



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**3/19/09**  
**Item # 10**

March 13, 2009

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Mark Pfefferle, Acting Chief *mp*  
Green/Environmental Planning Division

**FROM:** Katherine Nelson for the Planning Department *kn*  
(301) 495-4622

**SUBJECT:** Proposed Amendments: Montgomery County Comprehensive Water Supply and  
Sewerage Systems Plan—2009-1 (Council Group) and 2009-2 (Administrative Cases)

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**RECOMMENDATION (Council Cases)**

**Approve as recommended by the County Executive for each of the following cases:**

**WSSCR 06A-CLO-04 Bryanshire Corp.**

**Retain W-5 and S-6**

**WSSCR 08A-CLO-04 Maloo & Arihant Briggs Chaney LLC**

**Approve S-3 conditioned on the approval of a cluster development that is environmentally superior to a conventional subdivision built on septic systems.**

**WSSCR 08A-OLN-03 Joseph & Shirley Wang**

**Approve W-3 for single residential hookup only**

**Deny S-1 for WSSCR 08A-TRV-01 Reynaldo & Zorayda Lee-Llacer**

**Retain S-6**

**RECOMMENDATION (Administrative Cases)**

**Approve as recommended by the County Executive for each of the following cases:**

**WSSCR 09A-PAX-02 Ahedi & Idara-e-Jaferia Inc.**

**Approve S-1 for single residential hookup only**

**WSSCR 09A-URC-02 WM Rickman Construction Co, LLC**

**Approve S-3**

**WSSCR 09A-PAX-03 Kelly and Salvation Camp Ministries, Inc.**

**Remove from the Administrative Group**

**Add to the next Council Group of category changes**

**Transmit Planning Board Comments to the County Council and County Executive for final action.**

## **DISCUSSION**

This staff memorandum contains recommendations for category changes requiring County Council action and category changes that go through the administrative process. The Department of Environmental Protection staff has submitted the attached packages of category change requests on behalf of the County Executive.

The recommendations as listed above are in accordance with the stated goals of the associated area master plans. The staff report only highlights those cases where staff recommendations differ from the Executive's recommendation, or where significant comments should be brought to the attention of the Board. There is only one case within this group wherein the Planning staff recommendation differs from the County Executive:

### **WSSCR 08A-TRV-01 Reynaldo & Zorayda Lee-Llacer (pages 21-40)**

The applicant is requesting sewer service for two houses on this 2.6 acre property. One home was built in 1980. The other home pre-existed the subdivision and was the main dwelling for the original farm. A note on the record plat required that the pre-existing home be removed:

Existing house on lot 36 must be removed prior to issuance of building permit for new house on lot 36. Existing well on lot 36 must be property abandoned as per Maryland water resources code.

This requirement was never enforced and the home has since been in use as a second dwelling for extended family members. In 2006 after neighbors complained, the property owner was cited with a zoning violation. In an attempt to remedy the situation the applicant filed a special exception for an existing caregiver dwelling/guest house.

In 2007 rather than deciding on the special exception request, the Board of Appeals directed the applicant to obtain a sewer category change and a plat of correction. A category change request was filed and brought to the Planning Board on February 21, 2008. The Board felt that such a complex issue, involving the Piney Branch Restricted Access Sewer, the Piney Branch Special Protection Area, a zoning violation and opposition by the surrounding community, should go through the Special Exception (assuming a Planning Board hearing) prior to receiving a sewer category change. The Council ultimately deferred action on the request until such time as the Board of Appeals acted on the special exception.

On June 18, 2008 the Board of Appeals approved a special exception to convert the pre-existing home to an accessory apartment. The approval was conditioned on both receiving public sewer service to the property and obtaining a plat of correction via minor subdivision deleting the requirement that original house be removed. This special exception was never brought before the Planning Board. Rather the Planning staff memo (dated 10/21/06 and recommending denial), that was part of the original special exception record was included in the Board of Appeals' consideration for the special exception. The applicant now seeks to adhere to the conditions of the special exception by obtaining a sewer category change.

This property is outside the Potomac master plan sewer service envelope, is within the Piney Branch Special Protection Area, and is excluded from the peripheral service policy. Under the Piney Branch restricted sewer access policy, properties that abut and predate an existing sewer main are eligible for a single hookup only. The policy was established to:

“limit the growth of public sewer-dependent development within and near this environmentally-sensitive watershed, particularly within the areas of the watershed zoned for one- and two-acre development. “

Although subdivision is not being sought on the Lee-Llacer property, Vision Division staff find this application for sewer service inconsistent with the Potomac master plan and recommend of denial of the category change for this use.

## **CONCLUSION**

There are no other significant differences between agency recommendations in this package. A public hearing on the administrative cases will take place on **April 28, 2009** at the Department of Environmental Protection in Rockville. The T&E Committee of the County Council will discuss the Council cases on March 30, 2009.

KN:ss  
Attachment



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)**MEMORANDUM: SPECIAL EXCEPTION**

**DATE:** October 21, 2006

**TO:** Montgomery County Board of Appeals

**VIA:** Rose Krasnow, Chief, Development Review Division

**FROM:** Dan Janousek, Zoning Analyst, Development Review Division  
(301) 495-4564

**RE:** Special Exception No. S-2674

**Subject:** Zorayda & Reynaldo Lee-Llacer, 12009 Piney Meeting House Road,  
Potomac, MD 20854

**ZONE:** RE-2

**MASTER PLAN:** Potomac Subregion Master Plan

**FILING DATE:** April 13, 2006

**PUBLIC HEARING:** October 23, 2006

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**RECOMMENDATION****1. DENIAL****I. PROJECT SUMMARY**

The applicant requests approval for an accessory apartment special exception in a small single-family detached dwelling on the rear of their lot. The applicant does not propose any modifications to the dwelling. In this case the applicant maintains that they will be in compliance with Section 59-G-2.00 (a), which permits an accessory apartment to be located in an already existing separate accessory structure, through a conversion process. However, the subject property has limitations recorded by a note on the record plat, that stymies the intended use the structure for an accessory apartment. The note is a requirement that was never enforced to have the subject single-family detached dwelling removed at the time of the construction of the main dwelling. The subject single-family detached dwelling was never removed, but the main dwelling was constructed in 1980, and then the applicant purchased the property. The applicant then sued the builder after they bought the property because the applicant became aware of the note on the record plat that requires the small single-family detached dwelling on the to be removed at the time of construction of the main dwelling. They claimed that the builder did not make them aware of the note when they purchased in 1980.

Staff asked the applicant to provide court documents, but none were provided. The applicant's attorney called staff, but never provided the paperwork. The opposition called staff on October 20, and informed staff that the civil court had compensated the owner for the small single-family detached dwelling. The note on the record plat is a subdivision requirement that was never met. The applicant is further complicated by the fact that a 'guesthouse', as defined by the Zoning Ordinance, is a "*A detached dwelling that is intended, arranged or designed for occupancy by transient, nonpaying visitors.*" The applicant's family is now living in the single-family detached dwelling on the property, but they cannot call the dwelling a 'guesthouse' because it has full kitchen facilities. Staff has made no determination whether the structure should be demolished or not, in order to enforce the record plat, which also required the septic tank to be removed. It would be costly for the applicant to remove the note on the record plat, but this might be their only option in order to move forward with this application.

## II. DESCRIPTION

### 1. Subject Property

The subject property is known as Lot 36, Block A, Piney Glen Farms. The lot is slightly irregular in shape and is located north of the intersection of Piney Glen Lane and Glen Road. This lot has approximately 185 feet of frontage along Piney Meetinghouse Road. The lot is 110,642 sq ft., or 5.24 acres in size.

**Figure 1. Aerial Photograph**



The proposed accessory apartment sits at the rear of the property. The subject structure contains two bedrooms and one full bath, a kitchen, living room, dining room and utility areas.

## **2. General Neighborhood Area**

The general neighborhood area most affected by the application includes the adjacent properties and other nearby properties along Piney Meeting House Road. The general neighborhood is comprised of single-family detached homes on large lots surrounded by wooded areas. Properties within or close to this general neighborhood area are most likely to be affected by the subject proposal.

Staff research indicates there are no other properties in the general neighborhood area with approved special exceptions.

**Figure 2. Neighborhood Area**



### **III. INTENDED USE AND APPROVAL PROCEDURES**

#### **1. Elements of the Proposal**

The applicants have owned the property for 26 years and they propose to maintain the residential style of the property. The apartment would house family members. There would be no monetary compensation for the apartment.

On a lot of more than one acre, Section 59-G-2.00(a) permits an accessory apartment to be located in an already existing separate accessory structure through a conversion process if the separate accessory structure existed on the same lot as the main dwelling on December 2, 1983. The owner made no mention of the record plat note at the time of application.

According to the applicant, the subject separate accessory structure is on the same lot as the main dwelling and has existed since 1946. The accessory apartment will be 1,050 square-feet in size, and it includes all of the amenities of a standard apartment. Automobile access is provided currently via a driveway along the north side of the lot that leads from Piney Meeting House Road to the accessory apartment (see Figure 1).

#### **2. Additional Review Requirements**

The petitioner must comply with the requirements of DHCA's preliminary housing inspection, which may include limitations to the maximum occupancy of the building.

### **IV. COMMUNITY ISSUES**

There have been no concerns raised by neighborhood residents.

### **V. ANALYSIS**

#### **1. Master Plan**

The subject property is subject to review under guidelines of the Potomac Subregion Master Plan (October 2001). Staff consulted with Community Based Planning staff regarding the subject petition. The proposal does not conflict with the goals and recommendations of the Master Plan. The subject petition will not interfere with the Master Plan's goals.

#### **2. Development Standards**

The development standards of the zone apply to alterations, renovations and enlargements of existing one-family dwellings as well as to new construction. There are no alterations proposed in the subject petition that would create non-conformities with the

Zoning Ordinance. The main dwelling was constructed in 1980. The subject property was recorded in March, 1978. The proposal is in compliance with the Zoning Ordinance in terms of the nature, purpose and appropriateness of the use, and the main dwelling is conforming under the applicable RE-2 Zone development standards. The proposal is permitted by the Zone. The following table summarizes the property development standards:

**Table 1. Comparison of Development Standards:**

| Item  | Required by the Zoning Ordinance | Proposed for Approval by the Board of Appeals                         |
|---|----------------------------------|---|
| Sec. 59-C-1.322<br>Lot Area   | 87,120 sq. ft.                   | 110,642 sq. ft.   |
| Minimum Lot Width at Front Building Line  | 150 ft.                          | Approximately 180 ft.   |
| Minimum Lot Width at Street Line  | 25 ft.                           | 185 ft.   |
| Sec. 59-C-1.323<br>Yard Requirements for Main Building:<br>Front-<br>Side-<br>Rear- | 50 ft.<br>17 ft.<br>35 ft.       | Approximately 50 ft.<br>Approximately 20 ft.<br>Approximately 400 ft. |
| Sec. 59-C-1.327<br>Building Height  | 50 ft.                           | 20 ft.  |
| Sec. 59-C-1.328<br>Building Coverage  | 25%                              | Significantly less than 25%   |

\*All measurements from petitioner-supplied survey received at the time application.

Note: Accessory Structures are not part of this petition. The proposed use will take place in an existing guesthouse.

### 3. Transportation

Parking is available for at least two vehicles in front of the proposed accessory apartment. The proposed parking on site will be adequate for the use. Staff finds that the proposed special exception use satisfies the Local Area Transportation Review (LATR) test and will have no adverse effect on area roadway conditions or nearby pedestrian facilities (see analysis of 59-G-1.21 General Conditions).



#### **4. Environmental Analysis**

The petitioner has a Forest Conservation Exemption for Accessory Apartments. No additional environmental analysis is required for this application. Staff determined that there are two working septic tanks on the property, one for the main dwelling and one for the guesthouse. No adverse impacts to the environment have been observed nor should they arise because of this application.

#### **5. Landscape and Lighting**

The proposed accessory apartment and parking facility/driveway entrance is adequately screened from the adjacent lots by vegetation in all directions, including a hedge wall along the property lines. To the rear of the property, extensive plantings of trees and evergreens can be seen in Figure 2. The lighting fixtures currently exist and are residential in appearance and will be located near existing doorways. There are other lights on the property. There is no evidence that these lights have had negative effects on adjacent properties. Staff concludes that residential lighting will not cause any objectionable illumination, glare or spillover effect to the adjacent property, and the light will be partially screened from the adjacent property by evergreens and large trees.

#### **6. Inherent and Non-inherent Effects**

The inherent effects are those associated with the existing residential use, parking, lighting, and traffic generated by the residents of the main dwelling and proposed accessory apartment. These inherent elements are present in the application for the subject proposal. The size and scale of the building should not adversely affect the neighborhood because no changes are proposed to the building that would increase its size or scale. Traffic generated by the small accessory apartment will not adversely affect the neighborhood. Staff finds that the proposed use and parking facility is unlikely to result in any excess noise, traffic disruption, or other environmental impact because the use is consistent with approved residential uses in the neighborhood and the proposed lighting is residential in nature. As in many of these cases, the parking facility has existed for years without any adverse effects on the neighborhood. The lighting and apartment entrance will be partially screened from adjacent property by vegetation. Staff concludes that there are no identified inherent or non-inherent, adverse effects of the proposed use, as specified in Section 59-G-1.2.1, that would warrant denial.

#### **7. Compatibility**

The petitioners intend to maintain the property in a residential manner. The proposed accessory apartment use, in terms of its overall size and impact, is compatible with the character of the surrounding single-family neighborhood uses.

## **8. Compliance with the Montgomery County Zoning Ordinance's General and Specific Special Exception Provisions**

The proposal is compatible with the existing neighborhood in terms of the size, scope, and appropriateness of the use pursuant to Sections 59-G-1.21 and 59-G-2.00 of the Zoning Ordinance. Further, the proposal will not result in an excessive concentration of special exception uses in the area.

### **59-G-1.21 General conditions.**

- (a) *A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

- (1) *Is a permissible special exception in the zone.*

**The proposed accessory apartment is a permitted special exception use in the R-60 zone.**

- (2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

**The proposed use does comply with all of the specific standards and requirements for accessory apartments pursuant to Section 59-G-2.00 of the zoning ordinance. But the note on the record plat may limit the use of the property to the main dwelling.**

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

**The proposal does not conflict with the General Plan for the physical development of the district because the proposal will provide an additional housing option to a mix of housing**

choices in the county without causing an excessive amount of special exceptions in the neighborhood.

The proposed use is in conformance with the development standards of the zone. The property does not conflict with the specific land use and zoning recommendations in the Master Plan.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.*

The use is consistent with the general character of the neighborhood, which includes single-family detached residential uses that generate low levels of traffic and noise. This low level of activity should not be a concern for the neighborhood. The petitioner does not propose alterations to the building.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The general neighborhood area contains residential uses. The proposed accessory apartment use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties, the general neighborhood adjacent to the subject site, or to other properties in the general neighborhood.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The proposed use will take place primarily indoors without producing any objectionable noise or other adverse effects.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

**There are no other special exceptions in the general neighborhood area. The proposed special exception will not result in an excessive concentration of special exception uses in the residential area. The proposal will maintain the residential appearance of the property.**

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

**The existing residence and internal use will not be altered in a way that would adversely affect health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site.**

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

- (i) *If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.*

- (ii) *With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.*

**A preliminary plan is not required for the subject application. The property will be served by adequate water and electricity services and septic tank facilities. The proposed accessory apartment is expected to generate fewer than 30 peak trips during both the morning and evening weekday peak hours; therefore, a traffic study is not needed to satisfy LATR requirements. The minimal traffic generated can be accommodated on the existing neighborhood road network and as proposed, should be safe and adequate.**

- (b) *Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department which approves or licenses the project.*

Noted

- (c) *The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.*

Noted

**Sec. 59-G-2.00. Accessory apartment**

*A special exception may be granted for an accessory apartment on the same lot as an existing one-family detached dwelling, subject to the following standards and requirements:*

- (a) *Dwelling unit requirements:*

- (1) *Only one accessory apartment may be created on the same lot as an existing one-family detached dwelling.*

**One apartment is proposed for an existing Guest House. One main dwelling exists on the lot. However, the note on the record plat limits the use to the main dwelling.**

- (2) *The accessory apartment must have at least one party wall in common with the main dwelling on a lot of one acre (43,560 square feet) or less. On a lot of more than one acre, an accessory apartment may be added to an existing one-family detached dwelling, or may be created through conversion of a separate accessory structure already existing on the same lot as the main dwelling on December 2, 1983. An accessory apartment may be permitted in a separate accessory structure built after December 2, 1983, provided:*

- (i) *The lot is 2 acres or more in size; and*
- (ii) *The apartment will house a caregiver found by the Board to be needed to provide assistance to a senior adult, ill or disabled relative of the owner-occupant.*

**The proposed accessory apartment is going to be created by converting a separate accessory structure that existed on the same lot as the main dwelling on December 2, 1983. However,**

**the note on the record plat limits residential use to the main dwelling.**

- (3) *An addition or extension to a main dwelling may be approved in order to add additional floor space to accommodate an accessory apartment. All development standards of the zone apply. An addition to an accessory structure is not permitted.*

**Additions or extensions to the main dwelling are not proposed as part of this petition.**

- (4) *The one-family detached dwelling in which the accessory apartment is to be created or to which it is to be added must be at least 5 years old on the date of application for special exception.*

**This clause refers to the Main Dwelling, which was first occupied and constructed in 1980. The structure where the accessory apartment will be located was constructed in 1946. However, the note on the record requires that the proposed accessory apartment structure be demolished at the time that the main dwelling was constructed.**

- (5) *The accessory apartment must not be located on a lot:*
- (i) *That is occupied by a family of unrelated persons; or*
  - (ii) *Where any of the following otherwise allowed residential uses exist: guest room for rent, boardinghouse or a registered living unit; or*
  - (iii) *That contains any rental residential use other than an accessory dwelling in an agricultural zone.*

**The petitioner's family members are the sole inhabitants of the main dwelling and family members will be the inhabitants of the accessory apartment.**

- (6) *Any separate entrance must be located so that the appearance of a single-family dwelling is preserved.*

**The existing separate entrance to the accessory apartment has the appearance of a single-family dwelling and it will not change the appearance of the single-family dwelling.**

- (7) *All external modifications and improvements must be compatible with the existing dwelling and surrounding properties.*

**There are no proposed external modifications contained in the petition.**

- (8) *The accessory apartment must have the same street address (house number) as the main dwelling.*

**The accessory apartment will have the same street address as the main dwelling.**

- (9) *The accessory apartment must be subordinate to the main dwelling. The floor area of the accessory apartment is limited to a maximum of 1,200 square feet. The 1,200 square feet limitation does not apply to an accessory apartment located in a separate existing accessory structure located on the same lot as the main dwelling. The maximum floor area for a separate existing accessory structure must be less than 50 percent of the total floor area of the main dwelling, or 2,500 square feet, whichever is less.*

**The proposed accessory apartment is 1,050 square feet in size and it will be less than 50 percent of the total floor area of the main dwelling, which is over 2,500 sq. ft.**

**(b) Ownership requirements:**

- (1) *The owner of the lot on which the accessory apartment is located must occupy one of the dwelling units, except for bona fide temporary absences not exceeding 6 months in any 12-month period. The period of temporary absence may be increased by the Board upon a finding that a hardship would otherwise result.*

**The owner of the lot will occupy the main dwelling unit.**

- (2) *Except in the case of an accessory apartment that exists at the time of the acquisition of the home by the applicant, one year must have elapsed between the date when the owner purchased the property (settlement date) and the date when the special exception becomes effective. The Board may waive this requirement upon a finding that a hardship would otherwise result.*

**The petitioners have owned the property since 1980.**

- (3) *Under no circumstances is the owner allowed to receive compensation for the occupancy of more than one dwelling unit.*

**The petitioners do not intend to receive compensation because the apartment will contain family members.**

- (4) *For purposes of this section, "owner" means an individual who owns, or whose parent or child owns, a substantial equitable interest in the property as determined by the board.*

**The petitioners are the owners of the property.**

- (5) *The restrictions under (1) and (3) above do not apply if the accessory apartment is occupied by a senior adult who has been a continuous tenant of the accessory apartment for at least 20 years.*

**Not Applicable**

(c) **Land use requirements:**

- (1) *The minimum lot size is 6,000 square feet, except where the minimum lot size of the zone is larger. A property consisting of more than one record lot, including a fraction of a lot, is to be treated as one lot if it contains a single one-family detached dwelling lawfully constructed prior to October, 1967. All other development standards of the zone must also apply, including setbacks, lot width, lot coverage, building height and the standards for an accessory building in the case of conversion of such a building.*

**The proposal meets the minimum lot size requirement and development standards of the Zoning Ordinance. The lot is 110,642 sq ft., or 5.24-acres in size. The note on the record plat applies to the subject structure and thereby limits the residential use on the property to the main dwelling. But for this note, the applicant meets all the requirements.**

- (2) *An accessory apartment must not, when considered in combination with other existing or approved accessory apartments, result in an excessive concentration of similar uses, including other special exception uses, in the general neighborhood of the proposed use (see also Section 59-G-1.21(a)(7) which concerns excessive concentration of special exceptions in general).*

**Currently, there are no other approved special exception uses in the general neighborhood. The proposed accessory apartment will not result in an excessive concentration of similar uses in the defined general neighborhood.**

- (3) *Adequate parking must be provided. There must be a minimum of 2 off-street parking spaces, unless the Board makes either of the following findings:*

(i) *More spaces are required to supplement on-street parking; or*



- (ii) Adequate on-street parking permits fewer off-street spaces. Off-street parking spaces may be in a driveway but otherwise must not be located in the yard area between the front of the house and the street right-of-way line.

**Adequate parking for at least two (2) vehicles is provided on a site that can hold more vehicles if needed. Staff does not feel that more than two (2) parking spaces are required for the accessory apartment.**

**Section 59-E-2.83 Parking and Loading Facilities for Special Exception Uses in Residential Zones**

*This Section applies to an off-street parking facility for a special exception use that is located in a one-family residential zone if 3 or more parking spaces are provided. These standards are intended to mitigate potential adverse visual, noise, and environmental impacts of parking facilities on adjacent properties. In addition, these requirements improve the compatibility and attractiveness of parking facilities, promote pedestrian-friendly streets, and provide relief from un-shaded paved areas.*

- (a) *Location. Parking facilities must be located to maintain a residential character and a pedestrian-friendly street orientation.*

**The existing parking will hold at least two (2) vehicles, and it will be maintained in a residential character. The property will hold more than two vehicles. All of the parking is located at an adequate distance from the nearest intersection. It is residential in appearance, and it will not interfere with pedestrian access and movements along Piney Meetinghouse Road.**

- (b) *Setbacks. Each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone.*

**The applicant proposes more than 50 feet of setback from the front, side and rear yard lines of the property for the parking area. This setback distance is sufficient.**

- (c) *Screening. Each parking and loading facility, including driveway and dumpster areas, must be effectively screened from all abutting lots. Screening must be provided in a manner that is compatible with the area's residential character. Screening must be at least 6 feet high, and must consist of evergreen landscaping, a solid wood fence, a masonry wall, a berm, or a combination of them. Along all street right-of-ways screening of any parking and loading facility must be at least 3 feet high and consist of evergreen landscaping, a solid wood fence, or masonry wall.*

**There is vegetation in the petitioner's yard that will serve to screen light and noise that would emanate from facility. This existing parking facility will not cause adverse impacts on the adjacent properties.**

- (d) *Shading of paved areas. Trees must be planted and maintained throughout the parking facility to assure that at least 30 percent of the paved area, including driveways, are shaded. Shading must be calculated by using the area of the tree crown at 15 years after the parking facility is built.*

**Trees shade the parking facility.**

- (e) *Compliance Requirement. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before May 6, 2002, the entire off-street parking facility must be brought into conformance with this Section.*

**No enlargement of the facility is proposed.**

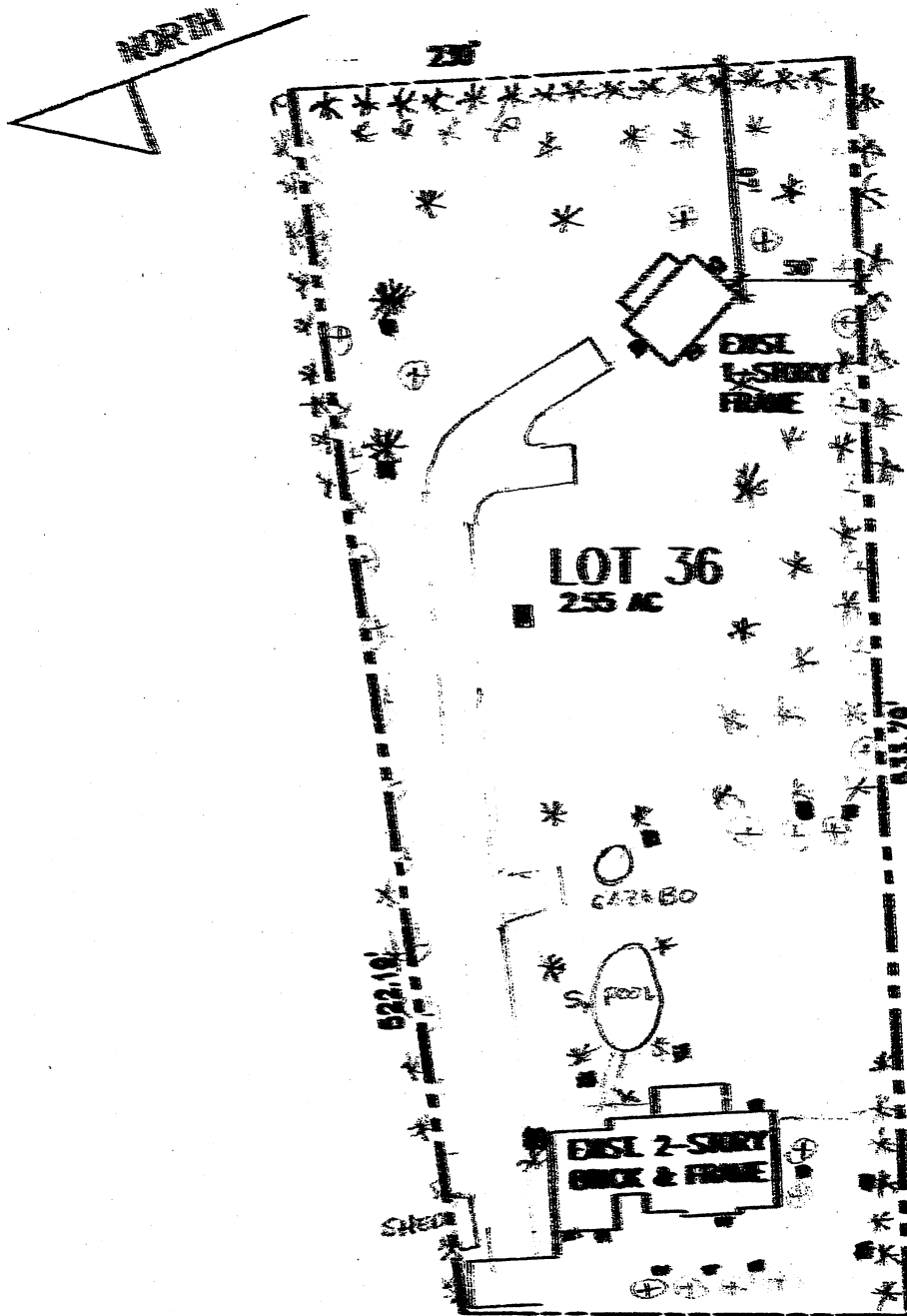
## **9. Conclusion**

Staff would recommend approval for the subject proposal because the proposed accessory apartment will not be in conflict with the Potomac Subregion Master Plan and would not be detrimental to the surrounding neighborhood. However, the note on the record plat limits the residential use to the main dwelling.

### **Attachments:**

1. Site Plan, Landscape & Lighting Plan, Floor Plan
2. Forest Conservation Exception

Cc: file

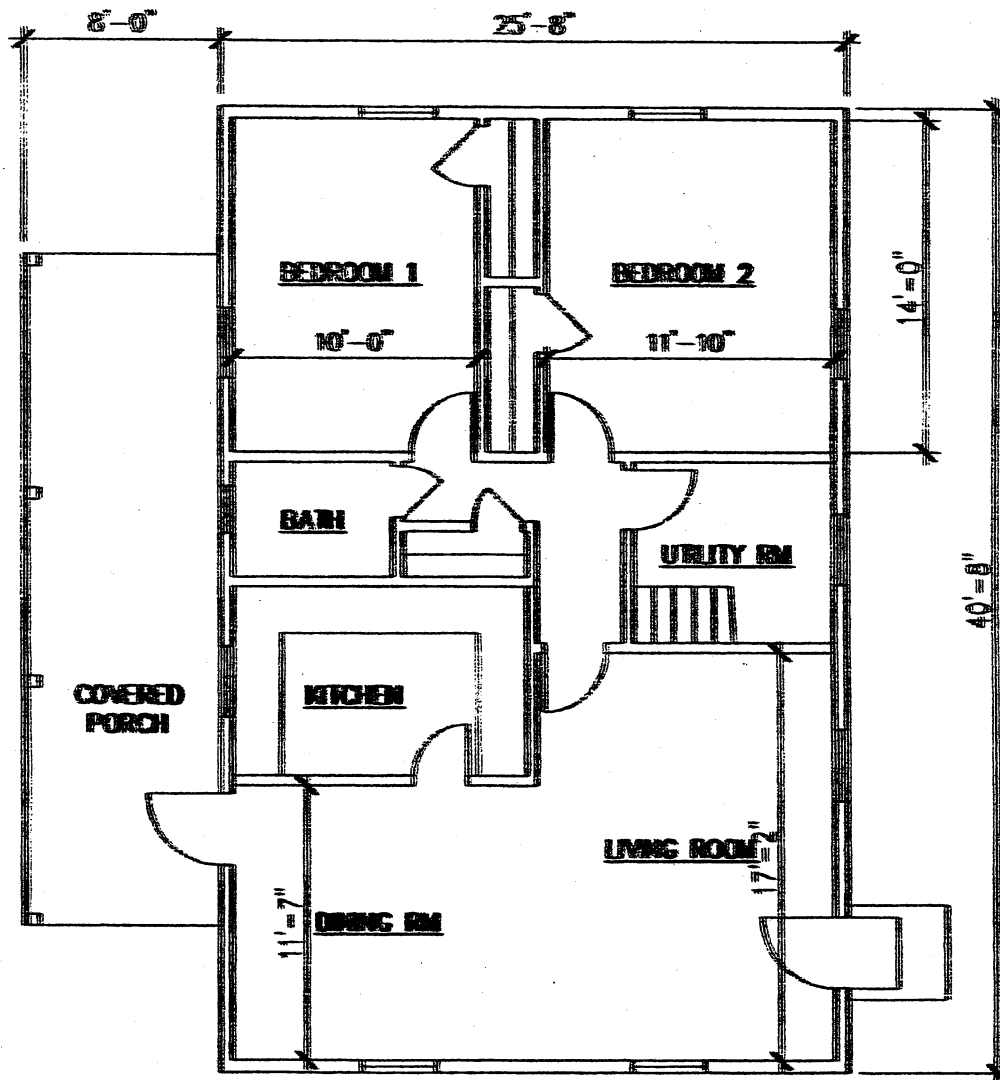


PINEY MEETING HOUSE ROAD

SITE PLAN  
 LOT 36 PINEY GLEN FARMS  
 MONTGOMERY COUNTY, MD  
 SCALE: 1" = 80'

- \* TREES
- ⊕ BUSH
- LIGHT

70



Δ ACCESSORY APARTMENT  
 FLOOR PLAN  
 1-STORY FRAME  
 SCALE: 1/8" = 1'-0"

**Environmental Planning Division**

Effective 2/03

Montgomery County Park &amp; Planning Dept. ? 8787 Georgia Ave., Silver Spring, MD 20910 ? 301-495-4542, fax: 301-495-1303

**APPLICATION****Forest Conservation Exemption for Accessory Apartments  
Special Exceptions****PROPERTY LOCATION**Street Address: 12009 Piney Meetinghouse Road, Potomac, Md 20854Subdivision: \_\_\_\_\_ Parcel(s) # \_\_\_\_\_ Lot #(s): 36 Block(s): \_\_\_\_\_**Applicant (Owner or Contract Purchaser):**

ZORAYDA LEE-LIACER  
Name  
12009 Piney Meetinghouse Road  
Street Address  
Potomac Md 20854  
City State Zip Code  
(301) 299-8035 (301) 299-8044  
Phone No. Fax No.

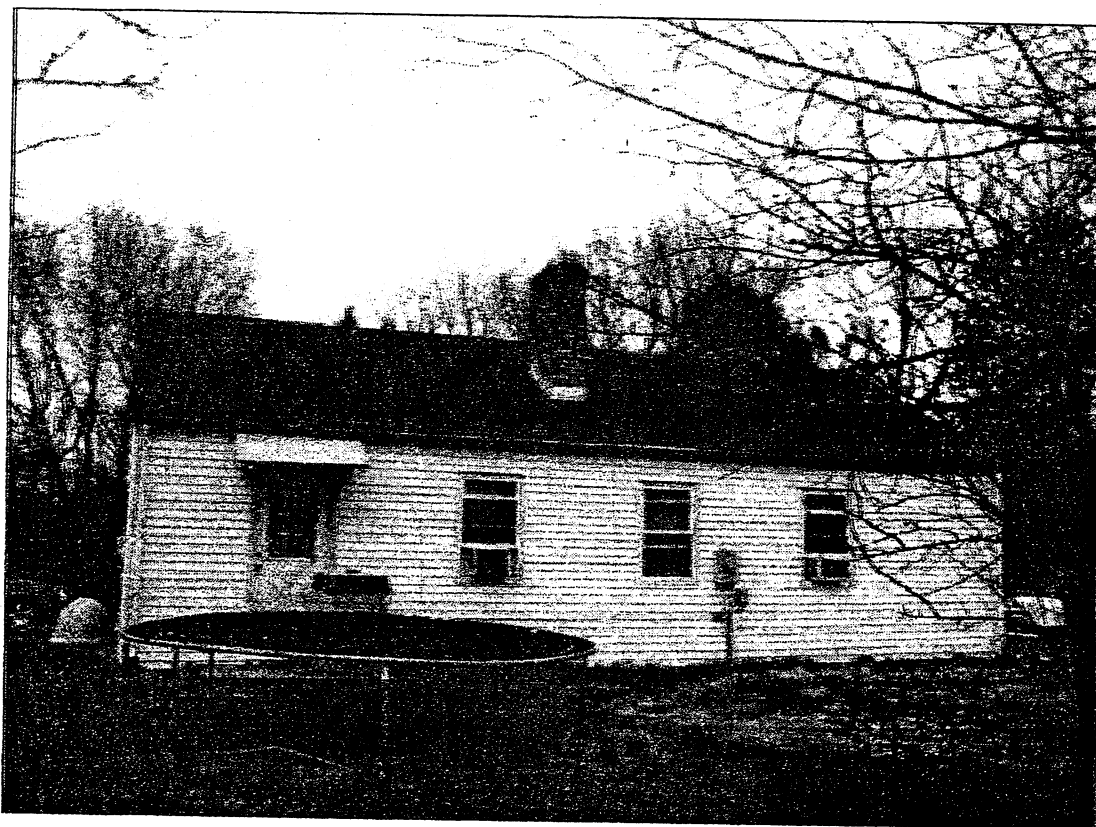
TOTAL AREA OF PROPERTY: 2 acres 23522 sq. ft.**APPLICANT ATTESTS THAT THE FOLLOWING STATEMENTS APPLY TO THE SUBJECT APPLICATION FOR A SPECIAL EXCEPTION ACCESSORY APARTMENT:**

- The application applies to an existing structure.
- The proposed use will not involve activities on the exterior of the structure such as, building additions, parking additions, grading, or land disturbance.
- No forest or individual trees will be disturbed.

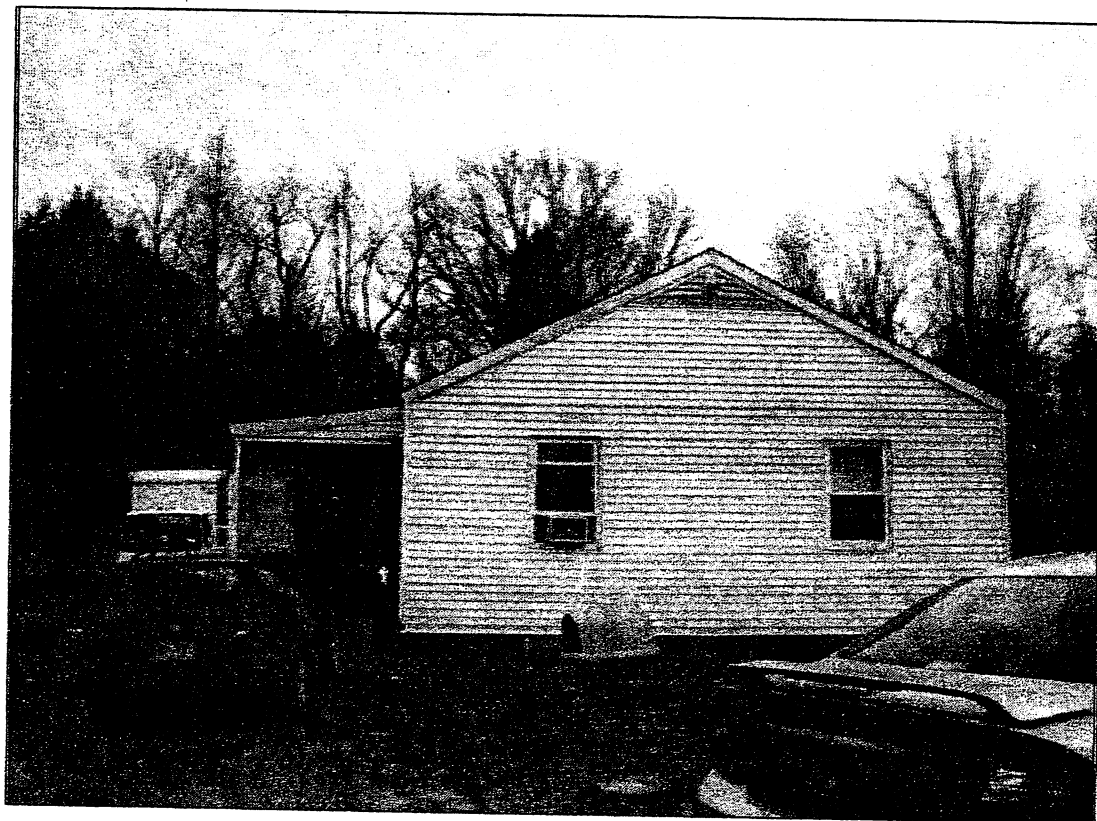
**Signature of applicant (Owner or Contract Purchaser):**

*Zorayda Lee-Liacer*  
Signature

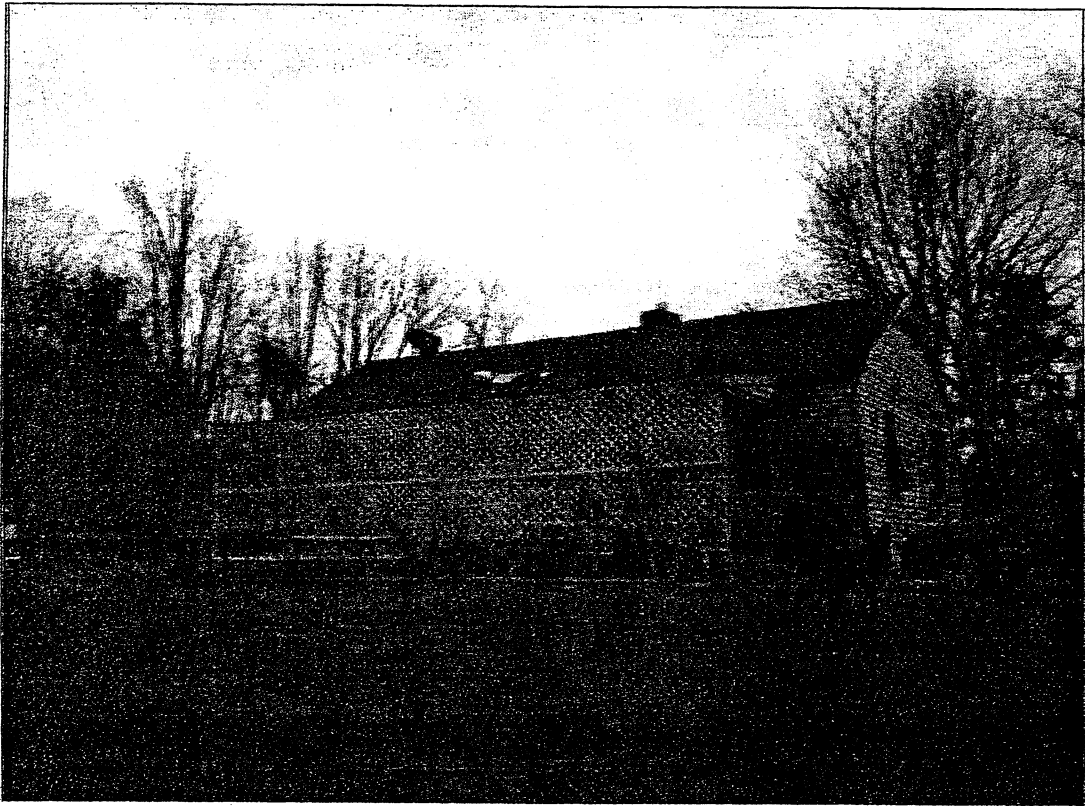
4-10-06  
Date



RIGHT SIDE ELEVATION



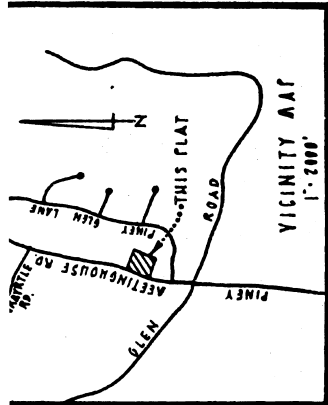
FRONT ELEVATION



LEFT SIDE ELEVATION



REAR ELEVATION



# OWNER'S DECLARATION PLAT NO. 11865 SURVEYOR'S CERTIFICATE

I, DAVID T. TAIT, OWNER OF THE PROPERTY AS SHOWN AND DESCRIBED HEREIN, HEREBY ADVERTISE THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION UNLESS SPECIFIED THE STREET AREA SHOWN HEREON TO PUBLIC USE AND GRANT SLOPE EASEMENTS AS SHOWN HEREON, THAT SAID EASEMENTS SHALL BE EXTINGUISHED WHEN ALL PUBLIC IMPROVEMENTS HAVE BEEN COMPLETED AND ACCEPTED FOR MAINTENANCE BY MONTGOMERY COUNTY, MARYLAND OR ANY OTHER APPROPRIATE PUBLIC AGENCY.

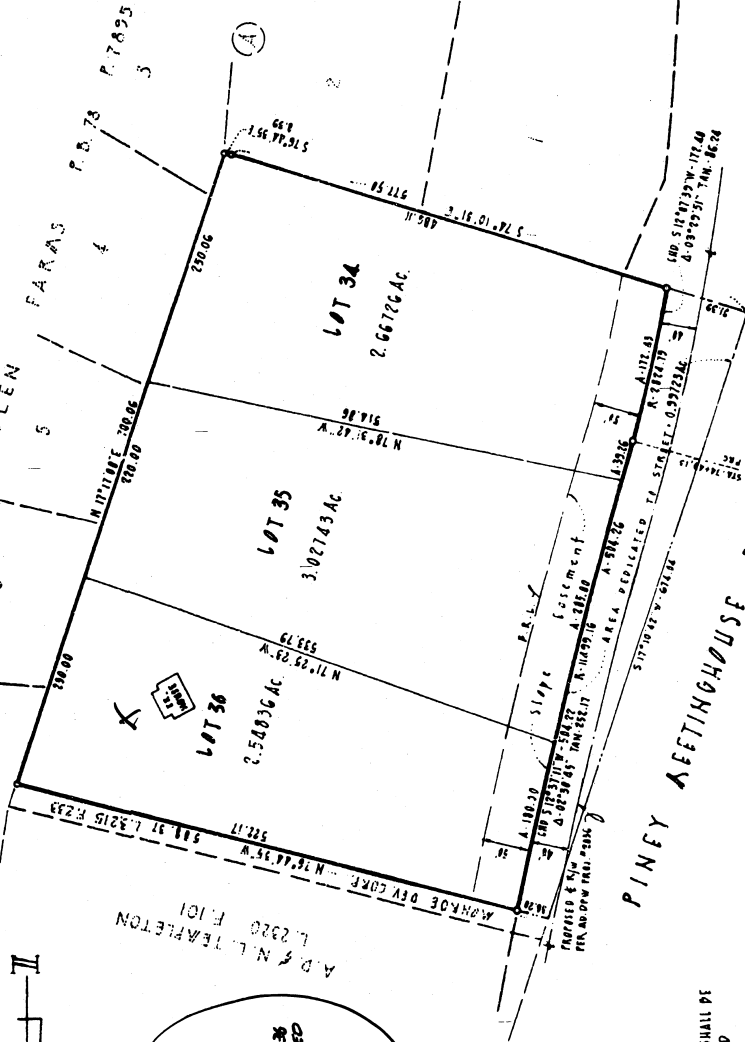
THERE ARE NO LEASES, LICENS, JOINTS, ACTIONS AT LAW OR TRUSTS AFFECTING THE PROPERTY INCLUDED IN THIS PLAN EXCEPT A CERTAIN DEED OF TRUST OF WHICH THOSE WITH AN INTEREST THEREIN HAVE INDICATED THEIR ASSENT BELOW

WE HEREBY ASSENT TO THIS PLAN OF SUBDIVISION

*David T. Tait* 2/19/78  
*James A. Bennett* 2/19/78  
*Barbara D. Bennett* 2/19/78  
 DATE DATE DATE  
 DAVID T. TAIT  
 JAMES A. BENNETT  
 BARBARA D. BENNETT

*March 1, 1978*  
 JAMES A. BENNETT, JR. PLS.  
 AD 04214

FLAT NORTH



**NOTE:**  
 PUBLIC WATER ONLY.  
 EXISTING HOUSE IN LOT 36  
 MUST BE REMOVED PRIOR  
 TO ISSUANCE OF BUILDING  
 PERMIT FOR NEW HOUSE IN  
 LOT 36. EXISTING WELL IN LOT 36  
 MUST BE PROPERTY ABANDONED  
 AS PER MARYLAND WATER  
 RESOURCES CODE.

**NOTE:**  
 ALL HOUSES AND SEPTIC SYSTEMS SHALL BE  
 CONSTRUCTED AS SHOWN ON APPROVED  
 PRELIMINARY PLAN

FOR INDIVIDUAL SEPTIC SYSTEMS ONLY  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 MONTGOMERY COUNTY, MARYLAND  
 APPROVED *March 2, 1978*  
*James L. Latham*  
 DIRECTOR

LOTS 34, 35, 36

TOTAL AREA OF PLAT - 2.25028 AC.

DIVISION OF LAND RECORDS