

Item 14 - Correspondence

From: [Carol Rae Hansen, Ph.D.](#)
To: [MCP-Chair](#)
Subject: WRITTEN COMMENTS RE July 29, 2021 Planning Board Hearing Notice, Freeman Property, Admin. SubDivision: 620190140
Date: Wednesday, July 28, 2021 11:56:26 AM
Attachments: [May 15, 2020 Conditional Use Amendment request for hearing inclusion..docx](#)
[Request to testify June 22, 2020 without header.docx](#)
[ADDITIONAL TESTIMONY for June 22, 2020 Conditional Use Permit To the Hearing Examiner.docx](#)
[Testimony for July 20, 2020 Deadline.docx](#)
[Fwd Robeson approves my direct contact with DRC CU 16-15, Jennifer Freeman Request for minor modification of equestrian facility Additional Questions.pdf](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

ATTN.: Montgomery County Planning Board Chair, Casey Anderson
mcp-chair@mncppc-mc.org

Dear All,

I currently have 49 documents on my computer regarding the Freeman Property CU and Subdivision, **of which 14 appear to be my testimony, amendments to that testimony, and conversations with the Planning Board on difficulties associated with submitting those items**, related to challenges described by your Techs as software incompatibility, software updating, Covid-related concerns, etc. I have **attached five illustrative examples which SHOULD HAVE BEEN ENTERED INTO THE RECORD, INCLUDING THE ONE REFERENCED BY THE PREVIOUS CHAIR AS HAVING ARRIVED 47 MINUTES LATE**, which she did not enter into the record. You will note that it was sent twice, during the 11:00 p.m. hour, within the deadline, but came back as a Mailer Daemon, and was resent, again, at 12:00 p.m.

My testimony will rely on these previously submitted voluminous items of testimony, which the previous Chair alleged were insufficiently specific and without data to support. As you will see from these examples, **I included a tremendous amount of data, which was left out of the official record.** Should anyone wish to view my computer listings of the 49 documents covering the period January 2020 through July 2020 alone, I would be happy to sit down with them, and show them.

SUBJECT of my July 29 TESTIMONY:

1. **Forest Clearance Exceeds Agreement** reached with Ms. Freeman, including her testimony in two instances before the Planning Board
2. **Requirements Specified by Component Bodies of Government (see Attachments), which appear not to be reflected on latest version of Maps**
3. **Rustic Roads Requirements NOT MET:** including protection of Hedgerow Habitat, the issue of ownership of shoulders and up to centerline of road, drainage, Freeman septic system drains, etc., and map incongruities
4. **Freeman Needs to Appear for a Modification of her CU due to change in acreage on Lot 1, confusion over total acreage, and questions of prescriptive easement**
5. **Minor Linkages between the items above.**

FOR FULL EXPLANATION OF THE ISSUES RAISED ABOVE, PLEASE CONSULT THE ATTACHMENTS BELOW, WHICH FORM MY TESTIMONY SUBMISSION FOR THE JULY 29, 2021 HEARING.

Carol Rae Hansen, Ph.D.

Director, Equine Therapy Associates

P.O. Box 59253, Potomac, MD 20859

(301) 651-6622

www.equinetherapyassociates.com

CONTACT: director@equinetherapyassociates.com

Dear all,

May 15, 2020

It does not appear that the Office of Zoning and Administrative Hearings is aware of our extensive comments, since Ms. Tesfaye does NOT reference them, which I provided to the County on January 13, two weeks in advance of Ms. Tesfaye's January 29 submission of comments from staff recommending approval, albeit with minor suggested changes, of her proposed "Minor" Amendment to her Conditional Use for Horses, Case No. CU 16-15. Note that we several and individual neighbors are on record as requesting a formal hearing on June 22, 2020 in this matter. Please see this ATTACHED WRITTEN COMMENT on behalf of Sugarland Forest Citizens in Association, sent to the Development Applications and Regulatory Coordination Division of the Maryland-National Capital Park and Planning Commission (M-NCPPC) on January 13 (ATTACHED), which should have been taken into consideration by Ms. Tesfaye BEFORE her January 29, 2020 submission of comments recommending approval on the proposed Freeman Minor/Major Amendment to her Conditional Use for Horses, Case No. CU 16-15. You will note that Ms. Tesfaye SHOULD have been aware of these comments, and should have taken them into account, since the files are linked in your data bases, and because Lynn Roveson Hannon emailed her on at 1:00 p.m. on January 23 to specifically ask her to consider the linkage between the two cases, specifically telling Ms. Tesfaye that "Ms. Freeman seeks to subdivide the property into two lots. Please advise whether, in your professional opinion, the request falls within the definition of a minor amendment to the existing conditional use." It does not currently appear, in review of her comments, that she has done this at all.

Why are these substantive comments provided to the County on both applications relevant, and why should they be carefully considered in AMENDING HER AMENDMENT REQUEST OR DENYING IT OUTRIGHT?

(1) Ms. Freeman has, in written form, already linked her request for a "Minor Amendment" to her Conditional Use for Horses to her Subdivision Request in her January 21, 2020 OZAH II. Amendment Request (page 2). As noted above, Lynn Roveson Hannon did the same on January 23 in her message to Ms. Tesfaye. Although Ms. Freeman denies any planned "changes to either property," *despite investing heavily in applying, hiring major land use, subdivision, and site plan attorneys and corporate subdivision planners*, she appears to disingenuously state that she "will keep ownership of both lots 'with no planned changes' to either property for the 'foreseeable future,'" with a "plan to only keep two horses." However, as seen by *copious documents, maps, and legally drafted applications already submitted by Ms. Freeman*, along with substantial investment in attorneys, site planners, draftsmen, printing, revisions of Site Plans, amended applications, et al, the above strongly suggests that she clearly has, instead, a financial motivation to request the Amendment, most likely related to the Subdivision Request, and perhaps to a decision to SELL BOTH PROPERTIES as she is clearly, and significantly, prohibited by FIVE County-applied strictures for any other possible horse-related financial gains on her property: See

Item 3. of the September 23, 2016 Conditional Use CU 16-15 Administrative Order) stating that "no more than four horses may be kept on the property," and

Item 4. she is prohibited from boarding horses for financial gain on her property, as "all horses on site must belong to the owner(s) of the property,"

Item 5. that "the Applicant must not rent out any of the horses in the equestrian facility," (although (a) *there is nowhere a prohibition to doing any of the above or below with regard to ponies, which she has had, and may still have. This is an important exception that might allow her to do any or all of the prohibited items discussed herein.* (b) *Similarly, there is nowhere a provision against teaching lessons on horses or ponies, since that, under customary equine law, only applies to supervised or unsupervised trail rides, which have been done for more than 60 years by various owners of Sugarland Farm, immediately across Sugarland Road from her [not by the current owners, the Grigorians, to my knowledge], through trails on her property to the rear, and from thence*

along Casey Property land, through to the Buddhist Temple, through farmland, and thence to the C and O Canal all the way to Ohio, a lovely ride!

to, The correct usage in law is "equine," which covers horses, ponies [those 14.2 hands high, large enough to carry an adult easily], mules, donkeys, and zebras),

Item 6. that "No Equestrian events may be held on the property,"

Item 7. "No identification sign may be placed on the property." is not allowed to rent outas properties with County-approved Special Exceptions or Conditional Use approvals for horses have, almost without exception in the Ag Reserve, are listed by Realtors more easily, sell faster, and for a larger net gain. Indeed, despite the disclaimers noted above, Ms. Freeman notified the County that she was "requesting the approved Conditional Use to 'accomodate' a 'minor' subdivision of the property into two lots," as further explained as above.

(2) Once approved, via the Special Exception (older, but still existing imprimatur under which one can keep horses) or Conditional Use process, the **stated request remains as approved, unless amended by the County, i.e. in this case, a request for four horses.** This, on its face, plain language, appears to easily allow two horses to be domiciled on the new lot to be sold, and two horses on Ms. Freeman's property. Indeed, I am sure that you are aware that despite extreme disagreement by the Montgomery County Department of Agriculture and the State Department of Agriculture, which both argued in multiple hearings when stocking limits proposed by developers were approved in the Ag Zone and on all R (rural) zoning categories, including this R-200 property, at one equine per 1/2 acre, vs. the land and calorie viability standards that the Agricultural Agents found the data to support, or two acres of pasture per horse with FULL FEED provided daily for each animal,

(2) : Much of that initial commentary on behalf of the community covered issues directly related to the Conditional Use, including water usage, drainage west, north and south from her high property on the east side of Exceptional Sugarland Road (thus potentially compromising neighboring land, animals, water quality and humans), the relocation of her failed septic system to the extreme western side of her property (further exacerbating run-off), greatly threatened stream buffer and roadside tree buffer associated with filtration, hedgerow habitat, intercontinental endangered species flyways [we are between the two major ones on America's East Coast], (as protected under the 1996 Exceptional Rustic Roads legislation protection Sugarland Road, an Exceptional Rustic Road, and the MD State Forestry Laws and regulations as well as the Montgomery County Forestry Law and regulations, including the "Mature Tree Exception," which I helped draft, after Foud El Hibri unsuccessfully attempted to clear-cut two entire forests on his Partnership Road property for a horse polo operation.

Carol Rae Hansen, Ph.D.
Director, Equine Therapy Associates
PATH Certified Registered Instructor
P.O. Box 59253, Potomac, MD 20859
(301) 972-7833
www.equinetherapyassociates.com

Carol Rae Hansen, Ph.D., Community-County Notice Representative
SUGARLAND FOREST CITIZENS IN ASSOCIATION (SFCA)
Please contact the Registrar at 14921 Sugarland Road, Poolesville, MD 20837
Phone (301) 651-6622; Emergencies (301) 972-7833
director@equinetherapyassociates.com

To the Hearing Examiner,

June 18, 2020

Please note that I am speaking as a private citizen and for my husband as well, Andrew Skitt Gilmour, and not as a representative of the Sugarland Forest Citizens in Association, as we have not retained an attorney for this Hearing. Thank you so much for this opportunity to serve as a Party of Record in the June 22, 2020 “Minor Amendment” Modification Request for an existing Conditional Use (CU 16-15) (Horses) by Ms. Jennifer Freeman, under the purview of The Office of Zoning and Administrative Hearings, Montgomery County, MD. Ms. Freeman’s property is located at 14975 Sugarland, on an Exceptional Rustic Road, designated such under the 1996 Functional Master Plan, rural Poolesville, MD 20837, and in a Rural Village (R-200).

Please read this over-arching analysis along with my two previous items of relevant testimony, which I have attached to ensure that they are both part of the official record for the June 22, 2020 CU 16-15 hearing.

SUMMARY OF THE ISSUE HEREIN: This discusses government and legal principles, with recent historic examples on Sugarland Road, as well as very recent policy connundra, with potential and actual court litigation, that the County and State have become embroiled in due to multiple levels of the County and State (and sometimes Federal Government) conducting procedural and regulatory action while other levels and areas of County and State government have made their own, often contradictory, decisions on the same or similar properties, with minimal or apparently no regard to the purview of, and hierarchy of, other parts of local or state government. The result may induce litigation, absorb inordinate amounts of staff and citizenry time, talent and treasure, while prejudicing or delaying adjudication of related petitions, confusing issues of precedence, and/or tainting subsequent Hearing records.

The challenge inherent in your decision on this deceptively simple case of an apparent “Minor Amendment” modifying an existing 2016 Conditional Use permit to keep horses is that *it is NOT a simple case, NOT purely a modification, NOT without profound impact on Ms. Freeman’s already-submitted request to sub-divide her property, and **NOT essential at this time or place in this hearing.** It may over-reach your governmental, regulatory and legal prerogatives, while also significantly complicating the decision-making of at least two other bodies in Montgomery County, the National Capitol Area, and the State of MD, and may induce subsequent litigation.*

THE CASE FOR LEAVING THIS REQUEST “ON THE TABLE”: As I am sure we would all agree, the older, bigger, richer, and more complex is an entity in Government, the greater reach that part of Government tends to extend its regulatory and legal structure, often different to a degree in “Red” or “Blue” states, and with regard to our oldest vs. newest states, as affected by

size of population. *Nevertheless, in a Federal Structure such as the U.S. has, sovereign power is always divided between a central governing authority and the member states of a political union. While that is true, in these older, bigger, richer and more complex states, such as Maryland and in Montgomery County, lines of authority, governance, precedence, responsibility and control become highly muddled, and often in conflict, over time, in any chart of organizational structure and legal structure. That makes cases like this difficult to adjudicate.*

By contrast, Leaving this “Minor Amendment” “On the Table,” without ratifying the staff recommendation to approve this “Minor Amendment,” in deference to a future Hearing before the M-NCPPC, regarding Ms. Freeman’s Plan Number 620190140, denies Ms. Freeman nothing financial or tangible (indeed, it leaves her unencumbered regarding adding additional equines, should she so wish to), as she has repeatedly noted that she does “not intend to make any changes in her property” for the “foreseeable future,” nor does it deny her the ability to ultimately market or sell her property. Leaving an ultimate decision on this request for a final disposition, with no time limit imposed, allows it to be taken off the table when the time is ripe for consideration, ultimately benefiting all parties, including the neighbors and Ms. Freeman. Approving the “Minor Amendment,” by contrast, circumscribes the case of ALL of the neighbors if they, and others, continue to contest **Plan Number 620190140, it raises her standing above all others, including adjacent and contiguous property owners, it circumscribes the County and State of MD staff in their concerns with regard to all aspects of the 1996 Functional Master Plan for the Rustic Roads, State Right of Way requirements, and even the flexibility of future owners of the sub-divided property, as to their property use, if Ms. Freeman pre-determines it through her refusal to put the forested areas marked for destruction on her “Minor Amendment” and sub-division plans, as well as all specific requests and declarations provided in her testimony therein.**

Ironically, this Hearing is not about adding additional safeguards for the environment, water quality, neighborhood viewshed, and run-off buffering, as Ms. Freeman attempts to prove by eight addenda submitted as part of finally requesting a Soil Conservation Service Plan for her property, and by her vet stating that her horses are “in good flesh.” *In fact, to approve this “Minor Amendment” is to expand her flexibility on property use, **increase the likelihood that a precedent would be set for approving the Sub-Division request, and potentially adversely affect ALL of her neighbors, even those as yet not immediately affected, who would be affected, if the Site submitted for this “Minor Amendment” is approved**, if Forest destruction occurs, which she refuses to eschew via a formal Forestry Protection Zone, and other safeguards for the environment vitally important **under the most important of the regulations in conflict currently, the 1996 Functional Master Plan for the Rustic Roads. It surely should have primacy with regard to Ms. Freeman’s plans submitted, yet they will not even be participants in this hearing today, on June 22, 2020. As you know, all elements of Functional Master Plans for the County are traditionally accorded primacy, especially in potential conflict with lower-level regulatory and individual zoning concerns, as they are an enduring legacy for ALL the citizens of the entire County, not merely the non-urgent desire of one individual for a hypothetical eventuality that she admits she cannot foresee!***

THE PRIMACY OF PRESERVING THE AG RESERVE INTACT: In 1992, when we moved back to MD, and attempted to purchase a small horse property, we were forced to rent the farm that we ultimately purchased, because the owners, the Currys, were in conflict with the County, in a case very similar to this one. There was absolutely NO QUESTION of letting a purchase go through, until the prime issue was resolved. We had to board the horses, quite expensively, across the road, in the property currently owned by the Gregorians, until the lawsuit between the County and the Currys was adjudicated. Whenever I conferred with the County officials, I was always told that a Master Plan process was underway, which I ultimately became involved with in developing a tenth mile by tenth mile full description submitted to the MNCPPC on all 12 roads around Poolesville, including all the historic alignments, the places of interest, the understory and forested areas, in short, all elements required for the County planners to choose roads to designate as “Exceptional Rustic” or “Rustic.” Subsequently, when developers tried a myriad of ways to reduce the effect of this legislation by a “1,000” Exceptions, a “1,000” subdivisions, and a “1,000” Innovative Means, as one developer/farmer put it, I spent at least three to seven days a month, on average, defending the integrity of the Ag Reserve. It was understood that Viewshed Legislation needed to be added to buttress the Rustic Roads legislation. In addition, historic properties had to be enrolled in the National and State Historic Registers. All in all, a package of about a dozen regulations and laws were added, including restrictions on stocking requirements for horses. **We are still plugging the gaps in cases like this, as far too many people are uneducated, even in County and State government, regarding the value of the world’s most comprehensive farmland conservation package of legislation created anywhere!**

WE ARE STILL FIGHTING BATTLES, AND CASES LIKE THIS CAN UNDERMINE THEM, and Muddy the Presumption Issue of Primacy in levels of Government: *Currently there are two cases on the Exceptional Rustic Road section of Sugarland that clearly demonstrate that multiple parts of the County can ignore the 1996 Functional Master Plan, even amidst its current expansion and strengthening effort, by other parts of the County staff, who are, apparently without clear thought, allowing all-night egregious and continuous dumping in great excess of the post 9:00 p.m. and pre-7/8:00 a.m. overnight Class 1a Noise restrictions in Rural Villages, with NO mandatory enforcement, as required by law, as well as two other cases of illegal dumping that may be used to create artificial hills to enable sand mound perking in areas that haven’t EVER perked! In addition, the County’s Pesticide Law is being contested in Rockville, Gaithersburg, Silver Spring and Germantown, which have ALL contended that the County is not preeminent in their jurisdictions on this matter. If they succeed, as with the dumpers and noise abridgers keeping their neighbors up all night with trucks going by every three minutes at double the decible limit, then the Presumption doctrine of a higher level authority “filling the space” doesn’t apply here. If that happens, the already challenging state of State and sub-State or County law in Montgomery is going to get a great deal worse!*

Carol Rae Hansen, Ph.D.

14921 Sugarland Road, Poolesville, MD 20837

Carol Rae Hansen, Ph.D., Community-County Notice Representative
SUGARLAND FOREST CITIZENS IN ASSOCIATION (SFCA)
Please contact the Registrar at 14921 Sugarland Road, Poolesville, MD 20837
Phone (301) 651-6622; Emergencies (301) 972-7833
director@equinetherapyassociates.com

To the Hearing Examiner, ADDITIONAL TESTIMONY for June 22, 2020 CU 16-15

Please note that I am speaking as a private citizen and for my husband as well, Andrew Skitt Gilmour, and not as a representative of the Sugarland Forest Citizens in Association, as we have not retained an attorney for this Hearing. Thank you so much for this opportunity to serve as a Party of Record in the June 22, 2020 “Minor Amendment” Modification Request for an existing Conditional Use (CU 16-15) (Horses) by Ms. Jennifer Freeman, under the purview of The Office of Zoning and Administrative Hearings, Montgomery County, MD. Ms. Freeman’s property is located at 14975 Sugarland, on an Exceptional Rustic Road, designated such under the 1996 Functional Master Plan, rural Poolesville, MD 20837, and in a Rural Village (R-200).

Please read this over-arching analysis along with my two previous items of relevant testimony, which I have attached to ensure that they are both part of the official record for the June 22, 2020 CU 16-15 hearing.

SUMMARY OF THE ISSUE HEREIN: This discusses government and legal principles, with recent historic examples on Sugarland Road, as well as very recent policy conundra, with potential and actual court litigation, that the County and State have become embroiled in due to multiple levels of the County and State (and sometimes Federal Government) conducting procedural and regulatory action while other levels and areas of County and State government have made their own, often contradictory, decisions on the same or similar properties, with minimal or apparently no regard to the purview of, and hierarchy of, other parts of local or state government. The result may induce litigation, absorb inordinate amounts of staff and citizenry time, talent and treasure, while prejudicing or delaying adjudication of related petitions, confusing issues of precedence, and/or tainting subsequent Hearing records.

The challenge inherent in your decision on this deceptively simple case of an apparent “Minor Amendment” modifying an existing 2016 Conditional Use permit to keep horses is that *it is NOT a simple case, NOT purely a modification, NOT without profound impact on Ms. Freeman’s already-submitted request to sub-divide her property, and **NOT essential at this time or place in this hearing.** It may over-reach your governmental, regulatory and legal prerogatives, while also significantly complicating the decision-making of at least two other bodies in Montgomery County, the National Capitol Area, and the State of MD, and may induce subsequent litigation.*

THE CASE FOR LEAVING THIS REQUEST “ON THE TABLE”: As I am sure we would all agree, the older, bigger, richer, and more complex is an entity in Government, the greater reach that part of Government tends to extend its regulatory and legal structure, often different to a degree in “Red” or “Blue” states, and with regard to our oldest vs. newest states, as affected by

size of population. *Nevertheless, in a Federal Structure such as the U.S. has, sovereign power is always divided between a central governing authority and the member states of a political union. While that is true, in these older, bigger, richer and more complex states, such as Maryland and in Montgomery County, lines of authority, governance, precedence, responsibility and control become highly muddled, and often in conflict, over time, in any chart of organizational structure and legal structure. That makes cases like this difficult to adjudicate.*

By contrast, Leaving this “Minor Amendment” “On the Table,” without ratifying the staff recommendation to approve this “Minor Amendment,” in deference to a future Hearing before the M-NCPPC, regarding Ms. Freeman’s Plan Number 620190140, denies Ms. Freeman nothing financial or tangible (indeed, it leaves her unencumbered regarding adding additional equines, should she so wish to), as she has repeatedly noted that she does “not intend to make any changes in her property” for the “foreseeable future,” nor does it deny her the ability to ultimately market or sell her property. Leaving an ultimate decision on this request for a final disposition, with no time limit imposed, allows it to be taken off the table when the time is ripe for consideration, ultimately benefiting all parties, including the neighbors and Ms. Freeman. Approving the “Minor Amendment,” by contrast, circumscribes the case of ALL of the neighbors if they, and others, continue to contest **Plan Number 620190140, it raises her standing above all others, including adjacent and contiguous property owners, it circumscribes the County and State of MD staff in their concerns with regard to all aspects of the 1996 Functional Master Plan for the Rustic Roads, State Right of Way requirements, and even the flexibility of future owners of the sub-divided property, as to their property use, if Ms. Freeman pre-determines it through her refusal to put the forested areas marked for destruction on her “Minor Amendment” and sub-division plans, as well as all specific requests and declarations provided in her testimony therein.**

Ironically, this Hearing is not about adding additional safeguards for the environment, water quality, neighborhood viewshed, and run-off buffering, as Ms. Freeman attempts to prove by eight addenda submitted as part of finally requesting a Soil Conservation Service Plan for her property, and by her vet stating that her horses are “in good flesh.” *In fact, to approve this “Minor Amendment” is to expand her flexibility on property use, **increase the likelihood that a precedent would be set for approving the Sub-Division request, and potentially adversely affect ALL of her neighbors, even those as yet not immediately affected, who would be affected, if the Site submitted for this “Minor Amendment” is approved**, if Forest destruction occurs, which she refuses to eschew via a formal Forestry Protection Zone, and other safeguards for the environment vitally important **under the most important of the regulations in conflict currently, the 1996 Functional Master Plan for the Rustic Roads. It surely should have primacy with regard to Ms. Freeman’s plans submitted, yet they will not even be participants in this hearing today, on June 22, 2020. As you know, all elements of Functional Master Plans for the County are traditionally accorded primacy, especially in potential conflict with lower-level regulatory and individual zoning concerns, as they are an enduring legacy for ALL the citizens of the entire County, not merely the non-urgent desire of one individual for a hypothetical eventuality that she admits she cannot foresee!***

THE PRIMACY OF PRESERVING THE AG RESERVE INTACT: In 1992, when we moved back to MD, and attempted to purchase a small horse property, we were forced to rent the farm that we ultimately purchased, because the owners, the Currys, were in conflict with the County, in a case very similar to this one. There was absolutely NO QUESTION of letting a purchase go through, until the prime issue was resolved. We had to board the horses, quite expensively, across the road, in the property currently owned by the Gregorians, until the lawsuit between the County and the Currys was adjudicated. Whenever I conferred with the County officials, I was always told that a Master Plan process was underway, which **I ultimately became involved with in developing a tenth-mile by tenth-mile full description submitted to the MNCPPC on all of the 12 roads around Poolesville, on behalf of The Historic Medley District (HMD), upon whose Board I sat for 13 years, complete with more than \$600.00 in color slides, done twice over when the staff inexplicably “lost” them, although I retained the receipts and gave the last copy of slides to the full MNCPPC, on the dais, as part of testimony, so that they would not be “lost” again, with a request to be reimbursed for having done them three times!** These included all the required elements for consideration of Rustic and Exceptional Rustic Road status, which had to be documented, including historic alignments, the places of interest, the understory and forested areas, in short, all elements required for the County planners to choose roads to designate as “Exceptional Rustic” or “Rustic.”

Subsequently, when developers tried a myriad of ways to reduce the effect of this legislation by a “1,000” Exceptions, a “1,000” sub-divisions, and a “1,000” Innovative Means, as one developer/farmer put it, I spent at least three to seven days a month, on average, defending the integrity of the Ag Reserve for the first two years. It was understood that *Viewshed Legislation needed to be added to buttress the Rustic Roads legislation.* In addition, *historic properties had to be enrolled in the National and State Historic Registers.* All in all, a package of about a dozen regulations and laws were added, including restrictions on stocking requirements for horses. **We are still plugging the gaps in cases like this, as far too many people are uneducated, even in County and State government, regarding the value of the world’s most comprehensive farmland conservation package of legislation created anywhere!**

WE ARE STILL FIGHTING BATTLES, AND CASES LIKE THIS CAN UNDERMINE THEM, and Muddy the Presumption Issue of Primacy in levels of Government: *Currently there are two cases on the Exceptional Rustic Road section of Sugarland that clearly demonstrate that multiple parts of the County can ignore the 1996 Functional Master Plan, even amidst its current expansion and strengthening effort, by other parts of the County staff, who are, apparently without clear thought, allowing all-night egregious and continuous dumping in great excess of the post 9:00 p.m. and pre-7/8:00 a.m. overnight Class 1a Noise restrictions in Rural Villages, with NO mandatory enforcement, as required by law, as well as two other cases of illegal dumping that may be used to create artificial hills to enable sand mound perking in areas that haven’t EVER perked! In addition, the County’s Pesticide Law is being contested in Rockville, Gaithersburg, Silver Spring and Germantown, which have ALL contended that the County is not preeminent in their jurisdictions on this matter. If they succeed, as with the dumpers and noise abridgers keeping their neighbors up all night with trucks going by every three minutes at double the decibel limit, then the Presumption doctrine of a higher level*

authority “filling the space” doesn’t apply here. If that happens, the already challenging state of State and sub-State or County law in Montgomery is going to get a great deal worse!

Please attach this summary document, **plus the eight additional documents attached**, sent today to the record for the June 22 2020 Hearing on the Freeman Property for Major/Minor Modification to her Conditional Use 16-15.

Thank you!

Carol Rae Hansen, Ph.D., Director, ETA

Carol Rae Hansen, Ph.D., Community-County Notice Representative
SUGARLAND FOREST CITIZENS IN ASSOCIATION (SFCA)
Please contact the Registrar at (301) 651-6622; Emergencies: (301) 972-7833
Director@EquineTherapyAssociates.com

To the Hearing Examiner,

Please note that I am writing as a private citizen and for my husband as well, Andrew Skitt Gilmour, and not as a representative of the Sugarland Forest Citizens in Association, as we have not retained an attorney for this follow-on Hearing Response to the June 22, 2020 Hearing. Thank you, again, for the opportunity to serve as a Party of Record responding to questions raised, and evidence presented, at the Hearing concerning a “Minor Amendment” Modification Request for an existing Conditional Use (CU 16-15) (Horses) by Ms. Jennifer Freeman, under the purview of The Office of Zoning and Administrative Hearings, Montgomery County, MD. Ms. Freeman’s property is located at 14975 Sugarland Road, on an Exceptional Rustic Road, designated such under the 1996 Functional Master Plan, rural Poolesville, MD 20837, and in a protected Rural Village (R-200) dating back to the 1830s.

Please read this over-arching response that follows the June 22 Hearing along with the two previous items of relevant documentation, which are already in the official Record, an email to the Hearing Examiner dated 5/15/20, and Formal Testimony submitted on June 18, 2020, both of which explore the impact of the C.U. Modification Request on Ms. Freeman’s proposed Sub-Division (M-NCPP Plan No. 620190140). Please also review my January 13 testimony regarding Ms. Freeman’s Proposed Sub-division (SD), as it and the “Minor Amendment” to the C.U. are inextricably linked.

I.WHY IS THIS “MINOR MODIFICATION” CASE MOVING FORWARD?

Despite having persuaded you, the Hearing Examiner, on June 22 that accepting the Sub-Division map as the basis for a modified C.U.16-15 could be interpreted as unduly prejudicing the as-yet-adjudicated Sub-Division process, and encouraging you to ask for a redrawn full property map, clearly demarking two lots, without the objectionable and inaccurate elements identified in my testimony and that of Mr. Grigorian, which directly support a Sub-Division plan, *it is impossible for you to forget, rationally, that these two cases are inextricably linked by Ms. Freeman’s Order Administratively Approving a “Minor” Amendment to her Conditional Use.* To your credit, you state six times in the Hearing record with various wordings that a new map would not be recorded, would not be used as a precedent, and would not be included in title search, among other reiterations of reassurance, should the “Minor” Amendment be approved.

Nevertheless, all parties still appear to be locked into a forced march toward the Sub-Division, because you have refused to DENY or to TABLE the Order Administratively Approving a Minor Amendment to CU 16-15. As we have shown, until/if Ms. Freeman retracts her legally-binding and testimonial reiteration, as stated in II. The Amendment Request, as stated on January 21, 2020, to amend her 2016 C.U. “to accommodate a ‘Minor’ Sub-Division of the

property into two lots, the assertion that these two cases are not related is a false one. By contrast, worse, we've offered an equitable, no-loss, no-cost Tabling Option to OZAH that would not hurt Ms. Freeman in the least, for as she stated on p. 2, para. 2 of her July 6 response to the June 22 Hearing Transcript (referencing Page 21, lines 14-21) that "I have *no intention to sell the second lot in the next couple decades* (sic), *leaving open the question of whether she has been disingenuous in stating "I will keep ownership of 'both lots' with 'no planned changes' to 'either property' for the 'foreseeable future.'* "

II. Why is this the Case? Have excessive pressures been brought to bear for "breaking the Ag Reserve," and increasing development? Is there really a deal being worked out with VA to submit Exceptional Sugarland Road, a jewel with intact forests, as the "least objectionable" option for a close-in MD-tie-in to an Outer Beltway, as has been rumored, not Hughes Road, 1.2 miles to the west, with its politically connected residents close to the County Executive and Council, and not Willard, as it runs directly into the now high-value new subdivisions of Poolesville. Or, is there some Raison D'être that all cases coming before your OZAH **MUST end with a Yay or Nay, which defies logic? Is this truly, then, an exercise in futility? What is the Back Story?** *A decision to Table the Application, not denying it, or accepting it, is legally defensible, and is defensible in Parliamentary Procedure as well as in Policy, in Government, Business, Academia, and even Justice.* You, as Hearing Examiner, could also make as a condition of the C.U., in direct conjunction with a Sub-Division proposal, that if the SD is ratified, that you would take the Tabled C.U. off the table, and ***co-ratify, in a co-terminus fashion, precisely at the same time, so that there would be no need for the C.U. to be abandoned or amended.*** It is certainly feasible, fungible, and frankly, entirely practical!

Logic, one of the four key elements of rhetoric, says, in the best Law-Giving fashion of Solon, *that we must believe those who testify.* Indeed, the first original requirement under which the C.U. was granted on September 23, 2016 is that "The applicant shall be bound by her testimony and the evidence identified in this Report and Decision." If that is the case, then there is no reason to continue this expensive effort of a C.U., one that is laborious for the neighbors, very expensive financially and time-wise for the County, and certainly financially so for Ms. Freeman, who states over and over again that she is lacking in funds, yet she demonstrates just the opposite, by hiring Site Planners, Engineers, Surveyors, Land Use Attorneys, and so forth. The alternative is painless and simple: the *Hearing Examiner can Table consideration of the C.U., or Ms. Freeman can Withdraw it.* Then the OZAH, Ms. Freeman, and the neighbors in opposition, and those just learning the case, can take a well-deserved less-costly breather.

However, if you, your staff, and the petitioner believe that the opposite is true, which is indicated by your/the County's policy stance, i.e., for example, Mr. Joshua Penn's official statement for the County in his Comments box that the C.U. must be adjudicated BEFORE a Preliminary SD plans moves forward, *then the County has already decided that Ms. Freeman is planning on Sub-Dividing and selling one or both parcels, "not in the foreseeable future," which means, according to the Oxford English Dictionary as something that "can be predicted or anticipated," in the period of time when you can predict what is going to happen, based on the*

present.” Thus, by pursuing both the C.U. and the Sub-Division, Ms. Freeman has clearly laid her cards on the table. She intends to continue to pursue Sub-Division and Sale to recoup her allegedly stressed finances. For why else would she have brought her Mystery Man, the enigmatic W. Mark Davis, whose phone number matches the (301) 461-8790 that was dialed in for the June 22 hearing, with no photo, of the “W. Mark Davis Team,” an unusual real estate specialty office, which, instead of enthusiastically advertises for clients, uses spyware, spoofs and hides his identity. *Mark Davis holds a very interesting portfolio of three companies, involving Trust, Title and Escrow Law In MD, where he issues insurance, handles purchases, refinancings, Home Equity Loans, lines of credit, commercial loans, development loans, short sales, reverse mortgages, etc.; a Real Estate firm, where he is a specialist in Agricultural Preservation, Land Use and Zoning Law; as well as Broker/Owner of a Re/Max One.* In that case, if you, the Hearing Examiner, do NOT believe that she told the truth, that she “has no planned changes to either property for ‘the foreseeable future,’ then you and your colleagues may be deceived, potentially coopted into becoming party to a lie, as painful as it is for me to say.

III. Caught in a Conundrum: Absent Tabling the C.U. or inviting Ms. Freeman to withdraw her “Minor” Amendment, you and your staff are caught in a serious conundrum. Either you believe that she is telling the truth, in the best excess of rhetoric, in which the issue is moot, perhaps with serious consequences, and her assertions under oath, because of the expenses she has invested in, the team that she has assembled, the fact that she hires staff to draft her responses, and her refusal to put the “forest to be destroyed” into a permanent set-aside, or to withdraw the “Minor Amendment” all begin to build a stronger and stronger case that belies the belief that you have invested in. Given that all who participate take an oath to “tell the truth, only the truth, and nothing but the true,” the conflicting case that she has built is almost unbelievable, and hinges on symantics – just what does “foreseeable” mean? It sounds like a calculated use of words that implies one thing, but intends another, and surely it does not meet the Oxford English definition of the word “foresee.”

IV. Let’s Get “Real” as the Kids Say: I don’t usually descend into the vernacular, but English is such a rich language that sometimes one needs to bend to new vocabulary. So, what happens if one month, a year after you grant Ms. Freeman a “Minor” Amendment, and the Sub-Division goes forward, with the last intact section of major forest on Sugarland, the Exceptional Rustic Road, gets torn down in nesting season, and the World Wildlife Fund (the previous owner’s employer’s), the Sierra Club, or the Autubon Society sues the County? What if there is no remedy, the trees are torn out, no road buffer exists, filtration disappears, and the 1500 Sugarland section of our Sole Source Aquifer, one of only 12 in the Country, proves to be contaminated, pocket by pocket in the shale, as Ms. Nancy Dunn found, as her purchaser found once Ms. Dunn died found, and as Ms. Freeman found. What if the septic system no longer functions, what if the Eader septic, underneath Sugarland Road, fails, because of Site disturbances, about which they are terrified, what if Ms. Freeman’s septic fails and drains into the last well pocket on her land? Or, on the four closest properties? There is, then, no remedy, is there? Is this Best Practices for good government?

I'd really like to know what is driving this effort? Is it bureaucratic inertia, corrupt business practices, a woman over her head in debt that you are worried about? Is there a misalignment of competing priorities? Is there an inability to see the proverbial forest for the trees, literally and figuratively? **If not, then why did the excellent legal argument of presumption NOT make the very strong case for letting the higher levels of government have their say in the matter, without inordinately intruding into what will already be a messy case of competing priorities.** Is there really an Outer Beltway ramp intended to go down a 10-lane formerly Exceptional Rustic Road, which can be struck with the stroke of a pen?

Let's be pragmatic, let's move on! One cannot "judge the unjust unjustly," as the Old Testament lesson for this week note impressively. Only God is infallible. We have to do our best, which in some cases, doesn't even come close to the enviable. Frankly, this is an existential question. We need to repeatedly ask, honestly, why we are doing this? *If you but read the 1996 Functional Master Plan for the Rustic Roads, you will understand why it materially and critically pre-empts, as well as legally pre-empts, the 1980 Preservation of the Agriculture and Rural Open Space Functional Master Plan, which established the Ag Reserve, and which your planners are basing their argumentation on. Read also pp. 71-72 of the 1980 Plan, and focus on the heart of the matter: the Preservation of a Rural Village, "whose nature, character, or intensity of the conditional use is changed to such an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected, when considered in combination with the underlying conditional use." Nineteen rural communities, of "historical prior approval," i.e. pre the foundation of the Zoning Code in 1958, including Sugarland Forest, MUST, as the Master Plan says, be considered carefully, and consistently so as to maintain their existing scale, their lot patterns, and size, and their intensively rural character. This is NOT two-acre Potomac Zoning. In fact, I know of only ONE lot in Sugarland Forest, on four miles of Exceptional and Rustic Roads, that is but two acres. The average is over 50 acres, and even the smaller properties are 7.65 and up! Otherwise, we are just playing into the hands of the farmer-developers, who intend to destroy the Ag Reserve with "a thousand cuts" like Ms. Freeman's Sub-Division.*

V. Ms. Freeman May No Longer Have Two Acres, the Minimum for her C.U.: I

understand from Mr. Penn that a decision has been made to put 2.09 acres on the south-east corner of Ms. Freeman's 4.0 proposed "Minor" Amendment plot into Permanently Protected Forested Land, under the protection of Park and Planning. If so, then it appears unlikely with this additional 2+ acres out of her control, that she will qualify to maintain her C.U., unless she withdraws the application.

VI. Response to Ms. Freeman's amended testimony: *I stand by my conviction that the 80 ROW now listed on the south-east side of Sugarland Road is NOT a mistake, for if it were, it would have been redrawn. The intension, thus, is to Take 80 ft. off the south-east side of Exceptional Rustic, which makes Ms. Freeman's home non-conforming, as well as four other houses on Sugarland Road. In addition, I've never met Mr. David McKee of Benning and Associates, I have never spoken to him, and you can negate the numerous arguments laid out*

against me with regard to this man. As well, if Ms. Freeman moves to remove all the trees that she refuses to protect, then there WILL need to be regrading, sedimentation controls, and that forces OZAH to bring the two major Tree laws into the force, which, heretofore they have not been. As well, on page 40, lines 4-9, Ms. Freeman and Mr. Ottrback mistook my SD non-accent when I spoke of the size of Ms. Freeman's pasture. I did NOT say 8.3 acres, which is factually incorrect, and reviewed my notes on that score. Finally, whomever drafted for Ms. Freeman kept referring to the "County's Master Plan for Sugarland Road," which does not exist, and thus, each of those comments are a misnomer.

Thank you very much for this opportunity to correct the record, and to reflect upon the state of this Hearing process. I conclude with a plea, yet again, to Table the "Minor" Amendment!

Carol Rae Hansen, Ph.D.

11:50 p.m., Monday, July 20, 2020

Subject: Fwd: CU 16-15, Jennifer Freeman/Request for minor modification of equestrian facility/Additional Questions
Date: 7/10/2020 5:37:55 PM Eastern Standard Time
From: GGrigorian@sheppardmullin.com
To: carolraehansen@aol.com

Gregory Grigorian
202.747.1923 | direct
202.747.3820 | direct fax
ggrigorian@sheppardmullin.com | [Bio](#)

SheppardMullin
Sheppard Mullin Richter & Hampton LLP
2099 Pennsylvania Avenue, NW, Suite 100
Washington, DC 20006-6801
202.747.1900 | main
www.sheppardmullin.com

Begin forwarded message:

From: "Robeson Hannan, Lynn" <Lynn.RobesonHannan@montgomerycountymd.gov>
Date: June 26, 2020 at 4:02:40 PM EDT
To: carolraehansen <carolraehansen@aol.com>, "Tesfaye, Elsabett" <elsabett.tesfaye@montgomeryplanning.org>
Cc: Gregory Grigorian <GGrigorian@sheppardmullin.com>, "Salazar, Victor" <Victor.Salazar@montgomerycountymd.gov>, "Berbert, Benjamin" <benjamin.berbert@montgomeryplanning.org>, "Cox, Barbara" <Barbara.Cox@MontgomeryCountyMD.gov>, "jennifer.freeman1@yahoo.com" <jennifer.freeman1@yahoo.com>, "Server, Jeffrey" <Jeffrey.Server@montgomeryplanning.org>
Subject: RE: CU 16-15, Jennifer Freeman/Request for minor modification of equestrian facility/Additional Questions

Dr. Hansen, DRC gives comments—there are no meeting minutes.

Ms. Tesfaye has provided those comments that she has relevant to the conditional use. If you have need additional information regarding the subdivision right-of-way, you should make a separate request to the Planning Department for those comments.

Lynn Robeson Hannan

Director

Office of Zoning and Administrative Hearings

100 Maryland Avenue

Rockville, MD 20850

PH: (240) 777-6660

Fax: (240) 777-6665

From: carolraehansen <carolraehansen@aol.com>

Sent: Thursday, June 25, 2020 3:44 PM

To: Tesfaye, Elsabett <elsabett.tesfaye@montgomeryplanning.org>; Robeson Hannan, Lynn <Lynn.RobesonHannan@montgomerycountymd.gov>

Cc: Gregory Grigorian <GGrigorian@sheppardmullin.com>; Salazar, Victor

<Victor.Salazar@montgomerycountymd.gov>; Berbert, Benjamin

<benjamin.berbert@montgomeryplanning.org>; Cox, Barbara <Barbara.Cox@MontgomeryCountyMD.gov>; jennifer.freeman1@yahoo.com; Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>

Subject: RE: CU 16-15, Jennifer Freeman/Request for minor modification of equestrian facility/Additional Questions

[EXTERNAL EMAIL]

Dear All,

I wonder if a transmission error occurred, omitting items? Ms. Tesfaye stated below, in response to the Hearing Examiner, that:

"... the following comments were offered for the DRC meeting (see also the attached DRC comments table...")

I received and read a three-block section of the table, but did not

(a) receive any forwarded comments from the meeting, (b) did not receive referenced pp...71 and 72,

(c) did not receive a copy of the Minutes of the DRC, and

(d) do not see any response to the staffer of Zoning and Enforcement, Ms. Goutos, who in block three notes that the existing house would be non-conforming "if it is within the 40' BRL." (You may recall that both of my testimonies to the M-NCPPC on Jan.13 and to the OZAH on June 22 referenced a ROW of 80 ft. on the south-east side of the road, which would envelope multiple houses on that side of the road, including Ms. Freeman's, although the map's scale errors show it outside the 80 ft. ROW. Even a 40 ft. would encompass several septic fields under the Sugarland Road pavement, including Ms. Freeman's, which was noted by the State's representative, and would be inconsistent with the 12-15 ft. width of Sugarland's Exceptional Nature, through its entire length.

I would be so appreciative if you would be so kind as to forward those items along, or let us know when they will be added to the Hearing Record's Exhibitd on the website. Many thanks!

Dr. Hansen

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Tsfaye, Elsabet" <elsabett.tsfaye@montgomeryplanning.org>

Date: 6/25/20 2:11 PM (GMT-05:00)

To: "Robeson Hannan, Lynn" <Lynn.RobesonHannan@montgomerycountymd.gov>

Cc: Gregory Grigorian <GGrigorian@sheppardmullin.com>, "Salazar, Victor" <Victor.Salazar@montgomerycountymd.gov>, "Berbert, Benjamin" <benjamin.berbert@montgomeryplanning.org>, "Cox, Barbara" <Barbara.Cox@MontgomeryCountyMD.gov>, jennifer.freeman1@yahoo.com, "Carol Rae Hansen, Ph.D." <carolraehansen@aol.com>, "Berbert, Benjamin" <benjamin.berbert@montgomeryplanning.org>, "Server, Jeffrey" <Jeffrey.Server@montgomeryplanning.org>

Subject: RE: CU 16-15, Jennifer Freeman/Request for minor modification of equestrian facility/Additional Questions

Hi Lynn,

1. I have received the following information from the Preliminary Plan Lead Reviewer on the current status of the Preliminary Plan of subdivision review of Application #620190140 Freeman Property :

“The Freeman Property Administrative Subdivision (620190140) application is currently under review by different agencies. There have been two extensions approved for the application, with the second set to expire on August 2, 2020. The extensions have been granted due to the need for obtaining approvals from agencies reviewing the Subdivision Plan. In particular, there has been extended testing and coordination need to pursue approval from the Well and Septic Section of MCDPS. The applicant will be pursuing a third extension which would place a Planning Board hearing potentially in September or October.”

2. With respect to references concerning the need to amend or remove the existing conditional use, the following comments were offered for the DRC meeting (also see attached DRC comments

Table):

AREA MASTER PLAN	Joshua Penn joshua.penn@montgomeryplanning.org	sandra.pereira@montgomeryplanning.org	Revisions Requested	Conditional USE still active CU16-15 and uses the entire property as justification for approval. Preliminary plan can not be approved if it would cause the CU to become non-conforming. CU needs to be abandoned or amended. Master plan has no specific comments about this property, however the MP does list this as the Rural Community of Sugarland and has specific recommendations on pages 71 and 72 that will need to be addressed.
ZONING & ENFORCEMENT	Melissa Goutos Melissa.Goutos@montgomerycountymd.gov	sandra.pereira@montgomeryplanning.org	Revisions Requested	Conditional use shall be abandoned or modified prior to approval. Please provide documentation. Please note that the existing house will be nonconforming if it is within the 40' BRL.

Staff understands the above comments to mean that the proposed amendment of the existing approved CU currently before the Hearing Examiner, if approved, would include a condition of approval that requires the Applicant to obtain approval of a Preliminary Plan of Subdivision per Chapter 50 (which is currently in the review process). If the subdivision review resulted in a change that affects some elements of the amended CU, the Applicant will have to return back to OZAH to amend the CU plan again.

I hope the above comments address your question.

Elsabett Tesfaye

Montgomery County Planning Dept | M-NCPPC-Area 3

8787 Georgia Avenue | Silver Spring, MD 20910

301.495.1301

Elsabett.Tesfaye@montgomeryplanning.org

From: Robeson Hannan, Lynn <Lynn.RobesonHannan@montgomerycountymd.gov>

Sent: Monday, June 22, 2020 2:04 PM

To: Tesfaye, Elsabett <elsabett.tesfaye@montgomeryplanning.org>

Cc: Gregory Grigorian <GGrigorian@sheppardmullin.com>; Salazar, Victor

<Victor.Salazar@montgomerycountymd.gov>; Tesfaye, Elsabett <elsabett.tesfaye@montgomeryplanning.org>;

Berbert, Benjamin <benjamin.berbert@montgomeryplanning.org>; Cox, Barbara

<Barbara.Cox@MontgomeryCountyMD.gov>; jennifer.freeman1@yahoo.com; Carol Rae Hansen, Ph.D.

<carolraehansen@aol.com>

Subject: CU 16-15, Jennifer Freeman/Request for minor modification of equestrian facility/Additional Questions

Ms. Tesfaye, a question came up at the public hearing on Ms. Freeman's application for a minor modification of the above conditional use. Individuals who appeared in opposition are concerned that it will set a *de facto* precedent for approval of the subdivision.

Ms. Freeman testified that she understood at the DRC meeting that the preliminary plan could not be approved until the conditional use plan is amended. Mr. Grigorian was unaware of that discussion.

I am writing to request that Staff advise us whether the minor amendment to the conditional use must be approved prior to proceeding with Ms. Freeman's subdivision approval. In addition, I am asking for any minutes of the DRC meeting on this property. I do not know who made the comment to Ms. Freeman regarding the need to obtain the conditional use amendment first, so I am including Mr. Salazar and Ms. Cox from the Department of Permitting Services on this email as well.

Would you please provide your advice and a copy of the minutes no later than June 29, 2020? All replies will be placed in the record of this case.

Finally, Ms. Freeman will be submitted a revised conditional use plan that removes all references to requirement of the subdivision process (right-of-way, sand mounds, trails, etc.) but includes the location of all existing structures, the compost area, and the revised conditional use area. Because it only removes information but does not change the original minor amendment, I am not referring it to you. If you disagree, please let me know.

Thanks in advance for your assistance on this. Of course, if you need additional time to respond, please let me know.

Lynn Robeson Hannan

Director

Office of Zoning and Administrative Hearings


100 Maryland Avenue

Rockville, MD 20850

PH: (240) 777-6660

Fax: (240) 777-6665

Take 10 minutes to be counted now – visit: <https://2020census.gov/>

 Image removed by sender.

For COVID-19 Information and resources, visit: www.montgomerycountymd.gov/COVID19

Take 10 minutes to be counted now – visit: <https://2020census.gov/>



For COVID-19 Information and resources, visit: www.montgomerycountymd.gov/COVID19

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: [Butler, Patrick](#)
To: [Thompkins, Melissa](#); [Coello, Catherine](#)
Subject: FW: Freeman Subdivision Hearing
Date: Wednesday, July 28, 2021 2:12:56 PM

Hi Team,

Please include this in the mailing to the Planning Board for the agenda tomorrow. This is Item No. 14.

Thank you,

Patrick

From: Gregory Grigorian <GGrigorian@sheppardmullin.com>
Sent: Tuesday, July 27, 2021 9:14 PM
To: Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>; Pereira, Sandra <sandra.pereira@montgomeryplanning.org>; Butler, Patrick <patrick.butler@montgomeryplanning.org>
Subject: Freeman Subdivision Hearing

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

All,

I just received a call from one of the neighbors alerting me to a hearing regarding the above referenced subdivision that is supposed to take place on Thursday, July 29, 2021.

I was not served with notice of this hearing. Once I learned about it (five minutes ago), I checked the M-NCPPC DAIC website and reviewed the notice. I am listed as a notice party, but did not receive notice. If you need me to submit a sworn affidavit to that effect, I would be glad to do so.

Anyhow, as a direct neighbor and owner of the entire road front from Partnership Road to Sugarland Lane, I am significantly impacted by this proposed subdivision. The plans propose clearing of important forest on the Exceptional Rustic Road, and the construction of a driveway in an inappropriate location, necessitating the construction of a large apron and tree clearing.

I see from the Staff Report that the Rustic Roads Advisory Committee recommended approval based on a meeting held January 28, 2021 (another meeting for which I was not provided notice or an opportunity to be heard).

That recommendation was based on a premise that only four trees would be removed as part of the subdivision plan, which is in complete disregard of the map shown on Attachment 3 in your report, which shows a significant area of forest being cleared as part of this project.

Based on my review of the RRAC letter, it seems to me that the basis of the Committee's recommendation is a false premise presented by the Applicant (or her surveyor) that only four trees will be cleared as part of this project.

Thursday's hearing should be postponed until RRAC has been presented with a copy of Exhibit 3 and confirms whether their recommendation for approval would have been given in light of the plan to clear that large area of forest, and the impact of same on the exceptional rustic road.

In addition, I strenuously object to the multiple references to 80' right of ways and "ultimate 80' right of way," which by implication indicate that the county has some sort of plan or intention to obtain a 40' right of way on my side of the street. All maps submitted as part of this application should be revised to remove any references to future ROWs on my property, as such ROWs are not a subject of this application and, to my knowledge, are not planned by the county. The only ROW that should be referenced is the 40' ROW being given by the applicant.

Lastly, and not for nothing, as a lifelong resident of Montgomery County, MD, I am deeply disappointed in the absolute disregard the staff has for the various objections to this subdivision presented by multiple owners on Sugarland Road. Based on my experience with this application, it seems to me that unless the community "lawyers up" in order to find some technical problem with an application, or makes it so expensive for the applicant to succeed that they just "give up trying," the community's opinion is of no real consequence. These are meant to be public hearings during which citizens express their opinions. Those opinions should be heard and should matter, not just disregarded in favor of the recommendations of specialized committee that are not directly, themselves, hearing the objections of the community.

If you ever spent time on our rustic roads you would know that if this application is approved the land clearing that will follow will essentially ruin one of the prettiest roads in MoCo, all so the applicant can (by her own admission) line her pockets.

Most disappointing of all is that despite the fact that there are multiple ways of subdividing Ms. Freeman's property which would preserve the forest along the road and thus preserve its rural, rustic nature, there has been absolutely no effort by staff to encourage the applicant to reconfigure the subdivision layout in light of the Exceptional Rustic Road designation and community objections to the forest clearing.

I wish you would do so, because reconfiguring the subdivision to obviate the need for forest clearing would go a long way to address my concerns and those of the other residents of Sugarland Road.

Respectfully,

Greg

Gregory Grigorian

+1 202-747-1923 | direct

GGrigorian@sheppardmullin.com | [Bio](#)

SheppardMullin

2099 Pennsylvania Avenue, NW, Suite 100

Washington, DC 20006-6801

+1 202-747-1900 | main

www.sheppardmullin.com | [LinkedIn](#) | [Twitter](#)

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.