

MEMORANDUM

DATE: March 11, 2019
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2019-0143-SPH - Appeal Period Expired

The appeal period for the above-referenced case expired on March 8, 2019. 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: DEVELOPMENT PLAN HEARING & *	BEFORE THE OFFICE OF
PETITION FOR SPECIAL HEARING *	
(12710 Falls Road) *	ADMINISTRATIVE HEARINGS
8 th Election District *	
2 nd Council District *	FOR
(BECKER PROPERTY – 1 st Material *	
Amendment to the 2 nd Refined Dev. Plan)*	BALTIMORE COUNTY
Arthur H. Becker, Jr., Trustee &	
Nancy D. Miller, Trustee, <i>Legal Owners</i> *	
Gaylord Brooks Realty Co., Inc., *	HOH Case No. 08-791 &
<i>Developer/Applicant</i> *	Zoning Case 2019-0143-SPH

* * * * *

**ADMINISTRATIVE LAW JUDGE'S COMBINED
DEVELOPMENT PLAN AND ZONING OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings ("OAH") for Baltimore County for a public hearing on a development proposal submitted in accordance with Article 32, Title 4, of the Baltimore County Code ("BCC"). Timothy Kotroco, Esquire, on behalf of Arthur H. Becker, Jr., Trustee and Nancy D. Miller, Trustee, *Legal Owners*, and Gaylord Brooks Realty Co., Inc., *Developer/Applicant* (hereinafter "the Developer"), submitted for approval a four-sheet redlined Development Plan ("Plan") prepared by Morris & Ritchie Associates, Inc., known as "Becker Property, 1st Material Amendment to the 2nd Refined Development Plan".

The Developer proposes five (5) additional lots on the property, in an area referred to by the parties as the "northern pod." Ten lots (all improved) have been approved in previous zoning and development cases. See Developer's Exhibits 4 and 5. The property is split-zoned RC 4 and RC 5, a fact which necessitated zoning relief. The Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR") seeks: (1) To permit a lot (Lot 11) with a total acreage of 1.41 acres to have 1.10 acres in the RC 5 zone in lieu of the require 1.5 acres; (2) To permit a lot (Lot 12) with a total acreage of 2.90 acres to have 1.18 acres in the RC 5 zone in lieu of the required 1.5 acres; (3) To permit a principal dwelling to be split between RC

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Date 2-6-19

By [Signature]

4 and RC 5 for Lot 11 and Lot 12 where sufficient density exists for the lot in each of the respective zones; (4) To permit well and septic reserve areas for Lots 10, 11, 12, 13, and 14 in a different zone than the proposed principal dwelling; (5) To permit non-density parcels in the RC 5 zone for Lots 10, 11, and 12; (6) To permit a non-density parcel in the RC 4 zone for Lots 13 and 14; and (7) To amend the previously approved Final Development Plan ("FDP").

The development and zoning cases were considered at a combined hearing as permitted by Baltimore County Code ("BCC") § 32-4-230. Details of the proposed development are more fully depicted on the redlined four-sheet Development Plan that was marked and accepted into evidence as Developer's Exhibit 2. The property was posted with the Notice of Hearing Officer's Hearing ("HOH") and Zoning Notice, both on December 17, 2018 in compliance with the regulations. The undersigned conducted a public hearing on January 18, 2019, in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland.

In attendance at the HOH in support of the Plan on behalf of the Developer was Steve Smith. Also in attendance was Joshua T. Sharon, a professional engineer with Morris & Ritchie Associates, Inc., the firm that prepared the site plan. Timothy Kotroco, Esquire represented the Developer. Several neighbors attended the hearing and expressed concerns about various aspects of the project. The neighbors and the Falls Road Community Association ("FRCA") were represented by Michael McCann, Esquire.

Numerous representatives of the various Baltimore County agencies who reviewed the Plan also attended the hearing, including the following individuals from the Department of Permits, Approvals and Inspections ("PAI"): Patrick Williams, Project Manager, Michael Viscarra and Jim Hermann (Development Plans Review ["DPR"]), Brad Knatz, Real Estate Compliance, and Aaron Tsui (Office of Zoning Review). Also appearing on behalf of the County were Steve Ford from

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the Department of Environmental Protection and Sustainability ("DEPS"), and Jenifer G. Nugent from the Department of Planning ("DOP").

Each County agency representative indicated the Plan addressed all comments submitted by their agency, and they each recommended approval of the Plan. Ms. Nugent indicated none of the schools in the district are overcrowded, as shown in the school impact analysis admitted as Baltimore County Exhibit 3. Mr. Hermann confirmed his agency approved a schematic landscape plan (Baltimore County Exhibit 1) and that in lieu of providing the required 5,000 sq. ft. of open space, the Developer will pay a fee in the amount of \$2,250.00. Baltimore County Exhibit 2.

DEVELOPER'S CASE

In the "formal" portion of the case, the Developer presented one witness: Joshua T. Sharon, professional engineer with Morris & Ritchie Associates, Inc. Mr. Sharon was accepted as an expert and explained in detail the development proposal. He described the layout of the site and also explained and identified which of the proposed lots were included within the special hearing requests. Mr. Sharon described what he opined were "significant" changes between the current plan and the one approved in 2004. He also described and showed on the Plan the "meandering" zoning boundary line which bisects the proposed lots.

In concluding his testimony, Mr. Sharon opined that the redlined Development Plan (Developer's Exhibit 2) satisfied all requirements set forth in the development and zoning regulations. In addition, with respect to the zoning requests Mr. Sharon testified granting the petition would not have a detrimental impact upon the health, safety and welfare of the community. The witness noted similar zoning relief was granted in earlier zoning/development cases involving the subject property.

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By DW

PROTESTANTS' CASE

As noted above, several members of the community opposed this project. Community members provided testimony highlighting their concerns, which generally speaking focused upon the unsafe conditions along this stretch of Falls Road. Residents have particular concern with children getting on/off school buses which stop at this location. In addition, neighbors testified there are simply too many points of ingress/egress at this location, which in their opinion raises significant safety concerns.

LEGAL ISSUES

A. *Res Judicata* – Collateral Estoppel

It is clear these doctrines involving prior adjudications are applicable in administrative hearings. *Seminary Galleria, LLC v. Dulaney Valley Improve. Ass'n*, 192 Md. App. 719 (2010). In fact, the 2016 iteration of this project was dismissed/disapproved based on collateral estoppel/*res judicata*. Developer's Exhibit 6. Those doctrines do not apply however if the applicant can show there has been a "substantial change in fact and circumstances." *Woodlawn Assn. v. Board of County Comm'rs.*, 241 Md. 187 (1965).

Mr. Sharon opined the changes shown on the current plan are significant, and no evidence was presented to rebut this testimony. The current plan proposes five (5) new homes, while the 2004 plan proposed ten (10) lots. A 50% reduction in density is in my opinion--based upon the plain meaning of that term--a "substantial" change. In addition, the access roadway is now proposed to be an existing private driveway, as opposed to the public road shown on the earlier plans.

Former Deputy Zoning Commissioner Murphy referenced both of these issues in his 2004 order when discussing the circumstances under which the "northern pod" might be approved, and

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By EW

thus he obviously considered these to be material or substantial issues. Dev. Ex. 4, at p.32. Finally, the 50% reduction in lots has allowed the Developer to provide stormwater management ("SWM") devices on each individual lot, which in my opinion also constitutes a material change from the previous plan which proposed a large SWM facility. These changes are more numerous and substantial than the sole change proposed in the 2016 case; *i.e.*, eight (8) rather than ten (10) lots. As such I do not believe the current plan is barred by *res judicata* and/or collateral estoppel.

The Protestants, citing the Rathkopf treatise, contend that to avoid the application of *res judicata* the "change in circumstances must be a change in the particular circumstances that induced the prior denial." I believe the Developer satisfies this standard. Mr. Murphy's denial of the northern pod in 2004 was based upon his belief the intersection with Falls Road was unsafe. While he did not expressly state what changes needed to be made, he noted that: (1) the number of lots should be reduced; and (2) the access road should be private, so drivers are not misled. Dev. Ex. 4, at p. 32. Mr. Murphy expressly stated that "a large part of the problem (*i.e.*, an unsafe intersection) arises with the fact that Rose Court is to be a public road." *Id.* at p.30. He also held in 2004 the northern pod was denied (in part) based on the proposed stormwater management system, which he ordered must be "revised" on any future plan submission. *Id.* at p.33. The current plan addresses and proposes changes in all of these areas, which "induced the prior denial."

B. Sustainable Growth Act

The Sustainable Growth Act ("SGA") of 2012 is a state law that greatly restricts the ability of an owner to construct a major development which relies upon on-site septic waste disposal systems. See Md. Environ. Art. Code Ann. § 9-206. In its development plan comments contained in the case file, the DOP indicated that Lot 10 of the Becker Plan (which encompasses the property at issue in this case) was designated Tier IV in December 2012. That agency also noted the 2016

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By lew

development plan for this property (Developer's Exhibit 7) was deemed by Baltimore County to be an "exempted plan." The Developer asserts the property is mapped as Tier III, which in light of the foregoing is incorrect.

In either event, the SGA contains an exemption for properties for which a "preliminary site plan" has been filed prior to the effective date of that act. SGA §9-206(b)(2). Baltimore County previously made a determination the 2016 plan qualified for the exemption, and the (current) 2018 plan involves essentially the same tract of land covered by the earlier plan. As such, I believe the 2018 plan is also exempt from the SGA. See *Goldbergh v. CR Golf Club, LLC*, 2016 WL 5906979 (10-11-2016, unreported).

C. Amendment of Final Development Plan

The final request in the zoning petition seeks to "amend the previously approved final development plan." The Protestants contend the prior FDPs were not submitted as exhibits by Developer and that in any event no testimony was presented addressing the FDP amendment issue and standards as set forth in the BCZR. To the contrary, Mr. Sharon opined that granting the special hearing requests (including the amendment of the FDP) would not have a detrimental impact upon the health, safety or welfare of the community. This of course is the special exception standard set forth at BCZR §502.1, which is expressly referenced in BCZR §1B01.3.A.7.

In addition, the 2004 development plan for the Becker property identified the northern pod as an area for future development, and Mr. Murphy's prior orders certainly contemplated the subject property would be subdivided at a later date. As such, I also find that the current five lot plan is "consistent with the spirit and intent of the original [2004] plan." BCZR §1B01.3.A.7.b.(3). Finally, as noted in the Developer's post-hearing memorandum, none of the proposed lots are located within 300 feet of any lot shown on the original plan, and thus it is arguable the FDP does

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By KW

not need to be amended. *Id.*

D. Safety of Intersection

Protestants contend the County's Plans Review Policy Manual requires public or private intersections to be separated by at least 100 feet. In fact, the Manual states that the distance should be 100 feet "where possible." See Manual, p.22. Here, as recognized by Mr. Murphy, the 100 ft. separation is not possible since the Developer does not own sufficient frontage on Falls Road. Dev. Ex. 4, at p. 27. Even so, as recognized by Protestants the centerline of proposed Peachwood Road is approximately 50 feet from the centerline of Hickory Hill Road, which is an increase from the 38 feet of separation shown on the earlier plans. In addition, the State Highway Administration ("SHA") determined (with regard to the 2016 plan) that the "minimum required sight distance can be achieved at the entrance location MD 25 [sic]" Dev. Ex. 13. It is the SHA, not the ALJ or Baltimore County, which determines whether the proposed access is safe and satisfies State requirements, and thus I do not believe the plan can be denied on this basis.

The BCC provides that the "Hearing Officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations." BCC § 32-4-229. After considering the testimony and evidence presented by the Developer, the exhibits offered at the hearing, and confirmation from the various County agencies that the Plan satisfies those agencies' requirements, I find that the Developer has satisfied its burden of proof and, therefore, is entitled to approval of the Development Plan.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, the requirements of which are contained in Article 32, Title 4, of the BCC, the "Becker Property – 1st Material Amendment to the 2nd Refined Development Plan" shall be approved.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for

ORDER RECEIVED FOR FILING

Date 2-6-19

By [Signature]

Baltimore County, this 6th day of February, 2019, that the "BECKER PROPERTY – 1st Material Amendment to the 2nd Refined Development Plan" marked and accepted into evidence as Developer's Exhibit 2, be and is hereby **APPROVED**.

IT IS FURTHER ORDERED that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR"): (1) To permit a lot (Lot 11) with a total acreage of 1.41 acres to have 1.10 acres in the RC 5 zone in lieu of the require 1.5 acres; (2) To permit a lot (Lot 12) with a total acreage of 2.90 acres to have 1.18 acres in the RC 5 zone in lieu of the required 1.5 acres; (3) To permit a principal dwelling to be split between RC 4 and RC 5 for Lot 11 and Lot 12 where sufficient density exists for the lot in each of the respective zones; (4) To permit well and septic reserve areas for Lots 10, 11, 12, 13, and 14 in a different zone than the proposed principal dwelling; (5) To permit non-density parcels in the RC 5 zone for Lots 10, 11, and 12; (6) To permit a non-density parcel in the RC 4 zone for Lots 13 and 14; and (7) To amend the previously approved Final Development Plan ("FDP"), be and is hereby **GRANTED**.

Any appeal of this Order shall be taken in accordance with Baltimore County Code, § 32-4-281.


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date 2-6-19

By (signature)



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 12170 Falls Road, Lutherville MD 21093 which is presently zoned RC5-RC4
Deed References: 31610/0463 10 Digit Tax Account # 2500007456
Property Owner(s) Printed Name(s) Arthur Becker, Jr. & Nancy Miller, Trustees

(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

See attached sheet

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 DETERMINED 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

By

Attorney for Petitioner:

Timothy M. Kotroco, Esquire

Name- Type or Print

Signature

305 Washington Avenue, Suite 502 Towson Md

Mailing Address

City

State

21204

410-299-2943

Tkotroco@gmail.com

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Arthur Becker, Jr. Trustee / Nancy Miller, Trustee

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

33 Wally Court

Timonium

Maryland

Mailing Address

City

State

21093

410-560-0061

ahbecker@verizon.net

Zip Code

Telephone #

Email Address

Representative to be contacted:

Same as Attorney

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

CASE NUMBER 2019-0143-304 Filing Date 10/30/18

Do Not Schedule Dates:

Reviewer JF

SPECIAL HEARING REQUEST

1. SPECIAL HEARING IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING COMMISSIONER'S POLICY MANUAL SECTION 1A00.5.B TO PERMIT A LOT (LOT 11) WITH A TOTAL ACREAGE OF ~~1.41~~ ^{2.1} ACRES TO HAVE 1.10 ACRES IN THE RC 5 ZONE IN LIEU OF THE REQUIRED 1.5 ACRES. ^{1.0 IN RC4}
2. SPECIAL HEARING IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING COMMISSIONER'S POLICY MANUAL SECTION 1A00.5.B TO PERMIT A LOT (LOT 12) WITH A TOTAL ACREAGE OF 2.90 ACRES TO HAVE 1.18 ACRES IN THE RC 5 ZONE IN LIEU OF THE REQUIRED 1.5 ACRES.
3. SPECIAL HEARING IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING COMMISSIONER'S POLICY MANUAL SECTION 1A00.5.B TO PERMIT A PRINCIPAL DWELLING TO BE SPLIT BETWEEN RC4 AND RC5 FOR LOT 11 AND LOT 12 WHERE SUFFICIENT DENSITY EXISTS FOR THE LOT IN EACH OF THE RESPECTIVE ZONES.
4. SPECIAL HEARING IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING COMMISSIONER'S POLICY MANUAL SECTION 1A00.5.B TO PERMIT WELL AND SEPTIC RESERVE AREAS FOR LOTS 10, 11, 12, 13, & 14 IN A DIFFERENT ZONE THAN THE PROPOSED PRINCIPAL DWELLING.
5. SPECIAL HEARING TO PERMIT NON-DENSITY PARCELS IN THE RC5 ZONE FOR LOTS 10, 11, & 12.
6. SPECIAL HEARING TO PERMIT A NON-DENSITY PARCEL IN THE RC4 ZONE FOR LOTS 13 AND 14.
7. SPECIAL HEARING TO AMEND THE PREVIOUSLY APPROVED FINAL DEVELOPMENT PLAN.



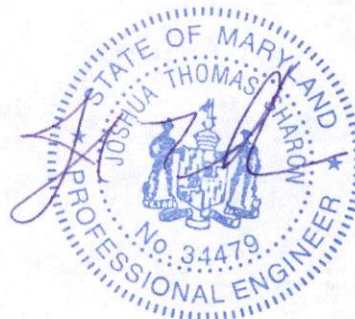
October 29, 2018

Zoning Property Description for 12170 Falls Road (Tract boundary)

Beginning at the point on the south side of Falls Road which is a variable width right of way at the distance of ± 7 southeast of the center line of the nearest intersecting streets (Falls Road and Hickory Hill Road) variable Right of Way. **Thence** the following courses and distances, referred to the Maryland Coordinate System (NAD '83/91):

From Point of Beginning for the Tract Boundary running South 61 degrees 46 minutes 59 seconds West, 78.40' to a point, South 10 degrees 56 minutes 27 seconds East, 68.44' to a point, South 5 degrees 33 minutes 4 seconds West, 163.84' to a point, South 6 degrees 8 minutes 41 seconds West, 782.45' to a point, South 61 degrees 10 minutes 39 seconds East, 254.82' to a point, South 0 degrees 14 minutes 33 seconds East, 265.25' to a point, South 43 degrees 57 minutes 47 seconds East, 483.08' to a point, North 67 degrees 9 minutes 55 seconds East, 52.69' to a point, North 67 degrees 28 minutes 27 seconds East, 55.03' to a point, North 73 degrees 5 minutes 58 seconds East 56.54' to a point, North 63 degrees 36 minutes 22 seconds East, 44.56' to a point, North 65 degrees 37 minutes 10 seconds East, 82.80' to a point, North 86 degrees 40 minutes 17 seconds East, 55.00' to a point, North 63 degrees 26 minutes 46 seconds East, 54.12' to a point, 2 degrees 28 minutes 59 seconds East, 39.22' to a point, North 29 degrees 4 minutes 28 seconds East, 37.06' to a point, South 61 degrees 23 minutes 43 seconds East, 91.97' to a point, South 7 degrees 9 minutes 25 seconds East, 1580.38' to a point, South 79 degrees 52 minutes 32 seconds West 702.16' to a point, North 46 degrees 53 minutes 57 seconds West, 826.13' to a point, North 71 degrees 22 minutes 53 seconds West, 493.27' to a point, North 48 degrees 6 minutes 54 seconds East, 97.59' to a point, North 34 degrees 26 minutes 58 seconds East, 190.74' to a point, North 11 degrees 16 minutes 23 seconds West, 70.01' to a point, North 56 degrees 16 minutes 23 seconds West, 420.90' to a point, North 46 degrees 16 minutes 23 seconds West, 82.00' to a point, South 66 degrees 43 minutes 37 seconds West, 67.23' to a point, South 18 degrees 0 minutes 54 seconds East, 215.02' to a point, South 42 degrees 14 minutes 18 seconds West, 279.63' to a point, North 71 degrees 22 minutes 53 seconds West, 28.66' to a point, North 12 degrees 50 minutes 47 seconds West, 1116.43' to a point, North 41 degrees 59 minutes 6 seconds East, 527.25' to a point, South 48 degrees 0 minutes 54 seconds East, 60.00' to a point, North 41 degrees 59 minutes 6 seconds East, 100.85' to a point, North 40 degrees 24 minutes 42 seconds East, 1263.62' to a point, North 43 degrees 47 minutes 52 seconds East, 51.52' to a point, South 27 degrees 8 minutes 52 seconds East, 68.60' to a point, South 7 degrees 6 minutes 0 seconds West, 38.99' to a point, South 28 degrees 48 minutes 5 seconds East, 71.52' to a point and Place of Beginning.

Containing an area of $\pm 3,872,802$ square feet or ± 88.9 acres of land, more or less and being located in the 8th Election District and 2nd Council District of Baltimore County Maryland.



1220-C East Joppa Road, Suite 505, Towson, MD 21286 (410) 821-1690 Fax: (410) 821-1748 www.mragta.com

Abingdon, MD ♦ Baltimore, MD ♦ Laurel, MD ♦ Towson, MD ♦ Georgetown, DE ♦ New Castle, DE ♦ Sterling, VA ♦ Raleigh, NC
(410) 515-9000 (410) 935-5050 (410) 792-9792 (410) 821-1690 (302) 855-5734 (302) 326-2200 (703) 674-0161 (984) 200-2103

CERTIFICATE OF POSTING

Hearing Officer's Hearing

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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: _____

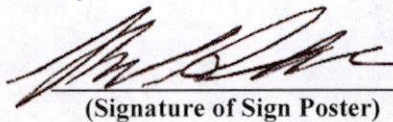
12170 Falls Road

SIGN 1 Recertification

December 17, 2018

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

Sincerely,

 January 16, 2019
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

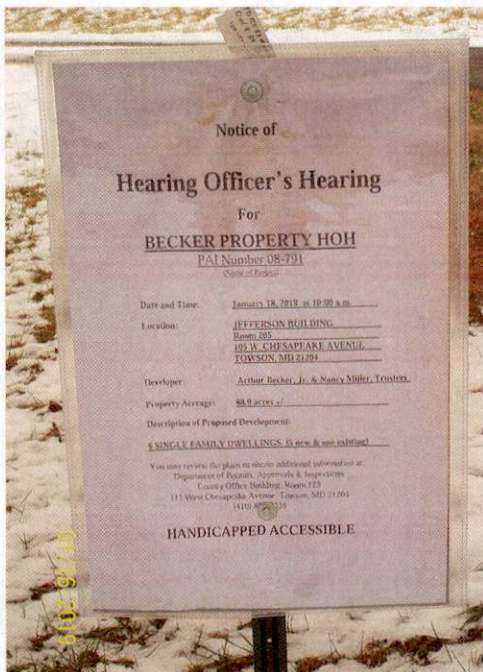
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



CERTIFICATE OF POSTING

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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: _____

12170 Falls Road

SIGN 3 Recertification

December 17, 2018

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

Sincerely,

 January 16, 2019
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

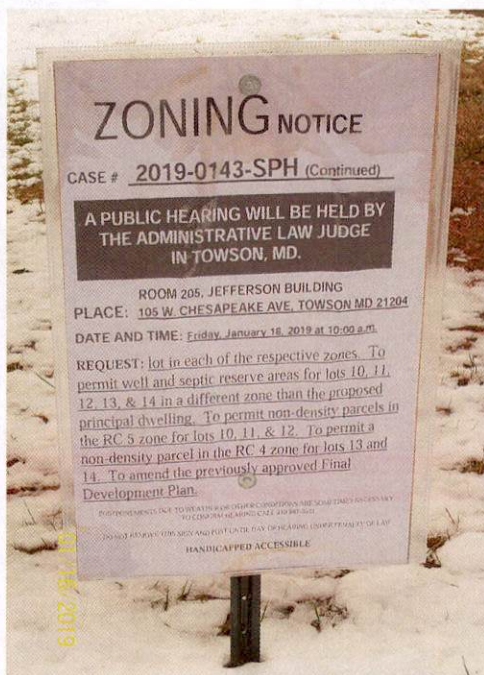
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



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Arthur Becker, Jr., & Nancy Miller, Trustees

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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:

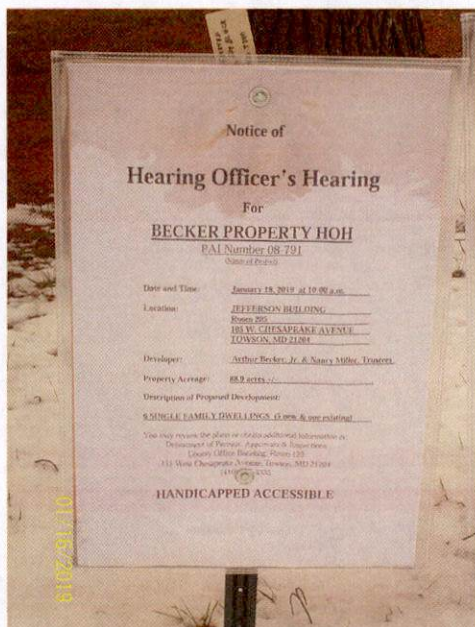
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

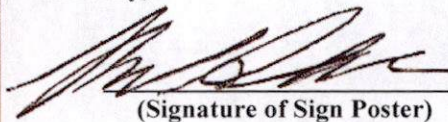
SIGN 5 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

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Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

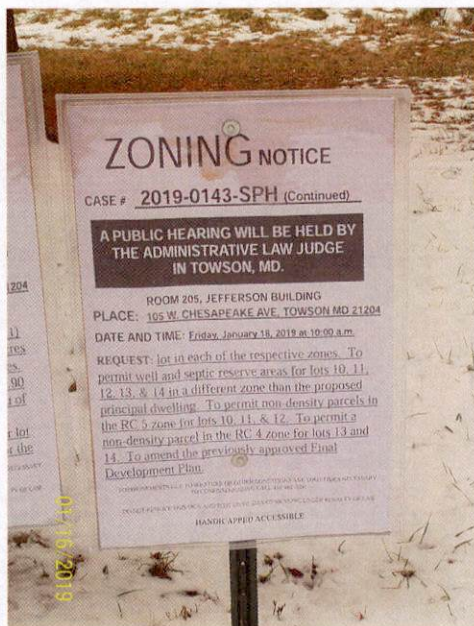
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

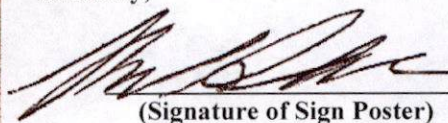
SIGN 7 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

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RE: Case No.: _____

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Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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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:

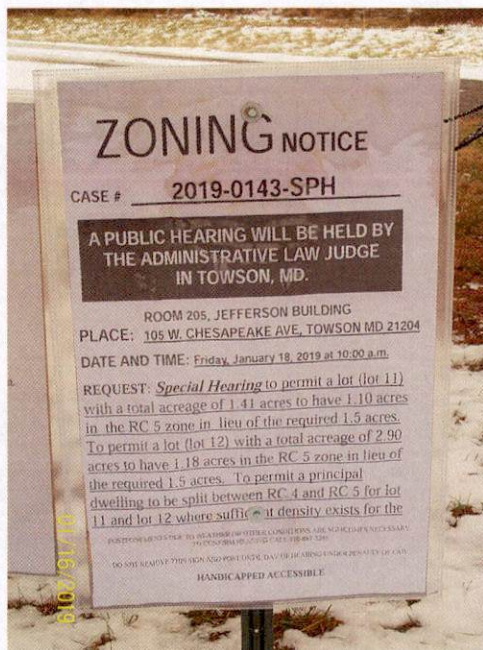
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

SIGN 2 Recertification

December 17, 2018

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



Sincerely,


(Signature of Sign Poster)

January 16, 2019

(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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: _____

12170 Falls Road

SIGN 4 Recertification

December 17, 2018

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



Sincerely,


(Signature of Sign Poster)

January 16, 2019

(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

2019-0143-SPH

RE: Case No.: _____

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Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

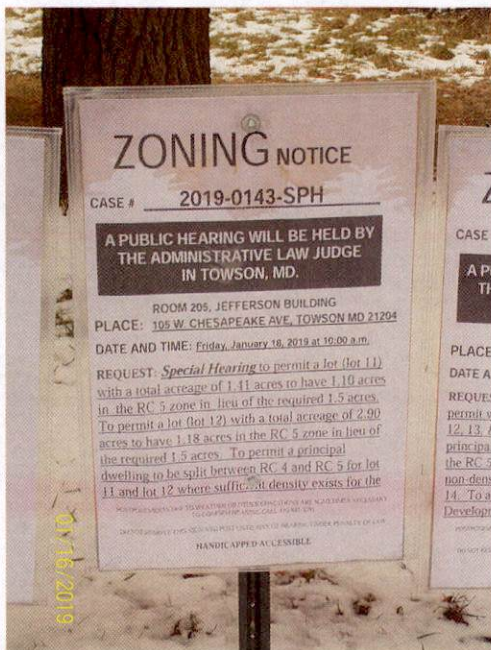
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12170 Falls Road

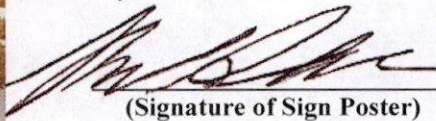
SIGN 6 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

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12170 Falls Road

SIGN 8 Recertification

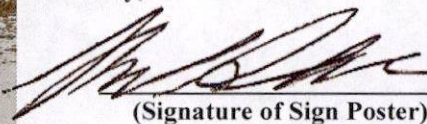
December 17, 2018

The sign(s) were posted on _____

(Month, Day, Year)



Sincerely,



January 16, 2019

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

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(Telephone Number)

CERTIFICATE OF POSTING

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RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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: _____

12170 Falls Road

GROUPS 1 & 2

December 17, 2018

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

Sincerely,

 January 16, 2019
(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)

Group 1 ↓



Group 2 ↑

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:

12/28/2018

Order #: 11660942
Case #: 2019-0143-SPH
Description:

NOTICE OF ZONING HEARING CASE NUMBER:
2019-0143-SPH



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: 2019-0143-SPH

12170 Falls Road

S/s Falls Road, southeast of centerline of Falls Road and Hickory Hill Road

8th Election District - 2nd Councilmanic District

Legal Owners: Arthur Becker, Jr., & Nancy Miller, Trustees

Special Hearing to permit a lot (lot 11) with a total acreage of 1.41 acres to have 1.10 acres in the RC 5 zone in lieu of the required 1.5 acres. To permit a lot (lot 12) with a total acreage of 2.90 acres to have 1.18 acres in the RC 5 zone in lieu of the required 1.5 acres. To permit a principal dwelling to be split between RC 4 and RC 5 for lot 11 and lot 12 where sufficient density exists for the lot in each of the respective zones. To permit well and septic reserve areas for lots 10, 11, 12, 13 & 14 in a different zone than the proposed principal dwelling. To permit non-density parcels in the RC 5 zone for lots 10, 11 & 12. To permit a non-density parcel in the RC 4 zone for lots 13 & 14. To amend the previously approved Final Development Plan.

Hearing: Friday, January 18, 2019 at 10:00 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 ACCOMMODATIONS, 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.

d28

CERTIFICATE OF POSTING

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

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12170 Falls Road

GROUPS 1 & 2

December 17, 2018

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



Group 1 ^ Group 2 v



Sincerely,

December 17, 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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

Date of Hearing/Closing: _____

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County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

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12170 Falls Road

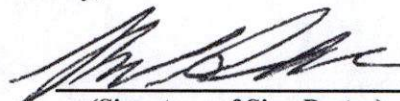
SIGN 1

December 17, 2018

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



Sincerely,


(Signature of Sign Poster)

December 17, 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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

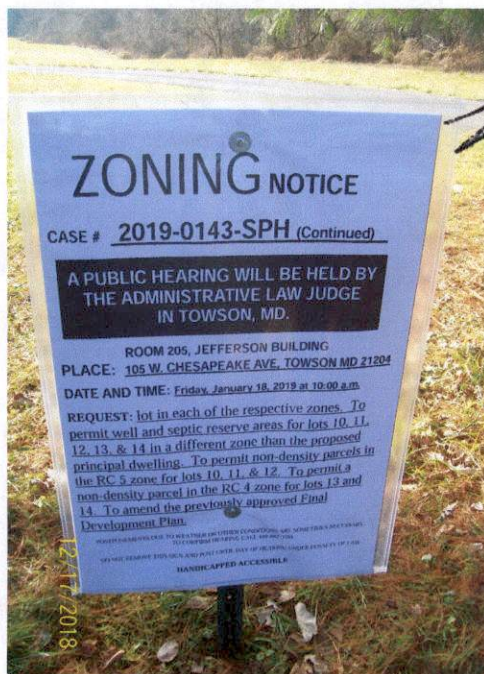
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12170 Falls Road

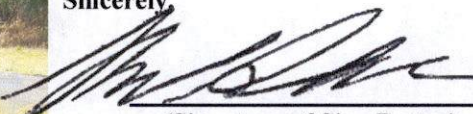
SIGN 2

December 17, 2018

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



Sincerely,

 December 17, 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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

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12170 Falls Road

SIGN 3

December 17, 2018

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

Sincerely,

 December 17, 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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

Date of Hearing/Closing: _____

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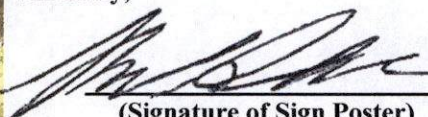
SIGN 4

December 17, 2018

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



Sincerely,

 December 17, 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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

Date of Hearing/Closing: _____

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

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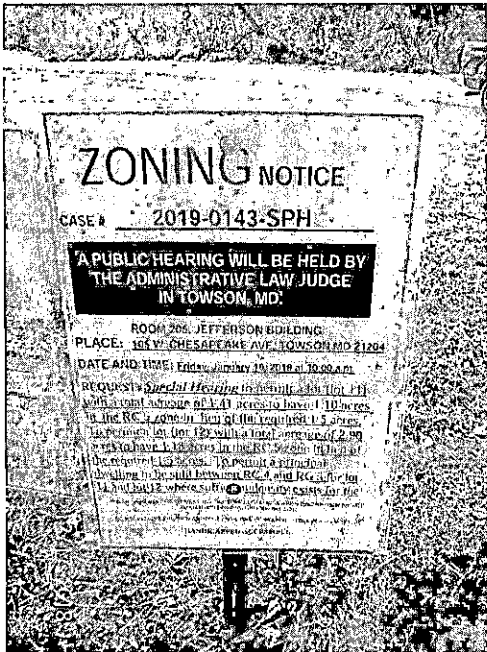
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12170 Falls Road

SIGN 1

December 17, 2018

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



Sincerely,

 December 17, 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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

Date of Hearing/Closing: _____

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Permits, Approvals and Inspections
County Office Building, Room 111
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Towson, Maryland 21204**

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12170 Falls Road

SIGN 2

December 17, 2018

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

Sincerely,

December 17, 2018

(Signature of Sign Poster) _____ (Date) _____

SSG Robert Black

(Print Name)

1508 Leslie Road

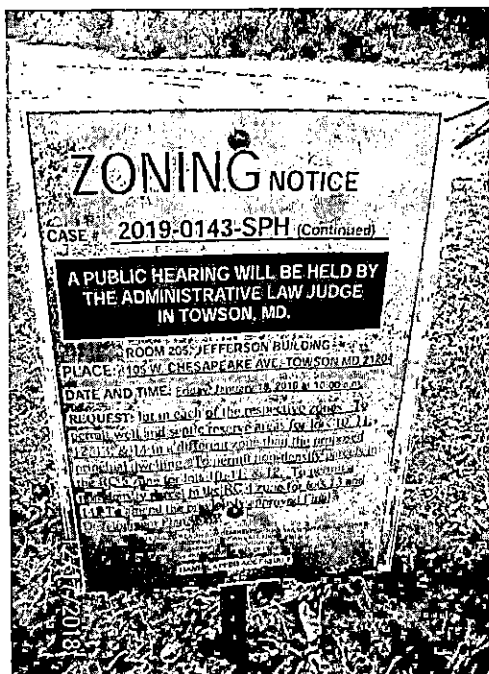
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



3

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

Date of Hearing/Closing: _____

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Permits, Approvals and Inspections
County Office Building, Room 111
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12170 Falls Road

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(Month, Day, Year)

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December 17, 2018

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

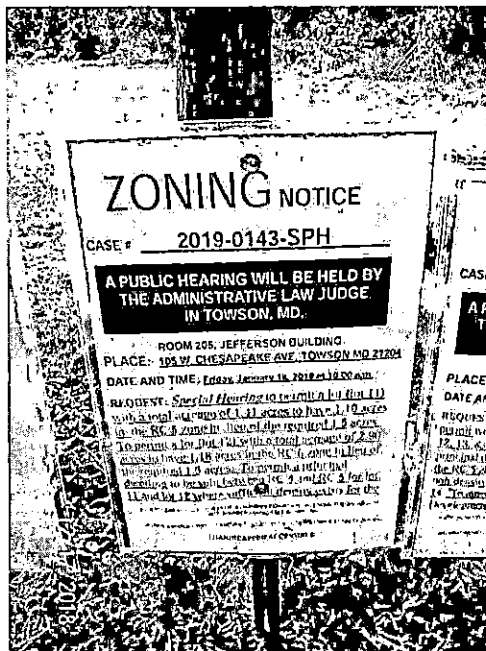
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Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

Date of Hearing/Closing: _____

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Permits, Approvals and Inspections
County Office Building, Room 111
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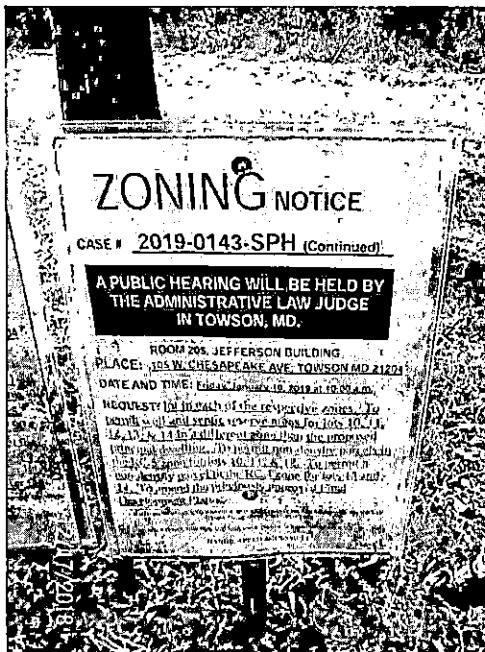
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12170 Falls Road

SIGN 4

December 17, 2018

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



Sincerely,

 December 17, 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)



December 3, 2018
DONALD J. MOHLER III
County Executive

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

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: 2019-0143-SPH

12170 Falls Road

S/s Falls Road, southeast of centerline of Falls Road and Hickory Hill Road

8th Election District – 2nd Councilmanic District

Legal Owners: Arthur Becker, Jr., & Nancy Miller, Trustees

Special Hearing to permit a lot (lot 11) with a total acreage of 1.41 acres to have 1.10 acres in the RC 5 zone in lieu of the required 1.5 acres. To permit a lot (lot 12) with a total acreage of 2.90 acres to have 1.18 acres in the RC 5 zone in lieu of the required 1.5 acres. To permit a principal dwelling to be split between RC 4 and RC 5 for lot 11 and lot 12 where sufficient density exists for the lot in each of the respective zones. To permit well and septic reserve areas for lots 10, 11, 12, 13 & 14 in a different zone than the proposed principal dwelling. To permit non-density parcels in the RC 5 zone for lots 10, 11 & 12. To permit a non-density parcel in the RC 4 zone for lots 13 & 14. To amend the previously approved Final Development Plan.

Hearing: Friday, January 18, 2019 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Timothy Kotroco, 305 Washington Avenue, Ste. 502, Towson 21204
Mr. & Mrs. Becker, 33 Wally Court, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 29, 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, December 28, 2018 -- Issue

Please forward billing to:

Timothy Kotroco
305 Washington Avenue, Ste. 502
Towson, MD 21204

410-299-2943

NOTICE OF ZONING HEARING

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CASE NUMBER: 2019-0143-SPH

12170 Falls Road

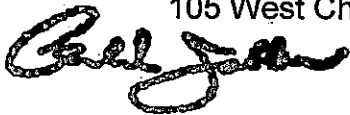
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8th Election District – 2nd Councilmanic District

Legal Owners: Arthur Becker, Jr., & Nancy Miller, Trustees

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Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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- (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
12170 Falls Road; S/S Falls Road, 7' SE of * OF ADMINSTRATIVE
Falls Road & Hickory Hill Road * HEARINGS FOR
8th Election & 2nd Councilmanic Districts *
Legal Owner(s): Arthur Becker, Jr. *
& Nancy Miller, Trustees *
Petitioner(s) * BALTIMORE COUNTY
* 2019-143-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.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

RECEIVED

NOV 08 2018

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 8th day of November, 2018, a copy of the foregoing Entry of Appearance was mailed to Timothy Kotroco, Esquire, 305 Washington Avenue, Suite 502, Towson, Maryland 21204, Attorney 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: 2019-0143-SP4

Property Address: _____

Property Description: _____

Legal Owners (Petitioners): _____

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Timothy M. Kotroco

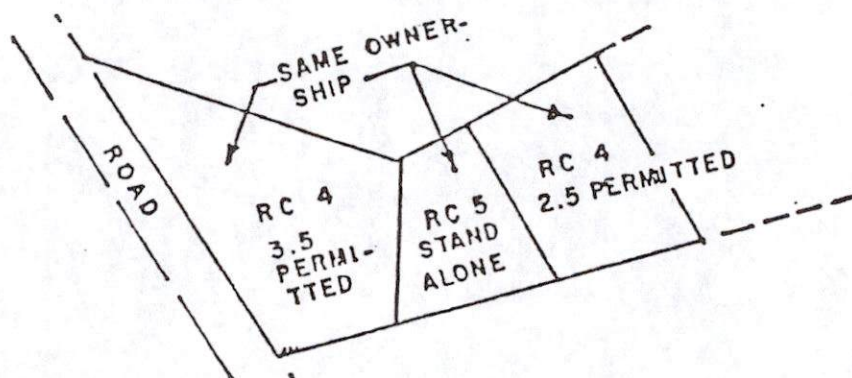
Company/Firm (if applicable): Kotroco & Associates, LLC

Address: 305 Washington Ave Ste 502
Towson, MD 21204

Telephone Number: 410 299 2943

1A00.5.a TRACTS DIVIDED BY ZONE BOUNDARIES - If R.C. zoned land under the same ownership is separated by a different R.C. zone, then the density should be calculated and utilized by each zone parcel. In the following example the R.C. 4 density would be two for one parcel and three for the other. The five lots would have to be located in the respective permitted density parcels of the property. The R.C. 5 area would be figured and utilized separately.

- (1) If R.C. zoned land is proposed to be clustered in the same zone, on the same property, across another zone, a special hearing would be required before the Zoning Commissioner. In the following example a special hearing would be required to request that density units be clustered in either of the R.C. zoned land.



1A00.5.b LOTS DIVIDED BY ZONE LINES - The following guidelines have been formulated so that this matter can be handled consistently:

- (1) CONDITIONS:
- A house may not straddle an R.C. zone line.
 - Any lot must meet the minimum lot area, width and setback requirements of the zone in which the house is to be located.
 - The well and septic system must be located in the same zone as the house.
 - setbacks are measured to the property or street right-of-way and not the zone line.
 - When calculating density, if a lot contains enough area to meet the minimum lot size in each of the R.C. zones into which it extends; it counts as two density units used and not just one (i.e. one density unit subtracted from that allowed in each separate R.C. zone.)
- (2) INTERPRETATION - This determination may be subject to a special hearing at the discretion of the Zoning Commissioner.
- (3) See the following case: 89-52-SPH

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

No. **177134**

Date: **10/30/18**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 10/31/2018 10/30/2018 14:17:18 5

REC RECD- WALKIN LRR
 RECEIPT 701712 10/30/2018 OFLN

Dept 5- 528 ZONING VERIFICATION
 Amount 17 134

Reg t Tot \$375.00
 \$375.00 CK \$0.00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6152					375.00

Total: **375.00**

Rec

From: **T. Katroca**

For:

12170 Fallo Rd.

CESS # 2019 - 0143 - JPH

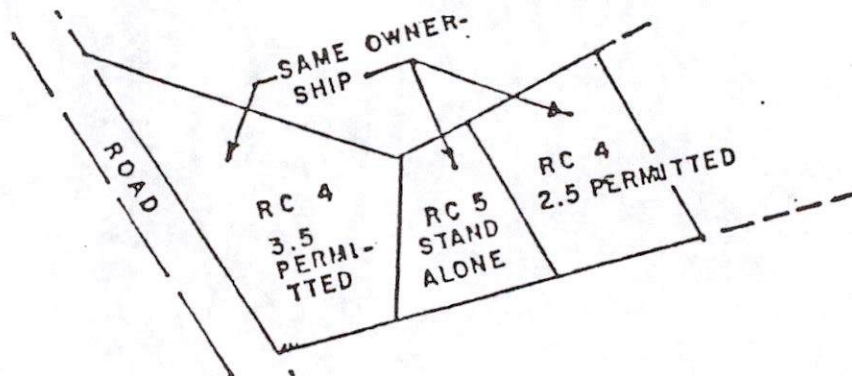
**CASHIER'S
 VALIDATION**

DISTRIBUTION

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

1A00.5.a TRACTS DIVIDED BY ZONE BOUNDARIES - If R.C. zoned land under the same ownership is separated by a different R.C. zone, then the density should be calculated and utilized by each zone parcel. In the following example the R.C. 4 density would be two for one parcel and three for the other. The five lots would have to be located in the respective permitted density parcels of the property. The R.C. 5 area would be figured and utilized separately.

- (1) If R.C. zoned land is proposed to be clustered in the same zone, on the same property, across another zone, a special hearing would be required before the Zoning Commissioner. In the following example a special hearing would be required to request that density units be clustered in either of the R.C. zoned land.



1A00.5.b LOTS DIVIDED BY ZONE LINES - The following guidelines have been formulated so that this matter can be handled consistently:

- (1) CONDITIONS:
- A house may not straddle an R.C. zone line.
 - Any lot must meet the minimum lot area, width and setback requirements of the zone in which the house is to be located.
 - The well and septic system must be located in the same zone as the house.
 - setbacks are measured to the property or street right-of-way and not the zone line.
 - When calculating density, if a lot contains enough area to meet the minimum lot size in each of the R.C. zones into which it extends; it counts as two density units used and not just one (i.e. one density unit subtracted from that allowed in each separate R.C. zone.)
- (2) INTERPRETATION - This determination may be subject to a special hearing at the discretion of the Zoning Commissioner.
- (3) See the following case: 89-52-SPH



JOHN A. OLSZEWSKI, JR.
County Executive

DIRECTOR
Department of Permits,
Approvals & Inspections

January 15, 2019

Timothy Kotroco
305 Washington Avenue, Ste. 502
Towson, MD 21204

RE: Case Number: 2019-0143-SPH, Address: 12170 Falls Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 30, 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,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over a faint, circular official stamp.

W. Carl Richards, Jr.
Supervisor, Zoning Review

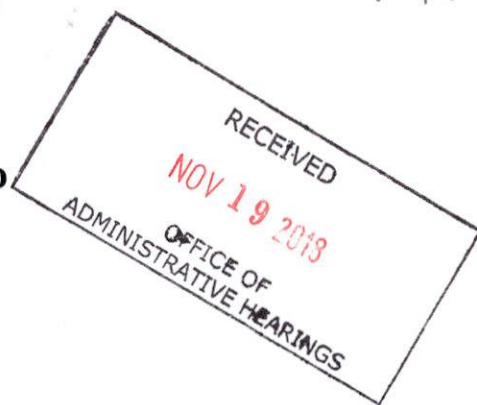
WCR: kll

Enclosures

c: People's Counsel
Arthur Becker, Nancy Miller, 33 Wally Court, Timonium 21093

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 19, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0143-SPH
Address 33 Wally Court
(Becker & Miller, Trustee)

Zoning Advisory Committee Meeting of **November 12, 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:

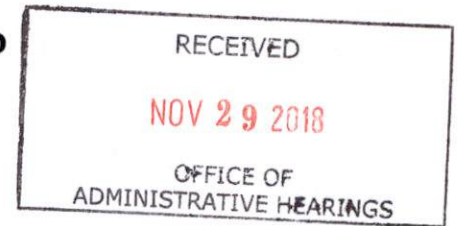
The additional lots must honor the conditions of the previous forest buffer variance as well as the existing Forest Buffer and Forest Conservation Easements on the site.

The reason for amendment indicates that five lot would be eliminated, but it appears that five lots are being added. Please revise the note accordingly.

Reviewer: Glenn Shaffer

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 19, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0143-SPH
Address 33 Wally Court
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- 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:

The additional lots must honor the conditions of the previous forest buffer variance as well as the existing Forest Buffer and Forest Conservation Easements on the site.

The reason for amendment indicates that five lot would be eliminated, but it appears that five lots are being added. Please revise the note accordingly.

Reviewer: Glenn Shaffer

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 11/7/18

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

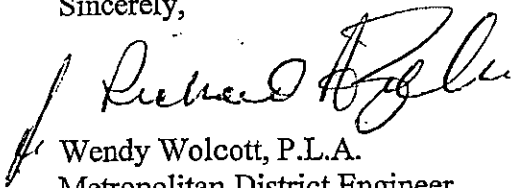
Dear Ms. Lewis:

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. 2019-2143-SPH

*Special Hearing
Arthur Becker Sr. Trustee - Nancy Miller Trust
33 Wally Court.*

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

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 19, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0143-SPH
Address 33 Wally Court
(Becker & Miller, Trustee)

Zoning Advisory Committee Meeting of **November 12, 2018**.

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- 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:

The additional lots must honor the conditions of the previous forest buffer variance as well as the existing Forest Buffer and Forest Conservation Easements on the site.

The reason for amendment indicates that five lot would be eliminated, but it appears that five lots are being added. Please revise the note accordingly.

Reviewer: Glenn Shaffer

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
FROM: *MCD*
Vishnu Desai, Supervisor
Bureau of Development Plans Review

DATE: November 26, 2018

SUBJECT: Zoning Advisory Committee Meeting
For November 12, 2018
Item No. 2019-0143-SPH

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

Need to confirm with Rec & Parks the open space required, provided and/or waiver paid and/or to be paid.

Need to confirm with Rec & Parks that the entire Greenway Easement has been provided and recorded.

*

*

*

*

*

VKD: cen
cc: file

C H E C K L I S TComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment11-26DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)C11-19DEPS
(if not received, date e-mail sent _____)C

FIRE DEPARTMENT

PLANNING
(if not received, date e-mail sent _____)11-7

STATE HIGHWAY ADMINISTRATION

No objection

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

12-28-18Daily RecordSIGN POSTING (1st)

Date:

12-17-18by BlockSIGN POSTING (2nd)

Date:

1-16-19by "

PEOPLE'S COUNSEL APPEARANCE

11-8-18

Yes

☒

No

☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☐

Comments, if any: _____

Debra Wiley

From: SGT ROBERT BLACK <1opie@comcast.net>
Sent: Thursday, January 17, 2019 8:10 PM
To: Administrative Hearings; dhooover@mragta.com
Subject: Recertifications for 2019-0143-SPH
Attachments: ReCert 1 2019-0143-SPH.doc; ReCert 2 2019-0143-SPH.doc; ReCert 3 2019-0143-SPH.doc; ReCert 4 2019-0143-SPH.doc; ReCert 5 2019-0143-SPH.doc; ReCert 6 2019-0143-SPH.doc; ReCert 7 2019-0143-SPH.doc; ReCert 8 2019-0143-SPH.doc; Group 1 & 2 monitor for 2019-0143-SPH.doc

Recertification's for Becker property 12170 Falls Road.



CERTIFICATE OF POSTING

Hearing Officer's Hearing

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

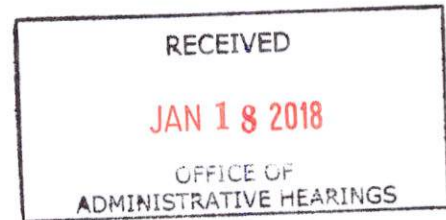
January 18, 2019

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:



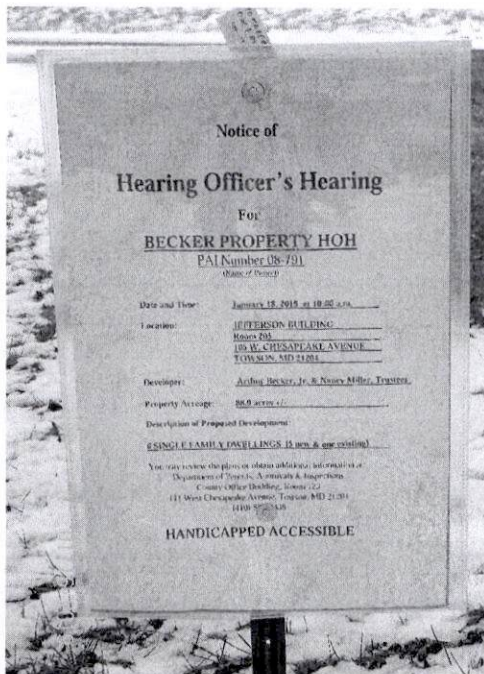
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

SIGN 1 Recertification

December 17, 2018

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



Sincerely,


(Signature of Sign Poster)

January 16, 2019

(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

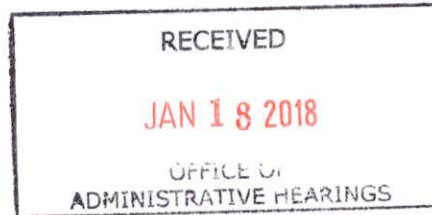
January 18, 2019

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:



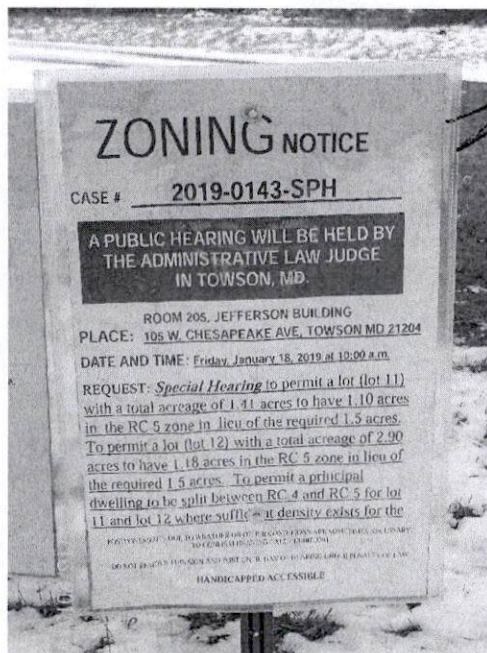
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

SIGN 2 Recertification

December 17, 2018

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



Sincerely,

A handwritten signature in black ink, appearing to read "SSG Robert Black".

January 16, 2019

(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

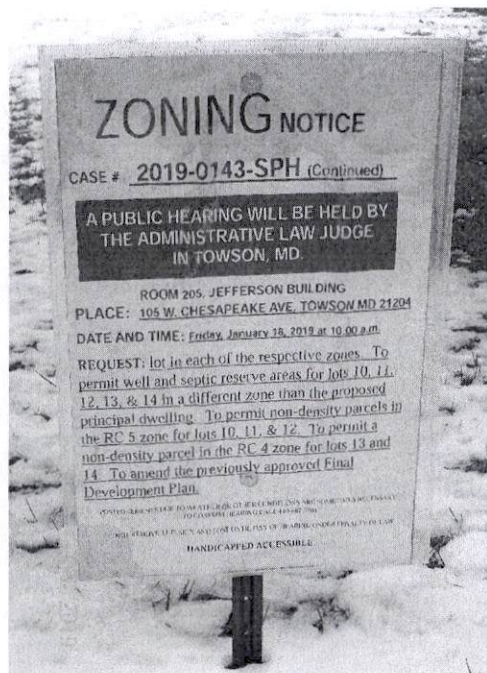
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

SIGN 3 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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: _____

12170 Falls Road

SIGN 4 Recertification

December 17, 2018

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



Sincerely,


(Signature of Sign Poster)

January 16, 2019

(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

Hearing Officer's Hearing

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

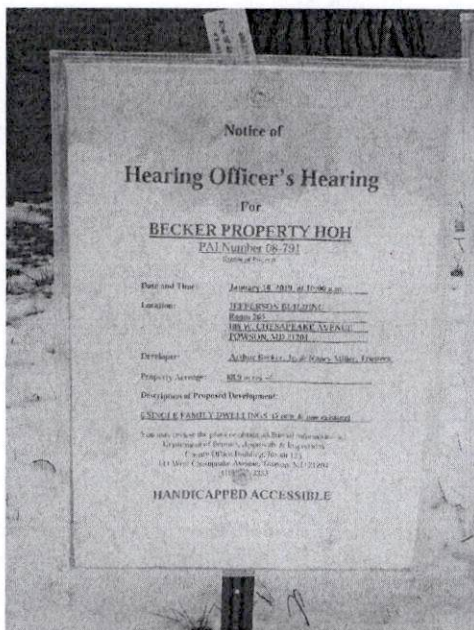
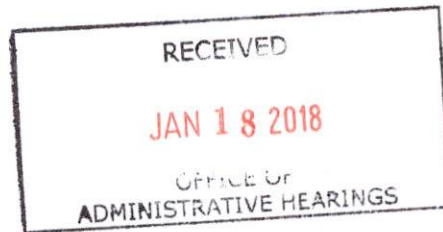
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

SIGN 5 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

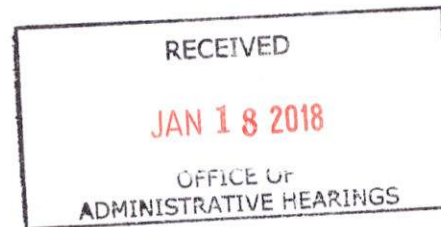
January 18, 2019

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:



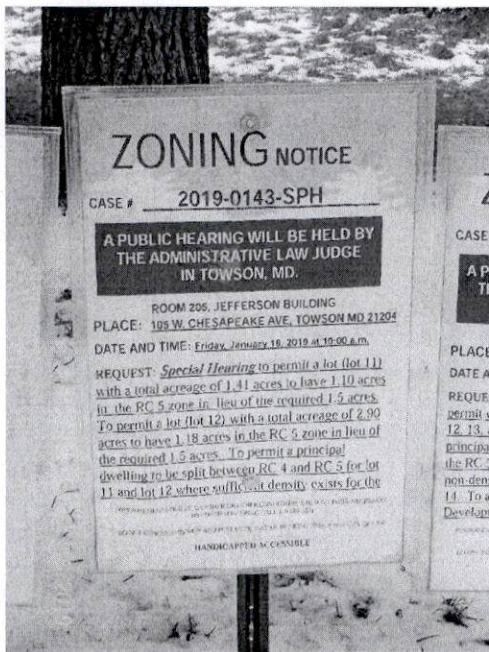
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

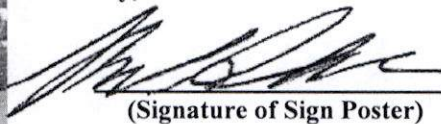
SIGN 6 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

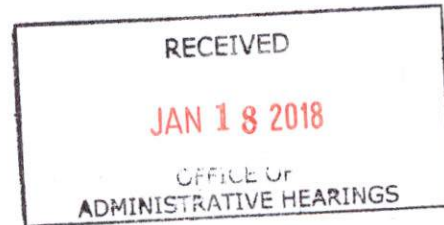
Arthur Becker, Jr., & Nancy Miller, Trustees

January 18, 2019

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:

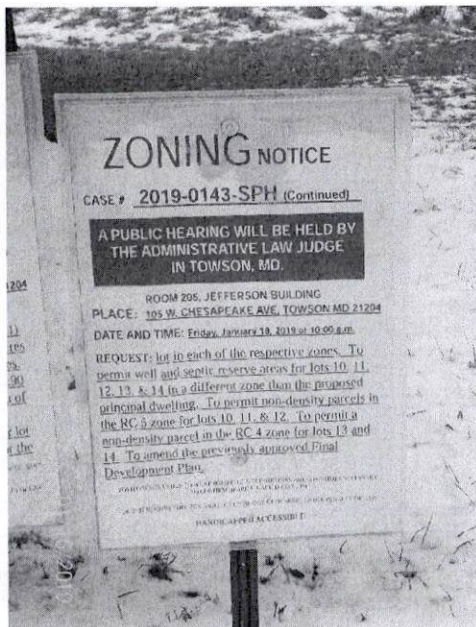
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

12170 Falls Road

SIGN 7 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

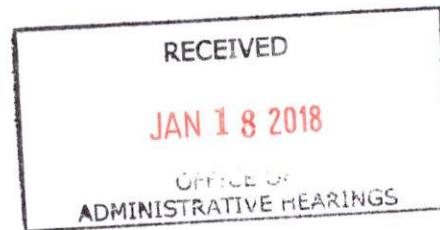
January 18, 2019

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: _____

12170 Falls Road

SIGN 8 Recertification

December 17, 2018

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



Sincerely,

 January 16, 2019
(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

2019-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Arthur Becker, Jr., & Nancy Miller, Trustees

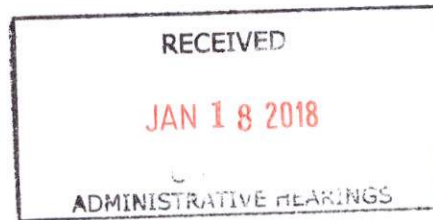
January 18, 2019

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: _____

12170 Falls Road **GROUPS 1 & 2**

December 17, 2018

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

Sincerely,

 January 16, 2019

(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)

Group 1 ↓



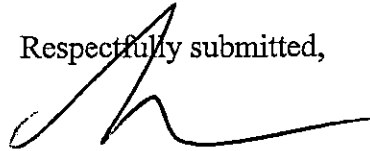
Group 2 ↑

To the extent Mr. Murphy intended by these words to allow the filing of a new development plan irrespective of the “substantial change in circumstances” standard, the Current Plan is clearly not a “substantial redesign” of the plan in the 2004 case, for the same reasons stated above.

III. CONCLUSION

For the reasons stated, the Development Plan should be denied.

Respectfully submitted,



Michael R. McCann
Michael R. McCann, P.A.
118 W. Pennsylvania Ave.
Towson, MD 21204
(410) 825-2150

Attorneys for Protestants

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January, 2019 copy of the foregoing Post-Hearing Memorandum was mailed, via first-class mail, postage prepaid to:

Timothy Kotroco
1 W. Pennsylvania Ave., Suite 300
Towson, MD 21204



Michael R. McCann

attached hereto at **Tab 8**, pp. 98, 160-61). The required ISD looking south (making a left turn) is 445 feet for a design speed of 40 mph and 500 feet for a design speed of 45 mph. Mr. Cornelius testified that the available ISD is only 371 and thus is insufficient whether you use a design speed of 40 or 45 mph. (*Id.*, pp. 94, 161, 162). Indeed, Mr. Cornelius admitted that if a design speed of 45 mph is used, the lesser stopping sight distance (SSD) standard for a vehicle heading north (344 feet) is not met because only 305 feet is available. (T2, pp. 121, 129, 157).

- Applecroft Lane - Mr. Cornelius acknowledged that the standards for both SSD and ISD are *not* met at Applecroft Lane, even with the proposed roadside improvements. Applying a 45 mph design speed, the required northbound SSD is 360 feet and the required ISD (looking south) is 430 feet. The available/existing sight distance is only 220 feet and, with the proposed improvements, only 300 feet. (T2, pp. 146-49).
- Hickory Hill - Mr. Cornelius admitted that if you instead apply a design speed of 45 mph, the required SSD of 344 is not met. (*Id.*, pp. 144-45). The ISD standard is not met at Hickory Hill regardless of which design speed is used (40 or 45 mph) since the required distances are 385 feet and 430 feet, respectively. (*Id.*, p. 146).

B. The Development Plan Has Not Been “Substantially Redesigned” As Required By Mr. Murphy’s Order In The 2004 Case

In his 2004 decision, Mr. Murphy made clear that he would not approve any future plan for the northern pod unless the Developer submitted “*revised* designs” which provide for “a safe intersection of any driveway which serves the pod.” In his subsequent Order on Motion for Reconsideration, Mr. Murphy stated that the plan would need to be “*substantially* redesigned.”

unchanged from 2004 and 2016 is the confluence of other roads and driveways that enter Falls Road in the area of the proposed access. Immediately to the south of the proposed entrance is the driveway of Mary Ann Jones. Immediately to the north is Applecroft Lane, which is the sole access to Falls Road for a community of 14 homes, and immediately beyond that is the driveway of Brad Smith. Across from Mr. Smith are two more driveways. And at the intersection of Hickory Hills Road and Falls Road is yet another road, unnamed, which runs parallel to Falls Road in a southerly direction until it turns to the east. These eight roads and driveways, which are all within a few hundred feet of the proposed access, are in the same location as they were in 2004 and 2016. (*Compare* 2004 Plan (Tab 1) *with* Current Plan (Dev's Ex. 2)). In other words, the cause of Mr. Murphy's concern for the "mad and dangerous scramble" that will result if yet another access is added to Falls Road has not changed.⁷

Finally, even with the minor shift in the location of the entrance, ISD is still not met at the intersection of Falls Roads and Peachwood Lane as well as at the intersections of Falls Road with Applecroft Lane and Hickory Hill Road. Although the Developer offered no evidence on the sight distance issue, the testimony of the Developer's own expert, Mickey Cornelius, in the 2016 Case demonstrates that the minor shift in the entrance road would not fix the sight distance problems. That testimony was as follows:

- Peachwood Lane – Mr. Cornelius acknowledged that ISD is *not* met for a vehicle looking south (making a left onto Falls Road) from the proposed access. (Transcr.

⁷ In its written comments in the 2004 case, the SHA stated that it did not recommend approval of the plan because "the proposed entrance is located at a sub-standard section of MD 25 [Falls Road]." (Protestants' Ex. 3). The SHA "strongly recommend[ed] that the developer evaluate alternate access to MD 25, such as, Applecroft Lane due to the existing roadway conditions." (*Id.*). In the 2016 case, the SHA stated that it has "concerns that adequate sight distance may not be achievable at the existing location on MD 25." (Protestants' Ex. 4).

Plan, 2016 Plan, and the Current Plan, respectively. Under the Current Plan, the centerline of proposed Peachwood Lane is approximately 50 feet from the centerline of Hickory Hill Road, whereas this distance was approximately 38 feet in the 2004 Plan and 2016 Plan. The Developer offered no evidence, from a traffic expert or otherwise, regarding how if at all this small difference affects the safety of the intersection. The Developer's failure in this regard is dispositive because it bore the burden to prove that there was a sufficient substantial change in circumstances to avoid the preclusive effect of the 2004 Case and the 2016 Case.

Even if we ignore the Developer's failure of proof and compare the Current Plan with the findings made by Mr. Murphy in 2004 and by this ALJ in 2016, it is clear that the Current Plan is barred by *res judicata* and/or collateral estoppel. Those findings were as follows:

In the 2004 Case, Mr. Murphy adopted the AASHTO standard for intersection site distance (ISD) as the "proper standard for this intersection." (Dev's Ex. 4, p. 30).⁶ Mr. Murphy noted that both experts agreed that ISD was not met and concluded that the intersection was not safe. (*Id.*, p. 30). Mr. Murphy also found that the proposed access road was "unsafe" because it was "neither aligned with *nor far enough away* from Hickory Hill Road." (*Id.*, p. 29) (emphasis added). He noted the standard in the County's Plans Review Policy Manual requiring the distance between public or private intersections to be at least 100 feet, measured edge of road to edge of road. (*Id.*, p. 27; *see also* Tab 2). In the 2016 case, this ALJ concluded that the 2016 Plan was barred because "the proposed access does not align with Hickory Hill Road" and, as both experts in that case had agreed, ISD was not met. (Tab 4, p. 5-6).

These findings are preclusive in the present case. First, the proposed access still does not align with Hickory Hill and still does not meet the 100 foot standard in the Policy Manual. Second,

⁶ Mr. Murphy's adoption of ISD as the standard for this intersection should be considered the law of the case. In any event, there was no evidence introduced at this hearing that ISD should no longer be the proper standard.

regarding what this number of lots is or how that number of lots would render the intersection safe.⁵

2. *Mr. Murphy Did Not Prescribe A Specific Roadmap For A New Development Plan, But Rather Required That Any Such Plan Must, Ultimately, Ensure A Safe Intersection*

The Developer assumedly believes that the Development Plan should be approved because it addressed two of Mr. Murphy's concerns, as if those concerns were a checklist prescribed in Mr. Murphy's 2004 decision. This is simply not true. Although Mr. Murphy contemplated that a new plan might be filed for the northern pod, he did not identify a specific "fix" or magic formula for what such a plan should include. To the contrary, he explicitly stated that he was *not* providing "exact criteria" for the Developer to follow, but rather only "some general concepts." (Dev's Ex. 4, p. 32). He did not indicate, for example, how many homes should be removed, but it is clear from his decision that any reduction in lots or any other change in the plan had to result in making the intersection of Falls Road and the access road a "safe intersection." (*Id.*, p. 33) (I "will allow the developer to submit revised designs *which provide a safe intersection* of any driveway which serves the pod") (emphasis added). Again, the Developer introduced no evidence that the Current Plan would make the intersection safe.

3. *The Developer Failed To Address The Most Critical Aspect Of The 2004 Plan That Rendered It Unsafe – The Alignment Of The Access Road With Hickory Hill Road*

At the hearing, the Developer failed to address or even acknowledge the fact that the intersection of the access road with Falls Road is in nearly same location that it was in the 2004 Plan. Attached at Tab 5, Tab 6 and Tab 7 are blow-ups of the intersection as shown in the 2004

⁵ In the 2016 case, the Developer's representative, Mr. Smith, testified that there is no difference between a public and private road in terms of the number of houses allowed and its design. (See Transcr. at Tab 8, pp. 71-73).

changes must be material, that is, there must be some nexus or connection between the alleged change in circumstance and that ruling. As one commentator has put it, “the change in circumstances must be a change in the particular circumstances that induced the prior denial.” 4 Rathkopf, *The Law of Zoning and Planning*, § 68:9 (4th ed.); see *Seminary Galleria*, 192 Md. App. 719 (upholding denial of second plan which sought approval of parking spaces in same area as previously denied plan; there was no change in facts “relating to” the Board of Appeals’ finding in first case that construction of additional spaces was detrimental to the neighborhood); *Whittle v. Board of Zoning Appeals of Baltimore County*, 211 Md. 36 (1956) (holding that second petition to use property for a funeral home was barred by denial of first petition based on adverse effect on surrounding property values; rejecting argument that there was change in circumstances because second plan reduced depth of funeral home by 400 feet, added shrubbery, and made changes to signage and lighting). Here, the Developer established no nexus or material connection between the two changes made to the Plan and the basis of Mr. Murphy’s ruling. The Developer did not show, for example, that reducing the number of houses to five would make the intersection itself safe. Common sense tells us otherwise. Reducing the number of houses may reduce the number of cars exiting onto Falls Road, but it does not reduce the risk for any one of those cars when doing so.

Further, it should be noted Mr. Murphy did not hold that a reduction in the number of lots would automatically, or as a matter of law, make the intersection safe. What he actually said on this point was that “[t]he number of lots should be reduced *to the number allowed to be developed using a private driveway.*” (*Id.*, p. 32) (emphasis added). There was no evidence at the hearing

was necessary to the agency's decision. *Batson v. Shifflet*, 325 Md. 684, 701-05 (1992). This rule is based on "the sound and obvious principle of judicial policy that a losing litigant deserves no rematch after a defeat fairly suffered, in adversarial proceedings, on an issue identical in substance to the one he subsequently seeks to raise." *Garrity v. Md. St. Bd. of Plumbing*, 221 Md. App. 678, 686-87 (2015).

To avoid the preclusive effect of an agency's decision, the opposing party must demonstrate a "substantial change in facts and circumstances." *Woodlawn Ass'n v. Board of County Comm'rs*, 241 Md. 187, 197 (1965). The changes "must indeed be substantial." *Id.*

1. The Two "Changes" Made To The Current Plan Are Neither Substantial Nor Material

The Developer made two changes to the Development Plan that it claims are substantial changes from the 2004 Plan – reducing the number of lots from 10 to 5 and making the access road a public road. A reduction from 10 to 5 may sound "substantial," but the Developer offered no evidence or even an explanation regarding *why* this reduction was substantial or, more to the point, *how* it makes any difference at all. Specifically, there was no testimony from a traffic expert or other witness that one or both of these changes would make the traffic situation any safer. In fact, the only evidence on this issue came from the Developer's engineer, Mr. Sharon, who simply stated "yes" when asked on direct examination whether the changes are "substantial." That was it. In the absence of evidence explaining how these changes addressed the specific safety concerns of Mr. Murphy, the changes are no more relevant to the *res judicata*/collateral estoppel analysis than if the Developer had changed the orientation of the houses on the lots or the color of their shingles.

The Developer failed, in other words, to establish that the changes were *material*. While a "substantial change in circumstances" can avoid the preclusive effect of a prior ruling, the

“conditions were imposed in the 2006 order and that decision was not appealed which... has consequences for the present case.” (*Id.*).

Turning to the development plan before him, the ALJ found that the plan was barred by res judicata and/or collateral estoppel because three aspects of the plan were the similar to the plan approved in 2006 (and denied in 2004 Plan relative to the northern pod), namely (1) the proposed access road was a public road, (2) “the proposed access does not align with Hickory Hill Road,” and (3) both traffic experts testified the AASHTO intersection sight distance standard was not met. (*Id.*) (emphasis added). The ALJ found that there was not a sufficient change in circumstances to render either doctrine inapplicable because “the only salient difference between the plans is that the current proposal is for 8 rather than 10 lots.” (*Id.*, p. 6).

D. The Current Plan – Developer’s Third Bite At The Apple

The development plan that is the subject of this case (the “Current Plan” or the “Development Plan”) proposes to develop the Northern Pod with five lots in lieu of the eight lots proposed in the 2016 case. (**Dev’s Ex. 2**). The only other change in the Current Plan, as it relates to the issues raised by Protestants, is that the access road, Peachwood Lane, is now proposed as a private road rather than a public road as it was in the 2004 Plan and the 2016 Plan. (*Compare* Dev’s Ex. 2 *with* 2004 Plan (Tab 1) *and* 2016 Plan (Tab 3)).

II. ARGUMENT

A. Approval Of The Development Plan Is Barred By Principles Of Res Judicata and/or Collateral Estoppel

It is well-settled that collateral estoppel applies to decisions of administrative agencies. *See Seminary Galleria*, 192 Md. App. at 735. The test for determining whether an agency’s decision is entitled to preclusive effect is: (1) whether the agency was acting in a judicial capacity, (2) whether the issue presented was actually litigated before the agency; and (3) whether resolution of the issue

decision in 2004 “will be applicable to any future development of this [northern] pod.” (*Id.*). In his Order, entered December 11, 2006, Mr. Murphy reiterated:

Future development of lot 10 [the Northern Pod] is *subject to the findings and order of the March 12, 2004 order* in this case as above as well as the findings and Order of this date....

(*Id.*, p. 19) (emphasis added).

C. The 2016 Case – The Developer’s Second Bite At The Apple

In 2015, the Developer filed a development plan proposing 8 lots (Lots 11-18) on the Northern Pod (plus the existing home on Lot 10) in lieu of the 10 lots proposed in the 2004 Case. (A copy of this plan (the “2016 Plan”) is attached hereto at **Tab 3**).⁴ Following a hearing, the ALJ issued an Opinion and Order denying the development plan on the grounds it was barred by res judicata or collateral estoppel. (A copy of the Opinion and Order is attached hereto at **Tab 4**).

In the Opinion, the ALJ discussed the 2004 Case and the 2006 Case in some detail. The ALJ noted that, in the 2004 Case, “Mr. Murphy cited three reasons for his decision: (1) inadequate intersection site distance; (2) *the proposed access road was not aligned with Hickory Hill Road*; and (3) the proposed access was designated as a public road.” (*Id.*, p. 5) (emphasis added). The ALJ observed that although these findings were initially stricken, Mr. Murphy subsequently found in the 2006 Case “that the factual findings and legal conclusions set forth in his 2004 Order would be applicable to any future development of the northern pod (*i.e.*, [then]Lot 10).” (*Id.*). The ALJ explained that, “[i]f the Developer [in the 2006 Case] did not want to be burdened by these restrictions, I believe it was incumbent upon it to appeal that aspect of the order.” (*Id.*). The

⁴ Exhibit 7 introduced by the Developer is a copy of the original plan from the 2016 case. The plan attached hereto at Tab 3 is a copy of the redlined plan that was introduced at the hearing before this ALJ in the 2016 case. (See discussion below of 2016 case). Counsel for the Developer indicated that he is ok with the submission of this correct plan.

B. The Motion for Reconsideration and the 2006 Case

On March 16, 2004, the developer in the 2004 Case filed a motion for reconsideration requesting, *inter alia*, the opportunity to file a modified plan. Mr. Murphy granted the motion, struck his Order of March 12, 2004, and ordered that a hearing be reconvened “for the purpose of taking further testimony pursuant to a modified Development Plan consistent with [the] March 12, 2005 Order.” (*See* Order on Motion for Reconsideration, pp. 1-2).

At the reconvened hearing, the developer submitted a plan proposing 9 lots in the Southern Pod. For reasons not explained, the developer did not propose any dwellings in the Northern Pod. In that plan, in the area of the Northern Pod was a single lot (lot 10 comprising the remaining 76.26 acres of the property, labeled simply as “future development.” (*See* **Dev’s Ex. 5** (Op. and Dev. Plan Order dated Dec. 11, 2006), p. 1). Counsel for the protestants in that case did not object to the development plan for the Southern Pod, but requested that Mr. Murphy adopt the findings from his March 12, 2004 Order regarding the Northern Pod and require that any future development of the Northern Pod be consistent with those findings:

[Counsel] indicated that if the northern pod is developed in the future, he did not want to have the proposed entrance the same as previously found unsafe. He was concerned some future development of the northern pod would adopt the same entrance previously found wanting because the Order was struck. He requested that the Order in this case reflect lot 10 to be developed consistent with the March 12, 2004 order.

(*Id.*, p. 6).³

Mr. Murphy granted counsel’s request and incorporated the findings of fact and conclusions of law from his opinion in the 2004 Case. (*Id.*, p. 12). Mr. Murphy stated that his

³ Counsel’s request was supported by Carroll Holzer who represented neighbor Mary Jo Keller. (*Id.*, p. 3).

limit. The vehicle coming onto Applecroft wants to turn right to go toward Rose Court. The vehicle on Rose Court wants to turn left to go north on Falls Road. The vehicle on Hickory Hill wants to go north on Falls Road. And last, but certainly not least, Mrs. Jones wants to go north on Falls Road. All traffic from these side roads stops waiting for a break in Falls Road traffic. Their attention is riveted on Falls Road traffic. When a break comes in the flow of traffic, who goes first?"

(*Id.*, p. 29).

4. Mr. Murphy's Findings Re: Public Nature of Access Road

Mr. Murphy added that part of the problem is that the access is proposed as a public road. He agreed with the protestants' expert that "driver expectation plays a large role in determining whether in practice an intersection will be safe. No one assures perfection. No on[e] expects perfect safety under all possible circumstances. But I am convinced that drivers using Rose Court would expect a normal intersection by the physical amenities of a public road with a public road. I also find that they will be disappointed and *unduly endangered by the proposed intersection.*" (*Id.*, p. 29) (emphasis added).

5. Mr. Murphy's Conclusion

Mr. Murphy concluded that, "[h]aving found the proposed intersection unsafe," he would not approve the Northern Pod. (*Id.*, p. 32). He added that he could not provide "exact criteria" under which he might approve a northern pod, but provided "some general concepts," namely that the access road should not be a public road and the number of lots should be reduced "to that number allowed to be developed using a private driveway." (*Id.*). In his Order, Mr. Murphy reiterated that he did not approve the northern pod "but will allow the developer to submit revised designs, which provide a safe intersection of any driveway[] which serves the pod..." (*Id.*, p. 33).

2. Mr. Murphy's Findings re: Alignment of Hickory Hill Road

Mr. Murphy also found that the proposed access road was “unsafe” because it was “neither aligned with *nor far enough away* from Hickory Hill Road.” (*Id.*, p. 29) (emphasis added). He noted the standard in the County’s Plans Review Policy Manual that “[w]here possible, the distance between public or private intersections shall be at least 100 feet, measured edge of road to edge of road” and that the difference in alignment between Hickory Hill and the proposed access measured 60 feet centerline to centerline and only 38 feet edge to edge. (*Id.*, p. 27; see Policy Manual attached hereto at **Tab 2**). Mr. Murphy found the “source of the problem” to be the fact that Mr. Becker owns only 100 feet of road frontage on the west side of Falls Road and “[t]his means that any road is severely limited where it can be located.” (*Id.*, p. 23). Mr. Murphy explained:

Mr. Becker owns so little frontage on Falls Road that he cannot himself guarantee clear sight distance to the south, *no matter what standard is used*. In addition, he cannot align the proposed road with Hickory Hill Road, nor can he separate the new intersection from Hickory Hill Road the prescribed 100 ft. There is no fault here. *His engineers have done all they could to mitigate the safety problems under the circumstances.*”

(*Id.*, pp. 28-29) (emphasis added).

3. Mr. Murphy's Findings re: the “Mad and Dangerous Scramble

Mr. Murphy also expressed his concern regarding the number of roads and driveways that access Falls Road in the immediate area of the proposed access. (*Id.*, pp. 29-30). He described the situation as a “mad and dangerous scramble” of cars attempting to accelerate onto Falls Road. (*Id.*, p. 30). Mr. Murphy provided an illustration:

On a workday morning, drivers are coming out of Applecroft Lane, Rose Court, Hickory Hill Road, and the Jones driveway to get onto Falls Road to go to work or school. Traffic is flowing both ways on Falls Road and as shown by the traffic data a significant portion of this traffic exceeds the 40 mph speed

1. Mr. Murphy's Findings re: Sight Distance

Deputy Zoning Commissioner John Murphy approved the Southern Pod, but denied the Northern Pod based on concerns regarding the sight distances on Falls Road and the overall safety of the proposed access. (Dev's Ex. 4 (Op. and Dev. Plan Order dated Mar. 12, 2004), p. 33) (the "2004 Case"). After hearing testimony from experts from both sides, Mr. Murphy found that the AASHTO standard for "intersection sight distance" rather than "stopping sight distance" was more appropriate and adopted that standard as the "proper standard for this intersection."

What I foresee are drivers frustrated by having to wait for Falls Road traffic coming out of Applecroft, Rose Court, Hickory Hill and the Jones driveway in a mad and dangerous scramble to accelerate onto Falls Road.... This problem of acceleration leads me to adopt the AASHTO intersection stopping sight distance as the proper standard for this intersection. I find it more persuasive in this situation to take into account that vehicles must get up to speed to safely enter Falls Road. Drivers from the side roads will be challenged to weave their way into Falls Road. I am not satisfied, given the scramble in front of them, that vehicles on Falls Road should not have the additional distance to avoid accidents with vehicles coming from the side roads.

(*Id.*, p. 30).²

Mr. Murphy noted that "[b]oth experts agreed that the intersection did not meet the AASHTO intersection stopping distance criteria" and further noted that the developer's expert, Wes Guckert, "admitted that if one adopts the intersection stopping distance as the standard the proposed intersection *would not be safe*." (*Id.*, p. 26) (emphasis added). Mr. Murphy likewise concluded that the intersection was not safe.

I am persuaded by the cumulative weight of evidence that the proposed intersection is not safe and I will not approve the northern pod under the present situation.

(*Id.*, p. 30).

² Expert witness, John Seitz, testified that "the intersection sight distance was the proper standard for this situation" (p. 24).

IN RE: DEVELOPMENT PLAN HEARING
w/s Falls Road

8th Election District
2nd Councilmanic District
(Becker Property)

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* Case Nos. 08-0791
*

* * * * *

PROTESTANTS' POSTHEARING MEMORANDUM

Protestants, Falls Road Community Association and Marcia Goldberg, by and through undersigned counsel, submit the following memorandum in support of their opposition to the approval of the development plan.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. The 2004 Decision Of The Deputy Zoning Commissioner

In 2004, the Developer filed a development plan proposing 20 lots on the subject property. Nine of these lots (nos. 12-20) were proposed at the southeastern portion of the site (called the Southern Pod) and accessed only by an extension of Ridgmont Road from the south. Eleven of the lots (Lots 1-11) were proposed at the northwestern portion of the site (the Northern Pod) and accessed from Falls Road to the north by a meandering public road (then called Rose Court). A copy of this plan (the "2004 Plan") is attached hereto at **Tab 1**.¹

¹ Exhibit 12A introduced by the Developer is a copy of the original plan from the 2004 case. The plan attached hereto at Tab 1 is a copy of the redlined plan that was introduced at the hearing before Deputy Commissioner Murphy and the same plan that was introduced by undersigned counsel on behalf of the Protestants in the 2016 case before this ALJ. (See discussion below of 2016 case). Counsel for the Developer indicated that he is ok with the submission of the correct plan.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 30th day January, 2019 a copy of the foregoing Memorandum was mailed first class, postage prepaid to Michael McCann, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 attorney for the Protestants.



Timothy M. Kotroco, Esquire

buffer and forest conservation areas that have been dedicated to Baltimore County. Lot 10 continues to be owned by the Becker family, as it has for many decades. Since no change is occurring within 300 feet of any lot previously sold, it can easily be determined that no amendment to the "Final Development Plan" is actually necessary. Your Honor is free to make that determination should you deem it appropriate to do so.

TIER III DESIGNATION

Lastly, counsel for the protestants placed into evidence the Growth Tier Designation map for the area of our development. It was not clear to me the purpose of placing that map into evidence, which was accomplished through our own witness Mr. Sharon and not from any witness offered by the Protestants. However, I believe it is important to note that our 5 Lot Plan is being submitted in accordance with the Growth Tier III designation of our property. Mr. Sharon testified that our proposed lots are located within the Tier III designation and no testimony was presented to the contrary. Furthermore, this proposed Development Plan was submitted for review before all of the Baltimore County reviewing agencies, (including the Department of Planning) and none of those agencies raised any issue with our development proposal being located within the Tier III designation.

CONCLUSION

For the reasons as stated within this memorandum, and given the strong testimony and evidence offered by the Developer's expert witness Mr. Sharon, coupled with the lack of any expert testimony to the contrary and the failure of the Protestants to provide any substantive evidence that this special hearing relief should not be granted or the Development Plan not be approved, it is respectfully requested that this combined hearing be approved.

Respectfully Submitted,



Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Attorney for the Petitioner

Furthermore, as to the special hearing relief regarding the well and septic reserve areas being located within different zones, Mr. Sharon testified that there will be no adverse impacts on these lots or the health, safety or general welfare of the locality involved and the surrounding community.

Finally, Mr. Sharon testified that a Special Hearing request has been made to approve this Amended Development plan and to show these additional 5 new lots being located within the Northern POD. As was the case in the previous hearings for this property and as Mr. Sharon testified, the requested amendment to the Becker Family property to show these 5 new lots will have no adverse impacts on the health, safety or general welfare of the surrounding community. These five new lots are consistent with the spirit and intent of the original plan. It has always been contemplated by the Becker Family that lots would be developed on the Northern POD. In addition, Judge Murphy in his 2004 & 2006 decisions also acknowledged that lots would be developed on the Northern POD. Keep in mind that the original plan submitted to Judge Murphy showed 10 lots on a public street. Not only are these 5 lots consistent with the original plan, they constitute a far lesser impact than the original plan since they reduced by one-half that which was previously proposed. Furthermore, the public road, which was previously shown as access to the lots, is now being replaced with a private driveway.

Based on Mr. Sharon's testimony and from all of the facts and exhibits entered in to evidence, there will be no adverse impacts upon the health, safety or general welfare of the surrounding community and the requirements for approving an amendment to the final approved plan as described in section 1B01.3.A.7 have been proven. There was no testimony presented by the citizens who testified to contradict this testimony.

Lastly, it should be noted that the 5 new lots to be developed, specifically lots 11 through 15, which are located on the Northern POD, are located a distance of 700 feet away from the lots that were sold on Wally Court and 1,200 feet away from the lots that were sold on Ridgmont Road. The Development Plan that was submitted into evidence before your Honor is a scaled drawing which clearly depicts these distances. It should be noted for the record, that there is no change proposed to the original plan that occurs within 300 feet of any lot that has been sold since the original plan was filed. In fact, the 300 foot distance from each lot that has been sold does not even extend beyond the forest

SPECIAL HEARING RELIEF

As stated previously, the Special Hearing relief is identical or almost identical to the relief that had been previously approved over the years by Judge Murphy, the Baltimore County Board of Appeals and DZC Kotroco. The relief, for the most part, is being requested from the ZCPM. There is also a request to amend the prior approved plans that were approved dating back to the 1994 case and continuing thereafter.

Josh Sharon, the Developer's expert witness, testified regarding the special hearing request and the manner in which the RC4/RC5 zone line traverses the Northern POD. He also stated that given the spacing requirements for wells, septic systems and structures, it was not possible to locate all of these necessary features within the same zone on each lot. Nor was it possible to locate each dwelling within one zone on two of the lots.

Finally, while each lot contains over 2 acres of land, there are some zoned areas within each lot that end up being "non-density" areas due to their size. In addition, the last approved plan from 1994 and thereafter will need to be amended to show these 5 new lots. For these reasons we are seeking Special Hearing relief.

Mr. Sharon testified consistently with the findings made by Judge Murphy in his prior decisions relative to the special hearing relief being requested herein. He stated that the future homeowners of lots 11 and 12 of the Northern POD would have no practical idea that the RC4/RC5 zone line traverses their property so as to leave a non-density parcel on each lot, especially since each individual lot contains in excess of 2 acres, which is more than sufficient to meet the required lot size in these RC zones. He stated that this relief will have no adverse impact on the health, safety or general welfare of the locality and surrounding community. This testimony mirrored the prior findings of Judge Murphy in his prior decisions.

The same can be said regarding the future owners of lot 11 & 12. These future owners would not be aware, nor should they be concerned, that the zone line actually runs through their house. The fact that they may sit in their living room in RC5 zoned land and eat dinner in the RC4 zoned land should not be of concern to them, so long as their lot size is sufficient, which in each case it is.

Another substantial and significant change from the prior Plan is the fact that we have eliminated the **public road** and are simply requesting permission to utilize the existing private driveway, which will be widened to 16 feet. Reducing the number of lots to 5 has allowed us to do that. Along those same lines, the reduction of lots from 10 to 5 has simplified our stormwater management obligations, allowing us to handle our storm water management on each of our 2 acre lots. We have also been granted approval from the SHA for access to Falls Road.

Based upon the uncontradicted evidence presented in this case, the new 5 Lot Plan submitted for approval by the Becker Family constitutes a substantial or significant change from their previous submittal and is therefore not barred by the doctrines of *res judicata* or collateral estoppel.

JUDGE MURPHY'S PRIOR DECISIONS

Judge Murphy made it a point to connect his prior decisions rendered in 2004 & 2006, to any future approval of the Northern POD. In some way, it appears he wanted to try to maintain continuing jurisdiction over the remaining development of this property. To that end, he inserted language in his prior decisions, relating to the Northern POD as follows:

“...I cannot provide some exact criteria under which I will approve the northern pod. However, I can provide some general concepts. First, Rose Court should not be a public road, which may mislead travellers at the intersection with Falls Road. The number of lots should be reduced to that number allowed to be developed using a private driveway. Not having a public road and having fewer lots, the storm water management system requirement will be reduced perhaps enough to allow new design (whether serpentine swale or not) to satisfy Mrs. Keller's concern about the sand filters close to her property. *See Judge Murphy's 2006 decision at page 17.*

Josh Sharon, the Developer's expert witness presented testimony addressing each of those recommendations offered by Judge Murphy, proving that this new proposal satisfies each of those suggestions. There was no testimony offered to rebut his expert testimony. For these additional reasons, our 5 Lot Plan should be approved.

The Developer submitted into evidence a letter of approval dated December 18, 2018 from the SHA which letter granted approval to the Becker Family for access to Falls Road for their 5 lot subdivision. Falls Road is a State Highway and falls under the exclusive jurisdiction of the State Highway Administration. Accordingly, this issue has been resolved by the SHA and respectfully is not subject to the review of this ALJ.

COLLATERAL ESTOPPEL

In this instant case, the Becker Family was very careful to present a Development Plan to this ALJ that demonstrated a “*substantial or significant*” change to the plan that was submitted to Judge Murphy back in 2004. Your Honor will recall that back in 2016, the Becker Family submitted for this Court’s consideration a Development Plan depicting 8 new lots utilizing the same Baltimore County public road as access to those 8 lots. Having found the only difference in the two plans as being 8 lots versus 10 lots, your Honor ruled that the submittal was barred by collateral estoppel.

Your Honor cited as authority the case of *Seminary Galleria v. Dulaney Valley Improvement Association*, 192 Md. App. 719 (2010) as authority for this finding. In *Seminary*, the Court of Special Appeals, quoting the Court of Appeals’ ruling in *Woodlawn Ass’n v. Board of County Com’rs*, 241 Md. 187, 216 A.2d 149 (1965) found that in order to avoid being barred by *res judicata* an applicant must show a “*substantial or significant change in fact*” from their previous application to their new application.

In the present case before you, the Becker Family is doing just that. Our new Development Plan shows only 5 new lots, a 50% reduction from the 10 lots proposed on the Development Plan submitted to Judge Murphy. We would argue that a 50% reduction in the number of lots is a substantial or significant change. By way of comparison, if you were to wake up today to find that your 401K investment plan went down overnight by 50%, you would certainly consider that to be a “substantial or significant” change. If your current employer reduced your salary by 50% and you went from earning \$100,000 per year to \$50,000 per year, you would certainly consider that to be a “substantial or significant” change. A reduction from 10 lots to 5 lots represents a substantial or significant change as well.

As noted by your Honor in your August 2016 decision at the last line on page 4, this Development Plan which was submitted in 2004, 2006 & 2016 constitutes a "partial development plan" leaving open the continued option for the Becker Family to present a development plan for the remaining Northern POD, which of course they are doing in this case.

BALTIMORE COUNTY APPROVAL OF THE 5 LOT PLAN

All of the Baltimore County reviewing agencies were represented at the hearing before your Honor and every one of those reviewing agencies stated that the 5 Lot Plan as submitted by the Becker Family satisfied their respective County regulations and each agency representative recommended approval of the 5 Lot Plan.

In addition, Josh Sharon, an accepted expert in the Baltimore County Zoning and Development Regulations, also testified that the 5 Lot Plan submitted into evidence before this ALJ complied with all applicable zoning and development regulations. No testimony was offered by the protestants to rebut this testimony.

Section 32-4-220(b)1 of the Baltimore County Code mandates that the ALJ ***"...shall grant approval of a Development Plan that complies with these development regulations"***. Having met this requirement, we respectfully request the ALJ to approve our 5 Lot Development Plan.

SHA APPROVAL OF OUR ACCESS

The citizens who appeared at the hearing did challenge whether access to Falls Road from our 5 new lots would be safe and acceptable. Four witnesses appeared, Dr. & Mrs. Goldberg, Carol Schulman and Pierce Jones, all of whom live for the most part directly on Falls Road at its intersection with Hickory Hill Road or in the case of Mr. Jones, across the street. The Goldbergs stated that they have witnessed a number of accidents in this area of Falls Road, however the other two neighbors testified that they have never witnessed a single accident on Falls Road at this location. The residents on Hickory Hill all stated that pulling out of their own street (Hickory Hill) onto Falls Road presents a challenging situation.

& 2006 and ruled based upon the doctrines of *res judicata* and more specifically, collateral estoppel that the Development plan could not be approved. *A copy of that 2016 decision was entered into evidence at the trial of this case.*

Now, after 25 years, the Becker Family, hopefully for the last time, files this request for Special Hearing and for the approval of the final Development Plan of their family property proposing to develop only 5 lots on the remaining Northern POD, which is the last area of their property suitable for development.

THE 2018 DEVELOPMENT PLAN

The case at hand presents to this ALJ a Development Plan proposing only 5 new lots on the Northern POD. ("The 5 Lot Plan") It also proposes to utilize the private driveway that currently exists on the property. Storm water management, for the most part is self-contained on the 5 new lots for which we are seeking approval. In addition, access to the private driveway from Falls Road has been given approval by the State Highway Administration. All specimen trees will be preserved and will remain on the property, thereby ensuring a mature landscape environment along with any new supplemental landscaping that might be required by Baltimore County. *An exhibit showing the locations of the specimen trees was submitted into evidence.*

As shown on this most recent Development Plan of the Northern POD, the proposed 5 lots are bifurcated, in a most unusual and unique manner, by the RC4/RC5 zoning classification line thereby creating the need for the Special Hearing relief being requested. *An exhibit showing the bifurcation of zoning lines through our 5 lots was submitted into evidence.*

The Special Hearing request seeks relief from the Zoning Commissioner's Policy Manual ("ZCPM")³ which reserves approval of our Special Hearing relief unto the discretion of the ALJ. It is the very same or similar relief that has been requested for this property over the past 25 years. No variance relief is necessary as the proposed lots, each of which are in excess of 2 acres, meet all bulk and setback requirements.

³ The ZCPM is an antiquated document that still exists in the Zoning Office which was last updated by Mr. Kurt Kugelberg in 1993.

additional lots. In that request, the Becker Family proposed one additional lot on Wally Court, 8 additional lots on the southern portion of their property at the extension of Ridgemont Road and 10 new lots of record on the very same section of land, hereinafter referred to as the "Northern POD", which is the subject of the hearing before this Administrative Law Judge ("ALJ") today. The existing Becker family home would comprise the 20th lot of record.

Deputy Zoning Commissioner John Murphy approved the one additional lot on Wally Court, the 8 additional lots on Ridgemont Road and denied the 10 additional new lots on the Northern POD. The Special Hearing relief, which is identical or almost identical to the Special Hearing relief being requested today in this case, was also granted. *A copy of that 2004 decision was entered into evidence at the trial of this case.*²

In accordance with Judge Murphy's Order on Motion for Reconsideration, The Becker Family once again filed for Special Hearing and Development Plan approval, this time in 2006. Again a hearing was held before Judge Murphy and again Judge Murphy approved the Development Plan of the property. The developer did not show the 10 new lots on the Northern POD however, Judge Murphy ruled on the Northern POD anyway, finding that any future attempt to develop 10 new lots on the Northern POD would have to address his findings of fact and his ruling as made within his 2006 & 2004 decisions, forever tying the future approval of any lots on the Northern POD to his prior approvals. The Special Hearing relief, which is identical or almost identical to the Special Hearing relief being requested today in this case, was also granted. *A copy of that 2006 decision was entered into evidence at the trial of this case.*

Next, in 2016 the Becker Family filed a request for Special Hearing and Development Plan approval seeking approval of 8 new lots on the Northern POD along with Special Hearing relief very similar to the relief previously granted in the prior cases already referenced in this memorandum. The 2016 case was heard by your Honor who found that the Development Plan for the Northern POD as submitted in 2016 was too similar in several respects to the Plan that was already denied by Judge Murphy in 2004

² That 2004 decision from DZC Murphy was struck by his own Order on Motion for Reconsideration dated April 2, 2004 which specifically granted leave to the Developer to present a revised Development Plan to Baltimore County.

RECEIVED

JAN 30 2019

IN THE MATTER OF: OFFICE OF * BEFORE THE
ADMINISTRATIVE HEARINGS

ARTHUR BECKER & NANCY * ADMINISTRATIVE LAW JUDGE
MILLER, TRUSTEES, *legal owners*

* FOR

12170 FALLS ROAD * BALTIMORE COUNTY

8th ELECTION DISTRICT *
2nd COUNCILMANIC DISTRICT * HOH 08-791
* Case No. 2019-0143-SPH

* * * * *

POST-HEARING MEMORANDUM

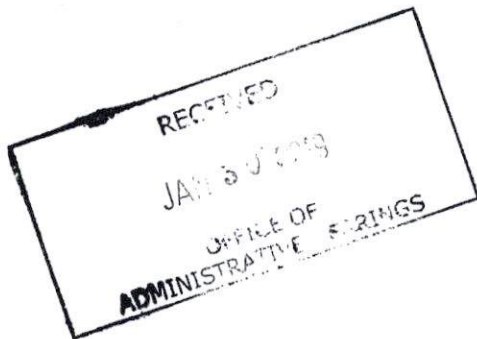
The Petitioners, Arthur Becker & Nancy Miller, Trustees ("Becker Family") by and through their undersigned Counsel, hereby submit this Post-Hearing Memorandum in support of their Special Hearing and Development Plan approval request and in support thereof state the following:

I. INTRODUCTION

The Becker Family started this journey 25 years ago when they filed for a minor subdivision approval accompanied by a Petition for Special Hearing for their family-owned property located at 12170 Falls Road in Cockeysville, Maryland. The original petition for Special Hearing, Case No. 94-256-SPH, was filed on December 21, 1993. That particular filing approved the creation of two additional lots on the southwest side of their property where it intersects with Wally Court. That minor subdivision was approved by Baltimore County and the Special Hearing was granted, ironically by the then Deputy Zoning Commissioner and the undersigned herein, Timothy M. Kotroco. *A copy of that 1994 decision was entered into evidence at the trial of this case.*¹

Thereafter, in March, 2004, the Becker Family came back to Baltimore County to request approval of the development of the remainder of their 90 acre property with 20

¹ The very same or very similar special hearing relief requested in this zoning case from 25 years ago is being requested once again in the case today.



Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

Orig. +
attach. are
contained in
Hear Case
08-0791

January 30, 2019

Via Hand Delivery

Judge John Beverungen
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Becker Property
PAI No. 08-0791

Dear Judge Beverungen:

Enclosed for filing in the above-referenced matter is my clients' Posthearing Memorandum.

Also enclosed are photographs that Protestants request be added to the record. If you recall, I suggested that I would submit the photographs after the hearing rather than traveling back to my office to retrieve them over a lunch break. I sent them to Mr. Kotroco after the hearing and he indicated that he is ok with the submission of these photographs. These photographs, with the exception of the last two, were submitted by my clients as exhibits in the 2016 case before your Honor.

Thank you for your consideration.

Respectfully,

Michael R. McCann

cc: counsel of record





FEBRUARY 5, 2019

Deb,

John asked if I could do the letter and stamp with his stamp. He said to just send to Tim and Mike McCann. \

I didn't get to make copies before I left because he gave it to me after 4 to do and I was on a lengthy phone call in reference to Trinity Fathers HOH.

Thank you,

Sherry

Debra Wiley

From: Debra Wiley
Sent: Wednesday, February 06, 2019 7:41 AM
To: Janice M Kemp
Cc: Patrick Williams; Jan Cook; Sherry Nuffer (snuffer@baltimorecountymd.gov); Darryl D Putty
Subject: Web Postings
Attachments: 08-0791 and Case No. 2019-0143-SPH BECKER PROPERTY 1st Material Amendment to the 2nd Refinement.docx; 11-1158 KLAUSMEIER MANOR HOH.docx

Good Morning Janice,

Please post the following to the web:

Development and Zoning – BECKER PROPERTY (1st Material Amendment to the 2nd Refined Dev. Plan)
HOH Case No. 08-0791 & Zoning Case No. 2019-0143-SPH
Hearing: 1/18/19; Order: 2/6/19

Development – KLAUSMEIER MANOR
HOH Case No. 11-1158
Hearing: 1/25/19; Order: 2/6/19

Thank you; it is appreciated.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

DATE _____

DECKER HUH

1/18/2019

CITIZEN'S SIGN - IN SHEET

2019-143

NAME _____

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

CASE NAME _____
CASE NUMBER Becker
DATE 1/18/2019

[illegible]

DATE _____

1	18	2010
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PETITIONER'S SIGN-IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

Debra Wiley

From: Patrick Williams
Sent: Wednesday, January 16, 2019 11:29 AM
To: Debra Wiley
Subject: FW: Letter re: January 18, 2019 Hearing on Becker Property, 12170 Falls Road Cockeysville, MD 21030

Please see below. An adjacent neighbor who is unable to be present at Friday's hearing for the Becker Property wanted to submit this to be included in the file for review by the ALJ.

Patrick Williams
Project Manager
Development Management
Permits, Approvals, and Inspections
County Office Building, Room 123
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3321 Office
410-887-2877 Fax
pbwilliams@baltimorecountymd.gov



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From: Bowie, Paul J. [mailto:pbowie@allegisgroup.com]
Sent: Wednesday, January 16, 2019 11:26 AM
To: Patrick Williams <pbwilliams@baltimorecountymd.gov>
Cc: Bowie, Paul J. <pbowie@allegisgroup.com>
Subject: Letter re: January 18, 2019 Hearing on Becker Property, 12170 Falls Road Cockeysville, MD 21030

Mr Williams,

I appreciate your time on the phone today. As we discussed, please forward this letter to the Hearing Officer/Administrative Judge for consideration in the Becker Property Hearing to be held on January 18, 2019.

I am writing this letter in response to a Hearings Officer's Hearing Notification we received in the mail a few weeks ago. After careful review of the information provided and discussion with neighbors, I appreciate the opportunity to provide my thoughts on the 1st Material Amendment to the 2nd Refined Development Plan. My preference would be to attend the Hearing but I am currently out of the country on business until January 23rd.

My wife and I live at 12134 Falls Road Cockeysville, MD 21030, and our property is adjacent to the proposed new lots, lots 10 to 15 (inclusive of the existing house). We live in a beautiful area (Falls Road Corridor) that has been carefully preserved over the years to ensure property density given the environmental, traffic, school and other concerns of over

development. The major concern I have in reviewing the information I was provided is the number of issues that require an exception or variance to allow Lots 10 to 15 to be approved.

While I understand exceptions are part of the process, my review indicates the need to permit well and septic reserve areas for Lots 10 through 14 in areas different than where the principal dwellings are located, split zoning for Lots 11 and 12 and a reduction on the RC5 acreage required for Lot 11. Additionally, several Lots require exceptions to meet the required mix of RC4 and RC5 acreage and permission is requested to allow non-density parcels in either the RC4 or RC5 zone for Lots 11 through 14. Although the Material Amendment to the Development Plan reduces the number of Lots proposed in the portion of the Land proposed for Lots 10 through 15, many of the concerns that derailed the original Development Plan seem to remain.

Ultimately, we are worried about the environmental impact given the exceptions needed to make the Plan work, the impact of adding even more wells to an area that already experiences problems with water yield from existing wells and difficulty drilling new ones, and additional traffic flowing onto Falls Road at a particularly dangerous entry/exit point.

Thank you for your consideration.

Sincerely,

Paul J. Bowie
12134 Falls Road Cockeysville, MD 21030
Cell - 4102078637



Opportunity Starts Here.

Paul Bowie
Chief Financial Officer

7301 Parkway Drive
Hanover, MD 21076
t 410-540-7552
c 410-207-8637

in | | f | G+

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BECKER PROPERTY

12170 FALLS ROAD
COCKEYSVILLE, MD 21030
BALTIMORE COUNTY

SCHOOL IMPACT ANALYSIS (10-15)				
School District	Net Site Capacity (SAC)	Projected # of App. Development	Projected # of App. Development	Projected # of App. Development
Elementary School	715	24	604	(111)
Middle School	1,070	2	1,157	87
High School	1,884	1,804	1,435	(149)

SCHOOL IMPACT ANALYSIS (LOTS 1-9)				
School District	Net Site Capacity (SAC)	Projected # of App. Development	Projected # of App. Development	Projected # of App. Development
Elementary School	332	0	371	39
Middle School	1,006	1	933	(73)
High School	1,006	1	846	(160)

PARKING REQUIREMENTS

DESCRIPTION	REQUIRED	PERMITTED	PROPOSED
1. OPEN SPACE	5 D.U.*		FEE IN LIEU OF
2. PARKING	36 P.S.	13	5
3. R.C.4 DWELLING			
3. UNITS			
3. DWELLING			13
3. DWELLING			10

* A FEE IN LIEU FOR 10 DWELLING UNITS WAS PAID IN 2011. WITH 5 LOTS NOT SUBJECT TO BALTIMORE COUNTY BILL 73-16 SINCE HIS DEVELOPMENT PLAN WAS ORIGINALLY SUBMITTED BEFORE OCTOBER 1, 2016.

GROWTH TIER:

TIER 3 SUBDIVISIONS ON INDIVIDUAL, ON-SITE, OFF-SITE, SYSTEMS ARE ALLOWED WITH THE RECOMMENDATION OF APPROVAL BY AN APPROVING AUTHORITY. MINOR CHANGES TO THE DEVELOPMENT PLAN MAY BE MADE BY THE DEVELOPER.

SLOPE PROTECTION NOTE:

SLOPE PROTECTION NOTE: THE DEVELOPER AS PROPOSED WILL MAINTAIN EXISTING SLOPES AND WHERE NECESSARY, RECONSTRUCT SLOPES TO MAINTAIN EXISTING SLOPES. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE SLOPES. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE SLOPES. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE SLOPES.

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39. THIS PROJECT IS OUTSIDE OF THE URBAN RURAL DEMONSTRATION LINE COMMENTS 40. AND/OR DEVELOPMENT PLAN COMMENTS OR THE MINUTES OF THE COMMUNITY MEETING. COMMENTS ARE INCORPORATED HEREIN BY REFERENCE.

41. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA.

42. ZONING HISTORY: THE DEVELOPER SHALL MAINTAIN THE ZONING HISTORY OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE ZONING HISTORY OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE ZONING HISTORY OF THE AREA.

43. INCONVENIENCES ARISING FROM AGRICULTURAL OPERATIONS ANY DWELLING IN AN AGRICULTURAL OPERATIONS, INCLUDING BUT NOT LIMITED TO ROADS, DROPS, FUMES, INCLUDING AGRICULTURAL OPERATIONS, INCLUDING BUT NOT LIMITED TO ROADS, DROPS, FUMES, INCLUDING AGRICULTURAL OPERATIONS, INCLUDING BUT NOT LIMITED TO ROADS, DROPS, FUMES.

44. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA.

45. THIS SITE IS NOT WITHIN THE CHEAPEN BAY CRITICAL AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA.

46. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA.

47. STORMWATER MANAGEMENT INFILTRATION TRENCHES AND LEVEL SPREADERS SHALL BE CONSTRUCTED WITHOUT DISTURBANCE TO THE FOREST BUFFER/CONSERVATION PRESERVATION EASEMENT ON THE CONSERVANCY AREA FOR THE DEVELOPERS (ENTIRE R.C.4 SITE) SHALL BE RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA.

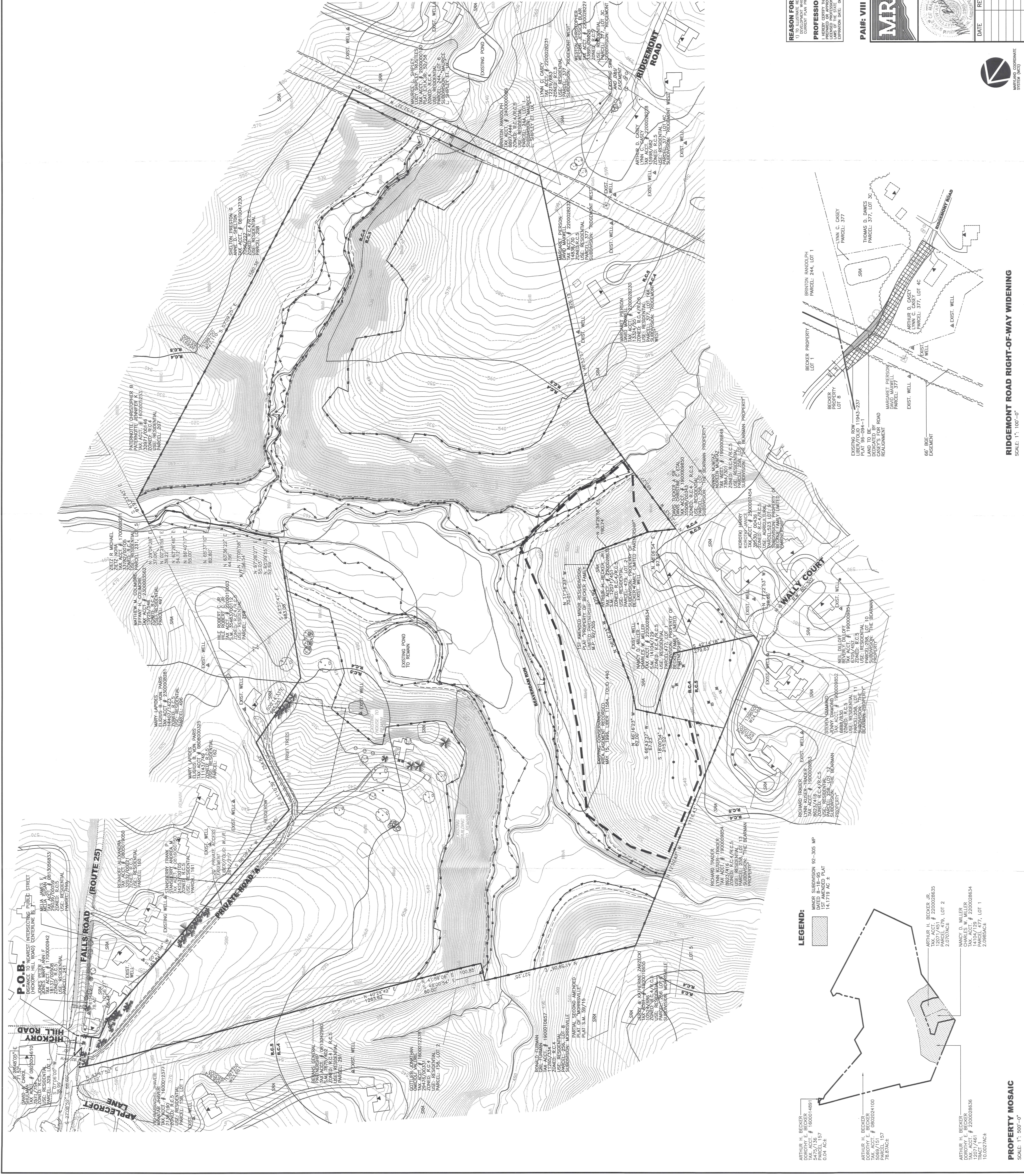
48. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA. THE DEVELOPER SHALL MAINTAIN THE EXISTING CONDITIONS OF THE AREA.

49. FALLS ROAD (RT. 25) ADJACENT TO PROPERTY HAS NO RECORDS OF RECORDS AND RESEARCH SECTION. (LETTER DATED MAY 23, 2003).

50. PROPOSED CONSTRUCTION OF 15,000 GALLON STORMWATER STORAGE SYSTEM SERVING LOT 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 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SITE LEGEND:

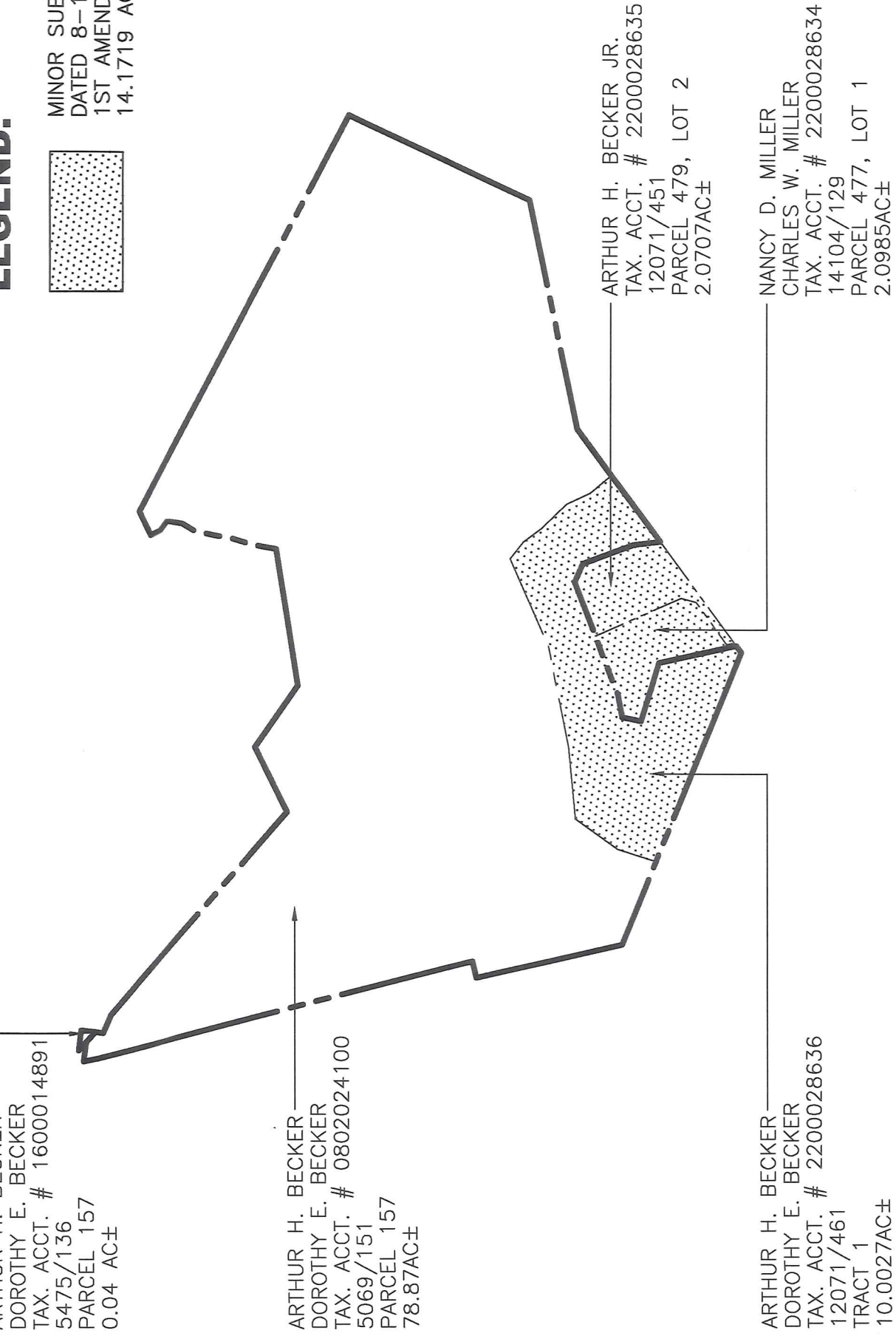
- EXISTING TREES / VEGETATION
PROPOSED TREES / VEGETATION
PROPERTY LINE
RIGHT-OF-WAY
EXISTING 10' CONTOUR
LIMIT OF SOILS / SOIL TYPE
EASEMENT
BUILDING SETBACK LINE
EXISTING STRUCTURE
EXISTING WELL LOCATION
EXIST. WELL
EXISTING SEPTIC RESERVE AREA
EXIST. SPA
EXISTING ZONING
EXISTING STREAM / POND
SLOPES >3%



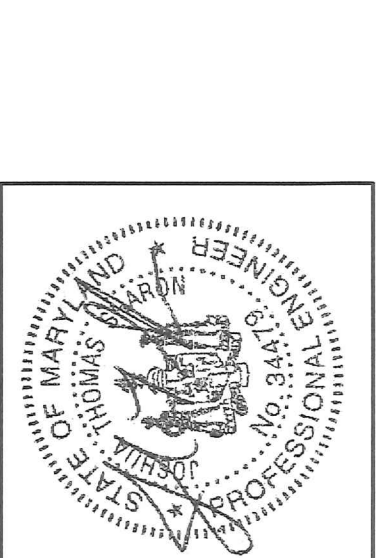
LEGEND:

- MINI SUBDIVISION 92-305 MP
MINI SANDED PLAT
14,179 AC ±

PROPERTY MOSAIC



REASON FOR 1ST AMENDMENT
1) DEVELOPMENT WHICH PROPOSED A TOTAL OF 20 UNITS. THE CURRENT PLAN PROPOSES A REDUCTION TO 16 UNITS.
PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE PROFESSIONAL LANDSCAPE ARCHITECT ACT, LICENSE NO. 3476, EXPIRATION DATE: 06/21/2020.



PAI# VIII - 791

CHECKPRINT

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
TOWSON, MARYLAND 21286
1290-C EAST JOPPA ROAD, SUITE 505
FAX: (410) 824-1748
MRAGTACOM
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1ST MATERIAL AMENDMENT TO THE 2ND REFINED DEVELOPMENT PLAN:
EXISTING CONDITIONS
BECKER PROPERTY
12170 FALLS ROAD
CROCKETSVILLE, MARYLAND 21030
BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT 8

DATE: _____
REVISIONS: _____
JOB NO.: 14746.01
SCALE: AS SHOWN
DATE: 10/25/2018
DRAWN BY: N.C.R.
DESIGN BY: M.A.S.
REVIEW BY: M.A.S.
SHEET: 2 OF 4

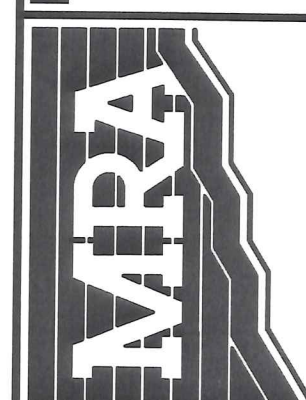
RIGHT-OF-WAY WIDENING

SCALE: 1" = 100'-0"

[illegible]

DEDICATION TABLE			NO.	TOTAL AREA (AC.)
TYPE OF CONSERVANCE				
ACCESS EASMENT - ANY TYPE				
CONSERVANCY AREA EASMENT	3	0.72		
CONSERVANCE AND UTILITY EASMENT	5	47.35		
100 YEAR FOREST CONSERVATION EASMENT	5	0.73		
FOREST BUFFER AND UTILITY EASMENT	1	19.271		
FOREST CONSERVATION EASMENT	7	27.32		
GREENWAY EASMENT	1	0.45		
STORMWATER MANAGEMENT EASMENT	23	0.45		
FOREST BUFFER EASMENT	2	21.176		
FOREST CONSERVATION EASMENT	4	4.8		
SHR. RIGHT OF WAY DONATION	1	0.09		

PAI#: VIII - 791

[illegible]

PROPERTY MOSAIC
SCALE: 1" = 500'-0"