

CONCEPT SITE PLAN REPORT
to the
Carroll County Planning and Zoning Commission
September 19, 2023

Prepared by
Amy Barcroft, Bureau of Development Review

SUBJECT: S-21-0024, Major Property BRICO Welding

LOCATION: South Side of Wakefield Valley Road East of New Windsor Road,
New Windsor, MD 21776, C.D. 1

OWNER: JBD Associates LLC, 3331 Buffalo Road, New Windsor, MD 21776

DEVELOPER: Same as Owner

ENGINEER: RTF Associates, Inc., 142 East Main Street, Westminster, MD 21157

ZONING: Agricultural

ZONING CASE: BZA #6230

ACREAGE: 5.116 acres

WATERSHED: Double Pipe Creek

FIRE DISTRICT: New Windsor Fire Company

MASTER PLAN: Agriculture -2014 Carroll County Master Plan

PRIORITY

FUNDING AREA: Outside

DESIGNATED

GROWTH AREA: Outside

❖ **Action Required:**

The plan is before the Planning and Zoning Commission per Chapter 155 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept site plan. **No action is required.** The Planning Commission may consider delegating approval of the final site plan to the Planning Commission Chair.

❖ **Existing Conditions:**

The subject property is a 5.1-acre parcel in Agricultural Zoning District. The property is lot 1 of the Major Property subdivision approved in 2009 and amended in 2014 (see plat, attached). An existing storage building, and contractor equipment storage yard are operating on the site. Since this was done without review and approvals, the final approval of this site plan will bring the

property into compliance. The property is accessed by a gravel driveway onto Wakefield Valley Road. The property and surrounding properties have private wells and septic systems. All adjoining properties in the nearby vicinity are zoned Agriculture and are built with single-family residences. The site is not visible from the road due to a natural berm and existing mature trees. The property is outside of Priority Funding Areas and Designated Grown Areas. It Lies outside of the public water and sewer service areas.

❖ **History:**

On March 30, 2021, the owner received approval for a Contractor's Equipment Storage Yard in BZA Case #6230 with the following conditions: the hours of operation are 7:00 am to 5:00 pm on Mondays through Fridays, there would be no welding on the site except on personal vehicles, and the conditional use of the property is not transferable with any change of ownership (see attached decision). The Contractor's Equipment Storage Yard is a Conditional Use on the property and requires the approval of a site plan.

❖ **Site Plan Review:**

The plan proposes to keep all existing structures and operations on site and address the technical codes in respect to the approved conditional use. In the Agriculture Zoning District, Contractor Equipment Storage Yards are limited to 1 acre in size. The 1-acre area is depicted on the plan and located in the southwest corner of the property. A 60' by 80' 1 story metal building sits in the middle of the designated storage yard. The building is used for storage.

The 4800 sq. ft. building is surrounded by a gravel parking area for outdoor storage. No specific parking spaces are designated inside the storage yard. A note on the plan indicates that employees are dispatched from their homes and the owner has an office off-site. There would be no general public visiting the property and the site generates an average of six trips per day. Trips to the site include drop-off and pick-up of materials. This use does not have parking requirements associated with it per the Code parking tabulation section. An existing dumpster is located on site. No signage or lighting is proposed with the site plan. A note on the plan indicates that the existing building mounted lighting is not utilized due to the daytime hours of operation.

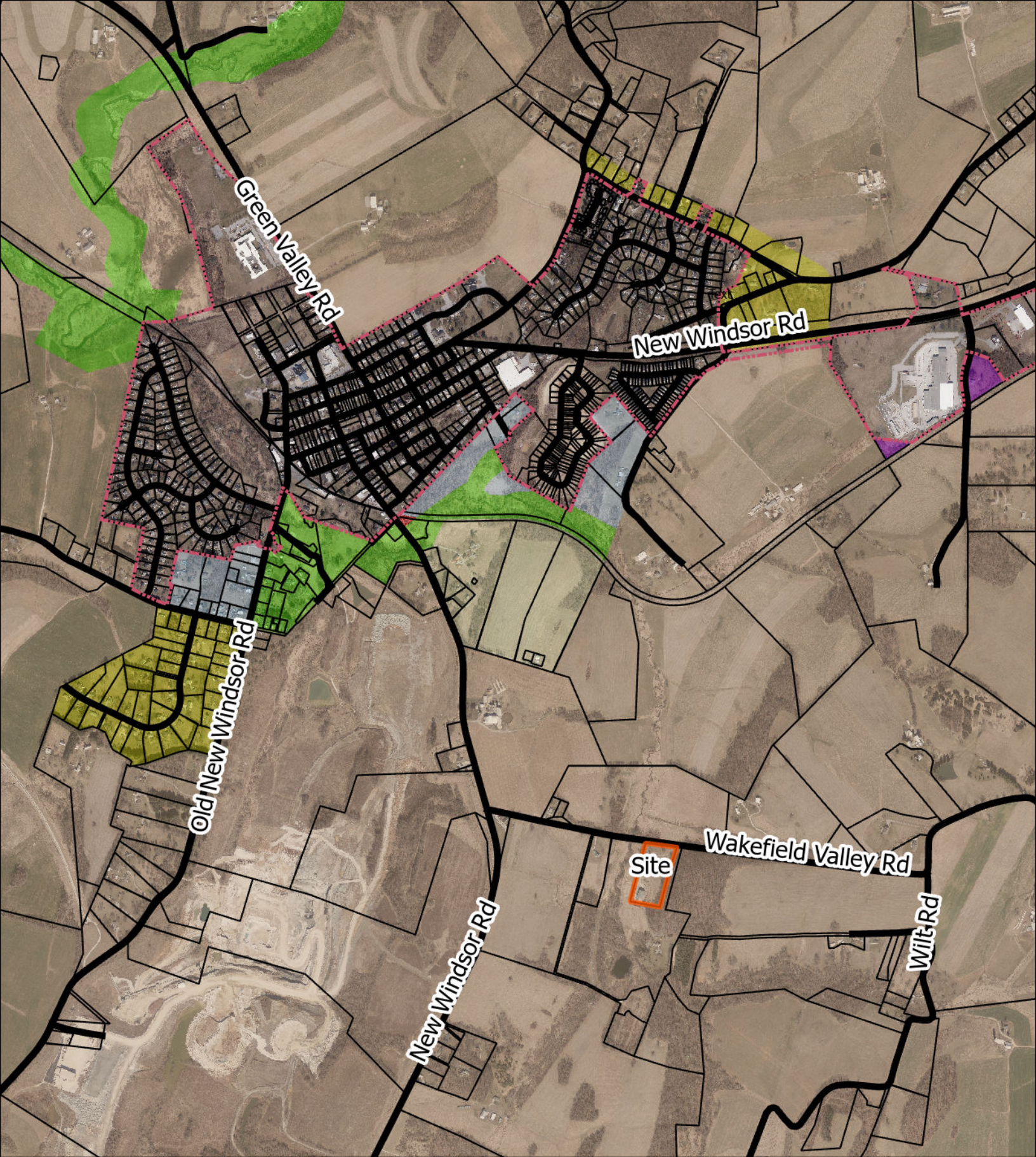
Stormwater Management will be addressed by two proposed grass swales and non-rooftop disconnect. Concept stormwater management approval has been granted. Forest Conservation was previously addressed for the property during subdivision and is approved. Water Resource Management, Grading, Zoning and Floodplain have approved the plan. The site is outside the jurisdiction of the Bureau of Utilities. This plan was found to be consistent with the Carroll County Master Plan by the Department of Planning. The Health Department has approved the use of a storage yard without restroom facilities or full-time employees on site. Emergency

Services requires that the plan address the requirements of a fire protection water supply for a commercial building before further review. This will be addressed on the final plans.

Landscape requirements include a Class A screen on the west and south sides of the storage area. Site Compliance review requires improvements to the building entrance door to meet ADA compliance and handicap parking with signage. Additionally, Site Compliance has commented that restroom facilities are required and shall be accessible. Engineering review has commented that the existing apron is to be removed and replaced with commercial concrete entrance. The County Roads Department has approved the plan.

The Concept Site Plan was initially submitted September 28, 2021. The plan was subject to citizen involvement at the October 25, 2021, Technical Review Committee. One citizen submitted written concerns regarding noise, operating outside of the approved hours of operation, and heavy industrial operations. The Zoning Administration investigates and enforces these matters related to the Conditional Use and restrictions of the BZA Decision. The most recent investigation was abated on February 24, 2023.

The final site plan will be tested and reviewed for adequacy of public facilities in accordance with Chapter 155 of the Code of Public Laws and Ordinances of Carroll County Maryland.



- Municipal Limits
- R-40,000
- C-2
- Agriculture
- R-20,000
- I-1
- Conservation
- R-10,000

Major Property/Brico Welding, LLC

S-21-0024



Property line shown hereon are from tax maps and therefore are approximate and are shown for illustrative reference only. Photograph date: Spring 2020



Major Property/Brico Welding, LLC
S-21-0024



Property line shown hereon
are from tax maps and therefore
are approximate and are shown
for illustrative reference only.
Photograph date: Spring 2020

Tax Map/Block/Parcel
No. 50-15-65
Case 6230

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: J B D Associates, LLC
c/o Dawn & Brian Cooney
3331 Buffalo Road
New Windsor, MD 21776

ATTORNEY: Kelly J. Shaffer Miller, Esq.
Shaffer and Shaffer, LLP
73 East Main Street
Westminster, MD 21157

REQUEST: A request for a conditional use for a Contractor's Equipment Storage Yard.

LOCATION: The site is located on Wakefield Valley Road in New Windsor, Maryland, on property zoned "A" Agricultural District in Election District 11.

BASIS: Code of Public Local Laws and Ordinances, Section 158.070.

HEARING HELD: March 24, 2021

FINDINGS AND CONCLUSION

On March 24, 2021, the Board of Zoning Appeals (the Board) convened to hear a request for a conditional use for a Contractor's Equipment Storage Yard. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Jay Voight, Zoning Administrator, testified in the case. The Zoning Administration received a complaint about a business being operated from the premises in 2020. When the permit for the building was pulled in 2006 the storage building was not to be used for commercial purposes or for living quarters. During the zoning investigation, construction equipment was parked outside of the building and there were a couple of welding trucks. He stated that the Board had to decide whether the applicant met the definition of a contractor. Mr. Voight read the definition of contractor to the Board in Section 158.002. Mr. Voight stated that the Board had to decide whether the applicant was a contractor or was a repair shop business. A letter was sent from the Zoning Administration to the applicant. No further actions were taken once the applicant filed for the instant conditional use. The Permits Office would review the plumbing code in a future review. Septic issues would also be addressed at a later date.

Brian Cooney testified as the applicant. He bought the 5.1 acre property in 2019 from Mr. Major. Mr. Major stored a lot of equipment at the site when it was not used at a job site. He assumed that he did the same type of work as Mr. Major. The property looks the same as it did when he purchased it. Mr. Cooney's business is all welding based. He owns Brico Welding, LLC. His work is considered to be critical infrastructure. The company works with steal plates, and the plates squeak and make noises when moved around. Including his family members he stated that he had a total of seven employees. He considers it a family business because his wife, daughter and son work with him in it. A lot of the work is actually at the customer's site. During the COVID 19 pandemic he has brought more work to his site because customers were concerned about the number of people at their sites. Mr. Cooney testified about the hours that he and his employees worked.

A number of Exhibits were entered into evidence. Exhibit 2 was a google aerial photo of the property. Exhibit 3 was a photo of the property and the building as one enters the site. Exhibit 4 was a photo showing the rear of the site. Exhibit 5 was a photo from the site to Wakefield Valley Road. Exhibit 6 was a photo in conjunction with Wakefield Valley Road. Exhibit 9 was a letter from the Maryland Department of the Environment. Exhibit 10 is a copy of a zoning map. There is a star around the Cooney property. The brown area is property in the Agricultural zone. Exhibit 11 shows the future land use designation map. The property is to remain in the Agricultural zone into the future.

John Lemmerman, with RTF Associates, testified in the case. He was accepted as an expert witness in surveying, land use design and planning. RTF Associates prepared a drawing for this matter. Mr. Lemmerman visited the site once on a scheduled visit and once on a random visit. Other people on his staff also visited the site. The property is located in the Agricultural District. He testified that the existing trees probably meet or exceed what would be required in the County's landscaping ordinance. He has worked on several Contractor's Equipment Storage Yards in the past. This was a typical Contractor's Equipment Storage Yard.

Robert Bassler owns land adjacent to the site. He is opposed to the application. He stated that there was a hearing in about 2008 involving the same property. At that time the property was a forty-eight acre parcel, and the owner lived on the site. He stated that two additional families lived near the site and that two more families would be living there in the future. He saw the site under floodwaters two times in his lifetime. He was concerned about the number of families living around the premises.

Jason Riley testified in opposition to the application. He presented a fifteen to twenty minute video presentation for the Board. He owns thirty-two acres of property and has a small hobby farm. He stated that noises heard on the video came from Mr. Cooney's property. He stated that the noises were constant for five days a week. He stated that the Board has not denied a conditional use for a contractor's equipment storage yard in the last ten years and maybe for the last twenty years. He stated that in the summertime he had to close his windows because of the constant noises coming from the Cooney property. He wanted peace and quiet at his home, especially in the summer time when his wife and children were home. He made a complaint to the Zoning Administration. He stated that Mr. Cooney had planted trees on his property. At one point he stated that the noises and banging would drive a person crazy.

Laura Riley testified in opposition to the application. She wanted to live on her farm in peace and quiet. When she looks out her bedroom window she now sees an industrial park. Her property surrounds the Cooney's property. She stated that she has seen a flood in the three years since she has lived there. It is not safe for her children to be at the bus stop with trucks and

big rigs on the road in the mornings and afternoons. She stated that random people coming in and going out of the property made it a commercial operation and not a residential premises.

Kathy Grochowski, testified in opposition to the application. She provided a slide presentation to the Board. She bought her land in 2016 and began living on it in 2017. She looked long and hard to find a peaceful and quiet place. She paid a premium price for her property. During her research she learned that the property was in the Agricultural zone. A lot of the area was indeed in an agricultural preservation area. She believed that there would not be additional development. She believed that the proposed use devalued her property. She believed that Mr. Cooney knowingly put an industry in an agricultural zone. The noise level has awakened her on several occasions. The noises are audible in her home with all of the windows and doors closed. The noises prevent her from enjoying her home. She described the noises as the rumble of heavy equipment, the scrapping of metal sounds, metal on metal banging, and the dropping of heavy equipment. She also noted there were high pressure air sounds. She also described engines revving, back up alarms on vehicles and car horns. The noises were all day Monday through Friday and were not a short duration. She starts to hear the noises before 7 a.m. and hears noises after 7 p.m. She described the noise like a road crew working outside of her home. She stated that the noises met the definition of noise pollution. There are many deliveries to the site. Diesel smoke and welding gases come onto her property. She thought there would be a decrease in neighboring property values because of Mr. Cooney's business. She also stated that equipment was located all over the five acre lot. The equipment was an eyesore to her. In her opinion the neighbors were being forced to financially subsidize Brico Welding, LLC. She stated that many adverse effects were present here: harm to her peaceful enjoyment; public health issues; safety issues of people; harm to the general welfare of people; potentially dangerous traffic conditions; and odors, dust, gas fumes and excessive noises. She found that sleep deprivation was a real issue for her, and she is not a light sleeper. The Center for Disease Control found that sleep deprivation was a health issue. She also hears the noises over her own entertainment. She believed that Mr. Cooney's business should be relocated to another suitable location. She wanted the operation to be for the storage of equipment only. She wanted the hours to be from 9 a.m. to 4 p.m. She wanted no outdoor lights except between the hours of 9 a.m. and 4 p.m. She did state that Mr. Cooney has respected keeping the lights off since she spoke to him about it. She did not want the business to operate on federal holidays. She wanted the welding to be on agricultural equipment only. She requested no fabrication at the site. She wanted the conditional use to cease if Mr. Cooney sold his property. She was concerned that there were no assurances that any restrictions would be honored by Mr. Cooney. She wanted sound barriers to be placed at the site. She testified that the business brought no benefits to Carroll County residents. She filed a complaint with the Zoning Office.

A March 2, 2021 memorandum from the Department of Planning and Hannah Weber, Planning Technician, stated that the staff finding was that this request is consistent with the *2014 Carroll County Master Plan as amended in 2019* and would not have an adverse effect on the current use of the property.

A Contractor's Equipment Storage Yard is a conditional use in the Agricultural District. Section 158.070 of the zoning code states the following:

“(d) Shops for the service, repair, and sale of farm machinery and farm equipment, including welding, but which are limited exclusively to the sale, service, and repair of farm machinery and farm equipment; and blacksmith shops.”

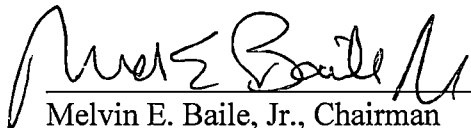
The Board had to address whether Mr. Cooney's operation could be considered a Contractor's Equipment Storage Yard. The Board found that Mr. Cooney fit the definition of a contractor and could have a Contractor's Equipment Storage Yard.

The Board was convinced that authorization of the request with regard to a conditional use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board approved the conditional use requested by the applicant.

The Board placed three conditions on their approval:

- 1) The hours of operation would be from 7 a.m. to 5 p.m. on Mondays through Fridays; 8 a.m. to 1 p.m. on Saturdays and no hours of operation on Sundays;
- 2) There would be no welding on the site except for Mr. Cooney's own personal equipment (no third party welding for customers); and
- 3) If the ownership of the property was transferred the conditional use approval would be discontinued.

3-30-2021
Date


Melvin E. Baile, Jr., Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.132 (E) of the County Code, this approval will become void one year after the date of issuance if the construction or use for which the certificate was issued has not been started. **Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.**

Pursuant to Section 158.133(H)(3) of the County Code:

(3) **Approvals.**

(a) If the application is approved by the BZA which does not require a **site plan**, the approval shall become void unless a building permit conforming to the plans for which the approval was granted is obtained within six months.

(b) An approval for which a building permit is not required shall become void unless the use or variance is implemented within one year of the date of the written decision.

(c) An approval for which a **site plan** is required shall become void unless the concept **site plan** has been submitted for distribution to the reviewing agencies and accepted by the Bureau of Development Review, or its success agency, within six months from the date of the written decision. An approval for which a **site plan** is required may become void if the property owner or developer fails to take action to secure an approval of the **site plan** from the Planning Commission in a timely manner, as determined by the Bureau of Development Review.

COORDINATES

Table with 5 columns: NO, NORTH, EAST, NO, NORTH, EAST. It lists coordinate points for the survey.

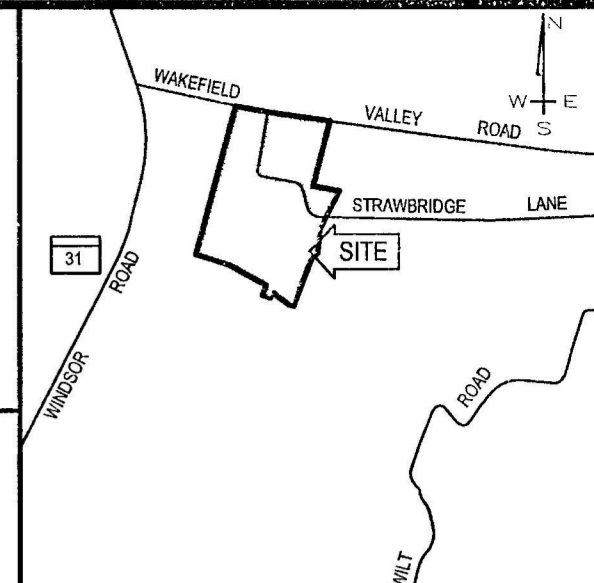
CURVE TABLE

Table with 7 columns: CURVE, RADIUS, DELTA, LENGTH, TANGENT, CHORD BRG., CHORD DIST. It provides data for a curve with a radius of 4030.00 and a length of 148.40.

Parcel 45
Liber 8091, Folio 615
Robert E. Bassler Jr.
And Carol Lynn Bassler
#2710 Wakefield Valley Road
Zone: Agricultural

WAKEFIELD VALLEY ROAD

The County
Commissioners Of
Carroll County Maryland
Liber 5733, Folio 436

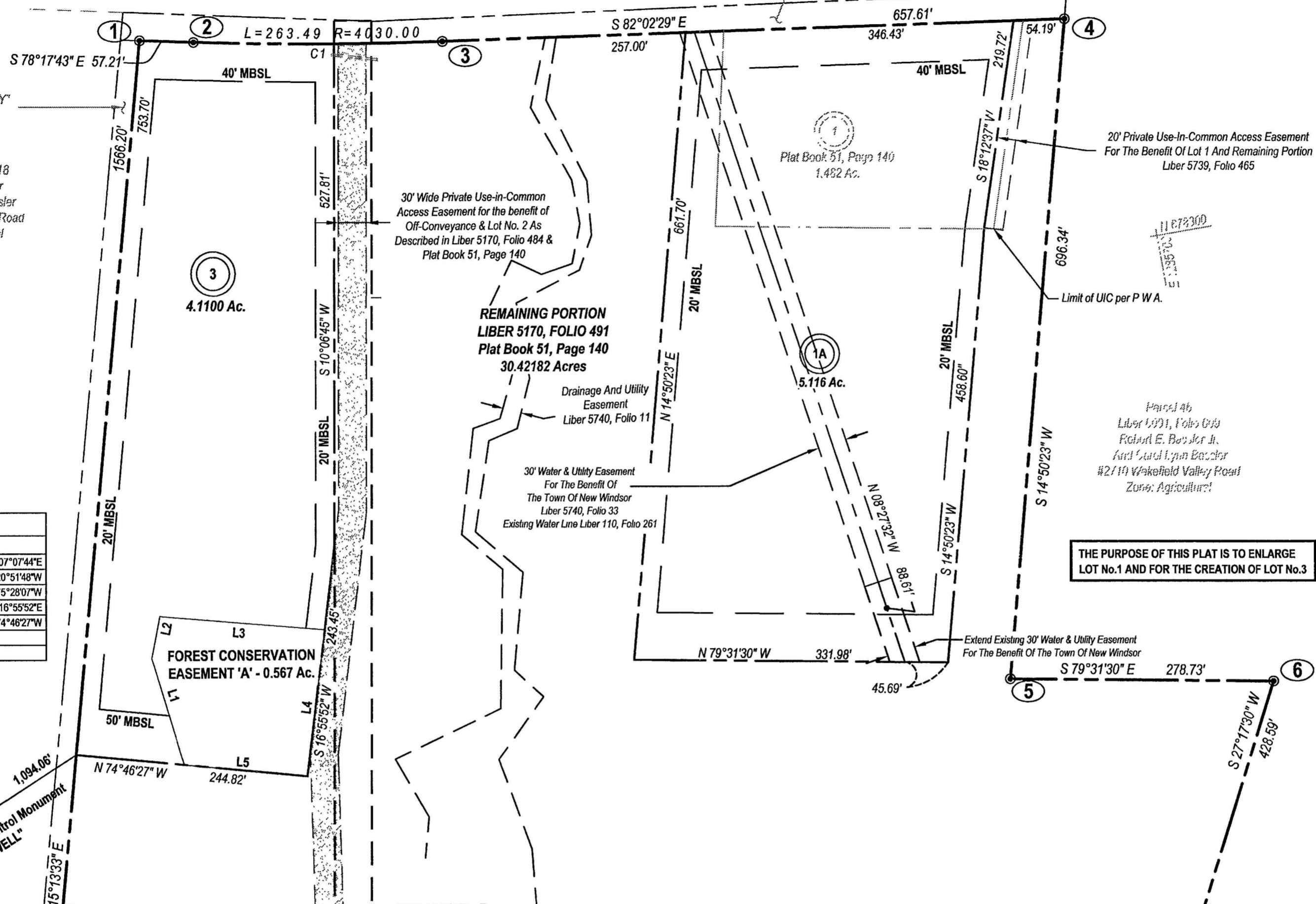


VICINITY MAP

SCALE: 1 inch = 2000 feet

COPYRIGHT ADC THE MAP PEOPLE
PERMITTED USE No. 2109C147

Lot No. 2
"MAJOR PROPERTY"
P.R. 51, P. 141
Zone: Agricultural
Parcel 293
Liber 1525, Folio 18
Robert E. Bassler
And Phyllis H. Bassler
#1401 New Windsor Road
Zone: Agricultural



20' Private Use-In-Common Access Easement
For The Benefit Of Lot 1 And Remaining Portion
Liber 5739, Folio 465

30' Wide Private Use-in-Common
Access Easement for the benefit of
Off-Conveyance & Lot No. 2 As
Described in Liber 5170, Folio 484 &
Plat Book 51, Page 140

REMAINING PORTION
LIBER 5170, FOLIO 491
Plat Book 51, Page 140
30.42182 Acres

Drainage And Utility
Easement
Liber 5740, Folio 11

30' Water & Utility Easement
For The Benefit Of
The Town Of New Windsor
Liber 5740, Folio 33
Existing Water Line Liber 110, Folio 261

THE PURPOSE OF THIS PLAT IS TO ENLARGE
LOT No.1 AND FOR THE CREATION OF LOT No.3

Table with 3 columns: LINE, LENGTH, BEARING. It lists details for Forest Retention 'A' (0.567 Ac.).

FOREST CONSERVATION
EASEMENT 'A' - 0.567 Ac.

40' Right-Of-Way For
Ingress, Egress & Utilities
Above And Below Ground
Liber 1823 Folio 635,
Liber 1763 Folio 630

REMAINING PORTION
LIBER 5170, FOLIO 491
Plat Book 51, Page 140
32.17806 Acres

RECORD PLAT
SECTION TWO AND AMENDED PLAT OF LOT 1
MAJOR PROPERTY
PREVIOUSLY RECORDED IN PLAT BOOK 51, PAGE 140
11th ELECTION DISTRICT
CARROLL COUNTY, MARYLAND

CARROLL COUNTY PLANNING AND ZONING COMMISSION
BY: [Signature] DATE: 20 AUG 2014
CARROLL COUNTY HEALTH DEPARTMENT
BY: [Signature] DATE: 6/24/14
CARROLL COUNTY DEPARTMENT OF PUBLIC WORKS BUREAU OF UTILITIES
BY: Mary P. Dye, Jr. DATE: 6/24/14

RECORDED IN PLAT BOOK D.B.S. 53 PAGE 221
DATE: 8/21/14
CERTIFICATION
THE OWNER(S), TO THE BEST OF HIS (THEIR) KNOWLEDGE, AND THE SURVEYOR DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT PREPARED IN COMPLIANCE WITH SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND (1974), AS AMENDED, PERTAINING TO THE PREPARATION OF RECORD PLATS.
Owner's Signature - M. Wayne Major 1/2/14
Owner's Signature - Heide M. Major 1/2/14
Surveyor's Signature 10664 4/23/13
Expiration Date - 11/26/13

OWNER / DEVELOPER
M. Wayne Major And
Heide M. Major
2800 Strawbridge Lane
New Windsor, Maryland 21776-8714

Table with 3 columns: DATE, REVISIONS, BY. It tracks changes to the plat.

BPR INC
SURVEYORS - LAND PLANNERS
150 Airport Drive
Suite 4
Westminster, Maryland 21157
Phone: (410)-857-9030
or (410)-876-0333
Fax: (410)-876-1532
www.bprsurveying.com
Date: June, 2012 Scale: 1 inch = 100 feet
Sheet: 1 of 2
Carroll County File No. M-12-005

- GENERAL NOTES
- Current Title Reference
Owner - M. Wayne Major & Heide M. Major
Deed reference - Liber 5170, Folio 491
Date - February 21, 2007
Grantor - M. Wayne Major & Heide M. Major
 - No grading, filling or construction shall be permitted which obstructs or inhibits the surface flow of water within drainage and utility easements as shown hereon.
 - Any modification or plat reassembly shall be subject to approval by the Carroll County Planning and Zoning Commission.
 - If and when public/community water and/or sewerage facilities become available to the lots in this subdivision, the lot owner(s) shall be required to connect to the system in accordance with applicable law.
 - Agriculture is the preferred use in the AGRICULTURAL District. All AGRICULTURAL operations shall be permitted at any time, including the operation of farm machinery and no AGRICULTURAL use shall be subject to restriction because it interferes with other uses permitted in the District.
 - This entire tract is located within the AGRICULTURAL District established by the Carroll County Zoning Ordinance. The regulations for the AGRICULTURAL District prohibit further subdivision of the remaining portion and the lots shown hereon for the purpose of creating additional lots for residential use.
 - Remaining Portion. 30.42182 Ac. (Liber 5170, Folio 491)
 - Lot #3 contains a private stormwater management facility A "Stormwater Management Easement & Maintenance Agreement" shall be granted to the Carroll County Commissioners or authorized representatives by deed to be recorded simultaneously herewith.
 - Lot #1A previously granted a "Stormwater Management Easement & Maintenance Agreement" and is recorded among the Land Records of Carroll County, Liber 1740, Folio 22.
 - An extension of the existing 30' Water & Utility Easement for the benefit of The Town Of New Windsor, as shown hereon, shall be granted to The Town of New Windsor and recorded simultaneously herewith.
 - The Forest Conservation Easement 'A' containing 0.567 Acres, and 'B' containing 1.60 Acres shown hereon shall be conveyed to the Carroll County Commissioners by a deed to be recorded simultaneously herewith.
 - This site is located within 2,500' of the Mineral Resource Area, where mineral recovery operations are currently occurring or may occur in the future.

DATA TABULATION
A. Total number of lots: 1 Existing, 1 Proposed
B. Total area of lots: 9.2260 Acres
C. Total area of plat: 41.40406 Acres

53/221