



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**

**Item #**

**Oct 25, 2007**



**MEMORANDUM**

**DATE:** October 15, 2007

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RK*  
Development Review Division  
Catherine Conlon, Supervisor *CAC*  
Development Review Division

**FROM:** Richard A. Weaver, Coordinator (301) 495-4544 *RAW*  
Development Review Division

**REVIEW TYPE:** Subdivision Review Waiver

**APPLYING FOR:** Request for Waiver of Chapter 50, Section 50-20 (a)

**PROJECT NAME:** Goshen Estates - Parcel 550

**CASE #:** 2008-02

**REVIEW BASIS:** Chapter 50, Sec. 50-38 (a)(1), Montgomery County Subdivision Regulations

**ZONE:** R-200

**LOCATION:** Located on the north side of Warfield Road, approximately 1,500 feet east of its intersection with Miracle Drive

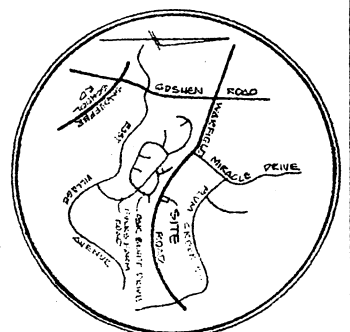
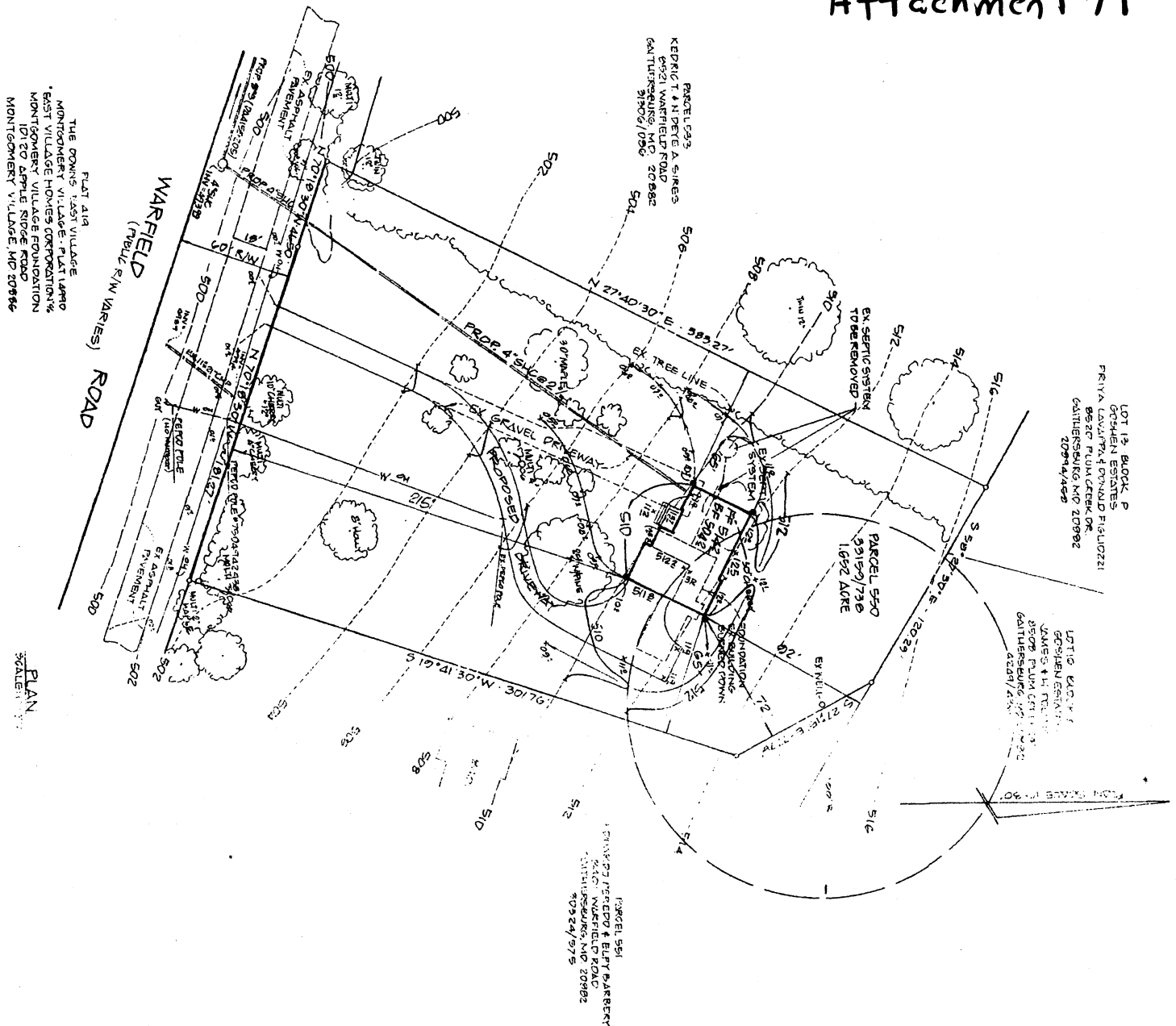
**MASTER PLAN:** AROS

**APPLICANT:** Mr and Mrs. David Copeland

**FILING DATE:** September 8, 2007

**HEARING DATE:** November 1, 2007

# Attachment A



VICINITY MAP  
SCALE 1"=2000'

## GENERAL NOTES

- [illegible]

*SITE PLAN  
GOSHEN ESTATES  
P. 550*

LAYTONSVILLE ELECTION DISTRICT No 1  
MONTGOMERY COUNTY, MARYLAND

**D. G. ANNOTATED, INC.**  
CIVIL ENGINEERS • SURVEYORS • AND PLANNERS

WKA	11:30
06/19/07	
MCB, INC.	
1 OF	

# Maryland Custom Builders, Inc.

P.O. Box 42

Clarksville, Maryland

21029-0042

[www.marylandcustombuilders.com](http://www.marylandcustombuilders.com)

[mse-taz@erols.com](mailto:mse-taz@erols.com)

October 1, 2007

Ms. Cathy Conlon, Chairperson  
Development Review Division  
Montgomery County Department of Park & Planning  
MNCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Goshen Estates  
Parcel 550  
Subdivision Waiver Request

Dear Cathy,

I write this letter to you in hopes of clarifying a number of issues that seemed unclear and ambiguous at the hearing of October 1, 2007.

As you observed first hand, Mr. & Mrs. Copeland are devastated by the series of events that have led them to where they are today as well as hearing what the committee had to say. Please let me start with some history on this property as in 2001, the family home was owned by Mr. Copeland's parents since 1968 and that Mr. Copeland grew up in burned down leaving Mr. Copeland's elderly mother displaced and since then they have been doing everything they can to rebuild. The Mrs. Edna Copeland passed away last year not knowing the outcome of rebuilding her property.

Initially, the Copeland's had a financial setback gathering funds to get started on their rebuilding process as insurance proceeds were not sufficient. Furthermore, the insurance company required the Copeland's to rebuild their home within one (1) year or forfeit the claim. To-date, they have not received any funds from their insurance company. The Copeland's had no choice but to move to all of their remaining possessions into another house. They have continued to pay for two (2) properties since the fire.

Once they were able to get started financially, they were told that their insurance claim had expired and that no funds were going to be paid to them. Then they were immediately faced with a failing septic system and Montgomery County's Well & Septic Department required the property to go through soil testing and percolation. Through many tests, Parcel 550 was only able to obtain one (1) passing satisfactory percolation location which was not sufficient for a residential septic discharge permit to be issued. Mr. Wertz of Tri-state Engineers performed the percolation testing and retired in the middle of the process, leaving the Copeland's to find someone else to continue the process. Coincidentally, we, Maryland Custom Builders, Inc., were performing the same percolation testing procedure on the neighboring lot and we were experiencing the exact same failures and frustrations with another client.

In spring of 2006, the Copeland's met with us to see what avenues were still available and that we were considering for our client's property as both were failing percolation testing. Considerable time was spent researching available options and the only remaining viable option was to extend the sanitary sewer via an existing easement through Montgomery Village, located across Warfield Road.

Our entire focus was spent on coordinating the feasibility of the WSSC sanitary system extension and determining the costs involved. Much time was also spent on the category changes that were required from Alan Soukup's office prior to finalizing the WSSC sewer plan submission.

Only when we had permission from the Board of Trustees at Montgomery Village to extend the sanitary sewer through their easement, all of the category changes in order, rejection letters from Well and Septic and WSSC's blessing on the proposed sewer extension, were we in a position to apply for the building permits.

During the permit review process was the only time that anyone ever heard of anything about the parcel being pre-1958. At no time had anyone ever applied for a building permit previously other than in 1999 for an accessory structure and that was issued without delay as evidenced in Attachment D. It is noteworthy that neither DPS or Planning and Zoning bothered to inform the Copeland's anything about their property being pre-1958 and actually issued a building permit in 1999.

Attachment A reflects all of the permits that have been applied for with Montgomery County Department of Permitting services since 1985 and it shows exactly when the Copeland's submitted their Soil Testing application (Attachment B).

Attachment A shows 2 building permits, one was an accessory structure in 1999 (Attachment D) and the other is the current building permit that we are requesting for the construction of the Copeland's home. Attachment C shows an Electrical permit was requested and issued in 1985. No other permits were ever requested on this property.

Understanding that they had overcome the hurdle of the sanitary sewer issue, the Copeland's applied for their construction loan to build their home. They are currently paying interest only on this loan. They had hoped to have their building permit issued this summer and have their home complete by the end of the year.

In today's economy, and the many hardships that the Copeland's have faced thus far, it seems reasonable to request this subdivision waiver and allow them to proceed to record plat. We have directed Dean Packard of Packard & Associates, Inc. to prepare the plat and submit it to you as part of this letter.

In further clarification, it is imperative to mention that another property near the subject property on Warfield Road was under contract by another individual that was trying to subdivide it to gain additional building lots. Parcel 554 was under contract by Mr. Jeff Jackson as he also approached our clients offering to purchase their property as well. At no time did Mr. & Mrs. Copeland ever attempt to subdivide their property or make any inquiry regarding subdividing.

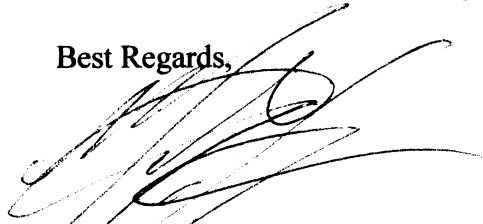
We appeal to you for consideration of the waiver for the above aforementioned reasons as well as the fact that the Copeland's were unaware that the previous owner on the property sold a piece of it in 1963. Recently, research efforts revealed that in 1963, the Diggs sold

property, now known as Parcel 551 to a member of their family. Parcel 550 was confirmed in a deed of trust dated May 11, 1964 and recorded at L. 3223 F. 55. Dave Copeland's parents purchased the property on December 27<sup>th</sup>, 1967, unaware of any changes to the property and in its present day form.

In closing, we respectfully request that the development review committee re-evaluate the Copeland's request, release the building permit and allow us to proceed to record plat. The final inspection of their home can be withheld until the department of permitting services has confirmed that the record plat has been submitted, approved and recorded. They have truly endured and inordinate number of obstacles in their plight to rebuild their home on their property. The financial burden of carrying two properties since 2001 has financially strapped them and has severely limited their options until they can rebuild. Currently, the Copeland's are under a time deadline to begin construction on their home by the bank. Their building loan only has another six months for them to build. They do not have an endless supply of money to continue paying engineering fees, interest carry and application fees and the economic situation is looking worse by the day. If help to expedite the building permit is not granted, it will cause severe financial hardship to the Copeland's.

Your time and consideration is greatly appreciated in this matter.

Best Regards,



Mautaz S. Ezzat  
President

Enclosures: 5



## DPS/Permits List Search Results

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Click on the permit to get the permit status.

### Permits list

Permit/License	Permit Type	Status
231668	Sediment Control Permit	In Process
995100247	Building Residential	Issued
858160071	Electrical Permit	Finald
217036	Soils Testing Process	In Process
460960	Building Residential	In Process
253993	Public Right Of Way	In Process

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DPS/Application Details

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**Status****Soils Testing Process****Permit/License: 217036**

Please call 240-777-6320 to reach a representative.

**Application Details**[Help](#)**Permit Number** 217036**Application Date** 03/21/2005**Approved Date****Final Date****Work Type** Subdivision Of Land**Value** \$.00**Phase Name****Site Address**

8515 Warfield RD

Gaithersburg

MD 20882-4422

**Lot - Block -****Subdiv.** Laytonsville**Application Status**

In Process

**Contractors**

ID	Name	Address
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Not available

**Licenses**

Contractor	License	Name	Address
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Not available

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DPS/Application Details

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**Status****Electrical Permit****Permit/License:** 858160071**Application Details**[Help](#)**Permit Number** 858160071**Application Date** 08/16/1985**Issue Date** 08/16/1985**Final Date** 08/29/1985**Work Type** Install**Square Footage****Value****Site Address**

8515 Warfield RD

Gaithersburg

MD 20882-4422

**Lot - Block -****Subdiv.** Laytonsville**Application Status**

Finaled

**Contractors**

ID	Name	Address
EB1331	Central Armature Works Inc	1200 Third St, Ne Washington Dc 20002-

**Licenses**

Contractor	License	Name	Address
EB1331	ME1305	Schmitt	7611 Connecticut Ave Chevy Chase Md 20815

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## DPS/Application Details

<b>Status</b>		<b>Permit/License: 995100247</b>	
<b>Building Residential</b>		<a href="#">Help</a>	
<b>Application Details</b>			
<b>Permit Number</b>	995100247	<b>Site Address</b>	
<b>Application Date</b>	05/10/1999	8515 Warfield RD	
<b>Issue Date</b>	05/10/1999	Gaithersburg	
<b>Final Date</b>		MD 20882-4422	
<b>Work Type</b>	Construct - Residential	<b>Lot - Block -</b>	
	Accessorystructure	<b>Subdiv.</b>	
		Laytonsville	
<b>Square Footage</b>		<b>Application Status</b>	
<b>Value</b>	\$12,000.00	Permit Issued	
<b>Contractors</b>			
<b>ID</b>	<b>Name</b>	<b>Address</b>	
Not available			
<b>Licenses</b>			
<b>Contractor</b>	<b>License</b>	<b>Name</b>	<b>Address</b>
Not available			

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PG Associates, Inc.  
932 Hungerford Drive, Suite 4B  
Rockville, MD 20850

August 30, 2007

Ms. Cathy Conlon  
MNCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Goshen Estates  
Parcel 550  
Subdivision Waiver Request

Dear Cathy:

This request is a result of our discussing this property in detail at your office last Tuesday. We have been pressed into a situation where the owner of the property is unable to obtain a building permit to reconstruct a house at the address where the previous structure burned down in 2001. The situation is that the previous owner sold a piece of the property in 1963 which disqualifies this parcel from having to be recorded according to the zoning ordinance.

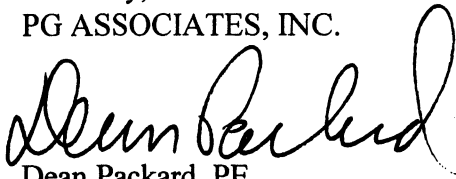
In 1925 the original property as owned by the Diggs comprised of what is now recognized as Parcels 550 and 551. In 1963 the Diggs sold off a piece of the property ( now known as Parcel 551) to a member of their family. The residue of the property ( now known as Parcel 550) was confirmed by a deed of trust on May 11, 1964 (current configuration of the property) and recorded in the land records at Liber 3223 Folio 55. The Copeland's (parent to the current owner) purchased the property December 27, 1967, but was unaware of the previous land sale, and continued to live at the property, passing the ownership to their son (current owner), until a furnace accident caused a fire that burned the house down in 2001.

After the house burned down, the county issued a condemnation notice and the house was razed to the ground and cleared from the site. Mr. Copeland then decided to rebuild the house and when he approached the county he was told that the existing septic system was inadequate to service the new dwelling and the property would have to be percolated for a new septic system. A water table test was done and several attempts to percolated the property failed to produce an approval. A next round of tests to install sand mounds on the property were attempted and failed to be approved. Next, Mr. Copeland went to the WSSC and applied to extend the sewer to his property. The WSSC would now approve the application because the property was in the wrong sewer category (S6). Mr. Copeland then applied to the county to change the category service area to S3 and was denied in 2005, retaining the S6 category. Mr. Copeland then appealed to Alan Soukup at the county to issue a health hazard letter for his property to rebuild due to the house being burned down. Alan Soukup issued this letter February 28, 2006. The WSSC then proceeded with a sewer extension application for the commission to extend the sewer to the

property and came up with a cost estimate of \$1,000,000 to do the work. I was then engaged to prepare the sewer plan privately and have been working with the WSSC for the last year to sort out a nightmare of administrative complications and finally we are in a position to obtain an approved plan this October. Meanwhile, sensing the imminent resolution to the arduous sewer issue, we filed a building permit application to the county to construct a new house to replace the burned down structure. Three weeks ago, Taslima requested a title search be done on the property to confirm the property boundary to qualify for the pre 1958 exemption. At first, I believed that the property was intact and traced back to the original 1925 conveyance. Taslima requested additional research on the property records that uncovered further documents that disqualifies the property from the exemption.

Therefore, we request that the subdivision ordinance (50-38) be waived regarding the requirement for the parcel to be subdivided, to allow for the building permit to be issued upon approval by the planning board. We propose this request to allow this property to be processed through the minor subdivision process, whereas the plat will be submitted immediately and recorded prior to occupancy of the proposed dwelling. The Copeland's are requesting this waiver to the process due to the hardship of their case to rebuild their burned down house. In the years since the accident they have been forced to rent a townhouse and have been unable financially to relocate or resolve the many issues with this property. If you have any questions or require any additional information to process this request, please contact me at (301) 309-1361.

Sincerely,  
PG ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Dean Packard", written in a cursive style.

Dean Packard, PE

President

Agent acting on behalf of David and Sian Copeland