed by

State of Maryland, County of

On this day of in the year , before me, a Notary Public of the State of Maryland, personally appeared

and acknowledged the aforegoing deed and release to be their respective act.

WITNESS my hand and Notarial Seal.



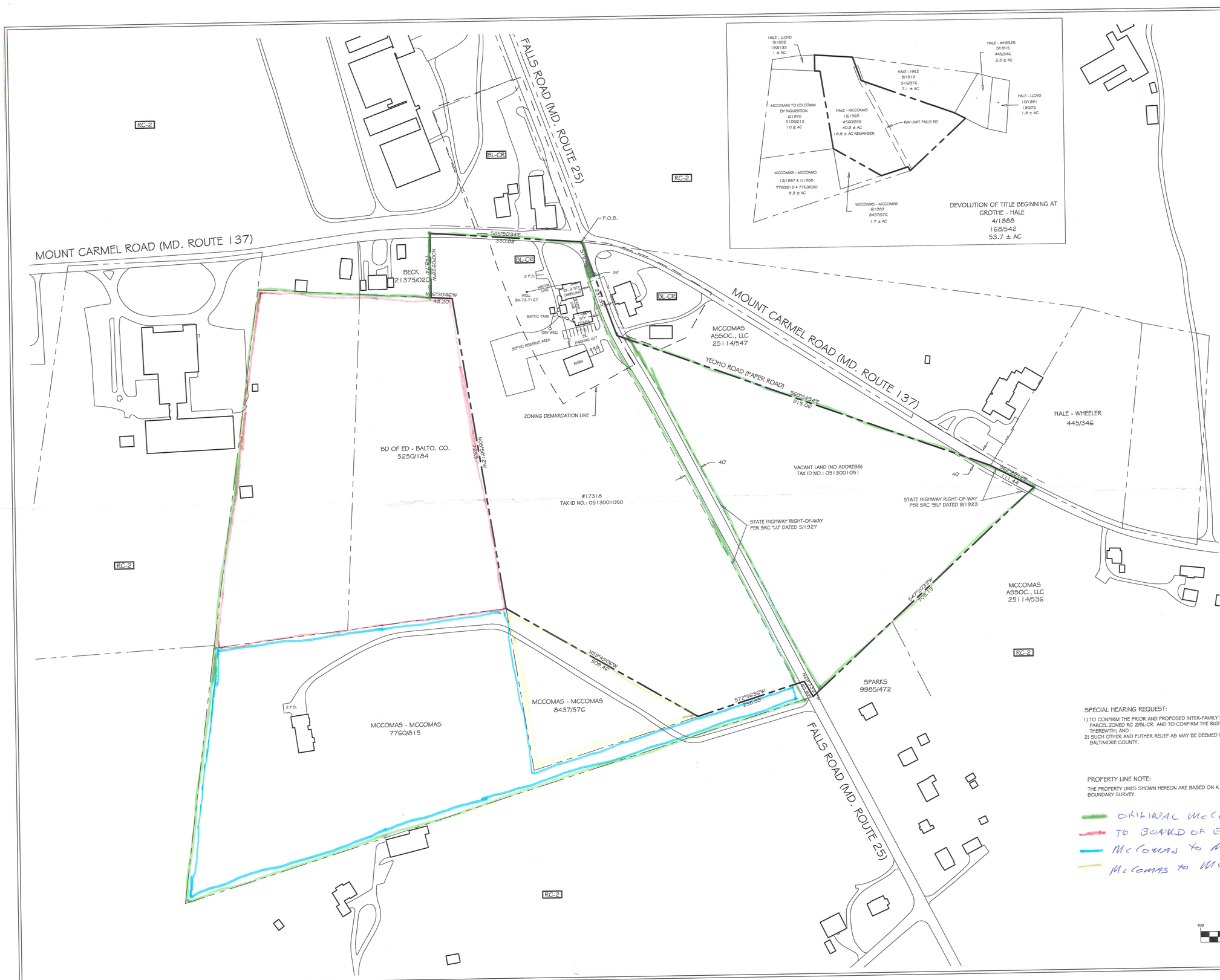
Rev. check 11-11-88

MSA SK24-95749

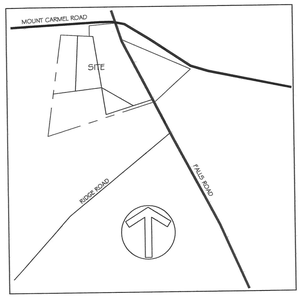
UJ

1 2 3 4 5 6

Maryland State Archives



DEVOLUTION OF TITLE BEGINNING AT
GROTHE - HALE
4/1888
168/542
53.7 ± AC



VICINITY MAP
SCALE: 1" = 1,000'

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PETITIONER'S
EXHIBIT NO. 1

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ORIGINAL McCOMAS (1965)
TO BOARD OF EDUCATION (1970)
McCOMAS to McCOMAS (1987-1988)
McCOMAS to McCOMAS (1989)

GRAPHIC SCALE
100 0 50 100 200 400
(IN FEET)
1 inch = 100 ft.

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