

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
JACOB VAN WINGERDEN	*	CASE NO.: 3635
	*	
(Special Exception – SAR)	*	
	*	
* * * * *		

**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Jacob Van Wingerden (the “Applicant”). Applicant currently maintains a manufactured home on property located at 55 Knight Island Road, Earleville, Maryland 21919, designated as Parcel 122 on Tax Map 62, in the First Election District of Cecil County (the “Property”), in an area zoned Southern Agricultural Residential (“SAR”) in accordance with a Special Exception granted by the Board pursuant to Article V, Part V, Section 71 of the Cecil County Zoning Ordinance (the “Ordinance”). Applicant now petitions the Board to renew the existing Special Exception. Specifically, Applicant seeks renewal of the Special Exception pursuant to Section 71 of the Ordinance, titled “Dwelling - Manufactured Home - Single-wide.”

Section 71 of the Ordinance provides:

1. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the manufactured home is for an employee of an agricultural operation conducted on the parcel where the manufactured home is to be located.
2. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For purposes of this provision, "immediate family"

shall only include a child, grandchild, parent or grandparent, step child or step parent.

3. A single-wide manufactured home may be permitted as a Special Exception in the BL, BG, BI, EMU, M1, M2 and MEA zones provided that the manufactured home is for the purposes of providing security for a business or industry conducted on the parcel where the manufactured home is to be located.

4. A single wide manufactured may be permitted as a special exception in the MH zone provided that a manufactured home presently exists on the property and provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For the purposes of this provision, "immediate family" shall only include a child, grandchild, parent or grandparent, step child or step parent.

In determining whether to grant an application for a Special Exception the Board must consider Section 311 of the Ordinance, which states:

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

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 (1981).

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.

Article XVII, Part II, Section 311, Cecil County Zoning Ordinance.

In support of his application to renew the special exception, Applicant testified that he was seeking renewal for a period of five (5) years and that the single wide manufactured home is being used by one of his agricultural employees. In a letter submitted to the Board along with his application, Applicant explains that he intends to remove the manufactured home once funding is secured for construction of a residence on the Property. The funding process is taking longer than anticipated, however.

No further witnesses testified in favor or in opposition to the application.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Planning Commission recommended approval of the renewal for a period of five (5) years..

Pursuant to Section 311 of the Ordinance, the Board finds as follows:

1. The existing special exception is not detrimental or an endangerment to the public health, safety, or general welfare. The existence of a single wide manufactured home as a temporary residence on a six (6) acre parcel does not constitute a danger to 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, or substantially diminish or impair property values in the neighborhood.

3. The use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zone. The Board does not find that the maintenance of a single wide manufactured home as a temporary residence is an impediment to the preservation of the agricultural character of the area or to the reasonable and orderly residential development permissible within the zone.

4. The use will not overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. No testimony was presented indicating that law enforcement or the local fire department have been called in response to any emergencies at the Property. Ingress and egress to a County road is available from the Property. No testimony was presented suggesting that the manufactured home has any discernible effect on public water and sewer systems.

5. The continued use will not adversely affect critical natural areas or areas of ecological importance. The Property is not located in a Critical Area District.

6. The continued use will, in all other respects, conform to the applicable regulations of the zone in which it is located. The Board finds that this portion of the SAR is used largely for purposes related to farming and residential use. Based upon the evidence presented, the Board finds that the maintenance of Applicant's single wide manufactured home as a residence for an agricultural employee is not inconsistent with these neighboring uses.

7. The particular use proposed at the particular location proposed will not

have any adverse effects above those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritz*, 291, Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicant's single wide manufactured home in this particular area of the SAR is no different than the impact of the proposed use in other areas of the SAR.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented evincing issues related to traffic and parking. Ingress and egress to the property is via a County road.

9. Maintenance of a single wide manufactured home on the Property is not contrary to the objectives of the Comprehensive Plan for the County. \

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311, of the Ordinance have been met and the application for renewal of the special exception under Section 71 is therefore **APPROVED.**

6/25/2013  
Date

David Willis, Jr.  
David Willis, Chairperson

**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: May 2013  
 FILE NO. 3638

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

DATE FILED: 3/25/13  
 AMOUNT PD: 250.00  
 ACCEPTED BY: mail

CK # 1008

Mail To

**A. APPLICANT INFORMATION**

Jacob Van Wingerden mail  
 APPLICANT NAME - PLEASE PRINT CLEARLY  
65 Knight Island Rd. Earleville MD 21919  
 ADDRESS CITY STATE ZIP CODE  
[Signature] 443-206-3223  
 APPLICANT SIGNATURE PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

Jacob & Wendy Van Wingerden  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
55 Knight Island Rd. Earleville MD 21919  
 ADDRESS CITY STATE ZIP CODE  
[Signature] 443-206-3223  
 PROPERTY OWNER SIGNATURE PHONE NUMBER

**C. PROPERTY INFORMATION**

55 Knight Island Rd 15<sup>th</sup> 051849  
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER  
62 14 122 N/A 6 SAR  
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

**D. PURPOSE OF APPLICATION** - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Letter Attached

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

**F. LAND USE DESIGNATION**

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

**G. PROVISION OF ZONING ORDINANCE:**

Article IV, Sec 54.4; sub 3.01.300; sec 71, p 1

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:

3529  
Agricultural employee

**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME** - Please fill out the following information:

Will unit be visible from the road? No If yes, distance: \_\_\_\_\_  
 Will unit be visible from adjoining properties? yes If yes, distance: \_\_\_\_\_  
 Distance to nearest manufactured home: 20 Size/Model/Year of Unit: ?  
 Number of units on property at present time: 1

MAR 25 2013

## **Jake Van Wingerden**

65 Knights Island Rd.  
Earleville, MD 21919  
Office #410-275-9370 ext #702  
Fax #410-275-9371  
Cell #443-206-3223  
Email [jakevw@tidalcreekgrowers.com](mailto:jakevw@tidalcreekgrowers.com)

March 21, 2013

Clifford Houston  
Cecil County Government  
Department of Planning and Zoning  
200 Chesapeake Blvd., Suite 2300  
Elkton, MD 21921

Dear Mr. Houston,

This letter is in response to your October 1, 2012 letter informing me that my Special Exception File #3529 would expire on November 2012. I must first apologize for my tardy reply. We were in the process of submitting a "Minor Subdivision Plan" on this property and I put this letter aside until that was finished and it go lost in a stack next to my desk.

The "Minor Subdivision Plan" was approved on 12/18/12 and I have included a copy of the plat for your review. The singlewide manufacture home is still on the property and is still being used by one of my agriculture employees. My plan is still to remove this mobile home once my financing has been secured to build a new home on the property. Unfortunately, that process is taken much longer than anticipated and we will need to apply for an additional special exception renewal. Enclosed you will find the application. Again I apologize for the late reply. Please feel free to call me with any questions at #443-206-3223.

Sincerely,



Jake Van Wingerden

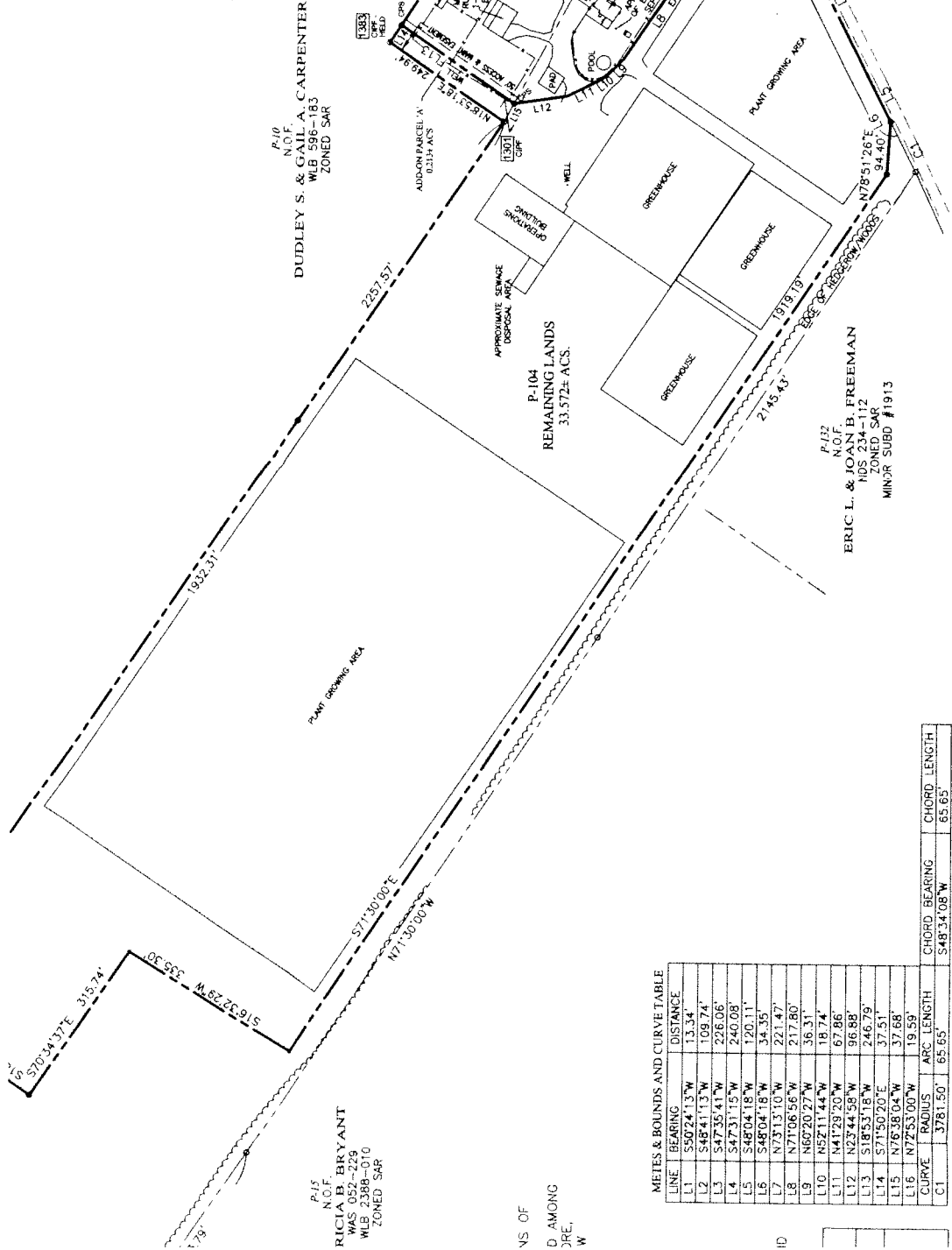
Enclosure: Check, Application & Plat

**ACREAGE DATA**

PROPOSED USE

P-104 MINOR SUB. NO. 3487A PC 1114-93  
 ADD-ON PARCEL 'A' 9.315± SF  
 ADD-ON PARCEL 'B' 9.315± SF  
 REMAINING LANDS P-104 33.572± ACS

P-122 BOUNDARY SURVEY BY AESI IN NOVEMBER, 2010  
 ADD-ON PARCEL 'A' 4.240± ACS  
 ADD-ON PARCEL 'B' -0.214± ACS  
 TOTAL P-122 6.014± ACS



METES & BOUNDS AND CURVE TABLE

LINE	BEARING	DISTANCE	CURVE RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
L1	S50°24'13"W	13.34'			S48°34'08"W	65.65'
L2	S48°41'13"W	109.74'				
L3	S47°35'41"W	226.06'				
L4	S47°31'15"W	240.08'				
L5	S48°04'18"W	120.11'				
L6	S48°04'18"W	34.35'				
L7	N73°13'10"W	227.47'				
L8	N71°08'56"W	217.80'				
L9	N69°20'27"W	36.31'				
L10	N52°11'44"W	18.74'				
L11	N41°29'20"W	67.86'				
L12	N23°44'58"W	96.88'				
L13	S18°53'18"W	246.79'				
L14	S71°50'20"E	37.51'				
L15	N76°38'04"W	37.68'				
L16	N72°53'00"W	19.59'				
C1	S78°1'50"	65.65'				

**SURVEYORS STATEMENT**

I, RYAN P. GRANGER, JR., A PROFESSIONAL LAND SURVEYOR, NO. 108603, HAVE PREPARED THIS SURVEY WITHOUT BENEFIT OF A TITLE SEARCH & IS NOT TO ANY EASEMENTS, RIGHTS-OF-WAYS, ETC. THAT ANY SUBSEQUENT SEARCH MAY REVEAL. THIS PLAN & THE SURVEY ON WHICH IT IS BASED WERE PREPARED UNDER MY RESPONSIBLE CHARGE & TO THE BEST OF MY KNOWLEDGE & BELIEF IN ACCORDANCE WITH COMAR, TITLE 09, MARYLAND REGULATION, SUBTITLE 13, CHAPTER 13.01, STANDARDS OF PRACTICE IN EFFECT AS OF 2012. MY LICENSE NO. 108603 EXPIRES ON 03/06/14.

DATE \_\_\_\_\_

APPROVED - SEAL \_\_\_\_\_

**OWNERS CERTIFICATION**

CERTIFICATION IS HEREBY MADE THAT, TO THE BEST OF OUR KNOWLEDGE, THE REQUIREMENTS OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, CONCERNING THE PREPARATION OF THIS PLAN AND SETTING OF MARKERS, HAVE BEEN COMPLIED WITH. WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN HEREON, AND THAT THIS SUBDIVISION PLAN WAS MADE AT OUR DISCRETION.

JVM INVESTMENTS, LLC - MEMBER P-104  
 DATE \_\_\_\_\_

JACOB VAN WINGERDEN P-122  
 DATE \_\_\_\_\_

WENDY VAN WINGERDEN P-122  
 DATE \_\_\_\_\_

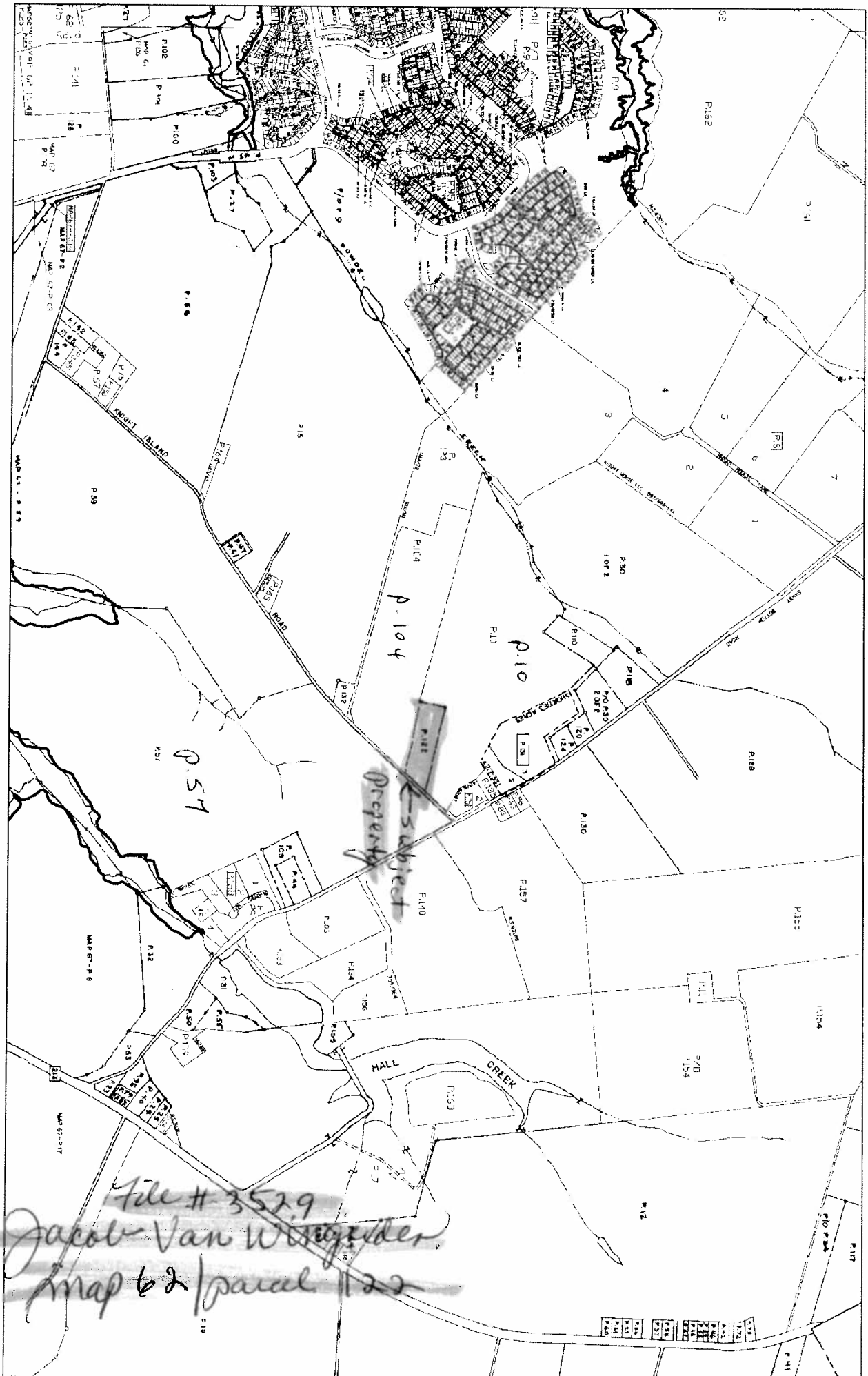
**RECORDING STAMPS**

RECEIVED ON \_\_\_\_\_  
 AND ON SAME DAY RECORDED IN LIBER \_\_\_\_\_  
 NO. \_\_\_\_\_ FOLIO NO. \_\_\_\_\_  
 ONE OF THE RECORD \_\_\_\_\_ BOOKS \_\_\_\_\_  
 OF CECIL COUNTY AND EXAMINED PER \_\_\_\_\_

CIRCUIT COURT FOR CECIL COUNTY  
 CLERK \_\_\_\_\_

REIMINARY  
 OCT 11 2012  
 NOT APPROVED FOR DATE





File # 3529  
Jacob Van Wijgerden  
Map 62 / parcel 122