

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED
 HARFORD COUNTY COUNCIL
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 ZONING BOARD OF APPEALS
 HARFORD COUNTY, MD

Case No. 5928
 Date Filed 3/2/20
 Hearing Date _____
 Receipt _____
 Fee \$700
 Type Variance

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning **prior** to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5928 MAP 26 TYPE Variance
 ELECTION DISTRICT 05 TAX ID 05-034671
 LOCATION 3123 Copenhaver Road, Street 21154
 BY Raymond and Adrienne Hughes
 Appealed because a variance pursuant to Sec. 267-22F(5)(b) of the Harford County Code to permit the creation of 2 panhandle lots with 1 lot less than 12.5 feet in width (9.65 feet requested) and a variance pursuant to Sec. 267-22F(2) to permit more than 20% of the lots created to be served by panhandles in the AG district requires approval by the Board.

Owner (please print or type)

Name Raymond E. Hughes & Adrienne H. Hughes Phone Number _____
 Address 3123 Copenhaver Road Street Md. 21154
Street Number Street City State Zip Code

Co-Applicant N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative [Signature] Phone Number _____

Address _____
Street Number Street City State Zip Code

Jacqueline A. Delisle
BROWN BROWN YOUNG PA
200 SOUTH MAIN STREET BEL AIR MD 21014

Land Description Improved agricultural property
Address and Location of Property 3123 Copenhagen Road, street, MD 21154

Subdivision N/A Lot Number _____

Acreage/Lot Size 71.40 Election District Fifth Zoning AG Tax ID # 05-034671

Tax Map No. 0026 Grid No. 003D Parcel 0188 Water/Sewer: Private Public _____ nursery

List ALL structures on property and current use: THREE RESIDENTIAL STRUCTURES; EVERGREEN & CHRISTMAS TREE FARM and accessory sales;

Estimated time required to present case: 45min - 1 hour

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes _____ No

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

see attached.

Justification

see attached.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

HARFORD COUNTY BOARD OF APPEALS
(Attachment to Standard Application)

RE: RAYMOND E. HUGHES and ADRIENNE H. HUGHES
Property Address: 3123 Copenhaver Road, Street, MD 21154
Tax Map 26, Parcel 188, Fifth Election District

REQUEST FOR VARIANCES,

- A. Pursuant to §267-22F(4)(b) of the Harford County Code, (“Code”), to permit the subdivision of a base parcel (hereinafter, the “Subject Parcel” or “Hughes Property”), containing 71 acres, more or less, located in an AGI/Agricultural District in order to create two (2) “Panhandle Lots,” one of which lots, at a single point along its panhandle will be less than the required 12.5 feet in width throughout the entire length to permit one (1) of the two (2) proposed panhandle lots to be 9.65’ at a single point, with the balance of the panhandle to be 12.5’ wide.

The Subject Property does not require a variance from the requirements of Code §267-22(C) regarding the required road frontage requirement of at least twenty-five (25’) feet at the point of access to the public road network. The Subject Property, which was not created by a subdivision plat. It has extremely limited road frontage on Copenhaver Road. The Subject Property has a “panhandle” configuration, with approximately fifty (50’) in width at its intersection with Copenhaver Road. The Subject Property has no other access to a road network, public or private.

- B. Pursuant to Section 267-22 F (2) of the Code, to permit more than twenty percent (20%) of the lots created in an AG District (and to be created pursuant to this Application) from a parcel, as it existed on September 1, 1982, to be served by panhandles. The current Code permits the Director of Planning and Zoning to grant a waiver to 20% of the lots intended for detached dwellings. The Subject Property is the remainder (70 acres, more or less) of a much larger base piece (in excess of 200 acres) that was largely created by metes and bounds “cut offs” through its history. ~~Several off-conveyances were created prior to the requirement of the use of subdivision plats.~~ One of the off-conveyances was subsequently done subdivision plat. That project, which immediately adjoins the Hughes Property is referred to herein as the “Adjoining Subdivision”/“Lands of Norman.” It is the Applicants’ understanding that, at the time that the Lands of Norman was created, there was no restriction on the number of agricultural lots that could be created as panhandle lots. The base acreage, from which both the Lands of Norman and the “remaining lands” (Hughes Property) the parcel that was created by default, was already a “panhandle lot.” Its limited road frontage mandated the use of panhandle access lots for the Lands of Norman and the remaining lands, the Hughes Property.

JUSTIFICATION: For the variance from Harford County Zoning Code §267-22F(4) to permit the creation of two (2) panhandle lots, one to be created around an existing dwelling that already uses the panhandle access, will be, for an extremely limited portion of one of the proposed panhandles will be 9.65 feet wide instead of the 12.5 feet width required by Code, the Applicants present the information below.

JUSTIFICATION: For the variance from Section 267-22 F (2) of the Code, to permit more than twenty percent (20%) of the lots created in an AG District (and to be created pursuant to this Application) from a parcel, as it existed on September 1, 1982, to be served by panhandles. Because the information that supports the request for variance from both sections is intertwined, the support provided by the Applicants is presented in the same section.

1. The Applicants request a variance from Harford County Zoning Code §267-22F(4) to permit the creation of two (2) panhandle lots, one to be created around an existing dwelling that already uses the panhandle access, will be, for an extremely limited portion of one of the proposed panhandles will be 9.65 feet wide instead of the 12.5 feet width required by Code. The other lot (the remaining portion of the existing parcel) will be 12.5 feet wide at the same point.
2. Prior to the filing of this Application, the Applicant, through counsel and the project engineer, Wilson Deegan & Associates, met with the Department of Planning and Zoning to determine whether the panhandle area should be evenly split between the two (2) proposed lots. The Department of Planning and Zoning recommended maintaining one (1) panhandle at the required 12.5 feet, and proceeding with the filing of this variance to permit the second lot to be served by the panhandle that, at a single point, will be 9.65 feet, with the balance of the second panhandle lot being 12.5 feet in width.

Reference is made to two plans prepared by Robert Wilson, Wilson Deegan & Associates, which are submitted as Exhibits with this Application. The first exhibit, entitled "Exhibit A, Hughes Property," depicts the layout of the lot which is intended to be created around the existing structure (referred to as a "Tenant House" by the Hughes) and the proposed panhandle area. The second exhibit, entitled "Panhandle Detail," depicts the alignment and dimensions of the proposed panhandles at the point where they are adjacent to the adjoining subdivision where the existing "panhandle" (which serves the Hughes' Property) "nicks down" to a total width of 22.15 feet.

The Panhandle Portion is approximately 760 +/- feet from the improved roadway to the main lots area. Under the prior Zoning Code/Subdivisions Regulations, it would have also been necessary for the Applicants to request a waiver in order to permit the creation of two (2) adjacent panhandle lots, each having a panhandle in excess of 700 feet. With the elimination of the maximum panhandle length from the Code, no such waiver is required or therefore requested.

3. The Hughes Property, including all three (3) structures which have existed on the Subject Property since approximately 1970's (See BOA case 3883 recounting the history of the parcel that had been improved by a stucco house, of estimated 1930-40's vintage, a barn, used as a residence and itself remodeled in the 1970's-1980's, and another structure, referred to as a "tenant house.") That BOA decision recognized/permitted the three (3) structures to remain on the property. At various times in the parcel's history, different structures have served as "tenant house(s)", as the same is defined in the Zoning Code.
4. The Hughes predecessor in title, Calvin Schutzman (who was also the applicant in the prior BOA case) placed the Hughes Property in the MALPF program pursuant to an Easement Agreement recorded in the Harford County Land Records in Liber 2406, folio 466. MALPF has previously recognized the existence of the three (3) structures, and the right to subdivide lots around said structures, subject to MALPF's review and approval (See February 16, 2004 letter MALPF).
5. Mr. William Amoss, Harford County Planner, Agricultural land Preservation, had previously reviewed the concepts and layouts of the plans and assisted the Applicants in presenting their application to MALPF. As stated by Ms. Diane Chasse in the previously referenced MALPF has approved the creation of the lot in the general area as shown on the attached Exhibits, finding that it will not work a detriment on the intent of the original easement. The standard acreage for the proposed lot, has been reduced, from the standard 2 acres lot for agriculturally zoned properties, as described in the MALPF approval letter. The Department of Planning and Zoning has advised that no variance request for the approval of the proposed lot (having less than the required minimum acreage) will be required, as the lot must be created in conformity with the MALPF program. The Applicants have put in place, and continue to maintain all requirements under the MALPF program, including a Soil Conservation Program and Forestry Stewardship Plan (each of which are attached and made a part of this application).
6. The Hughes purchased the Subject Property in 2010; the prior owner had held title from 2004. Both that previous owner, Frank Mattes, and the Hughes purchased the Subject Property in reliance on the February 16, 2004 MALPF letter that confirmed that the property was eligible to have lots created around the existing residences. (It is acknowledged that MALPF was not asked to address what is acknowledged to be a Harford County Code requirement.
7. MALPF has reviewed the currently proposed subdivision, and required certain revisions to the initial layout in order to minimize the size of the proposed lot so as to minimize the impact to the agricultural features and uses. The current configuration has been approved by MALPF, subject to the granting of this application variance and

the approval of the Preliminary Plan by Harford County (See MALPF correspondence, January 11, 2018).

8. The Applicants, Raymond E. and Adrienne H. Hughes, purchased Subject Property known as 3123 Copenhaver Road in 2010. At the time of their acquisition, and to the present time, it has a 50.98-foot-wide frontage on Copenhaver Road where it is served by an in fee “panhandle which throughout the majority of its 760-foot length (the “Panhandle Portion”.) The Panhandle Portion parallels a four (4) lot subdivision, in which all lots are served by panhandle configurations the Lands of Norman. It is the Applicants understanding that at the time that the Lands of Norman was created, there was no limit on the number of total lots that could be created from single parcel in the AG zone, the Code provisions addressed width and in several instances groups of six lots each on a separate panhandle access, were created in past AG projects. The approvals for the Norman project, and the subsequent revisions of those lots, do not provide for such a restriction. The subdivision of the Hughes Property is not done as part of any joint enterprise with the Norman Property.
9. At its closest point to the adjoining subdivision, the Hughes Panhandle Portion “nicks down” to a total width of 22 feet. The narrowing of the Hughes panhandle at this single point is caused by the layout of the lot immediately adjacent to the Hughes’ Property. The adjoining subdivision is currently shown on the subdivision plat entitled “Second Revised Final Plat Lots 1-4 Deer Creek Overlook,” recorded in Plat Book 118, folio 37 (the current plat represents several revisions to the original subdivision completed in 1991 known as the “Lands of Norman”).¹
10. Prior to the filing of this Application, the Applicants had previously attempted to contact two (2) adjoining property owners to attempt to purchase a strip of property, or, in the alternative, work out a property re-alignment, that would permit them to acquire additional area to give them a sufficient width for two 12.5 wide panhandles. Neither attempt was successful.
11. The Hughes Property is unique in its configuration. It has no other access to or frontage on any road network, private or public. The GIS/topographic map, included as Exhibit C-1, and the survey plat by Thompson and Associates, attached as Exhibit C-2, illustrate that the Hughes Property literally “nestles” behind several parcels of property that front on Copenhaver and Ady Road (MD #543), and that grouping of parcels lies between the Hughes Property and those roads. The Subject Property has

¹ That adjacent Subdivision adjoining the Hughes’ property contains a total of four (4) lots. It was originally created in 1991 by John A. Norman who subdivided a 207 acre parcel (as it existed on February 8, 1977) to create four (4) lots served by panhandles, as shown on a plat initially recorded in Liber 76, folio 48. Through a succession of revisions to the original Preliminary Plan (see Preliminary Plan 03-066; 04-266; 07-104; p 293/91-1), the original four (4) “Norman Lots” went through various revisions. The proposed subdivision would result in six (6) parcels (i.e., five lots and the remaining lands of Hughes being served by panhandles in an Agricultural District).

been used for agricultural purposes (including as a “Christmas Tree” nursery and “cut your own” sales point). It is currently in a mix of crops and trees.

12. The Hughes Property has been served by a partially impervious and gravel existing driveway, which is depicted on Exhibit A, which driveway will continue to serve both the Hughes Property (the remainder after subdivision) and the new lot to be created around the existing structure as shown on Exhibit A. There would be no increase in traffic or other activity with the creation of the lot around the existing structure as the current use of the driveway would continue. The Hughes would be prepared to enter into a Common Driveway Agreement in connection with the use and maintenance responsibilities of that existing driveway.

CONCLUSION:

The Hughes Property is unique in its configuration and topography.

Panhandle lots, especially in agriculturally zoned parcels, are recognized by the Code as being permitted **to be created** (emphasis added) when it is necessary to “achieve better use of irregularly shaped parcels, to avoid development in areas with environmentally sensitive features and to minimize access to collector or arterial roads....” (§267-22F).

The “splitting” of the existing panhandle into two (2) panhandles with a shared access drive will not alter the “status quo” of the current configuration as to the length of the existing panhandle serving the proposed subdivision, nor will the subdivision itself increase existing traffic flow, nor create an increased disturbance, as the existing driveway, which has been in its current location in excess of 25 years, will continue to serve the existing three (3) residences on the parcel.

The Board of Appeals is authorized to grant variances from Code requirements if it finds:

- By reason of the uniqueness of the property or the topographical conditions, ~~the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; and~~
- The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.
- Variances to permit multiple panhandles having a width of less than the required width of 12.5 feet per panhandle lots and, therefore, similar to that requested in this Application have been granted by the Board in previous cases. (See, for example, BOA 5680)

In this case, the proposed lot creates a lot around an existing structure [one (1) of the three (3) existing residential structures]. The proposed lot will not add additional traffic. It will not “over-

burden” the current panhandle access. The Hughes Property, including the residence around which the proposed lot will be created, all currently use that existing panhandle. The current structure shall continue to utilize the existing driveway, which is located within an existing panhandle, which panhandle was created at the time of the original off conveyances of the adjacent properties.

The approval of the variance requested will be a “recognition” by the Board of Appeals of the unique configuration and topographical conditions of the Parcel. There will be no change or increase in density, in usage or in layout of the existing panhandle [except to divide its current width into two (2) panhandle strips].

The impact, if any, on the adjacent property owners or the general public is minimal. The granting of the variance will have no adverse impact on either the intent and purpose of the Code. Accordingly, the Applicants respectfully request that their application for both variances be GRANTED.

Change/Extension of Non-Conforming Use Requirements

267-20(3) - When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.

267-21(d) - The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- (A) The proposed extension or enlargement does not change to a less restricted and more intense use.
- (B) The enlargement or extension does not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

Special Exceptions Requirements (Article 267-87)

(a) Special exceptions require the approval of the Board of Appeals in accordance with 267-9 (Board of Appeals). The Board may impose such conditions limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Code and the public health, safety and welfare.

- (b) A special exception grant or approval shall be limited to the Site Plan approved by the Board. Any substantial modification to the approved Site Plan shall require further Board approval.
- (c) Extension of any use or activity permitted as a special exception shall require further Board approval.
- (d) The Board may require a bond, irrevocable letter of credit or other appropriate guarantee as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.
- (e) In the event the development or use is not commenced within 3 years from date of final decision, after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof. (See Article 267-88 for specific requirements of Special Exception uses.)

I/We agree to provide additional information as requested by the Department of Planning and Zoning or the Hearing Examiner.

I/We do hereby declare that no officer or employee of Harford County, whether elected or appointed, has received prior hereto or will receive subsequent hereto any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or aware of the within application or petition.

I/We do solemnly declare and affirm under the penalties of perjury that this petition contains names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief.

I/We agree, upon final action, to comply with all requirements or conditions imposed by the Board.

✓ *Adkughe* 11/22/19
 Signature of Owner Date

[Signature] 11/22/2019
 Witness Date

 Signature of Co-Applicant Date

 Witness Date

[Signature] _____
 Signature of Attorney/Representative Date

Wendy Ruzha 11/22/2019
 Witness Date

 Director of Planning and Zoning Date

[Signature] 3-2-2020
 Zoning Staff Date



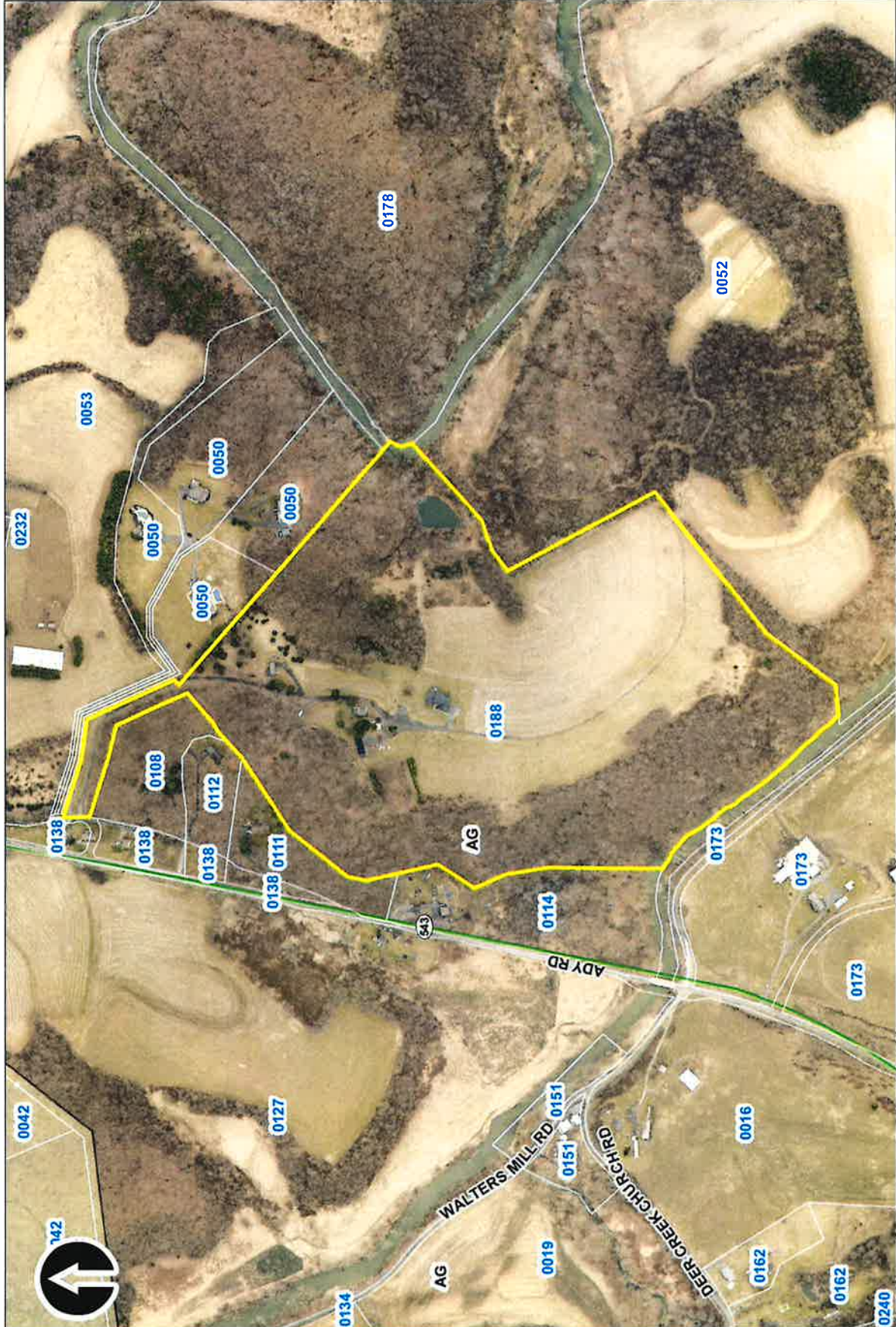
ADY ROAD
(MD. RTE. 543)



DATE:	3/7/2016
SCALE:	1" = 100'
JOB NUMBER:	11006

Wilson Deegan & Associates, Inc.
 SURVEYORS * ENGINEERS
 1219 Baldwin Mill Road
 Jarrettsville, Maryland 21084
 PHONE: (410) 692-0099 FAX: (410) 692-0041

EXHIBIT "A"
HUGHES PROPERTY
 #3123 COPENHAVER ROAD
 FIFTH ELECTION DISTRICT
 HARBOR COUNTY, MARYLAND



2017 ZONING
 2019 AERIAL PHOTOGRAPHY
 0 550 FEET

Source: Harford County Dept. of Planning & Zoning, February 2020

HUGHES PROPERTY 3123 COPENHAVER ROAD