

C:\DRAWING\LAND-DEV\22030 St. Francis Xavier\Code\PLAN TO ACCOMPANY SPIRIT AND INTENT.dwg, 10/14/2003 3:52:10 PM, XES Synergy 8850.ac3, ARCH ET (330.00 x 42.00 inches), 1:50

DATA SOURCES

STORMWATER MANAGEMENT POND AS-BUILT TOPOGRAPHY AND ONSITE TOPOGRAPHY, BUT EXCLUDING TOPOGRAPHY WITHIN THE DEVELOPMENT ENVELOPE FROM FIELD RUN SURVEY PERFORMED BY DMW, INC. DATED NOVEMBER 1995.

BOUNDARY INFORMATION SHOWN HEREON FROM A BOUNDARY SURVEY PERFORMED BY DMW, INC. DATED JUNE 1993.

TOPOGRAPHIC INFORMATION SHOWN WITHIN THE CHURCH DEVELOPMENT ENVELOPE WAS DIGITIZED FROM A PLAN ENTITLED "SITE AND STORMWATER MANAGEMENT PLAN" PREPARED BY DMW, INC. AND APPROVED FOR GRADING BY BALTIMORE COUNTY DEPRM ON 5-31-96. TOPOGRAPHY WITHIN THE AREA PROPOSED FOR DEVELOPMENT WAS VERIFIED BY FIELD RUN METHODS BY CENTURY ENGINEERING IN FEBRUARY 2003.

OFFSITE TOPOGRAPHIC INFORMATION FROM BALTIMORE COUNTY AERIAL PLANIMETRICS DATED 1996.

PREVIOUS ZONING HISTORY

CASE NO. 90-477SPHX
PETITION FOR SPECIAL HEARING TO APPROVE EXISTING DWELLING AS ACCESSORY CARETAKERS RESIDENCE IN CONNECTION WITH CHURCH PETITION FOR SPECIAL EXCEPTION TO ALLOW CHURCH IN RC 2 ZONE.

RELIEF REQUESTED BY BOTH PETITIONS GRANTED, WITH RESTRICTIONS ON AUGUST 3, 1990 AMENDED ORDER ISSUED ON AUGUST 21, 1990, REVISING RESTRICTIONS

APPEAL TAKEN TO BOARD OF APPEALS, SPECIAL HEARING AND SPECIAL EXCEPTION GRANTED ON NOVEMBER 20, 1992, WITH RESTRICTIONS AS FOLLOWS:

- PETITIONER MAY APPLY FOR ITS BUILDING PERMIT AND BE GRANTED SAME UPON RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT ITS OWN RISK UNTIL SUCH TIME AS THE 30 DAY APPELLATE PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR WHATEVER REASON, THIS ORDER IS REVERSED, THE PETITIONER WOULD BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION.
- OCCUPANCY OF THE SUBJECT CARETAKER'S RESIDENCE SHALL BE LIMITED TO A CHURCH EMPLOYEE(S) AND THE EMPLOYEE(S) FAMILY MEMBERS.
- THE PETITIONER SHALL PROVIDE A LANDSCAPE PLAN TO THE OFFICE OF CURRENT PLANNING FOR APPROVAL BY THE BALTIMORE COUNTY LANDSCAPE PLANNER AND THE DEPUTY DIRECTOR OF PLANNING AND ZONING DEPARTMENT. SAID LANDSCAPE PLAN SHALL THEN BE SUBMITTED TO THE ZONING COMMISSIONER FOR FINAL APPROVAL. THE APPROVED LANDSCAPE PLAN SHALL BECOME A PERMANENT PART OF THE RECORD AND FILE IN THIS MATTER.
- WHEN APPLYING FOR A BUILDING PERMIT, THE SITE PLAN AND LANDSCAPE PLAN FILED MUST REFERENCE THIS CASE AND SET FORTH AND ADDRESS THE RESTRICTIONS OF THIS ORDER.
- THE SUBJECT CHURCH SHALL HAVE A MAXIMUM SEATING CAPACITY FOR 650 INDIVIDUALS.
- PETITIONER SHALL ENTER INTO A LEGALLY ENFORCEABLE AGREEMENT PRIOR TO THE ISSUANCE OF BUILDING PERMITS WHICH SHALL RESTRICT THE AREAS NORTH AND SOUTH OF THE DEVELOPMENT ENVELOPE AS SHOWN ON PETITIONER'S EXHIBIT 1 TO OPEN SPACE OR AGRICULTURAL USE IN PERPETUITY, UNLESS THE PROPERTY OR ANY OTHER PORTION OF THE PROPERTY IS REZONED TO ANOTHER ZONING CLASSIFICATION OTHER THAN R.C. 2 (OR ANY SUCCESSOR ZONING TO R.C. 2) OR THE MASTER PLAN FOR BALTIMORE COUNTY DESIGNATES THE PROPERTY OR ANY PORTION OF THE PROPERTY FOR A USE OTHER THAN AGRICULTURAL PRESERVATION OR THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT (OR ANY SUCCESSOR THAT DEPARTMENT) FINDS, IN WRITING, THAT THE PROPERTY OR ANY PORTION OF THE PROPERTY IS NO LONGER VIABLE FOR AGRICULTURAL USE. THE RESTRICTION SHALL TAKE EFFECT UPON THE COMMENCEMENT OF CONSTRUCTION OF THE PROPOSED CHURCH. THIS RESTRICTION SHALL TAKE EFFECT UPON THE COMMENCEMENT OF CONSTRUCTION OF THE PROPOSED CHURCH. THIS RESTRICTION SHALL NOT PRECLUDE THE CONSTRUCTION OF DRIVEWAYS, ROAD IMPROVEMENT, STORM WATER MANAGEMENT UTILITIES OR OTHER SUCH SIMILAR IMPROVEMENT WITHIN THE RESTRICTED AREA.
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ORDERED THAT THE PETITIONER SHALL HAVE A PERIOD OF FIVE (5) IN WHICH TO UTILIZE THE SPECIAL EXCEPTION GRANTED, SAID FIVE YEAR-PERIOD ACCOUNTING FROM THE DATE OF THIS ORDER.

APPEAL TAKEN TO CIRCUIT COURT, IN CASE NO. 92-CV-11650, IN WHICH CIRCUIT COURT ISSUED AN ORDER AFFIRMING JUDGMENT OF BOARD OF APPEALS ON OCTOBER 5, 1992.

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PETITION FOR WRIT OF CERTIORARI FILED WITH THE COURT OF APPEALS WAS DENIED ON FEBRUARY 18, 1995.

Charles P Merrick, III
EHK, Jr 6118/164

Greencroft Community
Association, Inc.
EHK, Jr 6885/808

PREVIOUS ZONING HISTORY (CONT.)

LETTER DATED SEPTEMBER 30, 2003

THIS LETTER RESPONDS TO YOUR 9/16/03 REQUEST FOR A DETERMINATION THAT A CHANGE IN THE APPROVED ZONING HEARING PLAN BE APPROVED AS BEING WITHIN THE SPIRIT AND INTENT OF THE BOARD OF APPEALS ORDER IN CASE #90-477-SPH.

BASED ON A REVIEW OF THE PROVIDED PLAN AND LETTER, THE PROPOSED ADDITIONAL PARKING APPEARS TO BE LOCATED IN AN AREA ALREADY APPROVED FOR PARKING ON THE ZONING HEARING PLAN. THEREFORE, THIS ADDITIONAL PARKING IS APPROVED AS BEING WITHIN THE SPIRIT AND INTENT OF THE ORDER AS REFERENCED ABOVE, SUBJECT TO THE FOLLOWING:

- A LANDSCAPE PLAN MUST BE APPROVED BY THE APPROPRIATE BALTIMORE CO. AGENCIES.
- THE RESTRICTIONS AS APPLIED BY THE BOARD OF APPEALS REMAIN IN FORCE INCLUDING THE 650 PERSONS MAXIMUM SEATING CAPACITY.
- THIS APPROVAL IS FOR ZONING INTERPRETATION ONLY AND DOES NOT SUPERCEDE ANY OTHER AGENCIES REQUIREMENTS OR PRIVATE AGREEMENTS AS REFERENCED IN THE BOARD OF APPEALS ORDER AND RESTRICTIONS.
- DOCUMENT THIS RESPONSE VERBATIM ON ALL FUTURE PLANS AND CORRESPONDENCE REGARDING THIS ISSUE.
- PROVIDE 3 PLAN COPIES INCORPORATING THIS RESPONSE WITH A COPY OF THIS LETTER TO THIS OFFICE FOR INCLUSION IN THE ZONING OFFICE FILES.

First National Bank
c/o Trust Department
EHK, Jr 4077/169

Lot 5

B.C.M.D. Grid Meridian

LOT ONE
26.611 Ac.±

SEE PARKING DETAIL "A"
THIS SHEET

Restricted Area
Designated For Agricultural
Open Space And
Non-Development Use
12.925 Ac.±

LEGEND

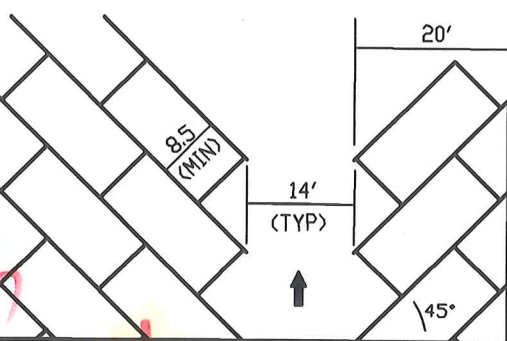
- Guywire
- Gas Valve
- Cleanout
- Light Pole
- Utility Pole
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- Overhead Wire
- Stron Drain
- Stream
- Limit Of Wetlands
- Prop. Walkway Lights
- Ex. Walkway Lights
- Ex. Light Poles
- FOREST BUFFER EASEMENT
- BUILDING SETBACK LINE

PLANT LIST

KEY	QTY	BOTANICAL NAME COMMON NAME	SIZE	COND.	REMARKS
15	15	AGER RUBRUM "OCTOBER GLORY" OCTOBER GLORY RED OAK	2" - 2 1/2" CAL.	B&B	FULL SPECIMEN HEADED TO 8' HT.
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GENERAL NOTES:

OWNER: WILLIAM H KEELER
ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE
USE: COMMERCIAL CHURCH / PLACE OF WORSHIP
MAILING ADDRESS: ARCHDIOCESE OF BALTIMORE
320 CATHEDRAL ST
BALTIMORE MD 21201-4421
DEED REFERENCE: 10979 / 272
PLAT REFERENCE: 65 / 125 DATED AUGUST 27, 1993
CRG APPROVED OCTOBER 30, 1993
PUBLIC SERVICES REFERENCES NUMBER: #90245
PLANNING REFERENCE NUMBER: PDM VIII-573
TAX ID: 2200017229



PARKING TABULATION

EXISTING SPACES: 206
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PROPOSED ADDITIONAL SPACES: 70
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TOTAL PARKING SPACES: 276

PURPOSE OF SPECIAL HEARING:

PETITION FOR SPECIAL HEARING TO AMEND THE SPECIAL EXCEPTION GRANTED IN CASE NO. 90-477 BY AMENDING THE SITE PLAN APPROVED THEREIN.

10/21/03
DATE
APPROVED S+I
PLAN CASE#
90-477-SPHX
SEE LTR, NOTE
J. J. J.
PLANNER II

Date	No	Revision Description
ST. FRANCIS XAVIER ROMAN CATHOLIC CHURCH 13717 CUBA ROAD COCKEYSVILLE, MD 21030 8th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT		
CENTURY ENGINEERING, INC. CONSULTING ENGINEERS, PLANNERS, SURVEYORS 32 WEST ROAD TOWSON, MARYLAND 21204 (301) 823-8070		
PLAN TO ACCOMPANY REQUEST FOR SPIRIT AND INTENT CONFIRMATION		
Des By	R.G.B.	Scale 1"= 50'
Des By	M.C.A.	Date OCTOBER 14, 2003
Chk By	Approved	Proj No 22030.00 DRAWING NO 1 OF 1

DATA SOURCES

STORMWATER MANAGEMENT POND AS-BUILT TOPOGRAPHY AND ON-SITE TOPOGRAPHY, BUT EXCLUDING TOPOGRAPHY WITHIN THE DEVELOPED ENVELOPE FROM FIELD RUN SURVEY PERFORMED BY DMW, INC. DATED NOVEMBER 1995.

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Lot 5

B.C.M.D. Grid Meridian

First National Bank
c/o Trust Department
EHK, Jr 4077/169

ROAD

Centerline of Ex. Paving

Centerline of Ex. Paving

Centerline of Ex. Paving

Centerline of Ex. Paving

Centerline of Ex. Paving

Centerline of Ex. Paving

Charles P. Merrick, III
EHK, Jr 6118/164

Greencroft Community
Association, Inc.
EHK, Jr 6685/808

CUBA

GREEN CROFT LANE
(PRIVATE)

N 74200

W 20500

LEGEND

- Wire
- Gas Valve
- Cleanout
- Light Pole
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- Prop. Walkway Lights
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GENERAL NOTES:

OWNER: WILLIAM H. KEELER
ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE
USE: COMMERCIAL - CHURCH / PLACE OF WORSHIP
MAILING ADDRESS: ARCHDIOCESE OF BALTIMORE
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PUBLIC SERVICES REFERENCE NUMBER: #90245
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TAX ID: 2200017229

PARKING DETAIL A

N.T.S.

PARKING TABULATION

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PURPOSE OF SPECIAL HEARING:

PETITION FOR SPECIAL HEARING TO AMEND THE SPECIAL EXCEPTION GRANTED IN CASE NO. 90-477 BY AMENDING THE SITE PLAN APPROVED THEREIN.

APPROVED S+I
PLAN CASE #
90-477-SPHX
SEE LTR. NOTE

Planner II

Date	No	Revision Description
ST. FRANCIS XAVIER ROMAN CATHOLIC CHURCH 13717 CUBA ROAD COCKEYSVILLE, MD 21030 8th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT		
CENTURY ENGINEERING, INC. CONSULTING ENGINEERS, PLANNERS, SURVEYORS 32 WEST ROAD TOWSON, MARYLAND 21204 (301) 823-6070		
PLAN TO ACCOMPANY REQUEST FOR SPIRIT AND INTENT CONFIRMATION		
Des By	R.G.B.	Scale 1"= 50'
Des By	M.C.A.	Date OCTOBER 14, 2003
Des By	M.C.A.	Proj No 22030.00
Des By	M.C.A.	DRAWING NO 1 OF 1



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

June 14, 2002

Century Engineering, Inc.
Mr. Paul Lee
32 West Road
Towson, MD 21204

Dear Mr. Lee:

RE: St. Francis Xavier Church
Cuba Road, 8th Election District
90-477-SPHX

Staff has reviewed your request to permit an increase in parking from the 206 spaces approved on the plan in case # 90-477-SPHX to a total of 300 spaces.

Staff has undertaken a detailed review of the case history to include the text of the arguments presented in the orders. Regretfully, due to the fact that the number of spaces needed for the use and the traffic impact concerns of the neighbors were greatly at issue in the hearing, we do not believe that we can offer administrative approval of the proposed plan.

A zoning special hearing will be necessary to amend the approved plan for the increase in parking on this site. I will be happy to assist you in this matter when you are ready to proceed with the public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Lewis".

John L. Lewis
Planner II
Zoning Review

JLL:rlh



April 18, 2002

Mr. Arnold Jablon
Director
County Office Building
Towson, MD 21204

RE: The Archdiocese of Baltimore
Church of St. Francis Xavier
Our Project No. 22030.00

Dear Mr. Jablon:

Please find enclosed herewith a print of the approved CRG for the above mentioned property. The CRG was approved by the Baltimore County Review Group on October 30, 1993, and is referred to by Public Services # 90245 & Planning # VIII-573. The property is zoned RC-2 with a Special Exception for the church granted in Case # 90-477 S.P.H.X.

A subdivision plat was recorded in Plat Book S.M. 65 folio 125 on August 27, 1993. The building envelope for the proposed church improvements were located on the plat.

Since the existence of St. Francis Xavier Church, there has been a need for additional parking. Our company has reviewed the site and have made various parking studies to resolve the parking problem.

I am enclosing herewith a red lined plat of the present improvements existing on the site with our proposed parking scheme. There are no improvements requested to the site except for this additional parking.

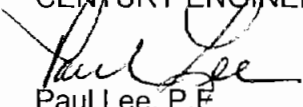
Since we would not be disturbing any area beyond the recorded building envelope, and the change to the parking area would be the only change being requested, we are asking confirmation from your office that the proposed changes are within the spirit and intent of both the Baltimore County Zoning regulations and the previous zoning case.

I am sending this letter at the suggestion of John Lewis with whom I met in connection herewith. I am enclosing the required check for \$ 40.00 for the County's review of this request.

Thank you for anything your office can do to approve this request.

Very truly yours,

CENTURY ENGINEERING, INC.


Paul Lee, P.E.
Vice President

Enclosure

cc: Mr. Frank M. Harvey, Jr.
Wfile\Login2\Land-Dev\LD02\stfran\jablonlr-4-18-02

4/18/02

DT
4/18/02

CONSULTING ENGINEERS

6/05
HEAVILY FROST,
ON PARKING,
PL WILL DISCUSS
WITH OWNER
RE HOLD & DISCUSSING
(2) CARL.

02-1290

18 11 2002



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

March 1, 1999

Stephen J. Nolan, Esquire
Nolan, Plumhoff & Williams
Suite 700, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204-4528

Dear Mr. Nolan:

RE: Spirit and Intent, Gramercy Bed and Breakfast, 1400 Greenspring Valley Road,
3rd Election District

Thank you for your letter of February 22, 1999 to Arnold Jablon, Director of Permits and Development Management. This correspondence, in which you request confirmation that the proposed addition to the Gramercy Bed and Breakfast is within the spirit and intent of Zoning cases #90-355-SPH and 96-230-SPHA, has been referred to me for reply.

I regret to inform you that the Baltimore County Zoning Office cannot administratively consider and approve this confirmation without a special hearing as the main Gramercy building is on the Maryland Historical Trust Inventory. Any actions such as razing, altering, and adding to such a building must be approved by a waiver of preservation of historic buildings or sites.

Also, please be advised that a special hearing was filed challenging the current use of the subject property. To eliminate any challenges of approvals that the Baltimore County Zoning Office may grant, we will currently require that any amendments to the site be approved by a public hearing. It is advisable that any future changes that are anticipated be addressed at a special hearing in addition to the waiver.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me or W. Carl Richards at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "mjkellman".

Mitchell J. Kellman
Planner II
Zoning Review

MJK:cjs

Enclosure

c: Zoning cases 90-355-SPH and 96-230-SPHA

Come visit the County's Website at www.co.ba.md.us



BARBARA A. COCHRAN et al. * In the
* Court of Appeals
v. * of Maryland
* Petition Docket No. 533, Sept.
Term 1994
HILBERT F. CRISTE et al. * (No. 89, Sept. Term
1994, Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, and the answer filed thereto in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ John C. Eldridge
Senior Judge

Date: February 8, 1995

10/03/94 - AFFIRMED Circuit Court which
affirmed CBA / Petitions granted.

Docket Clerk - ZADM

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
No. 89
September Term, 1994

BARBARA A. COCHRAN, et al.

v.

HILBERT F. CRISTE, et al.

Bloom,
Fischer,
Davis,

JJ.

PER CURIAM

Filed: October 3, 1994

RECEIVED
DEC 23 1994
ZADM

90-477-5Pb

This is an appeal from a judgment of the Circuit Court for Baltimore County, affirming the decision of the County Board of Zoning Appeals (the Board), which granted a petition for a special exception use on the property of Hilbert F. Criste, appellee herein. On 31 August 1990, the Zoning Commissioner for Baltimore County granted appellee the Roman Catholic Archbishop of Baltimore (the Archbishop), as contract purchaser and developer of the property, a special exception for the construction of a 650-seat church and associated structures. Several adjacent and neighboring property owners, appellants herein, appealed the decision to the Board, and the Board heard the case de novo. On 20 November 1993, the Board granted the special exception, imposed seven restrictions, and granted appellees five years in which to utilize the special exception grant. On 18 December 1992, appellants appealed to the Circuit Court for Baltimore County. The circuit court conducted a hearing on the merits of the appeal on 24 August 1993, and affirmed the decision of the Board on October 5, 1993. This appeal followed.

Appellants, headed by Barbara Cochran, present several issues for our review. We have reworded and reorganized the issues for clarity. Appellants allege that the following errors occurred at the proceedings before the Board:

1. The Board failed to grant appellants a hearing on their motion to recuse Board member Judson Lipowitz.
2. The Board failed to grant appellants' motion to recuse Board member Judson Lipowitz.

3. The Board failed to comply with Md. State Gov't (SG) Code Ann. §10-503(b)(2) (1991 Repl. Vol., 1993 Cum. Supp.), which required deliberation on appellants' motion to recuse Board member Judson Lipowitz.

4. The Board failed to comply with SG § 10-503(b)(2), which required deliberation on the merits of the granting of the special exception to be done at an open meeting (the Open Meetings Act).

5. The Board failed to require a review of the site plan submitted by appellees to the Board which differed materially from the site plan originally submitted by appellees to the Zoning Commissioner.

6. The Board ignored the Baltimore County Master Plan.

7. The Board misapplied the standard for granting special exceptions.

8. The Board failed to explain the facts upon which it approved the special exception.

Appellants allege that several additional errors were committed during proceedings before the circuit court:

9. The circuit court denied appellants the right to depose Board member Judson Lipowitz.

10. The circuit court refused to grant appellants a postponement on 24 August 1993.

11. The refusal to grant a postponement, the refusal to permit additional discovery, and the Board's failure to hold a hearing on appellants' motion for recusal combined to deny appellants their rights to due process.

FACTS

Appellee Criste owns a 27-acre parcel of land in the Shawan Valley of northern Baltimore County. The parcel, mostly pasture-

land with a few trees, lies within the RC-2 agricultural conservation zone. The parcel contains a residence, a barn, a garage, and a tenant house. Appellee Archbishop, as contract purchaser, desires to construct a 650-seat church with a 200-space parking lot, convert the existing residence to offices, utilize the barn as a chapel and meeting place, and use the tenant house as an accessory caretaker's residence. The Archbishop's proposed use of the property requires a special exception permit.

On 31 August 1990, the Baltimore County Zoning Commissioner granted appellees a special exception for their proposal. Several neighboring and adjacent property owners, led by Barbara Cochran, appealed the Commissioner's decision to the Board. The Board reviewed the petition for a special exception de novo and received testimony on 23 August 1991, 19 September 1991, 26 September 1991, 10 October 1991, 7 November 1991, 2 January 1992 and 14 January 1992. The Board issued its order and opinion on 20 November 1992, granting the special exception, imposing several restrictions, and placing a five-year time limit during which appellees could utilize the grant.

On 13 August 1992, several months after the last hearing but prior to the Board's order, appellant Cochran submitted to the Board a letter requesting that Board member Judson Lipowitz recuse himself from considering appellees' petition for a special exception. Cochran alleged that Lipowitz created a conflict of interest when he represented Grempler Realty in a rezoning request

to the county council while retaining his position on the Board.¹ Cochran further alleged that, during the pendency of the current action, Lipowitz discussed the Grempler rezoning matter with Margaret Worrall of the Valleys Planning Council, one of appellants' witnesses. Finally, Cochran asserted that Lipowitz's law firm violated the Baltimore County Code (B.C.C.) § 28-83, "Use of Prestige of Office," by advertising in the DAILY RECORD that "Principals [of the firm] include ... past and present members, Baltimore County Board of Appeals." The advertisement admittedly referred to Mr. Lipowitz and his position on the Board.

The Board denied Cochran's request for recusal on 16 September 1992. Cochran filed a motion for reconsideration and request for hearing, which the Board denied on 16 November 1992. The Board approved appellees' petition for a special exception on 20 November 1992.

Appellants filed an appeal to the circuit court on 18 December 1992. On 18 June 1993, appellant Cochran attempted to depose Lipowitz and obtain from Lipowitz's law firm the records of any zoning matters in which Lipowitz was involved. Appellees filed a motion for protective order on 7 July 1993. The circuit court heard oral argument on 30 July 1993, and thereafter granted appellees' motion for protective order.

The circuit court scheduled a hearing on the merits of the appeal from the Board's decision for 24 August 1993. Cochran and

¹ Cochran did not allege that either Grempler Realty or Lipowitz had any interest, financial or otherwise, in the parcel under consideration in this case.

appellant Phillip E. B. Byrd, Jr. both notified the court of scheduling conflicts with the 24 August 1993 date. The circuit court denied appellants' requests for postponement and held the hearing on 24 August 1993. On 5 October 1993, the circuit court affirmed the decision of the Board. This appeal followed.

LEGAL ANALYSIS

Standard of Review

The role of this Court is to repeat the task of the circuit court to be certain that the circuit court did not err in its review. *Maisel v. Montgomery County*, 94 Md. App. 31, 34 (1992); *Morimer v. Howard Research and Dev. Corp.*, 83 Md. App. 432, 442, cert. denied, 321 Md. 164 (1990). The task of the circuit court was to determine whether the Board's decisions were "in accordance with the law." Baltimore County Charter § 604; *Art Wood Enterprises v. Wiseburg*, 88 Md. App. 723, 727 (1991).

A decision of the Board of Appeals is "not in accordance with the law" if it is arbitrary, capricious, or illegal. *Art Wood*, 88 Md. App. at 727. If there is no record of the facts on which the Board acted or a statement of the reasons for its action, the Board's action may be deemed arbitrary and a reviewing court may not uphold its decision. *Board of County Comm'rs for Prince George's County v. Ziegler*, 244 Md. 224, 229 (1966); *Morimer*, 83 Md. App. at 441. As the Court of Appeals recently iterated, however, "No matter how the test for reviewing factual findings of administrative agencies is

phrased, the reviewing court's appraisal or evaluation must be of the agency's fact-finding results and not an independent original estimate of or decision on the evidence." *Andehson v. Dep't of Public Safety*, 330 Md. 187, 212 (1993).

Recusal of Board Member Lipowitz

Appellants' first contentions concern the Board's actions in relation to the motion to recuse Judson Lipowitz from the consideration of the Archbishop's petition for a special exception. Appellants contend that the Board should have held a hearing on the recusal issue and should have deliberated in an open meeting pursuant to the requirements of SG § 10-503(b)(2); and, ultimately, Lipowitz should have recused himself from the case.

Appellants assert that the Board had ample time to conduct a hearing on their motion to recuse Mr. Lipowitz before the Board issued its decision in November 1992, and thus the Board's failure to do so violated principles of fundamental fairness. Appellants cite authorities which indicate that an administrative agency can consider additional evidence after the close of an evidentiary hearing if it does not violate any regulations, statutes, or common law principles. They cite no authority, however, for the proposition that it is an abuse of discretion for an administrative agency, nearly eight months after the close of evidentiary hearings, to fail to conduct an additional hearing on the "fundamental objectivity of the Board itself."

Normally, a hearing provides a party with the opportunity to inform a decision-maker of the special facts or circumstances involved in a particular case in order to facilitate the decision-maker's resolution of the issue. Because the particular facts and circumstances of this case concerned the decision-maker's own professional activities of which the decision-maker was already aware and, more important, those facts did not concern allegations of personal bias or prejudice against a particular party, *see, e.g., Prince George's County v. Surratt*, 80 Md. App. 415, 415 n.2 (1989)¹, we conclude that the Board did not abuse its discretion when it failed to hold a hearing on the motion to recuse. We now turn to the issue of recusal itself.

Because a Board member's duties resemble those of a judge, guidance on the recusal issue can be gleaned from Rule 1231 of the Maryland Code of Judicial Conduct. Rule 1231 provides that "[a] judge should not participate in a proceeding in which the judge's impartiality might reasonably be questioned." The decision whether to recuse oneself resides within the sound discretion of the judge and will not be disturbed unless there exists an abuse of discretion. *Jefferson-el v. State*, 330 Md. 99, 107 (1993); *In re Colin R.*, 63 Md. App. 684, 700 (1985); *see also Trussell v. State*, 67 Md. App. 23, 27-28, cert. denied, 306 Md. 514 (1986), quoting

¹ Though the Surratt Court did not reach the issue, it noted that, where a party seeks to recuse a judge based on the judge's alleged personal bias against the party, other jurisdictions including the federal courts have held that the judge must request a hearing of the facts to be set before a different judge. This is because "the very essence of the bias is its effect upon that judge."

with approval *United States v. Garramone*, 374 F.Supp. 256, 258 (E.D. Pa. 1974) ("Adverse judicial rulings or prior judicial exposure to the parties or questions are not sufficient to establish personal bias or prejudice [within the contemplation of recusal requirements].").

Appellants cite *Sharp v. Howard County*, 327 Md. 17 (1992), as support for the position that Mr. Lipowitz should have recused himself because of the appearance of a conflict of interest. Appellants also refer to § 28-82(a)(2) of the Baltimore County Code which provides that an official or employee of the county may not have any other employment which would impair his "impartiality or independence of judgment."

In *Sharp*, the Court of Appeals stated that there exist several circumstances where recusal is mandated by the Judicial Code of Conduct. 327 Md. at 25. The Court reviewed several decisions from across the country and determined that "[t]he theme running through [these decisions] requiring recusal is the appearance of impartiality." *Id.* at 29. The Court concluded that

(w)hen a judge has given legal advice, or performed legal work in a nonadversarial setting, recusal is required only if the underlying purpose of the advice or work was to achieve the goal that is at issue in the later proceeding before the judge.

Id. at 30.

Mr. Lipowitz assisted Grempler Realty with its filing with the county council a request for rezoning a piece of property when Mr. Lipowitz also presided as a member of the county Board of Appeals. The particular piece of property, however, bears no relationship to

appellees' property. Even so, appellants assert that the representation itself impaired Mr. Lipowitz's impartiality because it involved a reclassification of property and the Board's authority extends to reclassification cases.

The rule enunciated by the Sharp Court does not apply to this particular situation. The underlying purpose of Mr. Lipowitz's representation was to achieve the legislative reclassification of property which is not involved in this case. Certainly, if Grempler Realty later petitioned the Board to have its property reclassified pursuant to B.C.C. § 2-356, Mr. Lipowitz would be required to recuse himself from that case. In this case, however, Mr. Lipowitz did not abuse his discretion when he did not recuse himself from considering the petition of an unrelated entity in an unrelated matter.

If indeed Mr. Lipowitz's concurrent employment as an attorney and Board member violates Baltimore County's employment restrictions, the Ethics Commission or the county attorney can initiate appropriate enforcement action. *See* B.C.C. § 28-3; *see also Sugarloaf Citizens Ass'n, Inc. v. Gudis*, 319 Md. 558, 579 (1990) (enforcement of Montgomery County's ethical code must be initiated by the ethics commission or by the county attorney). There exist no distinctive attributes to this case that would necessitate Mr. Lipowitz from recusing himself from its consideration.

Open Meetings Act

Section 10-501 of the State Government Article (SG), the "Open Meetings Act," provides that "it is the public policy of the State that the public be provided with adequate notice of the time and location of meetings of public bodies, which shall be held in places reasonably accessible to individuals who would like to attend these meetings." "Public body" includes any multi-member board appointed by the chief executive authority of a political subdivision of the State. SG § 10-503(b) further provides that the Open Meetings Act applies to a public body when it is meeting to consider "a special exception . . . or any other zoning matter."

Appellants contend that the Board violated the Open Meetings Act on two separate occasions. First, appellants believe that the Board should have held an open meeting during the Board's deliberations surrounding the recusal issue. Appellants also believe that the Board failed to adhere to the Act's requirements when it ultimately decided to grant appellees' petition for a special exception.

SG § 10-510(b) provides that a person adversely affected by a public body's failure to comply with the Act's provisions may file a petition with a circuit court that requests the court to void the action taken by the public body. The petition must be filed within 45 days after the date of the alleged violation. SG § 10-510(b)(2). The circuit court may, in its discretion, consolidate a proceeding under the Act with an appeal from the action of the public body. SG § 10-510(d)(1).

Appellants did not file a separate petition for the alleged violations of the Act, but on 18 December 1992, noted an appeal from the Board's decision in the circuit court. The circuit court assumed that the subsequent petitions for appeal, filed 28 December and 31 December, satisfied the requirements of SG § 10-510(b)(1). For purposes of review, we shall assume that the circuit court properly exercised its discretion to consolidate the two proceedings.

The Open Meetings Act does not apply to quasi-judicial functions and closed sessions are permitted to discuss any personnel matter that affects one or more specific individuals. SG § 10-508(a)(1)(ii). Closed sessions are also permitted to discuss the assignment or removal of an official over whom the public body has jurisdiction. SG § 10-508(a)(1)(i). The deliberations, if any, regarding whether Mr. Lipowitz should recuse himself could be considered either the removal of an official over whom the Board had jurisdiction or simply a personnel matter that affected one specific individual. Such deliberations are permitted to occur in closed session, and thus, the Board did not violate the Act when it did not hold an open meeting to consider appellants' motion to recuse Mr. Lipowitz.

A presumption exists that the Board did not violate any provision of the Act, and appellants bear the burden of proving otherwise. SG § 10-510(c). The last public hearing on the special exception permit occurred on 14 January 1992, the Act became effective 1 July 1992, and the Board issued its decision on 20

November 1992. Appellants' petitions for appeal were filed on 28 December and 31 December 1992. Calculating forty-five days from the filing of the earlier of the two petitions for appeal, the alleged violation must have occurred between 13 November and 20 November 1992. SG § 10-510(b)(1). Appellants failed to allege or produce any evidence that the Board met to deliberate on this issue during this time period. In fact, because the last public hearing was conducted in January, a strong possibility exists that the Board made all its deliberations prior to the effective date of the Act. Appellants fail to overcome the presumption that the Board complied with the provisions of the Open Meetings Act.

The Merits of the Board's Decision

Finally, appellants assert several contentions that relate to whether the Board should have granted a special exception to appellees. Appellants contend that the Board 1) failed to review appellees' materially altered site plan, 2) ignored Baltimore County's Master Plan, 3) misapplied the standard for granting special exceptions, and 4) failed to explain properly the facts upon which it approved the special exception.

Appellants contend that the site plan submitted to the Board was materially altered from the site plan originally submitted to the Zoning Commissioner, and that such altered site plan should have been resubmitted to the relevant county agencies pursuant to B.C.C. § 26-127(a). Appellees admittedly introduced a plan that differed in some ways from the plan originally submitted to the

Zoning Commissioner. The Board, however, heard testimony regarding the changes in the amended plan and found that there were no significant material changes requiring re-submittal to the county agencies. Upon reviewing the record of the Board's decision, we hold that there existed substantial evidence that the changes were refinements and clarifications rather than alterations to the original plan. In particular, a planner testified that the essential change in the amended plan was the outline for a definitive floor plate for the new church, i.e., the precise building footprint was substituted for the outline of the building envelope. The Board itself queried the planner about the various changes and found to its satisfaction that the various changes were refinements rather than alterations to the original plan. Therefore, we shall not disturb the Board's determination that the amended plan did not embody material changes requiring re-submittal to the relevant county agencies for approval.

Appellants also contend that the Board "denigrate[d] and denie[d] the relevance of the Master Plan to this case." In particular, appellees argue that the proposed church conflicts with the Master Plan with respect to historic preservation, scenic view and corridor preservation, landmark preservation, agricultural preservation, and rural character preservation.

Appellants mis-characterize the position that the Master Plan occupies in zoning and land use decision-making. Master Plans serve as guides in the zoning process. *People's Counsel v. Webster*, 65 Md. App. 694, 702, cert. denied, 306 Md. 70 (1986).

Section 523 of the Baltimore County Charter specifies that the Master Plan "shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county." [Emphasis added.] The county council, by creating special exception uses, determined that other uses besides agriculture can occur within the RC-2 agricultural zone and remain consistent with the objectives of the Master Plan.

Furthermore, appellees produced evidence that the proposal is consistent with many of the goals of the Master Plan, including the promotion of agricultural uses and the protection of soil resources. In its decision, the Board indicated that it did not believe the evidence supported a finding of conflict with the Master Plan, and there existed substantial evidence to support the Board's conclusion.

Appellants' remaining contentions that the Board misapplied the special exception standard and failed to explain the facts upon which it approved the special exception are clearly without merit. In its thirty-page opinion and order, the Board exhaustively recounted the evidence introduced at the multiple hearings conducted during the fall of 1991 and winter of 1992. The Board then explained its assessment about the credibility and probative value of the testimony as it related to the various criteria for evaluating petitions for special exception uses. While the Board stated that it recognized and understood the concerns of the residents who were opposed to the church, it then accurately

pronounced that it was "compelled to make a determination in this case based upon the applicable zoning regulations and the principles laid down by our Courts concerning the granting of special exception uses."

Special exception uses, as part of the comprehensive zoning plan, share the presumption that they are in the interest of the general welfare of the public. *Schultz v. Pritts*, 291 Md. 1, 11 (1981). In *Schultz v. Pritts*, the Court of Appeals explained the standards for judicial review of a grant or denial of a special exception use:

The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption.

Id. (emphasis in original). To overcome the presumption that a special exception should be granted, substantial evidence must be produced that the particular use at the particular location proposed would have "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Id.* at 22-23.

Many of the adverse affects that appellants complain about, such as an increase in traffic congestion on Sunday morning, is obviously inherent to a church use regardless of where it is located within the zone. The Board outlined the various criteria that were required and explained how the proposed use met these criteria. There existed substantial evidence that the proposal met the standards for granting a special exception. We hold that the

Board properly fulfilled its duties. We now turn to consider whether the circuit court properly fulfilled its duties.

The Circuit Court's Protective Order

Appellants contend that the circuit court erred when it granted appellees' motion for a protective order. On 18 June 1993, appellants attempted to depose Lipowitz and obtain from Lipowitz's law firm the records of any zoning matters in which Lipowitz was involved. According to appellants, the purpose for the discovery requests was to obtain information regarding the alleged ethical violations resulting from Mr. Lipowitz's dual employment as an attorney and a Board member for the county.

Appellees filed a motion for protective order on 7 July 1993, and the circuit court heard oral argument on 30 July 1993. The court thereafter granted appellees' motion for protective order.

In *Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 317 (1972), the Court of Appeals distinguished a trial court's discretion in receiving additional evidence which "enhance[s] or diminish[e] the evidence supporting or challenging the application" before a zoning authority and evidence of "matters of public record which directly relate to the arbitrary, capricious or discriminatory quality of the conduct of the zoning authority." A court may, in its discretion, receive evidence that relates to the discriminatory quality of the conduct of the zoning board.

Id.; *Clise v. Phillips Coal, Inc.*, 40 Md. App. 609, 614 (1978).

Even though there exist limited circumstances where a reviewing court may receive additional evidence, the courts will not allow a party challenging an administrative decision to depose the individual decision-makers upon a "mere allegation of 'bad faith.'" *Public Serv. Comm'n v. Patuxent Valley Conservation League*, 300 Md. 200, 212 (1984). The aggrieved party must persuade the reviewing court that there were, in fact, factors present that influenced the action. *Id.* at 213. Counsel's bare allegations of impropriety are insufficient persuasion to show that such factors exist.

As discussed *supra*, the fact that Mr. Lipowitz represented an unrelated entity in an unrelated matter during his tenure as a Board member was insufficient to warrant his recusal. The court's imposition of a protective order, therefore, was warranted, and the court did not abuse its discretion in denying appellants this drastic measure.

The Circuit Court's Failure to Postpone

The circuit court scheduled a hearing on the merits of the appeal from the Board's decision for 24 August 1993. Cochran and appellant Phillip E. B. Byrd, Jr., both notified the court of scheduling conflicts with the 24 August 1993 date. The circuit court responded to appellants' requests for postponement by stating the following:

There was a hearing on July 30, 1993 with regard to the above matter. In open Court the parties attempted to schedule a date for the appeal in the above matter. There was no date

on which all [eighteen] parties could agree. I set this matter for August 24, 1993 at 9:30 a.m. We have had requests for postponement of this date, however in that the parties could not agree on a date prior to the end of October the request for postponement is denied.

The court heard oral argument on 24 August 1993.

The denial of a motion for postponement is within the sound discretion of the trial court. See *State v. Frasier*, 298 Md. 422, 451 (1984). The court allowed the parties the opportunity to find a mutually acceptable time for the hearing and the parties were unable to find a date sooner than three months thereafter. Instead of unnecessarily postponing the hearing, the court chose a date on which most of the interested parties were able to attend. We perceive no abuse of discretion.

Appellants' Rights to Due Process

Appellants allege that the cumulative effects of the alleged errors, i.e., the circuit court's protective order, its failure to postpone oral argument, and the Board's failure to hold a hearing on the motion for recusal, denied appellants' rights to due process. We have already decided that each of the complained of actions were proper; therefore, we do not need to entertain appellants' contention concerning the impact of cumulative errors.

JUDGMENT OF THE
CIRCUIT COURT FOR
BALTIMORE COUNTY
AFFIRMED.

COSTS TO BE PAID BY
APPELLANTS.

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL CATEGORY APPEAL 92CV11650 40/161

ATTORNEYS

IN THE MATTER OF THE
APPLICATION OF
HILBERT F. CRISTE
FOR A SPECIAL HEARING AND
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
CUBA ROAD, NORTHWEST OF THE
CENTERLINE OF GREENCROFT LANE
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
THE ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE
(Appellants')
BARBARA A. COCHRAN, M.D.
JEFFREY FOREMAN
RAYMOND GOMBES
PHILLIP BYRD, M.D.
RICHARD R. BARRETT
PRISCILLA F. BARRETT
MARTHA BOPT

ROBERTA RICHARDSON
PATRICIA BOWMAN
PAULA BYRD
DONALD DAVIES
JOHN FAW
SHARON MUSIKA
S. COSTOS
KATHERINE CALDWELL
JOHN RICHARDSON

P.F. Priscilla F. Barrett
13902 Greencroft Lane
21030
P.P. Phillip Byrd, M.D.
13902 Greencroft Lane
Burr Valley, Md 21030
P.P. Barbara A. Cochran, M.D.
13713 Cuba Rd.
Burr Valley, Md 21030, 764-1955
P.P. Jeffrey Foreman,
1 Sheepfold Lane
Burr Valley, Md 21030
666-1666
P.P. Raymond Gombes
13900 Greencroft Lane
Burr Valley, Md 21030

- (1) December 18, 1992 - Appellant's notice of appeal from the Opinion and Order of the County Board of Appeals of Baltimore County, fd.
- dd(2) Jan. 6, 1993 Supplemental Notice of Appeal, fd. (rec'd-12/21/92)
- ps (3) Jan. 7, 1993 Appellants' Petition on Appeal, fd. (rec'd Dec. 28, 1992)
- ps (4) Jan. 8, 1993 Certificate of Notice, fd. (rec'd Dec. 28, 1992)
- sh (5) Jan. 11, 1993 - App. of Priscilla F. Barrett as Proper Person and same day Petition on Appeal fd. (Received 12/31/92)
- (kv)(6) January 11, 1993 - App. JOHN H. ZINK, III, & ROBERT HOFFMAN for the Deft/Appellees' THE ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE & HILBERT F. CRISTE, and same day Answer to Petition for appeal, fd.
- sh (7) Jan. 14, 1993-Appellant, Barbara A. Cochran, M.D.'s Motion of Extension of time for Transmittal of Record fd.
- (kv)(8) March 19, 1993 - Transcript of record, fd.
- (kv)(9) March 19, 1993 - Notice of filing of record, fd.

TRANSMITTED BY
LOCATION: 123 & 123A
BOXES 1

CASE NO. 92CV11650 40/161

- df (10) April 19, 1993 - Appellants BARBARA A. COCHRAN, M.D., ET AL, and PRISCILLA BARRETT, ET AL, Memorandum and Exhibits fd.
- rlb(11) May 20, 1993 (rec'd 5/12/93) Appellee, Roman Catholic Archbishop of Balto.'s motion to return exhibit, with request for hearing & statement of grounds & authorities, fd.
- df (12) May 24, 1993 - Appellees' THE ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE and HILBERT F. CRISTE, Answering Memorandum fd. (Filed 5/19/93).
- (kv)(13) June 3, 1993 - Pltffs' reply memorandum, fd.
- June 28, 1993 Hon. J. William Hinkel. Hearing had in re Appellee Roman Catholic Archbishop of Baltimore Motion to Return Exhibit (P#1) Denied.
- *al (14) JULY 12, 1993 Appellee's, The Roman Catholic Archbishop of Baltimore's Motion for Protective Order, with cert., request for sanctions, and memorandum in support of Motion, with exhibits, fd. (request for a hearing) (rec'd 7-7-93)
- JULY 30, 1993 Hon. John G. Turnbull, II. Hearing had. Appellees' The Roman Catholic Archbishop of Baltimore's Motion for Protective Order and request for Sanctions (pap#14)-Granted as to both the law firm and individual. Request for Sanctions-Denied. Court to set in for hearing on the merits.
- rlb(15) * Aug. 9, 1993 (rec'd 7/21/93) Pltff.'s memorandum in opposition to motion for protective order, with exhibit, fd.
- rlb(16) * Aug. 9, 1993 (rec'd 7/30/93) Enter the app. of J. Carroll Holzer as atty for the defd., Priscilla F. Barrett, fd.
- rs(17) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(18) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(19) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(20) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(21) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(22) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(23) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- rs(24) Aug. 24, 1993 Correspondence to the Hon. J.G. Turnbull II fd.
- Aug. 24, 1993 Hon. J.G. Turnbull II - Hearing Had. Opinion and Order to be filed.
- lb(25) Sept. 7, 1993 (rec'd 8/23/93)* Motion of Douglas G. Worrell to strike his app. as atty for appellant, Barbara A. Cochran, fd.
- PH(26) Oct 7, 1993 Opinion and Order of Court Affirming the decision of the Board of Appeals, etc. fd. (JGT, II)

- ds(27) Oct. 20, 1993 Order of Court GRANTING Douglas G. Worrell and Smith, Somerville and Case's Motion to Strike Appearance, atty. for Barbara Cochran, fd. (REC)
- r (28) Oct. 21, 1993 Appellants' motion to alter or amend a judgment, fd. (request for hearing) (Oct. 15, 1993)
- jh(29) Oct. 22, 1993, Appellees' Response Memorandum To Appellants' Motion To Alter or Amend A Judgment, fd.
- ua (32) Oct. 28, 1993 Motion Ruling of Court Denying Pltff.'s/Appellants, Barbara A. Cochran, Motion to Alter or Amend Judgment (paper #28) and Denying Request for hearing, fd. (JGT, II)
- Nov. 3, 1993 Hon. John G. Turnbull, II. Appellants Motion to Alter or Amend Judgment (pap#28)-Denied. (send notices)
- ps (31) November 24, 1993 Appellants' Notice of Appeal in the Court of Special Appeals from a final order filed with Circuit Court for Baltimore County on October 28, 1993. fd. (6/226)
- *(32) January 3, 1993 Order of Court in the Court of Special Appeals that above #57943 0001 R01 11650 captioned appeal proceed without a Prehearing Conference, fd. (Hon. Paul E. Alpert) (rec'd 12/15/93)
- ps (33) January 4, 1994 Correspondence, fd. (rec'd 12/17/93)
- s*(34) Feb. 25, 1994 Appellants Motion to Extend Time for Transmittal of Record and Order from the Court of Special Appeals of Maryland Granting Extension to March 14, 1994. fd. (rec'd 2-17-94)
- Mar 15, 1994 Original Transcript in Record mailed to the Court of Special Appeals by Certified Mail.
- df (35) Nov. 16, 1994 - Original Papers & Mandate from the Court of Special Appeals Received & f
- DISPOSITION OF APPEAL IN COURT OF SPECIAL APPEALS:
October 3, 1994: Per Curiam. Judgment of the Circuit Court for Baltimore County Affirmed. Costs to be Paid by Appellants.
November 2, 1994: Mandate Issued.
- s*(36) Dec. 7, 1994 Receipt of petition for writ of certiorari fd. (rec'd 11-22-94)

THE ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE
HILBERT F. CRISTE

John H. Zink, III, Robert A. Hoffman
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Priscilla F. Barrett

J. Carroll Holzer
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The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL II
JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
410.197.1941

IN THE MATTER OF THE APPLICATION
OF HILBERT F. CRISTE AND THE ROMAN
CATHOLIC ARCHBISHOP OF BALTIMORE
FOR A SPECIAL HEARING AND SPECIAL
EXCEPTION ON PROPERTY LOCATED ON
CUBA ROAD 90-477-SPHX
Zoning Case # 90-77-SPHX
BARBARA A. COCHRAN, et al.
Appellants
v.
HILBERT F. CRISTE, et al.
Appellees

OPINION AND ORDER

This is an appeal from a November 20, 1992 decision by the Board of Appeals for Baltimore County (hereinafter the "Board") approving a special exception for a proposed church located on the property of Appellee Hilbert F. Criste in an R.C.-2 (agricultural) zone. At its base level, there are three issues on appeal to this Court:

1 FILED OCT 7, 1993

- I. Was it error for Board member Judson H. Lipowitz to not recuse himself from this matter?
- II. Did the Board violate the Open Meetings Act?
- III. Did the Board properly grant the special exception?

Background

Appellee the Roman Catholic Archbishop of Baltimore is the contract purchaser and proposed developer of a 27 acre parcel of land owned by Appellee Hilbert F. Criste located on the northeast side of Cuba Road and the west side of Greencroft Lane in the Shawan Valley area of Baltimore County. The Appellants consist of two groups. One group, headed by Barbara Cochran, M.D., consists of adjacent and contiguous property owners. The other group, headed by Priscilla Barrett, consists of neighboring residents and property owners.

Currently, there is a two story residence, a barn, a garage and a tenant house located on the property, which is primarily pasture with no vegetation and a few trees. Appellee, the Archbishop, has proposed the construction of a 650 seat church with a maximum footprint area of 14,500 square feet. The existing residence would be converted to offices, the barn would be used as a meeting place and the tenant house would become an accessory caretaker's residence. The plans include an area for a 200 space parking lot, landscaping in accordance with the Baltimore County landscape manual and access to the proposed church from Cuba Road.

The Zoning Commissioner, by Order of August 3, 1990, and by Amended Order of August 31, 1990, granted the Appellees a special exception. An appeal was taken to the Board, which began a series of hearings on August 23, 1991. Further testimony was taken on September 19, 1991, September 26, 1991, October 10, 1991, November 7, 1991, January 2, 1992 and January 14, 1992.

The Board rendered its decision in its Opinion of November 20, 1992. In granting the special exception, the Board set seven restrictions and granted the Appellee, the Archbishop, five years in which to utilize the special exception grant.

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I. Was It Error for Board Member Judson H. Lipowitz to Not Recuse Himself from this Matter?

On August 13, 1992, eight months after the last hearing and three months before the Board's decision, Appellant Barbara Cochran, M.D., hand delivered to the Board a motion requesting Mr. Lipowitz recuse himself from this matter. See Appellants' Memorandum, Attached August 13, 1992 correspondence. The Board denied the motion on September 16, 1992. The same day Appellant Cochran hand delivered a reply to Appellees' response to her original motion. See Appellants' Memorandum, Attached September 16, 1992 correspondence. Appellant's reply was taken into consideration when the Board reconsidered its decision on Appellant Cochran's request. See Appellants' Memorandum, Attached October 16, 1992 Motion for Reconsideration and Appellees' Memorandum, Exhibit 1, p. 1.

This Court, in reviewing these documents, finds no error in denying the request for recusal. The decision to recuse is discretionary and, except for abuse, the exercise of that discretion will not be overturned. *Jefferson v. State*, 330 Md. 99, 107, 622 A.2d 737 (1993) (citations omitted). There is a strong presumption of judicial impartiality. *Ibid.*, (citations omitted). The Court of Appeals recently said

[t]o overcome the presumption of impartiality, the party requesting recusal must prove that the trial judge has "a personal bias or prejudice" concerning him or "personal knowledge of disputed evidentiary facts concerning the proceedings."

Ibid., (citations omitted). However, the appearance of impropriety is to be avoided as well. *Ibid.* The test to be applied in determining if there is the appearance of impropriety is an objective test that requires the court to examine the facts in the record and the appropriate law and determine "whether a reasonable person

¹ While this was actually in the form of a letter to the Board, the letter, and subsequent letters from the Appellant concerning the subject, will be considered motions for the purpose of this opinion.

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knowing and understanding all the relevant facts would recuse the judge." *Id.*, at 108, 622 A.2d 737.

The allegations are twofold: that Mr. Lipowitz, by representing Grempler Realty in a rezoning request, created a conflict of interest and that the law firm of which Mr. Lipowitz is a member, through their advertising, has violated the Baltimore County Charter.² First, regarding the alleged violation created by the Grempler representation, there is nothing in the Baltimore County Code, Article III, §28-81, "Participation Prohibitions", which would require Mr. Lipowitz to recuse himself either because he had previously contacted a witness in the matter *sub judice* in an unrelated matter, or because he had attempted to have an unrelated property rezoned through the legislative process. These allegations are insufficient to prove a direct or indirect personal or pecuniary interest in the matter *sub judice* and there was no abuse of discretion by Mr. Lipowitz refusing to recuse himself. See *Montgomery County Board of Appeals v. Walker*, 228 Md. 574, 180 A.2d 875 (1962). Likewise, this Court does not believe that a reasonable person, knowing and understanding the factual allegations presented, would require Mr. Lipowitz to recuse himself. This is more than sufficient to withstand the abuse of discretion test regarding the allegations of appearance of impropriety.

For similar reasons, there is no cause, for recusal, and hence no abuse of discretion, in Mr. Lipowitz not recusing himself because of his firm's advertisements. There are no allegations that Mr. Lipowitz's firm has any direct or indirect involvement in this matter. Further, there are no allegations that Mr. Lipowitz's firm has any financial interest in the final disposition of this matter. Therefore there is no evidence of direct or indirect personal or pecuniary interest in this matter for

² There are no allegations that Mr. Lipowitz based his decision on personal knowledge of any facts concerning the proceedings. Therefore, this Court will not address this subject.

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either Mr. Lipowitz or his firm which would require recusal, as well as there being no appearance of impropriety of this nature.

Appellants also have failed to prove any bias by merely alleging that Mr. Lipowitz works for a firm that mainly represents petitioners in the zoning process. This does not prove bias pursuant to Baltimore County Code §28-82(a)(2). For if mere allegations of this nature were sufficient to either prove bias or create the appearance of impropriety, no administrative law judge, trial judge or appellate judge would ever be allowed to sit in a case in an area of law in which they have practiced. Public officials are chosen to sit as administrative judges specifically because of their experience in these specific areas of the law. A stronger nexus between the employment and official duties is necessary to disqualify a public official from sitting in a case in an area of law in which they have experience.

Finally, it is not appropriate for this Court to rule on the propriety of Mr. Lipowitz's firm's advertisements. An alleged violation of §28-83, "Use of Prestige of Office", properly brought pursuant to §28-5 of the Code, and not on a case by case appeal to Circuit Court. It is misuse of public office for private gain, i.e. using the position as a member of the Board to attract prospective clients, that is alleged. The Code has established a procedure for investigating these charges which has not been invoked. Therefore, this Court will not rule on the allegation of violation of §28-83.

II. Did the Board Violate the Open Meetings Act?

Appellants contend that there has been a violation of the Open Meetings Act, Md. State Gov't Code Ann. §10-501 et seq. (1991 Repl. Vol., 1993 Supp.). Appellants cite as evidentiary support that the last of the hearings was held on January 14, 1992, that from January 14, 1992 until the Board's decision of November 20, 1992 there were no hearings and that there were no hearings held on the motion to recuse Board member Judson H. Lipowitz.

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It should be noted that the Open Meetings Act went into effect on July 1, 1992 and Appellants only allege violations after July 1, 1992. See Appellants' Memorandum, p. 5. Therefore, this Court need only review the record and the allegations from July 1, 1992 until November 20, 1992. In doing so, this Court finds that Appellants' allegations fail to prove a violation of the Act. Any allegation of violation of the Act made to the Circuit Court is made pursuant to Md. State Gov't Code Ann. §10-510. Alleged violations of the Act must be made by petitioning the Court for review within forty five days of the alleged date of violation. Md. State Gov't Code Ann. §10-510(b). Appellants' Cochran, et al., Petition for Appeal was filed on December 28, 1992 and Appellants' Barrett, et al., Petition for Appeal was filed on December 31, 1992. Assuming that these Petitions satisfy the requirements of Md. State Gov't Code Ann. §10-510(b)(1), this Court may only examine the record and the allegations for violations on or after November 13, 1992 and November 16, 1992, respectively.

Appellants bear the burden of proving a violation of the Act, as it is statutorily presumed that the Board has not violated any provision of the Act. Md. State Gov't Code Ann. §10-510(c). However, Appellants offer no proof of any meetings on or after their respective dates in November, 1992, nor have they alleged that any meetings were held on or after these respective dates. This fails to overcome the presumption that the Board has acted in accordance with the Act.

While it is true that the written reconsideration of decision to not recuse Board member Judson Lipowitz was not mailed until November 16, 1992 and the Board's written decision granting the special exception was dated November 20, 1992, this does not prove that any meetings were held on these issues on these days, nor that there were any meetings held in the days preceding these decisions. This Court is well aware of the difficulty of obtaining the approval and signatures of members of a board or a panel that must rule on any contested case. From the Court's own

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experiences with panel reviews of criminal sentences, it knows that obtaining the approval and signatures of a board or panel can take weeks, if not months, as revisions are made to suit each individual board member. It is rare, if not impossible, that a board or panel meets to decide an issue, especially an issue as involved and as contested as this matter was, and a written opinion is generated that is as extensive as the written decision of the Board is in this matter on the same day. Instead, multiple drafts are usually circulated with each member making changes or corrections until a consensus is reached, a process that can take months depending on the complexity of the matter. Therefore, due to the Appellants failure to prove any meetings were held, and because it can not be assumed that there were meetings held on the days the decisions were dated, this Court finds that the Appellants have not overcome the presumption that the Board acted in accordance with the Open Meetings Act.

III. Did the Board Properly Grant the Special Exception?

When reviewing an administrative agency's decision, it is considered *prima facie* correct and presumed valid. *Cox v. Prince George's County*, 86 Md.App. 179, 187, 586 A.2d 43 (1991). The decision is therefore reviewed in a light most favorable to the agency. *Ibid.* The decision "must be upheld, if it is not premised on an error of law and if the agency's conclusions on questions of fact or on mixed questions of law and fact are supported by substantial evidence presented to it." *Harford County v. McDonough*, 74 Md.App. 119, 122, 536 A.2d 724 (1988), citing *Ad-Soil, Inc. v. County Commissioners of Queen Anne's County*, 307 Md. 307, 338, 513 A.2d 893 (1986).

The substantial evidence test has been defined as

whether reasoning minds could reasonably reach the conclusion from facts in the record before the agency, by direct proof, or by permissible inference. If the conclusion could be so reached, then it is based upon substantial evidence, and the Court has no power to reject that conclusion.³

³ This test has alternatively been defined as "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached, this need

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People's Counsel v. Mangione, 85 Md.App. 738, 750, fnt. 9, 584 A.2d 1318 (1991) (citations omitted).

In the context of reviewing a zoning decision, the Court must determine "whether the question before the agency was fairly debatable, which has been defined as whether the agency's determination involved testimony from which a reasonable man could have come to different conclusions." *Qx*, 86 Md.App., at 186-187, 586 A.2d 43 (citations omitted). Where the issue is fairly debatable, "the matter is one for the Board's decision, and should not be second-guessed by an appellate Court." *Board of County Commissioners v. Holbrook*, 314 Md. 210, 218, 550 A.2d 664 (1988).

A special exception use "is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore valid." *Schultz v. Pritts*, 291 Md. 1, 11, 425 A.2d 1361 (1981). Administrative agencies are granted limited authority to allow the special exception uses the legislature has determined are permissible within a zone "absent any fact or circumstance negating the presumption." *Ibid.* However, while the party applying for the special exemption has the burden of showing the proposed use meets the prescribed standards and requirements, there is no burden to show the proposed use would be beneficial to the community. *Ibid.* When a petitioner proves that the proposed use would be conducted without real detriment to the neighborhood and does not actually affect the public interest to the satisfaction of the administrative agency, the petitioner's burden of proof has been met. *Ibid.* At the heart of this determination is the question of whether the "grant[ing] of the requested special exception would result in the an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result

not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment." *People's Counsel v. Mangione*, 85 Md.App. 738, 750, 584 A.2d 1318 (1991) (citations omitted).

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The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL II
JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
(410) 887-2947

IN THE MATTER OF THE APPLICATION
OF HILBERT F. CRISTE AND THE ROMAN
CATHOLIC ARCHBISHOP OF BALTIMORE
FOR A SPECIAL HEARING AND SPECIAL
EXCEPTION ON PROPERTY LOCATED ON
CUBA ROAD 90-477-SPHX
Zoning Case # 90-77-SPHX
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Appellants
v.
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OPINION AND ORDER

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Currently, there is a two story residence, a barn, a garage and a tenant house located on the property, which is primarily pasture with no vegetation and a few trees. Appellee, the Archbishop, has proposed the construction of a 650 seat church with a maximum footprint area of 14,500 square feet. The existing residence would be converted to offices, the barn would be used as a meeting place and the tenant house would become an accessory caretaker's residence. The plans include an area for a 200 space parking lot, landscaping in accordance with the Baltimore County landscape manual and access to the proposed church from Cuba Road.

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The Board rendered its decision in its Opinion of November 20, 1992. In granting the special exception, the Board set seven restrictions and granted the Appellee, the Archbishop, five years in which to utilize the special exception grant.

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I. Was It Error for Board Member Judson H. Lipowitz to Not Recuse Himself from this Matter?

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Appellants contend that there has been a violation of the Open Meetings Act, Md. State Gov't Code Ann. §10-501 *et seq.* (1991 Repl. Vol., 1993 Supp.). Appellants cite as evidentiary support that the last of the hearings was held on January 14, 1992, that from January 14, 1992 until the Board's decision of November 20, 1992 there were no hearings and that there were no hearings held on the motion to recuse Board member Judson H. Lipowitz.

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In the context of reviewing a zoning decision, the Court must determine "whether the question before the agency was fairly debatable, which has been defined as whether the agency's determination involved testimony from which a reasonable man could have come to different conclusions." *Cox*, 86 Md.App., at 186-187, 586 A.2d 43 (citations omitted). Where the issue is fairly debatable, "the matter is one for the Board's decision, and should not be second-guessed by an appellate Court." *Board of County Commissioners v. Holbrook*, 314 Md. 210, 218, 550 A.2d 664 (1988).

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IN THE MATTER OF THE
THE APPLICATION OF
HILBERT F. CRISTE
FOR A SPECIAL HEARING AND
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
CUBA ROAD, NORTHWEST OF THE
CENTERLINE OF GREENCROFT LANE
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CASE NO.

NOTICE OF APPEAL

Please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of November 20, 1992, in the above captioned matter.

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030

Jeffrey Foreman
1 Sheepfold Lane
Hunt Valley, Maryland 21030

Raymond Combes
13900 Greencroft Lane
Hunt Valley, Maryland 21030

Phillip Byrd, M.D.
13902 Greencroft Lane
Hunt Valley, Maryland 21030

I HEREBY CERTIFY that on the 18th day of December, 1992, a copy of the foregoing Notice of Appeal was delivered to the Administrative Assistant, County Board of Appeals, Rm. 49, Courthouse Towson, Md. 21204, to Mr. Peter Max Zimmerman, Deputy Peoples'

Counsel, Rm. 47, Courthouse, Towson, Md. 21204 and a copy mailed first class postage prepaid to Robert Hoffman, Esquire, 210 Allegheny Avenue, Towson, Maryland 21204.

Jeffrey Foreman

IN THE MATTER OF THE
THE APPLICATION OF
HILBERT F. CRISTE
FOR A SPECIAL HEARING AND
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LOCATED ON THE NORTHEAST SIDE
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CENTERLINE OF GREENCROFT LANE
8TH ELECTION DISTRICT
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* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 90-477-SPHX

OPINION

This is an appeal from the decision of the Zoning Commissioner for Baltimore County dated August 3, 1990 wherein the Petitioner, Roman Catholic Archbishop of Baltimore Corporation, was granted a special exception for a church and a caretaker's residence as an accessory use with certain restrictions on property zoned R.C. 2 (agricultural). The appeal was filed by the Protestants and a de novo hearing was held before this Board consisting of seven days of testimony. Numerous witnesses appeared and testified both expert and lay. At the conclusion of the hearing, written memorandums were submitted and considered by this Board. Prior to this special exception hearing, the Board in a separate hearing affirmed the decision of the County Review Group ("CRG") approving this project. That decision is on appeal to the Circuit Court for Baltimore County, now pending.

THE LAW

Under the regulations churches or other buildings for religious worship are permitted by special exception in R.C. 2 zones. Section 1A01.2.C.6 BCZR. Before a special exception may be granted by either this Board or the Zoning Commissioner, it is required under the Baltimore County Zoning Regulations (BCZR)

Case No. 90-477-SPHX Hilbert F. Criste

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Section 502.1, that the use for the special exception requested will not:

- Be detrimental to the health, safety, or general welfare of the locality involved;
- Tend to create congestion in roads, streets or alleys therein;
- Create a potential hazard from fire, panic or other dangers;
- Tend to overcrowd land and cause undue concentration of population;
- Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- Interfere with adequate light and air;
- Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
- Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

In addition to the requirements of Section 502.1, this Board must be satisfied that the church as proposed will not be detrimental to the health, safety or general welfare of the locality involved and, in particular, detrimental to the primary agricultural uses in the vicinity. Section 1A01.2.C. Our Court of Appeals in Schultz v. Pritz, 291 Maryland 1 (1981), set out in detail the applicable legal principles that should be applied in special exception cases. The Court pointed out that "the special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general

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welfare, and therefore, valid." The Court emphasized that the Baltimore County Council in its legislative capacity specifically predetermined that special exception uses as permitted under the regulations are to be allowed in certain zones despite the fact that such uses may produce adverse effects. The Court laid down the principle that a proposed use requested by special exception may only be denied when evidence supports a finding that the use would create adverse effects upon the health, safety or general welfare of the locality involved which would be above and beyond the adverse effects inherently associated with a similar proposed use which would be located within a similar zone. To deny the special exception request is to require "strong and substantial evidence" showing that the proposed use at the location proposed would have adverse effects above and beyond the inherent ones ordinarily associated with such uses.

The subject property is a 27 acre parcel of land zoned R.C. 2 (agricultural) located in the Shawan Valley area of Baltimore County. It is bounded on the northeast side of Cuba Road and the west side of Greencroft Lane (a private road to the Greencroft community approximately 1,100 feet north of the intersection of Shawan and Cuba Roads). The Petitioner is the contract purchaser of the property which is presently owned and occupied by Hilbert F. Criste. The property is improved by a two story residence, a barn, garage, and tenant house. The land is principally pasture with no vegetation and contains some trees. Access is off Cuba Road.

The Petitioner proposes to construct a 650-foot church for

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religious worship in a maximum footprint area of 14,500 square feet, to convert the existing residence to offices, to use the barn for a meeting space and to use the tenant house as an accessory caretaker's residence. The plan provides for 200 parking spaces located both to the north and south of the church and landscaping in accordance with the Baltimore County landscape manual to provide adequate screening for the church and its parking area and to block views from Greencroft Lane. Access to the church is proposed off Cuba Road.

As stated above, a special exception for a church use in a R.C. 2 zone may only be granted provided the requirements of Sections 502.1 and 1A01.2.C are met by the Petitioner. Father Thomas Donellen, the Church Pastor, George Gavrellis, a land planner and civil engineer, Paul Solomon, a DEPRM representative, Wes Guckert, a traffic engineer, and Adam Gross, an architect, provided the pertinent testimony concerning the requirements. Other witnesses appeared and testified for the Petitioner and basically expressed their concerns as either neighbors or members of the parish, and all favored the proposed use.

Father Donellen testified in his capacity as parish priest for the Catholic community of St. Francis Xavier Church. He informed the Board that present services were being held in the basement of a commercial building located in the Hunt Valley business park just east of Interstate 83. For the past five years he and his church committee had been looking for a church site and found that the present site met their criteria of proximity to I-83, was located

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in the Shawan Valley area and was a large enough tract of land to support the church. He stated that the plan calls for a 650-seat church. In his opinion this is not a large church and sensitivity was given by his committee in determining and planning the size of the church and its relation to the environment. He informed the Board that his parish was a one priest parish and that a 650-seat church was necessary to handle the members located within the area and to allow for growth. At present his church membership consisted of 339 families, and the boundaries of the parish would be taking over part of the St. Joseph's Church located to the south which parish is presently over-taxed and overcrowded.

Concerning services he stated on Sunday there would be two services, two hours apart, likely at 9:30 a.m. and 11:30 a.m. Each service would last one hour with a half hour time period allowed to leave before the next service. He projected total attendance of 1,000 parishioners on Sunday. The Saturday services would occur in the late afternoon, estimating 100 to 200 in attendance. Weekday services would occur at 12:00 noon. Specifically he informed the Board there would be no activities or services planned for either the morning rush period (7:00 a.m. to 9:00 a.m., weekdays) or afternoon/evening rush (4:00 p.m. to 7:00 p.m., weekdays), nor would there be any school or daycare facilities on the site.

Father Donellen further testified he was familiar with the conditions that were imposed upon the plan by the Zoning Commissioner requiring that development of the site be limited to a maximum of 7.5 acres and that the remaining 19.5 acres are to be

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restricted for agricultural, open space, and non-development use, unless there are changes in zoning for the site or directives from the Baltimore County Master Plan or DEPRM indicating a change in the use for the site to something other than agricultural. He was familiar with the requirements of Section 502.1 of the Zoning Regulations and in his opinion each of them has been met. He did not believe the church would in any way have any detrimental effect on agriculture in the area or that there would be any traffic congestion based upon the church's schedule of services. Nor did he believe there would be any undue concentration or overcrowding of the land because the actual structure only covers one-third of an acre and the parking lots would be brimmed with direct lighting. He stated his parish would need five years in order to develop the property and requested this period of time under the regulations.

On cross examination, Father Donellen stated he was aware of the maximum height requirements of the church under the regulations and stated he was fully aware of the conditions imposed upon the property and was committed to it.

Edward Veilleux testified for the Petitioner as chairman of the church's building committee and as a resident of Cuba Road, one mile north of the church. His committee conducted a search for a church site with their main focus on the Shawan Road corridor area. They found the present site to be convenient, of good size and instructed its consultants and engineers to review the site and to provide design work in keeping with the area. He testified as to the conditions set out in Section 501.2 of the regulations and did

not believe that any existed. Specifically as to traffic he stated that "on Saturday and Sunday it is virtually negligible" and he "sees no farm equipment on Cuba Road." His committee met with the Greencroft Community Association on three separate occasions to discuss the proposed use and that the church intended to use only those materials as set out on the proposed plan (Petitioner's Exhibit 1). As an area resident he testified the proposed use would not have any adverse impact on the community or upon agricultural uses in the vicinity.

Paul Solomon testified for the Petitioner in his capacity as a representative of DEPRM and as Program Administrator for the Baltimore County Agricultural Land Preservation Program. His office reviewed the plan and supports the plan if the conditions are met as set out in the letter of Robert W. Sheesley, then Director of DEPRM (Petitioner's Exhibit 5) and as modified by the May 1990 letter. Under these restrictions, the church and accessory uses are limited to 7.5 acres as outlined on the plan as "approximate limit of disturbance." The remaining site would be assigned to agricultural or open space uses by way of legally enforceable documents. Mr. Solomon stated that conditions seven and eight in the Zoning Commissioner's Order and Amended Order (Petitioner's Exhibit 3 and 4) are "acceptable to our department."

Mr. Solomon further testified that the special exception use as proposed would not have a detrimental impact on the prime agricultural uses in the area and would be consistent with the purpose and intent of Section 1A01.2.C, BC2R. Mr. Solomon further

added that the proposed use was consistent with County Council Bills No. 223-90 and No. 134-89 and that the preserving of the soils for open space and locating the church building and parking lot in the least desirable soils would "implement many provisions of the Bills."

On cross examination, Mr. Solomon stated it was his philosophy to limit the development to a small area of the site which was being done under the plan. Concerning the movement of farm machinery along the roads near the subject site, Mr. Solomon stated that there were no facts indicating that the proposed church use would have any impact.

The Petitioners produced the testimony of George Gavrelis, a land planner and civil engineer with Daft, McCune, Walker Inc., under whose direction the plan (Petitioner's Exhibit 1) was prepared. He testified that a greater portion of the site will remain in its natural state and the church as proposed would be environmentally sound and compatible with surrounding uses because it would require no extensive disturbance to the natural conditions of the site and would preserve a substantial portion of the site for potential agricultural use. He informed the Board that the proposed church use would not be devoted to grading, tilling, planting or other typical agricultural uses. The area designated on the plan for preservation was a substantial portion of the site and would remain in its existing condition with a permanent green cover and a shallow storm water management facility. The area designated for development of the site would be on those soils less

favorable for agricultural purposes.

In his expert opinion, the proposed use of the property would not be detrimental to primary agricultural uses in the vicinity. He stated the use would not be detrimental to the health, safety, or general welfare of the locality; would not tend to create congestion in roads, streets, or alleyways; would not create a potential hazard from fire, or other dangers; and would not tend to overcrowd land and cause undue concentration of population. His reasons given to support this opinion were that the 27-acre parcel was being limited in a development area to 7.5 acres and the remaining 19.5 acres were being preserved for open use and that the church use of the site is an occasional use. He further testified the proposed use would not interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences or improvements. He stated the Petitioners were prepared to provide whatever protection the County might require and to meet any regulations that might be imposed. He stated that the use would not interfere with the adequate light and air of the area, nor be inconsistent with the purposes of the R.C. 2 zoning classification, nor in any other way be inconsistent with the spirit and intent of the Zoning Regulations.

In short, Mr. Gavrelis testified that all the requirements of Section 502.1 had been met by the Petitioner and that the use would not be detrimental to the primary agricultural uses in the vicinity as required under Section 1A01.2.C.

Mr. Gavrelis also addressed the issue of whether the plan was

in conformity with the 1989-2000 Master Plan. He stated that it was, pointing out the plan provided for the protection of prime and productive agricultural soils and that it was consistent with Section 1A01.1.B, BC2R in fostering conditions favored to a continual agricultural use of the productive agricultural uses located in the County. He stated that the proposed use would not be inconsistent with the impermeable surface and vegetative retention provisions of the Regulations since there is no standard in the R.C. 2 zone. He emphasized that a majority of the site was being preserved in its existing condition and as such meets the spirit of that requirement. He pointed out to the Board that, in his opinion, farming activity on this site might be more detrimental to the area which is permitted as of right, regardless of impact, in this zone. Addressing the church building he stated it would not be located on the skyline, that it would blend well into the hillside and would not dominate the area. The building is located in the middle of the site and the surrounding edges of the property are preserved with present greenery, and additional planting will be done starting in the eight to ten foot range.

On the issue of traffic, the Petitioners offered the expert testimony of Wes Guckert of The Traffic Group, Inc. He qualified as an expert in traffic engineering. He testified the proposed church at this particular location would not result in any adverse impact on the roads and streets adjacent to the site. He informed the Board that a traffic impact analysis was done by him (Petitioner's Exhibit 16) and more traffic counts and traffic

analysis were done in these special exception proceedings than any other special exception case he has worked on in Baltimore County. His testimony and report disclosed he performed turning movement counts, machine traffic counts, observations of farm equipment, bicyclists and drivers along both Shawan and Cuba Roads throughout various times of the day during the week, including Saturdays and Sundays.

He stated that turning movement counts were performed at Shawan Road and Cuba Road and at Cuba Road and Greencroft Lane. In addition, he conducted machine counts at St. Mark's Catholic Church in Fallston, Maryland to determine average-type road volumes for a similar-type size church.

After obtaining these counts, Mr. Guckert testified his traffic analysis was being presented to this Board on a "worse-case scenario." He stated that the highest hourly volumes of traffic at each location were used to determine the existing traffic conditions. He stated that these time periods may not correspond with the peak period of the traffic to and from the church; however, this assumption was made in order to provide a conservative estimate of projected traffic. He further testified that the analysis was based on the 200-car parking lot as depicted on the plan and that the church would empty and fill within a one hour period. The number of vehicles in and out of the church during the one-hour period was assumed to coincide with the heaviest hour of traffic on Cuba Road on Sunday mornings or Sunday afternoons.

Based on this worse-case scenario, he testified the traffic conditions at all intersections, including the intersection of Cuba and Shawan Roads, would continue to operate at the optimum Level of Service "A".

He stated that for a 15 to 20-minute period on Sunday mornings, using the worse-case conditions, there would be queuing (backing up of vehicles) along southbound Cuba Road for vehicles exiting from the church for a distance of approximately 800 feet north of Shawan Road. Using the worse-case queuing condition, Mr. Guckert testified that vehicles would not block access to Greencroft Lane and would not have any adverse impact on the community.

Concerning sight distances, he examined them from the proposed entrance to the church looking north and south along Cuba Road and determined that the County's requirement of 400 feet of sight distance is met provided some underbrush and trees are removed on the north side of the entrance on adjacent property. Mr. Guckert stated there would be no other improvements or requirements to be done along Cuba Road to meet the site distance requirements.

Further, in his opinion, his analysis disclosed nothing unique about this site in terms of farm equipment uses or traffic uses that would impose any adverse impact on the continued agricultural use in the area. He stated he observed no farm equipment along Cuba Road during the time that he conducted his study at the site.

Finally, he testified that the church at this particular location would not have any greater traffic impact on the County

road system than it would if it were located in another agriculturally zoned area of Baltimore County.

The opinion and findings of Mr. Guckert are summarized and set out in his Traffic Impact Analysis Report on page 14. He so states:

"...it is our opinion that the proposed Catholic Church will not have an adverse effect on the traffic conditions in the vicinity of the site. The following is a summary of our findings:

- * Level of Service "A" will continue to occur on Saturday evenings, mid-day during the week, and on Sundays at the Shawan Road/Cuba Road intersection.
- * Little, if any, delay will occur for vehicles leaving the Church to enter Cuba Road.
- * Queuing of vehicles southbound on Cuba Road (at Shawan Road) will not "block" Greencroft Road.
- * The Church traffic will dissipate within 15-20 minutes following the end of services, assuming maximum utilization of the parking lot.
- * Sight distance at the access will exceed County minimums with minor cutting of underbrush and a tree.
- * There is low existing traffic volumes (and projected low church traffic) along Cuba Road during the weekday peak periods of 7-9 AM, 11 AM - 1 PM, and 4-6 PM."

The Petitioners presented the testimony of Adam Gross, an architect and principal in the firm of Ayers Saint Gross, Inc. He provided testimony concerning the design of the church and its relationship to the subject site and surrounding area. He testified that his firm had done several designs in rural settings in the past and had been chosen by the Petitioner for this project because of his firm's sensitivity to historical and rural design.

considerations. A three dimensional scale model of the site (Petitioner's Exhibit 11) was offered by this witness depicting the site, the proposed construction and its relationship to the surrounding property and nearby residences. He testified the church building will be constructed into a hillside and that this will serve as a de-massing of the building and that the top of the church will be within 15 feet of the top of surrounding houses. The parking lot will be lighted with residential scaled lights from three to five feet in height which will be interspersed. He indicated to the Board that the church is in the same scale as barns located in the area and that one of the barns nearby including its silo is larger than the proposed church. He testified to the height of the church and its massing and stated that it was the intent of his firm to design a country church to be in keeping with the character and style of the site and the surrounding area and pointed out that a hill existed between Dr. Byrd's home and the church location. In his opinion, the church design is sympathetic to the adjacent community and would be best characterized as "Mid-Atlantic Traditional Style." The materials to be used are to have a country church appearance. The church will have a masonry base (stone or brick), and the sides will be clabber or stucco to provide a lighter appearance. Mr. Gross pointed out that the style and character of structures on the site and in the community range from rural, to colonial and traditional-residential. He stated the area was more residential than agricultural in character and that the proposed church would be

that "it will not affect the safety of the general public." He further stated that his department "did not oppose the CRG plan of this project as it related to traffic," and testified that "it is doubtful this project would have an impact on emergency vehicles" in terms of response time and access to areas in the community.

The Protestants also offered testimony of some neighbors, Margaret Worrall, John McGrain and others, but presented no strong substantial probative evidence to suggest any adverse impact by this proposal to the area. One witness suggested that the Church would diminish the view he "paid for" in buying his home. This witness introduced drawings of what the Church might look like from his house (Protestant's Exhibit 5). Other witnesses testified as to perceived traffic problems that would be generated along Cuba Road; some of these same witnesses stated that they regularly ride bicycles along this road because of the "lack of traffic."

Finally, neither Mr. Norman Gerber nor Mr. John Erdman presented any evidence which would indicate that this property is unique in that there would be some greater impact if the church were to locate at the subject site. In fact, neither offered any evidence of adverse impact on the agricultural uses in the area or the elements of Section 502.1. It is clear that the Protestants have a strong preference that this property be preserved in its present state, however, it is

respectfully submitted that they did not offer any evidence that could result in a denial of this special exception.

Conclusion

The evidence produced before the Board by the Protestants, when judged by appropriate standards, fails to establish that the construction of the proposed church will harm the public health, safety, or welfare. To justify the denial of the proposed special exception, the evidence of harm would have to be far more compelling. As the Court of Special Appeals made plain in Gowl v. Atlantic Richfield Co., 27 Md. App. 410, 415 (1975), it is the probability, and not the mere possibility, of danger that justifies the denial of a special exception.⁹

It is far too easy for those who would oppose a special exception use to conjure up remote and speculative perils. Such testimony is not enough to support the denial of permission to establish a use that the County Council has legislatively predetermined to be prima facie appropriate and compatible in the zone where it is to be located.¹⁰

The rule in Schultz v. Pritts calls for the administrative agency authorized to grant special exceptions to compare the evidence as to probable impact of the particular proposed use

⁹The Gowl case was overruled in Schultz v. Pritts, *supra*, but on an unrelated issue.

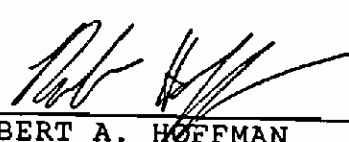
¹⁰See Mayor of Baltimore v. Foster & Kleiser, 46 Md. App. 163, 171-72 (1980) (administrative agency "may not thwart the legislative will based upon unspecific and unsupported protestations and concerns").

at the location proposed to the likely impact of a similar use at any other location in the zone. Only if the impact of the particular proposed use promises to be more adverse than the impact of a similar use elsewhere is denial of the special exception legally justified. In this case, substantial evidence indicates that any adverse impacts of the Church's proposed facility would be less than the impacts that could be expected were a similar facility to be located elsewhere in the R.C.2 zone.

Because the Protestants in this case have thus failed to satisfy the evidentiary standards established in Schultz v. Pritts, and because, on the contrary, the Petitioners have produced expert testimony and other evidence that the Church's facilities can be established without adversely affecting the public health, safety, or welfare, without harming the agricultural uses in the vicinity, and without causing any of the adverse impacts specified in Section 502.1 of the BCZR, the Petitioners respectfully urge the Board to grant a special

exception of 5 years in duration and an accessory caretaker's residence requested in this case.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of February, 1992, a copy of the foregoing Closing Arguments were mailed, first-class postage prepaid, to George A. Breschi, Esquire, Dr. Barbara Cochran, Mr. Jeffrey Foreman and Peter Max Zimmerman, Deputy Peoples Counsel.


ROBERT A. HOFFMAN

CLOS0113.PJC

STATEMENT OF FACTS

IN THE MATTER OF
HILBERT F. CRISTE, ET UX
FOR A SPECIAL HEARING
AND SPECIAL EXCEPTION FOR
A CHURCH AND AN ACCESSORY
CARETAKER'S RESIDENCE, AND
APPEAL OF THE ZONING
COMMISSIONER'S 8/3/90 ORDER
GRANTING THE PETITIONS FOR
PROPERTY LOCATED AT NE/S CUBA
ROAD, 25' NW OF c/1 OF
GREENCRAFT LANE
EIGHTH ELECTION DISTRICT
THIRD COUNCILMANIC DISTRICT
HILBERT F. CRISTE, ET UX.,
ROMAN CATHOLIC ARCHBISHOP
OF BALTIMORE CORPORATION,
PETITIONERS
Case No. 90-477-SFHX

MEMORANDUM

Pursuant to the direction of the Board of Appeals, this memorandum and closing statement is filed in the above case.

STATEMENT OF THE CASE

The Petitioners were granted a special exception by the Zoning Commissioner's order of August 3, 1990 and the Zoning Commissioner's amended order dated August 31, 1990. The Protestants filed an appeal to those orders, and a de novo hearing on that appeal was begun on August 23, 1991 after the hearing could not commence on May 24, 1991. Testimony was taken on August 23, September 13, September 26, October 10, all in 1991 and January 10 and 14 in 1992. Petitioners requested a special exception for a 650 seat church in an RC 2 Zone and use of accessory structure as a caretaker's dwelling.

STATEMENT OF FACTS

The land under consideration is a +/- 27 acre parcel previously used as a farm with a principal dwelling, barn, caretaker building, garage and is zoned RC 2. The land is situated in the Shawan Valley and lies within the Western Run-Belfast Historic District (See Protestant exhibit 24.).

ARGUMENT

INTRODUCTION

This case represents the classical dichotomy of attempting to balance the need for ancillary services required of any growing community with the absolute necessity of, as the Master Plan states, maintaining those characteristics which make the area unique and attractive. The land in question is unique as it sits in a unique combination of an agricultural preservation area and a nationally registered historic district, visually important from the landmark Oregon Ridge Stores, the scenic view corridor of Shawan Road, the scenic view preservation from Western Run Road. This case offers a precedent setting opportunity to define the intent and affirm the integrity of land planning and zoning in Baltimore County. Much is always made of the "spirit and intent of the Zoning Regulations of Baltimore County". Certainly the intent of a classification of Resource Conservation should be just that: conserve the resources. Those resources include the land itself, its agricultural use, its scenic vistas, its rural rather than urban character, and those more subjective qualities of peaceful settings, pristine and unspoiled panoramas, and simplicity of existence. To allow this development on this land would change forever the character of the fragile Shawan Valley and negate not only the intent of the Zoning Regulations but the Master Plan as well.

CREATE CONGESTION ON ROADWAYS

The Petitioners have not met the condition of Section 502.1b of the Baltimore County Zoning regulations. The Board of Appeals has heard testimony from three traffic experts. All are in agreement: the proposed use will markedly increase the traffic in the area. Mr. Guckert's principal point and conclusion of his voluminous vehicle counting was that the level of service at the intersection of Cuba Road and Shawan Road was adequate. That conclusion has very little to do with the congestion created on a narrow and very rural country road. The amount of traffic on Sunday morning will increase by some nine hundred percent in the twenty to thirty minute period between services and by a mere four hundred percent at the start of the first service and the conclusion of the second. Mr. Guckert's convenient retreat into data manipulation by only counting cars in units of one hour was effectively blocked by Mr. Weber of Baltimore County Traffic who testified that the twenty minute period between services would create congestion on the roads. While it may be possible to average vehicles on paper, it is impossible to do that on the road. Protestant's Exhibit 45 presented by Mr. Erdman clearly shows the Board the inability of

Cuba Road to handle emergency vehicle access if cars are lined up waiting to exit onto Shawan or travel North on Cuba Road. This violates Section 502.1a and Section 502.1c of the Baltimore County Zoning Regulations. This situation is exacerbated in the winter because of the reduction in lane size with snow and ice as testified to by Drs. Cochran and Byrd.

Under cross examination Mr. Guckert testified that his traffic report counted joggers and bicycle riders. However, his columns denote "vehicles" and make no mention of the standard required to trigger the counter. Therefore, his testimony on this point is questionable. Protestant's Exhibit 15 as well as the testimony of the representative of the Baltimore Cycling Club indicates a significantly larger number of cycle riders on the weekend dates the counting was done. The testimony of the Baltimore Cycling Club representative was quite clear about the danger to the cycle riders with increased traffic on Saturday afternoon and Sunday morning. Even though the traffic laws give cyclists road rights we all are aware of the impatient impulse to sweep wide and pass. On Cuba Road that could be fatal.

The testimony of those who live in the area about the limitations on their lives caused by this traffic congestion was incontrovertible. Mr. Harvey Miller testified for the Petitioners that the traffic would not bother him: he would just drive his sports car the other way on Cuba Road. Mrs. Stalter testified for the Petitioners that she needed to get to her service station within thirty minutes. Since her station is located a few blocks from Memorial Stadium, it is difficult to believe that this requirement applies to her. Mr. John Richardson testified that the increased traffic would cause a disruption in his ability to attend worship services as his church has services at the same time. The Petitioner's would have the Board believe that this weekly disruption for Mr. Richardson is acceptable. It is not. His freedom to worship where and when he chooses should not be or imply that his twenty minutes is less important than theirs. Both Drs. Byrd and Cochran have testified that immediate egress from their personal residences is imperative to their performance as medical professionals. Dr. Cochran presented documentation from hospital records showing the need for the presence of the attending physician. Although the Petitioners would have the Board believe that other physicians manage the medical conditions in the interim, Dr. Byrd testified that he is the only physician with the requisite skills to perform the procedure. Dr. Cochran testified that the cases presented required the presence of the decision making physician, not the emergency room physician. There is clearly a window of time for arrival at a medical emergency. The ten to twenty minute delay testified to by Mr. Guckert transcends that window and makes the traffic congestion unacceptable.

The three other churches in this immediate area are not comparable in size or in creating traffic congestion. They are all

envelope must be assured by a legally enforceable document. Consideration should be given to the donation or sale of existing and future development rights in order to assure that agricultural use of the property in perpetuity" (emphasis in original memorandum).

Petitioners acknowledge the Zoning Commissioner's authority, under Section 502.2 of the Baltimore County Zoning Regulations, to "impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties". Indeed, Section 502.2 provides that the Commissioner may require anyone who obtains a special exception to "enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception, the same to be recorded among the Land Records of Baltimore County". Nevertheless, Petitioners respectfully submit that DEPRM should not request conditions that would stretch indefinitely into the future and would remove from County authorities the power to regulate the future use of County lands so as to promote the public health, safety, and welfare. By way of analogy, *See Attman/Glazer P.B. Co. v. Mayor of Annapolis*, 314 Md. 675, 666-87, 552 A.2d 1277 (1989) ("the sound policy which prohibits a municipality from contracting away its zoning power is as applicable to

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special exception... cases as it is to those involving zoning reclassifications").

The legal and policy flaws in DEPRM's recommendation are highlighted if one visualizes the result of a widespread imposition of "continued" or perpetual restrictions similar to those that were recommended here. If, each time the Zoning Commissioner grants a special exception, he were to require the petitioner to enter into perpetual covenants, to be recorded among the County Land Records, binding the petitioner and his successors to use only certain portions of the restricted property or to use the property only for certain purposes, soon much of the County's land would be tied up by restrictions that could not easily be removed, no matter how publicly desirable and beneficial the County might deem removal to be.

This is not how Baltimore County land use has traditionally been governed; wisely, the County has trusted its planning and zoning officials and the County Council to regulate, restrict, and adjust land use in accordance with the changing needs of the public and advances in control techniques, environmental awareness, and other similar circumstances. The fact that DEPRM may now lack confidence that future County officials will wish or be able to control the use of the Petitioners' land in ways that DEPRM officials now find desirable should not cause the Zoning Commissioner to embark on such a path. Instead, the Commissioner should

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attach those restrictions that he deems appropriate to the grant of the Special Exception here, without requiring that the use of the Petitioners' property be unduly and unnecessarily restricted for an indefinite future term.

The Conflicting Condition

The first and fifth numbered conditions state that no non-agricultural use be permitted on this site within the prime agricultural soil types known as HaB2 and GcB2 or McD3. The Order granting the Special Exception to use the property for a church allows development in accordance with Petitioner's Exhibit A. As you will note, the parking area above the church infringes slightly on one of the soils DEPRM seeks to protect. In fact, DEPRM has made representations to Petitioner that parking as shown on Petitioner's Exhibit A above the church is acceptable, if not desirable, to that shown on Petitioner's Exhibit 1, so long as an equal amount of land below the church remains undeveloped. Therefore, it is respectfully requested that the Zoning Commissioner modify his Order so that parking in accordance with Petitioner's Exhibit A is permitted as consistent with DEPRM's June 11 letter.

The Need for Flexibility

Also, certain other of the conditions in DEPRM's June 11 letter may need minor modification, clarification or "fine-tuning" during the CRG review and approval process. It is therefore respectfully requested that such minor revisions be permitted, so long as they are requested by the Petitioner,

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stated in writing by DEPRM and submitted to the Zoning Commissioner for inclusion in this case.

The Need for a Five-Year Special Exception

The Zoning Commissioner's August 3, 1990 Order is silent as to the term of the Special Exception being granted. Thus, under Section 502.3 of the Zoning Regulations, the Special Exception must be utilized within two years. Section 502.3 clearly authorizes the Commissioner to specify a period of up to five years for utilization of a Special Exception, and Petitioners respectfully request that a five-year term be specified for use of the Special Exception in this case.

Because Petitioners are proposing to erect a church on the subject property, they believe that a five-year term is entirely appropriate. The charitable nature of the Archdiocese and the need to involve and obtain consensus of many members of the community makes it likely that the Archdiocese will need more time than would a typical private landowner to raise funds, obtain financing, secure necessary church approvals, arrange for preliminary design work and engineering, and so forth. Although the Petitioners have every intention to move ahead with all deliberate speed toward the commencement of a church structure, they do not want to have to come back to the Commissioner in two years for an extension of their Special Exception if they are unable to begin construction within two years. Therefore, they respectfully request that the Commissioner's Order be modified

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to give them the additional flexibility afforded by a five-year term.

Respectfully submitted,

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IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND SPECIAL EXCEPTION * ZONING COMMISSIONER
NE/S Cuba Road, 25 ft. NW *
of C/I of Greencroft Lane *
8th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District *
Hilbert F. Criste, et ux, *
Legal Owners *
Roman Catholic Archbishop of *
Baltimore Corporation *
Contract Purchaser *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Exception to use the herein described property for a church in an R.C.2 zone and a Special Hearing for approval of an existing dwelling as an accessory caretakers residence in connection with a church, as more particularly described on Petitioner's after Exhibit No. A.

The Reverend Thomas Donellen appeared on behalf of the Roman Catholic Archbishop, Contract Purchaser, and Hilbert Criste, Legal Owner, and was represented by Robert Hoffman, Esquire. Appearing and testifying on behalf of the Petition were Edward Veuilleux, Adam Gross, Architect, Ollie Mumpower, Traffic Consultant, and George Gavrelis, Land Planner. Those noting their appearance in support of the Petition are listed on the Petitioner's Sign-In Sheet. Appearing and testifying as Protestants were Dr. Barbara Cochran and Jeffrey Foreman. Also noting their appearances as Protestants were those individuals indicated on Protestant's Sign-in Sheet. Appearing and testifying as an interested party was Harvey L. Miller. Paul Solomon appeared, pursuant to Petitioner's subpoena, and testified on behalf of the Department of Environmental and Resource Management (DEPRM).

ORDER RECEIVED FOR FILING
Date 8/3/90
By M. Hark

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Subsequent to the hearing, Petitioner submitted after Exhibits A, B, C, D, E and F, which were prepared for and submitted to the Country Review Group for consideration. Said exhibits have been incorporated into and made a part of the record in this case.

Testimony indicated that the Petitioner, Roman Catholic Archbishop of Baltimore, is desirous of constructing a church on the subject site to accommodate the growing number of parishioners locating in this area.

Reverend Thomas Donellen testified that the existing catholic churches in the immediate vicinity are grossly overcrowded, requiring the use of space at the Hunt Valley Marriott for Sunday services. Reverend Donellen testified that it is the Petitioner's intent to construct the subject church in a manner consistent with the architectural integrity of the surrounding community. Reverend Donellen testified that they anticipate approximately 1,000 families to become members of the proposed church, said church having an anticipated seating capacity of approximately 650 seats.

Edward Veuilleux, a member of the Petitioner's Building Committee, testified that his committee was charged with the task of locating a suitable piece of property for the construction of the subject church. Mr. Veuilleux testified that the Petitioner had great difficulty in locating a suitable site in the subject area to accommodate the proposed church. He testified that of the nine (9) sites that had been considered, the one selected was the most expensive.

Adam Gross testified that the proposed church will be of "country styling" which will, in his opinion, harmonize with the area's existing architecture.

Paul Solomon, appearing on behalf of the Department of Environmental Protection and Resource Management (DEPRM), testified that the subject site

ORDER RECEIVED FOR FILING
Date 8/3/90
By M. Hark

-2-

MICROFILMED

is of significant agricultural importance. Mr. Solomon testified that his department is recommending that only 7.5 acres or less of the subject site be permitted to be developed. He also testified that should the Petition be granted, such relief should be conditioned upon the considerations appearing in the inter-office correspondence dated June 11, 1990 to the Zoning Commission from Robert W. Sheesley, Director of DEPRM, marked Petitioner's Exhibit No. 4.

Mr. Ollie Mumpower, Traffic Consultant, testified regarding the impact the proposed church would have on local traffic. Mr. Mumpower concluded that, based on his study, it was his opinion the proposed church would have no adverse impact on vehicular traffic in this area and, otherwise, meets the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Mr. George Gavrelis, Land Planner, testified that the proposed use is consistent with the R.C.2 zoning regulations. He indicated that the Petitioner is planning to locate the proposed structures in an area of the property that is not prime agricultural soils. He indicated that the Petitioner is planning to remove very little vegetation from the site and will provide additional landscaping. Mr. Gavrelis testified that, in his opinion, the Petitioner's proposal meets the requirements of Section 502.1 of the B.C.Z.R. Mr. George Gavrelis also testified that Petitioner is desirous of converting the existing tenant house on the subject property into a caretaker's residence. Mr. Gavrelis testified that, in his opinion, such conversion and use would have no adverse impact on the community and would, in fact, be an asset for security.

Dr. Barbara Cochran, a Protestant, testified that she is concerned that the additional traffic created on Cuba Road, as a result of the Petitioner's

ORDER RECEIVED FOR FILING
Date 8/3/90
By M. Hark

-3-

MICROFILMED

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 8th Date of Posting: May 22-26
 Posted for: Hilbert F. Criste, et ux
 Petitioner: Hilbert F. Criste, et ux
 Location of property: NE/S Cuba Road, 25' NW of c/l of Greencroft Lane
 Location of Sign: NE/S Cuba Road in front of subject property
 Remarks: Subject property
 Posted by: J. Robert Haines Date of return: May 25-29
 Number of Signs: 2 Signatures
 MICROFILMED

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 21, 1990
 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 17, 1990

THE JEFFERSONIAN,

S. Zake Olson
 Publisher

NOTICE OF HEARING
 The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
 Petition for Special Exception and Special Hearing
 Case Number: 90-477-SPHX
 NE/S Cuba Road, 25' NW of c/l of Greencroft Lane
 8th Election District
 3rd Councilmanic
 Legal Owner(s): Hilbert F. Criste, et ux
 Contract Purchaser(s): Roman Catholic Arch Bishop of Baltimore Corp.
 Hearing Date: Tuesday, June 12, 1990 at 9:30 a.m.
 Special Exception: A church in an RC-2 zone. Special Hearing: An existing dwelling as an accessory caretakers residence in connection with a church.
 In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
 J. ROBERT HAINES
 Zoning Commissioner of Baltimore County
 JT 5450 May 17

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 21, 1990
 THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 17, 1990

TOWSON TIMES,

S. Zake Olson
 Publisher

PO104579

MICROFILMED

Baltimore County
 Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

Date: 4/10/90
 Account: R-001-6150
 Number: 2085
 PUBLIC HEARING FEES QTY PRICE
 040 - SPECIAL HEARINGS (OTHER) 1 X \$175.00
 050 - SPECIAL EXCEPTION 1 X \$175.00
 TOTAL: \$350.00
 LAST NAME OF OWNER: CRISTE B 117*****35000:a 3116F
 Please make checks payable to: Baltimore County
 Cashier Validation: ✓

receipt

No 2085

MICROFILMED

Baltimore County
 Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

receipt

Date: 5/29/90
 Account: R-001-6150
 Number: 90-477-SPHX
 COPIES: QTY PRICE
 100 - PUBLIC HEARING FEES 1 X \$175.00
 TOTAL: \$175.00
 Please Make Checks Payable To: Baltimore County
 Cashier Validation: ✓

Baltimore County
 Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

receipt

Date: 5/29/90
 Account: R-001-6150
 Number: 90-477-SPHX
 COPIES: QTY PRICE
 100 - PUBLIC HEARING FEES 1 X \$175.00
 TOTAL: \$175.00
 Please Make Checks Payable To: Baltimore County
 Cashier Validation: ✓

Baltimore County
 Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

receipt

Date: 10/02/90
 Account: R-001-6150
 Number: 3572
 CASE # 90-477-SPHX
 APPEAL FEES QTY PRICE
 100 - FOR A SPECIAL EXC. ORDER 1 X \$175.00
 140 - FOR ALL OTHER ORDERS 1 X \$125.00
 150 - POSTING SIGNS / ADVERTISING 1 X \$25.00
 TOTAL: \$325.00
 LAST NAME OF OWNER: CRISTE
 Please make checks payable to: Baltimore County
 Cashier Validation: ✓

Baltimore County
 Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

receipt

Date: 5/29/90
 Account: R-001-6150
 Number: 2731
 CASE # 90-477-SPHX
 APPEAL FEES QTY PRICE
 100 - FOR A SPECIAL EXC. ORDER 1 X \$175.00
 140 - FOR ALL OTHER ORDERS 1 X \$125.00
 150 - POSTING SIGNS / ADVERTISING 1 X \$25.00
 TOTAL: \$325.00
 LAST NAME OF OWNER: CRISTE
 Please make checks payable to: Baltimore County
 Cashier Validation: ✓

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 (301) 887-3333

J. Robert Haines
 Zoning Commissioner

DATE: 5-30-90



Dennis F. Rasmussen
 County Executive

Roman Catholic Arch Bishop of Baltimore Corporation
 320 Cathedral Street
 Baltimore, Maryland 21201
 ATTN: P. FRANCIS MURPHY

Re: Petitions for Special Exception and Special Hearing
 CASE NUMBER: 90-477-SPHX
 NE/S Cuba Road, 25 ft. NW of c/l of Greencroft Lane
 8th Election District - 3rd Councilmanic
 Legal Owner(s): Hilbert F. Criste, et ux
 Contract Purchaser(s): Roman Catholic Arch Bishop of Baltimore Corporation
 HEARING: TUESDAY, JUNE 12, 1990 at 9:30 a.m.

Gentlemen:
 Please be advised that \$ 157.53 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
 J. ROBERT HAINES
 ZONING COMMISSIONER

JRH:gs

cc: John B. Howard, Esq.

MICROFILMED

NE/S Cuba Rd., 25' NW of c/l of Greencroft La.

#90-477-SPHX HILBERT F. CRISTE, ET UX

8th District Appealed: 9/27/90

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 8th Date of Posting: 10-11-90
 Posted for: Appeal
 Petitioner: Hilbert F. Criste, et ux
 Location of property: NE/S Cuba Road, 25' NW of c/l of Greencroft Lane
 Location of Sign: NE/S Cuba Road in front of subject property, at post set of Greencroft Lane
 Remarks: Subject property
 Posted by: J. Robert Haines Date of return: 10-11-90
 Number of Signs: 1

NO. 92-CV-11650
 IN THE MATTER OF THE APPLICATION OF HILBERT F. CRISTE, ET UX
 RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE & EXHIBITS.
Susan Williams
 Clerk's Office
 Date: 3-19-93

Form C48

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
 COUNTY COURTS BUILDING
 401 Bosley Avenue
 P.O. Box 6754
 Towson, Maryland, 21285-6754

Kathy Rushton - 887-2660
 Jury Assignments—Civil
 General Settlement Conferences

— 887-2661
 Non-Jury Assignments—Civil
 Special Settlement Conferences

March 25, 1993

TO:
 ROBERT A. HOFFMAN, ESQ.
 JOHN H. ZINK, III, ESQ.

MR. RAYMOND COMBES, (PP)
 13900 Greencroft Lane
 Hunt Valley, Md. 21030

PHILIP BYRD, M.D., (PP)
 13902 Greencroft Lane
 Hunt Valley, Md. 21030

MS. PRISCILLA F. BARRETT, (PP)
 1 Spring Green Lane
 BALTIMORE, MD. 21030

MR. JEFFREY FOREMAN, (PP)
 1 Sheepfold Lane
 Hunt Valley, Md. 21030

COUNTY BOARD OF APPEALS
 Room 49, Court House
 Towson, Md. 21204

Barbara A. Cochran, M.D.
 13733 Cuba Rd.
 Hunt Valley, Md. 21030

OFFICE OF LAW

RE: NON JURY 92CV-11650 MATTER OF THE APPLICATION OF HILBERT F. CRISTE

HEARING DATE: FRIDAY, JULY 23, 1993 @ 9:30 A.M.

ON THE FOLLOWING: APPEAL 1 1/2 HOURS

Please see the below notations.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE with a copy to all counsel involved. POSTPONEMENTS PRIOR TO 30 DAYS OF TRIAL, should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce C. Ann-887-3497.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

NOTICE OF HEARING

Dennis F. Rasmussen
 County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petitions for Special Exception and Special Hearing
 CASE NUMBER: 90-477-SPHX
 NE/S Cuba Road, 25 ft. NW of c/l of Greencroft Lane
 8th Election District - 3rd Councilmanic
 Legal Owner(s): Hilbert F. Criste, et ux
 Contract Purchaser(s): Roman Catholic Arch Bishop of Baltimore Corporation
 HEARING: TUESDAY, JUNE 12, 1990 at 9:30 a.m.

Special Exceptions: A church in an RC-2 zone.
 Special Hearing: An existing dwelling as an accessory caretakers residence in connection with a church.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
 J. ROBERT HAINES
 Zoning Commissioner of Baltimore County

cc: Hilbert F. Criste, et ux
 Roman Catholic Arch Bishop of Baltimore Corporation
 John B. Howard, Esq.

MICROFILMED

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(801) 887-3333

J. Robert Haines
Zoning Commissioner

May 31, 1990

John B. Howard, Esquire
210 Allegheny Avenue
Towson, MD 21204



Dennis F. Rasmussen
County Executive

RE: Item No. 356, Case No. 90-477-SPHX
Petitioner: Hilbert F. Criste, et ux
Petition for Special Hearing and
Special Exception

Dear Mr. Howard:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Hilbert F. Criste
The Right Reverend P. Francis Murphy

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(801) 887-3333

J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this

2nd day of May, 1990.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Hilbert F. Criste, et ux

Petitioner's Attorney: John B. Howard

MICROFILMED

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Towson, Maryland 21204
(301) 887-3554

May 24, 1990



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

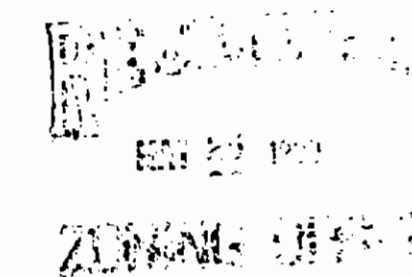
Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 352, 356, 357, 358, and 360.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF/lvw



MICROFILMED

JUNE 12

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: June 11, 1990

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Hilbert F. Criste, et ux, Item No. 356
Zoning Petition No. 90-477-SPHX

The Petitioners, on behalf of their contract purchaser, the Roman Catholic Archbishop of Baltimore, request a special exception for a church in an R.C.2 zone and a special hearing to allow an accessory caretaker's residence in connection with a church.

In reference to this request, staff offers the following comments:

- The Department of Environmental Protection and Resource Management has reviewed the proposal and made specific findings and recommendations. (See attached letter from Paul J. Solomon to George Gavrellis, dated March 26, 1990.) This office concurs with those findings.
- A CRG meeting or waiver is required for the proposed project. The approved zoning plan should conform to the approved CRG plan and the final landscape plan.
- A final landscape plan must be approved prior to the issuance of any building permits.

If there should be any further questions or if this office can provide additional information, please contact Chris Rorke at 887-3335.

PK/JL/cmm
Attachment

RECEIVED
JUN 11 1990

ZONING OFFICE

MICROFILMED

Baltimore County
Department of Environmental Protection
& Resource Management
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
(301) 887-3333

Robert W. Sheesley
Director

March 26, 1990



Dennis F. Rasmussen
County Executive

Mr. George Gavrellis
Capt. McCune & Walker, Inc.
200 E. Pennsylvania Ave.
Towson, Maryland 21204

Dear Mr. Gavrellis:

The Department of Environmental Protection and Resource Management is herein providing your firm with comments in regard to our review of a concept plan for the location of a church as proposed by the Archdiocese of Baltimore to be located on the East side of Cuba Road near its intersection with Shawan Road. This review is based on Baltimore County Council Bill No. 134-89 which concerns the preservation of agricultural land, or more specifically, prime and productive soils. In addition, this review involves a consideration of the appropriateness of the pending Special Exception petition to locate a church within a RC-2 zoned area.

The Department of Environmental Protection and Resource Management's comments are as follows:

1. No development can be placed within the soil type referenced as H22 which is classified as a prime agricultural soil by the Baltimore County Soil Survey. This includes road or driveway access except that a widening of the existing access drive would be permissible and, if necessary, a minor or fringe intrusion would be considered for approval which would depend on the degree of intrusion as well as other circumstances. This soil type (H22) could only be utilized for stormwater management if no other reasonable alternative exists and the stormwater management structure is of low profile and is consistent with the use of this area for agricultural purposes. That is, it can serve as part of a pasture area or can be used as tilled ground much like agricultural terraces.

2. The rear or northern area of the tract consists mainly of a soil type referenced as GcB2 by the Baltimore County Soil Survey as represented on the sketch or concept plan submitted. This is also a prime agricultural soil and must not be developed except that the area can be utilized for a septic disposal system provided that this system will not preclude the use of the surface for agricultural purposes.

G. Gavrellis
March 26, 1990
Page 2

3. The middle section of this site consists mainly of a soil type referenced as GcC2 by the Baltimore County Soil Survey. It is within this area that the existing improvements exist. The church and related improvements can be placed within this area which is rather clearly defined topographically in that there is somewhat of a defined break with the H22 or valley floor to the south and the more rolling north area of the site. While this soil area (GcC2) consists of a productive soil it is less desirable agriculturally than the prime soils referenced above. In addition, it is already compromised in an agricultural sense since it is largely developed in its present state. Based on several informal discussions including a site visit, it appears that the proposed church, including directly related facilities, such as parking, can be reasonably located within this area without compromising functional relationships, space needs or aesthetics. In addition, the main house can be preserved, albeit it may be necessary to remove some or all of the other existing structures, none of which appear to have any historical or architectural significance.

4. No future development of a non-agricultural nature can occur on any other area of the site.

5. Continued agricultural use or preservation of the site outside of the developed envelope must be assured by a legally enforceable document. Consideration should be given to the donation or sale of existing and future development rights in order to assure the agricultural use of the property in perpetuity.

6. The use of the above defined development area will be limited to a church building along with the necessary support facilities including a rectory and parking. In no case shall the development exceed the development area defined above or require the expansion of the septic system designed for 600 individuals or the seating capacity of the proposed church.

Please don't hesitate to call me at 887-2904 if you have any questions regarding any detail of these comments or any other related matter.

Sincerely,

Paul J. Solomon
Paul J. Solomon
Agricultural Land
Preservation Program

RJS:ju

cc: Mr. Robert W. Sheesley
Mr. P. David Fields
Mr. Donald C. Outen
Mrs. Janice B. Outen

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

APR 30 1990

Zoning Item # 356, Zoning Advisory Committee Meeting of May 1, 1990

Property Owner: Hilbert F. Criste, et ux

Location: NE/S Cuba Rd, 25' NW of northern Greenacres Ln. District: 8

Water Supply: private Sewage Disposal: private

COMMENTS ARE AS FOLLOWS:

- (✓) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any charcoal generation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit application for renovations to existing or construction of new health care facilities, complete plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- (✓) Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- (✓) Soil percolation tests, have been 1/2 must be 1/2 conducted.
 - () The results are valid until
 - () Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- (✓) Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
 - () shall be valid until
 - () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- (✓) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- (✓) If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3580.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.
- () Others

RE:)

APR 24 1990

SUPERVISOR OF
ASSESSMENTS

BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5300
(301) 887-4500

Paul H. Heinicke
Chief

APRIL 25, 1990



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: HILBERT F. CRISTE

Location: NE/S CUBA ROAD

Item No.: 356 Zoning Agenda: MAY 1, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. Water for fire protection shall be provided in accordance with the Urban Guide for Fire Prevention and Control Master Planning.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Paul H. Heinicke*
Planning Group
Special Inspection Division

Noted and
Approved: *Paul H. Heinicke*
Fire Prevention Bureau

MICROFILMED

RECEIVED
AUG 29 1990

BALTIMORE COUNTY, MARYLAND
ZONING OFFICE
INTER-OFFICE CORRESPONDENCE

TO: Robert Haines, Zoning Commissioner DATE: August 29, 1990
Zoning Office
FROM: Pat Keller, Deputy Director
Office of Planning & Zoning
SUBJECT: MOTION FOR RECONSIDERATION OF CASE #90-477-SPHX

The request for reconsideration causes this office significant concern in two areas. Most importantly, neither the written request for reconsideration nor the potential amended version provide an opportunity for public comment. Secondly, the intent behind the Planning Office's support of June 11, 1990 D.E.P.R.M. position was for an easement agreement that would be perpetual. The proposed verbal amendments to the written motion for reconsideration are not substantial enough.

If the petitioner finds it essential to change the order in this substantial manner, we suggest that there be a public hearing. In addition, we would suggest that participation in a M.E.T. or M.A.L.P.F. program be considered as an alternative to the order.

PK/WSL/lf

PK90477/TXTLLF

RECEIVED SEP 14 1990

Appeal Checklist - Case No. 90-477-SPHX
HILBERT F. CRISTE, ET UX - Petitioner
October 3, 1990
Page 2

cc: The Reverend Thomas Donellen - Roman Catholic Archbishop of Baltimore Corporation, 320 Cathedral Street, Balto., MD 21201
Mr. & Mrs. Hilbert Criste (Legal Owners)
406 Bosley Avenue, Baltimore, MD 21204
Robert Hoffman - Venable, Baetjer and Howard
210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21285-5517
Barbara A. Cochran, M.D. - 13733 Cuba Road, Hunt Valley, MD 21030
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-477-SPHX

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for ... A. CHURCH IN AN RC-2 ZONE.

used as prescribed by Zoning Regulations.

#356

* Hunt Valley Archdiocese

H.O.

90-477-SPHX

There is some shade of gray on the right of the existing half lot as it would be permitted by 300.2. I noted to Petitioner that the height for this building (for use) may not be over 300.2 but RC-2 35' height. The architectural situation will not permit having a second story. I, 406 + 407, do not permit off-street parking with direct access to vehicular thoroughfare. I suggested they contact the Petitioner regarding, and noted that a written variance may be required.

Note: I am the Petitioner's representative in the process. I suggested that the Petitioner be permitted to use of open space. The Petitioner is on the floor level of the area where variance could be required. The Petitioner is not sure if the Petitioner is correct that 100.2 is required that variance will be necessary.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

October 3, 1990



Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Zoning Commissioner
NE/S Cuba Road, 25' NW of the c/l of Greencroft Lane
8th Election District, 3rd Councilmanic District
HILBERT F. CRISTE, ET UX - Petitioner
Case No. 90-477-SPHX

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 27, 1990 by Barbara A. Cochran, M.D.. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: The Reverend Thomas Donellen - Roman Catholic Archbishop of Baltimore Corporation, 320 Cathedral Street, Balto., MD 21201

Mr. & Mrs. Hilbert Criste (Legal Owners)
406 Bosley Avenue, Baltimore, MD 21204

Robert Hoffman - Venable, Baetjer and Howard
210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21285-5517

Barbara A. Cochran, M.D. - 13733 Cuba Road, Hunt Valley, MD 21030

People's Counsel, Rm. 304, County Office Bldg., Towson, Md. 21204

MICROFILMED

APPEAL
Petition for Special Hearing and Special Exception
NE/S Cuba Road, 25' NW of the c/l of Greencroft Lane
8th Election District - 3rd Councilmanic District
HILBERT F. CRISTE, ET UX - Petitioner
Case No. 90-477-SPHX

Petition for Special Hearing and Special Exception

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: A. Plat to accompany Zoning Hearing

B. CRG Plan

C. Concept Planning Plan

D. Proposed Building Envelope

E. Proposed Parking

F. Site Analysis

1. Letter of opposition from Valleys Planning Council, Inc.

2. Plan to accompany petition

3. Minutes of Meeting for Greencroft Community Association

4. Comments from Robert M. Sheesley

5 & 6. Photograph Board of Site

7. Photographic Map

Unmarked Exhibit: Site Analysis Board

Zoning Commissioner's Order dated August 3, 1990 (Granted w/ Restrictions)

Zoning Commissioner's Amended Order dated August 31, 1990 (Restrictions)

Notice of Appeal received September 27, 1990 from Barbara A. Cochran, M.D.

MICROFILMED

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

August 23, 1990



Dennis F. Rasmussen
County Executive

Mr. Robert Hoffman
Venable, Baetjer and Howard
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204

RE: Motion for Reconsideration
Petitions for Special Hearing and Special Exception
Roman Catholic Archbishop of Baltimore Corp., et al
Case No. 90-477-SPHX

Dear Mr. Hoffman:

I am in receipt of your Motion for Reconsideration regarding my Order dated August 3, 1990 in the above captioned matter.

I have scheduled a hearing on the Motion for Wednesday, August 29, 1990 at 8:30 A.M. in my office.

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:smm
cc: People's Counsel
cc: Protestants

MICROFILMED

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

July 18, 1990



Dennis F. Rasmussen
County Executive

Mr. Jeffrey L. Foreman
1 Sheepfold Lane
Hunt Valley, Maryland 21030

RE: Petitions for Special Hearing and Exception
Roman Catholic Archbishop of Baltimore Corp., Contract Purchaser
Hilbert Criste, et ux, Legal Owners
Case No. 90-477-SPHX

Dear Mr. Foreman:

I am in receipt of your letter dated July 12, 1990 and I understand and appreciate your position in this matter.

I have personally visited the property on two occasions and will attempt to render a decision that I believe is required given the discretion provided to me under the laws of the State of Maryland and the Baltimore County Zoning Regulations. Please understand that the Zoning Commissioner's hearings are judicial hearings and not hearings to determine the desirability of a project, but whether or not the project is permitted as a matter of law.

I consider the evidentiary portion of this matter closed. It is improper for me to discuss this case further.

Thank you for your interest.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm



Baltimore County, Maryland

PEOPLE'S COUNSEL
ROOM 304, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-2218

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

August 24, 1990

The Honorable
J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Roman Catholic Archbishop of
Baltimore Corp., et al.
Case No. 90-477-SPHX

Dear Commissioner Haines:

In reviewing your original decision to determine whether this office should take an appeal, the attached memorandum to Robert W. Sheesley, Director, DEPRM, was responded to by Mr. Sheesley indicating his satisfaction with the conditions imposed by your Order. I am attaching both of these memoranda for your information since I know you have scheduled a hearing on a motion for reconsideration of your original Order.

Sincerely yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Enclosures

cc: Robert Hoffman, Esquire
Dr. Barbara Cockran
Jeffrey Foreman
Harvey Miller
Frances Turnbull Kidder

PCF:sh

RECEIVED
AUG 27 1990

ZONING OFFICE

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. Peter Max Zimmerman
TO: Deputy People's Counsel
Date: August 20, 1990
FROM: Mr. Robert W. Sheesley
Hilbert F. Criste, et ux, Legal Owners #90-477-SPHX (Item 356)
SUBJECT: Roman Catholic Archbishop of Baltimore Corp., Contract Purchaser

I am writing in reference to your memorandum of August 7, 1990 regarding the proposed church at Cuba Road as proposed by the Roman Catholic Archbishop of Baltimore Corporation. Our staff spent considerable time and energy in the review of this Special Exception petition and, as you will note from the attached memo to Mr. J. Robert Haines, Zoning Commissioner, we provided a detailed response in regard to this petition.

I believe that our response covered all of this Agency's concerns in regard to the protection of significant agricultural resources that this site represents. I am pleased that the Zoning Commissioner saw fit to include our entire list of conditions as part of his order and, under the circumstances, I am satisfied that the resources will be adequately protected.

Robert W. Sheesley
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:PJS:tjg



CPS-008

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Robert W. Sheesley, Director, DEPRM
TO: Paul J. Solomon, Agricultural
Land Preservation Program, DEPRM
Date: August 7, 1990
FROM: Peter Max Zimmerman
Deputy People's Counsel
SUBJECT: Hilbert F. Criste, et ux, Legal Owners - #90-477-SPHX (Item 356)
Roman Catholic Archbishop of Baltimore Corp., Contract Purchaser

Enclosed is the opinion of the Zoning Commissioner dated August 3, 1990 in the above-captioned matter, in which Paul commented and testified. I would appreciate the opportunity to have your thoughts on the opinion. Our appeal deadline is Monday, September 3, 1990.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Enclosure

PMZ:sh

CPS-008



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 16, 1992

Dr. Barbara A. Cochran
13733 Cuba Road
Cockeysville, Maryland 21030

Re: Case No. 90-477-SPHX (Hilbert F. Criste, et ux)

Dear Dr. Cochran:

The Board is in receipt of your letter dated August 13, 1992 and the request contained therein in the above-captioned matter. The Board is also in receipt of opposing Counsel, Mr. Hoffman's letter dated August 27, 1992.

Consideration has been given to your request and the reasons given in your letter as well as the response given by Mr. Hoffman. It is the Board's decision that your request is denied.

Sincerely,
Michael E. Sawyer
Michael E. Sawyer, Acting Chairman

MBS:lmk

cc: Robert A. Hoffman, Esquire
Peter Zimmerman, Deputy People's Counsel
George A. Breschi, Esquire
Mr. Jeffrey Foreman
Mr. Ray Gombes

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
DATE: April 13, 1995
FROM: Charlotte F. Radcliffe
County Board of Appeals
SUBJECT: Closed File: 90-477-SPHX
HILBERT F. CRISTE, ET UX
District 8

As no further action will be taken from the Court of Appeals' February 8, 1995 Order denying the writ of certiorari, we have closed the Board's file and are returning same to you herewith. The original file and exhibits remain in the upper courts for your information.

Attachment

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
BALTIMORE, MD
WASHINGTON, D. C.
MCLEAN, VA
ROCKVILLE, MD
BETHESDA, MD
TOWSON, MARYLAND 21285-5517
P.O. BOX 5517
1201 822-4111
FAX 1201 822-4147

ROBERT A. HOFFMAN

April 13, 1990

WRITER'S DIRECT NUMBER IS
494-9162

HAND DELIVERY

J. Robert Haines
Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Item No. 356
Petitioner: Roman Catholic Archbishop of Baltimore,
Corporation Sole
Legal Owner: Hilbert F. Criste

Dear Mr. Haines:

As you may recall, the Catholic Community of Hunt Valley is currently in temporary quarters in Hunt Valley pending the approval of a new permanent site in the Hunt Valley area.

In our discussions last year, you indicated that you would favorably consider a request for an expedited hearing on a special exception for a permanent location of the Church. Since you now have on file in the referenced case a Petition for Special Exception for a Church on Cuba Road just north of Shawan Road and since the contract with the sellers provides for certain monetary penalties if settlement does not take place prior to August 1 of this year, it is respectfully requested that an expedited hearing in this matter be scheduled.

Thank you for your attention to this matter.

Yours truly,

Robert A. Hoffman
Robert A. Hoffman

RAH:cns

RECEIVED
AUG 13 1990
ZONING OFFICE

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
BALTIMORE, MD
WASHINGTON, D. C.
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TOWSON, MARYLAND 21285-5517
P.O. BOX 5517
1201 822-4111
FAX 1201 822-4147

ROBERT A. HOFFMAN

July 19, 1990

WRITER'S DIRECT NUMBER IS
494-9162

J. Robert Haines
Zoning Commissioner for
Baltimore County
County Office Building, 1st Floor
Towson, Maryland 21204

Re: Case No. 90-477-SPHX
The Archdiocese of Baltimore, Petitioner

Dear Mr. Haines:

In accordance with your instructions at the end of the hearing in the referenced case, I am submitting the following documents which were prepared for the County Review Group:

- CRG plan
- Site Section Sheet 1, 2 and 3
 - Sheet 1 entitled Site Analysis Section A
 - Sheet 2 entitled Site Section B
 - Sheet 3 entitled Site Sections C and D
- Site Analysis Section A, including the original photographs, mounted on a board
- Revised Petitioner's Exhibit 1, Plat to Accompany Zoning Hearing (revised in accordance with CRG plan).
- Concept Planting Plan

As you will note, the revised Plat to Accompany Zoning Hearing shows a reduced area for the proposed church building envelope. This

more sympathetic to these existing conditions. He added there was nothing unique about the site that would pose a greater impact than if it were built in another rural area of the County. He emphasized that the unique qualities of this site made the proposed use well suited as the church will be built into a slope, reducing any visual impact for the surrounding area. Finally, Mr. Gross testified, in his opinion, the proposed use would not be detrimental to the health, safety, or general welfare of the locality. He stated, the use would rather enhance the image of the neighborhood with the design consistent with existing buildings in the area and would preserve much of the site in its existing condition.

Harvey L. Miller, an adjacent residential property owner, testified for the Petitioners. In his opinion, he stated the proposed use would not have an adverse impact on his property nor have any adverse impact on traffic along Cuba Road. He stated that the size of the church would not pose a visual intrusion taking into the consideration the large area of the property and the fact that it was being built into the hillside and constructed to a height of only forty feet to the top of the roof. He did not believe there was anything unique about this site so as to make the church use more adverse than would be otherwise in the R.C. 2 zone. Concerning traffic impact, Mr. Miller acknowledged there would be an increase on Sundays but characterized it more as an occasional inconvenience.

His concluding testimony was that the use of the property as

a church was a "good use of the property in the practical world."

Dr. Jerome Yeomans, an adjacent property owner to the west of the site, testified for the Petitioner and in support of the proposed church. As a resident he was familiar with the traffic conditions along Cuba Road. He characterized the traffic as "very light on Sunday mornings" and "not heavy at all during the weekdays." He did not believe there would be any adverse impact on traffic in the neighborhood from the church use of this site. He testified that existing trees located along the west portion of the property serve as an effective buffer to the present existing buildings on the site and would continue to do so for the church. He further testified the Petitioner had permission to remove the underbrush and trees on his property which were referred to by Mr. Guckert as having to be removed to meet the sight distance requirements of Baltimore County.

Renee Stalter, a member of the parish and resident of the community, also testified for the Petitioner as to her familiarity with roadway conditions in the area. She stated she was an operator of a service station in Baltimore City, and it takes her approximately 30 minutes to commute to and from her home. She described the traffic along Cuba Road as "extremely light on Sunday mornings." In her opinion there would be no adverse impact on her property or upon Shawan and Cuba Roads with the church approved.

At the conclusion of Petitioner's case motions to dismiss were made and denied. The Protestants and People's Counsel put on their case. In addition to area residents in opposition to the

church, they offered testimony of a land planner, an architect, two traffic engineers, and a historian from Baltimore County Government. The Protestants and People's Counsel seemed to object less to the church at this location per se but rather more to its size, scale, architectural design and the traffic conditions that would be generated. Additionally, they argued the use would be detrimental to primary agricultural uses in the area, affect their property values and interfere with their scenic views.

Norman E. Gerber, a qualified expert in land planning and zoning and former director of the Office of Planning and Zoning for Baltimore County, headed the Protestants' case in opposition to the proposed church. In his opinion, the plan failed to meet the requirements under Section 502.1 of the regulations and would be detrimental to the primary agricultural uses in the vicinity. He did not believe that a church of this size should be permitted at this particular location in an R.C. 2 zone and to do so would be contrary to the legislative findings set out under the R.C. 2 regulations. He believed the heavy traffic generated by the church will hinder the movement of farm equipment in the area and that Sunday activities in the park located at Oregon Ridge and the letting out of this church at similar times will create traffic problems. He informed the Board that under the Master Plan, the subject property was located in an historic and scenic route area and agreed with the testimony of Mr. John McGrain, an historian for Baltimore County, and Paul Marks, the Protestants' architect, that such a church should not be permitted in these areas. He agreed

that the parking under the plan was adequate and met the requirements of the regulations.

Much of the testimony given by Mr. Gerber was directed toward the 1989-2000 Master Plan and his belief that the proposed church plan was not in compliance with the Master Plan. While giving such testimony he was mindful and pointed out to the Board that the Master Plan serves as a guide in Baltimore County and is advisory only. His testimony did not indicate to this Board that the church property was unique or that there would be some greater impact at this location if the church were granted. While not expressly stated by Mr. Gerber, it was evident to this Board he was aware that the church is a permitted use by special exception in R.C. 2 zoning and that the County Council had legislatively predetermined that such a use was for the public good in an R.C. 2 zone provided the conditions of 502.1 were met. Mr. Gerber offered no significant testimony in opposition to the plan itself. The size of the tract of land, the use only of 7.5 acres, the designation of open space of the remaining acres, the location of the building structures and the parking requirements were hardly addressed by or objected to by Mr. Gerber.

Paul Marks, an architect, testified for the Protestants. He stated his familiarity with R.C. 2 zoning and believed the church as proposed was not a country church. For him a country church would be one with a seating capacity of 150 to 200. He was concerned that he could not determine what the church would look like based upon a review of the Petitioner's plan. He thought the

plan was very general and appeared to only meet zoning concerns. In his opinion, the church would be visible from Shawan Road, would tend to project itself as opposed to blending into the area and would change the character of the area simply because of its size. He stated that a church of this size is more urban in character than rural. His testimony as to size, scale and design of the church conflicted with that of Adam Gross, the architect for the Petitioner. While testifying and giving his opinion that the church was urban in character, Mr. Marks tended to contradict his own testimony and his supporting reasons for objecting to the church on the grounds that it was urban in character. He identified the Greencroft Community located just north of the property, testified that there was a tremendous variety of styles in the community and that most of the houses were suburban in character. He expressly testified that the community was "not rural in character." In addressing and characterizing the Greencroft community as such, his testimony was more in conformity with that of the Petitioner's architect, Mr. Gross. Mr. Gross characterized the design of the church as being a "Mid-Atlantic Traditional Church."

Concerning traffic, the Protestants and People's Counsel offered the testimony of John Erdman, a private traffic expert, and Steve Weber, a representative from Baltimore County's Bureau of Traffic Engineering. Both of them testified, in their opinion, that there would be an increase in traffic generated as a result of the proposed church. Their testimony in this regard was in

conformity with that of Mr. Guckert. Mr. Erdman expressed his concerns over the narrowness of Cuba Road, the visibility to the north from the site, and traffic problems at the intersection of Shawan and Cuba Roads. In referring to the Traffic Impact Analysis of Mr. Guckert, it was his opinion that the trip generation figures were understated. However, he did not offer any figures to the contrary. On direct examination he stated the proposed church and its traffic would produce an "F" level intersection at Shawan and Cuba Roads, indicating a failing intersection. However, on cross examination he indicated that he had nothing to indicate that the intersection would be at "F" level after the church was developed. He briefly addressed the issue of farm equipment on the nearby roadways and stated that other agricultural uses in the vicinity would be affected by the church traffic because there will be farm equipment on the roads. He offered no testimony indicating to what extent there is presently farm equipment on the nearby roads and how, if at all, it would be affected by the church traffic at given times.

Steven Weber, Assistant Traffic Engineer for Baltimore County, testified for People's Counsel. He was "in agreement with the traffic report" prepared by Mr. Guckert concerning the queuing of traffic at the intersection of Shawan and Cuba Roads. He indicated that traffic leaving the site on Sunday may be inconvenient to some residents, but that his department "would not have a serious objection to this project." He described Shawan Road as a "fairly well-designed rural arterial roadway" and indicated that it has the

capacity to handle the traffic exiting from the church. On commenting about Mr. Guckert's Traffic Impact Analysis he stated that it "seemed reasonable" and he concurred with the queuing of traffic at the intersection of Shawan and Cuba Roads as reported by Mr. Guckert. Importantly, it was Mr. Weber's opinion that the traffic level would not reach a point where this proposed church would be prohibited under any legal standard or regulation and that "it will not affect the safety of the general public." As to emergency vehicles, he stated "it is doubtful this project would have an impact on emergency vehicles" with respect to the response time and access to areas in the community.

John McGrain, an Historic Sites Planner and member of the Landmark Preservation Committee for Baltimore County, testified for the Protestants. In his opinion, the church would have an adverse impact on scenic vistas in the area and would tend to diminish the rural character of the area. However, his testimony indicated that neither he nor his committee opposed the request for a church at this particular location.

Dr. Barbara Cochran, a nearby resident to the north of the subject property and lead protestant in these proceedings, testified in opposition to the church plan. Her testimony indicated that she had no real objections to a church on the property, but that its dimensions were out of character with the neighborhood and that it would not blend in with the rural setting. She testified her main concern was traffic congestion on the roads and at the Shawan and Cuba Roads intersection. She believed that

after services 400 cars would be exiting from the property within a 20 to 30 minute period. She also believed she would experience noise from the church occasioned by car doors slamming and that the lighting on the parking lot would be an annoyance to her as a nearby property owner. She offered into evidence the current 1989-2000 Master Plan and gave testimony to the Board indicating that the church plan tends to conflict with the Master Plan.

As a medical doctor on call, she testified that should she have to leave her home when the church services were letting out, she would be delayed by the traffic. She stated her only means of travel was southbound on Cuba Road and the backup of traffic would create an unreasonable delay for her in an emergency situation. She further testified that the conditions imposed upon the church plan by the Zoning Commissioner should be reimposed and that the non-development area of the property for agricultural and open space should be in perpetuity.

Dr. Philip Byrd, a property owner to the north of the church property, testified in opposition to the special exception request and expressed his concerns. He pointed out his property is higher than that of the church property and in his opinion the church will dominate the area and lower property values. He perceived that he will suffer loss of quiet enjoyment and the use of his residence because of noise and lighting problems. He likewise testified the church will bring with it traffic problems. Like Dr. Cochran, he informed the Board he was on call as a physician and if called while church services were letting out, it would create a problem

RAH/bl
cc: John G. Disney, Esquire
Judson H. Lipowitz, Esquire
George A. Breschi, Esquire
Peter Max Zimmerman, Deputy People's Counsel
Barbara A. Cochran, M.D.

BARBARA A. COCHRAN, M.D.

INTERNAL MEDICINE
6506 Park Heights Avenue
Baltimore, Maryland 21215

764-1955

May 7, 1991

Mr. J. Robert Haines
Zoning Commissioner
Office of Zoning for
Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland
21204

Re: 90-477 SPHX
June 12, 1990

Dear Mr. Haines:

Will you kindly make me a copy of the original zoning hearing 90-477 SPHX. I believe it will take two tapes, and I have enclosed a check for \$30.00. I would appreciate these copies as soon as possible. Thank you.

Yours truly,

Barbara A. Cochran

Barbara A. Cochran, M.D.

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030
September 27, 1990

Zoning Commissioner of Baltimore County
Towson, Maryland 21204

RE: Case No. 90-477-SPHX

Dear Sir:

Please enter an appeal to the Zoning Board of Appeals in the above referenced case of the Amended Order of the Zoning Commissioner dated August 31, 1990. This appeal includes Paragraphs 1 through 4 as well as the original order incorporated into the amended order. This appeal is entered for, but not limited to, the following individuals in addition to myself:

Jeffrey Foreman, 1 Sheepfold Lane, Hunt Valley, Md. 21030
Phil Byrd, M.D., 13902 Greencroft Lane, Hunt Valley, Md. 21030
Ray Gombes, 13900 Greencroft Lane, Hunt Valley, Md. 21030
John Richardson, 14200 Greencroft Lane, Hunt Valley, Md. 21030

Sincerely yours,

Barbara A. Cochran
Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030
September 16, 1992

Messrs. Sauer, Disney, and Lipowitz
County Board of Appeals
400 Washington Avenue
Towson, Maryland 21204

Dear Sirs:

This is in reply to a letter by Mr. Robert Hoffman dated August 27, 1992. In that letter Mr. Hoffman refers to Case 90-477-SPHX. However, I believe he meant to comment on Case 90-477-SPHX so I will direct my comments accordingly as if he did comment on Case 90-477-SPHX.

Normally I would not comment about Mr. Hoffman's powers of speculation about my motivation. However, since he states "most significantly", I believe it is incumbent to do so. My motivation is irrelevant to the behavior of Mr. Lipowitz and the motion pending before you. As noted in my letter of August 13, 1992, the information had just come to my attention that week. I then acted as expeditiously as possible.

Section 28-82(a)(1) of the Baltimore County Code states "...an official or employee may not: Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee." Mr. Lipowitz's employment falls within this area.

Mr. Hoffman's contention that the behavior of Mr. Lipowitz was minimal is not correct. Mr. Lipowitz personally, not his law firm, made this request of Mr. Reilly at the request of his clients the Gremplers. Mr. Lipowitz had various meetings with representatives of Mr. Reilly's office, the Valleys Planning Council, the Falls Road Community Association, etc. The request filed with the Planning and Zoning Board signed by Mr. Grempler was in fact the work of Mr. Lipowitz and his office. Mr. Lipowitz's aide spent considerable time with Diana Itter of the Planning and Zoning Office to secure the correct information for the submission. In point of fact Mr. Lipowitz represented the Gremplers in this zoning matter until a conflict of interest was raised at which time he withdrew.

Mr. Hoffman agrees that this is a broad interpretation of the rules which is exactly what Section 1001(b) of the Baltimore County Code requires. The withdrawal of Mr. Lipowitz from the zoning matter once a conflict question was raised certainly mitigates against this being overly broad as Mr. Lipowitz came to the same conclusion as I did.

Therefore I move that Mr. Lipowitz recuse himself from Case 90-477-SPHX and that a public hearing be held on this matter. I further move that any decision in this case be held in abeyance until resolution of this matter.

Respectfully submitted,

Barbara A. Cochran
Barbara A. Cochran, M.D.

HAND DELIVERED

Copies of this motion have been mailed first class postage prepaid to Mr. Robert Hoffman, Mr. George Breschi, and hand delivered to Mr. Peter Zimmerman.

Barbara A. Cochran
Barbara A. Cochran, M.D.

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland
21030
August 13, 1992

IN THE MATTER OF HILBERT F. CRISTE,
ET UX, ETC. CASE #90-477-SPHX
BEFORE THE BOARD OF APPEALS OF
BALTIMORE COUNTY

Dear Messrs. Sauer, Disney, and Lipowitz:

Please be advised that the following information has just come to my attention:

That on January 15, 1992 documents were filed by Mr. Grempler with the Office of Planning and Zoning for a rezoning classification Case 4-059 for a piece of property located at the corner of Falls and Joppa Roads

That the filing for this request was initiated by Councilman Doug Riley

That the impetus for this action by Councilman Riley was contact and conversations with Mr. Judson Lipowitz representing the Gremplers

That this was begun in November, 1991 per Lisa Keir, administrative aide to Mr. Riley

That Mr. Lipowitz appeared before the Planning Board Work Session on May 14, 1992 and answered questions about this matter and that an audio recording was made of these proceedings

That Mr. Lipowitz discussed this matter with Margaret Worrell of the Valleys Planning Council

That a question of conflict of interest was raised because of Mr. Lipowitz's position as a member of the Zoning Board of Appeals

That Mr. Lipowitz subsequently withdrew his representation in a telephone call with Diana Itter of the Planning and Zoning Office

That this matter will be resolved by a zoning variance or special exception rather than a zoning reclassification

That Section 602(a) and Section 2.356(b) of the Baltimore County Code defines that the Board of Appeals have authority in zoning reclassification cases as well as appeals from orders relating to zoning

That Section 28-82(a) and Section-82(a)(2) of the Baltimore County Code states "Except as permitted by regulation of the commission when such interest is disclosed or when this employment does not create a conflict of interest or appearance of conflict, an official or employee may not: ...Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee."

That Section 1000 Of the Baltimore County Code states "...Such law shall include provision for the disclosure of the interest of any person in any matter before the county government and for the disqualification of that person from participating in decisions or other actions in which there is a conflict between his official duties and his private interest..."

That Section 1001(b) of the Baltimore County Code states "...The provisions of this article X shall be broadly construed and strictly enforced for the purpose of preventing those persons in public service from securing any economic advantages, however, indirect, from their public service."

That Mr. Lipowitz has derived economic benefit from the services rendered in this matter by himself

That his involvement in another zoning matter before the County at the time he was hearing Case 90-477-SPHX was not disclosed

That this legal representation as an advocate for a developer of land on a rezoning matter indicates a predisposition towards approval of appellant zoning issues, demonstrates a lack of impartiality on zoning issues, taints the requisite impartiality as required by the Baltimore County Code, is "a conflict between his official duties and his private interest...", and has "...created a conflict or appearance of conflict..."

That this employment relationship working for an Appellant would appear to impair his "...independence of judgment..."

That in *Sharp v. Howard County* [327 Md. 17 (1992)] this standard was broadly construed and strictly enforced, and that the standard of judgment is "...where impartiality may reasonably be questioned..."

That this standard of judgment has been met in that Mr. Lipowitz's impartiality on zoning matters may reasonably be questioned

JEFFREY L. FOREMAN
1 SHEEPFOLD LANE
HUNT VALLEY, MARYLAND 21030

July 12, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
111 W. Chesapeake Ave.
Room 109
Towson, MD 21204

Dear Mr. Haines:

I'd like to thank you again for the opportunity you gave me to express my concerns about the proposed Catholic church on Cuba Road. As I'm sure you surmised from my performance at the hearing, I was not by training or briefing prepared to act as a cross-examiner. Nevertheless, I believe some important issues were raised.

One of these concerns was how the church, sitting on the high ground, would command the Shawan Valley. I've taken the liberty of enclosing some pictures I took from Greencroft Lane, adjoining the Crist property where the church would be erected. Obviously, the church would rise another twenty or thirty (or more) feet above the valley floor. I believe it would be terrible to ruin this beautiful, natural panorama.

Because of my concerns about this project, I requested that the Greencroft Community Association Board allow me to brief them on the zoning hearing at their meeting, which occurred about a week later. At that time, they indicated that they would schedule a meeting of all homeowners to discuss this issue. It was my understanding that the notice would go out in the next few days for a meeting the following week. To date, not even the notice has gone out. As a result, the residents of our community are still uninformed about this project. Accordingly, I hope you will consider postponing your decision on the zoning exception until our community has had an opportunity to hear the issues.

Finally, I spoke with Joe Maranto with respect to the CRG meeting for the project. He informed me that there is a possibility that the requirement for such a meeting may be waived. I believe that representation were made that all of the issues relating to the appearance of the building, the parking lot and the lighting would be addressed at the CRG meeting. Accordingly, I hope that a waiver will not be considered in this case.

JEFFREY L. FOREMAN
1 SHEEPFOLD LANE
HUNT VALLEY, MARYLAND 21030

I'm sure the need of the Catholic community for additional facilities is genuine and that they have every intention of developing in a responsible manner. Nevertheless, I believe they have chosen an inappropriate location. While I hope that your decision will agree with me, I'm sure it will reflect the needs of all the county's residents. Your patience and consideration are truly appreciated.

Respectfully,

Jeffrey Foreman
Jeffrey Foreman

Jeffrey Foreman
1 Sheepfold Lane
Hunt Valley, MD 21030

February 14, 1992

County Board of Appeals of Baltimore County
Room 49
Old Court House
400 Washington Avenue
Towson, MD 21204

RE: Case No. 90-477-SPHX, HILBERT F. CRISTE, ET UX

To Whom It May Concern:

This case has extended through many, many hours of testimony, spanned many months and endured illness and death. Like two arm-weary fighters in the fifteenth round, I think the appellants and the protestants, not to mention the members of the Board hearing the case, currently care more for the final bell than the decision. I can certainly admit to some of this feeling as I write this summation; and with this in mind, I will try to be brief in outlining why I believe the Board of Appeals should deny the special exception for the property. While the law provides for a 'right' to a special exception for a church, it doesn't provide the right to an exception for any church. It is essential that the development of the property is otherwise compatible with the area which encompasses it. I believe the Church has, in virtually every category, failed to meet reasonable criteria for permitting development.

With respect to the appearance of the proposed structure, it is difficult to say much, since the appellant hasn't offered much. Nevertheless, the testimony of architect Paul Marks laid out the inadequacies of the appellant's offering in substantial detail.

The scale of the project, regardless of which of the various sizes (from 14,500 sf to 19,000+ sf) the project might be, is grossly out of proportion with other development in the area. Even in an urban setting this could be a disturbing issue; but in a rural setting, with no nearby structures of substantial size to provide visual balance, such a structure will create a jarring appearance. I believe this issue is given considerable weight in the Master Plan, and is consistent with the common-sense observation that there are only a handful of churches in the entire metropolitan area that have six hundred and fifty or more seats, and none that large in such a rural setting.

The fact that the structure will, at its base, be more than one hundred feet above the Shawan Valley floor will compound this problem substantially. As was shown in photographs, the property has a direct site line with downtown Towson. As a result, the proposed structures will probably be visible even at that distance. I don't believe that the legislature had in mind this kind of visual impact when it provided for special exceptions for churches.

The visual intrusion will be further accentuated at night, even with minimal necessary lighting on the church and parking lot, not to mention

County Board of Appeals
of Baltimore County
February 14, 1992
Page 2

the street lights that will need to be put up on Cuba Road. When the development is in use at night, the lighting of the two-hundred-car parking lot one hundred plus feet above the valley and the two-hundred-yard-long driveway will light up a substantial portion of the valley as far east as Interstate 83.

Traffic is another area of great concern to area residents. The traffic problems that will be generated by the development will be substantial at times that it is in use. The petitioner's traffic engineer has used an analysis to show that the road system can handle the traffic by spreading the load over an hour period. While this is standard procedure for studying normal development situations, it does not adequately reflect the intense use that occurs during the shorter periods that are relevant to a church situation. To make an extreme analogy, its like saying there's no traffic problem at Memorial Stadium because the average traffic count over several hours falls in a reasonable range. As you recall, Steve Webber, Baltimore County Assistant Traffic Engineer believes that there is a significant potential problem with the traffic. This problem can be compounded by other proposed development in the area, a subject that I'll touch on again later.

These issues have not gone unnoticed at the County. One of the stated reasons given by the Dept. of Assessments in lowering the assessed value on a property in Greencroft was its proximity to the proposed church. Permitting this church to be built thus forces area residents to accept lower property values. This is functionally equivalent to a government-mandated contribution to a religious organization.

In addition to the above-mentioned County departments, a number of others responsible for some portion of the review process have testified. I think a fair summary of their comments would be that they ranged from reluctant acquiescence to outright disagreement with the proposed development. It remains a mystery to me how a project that generates as much concern can be so close to approval.

It is also important to note that a substantial majority of the residents of Greencroft and other neighboring properties, including three contiguous property owners and two nearly-contiguous property owners are on record in opposition to the project. Interestingly, a number of these people are actually members of the Church. The extent of the commitment of the opposition can be seen in the number of people that have continually attended all of the hearings over these many months.

Given the serious impacts that such development could entail, the project is, to long-time area residents, unsettling; but it becomes particularly exasperating when one understands that the appellants have failed to provide an explanation of the need for a church of such size. Their own projections of growth for the parish envision a need for a church of only half the size of that requested. Further, the appellants have admitted that the proposed site is in the most southwest portion of the very large geographic area that they purport to serve; and their own membership list

Jeffrey Foreman
1 Sheepfold Lane
Hunt Valley, MD 21030

Board of Appeals
of Baltimore County
February 14, 1992
Page 3

Jeffrey Foreman
1 Sheepfold Lane
Hunt Valley, MD 21030

makes it clear that most of the parishioners must drive a substantial distance to reach the selected site. Even more perplexing, the site is less than three miles from the St. Joseph's Church. Finally the proposed site is substantially larger and more expensive than other sites that are available, and ignores the two hundred plus acres that the Archdiocese already owns that is more centrally located within the parish. These facts, when taken together, lead me to believe that the appellants have a different agenda than they have share with the protestants or with the Board.

This belief is particularly worrisome given the fact that the proposed utilization of the development with respect to the number and timing of masses and the usage of the facilities at other times and by other groups is based solely on the verbal assertions of Father Donellen. Further, his testimony in this regard is not consistent with usual practice for religious organizations in general, nor Catholic churches in particular. It is therefore essential that, if the Board does permit the special exception, that its order specifically limit, if not in perpetuity, then at least for a significant period, the ability of the Church to hold more activities than the number proposed during the hearings, and further, to bar the petitioner from requesting expanded uses at another special exception hearing after the initial special exception is approved. To do otherwise would, in my opinion, make a mockery of the zoning process, since a change in the frequency or type of use of the property invalidates - if they had any validity - all of the studies submitted by the petitioner in support of the special exception.

Finally, I'd like to reiterate my concern with the hearing process as it relates to multiple proposed developments. A situation such as this, where two six-hundred-plus-seat churches are to be built in an area served by the same roads and where multiple other churches already exist calls out for an integrated analysis by the County. To not do so, in my opinion, is like a group of doctors each prescribing for the same patient, but ignoring the effects of the other doctors' prescriptions.

In closing, let me point out that there is a growing movement across the country, as documented in the Baltimore Sun, the Wall Street Journal and countless other periodicals, where neighborhoods are trying to reassert needed controls over growth and development, no matter how well-intentioned. I hope that the Board will support these efforts by denying the special exception.

Respectfully,

Jeffrey Foreman
Jeffrey Foreman

James A. Flick, Jr.
14291 GREENCROFT LANE • HUNT VALLEY, MARYLAND 21030

August 19, 1991

Mr. Arnold Jablon, Director
Office of Zoning Administration and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: #90-477 SFHX

Dear Mr. Jablon:

We are residents of the Greencroft community located adjacent to the Christe property, located west of Shawan Road between Cuba Road and Greencroft Lane. We understand that a special zoning exception has been requested to construct a church on this property. We wish to register our objection to this exception request.

- The site is agricultural and historic and is highly visible from many different angles, particularly Shawan Road and the Oregon Park area. A church structure will be out of context with the surrounding area and very visible to all those who travel and live in the area.
- The visibility problem will be compounded by necessary parking lot lighting and thus further highlight the "out of context" structure.
- Traffic patterns will be significantly altered.
- There is significant commercial and high density space available for a church in the areas very close to the Christe property just east of Route 83.
- We do not believe the precedent established for this type of exception to agricultural zoning was ever intended to cover a situation where available appropriate zoning was located within a few miles of the proposed site.

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AUG 22 1991
ZONING OFFICE

- The request for exception lacks specificity as to location within the building envelope, architecture style, location of parking lots, etc. Approval of such an exception request is in effect give the requesting organization substantial alternatives without any input or review by those citizens most effected by the exception.

We hope that the above adequately expresses our concern for the proposed structure and that the county, in its good judgment, will conclude that there are sufficient alternate locations for this type of structure in the immediate area and that there is no need to disturb the agricultural and historic beauty and value of the Christe Farm by permitting a church to be constructed thereon.

Very truly yours,

James A. Flick, Jr.
James A. Flick, Jr.
Wealtha M. Flick

Copy to: C.A. "Dutch" Ruppensberger
Councilman, 3rd District
400 Washington Avenue
Towson, Maryland 21204

JAMES BUCHANAN BRADY UROLOGICAL INSTITUTE
THE JOHNS HOPKINS HOSPITAL
BALTIMORE - MARYLAND 21205
(301) 955-6769

PATRICK C. WALSH, M.D.
DAVID HALL, M.D.
DIRECTOR, DEPARTMENT OF UROLOGY

June 20, 1990

RECEIVED
JUN 25 1990
ZONING OFFICE

Mr. J. Robert Haines
Zoning Commissioner
111 West Chesapeake Avenue, 1st floor
Towson, Maryland 21205

RE: Case #90-477-SPHX
Hilbert F. Criste
Legal owner

Dear Mr. Haines:

This letter is in reference to the above mentioned case. I am sorry that I was unable to attend the hearing, but I was out of the country. When I returned I learned of some of the issues that were raised in opposition to the zoning change and I hope that I would have this opportunity to comment.

I live on Cuba Road just north of the proposed property. As you can see from my letterhead, I am an active practicing surgeon. I was told that someone who identified herself as a physician raised concern regarding access to the Cuba/Shawan Road exit at the time of church meetings when a critically ill patient had to be seen. I do not believe that this is an issue. First of all, the church services occur quite infrequently. Secondly, it is always possible to take Miller Road to Falls Road. I have had to do that on a number of occasions when there was a backup and found no significant problem.

I am strongly in favor of the zoning change. I believe that the property owners in Baltimore County should ensure the opportunity for all people of all religions to worship. I realize that the church has looked for 3 consecutive years and this has been the only property that they have been able to find that would be suitable for use. I am confident that they will be sensitive to the needs of the neighbors and others who live on Cuba Road in designing the church. Thank you for permitting me to comment.

Sincerely yours,

Patrick C. Walsh
Patrick C. Walsh, M.D.
Urologist-in-Chief

PCW:bd

August 16, 1991

Mr. Arnold Jablon, Director
Office of Zoning Administration &
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

#90-477SPX SPECIAL EXCEPTION

As members of the Greencroft Community, as well as St. Francis Xavier Catholic Community, we would like to voice our strong opposition to the building site chosen by the Archdiocese of Baltimore and St. Francis Xavier.

Our reasons for being so opposed are as follows:

- The increased traffic and congestion, in an area already congested from much growth and development, will create an immense problem and possible danger. Cuba Road is a two lane country road, not a major thoroughfare.
- The negative impact such a large undertaking will have on the water supply and septic system is a major threat to all residents of the area. The Valley is a residential and agricultural community.
- There will be a distinct reduction of property values: we pay over \$3000 /year in taxes for very little service from the county.

We sincerely feel that the needs of those living here in the Valley, the protection of the environment and our property values far exceeds those needs of the Archdiocese looking for a special exception on land zoned strictly for agricultural use.

Donald B. Davies
DONALD B. DAVIES
JUDITH A. DAVIES

cc: C.A. "Dutch" Ruppensberger

RECEIVED
AUG 19 1991
ZONING OFFICE
MICROFILMED

January 11, 1983

Dear Mr. Fournier,

In regard to the Huch
Christe Church case, I would deeply
appreciate requesting a 60-day
extension from the Circuit Court. The
transcript is anticipated to be approximately
1600 pages, and with other appeals work
plus working each day, it would be
difficult to complete the transcript in a
shorter time period.

Thank you for your cooperation.

Lucy E. Pratt
(Court Reporter)

IN THE MATTER OF THE
APPLICATION OF
HILBERT F. CRISTE
FOR A SPECIAL HEARING AND
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
CUBA ROAD, NORTHWEST OF THE
CENTERLINE OF GREENCROFT LANE
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CASE NO. 92-CV-11650/40/161

ORDER OF THE COURT

The motion by Barbara A. Cochran, M.D., Plaintiff, is hereby
granted. The time for transmittal of the record in the above
captioned case is extended to March 19, 1993.

Judge

True Copy Test
SUZANNE MENSCH, Clerk
Per Gloria S. Smith
Deputy Clerk

FILED JAN 13 1983

RECEIVED
COUNTY CLERK'S OFFICE
JAN 15 1983

IN THE MATTER OF THE
THE APPLICATION OF
HILBERT F. CRISTE
FOR A SPECIAL HEARING AND
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
CUBA ROAD, NORTHWEST OF THE
CENTERLINE OF GREENCROFT LANE
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CASE NO. 92-CV-11650

RECEIVED
COUNTY CLERK'S OFFICE
JAN 28 1983

PETITION ON APPEAL

Barbara A. Cochran, M.D. et al petitions on the following
grounds:

1. The County Board of Appeals (CBA) approval of the special
exception for a church, offices, and accessory caretaker's
residence is arbitrary, capricious, and unsupported by competent
evidence.
2. The CBA failed to hold a hearing on the conflict of
interest issue re: Member Judson Lipowitz. The CBA disregarded
the specific sections of the Baltimore County Code relating to
conduct of administrative officials in not requiring that he recuse
himself. Mr. Lipowitz's law firm previously as well as
contemporaneously is advertising a special area of expertise in
zoning and land use based in part on Mr. Lipowitz's presence on the
CBA. (See Attachments. This is clearly slanted towards advocacy
of developers and indicates a predisposition towards granting of
zoning and special exception requests.)
3. The CBA allowed a new site plan to be used before that
plan had been formally amended. This action precluded the usual
review process by the Office of Zoning and Planning. This site
plan differed substantially from the original in that the footprint

Circuit Court reverse the Order of the County Board of Appeals
dated November 20, 1992.

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030

Jeffrey Foreman
1 Sheepfold Lane
Hunt Valley, Md.
21030

Phillip Byrd, M.D.
13902 Greencroft Lane
Hunt Valley, Md.
21030

Raymond Gombert
13900 Greencroft
Hunt Valley, Md.
21030

I hereby certify that on the 28th day of December, 1992 a
copy of the foregoing Petition of Appeal was delivered to the
Administrative Assistant, County Board of Appeals, Rm. 49, Old
Courthouse, Towson, Md., a copy delivered to the Peter Max
Zimmerman, Deputy Peoples' Counsel, Rm. 47, Old Courthouse, Towson,
Md., and a copy mailed to Mr. Robert Hoffman, Esquire, 210
Allegheny Avenue, Towson, Md.

Barbara A. Cochran, M.D.

of one traffic expert about the level of service at Cuba and Shawan
Roads when in fact the County expert clearly testified it was
significantly less. (See attachment.)

9. The CBA ignored the letter from the Maryland Historic
Society, the testimony of a planning expert, and the County
historian who demonstrated the uniqueness of the site as it has the
combination of being located in the fragile Shawan Valley, is an
agricultural preservation area, is in a national Historic District,
is visually important from the historic site of Oregon Ridge Stores
and the scenic view corridor of Shawan and Western Run roads as
delineated in the Master Plan.

10. The CBA ignored the testimony as well as multiple
exhibits showing that the size of the planned structure is well in
excess of any place of worship in the immediate vicinity as well
as in all of northern Baltimore County.

11. The CBA disregarded the exhibits and testimony showing
that the planned structure is well in excess of any structure in
a two mile radius.

12. The CBA disregarded the decision in CBA Case 91-466X in
which the size and seating of a church was downsized because of its
location in a much less fragile and historic area.

13. The CBA disregarded the specific statements in the Master
Plan of the absolute necessity of maintaining those characteristics
which make the area unique and attractive.

14. The CBA disregarded that specific statements in the

Master Plan about scenic view preservation, significant views being
part of a landmark site, and gateway vistas as well as scenic view
corridors. Shawan Road is designated as a scenic view corridor.
The CBA erred in stating that Mr. Gavrelis indicated no conflicts
with the Master Plan when in fact there was no such testimony and
Mr. Hoffman objected to the Master Plan being allowed as an exhibit.

15. The CBA ignored the testimony of the Baltimore Bicycling
Club, members of the Oregon Ridge Council, and the Valleys Planning
Council specifically related to roadway congestion, general welfare
of the locality, and potential hazards.

16. The CBA failed to address BCZR Section 502.1g as the
evidence clearly indicated that this size development and land use
is inconsistent with the zoning classification and inconsistent
with the spirit and intent of the Zoning Regulations.

17. In summary the proposed special exception did not qualify
for the special exception because of its multiple incompatibilities
on this unique site, its multiple conflicts with the Master Plan,
its failure to satisfy the criteria of granting a special exception
use in the BCZR, its failure for filing of a properly amended site
plan. Moreover the CBA erred in allowing Mr. Lipowitz to
participate in the decision making process.

WHEREFORE, Barbara A. Cochran, M.D. et al. prays that the

BALTIMORE COUNTY
BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
COUNTY COURTS BUILDING, 4th FLOOR
TOWSON, MARYLAND 21204

TO: Barbara Cochran
13733 Cuba Rd
Hunt Valley, MD 21030
LOCATION: _____
COUNCIL DISTRICT: _____

We are transmitting () under separate cover
(X) herewith, the following information for the
purpose checked.

NO. SHEETS	DESCRIPTION
2	Turning Movement Count & Traffic Study for Beaver Dam Rd/Cuba Rd & Shawan Rd 3/19/90
ADDITIONAL COMMENTS	
A new count will likely be scheduled within the next 6 months. Intersections that are rated A thru C can only be studied about every 2 1/2 - 3 yrs.	

() APPROVED () FOR YOUR APPROVAL OR COMMENTS
() APPROVED AS NOTED (X) FOR YOUR INFORMATION
() REVISE AND RETURN
() AS REQUESTED

For further questions, please do not hesitate to contact Steve
Wolter at 887-3554.

Very truly yours,
Richard Moore
Bureau Chief

CRM:GMJ:lt

BALTIMORE COUNTY BUREAU OF TRAFFIC ENGINEERING TRAFFIC MOVEMENT COUNT DATA														
LOCATION: BEAVER DAM RD + CUBA RD + SHAWAN RD														
County Signal Number 353														
RECORDING DATE	CT	WEATHER	ROAD SURF.	DAY OF WEEK	DATE OF COUNT	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98
ROAD NAME	BEAVER DAM RD	CUBA RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD
L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL
6:00-6:15	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:15-6:30	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:30-6:45	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:45-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-7:15	6	1	4	11	0	0	1	19	29	0	225	71	296	348
7:15-7:30	6	2	0	8	22	7	0	29	27	2	255	78	337	442
7:30-7:45	5	2	3	18	21	7	3	31	41	0	248	93	341	444
7:45-8:00	5	0	8	13	58	15	3	68	81	1	281	66	368	453
8:00-8:15	3	1	5	9	27	6	0	33	42	0	252	57	389	431
8:15-8:30	6	0	4	18	17	0	1	18	28	0	273	68	341	416
8:30-8:45	4	2	2	8	12	5	0	17	25	1	165	24	199	276
8:45-9:00	2	0	5	7	13	3	2	18	25	0	195	38	225	311
P.M. HOUR TOTALS														
6:00-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-8:00	6	1	4	11	0	0	1	19	29	0	225	71	296	348
8:00-9:00	12	1	6	19	31	15	1	47	46	2	418	141	637	811
9:00-10:00	17	3	9	29	52	22	4	78	187	2	738	234	974	1255
10:00-11:00	22	3	17	42	182	37	7	144	188	3	1819	528	1342	2333
11:00-12:00	19	3	19	48	128	35	6	161	281	3	1846	386	1355	2861
12:00-1:00	19	3	28	42	115	28	7	158	192	1	1854	384	1359	2861
1:00-2:00	16	3	19	48	128	35	6	161	281	3	1846	386	1355	2861
2:00-3:00	15	3	16	34	69	14	3	86	128	1	855	179	1865	1367
REMARKS														
6:00-6:15	54	7	42	184	7	0	0	7	111	1	78	6	85	169
6:15-6:30	78	9	37	124	5	2	1	8	132	5	95	11	111	268
6:30-6:45	96	13	34	143	9	1	1	11	154	2	75	5	82	199
6:45-7:00	87	6	12	85	6	0	0	6	91	3	88	6	89	182
7:00-7:15	85	18	18	121	2	1	0	3	124	0	86	9	95	238
7:15-7:30	49	7	12	68	9	2	0	11	79	1	78	7	78	188
7:30-7:45	42	7	7	56	6	0	0	6	62	1	73	8	82	148
7:45-8:00	37	5	12	54	6	1	1	8	62	0	86	3	89	124
P.M. HOUR TOTALS														
6:00-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-8:00	54	7	42	184	7	0	0	7	111	1	78	6	85	169
8:00-9:00	132	16	88	228	12	2	1	15	243	6	173	17	156	429
9:00-10:00	228	29	114	371	21	3	2	26	397	8	248	22	278	629
10:00-11:00	295	35	126	456	27	3	2	32	488	11	328	20	367	815
11:00-12:00	326	46	181	473	22	4	2	28	581	18	336	31	377	911
12:00-1:00	297	44	76	417	26	4	1	31	448	6	311	27	344	851
1:00-2:00	243	38	49	338	23	3	0	26	356	5	389	38	344	792
2:00-3:00	213	37	49	299	23	4	1	28	327	2	315	27	344	784

LOCATION: BEAVER DAM RD + CUBA RD + SHAWAN RD														
County Signal Number 353														
RECORDING DATE	CT	WEATHER	ROAD SURF.	DAY OF WEEK	DATE OF COUNT	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98	3/19/98
ROAD NAME	BEAVER DAM RD	CUBA RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD	SHAWAN RD
L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL	L S R TOTAL
6:00-6:15	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:15-6:30	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:30-6:45	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:45-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-7:15	6	1	4	11	0	0	1	19	29	0	225	71	296	348
7:15-7:30	6	2	0	8	22	7	0	29	27	2	255	78	337	442
7:30-7:45	5	2	3	18	21	7	3	31	41	0	248	93	341	444
7:45-8:00	5	0	8	13	58	15	3	68	81	1	281	66	368	453
8:00-8:15	3	1	5	9	27	6	0	33	42	0	252	57	389	431
8:15-8:30	6	0	4	18	17	0	1	18	28	0	273	68	341	416
8:30-8:45	4	2	2	8	12	5	0	17	25	1	165	24	199	276
8:45-9:00	2	0	5	7	13	3	2	18	25	0	195	38	225	311
P.M. HOUR TOTALS														
6:00-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-8:00	6	1	4	11	0	0	1	19	29	0	225	71	296	348
8:00-9:00	12	1	6	19	31	15	1	47	46	2	418	141	637	811
9:00-10:00	17	3	9	29	52	22	4	78	187	2	738	234	974	1255
10:00-11:00	22	3	17	42	182	37	7	144	188	3	1819	528	1342	2333
11:00-12:00	19	3	19	48	128	35	6	161	281	3	1846	386	1355	2861
12:00-1:00	19	3	28	42	115	28	7	158	192	1	1854	384	1359	2861
1:00-2:00	16	3	19	48	128	35	6	161	281	3	1846	386	1355	2861
2:00-3:00	15	3	16	34	69	14	3	86	128	1	855	179	1865	1367
REMARKS														
6:00-6:15	54	7	42	184	7	0	0	7	111	1	78	6	85	169
6:15-6:30	78	9	37	124	5	2	1	8	132	5	95	11	111	268
6:30-6:45	96	13	34	143	9	1	1	11	154	2	75	5	82	199
6:45-7:00	87	6	12	85	6	0	0	6	91	3	88	6	89	182
7:00-7:15	85	18	18	121	2	1	0	3	124	0	86	9	95	238
7:15-7:30	49	7	12	68	9	2	0	11	79	1	78	7	78	188
7:30-7:45	42	7	7	56	6	0	0	6	62	1	73	8	82	148
7:45-8:00	37	5	12	54	6	1	1	8	62	0	86	3	89	124
P.M. HOUR TOTALS														
6:00-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-8:00	54	7	42	184	7	0	0	7	111	1	78	6	85	169
8:00-9:00	132	16	88	228	12	2	1	15	243	6	173	17	156	429
9:00-10:00	228	29	114	371	21	3	2	26	397	8	248	22	278	629
10:00-11:00	295	35	126	456	27	3	2	32	488	11	328	20	367	815
11:00-12:00	326	46	181	473	22	4	2	28	581	18	336	31	377	911
12:00-1:00	297	44	76	417	26	4	1	31	448	6	311	27	344	851
1:00-2:00	243	38	49	338	23	3	0	26	356	5	389	38	344	792
2:00-3:00	213	37	49	299	23	4	1	28	327	2	315	27	344	784

Therefore I move that Mr. Lipowitz recuse himself from Case 90-477-SPHX and that a public hearing be held on this matter. I further move that any decision in this case be held in abeyance until resolution of this matter.

Respectfully submitted,

Barbara A. Cochran, M.D.

HAND DELIVERED

Copies of this motion have been mailed first class postage prepaid to Mr. Robert Hoffman, Mr. George Breschi, and hand delivered to Mr. Peter Zimmerman.

Barbara A. Cochran, M.D.

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030
September 16, 1992

Messrs. Sauer, Disney, and Lipowitz
County Board of Appeals
400 Washington Avenue
Towson, Maryland 21204

Dear Sirs:

This is in reply to a letter by Mr. Robert Hoffman dated August 27, 1992. In that letter Mr. Hoffman refers to Case 90-477-SPHX. However, I believe he meant to comment on Case 90-477-SPHX so I will direct my comments accordingly as if he did comment on Case 90-477-SPHX.

Normally I would not comment about Mr. Hoffman's powers of speculation about my motivation. However, since he states "most significantly", I believe it is incumbent to do so. My motivation is irrelevant to the behavior of Mr. Lipowitz and the motion pending before you. As noted in my letter of August 13, 1992, the information had just come to my attention that week. I then acted as expeditiously as possible.

Section 28-82(a)(1) of the Baltimore County Code states "...an official or employee may not: Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee." Mr. Lipowitz's employment falls within this area.

Mr. Hoffman's contention that the behavior of Mr. Lipowitz was minimal is not correct. Mr. Lipowitz personally, not his law firm, made this request of Mr. Reilly at the request of his clients the Grempers. Mr. Lipowitz had various meetings with representatives of Mr. Reilly's office, the Valleys Planning Council, the Falls Road Community Association, etc. The request filed with the Planning and Zoning Board signed by Mr. Grempers was in fact the work of Mr. Lipowitz and his office. Mr. Lipowitz's aide spent considerable time with Diana Itter of the Planning and Zoning Office to secure the correct information for the submission. In point of fact Mr. Lipowitz represented the Grempers in this zoning matter until a conflict of interest was raised at which time he withdrew.

IN THE MATTER OF THE APPLICATION * IN THE
OF HILBERT F. CRISTE, ET UX FOR *
A SPECIAL HEARING AND SPECIAL *
EXCEPTION ON PROPERTY LOCATED ON *
THE NORTHEAST SIDE OF CUBA ROAD, *
25' NORTHWEST OF THE CENTERLINE *
OF GREENCROFT LANE *
8TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *
BARBARA A. COCHRAN, M.D., *
ET AL, PLAINTIFFS AND PRISCILLA *
F. BARRETT, ET AL, PLAINTIFFS *
ZONING CASE NO. 90-477-SPHX * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Michael B. Sauer, John G. Disney, and Judson H. Lipowitz, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Barbara A. Cochran, M.D., 13733 Cuba Road, Hunt Valley, Maryland 21030, Plaintiff; Mr. Jeffrey Foreman, 1 Sheepfold Lane, Hunt Valley, Maryland 21030, Plaintiff; Mr. Ray Gombes, 13900 Greencroft Lane, Hunt Valley, Maryland 21030, Plaintiff; Phillip Byrd, Jr., M.D., 13902 Greencroft Lane, Hunt Valley, Maryland 21030, Plaintiff; Ms. Priscilla F. Barrett, et al, 1 Spring Green Lane, Hunt Valley, Maryland 21030, Plaintiffs; Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21285-5517, Counsel for Defendants; Mr. and Mrs. Hilbert F. Criste, 10333 Mays Chapel Road, Timonium, Maryland 21093-4514, Defendants; The Reverend Thomas Donellen - Roman Catholic Archbishop of Baltimore Corporation, 320 Cathedral Street, Baltimore, Maryland 21201, Contract Purchaser; George A. Breschi, Baltimore, Maryland 21201, Contract Purchaser; George A. Breschi,

Hilbert F. Criste, et ux, File No. 92-CV-11650
Case No. 90-477-SPHX

Esquire, DiNenna & Breschi, Suite 600 - Mercantile Building, 409 Washington Avenue, Towson, Maryland 21204; Michael J. Moran, Associate County Attorney, 400 Washington Avenue, Second Floor - Office of Law, Towson, Maryland 21204; Peter Zimmerman, Deputy People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204, and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49-Basement,
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Barbara A. Cochran, M.D., 13733 Cuba Road, Hunt Valley, Maryland 21030, Plaintiff; Mr. Jeffrey Foreman, 1 Sheepfold Lane, Hunt Valley, Maryland 21030, Plaintiff; Mr. Ray Gombes, 13900 Greencroft Lane, Hunt Valley, Maryland 21030, Plaintiff; Phillip Byrd, Jr., M.D., 13902 Greencroft Lane, Hunt Valley, Maryland 21030, Plaintiff; Ms. Priscilla F. Barrett, et al, 1 Spring Green Lane, Hunt Valley, Maryland 21030, Plaintiffs; Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21285-5517, Counsel for Defendants; Mr. and Mrs. Hilbert F. Criste, 10333 Mays Chapel Road, Timonium, Maryland 21093-4514, Defendants; The

Hilbert F. Criste, et ux, File No. 92-CV-11650
Case No. 90-477-SPHX

Reverend Thomas Donellen - Roman Catholic Archbishop of Baltimore Corporation, 320 Cathedral Street, Baltimore, Maryland 21201, Contract Purchaser; George A. Breschi, Esquire, DiNenna & Breschi, Suite 600 - Mercantile Building, 409 Washington Avenue, Towson, Maryland 21204; Michael J. Moran, Associate County Attorney, 400 Washington Avenue, Second Floor - Office of Law, Towson, Maryland 21204; Peter Zimmerman, Deputy People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204, and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 21st day of December, 1992.

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49-Basement,
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 21, 1992

Robert A. Hoffman, Esquire
VENABLE, BAETJER & HOWARD
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517

Re: Case No. 90-477-SPHX (Hilbert F. Criste, et ux)

Dear Mr. Hoffman:

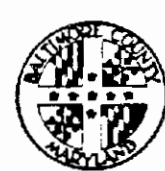
Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,
Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Hilbert F. Criste
Reverend Thomas Donellen
Roman Catholic Archbishop of Baltimore Corp.
George A. Breschi, Esquire
Peter Zimmerman, Deputy People's Counsel for Baltimore County
Daft-McCune-Walker, Inc.
Mr. John Richardson
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Economic Development Division
Developers Engineering Division
Robert E. Covahey, David L. Thomas, Jose H. Escalante
Michael J. Moran, Assoc. County Atty.
Arnold Jablon, Director of Zoning Administration



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 21, 1992

Ms. Priscilla F. Barrett
1 Spring Green Lane
Hunt Valley, Maryland 21030

Re: Case No. 90-477-SPHX (Hilbert F. Criste, et ux)

Dear Ms. Barrett:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Barbara A. Cochran, M.D., et al



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 21, 1992

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030

Re: Case No. 90-477-SPHX (Hilbert F. Criste, et ux)

Dear Dr. Cochran:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Jeffrey Foreman
Phillip Byrd, Jr., M.D.
Mr. Raymond Gombes

IN THE MATTER OF THE
APPLICATION OF
HILBERT F. CRISTE
FOR A SPECIAL HEARING AND
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST OF THE
CENTERLINE OF GREENCROFT LANE
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

NOTICE OF APPEAL

Please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of November 20, 1992, in the above captioned matter.

Richard R. Barrett
Richard R. Barrett
1 Spring Green Lane
Hunt Valley, MD 21030

Priscilla F. Barrett
Priscilla F. Barrett
1 Spring Green Lane
Hunt Valley, MD 21030

Martha Bopst
Martha Bopst
14227 Greencroft Lane
Hunt Valley, MD 21030

Patricia J. Bowen
Patricia Bowen
6 Clipping Tree Lane
Hunt Valley, MD 21030

Paula L. Byrd
Paula Byrd
13902 Greencroft Lane
Hunt Valley, MD 21030

Donald B. Davies
Donald Davies
14022 Greencroft Lane
Hunt Valley, MD 21030

RECEIVED
COUNTY BOARD OF APPEALS
22 DEC 21 AM 10:07

Notice appeal

Page 2 of 2

John Faw
John Faw
14002 Greencroft Lane
Hunt Valley, MD 21030

Sharyn Musika
Sharyn Musika
6 Sheepfold Lane
Hunt Valley, MD 21030

S. Costos
S. Costos
14205 Greencroft Lane
Hunt Valley, MD 21030

Katherine Caldwell
Katherine Caldwell
14225 Greencroft Lane
Hunt Valley, MD 21030

John Richardson
John Richardson
14200 Greencroft Lane
Hunt Valley, MD 21030

Robert Richardson
Robert Richardson
14200 Greencroft Lane
Hunt Valley, MD 21030

I HEREBY CERTIFY that on the 21st day of December, 1992, a copy of the foregoing Notice of Appeal was delivered to the Administrative Assistant, County Board of Appeals, Rm 49, Courthouse, Towson, MD 21204, to Mr. Peter Max Zimmerman, Deputy Peoples' Counsel, Rm. 47, Courthouse, Towson, MD 21204, and a copy mailed first class postage to Robert Hoffman, Esquire, 210 Allegheny Avenue, Towson, MD 21204.

Priscilla F. Barrett
Priscilla F. Barrett

and delay for him in his travel of approximately 25 miles to the hospital where he is on staff. He stated when he purchased his home, he was aware the area was rural in character and that he bought it with the knowledge of surrounding agricultural uses. He offered into evidence photographs (Protestants' Exhibit 42) showing the relationship of the proposed church to his property and provided testimony as to how he will be affected as a property owner.

Several other witnesses testified for the Protestants and offered similar if not the same concerns as those expressed by the witnesses set out above.

The Board has considered all of the evidence and testimony presented in these proceedings. Numerous witnesses appeared and testified. Several concerns were raised. The Board exercised wide latitude in allowing evidence, testimony and exhibits into the record. It was the intent of the Board to provide a full evidentiary hearing and to grant all parties a reasonable opportunity to be heard. In deciding this case, the Board must make its determinations by appropriate standards as initially set out above. The Board is satisfied that the proposed church will not harm the public health, safety or welfare of the local community involved and that the evidence produced by the Petitioner establishes that this church use at this particular location will not have any adverse effects above and beyond those inherent ones ordinarily associated with such a use.

The testimony presented by the Petitioner, and in particular

its experts and Father Donellen, supports a finding that the church use will not be detrimental to the health, safety, or general welfare of the locality involved; will not tend to create congestion in the roads, streets, or alleyways therein; will not create a potential hazard from fire, panic or other dangers; will not tend to overcrowd land and cause undue concentration of population; will not interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences, or improvements; will not interfere with adequate light and air; will not be inconsistent with the purposes of the property zoning classification nor in any other way inconsistent with the spirit and intent of Baltimore County Zoning Regulations; and will not be inconsistent with the impermeable surface and vegetative retention provisions of the Zoning Regulations. The Petitioner's testimony further establishes that the church use will not be detrimental to the primary agricultural uses in the vicinity.

Each of the conditions as set out in Section 502.1 of the Regulations and Section 1A01.2.C have been met. As with nearly all special exception requests, there are certain adverse effects. The Board has heard much testimony concerning the adverse effects that this proposed church use might generate. However, the Board does find that those adverse effects are inherent in the proposed use and would occur no matter where it might be located in the zone.

Traffic, the major issue in these proceedings, will no doubt increase. All of the expert witnesses agreed to this. However,

the mere increase in traffic alone is not sufficient to deny the special exception request. As pointed out in Schultz v. Pritz, it must be shown that such a traffic condition would exist which would be above and beyond that which is normally associated with a church use. We do not find that the evidence supports such a finding. Mr. Guckert testified, in his opinion, that the church "will not have an adverse effect on the traffic conditions in the vicinity of the site."

Many of the residents in the area are opposed to the church and the Board recognizes and understands their concerns. However, this Board is compelled to make a determination in this case based upon the applicable zoning regulations and the principles laid down by our Courts concerning the granting of special exception uses.

Many concerns were raised such as the size, scale and architectural design of the church, possible conflict with the Master Plan, interference with scenic vistas, decrease in property values and loss of peaceful and quiet enjoyment of residential use of property. All of the concerns raised by the Protestants have been considered by the Board. Before an application for a special exception request can be denied it is incumbent upon the Protestants to produce strong and substantial evidence to show that the church on this property produces adverse effects above and beyond those normally associated with church uses. The Protestants' testimony fails in this respect. Much of the testimony offered in opposition to the church was speculative. The Petitioner has the benefit of the presumption, as pointed out as in

Schultz v. Pritz, that churches serve a useful public purpose when located within the R.C. 2 zone. In addition to this presumption, given by County Council enactment of its comprehensive zoning plan, the testimony offered by the Petitioner shows no real harm or detriment to the neighborhood or to the nature of the R.C. 2 zone.

It has been legislatively predetermined by the Council that church uses are permitted uses by special exception in R.C. 2 zones. The Petitioner has the right to enjoy the benefits of the special exception use if it meets the conditional requirements of Section 502.1 and 1A01.2.C. This Board is of the opinion that if the area residents do not want churches or other buildings for religious worship in the R. C. 2 zone, they should prevail upon the Council to make the necessary changes in the law or to provide additional conditions to be considered above those presently enumerated in the zoning regulations.

The Board allowed testimony relating to the church plan and how it might conflict with the 1989-2000 Master Plan. It is the Protestants' position that there is a conflict with the Master Plan and for this reason Petitioner's request should be denied. It was pointed out during the hearing that the Master Plan is advisory only and is not the criteria to be used in determining whether a special exception should be granted. For this Board to do so would be arbitrary, capricious and illegal. While not using the Master Plan as a criteria, this Board does not believe the evidence supports a finding of conflict. Mr. Gavrelis testified that the plan was in harmony with the Master Plan and detailed how

development on the property was limited and restricted to non-development use for the purpose of agricultural preservation. Mr. Solomon also gave similar testimony and informed the Board that his department was satisfied with the plan.

Concerning property values, there was some testimony offered seeming to indicate that the proposed church might result in lowering property values. Again, this concern is not one of the express conditions set out in Section 502.1. The Board believes that the evidence is not substantial to warrant a conclusion that the church will in fact result in lowering of residential or agricultural property values. The evidence was speculative. Even assuming for the moment the values could go down, the Board does not feel that this alone is sufficient reason for a denial of a special exception request.

The Protestants object to the size, scale and architectural design of the church. Father Donellen testified, in his opinion, the church is not a large church. The Protestants testified otherwise. The church plan speaks for itself. The tract of land is 27 acres. The building area covers less than one acre. The footprint is 14,500 square feet. Only 7.5 acres will be disturbed for development and the remaining 19.5 acres are designated restricted for non-development use. The seating capacity will be 650 seats. The church was designed with sensitivity to the local environment and the character of the neighborhood. It is to be built into the hillside slope designed to fit in with the context of the agricultural character of the area with construction

materials of masonry base (stucco or brick) and clabber, which is common throughout the community.

The Board has independently reviewed the church plan and the Petitioner's supporting testimony offered by Father Donellen, Adam Gross, the architect and Mr. Gavrelis, the church planner. We find the church size and scale to be appropriate on this tract of land and not out of character in relation to the surrounding community. We further find its architectural design to be in keeping with the site and surrounding area.

For the reasons set out above this Board is granting Petitioner's request for a special exception to use the subject property, zoned R. C. 2, for a church and approves the accessory caretaker's residence in connection with the church, with certain restrictions imposed.

ORDER

THEREFORE, it is this 20th day of November, 1992 by the County Board of Appeals of Baltimore County;

ORDERED that the Petition for Special Exception to use the herein described property for a church in an R.C. 2 zone and for approval of an existing dwelling as an accessory caretaker's residence in connection with a church, in accordance with Petitioner's Exhibit 1 be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the following:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until

such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. Occupancy of the subject caretaker's residence shall be limited to a church employee(s) and the employee(s) family members.
3. The Petitioner shall provide a landscape plan to the Office of Current Planning for approval by the Baltimore County Landscape Planner and the deputy Director of Planning and Zoning Department. Said landscape plan shall then be submitted to the Zoning Commissioner for final approval. The approved landscape plan shall become a permanent part of the record and file in this matter.
4. When applying for a building permit, the site plan and landscape plan filed must be reference this case and set forth and address the restrictions of this Order.
5. The subject church shall have a maximum seating capacity for 650 individuals.
6. The Petitioner shall enter into a legally enforceable document prior to the issuance of building permits which shall restrict the areas north and south of the developed envelope as shown on Petitioner's Exhibit 1 to open space or agricultural use in perpetuity, unless the property or any portion of the property is rezoned to another zoning classification other than R.C. 2 (or any successor zoning to R.C. 2) or the Master Plan for Baltimore County designates the property or any portion of the property for a use other than agricultural preservation or the Director of the Department of Environmental Protection and Resource Management (or any successor to that Department) finds, in writing, that the property or any portion of the property is no longer viable for agricultural use. The restriction shall take effect upon the commencement of construction of the proposed church. This restriction shall not preclude the construction of driveways, road improvement, storm water management, utilities or other such similar improvements within the

restricted area.

7. Petitioner shall enter into a legally enforceable agreement which shall prohibit for a period of sixty (60) years from the date of this Order the construction of any buildings outside of the building envelope so designated on Petitioner's Exhibit 1, so long as the subject site retains its R.C. 2 zoning (or any successor zoning to R.C. 2);

and it is further

ORDERED that Petitioner shall have a period of five (5) years in which to utilize the special exception granted, said five (5) year-period accounting from date of this Order.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Michael B. Sauer
Michael B. Sauer, Acting Chairman

John G. Disney
John G. Disney

Judson H. Lipowitz
Judson H. Lipowitz

Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030
October 16, 1992

Messrs. Sauer, Disney, and Lipowitz
Zoning Board of Appeals
Towson, Maryland 21204

RE: Case 90-477SPHX Before the Zoning Board of Appeals for
Baltimore County

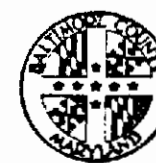
MOTION FOR RECONSIDERATION

This is a motion for reconsideration of your previous decision dated September 16, 1992 to deny my request for a hearing on the matter of Mr. Lipowitz's appearance in other zoning matters and my request that he recuse himself. The decision rendered on September 16, 1992 did not take into account the information contained in my letter delivered September 17, 1992 which I delivered prior to receipt of your decision. Your denial was arbitrary and capricious and did not list any basis for the denial. I move that my request for a hearing on this matter be reconsidered.

Respectfully submitted,

Barbara A. Cochran, M.D.

cc: Peter Max Zimmerman
George Breschi
Robert Hoffman



County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

FILE COPY

November 16, 1992

Barbara A. Cochran, M.D.
13733 Cuba Road
Cockeysville, Maryland 21030

RE: Case No. 90-477-SPHX /
Hilbert F. Criste, et ux

Dear Dr. Cochran:

The Board is in receipt of your Motion for Reconsideration dated October 16, 1992 requesting that we reconsider our previous decision dated September 16, 1992 wherein your request for a hearing and recusal of one of the Board members, Judson H. Lipowitz, was denied.

The Board points out to you that its decision of September 16, 1992 was made prior to having received your subsequent letter of even date which was received by our Board on September 17, 1992. Your initial request of August 13, 1992 was reviewed and considered by this Board immediately upon receipt. As a courtesy to opposing counsel, the Board, at that time, permitted ample time for Mr. Hoffman and other opposing counsel to make a reply to your request should they choose to do so. In fact, Mr. Hoffman did reply by letter dated August 27, 1992. Upon receipt of both positions being presented to the Board, the Board made its above decision dated September 16, 1992. Your Motion for Reconsideration takes the position that your hand-delivered letter received by this office and dated September 17, 1992 was not considered by the Board, and that our decision was arbitrary and capricious for failing to give any basis for the denial.

The Board is considering your Motion for Reconsideration and in doing so is taking into consideration your letter dated September 16, 1992. For the purpose of ruling on your request, the Board is assuming the factual correctness of the contentions contained in your letters relating to the involvement of Mr. Lipowitz with the Grempler zoning matter. The Board is also reviewing this matter in light of the provisions of the Baltimore County Code dealing with conflicts of interest. In your correspondence, you have made no allegation, and the Board knows of no such allegation, that Mr. Lipowitz has any financial or other interest in the case now pending before the Board requesting a special exception. The Board simply fails to see

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where there exists any conflict to disclose on the part of Mr. Lipowitz, and the Board has been assured by Mr. Lipowitz that he has absolutely no interest in the case presently pending before the Board.

You have made reference to the case of Sharp v. Howard County wherein the Court held that a judge was required to recuse himself after it was established that he had some involvement with the "matter in controversy" which was presently under his judicial consideration because he was involved in the matter previously as a private attorney. This Board fails to see the applicability of Sharp to this matter. This Board readily recognizes as set out in the Sharp case the need for impartiality by Board members. At best, you contend that Mr. Lipowitz cannot participate in a decision-making process and give a fair and impartial decision because he was involved in another totally unrelated zoning reclassification matter which has absolutely no connection with the subject matter before this Board. You have not contended that there is any financial connection, similarity of parties, the same property, or any other contention to give your request any merit.

As stated above, when this Board assumes the factual correctness of the contentions of your Motion, it cannot find any factual basis which would lead this Board to believe that the impartiality or independence of Mr. Lipowitz's decision in the matter before the Board would in any way be impaired. The matters which you contend give rise to the conflict and lack of impartiality involve two separate and distinct pieces of property, totally unrelated and owned by entirely unrelated individuals. The Grempler property concerns a relief request for rezoning through the County Council for Baltimore County. The subject matter before this Board concerns a request for special exception. Even the reliefs are totally unrelated.

Absent any showing to this Board of an appearance of conflict or an actual conflict, this Board believes that its Board member, Mr. Lipowitz, has a legal duty and right to continue to participate in the matter before the Board. The allegations of the existence of a conflict are clearly erroneous and unfounded in fact.

This Board believes that the contention raised as to impartiality is entirely overreaching. The mere fact that one of the Board members participated in a totally unrelated zoning matter does not justify the conclusion that he cannot be impartial with regard to zoning cases, including the present matter before the Board. The members of this Board are part-time and have outside professions, interests, and avocations. This alone without the showing of any financial or other connection to

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the subject matter that is before them cannot serve as a basis for showing any lack of impartiality. If such were the case, one questions to what extent the Board members would be able to function and make decisions on matters coming before them.

For the reasons stated above, your Motion for Reconsideration and Request for Hearing is denied.

Very truly yours,

Michael E. Sauer
County Board of Appeals

MBS:kcw

cc: Robert A. Hoffman, Esquire
Peter Zimmerman, Deputy People's Counsel
George A. Breschi, Esquire

RE: PETITION FOR SPECIAL * BEFORE THE COUNTY
EXCEPTION AND PETITION FOR * BOARD OF APPEALS
SPECIAL HEARING, NE/S Cuba * OF BALTIMORE COUNTY
Road, 25' NW of c/l of *
Greencroft Lane *
8th Election District; * Case No.: 90-477-SPHX
3rd Councilmanic District *
HILBERT F. CRISTE, et ux, *
Legal Owners, and *
ROMAN CATHOLIC ARCHBISHOP *
OF BALTIMORE, Contract *
Purchaser *
Petitioners *

CLOSING ARGUMENTS OF PROTESTANTS

The Protestants in this case, Phillip E. B. Byrd, Jr., M.D., represented herein by his attorneys, George A. Breschi and DiNenna and Breschi, requested the Zoning Commissioner in 1990 not to grant a Special Exception to the Petitioners.

On June 12, 1990, the Zoning Commissioner granted the Special Exception to the Petitioner and the Board of Appeals heard testimony on Appeal which ended on January 14, 1992.

The enclosed written closing arguments set forth reasons why applicable legal principles and the entire record in this case compels the Board to grant relief for the Protestants by denying the Special Exception sought by the Petitioners.

The Petitioners request approval to permit a church and caretaker's residence on approximately 27 acres of land zoned R. C. 2 (Agricultural). This is restricted zoning within the Resource Conservation area, and the purpose of such zoning pursuant to the legislative findings is to foster conditions

favorable to a continue agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban areas. As one of the Protestant's experts, Mr. Norman E. Gerber, a Planning Consultant, testified during the hearing, a church of this proposed magnitude is certainly an urban use.

Petitioner, in its application for a Special Exception sites section 1A01.2.C.6 which allows for the erection of a church or other building of religious worship. However, a Special Exception can only be granted if the use is not detrimental to the primary agricultural uses in its vicinity. As testified at the hearing, Mr. Norman E. Gerber resolutely and totally stated that the building of this massive structure together with the concurrent traffic problems would certainly interfere with general circulation patterns of farmers, such as their hours of operation, use of odor producing materials, crop spraying, free access of tractor and farm equipment throughout the roads.

Additionally, Section 500 of the Zoning Regulations casts a near fiduciary duty on the Board of Appeals to the Citizens of Baltimore County. According to Section 502.1 no Special Exception may be granted by the Board of Appeals if this exception will: (1) be detrimental to the health, safety or general welfare of the locality involved (502.1.a); (2) tend to create congestion in roads, streets or alleys herein (502.1.b); (3) be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit

and intent of these zoning regulations (502.1.G).

The Protestants point out that Section 501.1.a will be violated by the Petitioners per the testimony of Mr. John Erdman, consulting engineer, who stated that the Church's erection would result in extremely unsafe conditions because of very narrow carriage way on Cuba Road and, there was no room for widening of the road.

Additionally, Mr. Gerber testified that there is no room for overflow parking without encroaching onto farmland which must be set aside by covenant to satisfy the Dept. of Environmental Protection & Management. Also County parking requirements in general, as stated, were based on averages, not the maximum needs.

Section 502.1b would also not be met by Petitioners as per testimony of Mr. Gerber in which he stated that the church activities would result in excessive road congestion. Mr. John Erdman also testified that excessive road congestion would result if a church was allowed to be erected at this site.

The Petitioner's expert, Steve Webber, Bureau of Traffic Engineering, testified that the traffic could create congestion (Service Level "F" for about 20 minutes on Sunday mornings. However he is inconsistent with the Bureau's written comment that the intersection of Shavan & Cuba Roads functioned at a service level "C". That service level assessment is based on a full hour of traffic. Mr. T. Enq, another Petitioner's expert, did not properly account for left turn movements at Shavan & Cuba Roads, further resulting in false conclusions drawn by

Petitioner's experts.

Finally Petitioner has ultimately failed to keep within the spirit and intent of Section 502.1G in that this Special Exception would certainly result in an urban use, not in any way remotely related to any possible agricultural use as so aptly testified to by Mr. Norman Gerber.

Since the impact of traffic congestion is important and critical for the health and safety of the residents in Greencroft it is necessary to review the testimony of Mr. John Erdman, the Protestant's Engineering expert. He stated that Cuba Road to Greencroft Lane provides the single access to the Greencroft community. Testimony by the residents and Mr. Erdman indicated that emergency vehicle access will be restricted during the hours when church services are held at the proposed St. Francis Xavier Church. The narrow roadway, the lack of shoulders, the bank along the west side of Cuba Road, and the ditch along the east side of Cuba Road combine to restrict the ability of emergency vehicles to pass the standing line of vehicles on Cuba Road north of Shavan Road which testimony confirms will occur at the end of church services.

Testimony was entered by Mr. Erdman indicating that while the parking proposed to serve the church exceeds the number of spaces required by the zoning regulations, it is less than that which is recommended by the Institute of Transportation Engineers in their publication "Parking Generation". The opportunity to serve excess demand through "shared parking" does not exist on or near this site. Overflow church parking is

often accommodated by using adjacent commercial facilities, such as shopping centers, or nearby residential areas. It is a common experience throughout Baltimore County that the overflow parking from churches is accommodated in this manner. Since the zoning requirements for parking spaces are applied countywide, application in a case such as this where "shared parking" is not available will result in an undersupply of parking, informal parking is undesignated areas such as on the grass areas of the Christe property, and congestion on the public roadways serving the site.

Cuba Road is seventeen (17') to eighteen (18') feet wide along the frontage to the Christe property. The narrowness of Cuba Road combined with the restricted roadside conditions described above will cause traffic congestion at the proposed entrance to St. Francis Xavier Church. Vehicles exiting the church property will be unable to determine if northbound traffic on Cuba Road will turn right into the church property or proceed north on Cuba Road. As a result, those vehicles will have difficulty in recognizing gaps in that traffic sufficient to permit them to exit the church property.

Mr. Guckert testified that a queue of thirty-five (35) vehicles will exist on Cuba Road north of Shavan Road at the end of church services. Mr. Weber testified that the long cycle length and short time allocated to Cuba Road at that intersection will delay the reduction of the length of that queue. Mr. Erdman testified that a vehicle entering the end of the queue, for example residents of Greencroft leaving their

homes, would be delayed a minimum of ten (10) minutes and possibly as long as twenty (20) minutes; the minimum delay assumes minimum left turning volume southbound at the intersection while the upper limit assumes substantial southbound left turn volume which would interfere with vehicles turning right or going straight through the intersection.

The petitioner's Traffic Engineer has estimated traffic to and from the site based upon the number of parking spaces being provided. Testimony was given by Mr. Erdman that the parking provided is less than that which would be provided based upon national standards. As a result the Trip Generation from the site is understated. Mr. Erdman testified that using Parking Generation based upon the proposed floor area of the church, 14,500 square feet, almost 300 spaces will be required. As a result of that, Trip Generation resulting from development of the site will be fifty (50%) percent higher than that estimated by the petitioner's Traffic Engineer.

Testimony was given by Mr. Erdman, Mr. Gerber, and several residents of Greencroft indicating that vehicles carrying agricultural products and farm equipment used the roadway system which will serve the St. Francis Xavier Church site if the Special Exception is approved by this Board. Traffic from St. Francis Xavier Church would adversely affect the uses in the area because of the effect on agricultural vehicles and equipment.

Mr. Gavrelis, Petitioner's expert, said that Cuba Road serves distant destinations. Mr. El

Shavan Road carries traffic from York Road to Reisterstown Road thereby providing an arterial connection between two heavily developed urbanized areas of the County. Traffic volumes on Shavan Road far exceed those on any of the other cross-county roads in northern Baltimore County. The proximity of the Christe property to the intersection of Cuba Road/Shavan Road places this site in a unique position related to other properties in the RC-2 Zone. A majority of the traffic, over ninety (90%) percent, from St. Francis Xavier Church would proceed south on Cuba Road to Shavan Road. From that intersection, traffic would proceed east, west, or south. RC-2 zoned land located further from Shavan Road would distribute itself on the rural road system and would not be concentrated on a heavily traveled arterial such as Shavan Road. For instance, RC-2 land located further north would be able to distribute itself on Western Run Road, Belfast Road to its interchange with I-83, Falls Road to the north, Butler Road to the west, and Cuba Road or Falls Road to the south. The proximity of the Christe Farm to Shavan Road artificially distorts the distribution of traffic from the site and concentrates it on Shavan Road which is a heavily traveled arterial.

Protestants have also offered considerable testimony regarding the proposed size of the proposed development. As a matter of fact the exact building plan has not been presented, and it seems to be muddled and confused at best. Mr. Paul Marks, an expert in architecture, testified that the size and scale of the church is out of proportion to the surrounding

countryside and is out of proportion to churches in general. He testified that the architectural standard for churches is 15 square feet per seat and the plans for this church indicate 25 square feet per seat. That is a sixty seven percent increase over the basic architectural standard. Mr. John McGrain, an expert in historic preservation, testified that this size church would be detrimental to preservation of the historic district and detrimental to the landmark Oregon Ridge Store. Protestants' Exhibit 47 also indicates that the proposed structure would be "out of character". Protestant's Exhibit 33, a letter from the Historical Trust, opposes the size of the development and indicates that this would cause a Master Plan conflict. The conflict in this instance is that the official validation of the scenic and rural character of the Shavan Valley including this property would be compromised and destroy the carefully planned County needs of preserving a valuable resource.

In regards to size, the Protestants have ample evidence that the size of this church is inconsistent with any other church in northern Baltimore County within the wide boundaries listed on Protestant's Exhibit 13 and demonstrated on Protestant's Exhibit 20. The proposed church is larger by a minimum of 40% and a maximum of greater than 1000% by seating capacity. The size of the proposed development is inconsistent with any other private structure in the immediate area. Protestant's Exhibit 18 clearly shows that, within a 1.5 to 2 mile radius, there are no other buildings of comparable

footprint, roof height, steeple height with the exception of the commercial development of Hunt Valley.

Father Donellan testified for the Petitioner's at both the original Zoning hearing as well as this hearing. Mr. Foreman has testified that Father Donellan stated that the church calculates less than three people for average family size and mass attendance is about 40% of the total parish population. Father Donellan testified at this hearing that the MAXIMUM parish size would be 750 families. Based on the Petitioner's own figures, the maximum parish size would be about 2000 people. At forty percent attendance the maximum mass attendance would be 800 people. Father Donellan has testified that there will be three services. Clearly there is no need for the Petitioner to have a facility more than 50% larger than they will need at maximum. Clearly this size project does not belong on a residential rural agricultural site.

Additionally, both Drs. Byrd and Cochran have testified that immediate egress from their personal residences is imperative to their performance as medical professionals. Dr. Byrd, a physician, is on call an average of every fifth night and every fifth weekend for life threatening emergency procedures. He must be able to travel to and from his home without significant inconvenience. There is only one road to serve as egress and ingress to Greencroft. This road intersects with Cuba Road between Shavan Road and the proposed entrance to the church property. In his opinion, the additional traffic burden created by the church would tend to create congestion on

the roads. Dr. Byrd believes the additional traffic created by the church will significantly interfere with his practice of medicine when he has to travel during peak hours of church traffic. Dr. Cochran presented documentation from hospital records showing the need for the presence of the attending physician. The Petitioners would have the Board believe that other physicians should manage the medical conditions of their patients in the interim. Dr. Cochran testified that the cases presented required the presence of the decision making physician, not the emergency room physician. There is clearly a window of time for arrival at a medical emergency. The ten to twenty minute delay testified to by Mr. Guckert transcends that window and makes the traffic congestion unacceptable.

Dr. Byrd is a contiguous landowner, a Greencroft resident for 15 and one half years, a physician and he testified about his concerns concerning the proposed development and impact on his property and the entire Greencroft community.

Dr. Byrd's property is located on the north side of the Criste Farm and looks down on the proposed church site. Pictures entered into testimony by Dr. Byrd indicated that the proposed church site is clearly visible from his property, Greencroft Lane and Shavan Road. Mr. Marks testified that the existing barn on the proposed church site is about 100 feet above Shavan Road and stands out. Testimony given by Mr. Gabrielles indicated that 95% of the trees in the area are deciduous. This means that for approximately 5-6 months out of the year the views of the proposed church would not be filtered

as shown in Dr. Byrd's pictures.

Testimony was entered by Dr. Byrd indicating that he cannot be shielded from the lighting, noise and nuisance of a project of this size. The size of this proposed project will clearly dominate the entrance to Greencroft Community and be clearly visible to all those who travel and live in the area. Greencroft is a private, quiet, secluded community. This proposed structure would destroy that atmosphere. In Dr. Byrd's opinion, the size of this proposed structure would erode his property value and the value of his community. This would be detrimental to the general welfare of his property and the Greencroft Community.

Dr. Byrd expressed concern that much of the testimony given by Mr. Wes Guckert and Mr. George Gabrielles was based on Father Donellan's concept of the usage and restrictions of this project. He had two concerns about this issue:

1. If more parishioners migrate to this church and their views about the usage of the church, adjacent buildings and the entire property differ with those of Father Donellan, who controls the situation, Father Donellan or the parishioners?
2. If the Special Exception is granted by this Board, will the restrictions indicated by Father Donellan be placed on the usage of the entire project? How will they be enforced if there is a change in leadership of the church in the future?

Dr. Byrd expressed considerable concern that the spirit and content of the architectural information given about this project are still vague and indefinite, both for now and in the future. In his opinion, this vagueness leaves too many important issues open to interpretation. These issues should be

resolved now before the project is approved. He wants to see exact building plans for the entire project. The information given on modified site plan dated August 23, 1991, does not satisfy him. He cannot approve any project without knowing the specific details. He had to submit specific plans to the Architectural Committee of the Greencroft Community Association and to Baltimore County before he could build his house. He does not understand how the church can be allowed to build a structure of such size without the same requirements.

Mrs. Priscilla Barret who also is a landowner in the Greencroft community, testified that her tax assessment on her home decreased as a result of the proposed church complex being contemplated. (See Protestant's Exhibit 41). This further enforces the fact that this proposed project will serve to devalue the homes in the Greencroft area.

It should be pointed out that there is an abundance of case law supporting the denial of this Special Exception. In Schultz v. Pretts, 291 Md. 1 (1981), the premier case on zoning to date, the Court of Appeals set out the criteria which needed to be met in order to grant a Special Exception.

First, the Petitioner must meet the duty that the Special Exception will not adversely affect the general neighborhood and the proposed use is in harmony with general purpose and intent of comprehensive zoning plan. The Petitioner has not presented sufficient evidence to overcome this burden.

Secondly, this Petitioner has not met their burden of proof that the Special Exception would not be a real detriment to the

neighborhood and would not adversely affect the public interest. According to Schultz if the Special Exception is determined to have adverse affects upon neighboring properties it should be denied. The Protestants have certainly testified and presented sufficient evidence that the neighbors will be grossly affected.

Thirdly, a Special Exception should be denied if the facts and circumstances indicate that granting of the requested Special Exception use would result in adverse affect upon adjoining and surrounding properties unique and different from the adverse affect that would otherwise result from development of such Special Exception use located anywhere within the zone.

Petitioner failed to present information sufficient to substantiate their position regarding surrounding properties and the Special Exception should be denied.

Petitioner should be denied based on the criteria set out in Schultz.

In conclusion, Protestants have presented sufficient evidence before the Board of Appeals which when taken in total certainly indicate that the Petitioner has not met their burden of proof to have a Special Exception granted for their project.

Protestants have testified and provided evidence that the following may result if the proposed project is granted:

- (1) The narrowness and restricted roadside conditions on Cuba Road will result in congestion at the St. Francis Xavier Church Driveway and will interfere with the provision of emergency services to the area. Delay caused by traffic queued on Cuba Road north of Shawan Road will affect the health, safety, and welfare of the residents of the Greencroft Community;
- (2) The Resource Conservation zone and Agricultural preservation area as declared by the Master Plan will

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be violated and destroyed; and
(3) Property values, as testified by Ms. Barret, would be adversely affected by the construction of the project.

Also, the Petitioner has not met the three important criteria as set out in Schultz. Furthermore, Protestants request the Board of Appeals take judicial notice that with the proposed Catholic Church activities such as funerals, weddings, baptisms, etc. will follow. The additional activities will result in a tremendous increase in traffic, congestion, together with lighting and parking problems.

Because of the above facts and legal precedents, the Protestants urge the Board not to grant a Special Exception to the Petitioner.

Because the Petitioner has not met their burden of proof for granting a Special Exception and, the Protestants have produced expert opinions and other evidence that the proposed project will adversely affect the public, health, safety, or welfare in the community and will have an adverse impact according to Section 502.1a, 502.1b and 502.1g, the Protestants respectfully urge the Board of Appeals to deny the Special Exception to the Petitioners.

Respectfully submitted,

GEORGE A. BRESCHY
DINENWA AND BRESCHY
409 Washington Avenue, Suite 600
Towson, Maryland 21204
(410) 296-6820
Attorneys for Protestants

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of February, 1992, a copy of the foregoing Closing Arguments of Protestants was mailed, postage prepaid to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, P. O. Box 5517, Towson, Maryland 21204, attorney for Petitioners; Dr. Barbara Cochran, Mr. Jeffrey Foreman and Peter Max Zimmerman, Deputy People's Counsel.

GEORGE A. BRESCHY

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RE: PETITION FOR SPECIAL EXCEPTION AND PETITION FOR SPECIAL HEARING, NE/S Cuba Road, 25' NW of c/l of Greencroft Lane
8th Election District; 3rd Councilmanic District
HILBERT F. CHRISTE, et ux, Legal Owners, and ROMAN CATHOLIC ARCHBISHOP OF BALTIMORE, Contract Purchaser
Petitioners
* BEFORE THE COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No.: 90-477-SPHX

CLOSING ARGUMENTS OF PETITIONERS

The Petitioners in this case, the Roman Catholic Archbishop of Baltimore (the "Church"), Contract Purchaser and Hilbert F. Christe et ux, legal owners, represented here by their attorneys, Robert A. Hoffman and Venable, Baetjer and Howard, petitioned the Zoning Commissioner in 1990 for a special exception to use the subject property, zoned R.C.2 in its entirety, for a church and also for approval of an accessory caretaker's residence in connection with the church.

On June 12, 1990, the Zoning Commissioner heard testimony on behalf of the Petitioners and Protestants, and on August 3, 1990, the Zoning Commissioner granted the Petitioners' request. The Protestants appealed to the County Board of Appeals (the "Board").¹ On August 23, September 19 and 26,

The Protestants also appealed the County Review Group ("CRG") decision which approved this project on August 30, 1990. The CRG appeal was heard by this Board on May 24 and August 23, 1991, and was affirmed on August 30, 1991. The Protestants appealed the

October 10, November 7 and 22, 1991, and January 14, 1992, the Board of Appeals heard testimony on behalf of Petitioners and Protestants.²

These written closing arguments set forth the reasons why applicable legal principles and the record in this case, it is respectfully suggested, compel the Board to grant the requested relief.

The Applicable Legal Framework

The Petitioners request approval to permit a church and caretaker's residence on approximately 27 acres of land zoned R.C.2 (Agricultural). The Baltimore County Zoning Regulations ("BCZR") permit churches or other buildings for religious worship by special exception in the R.C.2 zone. Section 1A01.2.C.6, BCZR. They require, however, that before the Zoning Commissioner, or the Board on appeal, may grant such a special exception, the Commissioner or the Board must be assured that there is no reason to believe that the church being proposed will be detrimental to the health, safety, or general welfare of the locality involved -- and, in particular, to the primary agricultural uses in the vicinity. Sections 1A01.2.C, 502.1.a, BCZR. Section 502.1 of the Zoning Regulations goes on to set out more specific descriptions of types of detriment to the community of which the Commissioner

Board's decision to the Circuit Court for Baltimore County, now pending.

² The Petitioners note and appreciate the Board's extraordinary commitment in accommodating all parties.

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or the Board should be aware and on which any probative evidence should be carefully considered.

The Court of Appeals explained at length the principles applicable to special exception cases in Schultz v. Pritts, 291 Md. 1 (1981). The underlying principle was stated by the Court, as follows: "The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid." Id. at 11 (emphasis added). The burden resting on one who applies for permission to establish a special exception use, according to the Court, is to "adduce[] testimony which will show that his use meets the prescribed standards and requirements [id., in Baltimore County, that the use will not create the harms described by the County Council in Section 502.1 of the BCZR].... If he shows ... that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden." Id. In Schultz v. Pritts, the Court cited the earlier case of Turner v. Hammond, 270 Md. 41 (1973), underlining the rule that "if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is

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arbitrary, capricious, and illegal." 291 Md. at 11 (emphasis in Turner).³

The opinion in Schultz v. Pritts went on to describe the probable negative effects that a special exception use must have before it may be denied; these cannot be the typical adverse effects that are inherent in the use and would occur no matter where it might be located in the zone. Rather, there must be "strong and substantial" evidence showing that the particular use proposed at the particular location proposed would have adverse effects above and beyond the inherent ones ordinarily associated with such uses.

Applying the rule of Schultz v. Pritts in this case requires the Board of Appeals to be cognizant of the fact that the Baltimore County Council has specifically determined, as a part of its zoning plan, that churches are to be allowed in agricultural zones, notwithstanding their perceived adverse effects. Only if there is strong and substantial, probative

³ In Turner v. Hammond, supra, over 200 persons residing within several miles of the property in question registered their objections to a proposed special exception for apartment use. Nevertheless, the Court of Appeals ruled that it was error to deny the special exception. The Court noted that, if nearby residents did not want apartments, they should prevail on the local legislature to change the zoning ordinance; so long as that ordinance made apartments a special exception use, however, "[t]he property owner has a prima facie right to enjoy the benefits of the special exception if he brings himself within the specific requirements of the ordinance." 270 Md. at 60. The Court found in Turner that the protestants had not produced "substantial evidence" that the granting of the proposed special exception would adversely affect neighboring properties.

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evidence to show that the establishment of the proposed church on the subject property will give rise to unique and greater adverse effects than the establishment of such churches in other agricultural zones within the County can the Board properly deny the requested special exception.

No Substantial Evidence of Unique and Greater Adverse Impact

There is no doubt that some residents of the Hunt Valley community are opposed to the Church and its proposal to locate in the community. These residents testified to their concerns over the inconvenience of additional traffic on Cuba and Shawan Roads, an effect some believed would result in lowering their property values. These residents offered additional, speculative concerns that do not rise to the standard under Schultz v. Pritts to overcome the presumption that churches serve a useful public purpose when located within the R.C.2 zone.

The neighbors' expression of concern was not affected by the concrete testimony of Reverend Thomas Donellan, Pastor of the Catholic Community of Saint Francis Xavier (the "Parish"), who described the limited hours during which church services would occur on the subject property, as well as the limited number of church-related activities that would occur on site. Father Donellan explained that the proposed 650-seat church is not a large church, that the size of the church was determined with sensitivity to its environment and that it is intended to permit sufficient attendance of the congregation so that "for

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a considerable period of time" two services on Sunday and one on Saturday would be all that is necessary to accommodate this one-priest parish. The proposed services for Sunday would be approximately one hour in duration and two hours apart, q.g., at 9:30 a.m. and 11:30 a.m. The Saturday service would occur in the late afternoon with anywhere from 100 to 200 in attendance. Weekday services would occur at 12:00 noon Monday through Thursday, with approximately 20 attendees expected. There will be no activities or services planned for either the morning rush hours' (q.g., 7 a.m. to 9 a.m., weekdays) or the afternoon-evening rush hours (q.g., 4:00 p.m. to 7:00 p.m., weekdays), he stated, and there will be no school on-site, nor is there planned any day care or fund raising activities other than customary collections during services.

Father Donellan stated that the plan includes a small meeting space for the congregation before and after services, and a nursery for use only during services. There is additional meeting space that would also be used as a small chapel, for small services such as the approximately 20 people attending weekday services, but would not be utilized while the main sanctuary is in use, Father Donellan testified. This space also would be available for general church-related meetings between 7:00 p.m. and 9:30 p.m., he said. He also stated that the existing house is to be used as an office,

⁵ Father Donellan stated that on an infrequent basis, there could be a service in the late afternoon on holy days of obligation that fall on a weekday.

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with a maximum number of four employees in the office from 9:00 a.m. to 4:00 p.m., Monday through Thursday.

Father Donellan testified that the "approximate" Parish boundaries include Belfast Road to the north, Old York Road to the east, Falls Road to the west, and the old underpass on York Road to the south; the Parish currently comprises 339 families and is expected to grow steadily in the years ahead. For the past five years, the Parish has been looking for a suitable site to locate a church, Father Donellan testified. During that time period, the Parish has reviewed several sites in Baltimore County that would be within the Parish boundaries; however, the subject site is the only one that met certain criteria relating to appropriateness of location within the Parish, available water supply and septic facilities, and sufficiency in size to allow enough open space for uses compatible with surrounding areas. According to Father Donellan, his Parish currently holds its three weekend services in the basement of a Hunt Valley office building because of the increasingly overcrowded condition of existing St. Joseph's Church, which is in the immediate vicinity. The large population at this existing parish mandates the construction of a new church in the Hunt Valley Area, he said.

Father Donellan further testified that the Church would abide by the conditions set forth in the Zoning Commissioner's Order and Amended Order (Petitioner's Exhibits 3 and 4, respectively), which include references to inter-office

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correspondence by the Department of Environmental Protection and Resource Management ("DEPRM") (Petitioner's Exhibits 5 and 6). These conditions, inter alia, require that the site be developed to a maximum of 7.5 acres, preserving the remaining 19.5 acres in perpetual open space and/or agricultural use, unless there are changes in the zoning for the site or directives from the Baltimore County Master Plan or DEPRM indicating a change in the use for this site to something other than agricultural.

Finally, Father Donellan indicated that should the Special Exception be granted, it could take up to 5 years to raise the funds for and begin construction of the church, and, therefore, requested the Special Exception if granted, be five (5) years in duration.

The Petitioners also produced the testimony of Edward Veilleux, chairman of the church's building committee and eight-year resident of Cuba Road. Mr. Veilleux explained that the building committee had reviewed five other recently constructed Catholic churches in Maryland for ideas on design and relationship to surrounding areas. He testified that the building committee met with the Greencroft Community Association several times to discuss the proposed use, and he stated that the church will use only those materials as delineated on the proposed plan (Petitioner's Exhibit No. 1). Mr. Veilleux testified as to his familiarity with the area as a resident and testified that this proposed use would not have

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an adverse impact on the community or an agricultural uses in the vicinity.

Also testifying on behalf of the Petitioners was Mr. Paul J. Solomon, Program Administrator for the Baltimore County Agricultural Land Preservation Program at DEPRM, who stated that so long as the restrictions noted in his letter to Mr. Robert W. Sheesley, Director of DEPRM (Petitioner's Exhibit No. 5) and as modified by the May, 1990 letter, were imposed on the church, DEPRM supports this request for a special exception. Mr. Solomon explained that such restrictions limit the church and accessory uses to 7.5 acres, outlined on the plan as "approximate limit of disturbance." (Petitioner's Exhibit No. 1). He also stated that the remaining site should be assigned to agricultural or open space uses by way of legally enforceable documents. Mr. Solomon stated that Conditions 7 and 8 in the Zoning Commissioner's Order and Amended Order (Petitioner's Exhibits 3 and 4, respectively) are "acceptable to our department;" the conditions state that:

[T]he Petitioner shall enter into a legally enforceable document prior to the issuance of building permits which shall restrict the areas north and south of the developed envelope as shown on Petitioner's After Exhibit A to open space or agricultural use in perpetuity, unless the property or any portion of the property is rezoned to another zoning classification other than R.C.2 (or any successor zoning to R.C.2) or the Master Plan for Baltimore County designates the property or any portion of the property for a use other than agricultural preservation or the Director of the Department of Environmental Protection (and) Resource Management (or any successor to that Department) finds, in writing,

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that the property or any portion of the property is no longer viable for agricultural use.

Mr. Solomon also stated that, in his professional opinion, this special exception use as proposed would not have a detrimental impact on the prime agricultural uses in the area, and would be consistent with the purpose and intent of Section 1A01.2.C, SC2R. Mr. Solomon added that the proposed use is consistent with the purpose and intent of Bill Nos. 223-90 and 134-89 (Petitioner's Exhibits 7 and 8) as it would "implement many provisions of the bills" in terms of preserving the most desirable soils for open space and locating the church building and parking lot in the least desirable soils. On cross examination, Mr. Solomon stated that there were no facts indicating that the movement of farm machinery in and along the roadways near the subject site would be impacted in any way by this proposed church use.

On the subject of traffic, Petitioners produced expert testimony of a traffic consultant, J. Weston Guckert of The Traffic Group, Inc. he testified that the proposed Church would result in no adverse impact on the roads and streets adjacent to this site. Mr. Guckert testified that he had undertaken more traffic counts and more traffic analysis for this special exception than in any other special exception

⁵ The "developed envelope" shown on Petitioner's "After Exhibit A" is the same "developed envelope" shown on Petitioner's Exhibit 1 in this case. Petitioner, through Father Donellan, agreed to the imposition of these restrictions in this case should this Board grant the special exception.

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case he has worked on in Baltimore County. Mr. Guckert performed turning movement counts, machine traffic counts and observations of farm equipment, bicyclists and joggers along both Shawan and Cuba Roads throughout various times of the day during the week, Saturdays and Sundays. All these counts are contained in the traffic report submitted as Petitioner's Exhibit No. 16.

Mr. Guckert testified that his traffic analysis was a "worst-case scenario" which assumes that the 200-car parking lot proposed for the church would empty and fill within a one-hour period, an unlikely occurrence since Father Donellan testified that the church services would be a minimum of 90 minutes apart. Moreover, this "worst-case" number of vehicles in and out of the church during a one-hour period was assumed to coincide with the heaviest hour of traffic on Cuba Road on Sunday morning or Sunday afternoon. Again, a worst-case analysis since it is unlikely that the times of heaviest traffic volume for the church will occur during these peak volume conditions.

Based on this worst-case scenario, the traffic conditions at all intersections, including the intersection of Cuba Road and Shawan Road, would continue to operate at the optimum Level of Service A, he said.

Mr. Guckert further testified that for a fifteen to twenty-minute period on Sunday mornings, again assuming the worst-case conditions, there will be queuing along southbound

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Cuba Road for vehicles that have exited the church for a distance of approximately 800 feet north of Shawan Road. Mr. Guckert testified that even this worst-case queuing condition would not block access to Greencroft Lane and would not have an adverse impact on the community.

Mr. Guckert also testified that there would be more than adequate site distance, i.e., 400 feet in all directions, after some trees and underbrush were trimmed along the north side of Cuba Road, identified on Petitioner's Exhibit 1.⁶ Mr. Guckert said that no other improvements along Cuba Road would be necessary.

Mr. Guckert also testified that there is nothing unique about this site in terms of farm equipment uses or traffic uses that would impose an adverse impact on the continued agricultural use in the area. He noted that during the entire period in which his firm studied this site (which he testified was the most intensive study The Traffic Group had ever performed for a Special Exception) there was no observation of farm equipment along Cuba Road.

Finally, Mr. Guckert testified that this particular church at this particular location would not have any greater traffic impact on the county road system than it would if it were located in another agriculturally zoned area of Baltimore County.

⁶ Mr. Yeumans, who owns the property from which the trees and underbrush must be cleared, testified that the church had permission to do so.

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Protestant. produced an expert traffic consultant, Mr. John Erdman, who testified that the intersection of Shawan and Cuba Road could reach a level of service E or F condition considered unacceptable by Baltimore County during morning and evening peak hours. (i.e. Monday through Friday 7 - 9 a.m. and 4 - 6 p.m.) Cross-examination of Mr. Erdman indicated that since the church did not conduct services during these commuter peak hours during the week, that his testimony on level of service was not relevant to the proposed church.

Mr. Erdman also testified on cross-examination that the procedure he used to determine the level of service during the proposed church services on Saturday and Sunday was not a procedure used by Baltimore County or the Maryland State Highway Administration, but one of his own design. Assuming, arguendo, that Mr. Erdman's methodology is accepted, his testimony indicated that church traffic during the time of services could cause the intersection of Shawan and Cuba Road to reach a level of service C, an acceptable level of service.

George Gavrelis, an expert land planner called by the Petitioners, gave his opinion that the Church as proposed would be environmentally sound and compatible with surrounding uses because it would require no extensive disturbance to the natural conditions of the site and would preserve a substantial portion of the site for potential agricultural use. He noted that the proposed use would not be devoted to grading, tilling, planting, or use of pesticides or

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herbicides, which is typical for agricultural uses. On the contrary, the Church would preserve a substantial portion of the site in its existing condition with a permanent green cover and a shallow storm water management facility. He noted that development of the site would be only on those soils less favorable for agricultural purposes and that this delineation was identified on Petitioner's Exhibit No. 9.

Mr. Gavrelis stated that, in his professional opinion, this use would not be detrimental to the health, safety or general welfare of the locality; would not tend to create congestion in roads, streets or alleyways; would not create a potential hazard from fire, panic, or other dangers; and would not tend to overcrowd land and cause undue concentration of population primarily because the 27-acre parcel would only be developed to the maximum of 7.5 acres, preserving the remainder for open use, and because the Church is an occasional use. Mr. Gavrelis also stated that, in his opinion, the proposed use would not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements, noting that the Petitioners would provide whatever protection the County would require. He also stated that the proposed use would not interfere with the adequate light and air of the area, nor be inconsistent with the purposes of the R.C. 2 zoning classification, nor be in any other way inconsistent with the spirit and intent of the zoning regulations.

Mr. Gavrelis stated that the proposal is manifestly in accordance with the 1989-2000 Master Plan, which mandates the protection of prime and productive agricultural soils, and is consistent with Section 1A01.1.B, BCR in fostering conditions favorable to a continued agricultural use of the productive agricultural areas of the County by preventing incompatible forms and degrees of urban uses. By the same token, Mr. Gavrelis noted that the proposed use would not be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations because there is no standard in the R.C. 2 zone. However, Mr. Gavrelis did state that a majority of the site would be preserved in its existing condition, meeting the spirit of that requirement.

Mr. Gavrelis also noted that the uniqueness of the site in terms of its size and configuration would permit the use of a church without adversely impacting the surrounding area. He pointed out that the use as proposed would be considerably less onerous to the residents than many kinds of farming activities which would be permitted as of right, regardless of impact, in this particular zone.

Adam Gross, architect for the proposed church and principal of the architectural firm of Ayers Saint Gross, Inc. in Baltimore, Maryland, testified as to the proposed design of the Church and its relationship to the subject site and surrounding community. Mr. Gross testified that his firm has been operating in Maryland since 1915, has won more design

awards than any other architectural firm in Maryland, many of which were designs in rural settings, and was chosen for this particular project because of his firm's demonstrated sensitivity to historical and rural design considerations. Mr. Gross presented a three-dimensional scaled model of the site (Petitioner's Exhibit No. 11) which identifies the construction site in relation to the remaining property and nearby residences.

Mr. Gross testified as to the particular intent of the design and its relationship to the site in terms of landscaping, orientation, and visual impact. (Petitioner's Exhibits 13 and 14). He described the proposed church as one that will fit within the context of the agricultural character of the area, situated into the hillside slope and constructed of a masonry base and clapboard, stucco or brick which is common throughout this particular community. Mr. Gross testified that his design was influenced by site visitations of similarly-sized houses and churches throughout the State of Maryland. He visited the site on numerous occasions for this purpose.

Mr. Gross testified that, in his opinion, the proposed use and church would not be detrimental to the health, safety, or general welfare of the locality. Rather, this proposed use would enhance the image of the neighborhood with a design that is consistent with existing buildings in the area and would preserve much of the site to its existing condition, he said.

In that regard, he said, this proposal would not be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations. Mr. Gross added that there was nothing unique about the site that would pose a greater impact than if it was built in another rural part of the county. He noted that the unique qualities of this site made the proposed use well suited as the church will be built into a slope reducing any visual impact from the surrounding area.

On cross examination, Mr. Gross indicated that the parking spaces will not be lit in the traditional manner, but would have residential scale lights, no higher than eight feet. On this point, he added that the church will be used primarily in the daytime with a limited amount of nighttime use. Lighting of the church itself will be limited to that which is required by the building code and the owner's insurance policy. On the question of design of the actual church, Mr. Gross indicated that the design will take into account the style and character of structures on site and in the community which range from rural, west of the subject site, to colonial and traditional-residential, north of the subject site. Mr. Gross noted that the surrounding uses were more residential than agricultural in character and the proposed church would be sympathetic to all of these existing conditions.

The Petitioners also produced the testimony of Harvey L. Miller, a 10-year resident of the area and contiguous property

owner of the subject site.⁷ Mr. Miller, a most convincing and persuasive witness, testified that, in his opinion, the proposed use would not have an adverse impact on his property nor would it have an adverse impact on traffic along Cuba Road, noting that the church may cause some inconvenience to some residents during limited time periods on the weekends, but such traffic would not rise to the level of causing an adverse impact to the residents of this community. Mr. Miller noted that the size of the proposed church site would not pose a visual intrusion, or a problem of any kind, considering the large area of the property and the fact that the church would be nestled into the hillside and constructed to a height of only 40 feet to the top of the roof.

Mr. Miller also testified that, in his opinion, there was nothing unique about this site that would make such church use more adverse than such use would be otherwise in the R.C. 2 zone.

Further, Mr. Miller could not conceive of any "adverse traffic impact on any residential or agricultural use. Mr. Miller characterized the increase in Sunday traffic as being at most an occasional inconvenience.

On cross examination, Mr. Miller testified that he thought the subject property would be well used as a church, and that his concerns regarding the proposed development were protected

⁷ Mr. Miller testified that he is not a member of the proposed church.

in the restrictions set forth in the Zoning Commissioner's Order and Amended Order. Mr. Miller also stated that, in his opinion, the use of the subject property as proposed was a "good use of the property in the practical world," suggesting that any preference that the farm be left in its current status forever is not a realistic consideration.

The Petitioners also produced the testimony of Renee Stalter, a member of the Parish and 16-year resident of the community, who testified to her familiarity with the site, related roadways, and the proposed church plans. Ms. Stalter is the operator of a service station in Baltimore County, which is a commute from her home of approximately thirty minutes. She testified as to her knowledge of traffic along Cuba Road, which she described as "extremely light" on Sunday mornings. She also testified that, in her opinion, the proposed use would have no adverse impact on her property and no adverse impact upon Shawan and Cuba Roads.

Dr. Jerome Yeomans, a contiguous property owner and resident of the area for 11.5 years, also testified on behalf of the Petitioners. Dr. Yeomans testified that he was a member of the Parish and supported the church as proposed. Dr. Yeomans testified that he is familiar with the subject site and the traffic along Cuba Road. In his opinion, he noted that the traffic along Cuba Road is "very light" on Sunday mornings and "not heavy at all during the weekdays." He stated that, in his opinion, there would be no adverse

impact on traffic in his neighborhood from the use of the site as proposed. He also testified that he did not think there would be an adverse impact on his property, noting that the existing trees along the west portion of the property act as an effective buffer to the existing buildings and would continue to do so for the proposed church.

The Petitioner's testimony was largely undisputed in this case; in response, the Protestants produced expert testimony that was either unrelated to the specific facts of the subject church and site, or was consistent with the Petitioner's testimony that this proposed use would not cause an adverse impact to the area. For example, the Protestants produced testimony of an architect who speculated that based on his calculations, the Church would be over 19,000 square feet, permitting up to 1,117 seats, far more than 650 seats and maximum 14,500 square feet that the Petitioners had testified would be the limit of the seating and size of the footprint of the main worship area of the proposed Church.⁸ This witness stated that he was not present to hear the testimony of Father Donellan and Mr. Gross regarding the proposed use and design of the Church, and based his calculations on the total footprint of the structures on the site plan, notwithstanding the fact that prior testimony by Petitioners would suggest that the assumption he made regarding the size of the church

⁸ George Gavrelis' testimony strongly disagreed with this contention and clearly indicated that the main worship area would not exceed 14,500 sq. ft., nor the 650-seat maximum.

was completely erroneous. The architect, when asked if the proposed Church would adversely impact the surrounding farms and cause a visual intrusion to Dr. Cochran's house, stated that the Church would merely "change the character of the view" for some residents.

Peoples Counsel called Steve Weber, Assistant Traffic Engineer for Baltimore County, with 13 years experience as a traffic expert. Mr. Weber stated that he was "in agreement with the traffic report" prepared by Mr. Guckert as it related to queuing of traffic at the intersection of Shawan and Cuba Roads. Mr. Weber further testified that the "worst-case scenario" assumption by Mr. Guckert in his traffic report "seemed reasonable." Upon questioning by the Board, Mr. Weber testified that while the traffic leaving the site after Sunday services may be an inconvenience to some residents for 20 minutes immediately following the services, "our department would not have a serious objection to this project." Mr. Weber went on to explain that the intersection of Shawan and Cuba Roads has the capacity to handle the traffic exiting the church, commenting that Shawan Road is a "fairly well-designed rural arterial roadway." Mr. Weber also stated that the level of inconvenience that may be caused is essentially a subjective issue.

Upon further questioning by Protestants, Mr. Weber indicated that the traffic would not reach a level that would prohibit this development under any legal standard and opined

considerably smaller in size and capacity. Two of the other churches have other exits to main roads, this church does not. The example given in Mr. Guckert's report is not at all comparable to this property on Cuba Road. As testified to by Mr. Richardson who visited the other site, the roads are not narrow and rural, the closest intersection is a few cars away, and the other church has separate ingress and egress roads. Mr. Erdman has testified that the intersection in exiting the church due to oncoming traffic will significantly delay the time and increase the traffic queue. Mr. Gerber, an expert in planning, testified that this development will increase congestion on the roads. Protestant's Exhibits 29 and 30 indicate that this traffic will be detrimental to the prime agricultural use by making it difficult if not impossible to transport farm equipment due to the increased traffic on the roads. Protestant's Exhibit 37 shows the cost of even minimal supplemental traffic direction. This cost will be at taxpayer's expense which will be detrimental to the general welfare of the locality (Section 502.1a.)

SIZE

From the beginning of the zoning process the oversize size of the proposed development has been a principal and serious concern of the community. No one has objected to a church on this site. Multiple witnesses have testified that they object to the size and scale of this project that overwhelms the surrounding area. Mr. Paul Marks, an expert in architecture, testified that the size and scale of the church is out of proportion to the surrounding countryside and is out of proportion to churches in general. He testified that the architectural standard for churches is 12 square feet per seat and the plans for this church indicate 22 square feet per seat. That is a sixty seven percent increase over the basic architectural standard. Mr. John McGrain, an expert in historic preservation, testified that this size church would be detrimental to preservation of the historic district and detrimental to the landmark Oregon Ridge Store. Protestant's Exhibit 41 also indicates that the proposed structure would be "out of character". Protestant's Exhibit 33, a letter from the Historical Trust, opposes the size of the development and indicates that this would cause a Master Plan conflict.

The size of this church is incompatible with the three churches in the immediate vicinity. Protestant's Exhibit 38 shows St. Mary's Church on Shawan Road, Gough United Methodist on Cuba Road, and Pleasant Hill Chapel, just off the northern tip of Cuba Road. Protestant's Exhibit 34-10X, the Zoning Commissioner's Case File for St. Mary's Church, shows a 7500 square foot building; the proposed church is more than 100% larger than that church. Gough United Methodist Church is a small church that seats about 200 (See Protestant's Exhibit 13.). Pleasant Hill Chapel, Zoning Commissioner's Case File #85 ASPH and 32-98A, is a combination community hall/auditorium addition to an existing

church. The addition granted by special exception is for a 5200 square foot building with space for 480; this is in the combination auditorium and church. Dr. Cochran has testified that by visual inspection as well as discussion with the church secretary the church seats about 250. That would be consistent with the 5200 square foot building and the multi-use nature. The proposed church is 200% plus greater in size. Additionally, Pleasant Hill Chapel can exit either south on Cuba Road or north a very short distance to Falls Road. Pleasant Hill Chapel does not lie within the Shawan Valley as the proposed church does as testified to by Mr. Gerber.

Aside from the churches in the immediate vicinity, we have ample evidence that the size of this church is inconsistent with any other church in northern Baltimore County within the wide boundaries listed on Protestant's Exhibit 13 and demonstrated on Protestant's Exhibit 20. The proposed church is larger by a minimum of 40% and a maximum of greater than 1000% by seating capacity. The size of the proposed development is inconsistent with any other private structure in the immediate area. Protestant's Exhibit 18 clearly shows that, within a 1.5 to 2 mile radius, there are no other buildings of comparable footprint, roof height, steeple height with the exception of the commercial development of Hunt Valley. Clearly this size project is of commercial size and scale and does not belong on a residential rural agricultural site.

Father Donellan testified for the Petitioner's at both the original Zoning hearing as well as this hearing. Mr. Foreman has testified that Father Donellan stated that the church calculates less than three people for average family size and mass attendance is about 40% of the total parish population. Father Donellan testified at this hearing that the MAXIMUM parish size would be 750 families. Based on the Petitioner's own figures, the maximum parish size would be about 2000 people. At forty percent attendance the maximum mass attendance would be 800 people. Father Donellan has testified that there will be three services. Clearly there is no need for the Petitioner to have a facility more than 50% larger than they will need at maximum.

This size development is visually intrusive to the surrounding countryside.

PLANS

The Site Plan presently in evidence, Petitioner's Exhibit 1, is a radical change from the previous site plan as the one approved at the UGO. The site plan shows a significantly larger footprint than the request for special exception. Mr. Paul Marks, an expert in architecture, has testified that the footprint is at least 17,500 feet. Under cross examination Mr. Gavrelis testified that the additional square footage was the chapel. He then testified that the chapel and church were not two separate places of worship but "essentially one building". Based on the Petitioner's own

testimony, the size of this one building is larger than 14,500 square feet. The introduction of the revised site plan was the source of great argument. Allowing this has effectively circumvented the review by the County officials that occurs prior to the public hearing. The change in size is significant and substantive and, and the additions of a second place of worship requires another special exception if it is not part of the main building; the revised site plan should not have been allowed.

The plans submitted to date are vague and non-specific. The church could be built with almost any building material of any design. Both expert architects testified that they cannot tell what the proposed structure will look like. It is inconceivable that a proposed development in this sensitive and unique area be approved when no one, including the Petitioner, can state what it will look like. The lack of planning of the development is evident from Mr. Gavrelis' testimony that no provision has been made for storage of equipment and flammable fuels needed to maintain the property. He has also testified that these items would be stored in the open. Mr. Foreman has testified that this would create an attractive nuisance. This lack of design specificity and omission of critical details is obvious and for this reason alone the project should not be approved.

NOISE AND QUIET ENJOYMENT

Part of the charm and character of living in a rural setting is the quiet perception of the sounds of nature and the environment. Automobile traffic is not a sound of the natural surroundings. Based on Mr. Guckert's testimony, the traffic on Cuba Road will increase more than 1000% on Sunday morning. This will create noise pollution, as testified to by Dr. Cochran, and interfere with the quiet enjoyment of their homes as testified to by two contiguous property owners, Dr. Byrd and Mr. Gombes. Two other contiguous property owners, Mr. Miller and Dr. Yeomans, have testified that they do not object to the project. Mr. Miller has testified that he has a private agreement with the Petitioner. Protestant's Exhibit clearly demonstrates that the area between Mr. Miller's property and the development is heavily wooded, and he will neither see nor hear the activity. Dr. Yeomans has also made a separate agreement with the Petitioner to sell a portion of his property required for adequate site lines. Protestant's Exhibit 10 clearly shows that his house faces away from the site and he will not see the development from his home. Mr. Robert Davidson, a contiguous property owner, objects to the project (See Protestant's Exhibit 31.) Mr. Merrick, an adjacent property owner whose property runs almost the length of the subject property to the west, objects to the project (See Protestant's Exhibit 32.). Dr. Cochran, the other adjacent property owner, is a Protestant in this case.

The lighting of the parking areas will adversely impact the contiguous and adjacent property owners as testified to by Dr.

Byrd, Mr. Gombes, Dr. Cochran and by letter by Messrs. Merrick and Richardson. Mr. Foreman has also testified that the lighting will be readily seen from Shawan, Cuba, and Greencroft Roads. Mr. Marks has agreed with this testimony and has testified that Dr. Cochran will look down on the parking areas from many areas in her house. He also testified that, due to the 76' elevation of her home above the site (See Protestant's Exhibit 19.), it is impossible to screen the parking lots and lights from her view. Dr. Cochran has testified that this is a visual intrusion. Preservation of view is an important component of the Master Plan, and this represents a Master Plan conflict.

PROPERTY VALUE

Although the developer would like us to believe that a massive intrusive structure with expanses of blacktop and light poles will enhance property values, Mrs. Barrett has testified that it will have the opposite effect. Protestant's Exhibit 41 shows a decrease in tax assessment attributable to the proposed church. This does not meet the standard set forth in Section 502.1a.

GENERAL WELFARE

Although there are numerous examples of detriment to the general welfare, the specific loss of tax revenues from the property affects the entire population of Baltimore County. As a necessary entity, the Petitioner will not contribute to the tax base for the County. At the same time the increased traffic on the roads will increase the maintenance expense. This combination is detrimental to the general welfare of Baltimore County.

SCENIC VIEW PRESERVATION

Petitioner's Exhibit 16, The Master Plan for Baltimore County, bears directly on many issues in this case. Of particular note is the concept of scenic view preservation, significant views as a part of a landmark site, and gateway vistas. Shawan Road is designated as a scenic view corridor. Protestant's Exhibit 35 shows the negative impact on the scenic view corridor if this church were built. The site of the proposed church sits over 100 feet above Shawan Road. Numerous witnesses have testified, including Mr. Marks, that the site is readily visible from Shawan Road. The photographs confirm this. To alter the scenic landscape in such a way would conflict with multiple sections of the Master Plan as testified to by Dr. Cochran, Mr. McGrain, and Mr. Gerber.

Protestant's Exhibit 29 clearly shows that the view from the landmark Oregon Ridge Store would be adversely affected. This is a violation of the Master Plan whereby scenic views are as much a part of a landmark as the building itself.

Protestant's Exhibit 17 shows the view from Western Run Road towards the subject property to be a scenic one and requiring

preservation. Changing the landscape with this project would destroy that view and is another Master Plan conflict.

RECREATIONAL USES IMPACT ON OREGON RIDGE

There has been testimony from several community members that use the area for jogging, nature walks, bicycle rides, etc. that this project will adversely impact not only those uses but also the use of Oregon Ridge Park. Protestant's Exhibit 34 from a long time Park advocate enumerates the conflict created and the detriment to the Park of allowing such a development.

RURAL CHARACTER

The description of rural character of this unique area encompasses many elements: the gently rolling hills, the farms, the overall interlocking of the landscape. That landscape is defined by large open spaces with buildings that are of size, scale, and character to blend in and be architecturally compatible --not to overwhelm and dominate the area. Mr. McGrain, Mr. Marks, and Mr. Gerber have all testified that the proposed development is not harmonious with the rural character and will alter and negatively impact the countryside. The Petitioner's have not presented any evidence to the contrary.

AGRICULTURAL USE

The proposed site is situated in a resource conservation and agricultural preservation area. Section 1A00.1a.c.d.f.g are specifically relevant to this case. Section 1A00.1c states "this development has formed very undesirable land use patterns". Section 1A00.1g states "that the aspect of the comprehensive plan that is applicable and which is being considered for rural, Baltimore County embodies solutions to the various problems". Section 1A00.2c states, under purpose of the Resource Conservation Zones, "protect both natural and man-made resources from compromising effects of specific forms and densities of development". Section 1A01.1A.b states "that the agricultural industry is an integral part of the Baltimore economy and that a continued conversion of agricultural land will continue to undermine this basic industry". Protestant's Exhibits 29 and 30 from two farmers in the area reflect the adverse and detrimental effects that granting this special exception will have on agricultural use. The Zoning Regulations and the Master Plan specifically state that agricultural use will be granted preferential use in these areas above all other developments. Mrs. Barrett has testified that prior to the contract of sale on the property the land was a working farm; since the contract of sale it is no longer a farm. As Mr. Chilcoat states in his letter, "if

Baltimore County is serious about agricultural preservation and agricultural zoning, agriculture as a group must have accessible roads to travel with farm equipment as well as open lands to farm." The opinion of working farmers should carry significant weight with the Board in the decision making process. Mr. Gavrelis, speaking for the Petitioner, stated that the conversion of the farm to a church would be preferable to a farm use. His rationale for this was, "because I say so." This hardly qualifies as an expert opinion because, as was stated in Schultz v. Pritts, an expert's opinion is only as good as the foundation on which it is based. I submit that this is a personal rather than an expert opinion of Mr. Gavrelis and carries no weight. Section 1A01.1d states "that continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurs but is incompatible with the agricultural use of the surrounding area." Mrs. Margaret Worrall, speaking for the Valleys Planning Council, testified that the VPC has not objected to other churches in the area when they are compatible with the neighborhood. The Valleys Planning Council does oppose a church on this property as it does not meet criteria for compatibility with the neighborhood. She also testified that such a large institutional use on this land is inconsistent with the spirit and intent of the Baltimore County Zoning Regulations. The VPC feels that support of agriculture is mandated in both the Master Plan and the BCZR; this project not only doesn't support agriculture, it removes a working farm. The Master Plan, Protestant's Exhibit 16, on page 51 states "the agricultural industry is particularly vulnerable to land use changes. Not only does development weaken the viability of the industry, it also challenges the public commitment to maintaining this land in agricultural use". Page 52 continues "...development even at low densities permitted in RC 2 and RC 4 is threatening the long-term viability of the agricultural industry by usurping the resource base and by the intrusion of nonfarm residents, traffic, and other sources of conflict...". Protestant's Exhibit 2 shows the influx of people who are clearly not residents of Shawan Valley or even the immediate vicinity of the proposed church. Protestant's Exhibit 21, written by the chairman of the building committee for the church, states that the church membership encompasses only thirty families in the Cuba Road corridor. The remainder of the 750 families will come from outside this area. The intent of the special exception for churches in an RC 2 zone was to provide for worship centers for the needs of the community. The thirty families of the church do not require a 650 seat church. If the Petitioner's position is that a series of small churches is not economically feasible, then they should build a regional center for worship in a central location not in a rural setting. As Mrs. Worrall testified, it is naive to believe that a structure this size and cost will have the limited uses described by the Petitioner. It is clear that the Petitioner has

attempted to assuage the community outrage at this project by manipulating numbers of members, numbers of services, uses, etc. This effort has been transparent to the community; it should be transparent to the Board. Section 1A01.1A.1.g states "that Baltimore County possesses numerous areas which are highly suitable for urban development...". Father Donellan has testified that the Archdiocese of Baltimore owns some 300 plus acres, zoned RC 5, a short distance from this property. This is a more suitable parcel for this proposed project.

Section 1A01.21 states that "...agricultural operations...shall be afforded preferential treatment over and above all other permitted uses in RC 2 zones". Section 1A01.2C states that "...The following uses, only, may be permitted by special exception in any RC 2 zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity;...". Mr. Gerber testified quite succinctly and cogently that the proposed development would: be a detriment to continued agricultural use, undermine the agricultural preservation in the susceptible Shawan Valley, serve as urbanization of a rural setting, increase traffic congestion, undermine enforcement of agricultural preservation goals in this area, foster competition with agriculture rather than foster agriculture, is incompatible with the rural setting, scenic preservation, scenic corridor along Shawan Road, gateway vista at I-83 and Shawan Road, landmark and historic preservation of the Western Run Historic District, and would be in conflict with numerous portions of the Master Plan as well as the Baltimore County Zoning Regulations.

Mr. Gerber further testified that this case is unique in its magnitude in land use planning. The view along Shawan Road sets the character of the entire Shawan Valley, and this would be compromised by the intrusion of this church. He testified that the architectural elements are significant for this visual impact. As previously noted, the massive size of the proposed church will overwhelm and dominate the area. Mr. Gerber cited Board of County Commissioners v. Holbrook, 314 Md. 210 (1988) and Bill 134.89 as support for his conclusions and expert opinions. Protestant's Exhibit 6, legal memorandum by the Protestant, page 17 supports Mr. Gerber's conclusion of the uniqueness of this parcel of land.

SUMMARY

The complex nature of this case with its myriad ramifications and considerations has rightly taken a great deal of time for all parties involved. The Board of Appeals has been most generous in allowing all the evidence and concerns to be articulated. The decision by the Board of Appeals will set the precedent for the true intent and fulfillment of the Zoning Regulations and Master Plan requirements for development in Resource Conservation Zones and Agricultural Protection areas. The issues to be decided are serious and involve more than a political battle over who came

first or the power of the Archdiocese in seizing control over any area they choose. The unique setting mandates that none of the protections for these areas be abrogated capriciously or carelessly. The importance of this setting to the community is reflected in the amount of time, effort, energy, and resources expended to solve this site.

There is ample evidence in case law decisions to support the denial of this special exception. The Petitioner has not met the criteria of Schultz v. Pritts 291 Md. 1 432A.2d 1319 (1981). The uniqueness of the site, the negative effect of this development exceeds the impact were the church to be relocated at a less sensitive and rural area in an RC 2 zone. Board of County Commissioners v. Holbrook 314 Md. 210 (1988) held that "where facts and circumstances indicate special exception use would have adverse effect on adjoining and surrounding properties' valuation, permit to deny the special exception. People's Counsel v. Mangione 85-Md-78 reflects many of the same issues raised in this case. The size of the development would sit on the prominent or dominant terrain in the neighborhood and the small streets would limit access for the community. The Court of Special Appeals affirmed that this would occur, as it would if the special exception were granted in this case, to the adverse effect of the neighborhood. In the matter of the Petition of Conservation Associates, County Board of Appeals, Case #R-86-110 the importance of protecting farmland was affirmed. In the matter of the Mayor and City Council of Baltimore v. Mano Swartz, Inc. 268 Md.79, (1973) it was affirmed that "...preserve an area which is generally regarded by the public as pleasing to the eye or historically or architecturally significant...".

Numerous witnesses have testified to the numerous conflicts with various portions of the Baltimore County Zoning Regulations, including Sections 502.1, 1A00.1a.d.f.g, 1A00.2C, 1A01.1A.a.d.g, 1A01.1B, 1A01.2A, 1A01.2c, and the Master Plan. Protestant's Exhibit 16, including page 144 "Gateway", "Visual Character", "Scenic Corridor", "Landmark", page 140 "Agricultural Preservation", page 42 "Historic Preservation", page 51 "Non-Agricultural Uses" and Rural Development", page 74 "RC 2", pages 53, 54 and 55 "Tree Protection and Issue", page 75 under policy statement, pages 78, 121, and 126 discussions about appropriate rural development.

The preponderance and weight of the evidence and testimony presented is overwhelming. The special exception should be denied. The Board of Appeals has very carefully considered the case as it unfolded; reviewing the evidence now only strengthens the need for denial. The site is zoned Resource Conservation. We have heard ample evidence of what the resource is; it is now time to use the word conserve as a verb.

Finally, I would like to reiterate my thanks to the Board of Appeals for their diligence and commitment in hearing all the testimony and affording the lay people their "day in court". Thank you.

Barbara A. Cochran
Barbara A. Cochran, M.D.
Appearing in Proper Person

I certify that a copy of the foregoing was mailed first class to Mr. Robert Hoffman, Towson, Maryland, Mr. Bresci, Towson, Maryland, and hand delivered to the office of People's Counsel for Mr. Peter Zimmerman.

Barbara A. Cochran 2/10/92
Barbara A. Cochran, M.D.

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND SPECIAL EXCEPTION - NE/S * ZONING COMMISSIONER
Cuba Road, 25' NW of the c/l *
of Greencroft Lane * OF BALTIMORE COUNTY
8th Election District *
3rd Councilmanic District * CASE # 90-477-SPHX
Hilbert F. Criste, et ux, *
Petitioners *

AMENDED ORDER

WHEREAS, the Petitioner herein requested a Special Exception to use the herein described property for a church in an R.C.2 zone and a Special Hearing for approval of an existing dwelling as an accessory caretakers residence in connection with a church, in accordance with the plan submitted and identified as Petitioner's After Exhibit No. A;

WHEREAS, the relief requested was granted, subject to restrictions, by Order dated August 3, 1990;

WHEREAS, Petitioner filed a timely Motion for Reconsideration and the matter was heard before the Zoning Commissioner on August 29, 1990;

WHEREAS, pursuant to said Motion, Petitioner requested that After Exhibit A be designated as the controlling development plan for the subject site and that all, if any, inconsistencies be resolved in favor of said After Exhibit A;

WHEREAS, pursuant to said Motion, Petitioner requested a five year period of limitations in which to utilize the special exception granted herein;

WHEREAS, Petitioner has requested that Restriction No. 7 of the Order issued August 3, 1990 be amended to reflect certain changes in the comments submitted by the Department of Environmental Protection and Resource Management (DEPRM) dated June 11, 1990, marked Petitioner's Exhibit 4, in

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Dated 2/10/92
By *[Signature]*

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accordance with certain post-hearing conversations between DEPRM and the Petitioner;

WHEREAS, Petitioner and interested party Harvey L. Miller, requested the addition of a restriction precluding the construction of additional structures in the areas north and south of the development envelop as shown on Petitioner's After Exhibit A, said restriction being consistent with the proffered agreement placed on the Zoning Commissioner's record at the time of the hearing;

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of August, 1990 that the Order issued August 3, 1990 be and the same is hereby AMENDED to the extent set forth below:

1) That After Exhibit A is hereby designated as the controlling development plan and that any inconsistencies that may exist between said Exhibit A and the remaining Exhibits introduced at the hearing in this matter shall be resolved in favor of After Exhibit A.

2) That Petitioner shall be granted a five year period of limitations in which to utilize the subject special exception granted, said five year period running from August 3, 1990.

3) That Restriction No. 7 of the Order issued August 3, 1990 shall be amended in its entirety to read as follows:

"7. This Order adopts and incorporates in its entirety the inter-office correspondence dated June 11, 1990 from Robert W. Sheesley, Director of DEPRM, to the Zoning Commissioner, marked Petitioner's Exhibit 4. However, Conditions 3, 7 and 8 of said correspondence shall be amended accordingly:

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Dated 2/10/92
By *[Signature]*

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Condition 3 shall incorporate the following language and be amended accordingly by the addition of the following: "Also, parking may be provided in this area, with a corresponding reduction in parking south of the proposed church, all in accordance with Petitioner's After Exhibit A; and,

Conditions 7 and 8 shall be amended in their entirety to read as follows: "Except for uses or structures permitted under Conditions 1 through 6, the Petitioner shall enter into a legally enforceable document prior to the issuance of building permits which shall restrict the areas north and south of the developed envelope as shown on Petitioner's After Exhibit A to open space or agricultural use in perpetuity, unless the property or any portion of the property is rezoned to another zoning classification other than R.C. 2 (or any successor zoning to R.C. 2) or the Master Plan for Baltimore County Designates the property or any portion of the property for a use other than agricultural preservation or the Director of the Department of Environmental Protection or Resource Management (or any successor to that Department) finds, in writing, that the property or any portion of the property is no longer viable for agricultural use. The restriction shall take effect upon the commencement of construction of the proposed church."

4) The following restriction shall be added as Restriction No. 9 which is a condition precedent to the relief granted:

"9) Petitioner shall enter into a legally enforceable agreement which shall prohibit for a period of sixty (60) years from the date of the original Order (August 3, 1990) the construction of any buildings outside of the building envelope so designated on Petitioner's After Exhibit A, so long as the subject site retains its R.C. 2 zoning (or any successor zoning to R.C. 2).

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Dated 2/10/92
By *[Signature]*

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IT IS FURTHER ORDERED that all other terms, conditions, and restrictions of the original order issued on August 3, 1990 shall remain in full force and effect.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

JRH:mmn
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

August 31, 1990

[Seal]
Dennis F. Rasmussen
County Executive

John B. Howard, Esquire
Robert Hoffman, Esquire
Venable, Baetjer and Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: Case No. 90-477-SPHX
Roman Catholic Archbishop of Baltimore Corp.
Petitioner

Gentlemen:

Enclosed please find the Amended Order regarding the above captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Amended Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:mmn
cc: Peoples Counsel
cc: Protestants

IN RE: PETITIONS FOR SPECIAL * BEFORE THE
HEARING AND SPECIAL EXCEPTION * ZONING COMMISSIONER
NE/S Cuba Road, 25 ft. NW of *
c/l of Greencroft Lane * OF BALTIMORE COUNTY
8th Election District *
3rd Councilmanic District * CASE # 90-477-SPHX
Hilbert F. Criste, et ux., *
Legal Owners *
Roman Catholic Archbishop of *
Baltimore Corporation, *
Contract Purchaser, *
Petitioners *

MOTION FOR RECONSIDERATION

The Petitioners move the Zoning Commissioner to reconsider the Order entered herein on August 3, 1990, in four respects. First, they respectfully suggest that the Commissioner exceeded his legal authority in requiring the Petitioners to comply with certain conditions recommended by the Department of Environmental Protection and Resource Management ("DEPRM"), and they therefore request that the Commissioner modify these conditions. Second, they respectfully suggest that there is a certain condition recommended by DEPRM which conflicts with another portion of the Commissioner's Order. Third, they respectfully request that Petitioner be granted flexibility with regard to any condition recommended by DEPRM, if the Petitioner requests a modification and DEPRM so modifies that condition in writing as part of the County Review Group approval process. Fourth, they request that the Commissioner specify a period of five years for the utilization of the Special Exception granted to the Petitioners.

DEPRM'S Overbroad Conditions

In granting the Special Exception requested by the Petitioners to use the subject, RC 2-zoned property for a church, the Zoning Commissioner adopted and incorporated by reference an inter-office memorandum, dated June 11, 1990, from Robert W. Sheesley, Director of DEPRM, to the Commissioner. The Zoning Commissioner's Order required that the Petitioners "comply with all conditions set forth in said correspondence as if set forth in its entirety herein."

The inter-office memorandum itself listed nine conditions, which it recommended that the Zoning Commissioner impose, in the event that he determined to grant the Petitioners' Special Exception. The fifth numbered condition identified a "buildable area" of up to 7.5 acres within which the proposed church and related improvements could be placed "with the least disruption or loss of prime agricultural soils". The sixth numbered condition included further recommendations as to what activity should be permitted within this "7.5 acre building site".

It is the fifth and related seventh and eighth numbered conditions to which the Petitioners respectfully must seek your reconsideration. The seventh condition states flatly, "No future development of a non-agricultural nature can occur on any other area of the site." Along the same lines, the eighth condition states, "Continued or permanent agricultural use or preservation of the site outside of the developed

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envelope ~~must~~ be assured by a legally enforceable document. Consideration should be given to the donation or sale of existing and future development rights in order to assure that agricultural use of the property in perpetuity" (emphasis in original memorandum).

Petitioners acknowledge the Zoning Commissioner's authority, under Section 502.2 of the Baltimore County Zoning Regulations, to "impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties". Indeed, Section 502.2 provides that the Commissioner may require anyone who obtains a special exception to "enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception, the same to be recorded among the Land Records of Baltimore County". Nevertheless, Petitioners respectfully submit that DEPRM should not request conditions that would stretch indefinitely into the future and would remove from County authorities the power to regulate the future use of County lands so as to promote the public health, safety, and welfare. By way of analogy, *See Attman/Glazer P.B. Co. v. Mayor of Annapolis*, 314 Md. 675, 666-87, 552 A.2d 1277 (1989) ("the sound policy which prohibits a municipality from contracting away its zoning power is as applicable to

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special exception... cases as it is to those involving zoning reclassifications").

The legal and policy flaws in DEPRM's recommendation are highlighted if one visualizes the result of a widespread imposition of "continued" or perpetual restrictions similar to those that were recommended here. If, each time the Zoning Commissioner grants a special exception, he were to require the petitioner to enter into perpetual covenants, to be recorded among the County Land Records, binding the petitioner and his successors to use only certain portions of the restricted property or to use the property only for certain purposes, soon much of the County's land would be tied up by restrictions that could not easily be removed, no matter how publicly desirable and beneficial the County might deem removal to be.

This is not how Baltimore County land use has traditionally been governed; wisely, the County has trusted its planning and zoning officials and the County Council to regulate, restrict, and adjust land use in accordance with the changing needs of the public and advances in control techniques, environmental awareness, and other similar circumstances. The fact that DEPRM may now lack confidence that future County officials will wish or be able to control the use of the Petitioners' land in ways that DEPRM officials now find desirable should not cause the Zoning Commissioner to embark on such a path. Instead, the Commissioner should

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attach those restrictions that he deems appropriate to the grant of the Special Exception here, without requiring that the use of the Petitioners' property be unduly and unnecessarily restricted for an indefinite future term.

The Conflicting Condition

The first and fifth numbered conditions state that no non-agricultural use be permitted on this site within the prime agricultural soil types known as HaB2 and GcB2 or McD3. The Order granting the Special Exception to use the property for a church allows development in accordance with Petitioner's Exhibit A. As you will note, the parking area above the church infringes slightly on one of the soils DEPRM seeks to protect. In fact, DEPRM has made representations to Petitioner that parking as shown on Petitioner's Exhibit A above the church is acceptable, if not desirable, to that shown on Petitioner's Exhibit 1, so long as an equal amount of land below the church remains undeveloped. Therefore, it is respectfully requested that the Zoning Commissioner modify his Order so that parking in accordance with Petitioner's Exhibit A is permitted as consistent with DEPRM's June 11 letter.

The Need for Flexibility

Also, certain other of the conditions in DEPRM's June 11 letter may need minor modification, clarification or "fine-tuning" during the CRG review and approval process. It is therefore respectfully requested that such minor revisions be permitted, so long as they are requested by the Petitioner,

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stated in writing by DEPRM and submitted to the Zoning Commissioner for inclusion in this case.

The Need for a Five-Year Special Exception

The Zoning Commissioner's August 3, 1990 Order is silent as to the term of the Special Exception being granted. Thus, under Section 502.3 of the Zoning Regulations, the Special Exception must be utilized within two years. Section 502.3 clearly authorizes the Commissioner to specify a period of up to five years for utilization of a Special Exception, and Petitioners respectfully request that a five-year term be specified for use of the Special Exception in this case.

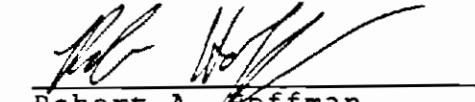
Because Petitioners are proposing to erect a church on the subject property, they believe that a five-year term is entirely appropriate. The charitable nature of the Archdiocese and the need to involve and obtain consensus of many members of the community makes it likely that the Archdiocese will need more time than would a typical private landowner to raise funds, obtain financing, secure necessary church approvals, arrange for preliminary design work and engineering, and so forth. Although the Petitioners have every intention to move ahead with all deliberate speed toward the commencement of a church structure, they do not want to have to come back to the Commissioner in two years for an extension of their Special Exception if they are unable to begin construction within two years. Therefore, they respectfully request that the Commissioner's Order be modified

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to give them the additional flexibility afforded by a five-year term.

Respectfully submitted,


Robert A. Hoffman
Venable, Vaehter and Howard
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorney for Petitioners

MOTN0165.JAA

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IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND SPECIAL EXCEPTION * ZONING COMMISSIONER
NE/S Cuba Road, 25 ft. NW *
of C/L of Greencroft Lane *
8th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District *
CASE # 90-477-SPHX
Hilbert F. Criste, et ux, *
Legal Owners *
Roman Catholic Archbishop of *
Baltimore Corporation *
Contract Purchaser *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Exception to use the herein described property for a church in an R.C.2 zone and a Special Hearing for approval of an existing dwelling as an accessory caretakers residence in connection with a church, as more particularly described on Petitioner's after Exhibit No. A.

The Reverend Thomas Donellen appeared on behalf of the Roman Catholic Archbishop, Contract Purchaser, and Hilbert Criste, Legal Owner, and was represented by Robert Hoffman, Esquire. Appearing and testifying on behalf of the Petition were Edward Veuilleux, Adam Gross, Architect, Ollie Mumpower, Traffic Consultant, and George Gavrelis, Land Planner. Those noting their appearance in support of the Petition are listed on the Petitioner's Sign-In Sheet. Appearing and testifying as Protestants were Dr. Barbara Cochran and Jeffrey Foreman. Also noting their appearances as Protestants were those individuals indicated on Protestant's Sign-in Sheet. Appearing and testifying as an interested party was Harvey L. Miller. Paul Solomon appeared, pursuant to Petitioner's subpoena, and testified on behalf of the Department of Environmental and Resource Management (DEPRM).

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Date 8/3/90
By M. Hark

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Subsequent to the hearing, Petitioner submitted after Exhibits A, B, C, D, E and F, which were prepared for and submitted to the Country Review Group for consideration. Said exhibits have been incorporated into and made a part of the record in this case.

Testimony indicated that the Petitioner, Roman Catholic Archbishop of Baltimore, is desirous of constructing a church on the subject site to accommodate the growing number of parishioners locating in this area.

Reverend Thomas Donellen testified that the existing catholic churches in the immediate vicinity are grossly overcrowded, requiring the use of space at the Hunt Valley Marriott for Sunday services. Reverend Donellen testified that it is the Petitioner's intent to construct the subject church in a manner consistent with the architectural integrity of the surrounding community. Reverend Donellen testified that they anticipate approximately 1,000 families to become members of the proposed church, said church having an anticipated seating capacity of approximately 650 seats.

Edward Veuilleux, a member of the Petitioner's Building Committee, testified that his committee was charged with the task of locating a suitable piece of property for the construction of the subject church. Mr. Veuilleux testified that the Petitioner had great difficulty in locating a suitable site in the subject area to accommodate the proposed church. He testified that of the nine (9) sites that had been considered, the one selected was the most expensive.

Adam Gross testified that the proposed church will be of "country styling" which will, in his opinion, harmonize with the area's existing architecture.

Paul Solomon, appearing on behalf of the Department of Environmental Protection and Resource Management (DEPRM), testified that the subject site

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Date 8/3/90
By M. Hark

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is of significant agricultural importance. Mr. Solomon testified that his department is recommending that only 7.5 acres or less of the subject site be permitted to be developed. He also testified that should the Petition be granted, such relief should be conditioned upon the considerations appearing in the inter-office correspondence dated June 11, 1990 to the Zoning Commission from Robert W. Sheesley, Director of DEPRM, marked Petitioner's Exhibit No. 4.

Mr. Ollie Mumpower, Traffic Consultant, testified regarding the impact the proposed church would have on local traffic. Mr. Mumpower concluded that, based on his study, it was his opinion the proposed church would have no adverse impact on vehicular traffic in this area and, otherwise, meets the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Mr. George Gavrelis, Land Planner, testified that the proposed use is consistent with the R.C.2 zoning regulations. He indicated that the Petitioner is planning to locate the proposed structures in an area of the property that is not prime agricultural soils. He indicated that the Petitioner is planning to remove very little vegetation from the site and will provide additional landscaping. Mr. Gavrelis testified that, in his opinion, the Petitioner's proposal meets the requirements of Section 502.1 of the B.C.Z.R. Mr. George Gavrelis also testified that Petitioner is desirous of converting the existing tenant house on the subject property into a caretaker's residence. Mr. Gavrelis testified that, in his opinion, such a conversion and use would have no adverse impact on the community and would, in fact, be an asset for security.

Dr. Barbara Cochran, a Protestant, testified that she is concerned that the additional traffic created on Cuba Road, as a result of the Petitioner's

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Date 8/3/90
By M. Hark

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church, will only exacerbate an already congested roadway. She testified that she is concerned that the parking lot and lighting will create an eyesore in this rural setting and is ultimately concerned that real estate values in this community will be adversely affected should the Petition be granted.

Mr. Jeffrey Foreman testified that he shares Dr. Cochran's concerns regarding lighting and that he was additionally concerned that residential wells in this community may be adversely impacted by the addition of the subject church. He testified that, in his opinion, the proposed church is an inappropriate use for the subject site.

Mr. Harvey Miller testified and noted his appearance as an interested party. Mr. Miller essentially concurred with the testimony of Dr. Cochran and Mr. Foreman and indicated further that he would prefer to see several small parking lots in lieu of one large one, appropriate landscaping and no additional development of the subject property other than that which is proposed pursuant to the subject Petition.

It is clear that the B.C.Z.R. permits the use proposed in an R.C.2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location

described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A2d 1319 (1981). The proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the Petitions for Special Exception and Special Hearing should be granted, with certain restrictions, as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 3rd day of August, 1990 that a Petition for Special Exception to use the herein described property for a church in an R.C.2 zone and a Special Hearing for approval of an existing dwelling as an accessory caretakers residence in connection with a church, in accordance with Petitioner's after Exhibit No. A is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the foregoing relief:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. Occupancy of the subject caretaker's residence shall be limited to a church employee(s) and the employee(s) family members.

3. Petitioner shall construct no buildings within 150 feet of the subject property's western property line. Petitioner shall construct no buildings within 200 feet of the property's northern property line.

4. The Petitioner shall provide a landscape plan to the Office of Current Planning, on or before July 1, 1991, for approval by the Baltimore County Landscape Planner and the Deputy Director of Planning and Zoning Department. Said landscape plan shall then be submitted to the Zoning Commissioner for final approval. The approved landscape plan shall become a permanent part of the record and file in this matter.

5. When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

6. The subject church shall have a maximum seating capacity for 600 individuals.

7. This Order adopts and incorporates in its entirety by reference the inter-office correspondence dated June 11, 1990 from Robert W. Sheesley, Director of DEPRM, to the Zoning Commissioner, marked Petitioner's Exhibit No. 4. The Petitioner shall be required to comply with all conditions set forth in said correspondence as if set forth in its entirety herein.

8. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. Robert Haines
Zoning Commissioner for
Baltimore County

JRH:mmm
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 857-3333

J. Robert Haines
Zoning Commissioner

August 2, 1990



Dennis F. Rasmussen
County Executive

John B. Howard, Esquire
Robert Hoffman, Esquire
Venable, Baetjer and Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: Case No. 90-477-SPHX
Roman Catholic Archbishop of Baltimore Corp.
Petitioner

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Special Exception have been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
attachment
cc: Peoples Counsel
cc: Protestants

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: **90-477-SPHX**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

an existing dwelling as an accessory caretakers residence in connection with a church.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Roman Catholic Arch
Bishop of Baltimore Corporation
(Type or Print Name)
By: *P. Francis Murphy*
Signature P. Francis Murphy
Address
330 Cathedral St
City and State
Balt. Md 21201

Legal Owner(s):
Hilbert F. Criste
(Type or Print Name)
By: *Hilbert F. Criste*
Signature
Address
Mary Ellen Criste
(Type or Print Name)
Signature
Mary Ellen Criste

Attorney for Petitioner:
John B. Howard, Esquire
(Type or Print Name)
By: *J. Robert Haines*
Signature
Address
210 Allegheny Avenue
City and State
Towson, Maryland 21204

406 Bosley Avenue
Address
Baltimore, Maryland 21204
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John B. Howard, Esquire
Name
210 Allegheny Avenue
Address
Towson, Maryland 21204
Phone No.

Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 2 day of May, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12 day of June, 1990, at 9:30 o'clock

J. Robert Haines
Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: **90-477-SPHX**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for

an existing dwelling as an accessory caretakers residence in connection with a church.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Roman Catholic Arch
Bishop of Baltimore Corporation
(Type or Print Name)
By: *P. Francis Murphy*
Signature P. Francis Murphy
Address
330 Cathedral Street
City and State
Balt. Md 21201

Legal Owner(s):
Hilbert F. Criste
(Type or Print Name)
By: *Hilbert F. Criste*
Signature
Address
Mary Ellen Criste
(Type or Print Name)
Signature
Mary Ellen Criste

Attorney for Petitioner:
John B. Howard, Esquire
(Type or Print Name)
By: *J. Robert Haines*
Signature
Address
210 Allegheny Avenue
City and State
Towson, Maryland 21204

406 Bosley Avenue
Address
Baltimore, Maryland 21204
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John B. Howard, Esquire
Name
210 Allegheny Avenue
Address
Towson, Maryland 21204
Phone No.

Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 2 day of May, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12 day of June, 1990, at 9:30 o'clock

J. Robert Haines
Zoning Commissioner of Baltimore County

DAFT-MCUNE-WALKER, INC. 200 East Pennsylvania Avenue, Towson, Maryland 21204 301 296 3333 FAX 301 296 4705
Land Planning & Development Consultants



Land Planning
Engineering
Landscape Architecture
Surveying
Computer Design
Graphics

Description

To Accompany Petition For Special Exception,

27.38 Acre Parcel, Hilbert F. Criste and

Mary Ellen Criste Property

Northeast Side of Cuba Road

West of Greencroft Lane

Eighth Election District, Baltimore County, Maryland

Beginning for the same, in the centerline of Cuba road at a point distant 21 feet, more or less, as measured northwesterly along said centerline from its intersection with the centerline of Greencroft Lane, thence binding on said centerline of Cuba Road and referring all courses of this description to the Grid Meridian established in the Baltimore County Metropolitan District and the six following courses, viz: (1) North 41 degrees 49 minutes 25 seconds West 452.35 feet, thence (2) North 49 degrees 49 minutes 25 seconds West 272.68 feet, thence (3) North 55 degrees 49 minutes 25 seconds West 81.22 feet, thence (4) North 69 degrees 16 minutes 25 seconds West 143.67 feet, thence (5) North 61 degrees 51 minutes 25 seconds West 93.50 feet, and thence (6) North 61 degrees 51 minutes 25 seconds West 5.24 feet, thence leaving said centerline and running the eight following courses, viz: (7) North 05 degrees 50 minutes 25 seconds West 691.84 feet, thence (8) North 00 degrees 48 minutes 25 seconds West 470.88 feet, thence (9) North 04 degrees 01 minute 25 seconds West 78.15 feet, thence (10) North 58

MICROFILMED

90-477-SPHX

degrees 11 minutes 55 seconds East 85.23 feet, thence (11) North 85 degrees 12 minutes 25 seconds East 170.62 feet, thence (12) North 84 degrees 22 minutes 55 seconds East 135.35 feet, thence (13) North 82 degrees 52 minutes 25 seconds East 361.83 feet and thence (14) South 04 degrees 07 minutes 25 seconds East 2015.71 feet to the point of beginning; containing 27.38 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 2, 1990.

Joh No. 90021 (L90021)



MICROFILMED

August 13, 1991

Arnold Jablon, Director
Office of Zoning Administration & Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Letter of opposition to granting of
Special Exception - Case 90-477 SPHX

Be it known that I oppose the granting of a special exception in the above case because of the size and scope of the proposed project, and its vagueness, in addition to traffic congestion, lighting requirements, and the downgrading of nearby properties.

It is already necessary to "put up with" traffic and confusion at Shawan & Cuba Roads on a daily basis from the Hunt Valley Business Community, as well as week-end events at Oregon Ridge Park.

It is my opinion that priority consideration for the property in question should, and in the following order, be:

1. To remain as the small farm and two residences currently there.
2. To develop as residential with no less than 1 1/2 acres per unit.
3. To allow a small church in character with other community churches, limited in size to serving the needs of only the adjacent Hunt Valley/Oregon Ridge area.

Richard R. Barrett

Richard R. Barrett
1 Spring Green Lane
Hunt Valley, MD 21030

Priscilla F. Barrett
Priscilla F. Barrett

cc: C.A. Ruppertsberger
Councilman, 3rd District

RECEIVED
AUG 20 1991

ZONING OFFICE

Ref: #90-477-SPHX Special Exception

Mr. Arnold Jablon, Director
Office of Zoning Admin. &
Development Management
111 W. Chesapeake Ave.
Towson, MD. 21204

Dear Mr. Jablon:

As residents of the Cockeysville community of Greencroft and concerned citizens of Baltimore County, we are writing to inform you of our strong opposition to the granting of a special zoning exception on the adjacent Criste property.

Our concerns are many, but all are concerned with the impact this special exception will have on our community and the valley area as a whole. One strong objection is to the size and population of the proposed church structure to be constructed on this property. Its population will bring a nightmarish traffic situation to Cuba Road during ingress and egress of every mass, service, meeting, funeral, wedding, or other special event at the church. Although it is true that these events will not always coincide with peak traffic times on Cuba and Shawan Roads, sometimes they unavoidably would. Imagine, even on a relatively slow Sunday morning, 100 - 150 cars moving in and out of the church driveway onto this narrow roadway. An access lane or wider road would be helpful, but in the past hearings, the developers were granted a waiver so that they would not be required to fund improvements to this area of Cuba Road.

Those of us in Greencroft would be blocked indefinitely from access to Cuba Road and traffic on Shawan Road would also be adversely affected. There are no left turn lanes going east or west on Shawan so traffic entering or exiting onto Cuba would also be tied up.

The noise factor, both during and after completion of the actual building process is a concern to all of us, but especially to those neighbors whose residences abut the property. When they purchased their lots, the zoning assured them that they would border on a small farm, or at worst, one or two private residences. It is quite a departure to allow the construction of a large public structure on that same adjacent property.

The structure itself has gone from what was originally described to us as a "small country church" to a large edifice which will serve at least 600 congregants per service. A structure

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AUG 20 1991

ZONING OFFICE

Zoning Commissioner of Baltimore County
Towson, Maryland 21204

RE: Case No. 90-477-SPHX

Dear Sir:

Please enter an appeal to the Zoning Board of Appeals in the above referenced case of the Amended Order of the Zoning Commissioner dated August 31, 1990. This appeal includes Paragraphs 1 through 4 as well as the original order incorporated into the amended order. This appeal is entered for, but not limited to, the following individuals in addition to myself:

Jeffrey Foreman, 1 Sheepfold Lane, Hunt Valley, Md. 21030
Phil Byrd, M.D., 13902 Greencroft Lane, Hunt Valley, Md. 21030
Ray Gombes, 13900 Greencroft Lane, Hunt Valley, Md. 21030
John Richardson, 14200 Greencroft Lane, Hunt Valley, Md. 21030

Sincerely yours,

Barbara A. Cochran
Barbara A. Cochran, M.D.
13733 Cuba Road
Hunt Valley, Maryland 21030

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AUG 20 1991
ZONING OFFICE

MICROFILMED

JEROME YEOMANS, D.D.S.

June 13, 1990

Dear Commissioner,

We live at 13727 Cuba Rd., Cockeysville, Md., and are adjacent to the Criste Farm. The area in favor of St. Francis Xavier Church being built on this property. We feel it will be beautifully done and will be an asset to the community. We would prefer a church to be built rather than an unknown.

Sincerely,

Jerome Yeoman
Jerome S. Yeoman

13727 CUBA ROAD COCKEYSVILLE, MARYLAND 21030 TELEPHONE 628-6909

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AUG 22 1991

ZONING OFFICE

Arnold Jablon, Director
Office of Zoning Administration &
Development Management
111 W. Chesapeake Ave.
Towson, MD 21204

Dear Mr. Jablon,

We wish to express our concerns regarding the proposed church to be built on Cuba Rd.

We would welcome a small country church into the area. However, the magnitude of the proposed project will adversely affect our home and neighborhood in many ways.

Our main concern we have is the negative effect it will have on traffic in our area. Cuba Road can be backed up at peak hours now and the addition of 200 cars going in and out of the church multiple times during the day will cause severe congestion. We worry about emergency access to our area. We have young children who have daily schedules which require much driving.

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Mr. Arnold Jablon, Director
Office of Zoning Admin. & Dev. Management
111 W. Chesapeake Ave
Towson, Md. 21204

cc: Mr. C.A. "Dutch" Ruppertsberger
Councilman 3rd District

Dear Mr. Jablon:

With respect to Case No 90-477 SPHX Special Exception, my wife and I wish to express our support for the zoning exception being requested to allow for construction of a church adjacent to the Greencroft community.

While we are members of St. Francis Xavier Church, we are also residents of Greencroft and are as much concerned with preserving the value of the investment in our home as are the other residents. Where we differ with some of our neighbors, is in our assessment of the impact of the church on that investment. We are convinced the church will be an asset to the community as well as a place of worship. A good neighbor adding charm, beauty and stability while preserving the rural atmosphere.

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AUG 20 1991

ZONING OFFICE

Page 1 of 2

Mr. Arnold Jablon
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

I am writing this letter in reference to case #90-477 SPHX Special Exception. I am a resident of the Greencroft community and I am deeply concerned about the impact the proposed Catholic Church will have on the immediate area as well as Hunt Valley at large.

Our community has only one entrance (exit) road and this road connects to Cuba Road. Cuba Road was not designed for high volume traffic as we already experience back-ups with the current amount of development. My concern is that the extra traffic from the church population will further impair the ability of the current residents to enter or exit the community.

A further point to be made is in reference to emergency vehicles. As victims of a fire that burned 50% of our

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Arnold Jablon, Director
Office of Zoning Admin. &
Development Management
111 W. Chesapeake Ave.
Towson, MD 21202

July 1, 1991

Subject: Petition in Opposition to
Granting of Special Exception
Case 90-477 SPHX

Dear Mr. Hackett:

This letter is being sent to you to inform you of my opposition to the proposed facility being built on the Christie property.

I am a bicycle rider and want you to know that the beautiful area from Cuba Road north is a prime riding area. This area is already overloaded with traffic and I feel any structure of this magnitude would severely change the rural setting and ruin the surrounding area of Oregon Ridge and the Nature Center. The Oregon Ridge Park will also be greatly affected.

This is a request to deny any zoning change for this piece of property.

Thank you for your consideration in this matter.

Sincerely,

John W. Union Phoy
Baltimore, MD

This is a request to deny any zoning change for this piece of property.

Thank you for your consideration in this matter.

Sincerely,

John W. Union Phoy
8708 Winfield Ave.
Baltimore, MD 21234

Dear Mr. H.

This letter is
Christie prop

I am a bicycl
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Thank you for your consideration in this matter.

Sincerely, *Donna D. Cobb*

170 Bell Rd
Westminster, Md 21157

Dear

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Chris

I am
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Park

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Thank you for your consideration in this matter.

Sincerely,

Nancy Malyn
314 Highwood Lane
Reisterstown, Md.
21136

cc: C.A. "Dutch" Ruppberger
Councilman, 3rd District
400 Washington Ave.
Towson, MD 21204

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Rob Hoffman	210 Hiking Ave
Rob Hoffman	5 Brook Farm Ct
Rob Hoffman	14613 Philip Rd Phoebe
Rob Hoffman	14613 Philip Rd Phoebe
Rob Hoffman	7 Sheppard Ave Phoebe
Rob Hoffman	14001 Sheppard Ave Phoebe
Rob Hoffman	13057 Cuba Rd 21030
Rob Hoffman	14910 Tanager Rd 21153
Rob Hoffman	1407 Glenwood Rd 21152
Rob Hoffman	2401 Tuxton Ave 21136
Rob Hoffman	200 E Pennsylvania
Rob Hoffman	40 West Chesapeake
Rob Hoffman	222 St Paul Place
Rob Hoffman	13717 Cuba Rd
Rob Hoffman	222 St. Paul Place, Balt. 21210

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Thank you for your consideration in this matter.

Sincerely,

John W. Union Phoy
8708 Winfield Ave.
Baltimore, MD 21234

Mr.

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This is a request to deny any zoning change for this piece of property.

Thank you for your consideration in this matter.

Sincerely,

Margie Rodger
109 Kipling Ct
Albany, Md. 21009

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Thank you for your consideration in this matter.

Sincerely,

Angela Phillips - 1232 Brook Hollow Rd
Baltimore, Md. 21204
John S. Phillips Sr.

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
John W. Union Phoy	1 Sheppard Ave Greenbelt
John W. Union Phoy	Hunt Valley Md 21030
John W. Union Phoy	13733 Cuba Rd, Hunt Valley, 21030
John W. Union Phoy	2000 Western Run Rd
John W. Union Phoy	Cockeysville, Md. 21030

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Thank you for your consideration in this matter.

Sincerely,

Edmond Collier
2830 FOXHOUND ROAD
ELLICOTT CITY, MD 21043
465-6051

Mr.

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This is a request to deny any zoning change for this piece of property.

Thank you for your consideration in this matter.

Sincerely,

John P. Harnish
251 Rollins Ave #104
Rockville, Md 20852

Thank you for your consideration in this matter.

Sincerely,

Michael Foreman
34 Brook Village Ct.
Reisterstown MD 21136

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
301/337-6877

June 12, 1990

PETITIONER'S
EXHIBIT 1

Robert Haines
Zoning Commissioner
111 Chesapeake Avenue
Towson, Maryland 21204

Re: Catholic Church of Hunt Valley
Case No. 90-477-SPHX

Dear Mr. Haines,

Because I am unable to testify at today's hearing on the above referenced project, this letter is intended to inform you of the Valleys Planning Council's position.

The Valleys Planning Council, Inc. does not favor and has serious concerns about the use of an agricultural area and prime and productive soils for a use which could be sited elsewhere and may not be compatible with surrounding rural uses. We have, however, met with representatives of the church to discuss how both interests might be served and have been able to develop a Restrictive Covenants Agreement which includes the following statement:

"Petitioner would be willing to.... limit the use of the front fields (that area along Cuba Road north to the building envelope and/or parking areas shown on the site plan to accompany the Petition for Special Exception) to open space or agricultural use, exclusive of driveways or storm water management, for a period of at least 25 years".

It is our understanding that the placement of buildings and uses shown on the special exception permit application are restrictive and an additional public hearing would be held if plans were to change.

Thank you for your consideration in this matter.

Sincerely,

John W. Union Phoy
1237 Station Rd Rd #2
Baltimore, Md 21209

This is a request to deny any zoning change for this piece of property.

Thank you for your consideration in this matter.

Sincerely,

Carl Wayne & Donna Rae Smith
210603 L 0057572
31 Chalmers Court
Kensdale, MD 21037

Thank you for your consideration in this matter.

Sincerely,

Cary Seavest
8627 Hempstead Ave
Baltimore, MD 20817

ORIGINAL

1

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS
3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA-90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477-SPHX
6 RE: SPH - Existing dwelling *
7 as caretaker's residence; * August 23, 1991
8 SE - Church in RC 2 zone *
9 * * * * *
10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the Old Courthouse, Towson, Maryland 21204 at 4 o'clock
13 p.m., August 23, 1991.
14 * * * * *
15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19
20 Reported by:
21 C.E. Peatt

BOARD OF APPEALS

ORIGINAL

1

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS
3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA 90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477-SPHX
6 RE: SJH - Existing dwelling *
7 as caretaker's residence; * September 19, 1991
8 SE - Church in RC 2 zone *
9 * * * * *
10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the Old Courthouse, Towson, Maryland 21204 at 4 o'clock
13 p.m., September 19, 1991.
14 * * * * *
15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19
20 Reported by:
21 C.E. Peatt

BOARD OF APPEALS

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1

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS
3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA 90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477-SPHX
6 RE: SPH - Existing dwelling *
7 as caretaker's residence; * September 26, 1991
8 SE - Church in RC 2 zone *
9 * * * * *
10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the Courthouse, Towson, Maryland 21204 at 4 o'clock
13 p.m., September 26, 1991.
14 * * * * *
15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19
20 Reported by:
21 C.E. Peatt

BOARD OF APPEALS

ORIGINAL

1

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS
3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA 90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477 SPHX
6 RE: SPH - Existing dwelling *
7 as caretaker's residence * October 10, 1991
8 SE - Church in RC 2 zone *
9 * * * * *
10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the County Office Building, Towson, Maryland 21204 at 10
13 o'clock a.m., October 10, 1991.
14 * * * * *
15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19
20 Reported by:
21 C.E. Peatt

BOARD OF APPEALS

ORIGINAL

1

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS
3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA-90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477-SPHX
6 RE: SPH - Existing dwelling *
7 as caretaker's residence; *
8 SE - Church in R.C. 2 zone * November 7, 1991
9 * * * * *
10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the County Office Building, Room 315, Towson, Maryland
13 21204 at 3:45 p.m., November 7, 1991.
14 * * * * *
15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19
20 Reported By:
21 Marsha Tome

TOWSON REPORTING COMPANY, INC.

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS

3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA-90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477-SPHX
6 RE: SPH - Existing dwelling *
7 as caretaker's residence; * January 10, 1992
8 SE - Church in RC 2 zone *
9 * * * * *

10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the Old Courthouse, Towson, Maryland 21204 at 10 o'clock
13 a.m., January 10, 1992.
14 * * * * *

15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19

20 Reported by:
21 C.E. Peatt

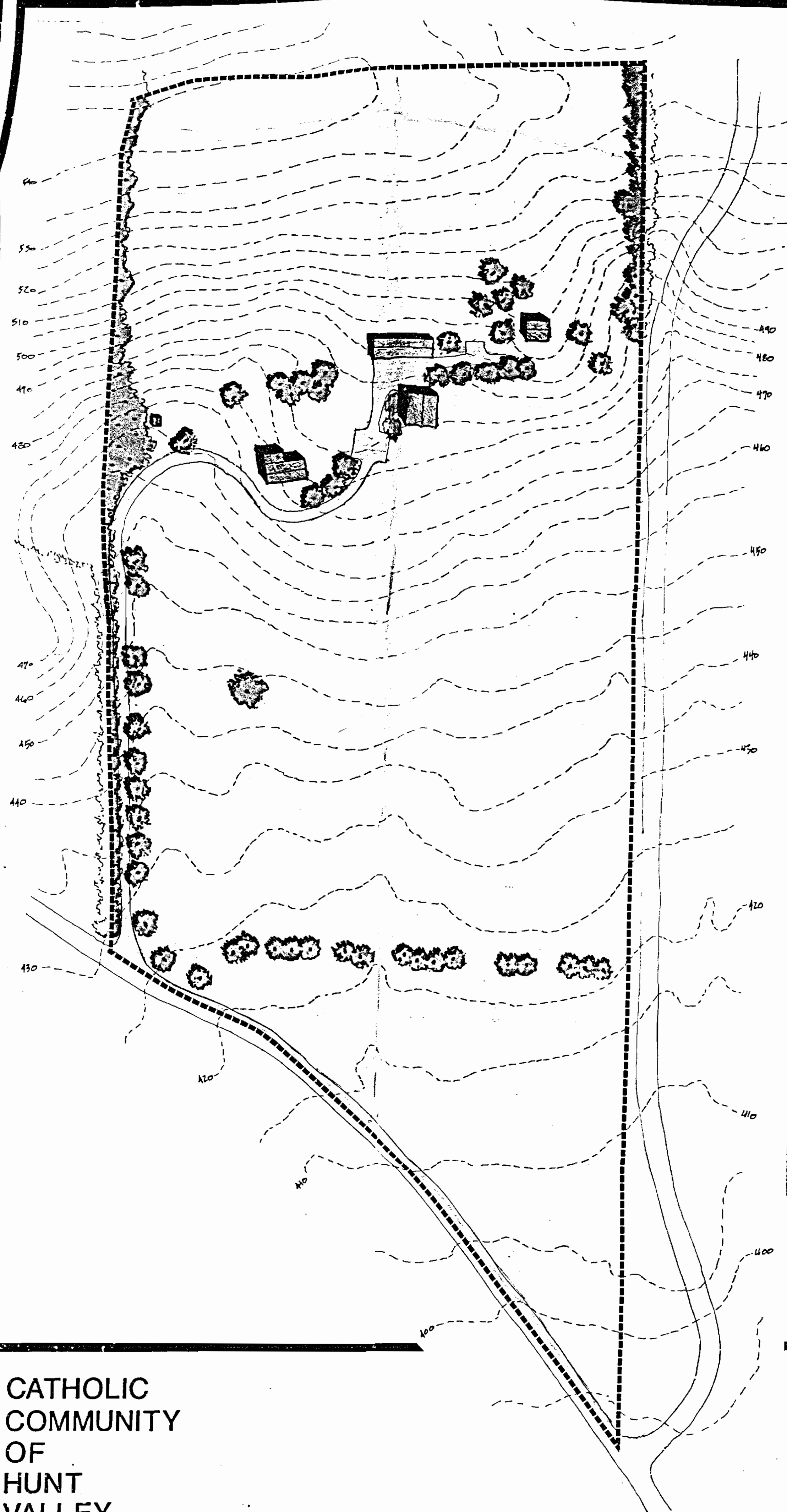
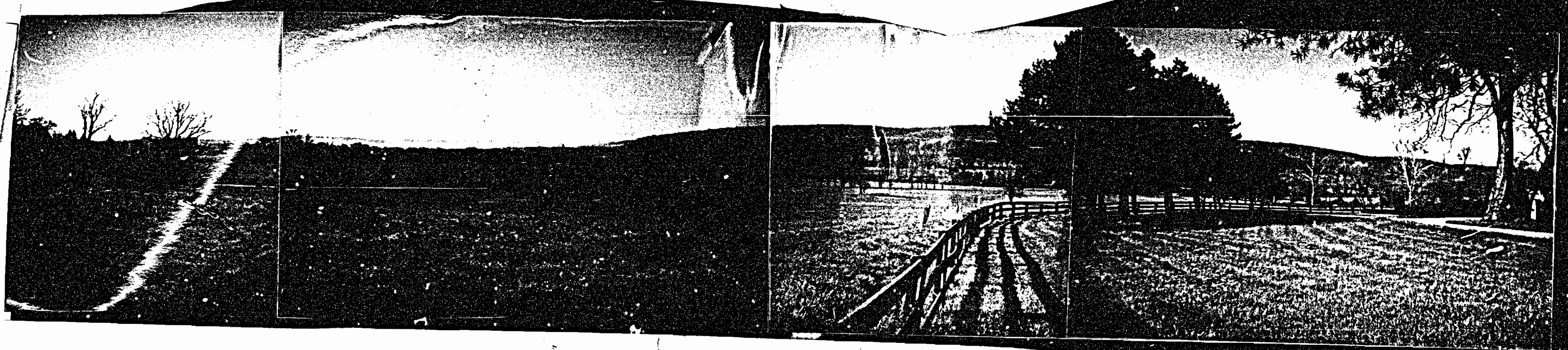
BOARD OF APPEALS

ORIGINAL

1

1 IN THE MATTER OF: * BEFORE THE
2 ARCHDIOCESE OF BALTIMORE * COUNTY BOARD OF APPEALS
3 RE: CRG Decision * OF BALTIMORE COUNTY
4 and * Case No. CBA 90-170
5 HILBERT F. CRISTE, et ux * Case No. 90-477-SPHX
6 RE: SPH - Existing dwelling *
7 as caretaker's residence; *
8 SE - Church in R.C. 2 zone * January 14, 1992
9 * * * * *
10 The above-entitled matter came on for hearing
11 before the County Board of Appeals of Baltimore County at
12 the Old Courthouse, Towson, Maryland 21204 at 11:25 a.m.,
13 January 14, 1992.
14 * * * * *
15 BOARD MEMBERS:
16 MICHAEL B. SAUER, Acting Chairman
17 JOHN G. DISNEY
18 JUDSON P. LIPOWITZ
19
20 Reported By:
21 Marsha Tome

TOWSON REPORTING COMPANY, INC.



CATHOLIC
COMMUNITY
OF
HUNT
VALLEY

SITE

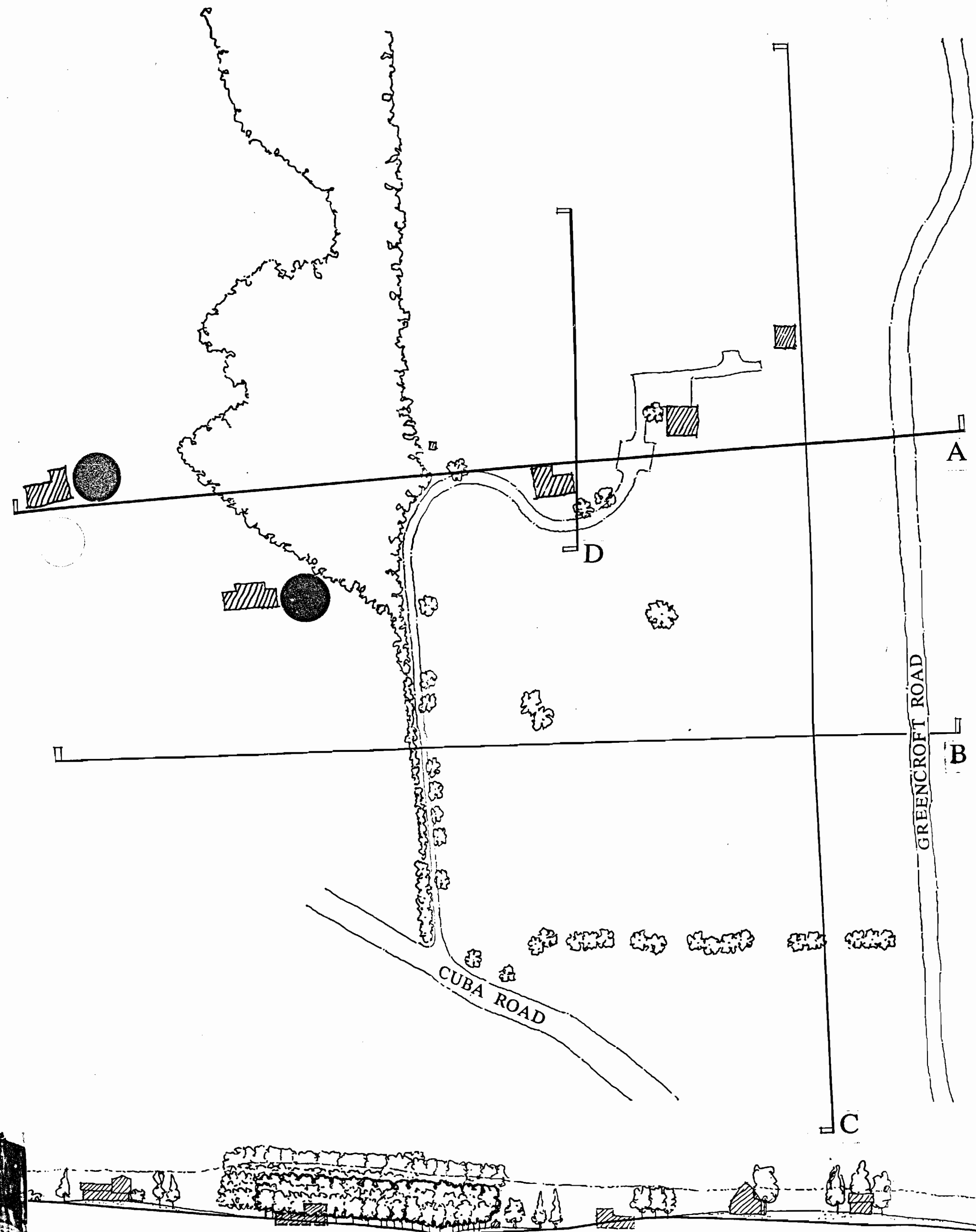
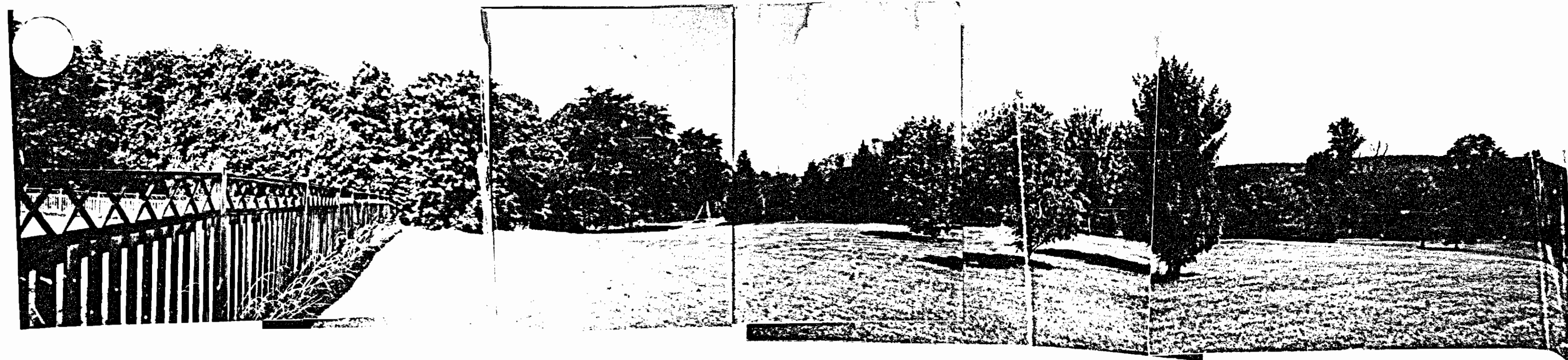
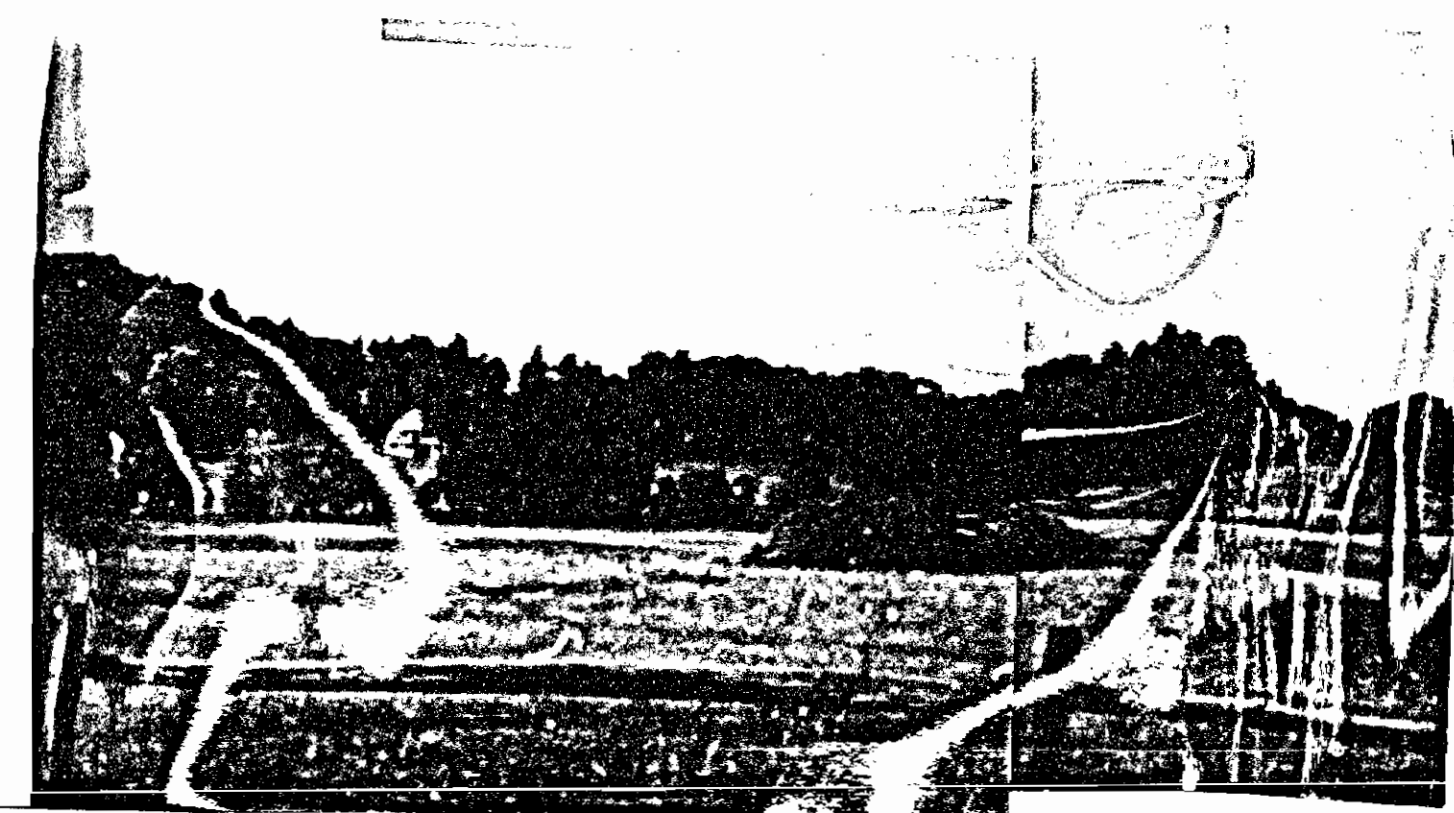
PETITIONER'S
EXHIBIT 5

Albert J. Cristle, Jr.

90-477SPHX

AYERS
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SECTION A

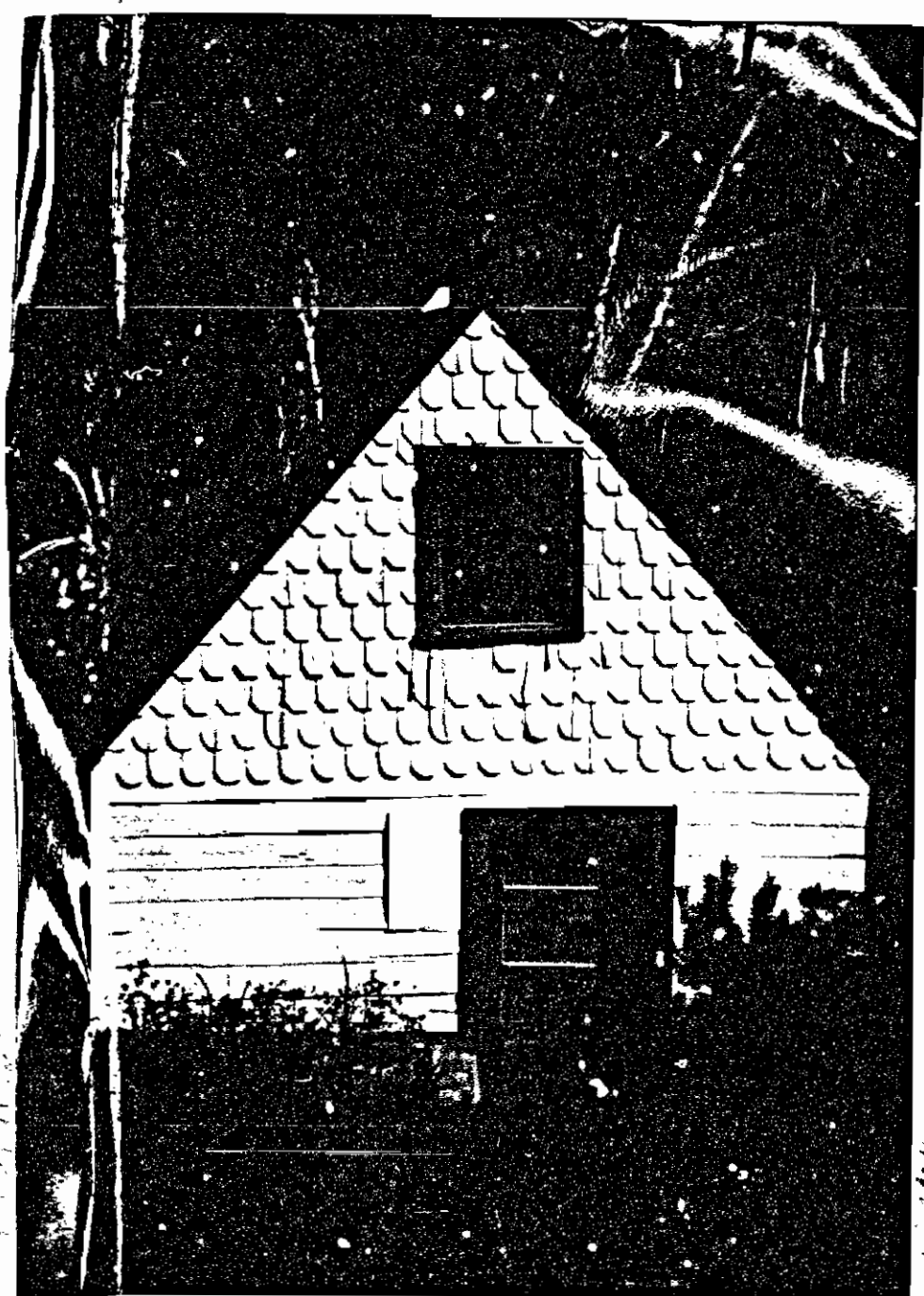
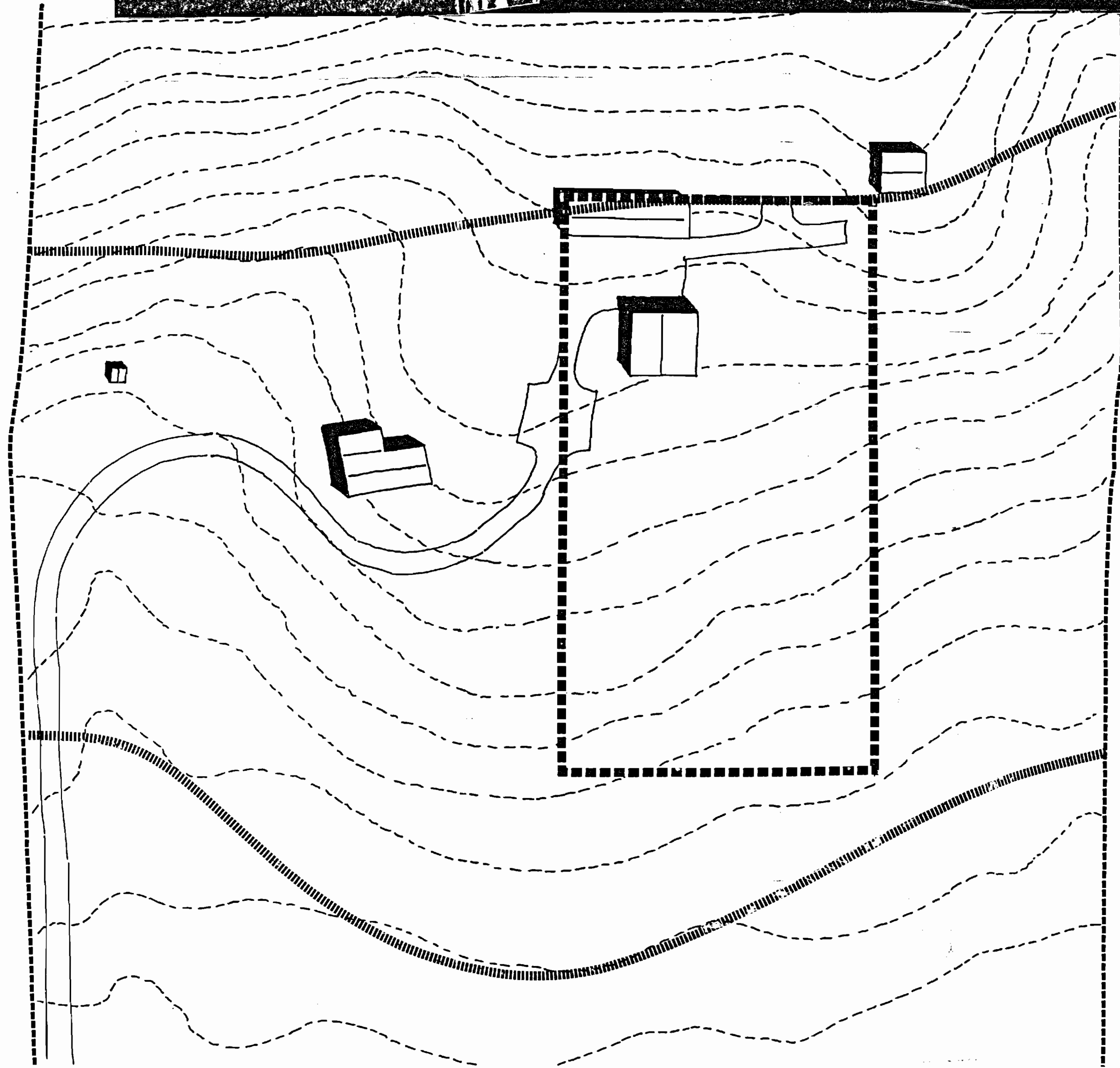
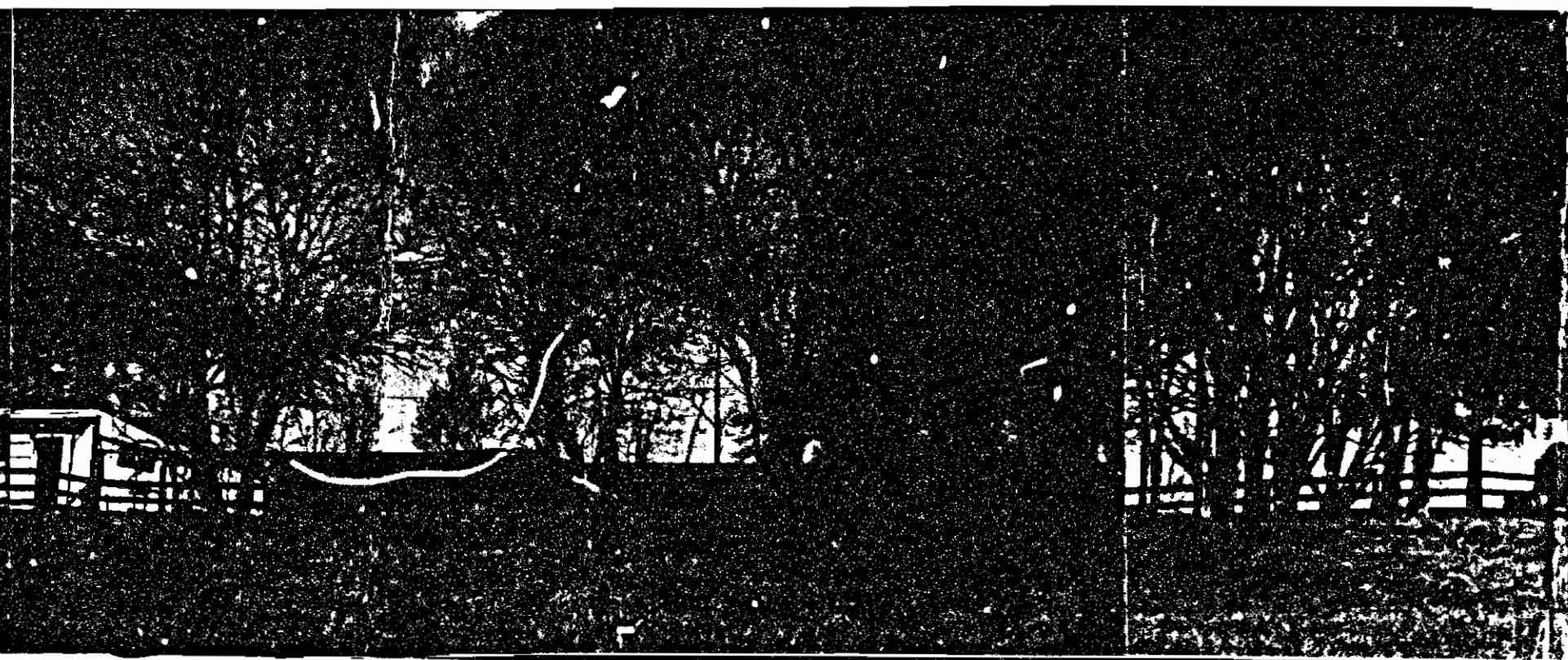
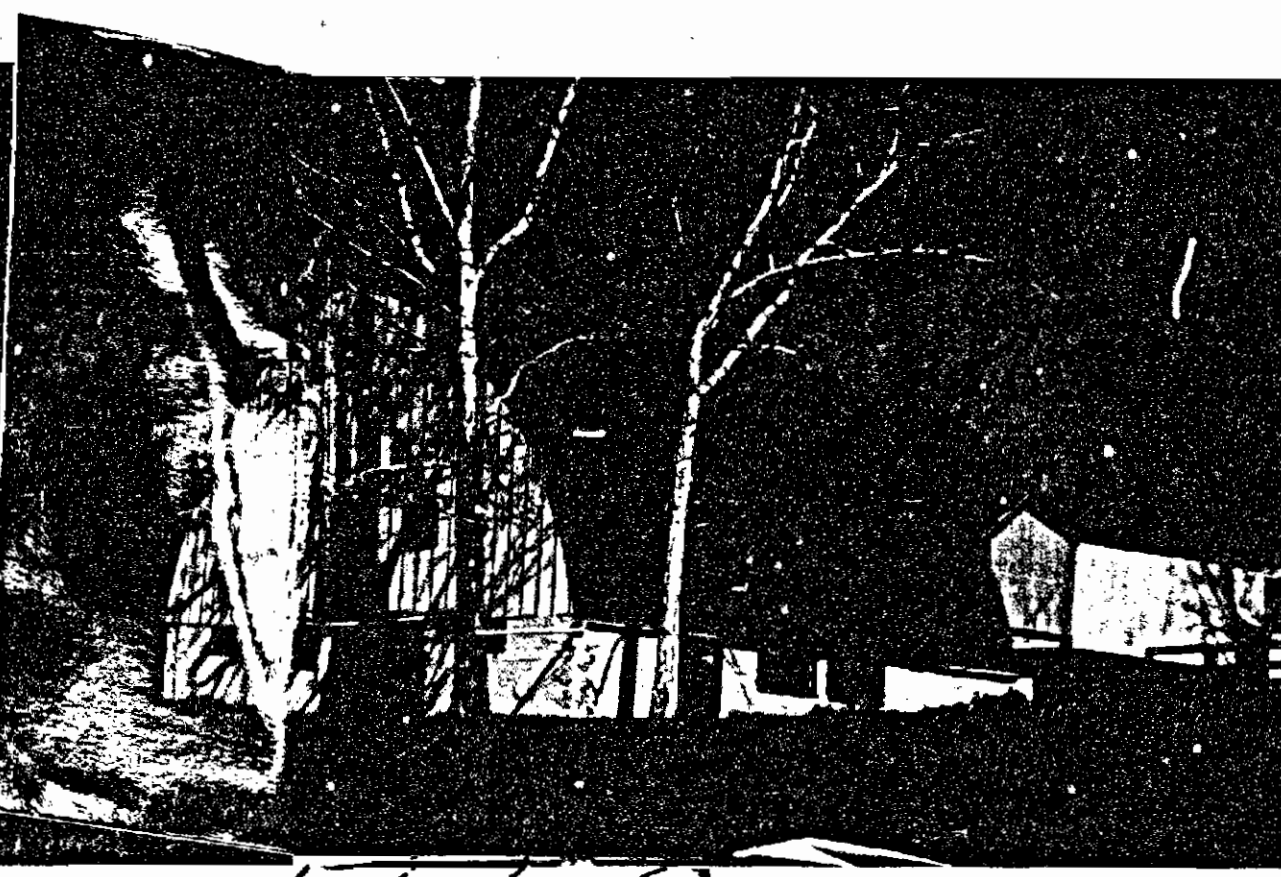
SITE
ANALYSIS

10 JULY 1990

SCALE 1"=100'

CHURCH OF ST. FRANCIS XAVIER

AYERS
SAINT
GROSS



CATHOLIC
COMMUNITY
OF
HUNT
VALLEY

**PETITIONER'S
EXHIBIT 6**

90-4775PHX

*Hilbert J. Gusto
et ux*

SITE

**AYERS
SAINT
GROSS**

