

IN THE MATTER OF
TAMMIE ANNE TURNER
(Special Exception - RR)

BEFORE THE CECIL COUNTY
BOARD OF APPEALS
CASE NO.: 3610

OPINION

Application of Tammie Anne Turner (hereinafter, “Turner” or the “Applicant”), for a special exception to operate a home occupation business at property located at 7057 Augustine Herman Highway, Earleville, Maryland 21919, Election District 1, Tax Map 62, Parcel 26 (the “Property”). The Property is presently zoned Rural Residential (“RR”), and is owned by Robert Turner and Tammie Anne Turner.

This application is brought under the provisions of Article V, Part III, Section 79 and Section 54.4 Table of Permissible Uses 3.05.000 of the Ordinance, which permits a home occupation as a Special Exception in the RR zone provided that: (1) Home occupations are in the same building as the residence, and do not change the residential character and appearance of the dwelling; (2) No type of advertisement for the home occupations shall be carried out on the property, except one (1) unlighted sign identifying the home occupation, limited to three (3) square feet in size; (3) No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises; (4) Parking is provided in accordance with Article XIV of the Ordinance; and, (5) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

Article XVII, Part II, Section 311 of the Ordinance specifies that no special exception shall be approved by the Board of Appeals after considering all facts in the case unless the following findings are made:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.

3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.

4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. The use shall not adversely affect critical natural areas or areas of ecological importance.

6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

The Applicant requests a special exception on the Property in order to operate a hair salon. The Applicant appeared at the hearing and testified that she has operated a hair salon in Cecilton,

Maryland for over twenty five (25) years, and that she would now like to move the hair salon into her home on the Property. The Applicant testified that she would be the only employee, that she would have two (2) chairs available for customers, that the hair salon would be in the ground floor (basement) area of the dwelling on the Property, and that her hours of operation would be during normal business hours Tuesday through Friday or Wednesday through Saturday, with one late day per week between the hours of Noon and 8:00p.m. The Applicant testified that if approved, she would extend her current parking lot so as to provide a gravel parking area sufficient to park three (3) to five (5) cars. Ingress and egress would be from Route 213 to the parking area on the Property. The Applicant further testified that UPS and/or Fed Ex would make deliveries one (1) time per week, and that she would install a pole light in the parking area to supplement existing security lighting on the dwelling. The Applicant testified that may in the future install a sign in conformance with County Code, however, she doesn't take new customers, and her existing customers know where her Property is located, so a sign is not immediately necessary or desired.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That the proposed use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare. The home occupation will consist of a small, two chair hair salon with one employee (the Applicant). The Applicant will be open primarily during normal business hours, when traffic on the streets is minimized, and the home occupation will itself add few motor vehicles to the roads, as the Applicant can serve at most two clients at a time. The home occupation will not entail the use or storage of hazardous material, and is generally indiscernible from the exterior of the premises.

2. That the use will not be unduly injurious to the peaceful use and enjoyment of other

property in the neighborhood, nor will the home occupation substantially diminish or impair property values in the neighborhood. As set forth above, the home occupation will be operated primarily during normal business hours, will involve a small client base with one or two clients served at any one time, traffic impacts will be minimal, the operation is generally subtle and unnoticeable from the exterior of the premises, and the business will entail nominal delivery activity and, at present, no signage. Based on the foregoing, the hair salon will be virtually indiscernible from the exterior of the premises, generally compatible with surrounding properties and the character of the neighborhood, and, as such, impact on neighboring properties will be minimal.

3. There is no evidence that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use. Rather, the Board finds that the home occupation will be confined to the interior of the existing dwelling, will entail little increased traffic, no signage, and will provide for ingress and egress directly onto Route 213, a major State roadway.

4. That there was no evidence indicating that the use will, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. As set forth above, the proposed use will be confined to the interior of the existing dwelling, and will have little effect on existing traffic in the area. The home occupation will utilize existing water and sewer facilities, and there is no evidence before the Board that such use will be overly burdensome or have any material impact on existing or permitted development in the area. The proposed use will have no impact on local schools, and is of such a character that the impact, if any, on local law enforcement and fire/EMS services will be minimal.

5. That there is no evidence that the proposed use will adversely affect critical natural areas or areas of ecological importance. The Board finds that the Property is not in the critical area,

the 100 year flood plain, or the Critical Area Buffer and, as set forth above, that the existing water and sewer is adequate for the proposed use.

6. That the proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located. The Applicant testified that, if approved, she will improve her existing driveway to provide gravel parking for three to five motor vehicles.

7. That there is no evidence that the particular use proposed at the particular location proposed, will have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1). The home occupation will not materially increase traffic, will not involve hazardous goods, will emit no noises discernible from the exterior of the premises, and will from evidence and testimony before the Board, be generally indistinguishable from wholly residential uses in this location of the zone. Additionally, ingress and egress is available from the Property directly onto Route 213, and there is sufficient available space on the Property to install a customer parking area such that the Applicant's home occupation will not cause parking on public or private roads. Based on the foregoing, the operation of a home occupation appears to be generally suitable for this location in the zone.

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The Applicant will offer private parking to her clients on the Property, and motor vehicle access is available directly from the Property onto Route 213.

9. That the special exception is consistent with the objectives of the current Comprehensive Plan for the County. The proposed use is permitted as a special exception, with conditions, in the RR zone. The Applicant meets all supplemental requirements under Section 79 of the Ordinance; specifically, the Board finds from the evidence and testimony set forth above that:

(a) The proposed home occupation is in the same building as the residence, and does not change the residential character and appearance of the dwelling;

(b) There will be no exterior signage or advertising on the premises and, if the Applicant elects to install a sign at a later date, she testified that such a sign would be in strict conformance with the County Code;

(c) No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises;

(d) The Applicant credibly testified that, if approved, she will install a gravel parking area sufficient for three to five motor vehicles on the Property. Ingress and egress should not be an issue, as the Property is directly accessed via Route 213; and,

(e) There is no evidence that equipment or processes used in the business will create noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

For the reasons stated, by unanimous vote, the Board is satisfied that the requirements of Sections 79, 54.4 sub-part 3.05.000, and 311, along with *Schultz v. Pritts*, 291 Md. 1 (1981) have been met, and the application is, therefore, APPROVED for a period of two (2) years, provided that all Health Department conditions are met.

8/28/12
Date

[Signature]
Mark Saunders, Acting Chairperson

TRUE COPY

[Signature]
8-29-12

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: July 2012
 FILE NO. 3610

THIS REQUEST IS FOR:
 SPECIAL EXCEPTION RENEWAL (✓)
 SPECIAL EXCEPTION (✓)
 VARIANCE ()
 APPEAL ()

RECEIVED

JUN 12 2012

DATE FILED: 6/12/12
 AMOUNT PD: \$250.00
 ACCEPTED BY: CTH

A. APPLICANT INFORMATION

ck # 1390

Tamie Anne Turner CECIL COUNTY OFFICE OF:
 APPLICANT NAME - PLEASE PRINT CLEARLY PLANNING & ZONING

Po Box 487 Cecilton Md 21913
 ADDRESS CITY STATE ZIP CODE

Tamie Turner 410-275-8794
 APPLICANT SIGNATURE PHONE NUMBER

443 309 4696 cell

B. PROPERTY OWNER INFORMATION

Robert & Tamie Turner
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

7057 Augustine Herman Hwy Earleville Md 21919
 ADDRESS CITY STATE ZIP CODE

Tamie Turner 410-275-8794
 PROPERTY OWNER SIGNATURE PHONE NUMBER

443 309 4696 cell

C. PROPERTY INFORMATION

7057 Augustine Herman Hwy 01 017209
 PROPERTY ADDRESS ELECTION DIST. F. NUMBER

0062 0022 0026 N/A 39.761 SF RR
 TAX MAP # BLOCK PAI cel LOT # ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate this appl. be granted. () separate sheet if necessar

In Home-business for Hair Salon

On an attached sheet, PLEASE submit a sketch of property indicating distances from the front, side and rear property lines and dimensions of the project. Show the project.

LAND USE DESIGNATION

Is property in the Critical Area? yes NO
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:
 Is property in the 100 year Floodplain? yes NO
 Is property an Agricultural Preservation District? yes NO

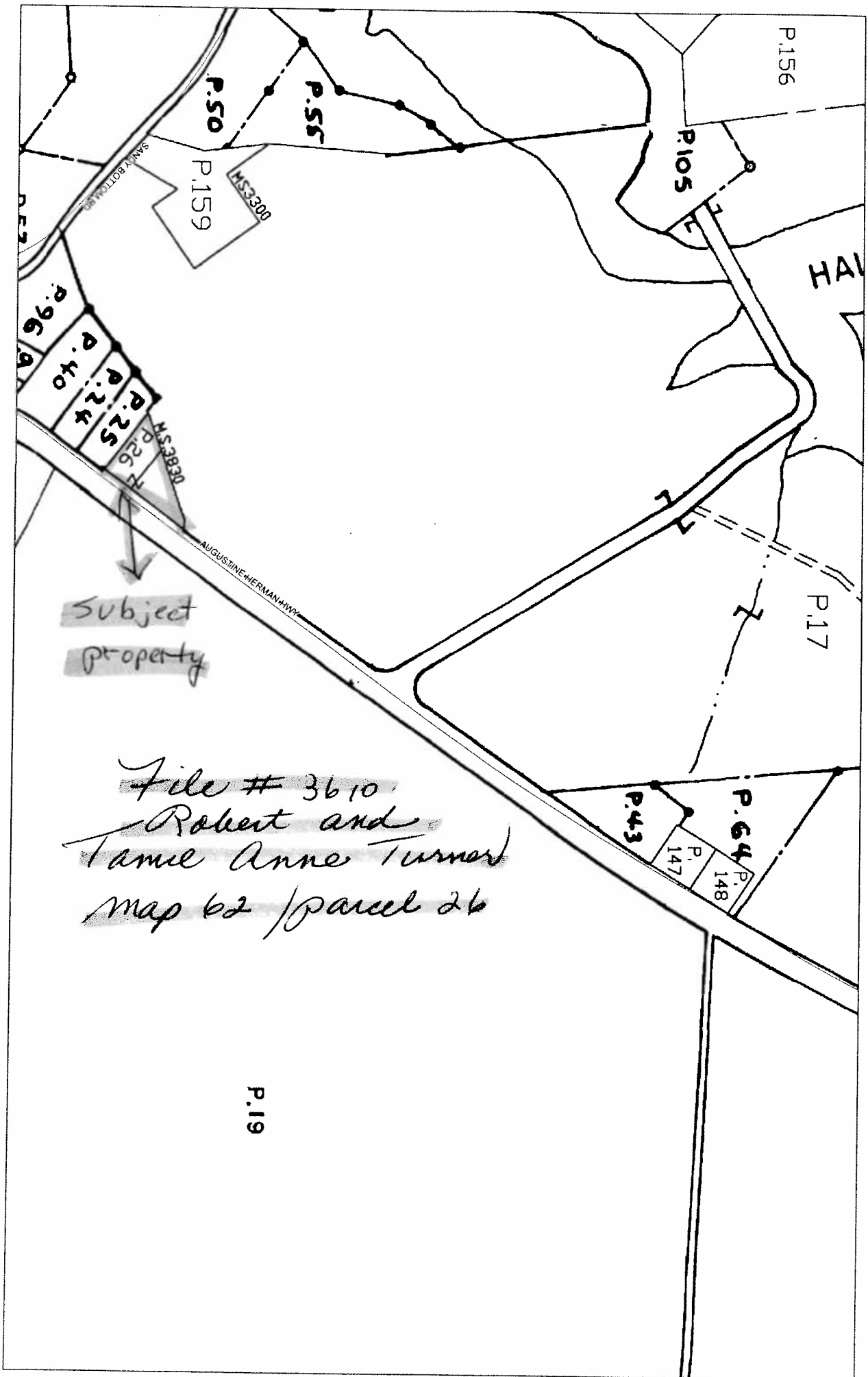
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

PROVISION OF ZONING ORDINANCE: Section 79

SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please furnish the following information:

Will unit be visible from the road? _____ If yes, distance: _____
 Will unit be visible from adjoining properties? _____ If yes, distance: _____
 Distance to nearest manufactured home: _____ Size/Model/Year of unit: _____
 Number of units on property at present time: _____

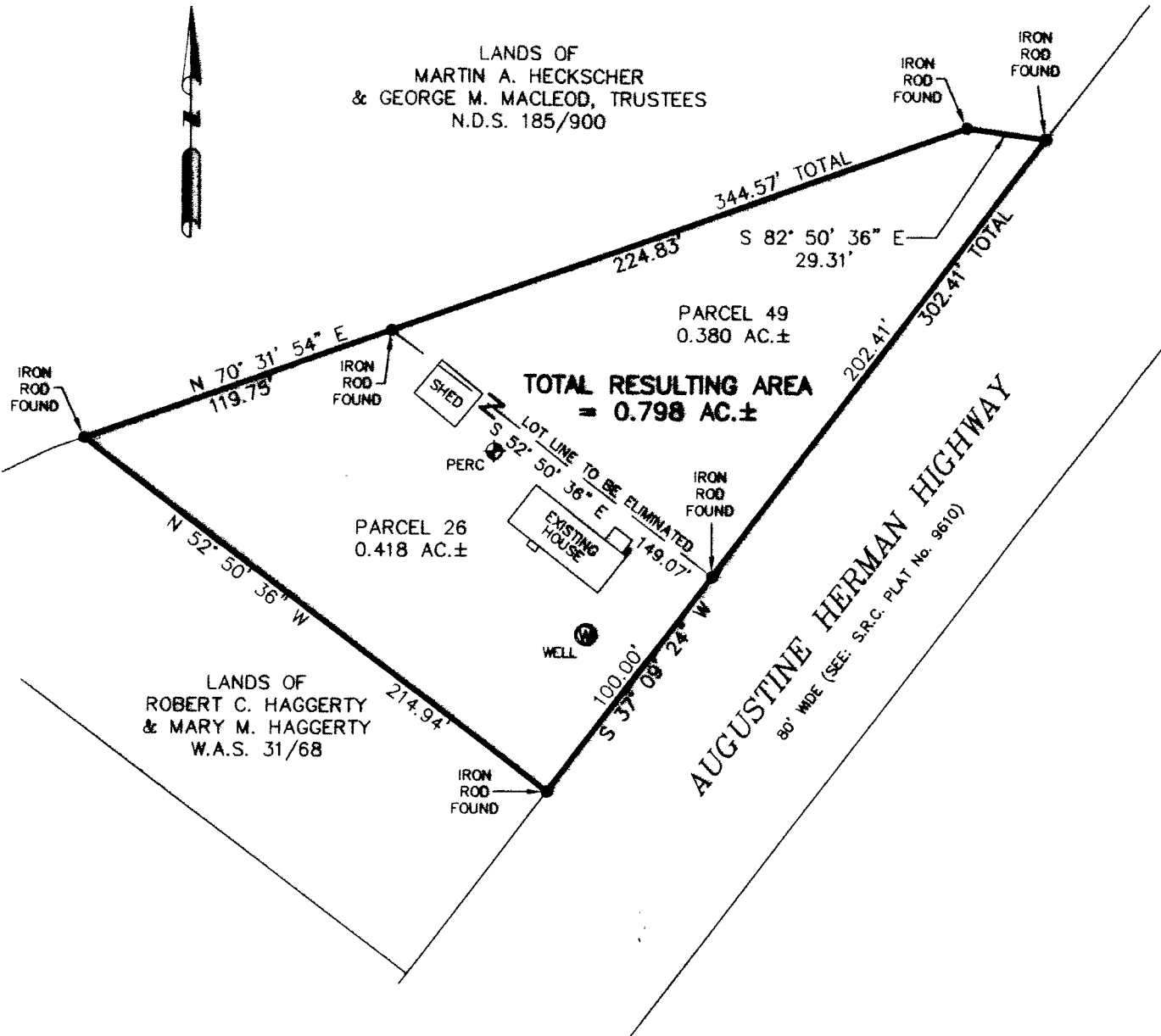


Subject
property

File # 3610
Robert and
Tameil Anne Turner
map to parcel 26

P.19

LANDS OF
MARTIN A. HECKSCHER
& GEORGE M. MACLEOD, TRUSTEES
N.D.S. 185/900



LANDS OF
ROBERT C. HAGGERTY
& MARY M. HAGGERTY
W.A.S. 31/68

SURVEYORS CERTIFICATE:

CERTIFICATION IS HEREBY MADE THAT PREPARATION OF THIS SUBDIVISION IS IN COMPLIANCE WITH SECTION 3-108, REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AND SUBSEQUENT AMENDMENTS.

REGISTERED MARYLAND LAND SURVEYOR
RONALD K. SCHRADER
120 EVELYN LANE

5/4/09

DATE

File # 3610