



DEPARTMENT OF PLANNING & ZONING  
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

## AGENDA

### WASHINGTON COUNTY PLANNING COMMISSION REGULAR MEETING

November 5, 2018, 7:00 PM

WASHINGTON COUNTY ADMINISTRATIVE COMPLEX  
100 WEST WASHINGTON STREET  
2<sup>ND</sup> FLOOR, PUBLIC MEETING ROOM #2000

#### CALL TO ORDER AND ROLL CALL

#### NEW BUSINESS

#### MINUTES

1. October 1, 2018 Planning Commission regular meeting minutes \*

#### MODIFICATIONS

1. **Moyer, Clemet, Lot 1, Parcel A [OM-18-009]** Modification to create a simplified lot for conservation purposes only; not for development, located at 14522 Strite Road; Zoning: A(R) – Agricultural, Rural; Planner: Lisa Kelly \*
2. **Merritt Birky [OM-18-010]** Modification to allow the creation of three 4.89 acre lots “not for development” from the 21.8 acre parcel. These lots are to be conveyed to immediate family members for estate planning; Property is located at 5321 Amos Reeder Road; Zoning: P – Preservation; Planner: Cody Shaw \*

#### SITE PLANS

1. **Kevin Rowe – Washington Springs [SP-18-035]** Proposed site plan for a winery/event center located at 24900 Raven Rock Road on 143.20 acres; Zoning: EC – Environmental Conservation; Planner: Cody Shaw \*

#### OTHER BUSINESS

1. **Perry & Melissa Brazil [RZ-18-004]** Request to remove part of the RB floating zone on a 3 acre parcel of property that is being subdivided from the original parcel of land located at 11200 Wolfsville Road; Planner: Jill Baker \*
2. **Neil Auto Body** Request to waive the requirement for public water and public sewer service to a proposed building addition at 13003 Salem Avenue; Planner: Tim Lung \*
3. **Update of Staff Approvals** – Tim Lung

#### ADJOURNMENT

#### UPCOMING MEETINGS

1. Monday, December 3, 2018, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administrative Complex, 100 W. Washington Street, 2<sup>nd</sup> Floor, Public Meeting Room #2000, Hagerstown, Maryland

#### *\*a t t a c h m e n t s*

The Planning Commission reserves the right to vary the order in which the cases are called. Individuals requiring special accommodations are requested to contact the Washington County Planning Department at 240-313-2430, to make arrangements no later than ten (10) days prior to the meeting. *Notice is given that the Planning Commission agenda may be amended at any time up to and including the Planning Commission meeting.*

100 West Washington Street, Suite 2600 | Hagerstown, MD 21740 | P: 240.313.2430 | F: 240.313.2431 | TDD: 7-1-1

WWW.WASHCO-MD.NET



# WASHINGTON COUNTY DIVISION OF PLAN REVIEW & PERMITTING

80 West Baltimore Street | Hagerstown, MD 21740-6003 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

## ORDINANCE MODIFICATION STAFF REPORT

### BASE INFORMATION

SITE NAME.....: Clemet N Moyer Lot 1 Parcel A  
NUMBER.....: OM-18-009  
  
OWNER.....: MOYER CLEMET N  
LOCATION.....: North side of Strite Road  
DESCRIPTION.....: Modification to create a simplified lot for conservation purposes only  
  
ZONING.....: Agricultural, Rural  
COMP PLAN LU.....: Agriculture  
PARCEL.....: 09007105  
PLANNING SECTOR.....: 1  
ELECTION DISTRICT.....: 09  
  
TYPE.....:  
GROSS ACRES.....: 74.28  
DWELLING UNITS.....:  
TOTAL LOTS.....: 1  
DENSITY.....: N/L Units Per Acre  
  
PLANNER.....: Lisa A Kelly  
ENGINEER.....: FREDERICK SEIBERT & ASSOCIATES  
RECEIVED.....: October 2, 2018

### SITE ENGINEERING

#### HYDROGRAPHY, SENSITIVE & ENVIRONMENTAL INFORMATION

FLOOD ZONE.....: Yes  
WETLANDS.....: None  
WATERSHED.....: Antietam Creek  
ENDANGERED SPECIES.....: None  
HISTORIC INVENTORY.....: No Resources Present  
EASEMENTS PRESENT.....: None

### SCHOOL INFORMATION

	ELEMENTARY	MIDDLE	HIGH
Staff Comments:			
SCHOOL DISTRICT	Old Forge	Smithsburg	Smithsburg
PUPIL YIELD			
CURRENT ENROLLMENT			
MAXIMUM CAPACITY			

### PUBLIC FACILITIES INFORMATION

FIRE DISTRICT.....: LEITERSBURG  
AMBULANCE DISTRICT.....: SMITHSBURG

### WATER & SEWER INFORMATION

	WATER	SEWER
METHOD.....:	No Provider	Septic Tank
SERVICE AREA.....:	No Provider	Septic



Washington County  
MARYLAND

## WASHINGTON COUNTY DIVISION OF PLAN REVIEW & PERMITTING

80 West Baltimore Street | Hagerstown, MD 21740-6003 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

PRIORITY.....:

7-No Planned Service-Well

7-No Planned Service-Septic

NEW HYDRANTS.....:

GALLONS PER DAY SEWAGE....:

PLANT INFO.....:

None

Om-18-009

WASHINGTON COUNTY PLANNING COMMISSION

APPLICATION FOR SUBDIVISION ORDINANCE MODIFICATION

APPLICANT

NAME Clemet Moyer

MAILING ADDRESS 4152 W Tierra Buena Lane, Phoenix, AZ 85053

TELEPHONE \_\_\_\_\_ 602-510-1716  
(home) (work) (cell)

PROPERTY OWNER

NAME Clemet Moyer

MAILING ADDRESS 4152 W Tierra Buena Lane, Phoenix, AZ 85053

TELEPHONE \_\_\_\_\_ 602-510-1716  
(home) (work) (cell)

CONSULTANT

NAME Frederick, Seibert & Associates

ADDRESS 128 S. Potomac St, Hagerstown, MD 21740

TELEPHONE 301-791-3650

DESCRIPTION OF PROPERTY

PARCEL REFERENCE: MAP 12 GRID 20 PARCEL 17

PROPOSED LOT ACREAGE 24.34 TOTAL SITE ACREAGE 100.47

ZONING DISTRICT A (R) ROAD FRONTAGE(FT) 620 Feet

**RECEIVED**

OCT - 1 2018

WASHINGTON COUNTY  
PLAN REVIEW DEPARTMENT



LOCATION / ADDRESS

14522 Strite Road, Hagerstown, MD

EXISTING AND PROPOSED USE OF PROPERTY

The existing and proposed use of the property is the same, a working farm.

LOT TO BE CONVEYED TO IMMEDIATE FAMILY MEMBER Yes

**SUBDIVISION MODIFICATION INFORMATION**

MODIFICATION TO SUBDIVISION ORDINANCE SECTION 318.1

MODIFICATION IS TO ALLOW Create a 24.34 acre "Not for Development" parcel to from a 100 acre parcel to assist in settling an estate.

STATEMENT OF JUSTIFICATION TO THE REQUESTED MODIFICATION (quantify modification – i.e. hardship resulting from irregular shape; safety hazard; topographic conditions; extraordinary hardship; other

The request is being made to assist in settling an estate. Although the entire property is 100 acres in size it is under single ownership by the applicant. The owner/applicant has a sibling who lives in the main farmhouse, the owner/applicant and sibling have agreed to divide the property where the sibling will receive the main farmhouse and 50 surrounding acres. Due to the irregular shape of the existing parcel, the proposed land that the sibling is to receive is directly in the middle of the the existing parcel and flanked by two (2) twenty five (25) acre parcels one to be considered the remaining land and the other considered Parcel A which is subject of this request. Almost 6 acres of parcel A is within 100 year floodplain and a long drainage swale runs parallel with Strite Road. The intention is to keep proposed parcel A in an agricultural use as it currently is and will be eventually be conveyed to the sibling as an immediate family member.

(Attach additional sheets if necessary)

In addition, two (2) sketch plans, drawn to scale must accompany this application showing: the dimensions and shape of proposed lot with acreage; size and location of existing and/or future structures; existing/proposed roadways and associated access right-of-ways or easements; existing/proposed entrance/exit to property; natural or topographic peculiarities of the lot in question.

To the best of my knowledge, the information provided in this application and other material submitted is correct.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

*Clem*  
\_\_\_\_\_  
Property Owner's Signature

*9-19-18*  
\_\_\_\_\_  
Date

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**STAFF USE ONLY:**

STAFF PLANNER: \_\_\_\_\_ DATE RECEIVED: \_\_\_\_\_

NUMBER: \_\_\_\_\_

MEETING DATE: \_\_\_\_\_

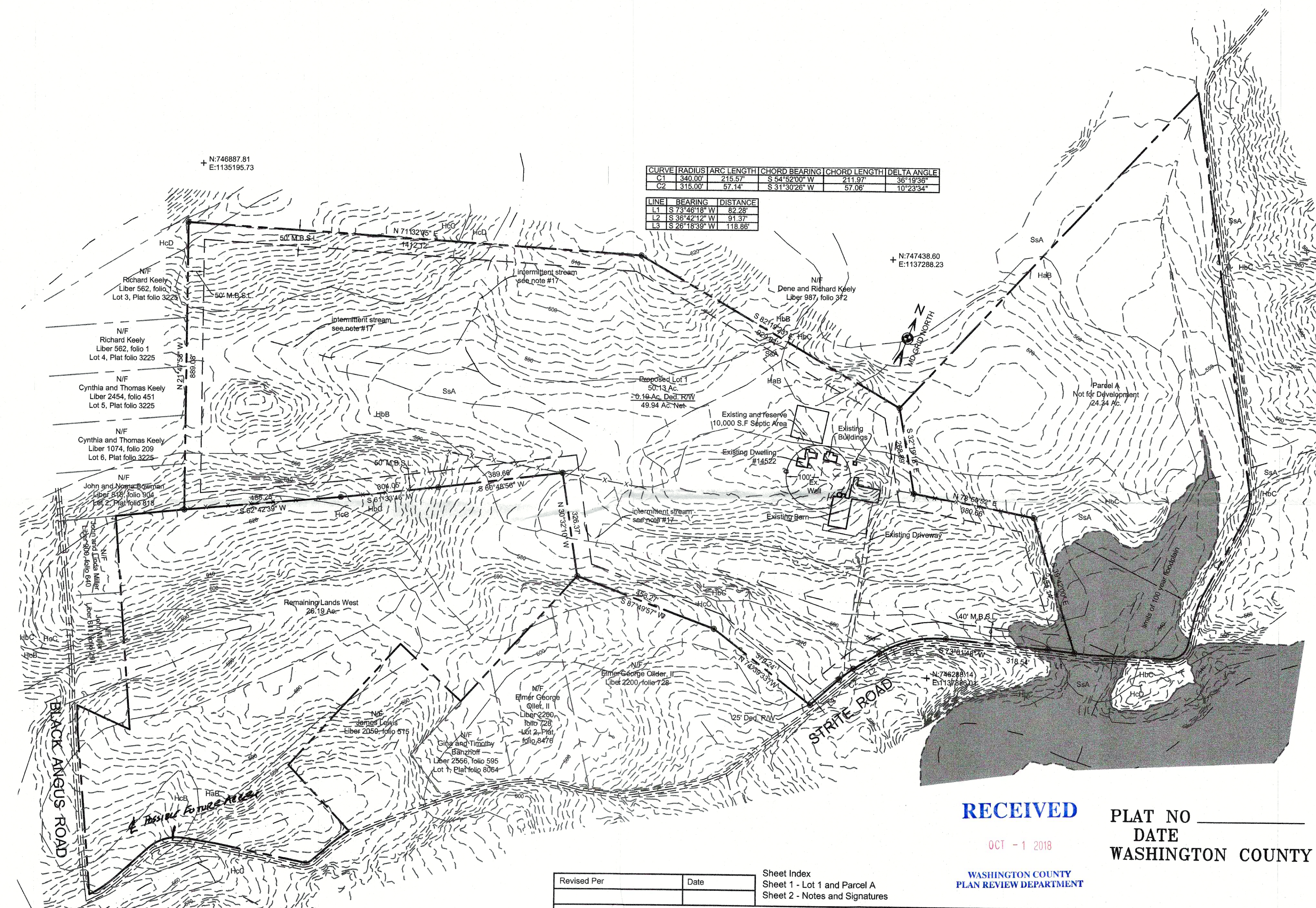
## SUBDIVISION MODIFICATION APPLICATION CHECKLIST

The following items are required as part of the Subdivision Modification application:

Applicant	Staff	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	A complete Application Form, signed by the applicant, property owner, and consultant (if applicable). All information must be typed or clearly printed on the application. <b>Please include this checklist.</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	A filing fee of \$115.00. Make check payable to: <b>Washington County Treasurer.</b> Include fee worksheet.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Twelve (12) sketch plans, drawn to scale, showing:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	a. dimensions & shape of proposed lot with acreage;
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b. size & location of existing and/or future structures;
<input type="checkbox"/>	<input checked="" type="checkbox"/>	c. existing/proposed roadways and associated access right of way or easements;
<input type="checkbox"/>	<input checked="" type="checkbox"/>	d. existing/proposed entrance/exit to property;
<input type="checkbox"/>	<input checked="" type="checkbox"/>	e. natural or topographic peculiarities of the lot in question.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any additional drawings, pictures, or information that will assist the Planning Commission in making its decision.



H  
G  
F  
E  
D  
C  
B  
A



CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
C1	340.00'	215.57'	S 64°52'00" W	211.97'	36°19'36"
C2	315.00'	57.14'	S 31°30'26" W	57.06'	10°23'34"

LINE	BEARING	DISTANCE
L1	S 73°46'18" W	82.28'
L2	S 36°42'12" W	91.37'
L3	S 26°18'39" W	118.86'

RECEIVED

OCT - 1 2018

WASHINGTON COUNTY  
PLAN REVIEW DEPARTMENT

PLAT NO \_\_\_\_\_  
DATE \_\_\_\_\_  
WASHINGTON COUNTY

Revised Per	Date

Sheet Index  
Sheet 1 - Lot 1 and Parcel A  
Sheet 2 - Notes and Signatures

TAX MAP 12-20-17 DISTRICT 09	
DRAWING NUMBER 01 OF 02	
DRAWN BY: LEJ	DATE: 9.17.18
CHECKED BY: EJS	DATE: 10/1/18
SCALE: 1" = 200'	

**FREDERICK SEIBERT & ASSOCIATES, INC.** © 2018

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS  
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740  
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225  
(301) 791-3850 (301) 416-7478 (717) 597-1007 FAX (301) 739-4956

Preliminary/Final Plat of Subdivision  
of  
Lot 1  
and  
Simplified Subdivision  
of  
Parcel A  
for  
Clemet N. Moyer  
Located at 14522 Strite Road, Hagerstown  
WASHINGTON COUNTY, MARYLAND

Owner:  
Clemet N. Moyer  
4152 West Tierra Buena Lane  
Phoenix AZ 85053









DIVISION OF  
PLAN REVIEW & PERMITTING

# MEMORANDUM

---

TO: Washington County Planning Commission

FROM: Cody Shaw, Chief of Plan Review

DATE: October 18, 2018

SUBJECT: Ordinance Modification for Merritt Birky (OM-18-010)

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Attached you will find for your review a modification request to create three “not for development” simplified lots. Section 318.1 of the Washington County Zoning Ordinance states that new standalone lots shall be created via a preliminary/final plat. The applicant is requesting that the Planning Commission approve the creation of the three standalone lots via the simplified plat process with the understanding that when they wish to develop the lots, a development plat will need to be submitted, reviewed and approved by Washington County Plan Review & Permitting.

Attached you will find the statement of justification from the applicant.

The proposed modification request was reviewed by Plan Review, the Department of Emergency Services, and the local fire department. No objections or comments were received.

If you have comments regarding the proposed modification and/or the applicant’s request, please call or e-mail me at: (240) 313-2442 or [cshaw@washco-md.net](mailto:cshaw@washco-md.net).

Cody L. Shaw  
Chief of Plan Review

SM-18-010

RECEIVED

OCT 4 2018

WASHINGTON COUNTY  
PLAN REVIEW DEPARTMENT

WASHINGTON COUNTY PLANNING COMMISSION

APPLICATION FOR SUBDIVISION ORDINANCE MODIFICATION

APPLICANT

NAME Merritt Birky

MAILING ADDRESS 3005, Apt 316, South Leasure World Blvd, Silver Spring, MD 20906

TELEPHONE (home) (work) 240-938-2053 (cell)

PROPERTY OWNER

NAME Same as Above

MAILING ADDRESS \_\_\_\_\_

TELEPHONE (home) (work) (cell)

CONSULTANT

NAME Frederick, Seibert & Associates

ADDRESS 128 S. Potomac St, Hagerstown, MD 21740

TELEPHONE 301-791-3650

DESCRIPTION OF PROPERTY

PARCEL REFERENCE: MAP 77 GRID 12 PARCEL 167

PROPOSED LOT ACREAGE 3 at 5 acres TOTAL SITE ACREAGE 21.8 ac

ZONING DISTRICT P ROAD FRONTAGE(FT) 700'

LOCATION / ADDRESS

5321 Amos Reeder Road, Boonsboro, MD

EXISTING AND PROPOSED USE OF PROPERTY

Existing farm fields and pasture. Proposed same land use however divided into 3 "Not for Development" lots in order to convey to his children.

LOT TO BE CONVEYED TO IMMEDIATE FAMILY MEMBER Yes

**SUBDIVISION MODIFICATION INFORMATION**

MODIFICATION TO SUBDIVISION ORDINANCE SECTION 318.1

MODIFICATION IS TO ALLOW Create (3) three, (5) five acre "Not For Development" lots from the 22 acre parcel. These lots are to be conveyed to Immediate Family Members for estate planning purposes.

STATEMENT OF JUSTIFICATION TO THE REQUESTED MODIFICATION (quantify modification – i.e. hardship resulting from irregular shape; safety hazard; topographic conditions; extraordinary hardship; other

For estate planning purposes Mr. Birky would like to create 3 lots, one each to go to each of his adult children.

The work for these lots began approximately one year ago when it was discovered perc tests had to be performed during the wet season which is typically March & April. Bad weather in the Spring of 2018 made it difficult to perform tests until late April. These lots were perc'd and approved in late April and we began preparation of a Preliminary/Final Subdivision Plat. Recently the Health Dept has developed a new policy that requires the installation of a well prior to subdivision plat approval if the lot is to be sold and built on. Efforts to obtain an exemption from this policy have failed which now will require Mr. Birky drill wells only to convey the lots to his children whom don't intend to build on them any time in the foreseeable future. By allowing the lots to be created as Simplified, "Not for Development" lots Mr. Birky can accomplish his goal and prepare his estate as he wishes.

(Attach additional sheets if necessary)

In addition, two (2) sketch plans, drawn to scale must accompany this application showing: the dimensions and shape of proposed lot with acreage; size and location of existing and/or future structures; existing/proposed roadways and associated access right-of-ways or easements; existing/proposed entrance/exit to property; natural or topographic peculiarities of the lot in question.



To the best of my knowledge, the information provided in this application and other material submitted is correct.

Merrill M. Bailey  
Applicant's Signature Date

\_\_\_\_\_  
Property Owner's Signature Date

---

**STAFF USE ONLY:**

STAFF PLANNER: \_\_\_\_\_ DATE RECEIVED: \_\_\_\_\_

NUMBER: \_\_\_\_\_

MEETING DATE: \_\_\_\_\_

## SUBDIVISION MODIFICATION APPLICATION CHECKLIST

The following items are required as part of the Subdivision Modification application:

Applicant

Staff

☒
☐

A complete Application Form, signed by the applicant, property owner, and consultant (if applicable). All information must be typed or clearly printed on the application. **Please include this checklist.**

☒
☐

A filing fee of \$115.00. Make check payable to: **Washington County Treasurer**. Include fee worksheet.

☒
☐

Twelve (12) sketch plans, drawn to scale, showing:

☒
☐

a. dimensions & shape of proposed lot with acreage;

☒
☐

b. size & location of existing and/or future structures;

☒
☐

c. existing/proposed roadways and associated access right of way or easements;

☒
☐

d. existing/proposed entrance/exit to property;

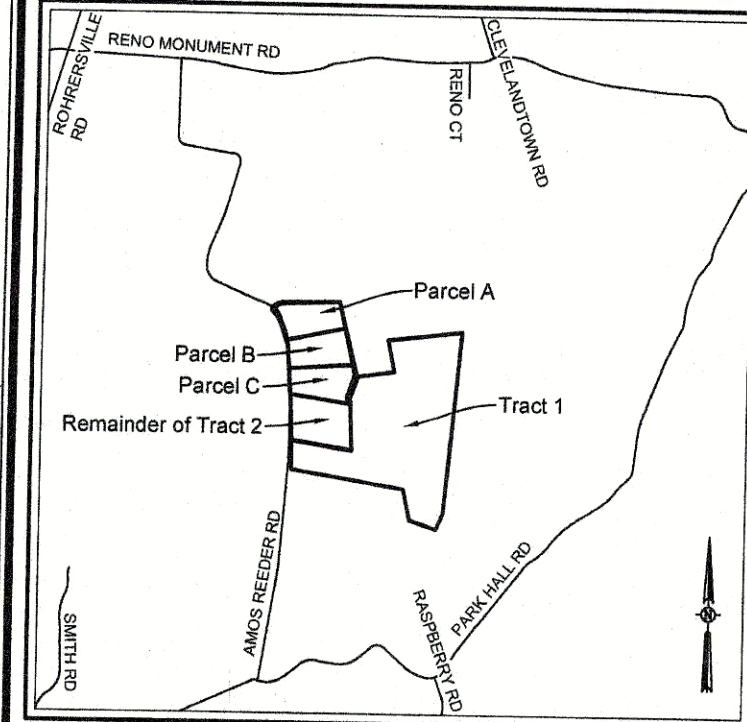
☒
☐

e. natural or topographic peculiarities of the lot in question.

☒
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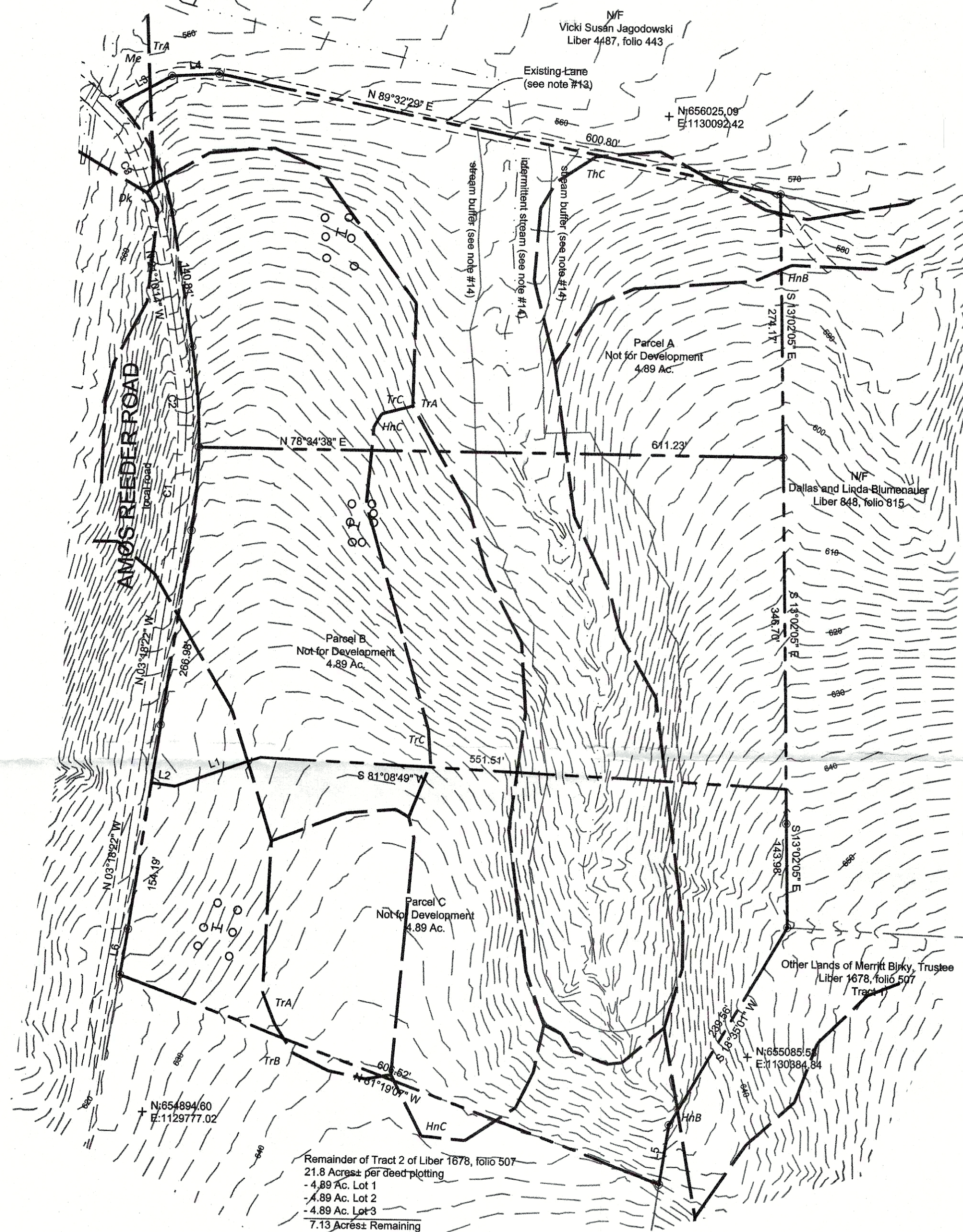
Any additional drawings, pictures, or information that will assist the Planning Commission in making its decision.





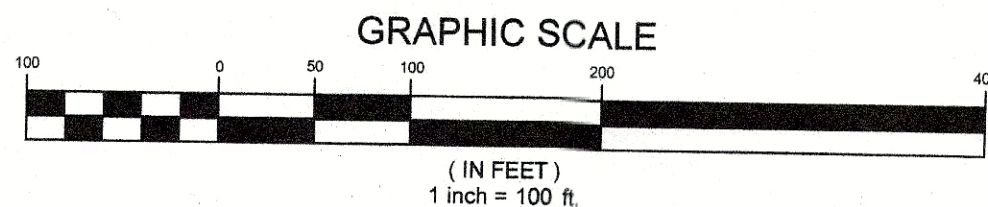
VICINITY MAP  
SCALE 1" = 2000'

Soil	Area (Ac.)	%
HnB	2.9	20.1
HnC	1.8	12.6
Me	<0.1	0.2
ThC	0.7	4.9
TrA	4.5	30.8
TrB	1.4	9.6
TrC	3.2	21.9



CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
C1	615.00'	87.12'	N 07°21'52" W	87.05'	8°07'00"
C2	615.00'	104.63'	N 16°17'48" W	104.50'	9°44'52"
C3	215.00'	128.25'	N 38°16'34" W	126.36'	34°10'41"

LINE	BEARING	DISTANCE
L1	S 58°27'04" W	94.91'
L2	S 86°18'03" W	25.00'
L3	N 50°02'29" E	61.40'
L4	N 74°42'40" E	49.62'
L5	S 03°09'59" E	62.43'
L6	N 02°14'18" W	48.08'



Owner:  
Merritt M. Birky, Trustee  
5321 Amos Reeder Road  
Boonsboro MD 21713

Revised Per	Date

TAX MAP 77-12-167 DISTRICT 08  
DRAWING NUMBER 01 OF 01

DRAWN BY:  
LEJ

DATE:  
7.13.18

CHECKED BY:  
EJS

DATE:  
7.26.18

SCALE:  
1" = 100'

FREDERICK  
SEIBERT &  
ASSOCIATES, INC. ©2018

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS  
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740  
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225  
(301) 791-3650 (301) 416-7478 (717) 597-1007 FAX (301) 739-4956

OWNER'S STATEMENT  
Application is hereby made for approval of the indicated transfer of land for enlargement purposes only and not for development except as indicated hereon. Any development of this land other than for permitted accessory uses or any future separation of the parcels combined hereon will be submitted in the regular manner for approval in accordance with the provisions of the existing Subdivision Ordinance.  
Date: 10/3/18 Owner: Merritt M. Birky

Land Surveyor's Certification  
I hereby certify that the plan shown hereon is correct; that it is a subdivision of Tract 2 of the lands conveyed by Merritt M. Birky, Trustee, or his successors in trust, under the Birky Living Trust, by deed dated May 24, 2001, and recorded in the Land Records of Washington County, Maryland in Liber No. 1678, folio 507 and that stones marked G and/or bars marked G have been placed as indicated.  
I hereby certify that these documents were prepared by me or under my responsible charge, and I am a duly licensed Professional Land Surveyor under the Laws of the State of Maryland, License No. LS-10731 Expiration Date 01/16/2020.  
Date: 10/3/2018 Professional Land Surveyor



CERTIFICATE OF APPROVAL  
FINAL APPROVAL GRANTED

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Washington County Planning Commission Final Approval  
good for one hundred eighty (180) days from the above date

Approved as a division of land, not for development,  
with the stipulation that the foregoing Owner's Statement  
be made a part of the deed conveyance

GENERAL NOTES

1. Zoning is P - Preservation
2. No development shall mean that building or zoning permits, including Residential, will not be issued until such a time as a development plat is submitted in accordance with the provision of all applicable ordinances and approved by the Washington County Planning Commission
3. Accessory structures would be permitted in accordance with Section 318.1 of the Washington County Subdivision Ordinance
4. There are no floodplains, stream, steep slopes, and other related buffers, or habitat of threatened or endangered species identified by the U.S. Fish and Wildlife Service per 50 CFR 17 as required to be shown by Sections 306, 307 and 314 of the Washington County Subdivision Ordinance and Section 4.21 (C&D) of the Washington County Zoning Ordinance. This subdivision is not within 1000' of the Appalachian Trail.
5. Parcel does not lie in the 100 year flood plain per FEMA Flood Insurance Rate Map, Community Panel No. 24043C0384D dated August 15, 2017, Flood Zone X.
6. Bearings based on MD Grid North.
7. This plat has been reviewed and approved per the P Zoning District. Any development/construction shall be in accordance with the Washington County Zoning Ordinance currently being enforced.
8. Contours based on Washington County Aerial Topography and boundary is based on a field survey performed by FSA.
9. Soil types as shown hereon
10. This plat was prepared without the benefit of a title report and therefore may not indicate all encumbrances on this property
11. This existing lane is subject to a right of way per Liber 156, folio 526 and further shown on Plat folio 706
12. The intermittent stream shown hereon has a variable width stream buffer based on varying slopes.
13. Perc tests shown were approved in the spring of 2018.

PLAT NO \_\_\_\_\_  
DATE \_\_\_\_\_  
WASHINGTON COUNTY

Simplified Plat of Subdivision  
of  
Parcels A, B, and C  
for  
Merritt M. Birky  
Located along the east side  
of Amos Reeder Road  
Boonsboro  
WASHINGTON COUNTY, MARYLAND





DIVISION OF  
PLAN REVIEW & PERMITTING

# MEMORANDUM

---

TO: Washington County Planning Commission  
FROM: Cody Shaw, Chief of Plan Review  
DATE: October 18, 2018  
SUBJECT: Kevin Rowe – Washington Springs Site Plan (SP-18-035)

---

A site plan has been submitted for review and approval for Kevin Rowe – Washington Springs on a parcel along the west side of Raven Rock Road. The property is located in the Environmental Conservation Zoning District.

The description for this site is for a winery & event center. The site is located on a 143.20 acre parcel, and the applicant is looking to develop the site. A special exception appeal was granted by the Board of Zoning Appeals on 8/22/18 to allow the proposed use on the site. A copy of the opinion has been provided.

The proposed improvements are shown on the site plan can be summarized as follows:

- Functional description is for an event center and winery
- Hours of operation are Friday 4-10pm, Saturday 12-10pm, Sunday 12-8pm
- Total required parking spaces is 208; total parking provided is 209 spaces
- Proposed impervious area is 0% of the site (3% impervious existing)
- Site is served by well and septic
- SWM for this site is exempt for being under 5,000 sq ft of disturbance
- Forest Conservation is exempt for being under 20,000 sq ft of disturbance

The site plan was routed to Land Use Planning, Addressing, Engineering, Health Department, Soil Conservation, and Maryland SHA. No approvals have been obtained at the time of drafting this memo. Staff is asking the Planning Commission to grant the Staff authority to approve the plan once all agency approvals have been received.

A copy of the site plan and BZA opinion is attached.

**BEFORE THE BOARD OF APPEALS  
FOR WASHINGTON COUNTY, MARYLAND**

**KEVIN ROWE  
Appellant**

**APPEAL NO.: AP2018-023**

**OPINION**

This appeal is a request for a special exception to establish a commercial winery, to establish a banquet/reception facility, and for variances from the requirement to provide a durable and dustless surface for required parking. The subject property is located at 24900 Raven Rock Road, Smithsburg, Maryland 21783; is owned by Martha B. Willard; and is zoned Environmental Conservation. The Board held a public hearing on the matter on August 22, 2018.

**Findings of Fact**

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. The Appellants seeks a special exception, with associated variance relief, to establish a commercial winery and banquet/reception facility on the subject property.
2. The subject property is currently operated as a farm. It is comprised of 143 acres containing several buildings and structures. Appellant will utilize 2 existing structures for banquet and reception events, a 3,400 square foot building and 3,000 square foot building. Appellant will use another 4,000 square foot building for the winery and

tasting room. There will also be outdoor seating and gathering areas to allow for exterior congregation and event planning.

3. Appellant has a contract to purchase the subject property, conditioned upon approval of necessary zoning and other permits. Appellant has permission from the owner to pursue this appeal.

4. Appellant plans to plant and grow grapes for production, but will operate as a commercial winery, processing grapes and other fruit brought in from supplier farms in the beginning. However, Appellant does not expect the winery to be open to the public for approximately 3 to 5 years.

5. Appellant plans to host weddings and events at the property which would be the primary use while a test vineyard is growing.

6. Appellant plans to operate the reception and event facility Sunday through Thursday from 9:00 a.m. to 9:00 p.m. and Friday and Saturdays from 9:00 a.m. to 11:30 p.m. Appellant plans to operate the winery and tasting room Wednesday through Sunday with varying hours. On Wednesdays and Thursdays, the facility would be open from 2:00 p.m. to 7:00 p.m., Friday 4:00 p.m. to 9:00 p.m., Saturday 11:00 a.m. to 7:00 p.m., and Sunday 12:00 p.m. to 7:00 p.m.

7. Appellant anticipates 2 to 3 events per week with a maximum capacity of 550 individuals, including catering staff, at any given time at the property. All food will be brought from off-site caterers.

8. The subject property sits down in a slight valley and contains a buffer of vegetation for neighboring properties. The nearest residence is over 1,000 feet away and is separated by dense trees.

9. The sight distance along Raven Rock Road is approximately 2 to 3 times the necessary sight lines for traffic exiting the property. The average daily trips along Raven

Rock Road at the subject property are 2, 251 and the road is more than adequate to accommodate additional traffic associated with the proposed use.

10. Sound generated by the subject property is at acceptable levels in accordance with state law and regulation.

11. Appellant intends to designate a large area for parking to include some paved parking spaces namely for handicapped spaces, as well as grass and stone parking.

### **Rationale**

#### ***The Special Exception***

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood." Article 28A.

The proposed uses are permitted special exception use in this zone and are uses that have been adopted in other areas in the county, including a winery located very close to the subject property. Appellant testified that because the property is not actively growing fruit for wine production, and likely will not be for the first few years, he can only operate as a commercial winery. He expects that once vineyards begin to yield fruit, production will be based on what is grown on the property rather than having the fruit transported in to make wine. Appellant's concept for the reception and banquet facility is very similar to other established operations in Washington County. The existing structures on the property will be used to host weddings and events and provide areas to congregate for wine tastings and promotional events for the winery.

The property is well suited for such a use as it sits down slightly from neighboring properties, has a plethora of vegetation for natural buffer and it is easily accessible from a main county roadway. While some concerns were raised regarding speed control and accidents, there is no evidence that additional traffic created by the periodic events hosted at the property will have a negative impact on the surrounding area. Likewise, the proposed use will not emit any dust, gas, odor, or light that would have a detrimental impact on surrounding properties. The events will produce noise, particularly weddings where music is played; however, Appellant conducted testing on the property which concluded that sound emission is at acceptable levels from the event locations. In sum, the surrounding properties may hear sound emanating from the property during events, but it won't be any more than might be heard from a principally permitted use on this property, or any other property in the zoning district.

Several neighbors opposed Appellant's request, citing effects on the water table, traffic and the prospect that the property will never actually be used as a working vineyard. It is important to note that Appellant has requested independent approval of both special exceptions and while he plans to integrate their operations, he is not obligated to if approved. Much of the opposition can be categorized as issues that will have to be addressed during the site plan approval process. While we recognize that such concerns exist, we are not persuaded that the proposed uses will have greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Schultz v. Pritts*, 291 Md. 1, 15 (1981). Therefore, the special exceptions are both GRANTED by a vote of 5-0. The special exceptions are granted subject to the condition that events are concluded by 11:00 p.m.

#### *The Variance*



This Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56. <sup>1</sup> "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the Appellant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Section 22.12(f)iv requires that, "All off-street parking facilities shall be designed with a stable, dust-free surface conforming to the standards of the Department of Land Development Engineering." Appellant is requesting that this requirement be waived based on the size and nature of the use proposed. There are several bodies of water on the subject property and an elevated topography that will result in significant water runoff. Paving or other materials used to create a dust-free surface would likely have a detrimental effect on runoff and contamination of existing water sources. In addition, any such modification of the property to create parking areas would disrupt the existing topography and could cause further harm to surrounding properties. Appellant has proposed the least disruptive approach to the property and one that is least likely to cause damage or problems to the subject property or neighboring properties. Furthermore, the requirement to create such a large dust-free, stable parking area would be unduly burdensome on Appellant. He is trying to expand an existing agricultural use while at

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<sup>1</sup> "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

the same time retain the original nature of the property; carving out and developing a parking area that is likely to be more impervious than the ground itself, is counterintuitive. We find that imposing the strict mandates of the Ordinance creates both practical difficulty and undue hardship for Appellant.

Accordingly, the variance request to waive the requirement for a stable, dust-free surface is GRANTED, by a 5-0 vote.

BOARD OF APPEALS

By: Paul Fulk, Chair

Date Issued: September 19, 2018





SCALE: 1" = 2,000'

## Site Data

TAX MAP _____	41-1-28
ELECTION DISTRICT _____	07
ZONING _____	EC (ENVIRONMENTAL CONSERVATION)
SETBACKS _____	FRONT- 50'
	SIDE- 50'
	REAR- 50'
FUNCTIONAL DESCRIPTION _____	WINERY / EVENTS CENTER
HOURS OF OPERATION _____	FRI. 4-10PM, SAT. 12-10PM, SUN. 12-8PM
DELIVERIES _____	UPS WEEKLY
PARCEL AREA _____	143.20 AC±
IMPERVIOUS AREA _____	40,000 S.F. (3%) (NONE PROPOSED)
TOTAL PARKING REQUIRED _____	208 SPACES
TOTAL PARKING PROVIDED _____	208 SPACES 1 SPACE PER 50 S.F. OF GFA
	REGULAR- 202
	HANDICAP- 7
	10,800 S.F.
GROSS FLOOR AREA _____	
WATER & SEWER USAGE _____	WELL AND SEPTIC
PROPOSED SITE LIGHTING _____ (SEE SITE PLAN)	POLE & BUILDING MOUNTED
SOLID WASTE _____ (STORAGE AND COLLECTION)	INTERNAL TRASH CAN & PRIVATE HAULER
PROPOSED SIGNAGE _____	NONE
FORESTATION _____	EXEMPT; UNIT OF LAND LESS THAN 20.00 AC
SENSITIVE AREAS _____	THERE ARE NO KNOWN ENDANGERED SPECIES RELATED BUFFERS PER CFR 17 AS REQUIRED SHOWN IN APPENDIX 421.0F OF THE ZONING

## General Notes

G.1 Any damage to adjoining public roads, utilities, etc. during construction will be repaired in kind by the contractor.

G.2 No subsurface investigation has been performed by Frederick, Seibert and Associates, Inc. to determine ground water, rock, sinkholes or any other natural or man-made existing features.

G.3 FEMA assumes no liability for the location of any above ground and below ground utilities. Existing utilities are shown from the best available information. Contractor to field verify location and depth of all above and below ground utilities prior to construction.

G.4 The contractor shall be aware that in the event of discrepancy between scaled and figured dimensions shown on the plan, the figured dimensions shall govern.

G.5 It shall be the distinctly understood that failure to mention specifically any work which would naturally be required to complete the project shall not relieve the contractor of his responsibility to complete such work.

G.6 All handcarried parking spaces shall be designed, ramped and signed to meet the minimum requirements of the Maryland code for the handicapped.

G.7 The existing site contours shown hereon were obtained from an aerial survey completed and field verified by FSA (Contour accuracy is plus or minus one half the contour interval).

G.8 The contractor will fully understand of temporary parking pole lighting to be used during events that require parking at night. Lights shall be positioned down onto the parking area so that no glare will spillover onto adjacent properties.

G.9 A special exception of testimony was granted by the Washington County Board of Zoning Appeals on December 13, 2017, AP2018-023 to establish a banquet/reception facility and a variance from requirement to provide a suitable, off-site surface for parking.

G.10 This site does not fall within the limits of the 100 year flood plain per FEMA Flood Insurance Rate Map #24043C039D dated August 15, 2017, Zone A.

G.11 There are no outside storage of materials proposed by this site plan-

## SWM Narrative

THERE IS NO DISTURBANCE PROPOSED BY THIS SITE PLAN. STORMWATER MANAGEMENT IS NOT REQUIRED.

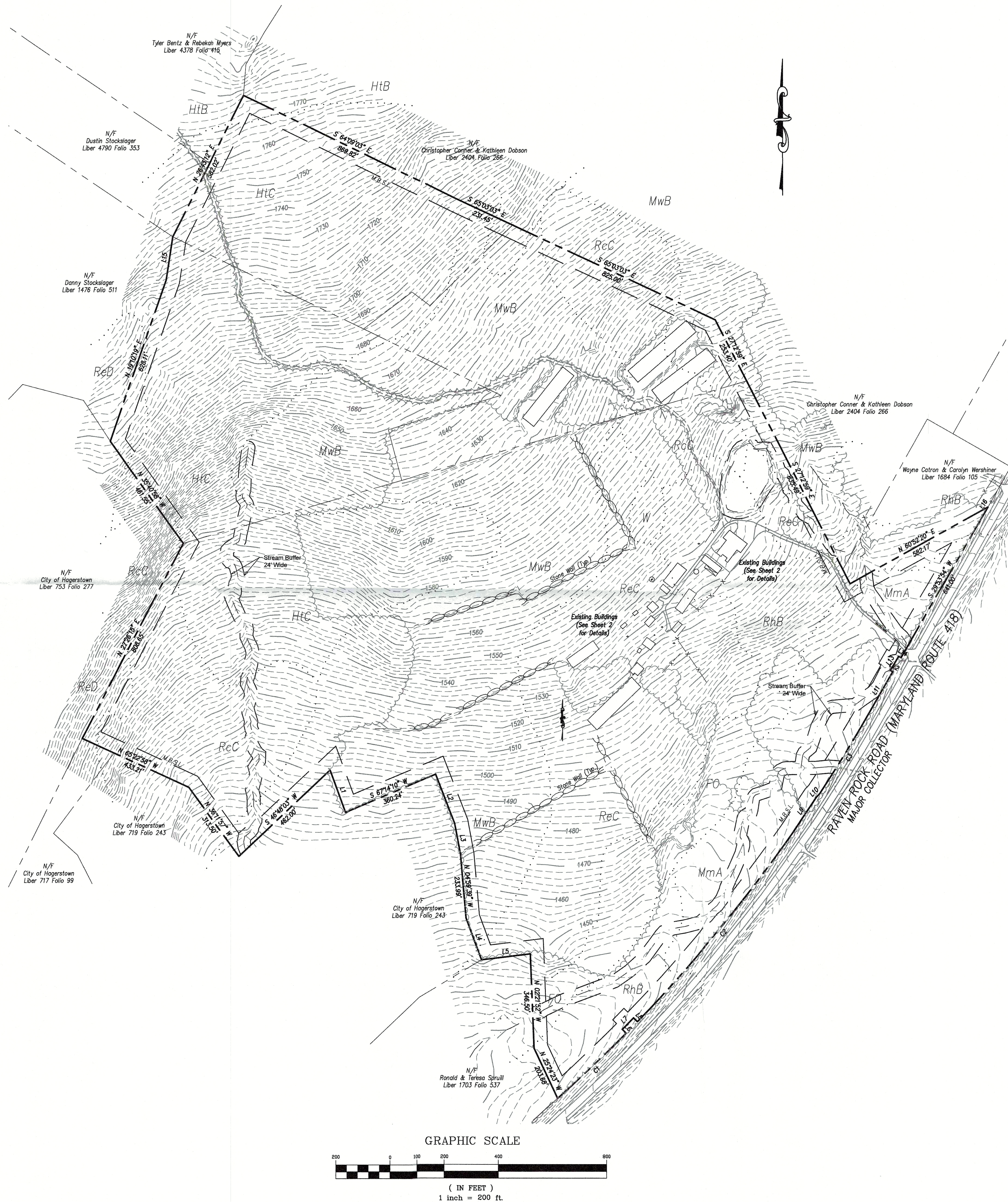
### Legend

SYMBOL		FEATURE
EXISTING	PROPOSED	
		PROPERTY LINE, CORNER
		PERMANENT EASEMENT
		CENTERLINE
		CONTOURS
		TREE LINE
		EDGE OF PAVEMENT
		CONCRETE CURB
		FENCE LINE
		STREAM OR DITCH
		FLOW LINE
		WATER LINE
		SANITARY SEWER LINE, STUB
		GAS LINE
		FORCE MAIN
		STORM DRAIN, END SECTION
		ROOF DRAIN PIPE
		WATER VALVE
		WATER CAP, REDUCER, BEND
		FIRE HYDRANT, METER
		OVERHEAD ELECTRIC LINE
		GUARDRAIL
		RAILROAD TRACKS
		BUILDINGS, HOUSES, GARAGE
		SANITARY SEWER MANHOLE
		STORM DRAIN INLET
		UTILITY POLE
		HANDICAP PARKING
		POLE LIGHT
		ROAD SIGN
		SPOT ELEVATION
		DOUBLE WATER METER
		DOUBLE SEWER CLEANOUT
		DETAIL REFERENCE

LINE	BEARING	DISTANCE
L1	N 20°11'57" W	165.00'
L2	N 21°20'15" W	193.75'
L3	N 10°44'39" W	115.50'
L4	N 20°21'52" W	163.74'
L5	S 83°08'08" W	181.50'
L6	S 45°11'28" E	20.00'
L7	S 44°30'31" W	59.22'
L8	N 45°38'03" W	20.00'
L9	S 33°08'51" W	149.75'
L10	S 42°38'38" W	16.89'
L11	S 29°53°54" W	183.98'
L12	S 10°06'30" E	10.00'
L13	S 30°15'37" E	10.00'
L14	N 60°06'06" W	60.00'
L15	N 08°40'19" E	159.72'
L16	S 29°53'53" W	0.12'


CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	347.49'	5669.58'	3'30"42"	N 46°33'53" E	347.44'
C2	909.34'	5669.58'	9°11'23"	N 39°36'51" E	908.37'
C3	340.52'	5669.58'	3'36"28"	N 31°37'08" E	340.47'

SOILS KEY		Average	Percentage	K-Factor
SOILS		5.62 Ac.	4%	.05
FO	Foxville and Hatboro soils			
H1B	Highfield gravelly silt loam, 3 to 8% slopes	0.23 Ac.	less than 1%	.10
H1C	Highfield gravelly silt loam, 8 to 15% slopes	49.07 Ac.	28%	.10
MmA	Mt. Zion-Rohrserville silt loams, 0 to 3% slopes	10.30 Ac.	7%	.43
MwB	Myersville gravelly loam, 3 to 8% slopes	41.03 Ac.	29%	.10
RC	Ravenrock-Rohrserville complex, 3 to 15% slopes, extremely stoney	14.22 Ac.	10%	.10
ReC	Ravenrock-Highfield-Rock outcrop complex, 8 to 15% slopes	19.31 Ac.	13%	.10
ReD	Ravenrock-Highfield-Rock outcrop complex, 15 to 25% slopes	1.09 Ac.	1%	.10
RhB	Rohrserville-Lantz silt loams, 0 to 8% slopes	10.78 Ac.	8%	.37
W	Water	0.55 Ac.	less than 1%	



**Professional Certification**  
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 20945, Expiration Date: 08-25-2019

**FREDERICK  
SEIBERT &  
ASSOCIATES, INC.**



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CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS

28 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740  
10 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225  
61 NORTH HANOVER STREET, CARLEISLE, PENNSYLVANIA 17013

[illegible]

WASHINGTON SPRINGS

WASHINGTON COUNTY, MARYLAND

CLIENT:  
Kevin Rowe  
1977 Lancasmire Drive, Potomac MD, 20854

PROJECT NO:		7489
CAD DWG FILE: 7489 Site Plan.dwg		
DWN BY	DATE	10-08
CHK BY	DATE	
TAX MAP 41-01-028	ELECT	07
SCALE 1" = 200'		

COVER SHEET

C-101  
SHEET 1 OF  
SP-18-035



Perry & Melissa Brazil  
11200 Wolfsville Rd,  
Smithsburg, MD 21783  
Ph. 3018242844

September 25, 2018

Dear Jill,

Thank you for reviewing our property in Washington County today. We are writing to request a partial removal of the RB Floating Zone on the 3 Acre portion of a portion of our property which we are subdividing from the original parcel. We have spoken with George Nagel at Fox and Associates Inc. and he will forward the proposal plat for your consideration. Please let us know if there is anything else needed to complete the process.

Sincerely,

Perry & Melissa Brazil



# CERTIFICATE OF APPROVAL OF INDIVIDUAL WATER SUPPLY & INDIVIDUAL SEWERAGE SYSTEM

I HEREBY CERTIFY THAT THE MINIMUM OWNERSHIP AREA COMPLIES WITH THE MINIMUM WIDTH AND MINIMUM AREA REQUIREMENTS SPECIFIED IN COMAR 26.04.03.03. SUCH MINIMUM OWNERSHIP SHALL REMAIN EQUAL TO THE MINIMUM WIDTH AND MINIMUM AREA SET FORTH IN COMAR 26.04.03.03A. (2) UNTIL COMMUNITY SEWERAGE AND WATER HAVE BEEN MADE AVAILABLE, NOT MORE THAN ONE PRINCIPAL BUILDING MAY BE ERRECTED OR CONSTRUCTED ON A LOT, OR LOTS, CONTAINED IN THE MINIMUM OWNER-SHIP AREA AS ESTABLISHED BY COMAR 26.04.03.03A (2) UNTIL COMMUNITY SEWERAGE HAS BEEN MADE AVAILABLE.

DATE \_\_\_\_\_ COUNTY HEALTH OFFICER \_\_\_\_\_

## INTERIM FACILITIES PROVISION CERTIFICATE

IN COMPLIANCE WITH COMAR 26.03.01.05.B. (1) AND (2) THE INDIVIDUAL WATER SUPPLY AND/OR SEWER SYSTEM IS HEREBY PERMITTED ON A TEMPORARY INTERIM BASIS. FUTURE LOT OWNERS ARE ADVISED THAT THE INDIVIDUAL SYSTEMS SERVING THE LOT INDICATED ON THIS PLAT ARE OF TEMPORARY INTERIM NATURE AND THAT CONNECTION TO A FUTURE COMMUNITY SYSTEM SHALL BE MADE WITHIN ONE (1) YEAR OR LESS AFTER THE SYSTEM BECOMES AVAILABLE.

DATE \_\_\_\_\_ PERRY C. BRAZIL

## CERTIFICATE OF APPROVAL

FINAL APPROVAL GRANTED WASHINGTON COUNTY PLANNING COMMISSION

DATE \_\_\_\_\_ EXECUTIVE DIRECTOR \_\_\_\_\_

## REAL ESTATE TRANSFER DECLARATION OF INTENT

ACCOUNT # 011539 DISTRICT 07 MAP 52 GRID 14 PARCEL 42  
NAME(S) PERRY C. & MELISSA K. BRAZIL  
LOCATION: 11200 WOLFVILLE ROAD  
CURRENT DEED REFERENCE(S) LIBER 2843 FOLIO 147

I (WE), PERRY C. & MELISSA K. BRAZIL, THE OWNER(S) OF THE REAL PROPERTY LOCATED AT 11200 WOLFVILLE ROAD AND DESCRIBED IN THE ABOVE REFERENCED DEED(S) HEREBY DECLARE MY (OUR) INTENTION TO INVOKE THE REAL ESTATE TRANSFER EXEMPTION FOR THE ABOVE PROPERTY, IN ACCORDANCE WITH THE PROVISIONS OF THE WASHINGTON COUNTY FOREST CONSERVATION PROGRAM AND COMAR 08.19.01.04, FOR A PERIOD OF AT LEAST TEN (10) CONSECUTIVE FULL TAXABLE YEARS FOLLOWING THIS DATE.

THIS DECLARATION GRANTS AN EXEMPTION FOR A REAL ESTATE TRANSFER TO PROVIDE A SECURITY, LEASEHOLD OR OTHER LEGAL OR EQUITABLE INTEREST, INCLUDING A TRANSFER OF TITLE, OF A PORTION OF A LOT OR PARCEL BASED ON THE WASHINGTON COUNTY FOREST CONSERVATION PROGRAM. IF THE OWNER MAKES APPLICATION FOR AN ACTIVITY REGULATED UNDER THE FOREST CONSERVATION PROGRAM, CLEARS MORE THAN 40,000 SQUARE FEET OF FOREST, OR VIOLATES THE REQUIREMENTS OF A PREVIOUS FOREST CONSERVATION PLAN ON ALL OR PART OF THE PARCEL WITHIN THE TEN (10) YEAR PERIOD, WASHINGTON COUNTY MAY REQUIRE THE OWNER TO MEET THE FOREST CONSERVATION THRESHOLD ESTABLISHED IN THE FOREST CONSERVATION PROGRAM AND COMAR 08.19.03, AND MAY ALSO ASSESS A NONCOMPLIANCE FEE FOR FORESTED AREAS CUT IN VIOLATION OF THIS EXEMPTION.

(WE) DECLARE, UNDER THE PENALTIES OF LAW, THAT THIS DECLARATION, INCLUDING ANY ACCOMPANYING FORMS AND STATEMENTS, HAS BEEN EXAMINED BY ME (US) AND THE INFORMATION CONTAINED HEREIN, TO THE BEST OF MY (OUR) KNOWLEDGE, INFORMATION, AND BELIEF, IS TRUE, CORRECT, AND COMPLETE.

SIGNATURE(S): PERRY C. BRAZIL DATE: \_\_\_\_\_

PRINTED NAME

MELISSA K. BRAZIL DATE: \_\_\_\_\_

PRINTED NAME

LOT 1  
DELBERT RHODERICK  
PLAT NO. 8337-8340

LOT 2  
DELBERT RHODERICK  
PLAT NO. 8337-8340

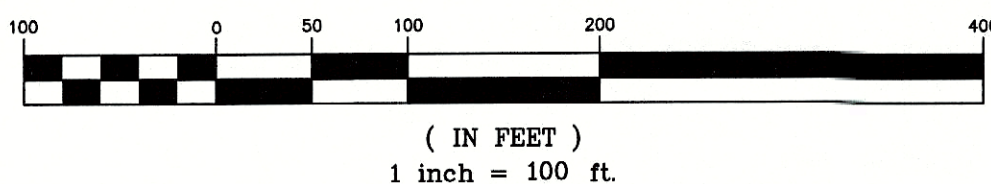
OTHER LANDS OF  
PERRY AND MELISSA BRAZIL  
ALL OF PARCEL 2  
L.2843 F.147

### SOILS

THB. .... THURMONT GRAVELLY LOAM, 3-8% SLOPES, 54% OF THE SITE.  
THC. .... THURMONT GRAVELLY LOAM, 8-15% SLOPES, 15% OF THE SITE.  
TRB. .... TREGO GRAVELLY LOAM 3-8% SLOPES, 31% OF THE SITE.

+0.35 K FACTOR

### GRAPHIC SCALE



### LOT ADDRESS

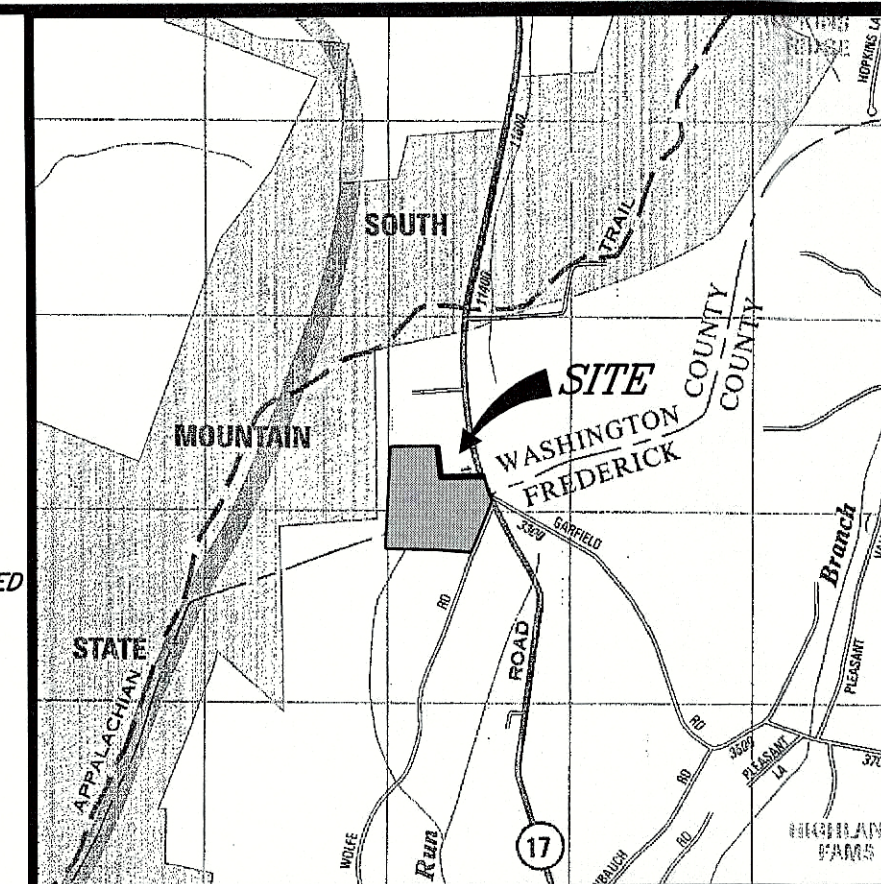
LOT 1.....11200 WOLFVILLE ROAD  
LOT 2.....XXXXX WOLFVILLE ROAD

### AREA TABULATION

GROSS AREA OF LOT 3.....3.00 ACRES  
LESS R/W DEDICATION.....0.17 ACRES  
NET LOT AREA.....2.83 ACRES  
GROSS AREA REMAINDER.....4.47 ACRES  
LESS R/W DEDICATION.....0.08 ACRES  
NET AREA.....4.39 ACRES

### NOTES:

1. BEARINGS AND DISTANCES IN AGREEMENT WITH A RECENT SURVEY BY FOX & ASSOCIATES, INC.
2. ZONING - "RB" - RURAL BUSINESS.
3. AN EIGHT (8) FOOT WIDE EASEMENT FOR UTILITIES AND DRAINAGE IS DEDICATED ALONG THE INTERIOR OF ALL SIDE AND REAR LOT LINES. A TEN (10) FOOT WIDE EASEMENT FOR UTILITIES IS DEDICATED ALONG THE INTERIOR OF ALL FRONT LOT LINES.
4. RESERVED 10,000 SQUARE FOOT WASTE DISPOSAL SYSTEM AREA. NO PHYSICAL STRUCTURES PERMITTED.
5. - indicates REBAR AND CAP UNLESS OTHERWISE NOTED.
6. ACCESSORY STRUCTURES MAY BE CONSTRUCTED IN ACCORDANCE WITH SEC. 4.10 AND SEC. 23.5B OF THE WASHINGTON COUNTY ZONING ORDINANCE. ACCESSORY STRUCTURES SHALL NOT BE PLACED PRIOR TO THE CONSTRUCTION OF THE PRINCIPAL PERMITTED USE.
7. LOY WOLFE ROAD - LOCAL WOLFVILLE ROAD - MAJOR COLLECTOR RIGHT OF WAY PREVIOUSLY DEDICATED BY PLAT NO. 8337-8340.
8. A RIGHT OF WAY TWENTY-FIVE (25) IN WIDTH WHEN MEASURED FROM THE THE CENTER OF LOY WOLFE ROAD AND (45) FEET FOR WOLFVILLE ROAD IS DEDICATED FOR THE PURPOSE OF THE POSSIBLE FUTURE WIDENING OF SAID ROADS.
9. THERE ARE NO WELLS, SEPTIC SYSTEMS, OR HOUSES WITHIN 100' OF SUBDIVISION BOUNDARIES UNLESS SHOWN.
10. ADDRESS IS BASED ON THE ENTRANCE LOCATION. IF DRIVEWAY IS CONSTRUCTED IN A DIFFERENT LOCATION, ADDRESS IS VOID AND THE OWNER MUST REAPPLY TO THE WASHINGTON COUNTY PLANNING COMMISSION FOR A NEW ADDRESS ASSIGNMENT.
11. DRAINAGE AREA IS LESS THAN 100 ACRES.
12. SLOPES DO NOT EXCEED 25%.
13. THERE ARE NO SENSITIVE AREAS, FLOODPLAINS, STEEP SLOPES, OR HABITAT OF THREATENED OR ENDANGERED SPECIES IDENTIFIED BY THE U.S. FISH AND WILDLIFE SERVICE PER 50 CFR 17 AS REQUIRED TO BE SHOWN BY SECTIONS 306, 307, & 314 OF THE SUBDIVISION ORDINANCE AND SECTION 4.21 OF THE ZONING ORDINANCE.
14. MINIMUM BUILDING SETBACKS LINES (MBSL)  
BUILDING SETBACK LINE (BRL)  
FRONT - 40' REAR - 50'  
SIDES - 15' SEPTIC - 10'
15. THE PROPERTY IS WITHIN THE SMITHSBURG/BEAVER CREEK SPECIAL PLANNING AREA.
16. THE PROPERTY IS NOT WITHIN ANY 100 YEAR FLOOD PLAINS AS PER FLOOD MAP 2400700125A, DATED MAY 1, 1978.



### VICINITY MAP

SCALE: 1" = 2000'

TAX MAP 52 PARCEL 42&83 GRID 14  
COPYRIGHT ADC THE MAP PEOPLE PERMIT USE NUMBER 20403134

### OWNER'S DEDICATION

WE DO HEREBY CERTIFY, FOR OURSELVES AND OUR PERSONAL REPRESENTATIVES HEIRS AND ASSIGNS, THAT WE ARE THE LEGAL AND TRUE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED ON THIS PLAT AND THAT WE HEREBY ADOPT THE PLAN OF SUBDIVISION SHOWN HEREON, HEREBY DEDICATE TO PUBLIC USE ALL UTILITY AND DRAINAGE EASEMENT AREAS AND ALL ALLEY, STREET, AND ROAD RIGHTS-OF-WAY DESIGNATED ON THIS PLAT, HEREBY AGREE TO KEEP OPEN ALL SPACES AND RECREATION AREAS SHOWN HEREON AND HEREBY AGREE THAT SAID DEDICATIONS SHALL NOT IMPOSE ANY RESPONSIBILITY ON THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY REGARDING THE SUBJECTS OF SUCH DEDICATIONS UNTIL LEGAL ACCEPTANCE THEREOF BY SAID BOARD, AND WE HEREBY RESERVE THE FEE SIMPLE TITLE TO THE LAND UNDERLYING SAID EASEMENTS, RIGHTS-OF-WAY, OPEN SPACES AND RECREATION AREAS, AND WITH REGARD TO SAID EASEMENTS AND RIGHTS-OF-WAY, HEREBY AGREE TO CONVEY THE SAME TO SAID BOARD, FOR THE USED OF SAID WASHINGTON COUNTY, WITHOUT CONSIDERATION, UPON THE LEGAL ACCEPTANCE OF SAID EASEMENTS AND/OR RIGHTS-OF-WAY BY SAID BOARD.

THIS DEED AND AGREEMENT OF DEDICATION SHALL BE BINDING UPON OUR GRANTEES, ASSIGNS, SUCCESSORS, HEIRS AND PERSONAL REPRESENTATIVES.

EASEMENTS OR RIGHTS-OF-WAY AFFECTING THE PROPERTY INCLUDED IN THIS PLAN OF SUBDIVISION EXCEPT THE FOLLOWING:

AND ALL PARTIES HAVING AN INTEREST THEREIN HAVE HEREUNTO AFFIXED THEIR SIGNATURES INDICATING THEIR ASSENT TO THIS PLAN OF SUBDIVISION.

WE DO HEREBY ASSENT TO THIS PLAN OF SUBDIVISION.

WITNESS OUR HANDS AND SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

WITNESS PERRY C. BRAZIL

WITNESS MELISSA K. BRAZIL

### SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT; THAT IT IS A SUB-DIVISION OF ALL OF PARCEL 1 OF THE LANDS CONVEYED BY DELBERT M. RHODERICK, JR. TO PERRY C. AND MELISSA K. BRAZIL BY DEED DATED OCTOBER 28, 2005 AND IS RECORDED AT LIBER 2843, FOLIO 147 AMONG THE LAND RECORDS OF WASHINGTON COUNTY, MARYLAND.

DATE \_\_\_\_\_ MD. REG. No. 10812 R.P.L.S.

### PRELIMINARY/FINAL PLAT

LOTS 1 & 2  
LANDS OF

PERRY C. & MELISSA K. BRAZIL

SITUATED ALONG WOLFVILLE ROAD  
WASHINGTON COUNTY, MARYLAND

COUNTY FILE NO. S-10-

OWNER/DEVELOPER  
PERRY C. & MELISSA K. BRAZIL  
11200 WOLFVILLE ROAD  
SMITHSBURG, MD. 21783

DRAWN BY: RET DATE: 1/4/10  
CHECKED BY: R.E.T. DATE: 1/4/10  
SCALE: 1"=100'

FOX & ASSOCIATES, INC.  
ENGINEERS • SURVEYORS • PLANNERS  
981 MT. AETNA ROAD  
HAGERSTOWN, MARYLAND 21740  
PHONE: (301)733-8503  
FAX: (301)733-1853

82 WORMAN'S MILL CT. STE. 'G'  
FREDERICK, MARYLAND 21701  
PHONE: (301)895-0880  
FAX: (301)293-8009

DISTRICT 07  
TAX MAP No. 52  
DWG. No. C-2777





DIVISION OF  
PLAN REVIEW & PERMITTING

# MEMORANDUM

TO: Washington County Planning Commission

FROM: Tim Lung, Director/Zoning Administrator

DATE: October 24, 2018

COPY:

SUBJECT: Neil Auto Body, request for waiver of connection to public water & sewer service

Staff is currently reviewing a minor site plan (SP-18-021) for a proposed expansion of an existing auto body shop located along the north side of Salem Ave (MD Rt58) west of I-81 and Terps Blvd. The site plan involves a 4,600 sq ft addition to the existing business. The property is zoning HI-Highway interchange and is currently served by an on-site well and individual septic system.

Section 19.9 (i) of the Zoning Ordinance states that, "All new development in the Highway Interchange District shall be served by public water and sewer facilities approved by the Washington County Health Department."


1. The Planning Commission may waive this requirement after consultation and advice from the Health Department.
2. Prior to a decision to grant or not grant a waiver of this requirement, the Planning Commission shall consider the following: (i-ix)

The applicant's consultant has provided a response to items i thru ix as listed in the Ordinance.

See attachment.

Staff has no object to the requested waiver conditioned upon addressing Health Dept conditions.

Memo To: Tim Lung, Director of Plan Review & Permitting

From: Ed Schreiber, FSA 

Date: October 22, 2018

Re: Neill Auto Body, SP-18-021

In accordance with Section 19.9 (i) of the Washington County Zoning Ordinance we hereby request a waiver of the requirement of to provide public water & sewer on this site which is in the HI zoning district. Below are items to be considered by the Planning Commission and our **responses in bold** to each. We would like to make our case at the next Planning Commission meeting.

- i. The need to protect the environmental resources from potential pollution from failing septic systems.  
**There is no change in the use or proposed building addition that would affect the existing system as it is. The existing system has been serviced on a regular basis and functioning properly.**
- ii. The availability and proximity of existing public water and sewer facilities.  
**There are public facilities within 200 feet of the site however homes have been constructed in the path of any possible connection. An indirect route across other properties would create the need to construct over 350 feet of sewer lateral with a grinder pump.**
- iii. The status of any available plans for utility extensions in the future that may serve this area.  
**None that are known of.**
- iv. The existence and operation of private, on-site health facilities in the vicinity.  
**We are the only lot left in the County and can't get to the City sewer system and there is no planned expansion of the existing collection system that runs in front subject property. If required to utilize public water this property would also be required to annex into the City.**
- v. Recommendations of the Washington County Health Department.  
**Favorable based on the field meetings and discussions with all parties involved. We are awaiting a formal response from the Health Department which will be provided to Department Staff when complete.**
- vi. The adopted Washington County Water & Sewerage Plan.  
**We believe the W-1, S-1 designation was a mistake however the County Water & Plan does allow septic systems on a limited basis as conditioned by item viii below. Both well and septic are existing.**
- vii. Recommendations of the potential service provider.  
**If required to utilize public water the City would require the property be annexed into the City. The City Sewer Department does not take issue with what is being proposed.**
- viii. Any grant of a waiver to allow the use of a private, on-site well or septic system is conditional upon the agreement to abandon the private system and connect to the public utility when it becomes available.

**The applicant agrees with this condition with the understanding that the public utility (sewer) would be made available when the utility runs along the frontage of his property on the NW side of paving for Cearfoss Pike.**

- ix. When the Planning Commission has determined that a waiver from the required use of public water and sewer facilities is appropriate, the minimum lot size shall be the result of the application of the minimum lot size, setback, and yard requirements specified in Section 19.7 and 19.8. Lot dimensions shall also conform to any applicable minimum requirements affecting lot size, width, or separations imposed by the Washington County Health Department. **The development proposal is not changing the size or shape of the existing property.**





# WASHINGTON COUNTY HEALTH DEPARTMENT

1302 Pennsylvania Avenue • Hagerstown, MD 21742

[washcohealth.org](http://washcohealth.org)

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October 25, 2018

Washington County Planning Commission  
100 West Washington Street  
Hagerstown, MD 21740

RE: Neil Auto Body (SP-18-021), Request for  
Waiver of Connection to Public Water &  
Sewer Service

Dear Commission Members:

Pending acceptance of the proposed on-site evaluation, the Washington County Health Department does not object to a waiver of the Zoning Ordinance's requirement that the new development shown on this plan be served with public water and sewer facilities is granted only as an interim measure. The waiver would be specific to this plan only and would not prohibit the owner from connecting to public water or sewer in the future or prohibit the health department or a service providing agency from requiring connection to public water or sewer when available or upon review of any plans for additional development or use.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl E. Stoner", is written over a faint, larger version of the same signature.

Earl E. Stoner, MPH  
Health Officer

HEALTH OFFICER

SCALE: 1" = 2,000'

APPROVAL:	
WASHINGTON COUNTY DIVISION OF PLAN REVIEW & PERMITTING	
SIGNATURE	DATE

DISTURBED AREA QUANTITY

THE TOTAL AREA TO BE DISTURBED SHOWN ON THESE PLANS HAS BEEN DETERMINED TO BE APPROXIMATELY	4.900	SF	0.1	AC.	AND THE TOTAL AMOUNT OF EXCAVATION AND FILL AS SHOWN ON THESE PLANS HAS BEEN COMPUTED TO BE APPROXIMATELY
	0	CU.	YDS.	OF EXCAVATION AND APPROXIMATELY	
	0	CU.	YDS.	OF FILL.	

**UTILITY NOTIFICATION**

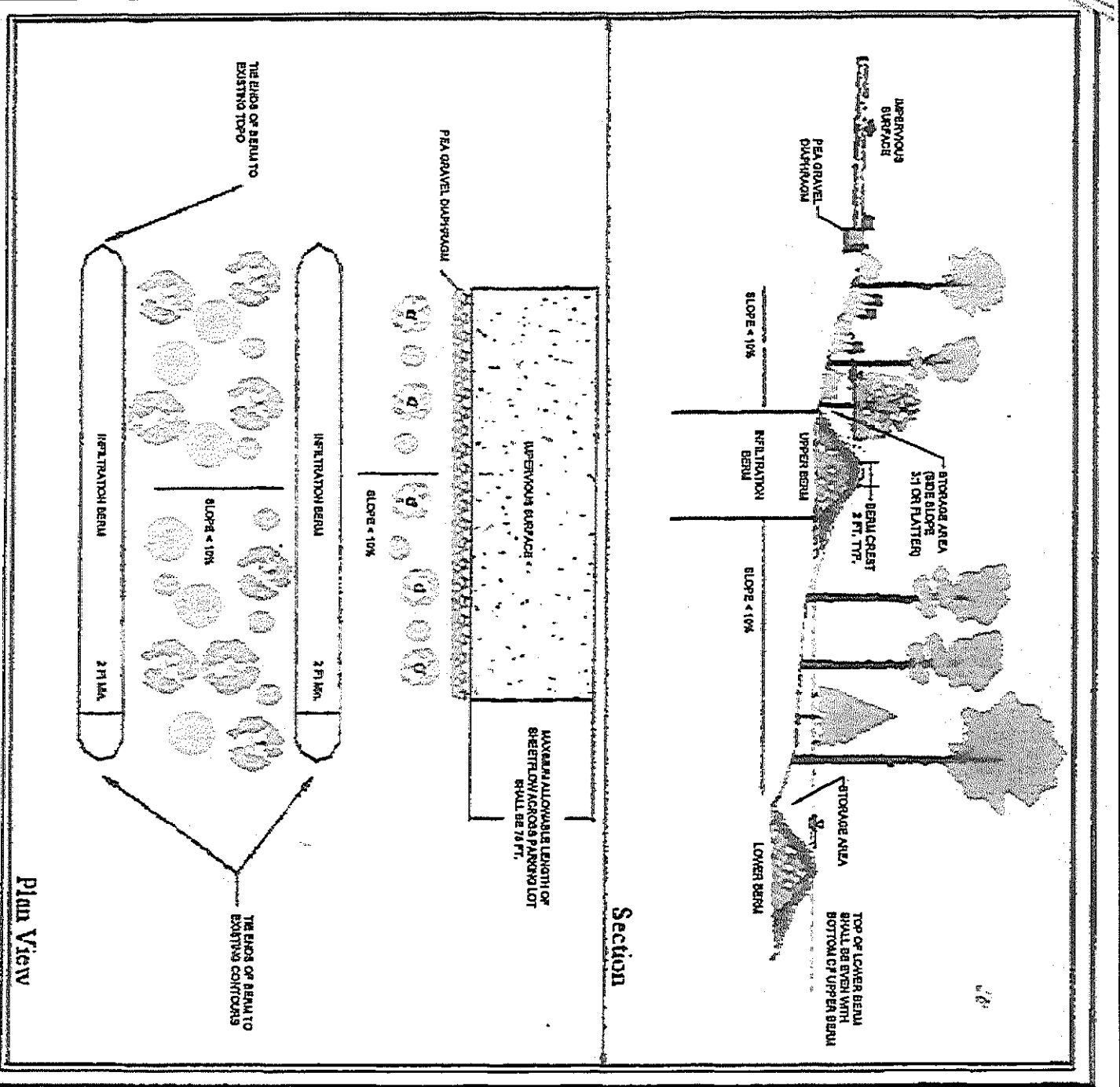
The Soil Conservation District makes no representation as to the existence or nonexistence of any utilities at the construction site. Shown on these construction drawings are those utilities which have been identified. It is the responsibility of the landowners or operators and contractors to assure themselves that no hazard exists or damage will occur to utilities. It is suggested that Miss Utility be contacted at:

Phone No. 1-800-267-7777

SOILS TYPE	PERCENTAGE	ACREAGE	K-FACTOR
Hab	100%	1.00 Ac.	0.37

**NOTES:**

1. INSTALL BERM ALONG CONTOUR AT CONSTANT ELEVATION.
2. MINIMUM BERM CHEST WIDTH IS 2 FEET.
3. PROVIDE CONCAVE SHAPE AT UP-GRADIENT TOE OF BERM.
4. BERM TO BE 6 INCHES OF COMPACTED TOPSOIL OVER AGGREGATE.
5. BERM SURFACE TO BE SEEDED AND MULCHED.
6. BERM SIDE SLOPED 3:1 OR FLATTER.



1. Any damage to advertising posted roads, utilities, etc. resulting from construction will be repaired by the contractor.
2. No structures or materials shall be placed on public streets, sidewalks, or other public areas without the approval of the City Engineer.
3. FSA, Inc. assumes no liability for the location of any above ground and below ground utilities. Existing utilities are shown from the best available information. Contractor to lead very careful search and depth at all above and below ground utilities prior to construction.
4. If any utility is located during the project, it must be protected and maintained throughout the project. Any changes incurred due to the contractor's operation shall be reported immediately at the contractor's expense. Contractor to use caution in areas where low hanging wires are noted.
5. All utilities shall be covered by a minimum of 1'0" of A-19 utility pipe shall be obtained by a minimum of 2'0" or if unmarked if required by the City Engineer.
6. The contractor shall be aware that in the event of discrepancy between actual and figured dimensions shown on the plan, the figured dimensions shall govern.
7. All shall be distinctly understood that labels to mention specifically any work which would naturally be required to complete the project shall not be construed as a contract.
8. The contractor shall conduct a thorough investigation of existing conditions before commencing work on an earth survey completed and field verified by FSA (Contract accuracy is to plus or minus one half the contour interval).
9. A variance has been granted by the Washington County Board of Zoning Appeals on May 7, 2018, APN# 0-012 from a minimum and pad of 25 ft.
10. The contractor shall obtain all permits and approvals from the appropriate agencies before beginning construction.
11. All proposed work shall conform to Washington County Engineering Department standards and specifications.
12. All proposed work shall conform to Washington County Engineering Department standards and specifications.
13. No permanent structures (fences, walls, site equipment, retaining walls) shall be permitted within any fire station delineation sheet shown or detailed on the final plat of subdivision.
14. The contractor shall maintain the status of the 100 year flood plain per FEMA Flood Insurance Rate Map Community Panel #240404C0360, dated August 2, 2017.

EXISTING		PROPOSED	
	PROPERTY LINE CORNER		PERMANENT EASEMENT
	CENTERLINE		CENTERLINE
	TREE LINE		TREE LINE
	EDGE OF PAVEMENT		EDGE OF PAVEMENT
	CONCRETE CURB		CONCRETE CURB
	FENCE LINE		FENCE LINE
	SPOT ELEVATION		SPOT ELEVATION
	SANITARY SEWER LINE		SANITARY SEWER LINE
	GAS LINE		GAS LINE
	STORM DRAIN LINE		STORM DRAIN LINE
	ROOF DRAIN PIPE		ROOF DRAIN PIPE
	WATER VALVE		WATER VALVE
	HYDRANT OR REDUCER BEND		HYDRANT OR REDUCER BEND
	OVERHEAD ELECTRIC LINE		OVERHEAD ELECTRIC LINE
	RAILROAD TRACKS		RAILROAD TRACKS
	BUILDING HOUSE GARAGE		BUILDING HOUSE GARAGE
	SANITARY SEWER MANHOLE		SANITARY SEWER MANHOLE
	UTILITY POLE		UTILITY POLE
	HANDICAP PARKING		HANDICAP PARKING
	POLE LIGHT		POLE LIGHT
	SPOT ELEVATION		SPOT ELEVATION
	DOUBLE WATER METER		DOUBLE WATER METER
	DOUBLE SANITARY CLEANOUT		DOUBLE SANITARY CLEANOUT

P1. POINT OF INTERSECTION

P2. POINT OF CHANGING

P3. POINT OF TANGENCY

SHEET #

SCALE

DATE

P.O.I.

B.C.

T.C.

POINT LINE

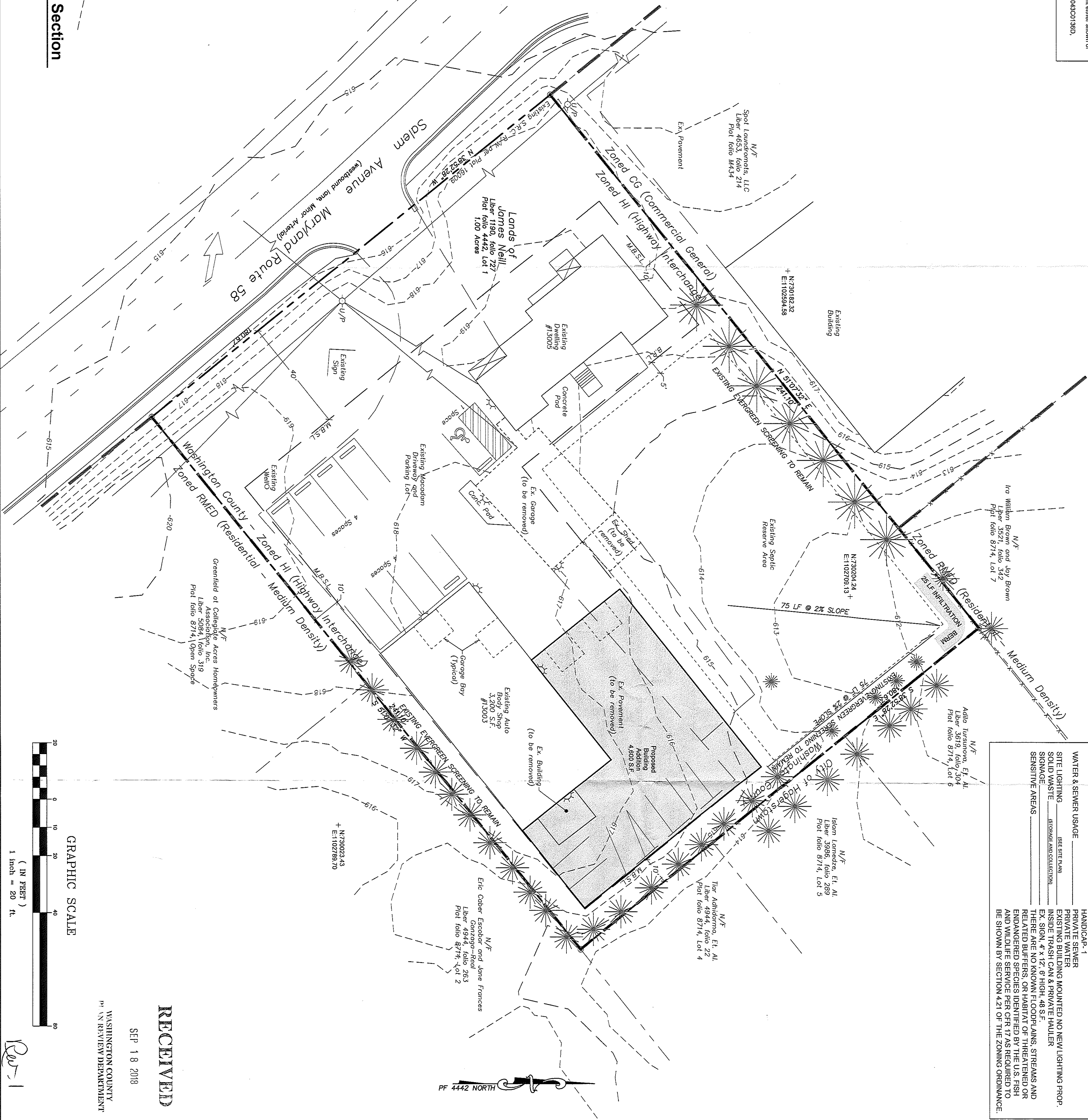
SECTION OF CURB

TOP OF CURB

DETAIL REFERENCE

DOUBLE WATER METER

DOUBLE SANITARY CLEANOUT



TAX MAP	37-343
ELECTION DISTRICT	13
ZONING	HI - HIGHWAY INTERCHANGE
SETBACKS	FRONT - 40' REAR - 10' SIDE - 10'
MAX. BUILDING HEIGHT	75'
FUNCTIONAL DESCRIPTION	RESIDENTIAL/AUTO BODY SHOP
NUMBER OF EMPLOYEES	1
HOURS OF OPERATION	8AM - 6PM, 6 DAYS A WEEK
PERMITTED TO BE OPENED TWICE PER WEEK	1200 AC.
PARCEL AREA	4,600 S.F.
PROPOSED BUILDING AREA	207'
PROPOSED BUILDING HEIGHT	0.66 AC. - 48'
IMPERVIOUS AREA	9.5 SPACES
TOTAL PARKING REQUIRED	10 SPACES
TOTAL PARKING PROVIDED	REGULAR - 8 HANDICAP - 1
WATER & SEWER USAGE	PRIVATE SEWER
SITE LIGHTING	EXISTING LIGHTING MOUNTED ON NEW LIGHTING PROP
SOLID WASTE	RECYCLING AND COLLECTION
NOISE	INSIDE TRAFFIC CAN & PRIVATE TRAILER
SENSITIVE AREAS	EX. SIGN, 4' X 12', 8' HIGH, 48 S.F. RELATED TO SENSITIVE AREAS IDENTIFIED BY THE U.S. FISH AND WILDLIFE SERVICE PER CFR 17.45 AS REQUIRED TO BE SHOWN BY SECTION 4.21 OF THE ZONING ORDINANCE

CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS  
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740  
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225  
101 NORTH HANOVER STREET, CARLISLE, PENNSYLVANIA 17013  
(301) 791-3650 (301) 416-7478 [www.fsa-md.com](http://www.fsa-md.com) (717) 597-1007 (717) 701-8111

SITUATE ALONG THE NORTHERN SIDE OF  
SALEM AVENUE MARYLAND ROUTE 58  
WEST OF INTERSTATE 81  
WASHINGTON COUNTY, MARYLAND

CLIENT:  
JAMES NEILL  
13003 SALEM AVE. HAGERSTOWN, MD 21740  
(301)-790-7944

DATE	06-01-2018
DATE	
ELECTION DIST.	13