

IN THE MATTER OF
THE APPLICATION OF
GREGORY JESTER

(Special Exception – RR)

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO.: 3723
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OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Gregory Jester (the “Applicant”). Applicant seeks a renewal of his special exception to operate an in-home business on his property known as 182 Peach Creek Drive, Earleville, Maryland 21919, (the “Property”), located in the 1st Election District, Tax Map 56, Parcel 115, Lot 15, said property currently being zoned Rural Residential (RR). In accordance with Article V, Part III, Section 79 of the Cecil County Zoning Ordinance (the “Ordinance”).

Section 79 of the Ordinance provides:

Home occupations may be permitted in the RMU zone and permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH, RM, and MEA zones provided that:

1. Home occupations are conducted on the same property as the residence, and do not change the residential character of the property.
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.
5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

In determining whether to grant an application for a Special Exception the Board must consider Article XVII, Part II, 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.

The Applicant appeared and testified that he wants to renew his special exception to operate an in-home business at his property. He said his business is called Walking in the Trenches, and he buys supplies and apparel on-line and sells the apparel he prints on-line. He has been operation for a period of two (2) years.

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 Department and the Planning Commission recommended approval of the Applicant's special exception for an in-home occupation for as long as the homeowner owns the property and the applicant operates the business.

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

1. The special exception is neither detrimental to nor an endangerment to the public health, safety, or general welfare, and the proposed use is on a property in an area suitable to the use.

2. The proposed use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor will the use substantially diminish or impair property values in the neighborhood. There is nothing in the nature of the proposed in-home occupation that would 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 finds that the Applicant's in-home occupation is not 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.

5. The proposed 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 proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located. Based upon the evidence presented, the Board finds that the Applicant's proposed in-home occupation is not inconsistent with 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 RR zone is no different than the impact of the operation of such an in-home occupation in other areas of the RR 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. No evidence was presented evincing issues related to traffic and parking.

9. The proposed 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 the proposed special exception under Section 79 is therefore **APPROVED** for as

long as the homeowner owns the property and the applicant operates the business.

[All Applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.]

8/25/15
Date

James A Eder
~~David Willis, Chairperson~~
Acting Chair

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: July 2015
 FILE NO. 3723

Received

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL (X)
- SPECIAL EXCEPTION ()
- VARIANCE ()
- APPEAL ()

JUN 12 2015

DATE FILED: 4/12/15
 AMOUNT PD: 250
 ACCEPTED BY: AS CE# 1019

Cecil County Office
 of Planning & Zoning

G. Jester

A. APPLICANT INFORMATION

Gregory Jester
 APPLICANT NAME - PLEASE PRINT CLEARLY

182 Pearce Creek Drive Earleville MD 21919
 ADDRESS CITY STATE ZIP CODE

G. Jester (443) 655 7343
 APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Mark Spores
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

182 Pearce Creek Dr. Earleville MD 21919
 ADDRESS CITY STATE ZIP CODE

Mark Spores
 PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

182 Pearce Creek Dr. 01 060236
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

56 3 115 15 2.149 RR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

Purpose of this application is to renew special exception so that I can continue to operate screen printing business from this location.

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 DESIGNINATION

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: Section 79

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: 3647

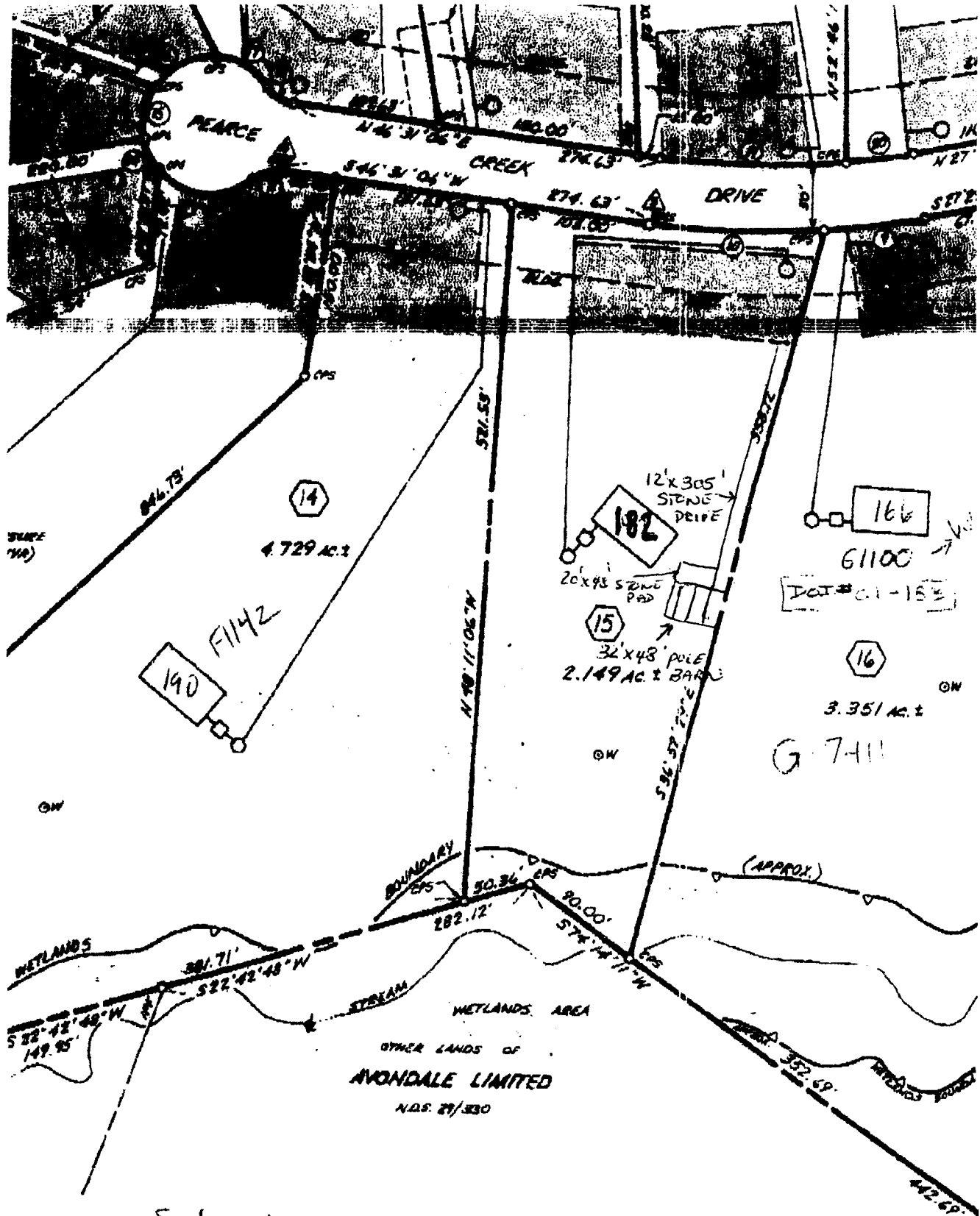
I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? NO If yes, distance:

Will unit be visible from adjoining properties? NO If yes, distance:

Distance to nearest manufactured home: Size/Model/Year of Unit:

Number of units on property at present time:



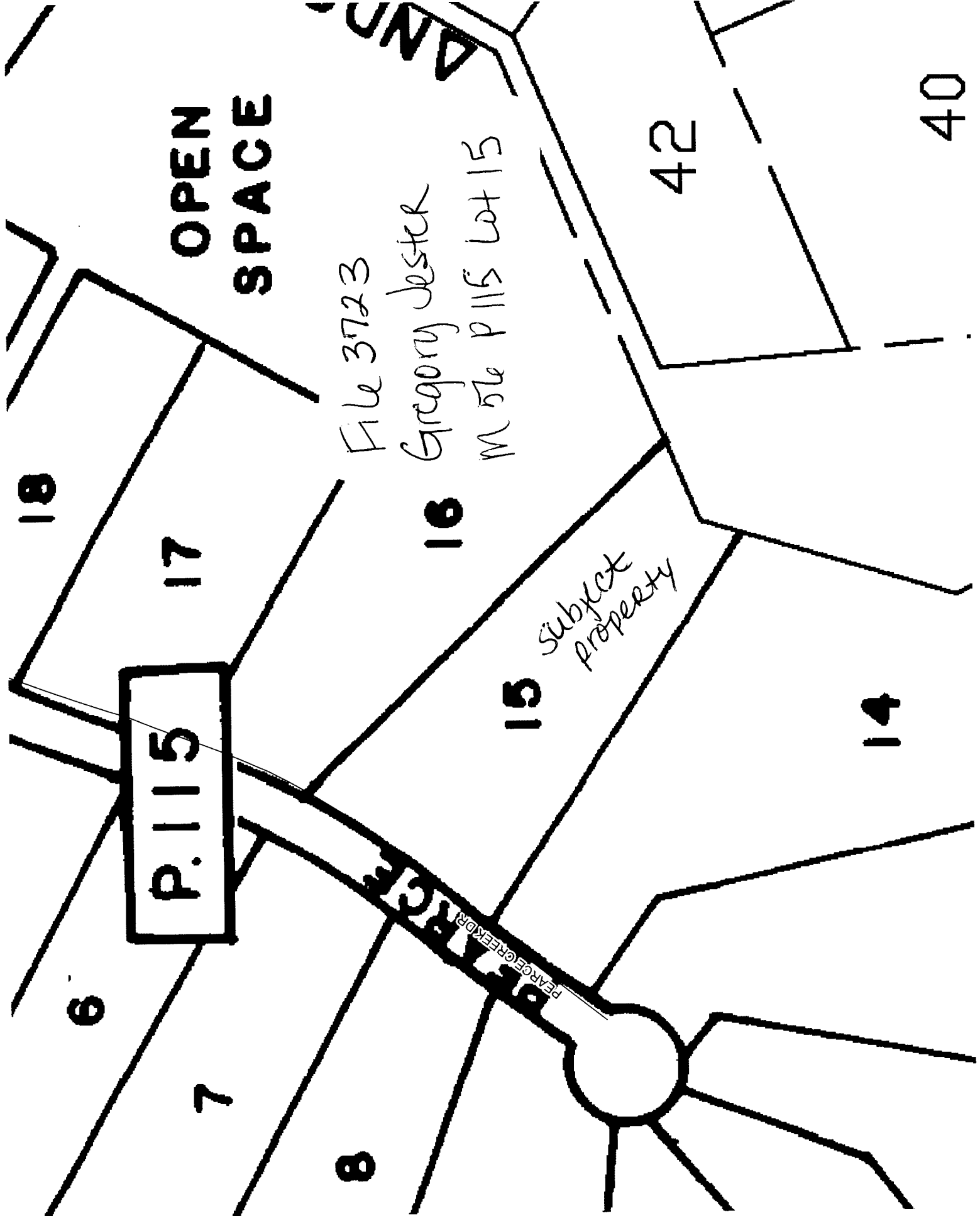
Scale = 1 in = 100 ft

FINAL MAJOR SUBDIVISION

SECTION I
LOT 1 - 24

DEAD END DRIVE





P. 115

OPEN SPACE

File 3723
Gregory Jester
M 56 P 115 Lot 15

SUBJECT PROPERTY

PEARCE ROAD

18

17

16

15

14

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7

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42

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