

M E M O R A N D U M

DATE: November 29, 2018
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2019-0069-SPH - Appeal Period Expired

The appeal period for the above-referenced case expired on November 28, 2018. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

/dlw

c: ✓ Case File
Office of Administrative Hearings

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1316 A Mt. Carmel Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
Barry L. & Taunia M. Durst	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2019-0069-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 Barry L. & Taunia M. Durst, legal owners ("Petitioners"). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR") to approve a non-density parcel of 4.80 acres to be transferred to the 1201 Brandy Springs Road property, already a non-density parcel; and to confirm that the kennel uses approved in Case Nos. 1984-0054-X & 2005-0273-SPH will not have an expanded use area. A site plan was marked and admitted as Petitioners' Exhibit 1.

Barry & Taunia Durst and professional engineer Rick Richardson appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). Neither agency opposed the request.

Some history will help to set the context for the present case. Prior to 2005, Barbara and Glenn Durst owned a 44.7 acre parcel in the Parkton area of Baltimore County, on which was situated their principal dwelling (*i.e.*, 1316B Mt. Carmel Road). In 2005 they obtained approval for a transfer from the 44.7 acre parcel of a 3.24 acre "non-density lot" which was improved with

ORDER RECEIVED FOR FILING

Date 10/29/18

By Sen

a building used as a commercial kennel. At the same time the commercial kennel was approved as a nonconforming use. *See* Case No. 2005-0273-SPH. In or about 2006 Barbara and Glenn Durst subdivided their approximately 41 acre parcel to create a 30 acre building lot for their son and his wife, Petitioners herein. Petitioners constructed a dwelling on this lot in 2007, known as 1316A Mt. Carmel Road.

The commercial kennel is known as Hereford Bed and Biscuit, and customers gain access to the business by way of a driveway which crosses the 30 acre lot on which Petitioners constructed their principal residence. The driveway accessing the commercial kennel is shown on the site plan as an "access easement...for the benefit of the commercial kennel," although its exact boundaries are not defined. *See* Pets. Ex. 1. To eliminate the potential for confusion concerning the scope and/or location of this "easement," Petitioners propose to transfer a 4.80 acre parcel of land from their 30 acre lot, which would be added to the existing 3.24 acre non-density lot approved in 2005. The net result would be that the lot known as 1316A Mt. Carmel Road would be 25.2 acres +/- in size and the non-density lot would be increased in size to approximately 8 acres.

Even though the non-density lot on which it is situated would increase in size, Petitioners do not seek to enlarge the size or scope of the nonconforming commercial kennel operation, which would be prohibited by BCZR §104 in any event. A condition will be added to the order below to clarify that all kennel operations must be conducted within the 3.24 acre lot approved in the 2005 zoning case, and now identified as 1201 Brandy Springs Road. The non-density transfer is proposed only to provide the commercial kennel with a deeded means of access to the business without needing to rely on an "access easement" which crosses another property. This will enable the kennel business and 1316A Mt. Carmel Road to be separately conveyed without the potential for a title dispute concerning the scope of the ill-defined "access easement."

ORDER RECEIVED FOR FILING

Date 10/29/18
By Sen

THEREFORE, IT IS ORDERED this 29th day of **October, 2018** by this Administrative Law Judge, that the Petition for Special Hearing to: (1) approve a non-density parcel of 4.80 acres to be transferred from the lot and property known as 1316A Mt. Carmel Road to the 1201 Brandy Springs Road property, already a non-density lot; and (2) to confirm that the commercial kennel uses approved in Case Nos. 1984-0054-X & 2005-0273-SPH will not have an expanded use area, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners must obtain approval from the DRC for a lot line adjustment to alter and enlarge the existing 3.24 acre non-density lot shown on the site plan.
2. All commercial kennel operations must be conducted within the confines of the 3.24 acre non-density lot shown on the site plan submitted herein as Petitioners' Ex. No.1 and described on that plan as "Non-Conforming Use (Kennel) Limits."
3. The existing trailer referenced in the DOP's ZAC comment may be used for storage, but may not be used to keep or board animals as part of the nonconforming commercial kennel operation. The trailer shall not be equipped or arranged for human habitation, and may not contain kitchen or bathroom facilities.

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


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 10/29/18

By slh



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 1316A Mt. Carmel Road ^{1201 BEANDY SPRINGS RD} which is presently zoned RC-2
 Deed References: 24540/251, 36672/ 00355 10 Digit Tax Account # 2500000957&2500000956
 Property Owner(s) Printed Name(s) Barry L. Durst, Taunia M. Durst

(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. X a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve (See Attached)

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

3. a **Variance** from Section(s) 1B02.3.C.1 to allow side yard setbacks of 10' and 10' for a total of 20' in lieu of the required 25' total side yard setbacks

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 THE 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).

Contract Purchaser/Lessee:

Name- Type or Print /
 Signature _____
 Mailing Address _____ City _____ State _____
 Zip Code _____ Telephone # _____ Email Address _____

Attorney for Petitioner:

Name- Type or Print _____
 Signature _____
 Mailing Address _____ City _____ State _____
 Zip Code _____ Telephone # _____ Email Address _____

Legal Owners (Petitioners):

Barry L. Durst / Taunia M. Durst
 Name #1 - Type or Print Name #2 - Type or Print
 Signature #1 [Signature] Signature #2 [Signature]
 1316A Mt Carmel Road PARKTON MD
 Mailing Address City State
 21120 / 410-274-0875 / tbdurst@hotmail.com
 Zip Code Telephone # Email Address

Representative to be contacted:

Richardson Engineering, LLC
 Name - Type or Print _____
 Signature [Signature]
 30 E. Padonia Road, Suite 500 Timonium MD
 Mailing Address City State
 21093 / 410-560-1502 / Rick@RichardsonEngineering.net
 Zip Code Telephone # Email Address

CASE NUMBER 2019-0069-SPL Filing Date 8/31/2018

Do Not Schedule Dates: _____ Reviewer JNP

Zoning Relief

1201 Brandy Spring Road, 1316A Mt Carmel Road

Special Hearing to approve a non-density parcel of 4.80 acres to be transferred to 1201 Brandy Springs Road property, already a non-density parcel. To confirm that the approved Kennel uses approved in cases 1984-0054-X and 2005-0273-SPH will not have an expanded use area.

30 E. Padonia Road, Suite 500
Timonium, Maryland 21093

410-560-1502, fax 443-901-1208

**ZONING DESCRIPTION FOR
NEW NON-DENSITY PARCEL
7TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point at the end of the second or South 84 degrees 58 minutes 29 seconds East 154.28 foot line of the non-density parcel of land known as 1201 Brandy Spring Road, for the following description:

(1) South 84 degrees 58 minutes 29 seconds East 332.29 feet, (2) North 44 degrees 48 minutes 14 seconds East 235.35 feet, (3) North 45 degrees 18 minutes 58 seconds East 113.86 feet, (4) North 21 degrees 20 minutes 09 seconds West 44.05 feet, (5) by a curve to the right with a chord of North 83 degrees 08 minutes 46 seconds East 147.58 feet, (6) South 45 degrees 03 minutes 28 seconds West 245.53 feet, (7) South 44 degrees 54 minutes 12 seconds West 739.94 feet, (10) South 45 degrees 25 minutes 14 seconds West 216.42 feet, (11) North 44 degrees 34 minutes 46 seconds West 302.89 feet, to the place of beginning.

Containing 4.80 Acres of land, more or less.

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS
WERE PREPARED OR APPROVED BY ME, AND
THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF
MARYLAND, LICENSE NUMBER 16597,
EXPIRATION DATE: 08-15-2017.



2019-0069-SPH

30 E. Padonia Road, Suite 500
Timonium, Maryland 21093

410-560-1502, fax 443-901-1208

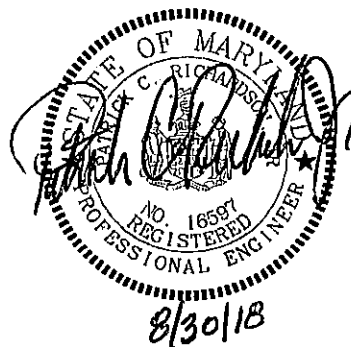
**ZONING DESCRIPTION FOR
1201 BRANDY SPRINGS ROAD
(NON-DENSITY PARCEL)
7TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point in the second or South 45 degrees 11 minutes 44 seconds East 472.22 foot line of a parcel of land which by a deed dated November 30, 1981 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 6375 folio 171 was conveyed by Donald Louis Causey and Merrilee O. Causey to Glenn L. Durst and Barbara P. Durst, his wife, said point being distant 538.48 feet from that point for the following description:

(1) South 45 degrees 11 minutes 44 seconds East 237.58 feet, and thence leaving said third line and running the three following courses and distances, (2) South 84 degrees 58 minutes 29 seconds East 154.28 feet, (3) South 44 degrees 45 minutes 47 seconds East 479.26 feet, (4) North 45 degrees 14 minutes 13 seconds West 356.22 feet (5) North 44 degrees 45 minutes 47 seconds East 380.81 feet, to the place of beginning.

Containing 3.248 Acres of land, more or less.

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS
WERE PREPARED OR APPROVED BY ME, AND
THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF
MARYLAND, LICENSE NUMBER 16597,
EXPIRATION DATE: 08-15-2017.



2019-0069-SPH

30 E. Padonia Road, Suite 500
Timonium, Maryland 21093

410-560-1502, fax 443-901-1208

**ZONING DESCRIPTION FOR
1316A MT CARMEL ROAD
7TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point in the second or South 45 degrees 11 minutes 44 seconds East 472.22 foot line of a parcel of land which by a deed dated November 30, 1981 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 6375 folio 171 was conveyed by Donald Louis Causey and Merrilee O. Causey to Glenn L. Durst and Barbara P. Durst, his wife, for the following description:

- (1) South 45 degrees 11 minutes 44 seconds East 776.07 feet, (2) South 84 degrees 58 minutes 29 seconds East 272.40 feet, (3) South 84 degrees 58 minutes 29 seconds East 214.17 feet, (4) North 44 degrees 48 minutes 14 seconds East 235.35 feet, (5) North 45 degrees 18 minutes 58 seconds East 113.86 feet, (6) North 21 degrees 20 minutes 09 seconds West 44.05 feet, (7) by a curve to the right with a chord of North 83 degrees 08 minutes 46 seconds East 147.58 feet, (8) South 45 degrees 03 minutes 28 seconds West 245.53 feet, (9) South 44 degrees 54 minutes 12 seconds West 739.94 feet, (10) South 45 degrees 25 minutes 14 seconds West 785.44 feet, (11) North 44 degrees 26 minutes 09 seconds West 641.97 feet, (12) North 89 degrees 18 minutes 00 seconds West 222.06 feet, (13) South 87 degrees 57 minutes 15 seconds West 310.29 feet, (14) North 07 degrees 04 minutes 40 seconds West 668.72 feet, (15) South 73 degrees 42 minutes 52 seconds East 383.35 feet, (16) North 44 degrees 49 minutes 39 seconds East 741.53 feet, to the place of beginning.

Saving and excepting all that land that was deeded to the non-density parcel described as 1201 Brandy Springs Road.

Containing 30.20 Acres of land, more or less.

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS
WERE PREPARED OR APPROVED BY ME, AND
THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE OF
MARYLAND, LICENSE NUMBER 16597,
EXPIRATION DATE: 08-15-2017.



2019-0069-SPH

Sherry Nuffer

From: SGT ROBERT BLACK <1opie@comcast.net>
Sent: Monday, October 22, 2018 5:32 PM
To: Rick Richardson; Administrative Hearings
Subject: Recertification's For 2019-0069-SPH
Attachments: Re-Cert 1 2019-0069-SPH.doc; Re-Cert 2 2019-0069-SPH.doc

Recertification's for 1316 A Mt. Carmel Road. Thanks.



CERTIFICATE OF POSTING

2019-0069-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Barry & Taunia Durst

October 25, 2018

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

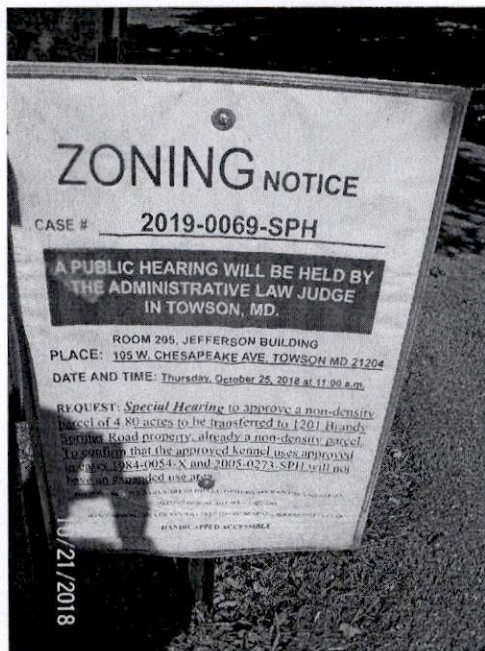
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1316 A Mt. Carmel Road **SIGN 1 Recertification**

October 5, 2018

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



Sincerely,

October 21, 2018

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2019-0069-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Barry & Taunia Durst

October 25, 2018

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

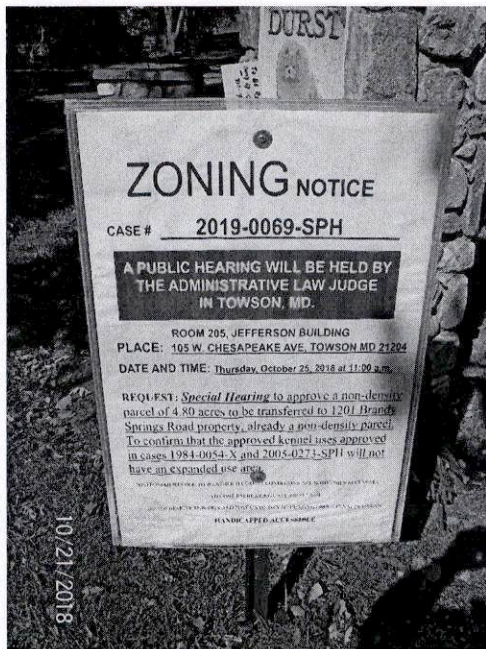
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1316 A Mt. Carmel Road **SIGN 2 Recertification**

October 5, 2018

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



Sincerely,


(Signature of Sign Poster)

October 21, 2018

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2019-0069-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Barry & Taunia Durst

October 25, 2018

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

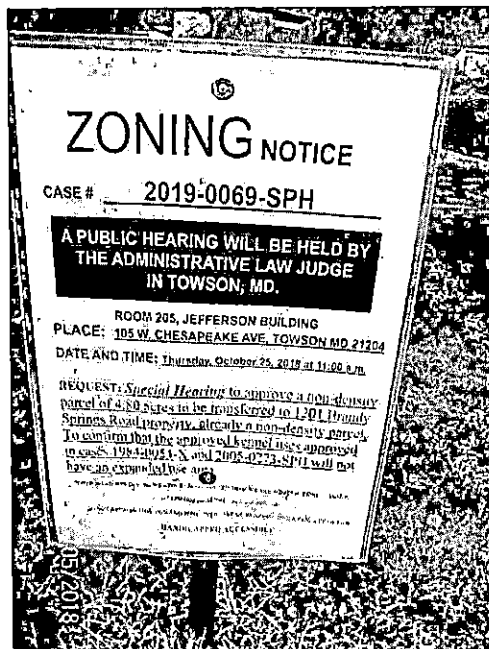
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1316 A Mt. Carmel Road

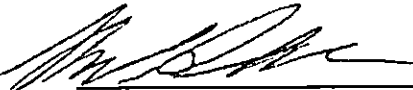
SIGN 2

October 5, 2018

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



Sincerely,


(Signature of Sign Poster)

October 5, 2018

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2019-0069-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Barry & Taunia Durst

October 25, 2018
Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

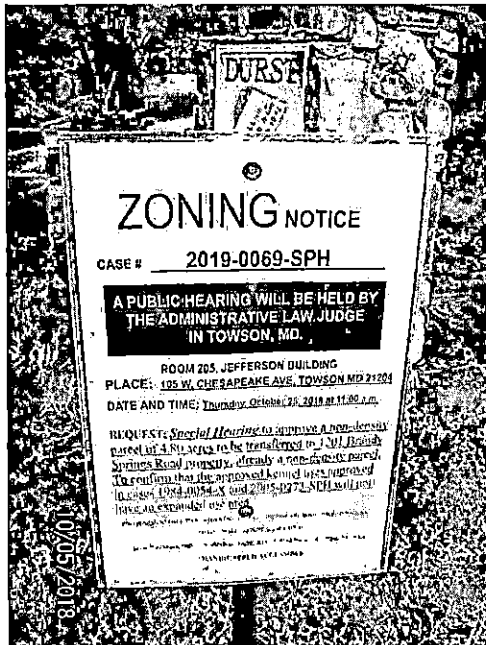
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1316 A Mt. Carmel Road

SIGN 1

October 5, 2018

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



Sincerely,


(Signature of Sign Poster) **October 5, 2018**
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100

<http://www.thedailyrecord.com>

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

10/5/2018

Order #: 11621357
Case #: 2019-0069-SPH
Description:

CASE NUMBER: 2019-0069-SPH NOTICE OF ZONING HEARING



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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: 2019-0069-SPH

1316 A Mt. Carmel Road
S/s Brandy Springs Road, 500ft. SW of Masemore Road
7th Election District-3rd Councilmanic District
Legal Owners: Barry & Taunia Durst

Special Hearing to approve a non-density parcel of 4.80 acres to be transferred to 1201 Brandy Springs Road property, already a non-density parcel. To confirm that the approved kennel uses approved in cases 1084-0054-X and 2005-0273-SPH will not have an expanded use area.

Hearing: Thursday, October 25, 2018 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.

o5



DONALD I. MOHLER III
County Executive

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

September 12, 2018

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: 2019-0069-SPH

1316 A Mt. Carmel Road
S/s Brandy Springs Road, 500 ft. SW of Masemore Road
7th Election District – 3rd Councilmanic District
Legal Owners: Barry & Taunia Durst

Special Hearing to approve a non-density parcel of 4.80 acres to be transferred to 1201 Brandy Springs Road property, already a non-density parcel. To confirm that the approved kennel uses approved in cases 1984-0054-X and 2005-0273-SPH will not have an expanded use area.

Hearing: Thursday, October 25, 2018 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over a horizontal line.

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Durst, 1316 A Mt. Carmel Road, Parkton 21120
Richardson Engineering, 30 E. Padonia Road, Ste. 500, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, OCTOBER 5, 2018.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: THE DAILY RECORD
Friday, October 5, 2018 Issue

Please forward billing to:

Barry Durst
1316A Mt. Carmel Road
Parkton, MD 21120

410-274-0875

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: 2019-0069-SPH

1316 A Mt. Carmel Road
S/s Brandy Springs Road, 500 ft. SW of Masemore Road
7th Election District – 3rd Councilmanic District
Legal Owners: Barry & Taunia Durst

Special Hearing to approve a non-density parcel of 4.80 acres to be transferred to 1201 Brandy Springs Road property, already a non-density parcel. To confirm that the approved kennel uses approved in cases 1984-0054-X and 2005-0273-SPH will not have an expanded use area.

Hearing: Thursday, October 25, 2018 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.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
1316A Mount Carmel Road; S/S Brandy * OF ADMINISTRATIVE
Springs Road, 500' SW of Masemore Road * HEARINGS FOR
7th Election & 3rd Councilmanic Districts * BALTIMORE COUNTY
Legal Owner(s): Barry & Taunia Durst *
Petitioner(s) * 2019-069-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED

SEP 06 2018

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of September, 2018, a copy of the foregoing Entry of Appearance was mailed to Richardson Engineering, LLC, 30 E. Padonia Road, Suite 500, Timonium, Maryland 21093, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/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:

Case Number: 2019-0069-SPH
Property Address: 1201 BRANDY SPRING RD / 1316A MT. CARMEL RD.
Property Description: S/S of BRANDY SPRINGS RD., 500' SW of
MASEMORE RD.
Legal Owners (Petitioners): BARRY L DURST TAVNIA M. DURST
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: BARRY DURST
Company/Firm (if applicable): _____
Address: 1316A MT CARMEL RD
PARKTON MD 21120

Telephone Number: 410-274-0875

DEPARTMENT OF DEFENSE
JANUARY 1974

REPORT OF THE JOINT CHIEFS OF STAFF

The Joint Chiefs of Staff have reviewed the report of the Secretary of Defense on the subject of the proposed revision of the National Security Council Directive 5412, "Security Information." The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

The Joint Chiefs of Staff believe that the proposed revision is warranted because it will provide for the protection of the national security while at the same time ensuring that the public has access to the information it needs to make informed decisions.

It is the policy of the Department of Defense to support the Secretary's recommendations.

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

Very truly yours,

James H. Dugan, Jr.

Chairman, Joint Chiefs of Staff

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

Very truly yours,

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

Very truly yours,

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

The Joint Chiefs of Staff are in general agreement with the Secretary's recommendations and believe that the proposed revision is warranted.

**CASHIER'S
VALIDATION**



October 9, 2018

DONALD I. MOHLER III
County Executive

Barry & Taunia Durst
1316A Mt Carmel Rd
Parkton, MD 21120

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

Dear Mr. & Ms. Durst :

RE: Case Number: 2019-0069SPH, Address: 1316A Mt Carmel Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 31, 2018. 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: MTC

Enclosures

c: People's Counsel
Richardson Engineering, LLC 30 E. Padonia Rd./Ste 500 Timonium, MD 21093

10-25

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-069



INFORMATION:

Property Address: 1316A Mt Carmel Road
Petitioner: Barry L. Durst, Taunia Durst
Zoning: RC 2
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should approve a non-density parcel of 4.8 acres to be transferred to 1201 Brandy Springs Road property, already a non-density parcel and to confirm that the approved kennel uses approved in cases 1984-0054-X and 2005-0273-SPH will not have an expanded use area.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- As the existing trailer on the property to be transferred is proposed to remain, and, as the non-conforming use area established in zoning case 2005-0273 SPH is not to be expanded, petitioners must confirm that the trailer will not be used in support of the commercial kennel operation and that any other proposed use conforms to the use requirements of the BCZR.
- To the satisfaction of the Administrative Law Judge, petitioners shall account for all density used or remaining on the subject parcels.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley
Patrick C. Richardson, Richardson Engineering
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 10/2/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-069

INFORMATION:

Property Address: 1316A Mt Carmel Road
Petitioner: Barry L. Durst, Taunia Durst
Zoning: RC 2
Requested Action: Special Hearing

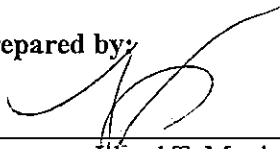
The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should approve a non-density parcel of 4.8 acres to be transferred to 1201 Brandy Springs Road property, already a non-density parcel and to confirm that the approved kennel uses approved in cases 1984-0054-X and 2005-0273-SPH will not have an expanded use area.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- As the existing trailer on the property to be transferred is proposed to remain, and, as the non-conforming use area established in zoning case 2005-0273 SPH is not to be expanded, petitioners must confirm that the trailer will not be used in support of the commercial kennel operation and that any other proposed use conforms to the use requirements of the BCZR.
- To the satisfaction of the Administrative Law Judge, petitioners shall account for all density used or remaining on the subject parcels.

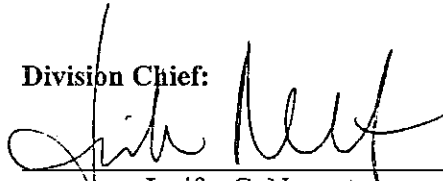
For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley
Patrick C. Richardson, Richardson Engineering
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For September 10, 2018
Item No. 2019-0069-SPH

DATE: September 24, 2018

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

A Lot Line Adjustment is needed through DRC.

* * * * *

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 9, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0069-SPH
Address 1316-A Mt. Carmel Road
(Durst Property)

Zoning Advisory Committee Meeting of **September 10, 2018**.

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

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Please note that the southern half (approximate) of the proposed 4.8-acre non-density parcel to be transferred to 1201 Brandy Springs Road is encumbered by a Forest Buffer Easement (FBE) as a result of the Durst Property minor subdivision (PDM 05-150-M). The FBE is a riparian buffer zone of non-disturbance.

Reviewer: Michael S. Kulis

Date: 9/7/18

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

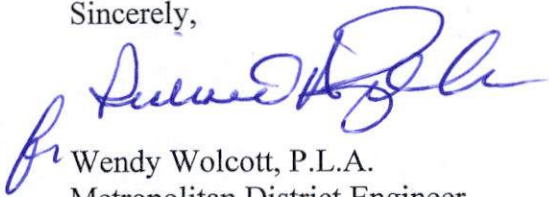
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Case No. 2019-0069-SPH

*Special Hearing
Barry L. & Taunna M. Durst
1316A Mt. Carmel Road.*

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

CASE NAME 2019-0069-SPH
CASE NUMBER _____
DATE 10/25/18

[illegible]

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption			View GroundRent Registration				
Tax Exempt:			Special Tax Recapture:							
Exempt Class:			AGRICULTURAL TRANSFER TAX							
Account Identifier:			District - 07 Account Number - 2500000955							
Owner Information										
Owner Name:		DURST BARBARA PRICE TRUSTEE DURST BARRY LOWELL TRUSTEE			Use: Principal Residence:		AGRICULTURAL YES			
Mailing Address:		1316B MT CARMEL RD PARKTON MD 21120-9762			Deed Reference:		/36672/ 00360			
Location & Structure Information										
Premises Address:		1316B MT CARMEL RD 0-0000			Legal Description:		11.669AC 1316 B MT CARMEL RD W SMITH & G DURST PROPER			
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	MS
0021	0017	0307		0000			1	2017	Plat Ref:	0047/0120
Special Tax Areas:					Town:		NONE			
					Ad Valorem:					
					Tax Class:					
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use		
1986		4,162 SF				11.6700 AC		33		
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation				
2	YES	STANDARD UNIT	FRAME	3 full/ 1 half	1Det/1Carport					
Value Information										
			Base Value	Value		Phase-in Assessments				
				As of 01/01/2017		As of 07/01/2018		As of 07/01/2019		
Land:			100,500	100,500						
Improvements			573,100	493,800						
Total:			673,600	594,300		594,300		594,300		
Preferential Land:			1,500					1,500		
Transfer Information										
Seller: DURST GLENN L				Date: 09/18/2015				Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /36672/ 00360				Deed2:		
Seller: DURST GLENN L/BARBARA				Date: 09/28/2006				Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /24540/ 00244				Deed2:		
Seller:				Date:				Price:		
Type:				Deed1:				Deed2:		
Exemption Information										
Partial Exempt Assessments:		Class		07/01/2018			07/01/2019			
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:			AGRICULTURAL TRANSFER TAX							

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		AGRICULTURAL TRANSFER TAX			
Account Identifier:		District - 07 Account Number - 2500000956			
Owner Information					
Owner Name:	DURST BARRY L DURST TAUNIA M		Use:	AGRICULTURAL	
Mailing Address:	1316A MT CARMEL RD PARKTON MD 21120-9762		Principal Residence:	YES	
			Deed Reference:	/24540/ 00251	
Location & Structure Information					
Premises Address:	1316A MT CARMEL RD PARKTON 21120-9762		Legal Description:	30.196AC 1316 A MT CARMEL RD BRANDY SPRINGS	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot:
0021	0017	0425		0000	2
					Assessment Year: 2017
					Plat No: 0045/ Plat Ref: 0061
Special Tax Areas:			Town: NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use	
2007	4,439 SF		30.2000 AC	05	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	YES	STANDARD UNIT	SIDING	3 full/ 1 half	1 Attached
Last Major Renovation					
Value Information					
	Base Value	Value	Phase-In Assessments		
		As of 01/01/2017	As of 07/01/2018	As of 07/01/2019	
Land:	103,100	103,100			
Improvements	578,400	559,800			
Total:	681,500	662,900	662,900	662,900	
Preferential Land:	4,100			4,100	
Transfer Information					
Seller: DURST GLENN L/BARBARA		Date: 09/28/2006		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /24540/ 00251		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2018	07/01/2019		
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:		AGRICULTURAL TRANSFER TAX			
Homestead Application Information					
Homestead Application Status: Approved 06/07/2010					

C H E C K L I S T

**Comment
Received**

Department

**Support/Oppose/
Conditions/
Comments/
No Comment**

9/24/18

DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)

Comment

DEPS
(if not received, date e-mail sent _____)

FIRE DEPARTMENT

PLANNING
(if not received, date e-mail sent _____)

No Obj
w/ comment

9/7

STATE HIGHWAY ADMINISTRATION

No Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. 05-0273-SPH)

NEWSPAPER ADVERTISEMENT

Date: 10/5/18

SIGN POSTING (1st)

Date: 10/5/18

by SSG Black

SIGN POSTING (2nd)

Date: 10/21/18

by 114

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map				View GroundRent Redemption				View GroundRent Registration			
Tax Exempt:				Special Tax Recapture:							
Exempt Class:				AGRICULTURAL TRANSFER TAX							
Account Identifier:				District - 07 Account Number - 2500000957							
Owner Information											
Owner Name:		DURST BARRY LOWELL				Use:		AGRICULTURAL			
						Principal Residence:		NO			
Mailing Address:		1316A MT CARMEL RD PARKTON MD 21120-9762				Deed Reference:		/36672/ 00355			
Location & Structure Information											
Premises Address:		1201 BRANDY SPRINGS RD PARKTON 21120-				Legal Description:		3.248AC WSR BRANDY SPRINGS RD 500FT SW OF MASEMORE RD			
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	MS	
0021	0018	0426		0000				2017	Plat Ref:		
Special Tax Areas:				Town:				NONE			
				Ad Valorem:							
				Tax Class:							
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use			
1973		3,888 SF				3.2500 AC		33			
Stories	Basement	Type		Exterior	Full/Half Bath	Garage	Last Major Renovation				
2	NO	STANDARD UNIT		BLOCK	2 full						
Value Information											
Base Value				Value		Phase-in Assessments					
				As of		As of		As of			
				01/01/2017		07/01/2018		07/01/2019			
Land:		99,300		99,300							
Improvements		187,000		161,900							
Total:		286,300		261,200		261,200		261,200			
Preferential Land:		300						300			
Transfer Information											
Seller: DURST BARBARA PRICE TRUSTEE				Date: 09/18/2015				Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /36672/ 00355				Deed2:			
Seller: DURST GLENN L				Date: 09/18/2015				Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /36672/ 00350				Deed2:			
Seller: DURST GLENN L/BARBARA P				Date: 09/28/2006				Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /24540/ 00258				Deed2:			
Exemption Information											
Partial Exempt Assessments:		Class		07/01/2018		07/01/2019					
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:				AGRICULTURAL TRANSFER TAX							

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration				
Tax Exempt:		Special Tax Recapture:								
Exempt Class:		AGRICULTURAL TRANSFER TAX								
Account Identifier:		District - 07 Account Number - 2500000956								
Owner Information										
Owner Name:		DURST BARRY L DURST TAUNIA M			Use:		AGRICULTURAL			
Mailing Address:		1316A MT CARMEL RD PARKTON MD 21120-9762			Principal Residence:		YES			
					Deed Reference:		/24540/ 00251			
Location & Structure Information										
Premises Address:		1316A MT CARMEL RD PARKTON 21120-9762			Legal Description:		30.196AC 1316 A MT CARMEL RD BRANDY SPRINGS			
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	MS
0021	0017	0425		0000			2	2017	Plat Ref:	0045/0061
Special Tax Areas:				Town:			NONE			
				Ad Valorem:						
				Tax Class:						
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use		
2007		4,439 SF				30.2000 AC		05		
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation				
2	YES	STANDARD UNIT	SIDING	3 full/ 1 half	1 Attached					
Value Information										
		Base Value		Value		Phase-in Assessments				
				As of		As of		As of		
				01/01/2017		07/01/2018		07/01/2019		
Land:		103,100		103,100						
Improvements		578,400		559,800						
Total:		681,500		662,900		662,900		662,900		
Preferential Land:		4,100						4,100		
Transfer Information										
Seller: DURST GLENN L/BARBARA				Date: 09/28/2006				Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /24540/ 00251				Deed2:		
Seller:				Date:				Price:		
Type:				Deed1:				Deed2:		
Seller:				Date:				Price:		
Type:				Deed1:				Deed2:		
Exemption Information										
Partial Exempt Assessments:		Class		07/01/2018		07/01/2019				
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:		AGRICULTURAL TRANSFER TAX								
Homestead Application Information										
Homestead Application Status: Approved 06/07/2010										

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No
Application**Date:**

gm
1/21

IN RE: PETITIONS FOR SPECIAL HEARING
SW/S of Masemore Road and
S/S of Brandy Springs Road
7th Election District
3rd Councilmanic District
(1314-B Mount Carmel Road)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-273-SPH

Barbara & Glenn Durst
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing filed by the legal owners of the subject property, Barbara and Glenn Durst. The Petitioners are requesting special hearing relief for property located at 1314-B Mount Carmel Road in the northern area of Baltimore County. The special hearing request is to: 1) allow a nonconforming use as a commercial kennel; 2) to approve the creation of a non-density lot for the land on which the kennel is situated; 3) to permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres; 4) to modify the decision and plan in Case No. 84-54-X; and 5) to permit a commercial kennel and accessory buildings to be located 0 ft. in lieu of the required 200 ft. from the property line.

The property was posted with Notice of Hearing on January 10, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on January 11, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

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

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

2-2-05
Ray

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the variance and special exception requests were Paul Cummins, II, Shawne Imler, Nancy Dowling, Mary Flora, Levi and Joyce Carlstrom, Patricia Stimlin, Lt. R. B. Paal, Jr., Dawn Foster, Barry Durst and Glenn & Barbara Durst, the Petitioners. Bruce Doak of Gerhold, Cross & Etzel also appeared on behalf of the Petitioners. Deborah C. Dopkin, Esquire represented the Petitioners at the hearing. Appearing in opposition to these requests were Radford Baker, Melody Baker, Penney Baker, Craig Timlin, Jr., Hope Pezzulla and Michael McComas. Frank Borgerding, Esquire represented Michael McComas, one of the protestants. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance contains 44.7 acres, more or less, and is zoned R.C. 2. The Petitioners have their principal residence on the west end of the property along with a breeding kennel inside the home which was permitted as a special exception in 1984 in Case No. 84-54-X. In the center of the property the Petitioners own another kennel which is the subject of this Petition. Otherwise the property has forest and agricultural uses.

The Petitioners would like to carve out 3.2 acres of land around the second kennel and sell it to the present kennel manager. This would be a non-density lot so as not to absorb one of the two dwelling unit lots on this RC 2 property. Eventually the Petitioner would like to subdivide the remaining 41 acres to provide a 30 acre lot for the Petitioner's son's home. Mr. Durst testified that he was no longer able to handle the large parcel, and needed his son's family

By Ray 2/16/05

nearby, as he and his wife were getting older. In addition, he noted that his son's family has outgrown the home they now occupy south of the present Durst home, which home is shown on Petitioner's Exhibit 1. However, a portion of the testimony in the case involved where and under what circumstances his son would locate the new home. This was of primary concern to the protestants in the case.

Mr. Doak, the Licensed Property Line Surveyor employed by the Petitioner, testified that the uses surrounding the property were residential and agricultural. He noted from his personal inspection that the uses on the property were: agricultural uses (including hay production), forests, the Durst home on the west end, the commercial kennel located thereon, a garage with living facilities, a trailer at the subject kennel, and storage trailer off the subject parcel. He presented extensive photographs of the driveways, structures and accessory uses such as exercise pens and dog runs involving the subject parcel. See Petitioners' Exhibit 2. He noted that he drew the proposed boundaries of the 3.2 acre parcel as small as possible to include all the kennel functions, that the Petitioners had no intention of expanding the kennel operation, and so deliberately limited the parcel size to reassure the neighbors.

Although the 30 acre lot for Mr. Durst son's home was not the subject of the hearing, Mr. Doak referred to this next step in stating that the location for the new home was limited by DEPRM to areas not in agriculture, not on steep slopes, near streams, or in wooded areas. This left an area behind the Baker and McComas properties for the new home. This request for a new home for his son was the subject of Case No. 04-027-SPH in which this Deputy Zoning Commissioner denied a transfer of land to allow the son's home to be built. Mr. Doak distinguished this case from the subject case by noting that all of the dwellings found to exist in Case No. 04-027-SPH were now abandoned with the exception of the Durst principal residence.

Mr. Doak noted that the request to approve a non-density lot of 3.2 acres and find the commercial kennel on that parcel was nonconforming and could continue, would not affect the

Dep
By
2/16/05
Ray

surrounding community as the kennel described was the same as had been there since 1972. No expansion of the kennel was being requested. He noted that kennels are allowed in the RC 2 zone by special exception but that this request was to confirm a non-conforming kennel. He testified that approval of the 3.2 acre parcel as a non-density unit was within the spirit and intent of the regulations, as this kennel use was compatible with the residential and agricultural uses in the area. He noted the nearest residence was 350 ft. away from the kennel and that the principal protestants' homes were over 600 ft. away from the kennel.

Mr. Doak indicated that the request to modify the plan in Case No. 84-54-X was precautionary only. He noted that that decision involved the breeding kennel in the Durst principal residence only, that there were no restrictions in that decision and that he only included this request in an abundance of caution. He also noted that the request to allow a commercial kennel within 0 ft. of a residential boundary in lieu of the required 200 ft. arises because the 3.2 acre parcel is all used for kennel operations, this parcel borders directly on the edge of the property line and consequently requires, not a variance, but a special hearing to allow the use without the 200 ft. setback from a property line pursuant to Section 421.2. He noted that this request for special hearing rather than variance was taken after consultation with the Zoning Office.

Finally, he indicated that the subject kennel was housed in a building that has a residential appearance but he was not sure the building did not contain some kitchen and bathroom facilities.

On cross-examination, he testified that he personally inspected the trailer on the 3.2 acre parcel and that such was not habitable. He said that it lacked toilet and kitchen facilities, and that the Petitioners used it to store dog food and laundry.

Mr. Durst testified that he and his wife have owned the property since 1972. He indicated that his home is also the location of the breeding kennel allowed in 1984 by special

08-02/16/05
By [Signature]

exception. He acknowledged that next to his home is a garage which has living facilities and which although vacant now, has been used to house his mother-in-law, grandchildren, and other family members. He noted that vandals had damaged the trailer located off of the subject parcel after the last tenant moved out, and that he was using it to support his farming operations. With regard to the trailer on the subject parcel, he indicated that it was not habitable, as it had no kitchen.

As to the subject kennel, he testified that he bought the property with the intention of building his home and a kennel. Eventually he built the structure in 1973, which all have identified as the commercial kennel, which is the subject of this hearing. He and his family occupied the second floor of the building as their home while his wife used the ground floor of the building as a kennel until 1986. He further testified that the second floor had been used by the manager of the kennel as her residence thereafter until 6 months ago when the present manager moved out.

In regard to the kennel operation, he indicated that the use of the building as a kennel has been continuous and uninterrupted since 1972. He started with 10 to 12 pets and one employee. He presented a letter of support for the continued use of the commercial kennel from the Hereford Community Association and many neighbors and customers. He noted that many pet owners need a place to board their pets especially in the summer months. He felt that the kennel would have no adverse impact on the surrounding community as the kennel was buffered by a double row of mature pine trees and the distance to neighboring residences. He noted that the kennel now has up to 100 animals at peak season. Finally, he noted that the subject parcel would not be taken out of agriculture use, because the parcel never was used for agriculture and has been a commercial kennel all these years.

On cross-examination, he noted that the kitchen and bath facilities on the second floor of the kennel have not been removed.

Date 1/16/05
By Ray

Shawn Imler testified that she manages the kennel presently and would like to buy it from the Petitioners. She confirmed that she no longer lives above the kennel, but rather the second floor is used for various kennel operations. She noted that the night manager is present from 9 PM to 7 AM and that the kennel handles up to 120 animals in peak season. Presently there are 30 animals on site. Five employees assist the manager. She testified that when she first started in 1988, there were 25 to 30 animals at the kennel. There have been no complaints about the kennel operation, which is licensed by the County. She testified that she did not find the noise of the dogs barking a problem. There are approximately 5 to 7 vehicles a day at the kennel. She noted that the trailer on the parcel has been vacant for 8 months and is now used for storage.

Mr. Paal, a customer, testified that this kennel has been in continuous operation for the past 20 years. Ms. Foster, a neighbor, testified that the kennel has been at the subject location since 1972 and she does not object to the noise the dogs make. Mr. Carlstrom, a neighbor, indicated that the kennel had been operating continuously at the subject site since 1972. He personally remembers Mr. Durst building the kennel building. Mr. Cummings, president of the Hereford Community Association testified in support of the Petition as a needed business in the area.

Opposition to the request came from nearby property owners. Ms. Baker, an adjacent property owner, testified that she opposed the requested relief as the kennel continues to have kitchen and bathroom facilities and the Durst will simply re-let the premises as soon as this case is completed. She also complained about the noise from dogs barking. She submitted an affidavit after the hearing stating that the kennel was still occupied by the manager and an employee contrary to other witnesses' testimony.

Mr. McComas, an adjacent property owner, similarly testified that he opposed the requested relief. He questioned the credibility of the Petitioners, complained about the noise

2/11/10
Ray

from the kennel and any other building on the Durst property way of subdivision or otherwise.

At the undersigned's request, the Petitioners' attorney submitted a memorandum summarizing the legislative history of regulations, which have been imposed on the Durst property. As no response was received in opposition to the memorandum by this Commission, I assume that the protestant's attorney agrees with the memorandum.

Findings of Fact and Conclusions of Law

The Petitioners' memorandum of law summarizing the legislative history of the regulations imposed on the Durst property indicates that a kennel was a permitted use by right in the RDP zones until 1979 when this use was changed to be allowed by special exception. From the testimony and evidence presented, I find that the use of the parcel's building as a kennel was a lawful use from 1973 when the kennel opened and that it has continued uninterruptedly since that time.

The Protestants argue, however, that the use changed since its inception in 1973. First they note that the number of animals has drastically increased from 10 to 12 animals to today's 120 peak. Secondly, they argue that the evidence indicates the building on the parcel was once a residence and kennel to now it is only used as a kennel. They argue that this shows a change in use and loss of nonconforming status. Mr. Durst and Ms. Imler testified the residential use was discontinued six or eight months ago. In her affidavit received after the hearing Ms. Baker indicates that this testimony was false and that the kennel is still occupied. However, the Petitioners did not ask that I recognize both the residential and kennel uses but asked for only the kennel as a nonconforming use.

In regard to the change in use argument, I find that the use as a kennel has not changed. I understand that the number of animals has increased substantially but I look at this as the typical and permissible intensification and not an extension. From all the evidence before me, the size

1/16/05
Durst
Baker

of the buildings associated with the kennel has remained essentially the same since Mr. Durst constructed it in 1973. I am sure there were some accessory additions but basically the facility is the same. Said another way, I have no evidence that the kennel facilities on the property have exceeded the 25% rule of Section 104.3 since the new zoning was imposed on the property in 1979.

Consequently, I find that the use of the property for a commercial kennel located on the 3.2 acre parcel, as shown in Petitioner's Exhibit 1, is a legal nonconforming use and has not been abandoned nor has such nonconforming use been discontinued for a period of one year or more. I further find that the zoning use division line demarcating the area of the nonconforming use is the boundaries of the 3.2 acre parcel described in Petitioner's Exhibit 1. Mr. Doak testified that this parcel included all the kennel activities, structures and accessory uses.

Having found the zoning use division line to be the 3.2 acre parcel, I also will approve the fifth request to permit a commercial kennel and accessory buildings to be located 0 ft. in lieu of the required 200 ft. from the property line. In fact, the northern boundary of the 3.2 acre parcel is on the property line and therefore 0 ft. in lieu of the required 200 ft. If I were to require a 200 ft. setback, the existing kennel would all but be eliminated.

In regard to the Petitioner's third request to permit an existing non-residential trailer to remain as accessory to the commercial kennel on a lot of 3.2 acres, I find that the evidence indicates the trailer is not inhabited, all facilities for human habitation have been removed and the trailer is used for storage to support the commercial kennel. I conclude this from Mr. Doak's testimony based on his personal observation of the trailer.

Finally, I look to the real issue in the case. Again, although many who attended the hearing were primarily concerned with where Mr. Durst wants to build his son's home, that issue is not before me. The remaining issue that is before me is whether or not to approve the creation of a non-density lot for the land on which the kennel is situated. Here Ms. Baker's affidavit

2/16/05
By [Signature]

would seem to be most relevant. It probably seems logical that if a kennel is occupied then I can not allow creation of a non-density lot.

However, I do not believe human habitation is the issue. The B.C.Z.R. defines "dwelling" as "A building or portion thereof which provides living facilities for one or more families." The measure is not whether or not the premises is occupied, if there are living facilities for families, we have a dwelling. Living facilities for families is not defined in the regulations but traditionally these facilities have kitchens, bathroom, sleeping areas, etc. A kennel can have a bathroom for its employees but it would not have human bath facilities such as showers or bathtubs, fabric towels or amenities. A kennel can have an area to prepare animal food but it would not have a kitchen with an oven, range or human eating facilities. A kennel may have areas in which animals sleep or rest but may not have beds with headboards, mattresses, and the like or mirrors on the wall at human height, closets with human clothes, etc. In short, if the building has living facilities for human families, it is a dwelling. It is not enough to simply remove the humans from occupying the premises. All human facilities must be removed or the building is a dwelling.

From the evidence before me there are now three dwellings on the property. These include the Durst home over the breeding kennel, the garage close by and the commercial kennel building. Regarding the garage next to the Durst home, Mr. Durst testified that various family members have used this building for living quarters for some years. There is no evidence that the facilities to allow human occupation have been removed. Similarly, it is clear the second floor of the commercial kennel has been occupied as human living space since 1973, perhaps even to this day. There may even be two dwellings in this building. But there is no evidence the facilities for human family living has been removed. Mr. Doak was careful to say in his testimony that he had not inspected the whole building. On the other hand, I am convinced the facilities for human living have been removed from the trailer on the 3.2 acre parcel from Mr.

1/16/05
Ray

Doak's description. I do not know whether the trailer off of the 3.2 acre parcel is a dwelling or not.

It is clear that the Petitioners believed that all they had to do to eliminate a dwelling, is to eliminate the people from living there. That is not the case, although it is obviously a vital step in that right direction.

Consequently, the question now is whether I can approve a non-density lot on which the commercial kennel is situated when I have found that the lot still has one (and maybe two) dwellings on it. As strange as this may seem to the protestants, I believe and find that I can. The Petitioners have asked for a non-density lot. This means that they must permanently remove all facilities for human habitation from the premises. I see no reason why the Petitioners can not receive what they ask for.

Said another way, this office receives daily requests for zoning relief prior to the property actually conforming to the request. Someone wants to build a structure but needs a variance. They apply for the variance before they build the building. In this example, the County would not require them to build a building in hopes a variance would be granted.

Similarly, here the Petitioners ask to approve a non-density lot. I will grant their wish, but as the old saying goes be careful what you wish for. In this case the Petitioner must remove all facilities for human habitation within the 3.2 acre parcel. Not to do so after having been granted a non-density lot would be a zoning violation. I am sure that the neighbors will keep the kennel under close review and will complain to Zoning Enforcement if the facilities for human habitation are not removed, much less should someone live there. In addition, I will require that notice of the non-density lot be recorded in the Land Records for Baltimore County so that future purchasers of the 3.2 acre tract will be aware of the severe limitation of the parcel.

For the reasons above, I will grant the Petitioners' fourth request to modify the decision and plan in Case No. 84-54-X.

2/16/00
Ray

Finally I would like to note once again that the issue of further subdivision of the Durst property is not before me. How the subdivision reviews treat the presently existing dwellings on the property, I leave to their good judgment.

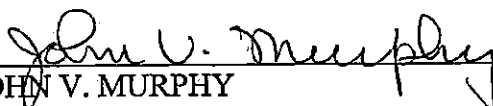
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request and request for Special Hearing should be granted.

THEREFORE, IT IS ORDERED, this 16 day of February, 2005, by the Deputy Zoning Commissioner, that the Petition for Special Hearing to: 1) allow a nonconforming use as a commercial kennel within a zoning use division line described by the boundary of the 3.2 acre parcel shown on Petitioner's exhibit 1 ; 2) to approve the creation of a non-density lot within the zoning use division line described by the boundary of the 3.2 acre parcel shown on Petitioner's exhibit 1 for the land on which the kennel is situated; 3) to permit an existing non-residential trailer to remain as accessory to the commercial kennel on the 3.2 acre lot; 4) to modify the decision and plan in Case No. 84-54-X; and 5) to permit a commercial kennel and accessory buildings to be located 0 ft. in lieu of the required 200 ft. from the property line, be and is hereby GRANTED with the following conditions:

1. The Petitioners shall permanently remove all facilities for human habitation from the land on which the commercial kennel is situated as described by the boundary of the 3.2 acre parcel shown on Petitioners' Exhibit 1; and
2. The Petitioners shall record this Order in the Land Records of Baltimore County.

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

Order.


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

To Whom It May Concern,

10/24/18

I, Melissa Courtney Legenhausen, am the land owner of 17300 Masemore Rd. Parkton, MD 21120. We are a neighboring property of both The Hereford Bed & Biscuit, located at 1201 Brandy Springs Rd. Parkton, MD 21120 and the Durst Residence at 1316 A Mt. Carmel Rd. Parkton, MD 21120.

I am in full agreement and support the request that has been submitted to transfer property from the Durst residence to the property of The Hereford Bed and Biscuit. We have a direct view of these properties from our home and do not have any qualms or concerns with their request.

Additionally, we are a long-time customer of The Hereford Bed & Biscuit and are excited at the possibility of this business having more acreage to better serve their customers and provide an enhanced experience for the animals they care for.

It is my hope that the request to transfer land between the two properties mentioned above will be approved.

Sincerely,



Melissa Courtney Legenhausen

Land Owner
17300 Masemore Rd.
Parkton, MD 21120
(410) 900-9020

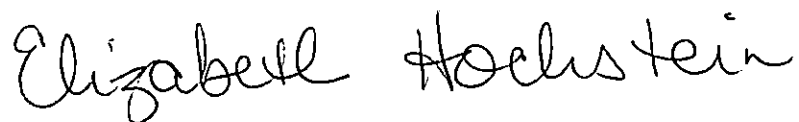
Pet. No. 4

Elizabeth Hochstein
1212 Brandy Springs Rd
Parkton, MD 21120
410 353-6879

10/24/2018

I am writing to voice my support for the three acre lot line adjustment from Barry Durst to Hereford Bed and Biscuit. I have lived at 1212 Brandy Springs Rd for 12 years.

Thank you,

A handwritten signature in cursive script that reads "Elizabeth Hochstein". The ink is dark and the handwriting is fluid.

Elizabeth Hochstein

mal



Thomas Durst <tom@hbbpets.com>

HBB property expansion

1 message

Jonathon Alberts <jralberts@hotmail.com>
To: "Tom@hbbpets.com" <Tom@hbbpets.com>

Mon, Oct 22, 2018 at 5:35 PM

To who it may concern,

I am writing this email to show my support for Tom Durst and his efforts to expand the property belonging to the Hereford Bed and Biscuit. We currently own two properties that are adjacent to the bed and biscuit and can say without a doubt that Tom and his business are a great asset to the community. We are happy to have the Hereford Bed and Biscuit as our neighbor and we look forward to answering any questions or concerns you might have.

Thanks!

Jon and Kerry Alberts
1215 Brandy Springs Rd Parkton MD
1217 Brandy Springs Rd Parkton MD
304-312-0064

Ed and Holly Bergen
17120 Masemore Road
Parkton, MD 21120

October 22, 2018

To whom it may concern,

We are writing this letter to state we do not have any objection to the re-zoning request that the Hereford Bed and Biscuit is requesting as it pertains to their property lines.

The Hereford Bed and Biscuit are our neighbors (their driveway and our Brandy Springs driveway face one another).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ed and Holly Bergen', is written over a printed name.

Ed and Holly Bergen

October 23, 2018

To Whom It May Concern:

Thomas Durst requested a letter concerning annexing the family dwelling to the kennel property. We have no problem with this transaction and we are close neighbors adjoining their property. Our address is:

Levi A. Carlstrom

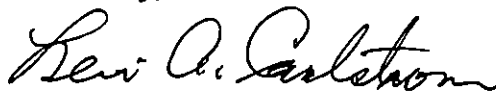
1120 Mt. Carmel Road

Parkton, MD 21120

Glenn & Barbara Durst owned the "Hereford Country Club for Pets" and Levi & Joyce Carlstrom have been adjoining neighbor properties since 1971. We've been 'Good Neighbors' all this time even though they have passed away and Thomas Durst now owns "Hereford Bed & Biscuit".

Additional questions concerning this transaction may be referred to Levi A. Carlstrom on TEL. NO. 410-357-8087.

Sincerely,

A handwritten signature in black ink, appearing to read "Levi A. Carlstrom", written in a cursive style.

Levi A. Carlstrom

Case No.: 2019-0069-SPH

Exhibit Sheet - Continued

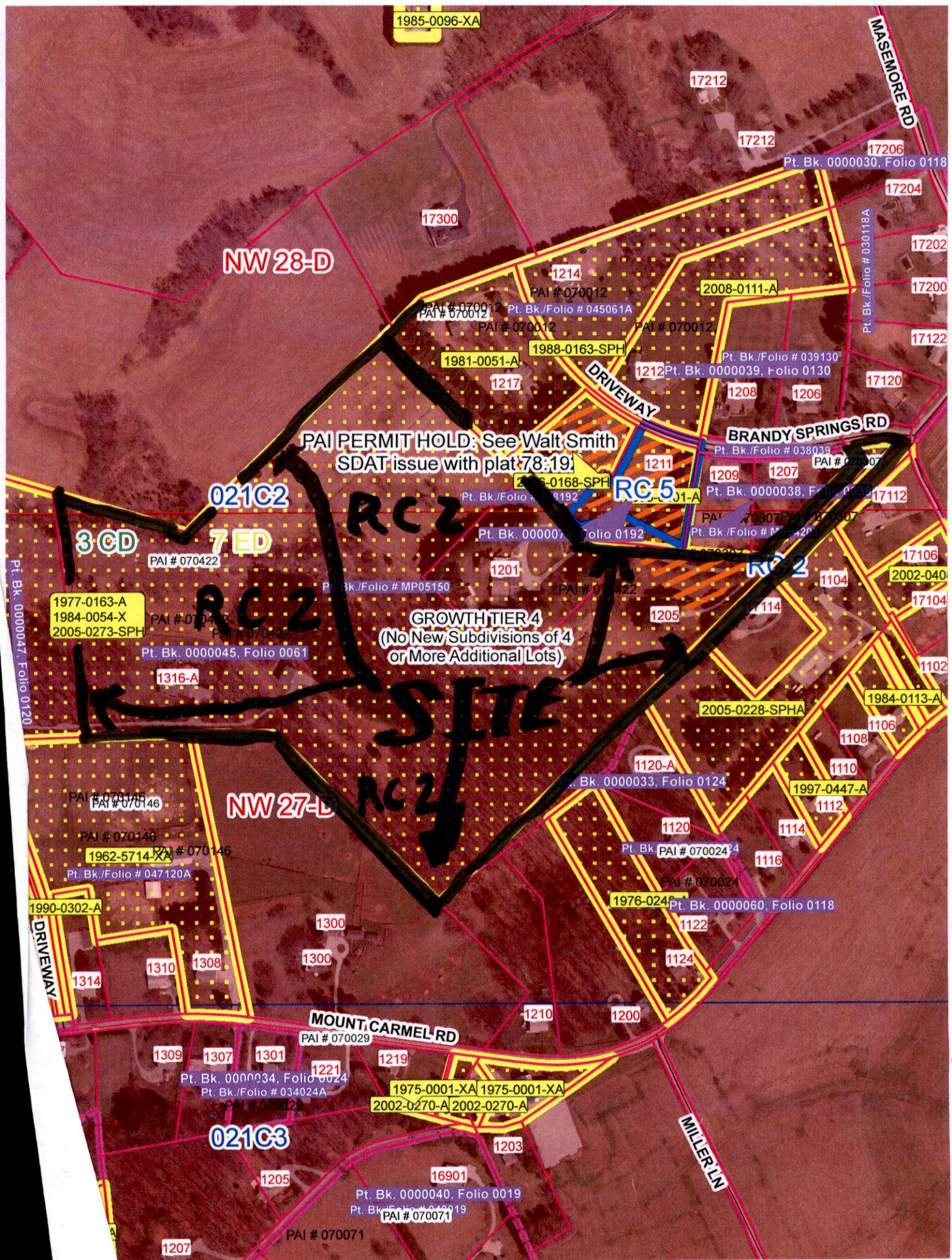
Petitioner/Developer

Respondent

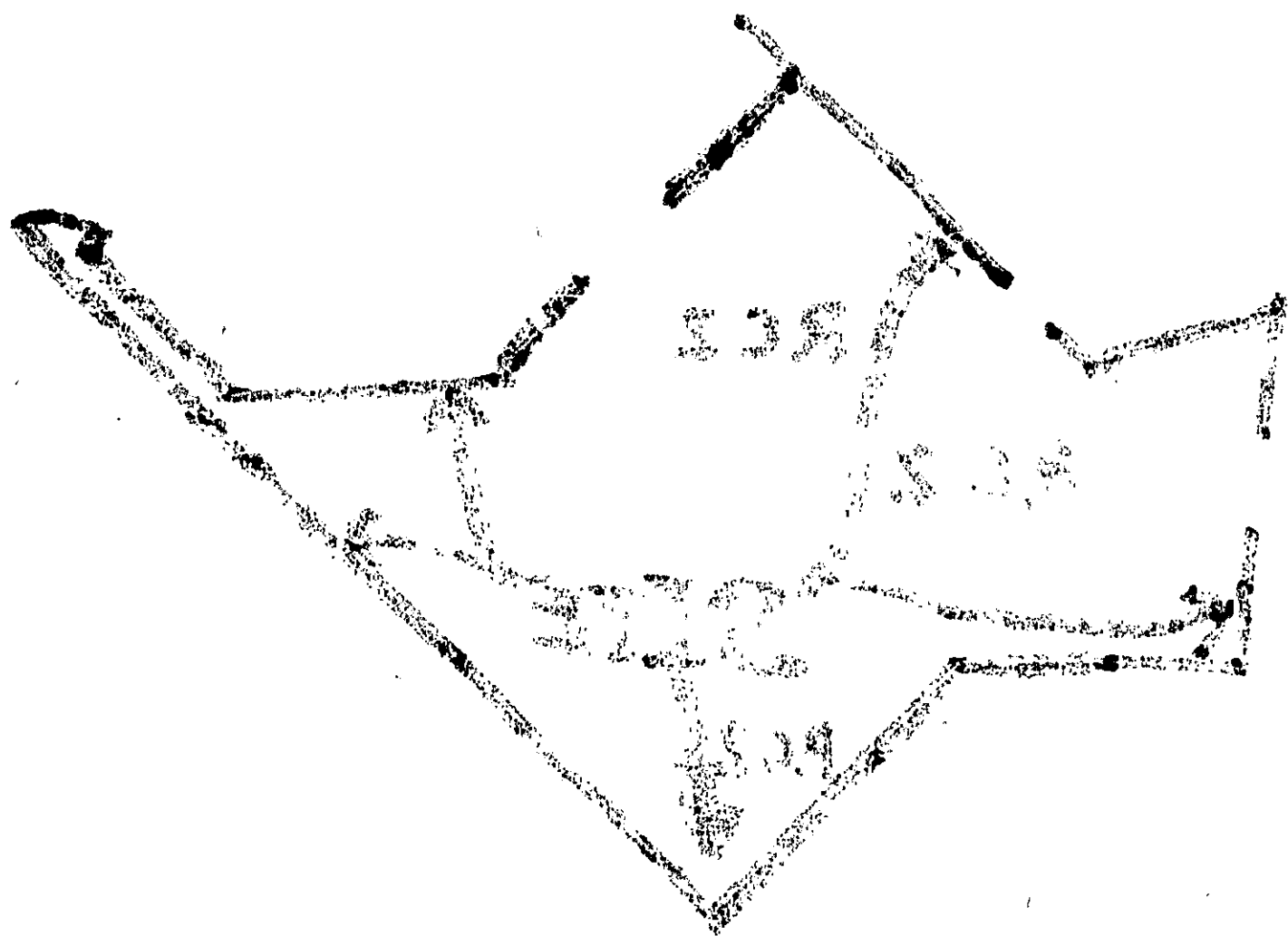
10/29/18
sen

DU
11-29-18

No. 15 1	Site plan	
No. 14 2	My Neighborhood Aerial	
No. 15 3	Google Earth Photo	
No. 16 4	Letters of Support	
No. 17		
No. 18		
No. 19		
No. 20		
No. 21		
No. 22		
No. 23		
No. 24		



405-6900-0152



Baltimore County - My Neighborhood



PET # 2

1201 Brandy Springs Rd

aerial view

Legend

Google Earth

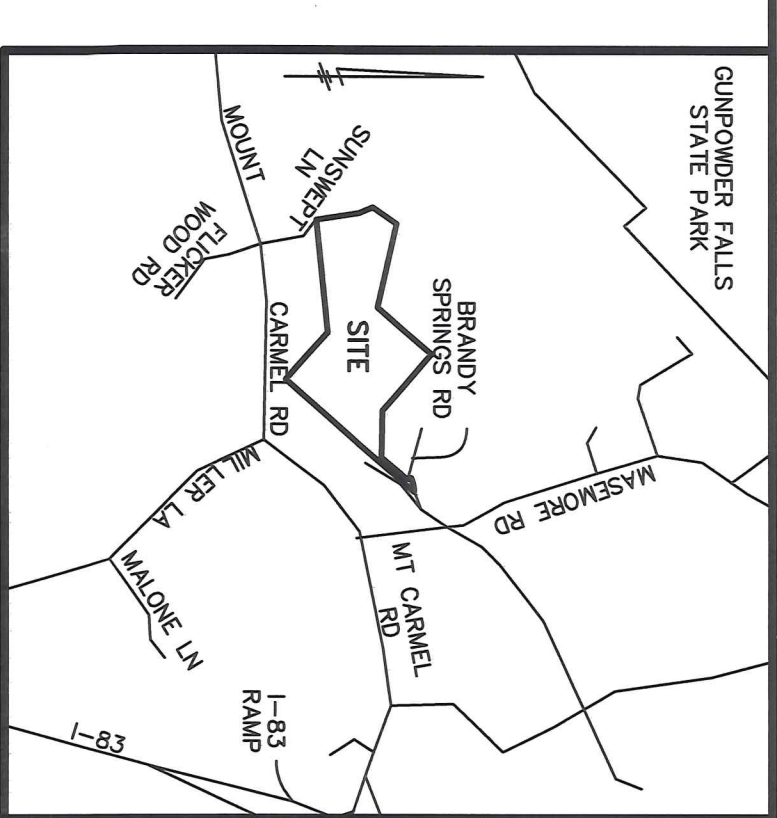
© 2018 Google



400 ft

Brandy Springs Rd





SCALE: 1" = 2000'

GENERAL NOTES

PLAN TO ACCOMPANY ZONING PETITION
FOR

HEREFORD BED &

BISCUIT, LLC
1316A MT. CARMEL ROAD
1201 BRANDY SPRINGS ROAD
PARKTON, MD 21120

3RD COUNCILMANIC DISTRICT

2019-2069-SPH

