



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

MCPB
Item
Date:

DATE: November 18, 2010
TO: Montgomery County Board of Appeals
VIA: Rose Krasnow, Chief, Development Review Division
FROM: Elsabett Tesfaye, Planner Coordinator (301) 495-1301
SUBJECT: Special Exception S-2778: Robert Q. Gillespie Airstrip associated with farm in RDT zone located on Lot 4, "Lot 4 Comus" subdivision at 22620 Peach Tree Road, Boyds.

FILING DATE: June 30, 2010
PLANNING BOARD HEARING: December 2, 2010
PUBLIC HEARING: December 17, 2010

Staff Recommendations: Approval with conditions

With the recommended conditions, the proposal satisfies all applicable standards and requirements for approval of a special exception for an **airstrip associated with farm**. The Petitioner has met the burden of proof by showing that the proposed use would be operated without detriment to the neighborhood and would not adversely affect the public interest.

Staff notes and carefully considered the concerns of the Sugarloaf Citizens Association and other area residents who voiced various concerns regarding the proposed use. Staff's recommendation for approval, with conditions, of this application is based on the following:

1. The airstrip use is permitted as a special exception and the Master Plan recognizes it as such. There is some confusion regarding the reference to the heading of *Section 59-G-2.004 "Airstrip associated with Farm"* and the purpose of the proposed use (recreational vs. farming). However, the heading is followed immediately by a statement that reads:

Pursuant to Section 59-G-2.00.4, a special exception may be granted for an airstrip on a farm, as defined in Section 59-A-2.1, subject to the following requirements:

Further inquiry on the issue revealed that the determining factor is what is contained in the requirements themselves as oppose to the wording used in the title. Therefore, staff has made a determination that the requirement does not differentiate on the specific purpose of the airplane using the airstrip which is located on a farm.

2. With regard to noise standards, for those special exception uses where there is the **possibility of excessive noise intrusion and impact in the immediate area, the Ordinance**

provides guidelines with clear specifications as part of the specific special exception requirements. This is demonstrated in the requirements for special exception uses such as Animal Boarding Place (Section 59-2.02), Heliport (Section 59-2.27) and Veterinary Hospital (Section 59-2.32), all of which are uses permitted by special exception in the RDT Zone. A review of these special exceptions calls for an extensive noise analysis under the Noise Ordinance.

In the case of the subject application, which is reviewed under Section **59-G-2.00.4 Airstrip associated with farm**, there is no specific requirement for measurement and evaluation of noise levels or restrictions. The Ordinance requires compliance with only two provisions namely: restriction of the number of airplanes on the farm and compliance with Federal Aviation Agency guidelines and requirements. Therefore, any potential objectionable noise should be mitigated with reasonable conditions and restrictions to ensure compliance with the general special exception condition under **Section 59-G-1.21(6)**.

In the case of the subject application, the noise generated at takeoff and landing is an inherent characteristic of the use and is no higher than the noise made by leaf blowers, weed whackers, lawn mowers and other machinery routinely used on farms and residential properties. It should be noted that the proposed airstrip is used only two times per week, during the daylight hours and in clear weather conditions. As indicated by the applicant, there will be several weeks that the airstrip may not be used at all due to weather conditions.

It should also be noted that denying this application based on the Noise Ordinance requirements could possibly mean that no special exception for airstrips in the RDT Zone could be approved since most single-engine airplanes are likely to make an elevated level of noise on landing and takeoff. It would be even worse with crop dusters since they make more noise, at a much lower altitude, for an extended period of time. If planes that would be using similar airstrips would all be found in violation of the noise ordinance, a special exception allowing an airstrip in the RDT zone would be infeasible.

3. With regard to the comments of Community Based Planning staff that the 50' x 1000' area for the airstrip is a non agricultural purpose and, therefore, partially inconsistent with the Master Plan, it should be noted that (1) the use is permitted by special exception in the Zone (2) the subject property is in excess of the minimum 25+ acre requirement and the dedication of the proposed 50,000 square feet area of mowed grass airstrip would have insignificant impact; and (3) as noted by CBP staff, "if the airstrip use ceased operation, the mowed grass area could be return to agriculture and would not be lost as farmland"
4. There will be no construction to accommodate the proposed use and no lighting and illumination of the airstrip. No equipment or signage will be installed on the farm to accommodate the airstrip. The mowed grass airstrip already exists and will be maintained in its present natural state.

Staff recommends approval of special exception S-2778 subject to the following conditions:

1. Use of the proposed airstrip will be limited to no more than two trips per week.

2. The airstrip shall be used only during daylight hours and only in a clear weather conditions.
3. No equipment or signage can be installed on the farm to accommodate the airstrip. The mowed grass airstrip shall remain in its current location and be maintained in its present natural conditions.
4. The applicant must comply with all conditions of approval from the Maryland Aviation Administration (MAA) and the Federal Aviation Administration (FAA) for the subject airstrip use.

S-2778



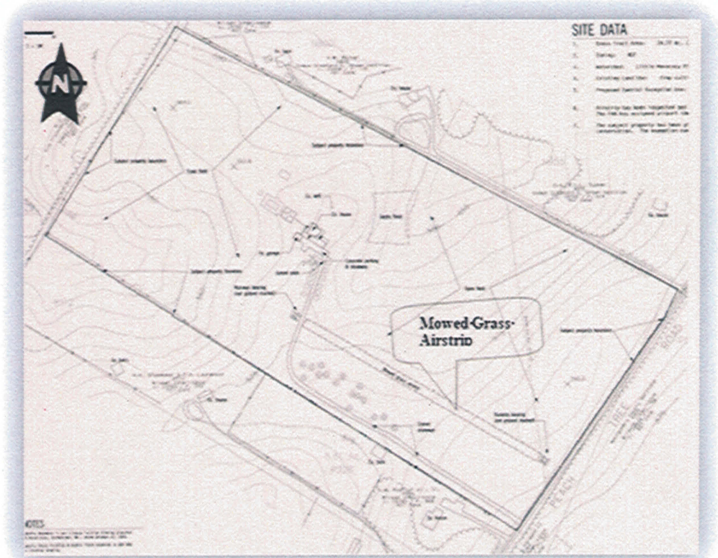
I. APPLICATION SUMMARY

Petitioner	Robert Q. Gillespie
Location	The northwest side of Peach Tree Road approximately 7,000 feet south of its intersection with Comus Road
Site Size	39.72 acres
Current Zone	RDT
Master Plan	1980 Functional Master Plan for the Preservation of Agriculture and Rural Open Space
Proposed Use	Airstrip associated with farm

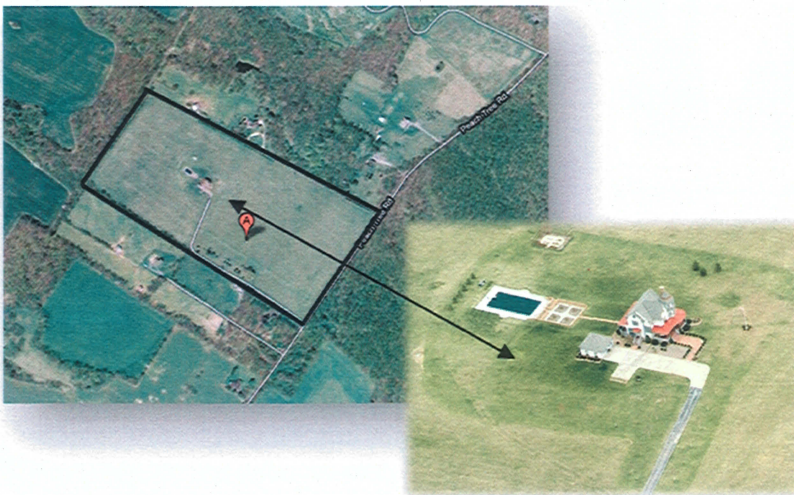
II. STATEMENT OF THE CASE

The special exception petitioner, Robert Q. Gillespie, has submitted a petition for a special exception to continue the use of an Airstrip that is located on his farm.

The proposed airstrip is a northwest-southwest runway that consists of a mowed strip land approximately 50 feet wide and 1000 feet in length and located parallel to the existing gravel driveway access. It has been in place since 2005 and was approved by the Federal Aviation Administration (FAA) in 2006. There will be no new construction or installation of any equipment associated with the airstrip. The applicant further stated that there will be no lighting or illumination of the airstrip and no signage is proposed. The area will remain in its current natural state.



III. PROPERTY DESCRIPTION



The subject property is located on the Northwest side of Peach Tree Road approximately 7,000 feet south of its intersection with Comus Road at 22620 Peach Tree Road. It consists of approximately 39.72 acres. The property is improved with a two-story, 2,430 square-foot, single-family dwelling with a basement and a detached garage. Other improvements on the property include a parking area, a

swimming pool and garden areas. The property also contains a septic field and a well. Hay is grown on the farm itself. The property is characterized by rolling topography with several gentle slopes. It is accessed from Peach Tree Road with an approximately 1,400 foot long, L-shaped gravel driveway that leads to the central part of the property where the single-family dwelling is located. The property is zoned RDT. A site inspection by staff reveals that the notification of the pending application is properly posted in the front yard.

IV. SURROUNDING AREA

For the purposes of this application, the surrounding area in which the subject site is located is generally defined by Damascus Road to the south, Bucklodge Conservation Park to the south, Old Hundred Road to the North, Parcel 430 (23501 Old Hundred Road, a 162-acre parcel) to the east and West Old Baltimore Avenue to the west. The surrounding area is predominantly farmland improved with single-family residential dwellings, sheds and farm related buildings in the RDT Zone. The subject property is surrounded by farm/residential properties, and the 215-acre Bucklodge Conservation Park that is located across Peach Tree Road.

V. PLANNING AND ZONING HISTORY

The 1958 County-Wide Comprehensive Zoning placed the property in the R-R Zone. The area was rezoned RDT (Rural Density Transfer) with the adoption of the 1980 comprehensive rezoning of the area for Agriculture Preservation.

VI. MASTER PLAN

The Property is located within the area identified as the “Western Sector” in the *1980 Functional Master Plan for Preservation of Agricultural Open Space*. By memorandum dated November 12, 2010 (see attachment B-3), the Community Based Planning staff has indicated that the proposed airstrip is partially inconsistent with the applicable master plans because it is a non-farmland use that does not support agriculture. The Community Based Planning Staff has therefore, recommends denial of the application. The following are excerpts from the Community Based Planning staff’s comments:

The AROS Plan does not give specific recommendations for airstrips, and the existing public airport in the Plan area, Davis Airport in Etchison, pre-dates the adoption of the Plan. Guidance comes from some of the more general Plan provisions, described next.

Plan excerpts on agricultural preservation:

The AROS Plan “focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County” (Foreword, p. i, emphasis original). To accomplish this, the Plan recommends the “[p]reservation of critical masses of farmland and rural open space,” (Summary of Findings and Recommendations, p. iv).

Discussion:

Dr. Gillespie’s airstrip has reportedly been operating since at least 2006, and aerial photos show that the agricultural use pre-dates the airstrip. No further changes are proposed that will impact the current haying operation, such as a paved runway or lights. Staff finds this use to be consistent with the above Master Plan recommendation as it will have no further impact to the farmland or farming operation.

Excerpt on non-farmland uses:

For those areas designated as Agricultural Reserve, the Rural Density Transfer Zone (RDT) is recommended. These areas contain a critical mass of productive farmland worthy of protection, as well as other non-farmland uses which serve to support and define the critical mass (Transfer of Development Rights Recommendations, p. 41, emphasis original).

Discussion:

This property was recommended for the RDT zone in the Plan, and the land continues to support agriculture. The proposed airfield is to be used for recreation, so this non-farmland use does not support agriculture. Staff finds the proposal to be inconsistent with this master plan recommendation.

Excerpt on the Western Sector, one of the three sectors described in the Plan:

The one important fact concerning agriculture in this area is that, whatever is currently produced and whatever the ownership pattern now is, the land itself exists; very little of it has been taken over by non-farm residential uses and thus lost forever as farmland (Western Sector Justification, p. 56).

Discussion:

The applicant's residence is in the approximate center of a haying operation, and the 50' X 1000' mowed airfield is in one of the fields being hayed. If the airstrip ceased operation, the mowed area could be returned to agriculture and would not be lost as farmland. Staff finds that the airstrip, as proposed, will not interfere with the current or future agricultural use of the land.

Staff finds that this proposal is partially consistent with the AROS Plan; it is inconsistent in that the proposed non-farmland use does not support agriculture.

Rustic Roads Functional Master Plan (RRFMP, 1996)

This property is adjacent to Peach Tree Road, a rustic road. No changes are proposed to the road, and no roadside elements identified in the Plan would be impacted. Staff finds this proposal to be consistent with the Rustic Roads Functional Master Plan.

The applicant did not bring this proposal to the Rustic Roads Advisory Committee, but RRAC staff presented a brief summary to the committee members. No changes are proposed to the access drive to Peach Tree Road and no views or other elements adjacent to the road are identified by the RRFMP in this location. The Committee did not anticipate any impact to the road.

COMMUNITY COMPATIBILITY

The Community Based Planning staff has also voiced concern regarding noise from the takeoff and landing of the applicant's airplane indicating that the noise would result in community incompatibility; however, the noise issue is not a Master Plan issue and will be addressed in the applicable sections throughout the report.

Community Correspondence

...In recent weeks, correspondence has been received from neighbors and community groups both in support of and opposition to this application. Supporters consider the use to have little impact while those in opposition have concerns about safety and noise, effects on livestock, and the potential for this to set a precedent...

The technical staff's views differ from those of the Community Based Planning staff's concerning the consistency of the proposed use with the Master Plan. Use of the site for an airstrip is consistent with the recommendations of the 1980 Functional Master Plan for the Preservation of Agriculture and Rural Open Space. In the Technical Appendix section of the Master Plan Appendix A, under Rural Density Transfer Zone (RDT) (page 82-83), the proposed use is

identified as one of the uses within the Transportation, Communication, and Utilities category that may be authorized as a special exception, in accordance with the provision of article G.

With regard to farm ownership and operation, the Master Plan makes the following observation:

A significant farm ownership trend that should not be overlooked or underestimated in Montgomery County is a number of part-time farmers that depend, in part, upon non-farm sources of income. Of the commercial farmers, 54 percent worked some time away from the farm and 46 percent of them were essentially employed full-time elsewhere... (Page 24)

With respect to community concerns, various letters were received both in support and in opposition to the application, including from adjoining property owners. (Please see discussion below in Section VII of this report).

VII. COMMUNITY COMMENTS

As pointed out by CBP, there is both opposition to and support for the proposed special exception among some residents of the area. Several letters were submitted into the record, including two in opposition from adjoining neighbors to the west, and two in support from the owners of the adjoining properties to the east. Representatives of the Sugarloaf Citizens' Association (attachment C-1) also have submitted a letter detailing their opposition to and concerns with the proposal. Also Montgomery Countryside Alliance (MCA) has voiced concerns without taking a position.

Basis for concerns:

- A presumption that an airstrip in the RDT zone that is allowed by special exception must be associated with the work of a farm. The applicant is a physician, not a farmer, who leases out his property for the haying operation. The applicant admits that he intends to use the airstrip for recreational, not farm related, purposes.
- Safety concerns for people, farm and wild animals
- Fears that applications of this type will become more prevalent throughout the Agriculture reserve.
- Noise levels at takeoff and landing.

Basis for support

- Noise level of the plane is no louder than that of commercial planes flying overhead or of farm machinery including tractors, leaf blowers, weed whackers, and lawn mowers. The duration of the noise level generated by the single engine plane is very brief compared to farm equipments.
- Applicant should be able to enjoy the privilege of using his property for an airstrip provided that it is used with consideration for the safety of both people and animals.
- The occasional recreational use proposed presents no threat to the peaceful countryside.

VIII. TRANSPORTATION

The proposed Airstrip will not adversely affect area pedestrian accessibility and will not adversely affect the transportation network in the immediate area. Transportation Planning Staff has offered the following comments:

The Petitioner proffered that the airplane will be used for recreational flying with no regular hours. For Local Area Transportation Review (LATR), a submitted traffic study to satisfy LATR is not required because the development on the site generates fewer than 30 total, regular peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.) and evening peak period (4:00 to 7:00 p.m.). For Policy Area Mobility Review, the Petitioner is not required to mitigate any new, weekday peak-hour trips within the weekday morning and evening peak periods generated by the site's development because it is located in the Rural West Policy Area. Thus the transportation Adequate Public Facilities test is satisfied. In addition, Peach Tree Road is designated as a rustic road, R-32, with a recommended 70-foot right-of-way.

IX. ENVIRONMENT

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the 39.72-acre site was approved by Environmental Planning staff on November 3, 2009.

The property is not subject to the Montgomery County Forest Conservation Law. The applicant's request for exemption from submitting a forest conservation plan (FCP) was approved on November 3, 2009. The Environmental Planning staff has indicated that there are no streams, wetlands or associated environmental buffer on the site. In addition, there are no existing forests or specimen trees on-site.

X. GENERAL DEVELOPMENT STANDARDS (§ 59-G-1.23)

- a. **Development Standards-59-G-1.23 (a): Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.**

The following table summarizes the relevant development standards for the RDT zone that are applicable to the proposed special exception request:

Development Standard	Required	Proposed/Existing
Minimum Lot Area: 59-C-9-42	40,000SF	39.72 ac
Minimum Lot width: §59-C-9-43 <ul style="list-style-type: none"> • at front building line • at street line 	25 ft 125	600 975
Yard Requirement for a main building: §59-C-9-44 <ul style="list-style-type: none"> • From street • Side Yards: <ul style="list-style-type: none"> One side Some of both sides • Rear 	50 ft 20 ft 40 ft 35 ft	1,125ft 375ft 850 ft 745ft
Yard Requirement for an accessory Building §59-C-9-45 <ul style="list-style-type: none"> • From Street Line • From a rear lot line • From a side lot line 	50 ft 15 ft 50 ft (south) 50 ft (north)	1,1174 ft 715 ft 445 ft 425 ft

Maximum Lot coverage §59-C-9-46	10%	.0015%
Maximum Building Height §59-C-9-47	50 ft	37 ft

- (b). **Parking Requirements—59-G-1.23 (b):** Special exceptions are subject to all relevant requirements of Article 59-E.

Section 59-E-3.7—Parking requirements

There is no parking requirement associated with an airstrip use. Sufficient parking accommodation is provided to satisfy the parking needs of the single family dwelling on the property. The applicant’s representative has indicated that the existing 600 square-foot detached garage may be utilized to store the single engine plane. However, there is approximately 2,400 square feet of concrete parking and a driveway connected to the garage which would allow for parking at least 10 automobiles.

- (c). **Forest Conservation-59-G-23 (d):** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

The site is not subject to Chapter 22A Montgomery County Forest Conservation Law. The applicant has sought and received an exemption from the FCP requirements.

- (d). **Signs (59-G-1.23(f)):** The display of a sign must comply with Article 59-F.

There will be no sign posted on the subject farm property which is also the applicant’s residence.

- (e). **Building compatibility in residential zones (59-G-1.23(g)):** Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its sitting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

Existing structures on the property include a residential dwelling and a detached garage. The scale, bulk, height, materials, and textures of these buildings are generally consistent with the residential and agricultural nature of the area.

- (f). **Lighting in residential zones —59-G-23(h):** All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:

- (1) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.
- (2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.

The applicant's Revised Special Exception Site Plan (November 5, 2010) shows an existing single lamp post located in the front yard of the property in close proximity to the dwelling. No additional lights are proposed as part of this special exception. The existing lighting will not cause glare on adjoining properties, nor will it exceed the 0.1 foot-candle standard at the side and rear property lines given its location on the 39.72 acre property.



XII. STANDARD FOR EVALUATION (59-G-1.2.1)

A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

As established in previous special exception cases, seven criteria are used to identify the physical and operational characteristics of a use. Those criteria are size, scale, scope, lighting, noise, traffic, and the environment. What must be determined is whether these effects are acceptable or would create adverse impacts sufficient to result in denial. The inherent, generic physical and operational characteristics associated with an airstrip on a farm include (1) land identified as an active farm (2) a runway(3) an elevated noise level at takeoff and landing (4) a hanger or a garage for storage of the plane (5) plane trips to and from the site. (6) Orange marker balls on power lines over the property.

There are no non-inherent characteristics associated with the application. The propose airstrip is consistent with all applicable standards of the RDT zone and satisfies all applicable requirements for an airstrip special exception. Based on Transportation Planning staff's analysis, there is no issue regarding the safety, adequacy and sufficiency of the vehicular and pedestrian movement surrounding the site and on the adjacent Peach Tree Road. The existing lighting as depicted on the lighting plan is appropriate for the proposed use at the subject location since the proposed airstrip will be used only during the day time.

Environmental Planning maintains that the proposed airstrip generates noise levels exceeding the 65 dBA upper noise threshold for residential zones during takeoff and landing and, therefore, would be in conflict with the Montgomery County Noise Code. The applicant's noise analysis shows that the noise exceeding the 65dBA level only occurs at takeoff. The applicant maintains that the noise levels generated at takeoff, which typically only last for a few seconds, are well below the noise levels which could be generated by agricultural machinery such as tractors that can be operated on the applicant's farm as well as on the adjoining properties but are exempted

from the Noise Ordinance requirements. The applicant's noise study also points out that the noise levels from the applicant's aircraft are substantially lower and last a shorter duration than noise levels that could be generated by the routine use of lawn mowers and weed whackers.

Staff does not dispute the observations included in the noise analysis. The nearest residential property is located approximately 300 feet from the mowed grass airstrip. The specific special exception requirements for an airstrip associated with a farm does not require a specific finding on noise levels for an airstrip as it does in other instances, such as Animal Boarding Place (Section 59-G-2.02), Heliport (Section 59-G-2.27) and Veterinary Hospital (Section 59-G-2.32). However, to further minimize potential noise impact from the proposed airstrip, staff recommends that the trips that can be made to and from the airstrip must not exceed a maximum of two per week. It should be noted that the airstrip is used only during the daytime and only in a good weather conditions.

Staff has not found any inherent or non-inherent impacts associated with the proposed use that rises to a level sufficient to warrant a denial of the application.

XIII. GENERAL CONDITIONS (59-G-1.21)

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the zone.

The proposed use is permitted by special exception in the RDT zone.

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

With staff's recommended conditions of approval, the proposal satisfies the specific special exception standards and requirements of Section 59-G-2.00.4 for granting of the proposed airstrip.

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

As noted earlier, technical staff does not agree with the Community Based Planning staff's findings of the proposal's partial consistency with the 1980 Functional Master Plan for the preservation of Agriculture and Rural Open Space and the recommendation of denial of this application. The technical staff finds the existing

and proposed airstrip use on the property is in keeping with the Master Plan designation of the area for Agricultural Reserve.

Moreover, the character of the rural community in which the property is located would be maintained and would not be negatively impacted with the proposed use. In Appendix A: *SUMMARY OF RURAL DENSITY TRANSFER ZONE (RDT) AND RURAL CLUSTER ZONE (RC)*, under the heading *Rural Density Zone (RDT)*, the proposed use is identified amongst the land uses authorized by special exception in the category of *Transportation, Communication and Utilities*. The subject property, along with the proposed airstrip use, meets all the development standards of the zone and meets the specific and general special exception requirements.

With respect to the comments of the Community Based Planning staff regarding the dedication of a 50'x1000' area for non agricultural purpose thereby rendering the use partially inconsistent with the Master Plan, it should be noted that (1) the use is permitted by special exception in the Zone, (2) the subject property is in excess of the minimum 25 acre requirement and the dedication of the proposed 50,000 square feet area for mowed grass airstrip would have insignificant impact; and (3) as noted by CBP staff, "if the airstrip use ceased operation, the mowed grass area could be return to agriculture and would not be lost as farmland."

- (4) **Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses. The Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.**

With the recommended conditions, the proposed modification will be in harmony with the general character of the neighborhood and not adversely affect surrounding properties or the general neighborhood. The subject airstrip has been at the same location since 2005. However, although the airstrip was approved by the FAA in 2006, the applicant did not seek a special exception approval until now. The proposed airstrip does not involve any new construction or installation of equipments or lighting. Nor that it generate additional traffic or parking.

The applicant submits that he would be using the airstrip no more than two times per week and only when good weather permits. The applicant also submits that the use of the airstrip is limited to his private use. Given these restrictions on the proposed use of the airstrip, any potential negative impact that could arise from the use would be very minimal. Noise has been identified as a potential negative impact by some members of the community, Community Based Planning and Environmental Planning staff. However, given the fact that the continuous noise generated by leaf blowers, tractors and other farm machinery far exceeds the level of noise generated in the few seconds at takeoff and landing on the airstrip, to conclude that the use of the airstrip is out of character with the general neighborhood would be an overstatement.

The concerns voiced by some area residents that the plane is not being used for a farm use such as crop dusting, is also based on the assumption that a non-farm use would change the character of the neighborhood. On the contrary, the proposed use and purpose of the airstrip is much less intrusive and results in less adverse impact than crop dusting in terms of noise level, health, and safety of both the residents and the Agricultural Reserve area. Moreover, the proposed airstrip must abide by the guidelines and conditions specified by the Maryland Aviation Administration (MAA) and the Federal Aviation Administration (FAA) for the operation of the subject airstrip use.

- (5) **Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

The proposed use is a permitted use as a special exception and meets the requirements of both the general and specific requirements. The proposed personal usage of the airstrip and frequency of trips is less intense than other by right or comparable special exception usage permitted in the zone. With the recommended conditions, the proposed use would not be detrimental to the use, peaceful enjoyment, economic value or development of adjacent properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

- (6) **Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

The proposed use is not expected to cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The noise levels generated during the few seconds of takeoff and landing of the single engine airplane do not exceed the noise level generated by the routine uses of residential and farm equipment routinely used on nearby farms or residences associated with farms.

By Memorandum dated November 8, 2010 (Attachment B-2), the Environmental Planning staff indicated that the staff does not agree with the applicant's noise analysis. The following are excerpts from the Environmental Planning staff's comments:

Staff finds that the uses on the site, as explained in the documentation, the special exception summary statement, the applicant's noise analysis, and special exception application, would not likely cause objectionable vibrations, fumes, orders, dust, illumination, glare, or physical activity. However, based on staff's analysis of the proposed application using the County Noise Ordinance, staff does not agree with the applicant's noise analysis. Staff believes the proposed use would create objectionable noise.

The County Noise Ordinance is found in Chapter 31B of the Montgomery County Code. Section 31B-1(a) of the Ordinance states the "County Council finds that excessive noise harms public health and welfare and impairs enjoyment of property. The intent of this Chapter is to control noise sources to protect public

health and welfare and to allow the peaceful enjoyment of property. This Chapter must be liberally construed to carry out this intent.”

Although the Noise Ordinance identifies the Department of Environmental Protection as the agency that administers the ordinance, staff believes the application of the maximum allowable noise levels in the Ordinance is appropriate for staff to determine if the proposed special exception will cause objectionable noise at the subject site.

Section 31B-2(l)(1) defines residential noise area as land in a zone established under Section 59-C-1.1, Section 59-C-2.1, Division 59-C-3, Section 59-C-6.1, Section 59-C-7.0, Section 59-C-8.1, Section 59-C-9.1 for which the owner has not transferred the development rights, or Section 59-C-10.1, or land within similar zones established in the future or by a political subdivision where Chapter 59 does not apply. The RDT zone falls within section 59-C-9.1 and the subject property has not transferred the development rights.

Section 31B-5(a)(1) sets the maximum allowable noise levels in a residential noise area at 65 dBA daytime and 55 dBA nighttime and states a person must not cause or permit noise levels to exceed this limit.

The applicant’s noise analysis prepared by Henning Associates and dated June 29, 2010 shows the proposed special exception use will generate noise levels at 60-84 dBA at the property line during take-offs, 48-71 dBA at the property line during landing, and 54-77 dBA at the property line during taxiing. All three categories of usage associated with this airstrip will generate noise in excess of the maximum allowable noise levels in the County Noise Ordinance (Chapter 31B) of 65 dBA for daytime and 55 dBA for nighttime levels. The applicant has only requested the special exception usage for daylight hours so only the daytime maximum allowable noise levels were analyzed in this report.

Location	Taxiing (dBA range)	Actual (dBA range)		Simulated (dBA range)	
		Takeoff	Landing	Takeoff	Landing
1	65	79	53-59	74-78	62-65
2	67-77	73-84	not given	81-82	68-71
3	not given	69-72	not given	57-63	not given
4	54	77	48-49	72-76	not given
5	56	78-79	57-59	65-71	not given
6	not given	76	59-63	50	not given

Based on the noise analysis provided by the applicant, take-offs for Dr. Gillespie’s use of the airstrip would exceed the maximum allowable noise level 84% of the time, taxiing would exceed the maximum allowable noise level 71% of the time, and landing exceed the maximum allowable noise level 17% of the time.

Environmental Planning staff’s position is that the proposed special exception will generate noise in excess of the maximum allowable noise levels set forth in Chapter 31B. Noise levels which are in violation of Chapter 31B (Noise Ordinance) are objectionable in terms of Montgomery County law. Therefore, it is staff’s position that the proposed special exception use would cause objectionable noise and would not meet the required special exception finding of Section 59-G-1.21, unless the applicant receives a General Waiver from the Director of the

It should be noted, however, that the specific special exception requirement related to an airstrip (Section 59-G-2.00.4) does not require a specific finding on noise levels unlike for other special exception uses allowed in the RDT zone namely: Animal Boarding place (Section 59-G-2.02(b)(3)(6)(8)), Heliport (Section 59-G-2.27(e)) and Veterinary Hospital Section (59-G-2.32(b)(6)). In each one of these cases the Ordinance provides specific levels and restrictions for noise as part of the special exception requirement as shown in one example below:

Section 59-G-2.02. Animal boarding place.

- (b) In any residential or rural zone where permitted by special exception, an animal boarding place must comply with the following conditions and requirements:***
 - (3) For all buildings in which animals will be present, maximum expected interior sound levels must be reduced to 40 dBA (A-weighted decibels) outside, measured at ten feet from the structure.***
 - (6) On weekdays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 8 a.m. to 6 p.m. and 50 dBA between the hours of 6 p.m. to 8 a.m. On Saturdays, Sundays, and federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. to 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.***

In contrast, there is no such specific requirement for Section **59-G-2.00.4 Airstrip associated with farm**. The Zoning Ordinance requires compliance with only the following two provisions shown below:

Pursuant to Section 59-G-2.00.4, a special exception may be granted for an airstrip on a farm, as defined in Section 59-A-2.1, subject to the following requirements:

- (a) Only one airplane is permitted to be permanently housed at the airstrip.***
- (b) The applicant must obtain a favorable air space determination from the Federal Aviation Agency (FAA) in response to an application filed on Form FAA 7480.1, title "Notice of Proposed Landing Area Established," or whatever form number and title the FAA may require***

The notable absence of specific requirements or restrictions regarding noise levels compared to other special exception uses allowed in the zone indicates that a noise level that is associated with the use of the airstrip would fall within the range of the inherent characteristics of the use. As such, any potential objectionable noise should be mitigated with reasonable conditions and restrictions rather than being subject to the noise ordinance. The strict application of the Noise Ordinance is more appropriate for uses that are in violation of specific requirements and standards set for a special exception use in a zone. To that end, in the instant application, the technical staff believes that the following conditions would further ensure that the proposed airstrip use will not result in a potentially objectionable level of noise:

1. Use of the proposed airstrip will be limited to no more than two trips per week.
2. The airstrip shall be used only during daylight hours and only in a clear weather conditions.

Although the applicant has already agreed to operate the use under these restrictions, the technical staff recommends that these conditions be included in the conditions of approval if the application is to be approved.

Note: The applicant's noise engineer has submitted a 4-page rebuttal to the Environmental Planning Recommendation. The document, dated November 12, 2010, was received on the same date via e-mail

- (7) **Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.**

The proposed special exception would not, when evaluated in conjunction with existing special exceptions in the area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly agricultural nature of the area.

Special Exception No. 1879 was granted in the early 1990s for a golf course for the area now occupied by the 215-acre Bucklodge Conservation Park. There are no other special exception uses in the immediate area. The proposed use will not exacerbate the existing situation since there is no concentration of such uses in the area. It is the nature of the special exception process that future establishment of other special exception uses in the area would be evaluated on case by case basis.

- (8) **Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

The proposed special exception will not adversely affect the health, safety, security, morals or welfare of residents, visitors or workers in the area. The FAA has deemed the airstrip to be safe as currently configured.

- (9) **Will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.**
- (A) **If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of granting the special exception.**
- (B) **If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.**

The subject special exception does not require approval of a preliminary plan of subdivision. The proposed use is currently served and will continue to be served by the existing septic systems and well.

Transportation Planning staff indicated that a traffic study to satisfy LATR is not required because the development on the site generates fewer than 30 total, regular peak-hour trips within the weekday morning peak period (and evening peak period. For Policy Area Mobility Review (PAMR), the Petitioner is not required to mitigate any new, weekday peak-hour trips within the weekday morning and evening peak periods generated by the site's development because it is located in the Rural West Policy Area. Thus the transportation Adequate Public Facilities test is satisfied. In addition, Peach Tree Road is designated as a rustic road, R-32, with a recommended 70-foot right-of-way. The proposed use should not negatively impact the safety of vehicular or pedestrian traffic.

- (b) **Nothing in this Article relieves a Petitioner from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department, which approves or licenses the project.**

No finding is required.

- (c) **The Petitioner for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.**

The petitioner has met the burden of proof under Sections 59-G-2.00.4 "Airstrip associated with farm." and 59-G-2.1(a): "General Conditions".

XIV. STANDARDS AND REQUIREMENTS (59-G-2):

Pursuant to Section 59-G-2.00.4, a special exception may be granted for an airstrip on a farm, as defined in Section 59-A-2.1, subject to the following requirements:

- (a) **Only one airplane is permitted to be permanently housed at the airstrip.**

Only one single engine plane will be housed at the airstrip.

- (b) **The applicant must obtain a favorable air space determination from the Federal Aviation Agency (FAA) in response to an application filed on Form FAA 7480.1, title "Notice of Proposed Landing Area Established," or whatever form number and title the FAA may require.**

The subject airstrip was inspected and approved by the Maryland Aviation Administration (MAA) and the Federal Aviation Administration (FAA) in 2006. The FAA approval was confirmed in 2010. The applicant has submitted supporting documents into the record of the case.

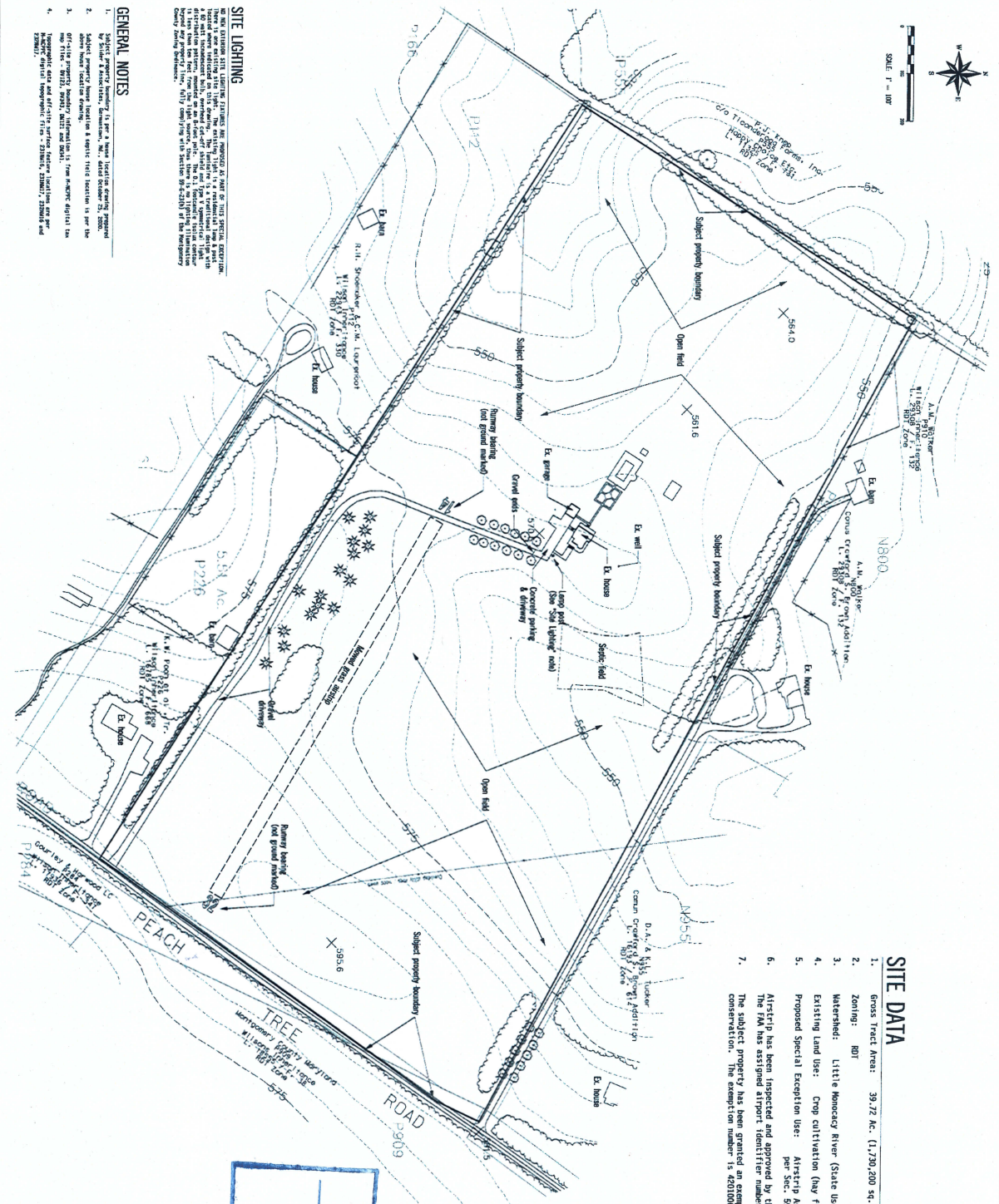
XVI. CONCLUSION

The subject property, along with the proposed airstrip use, meets all the development standards of the zone and meets the specific and general special exception requirements. Based on the forgoing analysis and for reasons stated at the beginning of this report, staff recommends approval of Special Exception Application S-2778 with conditions.

ATTACHMENTS:

- A. Site Plan
- B. Referral Comments
- C. Letters from the Community

S-2778 Staff Report ET/11/18/10



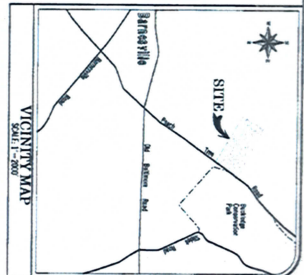
SITE LIGHTING
 There is no site lighting. The existing light is a residential type and is located in the front yard. The existing light is a residential type and is located in the front yard. The existing light is a residential type and is located in the front yard.

GENERAL NOTES

1. Subject property boundaries in per a more detailed drawing prepared by Miller & Associates, Gaithersburg, MD, dated October 21, 2008.
2. Subject property boundaries in per a more detailed drawing prepared by Miller & Associates, Gaithersburg, MD, dated October 21, 2008.
3. Map title: "2008, 2009, 2010, 2011, 2012 and 2013".
4. All property boundaries are shown in black lines.

SITE DATA

1. Gross Tract Area: 39.72 Ac. (1,730,200 sq. ft.) - Per Tax Record
2. Zoning: R01
3. Watershed: Little Monocacy River (State Use 1 / 1-P)
4. Existing Land Use: Crop cultivation (hay field) with farm house
5. Proposed Special Exception Use: Airstrip associated with Farm per Sec. 99-6-2.00.4 (W.C.2.0.)
6. Airstrip has been inspected and approved by the FAA and M&M; The FAA has assigned airport identifier number 2M0.
7. The subject property has been granted an exemption from forest conservation. The exemption number is 42538965.

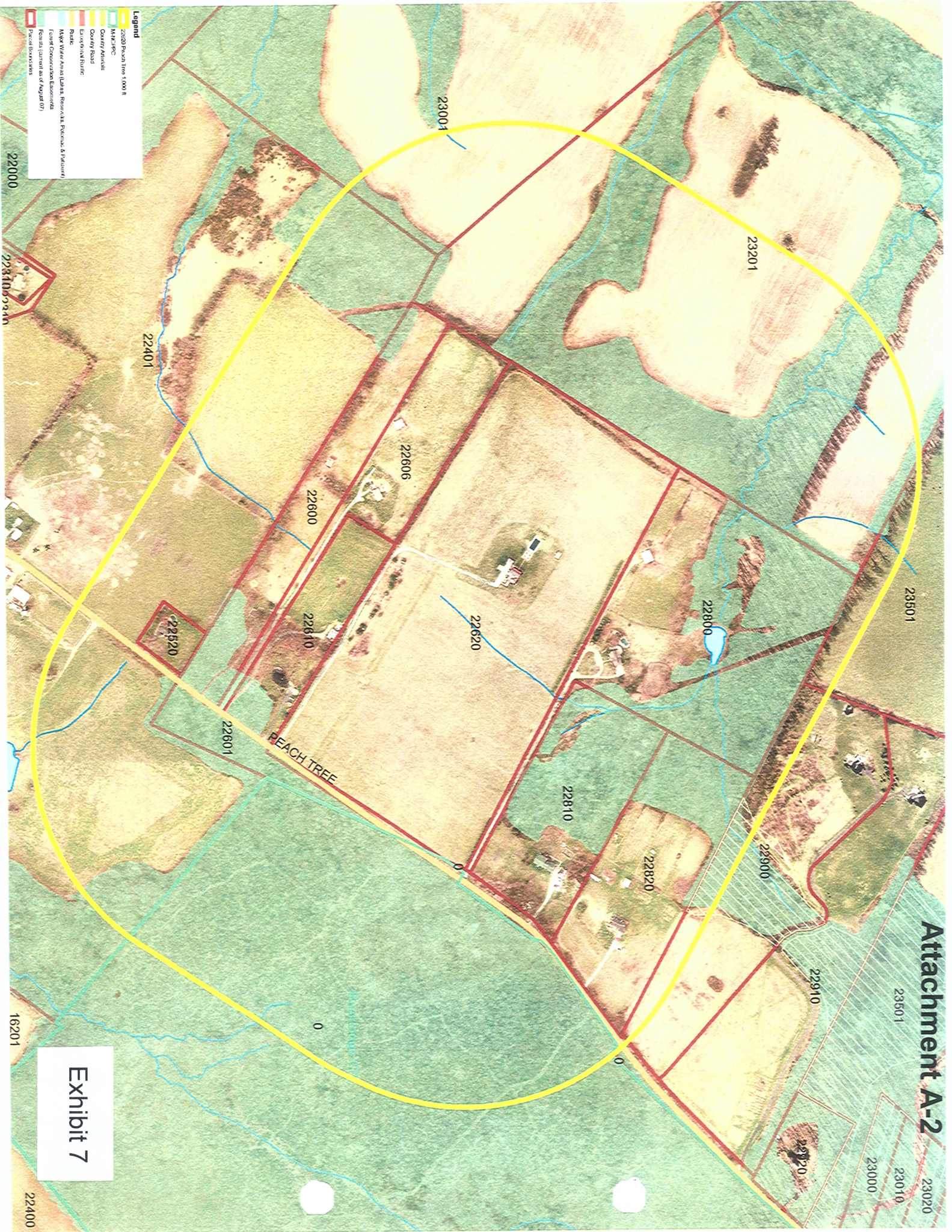


RECEIVED
 NOV 05 2010
 DEVELOPMENT REVIEW DIVISION

REVISIED
 DATE
 11-05-2010

<p>SS SITE SOLUTIONS, INC. 22620 PEACH TREE ROAD BOYDS, MD 20841 410-413-3000 410-413-3001 410-413-3002</p>	OWNER:	Robert O. Gillespie 22620 Peach Tree Road Boyds, MD 20841
	NO.	1
DATE:	NOV 05 2010	NOV 05 2010
REVISION:	1	1
DATE:		
NO.		
DATE:		

Special Exception Site Plan
 22620 PEACH TREE ROAD
 ELECTON DISTRICT #11
 MONTGOMERY COUNTY, MARYLAND



Legend

- 2000 Peach Tree 1,000 ft
- MHC-30C
- County Aerials
- County Road
- Countywide Route
- Route
- Major Water Area (Lakes, Reservoirs, Rivers, & Streams)
- Forest (Current as of August 07)
- Paved Interstates

Attachment A-2

Exhibit 7

Tesfaye, Elsabett

From: Axler, Ed
Sent: Thursday, November 04, 2010 8:22 AM
To: Tesfaye, Elsabett
Cc: Etemadi, Shahriar
Subject: Special Exception Case #2779, Airstrip at 22620 Peach tree Road, Boyds

Elsabett

A site single-family detached unit, farm, and a private airstrip (for a single-engine propeller-driven airplane) exist on the site. In the "Summary Statement in Support of Application for Special Exception for Airstrip associated with Farm", the Petitioner proffered that the airplane will be used for recreational flying with no regular hours. For Local Area Transportation Review (LATR), a submitted traffic study to satisfy LATR is not required because the development on the site generates fewer than 30 total, regular peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.) and evening peak period (4:00 to 7:00 p.m.). For Policy Area Mobility Review, the Petitioner is not required to mitigate any new, weekday peak-hour trips within the weekday morning and evening peak periods generated by the site's development because it is located in the Rural West Policy Area. Thus the transportation Adequate Public Facilities test is satisfied. In addition, Peach Tree Road is designated as a rustic road, R-32, with a recommended 70-foot right-of-way.

Ed

Ed Axler

Transportation Planning Division, Mont. County Planning Dep't, M-NCPPC

8787 Georgia Ave, Room 105, Silver Spring, MD 20910-3760

voice=301-495-4525, fax=301-495-1302, or e-mail = ed.axler@mncppc-mc.org

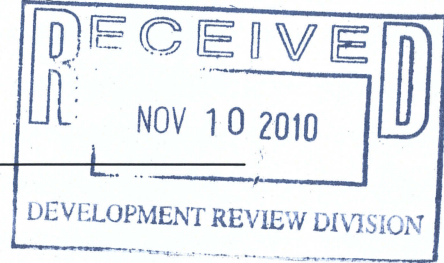
Attachment B-1



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

MEMORANDUM

TO: Elsabett Tesfaye, Development Review
VIA: Candy Bunnag, Planner Coordinator, Environmental Planning *CS*
FROM: Josh Penn, Senior Planner, Environmental Planning *JP*
DATE: November 8, 2010
SUBJECT: Special Exception Case S-2778
22620 Peachtree Road Airstrip



RECOMMENDATION

Environmental Planning recommends **Denial** of Special Exception Case # S-2778, unless the applicant receives a General Waiver from the Director of the Department of Environmental Protection under section 31B-11(b) from Chapter 31B of the Montgomery County Code.

BACKGROUND

The 39.72-acre property, currently zoned RDT, is located at 22620 Peachtree Road, approximately 6,000-feet south of Comus Road. Currently, there is an existing single family residence surrounded by agricultural fields. The proposed special exception is for a private airstrip for the recreational use of the property owner.



Figure 1: 2010 Aerial Image

Environmental Buffers

A simplified Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 42010062E was approved by Environmental Planning staff on November 3, 2009. There are no existing streams, wetlands or their associated environmental buffers on the site. In addition, there are no existing forests or specimen tree on-site.

The project site is located within the Little Monocacy River watershed which is classified as a Use Class I. The Countywide Stream Protection Strategy (CSPS) rates the tributaries in this watershed as good.

Forest Conservation

A forest conservation plan exemption (42009062E) was confirmed for this site by Environmental Planning staff on November 3, 2009 under 22A-5(t) of the County Forest Conservation Law. The application is for a modification to an existing developed property that will not require approval of a subdivision plan and will not result in the clearing of existing forest or trees.

Special Exception Required Finding

The standards for evaluating a special exception is found in Section 59-G-1.21 of the Montgomery County Zoning Ordinance. One of the required standards that must be met is Section 59-G-1.21(a) (6), which reads as follows:

“(6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.”

Staff finds that the uses on the site, as explained in the documentation, the special exception summary statement, the applicant’s noise analysis, and special exception application, would not likely cause objectionable vibrations, fumes, orders, dust, illumination, glare, or physical activity.

However, based on staff’s analysis of the proposed application using the County Noise Ordinance, staff does not agree with the applicant’s noise analysis. Staff believes the proposed use would create objectionable noise.

The County Noise Ordinance is found in Chapter 31B of the Montgomery County Code. Section 31B-1(a) of the ordinance states the “County Council finds that excessive noise harms public health and welfare and impairs enjoyment of property. The intent of this Chapter is to control noise sources to protect public health and welfare and to allow the peaceful enjoyment of property. This Chapter must be liberally construed to carry out this intent.”

Although the Noise Ordinance identifies the Department of Environmental Protection as the agency that administers the ordinance, staff believes the application of the maximum allowable noise levels in the ordinance is appropriate for staff to determine if the

proposed special exception will cause objectionable noise at the subject site.

M-NCPPC EP staff contacted Montgomery County Department of Environmental Protection (MCDEP) to discuss this case and procedures to review compliance of special exceptions with Chapter 31B. MCDEP has agreed for this special exception in terms of evaluating compliance with Chapter 31B that M-NCPPC should take the lead since it is a planning and zoning case. MCDEP agreed that any noise in violation of Chapter 31B should be considered objectionable.

Section 31B-2(l)(1) defines residential noise area as land in a zone established under Section 59-C-1.1, Section 59-C-2.1, Division 59-C-3, Section 59-C-6.1, Section 59-C-7.0, Section 59-C-8.1, Section 59-C-9.1 for which the owner has not transferred the development rights, or Section 59-C-10.1, or land within similar zones established in the future or by a political subdivision where Chapter 59 does not apply. The RDT zone falls within section 59-C-9.1 and the subject property has not transferred the development rights.

Section 31B-5(a)(1) sets the maximum allowable noise levels in a residential noise area at 65 dBA daytime and 55 dBA nighttime and states a person must not cause or permit noise levels to exceed this limit.

The applicant's noise analysis prepared by Henning Associates and dated June 29, 2010 shows the proposed special exception use will generate noise levels at 60-84 dBA at the property line during take-offs, 48-71 dBA at the property line during landing, and 54-77 dBA at the property line during taxiing. All three categories of usage associated with this airstrip will generate noise in excess of the maximum allowable noise levels in the County Noise Ordinance (Chapter 31B) of 65 dBA for daytime and 55 dBA for nighttime levels. The applicant has only requested the special exception usage for daylight hours so only the daytime maximum allowable noise levels were analyzed in this report.

Location	Taxiing (dBA range)	Actual (dBA range)		Simulated (dBA range)	
		Takeoff	Landing	Takeoff	Landing
1	65	79	53-59	74-78	62-65
2	67-77	73-84	not given	81-82	68-71
3	not given	69-72	not given	57-63	not given
4	54	77	48-49	72-76	not given
5	56	78-79	57-59	65-71	not given
6	not given	76	59-63	50	not given

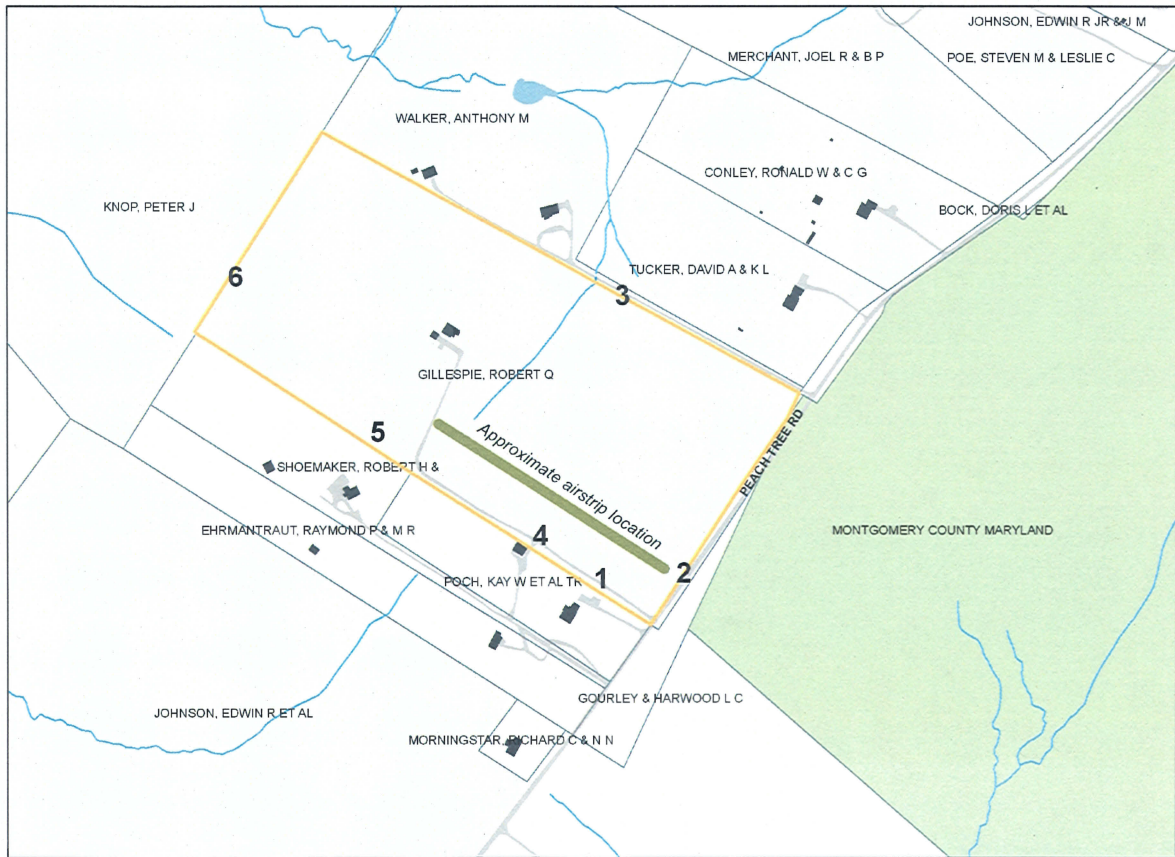


Figure 2: Noise Monitoring Locations

Loudness can be defined as a psycho-physical sensation perceived by the human auditory perception or the human ear/brain mechanism. Sound/noise level can be defined as a physical quantity measured (such as decibels (dBA)).

As the sound/noise level increases the perception of loudness also increases, for every 10 dBA increase the perceived noise level is doubled. The applicant's noise analysis shows a max sound/noise level of 84 dBA which is 19 dBA over the maximum allowable noise levels set in Chapter 31B. The perceived loudness would be almost 4 times (3.71 times) as loud as what is allowed in Chapter 31B. While the 19 dBA increase is the maximum increase over what is allowed and occurs only once in the applicant's noise analysis, there are 23 instances where the sound/noise level was 75 dBA or greater. With a sound/noise level of 75 dBA, which is 10 dBA over the maximum allowable noise levels as described in Chapter 31B, the perceived loudness would be doubled over the maximum allowable as defined in the law.

Based on the noise analysis provided by the applicant, take-offs for Dr. Gillespie's use of the airstrip would exceed the maximum allowable noise level 84% of the time, taxiing

would exceed the maximum allowable noise level 71% of the time, and landing exceed the maximum allowable noise level 17% of the time.

Environmental Planning staff's position is that the proposed special exception will generate noise in excess of the maximum allowable noise levels set forth in Chapter 31B. Noise levels which are in violation of Chapter 31B (Noise Ordinance) are objectionable in terms of Montgomery County law. Therefore, it is staff's position that the proposed special exception use would cause objectionable noise and would not meet the required special exception finding of Section 59-G-1.21, unless the applicant receives a General Waiver from the Director of the Department of Environmental Protection under section 31B-11(b) from Chapter 31B of the Montgomery County Code.




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

November 12, 2010

MEMORANDUM

TO: Elsabett Tesfaye
Development Review Division

FROM: ^{CM} Callum Murray, Team Leader, Potomac and Rural Area (301-495-4733)
Katherine Holt, Senior Planner
Leslie Saville, Senior Planner 
Vision Division

SUBJECT: Airstrip, associated with a farm
Special Exception S-2778
Consistency with Master Plans

RECOMMENDATION

Vision Division staff finds this Special Exception use to be inconsistent with the AROS Plan as it is a non-farmland use that does not support agriculture. In addition, the noise levels make this use incompatible with the surrounding community. Vision Division staff recommends denial.

DESCRIPTION

The applicant, Dr. Robert Gillespie, requests approval for a 50' X 1000' mowed airstrip on his property, a 39.7-acre lot at 22620 Peach Tree Road, Boyds. The property falls within the Western Sector of the Agricultural and Rural Open Space Master Plan area, is in the Rural Density Transfer (RDT) zone, and is located on a rustic road.

The property is improved with a house, garage, pool and gardens, and as seen in the 2010 aerial below, there is an existing mowed airstrip between the house and the road near the southern property line. The property owner leases all but two acres of land to a farmer who takes hay from the fields around the house. Four houses border the property on the north and south, a farm lies to the west, and Bucklodge Forest Conservation Park is located on the east side, across Peach Tree Road. The airstrip is less than 300 feet from the closest residential property line, and about 50 feet from the edge of pavement on Peach Tree Road. A powerline cuts northward through the property from the eastern end of the runway by Peach Tree Road.

Use of the airstrip is for recreational purposes, and the applicant indicates that the airstrip will be limited to use by his single-engine, propeller-driven airplane during daylight hours, no more than two times per week during clear weather conditions. No paving, equipment, lighting or signage

is proposed. Orange marker balls are to be placed on the powerlines that bisect the property near the eastern end of the runway.

MASTER PLAN CONSISTENCY

This property is located in the Agricultural Reserve and is controlled by the Functional Master Plan for the Preservation of Agriculture and Rural Open Space. Peach Tree Road was designated as a rustic road by the Rustic Roads Functional Master Plan.

2010 Aerial Photo, Dr. Gillespie's Property and Vicinity



Functional Master Plan for the Preservation of Agricultural and Rural Open Space (AROS, 1980)

The AROS Plan does not give specific recommendations for airstrips, and the existing public airport in the Plan area, Davis Airport in Etchison, pre-dates the adoption of the Plan. Guidance comes from some of the more general Plan provisions, described next.

Plan excerpts on agricultural preservation:

The AROS Plan “focuses on the preservation of farmland but it also tries to establish a policy

framework that will contribute to the continuation of farming in the County” (Foreword, p. i, emphasis original). To accomplish this, the Plan recommends the “[p]reservation of critical masses of farmland and rural open space,” (Summary of Findings and Recommendations, p. iv).

Discussion:

Dr. Gillespie’s airstrip has reportedly been operating since at least 2006, and aerial photos show that the agricultural use pre-dates the airstrip. No further changes are proposed that will impact the current haying operation, such as a paved runway or lights. Staff finds this use to be consistent with the above Master Plan recommendation as it will have no further impact to the farmland or farming operation.

Excerpt on non-farmland uses:

For those areas designated as Agricultural Reserve, the Rural Density Transfer Zone (RDT) is recommended. These areas contain a critical mass of productive farmland worthy of protection, as well as other non-farmland uses which serve to support and define the critical mass (Transfer of Development Rights Recommendations, p. 41, emphasis original).

Discussion:

This property was recommended for the RDT zone in the Plan, and the land continues to support agriculture. The proposed airfield is to be used for recreation, so this non-farmland use does not support agriculture. Staff finds the proposal to be inconsistent with this master plan recommendation.

Excerpt on the Western Sector, one of the three sectors described in the Plan:

The one important fact concerning agriculture in this area is that, whatever is currently produced and whatever the ownership pattern now is, the land itself exists; very little of it has been taken over by non-farm residential uses and thus lost forever as farmland (Western Sector Justification, p. 56).

Discussion:

The applicant’s residence is in the approximate center of a haying operation, and the 50’ X 1000’ mowed airfield is in one of the fields being hayed. If the airstrip ceased operation, the mowed area could be returned to agriculture and would not be lost as farmland. Staff finds that the airstrip, as proposed, will not interfere with the current or future agricultural use of the land.

Staff finds that this proposal is partially consistent with the AROS Plan; it is inconsistent in that the proposed non-farmland use does not support agriculture.

Rustic Roads Functional Master Plan (RRFMP, 1996)

This property is adjacent to Peach Tree Road, a rustic road. No changes are proposed to the road, and no roadside elements identified in the Plan would be impacted. Staff finds this proposal to be consistent with the Rustic Roads Functional Master Plan.

The applicant did not bring this proposal to the Rustic Roads Advisory Committee, but RRAC staff presented a brief summary to the committee members. No changes are proposed to the access drive to Peach Tree Road and no views or other elements adjacent to the road are identified by the RRFMP in this location. The Committee did not anticipate any impact to the road.

COMMUNITY COMPATIBILITY

Four houses and a farm abut Dr. Gillespie's property, and parkland is confronting, across Peach Tree Road. To the south, the airstrip is less than 300 feet from the property lines of two residential neighbors, and to the north, it is about 700 feet away. Across Peach Tree Road, the airstrip is about 150 feet from Bucklodge Forest Conservation Park which contains about two miles of unpaved trails. The entry to a connector trail is located opposite the applicant's property, about 600 feet from the end of the runway.

According to the submission, the applicant's airplane will generate noise in excess of allowable levels at all property lines during takeoffs. Henning Associates' June 2010 report, Evaluation of Aircraft Noise Levels for Special Exception Applications measured sound levels in six locations along the property lines near three of the four homes during taxiing, five takeoffs and landings, and during simulated takeoffs and landings from the opposite direction. Maximum sound levels measured during the test and by simulation appear in the table below.

Location	Taxiing (dBA range)	Actual (dBA range)		Simulated (dBA range)	
		Takeoff	Landing	Takeoff	Landing
1*	65	79	53-59	74-78	62-65
2	67-77	73-84	not given	81-82	68-71
3	not given	69-72	not given	57-63	not given
4	54	77	48-49	72-76	not given
5	56	78-79	57-59	65-71	not given
6	not given	76	59-63	50	not given

*Location 1 is closest to an existing house, approximately 75 feet from the applicant's property line.

Where the readings are highlighted in the table, they exceed the levels allowed by Montgomery County Code Chapter 31B, Noise Control, which allows a maximum of 65 dBA in this area during daytime hours. A potential conflict can be seen between the "daytime" hours defined by the Code, 7 a.m. to 9 p.m. on weekdays and 9 a.m. to 9 p.m. on weekends and holidays, and the "daylight" hours in the application, which will vary by time of year. Regardless of the time of year, it will be "daylight" before 9 a.m. If the applicant wishes to fly before 9 a.m. on a weekend or holiday, the noise cannot exceed the "nighttime" noise level maximum of 55 dBA; as shown on the chart above, the noise generated by the plane is seldom below this level.

A Federal Aviation Administration Advisory Circular, 36-3G has also been submitted; planes in the same category as the applicant's plane can be expected to produce between 51 and 70 dBA at takeoff and between 56 and 80 dBA during landing. If the applicant's plane were one made by a different manufacturer, or of a different model, this document suggests that it might comply with Chapter 31B.

Community Correspondence

Sugarloaf Citizens' Association (SCA) has been voicing concerns about this operation for some years. Staff at the Department of Permitting Services was first alerted to this use in 2006 by the Federal Aviation Administration (FAA), and 2006 correspondence from the Maryland Aviation Administration (MAA) indicates that a final inspection will be required following local zoning approval.

In recent weeks, correspondence has been received from neighbors and community groups in both support of and opposition to this application. Supporters consider the use to have little impact while those in opposition have concerns about safety and noise, effects on livestock, and the potential for this to set a precedent. The table below summarizes the comments received to date.

Name Date Location	Position Comments
Sugarloaf Citizens' Association (SCA) October 5, 2010 Dickerson, MD	Oppose: <ul style="list-style-type: none"> • Zoning issues • Safety concerns • Recreational airstrip is not an allowed use • Fear of the use spreading throughout the Agricultural Reserve
Gary Fennel November 1, 2010 Rockville, MD	Oppose: <ul style="list-style-type: none"> • Adverse impact on the solitude, serenity and safety of the Agricultural Reserve • For recreational use • Denied this application once already in Poolesville
Karin Tucker November 1, 2010 22810 Peach Tree Road (Neighbor to the north)	Support: <ul style="list-style-type: none"> • Noise is brief and not more than airplanes flying over • Requested applicant be alert to children, cows and horses • The airstrip will be for private use only, not public • Let people have the freedom to do as they please
Betsy and Glen Reynolds November 3, 2010 15400 Conrad Spring Road, Boys (1.12 miles SSE of property)	Support: <ul style="list-style-type: none"> • Innocuous use • Occasional recreational use poses no threat to the peaceful countryside • Appropriate use; variety in the human experience
R. Shoemaker and C. Laurencot November 4, 2010 22606 Peach Tree Road (Neighbor to the south)	Oppose: <ul style="list-style-type: none"> • Safety of family, livestock and pets • Potential accidents with deer and wildlife in adjacent park • Impact on road, commuters, walkers, runners, bikers, horsemen (noise may spook horses) • Zoning—recreational use not intended to be allowed
Montgomery Countryside Alliance (MCA) November 12, 2010 Boys	No position taken, but concerns: <ul style="list-style-type: none"> • Zoning—this does not further the conduct of agriculture • Noise • Neighbors' concerns about farm animals and safety

As noted above, an October 5, 2010 letter from the SCA raises zoning issues and the potential for the proliferation of this type of use in the Agricultural Reserve. SCA points out that this is a recreational use, unrelated to the farming operation on the property. Staff notes that the use, "Airstrip, associated with a farm," is not defined in the zoning ordinance. If "associated with a

farm” is interpreted to include co-location with a farming operation of any type, the SCA’s concern about a potential for setting a precedent should be carefully considered; this proposal might establish a precedent. Staff suggests defining this use through a zoning text amendment to resolve the ambiguity.

Based on Henning Associates’ report, and given the proximity of four houses and Bucklodge Forest Conservation park, staff finds this airfield to be incompatible with the surrounding community.

SUMMARY

Staff finds the proposed airstrip to be partially inconsistent with the applicable master plans because it is a non-farmland use that does not support agriculture, and finds it to be incompatible with the nearby homes and park because it generates noise in excess of levels allowed by County Code. Vision staff recommends denial. In addition, staff recommends defining this use through a zoning text amendment.

M:|Potomac & Rural|Airstrip Peach Tree Rd.doc

From: Caroline Taylor [<mailto:caroline@mocoalliance.org>]

Sent: Friday, November 12, 2010 11:56 AM

To: Saville, Leslie

Subject: Re: Case No. S-2778-Petition of Robert Z. Gillespie for a farm airstrip

Please direct this correspondence to appropriate party. We will follow up to Board of Appeals as necessary.

Re: Case No. S-2778-Petition of Robert Z. Clasper for a farm airstrip

Montgomery Countryside Alliance has the following concerns regarding the above referenced petition:

- 1) Montgomery County Zoning Ordinance Sec. 59-G-2.00A. for "an airstrip associated with a farm" was not intended to permit an airstrip for recreational use as described by Dr. Gillespie in his application for Case No. S-2778. Stated another way: The proposed airstrip does not further the conduct of agriculture.
- 2) The use, non-agricultural in nature, will exceed the noise ordinance. How is that justified?
- 3) Adjacent property owners have expressed concern for their farm animals grazing in proximity to proposed airstrip and their safety. We trust that those concerns will be properly weighted when considering an application for an airstrip for a recreational use.

Thank you for your consideration.

Sincerely,

Caroline Taylor, Executive Director
Montgomery Countryside Alliance
P.O. Box 120, Boyds, Maryland 20841
301-349-5021 ~ 301-461-9831 (c)
<http://mocoalliance.org/>



Sugarloaf Citizens' Association

Protecting Our Rural Legacy

Linden Farm, 20900 Martinsburg Rd., P.O. Box 218, Dickerson, MD 20842
Tel. 301-349-4889 • www.SugarloafCitizens.org

Ms. Katherine Freeman,
Executive Director
Montgomery County Board of Appeals
100 Maryland Avenue
Rockville, Maryland 20850

Re: Case No. S-2778- Petition of Robert Z. Gillespie

On behalf on Sugarloaf Citizens Association, I am writing to express our opposition to the appeal of the appeal of the appeal of Dr. Bob Gillespie, 22620 Peach Tree Road, Boyds, MD, related to his desire to construct an airstrip on his property.

Over the past years, we have been contacted by many members of our organization and landowners near the proposed airstrip opposing this application based on zoning issues, safety concerns, and a fear that applications of this type will spread throughout the Agriculture Reserve.

In the Montgomery County Code Zoning Ordinance, Chapter 59- Division 59-C-9, section (f) Airstrip, associated with farm is permitted in the RDT zone by special exception. The airstrip has to be associated with the work of a farm. Few farmers have airstrips. If they do, they are usually associated with crop dusting or perhaps allowing a large farm owner with many farms spread over Maryland to commute from farm to farm. It is our understanding that Dr. Gillespie is a physician not a farmer and that his farm raises only the crop of hay, if that. Hay production does not require crop dusting. Dr. Gillespie states clearly in one of the forms in the file that the use is recreational. Recreational airstrips are not permitted in the RDT zone.

We urge the Board of Appeals to dismiss this petition.

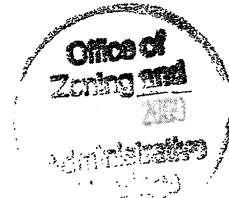
Thank you for your time and consideration.

Sincerely,

Anne Sturm 10/5/10

Anne Sturm, President
Sugarloaf Citizens Association
P.O. Box 218
Dickerson, Md. 20842

Email: anets1@aol.com



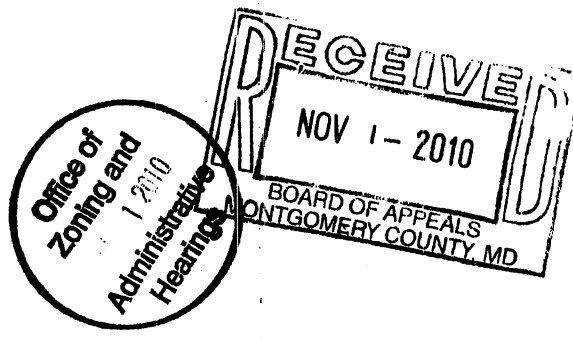
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5-2778

Attachment C-1

H.E.

Katherine Freeman, Executive Director
 Office of Zoning and Administrative Hearings
 Stella B. Werner Council Office Building
 100 Maryland Avenue, Room 200
 Rockville, Maryland 20850
 November 1, 2010



Dear MS Freeman, I am a resident of Rockville, MD and have lived in Maryland for my entire life. I was an elementary school teacher in Montgomery County, Maryland for seven years, was a Volunteer Paramedic for The Wheaton Volunteer Rescue Squad, also for about seven years, and am a Retired Major with thirty six years of service in the Maryland Army National Guard. I am also a volunteer in the Maryland/Montgomery County Emergency Response/Medical Reserve Corps. For over twenty five years I have been on the Medical Staff as a Surgical Physician Assistant at Washington Adventist Hospital in Takoma Park. I have also been on staff at Montgomery General and Holy Cross Hospitals. Obviously, I am firmly entrenched in our community.

In June of 1965, I drove down the lane into Breeze Hill Farm, which borders Peach Tree Road in Comus. More than forty years later, I am still close friends with the Johnson family. During these year I have made the trip to western Moutngomery County hundreds of times. No matter the season or reason I am always taken by the beauty and serenity of this region. Several years ago an attempt to establish a landfill running between Old Hundred Road and Peach Tree Road was rejected by the county. An attempt to put in a dump for trees and debris from construction was also rejected. The Agriculture Reserve designation has allowed the western portion of our county to remain a local treasure. Now the zoning board is faced with yet another attempt to defile this treasure. Doctor Gillespie is appealing your decision to deny his air strip on Peach Tree Road. This is not his first try. His attempt to build the same in the Poosville area was opposed by the citizens and denied by the Zoning Board. His attempt to build at his new home on Peach tree Road has already been turned down as it is not associated with farm use in the Agricultural Preserve. Doctor Gillespie has stated that the proposed airstrip will be used for recreational purposes not farm use.

The homes and farms in the area and the overall solitude, serenity and safety of Western Montgomery County and its Agriculture Reserve will, I strongly feel, be adversely affected if the airstrip is allowed.

I respectfully request the Zoning Board of Montgomery County, Maryland to again reject Doctor Gillespie's attempt to build his airstrip.

Sincerely,

Gary R. Fennel
 Gary R. Fennel PA-C

Attachment C-2

EXHIBIT NO. 19
 REFERRAL NO. 5-2778

From: Tony Walker [<mailto:tonyw@bascpas.com>]
Sent: Wednesday, November 03, 2010 9:12 AM
To: 'jlynott@llplawfirm.com'
Subject: Special Exception PRIVATE AIRSTRIP Robert Q Gillespie

To whomever it may concern. November 3, 2010

I am writing to express my support for the petition made by Robert Gillespie to allow him to operate a private airstrip on his property on Peach Tree Road in Boyds.

I am Dr. Gillespie's neighbor (our properties are adjacent and share around 2000 feet of property line) and I have witnessed him taking off, landing and taxiing his airplane on the proposed airstrip.

Based on my experience I have no concerns relating to safety of him taking off and landing on his property, and I have no concerns with the noise level produced by his single engine airplane. The noise levels produced were probably no more than a truck driving down Peach Tree Road.

I also know that the authorities responsible for safety and noise testing have inspected the proposed airstrip and have performed tests on the property. My understanding is that these experts have confirmed the safety and minimal noise disruption.

I also know that the application is strictly for private use of the airstrip and that there will be no construction related to this application.

I can therefore see no reason why Dr. Gillespie should not be allowed to land his own airplane on his land.

Anthony Walker
22800 Peach Tree Road
BOYDS MD 20841
(301)518-9000

Petition of Robert Q. Gillespie
Case No. S-2778

November 1, 2010

Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, MD 20850



Petition of Robert Q. Gillespie
Case No. S-2778

To whom it may concern:

I am the neighbor of Robert Gillespie. I live at 22810 Peachtree Rd.

Concerning the air strip which Mr. Gillespie is petitioning for, I am fine with him having it. I was outside standing adjacent to his property when the noise level test was being done. His plane was no louder than the commercial planes flying overhead from my perspective. The noise was also very brief. I don't think I could hear it if I was inside my house. My husband is also fine with him having it.

I did request that he watch out for any children (I have a lot of company, and while I don't think any of them have ever gone over there, children can stray, so I want him to be careful and aware of that). I have also seen stray cows and horses on the road so he should be careful for his own safety too.

Mr. Gillespie assures me that this will be a private airstrip and never for public use.

I hope he will be able to enjoy the privilege to use his property as an airstrip. This is a great country and I believe in letting people have freedom to do as they please, so long as they are considerate to their neighbor.

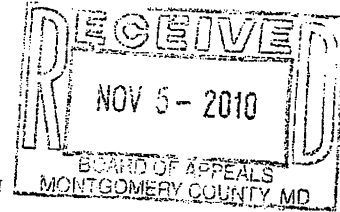
Feel free to call me if you have any questions. 301-528-6983.

Respectfully,

Mrs. Karin Tucker

EXHIBIT NO. 18
REFERRAL NO. S-2778

Attachment C-4



Montgomery County Board of Appeals
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

November 3, 2010

re: Special Exception S-2778

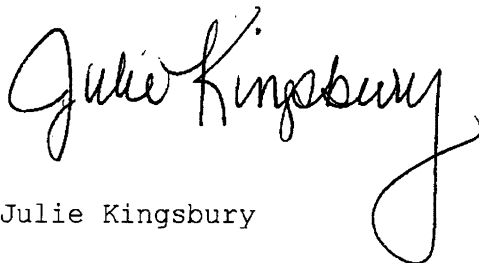
To Whom It May Concern,

I am writing in support of the application of my neighbor, Bob Gillespie, to obtain a special exception for a private airstrip on his Peach Tree Road farm. My husband, Gene, and I are also residents of Peach Tree Road.

It is my understanding that Dr. Gillespie's airstrip will be used no more than two times per week, and only during favorable weather conditions and daylight hours. Furthermore, no construction is involved. The airstrip consists of a mowed portion of the farm's hay field. Dr. Gillespie flies a small, single-engine airplane which weighs less than my horse and makes less noise than my husband's tractor!

Private airstrips are nothing new to the Agricultural Reserve and several existed when the Reserve was established. Most of the airports in Maryland are located on private farms. Private farm airstrips are a common feature of rural America in all 50 states.

Sincerely,

A handwritten signature in cursive script that reads "Julie Kingsbury".

Julie Kingsbury

25
S 2778

21010 Peach Tree Rd.

Attachment C-5

15400 Conrad Spring Road
Boys, Maryland 20841

November 3, 2010

Montgomery County Board of Appeals
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville Md. 20850
Reference Special Exception # S-2778

To Whom It May Concern:

We are writing in support of Robert Q. Gillespie's proposed private airstrip to be located on his property at 22620 Peach Tree Road.

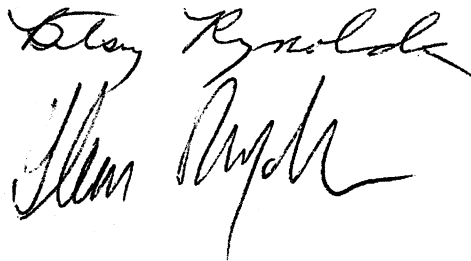
We have lived in this community for the past 31 years on our property that is located 1.12 miles SSE of Mr. Gillespie's property.

We find the proposed private airstrip to be a totally innocuous use for a perfectly suited agricultural property. We are very familiar with the features and topography of the surrounding countryside and have read and fully understand the Summary Statement in Support of Application for Special Exception for Airstrip Associated with Farm.

We believe that this type of occasional recreational use presents no threat to the peaceful countryside that we enjoy every day. The existence of such appropriate uses is a testament to the variety in the human experience.

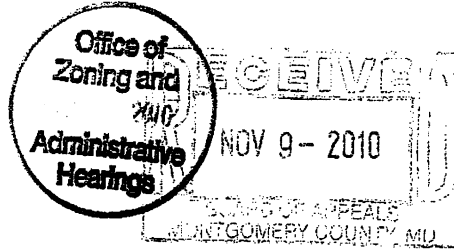
Sincerely,

Betsey and Glenn Reynolds

The block contains two handwritten signatures in cursive. The top signature is for Betsey Reynolds and the bottom signature is for Glenn Reynolds. Both signatures are written in black ink.

November 4, 2010

Ms. Catherine Titus
Chairperson
Montgomery County Board of Appeals
100 Maryland Avenue, Rm 217
Rockville, Maryland 20850



Re: Case No. S-2778- Petition of Robert Z. Gillespie for a farm airstrip

Dear Ms. Titus,

We are adjoining property owners to Dr. Robert Gillespie's property and we are writing to you to express our opposition to Case No. S-2778, the petition from Robert Z. Gillespie for a farm airstrip to be located on his property at 22620 Peach Tree Rd., Boyds, MD. In addition to notifying your office of our opposition to this petition, Dr. Robert Gillespie was informed of our opposition on October 29, 2010.

According to Dr. Gillespie's application for S-2778, the airstrip is to be located approximately 150 feet from our property line, which is 300 feet from our house. Our horses routinely graze in the pasture adjacent to Dr. Gillespie's property. In addition, the flight path for this airplane is immediately adjacent to our property line. In the past, Dr. Gillespie has used our home as a landmark, thereby aiming directly for our house, while landing his plane when approaching his airstrip from the north. We feel that the proximity of the flight path and the airstrip to our property and home is a safety concern not only for our family but also our livestock and pets. With the herds of deer, and other wildlife that often run from the Bucklodge Conservation area across Dr. Gillespie's airstrip, it is easy to imagine how an unforeseen accident could happen regardless of the level of experience of the pilot. In addition, we and several of our neighbors feel that the airstrip is a safety concern for the community and others that traverse Peach Tree Rd. The airstrip, including the turn around, is located approximately 20 feet from Peach Tree Rd. which is a popular commuting road as well as a recreational route for walkers, runners, bikers, and horsemen. Indeed horsemen and horses may be at particular risk since the sudden appearance of a noisy aircraft could spook a horse leading to injuries of the rider, horse, or bystanders.

We would argue that the provision in the Montgomery County Zoning Ordinance Sec. 59-G-2.00.4. for "an airstrip associated with a farm" was not intended to permit an airstrip for recreational use as described by Dr. Gillespie in his application for Case No. S-2778. We would encourage the board of appeals to consider the safety and concerns of Dr. Gillespie's neighbors and the community when considering Case No. S-2778. Thank you for your consideration of our opposition to Case No. S-2778.

Sincerely,

Robert H. Shoemaker, Ph.D. and Carolyn M. Laurencot, Ph.D.
22606 Peach Tree Rd.
Boyds, M.D. 20841

Cc: Ms. Katherine Freeman, Executive Director, Montgomery County Board of Appeals

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S-2778

Attachment C-7

faxed to 240-777-6665 + mailed 11/9/10.

November 9, 2010

Ms. Katherine Freeman
Executive Director
Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850



Re: Case No S-2778 – Petition of Robert Q. Gillespie

Dear Ms. Freeman:

I live right next to Robert Q. Gillespie. He wants to put in an airstrip so he can land his plane on his property for pleasure use only.

I was raised in Montgomery County, went to Bradley Elementary, Lealand, Jr. and B.C.C. I have lived in this county 75 years. I have paid taxes, raised my sons, supported my community, town and church. I cannot understand why you would consider this request from Dr. Gillespie. This, so called quite, non-evasive landing strip is approximately 70 feet from my property line and the end of the landing strip is 30 feet from Peach Tree Road. Should he (or others) miss calculate their landing, he could hit a car, cyclist, or crash into my house/yard. This airstrip poses a real danger to me and others. My address is 22610 Peach Tree Road and Dr. Gillespie's address is 22620, the entrances to our properties are just 20 feet apart.

Peach Tree Road is a Rustic Rural Road. On the other side of the road is Bucklodge Regional Park and it is all wooded. All year long, tourist from all over Maryland and Virginia come to enjoy this beautiful rural rustic road. They come for peaches, apples, the views, to walk and run. Peach Tree Road is also a designated bike route. Throughout the year, this segment of Peach Tree Road is used daily by cyclist and horse riders. What will they think when they see big orange marker balls on the power lines and planes landing in the field?

The President's helicopter flies over our property on the way to Camp David. I am surprised that the FAA would approve of this landing strip. We are also very close to many no fly zones.

We are in the area of the county's designated Agriculture Reserve. Most of my friends and neighbors have farms, but there are also many, many homes on small amounts of acreage. Many neighbors only have 5 to 20 acreages of property. Those that

27-1
S-2778

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>> 2407776665

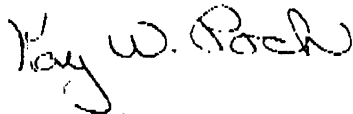
P 2/2

do farm have animals that are frightened by low flying planes. Neighbors with dogs have complained that the noise sends their dogs into barking fits.

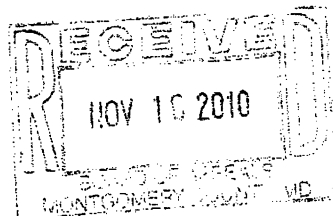
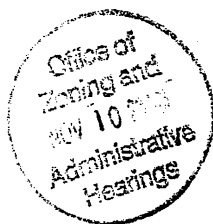
I also believe this landing strip will affect the property value of my home, which I have lived in for over 40 years.

I hope you will deny Robert Q. Gillespie's Petition for a Special Exception.

Sincerely,



Kay W. Poch
22610 Peach Tree Road
Boyd, Maryland 20841



Nancy Morningstar
22520 Peach Tree Rd
Boys, Md 20841

November 9, 2010

The Board of Appeals, Office of Zoning and Administrative Hearings
100 Maryland Ave., Room 200,
Rockville, Md. 20850

Case No. S 2778 Petition of Robert Z. Gillespie

Gentlemen:

I am writing this letter in opposition to the application in the above case for an air strip to be constructed on property on Peach Tree Road which is one tenth of a mile from our property. We live in an Agriculture Preserve area and there is a law restricting an airstrip for farm use only. I do not think this land owner meets that criteria. The land in front of the home and beside the proposed air strip has been cropped by a custom farmer, not the owner.

With any kind of air traffic there is potential danger with landing an aircraft because of the close proximity of home, electric and telephone lines.

I strongly urge you to deny the application .

Sincerely,

Nancy N. Morningstar

Attachment C-9

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S-2778