IN THE MATTER OF RIVERWATCH, L.L.C. – Legal Owner TWO FARMS, INC. – Contract Purchaser/Lessee 118 Mount Carmel Road Parkton, MD 21120	*	BEFORE THE BOARD OF APPEALS OF
7th Election District, 3rd Councilmanic District	*	BALTIMORE COUNTY
RE: Petition for Special Hearing per BCZR §405.2.B.2, 405.E.1 and 405.E.10 for fuel service station in combination with a convenience store and carryout restaurant; Approval of illuminated signage per BCZR §259.3.C.7; and Limited Exemption approval per BCC §32-4-106(b)(8)	*	Case No. 14-131-SPHXA and CBA-14-033

* * * * * * * * * * * *

RULING ON MOTION TO DISMISS

This case comes to the Board on a Motion to Dismiss via letter dated September 29, 2016 filed by People's Counsel for Baltimore County, Peter Max Zimmerman, requesting that the above-captioned case be dismissed because the subject property was rezoned during the 2016 Comprehensive Rezoning Process (the "2016 CZMP"). Protestants joined in support of that Motion.

On October 6, 2016, the date set for a public hearing on the Remand Order from the Circuit Court (the "Remand Hearing"), People's Counsel appeared for the first time, and verbally moved to dismiss the case.[1] Argument was heard from all Parties. The Petitioner, Riverwatch, L.L.C., the legal owner, and Two Farms, Inc., the contract purchaser/lessee a/k/a "Royal Farms" ("Royal Farms") was represented by David H. Karceski, Esquire, Christopher D. Mudd, Esquire and Venable, L.L.P. The Protestants, Sparks-Glencoe Community Planning Council, Tom Graul, Ken

[1] Baltimore County Charter, §524.1 permits People's Counsel to represent the interests of the public in general and to defend the maps adopted during the CZMP. While the timing of this initial appearance seemed outside the norm given the lack of participation by People's Counsel during the merit hearings, §524.1 authorizes People's Counsel to exercise discretion when he/she deem the public interest to be involved.

Bullen, Jr. and Ruth Mascari were represented by Michael McCann, Esquire. As indicated, People' Counsel also participated in the hearing.

On November 7, 2016, Memorandums of Law were filed by each Party. A public deliberation was held on December 6, 2016.

FACTS RELEVANT TO MOTION TO DISMISS

On September 28, 2015, a CZMP application was filed by Protestant, Ken Bullen, to change the zoning on the property located at 118 Mt. Carmel Road, Parkton, MD (the "Property".) Almost a month later, on October 20, 2015, this Board issued our Opinion granting Royal Farms' request for a fuel service station in combination with a convenience store and carryout restaurant, along with certain accompanying signage (Case No.: 14-131-SPHXA); and for a limited exemption under BCC, §32-4-106(b)(8) (Case No.: CBA-14-033.)

On November 9, 2015, the Baltimore County Department of Permits, Approvals and Inspections ("PAI") received the proposed development plan for the Royal Farms store (the "Plan") *via* hand-delivery (Prot. Ex. 9 and 10 of Memo of Law). On November 13, 2015, Royal Farms received approval for the Plan from all of the Baltimore County agencies which are required to review the same (Pet. Ex. 3 of Memo of Law). That same day - upon receiving PAI approval - Royal Farms recorded a plat in the Land Records for Baltimore County at 3:20 p.m. (Liber 79, folio 575) (the "Plat") (Prot. Ex. 3 of Memo of Law). It is undisputed that neither the Protestants nor People's Counsel appealed the approval of the Plan.

Five (5) days later, on November 18, 2015, the Protestants appealed to the Circuit Court this Board's October 20, 2015 decision granting the Special Exception for the fuel service station in combination with the convenience store/carryout restaurant. As is clear from the Protestants' Memorandum in Support of Petition for Judicial Review filed in the Circuit Court, the Protestants

only appealed the Special Exception approval (Case No.: 14-131 SPHXA), and not this Board's decision to grant the limited exemption (Case No.: CBA-14-033) (Pet. Ex. 5 of Memo of Law). On June 8, 2016, the Circuit Court for Baltimore County remanded the case to this Board for further proceedings on three (3) specific evidentiary issues related to the special exception. As previously mentioned, the Remand Hearing on those issues was scheduled for October 6, 2016.

On August 30, 2016, in accordance with Bill 56-16, the County Council rezoned the Property from BL-CR (Business-Local with a Commercial Rural overlay) to R.C.C. (Resource Conservation-Commercial). The R.C.C. zone does not permit the fuel service station but does permit convenience stores and carryout restaurants.

DECISION

The issue before this Board is whether Royal Farms obtained vested development rights by recording the Plat in the Land Records for Baltimore County. If Plat recordation vests development rights, then the former BL-CR zoning applies, and the fuel service station (along with the convenience store and carryout restaurant) would be permitted.

The terms "vested" and "vesting" are defined in BCC, §32-4-101(ccc) as follows:

> * * * *
> (ccc) *Vested.* The terms "vested" or "vesting" is a protected status conferred on a Development Plan. A vested Development Plan shall proceed in accordance with the approved Plan and the laws in effect at the time Plan approval is obtained. A property owner, developer or applicant obtains vested rights for a Development Plan in accordance with §32-4-264 of this title.

Referring to BCC, §32-4-264, as set forth in the definition above, vesting of a non-residential development plan is accomplished upon recordation of a plat for any portion of a plan as follows:

> §32-4-264
>
> * * * *
> (b) *Non-residential Plan.*
>
> * * * *
> (2) a non-residential Plan for which a plat is recorded vests when plat recordation occurs for any portion of the Plan.

A non-residential plan is defined in BCC, 32-4-101(ddd) as: "a Plan of Development in which the dominant element of the Plan is (1) commercial development...." In this case, there is no dispute that the Plan is "non-residential."

Thus, the first step toward vesting is approval of a development plan. BCC, §32-4-104 ensures that Title 4 applies to the approval process for all development plans. BCC, §32-4-101(q) defines a development plan as: "a written and graphic representation of a proposed development prepared in compliance with Subtitle 2 of this title." Subtitle 2, in turn, is entitled "*Development Review and Approval Process*" and is divided into three (3) "Parts": Part 1- "Development and Design"; Part 2- "Concept Plan"; and Part 3- "Development Plan."

There are exemptions from the development review and approval process as set forth in BCC, §32-4-106 *et seq*. As previously mentioned, this Board, in our Opinion dated October 20, 2015, granted Royal Farms a limited exemption from BCC, §32-4-106(b)(8) for a minor development that does not exceed 3 lots. This means that the Plan was exempt from both the community input meeting and hearing officer's hearing. Thus, the Plan could be processed for approval through the County agencies.

Once representatives from the various County agencies approved the Plan, a plat could be submitted for approval and recording. While there is a chronological procedure to obtain plat approval as set forth in BCC, §32-4-271 and §32-4-272, once the plat is approved, there is no

restriction on the date when a plat can be recorded. In other words, a plat can be recorded the same date that a plan is approved.

In reviewing the relevant sections on plat approval, BCC 32-4-271(a) requires a plat to be prepared in accordance with an approved development plan. BCC, §32-4-272 provides a sequence of events which must be met before a plat may be submitted to PAI for approval:

> § 32-4-272. - PROCEDURE FOR APPROVAL.
>
> (a) Items to be approved before plat approval.
>
> (1) After Development Plan approval, the applicant may submit a plat to the Department of Permits, Approvals and Inspections.
>
> (2) The Department may not approve the plat until approval is issued, if required, for:
>
> (i) Stormwater management plans;
> (ii) Public works agreements;
> (iii) Development Plan, if required by the Baltimore County Zoning Regulations;
> (iv) Security; and
> (v) Necessary fees.
>
> (3) (i) The items specified under paragraph (2)(i) through (iii) of this subsection shall be approved or disapproved:
>
> 1. Within 30 days after submission if the action involves only approvals by county agencies; or
>
> 2. Within 60 days after submission if the action involves approvals by state or federal agencies.
>
> (ii) An agency that disapproves an item shall provide a written statement of the reasons for the disapproval.
>
> (4) The time periods specified in this subsection may be extended by written agreement of the applicant.

> (b) Review of plat for conformity with Development Plan. After receipt and approval of all items required under subsection (a) of this section, the Director of Permits, Approvals and Inspections shall promptly transmit the plat to the Department of Environmental Protection and Sustainability for the Department's review for conformity with the Development Plan, unless the plat was already reviewed by the Department for conformity.
>
> (c) Approval, modification, or disapproval of plat.
>
> > (1) Within 10 days after receipt of the plat, the Directors of Permits, Approvals and Inspections and Environmental Protection and Sustainability or their designees shall:
> >
> > > (i) Approve the plat;
> > >
> > > (ii) With the consent of the applicant, modify the plat; or
> > >
> > > (iii) Disapprove the plat.
> >
> > (2) A Director or the Director's designee shall notify the applicant in writing of the reasons for modification or disapproval.
>
> (d) Unanimous approval; required. An applicant may not record a plat unless:
>
> > (1) The plat has been unanimously approved by the Directors of Permits, Approvals and Inspections and Environmental Protection and Sustainability; and
> >
> > (2) The approvals have been noted on the plat.
>
> (e) Appeal prohibited. Appeal from the plat approval process is prohibited.

In review of the facts here, this was a non-residential Plan which received limited exemption status under 32-4-106(b)(8). The Plan was approved by representatives of the County agencies. Consequently, under BCC, §32-4-272(a)(2), the Plat could be submitted for approval. Once approved, the Plat could be recorded. Based on the foregoing, Royal Farms complied with

all of the requirements for both Plan and Plat approval. Once the Plat was recorded, Royal Farms acquired vested development rights under BCC, §32-4-264(b)(2).

The argument of both Protestants and People's Counsel is that the Plan should never have been approved by the County agencies because (a) the Board had only issued its initial decision in connection with the special exception issue on October 20, 2015, and (b) the parties were within the thirty-day appeal period when the County agencies issued final approval of the Plan on November 13, 2015. Protestants and People's Counsel assert that there was no zoning basis for the Plan approval since the special exception litigation was still pending at the time of the County agencies' approval of the Plan. They further highlight that a development plan must comply with the zoning laws under BCC, §32-4-114(a), which includes obtaining a final special exception. They conclude that, since the Plan should never have been approved, the Plat is a nullity (PC Memo of Law, pp. 3-4).

Protestants advocate that support for their argument is found in BCC, §32-4-281(f) which prohibits the recordation of a plat that is connected to a development plan when the plan is the subject of an appeal to this Board. Undeniably, BCC, §32-4-281(f) comes into play when a development plan is appealed to the Board. When a development plan is appealed, a plat cannot be recorded for that development plan. Specifically, BCC, §32-4-281(b)(1) permits a person aggrieved or feeling aggrieved by "*final action on a Development Plan*" to file an appeal to this Board. The phrase "*final action on a Development Plan*" is defined in BCC 32-4-101(t) as:

> (t) *Final action.* "Final action" on a Development Plan means:
>
> (1) The approval of a Development Plan as submitted;
> (2) The approval of a Development Plan with conditions; or
> (3) The disapproval of a Development Plan by the Hearing Office in accordance with §32-4-229 of this title.

Unfortunately, in this case, there was no appeal of the approval of the Plan to this Board by either the Protestants or People's Counsel. In fact, if the Plan is not appealed, BCC, §32-4-272(e), prohibits the appeal of the Plat approval. As such, because there is *no* "development plan that is the subject of appeal," BCC, §32-4-281(f) does not come into play, and there is no restriction on recording the Plat. There is a critical distinction between the appeal of the special exception for the fuel service station and the appeal of a development plan. Protestants and People's Counsel were entitled to appeal both cases.

As we previously said in *Carol Lynn Morris/C.G. Homes, 2016-302-SPHA,* a *de novo* appeal is an exercise of appellate jurisdiction rather than original jurisdiction. *Halle Companies v. Crofton Civic Ass'n*, 339 Md. 131, 143; 661 A.2d. 682, 687-88 (1995); see *Hardy v. State*, 279 Md. 489, 492, 369 A.2d 1043, 1046 (1977). Whether a tribunal's exercise of jurisdiction is appellate or original does not depend on whether the tribunal is authorized to receive additional evidence. *Halle Companies*, 339 Md. at 143; 661 A.2d. at 688. Instead, as Chief Justice Marshall explained, '[i]t is the essential criterion of appellate jurisdiction that it revises and corrects the proceedings in a cause already instituted, and does not create that cause....." *Id.*, quoting *Marbury v. Madison*, 5 U.S. (1Cranch) 137, 175; 2 L. Ed. 60, 73 (1803).

Since we do not have the Plan appeal case before us, we cannot make factual findings or decisions about whether or not the Plan should have been approved; should have been approved with conditions; or should have been disapproved. Indeed, if we were to agree with People's Counsel and the Protestants' argument, we would be deciding, without a case before us, that the County agencies did something wrong and the Plan should not have been approved. This Board does not have jurisdiction to do that.

As we previously indicated above, the BCC permits Royal Farms to simultaneously and separately pursue the special exception case and the Plan approval. We acknowledge that the special exception status may ultimately be denied since it is still subject to appeal. However, the BCC does not prohibit a developer from making a business decision to expend costs obtaining plan and plat approval before obtaining zoning approval. Without the Plan appeal case before us, we are faced with the plain, express statutory language in BCC, §32-4-264(b)(2) that vesting occurred here when the Plat was recorded.

People's Counsel advocates in its Memorandum of Law that the common law doctrine of "vested rights" describes 'vesting' as occurring with a valid building permit and substantial construction. People's Counsel highlights the Court of Appeals holding in *Yorkdale Corp. v. Powell*, 237 Md. 121, 124, 126 (1964), otherwise known as the "*Yorkdale* Rule":

> A change in the law after a decision below and before final decision by the appellate Court will be applied by that Court unless vested or accrued substantive rights would be disturbed **or** unless the legislature shows a contrary intent.

(Emphasis Added).

We find that the *Yorkdale* Rule applies here. There was both vesting by Plat recordation as well as the legislative history of BCC, §32-4-264(b)(2) which shows the County Council's intent to change the way vesting is accomplished - from building permits and substantial construction to plat recordation. To determine whether BCC, §32-4-264(b)(2) abrogated general common law vesting, the appellate courts have looked first to the statutory language itself and then to the legislative history to determine what the legislature intended. *100 Harborview Drive Condominium Council of Unit Owners and Zalco Realty, Inc. v. Paul C. Clark*, (224 Md. App. 13, 119 A.3d 87 (2015); *Fagerhus v. Host Marriott Corporation*, 143 Md. App. 525, 795 A.2d 221 (2002).

In Section 7 of Bill 58-09, the County Council expressed its unequivocal intent to change the process for vesting by use of the words "supersedes" and "abrogates":

> SECTION 7. AND BE IT FURTHER ENACTED, that this Act is adopted independently of Section 103 of the Baltimore County Zoning Regulations so that it **supersedes and abrogates the rights to the vesting** or processing of a development that would otherwise accrue from any provision of the zoning or development regulations or any other County laws or administrative interpretations thereof.

(Emphasis Added) (PC Memo of Law, App. 54) (*100 Harborview Drive*, 119 A.3d pp. 103-105); (*Fagerhus*, 143 Md. App. 525, 795 A.2d 228).

With regard to the legislative history of BCC, §32-4-264(b)(2) (formerly BCC §22-68), Bill 56-82 was the County Council's first effort to codify vested rights (PC Memo of Law, p. 16). At that time, vesting was accomplished by the issuance of a building permit **or** the occurrence of substantial construction (PC Memo of Law, App. 16).

The 1978 BCC reflects the same vesting language (PC Memo of Law, App. 20). In the 1988 BCC, the vesting language is again repeated, albeit the Code sections were renumbered such that BCC §22-68 became BCC §26-216 (PC Memo of Law, App. 37-38). In 2006, by enactment of Bill 24-06, BCC §26-216 became §32-4-273 and the vesting language was only slightly changed. In that Bill, rather than 2 options, the County Council decided to require both a building permit and an inspection by the County that substantial construction had occurred as follows:

> 32-4-273. Time Limit for [Validity of Plats and Plans.] VESTING.
>
> (d) Development. A subdivision or section or parcel of the subdivision is considered [developed and] vested if [any of the following has occurred with respect to the subdivision, section, or parcel:
>
> (1) Building permits have been issued or
> (2) Substantial construction on required public improvements or private improvements has occurred on the subdivision, section, or parcel in accordance with the applicable regulations and requirements of the Department of Public Works.]

~~BUILDING PERMITS HAVE~~ A BUILDING PERMIT HAS BEEN ISSUED FOR ANY LOT IN ACCORDANCE WITH AN APPROVED PLAN OR PLAT, **AND** INSPECTION BY THE COUNTY CONFIRMS THAT SUBSTANTIAL CONSTRUCTION HAS OCCURRED ~~ON~~ WITHIN THE SUBDIVISION, INCLUDING ANY LOT, TRACT, SECTION, OR PARCEL THEREOF, WITHIN FOUR YEARS AFTER THE DATE OF THE FINAL, NONAPPEALABLE APPROVAL OF THE PLAN OR PLAT OR ANY EXTENSION THEREOF AUTHORIZED UNDER SECTION 32-4-261(A).

(Emphasis Added) (PC Memo of Law, App. 43).

As indicated by People's Counsel in his brief, the Fiscal Note for Bill 24-06 reflects an emphasis by the County Council to set a time period (4 years) during which an approved plan would expire, if it had not vested.

In 2009, with the passage of Bill 58-09, the County Council significantly and materially changed the process for vesting of a development plan, in that a building permit was no longer one of the requirements for vesting, and substantial development was only required if a plat had not been recorded (PC Memo of Law, App. 48-54). The current version of BCC, §32-4-264(b)(2) derives from Bill 58-09 and differentiates vesting for a residential and non-residential plan. Bill 58-09 also added the current definitions of "*Vesting*" in BCC, §32-4-101(ccc) and "*Non-Residential Plan*" in BCC, §32-4-101(ddd).

In summary, Bill 58-09 reveals that plat recordation is the operative, watershed event as to whether a development plan would vest (PC Memo of Law, App. 51). The County Council made clear that if a plat is not recorded, a development plan only vests if there is substantial construction. BCC, §32-4-264(b)(1). Conversely, if the plat is recorded, a non-residential plan vests upon recordation. Given the legislative history, we cannot ignore the specific deletion of "building

permits" and the reduced role of "substantial construction" in the determination of vested rights for non-residential plans.

Moreover, in reviewing the August 3, 2009 Fiscal Note which accompanied Bill 58-09, the County Council provided insight into the basis for vesting upon plat recordation. The Fiscal Note states that: "Builders and lenders in particular want greater certainty regarding the concept of vesting" (PC Memo of Law, App. 56). It further explained that a development plan would, upon passage of Bill 58-09, either expire or vest (PC Memo of Law, App. 57).

The Fiscal Note also reiterates the language in the Bill pertaining to non-residential plans:

> IN GENERAL, THIS BILL IMPACTS ONLY RESIDENTIAL DEVELOPMENT PLANS AND DOES NOT AFFECT NON-RESIDENTIAL PLANS OF DEVELOPMENT.
>
> The bill makes only one change with respect to non-residential plans: the time for vesting a non-residential plan is made consistent with the residential plan, i.e., if a plat is not recorded, the plan vests when substantial construction occurs; if a plat is recorded, the plan vests when the plat is recorded.

(PC Memo of Law, App. 57).

With regard to People's Counsel's argument that general common law vesting principles apply here, we find the legislative history shows a deliberate intent by the County Council to move away from vesting by building permits for every development plan, and to require substantial construction only in the specified situation. In our interpretation of BCC, §32-4-264(b)(2), the issuance of a building permit cannot now co-exist along with plat recordation as the triggering event for vesting. Further, substantial construction is not now required *in addition to* plat recordation; it is in lieu of plat recordation.

People's Counsel's reliance on *Powell v. Calvert County*, 368 Md. 400 (2002) and *Antwerpen v. Baltimore County*, 163 Md. App 194 (2005), is misplaced. While *Powell* also

involved a request for special exception, there was no vesting statute at issue. In *Powell,* the issue was whether the property owner acquired vested rights by storing materials on the property after an initial special exception was granted. Said another way, the issue in *Powell* was whether the property owner acquired vested rights as a result of the initial approval of a special exception. The Court of Appeals held that vesting did not occur by storing materials on the property.

Antwerpen also did not involve a vesting statute. The issue in *Antwerpen* was the same as in *Powell*; whether vesting occurred by *Antwerpen's* use of the property as a car dealership after special hearing relief was granted. The argument by *Antwerpen* was that it obtained vested rights by using the property as a car dealership for 9 days prior to the effective date of a bill that changed the zoning.

Quoting *Powell*, the *Antwerpen* Court explained that when vesting is claimed *as a result of the very zoning relief which is being sought*, then rights will not vest until the final approval of the special exception or special hearing is granted. Therein lies the critical distinction between the *Powell/Antwerpen* holdings and this case. Here, vesting is not claimed as a result of this Board's initial grant of the special exception relief for Royal Farms' fuel service station, carryout restaurant or convenience store. Rather, vesting is claimed by virtue of a statute that specifically dictates the moment in time when vesting of a plan will occur.

People's Counsel's reference to *Grasslands Plantation, Inc. v. Frizz-King Enterprises, LLC*, 410 Md. 191, 978 A.2d 622 (2009) and *O'Donnell v. Bassler*, 289 Md. 501, 425 A.2d 1003 (1981) is equally inapposite. The issue in *Grasslands* was whether a county ordinance passed during an appeal should be applied to the subdivision there. The Court of Appeals in *Grasslands* held that, under the facts of that case, the new ordinance should apply.

An appellate court must apply the law in effect at the time a case is decided, *provided that its application does not affect intervening vested rights. County Council for Prince George's County v. Carl M. Freeman Assocs., Inc.*, 281 Md. 70, 76, 376 A.2d 860, 863-64 (1977); *Rockville Fuel & Feed Co. v. City of Gaithersburg*, 266 Md. 117, 127, 291 A.2d 672, 677 (1972). In this case, the definition of "vesting" in BCC, §32-4-101(ccc) clarifies that a vested development plan proceeds in accordance with the laws in effect at the time the plan was approved. Thus, in our view, the holding in *Grasslands* was taken out of context.

In *O'Donnell*, as in *Powell* and *Antwerpen*, the issue was whether vesting occurred as a result of the issuance of a special exception use permit, not vesting by virtue of a statute. The Court in *O'Donnell* held that a special exception use permit which was invalidated on judicial review did not vest rights in the owner (*Id.* at 508.) Accordingly, *O'Donnell* is also distinguishable.

Finally, Protestants argued that Royal Farms changed the address of the Property on the Plan from 118 Mount Carmel Road to 200 Mount Carmel Road which, they allege, prevented them from tracking the processing of the Plan and ultimately filing an appeal to this Board.

We do not agree. In reviewing the record from our hearings, the Protestants were presented with the opportunity to review the Plan. At the hearing on November 6, 2014, Royal Farms offered the Plan as Petitioner's Exhibit 41a-c and proffered that an expert could explain changes to the Plan (T. 11/6/14, pp. 42-43; Pet. Memo of Law, Ex. 13). When it was offered into evidence, the Protestants objected to its admission on the basis that the Plan was not relevant to the special exception case (*Id*). As a result, Royal Farms withdrew admission of the Plan (*Id*).

Then, at our hearing on January 21, 2015, Protestants cross examined a Royal Farms expert about the County agency comments to the Plan; about the fact that Royal Farms was proceeding with Plan approval, even though the special exception had not been granted; and about what stage

the Plan was in the approval process (T. 1/21/15, pp. 19-21). Consequently, there was no mystery that Royal Farms was simultaneously pursuing approval of the Plan while the special exception case was pending.

CONCLUSION

For the foregoing reasons, this Board unanimously denies People's Counsel's Motion to Dismiss.

O R D E R

THEREFORE, IT IS THIS 10th day of March, 2017, by the Board of Appeals of Baltimore County,

ORDERED that People's Counsel's Motion to Dismiss be, and it is hereby, **DENIED**; and it is further,

ORDERED that this matter shall be scheduled for an evidentiary hearing on a date mutually convenient for the parties and the Board's docket in accordance with the Order dated June 8, 2016 from the Circuit Court for Baltimore County; and it is further,

ORDERED, that a final Opinion will be issued by this Board after a hearing on the merits and a public deliberation.

BOARD OF APPEALS
OF BALTIMORE COUNTY

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RE: *In the Matter of: Riverwatch, L.L.C. – Legal Owner*
Two Farms, Inc. – Contract Purchaser/Lessee
Case Nos.: 14-131-SPHXA and CBA-14-033

Dear Counsel:

Enclosed please find a copy of the Ruling on Motion to Dismiss issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Pursuant to the enclosed, this Order is not a final decision of the Board of Appeals for Baltimore County and does not constitute an appealable event at this time. This matter will be held open on the Board's docket until such time as a final opinion can be issued.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,

Sunny Cannington Hem

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Multiple Original Cover Letter

c: Riverwatch, L.L.C.
John Kemp, President/Two Farms, Inc.
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
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