

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
JAY C. EMREY, III	*	CASE NO.: 3684
	*	
(Special Exception – NAR)	*	
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OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Jay C. Emrey, III (the “Applicant”). Applicant seeks a special exception to host events on property owned by the Estate of Anthony E. Weymouth located at 55 Patrick Ward Drive, Rising Sun, Maryland 21911, designated as Parcel 201 on Tax Map 24 in the Fifth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part V, Section 102 of the Cecil County Zoning Ordinance (the “Ordinance”).

Section 102 of the Ordinance provides:

Festivals or events may be permitted as a Special Exception in the NAR and SAR zones and shall be permitted in the BG, BI, MB and OS zones provided:

1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
2. No temporary sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling; no tent shall be located within 250 feet of an existing dwelling.
3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
4. Seasonal business uses shall not exceed a total of 180 days in any 12 consecutive months.

5. Activity areas shall be at least 500 feet from a residential district.
6. A minimum of one parking space shall be provided for every 500 square feet of ground area of the total site.

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.

Applicant testified that the Property is approximately 23.74 acres and that during his lifetime Anthony Weymouth, the deceased property owner, would use the Property to host gatherings of like-minded individuals. The Property has been left to a non-profit foundation, the Feeling Catharsis.com Foundation, which seeks to continue using the Property for such purposes. The meetings are therapeutic in nature and provide the opportunity for peer support groups made up of individuals who come voluntarily to engage in activities designed to help address various emotional issues that these individuals are attempting to deal with. Applicant testified that the gatherings comprise less than 25 people at each event and that there is little traffic caused by the meetings. The gatherings are not a club or a cult, but rather a group of friends who have found a nurturing environment. These gatherings have been going on in a similar fashion for about 16 years. The foundation anticipates using the Property for gatherings approximately 25 weekends per year, or roughly twice per month. During the gatherings everyone stays on the Property. There is no advertising for the gatherings except for on-line networking. There is no fee for attendance; however, donations are accepted. The house on the Property is roughly 6000 square feet and can accommodate groups of 25 people.

Alan Kohajda testified in opposition. He owns the neighboring property, 54 Patrick Ward Drive. He testified that the people who attend the gatherings have mental issues and are out at all hours of the night. Their behavior disturbs him and his dogs. Attendees park in front of his house and wander over his property. He testified further that the people at the gatherings act as though they have carte blanche to act as they please on neighboring properties. He has seen young people who look like transients coming and going from the Property. He believes the gatherings are used for sexual purposes.

Walter Mathai testified in opposition. He owns a neighboring property and has had to deal with attendees of gatherings at the Property wandering on his property. He testified that the deceased told the attendees that Mr. Mathai's property was public land and they could use it. He has found people on his property with four wheelers and firearms. People from the gatherings have walked through his woods during hunting season. He further testified that his wife has found people from the gatherings in his gazebo.

Several attendees of the gatherings testified in favor of the special exception. They testified that the gatherings create a supportive environment for traumatized individuals. The gatherings are not just about primal scream therapy. It is an environment for healthy people who want to be healthier. The activities at the gatherings allow individuals who have suffered forms of early childhood trauma to move beyond those issues and become better functioning adults. Jackie Speck, who lives on Patrick Ward Drive, testified that she has never had any issues with the gatherings and that she has never heard anything coming from the gatherings.

The Applicant testified further that there are no dangerous activities allowed at the gatherings and that the gatherings have done nothing to damage property values. He testified that the proposed use will cause no more harm in this particular area of the NAR than it would in any other area of the NAR. Most of the attendees are over the age of fifty and well-educated, well-behaved adults who are seeking a safe place to gather with like-minded people for therapeutic purposes. The attendees are not seeking to expand activities but to simply continue with what has been done historically.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Planning Commission recommended approval of the special exception.

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

1. The special exception is not detrimental or an endangerment to the public health, safety, or general welfare. The proposed use is on a Property in an area where residential and agricultural uses are commingled. The character and nature of the area surrounding the Property and the size of the Property is such that the proposed use will not 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, or substantially diminish or impair property values in the neighborhood. The Property is of sufficient size that any light or noise pollution caused by the proposed use would have a minimal effect on any neighboring parcels. No evidence was presented that the proposed use will adversely affect neighboring property values.

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 hosting of events in a predominately agricultural area is an impediment to the preservation of the character of the area or to the reasonable and orderly residential development permissible within the zone.

4. The proposed use will not overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. The proposed use is not of the character that it will overburden municipal resources.

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 NAR is predominately

rural comprising agricultural and residential uses. Based upon the evidence presented, the Board finds that the hosting of events as contemplated by Applicants is not inconsistent with these neighboring uses.

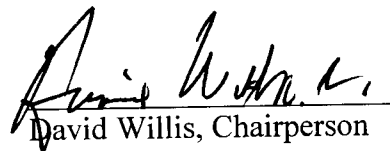
7. The particular use proposed at the particular location proposed will not have any adverse effects above those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritz*, 291, Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicant's proposed use in this particular area of the NAR zone is no different than the impact of the proposed use in other areas of the NAR zone.

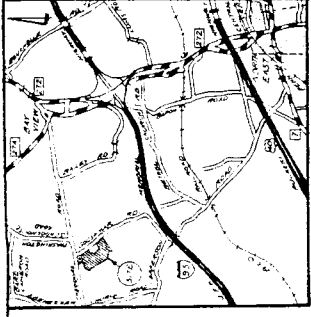
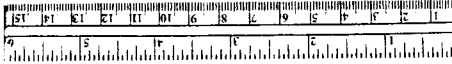
8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. The Property is of sufficient size to provide adequately for parking.

9. The use is not contrary to the objectives of the Comprehensive Plan for the County. The special exception is presumptively valid and the Board finds nothing in the record to indicate that the proposed use is contrary to the objectives of the Comprehensive Plan.

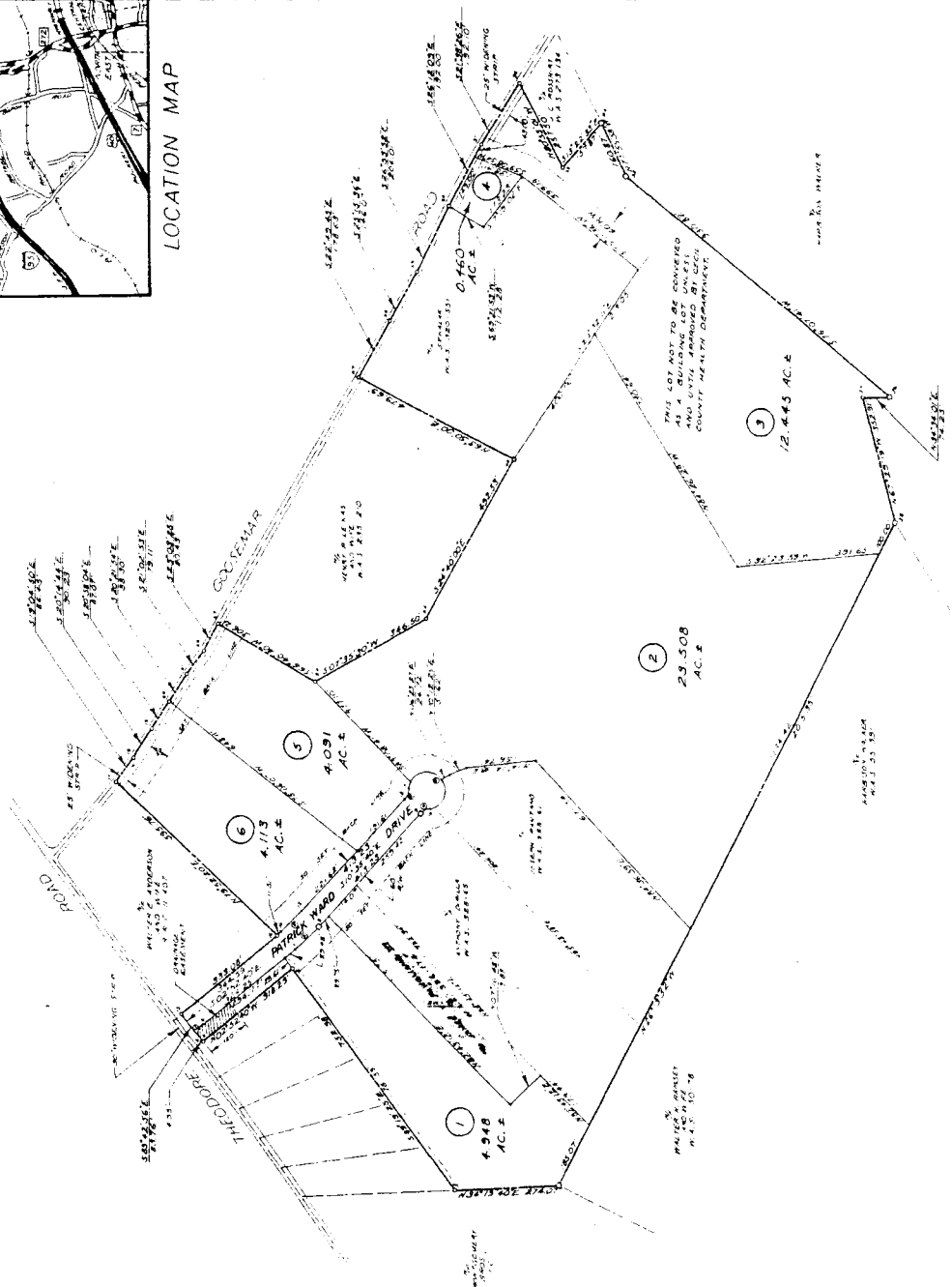
For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311, of the Ordinance have been met and the application for renewal of the special exception under Section 102 is therefore **APPROVED** for one year, provided that gatherings occur on no more than 25 weekends in that year.

8/26/14
Date


David Willis, Chairperson



LOCATION MAP



FINAL PLAT
THEODORE ESTATES
 FIFTH ELECTION DISTRICT
 CECIL COUNTY, MARYLAND
 DEVELOPER: LOWELL W. MACCOY
 SCALE: 1"=200' 4-15-74

THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE; THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

COORDINATES	
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1	4447.32
2	4673.65
3	4904.59
4	5131.39
5	5358.54
6	5585.07
7	5811.79
8	6038.26
9	6264.73
10	6491.20
11	6717.67
12	6944.14
13	7170.61
14	7397.08
15	7623.55
16	7850.02
17	8076.49
18	8302.96
19	8529.43
20	8755.90
21	8982.37
22	9208.84
23	9435.31
24	9661.78
25	9888.25
26	10114.72
27	10341.19
28	10567.66
29	10794.13
30	11020.60
31	11247.07
32	11473.54
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34	11925.48
35	12151.95
36	12378.42
37	12604.89
38	12831.36
39	13057.83
40	13284.30
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93	25287.23
94	25513.70
95	25740.17
96	25966.64
97	26193.11
98	26419.58
99	26646.05
100	26872.52

CURVE DATA	
STATION	DATA
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MICHAEL S. McALISTER
 REGISTERED LAND SURVEYOR
 1000 W. MAIN ST.
 BALTIMORE, MD 21201
 TEL: 555-1234

SURVEYORS CERTIFICATE
 I, ALEXANDER P. BAITCH, REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN ON THIS PLAT WAS ACCURATELY SURVEYED AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATED TO THE SUBDIVISION OF LAND KNOWN AS HOUSE BILL NO. 459, CHAPTER 1016, OF THE ACTS OF 1945 AND SUBSEQUENT AMENDATORY ACTS.

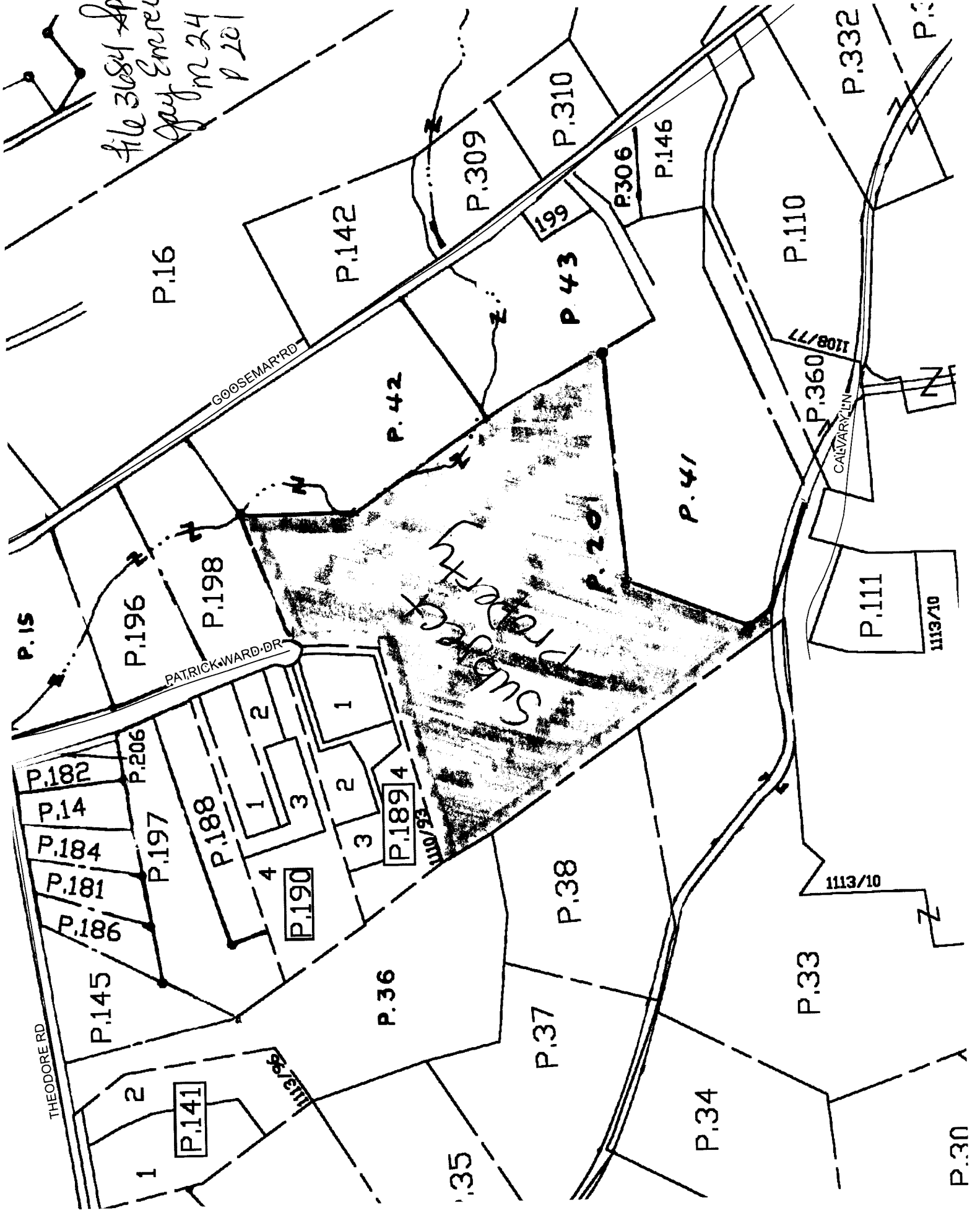
Alexander P. Baitch
 REGISTERED LAND SURVEYOR
 4-29-74

OWNERS CERTIFICATE
 THE REQUIREMENTS OF SECTIONS 72A, 72B, 72C, 72D, OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION, (TITLE CLERKS OF COURT, SUBSTITUTION OF CIRCUIT COURTS) HAS AND THE SETTINGS OF THE MARKERS, HAVE BEEN COMPLIED WITH.

Lowell W. McCoy
 DEVELOPER
 4-30-74

APPROVED: CECIL COUNTY PLANNING COMMISSION
Edward J. ...
 APPROVED: DEPARTMENT OF PUBLIC WORKS
Raymond ...
 APPROVED: CECIL COUNTY HEALTH DEPARTMENT
John ...

File 31884 Spec Ex.
Gay Emery
M 24
P 201



Sweetwater
P. 201

CALVARY LN

1108/77

THEODORE RD

GOOSEMAN RD

PATRICK WARD DR

1110/93

1113/10

Z

